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index

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Do	Annual Report: Operation of Rio Grande Dams and Reservoirs. This report provides data concerning the operation of the international dams and reservoirs constructed by the Governments of the United States and Mexico on the reach of the Rio Grande which forms the boundary between the two countries.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. No charge..	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902
Do	Color print map: El Paso Rio Grande Projects, Canalization and Rectification Projects..	Division Engineer, Projects Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. Price: $7.00 per map. Payable to International Boundary and Water Commission, U.S. Section..	Division Engineer, Projects Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902
National Science Foundation (NSF)..	Index of NSF circulars, manuals, and bulletins in effect as of Jan. 26, 1981. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars–convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals–provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins–used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 1242, 1800 G St. NW., Washington, D.C. 20550.
Do	Reviewer panelist, alphabetical listing as of Sept. 30, 1980. Listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the period indicated above.	do	Do.
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Do	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do	Do.
Do	Index of NSF regulations promulgated in the Code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	do	Office of the General Counsel, Room 501, 1800 G St., NW, Washington, D.C. 20550
Do	Publications of the National Science Foundation. An index by topical classification, as of Oct. 1980, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 80–81).	NSF Publications Section, Room 235, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 1242, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) room 531, 1800 G St. NW., Washington, D.C. 20550.
Do	NSF guide to programs. A composite listing of summary information about NSF support programs, as of October, 1980. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 80–55).	NSF Publications Section, Room 235, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038–000–00458–1. Unit price: $5.00.	Do.
Do	NSF Grant Policy Manual. A compendium of basic NSF grant policies and procedures for use by the grantee community and NSF Staff. The Manual implements OMB Circular No. A-110, which is directed toward standardizing and simplifying the various accountability and reporting requirements among Federal granting agencies. (NSF publication 77–47).	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038–000–81001–4. Unit price: $9.00.	NSF Division of Grants and Contracts, Room 201, 1800 G St. NW., Washington, D.C. 20550.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, Apr. 4, 1967 through June 30, 1981. Chronological listing (by date of service) of decisions after hearings on appeal involving airmen or air safety certificates.	Copies of indexes may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.	Docket Section, Office of Administrative Law Judges, National Transportation Safety Board, Washington, D.C. 20594
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	NTSB directives checklist as of May 1, 1980. Numerical listing (by NTSB order No.) of staff operations directives.	Copies of checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.	Public Inquiries Section, Room 808–F, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 808–G
Office of Personnel Management	Index to Information, OPM Document No. 1. Period covered: Jan. 1979–May 1981. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject. This index includes some information formerly published in the Index to Civil Service Commission information.	Internal Distribution Unit, Room B–431, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415. Free.	OPM Library or any OPM Office, including regional and area offices.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to June 30, 1981; interpretive letters addressing the provisions of Title IV of the Employee Retirement Income Security Act (ERISA)–plan termination insurance program.	Disclosure Officer, Office of the Executive Director, Pension Benefit Guaranty Corp., Room 7000, 2020 K St. NW., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.; or contact Disclosure Officer for information regarding a subscription to the Opinion Manual.	Disclosure Officer, Office of the Executive Director, (202) 254–4827, 2020 K St. NW., Washington, D.C. 20006
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This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202-523-5227.

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240.17a-19 Revised	39841
240.17a-22 Added	73914
240.17Ac2-1 (c) revised	1666
240.19b-4 Revised	73914
240.19c-3 Added	41134
240.19d-1 (c) revised	57708
241 Interpretative releases	36374, 41920, 47142, 59840, 63647, 81559
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Form filing deadline extended to 12-15-80	70857
249.210 Form 10 amended	58830, 63641, 63691
249.308 Form 8-K amended	23653, 58830, 76981
249.308a Form 10-Q amended	58830
Amended	63681
249.310 Revised	63638
Form 10-K amended	58830
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249.311 Form 11-K amended	23660, 63691
249.322 Revised	23653
249.502 Form U-4 amended	83479
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Technical correction	†2339
249.504n Added	59552
249.635 Revised	39841
249.819a Redesignated as 249.819; heading amended	73915
249.819b Removed	73915
249.1100 Form MSD amended	58834
249b.100 Form TA-1 amended	†1666
250.14 Added	†5869
250.15 Added	†5869
250.16 Added	79024
250.72 (b) revised	†2036
256.421 Revised	41135
260.4a-1 Added	71778
260.4a-2 Added	71778
261 Interpretative releases	†3500
270.3a-1 Added	†6881
270.3a-2 Added	†6883
270.3a-3 Added	†6884
270.6c-4(T) Added	28212
270.6c-5(T) Added	50726
270.12b-1 Added	73905
270.17d-3 Added	73905
270.17j-1 Added; eff. in part 5-1-81	73919
270.57b-1 Added; interim	83483
270.60a-1 Added; interim	83483
271 Policy statement	49917
Interpretative releases	62423
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276 Interpretative releases	34876

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4	51600, 56071, 65257, 69248
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270	23470, 29067, 38047, 69479, 83517
274	24500, 26366, 78158, 83517
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TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy

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0 Removed	21224
1.1 (a) through (e) removed; (f) introductory text revised; (f)(23) amended	21224
(f) corrected	60817
1.3a Removed	21224
1.18 (g) added	45903
1.28 Revised	31060
1.31 (b)(1) revised	28085
1.36 (a) and (c)(14) amended	21224
1.38 (a)(2)(i), (ii), and (iii) removed	21224
1.40 (a)(2)(i), (ii), and (iii) removed	21224
1.41 (a)(3)(i)(A), (B) and (C) removed	21224
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Hearing cancelled	38354
(a)(1) and (b)(1) revised; interim	65171
1.42 (j) technical correction	27924
Hearing cancelled	38354
1.101—1.102 (Subpart A) Added	21224
2.1 (a)(1)(xi) (F) and (G) amended	21224
2.66 Heading amended; (e) added	53098
2.102 Added	53114
Comment time extended	64560
3.1—3.3 Removed	21224
3.4 Introductory text, (a), (b), (c), and (d) introductory text and (1) through (13) removed; (d)(14) redesignated as (a)	21224
3.5 Removed; (a) through (i) redesignated as 375.302—375.310	21224
(i)(1) technical correction	27924
Hearing cancelled	38354
3.6 Removed	21224
3.7 Removed	21224
3.8 (b) and (j) amended	21224
3.100—3.101 Removed	21224
3.103 Amended	21224
3.104—3.108 Removed	21224
3.111—3.120 Undesignated center heading and sections removed	21224

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3.131—3.143 Undesignated center heading and sections removed	21224
3.142 Removal confirmed	33600
3.161—3.171 Undesignated center heading and sections removed	21224
3.181—3.186 Undesignated center heading and sections removed	21224
4 Heading and authority citation revised	28090
4.31 (b) amended; (d) revised	†9028
4.33 (b)(1) and (d)(2) revised	†9028
4.51 (a)(6) added; (f)(6)(ii) amended; (g) revised	†9029
4.81 (a)(3), (b)(4), (d)(3), and (e)(3)(i) revised; (a)(6) added	†9029
4.90—4.94 (Subpart J) Added	28090
4.92 (c)(5)(iv) amended	†9029
4.101—4.108 (Subpart K) Added	76123
4.103 (a) corrected	77420
4.104 (a)(1) heading and (2)(ii)(A), (b) heading, and (e)(1) heading and (2) heading corrected	77420
4.106 (c) and (e) amended	77420
12 Revised	†9036
35.12 (b)(5) introductory text amended	46363
35.13 Revised	46363
Rehearing application denied	58335
35.23 Added	31300
Rehearing application denied	47841
Filing time deferred	55714
36.2 (g) introductory text revised	46377
46 Heading and authority citation revised	23418
46.2 Revised	23418
46.4 Added	23418
46.5 Added	23418
46.6 Added	23419
131.3 Removed	†9029
131.4 Removed	†9029
141.1 Filing requirements suspended	74715
141.2 Revised	60899
141.21 Removed	30068
141.25 Revised	21625
141.27 Removed	30068
141.28 Removed	30068
141.52 Removed	56341
141.53 Removed	37420
141.54 Removed	37420
141.55 Removed	56341
141.56 Removed	37420
Removal effective date corrected	68389
141.57 Correctly removed	68389
141.58 Removed	38355
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154.38 (d)(4)(ii) amended	28097
(h) revised	29015
Footnote 1 amended	53099
154.42 Added	53098
(b)(1)(i) amended	67091
157.101 (b)(1) amended	21225
201 Forms No. 2 and 2–A schedules corrected	59305
204 Forms No. 2 and 2–A schedules corrected	59305
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191 Amended	71563
250 Filing requirements suspended	33601
260 Filing requirements suspended	33601
Forms No. 2 and 2–A schedules corrected	59305
260.1 Revised	†6887
260.2 Revised	60900
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260.7 Note amended; interim	75194
260.12 Revised	37616
260.13 Removed	30068
270.101 (a) revised	28097
(a) tables I and II revised	29571
270.102 (b)(14) added	28098
(c) table III revised	29573
(b)(15), (16), and (17) added	53114
(b)(15), (16), and (17) comment time extended	64560
270.201 Removed	49081
270.202 Revised	49081
270.203 (f) added	53099
270.204 Revised	49081
270.207 Added	28098
271 Clarification	24123
271.101 (a) tables I and II revised	50557, 73028
(a) tables I and II amended	73027
271.102 (c) table III revised	50559, 73027
271.204 Added	74429
271.504 (a) and (b) revised	76670
(a) and (b) effective date deferred	†2975
271.505 Revised	76681
271.602 (c) added	77429
271.604 Revised	76681

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271.701—271.705 (Subpart G) Comment time extended	28100
Hearing	37185
271.701—271.703 (Subpart G) Revised	56044
271.701 Revised	28098
Amended	71564
(b) added	77429
271.702 (a) removed	28098
(a) (1) revised	71565
271.703 (a) removed	28098
(b) (1) amended	71565
(d) revised	71780
(d) (3) added	76672
(d) (4) added	76674
(d) (2) added	76676
(d) (7) through (9) added	84035
(d) (5) and (6) added	84036
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271.704 Removed	28098
271.804 (e) added; interim	†6902
271.805 (b) revised; interim	†6902
271.806 (a) revised; interim	†6902
Correctly designated as 274.206	†8454
271.901—271.904 (Subpart I) Rehearing applications denied	36076
271.1100—271.1106 (Subpart K) Heading revised	53115
Comment time extended	64560
271.1100 Revised	53115
Comment time extended	64560
271.1101 Revised	53115
Comment time extended	64560
271.1102 (a) amended; (c) added	76670
(a) and (c) effective date deferred	†2975
271.1104 Revised	53115
Comment time extended	64560
(b) heading and (1) revised	76681
271.1105 Revised	53116
Comment time extended	64560
(a) (5) and (6) amended; (7) added	76681
271.1106 Revised	53116
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272 Clarification	24123
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273.102 (a) (1) amended	28098
273.202 (a) and (d) (1) (i) revised	28098
(b) (2) revised	30068
273.203 (a) revised	28099
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(a) (2) comment time extended	28100
Hearing	37185
(a) (1) (i) and (ii) amended	50646
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273.302 (f) and (g) amended	28099
274.201—274.207 (Subpart B) Technical correction	45905
274.205 (a) through (d) revised	28099
(e) comment time extended	28100
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(e) revised	56046
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274.206 (a) (9) technical correction	45905
(e) added; interim	†6902
Correctly designated from 271.806	†8454
274.208 (b) added	24125
(c) added	35323
277.101 (Subpart A) Heading added	53121
277.201—277.210 (Subpart B) Added	53121
280.101 (b) (2) added	49252
281.203 (a) (17) removed	54739
281.204 (b) (3) amended; (b) (4) added	54739
281.211 (b) (1) (ii) (D) revised; (b) (4) (ii) amended	54740
281.216 Added; interim	39498
Existing text designated as (a); (b) added	54740
281.303 (a) and (h) amended	54740
281.304 (a) (2) amended	54740
281.305 Revised	54740
282 Order	29573, 37185, 44923, 50727, 60900, 65207, 73033, 79427
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282.101 Revised (effective pending congressional review)	31643
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Rehearing petition denied	71780
282.102 (a) revised (effective pending congressional review)	31643
(a) revision disapproved by Congress	54741
282.103 (e) revised; (l) added (effective pending congressional review)	31643

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282.104 Added	71786
Petitions denied	86423
282.201 Revised (effective pending congressional review)	31643
Revised (effective pending congressional review)	52363
Revision of 31643 disapproved by Congress	54741
Effective date confirmed	64171
282.202 (f) and (g) added	31982
(g) amended; (h) added	48113
(g) revised	52363
Effective date confirmed	64171
(a) revised; interim	67278
(a) rehearing granted	76681
(a)(1)(ii) and (iii) revised	82918
282.203 Introductory text, (a) introductory text, (1), and (2) and (b) through (e) redesignated as (a) introductory text, (a)(1) introductory text, (i), and (ii) and (2) through (5); new (a) introductory text revised; (b) added (effective pending congressional review)	31643
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Revised	52363
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(a)(2) corrected	59857
Introductory text removed; (c) added (effective pending congressional review)	71790
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282.204 Removed (effective pending congressional review)	31643
(c)(2), (d)(1), (2)(i) and (ii), (3), and (7) revised	31983
(d)(3)(ii), (5)(ii), and (6) amended	31987
(c)(2), and (d)(2)(i)(B) and (i)(B), (7)(i)(A) and (B) revised	36375
(c) revised	48113
(d)(2)(i)(B) and (ii)(B) and (d)(7) introductory text correctly revised	48114, 80818
(a), (c)(2)(iii)(A) and (B), (d)(1), (2)(i)(B), (3), (4), text and (ii) introductory text, and (8) and (f)(2) and (3) revised; (c)(3) and (d)(2)(i)(C) and (ii)(C) added	52363
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(d)(5) and (6) revised	61612
282.205 Revised	52364
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282.206 (a) amended (effective pending congressional review)	31643
(a) amended disapproved by Congress	54741
Effective date deferred	60418
Revised; interim	65171
282.207 (a) amended (effective pending congressional review)	31643
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(c)(2)(i) amended	52365
(a) amendment disapproved by Congress	54741
Heading revised	61612
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282.208 Added (effective pending congressional review)	31643
Addition disapproved by Congress	54741
Added	71786
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282.209 Added (effective pending congressional review)	71790
282.215 Added (effective pending congressional review)	31643
Addition disapproved by Congress	54741
282.401—282.405 (Supart D) Appendix I amended	†2038
282.401 Amended (effective pending congressional review)	31644
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Note: Symbol (†) refers to 1981 page numbers

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(c) petition for reconsideration denied	48110
Nomenclature change disapproved by Congress	54741
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282.403 Nomenclature change (effective pending congressional review)	31644
Nomenclature change disapproved by Congress	54741
282.404 (a) amended; interim	22892
Hearing	22952
(b) (2) amended (effective pending congressional review)	31303
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(b) (2) petition for reconsideration denied	48110
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(a) introductory text and (2) revised; (a) (1) amended; interim	68390
(a) amended; final	80818
Effective date confirmed	82171
(a) introductory text and (2) revised; (a) (1) amended; final	†1667
(a) (3) added; interim	†2038
(a) (3) hearing	†3830
282.405 Nomenclature change (effective pending congressional review)	31644
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282.501 (c) introductory text and (2) amended; (c) (3) and (d) revised (effective pending congressional review)	31644
(c) introductory text and (2) amendment and (c) (3) and (d) revision disapproved by Congress	54741
282.503 (a) (2) (ii) and (c) amended; (b) revised (effective pending congressional review)	31645
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282.504 (a), (c) (1), (3), and (4), (d) (2), (3) (ii) amended; (c) (1) (iii) added; (c) (2) revised (effective pending congressional review)	31646
(c) (2) (ii) (A) and (B) amended	31988
(a), (c) (1), (3), and (4), (d) (2), (3) (ii) amendment, (c) (1) (iii) addition, and (c) (2) revision disapproved by Congress	54741
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(e) (2) revised; (e) (3) amended	71787
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282.506 Revised (effective pending congressional review)	31646
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282.601 (c) revised (effective pending congressional review)	31647
(c) revision disapproved by Congress	54741
282.602 (a) revised (effective pending congressional review)	31647
(a) revision disapproved by Congress	54741
(d) (2) (ii) (C) amended	71563
282.603 (a) revised (effective pending congressional review)	31647
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284.201 (e) revised; interim	34265
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284.202 (a) revised; (b) amended	56050
(a) (1) (iii) (B) amended	66786
284.204 Revised	56050
284.205 (c) (2) (ii) revised	56051
284.206 Revised	56051
Amended	66786
284.207 (c) (5) revised	56051
284.208 (c) (2) and (4) (ii) amended	21225
(c) (2) amended; interim	34265
(d) revised	56051
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290.601 (a) applications for exemption extended	†2596
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(n) added	52780
(n) revised	66789
292.203 (c)(3) and (4) added	33964
292.204 (b)(1)(i) revised	33964
292.206 (b) amended	52780
292.207 (b)(6) added	33603
(b)(2)(v) amended	52780
292.302 (a) and (b) corrected	24126
292.601 (b)(1) revised	33964
294.101 (a)(1), (2), and (4) amended	23684
351—352 (Subchapter Q) Added	†9044
351 Added	†9044
352 Redesignated from 49 CFR Part 1204 and heading revised and text amended	†9044
356—357 (Subchapter R) Added	†9044
356 Added	†9044
357 Added; regulation transferred in part from 49 CFR 1241.61	†9051
360—362 (Subchapter S) Added	†9051
Note added following heading	†9051
360 Redesignated from 49 CFR Part 1260	†9051
360.4 Amended	†9051
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360.100—360.112 Undesignated center heading added	†9051
360.100 (f)(11) amended	†9051
360.101 (b)(7) amended	†9051
360.103 (a)(1) amended	†9051
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361.101 (b), (f), and (g) amended	†9052
361.102 (b)(6) amended	†9052
361.103 (f) amended	†9052
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361.201 (a)(4) and (b)(4) amended	†9052
361.203 (a) and (b) amended	†9052
361.204 (d) amended	†9052
361.205 Amended	†9052
362 Added	†9052
375—376 (Subchapter W) added	21217
375 Added	21217
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Introductory text amended	79025
375.303 Redesignated from 3.5 (b)	21224
Introductory text revised; (1) through (5), (5)(i) and (ii), (6) and (6)(i) through (vi) and (7) redesignated as (a) through (e), (e)(1) and (2), (f) and (f)(1) through (6) and (g)	21225
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375.304 Redesignated from 3.5 (c)	21224
Amended	21225
375.305 Redesignated from 3.5 (d)	21224
Introductory text revised; (1), (2) and (3) redesignated as (a), (b) and (c)	21225
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375.306 Redesignated from 3.5 (e)	21224
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Introductory text revised; (1), (1)(i) through (v), (v)(A) and (v)(B), (vi) through (x), (2), (2)(i), (ii), (iii), (3) through (6), (6)(i) and (ii), (7) through (10) redesignated as (a), (a)(1) through (5), (5)(i) and (ii), (a)(6) through (10),	

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(b), (b)(1), (2) and (3), (c) through (f), (f)(1) and (2), (g) through (j); (b)(3) amended	21225
(k) and (l) added	26695
(m) added	53456
Introductory text amended	79025
375.308 Redesignated from 3.5(g)	21224
Introductory text revised; (1) through (26), (26)(i), (ii) and (26)(ii)(A), (B), (C) and (27) through (37) redesignated as (a) through (z); (z)(1), (2) and (z)(2)(i), (ii), (iii) and (aa) through (kk)	21225
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375.309 Redesignated from 3.5(h)	21224
Introductory text revised; (1) through (4) redesignated as (a) through (d)	21225
Introductory text amended	79025
375.310 Redesignated from 3.5(i)	21224
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376 Added	21222

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401—420 (Subchapter A) Heading Added	†24
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Chapter VI—Water Resources Council

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701.54 (e) revised	58834
703 Removed	72010
711 Added	64388
711.20 (b) corrected	73033
711.61 (a)(1) and (b)(3) corrected	73033
711.62 (a)(1) and (b)(3)(i) corrected	73033
711.64 (a)(1) corrected	73033
713.3 (b) redesignated as (b)(1); (b)(2) added	64451
713.313 Table corrected	24865
713.409 (c) corrected	24864
713.801—713.811 (Subpart J) Added	64451
713.811 Table 713.811-2 revised	73034
713.1001—713.1021 (Subpart L) Added	64461
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713.1017 (a) corrected	73034
713.1203 (b) revised	24864
713.2009 (h)(1) corrected	24864
714 Added	64414
714.200 Corrected	73034
714.411 (c)(1)(vi) corrected	73034
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193.99 Added	53458
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193.152 (c) added	49543
193.219 Added	57392
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201.1 Revised; eff. in part 4–10–81	25775
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201.20 Revised	60422
201.59 Added	32552
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201.100 (e) effective date stayed to 4–10–81	25777
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310.525 Added	43401
312.1 (a)(2) amended; (d)(11) and (12) redesignated as (d)(12) and (13); new (d)(11) added	†8952
312.20 (b)(1)(iv) added	†8953
314.1 (c)(2) amended; (f)(7) and (8) redesignated as (f)(8) and (9); new (f)(7) added	†8954
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320.31 (f) added	†8954
320.57 (e) added	†8954
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430.4 (a)(46) added	75194
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430.5 (a)(68) and (b)(68) added	75194
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431.16 (b) redesignated as (c); new (b) added	†30
431.17 (l) added	†8955
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436.32 (h) added	22921
436.33 (b) table amended	†2979, 2987
436.35 (c) table amended	64568, 75194
436.101 (a)(18) added	75194
436.105 (a) and (b) tables amended; CFR correction	60423
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436.306 Heading revised	†3839
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436.329 Added	†3836
436.541 Heading revised; (b) table amended; (c)(3) added	†7273
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440.74a (b)(3) revised	22921
440.80a (b)(3) revised	22922
440.81a (b)(3) revised	22922
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440.281b (b)(3) revised	22922
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442.106a Redesignated from 442.106 and (a)(1) amended	†2992
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442.140c Added	22919
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444.262 (Added	†2989
444.442a Revised	73035
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444.540a Removed; effective date confirmed	42256
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446.120c Added	†7273
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453.130b Heading and (b)(1) revised; (a)(1) amended	†3840
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455.12a (a)(1)(v) and (b)(5) removed; (a)(3)(i) revised	64568

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510.112 (a) revised	†8460
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520.580 (b)(1) revised	48126
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520.622c (a) and (b) revised	61288
520.704 (c)(1) through (4) amended; footnote 1 added	22920
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520.1801b Added	44265
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520.2480 (d) correctly designated	33604
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522.1881 (c)(1) through (5) amended; footnote 1 added	37425
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540.173b (c)(3)(i), (ii), (iii), and (iv) amended; footnote 1 added	29276
540.207a (c)(1)(iii)(*a*)(*1*) and (2) revised	81739
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450.100—450.122 (Subpart A) Guidelines	70249
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450.120 (a)(6) and (8) revised	58036

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450.200 (b) amended †5714
450.202 Nomenclature change; (c) amended †5714
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659 Added 64491
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109 Added 57105
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111 Added 31881
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888	40155, 49110, 50615, 51228, 56375, 63513, 67682, 72272
889	51229
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891	67682, 82273
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TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

	Page
11.1 (a)(30) added	29790
31g.12 (a)(2)(v) and (d) revised	75200
43b Added	82919
43c Added	82923
52 Revised	†1670
53 Revised	†1675
55b Added	49225
120—130 (Subchapter K) Heading revised	62036
120a Added	62036
151.24 Revised	69446
161.5 Amended	45910
161.12 Revised	45910
161.20 Introductory text revised	45910
221.12 Removed	37688
221.13 Removed	37688
221.13a Removed	37688
221.13b Removed	37688
221.13c Removed	37688
221.13d Removed	37688
221.13e Removed	37688
221.38 Removed	27436
221.39 Removed	27436
221.40 Removed	27436
221.105 Revised	57392
231.51 Revised	54332
231.52 Revised	54332
231.53 Revised	54332
231.54 Revised	54332
233.52 (b) revised	81561
252.2 Revised	64906
256.3 (b) revised	†4873
256.11—256.21 (Subpart B) Revised; emergency	47411
256.40—256.50 (Subpart D) Revised; interim; eff. 4–23–80 to 1–1–81	28101
Comment time extended	41632
Effectiveness expires 5–11–81	†34
Authority citation	†34
256.50 Revised; expires 5–11–81	†34
258 Effective date corrected	79031
258.2 Revised	74690
258.3 (c) revised; (d) and (e) added	74690
258.4 (g) and (h) revised; (s) added	74690
258.6 (c) revised; (d) added	74690
258.7 (a) revised; (c) added	74691
258.8 (e)(9) added; interim	50736
(e)(4) and (5) and (h) revised; (e)(9) added	74691
258.9 Revised	74691
258.10 Revised	74691
258.11 (c)(3)(xix) through (xxii) added	74691
258.12 (a) revised	74691
258.14 (b)(1) and (3) revised; (b)(6) added	74691
258.15 (a) revised; (h) through (j) added	74691
(d) removed	74692
258.16 Revised	74692
258.17 Revised	74692

Chapter III—Indian Claims Commission

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Chapter removed	22924
500 Removed	22924
503 Removed	22924
504 Removed	22924

Chapter IV—Navajo and Hopi Indian Relocation Commission

	Page
700.5 (q) revised	41410
700.8 Revised	25390
700.17 Added	67339

Title 25—*Proposed Rules:*

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1–277 (Ch. I)	51102
23	81781
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43b	62151
43c	62154
55b	30302
71	47860
72	47860, 82667, 84066
103a	72699
103b	72699
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120	70284
171	24200, 53164, 69932
172	29070, 53164, 69932
173	53164, 69932
177	24200, 53164, 69932
182	24200, 53164, 69932
231	43219
233	64960
251	27953, 42332
	†1298
256	43431
260	†944
281	60923, 79094
700	59175, 76710

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TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

	Page
1.21-1 (n) example (1) amended	72651
1.37 Removed	84049
1.37-1 Revised	84049
1.37-2 Revised	84050
1.37-3 Revised	84050
1.37-4 Removed	84052
1.37-5 Removed	84052
1.44C-1 Added	57715
1.44C-2 Added	57716
1.44C-3 Added	57719
1.44C-5 Added	57721
1.46-1 (a) through (d) revised; (e) redesignated as (o) and amended; (f) redesignated as (p) and (1), (2)(i), (iii), (4), and (5) amended; new (e) through (n) added	†1677
1.46-2 Revised	†1679
1.47-1 (a)(1)(i) amended; (h) added	†7291
1.48-9 Added	†7291
1.61-12 (e) added	81745
1.85-1 Added	46060
1.103-8 Nomenclature changes; (a)(2), (e)(2)(i), and (3) amended; (e)(2)(ii) and (iii) redesignated as (e)(2)(iii) and (iv); new (e)(2)(ii) and (4) added	75645
1.105-11 Added	†3505
1.120-3 Added	28320
1.123-1 (a)(3) amended	72650
1.166-5 (a)(2) amended	72650
1.166-9 (c) revised; eff. 4-30-81	86445
1.167(a)-11 (c)(2)(iv) existing text redesignated as (*a*) and (*b*) and amended; (c)(2)(iv)(*c*), (*d*), and (*e*) added; (c)(4) amended	†6910
1.170A-4 (b)(1) amended	72650
1.175 Removed	78634
1.175-2 (a)(1) amended	78634
1.175-4 Revised	78634
1.175-7 Added	78365
1.191-1 Added	38051
1.191-2 Added	38053
1.191-3 Added	38055
1.219-1 Added	52788
1.219-2 Added	52789
1.272-1 (b)(3) amended	72650
1.333-5 (d)(1) and (2) amended	72650

	Page
1.337-6 (c) added	64907
1.341-4 (a) amended	72650
1.341-6 (b)(2)(iii) and (5) amended	72650
1.357-2 (b) example (1) amended	72650
1.368 Removed	86437
1.368-1 (b) amended; (d) added	86437
1.381(c)(3)-1 (c)(1), (4), (d)(1) heading, introductory text, and (ii), (2), (4), (e)(1), (5) heading and text, (6), (7), and (8) amended	72650
1.385-1 Added; eff. 4-30-81	86445
1.385-2 Added; eff. 4-30-81	86445
1.385-3 Added; eff. 4-30-81	86446
1.385-4 Added; eff. 4-30-81	86447
1.385-5 Added; eff. 4-30-81	86448
1.385-6 Added; eff. 4-30-81	86450
1.385-7 Added; eff. 4-30-81	86457
1.385-8—1.385-10 Added; eff. 4-30-81	86458
1.401-2 (a)(1) amended	†1695
1.401-8 Redesignated as 1.401(f)-1; new 1.401-8 redesignated from 1.401-8A and (a) amended	†1695
1.401-8A Redesignated as 1.401-8 and (a) amended	†1695
1.401(a)-1 Added	†1695
1.401(a)-2 Added	†1696
1.401(a)-16 Added	†1696
1.401(a)-18 Added	†7277
1.401(f)-1 Redesignated from 1.401-8	†1695
(a) amended; (e) redesignated as (f); new (e) added	†1696
1.401(j)-1—1.401(j)-6 Added	†7277
1.403(b)-1 (b)(3)(i) and (d)(3)(iv)(c); (b)(3)(ii) redesignated as (3)(iii) and introductory text revised; new (b)(3)(ii), (d)(3)(v) and (5) added	†1696
1.404(a)-14 Revised	†6914
1.405-1 (b)(1) amended	†1697
1.408-1 Added	52790
1.408-3 Added	52792
1.408-4 Added	52793
1.408-5 Added	52795
1.408-6 Added	52795
(d)(4)(iii)(B)(*11*) corrected	56802
1.408-7 Added	52798
1.409-1 Added	52799

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1.410(a)-1 (b)(7) and (8) redesignated as (b)(8) and (9); new (b)(7) added	40980
(c)(2) and (d) amended	74722
1.410(a)-4 (b)(1) amended	40980
1.410(a)-5 (a) amended	40980
1.410(a)-7 Added	40980
1.410(b)-1 (d)(2) and (7) added	74722
1.411(a)-5 (b)(1)(iii) and (2) amended	40985
1.411(a)-6 (c)(1)(iii) amended	40985
1.412(b)-2 Added; eff. after 5-22-81	†6923
1.412(b)-5 Added	40113
1.412(c)(1)-1 Added	75202
1.412(c)(1)-2 Added	75202
1.412(c)(2)-1 Added	74718
1.412(c)(3)-1 Added	86430
1.412(c)(3)-2 Added	86432
1.412(i)-1 Added	47676
(b)(2)(ii) corrected	50563
1.415-1—1.415-10 Added	†1697
1.421-5 (a)(1) and (2), (b)(1)(i), (c)(2), (d)(1), and (e) amended	72650
1.423-1 (a)(1) amended	72650
1.423-2 (k)(1)(i) amended	72650
1.424-1 (a)(1)(i) amended	72650
1.424-2 (b)(1)(i) amended	72650
1.472-2 (e) revised	†6920
1.482-2 (a)(3) amended; (a)(4), (5), and (6); eff. 4-30-81	86459
1.501(c)(2)-1 (a) revised	33972
1.501(c)(9)-1—1.501(c)(9)-8 Added	†1721
1.501(c)(13) Removed	33972
1.501(c)(13)-1 Revised	33972
1.513-5 Added	33970
1.514(b)-1 (b)(1)(iii) example (3) and (b)(3) example (2) amended	72651
1.514(c)-1 (f) amended	33973
1.527-1 Added	85731
1.527-2 Added	85731
1.527-3 Added	85732
1.527-4 Added	85733
1.527-5 Added	85733
1.527-6 Added	85733
1.527-7 Added	85735
1.527-8 Added	85735
1.528-1—1.528-10 Undesignated center heading added	26321
1.528-1 Added	26321
1.528-2 Added	26321
1.528-3 Added	26321
1.528-4 Added	26322
(c) corrected	34879
1.528-5 Added	26322
1.528-6 Added	26322
1.528-7 Added	26323
1.528-8 Added	26323
1.528-9 Added	26323
1.528-10 Added	26324
1.614-6 (b) introductory text amended	72650
1.631-1 (a)(4), (b)(1), and (d)(4) amended	72650
(a)(4) and (b)(1) amended	72651
1.631-2 (a)(1) and (2), (b)(1), (c)(1), (d)(1), (3)(i) and (iii) amended	72650
1.631-3 (a)(1) and (2), (b)(1) and (c)(3) amended	72650
1.642(c)-3 (c) examples (3) and (5) amended	72650
1.642(f)-1 Revised	38055
1.643(a)-6 (b) example (2) amended	72650
1.665(d)-1A (c)(2) amended	72650
1.671-1 (f) added	81745
1.691(a)-3 (b)(1) amended	72650
1.702-1 (a)(1) and (2) amended	72650
1.741-1 (d) added	81745
1.817-2 (b)(1)(i), (3)(i), and (ii) amended	72650
1.852-4 (b)(1), (2)(i), (3), and (d)(1) amended	72650
1.852-10 (b)(1) amended	72650
1.856-2 (c)(1)(iii)(*a*) amended	72650
1.857-4 (b) and (c)(1) amended	72650
1.861-8 (e)(2)(i) and (f)(1)(iv) revised	†1683
1.882-4 (c) added	†1683
1.882-5 Added	†1683
1.892-1 Revised; redesignated in part to 1.892-2	48883
1.892-2 Redesignated from 1.892-1(b)(1) and (2)	48883
1.901-2 Removed	75648
1.903-1 Removed	75648
1.911-1 Added	76133
1.911-2 Added	76134
1.911-3 Added	76135
1.911-4 Added	76135
1.911-5 Added	76136
1.911-6 Added	76136
1.911-7 Added	76137
1.913-1 Added	76137
1.913-2 Added	76137
1.913-3 Added	76138

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1.913-4 Added	76139
1.913-5 Added	76139
1.913-6 Added	76140
1.913-7 Added	76141
1.913-8 Added	76142
1.913-9 Added	96142
1.913-10 Added	96142
1.913-11 Added	76143
1.913-12 Added	96143
1.913-13 Added	76143
1.953-2 (d) amended	76143
1.954-2 (d)(3)(i) revised; (d)(3)(iii), (iv), and (v) and (4) added	42607
1.956-1 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added	52374
1.956-2 (b)(1)(iii), (d)(1)(i) introductory text and (d)(1)(i)(b) revised; (b)(1)(viii) and (c)(2) redesignated as (b)(1)(x) and (c)(4); new (b)(1)(viii) and (ix) and (c)(2) and (3) added; (c)(1) and (d)(2) introductory text amended	52374
1.958-2 (a), (b)(3) and (d)(2) amended	52375
1.981-1 (a)(3) revised	76143
1.992-1 (d)(2)(i)(*a*) and (*b*) amended; eff. 4-30-81	86459
1.1001 Removed	81745
1.1001-2 Added	81744
1.1011-2 (e) added	81745
1.1012-1 (c)(3)(iii), (e)(3), (4)(i) and (ii) amended	72650
1.1016 Removed	57722
1.1016-5 (t) added	57722
1.1033(a)-1 (b) amended	†6925
1.1033(a)-2 (c)(3) amended	†6925
1.1033(f)-1 Redesignated as 1.1033(g)-1 and (b) and (c) redesignated as (c) and (d) and new (b) added	†6925
1.1033(g)-1 Redesignated as 1.1033(h)-1 and amended; new 1.1033(g)-1 redesignated from 1.1033(f)-1 and (b) and (c) redesignated as (c) and (d) and new (b) added	†6925
1.1033(h)-1 Redesignated from 1.1033(g)-1 and amended	†6925
1.1201-1 (a)(1)(i), (2)(i), (4), (b)(1), (2)(i), (ii)(*a*) and (*b*), (e)(1) and (2) amended	72650
(a)(3)(i), (ii)(*a*) and (*b*), (iii), and (iv), (b)(2)(iii), and (g) examples (2), (3), and (4) amended	72651
1.1202-1 (a) amended	72650
1.1211-1 (b)(8) examples (6), (7), and (8) amended	72650
1.1212-1 (a)(2)(i), (3)(ii), (iii)(*a*) and (*f*) amended	72650
(a)(1)(i), (ii) examples (a), (b) and (c), (2)(iii) example (2), (3)(iv) examples (1) through (5), and (b)(5) example (7) amended	72650
1.1222-1 (a), (c), (d)(1), and (h) amended	72650
1.1223-1 (j) amended	72650
1.1231-1 (a), (b), (c)(1), (2), (5), (e)(1) and (3) amended	72650
1.1232-1 (a) amended	72650
1.1232-3 (a)(1) and (b)(1)(ii) amended	72650
1.1233-1 (a)(4), (c)(2), (4), (5), and (e) amended	72650
1.1234-2 (a) amended	72650
1.1235-1 (a) amended	72650
1.1235-2 (d)(2) amended	72650
1.1245-4 (a)(4) amended	72650
1.1247-3 (b)(4) and (d) heading and (1) amended	72650
1.1248-1 (e)(3) amended	72650
1.1248-4 (d)(5)(ii), (iii) example (2), and (g)(2) amended	72650
1.1251-3 (a)(1)(i)(*a*) amended	72650
1.1303-1 (c)(4)(ii) amended	76143
1.1348-2 (d)(1) amended	72650
1.1371-1 (g) amended; (h) heading added; eff. 4-30-81	86459
1.1375-1 (f) examples (4) and (5) amended	72650
1.1385-1 (c)(2)(ii)(*a*) amended	72650
1.1402 (a) removed	50738
1.1402(a)-4 (b)(5) and (6) examples 5 and 6 revised	50739
1.1402(c)-3 (a) amended	24129
(a) amended; (g) added	57123
1.1502-4 (d)(1)(ii) and (j) example (2) amended	72650
1.1502-11 (a)(3) and (b)(6) examples (1), (2), and (3) amended	72650
1.1502-12 Introductory text and (o) revised; (n) amended; (p) added	65561
1.1502-15 (a)(1) amended	72650
1.1502-21 (f)(2) amended	72650

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1.1502–22 Heading, (a)(1) heading and text, (c)(2)(i) and (d)(2)(i) amended	72650
1.1502–25 (c)(2)(ii) amended	72650
1.1502–27 (b)(2) amended	72650
1.1502–44 Added	65561
1.1502–79 (a)(3)(ii) and (b)(2)(ii) amended	72650
1.1552–1 (a)(1)(ii)(*b*) amended	72650
1.6050–1 Removed	58520
1.6050A–1 Added	57123
1.6050B–1 Added	46070
1.6073–1 (b)(1) revised; (c) and (d) redesignated as (d) and (e); new (c) added	60902
1.6073–2 (b) and (c) revised	60903
1.6073–3 (b) and (c) revised	60903
1.6073–4 (c) redesignated as (d); new (c) added	76143
1.6081–2 Heading revised; (a)(6) added	76144
3.4 (c) and (d)(2) amended	72651
4.901–2 Added	75648
4.903–1 Added	75656
5b Removed	76144
5b.911–1—5b.911–7 Removed	76133
5b.913–1—5b.913–13 Removed	76137
7.0 Amended	26324
(c)(2) removed; (e)(1) and (2) amended	84052
(c)(6) removed	†6926
7.191–1 Removed	38056
11.412(c)(1)–1 Removed	75201
11.412(c)(1)–2 Removed	75201
20.2032A–3 Added	50739
20.2032A–4 Added	50742
20.2032A–8 Added	50743
20.2039–2 (a) and (b) examples (2) and (3), and (c)(1) revised; (b)(3) and (4) amended; (b)(5) added	†7303
20.2039–3—20.2039–5 Added	†7304
20.6081–1 (c) amended	50745
20.6166 Removed	50745
20.6166–1 Redesignated as 20.6166A–1; new 20.6166–1 added	50745
20.6166–2 Redesignated as 20.6166A–2	50745
20.6166–3 Redesignated as 20.6166A–3	50745
20.6166–4 Redesignated as 20.6166A–4	50745
20.6166A–1 Redesignated from 20.6166–1	50745
20.6166A–2 Redesignated from 20.6166–2	50745
20.6166A–3 Redesignated from 20.6166–3	50745
20.6166A–4 Redesignated from 20.6166–4	50745
20.6324–1 Added	50747
23.1 (f) redesignated as (g); new (f) added	73467
25.2514–1 (c)(1) and (d) amended	†6929
25.2517–1 (b)(1)(iii) and (iv) revised; (b)(1)(v), (vi) and (d) added; (b)(2) and (c)(1) amended	†7307
25.6075 Removed	†6929
25.6075–1 Revised	†6929
26 Added	53125
26a Added	51772
31.3121(d)–1 (a)(1) amended	24129
31.3121(b)(20)–1 Added	57123
31.3401(a)(12) Removed	72652
31.3401(a)(12)–1 Heading revised; (d) added	72652
31.3401(a)(17)–1 Added	57124
31.3401(a)(20)–1 Added	†3509
31.3506–1 Added	24129
31.6302(c)–1 (a)(1)(i), (ii), and (iv) revised	39501
48.4042–1 Added	70861
48.4042–2 Added	70862
48.4042–3 Added	70862
48.4121–1 Added	66453
(b) correctly added	69214
48.4221–2 (a)(1) amended	†2999
48.4221–3 (a) text redesignated as (a)(1); (a)(2) added	72653
48.4222(c)–1 Existing text designated as (a) and heading added; (b) added	†2999
48.6302(c)–1 (f) added	70863
48.6420(a)–1 Heading, (a)(1), and (b) revised; (c)(1) amended; (c)(2) example (3) added	49545
48.6420(b)–1 Revised	49545
48.6420(c)–1 (c)(2)(i) and (5) amended	49545
48.6420(c)–2 Added	49545
48.6427–1 Added	49546
(d) and (f) corrected	52800
53.4940–1 (c)(1)(i), (f)(1), and (4) example (2) amended	72651
53.4942 Removed	56803
53.4942(a)–2 (c)(4)(i)(*b*) amended; (c)(4)(i)(*c*) and (*d*) redesignated as (c)(4)(i)	

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(*d*) and (*e*); new (c)(4)(i)(c) added	56803
(c)(4)(iv)(*a*) amended	56804
53.4942(b)-1 (a) revised	58520
54.4972-1 Revised	†6932
54.4974-1 Added	52799
139 Removed	66454
140 Removed	49546
150 Added	23387
150.4988-1 (b)(1) revised	†4876
150.4989-1 (c) revised; temporary regulation	63263, 64575
(c)(1), (2), (3), and (7) added	75207
150.4995-1 (a) revised	27931
(b)(2) revised	64577
(a), (b)(3), and (c) revised; (b)(4) removed	†4876
150.4995-2 (a) and (c) revised	27931
Revised	†4877
150.4995-3 (a)(1) introductory text revised	27931
(a)(1) introductory text and (f)(1) introductory text revised; (g) and (h) redesignated as (h) and (i); new (g) added	73468
(g)(2)(ii) examples (*1*) and (2) tables corrected	78119
(a)(1) introductory text and (2), (b), (c), (d), (f)(2), (g), and (i)(2) and (3) revised	†4879
150.4995-4 (a) revised	†4881
150.4995-5 Added	†4881
150.4996-1 (b) revised	81562
(a), (c), (d), and (h) introductory text revised; (j) redesignated as (k); new (j) and (l) added	†4882
150.4997-1 (a) amended	73469
Revised	†4883
150.4997-2 Revised	†4884
150.6050C-1 (b) introductory text and (f) revised	27932
(a), (e), and (f) revised	†4885
150.6076-1 Revised	†4886
150.6402-1 (b) and (c) revised; (e) and (f) added	73469
150.6402-1 (a) and (b) revised	†4886
154.3-2 Added	†2042
301.6050-1 Removed	58520
301.6050A-1 Added	57124
301.6103(a)-1 Added	65566
301.6103(a)-2 Added	65567
301.6103(c)-1 Added	65567
301.6103(h)(2)-1 Revised	65567
301.6103(i)-1 Added	65568
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301.9001 Added	33974
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245.117a Redesignated as 245.117; new 245.117a added; eff. 6-1-81	†3005
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22 Nomenclature change	62038
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117.215 (j)(4) revised	77432
117.220 (p) revised	77432
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161.104 Revised	48823
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75.100 Authority citation removed	86297
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78 Redesignated from 45 CFR Part 100d	77368
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52.236 (d) revised	70449
(a)(1), (b)(1) through (4), (c)(1), (e)(1) through (3), and (f)(1) revised; (b)(5) through (8) added	†3885
52.237 (a)(1) added	†5979
52.238 Table amended	74485, 80285
Table amended	†5979
52.240 (a) and (d)(1) revised	†3885
52.246 (b) introductory text revised	†3886
52.252 (b) introductory text revised	†3886
(b)(2)(ii) added	†5979
52.253 (b) introductory text revised	†3886
(b)(2) revised	†5979
52.254 (a) introductory text revised	†3886
52.255 (b) introductory text revised	†3886
(b)(1)(vii) removed; (b)(3) added	†5979
52.256 (b) revised	†5979
52.267 (a)(1) revised	†3886
52.269 (b)(1) introductory text revised; (b)(1-1) introductory text added; (b)(1)(iii) through (viii) redesignated as (b)(1-1)(i) through (vi)	†3886
52.270 (a) and (b) revised	52741
52.271 (b) added	70449
(a)(1) through (8) revised; (a)(9) through (35) added	†3886
(b)(3) and (4) added	†8472
52.272 (a) introductory text amended; (a)(1) through (5) revised; (a)(6) through (9) added	†3887
52.273 (b)(3)(v)(B) added; (b)(9) revised	70449
(b)(3)(i)(B), (ii)(B), (iii)(B), (iv)(B), and (7)(i)(B) added	72149
(a)(1) through (9) and (b)(1) through (9) revised; (a)(10) through (25) and (b)(10) through (18) added	†3887
52.275 (a)(1), (2) and (b)(1) through (5) revised; (b)(6) through (14) added	†3889
52.280 (a)(1) introductory text revised	†3889
52.320 (c)(17) added	46073
(c)(18) added	47684
(c)(19) correctly added	51200, 72150
(c)(20) correctly added	53147, 72150
52.324 (c) removed	47685
52.327 (a)(1) removed	47685
(a)(5) removed	51200
Corrected	72150
52.328 (a)(1) removed	47685
(a)(3) and (4) removed	51200
Corrected	72151
52.343 (a) and (b) revised	52741
52.370 (c)(11) added	84787
52.371 Table amended	84787
52.372 Revised	84787
52.373 Revised	84787
52.374 Revised	84787
52.383 (a) and (b) revised	52741
52.390 (c) and (d) added	84787
52.420 (c)(14) added	51199
(c)(12) correctly designated	55422
52.432 (a) and (b) revised	52741
52.470 (c)(13) corrected	55422
(c)(8) correctly designated as (c)(9) and republished; old (c)(8) correctly reinstated and republished	55721
(c)(17) added	†9948
(a), (b)(1) through (6), (f) and (g) removed; (c), (d)(1), (2), (e)(1), and (h)(1) through (4) redesignated as (a), (b)(1), (2), (c)(1) and (d)(1) through (4)	†9948
52.499 (a) and (b) revised	52741
52.520 (c)(20) added	59577
(c)(22) added	75212
(c)(23) added	69888
(c)(24) added	82633
52.530 (a) and (b) revised	52741
52.632 (a) and (b) revised	52741
52.670 (c)(16) and (17) added	70261
52.671 Table amended	70261
52.672 (e) correctly added	70261, 81041
52.680 Table amended; footnote g added	70261

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52.683 (a) and (b) revised	52741
52.684 Added	70261
52.685 Added	70261
52.686 Added	70261
52.720 (c)(22) and (23) added	62806
(c)(24) added	70450
(c)(25) added	†8473
52.724 (b), (c), (d), (e) and (f) added	62806
(a) revised	62809
52.725 (a) revised	62809
52.726 (b) corrected	55197
(a) revised	62810
52.729 (b) revised	62810
52.736 Revised	62810
52.737 Revised	62810
(b) revised	†8473
52.738 (a) and (b) revised	52741
(c) added	†9584
52.770 (c)(21) added	†38
52.773 (d) added	†38
52.786 (h) added	†38
52.793 (a) and (b) revised	52741
(c) added	†9584
52.833 (a) and (b) revised	52741
52.880 Added	79809
52.884 (a) and (b) revised	52741
52.920 (c)(13) added	72157
(c)(14) added	85002
52.923 Revised	72157
52.926 Revised	72157, 85002
52.928 Revised	72158
52.930 (a)(2) removed; (b) added	62811
52.931 (a) and (b) revised	52741
52.935 Added	85003
52.936 Added	72158
52.986 (a) and (b) revised	52741
52.1020 (c)(12) added	59314
(c)(11) amended	81042
(c)(11) amended	†898
(c)(13) added	†6942
52.1025 (e)(4) removed	†899
52.1027 (a)(2) removed	59314
(a)(1) removed; (a)(2) redesignated as (a)	81042
52.1070 (c)(23) and (24) added	45277
(c)(27) and (28) added	53474
(c)(35) added	55180
(c)(34) added	58341
(c)(33) added	58526
52.1071 Table amended	53475
52.1072 (c), (d), and (e) added	53475
52.1073 (f) revised	53475
52.1078 Table revised	53475
52.1116 (a) and (b) revised	52741
52.1120 (c)(29) correctly designated	48131
(c)(17) amended	53477
(c)(31) added	59578
(c)(26) amended	59580
(c)(26) amended; (c)(30) added	61303
(c)(32) added	82252
(c)(33) added	†4918
(c)(34) added	†8476
52.1121 Amended	61303
52.1122 (d) added	61303
52.1123 Revised	61303
52.1126 (f) amended	82252
(b) amended	†4918
(f) amended	†8476
52.1127 Revised	61303
52.1166 (a)(2) removed	59580
Revised	61303
52.1170 (c)(29) added	53138
(c)(27) added	56345
(c)(28) added	82927
(c)(30) added	85005
(c)(31) added	†8477
52.1173 Revised	58528
52.1174 Revised	58528
52.1175 (e) table amended	53138, 56345
(e) table amended	†8477
52.1180 (a) and (b) revised	52741
52.1234 (a) and (b) revised	52741
52.1270 (c)(12) added	46384
52.1280 (a) and (b) revised	52741
52.1320 (c)(19) added	46383
(c)(16) designation corrected; (c)(15)(A) through (K) correctly redesignated as (c)(16)(i) through (xi); new (a)(16)(i) corrected	46807
(c)(20) and (21) added	62814
(c)(15) conditional approval continued	67344
(c)(22) added	72150
(c)(16)(iv) revised; (c)(23) added	85006
52.1323 Conditional approval continued	67344
52.1324 (c) conditional approval continued	67344
(c)(1)(iv) removed; (c)(1)(v), (vi) introductory text, (A) and (B) redesignated as (c)(2), (3) introductory text, (i) and (ii)	85006
52.1331 Heading, (b), (c), and (d) conditional approval continued	67344

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52.1332	Table and note conditional approval continued	67344
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52.1335	(b) table amended	46383, 62814, 72150
52.1339	(a) and (b) revised	52741
52.1370	(c)(8) revised	62984
52.1373	Revised	76688
52.1375	Revised	62984, 76687
52.1380	Revised	62984
52.1382	(a) and (b) revised	52741
52.1384	Revised	62985
52.1385	Revised	62985
52.1436	(a) and (b) revised	52741
52.1470	(c)(14) added	46384
52.1477	Added	46385
52.1484	Revised	67347
52.1485	(a) and (b) revised	52741
52.1486	Revised	67347
52.1520	(c)(15) added	59314
	(c)(16) added	62815
	(c)(16) added	83228
52.1525	Removed	62815
52.1527	(a)(4) and (5) removed	59314
	(b)(1) removed; (b)(2) through (6) redesignated as (b)(1) through (5)	83228
52.1529	(a) and (b) revised	52741
52.1570	(c)(26) added	72153
52.1581	(b) removed	72153
52.1603	(a) and (b) revised	52741
52.1620	(c)(16) added	85007
52.1621	Table amended	67347
52.1624	(a)(1) and (b) revised	67347
52.1626	(b) added	85007
52.1630	Table amended	67347
52.1634	(a) and (b) revised	52741
52.1670	(c)(52) added	44275
	(c)(53) added	53144
	(c)(44) revised; (c)(54) added	74477
	(c)(55) added	†8480
	(c)(56) added	†8481
52.1673	Revised	74477
52.1674	(a)(2), (d)(1), (2), and (3), and (f)(1) removed	44275
	(a), (b), and (c) introductory texts revised; (g) added	74478
	(e)(4) removed	†8480
52.1675	(g) added	53144
52.1682	Table amended	74478
52.1689	(a) and (b) revised	52741
52.1770	(c)(22) added	55425
	(c)(23) added	59579
52.1778	(a) and (b) revised	52741
52.1780	(a)(1) removed	59579
52.1781	Added	55425
52.1820	(c)(11) added	53476
52.1870	(c)(24) added	72122
	(c)(14) through (20) added	72140
	(c)(21) and (22) added	72146
	(c)(23) added	79053
	(c)(25) added	†8490
52.1871	Table amended	72141, 72146
52.1873	Revised	72141, 72146
52.1875	(a) table footnote f revised	49552
	Revised	72141, 72146
	(a) table footnote f amended	73928
52.1879	(a) and (b) correctly removed; (e) correctly added	72122, 82937
52.1881	(b)(59)(xiv) added; (b)(59)(xvii) revised	49552
	(b)(60)(ix) added	62816
	(b)(38)(vi) introductory text, (B), and (C) and (vii) revised; (b)(38)(vi)(D) added	73044
	(b)(40)(iv) revised	78686
	(b)(40)(viii) and (ix) added	79452
	(a) revised	†8490
52.1882	(e) revised; (f) added	49552
	(h) added	73929
52.1884	(a) and (b) revised	52741
	(c) added	†9584
52.1885	Added	72142
	(a)(4) added; (b)(3) and (4) revised	72147
52.1886	Added	72142
	(e) added	72147
52.1887	Added	72143
	(a)(3) revised; (b)(4) added	72147
52.1920	(c)(15) and (16) added	79052
52.1923	Removed	79052
52.1924	Removed	79052
52.1929	(a) and (b) revised	52741
52.1930	Removed	79052
52.1932	(b) removed	79052
52.1970	(c)(32) added	47427
	(c)(27) through (31) correctly designated	55422
	(c)(33) added	†36
52.1985	(a)(3)(i) and (ii) correctly removed	55422
52.1987	(a) and (b) revised	52741
52.2020	(c)(33) added	55179
	(c)(21) technical correction	56060
52.2058	(a) and (b) revised	52741
52.2070	(c)(11) added	†3517
	(c)(13) added	†5980
52.2083	(a) and (b) revised	52741

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52.2120 (c)(12) added	45581
52.2131 (a) and (b) revised	52741
52.2170 (c)(7) added	58529
52.2178 (a) and (b) revised	52741
52.2220 (c)(33) added	53817
(c)(34) added	75661
52.2222 Revised	53817
52.2225 (b) and (c) added	53817
52.2230 Revised	53818
Table amended	75661
52.2231 Added	53817
(b) added	75661
52.2270 (c)(24) added	52148
52.2275 (a)(3) and (4)(ii) revised	82253
52.2276 (a) revised	82253
52.2299 (a)(1) and (2) revised	82253
52.2303 (a) and (b) revised	52741
52.2320 (c)(7) added	59581
52.2346 (a) and (b) revised	52741
52.2370 (c)(11) added	59315
52.2382 (a) removed; (b) redesignated as (a)	59315
(b)(1) removed	66789
52.2420 (c)(27) and (28) added	55195
(c)(33), (34), (35), and (36) added	66792
(c)(29), (30), (31), and (32) added	66795
(c)(38) added	80531
(c)(27) through (37) correctly designated and republished	85749
52.2422 (c) added	55195
52.2423 (c) through (f) added	55195
(d) added	66795
(c) through (f) corrected	85749
52.2429 Table revised	55196
52.2431 Heading revised; (e) added	55196
(e) correctly designated and revised	85750
52.2436 (b) added	55197
52.2451 (a) and (b) revised	52741
52.2470 (c)(22) added	50751
(c)(23) added	85009
52.2479 (a)(4), (5), and (6) added	50751
52.2487 (a)(2) added	85009
52.2497 (a) and (b) revised	52741
52.2520 (c)(10) through (12) added	54051
(c)(9) corrected	56060
(c)(13) correctly added	74480, 76688
52.2522 (c) correctly designated; (d) added	54051
(e) added	74480
52.2523 Table revised	54052
52.2528 (a) and (b) revised	52741
52.2529 Added	54051
52.2530 Added	54052
52.2531 Added	54052
52.2532 Added	54052
52.2581 (a) and (b) revised	52741
(c) added	†9585
52.2676 (a) and (b) revised	52741
52.2720 (c)(26) and (27) added	72658
52.2722 Revised	72658
52.2723 Revised	72658
52.2729 (a) and (b) revised	52741
52.2732 Added	72658
52.2779 (a) and (b) revised	52741
52.2791 Removed	52148
52.2827 (a) and (b) revised	52741
55 Administrative order	†8492
55.230 (f)(1) and (3), and (k)(4) and (5) revised; (f)(2) removed	73929
55.310 Added	†8492
55.650 Table amended	†7962
56 Added	85405
57.816 Revised	85015
57 Appendix A amended	85016
60.2 Amended	85415
60.4 (b)(NN)(b) correctly added; (b)(OO) corrected	50751
(b)(Q) revised	75662
60.42 (b)(2) correctly added	47146
60.45 (g)(1)(ii) correctly added	47146
60.101 (d) revised	79453
60.112a (a)(1)(ii)(B) corrected	83229
60.290—60.296 (Subpart (CC) Added	66751
60.390—60.397 (Subpart MM) Added	85415
60.420—60.424 (Subpart PP) Added	74850
60 Appendix A amended	65958, 66752
Appendix A corrected	85016
62.7601 Section and undesignated center heading added	80826
62.13352 Section and undesignated center heading added	80826
65.350 Table amended	46386
65.361 Table amended	73046
65.362 Table amended	73046
65.432 Designation corrected	45278
66 Added	50110
67 Added	50117
80 Petition for reconsideration denied	65581
80.20 (a)(7) revised	56125
81 Petition for reconsideration denied	65585

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81.162 Amended	†3890
81.163 Amended	†3890
81.164 Amended	†3890
81.165 Amended	†3890
81.167 Amended	†3890
81.184 Amended	84788
81.269 Added	67347
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81.272 Added	67348
81.273 Added	†3891
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81.322 Table amended	61304
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85.401—85.408 (Subpart E) Added	67579
85.2112—85.2122 (Subpart V) Added	78458
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86.082-1 Added	67002
86.082-2 Added	67002
86.082-8 (a)(1) revised; (d), (e), (f), and (g) added	67002
(a)(1)(iii) revised	78125
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86.082-9 (a)(1) revised; (d), (e), (f), and (g) added	67003
86.082-21 Added	67003
86.082-24 Added	67004
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86.082-28 (a)(4)(i)(B) revised	67009
86.082-30 Added	67009
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86.1601—86.1606 (Subpart Q) Added	66956
86 Appendix X (Sampling Plans for Selective Enforcement Auditing of Heavy-Duty Engines) revised	63783
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122.4 (b) interpretation	74490
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122.15 (a)(7) added; interim; eff. 7–13–81	†2888
122.17 (e) revised; interim; eff. 7–13–81	†2889
122.21 (d)(2)(vi) added	76075
(d)(3) added; interim	76630
(d)(2)(vii) added; interim	86968
122.22 (a)(1) revised; (a)(2) and (3) redesignated as (a)(4) and (5); new (a)(2) and (3) added; interim	76635
(b) revised; interim	†2348
122.23 (a)(1) revised; interim	76636
122.25 Revised; interim; eff. 7–13–81	†2889
(b)(5) added; interim; eff. 7–22–81	†7681
122.27 Revised; interim; eff. 7–22–81	†7681
122.29 Revised; interim; eff. 7–13–81	†2892
122.53 (b) suspended in part	68391
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122.66 (b)(1) and (2) temporarily suspended	59318
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123.34 (f)(3) revised; interim	86974
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123.121—123.137 (Subpart F) Authority citation; interim	†8303
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123.128 (b)(7)(ii) and (c)(5) revised; interim	86974
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125 Availability of regulations	61617
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141.14 (a)(1), (b)(1)(i) and (2)(i) revised; (d) added	57343
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141.22 (a) revised; (e) added	57344
141.23 (a)(3) and (f)(1) through (10) revised; (a)(4) added	57344
141.24 (a)(3) added; (e) and (f) revised	57345
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262.51 Amended	78529
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263.12 Added; interim	86968
263.20 (e) introductory text, (1), (4), and (5) revised; (f) redesignated as (g) and new (f) added; interim	86973
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[1] Public Law 96-88 transferred the regulations of the Office of Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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[1] Public Law 96-88 transferred the regulations of the National Institute of Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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[1] Public Law 96–88 transferred the regulations of the Fund for the Improvement of Postsecondary Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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87.139 (a)(4) added	78139
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90.103 (c)(21) revised	83233
90.119 (e) petition denied and interim form	†3896
90.155 Revised	81208
90.159 Petition denied and interim form	†3896
90.209 (c) introductory text, (f), and (g) revised	84803
90.211 (d) through (h) removed; new (d) added	84803
90.365 (a)(1) introductory text and (3) revised	81209
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94.27 (a)(5) added	†9954
94.61 (b) amended	†9954
94.63 (d)(4) and (5) added	†9954
94.65 (a) revised	†9954
94.67 (a) amended	†9955
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94.73 Amended	†9955
94.75 (b) amended; (g) added	†9955
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1.59 (a)(1) and (c)(1) and (3)(i) amended; (a)(4) and (n) removed; (c)(6) through (10) redesignated as (c)(5) through (9); (b)(8), (e), and (k) through (m) revised	83409
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171.16 (b) revised; (c) and (d) added	73683
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172 Incorporation by reference approvals	81485
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172.102 Heading, (a), and (b) revised; (h) introductory text, and (1) through (9) amended; table amended	74652
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173.29 (a)(1) and (3)(ii) revised; (d) added	74669
173.31 (c)(1) amended	81571
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173.32 Heading revised; (a)(2) removed	†9889
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173.107 (e) amended	81571
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173.124 (a)(5)(ii) added	†8010
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173.300a	(f) amended	81572
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173.306	(c)(7) and (d)(3)(i) amended	81572
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173.364	(a) introductory text amended	74669
173.377	(j) introductory text and (5) amended	81572
173.393a	Heading, (a) introductory text, (1), (2), (3), and (5) amended	81572
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173.500	(a) note revised	74669
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173.1080	(a) amended	81572
174	Incorporation by reference approvals	81485
174.25	(a)(2) table amended; (b)(1) through (4) and (c) revised; (b)(5) and (6) removed	74669
174.61	(a) amended	81572
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175.30	(b) and (c) revised	68654
175.45	(d) added	74670
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176	Incorporation by reference approvals	81485
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176.76	(g)(3) amended	81573
176.340	Added	†9894
177	Incorporation by reference approvals	81485
177.806	(b) amended	81573
177.810	Revised; eff. 2–1–82	†5316
177.817	(b) revised	74670
177.825	Added; eff. 2–1–82	†5316
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177.861	(a) note 1 amended	81573
177	Appendix A added; eff. 2–1–82	†5317
178	Incorporation by reference approvals	81485
178.0–2	(b) amended	81573
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178.340-2 (b) amended	81573
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179.100-23 Heading and (a) introductory text revised	†8011
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193 Incorporation by reference approvals	79490
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193.2431 (c) added	70404
193.2501—193.2521 (Subpart F) Added; eff. in part 1-1-82	70405
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193.2601—193.2639 (Subpart G) Added	70407
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193.2717 Added	70405
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193.2719 Added	70405
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193.2801—193.2821 (Subpart I) Added; eff. in part 1-1-82	70408
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193.2901—193.2917 (Subpart J) Added; eff. in part 1-1-82	70409
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193 Appendix A amended	70410
195.418 (e) added	†40

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531.5 (b)(4) added	67095
533.5 (a) table and (d) added	81600
535 Added	83235
537.5 (c)(7) revised	†2063
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571.105 Amended; eff. 9-1-83	†64
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575.104	(e)(2)(ii), (f)(2)(i)(B) and (D), (vii), and (viii), (g)(1), (3), (6), and (8) amended; table added	70273
577.5	(g)(1)(vii) introductory text revised	†6971

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660	Policy revision	68655
660.11	(b), (c), and (f) revised; (g) added	†5813
660.13	(c) and (e) revised	†5813
660.21	(a) revised; (c) added	†5813
660.22	(c) revised; (d) added	†5814
660.31	(b) revised; (d) added	†5814
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	Form OP-1 availability	†8524
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1011.6	(g)(6) added; (b)(2) and (3) redesignated as (g)(4) and (5)	64959
	(c)(6) added	73076
	(c)(1)(iii) added	84069
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1033.1367	(e) revised	66459
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1033.1370	(e) revised	†3533
1033.1374	(e) revised	†3534
1033.1381	Revised	64957
1033.1391	(g) revised	64957
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1033.1487	Added	67096
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[1] NOTE: Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

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1	**Cheese import limitations** Presidential proclamation
39	**Natural Gas** DOT/RSPA and MTB publish final rule regarding the transportation of certain gases by pipeline; effective 1-2-81
402	**Airspace** DOT/FAA republishes compilation of current airspace designations; effective 12-1-80 (Part II of this issue)
71	**Electric Power** DOE/ERA proposes emergency interconnection of electric facilities and the transfer of electricity to alleviate an emergency shortage of electric power; comments by 2-13-81
167, 169	**Grant Progams—Social** HHS/HDS announces that applications are being accepted for Traineeship and Teaching Grants; apply by 3-6-81 (2 documents)
3	**National School Lunch** USDA/FNS specifies average payment factor for reduced price school lunches; effective 1-1-81

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136 **School Breakfast and Lunch Programs** USDA/FNS announces national program changes; effective 1–1–81

139 **Milk** USDA/FNS announces reimbursement rates for the Special Milk Program for children; effective 10–1–80

4 **Food Program** USDA/FNS issues emergency final rules regarding program payments for supplements served in child care centers and outside-school-hours-care centers; effective 1–1–81

138 **Food Program** USDA/FNS announces payment rate for meals served in child care and outside school care centers; effective 1–1–81

66 **Commercial Fisheries** Commerce/NOAA establishes procedures for administering the Fisheries Loan Fund Program; effective 1–2–81

78 **Securities** SEC solicits comments by 3–6–81, regarding proposed revision of Regulation S-K and guides for the preparation and filing of registration statements and reports

32 **Highways and Roads** DOT/FHA solicits comments by 2–2–81; of interpretation of the maximum width of trucks on the Interstate System

120 **Taxes** Treasury/IRS proposes regulations relating to the new tax on certain generation-skipping transfers; comments by 3–3–81

112 **Income Taxes** Treasury/IRS proposes basis and nonrecognition of gain or loss in triangular corporate reorganizations; comment by 3–3–81

129 **Excise Tax** Treasury/IRS issues regulations relating to Motor fuels and buses; comments by 3–3–81

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Federal Register
Vol. 46, No. 1
Friday, January 2, 1981

Presidential Documents

Title 3—

The President

Proclamation 4811 of December 30, 1980

Proclamation To Amend the Tariff Schedules of the United States With Respect to the Quantitative Limitations of Certain Cheeses

By the President of the United States of America

A Proclamation

1. Import limitations have been imposed on certain cheeses pursuant to the provisions of Section 22 of the Agricultural Adjustment Act, as amended, 7 U.S.C. 624. Section 701 of the Trade Agreements Act of 1979, P.L. 96–39 (the "Act"), requires that the President proclaim limitations on the quantity of cheese of the types specified therein, which may enter the United States in any calendar year after 1979. The Act provides that the annual aggregate quantity of such types of cheese entered shall not exceed 111,000 metric tons. Such quantitative limitations appear in Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). The present limitations became effective on January 1, 1980, pursuant to Proclamation 4708 of December 11, 1979.

2. In order to permit imports at a level more nearly in line with current trade requirements, the quantitative limitations set forth in the Appendix to the TSUS must be modified.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including the provisions of Section 22 of the Agricultural Adjustment Act of 1933, as amended, and the Trade Agreements Act of 1979, do hereby proclaim that Part 3 of the Appendix to the Tariff Schedules of the United States is modified effective January 1, 1981, as set forth in the Annex to this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of December, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

Billing code 3195-01-M

ANNEX

Part 3 of the Appendix to the Tariff Schedules of the United States is modified as follows--

(a) Item 950.10C is modified:

by deleting:

"Switzerland.............. 3,196,670 1,450,000", and

by substituting, in lieu thereof:

"Switzerland.............. 4,078,510 1,850,000".

(b) Item 950.10D is modified:

(1) by deleting:

"Switzerland.............. 3,571,452 1,620,000", and

by substituting, in lieu thereof:

"Switzerland.............. 2,689,612 1,220,000"; and

(2) by deleting:

"Other..................... 287,997 130,635", and

by substituting, in lieu thereof:

"Other..................... 444,525 201,635".

[FR Doc. 80-40843
Filed 12-31-80; 10:40 am]
Billing code 3195-01-C

Rules and Regulations

Federal Register
Vol. 46, No. 1
Friday, January 2, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

[Amdt. 45]

National School Lunch Program; Reimbursement for Reduced Price Lunches

AGENCY: Food and Nutrition Service.

ACTION: Emergency final rule.

SUMMARY: This emergency final rule amends the National School Lunch Program Regulations to specify that the average payment factor for reduced price school lunches will be 20 cents less than the payment factor for free lunches. This rule deletes the provision which allowed an adjustment in the amount of Federal money a State received by reducing the charge to the child for a reduced price lunch. This rule is mandated by Public Law 96-499, for the purpose of reducing Federal spending.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-9065. An Impact Analysis Statement is available on request from the above named individual.

SUPPLEMENTARY INFORMATION:

Administrative Procedures

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified, "not significant." Robert Greenstein, Administrator, of the Food and Nutrition Service, has determined that an emergency situation exists which warrants making this rule effective on January 1, 1981. Because the provisions of this rule are mandated by Public Law 96-499 and are thus nondiscretionary, solicitation of public comment is impractical and unnecessary. Further, the provisions of Public Law 96-499 implemented by this rule are effective January 1, 1981. Therefore, good cause exists both for making this rule effective earlier than 30 days after publication and for dispensing with the solicitation of comments.

Background

Section 11(b) of the National School Lunch Act provides that in States where all schools charge a uniform price for reduced price lunches, and the price is less than $.20, the special assistance factor for reduced price lunches paid to that State is the special assistance factor for free lunches minus $.10 or minus the price charged per lunch, whichever is greater. Section 204 of P.L. 96-499 eliminated this provision in Section 11(b) thus fixing the special assistance factor for reduced price lunches at $.20 less than the special assistance factor for free lunches. A school can offset the reduction in Federal funding caused by this change by charging its students 20 cents, the highest allowable charge for a reduced price lunch. A State can no longer alter the amount of Federal money it receives by requiring its schools to charge their children less than 20 cents for a reduced price lunch. The following amendment implements this change.

Accordingly, Part 210 is amended as follows:

Section 210.4 paragraph (b) the second sentence is revised to read as follows and the third sentence is removed:

§ 210.4 Payment of funds to States and FNSROs.

* * * * *

(b) * * * Beginning with the fiscal year ending June 30, 1974, the special cash assistance factor prescribed for free lunches shall be not less than 45 cents and beginning January 1, 1981, the special cash assistance factor prescribed for reduced price lunches shall be 20 cents less than the special cash assistance factor for free lunches.

* * * * *

(Catalogue of Federal Domestic Assistance No. 10.555)

(Omnibus Reconciliation Act of 1980, Sec. 204, Pub. Law 96-499, 94 Stat. 2599)

Dated: December 23, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40831 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 215

[Amdt. 19]

Special Milk Program; Reduction in Reimbursement Rate

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This final rule implements the provision of Public Law 96-499 which reduces the reimbursement rate per half pint of milk from 8.5 to 5.0 cents for schools and institutions participating in the Special Milk Program and one or more of the following programs: the National School Lunch Program, School Breakfast Program, Child Care Food Program, or the Summer Food Service Program for Children.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, USDA, FNS, Washington, D.C. 20250. Telephone: (202) 447-9065. The Impact Analysis Statement is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Robert Greenstein, Administrator, Food and Nutrition Service, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because the provisions of this rule are mandated by Public Law 96-499 and are thus nondiscretionary. The solicitation of public comments is unnecessary. Good cause exists both for dispensing with the solicitation of public comments and for making the rules effective earlier than 30 days after publication.

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Background

Section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772) and 7 CFR § 215.8 of the regulations governing the Special Milk Program for Children (7 CFR Part 215) authorizes the Secretary to establish the rate of reimbursement per half pint (236 ml.) of milk purchased and served to children. As indicated in the July 11, 1980 Notice (45 FR 46831), Public Law 96-304 reduced the reimbursement rate from 8.5 cents to 5.0 cents for the remainder of the fiscal year for schools and institutions participating in the Special Milk Program and also in the National School Lunch Program, School Breakfast Program, Child Care Food Program or the Summer Food Service Program for Children. Public Law 96-369, making continuing appropriations for Fiscal Year 1981, maintained the 5.0 cents reimbursement rate through December 15, 1980. That action was taken by Congress to maintain on-going programs without significant changes in operations until Congress had an opportunity to act on the regular appropriations bill. On December 5, 1980, Public Law 96-499 was enacted which made the 5.0 cents reimbursement rate permanent.

The reimbursement rate of 8.5 cents per half pint of milk will remain in effect through June 30, 1981, for commodity only schools and schools and institutions participating only in the Special Milk Program as stipulated in 45 FR 46831.

For the reasons set out in the preamble and under authority given the Secretary, the Special Milk Program regulations are amended as set forth below.

PART 215—SPECIAL MILK PROGRAM

Accordingly, Part 215, Special Milk Program regulations are amended by Amendment 19 as follows:

§ 215.1 [Amended]

§ 215.1 is amended by inserting the following sentence immediately after the word "cent." and preceding the last sentence in the paragraph.

* * * Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.* * *.

§ 215.8 is amended by adding a new sentence after the second sentence in paragraph (b)(1) to read as follows:

§ 215.8 Reimbursement Payments.

* * * * *

(b)(1) * * * The rate of reimbursement per half pint of milk purchased and served to children, except needy children in pricing programs operated by School Food Authorities and institutions which elect to provide free milk, shall be 5.0 cents effective October 1, 1980 for schools and institutions participating in the Special Milk Program and one or more of the following programs: the National School Lunch Program, the School Breakfast Program, the Childcare Food Program, or the Summer Food Service Program for Children.* * *

* * * * *

(Catalogue of Federal Domestic Assistance Program No. 10.556)

(Omnibus Reconciliation Act of 1980, Sec. 209, Public Law 96-499, Stat. 2599)

Dated: December 23, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40666 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 226

Child Care Food Program; Program Payments for Supplements Served in Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This emergency final rule implements mandatory provisions of the Omnibus Reconciliation Act of 1980, regarding Program payments under the Child Care Food Program (CCFP). The rates of reimbursement for supplements served in child care centers and outside-school-hours-care centers will not be adjusted on January 1, 1981 to reflect changes in the series for food away from home of the Consumer Price Index (CPI) for All Urban Consumers. The next CPI adjustment of these rates will take place on July 1, 1981. The legislation also mandates a three-cent reduction in the free, reduced-price, and paid rates for supplements served in centers. The first such reduction will be effective January 1, 1981. Subsequently, these rates will be reduced by three cents after each CPI adjustment has been computed. This action is necessary to effect a reduction in Federal Program outlays.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Welstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8509. A copy of the Impact Analysis Statement can be obtained from this address.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Robert Greenstein, Administrator of the Food and Nutrition Service has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because the provisions of this rule are mandated by Pub. L. 96-499 and are thus nondiscretionary. Further, the provisions of Pub. L. 96-499 that are the bases of this rule must be implemented by January 1, 1981.

1. *Adjustment of reimbursement rates for supplements served in centers (§ 226.4(g)(2)).*

Pub. L. 96-499 (the Omnibus Reconciliation Act of 1980) mandates that no CPI adjustments of these rates take place on January 1, 1981. The next adjustment of these rates will take place on July 1, 1981, and they will be adjusted on each January 1 and July 1 thereafter. The adjustment of July 1, 1981 will be based on CPI changes measured over the most recent twelve-month period for which data are available. All subsequent adjustments will be based on the most recent six-month period for which data are available.

Sections 4 and 11 of the National School Lunch Act, which govern reimbursement for lunches and suppers served under the National School Lunch Program, and Section 4 of the Child Nutrition Act of 1966, which governs reimbursement for breakfasts served under the School Breakfast Program, were amended by Pub. L. 96-499 so that rates for breakfasts, lunches, and suppers served under these programs will not be adjusted on January 1, 1981. Since Section 17 of the National School Lunch Act applies the payment rates established in the above sections to centers, rates for breakfasts, lunches, and suppers served in centers also will not be adjusted on January 1, 1981. However, this change will be implemented through amendments to National School Lunch and School Breakfast Program regulations, and not to Child Care Food Program regulations.

2. *Three-cent reduction in reimbursement rates for supplements served in centers (§ 226.4(g)(2)).*

As required by Pub. L. 96-499, the

free, reduced-price and paid reimbursement rates for supplements served in centers will each be reduced by three cents. The initial reduction will take place on January 1, 1981. Thereafter, each time these rates are adjusted to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers, the Department will subtract three cents from each of the adjusted rates, as mandated by the legislation. For example, if the next CPI adjustment yielded a free supplement rate of 30 cents, the three-cent reduction would establish that rate at 27 cents. Application of the reduction to a subsequent CPI-adjusted rate of 34 cents, for example, would result in a free reimbursement rate of 31 cents.

Accordingly, 7 CFR Part 226, Child Care Food Program, is amended as follows:

In § 226.4, the introductory paragraph of (g) is revised, and (g)(2) is revised, to read as follows:

§ 226.4 Payments to States and use of funds.

* * * * *

(g) *Rate adjustments.* FNS shall publish a notice in the **Federal Register** to announce each rate adjustment, and shall adjust the following rates on the specified dates:

(1) * * *

(2) The rates for supplements served in child care centers and outside-school-hours care centers shall be adjusted semi-annually, on January 1 and July 1, on the basis of changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Department of Labor, except that such adjustments shall not be made on January 1, 1981. Such adjustments shall be made to the nearest $.0025. The adjustments of July 1, 1981 shall be based on changes measured over the most recent twelve-month period for which data are available, and all adjustments thereafter shall be based on the most recent six-month period for which data are available. On January 1, 1981, these rates shall each be reduced by three cents. On each subsequent July 1 and January 1, three cents shall be subtracted from these rates after they have been adjusted based on changes in the Consumer Price Index.

* * * * *

(Catalog of Domestic Assistance Programs Number 10.558)

(Omnibus Reconciliation Act of 1980, Sec. 208, Pub. L. 96–499, 94 Stat. 2599)

Dated: December 24, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–40067 Filed 12–31–80; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 503]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 2, 1981–January 8, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on December 29, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is slow.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.803 is added as follows:

§ 907.803 Navel Orange Regulation 503.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 2, 1981, through January 8, 1981, are established as follows:

(1) District 1: 679,000 cartons;
(2) District 2: 22,014 cartons;
(3) District 3: unlimited cartons;
(4) District 4: 21,000 cartons;

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 30, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–40830 Filed 12–30–80; 12:19 pm]

BILLING CODE 3410–02–M

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7 CFR Part 910

[Lemon Reg. 285, Amdt. 1; Lemon Reg. 286]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 4–10, 1981, and increases the quantity of such lemons that may be so shipped during the period December 28, 1980–January 3, 1981. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective January 4, 1981, and the amendment is effective for the period December 28, 1980–January 3, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on December 29, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.586 is added as follows:

§ 910.586 Lemon Regulation 286.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period January 4, 1981, through January 10, 1981, is established at 215,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.585 Lemon Regulation 285 (45 CFR 85717) is amended to read as follows:

§ 910.585 Lemon Regulation 285.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period December 28, 1980, through January 3, 1981 is established at 230,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 30, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–40858 Filed 12–30–80; 12:19 pm]

BILLING CODE 3410–02–M

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7 CFR Part 910

[Lemon Reg. 284, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 21–December 27, 1980. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The amendment is effective for the period December 21–December 27, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again on December 24, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this amendment is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and this amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

Paragraph (a) of § 910.584 Lemon Regulation 284 (45 FR 83474) is amended to read as follows:

§ 910.584 Lemon Regulation 284.

(a) "The quantity of lemons grown in California and Arizona which may be handled during the period December 21, 1980, through December 27, 1980, is established at 220,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 24, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–40665 Filed 12–31–80; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide for a revision of REA Bulletin 20–9:320–12, "Loan Payments and Statements," formerly titled "Notes, Interest Computation, Payments and Loan Account Statements." The major revisions (1) require borrowers which receive a loan after December 31, 1980, to make debt service payments of $10,000 or more by electronic funds transfer, utilizing the Treasury Financial Communications System/Federal Reserve Communication System (TFCS/FRCS), (2) allow FFB borrowers, whose loans are guaranteed by REA, to select any advance with a short-term maturity date for prepayment or early extension to a long-term maturity date, and (3) allow loan fund advances of $500,000 or more to be made by TFCS/FRCS on REA and RTB borrowers' requests.

EFFECTIVE DATE: December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Sheldon Chazin, Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307–S, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–7221.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, "Improving Government Regulations," and has been classified "not significant."

This program is listed in the Catalog of Federal Domestic Assistance as 10.80—Rural Electrification Loans and Loan Guarantees; 10.850—Rural Telephone Loans and Loan Guarantees; and 10.852—Rural Telephone Bank Loans.

This rule implements suggestions of the USDA-Federal Cash Management Task Force, organized as part of the President's Reorganization Project. It reviewed the cash management practices and procedures of REA during 1978 and suggested alternatives for expediting the flow of funds into the U.S. Treasury. REA has studied the alternatives and selected TFCS as the best method for assuring the prompt credit of funds to the U.S. Treasury.

Two public comments were received. They questioned the equity of requiring that debt service payments in excess of $10,000 must be made by TFCS while advances must be $750,000 or more before a borrower may request an advance by TFCS. Receipts from borrowers received via TFCS are transmitted to Treasury through the Federal Reserve Bank System; however, disbursements via TFCS must be manually entered into the system by REA and Treasury. REA and Treasury are unable to handle the large volume of transactions that would be incurred if advances of $10,000 or more were made by TFCS. REA and Treasury analyzed the advances being made; however, and determined the requirement could be decreased from $750,000 to $500,000.

Dated: December 18, 1980.

Robert W. Feragen,

Administrator.

[FR Doc. 80–[illegible] Filed 12–31–80; 8:45 am]

BILLING CODE 3410–15–M

Food Safety and Quality Service

7 CFR Parts 2855, 2856, 2859, and 2870

Increase in Fees and Charges

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The rates for the voluntary Federal egg products, eggs, poultry and rabbit grading, inspection and/or laboratory services, and the mandatory Federal egg products inspection service overtime, holiday, and appeal rates are changed to reflect increased costs associated with these programs. In addition, several changes solely for clarity or of a housekeeping nature are being made.

EFFECTIVE DATE: January 25, 1981.

FOR FURTHER INFORMATION CONTACT: Ashley R. Gulich, Chief, Poultry Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3944, South Agriculture Building, Washington, DC 20250, (202) 447–3506.

SUPPLEMENTARY INFORMATION:

Exemption From Executive Order 12044

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been determined to be exempt from those requirements. Dr. Donald L. Houston made this determination because the Executive Order does not apply to matters relating to Agency management.

Background

The Agricultural Marketing Act of 1946 provides for the collection of fees approximately equal to the cost of providing voluntary Federal egg products, egg, poultry and rabbit grading, inspection and/or laboratory services. The Egg Products Inspection Act provides for the collection of fees approximately equal to the cost of providing mandatory Federal egg products overtime and holiday service. The fees for these voluntary services have not been increased since 1976, and for the mandatory services since 1978, despite the fact that there has been a general increase in salaries of Federal employees in each of the intervening years since the last increases. In addition, many of the graders and inspectors are being reclassified to a higher grade level resulting in further salary increases. Other escalating costs to provide service are due to increases in travel expenses. Therefore, it is necessary to raise the fees to cover the costs of these services.

In addition, changes are being made to make the regulations consistent throughout and to reflect current methods in the calculation of charges. For example, previous reference to two base salary rates for graders assigned to plants is deleted since only one rate is being used. A broader interpretation of certain charges covered in the general fee sections make it possible to eliminate some provisions previously dealing separately with these charges. For example, the separate sections on fees for additional copies of certificates are eliminated since these charges are considered clerical costs under the general sections on fees and charges. The provisions for expenses to be charged on appeal certificates and the minimum charge per certificate are eliminated since they are already incorporated in other language of the affected sections. (For example, see § 2855.530.) Finally, with respect to the fees for appeal grading, the affected sections have been changed to more accurately reflect the basis for the costs of these services in light of the current methods for the computation of charges for all services.

Accordingly, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and the Egg Products Inspection Act (21 U.S.C. 1031–1056), the U.S. Department of Agriculture hereby amends the Regulations Governing the Voluntary Inspection and Grading of Egg Products (7 CFR Part 2855); the Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 2856); the Regulations Governing the Inspection of Eggs and Egg Products (7 CFR Part 2859); and the Regulations Governing the Voluntary Grading of Poultry Products and Rabbit Products and United States Classes, Standards, and Grades with Respect Thereto (7 CFR Part 2870) as set forth below:

PART 2855—VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

1. In § 2855.510, paragraph (e) is deleted and paragraphs (b), (c), and (d) are amended to read as follows:

§ 2855.510 Fees and charges for services other than on a continuous resident basis.

* * * * *

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $16.52 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $18.88 per hour. Information on legal holidays is available from the Supervisor.

(d) The costs of an appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $14.88 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

§ 2855.520 [Removed]

2. Section 2855.520 is removed.

§ 2855.530 [Amended]

3. Section 2855.530 is amended by deleting the last two sentences.

4. Section 2855.550 is amended to read as follows:

§ 2855.550 Laboratory analysis fees.

(a) The fees listed for the following individual laboratory analyses cover costs involved in the preparation and analysis of the product, certificate issuance, and personnel and overhead costs other than the expenses listed in § 2855.530.

	Fee
Solids	$10.70
Fat	21.40
Bacteriological plate count	10.70
Bacteriological direct count	21.40
Coliforms	16.05
E. Coli (presumptive)	16.05
Yeast and mold count	10.70
Sugar	26.75
Salt	26.75
Color:	
NEPA	16.05
B-Carotene	21.40
Whipping test	10.70
Whipping test plus bleeding	16.05
Fat film test	26.75
Oxygen	10.70
Glucose:	
Quantitative	21.40
Qualitative	16.05
Palatability and odor:	
First Sample	10.70
Each additional sample	5.35
Staphylococcus	32.10
Salmonella [1]	
Step 1	21.40
Step 2	10.70
Step 3	21.40

[1] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple-sugar-iron and lysine iron agars; Step 3—confirmatory test through biochemicals.

(b) The fee charge for any laboratory analysis not listed in paragraph (a) of this section, or for any other applicable services rendered in the laboratory, shall be based on the time required to perform such analysis or render such service. The hourly rate shall be $21.40.

5. In § 2855.560, paragraph (a)(2) is revised to read as follows:

§ 2855.560 Charges for continuous inspection and grading service on a resident basis.

(a) * * *

(2) A charge for the salary and other costs, as specified in this subparagraph, for each grader or inspector while assigned to a plant, except that no charge will be made when the assigned grader or inspector is temporarily reassigned by FSQS to perform grading or inspection service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

* * * * *

PART 2856—GRADING OF SHELL EGGS AND UNITED STATES STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

6. In § 2856.46, paragraphs (b) and (c) are amended to read as follows:

§ 2856.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $16.52 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $18.88 per hour. Information on legal holidays is available from the Supervisor.

7. Section 2856.47 is revised to read as follows:

§ 2856.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $14.88 for time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

§ 2856.48 [Removed]

8. Section 2856.48 is removed.

§ 2856.49 [Amended]

9. Section 2856.49 is amended by deleting the last two sentences.

10. In § 2856.52, paragraph (a)(2) is revised to read as follows:

§ 2856.52 Continuous grading performed on a resident basis.

(a) * * *

(2) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by FSQS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

* * * * *

11. In § 2856.54, paragraphs (a)(1) and (2) are amended to read as follows:

§ 2856.54 Charges for continuous grading performed on a nonresident basis.

(a) * * *

(1) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made

when the assigned grader is temporarily reassigned by FSQS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

* * * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $85.00 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 2859—INSPECTION OF EGGS AND EGG PRODUCTS

12. Section 2859.126 is amended to read as follows:

§ 2859.126 Overtime inspection service.

When operations in an official plant require the service of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $16.28 to cover the cost thereof.

13. In § 2859.128, paragraph (a) is amended to read as follows:

§ 2859.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Service therefor at an hourly rate of $13.08 to cover the cost thereof.

* * * * *

14. In § 2859.370, paragraph (b) is amended to read as follows:

§ 2859.370 Cost of appeals.

* * * * *

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $14.88, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

PART 2870—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND UNITED STATES CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

15. In § 2870.71, paragraphs (b) and (c) are amended to read as follows:

§ 2870.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $16.52 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $18.88 per hour. Information on legal holidays is available from the Supervisor.

16. Section 2870.72 is amended to read as follows:

§ 2870.72 Fees for appeal grading, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision shall be borne by the appellant at an hourly rate of $14.88 for time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, laboratory analysis, or examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

§ 2870.74 [Removed]

17. Section 2870.75 is removed.

§ 2870.75 [Amended]

18. Section 2870.75 is amended by deleting the last two sentences.

19. In § 2870.76, paragraphs (a) (1) and (2) are amended to read as follows:

§2870.76 Charges for continuous poultry grading performed on a nonresident basis.

(a) * * *

(1) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by FSQS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

* * * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $85.00 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

20. In § 2870.77, paragraph (a)(2) is amended to read as follows:

§ 2870.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

(a) * * *

(2) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by FSQS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

* * * * *

(Agriculture Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.); Egg Products Inspection Act (21 U.S.C. 1031–1056))

Legislation requires that the fees and charges for grading, inspection and/or laboratory services under the Agricultural Marketing Act of 1946, as amended, shall be reasonable and shall, as nearly as possible, cover the cost of such services. It is also required under the Egg Products Inspection Act that the costs of inspection incurred but not provided for in the mandatory egg and egg products inspection programs be recovered.

The facts upon which the determinations are based as to the level of fees and charges necessary to cover these costs are not available to the industry, but are peculiarly within the knowledge of the Department. Therefore, public rulemaking would not result in the Department receiving additional information on this matter.

Therefore, pursuant to the authority in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the **Federal Register** since increased revenues are urgently needed to cover the costs of the services being provided.

Done at Washington, DC, on: December 23, 1980.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 80-40818 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-DM-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 18]

Administration; Organization and Functions

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Due to reorganizations within the Small Business Administration, portions of Part 101—Administration as it pertains to organization, functions, and listing of field offices is being updated.

DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Amos B. Cheeseboro, Office of Personnel Services, Small Business Administration, 1441 L St. N.W., Washington, D.C. 20416—(202) 653-5293.

SUPPLEMENTARY INFORMATION: Inasmuch as this Part sets forth the Agency's organization and procedures, notice of proposed rulemaking and public procedure thereon are not required by section 553 of Title 5 of the United States Code.

Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, 13 is revised as set forth below.

1. The table of contents is amended by revising Section 101.2-7a and adding §§ 101.2-7d and 101.2-7e. As amended, the table of contents for Part 101 reads as follows:

PART 101—ADMINISTRATION

Sec.
101.1 Purpose, function, general organization.
101.2 Organization and functions of the Central Office—Administrator.
101.2-1 Office of Equal Employment Opportunity and Compliance.
101.2-2 Office of Hearings and Appeals.
101.2-3 General Counsel.
101.2-4 The Inspector General.
101.2-5 Office of Congressional and Legislative Affairs.
101.2-6 National Advisory Councils (Staff).
101.2-7 Bureau for Programs.
101.2-7a Financial Assistance Division.
101.2-7b Procurement Assistance Division.
101.2-7c Management Assistance Division.
101.2-7d Investment Division.
101.2-7e Women's Business Enterprise Division.
101.2-8 Bureau for Minority Small Business and Capital Ownership Development.
101.2-8a Capital Ownership Development Division.
101.2-8b Business Development Division.
101.2-9 Bureau for Policy, Planning, and Budgeting.
101.2-9a Policy Analysis and Review Division.
101.2-9b Planning and Financial Management Division.
101.2-9c Industry Analysis Division.
101.2-10 Bureau for Support Services.
101.2-10a Field Services Division.
101.2-10b Personnel Management Division.
101.2-10c Data and Management Services Division.
101.2-10d Public Communications Division.
101.2-11 Office of Advocacy.
101.2-11a Interagency Policy Division.
101.2-11b Economic Research Division.
101.2-11c Information/Organization Division.
101.3 Organization and Functions of Field Offices.
101.3-1 Listing of Field Offices.

§ 101.2-5 [Redesignated as § 101.2-11]

2. Section 101.2-5 is amended by redesignating it as section 101.2-11.

§ 101.2-10a [Redesignated as § 101.2-5]

3. Section 101.2-10a is amended by redesignating it as section 101.2-5. Newly designated section 101.2-5 is further amended by retitling it as follows:

§ 101.2-5 Office of Congressional and Legislative Affairs.

* * * * *

4. Section 101.2-7 is amended by retitling it as follows:

§ 101.2-7 Bureau for Programs.

* * * * *

5. Section 101.2-7a is amended by retitling it as follows:

§ 101.2-7a Financial Assistance Division.

* * * * *

6. Section 101.2-7b is amended by retitling it as follows:

§ 101.2-7b Procurement Assistance Division.

* * * * *

7. Section 101.2-7c is amended by retitling it as follows:

§ 101.2-7c Management Assistance Division.

* * * * *

8. Section 101.2-7d is amended by retitling it as follows:

§ 101.2-7d Investment Division.

* * * * *

9. Section 101.2-7e is amended by retitling it as follows:

§ 101.2-7e Women's Business Enterprise Division.

* * * * *

10. Section 101.2-8 is amended by retitling it as follows:

§ 101.2-8 Bureau for Minority Small Business and Capital Ownership Development.

* * * * *

11. Section 101.2-8a is added to delineate the functions of the Capital Ownership Development Division as follows:

§ 101.2-8a Capital Ownership Development Division.

Develops and recommends plans and procedures for use and administration of the Agency's 7(j) program pursuant to Pub. L. 95-507 to foster small business ownership by individuals who own and control limited productive capital. Develops, recommends, and promotes policies for use and administration of contracts or grants providing financial assistance to public or private organizations who furnish technical and management assistance to individuals or small business concerns eligible for assistance under the small business, capital ownership development, and economic opportunity loan programs. Confers with top representatives of industry, trade associations, local government, and community action groups to enlist their substantial participation and involvement in the MSB-COD program. Promotes their cooperation in the development of minority enterprises and entrepreneurships in the disadvantaged areas. Negotiates basic agreements with industries for establishment of local outlets and franchises and for the provision of management and technical assistance and other types of support. Establishes procedures and policies for a continuing surveillance and evaluation program for MSB-COD activities, including the 8(a), 7(j), and other MSB-COD operations in regional and district offices. Monitors and evaluates the operations of SBA and other programs as these operations affect MSB-COD activities, and prepares comprehensive reports to the Bureau for MSB–COD. Establishes standards and promotes a program of incentives and assistance to businesses (placing subcontracts with such small businesses) that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), 8(a), and 8(d) of the Small Business Act, as amended, because of ownership and control by socially and economically disadvantaged individuals. Establishes standards for providing management, technical, and financial services as may be necessary to 8(a) program participants as set forth in 7(j)(10) of the Small Business Act, as amended. Develops standards for selection of projects eligible for Agency funding, assuring statutorily required preference for projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and 8(a) eligible small businesses and determines the appropriate use of the different types of funding methods and assistance to businesses and prospective businesses; i.e., by grants, contracts, or agreements, as required by section 7(j) of the Small Business Act as amended, in accordance with the Federal Procurement Regulations. Establishes standards for coordination and cooperation with other Federal agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government, or Federally-funded programs, are placed in a manner which will further the purposes of sections 7(i), 7(j), 8(a), and 8(d) of the Small Business Act, as amended. Expands and improves SBA relations with the corporate sector in order to insure maximum private sector corporate support and the fullest possible benefit to minority enterprise. Establishes and maintains liaison with Agency components or offices providing various financial assistance programs to small business to insure these equity and debt resources are available to eligible small business concerns.

12. Section 101.2–8b is added to delineate the functions of the Business Development Division as follows:

§ 101.2–8b Business Development Division.

Develops and recommends policies and procedures for use and administration of the Agency's 8(a) procurement program authority to foster and promote the development of small business concerns owned by socially and economically disadvantaged individuals. Develops plans and procedures for operation of an 8(a) Office of Eligibility and makes recommendations on eligibility of small business concerns applying for 8(a) program assistance. Provides direction to the field in processing eligibility recommendations. Develops plans and procedures for administering the appeals system in 8(a) program matters and handles, in conjunction with the Office of General Counsel, all appeals cases. Provides direction to the field in processing appeal cases. Develops plans and procedures for administering the termination system in the 8(a) program and provides direction and monitoring of field implementation of the 8(a) program termination process. Develops plans and procedures for administering the authority to waive surety bond requirements and provides direction to and monitoring of field implementation of this system. Develops plans and procedures for establishing and administering an aquisition program involving National Buy requirements in Federal military and civilian products and services procurements. Develops plans and procedures for contract negotiations, award, and administration and provides direction and evaluation of field implementation of these functions. Develops plans and procedures for Joint Venture and Sponsorship activities essential to development of small business. Provides direction and monitoring of field implementation of these functions. Develops plans and procedures for allocation, administration, and control of business development funds to be used by small business concerns participating in the 8(a) program. Develops plans and procedures for allocation, administration, use, control, and recovery of any advances made to firms participating in the 8(a) program. (Including the use of Letters of Credit.) Develops plans, operating procedures, goals, and standards for execution of an effective and efficient 8(a) procurement program. Reviews and evaluates the Agency's efforts in meeting 8(a) program objectives. Develops plans and procedures for arriving at annual estimates of dollar amounts and types of contracts required for the efficient use of 8(a) program activities for submission to each agency which may participate in such program. Maintains effective liaison and coordination with other SBA offices and other Federal agencies in the development of plans, policies, and procedures for providing assistance to Section 8(a) supported firms under SBA and other agencies' programs. Provide advice, counsel, assistance, and support to other Agency organizations on 8(a) program activities. Provides technical advice, assistance, guidance, and support to the field offices on the 8(a) business development program. Promotes the Agency's 8(a) program to encourage and advocate the cause of the 8(a) program portfolio with industrial concerns, professional and trade associations, State and local governments, community groups, and federal sector agencies. Designs and implements concerted intra-agency liaison to insure a coordinated and consistent 8(a) program geared toward the visibility and support of 8(a) portfolio concerns.

13. Section 101.2–9 is amended by retitling it as follows:

§ 101.2–9 Bureau for Policy, Planning, and Budgeting.

* * * * *

14. Sections 101.2–9a, 101.2–9b, and 101.2–9c are added to delineate the functions of the Policy Analysis and Review Division; the Planning and Financial Management Division; and the Industry Analysis Division respectively, as follows:

§ 101.2–9a Policy Analysis and Review Division.

Develops and implements procedures in analyzing, developing, and evaluating all of the Agency's policies and programs in order to improve the Agency's assistance to small business. Directs the analysis of policy issues, initiates policy determinations involving issues crossing program boundaries, and presents policy alternatives for decisionmaking by Agency management. Directs the development of policies and programs to improve the impact of the Agency's assistance programs in development of the Nation's communities. Assists in development of the Agency's program policies, goals, and missions. Directs research, special projects, and studies relating to policies and programs of the Agency; coordinates these activities with other elements of the Agency. Reviews and evaluates policy effectiveness and recommends the design and development of new program policies, program modifications, and changes in legislation or regulations. Assists as necessary, appropriate operating areas of the Agency in designing, developing, and administering pilot programs to implement new policy initiatives. Assists in the development, and participates with primary program areas, in initiatives for nationwide participation by private sector institutions in all the Agency's programs. Directs the development of procedures for implementing Agencywide program evaluation systems. Conducts, in cooperation with affected offices throughout SBA, evaluative studies and related analyses to determine the impact of SBA's assistance programs on small business and the national economy and to measure effectiveness in terms of costs, benefits, and other considerations.

§ 101.2–9b Planning and Financial Management Division.

Develops plans, operating procedures, and standards to effectively strengthen and improve all budget and planning, accounting, and fiscal activities of the Agency. Develops plans and procedures for implementing the Agencywide planning and zero base budgeting systems. Directs the development and administration of systems for the accountability of all funds, property, and other assets for which the agency is responsible. Directs the development and administration of systems for the accountability of all funds, property, and other assets for which the Agency is responsible. Directs the establishment and implementation of procedures and control systems involving the collection, deposit, and disbursement of funds, including the preparation of financial information and data, and certain statistical data covering the operational programs of the Agency. Develops a comprehensive planning and budgeting system and coordinates revisions to the system to meet the changing needs of management. Represents the Administrator and the Associate Administrator for PPB in negotiations with the Office of Management and Budget (OMB), Congressional Appropriations Committees, GAO, Treasury Department, and other agencies on budgetary, accounting, and fiscal matters. Participates with the Data and Management Services Division in the development of systems for the accountability of all funds, property, and other assets for which SBA is responsible, including the collection, deposit, and disbursement of funds for the Agency. Maintains liaison with Congressional Appropriations Committees, OMB, and other agencies whose activities relate to the budget program of SBA. Assists in justifying appropriation or apportionment requests before appropriate committees and agencies.

§ 101.2–9c Industry Analysis Division.

Develops and recommends policies and procedures to insure the development, enhancement, and maintenance of a continuing program to define, analyze, and project future trends of small business in the Nation. Develops and implements major statistical and economic studies for updating Agency size standards. Develops specific size definitions for the major SBA assistance programs. Structures size standards determinations and definitions of small business to target the small business universe for SBA programs. Conducts major industry studies and determines impact on small business of competitive and technological changes. Identifies major issues affecting small business in various industry sectors. Recommends redirection of Agency programs to areas more critical to the needs of small business. Develops and maintains a continuing liaison with program and staff offices in the Central Office and the field to determine the adequacy of size standards as they relate to the delivery of services and overall objectives of SBA.

15. Section 101.2–10 is amended by retitling it as follows:

§ 101.2–10 Bureau for Support Services.

* * * * *

16. Section 101.2–10a is added to delineate the functions of the Field Services Division as follows:

§ 101.2–10a Field Services Division.

Develops polices and procedures with respect to representing the interests of the regional administrators in the Central Office and maintaining a focal point of information and knowledge regarding the operations and delivery of SBA services in the field. Oversees a system of field office reviews of program performance and office management. Provides advice and guidance to the regional administrators regarding Central Office organization and operations and the impact on the field of actual and proposed changes in policies and procedures. Assists in such areas as clarifying or obtaining clarification of procedures and regulations, expediting requests for information or decision, planning and direction to improve the national delivery system and insuring that the interests of the regional administrators are fairly presented in meetings with Central Office officials. Coordinates finalization of Regional Operating Plans. Analyzes field office input and acts, when requested by regional administrators, as the liaison and facilitator between regional administrators and Central Office program officials in resolving disagreements and in setting final targets that are satisfactory to all parties. Analyzes target attainment in relation to regional economic and other conditions and acts, upon request of regional administrators, as the liaison between regional adminstrators and Central Office officials in achieving necessary adjusted targets. Assists regional administrators in identifying reasons for shortfalls and developing plans of action to increase productivity or quality. Evaluates the effectiveness of experimental and pilot programs in the field and recommends initiatives to support the field office national delivery system in such areas as improved management techniques and technology, cross fertilization and training, works flows, and exhange of information. Performs special analyses and studies affecting field operations. Functions as a team in visiting "troubled" offices at the request of the regional administrators. Provides the regional administrators with an independent evaluation of the management of these offices. Assists regional administrators in following up on the status of implementation of plans of action to overcome deficiencies detailed in Field Review reports. Provides feedback to the regional administrators regarding district and branch office responsiveness. Coordinates meetings and agenda items between Central Office program officials and field office personnel to avoid conflicting or untimely scheduling and to minimize expenses and energy consumption by combining meetings and topic items. Coordinates and arranges the detail of personnel from the field offices to the Central Office or to other regions to avoid undue hardship on any one region. Prepares and distributes to the field appropriate written communications highlighting recurring field office problems, innovative field procedures, information on pilot projects, and other items of management interest. Develops goals and objectives for the field service program within the framework of approved policies. Reviews and evaluates program effectiveness.

17. Section 101.2–10b is amended by retitling it as follows:

§ 101.2–10b Personnel Management Division.

* * * * *

18. Section 101.2–10c is amended by retitling it as follows:

§ 101.2–10c Data and Management Services Division.

* * * * *

19. Section 101.2–10d is amended by retitling it as follows:

§ 101.2–10d Public Communications Division.

* * * * *

20. Sections 101.2–11a, 101.2–11b, 101.2–11c, and 101.2–11d are added to delineate the functions of the

Interagency Policy Division, the Economic Research Division, the Information/Organization Division, and the Small Business Services Management Division, respectively, as follows:

§ 101.2-11a Interagency Policy Division.

Carries out the intent of Pub. L. 94-305, including section 203(3), and section 203(4), through the following activities: Initiates the development of procedures to measure the direct costs and other effects of government regulation on small businesses; and makes legislative and nonlegislative proposals for eliminating excessive or unnecessary regulation of small business. Develops improved approaches to making more capital available, through the public and private sectors, for all businesses. Recommends possible new approaches for delivering financial assistance to small businesses, including methods for securing equity capital, for generating markets for goods and services, for providing effective business education, more effective management and technical assistance, and training, and for assistance in complying with state and local law. Develops proposals for changes in the policies and activities of all concerned Federal agencies which will fulfill the purposes of the Small Business Act better through an improved small business advocacy system. Determines the impact of tax structure on small businesses and makes legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the nation's economic well being. Monitors the effect of Federal laws, regulation, and policies on specific activities of small businesses in areas such as energy, environment, science and technology, urban affairs, procurement, and foreign trade. Develops proposals for improvements in the laws, regulations, policies, or activities of all Federal agencies which may affect small businesses in these areas. Recommends specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential.

§ 101.2-11b Economic Research Division.

Accomplishes the intent of Pub. L. 94-305, section 202, through the following research, data gathering, and analysis activities. Establishes an information base which will ensure the accurate collection, analysis, and evaluation of the role and problems of small business in the American economy. This information will at least include the following: (a) Establishing a current data base for businesses of various sizes by enlisting the participation of IRS, Department of Commerce, SEC, and other Government agencies which have the empirical information relative to the problems of small business; (b) identifying problems and potential within specific industries or groups of industries so that small business can more effectively enter and compete within the existing market structure; (c) measuring the relative burdens on businesses of different sizes of Federal, state, and local taxes, of the costs of credit and the costs of inflation; (d) projecting future trends in variables which affect small business and in small business activity generally; and (e) planning, implementing, and/or directing special economic studies as are legislated or otherwise determined necessary to improve the viability and growth of small business.

§ 101.2-11c Information/Organization Division.

Accomplishes the intent of Pub. L. 94-305, section 203(5) through a variety of informational activities. Establishes and maintains contacts with trade associations, chambers of commerce, and other similar organizations, ensuring that information on Government activities relating to small business are made available to these associations and their membership. The information provided these organizations will include details about programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small business can participate in or make use of such programs and services. Establishes and maintains a mass mailing capability, developing and utilizing lists of trade associations and individuals assembled from various Office of Advocacy and SBA activities. Utilizing the established list of associations and individuals, indentifies individuals with particular expertise as required to provide input to other Federal agencies, SBA, the Office of Advocacy, or the Congress. Works closely with the Public Communications Division and with the various Advocacy divisions, including the Interagency Policy Division and the Economic Research Divisions to compile data and information regarding Federal activities and programs of interest to the small business community. Based on these materials, compiles fact sheets, brochures, pamphlets, and other materials of use to the small business community. Ensures that these materials are widely distributed to the small business community. Assists with trade association relations and systematically reviews trade association publications for items of relevance to the Office of Advocacy and the various subordinate offices within Advocacy. Disseminates information to these offices as appropriate.

§ 101.2-11d Small Business Service Management Division.

In response to the direction of Pub. L. 94-305, section 203 (1), (2), and (5), provides the following services to the small business community: Administers a small business advocacy program of interagency cooperation through establishment of conduit relationships between small business clients, SBA, and other agencies within the Federal system. Directs the review and evaluation of paperwork and small business service practices in Federal agency programs which affect small business. The intent of such review and evaluation is to eliminate blockages and provide better and quicker service to small business. Directs a program of individual assistance designed to assist businesses on a case-by-case basis. In doing so, this office: (a) serves as a focal point for the receipts of complaints, and suggestions concerning the policies and activities of SBA and other Federal agencies which impact on small business; (b) counsels small businesses with respect to resolving questions and problems concerning their relationship with the Federal Government; (c) enlists the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses and information on how small business can participate in or make use of such programs and services.

* * * * *

§ 101.3-1 [Amended]

21. Section 101.3-1(d) is amended by adding Palm Beach County between Okeechobee County and St. Luce County in subparagraph (12), and by revising subparagraph (15) as follows:

* * * * *

(15) 167 North Main Street, Memphis, TN 38103 (branch office). Serves the following counties in Tennessee: Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, and Weakley.

* * * * *

22. Section 101.3-1 is amended by redesignating paragraphs (d), *Region V,*

through (i) as new paragraphs (e) through (j) respectively.

* * * * *

23. Redesignated paragraph (e) is amended by deleting the parenthetical expression in subparagraph (2).

* * * * *

24. Redesignated paragraph (e) is amended by changing the spelling of "Loraine County" to "Lorain County" in subparagraph (3).

* * * * *

25. Subparagraph (7) of redesignated paragraph (e) is revised by listing the counties as follows:

* * * * *

(7) 540 W. Kaye Avenue, Marquette, MI 49855 (branch office). Serves the following counties on the Upper Pennisula of Michigan: Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.

* * * * *

26. Redesignated paragraph (f) is amended by redesignating existing subparagraphs (2) through (15) as (3) through (16) respectively, and adding a new subparagraph (2) as follows:

* * * * *

(2) 501 West Tenth Street, U.S. Courthouse, Room 527, Fort Worth, TX 76102 (branch office). Serves the following counties in Texas: Archer, Baylor, Brown, Callahan, Clay, Coleman, Comanche, Eastland, Erath, Hood, Jack, Johnson, Mills, Montague, Palo Pinto, Parker, Shackleford, Somervell, Stephens, Tarrant, Throckmorton, Wichita, Wilbarger, Wise, and Young.

* * * * *

27. Redesignated paragraph (g) is amended by redesignating existing subparagraphs (2) through (5) as (3) through (6) and adding a new subparagraph (2) as follows:

* * * * *

(2) 373 Collins Road, N.E., Cedar Rapids, IA 52402. Serves the following counties in Iowa: Allamakee, Benton, Black Hawk, Bremer, Buchanan, Cedar, Chickasaw, Clayton, Clinton, Delaware, Des Moines, Dubuque, Fayette, Henry, Howard, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Washington, and Winneshiek.

* * * * *

28. Redesignated paragraph (g) is amended by revising redesignated subparagraph (3) as follows:

* * * * *

(3) 210 Walnut Street, Des Moines, IA 50309. Serves the following counties in Iowa: Adair, Adams, Appanoose, Audubon, Boone, Buena Vista, Butler, Calhoun, Carroll, Cass, Cerro Gordo, Cherokee, Clarke, Clay, Crawford, Dallas, Davis, Decatur, Dickinson, Emmett, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Humbolt, Ida, Jasper, Kossuth, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Mononan, Monroe, Montgomery, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattomie, Poweshiek, Ringgold, Sac, Shelby, Sioux, Story, Tama, Taylor, Wapello, Warren, Wayne, Webster, Winnebago, and Woodbury.

* * * * *

29. Redesignated paragraph (h) is amended by redesignating existing subparagraphs (3) through (12) as (4) through (13) respectively, and adding a new subparagraph (3) as follows:

* * * * *

(3) Fidelity Federal Building, 2700 North Main Street, Santa Ana, CA 92701 (post-of-duty). Serves Orange County in California.

Dated: December 29, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-40816 Filed 12-31-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 21229; Amdt. 39-4010]

Airbus Industrie Model A300B4-103 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Airbus Industrie Model A300B4-103 series airplanes by individual telegrams. The AD requires revision to the airplane flight manual (AFM) and replacement of certain engines if installed. The AD was necessary to prevent possible operation at degraded performance levels due to inaccurate performance data presented in the airplane flight manual.

DATES: Effective January 2, 1981, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T80-13-51, issued June 18, 1980, which contained this amendment.

Compliance schedule—as prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Acting Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: 202-426-8192.

SUPPLEMENTARY INFORMATION: On June 18, 1980, telegraphic AD T80-13-51 was issued and made effective immediately to all known U.S. owners and operators of certain Airbus Industrie Model A300B4-103 airplanes. The AD required revision to the airplane flight manual (AFM) and removal of certain engines, if installed. AD action was necessary to prevent possible operation at degraded performance levels due to inaccurate performance data presented in the airplane flight manual (AFM).

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately to all known U.S. owners and operators of certain Airbus Industrie Model A300B4-103 airplanes by telegraphic AD T80-13-51, issued June 18, 1980. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons. Editorial changes have been made for ease of reading and clarifying language has been added concerning an FAA-approved equivalent.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie. Applies to Model A300B4-103 airplanes modified in accordance with Airbus Mod. 2150, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent possible operation at degraded performance levels due to inaccurate performance data presented in the airplane flight manual (AFM), accomplish the following:

(a) Prior to further flight, except that the airplane can be ferried in accordance with FAR §§ 21.197 and 21.199 to a place where replacement can be made, if CF-6-50C or CF-

6-50C1 engines are installed, replace with serviceable CF6-50C2 engines, and

(b) Within 20 hours time in service after the effective date of this AD, incorporate Airbus Industrie A300B4-103 AFM, Revision 6, dated May 28, 1980, or an FAA-approved equivalent, into the airplane flight manual and operate the airplane accordingly.

(c) If an equivalent means of compliance is used in complying with this AD, that equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective January 2, 1981, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T80-13-51, issued June 18, 1980, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Washington, D.C., on December 23, 1980.

Jerold M. Chavkin,

Acting Director of Airworthiness.

[FR Doc. 80-40700 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-54-AD Amdt. 39-4003]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends an existing Airworthiness Directive (AD) which requires installation of placard on a ventral stairway sidewall panel, stating that the ventral stairway is for emergency use only. This amendment allows the placard to be installed in other locations, and is necessary because certain airplanes do not have the panel which was specified in the original AD.

DATE: Effective date January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Branch, ANW-120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Amendment 39-3735 (44 FR 67139) AD 80-08-01, requires installation of a placard in the ventral stairway to prohibit normal passenger access when the ventral stairway ceiling and sidewall panels are removed. This Amendment allows for approval of alternate placard locations. It is necessary because certain airplanes which are affected by the AD do not have ventral stairway sidewall panel P/N 65-70711.

Since this regulation provides an alternate means of compliance and imposes no additional burden, it is found that notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive 80-08-01, Amdt. 39-3735 (44 FR 67139) as follows:

By amending Paragraph A to read:

A. Normal passenger access to the ventral stairway is not permitted. Install a conspicuous placard having one-half inch high red letters on a white background containing the words, "Emergency Exit Only, Not for Normal Passenger Use," on the ventral stairway sidewall panel P/N 65-70711 or in a location approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region. Alternate methods of compliance may be approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

This amendment becomes effective January 5, 1981.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 F.R. 11034; February 26, 1979).

Issued in Seattle, Washington, on December 16, 1980.

Charles R. Foster,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-40703 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-60-AD, Amdt. 39-4001]

Airworthiness Directive; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amends an existing Airworthiness Directive which requires inspection and replacement of the engine diagonal brace forward attach pins on some Boeing 747 series airplanes. A new pin has been developed which is resistant to fatigue cracking, and this amendment permits operators to discontinue the previously required periodic inspections if they install the new type pins.

DATE: Effective date January 5, 1981.

ADDRESSES: The Boeing Service Bulletin specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. William Perrella, Airframe Branch, ANW-120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Since issuance of Amendment 39-3634, the manufacturer has developed a new pin design which is more resistant to the fatigue cracking of the original design. The installation of the new pin is terminating action for the requirements of the AD, which is accordingly amended.

Since this amendment relieves a restriction and imposes no additional burden on any person, it is found that notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of the Federal Aviation Regulations (14 CFR) is amended by amending Airworthiness Directive 79-22-03 (Amend. 39-3598; 44 FR 61935, dated October 29, 1979) as amended by

Amendment 39–3634 (44 FR 70712, dated November 28, 1979) as follows:

Add a new paragraph F to read as follows:

F. The requirements of this AD are terminated if an improved pin is installed in accordance with Boeing Service Bulletin 747–54–2066 Revision 1 dated October 10, 1980, or later FAA approved revisions.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective January 5, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on December 16, 1980.

Charles R. Foster,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80–40701 Filed 12–31–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–NW–61–AD; Amdt. 39–4002]

Airworthiness Directives; Lockheed-California Company Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adds a new Airworthiness Directive (AD) which requires inspection and replacement, as necessary, of outboard aileron damper support fittings and bracket fasteners on Lockheed Model L–1011–385 airplanes. An AD is necessary because there have been reports of structural cracks in the wing rear spar webs and aileron damper brackets. Accomplishment of this AD will result in detection of cracks before they develop to the point of allowing wing flutter with subsequent structural damage and possible wing failure.

DATE: Effective date January 5, 1981. Compliance schedule—As prescribed in the body of the AD, unless already accomplished.

ADDRESS: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attn.: Commercial Support Contracts, Depart. 63–11, U–33, B–1.

Also, a copy of the service information may be reviewed at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Chimerine, Aerospace Engineer, Airframe Branch, ANW–120L, Los Angeles Area Certification Office, Federal Aviation Administration, Northwest Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, Telephone: (213) 536–6359.

SUPPLEMENTARY INFORMATION: There have been reports of fatigue cracks in the wing rear spar web at OWS (Outer Wing Station) 476 and in the aileron damper brackets on Lockheed L1011–385 series aircraft. These cracks, if allowed to develop, could result in structural damage in this area of the aircraft. Such damage, in turn, could result in flutter within the normal operating speed range of the aircraft and, consequently, structural failure of the wing.

Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection for cracks and replacement, as necessary, of defective parts.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Lockheed-California: Applies to Model L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 series airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent crack development, which could result in flutter, accomplish the following:

I. *Aircraft with Extended Span Wing.*

A. Inspect all aircraft within 300 hours' time in service, after the effective date of this Airworthiness Directive, by accomplishing the following:

1. At OWS440 and 476, visually inspect the Hi-Tigues attaching outboard aileron support fittings to wing box lower skin, and rear spar web and caps, for cracks in accordance with Lockheed Service Bulletin 093–57–143, dated November 7, 1980. Pay particular attention to the fitting at the necked-down area near the top.

a. If cracks are found, repair or replace parts before further flight.

b. If Hi-Tigues are 3/16-inch diameter, replace with 1/4-inch diameter Hi-Tigues before further flight.

2. If Hi-Tigues are 1/4-inch or larger diameter, repeat inspection of (1.) above at intervals not to exceed 600 hours' time in service until the outboard aileron support fitting PN 1529413 is replaced with fitting PN 1633849 in accordance with Service Bulletin 093–57–144 dated October 30, 1980.

II. *Aircraft with Standard Span Wing.*

A. Inspect all aircraft within 800 hours; time in service, after the effective date of this Airworthiness Directive, by accomplishing the following:

1. At OWS440 and 476, visually inspect Hi-Tigues attaching outboard aileron support fitting to wing box lower skin, and rear spar web and caps, for cracks in accordance with Lockheed Service Bulletin 093–57–143, dated November 7, 1980. Pay particular attention to the fitting at the necked-down area near the top.

a. If cracks are found, repair or replace parts before further flight.

b. If Hi-Tigues are 3/16-inch diameter, replace with 1/4-inch diameter Hi-Tigues in accordance with Lockheed Service Bulletin 093–47–143 dated November 7, 1980, or modify in accordance with Service Bulletin 093–47–144, within 3,000 hours' time in service, after the effective date of this Airworthiness Directive.

2. Upon accumulation of 10,000 or more hours time in service, repeat the inspection of (1.) above at intervals not to exceed 4,000 hours time in service until the outboard aileron support fitting PN 1529413 with fitting PN 1633849 in accordance with Service Bulletin 093–47–144, dated October 30, 1980.

III. Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents may obtain copies upon request to Lockheed-California Company, Post Office Box 551, Burbank, California 91520, Attention: Commercial Support Contracts. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000

Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

This amendment becomes effective January 5, 1981.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington on December 16, 1980.

Charles R. Foster,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-40702 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 21230; Amdt. 39-4011]

Airworthiness Directives; Israel Aircraft Industries, Limited, Models 1121, 1121A, 1121B, 1123, and 1124 Series Airplanes

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the installation of a placard in clear view of the pilots lowering the maximum operating speed (V_{MO}/M_{MO}) until additional rivets in the 25 percent wing spar are installed on certain Israel Aircraft Industries, Limited, Models 1121, 1121A, 1121B, 1123, and 1124 series airplanes. The AD is needed to preclude failure of the 25 percent wing spar and consequent loss of the airplane.

DATES: Effective January 16, 1981. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Israel Aircraft Industries, Limited, Ben Gurion Airport, Israel. Copies of the service bulletins are contained in the rules docket for this amendment in Room 916, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Acting Chief, Technical Standards Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202-426-8192.

SUPPLEMENTARY INFORMATION: The FAA has been informed by the Israeli CAA that, because of a discrepancy in the rivet pattern and the total bonding strength assumptions in the stress analysis for the wing root assembly, installation of additional rivets is necessary in the 25 percent wing spar on certain Israel Aircraft Industries, Limited, Models 1121, 1121A, 1121B, 1123, and 1124 series airplanes. The additional rivets are necessary to preclude the possibility of structural failure of the wing spar. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires installation of a placard lowering the maximum approved operating speed until modification of the 25 percent wing spar is accomplished.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Israel Aircraft Industries, Limited (formerly Aero Commander, North American Rockwell Corporation): Applies to certain Model 1121, 1121A, 1121B, 1123, and 1124 airplanes, certificated in all categories.

Compliance required as indicated.

To preclude the possibility of structural failure of the 25 percent wing spar, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, unless already accomplished, or the modification required by paragraph (b) of this AD has been accomplished, install a placard in clear view of the pilots in accordance with the instructions in PART A: PLACARD INSTALLATION, of the appropriate Israel Aircraft Industries, Limited, Service Bulletin, as indicated in the following list:

(1) No. CJ-25A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Models 1121, 1121A, and 1121B airplanes, serial numbers 94 through 106 and 108 through 150, the placard to read as follows:

"Maximum Operating Speed Limits (V_{MO}/M_{MO})

—Below 26,000 FT—315 Kts CAS
—Above 26,000 FT—0.765 M";

(2) No. WW-23A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1123 airplanes, serial numbers 107, 151, 153, 155 through 180, and 182 through 186, the placard to read as follows:

"Maximum Operating Speed Limits (V_{MO}/M_{MO})

—With or without fuel in tip tanks:
  Below 22,500 FT—315 Kts CAS
  Above 22,500 FT—0.710 M
—With autopilot engaged and without fuel in tip tanks:
  Below 26,000 FT—315 Kts CAS
  Above 26,000 FT—0.765 M"; or

(3) No. WW-24-17A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1124 airplanes, serial numbers 152, 154, 181, 187 through 280, 282 through 284, and 286 through 289, the placard to read as follows:

"Maximum Operating Speed Limits (V_{MO}/M_{MO})

—With autopilot disengaged:
  Below 22,500 FT—315 Kts CAS
  Above 22,500 FT—0.710 M
—With autopilot engaged:
  Below 26,000 FT—315 Kts CAS
  Above 26,000 FT—0.765 M"

(b) Within the next 600 hours time in service or the next 90 days after the effective date of this AD, whichever occurs first, unless already accomplished, install additional rivets in the 25 percent wing spar between wing stations X_w-33 and X_w-47.5, left and right, in accordance with the instructions in PART B: RIVET INSTALLATION, of the appropriate Israel Aircraft Industries, Limited, Service Bulletin, as indicated in the following list:

(1) No. CJ-25A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Models 1121, 1121A, and 1121B airplanes, serial numbers 94 through 106 and 108 through 150;

(2) No. WW-23A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1123 airplanes, serial numbers 107, 151, 153, 155 through 180, and 182 through 186; or

(3) No. WW-24A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1124 airplanes, serial numbers 152, 154, 181, 187 through 280, 282 through 284, and 286 through 289.

(c) The placard required by paragraph (a) may be removed when the modification required by paragraph (b) is completed.

(d) If an equivalent means of compliance is used in complying with paragraphs (a) or (b) of this AD, that equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective January 16, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a),

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1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Washington, D.C., on December 23, 1980.

Jerold M. Chavkin,

Acting Director of Airworthiness.

[FR Doc. 80-40163 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 80-ASW-53]

Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes temporary restricted areas in the vicinity of McGregor, N. Mex., to contain a major joint military exercise. The area will be included in the Continental Control Area. Federal Airway V-280 will be excluded within the restricted areas. This action prohibits unauthorized flight operations by nonparticipating aircraft within the proposed restricted areas during their designated times of use.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On November 20, 1980, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-5103D, R-5103E, R-5103F, R-5103G, R-5103H and R-5103I, McGregor, N. Mex., to contain a major joint military readiness exercise entitled BORDER STAR 81 (45 FR 76694). This exercise will provide training for several military commands operating under the sponsorship of the U.S. Air Force Readiness Command. The air activities associated with the exercise will be such that flight by nonparticipating aircraft cannot be safely conducted simultaneously within the temporary restricted areas when they are in use by the military. These activities will consist of air operations such as close air support, interdiction, air defense/counter air, electronic welfare, reconnaissance, tactical airlift missions, and aerial refueling. It is estimated that approximately 150 aircraft will be utilized to conduct approximately 100 fixed wing and 200 helicopter sorties daily. The boundary abutments to the existing restricted areas are necessary to accommodate interarea transition into and out of R-5103 A, B, and C, which, along with existing Restricted Areas R-5107, R-5109, and R-5111, will be used extensively during the exercise. Communications equipment will be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise area (except R-5107B) when military activity permits. Additionally, a reverse charge telephone number and VHF radio communication frequency will be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. This amendment is the same as it was proposed in the notice. The Department of the Air Force has certified that the requirements of the National Environmental Policy Act (NEPA) have been met. § 71.123 and § 71.151 of Part 71 and § 73.51 of Part 73 were republished in the **Federal Register** on January 2, 1981 (46 FR 307, 344, 709).

The Rule

These amendments to §§ 71.123 and 71.151 of Part 71 and § 73.51 of Part 73 (14 CFR Parts 71 and 73) designate temporary restricted areas identified as R-5103D, R-5103E, R-5103F, R-5103G, R-5103H, and R-5103I McGregor, N. Mex. Unauthorized flight within the temporary restricted areas' by nonparticipating aircraft is prohibited during the areas designated times of use. The military will provide aerial access to private or public use land that underlies the restricted airspace. The areas are designated for joint use and applicable portions are included in the Continental Control Area. Federal Airway V-280 is excluded within R-5103D and R-5103E during their designated times of use.

Discussion of Comments

Of the comments received on the notice, none were objections.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (46 FR 307, 344, 709) are amended, effective 0901 GMT, February 19, 1981, as follows:

1. In § 71.123, under V-280 the following is added:

"The airspace within Temporary Restricted Areas R-5103D and R-5103E is excluded from 0100 April 1 until 2400 local time April 7, 1981."

2. In § 71.151, between "R-5103 McGregor, N. Mex.," and "R-5104A Melrose, N. Mex.," the following is added:

"R-5103E McGregor, N. Mex.
"R-5103F McGregor, N. Mex.
"R-5103H McGregor, N. Mex.
"R-5103I McGregor, N. Mex."

3. In § 73.51, between "R-5103C McGregor, N. Mex.," and "R-5104A Melrose, N. Mex.," the following is added:

"R-5103D McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°00'15" N., Long. 105°56'40" W.; to Lat. 32°26'20" N., Long. 105°30'00" W.; to Lat. 32°16'00" N., Long. 105°30'00" W.; to Lat. 32°06'00" N., Long. 105°39'00" W.; to point of beginning.

Designated altitudes. 100 feet AGL to 8,000 feet MSL.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103E McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°00'15" N., Long. 105°56'40" W.; to Lat. 32°26'20" N., Long. 105°30'00" W.; to Lat. 32°16'00" N., Long. 105°30'00" W.; to Lat. 32°06'00" N., Long. 105°39'00" W.; to point of beginning.

Designated altitudes. 15,000 feet MSL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103F McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°04'00" N., Long. 106°17'00" W.; to Lat. 32°06'00" N., Long. 106°15'30" W.; to Lat. 32°05'20" N., Long. 106°09'20" W.; to Lat. 32°00'30" N., Long. 106°10'25" W.; to point of beginning.

Designated altitudes. 100 feet AGL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103G McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°05'00" N., Long. 106°18'20" W.; to Lat. 32°25'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 105°59'00" W.; to Lat. 32°27'40" N., Long. 106°00'00" W.; to Lat. 32°28'00" N., Long. 106°02'00" W.; then along the Southern Railroad to Lat. 32°04'00" N., Long. 106°17'00" W.; to point of beginning.

Designated altitudes. 100 feet AGL to 6,000 feet MSL.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103H McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°05'00" N., Long. 106°18'20" W.; to Lat. 32°25'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 105°59'00" W.; to Lat. 32°27'40" N., Long. 106°00'00" W.; to Lat. 32°28'00" N., Long. 106°02'00" W.; then along the Southern Railroad to Lat. 32°04'00" N., Long. 106°17'00" W.; to point of beginning.

Designated altitudes. 12,000 feet MSL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103I McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°45'00" N., Long. 105°52'20" W.; to Lat. 32°33'20" N., Long. 105°30'00" W.; to Lat. 32°45'00" N., Long. 105°27'00" W.; to point of beginning.

Designated altitudes. 24,000 feet MSL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on December 23, 1980.

Shelomo Wugalter,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-40815 Filed 12-31-80; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 18904; Amendment No. 91-172]

Transport Category Airplanes—Pitot Heat Indication Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment suspends the April 12, 1981, compliance date specified in § 91.50(a) of the Federal Aviation Regulations for operation of transport category airplanes when they are used in general aviation operations and not operations conducted under Part 121, 123, 125, or 135 of the Federal Aviation Regulations. Section 91.50 provides that after April 12, 1981, with certain exceptions, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system. The FAA is issuing a notice of proposed rulemaking which proposes to exclude general aviation operators from these requirements. Suspension of the April 12, 1981, compliance date enables the FAA to re-examine the regulation as applies to these operators before impostiion of the requirement.

EFFECTIVE DATE: January 2, 1981

FOR FURTHER INFORMATION CONTACT: Eli S. Newberger, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 755-8716.

Discussion

The FAA issued Amendment No. 91-148 on March 6, 1978, (43 FR 10339; March 13, 1978, Docket No. 15594) providing that after April 12, 1981, with certain exceptions, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326. This rule applies to all transport category airplanes regardless of the type of operation being conducted.

On January 26, 1979, the National Business Aircraft Association, Inc. (NBAA), submitted a petition requesting that the April 12, 1981, compliance date be held in abeyance and also petitioned to amend the regulations to require that only transport category airplanes operated under Part 121, 123, 125, or 135 meet the requirement to have an operable pitot heat indication system. A summary of the NBAA's petition was published in the **Federal Register** on October 18, 1979 (44 FR 60107), and there were no comments. As the result of this petition, the FAA is issuing a notice of proposed rule making which proposes to exclude general aviation operations from these requirements. This will allow the FAA to re-examine the regulations as they apply to these operators before impostiion of the requirement.

Accordingly, the FAA has determined that the public interest justifies a suspension of the compliance date of § 91.50, as it applies to operators of transport category airplanes used in general aviation operators and not in operations conducted under Part 121, 123, 125, or 135. Since this action is taken to avoid imposing an unnecessary burden on the public, I find that notice and public procedure are impracticable and that good cause exists for making this amendment effective in less than 30 days.

The Amendment

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended, effective January 2, 1981 as follows:

By amending § 91.50(a) by adding the phrase "and (c)" after the letter "(b)", and by amending § 91.50 by adding a new paragraph (c) to read as follows:

§ 91.50 Transport category airplanes—Pitot heat indication systems.

* * * * *

(c) Notwithstanding the provisions of paragraph (a) of this section, the compliance date of April 12, 1981, is suspended for operators of transport category airplanes when conducting operations that are not conducted under Part 121, 123, 125, or 135 of the Federal Aviation Regulations.

(Secs. 303(d), 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and the expected impact of this amendment is so minimal that it does not warrant a regulatory evaluation. Additionally, this rule is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C. on December 22, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-40613 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371 and 374

Expansion of General License GLR and Permissive Reexport Provisions

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends General License GLR to permit a U.S. importer to return unwanted commodities for any reason to the country from which they were imported provided their capabilities are not enhanced while in the United States. By giving broader coverage to the GLR procedure, this change will eliminate the burden of a U.S. importer obtaining a validated export license when returning unwanted foreign-origin commodities. Prior to this amendment, unwanted foreign-origin commodities could only be returned to the foreign country of origin under GLR if they failed to conform to specifications or were shipped without the consent of the consignee.

This rule also amends the permissive reexport provisions of § 374.2 to permit:

(1) Reexport of U.S.-origin commodities to a third country in Country Group T or V (except Afghanistan) for servicing and return of the serviced commodites to the original consignee, and/or

(2) Reexport of replacements for defective or unacceptable U.S.-origin parts or equipment,

without obtaining prior written authorization from the Office of Export Administration.

Expansion of the permissive reexport provisions of the Export Administration Regulations will reduce the time required to service many U.S.-origin commodities.

EFFECTIVE DATE OF ACTION: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-5247 or 377-4811.

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore, these regulations are issued in final form. Although there is no formal comment period, public comments on these regulations are welcome on a continuing basis.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are amended as follows:

PART 371—GENERAL LICENSES

1. Section 371.17(c) is revised to read as follows:

§ 371.17 General license GLR; return or replacement of certain commodities.

* * * * *

(c) *Unwanted Foreign-Origin Commodities.* A foreign-origin commodity may be returned under this general license to the country from which it was imported if its characteristics and capabilities have not been enhanced while in the United States. This procedure applies to all Country Groups except S and Z.

* * * * *

PART 374—REEXPORTS

2. Section 374.2 is amended by revising paragraphs (a) and (f) to read as follows:

§ 374.2 Permissive reexports.[1]

* * * * *

(a) Reexports of any commodity that at the time of reexport—

(1) May be exported directly from the United States to the new country of destination under General License *G-DEST, GTE, G-NNR,* or *G-FTZ;*

(2) Are valued at an amount that does not exceed the *GLV* value on the Commodity Control List for the new country of destination;[2]

(3) Could be exported under General License *Ship Stores* or *Plane Stores* if the same vessel or aircraft were departing from a U.S. port, except that the equipment and spare parts described in §§ 371.9(a)(3) and 371.10(a)(3) may not be included in such reexport; or

(4) May be exported directly from the United States to the country of destination under subsection (f) of General License *GLR* (§ 371.17(f). A firm reexporting replacements for defective or unacceptable U.S.-origin parts or equipment to consignees in Country Group P, Q, W, and Y shall:

(i) Ensure that the replaced commodity is either destroyed or returned to the United States or to the foreign firm in Country Group T or V that shipped the replacement part or equipment into Country Groups P, Q, W, or Y. Destruction or return shall be effected prior to, or promptly after, reexporting the replacement.

(ii) Submit the following written certification on letterhead stationery within 60 days of the reexport to the Director, Operations Division, Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230:

I (We) certify that the commodity(ies) described below were reexported under the provisions of § 374.2 of the Export Administration Regulations to replace a defective or otherwise unusable U.S.-origin part orequipment previously (exported from the United States under validated export license number ————) (reexported from (name of country) under OEA Authorization No. ————). I (We) further certify that the defective or otherwise unusable part or equipment [was returned to the United States on (*date of shipment to U.S.*)]; [was returned to (*name of foreign firm*) on (*date of receipt* by foreign firm)]; [was destroyed abroad on (*date*) by (*name of foreign firm*)].

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[1] See § 374.9 for effect on foreign laws.

[2] The permissive reexport provisions set forth above relating to the reexport of commodities within the established GLV dollar-value limits do not apply to exports, reexports, or distributions made under the Distribution License, or Aircraft and Vessel Repair Station Procedures. (See §§ 373.3, and 373.8).

Quantity	Description of commodity	Dollar value
	(Include characteristics such as model no., horsepower, size, etc.)	....

* * * * *

(f) Reexports to a destination in Country Group T or V of a U.S.-origin commodity for servicing, and subsequent return of the serviced commodity to the original consignee, provided that the return of the serviced commodity complies with the conditions of § 371.17(a). When the serviced commodity will be returned to Country Groups P, Q, W, or Y, the reexporter must submit a report as required by § 371.17(a)(4).

* * * * *

(Sections 4, 13, 15 and 21 Pub. L. 96-72, 50 U.S.C. App. section 2401 *et seq.*; Executive Order 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41-1 (45 FR 11862, February 22, 1980) and 41-4 (effective August 26, 1980))

Dated: December 29, 1980.

Kent N. Knowles,

Director, Office of Export Administration.

[FR Doc. 80-40606 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

General Regulations; Inspection of Books and Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended § 1.31(a) to specify that a copy of any book or record required to be kept under the Commodity Exchange Act or the Commission's rules must be provided upon the request of a Commission representative. Instead of furnishing a copy, the original book or record be provided for reproduction, which the representative may temporarily remove for this purpose. Upon request, the representative will issue a receipt for any document received.

EFFECTIVE DATE: February 2, 1981.

FOR FURTHER INFORMATION CONTACT: Donald R. Levine, Esquire, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581, telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION: The examination of books and records is one of the Commission's principal means of determining compliance with the Commodity Exchange Act ("Act"),[1] and the Commission's rules thereunder. Various provisions of the Act require persons regulated by the Commission to maintain specific books and records and to permit the Commission to inspect those documents.[2] In addition, pursuant to its general rulemaking authority and other provisions, the Commission has required certain records to be kept and made available for inspection by the Commission.[3]

On-site inspection of books and records is often adequate for the Commission's purposes. However, at times the Commission has found it necessary to obtain copies, or to obtain original documents for reproduction, in order to conduct a thorough inspection. In addition, in the midst of a thorough inspection, the obtaining of copies by the Commission may intrude less into the business operations of a regulated person than would a lengthy on-site investigation by Commission representatives. Accordingly, in order to make clear that the right to inspect includes the right to obtain copies and to remove books and records temporarily for reproduction, the Commission proposed an amendment to Rule 1.31,[4] the general recordkeeping rule that describes the manner in which books and records must be kept and produced for inspection. 43 FR 50699 (October 31, 1978). Under the proposal, Commission representatives could temporarily remove books and records unless the person obligated to keep them promptly provided copies at such person's own expense.[5]

After considering the comments on the proposal, the Commission has decided to adopt the amendment with several modifications. The proposal provided for the temporary removal of a book or record unless a copy was "immediately" furnished. As adopted, the rule requires a copy to be furnished promptly. The recordkeeper is obligated by this requirement to furnish a copy of the original of a book or record as expeditiously as reasonably can be expected.[6] This modification is not intended to permit any person to avoid the responsibility to provide any member of the Commission staff with prompt, complete access to any books and records required to be maintained. Rather, it is a recognition that in practice a requirement to furnish copies immediately in all instances, depending upon the extent or nature of a staff request, could impose an unwarranted burden upon the recordkeeper.

The proposed rule has been further modified to provide that, upon the recordkeeper's request, the Commission representative will issue a receipt provided by the recordkeeper for any copy or original book or record received. The Commission expects that, except in unusual situations, an original will be returned promptly following the date of receipt. The Commission intends to monitor closely the operation of the regulation as revised to be certain that it does not impede efficient staff operation. If the Commission finds that, based upon experience with the revised regulation, this is the case, it will consider further rulemaking.

Several commentators stated that the Commission lacks authority to adopt a rule authorizing removal of original books and records. They asserted that the Commission's inspection power is limited to on-site inspections, citing certain sections of the Act that provide for books and records to be "open to inspection."[7] The Commission disagrees. First, the Commission's inspection power reflects a Congressional judgment that the business records of regulated persons should be subject to scrutiny from time to time in order to ascertain whether those businesses are being conducted lawfully. This Congressional purpose would be thwarted if the Commission were unable thoroughly to scrutinize these records in order to discharge its statutory responsibilities. And the nature of these records frequently has required more thorough study than can be accomplished during an on-site review.

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[1] 7 U.S.C. 1, *et seq.* (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865, *et seq.* (1978).

[2] *See, e.g.*, Sections 4, 4g, 4i, 4n, 5 and 5a.

[3] *See, e.g.*, Rules 1.35 and 1.37, 17 CFR 1.35 and 1.37.

[4] 17 CFR 1.31.

[5] The proposed amendment, Rule 1.31(a)(2), stated:

> Without limiting the provisions of paragraph (c) of this section, to facilitate effective completion of such inspections, any representative of the Commission may obtain and/or remove temporarily such books and records for reproduction, unless the person required to keep such books and records immediately provides copies thereof, at his own expense, and continues to keep the original books and records readily accessible for inspection in accordance with this section.

[6] Rule 1.31(a) presently provides that required books and records must be kept for five years and must be "readily accessible during the first 2 years of the 5-year period." Thus, required documents that are more than two years old might not be readily accessible. In this situation new Rule 1.31(a)(2) imposes upon the recordkeeper the obligation to retrieve the documents requested as expeditiously as is reasonable in light of the circumstances. The adoption of Rule 1.31(a)(2) does not, however, affect the recordkeeper's obligation under existing Rule 1.31(c)(3) immediately to provide a "facsimile enlargement" of any records kept on microfilm as permitted by Rule 1.31.

[7] Sections 4, 4g, 4n, 5 and 5a of the Act.

Second, Section 8a(5) of the Act authorizes the Commission to adopt such rules as, in its judgment, are reasonably necessary to effectuate the provisions or to accomplish the purposes of the Act. Since on-site inspection has not always been sufficient for the Commission to conduct thorough inquiries, a rule that provides for furnishing copies of required books and records or originals for reproduction is reasonably necessary to effectuate the Act's recordkeeping and inspection provisions.[8]

Some commentators pointed to the Commission's express authority to subpoena documents[9] as support for the view that the Commission lacks authority to require that copies of original books and records be furnished, or in the alternative, originals be provided for reproduction. These commentators were of the view that the subpoena power was intended to be the Commission's sole means of obtaining possession of documents. These commentators confuse the Commission's inspection power with the Commission's investigatory power. Though the method and the circumstances of the exercise may differ in particular cases, both powers permit the Commission to obtain access to and copies of documents.[10]

Several commentators stated that to avoid unnecessarily burdensome demands, a request under Rule 1.31(a) should be made pursuant to the written authorization of a senior staff member. The Commission has no reason to assume that its representatives will conduct themselves otherwise than as directed by their supervisors and in a reasonable and lawful manner. Further, Commission representatives must be permitted reasonable flexibility in conducting on-site inspections in the field. For these reasons, the Commission believes that the recordkeeper can be protected sufficiently from unnecessarily burdensome and unreasonable requests by existing Commission procedures.

Representatives of the Commission, conducting inspections, act under the supervision of the Director of one of the Commission's Divisions: the Director of the Division of Enforcement, the Director of the Division of Trading and Markets, or the Director of the Division of Economics and Education. If a recordkeeper questions the authority of a Commission representative to make an inspection or the reasonableness of that representative's request, those questions easily can be resolved by a telephone call to the Director of the appropriate division, or to the Director's assistant. Accordingly, no legitimate purpose which benefits the public can be served by requiring of the Commission greater formality than is necessary.

In addition, several commentators mentioned the possibility of duplicative requests for identical books or records from Commission representatives. The final rule, however, provides that, upon request, the Commission representative shall issue a receipt provided by the recordkeeper for the documents furnished. In the event a duplicative request is made, the recordkeeper may inform the Commission representative of that fact and produce the receipt previously issued for the books and records. If the Commission representative persists in his request, the recordkeeper may contact the Director of the appropriate Commission Division. Although the Commission will strive not to make duplicative requests, such requests may be necessary under some circumstances. In those instances, the prior issuance of a receipt by a Commission representative will not excuse a failure promptly to comply with the request. And, in all cases, the furnishing of copies in satisfaction of prior requests will not excuse the recordkeeper from compliance with all subsequent requests for on-site inspection. In this connection the Commission wishes to make clear that copies furnished must be true and accurate (and additional inspection may be required to verify the validity of accuracy of copies).

Further, the Commission does not agree with those commentators who stated that the Commission should reimburse recordkeepers for the cost of providing copies. This cost is one which the regulations permit a recordkeeper to elect in lieu of providing the original record to a Commission representative for temporary removal and copying at the Commission's expense.

* * * * *

In consideration of the foregoing and pursuant to the authority in sections 4, 4g, 4i, 4n, 5, 5a and 8a of the Commodity Exchange Act, 7 U.S.C. 6, 6i, 6n, 7, 7a and 12a (1976), as amended by Pub. L. 95–405, 92 Stat. 865 *et seq.* (1978), the Commission hereby amends Part 1 of Chapter I of Title 17 of the Code of Federal Regulations by redesignating § 1.31(a)(1) and by adding a new § 1.31(a)(2) as follows:

§ 1.31 Books and records; keeping and inspection.

(a)(1) All books and records required to be kept by the Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the United States Department of Justice.

(2) A copy of any book or record required to be kept by the Act or by these regulations shall be provided, at the expense of the person required to keep the book or record, to a Commission representative upon the representative's request. Instead of furnishing a copy, such person may provide the original book or record for reproduction, which the representative may temporarily remove from such person's premises for this purpose. All copies or originals shall be provided promptly. Upon request, the Commission representative shall issue a receipt provided by such person for any copy or original book or record received. At the request of the Commission representative, such person shall, upon the return thereof, issue a receipt for any copy or original book or record returned by the representative.

* * * * *

Issued in Washington, D.C. on December 23, 1980, by the Commission.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 80–40809 Filed 12–31–80; 8:45 am]

BILLING CODE 6351-01-M

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[8] One commentator suggested that adoption of Rule 1.31(a)(2) would result in unreasonable searches and seizures of the type proscribed by the Fourth Amendment to the United States Constitution. Even if the inspection of books and records required by the Act to be kept "open to inspection" were construed to be a search and seizure within the meaning of the Fourth Amendment, a Government agency's inspection authority is reasonable and satisfies the Fourth Amendment where applied to pervasively regulated businesses, and closely regulated industries, long subject to close supervision and inspection.

[9] *See* Section 6(b) of the Act.

[10] The Commission emphasizes that the procedures covered by Rule 1.31 do not affect the obligations of any person to produce books, records or other documents through the exercise of Commission subpoena power during the course of a formal investigation.

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 430

Ground Water Protection, Southeastern Pennsylvania; Special Regulation

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: The Delaware River Basin Commission has designated a section of southeastern Pennsylvania a ground water protected area. It has also enacted a regulatory program in the protected area imposing conditions and restrictions on new wells to forestall continued depletion of the overused subsurface resource. The protected area comprises all of Montgomery County; 36 municipalities in Bucks County; 25 communities in eastern and northern Chester County; 3 townships in eastern Berks County, and 1 township in Lehigh County. Within the protected area all wells that draw more than 10,000 gallons per day are subject to the new regulations, including those of municipalities, authorities, water companies, industries and businesses, institutions and housing developments.

The Commission action was taken pursuant to Article 10 of the Delaware River Basin Compact (75 Stat. 688) authorizing the Commission to determine and delineate areas within the basin wherein demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the Commission's Comprehensive Plan.

EFFECTIVE DATE: January 1, 1981.

ADDRESS: Copies of the regulation are available at: Delaware River Basin Commission, 25 State Police Drive, Post Office Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Herbert A. Howlett, Chief Engineer, Delaware River Basin Commission, Post Office Box 7360, West Trenton, New Jersey 08628, 609-883-9500.

SUPPLEMENTARY INFORMATION: Use of ground water resources in the Triassic lowland and adjacent areas in southeastern Pennsylvania has increased substantially in recent decades. Interference and conflicts among users of the same ground water resource in the area has become more frequent, giving rise to administrative and legal proceedings before regulatory bodies and in the courts. As a result of hearings by the Commission in 1979 and 1980, many public representatives; water purveyors and private citizens urged the Commission to utilize its authority under Article 10 of the Compact to prevent depletion of ground water, protect the just and equitable interests and rights of lawful users of the same water source, and balance and reconcile alternative and conflicting uses of limited water resources in the area.

Approximately one million residents of southeastern Pennsylvania are presently reliant, entirely or substantially, on the ground water resources underlying Berks, Bucks, Chester, Montgomery and Lehigh Counties for supplies of domestic, municipal, commercial, industrial and agricultural water. Assessments of available water resources in relation to current and projected uses establish that ground water withdrawals in portions of these counties exceed or threaten soon to exceed the sustainable yields of local ground water basins. Rock formations underlying much of the area experience low recharge rates during dry years which can lead to declines in water table levels, diminished flow in adjacent streams and cessation of flow from springs.

Significant portions of the area have experienced total ground water withdrawals which approached or exceeded the dry period annual recharge rates for the respective formations. Since 1975, major ground water withdrawals in the region (those withdrawals exceeding 100,000 gallons per day) have increased by over 13 million gallons per day, and additional quantities have been taken by the cumulative effect of small withdrawals. Ground water use information compiled for the Pennsylvania State Water Plan, the Comprehensive Water Quality Management Plan/208 Study for Southeastern Pennsylvania, the DRBC Level B Study, and similar reports prepared by county and regional agencies, indicate that in large portions of the affected area, pumping rates exceed 100,000 gallons per day per square mile. In substantial parts of the area, pumping rates exceed 500,000 gallons per day per square mile.

Many public water supply systems in the area which rely on ground water sources have peak and/or average demands which closely approach or exceed the dry period capacity of their existing wells. Dry periods with reduced recharge rates and declining water tables have in the past resulted in reductions of public water well yields by 30 to 40 percent. As a result of past reliance on wells producing peak rates during high and normal recharge conditions, such systems become seriously overtaxed when recharge falls below normal levels. Lowered water tables, and fluctuations in ground water levels during dry periods, periodically interfere with and in some cases cut off normal access to ground water resources by users in the area, particularly residential users reliant on individual domestic wells. Communities and individual users in the region have periodically experienced sharp reductions or total loss of available supplies or loss of system pressure. Lowered water tables resulting from withdrawals in excess of recharge rates have resulted in reduction of flows in some perennial streams in the region, and have dried up some stream reaches which previously flowed all year. Such reductions in base flow interfere with instream and downstream water uses, adversely affect fisheries and aquatic life, and threaten to reduce the capacity of streams in the region to assimilate natural and man-made point and non-point discharges of potential pollutants.

In June 1979, two hearings were held by the Commission to seek public comment as to whether a protected area should be declared in the region, and on the nature of possible management action that might be implemented in such a protected area. Notice of these hearings appeared at 44 FR 28092. In June of 1980, two additional hearings were held by the Commission on a draft regulation to declare a ground water protected area in the region pursuant to Article 10 of the Delaware River Basin Compact. Notice of these hearings appeared at 45 FR 30105. In December 1980, another hearing was held on the proposed inclusion of five additional townships within the protected area, and two minor clarifying amendments to the regulation. Notice of this hearing appeared at 45 FR 80327. Transcripts of these hearings may be examined at the Commission offices upon request.

The draft regulation as originally proposed was modified as the result of comment received at the public hearings. Significant changes are:

(1) Restricting the geographic area covered by the regulation to portions of Chester and Bucks Counties rather than the entire area of those counties (§ 430.7);

(2) providing for the right of appeal by an applicant from the decision of the Commission's Executive Director (§ 430.25);

(3) reducing the number and nature of technical determinations required of an applicant in preparing an application (§ 430.13).

The Commission's ground water protected area regulation is contained in

Resolution No. 80–18, adopted October 8, 1980, and amended in Resolution No. 80–27, adopted December 16, 1980. The Commission is codifying the regulatory portion of these resolutions as Part 430 of 18 CFR, Chapter III. The regulation as amended is set forth below.

SUBCHAPTERS A AND B [ADDED]

Accordingly, a new Subchapter A entitled "Administrative Manual" is added to 18 CFR Chapter III consisting of existing Parts 401, 410, 415, and 420.

In addition, a new Subchapter B entitled "Special Regulations" is added consisting of new Part 430, which reads as follows:

SUBCHAPTER A—ADMINISTRATIVE MANUAL

* * * * *

SUBCHAPTER B—SPECIAL REGULATIONS

PART 430—GROUND WATER PROTECTION AREA: PENNSYLVANIA

Sec.
430.1 Policy.
430.3 Purpose.
430.5 Definitions.
430.7 Determination of protected areas and restriction on water use.
430.9 Comprehensive plan policies.
430.11 Advance notice of exploratory drilling.
430.13 Protected area permits for new withdrawals.
430.15 Conservation requirements.
430.17 Registration of existing withdrawals.
430.19 Protection of existing users.
430.21 Technical determinations and procedures.
430.23 Other permit requirements.
430.25 Appeals.
430.27 Sanctions: Civil and criminal.
430.29 Duration.
430.31 Amendments.

Authority: Pub. L. 87–328 (75 Stat. 688).

§ 430.1 Policy.

The provisions of this part implement Commission Resolutions 80–18 and 80–27 relating to ground water protection in southeastern Pennsylvania.

§ 430.3 Purpose.

The purpose of this regulation is to protect the ground water resources in the Triassic lowland and adjacent area of southeastern Pennsylvania and the public interest in those resources. In particular this regulation is to:

(a) Assure the effective management of water withdrawals to avoid depletion of natural stream flows and ground waters and to protect the quality of such water.

(b) Assure that ground water withdrawals are undertaken consistent with the policies stated in the Comprehensive Plan.

(c) Protect the just and equitable interests and rights of present and future lawful users of water resources, giving due regard to the need to balance and reconcile alternative and conflicting uses in view of present and threatened shortages of water of the quality required to serve such uses.

(d) Provide a mechanism for the acquisition of additional information necessary to more accurately plan and manage water resources.

(e) Encourage all water users to adopt and implement reasonable water conservation measures and practices, to assure efficient use of limited water supplies.

§ 430.5 Definitions.

For purposes of this regulation, except as otherwise required by the context:

"Aquifer" means waterbearing formation that contains sufficient ground water to be important as a source of supply.

"Comprehensive Plan" means the plans, policies and programs adopted as part of the Comprehensive Plan of the Delaware Basin in accordance with § 3.2 and Article 13 of the Delaware River Basin Compact.

"Ground water" means all water beneath the surface of the ground.

"Ground water basin" means a subsurface structure having the character of a basin with respect to the collection, retention and outflow of water.

"Ground water protected area" means the areas declared and delineated by the Commission to be a ground water protected area pursuant to Article 10 of the Delaware River Basin Compact and this regulation.

"Ground water recharge" means the addition of water to an aquifer by infiltration of precipitation through the soil, infilitration from surface streams, lakes or reservoirs, flow of ground water from another aquifer, or pumpage of water into the aquifer through wells.

"Project" means the same word as defined by § 1.2(g) of the Delaware River Basin Compact.

"Protected area permit" means a permit to divert or withdraw ground water within the ground water protected area for domestic, municipal, agricultural or industrial uses, granted pursuant to § 10.3 of the Delaware River Basin Compact and this regulation.

§ 430.7 Determination of protected areas and restriction on water use.

In consideration of the foregoing facts and for the purposes cited above:

(a) The Commission hereby determines and delineates the following area to be a protected area within the meaning and for the purpose of Article 10 of the Delaware River Basin Compact:

Southeastern Pennsylvania Ground Water Protected Area

The "Southeastern Pennsylvania Ground Water Protected Area" shall consist of those portions of the following listed counties and political subdivision located within the Delaware Basin:

	Townships
Berks County	Douglass, Hereford, Union.
Bucks County	Bedminster, Buckingham, Doylestown, East Rockhill, Hilltown, Lower Southampton, Middletown, Milford, New Britain, Newtown, Northampton, Plumstead, Richland, Upper Southampton, Warminster, Warrington, Warwick, West Rockhill, Wrightstown.
	Boroughs
	Chalfont, Doylestown, Dublin, Hulmeville, Ivyland, Langhorne, Langhorne Manor, New Britain, Newtown, Penndel, Perkasie, Quakertown, Richlandtown, Sellersville, Silverdale, Telford, Trumbauersville.
	Townships
Chester County	Birmingham, Charlestown, East Coventry, East Bradford, East Goshen, East Pikeland, Easttown, East Vincent, East Whiteland, North Coventry, Schuylkill, South Coventry, Thornbury, Tredyffrin, Warwick, West Bradford, West Goshen, Westtown, Willistown, West Whiteland.
	Boroughs
	Elverson, Malvern, Phoenixville, Spring City, West Chester.
	Townships
Lehigh County	Lower Milford.
Montgomery County	All of the area within the county boundary.

(b) The Commission hereby determines that within the Southeastern Pennsylvania Ground Water Protected Area demands upon available ground water supplies have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the requirements or effectuation of the Comprehensive Plan. Accordingly, no person, firm, corporation or other entity within the area shall withdraw ground water for any purpose at a rate exceeding 10,000 gallons per day, except as prescribed by this regulation.

§ 430.9 Comprehensive plan policies.

The water resources within the Southeastern Pennsylvania Ground Water Protected Area shall be managed consistent with the Comprehensive Plan policies. For purposes of this ground water protected area, § 2.20.4 of the Water Code of the Delaware River Basin shall be applied using the following definition of the term "withdrawal limits":

(a) *Withdrawal Limits.* Except as may be otherwise determined by the

Commission to be in the public interest, withdrawals from the underground waters of the basin shall be limited to the maximum draft of all withdrawals from a ground water basin, aquifer, or aquifer system that can be sustained without rendering supplies unreliable, causing long-term progressive lowering of ground water levels, water quality degradation, permanent loss of storage capacity, or substantial impact on low flows of perennial streams.

§ 430.11 Advance notice of exploratory drilling.

The Commission encourages consultation with any project sponsor who is considering development of a new or expanded ground water withdrawal that is being planned for any purpose when the daily average withdrawal during any calendar month exceeds 10,000 gallons to insure proper implementation of this regulation and to reduce the possibility of investment in new ground water development facilities which may not be approved hereunder. Such consultation should occur early in the planning stage of a new project and prior to initiation of exploratory drilling.

(a) Any person, firm corporation or other entity planning a new or expanded ground water withdrawal that may be operated at a daily average withdrawal duing any calendar month in excess of 10,000 gallons shall notify the Executive Director not less than 30 days prior to initiation of exploratory drilling. Such notice shall be in writing and shall specify the location of proposed new facility, the anticipated rate of withdrawal, and the general purpose of the proposed water use. The notice shall also state the location of existing wells within the radius set forth in § 430.21(a).

(b) Whenever the Executive Director shall deem necessary, or upon request of a party proposing a new or expanded withdrawal of ground water, an informal conference may be scheduled to review the nature of the proposed withdrawal, the applicability of the Commission's standards relating to ground water, and the requirements of a protected area permit under this regulation.

§ 430.13 Protected area permits for new withdrawals.

Any person, firm, corporation or other entity who proposes to develop a new ground water withdrawal or expand an existing ground water withdrawal for any purpose within the Southeastern Pennsylvania Ground Water Protected Area shall be required to obtain a protected area permit under this regulation if the proposed new or increased rate of withdrawal from a well or group of wells operated as a system average more than 10,000 gallons per day over a 30-day period. Whenever the Executive Director, upon investigation or upon a reference from a state or federal agency, determines that a new or increased withdrawal from a group of wells within the protected area, whether or not such wells are operated as a system, may have a substantial effect on the water resources of the basin or is likely to have a significant adverse effect on other water uses within the protected area, the Commission may direct a notice to the owners or sponsors of such wells, and require such owners or sponsors to apply for and obtain a protected area permit under this regulation.

(a) Applications for a protected area permit shall be submitted to the Commission on forms approved by the Executive Director. Each application shall be accompanied by the following information:

(1) A map indicating the location of existing wells and perennial streams.

(2) A written report prepared by a hydrogeologist describing the expected effects of the proposed withdrawal on existing wells, flows of perennial streams and the long-term lowering of ground water levels.

(3) A log showing the nature of subsurface material encountered during the construction and installation of the exploratory or production well(s).

(4) The detailed results of extended pump tests, of not less than 48 hours duration, and records of observations during such pump tests from representative monitoring wells.

(b) Applications for a protected area permits whose daily average withdrawal during any calendar month is in excess of 10,000 gallons shall be accompanied by an application fee of $100. Government agencies shall be exempt from such application fee.

(c) If the application for a protected area permit is for a daily average withdrawal during any calendar month in excess of 100,000 gallons, it shall be accompanied by such other information or exhibits required by Article 3 of the Commission's Rules of Practice and Procedure. In such cases, only the application fee required by the Rules will be assessed.

(d) To qualify for approval of a protected area permit, the owner or sponsor of the proposed withdrawal shall demonstrate that:

(1) The proposed withdrawal is consistent with the Commission's Comprehensive Plan and the policies and purposes of these regulations.

(2) Opportunities to satisy water requirements on a timely basis from existing available supplies and facilities have been explored and found infeasible.

(3) The proposed withdrawal, in conjunction with other withdrawals in the applicable ground water basin, will not exceed withdrawal limits of a ground water basin, aquifer or aquifer system.

(4) The proposed withdrawal will not significantly impair or reduce the flow of perennial streams in the area.

(5) Existing ground and surface water withdrawals will not be adversely impacted, or will be otherwise assured of adequate supplies in accordance with the requirements of § 430.19 of this regulation.

(6) The proposed withdrawal will not cause substantial, permanent adverse impact to the overlying environment.

(7) The owner or sponsor has adopted and will implement conservation and management programs as required by § 430.15 of this regulation.

(e) Protected area permits shall be approved or disapproved by the Executive Director with the concurrence of the Pennsylvania member of the Commission or his alternate.

§ 430.15 Conservation requirements.

The following conservation requirements shall apply to all existing, new or expanded ground water withdrawals for municipal, public, industrial or commercial water supply whose cumulative daily average withdrawal from one or more wells during any calendar month exceeds 10,000 gallons.

(a) Each person, firm, corporation or other entity withdrawing ground water within the Southeastern Pennsylvania Ground Water Protected Area for purposes of municipal or public water supply shall comply with the following conservation requirements:

(1) Water connections shall be metered, and water charges collected shall be based on metered usage.

(2) A water conservation program shall be initiated and diligently pursued within the service area of the municipal or public water supply. Such program shall include a program for leakage control providing for the monitoring, prevention and repair of significant leakage, and the provision of customer information relating to water-saving devices.

(3) Interconnections with adjacent water systems shall be considered to assure more reliable supplies of water during emergencies.

(4) A drought emergency plan specifying actions which would be taken to reduce demand and assure supplies to priority uses in the event of drought

conditions shall be prepared in cooperation with the municipalities in the service area. The plan shall be filed with the Commission.

(b) Each person, firm, corporation or other entity withdrawing ground water within the Southeastern Pennsylvania Ground Water Protected Area for purposes of industrial or commercial water supply shall comply with the following conservation requirements:

(1) Opportunities for water conservation shall be investigated and all feasible conservation measures shall be implemented at the earliest practicable time.

(2) Water uses shall be monitored, and a systematic process shall be adopted and implemented to provide for the detection and expeditious correction of leakage.

(3) A drought emergency plan specifying the actions to be taken to reduce demand in the event of drought conditions shall be prepared and filed with the Commission.

(c) Permits issued pursuant to these regulations shall be conditioned upon compliance with the requirements of this section.

§ 430.17 Registration of existing withdrawals.

(a) Existing users of ground water within the Southeastern Pennsylvania Ground Water Protected Area whose lawful use commenced prior to the effective date of this regulation, whose cumulative monthly average daily withdrawal from one or more wells exceeds 10,000 gallons and whose withdrawal has not previously been approved by DRBC, pursuant to § 3.8 of the Compact, shall, prior to July 1, 1981, register their use with the Pennsylvania Department of Environmental Resources acting as agent for the Commission. Registration is required as a condition for such existing users being eligible for the protection afforded by this regulation. Such registration shall include withdrawals from quarries that are not fed by surface streams.

(b) Registrations shall be filed on forms approved by the Executive Director of the Commission. Each registrant shall provide, without limitation thereto, the following:

(1) A description of the location, size and depth of each well and the pump facilities installed therein.

(2) The estimated quantity of water withdrawn from each well, or related group of wells, during each month of 1980.

(3) The purposes for which the water is withdrawn, its place of use, and the approximate quantity of water used for each purpose.

(4) The location and method of wastewater disposal and discharge.

(5) A registration fee of $5 for each well.

§ 430.19 Protection of existing users.

(a) Protected area permits issued under this regulation for new or expanded withdrawals of ground water shall include conditions to protect the owners of existing wells in accordance with the provisions of this section.

(b) Any person, firm, corporation or other entity who commences a new or expanded withdrawal of ground water that is subject to the requirement of a protected area permit under this regulation shall provide mitigating measures if the withdrawal significantly affects or interferes with any existing well. Mitigation measures may consist of:

(1) Providing an alternative water supply, of adequate quantity and quality, to the effected well owner(s);

(2) Providing financial compensation to the affected well owner(s) sufficient to cover the costs of acquiring an alternative water supply of adequate quantity and quality; or

(3) Such other measures as the Commission shall determine to be just and equitable under the circumstances present in the case of any individual application.

§ 430.21 Technical determinations and procedures.

(a) The radius to be considered in assessing the potential impact of a proposed new or expanded ground water withdrawal, as required by § 430.11 and § 430.13 of this regulation shall be as follows:

Quantity of cumulative proposed withdrawal (gpd)	Radius from the proposed withdrawal to be considered (miles)
10,000 to 50,000	0.5
50,000 to 100,000	0.75
In excess of 100,000	1.0

(b) Ground water withdrawal limits, as defined in § 2.20.4 of the Water Code of the Delaware River Basis and § 430.9 of this regulation, shall be calculated on the basis of the average recharge rate to the basin, aquifer, or aquifer system during repetition of a period which includes the worst recorded drought.

(c) The requirement of (a) or (b) of this section may be modified or waived by the Executive Director or the Commission if an applicant adopts and implements a program for coordinated use of ground and surface water, and the applicant demonstrates that operation of the coordinated program will be consistent with the policies contained in the Comprehensive Plan and the purposes of these regulations.

§ 430.23 Other permit requirements.

(a) Except to the extent provided in these regulations, registration of existing ground and surface water withdrawals and the issuance of withdrawal permits hereunder shall not create any private or proprietary rights in the water of the basin and the Commission reserves the right to amend, alter, or repeal these regulations and to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the basin.

(b) Neither the obligation to obtain a protected area permit under this regulation, nor the receipt thereof, shall relieve the sponsor of a new or expanded ground water withdrawal project of the obligation to obtain any other applicable permits required by federal, state or local government agencies.

(c) A new or expanded ground water withdrawal subject to the requirement of a protected area permit under this regulation shall not require any further approval by the Commission if the daily average withdrawal during any calendar month is less than 100,000 gallons. If the new or expanded withdrawal exceeds a daily average of 100,000 gallons during any calendar month, the project shall be subject to review and approval by the commission pursuant to § 3.8 of the Delaware River Basin Compact, and the requirement of a protected area permit for such a project shall be in addition to other requirements of the Commission and its Rules of Practice and Procedure.

§ 430.25 Appeals.

Any person aggrieved by any action or decision of the Executive Director taken under these regulations shall be entitled upon timely filing of a request therefor, to a hearing in accordance with Article 6 of the Commission's Rules of Practice and Procedure.

§ 430.27 Sanctions: Civil and criminal.

(a) Any person, association, corporation, public or private entity who or which violates or attempts or conspires to violate any provision of this regulation, or any order, regulation or permit issued in furtherance thereof, shall be punishable as provided in § 14.17 of the Compact.

(b) General Counsel of the Commission may, in his discretion, request the appropriate law enforcement officers of the Commonwealth of Pennsylvania to prosecute any or all violations of this regulation in accordance with the Compact and the laws of the Commonwealth, and for recovery of the fines fixed by § 14.17 of the Compact, in the name and on behalf of the Commission. The Commonwealth of Pennsylvania and its law enforcement officers are hereby requested pursuant to § 10.1 and § 11.5 of the Compact, to provide such technical, professional and administrative services as may be required for such enforcement.

(c) In addition to such penal sanctions as may be imposed pursuant to this section, any violation of this regulation shall be subject to such civil remedies by injunction and otherwise as provided by law.

§ 430.29 Duration.

The delineation and declaration of the Southeastern Pennsylvania Ground Water Protected Area made pursuant to this regulation, and the requirements established hereby, shall continue until terminated by specific action of the Commission.

§ 430.31 Amendments.

Upon request by any interested party, or on its own motion, the Commission may consider amendment of this regulation, and modify the geographic boundaries of the protected area, in accordance with Article 10 of the Compact.

W. Brinton Whitall,
Secretary.

[FR Doc. 80-40558 Filed 12-31-80; 8:45 am]
BILLING CODE 6360-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket Nos. 80F-0220 and 80F-0222]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Tris (2,4-Di-Tert-Butylphenyl) Phosphite

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of tris(2,4-di-*tert*-butylphenyl) phosphite as an antioxidant and/or stabilizer for nylon resins, polycarbonate resins, polystyrene, rubber-modified polystyrene, and olefin polymers. This action is based on two petitions filed by Ciba-Geigy Corp., Ardsley, NY 10502.

DATES: Effective January 2, 1981; objections by February 2, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 27, 1980 (45 FR 43473), FDA announced that a food additive petition (FAP 0B3485) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl) phosphite as an antioxidant and/or stabilizer for nylon resins, polycarbonate resins, polystyrene and rubber-modified polystyrene.

In another notice published in the **Federal Register** of July 8, 1980 (45 FR 45961), FDA announced that a food additive petition (FAP 9B3477) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl) phosphite as an antioxidant and/or stabilizer for olefin polymers.

Having evaluated data in the petitions and other relevant material, FDA concludes that the food additive regulations should be amended to provide for the use of tris(2,4-di-*tert*-butylphenyl) phosphite, as set forth below.

The agency has considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's findings of no significant impact and its environmental assessment may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010(b) by adding five new limitations to the listing for the substance "Tris(2,4-di-*tert*-butylphenyl)phosphite," to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
Tris(2,4-di-*tert*-butylphenyl)phosphite (CAS Reg. No. 31570-04-4).	For use only: 1. * * * 2. At levels not to exceed 1 percent by weight of nylon resins complying with § 177.1500 of this chapter: *Provided*, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 3. At levels not to exceed 0.3 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter: *Provided*, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of §176.170(c) of this chapter. 4. At levels not to exceed 0.2 percent by weight of polystyrene and rubber-modified polystyrene polymers complying with § 177.1640 of this chapter: *Provided*, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 5. At levels not to exceed 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, item 1.1, 1.2, or 1.3: *Provided*, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 6. At levels not to exceed 0.2 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, item 2.1, 2.2, 2.3, 3.1, 3.2, 3.3 or 4: *Provided*, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 2, 1981, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objection may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 2, 1981.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-40600 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products That Require Patient Package Inserts; Ampicillin and Phenytoin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends its patient package insert regulations to list ampicillin and phenytoin as drugs that must be dispensed with patient package inserts. The ampicillin patient package insert applies to drug products containing amoxicillin, ampicillin, or hetacillin. Elsewhere in this issue of the **Federal Register**, FDA announces the availability of final guideline patient package inserts for ampicillin and phenytoin and applies the agency's patient package insert regulations to them.

EFFECTIVE DATE: July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4893.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. The agency also published in that issue of the **Federal Register** (45 FR 60785) 10 draft guideline patient package inserts for the following drugs and drug classes: ampicillin, benzodiazepines, cimetidine, clofibrate, digoxin, methoxsalen, propoxyphene, phenytoin, thiazides, and warfarin. In the **Federal Register** of December 5, 1980 (45 FR 80740), FDA published a draft guideline patient package insert for Bendectin and the agency announced that it would remove warfarin and add Bendectin to the drugs and drug classes subject to the initial application of the patient package insert regulations.

Under § 203.30(a) (21 CFR 203.30(a)), FDA's patient package insert regulations apply to a drug or drug class 180 days after the agency publishes a notice in the **Federal Register** announcing the applicability of the requirements to the drug or to a drug class. In the **Federal Register** of November 25, 1980 (45 FR 78516), the agency announced the applicability of the regulations to cimetidine, clofibrate, and propoxyphene and published final guideline patient package inserts for those drugs. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice making available final guideline patient package inserts for ampicillin and phenytoin and applying the agency's patient package insert regulations to those drugs. Use of the guidelines by manufacturers, distributors, and dispensers constitutes compliance with the agency's patient package insert regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the actual patient package inserts dispensed to patients. Use of the guideline patient package inserts is not required, however. This final rule amends § 203.31 (21 CFR 203.31) to list ampicillin and phenytoin as drugs that require patient package inserts and provides a permanent inventory in the Code of Federal Regulations to help persons who review the regulations determine to which drugs and drug classes they apply. The list contains the name of the drug or drug class and the effective date on which the patient package insert regulations apply to it. In the case of a drug class, the members of the drug class are also identified in the list.

The patient package insert regulations apply to all dosage forms and to both single-entity and combination products, unless the notice under § 203.30(a) specifically limits the applicability of the regulations. The notice under § 203.30(a) for phenytoin, published elsewhere in this issue of the **Federal Register**, applies the regulations to all dosage forms of phenytoin except parenteral dosage forms.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 203 is amended in § 203.31, by revising the list therein to read as follows:

§ 203.31 Drugs which require patient package inserts.

* * * * *

Drug or drug class	Effective
Amoxicillin	See ampicillin.
Ampicillin and related drugs (consisting of amoxicillin, ampicillin, and hetacillin).	July 1, 1981.
Cimetidine	May 25, 1981.
Clofibrate	Do.
Hetacillin	See ampicillin.
Phenytoin (except parenteral dosage forms).	July 1, 1981.
Propoxyphene	May 25, 1981.

Effective date. This regulation becomes effective July 1, 1981.

(Secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: December 22, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-40584 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 203 and 431

[Docket No. 79N-0186]

Prescription Drug Products; Patient Package Insert Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its patient package insert regulations to make the distribution requirements for

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patient package inserts for drug products in unit-of-use containers the same as the requirements for products in bulk containers. The agency is also amending its antibiotic drug regulations to permit manufacturers and distributors of antibiotics to make changes in labeling to comply with the patient package insert regulations without advance approval by FDA. This action will conform the requirements for implementing FDA's patient package insert regulations for antibiotics to the requirements currently applicable to the other drugs in the program.

DATES: Effective January 2, 1981; comments by March 3, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. Included in the final rule was a requirement initially proposed on July 6, 1979 (44 FR 40016) that for drugs in unit-of-use containers the patient package insert must be provided in or with each package of the drug product that the manufacturer or distributor intends to be dispensed to a patient. Comments were not received on this specific issue and it was adopted as proposed. On November 24, 1980, the Pharmaceutical Manufacturers Association (PMA) met with FDA to discuss questions about the implementation of the agency's patient package insert regulations. Among the issues discussed at that meeting was a question about the distribution requirements for patient package inserts intended to be dispensed with products in unit-of-use containers. It was noted that the final regulations made several changes from the proposed requirement, providing greater flexibility to manufacturers and distributors to develop their own mechanisms for providing patient package inserts to distributors and dispensers for drug products in bulk containers. At the meeting, and in a followup letter to that meeting dated November 26, 1980, PMA asked that FDA amend § 203.24(a) (21 CFR 203.24(a)) to give manufacturers the same flexibility in the distribution of inserts for unit-of-use products that the regulations permit for the distribution of inserts for drugs in bulk containers. (A copy of the minutes of the November 24 meeting and a copy of the PMA's November 26 letter have been placed on file in the office of FDA's Dockets Management Branch at the address given above.)

PMA suggested that a requirement that patient package inserts be distributed in or with unit-of-use containers is burdensome for the following reasons: (1) some current unit-of-use containers are too small to add a patient package insert, (2) a manufacturer may find it more practical and economical to establish a single system for providing distributors and dispensers with patient package inserts for products distributed both in bulk containers and in unit-of-use containers, and (3) requiring patient package inserts to be included in a unit-of-use container would limit manufacturers in the size of paper, size of print, and quality of paper they could use in preparing inserts.

FDA sees many benefits from its requirement that the patient package insert for a product already packaged in a unit-of-use container be incorporated in the container. For example, burdens on distributors and dispensers are greatly reduced, patients are virtually guaranteed to receive the proper package insert, and recalls of labeling are easier to perform. Nevertheless, on reconsideration of the issue, the agency is persuaded that the existing requirement may present unnecessary burdens in the distribution of unit-of-use products and that the flexibility provided in the regulations for distributing patient package inserts to distributors and dispensers of products in bulk containers should also be applied to drug products in unit-of-use containers. The agency is persuaded that manufacturers and distributors may be able to implement the patient package insert program at less cost if they are free to use other mechanisms than the physical combination of the insert and the unit-of-use package to meet their obligation to provide patient package inserts. Thus, the agency is amending its patient package insert regulations to establish the same obligations for manufacturers and distributors for products in both bulk and unit-of-use containers.

Approval of Antibiotic Labeling Changes

The PMA also noted at the meeting and in the letter described above that manufacturers of antibiotic drugs, such as ampicillin, are required to obtain prior approval from FDA of labeling changes. The holder of an approved antibiotic Form 5 or 6 for a drug product for which a patient package insert is required must submit an amendment under § 431.16 (21 CFR 431.16) to provide for the patient package insert and to provide for a change in the bulk container label under § 203.24(a) to instruct the dispenser to provide a patient package insert to each patient to whom the drug is dispensed. PMA points out that § 431.16 does not provide for putting labeling changes into use prior to obtaining FDA approval, while § 203.30(c) (21 CFR 203.30(c)) states that the patient package insert may be put into use without advance approval by the agency. PMA asked that FDA either amend its regulations to eliminate the requirement for prior approval of these labeling changes or institute a system to ensure that approval can be obtained expeditiously.

The agency intended in adopting § 203.30(c) that drug manufacturers, including antibiotic drug manufacturers, not be burdened by a requirement for advance approval from FDA before implementing labeling changes required by the patient package insert regulation. Therefore, FDA is amending § 431.16 to conform it to § 203.30(c) by providing that changes in labeling of antibiotic drugs to comply with the agency's patient package insert regulations may be made without advance approval by the agency.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 203 and 431 are amended as follows:

PART 203—PATIENT PACKAGE INSERTS FOR PRESCRIPTION DRUG PRODUCTS

1. In Part 203, § 203.24(a)(2) is revised to read as follows:

§ 203.24 Distribution and dispensing of patient package inserts.

* * * * *

(a) * * *

(2) For a drug product in a unit-of-use container, the manufacturer and distributor shall provide a patient package insert (i) in or with each package of the drug product that the manufacturer or distributor intends to be dispensed to a patient or; (ii) in accordance with paragraph (a)(1) of this section.

* * * * *

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

2. In Part 431, § 431.16 is revised by redesignating existing paragraph (b) as new paragraph (c) and by adding a new paragraph (b) to read as follows:

§ 431.16 Changes in facilities or controls; changes in mailing or promotional pieces.

* * * * *

(b) Advance approval is not required to implement labeling changes under a patient package insert requirement under Part 203 of this chapter. However, the applicant shall submit specimens of the labeling when first used.

* * * * *

These amendments involve reconsideration of issues which were the subject of recent rulemaking, and implement conforming changes consistent with previously expressed agency intentions. Moreover, they do not impose additional duties or burdens on any person but instead relieve requirements and facilitate compliance with regulations requiring patient package inserts. Accordingly, the Food and Drug Administration finds that notice and public procedure and delayed effective date are unnecessary and not in the public interest, and that the amendments may become effective upon the date of publication in the **Federal Register.** However, interested persons may, on or before March 3, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this final rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by the amendment of § 431.16 may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 2, 1981, a written notice of participation and request for hearing, and (2) on or before March 3, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing the amendment of § 431.16, a notice participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this amendment must be filed in four copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Effective date. This regulation shall be effective January 2, 1981.

(Secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371); (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)))

Dated: December 22, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-40583 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Diamond Shamrock Corp. providing for safe and effective use of a 100-milligram-per-milliliter (mg/ml) oxytetracycline (as oxytetracycline hydrochloride or OTC HCl) injection for treating certain infections of swine.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Diamond Shamrock Corp., 1100 Superior Ave., Cleveland, OH 44114, filed a supplemental NADA (97-452) providing for use of a 100 mg/ml OTC HCl injection in swine for treating bacterial enteritis, pneumonia, and leptospirosis. The firm currently holds approval for use of this product in sows as an aid in controlling infectious enteritis in suckling pigs and in cattle for treating pneumonia and shipping fever complex.

Several OTC HCl injectable preparations manufactured by Pfizer, Inc., were subjects of a review by a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group. The evaluation was published in the **Federal Register** of July 21, 1970 (35 FR 11646). In that document, the NAS/NRC and FDA concluded that the preparations were probably effective for treating infections in cattle, sheep, swine, horses, cats, dogs, chickens, and turkeys caused by pathogens sensitive to OTC HCl. Holders of NADA's were provided 6 months to submit revised labeling that reflected the NAS/NRC evaluation or adequate documentation in support of the labeling used.

Pfizer responded to the evaluation notice by submitting a supplemental NADA (8-769) that revised the labeling for safe and effective use of injections containing 50 mg/ml of OTC HCl for treating cattle, swine, and poultry. The supplemental application was approved by a regulation published in the **Federal Register** of September 18, 1974 (39 FR 33509). The regulation reflecting this approval amended 21 CFR 135b.65 (recodified as 21 CFR 522.1662a) by adding new paragraph (d). This regulation contains provisions for intramuscular use of the drug in swine at 3 to 5 milligrams per pound (mg/lb) of body weight per day for treating bacterial enteritis (scours, colibacillosis) caused by *Escherichia coli*, pneumonia caused by *Pasteurella multocida*, and

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leptospirosis caused by *Leptospira pomona*.

Diamond Shamrock submitted bioequivalency (cross-over blood level) studies justifying agency approval of use of its product in swine based on a showing of biocomparability between Pfizer's 50 mg/ml OTC HCl injection and Diamond Shamrock's 100 mg/ml OTC HCl injection. The conditions of use are identical to those approved for the Pfizer product. Accordingly, the regulations are amended to add provisions for use of the Diamond Shamrock product in swine.

This approval poses no increased human risk from exposure to oxytetracycline residues because the number of food-producing animals receiving medication will not significantly increase since the product will likely be used in place of another proprietary oxytetracycline injectable currently approved for the same claims. The drug is already regulated at the requested final use level (3 to 5 mg/lb of body weight). Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this approval did not require reevaluation of the human safety data supporting the parent application.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1662a by revising paragraph (g)(3)(ii) to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(g) * * *

(3) * * *

(ii) *Swine*—(*a*) *Amount.* 3 to 5 milligrams of oxytetracycline per pound of body weight per day. Sows: Administer once 3 milligrams of oxytetracycline per pound of body weight, approximately 8 hours before farrowing or immediately after completion of farrowing.

(*b*) *Indications for use.* For treatment of bacterial enteritis (scours, colibacillosis) caused by *Escherichia coli*, pneumonia caused by *Pasteurella multocida*, and leptospirosis caused by *Leptospira pomona*. Sows: As an aid in control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *Escherichia coli*.

(*c*) *Limitations.* Administer intramuscularly. If no improvement is noted within 24 hours, consult a veterinarian. Do not inject more than 5 milliliters per site. Discontinue treatment at least 20 days prior to slaughter.

* * * * *

Effective date. This regulation is effective January 2, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 18, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-40010 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

Antibiotic, Nitrofuran, and Sulfonamide Drugs in the Feed of Animals

AGENCY: Food and Drug Administration

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to provide for the interim marketing of nitarsone in combination with bacitracin zinc in turkey feeds. The sponsors, A.L. Laboratories, Inc., International Minerals & Chemical Corp., and Salsbury Laboratories, requested that the agency amend the regulations to provide for the interim use of this combination.

EFFECTIVE DATE: March 26, 1976.

FOR FURTHER INFORMATION CONTACT: David P. Ducharme, Bureau of Veterinary Medicine (HFV-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2280.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 6, 1974 (corrected September 27, 1974), the agency proposed to amend 21 CFR 135.109 (recodified 21 CFR 558.15) by listing those drug sponsors and drug premixes and combinations for which the sponsors provided commitments to comply with the requirements of the regulation. The final rule was published in the **Federal Register** of February 25, 1976 and became effective on March 26, 1976. Salsbury Laboratories, Charles City, IA 50616, responded by submitting a commitment to generate the required safety and efficacy data for nitarsone and bacitracin zinc in turkey feeds. Such commitments are required for interim marketing of the drug combinations until such time as the agency made a determination of sufficiency of the submitted material. In the proposed rule and in the final rule the agency failed to reflect that this firm had submitted a commitment and should be permitted interim marketing of the combination drug product. The firm had not informed the agency of the omission until International Minerals & Chemicals' letter of March 4, 1980. The agency reviewed its records and confirmed that Salsbury Laboratories, in their letter of April 6, 1972, submitted test protocols for nitarsone with bacitracin zinc, which the Bureau responded to on April 28, 1972. As a result of this submission, 21 CFR 558.15(g)(2) should have included approval for interim use for this combination drug. The agency now amends the regulations to provide for approval of interim use of the combination.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 558.15(g)(2) is amended in the table by adding an additional combination to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

* * * * *

(g) * * *

(2) * * *

Drug sponsor	Drug premix	Species	Use levels	Indications for use
*	*	*	*	*
Salsbury Laboratories	Nitarsone and bacitracin zinc	Turkeys	0.01875 percent (4 to 50 g/ton).	As an aid in the prevention of black head. To increase rate of weight gain and improve feed efficiency.

Effective date: March 26, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(b)(i)))

Dated: December 19, 1980

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-40787 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1217

[Docket No. 79-11, Notice 5]

Highway Safety Innovative Project Grants Program; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This document corrects a rule on the highway safety innovative project grants program which was published on December 22, 1980 (45 FR 84037).

FOR FURTHER INFORMATION CONTACT: Charles F. Livingston, Office of Traffic Safety Programs, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-0837.

In the Federal Register (Vol. 45, No. 247) from Monday, December 22, 1980, p. 84038, FR Doc. 80-39792, Section 1217.6 "Project review procedure," paragraph (a) should read as follows:

(a) The agency shall review each preapplication to determine which ones warrant further development. The agency shall notify each preapplicant of its determination within 45 days of its receipt of the preapplication. The agency shall request detailed proposals that clarify and amplify the preapplications from those applicants whose projects were determined to warrant further development.

Joan Claybrook,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 80-40808 Filed 12-29-80; 3:40 pm]

BILLING CODE 4910-59-M

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 80-25]

Maximum Width of Trucks on the Interstate Highway System; Notice of Interpretation and Solicitation of Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of interpretation of the maximum width of trucks on the Interstate System.

SUMMARY: Notice is given that the FHWA is interpreting the maximum width provision which may not be exceeded on the Interstate System pursuant to 23 U.S.C. 127 and which must be enforced by the States pursuant to 23 U.S.C. 141. The FHWA solicits comments on the interpretation of the statute as it relates to the inclusion of safety devices.

DATES: This interpretation will take effect upon expiration of a 30-day public comment period. Comments must be received on or before February 2, 1981.

ADDRESS: FHWA Docket No. 80-25, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Oliver, Attorney-Advisor, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, (202) 426-0825. Office hours are from 7:15 a.m. to 3:45 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA continues to receive inquiries from industry sources, State enforcement agencies, and the public in general concerning the application of the maximum vehicle width provision for vehicles using the Interstate System of Highways. Section 127 provides that the maximum width of vehicles using the Interstate System of Highways cannot exceed 96 inches, unless a wider width was authorized by State law or regulation as of July 1, 1956. In the case of buses, widths of up to 102 inches are permitted on lanes 12 feet or more wide. The States are required to certify to the Secretary of Transportation on an annual basis that vehicles using the Interstate System are in compliance with 23 U.S.C. 127, and that the State is enforcing these provisions in accordance with 23 U.S.C. 141. There is no definition of width provided in section 127, nor does the legislative history add any definitive direction on the question of appendages or safety devices.

The maximum width limitation has remained unchanged in the law since 1956. It originated in the 1946 "Recommended Policy on Maximum Dimensions and Weights of Motor Vehicles To Be Operated Over The Highways of the United States" issued by the American Association of State Highway and Transportation Officials (AASHTO), which in turn incorporated the width limitations which had been standard for some time. The definition of width as provided in the AASHTO policy states:

> Width: The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding approved safety devices and tire bulge due to load.

Vehicle unit width is important and the Congress has determined that it needs to be controlled simply because of the safety aspects of the available lane width which a vehicle occupies. Presuming a lane width of at least 10 feet, and more likely 12 feet on the Interstate System, a 96-inch wide vehicle will have up to 4 feet separating it from a similar vehicle in the next lane. There will be considerably more distance if the other vehicle is a passenger car.

The AASHTO policy itself has been modified since 1956 to recommend a maximum vehicle width of 102 inches. The AASHTO policy constitutes a guide to State highway officials and industry sources and it is of significant interest that the recommendation of 102 inches for vehicle width includes the Interstate System, notwithstanding the fact that the Congress has not yet acted to modify section 127. The AASHTO policy does recommend that the Congress continue to set ceilings on vehicle size as provided in section 127, incorporating the maximum recommended by the AASHTO. In this respect, the intent statement of the AASHTO policy is important as it states that the operative intent of the AASHTO recommendations are, *inter alia:*

(a) Absolute maximum limits which are inclusive of all enforcement, weighing, scale, or other tolerances * * *.

Definitional problems with "width" have arisen in the past as a result of technological developments in the industry, the modification of the AASHTO's policy, and action at the State legislative level reflecting these developments.

The limitations enacted by the Congress in 1956 were to have been temporary pending the conclusion of a study and recommendations by the Department of Commerce (which had jurisdiction over these matters prior to the creation of the Department of Transportation). This study was published in 1964 as House Document No. 354, "Maximum Desirable Dimensions and Weights of Vehicles Operated On The Federal-Aid Systems," and furnished the basis for amending the law in the Federal-Aid Highway Amendments of 1974. Early interpretations of the Federal Highway Administration were designed to preserve the status quo pending further action by the Congress and, as a result, inadvertently froze State limitations into the exact pattern in existence on July 1, 1956. Thus, the maximum width limitation was considered inclusive on all devices, unless a State had a "grandfather right" or pre-July 1, 1956, legalization of any other width.

Almost three-fourths of the States did have such rights applicable to buses and trucks, to vehicles and loads, to safety devices, load-bearing devices, and to other exemptions on a commodity or industry basis. Some States allowed all vehicles up to 102 inches, others established relations between vehicle widths and minimum highway widths. States specifically provided for wider widths for forest products, agricultural implements and products, concrete pipe, and vehicles which occasionally use the highway, such as firefighting, construction, drilling, snow removal, and other specialized equipment. Some States excluded pneumatic tires while others defined width as the overall distance across the vehicle body, load, or axles.

These latter administrative exceptions usually permitted safety devices such as tire chains, rearview mirrors, clearance lights, and turn signals. At the same time, these exceptions were often wide enough to permit mudflaps, door handles, and miscellaneous devices as weevil pin holders to exceed general width limitations.

The strict construction viewpoint held by the FHWA, when considered together with the patchwork of exceptions discussed above, has led to anomolous effects: stretched to absurdity it is possible that a truck traversing several States can encounter a situation wherein door handles are safe but door latches are not; a hinge is safe, but a lifting cable is unsafe; a chain binder is safe, but a cable hook is unsafe. It is conceivable that none of these devices will extend any more than 3 inches on each side of the vehicle.

The equipage with which a modern vehicle can be manufactured is numerically difficult to limit by definition. Door handles, hinges, cable cinches, chain binders, drip rails, awning rails, drip caps, rub rails, grab rails, electrical receptacles, bumper guards, window louvers, window frames, exhaust fans, lifting eyes, lifting cables, cable hooks, door latches, hinged unloading doors, and portable beds are all commercially necessary items which may be added to the list already discussed above. Many of these appendages have a useful safety purpose.

A great deal of confusion has resulted from application of a strict construction approach to safety devices. For example, a recent question has arisen in Wyoming as a result of increased oil-drilling in the Rocky Mountain basin. Vehicles are being equipped with "pin-pockets" which are adduced as having safety functions. As the pin-pockets extend beyond the 96-inch width limit of § 127, the State of Wyoming was informed of a violation. Some of the misunderstanding arose over the interpretation of a safety device. The industry appeared to believe that the violation occurred because a pin-pocket was deemed to be a load-holding device as opposed to a safety device and that chains, for example, were legitimate safety devices which were suggested in lieu of pin-pockets. This is not the case. Under the prior strict construction approach of the FHWA, it did not matter if an appendage was a safety device or a load-bearing device. The sole criterion of acceptability was whether it was permitted by law or regulation in the State as of July 1, 1956. If the appendage was not permitted at that time, it would not be consonant with § 127 today.

The Congress has not changed the law with respect to the basic width maximum of 96 inches. Accordingly, we can make no administrative changes which would permit wider vehicles to use the Interstate Highway System. Thus, no basic vehicle configuration or vehicle load can exceed 96 inches. This is pertinent in the case of certain kinds of standardized shipments such as building panels and containers. However, there is no rational reason for maintaining a strict construction approach on the question of legitimate safety appendages, as in view of the continuing nature of the width limitation, a restriction on safety appendages creates a situation inimical to the basic purpose of the law, which is, of course, to promote highway safety.

Based on the foregoing considerations, the FHWA is interpreting § 127 to require that unless specifically excepted on July 1, 1956, vehicles shall not exceed a maximum vehicle width of 96 inches exclusive of all safety appendages, and that such safety appendages when affixed to any vehicle using the Interstate System may not extend the overall maximum width beyond 102 inches (or 108 inches in the case of buses).

At the same time, the FHWA will institute research into the number and types of appendages in use as safety devices and the incidence of problems. Pending the conclusion of such research, each State may continue to make the determination of what is a legitimate safety device or appendage for the purposes of enforcement and certification pursuant to 23 U.S.C. § 141.

Issued on: December 29, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-40842 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256

Off-Reservation Treaty Fishing; Great Lakes and Connecting Waters in Michigan Ceded in Treaty of 1836

AGENCY: Department of the Interior.

ACTION: Amendment to amended interim rule.

SUMMARY: The Interior Department's current amended interim rule governing treaty fishing in Michigan waters of the Great Lakes expires on January 1, 1981. In order to implement the treaty fishing right and to provide for the conservation of the fish resource during the winter fishing months, this amendment extends the period of effectiveness of the amended interim rule to May 11, 1981. The Secretary has determined that promulgation of this amendment to the amended interim rule is necessary on an emergency basis in order to implement the treaty right, preserve the fish resource, and maintain law and order in the exploitation of the resource. By so

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extending the period of effectiveness of the amended interim rule, this amendment preserves the status quo pending the beginning of the 1981 fishing season. It is currently anticipated that regulations governing treaty fishing in the Michigan waters of the Great Lakes during the 1981 fishing season will be published in April, 1981.

EFFECTIVE DATE: This amendment to the amended interim rule is effective on December 31, 1980 and expires May 11, 1981.

FOR FURTHER INFORMATION CONTACT: Robin A. Friedman, Attorney-Advisor, Department of the Interior, Division of Indian Affairs, 18th and C. Sts. NW., Washington, D.C. 20240, (202) 343-8526.

SUPPLEMENTARY INFORMATION: The Department of the Interior is responsible for the supervision and management of Indian affairs under 43 U.S.C. Section 1457, 25 U.S.C. §§ 2, 9 and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of federally reserved treaty fishing rights. The Bay Mills Indian Community, the Sault Ste. Marie Tribe of Chippewa Indians, and the Grand Traverse Band of Ottawa and Chippewa Indians have off-reservation fishery rights secured by the Treaty of March 28, 1836, 7 Stat. 491, as affirmed in *People* v. *LeBlanc*, 399 Mich. 31, 248 N.W. 2d 199 (1976) and *United States* v. *Michigan*, 471 F. Supp. 192 (W.D. Mich. 1979). The fishery rights include the right to take fish for commercial purposes in the Great Lakes and connecting waters ceded by the tribes in that treaty. This area includes the Michigan waters of Lake Michigan east of Escanada and north of the mouth of the Grand River, of Lake Huron north of Alpena, and the entire St. Mary's River system.

After the decision of the United States District Court in *United States* v. *Michigan*, 471 F. Supp. 192, the Interior Department and the tribes entered into a Memorandum of Understanding which clarified mutual regulatory responsibilities. The Interior Department then promulgated on November 15, 1979 an Interim Rule governing treaty fishing in Michigan (44 Fed. Reg. 65747). The Department published an amended interim rule on April 28, 1980 (45 Fed. Reg. 28100). After the publication of the interim rule and the amended interim rule, the Department solicited comments and received many in both instances. In addition, the Department held public hearings on the interim rule on February 20 and 22, 1980 in Sault Ste. Marie and Lansing, Michigan.

In *United States* v. *Michigan*, 623 F.2d 448 (6th Cir. 1980) the Sixth Circuit remanded the case to the district court for a decision on the preemptive effect of the Interior Department regulations. That issue remains pending before the district court.

Because this amendment to the amended interim rule simply maintains the status quo pending the anticipated promulgation of regulations for the 1981 fishing season in April 1981, the Department will not at this time discuss the many comments it has already received or solicit additional comments. In this regard, it should be noted that this amendment does not increase the total allowable catches (TACS) of the various species of fish provided for in the April 28, 1980 amended interim rule; these TACS remain in effect. The comments which have been received will be fully considered and discussed upon promulgation of the regulations for the 1981 fishing season in April 1981.

The Department prepared an environmental assessment for the November 15, 1979 interim rule which concluded that the interim rule did not constitute major federal action which would significantly affect the quality of the human environment within the meaning of section 102 (2) (3) of the National Environmental Policy Act of 1969. Subsequently, the Department determined that the April 28, 1980 amended interim rule did not substantially change the November 15, 1979 interim rule and that the environmental assessment remained in effect. This amendment to the amended interim rule does not increase the total allowable catch figures established in the April 28, 1980 amended interim rule; instead it simply extends the period of applicability of the rule through a period of reduced fishing activity in the winter months. Thus, the Department has determined that the environmental assessment now in effect remains applicable to this amendment. A new environmental study will be conducted prior to the promulgation of the regulations for the 1981 fishing season in April, 1981.

The Department has also determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary author of this document is—Hans Walker, Associate Solicitor, Division of Indian Affairs, Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

EFFECTIVE DATE: This rule takes effect on December 31, 1980.

25 CFR Part 256 Subpart D is amended as follows:

PART 256—SUBPART D [AMENDED]

1. The authority citation for Subpart D reads as follows:

Authority: 25 U.S.C. §§ 2, 9; 43 U.S.C. 1457; Reorganization Plan No. 3 of 1950 (64 Stat. 1262); Treaty of March 28, 1836 (7 Stat. 491); and 25 CFR Part 256, Subpart A.

2. In Part 256 Subpart D, § 256.50 is revised to read as follows:

§ 256.50 Term of regulations.

The regulations in this subpart take effect on April 23, 1980 and expire on May 11, 1981.

Dated: December 30, 1980.

Cecil D. Andrus,
Secretary.

[FR Doc. 80-40829 Filed 12-30-80; 11:35 am]

BILLING CODE 4310-17-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 2

General Regulations; Rulemaking

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: This document rescinds the regulation waiving the exemption to the Administrative Procedure Act (5 U.S.C. 553) for rules relating to public property, loans, grants, benefits or contracts as it pertains to the information-gathering procedures of the Bureau of Labor Statistics. This amendment is necessary due to confusion that has arisen concerning applicability of APA requirements to certain information-gathering procedures which have not heretofore been regarded by the Department as "rules". This will allow the Department to utilize the exemption provided by Congress for information-gathering procedures of the Bureau of Labor Statistics.

EFFECTIVE DATE: February 2, 1981.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N2464, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202-523-8807.

SUPPLEMENTARY INFORMATION: On November 21, 1980, a Notice of Proposed Rulemaking was published in this publication (45 FR 77047) which revoked in part the waiver of the exemption from rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553) for matters relating to public property, loans, grants, benefits or contracts in order to assure that information-gathering procedures like those used by the Bureau of Labor Statistics are not subject to APA rulemaking requirements. Pursuant to a recommendation of the Administrative Conference of the United States, the Secretary of Labor waived his entitlement to the exemption. However, the U.S. Court of Appeals for the D.C. Circuit has recently held that methodology developed by the Bureau of Labor Statistics to establish unemployment figures used for allotment of funds under Title VI of the Comprehensive Employment and Training Act are "rules" which must be promulgated pursuant to APA notice and comment procedures. *Batterton* v. *Marshall*, No. 78-1414 (August 28, 1980). The Court of Appeals' decision makes clear, however, that such methodology would ordinarily be exempt from APA procedures as a matter relating to public benefits, under 5 U.S.C. 553(a)(2).

The Department's position has been that information-gathering procedures are not rules within the meaning of the APA, but rather investigatory functions not subject to APA requirements. Had the Department anticipated that such procedures could be deemed "rules" subject to APA notice and comment requirements, it would not have waived its right to invoke the exemption for information gathering relating to "public property, loans, grants, benefits, or contracts." The Department's concern is for the Bureau of Labor Statistics. The Bureau's statutory role is to accumulate information on labor-related subjects for use of the Congress, other government agencies, and the public. The Bureau's information-gathering activities are statistical in nature and are conducted on the basis of scientific principles. To subject purely statistical decisionmaking to procedures required for review of policy decisions under the Administrative Procedure Act might subject BLS methodology to nonstatistical policy influences. It is essential to avoid equating statistical and policy decisions.

The Secretary has therefore determined that it is necessary to amend the existing regulation and reclaim the right to invoke the 5 U.S.C. 553(a)(2) exemption insofar as it covers the Bureau's information-gathering procedures. The Department does not intend to invoke the exemption for any other matters "relating to public property, loans, grants, benefits, or contract," but will continue its practice of using APA notice and comment procedures for any such matters other than data collection procedures.

The Department received no comments during the comment period and the regulation is being published with no changes from the proposed rule.

The Department of Labor has determined that this document is not a "major regulation" that requires preparation of a regulatory analysis under Executive Order 12044 and the Department's guidelines published at 44 FR 5570 (January 26, 1979).

Accordingly, the Department of Labor hereby amends Part 2, Subtitle A of Title 29, Code of Federal Regulations, as set forth below.

PART 2—GENERAL REGULATIONS

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and 5 U.S.C. 552-556, unless otherwise noted.

2. Section 2.7 is revised to read as follows:

§ 2.7 Rulemaking.

It is the policy of the Secretary of Labor, that in applying the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. § 553), the exemption therein for matters relating to public property, loans, grants, benefits or contracts shall not be relied upon as a reason for not complying with the notice and public participation requirements thereof except for all information-gathering procedures adopted by the Bureau of Labor Statistics.

Signed at Washington, D.C. this 29th day of December, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-40621 Filed 12-31-80; 8:45 am]

BILLING CODE 4510-23-M

POSTAL SERVICE

39 CFR Part 111

Third-Class Carrier Route Presort; Extension of Time

AGENCY: Postal Service.

ACTION: Extension of time for compliance with certain endorsement regulations in the final rule.

SUMMARY: Implementing regulations for the third-class carrier route presort level rate were set forth as a final rule on December 2, 1980 (45 FR 79804) (corrections at 45 FR 81563). The effective date of the final rule was December 2, 1980, except that mailers were given until January 1, 1981, to show the abbreviation *CAR-RT* contained in the interim rules rather than *CAR-RT SORT*, contained in section 662.3 of the final rule. Mailers were also given until January 1, 1981, to present mailings which do not contain the *Bulk Rate* endorsement in addition to the *Carrier Route Presort* endorsement (section 662.2 of the final rule). Mailers have indicated they need additional time to use mailing pieces which have been prepared or are in the process of being prepared that do not meet these provisions of sections 662.2 and 662.3 of the final rule. It has also been brought to our attention that many mailers have pieces prepared which show the abbreviation *CAR-RT Presort*. Accordingly, until July 1, 1981, mailers may show the abbreviation *CAR-RT* or *CAR-RT Presort* rather than *CAR-RT SORT* contained in section 662.3 of the final rule. Likewise, mailings which do not contain the *Bulk Rate* endorsement in addition to the *Carrier Route Presort* endorsement (section 662.2. of the final rule) will be accepted until July 1, 1981.

EFFECTIVE DATE: The time for compliance with the aforementioned endorsement regulation has been extended from January 1, 1981 to July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Lynn M. Martin, (202) 245-4353.

(39 U.S.C. 401(2), 404(2))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-40624 Filed 12-31-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 1709-4]

Revision to Oregon Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice, EPA today announces its approval of portions of the State Implementation Plan (SIP) for Oregon which were received by EPA on July 28, 1980. These SIP elements consist of the Oregon Department of Environmental Quality (DEQ) operating rules for their vehicle inspection and maintenance (I/M) program. The Oregon I/M rules were submitted and are approved to meet the requirements of Part D (plan requirements for nonattainment areas) of the Clean Air Act (hereinafter referred to as the Act), as amended in August 1977.

DATE: January 2, 1981.

ADDRESSES: Copies of the related material for this revision may be examined during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.
Central Docket Section (10A-79-2), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

FOR FURTHER INFORMATION CONTACT: Michael Gearheard, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 625, Seattle, Washington 98101, Telephone No.: (206) 442-1226, FTS: 399-1226.

SUPPLEMENTARY INFORMATION: On June 24, 1980, EPA published in the **Federal Register** (45 FR 42265) Final Rulemaking on Part D revisions to the Oregon SIP. As part of that action, EPA approved the ongoing Portland I/M program on the condition that Oregon DEQ submit adequate operating regulations for this program by July 15, 1980. DEQ responded on July 28, 1980 by submitting (1) copies of those sections of the Oregon Administrative Rules, Chapter 340, that apply to their I/M program and (2) documentation that the rules were adopted in accordance with the requirements of 40 CFR 51.4. The subject regulations are OAR 340-24-300 through 340-24-350.

On October 14, 1980, EPA proposed in the **Federal Register** (45 FR 67886) to approve this portion of the Oregon SIP including the Portland I/M rules. EPA received no comments on this proposed action. Therefore, EPA is today approving this revision of the Oregon SIP to include OAR 340-24-300 through 340-24-350.[1]

EPA finds that good cause exists for making the action in this notice immediately effective for the following reasons: (1) implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden, and (2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979 or as soon thereafter as possible.

Under Section 307(b)(1) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures: I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 110(a) and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: December 22, 1980.

Douglas M. Costle,
Administrator.

Note.—Incorporated by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register on July 1, 1980.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. In § 52.1970, paragraph (c)(33) is added as follows:

§ 52.1970 Identification of Plan.

* * * * *

(c) * * *

(33) Oregon Administrative Rules (OAR) Chapter 340, sections 24-300 through 24-350 for the vehicle inspection and maintenance program, submitted on July 26, 1980 by the Oregon Department of Environmental Quality.

[FR Doc. 80-40698 Filed 12-31-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1717-3]

Approval and Promulgation of Implementation Plans, Indiana; Carbon Monoxide and Ozone

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: On October 14, 1980 (45 FR 67683), USEPA proposed conditional approval of the vehicle inspection and maintenance (I/M) program for the Indiana portion of the Chicago urban area (Lake and Porter Counties) and the Indiana portion of the Louisville/urban area (Clark and Floyd Counties), and invited public comments. On November 13, 1980, Indiana responded to USEPA's Notice of Proposed Rulemaking. The state made a subsequent SIP submission on November 24, 1980. No other public comments were received. Based on its review of the State's response, USEPA today conditionally approves the I/M program for the Indiana Portion of the Chicago urban area and the Indiana portion of the Louisville urban area.

EFFECTIVE DATE: This final rulemaking is effective February 2, 1981.

ADDRESSES: Copies of these revisions to the SIP are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604
U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460
Indiana State Board of Health, Air Pollution Control Division, 1330 W. Michigan, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Gerald S. Kellman, Air Planning Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6070.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 9862) and October 5, 1978 (43 FR 45933) pursuant to the requirements of section 107 of the Clean Air Act (Act) as amended, USEPA designated certain areas in each Region V State as not meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone. Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standard as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions, that date may be extended to no later than December 31, 1987, for ozone and/or carbon monoxide.

The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182).

On June 26, 1979, the State of Indiana submitted to USEPA, pursuant to Part D of the Clean Air Act as amended in 1977, a plan for the implementation of a vehicle emission control inspection and maintenance (I/M) program in the Indiana portion of the Chicago metropolitan area (Lake and Porter counties) and in the Indiana portion of the Louisville metropolitan area (Clark and Floyd Counties). USEPA discussed the State's submissions in the March 27,

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[1] This approval should not be construed however, as precluding review of the Oregon I/M Program and of the programs operating Regulations during the 1982 SIP review process.

1980 **Federal Register** (45 FR 20432). In this notice USEPA stated that the I/M plan could not be approved unless the State corrected certain identified deficiencies. The State made subsequent submissions further describing its plan for an I/M program on April 7, 1980, June 12, 1980, and August 27, 1980. On October 14, 1980 (45 FR 67683), USEPA issued a supplemental Notice of Proposed Rulemaking. In this Notice, USEPA proposed conditional approval of the I/M program for the Indiana portion of the Chicago urban area (Lake and Porter Counties) and the Indiana portion of the Louisville urban area (Clark and Floyd counties), and USEPA invited public comments. This proposal contained a summary of the requirements for an approvable I/M program, a description of Indiana's proposal for the Indiana portion of the Chicago and Louisville urban areas and proposed schedules for the correction of minor deficiencies. The State responded to USEPA's Supplemental Notice of Proposed Rulemaking on November 13, 1980. The State made a subsequent SIP submittal on November 24, 1980. No other public comments were received.

USEPA's final determinations take one of three forms: approval, conditional approval, or disapproval. A discussion of conditional approval and its practical effects appears in the July 2, 1979 **Federal Register** (44 FR 38583) and in the November 23, 1979 **Federal Register** (44 FR 67182). A conditional approval requires the State to submit additional materials by specified deadlines which have been agreed upon by the State and the USEPA.

USEPA will follow the procedures described below when determining if requirements of conditional approval have been met:

1. If the State submits the required additional documentation according to schedule, USEPA will publish a notice in the **Federal Register** announcing receipt and availability of the material for public comment. The notice will also announce that the conditional approval is continuing pending USEPA's final action on the submission.

2. USEPA will evaluate the State's submission and public comment on the submission to determine if noted deficiences have been fully corrected. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to fully approve the plan if all conditions have been met, or to withdraw the conditional approval and disapprove the plan if all conditions have not been met. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the State fails to submit the required materials according to the agreed upon schedule, USEPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and Section 110(a)(2)(I) restrictions on growth are in effect.

The State of Indiana has demonstrated that attainment of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone in Lake County and for ozone in Clark, Floyd, and Porter Counties is not possible by December 31, 1982, despite the implementation of all reasonable emission control measures. Therefore, the State requested an extension until December 31, 1987 to demonstrate attainment of the standards for these four counties.

For areas granted such an extension, section 172(b)(11) of the Act requires an I/M program. On June 28, 1979, the State requested an extension until December 31, 1987 to demonstrate attainment of the carbon monoxide and ozone NAAQS in the Indiana portion of the Chicago urban area and an extension until December 31, 1987 to demonstrate attainment of the ozone NAAQS in the Indiana portion of the Louisville urban area. At the same time, the State submitted its proposal for an I/M program in these areas.

The following section of the notice discusses USEPA's proposed rulemaking action on Indiana's I/M plan which appeared in the October 14, 1980 **Federal Register**, discusses Indiana's response to that notice, and states USEPA's final determinations.

(1) Proposed action: Approval of Indiana's legal authority to implement and enforce an I/M program.

State Response: None

Final Determination: Approval of Indiana's legal authority to implement and enforce an I/M program.

(2) Proposed action: Approval of the State's commitment to implement and enforce an I/M program, with the following two conditions:

A. By December 31, 1980, the State must submit a further detailed description of the exact procedures involved in enforcing an I/M program as part of the SIP. The State submittal must address the following questions:

a. How will local law enforcement officers identify non-complying vehicles and prevent these vehicles from operating on the public roads?

b. What penalties will be imposed for non-compliance and who has the authority to impose these penalties?

c. What schedule and procedures will be used to issue the general order which the State has informed USEPA it will use to require compliance by vehicle owners in the affected areas? Items such as method of notification, and the opportunity for public hearings and public comment should be included.

B. By June 30, 1981, the State must submit, as a revision to the SIP, the general order it has issued to vehicle owners in affected areas and the commitments by responsible enforcement officials to ensure compliance with the general order.

State Response: Indiana committed itself to provide USEPA with the following in its November 13, 1980 submission:

A: A more detailed description of its enforcement procedures by December 31, 1980, including an answer to the questions raised in the October 14, 1980 **Federal Register**.

B. The general order it has issued to vehicle owners in affected areas by June 30, 1981. Also, the State committed itself to the following by the same date:

"In the detailed description of enforcement procedures . . ., the (Indiana Air Pollution Control) Board will determine the necessity of obtaining commitments from responsible enforcement officials to ensure compliance with the general order. Should this prove necessary, the Board will commit to obtaining commitments from responsible enforcement officials by June 30, 1981. Such commitments would be submitted to USEPA as a revision to Section 3.3.29 of the Indiana SIP."

Final Determination: Conditional approval of Indiana's commitment to implement and enforce an I/M program. USEPA believes that the State's commitment to meet the conditions specified in the October 14, 1980 **Federal Register** is generally adequate.

USEPA, however, continues to interpret section 172(b)(10) of the Act as requiring the submission of commitments from responsible enforcement officials to ensure compliance with the general order. Such commitments must be included in the June 30, 1981, submittal in order to satisfy this condition.

(3) Proposed action: Approval of the State's commitment of the necessary finances and resources to carry out the I/M program.

State Response: None.

Final Determination: Approval of the State's commitment of the necessary finances and resources to carry out the I/M program.

(4) Proposed action: Approval of the State's I/M implementation schedule on

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the condition that the schedule was finally adopted and submitted to USEPA prior to final rulemaking.

State Response: Submission on November 13, 1980, to USEPA of a finally adopted revised I/M implementation schedule. This schedule was slightly amended from the preliminarily adopted schedule which the State submitted on August 27, 1980. In a letter accompanying the schedule, the State explained that the slight change in schedule was due to unexpected administrative delays, but still committed itself "to have the I/M program operational by January 1, 1983."

Final Determination: Approval of the Indiana schedule for the implementation of an I/M program. Although the schedule does not specifically address the milestones for initiation of a public information program, for the adoption of procedures and guidelines for testing and quality control, and for the adoption of cutpoints (all of which are listed in USEPA's July 17, 1978, memorandum), it is USEPA's understanding that the accomplishment of these tasks is addressed through other milestones in the schedule. These include the milestone to issue a request for Proposal and to adopt Rules and Regulations for the program. USEPA finds that the State's revised schedule contains the necessary implementation milestones and provides for implementation dates consistent with the State's legal authority and USEPA guidance.

(5) Proposed action: Approval of Indiana's demonstration or commitment to obtain the necessary emissions reduction if prior to final rulemaking, the State submitted this demonstration or commitment.

State Response: Submission on November 13, 1980 of the following statement:

> Using USEPA's definition of I/M program effectiveness that based on an implementation date of December 31, 1982, and a 20 percent stringency factor, USEPA predicts that reductions of both CO (carbon monoxide) and HC (hydrocarbon) exhaust emissions of 25 percent can be achieved by December 31, 1987, the (Indiana Air Pollution Control) Board commits to a 20 percent stringency factor. Based on operating data from established I/M programs, the Board projects that this stringency factor will result in an approximate 25 percent reduction in both CO and HC exhaust emissions.

Final Determination: Approval of Indiana's commitment to obtain the necessary emissions reduction. USEPA finds that the above statement meets its criteria for a commitment to obtain the necessary emission reduction.

Conclusion: USEPA approves Indiana's authority to implement and enforce an I/M program, Indiana's commitment of the necessary finances and resources to carry out the program, Indiana's commitment of the necessary finances and resources to carry out the program, Indiana's commitment to obtain the necessary emissions reduction, and Indiana's schedule for implementation of the program. USEPA conditionally approves Indiana's commitment to implement and enforce the program. Conditional approval of Indiana's I/M plan today does not lift the section 110(a)(2)(I) growth restrictions at this time becaue an I/M program is only a portion of the ozone and carbon monoxide plan. USEPA has not yet proposed rulemaking on the ozone and carbon monoxide plans for these two areas, but expects to do so shortly. If USEPA ultimately does approve or conditionally approve the ozone and carbon monoxide plan for Lake County and the ozone plan for Floyd, Clark, and Porter Counties, then the section 110(a)(2)(I) growth restrictions will be lifted if the I/M portion of the plan is approved or still conditionally approved at that time.

The conditional approval granted through this notice will remain in effect as long as the State meets its commitments according to the agreed upon schedule. Failure to submit the necessary material by the scheduled dates or inadequate submittals will result in SIP disapproval by USEPA (44 FR 67182, November 23, 1979). This would result in the imposition of the growth restrictions of section 110(a)(2)(I) of the Act in counties with a disapproved plan.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this SIP action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

(Sections 110 and 172 of the Clean Air Act, as amended)

Dated: December 24, 1980.

Douglas M. Costle,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1980.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52, Subpart P—Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph (21).

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(21) On June 26, 1979 Indiana submitted a motor vehicle inspection and maintenance program for Clark, Floyd, Lake, and Porter Counties. Additional commitments were submitted on April 7, 1980; June 12, 1980; August 27, 1980; November 13, 1980 and November 24, 1980.

* * * * *

2. Section 52.773 is amended by adding paragraph (d).

52.773 Approval status.

* * * * *

(d) The Administrator finds that the motor vehicle inspection and maintenance program satifies all requirements of Part D, Title 1 of the Clean Air Act, as amended in 1977, except as noted below.

* * * * *

3. Section 52.786 is amended by adding paragraph (h)

§ 52.786 Inspection and maintenance program.

* * * * *

(h) Part D—Conditional Approval—The Indiana I/M Plan for Clark, Floyd, Lake and Porter Counties is approved provided that the following conditions are met.

(1) The State must submit a detailed description of its enforcement procedures by December 31, 1980.

(2) The State must submit by June 30, 1981 the general order issued to vehicle owners in the affected areas and the commitments by responsible enforcement officials to ensure compliance with the general order.

[FR Doc. 80-40619 Filed 12-31-80; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Materials Transportation Bureau

49 CFR Part 192

[Amdt. 192-34B, Docket No. PS-54]

Transportation of Natural and Other Gas by Pipeline; Joining of Plastic Pipe

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Final rule.

SUMMARY: This final rule permits a burst test in accordance with Paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or Paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517 in qualifying joining procedures for thermosetting plastic pipe. In addition, the rules for qualifying joining personnel are clarified by permitting any one of three tests required to qualify a specific joining procedure to be used to qualify persons to make joints under that procedure.

EFFECTIVE DATE: January 2, 1981. Since this final rule clarifies existing rules and does not add to the regulatory burden, no further public proceeding is necessary, and it may become effective upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Paul Cory, (202) 426-2082.

SUPPLEMENTARY INFORMATION: A final rule was published on July 23, 1979, (Amdt. 192-34, 44 FR 42068) and revisions thereto on February 14, 1980, (Amdt. 192-34A, 45 FR 9931), establishing tests for qualifying procedures and personnel to make all types of joints in plastic pipelines used in transportation of natural and other gas by pipeline.

Section 192.283(a) sets forth three test methods for qualifying joining procedures that use heat fusion, solvent cement, or adhesive techniques. It was MTB's intent that any one of these three methods be permitted to qualify joining personnel. In the preamble to Amdt. 192-34A in discussing Qualifying Persons to Make Joints, MTB stated: "Convincing arguments were presented for using as a qualifying test any of the test methods permitted under § 192.283(a) for qualifying joining procedures." To carry out this intent, the final wording of § 192.285(b)(2)(i) reads, "tested under § 192.283." At least two operators, Atlanta Gas Light Company and Mountain Fuel Supply Company, have pointed out that this wording indicates that each of the three tests under § 192.283(a) must be employed, not just one. This final rule clarifies § 192.285(b)(2)(i) to eliminate this potential point of misunderstanding.

The wording of § 192.283(a) requires *all* plastic pipe to be burst tested under Paragraph 8.6 or Paragraph 8.7 of ASTM D2513. However, ASTM D2513 specifically applies to thermoplastic piping materials and does not adequately test thermosetting resin plastic pipe. The comparable appropriate tests for use with thermosetting resin pipe are set forth in Paragraph 8.5 or Paragraph 8.9 of ASTM D2517. This distinction and the need to establish a valid test for thermosetting pipe were inadvertently omitted from Amdt. 34A. This final rule amends § 192.283(a) by adding the necessary reference for thermosetting pipe.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

1. Section 192.283(a)(1) is revised to read as follows:

§ 192.283 Plastic pipe; qualifying joining procedures.

(a) * * *

(1) The burst test requirements of—

(i) In the case of thermoplastic pipe, Paragraph 8.6 (Sustained Pressure Test) or Paragraph 8.7 (Minimum Hydrostatic Burst Pressure) of ASTM D2513; or

(ii) In the case of thermosetting plastic pipe, Paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or Paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517;

* * * * *

2. Section 192.285(b)(2)(i) is amended to read as follows:

§ 192.285 Plastic pipe; qualifying persons to make joints.

(b) * * *

(2) * * *

(i) Tested under any one of the test methods listed under § 192.283(a) applicable to the type of joint and material being tested;

* * * * *

(49 USC 1672; 49 USC 1804 with regard to offshore gathering lines; 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C., on December 22, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-40474 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 195

[Amdt. 195-20; Docket No. PS-56A]

Transportation of Liquids by Pipeline; Addition of Water to Pipelines Transporting Anhydrous Ammonia

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: This final rule prescribes periodic monitoring of the water content of pipelines transporting anhydrous ammonia and the addition of water to such pipelines if the water content is less than 0.2 percent by weight. The purpose of this final rule is to reduce the potential for stress corrosion cracking.

EFFECTIVE DATE: The effective date of the final rule is February 2, 1981, for hazardous liquid pipelines currently subject to Part 195. Upon reissuance of Part 195 under the authority of the Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979) and in accordance with the notice of proposed rulemaking (NPRM) in this docket, the effective date of this final rule for intrastate liquid pipelines not now subject to Part 195 will be announced.

FOR FURTHER INFORMATION CONTACT: Frank S. Robinson (202) 426-2392.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking (Docket PS-56, Notice 1, 44 FR 6961, February 5, 1979) solicited comments on the need to amend Part 195 to require the use of water as an inhibitor in ammonia pipelines. As a result of the information gained from the publication of the advance notice, MTB issued an NPRM on February 7, 1980 (45 FR 8323), proposing to amend Section 195.418, "Internal Corrosion Control," by adding a paragraph to require monitoring of the water content of pipelines transporting anhydrous ammonia and the addition of water to such pipelines if the water content is less than 0.2 percent by weight. The purpose of the proposed rule was to reduce the potential for stress corrosion cracking.

The American Petroleum Institute (API), the American Society of Mechanical Engineers' B31.4 Code Section Committee for Liquid Petroleum Transportation Piping Systems, and one major carrier of anhydrous ammonia responded to the notice.

The API stated that (1) it is not aware of any stress corrosion cracking problems peculiar to pipelines which transport anhydrous ammonia; (2) the MTB should publish a cost/benefit

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evaluation of the proposed rule; (3) the rule should be written in performance language which allows the affected carriers flexibility to achieve the regulatory goal; and (4) the proposed rule is redundant in view of the regulatory requirements of § 195.6 and the fact that carriers have been required as a condition of operation under that rule to maintain 0.2 percent water in the anhydrous ammonia they transport. MTB recognizes all of these issues, but believes that they were addressed adequately in the NPRM in justification of the proposal. Since there has been no additional information submitted, there is no need for further assessment or evaluation of the issues in this document.

The major carrier recognized the need to add water to anhydrous ammonia pipelines. It argued against the proposal, however, on the basis that (1) § 195.418 adequately addresses the requirement in a general manner, and (2) means to inhibit stress corrosion cracking other than the addition of water might be developed in the future. The MTB does not agree that § 195.418 adequately covers the problem of stress corrosion cracking in ammonia pipelines. Section 195.418 is written in very general terms, and does not reflect the singular remedy available to combat stress corrosion cracking. Although this rulemaking does not foreclose the opportunity for future rule changes if other means are developed in the future to deal with the problem, MTB believes that stress corrosion is of such significance that the Part 195 regulations must reflect the only known remedy available, the addition of water.

The B31.4 Code Section Committee supported the proposed rule for the reasons set forth in the notice, and advised that the 1979 edition of the B31.4 Code issued February 28, 1980, incorporated the same requirements for the addition of water to anhydrous ammonia pipelines as those proposed in the notice.

In view of (1) the information in Docket HM-113 indicating that stress corrosion cracking in facilities handling anhydrous ammonia can be inhibited with the addition of water, (2) the recognition by most of the commenters to the advance notice and the NPRM that the addition of water will combat stress corrosion cracking and the fact that no other remedy is available for the purpose, and (3) the use of this means as demonstrated by the incorporation into the B31.4 Code of requirements to add water to pipelines transporting anhydrous ammonia, 49 CFR Part 195 is amended by adding a new § 195.418(e) as follows:

§ 195.418 Internal corrosion control.

* * * * *

(e) Anhydrous ammonia must contain at least 0.2 percent water by weight. Each carrier of anhydrous ammonia must monitor the water content of each pipeline weekly, but with intervals of not more than 10 days. Also, the monitoring must be performed for each source of supply for the pipeline.

(49 USC 2002; 49 CFR 1.53(a), and Appendix A to Part I)

Issued in Washington D.C., on December 19, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-40828 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 70-7; Notice 7]

Fields of Direct View

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice establishes a new Federal motor vehicle safety standard, Standard No. 128, *Fields of Direct View*, that sets performance requirements for: the maximum permissible size of obstructions (e.g., roof pillars) in the field of view of the driver, a minimum field of view for the driver through the windshield, and the light transmittance of the windshield. The requirements set by this notice only apply to passenger cars. The agency plans to issue the remaining portion of the rule applicable to trucks, multipurpose passenger vehicles and buses during the summer of 1981. The effect of this standard is to reduce traffic fatalities and injuries by establishing comprehensive requirements for a safe level of driving visibility.

DATES: The effective date of the standard is September 1, 1984.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Charles Kaehn, Office of Vehicle Safety Systems, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1351).

SUPPLEMENTARY INFORMATION: This notice establishes a new Federal motor vehicle safety standard, Standard No. 128, *Fields of Direct View*. The standard sets requirements on maximum permissible obstructions in the driver's field of view, minimum size of the field of view through the windshield, and light transmittance of the vehicle's windshield.

This final rule is the product of more than 10 years of agency rulemaking on driver visibility, beginning with an advance notice of proposed rulemaking in March 1970 (35 FR 4286) and continuing through the November 1978 notice (43 FR 51677) proposing a rule similar to the one that is adopted today. Consumers, public interest groups, vehicle and equipment manufacturers and others submitted comments on the proposed standard. The final rule is based on an evaluation of all data obtained in NHTSA testing and research, data submitted in the comments, and data obtained from other pertinent documents and test reports. Significant comments submitted to the docket are addressed below.

Applicability of Standard

The November 1978 notice proposed setting field of direct view requirements for passenger cars, trucks, multipurpose passenger vehicles (MPV's) and buses. This notice sets the performance requirements for passenger cars. The agency is still evaluating the performance requirements for trucks, MPV's and buses and plans to issue a final rule for those vehicles, based on the November 1978 notice, during the summer of 1981.

International Harmonization

In developing this final rule, the agency has attempted to promote the harmonization of international vehicle safety standards consistent with the National Traffic and Motor Vehicle Safety Act ("the Act", 15 U.S.C. 1392 *et seq.*) and the Trade Agreements Act of 1979 (Pub. L. 96-39). The test procedures and performance requirements are based, in large part, on the test procedures and performance requirements contained in the Economic Commission for Europe draft regulation on fields of direct view, "Uniform Provisions Concerning the Approval of Vehicles with Regard to the Driver's Field of View, W/TRANS/WP29/ 431/ Rev. 2, 26 February 1975" (ECE draft regulation). The agency's standard and the ECE draft regulation, however, are not identical. As explained below, the agency's standard is more comprehensive and, in some cases, more stringent than the ECE draft regulation.

Several commenters, such as the Motor Vehicle Manufacturers Association (MVMA) and the United Kingdom's Department of Transport, requested the agency to make its standard identical in all respects with the test procedures and performance requirements of the ECE draft regulation. The agency's issuance of a Federal motor vehicle safety standard must be carried out in accordance with the criteria specified in the Act. The Act requires the agency to make an independent evaluation of whether a standard meets the need for motor vehicle safety, is practicable and is objective.

The principal shortcoming of the ECE draft regulation is that it is too limited in scope. It does not cover several important safety problems, such as visual obstructions caused by a vehicle's C pillars (the rearmost roof support in a car). To ensure that the field of direct view standard meets the need for motor vehicle safety, the agency has set additional requirements to assist a driver in obtaining adequate view.

Orthogonal Reference System

Most of the performance requirements of the standard are expressed in terms of planes, zones and points that together constitute an orthogonal reference system. Draft regulations proposed by ECE and by the International Standards Organization (ISO) and recommended practices adopted by the Society of Automotive Engineers (SAE) were used in the development of the orthogonal reference system.

MVMA and Ford criticized the proposed reference system saying that it is not consistent with existing industry practice. In particular, they were critical of the use of the R-point as the reference point upon which the rest of the orthogonal reference system is based. (The R-point is based on the two-dimensional coordinates of the seating reference point, which is defined in 49 CFR Part 571.3. In addition, it includes a lateral coordinate.)

MVMA said that a current SAE recommended practice, "Motor Vehicle Fiducial Marks" (SAE J182a, September 1973), the ECE draft regulation and a draft ISO international standard, "Three dimensional Reference System and Fiducial Marks" (IS/DIS 4130), allow manufacturers to designate the starting point for the reference system, which could be other than the R-point. MVMA said that requiring manufacturers to use the agency's reference system would "compel manufacturers to employ dual dimensioning of vehicle bodies and would introduce the probability of confusion in recording and reporting locational information."

In addition, Ford and MVMA argued that the use of the R-point as the starting point for a reference system could require manufacturers who offer different seats for one model to calculate two sets of orthogonal referencing systems for the same vehicle, if the R-points differ.

They also said that although the nomenclature used in the agency's reference system is the same as the nomenclature used in the ECE draft regulation, it differs from the nomenclature used in the existing SAE recommended practice (SAE J182a) and the draft ISO International Standard (ISO/DIS 4130) on vehicle reference systems.

In response to the Ford and MVMA comments, the agency has decided to modify the reference system to make it consistent with existing industry practice and the draft ECE and ISO regulations. As modified, the system will allow the manufacturer to designate the starting point for the reference system. As before, the system will consist of three orthogonal reference planes. To be consistent with the draft ECE regulation, the agency will continue to use the nomenclature used in that porposal to refer to the planes generated by the reference system. If a consistent nomenclature eventually can be worked out between ECE, ISO and SAE, the agency will gladly adopt that nomenclature.

The reference system will use the seating reference point to dimensionally locate the vision reference points, V_1 and V_2, that approximate the eye location of tall and short drivers. Likewise, the location of the neck pivot points, P_1 and P_2, used to represent the points about which the driver's head rotates when he or she views objects to the left or right, will also be located from the seating reference point. Changing the standard in this manner will make it consistent with the ECE draft regulation.

Definitions

A number of commenters raised questions about some of the definitions proposed in the November 1978 notice. As proposed, "design attitude" would have been defined as the vehicle at its curb weight with one 165-pound occupant in the driver seat. Chrysler, Ford, GM and others requested the agency to use a 150 pound occupant, which is the weight used by the domestic industry for design purposes.

In addition, GM requested the agency not to specify how many occupants are to be in the car. GM suggested that instead manufacturers be allowed to specify the design attitude at what they deem is its "most probable loading."

Several other manufacturers, such as Saab and Volkswagen, said that the ECE draft regulation bases design attitude on a vehicle loaded with two 165 pound occupants. They urged the agency to harmonize its standard with the ECE draft regulation.

The agency has decided to base design attitude on a 150 pound occupant in the driver's designated seating position. Using a 150 pound occupant is consistent with the practice followed by domestic manufacturers and the occupant weight used in several of the agency's other standards. Since the proposed ECE occupant loading is greater, manufacturers designing their vehicles to that loading generally should be able to determine if their vehicles will comply when tested with the agency's occupant loading.

The notice proposed two definitions, "longitudinal seat adjustment range" and "recommended seat back angle" to be used in determining the location of various vision points for assessing obstructions to the driver's vision. Ford objected that the proposed definitions did not adequately specify how the adjustment range and seat back angle were to be determined. It recommended that the agency use two definitions set out in the SAE recommended practice on motor vehicle dimensions (J1100a, September 1975). Since the SAE definitions more precisely specify how the adjustment range and seat back angle are to be determined, the agency has modified its definitions to conform with the SAE definitions.

The proposed definition of "obstruction" expressly provided that the outside rearview mirror and its support structure would not be considered an obstruction. Chrysler, Ford, GM and others requested the agency expressly to provide that other items of vehicle equipment such as, exterior antennas, wiper arms and blades, hood ornaments, fender sight rods, and turn signal indicators are not considered obstructions. They argued that such small components do not obstruct the driver's forward view. The agency agrees and has modified the definition of obstruction to provide that those items of vehicle equipment are not obstructions.

GM also pointed out that the standard does not consider heater and antenna wires mounted in the windshield to be obstructions so long as they meet certain size limitations and spacing requirements. GM requested the agency to categorically exclude such wires since they "are not normally placed in such close proximity so as to cumulatively introduce an obstruction." The agency agrees that current industry practice on heater and antenna wire placement does not pose an obstruction and has modified the definition of obstruction to exclude heater and antenna wires.

The agency requested comments on whether restraint systems (i.e., head restraints and automatic and manual belts) should be covered by the obstruction limits of the standard. No commenter supported applying the obstruction limits to restraint systems. The commenters argued that obstruction limits would seriously hamper them in designing restraints and anchorages with adequate structural integrity. To provide manufacturers with sufficient design flexibility, the agency has decided not to apply the obstruction limits to restraint systems.

Several commenters, including Ford and MVMA, pointed out that the agency's definition of "luminous transmittance" was incorrectly expressed in terms of photometric brightness, which is a property of an illuminated surface, rather than in terms of luminous intensity, which is a measurement of the quantity of the light. The agency has corrected the definition.

Obstruction Limits

The November 1978 notice proposed detailed procedures for measuring obstructions to the driver's field of view and specified requirements to limit the maximum size of the obstructions. The proposal limited obstructions to those which were within angular limits measured by means of a binocular test (i.e., a test that simulates the ability of the eyes to "look around" narrow objects) and a monocular test (i.e., a test simulating the obstruction that would be presented to one eye). The purpose of the proposed requirements was to prevent obstructions to the driver's field of view caused by such vehicle components as overly large "A" pillars (the forwardmost roof support in the car) and overly low inside rearview mirrors. An important distinction between the monocular and binocular requirements is that the monocular requirements check for obstructions posed for both tall and short drivers, while the binocular requirements only check for obstructions posed for medium size drivers.

The agency's proposal sets obstruction limits for passenger cars throughout the 360 degrees of the field of view. Many commenters, such as GM, MVMA and the Japan Automobile Manufacturers Association (JAMA), urged the agency to limit the requirements to the 180-degree forward view of the driver, as is done in the ECE draft regulation. As explained previously, the agency has attempted to harmonize the requirements of its standard with those of the ECE draft regulation. At the same time, the agency's ability to address an identified safety problem (obstructions in the rearward 180-degree field of view) should not be limited by an ECE standard that does not address that problem.

In addition to arguing that the rear performance requirements for the rearward field of direct view should be dropped for international harmonization reasons, GM and others also argued that the requirements should be deleted from the direct field of view standard and intergrated with the indirect vision requirements proposed for Standard No. 111, *Rearview Mirror Systems*.

The agency agrees that a driver's view to the rear of the car is a systems consideration that involves both direct views and indirect views through the mirrors. The limitations on rearward obstruction to a driver's direct view are necessary since research done by GM and others shows that drivers supplement the view provided by their mirrors by quickly glancing over their shoulders prior to making a lane change. The agency wants to ensure that when drivers take the foreseeable action of turning their heads for a direct view to the rear, they can obtain an adequate view that is not obscured by overly wide "C" pillars (the rearmost roof support in the vehicle). If the "C" pillar is overly wide it can, for example, block the driver's view of a motorcycle located to the side and rear of the car.

Binocular Obstruction Limits

In the November 1978 notice, the agency proposed that passenger cars have only one binocular obstruction in each half of the driver's forward field of view and limited the width of that one obstruction to 6 degrees measured horizontally. The ECE draft regulation also permits only one binocular obstruction with a width no greater than 6 degrees in each half of the forward field of view.

A number of manufacturers, such as Ford, GM, Saab and Volvo, did not oppose the binocular obstruction requirements, saying that their vehicles already met them or would meet them with minor modification. Other manufacturers, such as Chrysler and Toyota, asked the agency to increase the permissible width of the binocular obstruction from 6 to 8 degrees.

Chrysler said that although its current and future models generally comply with the binocular obstruction limit, it was requesting an increase for a number of reasons. It said that because of normal production variations the amount of binocular obstruction caused by the combination of the "A" pillar, weatherstripping, door frame and interior and exterior trim could vary by more than one degree from car to car on the same model. To account for this production variability, Chrysler said it would have to further reduce its roof pillars and possibly compromise occupant crash protection in rollovers and frontal collisions.

Chrysler also argued that the binocular obstruction requirements are more difficult to meet in small cars, where the "A" pillars are closer to the driver's eyes and thus present more of an obstruction.

Finally, Chrysler argued that the binocular obstruction limits would preclude the use of front vent windows. It said that the combination of the "A" pillar, weatherstripping and the vent window frame obstructions would exceed the 6 degree limit. Similar arguments concerning reduced roof strength, front window vents and the increased difficulty of meeting the binocular obstruction requirements in small cars were made by JAMA, Toyota and others.

In determining what level of obstruction to permit, the agency surveyed current vehicles to determine the existing level of obstruction. The survey showed that almost all of the cars had no binocular obstructions larger than 6 degrees. Even smaller cars, which as Chrysler correctly points out have more difficulty in meeting the obstruction limits, have few binocular obstructions greater than 6 degrees. For example, the largest binocular obstruction in the Plymouth Horizon, which is the smallest car currently manufactured by Chrysler, was only 4½ degrees. Other cars, such as the Volvo station wagon, had maximum obstructions of between 2 and 3 degrees.

The binocular obstruction limit does not pose a structural integrity problem, since all of the cars examined, even those with maximum obstructions of only 2 and 3 degrees, were certified to comply with Standard No. 216, *Rollover Crash Protection*. Thus, manufacturers can use "A" pillars that are within the binocular obstruction limits without compromising current occupant crash protection requirements. The 6 degree limit set by the agency also allows manufacturers more than enough tolerance for normal production variations in widths of "A" pillar and other structural supports.

So as not to preclude the use of vent windows, the agency has decided to specifically provide that they are not considered obstructions. Changing the standard in this manner will make it consistent with the ECE draft regulation.

Monocular Obstruction Limit

The November 1978 notice proposed that passenger cars meet monocular obstruction limits throughout the 360 degrees of the field of view of the driver. Ford challenged the validity of using a monocular test to measure obstruction, saying that because it is a one-eyed test, it does not realistically simulate a driver's ability to see outside the car. GM, on the other hand, agreed with the agency that a number of small monocular obstructions can create a binocular obstruction to the driver's field of view. GM, however, argued that the agency had not justified the particular monocular limits proposed in the notice.

As discussed earlier, an important distinction between the monocular and binocular requirements is that the monocular requirements check for obstructions posed for both tall and short drivers, while the binocular requirements only check for obstructions for medium-size drivers. Research done for the agency by Digitek and others found that improperly designed inside rearview mirrors may not pose a problem to small or medium-size drivers but can present an obstruction to the tall driver. For example, when small drivers look to the right at an intersection, their line of sight passes underneath the rearview mirror. When taller drivers turn to the right, their line of sight is often blocked by the inside mirror. For that reason, the agency has decided to retain the monocular obstruction test.

The notice proposed that the sum of the monocular obstruction angles not exceed 11 degrees in either Zones I or II (respectively, the left and right forward quarters of the car). The sum of monocular obstruction angles for Zone IV (the right rear quarter of the car) was not to exceed 24 degrees and no single obstruction in that zone could exceed 15 degrees. Finally, the actual width of obstructions in Zone III (the left rear quarter of the car) could not exceed the actual width of obstructions in Zone IV by more than 5 percent.

Several commenters, such as GM and MVMA, requested the agency to provide its rationale for setting an 11 degrees limit on monocular obstructions. A number of the commenters, such as Chrysler, JAMA and Rolls Royce, requested the agency to increase the permissible total monocular obstruction angle by 2 to 5 degrees in Zones I and II.

The monocular obstruction limits for Zone IV were supported by British Leyland and, in part, by Porsche. Porche supported the 15 degree limit on individual obstruction but asked that the agency not set a limit on the total of all the individual obstruction angles. Although it said that many of its current and future models will meet the proposed limit, Chrysler asked that the limits be increased to 17 degrees for individual obstruction and 28 degrees for all obstructions. Chrysler said the changes were necessary to allow for production variations in pillar and other structural widths.

JAMA and Nissan asked for an increase to 17 degrees for individual obstructions and 29 degrees for the total amount of obstruction. They argued the increase was needed to accommodate the large roof pillars on some hatchback models. Volkswagen and Rolls Royce both sought increases in the limits arguing that their convertible models could not meet the proposed limits.

GM argued that the rearward monocular obstruction limits could restrict a manufacturer's design flexibility in developing automatic belt systems. GM said that in some vehicles additional posts or similar vehicle structure would have to be added to anchor automatic belts. Such structure would increase the amount of monocular obstruction. Finally, GM said that specialty type vehicles, such as the Cadillac limousine, will require redesign to comply with the monocular obstruction limits.

The agency's obstruction limits were based on field of view research by Digitek and an assessment of current vehicle designs. The Digitek research developed a technique to evaluate and rate the field of view provided in vehicles. The agency then compared the accident rates of the vehicles evaluated by Digitek and found that there was a correlation between the amount of obstruction measured by Digitek and the vehicle's involvement in accidents. This finding is consistent with the agency's engineering judgment that reducing the size of objects that can obscure other vehicles and pedestrians in potential accident situations will promote vehicle safety.

In addition, the agency funded research by Dynamic Science, General Testing Laboratories and Tracor Jitco to evaluate the amount of obstruction present in current cars. Those studies evaluated 61 different domestic and imported passenger cars (1969-1978 models). The most recent study found that 75 percent of the 1978 models tested were already using designs that met all the proposed obstruction limits.

In order to provide manufacturers with more flexibility in designing structural supports for occupant restraint systems, the agency has decided to slightly increase the obstruction limits, from 15 to 17 degrees for individual obstructions and from 24 to 25 degrees for the total amount of monocular obstruction. The agency has also decided to exempt specialty type vehicles, such as limousines, since they are produced in such low volumes and would require substantial costs to redesign.

GM questioned the need for applying the monocular obstruction requirements to Zone III. GM argued that because of the driver's proximity to the side window, he or she would normally look directly through the window to the left rear or use the combination of his or her peripheral vision and the left side mirror to see objects located by the left side of the car. Thus, obstructions immediately behind the driver on the left side of the vehicle will not be in the driver's line of sight. The agency agrees and has dropped the requirements for Zone III.

Viewing Area A

In the November 1978 notice, the agency proposed that a specified area of the windshield (Viewing Area A), which is most critical to the driver's forward field of view, must be free of any obstructions, except for antenna wires and electrical conductors. The size of Viewing Area A, which is a six-sided figure projected on the windshield, is determined by six planes that pass through the V-points and intersect the windshield.

Several commenters, such as Peugeot-Renault, JAMA and British Leyland, objected to the specifications for determining the upper boundary of Viewing Area A. Depending on the height of the vehicle's R-point above the ground, the upper boundary of the viewing area is determined by upward angles from V_1 that range from 7.5 to 12 degrees.

They requested the agency to set the upper boundary of Viewing Area A on the basis of the draft ECE regulation. The ECE draft regulation proposes a minimum obstruction free area on the windshield, whose upper boundary is determined by a maximum upward angle of 7 degrees from V_1. They said to meet the upper edge requirements of Viewing Area A, they would have to make structural changes to increase the height of their windshields.

Several of the commenters, such as British Leyland and Toyota, also asked the agency to redefine the horizontal boundaries of Viewing Area A. They said that in small cars, the right

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boundary of Viewing Area A would extend beyond the centerline of the vehicle. They said that, as a result, they would have to mount the rearview mirror on the passenger side of the centerline, which would make it difficult to meet the rearward field of view requirements of Standard No. 111, *Rearview Mirrors*, or they would have to increase the size of their windshields to locate the rearview mirror above the upper boundary of Viewing Area A.

The specifications defining Viewing Area A were based on research done by Ford to establish the minimum obstruction-free area on the windshield necessary to see pedestrians, intersecting vehicles, and road signals. Using a 7 degree angle to set the upper boundary would allow obstructions that block the driver's view of overhead road signs and signals. Likewise, allowing rearview mirrors within Viewing Area A would block the driver's view of vehicles and pedestrians approaching from the right. The agency's testing of current small cars, such as the Chevrolet Chevette, show that they can be designed to comply with the requirements.

Luminous Transmittance

The amount of light transmitted through vehicle glazing affects the ability of the driver to see other objects on the road. Low light transmittance can make it particularly difficult to spot objects, such as pedestrians, whose illumination and coloring allows them to blend in with the background of the roadside environment. The effect of low light transmittance levels on the driver's vision is most pronounced at dusk and night when the ambient light level is low, particularly for older drivers who have poor night time vision.

Standard No. 205, *Glazing Materials*, currently requires vehicle windshields to have a luminous transmittance of at least 70 percent. Standard No. 205, however, uses a laboratory test in which the luminous transmittance of the windshield is measured when the windshield is perpendicular to the measuring device instead of at the angle at which it is actually mounted in the vehicle. As explained below, the latter testing technique is more appropriate.

The November 1978 notice proposed that vehicle glazing have a luminous transmittance of 70 percent when measured by a new in-vehicle test. The in-vehicle test more accurately evaluates the effect of the angle of the windshield on the driver's vision since it measures the luminous transmittance of the windshield as it is mounted in the vehicle. A windshield transmits the maximum amount of light when it is mounted at an angle of 90 degrees, as in the current Standard No. 205 test. As the mounting angle decreases, so does the amount of light transmitted by the windshield. For example, a windshield whose light transmittance is 73 percent when tested at 90 degrees, would have a light transmittance of 65 percent when mounted at 60 degrees, a typical windshield mounting angle.

Ford and GM agreed that an in-vehicle test is a more accurate way of evaluating the effect of the windshield on the driver's vision. They, however, argued that the proposed test is more complex and subject to more measurement error than the laboratory test currently used in Standard No. 205. GM urged the agency to modify the laboratory test procedure used in Standard No. 205 so that it measures the light transmittance of the windshield as it is mounted in a simulated in-vehicle position or at the designated installation angle. Ford urged that the agency use a laboratory test in which the windshield is mounted at 90 degrees and the light transmittance of the windshield at its installation angle is mathematically calculated.

Other commenters, such as Chrysler, JAMA, Libbey-Owens-Ford, and MVMA, urged retention of the 90 degree test used in both the Standard No. 205 and the proposed ECE regulation on vehicle glazing.

In response to the comments, the agency has decided to adopt a laboratory test instead of an in-vehicle test. The laboratory procedure will test the windshield mounted at its installation angle. The laboratory test procedure was developed for the agency by the National Bureau of Standards (NBS) at the same time NBS developed the in-vehicle test procedure.

The NBS laboratory procedure uses the same test equipment as used in the proposed in-vehicle test. It, however, will be simpler to perform than the in-vehicle test. In a series of tests, beginning in 1972 and continuing through 1976, NBS has refined the laboratory procedure for the luminous transmittance test so that it is accurate and repeatable.

Many commenters, such as GM, Triplex Safety Glass Co., and Libbey-Owens-Ford opposed the proposed 70 percent luminous transmittance requirement. They agreed that tinted windshields cause an approximate 3 to 6 percent reduction in night time seeing distances. Such reductions have been consistently reported by all of the researchers that have examined the effects of tinted windshields on driver seeing distances. They, however, argued that accident studies do not show that cars with tinted windshields have more night time accidents.

The accident studies, done by Libbey-Owens-Ford and Lyle Filkins are limited in their scope. Those studies examined whether cars with tinted windshields have more accidents than cars with clear windshields. The studies examined accidents involving car-to-car crashes, a type of accident in which the involved cars presumably had their lights on at night. They did not examine accidents in which cars struck pedestrians or other non-illuminated roadside structures, objects which are more likely to blend in with the surrounding environment and thus be more difficult to see through a low light transmittance windshield.

In addition, Filkins cautioned in his study that because of "uncontrolled, confounding variables" and methodological limitations in the data file he used, it was "not possible to isolate the influence of windshield tinting in accident causation or prevention." Thus, the available accident studies do not evaluate all the relevant accident situations or they have methodological limitations that preclude drawing definitive judgments about whether tinted windshields are associated with an increase in night time accidents.

As previously mentioned, all the available laboratory data does show a decrease in driver seeing distances caused by tinted windshields. The reduction in seeing distance caused by tinted windshields is particularly serious for older drivers since their night time vision is generally poorer than younger drivers. To increase driver seeing distances, the agency is adopting the 70 percent luminous transmittance requirement. Adopting this requirement will not ban the use of tinted windshields, it will only prevent the use of heavily tinted windshields.

One manufacturer, Ford, has been using a newer type of tinted windshield that apparently complies with the requirements established today. Ford's tinted windshield uses one layer of tinted glass and one layer of clear glass instead of two layers of tinted glass as in tinted windshields used by other manufacturers. Other manufacturers can similarly reduce the amount of tint in their windshields to comply. A few vehicles that have windshield installation angles greater than 60 degrees will have to reduce tinting even more or use clear glass in order to comply.

The notice proposed requiring the left and right front side windows to meet the 70 percent light transmittance requirement. GM argued that side windows are generally mounted at installation angles close to 90 degrees. Since Standard No. 205 already requires side windows to have 70 percent light transmittance when tested at 90 degrees, GM argued that establishing another test in Standard No. 128 is unnecessary. The agency agrees and has deleted the side window requirements from Standard No. 128.

Vehicle Reference Information

The notice proposed that the vehicle's design attitude must be established by reference to at least three accessible permanent marks or points on the vehicle structure. The location of the R point would also have to be established by reference to the same marks. Finally, the longitudinal seat adjustment range and recommended seat back angle for the driver's designated seating position would have to be provided.

MVMA objected to the proposed requirement arguing that it could be interpreted to require instructions and illustrations to be attached to each vehicle. MVMA recommended deleting the requirement. It said that information concerning the design attitude, location of the seating reference point, longitudinal seat adjustment range and recommended seat back angle can be obtained from the manufacturer. Ford asked the agency to clarify what degree of accessibility is required for the fiducial marks.

The purpose of the proposed requirement was not to require labeling but to ensure that the agency can obtain the necessary reference information to carry out the field of view compliance tests. Since manufacturers currently generate the necessary reference information during the design of their vehicles, the agency has decided to drop the requirement. As MVMA pointed out, the agency can obtain the information from the manufacturer prior to compliance testing.

The agency has decided, however, to retain the requirement that the fiducial points used to locate the seating reference point must be accessible. At present, the fiducial points used by some manufacturers are not easily accessible and thus complicate the determination of various test positions within the vehicle. By accessible, the agency means capable of being determined or located without having to remove any of the vehicle's interior or exterior structure. Thus, a fiducial point located and visible on the vehicle's frame, a location used by some manufacturers, would be considered accessible.

Shade Bands

The notice proposed that any shade bands on the windshield or side and rear windows of passenger cars have a luminous transmittance of not less than six percent. In addition, the notice proposed limiting the location of the shade bands to ensure that the low transmittance glazing does not obscure viewing areas critical to the driver's field of view. Finally, the notice proposed that shade bands in the vehicle roof glazing have not more than a specified transmittance to protect the eyes of vehicle occupants from damage caused by infra-red rays.

Commenters, such as Chrysler, Ford, and GM, objected to the shade band transmittance and location requirements. They argued that there are no data indicating that shade bands meeting the existing SAE recommended practice, "Passenger Car Glazing Shade Bands" (SAE J100, July 1969), pose a danger.

The agency has decided to withdraw the proposed shade band requirements while it gathers additional data on the adequacy of the current industry practice to determine whether additional requirements, such as raising the lower border of the shade band to make sure it is out of the field of view of very tall drivers, are necessary.

MVMA, Ford and others objected to the proposed maximum transmittance requirements for shade bands for glazing mounted in the roof. They argued that the data cited by the agency to support the proposed requirement contained several technical errors which overstated the hazard associated with current roof shade bands. On re-examining the data, the agency agrees that the commenters are correct and has deleted the proposed requirement. The agency will, however, continue to study this problem to determine if additional rulemaking action is necessary.

Sun Visors

The notice proposed maximum and minimum view obstruction requirements for sun visors to protect the driver's eyes from sun glare without overly blocking his or her forward vision. The notice also proposed that sun visors not have a luminous transmittance greater than 15 percent.

Commenters opposed the requirements arguing that current sun visors do not pose a hazard. They also argued that the proposed requirements may create new problems. For example, Ford argued that the proposed lower limit on sun visor adjustability would allow a tall driver to lower the visor to block the glare of the sun at sunset, but it would not allow a shorter driver to obscure the same amount of glare.

On re-examining the adequacy of current industry practices, the agency has decided to withdraw the proposed sun visor requirements.

Test Conditions

The commenters only requested two minor changes in the vehicle test conditions specified for conducting the monocular and binocular obstruction tests. Chrysler requested the agency to define how the vehicle is maintained at its design attitude during the testing. The agency is changing the requirement to make clear that the vehicle is to be maintained at its design attitude throughout the testing. However, to allow manufacturers freedom to use a variety of different approaches, such as using jack stands or other supports, the agency has decided not to specify a particular means of maintaining the vehicle's attitude during the testing.

MVMA objected to the requirement that an adjustable steering wheel be positioned at its mid-driving position. MVMA said that some adjustable wheels do not have a literal mid-position. MVMA requested the agency to position the steering wheel at the position specified by the manufacturer for normal driving purposes. The agency has decided to adopt MVMA's recommendation and has changed the positioning requirement.

Several commenters, such as GM and Volvo, requested the agency to determine if a vehicle complies with the obstruction limitation requirements by analyzing the manufacturer's design drawings rather than by doing in-vehicle or laboratory tests. They said that such an approach would reduce testing costs for the manufacturer. In effect, the manufacturers were requesting that the standard incorporate "designed to conform" rather than "shall conform" language in its performance requirements.

The agency has concluded that the use of "designed to conform" language in the standard would be contrary to the purposes of the National Traffic and Motor Vehicle Safety Act and is, therefore, inappropriate for use in Federal motor vehicle safety standards. Section 102(2) of the Act defines, in part, a motor vehicle safety standard as a "minimum standard for motor vehicle performance." Section 108(a)(1)(A) of the Act prohibits the manufacture or sale of any motor vehicle or item of motor vehicle equipment unless "it is in conformity" with any applicable Federal motor vehicle safety standard. Failure to "comply" with those minimum standards can lead to a determination of noncompliance under section 151 or 152, the obligation to notify and remedy, and the threat of civil penalties and injunctive relief. Those provisions make

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clear Congress' intention that every motor vehicle or item of motor vehicle equipment covered by a standard actually comply. Therefore, the agency will not adopt "designed to conform" language for the direct field of view standard.

Although, Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, currently contains the "designed to conform" language, the agency has on several occasions stated its intention to remove such language from the standard since it is "basically inappropriate for a motor vehicle safety standard."

As long as a manufacturer acts with due care, it can certify that its vehicles comply with the requirements established by the standard based on its analysis of the design drawings for the vehicles. In making that analysis, the manufacturer must be certain that the design takes into account normal manufacturing variations so that its vehicles will comply with the standard when they are tested by the agency.

Costs and Benefits

The agency has considered the economic and other impacts of this final rule and determined that this rule is not significant within the meaning of Executive Order 12221 and the Department of Transportation's policies and procedures implementing that order. The agency's assessment of the benefits and economic consequences of this final rule are contained in a regulatory evaluation that has been placed in the docket for this rulemaking. Copies of that regulatory evaluation can be obtained by writing NHTSA's docket section, at the address given in the beginning of this notice.

As previously explained, most current vehicles will require little or no modification to meet the monocular and binocular obstruction limits set by this standard. Manufacturers of vehicles that do not currently meet the standard will incur tooling costs to redesign their cars. The amount of those costs, however, can be substantially reduced by providing sufficient leadtime so that manufacturers can make the tooling changes during their normally scheduled redesigns of their cars.

In their comments, all manufacturers said that they would need a minimum of two years to meet all of the performance requirements of the standard. Many of them, such as Chrysler, Mazda, Toyota, Ford and others, requested the agency to provide four years of leadtime to minimize costs. GM requested the agency to provide between 3 to 5 years of leadtime.

To minimize the costs of the standard, the agency has set an effective date of September 1, 1984. This will provide sufficient time for all manufacturers to make changes to their vehicles. Because of their own redesign schedules, many manufacturers will be in compliance with the standard before that date.

Several manufacturers, such as VW and Mazda, requested the agency to apply the performance requirements of the standard only to new models introduced after the effective date of the standard and not to current models that will continue to be produced after the effective date of the standard. Section 108(a)(1)(A) of the National Traffic and Motor Vehicle Safety Act prohibits such a "grandfather clause" since it provides that a standard applies to all vehicles that are of the type subject to the standard manufactured after the effective date of the standard.

The engineer and lawyer primarily responsible for this notice are Charles Kaehn and Stephen Oesch, respectively.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is revised by adding a new § 571.128, *Fields of direct view*, to read as follows:

§ 571.128 Standard No. 128, fields of direct view.

S1 *Scope.* This standard specifies requirements for the maximum allowable size of obstructions in the driver's field of view and for a minimum field of view through the windshield. It also specifies requirements for the light transmittance of the windshield.

S2 *Purpose.* The purpose of this standard is to reduce motor vehicle deaths and injuries by providing drivers with an adequate field of view of the motoring environment.

S3 *Application.* This standard applies to passenger cars.

S4 *Definitions.*

"Design attitude" means the position and angle designated for a vehicle by its manufacturer when the vehicle is at its curb weight, is on a horizontal surface, is loaded with a 150 pound occupant at the driver's designated seating position and has its tires inflated to the vehicle manufacturer's specifications. The design attitude is ascertainable by determining the relationship of at least three accessible fiducial marks or points on the body structure to a horizontal surface.

"Longitudinal seat adjustment range" means the horizontal longitudinal distance between the seating reference point and the design H point when the seat is at the foremost position specified by the manufacturer, excluding seat track travel used for purposes other than normal driving and riding positions.

"Luminous transmittance" means the ratio, expressed as a percentage, of the luminous intensity of a source of light that reaches a designated viewing point after passing through the material whose transmittance is being measured compared to the luminous intensity of the light that reaches that viewing point when the material is absent.

"Obstruction" means any portion of the vehicle structure, including glazing, that does not meet the appropriate light transmittance requirements of this standard, except for:

(a) fender mounted antennas and windshield antennas

(b) fender or hood mounted turn signals and hood mounted ornaments less than 2.5 inches in horizontal width and vertical height

(c) low reflectance electrical conductors

(d) wiper blades and arms

(e) vent window structure

(f) outside rearview mirrors and their mountings

(g) shade bands

(h) the portion of the steering wheel rim that is below a horizontal plane that originates at V_2 and passes through the windshield.

When an obstruction spans two zones (specified in S8.3) the portion of an obstruction that falls within a particular zone is evaluated as a separate obstruction within that zone, except that for the purpose of S5.1, both portions of such an obstruction are considered a single obstruction in the zone in which the greater portion of the obstruction lies.

"Binocular obstruction angle" means that part of the horizontal angular width of an obstruction that is determined in accordance with the test procedures in S6.1. (See Figure 1.)

"Monocular obstruction angle" means the angle formed by the two lines in a horizontal plane, one that is tangent to the left edge and one that is tangent to the right edge of an obstruction, that intersect at any point on the vertical line from V_1 to V_2.

"Recommended seat back angle" means the angle measured between a vertical line through the seating reference point and the torso line of the two dimensional template when the seat is in its normal driving and riding position specified by the manufacturer.

S5 *Requirements.* Each vehicle shall, under the conditions of S7, meet the requirements of S5.1, S5.2, S5.4 and S5.5 when tested in accordance with the procedures of S6, using the orthogonal reference system specified in S8. Each vehicle with a wheelbase less than 123 inches also shall, under the conditions of S7, meet the requirements of S5.3

when tested in accordance with the procedures of S6, using the orthogonal reference system specified in S8.

S5.1 *Limits on binocular obstruction.* When measured in accordance with the procedures specified in S6.1, each vehicle shall provide a field of direct view in Zones I and II that contains, in each zone, not more than one obstruction whose binocular obstruction angle exceeds zero degrees. The binocular obstruction angle of this obstruction shall not exceed 6 degrees.

S5.2 *Limits on monocular obstructions in Zones I and II.* When measured in any horizontal plane that is not higher than V_1 and not lower than V_2, each vehicle shall provide a field of direct view in Zones I and II in which the total of the monocular obstruction angles for all obstructions in each zone does not exceed 11 degrees.

S5.3 *Limits on monocular obstructions in zone IV.* When measured in any horizontal plane that is not higher than V_1 and not lower than V_2, each vehicle shall provide a field of direct view in Zone IV in which:

(a) there are no obstructions with a monocular obstruction angle greater than 17 degrees, and

(b) the total of the monocular obstruction angles does not exceed 25 degrees.

S5.4 *Obstructions in Viewing Area A.* Each vehicle shall provide a field of direct view from V_1 and from V_2 that has no obstructions within Viewing Area A of the windshield specified in S8.7.

S5.5 *Luminous transmittance of glazing materials.* The windshield of each vehicle shall have a luminous transmittance of not less than 70 percent when measured in accordance with the procedure specified in S6.2.

S6 *Test Procedures.* Each vehicle shall meet the requirements of S5 when tested in accordance with the procedures set forth in this section that are appropriate for the particular requirement.

S6.1 *Determination of binocular obstruction angle.* Using lines that fall in the same horizontal plane, determine binocular obstruction angles as set forth in S6.1.1 and S6.1.2.

S6.1.1 *Zone I.*

S6.1.1.1 Rotate the paired E points about P_1 in the horizontal plane that coincides with P_1, so that the E_1–E_2 line is parallel to the Y–Z plane.

S6.1.1.2 If an angle greater than 120 degrees exists between line E_1–E_2 and the line originating at E_1 that is tangent to the left edge of the obstruction being measured, then rotate the paired E points about P_1 until the angle is reduced to 120 degrees. (See Figure 1.)

S6.1.1.3 Project a line from E_2 that is parallel to the line from E_1 described in S6.1.1.2.

S6.1.1.4 To determine the binocular obstruction angle, measure the angle between the line from E_2 described in S6.1.1.3 and the line that originates at E_2 and is tangent to the right edge of the obstruction. (See Figure 1.)

S6.1.2 *Zone II.* Use the procedure specified in section S6.1.1, substituting P_2 for P_1, and substituting E_3 and E_4 for E_1 and E_2 respectively. For calculation of the binocular obstruction angle in Zone II, the line described in S6.1.1.2 originates from the E_3 point and is tangent to the right edge of the obstruction, the line described in S6.1.1.3 originates from point E_4, and the line described in S6.1.1.4 originates at E_4 and is tangent to the left edge of the obstruction. (See Figure 1.)

S6.2 *Determination of luminous transmittance of the windshield.*

S6.2.1 Position the windshield so that it is aligned at the same angle at which it is mounted in the vehicle, when the vehicle is at its design attitude. Clean the windshield and determine the location of V_1.

S6.2.2 Place the photometer so that its lens is located at V_1 and align the axis of the photometer so that it is horizontal and 90 degrees to the left of the simulated X–Z plane. Position the light source so that it is 10 feet from the photometer, is at the same height as the photometer and is located so that the projected axis of the photometer is perpendicular to and passes through its center. Focus the photometer for infinity. Allow the light source and the photometer to stabilize before beginning the test. Adjust the photometer sensitivity to achieve a full-scale reading.

S6.2.3 Reposition the photometer so that its axis is horizontal and parallel to the simulated X–Z plane, with the light source moved to be in the same relationship to the lens as specified in S6.2.2. Record the photometric value through the windshield glazing.

S6.2.4 With the equipment repositioned as specified in S6.2.2 record the photometric value. For the photometer to have remained in calibration, the reading must be within one percent of the original full-scale reading obtained in S6.2.2. If the reading varies by more than one percent, repeat the procedure specified in S6.2.2 through S6.2.4.

S7 *Test Conditions.* The vehicle shall meet the requirements of S5 under the following conditions:

S7.1 The vehicle is maintained in its design attitude.

S7.2 All vehicle openings are closed, including doors, tailgates, windows, hoods, and movable or convertible tops.

S7.3 The inside rearview mirror is adjusted to the position required to meet the field of view performance requirements set in § 571.111 of this chapter (Standard No. 111, *Rearview Mirror Systems*).

S7.4 The sun visor system is adjusted to its stored position.

S7.5 The steering wheel is positioned so that the front wheels are straight ahead. An adjustable steering wheel is positioned in its normal driving position specified by the manufacturer.

S7.6 Each adjustable seat is in the rearmost position of its longitudinal seat adjustment range and is in its lowest vertical position in that rearmost adjustment. Each adjustable seat back is at its recommended seat back angle.

S7.7 The light source for luminous transmittance testing has a color temperature of 2856° Kelvin and is equally luminous across the field.

S7.8 The photometer used in luminous transmittance testing is designed as described in S7.8.1 through S7.8.3.

S7.8.1 The photometer is equipped with a filter to correct its spectral response to the 1931 CIE photopic luminous efficiency function as specified in the Illumination Engineering Systems Handbook (published by the Illuminating Engineering Society, 345 East 47th Street, New York, NY 10017). Drift characteristics due to warm-up and ambient brightness changes are determined to permit corrections to observed readings.

S7.8.2 The photometer is capable of measuring luminous transmittance within 1 percent accuracy. The optical system of the photometer is designed to minimize polarization effects.

S7.8.3 The photometer samples an area of the windshield no smaller than 0.06 square inches in size.

S7.9 Luminous transmittance tests are conducted in a facility in which background light is less than one percent. Background light is defined as the ratio of the luminance of the unlighted source, as installed for testing, to the luminance of the light source, multiplied by 100.

S8. *Orthogonal reference system.* The requirements of S5 are expressed in relation to planes, zones, axes, and points that together constitute the orthogonal reference system specified in S8.1 through S8.8. (See Figure 2.)

S8.1 *R point.* The R point is a point within the occupant compartment that is designated by the vehicle manufacturer as the seating reference point and has X, Y and Z coordinates established by reference to three accessible fiducial marks or points on the body structure.

S8.2 *Reference planes.* Three orthogonal reference planes are established by the manufacturer during the design of the vehicle to determine the dimensional relationship between the R point and the V, E and P points. The X–Z plane is the centerline body zero plane and is a vertical plane that passes through the longitudinal centerline of the vehicle. The X–Y plane is the horizontal body zero plane and is perpendicular to the X–Z plane. The Y–Z plane is the vertical body zero plane and is perpendicular to the X–Z and X–Y planes. All points of interest are described as coordinates dimensioned from the intersection of the X–Z, Y–Z and X–Y planes. The X coordinates are negative forward of the Y–Z plane and positive to the rear. The Y coordinates are negative to the left of the X–Z plane and positive to the right. The Z coordinates are negative below the X–Y plane and positive above it.

S8.3 *Test zones.* The vehicle is divided into four zones for purposes of applying the monocular and binocular viewing requirements specified in S5. These zones are bounded by two vertical planes, a vertical longitudinal one through V_1 parallel to the X–Z plane, the other a vertical transverse one through V_1 parallel to the Y–Z plane. The forward left quadrant is designated Zone I, while the forward right quadrant, the rearward left quadrant, and the rearward right quadrant are designated Zone II, Zone III, and Zone IV, respectively. (See Figure 3.)

S8.4 *V-points.* Two reference points, V_1 and V_2, are used to define viewing areas on the windshield, evaluate monocular obstructions, and test for luminous transmittance.

S8.4.1 *V_1-point.* (a) When the driver's recommended seat back angle is 25 degrees, V_1 is located 26.18 inches above the R point, 2.67 inches to the rear of the R point and 0.20 inches to the left of the R point. For a recommended seat back angle other than 25 degrees, the X and Z coordinates for the V_1 point are corrected as shown in Table I. (b) At the option of the manufacturer, the V_1 point may be positioned up to three inches outboard of its designated position.

S8.4.2 *V_2-point.* V_2 is located 3.00 inches directly below V_1.

S8.5 *P-points.* (a) When the driver's recommended seat back angle is 25 degrees and the longitudinal seat adjustment range is less than 4.25 inches, P_1 is 24.66 inches above the R point, 1.40 inches to the rear of R point, and 0.80 inches to the left of the R point, and P_2 is 24.66 inches above the R point, 2.50 inches to the rear of the R point, and 1.85 inches to the right of the R point. For a driver's seat with a recommended seat back angle other than 25 degrees, the X and Z coordinates for the P points are corrected as shown in Table I. For a driver's seat with a longitudinal seat adjustment range of 4.25 inches or more, the X coordinate for the P points is corrected as shown in Table II. (b) If the V_1 point is positioned in accordance with S8.4.1(b), then the P points shall be positioned the same distance outboard of their designated position as the V_1 point.

S8.6 *E-points.* Four reference points, E_1 through E_4, are used to evaluate binocular obstructions in the forward field of view. E_1 and E_2 are paired and used with P_1 in Zone I, while E_3 and E_4 are paired and used with P_2 in Zone II. Their spatial relationship to the vehicle is determined only by reference to the P points and the test procedure set out in S8.1. The paired E points lie in the same horizontal plane as the P points and are 2.54 inches apart. The distance from the P point to the midpoint, M, of the line between the paired E points is 3.88 inches. (See Figure 4.)

S8.7 *Viewing Area A.* Viewing area A is the six-sided area on the windshield that is bounded, as indicated in Figure 5, by the intersections of each of the following six planes with the windshield:

(a) The vertical plane passing through V_1 that intersects the X–Z plane at an angle of 17 degrees, as measured counterclockwise from the X–Z plane viewed from above (Shown as side "a" in Figure 5);

(b) The plane that is perpendicular to the X–Z plane, that passes through V_1 and that intersects the X–Y plane at the angle specified in column 1 of Table III for the vehicle's R point height, as measured clockwise from the X–Y plane viewed from the left side of the vehicle (Shown as side "b" in Figure 5);

(c) The vertical plane passing through V_1 that intersects the X–Z plane at an angle of 13 degrees, as measured counterclockwise from the X–Z plane viewed from above (Shown as side "c" in Figure 5);

(d) The plane that is perpendicular to the X–Z plane, that passes through V_1, and that intersects the X–Y plane at the angle specified in column 2 of Table III for the vehicle's R point height, as measured clockwise from the X–Y plane viewed from the left side of the vehicle (Shown as side "d" in Figure 5);

(e) The vertical plane passing through V_1 that intersects the X–Z plane at an angle of 22 degrees, as measured clockwise from the X–Z plane viewed from above (Shown as side "e" in Figure 5); and

(f) The plane that is perpendicular to the X–Z plane, that passes through V_2 and that intersects the X–Y plane at the angle specified in column 3 of Table III for the vehicle's R point height, as measured counterclockwise from the X–Y plane viewed from the left side of the vehicle (Shown as side "f" in Figure 5).

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 22, 1980.

Joan Claybrook,

Administrator.

Table I.—*Corrections to the X and Z Coordinates for the V and P Points When the Recommended Seat Back Angle is not 25 Degrees*

Recommended seat back angle (in degrees)		X coordinate[1] (in inches)	Z coordinate[2] (in inches)
At least	But less than		
	5.5	−7.34	1.09
5.5	6.5	−6.96	1.08
6.5	7.5	−6.58	1.06
7.5	8.5	−6.17	1.04
8.5	9.5	−5.79	1.02
9.5	10.5	−5.41	0.99
10.5	11.5	−5.03	0.96
11.5	12.5	−4.65	0.92
12.5	13.5	−4.28	0.88
13.5	14.5	−3.91	0.83
14.5	15.5	−3.54	0.78
15.5	16.5	−3.18	0.72
16.5	17.5	−2.81	0.66
17.5	18.5	−2.46	0.59
18.5	19.5	−2.10	0.52
19.5	20.5	−1.74	0.45
20.5	21.5	−1.39	0.37
21.5	22.5	−1.04	0.29
22.5	23.5	−0.69	0.19
23.5	24.5	−0.34	0.10
24.5	25.5	0.00	0.00
25.5	26.5	0.34	−0.10
26.5	27.5	0.68	−0.21
27.5	28.5	1.01	−0.32
28.5	29.5	1.35	−0.44
29.5	30.5	1.68	−0.56
30.5	31.5	2.01	−0.69
31.5	32.5	2.33	−0.82
32.5	33.5	2.65	−0.96
33.5	34.5	2.97	−1.10
34.5	35.5	3.29	−1.24
35.5	36.5	3.61	−1.39
36.5	37.5	3.92	−1.55
37.5	38.5	4.23	−1.71
38.5	39.5	4.54	−1.87
39.5		4.84	−2.04

[1] Negative symbol means a correction to the X coordinate in the forward direction.

[2] Negative symbol means a correction to the Z coordinate in the downward direction.

Table II.—*Correction to the X Coordinate for the P_1 and P_2 Points When the Longitudinal Seat Adjustment Range is 4.25 Inches or More*

Longitudinal seat adjustment range (in inches)		X Coordinate (in inches)
At least	But less than	
4.25	4.75	*−0.50
4.75	5.25	−0.88
5.25	5.75	−1.26
5.75	6.25	−1.64
6.25		−1.99

*Negative symbol means a correction to the X coordinate in the forward direction.

Table III.—*Determination of Angles for Use in Establishing Planes of Viewing Area A*

Seating reference point height above the ground (in in.)		(1)	(2)	(3)
At least	But less than	Up angle from V_1 to side "b" (in degrees)	Up angle from V_1 to side "d" (in degrees)	Down angle from V_1 to side "f" (in degrees)
-	20	9.0	12.0	3.0
20	30	8.5	11.0	3.5
30	40	8.0	10.0	4.5
40	50	7.5	9.0	5.5
50	60	7.0	8.5	6.5
60	70	6.5	8.0	7.5
70		6.0	7.5	8.0

BILLING CODE 4910-59-M

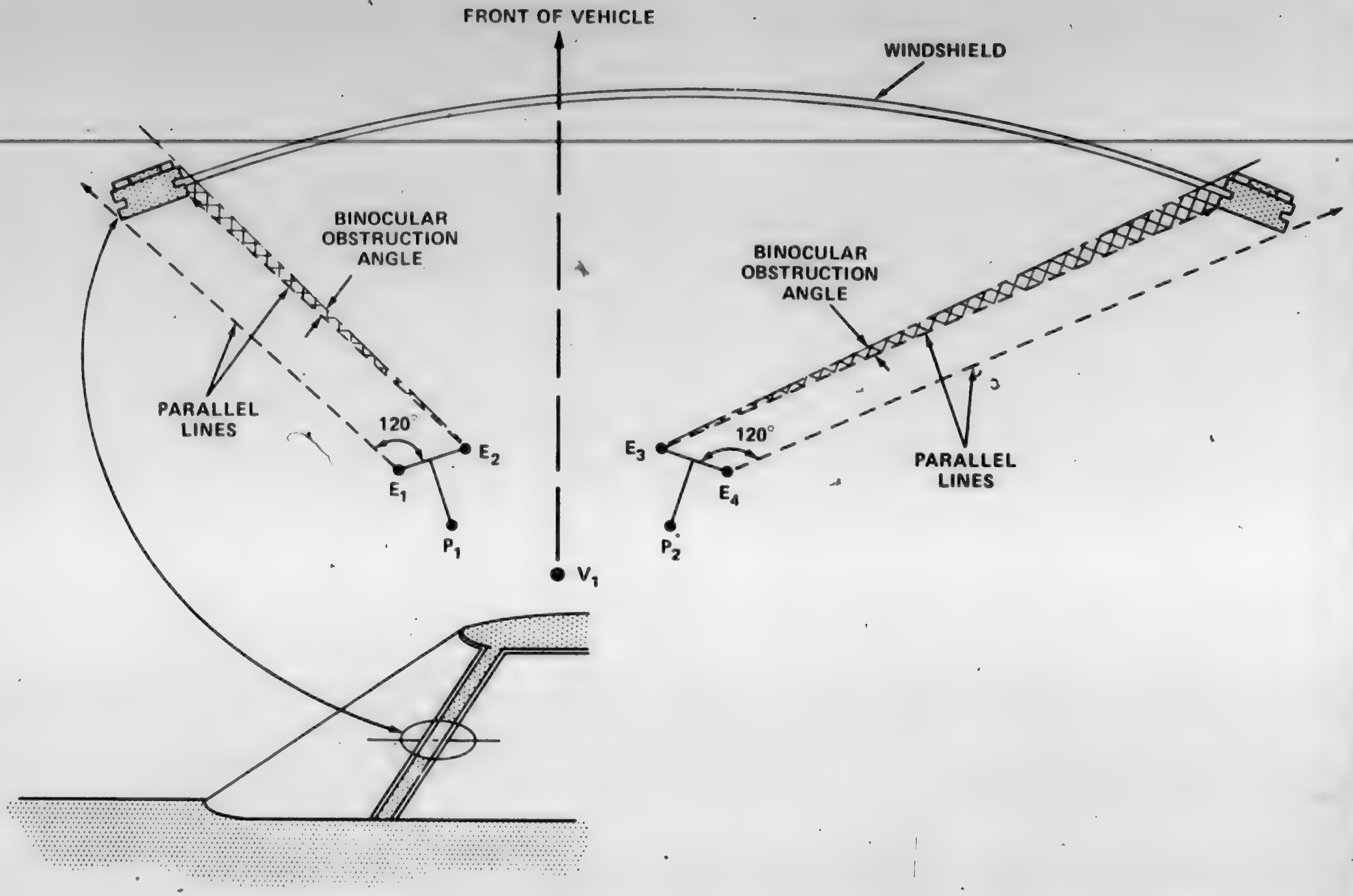
FRONT OF VEHICLE
WINDSHIELD
BINOCULAR OBSTRUCTION ANGLE
PARALLEL LINES
120°
E_1
E_2
P_1
V_1
BINOCULAR OBSTRUCTION ANGLE
PARALLEL LINES
120°
E_3
E_4
P_2

Figure 1 Binocular Obstruction Test Procedures

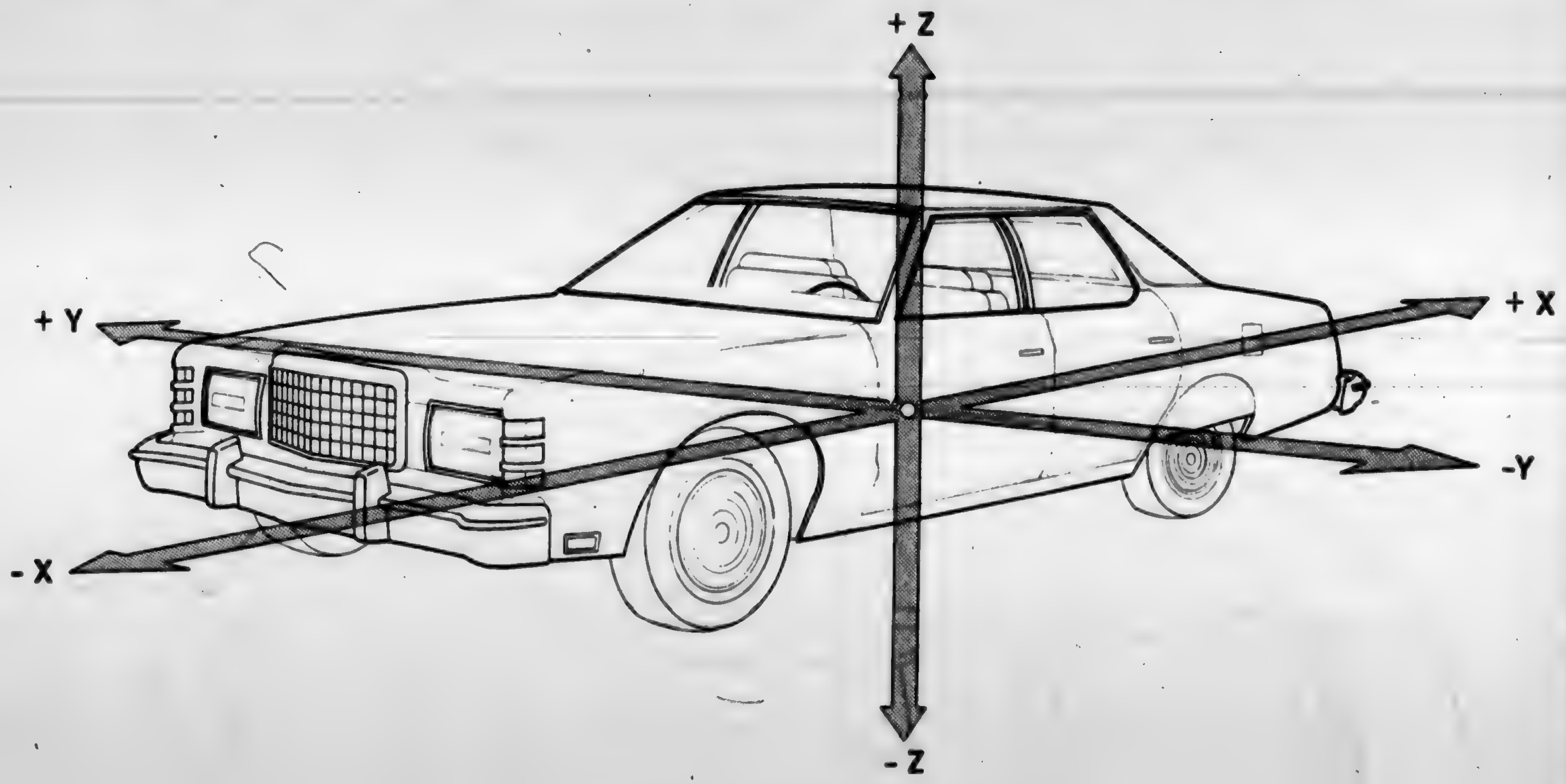

Figure 2 Orthogonal Reference Axes

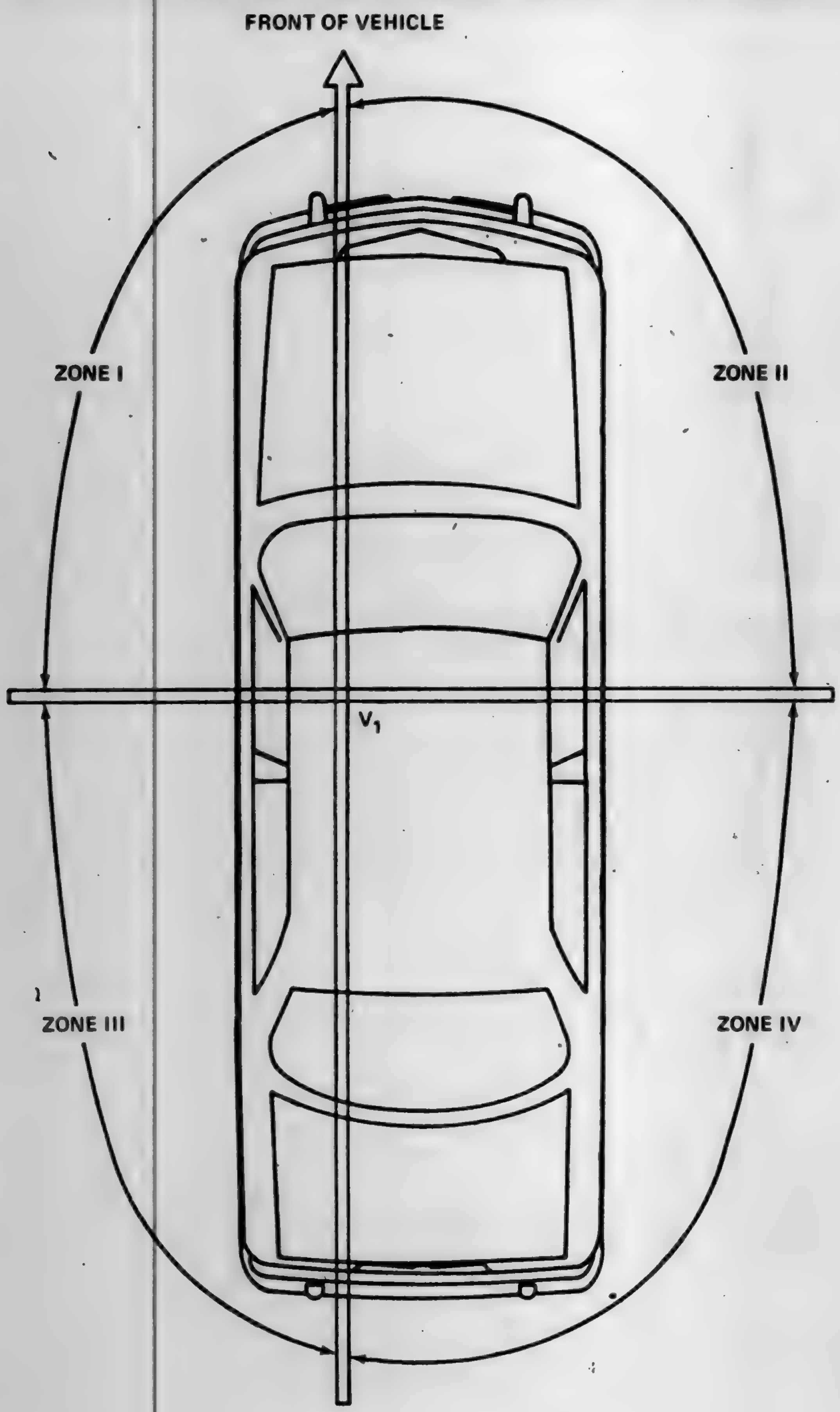
FRONT OF VEHICLE
ZONE I
ZONE II
V1
ZONE III
ZONE IV

Figure 3 Test Zones

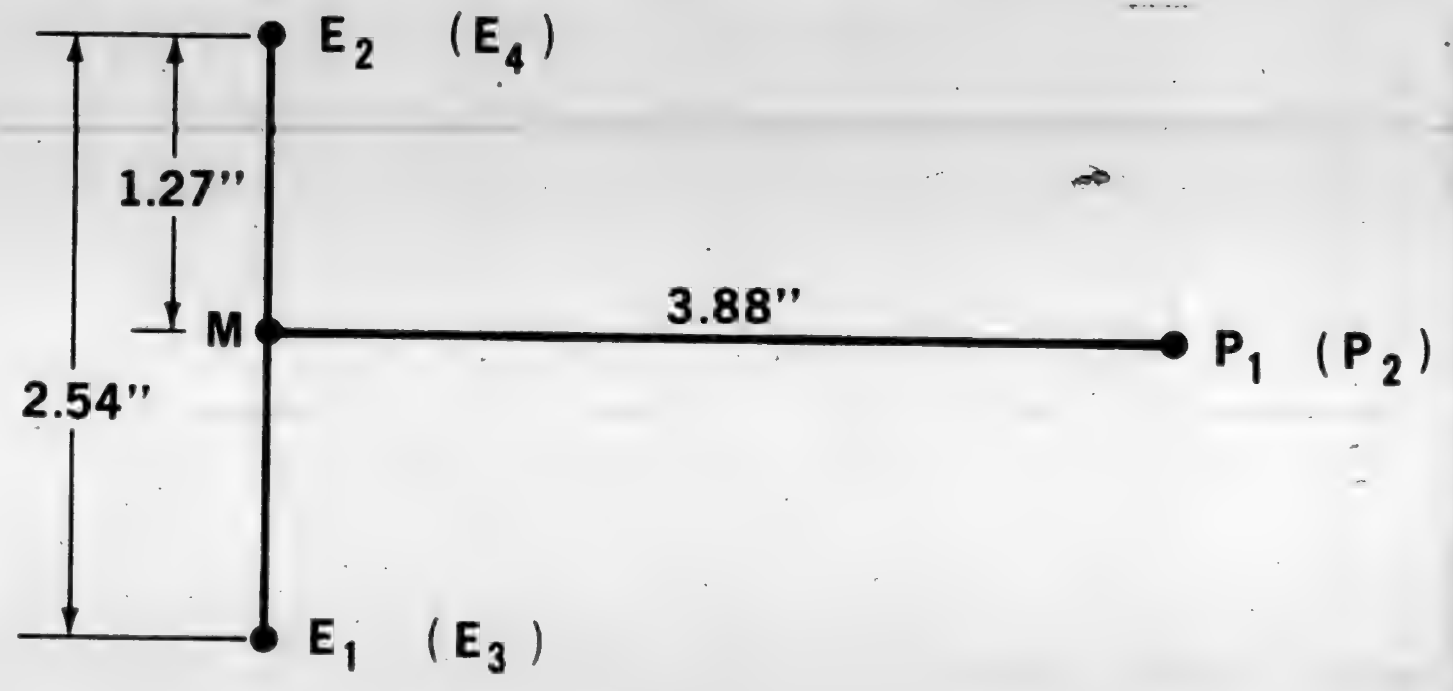
E₂ (E₄)
1.27"
M
2.54"
3.88"
P₁ (P₂)
E₁ (E₃)

Figure 4 Relationship between E Points and Their Pivot Point, P

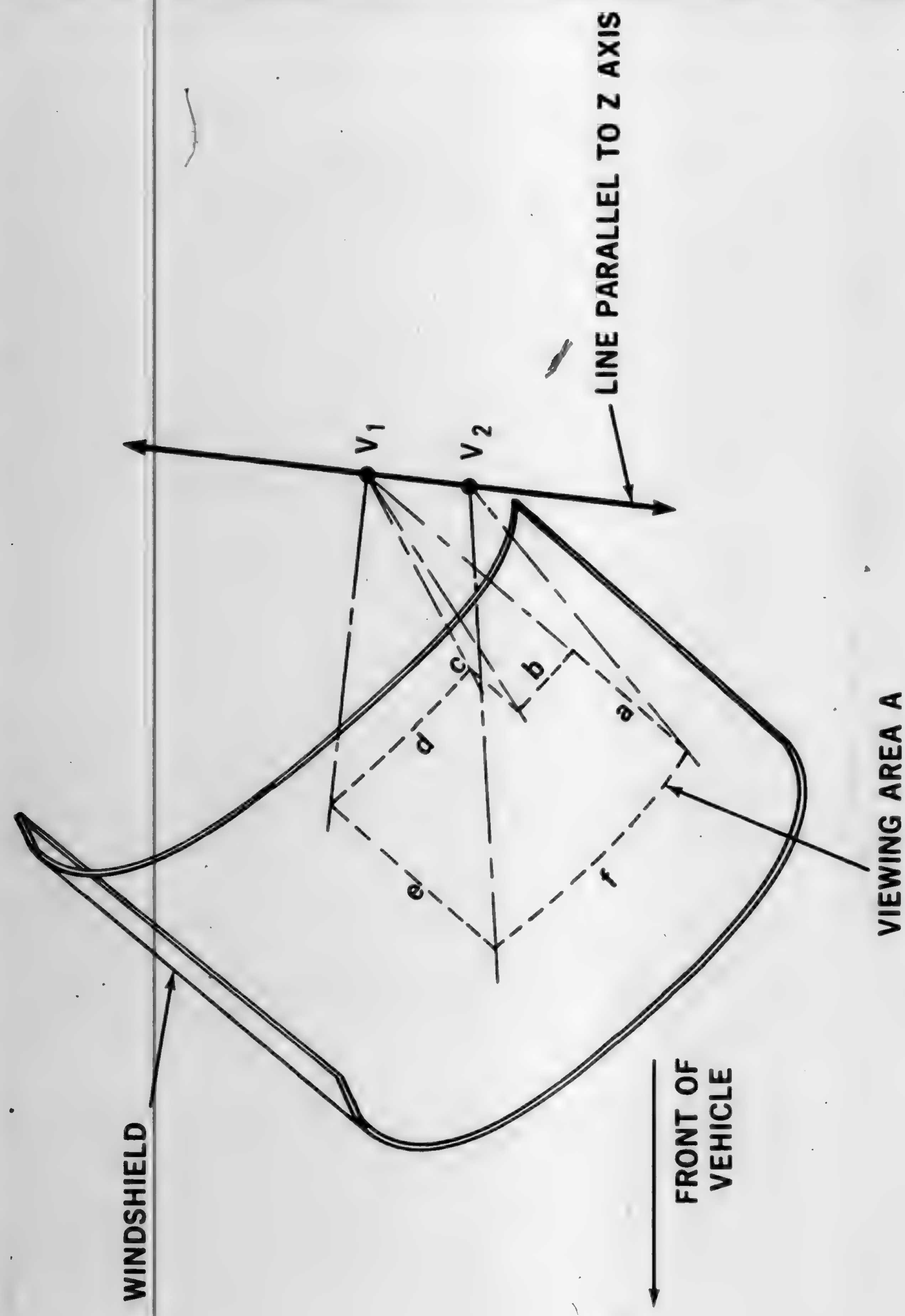

LINE PARALLEL TO Z AXIS
V_1
V_2
a
b
c
d
e
f
VIEWING AREA A
WINDSHIELD
FRONT OF VEHICLE

Figure 5 Windshield Viewing Area A

[FR Doc. 80-40439 Filed 12-23-80; 11:49 am]

BILLING CODE 4910-59-C

49 CFR Part 571

[Docket No. 70-27; Notice 20]

Hydraulic Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends Standard 105, *Hydraulic Brake Systems.* The standard currently applies to passenger cars and school buses. Its applicability is extended on a general basis (with some modifications) to trucks, all types of buses, and multipurpose passenger vehicles (MPV's) with a gross vehicle weight rating (GVWR) of 10,000 lbs. or less. Several requirements are also extended to trucks, buses and MPV's with a GVWR greater than 10,000 lbs. In addition, the standard's requirements for school buses are upgraded.

DATE: The effective date of this amendment is September 1, 1983.

ADDRESS: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George L. Parker, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: Standard 105, *Hydraulic Brake Systems,* currently applies to passenger cars and school buses. This notice extends its applicability on a general basis (with some modifications) to trucks, all types of buses, and multipurpose passenger vehicles (MPV's) with a gross vehicle weight rating (GVWR) of 10,000 lbs. or less. Several requirements are also extended to trucks, buses and MPV's with a GVWR greater than 10,000 lbs. In addition, the standard's requirements for school buses are upgraded.

This final rule was preceded by a notice proposing the extension of Standard 105 in October 1979 (44 FR 60113). Private citizens, safety organizations, manufacturers, and manufacturer trade associations have submitted comments on the proposal. The NHTSA has considered all of those comments and the most significant ones are discussed below.

The agency made two significant modifications in the proposed standard's requirements as a result of the comments. As will be explained below, the agency determined that third effectiveness requirements should not be applicable to vehicles, other than school buses, with a GVWR of 8,000 to 10,000 lbs. Also, the agency determined that fourth effectiveness stopping distance requirements for vehicles with a GVWR of 8,000 to 10,000 lbs., as well as spike stop check stopping distance requirements for those vehicles, should be slightly relaxed.

The changes in the standard's requirements were made to give manufacturers additional leeway in balancing the performance of their vehicles' braking systems for both fully loaded and lightly loaded conditions and to ensure that the requirements would not result in unduly burdensome certification responsibilities being imposed on final stage manufacturers.

A slight change was also made in the standard's definition of "lightly loaded vehicle weight" to permit the use of additional instrumentation.

Also in response to the comments, the agency determined that a longer period of leadtime should be provided. The effective date of the requirements is September 1, 1983, which gives a leadtime of more than two years.

Many comments were received in support of extending Standard 105 to apply to trucks, all types of buses, and MPV's. General Motors, Chrysler and American Motors/Jeep all stated that they support the adoption of requirements for hydraulic braked trucks, buses and MPV's, though all three companies requested some modifications in the standard as proposed. Wagner Electric stated that it is commendable that efforts are being made to improve the safety of the highways and that it can see the benefits that may accrue when more varieties of highway vehicles have been brought under the control of the appropriate minimum braking standard.

Both Ford and the Japan Automobile Manufacturers Association stated that they are not opposed to the application of braking performance requirements to vehicles in addition to passenger cars and school buses. The Japan Automobile Manufacturers Association added that, from the viewpoint of safety, it thought this application should be promoted.

The National Transportation Safety Board stated that it supported the action, noting that by reducing the current disparity between the braking capability of passenger cars and many trucks and vans, motor vehicle accidents should be reduced. The Board also stated its support for the requirements upgrading the performance requirements for school buses.

While the General Accounting Office of the United States did not specifically comment on this rulemaking, a report to the United States Congress by the Comptroller General issued in 1978 called for, among other things, expeditious rulemaking on light truck braking performance. See Report to Congress by the Comptroller General of the United States, Unwarranted Delays by the Department of Transportation to Improve Light Truck Safety, July 6, 1978.

The Center for Auto Safety stated that extension of the standard is long overdue and is fully supported by the large number of consumer complaints that the Center receives each year on inadequate brakes on light trucks, vans and MPV's.

Effectiveness Requirements

Comments received on the proposal's effectiveness requirements for service brake systems primarily dealt with the third and fourth effectiveness test stopping distances for vehicles with a GVWR of 8,000 to 10,000 lbs. Several comments stated that the stopping distance requirements that were proposed were too stringent.

The fourth effectiveness test is an effectiveness test of the braking system which is conducted after the fade tests and while the vehicle is fully loaded. Because it comes after the fade tests, during which some deterioration of the brakes may occur, the fourth effectiveness test was considered by several commenters to be the most stringent of the fully loaded effectiveness tests. Generally discussed along with the fourth effectiveness test were the spike stop check stopping distance requirements. These requirements represent an abbreviated effectiveness test with the same stopping distance requirements as the fourth effectiveness test, which is conducted after the spike stops (which follow the fourth effectiveness test). Because the commenters addressed these tests together and because the stopping distance requirements are the same for the two tests, the discussion of these requirements will subsume the spike stop check stopping distance requirements into consideration of the fourth effectiveness stopping distance requirements.

According to the commenters, brakes which are powerful enough to meet the fourth effectiveness (fully loaded) stopping distance requirements for vehicles in that weight class would be prone to lock-up in the lightly loaded condition. If lock-up occurred in the lightly loaded condition, the vehicles would be unable to meet the third effectiveness (lightly loaded) stopping distance requirements. Several comments stated that manufacturers would find it necessary to develop anti-lock or similar devices in order to meet the requirements as proposed.

Other comments on the third and fourth effectiveness requirements for this class of vehicles focused on possible deleterious effects that the requirements might have on final stage manufacturers and the market which they serve. (A "final stage manufacturer" is a manufacturer which typically purchases an incomplete vehicle which usually consists only of a chassis, suspension, power train, brakes and perhaps an occupant compartment from an incomplete vehicle manufacturer such as Ford, General Motors or Chrysler and completes the vehicle by adding a body or work performing equipment.)

Any final stage manufacturer that does not complete a vehicle in accordance with conditions established by the incomplete vehicle manufacturer must recertify that the completed vehicle complies with applicable safety standards based upon its own information, analysis, or tests. Several commenters were concerned that final stage manufacturers would not be able to meet those conditions and thus would be required to engage in extensive testing of their vehicles. According to those commenters, extensive testing is not feasible for final stage manufacturers as they are often small manufacturers that produce only limited numbers of a variety of specialty vehicles.

Changes suggested by the commenters varied, depending upon whether they were addressing the requirements from the point of view of the large manufacturers (i.e., the incomplete vehicle manufacturers) or the final stage manufacturers. General Motors, for example, stated that it could meet the longest of a range of stopping distances proposed for the third effectiveness test if fourth effectiveness test stopping distances were extended by 10 percent. Comments received from Ford and Chrysler were similar, with Ford asking for a relatively minor increase in third effectiveness stopping distances and a 10 percent increase in fourth effectiveness stopping distances, while Chrysler requested a 16 percent increase in stopping distances for fourth effectiveness tests.

Those commenters primarily concerned with final stage manufacturer certification difficulties suggested various approaches, including not extending Standard 105 at this time or only extending it to vehicles with a GVWR under 8,000 lbs. Other approaches suggested by those commenters include applying different test requirements to final stage manufacturers, so long as the braking systems on their vehicles are used on similar vehicles, requiring incomplete vehicle manufacturers to give additional information to final stage manufacturers to help them make engineering judgments about the effect changes in the center of gravity will have on a vehicle's braking ability, and providing a longer period of leadtime to final stage manufacturers than other manufacturers.

The latter approach was suggested because some final stage manufacturers were concerned that incomplete vehicle manufacturers would not provide information about new conditions established as a result of the proposed requirements until just before the time of model introduction. According to those comments, final stage manufacturers need to receive such information well in advance of the time of model introduction in order that they can design their vehicles in accordance with the conditions.

The agency was aware of the braking design problems associated with trucks, buses and MPV's, including those particularly affecting vehicles over 8,000 lbs. GVWR, when it issued the proposal. The proposal explained that while trucks, buses and MPV's should ideally stop in as short a distance as passenger cars, since they share the same roads and traffic flow, there are certain differences between those vehicles which make accomplishing that goal more difficult for trucks, buses and MPV's. The primary differences are the greater loaded to empty weight ratio of trucks, MPV'S and buses, the higher center of gravity found in those vehicles (which results in greater dynamic weight transfer during braking), the greater variations in loaded and unloaded weight distribution that occur in those vehicles and the lower traction capabilities of truck tires. Because these factors make it difficult to design braking systems which provide the appropriate brake torque for each axle under all braking and load conditions, the agency proposed stopping distances that were slightly longer than those in effect for passenger cars.

The notice also discussed the design problems particularly affecting trucks, buses and MPV's with a GVWR over 8,000 lbs. In order to stop in as short a distance as lighter vehicles, vehicles with a GVWR of 8,000 lbs. or more require powerful rear brakes to meet fully loaded stopping distance requirements. When the vehicles are stopped in a lightly loaded condition, however, the powerful rear brakes can cause wheel lock-up and resulting vehicle instability. Because of these design problems, the agency proposed ranges of slightly longer third effectiveness test stopping distances for vehicles with a GVWR of 8,000 to 10,000 lbs. than for vehicles with a lower GVWR. In proposing the requirements, the agency stated that it was its intention to avoid requiring manufacturers to develop anti-lock or similar devices for their vehicles. While such systems may be able to overcome these problems, there is no field-tested anti-lock system for hydraulic-braked vehicles that is commercially available at this time.

The stopping distances proposed for the third and fourth effectiveness tests were based upon tests conducted by the agency on existing production vehicles and upon confidential brake development test data submitted by General Motors, Ford and Chrysler. Based upon its analysis of these data, the agency concluded that the proposed stopping distances for both the third and fourth effectiveness tests for vehicles with a GVWR of 8,000 to 10,000 lbs., including vehicles with unusually high centers of gravity and with both short and long wheelbases (which typically are more difficult to design brakes for than other vehicles), could be met without anti-lock or similar devices. Instead, the requirements could be met by modifications to such vehicle components as brake linings, wheel cylinders, master cylinders, and combination valves.

This conclusion does not, however, fully resolve the concerns raised about the requirements as they relate to final stage manufacturers. As noted above, final stage manufacturers typically purchase incomplete vehicles from large manufacturers and complete the vehicles, often for specialized needs. Since only a limited number of incomplete vehicle designs are available for purchase, a final stage manufacturer must use the same incomplete vehicle design for widely varying applications. A given incomplete vehicle design may be completed as a pickup, a recreational vehicle, or a high cube van. Diverse equipment may be added such as service cranes, lift gates, ladders, aerial devices, and snow plows. Assuming that a final stage manufacturer does not redesign the braking system for each different use, the braking system sold with the incomplete vehicle by its manufacturer must serve applications with widely varying centers of gravity (i.e., varying both vertically and horizontally).

The agency estimates that a 10 percent rise in center of gravity location will lengthen the stopping distance of a typical vehicle by three percent if it is operating at the limit of tire traction for its rear wheels. Changes in horizontal center of gravity will also lengthen stopping distances in some instances. It follows that a vehicle which would barely meet the requirements of the proposed standard at the specific center of gravity for which it is designed, which would be the case for some vehicles with a GVWR of 8,000 to 10,000 lbs., would not be able to meet the requirements at centers of gravity widely varying from the design one.

The agency agrees, after analysis of the comments received from final stage manufacturers, their trade associations, and incomplete vehicle manufacturers, that the increased center of gravity limitations which might be established for some vehicles of 8,000 to 10,000 lbs. GVWR if the proposal were adopted would pose significant difficulties for final stage manufacturers. (Some limitations are currently established by incomplete vehicle manufacturers in connection with their certification of Standards 212, 219, and 301.) In some instances, a final stage manufacturer would be unable to simply complete vehicles on the same incomplete vehicle that it is accustomed to using, as the center of gravity of the completed vehicles would not be within the center of gravity envelope specified by the incomplete vehicle manufacturer.

The final stage manufacturer would be faced with buying the same incomplete vehicles as before and recertifying them and possibly redesigning their braking systems. Since the sales of incomplete vehicles to final stage manufacturers are a very small percentage of the light truck sales of the incomplete vehicle manufacturers, the incomplete vehicle manufacturers are not likely to be willing to accommodate the final stage manufacturers by making major modifications to the line of incomplete vehicles they offer for sale, such as providing incomplete vehicles which are designed for a broader range of centers of gravity. The incomplete vehicle manufacturers have themselves indicated this reluctance in a number of rulemakings.

The agency has dealt with the certification problems of final stage manufacturers during other rulemaking proceedings. Since final stage manufacturers are often very small companies, which produce limited numbers of specialty vehicles, they often have limited resources for redesigning their vehicles, testing their vehicles for compliance with applicable safety standards, or making engineering judgments about the effect changes in a vehicle's center of gravity will have on the vehicle's performance. Therefore, the agency has sought to limit, consistent with the needs of safety, the compliance burdens on final stage manufacturers.

For example, the agency established special provisions affording relief to final stage manufacturers in Standards 212, *Windshield Mounting*, and 219, *Windshield Zone Intrusion*. See notice of Final Rule, published in the **Federal Register** (45 FR 22044) on April 3, 1980. One of the final stage manufacturer problems that was addressed in that rulemaking proceeding was center of gravity limitations established by incomplete vehicle manufacturers. The agency added the special provisions to Standards 212 and 219 for the purpose of inducing the reduction of center of gravity restrictions placed on final stage manufacturers by incomplete vehicle manufacturers.

In order to ease the certification problems of final stage manufacturers that are related to Standard 105, while providing the maximum safety benefits that are consistent with that objective, the agency determined that third effectiveness requirements should not apply to vehicles, other than school buses, with a GVWR of 8,000 to 10,000 lbs. The problem of center of gravity limitations as it relates to the proposed test requirements is primarily limited to the third effectiveness (lightly loaded) test. Since the test is conducted while the vehicle is in an unloaded condition, the manufacturer is constrained to test at the vehicle's center of gravity of the vehicle as configured. Center of gravity is not a serious problem for the other effectiveness tests, which are conducted at GVWR. For those tests, the manufacturer may load the vehicle in a way so as to lower the center of gravity and make compliance easier.

In order to provide manufacturers with some additional leeway in balancing the performance of their braking systems for both fully loaded and lightly loaded conditions, the agency also decided that the fourth effectiveness (fully loaded) stopping distances should be extended by approximately 10 percent for the 8,000 to 10,000 lb. GVWR vehicles. As noted above, if fourth effectiveness requirements are too stringent, vehicles would need overly powerful rear brakes that are prone to lock-up in the lightly loaded condition. The agency recognizes that it is more difficult to meet the proposed fourth effectiveness requirements for this class of vehicles without producing vehicles that are prone to lock-up, though, as indicated above, test data indicate that it can be accomplished. The relaxation of the fourth effectiveness requirements will assure that the manufacturers can use braking systems that perform well in the lightly loaded condition.

In making these modifications to the proposed requirements for vehicles with a GVWR of 8,000 to 10,000 lbs., the agency decided that school buses within that weight class should be treated separately. School buses are already required to meet Standard 105's requirements, though the October 1979 notice proposed making the requirements more stringent. As will be explained below, the agency decided that the proposal's fourth effectiveness requirements for school buses with a GVWR of 8,000 to 10,000 lbs. should be extended by 10 percent (the same as other vehicles within that weight class), with the exception of the 30 mph test. The agency also decided that third effectiveness stopping distance requirements, at the longest distances proposed, should be applicable to school buses.

Since school buses are already covered by Standard 105, the agency has a great deal of test data indicating their braking capability. Because school buses with a GVWR of 8,000 to 10,000 lbs. share most of the same characteristics as other vehicles with the same weight, the agency decided that fully loaded effectiveness requirements should be the same for school buses as for other vehicles, with the one exception referred to above. School buses are already required to meet slightly more stringent requirements for fully loaded tests at 30 mph. Therefore, the agency will not relax those requirements. For fully loaded tests at other speeds, the requirements are more stringent than those currently in effect.

As noted above, both agency test data and several comments indicate that the proposed third effectiveness test requirements (at the longest stopping distances proposed) can be met by vehicles with a GVWR of 8,000 to 10,000 lbs., particularly when the proposed fourth effectiveness stopping distances are slightly relaxed. The agency's decision that third effectiveness test requirements should not be applicable to vehicles with a GVWR of 8,000 to 10,000 lbs. resulted from possible center of gravity conditions that incomplete vehicle manufacturers might establish for the use of their vehicles. Since school buses do not have high centers of gravity or widely varying horizontal centers of gravity, they do not pose the same problems for final stage manufacturers as other vehicles. Moreover, since completing a vehicle as a school bus adds weight to the rear axle, the lightly loaded effectiveness test is more easily met by school buses than many other vehicles. The comments received that related to third effectiveness tests and final stage manufacturer difficulties did not identify the requirements for school buses as creating difficulties. Therefore, based upon a detailed analysis of test data, manufacturer-supplied information, and the comments, as well as on the safety need associated with school buses, the agency decided that third effectiveness test requirements should apply to school buses with a GVWR of 8,000 to 10,000 lbs.

The agency believes that the modifications in the standard that were discussed above will eliminate any possibility that incomplete vehicle manufacturers will find it necessary either to establish more stringent center of gravity limitations on the use of their incomplete vehicles or to develop anti-lock or similar devices in order to be able to continue to produce incomplete vehicles that comply with the standard for the range of applications needed by final stage manufacturers. Final stage manufacturers, therefore, will ordinarily be able to rely on the incomplete vehicle manufacturer's certification of the braking system.

In some rare cases, such as when a final stage manufacturer adds an axle or redesigns the braking system of an incomplete vehicle, the final stage manufacturer will be required to recertify that the completed vehicle complies with the brake requirements. Depending upon the changes made, the final stage manufacturer may be able to certify based upon engineering judgments. If testing is required, the agency estimates that the costs of a full test sequence would be approximately $2,500, assuming that the manufacturer has no facilities, instrumentation or test personnel of its own. Testing would not have to be conducted for each vehicle, but only for each vehicle type or, in some cases, the most problem prone configuration of several vehicle types. There are several test facilities and testing organizations distributed throughout the United States.

Such major changes are rarely made by final stage manufacturers, and, if they are, they tend to be made by the larger of these manufacturers. When such changes are made, the agency believes it appropriate to require that the manufacturer making those changes ensure that the vehicle still complies with applicable Federal motor vehicle safety standards.

In adopting these changes, the agency followed, in part, the suggestions of several of the commenters. The National Truck Equipment Association (NTEA), for example, suggested that if the agency extends the standard at this time, it should select 8,000 lbs. GVWR as the cutoff weight for Standard 105. That cutoff was said to address the brake proportioning difficulties inherent in vehicles with a wide weight differential in their laden and unladen conditions. The agency declined to completely exempt vehicles of 8,000 lbs. or greater GVWR from Standard 105's coverage, since the standard offers many benefits in addition to those resulting from the requirements that would cause difficulties for final stage manufacturers. However, the agency did use 8,000 lbs. GVWR as the cutoff weight for the standard's third effectiveness requirements, the requirements which most directly relate to the brake proportioning difficulties referred to by NTEA.

The agency followed the suggestions of several incomplete vehicle manufacturers and other commenters also in deciding to relax fourth effectiveness stopping distance requirements for 8,000 to 10,000 lb. GVWR vehicles. Since the agency concluded that the requirements could be met as proposed without anti-lock or similar devices, albeit with some difficulty, the agency declined to adopt Chrysler's suggestion of a 16 percent extension and instead chose the 10 percent extension suggested by other comments. The agency decided, based on test data, that a 10 percent extension would be sufficient to make it easier for manufacturers to assure that their vehicles' braking systems perform well in both fully loaded and lightly loaded conditions.

The agency considered and rejected the alternative of adopting different test requirements for final stage manufacturers or providing final stage manufacturers with a longer period of leadtime than other manufacturers. Either approach would result in a safety standard that was applied on the basis of the particular manufacturer of a vehicle rather than the safety needs of a particular vehicle type. The National Traffic and Motor Vehicle Safety Act contemplates the application of standards based on vehicle type rather than by manufacturer. Further, the agency determined that the requirements as adopted, including leadtime, are appropriate for all manufacturers. Since incomplete vehicle manufacturers should not find it necessary to place significant new restrictions on the use of their chassis as a result of Standard 105, final stage manufacturers should not require any redesign of their vehicles.

While the standard's requirements have been relaxed to reduce certification burdens on final stage manufacturers and to make it easier for manufacturers to assure that their vehicles' braking systems are balanced for both lightly loaded and fully loaded conditions, the agency encourages manufacturers to recognize the safety advantages offered by better braking systems and, where possible, to produce vehicles which meet or exceed the more stringent requirements that were proposed.

A number of more general comments were received on the appropriateness of the 8,000 lb. GVWR boundary. American Motors/Jeep stated that it supported adoption of the 8,000 lb. GVWR cutoff as a reasonable first step in addressing the brake proportioning difficulties inherent in vehicles with a wide weight differential between their loaded and unloaded conditions. However, the commenter suggested that the agency investigate the feasibility of developing new criteria that respond directly to the laden to unladen ratio regardless of the vehicle's GVWR. Other comments, including those of General Motors, the Motor Vehicle Manufacturer's Association, Wagner Electric and NTEA also suggested that the agency consider an approach using a laden/unladen weight distribution ratio criterion. Several of those commenters emphasized that as vehicle downsizing continues, vehicles with a GVWR of under 8,000 lbs. will have the same balance problems as vehicles of 8,000 to 10,000 lbs. GVWR.

The agency recognizes that this may become a problem in the future, but only if manufacturers seek to hold GVWR constant as they downsize their fleets rather than keeping payload constant. Since the agency believes payload to be a better measure of a vehicle's utility than GVWR, the agency encourages manufacturers to keep a constant payload instead of a constant GVWR as they downsize their vehicles. The agency will monitor developments in this area.

A comment submitted by Daimler-Benz stated that it saw no justification for an additional weight class of 8,000 to 10,000 lbs. GVWR and suggested that those vehicles be included with vehicles over 10,000 lbs. GVWR. According to that commenter, the brake regulations of some countries have a 3,500 kilogram (7716 lb.) weight limit, and some design characteristics of vehicles over 10,000 lbs. GVWR can also be found on vehicles with a GVWR of 8,000 lbs. As noted in the October 1979 notice, the agency is considering establishing more complete brake requirements for vehicles with a GVWR of over 10,000 lbs. but has not yet done so. This final rule brings the more complete requirements of Standard 105 to vehicles with a GVWR of 8,000 to 10,000 lbs. and includes requirements that are appropriate for all vehicles in that class, whatever their design characteristics.

As noted above, the comments concerning effectiveness requirements were largely directed at the requirements for vehicles with a GVWR of 8,000 to 10,000 lbs. However, some of the comments, including those of Chrysler and Wagner Electric, were also directed toward the fourth effectiveness requirements in general. Both the agency's own tests and confidential data submitted by the manufacturers indicate that recent models of almost all vehicles under 8,000 lbs. GVWR pass the effectiveness requirements. For any vehicles that do not, only minor changes would be required. As discussed above, it is easier to design braking systems for these vehicles than larger vehicles since they do not have as wide a weight differential between their loaded and unloaded conditions. Moreover, the type of work-performing equipment that can create center of gravity problems for final stage manufacturers is generally installed on vehicles with a GVWR of 8,000 lbs. or more. Therefore, no changes were made in the requirements as proposed for vehicles with a GVWR of under 8,000 lbs.

Comments submitted by Ford and Chrysler requested that both second and fourth effectiveness tests at 80 mph be eliminated in light of the 55 mph national speed limit. Ford also noted that actions required for fuel economy decrease the maximum speed capability of vehicles. The standard is written to require that 80 mph tests be met only if vehicles are capable of attaining a speed of 84 mph. Therefore, vehicles which cannot attain that speed need not comply with the 80 mph requirements. Since many vehicles can attain speeds well in excess of 80 mph and some vehicles are at times driven at those high speeds, despite the 55 mph national speed limit, the agency believes that 80 mph requirements are appropriate and in the interest of safety.

Fade and Recovery; Water Recovery

The October 1979 notice explained that the fade and recovery requirements were included to assure that a vehicle's braking performance is satisfactory when exposed to the high brake temperatures caused by prolonged or severe use, such as is found in long, downhill driving. The proposal requires that vehicles be capable of passing two successive fade and recovery tests. The water recovery requirements assure that a vehicle's braking system performs adequately after immersion in water.

The comments on these tests were limited to the fade and recovery requirements. Chrysler stated that the fade tests simulate abuse that is rarely, if ever, encountered in actual customer service. That commenter stated that the fade tests, coupled with the fourth effectiveness requirements which follow the fade tests, would result in braking systems that are biased toward the rear brakes. According to Chrysler, rear biased brakes would be prone to lock-up in the lightly loaded condition. Wagner Electric submitted a similar comment and suggested that the second fade and recovery test and the fourth effectiveness test were redundant. That commenter suggested that those two tests be eliminated to simplify the test procedures of Standard 105.

The concern that the test requirements would result in braking systems biased toward the rear brakes was largely discussed in the preceding section of this notice. The proposed requirements of Standard 105 included both fully loaded and lightly loaded tests. The agency concluded, based upon its own vehicle tests and on information submitted by manufacturers, that the proposed test requirements could be met by changes in various braking system components. So long as both fully loaded and lightly loaded requirements were met, the braking system would be properly balanced for both fully loaded and lightly loaded conditions. By extending the fourth effectiveness requirements by 10 percent for vehicles with a GVWR of 8,000 to 10,000 lbs., additional leeway was provided to manufacturers in designing their braking systems to be properly balanced. As noted above, no changes were made in the requirements applicable to vehicles with a GVWR of under 8,000 lbs., since recent models of most of those vehicles already pass the effectiveness requirements. Only minor changes are required for those vehicles that do not.

The two fade tests were designed to produce first a mild to moderate fade condition and then a more severe fade condition. Light fade occurs in vehicles even in low speed applications such as in heavy traffic. Moderate to severe fade is a condition that may occur when vehicles are used on hilly or mountainous roads, especially when heavy loads are carried. Far from being redundant, the second fade test simulates the type of fade experienced during long mountain descents. The agency has verified that the temperatures produced by the test sequence are the same temperatures as sometimes experienced during long mountain descents. The fade and recovery test requirements assure that brakes do not perform abnormally while subject to the heat caused by severe use or during the time that the brakes are cooling off after severe use.

The fourth effectiveness test is a complete effectiveness test that is conducted after most of the other tests, including the fade tests, have been completed. This test is included to give an overall system evaluation to assure that a braking system retains satisfactory characteristics related to effectiveness, pedal force, and sensitivity after exposure to the types of conditions simulated during the test sequence.

A comment submitted by the American Trucking Associations (ATA) suggested that the proposed fade requirements are severe enough to adversely affect user acceptance in normal service. According to ATA, compromises in such things as loss of feel and hard pedal in order to achieve greater fade resistance may be necessary. The comment also suggested that fade resistance tests developed in the past may be outdated as vehicles are becoming less powerful.

The agency tested a number of production vehicles before proposing the fade requirements and found that almost all of them met the requirements. The only vehicles tested by the agency which appeared to present problems were some small imported pickup trucks. Since many other vehicles passed the requirements, without having problems such as loss of feel or hard pedal, it is clear that braking systems can be designed to meet the fade requirements without having the problems suggested by ATA. Since fade tests primarily apply to a vehicle's downhill performance, the requirements are appropriate for vehicles even if they are less powerful than in the past.

Partial System Failure; Failed Power-Assist/Power Units

Partial system failure requirements were included to ensure that a vehicle's brakes are capable of bringing the vehicle to a controlled stop in a reasonable distance if a part of the service brake system should fail. Stopping distance requirements were also proposed for vehicles with failed power-assist or brake power units.

The October 1979 notice explained that many manufacturers currently provide what are called split brake systems to provide braking capacity in the event of a partial failure. The split system consists of two or more brake subsystems, each of which is not affected by leakage or failure in the other subsystem. Split systems are typically used on passenger cars, school buses, light trucks and vans. Under the proposed requirements, all hydraulic braked vehicles are required to utilize a split or redundant brake system.

Several commenters stated that the stopping distances for partial failure and for inoperative brake power and power assist units for vehicles with a GVWR over 10,000 lbs. are too stringent. Daimler-Benz stated that the requirements could only be met if the operative braking system has an increased capacity.

In a late submission to the docket, Wagner Electric asserted that agency tests substantiating the capability to meet the partial system requirements for vehicles over 10,000 lbs. were based on the two most effective of the possible partial systems. The commenter stated that no data was provided on vertical split systems and suggested that the requirements as proposed would encourage forms of split systems, such as vertical split systems, that would inordinately increase the level of front brake torque (i.e., make the front brakes overly powerful) and contribute toward lock-up on icy or wet roads. (A vertical split system essentially consists of one subsystem that supplies braking power to the front brakes and another subsystem that provides power to the back brakes. This contrasts with a variety of other types of split systems. Some horizontal split systems, for example, consist of two subsystems that each provide some braking power to each wheel. The two types of split systems which Wagner Electric's comment suggested are the most effective are a horizontal split and a 1½ x ½ split, a system with some of the attributes of a horizontal split system.) A comment submitted by ATA also suggested that the requirements would mandate overly powerful, aggressive front brakes.

Several commenters suggested that the stopping distance requirements for vehicles over 10,000 lbs. GVWR be relaxed. Wagner Electric suggested that the requirements currently in effect for school buses be adopted.

The partial system failure and failed power assist or brake power unit requirements were proposed by the agency after careful analysis of its own vehicle test results and of confidential data submitted by manufacturers. These data indicate that many production vehicles already meet the proposed requirements. The current school bus requirements were issued in 1975 under a short-term statutory deadline. Analysis of current school bus data indicates that many school buses already meet the more stringent requirements proposed by the October 1979 notice. As with other stopping distance requirements, there is some increment of safety benefit for each reduction of stopping distance. When partial failure of the service brake system occurs or brake power or power assist units become inoperative, it is important that a vehicle be able to stop in a reasonable distance, especially when that vehicle has the aggressivity associated with a GVWR of over 10,000 lbs.

In regard to Wagner Electric's comment concerning vertical split systems, it is true that if the subsystem providing power to the rear brakes in a vertical split system fails, the subsystem providing power to the front brakes would be required to meet the stopping distance requirements under the standard. Therefore, in order to meet this requirement with a vertical split system, a vehicle would need relatively powerful front brakes. Similar requirements have been in effect for vehicles with air brakes under Standard 121, and European regulations necessitate even more powerful front axle brakes without safety problems.

Moreover, in keeping with the National Traffic and Motor Vehicle Safety Act, the requirements are written as performance requirements and not design requirements. Manufacturers may meet the requirements in many different ways and are not required to use vertical split systems. Indeed, the selection of a means of compliance that poses significant safety risks could raise a safety defect issue. If Wagner Electric is concerned that vertical split systems may contribute to lock-up when used on some vehicle configurations, the manufacturer has the option to use other types of split systems, such as horizontal splits, or a redundant split system. When one of the subsystems or a horizontal split system fails, some braking power is still provided to each wheel by the operative subsystem, so the stopping distances do not have to be met solely by the power provided to the front wheels. Therefore, the braking system does not have to have relatively powerful front brakes in order to meet the requirements. This would also be true for some other types of split systems and for redundant systems.

Wagner Electric also stated that the 150 lb. maximum pedal force specified for the requirements is too low and might result in overly sensitive brakes. That company suggested that a 200 lb. pedal force be adopted.

An analysis of the data referred to above indicates that many vehicles on the road already meet this requirement, without experiencing problems of oversensitivity. While Wagner Electric suggests in its comment that even a small person can reach a 200 lb. pedal effort, the agency has found that small females have difficulty even applying forces of less than 150 lbs.

Moreover, when a driver is used to applying very little force to bring a vehicle to a stop, the driver is likely to believe that the braking system has failed entirely, rather than only partially, if the driver applies maximum force and cannot feel the vehicle braking. Reports of "no brakes" are sometimes given in accident reports where only a partial failure has occurred. Therefore, it is important that a vehicle's braking system respond noticeably when a driver is applying significant force in a partial failure or failed power assist or brake power unit situation.

A comment submitted by the Metropolitan Transit Agency of Dade County, Florida, called for lower pedal force requirements. That commenter cited the difficulty smaller drivers have in bringing a large bus to a stop after loss of vacuum. In establishing the 150 lb. pedal force, the agency took account of both the need to establish a level of pedal force appropriate for smaller drivers and to keep it high enough that brakes will not be oversensitive in ordinary use. That commenter also suggested that the agency establish requirements for vacuum reserve. The agency included optional procedures in Standard 105 that encourage manufacturers to include vacuum reserves by permitting slightly longer stopping distances in the no power tests if the vehicle has the capability of making several stops in consecutive order with gradually decreasing capabilities. The agency recognizes the safety advantages offered by vacuum reserves, but has not, as of yet, proposed that they be required.

A comment submitted by the Recreation Vehicle Industry Association (RVIA) requested that the test procedures for vehicles with a GVWR of over 10,000 lbs. be changed to require less stops and snubs to condition the brakes. The agency declines to make this change since a significant number of stops and snubs is required in order that a braking system's capability be tested in a "worn-in" condition.

Equipment Integrity

Comments on the requirements concerning equipment integrity were primarily limited to the spike stop requirements. RVIA suggested that the spike stop test requirements are inappropriate for motor homes. According to RVIA, it is unaware of a single case where a weakness that the spike stop test would uncover has ever been found in a motor home.

The spike stop test requirements were developed to determine the structural integrity of a vehicle's braking system. Vehicles must be capable of making several very sudden stops without loss of brake system structural integrity. Virtually all types of vehicles, including motor homes, are at times subjected to the abuse caused by very sudden stops. If the vehicle's braking system loses its structural integrity during such stops, serious accidents could result.

Parking Brakes

The October 1979 notice proposed parking brake performance requirements designed to ensure that vehicles have adequate grade holding performance. Under the proposal, vehicles with a GVWR of 10,000 lbs. or less are to meet these requirements on a grade of 30 percent, when a maximum force of 90 lbs. is applied to hand-operated parking brake systems and 125 lbs. is applied to foot-operated parking brake systems. While no comments were received that were specifically opposed to the establishment of parking brake requirements for light trucks, several submissions did comment on the appropriateness of the 30 percent gradient and the maximum force requirements.

The Japan Automobile Manufacturers Association and Toyo Kogyo stated that a 30 percent gradient is too stringent. According to those comments, some vehicles have difficulty climbing a 30 percent grade when fully loaded. They requested that a gradient of 18 percent be adopted, stating that European and Australian safety standards incorporate that requirement.

The 30 percent gradient requirement, which is the same as that in effect for passenger cars and school buses with a GVWR of 10,000 lbs. or less, represents a degree of steepness that is found on roads in some parts of the United States. While the agency is unaware of any light trucks that cannot climb a 30 percent grade, even a vehicle that has difficulty climbing a 30 percent grade may on occasion be parked on such a steep hill. Moreover, recognizing the dangers inherent if a vehicle's grade holding performance is inadequate, the agency established the requirements with a view toward providing a margin of safety for parking brake systems. The safety margin will prevent accidents from occurring when vehicles are parked on more commonly found grades in some instances where parking brake systems have deteriorated over time or are improperly adjusted. It is also noted that although European regulations have only an 18 percent grade holding requirement, those regulations also require a dynamic stopping performance test using the parking brake.

Several commenters stated that the maximum force requirements proposed by the standard for vehicles with a GVWR of 10,000 lbs. or less are too stringent. Those commenters suggesting changes requested either that European requirements be followed (said to be 132 lbs. for hand-operated systems) or that current requirements for school buses be followed (125 lbs. for hand-operated systems and 150 lbs. for foot-operated systems).

The 90 lb. and 125 lb. requirements proposed by the notice are the same as those in effect for passenger cars. They were chosen by the agency as the maximum force requirements that are appropriate for small females. Since small females may be expected to drive light trucks, it is appropriate to require that parking brake systems be designed with their needs in mind. Moreover, the agency established the 90 lb. and 125 lb. requirements with a recognition that some parking brake systems are located in positions within the vehicle which are awkward for drivers to reach. The 90 lb. and 125 lb. requirements therefore provide a margin of safety for instances where drivers have difficulty applying adequate force to parking brake systems because of their location.

As with the other requirements of the proposal, the agency established the parking brake requirements after conducting tests on production vehicles. Neither the agency's test results or any comments submitted indicate that manufacturers will have difficulty meeting the parking brake requirements.

Costs and Benefits

The agency has considered the economic and other impacts of this final rule and determined that this rule is not significant within the meaning of Executive Order 12221 and the Department of Transportation's policies and procedures implementing that order. The agency's assessment of the benefits and economic consequences of this final rule are contained in a regulatory evaluation that has been placed in the docket for this rulemaking. Copies of that regulatory evaluation can be obtained by writing NHTSA's docket section, at the address given in the beginning of this notice.

The October 1979 notice explained that a regulatory evaluation had been prepared before issuing the notice and had been included in the docket. A number of comments were received on the costs and benefits of the proposed requirements.

Ford stated that although its cost analyses were not complete, it had sufficient information to indicate that the proposed requirements would affect a greater number of Ford products and cost considerably more than the agency had estimated. Chrysler stated that the requirements would necessitate the redesign of the parking brake systems on all of its light trucks and require some degree of revision to master cylinders, brake boosters and/or foundation brakes on 80 to 90 percent of its light trucks. That company also indicated that it would find it necessary to engage in considerably more testing than estimated by the agency in order to meet the proposed requirements.

Both Ford and Chrysler suggested that several requirements be relaxed in order to reduce the costs of the proposed standard. Ford requested that first, second and fourth effectiveness test stopping distances be relaxed for all vehicles and that third effectiveness test stopping distances be relaxed for vehicles with a GVWR of 8,000 to 10,000 lbs. Ford also requested that the stopping distance requirements for the failed system and spike stop check tests be relaxed and that the maximum parking brake force requirements be changed from 125 lbs. to 150 lbs. Chrysler asked that fourth effectiveness test stopping distances be extended by 16 percent and that the maximum parking brake force requirements be changed from 125 lbs. to 150 lbs.

General Motors stated that while it supported NHTSA action to require split service brake systems on vehicles over 10,000 lbs. GVWR, a considerably larger number of those vehicles would require changes than estimated by the agency. According to GM, optional split service brake systems were purchased on only two percent of its hydraulic braked heavy-duty vehicles in model year 1979.

In order to aid in developing its cost estimates, the agency enlisted an outside contractor before issuing the October 1979 notice to conduct an independent assessment of the costs that would be involved. A report prepared by the IIT Research Institute (IITRI), which was included in the docket, substantially verified the cost

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estimates made by NHTSA, with one exception.

As the regulatory evaluation explained, estimates on the light truck brake system costs differed, reflecting the different methodologies used by IITRI and NHTSA. Since NHTSA's estimates were based on actual test results and confidential data submitted by the manufacturers, which were unavailable to IITRI, the regulatory evaluation used NHTSA figures for light truck brake system costs. IITRI figures were used for development/compliance test costs and cost estimates for medium and heavy duty trucks.

A revised regulatory evaluation, which has been placed in the docket, was prepared by the agency to accompany the issuance of this final rule. Revisions were made in the regulatory evaluation to reflect the latest information available to the agency.

The comments by Ford and Chrysler were difficult to evaluate since they gave only generalized bases for their assertions that a greater number of vehicles would be affected by the standard than estimated by the agency. While those commenters cited some additional braking system components that might require changes, they did not specify which vehicles would require the changes or indicate what the costs of those changes would be.

For example, while Chrysler asserted that the requirements would necessitate the redesign of the parking brake systems on all of its light trucks, it did not indicate its basis for believing that substantially more of its light trucks would require upgrading of their parking brake systems than estimated by the agency. Nor did it indicate what changes would be required or the costs of those changes. Ford stated that preliminary test results indicate that the proposal would necessitate for some models, in addition to those changes assumed by the agency to be required, the addition of hydraulic boosters or larger hydraulic boosters and revisions to brake pedals, power steering pumps, hoses and tires. Ford did not indicate the nature of the preliminary test data it was relying upon. Nor did that commenter specify what models would require additional changes or indicate the costs of those changes. Also, while Ford requested numerous changes in the proposed requirements, it did not attempt to support the specific changes it requested.

In light of the agency's own detailed evaluation of the changes made necessary by the requirements and of the costs of those changes, which was based upon test data and manufacturer-supplied information, as well as the independent assessment made by IITRI, the agency continues to believe that its cost estimates are correct, with one exception noted below.

The agency did change the regulatory evaluation's estimate of the number of vehicles with a GVWR over 10,000 lbs. requiring split brake systems. The agency had anticipated that a greater percentage of those vehicles would be purchased with optional split brake systems. While the number of vehicles affected by that requirement is greater than originally estimated by the agency, the cost per vehicle remains the same, and the agency believes the requirements to be fully justified by the benefits that will accrue.

Other comments that were received concerning costs related to costs of developing anti-lock or similar devices, such as brake system pressure modifiers, and costs that would be borne by final stage manufacturers. As explained fully above in the portion of this notice entitled "Effectiveness Requirements," manufacturers will not find it necessary to develop anti-lock or similar devices, nor will final stage manufacturers in most cases have any costs as a result of the standard. Instead, final stage manufacturers will ordinarily be able to rely on the incomplete vehicle manufacturer's certification of the braking system.

The October 1979 notice explained that the proposal was a continuation of prior NHTSA rulemaking on Standard 105. While the extension of Standard 105 to trucks, buses and MPV's had proceeded to the adoption of a final rule, that extension was indefinitely delayed in April 1975 because the agency had determined that although the benefits of the rule would be substantial, the costs of the standard, particularly for heavy trucks, warranted delaying the standard. See 40 FR 18411, April 28, 1975.

Manufacturers have made a number of significant improvements in their braking systems since that time on a voluntary basis, largely following the requirements and test procedures of the delayed final rule. Because of those improvements, as well as some changes made in the requirements by the agency, the costs of the standard today are only a small fraction of what they would have been in 1975.

The April 1975 notice stated that manufacturers had submitted costs for light to medium duty trucks that ranged from $54 to $775 per unit (depending on model configuration) to attain compliance with the standard. The agency compared those figures with independently gathered detailed cost information and substantiated that the manufacturers' estimates were accurate. In contrast to those figures, the agency today estimates that the average cost per domestic light truck, bus, or MPV with a GVWR of 10,000 lbs. or less is only $2.71, or about $21.24 for each vehicle that needs to be upgraded in braking system performance. The costs for meeting the partial failure and warning indicator requirements for medium and heavy trucks (over 10,000 lbs. GVWR) are estimated to be about $54 per vehicle. The total costs of meeting the standard's requirements for all trucks, buses and MPV's are estimated to be under $16,000,000.

As explained elsewhere in this notice, the regulatory evaluation, and the October 1979 notice, the agency carefully evaluated the costs and benefits of the proposed requirements. In analyzing costs, the agency estimated how the requirements would affect each manufacturer on a model-by-model basis. In light of this detailed analysis and evaluation, the agency declined to relax particular requirements on the sole ground that they would result in some costs to manufacturers.

A number of comments were also received that related to the benefits of the standard. Ford stated that the proposed requirements have not been justified as being the minimum necessary to provide safe operation of the affected vehicles. That commenter stated that the agency had not provided evidence that the levels of braking performance of today's vehicles are causative factors in the accidents involving those vehicles.

Ford also stated that the estimate of benefits presented in the agency's regulatory evaluation is based on inappropriate data and incomplete analysis. In particular, that commenter stated that a study by the Institute for Research in Public Safety (IRPS) that was cited by the regulatory evaluation does not support the conclusion that a five to 10 percent reduction in accidents could be obtained by a five percent shortening of stopping distances. That study was based on a sample of skidding accidents, and the finding was related to the benefits that would accrue if vehicles were equipped with anti-lock braking systems. According to Ford, that finding does not relate to the effect on accidents that would be attributable to the implementation of the proposed requirements, since the requirements do not anticipate the introduction of anti-lock braking systems. That company also asserted that the relationship between measured vehicle parameters such as specific stopping distances derived under specified test conditions and the safety effectiveness of the same vehicle in customer service has yet to be established.

A similar comment was submitted by NTEA. That commenter stated that by failing to demonstrate why an increase in light truck accident fatalities has occurred or that the proposed standard will in any way reduce those fatalities, the NHTSA data are seriously deficient. NTEA also stated that since the requirements will affect only 17 percent of the vehicles subject to the standard, NHTSA is obligated to identify that 17 percent segment as the cause of the safety problem. (As a result of the agency revising its estimate of the number of vehicles with a GVWR over 10,000 lbs. requiring the addition of split service brake systems, discussed above, the percentage of vehicles requiring changes as a result of the standard is now estimated to be about 20 percent.)

The October 1979 notice explained that in carrying out the mandate of the National Traffic and Motor Vehicle Safety Act to issue vehicle safety standards to protect the public against unreasonable risk of vehicle accidents and of death or injury occurring as a result of such accidents, the agency is confronted with inherent problems that limit the degree of certainty and precision achievable in estimating the effectiveness and therefore benefits of proposed standards. While engineering and accident analyses can clearly demonstrate that certain vehicle improvements will facilitate the performance of the driver's task and thereby improve safety, it is virtually impossible to isolate individual factors to arrive at precise and certain conclusions about the quantified benefits that will accrue.

Given the duty to act in the area of accident avoidance notwithstanding an inherent measure of imprecision and uncertainty, the agency has developed and issued accident avoidance standards while attempting within its capabilities to quantify the benefits of the standards and limit the uncertainty. The extension of Standard 105 is no different, and, given the inevitable residual uncertainty, the decisionmaking regarding the precise requirements rests in part on policy judgment.

The braking system of a vehicle clearly provides its most important accident avoidance capability. Common sense, as well as basic traffic theory, indicate that a vehicle with a shorter stopping distance capability will be safer than the same vehicle with a longer stopping distance capability, assuming that other parameters such as vehicle stability are held constant. Also, as noted above, since light trucks, buses, and MPV's share the same traffic flow as passenger cars, they should ideally have the same stopping distance capability.

As fully explained above, the agency carefully evaluated the costs of improving braking systems for light trucks, buses and MPV's and proposed requirements that, in its judgment, were economical. In recognition of the costs and problems associated with anti-lock or similar devices, the agency proposed requirements that could be met, where upgrading was required, by simple, state-of-the-art changes to the types of braking systems in use. Since braking ability is an extremely important safety factor and stopping distances can economically be made significantly shorter for light trucks, buses, and MPV's, the agency believes that the braking ability of those vehicles creates an unnecessary risk.

Because available accident data and studies are limited, it is very difficult to make estimates as to the precise benefits that will result from improving a vehicle's accident avoidance capability. The best information available to the agency in estimating the benefits resulting from improved stopping distances was the IRPS study, which was based on a survey of skidding accidents. Skidding accidents are useful for analysis because they leave physical evidence indicating the braking distance of a vehicle prior to impact. Based upon that study, the agency concluded that a five to 10 percent reduction of accidents could be obtained by a five percent shortening of stopping distances.

The proposed requirements would result in a reduction of skidding accidents, despite the fact that anti-lock or similar devices are not contemplated, since some vehicles would have their braking balance improved. Also, with better braking capability, drivers might be less prone to applying their brakes in a manner that would result in skids. While the IRPS data may not be ideal, since it looked at some types of skidding accidents that would not be prevented by the requirements and did not look at some accidents that would be prevented (i.e., those that do not leave skid marks), the agency believes that it does provide evidence that is useful in analyzing all accidents where braking is attempted.

The 105 test sequence was designed to simulate real world conditions. A vehicle's braking system is tested, for example, in new and broken-in conditions, at various speeds, while the vehicle is fully and lightly loaded, under varying conditions of fade, and under partial failure and failed power. Thus, the test does relate to performance in customer service.

In deciding to propose the extension of Standard 105 to light trucks, buses and MPV's, the agency was very concerned about the recent increase in light truck fatalities. However, the extension is directed at all accidents and not merely at the increase in accidents as suggested by NTEA.

As noted above, manufacturers have largely improved the braking performance of many of the vehicles subject to this standard since the final rule was delayed in 1975. Because of these improvements, changes will be required in only about 20 percent of the vehicles subject to the standard. The only effect on the other 80 percent of vehicles is that manufacturers will not be able to reduce the performance of those vehicles' existing braking systems.

The agency believes it appropriate to require that manufacturers maintain the current level of braking performance for that 80 percent segment of vehicles. In the 1960's, for example, stopping distances of passenger cars lengthened as a result of increased weight. Today, the agency is concerned that manufacturers might reduce the braking ability of their vehicles as part of an effort to improve fuel economy. Since some braking system components are relatively heavy, the braking system is a prime target for weight reduction. The agency believes braking ability to be such an important safety factor that it should not be compromised by efforts to improve fuel economy.

Because of the limitations of available accident data, it is difficult and sometimes impossible to use available accident data to determine the accident rates of particular vehicle types. As noted above, the agency believes the braking ability of those vehicles requiring upgrading of their braking systems to create an unreasonable risk, since that ability can economically be significantly improved.

Miscellaneous Comments

The Japan Automobile Manufacturers Association stated that separate requirements should be applicable to vehicles used for passengers and those used for cargo. That request is similar to ones received during other rulemaking proceedings to establish separate requirements for commercial applications.

The National Traffic and Motor Vehicle Safety Act contemplates the application of standards based on vehicle type instead of vehicle use. Basing a standard on vehicle use would present difficult enforcement problems. It would also place a manufacturer in the difficult position of having to assess in advance the potential future use of the vehicle. Further, basing standards on vehicle use does not recognize that a vehicle may have two or more uses during its lifetime. Therefore, the agency has declined to establish separate requirements based upon vehicle use.

The Japan Automobile Manufacturers Association also requested that all vehicles with a GVWR over 10,000 lbs., other than school buses, be included in Standard 130 under contemplation. Daimler-Benz also requested that vehicles over 10,000 lbs. be included in one standard, whether they have air brakes or hydraulic brakes. Based upon the differences between air brake systems and hydraulic brake systems, the agency has issued separate standards for the two types of braking systems. Standard 121 currently applies to air braked vehicles and Standard 105 to hydraulic braked vehicles.

The agency has issued an advance notice of proposed rulemaking for a new standard to apply to heavy duty brake systems, Standard 130, which addressed issues for which rulemaking is at least several years away. See 45 FR 13155, February 28, 1980. A notice of proposed rulemaking, with opportunity to comment, would be issued if the agency decides to proceed with that standard.

General Motors stated that the proposed requirements of Standard 105 may not be appropriate for electric vehicles which are under development. Since these vehicles are still in the development stage, the agency is unable to establish at this time what types of changes, if any, would be appropriate for electric vehicles. The agency will consider the need for different requirements for electric vehicles when more information is available as to what characteristics those vehicles will have.

Wagner Electric requested that the weight permitted for driver and instrumentation on vehicles with a GVWR of 10,000 lbs. or less for the lightly loaded tests be increased from 300 lbs. to 400 lbs. to permit the use of more recording equipment. Since the lightly loaded tests measure the braking ability of a vehicle while unloaded, it is desirable to keep the weight as low as possible. However, after evaluating the types of instrumentation that are used to certify compliance with Standard 105, the agency agrees that increasing the weight allowance for driver and instrumentation from 300 lbs. to 400 lbs. for vehicles with a GVWR of 10,000 lbs. or less will allow the use of additional types of instrumentation that will be useful in evaluating the performance of a vehicle's braking system. Moreover, the agency has determined that the slight increase in weight will not adversely affect the results of the lightly loaded tests.

One commenter suggested that the standard's requirements might have an adverse effect on tire manufacturers, since tires are an important parameter in complying with the standard and manufacturers would not have the time, funds or facilities to test every kind of tire. Manufacturers will not be required to test all kinds of tires, since they purchase tires according to specifications. Normal production tires were used in all tests relied on by the agency in establishing the standard's requirements. The standard has been in effect for several years for passenger cars and school buses without adverse effects on tire manufacturers.

Leadtime

Numerous comments were received on the proposed effective date of the requirements. The agency evaluated those comments and agrees with a number of them that a minimum of two years leadtime is appropriate. The effective date of the standard was changed to September 1, 1983, which gives a leadtime well in excess of two years and corresponds with the start of a new model year.

Chrysler stated that it required a leadtime of 30 months if its recommendations were adopted and 42 months if its recommendations were not adopted. The extra 12 months beyond 30 months were said to be needed to develop load-sensing or deceleration-sensing proportioning valves. As explained fully in this notice, no manufacturer will be required to develop anti-lock or similar devices in order to be able to comply with the standard's requirements. The effective date of this final rule gives a leadtime of approximately 30 months.

The principal authors of this notice are George L. Parker, Office of Vehicle Safety Standards, and J. Edward Glancy, Office of Chief Counsel.

§ 571.105 [Amended]

In consideration of the foregoing, § 571.105, Chapter V of Title 49, Code of Federal Regulations, is amended as follows:

1. Section S3 is revised to read:

S3 *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses with hydraulic service brake systems.

2. Section S4 is amended by changing the definition of "Lightly loaded vehicle weight" to read:

"Lightly loaded vehicle weight" means:

(a) For vehicles with a GVWR of 10,000 lbs. or less, unloaded vehicle weight plus 400 lbs. (including driver and instrumentation);

(b) For vehicles with a GVWR greater than 10,000 lbs., unloaded vehicle weight plus 500 lbs. (including driver and instrumentation).

3. Section S5.1 is revised to read:

S5.1 *Service brake systems.* Each passenger car and each multipurpose passenger vehicle, truck and bus with a GVWR of 10,000 lbs. or less, and each school bus with a GVWR of greater than 10,000 lbs. shall be capable of meeting the requirements of S5.1.1 through S5.1.6 under the conditions prescribed in S6, when tested according to the procedures and in the sequence set forth in S7. Each multipurpose passenger vehicle, truck, and bus (other than a school bus) with a GVWR greater than 10,000 lbs. shall meet the requirements of S5.1.2 and S5.1.3 under the conditions specified in S6 when tested according to the procedures and in the sequence set forth in S7. Except as noted in S5.1.1.2 and S5.1.1.4, if a vehicle is incapable of attaining a speed specified in S5.1.1, S5.1.2, S5.1.3, or S5.1.6, its service brakes shall be capable of stopping the vehicle from the multiple of 5 mph that is 4 to 8 mph less than the speed attainable in 2 miles, within distances that do not exceed the corresponding distances specified in Table II. If a vehicle is incapable of attaining a speed specified in S5.1.4 in the time or distance interval set forth, it shall be tested at the highest speed attainable in the time or distance interval specified.

4. Section S5.1.1 is revised to read:

S5.1.1 *Stopping distance.* The service brakes shall be capable of stopping each vehicle, other than a vehicle which both has a GVWR of not less than 8,000 pounds and not greater than 10,000 pounds and is not a school bus, in four effectiveness tests within the distances and from the speeds specified in S5.1.1.1, S5.1.1.2, S5.1.1.3, and S5.1.1.4. The service brakes shall be capable of stopping each vehicle which both has a GVWR of not less than 8,000 pounds and not greater than 10,000 pounds and is not a school bus, in three effectiveness tests within the distances and from the speeds specified in S5.1.1.1, S5.1.1.2, and S5.1.1.4.

5. Section S5.1.1.2 is revised to read:

S5.1.1.2 In the second effectiveness test, the vehicle shall be capable of stopping from 30 and 60 mph within the corresponding distances specified in column II of Table II. If the speed attainable in 2 miles is not less than 84 mph, a passenger car or other vehicle with a GVWR of 10,000 pounds or less shall also be capable of stopping from 80 mph within the corresponding distances specified in column II of Table II.

6. The second sentence of section S5.1.1.4 is amended by adding after the words "passenger car" the words "or other vehicle with a GVWR of 10,000 lbs. or less."

7. Section S5.1.3 is revised to read:

S5.1.3 *Inoperative brake power assist unit or brake power unit.* A vehicle equipped with one or more brake power assist units shall meet the requirements of either S5.1.3.1, S5.1.3.2, or S5.1.3.4 (chosen at the option of the manufacturer), and a vehicle equipped with one or more brake power units shall meet the requirements of either S5.1.3.1, S5.1.3.3, or S5.1.3.5 (chosen at the option of the manufacturer).

8. Sections S5.1.3.2(b) and S5.1.3.3(b) are revised to read:

(b) In a final stop, at an average decelerating that is not lower than 7 FPSPS for passenger cars (equivalent stopping distance 554 feet) or 6 FPSPS for vehicles other than passenger cars (equivalent stopping distance 646 feet), as applicable, when the inoperative unit is depleted of all reserve capacity.

9. Section S5.1.6 is revised to read:

S5.1.6 *Spike stops.* Each vehicle with a GVWR of 10,000 lbs. or less shall be capable of making 10 spike stops from 30 mph, followed by 6 effectiveness (check) stops from 60 mph, at least one of which shall be within a corresponding stopping distance specified in column I of Table II.

10. Section S5.2 is amended by adding after the word "vehicle" in the first sentence the words, "with a GVWR of 10,000 lbs. or less and each school bus with a GVWR greater than 10,000 lbs."

11. Section S5.2(a) is amended by removing the words "passenger car" and inserting in their place the words, "vehicle with a GVWR of 10,000 lbs. or less."

12. Section S5.2(b) is amended by inserting after the words "school bus", the words "with a GVWR greater than 10,000 lbs."

13. The first sentence of section S6.1.1 is amended to read:

S6.1.1 Other than tests specified at lightly loaded vehicle weight in S7.7, S7.8, and S7.9, the vehicle is loaded to its GVWR such that the weight on each axle as measured at the tire-ground interface is in proportion to its GVWR, except that each fuel tank is filled to any level from 100 percent of capacity (corresponding to full GVWR) to 75 percent.

14. Section S6.1.2 is revised to read:

S6.1.2 For the applicable tests specified in S7.7, S7.8, and S7.9, vehicle weight is lightly loaded vehicle weight, with the added weight distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles, and trucks, and in the area adjacent to the driver's seat in buses.

15. Section S6.10 is revised to read as follows:

S6.10 *Vehicle position.* The vehicle is aligned in the center of the roadway at the start of each brake application. Stops, other than spike stops, are made without any part of the vehicle leaving the roadway. Except as noted below, stops are made without lockup of any wheel at speeds greater than 10 mph. There may be controlled lockup on an antilock-equipped axle, and lockup of not more than one wheel per vehicle, uncontrolled by an antilock system. (Dual wheels on one side of an axle are considered a single wheel.) Locked wheels at speeds greater than 10 mph are allowed during spike stops (but not spike check stops), partial failure stops and inoperative brake power or power assist unit stops.

16. Section S7 is amended by inserting the word "applicable" before the word "requirements" in the first sentence and inserting the following sentence after the first sentence, "(For vehicles only having to meet the requirements of S5.1.2 and S5.1.3 in section S5.1, the applicable test procedures and sequence are S7.1, S7.2, S7.4, S7.9, S7.10 and S7.18.)"

17. Section S7.5 is revised to read:

S7.5 *Service brake system—second effectiveness test.* Repeat S7.3. Then (for passenger cars and other vehicles with a GVWR of 10,000 lbs. or less) make four stops from 80 mph if the speed attainable in 2 miles is not less than 84 mph.

18. Section S7.7.1.3 (a) and (b) are revised to read:

(a) In the case of a passenger car or other vehicle with a GVWR of 10,000 lbs. or less, not more than 125 pounds for a foot-operated system, and not more than 90 pounds for a hand-operated system; and

(b) In the case of a school bus with a GVWR greater than 10,000 lbs. not more than 150 pounds for a foot-operated system, and not more than 125 pounds for a hand-operated system.

19. Section S7.8 is amended by adding the following sentence after the first sentence, "(This test is not applicable to a vehicle which both has a GVWR of not less than 8,000 pounds and not greater than 10,000 pounds and is not a school bus.)"

20. Section S7.10.2 is amended to delete the words "passenger cars only" from the title of the section.

21. Tables II and III are revised to read:

Table II.—*Stopping Distances*

Vehicle test speed (miles per hour)	Stopping distance in feet for tests indicated														
	I				II			III				IV		
	1st (preburnish) and 4th effectiveness; spike effectiveness check				2d effectiveness			3d (lightly loaded vehicle) effectiveness				Inoperative brake power and power assist unit; partial failure		
	(a)	(b)	(c)	(d)	(a)	(b) and (c)	(d)	(a)	(b)	(c)	(d)	(a)	(b) and (c)	(d)
30	[1]57	[1]65	[1, 2]69 (1st) [1, 2]65 (4th and spike) [1]72	[1]88	[1]54	[1]57	[1]88	51	57	65	88	114	130	170
35	74	83	91	132	70	74	132	67	74	83	132	155	176	225
40	96	108	119	173	91	96	173	87	96	108	173	202	229	288
45	121	137	150	218	115	121	218	110	121	137	218	257	291	358
50	150	169	185	264	142	150	264	135	150	169	264	317	359	435
55	181	204	224	326	172	181	326	163	181	204	326	383	433	530
60	[1]216	[1]242	[1]267	[1]388	[1]204	[1]216	[1]388	[1]194	[1]216	[1]242	[1]388	[1]456	[1]517	[1]613
80	[1]405	[1]459	[1]510	NA	[1]383	NA	NA	NA	NA	NA	NA	NA	NA	NA
95	[1]607	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
100	[1]673	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

[1] Distances for specified. [2] Applicable to school buses only. NA = Not applicable.

NOTE.—(a) Passenger cars; (b) vehicles other than passenger cars with GVWR of less than 8,000 lbs; (c) vehicles with GVWR of not less than 8,000 lbs and not more than 10,000 lbs; (d) vehicles with GVWR greater than 10,000 lbs.

Table III.—Inoperative Brake Power Assist and Brake Power Units

Stop No.	Average deceleration, FPSPS				Equivalent stopping distance, feet			
	Column 1—brake power assist		Column 2—brake power unit		Column 3—brake power assist		Column 4—brake power unit	
	(a)	(b) and (c)	(a)	(b) and (c)	(a)	(b) and (c)	(a)	(b) and (c)
1	16.0	14.0	16.0	13.0	242	277	242	298
2	12.0	12.0	13.0	11.0	323	323	298	352
3	10.0	10.0	12.0	10.0	388	388	323	388
4	9.0	8.5	11.0	9.5	431	456	352	409
5	8.0	7.5	10.0	9.0	484	517	388	431
6	7.5	6.7	9.5	8.5	517	580	409	456
7	[1]7.0	[1]6.0	9.0	8.0	554	646	431	484
8	NA	NA	8.5	7.5	NA	NA	456	517
9	NA	NA	8.0	7.0	NA	NA	484	554
10	NA	NA	7.5	6.5	NA	NA	517	596
11	NA	NA	[1]7.0	[1]6.0	NA	NA	554	646

[1] Depleted. (a) Passenger cars; (b) vehicles other than passenger cars with GVWR of 10,000 lbs or less; (c) vehicles with GVWR greater than 10,000 lbs; NA = Not applicable.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 22, 1980.

Joan Claybrook,
Administrator.

[FR Doc. 80-40437 Filed 12-23-80; 11:46 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 250

Fisheries Loan Fund

AGENCY: National Marine Fisheries Service/National Oceanic and Atmospheric Administration.

ACTION: Final regulations.

SUMMARY: These regulations implement the Fisheries Loan Fund, as authorized and established by Section 4 of the Fish and Wildlife Act of 1956, as amended. 16 U.S.C. 742(c). The purpose of the Fisheries Loan Fund is to make loans for financing or refinancing the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear. These regulations establish procedures for administering the Fisheries Loan Fund Program, and for filing, processing, reviewing and approving Fisheries Loan Fund applications.

EFFECTIVE DATE: These regulations shall be effective January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Service Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Telephone (202) 634-7496.

SUPPLEMENTARY INFORMATION: Section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742(c)), established the Fisheries Loan Fund program to make loans for financing or refinancing the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used commercial fishing vessels or gear. The broad objective of the fund is to provide reasonable financial assistance not otherwise available to commercial fishermen to enable them to maintain, operate, or upgrade commercial fishing vessels and gear.

The Fisheries Loan Fund presently contains a balance of approximately six million dollars which has been appropriated and authorized by Congress but which has been subject to administrative moratorium since 1973. On October 21, 1980, Pub. L. 96-478 extended the life of the Fisheries Loan Fund to September 30, 1982. Shortly thereafter, the Secretary of Commerce announced that the balance of the Fisheries Loan Fund would be used to provide assistance to those fishermen with federally guaranteed financing who were adversely affected by the current economic downturn in their fisheries. Specific reference was made to the Gulf of Mexico and South Atlantic shrimp fishery and to fishermen whose vessel financing was guaranteed by the United States under the Fishing Vessel Obligation Guarantee Program (authorized by Title XI of the Merchant Marine Act, 1936).

These new regulations lift the previously created moratorium and set forth a revised application process and procedure for the Fisheries Loan Fund Program. These regulations are consistent with the American Fisheries Promotion Act which was signed by the President on December 23, 1980. The priorities established by the American Fisheries Promotion Act will be complied with in these regulations. Due to the limited amount of fund lending capital, no loan applications will presently be accepted from applicants whose vessel financing was not guaranteed by the United States under the Fishing Vessel Obligation Guarantee Program authorized by Title XI of the Merchant Marine Act, 1936, as amended.

It is anticipated that additional funds will be available for loans to the commercial fishing industry in 1981. Upon receipt of the authority to obligate these additional funds, these regulations will be amended to reflect the additional priorities enumerated in the American Fisheries Promotion Act.

The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, has made the initial determination which was concurred in by the Administrator, that these regulations are non-significant under Executive Order 12044. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental impact statement under the National Environmental Policy Act.

Dated: December 29, 1980.

William H. Stevenson,
Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

Accordingly, 50 CFR Part 250 is hereby deleted in its entirety and the following regulations are promulgated in lieu thereof:

SUBCHAPTER F—AID TO FISHERIES

Part 250—Fisheries Loan Fund Procedures

Subpart A—Introduction

Sec.
250.1 Purpose.
250.2 Definitions.
250.3 Interpretation of loan authorizations and priority.

Subpart B—Application

250.4 Eligibility.
250.5 Financial requirements.
250.6 Application processing and procedures.

Subpart C—Loans

250.7 Approval.
250.8 Amount.
250.9 Interest.
250.10 Maturity.
250.11 Security.
250.12 Insurance.
250.13 Inspection of property.
250.14 Books, records and reports.
250.15 Modification.

Subpart D—Default and Remedies

250.16 Default.
250.17 Remedies after default.

Authority: 70 Stat. 1121, as amended; 16 U.S.C. 742c, as amended, and reorganization Plan No. 4 of 1970.

Subpart A—Introduction

§ 250.1 Purpose.

These regulations implement the provisions of Section 4 of the Fish and Wildlife Act of 1956, as amended. Section 4 creates a fisheries loan fund to be used as a revolving fund to make loans for financing or refinancing the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear. The broad objective of the fund is to provide reasonable financial assistance not otherwise available to commercial fishermen to enable them to maintain, operate, or upgrade commercial fishing vessels and gear.

§ 250.2 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) Secretary. The Secretary of Commerce or his authorized representative.

(b) Act. The Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742(c)).

(c) Person. Individual, association, partnership or corporation, any one or all as the context requires.

(d) State. Any State, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(e) Citizen of the United States.

(1) Any person who is a United States citizen by law, birth, or naturalization; (2) any State, any agency of a State, or a group of States; (3) any partnership or association organized under the laws of any State whose members are United States citizens; or (4) any corporation organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least seventy-five percent (75%) of the interest in the corporation owned by citizens of the United States. Seventy-five percent (75%) of the interest in the corporation shall not be deemed to be owned by citizens of the United States if:

(i) The title of seventy-five percent (75%) of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(ii) Seventy-five percent (75%) of the voting power in such corporation is not vested in citizens of the United States;

(iii) Through any contract or understanding it is so arranged that more than twenty-five percent (25%) of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(iv) By any other means whatsoever, control of any interest in the corporation in excess of twenty-five percent (25%) is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(f) National of the United States. (1) Any person who is a United States national by law or birth; (2) any partnership or association organized under the laws of any State or American Samoa whose members are United States nationals or any corporation organized under the laws of any State or American Samoa:

(i) which has as its president or other chief executive officer and as its chairman of the board of directors a person who is a United States citizen or national, (ii) in which no more of its directors than a minority of the number necessary to constitute a quorum are non-nationals and non-citizens, and (iii) in which at least seventy-five percent (75%) of the interest therein is owned by nationals of the United States, citizens of the United States, or both. Seventy-five percent (75%) of the interest in a corporation shall not be deemed to be owned by nationals of the United States, citizens of the United States, or both, (A) if the title to seventy-five percent (75%) of its stock is not vested in such nationals or citizens free from any trust or fiduciary obligation in favor of any person not a national or citizen of the United States; or (B) if seventy-five percent (75%) of the voting power in such corporation is not vested in nationals of the United States, citizens of the United States, or both; or (C) if through any contract or understanding it is so arranged that more than twenty-five percent (25%) of the voting power may be exercised, directly or indirectly, on behalf of any person who is not a national or citizen of the United States; or (iv) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a national or citizen of the United States.

(g) Commercial fishing vessel. Any vessel, boat, ship, or other craft which is (1) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (2) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

(h) Fishing gear. Any equipment used by a commercial fishing vessel, whether or not such equipment is attached to the vessel.

(i) Fund. The Fisheries Loan Fund established under 16 U.S.C. 742(c), as amended.

(j) Obligation. Any note, bond, debenture, or other evidence of indebtedness.

(k) Obligor. Any owner or operator of a commercial fishing vessel who is primarily liable for payment of principal of or interest on any obligation.

(l) Fishery. A segment of the commercial fishing industry engaged in the catching of a single species or a group of species of fish or shellfish. Any species other than those comprising the fishery must be caught incidentally while fishing for and using gear designed for the capture of the species comprising the fishery.

§ 250.3 Loan authorization and priority.

(a) Loans may be made from the Fund for financing or refinancing the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear, except as limited by subsection (b)(3) of this subsection, including, but not limited to loans to assist obligors to make installment payments on existing mortgages or obligations incurred in connection with the above purposes.

(b) The fund shall not be used to make loans for—

(1) Any phase of a shore operation;

(2) Refinancing (i) existing loans that are not secured by a commercial fishing vessel or gear, or (ii) debts which are not maritime liens within the meaning of subsection P of the Ship Mortgage Act of 1920, as amended (46 U.S.C. 971);

(3) The purchase or construction of a new or used commercial fishing vessel which will not replace an existing commercial fishing vessel, except in those instances where the Secretary first determines that the applicant's contemplated operation of such vessel in a fishery will not cause economic hardship or injury to the efficient vessel operators already operating in that fishery. In making such determination, the Secretary shall take into consideration the condition of the fishery, the efficiency of the commercial fishing vessels and gear being operated in that fishery compared with that of the proposed commercial fishing vessel, the prospects of the market for the species comprising the fishery, and the degree and duration of any anticipated economic hardship;

(4) Repair or purchase of commercial fishing vessels or gear where such vessels or gear are not offered as collateral for the loan by the applicant; or

(5) Financing a new business venture in which the controlling interest is owned by a person or persons who are not currently engaged in commercial fishing.

(c) *Priority.* A priority shall be granted to assist obligors to avoid default on obligations that were issued for the construction, reconstruction, reconditioning or purchase of fishing vessels and that were guaranteed by the United States under the Fishing Vessel Obligation Guarantee Program authorized by Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280, the "FVOG Program"). Due to the limited amount of fund lending capital, no loan applications shall presently be accepted from applicants whose vessel financing was not guaranteed by the United States under the FVOG Program.

Subpart B—Application

§ 250.4 Eligibility.

A loan applicant shall be eligible under this program if such applicant is a citizen or national of the United States (as defined in § 250.2 (e) or (f)) and:

(a) Resides in or conducts business in any state;

(b) Owns, operates, or will own a commercial fishing vessel or gear used, or to be used, directly in the conduct of commercial fishing operations;

(c) In the case of a fishery marketing cooperative, is engaged in marketing all catches of fish or shellfish by its members pursuant to contractual or other enforceable arrangements which empower the cooperative to exercise full control over the conditions of sale of all such catches and disburse the proceeds from all such sales; and

(d) Can demonstrate to the satisfaction of the Secretary that he has substantial experience and proven ability in the management and financing of fishing operations, the resources and other qualifications necessary for the operation and maintenance of a new or used commercial fishing vessel or gear in the intended fishery of operation, and that the loan is likely to result in the continued viability of the commercial fishing operation.

§ 250.5 Financial requirements.

To qualify for a loan, the applicant must submit at the time of application, and as subsequently required by the Secretary, financial information satisfactory to the Secretary that:

(a) The security or collateral for a loan is adequate to provide reasonable assurance of repayment. The security or collateral must be of such sufficiency, considering the integrity and ability of the applicant, and the applicant's past and prospective earnings, that repayment of the loan will be reasonably assured;

(b) The financial assistance applied for is not otherwise available at reasonable rates which permit continued operation. The financial assistance applied for shall be deemed to be otherwise available at reasonable rates which permit continued operation unless an applicant can show:

(1) Proof of refusal of the desired credit from the applicant's bank. Such proof of refusal must contain the date, amount, and term requested; and, if the loan applied for is in excess of the legal lending limit of the applicant's bank or in excess of the amount that such bank normally lends to any one borrower, then proof of refusal must be obtained from a correspondent bank or other lending institution which has the lending capacity to cover the loan applied for; and

(2) That credit is otherwise unavailable on reasonable terms from sources other than such banks, as from (i) the disposal at a fair price of assets not required by the applicant in the conduct of his business or not reasonably necessary to its potential growth; or (ii) use of personal credit and/or resources of the owner, partners, management, affiliates or principal stockholders of the applicant; or (iii) from other known sources of credit.

Bank refusals to advance credit will not be considered the full test of unavailability of credit where there is knowledge or reason to believe that credit is otherwise available on reasonable terms from sources other than such banks. *Provided that,* in the case of an application by an obligor whose obligation is guaranteed under the FVOG Program, proof of the refusal of the obligor's bank to extend further credit on behalf of the obligor may constitute proof that the credit applied for is not otherwise available on reasonable terms;

(c) In making the aforementioned determinations, and any others associated with economic or financial considerations, the Secretary may consider, among other factors, current economic conditions within a fishery.

§ 250.6 Application processing and procedures.

(a) *Forms.* Applicants shall file an application furnished by the National Marine Fisheries Service with the Regional Branch of the National Marine Fisheries Service's Financial Service's Division in the region in which the applicant conducts his business. The respective Regional office addresses follow:

Northeast Region

(Maine, Massachusetts, Rhode Island, Connecticut, New Hampshire, New York, New Jersey, Delaware, Maryland, Virginia)

Financial Services Branch, National Marine Fisheries Service, Post Office Building, Box 1109, Gloucester, Massachusetts 01930
(617) 281-3600

Southeast Region

(North Carolina, South Carolina, Georgia, Florida, Alabama,

Mississippi, Louisiana, Texas, Puerto Rico, Virgin Islands)
Financial Services Branch, National Marine Fisheries Service, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702 (813) 893-3271

Southwest Region

(California, Hawaii, American Samoa, Guam, Trust Territory of Pacific Islands)
Chief, Fisheries Development Division, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213) 548-2575

Northwest Region

(Washington, Oregon, Alaska)
Financial Services Branch, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109 (206) 442-5532

(b) *Processing of Applications.* If the application is complete and in conformity with the Act and this Part 250, the Regional Financial Services office will then conduct an investigation of the applicant. Upon completion of the investigation, a decision will be made and the Regional Financial Services office will inform the applicant.

(c) *Purchase or construction loans.* When the Secretary determines that an application is eligible on its face for the purchase or construction of a new or used commercial fishing vessel that will not replace an existing commercial fishing vessel, a notice shall be published in the **Federal Register** that such application is being considered and all interested parties will be given a period of 30 days to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operations already in that fishery. If such evidence is received, the Secretary shall evaluate it along with such other evidence as may be available to him before making a determination that the contemplated operation of the vessel will or will not cause such economic injury or hardship. The foregoing procedure will not apply in cases where the applicant seeks to replace a commercial fishing vessel lost or destroyed within 2 years of the date of the application.

Subpart C—Loans

§ 250.7 Approval.

The Secretary will evidence his approval of the loan by issuing a loan authorization covering the terms and conditions relating to the loan. Documents executed in connection with a loan shall be in a form and substance approved by the Secretary. Applicants whose applications are not approved will be so notified by a letter sent from the appropriate Financial Services office.

§ 250.8 Amount of Loan.

The amount of loan requested in an application may be limited from time to time in order to prevent the exhaustion of funds available for loans and to assure that fund monies will be used as effectively as possible. Loan amount limitations (and other requirements) will be effected by instructions from the Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C.

§ 250.9 Interest.

The rate of interest on all loans made under these regulations shall be fixed at a rate not more than the rate determined by the Secretary to be sufficient to cover the costs of processing and servicing the loans. The rate of interest shall be determined and reviewed periodically by the Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C.

§ 250.10 Maturity.

The maturity of any loan shall be determined by the Secretary and fixed according to the circumstances, but the date of maturity so fixed shall not exceed 10 years, except in the case where a loan is for all or part of the costs of constructing a new commercial fishing vessel, in which case the maturity may be up to 14 years.

§ 250.11 Security.

Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured. In making the aforementioned determinations, the Secretary may consider, among other factors, current economic conditions within a fishery.

§ 250.12 Insurance.

(a) If insurance of any type is required on property under the terms of a loan authorization or mortgage it must be in a form approved by the Secretary and obtained from an underwriter, satisfactory to the Secretary, which meets at least one of the following requirements:

(1) An underwriter licensed by an insurance regulatory agency of a State to write the required form of insurance.

(2) A foreign insurance company or club operating in the United States that has deposited funds in an amount and manner satisfactory to the Secretary in a bank chartered under the laws of a State or the United States of America, or in a trust fund satisfactory to the Secretary, which funds are solely for the payment of insurance claims on United States vessels or other insured assets.

(3) A reciprocal or interinsurance exchange licensed by an insurance regulatory agency of a State to write the required form of insurance.

(4) An insurance pool composed entirely of owners and operators of commercial fishing vessels.

(b) Any underwriter (including a company, club, or pool) writing insurance shall furnish such reasonable financial or operating data as the Secretary may require to determine the standing and responsibility of said underwriter.

§ 250.13 Inspection of property.

The Secretary or any duly authorized agent of the Secretary shall have access at all reasonable times to all vessels or other security with respect to which a loan has been granted or for which an application for loan has been filed.

§ 250.14 Books, records and reports.

The Secretary shall have the right to inspect such books and records, including tax returns, of the applicant as the Secretary in his discretion may deem necessary. The Secretary may also require periodic reports to be submitted by a loan recipient.

§ 250.15 Modification.

Subject to the specific limitations of the Act, the Secretary may consent to the modification of any loan contract to which he is a party, with respect to any terms or conditions of such contract, including the rate of interest, the time of payment of any installment of principal, or the security for the loan. Any modification of the terms or conditions of a loan following its execution must be agreed to in writing by the borrower and the Secretary.

Subpart D—Default and Remedies

§ 250.16 Default.

Unless otherwise provided in the loan documents, failure on the part of the borrower to conform to any of the terms or conditions of the Act, these regulations, or the loan documents will be deemed to constitute a default.

(a) *Payment default.* In the case of any default in the payment of principal or interest on the loan, the Secretary may, if the default shall have continued for 30 days, demand payment and declare the entire amount of the loan immediately due and payable.

(b) *Security default.* If a default occurs under the terms of the Act, these regulations, or any contract which is other than a payment default, the Secretary shall have the discretion to declare such default a security default, and may notify the borrower of such security and set an appropriate time within which the borrower shall cure such default. If such security default is not cured within the time allowed, the Secretary may demand payment and declare the entire amount of the loan immediately due and payable.

(c) In the case of either a payment default or a security default, the Secretary may immediately, upon notification of such default, discontinue any further disbursement of loan funds to the borrower.

§ 250.17 Remedies after default.

Provisions governing remedies after default shall be included in the loan documents. Upon default, the Secretary may cause any one or all of the following steps to be taken:

(a) Take possession of any or all collateral given as security for the loan including the commercial fishing vessel or gear for which the funds were borrowed.

(b) Initiate or participate in legal proceeding of any type against the borrower or the security, including foreclosure.

(c) Pursue any or all remedies provided by law in equity or as provided for in any Preferred Ship Mortgage or other loan agreement entered into between the Secretary and the applicant.

[FR Doc. 80-40681 Filed 12-31-80; 8:45 am]

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Proposed Rules

Federal Register
Vol. 46, No. 1
Friday, January 2, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-80-38]

Emergency Interconnection of Electric Facilities and the Transfer of Electricity To Alleviate an Emergency Shortage of Electric Power

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking regarding the issuance of regulations pursuant to sections 202(c) and 202(d) of the Federal Power Act. Section 202(c) authorized the Federal Power Commission to order, upon application or on its own motion, a temporary connection of facilities and the generation, delivery, interchange, or transmission of electric energy necessary to alleviate an emergency shortage of electric power. Section 202(d) authorizes an entity that is not otherwise subject to the jurisdiction of the Commission to establish temporary emergency connections without thereby becoming subject to the jurisdiction of the Commission and, upon approval by the Commission, to construct under the same conditions, a permanent connection that would only be for emergency use. The Department of Energy Organization Act transferred the responsibilities under sections 202(c) and 202(d) of the Federal Power Act to the Secretary of Energy. This authority has been delegated by the Secretary to the Administrator of the Economic Regulatory Administration and subsequently to the Assistant Administrator for Utility Systems of the Economic Regulatory Administration. The rules proposed herein will supersede 18 CFR 32.20–32.23 and 32.60–32.62 which ERA has been following pursuant to section 705 of the DOE Organization Act. ERA in this rulemaking is proposing to make some changes and additions in an effort to clarify those situations which constitute an emergency within the meaning of sections 202(c) and 202(d) of the Federal Power Act. These new regulations will be published in Title 10 of the Code of Federal Regulations, §§ 205.370–205.379.

DATES: Written comments must be received by February 13, 1981, 4:30 p.m., e.s.t. A public hearing will be held in Washington, D.C. beginning at 9:30 a.m., local time, on the date and location specified below: Hearing date: Jan. 15, 1981. Request to testify to be received by Jan. 8, 1981.

ADDRESSES: Written comments should be addressed to Public Hearings Division, Economic Regulatory Administration, Department of Energy, Room B-210, 2000 M Street, NW, Washington, D.C. 20461 (Docket No. ERA-R-80-38).

Hearing Location: Room 2105, 2000 M Street, Washington, D.C. 20461

Submit request to testify to: Dorothy Hamid, Public Hearing Div., Economic Regulatory Administration, Department of Energy, B-210, 2000 M Street, NW, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Office of Utility Systems, Economic Regulatory Administration, Department of Energy, Room 4110, 2000 M Street, NW, Washington, D.C. 20461 (202) 653-3625

Lise Cortney M. Howe, Office of General Counsel, Department of Energy, Room 5E-064, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585 (202) 252-2900

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, NW, Washington, D.C. 20461 (202) 653-4055

Cynthia Ford, Director, Public Hearings Division, Economic Regulatory Administration, Department of Energy, Room B-210, 2000 M Street, NW, Washington, D.C. 20461 (202) 653-3971

SUPPLEMENTARY INFORMATION:

I. Background and Purpose
II. Environmental Analysis
III. Significance Review
IV. Proposed Rule
V. Comment Procedures
  A. Written Comments
  B. Public Hearing

I. Background and Purpose

On October 1, 1977, the authority to issue orders for emergency interconnection of electric facilities and the transfer of electricity to alleviate an emergency shortage of electric power under the provisions of sections 202(c) and 202(d) of the Federal Power Act was transferred to and vested in the Secretary of Energy pursuant to sections 301 and 402(f) of the DOE Organization Act. This responsibility was delegated to the Administrator of the Economic Regulatory Administration by the DOE Delegation Order No. 0204-4 (42 FR 60726).

The Economic Regulatory Administration advises that it is herein proposing regulations relating to emergency interconnections and transfers of electricity to alleviate an emergency shortage of electric power. The new regulations will be incorporated into 10 CFR 205.370 through 205.379.

II. Environmental Analysis

DOE's Assistant Secretary for the Environment is reviewing these proposed regulations pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 to determine if the proposed action constitutes a major Federal action significantly affecting the quality of the human environment. The final rules will not be issued until DOE has determined that no environmental impact statement is required or until one has been prepared if it is determined to be necessary.

III. Significance Review

DOE has determined that this is not a significant regulation and that it will not have a major impact within the meaning of the DOE procedures implementing Executive Order 12044 on "Improving Government Regulations" (DOE Order 2030.1, 44 FR 1032, January 3, 1979). Therefore, a regulatory analysis is not required for this proposed regulation.

DOE further has determined that the proposed regulation will not affect substantially the goals of the National Energy Plan and is not of major concern to the public, the Congress, and the President. In addition, analysis shows the regulations would not result in any incremental costs in excess of $100 million per year. The impact of the proposed rules is expected to be minor because the frequency of occurrence of an emergency will not be affected. Since the creation of DOE in 1977, six applications have been filed requesting emergency interconnections or transfers of electricity. It is not anticipated that the proposed rules will affect the number of such applications.

IV. Proposed Rule

The proposed rule changes the existing rules as follows:

a. All references to "the Commission" have been changed to "DOE" in accordance with the DOE Organization Act.

b. § 205.370, Applicability, specifies the parties from whom applications under these regulations will be accepted, including State Public Utility Commissions, State Energy Agencies, or Governors.

c. § 205.371, Definition of Emergency, has been expanded to clarify those situations which constitute an emergency for which DOE will exercise its authority under section 202(c).

d. A filing fee will no longer be required for an application under these rules.

e. Two conformed copies of applications will be required instead of six.

f. Copies of applications, reports and responses to applications will be required to be served on the Federal Energy Regulatory Commission, the appropriate state government agencies and the appropriate Regional Electric Reliability Council.

g. A telephone number of the person to be contacted with respect to an application will be required.

h. § 205.373(d) specifies new baseline data which must be reported. This data includes daily peak load and energy requirements, receipts and deliveries of capacity and energy, and the status of interruptible customers both for each of the past 30 days and for each day of the expected duration of the emergency.

i. The scale of the key map requried to be furnished is changed to not greater than 100 kilometers to the centimeter rather than 33 miles to the inch.

j. If the parties are unable to agree on the rates to be charged, the DOE will remand the rates issue(s) to the Federal Energy Regulatory Commission (FERC). The costing methods utilized will be those prescribed by the FERC and are not detailed in the proposed rule.

k. All entities ordered to temporarily interconnect their transmission facilities will be required to report within 15 days of completing such interconnection, giving the date of completion, location, description and a one-line electric diagram of the interconnection.

l. Where DOE has authorized a permanent connection for emergency use only, any use of such facilities must be reported withing 24 hours. The exact information that DOE will require to supplement such notification will be prescribed on a case-by-case basis and is not specified in the proposed rule.

m. A 30-day period is specified in which to disconnect and remove any temporary facilities ordered by DOE, or, in the alternative, to apply for permanent connection for emergency use only. The involved parties are required to notify DOE when this removal of facilities is accomplished.

n. Factors to be considered by DOE in declaring an emergency are not included in the proposed rule. DOE feels that the electric utility operating environment is to diverse and dynamic to anticipate which factors are necessary to make a determination in a specific situation. DOE intends to utilize all available data and consider each application as a unique set of circumstances. However, DOE will consider the impact of any order pursuant to section 202(c) on the supplying and transmitting systems and their customers.

V. Comment Procedures

A. Written Comments

The public is invited to submit written comments with respect to the regulations to the Public Hearings Division, Economic Regulatory Administration, Room B-210, 2000 M Street, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation, "Emergency Interconnection and Electricity Transfer Rule, Docket No. ERA-R-80-38."

Five copies should be submitted. All written comments and related information must be received by the Department of Energy by February 13, 1981, in order to ensure consideration.

B. Public Hearing

(1) Request Procedure. The time and place for the hearings are indicated in the "DATES" section of this notice. The public is invited to make a written request for an opportunity to make an oral presentation. If selected to be heard, you will be notified by DOE before 4:30 p.m., 8 days before the hearing. Persons selected to testify at the hearing should bring 100 copies of their statement to the Public Hearings Division, Room B-210, 2000 M Street by 4:30 p.m., the day before the hearing.

(2) Conduct of Hearing. DOE reserves the right to select the persons to be heard at this hearing (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked by only those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person at the hearing who wishes to ask a question may submit the question(s), in writing, to the presiding officer. The presiding officer will determine whether these questions are relevant and whether time limitations permit them to be presented for answers. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the Freedom of Information Office, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, and at the Office of Public Information, Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461.

In the event that it becomes necessary to cancel the hearing, every effort will be made to publish advance notice of the cancellation in the **Federal Register**, and DOE will notify all persons scheduled to testify at the hearing.

Since it is generally not possible to give actual notice of cancellations or changes to persons not participating, those persons desiring to attend a hearing are advised to contact DOE on the last working day before the hearing to confirm that it will be held as scheduled.

In consideration of the foregoing, the Department of Energy proposes to amend Part 205 of Chapter II, Title 10, Code of Federal Regulations, to read as set forth below.

Issued in Washington, D.C., on December 9, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Part 205, Chapter II of Title 10, Code of Federal Regulations, is amended by adding §§ 205.370 through 205.379 under Subpart W.

Subpart W—Emergency Interconnection of Electric Facilities and the Transfer of Electricity To Alleviate an Emergency Shortage of Electric Power

Sec.
205.370 Applicability.
205.371 Definition of emergency.
205.372 Filing procedures; number of copies.
205.373 Application under 202(c).
205.374 Responses from entities designated in the application.
205.375 Guidelines defining inadequate fuel or energy supply.
205.376 Rates and charges.
205.377 Reports.
205.378 Disconnection of temporary facilities.
205.379 Application for approval of the installation of permanent facilities for emergency use only.

Authority: Department of Energy Organization Act, Public Law 95–91, 91 Stat. 5[illegible] (42 U.S.C. 7101). Federal Power Act, Public Law 66–280, 41 Stat. 1063 (16 U.S.C. 7[illegible]1).

Subpart W—Emergency Interconnection of Electric Facilities and the Transfer of Electricity To Alleviate an Emergency Shortage of Electric Power

§ 205.370 Applicability.

Section 202(c) of the Federal Power Act is applicable to any entity which owns or operates electric power generation, transmission or distribution facilities. Therefore, DOE has the authority to order the temporary connection of facilities, the generation, or the delivery of electricity that it deems necessary to alleviate an emergency. Such orders shall be effective for the time specified and subject to any terms and conditions DOE specifies. DOE retains the right to cancel, modify or otherwise change any order, with or without notice, hearing, or report. Requests for action under these regulations will be accepted from any entity having the capability to generate, transmit or distribute electric energy, any State Public Utilities Commission, State Energy Agencies, or Governor. Also, the DOE may initiate action under these regulations on its own motion.

§ 205.371 Definition of emergency.

"Emergency," as used herein, is defined as the failure of facilities for the generation or transmission of electric energy caused by unexpected outages or breakdown, weather conditions, acts of God, or unforeseen occurrences not reasonably within the power of the affected utility to prevent. An emergency can result from a sudden increase in customer demand, physical failure of equipment for the generation or transmission of electricity, inability to obtain adequate amounts of necessary fuel to generate electricity, or regulatory action which prohibits use of some facilities. Such events will make it impossible for a utility or other entity to provide adequate electric service to its customers.

Situations where a shortage of electric energy is projected due to the failure of parties to agree to terms, conditions or other economic factors relating to service generally will not be considered as emergencies.

§ 205.372 Filing procedures; number of copies.

An original and two conformed copies of applications and reports required under sections 205.370 through 205.379 shall be filed with the Office of Utility Systems of the Economic Regulatory Administration. Copies of all documents shall be furnished to the Federal Energy Regulatory Commission, any regulatory body that may exercise jurisdiction over any aspect of the proposed action, each entity designated as a potential source of emergency assistance or as a potential supplier of transmission services, the National Electric Reliability Council, and the appropriate Regional Electric Reliability Council.

§ 205.373 Application under 202(c).

Every application under section 202(c) of the Federal Power Act shall set forth the following information in the order indicated below:

(a) The exact legal name of the applicant and of all other persons named as parties in the application.

(b) The name, title, post office address, and telephone number of the person to whom correspondence in regard to the application shall be addressed.

(c) The political subdivision in which each entity named in the application operates, together with a brief description of the area served and business conducted in each location.

(d) Each application shall include the following baseline data:

(1) Daily peak load and energy requirements for each of the past 30 days and projection for each day of the expected duration of the emergency;

(2) All capacity and energy receipts or deliveries to other utilities and other entities and other entities with cogeneration facilities for each of the past 30 days indicating the classification for each transaction;

(3) The status of all interruptible customers for each of the past 30 days and the anticipated status of these customers for each day of the expected duration of the emergency considering both the granting and the denial of the relief requested herein;

(4) All scheduled capacity and energy receipts or deliveries to other utilities and other entities with cogeneration facilities for each day of the expected duration of the emergency.

(e) A description of the situation and a discussion of why this is an emergency, including any background information necessary for DOE to understand the situation.

(f) A showing that adequate electric service to firm customers cannot be maintained without additional capacity or energy transfers. The effects of any available or implemented conservation and curtailment actions must be presented.

(g) A description of any efforts made to obtain additional power and energy through voluntary means.

(h) A listing of proposed source(s) and amounts of power and energy necessary from each source to alleviate the emergency.

(i) Specific proposal(s) to compensate the generating system for the emergency services requested and to compensate any transmitting system for services necessary to deliver such generation.

(j) Description of the facilities to be used to transfer the requested emergency service to the applicant's system.

(1) If a temporary interconnection is independently proposed, the following additional information shall be supplied for each such interconnection: (i) proposed location; (ii) needed thermal capacity of the interconnection; (iii) type of emergency services(s) requested, including anticipated duration; (iv) an electrical oneline diagram; and (v) a description of all necessary material and equipment.

(2) If the requested emergency electric energy is to be supplied over existing facilities, the following information shall be supplied for each existing interconnection: (i) location; (ii) thermal capacity of interconnection facilities; and (iii) type and duration of emergency service(s) requested.

(k) A general or key map on a scale not greater than 100 kilometers to the centimeter showing, in separate colors, the territory served by each entity named in the application; the location of the facilities to be used for the generation and transmission of the requested emergency service; and all connection points between systems.

(l) An estimate of the construction costs of any proposed temporary facilities and a statement estimated the expected operation and maintenance costs on an annualized basis.

(m) Applicants may be required to furnish such supplemental information as the DOE may deem pertinent.

§ 205.374 Responses from entities designated in the application.

Each entity, designated as a potential source of emergency assistance or as a potential supplier of transmission services and who has been served with a copy of the application under § 205.372, shall submit their responses to DOE within 10 calendar days of such service unless otherwise directed by DOE. This response shall include an analysis of the impact the requested action would have on their system reliability and their ability to supply customers on their own system. The effects of the requested action on the ability to serve firm loads shall be clearly distinguished from the ability to serve contractually interruptible loads. Copies of this response shall be served on the applicant, the Federal Energy Regulatory Commission, any regulatory body that may exercise jurisdiction over any aspect of the proposed action, the National Electric Reliability Council, and the appropriate Regional Electric Reliability Council.

§ 205.375 Guidelines defining inadequate fuel or energy supply.

(a) An inadequate utility system fuel inventory or energy supply is a matter of managerial and engineering judgment. Fuels in stock, fuels en route, transportation time, constraints on available storage facilities and other factors must be considered in determining an inadequate fuel inventory. A system may be considered to have an inadequate fuel or energy supply capability when one or more of the below listed conditions exist and the projected energy deficiency upon the applicant's system, without emergency action by DOE, will equal or exceed 10 percent of the applicant's then normal daily net energy for load, or will cause applicant to be unable to meet its normal peak load requirements based upon use of all of its otherwise available resources. Such energy deficiency must otherwise require the applicant to be unable to supply adequate electric to its ultimate customers:

(1) System coal stocks are reduced to 30 days (or less) of normal burn days and a continued downward trend in stock is projected;

(2) System residual oil stocks are reduced to 15 days (or less) of normal burn days and a continued downward trend in stocks is projected:

(3) System distillate oil stocks which cannot be replaced by alternate fuels are reduced to 15 days (or less) of normal burn days and a continued downward trend in stocks is projected:

(4) System natural gas deliveries which cannot be replaced by alternate fuels have been or will be reduced 20 percent below normal requirements and no improvement in natural gas deliveries is projected within 30 days;

(5) Delays in nuclear fuel deliveries will extend a scheduled refueling shutdown by more than 30 days; and

(6) Water supplies required for power generation have been or will be reduced 20 percent below normal requirements and no improvement in water supplies is projected within 30 days.

(b) The use of the prescribed criteria does not preclude an applicant from seeking to claim and support an emergency when its stocks of fuel or water exceed the foregoing amounts.

§ 205.376 Rates and charges.

The applicant and generating or transmitting systems from whom emergency service is requested are encouraged to utilize the rates and charges contained in approved existing rate schedules or to negotiate mutually satisfactory rates for the proposed transaction(s). In the event that DOE determines that an emergency exists under section 202(c), and the parties are unable to agree on the rates to be charged, the DOE shall prescribe the conditions of service and remand the rates issue(s) to the Federal Energy Regulatory Commission for determination by that agency.

§ 205.377 Reports.

In addition to the information specified below, the DOE may require additional reports as it deems necessary.

(a) Where the DOE has authorized the temporary connection of transmission facilities, all entities whose transmission facilities are thus temporarily interconnected shall report the following information to DOE within 15 days following completion of the interconnection:

(1) The date the temporary interconnection was completed;

(2) The location of the interconnection;

(3) A description of the interconnection; and

(4) A one-line electric diagram of the interconnection.

(b) Where the DOE orders the transfer of capacity or energy or both, the entity receiving such service shall report the following information to the DOE by the 10th of each month for the preceding month's activity for as long as such order shall remain in effect:

(1) Amounts of capacity and energy received each day;

(2) The name of the supplier;

(3) The name of an entity supplying transmission services; and

(4) Preliminary estimates of the associated costs.

(c) Where DOE has approved the installation of permanent facilities that will be used only during emergencies, any use of such facilities shall be reported to DOE within 24 hours. Details of such usage shall be furnished as deemed appropriate by DOE after such notification.

§ 205.378 Disconnection of temporary facilities.

Upon the termination of any emergency for the mitigation of which DOE ordered the construction of temporary facilities, such facilities shall be disconnected and any temporary construction removed or otherwise disposed of, unless application is made as provided in § 205.379 for permanent connection for emergency use. This disconnection and removal of temporary facilities shall be accomplished within 30 days of the termination of the emergency. DOE shall be notified promptly when such removal of facilities is completed.

§ 205.379 Application for approval of the installation of permanent facilities for emergency use only.

Application for DOE approval of a permanent connection that will be used only in emergencies shall conform with the requirements in § 205.373. However, the baseline data specified in § 205.373(d) need not be included in an application made under this section.

In addition, the application shall state in full the reasons why such permanent connection for emergency use is in the public interest.

[FR Doc. 80-40620 Filed 12-30-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 67

[Docket No. 21130; Notice No. 80–24]

Medical Standards and Certification; Issuance of Airman Medical Certificates for Certain Conditions; Hearing Postponement.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of postponement of public hearing.

SUMMARY: This notice postpones the date for a public hearing for the exchange of views by interested persons on the proposed exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions who do not initially qualify for certification under the medical standards in the Federal Aviation Regulations. At the hearing an opportunity will be given to all participants to fully discuss all matters presented at the hearing.

DATES: The public hearings will be held on February 3 and 4, 1981.

ADDRESSES: The public hearing will be held at: Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Auditorium, 3rd Floor, (202) 755–8714.

Requests to be heard should identify the docket or notice number, indicate the subject of the presentation and time required, and be sent in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Airmen and Airports Branch, AGC–240; 800 Independence Avenue, S.W., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Requests delivered must be marked "Public Hearing, Notice No. 80–24." Requests may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Donald P. Byrne, Airmen and Airports Branch, Office of the Chief Counsel, 800 Independence Avenue, S.W., Washington, D.C. 20591. Telephone (202) 426–3491.

SUPPLEMENTARY INFORMATION: On December 1, 1980, the FAA issued Notice of Proposed Rule Making No. 80–24 (45 FR 80296; December 4, 1980). The notice proposes exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions who do not initially qualify for certification under the medical standards in the Federal Aviation Regulations.

The notice also proposes to revise the medical standard for applicants who have a history or clinical diagnosis of heart disease. The revision conforms the standards to the current medical understanding of the risks, symptoms, and findings associated with the presence of heart disease.

In the same issue of the **Federal Register** (45 FR 80295), the FAA announced that it would hold a public hearing in connection with those proposals on January 6 and 7, 1981.

The FAA has received correspondence from a number of aviation organizations requesting postponement of the hearing. They have based their requests on the need for careful review of the proposals and preparation for the hearing. Several have commented that the intervening Christmas and New Year Holidays have taken time needed for preapartion. One organization also requested time to survey its membership.

In light of these comments, the FAA has determined that a one month postponement of the hearing date would be appropriate. Accordingly, the public hearing for this rulemaking action will be held on February 3 and 4, 1981.

The FAA recognizes that the comment period for Notice 80–24 closes on February 4, 1981. If it appears from the information presented at the hearing that an extension of the comment period would be appropriate, it will be announced before the close of the hearing.

Hearing Procedures

Persons who plan to attend the hearing should be aware of the following procedures, which will be followed to facilitate the workings of the hearing:

(a) The hearing will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation. After all presentations have been made, an opportunity for rebuttal will be given.

(b) The hearing will begin at 10:00 a.m. on the morning of February 3, 1981, at the Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C., in the 3rd floor auditorium. There will be no admission fee or other charge to attend and participate. All hearing sessions will be open to all persons on a space-available basis. The presiding officer may accelerate the hearing agenda to enable early adjournment if the progress of the hearing is more expeditious than planned.

(c) All hearing sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter. A copy of the court reporter's transcript will be filed in the docket. It is the FAA's intent to tape record the sessions.

(d) Position papers or other hand-out material may be accepted at the discretion of the presiding officer.

(e) Statements made by the FAA participants at the hearing should not be taken as expressing a final FAA position.

Request To Make a Presentation.

Interested persons are invited to attend the hearing and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the rules docket. Persons wishing to make oral statements at the hearing must notify the FAA on or before January 27, 1981, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come first-served basis as time may permit within the hearing schedule. Requests to be heard should indicate the subject matter of the presentation and time required, and be sent to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Airmen and Airports Branch, AGC–240, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Public Hearing Schedule:

The following is the schedule for the hearing:

February 3, 1981

Time and Topic

10:00 to 10:30—Opening Session
10:30 to 12:00—Public Presentation and Discussion
1:30 to 4:30—Public Presentation and Discussion

February 4, 1981

10:00 to 12:00—Public Presentation and Discussion
1:30 to 4:30—Public Presentation and Discussion

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.33)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

In addition, the FAA has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Washington, D.C., on December 29, 1980.

H. L. Reighard,
Federal Air Surgeon.

[FR Doc. 80-40817 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 91, 121, 125, and 135

[Docket No. 18904; Notice No. 80-27]

Transport Category Airplanes—Pitot Heat Indication Systems

December 8, 1980.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to exclude general aviation operators from the requirement to install pitot heat indication systems to indicate to the flightcrew when the pitot heating system is not operating. The requirement would be retained for commercial, air carrier, travel club, and air taxi operators. This proposal is in response to a petition from the National Business Aircraft Association (NBAA) dated January 26, 1979.

DATE: Comments must be received on or before March 5, 1981.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 18904, 800 Independence Avenue, S.W., Washington, D.C. 20591, or deliver in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. Comments delivered must be marked: Docket No. 18904. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Eli S. Newberger, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address indicated above. Comments relating to any significant environmental or economic impact that might result because of the adoption of these proposals may also be submitted. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 18904." This postcard will be date/time stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

Background

Section 91.50(a), as adopted by Amendment 91-148 (43 FR 10339), provided that after April 12, 1981, with certain exceptions, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326. Section 25.1326 requires that the indication provided must incorporate an amberlight that is in clear view of a flight crewmember, and must be designed to alert the flightcrew if either the pitot heating system is switched "off" or if the pitot heating system is switched "on" and any pitot tube heating element is inoperative. All flight operations conducted with transport category airplanes are required to meet this requirement regardless of the type of operation being conducted.

On January 26, 1979, NBAA petitioned the FAA to amend the regulations to require that only transport category airplanes operated under Part 121, 123, or 135 meet the requirement to have an operable pitot heat indication system.

A summary of the NBAA's petition was published in the Federal Register on October 18, 1979 (44 FR 60107), and there were no comments. The FAA has decided to publish the petition verbatim as part of this notice to provide all of the statements submitted by the petitioner in support of the petition.

To allow time to fully consider the NBAA petition, the FAA is suspending, by separate amendment, the April 12, 1981, compliance date for operators of transport category airplanes used in general aviation operations and not operations conducted in commercial, air carrier, travel club, and air taxi operators.

Discussion of Petition

In support of its petition, the NBAA cites cost data indicating an average cost of $2,600 per installation and states that the cost for the 4,300 affected airplanes is in excess of $11 million, which is considered excessive for a warning system that offers no guarantee that the heating system will remain operable. NBAA contends that the cost if not justified for general aviation operations applicable to private aircraft not for hire as conducted under the general flight rules in Part 91. NBAA states that the FAA's cost data cited in the preamble to Amendment 91-148 is erroneous and misleading since it implies a relatively low cost for maximum benefit. The NBAA submitted cost data in dollars, man-hours, and down time for a number of affected models of airplanes used in general aviation operations stating that those airplanes are smaller and less complex than the large transport category airplanes used in air carrier operations for hire. This information is contained in the docket.

The FAA recognizes that the petitioner may have cost data not available to the FAA and considering the time since the FAA obtained this information, the petitioner's data may be more accurate than the cost data utilized by the FAA when Amendment 91-148 was adopted. In the preamble to the rule, the FAA stated that the cost of equipment installation would be between $500 and $700 for each of the approximately 4,300 airplanes covered by the rule. The FAA concluded that because of these low cost estimates there was no reason to exclude general aviation operators from the provisions of the rule.

After reviewing the information submitted, it would be beneficial to more fully consider the direct and indirect effects of the regulation as it applies to general aviation operators. In view of the differences in cost data between the FAA and the NBAA, the FAA is soliciting specific cost data from persons submitting comments on the proposals in this notice. This is consistent with Executive Order 12044, which states that the need for and purposes of regulations are clearly established. The Executive Order also states that compliance costs and other burdens to the public should be minimized. In addition, the Executive Order requires a periodic review of existing regulations to evaluate their continued need. Although this review normally occurs after a rule has been in effect for a number of years, in this case there is a sufficient basis to complete this review before funds are expended to comply with a requirement, the need for which may not fully be established. As a result of this and recognizing that the Federal Aviation Act of 1958, and amended, requires that in prescribing regulations the Administrator shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety, there is a sufficient basis to review the need to apply these requirements to Part 91 operators.

NBAA further states that to its knowledge there is no record of any business aircraft accident attributable to a pitot static system failure, and that the accident cited in the preamble was the result of a crew problem and not a mechanical problem. NBAA claims that its corporate executive safety record clearly projects the outstanding professionalism of its flightcrews and condition of its fleet of aircraft. NBAA contends that its petition will not affect the public interest as it will be applicable to the operations of private aircraft in a "Not for Hire" capacity.

Upon further review the FAA finds that there is no evidence which refutes NBAA's contention that there exists no record of any business aircraft accident attributable to a pitot system failure. The service experience of general aviation operators under Part 91 cited by the applicant can in part be attributed to the fact that their aircraft are not exposed as often to icing conditions as the aircraft that are used in commercial, air carrier, travel club, or air taxi operations under Part 121, 123, 125, or 135. Therefore, there may be no adverse affect on safety if the pitot heat indication system requirements are not retained for general aviation operations. However, these requirements should be retained for commercial, air carrier, travel club, and air taxi operations. However, since service experience not made known to the FAA may disclose a number of incidents because of inoperative pitot heating systems that were not made known to the flightcrew, the FAA is also soliciting information on such incidents from persons submitting comments on the proposals in this notice.

These proposals are consistent with the agency's responsibility to review the continuing need for our regulations and the need to eliminate unnecessary regulations. Furthermore, the proposed changes, if adopted, will result in cost savings to industry. As such, this is in furtherance of Executive Order 12044 issued by the President on March 23, 1978. Accordingly, it is proposed to delete § 91.50 and insert the requirements of that section in Subpart K of Part 121 and in new sections under Parts 125 and 135. By inserting these requirments in Subpart K of Part 121, they will be incorporated by reference in § 123.27(h) since that section incorporates requirements of Subpart K of Part 121 with certain exceptions.

The Proposed Amendment

Accordingly, it is proposed to amend Parts 91, 121, 125, and 135 of the Federal Aviation Regulations as follows:

§ 91.50 [Removed]

1. By removing § 91.50.

2. By adding a new § 121.324 to read as follows:

§ 121.342 Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) An operator may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director of Flight Operations if the operator—

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

3. By adding a new § 125.222 to read as follows:

§ 125.122 Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system, unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) An operator may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director of Flight Operations if the operator—

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, schedule for compliance acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

4. By adding a new § 135.158 to read as follows:

§ 135.158 Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) An operator may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from Director of Flight Operations if the operator—

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

The NBAA Petition

The FAA publishes verbatim the NBAA petition for rulemaking dated January 26, 1979.

(Sec. 313(a), 602, and 607, Federal Aviation Act of 1958, as amended (49 U.S.C. § 1354(a), 1422, and 1427; Sec. 6(c), Department of Transportation Act (49 U.S.C. sec. 1655(c)); 14 CFR 11.45)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT:"

Issued in Washington, D.C., on December 17, 1980.

Kenneth S. Hunt,

Director of Flight Operations.

National Business Aircraft Association, Inc.,
One Farragut Square South, Washington, D.C., January 26, 1979.

The Honorable Langhorne M. Bond,
Administrator, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C.

Subject: Petition for Rule Change.

Dear Mr. Administrator: The National Business Aircraft Association (NBAA) is an Association representing over 1,850 corporations and companies that operate privately-owned aircraft in the daily conduct of their business enterprises and whose operations are affected by FARs 25.1326 and 91.50 which require a pitot heat warning system in transport category aircraft.

FAA Docket 15594; Notice 76-12, was promulgated on April 22, 1976, requesting comments on the proposed rules. On March 13, 1978, amendments 25-43 and 91-148 were issued in response to the comments and set forth the new provisions of the FARs.

FAR 25.1326 states: If a flight instrument pitot heating system is installed, an indication system must be provided to indicate to the flight crew when that pitot heating system is not operating. The indication system must comply with the following requirements:

(a) The indication provided must incorporate an amber light that is in clear view of a flight crewmember.

(b) The indication provided must be designed to alert the flight crew if either of the following conditions exist: (1) The pitot heating system is switched "off". (2) The pitot heating system is switched "on" and any pitot tube heating element is inoperative.

FAR 91.50 states: (a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with FAR 25.1326 of this chapter in effect on April 12, 1978. (b) An operator may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director, Flight Standards Service, if the operator: (1) Shows that, due to circumstances beyond its control it cannot comply by the specified compliance date; and (2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

NBAA requests that the FAA immediately hold in abeyance the compliance dates of April 12, 1981, and April 12, 1983, as set forth in FAR 91.50 (a) (b). Further, NBAA petitions for a rule change that will limit the requirement of FAR 25.1326 and 91.50 to commercial, air taxi, air travel club, and air carrier operations.

Requirements for FAR 25.1326 and 91.50 were brought about by a National Transportation Safety Board (NTSB) recommendation following the investigation of a Northwest Boeing 727 fatal crash on December 1, 1974.

In Notice 76-12, the FAA alluded to other incidents having been reported in which pilots of transport category airplanes equipped with pitot heating systems have encountered difficulties because of faulty indications of flight data instruments while operating in freezing precipitation, but failed to discuss them as to type aircraft, pilot's experience, number of occurrences, etc.

Additionally, FAA has stated that the benefits to the public and private sectors would include the estimated saving of 140 lives over a 5 year period and at an installation cost of $500 to $700 for each approximately 4,300 airplanes covered by the amendment.

NBAA is not convinced that the addition of a pitot heat warning light (which incidentally has *no* guarantee that it will work 100% of the time) is necessary to accomplish the task. As stated in FAA Docket 15594, the majority of the comments received in response to Notice 76-12 were opposed to the proposed requirement. The FAA chose to disregard most of the opinions of these highly experienced pilots and asserted that their experience indicated that human error is likely to continue to occur with disastrous results.

The proposal did not cite any unusual number of total pitot system failures; therefore, the redundancy of the dual system in transport category aircraft should provide an ample margin of safety for instrument flying. Adequate checks, cross checks and indicators are available now on transport category aircraft to warn of a pitot system failure or icing.

The cost data stated by FAA is erroneous and misleading. It implies a relatively low cost for maximum benefit. NBAA has through its Technical Committee accumulated cost data on the installation and down time to some of its affected airplanes. For example:

Type aircraft	Cost	Man-hours	Down time (days)
Jetstar II	$2,200		3
Jetstar 8	3,700	100	4
Sabreliner 40	2,000	36	2
Sabreliner 40A	1,700	16	2
Sabreliner 60	1,700	40	2½
Sabreliner 60	1,768	50	3
Gulfstream 159	5,900	70	5
HS-125-700A	2,000	10	1½

The average cost per installation is in excess of $2,600—a far cry from FAA's original estimate of $600 per installation. Therefore, the cost for the 4,300 affected airplanes is well in excess of 11 million dollars.

To our knowledge, there is no record of any business aircraft accident attributable to a pitot static system failure. The B-727 accident cited in the proposal was clearly the result of a crew problem and not a mechanical one. The "checklist" disciplines broke down and the crew failed to turn on the pitot system. Therefore, should the FAA desire to provide added protection for carriage of the public, then the FARs 25.1326 and 91.50 should be limited to FAR 121, 123, and 135 operators.

NBAA believes its Corporate Executive safety record clearly projects the outstanding professionalism for its flight crews and condition of its fleet of aircraft. Further, we contend that existing training in the handling of emergency situations such as instrument failure and recognition of that failure, use of "checklists", and cross checking of instruments does provide an equal level of safety and our safety record bears this out.

The granting of this petition will not affect the public interest as it will be applicable to the operations of private aircraft in a "not for hire" capacity.

Sincerely,

John H. Winant,

President.

[FR Doc. 80-40814 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 231, 239, 240, 241, and 249

[Release Nos. 33-6276; 34-17399; IC-11507; File No. S7-869]

Proposed Revision of Regulation S-K and Guides for the Preparation and Filing of Registration Statements and Reports

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment proposals (i) to categorize by subject matter Regulation S-K, the repository of standard instructions for disclosure under the Securities Act of 1933 and the Securities Exchange Act of 1934; and (ii) to expand that Regulation by adding uniform disclosure requirements with respect to the distribution of securities. Registration statement forms would also be revised to incorporate by reference such uniform disclosure requirements. The Commission is also publishing for comment proposals (i) to eliminate the Guides for the Preparation and Filing of Registration Statements and Reports, with the exception of the Guides for disclosure by registrants in a particular industry; and (ii) to incorporate certain of the requirements thereof into Regulation S-K, Regulation C (the rules governing the registration of securities under the Securities Act), and the General Rules and Regulations under the Securities Act and the Exchange Act. These proposals would eliminate out-moded and duplicative requirements, would enhance the integration of disclosure systems of consolidating and organizing disclosure

provisions in Regulation S–K, and would consolidate procedural provisions in general rules and regulations.

DATE: Comments should be received on or before March 6, 1981.

ADDRESSES: Comments should be addressed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7–869. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Elizabeth Norsworthy, (202) 272-2390 or Beverly Rubman, (202) 272–2604, Office of Disclosure Policy, Division of Corporation Finance, and with respect to market-related matters, Carlos Morales, (202) 272–2878, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: As the next major step in the integration of disclosure requirements under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77l et seq.] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78 et seq.], and as the first major step in a "sunset" review of all existing rules and regulations, the Commission is proposing certain revisions of (i) Regulation S–K [17 CFR 229.20]; (ii) the Guides for the Preparation and Filing of Registration Statements and Periodic Reports (the "Guides") (as originally adopted in Release No. 33–4936 (December 9, 1968) [33 FR 18617]); and (iii) the General Rules and Regulations under the Securities Act [17 CFR 230.100 et seq.] and under the Exchange Act [17 CFR 240.0–1 et seq.]. Registration statement forms [17 CFR 239.11 et seq.; 17 CFR 249.210 et seq.] would also be revised to incorporate by reference new uniform disclosure requirements included in Regulations S–K. These proposals would eliminate unnecessary regulations and consolidate and organize substantive and procedural rules.

I. Overview

A. Regulation S–K

Since the publication of the Report of the Advisory Committee on Corporate Disclosure on November 3, 1977,[1] the Commission has implemented as rapidly as possible that Committee's recommendation to integrate the disclosure systems under the Securities Act and the Exchange Act,[2] and to avoid "duplicative, unnecessary, or impractical reporting requirements."[3] The implementation of the Advisory Committee's recommendations commenced with the promulgation of Regulation S–K as the source of uniform disclosure items[4] and accelerated during the past year with the proposal and adoption of additional uniform disclosure items[5] the revision of certain Exchange Act periodic reports[6] and the revision of Securities Act registration statements to incorporate by reference such revised periodic reports.[7] In the release proposing new registration forms, the Commission recognized that the "multiplication of disclosure item requirements in Regulation S–K is a recognized prerequisite to the full integration of the registration and reporting requirements under the two Acts."[8]

The proposed revision of Regulation S–K represents the next major step in the Commission's program to integrate the disclosure requirements under the Securities Act and the Exchange Act. In this release the Commission is proposing the categorization by subject matter of the uniform disclosure items in Regulation S–K and the expansion of that Regulation to include uniform disclosure items with respect to the distribution of securities. Revision of registration statement forms to incorporate such items by reference is also proposed.

Generally, if the proposals are adopted, Regulation S–K would be subdivided into seven categories: (1) Application [17 CFR 229.10]; (2) Business [17 CFR 229.20]; (3) Financial Information [17 CFR 229.21]; (4) Management [17 CFR 229.22]; (5) Securities of the Registrant [17 CFR 229.23]; (6) Distribution of Securities [17 CFR 229.24]; and (7) Other [17 CFR 229.25]. The existing items of Regulation S–K would be renumbered and relocated without change according to subject matter; for example, Item 3 [Directors and Executive Officers] would become Item 20 under Management [17 CFR 229.22]. In addition, most of the disclosure items of proposed Forms A, B and C[9] would become uniform disclosure items under Distribution of Securities [17 CFR 229.24]; for example, Item 3 of proposed Form A [Plan of Distribution][10] would become Item 42 [Plan of Distribution] in that subsection of Regulation S–K. Finally, proposed Forms A, B and C, as well as other commonly used registration statement forms,[11] would be revised to substitute references to the applicable Regulation S–K item for the proposed, or current, text of the registration statement item; for example, proposed Form A, when adopted in final form, would substitute reference to Item 42 of Regulation S–K [Plan of Distribution] for the proposed text of Item 3 [Plan of Distribution] in Form A itself. Table I, *infra*, Proposed Revisions of Regulation S–K (appearing as section II–C hereof, Regulation S–K—Table of Proposals) summarizes the changes proposed with respect to Regulation S–K.

B. Guides for the Preparation and Filing of Registration Statements and Reports

Following the Advisory Committee's suggestion that a periodic "re-evaluation of all of the outstanding rules and regulations of the Commission will keep the disclosure requirements current and effective and prevent the development of an encrusting layer of unnecessary and irrelevant information,"[12] the Commission has undertaken to review its rules and regulations with a view to eliminating unnecessary and out-moded requirements.

These proposals represent the first major step in this sunset review program,[13] and involve the following: (1) the proposed withdrawal of most of the Guides except those which pertain to disclosure by certain industries; (2) the transfer to Regulation C of those Guides which relate to procedural matters; and (3) the transfer to Regulation S–K of those Guides which set forth certain disclosure requirements. Thus, if the proposals are adopted, of the 68 present Guides, 22 or over 30% of the existing Guides would be withdrawn entirely as being out-of-date, 6 would remain as industry guides, and the remainder would be incorporated with generally minor and non-substantive modifications into Regulation S–K and Regulation C. In a few cases modifications are proposed in the General Rules under the Securities Act and the Exchange Act. Table II, *infra*, Proposed Revision of Guides, (appearing as section III–D hereof, Guides—Table of Proposals) indicates what changes have been proposed with respect to each Guide. Table III, *infra*, Proposed Revisions to Rules Based on Changes in Guides (appearing as Section III–F hereof, Guides—Table of Rules Affected by Proposals) indicates the changes which are proposed in rules arising from revision of the Guides.

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[1] Report of the Advisory Committee on Corporate disclosure to the Securities and Exchange Commission, Committee Print 95–29, House committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (1977) ("Advisory Committee").

[2] *Id.* at 420–470.

[3] *Id.* at 316.

[4] *See* Release No. 34–14306 (December 23, 1977) [42 FR 65554].

[5] *See* Release No. 33–6230 (August 27, 1980) [FR 58822] adopting Item 7 [Exhibits] of Regulation S–K; Release No. 33–6231 (September 2, 1980) [45 FR 63630] adopting Item 9 [Market Price of the Registrant's Common Stock and Related Security Holder Matters], Item 10 [Selected Financial Data], and Item 11 [Management's Discussion and Analysis of Financial Condition and Results of Operations]; and Release No. 33–6233 (September 2, 1980) [45 FR 63660] adopting Item 12 [Supplementary Financial Information].

[6] *See* Release No. 33–6231 (September 2, 1980) [45 FR 63630] adopting revisions to Form 10–K; and Release No. 33–6236 (September 2, 1980) [45 FR 63724] proposing revisions to Form 10–Q.

[7] *See* Release No. 33–6190 (February 22, 1980) [45 FR 13438] adopting revisions to Form S–8; and Release No. 33–6235 (September 2, 1980) 45 FR 63693] proposing Forms A, B and C.

[8] *See* Release No. 33–6235 (September 2, 1980) [45 FR 6393].

[9] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693].

[10] *Id.* at 63711.

[11] Forms S–8 [17 CFR 239.16b], S–11 [17 CFR 239.18], S–14 [17 CFR 239.23], S–16 [17 CFR 239.29], 10 [17 CFR 249.210], and 20–F [17 CFR 249.220f].

[12] Advisory Committee at 338.

[13] The proposals reflect the comments received in response to the concept release announcing the re-evaluation of the Guides. *See* Release No. 33–6163 (December 5, 1979) [44 FR 72604].

C. Relationship With Existing and Proposed Disclosure Requirements

These proposals should be considered in conjunction with other existing regulations, such as the specific items of Regulation S–K, and with other proposals, particularly the three-tier system of registration under the Securities Act which was recently proposed—Forms A, B, and C.[14] In general, these proposals transfer material from the Guides to other forms and rules, while making only minimal technical changes in those other forms and rules. This approach was taken in order to identify clearly the changes which are proposed and to avoid confusion. Special care was taken not to alter the text of existing items of Regulation S–K or proposed items of Forms A, B and C. Accordingly, if these proposals are adopted, it may be necessary to make additional technical changes to avoid duplication and to consolidate and revise the requirements based on the Guides into existing or already proposed requirements.

For example, at the time of adoption, the references in existing and proposed forms to the present items in Regulation S–K would be changed to comport with the new numbering scheme. In addition, where the requirements of an item of Regulation S–K are to be incorporated into a particular form, it will be necessary to amend the form at that time to provide for such incorporation. Table I (Section II–C, *infra*) sets forth each form into which each proposed item of Regulation S–K would be incorporated.

As noted above, the uniform disclosure items with respect to the distribution of securities proposed to be added to Regulation S–K consist of the text of the disclosure items contained in proposed Forms A, B and C, plus certain disclosure requirements based on the Guides. The proposed uniform disclosure items with respect to the distribution of securities as finally adopted will therefore reflect comments received with respect to proposed Forms A, B and C[15] as well as comments received with respect to the instant release. Moreover, the Commission may consolidate additional provisions of existing and proposed forms, such as the provisions relating to incorporation by reference, in new items of Regulation S–K. The Commission intends to consider the adoption of proposed Forms A, B and C and these proposals at or about the same time.

If these proposals are adopted, the only Guides that will remain will be those pertaining to disclosure by certain industries: Guide 30, relating to disclosure of principal sources of electric or gas revenues; Guide 55, relating to interests in oil and gas programs, which will be subject to separate re-evaluation in the near future; Guide 57, relating to preparation of registration statements involving insurance premium funding programs; Guide 60, relating to preparation of registration statements for interests in real estate limited partnerships, which will be subject to separate re-evaluation in the near future as part of a joint effort with the North American Securities Administrators Association; and Guide 61 (and Exchange Act Guide 3), relating to statistical disclosure by bank-holding companies. It is proposed that, at the time of adoption, the Commission will renumber these industry Guides, and make all of them applicable under both the Securities Act and the Exchange Act.

D. "Sunset" Review of Regulation C

While the transfer of certain Guide provisions to Regulation C has necessitated proposed modifications to certain existing rules and the proposal of new rules, such as proposed Rule 462A relating to registrations for delayed or continuous offerings, these proposals do not otherwise involve a revision of Regulation C. The Commission currently intends as part of its "sunset" program to review Regulation C for the purpose of deleting unnecessary and outmoded procedural requirements. While this "sunset" review will be the subject of a separate notice and comment process, the Commission does request specific comment now on any changes in Regulation C that might be necessary in connection with implementation of the proposals in this release or proposed Forms A, B and C, all of which the Commission expects to consider for adoption at or about the same time.

The remainder of this release consists of two parts. One discusses the proposed revisions to Regulation S–K, with an introductory discussion of the development of Regulation S–K, and a detailed explanation and table of the proposed revisions to that Regulation. The next contains an introductory discussion of the development of the Guides, a discussion of commentator reaction to the general issues which were raised by an advance concept release,[16] an explanation and table of the proposed revisions, and a table of the rules which would be affected by such revisions.

II. Regulation S–K

A. Background

Regulation S–K was adopted on December 23, 1977 in response to the recommendation of the Advisory Committee on Corporate Disclosure that the disclosure systems under the Securities Act and under Exchange Act be integrated further.[17]

In the decade prior to the publication of the Advisory Committee Report, commentators expressed concern over the bifurcated disclosure systems and called for closer coordination of Securities Act and Exchange Act disclosure.[18] In response to that concern, in the years preceding the publication of the Advisory Committee Report, the Commission announced its objective of coordinating and integrating the two systems;[19] attempted to conform disclosure requirements under both

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[14] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693].

[15] *See* proposed Forms A, B, and C, Release No. 33–6235 (September 2, 1980) [45 FR 63693]. The comment period for proposed Forms A, B and C closes January 15, 1981.

[16] *See* n. 13 *supra*.

[17] Advisory Committee at 420–470. Regulation S–K was initially proposed as Form SK in response to tentative recommendations of the Advisory Committee contained in minutes of the sixth meeting of that Committee on February 7 and 8, 1977. *See* Release No. 33–5826 (May 10, 1977) [42 FR 26010].

[18] *See generally* Cohen, "Truth in Securities Revisited," 79 Harv. L. Rev. 1340 (1966); and SEC, Disclosure to Investors (Wheat Report) (1969).

[19] *See* Release No. 33–5274 (July 26, 1972) [37 FR 16005].

Acts;[20] introduced simplified registration statement Forms S-7 and S-16;[21] and proposed an integrated disclosure Form SK.[22]

Following the Advisory Committee's endorsement of the integration concept in November 1977, the Commission promulgated proposed Form SK as Regulation S-K[23] so that the new integrated disclosure regulation would be included in the Code of Federal Regulations ("CFR"). By inclusion in CFR, the Regulation is updated annually and is more readily available to registrants who need to obtain a current copy.[24] Although Regulation S-K initially contained only two items (Description of Business and Description of Property), the Commission stated that additional items would be adopted "as disclosure provisions involving more than one of the various forms for the registration of securities or for the reporting to or solicitaiton of security holders are amended."[25]

In July 1978, the Commission added four additional items to Regulation S-K [Item 3—Directors and Executive Officers, Item 4—Management Remuneration and Transactions, Item 5—Legal proceedings and Item 6—Security Ownership of Certain Beneficial Owners and Management], noting that most of the commentators believed that uniform disclosure requirements save registrants time in securing interpretations and gathering facts, thereby enabling them to concentrate on the resolution of complex disclosure issues. In view of the favorable reaction to Regulation S-K, the Commission stated that eventually all general disclosure requirements under the securities acts would be contained therein.[26]

With the acceleration of integration over the past six months—the proposal and adoption of six more uniform disclosure items in Regulation S-K,[27] the revision of Exchange Act periodic reports [28] and the revision of Securities Act registration statement forms to incorporate by reference such reports [29] the categorization and expansion of Regulation S-K is now appropriate.

B. Proposals

The Commission proposes that Part 229 [Standard Instructions for Filing Forms under Securities Act of 1933 and Securities Exchange Act of 1934—Regulation S-K] be divided into seven sections relating to the following subjects:

1. Application (§ 229.10).
2. Business (§ 229.20).
3. Financial Information (§ 229.21).
4. Management (§ 229.22).
5. Securities of the Registrant (§ 229.23).
6. Distribution of Securities (§ 229.24).
7. Other (§ 229.25).

The existing twelve uniform disclosure items would be relocated without change, according to subject matter; for example, Item 4 [Management Remuneration and Transactions] would become Item 21 in Section 229.22 [Management]. The substantive disclosure requirements proposed in Forms A, B and C [30] and the provisions from twenty-eight of the existing Guides, with only minor modifications, would also be incorporated in Regulation S-K.

Substantive disclosure provisions from the Guides would be added to the distribution items from Forms A, B and C to which they relate; *e.g.*, the disclosure required by Guide 5 with respect to the absence of a market for the securities to be registered is proposed to be added to the text of Item 6 of proposed Form A and consolidated as proposed Item 45 [Securities to be Registered] of Regulation S-K. As noted above, the Commission currently anticipates that proposed Forms A, B and C and the proposed revisions to Regulation S-K and the Guides will be considered for adoption contemporaneously. At that time, certain technical changes may be necessary in order to achieve consistency between the text of the items in proposed Forms A, B and C and the text of the proposed additions from the Guides.

C. Table of Proposals

A table of the proposed revision of Regulation S-K appears below. The table shows the number and caption of the proposed item, the source of that item, for example, an existing item of Regulation S-K, an item in proposed Forms A, B or C, a substantive disclosure provision of a Guide, or a rule or release), and the registration statement forms which would incorporate by reference that item. It should be noted that the numbering system of proposed items in Regulation S-K may be changed at the time of final adoption in order to allow for the addition of uniform disclosure items in the future. It should also be noted that, at the time of adoption, cross-references to Regulation S-K items in the existing rules, forms and schedules will be updated to reflect the new numbers assigned to those items.

Table I.—*Proposed Revision of Regulation S-K*

Proposed S-K item No. and caption	Source				Forms to be affected
	Existing S-K item	Item in proposed forms A, B, or C	Guide	Rule	
§ 229.10—Application	(1)				
§ 229.20—Business:					
1. Description of Business	1				B, C, S-14, 10, 10-K, Reg. 14A/C.
2. Description of Property	2				C, S-14, 10, 10-K, Reg. 14A/C.
3. Legal Proceedings	5				C, S-11, S-14, 10, 10-K, 10-Q, Reg. 14A/C.
§ 229.21—Financial Information:					
10. Selected Financial Data	10				A, B, C, S-11, S-14, S-15, 10, 10-K, Reg. 14A/C.

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[20] *See, e.g.*, Release No. 33-5395 (June 1, 1973) [38 FR 17202] and Release No. 33-5758 (July 28, 1976) [41 FR 33330].

[21] *See* Release No. 33-4886 (December 14, 1967) [32 FR 17934] and Release No. 33-5117 (December 23, 1970) [36 FR 777]. The use of such Forms is predicated, in part, upon the registrant's status as a continuously reporting company under the Exchange Act. Form S-16 also allows registrants, in certain limited instances, to incorporate by reference periodic reports filed under the Exchange Act.

[22] *See* Release No. 33-5826 (May 10, 1977) [42 FR 26010].

[23] *See* Release No. 34-14306 (December 23, 1977) [42 FR 65554].

[24] *See* Release No. 33-5949 (July 28, 1978) [43 FR 34402].

[25] *See* Release No. 33-5883 (December 23, 1977) [42 FR 65561].

[26] *See* Release No. 33-5949 (July 28, 1978) [43 FR 34402].

[27] *See* n. 5 *supra*.

[28] *See* n. 6 *supra*.

[29] *See* n. 7 *supra*.

[30] The text of proposed Forms A, B and C is substantially similar to the text of the comparable items in Forms S-1, S-2, S-7 and S-16, the most frequently used registration statement forms.

Table I.—*Proposed Revision of Regulation S-K*—Continued

11. Supplementary Financial Data	12				A, B, C, S-11, S-14, S-15, 10, 10-K, Reg. 14A/C.
12. Management's Discussion and Analysis of Financial Condition and Results of Operations.	11				B, C, S-11, S-14, S-15, 10, 10-K, Reg. 14A/C.
§ 229.22—Management:					
20. Directors and Executive Officers	3				C, S-11, S-14, S-15, 10, 10-K, Reg. 14A/C.
21. Management Remuneration and Transactions	4		63		C, S-11, S-14, 10, 10-K, 20-F, Reg. 14A/C.
§ 229.23—Securities of Registrant:					
30. Market Price of the Registrant's Common Stock and Related Security Holder Matters.	9				B, C, S-14, S-15, 10, 10-K, reg. 14A/C.
31. Security Ownership of Certain Beneficial Owners and Management.	6				C, S-11, S-14, S-15, 10, 10-K, Reg. 14A/C.
§ 229.24—Distribution of Securities:					
40. Cover Page of Prospectus		A-1 and B-3	5, 7, 15, 54	425	A, B, C, S-8, S-11, S-14, S-15.
41. Summary Information		A-2	6, 47, 58, 59		A, B, C, S-11, S-14, S-15.
42. Plan of Distribution		A-3	5, 6, 11, 14, 16, 17, 35, 53		A, B, C, S-11, S-14, S-15.
43. Use of Proceeds to Registrant		A-4	21		A, B, C, S-11.
44. Selling Security Holders		A-5			A, B, C, S-14, S-15.
45. Securities to be Registered		A-6	5, 6, 12, 13, 18, 32, 33, 36, 39, 52.		A, B, C, S-8, S-11, S-14, S-15, 10.
46. Other Expenses of Issuance and Distribution		A-9			A, B, C, S-8, S-11, S-14, S-15.
47. Interest of Experts Named in Registration Statement		A-10			A, B, C, S-8, S-11, S-14, S-15, 10.
48. Indemnification of Directors and Officers		A-11	46		A, B, C, S-8, S-11, S-14, S-15, 10.
49. Recent Sales of Unregistered Securities		C-14			C, S-11, S-14, 10.
§ 229.25—Other:					
50. Information Available Concerning the Registrant			40		A, B, C, S-11, S-14, S-15.
51. Exhibits	7		38, 39		A, B, C, S-8, S-11, S-14, S-15, 10, 8-K, 10-K, 10-Q.
52. Commission Policy on Projections			62		All forms, regulations and schedules under the Securities Act and the Exchange Act.

[1] Introductory paragraph.

III. Guides

A. Background

In early 1962, Chairman William L. Cary announced the Commission's concern over a substantial increase in the number of filings under the Securities Act, particularly filings by first-time public issuers. The backlog in filings and inordinate length of the pre-effective period was attributable primarily to the high volume and low quality of first-time filings. These registration statements were subject to as many as four major amendments, apparently due to the inexperience of counsel and accountants, the scarcity of financial information available concerning the company and the complexity of the re-organization which usually prefaces the decision "to go public."[31]

In order to shorten the comment process, the Commission announced one month after Chairman Cary's speech—its intent of "publishing from time to time expressions of its views which may be of assistance to issuers, their counsel and others preparing registration statements." [32] The Commission published the predecessors of Guide 35, requiring the registrant to identify, where practicable, any members(s) of the board of directors selected by the underwriters, and Guide 23, outlining the circumstances under which the registrant should update financial statements and related data contained in the preliminary prospectus.

In February 1964, the Commission published thirty-two guides for the preparation and filing of registration statements, including the original two guides described above. At that time, the Commission stated that it was expected that such guides would be of assistance not only to the public but also to the staff by relieving the staff of the necessity of commenting on the matters covered. The Commission also alerted registrants that "[s]ome of the policies [might] be incorporated later in the rules or forms."[33]

In December 1967, the Commission proposed a revised and expanded package of guides, noting that the staff and the public had suggested in the interim certain modifications of the original guides. The Commission again alerted the public to the possibility that some of the policies might later be incorporated in the rules and forms after suitable publication and opportunity for comment.[34]

The fifty-three guides adopted in late 1968[35] have been subsequently modified and expanded to add ten additional guides for the preparation and filing of registration statements, as well as five guides for the preparation and filing of periodic reports under the Exchange Act. These guides have been added serially, without organization by subject matter.

The modification and expansion of the Guides were responsive primarily to (i) anticipated disclosure problems; (ii) the findings arising out of the Commission's investigation of the hot issues securities markets [36]; (iii) recommendations of the Industrial Issuers Advisory Committee [37]; and (iv) recommendations of the Advisory Committee on Corporate Disclosure.[38]

(i) *Anticipated disclosure problems.* The amendment of Guide 28 [Disclosure of Extractive Reserves and Natural Gas Supplies] in 1974 exemplifies the Commission's use of the Guides to deal with anticipated disclosure problems in a given area. In late 1973, the Commission warned registrants of their obligation to disclose any material impact that potential fuel shortages might have on certain industries and issuers.[39] A few months later, the Commission proposed amendment of

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[31] *See* Release No. 33-4468(a) (March 23, 1962).

[32] *See* Release No. 33-4475 (April 20, 1962) [27 FR 33990].

[33] *See* Release No. 33-4666 (February 7, 1964) [29 FR 2490].

[34] *See* Release No. 33-4890 (December 20, 1967) [33 FR 507].

[35] *See* Release No. 33-4936 (December 9, 1968) [33 FR 18617].

[36] *See* Release No. 33-5274 (July 20, 1972) [37 FR 16005].

[37] *See* Report of the Industrial Issuers Advisory Committee to the Securities and Exchange Commission (December 22, 1972).

[38] *See* Advisory Committee.

[39] *See* Release No. 33-5447 (December 20, 1973) [39 FR 1511].

Guide 28 to add a new paragraph relating to disclosure by companies engaged in the gathering, transmission or distribution of natural gas.[40] The Commission reiterated the need for prompt and accurate disclosure of favorable and unfavorable information concerning such firms' current and anticipated supplies of natural gas and the actual or possible impact which a demand for natural gas in excess of current supply might have.[41]

(ii) *Investigation of Hot Issues.* Several amendments of the Securities Act Guides resulted from the Commission's publication of the results of the hot issues hearings.[42]

On October 20, 1971, the Commission ordered a public investigation in the matter of the hot issues securities market. Public hearings were held on a continuous basis from February 28, 1972 to June 6, 1972 to investigate those instances where a new offering of securities is sold at a substantial premium over the initial offering price immediately, or very soon after, the securities are first distributed to the public. The Commission concluded that since such issues are highly speculative the disclosure contained in the registration statements and offering circulars should "reflect * * * the true economic realities" of the investment.[43]

In order to elicit better disclosure, particularly with respect to highly speculative initial offerings, the Commission introduced Guide 59, requiring that any lengthy or complex prospectus be preceded by a summary of its contents,[44] and adopted amendments to Guide 5 instructing registrants to avoid "boiler plate" and to disclose the manner in which the offering price was determined;[45] Guide 6 instructing registrants to illustrate graphically the dilution of shareholders' equity;[46] Guide 16, stating that the Commission may request the underwriter of a new or speculative issue to explain supplementally the steps taken in its due diligence inquiry to verify the disclosure in the prospectus;[47] and Guide 21, instructing registrants to illustrate graphically the intended use of proceeds from the offering.[48]

(iii) *Report of the Industrial Issuers Advisory Committee.* The Industrial Issuers Advisory Committee was appointed by Chairman Casey in 1972 to review the application of the reporting and other paperwork requirements of the Commission to industrial issuers. The Industrial Issuers Report, published on December 22, 1972, recommended that the use of the guideline technique be extended to disclosure documents filed under the Exchange Act, specifically to registration statements on Form 10, proxy and information statements under Section 14 and annual reports on Form 10–K.[49]

In response to this recommendation, the Commission adopted the text of Securities Act Guide 22 [Summary of Earnings] as Exchange Act Guide 1 [Summary of Earnings][50] and the text of Guide 28 [Disclosure of Extractive Reserves and Natural Gas Supplies] as Exchange Act Guide 2.[51] The Commission also adopted Exchange Act Guide 4 [Integrated Reports to Shareholders], which permits registrants to integrate annual and quarterly shareholder reports in Forms 10–K and 10–Q under certain conditions.[52]

(iv) *Report of the Advisory Committee on Corporate Disclosure.* The Advisory Committee was appointed by the Commission on February 2, 1976:

(1) To identify the characteristics and functions of the present system of corporate disclosure and the role of the Commission within that system;

(2) To assess the costs of the present system of corporate disclosure and to weigh those costs against the benefits it produces;

(3) To articulate the objectives of a system of corporate disclosure and to measure the Commission's present disclosure policies against those objectives; [and]

(4) If necessary, to formulate recommendations to the Commission for adjustments to Commission policies to better effectuate those objectives.[53]

In addition to recommending the integration of the substantive disclosure requirements of the Securities Act and the Exchange Act and a "sunset" review of all existing rules and regulations, as discussed above, the Committee also recommended that the Commission encourage disclosure of "soft information," that is, disclosure of information concerning anticipated future company economic performance, planned capital expenditures and financing, management plans and objectives, dividend policies, and management capital structure policies.[54]

The Commission, in response to that recommendation, authorized the publication of Securities Act Guide 62 and Exchange Act Guide 5 [Disclosure of Projections of Future Economic Performance] which encourage registrants to include projections of future economic performance in filings under the Securities Act and the Exchange Act.[55]

The Advisory Committee also endorsed the concept of industry guidelines, proposing that the Commission continue and expand the approach taken in adopting Guide 55, relating to interests in oil and gas programs, Guide 60, relating to preparation of registration statements for interests in real estate limited partnerships, and Guide 61, relating to statistical disclosure for bank holding companies.

The Committee noted that the use of industry guidelines minimizes the extent to which registrants would have to comply with inapplicable disclosure requirements, secures disclosure of vital importance to understanding a company in a particular industry, and provides the Commission staff with a ready reference to a particular industry.[56]

B. Concept Release

In order to initiate the "sunset" review of the Commission's outstanding rules and regulations recommended by the Advisory Committee,[57] the Commission issued an advance concept release on December 5, 1979,[58] requesting commentator assistance in the reevaluation of the Guides. In that release, the Commission asked for comments upon the following issues: (i) whether or not the Guides were useful;

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[40] *See* Release No. 33–5454 (February 7, 1974) [39 FR 6353].

[41] *Id. See also* Release No. 33–5511 (July 3, 1974) [39 FR 26720] adopting the proposed amendment.

[42] *See* Release No. 33–5274 (July 26, 1972) [37 FR 16005].

[43] *Id.*

[44] *See* Release Nos. 33–5279 (July 26, 1972) [37 FR 16010] and 33–5396 (June 1, 1973) [37 FR 17199].

[45] *See* Release No. 33–5278 (July 26, 1972) [37 FR 15985].

[46] *Id.*

[47] *See* Release Nos. 33–5279 (July 26, 1972) [37 FR 16010] and 33–5396 (June 1, 1973) [38 FR 17199].

[48] *See* Release No. 33–5278 (July 26, 1972) [37 FR 15985].

[49] *See* Report of the Industrial Issuers Advisory Committee to the Securities and Exchange Commission (December 22, 1972) at 16–19.

[50] *See* Release No. 33–5342 (December 18, 1972) [38 FR 1748] proposing Guide 1; Release Nos. 33–5443 (December 12, 1973) [39 FR 829] revising proposed Guide 1 and 33–5520 (August 14, 1974) [39 FR 31894] adopting Guide 1.

[51] *See* Release No. 33–5511 (July 3, 1974) [39 FR 26720]. In addition, when Securities Act Guides 61 [Statistical Disclosure by Bank Holding Companies] and 62 [Disclosure of Projections of Future Economic Performance] were adopted, Exchange Act counterparts of those Guides were adopted simultaneously. *See* Release Nos. 33–5735 (August 31, 1976) [41 FR 39007] and 33–5992 (November 7, 1978) [43 FR 53250], respectively.

[52] *See* Release No. 34–13639 (June 17, 1977) [42 FR 31780].

[53] *See* Advisory Committee at D–3.

[54] *See* Advisory Committee at 344–380.

[55] *See* Release No. 33–5992 (November 7, 1978) [43 FR 53250].

[56] *See* Advisory Committee at 340–342.

[57] *See* Advisory Committee at 328–342.

[58] *See* Release No. 33–6109 (December 5, 1979) [44 FR 72604].

(ii) whether or not certain Guides or provisions thereof should be deleted or revised; (iii) whether or not other disclosure requirements, particularly Regulation S-K, should be revised in conjunction with the revision of the Guides; and (iv) whether or not the Guides occasioned certain costs and other burdens. While a limited number of commentators responded to Release No. 33-6163,[59] the commentators who did respond discussed each of the issues raised in considerable detail, furnished comments with respect to specific guides as well,[60] and proposed certain additional guides.

Most of the commentators agreed that the Guides have served a useful function in producing better disclosure and in saving time and money by publicizing the policies and practices of the Division of Corporation Finance. However, most of the commentators also agreed that the usefulness of the Guides has been offset by outdated information, lack of organization by subject matter and confusing and at times conflicting staff interpretations.

A primary focus of those who commented was the development of a workable system whereby disclosure requirements currently appearing throughout the rules, regulations, Guides and interpretative releases would be conformed and centralized in one location. The ultimate goal would be to have information with respect to common subject matter located in the same guide, rule, regulation or form.

Certain of the commentators urged the preservation of the guideline concept to the extent possible. Those commentators characterized the Guides as generally applicable, interpretative aids which can be applied flexibly to unique fact situations. Those commentators argued that transformation of the Guides into rules would necessitate multiple and complex exceptions and qualifications and stated further that those Guides which discuss staff approaches to filings should not be elevated to the status of rules and regulations.

Most of the commentators, however, recommended that the substantive disclosure provisions of the Guides be codified after a notice and comment period. Those commentators expressed a clear preference for transforming the Guides into rules and regulations. In their opinion, the status of the Guides was ambiguous, for although the Guides technically do not have the legal effect of existing rules and regulations, the staff and the securities bar nevertheless apply them as though they did. The commentators observed that this uncertainty should be eliminated and recommended that any disclosure requirements should be fully set forth in the forms or regulations after appropriate notice and comment.

Those commentators who advocated incorporation of the Guides into the rules, regulations and forms generally agreed that substantive disclosure requirements should be codified in Regulation S-K, the control source of substantive regulation. The commentators, however, were divided in their recommended treatment of the procedural Guides, with some advocating the incorporation of such Guides into Regulation C or Regulation S-K and others advocating the retention of such Guides as guidelines. The commentators were similarly divided in their recommended treatment of the industry Guides, with some advocating the incorporation of such Guides into Regulation S-K and others advocating the retention of such Guides as guidelines.[61]

In order to clarify, conform, codify and centralize certain substantive and procedural provisions of the Guides, as suggested by the majority of the commentators, the Commission is proposing that, with the exception of the industry Guides, the Guides be withdrawn and relocated where appropriate, in Regulation S-K or in the procedural rules of the Securities Act and the Exchange Act. As discussed in detail below, the proposals would (i) retain the industry Guides in guideline form, to be re-evaluated periodically by separate notice and comment; (ii) relocate certain substantive disclosure provisions in Regulation S-K; and (iii) relocate certain procedural provisions in Regulation C and the General rules under the Securities Act and the Exchange Act.

The Commission generally believes that disclosure requirements should be set forth in rules, forms and regulations. Guidelines, on the other hand, should pertain only to those areas, such as industry specific information, where more specific guidance is appropriate yet flexibility is necessary to tailor disclosures to particular facts and circumstances. Thus, the scope and detail of a particular Guide may not be appropriate to every registrant within the Guide's purview. If such Guides, particularly industry Guides, were codified as formal regulations, waiver procedures would also be necessary where the rule technically applied but where disclosure was neither necessary nor appropriate. The Commission expects that guidelines will relate primarily to disclosure by registrants in certain industries because, as observed by the Advisory Committee,[62] the use of industry guidelines minimizes the extent to which registrants must comply with inapplicable disclosure requirements, maximizes the quality of disclosure made with respect to particular industries, and provides the Commission staff with a frame of reference for examining filings by particular industries.

C. New Proposals—Low Priced Issues

As noted previously, certain commentators suggested the issuance of additional guidelines relating to procedural and substantive disclosure issues which generally affect a registrant. These commentators suggested that guidelines be issued with respect to disclosure which should be required with respect to unconventional distributions of securities, *e.g.*, "block trades" or "spot" secondary offerings and first-time offerings which are initially priced below $5.00 per share.[63]

The proposal relating to first-time offerings recommended special provisions applicable where an issuer is not subject to reporting under the Exchange Act and is publicly offering securities for the first time. If such an issuer proposed to offer a security priced at $5.00 or less per share, the issuer would be required to submit, at the time of filing the registration statement, a letter signed by the representative of the underwriters explaining the reasons for selecting such a low stock price[64] and undertaking, under certain circumstances, to furnish the staff with certain information relating to the purchasers of the securities. In particular, it was suggested that the underwriter should be required to furnish the staff with a list of the addresses, numbers of shares purchased and consideration paid or received by all purchasers if the offering price doubles during the three months after the date of the prospectus or if the offering price triples during the six months after the date of the prospectus.

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[59] Letters from only twenty-one commentators were received: eleven law firms and associations, five corporations, three trade organizations and associations and two accounting firms. Copies of the letters of comments as well as the summary of these letters are available in the Commission's Public Reference Room, 1100 L St., N.W., Washington, D.C. File No. S7-813.

[60] Commentator reaction to certain Guides is briefly summarized below in the synopsis of proposals.

[61] Although the advance concept release asked commentators not to comment on the industry Guides, several did, noting that each industry Guide should be the subject of a separate notice and comment period.

[62] Advisory Committee at 340-342.

[63] The last concern reflects the recent increase in initial nonexempt public offerings.

[64] It should be noted that paragraph (e)(2)(i) of proposed Item 45 [Description of Securities to be Registered] would provide that, where securities are being registered for the first time, the registrant must describe the various factors considered in determining the offering price.

For the reasons discussed above, the Commission believes that the resolution of questions relating to block trades and new or unconventional offerings in future guidelines is inappropriate. Specific comment, however, is requested as to whether the proposal on low-priced issues outlined above should be incorporated in the rules and regulations and, if so, where such requirements should be located.

D. Table of Proposals

The following table outlines the proposed revision of the Guides, showing the number and caption of each Guide, whether it is proposed to be eliminated altogether, and if not, the proposed relocation of requirements of the Guide in Regulation S-K, Regulation C or the General Rules under the Securities Act and the Exchange Act.

Table II.—*Proposed Revision of Guides*

Guide No. and caption	Eliminated	Retained as a guide	Relocated in		
			S-K	Reg C	Other
1. Pre-Filing Conferences with Registrants				400A	
2. Letter of Comment	X				
3. Applicability of Amended Rules and Forms to Previously Filed Statements.				401, 432	
4. Registration of Securities for Delayed Offering				462A	
5. Preparation of Prospectuses			40, 42, 45		
6. Introductory Statements			41, 42, 45		
7. Dating of Prospectuses			40		
8. Pictorial or Graphic Representations in Prospectuses	X				
9. Promoters	X				
10. Registration of Options, Warrants or Rights and Other Securities Issued or Sold to Underwriters.	X				
11. Finders			42		
12. Over-the-Counter Trading in Rights or Warrants			45		
13. Market Quotations—Absence of Established Market			45		
14. Underwriters' Compensation from Conversion of Funds into Foreign Currency			42		
15. Expenses of Issuance and Distribution			40		
16. Underwriters' Experience and Due Diligence Inquiry.			42	400B	
17. Disclosure of Underwriting Discounts and Commissions.			42	400B, 460, 461	
18. Original Issue Discount of Debt Securities			45		
19. Distribution of Preliminary Prospectus				460	15c2-8
20. Mailing of Amended Preliminary Prospectus to Regional Offices.	X				
21. Use of Proceeds			43		
22. Summary of Earnings	X				
23. Current Financial Statements and Related Data	X				
24. Currencies in Which Amounts are to be Stated by Foreign Issuers.	X				
25. Manner of Showing Distributions by Real Estate Syndicates and Real Estate Investment Trusts.	X				
26. Statement of Dividend Policy	X				
27. Names of Customers and Competitors	X				
28. Disclosure of Extractive Reserves and Natural Gas Supplies.	X				
29. Disclosure of Material Long-term Leases	X				
30. Disclosure of Principal Sources of Electric or Gas Revenues.		X			
31. Disclosure of Recent Developments-Backlog	X				
32. Liability of Shareholders to Laborers, Servants or Employees under State Law.			45		
33. Notice of Redemption of Convertible Securities or Callable Warrants.			45		
34. Executive Committee	X				
35. Identification of Members of Board of Directors Selected by the Underwriters.			42	460	
36. Effect of Issuance of Options or Warrants to Certain Persons.			45		
37. Consents of Accountants	X				
38. Consents of Attorneys			51	435, 436	
39. Charter Amendments Authorizing New Securities.			45, 51		
40. Underwriting Agreements	X				
41. Specimen Bond	X				
42. Reports or Memoranda Concerning the Registrant.				424A	
43. Representations from Selling Security Holders				461	
44. Securities Act Exemption for Shares Subject to Options.	X				
45. Information as to Over-the-Counter Market for Securities to be Registered.				[illegible]	

Table II.—*Proposed Revision of Guides—Continued*

Guide No. and caption	Eliminated	Retained as a guide	Relocated in		
			S-K	Reg. C	Other
46. Statement as to Indemnification			48	460	
47. Enforceability of Civil Liabilities under the Act Against Foreign Persons.			41		
48. Annual Reports to Security Holders			50		
49. Revision of Prospectuses Where a Company and its Employee Plan Have Different Fiscal Years.				434E	
50. Disclosure of Confidential Material to Other Government Agencies.				485	
51. Release of Price Data on Subscription Offerings by Listed Companies.					135.
52. Disclosure as to Listing on an Exchange			45		
53. Secondary Distributions "at the Market"			42	460	
54. Misleading Character of Certain Registrants' Names.			40		
55. Prospectuses Relating to Interests in Oil and Gas Programs.		X			
56. Interests of Counsel and Experts in the Registrant.	X				
57. Registration Statements Relating to "Insurance Premium Funding" Programs.		X			
58. Disclosure in Prospectus of Registrant's Business Address and Telephone Number.			41		
59. Summary of Disclosure in the Prospectus			41		
60. Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships.		X			
61. Statistical Disclosure by Bank Holding Companies.		X			
62. Disclosure of Projections of Future Economic Performance.			52		
63. Disclosure Relating to Management Remuneration by Certain Foreign Private Issue.			21		
Exchange Act Guides:					
1. Summary of Operations	X				
2. Disclosure of Extractive Reserves and Natural Gas Supplies.	X				
3. Statistical Disclosure by Bank Holding Companies.		X			
4. Integrated Reports to Shareholders					Rule 0-10 under the Exchange Act.
5. Disclosure of Projections of Future Economic Performance.			52		

E. Explanation of Proposals

Guide 1—Pre-filing Conferences with Registrants.

Guide 1 describes the practice of the Division of Corporation Finance of holding its staff available for pre-filing conferences. The Guide does state, however, that a request for a pre-filing conference may be refused and that registrants should not attempt to use the conference as a means of having the staff draft language for filing.

In view of its procedural nature, the Commission is proposing that Guide 1 be deleted and recast as Rule 400A of Regulation C [Pre-Filing Conferences]. Proposed Rule 400A would state that registrants may request a pre-filing conference in order to discuss problems encountered in preparing the registration statement. In order to save both staff and registrants time, the rule would state that the request should be in writing, should outline the proposed subject matter, and should only be made when there are unusual or difficult disclosure issues. The rule would further indicate that pre-filing conferences are in the sole discretion of the staff and that the staff will not prepare materials for filing.

Guide 2—Letter of Comment.

Guide 2 describes the circumstances under which a letter of comment will or will not be sent to a registrant. The Guide states that a letter is ordinarily sent when the disclosure does not meet existing requirements and may not be sent when an investigatory or stop order proceeding is deemed more appropriate.

The comment process has always been discretionary with the Commission staff. The Commission sees no need for a specific guide or rule in this area, particularly in light of the evolving nature of the review process with respect to Securities Act and Exchange Act filings. Accordingly, the Commission is recommending that Guide 2 be withdrawn.

Guide 3—Applicability of Amended Rules and Forms to Previously Filed Statements.

Guide 3 refers to Rule 401 [Requirement as to Proper Form] and Rule 432 [Application of Amendments to Rules Governing Contents of Prospectuses]. Rule 401 provides that a registration statement shall be prepared in accordance with the form prescribed therefor as in effect on the date of filing. Rule 432 provides that a prospectus must conform to the rules in effect at the time the registration statement becomes effective unless a stop order has been in effect under Section 8(d) of the Securities Act. After a stop order is lifted, the prospectus must conform to the rules in effect on the date the stop order is lifted.

The first paragraph of Guide 3 states that the filing date referred to in Rule 401 is the initial filing date and, in the absence of specific provisions to the contrary in subsequent amendments to forms and rules, those subsequent amendments do not apply, even if the registration statement is amended. The second paragraph of Guide 3 indicates that the term "rules" as used in Rule 432 includes "forms."

The commentators generally stated that this Guide should be incorporated in Rules 401 and 432 and that any inconsistencies should be resolved. The Commission agrees and is proposing to delete Guide 3 and to codify the Guide's interpretation of Rules 401 and 432 in those Rules. Specifically, Rule 401 would be amended to refer to the initial date of filing, and Rule 432 would be amended to refer to the applicability of forms as well as rules in effect on the effective date of the registration statement.

Commentators have already noted the possible conflict between Rules 401 and 432, in that Rule 401 refers to the rules and forms in effect on the initial filing date to determine the proper form of the registration statement and pre-effective amendments while Rule 432 refers to the rules and forms in effect on the effective date to determine the form and contents of prospectuses. The Commission specifically solicits further comment on possible changes to clarify the interrelationship between these rules and Rule 470 [17 CFR 230.470] [Formal Requirements for Amendments] which pertains to the formal requirements for amendments to registration statements, other than delaying amendments.

Guide 4—Registration of Securities for Delayed Offering.

The last sentence of Section 6(a) of the Securities Act provides: "A registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered." [15 U.S.C. 77f(a)]. Guide 4 interprets that sentence to prohibit the registration of securities for a delayed or postponed offering, commonly referred to as "shelf" offering or registration. The Guide, however, cites several instances in which such registration is permitted, for example, where the registrant proposes to engage in a continuing acquisition program.

The majority of the commentators favored retaining the Guide, with substantial revision to reflect current staff policy on shelf registration. Two commentators, however, recommended the elimination of the Guide. One of those commentators argued that the concept of a shelf registration has been difficult to work with and would be unnecessary if expanded short forms of registration for seasoned "continuous reporting" registrants were made available; the other commentator asserted that the permissible categories of shelf registration are so broad as to render the Guide's interpretation of Section 6(a) almost meaningless.

The Commission is proposing that Guide 4 be withdrawn because: (1) it no longer reflects all current staff policies regarding shelf registrations; and (2) its interpretation of the last sentence of Section 6(a) may not, under certain circumstances, be necessary or appropriate for the protection of investors. The Commission is also proposing to replace Guide 4 with a new Rule 462A [Delayed or Continuous Offering and Sale of Securities], to be added to Regulation C, that would permit shelf registration for delayed and continuous offerings. The proposed rule would require compliance with certain conditions designed to insure that the registered securities are in fact proposed to be offered, that investors receive accurate and current information, and that the liability protections of the Securities Act apply to the information on which the investment decisions are based.

For the most part, the conditions in proposed Rule 462A are codifications of the current administrative practice. Accordingly, proposed Rule 462A would permit shelf registration for delayed offerings as currently described in Guide 4, with certain modifications discussed herein. The proposal would also allow registration for additional continuous offerings that comply with the conditions set forth in the proposed rule.[65]

This portion of the release discusses (1) Section 6(a) of the Securities Act and practice under Guide 4; (2) proposed Rule 462A; and (3) certain offerings that would be permitted under the proposal.

Section 6(a) of the Securities Act and Practice under Guide 4. In the absence of any specific legislative comment upon the meaning of the last sentence of Section 6(a) of the Securities Act, as enacted by Congress in 1933,[66] early opinions of the Commission and its staff interpreted the provision as requiring that a registration statement be effective only as to those securities proposed to be offered "in the proximate future," and this position is currently contained in Guide 4. This general prohibition against shelf registration was designed to effectuate the clear policy underlying the last sentence of Section 6(a) that "the registration statements and prospectuses on which they rely, so far as is reasonably possible, provide current information." [67] This interpretation was, in turn, premised upon the assumption that the registration of securities which are to be offered at "some remote future time" gives "the appearance of a registered status" [68] without providing its true substance—accurate and current information.

In practice, the Commission has never adhered to such an absolute prohibition. Recognizing that the early interpretations were based in large part on concerns about the currency of information, the Commission and the staff developed, by changes in rules and practice, more effective means—particularly through post-effective amendments and undertakings—for updating and assuring the adequacy of disclosure. Because the statutory terminology, "proposed to be offered," has no specific time frame, it has been considered reasonable to take into account the availability of adequate information in administering agency policy with respect to shelf registration.[69]

Guide 4 itself (after stating the general rule against shelf registration) consists mainly of a description of situations in which shelf registration will be permitted. In fact, such registration has been permitted for several types of offerings not referred to in the Guide. To date the staff has processed shelf registrations for the following:

(1) Offerings of securities which are to be issued in a continuing acquisition program, which are pledged by persons in control of the issuer, and which underlie options, warrants, rights or convertible securities (covered by Guide 4);

(2) Secondary offerings made by persons who may be deemed to be statutory underwriters, and secondary offerings of securities received as underwriter compensation (covered by Guide 4);

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[65] A seller making a continuous offering covered by the proposed rule would intend to sell the securities within a reasonable period, but would not have decided upon the timing of the sales. The timing would ordinarily depend on market conditions, the financial needs of the seller, and other factors. Such an offering must be distinguished from the situation, not to be covered by the proposal, in which an offering lasts for a substantial time despite the intent to sell all the securities registered as soon as practicable after the effective date.

[66] *See* Hodes, "Shelf Registration: The Dilemma of the Securities and Exchange Commission," 49 Va. L. Rev. 1106, 1108–11 (1963).

[67] *In re Chiles Syndicate,* 10 S.E.C. 109, 113 (1941). *See* C. Israels *S.E.C. Problems of Controlling Stockholders and in Underwritings* at 182, 205 (1962).

[68] *In re Combustion Corporation,* 3 S.E.C. 1062, 1063 (1938).

[69] Congress has considered the issue of shelf registration on only two occasions. When, in 1941, several bills were introduced that were intended to permit shelf registrations under certain conditions, the administrative practice of utilizing post-effective amendments to keep such registrations current had not yet been developed. Ultimately, no action was taken on those proposals. *See* Hearings on Proposed Amendments to the Securities Act of 1933 and Securities Exchange Act of 1934 before the House Committee on Interstate and Foreign Commerce, 77th Cong., 1st Sess. 183, 315–17, 1402 (1941); Report of the Securities and Exchange Commission on Proposals for Amendments to the Securities Act of 1933 and the Securities Exchange Act of 1934, 77th Cong., 1st Sess. 2–3, 44 (1941); 1 Loss, *Securities Regulation* 196–99 (2d ed. 1961). Although a Senate report declared in 1954 that Section 6(a) "does not permit 'registration for the shelf'" (S. Rep. No. 1036, 83d Cong., 2d Sess. 10 (1954)), that statement was made in the context of congressional action amending the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] to codify the administrative practice whereby certain open-end management investment companies which had always engaged in continuous offerings were permitted to increase periodically the number of shares being registered on a single shelf registration statement. *See* Section 24(e) of the Investment Company Act. [15 U.S.C. 80a–24(e)]. In fact, on the same page of the report, the Senate expressly recognized the Commission's administrative practice "in appropriate cases" of allowing registrants to "renew" their registration statements by means of periodic amendments. The Commission is proposing that such administrative practices be codified into a Rule that will permit shelf registration only when adequate and current information is made available to investors by means of such post-effective amendments.

(3) Continuous offerings of securities pursuant to a dividend or interest reinvestment plan or employee benefit plan (not covered by Guide 4);

(4) Continuous offerings of debt securities at fixed maturity dates, interest rates and other terms at the market on a best efforts basis (not covered by Guide 4).[70]

As a condition of allowing shelf registration under Guide 4 or otherwise, the staff has required undertakings to update information by post-effective amendment and to provide that the statutes of limitations contained in the Securities Act begin anew with the filing of each post-effective amendment.[71]

After substantial experience with these types of shelf registration, the Commission is not aware of major abuses that have harmed investors. In addition, the integration of the Securities Act and Exchange Act disclosure systems provides an increasingly efficient basis for updating disclosure in securities offerings. Shelf registrations can utilize integration effectively, thereby facilitating the development of important new capital raising techniques. Accordingly, the Commission believes that a restrictive policy on shelf registration is not appropriate or necessary for the protection of investors. The Commission is proposing that Guide 4 be withdrawn and that its stated prohibition of shelf registration be replaced with proposed Rule 462A.

Proposed Rule 462A. Proposed Rule 462A provides that offerings meeting the conditions in the Rule would be deemed to satisfy the statutory provision that the registration statement shall register only securities that are "proposed to be offered." The essential conditions of the proposal are designed to assure: a bona fide intent to offer and sell, accurate current information, and liability protection under the Securities Act.

The first condition, that the securities registered are intended to be sold, is covered by subparagraph (a)(1) of the proposed rule. Subparagraph (a)(1)(i) sets out the general requirement that a registration statement for a continuous or delayed offering must pertain only to an amount of securities that can reasonably be expected to be offered and sold within two years from the effective date of the registration statement. The two year limitation would apply not to the actual sale of securities but to the reasonable expectations of the sellers at the time the initial registration statement is filed. If the amount of securities registered is reasonable at that time, and if there continues to be a reasonable expectation of sales, it would not be necessary to deregister shares remaining after two years, and then reregister them and pay another registration fee in order to offer and sell them, provided that the other conditions in proposed Rule 462A were met.[72]

Under current practice, in determining whether securities are "proposed to be offered" under Section 6(a), the staff uses its judgment in evaluating the reasonableness of the amount of securities registered in light of the purposes of the proposed offering.[73] That process would not change if the proposed Rule is adopted except insofar as it provides a definite two-year benchmark against which the reasonableness of the offering amount can be measured. The Commission has proposed two years as a standard because it has often been used by the staff in processing shelf registration statements and because it gives the seller a certain flexibility in making the offering while still complying with Section 6(a).[74]

Subparagraph (a)(1) sets out two additional specific categories of permissible shelf registrations. Subparagraph (a)(1)(ii) would permit shelf registration for securities that are reasonably expected to be offered and sold pursuant to dividend or interest reinvestment plans or employee benefit plans of the registrant. Although these offerings are not specifically allowed under Guide 4, they have long been permitted by the staff as continuous offerings, typically lasting for periods in excess of two years, and are generally registered on Forms S-16 or S-8.[75] Because these offerings are pursuant to a formal plan, it is reasonable to consider that the registration statement pertains to securities that are proposed to be offered, for purposes of Section 6(a), provided the amount registered is consistent with the anticipated operation of the plan. The Commission sees no need to interfere with these traditional forms to investors simply because they continue for a duration of more that two years. The Commission also solicits comments on whether there are other types of formal plans that are similar in operation and purpose to dividend or interest reinstment plans or employee benfit plans and should be included in subparagraph (a)(1)(ii).

Subparagraph (a)(1)(iii) would apply to offerings of securities which (1) are the subject of options, warrants or rights which are, or will within the next two years, be, exercisable, (2) issuable upon the conversion of other securities, if such securities are also registered in the effective date, or (3) pledged as collateral. In these situations, the securities registered are proposed to be offered in that the prospective seller has already given to others the legal right to purchase (or, in the case of pledges, sell) the securities under certain items and conditions. This two year rule with respect to securities to be offered pursuant to options, warrants or rights is consistent with subparagraph (a)(1)(i).[76] As to convertible securities which are registered, the right to convert into the underlying security is and integral part of the initial offering of the convertible securities. [77] As to pledged securities, sales could occur at any time upon default. This subparagraph of the proposal is a codification of Guide 4 and existing practice.

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[70] *See* nn. 78, 86 and 87 *infra*.

[71] *See* Undertaking A to Form S-7 (17 CFR 239.26), Undertaking B to Form S-8 (17 CFR 239.16b), Undertaking C to Form S-11 (17 CFR 239.18) and Undertaking A to Form S-16 (17 CFR 239.27). *See also* Item 13 of Proposed Form A, Item 13 of proposed Form B, and Item 10 of proposed Form C. [45 FR 63713, 63716, 63718].

[72] In this regard, subparagraph (a)(2)(iv) of the proposed Rule requires that the registration statement contain an undertaking to deregister by post-effective amendment any of the registered securities which remain unsold at the termination of the offering or as to which there is no longer a reasonable expectation of sale. *See* n. 80 and accompanying text *infra*.

[73] The Commission is aware that registrants prefer to over-estimate their needs because, under Rule 413 (17 CFR 230.413), additional securities of the same class cannot be added to a current registration statement for that class of securities. Instead, a new registration statement must be filed and declared effective. Section 24(e) of the Investment Company Act provides an exception to this rule for certain investment companies. Rule 413 would not be changed by the adoption of proposed Rule 462A.

[74] The two year standard would apply, for example, to securities registered for issuance in a continuing acquisition program and for sale in secondary offerings by persons other than the registrant, two categories of shelf registration specifically permitted by Guide 4. Security holders utilizing a shelf registration for a secondary offering are also affected by changes proposed herein with respect to existing Guides 43 and 53. *See* discussion of those Guides *infra*. The two year standard would also apply with respect to registration of securities received in connection with a public offering and proposed to be resold by underwriters and finders. Guides 4, 10 and 11 currently mandate immediate registration for these securities, but those requirements are proposed to be deleted as unnecessary. *See* discussion of Guides 10 and 11 *infra*.

[75] Qualified registrants may register securities to be offered pursuant to an employee benefit plan upon Form S-8. The General Instructions to that Form provide that Form S-8 is not available for resales or reoffers of such securities by affiliates of the registrant. Those persons may, however, reoffer or resell such securities pursuant to a separate prospectus prepared in accordance with Form S-16 and filed with the inital registration statement on Form S-8, if the registrant is eligible to use Form S-7 and if certain limitations are put upon the amounts of securities to be reoffered or resold within given time periods. *See* General Instruction E to Form S-8. In addition, those selling shareholders must have an intent to make such reoffers or resales within not more than sixteen months following the effective date of the prospectus. *See* Notes 1 and 2 to General Instruction E. If proposed Rule 462A is adopted, the Commission intends to amend that portion of Form S-8 to bring it into conformity with the registration for all secondary offerings as set out in subsection (a)(1)(i) of the proposed Rule. Accordingly, affiliates would be able to register those shares that they intend to offer and sell within two years of the effective date of the registration statement.

The Commission is aware that there can be no precise measure of a bona fide intent to offer securities in the foreseeable future, and it specifically solicits comments upon the appropriateness of using a two-year period.[78] As previously discussed,[79] the proposed Rule sets no outer limits upon the duration of an offering once the standards set forth in subparagraph (a)(1) are met. Under the proposal, securities which reasonably could have been expected to be offered for sale within two years may continue to be offered even though two years have elapsed since the effective date of the inital registration statement. Proposed Rule 462A would, however, require that the registration statement contain an undertaking to deregister by post-effective amendment any of the registered securities which remain unsold at the termination of the offering or as to which there is no longer a reasonable expectation of sale.[80] The Commission recognizes that circumstances may over the course of an offering so that one of the essential conditions to use of a shelf registration-a bona fide intent to offer the securities registered—may no longer be met. If this occurs—be it within one year or three years from the initial effective date of the registration statement—the registrant would be required to deregister the remaining unsold securities.

The Commission solicits comments on whether the Rule should include a specific outer limit upon the duration of a shelf offering or whether the undertaking to deregister plus the undertaking to provide current information set forth in subparagraph (a)(2)[81] are sufficient to insure that the statutory purposes of Section 6(a) are met.

Subparagraphs (a)(2)(i) and (ii) of proposed Rule 462A set forth the second essential condition for use of a shelf registration—that investors receive adequate current information. These provisions require that the registrant undertake to file post-effective amendments (or, with the permission of the Commission, prospectuses under Rule 424(c) [17 CFR 230.424(c)] [Filing of Prospectuses—Number of Copies]) whenever required to include any information necessary in order that the registration statement not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein not misleading as of any time during the offering. While this undertaking is not required in currently effective registration forms,[82] the staff generally requires that post-effective amendments be filed to reflect material changes, and the Commission believes it should be specifically mandated in a Rule permitting delayed or continuous offerings which may last for a substantial period of time. In addition, as currently required by registration forms, the registrant must undertake to file as a post-effective amendment any prospectus required by Section 10(a)(3) of the Securities Act.[83] The Commission solicits comment upon whether these undertakings, standing alone, are sufficient to insure that investors receive current and accurate information.

Subparagraph (a)(2)(iii) sets forth the third essential condition for shelf registrations—that the liability protections of the Securities Act apply to the current information included in post-effective amendments. Specifically, the registration statement must include an undertaking to clarify that, for the purpose of determining any liability under the Securities Act, each post-effective amendment shall be deemed to be a new registration statement, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Similarly, it is contemplated that a Section 15(d) registrant would be required to comply with the periodic reports requirements of Section 15(d) for one year subsequent to the date of effectiveness of a post-effective amendment.

Notwithstanding the requirements of subparagraph (a)(2) of proposed Rule 462A, there are certain situations in which post-effective amendments (or prospectuses under Rule 424(c)) are not necessary. Accordingly, the Rule contains an instruction which permits a registrant not to file a post-effective amendment if the registration statement is on Form A[84] and if all information that would have been contained in the post-effective amendment as required by subparagraph (a)(2) has already been set forth in periodic reports filed by the registrant pursuant to Section 12 or Section 15(d) of the Exchange Act and is incorporated by reference in the registration statement. The Commission believes that the disclosure of other material information by post-effective amendment, as required by subparagraph (a)(2) of the proposed Rule, can be eliminated when that information has already received widespread dissemination by means of the registrant's periodic reports and updates information included in the prospectus solely by incorporation by reference. This theory underlies the Commission's development of an integrated disclosure system and is incorporated into the proposed three-tier registration system. As proposed, this instruction in Rule 462A would apply only to registration statements filed on Form A.[85]

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[76] However, securities offered pursuant to options under employee benefit plans may be registered udef subparagraph (a)(1)(ii) without regard to the two-year period.

[77] It should be noted that, if options, warrants or rights are immediatley exercisable or if convertible securities are immediately convertible, the underlying securities must be registered along with the registration of the options, warrants or rights or the convertible securities. This position as to convertible securities is set forth in Guide 4 and would not be changed by the elimination of the Guide. However, the actual conversion of convertible securities without payment of additional consideration, whether or not the securities are convertible immediately upon issuance, may be exempt from registration under Section 3(a)(9) of the Securities Act, provided the securities obtained on conversion are "exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange."

[78] The Commission is also aware that, in at least one instance, the staff has limited the availability of a shelf registration for a continuous offering of debt to that which the registrant proposed to sell in one year. *See* Release No. 33-6240 (September 17, 1980) [45 FR 61609]. *See* n. 87 *infra.*

[79] *See* n. 72 and accompanying text *supra.*

[80] Proposed Rule 462A(a)(2)(iv).

[81] *See* n. 82 and accompanying text *infra.*

[82] *See* n. 71 *supra.* However, the Commission staff obtains various forms of additional undertakings in connection with certain specific types of shelf registrations and will continue to require any undertakings deemed appropriate in a particular case. *See, e.g.,* letter to Beatrice Foods Co., 1973 (CCH) Fed. Sec. L. Rep. ¶79,351 (available January 17, 1973).

[83] Section 10(a)(3) of the Act requires that "when a prospectus is used more than nine months after the effective date of the registration statement, the information contained therein shall be as of a date not more than sixteen months prior to such use so far as such information is known to the user of such prospectus or can be furnished by such user without unreasonable effort or expense * * *"

Current registration forms (see n. 71 *supra*) specify that post-effective amendments with Section 10(a)(3) prospectuses must comply with forms, rules and regulations in effect on the dates such amendments are filed. *See* discussion of Guide 3 *supra.*

[84] The Commission has proposed to create a new three-tier registration system to facilitate the integration of filings made under the Securities Act and Exchange Act. *See* Release No. 33-6235 (September 2, 1980) [45 FR 63693]. Proposed form A is designed to be used by the same qualified issuers and for virtually the same primary and secondary offerings as are permitted on existing Form S-16. It requires minimal prospectus disclosure and relies heavily, through incorporation by reference, on Exchange Act periodic reports. If proposed Rule 462A is adopted, Form A would be amended to cover registration of offerings allowed by the proposed Rule. The provisions of proposed Forms B (Instruction 9) and C (Instruction G) which refer to Guide 4 would also be amended to refer to proposed Rule 462A.

However, a post-effective amendment (or prospectus under Rule 424(c)) would still be required if the information actually included in the prospectus and delivered to investors contained a material misstatement of fact or failed to state a material fact necessary to make such information not misleading as of any time during the offering. In determining whether the prospectus is materially inaccurate, registrants and selling security holders should consider whether substantive disclosures in the prospectus have been rendered misleading by subsequent events. For example, even if quarterly financial results are incorporated in the registration statement and prospectus by reference, if financial information has actually been included in the prospectus being delivered, it may be misleading to continue to deliver the prospectus without amending it to include the current data. The Commission further believes that, if financial information is included in a prospectus, the prospectus must be updated to reflect comparable information when new information is required by Section 10(a)(3).

In addition, the registrant and selling securities holders should consider whether all facts were set forth about the seller's particular plan of distribution in the initial registration statement. The Commission, therefore, wishes to emphasize that any alteration made in the terms of the offering or plan of distribution—for example, a change from an underwriting at the market on a "best efforts" basis to any variety of "firm commitment" underwriting, or a change of managing underwriter in a "firm commitment" deal—would always necessitate the filing of a post-effective amendment.[86] Even an issuer registering securities on proposed Form A and incorporating by reference into the registration statement all periodic reports generally would have to file a post-effective amendment because information about the plan of distribution for a particular offering of securities would ordinarily not appear in those periodic reports.

It should be noted that proposed Rule 462A does not apply to registration statements filed by investment companies registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] because that statute specifically provides for continuous registration of investment company securities in Section 24 [15 U.S.C. 80a-24]. In addition, the Commission has recently published a release setting forth a staff interpretive position permitting a foreign government to use a shelf registration for an offering of debt securities upon terms and conditions not identical to those contained in proposed Rule 462A.[87] The Commission solicits comments on whether foreign governments or political subdivisions thereof, whose prospectuses must meet the requirements of Section 10(a)(2) of the Securities Act, should be subject to different requirements for the use of shelf registrations.

Certain Offerings Permitted by Proposed Rule 462A. In addition to permitting delayed offerings, proposed Rule 462A would broaden the category of permissible shelf registrations to make clear that issuers may register equity and debt securities for a continuous offering "at-the-market" or otherwise. The Commission recognizes that, although such an offering would be permissible under the Securities Act if the conditions contained in proposed Rule 462A were to be met, a continuous offering by an issuer of its equity securities "at the market," without formal under writing arrangements, represents a novel method of issuer entrance into the market place and may raise issues under the anti-manipulative provisions of the Exchange Act, specifically Rules 10b-2, 10b-6 and 10b-7.[88] It would be necessary for participants in a continuous distribution of securities to limit their market purchases of the class of securities being offered (or rights to acquire or securities convertible into that class) in a manner consistent with those anti-manipulative rules. In addition, the nature and timing of selling efforts in connection with an issuer's continuous offering of equity securities at the market might have an impact on trading in those securities and could possibly have effects on orderly market processes.

In view of the novel market concerns that may arise in connection with permitting an issuer to offer its securities in the manner contemplated by proposed Rule 462A, the Commission specifically solicits comment on (1) whether and to what extent there is a potential for manipulation in connection with issuer sales in an "at-the-market" offering; (2) whether and to what extent any such manipulative potential would differ from that with respect to market transactions not involving the issuer; (3) whether any potential concerns could be adequately dealt with by disclosure of the plan of distribution and any resulting market overhang;[89] (4) whether and what limitations, if any, should be imposed on at-the-market offerings on the basis of outstanding value or float in the market for the securities; and (5) whether and what conditions, if any, should be imposed upon the timing and amounts of sales in an at the market offering.[90]

In addition, the Commission invites suggestions as to additional conditions that would be appropriate for use of shelf registration of equity securities to be sold at-the-market. For example, the Commission is considering whether it should limit such offerings to certain issuers which exceed the requirements for use of proposed form A and in which the securities are sold by or through a broker-dealer, or a limited, named group as agent(s) or principal(s).

Guide 5—Preparation of Prospectuses. Guide 5 lists the subject matter which should appear on the cover page of a prospectus and in the notes to the distribution table on the cover page.

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[85] *See* Release No. 33-6235 (September 2, 1980) [45 FR 63693, 63701].

[86] The Commission is aware that the plan of distribution for certain forms of delayed or continuous offerings will not ordinarily change and, therefore, can be adequately disclosed well in advance of the actual transactions. In those situations, a post-effective amendment describing the terms of the offering would not be necessary. For example, shares are purchased through a dividend or interest reinvestment plan at a price set in accordance with a predetermined formula. Similarly, a continuous offering of securities made directly into the market on an episodic basis at the market price would require no further description if the agents for sale and the proposed method of sale are fully described in the initial registration statement. The Commission would expect to allow the registrant to "sticker" its prospectus under Rule 424(c), rather than file a post-effective amendment, to reflect the addition or deletion of a particular broker/dealer as a member of the syndicate in a firm commitment offering or an agent in a "best efforts" offering if the plan of distribution otherwise remained the same. The staff has also processed registration statements for several offerings of debt securities at specific interest rates, maturities and other terms that could be sold, without post-effective amendment, by the company or its disclosed agents whenever market conditions were right for such offerings. *See, e.g.,* Ford Motor Credit Company (File No. 2-64112) and Credithrift Financial, Inc. (File No. 2-59882). In such debt offerings, changes limited to interest rates were permitted to be disclosed and filed by means of a prospectus under Rule 424(c), and the Commission would expect to continue to allow similar changes to be disclosed and filed in that manner, rather than by post-effective amendment.

[87] *See* Release No. 33-6240 (September 17, 1980) [45 FR 61609]. In particular, the staff imposed certain additional prospectus-delivery requirements upon the registrant. *See also* n. 78 *supra.*

[88] 17 CFR 240.10b-2, 240.10b-6 and 240.10b-7.

[89] Proposed Items 42 and 45 of Regulation S-K would require disclosure as to the plan of distribution and material effects of market overhang. *See* discussion of Guides 6 and 53 *infra*

[90] For example, restrictions on sales could be modeled after the restrictions on issuer purchases in proposed Rule 13e-2. *See* Release No. 34-17222 (October 17, 1980) [45 FR 70890].

focusing particularly upon treatment of underwriter compensation, material risks associated with the offering and pricing information with respect to first-time issues.

With one exception, the commentators were in favor of retaining guide 5, but removing redundant or unnecessary notes. One writer particularly requested that the definition of underwriter compensation conform to the definition of such compensation used by the National Association of Securities Dealers, Inc., ("NASD"). Another suggested that the Guide be eliminated in view of the abbreviated disclosure now allowed in Forms S–7 and S–16 or, alternatively, be translated into a new cover page rule in Regulation C. This writer stressed that, if the Guide or its substances were retained, it should be applicable only to a first-time offering of securities on a long-form registration statement.

In light of the disclosure which is elicited by Guide 5, the Commission is proposing to delete the Guide and to incorporate most of its requirments in regulation S–K.[90] The Commission believes that cover page requirements should be centralized, and that such requirements should be viewed as substantive disclosure requirements, not as procedural requirements of the type included in Regulation C. Further, the Commission believes that certain of the cover page information required by this Guide is relevant with respect to all registrants, not simply first-time issuers. For example, every prospectus should contain a distribution table which shows the per unit and total offering price to the public, underwriting discounts and commissions, and proceeds to the registrant or other persons.

The Commission, therefore, is proposing the adoption of Item 40 of Regulation S–K [Cover Page of the Prospectus] which would combine the distribution table which would be required by Item 1 of proposed form a with respect to any offering [91] and Item 3 of proposed Form B with respect to a best efforts offering.[92] While much of the subject matter of Guide 5 is covered by the distribution table requirements in proposed Forms A and B, certain additional information required by Guide 5 would also be included in proposed Item 40, that is, (i) the name of the registrant; (ii) the amount and a brief description of the securities offered; (iii) the required statement that the Commission has neither approved nor disapproved the securities;[93] (iv) if applicable, identification of material risks involved in the purchase of the securities;[94] (v) the date of the prospectus;[95] (vi) and any material required by state law.

Since disclosure of the various forms of underwriter compensation is material with respect to any offering, the Commission further proposes that the brief description of "the discounts and commissions to be allowed or paid to underwriters" required by the note to paragraph (d) of Guide 5 be added to proposed Item 42 of Regulation S–K [Plan of Distribution]. Such information would be included in the body of the prospectus to the extent not set forth on the cover page. At the suggestion of one commentator, the Guide 5 directive to describe the forms of underwriter compensation would be elaborated by setting forth examples of the forms of underwriter compensation deemed reportable. Such examples are drawn from the Corporate Financing Interpretation of the NASD and from Guides 14 and 35.[96] It is anticipated that these examples would be updated to reflect changes in the NASD's Corporate Financing Interpretation.

Finally, in view of the significance of the disclosure required by Guide 5 with respect to first-time issues, the Commission is recommending that the notes to Guide 5 which call for disclosure of the absence of an established trading market and the method of determining the offering price of first-time issues be added to proposed Item 45 of Regulation S–K [Securities to be Registered].

As discussed further in connection with guide 59, the Commission is requesting comment on what information should be set forth on the cover page, in the summary and elsewhere in the prospectus.

Guide 6—Introductory Statements. Guide 6 sets forth certain items which should be disclosed immediately following the cover page: risk factors and a graphic illustration of the dilution of shareholder equity.

The commentators on Guide 6 generally felt that the Guide elicited extremely useful information. In fact, one commentator suggested that the Guide be expanded to require a first-time issuer to describe the effect of any anticipated market overhang. Only one commentator expressed the view that the Guide should be eliminated because discussions of risk factors and dilution have become "trivialized" and "boilerplate." All of the commentators, however, were strongly opposed to making mandatory a graphic presentation of the dilution of a new investor's equity.

The Commission agrees with the majority of the commentators that a discussion of risk factors constitutes a material disclosure item and, accordingly, proposes that such requirement be added to proposed Item 41 of Regulation S–K [Summary of Information].[97] A tabular presentation of any material dilution of the interests of new equity investors or existing security holders has already been proposed as a summary requirement in proposed Forms A, B and C. That requirement would not mandate the particular form in which such dilution should be presented, so long as an "appropriate" tabular form is used.[98] In addition, the following disclosure requirements from Guide 6 are proposed to be added to Item 42 of Regulation S–K [Plan of Distribution]. Where there is substantial disparity between the public offering price and the effective cash cost to insiders, the registrant would be required to disclose the net tangible book value per share before and after the distribution; the amount of increase in such net tangible book value per share attributable to all cash payments made by purchasers of the shares being offered; and the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

The Commission is also proposing, in response to the commentator suggestion noted previously, that a requirement be added to proposed Item 45 [Securities to be Registered], requiring the registrant to furnish a description of any material impact or potential impact (including dilution and market overhang), upon security holders, upon the registrant and upon the market for registrant's securities, which may result from (i) options for, warrants for or securities convertible into securities of the same class as those being registered, (ii) outstanding securities of the same class as those being registered held by affiliates or constituting restricted securities (for the purpose of Rule 144 [17 CFR 230.144]), or (iii) securities being registered for delayed or continuous distribution, or securities of the same class being offered pursuant to an effective registration statement.

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[90] Certain provisions of guide 5 are proposed to be eliminated as unnecessary, including instructions encouraging brevity and readability and discouraging use of stock phrases and "bare bones" disclosure.

[91] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693, 63710].

[92] *Id.* at 63715.

[93] Also required by Rule 425 [Statement Required in All Prospectuses] [17 CFR 230.425] which is proposed to be rescinded.

[94] The proposals would codify existing staff practice by requiring that the identification of material risks be printed in bold-face type.

[95] Also required by Guide 7.

[96] *See* discussion of Guides 14 and 35 *infra.*

[97] *See* discussion of Guide 59 *infra.*

[98] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693, 63710].

The proposed rule would call for disclosure of information on potential dilution not only from rights issued to persons related to the registrant but also from rights issued to others. Further, although there are no specific current requirements on disclosure of market overhang, such disclosure has often been deemed material and included in registration statements. The proposed rule would call for information on the potential dilution and market impact of securities of the same class which may be offered in the future or are currently being offered by the registrant, by its affiliates, or by other persons who hold amounts of restricted securities and who may sell under Rule 144 or upon registration. The third requirement of the proposed rule would apply to registration of delayed or continuous offerings under proposed Rule 462A and would elicit information that is particularly relevant to the market impact of a continuous-at-the-market offering by an issuer of its equity securities.[99]

Guide 7—Dating of Prospectuses.

Guide 7 provides that the date of the prospectus required by Rules 423 [Date of Prospectus] [17 CFR 230.423] and 433 [Prospectus for Use Prior to Effective Date] [17 CFR 230.433] should be set forth on the cover page of the prospectus. Rule 423 provides generally that each prospectus used after the effective date of the registration statement should be dated approximately as of the effective date and that each prospectus supplement should be dated as of the approximate date of issuance. Rule 433 in paragraph (b) provides, *inter alia*, that each preliminary prospectus used before the effective date of the registration statement should be dated on the cover page as of the approximate date of issuance.

As discussed above in connection with Guide 5, the Commission is proposing that this dating requirement be included in proposed Item 40 of Regulation S-K [Cover Page of the Prospectus] and is therefore proposing to withdraw Guide 7.

Guide 8—Pictorial or Graphic Representation in Prospectuses.

Guide 8 provides that drawings are not permitted in a prospectus, although photographs and/or trademarks may be permitted so long as they do not create a misleading impression.

Since this Guide draws an artificial distinction between drawings and photographs, the Commission proposes that it be eliminated altogether. Registrants, however, should be aware of their continuing obligation not to use misleading or potentially misleading maps, surveys, drawings, photographs, trademarks and other graphic representations.

Guide 9—Promoters.

Guide 9 states that persons coming within the definition of "promoters" in Rule 405 may also be referred to as "founders" or "organizers" [Definitions of Terms] [17 CFR 230.405]. Since the definition of "promoter" in Rule 405 describes promoters in terms of their founding and organizing activities, in the Commission's view the use of the terms "founder" or "organizer" is tantamount to the use of the term "promoter." Since the Guide appears to be unnecessary, the Commission accordingly proposes its elimination. Specific comment is requested, however, as to whether it is desirable to amend Rule 405 to permit explicitly the alternative terminology.

Guide 10—Registration of Options, Warrants or Rights and Other Securities Issued or Sold to Underwriters.

Guide 10 requires that all transferable options, warrants, rights and convertible securities, and the securities to be issued upon the exercise or conversion thereof, issued or sold to underwriters in connection with a registered public offering are to be considered a part of that offering and registered accordingly, regardless of whether the underwriter takes with a view to distribution. Non-transferable options, warrants or rights issued in the offering need not be registered as part of the offering, but the securities subject thereto must be. The Guide also requires the registrant to undertake to file an updated post-effective amendment with respect to the secondary offering of such securities where the securities are not to be distributed immediately.

The commentators believed that this Guide unnecessarily requires registration of securities which are not being distributed, and that, in appropriate circumstances, underwriters should be able to resell the securities in the future pursuant to an available exemption,[100] or to register the securities at a future time if an exemption is not available. In light of these views and the proposal to adopt Rule 462A regarding delayed or continuous offerings[101] the Commission is proposing to withdraw Guide 10. Registration of securities issued to underwriters would then not be mandated in all cases, but only if the securities are in fact being publicly distributed.

Underwriters must continue to avoid engaging in unregistered public distributions of securities received by them. In the event that securities issued by underwriters are deemed to be part of the distribution, proposed Rule 462A would enable underwriters to register options, warrants, rights and convertible securities, and the underlying securities, that are received in connection with an offering at the time of the offering, provided that the registration statement contains certain undertakings to provide updated information with respect to delayed offering by post-effective amendment or by incorporation by reference of periodic reports. Further, as noted in connection with Guide 4,[102] the proposed deletion of Guide 10 does not obviate the necessity of registering the securities underlying options, warrants, rights or convertible securities which are immediately exercisable at the time such options, warrants, rights or convertible securities are themselves registered.

Guide 11—Finders.

Guide 11 states that the cover page of the prospectus should, in addition to disclosing any finder's fee in the distribution table, identify any finder and disclose the nature of any affiliation of the finder to the registrant, its officers, directors, promoters, principal stockholders and underwriters (including in each case, affiliates or associates thereof). Guide 11 also states that if a finder receives securities as compensation for services rendered in connection with the offering, the finder may be deemed a statutory underwriter whose shares must be registered pursuant to Guide 10.

The Commission is proposing deletion of the Guide, but continuation of certain of its requirements. While the Commission believes that disclosure of a finder's affiliation should appear in the prospectus, it is proposed that such disclosure not be required on the cover page. Finder's fees and similar payments would still be required to be disclosed in the distribution table on the cover page of the prospectus,[103] but the disclosure required by Guide 11 with respect to the finder's affiliations would be added to the Plan of Distribution section of the prospectus. In view of the significance of a promoter's, as well as a finder's, affiliation to the registrant, its officers, directors, principal stockholders, underwriters and finder(s) or promoter(s) (or their affiliates or associates), as the case may be, proposed Item 42 of Regulation S–K [Plan of Distribution] would also codify the current staff practice of requiring disclosure in the prospectus of such affiliation(s) of the promoter.

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[99] *See* discussion of Guide 4 *supra*.

[100] Rule 144 establishes a safe harbor for the open market resale of restricted securities without registration if all the conditions of the Rule are met. In general, the Rule imposes a two year holding period and sets limitations upon the amount of securities that can be sold within a given time period. Rule 144 cannot be used directly by an underwriter because underwriters do not meet the requirement that their securities be acquired in a transaction or chain of transactions not involving any public offering. *See* Securities Act Release No. 6099 (August 2, 1979) [44 FR 46752]. The staff nevertheless allows underwriters to use the standards of Rule 144, provided that: (1) the securities to be sold were registered originally as part of the public offering; and (2) at least two years have elapsed from the date of the last sale of that public offering. *See e.g.*, letter re Communications Properties, Inc., dated March 13, 1978. If the Guide's mandatory requirement for registration is eliminated, the staff would be inclined not to apply proviso (1) as a condition to use of Rule 144 by underwriters with respect to sale of securities obtained in connection with a public offering.

[101] *See* discussion of Guide 4 *supra*.

[102] *See* n. 76 *supra*.

With respect to treatment of finders as statutory underwriters commentators expressed views similar to those expressed concerning Guide 10. In view of these comments and the proposed adoption of Rule 462A, the Commission is proposing the withdrawal of the mandatory registration requirement for securities issued to finders. As with securities issued to underwriters, registration may be required for securities which are issued to finders and are intended to be offered to the public. In such cases, proposed Rule 462A may be available, provided that the conditions specified by that Rule are satisfied.

Guide 12—Over-The-Counter Trading in Rights or Warrants.

Guide 12 states that disclosure should be made in the prospectus of the basis upon which subscription rights or warrants will be traded in the over-the-counter market. The Guide cites Section 61 of the NASD's Uniform Practice Code, stating that, pursuant to that Section, quotations will be based on the assumption that one right or one warrant represents the right to purchase one share of stock, although several rights may be necessary to purchase one share.

Since this Guide provides useful market information concerning the securities to be registered, the Commission is recommending that it be deleted and that proposed Item 45 of Regulation S–K [Securities to be Registered] require that if warrants, options or rights are being registered the basis of trading in such securities should be stated. A description of the basis of trading in such securities would include a statement, where applicable, that such rights trade separately from other securities and that such rights are quoted on the basis of a single right, even though several rights may be necessary to purchase one share. The Commission believes that the information currently elicited by the Guide should be expanded to take into account the basis of trading in options and rights, as well as subscription rights and warrants, and that a description of the basis of trading should include a statement as to whether such rights will be traded separately. (Exchange traded options would not be covered by the disclosure requirement.)

Guide 13—Market Quotations—Absence of Established Market.

Guide 13 sets forth the disclosure which should appear in a prospectus where there is an established market for the securities to be registered and where there is no established market. Guide 13 also states that the existence of limited or sporadic quotations should not of itself be deemed to constitute an established trading market.

In accordance with the commentators' suggestion that this Guide be incorporated in Regulation S–K, with revisions to reflect recent changes in market practices, the Commission is proposing that the Guide be deleted and that the following disclosure concerning market and market price of the securities being registered be required by proposed Item 45 of Regulation S–K [Securities to be Registered]: (i) if there is no market for the securities being registered (excluding limited or sporadic quotations), a statement should be furnished to that effect; (ii) if there is an established market for such securities, the principal market or markets on which such securities are traded should be identified; and (iii) in the case of listed securities, historical market price data on a quarterly basis for a two year period should be set forth as reported in the consolidated transaction system or, if not so reported, as reported by each principal exchange; and (iv) in the case of quoted securities, historical market price data on a quarterly basis together with an explanation of the source and basis for such quotations should be set forth.

The disclosure called for by Guide 13 would therefore be added to proposed Item 45 with only one modification. To reflect the institution of the consolidated transaction system, Item 45 would require that historical market price data for listed securities should be based, whenever possible, upon prices reported by the consolidated transaction system.[104]

Guide 14—Underwriters' Compensation From Conversion of Funds into Foreign Currency.

Guide 14 provides that, where an underwriter sells securities for U.S. currency but remits the proceeds to the issuer in foreign currency, any material profit made by the underwriter from exchange rate fluctuations should be disclosed in the prospectus as underwriter compensation.

In order to provide guidance as to the forms of underwriter compensation which should be described in the prospectus, the Commission is proposing that reference to any material amount of profit realized from conversion of offering proceeds into foreign currency be included in proposed Item 42 of Regulation S–K [Plan of Distribution] as a form of reportable underwriter compensation. The Guide itself is proposed to be deleted.

Guide 15—Expenses of Issuance and Distribution.

Guide 15 provides that the itemized statement of "other expenses of issuance and distribution" called for in Part II of a registration statement should break out any premium paid by the registrant or selling security holder on any policy which insures or indemnifies directors or officers against any liabilities they may incur in connection with the offering. Guide 15 also states that the total of such expenses should be set forth in a note to the net proceeds column of the distribution table on the cover page of the prospectus.

The first directive of Guide 15—that the premium paid for liability insurance or indemnification should be separately itemized—is already set forth in an instruction to Item 9 of proposed Form A.[105]

In accordance with one commentator' a suggestion, however, specific comment is requested as to whether an increase in the amount of such premiums resulting from the offering should also be itemized separately.

The Commission proposes that the second directive of Guide 15—that aggregate "other expenses of issuance and distribution" be reported in a note to the net proceeds column of the distribution table, with the aggregate of such expenses borne by the registrant and by selling security holders shown separately—be added to proposed Item 40 of Regulation S–K [Cover Page of the Prospectus] as an instruction to the distribution table. Guide 15 itself is proposed to be deleted.

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[103] *See* Item 1 of proposed Form A in Release No. 33–6235 (September 2, 1980) [45 FR 63693, 63710], incorporated in proposed Item 40 of Regulation S–K.

[104] This updated reporting requirement tracks the requirements for reporting historical market price data for the registrant's common stock which were recently adopted in Item 9 [proposed herein to be renumbered Item 30] of Regulation S–K [Market Price of the Registrant's Common Stock and Related Security Holder Matters]. *See* Release No. 33–6231 (September 2, 1980) [45 FR 63630].

[105] See Release No. 33–6235 (September 2, 1980) [45 FR 63693, 63713] incorporated in proposed Item 46 of Regulation S–K. *See* also instruction to Item 9 of Form S–16.

Guide 16—Underwriters' Experience and Due Diligence Inquiry.

The first paragraph of Guide 16 discusses the more detailed disclosure called for in a prospectus relating to a "new or speculative issue if the underwriter is newly organized, reactivated or recently registered as a broker-dealer, especially if the principal function of the underwriter will be to sell the securities to be registered, or if the underwriter is identified with the promoters of the registrant. The second paragraph of Guide 16 states that the underwriter of a "new or speculative" issue may be called upon to explain to the staff on a supplemental basis the steps taken to verify the disclosure in the prospectus.

The commentators felt that this Guide should be retained but revised to apply only to managing or sole underwriters of original public offerings or speculative issues. The Commission proposes to delete this Guide and to retain its substance elsewhere (without a limitation as to managing underwriters).

Congruent with past practice, in view of the critical role played by the underwriter as the intermediary between the issuer and the investing public in affording protection against defects in the prospectus, the Commission is proposing that the text of the first paragraph of Guide 16 be included in proposed Item 42 of Regulation S–K [Plan of Distribution]. In view of Item 3(a) of proposed Form A, which would require disclosure of any material relationship between the underwriter and the issuer,[106] specific comment is requested as to whether these disclosure provisions should be combined and expanded to require identification of any underwriter which has a material relationship with promoters, finders and affiliates of the registrant as well as the registrant itself.

The Commission is also proposing that new Rule 400B [Supplemental Information] incorporate the remainder of Guide 16 and state that the staff may request supplemental information relating to the due diligence inquiry of the underwriters of a "new or speculative issue."

Guide 17—Disclosure of Underwriting Discounts and Commissions.

Guide 17 discusses the need to disclose fully in the propectus all forms of underwriter compensation which are not easily reducible to a dollar per unit basis, for example, options or warrants to purchase shares, expense allowances, continuing fees for services, and first refusal on future financing. Guide 17 also requires the registrant, before the effective date of the registration statement, to notify the Commission as to whether or not the amount of compensation to be allowed or paid to the underwriters has been cleared with the NASD.

As discussed above in connection with Guide 5, the Commission is proposing that proposed Item 42 of Regulation S–K [Plan of Distribution] require the registrant to describe briefly the forms of compensation to be allowed or paid to the underwriters. At the suggestion of one commentator, that Item would list possible forms of underwriter compensation based upon the NASD's Corporate Financing Interpretation.

The Commission proposes (i) to add the requirement of Guide 17 that a registrant automatically inform the staff when the amount of underwriter compensation has been cleared with the NASD to Rule 401 [Request for Acceleration of Effective Date] [17 CFR 230.461]; and (ii) add a paragraph to the Note to Rule 460 [Preparation and Distribution of Preliminary Prospectus] to the effect that the staff may require a copy of the NASD clearance as a condition to acceleration.

The Commission recently approved certain proposed rule changes of the National Association of Securities Dealers, Inc. (the "NASD") that pertain to underwriting practices in fixed price offerings.[107] One of the rule changes amended Article III, Section 24 of the NASD's Rules of Fair Practice so as to allow underwriters and other dealers to receive selling concessions for the sale of underwritten securities to their customers in return for research they provided to those customers. As a result, investors who received research in connection with their purchases in a fixed price offering would receive more or at least different value than those who did not. In approving that rule change, the Commission did not address the question of what disclosure, if any, of practices permitted by NASD rule is or should be required.[108] In light of the NASD's rules, as now amended, the Commission requests that commentators address the question of whether generic or other disclosure should be made to investors concerning anticipated distribution and research practices under the NASD's rules.

Guide 18—Original Issue Discount of Debt Securities.

Guide 18 provides that when debt securities are offered at a discount, the discount and the tax treatment thereof under Section 1232 of the Internal Revenue Code should be disclosed in the prospectus.

In order to provide comprehensive market price information with respect to the securities being registered, the Commission is proposing that Guide 18 be deleted and the substance of its provisions added to proposed Item 45 of Regulation S–K [Securities to be Registered]. The proposed wording is changed from the Guide to make clear that disclosure is required only if there is "original issue discount" subject to special tax rules under Section 1232. Accordingly, if debt securities are to be offered at an original issue discount as defined in Section 1232 or if a debt security is sold in a package with another security and the allocation of the offering price between the two securities may have the effect of offering the debt security at such an orginal issue discount, a registrant would be required to disclose the amount of such an orginal issue discount and any tax effects thereof pursuant to Section 1232.

Guide 19—Distribution of Preliminary Prospectus.

Guide 19 outlines the information which a registrant must furnish the staff with respect to the extent of distribution of the preliminary prospectus to enable the staff to rule upon requests for acceleration. The Guide notes that the staff may require broader distribution as a condition to acceleration and that the distribution of the preliminary prospectus is not ordinarily a condition of acceleration in the case of subscription offerings.

The majority of the commentators believed that compliance with Guide 19 did not impose an excessive burden because an adequate distribution of the preliminary prospectus affords the market sufficient time and opportunity to appraise information disseminated about the issuer. The commentators further believed that the rules and guidelines governing the distribution of preliminary prospectuses (Rule 15c2–8, Rule 460, Guide 19 and Release No. 33–4968) should be consolidated.

In accordance with these commentator views, the Commission is proposing deletion of Guide 19, and incorporation of its requirements into Rule 460 [Preparation and Distribution of Preliminary Prospectus] of Regulation C and the incorporation of the "48-hour rule" of Release No. 33-4968[109] into Rule 15c2-8 [Delivery of Prospectus] [17 CFR 240.15c2-8] under the Exchange Act. Rule 460 would be amended in two respects. First, proposed Rule 460(e) would specify that a distribution of the preliminary prospectus may not be necessary in the case of certain subscription rights offerings. Second, proposed Rule 460(g) would permit the staff to request certain information with respect to the distribution of the preliminary prospectus as a condition to acceleration. This information includes the dates of distribution; the number of prospective underwriters and dealers to whom the preliminary prospectus was furnished; the number of prospectuses so distributed and the number of prospectuses distributed to others, identifying them in general terms. While the proposals substantially reflect Guide 19, certain changes would be made. These include: (i) the registrant would supply distribution information only upon request from the staff, rather than automatically, whenever a request for acceleration is made; (ii) the approximate rather than exact dates of distribution would be given in the case of large offerings where, as pointed out by the commentators, it may be difficult to pinpoint exact distribution dates; and (iii) the registrant may be called upon to explain the steps taken by the underwriters and dealers to comply with the provisions of Rule 15c2-8 under the Exchange Act [Delivery of the Prospectus].

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[106] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693, 63711].

[107] *See* Release No. 34–17371 (December 12, 1980) [45 FR 83707].

[108] *Id. But see* the dissenting opinion of Commissioner Evans.

The proposal would alleviate the regulatory burden imposed by the requirement that every issuer supply a "Guide 19" letter in connection with every offering since "Guide 19" information is frequently unnecessary in offerings by experienced issuers and underwriters.

In accordance with the commentators' suggestion that distribution requirements be consolidated, Rule 15c2-8, which sets forth the specific steps which participating brokers or dealers must follow to distribute the preliminary prospectus reasonably, is proposed to be amended to incorporate the "48-hour rule" of Release No. 33-4968. A new paragraph (b) would be added to Rule 15c2-8, providing that, in connection with a new or speculative issue of securities, participating brokers or dealers must distribute a copy of the preliminary prospectus to each person who is expected to receive a confirmation of sale at least 48 hours prior to the mailing of such confirmation. Although the "48 hour" rule may be an appropriate standard for issues which are not new or speculative, Release No. 33-4968 was directed to new and speculative issues, and the proposed rule change is likewise limited. The Commission requests comment on whether the "48 hour" rule should be applied as a mandatory requirement for issues other than those discussed in Release No. 33-4968.

Guide 20—Mailing of Amended Preliminary Prospectus to Regional Offices.

Guide 20 provides that unmarked copies of the preliminary prospectus contained in any material amendment to a registraton statement should be sent to the Chicago and New York regional offices of the Commission.

The Commission, concurring with the commentators that the mailing of material amendments to the regional offices serves no useful purpose at present, proposes that this Guide be eliminated.

Guide 21—Use of Proceeds.

The first paragraph of Guide 21 indicates that, in an S-1 prospectus, managment may reserve the right to change the use of proceeds only if all contingencies are adequately disclosed. The second paragraph of the Guide requires the registrant to use a pie-chart, table or some other graphic illustration of the intended use of proceeds.

In order to provide guidance with respect to adequate disclosure of the intended use of proceeds, the Commission is proposing that Guide 21 be withdrawn and that the first paragraph of the Guide be added as an instruction to proposed Item 43 of Regulation S-K [Use of Proceeds to Registrant]. In addition, the Commission is proposing an instruction requiring use of proceeds disclosure for all proceeds of an offering which is made both in the United States and abroad.

The Commission is also recommending that mandated "pie-chart" disclosure of use of proceeds be eliminated because such disclosure may not be necessary or appropriate and, as pointed out by the commentators, the inclusion of a pie-chart may involve unwarranted printing costs. However, pie charts and similar graphic disclosures will continue to be permitted or encouraged where appropriate.

Guide 22—Summary of Earnings.

Guide 22 and Exchange Act Guide 1 were recently withdrawn when the Commission adopted Item 11 (proposed herein to be renumbered Item 12) of Regulation S-K [Management's discussion and Analysis of Financial Condition and Results of Operations].[110]

Guide 23—Current Financial Statements and Related Data.

Guide 23 was recently withdrawn when the instructions to financial statements were centralized in Regulation S-X.[111]

Guide 24—Currencies in which Amounts are to be Stated by Foreign Issuers.

Guide 24 provides that a foreign issuer may state money amounts solely in the currency of its domicile, unless a second parallel statement in U.S. dollars is necessary to a clear understanding. The Guide also states that the foreign issuer should prominently disclose the exchange rate as of the latest practicable date.

Since the subject matter of Guide 24 has been superseded by a more recent statement of the Commission policy in Staff Accounting Bulletin ("SAB") No. 1,[112] the Commission is proposing the elimination of this Guide. SAB 1 states that current staff practice is to require statements in U.S. as well as foreign currency, with the exchange rate given as of the date of the most recent balance sheet. If a material change in the exchange rate has occurred since the balance sheet date, the Bulletin instructs the foreign registrant to give the exchange rate at or about the date of filing. However, it should be noted that this matter is presently being reconsidered by the staff, and the Commission anticipates proposing a rule on the subject in the near future.

Guide 25—Manner of Showing Distributions by Real Estate Syndicates and Real Estate Investment Trusts.

Guide 25 provides that real estate syndicates and real estate investment trusts should not express distributions in percentages where, as is usually the case, the distribution includes both investment income and return of capital, because the percentages would then indicate a rate of return in excess of that based on investment income. Rather, the Guide requires that such distributions be broken down to show separately the investment income and return of capital components. The Guide also states that such data should be computed on the basis of financial accounting standards rather than the basis used for income tax purposes, if different.

The Commission is proposing the elimination of Guide 25 because it has been superseded by Item 6(b)(3) of Form S-11 [Summary of Operations].

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[109] *See* Release No. 33-4968 (April 24, 1969) [34 FR 7235].

[110] *See* Release No. 33-6231 (September 2, 1980) [45 FR 63630].

[111] *See* Release No. 33-6234 (September 2, 1980) [45 FR 63682].

[112] *See* Staff Accounting Bulletin Release No. 1 (November 4, 1975) [40 FR 53557], as amended.

Guide 26—Statement of Dividend Policy.

Guide 26 was withdrawn when the Commission adopted Item 9 (proposed herein to be renumbered Item 30) of Regulation S-K [Market Price of the Registrant's Common Stock and Related Security Holder Matters].[113] However, the Commission believes that certain aspects of the disclosure under present Item 9 applicable to registrant's common stock should also apply to securities being registered.

The Commission is proposing that the requirements of Item 9 as they relate to the frequency and amount of dividends paid, restrictions on the registrant's present or future ability to pay such dividends and the registrant's policy with respect to payment of future dividends be added to proposed Item 45 of Regulation S-K [Securities to be Registered] in the section setting forth disclosure requirements with respect to capital stock to be registered.

The Commission specifically requests comment on whether and to what extent the disclosure requirements in existing Item 9 (proposed herein to be renumbered Item 30) of Regulation S-K pertaining to common stock and proposed Item 45 of Regulation S-K pertaining to securities to be registered can be harmonized and made uniform, for example, as to dividends and market for the securities.[114]

Guide 27—Names of Customers and Competitors.

Guide 27 states that, although a registrant is usually not required by Form S-1 to disclose the names of its customers and competitors in describing its business, where a substantial part of the business is dependent upon a single customer, or a very few customers, the loss of any one of which would have a materially adverse effect on the registrant, that customer or customers should be identified, and material facts with respect to them should be stated. The Guide also warns that identification of customers and competitors should be avoided if the effect of including specific names would be misleading.

The Commission is proposing the elimination of Guide 27 because it has been superseded by paragraphs (c)(vii) and (x) of Item 1 of Regulation S-K [Description of Business].

Guide 28—Disclosure of Extractive Reserves and Natural Gas Supplies.

Guide 28 and Exchange Act Guide 2 contain detailed instructions as to how registrants should disclose the quantitative amount of their estimated reserves and the current availability of gas supplies.

The Commission proposes the elimination of Guide 28 and Exchange Act Guide 2 because they have been superseded by Item 2(b) of Regulation S-K [Description of Property].

Guide 29—Disclosure of Material Long-term Leases.

Guide 29 states that a registrant, in describing any property held under a material long-term lease, should give the remaining term of years of the lease.

The Commission is proposing the elimination of this Guide because it has been superseded by Financial Accounting Standards Board Statement No. 13 on Leases.

Guide 30—Disclosure of Principal sources of Electric or Gas Revenues.

Guide 30 instructs registrants which are electric or gas utilities to disclose the principal classes of service from which electric or gas revenues are derived.

The Commission is recommending that Guide 30 be retained as an industry guide. Other aspects of disclosure by utility companies are discussed in Release No. 33-6250[115] which was recently issued as the result of a separate notice and comment process.

Guide 31—Disclosure of Recent Developments—Backlog.

Guide 31 states in the first paragraph that if there has been a material change in the trend of sales or earnings of the registrant, the reason for the change should be adequately disclosed. Guide 31 also states in the second paragraph that, where material to the business of the registrant, information concerning backlog and levels of plant operation should also be given. The Guide goes into some detail as to the manner in which backlog should be disclosed.

The Commission proposes that this Guide be eliminated because the first paragraph relating to disclosure of material changes in sales or earnings trends has been superseded by recently adopted Item 11 (proposed herein to be renumbered Item 12) of Regulation S-K [Management's Discussion and Analysis of Financial Condition and Results of Operations][116] and the second paragraph relating to disclosure of material backlog has been superseded by paragraph (c)(viii) of Item 1 of Regulation S-K [Description of Business].

Guide 32—Liability of Shareholders to Laborers, Servants or Employees Under State Law.

Guide 32 requires disclosure of potential liabilities imposed on shareholders by state labor laws, unless the financial resources of the registrant are such as to make it unlikely that the liability will ever be imposed.

The Commission is proposing that this guide be withdrawn and its substance added to proposed Item 45 of Regulation S-K [Description of Securities to be Registered] under section (a) of that Item which calls for a description of the rights evidenced by capital stock to be registered, as well as any qualifications or limitations upon those rights.

Guide 33—Notice of Redemption of Convertible Securities or Callable Warrants.

Guide 33 provides that, with respect to convertible securities which are subject to redemption and stock purchase warrants which are callable, the registrant should: (i) state whether the right to convert or purchase will be lost unless it is exercised before the redemption or call; (ii) state the kinds, frequency and timing of the notice of redemption or call, including the cities or newspapers in which notice will be published; and (iii) in the case of bearer securities, caution investors to make appropriate arrangements to prevent loss of the right to convert or purchase in the event of redemption by, for example, reading newspapers in which the notice of redemption or call may be published.

Since the manner in which a registrant intends to redeem or call convertible securities or stock purchase warrants constitutes a material term of such securities which should be described in the prospectus, the Commission proposes to withdraw Guide 33 but to add its disclosure requirements to proposed Item 45 of Regulation S-K [Description of Securities to be Registered] under section (c) of that Item which calls for a description of the rights evidenced by warrants, rights and convertible securities, as well as any qualifications or limitations upon those rights.

Guide 34—Executive Committee.

Guide 34 provides that the members of the registrant's executive committee should be disclosed in Form S-1. The Commission is proposing the elimination of this Guide because it has been superseded by Item 3 (proposed herein to be renumbered Item 20) of Regulation S-K [Directors and Executive Officers].

Guide 35—Identification of Members of Board of Directors Selected by the Underwriters.

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[113] *See* Release No. 33-6231 (September 2, 1980) [45 FR 63630].

[114] *See also* discussion of Guide 12 *supra* and Guide 32 *infra.*

[115] *See* Release No. 33-6250 (November 13, 1980) [45 FR 76695].

[116] *See* Release No. 33-6231 (September 2, 1980) [45 FR 63630].

Guide 35 states that the Commission may refuse to accelerate the effective date of a registration statement if a director to be designated by the underwriter has not been so designated but when designated may be a director, officer, partner, employee or affiliate of the underwriter. If the person to be designated is not yet known and will not be affiliated with the underwriter, the prospectus should contain a representation to that effect. The Commission proposes to withdraw Guide 35 but to retain its substance in other rules and regulations.

In order to provide guidance as to the various forms of underwriter compensation which should be described in the prospectus, the Commission is proposing that Item 42 of Regulation S-K [Plan of Distribution] which describes reportable underwriter compensation include requirements that the registrant describe any arrangement whereby the underwriter has chosen or will choose a member or members of the board of directors, identify any director so designated, and state whether the designee is related to the underwriter. In addition, the Commission is proposing to codify the condition of acceleration contained in Guide 35 by adding it to the list of conditions contained in the Note to Rule 460 [Preparation and Distribution of Preliminary Prospectus] [17 CFR 230.460].

Guide 36—Effect of Issuance of Options or Warrants to Certain Persons.

Guide 36 outlines the additional disclosure which should appear in a prospectus whenever a material amount of options, warrants or convertible securities have been or are to be issued to promoters, underwriters, finders, principal stockholders, officers or directors. Such disclosure would ordinarily include the following: that for the life of the options, warrants or convertible securities, the holders thereof are given, at a minimal cost, the opportunity to profit from a rise in the market for securities of the class subject thereto, with a resulting dilution in the interest of security holders; that the terms on which the issuer would obtain additional capital during that period may be adversely affected; and that the holders of such securities might be expected to exercise them at a time when the issuer would, in all likelihood, be able to obtain any needed capital by a new offering of securities on terms more favorable than those provided for by the options or warrants.

As noted above in connection with Guide 6, the Commission is proposing that Item 45 of Regulation S-K [Description of Securities to be Registered] require a registrant to describe any material effect(s) upon security holders, upon the registrant, and upon the market for the registrant's securities which may result from options for, warrants for or securities convertible into, the securities of the same class as those being registered as the instruction to proposed Item 45(e)(1)(v) makes clear, the description of such material effects would ordinarily include the potential dilution as described in Guide 36. Accordingly, the Commission proposes that Guide 36 be withdrawn.

Guide 37—Consents of Accountants.

Guide 37 provides that the accountants' consent should be included in any registration statement which refers to the examination or review by the accountants of material contained in the registration statement.

The Commission proposes that Guide 37 be eliminated because accountants' consents are already required by Section 7 of the Securities Act and by Rule 436(b) of Regulation C [Consents Required in Special Cases] [17 CFR 230.436(b)].

Guide 38—Consents of Attorneys.

Guide 38 provides that, where a registration statement requires as an exhibit an opinion of counsel as to the legality of the issue, or any other attorney is named as having passed on the legality of the issue, or where any information contained in the registration statement is to be furnished upon the authority of an attorney, the written consent of such counsel must be filed with the registration statement. However, Guide 38 also provides that no consent will be required from an attorney named as counsel for the underwriters or selling shareholders or from an attorney whose opinion was relied upon by another attorney in formulating the latter's own opinion.

Since, in the opinion of the commentators and the Commission, neither Section 7 of the Securities Act nor Rules 435 and 436 of Regulation C specifically discuss the filing of attorney consents, the Commission is proposing: (i) elimination of Guide 38; (ii) amendment of Item 7 (proposed herein to be renumbered Item 51) of Regulation S-K [Exhibits] [117] to require that consents of experts and a list thereof be filed as exhibits to the registration statement; (iii) amendment of Rule 435 [Formal Requirements as to Consents] [17 CFR 230.435] and Rule 436 [Consents Required in Special Cases] [17 CFR 230.436] to refer to opinions as well as reports of experts; and (iv) amendment of Rule 436 to state that, where an attorney is named as having acted for the underwriters or selling security holders, no consent will be required by reason of his being named as having acted in such capacity and, where the opinion of one attorney relies upon the opinion of another attorney, the consent of the attorney whose opinion is relied upon need not be furnished although he is named as an expert. The Commission specifically requests comment on whether a consent should be obtained from an attorney whose opinion is relied on by another attorney in connection with rendering an opinion on the legality of the issue, and the relying attorney is named and furnishes a consent.

Guide 39—Charter Amendments Authorizing New Securities.

Guide 39 provides that, in cases where a new issue of securities requires an amendment to the articles of incorporation authorizing the new shares and it is not possible to file the amendment with the appropriate state authority prior to the effective date of the registration statement, the registrant may file a copy of the proposed form of amendment, and, if material changes are later made, must also file the changed copy. Guide 39 adds that the prospectus should contain disclosure of the fact that the securities are being offered before the charter amendment has become effective pursuant to state authority.

The Commission is proposing that this Guide be withdrawn and that paragraph (b)(3) of Item 7 (proposed herein to be renumbered Item 51) of Regulation S-K [Exhibits] [118] be revised to provide that a form of charter amendment may be filed as an exhibit where it is impracticable for the registrant to file such amendment with the appropriate state authority prior to the effective date of the registration statement, and that, if material changes are made after the copy is filed, the registrant must also file a changed copy. The Commission is also proposing that the disclosure requirement of Guide 39 be added to proposed Item 45 of Regulation S-K [Description of Securities to be Registered] to state that, where the securities being registered are to be offered before the charter amendment authorizing the issuance of such securities is made effective by the appropriate state authority, a statement to that effect should be furnished.

Guide 40—Underwriting Agreements.

This Guide allows a registrant to file as an exhibit to its registration statement the form of underwriting agreement instead of the final executed copy. The Guide does require, however, that the form filed be a complete copy of the contract as it will be finally executed.

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[117] Recently adopted in Release No. 33-6230 (August 27, 1980) [45 FR 58822].

[118] Recently adopted in Release No. 33-6230 (August 27, 1980) [45 FR 58822].

The Commission is proposing elimination of this Guide since the provisions thereof are now covered by paragraph (b)(1) of Item 7 (proposed herein to be renumbered Item 51) of Regulation S-K [Exhibits].[119]

Guide 41—Specimen Bond.

Guide 41 provides that, if a specimen bond is not available to be filed as an exhibit, the registrant may instead refer in the exhibit list to the pages of the indenture where the text of the bond is set forth.

In view of the Commissions recent decision no longer to require that specimen certificates be filed as exhibits,[120] the Commission is proposing the elimination of Guide 41.

Guide 42—Reports or Memoranda Concerning the Registrant.

Guide 42 states that a registrant should furnish the staff with certain supplemental information prior to any pre-filing conference or, if none, at the time of filing the registration statement or as soon as practicable thereafter. Paragraph 1(a) of the Guide requires registrants who do not meet the conditions for use of Form S-7 to furnish the staff with any reports or memoranda (including those for internal use) prepared within the past twelve months for or by the registrant, a principal security holder or a principal underwriter. All registrants must furnish pursuant to paragraph 1(c) of the Guide any reports or memoranda prepared for external use by the registrant or a principal underwriter in connection with the proposed offering. All registrants proposing a reclassification of securities, merger, consolidation, acquisition of assets, exchange offer, tender offer or similar transaction must furnish pursuant to paragraph 1(d) of the Guide any reports or memoranda prepared by or for any of the parties to the transaction. Paragraph 2 of the Guide requires information about the use or distribution of any reports or memoranda furnished under the Guide.

Although the six commentators addressing this Guide objected to its continued use, in the experience of the staff the supplementary information furnished pursuant to Guide 42 has proved valuable in measuring the adequacy and accuracy of disclosure contained in the registration statement. In view of the value of such reports and memoranda and in view of the Commission's recent re-evaluation of the Guide's provisions,[121] it is proposed that the Guide be withdrawn and recast as new Rule 424A [Reports or Memoranda Concerning the Registrant] with only technical, non-substantive changes.

Specific comment is requested as to whether registrants should continue to furnish such reports or memoranda as supplemental information with respect to every registration statement or whether proposed Rule 424A should be revised to require such information only with respect to the registration of securities in connection with certain types of transactions, such as going private, initial public offerings, mergers, tender offers or other complicated transactions.

Guide 43—Representations From Selling Security Holders.

Guide 43 requires each selling security holder in a secondary offering to furnish the staff with a letter including a statement of the reason(s) for the sale; a representation that the seller is familiar with the registration statement; and any material adverse information which is known to the seller but is not disclosed in the prospectus (or a representation that the seller knows of no such information).

The Commission proposes to delete Guide 43, in agreement with the conclusion of the majority of the commentators that this Guide should be eliminated because it elicits "boilerplate" representations and creates costly mechanical problems whenever there is a large number of selling security holders. This proposal should not be construed, however, to obviate the obligation of the selling security holder to insure that material adverse information is adequately disclosed in the prospectus. A selling security holder must still submit a request for acceleration under Rule 461 [Request for Acceleration of Effective Date] [17 CFR 230.461] and, under an amendment to that Rule proposed herein, an acceleration request by a selling security holder (or the registrant or managing underwriter) would be deemed an acknowledgement of that person's responsibilities under the Securities Act.

Guide 44—Securities Act Exemption for Shares Subject to Options.

Guide 44 requires any registrant which has an employee stock option plan but which has not registered the securities underlying that plan, at the time of filing a new registration statement relating to securities of the same class of securities covered by the plan, to advise supplementally whether the securities covered are to be registered. If registration is not contemplated, the registrant is required to furnish information indicating the exemption from registration relied upon and the pertinent facts concerning transactions and participants under the plan.

The Commission does not believe it is necessary as a general matter to require supplemental information on exemptions from registration for employee stock options (although, of course, it may request such information if circumstances indicate a reason to do so). Accordingly, Guide 44 is proposed to be withdrawn.

Proposed Item 49 of Regulation S-K [Recent Sales of Unregistered Securities] would require disclosure of unregistered sales of securities over the past three years, including unregistered sales pursuant to employee stock option plans.

Guide 45—Information as to Over-the-Counter Market for Securities to be Registered.

Guide 45 provides that an issuer registering securities for which there is an over-the-counter market should furnish the staff with supplemental information as to the number of holders of record and the aggregate number of shares held of record by persons other than directors, officers and principal shareholders (with holdings in street or nominee name stated separately), the aggregate number of shares transferred during the past six months, and the most active market-makers during the past six months.

The Commission does not believe these detailed requirements are necessary in all cases, and that a more flexible approach is appropriate. Accordingly, Guide 45 is proposed to be withdrawn.

Instead of requiring registrants of over-the-counter securities to supply the staff with supplemental information whenever such securities are registered, the Commission proposes to state in new Rule 400B [Supplemental Information] that the staff, in considering requests for acceleration may request supplemental information, including, but not limited to, information relating to recent market activity in the securities to be registered. It should also be noted that pursuant to existing paragraph (e) of the Note to Rule 460, the Commission may deny a request for acceleration where there have been transactions in securities of the registrant by persons connected with or proposed to be connected with the offering which may have artificially affected or may artificially affect the market price of the securities to be offered.

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[119] Recently adopted in Release No. 33-6230 (August 27, 1980) [45 FR 58822].

[120] *Id.*

[121] *See* Release No. 33-5929 (May 5, 1978) [43 FR 53250].

Guide 46—Statement as to Indemnification.

Guide 46 discusses the disclosure concerning indemnification which a registrant should make in its prospectus. Paragraph (a) pertains to provisions for indemnification of officers, directors and controlling persons of the registrant. It provides that, if Note (a) to Rule 460 [Preparation and Distribution of Preliminary Prospectus] [17 CFR 230.460] does not apply because the registrant is not requesting acceleration pursuant to Rule 461 [Requests for Acceleration of Effective Date of Registration Statements] [17 CFR 230.461], and waivers have not been obtained from directors, officers, or controlling persons against liabilities arising under the Securities Act, provisions for indemnifying such persons should be referenced in the prospectus. A statement should also be made in the prospectus that, in the opinion of the Commission, such indemnification provisions are against public policy and therefore unenforceable. If Note (a) to Rule 460 does not apply because the registrant is requesting acceleration pursuant to Rule 461, the Note requires either waivers from the indemnified persons or a brief description of the indemnification provisions in the registration statement, together with a statement that, in the opinion of the Commission, such provisions are unenforceable and an undertaking to submit to a court of appropriate jurisdiction the question of whether such provisions are enforceable. Guide 46 makes clear that if Note (a) applies, the waiver or disclosure and undertaking required thereby need not be made in the prospectus and may appear in Part II of the registration statement.

Paragraph (b) of Guide 46 provides that provisions for indemnification of underwriters and their controlling persons should be described in the prospectus and referenced on the cover page. Paragraph (c) states that insurance against liabilities arising under the Securities Act will not prevent acceleration under Note (a) to Rule 460, and no waivers or undertakings are necessary.

The Commission proposes to delete Guide 46 and to incorporate equivalent provisions in Note (a) to Rule 460 and proposed Item 48 of Regulation S-K [Indemnification of Directors and Officers].

The Commission is proposing that Note (a) Rule 460 be amended by adding a statement, based on paragraph (c) of Guide 46, that, in any event, insurance against liabilities will not be considered a bar to acceleration. Paragraph (a) of proposed Item 48 of Regulation S-K (as derived from Item 11 of proposed Form A [122]) already requires a registrant to disclose in Part II of the registration statement the general effect of any charter provisions, by-laws, contract, arrangement or statute under which any director or officer of the registrant is indemnified or insured against any liability such person may incur in his capacity as such. This requirement would include any indemnification for liability under the Securities Act (as now called for by paragraph (a) of Guide 46). Paragraphs (b) and (c) would be added to Item 48 to require disclosure in Part II of the registration statement with respect to indemnification by the registrant for Securities Act liability of controlling persons of the registrant (as now called for by paragraph (a) of Guide 46) and underwriters or controlling persons thereof (as now called for by paragraph (b) of Guide 46). Paragraph (d) would also be added to Item 48 to provide that, in cases where Note (a) to Rule 460 does not apply because acceleration has not been requested, the registrant should describe in the prospectus any provisions indemnifying its directors, officers or controlling persons against Securities Act liability and should state that, in the opinion of the Commission, such provisions are unenforceable (based on paragraph (a) of Guide 46).

The principal effect of these proposals is to codify Guide 46 in proposed Item 48 of Regulation S-K and in Rule 460, except that provisions in the underwriting agreement for indemnification by the registrant of underwriters (and their controlling persons) against liabilities under the Securities Act would ordinarily be described in Part II of the registration statement rather than in the prospectus. The Commission has proposed this change because there seems to be little reason to require prospectus disclosure of indemnification provisions as to underwriters but not directors, officers and controlling persons of the registrant.

Guide 47—Enforceability of Civil Liabilities under the Act Against Foreign Persons.

Guide 47 provides that a foreign private registrant should disclose in the forepart of the prospectus how investors may enforce civil liabilities arising under the Securities Act against the registrant, its directors and officers, and underwriters and experts in connection with the offering if such persons or the assets of the registrant are located outside the United States, e.g., whether or not service of process can be effected outside the United States and whether or not judgments will be enforced by foreign courts.

The Commission is proposing to delete Guide 47 and add the substance of its disclosure requirements to proposed Item 41 of Regulation S-K [Summary Information].

Guide 48—Annual Reports to Security Holders.

Guide 48 applies to registrants which do not have to send their annual reports, including certified financial statements, to shareholders pursuant to laws or regulations administered by the Commission or pursuant to a listing agreement with a national securities exchange. Under the Guide, such registrants must disclose in the prospectus whether or not the reports will be furnished, whether or not those reports will contain certified financial statements, and the nature and frequency of other reports to be issued by the registrant.

The Commission proposes to delete Guide 48 and include similar disclosure requirements in Regulation S-K. Specifically, proposed Item 50 of Regulation S-K [Availability of Information Relating to the Registrant] would require that registrants subject to the filing requirements of Section 15(d) of the Exchange Act describe briefly the nature and frequency of reports which will be made to the purchasers of the securities being registered, indicating whether or not such reports will contain certified financial information.

Specific comment is requested as to whether the requirements proposed in Forms A, B and C with respect to the availability of information relating to registrants using those Forms should also be consolidated in proposed Item 50.[123]

Guide 49—Revision of Prospectuses Where a Company and its Employee Plan Have Different Fiscal Years.

Guide 49 provides that, in cases where securities are registered under the Securities Act for offering pursuant to an employee stock purchase, savings or similar plan, and the interests in the plan constitute a separate securities, such interests must also be registered and the financial statements of the plan included in the prospectus. Where the company and plan have different fiscal year-ends, the prospectus must contain up-to-date information with respect to the company and the plan.

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[122] *See* Release No. 33-6235 (September 2, 1980) [45 FR 63693, 63713].

[123] *See* Release No. 33-6235 (September 2, 1980) [45 FR 63693, 63712 (Item 7(d) and (e) of proposed Form A), 63715 (Item 8(b) and (a) of proposed Form B) and 63717 (Item 8(a) of proposed Form C)].

The Commission is proposing that Guide 49 be deleted, and that its substance be set forth in a new proposed Rule 434E [Revision of Prospectuses Where a Company and its Employee Plan Have Different Fiscal Years]. The reminder in Guide 49 that registrants may be required to register interests in the plan has already been incorporated in recently revised Form S-8[124] as General Instruction (1)(b). The directive that the prospectus contain up-to-date financial information with respect to the plan, as well as the registrant, is unnecessary in Form S-8 since that Form, as recently revised incorporates by reference the periodic reports of the plan and the registrant. The Commission specifically solicits comments as to possible means of coordinating the contents of proposed Rule 434E with the pertinent provisions of Form S-8 and of proposed Rule 462A relating to registration of delayed or continuous offerings.[125]

Guide 50—Disclosure of Confidential Material to Other Government Agencies.

Guide 50 states that, in applying for confidential treatment of a material contract (or a portion thereof) pursuant to Rule 485 of Regulation C [Contracts in General] [17 CFR 230.485], the applicant should also state whether or not the applicant is willing to permit the disclosure of such material to other governmental bodies.

The Commission proposes the elimination of this Guide and the addition to Rule 485 of a provision to the effect that (i) the applicant should state whether the applicant will permit the material contract in question to be disclosed to other government agencies; and (ii) such willingness will be a factor in the Commission's consideration of the application.

Guide 51—Release of Price Data on Subscription Offerings by Listed Companies.

Guide 51 states that the Division has no objection to dissemination in specified manners of price data on subscription offerings by listed companies prior to effectiveness, provided that such price data is contained in a pre-effective amendment on file with the Commission.

The Commission proposes to delete Guide 51 and include the substance thereof as a new paragraph of Rule 135 [Notice of Certain Proposed Offerings] [17 CFR 230.135]. The new paragraph of Rule 135 would permit dissemination of price data on subscription offerings pursuant to the conditions specified.

Guide 52—Disclosure as to Listing on an Exchange.

Guide 52 states that it may be misleading for a registrant to state in its prospectus that a listing application may be filed, unless there is reasonable assurance that the exchange would accept such application.

The Commission proposes to delete Guide 52 and add a corresponding provision to proposed Item 45 of Regulation S–K [Description of Securities to be Registered]. The new provision would allow (but not require) the registrant to state that the securities being registered have been accepted for listing on an exchange and would include the same warning as in Guide 52 if such securities have not actually been accepted for listing.

Guide 53—Secondary Distribution "at the Market."

Guide 53, citing the *Hazel Bishop* Case (40 SEC 718), provides that, in cases where a substantial amount of securities are being offered "at the market" in a seondary distribution to the public by, among others, insiders or substantial security holders, without professional underwriters, the issuer and the sellers should undertake to assure compliance with the anti-manipulative provisions of the Exchange Act, notably Rules 10b–2, 10b–6 and 10b–7. In cases of a limited number of sellers, the Guide states that the sellers should enter into contractual arrangements with the issuer to comply with those Rules and should inform the exchange, the brokers and the selling shareholders in the group when the distribution by the respective members of the group is over. In cases of a large number of sellers, however, the issuer may simply alert the sellers of their obligation under the Exchange Act to avoid market manipulation. Guide 53 also requires that any arrangements entered into by the sellers and issuer should be disclosed in the registration statement.

Commentator reaction to Guide 53 was mixed. There were statements that the Guide should be eliminated as obsolete, and other statements that should be retained with more limited provisions. Those commentators who recommended elimination of the Guide altogether believed that the Guide did not reflect current interpretations of Rule 10b–6 and had been rendered unnecessary by the adoption of Rule 144 and Form S–16

Those commentators who believed that the Guide should be retained suggested amendments to reflect current Commission practice, to shorten the reference to the *Hazel Bishop* case and to exempt very small shareholders who are part of a larger group of selling shareholders from entering into formal marketing arrangements. One commentator added that, if the Guide were retained, it should require only that issuers alert shareholders to their statutory obligations in appropriate circumstances.

The Commission is proposing to delete Guide 53 and incorporate the substance of certain provisions thereof in other disclosure rules. Shareholders would be alerted to their obligations to enter into arrangements where necessary to avoid violation of the anti-manipulative rules by adding a paragraph to the Note to Rule 460 [Preparation and Distribution of Preliminary Prospectus] [17 CFR 230.460]. The new paragraph would state that the Commission may refuse to accelerate the effective date of a registration statement where the participants in a significant secondary offering at the market have not taken sufficient measures to insure compliance with the anti-manipulative rules.

The Commission is also proposing that proposed Item 42 of Regulation S–K [Plan of Distribution] require the registrant to describe any arrangements entered into by the registrant and the selling security holders or other steps taken in order to insure compliance with anti-manipulative Rules 10b–2, 10b–6 and 10b–7. This requirement would be of general applicability and would be relevant to continuous at-the-market offerings which might be allowed pursuant to propsed Rule 462A.[126]

Guide 54—Misleading Character of Certain Registrants' Names.

Guide 54 warns that a registrant's name may be misleading if the name indicates a line of business in which the registrant is not engaged or is engaged only to a limited extent or if the name is the same or substantially the same as the name of another well-known company. In both cases, the Guide states that the only way to cure the misleading character may be to change the registrant's name. In some cases, however, it may be sufficient to disclose on the cover page additional facts, for example, that another well-known company has the same name.

The Commission proposes to delete Guide 54 and include its substance in an instruction to proposed Item 40(a) of Regulation S–K [Cover Page of the Prospectus].[127] As proposed, the instruction would provide that, where the name of the registrant is the same as the name of another well-known company or indicates a line of business in which the registrant is not engaged or is engaged to only a limited extent, a statement should be furnished to that effect. The instruction also indicates that, in some circumstances, disclosure may not be sufficient, and a change of name may be the only way to cure its misleading character.

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[124] *See* Release No. 33–6190 (February 22, 1980) [45 FR 13438].

[125] *See* discussion of Guide 4 *supra.*

[126] *See* discussion of Guide 4 *supra.*

[127] *See* discussion of Guide 5 *supra.*

Guide 55—Prospectuses Relating to Interests in Oil and Gas Programs.

Guide 55 sets forth the disclosure items to be covered in prospectuses relating to oil and gas drilling programs. The Guide also states that the disclosure items should appear in the sequence indicated by the Guide.

In accordance with the recommendation of the Advisory Committee discussed above, the Commission is recommending that Guide 55 be retained as an industry Guide. The Commission anticipates that the provisions of the Guide will be re-evaluated shortly by separate notice and comment.

Guide 56—Interests of Counsel and Experts in the Registrant.

Guide 56 states that if counsel or any expert named in the prospectus has a direct or indirect interest in the registrant (or will have such an interest as a result of the offering), the nature and amount of such interest should be disclosed unless the interest does not exceed $30,000 in the aggregate for a firm or $10,000 for an individual.

The Commission is proposing that Guide 56 be deleted, since disclosure requirements with respect to the interests of experts, including counsel to the registrant, have already been proposed in Item 10 of Form A.[128] That Item, which is proposed to be relocated in Regulation S–K as Item 47 [Interest of Experts Named in Registration Statement], would require disclosure of any "substantial" interest in the registrant or any of its parents or subsidiaries of any expert named in the registration statement, without specifying the dollar amount which would be deemed substantial. Specific comment is requested as to whether the Item should define "substantial" interest by referring to the definition of material direct or indirect interest contained in the recently revised remuneration item of Regulation S–K.[129]

Guide 57—Registration Statement Relating to "Insurance Premium Funding" Programs.

Guide 57 sets forth the disclosures which should be contained in a registration statement relating to an insurance premium funding program, e.g., an introductory section and tabular data showing mutual fund performance.

The Commission is proposing that this Guide be retained as an industry Guide. Since few insurance premium funding programs have registered securities in recent years, it is not anticipated that the Guide provisions will be amended in the near future.

Guide 58—Disclosure in Prospectus of Registrant's Business Address and Telephone Number.

Guide 58 requires the registrant to set forth prominently in the forepart of the prospectus the mailing address and telephone number of its principal executive offices.

The Commission proposes that Guide 58 be deleted and its provisions recast as part of proposed Item 41 of Regulation S–K [Summary Information].[130]

Guide 59—Summary of Disclosure in the Prospectus.

Guide 59 states that, immediately following the cover page of a prospectus on Forms S–1 or S–2, there should be set forth a short summary of the contents of the prospectus, highlighting the registrant's business, plan of operation of a new business, intended use of proceeds, material risks and summary financial information. The Guide includes a tabular format which should be substantially followed for the presentation of the summary financial information.

The commentators, with one exception, strongly endorsed the concept of having summary disclosure in the forepart of an S–1 or S–2 prospectus and suggested that a summary be required in any lengthy or complex prospectus, proxy statement or information statement.

The Commission formalized the summary concept in Item 2 of proposed Form A.[131] That Item, based in part on Guide 59, would require (i) a brief description of the business conducted by the issuer; (ii) a brief description of the material terms and features of the offering; (iii) certain selected financial data;[132] and (iv) an appropriate tabular presentation of any material dilution of the interests of the purchasers or existing shareholders. The Commission is proposing that Item 2 of proposed Form A be relocated in Regulation S–K as proposed Item 41 [Summary Information] and that additional material based on Guide 59 be added to that Item, requiring the registrant to describe briefly with respect to the offering the intended use of proceeds, any material risks and, in the case of certain new registrants, the plan of operation. Guide 59 is proposed to be withdrawn.

As discussed above in connection with Guides 6, 47 and 58, the Commission proposes to codify the requirements of those Guides in proposed Item 41, that is, to require disclosure of risk factors (Guide 6), the registrant's business address and telephone number (Guide 58) and a statement by foreign registrants as to the enforceability of civil liabilities under the federal securities law (Guide 47) in the summary. In addition, the Commission proposes to codify in proposed Item 41 the existing staff practice of requiring registrants of a debt offering to state the aggregate amount of outstanding debt which would be deemed senior to the securities being registered. Comment is requested as to the relationship which the information contained in the summary should bear to the information required on the cover page and elsewhere in the prospectus.

Guide 60—Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships.

Guide 60 describes in detail the information which should be included in a registration statement relating to the offer and sale of interests in real estate limited partnerships. The preface to the Guide states that "where appropriate" the specific items of information should be presented in the order in which they appear in the Guide.

In accordance with the recommendation of the Advisory Committee discussed above, the Commission recommends that this Guide be retained as an industry Guide and anticipates that, as the result of a joint effort with the North American Securities Administrators Association, a release proposing revisions to the Guide will be published in the near future.

Guide 61—Statistical Disclosure by Bank Holding Companies.

Guide 61 specifies the statistical information which should be included in the description of business of a bank-holding company filing a registration statement in which financial statements are required. Exchange Act Guide 3—

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[128] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693, 63713].

[129] *See* Release No. 33–6261 (November 14, 1980) [45 FR 70982].

[130] *See* discussion of Guide 59 *infra.*

[131] *See* Release No. 33–6235 (September 2, 1980) [45 FR 63693, at 63710–11].

[132] It should be noted that the Office of the Chief Accountant is now considering comments which it received in response to an advance concept release with respect to, *inter alia*, whether Item 10 of Regulation S–K [Selected Financial Data] should include present historical and pro forma ratios of earnings to fixed charges and earnings to combined fixed charges and preferred stock dividends. *See* Release No. 33–6196 (March 7, 1980) [45 FR 16498].

the Exchange Act counterpart of Guide 61—specifies the statistical information which should be included in the description of business of a bank-holding company filing a registration statement on Form 10, a proxy or information statement relating to a merger, consolidation, acquisition or similar matter or in an annual report file on Form 10–K.

In accordance with the recommendations of the Advisory Committee discussed above, the Commission is proposing the Guide 61 and Exchange Act Guide 3 be retained as industry Guides. Since Guide 61 was recently published in revised form, after a separate notice-and-comment process,[133] the Commission does not anticipate that it will be revised again in the near future.

Guide 62—Disclosure of Projections of Future Economic Performance.

Guide 62 and Exchange Act Guide 5 set forth the views of the Division on the voluntary disclosure of projections of future economic performance. These Guides encourage the use of projections and discuss at some length the way in which projections should be presented, that is, disclosing the basis of the projections, the limitations of the projections and variances between projected and actual results on a continuing basis.

The Commission is proposing that these Guides be withdrawn and relocated as proposed Item 52 of Regulation S–K [Commission Policy on Projections]. The Commission realizes that the provisions relating to projections are not mandatory, but instead represent a statement of Commission policy. However, because of the potential importance of projections in a variety of filings, the Commission is proposing inclusion of the substance of Guide 62 (and Exchange Act Guide 5) in Regulation S–K, the general repository for provisions relating to substantive disclosure. The Commission does not, by moving these provisions into Regulation S–K, intend to create any obligation to make projections or to define liability for projections. The "safe-harbor" provisions for projections in Rule 175 [17 CFR 230.175] [Liability for Forward Looking Statements by Issuers] would continue to apply in the same manner. Further, the Commission is not proposing any revision of the provisions of Guide 62 (or Exchange Act Guide 5), for such provisions were the product of a recent lengthy and complex rule-making proceeding.[134] Specific comment is requested, as to whether the provisions of this Guide should be modified in any substantive respect, for example, whether there should be a maximum period for projections if assumptions are not disclosed.

Guide 63—Disclosure Relating to Management Remuneration by Certain Foreign Private Issuers.

Guide 63 provides that in cases where foreign law does not require a foreign private issuer (other than a North American issuer) to disclose the remuneration paid to each director and officer, the Division will allow such issuer to report only aggregate remuneration paid to directors and officers.

The Commission is proposing that Guide 63 be deleted and that the substance thereof be added as an instruction prefacing proposed Item 21 of Regulation S–K [Management Remuneration and Transactions].[135]

Exchange Act Guides

Guide 1—Summary of Operations. See discussion of Securities Act Guide 22 *supra.*

Guide 2—Disclosure of Extractive Reserves and Natural Gas Supplies. See discussion of Securities Act Guide 28 *supra.*

Guide 3—Statistical Disclosure by Bank Holding Companies. See discussion of Securities Act Guide 61, *supra.*

Guide 4—Integrated Reports to Shareholders. Guide 4 sets forth the conditions under which quarterly or annual reports to shareholders may be incorporated by reference in Forms 10–K and 10–Q in satisfaction of certain of the disclosure requirements of those Forms.

In view of its procedural nature and in view of its recent amendment,[136] the Commission is proposing that Guide 4 be deleted and recast without substantive change as new Rule 0–10 of the Rules of General Application under the Exchange Act.

Guide 5—Disclosure of Projections of Future Economic Performance. See discussion of Securities Act Guide 62 *supra.*

F. Table of Rules Affected By Proposals

The following table sets forth the rules under the Securities Act and under the Exchange Act which would be affected by the proposed revisions of the Guides. The proposed rule changes are based on 17 of the existing Guides (and one release). The table indicates the rules affected in Regulation C and in the general rules under the Securities Act and the Exchange Act, as well as whether such rules are old or new, and the Guide or Guides upon which such proposed revisions are based.

Table III.—Proposed Revisions To Rules Based on Changes in Guides

Rules affected	Old	New	Guides on which revision is based
Regulation C (17 CFR 230)			
400A Pre-filing Conferences		X	1
400B Supplemental Information.		X	16, 17, 45
401 Requirement as to Proper Form.	X		8
424A Reports or Memoranda Concerning the Registrant.		X	42
[425 Statement Required in All Prospectuses—This rule is proposed to be rescinded and recast as a mandatory disclosure requirement in proposed Item 40 of Regulation S–K, Cover Page of the Prospectus].			
432 Application of Amendments to Rules Governing Contents of Prospectus.	X		8
434E Revision of Prospectuses Where a Company and Its Employee Plan Have Different Fiscal Years.		X	49
435 Formal Requirements as to Consents.	X		38
436 Consents Required in Special Cases.	X		38
460 Preparation and Distribution of Preliminary Prospectus.	X		17, 19, 35, 46, 53
461 Requests for Acceleration of Effective Date.	X		17, 43
462A Delayed or Continuous Offering and Sale of Securities.		X	4
485 Contracts in General	X		50
Other			
General Rules and Regulations, Securities Act of 1933 (17 CFR 230)			
135 Notice of Certain Proposed Offering.	X		51
General Rules and Regulations, Securities Exchange Act of 1934 (17 CFR 240)			
0–10 Integrated Reports to Shareholders.			(1)
15c 2–8 Delivery of Prospectus.			(2)

[1] 4 (Exchange Act).

[2] 19, Release No. 33–4968.

IV. Request for Comments

Any interested persons wishing to submit written comments on the proposed amendments, as well as on other matters which might have an impact on the proposals contained herein, are requested to do so. Moreover, commentators are urged to address any alternatives or modifications which may assist the

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[133] *See* Release No. 33–6221 (July 8, 1980) [45 FR 47138].

[134] *See* Release Nos. 33–5992 (November 7, 1978) [43 FR 53250] and 33–5699 (April 23, 1976) [41 FR 19986].

[135] Proposed Item 21 of Regulation S–K [Management Remuneration] (based on existing Item 4) was recently revised as the result of a separate notice and comment process. *See* Release No. 33–6261 (November 4, 1980) [45 FR 76982].

[136] *See* Release No. 33–6231 (September 2, 1980) [45 FR 63630].

Commission in achieving the objectives set forth in this release.

The Commission also solicits comment as to whether the proposals would have an adverse effect on competition or would impose a burden on competition which is not necessary or appropriate in furtherance of the purposes of the Securities Act and the Exchange Act.

V. Text of Proposals

In accordance with the foregoing, it is proposed to ament Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. By revising the heading of § 229.1 and redesignating it as § 229.10 as follows:

§ 229.10 Application.

(The text of this section is the same as the text of present § 229.1)

2. By revising § 229.20, item 3, to read as follows:

§ 229.20 Business.

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Item 3. Legal proceedings.

(The text of this item is the same as the text of present Item 5 of § 229.20.)

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3. By adding § 229.21 to read as follows:

§ 229.21 Financial information.

Item 10. Selected financial data.

(The text of this item is the same as the text of present Item 10 in § 229.20.)

Item 11. Supplementary financial information.

(The text of this item is the same as the text of present Item 12 in § 229.20)

Item 12. Management's discussion and analysis of financial condition and results of operations.

(The text of this item is the same as the text of present Item 11 of § 229.20.)

4. By adding § 229.22 to read as follows:

§ 229.22 Management.

Item 20. Directors and executive officers.

(The text of this item is the same as the text of present Item 3 of § 229.20.)

Item 21. Management remuneration.

(The text of this item is the same as the text of present Item 4 of § 229.20, except that the following instruction is added before the text of the Item:)

Instruction: Foreign private issuers (other than North American issuers) may respond to this Item 21 by indicating the aggregate payments or benefits paid to or accrued on behalf of all directors and executive officers as a group. However, if such a registrant discloses to its shareholders or otherwise makes public the information specified in this Item 21 for individually named directors and executive officers, then such information should also be disclosed.

5. By adding § 229.23 to read as follows:

§ 229.23 Securities of registrant.

Item 30. Market price of the registrant's common stock and related security holder matters.

(The text of this item is the same as the text of present Item 9 of § 229.20.)

Item 31. Security ownership of certain beneficial owners and management.

(The text of this item is the same as the text of present Item 6 of § 229.20.)

6. By adding § 229.24 to read as follows:

§ 229.24 Distribution of securities.

Item 40. Cover page of the prospectus.

(a) The following information should appear on the cover page of the prospectus with appropriate cross-references to more detailed discussion elsewhere in the prospectus:

(1) Name of the registrant;

(2) Description and amount of securities offered;

(3) The following statement in capital letters printed in bold-face roman type at least as high as ten-point modern type and at least two points leaded:

"THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."

(4) If applicable, make reference to material risks in connection with the purchase of the securities printed, in bold-face roman type at least as high as ten-point modern type and at least two points leaded, with a cross reference to further discussion in the prospectus.

(5) The date of the prospectus;

(6) Any materials required by the law of any state in which the securities are to be offered.

Instruction: Where the name of the registrant is the same as the name of another well-known company or indicates a line of business in which the registrant is not engaged or is engaged to only a limited extent, a statement should be furnished to that effect. In some circumstances, however, disclosure may not be sufficient, and a change of name may be the only way to cure its misleading character.

(b) (The text of Item 40(b) is the same as the text of Item 1 of proposed Form A [45 FR 63710] except that the following instructions are added.)

* * * * *

Instructions.

* * * * *

4. (The text of Instruction 4 is the same as the text of Instruction 4 to Item 3 of proposed Form B [45 FR 63715].)

5. Where an underwriter has received an over-allotment option, maximum-minimum information should be presented in the price table based on the purchase of all or none of the shares subject to the option. The terms of the option should be described in connection with the other compensation to underwriters rather than on the cover page.

6. The total of "other expenses of issurance and distribution" called for by Part II of the registration statement, stated separately for the registrant and for the selling security holders (if any), should be set forth in a note to the net proceeds column of the distribution table.

7. In addition, for registrants not subject to the reporting provisions of Sections 13(a) or 15(d) of the Exchange Act immediately prior to the filing of the registration statement, the disclosure on the cover page of a preliminary prospectus that is circulated should include a bona fide estimate of the range of the maximum offering price and maximum number of shares or other units of securities to be offered, or a bona fide estimate of the principal amount of debt securities to be offered.

Item 41. Summary information.

(The text of Item 41 is the same as the text of Item 2 of proposed Form A [45 FR 63710–11], except that the following paragraphs are added.)

* * * * *

(e) The complete mailing address, including zip code, and the telephone number, including area code, of the principal executive office of the registrant;

(f) A brief description of the intended use of proceeds;

(g) A brief description of the principal factors which make the offering one of high risk or speculative. These factors may be due to such matters as an absence of an operating history of the registrant, an absence of profitable operations in recent periods, an erratic financial history, the financial position of the registrant, the nature of the business in which the registrant is engaged or proposes to engage, or the absence of a previous market for the regisfrant's securities.

(h) In the case of an offering of debt securities, the aggregate amount of outstanding debt which would be deemed senior to the securities being registered;

(i) If the registrant has not previously filed a registration statement under the Securities Act or the Exchange Act, and

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has not received revenues from operations for each of the three fiscal years immediately prior to the filing of the registration statement, a brief description of the information relating the registrant's plan of operation required by paragraph (2) of Item 1 of Regulation S–K [Description of Business].

(j) In the case of a foreign private registrant, a statement of how the enforcement by investors of civil liabilities under the federal securities laws may be affected by the fact that the registrant is located in a foreign country, including, but not limited to the following information where applicable:

(1) That certain of its officers and directors are residents of a foreign country;

(2) That certain underwriters and experts named in the registration statement are residents of a foreign country;

(3) That all or a substantial portion of the assets of the registrant and of said persons are located outside the United States;

(4) Whether investors will be able to effect service of process within the United States upon such persons;

(5) Whether investors will be able to enforce against such persons judgments obtained in United States courts predicated upon the civil liability provisions of the federal securities laws;

(6) Whether the appropriate foreign courts would enforce judgments of United States courts obtained in actions against such persons predicated upon the civil liability provisions of the federal securities laws; and

(7) Whether the appropriate foreign courts would enforce, in original actions, liabilities against such persons predicated solely upon the federal securities laws.

If any portions of such disclosures are stated to be based upon an opinion of counsel, such counsel should be named in the prospectus and an appropriate manually signed consent to the use of such name and opinion should be included in the registration statement.

Item 42. Plan of distribution.

(The text of Item 42 is the same as the text of Item 3 of proposed Form A [45 FR 63711] except that the following paragraphs are added.)

* * * * *

(e) Where an underwriter of a new or speculative issue of securities is newly organized or reactivated, or only recently registered as a broker-dealer, and especially where the principal business function of such underwriter will be to sell the securities to be registered, or the promoters of the registrant are identified with the underwriter, these facts should be disclosed in the prospectus. Sufficient details should be given to allow full appreciation of the underwriter's experience and its relationship with the registrant, promoters and controlling persons.

(f) To the extent not otherwise set forth on the cover page, describe the discounts and commissions to be allowed or paid to the underwriters, and any other cash, expenses, securities, contracts or other consideration to be received by any underwriter in connection with the sale of the securities. Such description of consideration shall include, but is not necessarily limited to:

(1) Total expenses payable by the registrant, whether accountable or non-accountable, to or on behalf of the underwriters which would normally be paid by the underwriters;

(2) Financial, consulting, investment counseling, and finders' fees;

(3) Securities given by or acquired from the registrant or selling shareholder(s) or from any person directly or indirectly controlling or controlled thereby or from any person under direct or indirect common control therewith in connection with the offering;

(4) Where an underwriter receives U.S. currency as a result of an offering but remits the proceeds to the issuer in a foreign currency, any material amount of profit accruing to the underwriter from conversion of the proceeds of the offering into a foreign currency;

(5) Any arrangement whereby the underwriter has the right to designate a member or members of the board of directors of the registrant. (The registrant should disclose the identity of any director so designated, and indicate whether or not a person so designated or allowed to be designated by the underwriter is a director, officer partner, employee or affiliate of the underwriter.)

Instruction. Generally, it will be assumed for the purpose of disclosure that options, warrants, rights, stock or other securities sold or given to the underwriters within 12 months before the filing of the registration statement or proposed to be sold or given to them thereafter were issued in connection with such offering. Accordingly, the potential profits which may be received upon the sale of such options, warrants, rights, stock or other securities should be identified as additional underwriting compensation for such offering, whether or not such underwriters withdraw and other underwriters are substituted.

(g) With respect to a distribution by persons other than the registrant, who include affiliates of the registrant, of more than 10% of the securities of a class outstanding in an at-the-market offering, or an at-the-market offering by the registrant, registered pursuant to Rule 462A (a)(i), and in each case where there is no professional underwriter or conventional underwriting agreement, describe any arrangements entered into by the participants in such an offering in order to insure compliance with Rules 10b–2 (17 CFR 240.10b–2) 10b–6 (17 CFR 10b–6) and 10b–7 (17 CFR 240.10b–7) under the Exchange Act.

(h) Identify any finder or promoter and, if applicable, describe the nature of any affiliation between such finder or promoter and the registrant, its officers, directors, underwriters, principal stockholders, finders and promoters (including, in each case, affiliates or associates thereof).

(k) Where there is substantial disparity between the public offering price and the effective cash cost to officers, directors, promoters and affiliated persons for shares acquired by them in a transaction during the past five years, or which they have a right to acquire, there should be included a comparison of the public contribution under the proposed public offering and the effective cash contribution of such persons. In such cases, and in other instances where the extent of the dilution makes it appropriate, the following shall be given: (a) the net tangible book value per share before and after the distribution; (b) the amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers of the shares being offered; and (c) the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

Item 43: Use of proceeds to registrant.

(The text of Item 43 is the same as the text of Item 4 of proposed Form A [45 FR 63711] except that the following instruction is added:)

* * * * *

Instructions.

* * * * *

6. The registrant may reserve the right to change the use of proceeds provided that such reservation is due to certain contingencies which are adequately discussed.

7. Where the registrant is making a simultaneous offering in the United States and in a foreign country, the anticipated proceeds from both offerings should be shown.

Item 44. Selling security holders.

(The text of Item 44 is the same as the text of Item 5 of proposed Form A [45 FR 63711].)

Item 45. Securities to be registered.

(The text of Item 45 is the same as the text of Item 6 of proposed Form A [45 FR 83711–12] except that the following subparagraphs are added.)

(a) *Capital stock to be registered.*

* * * * *

(6) Briefly describe potential liabilities imposed on shareholders under state statutes, for example, to laborers, servants or employees of the registrant, unless such disclosure would be immaterial because the financial resources of the registrant are such as to make it unlikely that the liability will ever be imposed.

(7) Where the securities being registered are to be offered before the charter amendment authorizing the issuance of such securities becomes effective pursuant to applicable state law, appropriate disclosure of that fact should be made.

(8) Where securities are being registered for the first time or where there is a substantial disparity between the offering price and the market price, the various factors considered in determining the offering price should be described.

(9) Regarding dividends with respect to the securities being registered, the registrant should state the frequency and amount of any such dividends paid during the past two years and briefly describe any restriction(s) on the registrant's present or future ability to pay such dividends.

(10) Where registrants have a record of paying no dividends although earnings indicate an ability to do so, they are encouraged to consider the question of their intention to pay cash dividends in the foreseeable future and, if no such intention exists, to make a statement of that fact in the filing. Registrants which having a history of paying dividends are also encouraged to indicate whether there is a present expectation that dividends will continue to be paid in the future.

(b) *Debt securities to be registered.*

* * * * *

(9) If debt securities are to be offered at a price such that they will be deemed to be offered at an "original issue discount" as defined in Section 1232 of the Internal Revenue Code (26 U.S.C. § 1232), or if a debt security is sold in a package with another security and the allocation of the offering price between the two securities may have the effect of offering the debt security at such an original issue discount, the amount of such original issue discount and any tax effects thereof pursuant to Section 1232 should be stated.

(c) *Warrants, Rights and Convertible Securities.*

* * * * *

(5) With respect to convertible securities which are subject to redemption and stock purchase warrant which are callable,

(i) Whether the right to convert or purchase will be lost unless it is exercised before the redemption or call;

(ii) The kinds, frequency and timing of notice of the redemption or call, including the cities or newspapers in which notice will be published; and

(iii) In the case of bearer securities, that investors are responsible for making arrangements to prevent loss of the right to convert or purchase in the event of redemption, for example, by reading newspapers in which the notice of redemption or call may be published.

(6) With respect to warrants, rights or convertible securities, the various factors considered in determining the exercise price should be described.

* * * * *

(e) *Market information.* Furnish the following information with respect to the securities being registered:

(1) Market (or absence of market) for securities being registered.

(i) If there is no market for equity securities being registered (excluding limited or sporadic quotations), furnished a statement to that effect. (The existence of limited or sporadic quotations should not of itself be deemed to constitute an established trading market. If any known facts indicate the absence of an established trading market, reference to quotations in the prospectus should be qualified by appropriate explanation.)

(ii) If the securities being registered have been accepted for listing on an exchange, the exchange may be identified. However, unless there is reasonable assurance that the securities to be offered will be acceptable to a securities exchange for listing, the prospectus may be misleading if it conveys the impression that the registrant may apply for listing of the securities on an exchange or that the underwriters may request the registrant to apply for such listing.

(iii) If there is an established market for such securities, identify the principal market or markets on which such securities are traded.

(iv) If warrants, options or rights (other than exchange traded options) are being registered, state the following:

(A) The amount of such securities outstanding; and

(B) The basis of trading in such securities, including, where applicable, that such rights would trade separately from other securities and that such rights would be quoted on the basis of a single right, even though several rights may be necessary to purchase one share.

(v) Describe any material impact or potential impact (including dilution and market overhang) upon security holders, upon the registrant, and upon the market for registrant's securities which may result from:

(A) Options for, warrants for, or securities convertible into, securities of the same class as those being registered;

(B) Outstanding securities of the same class as those being registered held by affiliates or constituting restricted stock for purposes of Rule 144 (17 CFR § 230.144); and

(C) Securities being registered for a delayed or continuous offering, or securities of the same class as the securities being registered being offered pursuant to another effective registration statement (unless such registered securities are being offered pursuant to an employee benefit plan or a dividend reinvestment plan).

Instruction. If applicable, the additional disclosure with respect to dilution should ordinarily include the following: that for the life of the options or warrants the holders thereof are given, at nominal cost, the opportunity to profit from a rise in the market for securities of the class subject thereto, with a resulting dilution in the interest of security holders; that the terms on which the issuer could obtain additional capital during that period may be adversely affected; and that the holders of such options or warrants might be expected to exercise them at a time when the issuer would, in all likelihood, be able to obtain any needed capital by a new offering of securities on terms more favorable than those provided for by the options or warrants.

(2) The value placed on securities outstanding of the same class of the securities being registered should be stated as follows:

(i) If a principal market for the subject securities is an exchange, state the high and low prices for the securities as reported in the consolidated transaction system or, if not so reported, on such principal exchange for each quarterly period during the past two years.

(ii) If a principal market for the subject securities is the over-the-counter market, state the range of high and low bid quotations for each quarterly period during the past two years and the source of such quotations.

(iii) If no market exists for the subject securities, the manner in which the value of outstanding securities has been estimated shoud be set forth, together with appropriate caveat, e.g., that such assigned value may bear no relationship

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to the assets, earnings or other criteria of value applicable to the registrant.

(f) *Information with respect to foreign registrants.* If the registrant is a foreign registrant,

(1) State whether or not there are, and describe, any limitations on the right of non resident or foreign owners to hold or vote such securities imposed by foreign law or by the charter or other constituent document of the registrant;

(2) Identify the trading market for the securities being registered in foreign as well as U.S. markets;

(3) Describe any governmental laws, decrees or regulations in the country in which the registrant is organized affecting the remittance of dividends, interest and other payments to nonresident holders of the securities being registered;

(4) Outline briefly all taxes, including withholding provisions, to which United States security holders are subject under existing laws and regulations of the foreign country of origin; and

(5) Describe briefly pertinent provisions of any reciprocal tax treaties between such foreign country and the United States regarding withholding and, if there are no such treaties, so state.

Item 46. Other expenses of issuance and distribution.

(The text of Item 46 is the same as the text of Item 9 of proposed Form A [45 FR 63713].)

Item 47. Interest of experts named in registration statement.

(The text of Item 47 is the same as the text of Item 10 of proposed Form A [45 FR 63713].)

Item 48. Indemnification of directors and officers.

(The text of Item 48 is the same as the text of Item 11 of proposed Form A [45 FR 63713], except that the following paragraphs are added.)

* * * * *

(b) State the general effect of any charter provisions, bylaws, contract, arrangement, or statute under which any controlling person of the registrant is insured or indemnified in any manner against any liability arising under the Securities Act of 1933.

(c) If the underwriting agreement provides for indemnification by the registrant of the underwriters or their controlling persons against any liability arising under the Securities Act of 1933, furnish a brief description of such indemnification provisions.

(d) If Note (a) to Rule 460 [17 CFR 230.460] does not apply because acceleration of the effective date of the registration statement is not to be requested, and waivers have not been obtained as required in Note (a) to Rule 460 [17 CFR 230.460], a brief description of the indemnification provisions relating to directors, officers and controlling persons of the registrant against liabilities arising under the Securities Act of 1933 shall be included in the prospectus, together with a statement in substantially the following form: "Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling the registrant pursuant to the foregoing provisions, the registrant has been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is therefore unenforceable."

Item 49. Recent sales of unregistered securities.

(The text of Item 49 is the same as the text of Item 14 of proposed Form C [45 FR 63717–18].)

7. By adding § 229.25 to read as follows:

§ 229.25 Other.

Item 50. Availability of information relating to the registrant.

Registrants subject to the filing requirements of section 15(d) of the Exchange Act should describe briefly the nature and frequency of reports which will be made to the purchasers of the securities being registered, specifying whether or not such reports will contain certified financial information.

Item 51. Exhibits.

(The text of this Item is the same as the text of present Item 7 of § 229.20, except that the following material is added.)

* * * * *

Table I.—*Securities Act of 1933—Frequently Used Forms*

	S–1	S–2	S–7	S–8	S–11	S–14	S–15	S–16
* *	*		*		*	*		*
(23) Consents of experts	X	X	X	X	X	X	X	X
* *	*		*		*	*		*
(b) Description of Exhibits								
* *	*		*		*	*		*

(3) Articles of incorporation and bylaws.

* * * Where it is impracticable for the registrant to file a charter amendment authorizing new securities with the appropriate state authority prior to the effective date of the registration statement registering such securities, the registrant may file as an exhibit to the registration statement the form of amendment to be filed with the state authority; and in such a case, if material changes are made after the copy is filed, the registrant must also file the changed copy.

(23) Consents of experts. All written consents, together with a list thereof, filed pursuant to Section 7 of the Securities Act of 1933.

Item 52. Commission policy on projections.

The Commission encourages the use in documents specified in Rule 175 [17 CFR 230.175] of management's projections of future economic performance that have a reasonable basis and are presented in an appropriate format. The guidelines set forth herein represent the Commission's views on important factors to be considered in formulating such projections.

(a.) Basis for projections. (1) The Commission believes that management should have the option to present in Commission filings its good faith assessment of a registrant's future performance. Management must, however, have a reasonable basis for such an assessment. Although a history of operations or experience in projecting may be among the factors providing a basis for management's assessment, the Commission does not believe that a company always must have had such a history or experience in order to formulate projections with a reasonable basis.

(2) An outside review of management's projections may furnish additional support for having a reasonable basis for a projection. If management decides to include a report of such a review in a Commission filing, there should also be disclosure of the qualifications of the reviewer, the extent of the review, the relationship between the reviewer and the registrant and any

other material factors concerning the process by which any outside review was sought or obtained. Moreover, in the case of a registration statement under the Securities Act the reviewer would be deemed an expert and an appropriate consent must be filed with the registration statement.

(b) Format for projections. (1) In determining the appropriate format for projections included in Commission filings, consideration must be given to, among other things, the financial items to be projected, the period to be covered, and the manner of presentation to be used. Although traditional projections have been given for three financial items generally considered to be of primary importance to investors (revenues, net income and earnings per share), projection information need not necessarily be limited to these three items. However, management should take care to assure that the choice of items projected is not susceptible of misleading inferences through selective projection of only favorable items.

(2) Revenues, net income, and earnings per share usually are presented together in order to avoid any misleading inferences that may arise when the individual items reflect contradictory trends. There may be instances, however, when it is appropriate to present earnings from continuing operations, or income before extraordinary items in addition to or in lieu of net income. It generally would be misleading to present sales or revenue projections without one of the foregoing measures of income.

(3) The period that may appropriately be covered by a projection depends to a large extent on the particular cirumstances of the company involved. For certain companies in certain industries, a projection covering a two or three year period may be entirely reasonable. Other companies may not have a reasonable basis for projections beyond the current year. Accordingly, management should select the period most appropriate in the circumstances. In addition, management in making a projection should disclose what in its opinion is the most probable specific amount or the most reasonable range for each financial item projected based on the selected assumptions. Ranges should not, however, be so wide as to make the disclosures meaningless. Moreover, several projections based on varying assumptions may be judged by management to be more meaningful than a single number or range and would be permitted.

(c) Investor understanding. (1) When management chooses to include its projections in a Commission filing, the disclosures accompanying the projections should facilitate investor understanding of the basis for and limitations of projections. In this regard investors should be cautioned against attributing undue certainty to management's assessment, and the Commission believes that investors would be aided by a statement indicating management's intention regarding the furnishing of updated projections. The Commission also believes that investor understanding would be enhanced by disclosure of the assumptions which in management's opinion are most significant to the projections or are the key factors upon which the financial results of the enterprise depend and encourages disclosure of assumptions in a manner that will provide a framework for analysis of the projection.

(2) Management should also consider whether disclosure of the accuracy or inaccuracy of previous projections would provide investors with important insights into the limitations of projections. In this regard, consideration should be given to presenting the projections in a format that will facilitate subsequent analysis of the reasons for differences between actual and forecast results. An important benefit may arise from the systematic analysis of variances between projected and actual results on a continuing basis, since such disclosure may highlight for investors the most significant risk and profit-sensitive areas in a business operation.

(3) With respect to previously issued projects, registrants are reminded of their responsibility to make full and prompt disclosure of material facts, both favorable and unfavorable, regarding their financial condition. This responsibility may extend to situations where management knows or has reason to know that its previously disclosed projections no longer have a reasonable basis.

(4) Since a company's ability to make projections with relative confidence may vary with all the facts and circumstances, the responsibility for determining whether to discontinue or resume making projections is best left to management. However, the Commission encourages companies not to discontinue or resume projections in Commission filings without a reasonable basis.

(Attention: The text of the following proposed amendments use arrows to indicate ►◄ additions and brackets [ ] to indicate deletions.)

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

8. By amending § 230.135 by adding paragraph (c) to read as follows:

§ 230.135 Notice of certain proposed offerings.

* * * * *

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, in the case of a rights offering of securities listed on a national securities exchange, information with respect to the interest rate, conversion ratio and subscription price may be disseminated through the facilities of the exchange or the Dow Jones board tape, provided such information is disclosed in a registration statement on file with the Commission.

9. By adding § 230.400a to read as follows:

§ 230.400a Pre-filing conferences.

Prior top filling a registration statement, a prospective registrant or its representative may request a conference with the Commission staff in order to discuss problems encountered by the registrant in preparing the registration statement. Such a request should be in writing, should outline the proposed subject matter of the conference and should only be made if the filing presents unusual or difficult disclosure issues. The staff may grant or refuse a pre-filing conference in its sole discretion, and the staff will not in any event prepare material for filing.

10. By adding § 230.400b to read as follows:

§ 230.400b Supplemental information.

Pursuant to the statutory requirement that the Commission in ruling upon requests for acceleration of the effective date of a registration statement shall have due regard to the adequacy of the information respecting the issuer theretofore available to the public, the Commission staff may, where it is deemed appropriate, request supplemental information concerning the registration statement, including, where a new or speculative offering of securities is being registered, information relating to the due diligence inquiry of the underwriters or to recent market activitiy in the securities to be registered.

11. By amending §230.401 to read as follows:

§ 230.401 Requirement as to proper form.

A registration statement shall be prepared in accordance with the form prescribed therefor by the Commission as in effect on the ►initial◄ date of filing. Any registration statement shall be deemed to be filed on the proper form unless objection to the form is made by the Commission prior to the effective date of the registration statement.

12. By adding § 230.424a to read as follows:

§ 230.424a Reports or memoranda concerning the registrant.

(a) The registrant shall furnish to the staff as supplemental information the following reports or memoranda at the time of filing the registration statement or as soon as practicable thereafter:

(1) Any reports or memoranda which have been prepared for external use by the registrant or a principal underwriter in connection with the proposed offering;

(2) In the case of a registration statement relating to a business combination as defined in Rule 145(a) [17 CFR 230.145(a)], exchange offer, tender offer or similar transaction, any feasibility studies, management analyses, fairness opinions or similar reports prepared by or for any of the parties to the subject transactions in connection with such transaction;

(3) In the case of a registration statement on Forms C, S–11, S–14 or S–18, any engineering, management or similar reports or memoranda relating to broad aspects of the business, operations or products of the registrant, which have been prepared within the past twelve months for or by the registrant, a beneficial owner of five percent or more of any class of equity securities of the registrant or any principle underwriter, as defined in Rule 405 [17 CFR 230.4054], of the securities being registered excepting:

(i) Reports solely comprised of recommendations to buy, sell or hold the securities of the registrant, unless such recommendations have changed within the past six months, and

(ii) Any information contained in documents already filed with the Commission.

(b) The registrant shall furnish to the staff as supplemental information at the time of filing the registration statement or as soon as practicable thereafter:

(1) A statement as to the actual or proposed use and distribution of the reports or memoranda specified in paragraph (a), identifying each class of persons who have received or will receive such reports or memoranda and the number of copies distributed to each such class; or

(2) A statement that no such reports or memoranda have been prepared.

(c) The supplemental information furnished pursuant to paragraphs (a) and (b) of this section shall be returned to the registrant upon request, provided:

(1) Such request is made at the time such information is furnished to the staff;

(2) The return of such information is consistent with the protection of investors; and

(3) The return of such information is consistent with the provisions of the Freedom of Information Act [5 U.S.C. 552].

§ 230.425 [Removed]

13. By removing § 230.425.

14. By revising § 230.432 to read as follows:

§ 230.432 Application of amendments to rules governing contents of prospectuses.

(a) The form and contents of any prospectus need conform only to the applicable rules ►and forms◄ in effect and contain the information including financial statements specified therein, at the time the registration statement became effective (or, if amended pursuant to the provisions of section 24(e) of the Investment Company Act of 1940 as amended, the effective date of the latest such amendment which contains a revised prospectus) notwithstanding subsequent amendments to such rules ►and forms◄ except as otherwise provided in any such amendment or in paragraph (b) of this section.

(b) When a stop order entered under section 8(d) ceases to be effective as to a registration statement, the form and contents of an prospectus used thereafter for securities covered by such statement shall conform to the applicable rules ►and forms◄ in effect at the date such stop order ceases to be effective.

15. By adding § 230.434e to read as follows:

§ 230.434e Revision of prospectuses where a company and its employee plan have different fiscal years.

(a) Where securities are registered under the Act for offerings pursuant to an employee stock purchase, savings or similar plan, and the interests in the plan constitute separate securities, such interests are also required to be registered and appropriate financial statements of the plan must be included in the prospectus.

(b) Where the fiscal year of the plan ends on a date different from the date on which the fiscal year of the employer company ends and the information with respect either to the plan or the company becomes out of date for the purpose of section 10(a)(3) of the Act, the registrant may file a post-effective amendment to the registration statement containing the information required by section 10(a)(3).

(c) After the post-effective amendment described in paragraph (b) of this section becomes effective, the employer may continue to use the old prospectus with the up-to-date financial statements and other information attached, until the prospectus is revised to include up-to-date financial statements and other information with respect to the plan or employer company, as the case may be.

(d) A copy of the prospectus with up-to-date information attached need not be furnished to existing participants in the plan who have previously received a copy of the prospectus and who are otherwise furnished with a copy of such up-to-date information, provided the prospectus contains a statement to the effect that such financial statements are to be deemed incorporated therein by reference for all purposes of the Act and the rules and regulations thereunder.

16. By revising the last sentence of § 230.435 to read as follows:

§ 230.435 Formal requirements as to consents.

* * * Where the consent of an expert is contained in his report ►or opinion,◄ a reference shall be made in the list to the report ►or opinion◄ containing the consent.

17. By amending § 230.436 to add the material between arrows to paragraph (a) and to add paragraphs (e) and (f) as follows:

§ 230.436 Consents required in special cases.

(a) If any portion of the report ►or opinion◄ of an expert is quoted or summarized as such in the registration statement or in a prospectus, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization.

* * * * *

(e) Where an attorney is named as having acted for the underwriters or selling security holders, no consent will be required by reason of his being named as having acted in such capacity.

(f) Where the opinion of one attorney relies upon the opinion of another attorney, the consent of the attorney whose prepared opinion is relied upon need not be furnished although he is named in the registration statement as an expert.

18. By amending § 230.460 to delete material between brackets in paragraph (a), to add material between arrows to paragraphs (a) and (e) and to add new paragraph (g) and by amending the Note to § 230.460 to add material between arrows to paragraph (a) and to add new paragraphs (f), (g) and (h) as follows:

§ 230.460 Preparation and distribution of preliminary prospectus.

(a) Pursuant to the statutory requirement that the Commission in ruling upon requests for acceleration of the effective date of a registration statement shall have due regard to the adequacy of the information respecting the issuer theretofore available to the public, the Commission [will] ►may◄ consider whether the persons making the offering have taken reasonable steps to make the information contained in the registration statement conveniently available to underwriters and dealers who it is reasonably anticipated will be invited to participate in the distribution of the security to be offered or sold.

* * * * *

(e) Notwithstanding the provisions of paragraphs (a) to (d) of this section, the granting of acceleration will not be conditioned upon the distribution of a preliminary prospectus (1) in the case of a registration statement relating solely to securities to be offered at competitive bidding, provided the undertaking in § 230. 435(a)(2) is included in the registration statement and distribution of prospectuses pursuant to such undertaking is made prior to the publication or distribution of the invitation for bids, or (2) in the case of a registration statement relating to securities currently offered by an issuer described in the last sentence of section 24(d) of the Investment Company Act of 1940 as amended, ►or, (3) in the case of an offering of subscription rights unless it is contemplated that the distribution will made through dealers and the underwriters intend to make the offering during the stockholders' subscription period, in which case copies of the preliminary prospectus must be distributed to dealers prior to the effective date of the registration statement in the same fashion as is required in the case of other offerings through underwriters.◄

(g) Where it is deemed appropriate, the Commission may request the registrant to furnish the following supplementary information with respect to the extent of the distribution of the preliminary prospectus:

(1) The dates or approximate dates of distribution;

(2) The number of prospective underwriters and dealers to whom the preliminary prospectus was furnished;

(3) The number of prospectuses so distributed;

(4) The number of prospectuses distributed to others, identifying them in general terms; and

(5) The steps taken by such underwriters and dealers to comply with the provisions of Rule 15c2-8 of the Exchange Act (17 CFR 240.15c2-8).

Note.—* * *

(a) * * *

►Insurance against liabilities arising under the Act, whether the cost of such insurance is borne by the registrant, the insured or some other person, will not, however, be considered a bar to acceleration.◄

* * * * *

(f) Where the amount of compensation to be allowed or paid to the underwriters, as described in the registration statement, is required to be and has not been cleared with the National Association of Securities Dealers, Inc.

(g) Where, in the case of a significant secondary offering at the market, the registrant, selling security holders and underwriters have not taken sufficient measures to insure compliance with rules 10b-2 (17 CFR 240.10b-2), 10b-6 (17 CFR 240.10b-6) and 10b-7 (17 CFR 240.10b-7).

(h) Where an underwriter has the right to designate a director and the person has not been so designated but when designated may be a director, officer, partner, employee or affiliate of the underwriter, unless the underwriter has furnished a representation that any person designated will not be a director, officer, partner, employee or affiliate of the underwriter.

19. By amending § 230.461 to add the following:

§ 230.461 Requests for acceleration of effective date.

* * * A request for acceleration by the registrant, a managing underwriter or a selling security holder, if any, will be considered confirmation of such person's awareness of the person's obligations under the Act. Not later than the time of filing the last amendment prior to the effective date of the registration statement, the registrant shall inform the Commission as to whether or not the amount of compensation to be allowed or paid to the underwriters, as described in the registration statement, has been cleared with the National Association of Securities Dealers, Inc.

20. By adding § 230.462a to read as follows:

§ 230.462a Delayed or continuous offering and sale of securities.

(a) A registration statement may be declared effective for an offering of securities to be made on a continuous or delayed basis in the future, *provided that*

(1) The registration statement pertains to:

(i) Securities in an amount which can reasonably be expected to be offered and sold within two years from the effective date of the initial registration statement; or

(ii) Securities which are reasonably expected to be offered and sold pursuant to dividend or interest reinvestment plans or employee benefit plans of the registrant; or

(iii) Securities which (A) are the subject of exercisable options, warrants or rights which are, or within two years from the effective date of the initial registration statement will be, exercisable, or (B) are issuable upon conversion of other securities, if such other securities are also registered on the effective date, or (C) are pledged as collateral.

(2) The registration statement contains undertakings by the registrant:

(i) To file post-effective amendments (or, with the permission of the Commission, prospectuses under Rule 424(c) [17 CFR 230.424(c)]) whenever required to set forth any information necessary in order that the registration statement not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein not misleading.

(ii) To file any prospectus required by section 10(a)(3) of this Act as a post-effective amendment to the registration statement;

(iii) That, for the purpose of determining any liability under the Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof; and

(iv) To remove from registration by means of a post-effective amendment any of the registered securities which remain unsold at the termination of the offering or as to which there is no longer a reasonable expectation of sale.

(b) Paragraph (a) of this section shall not apply to registration statements filed by investment companies registered under the Investment Company Act of 1940.

Instruction. If the registration statement is on Form A and the information required to be set forth by paragraph (a)(2) of this section is included in periodic reports filed by the registrant pursuant to section 12 or section 15(d) of the Securities Exchange Act of 1934 and incorporated by reference in the registration statement, no post-effective amendment (or prospectus under Rule 424(c)) need be filed, unless the information actually included in the prospectus contained a material misstatement of fact or failed to state a material fact necessary to make such information not misleading as of any time during the offering.

21. By amending § 230.465 to add paragraph (f) to read as follows:

§ 230.485a Contracts in general.

* * * * *

(f) In an application for confidential treatment of a material contract or portion thereof, the registrant should state whether or not the registrant is willing to permit the disclosure of such contract or portion thereof to other governmental bodies. (Such permission is one factor which will be considered by the Commission in ruling on the application.)

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

22. By deleting reference to the following releases:

Subject	Release No.	Date	FR volume and page
* * *	*	*	*
Guides for preparation and filing of registration statements under the Securities Act of 1933.	4936	Dec. 9, 1968	33 FR 18617.
* * *	*	*	*
Proposed guide for prospective registrants re the use of misleading names.	4950	Apr. 7, 1969	34 FR 6575.
* * *	*	*	*
Proposed guide for prospective registrants re the use of misleading names adopted unchanged.	5005	Sept. 17, 1969	34 FR 15245.
* * *	*	*	*
Publication by the Commission of a registration guide relating to the interest of legal counsel and experts in the registrant.	5094	Oct. 21, 1970	35 FR 16919.
* * *	*	*	*
Commission's Guide No. 58 requiring disclosure in prospectus of address and telephone number of the registrant's principal executive offices.	5102	Nov. 12, 1970	35 FR 17990.
* * *	*	*	*
Commission's authorization of publication of amended Registration Guide No. 6 which sets forth the policy of the Commission's Division of Corporation Finance with respect to pictorial or graphic representations in prospectuses.	5171	July 20, 1971	36 FR 13915.
* * *	*	*	*
Commission's guides for preparation and filing of registration statements	5278	Aug. 9, 1972	37 FR 15986.
* * *	*	*	*
Commission's guidelines on preparation and filing of registration statements.	5386	June 29, 1973	38 FR 17200.
* * *	*	*	*
Commission's guidelines for filings related to extractive reserves and natural gas supplies.	5511	July 23, 1974	39 FR 26720.
* * *	*	*	*
Commission's guidelines for registration and reporting	5520	Sept. 3, 1974	39 FR 31894.
* * *	*	*	*
Guide for reports or memoranda concerning registrants	[illegible]	May 12, 1978	43 FR [illegible]
* * *	*	*	*
Guides for disclosure of projections of future economic performance	5992	Nov. 7, 1978	43 FR 53246.
* * *	*	*	*
Guides for preparation and filing of registration statements	[illegible]	April 3, 1979	44 FR 21567.
* * *	*	*	*
Disclosure of management remuneration by certain foreign private issuers.	6157	Nov. 29, 1979	44 FR 70130.
* * *	*	*	*

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

23. By adding § 240.0-10 to read as follows:

§ 240.0-10 Integrated reports to shareholders.

(a) Annual and quarterly reports to security holders may be combined with the required information of Form 10-K and Part I of Form 10-Q and be suitable for filing with the Commission when the following conditions are satisfied:

(1) The report contains full and complete answers to all items required by Form 10-K or Part I of Form 10-Q. When responses to a certain item of required disclosure are separated within the report, an appropriate cross-reference should be made. If the information required by Part III of Form 10-K is omitted by virtue of General Instruction G, a definitive proxy or information statement shall be filed.

(2) Any additional information or exhibits contained in the report shall meet the requirements of Rules 12b-20 (17 CFR 240.12b-20) and 12b-30 (17 CFR 240.12b-30) of the Securities Exchange Act of 1934.

(3) For purposes of Form 10-K, its cover page and the required signatures shall be included. For purposes of Form 10-Q, its cover page, appropriate responses to Part II, and the required signatures shall be included. Additionally, as appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the form.

(4) The report should contain a disclaimer of any action on the part of this Commission to approve or disapprove the report or to pass upon its accuracy or adequacy.

(b) An annual report to security holders prepared on an integrated basis may also be submitted in satisfaction of Rule 14a-3 (17 CFR 240.14a-3) under the Securities Exchange Act of 1934. When filed as the annual report on Form 10-K, responses to the Items of that form are subject to section 18 of the Act.

(c) A quarterly report to security holders filed in satisfaction of the requirements of Part 1 of Form 10-Q is not deemed to be "filed" for the purpose of section 18 of the Act but is subject to all other provisions of the Act (Rules 13a-13(d) (17 CFR 240.13a-13(d), 15d-13(d) (17 CFR 240.15d-13(d)).

24. By amending § 240.15c2-8 to add the following new paragraph (b) and renumber present paragraphs (b)-(h) as paragraphs (c)-(i).

§ 240.15c2-8 Delivery of prospectus.

(a) * * *

(b) In connection with a new or speculative issue of securities, such broker or dealer shall distribute a copy of the preliminary prospectus to any person who is expected to receive a confirmation or sale at least 48 hours prior to the mailing os such confirmation.

* * * * *

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

25. By deleting reference to the following releases:

Subject	Release No.	Date	FR volume and page
Interpretations of the Commission in regard to requirements for registration statements and reports concerning information requested re description of business, summary of operations and financial statements.	9063	Feb. 16, 1971	36 FR 4463.
*	*	*	*
Commission's guidelines for registration and reporting	5520	Sept. 3, 1974	39 FR 31894.
*	*	*	*
Guideline regarding the preparation of integrated reports to shareholders.	13639	June 17, 1977	42 FR 31780.
*	*	*	*
Guides for disclosure of projections of future economic performance	5992	Nov. 15, 1978	43 FR 53246.
*	*	*	*

Statutory Authority

These amendments are being proposed pursuant to Sections 7, 10 and 19(a) of the Securities Act [15 U.S.C. 77g, 77j, 77s(a)] and Sections 13, 14, 15(d) and 23(a) of the Exchange Act [15 U.S.C. 78m, 78n, 78o(d), 78w(a)].

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat.906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 13, 14, 15(d), 23(a), 48 Stat. 894, 895, 901; sec. 203(a) 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 5, 6, 78 Stat. 569, 570-574; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155 sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77g, 77j, 77s(a), 78m, 78n, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-40791 Filed 12-31-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1020

[Docket No. 76N-0308]

Diagnostic X-Ray Systems and Their Major Components; Proposed Amendments to Performance Standard; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) extends the time for submission of comments on the proposed rule to amend the performance standard for diagnostic X-ray systems and their major components by revising and adding requirements concerning computed tomography (CT) X-ray systems. FDA is taking this action in response to a request for an extension of the comment period.

DATE: Comments by January 29, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HFX-460) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 31, 1980 (45 FR 72204), FDA published for public comment a proposed rule that would amend the performance standard for diagnostic X-ray systems and their major components by revising and adding requirements concerning computed tomography (CT) X-ray systems. The proposed rule provides for a 60-day comment period which is scheduled to close December 30, 1980. FDA received a request for an extension of the comment period because of the complexity of the proposal, the need for concurrent review of a Bureau of Radiological Health draft document concerning standard dosimetry phantoms, and the loss of time to review these documents due to the Thanksgiving and Christmas holidays.

FDA agrees that the proposal is complex and believes that additional time for the preparation and submission of meaningful and carefully constructed comments is in the public interest. FDA is, therefore, granting a 30-day extension of the comment period to January 29, 1981.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 as amended (42 U.S.C. 263f)) and under the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201, 501, 502, 514 and 701, 52 Stat. 1040-1042 as amended, 1049-1051 as amended, 1055-1056 as amended (21 U.S.C. 321, 351, 352, 360d, and 371)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the proposal to amend the performance standard for diagnostic X-ray systems and their major components is extended to January 29, 1981.

Interested persons may, on or before January 29, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville MD 20857, written comments regarding the proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–40788 Filed 12–29–80; 2:58 pm]

BILLING CODE 4110–03–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–1993]

Basis and Nonrecognition of Gain or Loss in Triangular Corporate Reorganizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to triangular corporate reorganizations. The regulations would provide the public with the guidance needed to determine the amount of gain or loss recognized by a controlled corporation when it exchanges stock of its parent corporation in a corporate reorganization and the adjustment to the parent corporation's basis in the stock of the controlled corporation resulting from such reorganization. The regulations would also provide the public with the guidance needed to determine the parent corporation's basis in the stock of a surviving corporation that it acquires in a reverse triangular reorganization.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 3, 1981. The amendments are proposed to be effective for corporate reorganizations occurring in taxable years beginning after December 31, 1953.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (LR–1993), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jack A. Levine of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3474, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 358 and 1032 of the Internal Revenue Code of 1954. These amendments provide rules for a transaction in which a controlled corporation (S) acquires stock or property in exchange for stock of its parent corporation (P) in a triangular corporate reorganization. These amendments also provide rules for a triangular reorganization in which the controlled corporation (S) is merged into a surviving corporation (T). The proposed amendments are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

General Statement of Purpose

I. Acquisitions by Subsidiary Using Parent's Stock

The proposed amendment provides rules to apply whenever S uses P stock to acquire stock or property in a triangular reorganization under section 368. In these transactions, two questions are present. First, whether S recognizes gain by the use of P stock and, second, whether any adjustment is made to the basis of S stock owned by P to reflect S's acquisition of property.

In the case of a two-party reorganization where P directly acquires the property or stock of another corporation (T), section 1032(a) provides that no gain or loss is recognized to P on the receipt of property in exchange for its stock. In addition, under section 368(a)(2)(C), P may transfer the acquired property to S. In such a case, P's basis in its S stock is adjusted under section 358 to reflect the transfer of the acquired property to S.

Congress has also provided that a reorganization may qualify under section 368(a)(1) where S directly acquires the property in exchange for P stock. However, there is no explicit statutory rule regarding the recognition of gain or loss by S as a result of using P's stock and there is no provision for an adjustment to the basis of the S stock owned by P to reflect the property acquired by S.

The proposed amendment adds §§ 1.358–6 and 1.1032–2 to provide rules to resolve these problems. In general, the rules provide for the same results that would occur if P acquired T's stock or property in a two-party reorganization and then transferred the acquired property and any assumed liabilities to S in a tax-free transfer.

The rules do not provide for an increase in P's basis in its S stock to reflect the transfer of property by P to S that is subsequently transferred to T or distributed to T's shareholders in the reorganization. The reason for this treatment is that if P had acquired T's property in a two-party reorganization in exchange for P stock and other property and had transferred T's property to S, P would not have received an increase in the basis of its S stock to reflect the transfer of property to T. Consequently, P is not entitled to an increase in the basis of its S stock to reflect the transfer of its property to S, if S subsequently transfers the property to T. However, as in a two-party reorganization, if T recognizes gain attributable to the transfer of the property to it, then P's basis in its S stock is increased by the amount of the gain. See section 362(b).

The rules also provide that P's basis in its S stock is decreased by the fair market value of any consideration provided in exchange for T's property in the reorganization that is not furnished by P in the reorganization. The reason for this treatment is to preserve in P's basis in its S stock any unrealized appreciation in T's property. If P had acquired T's property in a two-party reorganization and then and transferred T's property to S, P's basis in its S stock would be increased by the basis in T's property. Consequently, any unrealized appreciation in T's property would be preserved in P's basis in its S stock. In order to reach the same result where S directly acquires T's property in a reorganization in exchange for P stock, it is necessary to reduce P's basis in its S stock by the fair market value of any consideration not furnished by P in the reorganization.

II. Merger of Subsidiary Into Surviving Corporation

Proposed § 1.358–6 also provides rules for determining the basis of T stock acquired by P in the case of the merger of S into T in a reorganization that qualifies under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(E). In general, the rules provide for the same results that would occur if P acquired T's property in exchange for P stock and then transferred the acquired property and any assumed liabilities back to T in a tax-free transfer. Under these rules, P will have a uniform basis in the T stock (of each class) owned by it after the reorganization (including any T stock owned by P before the reorganization).

This treatment is consistent with the results that would occur if P had acquired T's property in the merger and then transferred the property back to T. These rules are designed to parallel the basis rules on forward triangular reorganizations. In addition, by providing for an asset basis they avoid the problems that are inherent in determining the basis of stock held by T's previous shareholders.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Jack A. Levine of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. A new § 1.358-6 is added in the appropriate place to read as follows:

§ 1.358-6 Basis in triangular reorganizations.

(a) *Basis in forward triangular merger and triangular "C" reorganization*—(1) *Scope.* This paragraph (a) applies to a reorganization qualifying under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(D) (forward triangular merger) and to a reorganization qualifying under section 368(a)(1)(C) in which the acquiring corporation exchanges stock of its controlling corporation for substantially all of the properties of another corporation (triangular "C" reorganization).

(2) *In general.* In the case of a forward triangular merger or a triangular "C" reorganization, the basis of stock of the acquiring corporation (S) owned by the controlling corporation (P) is the sum of—

(i) P's basis in the stock of S before the reorganization,

(ii) The net basis of property acquired by S from P in the reorganization that is not transferred to the transferor corporation (T) or T's shareholders in the reorganization, and

(iii) T's net basis in the property acquired from it by S in the reorganization.

(3) *Adjustments.* The basis determined under paragraph (a)(2) of this section is adjusted as follows:

(i) P's basis in its S stock decreased by the fair market value of any consideration provided in exchange for T's assets in the reorganization that is not furnished by P in the reorganization, and

(ii) In the case of a triangular "C" reorganization, P's basis in its S stock is increased by the amount of any gain recognized to T on the transfer of its assets to S in the reorganization.

(4) *Net basis.* For purposes of paragraphs (a)(2)(ii), (a)(2)(iii), and (c)(2)(ii) of this section, the net basis of property acquired from the transferor corporation (either P or T) by S in the reorganization is the excess (if any) of—

(i) The sum of the amount of money and the basis in the property acquired from the transferor corporation by S in the reorganization over

(ii) Any of the transferor corporation's liabilities assumed by S in the reorganization and any liabilities to which the transferred property is subject.

(5) *Examples.* The following examples illustrate the application of this paragraph (a):

Example (1). (a) P transfers 490 shares of its stock worth $4,900 and $1,000 cash to S in exchange for all 100 shares of S's single class of stock. S immediately acquires all of the cash and property of T in a forward triangular merger. In the merger of T into S, T's shareholders exchange their T stock (50 shares) for the 490 shares of P stock and $100. T has $1,000 of cash and property with a basis of $2,000 and a fair market value of $4,000. T has no liabilities.

(b) P's basis in its S stock is determined under this paragraph (a). P's basis in its S stock is equal to the sum of the amount of money ($900) transferred by P to S in the reorganization that is not distributed to T's shareholders, and the net basis of T's property ($3,000) acquired by S in the reorganization. Consequently, P;s basis in its 100 shares of S stock is $3,900 [*i.e.*, $900 + 3,000] or $39 per share.

Example (2). (a) Assume the same facts as in example (1) except that in the reorganization T redeems one share of its stock for $100 cash, S acquires T's remaining $900 of cash and its property, and T's shareholders exchange their T stock (49 shares) for the 490 shares of P stock.

(b) Based on these facts, P's basis in its S stock is equal to the sum of the amount of money ($1,000) transferred by P to S in the reorganization that is not distributed to T's shareholders and the net basis of T's property ($2,900) transferred to S in the reorganization. Consequently, P's basis in its 100 shares of S stock is $3,900 [*i.e.*, $1,000 + 2,900] or $39 per share.

Example (3). (a) P transfers 8 shares of its stock worth $8,000 and corporation Q transfers $2,000 in cash to S in exchange for all 10 shares of S's stock. P receives 8 shares of the S stock and Q receives the other 2 shares. S immediately acquires T's property in a forward triangular merger. In the merger of T into S, T's shareholders exchange their T stock for the 8 shares of P stock and the $2,000 cash. At the time of the merger, the aggregate basis of T's property is $6,000 and its fair market value is $10,000. T has no liabilities.

(b) Under paragraphs (a)(2) of this section, P's basis in its 8 shares of S stock would be $6,000, *i.e.*, the basis of T's property ($6,000) acquired by S in the reorganization, or $750 per share. However, under paragraphs (a)(3)(i) of this section, P's $6,000 basis in its S stock is reduced by the $2,000 of consideration provided in exchange for T's assets that was furnished by Q in the reorganization. Consequently, P's basis in its 8 shares of S stock is $4,000, or $500 per share.

Example (4). (a) Assume the same facts as in example (3) except that P transfers 10 shares of its stock worth $10,000 and Q transfers $2,500 to S in exchange for all 10 shares of S's stock. Additionally, in the merger of T into S, T's shareholders exchange their T stock solely for the 10 shares of P stock.

(b) Under paragraph (a)(2) of this section, P's basis in its 8 shares of S stock would be $6,000 (*i.e.*, the basis of T's property ($6,000) acquired by S in the reorganization) or $750 per share.

Example (5). (a) S is an operating company that has been in existence for several years. P is the sole shareholder of S which has 10 shares of a single class of stock outstanding. P contributes 8 shares of its voting stock to the capital of S. T immediately merges into S in a forward triangular merger. In the merger of T into S, T's shareholders exchange their T stock for the 8 shares of P stock and $2,000 of S's cash. At the time of the merger, the aggregate basis of T's property is $6,000 and its fair market value is $10,000. T has no liabilities.

(b) Under paragraph (a)(2) of this section, P's basis in its 10 shares of S stock would be increased by $6,000, or $600 per share. However, under paragraph (a)(3)(i) of this section, P's basis in its S stock is reduced by the $2,000 of consideration provided in exchange for T's assets that was furnished by S in the reoganization. Consequently, P's basis in its 10 shares of S stock is increased by $4,000, or $400 per share.

(b) *Basis in triangular "B" reorganization*—(1) *Scope.* This paragraph (b) applies to a reorganization qualifying under section 368(a)(1)(B) in which S acquires T stock in exchange solely for P voting stock (triangular "B" reorganization).

(2) *In general.* In the case of a triangular "B" reorganization, P's basis in its S stock is increased by the former shareholders' basis in the T stock acquired by S in the reorganization.

(3) *Adjustment.* P's basis in its S stock (as determined under paragraph (b)(2) of this section) is decreased by the fair market value of any P stock provided in exchange for T stock in the reorganization that is not furnished by P in the reorganization.

(c) *Basis in reverse triangular merger*—(1) *Scope.* This paragraph (c) applies to a statutory merger that qualifies as a reorganization under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(E) (reverse triangular merger).

(2) *In general.* The basis of the stock of the surviving corporation (T) owned by the controlling corporation (P) after a reverse triangular merger is the sum of—

(i) P's basis in the stock of the merged corporation (S) before the reorganization,

(ii) The net basis of property transferred by P to S in the reorganization that is not distributed to T's shareholders in the reorganization, and

(iii) T's net basis in its property after the reorganization.

(3) *Adjustment.* For purposes of paragraph (c)(2) of this section, P's basis in its T stock is decreased by the fair market value of any consideration received by T's shareholders from S in the reorganization that was not furnished by P in the reorganization.

(4) *Net basis.* (i) For purposes for paragraph (c)(2)(ii) of this section, the net basis of property transferred by P to S in the reorganization is determined under paragraph (a)(4) of this section.

(ii) For purposes of paragraph (c)(2)(iii) of this section, T's net basis in its property is the excess (if any) of—

(A) The sum of the amount of money and the basis of property held by T after the reorganization (other than money and property received in the reorganization) over

(B) T's liabilities after the reorganization (other than liabilities assumed by T in the reorganization and liabilities to which property acquired by T in the reorganization is subject).

(5) *Transitional rule.* If—

(i) A transaction described in paragraph (c)(1) of this section occurred before March 3, 1981,

(ii) The transaction is also described in Rev. Rul. 67–448, 1967–6 C.B. 144, and

(iii) The aggregate basis of the T stock owned by P after the transaction, determined as if the transaction is described in section 368(a)(1)(B), is greater than the aggregate basis would be if it were determined under this paragraph (c),

then the stock's basis is determined as if the transaction is described in section 368(a)(1)(B).

(6) *Assumption.* The rules in paragraph (c) (1) through (5) of this section are based on the assumption that P is the sole shareholder of T after the reorganization. If the facts in a particular merger are inconsistent with this assumption, then adjustments to P's basis in its T stock may be required.

(7) *Examples.* The following examples illustrate the application of this paragraph (c):

Example (1). (a) On January 1, 1981, P transfers $1,000 and 490 shares of its voting stock worth $4,900 to S in exchange for all of S's stock. On February 1, 1981, S merges into T in a reverse triangular merger. In the merger, T's shareholders exchange their T stock (50 shares) for the 490 shares of P stock and $100. Additionally, 100 shares of T stock are newly issued to P in exchange for P's 100 shares of S stock. The aggregate basis of T's property at the time of the merger is $3,000 and the aggregate fair market value of T's stock is $5,000. T has no liabilities.

(b) P's basis in the 100 shares of T stock owned by it after the merger is determined under this paragraph (c). P's basis in its T stock is equal to the sum of the amount of money ($900) transferred by P to S in the reorganization that is not distributed to T's shareholders, and T's net basis (3,000) in its property after the reorganization (other than the money received by it in the reorganization). Consequently, P's basis in its T stock after the merger is $3,900 [*i.e.*, $900 + $3,000], or $39 per share. The results would be the same even if P owns stock in T before the merger (assuming that the merger still qualifies under section 368 (a)(1)(A)).

Example (2). (a) Assume the same facts as in example (1) except that in the reorganization T redeems one share of its stock for $100 of its cash and T's shareholders exchange their remaining T stock(49 shares) for the 490 shares of P stock.

(b) P's basis in its 100 shares of T stock is equal to the sum of the amount of Money ($1,000) transferred by P to S in the reorganization that is not subsequently distributed to T's shareholders and T's net basis ($2,900) in its property after the reorganization (other than the money received by it in the reorganization). Consequently, P's basis in its T stock after the merger is $3,900 [*i.e.*, $1,000 + $2,900], or $39 per share.

Par. 3. A new § 1.1032–2 is added to read as follows:

§ 1.1032–2 Disposition by a corporation in certain triangular reorganizations of stock of a controlling corporation.

(a) *Forward triangular merger and triangular "C" reorganization.* In the case of a forward triangular merger or a triangular "C" reorganization (described in § 1.358–6(a)(1)), no gain or loss is recognized to the acquiring corporation (S) on the receipt of money or other property from the acquired corporation (T) in exchange for stock of the corporation (P) in control of S.

(b) *Triangular "B" reorganization.* In the case of a triangular "B" reorganization (described in § 1.358–6(b)(1,)), no gain or loss is recognized to S on the receipt of T stock in exchange for P stock.

(c) *Examples.* The following examples illustrate the application of this section:

Example (1). (a) in a forward triangular merger, P transfers 8 shares of its stock to S, and S acquires T's property in exchange for the 8 shares of P stock and other property.

(b) At the time of the merger, the fair market value of the 8 shares of P stock is $800. The fair market value of the other property transferred by S is $200 and the adjusted basis of such property is $130. The fair market value of T's property is $1,000 and T has no liabilities.

(c) Under this section, no gain or loss is recognized to S on the receipt of T's property in exchange for P stock. Accordingly, S recognizes gain or loss only with respect to the value of property acquired in exchange for property other than P stock ($200). The gain recognized by S is $70, *i.e.*, the excess of the amount realized ($200) over the adjusted basis ($130) of property transferred by S in exchange for T's property.

Example (2). (a) Assume the same facts as in example (1) except that, instead of transferring other property, S assumes a liability of T in the amount of $200.

(b) The fair market value of the property acquired by S in exchange for P stock is $800. The other portion ($200) of the propoerty acquired by S is treated as acquired by S in exchange for the assumption by S of the liability of T. Consequently, S recognizes no gain as a result of the merger.

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80–40813 Filed 12–29–80; 4:45 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-1994]

Statutory Merger Using Voting Stock of the Corporation Controlling the Merged Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the statutory merger of a controlled corporation into an acquiring corporation using the voting stock of the corporation controlling the merged corporation (reverse triangular merger). Changes to the applicable tax law were made by Public Law 91-693. The regulations would provide the public with the guidance needed to comply with that Act and would affect corporations involved in reverse triangular mergers.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 3, 1981.

The amendments are proposed to be effective for statutory mergers occurring after December 31, 1970.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention CC:LR:T (LR-1994), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jack A. Levine of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, Attention CC:LR:T (202-566-3474, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 368 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to Public Law 91-693, which added section 368(a)(2)(E) to the Internal Revenue Code of 1954. The proposed amendments are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

Section 368(a)(2)(E) provides rules for a reverse triangular merger. That section permits stock of a corporation which before the merger was in control of the merged corporation to be used in the transaction if certain requirements are met.

Significant Issue

The most significant issue encountered in the development of the regulations under section 368(a)(2)(E) involves the requirment that former shareholders of the surviving corporation exchange an amount of stock which constitutes control of such corporation for voting stock of the controlling corporation. The issue is whether the stock of the surviving corporation that is exchanged for voting stock of the controlling corporation must by itself constitute control or whether the sum of that stock and stock previously owned by the controlling corporation can constitute control. The proposed amendment provides for the first alternative.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Jack A. Levine of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.368-2 is amended as follows:

1. A new subparagraph (3) is added to paragraph (b).

2. Paragraph (i) is reserved.

3. A new paragraph (j) is added immediately after paragraph (i).

The new provisions read as follows:

§ 1.368-2 Definition of terms.

* * * * *

(b) * * *

(3) For regulations under section 368(a)(2)(E), see paragraph (j) of this section.

* * * * *

(i) [Reserved]

(j)(1) Section 368(a)(2)(E) applies to statutory mergers occurring after December 31, 1970.

(2) Section 368(a)(2)(E) does not apply to a consolidation.

(3) A merger otherwise qualifying under section 368(a)(2)(E) is not disqualified by reason of the fact that stock of a corporation (the controlling corporation) which before the merger was in control of the merged corporation is used in the merger, if the conditions of section 368(a)(2)(E) are satisfied. Those conditions are as follows:

(i) In the merger, shareholders of the surviving corporation must surrender stock in exchange for voting stock of the controlling corporation. Further, the stock so surrendered must constitute control of the surviving corporation. Control is defined in section 368(c). The amount of stock constituting control is measured immediately before the reorganization. Thus, the amount of stock in the surviving corporation surrendered for voting stock of the controlling corporation must represent—

(A) Stock possessing at least 80 percent of the total combined voting power (in the surviving corporation) of all classes of voting stock (outstanding immediately before the reorganization) and

(B) Stock amounting to at least 80 percent of the total number of shares of each of the other classes of stock in the surviving corporation (outstanding immediately before the reorganization).

(ii) The controlling corporation must acquire control of the surviving corporation in the merger.

(iii) After the merger, the surviving corporation must hold substantially all of its own properties and substantially all of the properties of the merged corporation (other than stock of the controlling corporation distributed in the merger). The term "substantially all" has the same meaning as in section 368(a)(1)(C). The "substantially all" test applies separately to the merged corporation and to the surviving corporation. In applying the "substantially all" test to the merged corporation, assets transferred from the controlling corporation to the merged corporation in pursuance of the plan of reorganization are not taken into account. Thus, for example, money transferred from the controlling corporation to the merged corporation—

(A) To pay additional consideration to shareholders of the surviving corporation,

(B) To pay dissenting shareholders of the surviving corporation,

(C) To pay creditors of the surviving corporation, or

(D) To pay reorganization expenses, is not taken into account for purposes of the "substantially all" test.

(4) A merger qualifying under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(E) is not disqualified merely because part or all of the stock of the surviving corporation is transferred to a corporation controlled by the controlling corporation. See section 368(a)(2)(C). However, section 368(a)(2)(C) does not permit assets of the surviving corporation to be transferred in contravention of the "substantially all" requirement in section 368(a)(2)(E)(i).

(5) The controlling corporation may assume liabilities of the surviving

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corporation without disqualifying the merger under section 368(a)(2)(E).

(6) In applying section 368(a)(2)(E), it makes no difference if the merged corporation is formed immediately before the merger, in anticipation of the merger, or after preliminary steps have been taken to otherwise acquire control of the surviving corporation.

(7) The following examples illustrate the application of this paragraph (j). In each of the examples, it is assumed that the merger qualifies under section 368(a)(1)(A) if the conditions of section 368(a)(2)(E) are satisfied.

Example (1). Corporation P owns all of the stock of corporation S. Corporation T has outstanding 1,000 shares of common stock and no shares of any other class. P owns no T stock. On January 1, 1981, S merges into T. In the merger, T's shareholders surrender 950 shares of common stock in exchange for P voting stock on a share-for-share basis. The holders of the other 50 shares (who dissent from the merger) are paid in cash. After the merger, T holds substantially all of its own assets and substantially all of S's assets. Based on these facts, the merger qualifies under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(E).

Example (2). The facts are the same as in example (1), except that holders of 201 shares in corporation T dissent from the merger and are paid in cash. Based on these facts, T's shareholders do not exchange for P voting stock an amount of T stock that constitutes control of T. Therefore, the merger does not qualify under section 368(a)(1)(A).

Example (3). Corporation P owns all of the stock in corporation S. Corporation T has outstanding 1,000 shares of common stock and no shares of any other class. On January 1, 1971, P purchased 201 shares of T's stock. On January 1, 1981, S merges into T. In the merger, T's shareholders (other than P) surrender 799 shares of T stock in exchange for P voting stock on a share-for-share basis. Based on these facts T's shareholders do not exchange for P voting stock an amount of T stock that constitutes control of T. Therefore, the merger does not qualify under section 368(a)(1)(A).

Example (4). Corporation P owns all of the stock of corporation S. Corporation T has outstanding 1,000 shares of common stock, 100 shares of preferred stock, and no shares of any other class. Prior to the merger, in a transaction that is part of the reorganization, T distributes cash in redemption of the 100 shares of preferred stock. In the merger, T's remaining shareholders surrender their 1,000 shares of common stock in exchange for P voting stock on a share-for-share basis. Based on these facts, T's shareholders do not exchange for P voting stock an amount of T stock that constitutes control of T. Therefore, the merger does not qualify under section 368(a)(1)(A).

William E. Williams,
Acting Commissioner of Internal Revenue.

[FR Doc. 80-40814 Filed 12-29-80; 4:42 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-245-76]

Miscellaneous DISC Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations under sections 861, 993, 995, and 996 of the Internal Revenue Code of 1954. These amendments conform the regulations to certain changes made to the DISC (Domestic International Sales Corporation) provisions of the Code by the Tax Reform Act of 1976, the Revenue Act of 1978, the Trade Agreements Act of 1979, and the Export Administration Act of 1979. The amendments also make certain technical corrections. The principal amendments pertain to changes made by the Tax Reform Act of 1976 with respect to gain on the disposition of stock in a DISC and the treatment of actual distributions made to shareholders of a DISC to satisfy the gross receipts test.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 3, 1981. For the time periods to which the new substantive rules prescribed in these amendments apply, see each particular substantive amendment.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Herman B. Bouma of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 861, 993, 995, and 996 of the Internal Revenue Code of 1954. These amendments conform the regulations to certain changes made by section 1101(a)(1), (c), (d), and (e) of the Tax Reform Act of 1976 (90 Stat. 1655), section 701(u)(12) of the Revenue Act of 1978 (92 Stat. 2918), section 202(c)(2) of the Trade Agreements Act of 1979 (93 Stat. 202), and section 22(c) of the Export Administration Act of 1979 (93 Stat. 535). The amendments also make certain technical corrections. The amendments are proposed under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

Sections 1.993-4, 1.995-3, 1.995-5, 1.996-1, and 1.996-3 would be amended under the proposed Treasury decision to reflect certain changes made by the Tax Reform Act of 1976. Section 1.996-4 would be amended to reflect certain changes made by the Tax Reform Act of 1976 and the Revenue Act of 1978. Under the proposed amendments to § 1.995-4, paragraph (a) is deleted because it is unnecessary; no substantive change is intended by this deletion. Proposed § 1.993-3(e) reflects a change made by the Trade Agreements Act of 1979 and proposed § 1.993-3(h), a change made by the Export Administration Act of 1979. Certain technical corrections would be made to §§ 1.861-3(a)(5) and 1.993-3(f)(2)(iv).

Comments and Request for A Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Herman B. Bouma of the Legislation & Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Paragraph (a)(5) of § 1.861-3 is amended by revising subdivisions (i)(*a*), (iii), (v)(*b*) and examples (1), (2), and (3) of subdivision (vi) and paragraph (e) to read as follows:

§ 1.861-3 Dividends.

(a) *General.* * * *

(5) *Certain dividends from a DISC or former DISC*—(i) *General rule.* * * *

(*a*) Is deemed paid by a DISC, for taxable years beginning before January

1, 1976, under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) to the extent provided in subdivision (iii) of this subparagraph or

* * * * *

(iii) *Determination of source of income for deemed distributions, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F).*

(*a*) If for its taxable year a DISC does not have any nonqualified export taxable income, then for such year the entire amount treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as a deemed distribution taxable as a dividend will be treated as gross income from sources without the United States.

(*b*) If for its taxable year a DISC has any nonqualified export taxable income, then for such year the portion of the amount treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as a deemed distribution taxable as a dividend that will be treated as income from sources within the United States shall be equal to the amount of such nonqualified export taxable income multiplied by the following fraction. The numerator of the fraction is the sum of the amounts treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as deemed distributions taxable as dividends. The denominator of the fraction is the taxable income of the DISC for the taxable year, reduced by the amounts treated under section 995(b)(1) (A), (B), and (C) as deemed distributions taxable as dividends. However, in no event shall the numerator exceed the denominator. The remainder of such dividend will be treated as gross income from sources without the United States.

* * * * *

(v) *Special rules.* * * *

(*b*) The portion of any deemed distribution taxable as a dividend, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) or amount under § 1.996–3(b)(3) (i) through (iv) that is treated as gross income from sources within the United Stated during the taxable year shall be considered to reduce the amount of nonqualified export taxable income as of the close of such year.

(vi) *Illustrations.* * * *

Example (1). (a) Y is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. X is its sole shareholder. In 1973, Y has $18,000 of taxable income from qualified export receipts (none of which are interest and gains described in section 995(b)(1) (A), (B), and (C)) and $1,000 of nonqualified export taxable income. Under these facts, X is deemed to have received a distribution under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, of $9,500, *i.e.*, $19,000 X ½. X is treated under subdivision (iii)(*b*) of this subparagraph as having $500, *i.e.*, $1,000 X $9,500/$19,000, from sources within the United States and $9,000 from sources without the United States.

* * * * *

Example (2). The facts are the same as in example (1) except that in 1973, in addition to the taxable income described in such example, Y has $450 of taxable income from gross interest from producer's loans described in section 995(b)(1)(A). Under these facts, the deemed distribution of $450 under section 995(b)(1)(A) is treated in full under subdivision (i) of this subparagraph as gross income from sources within the United States. The deemed distribution under section 995(b)(1)(D) of the Code as in effect for taxable years beginning before January 1, 1976, of $9,500 will be treated in the same manner as in example (1), *i.e.*, $1,000 X $9,500/($19,450–$450).

Example (3). (a) The facts are the same as in example (1) except that in 1973, in addition to the distribution described in such example, Y makes a deemed distribution taxable as a dividend of $100 under section 995(b)(1)(G) (relating to foreign investment attributable of all of its previously taxed income and of $2,000 taxable as a dividend which reduces accumulated DISC income (as defined in subdivision (ii)(*b*) of this subparagraph). Under § 1.996–3(b)(3), accumulated DISC income is first reduced by the deemed distribution of $100 and then by the actual distribution taxable as a dividend of $2,000. As indicated in example (1), for 1972 Y did not have any nonqualified export taxable income. Assume that Y had accumulated DISC income of $12,000 at the end of 1973, $500 of which under example (1) is attributable to nonqualified export taxable income

* * * * *

(e) The sum of the amounts deemed and actually distributed as dividends for 1973 that are treated as gross income from sources within the United States is as follows:

	Total dividend	Amount of dividend from sources within the United States
Deemed distribution under sec. 995(b)(1)(D) of the code as in effect for taxable years beginning before Jan. 1, 1976	$9,500	$500.00
Deemed distribution under sec. 995(b)(1)(G)	100	4.17
Actual distribution that reduces accumulated DISC income	2,000	83.33
Totals	$11,600	$587.50

Thus, pursuant to subdivision (v)(*b*) of this subparagraph at the beginning of 1974 Y has $412.50, *i.e.*, $1,000–$587.50, of nonqualified export taxable income.

* * * * *

Par. 2. Section 1.993–3 is amended by revising paragraphs (e)(4), (f)(2)(iv), (h)(2)(ii), (h)(1), the introductory portion of (h)(3)(i), and (h)(3)(ii) to read as follows:

§ 1.993–3 Definition of export property.

* * * * *

(e) *Foreign content of property.* * * *

(4) *Computation of foreign content*—(i) *Valuation.* For purposes of applying the 50 percent test described in subparagraph (l) of this paragraph, it is necessary to determine the fair market value of all articles which constitue foreign content of the property being tested to determine if it is export property. The fair market value of such imported articles is determined as of the time such articles are imported into the United States. With respect to articles imported into the United States when section 202(c)(1) of the Trade Agreements Act of 1979 is not in effect, the fair market value of such articles is their appraised value as determined under section 402 or 402a of the Tariff Act of 1930 (19 U.S.C. 1401a or 1402) in connection with their importation. With respect to articles imported into the United States when section 202(c)(1) of the Trade Agreements Act of 1979 is in effect, the fair market value of such articles is their appraised value as determined under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with their importation. With respect to the effective date of section

202(c)(1) of the Trade Agreements Act of 1979, see section 204(a) of that Act. The appraised value of such articles is the full dutiable value of such articles, determined, however, without regard to any special provision in the United States tariff laws which would result in a lower dutiable value. Thus, an article which is imported into the United States is treated as entirely imported even if all or a portion of such article was originally manufactured, produced, grown, or extracted in the United States.

* * * * *

(f) *Excluded property.* * * *

(2) *Property leased to member of controlled group.* * * *

(iv) *Certain copyrights.* With respect to a copyright which is not excluded by subparagraph (3) of this paragraph from being export property, the ultimate use of such property is the sale or exhibition of such property to the general public. Thus, if A, a DISC for the taxable year, leases recording tapes to B, a foreign corporation which is a member of the same controlled group as A, and if B makes records from the recording tape and sells the records to C, another foreign corporation, which is not a member of the same controlled group, for sale by C to the general public, the recording tape is not disqualified under this subparagraph from being export property, notwithstanding the leasing of the recording tape by A to a member of the same controlled group, since the ultimate use of the tape is the sale of the records (*i.e.*, property produced from the recording tape).

* * * * *

(h) *Export controlled products*—(1) *In general.* An export controlled product is not export property. A product or commodity may be an export controlled product at one time but not an export controlled product at another time. For purposes of this paragraph, a product or commodity is an "export controlled product" at a particular time if at that time the export of such product or commodity is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 or section 7(a) of the Export Administration Act of 1979, to effectuate the policy relating to the protection of the domestic economy set forth in such Acts (paragraph (2)(A) of section 3 of the Export Administration Act of 1969 and paragraph (2)(C) of section 3 of the Export Administration Act of 1979). Such policy is to use export controls to the extent necessary "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand."

(2) *Products considered export controlled products.* * * *

(iv) *Expiration of Export Administration Act.* An initial control date and a final control date cannot occur after the expiration date of the Export Administration Act under the authority of which the short supply export controls were issued.

(3) *Effective dates*—(i) *Products controlled on March 19, 1975.* Except as provided in paragraph (g)(6) of this section, if a product or commodity was subject to short supply export controls on March 19, 1975, this paragraph applies—

* * * * *

(ii) *Products first controlled after March 19, 1975.* If a product or commodity becomes subject to short supply export controls after March 19, 1975, this paragraph applies to sales, exchanges, other dispositions, or leases of such product or commodity made on or after the initial control date of such product or commodity, and to owning such product or commodity on or after such date.

* * * * *

Par. 3. Section 1.993–4 is amended by revising paragraphs (a)(2)(vi), (a)(5) and paragraph (b)(3) to read as follows:

§ 1.993–4 Definition of producer's loans.

(a) *General rule.* * * *

(2) *Application of this section.* * * *

(vi) *Events subsequent to time loan is made.* The determination as to whether a loan qualifies as a producer's loan is made on the basis of the relevant facts taken into account for purposes of determining whether the loan was a producer's loan when made. Thus, for example, if the accumulated DISC income of the lender is later reduced below the unpaid balance of all producer's loans previously made by the DISC, such subsequent decrease in the amount of accumulated DISC income will not result in later disqualification of such loan (or part thereof) as a producer's loan. Similarly, if a loan (or part of a loan) does not qualify as a producer's loan because of an insufficient amount of accumulated DISC income at the time the loan is made, a subsequent increase in the amount of accumulated DISC income will not result in later qualification of such loan (or part thereof) as a producer's loan. As a further example, for purposes of applying the borrower's export related assets limitation described in paragraph (b) of this section, a loan which qualifies as a producer's loan when made will not later be disqualified if property, the gross receipts from the sale or lease of which were includible in the numerator of the fraction described in paragraph (b)(3)(i) of this section at the time of sale or lease by the borrower, is later characterized as excluded property (as defined in § 1.993–3(f)).

* * * * *

(5) *Borrower's trade or business.* A loan is a producer's loan only if the loan is made to a person engaged in the United States in the manufacture, production, growth, or extraction (within the meaning of § 1.993–3(c)) of export property determined without regard to § 1.993–3(f)(1)(iii) and (iv). The borrower may also be engaged in other trades or businesses and the loan need not be traceable to specific investments in export property.

(b) *Borrower's export related assets limitation.*

* * * * *

(3) *Fraction referred to in subparagraph (1) of this paragraph*—(i) *Numerator of fraction.* The numerator of the fraction set forth in this subparagraph is the sum of the borrower's gross receipts for each of its 3 taxable years immediately preceding the taxable year in which the loan is made (but not including any taxable year beginning before January 1, 1972) from the sale or lease of export property (determined without regard to § 1.993–3(f)(1)(iii) and (iv)) which is manufactured, produced, grown, or extracted (within the meaning of § 1.993–3 (c)) by the borrower whether or not sold or leased directly or through a related Western Hemisphere trade corporation, or other domestic related person (notwithstanding § 1.993–3(a)(4) and (5) and (f)(2)). For purposes of the preceding sentence, with respect to a sale or lease to a related DISC in which the transfer price is determined under section 994(a)(1) or (2), the rules under § 1.994–1(c)(5) (relating to incomplete transactions) shall be applied, and with respect to all other sales and leases the rules under § 1.994–1(c)(5) other than subdivision (i)(*d*) thereof shall be applied.

* * * * *

§ 1.995–3 [Amended]

Par. 4. Paragraph (e) of § 1.995–3 is amended by striking out "995(b)(1)(E)" and inserting in lieu thereof "995(b)(1)(G)".

Par. 5. Section 1.995–4 is amended by reviewing paragraph (a), (b), (c), (d), (e)(1) and (e)(3)(iii) to read as follows:

§ 1.995–4 Gain on disposition of stock in a DISC.

(a) *Disposition in which gain is recognized*—(1) *In general.* If a shareholder disposes, or is treated as disposing, of stock in a DISC, or former DISC, then any gain recognized on such disposition shall be included in the shareholder's gross income as a dividend, notwithstanding any other provision of the Code, to the extent of the accumulate DISC income amount (described in paragraph (d) of this section). To the extent the recognized gain exceeds the accumulated DISC income amount, it is taxable as gain from the sale or exchange of the stock.

(2) *Nonapplication of subparagraph (1).* The provisions of subparagraph (1) of this paragraph do not apply (i) to the extent gain is not recognized (such as, for example, in the case of a gift or an exchange of stock to which section 354 applies) and (ii) to the amount of any recognized gain which is taxable as a dividend (such as, for example, under section 301 or 356(a)(2)) or as gain from the sale or exchange of property which is not a capital asset. The amount taxable as a dividend under section 301 or 356(a)(2) is subject to the rules provided in § 1.995–1(c) for the treatment of actual distributions by a DISC.

(b) *Disposition in which separate corporate existence of DISC is terminated*—(1) *General.* If stock in a corporation that is a DISC, or former DISC, is disposed of in a transaction in which its separate corporate existence as a DISC, or former DISC, is terminated, then, notwithstanding any other provision of the Code, an amount of realized gain shall be recognized and included in the transferor's gross income as a dividend. The realized gain shall be recognized to the extent that such gain—

(i) Would not have been recognized but for the provisions of this paragraph, and

(ii) Does not exceed the accumulated DISC income amount (described in paragraph (d) of this section).

(2) *Cessation of separate corporate existence as a DISC, or former DISC.* For purposes of subparagraph (1) of this paragraph, separate corporate existence as a DISC, or former DISC, will be treated as having ceased if, as a result of the transaction, there is no separate entity which is a DISC and to which is carried over the accumulated DISC income and other tax attributes of the DISC, or former DISC, the stock of which is disposed of. Thus, for example, if stock in a DISC, or former DISC, is exchanged in a transaction described in section 381 (a) (relating to carryovers in certain corporate acquisitions), the gain realized on the transfer of such stock will not be recognized under subparagraph (1) of this paragraph if the assets of such DISC, or former DISC, are acquired by a corporation which immediately after the acquisition qualifies as a DISC. For a further example, if a DISC, or former DISC, is liquidated in a transaction to which section 332 (relating to complete liquidations of subsidiaries) applies, the transaction will be subject to subparagraph (1) of this paragraph if the basis to the transferee corporation of the assets acquired on the liquidation is determined under section 334(b)(2) or if immediately after such liquidation the transferee of such assets does not qualify as a DISC. However, separate corporate existence as a DISC, or former DISC, will not be treated as having ceased in the case of a mere change in place of organization, however effected. See § 1.996–7 for rules for the carryover of the divisions of a DISC's earnings and profits to one or more DISC's.

(c) *Disposition to which section 311, 336, or 337 applies*—(1) *In general.* If, after December 31, 1976, a shareholder distributes, sells, or exchanges stock in a DISC, or former DISC, in a transaction to which section 311, 336, or 337 applies, then an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the shareholder shall, notwithstanding any other provision of the Code, be included in gross income of the shareholder as a dividend to the extent of the accumulated DISC income amount (described in paragraph (d) of this section).

(2) *Nonapplication of subparagraph (1).* Subparagraph (1) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock.

(d) *Accumulated DISC income amount*—(1) *General.* For purposes of this section, the accumulated DISC income amount is the accumulated DISC income of the DISC or former DISC which is attributable to the stock disposed of and which was accumulated in taxable years of such DISC or former DISC during the period or periods such stock was held by the shareholder who disposed of such stock.

(2) *Period during which a shareholder has held stock.* For purposes of this section, the period during which a shareholder has held stock includes the period he is considered to have held it by reason of the application of section 1223 and, if his basis is determined in whole or in part under the provisions of section 1014(d) (relating to special rule for DISC stock acquired from decedent), the holding period of the decedent. Such holding period is to exclude the day of acquisition but include the day of disposition. Thus, for example, if A purchases stock in a DISC on December 31, 1972, and makes a gift of such stock to B on June 30, 1973, then on December 31, 1974, B will be treated as having held the stock for 2 full years. If the basis of the stock in C's hands is determined under section 1014 (d) upon a transfer from B's estate on December 31, 1976, by reason of B's death on June 30, 1974, then on December 31, 1976, C will be treated as having held the stock for 4 full years.

(e) *Accumulated DISC income allocable to shareholder under section 995(c)(2)*—(1) *In general.* Under this paragraph, rules are prescribed for purposes of paragraph (d) of this section as to the manner of determining, with respect to the stock of a DISC, or former DISC, disposed of, the amount of accumulated DISC income which is attributable to such stock and which was accumulated in taxable years of the corporation during the period or periods the stock disposed of was held or treated under paragraph (d)(2) of this section as held by the transferor. Subparagraphs (2), (3), and (4) of this paragraph set forth a method of computation which may be employed to determine such amount. Any other method may be employed so long as the result obtained would be the same as the result obtained under such method.

* * * * *

(3) *Step 2.* * * *

(iii) If for any taxable year of a DISC, or former DISC, the share disposed of was not held (or treated under paragraph (d) (2) of this section as held) by the disposing shareholder for the entire year, then the amount of increase (or decrease) in accumulated DISC income attributable to such share for such year is the amount determined as if he held the share until the end of such year multiplied by a fraction the numerator of which is the number of days in the taxable year on which the shareholder held (or under paragraph (d) (2) of this section is treated as having held) such share and the denominator of which is the total number of days in the taxable year.

* * * * *

§ 1.995–5 [Amended]

Par. 6. Section 1.995–5 is amended by striking out "995(b)(1)(E)" everywhere it appears in paragraphs (a)(1), (a)(7), and (d)(1)(i) of that section and inserting in lieu thereof "995(b)(1)(G)".

Par. 7. Section 1.996–1 is amended to revise paragraph (b) and example 3 of paragraph (e) to read as follows:

§ 1.996-1 Rules for actual distributions and certain deemed distributions.

* * * * *

(b) *Rules for qualifying distributions and deemed distributions under section 995(b)(1)(G)*—(1) *In general.* Except as provided in subparagraph (2), any actual distribution to meet qualification requirements made pursuant to § 1.992-3 and any deemed distribution pursuant to § 1.995-2(a)(5) (relating to foreign investment attributable to producer's loans) which is made out of earnings and profits shall be treated as made—

(i) First, out of "accumulated DISC income" (as defined in § 1.996-3(b)) to the extent thereof,

(ii) Second, out of "other earnings and profits" (as defined in § 1.996-3(d)) to the extent thereof, and

(iii) Third, out of "previously taxed income" (as defined in § 1.996-3(c)) to the extent thereof.

(2) *Special rules.* For taxable years beginning after December 31, 1975, paragraph (b)(1) of this section shall apply to one-half of the amount of an actual distribution made pursuant to § 1.992-3 to satisfy the condition of § 1.992-1(b) (the gross receipts test) and paragraph (a) of this section shall apply to the remaining one-half of such amount.

* * * * *

(e) Examples. * * *

Example (3). Y Corporation, which uses the calendar year as its taxable year, elects to be treated as a DISC beginning with 1972. As of the end of 1975, Y had failed to meet the gross receipts test for that year. In 1975 Y had $100 of taxable income, $80 of which was attributable to qualified export receipts and $20 of which was attributable to receipts that did not qualify as qualified export receipts. As of the beginning of 1976, Y had $300 of accumulated earnings and profits, which consisted of $70 of accumulated DISC income, $40 of previously taxed income, and $190 of other earnings and profits. In 1976 Y makes a cash distribution of $20 pursuant to § 1.992-3 in order to satisfy the gross receipts test for 1975. For 1976 Y has no earnings and profits and no deemed distributions. The entire $20 distribution is a dividend under section 316. Under § 1.996-1(b)(2), half of the $20 cash distribution is treated pursuant to § 1.996-1(b)(1) and half is treated pursuant to § 1.996-1(a). Thus, $10 is treated as distributed out of accumulated DISC income and is includible in gross income. The other $10 is treated as made out of previously taxed income and is thus excluded from gross income. As of the beginning of 1977, Y has $280 of accumulated earnings and profits, which consists of $60 of accumulated DISC income, $30 of previously taxed income, and $190 of other earnings and profits.

§ 1.996-3 [Amended]

Par. 8. Section 1.996-3 is amended by striking out "§ 1.996-1(b)(1)" in paragraphs (b)(3)(ii) and (f) Example 5 (5) and inserting in lieu thereof "§ 1.996-1(b)(1)(i)".

Jerome Kurtz

Commissioner of Internal Revenue.

[FR Doc. 80-40811 Filed 12-29-80; 4:43 pm]

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26 CFR Part 26

[LR 205-76]

Definitions and Special Rules Relating to Generation-Skipping Transfers

AGENCY: Internal Revenue Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the new tax on certain generation-skipping transfers. Provisions taxing certain generation-skipping transfers were added by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act.

DATES: The amendments are proposed to be effective for any generation-skipping transfer made after June 11, 1976. Written comments and request for a public hearing must be delivered or mailed by March 3, 1981.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T, (LR 205-76) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the generation-skipping transfer tax regulations (26 CFR Part 26) under section 2611-2613 of the Internal Revenue Code of 1954 (Code) as added by section 2006(a) of the Tax Reform Act of 1976 (90 Stat. 1879; Pub. L. 94-455), section 702(n)(2) of the Revenue Act of 1978 (92 Stat. 2935; Pub. L. 95-600) and section 107(a)(2)(B) of the Technical Corrections Act of 1979 (94 Stat. 222; Pub. L. 96-222). These new regulations are proposed to provide the public with certain rules relating to generation-skipping transfers. These regulations are to be issued under the authority contained in sections 2613(b) (90 Stat. 1884; 26 U.S.C. 2613(b)), 2621(c)(2) (90 Stat. 1888; 26 U.S.C 2621(c)(2)); 2622 (90 Sat. 1888; 26 U.S.C. 2622); and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Code.

In General

Under the Tax Reform Act of 1976 a new chapter 13 was added to the Code which imposes a tax on generation-skipping transfers. Section 2611 of the Code defines the terms "generation-skipping transfers", "generation-skipping trust", and "generation-skipping trust equivalent". This section also sets forth rules for determining the generation to which a beneficiary belongs. The regulations under section 2611 of the Code interpret these definitions and rules and illustrate the application of section 2611 through the use of examples.

Taxable Distributions and Taxable Terminations

A generation-skipping transfer is defined as any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent. The proposed regulation under § 26.2613-1 defines the term "taxable distribution" and provides, in part, that if any portion of the tax imposed on a generation-skipping transfer is paid by the trust and the amount of the tax is not included in the tax base, then the amount of taxes paid by the trust is another generation-skipping transfer. This latter transfer is treated as having occurred at the same time as the generation-skipping transfer that caused the imposition of tax. This will result in the generation-skipping transfer being grossed-up by the amount of taxes attributable to that generation-skipping transfer. The proposed regulation under § 26.2613-2 defines the term "taxable termination" and sets forth the rules that result in the postponement of a taxable termination. In addition, the proposed regulation provides, in part, that the postponement rules will not apply unless the remaining beneficiary's interest or power is substantial. Other limitations on the application of the postponement rules are found under the separate share rules proposed under § 26.2613-5.

Deemed Transferor

In order to determine the amount of tax that is due with respect to a generation-skipping transfer, it is first necessary to determine the identity of the transferee of the property being transferred. After the identity of the transferee has been ascertained, the deemed transferor can be determined by applying the rules under proposed § 26.2612-1. The proposed regulation under § 26.2612-1 further defines the term "deemed transferor" and also sets forth rules for determining the identity of the transferee. The proposed regulation under § 26.2613–4 also sets forth additional rules for determining the identity of a transferee where the identify of the transferee is unclear at the time of a generation-skipping transfer.

Grandchild Exclusion

Section 26.2613–4 of the proposed regulation provides, in part, that in the case of any deemed transferor, the maximum amount excluded from the terms "taxable distribution" and "taxable termination" is $250,000 if the transfer is to a grandchild of the grantor and the property vests in the grandchild.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Robert H. Waltuch of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 26 are as follows:

Paragraph 1. Sections 26.2611–1 through 26.2611–4 are added immediately after § 26.2601–1 to read as set forth below.

§ 26.2611–1 Definitions.

(a) *Generation-skipping transfer.* The terms "generation-skipping transfer" and "transfer" mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent. See § 26.2613–5 for the effect of a trust being treated as having separate and independent shares.

(b) *Generation-skipping trust.* The term "generation-skipping trust" means any trust having younger generation beneficiaries (within the meaning of § 26.2613–4(c)(1)) who are assigned to more than one generation.

§ 26.2611–2 Grantor.

(a) *In general.* A grantor of a trust includes any person contributing or adding money or property directly or indirectly to a trust if the contribution is included in the Federal gross estate or is subject to gift tax without regard to section 2503(b). A person who releases a general power of appointment over a trust is treated as contributing the property that was subject to the power. If a person allows a general power of appointment to lapse, that person is treated as making a contribution to the extent that the amount of money or property subject to the power exceeds the greater of $5,000, or 5 percent of the aggregate value, at the time of such lapse, of the assets out of which or the proceeds of which the exercise of the lapsed power could have been satisfied. Thus, for example, if a person holds a power to withdraw $10,000 from a trust having a value of $100,000, that is attributable to the first grantor, upon the lapse of the power the power-holder would be treated as having contributed $5,000 to the trust and is therefore treated as a grantor of $5,000. The original grantor remains the grantor of the $5,000 balance. On these facts, if the power-holder were assigned to a generation younger than the first grantor, a subsequent transfer of money or property from the trust may be a generation-skipping transfer to the extent that it is attributable to the first grantor. In addition, there may be a generation-skipping transfer with respect to the power-holder grantor. See paragraph (b)(2)(i) and (ii) of this section.

(b) *Multiple grantors*—(1) *Simultaneous contributions to the trust.* If a generation-skipping trust has more than one grantor and all contributions to the trust by all grantors are made at the same time, any subsequent transfers from the trust shall be attributable proportionately to each grantor based upon the relative value of each grantor's contribution.

(2) *Successive contributions to the trust.* When contributions to the trust by the grantors are made at different times, the portion of a subsequent transfer attributable to a grantor must be redetermined based upon the latest contribution to the trust. To redetermine the portion of the transfer attributable to a grantor, the fair market value of the trust, valued immediately after the latest contribution to the trust, is multiplied by a fraction. The numerator of this fraction is the sum of—

(i) The portion of the total value of the trust immediately before the latest contribution which because of prior contributions is attributable to the grantor, and

(ii) The value of the latest contribution if attributable to the grantor.

The denominator is the fair market value of the trust valued immediately after the latest contribution. See example (2) under paragraph (b) (3) of this section.

(3) *Examples.* Paragraph (b) (1) and (b) (2) (i) and (ii) of this section may be illustrated by the following examples:

Example (1). Assume A and B transfer $100,000 and $50,000 respectively to a generation-skipping trust. If during the year $50,000 were distributed in a taxable distribution, two-thirds of that distribution would be attributable to grantor A and one-third would be attributable to grantor B.

Example (2). Assume that pin 1980 A and B transfer $100,000 and $400,000 respectively to a generation-skipping trust, with all income to be accumulated for 3 years. At the end of the three year period C transfers $300,000 to the trust. The fair market value of the trust immediately after C's transfer is $1,000,000. If there were a distribution of corpus at any time after C's transfer to the trust, but before any additional transfers to the trust are made, then under paragraphs (b)(1)(i) and (ii) of this section 30 percent

$$\left(\frac{300{,}000}{1{,}000{,}000}\right)$$

of any generation-skipping transfer would be attributable to C, 14 percent

$$\left(\frac{\frac{100{,}000}{500{,}000} \times 700{,}00}{1{,}000{,}000}\right)$$

to A, and 56 percent

$$\left(\frac{\frac{400{,}000}{500{,}000} \times 700{,}000}{1{,}000{,}000}\right)$$

to B.

Example (3). Assume A is the sole shareholder of Corporation X. There are 100 shares of X stock outstanding. In 1980 A transferred all 100 shares in X to a trust. B, A's son, transferred $1,000 to the same trust. The fair market value of the X stock was $100. Assuming that the value of the assets of the trust remains constant, in 1982 A transfers $98,900 to X as a contribution to capital. Under the terms of the trust instrument, income and/or corpus is payable in the sole discretion of the trustee to A's lineal descendents. In 1985 when the fair market value of the trust is $500,000, the trustee distributed $50,000 of corpus to a grandchild of A. $49,500

$$\left(\frac{99{,}000}{100{,}000} \times 50{,}000\right)$$

is attributable to A's contribution and $500.00 is attributable to B's contribution.

§ 26.2611-3 Ascertainment of generation.

(a) *Relationship by blood or marriage.* The generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules. If an individual is a lineal descendent of a grandparent of the grantor, that individual shall be assigned to that generation which results from subtracting the number of generation which results from subtracting the number of generations between the grandparent and that individual from the number of generations between the grandparent and the grantor. If an individual has been at any time married to a person described in the preceding sentence that individual shall be assigned to the generation of the person so described and an individual who has been at any time married to the grantor shall be assigned to the grantor's generation. A relationship by the half blood shall be treated as a relationship by the whole blood. A relationship by legal adoption shall be treated as a relationship by blood.

(b) *Relationships other than by blood or marriage.* An individual who is not assigned to a generation by reason of paragraph (a) of this section shall be assigned to a generation on the basis of the date of such individual's birth, with an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation. An individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor shall be assigned to the first generation younger than the grantor. Similar rules apply for a new generation every 25 years.

(c) *Multiple generation assignment.* Except as provided in this paragraph (c), an individual who would be assigned to more than one generation shall be assigned to the youngest of these generations. This rule does not apply to the adoption of an unrelated person by the grantor or any beneficiary, or the marriage of an unrelated person to the grantor or any beneficiary. In these cases the rules under paragraph (a) of this section apply.

(d) *Entity as beneficiary.* If any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having an indirect interest or power in the trust through such entity shall be treated as a beneficiary of the trust. The individual beneficiary shall be assigned to a generation under paragraphs (a), (b), or (c) of this section. The entity is not assigned to a generation. An individual has an indirect interest or power in the trust through such entity if one or more of the rules under paragraphs (e)(1), (e)(2) or (e)(3) of this section apply. See § 26.2613-4(d) to determine whether an individual who is treated as a beneficiary under this paragraph has a present interest or present power.

(e) *Indirect interest or power*—(1) *Legatee or heir of an estate or beneficiary of a trust.* A person is treated as a beneficiary of the trust if that person has an interest or power (as defined in section 2613(d) (1) or (2)) in an estate or another trust which is a beneficiary of the trust.

(2) *Partner in a partnership.* A person is treated as a beneficiary of a trust if that person is a general or limited partner in a partnership and the partnership is a beneficiary of the trust.

(3) *Shareholder in a corporation.* A person is treated as a beneficiary of a trust if that person is a shareholder in a corporation and the corporation is a beneficiary of the trust.

(4) *Transferee.* See § 26.2612-1(b) and § 26.2613-3(a) to determine whether a person who is treated as a beneficiary under paragraphs (d), (e)(1), (e)(2), or (e)(3) of this section is also treated as a transferee of a generation-skipping transfer.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Assume a generation-skipping trust is created by A with the income payable to his wife for life, then to A's children B and C and their wives D and E respectively for their joint lives and for the lives of the survivors and upon the death of the last survivor to A's Grandchildren. Because all beneficiaries of the trust are lineal descendents of the grantor's grandparent or are married to a lineal descendent of the grantor's grandparent, all the beneficiaries will be assigned to a generation in accordance with the rules under paragraph (a) of this section. Therefore, B and C and their wives will be assigned to the first generation below that of the grantor and the grandchildren will be assigned to the second generation below that of the grantor.

Example (2). Assume a generation-skipping trust is created by A, age 80, with the income payable to B, C, D, and E for their joint lives and for the lives of the surviviors and upon the death of the last survivor the principal is payable to A's great-grandchild F. B and C are husband and wife, and are not related to A. B is age 68 and C is age 60. D is B's son from a prior marriage and is age 44. E is C's daughter from a prior marriage and is age 41. The generation assignment of all the beneficiaries may be shown in the following chart:

Grantor's generation (born not more than 12½ years after the date of birth of the grantor).	B
1st generation below grantor (born more than 12½ years after grantor but not more than 37½ years after the date of birth of the grantor).	C, D
2nd generation below grantor (born more than 37½ years after the birth of grantor but not more than 62½ years after the date of birth of the grantor).	E
3rd generation below grantor	F

Example (3). Assume A creates a short term trust for his child B for 11 years, and that during the term of the trust A dies and leaves his entire estate to B's grandchild D. Since the estate has the unrestricted right to receive the income or corpus of the trust upon the expiration of the 11 years, D is treated as a beneficiary of the short term trust and is assigned to the third generation below the grantor.

§ 26.2611-4 Generation-skipping trust equivalent.

(a) *In general.* Unless otherwise stated, any reference in this part to a generation-skipping trust shall include the appropriate reference to a generation-skipping trust equivalent. The term "generation-skipping trust equivalent" includes any legally enforceable arrangement whether effectuated by contract, deed, will, agreement, understanding, plan or by any other means (including any combination of the preceding at the same or different times) which splits the beneficial enjoyment of assets among two or more younger generation beneficiaries who are assigned to more than one generation. The characterization of any arrangement as a generation-skipping trust equivalent depends on the effect of the arrangement and not on the settlor's motives. Arrangements to which this paragraph may apply include (but are not limited to) arrangements creating life estates and remainders, estates for years, the designation of beneficiaries under insurance and annuity contracts, and split interests and direct and indirect transfers to a minor.

(b) *Examples.* The provisions of paragraph (a) of this section may be illustrated by the following examples:

Example (1). A purchases a life-insurance policy on his life. The terms of the policy are that upon A's death the proceeds of the policy are to be retained by the insurance company. The income earned therefrom is to be paid to A's son B for life and upon B's death the principal is to be distributed to B's son C. This contractual arrangement with the insurance company is a generation-skipping trust equivalent.

Example (2). Assume the same facts as in example (1), except that B has the right under the contract to take the entire proceeds and B irrevocably elects to leave the money with the insurance company for distribution to C. This arrangement will not be a generation-skipping trust equivalent because B is considered to be the grantor and there would be only one younger generation beneficiary.

Example (3). A buys a combination annuity contract and life insurance policy on the life of A's son B. The annuity is payable to B for life. The proceeds of the insurance policy are payable to B's son C. The effect of the combination annuity contract and life insurance policy is such that they will be considered a generation-skipping trust equivalent.

Example (4). A conveys Blackacre to his son for life, then to his grandson for life with the remainder to his great-grandchild. This arrangement is a generation-skipping trust equivalent.

Example (5). A's will creates no trusts. However, the beneficiaries under A's will are assigned to two different generations, both of which are younger then the testator's generation. This arrangement is a generation-skipping trust equivalent. However, no tax will be imposed on transfers from the estate so long as the separate share rules under § 26.2613-5 apply. See § 26.2613-5(c) examples (3) and (4).

Example (6). Assume A creates a short term trust for his child for 11 years and that two years after creation of the trust, A irrevocable gives his great grandchild the reversionary interest. This arrangement will be classified as a generation-skipping trust equivalent because the beneficial enjoyment of the property has been split among two younger generation beneficiaries who are assigned to more than one generation.

Example (7). A transfers $300,000 to his grandchild C under the Uniform Gift to Minors Act naming A's sister as custodian. This arrangement is a generation-skipping trust equivalent because C's parent is treated as a beneficiary under § 26.2613-4(c)(3) and the arrangement splits the beneficial enjoyment of the gift among two younger generation beneficiaries who are assigned to two different generations. See § 26.2613-4(d) to determine whether C has a present interest or present power.

Par. 2. Section 26.2612-1 is added immediately after § 26.2611-4 to read as set forth below.

§ 26.2612-1 Deemed transferor.

(a) *General rule.* The deemed transferor with respect to a transfer is, except as provided in this paragraph, the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of the transferee, or if neither parent is related to the grantor, the parent having a closer affinity to the grantor. If the parent described in this paragraph (a) is not a younger generation beneficiary of the trust immediately before the transfer (or series of related transfers), but one or more ancestors of the transferee is, or was, a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of the ancestors is deemed transferor. For purposes of this paragraph, a parent having a closer affinity will be the person named in the grantor's will or trust instrument, or the lineal descendant of that person having the intervening interest or power in the trust. If the parent is not named in the will or trust instrument, or the lineal descendant of that parent does not have an intervening interest or power in the trust, then the older parent is treated as the deemed transferor with respect to all of the property transferred. Furthermore, a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage. Thus, the grantor's son would be the deemed transferor in the case of a generation-skipping transfer to the son's child and not the wife of the son.

(b) *Transferee.* In the case of a taxable distribution, the transferee is the person that receives money or property or has it applied for his or her benefit. In the case of a taxable termination which terminates the trust and requires the distribution of the trust corpus to one or more beneficiaries, the transferee is the person who receives the property, or has it applied for his or her benefit. If the property remains in trust after a taxable termination, the person (or persons) with a present interest or power in the trust immediately after the taxable termination is the transferee. If a trust, estate, corporation, or partnership is the recipient of the money or property, those persons who are assigned to a generation under § 26.2611-3(d) and are treated as transferees under § 26.2613-3(a) (relating to deemed transferees of certain terminations and distributions) are treated as transferees to the extent of the fair market value of their interest in the entity. However, when an organization described in section 511(a)(2) or a charitable trust described in section 511(b)(2) has a present interest or power in the trust immediately after the taxable termination or there is a mandatory accumulation of income for a term of years, then the transferee is the person having the next succeeding present interest or present power. See § 26.2613-3(a) (relating to deemed transferees of certain terminations) for limitations on these rules.

Par. 3. Sections 26.2613-1 through 26.2613-7 are added immediately after § 26.2612-1 to read as set forth below.

§ 26.2613-1 Taxable distribution.

(a) *In general.*—(1) *Definition.* The term "taxable distribution" means any distribution which exceeds the amount of trust income (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is or was a younger generation beneficiary. Distributions in excess of trust income are hereinafter referred to as distributions of corpus. For purposes of this paragraph (a)(1), an individual who at no time has had anything other than a future interest or future power (or both) in the trust shall not be considered as a younger generation beneficiary. See also § 26.2613-4(c)(1) for the general definition of a younger generation beneficiary.

(2) *Effect of section 663(b).* For purposes of paragraph (a)(1) of this section, if less than the amount of section 643(b) income is distributed during the taxable year of the trust and the trustee makes an election under section 663(b) for income tax purposes, then those distributions made during the first 65 days of the following taxable year shall be considered as having been distributed in the preceding taxable year to the extent of the preceding taxable year's undistributed section 643(b) income.

(3) *Examples.* The provisions of paragraphs (a)(1) and (a)(2) of this section may be illustrated by the following examples:

Example (1). Assume that a discretionary trust is established for the benefit of the grantor's child and great-grandchild. The trustee exercises his discretion by distributing an amount equal to section 643(b) income to the child and also makes a distribution out of corpus to the great-grandchild. This distribution constitutes a taxable distribution because there was a distribution of corpus (see paragraph (b) of this section for the rules for determining whether a distribution is out of section 643(b)

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income or corpus) to a younger generation beneficiary (the great-grandchild); before the distribution there was at least one other younger generation beneficiary (the child) who is assigned to an older generation than that of the distributee (the great-grandchild); and there is a younger generation beneficiary assigned to an older generation than that of the distributee who has a present interest or power in the trust (the child).

Example (2). Assume a discretionary trust is established for the benefit of the grantor's child A, great-grandchild B, and the great-grandchild C for their joint lives and for the life of the survivor. A distribution of corpus to either B or C is a taxable distribution with respect to the entire amount of corpus distributed. See paragraph (b) of this section for the rules for determining whether a distribution is out of section 643(b) income or corpus.

Example (3). Assume a trust reports its income on a calendar year basis. The trust received a dividend on December 31, 1977. All other income earned in 1977 was distributed during 1977. The trustee made an election under section 663(b) and distributed the dividend within the first 65 days of calendar year 1978. Since the trustee made an election under section 663(b), the entire amount of the distribution will be treated as properly paid out of income earned in 1977.

(b) *Attribution of certain distributions.* If the amount of distributions exceed the amount of income (within the meaning of section 643(b)) during the taxable year of the trust, the distributions of income are deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during that taxable year) in descending order of generations beginning with the beneficiaries assigned to the oldest generation. In addition, if distributions to the younger generation beneficiaries who are assigned to the same generation include both income and corpus (as determined under this paragraph (b)), each of the younger generation beneficiaries is deemed to have received a share of the corpus. To determine the share of the corpus that a younger generation beneficiary is deemed to have received, the total amount of the corpus received by the younger generation beneficiaries who are assigned to the same generation is multiplied by a fraction. The numerator of the fraction is the amount of the distributions received during the year by that beneficiary. The denominator of the fraction is the sum of the distributions received for that year by all the younger generation beneficiaries assigned to that same generation. If property is distributed from a trust, it is treated as a distribution of money to the extent of the fair market value of the property. Thus, a distribution of property is treated in the same manner as a distribution of money.

(c) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Assume a generation-skipping trust is established for the benefit of the grantor's child and great grandchild. Under the terms of the trust, the trustee is given the power to distibute the income and corpus in any manner the trustee deems appropriate. During the taxable year of the trust the trustee exercises discretion and distributes all of the current income, which amounts to $300, to the great-grandchild and also distributes $100 of corpus to the child. Under paragraph (b) of this section, the distribution of $100 to the child is deemed to have been made from current income to the extent of the distributions made to the child during that taxable year. The remaining $200 of income and the $100 of corpus is deemed to have been distributed to the great-grandchild. Therefore, there has been a $100 taxable distribution.

Example (2). Assume a generation-skipping trust is established by A for the benefit of A's nephew B, and the nephew's children, C and D. The trustee has the power to distribute income and/or corpus to one or more of the beneficiaries of the trust. The trust had income of $4,000 for calendar year 1976. During that taxable year the trustee made distributions of $2,000 to B, $1,000 to C, and $2,000 to D. Under paragraph (b) of this section, the $2,000 distribution to B is deemed to be from the current year's income. Of the remaining $2,000 of income and $1000 of corpus, $333.00 of the distribution to C and $667.00 of the distribution to D are deemed to be from corpus computed in the following manner.

$$\text{Amount of corpus deemed to have been distributed to C} = \$1000 \text{ (total amount of corpus distributed to C and D as determined under § 26.2613-1 (b))} \times \frac{\$1000}{\$3000} \begin{array}{l}\text{(amount received by C)}\\ \text{total amount received by C \& D as determined under § 26.2613-1 (b)}\end{array}$$

$$= 1000 \times 1/3$$

$$= \$333.00$$

$$\text{Amount of corpus deemed to have been distributed to D} = \$1000 \text{ (total amount of corpus distributed to C and D as determined under § 26.2613-1 (b))} \times \frac{\$2000}{\$3000} \begin{array}{l}\text{(amount received by D)}\\ \text{(total amount received by C \& D as determined under § 26.2613-1 (b)}\end{array}$$

$$= \$1000 \times 2/3$$

$$= \$667.00$$

Example (3). Assume a generation-skipping trust received stock dividends during the year with a fair market value of $100,000. The dividends are treated as corpus under local law. The trust's section 643 (b) income for the year was $60,000. At the end of the year the trustee distributes the stock dividend in equal shares to the grantor's child and grandchild. Even though local law treats the stock as corpus, for purposes of the generation-skipping transfer tax, the $50,000 in stock distributed to the child is treated as a distribution of income, and the $50,000 in stock distributed to the grandchild is treated as a $10,000 distribution of income and a $40,000 distribution of corpus.

(d) *Certain distributions excluded from tax.* The term "taxable distribution" does not include a generation-skipping transfer to the extent the transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by § 26.2613-4(a) (relating to the $250,000 limit on exclusion of transfers to grandchildren), or a transfer to the extent the transfer is included in the Federal gross estate or is subject to gift tax without regard to section 2503(b)

(e) *Payment of tax.* If all or a portion of the tax imposed by this chapter with respect to a transfer is paid by the trustee out of the income or corpus of the trust which was not subject to the generation-skipping transfer tax, an amount equal to the portion so paid shall be deemed to be another generation-skipping transfer. The latter transfer (the payment of the tax by the trust) shall be treated as having occurred at the same time as the generation-skipping transfer that resulted in the imposition of the tax.

(f) *Loan to beneficiaries*—(1) *In general.* A loan (or a loan renewal) by a trustee of trust assets or the use of trust assets to secure a loan to a younger generation beneficiary may give rise to a generation-skipping transfer if either the loan (or renewal) or the security arrangement is not bona fide. The Commissioner shall determine whether there has been a generation-skipping transfer by examining the facts and circumstances of the transaction.

(2) *Statement.* If a trustee makes or renews a loan of trust assets or secures a loan with trust assets, the trustee must disclose it on Form 706-B, or such other form as prescribed by the Service. Unless otherwise required by the Service, the trustee must also disclose the following information:

(i) Whether the debt is evidenced by a note signed by the beneficiary, and if there is a note, a copy of the note,

(ii) The amount of the loan and stated interest, and

(iii) Whether the loan is secured or unsecured.

§ 26.2613-2 Taxable termination.

(a) *In general.* The term "taxable termination" means the termination (by death, lapse of time, exercise or nonexercise, termination of a trust or custodianship, or otherwise) of an interest or power in accordance with the terms of the trust instrument in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust. The term does not include a termination of an interest or power of any person who at no time has had anything other than a future interest or power in the trust. In addition, the assignment, whether or not for consideration, of a beneficiary's interest in a generation-skipping trust is not a taxable termination.

(b) *Time certain terminations deemed to occur*—(1) *Where two or more beneficiaries are assigned to same generation.* If two or more younger generation beneficiaries of a trust with present interests or present powers are assigned to the same generation, the transfer constituting the termination with respect to each beneficiary shall be treated as occurring at the time when the last termination occurs, unless the separate share rules under § 26.2613–5 apply.

(2) *Successive interests.* If a younger generation beneficiary's present interest or present power terminates and if a beneficiary assigned to the same generation as, or a higher generation than, such younger generation beneficiary has a present interest or present power immediately after the termination and such present interest or present power arose as a result of the termination, the transfer constituting the termination with, respect to each beneficiary shall be treated as occurring at the time when the last termination occurs with respect to the younger generation beneficiary assigned to the same or higher generation.

(3) *Nominal interest*—(i) *In general.* If the rule under paragraph (b)(1) or (b)(2) of this section is utilized primarily for the postponement of the taxable termination, the taxable termination will occur at the time determined under paragraph (a) of this section, without regard to paragraph (b)(1) or (b)(2). Whether the rule under paragraph (b)(1) or (b)(2) is utilized primarily for the postponement of the taxable termination depends, under all the facts and circumstances, on the classification of the remaining beneficiary's interest or power as nominal. A taxable termination will not be postponed if the remaining beneficiary's present interest or present power is classified as nominal. Conversely, if the remaining beneficiary's present interest or present power is classified as substantial, the taxable termination will be postponed until the time that it terminates or is classified as nominal. If an interest or power is classified as nominal, the value of that interest or power will not reduce the value of the terminated interest or power and the termination of the nominal interest or power is not a taxable event.

(ii) *Powers and interests held by beneficiary.* If a beneficiary possesses the right to withdraw or receive income or corpus (or both) pursuant to an ascertainable standard within the meaning of section 2041(b)(1)(A) and, based upon all the facts and circumstances, the beneficiary's need for the income or corpus is not so remote as to be negligible, the power is substantial. If a beneficiary possesses the right to withdraw or receive income or corpus (or both), the present value of which at the time of the termination is at least 5 percent of the value of the trust, then the beneficiary's interest is substantial.

(iii) *Discretionary interests.* A beneficiary who has a discretionary interest in a trust has a substantial interest if the beneficiary is a lineal descendant of the grantor's grandparent. If the beneficiary (or beneficiaries) is not a lineal descendant of the grantor's grandparent, the interrest will be treated as substantial if at least 5 percent of the value of the trust (valued on the first day of the taxable year of the trust) is distributed to the nonlineal descendant (or descendant) annually. If less than 5 percent is distributed, the interest is treated as nominal unless unusual facts and circumstances indicate that it is substantial. See examples (3) and (4) under paragraph (b)(5) of this section.

(iv) *Nominal interest.* Notwithstanding any other provisions under § 26.2613–2(b)(3) (i), (ii), or (iii), an interest or power is treated as nominal if under all the facts and circumstances the holder of that interest or power was never intended to exercise or benefit from the power or interest.

(4) *Special rule.* If a younger generation beneficiary, who is assigned to a generation younger than one or more other younger generation beneficiaries, has a present interest or present power which terminates, but the termination of the interest or power is not a taxable termination because of the application of the postponement rule under § 26.2613–2 (b)(1) or (b)(2) (relating to a postponed termination due to 2 or more younger generation beneficiaries being assigned to the same generation), when the interest or power of the younger generation beneficiary assigned to the older generation terminates, the rules set forth in § 26.2613–2(d)(2) (relating to a special rule for unusual order of termination) apply. See example (5) under paragraph (b)(5) of this section.

(5) *Examples.* The provisions of paragraphs (b)(1), (b)(2), (b)(3), (i), (ii), (iii) and (b)(4) of this section may be illustrated by the following examples:

Example (1). A transfers $100,000 to a trust. Under the terms of the trust, the trustee has the sole discretion to either accumulate or distribute the income or corpus to A's children B, C, and D for their joint lives and for the life of the survivor. Upon the death of the last surviving child, the corpus is to be distributed to A's great grandchildren F, G, and H. All interests are substantial because it is a discretionary trust and the beneficiaries are lineal descendants of the grantor's grandparents. Thus, if child B predeceases children C and D, and child C predeceases D, the taxable termination for all children would be treated as occurring upon the death of D because the interests that B, C, and D possessed were substantial.

Example (2). Assume the same facts as in example (1), except that upon the death of the first child, the surviving children only have the right to receive either income or corpus (or both) based upon their health needs for their lives and for the life of the survivor. Assuming under all the facts and circumstances that their needs are not so remote as to be negligible, the rules under paragraph (b)(1) of this section have not been utilized primarily for the postponement of the termination. Therefore, all terminations prior to the termination of the last surviving child's interest will be treated as occurring at the time that the last surviving child's interest terminates.

Example (3). Assume a generation-skipping trust is established with the income payable to the settlor's grandchildren A and B for their joint lives and for the life of the survivor and upon the death of the last survivor, the income is payable to C and D for their joint lives or accumulated and upon the death of C and D, the corpus is thereafter to be distributed, to the great-grandchildren of the settlor. Both C and D are unrelated members of A and B's generation. If the sum of the annual distributions to C and D is at least 5 percent of the value of the trust, no taxable termination will occur until the death of the survivor and C and D or the sum of the distribution in a given year is less than 5 percent of the value of the trust.

Example (4). Assume the same facts as in example (3) except that the trustee distributed 5 percent of the income to C and D the first year their interests became a present interest. Unless unusual facts indicate otherwise, C and D have a nominal interest because less than 5 percent of the value of the trust was distributed.

Example (5). Assume A creates a generation-skipping trust with the income payable in the sole discretion of the trustee to A's child B and A's grandchildren C and D for the life of B. Upon the death of B the corpus of the trust is to be distributed to A's then living issue per stirpes. Further, assume that C predeceases B leaving one child E. The death of C is not taxable termination because of the application of the postponement rule under § 26.2613-2(b)(1). Upon B's death, one-half of the property is distributed to D and a generation-skipping transfer tax is imposed on that property (assuming the grandchild exclusion has already been exhausted). E receives the other one-half of the property. However, under paragraph (b)(4) of this section there are two taxes imposed on that transfer. The property that E received is treated as having passed from B to C in a generation-skipping transfer and then from C to E in a second generation-skipping transfer.

(c) *Same beneficiary has more than one interest or power*—(1) *General rule.* If a younger generation beneficiary of a trust has both a present interest and a present power, or more than one present interest or present power in a trust, the termination with respect to each present interest or present power shall be treated as occurring at the time the last present interest or present power terminates. The preceding sentence shall not apply if the remaining interest or power is a nominal one as defined in § 26.2613-2(b)(3) (i), (ii), (iii) or (iv), or if the separate share rules under § 26.2613-4 apply.

(2) *Successive interests.* A taxable termination will occur upon the termination of a present interest or present power unless immediately after the termination the same beneficiary has another present interest or present power. The preceding sentence shall not apply if the remaining interest or power is a nominal one as defined in § 26.2613-2(b)(3) (i), (ii), (iii) or (iv) or if the separate share rules under § 26.2613-4 apply. An interest or power is a present interest or power even if the interest or power is a present interest or present power for less than the entire year as long as the interest or power arises annually.

(d) *Unusual order of termination*—(1) *General rule.* If, but for this paragraph (d)(1), there would have been a taxable termination (determined after the application of section 2613(b)(2) (A) and (B) and paragraphs (b) and (c) of this section) of an interest or power of a younger generation beneficiary (in paragraphs (d)(1) and (d)(2) of this section referred to as the "younger beneficiary"), and immediately after the termination would have occurred, a beneficiary (in paragraphs (d)(1) and (d)(2) of this section referred to as the "older beneficiary") of the trust assigned to a higher generation than the generation of the younger beneficiary has a substantial present interest or power in the trust, then the transfer constituting the termination with respect to the younger beneficiary shall be treated as occurring at the time when the termination of the last present interest or power of the older beneficiary occurs.

(2) *Special rules.* If paragraph (d)(1) of this section applies with respect to any younger beneficiary, the generation-skipping tax shall be applied first to the termination of the interest or power of the older beneficiary as if such termination occurred before the termination of the power or interest of the younger beneficiary. Further, the value of the property taken into account for purposes of determining the tax (if any) with respect to the termination of the interest or power of the younger beneficiary shall be reduced by the generation-skipping tax (if any) with respect to the termination of the interest or power of the older beneficiary.

(3) *Examples.* The provisions of paragraphs (d)(1) and (d)(2) of this section may be illustrated by the following examples:

Example (1). Assume that a trust is created by G for the benefit of G's child A and G's grandchild B for their joint lives and for the life of the survior. Upon the death of the survivor the corpus is payable to B's then living children. If B predeceases A, the termination would be postponed until after A's death. Upon A's death, a generation-skipping tax would be imposed on the property as if A predeceased B. Then a tax is imposed with respect to B's death with the value of the property reduced by the amount of tax payable with respect to the termination of A's interest.

Example (2). Assume that a trust is created providing that all income is to be distributed in equal shares to the grantor's brother A, A's son B and B's son C for their joint lives and upon the death of any beneficiary the surviving beneficiaries are to share equally in the income of the deceased beneficiary. Upon the death of the last survivor, the principal is to be distributed to the children of C. The concurrent income interests are treated as separate shares under § 26.2613-5(b)(2). If B predeceases A and C, there will be a taxable termination to the extent C succeeds to B's interest. Thus, there is a taxable termination with respect to ⅙ of the value of the trust. Assuming that A was the next to die, ⅓ of A's interest (the ⅙ interest received upon B's death) would be treated as if it passed to B and then from B to C. The balance of A's interest is treated as passing from A to C because B never had a present interest in A's original ⅓ share.

§ 26.2613-3 Other rules with respect to terminations and certain distributions.

(a) *Deemed transferees of certain taxable terminations and certain taxable distributions*—(1) *In general.* If the trust assets are not actually distributed to a beneficiary as a result of a taxable termination and the rules under § 26.2613-2 (relating to postponed terminations) do not apply, or if there is a taxable distribution to an entity, the property shall be deemed transferred pro rata to all beneficiaries with a present interest or present power—

(i) Who are both lineal descendants of the grantor and of the beneficiary whose interest or power has terminated and who are assigned to the oldest generation, or if there are no such beneficiaries,

(ii) Who are lineal descendants of the grantor and who are assigned to the oldest generation, or if there are no such beneficiaries,

(iii) Who are lineal descendants of the beneficiary whose interest or power has terminated and who are members of the oldest generation, or if there are no such beneficiaries,

(iv) Who are lineal descendants of the grantor's grandparents who are assigned to the oldest generation or if there are no such beneficiaries,

(v) Per stirpes to all beneficiaries with present interests or present powers unless it is clear from the trust instrument that the discretion is to be exercised per capita.

(2) *Examples.* The provisions of paragraphs (a)(1)(i) through (a)(1)(v) of this section may be illustrated by the following examples:

Example (1). Assume a discretionary trust is created for the grantor's child A, A's children B and C and the grantor's great-grandchildren D and E, for their lives and for the lives of the survivors and upon the death of the last survivor the principal is to be distributed to the children of D and E. Assuming that A dies first, it is not certain who will be the transferee of any portion of the property transferred. Therefore, the property will be deemed transferred pro rata to B and C (½ to each) because they are the beneficiaries who are both lineal decendants of the grantor and the beneficiary whose present interest or power has terminated and they are both members of the oldest generation succeeding the generation assignment of the beneficiary whose interest has terminated.

Example (2). Assume that a discretionary trust is created for the benefit of the grantor's son A for life, then to A's child B and the grantor's nephew C for their lives and for the life of the survivor and upon the death of the survivor the principal is to be distributed to the children of B. Upon A's death, the property will be deemed distributed to B because B is both the lineal descendant of the grantor and the beneficiary whose present interest or power has terminated and B is a member of the oldest generation succeeding the generation assignment of the beneficiary whose interest has terminated.

(b) *Termination of power.*—(1) *Nontaxable power.* For the sole purpose of determining the value of a nontaxable power described in section 2041(b)(2) (A) and (B) and 2514(e) (1) and (2) under this section (and not under § 26.2611-2(a), relating to the definition of a grantor) which terminates, the value of the property subject to the power shall be deemed to be the entire value of the trust property subject to the power determined as of the date of termination. For example, assume that a beneficiary of a trust held a noncumulative power to withdraw 5 percent of the trust corpus annually or $5,000, whichever is greater, and that the value of the corpus in the year that the beneficiary dies is $100,000. The value of the property subject to taxation under this chapter is $100,000, regardless of the number of years for which the power was held, exercised, or allowed to lapse and regardless of the average value of the trust during the period the power was held. The annual lapse of a general power that is not a taxable event under section 2041 or 2514 is not treated as a taxable event for purposes of the generation-skipping tax. However, the release, final lapse, or exercise of the power may be a taxable termination.

(2) *Nongeneral powers.* For the sole purpose of determining the value of a nongeneral power under this section which terminates, the value of the nongeneral power is limited to the specific portion of the trust to which the power relates. For example, assume A creates a trust with income payable to A's grandchildren C and D for their joint lives and for the life of the survivor. Upon the death of the survivor, the corpus is payable to the issue of C and D. B, A's child, is given a nongeneral power over ½ of the trust for B's life. Upon B's death there would be a taxable termination with respect to ½ of the trust.

(c) *Certain termination excluded from tax.* The term "taxable termination" does not include a generation-skipping transfer to the extent the transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by § 26.2613–4(a) (relating to transfers to grandchildren) or a transfer to the extent the transfer is included in the Federal gross estate or is subject to a gift tax without regard to section 2503(b).

§ 26.2613–4 Other rules.

(a) *$250,000 limit on exclusion of transfers to grandchildren*—(1) *In general.* Transfers to a grandchild of the grantor are not to be treated as a taxable termination or taxable distribution except to the extent that the total amount of the transfers from one or more trusts exceed $250,000 for each deemed transferor. Transfers which would not otherwise be a generation-skipping transfer (i.e. outright gifts to grandchildren) shall not reduce the $250,000 exclusion. This exclusion is available only if the property would be includable in all events in the grandchild's federal gross estate if the grandchild died at any time after the generation-skipping transfer. If there are several distributions or terminations from one or more trusts which are attributable to the same deemed transferor, the $250,000 exclusion is to be applied against the first distribution or termination that occurs, then the second, and so forth, until the exclusion has been fully utilized.

(2) *Simultaneous transfers.* If there are simultaneous transfers which are attributable to the same deemed transferor and which benefit more than one grandchild of the grantor of the trust, the $250,000 exclusion is to be allocated between the transfers in accordance with their fair market values.

(b) *Coordination with taxable distribution*—(1) *Terminations take precedence over distributions.* If the death of an individual or any other occurrence is a taxable termination with respect to any property, and such occurrence also requires the distribution of part or all of such property in a distribution which would (but for this paragraph (b)(1)) be a taxable distribution, then only a taxable termination shall be treated as having occurred.

(2) *Certain prior transfers.* If—

(i) The deemed transferor in any prior transfer of the property of the trust being transferred in a later transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in the later transfer,

(ii) The transferee in such prior transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the transferee in the later transfer, and

(iii) Such transfers do not have the effect of avoiding the generation-skipping tax with respect to any transfer,

the terms "taxable termination" and "taxable distribution" do not include the later transfer to the extent of the value of the property that was subject to the tax in the prior transfer.

(3) *Examples.* Paragraphs (b)(2) (i), (ii) and (iii) of this section may be illustrated by the following examples.

Example (1). Assume that a trust provides income for life to the grantor's nephew, then to the nephew's son for life, then to the grantor's niece for life and upon her death the principal is to be distributed to her daughter. Assume that all of these transfers occurred in the order stated and that upon the death of the nephew the value of the trust assets subject to tax is $100,000 and upon the death of the niece the value of the trust assets is $200,000. Only $100,000 is to be subject to tax upon the death of the niece, because $100,000 was previously subject to the generation-skipping tax upon the death of the nephew, and it will not be taxed again because the deemed transferor (the nephew) of the prior transfer was assigned to the same generation as the deemed transferor (the niece) in the later transfer, and both transferees are assigned to the same generation.

Example (2). Assume a trust is created which provides that the income for life is to go to the grantor's son, then the grantor's great-grandchild A, then to the grantor's daughter, with the remainder to be distributed to the issue of the grantor's great-grandchild B. The regulations under paragraphs (b)(2) (i), (ii) and (iii) of this section do not apply because the issue of B (the transferee in the later transfer) is assigned to a generation below that of any other beneficiary with a present interest in the trust.

Example (3). Assume that A creates a trust with the income payable to A's son for 10 years, then to A's grandson for 5 years, then to his daughter for life, with the remainder to the daughter's children. The regulations under paragraphs (b)(2) (i), (ii) and (iii) of this section apply because all the transferees in the later transfer (the daughter's children) are assigned to a generation above that of the transferee in the first transfer (the son's grandson).

(c) *Younger generation beneficiary; beneficiary.*—(1) *Younger generation beneficiary.* The term "younger generation beneficiary" means any beneficiary who is assigned to a generation younger than the grantor's generation. However, an individual shall not be treated as a younger generation beneficiary if such individual does not have any interest or power other than a power to dispose of income or corpus to an organization for which a deduction is allowed under section 642(c).

(2) *Time for ascertaining younger generation beneficiaries.* An individual is a younger generation beneficiary of a trust with respect to any transfer only if such person was a younger generation beneficiary of the trust immediately before the transfer, or in the case of a series of related transfers, only if such person was a younger generation beneficiary of the trust immediately before the first of such transfers. A series of related transfers refers to any taxable termination which is postponed under § 26.2613–2.

(3) *Beneficiary.* The term "beneficiary" means any person who has a present or future interest or power in a trust. For example, if an individual possesses a presently exercisable power of appointment, or a trustee has a noncontingent power to add beneficiaries, then any individual (including shareholders, partners, etc., of entities) who can benefit from the exercise of either power have an interest and therefore are beneficiaries.

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Furthermore, the power holder is a beneficiary of the trust unless excluded under section 2613(e). The term also includes any person who is or may be relieved of a legal obligation.

(d) *Present interest or power.* A beneficiary's interest or power is a present interest or power if the beneficiary has an unrestricted right to receive income or corpus from a trust. A right is restricted if it is contingent upon the happening of an event which is wholly outside the beneficiary's control. A right to receive income or corpus is unrestricted if the right would be enforceable under governing local law, or if the right to receive income or corpus of both is subject only to the giving of notice. If a beneficiary may currently receive income or corpus upon the exercise of a trustee's or other person's discretion, the interest is a present interest although it may be a nominal interest under § 26.2613-2(b)(3). If upon the exercise of a power by a trustee or custodian, an individual is relieved of any legal obligation, that individual's interest becomes a present interest. If a beneficiary has the power to establish or alter the use or enjoyment of the trust income or corpus, the beneficiary's power is a present power. For purposes of the preceding sentence, a power is a present power if the property subject to the power would have been included in the estate of the power holder under section 2036 or 2038 had the power holder been the settlor of the trust. In addition, if a shareholder in a corporation or a partner in a partnership is treated as having an interest or power in a trust, that interest or power is treated as a present interest or power.

(e) *Examples.* Paragraph (d) of this section may be illustrated by the following examples:

Example (1). Assume a grantor creates a generation-skipping trust. Under the terms of the trust instrument the current income may be paid to the grantor's child A for life, or accumulated for the benefit of other younger generation beneficiaries at A's death. A has a present interest. The other younger generation beneficiaries have future interests.

Example (2). G creates a generation-skipping trust. Under the terms of the trust instrument, the income is payable to G's children for their joint lives with the last surviving child having a nongeneral testamentary power of appointment over the trust assets. The last surviving child has a present interest and a future power. All persons who could benefit from the exercise of the power are beneficiaries none of whom has a present interest.

Example (3). A transfers $1,000,000 to his grandchild B, a minor, under the Uniform Gift to Minors Act and names C, an unrelated party, the custodian. All the income is accumulated until B reaches the age of majority. Although the gift under the Uniform Gift to Minors Act created a generation-skipping trust equivalent, no taxable termination occurs when B reached the age of majority because B's parent never had anything other than a future interest in the trust equivalent. The interest is a future interest because no money was ever expended in discharge of B's parents' legal obligation of support. If money had been expended in that manner, B's parents would be treated as having had a present interest and a taxable termination would occur when B reached the legal age of majority.

§ 26.2613-5 Separate shares treated as separate trusts.

(a) *In general.* (1) If a single trust has more than one beneficiary and if different beneficiaries have substantially separate and independent shares, their shares are treated as separate trusts. If if is determined under this section that separate and independent shares exist in a trust, the postponement rules under § 26.2613-2 may not be applicable with respect to the entire trust. However, the postponement rules may apply with respect to a separate share.

(2) The separate share rule may be applicable even though separate and independent accounts are not maintained and are not required to be maintained for each share on the books of account of the trust, and even though no physical segregation of assets is made or required.

(3) Separate share treatment is not elective. If a trust is propertly treated as having separate and independent shares, such treatment must prevail in all taxable years of the trust unless an event occurs as a result of which the terms of the trust instrument and the requirements of proper administration require different treatment.

(4) If it is determined under paragraph (b)(1) or (b)(2) of this section that separate share treatment is required and that the separate shares are substantial rather than nominal, the value of a terminated interest or power does not include the value of the other separate share. However, if the separate share is determined to be nominal, then the value of the terminated interest includes the value of the nominal interest. See § 26.2613-2(b)(3), relating to the definition of a nominal interest.

(b) *Applicability of separate share rule.* (1) If a trust is treated under section 663(c) as having separate shares which constitute separate trusts, the trust shall be treated in the same manner for purposes of the generation-skipping transfer tax.

(2) Even though a trust is not treated under section 663(c) as having separate shares which constitute separate trusts, the trust may be treated as having separate shares which constitute separate trusts if, according to the facts and circumstances, such treatment is proper. See example (4) under § 26.2613-5(c).

(c) *Examples.* The application of this section may be illustrated by the following examples.

Example (1). Assume that A establishes a trust for the benefit of his two children, B and C. Under the terms of the trust, 50 percent of the income must be paid annually to each child and upon the death of either child, 50 percent of the corpus of the trust is to be distributed to that child's grandchildren. Under these circunstances, the separate share rules apply, and there would be a taxable termination upon the death of either B or C with respect to that child's share of the trust.

Example (2). Assume a trust is created by A with 50 percent of the income payable in the sole discretion of the trustee to A's children B and C for their lives and for the life of the survivor, and upon the death of the survivor 50 percent of the corpus is to be distributed to the children of B and C per stirpes. The remaining 50 percent of the income is payable to the grantor's nephew D for life and upon the death of D the remaining 50 percent of the corpus is to be distributed to D's children. Under § 26.2613-5(b)(1), this trust is treated as having separate shares with B and C having an interest in one share and D having an interest in the other. If D were the first to die, then the rules under § 26.2613-2(b)(1) (relating to the postponement of a taxable termination) will not apply. The tax base of D's terminated interest will be equal to one-half the value of the entire corpus at the time of the termination. However, if B or C were the first to die, then the postponement rules under § 26.2613-2(b)(1) would apply with respect to the share in which B and C had an interest.

Example (3). Assume that A dies leaving A's entire estate in equal shares to A's child B, B's child C and C's child D. Under A's will, B has the right to receive all the income from the entire estate during the period of administration. Therefore, B has a present interest in the entire estate. When the assets are distributed to the beneficiaries of the estate, a taxable termination will occur with respect to two-thirds of the value of the estate. The separate share rules do not apply in this case.

Example (4). Assume the same facts as in example (3), except that B, C, and D only have the right to receive the income earned from their respective shares. In this case a taxable termination will not occur when the assets of the estate are distributed to the beneficiaries because the separate share rules apply by reason of paragraph (b)(2) of this section.

§ 26.2613-6. Certain powers not taken into account.

(a) *Limited power to appoint among lineal descendants of the grantor.* Under section 2613(e)(1), an individual is not treated as having a power in a trust if that individual does not have any present or future power in the trust other than a power to dispose of the corpus or income of the trust to a beneficiary or class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

(b) *Application.* Paragraph (a) of this section applies even though there are beneficiaries of the trust who are not described in paragraph (a) of this section, as long as the individual's power does not affect the amount of money or property that may be distributed to the beneficiaries who are not described in paragraph (a) of this section. Furthermore, even if the individual power holder has an interest in the trust because the individual has a nondiscretionary income interest, the power is still ignored for purposes of the generation-skipping transfer tax provisions.

§ 26.2613-7. Powers of independent trustees.

(a) *General rule.* Under section 2613(e)(2), an individual shall be treated as not having any power in a trust if that individual—

(1) Is a trustee, who has no interest in the trust (other than as a potential appointee under a power of appointment held by another),

(2) Is not a related or subordinate trustee, and

(3) Does not have any present or future power in the trust other than a power to dispose of the income or corpus to a beneficiary or class of beneficiaries designated in the trust instrument.

(b) *Related or subordinate trustee defined.* (1) The term "related or subordinate trustee" means any trustee who is assigned to a generation younger than the grantor's generation and who is a lineal descendant of the grantor, or who is the spouse, father, mother, lineal descendant, brother, sister, or employee of any beneficiary; an employee of the grantor; an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control, an employee of a corporation in which the grantor or any beneficiary of the trust is an executive; a partner of a partnership in which the partnership interests (in either the capital or distributive share of the partnership income) of the grantor, the trust, and the beneficiaries of the trust are at least 5 percent; or an employee of a partnership in which the grantor or any beneficiary of the trust is a partner.

(2) For purposes of paragraph (b)(1) of this section, stockholdings are significant if under all the facts and circumstances the stock owned by the grantor, trust and the beneficiaries represents effective control of the corporation. Legal control is not necessary. Effective control means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the corporation. A person has indirect effective control if the members of that person's family as defined in section 267(c)(4) and any person married to a person described in that section have effective control.

(3) In determining whether a trustee has a power in a trust under paragraphs (a)(1) and (2) of this section, a trustee will not be treated as having any power in a trust merely because one or more of the potential appointees under a power of appointment held by another is the trustee's spouse, father, mother, brother, or sister.

(c) *Example.* This section may be illustrated by the following example:

Example. Assume grantor A creates a trust for the benefit of A's children B and C for their joint lives and for the life of the survivor. Upon the death of the survivor the corpus is payable to A's great-grandchildren if B fails to exercise his nongeneral testamentary power of appointment. Under the terms of the trust, B can appoint the corpus to anyone in the world other than B, B's estate, B's creditors and creditors of B's estate. In addition, A appointed A's close friend C as trustee. Under section 2613(e)(2)(A) and § 26.2613-7(a)(1) and (b)(3), G has no power even though the trustee's spouse (among others) is a potential appointee.

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80-40812 Filed 12-29-80; 4:42 pm]

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26 CFR Part 48

[LR-173-78]

Various Excise Tax Amendments Relating to Motor Fuels and Buses Under the Energy Tax and Revenue Acts of 1978, and the Technical Corrections Act of 1979

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains regulations relating to various excise tax amendments with respect to parts for light-duty trucks, rerefined lubricating oil, and buses. Changes to the applicable tax laws were made by the Energy Tax and Revenue Acts of 1978, and the Technical Corrections Act of 1979. The regulations would provide the public with guidance needed to comply with those Acts.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 3, 1981. The amendments are generally proposed to be effective on December 1, 1978.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue Service, Attention: CC:LR:T (LR-173-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-4351, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 48 relating to Manufacturers and Retailers Excise Taxes. These proposed regulations provide new regulations under section 4063 (e) relating to tax exemption for parts sold on or in connection with the first retail sale of a light-duty truck; section 4093 (b) relating to rerefined lubricating oil; section 4221 (e) (5) and (6) relating to the tax-exempt sale of tires, tubes, and tread rubber used on or in connection with an intercity, local, or school bus and bus parts; and section 4222 (d) of the Internal Revenue Code of 1954 (Code) relating to the registration requirements for tax-exempt sales. The regulations are proposed to reflect the amendments of sections 4063 and 4222 made by section 701 (ff) of the Revenue Act of 1978 (Pub. L. 95-600, 92 Stat. 2924). The proposed regulations also reflect the amendments of sections 4093 and 4221 of the Code by sections 404, 232, and 233 (c) of the Energy Tax Act of 1978 (Pub. L. 95-618; 92 Stat. 3204, 3189, and 3191). In addition, the proposed regulations reflect the amendments of section 4221 by section 106 (c) (5) of the Technical Corrections Act of 1979 (Pub. L. 96-222; 94 Stat. 227). The amendments are to be issued under the authority of sections 4093, 4221, 4222, and 7805 of the Code (92 Stat. 3204, 3189, 3191, and 68A Stat. 917; 26 U.S.C. 4093, 4221, 4222, and 7805).

Under section 4063 (e), the manufacturers excise tax imposed by section 4061 (b) on parts for light-duty trucks does not apply if such parts are sold by the manufacturer, producer, or importer for resale by the purchaser, or for resale by the first purchaser to a second purchaser for resale by the second purchaser on or in connection with the first retail sale of a light-duty truck. Both first and second purchasers are subject to the registration requirements of section 4222 (d).

Under section 4093 (b), the sale of certain portions of new lubricating oil is exempt from the 6-cents-per-gallon manufacturers excise tax imposed by section 4091, if the lubricating oil is sold for use in mixing with previously used or waste lubricating oil which has been cleaned, renovated, or refined.

Under section 4221(e)(5), the manufacturers excise tax imposed by section 4071(a) on tires, tubes, and tread rubber does not apply if the tires, tubes, or tread rubber are sold by a manufacturer, producer, or importer for the purchaser's use on or in connection with an intercity, local, or school bus.

Section 4221(e)(6) repeals the 8-percent manufacturers excise tax on parts and accessories imposed by section 4061(b) if the parts and accessories are sold for use by the purchaser on or in connection with an automobile bus or are to be resold by the first or second purchaser for such use.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Annie R. Alexander of the Legislation and Regulations Division of the Office of Chief Counsel of the Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48 are as follows:

Paragraph 1. Section 48.4063-2 is redesignated § 48.4063-3 and a new § 48.4063-2 is added to read as follows:

§ 48.4063-2 Tax-free sales of parts or accessories sold for resale on or in connection with the first retail sale of a light-duty truck.

(a) *In general.* Under section 4063(e), the 8-percent manufacturers excise tax imposed by section 4061(b) on the sale of truck parts or accessories does not apply to the sale by the manufacturer, producer, or importer of any parts which are resold by the purchaser on or in connection with the first retail sale of a light-duty truck as defined in section 4061(a)(2), or which are resold by the purchaser to a second purchaser for resale by the second purchaser on or in connection with the first retail sale of a light-duty truck.

(b) *Registration requirements for light-duty truck parts and accessories; vendees purchasing tax free.* The provisions of section 4063(e) do not apply with respect to any sale unless the manufacturer, the first purchaser, and the second purchaser, if any, are all registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)-1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)-1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c)-1. Any person who purchases articles tax free and who sells or uses them for a non-exempt purpose shall have its registration and its right to purchase articles tax free revoked or suspended unless it pays any tax that may be due on the non-exempt sale or use in the same manner as if it were treated as the manufacturer under section 4223. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacturer selling light-duty truck parts and accessories tax free under section 4063(e) shall indicate to the first purchaser and the first purshaser shall indicate to the second purchaser that the purchaser is obtaining the parts or accessories tax free for the purpose of resale on or in connection with the first retail sale of a light-duty truck. The manufacturer and first purchaser may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the light-duty truck parts or accessories tax free and that if the light-duty truck parts or accessories are diverted to a taxable use then the purchaser will be treated as the manufacturer.

(2) *Records of Manufacturer.* A manufacturer or first purchaser selling light-duty truck parts or accessories tax free under section 4063(e) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the light-duty truck parts or accessories, and the quantity of light-duty truck parts or accessories sold tax free to each purchaser.

(3) *Records of Purchaser.* A person purchasing light-duty truck parts or accessories tax free under section 4063(e) must maintain sufficient records to establish that the parts or accessories purchased tax free have actually been resold on or in connection with the first retail sale of a light-duty truck or have been resold to a second purchaser for such a resale by the second purchaser.

(d) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer (and first purchaser who is treated as the manufacturer if he or she resells to a second purchaser) of light-duty truck parts is not relieved of liability under the provisions of section 4063(e) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the light-duty truck parts or accessories sold by it to the purchaser are not intended for resale on or in connection with the first retail sale of a light-duty truck, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(e) *Cross reference.* For credit or refund, see section 6416(b)(2).

(f) *Effective date.* Section 4063(e) (relating to light-duty truck parts and accessories) applies to sales on or after December 1, 1978. Light-duty truck parts or accessories sold prior to that date are not exempt from tax under section 4061(b) by reason of section 4063(e).

Par. 2. Immediately after § 48.4093-1 there is added the following new § 48.4093-2:

§ 48.4093-2 Tax-free sales of new lubricating oil sold to produce rerefined lubricating oil.

(a) *In general.* Under section 4093(b), the 6-cents-per-gallon excise tax imposed by section 4091 on the sale of lubricating oil does not apply to new lubricating oil which is sold by the manufacturer directly to a producer of rerefined oil for the purpose of producing rerefined lubricating oil if the requirements of this section are met. Rerefined lubricating oil is a mixture of new oil with used or waste oil in which 25 percent or more of the mixture is used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under section 4093(b) shall be treated as the producer of the lubricating oil.

(b) *Use of new oil to produce rerefined oil.* Under section 4093(b), all the new lubricating oil in a mixture is exempt from the six-cents-per-gallon manufacturers excise tax imposed by section 4091 if the rerefined oil contains 55 percent or less new oil. To the extent that the rerefined oil contains more than 55 percent new oil, then that portion of new lubricating oil which exceeds 55 percent of the mixture is subject to the section 4091 excise tax, and only that part of the new oil that does not exceed 55 percent of the mixture is exempt from the tax.

(c) *Requirement for lubricating oil purchasers purchasing tax free.* In order for the sale of lubricating oil by the manufacturer to the purchaser to be exempt from tax under section 4093(b), both the purchaser and the manufacturer must be registered as required under section 4222, and they must comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)–1.

Persons not required to be registered under section 4222(b) may purchase tax free by following the procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1. For revocation or suspension of registration, see § 48.4222(c)–1.

(d) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer of lubricating oil is not relieved of liability under the provisions of section 4093(b) by reason of section 4221(c) for the tax imposed by section 4091 if at the time of sale the selling manufacturer has knowledge or reason to believe that the lubricating oil sold by it to the purchaser is not intended for mixing with used or waste oil for the purpose of producing rerefined oil, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(e) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacturer selling lubricating oil tax free under section 4093(b) shall indicate to the purchaser that the purchaser is obtaining the lubricating oil tax free for the purpose of making rerefined lubricating oil. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the lubricating oil tax free and the purchaser can compute and remit the tax due if the lubricating oil is diverted to a taxable use.

(2) *Records of Manufacturer.* A manufacturer selling lubricating oil tax free under section 4093(b) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the lubricating oil, and the quantity of lubricating oil sold tax free to each purchaser.

(3) *Records of Purchaser.* A person purchasing lubricating oil tax free under section 4093(b) must maintain sufficient records to establish that the lubricating oil purchased tax free has actually been mixed with used or waste oil to make rerefined lubricating oil (as defined under paragraph (a) of this section) and that the quantity of new lubricating oil used in the mixture meets the requirements under paragraph (b) of this section.

(f) *Credit or refund.* A credit or refund is available for the 6-cents-per-gallon excise tax paid on up to 55 percent of new lubricating oil contained in a mixture of new lubricating oil with waste or rerefined oil of which at least 25 percent is waste lubricating oil. The refund or credit will be available when the mixture is used or sold. See section 6416(b)(2).

(g) *Effective date.* Section 4093(b) (relating to rerefined lubricating oil) applies to sales on or after December 1, 1978. Lubricating oil sold prior to December 1, 1978 is not exempt from tax under section 4093(b).

Par. 3. Section 48.4221–1 is amended as follows:

1. Paragraph (b)(2)(v) is revised to read as set forth below.
2. Paragraph (b)(2)(viii) is redesignated as paragraph (b)(2)(ix).
3. A new paragraph (b)(2)(viii) is added to read as set forth below.
4. Paragraph (b)(2)(ix) is redesignated as paragraph (b)(2)(x) and is revised to read as set forth below.
5. Paragraph (b)(2)(x) is redesignated paragraph (b)(2)(xi) and revised to read as set forth below.
6. Paragraph (b)(2)(xii) is added to read as set forth below.

The revised provisions read as follows:

§ 48.4221–1 Tax-free sales; general rules.

* * * * *

(b) Manufacturer relieved of liability in certain cases * * *

(2) The following are situations wherein sections 4221(c) is applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales.

* * * * *

(v) Section 4063(a)(6), relating to sales of any automobile bus chassis or automobile bus body (see regulations thereunder).

* * * * *

(viii) Section 4063(e), relating to light-duty truck parts (see regulations thereunder).

* * * * *

(x) Section 4093, relating to the sale of lubricating oil or rerefined oil to a manufacturer or producer of lubricating or rerefined oil (see regulations thereunder),

(xi) Section 4221(e)(5), relating to the sale of tires, tubes, and tread rubber used on intercity, local, or school buses (see regulations thereunder), and

(xii) Section 4221(e)(6), relating to the sale of bus parts and accessories (see regulations thereunder).

Par. 4. Sections 48.4221–11 and 48.4221–12 are added immediately after 48.4221–10 to read as follows:

§ 48.4221–11 Tax-free sales of tires, tubes, and tread rubber used on intercity, local, and school buses.

(a) *In general.* Under section 4221(e)(5), the taxes imposed by section 4071 (a) (1), (3) and (4) shall not apply to sales by a manufacturer, producer, or importer of tires of the type used on highway vehicles or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, or to the sales by a manufacturer, producer, or importer of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus if the requirements of this section are met.

(b) *Meaning of terms.*—(1) *Qualified bus.* "Qualified bus" means an intercity, local, or school bus.

(2) *Intercity or local bus.* "Intercity or local bus" means any automobile bus which is used predominantly (more than 50 percent) in furnishing (for compensation) passenger land transportation available to the general public if such transportation is scheduled and along regular routes, or if the seating capacity of the bus is at least 20 adults (not including the driver). In determining predominant use, mileage travelled with passengers as well as mileage travelled incidental to such passenger transportation, such as "deadheading", is counted. Under the first alternative, the size of the bus is not relevant for purposes of determining

whether or not the use of the bus qualifies for the exemption.

Under the second alternative, for non-scheduled bus operations, such as that provided by charter buses, the exemption is available only if the bus has a passenger seating capacity of at least 20 adults and the transportation is available to the general public. For purposes of determining whether the bus has a seating capacity of at least 20 adults, the bus driver is not included. Service is available to the general public if bus service is used in a passenger transportation business in which service is offered to more than one person, group, organization, or limited number of persons.

(3) *School bus.* "School bus" means any automobile bus in which "substantially all" (85 percent or more) of the use involves transporting students and employees of a school. A school is any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) wich is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on Tax-exempt schools, taxable schools, and a private contractor who operates a bus for tax-exempt or a taxable school may qualify for the tax exemption if all the requirements of this section are met. Incidental use (deadheading) of the school bus without passengers to or from a point to which students or employees of school are transported is considered to be a use which involves transporting students or employees of schools.

(b) *Registration requirements for tires, tubes, and tread rubber; vendees purchasing tax free.* The provisions of section 4221(e)(5) do not apply with respect to any sale unless the manufacturer and the vendee are registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)–1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c).1. Any person who purchases articles tax free and who sells or uses them for a non-exempt purpose shall have its registration and its right to purchase articles tax free revoked or suspended unless it pays any tax that may be due on the non-exempt sale or use in the same manner as if it were treated as the manufacturer under section 4223. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.*

For credit or refund, see section 6416(b)(2).

(d) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacture selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall indicate to the purchaser that the purchaser is obtaining the tires or tubes tax free for the purpose of use on or in connection with a qualified bus, and that the purchaser is obtaining the tread rubber tax free for use in the recapping or retreading of tires to be used by the purchaser on or in connection with a qualified bus. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the tires, tubes, and tread rubber tax free and if the tires, tubes, and tread rubber are diverted to a taxable use then the purchaser will be treated as the manufacturer.

(2) *Records of Manufacturer.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the tires, tubes, or tread rubber, and the quantity of tires, tubes, or tread rubber sold tax free to each purchaser.

(3) *Records of Purchaser.* A person purchasing tires, tubes, or tread rubber tax free under section 4221(e)(5) must maintain sufficient records to establish that the tires, tubes, or tread rubber purchased tax free has actually been used for that purpose.

(e) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer is not relieved of liability under the provisions of section 4221(e)(5) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the tires, tubes, or tread rubber sold by it to the purchaser are not intended for use on an intercity, local, or school bus, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(f) *Effective date.* Section 4221(e)(5) (relating to tires, tubes, and tread rubber) applies to sales on or after December 1, 1978. The sale of tires, tubes, or tread rubber sold prior to that date is not exempt from tax under section 4221(e)(5).

§ 48.4221–12 Tax-free sales of bus parts and accessories.

(a) *In general.* Under section 4221(e)(6), the 8-percent manufacturers excise tax on parts and accessories imposed by section 4061(b) shall not apply to sales by a manufacturer, producer, or importer of any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus, or is to be resold by the first purchaser to a second purchaser or by a second purchaser to a third purchaser for such use.

(b) *Registration requirements for light-duty truck parts and accessories; vendees purchasing tax free.* The provisions of section 4221(e)(6) do not apply with respect to any sale unless the manufacturer, the first purchaser, and the second purchaser and third purchaser, if any, are all registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)–1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c)–1. Any person who purchases articles tax free and who sells or uses them for a non-exempt purpose shall have its registration and its right to purchase articles tax free revoked or suspended unless it pays any tax that may be due on the non-exempt sale or use in the same manner as if it were treated as the manufacturer under section 4223. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.* For credit or refund, see section 6416(b)(2).

(d) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacturer selling parts and accessories tax free under section 4221(e)(6) shall indicate to the first purchaser and the first purchaser shall indicate to the second purchaser and the second purchaser shall indicate to the third purchaser, if any, that the purchaser is obtaining the parts or accessories tax free for the purpose of use on or in connection with an automobile bus, or for resale by the purchaser for such use. The manufacturer and first or second purchaser may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the parts or accessories tax free and if the parts or accessories are diverted to a taxable use then the purchaser will be treated as the manufacturer.

(2) *Records of manufacturer.* A manufacturer or a purchaser selling parts or accessories tax free under section 4221(e)(6) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the parts or accessories, and the quantity of parts or accessories sold tax free to each purchaser.

(3) *Records of purchaser.* The first, second, or third purchaser, as the case may be, purchasing parts or accessories tax free under section 4221(e)(6) must maintain sufficient records to establish that the parts or accessories purchased tax free have actually been used on or in connection with an automobile bus or have been resold for such a use.

(e) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer (and first or second purchaser who is treated as the manufacturer if it resells to a second or third purchaser) of parts and accessories is not relieved of liability under the provisions of section 4221(e)(6) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the parts and accessories sold by it to the purchaser are not intended for use on or in connection with an automobile bus or have been resold for such use, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(f) *Effective date.* Section 4221(e)(6) (relating to bus parts and accessories) applies to sales on or after December 1, 1978. Parts or accessories sold for use on a bus prior to that date are not exempt from tax under section 4221(e)(6).

Par. 5. Section 48.4222(d)-1 is amended as follows:

1. Paragraph (a) is removed.

2. Paragraphs (b) and (c) are redesignated as paragraphs (a) and (b) respectively.

3. New paragraphs (c) and (d) are added to read as set forth below.

4. Paragraph (d) is redesignated as paragraph (e).

5. Paragraph (e) is redesignated as paragraph (f) and revised to read as set forth below.

6. Paragraph (f) is redesignated as paragraph (g).

§ 48.4222(d)-1 Registration in the case of certain other exemptions.

The registration procedure set forth in § 48.4222(a)-1 also applies in the following cases:

* * * * *

(a) [Reserved]

(c) Tax-free sales under section 4063(e) of parts or accessories sold for resale on or in connection with the first retail sale of a light-duty truck. Both the vendor and vendee must be registered. See section 4063(e) and the regulation thereunder.

(d) Tax-free sales under section 4064(b)(1)(c) of emergency vehicles. Both the vendor and vendee must be registered. See section 4064 and the regulations thereunder.

* * * * *

(f) Tax-free sales under section 4093 of lubricating oil or rerefined oil by a manufacturer or producer of lubricating oil or rerefined oil for resale, or for use in producing rerefined oil. Both the vendor and the vendee must be registered. See section 4093 and the regulations thereunder.

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80-40815 Filed 12-29-80; 4:45 pm]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1718-1]

Approval and Promulgation of Implementation Plans; Kentucky: Bubble Action for the Kentucky Utilities Company—Green River Station

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Kentucky has submitted a State Implementation Plan (SIP) revision concerning the sulfur dioxide (SO_2) emission rates from four sources at the Kentucky Utilities Company—Green River Station in Muhlenberg County. This action is being treated within the EPA bubble policy concept. More stringent controls are being placed on the smaller sources that have shorter stacks and less stringent controls are required on the larger sources which have taller stacks. This will have a beneficial impact on the air quality since emissions will be reduced from the shorter stack and increased from the taller stack.

DATE: Comments must be received by February 2, 1981 to be considered.

ADDRESSES: The Kentucky submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library System Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Library, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, West Frankfort Office Complex, 1050 U.S. 127 ByPass South, Frankfort, Kentucky 40601

FOR FUTHER INFORMATION CONTACT: Jerry Preston, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 39365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1980, EPA received from the Commonwealth of Kentucky an SIP revision that pertains to the Kentucky Utilities Company—Green River Station in Muhlenberg County. This revision was considered as a bubble application for SO_2 controls on four sources and the submittal contained the required air quality dispersion modeling to evaluate the proposed change.

The 1979 SIP revision for this plant included a modeling analysis to determine the allowable SO_2 emission rate. That analysis indicated that a 3.5 lb. SO_2 per million British Thermal Unit (mmBTU) would be required for the Green River Plant to protect the National Ambient Air Quality Standards (NAAQS).

The plant has proposed to place more stringent controls on Unit 1 and 2 with an emission rate of 0.9 lb SO_2/mmBTU and less stringent controls on Units 3 and 4 with emission rates of 4.57 lb. SO_2/mmBTU. The following calculations indicate that the plant-wide average emission rate of 3.5 lb. SO_2/mmBTU will result when the plant is operating at maximum capacity.

UNIT	MAX. MMBTU/HR INPUT	X LB. SO2/MMBTU	=	LB. SO2/HR.
1&2	927.5	0.9		834.75
3	976.0	4.57		4460.32
4	1260.0	4.57		5758.20
TOTAL	3163.5			11,053.27

Plant average emission rate lb. SO_2/MMBTU is therefore:

$$\frac{11{,}053.27 \text{ lb SO2/Hr.}}{3163.5 \quad \text{MMBTU/Hr.}} = 3.494 \text{ lb. } SO_2\text{/MMBTU}$$

Also, the smaller sources with shorter stacks will have the most controls and the larger sources with taller stacks will have relaxed controls. This proposal would impact the air quality beneficially while maintaining the plant average SO_2 emission rate.

Action

EPA is today proposing to approve the SIP revision and is soliciting public comment on the bubble aplication.

Dated: December 5, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-40703 Filed 12-31-80; 8:45 am]

BILLING CODE 6560-[illegible]-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 5)]

Rail General Exemption Authority; Miscellaneous Commodities

Decided: November 25, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rule (exemption).

SUMMARY: The Commission proposed to add to the list of exempt commodities identified in 49 CFR 1039.10, which lists the fresh fruits and vegetables exempt from certain Commission regulation, field seed beans, peas and lentils, onion sets and field dry ripe vegetable food seeds. The purpose of this proposal is to complement the exemptions in Ex Parte No. 346, Sub-No. 2, Rail General Exemption Authority—Miscellaneous Commodities, which exempted from regulation the rail movement of beans, peas and lentils.

DATES: Comments are due February 2, 1981.

ADDRESS: An original and 15 copies of all comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 346 (Sub-No. 2), *Rail General Exemption Authority—Miscellaneous Commodities*, served March 24, 1980, 45 FR 20484, the Commission exempted from regulation the rail movement of beans, peas and lentils. That decision identified the STCC numbers for food seed beans, peas and lentils but did not include the STCC numbers for field seed beans, peas and lentils, onion sets and field dry ripe vegetable food seeds.

The Union Pacific Railroad Company, Burlington Northern, Inc., and the Atchison, Topeka and Santa Fe Railway Company have requested that we exempt these excluded commodities. Although insufficient information is presented to now justify incorporating field seed beans, peas and lentils, onion sets and field dry ripe vegetable food seeds in the exemption granted under Sub-No. 2, there is sufficient information to merit further investigation. Therefore, we have instituted this new subproceeding.

The Staggers Rail Act of 1980 (Pub. L. 96-448) establishes the standards for exemptions. New section 10505 allows the Commission to exempt certain traffic from regulation where (1) regulation is not necessary to carry out the national transportation policy and (2) either the transaction or service involved is of limited scope or regulation is not necessary to prevent the abuse of market power.

Although section 10505 no longer requires a hearing, we think that comments would be useful here to develop a more complete record with regard to the transportation of these commodities.

Beans, peas, and lentils.—In Sub-No. 2 the Commission exempted food seed beans, peas and lentils, but not field seed. The railroads contend that field seed should logically have been included with food seed since their transportation characteristics are the same. However, in our prior decision we did not receive specific information on field seed, per se, and we never addressed the issue directly. While much of the information appears to apply to beans, peas, and lentils in a generic sense, the STCC codes for these commodities were not included when used as field seed. Thus, we believe it more appropriate to analyze these items further in a separate proceeding although our review, to date, indicates they should be exempted.

Morrison Brothers Seed Co. filed a reply to the railroads' petitions pointing out that food seed and field seed are physical distinguishable. The physically differences of the commodities are only relevant in an indirect way to the issue of whether or not they should be made exempt. Our analysis is limited to the transportation characteristics of these commodities. The appropriate analysis is that posed by section 10505; that is, the effect on the national transportation policy, the relative scope of the transportation at issue or whether any abuses of market power are likely to occur.

It would not appear that regulation is needed to protect shippers of field seed from market power abuses or to further the national transportation policy. The transactions and services involved are of limited scope. The record in Sub-No. 2 indicated that the movements of beans, peas, and lentils are subject generally to a high degree of competition from other modes and the market share of this traffic possessed by railroads has steadily been declining.

Morrison has expressed the fear that exemption of field seed would lead to a reduction of specialized services (*e.g.*, milling in transit) and would upset the existing pricing structure, resulting in increased uncertainty as to future rates to be charged on the shipments. This is of particular concern to Morrison because its sales contracts are necessarily made a year in advance of actual shipment and therefore, advance knowledge of the carrier's rate has been important in setting its own prices. However, there is no reason to assume that the railroads will not accommodate the needs of shippers if they wish to retain the traffic or to increase their share of it. Agreements between the parties can provide the degree of certainty needed. These problems are best solved through direct negotiations between the parties. If necessary, we are prepared to time the effectiveness of the exemption to facilitate these arrangements.

Onion sets and field dry ripe vegetable food seeds.—These commodities were not addressed by our prior decision. The railroads assert that they are similar in nature to field seed beans, peas, and lentils and share their transportation characteristics. There were no replies filed by shippers or others on this subject. We solicit comments as to the desirability and the practical effects of exemption of these commodities. It would apear that onion sets and field dry ripe vegetable food seeds do not significantly differ in their transportation characteristics from field seed beans, peas, and lentils and should also be exempted.

Finally, we should point out that the Commission is interested in ensuring that this list of related commodities be made complete. We encourage participants to include as part of their comments further proposals for exemption of other related commodities and facts supporting these proposals.

We do not believe this action will significantly affect either the quality of the human environment or conservation of energy resources. However, comments on this issue are welcome.

Accordingly, we propose to amend the rule at 49 CFR 1039.10 to add the following commodities:

....	159	40	Austrian winter pea seeds.
....	159	40	Peas (seeds), caley or singletary (wild) winter (seeds) peas.
....	159	70	Beans, velvet, dried, or in pods.
....	159	71	Seed beans.
....	159	74	Seed peas, nec.
....	349	....	Field dry ripe vegetable food seeds, nec.
....	917	10	Onion sets.

(49 U.S.C. 10505 and 5 U.S.C. 553)

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-40271 Filed 12-31-80; 8:45 am]

BILLING CODE 7035-01-M

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Notices

Federal Register
Vol. 46, No. 1
Friday, January 2, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Nutrition Education and Training; Appendix—Apportionment of Funds for Nutrition Education and Training

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This appendix sets forth the apportionment of funds for the Nutrition Education and Training Program among the States as directed by Section 19 of the Child Nutrition Act of 1966, as amended. These funds will be used for nutrition education and training in the States.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Henry S. Rodriguez, Acting Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-9081.

(Section 19, Child Nutrition Act of 1966 (42 U.S.C. 1788))

Section 19(j) of the Child Nutrition Act of 1966, as amended, provides that grants to States be determined on the basis of 50 cents for each child enrolled in schools or in institutions within the State, except that no State will receive an amount less than $75,000 per year. If the funds appropriated after FY 1979 are insufficient to pay the amount to which each State is entitled, the amount of such grants shall be ratably reduced so that the total does not exceed the amount appropriated.

Enrollment data used for the purpose of apportioning NET funds must be the latest available as certified by the Department of Education (formerly U.S. Department of Health, Education and Welfare). The Food and Nutrition Service (FNS) obtained certified data on enrollment from the Office of Education in the following categories: public and private schools, public residential child care institutions and nonresidential child care institutions. The dollar amounts for these categories are enumerated under "Schools," "Public Residential Child Care Institutions," and "Nonresidential Child Care Institutions" in the Appendix. The Department of Education was unable to provide certified enrollment data on nonprofit private residential child care institutions.

Because no Department of Education certified data exists for nonprofit private residential child care institutions, another data source was developed. Unless this data is used, States will not receive Nutrition Education and Training grants in direct relation to the number of children attending institutions in the State. Therefore, the Department has again collected data for nonprofit private residential child care institutions from its own reporting forms and has used this data in determining the apportionment of funds. Enrollment data for these child care institutions were taken from the enrollment data presented in the "Annual Report of Meal Service in Schools" submitted by State agencies to FNS on FNS Form 47 (10-78). The dollar amounts are set out under the category "Private Residential Child Care Institutions" in the Appendix. The enrollment figures for each of the above categories are available upon request.

For fiscal year 1981, $15 million was appropriated for NET. This compares to $20 million for FY 1980 and $26 million for both fiscal years 1978 and 1979. Thus the apportionment among the States cannot be based on 50 cents per child enrolled in schools and institutions.

Section 19(j)(2) states that if funds appropriated for NET are insufficient to pay the amount to which each State is entitled, the amount of such grants shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

If a State educational agency is prohibited by law from administering the Program in nonprofit private schools or institutions, then the total grant to the State will be reduced proportionately as provided in 7 CFR 227.5(a) of the regulations. Funds withheld for this purpose will be used by FNS for the administration of the program in such nonprofit private schools or institutions.

Section 19(j) provides that a minimum grant level of $75,000 should be maintained. Therefore, all States which would have received a grant of less than $75,000 under the statutory formula will actually receive a minimum grant of $75,000. Thus, 19 State agencies—New Hampshire, Rhode Island, Vermont, Maine, Delaware, District of Columbia, Virgin Islands Montana, North Dakota, South Dakota, Wyoming, Alaska, American Samoa, Guam, Hawaii, Idaho, Nevada, Trust Territory, and the Northern Marianas—representing a total enrollment of 2,364,123 will receive $75,000 each in fiscal year 1981 (a total of $1,425,000). The balance of funds, $13,575,000 will be apportioned among the remaining States representing an enrollment of 46,610,291. The grants of these non-minimum grant States will be based on approximately $.2912 per child enrolled in a school or institution. States must apply by April 1 of the fiscal year in order to receive NET Program funds. Funds for States which fail to apply by the April 1 deadline will be reallocated among the other participating States.

Pursuant to Section 19(j) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1788), funds available for the fiscal year ending September 30, 1981, are apportioned among the States as follows;

BILLING CODE 3410-30-M

NUTRITION EDUCATION AND TRAINING PROGRAM (NET) APPORTIONMENT OF FY1981 FUNDS

STATE	Public [1] Schools	Private [2] Schools	Non-residential [3] Child Care Inst.	Public Residential [4] Child Care Inst.	Private Residential [5] Child Care Inst.	Total
NEW ENGLAND						
Connecticut	$ 165,029	$ 26,280	$ 2,145	$ 980	$ 339	$ 194,773
Maine	68,284	5,414	623	548	131	75,000
Massachusetts	300,487	41,602	3,423	4,353	4,905	354,770
New Hampshire	64,111	7,972	1,120	1,527	270	75,000
Rhode Island	61,676	11,882	785	341	312	75,000
Vermont	66,414	5,749	1,004	1,657	176	75,000
MID-ATLANTIC						
Delaware	58,785	12,521	1,944	1,621	129	75,000
District of Columbia	57,111	11,962	3,398	1,954	575	75,000
Maryland	226,508	32,047	3,917	1,393	556	264,421
New Jersey	375,068	67,819	6,427	2,617	2,260	454,191
New York	864,768	179,702	14,785	7,059	336	1,066,650
Pennsylvania	573,403	123,966	5,472	5,077	4,198	712,116
Puerto Rico	210,109	27,523	-	588	-	238,220
Virginia	300,391	21,507	4,541	1,368	600	328,407
Virgin Islands	59,545	14,681		774		75,000
West Virginia	113,119	3,791	639	430	192	118,171
SOUTHEAST						
Alabama	219,652	19,126	7,938	486	235	247,437
Florida	440,892	59,440	14,274	2,288	4,436	521,330
Georgia	314,094	24,416	11,081	1,011	577	351,179
Kentucky	197,208	20,729	2,733	1,070	2,768	224,508
Mississippi	140,392	14,952	9,111	516	61	165,032
North Carolina	334,946	17,513	14,760	1,893	2,547	371,659
South Carolina	181,968	15,317	4,908	871	366	203,430
Tennessee	252,252	21,757	5,872	860	1,055	281,796
MIDWEST						
Illinois	595,082	105,874	11,953	10,013	2,246	725,168
Indiana	315,659	30,718	3,952	2,437	1,004	353,770
Michigan	541,860	63,435	5,850	3,820	512	615,477
Minnesota	226,605	26,583	2,346	349	483	256,366
Ohio	589,845	79,956	8,058	4,548	1,035	683,442
Wisconsin	249,846	49,596	2,679	920	348	303,389
SOUTHWEST						
Arkansas	131,970	5,734	3,332	1,565	307	142,908
Louisiana	233,123	45,866	4,720	2,218	324	286,251
New Mexico	80,259	5,002	1,960	264	221	87,706
Oklahoma	169,928	4,717	6,466	813	794	182,718
Texas	836,848	44,575	29,138	4,929	4,746	920,236
MOUNTAIN PLAINS						
Colorado	160,338	10,581	3,293	1,217	478	175,907
Iowa	159,694	17,934	1,969	418	1,506	181,521
Kansas	123,174	9,408	795	767	214	134,358
Missouri	254,237	38,312	4,961	1,125	816	299,451
Montana	69,780	4,083	767	299	71	75,000
Nebraska	83,672	11,613	1,266	227	305	97,083
North Dakota	67,894	5,911	568	392	235	75,000
South Dakota	67,533	6,229	510	359	369	75,000
Utah	96,998	1,719	992	451	27	100,187
Wyoming	70,272	2,897	940	891		75,000
WESTERN						
Alaska	69,101	2,974	786	1,950	189	75,000
American Samoa	61,715	13,285				75,000
Arizona	148,318	11,039	3,526	468	449	163,800
California	1,178,827	141,130	33,136	2,278	17,182	1,372,553
Guam	62,724	11,598		678		75,000
Hawaii	58,413	11,903	2,983	342	1,359	75,000
Idaho	71,811	2,163	782	244		75,000
Nevada	69,593	3,006	1,989	324	88	75,000
Oregon	136,049	7,743	2,771	1,727	671	148,961
Trust Te[illegible]ory	75,000					75,000
Washingt[illegible]	222,766	16,560	4,233	1,042	1,057	245,658
CNMI	75,000					75,000
[illegible]TAL	13,000,146	1,579,812	267,625	88,357	64,060	15,000,000

BILLING CODE 3410-30-C

Sources

1 (1) U.S. Department of Education, Assistant Secretary for Educational Research and Improvement, NCES, Statistics of Public Schools, Fall 1979, prepublication data, (2) Fall 1979 reports have not been received from Florida, American Samoa, Puerto Rico, and Trust Territory. Figures for Florida are for Fall 1978; Figures for American Samoa, Puerto Rico, and Trust Territory are for Fall 1977.

2 (1) U.S. Department of Education, National Center for Education Statistics, preliminary data from the Survey of nonpublic schools, 1978–79. (2) Fall 1977 and 1978 reports have not been received from Puerto Rico, American Samoa, Northern Marianas, Guam, Virgin Islands, and Trust Territory. These figures are for Fall 1976.

3 U.S. Department of Health and Human Services, Administration for Children, Youth and Families, "Day Care Centers in the U.S: A National Profile 1976–77, Volume 3 of the Final Report of the National Day Care Study, Table 63.

4 U.S. Department of Education, National Center for Education Statistics, estimates based on average daily attendance as reported under provisions of the Elementary and Secondary Education Act, P.L. 89–10, as amended, Title I, Part A, Subpart 2, for FY 1981.

5 U.S. Department of Agriculture, Food and Nutrition Service, Annual Report of Meal Service in Schools (Form FNS–47) March 1979

Signed in Washington, D.C. on December 24, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40560 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-30-M

Child Care Food Program; Payment Rates for Meals Served in Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice effects the provisions of Pub. L. 96–499, enacted on December 5, 1980, by announcing that (1) no semi-annual rate adjustment to reflect change in the Consumer Price Index will be made for the period January 1–June 30, 1981, and (2) payment rates for meals served in centers prescribed for the period July 1–December 31, 1980, will continue to be in effect until June 30, 1981, except that payment rates for supplements will be reduced by 3 cents as described below.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6509: An Impact Analysis Statement is available on request from the above office.

EFFECTIVE DATE: January 1, 1981.

SUPPLEMENTARY INFORMATION: Pursuant to Sections 11 and 17 of the National School Lunch Act and Section 4 of the Child Nutrition Act, as amended by Section 208 of Pub. L. 96–499, and Section 226.4(g)(2) of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given that Program payment rates for meals served in child care centers and outside school care centers during the period January 1–June 30, 1981, will not be adjusted to reflect changes in the Consumer Price Index. The payment rates for breakfast, lunches, and suppers served in centers prescribed for the period July 1–December 31, 1980, will continue to be in effect until June 30, 1981. These payment rates appeared in the **Federal Register** on July 11, 1980, at 45 FR 46833. The next adjustment in these rates will be effective on July 1, 1981, and will reflect changes in the Consumer Price Index over the most recent 12 month period for which data will be available. Barring further statutory change, the payment rates will be adjusted to reflect changes in the Consumer Price Index on January 1, as well as July 1, of each subsequent year.

Section 208 of Pub. L. 96–499 also amends Section 17 of the National School Lunch Act to require that, following each annual adjustment of the base rates to reflect changes in the Consumer Price Index, three cents be subtracted from the adjusted rates for supplements served in child care centers and outside-school-hours care centers. This notice does not affect the food service payment rates applicable to meals served in day care homes. Accordingly, the new payment rates for supplements served in centers which shall be effective for the period January 1–June 30, 1981, are as follows:

Rates for Supplements Served in Centers—Per Meal Rates (cents)—All States Except Alaska

Paid	4.75¢
Free	27.50¢
Reduced	20.25¢

Pursuant to Section 10(a) of Pub. L. 95–627, the Department adjusts the payment rates for participating institutions in the State of Alaska. The three cent reduction in the payment rates for supplements served in centers also applies in Alaska. Therefore, the new rates for Alaska are as follows:

Rates for Supplements Served in Centers—Per Meal Rates (cents)—Alaska

Paid	9.50¢
Free	46.50¢
Reduced	34.50¢

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226), published on January 22, 1980 at 45 FR 4960.

(Catalog of Federal Domestic Assistance Programs Number 10.558)

Dated: December 24, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40668 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-30-M

National School Lunch Program and School Breakfast Program

AGENCY: Food and Nutrition Service.

ACTION: Notice.

SUMMARY: This notice announces the following changes in the National School Lunch Program and School Breakfast Program for the period January 1, 1981 through September 30, 1981. All section references refer to the National Lunch Act, unless otherwise indicated. The changes are as follows: (1) Section 4 National Average Payment factors for school lunches will be reduced by two and one-half cents for all categories of lunches served in school food authorities in which less than 60 percent of the lunches served were served free or at a reduced price during school year 1978–79; (2) there will be no January 1, 1981 semiannual adjustments in the Section 11 and Section 4 National Average Payment factors for lunches or the National Average Payment factors for breakfasts and, (3) the Section 11 National Average Payment adjustments to be made in July 1981 shall be based on changes in the Consumer Price Index in the previous 12 months, rather than based on the previous six months as is normally done. These changes implement provisions of Pub. L. 96–499.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–9065. An Impact Analysis Statement is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Background

Public Law 96–499 authorized several legislative changes in all Child Nutrition Programs which will result in significant savings for fiscal year 1981. These changes are intended by Congress to achieve savings by amending Part 210 National School Lunch Program and Part 220 School Breakfast Program with the three provisions which are explained below.

Two and a half cent Section 4 Reduction in Reimbursement Rates

Section 4 of the National School Lunch Act provides for general cash payment for all lunches served under the National School Lunch Act. Currently most States earn 18.5 cents under Section 4 for all lunches (free, reduced-price or paid) served under the National School Lunch Program. Section 201 of Public Law 96–499 provides for a two and a half cent reduction in the general cash payment factor under Section 4 of the National School Lunch Act for all categories of lunches served (free, reduced-price, paid) in school food authorities in which less than 60 percent of the lunches served were served free or at a reduced-price during the second preceding school year (SY 1978–79).

The two and a half cent reduction in section 4 general cash payment factor will not affect the amount of State administrative expense funds to be made available under Section 7 of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1983. In addition, the amount of State revenues appropriated or used for meeting the requirements under Section 7 of the National School Lunch Act for the school year ending June 30, 1982 will not be reduced because of a reduction in the amount of Federal funds expended as a result of the reduction in Section 4 payments.

Annual Adjustments in National Average Payment (NAP) Rates

Section 204 of Public Law 96–499 eliminated the semiannual adjustments in the Section 4 and Section 11 National Average Payment factors for lunch and the National Average Payment factors for breakfast served under Section 4 of the Child Nutrition Act of 1966 for fiscal year 1981. This notice indicates that the January 1, 1981 semiannual adjustment of National Average Payment factors for the National School Lunch Program and School Breakfast Program will not be made. The National Average Payment factors for these programs for the period January 1, 1981, through June 30, 1981, will be those factors prescribed for the period July 1–December 31, 1980, (45 FR 46174), except for the changes noted below.

Notice is hereby given that, as mandated by Public Law 96–499, for the period of January 1, 1981 through September 30, 1981:

The Section 4 National Average Payment factor for lunches served under the National School Lunch Act, after being adjusted under Section 11(a) of the National School Lunch Act, shall be reduced by two and a half cents in school food authorities in which less than 60 percent of the lunches served were served at free or reduced price in school year 1978–79.

Adjustments in the National Average Payment factors for the National School Lunch and School Breakfast Programs will be prescribed in July 1981 by the Secretary and will reflect changes in the cost of operating the School Lunch and School Breakfast Programs, since the July 1, 1980 adjustment. The January 1981 semiannual adjustments will not be made.

(Catalogue of Federal Domestic Assistance Numbers 10.555 and 10.556)

Dated: December 23, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40665 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-30-M

Special Milk Program Reimbursement Rates

AGENCY: Food and Nutrition Service.

ACTION: Notice.

SUMMARY: This notice announces the reimbursement rates for the Special Milk Program for children, effective October 1, 1980. Pub. L. 96–304 reduced the 8.5 cents reimbursement rate to 5.0 cents for the month of September 1980 for schools and institutions participating in the Special Milk Program and one or more of the following programs: The National School Lunch Program, School Breakfast Program, Child Care Food Program, or the Summer Food Service Program for Children. Pub. L. 96–369 maintained this 5.0 cents reimbursement rate through December 15, 1980, and Pub. L. 96–499 made the 5.0 cent rate permanent. The reduction was introduced as a Fiscal Year 1981 budget reduction and is expected to save $57.4 million under the Special Milk Program during fiscal year 1981.

EFFECTIVE DATE: This notice is effective October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, USDA, FNS, Washington, D.C. 20250. Telephone: (202) 447–9065. The Impact Analysis Statement is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772) and 7 CFR § 215.8 of the regulations governing the Special Milk Program for Children (7 CFR Part 215) authorize the Secretary to establish the rate of reimbursement per half pint (236 ml.) of milk purchased and served to children. For the period July 1, 1980 through June 30, 1981, the reimbursement rate was established at 8.5 cents. The 8.5 cent rate was derived by applying the percentage increase in the Producer Price Index for Fresh Processed Milk during the 12 month period May 1979 to May 1980 (from 167.3 in May 1979 to 181.1 in May 1980) to the unrounded rate of reimbursement prescribed for the period July 1, 1979 to June 30, 1980, adjusted to the nearest one-fourth cent. As indicated in the July 11, 1980 Notice (45 FR 46831), Pub. L. 96–304, reduced the reimbursement rate to 5.0 cents for September 1980 for schools participating in the Special Milk Program and the National School Lunch Program, School Breakfast Program, Child Care Food Program or the Summer Food Service Program for Children. Pub. L. 96–369, making continuing appropriations for Fiscal Year 1981, maintained the 5.0 cents reimbursement rate through December 15, 1980. The intent of Congress in passing the continuing resolution was to maintain on-going programs without significant changes in operations until Congress had an opportunity to act on the regular appropriations bill. Section 209 of Pub. L. 96–499 enacted December 5, 1980 amends Section 3 of the Child Nutrition Act to provide that the rate of reimbursement for milk served to children who are not eligible for free milk shall be 5.0 cents.

For the reasons set out in the preamble and under authority given the Secretary, the Special Milk Program reimbursement rates are set forth below.

Notice is hereby given that the rate of reimbursement per half pint of milk purchased and served to children, except needy children in pricing programs operated by School Food Authorities and institutions which elect to provide free milk, shall be: (1) 5.0 cents effective October 1, 1980 for schools and institutions participating in the Special Milk Program and one or more of the following Programs: the National School Lunch Program, the School Breakfast

Program, the Child Care Food Program, or the Summer Food Service Program for Children; and (2) 8.5 cents for the period July 1, 1980 through June 30, 1981 for commodity only schools and schools and institutions participating *only* in the Special Milk Program as stipulated in 45 FR 46831.

Dated: December 23, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40664 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The Secretary of Commerce established the Importers and Retailers' Textile Advisory Committee on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements. This meeting is being called on short notice to review with the Committee recent bilateral international textile and apparel trade developments prior to the establishment of a negotiating schedule for early 1981.

TIME AND PLACE: January 15, 1981 at 10:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street, N.W.).

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, (4) Other Business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Dated: December 30, 1980.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 80-40822 Filed 12-31-80; 8:45 am]

BILLING CODE 6310-25-M

Management-Labor Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel. This meeting is being called on short notice to review with the Committee recent bilateral international textile and apparel trade developments prior to the establishment of a negotiating schedule for early 1981.

TIME AND PLACE: January 15, 1981 at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street, N.W.,).

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, (4) Other Business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Dated: December 30, 1980.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 80-40823 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Scientific and Statistical Committee, which will meet: To discuss minutes of the previous meeting; to approve the package of lobster material to go to the oversight committee, and to hold the third discussion of the value of reducing variability and abundance of catch as an objective, as well as old and new business.

DATES: The meeting, which is open to the public, will convene on Wednesday, January 14, 1981, at approximately 10 a.m., and will adjourn at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Carriage House, Woods Hole, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Building, Five Broadway, Route One, Saugus, Massachusetts 01906, Telephone: 617-231-0422.

Dated: December 29, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-40789 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981 Proposed Additions

Corrections

In FR Doc. 80-39462, appearing on page 83650, in the issue of Friday, December 19, 1980, make the following correction.

On page 83650, middle column, the tenth line from the bottom of the page reading "6540-00-42-8752" should have read "6540-00-042-8752."

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act of 1974; Systems of Records; Annual Publication

AGENCY: Consumer Product Safety Commission.

ACTION: Annual publication of systems of records.

SUMMARY: The purpose of this document is to give notice of the Privacy Act systems of records maintained by the Consumer Product Safety Commission.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, Telephone (202) 634-7770.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The Consumer Product Safety Commission last published the full text of its systems of records at 42 FR 48751, September 23, 1977. Since that publication, the Commission's systems of records has been amended by an annual publication at 44 FR 77235, December 31, 1979; by documents published at 45 FR 34337, May 22, 1980, CPSC System 20 (Revised), and 45 FR 56860, August 26, 1980 (CPSC System 22); and a document appearing elsewhere in this issue which, among things, supersedes the May 22, 1980, document. For the convenience of the public the August 26, 1980, document appears below. The Commission's systems of records, therefore, consists of the material published at 44 FR 77235, December 31, 1979, the document appearing elsewhere in this issue, and the following document.

The full text of the Commission's systems of records, except for the revision and additions appearing in this issue, also appears in Privacy Act Issuances, 1979 Compilation, Volume III, page 2603. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of this volume is $9.50.

Dated: December 24, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

CPSC-22

SYSTEM NAME:

CPSC Management Information System—CPSC-22

SYSTEM LOCATION:

Consumer Product Safety Commission, Associate Executive Director for Administration, 5401 Westbard Avenue, Bethesda, Maryland 20207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CPSC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information on work and leave hours charged by individual employees against CPSC programs, projects, and organization categories. The data included are: Program Codes, Project Codes, Organization Codes, Reporting Period, Employee Name and CPSC Employee Number, and hours charged.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2051 et seq.; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used to produce periodic printed reports which show total employee time and costs allocated to Commission programs and projects by organizational elements. The cost information includes information derived from the Commission's accounting system. Some of the reports will display the time charged by individual employees by programs and projects within organizational elements.

These reports are distributed to CPSC managers and staff at all levels as a management tool to:

(a) Inform project managers of time worked by individuals on specified program and project activities.

(b) Assure accurate reporting and recording of time worked on Agency programs and projects.

(c) Track the agency's work in terms of programs and projects;

(d) Assist in the preparation of the CPSC Fiscal Year Operating Plan;

(e) Assess achievement of planned goals established in the CPSC Fiscal Year Operating Plan;

(f) Identify resource allocation deficiencies;

(g) Provide a historical record of Agency program, project, and organization resource expenditures;

(h) Assure effective distribution of staff skills for planned workloads;

(i) Provide reports to top level management on Agency accomplishment.

Printed reports produced by the system are distributed to project leaders, management, and supervisory personnel within the Commission.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy, on computer punch cards, and on computer magnetic media.

RETRIEVABILITY:

Records are retrievable by any of the data items on the records.

SAFEGUARDS:

Access to individual computer records is restricted to staff of the Associate Executive Director for Administration through the use of special computer identification codes. Hard copy individual records and punch cards are kept in locked file cabinets with access also restricted to the staff of the Associate Executive Director for Administration. Management Information System data will not be used as evidence against the supplying employee in employee performance evaluations or adverse actions.

RETENTION AND DISPOSAL:

Individual hard copy employee records, punch cards, and computer records, other than time and cost totals, are retained for not more than one year. Disposal is accomplished through magnetic disc or magnetic tape erasure for computer-stored records, and direct disposal into trash for hard copy individual records and punch cards.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director for Administration, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland 20207.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

Same as System Manager.

CONTESTING RECORD PROCEDURES:

Same as System Manager.

RECORD SOURCE CATEGORIES:

Information in these records is furnished by the employees to whom it pertains.

[FR Doc. 80-40174 Filed 12-31-80; 8:45 am]

BILLING CODE 6355-01-M

Privacy Act of 1974; Systems of Records; Revisions to Systems

AGENCY: Consumer Product Safety Commission.

ACTION: Revisions to CPSC-9, CPSC-12, and CPSC-20.

SUMMARY: This document revises three Privacy Act systems of records to reflect

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organizational changes and changes of address within the Consumer Product Safety Commission.

DATES: These revisions are effective January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (202) 634-7770.

SUPPLEMENTARY INFORMATION: Current system notices for Privacy Act record systems CPSC-9, Employee Financial Interest Statements, and CPSC-12, Employee Outside Activity Notice, list the System Manager as the Director, Division of Personnel Management, and list the system location as the Division of Personnel Management, 5401 Westbard Avenue, Washington, D.C. 20207. A recent revision of the Commission's Employee Standards of Conduct, 16 CFR Part 1030, published at 45 FR 82912, December 17, 1980, has designated the Deputy General Counsel for Regulatory Development and General Law as the Commission's Ethics Counselor, whose responsibilities include review and maintenance of the records in CPSC-9 and CPSC-12. The Commission is accordingly revising these record systems to show the new System Manager and the corresponding new system location.

CPSC-20, Field Work Tracking System, as revised by 45 FR 34337, May 22, 1980, describes the system location as a Washington, D.C. address plus the Area Offices listed in an Appendix. Since that time, the Commission's Area Offices have been redesignated as either Regional or District Offices, and some of them have moved to new office locations. A revised listing of the Commission's field organization was published at 45 FR 80816, December 12, 1980. The Commission is accordingly revising CPSC-20 and its Appendix to show the correct names and addresses of its field units.

Since these changes do not alter the kinds or quantities of records maintained, routine uses, or methods or amount of access, or otherwise represent substantive modifications, they are effective January 2, 1981.

Dated: December 24, 1980.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

CPSC-9

SYSTEM NAME:

Employee Financial Interest Statements—CPSC

SYSTEM LOCATION:

Consumer Product Safety Commission, Office of the General Counsel, 1111 18th Street, N.W., Washington, D.C. 20207

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current CPSC employees whose duties and responsibilities require the incumbent to exercise judgment in making Government decisions or in taking Government action in regard to (1) contracting or procurement, (2) administering or monitoring grants, (3) standards development, (4) rulemaking, (5) compliance activities or (6) other activities where the decision or action has an economic impact on the interest of any non-Federal enterprise.

CATEGORIES OF RECORDS IN THE SYSTEM:

This records contain a list of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions; (a) with which CPSC employees, their spouse, minor child(ren) or other member of their immediate household who is of blood relation has a continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which the employees, their spouse, minor child(ren) or other member of their immediate household who is of blood relation has any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

These records also contain a list of the employees creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses and a list of the employees' interest in real property or rights in lands, other than property which he occupies as a personal residence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used as indicated below:

(1) To assist the Chairman or designee in determining if an employee (a) has direct or indirect financial interests that conflict substantially, with his or her responsibilities and duties as a Federal employee or (b) engages in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through his or her employment.

(2) To refer, where there is an indication of a violation or potential violation of law, whether Federal, state, or local, charged with the responsibility of investigating or implementing the statute, or rule, regulation, or order issued pursuant thereto.

(3) To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, or other benefit to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to the Commission under agreement with GSA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Records are located in a combination lock GSA approved Security Container. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

These records are maintained for five years following employees' separation from the CPSC. Disposal by normal procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy General Counsel for Regulatory Development and General Law, Consumer Product Safety Commission, Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Associate Executive Director, Administration, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

The information contained in these records is provided by the individual to whom the record pertains or is provided by other persons authorized by the individual to whom the record pertains to provide such information.

CPSC-12

SYSTEM NAME:

Employee Outside Activity Notice—CPSC

SYSTEM LOCATION:

Consumer Product Safety Commission, Washington, D.C. 20207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission employees carrying on outside activities such as consultative services, practice of law, teaching, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information concerning the employee's position, nature of outside activity, relation of official duties to activity, and method of compensation for outside activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records is used by the Executive Director in making a determination as to whether an employee's outside activity constitutes a real or apparent conflict of interest.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to the Commission under agreement with GSA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on hard copy.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Records are maintained in locked file cabinets in a secured area.

RETENTION AND DISPOSAL:

Records are maintained until employee terminates with agency. Disposal is by normal procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy General Counsel for Regulatory Development and General Law, Consumer Product Safety Commission, Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Associate Executive Director, Administration, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

The information in this record is furnished by the employee to whom it pertains.

CPSC-20

SYSTEM NAME:

Field Work Tracking System CPSC-20.

SYSTEM LOCATION:

Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Washington, D.C. 20207, and the Regional and District Offices listed in Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional, non-managerial, staff members of CPSC Area Offices who are performing work assignments covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information on work assignments performed by CPSC Area Offices. The data included are: an identification number of the assigned employee; assignment identification number; organizational unit intitiating the assignment and Area Office performing the assignment; program, project and activity codes; assignment date; target completion date; date employee submitted report to supervisor for review and typing; date typed report is endorsed by supervisor; number of activities performed; actual hours required to complete the assignment; and a narrative description of the assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2051 et seq.; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or a compilation of these records, are used by the Directorate for Field Operations and its Area Offices as a management aid to:

(a) Track the status of field assignments

(b) Track the progress against planned goals

(c) Compare Area Office performance

(d) Identify resource allocation deficiencies

(e) Provide reports to top level CPSC management on field accomplishment

In addition, within each Area Office, the Area Office management will use the records, or a compilation of information from the records, to:

(a) Assure efficient distribution of assignments to employees

(b) Track employees' ability to meet target dates in relation to performance standards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer magnetic media. Hard copies of the records are stored at the Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Bethesda, Maryland 20207, and the Area Offices listed in Appendix I.

RETRIEVABILITY:

The records may be retrived by any one or any combination of the data items.

SAFEGUARDS:

Access to the computer data is restricted to Area Office personnel and Field Operations Directorate staff at Headquarters through the use of computer access passwords. The system identification number for an Area Office staff member is known only to that person, that person's supervisors and Area Office Director, Area Office clerical staff involved in operating the system, the Associate Executive Director for Field Operations, the head of the Directorate's operations staff, and the program analyst with operational responsibility for the system. Any Area Office staff member can gain access to the computer data pertaining to himself or herself. Special passwords are required to enter or change computer data and are issued only to persons designated by Area Office directors. Hard copies of th records are kept in lockable file drawers.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Associated Executive Director for Field Operations, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

Same as System Manager.

CONTESTING RECORD PROCEDURES:

Same as System Manager.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from employees performing the recorded assignments and their supervisors.

Appendix I

Atlanta Regional Office, 1330 West Peachtree St., NW, Atlanta, Ga. 30309.

Boston Regional Office, 100 Summer St., Room 1607, Boston, Mass. 02110.

Chicago Regional Office, 230 South Dearborn St., Room 2945, Chicago, Ill. 60604.

Twin Cities District Office, Metro Square, Suite 580, 7th and Robert, Saint Paul, Minn. 55101.

Cleveland Regional Office, Plaza Nine Building, Room 520, 55 Erieview Plaza, Cleveland, Ohio 44114.

Dallas Regional Office, 1110 Commerce Street, Room 1C 10, Dallas, Texas 75242.

Kansas City Regional Office, Midland Building, Suite 1000, 1221 Baltimore Avenue, Kansas City, Mo. 64105.

Denver District Office, Guaranty Bank Building, Suite 938, 817 17th St., Denver, Colo 80202.

Los Angeles Regional Office, 3660 Wilshire Blvd., Suite 1100, Los Angeles, Calif. 90010.

New York Regional Office, 6 World Trade Center, Vesey Street, 6th Floor, New York N.Y. 10048.

Philadelphia Regional Office, 400 Market Street, 10th Floor, Philadelphia, Pa. 19106.

San Francisco Regional Office, U.S. Customs House, 555 Battery Street, Room 416, San Francisco, Calif. 94111.

Seattle District Office, 3240 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

[FR Doc. 80-39380 Filed 12-31-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP81-105-000]

Brooklyn Union Gas Co.; Order Authorizing the Importation and Exportation of Natural Gas; Import/Export

Issued: December 19, 1980.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., George R. Hall and J. Daivd Hughes.

On December 18, 1980, The Brooklyn Union Gas Company (Applicant) filed in Docket No. CP81-105-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to export liquefied natural gas (LNG) from the United States to Canada to import natural gas from Canada to the United States and to the extent applicable, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 400,000 Mcf equivalent of LNG for a volume of Canadian natural gas equivalent in heating value, all as more fully set forth in the application.

Applicant proposes to exchange 400,000 Mcf equivalent of LNG for a volume of Canadian natural gas equivalent in heating value to be delivered by TransCanada Pipelines Limited (TransCanada) for the account of Gaz Metropolitain, Inc. (Gaz Metropolitain). Applicant asserts that the LNG is urgently needed by Gaz Metropolitain to meet anticipated supply deficiencies.

The LNG to be exchanged is LNG which Applicant is presently entitled to receive from Distrigas of Massachusetts Corporation (Distrigas) and is located in Distrigas' storage facilities in Everett, Massachusetts. The LNG will be transported by truck to Montreal by Transgas, Inc. (Transgas) of Lowell, Massachusetts. Transgas is prepared to commence deliveries immediately with deliveries to be completed by January 15, 1981. Gaz Metropolitain will pay any and all costs and expenses associated with such transportation.

The volumes of Canadian natural gas equivalent in heating value to the LNG will be delivered by TransCanada for the account of Gaz Metropolitain to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), at an existing TransCanada/Tennessee interconnection near Niagara Falls, New York. Such gas will then be transported by Tennessee to Applicant's meter station at White Plains, New York, for delivery to Applicant's franchise territory. Gaz Metropolitain will pay any and all costs and expenses associated with the transportation of the gas to White Plains and will provide the fuel for the transportation service. Applicant states that although the natural gas deliveries will commence after the commencement of the LNG deliveries, all natural gas will be made available within 60 days from the date that the exports of LNG commence. Tennessee will transport the gas under the authority of Section 311 of the Natural Gas Policy Act of 1978 and Part 284 of the Commission's Regulations.

Applicant also requests, to the extent applicable, certificate authorization pursuant to Section 7(c) of the Natural Gas Act to exchange gas with Gaz Metropolitain. Under the circumstances herein set forth, the only jurisdiction of the Commission is residual jurisdiction under Section 3 of the Natural Gas Act resulting from the Secretary of Energy's Delegation Order No. 0204-55.[1] Primary jurisdiction over the importation and exportation of natural gas was delegated by the Secretary of Energy to the Economic Regulatory Administration (ERA) by Delegation Order No. 0204-54.

The Commission notes that on December 19, 1980, in its order issued in Docket No. 81-03-LNG, ERA approved Applicant's application to export LNG to Canada and to import natural gas from Canada. Pursuant to our authority under Section 3 of the Natural Gas Act as delegated and assigned by the Secretary of Energy,[2] the Commission, to the extent of its jurisdiction, herein approves the application in Docket No. CP81-105-000 to export LNG and to import natural gas subject to the conditions imposed by ERA in its order issued December 19, 1980, in Docket No. 81-03-LNG. This Commission authorization specifically includes approval of the proposed point of importation.

The Commission finds:

The subject application to export up to 400,000 Mcf equivalent of LNG from the United States to Canada and to import at the international boundary near Niagara Falls, New York, a volume of natural gas of the equivalent heating value of any LNG exported hereunder, filed pursuant to Section 3 of the Natural Gas Act, to the extent it falls within the purview of the Commission's jurisdiction, and subject to the conditions attached to it, is not inconsistent with the public interest and authorization should be granted.

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[1] The Commission does not have jurisdiction over the transportation of natural gas by means other than pipelines. See order issued May 4, 1973, in Docket No. R-377 (49 FPC 1078).

[2] Sections 301 and 402(f) of the Department of Energy Organization Act (Publ. L. No. 95-91) transferred to the Secretary of Energy the authority to authorize the import or export of natural gas pursuant to Section 3 of the Natural Gas Act. The Secretary delegated this responsibility to the Administrator of the ERA on October 1, 1977 (42 FR 50276). Later, the Secretary issued two delegation orders redefining the areas of jurisdiction between ERA and the Commission in deciding applications to import or export natural gas (DOE Delegation Order Nos. 0204-54 and 0204-55, 44 FR 56735. October 2, 1979).

The Commission orders:

Applicant is authorized, to the extent of the Commission's jurisdiction under Section 3 of the Natural Gas Act, to export up to 400,000 Mcf equivalent of LNG from the United States to Gaz Metropolitain in Canada, effective immediately and continuing through the 30th day after the date of this order, and to import at a point on the international boundary near Niagara Falls, New York, from Gaz Metropolitain of Canada a volume of natural gas of the equivalent heating value of any LNG exported hereunder, effective immediately and continuing through the 60th day after the date of this order, all as more fully hereinabove set forth and in the application in this proceeding. This authorization is subject to all conditions imposed by ERA in its ordering paragraphs in its order issued December 19, 1980, in Docket No. 81–03–LNG and to any future conditions which ERA may impose.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80–40705 Filed 12–31–80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP64–89–009]

Cities Service Gas Co., and Natural Gas Pipeline Co. of America; Petition To Amend

December 23, 1980.

Take notice that on December 2, 1980, Cities Service Gas Company (Cities), P.O. Box 25128, Oklahoma City, Oklahoma 73125, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP64–89–009 a petition to amend the order issued in the instant docket on January 2, 1964,[1] as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the delivery of additional volumes of natural gas by Natural to Cities at an existing delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that on January 2, 1964, they were authorized to construct and operate certain facilities and to exchange up to 40,000 Mcf of natural gas per day in accordance with the terms of an agreement between them dated September 30, 1963, and that this order has been subsequently amended to increase the maximum volume to be exchanged to 60,000 Mcf per day, to add delivery points, and to extend the term of the agreement.

Petitioners propose herein to implement the terms of an amendatory agreement between them dated July 15, 1980, wherein Natural agreed to deliver additional volumes which it has available for purchase from Ennex Production Company in Carger County, Oklahoma, to Cities at the existing Signal exchange point located in Carter County, Oklahoma.

Petitioners assert that the volumes of gas proposed to be delivered herein would not require an increase in the maximum quantity of gas presently authorized for exchange between them and that the total volumes of gas delivered to Cities for Natural's account at the said Signal exchange point would not exceed 4,000 Mcf per day.

Additionally, Petitioners propose that any new facilities deemed necessary to effectuate these receipt and delivery arrangements would be constructed pursuant to budget-type authority.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–40706 Filed 12–31–80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81–23–000]

Eagle Oil Co. (Eagle-Wood Oil Co.); Filing of Petition for Review Under 42 U.S.C. 7194

Issued: December 22, 1980.

Take notice that Eagle Oil Company on November 18, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 6, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 6, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80–40707 Filed 12–31–80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79–89–003]

El Paso Natural Gas Co.; Petition To Amend

December 23, 1980.

Take notice that on December 2, 1980, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79–89–003 a petition to amend the order issued in the instant docket on June 7,

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

1979, pursuant to Section 7(c) of the Natural Gas Act so as to authorize certain revisions in its existing transportation and delivery arrangements with Bixco, Inc. (Bixco), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on June 7, 1979, it was authorized to transport on a best-efforts basis up to 60,000 Mcf of natural gas per day for the account of Bixco, and was granted blanket authorization to permit from time to time the attachment of new receipt and/or delivery points to Applicant's pipeline system. It is further stated that the transportation and delivery arrangement by Petitioner for Bixco is governed by the terms and conditions of an agreement dated September 1, 1976, between the parties.

Petitioner submits that it has been advised by Bixco that it desires to modify the transportation agreement between the parties to provide for (i) removal of the end-use restrictions that prevent Bixco from having natural gas transported by Petitioner for use in electric power plants; (ii) a reduction in the gross transportation volume from 60,000 Mcf per day to 20,000 Mcf per day, and (iii) the deletion of Article V, *Transportation Gas to be Used for Ultimate Service to Requirements Classified in Priorities 1, 2 or 3* and the substitution therefor of a new Article V, *Incremental Facilities*, which provides for additional facilities for the benefit of Bixco and others necessary to provide adequate transportation capacity on Petitioner's system if Bixco so elects that such incremental facilities should be constructed. Accordingly, Petitioner states that it and Bixco have entered into an amendatory agreement dated September 17, 1980.

Pursuant to the amendatory agreement between the parties, Petitioner further states that it has agreed to deliver for Bixco's account volumes of natural gas to Arizona Public Service Company (APS) so as to assist APS in continuing to serve the Priority 1, 2 and 3 requirements of its distribution customers as well as to APS' lower priority resale requirements and its power plants' requirements. Additionally, it is stated that Bixco now anticipates that the availability of natural gas supplies to it would not require Petitioner to gather, process or deydrate and to transport a gross transportation volume in excess of 20,000 Mcf per day.

Further, pursuant to the terms of the amendatory agreement, Petitioner submits that it and Bixco have established certain provisions designed to effectuate the construction and operation of incremental facilities by Petitioner for Bixco and others so as to continue the transportation services for Bixco, and that towards this end the parties acknowledge that from time to time during the term of the transportation agreement it may be necessary for Petitioner to cause construction or installation of incremental facilities in order to continue transportation services for Bixco and other shippers. The amendatory agreement further provides for Petitioner to evaluate periodically the capability of its system to transport for the account of Bixco the gross transportation volume, the applicable transportation quantities set forth in similar transportation arrangements with other shippers, and the volume of Petitioner's daily flowing and load-equation gas supplies, it is said. Petitioner further states that should it determine that the available capacity of its system is not adequate to transport said gross transportation volume and all other volumes of natural gas anticipated to be received into the system, then it may determine the necessary incremental facilities to provide adequate transportation capacity for its system and would notify Bixco of such necessary facilities. Such agreement further stipulates that within 60 days following such notification, Bixco would either authorize Petitioner to seek all necessary regulatory authorizations to construct and operate the necessary incremental facilities to transport natural gas for Bixco's account and upon receipt of such regulatory authorizations, Petitioner would construct or install such facilities, or Bixco would instruct Petitioner not to construct such facilities on its behalf, it is said.

In addition to those rates and charges set forth in the transportation agreement, Petitioner asserts that Bixco has agreed to pay its proportionate share on a cost of service basis for any and all necessary incremental facilities authorized by Bixco and that any and all necessary incremental facilities so paid for by Bixco and other shippers would be available first for the transportation of natural gas volumes on behalf of Bixco and such other shippers with similar transportation arrangements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40706 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-162-000]

Empire District Electric Co.; Tariff Change

December 22, 1980.

The filing company submits the following:

Take notice that The Empire District Electric Company on August 18, 1978, tendered for filing proposed changes in its FERC Electric Service Tariff, Volume No. One. The proposed changes would increase revenues from present jurisdictional sales and service to the City of Chetopa, Kansas by $65,654 based on the 12-month period ending February 28, 1978.

The presently effective rates are based on contractual agreements made up to thirteen years ago. Since that time Empire has experienced substantial increase in all elements of its cost, including fuel, labor, interest, taxes and construction to provide additional capacity and meet environmental requirements.

Copies of the filing were served upon the public utility's jurisdictional customers and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraph 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-40709 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP76-3]

Inland Gas Co., Inc.; Motion for Extension of Interim Curtailment Procedures

December 23, 1980.

Take notice that on November 26, 1980, The Inland Gas Company, Inc. (Inland), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. RP76-3 [1] a motion pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure to extend for a 12-month interim period commencing January 1, 1981, the curtailment procedures set forth in Inland's FERC Gas Tariff, First Revised Volume No. 1, all as more fully set forth in the motion which is on file with the Commission and open to public inspection.

Inland states that by order issued February 9, 1976, Inland was authorized to implement for the 12-month period commencing January 1, 1976, its curtailment plan as set forth in its tariff filing of July 31, 1975. Inland further states that its curtailment plan was extended without modification through December 31, 1978, and that with minor modifications through December 31, 1979.

It is asserted that on September 21, 1979, Inland filed an application for an adjustment of its obligations under Commission Order No. 29 issued May 22, 1979, in Docket No. RM79-15 wherein it requested that it be permitted to revise its curtailment plan to provide for the protection of high-priority and essential agricultural users in a manner different than that contemplated by Order No. 29. Inland asserts that such application was granted by order issued October 31, 1979, in Docket No. SA79-28 pursuant to which Inland filed revised tariff sheets bearing an issue date of November 27, 1979, and an effective date of November 1, 1979. It is asserted that by order issued January 14, 1980, the Commission extended Inland's currently effective curtailment plan for an additional 12-month period commencing January 1, 1980.

Inland explains that its currently effective curtailment plan is an end-use type plan that allocates Inland's gas supply deficiencies on a proportional basis among eight large industrial customers having maximum daily contract quantities in excess of 300 Mcf per day and which do not qualify as essential agricultural users. It is further stated that residential, commercial and small industrial customers and essential agricultural users are not subject to curtailment.

Inland states that its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., by letter dated October 24, 1980, has advised that it anticipated making full deliveries to Inland during the period, November 1, 1980, through October 31, 1981, with full deliveries also anticipated in November and December 1981.

Further it is asserted that on July 2, 1980, the Economic Regulatory Administration issued a Notice of Proposed Rulemaking in Docket No. ERA-R-79-10-A for the establishment of natural gas curtailment priorities for interstate pipelines with ultimate results which could affect existing curtailment plans, including that of Inland. Inland submits that in light of the proposed rulemaking and the anticipation of no curtailment during the period requested, it requests that its currently effective curtailment plan be extended as proposed.

Any person desiring to be heard or to make any protest with reference to said motion should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40710 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-86-000]

Kansas-Nebraska Natural Gas Company, Inc.; Application

December 23, 1980.

Take notice that on December 5, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP81-86-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Natural Gas Pipeline Company of America (Natural) and the construction and operation of facilities necessary thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Natural has requested authority to construct and operate 130 miles of pipeline and appurtenant facilities in Yuma, Sedgwick and Phillips Counties, Colorado (High Plains "B" Project). Applicant further states that Natural has requested authority to construct and operate 92 miles of pipeline and appurtenant facilities in Deuel, Garden, Morrill and Cheyenne Counties, Nebraska (High Plains "C" Project). Applicant asserts that both projects are to be used to gather and transport gas dedicated to Natural in the vicinity of each of the projects and to deliver such gas to the proposed pipeline of the Trailblazer Pipeline Company (Trailblazer) with which Natural has negotiated a transportation agreement providing for the transportation of Natural's gas.

Applicant submits that Natural's existing pipeline system in northwestern Colorado (High Plains "A" Project) is located within approximately 42 miles of Natural's proposed High Plains "B" Project which, in turn, would be located within approximately 24 miles of Natural's proposed High Plains "C" Project. Applicant submits further that by utilization of Natural's existing pipeline system and the use of the facilities proposed herein, Natural would be able to take delivery of its gas at a cost substantially less than that incurred by Natural's proposed connection to and construction of the Trailblazer system.

Applicant, therefore, proposes herein to construct and operate the facilities necessary to interconnect the High Plains "C" Project with the High Plains "B" Project and to interconnect the proposed High Plains "B" Project with Natural's existing High Plains "A" facilities. Further Applicant proposes to transport gas on Natural's behalf through the proposed facilities on a cost of service basis which annual cost of service is estimated to be $1,505,700.

Applicant proposes to construct and operate the following facilities:

(1) Approximately 24 miles of 10-inch pipeline commencing at the southern end of the proposed High Plains "C" Project and extending to the northern

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

end of the proposed High Plains "B" Project; and,

(2) Approximately 42 miles of 10-inch pipeline commencing at the southern end of the proposed High Plains "B" Project to the discharge side of Natural's existing compressor station on its High Plains "A" pipeline in Washington County, Colorado.

Applicant estimates the cost of such facilities to be $[illegible],148,000.

Applicant asserts that a significant savings in the length of the overall project could be accomplished by interconnecting the proposed High Plains "B" and "C" systems with a more direct route; specifically a 28-mile interconnecting pipeline segment between the proposed compression facilities for High Plains "C" and the northern terminus of High Plains "B" instead of using the 20-mile long southern leg of High Plains "C" and the 24-mile long pipeline described above. Applicant states that it is willing to construct the 28-mile connecting segment rather than the 24-mile pipeline herein proposed.

Applicant also avers that it has serious reservations concerning the accuracy of the reserve figures expounded by Natural in justifying Natural's proposal. Applicant, therefore, conditions its offer upon Natural's substantiating its reserve figures.

It is stated that in the event Natural would rather construct the facilities proposed by Applicant, Applicant would withdraw its filing herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (19 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will nto serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-40711 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-166-000]

Missouri Utilities Co.; Filing

December 22, 1980.

The filing company submits the following:

Take notice that Missouri Utilities Company on December 11, 1980, tendered for filing an Electric Service Agreement in accordance with the changes heretofore filed in its FPC Electric Tariff, Vol. No. 1.

The proposed Contract provides the mechanism by which Missouri Utilities Company can provide electric wholesale power to the City of Malden, Missouri, and to the City of Jackson, Missouri, from and after the date of the filing hereof.

Copies of the filing were served upon Missour Utilities Company's jurisdictional customers, to-wit, the City of Jackson, Missouri, and the City of Malden, Missouri.

Any persons desiring to be heard or to protest should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-40712 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-80-000]

Northern Natural Gas Company, Division of InterNorth Inc.; Application

December 23, 1980.

Take notice that on December 4, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-80-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition by purchase of partial ownership in certain offshore compression facilities currently under construction, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to acquire by purchase from Union Texas Petroleum Corporation (Union Texas) their undivided fractional interest in the compression facilities on the Eugene Island Block 384 "A" production platform in Eugene Island Block 384, offshore Louisiana. It is stated that the purchase of Union Texas' 47.3 percent interest in said facilities is made in conjunction with a gas purchase contract between Applicant and Union Texas dated September 5, 1978, pursuant to which Applicant purchases certain gas volumes from Union Texas in the Eugene Island Block 385 field.

Applicant asserts that such compression is required in order that gas reserves delivered from the area can be delivered into the pipeline against the operating pressure of such connecting lines.

Applicant asserts that the compression consists of 3,600 horsepower comprised of two dual train 900 horsepower skid mounted compressor units which would be maintained and operated by Union Texas. It is further asserted that the compression facilities which are located on the Eugene Island Block 384 platform are anticipated to be in service by the end of 1980.

It is stated that as consideration for the undivided fractional interest in the ownership of the facilities, Applicant would pay Union Texas $1,563,000 which would be financed with general corporate funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40713 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-87-000]

Northern Natural Gas Company, Division of InterNorth, Inc., Application

December 23, 1980.

Take notice that on December 8, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-87-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain pipeline facilities in Crockett and Schleicher Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon 15.5 miles of 4-inch pipeline in Schleicher County, Texas, which is a portion of a respective longer pipeline segment which no longer serves the functions for which it was originally installed. Applicant states that the remaining 2.6 miles of 4-inch line would remain in service to accommodate the gathering and delivery of gas to Applicant's 12-inch line in Crockett County, Texas.

Applicant further proposes to abandon approximately 8.8 miles of total 13.9 miles of 4-inch line used to deliver gas to the City of Ozona, Texas. Applicant asserts that due to highway construction, the sales station was removed from the 4-inch line and relocated on the above-referenced 12-inch line leaving the 8.8 miles of line no longer required. Applicant further asserts that the remaining 5.1 miles of line would serve as a gathering line delivering natural gas to the Schleicher County No. 1 Compressor Station.

It is stated that the estimated cost of removal of facilities is $125,000 and the estimated salvage of the facilities to be reclaimed is $89,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40714 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-85-000]

Northwest Pipeline Corp.; Application

December 23, 1980.

Take notice that on December 5, 1980, Northwest Pipeline Corporation (Applicant), 315 East Second Street South, Salt Lake City, Utah 84111, filed in Docket No. CP81-85-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it purchases natural gas in the North Douglas Creek Field from Chandler and Associates, Inc., *et al.* (Chandler), pursuant to gas purchase contracts containing a reservation of processing rights to Chandler. It is stated that Chandler, jointly with NGL Production Company (NGL), is installing a gas processing plant at North Douglas Creek which would be used to process the natural gas produced by Chandler in the North Douglas Creek Field.

In order to enable the plant to process Applicant's gas Applicant proposes to construct and operate an 8-inch automatic diverter valve in its North Douglas Creek compressor discharge line, 8-inch automatic block valves in both the processing plant inlet line and outlet line, and associated tie-in piping.

The proposed facilities, it is asserted, would all be located on the site of Applicant's existing North Douglas Creek compressor station in Rio Blanco County, Colorado.

Applicant asserts that the estimated cost of constructing these facilities is $46,000 which cost would be reimbursed by Chandler and NGL. It is further asserted that Chandler would compensate Applicant for the processing fuel and shrinkage including any transportation thereof which is deducted from Applicant's gas stream.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40715 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-89-000]

Oasis Pipe Line Co.; Application

December 23, 1980.

Take notice that on December 1, 1980, Oasis Pipe Line Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP81-89-000 an application pursuant to Section 284.127 of the Commission's Regulations under the Natural Gas Policy Act of 1978 for authorization to transport natural gas for El Paso Natural Gas Company (El Paso) during the 1980-81 winter period, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to transport natural gas for El Paso in order to assist El Paso in protecting its east-of-California (EOC) customers' peak-day Priority 1 and 2 requirements. Applicant states that because the subject gas would not be available to all El Paso system customers, specific Commission approval is required.

Applicant states that pursuant to a gas transportation agreement dated November 26, 1980, it would accept the subject gas for El Paso at a point on its pipeline system near Katy, Waller County, Texas, which gas would be withdrawn from storage and delivered by Houston Pipe Line Company. Applicant further states it would deliver at a point on El Paso's pipeline system located in Pecos County, Texas, a thermally equivalent quantity reduced by El Paso's *pro rata* share of compressor fuel.

It is asserted that the agreement is for a term commencing on the date of first delivery and ending May 1, 1981. It is further asserted that the rate to be charged for the transportation service is 12.39 cents per million Btu which rate is in accordance with the adjustment granted by order issued September 8, 1980, in Docket No. SA80-107.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40716 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-20-000]

Read, Martin, Frandsen & Associates (The Read Group); Filing of Petition for Review Under 42 U.S.C. 7194

Issued December 22, 1980.

Take notice that Read, Martin, Frandsen & Associates (The Read Group) on November 12, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 8, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 8, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-40717 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-81-000]

Sea Robin Pipeline Co. and Transcontinental Gas Pipe Line Corp.; Application

December 23, 1980.

Take notice that on December 4, 1980, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP81-81-000 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Sea Robin to transport gas for Transco and for permission and approval of the abandonment of an exchange service between Sea Robin and Transco, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an October 2, 1980, gas transportation agreement, Sea Robin proposes herein to transport up to 7,000 Mcf of natural gas per day which Transco has purchased from Blocks 261 and 262, Eugene Island Area, offshore Louisiana. It is stated that Sea Robin would receive the gas at an existing subsea tap on its offshore pipeline system at Eugene Island Area Block 262 and deliver an equivalent volume, less fuel and unaccounted-for gas, to or for the account of Transco at the outlet side of Sea Robin's measuring station at the terminus of Sea Robin's offshore pipeline near Earth, Vermilion Parish, Louisiana. Applicants state that the transportation service would require the construction of no new facilities.

It is asserted that the transportation agreement is for a term of 15 years and from year to year thereafter. Applicants assert that Transco would pay a monthly demand charge determined by multiplying the currently effective demand charge per Mcf by the contract demand volume and then multiplying by the ratio of the number of days such contract demand was in effect during the month to the total days in such month. Further, it is asserted that Transco would pay a monthly commodity charge determined by multiplying the currently effective commodity charge per Mcf and the total Mcf of gas transported during the month. Sea Robin states that its currently effective demand rate is $2.08, its current commodity rate is 89.0 cents, and its excess rate is 6.84 cents.

Sea Robin and Transco further propose herein to abandon the exchange of natural gas authorized by order issued November 26, 1979, in Docket No. CP79-433. It is stated that Transco and Sea Robin were authorized to exchange up to 7,000 Mcf of natural gas per day for a primary term of 15 years which gas Transco delivers to Sea Robin at the interconnection of the Block 261 pipeline and Sea Robin's offshore pipeline system at Eugene Island Area Block 262. Sea Robin, it is asserted, delivers equivalent quantities to Transco at Ship Shoal Area Block 225, offshore Louisiana.

Applicants submit that abandonment of the exchange of gas is necessary because the liquefiable content of the gas produced from Eugene Island Block 262 is not equivalent to the liquefiable content of the Ship Shoal Block 225 gas. Sea Robin states that upon abandonment of the exchange arrangement, Sea Robin would transport Transco's gas from Eugene Island Block 262 to Earth.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it is determining the appropriated action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40718 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-177-000]

Southern California Edison Co.; Tariff Changes

December 22, 1980.

The filing company submits the following:

Take notice that Southern California Edison Company, on December 16, 1980, tendered for filing proposed changes in its FERC Electric Service Tariffs, from existing resale (R) and time-of-use resale (TOU-R) schedule, effective February 14, 1981, or 60 days after filing, whichever is later. Such tariff changes would initially increase revenues from base rates and fuel adjustment applicable to resale jurisdictional sales and service by an estimated $18.6 million if applicable during the test year (the 12-month period ending December 31, 1981). An additional proposed step increase is also included in the filing designed to recover costs associated with the addition of a major nuclear generation unit to Southern California Edison's system. The step increase would be applicable when the new nuclear unit begins commercial operation, and if applicable during the 12-month period ending December 31, 1981, the increase would amount to an additional $23.7 million in revenues from the test year. Such increase would be largely offset through reduced fuel clause billings caused by reductions in fuel costs.

The initial increase in charges averages an estimated 7.4% for customers served on the prior R and TOU-R schedules and an estimated additional 10.3% to recover the costs associated with the addition of the nuclear generating unit (exclusive of fuel savings).

The reasons for the proposed increases are the following: the inadequacy of existing rates to cover present and projected levels of operating costs including a return component commensurate with present and projected cost of capital.

Copies of the filing were served upon the utility's jurisdictional customers, the California Public Utilities Commission, and upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-40719 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-54-001]

Southern Natural Gas Co.; Amendment to Application

December 23, 1980.

Take notice that on December 3, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP81-54-001 an amendment to its pending application filed in the instant docket pursuant to Section 7 of the Natural Gas Act and Sections 157.7(c), (e) and (g) of the Regulations thereunder (18 CFR 157.7(c), (e) and (g)) so as to request specific alternate cost ceilings for its activities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant by its application filed on November 13, 1980, in the instant docket requested pursuant to Section 157.7(c) authorization to construct and operate facilities to make miscellaneous rearrangements on its system; pursuant to Section 157.7(e) permission and approval to abandon direct sales service and facilities no longer required for deliveries of natural gas to its customers; and, pursuant to § 157.7(g) authorization to construct and operate and permission and approval to abandon various field compression and related metering and appurtenant facilities.

Applicant states that in its pending application it requested waiver of the specified cost limitations set forth in Section 157.7(c)(2)(i) and Section 157.7(g)(3) of the Regulations so as to enable the imposition of cost ceilings which would reflect the real increase in construction costs and inflation since the establishment of present cost ceilings under such Regulations.

Applicant herein amends its application to state specifically the cost ceilings which it proposes. Applicant proposes an estimated total cost of $559,200 for making miscellaneous rearrangements of facilities on its system. Applicant further proposes to amend the subject application by requesting pursuant to Section 157.7(g) of the Regulations a total cost limit for the twelve-month period of $6,312,000 with no single project to exceed $1,052,000.

Applicant asserts that the cost ceilings requested herein were determined by applying the cost adjustment factors contained in the *Handy-Whitman Index* for July 1, 1980. Specifically, Applicant states that an adjustment factor of 1.864 was applied to the cost ceiling of $300,000 set out in Section 157.7(c) to arrive at the requested cost ceiling of $559,200. Similarly, an adjustment factor of 2.104 was applied to the cost ceilings of $500,000 for any single project and of $3,000,000 for the aggregate costs set out in Section 157.7(g) to arrive at the requested cost ceilings of $1,052,000 and $6,312,000, respectively, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40720 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-176-000]

Tampa Electric Co.; Filing of Rate Schedule

December 22, 1980.

Take notice that Tampa Electric Company (Tampa Electric), on December 16, 1980, tendered for filing an Agreement for Interchange Service between Sebring Utilities Commission (Sebring) and Tampa. Correspondence concerning this matter should be addressed to: Mr. G. Pierce Wood, Senior Vice President, Tampa Electric Company, P.O. Box 111, Tampa, Florida 33601; and Peter C. Lesch, Esq., Gallagher, Boland, Meiburger and Brosnan, 821 Fifteenth Street, N.W., Washington, D.C. 20005.

The agreement provides for the emergency and scheduled short-term interchange of capacity and energy between Tampa and Sebring. Tampa asks that the agreement be made effective as of November 5, 1980, and therefore seeks waiver of the Commission's notice requirements pursuant to section 35.11 of the Commission's Regulations, 18 C.F.R. § 35.11 (1980).

A certificate of concurrence by Sebring was filed with the agreement. Copies of the filing have been served upon Sebring and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure, 18 CFR §§ 1.8 and 1.10 (1980). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary

[FR Doc. 80-40721 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-275, et al.]

Texas Gas Transmission Corp., et al.; Petition for Modification

December 23, 1980.

In the matter of Texas Gas Transmission Corporation, Docket No. CP75-275; Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Docket No. CP75-276; Transcontinental Gas Pipe Line Corporation, Docket No. CP75-337; Texas Eastern Transmission Corporation, Docket No. CP77-206; Transcontinental Gas Pipe Line Corporation, Docket No. CP77-630; and Texas Gas Transmission Corporation, Docket No. CP78-36.

Take notice that on December 9, 1980, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, filed in Docket No. CP75-275, *et al.*,[1] a petition for a modification of conditions in the subject transportation authorizations granted in said dockets so as to eliminate restrictions on the use of natural gas for electric generation, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Public Service states that its wholly-owned subsidiary, Energy Development Corporation (EDC), has been successful in discovering a number of gas fields and that the Commission authorized the transportation of the gas to New Jersey by orders issued in Docket Nos. CP75-275, CP75-276, CP75-337, CP77-206, CP77-630 and CP78-36 which orders limited Public Service's ability to use gas for electric generation. Such condition, it is stated, was imposed at a time when the interstate market was in the midst of an acute shortage of natural gas and interstate pipeline curtailments were at a peak. Public Service asserts that not only have curtailments to it been all but eliminated but the supply of gas available to interstate pipelines in general has greatly improved.

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[1] These proceedings were commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the Commission.

Public Service submits that when the conditions restricting its ability to use gas for electric generation were first imposed, the Commission conditioned the order issued in Docket Nos. CP75-275, CP75-276, and CP75-337 as follows:

> Within 60 days following conclusion of the third winter heating season after commencement of service pursuant to this certificate, EDC and Public Service may file for such amendment or modification of the provisions of Subsections (d), (e) and (f) hereof as they deem appropriate.

Public Service asserts that the restrictive conditions were imposed prior to the Natural Gas Policy Act of 1978 and that the interstate gas supply situation has greatly improved. It is further pointed out that reflecting this change and the need to reduce imported oil consumption, the Commission formulated its oil displacement program in May 1979, and has subsequently extended this program until June 1, 1981.

Public Service, therefore, feels a continuation of the restriction of its gas from use for generating electricity is inconsistent with the public interest. It states that at a time when it is in the public interest to purchase gas to displace oil there is no rationale for prohibiting Public Service from utilizing gas that it has discovered to displace oil for electric generation.

Public Service, therefore, requests that the Commission eliminate the conditions restricting Public Service's ability to use gas for electric generation in the orders issued in the above-captioned dockets.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropirate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40722 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-78-000]

Texas Sea Rim Pipeline, Inc.; Application

December 23, 1980.

Take notice that on December 2, 1980, Texas Sea Rim Pipeline, Inc. (Applicant), P.O. Box 4500, Woodlands, Texas 77380, filed in Docket No. CP81-78-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40273 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-84-000]

Transcontinental Gas Pipe Line Corp.; Application

December 22, 1980.

Take notice that on December 5, 1980, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP81-84-000 an application seeking a determination that the continuation of service to customers whose contracts have terminated is in the public interest if Transco is not subject to liability for curtailment related damages, or, alternatively, should it be determined that such liability does exist, pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon such service and certain minor facilities related thereto, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco seeks a determination as to whether it should continue sales or should abandon service to customers whose contracts have expired or have been terminated. Transco states that if abandonment authorization is received, it would be necessary to abandon 17 feet of 4-inch pipeline, a metering and regulating station and minor appurtenances related to service to the City of Linden, Alabama (Linden).

Transco's customers are set forth below as follows:

(1) Transco and Linden entered into a service agreement dated February 10, 1959, which provided for the sale for resale of a maximum daily quantity of 2,000 Mcf of natural gas under Transco's Rate Schedule CD-1 for an initial term of 20 years commencing on March 17, 1959, it is stated. Transco further states that Linden had a right to extend the agreement for two additional five year periods.

(2) Transco states that on October 15, 1959, Transco entered into a similar service agreement with Atlantic Seaboard Corporation containing the same renewal option for the sale for resale of a maximum daily quantity of 25,000 Mcf of natural gas under Transco's Rate Schedule CD-2 with deliveries commencing on November 25, 1959. It is further stated that Columbia Gas Transmission Corporation (Columbia) subsequently succeeded to Atlantic Seaboard Corporation's rights under this service agreement through merger.

(3) Transco asserts that it entered into a gas sales agreement dated September 8, 1954, with Owens-Corning Fiberglass Corporation (Owens-Corning), a direct sale customer, which provided for a term of 20 years from November 1, 1955. It is further asserted that the quantity provisions of the agreement were modified from time to time finally providing for delivery of 10,000 Mcf per day on a firm basis and 3,000 Mcf per day on an interruptible basis.

(4) Transco submits that on April 1, 1961, it entered into a service agreement with New York State Natural Gas Corporation which provided for the sale for resale of 10,000,000 Mcf of natural gas during each contract year after the initial contract year under Transco's Rate Schedule ACQ-3. It is further asserted that Consolidated Gas Supply Corporation (Consolidated) succeeded to the rights and obligations under this agreement when New York State Natural Gas Company merged with Hope Natural Gas Company to form Consolidated. Transco states that this service agreement provides that it is to remain in force and effect until December 31, 1979, and from year to year thereafter unless terminated by either party and that Transco has given notice of termination.

(5) Transco avers that in 1970 and 1971, it entered into service agreements with 29 of its customers which agreements provide for the sale of natural gas for peaking service under Transco's Rate Schedule PS. Transco submits these customers as follows:

Customer	Rate schedule	Contract date	Maximum daily quantity in Mcf	Maximum annual quantity in Mcf
The Brooklyn Union Gas Company	PS-3	Nov. 9, 1970	4,100	123,000
Consolidated Edison Company of New York, Inc	PS-3	Nov. 13, 1970	9,800	294,000
Delmarva Power & Light Company	PS-3	Nov. 5, 1970	1,600	48,000
Eastern Shore Natural Gas Company	PS-3	Nov. 9, 1970	500	15,000
Elizabethtown Gas Company	PS-3	Nov. 6, 1970	1,900	57,000
Long Island Lighting Company	PS-3	Nov. 13, 1970	1,800	54,000
Pennsylvania Gas and Water Company	PS-3	Nov. 5, 1970	3,300	99,000
Philadelphia Electric Company	PS-3	Nov. 13, 1970	4,400	132,000
Philadelphia Gas Works, Division of UGI Corporation	PS-3	Nov. 11, 1970	1,900	57,000
Public Service Electric and Gas Company	PS-3	Nov. 12, 1970	12,800	384,000
South Jersey Gas Company	PS-3	Nov. 6, 1970	2,900	87,000
UGI Corporation	PS-3	Nov. 4, 1970	1,300	39,000
Union Gas Company	PS-3	Nov. 2, 1970	300	9,000
Clinton-Newberry Natural Gas Authority	PS-2	Nov. 5, 1970	100	3,000
Fort Hill Natural Gas Authority	PS-2	Nov. 5, 1970	200	6,000
City of Greenwood, South Carolina	PS-2	Nov. 9, 1970	100	3,000
City of Kings Mountain, North Carolina	PS-2	Nov. 20, 1970	200	6,000
City of Laurens, South Carolina	PS-2	Nov. 13, 1970	100	3,000
City of Lexington, North Carolina	PS-2	Nov. 16, 1970	300	9,000
North Carolina Gas Service, Division of Pennsylvania & Southern Gas Company.	PS-2	Nov. 4, 1970	200	6,000
Piedmont Natural Gas Company, Inc	PS-2	Sep. 16, 1971	5,900	177,000
Public Service Company of North Carolina, Inc	PS-2	Nov. 4, 1970	4,200	126,000
City of Shelby, North Carolina	PS-2	Nov. 5 1970	200	6,000
Southwestern Virginia Gas Company	PS-2	Nov. 6, 1970	200	6,000
City of Union, South Carolina	PS-2	Nov. 12, 1970	100	3,000
Atlanta Gas Light Company	PS-1	Nov. 13, 1970	4,500	135,000
City of Buford, Georgia	PS-1	Nov. 4, 1970	300	9,000
City of Monroe, Georgia	PS-1	Nov. 30 1970	200	6,000
United Cities Gas Company, Georgia Division	PS-1	Nov. 4, 1970	200	6,000
Total				1,908,000

Transco states that each agreement is effective until October 31, 1975, and from year to year thereafter unless terminated by either party and that Transco would give timely notice of termination.

It is asserted that Linden, Columbia and Owens-Corning have requested a renewal of their contracts but that Transco is reluctant to renew or continue its contractual obligations with these customers because of the uncertainty surrounding the nature of Transco's obligations to those customers whose service agreements would continue in force. Transco further projects that within the next few years, its gas supplies would be such that its customers' requirements would again outstrip its available gas supplies not only in the winter season but throughout the year.

Transco, therefore, seeks a determination from the Commission whether service to Linden, Columbia, Owens-Corning and Consolidated and peaking service to 29 other customers should be continued in light of the depletion of Transco's available supply of gas.

Transco states that it believes that it has carried out curtailments pursuant to plans approved by the Commission hence has no liability for damages suffered as a result of curtailments. However, Transco states that a federal district court sitting in Charlotte, North Carolina, has held Transco liable for curtailment related damages leaving Transco's liability for damages arising out of curtailments unresolved. In response, Transco believes that it should be allowed to abandon service to those customers whose contracts have terminated and utilize all of its available gas supplies to more nearly meet the full requirements of those customers whose contracts are still effective thereby reducing its curtailment liability.

Transco, therefore, feels it has no choice but to request the Commission to determine whether it should continue service to customers which no longer have valid contracts. If service is no longer required by the public convenience and necessity, Transco requests permission and approval to abandon such service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-40724 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-90-000]

United Gas Pipe Line Co.; Application

December 23, 1980.

Take notice that on December 10, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-90-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline and the relocation of a meter station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate 0.5 mile of 2-inch pipeline and to relocate the Sterlington, Louisiana, city gate station pursuant to a letter agreement with Louisiana Gas Service Company (Louisiana Gas) dated September 4, 1980. Applicant states that the proposed 2-inch pipeline would be located south of the Solvent Avenue and Fifth Street intersection and the city gate station would be relocated on the proposed 2-inch pipeline at approximately mile post 45.

Applicant states it is experiencing fluid and pressure problems at the present Sterlington city gate station which is located on Applicant's 20-inch line at mile post 1.3. It is asserted that the construction of the 2-inch line and relocation of the meter station would help alleviate such fluid and pressure problems thereby enabling Applicant to maintain adequate gas service to existing customers in the area.

Applicant estimates the cost of the proposed construction and relocation to be $75,500 which would be financed with funds on hand. Applicant further states that it has agreed to reimburse Louisiana Gas up to one-half of the total cost but not to exceed $10,000 for improvements required of Louisiana Gas to prepare its system to receive deliveries at the proposed site.

It is submitted that there would be no increase in the maximum daily quantities for Louisiana Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-40725 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-92-000]

Western Gas Interstate Co., Application

December 23, 1980.

Take notice that on December 10, 1980, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP81-92-000 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon during the calendar year 1981, and operation of various field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which in on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed facilities would not exceed $500,000 with no single project to exceed 25 percent of the total budget amount. Such cost, it is stated, would be financed from funds on hand and from short-term borrowings from Applicant's parent company, Southern Union Company.

Applicant asserts that its existing budget-type certificate issued pursuant to Section 157.7(g) expires on March 3, 1981; however, Applicant requests that authorization herein commence on January 1, 1981, in order that it may maintain its records and file the statements required under Section 157.7(g)(3)(iv) on a calendar-year basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157—70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-40726 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-91-000]

Western Gas Interstate Co.; Application

December 23, 1980.

Take notice that on December 10, 1980, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP81-91-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction during the calendar year 1981, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in transportation and sales service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $100,000 which would be financed from funds on hand and from short-term borrowings from Applicant's parent company, Southern Union Company.

Applicant asserts that its existing budget-type certificate issued pursuant to Section 157.7(c) expires on March 3, 1981; however, Applicant requests that authorization herein commence on January 1, 1981, in order that it may maintain its records and file the statements required under § 157.7(c)(4) on a calendar-year basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Coimmission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-40727 Filed 12-31-80; 8:45 am]

BILLING CODE 6450-85-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than January 23, 1981.

Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Manufacturers Hanover Corporation, New York, New York (consumer and sales finance, loan servicing and insurance agency activities) North Carolina): to engage in consumer finance and sales finance activities and in the sale of insurance related to such lending activities at Suite 120, 5430 North Tryon Street, Charlotte, North Carolina 28213. The activities are those described in Sections 225.4(a)(1), (3) and (9) of Regulation Y. By Order dated June 2, 1980, Manufacturers Hanover Corporation has received the approval of the Federal Reserve Board to engage in these activities at 213 Johnston Building, Charlotte, North Carolina 28281. The application is only to engage in activities at a different location; the application does not involve the commencement of any new activities at the new location that have not been approved by the Federal Reserve Board for the old location. The new office will continue to serve customers in Mecklenburg and Gaston Counties, southwestern Cabarrus County, western Stanly County, northwestern Union County, and southeastern Lincoln County. Comments on this application must be received by January 16, 1981.

2. Manufacturers Hanover Corporation, New York, New York (second mortgage lending and insurance activities; Missouri): to engage through its subsidiary Termplan Incorporated of Missouri in arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by second mortgages on residential real property such as would be made by a consumer finance company; servicing such loans and other extensions of credit for any person; acting as an agent or broker for the sale of credit life insurance which is directly related to such loans and extensions of credit and, through its subsidiary Tempco Life Insurance Company, reinsuring such credit life insurance. These activities would be conducted from the offices of Termplan Incorporated of Missouri located in and serving the following counties or portions thereof: Jackson and Clay Counties, southern Platte County, southwestern Ray County, western Lafayette County, northern Cass County, southern Polk County, western Webster County, north central Christian County, northeastern Stone County, and the eastern portions of Dade and Lawrence Counties.

3. Citicorp, New York, New York (consumer and commercial finance and insurance activities; Louisiana): to engage through its subsidiary, Citicorp Person-to-Person Financial Center, Inc., in purchasing for its own account and servicing consumer finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, making or acquiring loans and other extensions of credit, secured or unsecured, for consumer, commercial and business purposes; and the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of the subsidiary. These activities would be conducted from an office in Baton Rouge, Louisiana, serving the State of Louisiana.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Central Colorado Company, C.C.B., Inc., and Central Bancorporation, Inc., Denver, Colorado (industrial banking activities and insurance; Colorado): to engage through its subsidiary, Central Industrial Bank, in operating an industrial bank in accordance with the Board's Regulation Y, and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. These activities would be conducted from an office in Aurora, Colorado, serving the Denver RMA. Comments on this application must be received by January 2, 1981.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (industrial loan company, financing, servicing, and insurance activities; Iowa): to engage through its indirect subsidiary, FinanceAmerica Corporation, an Iowa Corporation (whose name will be changed to FinanceAmerica Thrift Corporation), in the additional activity of acting as an industrial loan company under the Iowa Industrial Loan Law, such activity will include but not be limited to the issuing of investment certificates; and to continue to engage in the activities of making or acquiring for its own account loans and other extensions of credit such as will be made or acquired by a finance company; servicing loans and other extensions of credit; and the offering of credit related life, accident and health and property insurance. These activities will be conducted from existing offices located in Cedar Rapids, Des Moines, and Mason City, Iowa, serving the State of Iowa. Comments on this application must be received by January 19, 1981.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, December 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40731 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Borresen Investments, Inc.; Formation of Bank Holding Company

Borresen Investments, Inc., Westbrook, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Westbrook State Bank, Westbrook, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40734 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

First of Austin Bancshares, Inc.; Formation of Bank Holding Company

First of Austin Bancshares, Inc., Austin, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Western National Bank, Austin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40720 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp of War, Inc.; Formation of Bank Holding Company

First Bancorp of War, Inc., War, West Virginia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.2 percent or more of the voting shares of The Bank of War, War, West Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40733 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

First Southeast Banking Corp.; Acquisition of Bank; Corrections

This notice corrects 5 previous **Federal Register** notices (FR Doc. 80-39281, 80-39282, 80-39283, 80-39284, 80-39285) appearing at pages 83329, and 83330 of the issue for Thursday, December 18, 1980. The name of the applicant is corrected to read "First Southeast Banking Corp."

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40732 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Heritage Wisconsin Corp.; Acquisition of Bank

Heritage Wisconsin Corporation, Wauwatosa, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Southridge Bank of Greendale, Greendale, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40728 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Mid-Nebraska Bancshares, Inc.; Formation of Bank Holding Company

Mid-Nebraska Bancshares, Inc., Ord, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Nebraska State Bank, Ord, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Mid-Nebraska Bancshares, Inc., Ord, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Ord Insurance Agency, Inc., Ord, Nebraska.

Applicant states that the proposed subsidiary would engage in general insurance agency activities. These activities would be performed from offices of Applicant's subsidiary in Ord, Nebraska, and the geographic area to be served includes portions of Valley County, Nebraska, around the city of Ord. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 22, 1981.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40740 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancorp of Lincoln County, Inc.; Formation of Bank Holding Company

Peoples Bancorp of Lincoln County, Inc., Hustonville, Kentucky, has applies for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80.59 percent of the voting shares of The Peoples Bank of Hustonville, Hustonville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40737 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Privacy Act of 1974; Annual Publication of Systems of Records

This document fulfills the requirements of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) for Federal agencies to publish notice of systems of records they maintain annually. A complete compilation of system of records maintained by the Board of Governors of the Federal Reserve System was published on December 31, 1979 (44 FR 77460).

The purpose of this document is to give notice that the systems of records identified in the notice published December 31, 1979 (44 FR 77460), continue in effect unchanged.

Board of Governors of the Federal Reserve System, December 22, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-40772 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

The Sumitomo Bank, Ltd.; Acquisition of Bank

The Sumitomo Bank, Limited, Osaka, Japan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 15,107 additional voting shares of Central Pacific Bank, Honolulu, Hawaii. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40738 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Tri-County Bancorp.; Formation of Bank Holding Company

Tri-County Bancorp., Roachdale, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Tri-County Bank & Trust Company, Roachdale, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40735 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

United Mercantile Bancshares, Inc.; Formation of Bank Holding Company

United Mercantile Bancshares, Inc., Shreveport, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of United Mercantile Bank, Shreveport, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40730 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

West Brook Bancshares, Inc.; Formation of Bank Holding Company

West Brook Bancshares, Inc., Westchester, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of West Brook Bank, Westchester, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 23, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40738 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

The Wyoming National Corp.; Acquisition of Bank

The Wyoming National Corporation, Casper, Wyoming, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with First Bankshares of Wyoming, Cheyenne, Wyoming, a bank holding company owning The First National Bank and Trust Company of Wyoming, Cheyenne, Wyoming, Wyoming State Bank, Cheyenne, Wyoming, and First National Bank in Wheatland, Wheatland, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-40739 Filed 12-31-80; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Wednesday, January 14, and Thursday, January 15. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The January 14 session is expected to begin at 1 p.m. and to continue until 5 p.m. The January 15 session is expected to begin at 9 a.m. and to conclude at 3 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. Time permitting, the Council will consider the following topics:

1. *Truth in Lending Simplification and Reform.*

A discussion of (1) the Board's second proposal to simplify Regulation Z, under the Truth in Lending Simplification and Reform Act of 1980, and (2) Board policy for issuing Board and staff interpretations in view of the simplification effort and other recent judicial and legislative developments.

2. *Consumer Bankruptcy.*

A discussion of (1) whether the standards of eligibility of the new Bankruptcy Code in effect since October 1979 are clear and fair, (2) whether consumers understand the consequences of filing for bankruptcy, (3) whether the Board should support or recommend any amendments to the Bankruptcy Code, and (4) the impact of rising consumer bankruptcies on consumer credit granting and community reinvestment rules and on creditor compliance with those rules.

3. *NOW Accounts.*

A general discussion of interest-earning checking accounts, including marketing practices, possible need for additional disclosure rules, price controls, or other consumer protections, and effects on the competitiveness of smaller institutions.

4. *Agenda Planning Session.*

A discussion of topics that the Council may wish to consider at future meetings.

5. *Legislative Update.*

Brief presentation by Board's staff on the legislative outlook for 1981.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, January 9, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, December 22, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-40765 Filed 12-31-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0370]

Prescription Drugs; Final Guideline Patient Package Inserts for Ampicillin and Phenytoin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is establishing final guideline patient package inserts for drug products containing amoxicillin, ampicillin, or hetacillin and drug products containing phenytoin. The use of the final guideline patient package inserts by manufacturers, distributors, and dispensers will constitute compliance with the agency's regulations requiring the dispensing of patient package inserts for these drugs. Elsewhere in this issue of the **Federal Register** FDA amends its patient package insert regulations to list these drugs as ones that must be dispensed with patient package inserts.

EFFECTIVE DATE: July 1, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4893.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is issuing final guideline patient package inserts for ampicillin and phenytoin and thereby applying to these drugs FDA's patient package insert regulations in Part 203 (21 CFR Part 203), published in the **Federal Register** of September 12, 1980 (45 FR 60754). Each of the guidelines was published in draft form, for comment, as part of that publication. The guideline patient package insert for ampicillin applies to drug products containing amoxicillin, ampicillin, or hetacillin. The guideline patient package insert for phenytoin applies to drug products containing phenytoin. The regulations apply to all dosage forms of these drugs, both single entity and combination drug products (drug products that contain one of the affected drugs and one or more other active ingredients), except the regulations do not apply to parenteral dosage forms of phenytoin. Elsewhere in this issue of the **Federal Register** the agency is amending

§ 201.31 (21 CFR 201.31) to list ampicillin and phenytoin as drugs for which patient package inserts are required. Under § 203.30(a) (21 CFR 203.30(a)) the patient package insert requirements apply to drug products containing amoxicillin, ampicillin, or hetacillin and drug products containing phenytoin on and after July 1, 1981.

Use of FDA's final guideline patient package inserts constitutes compliance with the regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the particular insert. Thus, the guidelines do not contain the following: (1) the name and place of business of the manufacturer, packer, distributor, or dispenser, (2) information about routes of administration for drug products that are not for oral use, (3) a statement about special handling or storage conditions, and (4) the date of the most recent revision of the insert. The information as to name and place of business is dependent upon a particular person; the remaining information will vary as to product. The guideline patient package inserts for ampicillins and phenytoin also do not contain statements generally required by the underlying regulations about the use of the drugs during labor and delivery or statements about the specific pediatric indications. None of the drugs have a recognized use during labor or delivery and they do not have specific pediatric indications that differ from their indications for the general population.

The agency has revised the draft patient package insert guidelines published on September 12, 1980, to make them clearer and more understandable. The agency has also made the following changes in the guidelines.

Ampicillin. The statement in the "Summary" section about allergic reactions to ampicillin has been revised to inform patients they should tell their doctor about any allergic reactions they believe they have had to ampicillin. The statement in the draft guideline telling patients not to take ampicillin if they have had an allergic reaction was inappropriate because it required the patient to both determine whether an earlier reaction was caused by ampicillin and whether that reaction warranted not taking ampicillin again. The statement under the "Uses of Ampicillin" section about the use of antibiotics to treat the common cold has been revised to emphasize that antibiotics have no effect on infections caused by viruses. A statement has been added to the "Pregnancy and Breast Feeding" section stating that drugs should not be taken during pregnancy unless clearly needed. This change conforms the ampicillin guideline to the agency's other patient package insert guidelines for cimetidine and propoxyphene. Finally, a statement about the seriousness of diarrhea in young children has been added to the "Side Effects" section.

Phenytoin. Information about phenytoin use when breast feeding has been added to the final guideline and placed with information about the use of the drug during pregnancy under a section entitled "Pregnancy and Breast Feeding". The section heading "If You Miss a Dose", which was used in the draft guideline, has been deleted. This information has been placed under the section entitled "How to Take Phenytoin." these changes make the phenytoin guideline conform to the agency's other final patient package insert guidelines. More information has also been added to the guideline about the importance of phenytoin to a pregnant woman with epilepsy, notwithstanding the drug's potential risks to the unborn child. The statement under the "How to Take Phenytoin" section about the use of a standard measuring spoon to take liquid phenytoin has been deleted because FDA believes it might mislead patients about the accuracy of common teaspoons and tablespoons when taking medication. The agency concludes that precise information for patients about the best way to take an accurate amount of liquid phenytoin requires more detail than would be consistent with the general nature of the patient package inserts and is thus best provided by health care professionals. The discussion in the draft guideline under the "General Cautions" section about the importance of not changing brands of phenytoin has been expanded to explain that various dosages of phenytoin are marketed and to emphasize the importance of not changing brands and dosage schedules without checking with a health care professional. The discussion of drugs that can interact with phenytoin has also been expanded and another drug, disulfiram, a drug used to treat alcoholism, has been added to the list of drugs that interact with phenytoin. This change makes the guideline more consistent with the drug's professional labeling. Finally, the agency has deleted the statement from the "Side Effects" section about phenytoin causing slight discoloration in patients' urine, which discoloration is generally not serious. Such a statement may be confusing in view of a statement appearing elsewhere in the guideline about potential liver disorders from phenytoin which, with other symptoms, is evidenced by dark colored urine.

General Comments

1. The Pharmaceutical Manufacturers Association (PMA) commented that manufacturers of antibiotics, such as ampicillin, are required to obtain prior approval of labeling changes from FDA. PMA noted that the holder of an approved antibiotic Form 5 or 6 for a drug product for which a patient package insert is required must submit an amendment under § 431.16 (21 CFR 431.16) to provide for the patient package insert and to provide for a change in the bulk container label under § 203.24(a) (21 CFR 203.24(a)) to instruct the dispenser to provide a patient package insert to each patient to whom the drug is dispensed. PMA also noted that although § 431.16 does not specifically provide for putting labeling changes into use prior to obtaining FDA approval, § 203.30(c) (21 CFR 203.30(c)) states that the patient package insert may be put into use without advance approval by the agency. PMA asked that FDA either amend its regulations to eliminate the requirement for prior approval of these labeling changes or institute a system to ensure that approval can be obtained expeditiously.

FDA intended in adopting § 203.30(c) that drug manufacturers, including antibiotic drug manufacturers, not be burdened by a requirement for advance approval from FDA before implementing labeling changes required by the patient package insert regulations. Thus, elsewhere in this issue of the **Federal Register**, the agency is amending its antibiotic regulations to conform them to § 203.30(c) and thus to permit manufacturers to make changes in the labeling of antibiotic drugs to comply with the agency's patient package insert regulations without advance approval by FDA.

2. A manufacturer asked whether its patient package insert for amoxicillin (a drug to which the ampicillin patient package insert applies) could use the drug's name, amoxicillin, in the insert instead of ampicillin.

The agency advises that under § 203.20(b)(1) (21 CFR 203.20(b)(1)) of the regulations a patient package insert that is intended to apply only to one drug in a drug class may refer to the drug's established name alone instead of the drug class.

3. PMA asked FDA to reconsider the appropriateness of applying the patient package insert regulations to injectable dosage forms and combination products

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during the 3-year initial implementation period of the regulations. PMA suggested that the indications for some injectable dosage forms of drug products are different from the indications for the oral dosage forms. The association also suggested that a patient package insert based on the agency's draft guidelines may be inappropriate for the injectable drug product because the guidelines only discuss indications for the oral dosage forms. PMA identified the draft guidelines patient package inserts for thiazides, benzodiazepines, and digoxin as illustrating that problem. Thus, PMA asked that FDA apply the regulations during the implementation period only to oral dosage forms.

PMA also suggested that the agency defer applying the regulations to combination products. PMA pointed out that indications for some combination products are very different from those described in FDA's draft guideline patient package inserts for single entity drugs. In addition, the active ingredient discussed in the patient package insert may be the less significant ingredient in a combination product. Thus, PMA argued that the application of the regulations to combination products would complicate the agency's initial implementation program.

FDA agrees with PMA that the patient package insert regulations should not apply during the initial implementation program either to specific dosage forms or combination products if their indications differ markedly from the form of the product for which the FDA's guideline patient package insert was intended. Applying the requirement to these other products would often result in FDA's guideline patient package insert failing to provide important information to patients. Thus, in applying the final requirements the agency will consider carefully their applicability to injectable dosage forms and combination products.

The agency has reviewed the applicability of the patient package insert regulations to injectable dosage forms of ampicillin and related drugs, phenytoin, and to combination products containing these drugs, including ampicillin and probenecid, and phenytoin and phenobarbital. The agency concludes that the patient package insert requirements should not now be applied to parenteral dosage forms of phenytoin because, unlike oral dosage forms, parenteral phenytoin is indicated for the control of status epilepticus and for the prevention and treatment of seizures occuring during neurosurgery. These indications are not applicable to the oral dosage forms of the drug and were not discussed in the agency's draft guideline patient package insert. However, the agency concludes that the indications for dosage forms of phenytoin other than the parenteral form and indications for all dosage forms of ampicillin are similar to those for the drug generally; moreover, they were adequately discussed in the agency's final guideline patient package inserts. Thus the agency's patient package insert regulations will apply to them. Similarly, the other active ingredients in combination products containing ampicillin or a related drug or containing phenytoin simply augment the ampicillin or related drug ingredient or the phenytoin ingredient, and the uses for the products are adequately discussed in the agency's final guideline patient package inserts. Thus, the agency concludes that the draft guideline patient package inserts for those drugs should apply to the combination products. FDA notes that manufacturers, distributors, and dispensers of combination products are free under the regulations to add to their patient package inserts for the combination products information about the other active ingredients so long as that information is not false or misleading.

FDA has also reviewed the applicability of the regulations to all dosage forms and combination products containing cimetidine, clofibrate, or propoxyphene, each of which was made subject to the regulations by notice published in the **Federal Register** of November 25, 1980 (45 FR 78514). The agency concludes that the application of the regulations to all dosage forms and combinations of those products is appropriate because the only injectable drug product, injectable cimetidine, is used for the same indications as the oral dosage form, and the only combination products, propoxyphene combinations, are subject to the information in the agency's guideline patient package insert to the same extent as single-ingredient products.

4. PMA also asked that FDA amend § 203.24 (21 CFR 203.24) of the regulations to give manufacturers the same flexibility in the distribution of inserts for unit-of-use products that the regulations permit for the distribution of inserts for drugs in bulk containers. PMA suggested that a requirement that patient package inserts be distributed in or with unit-of-use containers is burdensome for the following reasons: (1) some current unit-of-use containers are too small to add a patient package insert, (2) a manufacturer or distributor may find it more practical and economical to establish a single system for providing distributors and dispensers with patient package inserts for products distributed both in bulk containers and in unit-of-use containers, and (3) requiring patient package inserts to be included in a unit-of-use container would limit manufacturers in the size of paper, size of print, and quality of paper they could use for inserts.

Although the problems associated with the shipment of patient package inserts in existing bulk container packaging were examined at length in the preparation of the final rule, the issue was not examined closely in the context of unit-of-use packaging. On reconsideration of the issue, FDA believes the reasons supporting the flexible policy for the distribution of patient package inserts in bulk containers under the final rule applies also to unit-of-use containers. Accordingly, elsewhere in this issue of the **Federal Register**, FDA is amending its patient package insert regulations to apply the same requirement for the distribution of patient package inserts to products packaged in either bulk or unit-of-use containers.

5. PMA asked whether manufacturers could meet their obligations under § 203.24 to provide adequate copies of patient package inserts to dispensers through the use of business reply cards. The reply card mechanism would involve an initial distribution of patient package inserts to pharmacies and then rely upon pharmacies to return business reply cards to obtain additional inserts. PMA noted that under the regulations pharmacists may obtain patient package inserts from many different sources and if manufacturers are required to supply inserts they would, as a practical matter, have to distribute periodically many more inserts than pharmacists were likely to need. In addition, without some kind of feedback from pharmacies to manufacturers, manufacturers must rely on estimates of average prescriptions and ship extra inserts to ensure than an adequate number are provided. Thus, in the absence of a business reply card system, PMA contends that the patient package insert program will be plagued by needless duplication of effort, waste of resources, and increased costs to consumers. In addition, some drug store chains have advised manufacturers that the chains plan to distribute only generic patient package inserts prepared by third parties. Business reply cards with followup monitoring by manufacturers and their sales representatives will avoid these problems. PMA contends that after experience is gained with the reply card

mechanism pharmacists will routinely order additional patient package inserts when ordering drug products.

Under the patient package insert regulations FDA has provided manufacturers and distributors with great flexibility to develop mechanisms for providing patient package inserts to distributors and dispensers. The only constraints on that flexibility are that manufacturers and distributors may neither shift the burden to request patient package inserts to distributors or dispensers nor may they avoid their legal obligation to prepare and provide patient package inserts or see to it that patient package inserts are prepared and provided. The agency agrees that the shipment of unnecessary numbers of patient package inserts should be avoided and the agency believes that the flexibility it has given manufacturers and distributors gives them the opportunity to develop mechanisms to avoid that result. Nevertheless, the agency believes that the business reply card system described by PMA will improperly shift to dispensers the manufacturer's and distributor's obligation to ensure that the dispenser has adequate supplies of patient package inserts. The agency advises, however, that the type of business reply card system described is acceptable for the distribution of Spanish language patient package inserts as well as inserts in other languages or braille, inserts which are not subject to the distribution requirements applicable to English language labeling. If experience with this type of business reply card mechanism for distributing those patient package inserts suggest that it is a reliable mechanism for distributing patient package inserts, or if a different form of system is suggested that does not shift the burden to provide inserts to distributors and dispensers, the agency will seriously consider its application to the distribution of English language inserts.

6. In a petition for a stay of action of the patient package insert regulations a manufacturer suggested, among other things, that FDA make available Spanish language guideline patient package inserts for the drugs and drug classes in the initial implementation program. The Spanish language guidelines would benefit manufacturers who are required to make Spanish inserts available and are unable to obtain accurate and reliable translations of FDA's English guideline patient package inserts.

FDA is persuaded that many drug manufacturers will find it difficult to obtain Spanish translations of FDA's English language guideline patient package inserts that they can rely on to comply with the agency's regulations. Accordingly, FDA will prepare and make available Spanish language guideline patient package inserts. These guidelines should be publicly available in time for manufacturers to meet existing effective dates, and notices of availability will be published in the **Federal Register**.

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency, and under § 203.30(a), which provides for applying FDA's patient package insert regulations to prescription drugs and drug classes. The agency advises that the patient package insert guidelines comply with FDA's patient package insert regulations in Part 203 and can be relied upon by any person to meet those requirements. A person may choose to use alternative labeling statements that are not provided for in the guideline. Under § 203.30(c) (21 CFR 203.30(c)), the guideline labeling may be used before approval of a supplement to a new drug application or an amendment to an antibiotic Form 5 or Form 6.

These guidelines are effective July 1, 1980. Section 10.90(b)(7) (21 CFR 10.90(b)(7)) provides that a notice of guideline shall state that interested persons may submit written comments on the guideline. Although the present guidelines have been subject to full notice and comment proceedings before issuance, interested persons may, consistent with the regulations and past agency practice, submit written comments on the guidelines to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. As in the case of any final guideline, FDA does not view itself obligated to respond formally to these comments; they will be considered, however, in determining whether further amendments to or revisions of the guideline are desirable or warranted. Comments should be in four copies except that individuals may submit single copies, identified with the docket number found in the brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The guideline patient package inserts for ampicillin and phenytoin follow:

BILLING CODE 4110-03-M

Ampicillin

(pronounced: am-pi-SILL-in)

Summary

Ampicillin is an antibiotic drug used to treat infections caused by certain bacteria. Amoxicillin and hetacillin are closely related antibiotics. This leaflet applies to these drugs as well. When you take ampicillin, it is important to finish all the prescribed medicine even if you begin to feel better. If you do not take all of the medicine the infection could return.

IF YOU HAVE EVER HAD AN ALLERGIC REACTION TO ANY FORM OF PENICILLIN OR TO AMPICILLIN, TELL YOUR DOCTOR SO THAT A DIFFERENT ANTIBIOTIC MAY BE PRESCRIBED FOR YOU. Ampicillin has produced serious allergic reactions. If you have a rash, hives, itching or difficult breathing after taking ampicillin, call your doctor or hospital immediately. You may need emergency medical treatment.

The rest of this leaflet gives you more information about ampicillin. Please read it and keep it for future use.

Uses of Ampicillin

Ampicillin is an antibiotic that is related to penicillin. It is used to treat various types of bacterial infections, for example, infections in the throat, ears, urinary tract, and lungs (bronchitis and pneumonia). Ampicillin and related antibiotics have no effect on infections caused by viruses, such as the common cold.

Before Taking Ampicillin

If you have ever had an *allergic reaction* to any form of penicillin or to ampicillin, tell your doctor so that a different antibiotic may be prescribed for you. Serious allergic reactions have occurred. In rare cases, people have died due to complications of the allergic reaction. This has happened more from injections than from medicines taken by mouth.

If you get hives or itching, or if you start wheezing or have difficulty breathing after taking ampicillin, call your doctor or a hospital immediately. You may need emergency treatment. These are signs of an allergic reaction. If you have ever had an allergic reaction to penicillin or ampicillin or if you have any kind of allergy, including asthma and hay fever, be sure to tell your doctor and pharmacist. If you are not sure if a previous reaction was an allergic reaction, ask you doctor.

How To Take Ampicillin

Most infections take several days or weeks to cure. When you start taking ampicillin, it will kill most of the bacteria causing the infection. You may start to feel better within a few days. However, if you do not continue to take the medicine, some of the bacteria may remain alive and multiply. This can cause a return of the symptoms or disease. Therefore, you should finish the medicine prescribed for you. If you have taken all the medicine and still do not feel better, call your doctor.

It is best to take ampicillin on an empty stomach; one hour before or two hours after meals.

If you miss a dose, take it as soon as you remember. Take the day's remaining doses at the scheduled time. Do not take two doses at the same time.

Pregnancy and Breast Feeding

You should not take ampicillin during pregnancy unless your doctor knows you are pregnant and nevertheless advises you that ampicillin is necessary. Immediate or delayed harmful effects, if any, on the unborn child have not been shown. As a general principle, however, no drug should be taken during pregnancy unless it is clearly necessary. Pregnant women with infections are given ampicillin not only to cure the infection, but also so that the infection will not harm the child.

If ampicillin is taken by a nursing mother, it may pass to the child in breast milk. It is unknown whether the child will have any side effects due to the ampicillin.

Side Effects

Ampicillin may cause diarrhea, especially in children. Diarrhea in very young children can be serious. Call your doctor if diarrhea is continuous . It may also cause irritation of the mouth and tongue, nausea, or vomiting. Some of these effects may go away after several days as the body gets used to the medicine. If any of these or other side effects bother you, call your doctor.

Other reactions may take longer to develop. A rash with itching over the entire body, including the feet, hands, and mouth, may occur. This reaction happens more often to people who have had allergic reactions to penicillin or a history of allergy, asthma, or hay fever.

Other Information

Ampicillin liquid should be kept in the refrigerator. Be sure to shake the bottle before using. Do not use ampicillin liquid after the expiration date that appears on the label because it is not effective after this date. Do not save ampicillin liquid or capsules to use for a later infection.

For ampicillin to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present infection. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose, or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist, or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about ampicillin, ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Phenytoin

(pronounced: FEN-i-toyn)

Summary

Phenytoin is commonly used to help control certain types of epilepsy (seizures or convulsions). Taking the prescribed dose of phenytoin is very important. If you take too little phenytoin, your seizures may not be controlled. If you take too much phenytoin, it may cause harmful side effects (toxicity). If you notice any of the following effects, call your doctor immediately: eye problems (blurred or double vision), trouble with balance, or difficulty in walking, slurred speech, sleepiness, dizziness, or hallucinations. Do not stop taking phenytoin or change brands unless your doctor tells you. Suddenly stopping the drug, may cause an increase in seizures.

The rest of this leaflet gives you more information about phenytoin. Please read it and keep it for future use.

Why Take Phenytoin?

Phenytoin does not cure epilepsy. It prevents or reduces the number of seizures. Sometimes other drugs are also needed to control the seizures. Even if you feel fine, continue to take phenytoin to prevent the symptoms from returning. Phenytoin may also be used for other conditions as determined by your doctor.

Before Taking Phenytoin

Tell your doctor if you have ever had *liver problems*. If your liver is not working properly, the drug can build up in the body and may cause toxicity or harmful effects. (See "Warning Signals" below).

Diabetics should know that phenytoin may increase blood sugar levels.

If you have ever had an allergic reaction to phenytoin, be sure to tell your doctor.

Pregnancy and Breast Feeding

The effect of phenytoin on the baby during pregnancy is not clearly known. Reports show that women taking drugs for epilepsy more often give birth to children with birth defects than women not taking these drugs. It is not known whether the disease or the drug causes the birth defects. The great majority of women who take drugs to control epilepsy, however, deliver normal babies.

When considering whether or not to take phenytoin if you are pregnant, you must consider the possible harm to the unborn child, as well as to you, if your seizures are not controlled. It is not known whether the risk to the unborn child of uncontrolled seizures is greater than or less than the risk of taking phenytoin. You should discuss this issue carefully with your doctor.

If phenytoin is taken by a nursing mother, it is not known if it passes to the child in breast milk. Because many drugs are passed to the child in human milk, you should talk to your doctor about breast feeding while taking this drug.

How To Take Phenytoin

Your doctor may change the dose of phenytoin during the first few weeks or months to find the right amount for you. Once you start taking phenytoin on a regular schedule, take it at the same time every day. This will help you remember to take each dose. For good control of your seizures, you must take phenytoin and all other anticonvulsant drugs everyday, exactly as prescribed.

If you are taking phenytoin liquid, shake the bottle well before measuring the dose; the medicine settles to the bottom. If you are taking the chewable tablets, chew them up completely before swallowing.

If you miss a dose, take it as soon as you remember. Take the day's remaining doses, if any, at the scheduled time. Do not take two doses at the same time. Take only the amount scheduled for that day. If you miss two or more consecutive days doses, call your doctor.

General Cautions

The amount of the drug that your body absorbs can change if you switch to a different manufacturer's brand of phenytoin. Do not change brands of phenytoin without telling your doctor. Some phenytoin brands must be taken several times a day; others may be taken just once a day. If the drug from this prescription looks different from your previous drug, it is likely to be a different brand. You should check with your pharmacist or doctor before taking it.

Some drugs can interact dangerously with phenytoin. When certain other drugs are taken at the same time as phenytoin, the effects of either drug may be changed. These include barbiturates, disulfiram, anticoagulants ("blood thinners"), isoniazid, and certain antidepressants. Your doctor may have to adjust your dosage of phenytoin when you are taking these drugs. While on phenytoin *do not start or stop taking any other drugs without your doctor's knowledge.*

Drinking *alcohol* while you are taking phenytoin may cause exteme sleepiness and reduce the effectiveness of phenytoin. Limit your intake of alcohol while taking phenytoin.

Phenytoin often causes red, swollen gums ("gum hyperplasia"), especially in children. Check with your dentist if you notice these effects. Massaging your gums, using dental floss and brushing regularly may help.

You may need to have blood tests to check if the drug is working properly or causing problems. Phenytoin may affect thyroid tests and other tests.

Warning Signals

It is important to watch for signs of phenytoin toxicity and report them to your doctor immediately. Elderly patients and people with liver problems may show these signs even if they take the proper dose. Signs of toxicity include the following:

- blurred vision, double vision;
- staggering, difficulty in walking, poor muscle coordination;
- slurred speech; or
- sleepiness, dizziness, hallucinations.

Dated: December 22, 1980.
Mark Novitch,
Acting Commissioner of Food and Drugs.

[FR Doc. 80-40585 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-C

Side Effects

Phenytoin may cause nausea and vomiting in a few people. If this occurs, take the medicine with meals. Phenytoin may cause increased hair growth, especially in young children. If any of these or other side effects bother you, call your doctor. Do not stop taking the drug.

More serious side effects can occur with phenytoin. These effects are not frequent but they can be very serious. If any of these occur, CALL YOUR DOCTOR IMMEDIATELY:

- rash, especially with blistering, peeling, or bruising;
- yellowing of the skin or eyeballs; fever, fatigue, loss of appetite, and abdominal pain; dark colored urine or light colored bowel movements (these signs may indicate a liver problem);
- weakness, fever, sore throat, abnormal bleeding or bruising (these signs may indicate a blood problem).

Other Information

For phenytoin to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose, or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about phenytoin, ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Office of Human Development Services

[Program Announcement No. 13648-812]

Administration for Children, Youth and Families; Child Welfare Services Training Grants Program

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Traineeship Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is March 6, 1981.

Scope of this Announcement

This Program Announcement is one of two for the Child Welfare Services Training Grants program and covers Traineeship Grants to be awarded for Fiscal Year 1981. All Traineeship Grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

Program Purpose

The purpose of this program is to develop the skills and qualifications of full-time students who have as their career objectives the provision of services to children and their families by providing financial support through accredited schools of social work.

Financial support is provided to Baccalaureate degree students in their senior year only, for the first or second year at the Master's of Social Work Level, and for Doctoral candidates.

Program Goals and Objectives

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.
- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.
- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice, in exceptional circumstances, to be placed in a permanent foster home.

Applications should specify that the proposed project will achieve or is capable of achieving the following program objective:

- To enable students who have child welfare as a career objective to gain special knowledge and experience in providing services to children and their families.

Eligible Applicants

Traineeship Grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited by the Council on Social Work Education or have been granted candidacy status. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education will not be accepted for review.

Condition for Award

The Regional Child Welfare Training Centers are collecting data from schools of social work who have received Traineeship grants, on the employment of the recipients of Traineeships. In order to be considered for a grant award, each applicant must provide a statement that it will keep a record of the mailing addresses for a period of five years for each student who received a traineeship award. This information is to be provided annually to the Regional Training Center. For further information about this Student Tracking System the applicant should contact its Regional Child Welfare Training Center.

Available Funds

From the total appropriation of $5,600,000 available in Fiscal Year 1981, the Administration for Children, Youth and Families expects to award approxiately $1,848,094 for new traineeship grants. A new grant is the initial award made in support of a project. The project period is of one year duration. Awards are made for student costs only. In Fiscal year 1980, 135 traineeship grant applications were received for competitive review and 117 awards were made, averaging approxiamtely $27,854 each.

Additional Requirements

Traineeship grants may be awarded by institutions to students with career goals in child welfare who are enrolled in appropriate educational programs. They are available to students in their senior year at the undergraduate level, in Master's degree programs and in Doctoral degree programs. Traineeships, including stipends, tuition and educational fees, travel and dependency allowances, are available only to students enrolled full-time in degree-oriented educational programs. They may not be awarded in academic programs for less than one full academic unit of training, i.e., for a quarter, trimester, semester, or an academic year. *Traineeship appointments may not exceed 12 months without prior approval by the Administration for Children, Youth and Families.*

At the undergraduate level, the per student cost shall not exceed $1,000 for a full academic year which may be used for tuition; fees, stipend and travel expenses. At the graduate level, costs which may be covered include tuition, fees, stipend, dependency allowances and travel expenses. A table for calculating stipends and dependency allowances at the graduate level is included in the Program Guidance in the Application Kit. No other direct or indirect costs are allowable except for the following:

If a separate field placement unit is established in a state or local public welfare agency, which has an identifiable child welfare service unit, for the sole purpose of supervising trainee field placement, those costs directly attributable to the field supervision of the students will be allowable as a direct cost to the institution. An indirect cost rate not to exceed 8% of the direct costs (excluding traineeship costs) may be charged to the program (or the institution's actual indirect cost if less than 8%). The unit must consist of at least five students but not more than eight, to qualify for payment of costs for one full-time supervisor. A maximum of 7% of the total Regional Traineeship allocation may be used for field supervisory costs. Funding for this cost, however, is at the option of the Regional Office.

1. *Requirements Which Candidates Must Meet.* A candidate for a child and family service traineeship must meet the following requirements:

(a) be a citizen of the United States or a foreign national lawfully admitted to the United States for permanent residence;

(b) take the training at the educational institution designated in the traineeship award;

(c) not be an employee of the Federal Government;

(d) not currently receiving educational allowances from any other federal, state, or local public or voluntary agency when that allowance is conditional on a conflicting employment obligation incurred by the trainee, except for federally assisted student loans, or educational allowances of benefits payable under the Veterans Education and Training Amendment Act of 1977: as limited by Section 213 of said Act;

(e) be enrolled for full-time study in the grantee institution;

(f) be in the senior year if enrolled in a program leading to a baccalaureate degree;

(g) express interest in a career in the field of child and family services;

(h) indicate an expectation to return to or to seek employment in a state or local public social service agency or in another child and family service agency or facility from which the state or local agency secures services. There should be reasonable assurance of his employment in a child and family service program, public or private, upon completion of training;

(i) cooperate with the Student Tracking System on the employment of the recipients of Traineeships;

(j) meet requirements established by the grantee institution which do not negate federal requirements; and

(k) for Doctoral students, provide evidence that they have selected or will select dissertation subjects clearly related to the field of child welfare.

Grantee institutions will select the candidates to whom traineeships will be awarded on the basis of their qualifications and will document the files to reflect the eligibility of candidates. To the extent possible, the awarding of traineeships should give special attention to recruiting and selecting eligible, qualified minority candidates, and should give preference to students with limited financial resources.

2. *Stipends and Allowances.* At the undergraduate level, the total per student cost shall not exceed $1,000 for an academic year which may include stipends, tuition, fees or other costs. At the graduate level, costs which may be covered include tuition, fees, stipend, dependency allowances and travel expenses. Traineeship grants may be awarded for partial support of students at the discretion of the institution.

Dependency allowances for the dependents of graduate level students will be $600 per support year for each eligible dependent. Dependents are as defined in the Internal Revenue Code. Dependency allowances are not available to baccalaureate level trainees.

Domestic travel allowances for students from their residence to the training institution will not be provided except, in those cases of extreme need or hardship for individual students where a oneway travel allowance may be granted at the rate of up to 22.5 cents per mile. A travel allowance for reimbursement for travel to field instruction may be paid when it is the policy of the institution to pay such costs.

Grantee Share of the Project

There is no cost sharing or matching requirement for grants under this program.

The Application Process

Availability of Forms

Application for a grant under the Child Welfare Services Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1981 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate Regional Office listed in Appendix I.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. In order to facilitate processing of a grant application, please submit one signed original and six copies. Applications must be submitted to the appropriate Regional Office in the region in which the applicant institution is located.

The applicant must clearly identify the program announcement number for which the application is to compete. The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A-95 Notification Process

This program does not require the A-95 notification and review process.

Application Consideration

The Regional Program Director, Administration for Children, Youth and Families, determines the final action to be taken with respect to each grant application for this program.

Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families. The results of the review assist the Regional Program Director for Children, Youth and Families in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated. Special consideration will be given to those applicants who have identified and selected minority students who will be awarded traineeships. In making decisions about grant awards, the Regional Program Director will take into consideration the applicant's plan to recruit minority students.

Criteria for Review and Evaluation of Traineeship Grant Applications

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the project objectives are identical with or are capable of achieving the specific program objective listed in this announcement under "Program Goals and Objective".
- That proposed procedures of the work program, if well executed, will be capable of achieving the results required by the program and further defined and elaborated by the applicant, including at least the following sub-criteria:

(a) That the applicant provides assurance that it will keep a record of mailing addresses for all students who receive traineeship awards for a period of five years and that it will provide this information to the Regional Training Center annually. (This information will determine to what extent graduates enter and remain in the field of child welfare services); and

(b) That the applicant provides assurance that all student eligibility requirements specified in the Program Announcement are met.

- That the applicant describes what the institution is doing to reinforce and support the students' commitment to child welfare services, including a description of courses which students will be required to take or select from which place special emphasis on child welfare services.

- That the application includes a viable plan designed to recruit program eligible minority candidates into the traineeship program, especially those who have limited financial resources. This plan must specify activities and timetables by which the school will seek out, identify, and, when implemented, *focus* traineeship selection on minority candidates.
- That the applicant documents that it will provide a field placement program (except for Doctoral candidates) for students in which they will have an opportunity to integrate academic and field placement experiences into a more comprehensive understanding of the field of child welfare, including the following:

(a) The type of schedule the field placement follows and the number of hours a week, month, semester, etc., it entails;

(b) For each traineeship requested, specific description of and commitment in writing from an agency for a full academic year of field placement as defined by the institution, in a child welfare setting which will enable the undergraduate or Master level trainee to, (1) carry a caseload or participate in the management of a caseload primarily involving child welfare services, and, (2) work under the direction of a trained social work supervisor;

(c) A description of the policies and procedures the applicant will follow in the supervision of the students' field placement including, (1) whether there is a supervisor or director of field placement and that person's role and responsibility; (2) who provides direct supervision (the school or the field placement agency); (3) the criteria for the selection of field placements in child welfare; (4) the nature and quality of the supervisory contact required; and, (5) the relationship between the field placement and the classroom instruction.

- That the application include one of the following two types of specific documentation that the recipients of traineeships will work in a child welfare setting upon completion of their Baccalaureate, Masters degree or Doctoral programs:

1. A letter of intent or commitment either from an institution or a public or voluntary social services agency to release employees for the pursuit of a graduate or undergraduate degree in social work. The letter of intent or commitment must specify the number of employees to be released and enrolled, described efforts made by the agencies to select minorities and employees with limited financial resources, and indicate that the person(s) released will be providing services, teaching, conducting research or administering programs in child welfare when they return to work.

2. A letter of intent or commitment from an institution or public or voluntary agency that upon completion of a degree program it will hire a trainee to provide services, to teach, conduct research, administer, or carry out programs in child welfare.

- That the applicant provides a specific list of criteria for selection of Doctoral students (if applicable) which assures that (a) they have well established interest and experience in child welfare and will work in a child welfare setting upon completion of the degree program; and, (b) they have selected or will select dissertation subjects clearly related to the field of child welfare.
- That project personnel are or will be well-qualified to provide direction and supervision to students specializing in child welfare, and the applicant organization has or will have adequate facilities and resources to conduct the project.
- That the estimated cost of the government of the project is reasonable considering the anticipated results.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement is March 6, 1981. An application will be considered received on time if:

- The application was sent by registered or certified mail no later than March 6, 1981 as evidenced by the U.S. Postal Service postmark, or the originial receipt from the U.S. Postal Service; or
- The application is received on or before close of business (COB) March 6, 1981 in the Department of Health and Human Services Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health and Human Services.

Applications received after the deadline or sent to any address other than the regional office in the region in which the applicant institution is located will not be accepted and will be returned to the applicant.

(Catalog of Federal Domestic Assistance Program Number 13.648, Training Grants in the Field of Child Welfare)

Dated: December 9, 1980.

John A. Calhoun,
Commissioner for Children, Youth and Families.

Approved: December 24, 1980.

Cesar A. Perales,
Assistant Secretary for Human Development Services.

[FR Doc. 80-40829 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-92-M

Administration for Children, Youth and Families; Child Welfare Services Training Grants Program

[Program Announcement No. 13648-811]

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHHS.

SUBJECT: Announcement of availability of grant funds for the child welfare services training grants program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Teaching Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is March 6, 1981.

Scope of this Announcement

This program Announcement is one of two for the Child Welfare Services Training grants program and covers Teaching Grants to be awarded for Fiscal Year 1981. All Teaching Grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

Program Purpose

The purpose of this program is to develop, expand, and improve educational programs and resources for preparing students for work in the field of child welfare.

Program Goals and Objectives

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services, or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.
- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice in exceptional circumstances to be placed in a permanent foster home.

Applications for projects should specify that the proposed project will achieve or is capable of achieving one of the following specific program objectives:

- To develop degree oriented curricula organized into specific course sequences for use by the applicant school of social work, which (1) address issues and problems in the practice of child welfare in an organized and comprehensive manner and (2) integrate a child welfare field placement program which supports a comprehensive learning experience for students entering a child welfare specialization; or
- To develop curricula which address child welfare issues in an organized, comprehensive and practice relevant manner for a school of continuing education which is part of or affiliated with the applicant school of social work.

Eligible Applicants

Teaching grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited or granted candidacy status by the Council on Social Work Education. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education, will not be accepted for review.

Available Funds

Of the total appropriation of $5,600,000 available in Fiscal Year 1981, the Administration for Children, Youth and Families expects to award approximately $1,848,094 for new teaching grants. A new grant is the initial award made in support of a project. The project period is of one year duration. An indirect cost of 8% of the direct costs (or the institution's actual indirect cost if less than 8%) is allowable for this grant program. In Fiscal Year 1980, 138 teaching grant applications were received for competitive review and 81 awards were made, averaging approximately $20,167 each.

Grantee Share of the Project

There is no cost sharing or matching requirement for grants under this program.

The Application Process

Availability of Forms

Application for a grant under the Child Welfare Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1981 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate regional office listed in Appendix I.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. In order to facilitate processing of a grant application, please submit one signed original and six copies. Applications must be submitted to the Regional Office in the region in which the applicant institution is located. *The applicant must clearly identify the program announcement for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A–95 Notification Process

This program does not require the A-95 notification process.

Application Consideration

The Regional Program Director, Administration for Children, Youth and Families, determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families. The results of the review assist the Regional Program Director, Administration for Children, Youth and Families, in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Teaching Grant Applications

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the project objectives are identical with or are capable of achieving one of the specific program objectives listed in this announcement under "Program Goals and Objectives".
- That proposed procedures of the work program, if well executed, will be capable of achieving the desired results, including (1) the plan for accomplishing the purpose(s) and objectives, (2) timetables for their accomplishment, and (3) information about the number and type of students to be directly affected by the teaching grant.
- That the project personnel are or will be qualified to develop child welfare curricula and the applicant organization has or will have adequate facilities and resources to conduct the project.
- That the applicant describe consultations held in planning the project with state and/or local public social service agencies and other interested agencies and groups.
- That the applicant (1) describes what child welfare issues will be covered in an organized and comprehensive manner; and (2) where applicable, describes how its child welfare field placement program will support a total comprehensive learning experience for students entering a child welfare specialization.
- That the applicant has a clear plan for establishing an advisory group made up of persons providing child welfare services, including both the public and voluntary sector, and that this advisory group will meet regularly to provide practice relevant technical assistance in the course design and will review various draft materials, including the final product.
- That the applicant describes specific plans to implement the curricula into the ongoing program of the school of social work or school of continuing education, including projected information about the qualifications of the person(s) who will teach the course(s), how often they will be offered, and what students will be eligible to take the course(s).
- That the applicant describe what resulted from past Teaching Grants (if applicable);
- That the applicant describe how this effort is new or an expansion or improvement of past Teaching Grants (if applicable);

- That the applicant describe what new, expanded or improved resources or products will be developed as a result of this grant which can be replicated for use by other schools. (The grantee must ensure that the work of this grant is not a duplication or repetition of past grants.)
- That the estimated cost to the government and the project is reasonable considering the anticipated result, and that the applicant has included funds to send at least one key person to a statewide or regional meeting on child welfare curriculum issues.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement is March 6, 1981. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than March 6, 1981 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or
- The application is received on or before close of business (COB) March 6, 1981 in the Department of Health and Human Services Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamp of such mailrooms or the documentary evidence of receipt maintained by the Department of Health and Human Services.

Applications received after the deadline or sent to any address other than the regional office in the region in which the applicant institution is located will not be accepted and will be returned to the applicant.

(Catalog of Federal Domestic Assistance Program Number 13.648, Training Grants in the Field of Child Welfare)

Dated: December 9, 1980.

John A. Calhoun,

Commissioner for Children, Youth and Families.

Approved: December 24, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80-40830 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Baker District Advisory Council; Meeting Correction

This correction is made to change the Meeting Notice published in **Federal Register** on December 12, 1980 from January 2, 1981 to January 21, 1981.

Gordon R. Staker,

District Manager.

December 22, 1980.

[FR Doc. 80-40804 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Albuquerque District, New Mexico; District Advisory Council Meeting

The Albuquerque District Advisory Council will meet January 21, 1981, at the Albuquerque Convention Center, San Juan Room, starting at 10 a.m.

This council is managed in accordance with the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1976.

The public is welcome to attend all portions of this meeting. Statements by the public may be made to the Council at 3 p.m. A time limit may be imposed for each statement depending on the number of people wishing to speak to the Council.

This is the third meeting of of the Albuquerque District Advisory Council and is being held one day prior to the San Juan River Regional Coal Team meeting, January 22, at the Sheraton Old Town Inn, Albuquerque, to facilitate comment by the Council to the Regional Coal Team.

The agenda will include: procedural questions as to the functioning of the Council; a presentation by BLM on District rangeland improvement programs; discussion of the Chaco/San Juan Unit Resource Analysis for the planning update for coal; and possible preparation of statements of interest in, or concern about, federal coal development to be addressed to the Regional Coal Team the following day.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting (February 20, 1981).

Mathew Millenbach,

Acting District Manager.

December 17, 1980.

[FR Doc. 80-40758 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

[W-73370]

Wyoming; Proposed Withdrawal and Reservation of Lands

December 19, 1980.

By virtue of the authority contained in Section 204 of the Act of October 21, 1976 (43 U.S.C. 1714), the Bureau of Land Management proposes to withdraw the following described lands from location and entry under the general mining laws (30 U.S.C. Ch. 2), subject to valid existing rights:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 82 W.,
  Sec. 14, NE¼, N½NW¼, N½SE¼NW¼, N½NW¼SE¼, SE¼NW¼SE¼, and NE¼SE¼;
  Sec. 15, NW¼SW¼NE¼, S½SW¼NE¼, SE¼NW¼, SE¼SW¼NW¼, SW¼, W½SE¼, and W½E½SE¼;
  Sec. 23, S½S½NE¼, S½SE¼NW¼, NE¼SW¼, S½SW¼, and N½SE¼;
  Sec. 26, N½, N½S½, S½SW¼, and SW¼SE¼.

The area described contains 1,550.00 acres of public lands located within the Bureau of Land Management's Bennett Peak Recreation Area in Carbon County, Wyoming.

The purpose of this withdrawal is to afford the above-described lands the same protection presently assigned to the other public lands within the Bennett Peak Recreation Area to insure protection of wildlife habitat and outdoor recreation values.

On or before February 2, 1981, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by February 2, 1981. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to: (1) determine the existing and potential demands for the lands and their resources; and (2) to provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the **Federal Register**. A separate notice will be sent to each interested party of record.

For a period of two (2) years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from entry as specified above, unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-40329 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Fred Meyer, Inc. et al.; Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Fred Meyer, Inc., 3800 SE. 22nd, P.O. Box 42121, Portland, Oregon 97242.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Fred Meyer, Inc. of Alaska, 3800 S.E. 22nd, Portland, Oregon 97242.

(b) Sun Laboratories, Inc., 3800 S.E. 22nd, Portland, Oregon 97242.

(c) B & B Stores, Inc., 3800 S.E. 22nd, Portland, Oregon 97242.

(d) Roundup Co. dba Roundup Groceries Co., 3800 S.E. 22nd, Portland, Oregon 97242.

1. Parent corporation and address of principal office: ICC Industries Inc., 720 Fifth Avenue, New York, New York 10019.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective offices:

(a) Primex Plastics Corp., One Raritan Road, Oakland, New Jersey 07436.

(b) Dover Chemical Corp., 15th and Davis Streets, P.O. Box 40, Dover, Ohio 44622.

1. Parent corporation and address of principal office: International Telephone and Telegraph Corporation, 320 Park Avenue, New York, New York 10022.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Aimco Industries, Inc., 435 Creekside Drive, Tonawanda, New York 14150.

(b) Alfred Teves, Incorporated, 11 West Lovers Lane, Culpeper, Virginia 22701.

(c) Autowize Distributing, Inc., 51 Knightsbridge Road, Piscataway, New Jersey 08854.

(d) Bedcor, Inc., One Valley Square, Charleston, West Virginia 25301.

(e) The Bobbs-Merrill Company, Inc., 4300 West 62nd Street, Indianapolis, Indiana 46206.

(f) W. Atlee Burpee Company, 300 Park Avenue, Warminster, Pennsylvania 18974.

(g) Carbon Fuel Company, One Valley Square, Charleston, West Virginia 25301.

(h) Carbon Industries, Inc., One Valley Square, Charleston, West Virginia 25301.

(i) Eason Oil Company, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112.

(j) Elastodyne, Inc., 203 Cutler Street, Spring Lake, Michigan 49456.

(k) Federal Electric Corporation, 621 Industrial Avenue, Paramus, New Jersey 07652.

(l) Federal Supports Services, Inc., 621 Industrial Avenue, Paramus, New Jersey 07652.

(m) Fiber Sales & Development Corporation, Muzzy Road, Urbana, Ohio 43078.

(n) Floridin Company, Palm Coast, Florida 32051.

(o) Flygt Corporation, 129 Glover Avenue, Norwalk, Connecticut 06856.

(p) G. K. Hall & Co., 70 Lincoln Street, Boston Massachusetts 02111.

(q) G. K. Hall Corporation, 70 Lincoln Street, Boston Massachusetts 02111.

(r) Gauley Sales Company, One Valley Square, Charleston, West Virginia 25301.

(s) Howard W. Sams & Co., Inc., 4300 West 62nd Street, Indianapolis, Indiana 46268.

(t) Intertec Publishing Corporation, Overland Park, Kansas 66212.

(u) ITT Autowize, Inc., 51 Knightsbridge Road, Piscataway, New Jersey 08854.

(v) ITT Autowize Distribution Centers, Inc., 51 Knightsbridge Road, Piscataway, New Jersey 08854.

(w) ITT Community Development Corporation, Palm Coast, Florida 32051.

(x) ITT Continental Baking Company, Halstead Avenue, Rye, New York 10580.

(y) ITT Courier Terminal Systems, Inc., 1515 West 14th Street, Tempe, Arizona 85281.

(z) ITT Domestic Transmission Systems, Inc., 2 Broadway, New York, New York 10004.

(aa) ITT Grinnell Corporation, 260 West Exchange Street, Providence, R.I. 02901.

(bb) ITT Grinnell Industrial Piping, Inc., Old Highway 421, Kernersville, North Carolina 27284.

(cc) ITT Grinnell Valve Co., Inc., 260 West Exchange Street, Providence, R.I. 02901.

(dd) ITT Hancock Industries, Inc., 2300 East Ganson Street, Jackson, Michigan 49204.

(ee) ITT Higbie Manufacturing Co., Fourth & Water Streets, Rochester, Michigan 48063.

(ff) ITT Industries of Canada Ltd., Toronto-Dominion Centre, Toronto, Ontario M5K 1H1.

(gg) ITT International Sales Corporation, 75 Varick Street, New York, New York 10013.

(hh) ITT Rayonier Incorporated, 1177 Summer Street, Stamford, Connecticut 06904.

(ii) ITT Schadow, Inc., 8081 Wallace Road, Eden Prairie, Minnesota 55344.

(jj) ITT Telecommunications Corporation, 320 Park Avenue, New York, New York 10022.

(kk) ITT Thompson Industries, Inc., 21301 Civic Center Drive, Southfield, Michigan 48075.

(ll) ITT Terryphone Corporation, 300 East Park Drive, Harrisburg, Pennsylvania 17111.

(mm) ITT World Communications, Inc., 67 Broad Street, New York, New York 10004.

(nn) Koni America, Inc., 11 West Lovers Lane, Culpeper, Virginia 22701.

(oo) Lester Industries, Inc., 25661 Cannon Road, Cleveland, Ohio 44146.

(pp) Marquis-Who's Who, Inc., 200 East Ohio Street, Chicago, Illinois 60611.

(qq) Marsan Industries, Inc., 81 Elm Street, Biddeford, Maine 04005.

(rr) The Michie Company, 914-918 Emmet Street, Charlottesville, Va. 22906.

(ss) National Temperature Control Center, Inc., 1500 North Heidelbach Avenue, Evansville, Ind. 47711.

(tt) Newkirk Associates, Inc., 6213 La Pas Trail, Indianapolis, Indiana 46268.

(uu) Palm Coast Utility Corporation, Palm Coast, Florida 32051.

(vv) The Paniplus Company, 100 Paniplus Roadway, Olathe, Kansas 66061.

(ww) Paul N. Howard Company, 201 North Elm Street, Greensboro, N. Carolina 27401.

(xx) Peninsular Supply Company, 2001 South Andrews Avenue, Ft. Lauderdale, Fla. 33316.

(yy) Pennsylvania Glass Sand Corporation, Berkeley Springs, West Virginia 25411.

(zz) Qume Caribe, Inc., Humachao Road No. 3, KM 30.0, Puerto Rico.

(aaa) Qume Corporation, 2350 Qume Drive, San Jose, California 95150.

(bbb) Radio y Television, Inc., 9221 Quivira Road, Overland Park, Kansas 66212.

(ccc) The Research & Review Service of America, Inc., 6213 La Pas Trail, Indianapolis, Indiana 46268.

(ddd) The O. M. Scott & Sons Company, 333 North Maple Street, Marysville, Ohio 43040.

(eee) The Sheraton Corporation of America, 60 State Street, Boston, Massachusetts 02109.

(fff) Sheraton Supply Company, 60 State Street, Boston, Massachusetts 02109.

(ggg) Southern Wood Piedmont Company, New South Park, Spartanburg, South Carolina 29304.

(hhh) Sylvan Shipping Company, Inc., 1177 Summer Street, Stamford, Connecticut 06904.

(iii) Thor Mining Company, Berkeley Springs, West Virginia 25411.

(jjj) UAD, Inc., 61 Elm Street, Biddeford, Maine 04005.

(kkk) U.S. Telephone and Telegraph Corporation, 67 Broad Street, New York, New York 10004.

(lll) Vann Industries, Inc., One Valley Square, Charleston, West Virginia 25301.

(mmm) Western Automotive Warehouse Distributors, Inc., 3260 East 26th Street, Los Angeles, California 90023.

(nnn) Wil-jar Corporation, One Valley Square, Charleston, West Virginia 25301.

1. The parent corporation is Johns-Manville Corporation with its principal place of business at Ken-Caryl Ranch, Denver, Colorado 80217.

2. The wholly-owned subsidiaries which will participate in the operations are as follows:

(a) Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, Colorado 80217; and

(b) Manville Forest Products Corporation, P.O. Box 488, West Monroe, Louisiana 71291.

1. Parent corporation and address of principal office: Warner-Lambert Company, 201 Tabor Road, Morris Plains, New Jersey 07950.

2. Subsidiaries, and addresses of their respective principal offices:

(a) All Orthopedic Appliances, Inc., 75 N.E. 74th Street, Miami, Florida 33138.

(b) American Optical Corporation, 14 Mechanic Street, Southbridge, Massachusetts 02150.

(c) Cool-Ray, Inc., 359 Beacham Street, Chelsea, Massachusetts 02150.

(d) The Deseret Company, 9450 South State Street, Sandy, Utah 84070.

(e) Entenmann's, Inc., 1724 Fifth Avenue, Bayshore, New York 11706.

(f) Entenmann's Bakery of Florida, Inc., 3325 N.W. 62nd Street, Miami, Florida 33140.

(g) Entenmann's Bakery of Pennsylvania, Inc., 690 East Lincoln Highway, Exton, Pennsylvania 19341.

(h) Good & Plenty Manufacturing Co., 2901 Grant Avenue, Philadelphia, Pennsylvania 19114.

(i) Hudson Processing Corp., Star Route 9, Hudson, New York 12534.

(j) Magor Mold, Inc., 1044 E. Edna Place, Covina, California 91724.

(k) Nuclear Medical Laboratories, Inc., 8700 Stemmons Freeway, Dallas, Texas 75247.

(l) Parke, Davis & Company, 201 Tabor Road, Morris Plains, New Jersey 07950.

(m) Warner-Lambert Inc., Eastern Airlines Building, 8th Floor, Santurce, Puerto Rico 00911.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-40790 Filed 12-31-80; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-14484]

NWS Enterprises, Inc.—Control—Southern Region Motor Transport, Inc.; Motor Carrier Operating Rights Application

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting the above entitled application for consideration and setting a schedule for the proceeding.

DATES: Written comments must be filed with the Commission by February 17, 1981.

ADDRESSES: An original and 10 copies of all statements should be sent to: Interstate Commerce Commission, Section of Finance, Room 5417, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275-7245 or Ernest B. Abbott, (202) 275-3002.

SUPPLEMENTAL INFORMATION: In MC-F-14484, NWS ENTERPRISES, INC. (NWS) filed an application on December 4, 1980 under 49 U.S.C. §§ 11343 and 11344 seeking authorization for NWS to acquire indirect control of SOUTHERN REGION MOTOR TRANSPORT, INC. (SRMT) through the ownership of the capital stock of SOUTHERN RAILWAY COMPANY (SR). SRMT is a wholly-owned subsidiary of the CENTRAL OF GEORGIA RAILROAD COMPANY, which is a wholly-owned subsidiary of SR.

The operating rights sought to be controlled include general commodity authority (with the usual exceptions) over regular routes between points in AL, GA, and TN, restricted to service which is auxiliary to, or supplemental of, rail service, as authorized in Certificate No. MC-105632 and subnumbers thereunder. No duplicating authority is sought by the application.

The application is directly related to the control application filed by NWS, SR, and the NORFOLK AND WESTERN RAILWAY COMPANY under 49 USC §§ 11343 and 11344. Notice of the control and other related applications is published separately in this edition of the **Federal Register** under Finance Docket No. 29430 (Sub-1-6). The time limits established for Finance Docket No. 29430. (Sub-1) will be applied to this motor carrier application, and the applications shall be consolidated for hearing. Comments supporting or opposing the application are due by February 16, 1981. The original and 10 copies of these comments should be filed with the Commission at the address shown above, and should be served on applicant's representatives: Nancy S. Fleischman and David J. Kaufman, P.O. Box 1808, Washington, D.C. 20013.

We have reviewed the application and find it to be complete.

It is ordered:

1. The application in Docket No. MC-F-14484 is accepted for consideration.
2. This decision is effective on January 2, 1981.

Dated: December 22, 1980.

By the Commission, Division 2, Commissioners Trantum, Gresham, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-40793 Filed 12-31-80; 8:45 am]

BILLING CODE 7035-01-M

NWS Enterprises; Application To Control Norfolk and Western Railway Co. and Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Applications accepted for consideration.

SUMMARY: In the matter of NWS Enterprises, Inc.—Control—Norfolk and Western Railway Company and Southern Railway Co., Finance Docket No. 29430 (Sub-1), Southern Railway Co.—construction and operation of a connection at Winston-Salem, NC, Finance Docket No. 29430 (Sub-2), Southern Railway Co.—construction and operation of a connection at

Chesapeake, VA, Finance Docket No. 29430 (Sub–3), Norfolk and Western Railway Co. and Southern Railway Company—construction and operation of a connection at Hurt, VA, Finance Docket No. 29430 (Sub–4), Norfolk and Western Railway Co.—construction and operation of a connection at Muncie, IN, Finance Docket No. 29430 (Sub–5), NWS Enterprises, Inc. issuance of securities, Finance Docket No. 29430 (Sub–6), Norfolk and Western Railway Company—abandonment—Lynchburg, VA, Docket No. AB–10 (Sub–23F), Norfolk, Franklin and Danville Railway Co.—abandonment—between South Hill, VA and Blanche, NC, Docket No. AB–216 (Sub–1), NWS Enterprises, Inc.—control—Southern Region Motor Transport, Inc., Docket No. MC–F–14484. The Commission is accepting for consideration the application of NWS Enterprises to control the Norfolk and Western Railway Company and the Southern Railway Company. The Commission is also accepting related applications by these parties and subsidiaries to construct and operate connections, to abandon trackage, to control a motor carrier and to issue securities. A schedule is set for the consolidated proceeding.

DATES: Written comments must be filed no later than February 17, 1981. Applications for inclusion, inconsistent applications and any other responsive applications must be filed no later than April 2, 1981.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275–7245 or Ernest B. Abbott, (202) 275–3002.

ADDRESS: An original and 10 copies of all statements should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission,. Washington, DC 20423.

SUPPLEMENTARY INFORMATION: On December 4, 1980, NWS ENTERPRISES, INC. (NWS), NORFOLK AND WESTERN RAILWAY COMPANY (NW) and SOUTHERN RAILWAY COMPANY (SR) jointly filed an application under 49 U.S.C. §§ 11343 and 11344 seeking authority for NWS to control NW and SR.[1] A number of related applications were also filed on December 4, 1980, including four construction and operation applications (two by SR, one by NW and one jointly by SR and NW) and an application for approval of the issuance of securities by NWS. These applications are accepted for consideration and have been assigned Finance Docket No. 29430 (Sub-Nos. 1–6), respectively.

Also filed on December 4, 1980 were two related abandonment proceedings: Docket No. AB–10 (Sub–23F) by NW and Docket No. AB–216 (Sub–1) by the NORFOLK, FRANKLIN AND DANVILLE RAILWAY COMPANY (NFD), an NW subsidiary.

Additionally, on December 4, 1980, NWS filed an application seeking approval of control of a motor carrier in Docket No. MC-F-14484. Acceptance of this application is published elsewhere in today's edition of the **Federal Register**.

All of the applications have been consolidated for handling by the Commission.

These applications were filed under our current consolidation regulations, 49 C.F.R. Part 1111, as modified in Ex Parte No. 282 (Sub-3), Railroad Consolidation Procedures, 363 I.C.C. 200 (1980). Applicability of these regulations was established in our decision served October 1, 1980, published at 45 FR 66911 (October 8, 1980). These regulations, subject to the waivers granted in our October 1, 1980 decision and in a decision served November 28, 1980, published at 45 FR 79590 (December 1, 1980) apply to all other persons who may become parties to these proceedings.

We are accepting these applications for consideration because they substantially comply with the applicable regulations and the waivers granted in this proceeding.

By decision of October 1, 1980, published at 45 FR 69299 (October 20, 1980), we directed applicants to file certain additional information concurrently with their application. Applicants have complied with our requirement.

The Commission's Energy and Environment Branch has reviewed applicants' Environmental Report, and found it to be complete. The Branch and the Commission reserve their rights under 49 CFR 1108(7)(e) and 1111.4(c)(2)(v) to request additional information.

The applications and exhibits are available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, DC.

Description of the Transaction

The proposed transaction involves the acquisition of control, through stock ownership of NW and its subsidiary companies and of SR and its consoldiated system companies, by NWS, a newly incorporated non-carrier holding company. As noted in the publication of applicants' Notice of Intent, 45 FR 60501 (September 12, 1980), the proposed consolidation is a "major" transaction within the meaning of 49 CFR 1111.3(c), Ex. parte No. 282 (Sub-3), *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980). The application involves the proposed control of at least two class I railroads, as defined by the Commission, and as such is subject to the criteria of 49 U.S.C. 11344(b) and the time limits of 49 U.S.C. 11345(b) as those sections are modified by Section 228 of the Staggers Rail Act of 1980, Public Law 96–448, October 14, 1980. Under the proposed transaction the rail carriers will not be merged, although certain operating efficiencies among the carriers are proposed. The carriers will continue to operate in the states and over the lines described below, subject to certain abandonments and coordinated operations described in the application.

The rail carrier subsidiaries of NW and the SR consolidated system carriers are set forth in the appendix.

NW operates a system comprised of 7,454 miles of railroad in IL, IN, IA, KY, MD, MI, MO, NE, NY, NC, OH, PA, VA and WV, and in the Province of Ontario, Canada. NW also operates in KS pursuant to trackage rights.

The principal lines of NW extend from the eastern points of Norfolk, VA, Hagerstown, MD, and Buffalo, NY, westward to Kansas City, KS, and Omaha, NE and serve Detroit, MI, Cleveland, Toledo, Akron, Columbus and Cincinnati, OH, Ft. Wayne, Muncie, and Indianapolis, IN, Chicago and Decatur, IL, St. Louis, MO, and Pittsburgh, PA. NW also provides north-south service between Chicago and St. Louis, between the upper midwest and western VA and through the Shenandoah Valley of VA.

SR operates a system comprised of 10,215 miles of railroad in the states of AL, DC, FL, GA, IL, IN, KY, LA, MS, NC, OH, SC, TN and VA.

The principal lines of SR extend from Alexandia, VA through Atlanta, GA, and Birmingham, AL, to New Orleans, LA and from Cincinnati, OH, and East St. Louis, IL, through Chattanooga, TN, and Atlanta to Jacksonville, FL. SR serves numerous points in the southeast including Norfolk, VA; Charlotte, NC; Columbia and Charleston, SC; Savannah and Macon, GA; Mobile, AL; and Memphis, TN.

DH's independently operated rail properties are located in NY, PA and VT. DH also operates in NJ, MD and VA and in DC pursuant to trackage rights. The rail properties of DH are not involved in the proposed transaction.

Principal points of interchange between NW and SR are Alta Vista,

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[1] The DELAWARE AND HUDSON RAILWAY COMPANY (DH) is also an applicant by virtue of its control by Dereco, Inc., a wholly-owned subsidiary of NW.

Danville, Lynchburg, Norfolk and Norton, VA; Bristol, TN-VA; Durham and Winston-Salem, NC; Cincinnati, OH; and St. Louis, MO-East St. Louis, IL.

Applicants propose to conduct operations as a single system.

Participation in the Proceeding: Comments

Any interested person may participate in this proceeding by submitting written comments regarding the applications. An original and 10 [2] copies must be filed with the Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423, no later than February 17, 1981. Written comments shall be concurrently served by first-class mail on the United States Secretary of Transpoortation, the Attorney General of the United States, and the applicants' representatives:

Donald M. Tolmie, General Counsel, Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, VA 24042

R. Allan Wimbish, General Solicitor, Southern Railway Company, 920 15th Street, N.W., Washington, DC 20005

Richard J. Flynn, Sidley & Austin, 1730 Pennsylvania Avenue, N.W., Washington, DC 20006

Written comments must also be served upon all parties of record within 10 days of service of the service list by the Commission. We plan to issue that service list by February 26, 1981. All persons who file timely written comments may be considered as parties of record, but only if they so indicate in their comments. In this event no petition for leave to intervene need be filed.

Written comments must contain:

(1) the docket number and title of the proceeding;

(2) the name, address and telephone number of the commenting party and its representative upon whom service shall be made;

(3) the commenting party's position, i.e. whether it supports or opposes the proposed transactions;

(4) a statement of whether the commenting party intends to participate formally in the proceeding or merely comment upon the proposal;

(5) a list of all information sought to be discovered from applicant carriers;

(6) an initial list of specific protective conditions sought; and

(7) any request for oral hearing that the commenting party will make with reasons supporting the request.

Particular attention should be given to Ex Parte No. 282 (Sub-No. 3A), *Railroad Consolidation Proceedings, Expedited Processing*, ——— I.C.C. (served December 17, 1980), 45 FR 84803 December 23, 1980).

Additionally, we encourage parties filing comments to include an analysis of the issues relating to the underlying statutory criteria and antitrust policy the Commission must consider in this proceeding. Particular attention should be given to the proposed Ex Parte 282 (Sub-No. 6), *Railroad Consolidation Procedures, General Policy Statement*, 363 I.C.C. 241 (1980), 45 FR 61335 (September 16, 1980).

We are waiving on our own motion the requirements found in our regulations that railroad filing written comments file as part of those comments copies of existing preferential solicitation agreements and a list of run-through train operations, 49 C.F.R. 1111.4(d)(1)(G)(1–2). Where such information is relevant, we believe commenting ralroads will have every incentive to file such information voluntarily. Where it is not relevant, we do not need such information. Railroads filing comments must still comply with 49 C.F.R. 1111.4(d)(1)(G)(3), as described below.

Preliminary comments from the Secretary of Transportation and the Attorney General must be filed with the Commission by March 3, 1981.

Responsive Applications

Prefiling Requirements: Because we have determined that this proceeding constitutes a major transaction within the meaning of Ex Parte No. 282 (Sub-3), railroads filing written comments must, in addition to the information described above, state whether the commenting railroad intends to file inconsistent applications, petitions for inclusion, trackage rights applications, or any other affirmative relief requiring an application to be filed with the Commission as set forth in 49 C.F.R. 1111.4(d)(1)(G)(3). THIS WILL BE CONSIDERED A PREFILING NOTICE EITHOUT WHICH THE COMMISSION WILL NOT ENTERTAIN APPLICATIONS FOR THIS TYPE OF RELIEF.

Filing Requirements: Parties wishing to modify any of their requested specific protective conditions must file a second list of protective conditions no later than March 20, 1981. PARTIES SHALL NOT BE PERMITTED TO SEEK ANY PROTECTIVE CONDITIONS OTHER THAN THOSE REQUESTED IN WITHER THEIR FIRST OR SECOND LIST OF PROTECTIVE CONDITIONS.

Parties wishing to file responsive applications must do so no later than April 2, 1981. Responsive applications include inconsistent applications, petitions for inclusion, and any other affirmative relief that requires an application to be filed with the Commission (such as trackage rights, purchase, purchase of a portion, acquisition, extension, construction, operation, pooling, terminal operations, abandonment, et cetera).[3] Any such applications are presumed under our regulations to be major and must conform to the requirements for a major application unless an advance ruling has been given by the Commission that the responsive application is not major.

Responsive applications must be serve upon the persons set forth at 49 C.F.R. 1111.4(c)(5).

The traffic impact of any relief sought in responsive applications must be estimated. Any traffic studies and data submitted shall relate to the calendar year January 1, 1979 to December 31, 1979, the latest full calendar year preceding the filing of the primary application, 49 C.F.R. 1111.2(b)(3)(i). We strongly encourage any person filing traffic studies as part of a responsive application to study not only its own traffic but to submit market impact analyses which will address fully the potential competitive impacts in markets served as a result of the responsibe application. These analyses may include traditional traffic studies using traffic appearing in the primary applicants' sample if that traffic can be reasonably expected to be diverted upon a grant of the responsive application. See Finance Docket No. 28583 (Sub-1F) *Burlington Northern, Inc.—Control and Merger—St. Louis San Francisco Railway Company* (not printed), decided July 20, 1978 at sheet 3. The analyses should also address the impact of the proposal on the essential services provided by all competing carriers and on the competitive alternatives available to shippers. See Finance Docket No. 30000, *Union Pacific Corp.—Control—Missouri Pacific Corp.* (not printed), decision served December 17, 1980. The parties requesting protective conditions or filing responsive applications must explain in detail how their requests are both relevant and material to issues of competition and essential transportation service raised by applicants' proposed consolidation.

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[2] We are waiving the requirement at 49 CFR 1111.4(a)(3) that 20 copies of all documents in major proceedings be filed with the Commission.

[3] While trackage rights applications are not normally subject to environmental analysis, since any responsive trackage rights applications which may be filed herein will be related to the consolidation proposal, we request that any party filing a trackage rights application indicate: (1) the location and length in miles of track over which trackage rights are sought, (2) the annual number of cars and trains to be added to the proposed route and (3) the net change in gross ton-miles and in energy consumption expected as a result of the trackage rights proposal. This information will facilitate our environmental analysis. See *Union Pacific Corp.—Control—Missouri Pacific Corp.* (not printed), decision served December 17, 1980.

Each responsive application filed and accepted (if acceptance is required) will be consolidated with the primary applications in this proceeding.

Petitions for extensions of time to file responsive applicatins will not be granted. Petitions for extension of up to 90 days to complete an application (setting forth the specific portions of the application for which an extension is requested) and petitions for waiver, petitions for clarification and petitions seeking to rebut the presumption of a major market extension must be filed no later than February 17, 1981.

Procedural Information

Applicants are directed to respond no later than March 20, 1981, to any information requests contained in the written comments of other parties. We encourage response to discovery requests as soon as possible in order to expedite the proceeding. Applicants' responses should indicate what information will be voluntarily supplied and reasons why the remainder will not be voluntarily supplied. We warn parties now that the Commission will not tolerate dilatory tactics in response to reasonable discovery requests designed to elecit relevant evidence. A refusal voluntarily to supply information will be treated as an objection to the request for discovery. Responses should be served upon all parties of record, and 20 copies of those responses should be concurrently filed with the Commission.

The original and 10 copies of all documents in this proceeding should be filed directly with the Section of Finance, Office of Proceedings, Interstate Commerce Commission, Room 5414, Washington, DC 20423.

On March 31, 1981, a preliminary conference will be held to discuss, among other things, disputes concerning the discovery and production of information. Administrative Law Judge George P. Morin, who has been assigned to conduct prehearing matters and any oral hearings found necessary during the course of these proceedings, will preside. The conference will begin at 9:30 a.m. in Hearing Room B at the Interstate Commerce Commission, 12th Street and Constitution Avenue, NW, Washington, DC.

Any interlocutory appeals from rulings by the Judge will be considered by Division 1. Such appeals must be filed within 5 days after the date on which the ruling appealed from was made. Replies must be filed within 3 days after the appeal is filed.

By statute, the evidentiary phase of the proceeding must be concluded by January 2, 1982. Service of an initial decision will be waived, and determination on the merits of the applications will be made in the first instance by the entire Commission under 49 U.S.C. § 11345.

It is ordered:

1. The applications in Finance Docket No. 29430 (Sub-1-6) and Dockets Nos. AB-10 (Sub-23) and AB-216 (Sub-1) are accepted for consideration.

2. The parties shall comply with all provisions as stated above.

3. This decision is effective on January 2, 1981.

Decided: December 22, 1980.

By the Commission, Division 2, Commissioners Trantum, Gresham, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A.—Southern Railway Company's Consolidated Subsidiaries

Class I

The Alabama Great Southern Railroad Company
Central of Georgia Railroad Company
The Cincinnati, New Orleans and Texas Pacific Railroad Company

Class II

Georgia Southern and Florida Railway Company
Norfolk Southern Railway Company

Class III

Atlantic and East Carolina Railway Company
Birmingham Terminal Company
Camp Lejeune Railroad Company
Chattanooga Station Company
The Georgia Northern Railway Company
Interstate Railroad Company
Live Oak, Perry, and South Georgia Railway Company
Louisiana Southern Railway Company
New Orleans Terminal Company
St. Johns River Terminal Company
State University Railroad Company (54%)
Tennessee, Alabama & Georgia Railway Company
Tennessee Railway Company

Other Companies

Airforce Pipeline, Inc.
The Atlanta and Charlotte Air Line Railway Company
Atlanta Terminal Company
Blue Ridge Railway Company
Charlotte-Southern Corporation
Chattanooga Terminal Railway Company
Danville and Western Railway Company
Durham and Southern Railway Company
The Georgia Midland Railway Company
High Point, Randleman, Asheboro and Southern Railroad Company (86%)
Macon Terminal Company
Memphis and Charleston Railway Company
Mobile and Birmingham Railroad Company (78%)
Norfolk Southern Industrial Development Corp.
The North Carolina Midland Railroad Company (97%)
Southern Region Motor Transport, Inc.
The Southern Western Rail Road Company (99.8%)
Transylvania Railroad Company (97%)
Virginia and Southwestern Railway Company
Yadkin Railroad Company (74%)

Note.—Control 100% or as indicated.

Appendix B.—Norfolk and Western Railway Company's Railroad Subsidiaries

Class III

The Akron, Canton & Youngstown Railroad Company
Chesapeake Western Railway
The Lorain & West Virginia Railway Company
New Jersey, Indiana & Illinois Railroad Company
Norfolk, Franklin and Danville Railway Company

Terminal Company

The Lake Erie and Fort Wayne Railroad Company

Other Railroad Companies

The Scioto Valley and New England Railroad Company
The Toledo Belt Railway Company
Wabash Railroad Company
The Wheeling and Lake Erie Railway Company

[FR Doc. 80-40792 Filed 12-31-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-25 (Final)]

Anhydrous Sodium Metasilicate From France

Determination

On the basis of the record[1] developed in investigation No. 731-TA-25 (Final), the Commission unanimously determined, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is threatened with material injury by reason of imports of anhydrous sodium metasilicate from France, provided for in item 421.34 of the Tariff Schedules of the United States (TSUS), which the Department of Commerce has determined is being, or is likely to be, sold in the United States at less than its fair value (LTFV).[2]

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[1] The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Section 207.25(d)(3) of the Commission's Rules of Practice and Procedure requires a finding as to whether material injury by reason of the less-than-fair-value imports would have been found but for the suspension of liquidation of entries of the merchandise by the Department of Commerce. There is insufficient information to support a determination that there would have been material

Footnotes continued on next page

Background

The Commission instituted investigation No. 731–TA–25 (Final) on September 16, 1980, following a preliminary determination by the Department of Commerce that anhydrous sodium metasilicate from France is being, or is likely to be sold, in the United States at less than its fair value within the meaning of section 733(b) of the Tariff Act of 1930. Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the **Federal Register** on September 24, 1980, (45 FR 63387). The hearing was held in Washington, D.C., on December 3, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, Commissioner George M. Moore and Catherine Bedell

On the basis of the record developed in investigation No. 731–TA–25 (Final), we determine pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) that an industry in the United States is threatened with material injury, by reason of the importation from France of anhydrous sodium metasilicate, provided for in item 421.34 of the Tariff Schedules of the United States, which the U.S. Department of Commerce has determined is being, or is likely to be, sold at less than fair value (LTFV).[3]

The Industry

Section 771(4) of the Tariff Act of 1930 defines the term "industry" as,

> the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

The term "like product" is defined in section 771(10) of the act as,

> a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

In applyzing the impact of the LTFV imports on the domestic industry producing the like product, section 771(4)(D) further provides that where possible the Commission is to assess the impact of imports or the production of the like product,

> The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If domestic production of the like product has no separate identity in terms of such criteria, than the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

Thus, the appropriate domestic industry consists of the domestic producers of products like (or in the absence of like, most similar to) the imported articles which Commerce has found are being, or are likely to be, sold at less than fair value.

In the present case, four U.S. firms produce ASM "like" the imported ASM and thus constitute the domestic industry against which the impact of LTFV sales should be measured.[4]

It should be noted that the four U.S. ASM producers also manufacture sodium metasilicate pentahydrate (SMP), a product which shares certain physical qualities and end uses with ASM. We are of the view that ASM and SMP are different products and that the appropriate domestic industry produces only ASM.[5] Available data clearly permits separate analysis of the impact of the dumped imports in relation to U.S. production of the like product.[6]

Threat of Material Injury by Reason of LTFV Imports

In order to make an affirmative determination in this investigation, we must find that an industry in the United States.—

(1) is materially injured, or

(2) is threatened with material injury, or

(3) the establishment of an industry in the United States is materially retarded by reason of the LTFV imports found by Commerce. In the present case we have determined that an industry in the United States is *threatened* with material injury by reason of LTFV imports.

The Tariff Act, while defining "material injury," does not expressly defined the concept of "threat" of material injury. However, the legislative history provides considerable help. The report of the Committee on Ways and Means of the House of Representatives on the Trade Agreements Act of 1979 states that "Threat of Material Injury" is to be found "before actual material injury occurs and should be interpreted in a manner to prevent actual material injury from occurring".[7]

The Ways and Means Committee Report further states that the Commission, in determining "threat of material injury," should consider the following:

> In examining threat of material injury, the ITC will determine the likelihood of a particular situation developing into actual material injury. In this regard, demonstrable trends—for example, the rate of increase of the subsidized or dumped exports to the U.S. market, capacity in the exporting country to generate exports, the likelihood that such exports will be directed to the U.S. market taking into account the availability of other export markets, and the nature of the subsidy in question (i.e. is the subsidy the sort that is likely to generate exports to the U.S.) will be important. However, in considering threat, high present capacity utilization of the domestic industry and the absence of other indicia of present injury should not be considered as conclusive as to the absence of threat of injury.
>
> An increase in market penetration may be an early warning signal of injury. Indicia of the threat of material injury will vary from industry to industry. The ITC should place emphasis on the rate of increase of market penetration, particularly if market penetration is achieved by prices which are below U.S. price levels, but which are not maintained in the home market.[8]

In making our determination that an industry is threatened with material injury we considered, among other factors, the following statutory criteria

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Footnotes continued from last page

injury but for the suspension of liquidation in the record of this investigation.

Commerce's final determination of sales at LTFV was published in the **Federal Register** on Nov. 24, 1980 (45 FR 77498).

[3] Section 207.25(d)(3) of the Commission's Rules of Practice and Procedure requires a finding as to whether material injury by reason of the less-than-value imports would have been found but for the suspension of liquidation of entries of the merchandise by the Department of Commerce. There is insufficient information to support a determination that there would have been material injury but for the suspension of liquidation in the record of this investigation.

The Department of Commerce determined on November 24, 1980 that ASM from France is being sold in the United States at less than fair value, with a weighted-average price margin of 60 percent of the exporter's sales price or 37.8 percent of the fair market value.

[4] The subject imported ASM enters in four grades. The grading has to do with particle size. It is our view that all imported grades are commercially competitive and interchangeable with the domestic ASM product and that the domestic ASM is therefore "like" the imported ASM.

[5] No one asserted that the appropriate industry included both domestic ASM and SMP production facilities. In fact, counsel for the importer asserted that the relevant domestic industry consists only of those U.S. firms producing ASM (see transcript of public hearing, p. 124).

[6] Vice Chairman Calhoun has additional views on the question of "like product". These views follow immediately after this opinion.

[7] House Report No. 96–317, at p. 47.

[8] House Report 96–317, at p. 47–48.

contained in subsection 771(7)(B): (1) the volume of imports of the merchandise subject to the investigation, (2) the effect of imports of such products on prices of like products produced in the United States, and (3) the impact of the imports on the affected domestic industry.[9] We have based our decision on the findings of fact and conclusions of law discussed below.

Import volume: Imports of ASM from France have increased steadily from 1976 to 1980. Imports jumped from 40,000 pounds in 1976 to 982,000 pounds in 1977, and then almost tripled to 2,664,000 pounds in 1978. In 1979, imports rose 107 percent, to 5,506,100 pounds. From January–September 1980, imports rose 1.9 percent over the corresponding period of 1979; however, ASM imports in 1980 may have been affected by the pending case and, more particularly by Commerce's preliminary determination of sales at LTFV (tentative 50 percent margin) and the subsequent bonds that were required to be posted on all French ASM imports entering the United States after September 5, 1980.

At the public hearing Rhone-Poulenc, Inc. (USA), stated that its parent company, Rhone-Poulenc, S.A., has set a firm ceiling of 3,000 metric tons (6.6 million pounds) of ASM it will export to the United States in any given year. However, even if Rhone-Poulenc S.A. adheres to the voluntary level, its ASM exports to the United States would still increase by an additional 20 percent over 1979 levels, probably causing a severe adverse effect on the domestic market.

Rhone-Poulenc has stated that its plant in France produced ASM at 87.7 percent of name plate capacity in 1979. They also state that the plant produced 75 percent of beaded capacity in that year.[10] By its own account, Rhone-Poulenc's S.A. markets ASM in over 70 countries.[11] Aside from Rhone-Poulenc's self-imposed quota on shipments to the U.S., there is no legal barrier which would bar French exports of ASM from being diverted from other countries to the United States. Rhone-Poulenc, Inc., because it has established regional warehouses and an established U.S. sales network, has been able to obtain an increasing share of the domestic market. The French company also has a unique backhaul shipping arrangement which lowers its shipping costs in transporting the ASM from France. At the company's discretion, depending upon price, profitability, and sales, Rhone-Poulenc, Inc. would seemingly have no problem marketing an increasing amount of ASM in the U.S. and only the self-imposed quota holds the company from continued expansion into the U.S. market.

The bulk of the imported ASM is entered through the Port of New York, and prior to 1979, the vast majority of Rhone-Poulenc's sales were in that area. However, in 1979, only 78 percent of ASM imports entered through New York. This switch was caused by Rhone-Poulenc's market expansion into other areas such as Miami, Los Angeles, and San Francisco. This trend indicates that Rhone-Poulenc is expanding its areas of import penetration with a deliberate marketing plan.

Market penetration.—ASM is sold in two distinct commercial markets, namely the large volume bulk market and the list-price package market. Total national market penetration of anhydrous sodium metasilicate rose from 0.8 percent in 1977 to 4.4 percent in 1979. The package market comprised a significant * * * percent of total commercial shipments from 1977 to 1979.[12]

The package market takes on a special significance in this case because that is the only market in which the imported and domestic products compete. As stated at the public hearing, Rhone-Poulenc currently cannot compete in the bulk market because of shipping problems. Over the period of 1977 to 1979, ASM imports increased their share of the commercial U.S. package market from * * * percent to * * * percent.[13]

While the Northeast market does not meet the statutory criteria for a regional industry[14], it has been shown that the importer has captured an increasingly larger share of that area's package market, rising from 5.5 percent in 1977 to 25.3 percent in 1979.[15] The Commission has found that the majority of purchasers of domestic ASM who switched to the imported product did so because of price.[16]

Although an extensive study has not been conducted on any other marketing areas, we feel that the trend of market penetration as shown in the Northeast will probably prevail in these other areas. As imports into other ports increase, Rhone-Poulenc will capture an increasing percentage of the package markets in those areas. The information gathered by the Commission on lost sales indicates that several purchasers in the San Francisco area have switched to the imported ASM.[17] All signs indicate that Rhone-Poulenc will continue to capture increasingly large package market shares in all areas of importation if it is permitted to continue selling ASM at large LTFV margins.

Over the period studied, the price differential between the imported and domestic products varied from $4.85 per 100-pound bag to $1.40 per 100-pound bag, with the imported product underselling the domestic by 6 to 35 percent. The September 1980 differential, $1.40 per bag, is the lowest during the period of 1977 to September 1980. The LTFV margins, based on the Commerce investigation, ranged from $2 to $9 per unit.[18] Thus, the margins accounted for virtually all of the underselling by the imported French ASM. The weighted average LTFV margins was 60 percent of the exporters' sales price or 37.8 percent of the fair market value.

The Commission contacted 12 firms, and was able to confirm 10 sales totaling 3.5 million pounds with an approximate value of $660,000 lost by domestic producers to ASM imported by Rhone Poulenc from France. Furthermore, through information obtained from other industry sources, the Commission was able to determine an additional lost sale of 228,000 pounds valued at $43,320. In all eleven instances of lost sales, price was given by the purchasers as the principal reason for switching to the imported product.

Conclusion

On the basis of the foregoing considerations we conclude that an industry in the United States is threatened with material injury by reason of imports from France of anhydrous sodium metasilicate, which the Department of Commerce has determined are being sold in the United States at less than fair value.

Additional Views of Vice Chairman Calhoun

I wish to make more explicity my finding concerning the like product and the domestic industry. In this investigation, the article being imported is anhydrous sodium metasilicate (ASM) from France. It enters in compositions which are divided into four grades based on particle size and which range from powder to granular. The grades have no bearing on chemical properties, but largely relate to such properties as water solubility and dustiness. Imported ASM, as is the case with domestically produced ASM, is primarily used as a source of alkali in the production of detergents.

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[9] Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, section 771 (19 U.S.C. 1677(7)).

[10] Rhone-Poulenc prehearing statement, at p. 42.

[11] Rhone-Poulenc prehearing statement, at p. 40.

[12] Report at p. A–37.

[13] Report at p. A.37.

[14] Under section 771(c)(ii) of the Tariff Act of 1930, for a regional industry to be established, "the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States."

In this instance, the Northeast market is supplied by three plants, only one of which is located in the Northeast market. Both plants outside the area, one in Texas and the other in Illinois, ship significant quantities of ASM into the Northeast market, therefore disallowing the finding of a regional industry.

[15] Report at p. A–35.

[16] Ibid. at A–45.

[17] Ibid.

[18] Report p. A–3.

There are four U.S. firms that produce ASM and they account for 100 percent of the domestic production. The ASM produced by these firms is virtually identical in characteristics and uses with the ASM imported from France. However, these firms also manufacture sodium metasilicate pentahydrate (SMP) which shares some physical qualities and some end uses with ASM. Nevertheless, it is my view that ASM and SMP are not like products. While ASM and SMP may share some chracteristics and uses, domestically produced ASM is virtually identical to imported ASM and is, therefore, "like" the imported ASM. Such a finding makes it unnecessary to address products which might be "most similar." Thus, I find the like product to be domestically produced ASM and the appropriate domestic industry in this case to be the producers of ASM.

Views of Commissioner Paula Stern

On the basis of the record developed in Investigation No. 731–TA–25 (Final), I determine that an industry in the United States is threatened with material injury by reason of imports of anhydrous sodium metasilicate (ASM) from France, which the U.S. Department of Commerce (Commerce) has determined are being, or are likely to be, sold in the United States at less than fair value (LTFV).[19]

The Industry

The industry is comprised of the domestic producers of ASM. ASM, an alkali source for detergent formulations, is chemically distinct from the next most similar product, sodium metasilicate penetahydrate (SMP). By and large ASM and SMP are not interchangeable in most detergent formulations, and ASM is produced by a separate production process. Moreover, data were available for an analysis of the impact of the LTFV imports on domestic ASM production.

The four U.S. producers of ASM—PQ Corporation (PQ), Stauffer Corporation (Stauffer), Diamond-Shamrock, Co., and Mayo Co.—are all vertically integrated. To a greater or lesser degree, they all produce ASM for their own "captive" consumption as well as for the "commercial" market. Commercial (non-captive) sales are comprised of shipments either in 100-pound bags in the so-called "package" market[20] or in "bulk". To date imports have been sold only in the "package" market.

Vulnerability of the domestic Industry

During the past few years domestic producers of ASM have been adjusting to a variety of adverse market developments. Demand for ASM has fallen as key consumers have shifted to other products. Detergent builders have found caustic soda and soda ash, the principal substitutes for ASM, to be economically attractive, and traditional institutional users of ASM-based detergents have established on-premises laundries utilizing non-ASM based detergents. The 1976 regulation banning the use of ASM in dishwasher detergent represented another loss for the industry. More recently, the recession has led to decreased sales. It is these essentially non-import-related, demand developments that are reflected in the negative aggregate economic data for the industry.[21] From 1977–1979 production fell roughly 15 percent from 195 million pounds to 165 million pounds, and shipments fell about 13 percent. During the same period, capacity followed a similar trend, declining to 237 million pounds in 1979, 21 percent below the 1977 level. Employment dropped 33 percent, from 152 workers in 1977 to 105 workers in 1979 and inventories rose 5 percent during this period. Capacity utilization was 65 percent in 1977 and 73 percent in 1979. The increase was due to the closing of Stauffer's Skaneateles, New York plant in recognition of the overcapacity in the industry.

Market developments have resulted in a nearly flat financial picture for the industry as a whole, with profits at a reasonable level. However, the performance of individual firms has differed greatly. Despite the demand adversities, several companies have managed to gain or to maintain high profits. PQ, the petitioner, has faced additional internal problems—high costs and technical difficulties at one plant—and, as a result, has suffered increasing financial losses.

The negative economic indicators on industry performance over the last few years demonstrate that the ASM industry is in a weak position. Moreover, the industry is inherently vulnerable to injury by LTFV imports because: (1) ASM, a fungible product, is highly price sensitive, and (2) the production machinery must operate continuously, 24 hours a day, 7 days a week—profitability falls rapidly when capacity utilization declines.

Imports

The Past—From 1977–1979 imports of ASM from France increased significantly. Such imports rose from 40,000 pounds in 1976 to 962,000 pounds in 1977, and then almost tripled to 2,663,500 pounds in 1978. In 1979 ASM imports from France increased over 100 percent fro 1978 levels to 5,506,100 pounds.[22] These imports have accounted for an increasing share of the declining ASM market. In 1977 they represented 0.5 percent of total U.S. ASM consumption as compared to 3.2 percent in 1979.

On a national basis the three percent market share of LTFV ASM has not resulted in present material injury. However, as the House Committee on Ways and Means points out, "an increase in market penetration may be an early warning signal of injury."[23] In examining threat of material injury, the Committee has advised the ITC to "place emphasis on the rate of increase of market penetration, particularly if market penetration is achieved by prices which are below U.S. price levels, but which are not maintained in the home market."

The rate of increase of market penetration has been significant. A fuller examination of the nature of this penetration demonstrates the "threat" most vividly. LTFV penetration of the commercial market quadrupled from 0.8 percent in 1977 to 4.4 percent in 1979. In the package market, where imports actually compete, the French market share increased 8-fold during this period. In that market, penetration by French imports continued to rise in 1980. The importance of the package market was not clear in the preliminary investigation. Now we know that the package market comprises a significant part of the total market (* * * percent),[24] and that—because of the need to maintain high capacity utilization—the health of the domestic industry is affected by its performance in the "package" market.[25]

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[19] Section 207.25(d)(3) of the Commission's Rules of Practice and Procedure requires a finding as to whether material injury by reason of the less-than-fair-value imports would have been found but for the suspension of liquidation of entries of the merchandise by the Department of Commerce. There is insufficient information to support a determination that there would have been material injury but for the suspension of liquidation in the record of this investigation.

[20] In the preliminary investigation the Commission referred to these shipments as "spot" market sales.

[21] See my views in the preliminary investigation, (USITC Pub. No. 1080, June 1980), at pp. 19–20.

[22] From January–September 1980, imports rose 1.9 percent over the corresponding period in 1979. However, ASM imports in 1980 may have been affected by the initiation of this investigation on May 15, 1980.

[23] H. Rep. No. 96–317, 96th Cong., 1st Session. (47) 1979

As I noted in the preliminary investigation, analysis of the geographical pattern of the growth of import penetration also raises the specter of material injury by LTFV imports on a national basis.[26] Penetration of the Northeast package market by LTFV imports rose from 5.5 percent in 1977 to 25.3 percent in 1979. At the same time, sales to other areas of the United States increased. In 1977 all imports entered through the Port of New York. In 1978 imports to Miami commenced, and in 1979 shipments to Los Angeles and San Francisco began. By 1980, shipments to California had more than doubled from 1979 levels,[27] imports arrived in Chicago, and the volume of imports accounted for by shipments to the Northeast fell to 78 percent. Clearly, the potential for adverse impact on the U.S. industry by the LTFV imports is spreading nationwide.

These patterns of import penetration are particularly indicative of a threat of material injury because the penetration has been achieved with LTFV prices which have resulted in significant underselling.[28] Rhone Poulenc's prices have undersold U.S. products in all parts of the country. Underselling has ranged from $1.40 per 100-pound bag to $4.80 per 100-pound bag. This means that on a typical truckload shipment of roughly 44,000 pounds of ASM the savings to the customer on the imported product are substantial—$616.00—$2,112.00.

The result has been lost sales for the U.S. industry. The ITC staff has confirmed $660,000 of lost sales by reason of price. Lost sales were reported not only in the Northeast, but in other parts of the country as well. In the Northeast, where imports have been concentrated, the major ASM producers[29] have all reported sizeable declines in shipments to the package market from 1977–79. For the petitioner, this decline has further strained the financial position of its Rahway, New Jersey plant which has been beset by rapidly escalating costs for fuel and other raw materials since 1978.[30]

The Future—In examining threat of material injury, the Senate Finance Committee states that "demonstrable trends—for example, the rate of increase of the * * * dumped exports to the U.S. market, capacity in the exporting country to generate exports, the likelihood that such exports will be directed to the U.S. market taking into account the availability of other import markets * * * will be important." The rapid increase in the rate of penetration has been established, the capacity and intentions of Rhone Poulenc need to be addressed.

Information provided by Rhone Poulenc shows that in 1979 its capacity utilization rate for beaded ASM was roughly 78 percent; for other ASM the rate was somewhat higher. Since ASM production machinery operates continously, it would be in Rhone Poulenc's interest to utilize any idle capacity.

In 1979 Rhone Poulenc's shipments to the U.S. accounted for roughly a fifth of its capacity for production of beaded ASM and a much smaller percentage of its ASM capacity. Rhone Poulenc has testified that it sells ASM to 70 countries.[31] Data submitted in the preliminary investigation indicated that sales volumes to these countries have fluctuated radically from year to year.[32] This permits Rhone Poulenc flexibility in adjusting the amount of goods shipped to the United States.

In this final investigation the counsel for Rhone Poulenc sought to assure the Commission that the level of future LTFV exports to the United States would not threaten the U.S. industry. This defense, however, was not convincing. Rhone Poulenc's arguments and their flaws included:

(1) The "marginal supplier philosophy"—the assertion was made that Rhone Poulenc envisions only a minor role in the U.S. market. However, lost sales information gathered in the investigation indicated that purchasers had shifted to LTFV imports not just for "marginal" or "minor" supplies, but for all their ASM needs.[33] Moreover, the "marginal supplier philosophy" was offered as an explanation of "why Rhone Poulenc occupies so tiny a share of the domestic ASM market and will continue to do so in the future." Where imports have been concentrated, their market share is now over 25 percent. This is not a "tiny" market share and such an incursion by imports nationwide would seriously affect the U.S. industry.

(2) "Structural barriers"—the contention is that Rhone Poulenc exports, and hence potential injury, are limited by the company's inability to supply bulk customers and by United States inland freight costs preventing Rhone Poulenc from supplying ASM in U.S. markets removed from ports of entry. The petitioner supplied information to the Commission indicating that it is indeed possible for Rhone Poulenc to make bulk shipments. However, even if Rhone Poulenc sells only to the package market such sales pose a "threat" to the U.S. industry. Furthermore, the inland freight argument does not hold up. Most ASM is consumed near ports of entry.[34] In fact, Rhone Poulenc's potential shipment points are more diverse than those of the U.S. industry and the company is benefitting from a backhaul freight arrangement that enables it to supply the West as economically as the East. Rhone Poulenc's proposal that it supply the Gulf Coast area for PQ further confirms its favorable supply position.[35]

(3) The "marketing plan"—Rhone Poulenc provided the Commission with its worldwide marketing plan for all grades of ASM for the next five years. The plan shows decreasing shipments to the United States after 1982.[36] The forward to the plan indicates that the basis for the projections/strategy is the fact that the European dishwasher detergent market will be growing by 10 percent a year during the next five years, while the institutional detergent market (where all U.S. sales occur) will not expand in developed countries. Thus, sales are projected to increase more rapidly in Europe that in North America.

The forward also made reference to the fact that the French dishwasher detergent market had been growing even more rapidly in the past few years; growth ranged from 15 to 20 percent. U.S. demand for ASM, we know, was declining during that period. Still Rhone

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[24] See Staff Report, p. A–37.

[25] See PQ submission, dated December 9, 1980, answering questions posed during the hearing, at pp. 20–21.

[26] See my views in the preliminary investigation (USITC Pub. No. 1080, June 1980), at pp. 24–29.

[27] This is based on January–September comparisons.

[28] The LTFV margins account for virtually all of the underselling of U.S. ASM by Rhone-Poulenc, Inc. (Rhone Poulenc). Rhone Poulenc S.A. (also Rhone Poulenc) is the sole French exporter of ASM to the United States; the company now markets all its ASM through Rhone Poulenc, Inc.

[29] PQ Corp., Diamond Shamrock Corp., and Stauffer Chemical Co.

[30] The petitioner is the only U.S. producer presently with a plant in the Northeast.

[31] Testimony has varied. In the preliminary investigation 49 countries were cited.

[32] Prehearing statement on behalf of Rhone-Poulenc Inc., and Rhone Poulenc S.A. in Investigation No. 731–TA–25 (Preliminary), Exhibit 5.

[33] Staff Report, at A–45.

[34] See Staff Report, at A–9.

[35] See Hearing Transcript, p. 206.

[36] This refers to shipments of AN grade ASM.

Poulenc made significant increases in market penetration in the U.S. at that time. Data supplied in the preliminary investigation indicated that from 1978–79 Rhone Poulenc sales declined substantially to many of its major and minor markets in Europe, while sales to the U.S. increased significantly. Thus, it is clear that contrary to general demand treads, as perceived by Rhone Poulenc planners, it has been in Rhone Poulenc's interest in increase exports to the United States.

As counsel for the petitioner points out, marketing plans are revised periodically in order to account for the "changing environment" which could include many economic and political circumstances in any of the 70 countries supplied by Rhone Poulenc. This is made abundantly clear by the fact that the Rhone Poulenc marketing plan submitted in the final investigation (dated January 1, 1980) varies from the shorter version submitted in the preliminary investigation.

(4) The "voluntary quantitative limit"—as a final assurance against an affirmative finding on "threat," counsel for Rhone Poulenc indicated that the company intends to limit its shipments of ASM to the United States to 3,000 metric tons (6.6 million pounds) per year. Such an assurance is not a "remedy" which can be accepted by the Commission in an antidumping investigation. In any case, if Rhone Poulenc exported the full amount of the self-imposed quota, ASM imports would increase by 20 percent over 1979 levels in a market which is not expected to expand significantly.

Conclusion

The Congress has directed that for an affirmative finding of "threat of material injury by LTFV imports" the threat must be "real" and the injury must be "imminent."[37] Such a finding must not be based on "speculation" or "conjecture." In this case the "threat" has been demonstrated by the performance of Rhone Poulenc in the U.S. market over the past few years. It would be conjectural to expect demonstrable market penetration trends to reverse rather than continue in their upward direction. Given the substantial underselling of the U.S. product by imports enjoying the advantage of Rhone Poulenc's sizeable LTFV pricing, this inherently vulnerable U.S. industry is imminently in jeopardy.

By Order of the Commission.

Issued: December 23, 1980.

Kenneth R. Mason,

Secretary.

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NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-1]

Reports, Recommendations and Responses; Availability

Aircraft Accident Report

Kennedy Flite Center, Gates Learjet Model 23, N666JS, Byrd International Airport, Richmond, Virginia, May 6, 1980.—The National Transportation Safety Board's formal investigation report, released December 19, shows that this accident occurred as the Learjet was attempting a landing following an instrument approach to runway 33 at Byrd International Airport in which the crew had requested that the runway's sequenced flashing approach lights be dimmed. Witnesses stated that when the Learjet crossed the runway threshold, the aircraft began to rock and then rolled inverted, crashed, and burst into flames, killing the two crewmembers.

The Safety Board determined that the probable cause of the accident was the pilot's failure to maintain proper airspeed and aircraft attitude while transitioning from final approach through flare to touchdown. The low-speed/high angle-of-attack flight condition precipitated wing rolloff, wingtip strikes, and ultimate loss of aircraft control. The pilot's improper technique during roundout may have been due to fatigue, his limited knowledge, training, and experience regarding the flight characteristics of the Learjet aircraft, and distraction caused by concern over the intensity of the approach lighting.

The Board believes that while the training this flightcrew received may have met Federal Aviation Administration requirements, the copilot was minimally qualified to make a night landing, and neither crewmember had the experience necessary to prevent, or cope with the aircraft controllability problems preceding the accident. Moreover, the pilot had been active for about 20 hours prior to the accident, and the copilot had been awake for 18 hours.

As a result of this investigation, and five others involving Learjet aircraft, the Board last June 27 issued safety recommendations Nos. A-80-53 through -55 to FAA, including a request that the agency convene a Multiple Expert Opinion Team to evaluate the flight characteristics and handling qualities to Series 20 Learjet aircraft. (See 45 FR 46564, July 10, 1980.)

In its response of September 25 to these recommendations, FAA reported the issuance of two extensive airworthiness directives pertaining to all Learjet model aircraft. The directives include aircraft procedures concerning in-flight deployment of spoilers, checking of trim systems, stall restrictions, yaw damper operation, runaway trim emergency procedures, increased takeoff and landing distance data, reduced maximum takeoff and landing weights, autopilot mechanical checks, and increased landing approach speeds. (See 45 FR 68815, October 16, 1980.)

Railroad Safety Recommendations

R-80-49, to the Association of American Railroads, November 5, 1980.—Last February 12 two freight trains operated by the Baltimore and Ohio Railroad Company collided head-on at Orleans Road, W. Va. Extra 6474 East was on Track No. 2 traveling at 38 miles per hour as it passed the stop-and-stay signal at Orleans Road and entered a curve where Extra 4367 West was approaching at a speed of 32 mph. The fireman of Extra 4367 West was killed and the engineer and head brakeman were injured; the engineer, brakeman, and conductor of Extra 6474 East were injured.

This accident occurred in a remote area of the railroad and required emergency rescue personnel about ¾ hour to arrive at the scene. During this time, the engineer of Extra 6474 East was bleeding extensively from injuries sustained in the collision. None of the crewmembers, however, had any first aid training and were unable to give necessary aid to the engineer before emergency personnel arrived. When emergency personnel did arrive, the engineer was in critical condition and several of the other crewmembers were found wandering in a state of shock.

Since 1969, the Safety Board has found, through its investigations, a number of accidents involving passenger trains, freight trains, and hazardous materials, where crewmembers and passenger service personnel lacked emergency training, including first aid. Accordingly, the Board recommends that the Association of American Railroads:

> **Recommend to its member companies that they provide first aid training for their train crewmembers and passenger service personnel. (Class II, Priority Action) (R-80-49)**

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[37] S. Rep. No. 96-249, 96th Cong., 1st Session. (69) 1979.

For more detailed information on this accident, see the Safety Board's report No. NTSB-RAR-80-9, 45 FR 68814, October 16, 1980.

R-80-50, to the Seaboard Coast Line Railroad Company, November 21, 1980.—About 7:33 a.m. last April 2, northbound Amtrak passenger train No. 82 collided head-on with Seaboard Coast Line Railroad freight train Extra 2771 South at Lakeview, N.C. Train No. 82 overran a stop signal at the north end of the double track and entered the single track which Extra 2771 South had been authorized to use. Injured were 29 crewmembers and 94 passengers; damage was estimated at $1,145,492. (See also report No. NTSB-RAR-80-8, 45 FR 67175, October 9, 1980.)

Investigation showed that after receiving a clear signal at Southern Pines, N.C., train No. 82 departed on the west main track. Because of several rail-highway grade crossings in the area north of Southern Pines and because of the dense fog, the engineer blew the whistle frequently. As the engineer approached signal No. 222.4, he applied the air brakes to slow the train to comply with the 50-mph speed restriction through a curve just north of approach signal No. 222.4 and then released them. He said he did not see the signal aspect until he was within 100 feet of it because of the heavy fog. As he passed the signal he said he caught a glimpse of it and called it aloud to himself as "clear." As the train moved northward, it passed through the 50-mph restricted speed curve and then gained speed again as it moved down a 1.0 percent grade toward Fleet Interlocking, the north end of the double track.

The Safety Board notes that although the locomotive of train No. 82 was equipped with cab signals and train control equipment, they were not operable on the Seaboard Coast Line track because the wayside system was not compatible. However, if the system had been compatible, the engineer of train No. 82 would have received an audible indication when the locomotive passed signal No. 222.4, and if he had failed to acknowledge the signal and had failed to control the train's speed in accordance with the signal indicated, the train would have automatically stopped.

On February 7, 1972, the Safety Board recommended that the Federal Railroad Administration develop a comprehensive program for future requirements in signal systems that would require, as a minimum, that all mainline trains be equipped with continuous cab signals in conjunction with automatic-block signals and that all passenger trains be equipped with continuous automatic speed control (train control). (Ref., Safety Board special study, "Signals and Operating Rules as Causal Factors in Train Accident, February 7, 1972" (NTSB-RSS-71-3).)

On July 3, 1972, FRA responded that, based on accident statistics involving signal failures or the failure of an engineer to comply with a signal indication, it could not justify a requirement for the railroads to install train control and cab signal systems. Economic reasons were also cited as a factor. Consequently, no action has been taken to implement the intent of the recommendation. In two subsequent accident reports, the Board reiterated to FRA the need for train control. (See "rear-end Collision of Two Texas and Pacific Railroad Company Freight Trains, Meeker, La., May 30, 1975" (NTSB-RAR-75-9) and "Rear-end Collision of Conrail Commuter Trains, Philadelphia, Pa., October 16, 1979" (NTSB-RAR-80-5).) Notwithstanding the position taken by FRA, the Safety Board believes that the safety merits of train control are well established and that installation of necessary wayside signal systems and train equipment is justified as a safety measure when conducted in connection with the upgrading of signal systems.

Therefore, as a result of its investigation of the Lakeview accident, the Safety Board recommends that the Seaboard Coast Line Railroad:

> Develop a program for its signal system that will require, as a minimum, that all mainline trains be equipped with continuous cab signals in conjuction with automatic-block signals and that all passenger trains and passenger train routes be equipped with continuous automatic speed control (train control). (Class II, Priority Action) (R-80-50)

Responses to Safety Recommendations

Aviation

A-80-106 and -107, from the Federal Aviation Administration, December 15, 1980.—Response is to recommendatins issued October 2 as a result of investigation of an incident involving flight control of an Aerospatiale 341G Gazelle helicopter on May 14, 1980. (See 45 FR 67175, October 9, 1980.)

Recommendation A-80-106 asked FAA to issue a Telert Maintenance Bulletin to require one-time inspection of the rudder pedal shafts on the Aerospatiale 341G helicopter for proper installation. In response, FAA notes that prior to receipt of this recommendation, FAA had brought the details of this incident to the attention of FAA field inspectors and the aviation community in the General Aviation Alerts (AC 43-16) issued August 1980 (copy provided). Since this alert had been distributed by mail at least 1 month prior to receipt of the recommendation, FAA does not believe a telegraphic alert at this time is necessary. FAA believes that the August 1980 alert satisfies the intent of this recommendation.

In response to recommendation A-80-107, which asked FAA to review and evaluate the rudder pedal installation to determine if a stronger pedal retention design is necessary, FAA reports having a discussion of this matter with the French airworthiness authority and Aerospatiale Corporation in October 1980. It was agreed that issuance of a service letter would be sufficient to prevent recurrence of this incident. FAA expects publication in the near future, and a copy will be forwarded to the Board when available.

Railroad

R-80-49, from the Association of American Railroads, December 15, 1980.—Response is to the recommendation issued November 5 as a result of investigation of the freight train collision at Orleans Road, W. Va., February 12, 1980 (see above).

The AAR states in its response that providing necessary emergency medical assistance to employes operating in small units, at varying distance from their terminals, can be a trying matter. Most injuries to such employes would probably occur at locations where help could be summoned and reach the scene within a reasonable period. AAR notes that the accident at Orleans Road occurred at a remote point, and some time elapsed before required assistance could be provided. AAR doubts that there is any way to be fully assured that medical attention will be available under any and all times and circumstances.

Further, AAR notes that this matter has been discussed on many occasions by the AAR Medical Section's Committee of Direction. That Committee is scheduled to meet in Washington during the latter part of January. Recommendation R-80-49 is docketed for consideration at that meeting.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA. 22161.

(49 U.S.C. 1003(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

December 29, 1980.

[FR Doc. 80-40807 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-59-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322A]

Long Island Lighting Co.; Receipt of Updated Information for Antitrust Review of Operating License Application

Note.—This document originally appeared in the **Federal Register** for Friday, December 12, 1980. It is reprinted in this issue at the request of the agency.

The Long Island Lighting Company filed updated information for Antitrust Review of an Operating License Application, dated September 30, 1980. The original submission of information for the antitrust review of the operating license application was filed by letter, dated January 12, 1976. This information was filed pursuant to 2.101 of the Commission's Rules and Regulations and is in connection with the plans of Long Island Lighting Company to operate a boiling water reactor located on the north shore of Long Island, the State of New York, County of Suffolk, in the town of Brookhaven. The reactor has been designated as the Shoreham Nuclear Power Station, Unit 1.

The portion of the application filed contains updated antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director, Office of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, D.C., and local public document room and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that are requested will also be published in the **Federal Register** and copies sent to the Washington, D.C., and local public document room.

A copy of the updated information for Antitrust Review for an Operating License Application is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room in the Shoreham—Wading River Public Library, Route 25A, Shoreham, New York 11786.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before February 10, 1981.

Dated at Bethesda, Maryland this 3rd day of December, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-38401 Filed 12-11-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cost Principles; Educational Institutions

AGENCY: Office of Management and Budget.

ACTION: Comment—proposed revision on OMB circular A-21, "Cost Principles; Educational Institutions."

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision of Circular A-21, "Cost principles; educational institutions." The revision would modify the rules dealing with the allowability of interest and independent research and development costs.

At the present time, Circular A-21 does not recognize interest costs or independent research and development costs. It states that costs incurred for interest on borrowed capital or temporary use of endowment funds are unallowable. The Circular is silent about allowability of independent research and development costs.

Allowability of interest costs is being proposed to bring Circular A-21 into conformity with provisions incorporated recently into Circular 74-4, "Cost Principles for Grants to State and Local Governments."

Allowability of independent research and development costs is being proposed to conform with other Federal cost principles. Accounting for such costs would be entirely voluntary on the part of educational institutions. No separate identification would be required if institutions do not seek to recover such costs.

These proposed changes are in furtherance of OMB's effort to bring about uniformity and consistency in Federal grant regulations. They are also in keeping with recommendations in the General Accounting Office report "Federally Sponsored Research at Educational Institutions—A Need for Improved Accountability."

Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, 6002 New Executive Office Building, Washington, D.C. 20503. All comments should be received within 60 days following publication of this notice.

FOR FURTHER INFORMATION CONTACT: George Northway (202) 395-4773.

SUPPLEMENTARY INFORMATION: The proposed changes to OMB Circular A-21 are set forth in Attachment 1 below.

John J. Lordan,

Chief, Financial Management Branch.

The proposed changes to OMB Circular A-21 are as follows:

Paragraph J.17

Add at the end of Section a. "except as indicated in e. below."

Add a new Section e. as follows:

"e. The cost of interest directly associated with buildings used in carrying out sponsored agreements is allowable; provided that the building is acquired or completed on or after July 1, 1981, and that the total cost of the building (including depreciation, or use allowance, operation and maintenance costs, interest, etc.) does not exceed the rental cost of comparable facilities in the same locality."

Paragraph, J.45

Add a new paragraph as follows:

"Independent Research and Development Costs.

"a. The cost of independent research and development are those incurred by the institution for the purpose of maintaining or improving research capability and effectiveness. They include salaries and other costs for projects that have been approved by the institution to meet the purposes of independent research and development as specified in an institutional plan. Costs of independent research and development are allowable, but are limited to 1% of the modified total direct costs of sponsored research in the current accounting period.

"b. The costs in this category shall be treated as indirect costs and allocated currently to all activities of the institution."

[FR Doc. 80-40757 Filed 12-31-80; 8:45 am]

BILLING CODE 3110-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Final Meeting

The final meeting of the President's Commission on Pension Policy has been scheduled for January 23, 24, and 25, 1981, in the Williamsburg Lodge, Williamsburg, Virginia. The Commission was established by Executive Order 12071 on July 12, 1978, and was continued by Pub. L. 96-14 on May 24, 1979.

The agenda for this meeting is as follows:

January 23rd

9:00-11:00 Discussion of procedures for final report and overview of issues to be covered
11:00-1:00 Minimum, universal pension proposal
1:00-2:00 Lunch
2:00-3:00 Vesting and portability
3:00-5:00 Review of Commission decisions on retirement age policy, universal social security coverage and spouse benefits
5:00-6:00 Staff presentation on Urban Institute/SRI state and local study

January 24th

9:00-10:30 Review Commission decisions on retirement income goals
10:30-12:00 Review Commission decisions on tax policy
12:00-1:00 Lunch
2:00-5:00 Social Security financing and benefits structure, review decisions and staff presentation

January 25th

9:00-10:00 Coordination of Social Security and employee pensions
10:00-10:30 Employment of older workers
10:30-11:30 Federal administration of pension programs
11:30-1:00 Disability issues review
1:00-2:00 Lunch
2:00-3:00 Ownership and control of pension fund assets
3:00-4:00 Review of final decisions (if needed)

The meeting will be open for observation by the general public to the extent space is available. Requests for additional information should be directed to the Office of Public Affairs, President's Commission on Pension Policy, 736 Jackson Place, N.W., Washington, D.C. 20006. The Commission's phone number is (202) 395-5132.

Signed at Washington, D.C., this 29th day of December 1980.

Philip L. Sparks,

Associate Director.

[FR Doc. 80-40669 Filed 12-31-80; 8:45 am]

BILLING CODE 6820-99-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Anchorage, Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway interchange project on the Glenn Highway in the Municipality of Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Johns, Environmental Coordinator, Federal Highway Administration, P.O. Box 1648, Juneau, Alaska 99801, Telephone: (907) 586-7419.

Terry Fleming, Central Regional Environmental Coordinator, Alaska Department of Transportation & Public Facilities, Pouch 6900, Anchorage, Alaska 99502, Telephone: (907) 266-1508.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on a proposal to improve U.S. Route F-42 at its intersection with Boniface Parkway in Anchorage, Alaska. The proposed improvement would involve the reconstruction to full control of access standards of 1.9 miles of the Glenn Highway between the intersection with Bragaw Street and the interchange with Muldoon Road.

The proposal includes passing Boniface Parkway over Glenn Highway which will be depressed below the existing level. The project also includes closure of the median opening at Turpin Street, complete closure of access to Glenn Highway from McCarrey Street, realignment of Old Davis Highway at Boniface Parkway, and incorporation of two-way traffic flow on Old Davis Highway.

The proposed improvement is considered necessary for the following reasons: (1) To implement full control of access on Glenn Highway. (2) To improve traffic flow on the project roadways under the existing and projected traffic demand. (3) To reduce the number of traffic accidents on Glenn Highway and Boniface Parkway in the general project area.

Alternatives under consideration include (1) taking no action; and (2) reconstruction as proposed.

Letters describing the proposed action and soliciting comments will be distributed to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest in the proposal. A public informational meeting will be held early in 1981 to discuss the concerns of the immediate community and the general public. Public notice will be given of the time and place of the informational meeting. No formal scoping meeting is planned at this time. In addition, a public hearing will be held after the Environmental Impact Statement has been completed and made available for public and agency review and comment.

To ensure that the full range of issues related to this proposal are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA or the ADOT/PF at the addresses provided above.

(Catalog of Federal Domestic Assistance program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and Local Clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued: December 18, 1980.

Gene Hanna,

Division Administrator, Federal Highway Administration, Juneau, Alaska.

[FR Doc. 80-40570 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-22-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 1:30 p.m., January 9, 1981, at 800 Independence Avenue, S.W., Washington, D.C. 20591. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of

Programs; Old and New Business; Closing Remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than January 7, 1981 and information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D. C. 20591; 202/426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D. C. on December 19, 1980.

D. W. Oberlin,

Administrator.

[FR Doc. 80-40609 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committees; Meetings

Notice is hereby given, pursuant to Section 10 of Public Law 92-463, that meetings will be held in Washington on January 26, 27, and 28, 1981 of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee

Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the American Bankers Association Government Borrowing Committee meetings provides for working sessions on January 26 and January 27 and a report to the Secretary of the Treasury and Treasury staff on January 27.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meetings provides for working sessions on January 27 and a report to the Secretary of the Treasury and the Treasury staff on January 28.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92-463, and vested in me by Treasury Department Order 101-5 (May 16, 1979), I hereby determine that these meetings are concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Public Law 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. of 552b.

Dated: December 18, 1980.

Roger C. Altman,

Assistant Secretary (Domestic Finance).

[FR Doc. 80-38003 Filed 12-31-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 22, 1981, at 10 a.m., the Muskogee Station Committee on Educational Allowances shall at Room 2A20, 125 South Main Street, Muskogee, Oklahoma, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Oklahoma School of Business, 4770 South Harvard Avenue, Tulsa, Oklahoma, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: December 22, 1980.

Ray E. Smith,

Director, VA Regional Office, 125 South Main Street, Muskogee, OK 74401.

[FR Doc. 80-40760 Filed 12-31-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 1
Friday, January 2, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, January 9, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2374-80 Filed 12-30-80; 1:53 pm]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 5, 1981, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 29, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2372-80 Filed 12-30-80; 12:11 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 5, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,608-L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Case No. 44,621-L—Reserves for Losses—88 Open Liquidation Cases

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 29, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2373-80 Filed 12-30-80; 12:13 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, January 6, 1981 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Compliance. Litigation. Audits.

* * * * *

DATE AND TIME: Tuesday, January 8, 1981 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Certification
  Anderson Unity Campaign—Payment Adjustment
  Crane for President Committee—Special Submission Request
Advisory Opinions:
  Draft AO 1980-136: William C. Oldaker, Counsel, Kennedy for President

Committee (continued from December 18 meeting)
Draft AO 1980-137: Don L. Richardson, Republican Candidate—U.S. Senate (Texas)
Draft AO 1980-139: Daniel J. Edinger, Attorney, AGWAY, Inc.
Draft AO 1980-140: The Honorable Bob Dole, United States Senate
Draft AO 1980-144: Leonard L. Silverstein, Counsel, Presidential Inaugural Committee—1981
1980 Election and related matters
Appropriations and budget
September Management Report—Year End Report Fiscal Year 1980 (continued from December 18 meeting)
Pending legislation
Classification actions
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Leon L. Stafford,

Acting Secretary of the Commission.

[S-2377-80 Filed 12-30-80; 3:29 pm]

BILLING CODE 6715-01-M

5

FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 11 a.m., Wednesday, January 7, 1981 (following a recess at the conclusion of the open meeting).

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Matters to be Considered:

1. Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on Monday, January 5, 1981.)

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-2375-80 Filed 12-30-80; 3:17 pm]

BILLING CODE 6210-01-M

6

THE FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, January 7, 1981.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation E (Electronic Fund Transfers) to exempt overdraft checking plans from the compulsory use provision of the Electronic Funds Transfer Act. (Proposed earlier for public comment: Docket No. R-0320).

Discussion Agenda:

2. Proposed policy governing the frequency of examinations of State member banks, inspections of bank holding companies, and other bank related functions.

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Jospeh R. Coyne, Assistant to the Board (202) 452-3204.

Dated: December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-2376-80 Filed 12-30-80; 3:23 pm]

BILLING CODE 6210-01-M

7

[USITC ERB-80-14]

INTERNATIONAL TRADE COMMISSION.

Executive Resources Board (ERB)

TIME AND DATE: 10 a.m., Wednesday, January 7, 1981.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Old business:

a. Executive Development.
1. Individual Development Plans.
b. SES Manpower Planning.
1. Status of Director of Economics position.
2. Status of Director of Administration position.
c. Evaluations.
1. OPM evaluation of SES Program.
2. Agency evaluation of SES Program Policy.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-2366-80 Filed 12-29-80; 4:51 pm]

BILLING CODE 7020-02-M

8

[NM-81-1]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, January 6, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the remaining five items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following items be discussed on this date and that no earlier announcement was possible:

1. *Letters of Recommendation*—Schoolbus Overturn, Yorktown Heights, New York, November 8, 1979.

2. *Recommendation* to the Federal Aviation Administration pertaining to the throttle linkage separation in small engine aircraft.

3. *Special Investigation Report*—Phosphorus Trichloride Release in Boston and Maine Yard 8 During Switching Operation, Somerville, Massachusetts, April 3, 1980.

4. *Opinion and Order*—Administrator v. Smith, Docket SE-4428; disposition of respondent's appeal.

5. *Order*—Administrator v. Cuthel, Docket SE-4564; disposition of respondent's appeal.

6. *Opinion and Order*—Administrator v. Gossman, Modes, and Morgan, Dockets SE-4591, 4592, 4593; disposition of respondents' appeals.

7. *Opinion and Order*—Administrator v. Rogers, Docket ME-83; disposition of appellant's appeal.

8. *Opinion and Order*—Administrator v. Thomas, Docket SE-4605; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

December 30, 1980.

[S-2378-80 Filed 12-30-80; 4:30 pm]

BILLING CODE 4910-58-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on January 15, 1981.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: December 29, 1980.

[S-2369-80 Filed 12-30-80; 11:35 am]

BILLING CODE 7600-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on January 21, 1981.

PLACE: Room 1101, 1825 K Street NW., Wahington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015

Dated: December 29, 1980.

[S-2370-80 Filed 12-30-80; 11:36 am]

BILLING CODE 7600-01-M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m. on January 27, 1981.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: December 29, 1980.

[S-2371-80 Filed 12-30-80; 11:37 am]

BILLING CODE 7600-01-M

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SECURITIES EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 5, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, January 6, 1981, at 10:00 a.m. An open meeting will be held on Wednesday, January 7, 1981, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioner Loomis, as Duty Officer, determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 6, 1980, at 10:00 a.m., will be:

Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Subpoena enforcement action.
Litigation matters.
Freedom of Information Act appeal.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Institution and settlement of administrative proceedings of an enforcement nature.
Formal order of investigation.
Institution of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Regulatory matter regarding financial institutions.
Opinions.

The subject matter of the open meeting scheduled for Wednesday, January 7, 1980, at 10:00 a.m., will be:

1. Consideration of whether to affirm action, taken by the Duty Officer, extending the time period for filing comments on Proposed Rule 180 under the Securities Act of 1933. For further information, please contact Laura A. Boughan at (202) 272–2060.

2. Consideration of whether to grant an application by an investment adviser for an exemption from the provisions of Section 17(e)(1) of the Investment Company Act of 1940 to permit the adviser to receive payments for the leasing of computer programs to brokers to which a substantial portion of the portfolio brokerage of the adviser's investment company client is directed. For further information, please contact W. Randolph Thompson at (202) 272–3029.

3. Consideration of whether to adopt the following rules: Rule 3a–1, relating to prima facie investment companies; Rule 3a–2, relating to transient investment companies; and Rule 3a–3, relating to certain investment companies owned by companies which are not investment companies. For further information, please contact Mark J. Mackey at (202) 272–3041.

4. Consideration of whether to grant the request of Professor Joel Seligman for access to certain Commission Minutes and staff materials for the 1969–1973 period. For further information, please contact Theodore Bloch at (202) 272–2454.

5. Consideration of whether to propose a Quorum Rule of Necessity which will require an otherwise disqualified commissioner to hear a matter if disqualification would prevent any action by the Commission. For further information, please contact Andrew W. Sidman at (202) 272–2454.

6. Consideration of whether to grant the application of Donald R. Quest for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272–2644.

7. Consideration of whether to issue an interpretive release reminding brokers and issuers of their obligations, pursuant to the proxy rules, to distribute proxy materials to beneficial shareowners. For further information, please contact Gregory H. Mathews at (202) 272–2589.

8. Consideration of whether to issue a release under the Securities Act of 1933 calling attention to the use of a new simplified form of trust indenture which incorporates by reference essential provisions of the Trust Indenture Act of 1939. For further information, please contact Norman Schou at (202) 272–2573.

9. Consideration of whether to approve proposed rule changes filed by the New York Stock Exchange, Inc. (the "NYSE") relating to NYSE regulation of corporate affiliates (including foreign affiliates) of NYSE members. For further information, please contact H. Steven Holtzman at (202) 272–2842.

10. Consideration of whether to grant the application of Richard A. Graham to become associated with Josephthal & Co., Inc., a registered broker-dealer, in a supervised, non-supervisory retail sales capacity. For further information, please contact Adele Geffen at (202) 272–2947.

11. Consideration of whether to adopt proposed Rules 14 and 15 under the Public Utility Holding Act of 1935 to provide exemptions relating to the acquisition and ownership of voting interests in power supply companies by electric utilities which are not otherwise subject to the 1935 Act. For further information, please contact Aaron Levy at (202) 523–5691.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marica MacHarg at (202) 272–2468.

December 29, 1980.

[S-2367-80 Filed 12-29-80; 4:50 p.m.]

BILLING CODE 8010-01-M

Reader Aids

Federal Register
Vol. 46, No. 1
Friday, January 2, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders and problems (GPO)	783-3238
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-858..2

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator.
Office of the Federal Register, National Archives and Records Service,
General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JANUARY 1981

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday, the next Federal business day is used (see 1 CFR 18.17).

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
January 2	January 19	February 2	February 17	March 3	April 2
January 5	January 21	February 4	February 19	March 6	April 6
January 6	January 21	February 5	February 20	March 9	April 6
January 7	January 22	February 6	February 23	March 9	April 7
January 8	January 23	February 9	February 23	March 9	April 8
January 9	January 26	February 9	February 23	March 10	April 9
January 12	January 27	February 11	February 26	March 13	April 13
January 13	January 28	February 12	February 27	March 16	April 13
January 14	January 29	February 13	March 2	March 16	April 14
January 15	January 30	February 17	March 2	March 16	April 15
January 16	February 2	February 17	March 2	March 17	April 16
January 19	February 3	February 18	March 5	March 20	April 20
January 21	February 5	February 20	March 9	March 23	April 21
January 22	February 6	February 23	March 9	March 23	April 22
January 23	February 9	February 23	March 9	March 24	April 23
January 26	February 10	February 25	March 12	March 27	April 27
January 27	February 11	February 26	March 13	March 30	April 27
January 28	February 12	February 27	March 16	March 30	April 28
January 29	February 13	March 2	March 16	March 30	April 29
January 30	February 17	March 2	March 16	March 31	April 30

CFR CHECKLIST; 1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1980. New units issued during the month are announced on the back cover of the daily Federal Register as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
1	$4.50
2 [Reserved]	
3	7.50
4	6.50
5	8.00
6	3.75
7 Parts:	
0-52	8.50
53-209	7.00
210-299	7.00
300-399	5.50
400-[illegible]99	6.50
700[illegible]99	7.00
900[illegible]44	7.00
945[illegible]80	5.50
981[illegible]99	5.50
100[illegible]-1059	7.00
106[illegible]-1119	7.00
112[illegible]-1199	6.00
120[illegible]-1499	7.00
150[illegible]-1899	6.50
190[illegible]-2799	8.50
28[illegible]	8.50
285[illegible]-end	6.00
8	5.50
9 Parts:	
1-199	7.00
200-end	6.50
10 Parts:	
0-199	7.50
200-499	8.50
500-end	7.50
11 (Rev. 4/1/80)	4.75
12 Parts:	
1-199	6.00
200-299	9.00
300-end	11.00
13	7.00
14 Parts:	
1-59	8.50
60-199	8.50
200-1199	8.00
1200-end	6.00
15	9.00
16 Parts:	
0-149	7.00
150-999	6.00
1000-end	6.50

CFR Unit (Rev. as of Apr. 1, 1980):

17 Parts:	
0-239	7.50
240-end	7.50
18 Parts:	
1-149	7.50
150-end	8.50
19	9.00
20 Parts:	
01-399	5.50
400-499	7.50
500-end	7.50
21 Parts:	
01-99	6.00
100-169	7.00
170-199	6.00
200-299	4.50
300-499	8.00
500-599	7.50
600-799	5.00
800-1299	5.50
1300-end	4.50
22	8.00
23	7.00
24 Parts:	
0-499	11.00
500-1699	9.00
1700-end	6.00
25	8.00
26 Parts:	
1 (§§ 1.0-1.169)	8.50
1 (§§ 1.170-1.300)	6.50
1 (§§ 1.301-1.400)	6.00
1 (§§ 1.401-1.500)	7.00
1 (§§ 1.501-1.640)	6.50
1 (§§ 1.641-1.850)	7.50
1 (§§ 1.851-1.1200)	8.00
1 (§§ 1.1201-end)	9.00
2-29	7.50
30-39	6.50
40-299	7.50
300-499	6.00
500-599	6.50
600-end	5.00
27 Parts:	
1-199	6.50
200-end	7.50

CFR Unit (Rev. as of July 1, 1980):

29 Parts:	
0-499	9.00
1900-1910	9.00
1911-1919	5.50
30 Parts:	
0-199	7.50
31 Parts:	
0-199	6.00
200-end	7.50
32 Parts:	
1-39 (Supplement)	6.00
700-799	8.00
800-999	8.00
33 Parts:	
1-199	9.50
200-end	8.50
34	6.00
37	6.00
38	11.00
39	6.00
40 Parts:	
0-51	7.50
52	9.00
53-60	7.50
61-99	8.50
100-399	13.00
400-424	7.50
425-end	7.50
41 Chapters:	
8	4.50
9 (Supplement)	3.00
10-17	7.50
18 (Vol. I)	7.50
18 (Vol. II)	9.00
18 (Vol. III)	7.50
102-end	7.00
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1980):

49 Parts:	
1-99	5.50
200-399	7.00

CFR ISSUANCES
Complete Listing of 1980 Editions and Projected January 1981 Editions

This list restates the complete publication plans for the 1980 editions and projects the publication plans for the January, 1981 quarter. A projected schedule that will include the April, 1981 quarter will appear in the first **Federal Register** issue of April, 1981, immediately after the CFR checklist.

The 1980 edition of the CFR consists of 165 volumes. Titles in the January and April 1980 quarters are presently available at the Government Printing Office. All titles in the July and October 1980 quarters are not available at this time. In the July and October list appearing below, the asterisk (*) indicates the 1980 issuances that are not available.

For pricing information on available 1980 volumes consult the CFR checklist in this **Federal Register**.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR checklist and the Annual Cumulative LSA will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1-16—January 1
Titles 17-27—April 1
Titles 28-41—July 1
Titles 42-50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1980, unless otherwise noted:

Title
1-2
3 Compilation
4
5
6
7 Parts:
0-52
53-209
210-299
300-399
400-699
700-899
900-944
945-980
981-999
1000-1059
1060-1119
1120-1499
1500-1899
1900-2799
2900-2851 (Cover only)
2852
2853-end
8

Title
9 Parts:
1-99
200-end
10 Parts:
0-199
200-499
500-end
11 (Revised as of April 1, 1980)
12 Parts:
1-199
200-299
300-end
13
14 Parts:
1-59
60-199
200-1199
1200-end
15
16 Parts:
0-149
150-999
1000-end
CFR Index

Titles revised as of April 1, 1980:

Title
17 Parts:
0-239
240-end
18 Parts:
1-149
150-end
19
20 Parts:
1-399
400-499
500-end
21 Parts:
1-99
100-169
170-199
200-299
300-499
500-599
600-799
800-1299
1300-end
1308 Table (Cover only)
22

Title
23
24 Parts:
0-499
500-1699
1700-end
25
26 Parts:
1(§§ 1.0-1-1.169)
1(§§ 1.170-1.300)
1(§§ 1.301-1.400)
1(§§ 1.401-1.500)
1(§§ 1.501-1.640)
1(§§ 1.641-1.850)
1(§§ 1.851-1.1200)
2-29
30-39
40-299
300-499
500-599
600-end
27 Parts:
1-199
200-end

Titles revised or supplemented as of July 1, 1980, unless otherwise noted:

Title
CFR Index
28*
29 Parts:
0-499
500-1899*
1900-1910
1911-1919
1920-end
30 Parts:
0-199
200-end
31 Parts:
0-199
200-end
32 Parts:
1-39, Vol. I-III (Supplement)
40-399*
400-699*
700-799
800-999*
1000-end*
33 Parts:
1-199
200-end
35 (Revised as of December 31, 1980)

Title
36*
37
38
39
40 Parts:
0-51
53-80
81-99
100-399
400-424
425-end
41 Chapters:
1-2*
3-6*
7*
8
9 (Supplement)
10-17*
18 Vol. I
18 Vol. II
18 Vol. III
19-100
101*
102-end

*Indicates volume is still in production and not ready for distribution.

Titles revised as of October 1, 1980, unless otherwise noted:

Title
42 Parts:
1-39[illegible]*
400-end*
43 Parts:
1-999*
1000-end*
44
45 Parts:
1-99*
100-149*
150-199*
200-499*
500-1199*
1200-end*
46 Parts:
1-29*
30-40*
41-69*
70-89*
90-109*
110-139 (Cover only)*
140-155*
156-165*

Title
166-199*
200-399*
400-end*
47 Parts:
0-19*
20-69*
70-79*
80-end*
48
49 Parts:
1-99
100-177 (Revised as of December 1, 1980)*
178-199 (Revised as of December 1, 1980)*
200-399
400-999*
1000-1199*
1200-1299*
1300-end*
50 Parts:
1-199*
200-end*

Projected January 1, 1981 editions:

Title
CFR Index
1-2
3 (Compilation)
4
5
6
7 Parts:
0-52
53-20[illegible]
210-299
300-3[illegible]9
400-[illegible]9
700-[illegible]9
900-[illegible]
945-[illegible]0
981-[illegible]9
1000-[illegible]059
1060-[illegible]119
1120-[illegible]199
1200-[illegible]499
1500-[illegible]899
1900-2799
2800-2851
2852
2853-end
8

Title
9 Parts:
1-199
200-end
10 Parts:
0-199
200-499
500-end
11
12 Parts:
1-199
200-299
300-499
500-end
13
14 Parts:
1-59
60-199
200-1199
1200-end
15 Parts:
0-299
300-end
16 Parts:
0-149
150-999
1000-end

*Indicates volume is still in production and not ready for distribution.

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department
AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
IGO Inspector General Office
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department
BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department
AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department
CROED Civil Rights Office, Education Department
MSI Museum Services Institute
NIE National Institute of Education

DOE Energy Department
APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHA Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS Health and Human Services Department
ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Centers for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
NIH National Institutes of Health
NIOSH National Institute for Occupational Safety and Health
PHS Public Health Service
RRO Refugee Resettlement Office
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department
CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department
BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMREO Surface Mining Reclamation and Enforcement Office
WPRS Water and Power Resource Service

JUSTICE Justice Department
DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department
BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration

ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Cust he Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign-Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
GSA/TPUS Transportation and Public Utilities Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MSPB Merit Systems Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCH National Council for the Handicapped
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
SFC Synthetic Fuels Corporation
SSS Selective Service System
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
VA Veterans Administration
WRC Water Resources Council

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REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

80084 12-2-80 / Visibility protection for Federal Class I areas

FEDERAL COMMUNICATIONS COMMISSION

78134 11-25-80 / FM broadcast stations in Lakeport and Williams, Calif., changes in table of assignments

78136 11-25-80 / TV broadcast stations in Anaconda, Butte, and Bozeman, Mont.; changes in table of assignements

INTERIOR DEPARTMENT

Office of the Secretary—

80258 12-3-80 / Nondiscrimination against minority and women-owned business enterprises in Outer Continental Shelf leasing activities

INTERSTATE COMMERCE COMMISSION

79810 12-2-80 / Revision of National Environmental Policy Act guidelines

TREASURY DEPARTMENT

Customs Service—

80099 12-3-80 / Aircraft arriving from any foreign territory, persons and merchandise including baggage, subject to vessel laws and regulations

80100 12-3-80 / Tariff classification of imported merchandise, administrative ruling

Rules Going Into Effect Saturday, January 3, 1981

FEDERAL RESERVE SYSTEM

81537 12-11-80 / Nonbanking activities of foreign banking organizations

INTERIOR DEPARTMENT

Land Management Bureau—

80291 12-4-80 / Idaho; partial revocation of Veterans Administration withdrawal

80290 12-4-80 / Idaho; powersite restoration No. 761; partial revocation of powersite reserve No. 241

80291 12-4-80 / Oregon; partial revocation of PLO No. 2407

80290 12-4-80 / Oregon; revocation of timber preservation area withdrawal

List of Public Laws

Last Listing December 31, 1980

This is a continuing listing of public bil[illegible]m the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 3212 / Pub. L. 96-588 To designate the "Thomas J. McIntyre Federal Building" (Dec. 24, 1980; 94 Stat. 3388) Price $1.

H.R. 5043 / Pub. L. 96-589 Bankruptcy Tax Act of 1980 (Dec. 24, 1980; 94 Stat. 3389) Price $1.75.

S. 3261 / Pub. L. 96-590 To amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section (Dec. 24, 1980; 94 Stat. 3414) Price $1.

H.R. 6671 / Pub. L. 96-591 Inland Navigational Rules Act of 1980 (Dec. 24, 1980; 94 Stat. 3415) Price $1.50.

S. 1465 / Pub. L. 96-592 Farm Credit Act Amendments of 1980 (Dec. 24, 1980; 94 Stat. 3437) Price $1.50.

H.R. 4774 / Pub. L. 96-593 To amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so (Dec. 24, 1980; 94 Stat. 3452) Price $1.

H.R. 1196 / Pub. L. 96-594 To revise and improve the laws relating to the documentation of vessels, and for other purposes (Dec. 24, 1980; 94 Stat. 3453) Price $1.25.

H.R. 4968 / Pub. L. 96-595 To amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain United States retirement bonds, and for other purposes (Dec. 24, 1980; 94 Stat. 3464) Price $1.

H.R. 5391 / Pub. L. 96-596 To amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes (Dec. 24, 1980; 94 Stat. 3469) Price $1.

H.R. 8444 / Pub. L. 96-597 To authorize appropriations for certain insular areas of the United States, and for other purposes (Dec. 24, 1980; 94 Stat. 3477) Price $1.

H.R. 3317 / Pub. L. 96-598 To amend the Internal Revenue code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes (Dec. 24, 1980; 94 Stat. 3485) Price $1.

H.R. 3637 / Pub. L. 96-599 International Coffee Agreement Act of 1980 (Dec. 24, 1980; 94 Stat. 3491) Price $1.

H.R. 7694 / Pub. L. 96-600 To authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam (Dec. 24, 1980; 94 Stat. 3493) Price $1.

H.R. 5505 / Pub. L. 96-601 To simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes (Dec. 24, 1980; 94 Stat. 3495) Price $1.

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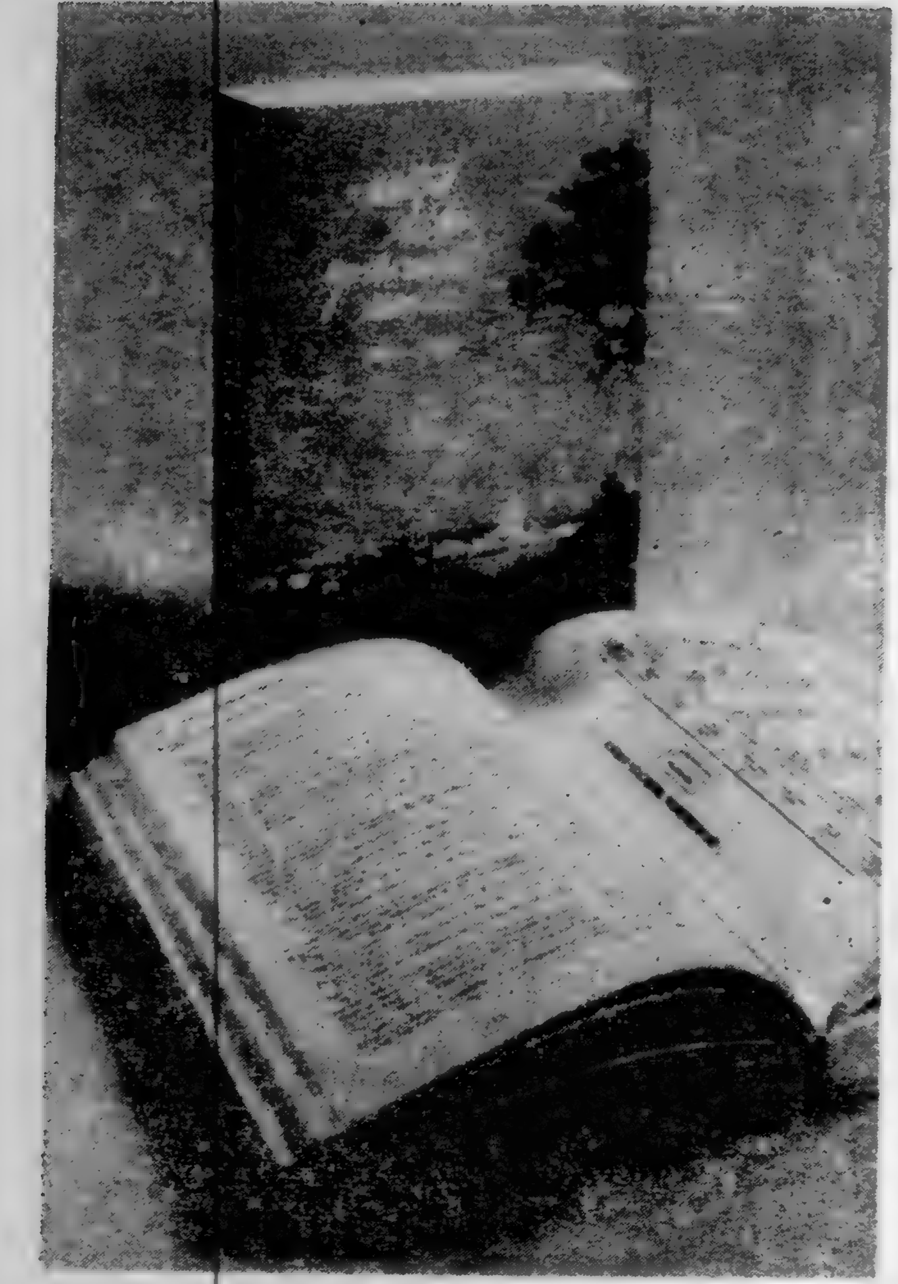

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For those citizens interested in where to go and who to see about a subject of particular concern, the *Manual* provides the "Guide to Government Information" section, a reference to an agency's statement of organization in the *Federal Register* or *Code of Federal Regulations*, and comprehensive name, subject, and agency indexes. Particularly helpful is each agency's "Sources of Information" section, which provides addresses and telephone numbers for obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

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federal register

Book 2 of 3 Books
Friday, January 2, 1981

Part II

Department of Transportation

Federal Aviation Administration

Airspace Designations; Compilation of Regulations

V46/1 JA 2 81 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71, 73, and 75

[Airspace Docket No. 80-AWA-18]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Establishment of Jet Routes and Area High Routes; Compilation of Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Republication of final rules.

SUMMARY: This is a compilation of the current airspace designations and pending amendments to those designations issued by the FAA and published in the **Federal Register.** This compilation is published annually for the benefit of the public since airspace designations are not carried in the Code of Federal Regulations or the Federal Aviation Regulations.

DATES: Republication of rules in effect on December 1, 1980, and pending amendments published before December 1, 1980.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mary Ann Webb, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION: Airspace rulemaking actions are issued throughout the year establishing, amending, or revoking designation of airspace in the United States and over that portion of the high seas for which the United States has accepted responsibility for separating air traffic. All airspace rulemaking actions are published in the **Federal Register** and, generally, are effective on dates coinciding with the periodic issuance of navigational charts by the National Ocean Survey. However, because of the large number of designations and the frequency of changes, the descriptions are not carried in the Code of Federal Regulations. Therefore, this compilation of all airspace designations, in effect and pending (issued but not yet effective) as of a specific date, is published annually in the **Federal Register.** No substantive change to any airspace designation is made by this action. All substantive amendments to the affected parts of the Code of Federal Regulations have been adopted and published previously in accordance with administrative procedures in 5 U.S.C. Sections 552 and 553.

Since this is a compilation of previous rulemaking actions and no substantive change is made by this action, notice and public procedure regarding these amendments are unnecessary, and good cause exists for making them effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, effective January 2, 1981, Parts 71, 73, and 75 of the Federal Aviation Regulations, are republished as follows:

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on December 8, 1980.

Shelomo Wugalter,

Acting Chief, Airspace and Air Traffic Rules Division.

BILLING CODE 4910-13-M

TITLE 14 - AERONAUTICS AND SPACE
CHAPTER I - FEDERAL AVIATION ADMINISTRATION
SUBCHAPTER E - AIRSPACE
PARTS 71, 73, 75
DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, SPECIAL USE AIRSPACE, JET ROUTES, AREA HIGH ROUTES

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SUBPART A - GENERAL

§ 71.1 Applicability.

(a) The airspace assignments described in Subparts B and C are designated as Federal airways.

(b) The airspace assignments described in Subparts B through I are designated as control areas, the continental control area, control zones, transition areas, positive control areas, and reporting points, as described in the appropriate subpart.

(c) The airspace assignments described in Subpart K of this part are designated as terminal control areas.

(d) The airspace assignments described in Subpart J are designated as area low routes.

§ 71.3 Classification of Federal Airways.

Federal airways are classified as follows:

(a) Colored Federal airways:
- (1) Green Federal airways.
- (2) Amber Federal airways,
- (3) Red Federal airways.
- (4) Blue Federal airways.

(b) VOR Federal airways.

§ 71.5 Extent of Federal airways.

(a) Each Federal airway is based on a centerline that extends from one navigational aid or intersection to another navigational aid (or through several navigational aids or intersections) specified for that airway.

(b) Unless otherwise specified in Subpart B or C -

(1) Each Federal airway includes the airspace within parallel boundary lines 4 miles each side of the centerline. Where an airway changes direction, it includes that airspace enclosed by extending the boundary lines of the airway segments until they meet.

(2) Where the changeover point for an airway segment is more than 51 miles from either of the navigational aids defining that segment, and -

(i) The changeover point is midway between the navigational aids, the airway includes the airspace between lines diverging at angles of 4.5° from the centerline at each navigational aid and extending until they intersect opposite the changeover point; or

(ii) The changeover point is not midway between the navigational aids, the airway includes the airspace between lines diverging at angles of 4.5° from the centerline at the navigational aid more distant from the changeover point; and extending until they intersect with the bisector of the angle of the centerlines at the changeover point; and between lines connecting these points of intersection and the navigational aid nearer to the changeover point.

(3) Where an airway terminates at a point or intersection more than 51 miles from the closest associated navigational aid it includes the additional airspace within lines diverging at angles of 4.5° from the centerline extending from the associated navigational aid to a line perpendicular to the centerline at the termination point.

(4) Where an airway terminates, it includes the airspace within a circle centered at the specified navigational aid or intersection having a diameter equal to the airway width at that point. However, an airway does not extend beyond the domestic/oceanic control area boundary.

(c) Unless otherwise specified in Suboart B or C -

(1) Each Federal airway includes that airspace extending upward from 1,200 feet above the surface of the earth to, but not including, 18,000 feet MSL, except that Federal airways for Hawaii have no upper limits. Variations of the lower limits of an airway are expressed in digits representing hundreds of feet above the surface (AGL) or mean sea level (MSL) and, unless otherwise specified, apply to the segment of an airway between adjoining navigational aids or intersections; and

(2) The airspace of a Federal airway within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

(d) One or more alternate airways may be designated between specified navigational aids or intersections along each VOR Federal airway described in Subpart C. Unless otherwise specified, the centerline of an alternate VOR Federal airway and the centerline of the corresponding segment of the main VOR Federal airway are separated by 15°.

(e) A Federal airway does not include the airspace of a prohibited area.

§ 71.6 Extent of area low routes.

(a) Each area low route is based on a centerline that extends from one waypoint to another waypoint (or through several waypoints) specified for that area low route. An area low route does not include the airspace of a prohibited area. All mileages specified in connection with area low routes are nautical miles.

(b) Unless otherwise specified in Subpart J, the following apply:

(1) Except as provided in subparagraph (2) of this paragraph, each area low route includes, and is limited to, that airspace within parallel boundary lines 4 or more miles on each side of the route centerline as described in the middle column of the following table, plus that additional airspace outside of those parallel lines and within lines drawn outward from those parallel lines at angles of 3.25°, beginning at the distance from the tangent point specified in the right-hand column of the following table:

Miles from reference facility to tangent point	Miles from centerline to parallel lines	Miles from tangent point along parallel lines to vortices of 3.25° angles
Less than 17	4	51.
17 to, but not including 27	4	50.
27 to, but not including 33	4	49.
33 to, but not including 38	4	48.
38 to, but not including 43	4	47.
43 to, but not including 47	4	46.
47 to, but not including 51	4	45.
51 to, but not including 55	4	44.
55 to, but not including 58	4	43.
58 to, but not including 61	4	42.
61 to, but not including 63	4	41.
63 to, but not including 66	4	40.
66 to, but not including 68	4	39.
68 to, but not including 70	4	38.
70 to, but not including 72	4	37.
72 to, but not including 74	4	36.
74 to, but not including 76	4	35.
76 to, but not including 78	4	34.
78 to, but not including 79	4	33.
79 to, but not including 81	4	32.
81 to, but not including 83	4	31.
83 to, but not including 84	4	30.
84 to, but not including 86	4	29.
86 to, but not including 87	4	28.
87 to, but not including 88	4	27.
88 to, but not including 89	4	26.
89 to, but not including 91	4	25.
91 to, but not including 92	4	24.
92 to, but not including 93	4	23.
93 to, but not including 94	4	22.
94 to, but not including 95	4	21.
95 to, but not including 96	4	19.
96 to, but not including 97	4	18.
97 to, but not including 98	4	17.
98 to, but not including 99	4	15.
99 to, but not including 100	4	13.
100 to, but not including 101	4	11.
101 to, but not including 102	4	8.
102 to, but not including 105	4	0 (i.e., at tangent point).
105 to, but not including 115	4.25	0 (i.e., at tangent point).
115 to, but not including 125	4.50	0 (i.e., at tangent point).
125 to, but not including 135	4.75	0 (i.e., at tangent point).
135 to, but not including 145	5.00	0 (i.e., at tangent point).
145 to, but not including 150	5.25	0 (i.e., at tangent point).

(2) Each area low route, whose centerline is at least 2 miles, and not more than 3 miles from the reference facility, includes, in addition to the airspace specified in subparagraph (1) of this paragraph, that airspace on the reference facility side of the centerline that is within lines connecting the point that is 4.9 miles from the tangent point on a perpendicular line from the centerline through the reference facility, thence to the edges of the boundary lines described in subparagraph (1) of this paragraph, intersecting those boundary lines at angles of 5.15°.

(3) Where an area low route changes direction, it includes that airspace enclosed by extending the boundary lines of the route segments until they meet.

(4) Where the widths of adjoining route segments are unequal, the following apply:

(i) If the tangent point of the narrower segment is on the route centerline, the width of the narrower segment includes that additional airspace within lines from the lateral extremity of the wider segment where the route segments join, thence toward the tangent point of the narrower route segment, until intersecting the boundary of the narrower segment.

(ii) If the tangent point of the narrower segment is on the route centerline extended, the width of the narrower segment includes that additional airspace within lines from the lateral extremity of the wider segment where the route segments join, thence toward the tangent point until reaching the point where the narrower segment terminates or changes direction, or until intersecting the boundary of the narrower segment.

(5) Where an area low route terminates, it includes that airspace within a circle whose center is the terminating waypoint, and whose diameter is equal to the route segment width at that waypoint, except that an area low route does not extend beyond the domestic/oceanic control area boundary.

(6) Each area low route includes that airspace extending upward from 1,200 feet above the surface of the earth to, but not including, 18,000 feet MSL, except that area low routes for Hawaii have no upper limits. Variations of the lower limits of an area low route are expressed in digits representing hundreds of feet above the surface (AGL) or mean sea level (MSL) and, unless otherwise specified, apply to the route segment between adjoining waypoints used in the description of the route.

(7) The airspace of an area low route within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

§ 71.7 Control areas.

Control areas consist of the airspace designated in Subparts B, C, E, and J, but do not include the continental control area. Unless otherwise designated, control areas include the airspace between a segment of a main VOR Federal Airway and its associated alternate segments with the vertical extent of the area corresponding to the vertical extent of the related segment of the main airway.

§ 71.9 Continental Control Area

The Continental Control Area consists of the airspace of the 48 contiguous States, the District of Columbia and Alaska, excluding the Alaska peninsula west of longitude 160°00'00" W., at and above 14,500 feet M.S.L., but does not include -

(a) The airspace less than 1,500 feet above the surface of the earth; or

(b) Prohibited and restricted areas, other than restricted areas listed in Subpart D of this part.

§71.11 Control Zones

The control zones listed in Subpart F of this part consist of controlled airspace which extends upward from the surface of the earth and terminates at the base of the continental control area. Control zones that do not underlie the continental control area have no upper limit. A control zone may include one or more airports and is normally a circular area with a radius of 5 miles and any extensions necessary to include instrument approach and departure paths.

§71.12 Terminal Control Areas

The terminal control areas listed in Subpart K of this part consist of controlled airspace extending upward from the surface or higher to specified altitudes, within which all aircraft are subject to operating rules and pilot and equipment requirements specified in Part 91 of this chapter. Each such location is designated as a Group I, Group II, or Group III terminal control area, and includes at least one primary airport around which the terminal control area is located.

§ 71.13 Transition Areas.

The transition areas listed in Subpart G consist of controlled airspace extending upward from 700 feet or more above the surface of the earth when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed; or from 1,200 feet or more above the surface of the earth when designated in conjunction with airway route structures or segments. Unless otherwise specified, transition areas terminate at the base of the overlying controlled airspace.

§ 71.15 Positive Control Areas.

The positive control areas listed in Subpart H consist of controlled airspace within which there is positive control of aircraft.

§ 71.17 Reporting Points.

(a) The reporting points listed in Subpart I consist of geographic locations, in relation to which the position of an aircraft must be reported in accordance with §91.125.

(b) Unless otherwise designated, each reporting point applies to all directions of flight. In any case where a geographic location is designated as a reporting point for less than all airways passing through that point, or for a particular direction of flight along an airway only, it is so indicated by including the airways or direction of flight in the designation of geographical location.

(c) Unless otherwise specified, place names appearing in the reporting point descriptions indicate VOR or VORTAC facilities identified bv those names.

§ 71.19 Bearings: Radials: Miles.

(a) All bearings and radials in this Part are true, and are applied from point of origin.

(b) Except as otherwise specified and except that mileages for Federal airways and terminal control areas are stated as nautical miles, all mileages in this Part are stated as statute miles.

SUBPART B - COLORED FEDERAL AIRWAYS

§ 71.101 Designation.

The airspace assignments described in this subpart are designated as Colored Federal Airways.

GREEN FEDERAL AIRWAYS

§71.103 Green Federal Airways.

G-7 From Fort Davis, Alaska, RBN, Norton Bay, Alaska, RBN; 46 miles, 57 miles, 55 MSL, Bishop, Alaska, NDB; INT Bishop NDB 089° and Chena, Alaska, RBN 269° bearings; Chena RBN.

G-8 From Shemya, Alaska, NDB, 20 AGL Adak, Alaska, NDB; 20 AGL Dutch Harbor, Alaska, NDB; 20 AGL INT Dutch Harbor NDB 041° and Cold Bay, Alaska, NDB 253° bearings; 20 AGL Cold Bay NDB; King Salmon, Alaska, NDB; INT King Salmon NDB 054°T (033°M) and Kachemak, Alaska, NDB 269°T (245°M) bearings; Kachemak NDB; Wildwood, Alaska, NDB; INT Wildwood NDB 034° and Campbell Lake, Alaska, NDB 254° bearings; Campbell Lake NDB; INT Campbell Lake NDB 032° and Skwentna, Alaska, NDB 111° bearings; Glenallen, Alaska, NDB; INT Glenallen NDB 052° and Nabesna, Alaska, NDB 252° bearings; Nabesna NDB.

G-9 From Oscarville, Alaska, RBN 35 miles, 125 miles, 55 MSL, Sparrevohn, Alaska, RBN; 24 miles, 29 miles, 83 MSL, 14 miles, 10,500 MSL, 42 miles, 12,500 MSL, to Campbell Lake, Alaska, RBN.

G-10 From Humboldt, Alaska, NDB, via INT Humboldt NDB 345° and Port Heiden, Alaska, NDB 248° bearings 20 AGL Port Heiden, NDB; 67 miles 12 AGL, 77 miles 85 MSL, 67 miles 12 AGL, to Woody Island, NDB.

AMENDMENTS 3/20/80 45 F. R. 6357 (Added)

G-12 From King Salmon, Alaska, NDB, via Port Heiden, Alaska, NDB; Humboldt, Alaska, NDB; to Elfee, Alaska, NDB.

AMENDMENTS 3/20/80 45 F. R. 6357 (Added)

AMBER FEDERAL AIRWAYS

§71.105 Amber Federal Airways.

A-1 From Sandspit, British Columbia, Canada, RBN 96 miles 12 AGL, 102 miles 35 MSL, 57 miles 12 AGL, via Sitka, Alaska, RBN; 31 miles 12 AGL, 50 miles 47 MSL, 88 miles 20 MSL, 40 miles 12 AGL, Ocean Cape, Alaska, RBN; INT Ocean Cape RBN 283° and Hinchinbrook, Alaska, RBN 106° bearings; Hinchinbrook RBN; INT Hinchinbrook RBN 286° and Campbell Lake, Alaska, RBN 123° bearings; Campbell Lake RBN; Puntilla Lake, Alaska, RBN; Farewell, Alaska, RBN; Takotna River, Alaska, RBN; 24 miles 12 AGL, 53 miles 55 MSL; 51 miles 40 MSL, 25 miles 12 AGL, North River, Alaska, RBN; 17 miles 12 AGL, 89 miles 25 MSL, 17 miles 12 AGL, to Fort Davis, Alaska, RBN. That airspace within Canada is excluded.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

A-2 From Burwash, Yukon Territory, Canada, RBN, 88 miles; 40 miles, Nabesna, Alaska, RBN; Delta, Junction, Alaska, RBN; Chena, Alaska, RBN; Evansville, Alaska, NDB; 69 miles 12 AGL, 102 miles 95 MSL, 117 miles 12 AGL, to Browerville, Alaska, RBN. The airspace within Canada is excluded.

A-3 From Evansville, Alaska, NDB, to Put River, Alaska, NDB.

A-4 From Evansville, Alaska, NDB via Umiat, Alaska, NDB to Put River, Alaska, NDB.

A-6 From Chandalar Lake, Alaska, NDB via Umiat, Alaska, NDB to Browerville, Alaska, NDB.

A-10 From the Pennfield Ridge, New Brunswick, Canada, RBN to the Forest City, New Brunswick, Canada, RBN, excluding the portion within Canada.

A-15 From Ethelda, British Columbia, Canada, NDB via Nichols, Alaska, NDB; 41 miles 12 AGL, 42 miles 52 MSL, 32 miles 12 AGL Petersburg, Alaska, NDB; Coghlan Island, Alaska, RBN; Haines, Alaska, RBN; Burwash, Yukon Territory, Canada, RBN; Nabesna, Alaska, RBN; Delta Junction, Alaska, RBN; Chena, Alaska, RBN; Chandalar Lake, Alaska, NDB; Put River, Alaska, NDB; Oliktok, Alaska, RBN. The airspace within Canada is excluded (Joins Canadian high level airway No. 502).

RED FEDERAL AIRWAYS

§71.107 Red Federal Airways.

R-27 From Summit, Alaska, RBN; Julius, Alaska, RBN; Chena, Alaska, RBN.

R-39 From Oscarville, Alaska, RBN; Aniak, Alaska, RBN; 25 miles, 89 miles, 55 MSL, Takotna River, Alaska, RBN; 28 miles, 64 miles, 45 MSL, Minchumina, Alaska, RBN; Julius, Alaska, RBN; Chena, Alaska, RBN.

R-40 From Woody Island, Alaska, RBN; 27 miles, 24 miles, 35 MSL, 29 miles, 55 MSL, Kachemak, Alaska, RBN; to Campbell Lake, Alaska, RBN.

R-50 From Bishop, Alaska, NDB via Bear Creek, Alaska, NDB; to Chena, Alaska, NDB.

R-75 From Vancouver, British Columbia, Canada, RBN via White Rock, British Columbia, Canada, RBN; Abbotsford, British Columbia, Canada, RBN; Cultus Lake, British Columbia, Canada, RBN; to Princeton, British Columbia, Canada, RBN, excluding the portion within Canada,

R-99 From King Salmon, Alaska, NDB via Iliamna, Alaska, NDB; INT Iliamna NDB 124°T (102°M) and Kachemak, Alaska, NDB 269°T (245°M) bearings; to Kachemak.

R-103 From Wildwood, Alaska, NDB, to Wessels, Alaska, NDB.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

BLUE FEDERAL AIRWAYS

§71.109 Blue Federal Airways.

B-12 From Takotna River, Alaska, NDB, 24 miles 12 AGL, 54 miles 55 MSL, 35 miles 12 AGL, via Bishop, Alaska, NDB; 68 miles 12 AGL, 71 miles 55 MSL, 54 miles 12 AGL, to Hotham, Alaska, NDB.

AMENDMENTS 9/4/80 45 F. R. 41910 (Changed)

B-25 From INT Hinchinbrook, Alaska, NDB 206° and Wessels, Alaska, NDB 296° bearing via Hinchinbrook NDB; Glenallen, Alaska, NDB; Delta Junction, Alaska, NDB.

AMENDMENTS 9/4/80 45 F. R. 41910 (Changed)

B-26 From Campbell Lake, Alaska, NDB, via Peters Creek, Alaska, NDB; Summit, Alaska, NDB; INT Summit NDB 007° and Chena, Alaska, NDB 218° bearings; Chena NDB; Yukon River, Alaska, NDB; 86 miles 12 AGL, 75 miles 115 MSL, 56 miles 12 AGL, to Barter Island, Alaska, NDB.

PENDING AMENDMENT

Under B-26, the following is added: The airspace within Restricted Area R-2213 is excluded from 0001 January 28 until 2359 local time February 3, 1981.

AMENDMENTS 12/25/80 45 F. R. 70236 (Changed)

B-27 From Woody Island, Alaska, NDB, 50 miles 12 AGL, 50 miles 95 MSL, 53 miles 12 AGL, King Salmon, Alaska, LOM; 51 miles 12 AGL, 84 miles 70 MSL, 63 miles 12 AGL, Oscarville, Alaska, NDB; St. Marys, Alaska, NDB; Fort Davis, Alaska, NDB; 35 miles 12 AGL, 71 miles 55 MSL, 54 miles 12 AGL, Hotham, Alaska, NDB.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

B-28 From Prince Rupert, B. C., Canada, NDB, via Nichols, Alaska, NDB; 42 miles 12 AGL, 99 miles 55 MSL, 29 miles 12 AGL to Sitka, Alaska, NDB. The airspace within Canada is excluded.

B-37 From Petersburg, Alaska, NDB, via Elephant, Alaska, NDB; Cape Spencer, Alaska, NDB, to INT Cape Spencer, NDB 273° and Ocean Cape, Alaska, NDB 139° bearings.

B-38 From Sitka, Alaska, NDB, via Elephant, Alaska, NDB; Haines, Alaska, NDB, to Whitehorse, Y. T., Canada RBN. The airspace within Canada is excluded.

B-40 From the Haines, Alaska RBN, Robinson, Yukon Territory, Canada, RBN, excluding the portion within Canada.

B-79 From Sandspit, B. C., Canada, NDB, to Nichols, Alaska, NDB. The airspace within Canada is excluded.

SUBPART C - VOR FEDERAL AIRWAYS

§ 71.121 Designation

The airspace assignments described in this subpart are designated as VOR Federal airways. Unless otherwise specified, place names appearing in the descriptions indicate VOR or VORTAC navigational facilities identified by those names.

§71.123 Domestic VOR Federal Airways.

V-1 From Jacksonville, Fla., via Charleston, S. C.; Grand Strand, S. C.; INT Grand Strand 031° and Kinston, N. C., 214° radials; Kinston, including an east alternate from Grand Strand to Kinston via Wilmington, N. C.; Cofield, N. C.; including an east alternate segment from Kinston to Cofield via the intersection of Kinston 050° and Cofield 186° radials; Norfolk, Va.; Cape Charles, Va.; INT Cape Charles 006° and Salisbury, Md., 206° radials; Salisbury; Waterloo, Del.; INT Waterloo 024° and Coyle, N. J., 216° radials; to Coyle, excluding the airspace below 2,000 feet MSL outside the United States between STARY INT and Charleston, S. C. The portions within R-5002A, R-5002C and R-5002D are excluded during their times of use.

PENDING AMENDMENT

Under V-1, the following is added:
The airspace within R-4006 is excluded.

AMENDMENTS 12/25/80 45 F. R. 71773 (Changed)

V-2 From Seattle, Wash., Ellensburg, Wash., including a south alternate via INT Seattle 123° and Ellensburg 274° radials; Moses Lake, Wash., including a south alternate via INT Ellensburg 107° and Moses Lake 231° radials; Spokane, Wash., including a north alternate from Seattle to Spokane via Wenatchee, Wash., and Ephrata, Wash.; Mullan Pass, Idaho, including a north alternate via INT Spokane 073° and Mullan Pass 291° radials, and also a south alternate, via INT Spokane 109° and Mullan Pass 260° radials; 5 miles, 53 miles, 91 MSL, Missoula, Mont.; 6 miles, 84 MSL, Drummond, Mont.; 11 miles, 84 MSL, Helena, Mont.; INT Helena 119° and Livingston, Mont., 322° radials; Livingston, including a south alternate from Helena via the INT Helena 119° and Bozeman, Mont., 338° radials; Bozeman; INT Bozeman 128° and Livingston, 261° radials; 11 miles, 25 miles, 85 MSL, Billings, Mont., including a N alternate from Helena, 21 miles, 10 miles 105 MSL, 115 MSL INT Helena 089° and Billings 301° radials, 35 miles 100 MSL, to Billings, excluding the airspace between the main and this N alternate; 19 miles, 79 miles, 49 MSL, Miles City, Mont., including an N alternate from Billings, 19 miles, 49 MSL INT Billings 057° and Miles City 269° radials, 42 miles, 49 MSL, to Miles City; 24 miles, 90 miles, 55 MSL, Dickinson, N. Dak.; 10 miles, 60 miles, 38 MSL, Bismarck, N. Dak., including an N alternate from Dickinson, 10 miles 38 MSL INT Dickinson 078° and Bismarck 290° radials, 28 miles, 38 MSL, to Bismarck; 14 miles, 62 miles, 34 MSL Jamestown, N. Dak., including an N alternate from Bismarck 14 miles, 65 miles, 34 MSL, Jamestown; 7 miles, 43 miles, 28 MSL, Fargo, N. Dak., including an N alternate from Jamestown 7 miles, 46 miles, 28 MSL, Fargo; Alexandria, Minn., including a N alternate, Minneapolis, Minn.; Nodine, Minn., including a N alternate; Lone Rock, Wis., including a south alternate via INT Nodine 150° and Lone Rock 286° radials; Madison, Wis.; Badger, Wis.; Muskegon, Mich., including a S alternate via INT Badger 102° and Muskegon 252° radials; Lansing, Mich., including a S alternate from Muskegon to Lansing via INT Muskegon 154° and Grand Rapids, Mich., 284° radials and Grand Rapids (7 miles wide, 3 miles north and 4 miles south of centerline Grand Rapids to Lansing; Salem, Mich., including a N alternate via INT Lansing 091° and Salem 308° radials; INT Salem 083° and Aylmer, Ont., Canada 260° radials; Aylmer; INT Aylmer 087° and Buffalo, N. Y., 259° radials; Buffalo; Rochester, N. Y., including a north alternate via INT of Buffalo 045° and Rochester 273° radials; Syracuse, N. Y., including a N alternate via INT Rochester 064° and Syracuse 283° radials; Utica, N. Y.; Albany, N. Y.; INT Albany 094° and Gardner, Mass., 284° radials; Gardner; to Lawrence, Mass. The airspace within Canada is excluded.

AMENDMENTS 5/15/80 45 F. R. 17947 (Changed)
AMENDMENTS 5/15/80 45 F. R. 17949 (Changed)

V-3 From Key West, Fla., INT Key West 083° and Miami, Fla., 205° radials; INT Miami 205° and Biscayne Bay, Fla., 262° radials; Biscayne Bay; Ft. Lauderdale, Fla.; Palm Beach, Fla., including an E alternate via INT Biscayne Bay 021° and Palm Beach 166° radials; Vero Beach, Fla., including an E alternate via INT Palm Beach 358° and Vero Beach 143° Ormond Beach, Fla.; INT Ormond Beach 345° and Brunswick 175° radials; Brunswick, Ga.; Savannah, Ga.; Vance, S. C.; Florence, S. C.; Sandhills, N. C.; Raleigh-Durham, N. C.; INT Raleigh 016° and Flat Rock, Va., 214° radials; Flat Rock; Gordonsville, Va.; Linden, Va.; Front Royal, Va.; Martinsburg, W. Va.; Westminster, Md.; Modena, Pa.; Solberg, N. J.; Carmel, N. Y.; Hartford, Conn.; INT Hartford 044° and Boston, Mass., 251° radials; Boston; INT Boston 015° and Pease, N. H., 185° radials; Pease; INT Pease 004° and Augusta, Maine, 233° radials; Augusta; Bangor, Maine; INT Bangor 039° and Houlton, Maine, 203° radials; Houlton; Presque Isle, Maine. The portion outside the United States has no upper limit except that the portion of the E alternate between Jacksonville and Savannah extends up to but does not include 18,000 feet MSL. The airspace within R-2916, R-2921 and R-2922 is excluded.

PENDING AMENDMENT

Under V-3, after the words "Vero Beach 143°" add the following:
radials; Vero Beach 343° INT Melbourne, Fla., 161° radials Melbourne; Melbourne 341° radials INT Ormond Beach, Fla., 161° radials Ormond Beach; including a W alternate from Melbourne to Ormond Beach, via Melbourne 321° INT Ormond Beach 211° radials;

AMENDMENTS 12/25/80 45 F. R. 62795 (Changed) Corr: 45 F. R. 67072 Corr: 45 F. R. 77417

PENDING AMENDMENT

In V-3 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-4 From Tatoosh, Wash., via the INT of Tatoosh 102° and Seattle, Wash., 329° radials; Seattle; Yakima, Wash., including a south alternate from Seattle to Yakima via INT Seattle 163° and McChord, Wash., 096° radials and INT McChord 096° and Yakima 305° radials, excluding the airspace between the main and this alternate airway; Pendleton, Oreg.; including a north alternate from Seattle via Ellensburg, Wash.; INT Ellensburg 107° and Pasco, Wash., 321° radials; Pasco, to Pendleton; Baker, Oreg.; Boise, Idaho, including a south alternate; INT Boise 130° and Burley, Idaho, 292° radials; Burley, including a north alternate from Boise 25 miles, 25 miles 90 MSL, 95 MSL INT Pocatello, Idaho, 286° and Burley 323° radials, Burley, excluding the airspace between the main and this alternate airway; Malad City, Idaho; 35 miles, 58 miles, 115 MSL, Rock Springs, Wyo., including an S alternate from Malad City, 20 miles, 68 miles 115 MSL, via Fort Bridger, Wyo., to Rock Springs, excluding the airspace between the main and this S alternate; 20 miles, 39 miles, 95 MSL, Cherokee, Wyo.; Laramie, Wyo.; INT Laramie 133° and Denver, Colo., 347° radials; Denver; including a north alternate from Laramie to Denver via Gill, Colo.; Thurman, Colo.; Goodland, Kans.; Hill City, Kans.; INT Hill City 097° and Salina, Kans., 284° radials; Salina, including a S alternate via Hays, Kansas.; Topeka, Kans., including a N alternate from the INT of Salina 080° and Manhattan, Kans., 213° radials to Topeka via Manhattan and the INT of Manhattan 078° and Topeka 293° radials; Kansas City, Mo., including a S alternate via INT Topeka 099° and Kansas City 231° radials; Hallsville, Mo.; St. Louis, Mo.; Troy, Ill.; Centralia, Ill.; Pocket City, Ind., including a S alternate; Louisville, Ky., including a N alternate via INT Pocket City 068° and Louisville 280° radials; Lexington, Ky., including a N alternate via INT Louisville 081° and Lexington 303° radials and also a S alternate via INT Louisville 114° and Lexington 251° radials; Newcombe, Ky.; Charleston, W. Va.; Elkins, W. Va., including a S alternate via INT Charleston 083° and Elkins 228° radials; Kessel, W. Va.; Front Royal, Va.; to Armel, Va. The airspace within R-6705 is excluded.

AMENDMENTS 9/4/80 45 F. R. 41912 (Changed) Corr: 45 F. R. 50724

PENDING AMENDMENT
In V-4 "Front Royal" is deleted and "Shawnee" is substituted therefor. Also all after "Armel, Va." is deleted.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-5 From Jacksonville, Fla.; INT Jacksonville 318° and Alma, Ga., 150° radials; Alma; INT Alma 342° and Dublin, Ga., 167° radials; Dublin; Athens, Ga., INT Athens 340° and Electric City, S. C., 274° radials; INT Electric City 274° and Chattanooga, Tenn., 127° radials; Chattanooga; Nashville, Tenn., including an east alternate via INT Chattanooga 332° and Nashville 116° radials; Bowling Green, Ky.; New Hope, Ky., including an east alternate from Nashville to New Hope via INT Nashville 034° and New Hope 202° radials; Louisville, Ky.; Cincinnati, Ohio; Appleton; Ohio; Mansfield, Ohio; Cleveland, Ohio; London, Ont., Canada. The airspace within Canada is excluded.

V-6 From Oakland, Calif.; INT Oakland 039° and Sacramento, Calif., 212° radials; Sacramento, including a south alternate via INT Oakland 077° and Sacramento 194° radials; Lake Tahoe, Calif.; Reno, Nev., including a N alternate from Sacramento to Reno via INT Sacramento 038° and Reno 257° radials; Lovelock, Nev., including a south alternate from Reno to Lovelock via Hazen, Nev.; Battle Mountain, Nev., including a north alternate; INT Battle Mountain 062° and Wells, Nev., 256° radials; Wells; 5 miles, 40 miles, 98 MSL, 85 MSL Lucin, Utah; 43 miles, 85 MSL, Ogden, Utah; 11 miles, 50 miles, 105 MSL, Fort Bridger, Wyo.; Rock Springs, Wyo.; 20 miles, 39 miles 95 MSL, Cherokee, Wyo.; 39 miles, 27 miles 95 MSL, Medicine Bow, Wyo.; INT Medicine Bow 106° and Sidney, Nebr., 291° radials; Sidney, North Platte, Nebr.; Grand Island, Nebr.; Omaha, Nebr.; Des Moines, Iowa, including a S alternate; Iowa City, Iowa, including a S alternate via INT Des Moines 112° and Iowa City 252° radials; Davenport, Iowa; INT Davenport 087° and DuPage, Ill., 255° radials; to DuPage. From INT Chicago Heights, Ill., 358° and South Bend, Ind., 271° radials; South Bend, Ind.; INT South Bend 092° and Waterville, Ohio, 288° radials; Waterville; Cleveland, Ohio, including a S alternate via INT Waterville 108° and Cleveland 252° radials; Youngstown, Ohio, including a north alternate via INT Cleveland 081° and Youngstown 285° radials; Clarion, Pa.; Philipsburg, Pa.; Selinsgrove, Pa.; Allentown, Pa.; to Broadway, N. J., excluding the portion within R-4803 and R-4813.

V-7 From Biscayne Bay, Fla., via Ft. Myers, Fla., including an east alternate from Biscayne Bay via Miami, Fla., INT of Miami 337° and Ft. Myers 101° radials, Ft. Myers; Lakeland, Fla., including an east alternate via INT Ft. Myers 022° and Lakeland 154° radials; Cross City, Fla.; Greenville, Fla.; Wiregrass, Ala., including a W alternate from Cross City to Wiregrass via INT Cross City 287° and Marianna, Fla., 141° radials and Marianna; INT Wiregrass 333° and Montgomery, Ala., 129° radials; Montgomery; Vulcan, Ala.; including an east alternate via INT of Montgomery 357° and Vulcan 139° radials; Muscle Shoals, Ala., including an E alternate via INT of Vulcan 358° and Muscle Shoals 122° radials and also a W alternate via Vulcan 300° and Muscle Shoals 178° radials; Graham, Tenn.; Central City, Ky.; Pocket City, Ind.; INT Pocket City 015° and Lewis, Ind., 198° radials; Lewis; Terre Haute, Ind., including a W alternate from Evansville to Terre Haute via INT Evansville 360° and Terre Haute 217° radials; Boiler, Ind.; Chicago Heights, Ill.; INT Chicago Heights 358° and Green Bay, Wis., 166° radials, including an east alternate via INT Chicago Heights 013° and Milwaukee, Wis., 137° radials to the INT Milwaukee 137° and Chicago-O'Hare 019° radials; Green Bay, Wis.; Menominee, Mich.; Marquette, Mich.; including an east alternate via Escanaba, Mich. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

AMENDMENTS 5/15/80 45 F. R. 13727 (Changed)

V-8 From INT Seal Beach, Calif., 266° and Los Angeles, Calif., 236° radials; Seal Beach; Paradise, Calif.; 35 miles, 7 miles wide (3 miles SE and 4 miles NW of centerline) Hector, Calif.; Goffs, Calif.; INT Goffs 033° and Morman Mesa, Nev., 196° radials; Morman Mesa, including a N alternate from the INT of Seal Beach 073° and Pomona, Calif., 202° radials to Morman Mesa via Pomona, Daggett, Calif., and Las Vegas, Nev.; Bryce Canyon, Utah, Hanksville, Utah, including a south alternate; Grand Junction, Colo., including a south alternate via INT of Hanksville 087° and Grand Junction 232° radials and also a north alternate from Bryce Canyon to Grand Junction via INT Bryce Canyon 048° and Grand Junction 250° radials; 33 miles, 130 MSL Kremmling, Colo., including a south alternate from Grand Junction 33 miles, 21 miles, 127 MSL, 120 MSL INT Grand Junction 075° and Kremmling 228° radials, 28 miles, 120 MSL, 130 MSL to Kremmling; 9 miles 130 MSL, 29 miles 144 MSL, 11 miles 127 MSL, Denver, Colo.; Akron, Colo.; Hayes Center, Nebr., including a north alternate via INT Akron 063° and Hayes Center 276° radials and also a south alternate via INT Akron 094° and Hayes Center 246° radials; Grand Island, Nebr., including a N alternate via INT Hayes Center 059 and Grand Island 273° radials, and also a S alternate; Omaha, Nebr.; Des Moines, Iowa; Iowa City, Iowa; Moline, Ill.; Joliet, Ill.; Chicago Heights, Ill.; Goshen, Ind.; Findlay, Ohio; Mansfield, Ohio; Briggs, Ohio; Bellaire, Ohio; INT Bellaire 107° and Grantsville, Md., 285° radials; Grantsville; Martinsburg, W. Va.; to Washington, D. C., including a north alternate from Grantsville to the INT of Hagerstown, Md., 187° and the Martinsburg 130° radials via Hagerstown. The portion outside the United States has no upper limit.

V-9 From Leeville, La., via INT Leeville, 333° and New Orleans, La., 181° radials; New Orleans; McComb, Miss., including an E alternate from New Orleans to McComb via Picayune, Miss.; Jackson, Miss., including an E alternate and also a W alternate via INT McComb 348° and Jackson 199° radials; Greenwood, Miss., including an E alternate and also a W alternate; Gilmore, Ark.; Malden, Mo.; Farmington, Mo.; St. Louis, Mo.; Capital, Ill.; Pontiac, Ill.; INT Pontiac 008° and Joliet, Ill., 316° radials; INT Rockford, Ill., 136° and Badger, Wis., 209° radials; Badger; Oshkosh, Wis.; Green Bay, Wis.; Iron Mountain, Mich., including an east alternate from Green Bay to Iron Mountain via Menominee, Mich.; Houghton, Mich.; including an E alternate via Marquette, Mich.

V-10 From Pueblo, Colo., 18 miles, 48 miles, 60 MSL, Lamar, Colo.; Garden City, Kans.; Dodge City, Kans.; Hutchinson, Kans., including a N alternate via INT Dodge City 060° and Hutchinson 296° radials excluding the airspace between the main and alternate airway; Emporia, Kans.; Napoleon, Mo., including a N alternate via INT Emporia 050° and Topeka, Kans., 099° radials; Kirksville, Mo., including a N alternate via INT Napoleon 00[illegible]° and Kansas City 060° radials; Burlington, Iowa; Bradford, Ill.; to Chicago, O'Hare, Ill. From INT Chicago Heights, Ill., 358° and South Bend, Ind., 271° radials; South Bend; Litchfield, Mich.; Carleton, Mich.; INT Jefferson, Ohio, 279° and Youngstown, Ohio, 320° radials; Youngstown; INT Youngstown 116° and Clarion, Pa., 222° radials; Revloc, Pa. The airspace within Canada is excluded.

V-11 From Brockley, Ala.; Greene County, Miss., including a west alternate from Brockley via Semmes, Ala., to Greene County; Laurel, Miss.; including an east alternate from the INT of Semmes 356° and Greene County 142° radials via the INT of Semmes 356° and Laurel 109° radials to Laurel; Jackson, Miss.; Greenwood, Miss.; Holly Springs, Miss., including a W alternate via the INT Greenwood 010° and Holly Springs 225° radials; Dyersburg, Tenn.; Cunningham, Ky.; including an E alternate and a W alternate via INT Dyersburg 006° and Cunningham 224° radials; Pocket City, Ind., including an east alternate; Indianapolis, Ind., including an E alternate from Pocket City to Indianapolis via INT Pocket City 046° and Bloomington, Ind., 205° radials, Bloomington, INT of Bloomington 025° and Indianapolis 185° radials; Marion, Ind.; Fort Wayne, Ind.; Salem, Mich.; 6 miles wide to INT Salem 052° and Windsor, Ont., Canada 335° radials.

V-12 From Gaviota, Calif., via Santa Barbara, Calif.; Palmdale, Calif., including a south alternate via Fillmore, Calif.; 38 miles, 6 miles wide, Hector, Calif.; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, Calif.; 45 miles, 34 miles, 95 MSL, Prescott, Ariz.; Winslow, Ariz.; 30 mi. 85 MSL Zuni, N. Mex.; Albuquerque, N. Mex., including a south alternate via INT Zuni 104° and Albuquerque 253° radials; Otto, N. Mex.; Anton Chico, N. Mex., including a S alternate from Albuquerque to Anton Chico via INT Albuquerque 103° and Anton Chico 249° radials; Tucumcari, N. Mex.; Amarillo, Tex., including a south alternate and also a north alternate via INT Tucumcari 071° and Amarillo 286° radials; Gage, Okla., including a north alternate from Amarillo to Gage via Borger, Tex., and INT Borger 061° and Gage 249° radials, and also a south alternate via INT Amarillo 072° and Gage 215° radials; Anthony, Kans.; Wichita, Kans.; Emporia, Kans.; Napoleon, Mo.; Columbia, Mo.; Foristell, Mo., including a S alternate from INT Jefferson City, Mo., 308° and Columbia 276° radials via Jefferson City to the INT of Jefferson City 042° and Columbia 104° radials; Troy, Ill.; Bible Grove, Ill.; Lewis, Ind.; Shelbyville, Ind.; Richmond, Ind.; Dayton, Ohio; Appleton, Ohio, including a N alternate from Dayton to Appleton via INT Dayton 068° and Rosewood, Ohio, 083° radials; Newcomerstown, Ohio; Allegheny, Pa.; Johnstown, Pa.; Harrisburg, Pa., including a S alternate from Johnstown to Harrisburg via St. Thomas, Pa.

V-13 From McAllen, Tex., via Harlingen, Tex.; INT Harlingen 033° and Corpus Christi, Tex., 178° radials; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline), Corpus Christi; including a W. alternate from Harlingen, 23 miles 7 miles wide (3 miles E. and 4 miles W. of centerline), 4 miles 8 miles wide, via INT Harlingen 006° and Corpus Christi 193° radial; 34 miles standard width, 37 miles 7 miles wide (4 miles E and 3 miles W of centerline), to Corpus Christi; INT Corpus Christi 039° and Palacios, Tex., 241° radials; Palacios; Humble, Tex., including a west alternate via INT Palacios 017° and Humble 242° Humble; Lufkin, Tex.; including an east alternate from Humble via Daisetta, Tex., to Lufkin; Shreveport, La., including an E alternate; Texarkana, Ark., including a W alternate via INT Shreveport 275° and Texarkana 184° radials; Rich Mountain, Okla.; Fort Smith, Ark.; INT Fort Smith 006° and Razorback, Ark., 190° radials; Razorback, including a W alternate from Rich Mountain to Razorback via INT Rich Mountain 006° and Razorback 205° radials; Neosho, Mo.; Butler, Mo.; Napoleon, Mo.; INT Napoleon 336° and St. Joseph, Mo., 132° radials; Lamoni, Iowa, Des Moines, Iowa, including a W alternate; Mason City, Iowa, including a W alternate from Des Moines to Mason City via Fort Dodge, Iowa, excluding the airspace between the main and this W alternate; and excluding the airspace above 9,000 feet MSL between Des Moines and Fort Dodge; Farmington, Minn.; Grantsburg, Wis., including a W alternate from Mason City to Grantsburg via INT Mason City 349° and Minneapolis, Minn., 188° radials and Minneapolis, excluding the airspace between the main and W alternate; Duluth, Minn., including an E alternate; 36 miles, 35 MSL Thunder Bay, Ontario, Canada. The airspace outside the United States is excluded.

AMENDMENTS 1/24/80 44 F. R. 68447 (Changed) Corr: 45 F. R. 764

V-14 From Roswell, N. Mex., via Lubbock, Tex.; Childress, Tex., including a S alternate via INT Lubbock 086° and Childress 229° radials; Hobart, Okla.; Oklahoma City, Okla., including a S alternate via INT Hobart 076° and Oklahoma City 202° radials; Tulsa, Okla., including a N alternate via INT Oklahoma City 037° and Tulsa 261° radials, and also a S alternate via INT Oklahoma City 079° and Tulsa 228° radials; Neosho, Mo., including a N alternate and also a S alternate via INT Tulsa 087° and Neosho 223° radials; Springfield, Mo., including a S alternate via INT Neosho 074° and Springfield 210° radials; Vichy, Mo., including a N alternate; Foristell, Mo.; St. Louis, Mo.; Vandalia, Ill.; Terre Haute, Ind.; Indianapolis, Ind., including a S alternate via INT of Terre Haute 079° and Indianapolis 230° radials; Muncie, Ind.; Findlay, Ohio; Cleveland, Ohio; Jefferson, Ohio, Erie, Pa., including a N alternate from Cleveland to Erie via INT Cleveland 049° and Jefferson 279° radials; Dunkirk, N. Y.; Buffalo; Geneseo, N. Y., Georgetown, N. Y.; INT Georgetown 093° and Albany, N. Y. 270° radials; Albany; INT Albany 094° and Gardner, Mass., 284° radials; Gardner; INT Gardner 195° and Norwich, Conn., 351° radials; Norwich. The airspace within R-5207 and Canada is excluded.

V-15 From Scholes, Tex., via Hobby, Tex.; Humble, Tex.; Navasota, Tex.; College Station, Tex., including a west alternate from Hobby to College Station via INT Hobby 290° and College Station 151° radials; Waco, Tex., including a W alternate via INT College Station 307° and Waco 173° radials; Scurry, Tex.; Blue Ridge, Tex.; Ardmore, Okla.; Okmulgee, Okla., including an E alternate; INT Okmulgee 048° and Neosho, Mo., 223° radials; Neosho. From St. Joseph, Mo., via INT St. Joseph 343° and Neola, Iowa, 157° radials; Neola; INT Neola 322° and Sioux City, Iowa, 159° radials; Sioux City; INT Sioux City 340° and Sioux Falls, S. Dak., 169° radials; Sioux Falls, including an E alternate; Huron, S. Dak., including a west alternate from Sioux Falls to Huron via Mitchell, S. Dak.; Aberdeen, S. Dak., including a W alternate; 18 miles, 89 miles, 42 MSL, Bismarck, N. Dak.; Minot, N. Dak.

V-16 From Los Angeles, Calif., Paradise, Calif.; Palm Springs, Calif:, including a S alternate from Los Angeles via Los Angeles 138° and Seal Beach, Calif., 287° radials; Seal Beach; March, Calif.; INT March 068° Palm Springs 273° radials; to Palm Springs; Blythe, Calif.; 21 miles, 60 miles, 55 MSL, Buckeye, Ariz.; Phoenix, Ariz.; INT Phoenix 161° and Casa Grande, Ariz., 105° radials; Tucson, Ariz.; Cochise, Ariz., including a S alternate via INT Tucson 122° and Cochise 257° radials; Columbus, N. Mex.; El Paso, Tex., including a N alternate via INT Columbus 075° and El Paso 286° radial; Salt Flat, Tex.; Wink, Tex.; Wink 066° and Big Spring, Tex., 260° radials; Big Spring, including a S alternate from Wink to Big Spring via Midland, Tex.; Abilene, Tex.; Millsap, Tex.; Acton, Tex.; Scurry, Tex.; Quitman, Tex.; Texarkana, Ark., Pine Bluff, Ark.; Holly Springs, Miss.; Jacks Creek, Tenn.; Graham, Tenn.; Nashville, Tenn., including a north alternate from Jacks Creek to Nashville via INT Jacks Creek 049° and Nashville 286° radials; INT Nashville 102° and Hinch Mountain, Tenn., 285° radials; Hinch Mountain; including a north alternate via INT Nashville 085° and Hinch Mountain 306° radials; Knoxville, Tenn., including a S alternate via INT Hinch Mountain 100° and Knoxville 243° radials; Holston Mountain, Tenn., including a S alternate from Knoxville to Holston Mountain via Snowbird, Tenn.; Pulaski, Va., including a N alternate from Knoxville to Pulaski via INT Knoxville 050° and Glade Spring, Va., 246° radials and Glade Spring; Roanoke, Va.; Lynchburg, Va.; including a S alternate via INT Pulaski 094° and Lynchburg 253° radials; Flat Rock, Va.; Richmond, Va.; INT Richmond 039° and Patuxent, Md., 228° radials; Patuxent; Kenton, Del.; Cedar Lake, N. J.; Coyle, N. J.; Kennedy, N. Y.; Deer Park, N. Y.; Calverton, N. Y.; Norwich, Conn.; Boston, Mass. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within R-5002A, R-5002C and R-5002D is excluded during their times of use.

AMENDMENTS 10/30/80 45 F. R. 55711 (Changed)

PENDING AMENDMENT

Under V-16, the following is added:

The airspace within R-4005 and R-4006 is excluded.

V-17 From Brownsville, Tex., via Harlingen, Tex.; McAllen, Tex.; 29 miles 12 AGL, 34 miles 25 MSL, 37 miles 12 AGL; Laredo, Tex., including a W alternate; Cotulla, Tex.; INT Cotulla 046° and San Antonio, Tex., 198° San Antonio, including an east alternate via the INT Cotulla 046° and San Antonio 183° radials; INT San Antonio 042° and Austin, Tex., 229° radials; Austin, including a west alternate via the INT of San Antonio 027° and Austin 244° radials; Waco, Tex., including an east alternate via INT Austin 041° and Waco 173° radials; Acton, Tex.; Bridgeport, Tex.; Duncan, Okla. INT Duncan 011° and Oklahoma City, Okla., 180° radials; Oklahoma City; Gage, Okla., including a W alternate via INT Oklahoma City 282° and Gage 163° radials; Garden City, Kans., including a W alternate from Gage to Garden City via Liberal, Kans.; Goodland, Kans.

V-18 From Millsap, Tex., via Dallas-Fort Worth, Tex.; Quitman, Tex.; Shreveport, La., including a S alternate via INT Quitman 109° and Shreveport 246° radials; Monroe, La., including a N alternate and also a S alternate; Jackson, Miss., including a N alternate and also a S alternate; Meridian, Miss., including a S alternate; Tuscaloosa, Ala.; Vulcan, Ala.; Talladega, Ala.; Atlanta, Ga.; INT Atlanta 089° and Augusta, Ga., 278° radials; Augusta, including a north alternate from Vulcan to Augusta via Rome, Ga., INT Rome 060° and Anderson, S. C., 274° radials; INT Anderson 274° and Athens, Ga., 340° radials; Athens, and INT Athens 199° and Augusta 294° radials; INT Augusta 103° and Charleston, S. C., 296° radials; Charleston, including a S alternate from Augusta to Charleston via INT Augusta 148° and Allendale, S. C., 273° radials, and Allendale, excluding the airspace within R-6004.

V-19 From Newman, Tex., via INT Newman 286° and Truth or Consequences, N. Mex., 159° radials; Truth or Consequences; INT Truth or Consequences 028° and Socorro, N. Mex., 189° radials; Socorro; Albuquerque, N. Mex., including a W alternate via INT Socorro 343° and Albuquerque 199° radials, and also an E alternate via INT Socorro 015° and Albuquerque 160° radials; INT Albuquerque 036° and Santa Fe, NM., 245° radials; Santa Fe, including a west alternate via INT Albuquerque 019° and Santa Fe 268° radials; Las Vegas, N. Mex.; Cimarron, N. Mex., Pueblo, Colo., including an E alternate via INT Cimarron 053° and Pueblo 176° radials; Kiowa, Colo.; Denver; Cheyenne, Wyo.; Casper, Wyo., including an E alternate from Cheyenne to Casper via INT Cheyenne 002° and Douglas, Wyo., 152° radials and Douglas; 5 miles, 45 miles 71 MSL, Crazy Woman, Wyo.; Sheridan, Wyo., including an E alternate; 21 miles, 35 miles 75 MSL, Billings, Mont., including an E alternate from Sheridan 21 miles, 38 miles, 75 MSL, to Billings; 38 miles, 72 MSL INT Billings 347° and Lewistown, Mont., 104° radials; Lewistown; Great Falls, Mont., including a W alternate via INT Lewistown 274° and Great Falls 122° radials.

V-20 From Reynosa, Mex., via McAllen, Tex.; INT McAllen 036° and Corpus Christi, Tex., 178° radials; 10 miles 8 miles wide, 37 miles 7 miles wide (3 miles E and 4 miles W of Centerline), Corpus Christi; INT Corpus Christi 054° and Palacios, Tex., 226° radials; Palacios; Hobby, Tex.; Beaumont, Tex.; Lake Charles, La.; including a north alternate via INT Beaumont 056° and Lake Charles 272° radials; Lafayette, La., including a N alternate via INT Lake Charles 064° and Lafayette 285° radials; New Orleans, La., including a S alternate from Lafayette to New Orleans via Tibby, La.; INT New Orleans 070° and Gulfport, Miss., 247° radials; Gulfport; Semmes, Ala., including a N alternate from New Orleans to Semmes via Picayune, Miss., excluding the airspace between the main and this N alternate; INT Semmes 048° and Monroeville. Ala.. 231° radials; Monroeville, including a S alternate via INT Semmes 063° and Monroeville 216° radials; Montgomery, Ala.; Tuskegee, Ala.; Columbus, Ga.; INT Columbus 068° and Athens, Ga., 195° radials; Athens; Electric City, S. C.; Spartanburg, S. C., including a north alternate from Montgomery to Spartanburg via INT Montgomery 029° and Chattanooga, Tenn., 189° radials; INT Chattanooga 189° and Rome, Ga., 252° radials; Rome; INT Rome 060° and Toccoa, Ga., 258° radials; Toccoa to Spartanburg; Greensboro, N. C.; South Boston, Va.; Richmond, Va.; INT Richmond 039° and Brooke, Va., 132° radials; INT Patuxent, Md., 228° and Nottingham, Md., 174° radials; to Nottingham. The airspace on the main airway above 14,000 feet MSL from McAllen to 49 miles northeast and the airspace within Mexico is excluded.

PENDING AMENDMENT

Under V-20, the following is added:

The airspace within R-4007A and R-4007B is excluded.

AMENDMENTS 12/25/80 45 F. R. 71773 (Changed) Corr: 45 F. R. 77418

V-21 From Santa Catalina, Calif., via Seal Beach, Calif.; Paradise, Calif.; 35 miles, 7 miles wide (3 miles SE and 4 miles NW of centerline), Hector, Calif.; Boulder City, Nev., including a W alternate from INT Hector 226° and Daggett, Calif., 187° radials to INT Daggett 062° and Hector 047° radials via Daggett; Morman Mesa, Nev.; 30 miles, 52 miles, 95 MSL Milford, Utah, including an E alternate via INT of Morman Mesa 059° and Cedar City, Utah, 197° radials to Cedar City, to Milford, excluding the airspace between the man and this E alternate airway; Delta, Utah; Fairfield, Utah; Salt Lake City, Utah; Ogden, Utah; Malad City, Idaho; Pocatello, Idaho; Idaho Falls, Idaho; INT of Idaho Falls, 030° and DuBois, Idaho, 157° radials; DuBois; Dillon, Mont.; Whitehall, Mont.; Helena, Mont.; Great Falls, Mont.; Cut Bank, Mont., including a W alternate Helena direct Cut Bank; INT Cut Bank 348° radial and the United States/Canadian border.

PENDING AMENDMENT

V-22 From Oceanside. Calif.. via INT Oceanside 143° and Poggi. Calif.. 350° radials to Poggi.

AMENDMENTS 12/25/80 45 F. R. 72634 (Added)

V-23 From Mission Bay, Calif., Oceanside, Calif.; 24 miles, 6 miles wide, Seal Beach, Calif.; 6 miles wide, INT Seal Beach 287° and Los Angeles, Calif., 138° radials; Los Angeles; Gorman, Calif., Bakersfield, Calif.; Fresno, Calif.; 53 miles, 6 miles wide, Linden, Calif.; Sacramento, Calif., including a W alternate from Fresno to Sacramento via Panoche, Calif., and Stockton, Calif.; INT Sacramento 346° and Red Bluff, Calif., 158° radials; Red Bluff; 58 miles, 95 MSL Fort Jones, Calif.; Medford, Oreg., including an east alternate via INT Fort Jones 041° and Medford 157° radials; Eugene, Oreg.; Portland, Oreg., including an east alternate and including a west alternate from Fort Jones to Portland via INT Fort Jones 340° and Roseburg, Oreg., 174° radials, Roseburg, INT Roseburg 355° and Corvallis, Oreg., 195° radials, Corvallis, and Newberg, Oreg.; 20 miles, 45 MSL INT Portland 350° and Seattle, Wash., 197° radials; 21 miles, 45 MSL, Seattle, including an east alternate from Portland to Seattle via direct radials; Paine, Wash.; Bellingham, Wash.; via INT Bellingham 290° radial to the United States/Canadian border.

V-24 From Aberdeen, S. Dak., Watertown, S. Dak., including a N alternate; Redwood Falls, Minn.; Rochester, Minn.; Lone Rock, Wis., including a S alternate from Rochester to Lone Rock via Waukon, Iowa.

V-25 From Mission Bay, Calif., via Los Angeles, Calif.; INT Los Angeles 261° and Ventura, Calif., 144° radials; 6 miles wide, Ventura; Santa Barbara, Calif.; Paso Robles, Calif., Salinas, Calif., including an E alternate via INT Paso Robles 342° and Salinas 131° radials; INT Salinas 310° and Woodside, Calif., 158° radials; Woodside; San Francisco, Calif.; INT San Francisco 304° and Point Reyes, Calif., 161° radials; Point Reyes; INT Point Reyes 352° and Ukiah, Calif., 147° radials; 28 miles, 24 miles, 85 MSL, 18 miles, 75 MSL, Red Bluff, Calif.; 53 miles, 95 MSL INT Red Bluff 015° and Klamath Falls, Oreg., 181 radials; 19 miles, 95 MSL, Klamath Falls; 21 miles, 77 miles, 90 MSL, Redmond, Oreg.; The Dalles, Oreg.; Yakima, Wash., including an east alternate via INT The Dalles 051° and Yakima 183° radials; Ellensburg, Wash., including a west alternate via INT Yakima 305° and Ellensburg 191° radials; Wenatchee, Wash. The airspace below 2,000 feet MSL outside the United States and the airspace more than 3 miles NE of the airway centerline between Seal Beach and INT of Seal Beach 287° and Los Angeles 138° radials is excluded. The airspace within R-2511, R-2520, and W-289 is excluded. The airspace within R-2519 more than 3 statute miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL is excluded. The portion outside the United States has no upper limit.

V-26 From Grand Junction, Colo.; via Meeker, Colo.; Cherokee, Wyo.; Casper, Wyo.; 14 miles 12 AGL, 37 miles 75 MSL, 84 miles 90 MSL, 17 miles 12 AGL, Rapid City, S. Dak.; 43 miles, 35 MSL Philip, S. Dak.; 56 miles, 35 MSL, Pierre, S. Dak., including a north alternate; Huron, S. Dak.; Redwood Falls, Minn., including a S alternate; Flying Cloud, Minn.; INT Flying Cloud 081° and Eau Claire, Wis., 271° radials; Eau Claire, including a south alternate from Redwood Falls to Eau Claire via Farmington, Minn.; Wausau, Wis.; Green Bay, Wis.; INT Green Bay 116° and White Cloud, Mich., 302° radials; White Cloud; Lansing, Mich.; Salem, Mich., including a north alternate via INT Lansing 103° and Salem 308° radials; INT Salem 139° and Cleveland, Ohio, 309° radials; Cleveland. The airspace within Canada is excluded.

V-27 From Mission Bay, Calif., INT Mission Bay 319° and Santa Catalina, Calif., 099° radials; Santa Catalina; 6 miles wide, Ventura, Calif.; INT Ventura 326° and Fillmore, Calif., 265° radials; INT Fillmore 265° and Gaviota, Calif., 143° radials; Gaviota; San Luis Obispo, Calif.; INT San Luis Obispo 308° and Big Sur, Calif., 157° radials; Big Sur; INT Big Sur 325° and Point Reyes, Calif., 161° radials; Point Reyes; INT Point Reyes 352° and Ukiah, CA., 147° radials; Ukiah; Fortuna, CA., including a west alternate from Ukiah 17 miles, 77 miles, 53 MSL, Fortuna, excluding the airspace between the main and the west alternate; Crescent City, CA., including a west alternate from Fortuna to Crescent City, excluding the airspace between the main and the west alternate; 31 miles, 32 miles, 59 MSL, North Bend, Oreg.; Newport, Oreg.; 39 miles, 30 miles, 45 MSL, Astoria, Oreg.; Hoquiam, Wash., including a west alternate via INT Astoria 309° and Hoquiam 182° radials; Seattle, Wash., including an east alternate from Astoria to Seattle via Olympia, Wash., and INT Olympia 010° and Seattle 249° radials. The airspace below 2,000 feet MSL outside the United States between San Diego and Santa Catalina, the airspace within R-2516, R-2520, and W-289, the airspace within R-2519 more than 3 statute miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL, is excluded. The portion outside the United States has no upper limit.

AMENDMENTS 10/30/80 45 F. R. 58105 (Changed)

V-28 From Oakland, Calif., INT Oakland 077° and Linden, Calif., 246° radials; Linden; INT Linden 046° and Reno, Nev., 208° radials; Reno.

V-29 From Snow Hill, Md., Salisbury, Md.; Kenton, Del.; New Castle, Del.; Modena, Pa.; Pottstown, Pa.; East Texas, Pa.; Wilkes-Barre, Pa.; Binghamton, N. Y.; Syracuse, N. Y.; Watertown, N. Y.; INT Watertown 033° and Massena, N. Y., 241° radials; Massena.

V-30 From Badger, Wis., INT Badger 102° and Pullman, Mich., 303° radials; Pullman, including a S alternate via INT Badger 121° and Pullman 282° radials; Litchfield, Mich.; Waterville, Ohio; Cleveland, Ohio; Akron, Ohio; Clarion, Pa.; Philipsburg, Pa.; Selinsgrove, Pa.; East Texas, Pa.; to Solberg, N. J.

V-31 From Patuxent River, Md.; INT Patuxent River 338° and Nottingham, Md., 128° radials; Nottingham. From Baltimore, Md.; Harrisburg, Pa.; Selinsgrove, Pa.; Williamsport, Pa.; Elmira, N. Y.; INT Elmira 357° and Rochester, N. Y., 125° radials; Rochester; INT Rochester 289° and Kleinburg, Ontario, 133° radials; Kleinburg. The airspace within Canada is excluded.

V-32 From Battle Mountain, Nev.; Elko, Nev.; Bonneville, Utah, including a north alternate from Elko to Bonneville via Wells, Nev.; 37 miles, 85 MSL, Salt Lake City, Utah; 17 miles, 45 miles, 105 MSL, Fort Bridger, Wyo.

V-33 From Harcum, Va., INT Harcum 003° and Nottingham, Md., 174° radials; Nottingham. From Baltimore, Md., Harrisburg, Pa.; Philipsburg, Pa.; Keating, Pa.; Bradford, Pa.; Buffalo, N. Y.

PENDING AMENDMENT

Under V-33, the following is added:

The airspace within R-4007A and R-4007B is excluded.

AMENDMENTS 12/25/80 45 F. R. 71773 (Changed) Corr: 45 F. R. 77418

V-34 From Kleinburg, Ont., INT Kleinburg 113° and Rochester, N. Y., 309° radials; Rochester; Ithaca, N. Y.; Hancock, N. Y.; Carmel, N. Y.; INT Carmel 093° and Calverton, N. Y., 044° radials. The airspace within Canada and R-5207 is excluded.

V-35 From Key West, Fla., via INT Key West 083° and Biscayne Bay, Fla., 204° radials; Biscayne Bay; INT Biscayne Bay 288° and Fort Myers, Fla., 137° radials; Fort Myers, including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials; St. Petersburg, Fla., including a W alternate; via INT Ft. Myers 311° and Sarasota, Fla., 156° radials, Sarasota, St. Petersburg; INT St. Petersburg 350° and Cross City, Fla., 168° radials; Cross City, including an E alternate via Gainesville, Fla.; Greenville, Fla.; Albany, Ga.; Macon, Ga.; INT Macon 005° and Athens, Ga., 195° radials; Athens; Electric City, S. C.; Sugarloaf Mountain, N. C.; Holston Mountain, Tenn., including a west alternate via INT Sugarloaf Mountain 329° and Holston Mountain 203° radials; Glade Spring, Va.; Charleston, W. Va., including an E alternate via Bluefield, W. Va.; INT Charleston 051° and Elkins, W. Va., 264° radials; Clarksburg, W. Va.; Morgantown, W. Va.; Indian Head, Pa.; Johnstown, Pa., Tyrone, Pa.; Philipsburg, Pa.; Stonyfork, Pa.; Elmira, N. Y.; Syracuse, N. Y. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit. The airspace within R-2916 is excluded.

V-36 From Sault Ste Marie, Mich., to the INT of the Sault Ste Marie 110° radial and the United States/Canadian border. From Toronto, Ont., via INT Toronto 141° and Buffalo, N. Y., 312° radials; Buffalo; Elmira, N. Y.; Lake Henry, Pa.; INT Lake Henry 136° and Sparta, N. J., 290° radials; Sparta; Kennedy, N. Y. The airspace within Canada is excluded.

V-37 From Jacksonville, Fla.; Brunswick, Ga.; Savannah, Ga.; Allendale, S.C.; Columbia, S.C.; Fort Mill, S. C.; Pulaski, Va., Elkins, W. Va.; Clarksburg, W. Va.; INT Clarksburg 359° and Ellwood City, Pa., 185° radials; Ellwood City; Erie, Pa.; to Ash, Ont., Canada. The airspace within Canada is excluded.

V-38 From Moline, Ill., via INT Moline 082° and Peotone, Ill., 281° radials; Peotone; Fort Wayne, Ind.; Findlay, Ohio; INT Findlay 131° and Appleton, Ohio, 312° radials; Appleton; Zanesville, Ohio; Parkersburg, W. Va.; Elkins, W. Va.; Gordonsville, Va.; Richmond, Va.; Harcum, Va.; Cape Charles, Va.

V-39 From Sandhills, N. C., South Boston, Va.; Gordonsville, Va.; Linden, Va.; including an E alternate via Casanova, Va.; Front Royal, Va.; Martinsburg, W. Va.; Lancaster, Pa.; to East Texas, Pa. From Chester, Mass.; Gardner, Mass.; Concord, N. H.; INT Concord 046° and Augusta, Maine, 233° radials; Augusta; Millinocket, Maine; Presque Isle, Maine; Mont Joli, Quebec, Canada, excluding the portion within Canada.

PENDING AMENDMENT

In V-39 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-40 From Cleveland, Ohio, Briggs, Ohio; INT Briggs 077° and Youngstown, Ohio, 177° radials.

V-41 From INT Briggs, Ohio, 077° and Youngstown, Ohio, 177° radials; Youngstown.

V-42 From Flint, Mich.; via INT Flint 133° and Windsor, Ont., 320° radials; Windsor; Cleveland, Ohio; to Akron, Ohio. The airspace within Canada is excluded.

V-43 From Appleton, Ohio, via Tiverton, Ohio; Briggs, Ohio; Youngstown, Ohio; including a west alternate from Tiverton via INT Tiverton 040° and Akron, Ohio, 233° radials; Akron to Youngstown; including an E alternate from Briggs via INT Briggs 057° and Youngstown 177° radials to Youngstown; Erie, Pa.; INT Erie 043° and Buffalo, N. Y., 259° radials; to Buffalo.

V-44 From Jefferson City, Mo., via Foristell, Mo.; Centralia, Ill.; Samsville, Ill.; Nabb, Ind.; Falmouth, Ky.; York, Ky.; Parkersburg, W. Va.; Morgantown, W. Va.; Martinsburg, W. Va.; Baltimore, Md.; INT Baltimore 094° and Kenton, Del., 262° radials; Kenton; INT Kenton 086° and Atlantic City, N. J., 236° radials; Atlantic City; INT Atlantic City 048° and Deer Park, N. J., 209° radials, including an east alternate via INT Atlantic City 055° and Deer Park 209° radials; to Deer Park. The airspace within R-4001B, R-5002A, R-5002B and R-5002E is excluded during their times of use. The airspace within V-139, V-308 airways is excluded. The airspace below 2,000 feet MSL outside the United States is excluded.

V-45 From New Bern, N. C., Kinston, N. C.; Raleigh-Durham, N. C.; INT Raleigh-Durham 275° and Greensboro, N. C., 105° radials; Greensboro; INT Greensboro 334° and Hickory, N. C., 049° radials; Pulaski, Va.; Bluefield, W. Va.; Charleston, W. Va. From INT Waterville, Ohio, 035° and Cleveland, Ohio, 335° radials; Waterville; Jackson, Mich.; Lansing, Mich.; Saginaw, Mich.; Alpena, Mich., including a west alternate via INT Saginaw 353° and Alpena 232° radials; Sault Ste. Marie, Mich. The airspace within R-5502A and R-5502B is excluded. The airspace from Alpena to 30 miles north of Alpena at and above 10,000 feet MSL is excluded during the time that the Collins Military Operations Area is activated by NOTAM.

V-46 From Deer Park, N. Y., Calverton, N. Y.; Hampton, N. Y.; INT Hampton 083° and Nantucket, Mass., 255° radials; Nantucket. The airspace below 2,000 feet MSL outside the United States is excluded.

V-47 From Pine Bluff, Ark.; Gilmore, Ark.; Dyersburg, Tenn.; Cunningham, Ky.; Pocket City, Ind.; Nabb, Ind.; Cincinnati, Ohio; Rosewood, Ohio; Findlay, Ohio, including a W alternate via INT Rosewood 309° and Findlay, Ohio, 218° radials; to Waterville, Ohio.

AMENDMENTS 3/20/80 45 F. R. 6357 (Changed)

V-48 From Ottumwa, Iowa, Burlington, Iowa; Peoria, Ill.; Pontiac, Ill.

V-49 From Vulcan, Ala.; Decatur, Ala.; including an east alternate via INT Vulcan 013° and Decatur 130° radials and a west alternate via INT Vulcan 335° and Decatur 205° radials; Nashville, Tenn.; Bowling Green, Ky., including a W alternate from Decatur to Bowling Green via Graham, Tenn., and INT Graham 006° and Bowling Green 230° radials; Mystic, Ky.; Nabb, Ind.

V-50 From Hastings, Nebr., via Pawnee City, Nebr.; St. Joseph, Mo.; including a S alternate from Pawnee City to St. Joseph via INT Pawnee City 122° and Kansas City, Mo., 310° radials, and INT Kansas City 310° and St. Joseph 178° radials; Kirksville, Mo.; Quincy, Ill.; Capital, Ill.; Decatur, Ill.; Terre Haute, Ind.; Indianapolis, Ind.; Dayton, Ohio, including a N alternate from Indianapolis to Dayton via Muncie, Ind. The airspace at and above 10,000 feet MSL from Quincy to Capital is excluded during the time that the Howard MOA is activated by NOTAM.
The airspace within the Lincoln MOA is excluded during the time that the MOA is activated by NOTAM.

V-51 From Biscayne Bay, Fla.; Miami, Fla.; INT Miami 337° and Pahokee, Fla., 174° radials; Pahokee, including an east alternate from Biscayne Bay, Ft. Lauderdale, Fla., INT Ft. Lauderdale 339° and Pahokee 124° radials; INT Pahokee 009° and Vero Beach, Fla., 193° radials, Vero Beach; Ormond Beach, Fla.; INT Ormond Beach 345° and Jacksonville, Fla., 155° radials; Jacksonville; INT Jacksonville 318° and Alma, Ga., 150° radials, Alma; INT Alma 342° and Dublin, Ga., 167° radials, Dublin, Ga.; Athens, Ga.; INT Athens, Ga., 340° and Harris, Ga., 148° radials; Harris; Hinch Mountain, Tenn., including a west alternate from the INT Anderson, S. C., 274° and Athens 340° radials to Hinch Mountain via INT Anderson 274° and Hinch Mountain 160° radials; Livingston, Tenn.; Louisville, Ky., including an E alternate and also a W alternate from Livingston to Louisville via INT Livingston 333° and New Hope, Ky., 165° radials and New Hope; Nabb, Ind.; Shelbyville, Ind.; INT Shelbyville 313° and Boiler, Ind., 136° radials; Boiler; Chicago Heights, Ill. The airspace within R-2921 and R-2922 is excluded.

PENDING AMENDMENT
Under V-51, after "Livingston, Tenn.; Louisville, Ky., including" delete "an E alternate and also"

AMENDMENTS 12/25/80 45 F. R. 67071 (Changed)

PENDING AMENDMENT
Under V-51, after "Vero Beach;" add "Vero Beach 343° INT Melbourne, Fla., 161° radials, Melbourne; Melbourne 341° INT Ormond Beach, Fla., 161° radials Ormond Beach;"

AMENDMENTS 12/25/80 45 F. R. 67072 (Changed)

V-52 From Des Moines, Iowa; Ottumwa, Iowa; Quincy, Ill.; St. Louis, Mo.; Troy, Ill.; INT Troy 099° and Pocket City, Ind., 311° radials; Pocket City; Central City, Ky.; Nashville, Tenn., including a N alternate.

V-53 From Charleston, S. C., INT Charleston 296° and Columbia, S. C., 153° radials; Columbia; Spartanburg, S. C.; Sugarloaf Mountain, N. C.; Holston Mountain, Tenn.; Whitesburg, Ky.; Lexington, Ky.; Louisville, Ky.; I Louisville 333° and Indianapolis, Ind., 170° radials; Indianapolis; INT Indianapolis 312° and Boiler 159° radials; Boiler; INT Boiler 313° and Peotone, Ill., 152° radials; to Peotone. The airspace within R-3401B is excluded.

V-54 From Waco, Tex., Scurry, Tex.; Quitman, Tex.; Texarkana, Ark.; INT Texarkana 052° and Little Rock, Ark., 235° True radials; Little Rock, including a N alternate via INT Texarkana 037° and Hot Springs, Ark., 225° radials and Hot Springs; Holly Springs, Miss.; Muscle Shoals, Ala.; Rocket, Ala., including a N alternate via INT Muscle Shoals 067° and Rocket 282° radials; Chattanooga, Tenn., including a N alternate; Harris, Ga.; Spartanburg, S. C., Fort Mill, S. C.

V-55 From Dayton, Ohio; Fort Wayne, Ind.; Goshen, Ind.; South Bend, Ind.; Keeler, Mich.; Pullman, Mich.; Muskegon, Mich.; INT Muskegon 327° and Green Bay, Wis., 116° radials; Green Bay; Stevens Point, Wis.; INT Stevens Point 281° and Eau Claire, Wis., 107° radials; Eau Claire; Grantsburg, Wis.; Brainerd, Minn.; Park Rapids, Minn.; Grand Forks, N. Dak.; INT Grand Forks 239° and Bismarck, N. Dak., 067° radials; Bismarck. The airspace from 3,500 feet MSL to 10,000 feet MSL between 42 miles and 76 miles southwest of Grand Forks is excluded during the time that the Devils Lake East Military Operations Area is activated by NOTAM.

V-56 From Meridian, Miss., Kewanee, Miss.; Montgomery, Ala.; Tuskegee, Ala.; Columbus, Ga.; INT Columbus 087° and Macon, Ga., 266° radials; Macon; Augusta, Ga.; Columbia, S. C., including a south alternate via INT of Augusta 103° and Columbia 236° radials; Florence S. C.; Fayetteville, N. C., 41 miles 18 MSL, INT Fayetteville 098° and New Bern, N. C., 256° radials; New Bern.

V-57 From Lexington, Ky., to Falmouth, Ky.

V-58 From Philipsburg, Pa.; Williamsport, Pa.; INT Williamsport 079° and Lake Henry, Pa., 265° radials; Lake Henry; INT Lake Henry 078° and Kingston, N. Y., 274° radials; Kingston; INT Kingston 100° and Hartford, Conn., 268° radials; Hartford; INT Hartford 130° and Providence, R. I., 212° radials.

PENDING AMENDMENT

Under V-58, "From Philipsburg, Pa.;" is deleted and "From INT Franklin, Pa., 175° and Clarion, Pa., 222° radials, via INT Clarion 222° and Philipsburg, Pa., 272° radials; Philipsburg;" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-59 From Pulaski, Va., Beckley, W. Va.; Parkersburg, W. Va.; Newcomerstown, Ohio; Briggs, Ohio.

V-60 From Albuquerque, N. Mex., via Otto, N. Mex., including a S alternate via INT Albuquerque 103° and Otto 253° radials; Las Vegas, N. Mex.

V-61 From Grand Island, Nebr., to Pawnee City, Nebr., excluding the airspace within the Lincoln MOA during the time that the MOA is activated by NOTAM.

V-62 From Gallup, N. Mex.; INT Gallup 089° and Santa Fe, N. Mex., 268° radials; Santa Fe; Anton Chico, N. Mex.; Texico, N. Mex.; Lubbock, Tex.; Abilene, Tex.; INT Abilene 096° and Acton, Tex., 264° radials; Acton.

V-63 From Blue Ridge, Tex., via McAlester, Okla.; Razorback, Ark.; Springfield, Mo.; Hallsville, Mo.; Quincy, Ill.; Burlington, Iowa; Moline, Ill.; Davenport, Iowa; Rockford, Ill.; Janesville, Wis.; Badger, Wis.; Oshkosh, Wis.; Stevens Point, Wis.; Wausau, Wis.; Rhinelander, Wis., to Houghton, Mich. The airspace at and above 10,000 feet MSL from Quincy to 32 miles north, is excluded during the time that the Allen MOA is activated by NOTAM.

V-64 From Los Angeles, Calif., 7 miles wide (3 miles E and 4 miles W of centerline) INT Los Angeles 185° and Seal Beach, Calif., 266° radials; Seal Beach; Thermal, Calif.; Blythe, Calif. The portion outside the United States has no upper limit.

V-65 From the INT Kansas City, Mo., 310° and St. Joseph, Mo., 178° radials; St. Joseph; Lamoni, Iowa.

V-66 From Mission Bay, Calif., Imperial, Calif.; 13 miles, 24 miles, 25 MSL, Bard, Ariz.; 12 miles 35 MSL INT Bard 089° and Gila Bend, Ariz., 261° radials; 46 miles, 35 MSL, Gila Bend; Tucson, Ariz.; Douglas, Ariz.; INT Douglas 064° and Columbus, N. Mex., 277° radials; Columbus; El Paso, Tex., including a N alternate via INT Columbus 075° and El Paso 286° radials; 6 mi. wide, INT El Paso 109° and Hudspeth 287° radials; 6 mi. wide, Hudspeth; Pecos, Tex.; Midland, Tex.; Hyman, Tex.; INT Hyman 074° and Abilene, Tex., 251° radials; Abilene; INT Abilene 066° and Bridgeport, Tex., 248° radials; Bridgeport; Blue Ridge, Tex.; Sulphur Springs, Tex.; Texarkana, Ark., including a north alternate via INT Sulphur Springs 060° and Texarkana 272° radials, and also a south alternate via INT Sulphur Springs 090° and Texarkana 240° radials. From Tuscaloosa, Ala., Brookwood, Ala.; LaGrange, Ga.; INT LaGrange 120° and Columbus, Ga., 068° radials; INT Columbus 068° and Athens, Ga., 195° radials; Athens; Fort Mill, S. C.; Raleigh-Durham, N. C., including a south alternate from Athens,
Ga., to Raleigh-Durham via INT Athens 092° and Greenwood, S.C., 240° radials, Greenwood and Sandhills, N. C.; Franklin, Va., excluding the airspace above 13,000 feet MSL
from the INT of Tucson, Ariz., 122° and Cochise, Ariz., 257° radials to the INT of Douglas, Ariz., 064° and Columbus, NM., 277° radials.

V-67 From Chattanooga, Tenn.; Shelbyville, Tenn.; Graham, Tenn.; Cunningham, Ky.; Marion, Ill.; Centralia, Ill.; INT Centralia 010° and Vandalia, Ill., 162° radials; Vandalia; Capital, Ill.; Burlington, Iowa; Iowa City, Iowa; Cedar Rapids, Iowa; Waterloo, Iowa; Rochester, Minn., including an east alternate.
The airspace at and above 10,000 feet MSL from Capital to 28 miles south of Burlington is excluded during the time that the Allen MOA is activated by NOTAM.

V-68 From Albuquerque, N. Mex., via INT Albuquerque 120° and Corona, N. Mex., 311° radials; Corona, including a N alternate via INT Albuquerque 103° and Corona 328° radials and also a S alternate via INT Albuquerque 160° and Corona 278° radials; 41 mi. 85 MSL, Roswell, N. Mex., including an N alternate 85 MSL INT Corona 124° and Roswell 335° radials, Roswell; Hobbs, N. Mex., including a S alternate; INT Hobbs 120° and Midland, Tex., 312° radials; Midland, including a S alternate via INT Hobbs 136° and Midland 283° radials; San Angelo, Tex., including a S alterante via INT Midland 128° and San Angelo 278° radials; Junction, Tex., including a S alternate via INT San Angelo 181° and Junction 310° radials; San Antonio, Tex., including a south alternate via Center Point, Tex.; INT San Antonio 064° and Industry, Tex., 267° radials; Industry; INT Industry 101° and Hobby, Tex., 290° radials to Hobby.

V-69 From Shreveport, La., via INT Shreveport 084° and El Dorado, Ark., 218° radials; El Dorado, including a W alternate via INT Shreveport 084° and El Dorado 233° radials; Pine Bluff, Ark.; INT Pine Bluff 038° and Walnut Ridge, Ark., 187° radials; Walnut Ridge; Farmington, Mo., Troy, Ill.; Capital, Ill.; Pontiac, Ill.; Joliet, Ill.; Kedzie, Ill., RBN.

V-70 From Brownsville, Tex., via INT Brownsville 338° and Corpus Christi, Tex., 193° radials; 34 miles standard width, 37 miles 7 miles wide (4 miles E and 3 miles W of centerline), Corpus Christi, INT Corpus Christi 054° and Palacios, Tex., 226° radials, Palacios;
Scholes, Tex.; Sabine Pass, Tex.; Lake Charles, La.; Lafayette, La.; Baton Rouge, La., including a N alternate via INT Lafayette 012°
and Baton Rouge 264° radials; Picayune, Miss.; Greene County, Miss.; Monroeville, Ala.; INT Monroeville 073° and Eufaula, Ala., 258° radials; Eufaula; Vienna, Ga.; to Allendale, S. C.
The portion of this airway above 9,000 feet MSL between the INT of Vienna 066° and Dublin, Ga., 122° radials and the INT of Allendale 247° and Augusta, Ga., 148° radials is excluded.

V-71 From Baton Rouge, La., via Natchez, Miss., including
an E alternate via INT Baton Rouge 026° and Natchez 156° radials; Monroe, La., including a W alternate and also an E alternate via INT Natchez 341° and Monroe 105° radials; El Dorado, Ark.; Hot Springs, Ark.; INT Hot Springs 358° and Harrison, Ark., 176° radials;
Harrison; Springfield, Mo., including a W alternate from Hot Springs to Springfield via Razorback, Ark., excluding the airspace between the main and this W alternate; Butler, Mo.; Topeka, Kans.; Pawnee City, Nebr.; INT Pawnee City 334° and Lincoln, Nebr., 146° radials; Lincoln; Columbus, Nebr.; O'Neill, Nebr.; Winner, S. Dak.; Pierre, S. Dak.; Bismarck, N. Dak.; Williston, N. Dak.
The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM.

V-72 From Razorback, Ark., Dogwood, Mo.; Maples, Mo.; Farmington, Mo.; Centralia, Ill.; Bible Grove, Ill.; Mattoon, Ill.; to Bloomington, Ill. From Rosewood, Ohio, Mansfield, Ohio;
INT Mansfield 0[illegible]3° and Akron, Ohio, 233° radials; Akron; Youngstown, Ohio; Tidioute, Pa.;
Bradford, Pa.; INT Bradford 078° and Elmira, N. Y., 252° radials; Elmira; Binghamton, N. Y., Rockdale, N. Y.; Albany, N. Y.; Cambridge, N. Y.; INT Cambridge 063° and Keene, N. H., 336° radials.
The airspace at and above 8,000 feet MSL between Maples and Farmington is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.
The airspace below 8,000 feet MSL between long. 90°34'00"W., and long. 91°30'00"W., is excluded during the time that the Ozark MOA is activated by NOTAM.

V-73 From Tulsa, Okla., via Wichita, Kans.; Hutchinson, Kans.; INT Hutchinson 025° and Salina, Kans., 184° radials; Salina, including an east alternate from Wichita to Salina via INT Wichita 356° and Salina 169° radials.

V-74 From Garden City, Kans.; Dodge City, Kans.; Anthony, Kans.; Pioneer, Okla.; Tulsa, Okla., including a N alternate via INT Pioneer 094° and Tulsa 319° radials; Fort Smith, Ark., including a N alternate via INT Tulsa 087° and Fort Smith 318° radials and a S alternate from Pioneer to Fort Smith via Okmulgee, Okla.; 6 miles, 7 miles wide (4 miles north and 3 miles south of centerline) Little Rock, Ark., including a N alternate and also a S alternate via INT Fort Smith 133° and Little Rock 278° radials; Pine Bluff, Ark., including a N alternate via INT Little Rock 137° and Pine Bluff 006° radials; Greenville, Miss., including a N alternate; INT Greenville 147° and Jackson, Miss., 325° radials; Jackson, including a N alternate.

V-75 From Morgantown, W. Va.; Bellaire, Ohio; Briggs, Ohio; Cleveland, Ohio.

V-76 From Lubbock, Tex., via INT Lubbock 188° and Big Spring, Tex., 286° radials; Big Spring, including a N alternate from Lubbock direct to Big Spring, excluding the airspace between the main and this N alternate; Hyman, Tex.; San Angelo, Tex.; Llano, Tex.; Austin, Tex., including a south alternate via INT Llano 135° and Austin 279° radials; and also a north alternate via INT Llano 096° and Austin 314° radials; Industry, Tex., including a north alternate via INT Austin 090° and Industry 310° radials; INT Industry 101° and Hobby, Tex., 290° radials; Hobby, including a S alternate from Industry to Hobby via Eagle Lake, Tex.

V-77 From San Angelo, Tex., via Abilene, Tex.; Wichita Falls, Tex., including an E alternate; INT Wichita Falls 028° and Oklahoma City, Okla., 202° radials; Oklahoma City, including an E alternate from Wichita Falls to Oklahoma City via INT Wichita Falls 047° and Duncan, Okla., 248° radials, Duncan, INT Duncan 011° and Oklahoma City 180° radials; Pioneer, OK., including an E alternate via INT Oklahoma City 037° and Pioneer 186° radials; Wichita, Kans.; INT Wichita 037° and Topeka, Kans., 236° radials; Topeka; St. Joseph, Mo.; Lamoni, Iowa; Des Moines, Iowa; Newton, Iowa; Waterloo, Iowa; to Waukon, Iowa.

V-78 From Huron, S. Dak., Watertown, S. Dak., including a S alternate; Darwin, Minn.; Minneapolis, Minn.; Eau Claire, Wis.; Rhinelander, Wis.; Iron Mountain, Mich.; Escanaba, Mich.; Schoolcraft County, Mich.; Pellston, Mich.; to Alpena, Mich.

The airspace northeast of the Alpena 316° radial from Alpena to 25 miles north of Alpena at and above 10,000 feet MSL is excluded during the time that the Collins Military Operations Area is activated by NOTAM.

V-79 From Hastings, Nebr., to Lincoln, Nebr.

V-80 From Akron, Colo., to North Platte, Nebr.

V-81 From the Chihuahua, Mexico, via Marfa, Tex.; Fort Stockton, Tex.; Midland, Tex.; Lubbock, Tex.; Plainview, Tex.; Amarillo, Tex., including an east alternate via INT Plainview 025° and Amarillo 163° radials; Dalhart, Tex., including a west alternate via INT Amarillo 301° and Dalhart 157° radials; Tobe, Colo.; Pueblo, Colo.; Colorado Springs, Colo.; Denver, Colo. The airspace outside the United States is excluded.

V-82 From Baudette, Minn., Bemidji, Minn.; Brainerd, Minn.; Minneapolis, Minn.; Farmington, Minn.; Rochester, Minn.; Nodine, Minn.; Dells, Wis.; INT Dells 007° and Timmerman, Wis., 322° radials; 6 mi. wide Timmerman.

V-83 From Carlsbad, N. Mex., via Roswell, N. Mex.; 40 miles, 85 MSL Corona, N. Mex., including an E alternate INT Roswell 335° and Corona 124° radials, 85 MSL Corona; Otto, NM., Santa Fe, NM., including an east alternate via INT Otto 010° and Santa Fe 117° radials; Taos, NM.; Alamosa, Colo.; INT Alamosa 074° and Pueblo, Colo., 191° radials; Pueblo; INT Pueblo 004° and Colorado Springs, Colo., 153° radials; Colorado Springs, Colo.; Kiowa, Colo.

That portion of the airway 12,000 feet MSL and above from 7 miles (lat. 32°22'06"N., long. 104°15'57"W.) northwest of Carlsbad VORTAC to 19 miles (lat. 33°02'04"N., long. 104°30'32"W.) southeast of Roswell VORTAC is suspended during the time that the Talon MOA is activated by NOTAM.

AMENDMENTS 5/15/80 45 F. R. 25055 (Changed)

V-84 From Northbrook, Ill.; Pullman, Mich.; Lansing, Mich.; Flint, Mich.; Peck, Mich.; London, Ont., Canada; Buffalo, N. Y.; Geneseo, N. Y.; INT Geneseo 091° and Syracuse, N. Y., 242° radials; Syracuse. The airspace within Canada is excluded.

V-85 From Denver, Colo., via INT Denver 325° and Medicine Bow, Wyo., 165° radials; Medicine Bow; Casper, Wyo., including a west alternate via INT Medicine Bow 336° and Casper 216° radials; 29 miles, 48 miles 77 MSL, to Riverton, Wyo.

V-86 From Butte, Mont., Whitehall, Mont.; Bozeman, Mont.; INT Bozeman 128° and Livingston, Mont., 261° radials; Livingston; 11 miles, 25 miles, 85 MSL, Billings, Mont.; 32 miles, 35 miles, 75 MSL, Sheridan, Wyo.; 20 miles, 45 miles, 70 MSL, 63 miles, 80 MSL, Rapid City, S. Dak., including a south alternate from Sheridan, Wyo., via Gillette, Wyo., Newcastle, Wyo., to Rapid City, S. Dak.

V-87 From San Francisco, Calif., INT San Francisco 359° and Scaggs Island, Calif., 182° radials; Scaggs Island; INT Napa 004° and Maxwell, Calif., 188° radials; Maxwell; Red Bluff, Calif.

V-88 From Tulsa, Okla., INT Tulsa 044° and Springfield, Mo., 261° radials; Springfield; Vichy, Mo., including a south alternate from INT Springfield 058° and Forney (AAF), Mo., 286° radials; Forney (AAF), INT Forney (AAF) 046° and Vichy 216° radials; INT Vichy 091° and St. Louis, Mo., 171° radials, excluding that portion within R-4501A, R-4501B, R-4501C and R-4501D during their time of activation.

The airspace at and above 8,000 feet MSL between Vichy and the INT Vichy 091° and St. Louis, Mo., 171° radials is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-89 From the INT of Denver, Colo., 197° and Kiowa, Colo., 246° radials; Denver; Cheyenne, Wyo., including an east alternate from Denver to Cheyenne via Gill, Colo., and INT Gill 003° and Cheyenne 131° radials; Chadron, including an E alternate from Cheyenne to Chadron via Scottsbluff, Nebr.

V-90 From Litchfield, Mich., via INT Litchfield 081° and Windsor, Ont., Canada, 265° radials; Windsor; INT Windsor 083° and Dunkirk, N. Y., 266° radials; Dunkirk. The airspace within Canada is excluded.

V-91 From Calverton, N. Y., via INT Calverton 332° and Pawling, N. Y., 139° radials; Pawling; INT Pawling 342° and Albany, N. Y., 181° radials; Albany; Glens Falls, N. Y.; INT Glens Falls 032° and Burlington, Vt., 187° radials; Burlington; Plattsburgh, N. Y.; St. Eustache, Quebec, Canada. The airspace within Canada is excluded.

V-92 From Joliet, Ill., Chicago Heights, Ill.; Goshen, Ind.; Waterville, Ohio; Mansfield, Ohio; Tiverton, Ohio; Newcomerstown, Ohio, Bellaire, Ohio; INT Bellaire 107° and Grantsville 285° radials: Grantsville: Front Royal, Va.

PENDING AMENDMENT

In V-92 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-93 From Patuxent River, Md., INT Patuxent 013° and Baltimore, Md., 122° radials; Baltimore; Lancaster, Pa.; including an E alternate via the INT of Baltimore 034° and Lancaster 181° radials; Wilkes-Barre, Pa.; Lake Henry, Pa.; Pawling, N. Y.; Chester, Mass., 12 miles 7 miles wide (4 miles E and 3 miles W of centerline); Keene, N. H.; Concord, N. H.; Kennebunk, Maine; Navy Brunswick, Maine; Bangor, Maine; Princeton, Maine; INT Princeton 057° radial and the United States/Canadian border.

AMENDMENTS 5/15/80 45 F. R. 32661 (Changed) Corr: 45 F. R. 39835

V-94 From Blythe, Calif., INT Blythe 094° and Gila Bend, Ariz., 299° radials; Gila Bend; Casa Grande, Ariz.; 55 miles, 74 miles, 95 MSL, San Simon, Ariz.; Deming, N. Mex.; Newman, Tex., including a S alternate via INT Deming 119° and Newman 271° radials; Salt Flat, Tex., including a north alternate via INT Newman 091° and Salt Flat 312° radials; Wink, Tex.; Midland, Tex.; Hyman, Tex.; Tuscola, Tex.; Acton, Tex.; Scurry, Tex.; Gregg County, Tex.; Elm Grove, La.; Monroe, La.; Greenville, Miss., including a S alternate; Holly Springs, Miss., including a N alternate via INT Greenville 021° and Holly Springs 268° radials; Jacks Creek, Tenn.; Bowling Green, Ky. The airspace within R-5103A is excluded.

V-95 From Gila Bend, Ariz., INT Gila Bend 096° and Phoenix, Ariz., 204° radials; Phoenix; 49 miles, 40 miles, 95 MSL, Winslow, Ariz., including a west alternate from Phoenix, INT Phoenix 006° and Winslow 224° radials; 52 miles, 95 MSL, Winslow; 66 miles, 39 miles, 125 MSL, Farmington, N. Mex.; Durango, Colo.; Gunnison, Colo., 15 miles, 125 MSL, 12 miles, 145 MSL, 22 miles, 157 MSL, 23 miles, 135 MSL, 9 miles, 128 MSL, Kiowa, Colo. The airspace 14,000 feet MSL and above is excluded from 23 NM northeast of Phoenix to 22 NM southwest of Winslow on V-95 and from 23 NM north of Phoenix to 26 NM southwest of Winslow on V-95W, from 1300 GMT, to 0200 GMT Monday through Friday, and other times as advised by a Notice to Airmen.

V-96 From Indianapolis, Ind., Kokomo, Ind.; Fort Wayne, Ind.; INT Fort Wayne 071° and Waterville, Ohio, 246° radials; Waterville; Windsor, Ontario, Canada, excluding the portion within Canada.

V-97 From Miami, Fla.; LaBelle, Fla., including an E alternate via INT Miami 337° and LaBelle 124° radials; St. Petersburg, Fla.; Tallahassee, Fla., Albany, Ga.; Atlanta, Ga.; INT Atlanta 001° and Knoxville, Tenn., 197° radials; Knoxville; London, Ky., including an E alternate via INT Knoxville 013° and London 141° radials; Lexington, Ky.; Cincinnati, Ohio, including a W alternate via INT Lexington 327° and Cincinnati 192° radials, and also an E alternate from London to Cincinnati via INT London 004° and Lexington 107° radials and Falmouth, Ky.; Shelbyville, Ind., INT Shelbyville 313° and Boiler, Ind., 136° radials; Boiler, including a W alternate via Indianapolis; INT Indianapolis 344° and Shelbyville 313° radials and INT Shelbyville 313° and Boiler 136° radials; to Chicago Heights, Ill. From Chicago-O'Hare, Ill.; INT Chicago-O'Hare 316° and Janesville, Wis., 112° radials; Janesville; Lone Rock, Wis., including a W alternate via INT Janesville 281° and Lone Rock 147° radials; Nodine, Minn.; Minneapolis, Minn. The airspace below 2,000 feet MSL outside the United States is excluded.

V-98 From Carleton, Mich., Windsor, Ont., Canada; London, Ontario, Canada; Toronto, Ontario, Canada; Stirling, Ontario, Canada; Massena, N. Y.; St. Jean, Quebec, Canada. The airspace within Canada is excluded.

V-99 From Bridgeport, Conn., via Hartford, Conn., INT Hartford 044° and Putnam, Conn., 011° radials; INT Putnam 011° and Gardner, Mass., 097° radials; INT Gardner 097° and Boston, Mass., 015° radials; to Boston.

AMENDMENTS 5/15/80 45 F. R. 17949 (Rewritten)

V-100 From Medicine Bow, Wyo., Scottsbluff, Nebr.; Alliance, Nebr.; Ainsworth, Nebr.; O'Neill, Nebr.; Sioux, City, Iowa; Fort Dodge, Iowa; Waterloo, Iowa; Dubuque, Iowa; Rockford, Ill.; INT Rockford 080° and Northbrook, Ill., 290° radials; Northbrook; INT Northbrook 095° and Keeler, Mich., 271° radials; Keeler; Litchfield, Mich.; INT Litchfield 104° and Carleton, Mich., 258° radials; Carleton.

AMENDMENTS 1/24/80 44 F. R. 73015 (Changed)

V-101 From Gill, Colo., via Hayden, Colo.; Vernal, Utah; 25 miles, 25 miles 120 MSL, 22 miles 145 MSL, 20 miles 125 MSL, Salt Lake City, Utah; Ogden, Utah; 61 miles, 26 miles, 109 MSL, Burley, Idaho; INT Burley 344° and Pocatello, Idaho, 286° radials.

V-102 From Salt Flat, TX., via Carlsbad, NM., including a south alternate via INT Salt Flat 085° and Carlsbad 220° radials; Hobbs, NM.; Lubbock, TX.; Guthrie, TX.; Wichita Falls, Tex., including a S alternate via INT Guthrie 103° and Wichita Falls 247° radials.

V-103 From Greensboro, N. C., Roanoke, Va.; Elkins, W. Va.; Clarksburg, W. Va.; Bellaire, Ohio; INT Bellaire 327° and Akron, Ohio, 181° radials; Akron, Ohio; INT Akron 312° and Windsor, Ontario, Canada 134° radials; INT Windsor 134° and Salem, Mich., 117° radials; Salem. The airspace within Canada is excluded.

V-104 From Ottawa, Ontario, Canada, INT Ottawa 095° and Massena, N. Y., 330° radials; Massena; Plattsburgh, N. Y.; Burlington, Vt.; Montpelier, Vt.; Berlin, N. H.; to Bangor, Maine. That airspace between Montpelier and Berlin at 9,000 feet MSL and above is excluded during the time that Yankee 1 Military Operations Area (MOA) is activated by NOTAM. The airspace between Berlin and Bangor at 7,000 feet MSL and above is excluded during the time that Condor 1 and 2 are activated by NOTAM. The airspace within Canada is excluded.

AMENDMENTS 7/10/80 45 F. R. 29564 (Changed)

V-105 From Tucson, AZ., INT Tucson 298° and Casa Grande, AZ., 145° radials; Casa Grande; Phoenix, AZ.; Prescott, Ariz.; 25 miles, 22 miles, 85 MSL, Boulder City, Nev.; Las Vegas, Nev., including an E alternate from Prescott, 25 miles, 85 MSL INT Prescott 310° and Peach Springs, Ariz., 134° radials, 8 miles, 85 MSL, Peach Springs, INT Peach Springs 305° and Las Vegas 081° radials, to Las Vegas; INT Las Vegas 266° and Beatty, Nev., 142° radials; 17 miles, 105 MSL Beatty; 105 MSL Coaldale, Nev.; 82 miles 110 MSL, to Reno, Nev., including an east alternate from Coaldale, 110 MSL via Mina, Nev., 110 MSL INT Mina 300° and Reno 135° radials, Reno.

V-106 From Johnstown, Pa.; INT Johnstown 068° and Selinsgrove, Pa., 259° radials; Selinsgrove; INT Selinsgrove 067° and Wilkes-Barre, Pa., 237° radials; Wilkes-Barre; Lake Henry, Pa., Pawling, N. Y.; Barnes, Mass.; Gardner, Mass.; INT Gardner 041° and Manchester, N. H., 249° radials; Manchester; to Kennebunk, Maine.

AMENDMENTS 5/15/80 45 F. R. 17949 (Changed)

V-107 From Los Angeles, Calif., INT Los Angeles 061° and Santa Monica, Calif., 093° radials; Santa Monica; INT Santa Monica 276° and Fillmore, Calif., 163° radials; Fillmore; Avenal, Calif.; Panoche, Calif.; Oakland, Calif., including an E alternate via INT Panoche 317° and Oakland 110° radials; Point Reyes, Calif.; INT Point Reyes 306° and Ukiah, Calif., 172° radials. The portion outside the United States has no upper limit.

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V-108 From Santa Rosa, Calif., via Scaggs Island, Calif.; INT Scaggs Island 131° and Concord, Calif., 276° radials; 7 miles wide (4 miles N and 3 miles S of centerline), Concord; Linden, Calif. From Colorado Springs, Colo.; Hugo, Colo.; 74 miles, 65 MSL, Goodland, Kans.; Hill City, Kans.

V-109 From Panoche, Calif., via Stockton, Calif.; INT Stockton 267° and Oakland, Calif., 077° radials; Oakland.

V-110 From Deming, N. Mex., Truth or Consequences, N. Mex.

V-111 From Big Sur, Calif., via Salinas, Calif.; INT Salinas 028° and Stockton, Calif., 164° radials; to Modesto, Calif.

V-112 From Astoria, Oreg., 44 miles; 15 miles, 6-mile wide, Portland, Oreg.; The Dalles, Oreg.; including a S alternate from Portland via the Portland 110° and The Dalles 255° radials to The Dalles; INT of The Dalles 101° and Pendleton, Oreg.; 254° radials; Pendleton; 53 miles, 28 miles, 45 MSL, Spokane, Wash., including a W alternate from Pendleton via Pasco, Wash., 35 miles, 35 MSL INT Pasco 035° and Spokane 221° radials; 6 miles 35 MSL, to Spokane, and an east alternate from Pendleton via INT Pendleton 090° and Walla Walla, Wash., 215° radials, Walla Walla, 22 miles, 46 miles, 45 MSL, to Spokane; 47 miles, 105 MSL Cranbrook, British Columbia, Canada, excluding the portion within Canada.

V-113 From San Luis Obispo, Calif., Paso Robles, Calif.; Priest, Calif.; Panoche, Calif.; Stockton, Calif.; Linden, Calif.; INT Linden 046° and Reno, Nev. 208° radials; Reno; 42 miles, 24 miles, 115 MSL, 95 MSL Sod House, Nev.; 67 miles, 95 MSL, 85 MSL Rome, Oreg.; 61 miles, 85 MSL, Boise, Idaho; Salmon, Idaho; Butte, Mont.; Helena, Mont.; to Lewistown, Mont.

V-114 From Amarillo, Tex., via Childress, Tex., including a S alternate; Wichita Falls, Tex., including a S alternate via INT Childress 120° and Wichita Falls 262° radials; INT Wichita Falls 117° and Blue Ridge, Tex., 285° radials; Blue Ridge; Quitman, Tex.; Gregg County, Tex.; Alexandria, La., including a north alternate from Gregg County to Alexandria via Shreveport, La., and INT Shreveport 176° and Alexandria 302° radials; INT Baton Rouge, LA., 307° and Lafayette, LA., 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline) Baton Rouge; New Orleans, LA., including a north alternate from Alexandria to New Orleans via INT Alexandria 109° and New Orleans 312° radials, excluding the portion within R-3801B, R-3801C and R-3801D.

V-115 From Crestview, Fla., INT Crestview 001° and Montgomery, Ala., 204° radials; Montgomery; INT Montgomery 323° and Vulcan, Ala., 177° radials; Vulcan; Chattanooga, Tenn., including an E alternate via INT Vulcan 097° and Gadsden, Ala., 233° radials, Gadsden and INT Gadsden 042° and Chattanooga 214° radials; Knoxville, Tenn., including a West alternate via INT Chattanooga 028° and Knoxville 243° radials; Whitesburg, Ky.; Charleston, W. Va.; Parkersburg, W. Va.; Newcomerstown, Ohio; INT Newcomerstown 038° and Franklin, Pa., 230° radials; Franklin; Tidioute, Pa.; Jamestown, N. Y.; Buffalo, N. Y.

The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

V-116 From INT Kansas City, Mo., 076° and Nepoleon, Mo. 005° radials via Macon, Mo.; Quincy, Ill.; Peoria, Ill.; to Joliet, Ill. From INT Keller, Mich., 256° and Knox, Ind., 335° radials; Keeler; Jackson, Mich.; INT Jackson 084° and Salem, Mich., 254° radials; Salem; Windsor, Ontario, Canada; INT Windsor 100° and Erie, Pa., 275° radials; Erie; Bradford, Pa.; Stonyfork, Pa.; Lake Henry, Pa.; INT Lake Henry 110° and Deer Park, N. Y., 296° radials; Deer Park. The airspace within Canada is excluded.

The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM. The airspace at and above 10,000 feet MSL from Quincy to 26 miles southwest of Peoria is excluded during the time that the Allen MOA is activated by NOTAM.

V-117 From Parkersburg, W. Va.; Bellaire, Ohio; INT Bellaire 044° and Newcomerstown, Ohio, 099° radials.

V-118 From Medicine Bow, Wyo., 23 miles 85 MSL, Laramie, Wyo.; Cheyenne, Wyo.

V-119 From Newcombe, Ky., Henderson, W. Va.; Parkersburg, W. Va.; INT Parkersburg 067° and Indian Head, Pa., 254° radials; Indian Head; Clarion, Pa.; Bradford, Pa.; Wellsville, N. Y.; Geneseo, N. Y.; Rochester, N. Y.

V-120 From Mullan Pass, Idaho, 5 miles, 55 miles, 95 MSL, 43 miles, 125 MSL, Great Falls, Mont., Lewistown, Mont., including a N alternate INT Great Falls 074° and Lewistown 308° radials; 41 miles, 72 miles, 85 MSL, Miles City, Mont., 48 miles, 109 miles, 90 MSL, 38 MSL Dupree, S. Dak.; 60 miles, 38 MSL, Pierre, S. Dak.; Mitchell, S. Dak.; Sioux Falls, S. Dak.; Mason City, Iowa; to Waterloo, Iowa, including a north alternate via INT Mason City 106° and Waterloo 323° radials.

V-121 From Medford, Oreg., INT Medford 352° and Roseburg, Oreg., 127° radials; Roseburg; North Bend, Oreg.; Eugene, Oreg.; Redmond, Oreg.; including a N alternate via Eugene 069° and Redmond 281° radials; Kimberly, Oreg.; Baker, Oreg.; McCall, Idaho; Salmon, Idaho; to Dillon, Mont.

V-122 From Crescent City, Calif., Medford, Oreg.; 22 miles, 75 MSL INT Medford 117° and Klamath Falls, Oreg., 282° true radials; 6 miles, 75 MSL Klamath Falls; 21 miles, 90 MSL Lakeview, Oreg.; to Rome, Oreg.

V-123 From INT Washington, D. C., 065° and Baltimore, Md., 197° radials; via INT Washington, D. C., 065° and Woodstown, N. J., 230° radials; Woodstown; INT Woodstown 043° and Robbinsville, N. J., 239° radials; Robbinsville; INT Robbinsville 044° and LaGuardia, N. Y., 209° radials; LaGuardia; INT LaGuardia 034° and Carmel, N. Y., 188° radials; Carmel.

V-124 From Blue Ridge, Tex., via Paris, Tex.; Hot Springs, Ark.; Little Rock, Ark.; Gilmore, Ark.; Jacks Creek, Tenn.; Shelbyville, Tenn.; to Hinch Mountain, Tenn.

V-125 From Cape Girardeau, Mo., INT Cape Girardeau 347° and St. Louis, Mo., 148° radials; St. Louis.

V-126 From Chicago Heights, Ill., Goshen, Ind.; Waterville, Ohio; Cleveland, Ohio; Jefferson, Ohio; Erie, Pa.; Bradford, Pa.; Stonyfork, Pa.; Lake Henry, Pa.; Huguenot, N. Y.

The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

V-127 From Bradford, Ill., Polo, Ill.; Rockford, Ill.; including an E alternate from Bradford to Rockford via INT Bradford 033° and Rockford 136° radials.

V-128 From Peotone, Ill., via INT Peotone 152° and Indianapolis, Ind., 312° radials; Indianapolis; INT Indianapolis 137° and Cincinnati, Ohio, 290° radials; Cincinnati; York, Ky.; Charleston, W. Va.; Casanova, Va.

V-129 From Capital, Ill., Peoria, Ill.; Davenport, Iowa; Dubuque, Iowa; INT Dubuque 348° and Nodine, Minn., 150° radials, Nodine, including a W alternate from Dubuque to Nodine via Waukon, Iowa; Eau Claire, Wis.; Duluth, Minn.; Hibbing, Minn., including an E alternate; International Falls, Minn., including a W alternate from Hibbing, INT Hibbing 319° and International Falls 182° radials to International Falls; INT International Falls 335° radial and the United States/Canadian border.

The airspace at and above 10,000 feet MSL from Capital to 25 miles north, is excluded during the time that the Allen MOA is activated by NOTAM.

V-1[illegible] From Albany, N. Y., via Hartford, Conn.; Norwich, Conn.; INT Norwich 120° and Martha's Vineyard, Mass., 272[illegible] radials; Martha's Vineyard; to Hyannis, Mass.

V-1[illegible] From McAlester, Okla., via Okmulgee, Okla.; Tulsa, Okla.; Chanute, Kans.; Topeka, Kans.

V-1[illegible] From Cheyenne, Wyo.; Akron, Colo.; 17 miles, 49 miles, 59 MSL, Goodland, Kans.; 50 miles, 97 miles, 65 MSL, Hutchinson, Kans.; INT Hutchinson 078° and Chanute, Kans., 294° radials; Chanute; INT Chanute 100° and Springfield, Mo., 276° radials; Springfield; INT Springfield 058° and Forney, Mo., 266°; Forney; INT Forney 086° and Maples, Mo., 052° radials, excluding that portion within R-4501A, R-4501B, R-4501C and R-4[illegible]D during their time of activation.

The airspace at and above 6,000 feet MSL from 9 nautical miles to 34 nautical miles northwest of Chanute VOR is excluded during the time that the Eureka High MOA is activated.

AMENDMENTS 3/20/80 45 F. R. 10756 (Changed)

V-133 From Fort Mill, S. C., Barretts Mountain, N. C.; Charleston, W. Va.; Zanesville, Ohio; Tiverton, Ohio; Mansfield, Ohio; INT Mansfield 346° and Salem, Mich., 139° radials; Salem; Flint, Mich.; Saginaw, Mich.; Traverse City, Mich., Escanaba, Mich.; Marquette, Mich.; Houghton, Mich.; 10 miles, 26 MSL Thunder Bay, Ontario, Canada; International Falls, Minn. The airspace within Canada is excluded.

AMENDMENTS 10/30/80 45 F. R. 60897 (Changed)

V-134 From Fairfield, Utah, via Carbon, Utah; Grand Junction, Colo.; 33 miles 12 AGL, 21 miles 127 MSL, 16 miles 120 MSL, 34 miles 12 AGL, to INT Grand Junction 075° and Kremmling 203° radials.

V-135 From Bard, Ariz., Blythe, Calif.; Parker, Calif.; 5 miles, 24 miles, 55 MSL, Needles, Calif.; Goffs, Calif.; 84 miles, 105 MSL Beatty, Nev.; 105 MSL INT Beatty 326° and Tonopah, Nev., 198° radials; to Tonopah, excluding the airspace above 9,000 feet MSL between Bard and Parker, and the airspace above 10,000 feet MSL between Parker and Needles. The airspace within R-4807 is excluded.

V-136 From Pulaski, Va., INT Pulaski 094° and South Boston, Va., 295° radials; South Boston; Raleigh-Durham, N. C.; Fayetteville, N. C.; to Grand Strand, S. C. The airspace at and above 7,000 feet MSL from 17 miles south to 38 miles south of Fayetteville is excluded during the time that the Gamecock A Military Operations Area is activated by NOTAM.

V-137 From Imperial, Calif., INT Imperial 350° and Thermal, Calif., 122° radials; Thermal; Palm Springs, CA.; Palmdale, CA.; Gorman, CA.; Avenal, CA.; Priest, CA.; Salinas, CA., excluding the airspace above 7,000 feet MSL, between Imperial and the intersection of the Thermal 122° and the Julian, CA., 055° radials. The airspace within R-2521 is excluded.

V-138 From Riverton, Wyo., 35 mi. 80 mi. 107 MSL, 16 mi. 85 MSL, via Medicine Bow; Cheyenne, Wyo., including a N alternate via INT Medicine Bow 106° and Cheyenne 330° radials; Sidney, Nebr. From Grand Island, Nebr., 1200 feet AGL INT of Grand Island 099° and Lincoln, Nebr., 267° true radials; 1,200 feet AGL Lincoln; 1,200 feet AGL INT of Lincoln 040° and Neola, Iowa, 253° true radials; Neola; Fort Dodge, Iowa; Mason City, Iowa; to Waukon, Iowa.

V-139 From Florence, S. C., via Wilmington, N. C.; New Bern, N. C.; INT of New Bern 006° and Norfolk, Va., 209° radials; Norfolk; Cape Charles, Va.; Snow Hill, Md.; Sea Isle, N. J.; INT Sea Isle 050° and Hampton, N. Y., 223° radials; Hampton; INT Hampton 059° and Providence, R. I., 212° radials; Providence; 6 miles wide, Whitman, Mass.; INT Whitman 041° and Manchester, N. H., 130° radials; Kennebunk, Maine. The airspace below 2,000 feet MSL outside the United States, the airspace below 3,000 feet MSL between the Kennedy, N. Y., 087° and 141° radials, and the airspace within R-6604 are excluded.

V-140 From Amarillo, Tex., via Sayre, Okla., including a N alternate via INT Amarillo 072° and Sayre 288° radials; Kingfisher, Okla.; INT Kingfisher 072° and Tulsa, Okla., 261° radials; Tulsa; Razorback, Ark., including a N alternate via INT Tulsa 059° and Razorback 284° radials; Harrison, Ark., Walnut Ridge, Ark.; Dyersburg, Tenn.; Nashville, Tenn., Livingston, Tenn., including a south alternate via INT Nashville 085° and Livingston 226° radials; London, Ky., including a north alternate from Nashville to London via INT Nashville 049° and London 258° radials; Whitesburg, Ky., Bluefield W. Va.; INT of Bluefield 071° and Montebello, Va., 250° radials; Montebello; to Casanova, Va.

PENDING AMENDMENT

Under V-140, after "London, Ky." delete ", including a north alternate from Nashville to London via INT Nashville 049° and London 258° radials"

AMENDMENTS 12/25/80 45 F. R. 67071 (Changed)

V-141 From Nantucket, Mass., Hyannis, Mass.; to Boston, Mass. From Manchester, N. H., Concord, N. H.; Lebanon. N. H.; Burlington. Vt.; to Massena. N. Y.

V-143 From Fort Mill, S. C., Greensboro, N. C.; Lynchburg, Va.; Montebello, Va.; Front Royal, Va.; Martinsburg, W. Va.; Lancaster, Pa.; including an S alternate via Westminster, Md.; Pottstown, Pa.; Yardley, Pa.

PENDING AMENDMENT

In V-143 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-144 From Peotone, Ill., via Fort Wayne, Ind.; Findlay, Ohio; INT Findlay 131° and Appleton, Ohio, 312° radials; Appleton; Zanesville, Ohio; Morgantown, W. Va.; Kessel, W. Va.; Linden, Va.; to INT Linden 104° and Casanova, Va., 348° radials.

V-145 From Utica, N. Y., INT Utica 303° and Watertown, N. Y., 171° radials; Watertown; INT Watertown 358° radial and the United States/Canadian border.

V-146 From Putnam, Conn.; Providence, R. I.; Martha's Vineyard, Mass.; Nantucket, Mass.

V-147 From Pottstown, Pa., via East Texas, Pa.; Wilkes-Barre, Pa.; Elmira, N. Y.; Geneseo, N. Y.; Rochester, N. Y.

V-148 From Kiowa, Colo.; Thurman, Colo.; 65 MSL INT Thurman 067° and Hayes Center, Nebr., 246° radials; Hayes Center, Nebr.; North Platte, Nebr.; O'Neill, Nebr., Sioux Falls, S. Dak.; Redwood Falls, Minn., including a S alternate, Minneapolis, Minn.; Hayward, Wis.; to Ironwood, Mich.

V-149 From INT Allentown, Pa. 147° and Solberg, N. J., 227° radials; Allentown, Pa.; Lake Henry, Pa.

V-150 From San Francisco, Calif., INT San Francisco 304° and Sausalito, Calif., 232° radials; Sausalito; Sacramento, Calif.

V-151 From Hyannis, Mass., via INT Hyannis 318° and Providence, R. I., 079° radials; Providence; Gardner, Mass.; Keene, N. H.; Lebanon, N. H., including a W alternate via INT Keene 336° and Lebanon 214° radials; Montpelier, Vt., including an E alternate via Lebanon 005° and Montpelier 112° radials; Burlington, Vt.

V-152 From St. Petersburg, Fla., Orlando, Fla., including a S alternate via Lakeland, Fla.; Ormond Beach, Fla.; including a S alternate via INT Orlando 049° and Ormond Beach 161° radials.
PENDING AMENDMENT
Under V-152, all after "St. Petersburg, Fla." is deleted and the following is substituted therefor:
via INT St. Petersburg 062° and Ormond Beach, Fla., 211° radials; Ormond Beach, including a S alternate via Lakeland, Fla., Orlando, Fla.; INT Orlando 049° and Ormond Beach 161° radials.

AMENDMENTS 12/25/80 45 F. R. 62795 (Changed) Corr: 45 F. R. 67072 Corr: 45 F. R. 77417

V-153 From INT Sparta, N. J., 194° and Stillwater, N. J., 110° radials; Stillwater; Lake Henry, Pa.; Hancock, N. Y.; Georgetown, N. Y.; Syracuse, N. Y.

V-154 From Rome, Ga., via INT Rome 166° and Macon, Ga., 301° radials; Macon; via Dublin, Ga.; INT of Dublin 122° and Savannah, Ga., 279° radials; to Savannah.

V-155 From Columbus, Ga., via Augusta, Ga.; Chesterfield, S. C.; Sandhills, N. C.; Raleigh-Durham, N. C.; Lawrenceville, Va.;
INT Lawrenceville 034° and Flat Rock, Va.; 171° radials; Flat Rock; to Brooke, Va. The airspace within R-6602 is excluded.

V-156 From Cedar Rapids, Iowa, via Moline, Ill.; Bradford, Ill.; Peotone, Ill.; INT Peotone 098° and Knox, Ind.; 238° radials; Knox; South Bend, Ind.; to Kalamazoo, Mich.

V-157 From Key West, Fla., Miami, Fla.; La Belle, Fla., including a W alternate from INT Miami 222° and Fort Myers, Fla., 137° radials to La Belle via INT Fort Myers 137° and La Belle 162° radials; Lakeland, Fla., including an E alternate via INT La Belle 004° and Lakeland 132° radials;
Ocala, Fla.; Gainesville, Fla.; Taylor, Fla.; Waycross, Ga.; Alma, Ga.; Allendale, S. C.; Vance, S. C.; Florence, S. C. From Kinston, N. C., Tar River, N. C.; Lawrenceville, Va.; Richmond, Va.; INT Richmond 039° and Patuxent, Md., 228° radials; Patuxent; Kenton, Del.; New Castle, Del.; Robbinsville, N. J.; Colts Neck, N. J.; to Kingston, N. Y.
The airspace within R-2901A and R-6602 is excluded. The airspace at and above 7,000 feet MSL which lies within the Lake Placid Military Operations Area is excluded during the time the Lake Placid Military Operations Area is activated.
PENDING AMENDMENT
Under V-157, the following is added:
The airspace within R-4005 and R-4006 is excluded.

AMENDMENTS 12/25/80 45 F. R. 71773 (Changed) Corr: 45 F. R. 77418

V-158 From Mason City, Iowa, INT Mason City 106° and Dubuque, Iowa, 293° radials; Dubuque; Polo, Ill.
The airspace within R-3302 is excluded.

V-159 From Fort Lauderdale, Fla., via Fort Lauderdale 339° and Vero Beach, Fla., 178° radials; Vero Beach; Orlando, Fla., Ocala, Fla., Cross City, Fla.; Greenville, Fla.; including an east alternate from Ocala to Greenville via Gainesville, Fla., excluding that airspace above 7,000 feet MSL between Gainesville and Greenville; Albany, Ga.; Eufaula, Ala.; Tuskegee, Ala.; Vulcan, Ala.; Hamilton, Ala.; Holly Springs, Miss.; Gilmore, Ark.; Walnut Ridge, Ark.; Dogwood, Mo.; Springfield, Mo.;
Napoleon, Mo.; INT Napoleon 336° and St. Joseph, Mo., 132° radials; St. Joseph; INT St. Joseph 328° and Omaha, Nebr., 155° radials; Omaha; Sioux City, Iowa, including a west alternate via INT Omaha 320° and Sioux City 174° radials; Yankton, S. Dak.; Mitchell, S. Dak.
PENDING AMENDMENT
Under V-159, after "Ocala, Fla.," add the following:
including a S alternate from INT Vero Beach 319° and Melbourne, Fla., 298° radials, to Ocala via INT Melbourne 298° and Ocala 145° radials;

AMENDMENTS 12/25/80 45 F. R. 62795 (Changed) Corr: 45 F. R. 67072 Corr: 45 F. R. 77417

V-1[illegible] From Denver, Colo., INT Denver 058° and Sidney, Nebr., 214° radials; to Sidney.

V-161 From Three Rivers, Tex., via Center Point, Tex.; Llano, Tex.; INT Llano 026° and Millsap, Tex., 193° radials; Millsap; Bridgeport, Tex.; Ardmore, Okla.; Okmulgee, Okla.; Tulsa, Okla.; Oswego, Kans.; Butler, Mo.; Napoleon, Mo.; Lamoni, Iowa; Des Moines, Iowa; Mason City, Iowa; Rochester, Minn., including a W alternate via INT Mason City 023° and Rochester 243° radials; INT Rochester 356° and Minneapolis, Minn., 116° radials; Minneapolis; Brainerd, Minn.; Grand Rapids, Minn.; International Falls, Minn.; to Winnipeg, Manitoba, Canada, excluding the portion within Canada.

V-162 From INT Clarksburg, W. Va., 135° and Elkins, W. Va., 098° radials; Clarksburg. From INT Martinsburg, W. Va., 130° and Harrisburg, Pa., 204° radials; via Harrisburg; East Texas, PA., including a S alternate via INT Harrisburg 087° and East Texas 225° radials; Allentown, PA.; Huguenot, NY.; INT Huguenot 032° and Pawling, NY., 259° radials to Pawling. The airspace within R-5802 is excluded.

V-163 From Matamoros, Mexico, Brownsville, Tex., 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline), Corpus Christi, Tex.; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline), Corpus Christi; Three Rivers, Tex., including a west alternate via INT Corpus Christi 296° and Three Rivers 165° radials; INT Three Rivers 345° and San Antonio 168° radials; San Antonio, including a west alternate via INT Three Rivers 327° and San Antonio 183° radials; Lampasas, Tex.; Acton, Tex., including a west alternate from San Antonio to Acton via Stonewall, Tex., Llano, Tex., and INT Llano 026° and Acton 215° radials; Bridgeport, Tex.; Ardmore, Okla.; INT Ardmore 342° and Oklahoma City, Okla., 154° radials; to Oklahoma City, including a W alternate via INT Ardmore 327° and Oklahoma City 180° radials.
The airspace within Mexico is excluded.

V-164 From Toronto, Ont., via Toronto 172° and Buffalo, N. Y., 294° radials; Buffalo; Wellsville, N. Y.; Stonyfork, Pa.; Williamsport, Pa.; INT Williamsport 129° and East Texas, Pa., 315° radials; East Texas. The airspace within Canada is excluded.

V-165 From Mission Bay, Calif., INT Mission Bay 270° and Oceanside, Calif., 177° radials; Oceanside; 24 miles. 6 miles wide, Seal Beach, Calif.; 6 miles wide, INT Seal Beach 287° and Los Angeles, Calif., 138° radials; Los Angeles; INT Los Angeles 357° and Lake Hughes, Calif., 154° radials; Lake Hughes; INT Lake Hughes 344° and Bakersfield, Calif., 137° radials; Bakersfield; Porterville, Calif.; INT Porterville 330° and Fresno, Calif., 140° radials; Fresno; 68 miles, 50 miles, 131 MSL, Reno, Nev.; 40 miles 12 AGL, 7 miles, 115 MSL, 54 miles, 135 MSL, 81 miles, 12 AGL, Lakeview, Oreg.; 5 miles, 72 miles, 90 MSL, Redmond, Oreg.; 16 miles, 19 miles, 95 MSL, 24 miles, 75 MSL, 12 miles, 65 MSL, Newberg, Oreg.; 32 miles, 45 MSL INT Newberg 355° and Olympia, Wash., 195° radials; Olympia; INT Olympia 010° and Seattle, Wash., 249° radials; Seattle.

V-166 From Parkersburg, W. Va., Clarksburg, W. Va.; Kessel, W. Va.; Martinsburg, W. Va.; Westminster, Md.; New Castle, Del.; Woodstown, N. J.; Sea Isle, N. J.

V-167 From Hancock, N. Y.; INT Hancock 120° and Kingston, N. Y., 274° radials; Kingston; INT Kingston 100° and Hartford, Conn., 268° radials; Hartford; INT Hartford 081° and Providence, R. I., 270° radials; Providence; INT Providence 101° and Hyannis, Mass., 224° radials; Hyannis; INT 360° and Kennebunk, Maine, 161° radials; to Kennebunk. The airspace outside the United States below 2,000 feet MSL, including the portion within Warning Area W-103, is excluded.

AMENDMENTS 7/10/80 45 F. R. 31973 (Changed)
PENDING AMENDMENT
Under V-167, "Hartford; INT Hartford 081° and Providence, R. I., 270° radials; Providence;" is deleted and "Hartford, Conn.; Providence, R. I.;" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 70856 (Changed)

V-168 From Vulcan, Ala., to INT Vulcan 113° and Talladega, Ala., 179° radials; LaGrange, Ga.

V-169 From Tobe, Colo., 69 MSL Hugo, Colo.; 38 miles, 67 MSL, Thurman, Colo.; Akron, Colo.; Sidney, Nebr.; Scottsbluff, Nebr.; Chadron, Nebr.; Rapid City, S. Dak.; Dupree, S. Dak.; Bismarck, N. Dak.; to Devils Lake, N. Dak. The airspace from 4,000 feet MSL to 10,000 feet MSL between points 46 miles NE of Bismarck and 18 miles SW of Devils Lake is excluded during the time that the Devils Lake West Military Operations Area is activated by NOTAM. The airspace from 3,500 feet MSL to 10,000 feet MSL between points 18 miles SW and 29 miles SW of Devils Lake is excluded during the time that the Devils Lake East Military Operations Area is activated by NOTAM.

V-170 From Devils Lake, N. Dak., via Jamestown, N. Dak.; Aberdeen, S. Dak.; Sioux Falls, S. Dak.; Worthington, Minn.; Fairmont, Minn.; including a N alternate via INT Worthington 064° and Fairmont 285° radials; Rochester, Minn.; Nodine, Minn., Dells, Wis.; INT Dells 097° and Badger, Wis., 307° radials; Badger; INT Badger 102° and Pullman, Mich., 303° radials; Pullman; Salem, Mich. From Erie, Pa., Bradford, Pa.; Slate Run, Pa.; Selinsgrove, Pa.; Ravine, Pa.; INT Ravine 125° and Modena, Pa., 318° radials; Modena; New Castle, Del.; INT New Castle 222° and Andrews, Md., 060° radials; to INT Andrews 060° and Baltimore, Md., 165° radials. The airspace within R-5802 is excluded.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.
That airspace 11,000 feet MSL and below is excluded between Jamestown VORTAC and the Devils Lake VORTAC during the time that the Devils Lake East Military Operations Area is activated by NOTAM.

V-171 From Louisville, Ky., Lewis, Ind., including an E alternate from Louisville to Lewis via INT Louisville 312° and Bloomington 153° radials, and Bloomington; Danville, Ill.; Peotone, Ill.; INT Peotone 281° and Joliet, Ill., 173° radials; Joliet.; Rockford, Ill.;
Lone Rock, Wis.; Nodine, Minn.; INT Nodine 298° and Farmington, Minn., 124° radials; Farmington; Darwin, Minn.; Alexandria, Minn.; INT Alexandria 321° and Grand Forks, N. Dak., 152° radials; Grand Forks; Roseau, Minn.

V-172 From North Platte, Nebr., via INT North Platte 073° and Wolbach, Nebr., 266° radials; Wolbach; Columbus, Nebr.; Neola, Iowa; Newton, Iowa; Cedar Rapids, Iowa; Polo, Ill.; INT Polo 088° and DuPage, Ill., 283° radials; DuPage; Chicago-O'Hare, Ill.; INT Chicago-O'Hare 091° and South Bend, Ind., 290° radials; South Bend.

V-173 From Capital, IL., via INT Capital 058° and Peotone, IL., 218° radials; INT Peotone 218° and Roberts, IL., 008° radials; INT Roberts 008° and Joliet, IL., 067° radials; Kedzie, IL., RBN.

V-174 From York, Ky., Henderson, W. Va.; Elkins, W. Va.; to Front Royal, Va.
PENDING AMENDMENT
In V-174 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

V-175 From Malden, Mo.; Vichy, Mo.; Hallsville, Mo., including a west alternate via INT Vichy 321° and Hallsville 183° radials; Macon, Mo.; Kirksville, Mo.; Des Moines, Iowa; Sioux City, Iowa; Worthington, Minn.; Redwood Falls, Minn.; Alexandria, Minn.; Park Rapids, Minn.; Bemidji, Minn.; Roseau, Minn.
The airspace at and above 8,000 feet MSL from 43 miles northwest of Malden to Vichy is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.
The airspace below 8,000 feet MSL between lat. 37°10'00"N., lat. 37°55'00"N., is excluded during the time that the Ozark MOA is activated by NOTAM.

V-176 From Pontiac, Mich., to INT Pontiac 100° and Windsor, Ontario, Canada, 057° radials, excluding the portion within Canada.

V-177 From DuPage, Ill., via Janesville, Wis.; Madison, Wis.; Stevens Point, Wis., including a west alternate via Dells, Wis.; Wausau, Wis.; Hayward, Wis.; Duluth, Minn.; to Ely, Minn., excluding the airspace 10,000 feet MSL and above Duluth to Ely.

V-178 From Vichy, Mo.; Farmington, Mo.; Cape Girardeau, Mo.; Cunningham, Ky.; including a north alternate from Farmington to Cunningham via INT Farmington 115° and Cunningham 306° radials; and also a south alternate from Farmington to Cunningham via INT Farmington 145° and Cunningham 276° radials; Central City, Ky.; New Hope, Ky.; Lexington, Ky.; Bluefield, W. Va.
The airspace at and above 8,000 feet MSL between Vichy and Farmington is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-179 From Dublin, Ga., to INT Dublin 309° and Augusta, Ga., 263° radials.

V-180 From International Falls, Minn., to Dryden, Ontario, Canada, NDB, excluding that airspace within Canada.

V-181 From Kirksville, Mo., Lamoni, Iowa; Omaha, Nebr.; Norfolk, Nebr.; Yankton, S. Dak.; Sioux Falls, S. Dak., including a W alternate via INT Yankton 016° and Sioux Falls 230° radials; Watertown, S. Dak., including an east alternate; 34 miles, 24 miles, 34 MSL, Fargo, N. Dak., including an east alternate; Grand Forks, N. Dak., including an east alternate via INT Fargo 004° and Grand Forks 152° radials; Pembina, N. Dak.; INT Pembina 356° radial and the United States/Canadian border.

V-182 From Portland, Oreg., The Dalles, Oreg.; Baker, Oreg.

V-183 From Santa Barbara, Calif., Bakersfield, Calif.

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V-184 From Erie, Pa., Tidioute, Pa.; INT Tidioute 154° and Philipsburg, Pa., 206° radials; Philipsburg; Harrisburg, Pa.; INT Harrisburg 132° and Modena, Pa., 274° radials; Modena; INT Modena 120° radial and Philadelphia, Pa., International Airport ILS localizer 256° course; Woodstown, N. J.; Cedar Lake, N. J.; Atlantic City, N. J.

The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

AMENDMENTS 10/30/80 45 F. R. 55711 (Changed)

V-185 From Savannah, Ga.; Augusta, Ga.; Greenwood, S. C.; Sugarloaf Mountain, N. C.; Snowbird, Tenn.; INT Snowbird 301° and Knoxville, Tenn., 069° radials; Knoxville, including an E alternate from Sugarloaf Mountain to Knoxville via INT Sugarloaf Mountain 329° and Knoxville 069° radials. The airspace within R-6004 is excluded.

V-186 From Santa Barbara, Calif., via INT Santa Barbara 123° and Fillmore, Calif., 265° radials; Fillmore; Van Nuys, Calif.; to Paradise, Calif.

V-187 From Albuquerque, N. Mex., via Farmington, N. Mex.; including an E alternate via INT Albuquerque 345° and Farmington 128° radials; 50 miles, 62 miles 115 MSL, Grand Junction, Colo., including a west alternate from Farmington, Cortez, Colo., Dove Creek, Colo., 17 miles, 28 miles 115 MSL, to Grand Junction, excluding the airspace between the main and west alternate; 75 miles, 50 miles, 112 MSL, Rock Springs, Wyo., including a west alternate from Grand Junction 45 miles 103 MSL, 14 miles 85 MSL, Vernal, Utah, 20 miles, 110 MSL, Rock Springs, excluding the airspace between the main and this west alternate; 20 miles, 37 miles 95 MSL, INT Rock Springs 026° and Riverton, Wyo., 180° radials; Riverton; Boysen Reservoir, Wyo.; 9 miles, 78 miles, 105 MSL, Billings, Mont., including a west alternate from Boysen Reservoir, 9 miles, 56 miles, 91 MSL, via Cody, Wyo., Billings, excluding the airspace between the main and this west alternate; 40 miles, 75 MSL, INT Billings 317° and Great Falls, Mont., 122° radials; Great Falls, Missoula, Mont.; Lewiston, Idaho, Pasco, Wash.

V-188 From Carleton, Mich., Jefferson, Ohio; Tidioute, Pa.; Slate Run, Pa.; Williamsport, Pa.; Wilkes-Barre, Pa.; INT Wilkes-Barre 094° and Sparta, N. J., 290° radials; Sparta. The airspace within Canada is excluded. The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

V-189 From Tar River, N. C., Franklin, Va.; Hopewell, Va.

V-190 From Phoenix, Ariz., 54 miles, 10 miles, 95 MSL, 50 miles, 115 MSL St. Johns, Ariz., including a north alternate via INT Phoenix 051° and St. Johns 263° radials; Albuquerque, N. Mex., including a south alternate via INT St. Johns 085° and Albuquerque 229° radials; Las Vegas, N. Mex.; 19 miles, 72 miles 90 MSL, Dalhart, Tex.; 14 miles, 36 miles 60 MSL, Gage, Okla.; INT Gate 059° and Pioneer, Okla., 280° radials; Pioneer; INT Pioneer 094° and Bartlesville, Okla., 256° radials; Bartlesville; INT Bartlesville [illegible]° and Oswego, Kans., 233° radials; Oswego; INT Oswego 085° and Springfield, Mo., 261° radials; Springfield; Maples, Mo.; Farmington, Mo., Marion, Ill.; Pocket City, Ind.
The airspace at and above 8,000 feet MSL between Maples and Farmington is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.
The airspace below 8,000 feet MSL between long. 90°34'00"W., and long. 91°30'00"W., is excluded during the time that the Ozark MOA is activated by NOTAM.

V-191 From Troy, Ill.; Decatur, Ill.; Roberts, Ill.; INT Roberts 008° and Joliet, Ill., 067° radials; Northbrook, Ill.; INT Northbrook 332° and Badger, Wis., 182° radials; Badger; Oshkosh, Wis.; Rhinelander, Wis.; Ironwood, Mich.; including an east alternate; to Duluth, Minn.

V-192 From Champaign, Ill.; Terre Haute, Ind.

V-193 From INT Pullman, Mich., 243° and South Bend, Ind., 310° radials; Pullman; INT Pullman 029° and White Cloud, Mich., 168° radials; White Cloud; Traverse City, Mich., including a W alternate via Manistee, Mich.; Pellston, Mich.; Sault Ste. Marie, Mich.

V-194 From Hobby, Tex., via INT Hobby 091° and Sabine Pass, Tex., 265° radials; Sabine Pass; INT Sabine Pass 077° and Lafayette, La., 254° radials; Lafayette; Baton Rouge, La.; McComb, Miss.; INT McComb 055° and Meridian, Miss.; 221° radials; Meridian. From Liberty, N. C., via Raleigh-Durham, N. C.; Tar River, N. C., Cofield, N. C., to INT Cofield 077° and Norfolk, Va., 209° radials.

AMENDMENTS 9/4/80 45 F. R. 43159 (Rewritten)

V-195 From Oakland, Calif., INT Oakland 004° and Williams, Calif., 191° radials; Williams; INT Williams 002° and Red Bluff, Calif., 158° radials; Red Bluff; Fortuna, Calif.

V-196 From Utica, N. Y., Saranac Lake, N. Y.; Plattsburgh, N. Y.

V-197 From Paradise, Calif.; Pomona, Calif.; Palmdale, Calif.; INT Palmdale 314° and Bakersfield, Calif., 137° radials; Bakersfield, excluding the airspace more than 3 miles northeast of the centerline from Palmdale to 30 miles northwest.

V-198 From San Simon, Ariz., Columbus, N. Mex.; El Paso, Tex., 6 mi. wide, INT El Paso 109° and Hudspeth, Tex., 26[illegible]° radials; 6 mi. wide, Hudspeth; 29 mi., 38 mi. 82 MSL, INT Hudspeth 106° and Fort Stockton, Tex., 284° radials; 18 mi. 82 MSL, Fort Stockton; 20 mi., 116 mi. 55 MSL, Junction, Tex.; San Antonio, Tex.; Eagle Lake, Tex., including a north alternate from Junction to Eagle Lake via Stonewall, Tex., and INT Stonewall 113° and Eagle Lake 270° radials; Hobby, Tex.; INT Hobby 091° and Sabine Pass, Tex., 265° radials; Sabine Pass including a south alternate from Eagle Lake via INT Eagle Lake 116° and Scholes 273°, Scholes; Sabine Pass; White Lake, La.; Tibby, La.; Harvey, La., 69 miles, 33 miles, 25 MSL, Brockley; INT Brockley 056° and Crestview 266° radials; Crestview; Marianna, Fla.; Tallahassee, Fla.; Greenville, Fla.; Taylor, Fla.; to Jacksonville, Fla.

AMENDMENTS 1/24/80 44 F. R. 68447 (Changed)

V-199 From San Francisco, Calif. INT San Francisco 304° and Ukiah, Calif., 172° radials; Ukiah; 17 miles, 23 miles 85 MSL, 18 miles 75 MSL, Red Bluff, Calif. The portion outside the United States has no upper limit.

V-200 From Ukiah, Calif., Williams, Calif.; Reno, Nev. From Fairfield, Utah, 10 miles, 35 miles 125 MSL, Myton, Utah; 30 miles 79 MSL, 31 miles, 98 MSL Meeker, Colo.; 37 miles, 26 miles, 140 MSL, 130 MSL, to Kremmling, Colo., including a N alternate via Hayden, Colo.

V-201 From Los Angeles, Calif., to Palmdale, Calif. The portion outside the United States has no upper limit.

V-202 From Cochise, Ariz., via San Simon, Ariz.; Silver City, N. Mex.; Truth or Consequences, N. Mex.

V-203 From Nantucket, Mass., via INT Nantucket 255° and Norwich, Conn., 120° radials; Norwich, Chester, Mass.; INT Chester 293° and Albany, N. Y., 139° radials; Albany; Saranac Lake, N. Y.; Massena, N. Y.; St. Eustache, Quebec, Canada. The airspace within Canada is excluded.

V-204 From Hoquiam, Wash., Olympia, Wash.; INT Olympia 114° and Yakima, Wash., 271° radials; Yakima.

V-205 From Sparta, N. J.; INT Sparta 023° and Pawling, N. Y., 238° radials; Pawling; INT Pawling 076° and Boston, Mass., 251° radials; Boston; INT Boston 066° and Pease, N. H., 137° radials; to Pease. The airspace outside the United States below 2,000 feet MSL, including the portion within Warning Area W-103, is excluded.

AMENDMENTS 7/10/80 45 F. R. 31973 (Changed)

V-206 From Napoleon, Mo., via Kirksville, Mo., to Ottumwa, Iowa.

V-207 From Denver, Colo., Gill, Colo.; including a W alternate via INT Denver 004° and Gill 234° radials; to Scottsbluff, Nebr.

V-208 From Santa Catalina, Calif., via
Oceanside, Calif.; Julian, Calif.; Thermal, Calif. Twentynine Palms, Calif.; 20 miles, 24 miles 73 MSL, Needles, Calif.; Peach Springs, Ariz. From Page, Ariz., via Hanksville, Utah; Carbon, Utah; Myton, Utah; 79 MSL, Vernal, Utah, 25 miles, 105 MSL, Cherokee, Wyo.,
excluding the airspace above 10,000 feet MSL between Twentynine Palms and Needles.
The airspace within R-2503 and the airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

V-209 From Semmes, Ala., via INT Semmes 356° and Eaton, Miss., 080° radials; Kewanee, Miss.; Brookwood, Ala.; to Vulcan, Ala.

V-210 From Los Angeles, Calif., INT Los Angeles 083° and Pomona, Calif., 240° radials; Pomona; INT Daggett, Calif., 229° and Hector, Calif., 263° radials; Hector; Goffs, Calif.; 13 miles, 23 miles 71 MSL, 85 MSL, Peach Springs, Ariz.; Grand Canyon, Ariz.; Tuba City, Ariz.; 10 mi. 90 MSL, 91 mi. 105 MSL, Farmington, N. Mex.; Alamosa, Colo., including a south alternate via INT Farmington 086° and Alamosa 232° radials; INT Alamosa 074° and Lamar, Colo., 250° radials; 40 miles, 51 miles, 65 MSL, Lamar; 13 miles, 79 miles, 55 MSL, Liberal, Kans.; INT Liberal 137° and Oklahoma City, Okla., 282° radials; Oklahoma City; INT Oklahoma City 109° and Okmulgee, Okla., 241° radials; Okmulgee. From Indianapolis, Ind., Muncie, Ind.;
Rosewood, Ohio; Tiverton, Ohio; Briggs, Ohio; INT Briggs 044° and Akron, Ohio, 088° radials; INT Akron 088° and Youngstown, Ohio, 116° radials; INT Youngstown 116° and Clarion, Pa., 222° radials; Revloc, Pa.; INT Revloc 096° and Lancaster, Pa., 286° radials; Lancaster, Pa.; INT Lancaster 095° and Yardley, Pa., 255° radials; to Yardley.

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V-211 From INT Alamosa, Colo., 232° and Durango, Colo., 110° radials via Durango; INT of Durango 286° and Cortes, Colo., 115° radials; to Cortes, including a W alternate via INT Durango 249° and Cortes 150° radials.

V-212 From San Antonio, Tex., via INT San Antonio 089° and Industry, Tex., 233° radials; Industry; Navasota, Tex.; Lufkin, Tex.; Alexandria, La.; to McComb, Miss., including a north alternate via Natchez, Miss.

AMENDMENTS 3/20/80 45 F. R. 5674 (Changed)
AMENDMENTS 7/10/80 45 F. R. 31974 (Changed)

V-213 From Grand Strand, S. C., via Wilmington, N. C.; INT Wilmington 352° and Tar River, N. C., 191° radials; Tar River; Hopewell, Va.; INT Hopewell 019° and Brooke, Va., 132° radials; Patuxent River, Md.; Kenton, Del.; Woodstown, N. J.; INT Woodstown 043° and Robbinsville, N. J. 239° radials; Robbinsville.

PENDING AMENDMENT
Under V-213, the following is added:
The airspace within R-4005 and R-4006 is excluded.

AMENDMENTS 12/25/80 45 F. R. 71773 (Changed)

V-214 From Kokomo, Ind., via Marion, Ind.; Muncie, Ind.; Richmond, Ind.; INT Richmond 097° and Appleton, Ohio, 236° radials; INT Appleton 236° and Zanesville, Ohio, 274° radials; Zanesville; Bellaire, Ohio; INT Bellaire, 108° and Indian Head, Pa., 254° radials; Indian Head; Martinsburg, W. Va.; INT Martinsburg 094° and Baltimore, Md., 300° radials; to Baltimore.

V-215 From INT Muskegon, Mich., 208° and Pullman, Mich., 261° radials; Muskegon; White Cloud, Mich.; to Gaylord, Mich.

V-216 From Lamar, Colo., Hill City, Kans.; Mankato, Kans.; Pawnee City, Nebr.; Lamoni, Iowa; Ottumwa, Iowa; Iowa City, Iowa; INT Iowa City 062° and Janesville, Wis., 240° radials; Janesville; INT Janesville 076° and Muskegon, Mich., 252° radials; Muskegon; Saginaw, Mich.; Peck, Mich., including a southern alternate via INT Saginaw 131° and Peck 270° radials; Kleinburg, Ont., Canada. The airspace within Canada is excluded.

V-217 From Chicago-O'Hare, Ill.; INT Chicago-O'Hare 019° and Badger, Wis., 137° radials; INT Chicago Heights, Ill., 358° and Milwaukee 121° radials; Badger; Green Bay, Wis.; Rhinelander, Wis.; Duluth, Minn.; Hibbing, Minn.; Baudette, Minn.; INT Baudette 313° and Winnipeg, Manitoba, 117° radials; to Winnipeg. The airspace within Canada is excluded. In addition, the portion of this airway which lies within the Beaver MOA is excluded during the times the Beaver MOA is activated.

V-218 From Grand Rapids, Minn., via Minneapolis, Minn.; Waukon, Iowa; to Rockford, Ill. From Keeler, Mich., via Lansing, Mich.; Pontiac, Mich.; INT Pontiac 112° and Windsor, Ont., 320° radials; Windsor; INT Windsor 134° and Akron, Ohio, 312° radials; to Akron. The airspace within Canada is excluded.

V-219 From Hayes Center, Nebr., INT Hayes Center 059° and Wolbach, Nebr., 251° radials; Wolbach; Norfolk, Nebr.; Sioux City, Iowa; Fairmont, Minn.; Mankato, Minn.; Farmington, Minn.

V-220 From Kremmling, Colo., 12 miles, 130 MSL, 32 miles, 147 MSL, 8 miles, 115 MSL INT Kremmling 081° and Denver, Colo., 325° radials; Denver; INT Denver 058° and Akron, Colo., 273° radials; Akron; INT Akron 094° and McCook, Nebr., 264° radials; McCook; INT McCook 072° and Grand Island, Nebr., 241° radials; Kearney, Nebr.; Hastings, Nebr.; Columbus, Nebr.

V-221 From Bible Grove, Ill., via INT Bible Grove 087° and Bloomington, Ind., 253° radials; Bloomington; Shelbyville, Ind.; Muncie, Ind.; Fort Wayne, Ind.; Litchfield, Mich.; Jackson, Mich.; INT Jackson 084° and Salem, Mich., 254° radials; Salem; INT Salem 083° and Erie, Pa., 290° radials; Erie. The airspace within Canada is excluded.

V-222 From El Paso, Tex., via Salt Flat, Tex.; Fort Stockton, Tex.; 20 miles, 116 miles, 55 MSL, Junction, Tex.; Stonewall, Tex.; INT Stonewall 113° and Industry, Tex., 267° radials; Industry; INT Industry 101° and Humble 259° radials; Humble; Beaumont, Tex.; Lake Charles, La.; McComb, Miss.; Eaton, Miss.; Monroeville, Ala.; Montgomery, Ala.; LaGrange, Ga.; to INT LaGrange 048° and Columbus, Ga., 010° radials. From INT Toccoa, Ga., 222° and Harris, Ga., 187° radials via Toccoa; Sugarloaf Mountain, N. C.; Barretts Mountain, N. C.; Lynchburg, Va.; INT Lynchburg 058° and Brooke, Va., 230° radials; Brooke; to INT Brooke 045° and Richmond, Va., 009° radials; including an N alternate from Lynchburg via Gordonsville, Va.

V-223 From Flat Rock, Va.; to INT Flat Rock 005° and Brooke, Va., 300° radials.

V-224 From Marquette, Mich.; to Schoolcraft County, Mich.

V-225 From Key West, Fla., 30 miles, 72 miles, 17 AGL, Fort Myers, Fla., including an E alternate from Key West, 30 miles, 77 miles 17 AGL to Fort Myers; La Belle, Fla.; Vero Beach, Fla. The portion of V-225 E alternate outside the United States has no upper limit.

V-226 From INT Franklin, Pa., 175° and Clarion, Pa., 222° radials; Clarion, Pa.; Keating, Pa.; Williamsport, Pa., Wilkes-Barre, Pa.; Stillwater, N. J.; INT Stillwater 110° and Sparta, N. J., 194° radials.

V-227 From Boiler, Ind., via Roberts, Ill.; Pontiac, Ill.; INT Pontiac 332° and Rockford, Ill., 180° radials; to Rockford.

AMENDMENTS 1/24/80 44 F. R. 73015 (Changed)

V-228 From Northbrook, Ill., INT Northbrook 111° and South Bend, Ind., 290° radials; South Bend, including a N alternate via INT Northbrook 095° and South Bend 310° radials.

V-229 From Atlantic City, N. J., via INT of Atlantic City 055° and Kennedy, N. Y., 194° radials; Kennedy; Madison, Conn.; Hartford, Conn.; INT Hartford 044° and Gardner, Mass., 195° radials; Gardner; Keene, N. H.; INT Keene 336° and Burlington, Vt., 160° radials; Burlington. The airspace within R-5002A, R-5002B and R-5002E is excluded during their times of use. The airspace within V-139, V-308 airways; the airspace below 2,000 feet MSL outside the United States and the airspace above 7,000 feet MSL between the INT of Atlantic City 055° and Kennedy 194° radials and Kennedy is excluded.

V-230 From INT Big Sur, Calif., 325° and Salinas, Calif., 281° radials; Salinas; Panoche, Calif., including a S alternate via INT Salinas 100° and Panoche 245° radials; Fresno, Calif.; Friant, Calif.; to Mina, Nev. The portion outside the United States has no upper limit.

V-231 From Burley, Idaho, via Salmon, Idaho; Missoula, Mont.; to Kalispell, Mont.

V-232 From INT of the Cleveland, Ohio, 024° and the Chardon, Ohio, 281° radials, via Chardon; Franklin, Pa.; Keating, Pa.; Milton, Pa.; Broadway, N. J.; INT of Broadway 112° and LaGuardia, N. Y., 209° radials; to LaGuardia.

V-233 From Capital, IL., via Roberts, IL.; Knox, IN.; Goshen, IN.; Litchfield, MI.; Lansing, MI.; Mount Pleasant, Mich.; INT Mount Pleasant 351° and Gaylord, Mich., 207° radials; Gaylord; to Pellston, Mich.; including a west alternate from Mount Pleasant to Pellston via Traverse City, Mich.

V-234 From Anton Chico, N. Mex.; INT Anton Chico 067° and Dalhart, Tex., 243° radials; Dalhart; Liberal, Kans.; 32 miles, 74 miles, 65 MSL, Hutchinson, Kans.; Emporia, Kans.; Butler, Mo.; Vichy, Mo.; INT Vichy 091° And Centralia, Ill., 253° radials; Centralia.
The airspace at and above 8,000 feet MSL between Vichy and the INT of Vichy 091° and St. Louis, Mo., 171° radials is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-235 From Fairfield, Utah, 10 miles, 15 miles, 135 MSL, 46 miles, 125 MSL, Fort Bridger. From Rock Springs, Wyo., 20 miles, 41 miles, 95 MSL, 37 miles, 107 MSL, Casper, Wyo., to Newcastle, Wyo.

V-236 From INT Bonneville, Utah, 084° and Ogden, Utah, 235° radials; Ogden.

V-237 From Needles, Calif., 25 miles, 24 miles 71 MSL, Boulder City, Nev.; INT Boulder City 347° and Las Vegas, Nev., 081° radials; Las Vegas.

V-238 From Maples, Mo.; Troy, Ill.
The airspace at and above 8,000 feet MSL between Maples and the INT of Maples 052° and Farmington, Mo., 327° radials is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-239 From Forney, Mo., INT Forney 358° and Hallsville, Mo., 183° radials; Hallsville.
The airspace within R-4501A, R-4501B, R-4501C and R-4501D is excluded during their time of activation.

V-240 From New Orleans, La., via INT New Orleans 085° and Harvey, La., 065° radials; INT Brookley, Ala., [illegible]46° and Semmes, Ala., 224° radials; to Semmes.

V-241 From Semmes, Ala., via Crestview, Fla.; INT Crestview 076° and Wiregrass, Ala., 232° radials; Wiregrass; Eufaula, Ala.; Columbus, Ga.; to the INT Columbus 010° and LaGrange, Ga., 048° radials; including a west alternate from Wiregrass via INT Wiregrass 002° and LaGrange 191° radials, and LaGrange.

V-242 From International Falls, Minn., to Atikokan, Ontario, Canada, NDB, excluding that airspace within Canada.

V-243 From Jacksonville, Fla., INT Jacksonville 318° and Waycross, Ga., 126° radials, Waycross; Vienna, Ga.; LaGrange; INT LaGrange 342° and Chattanooga, Tenn., 189° radials; Chattanooga; Bowling Green, Ky.; Lewis, Ind.

V-244 From Oakland, Calif., INT Oakland 077° and Stockton, Calif., 267° radials; Stockton, including a S alternate INT Oakland 110° and Stockton 246° radials; 76 miles 12 AGL, 27 miles 145 MSL, 59 miles 12 AGL, Coaldale, Nev.; Tonopah, Nev.; 40 miles 115 MSL Wilson Creek, Nev.; 28 miles 115 MSL, Milford, Utah, Hanksville, Utah; 63 miles, 13 miles 140 MSL, 36 miles 115 MSL, Montrose, Colo.; Gunnison, Colo.; 33 miles, 122 MSL, 27 miles, 156 MSL, Pueblo, Colo.; 18 miles, 48 miles, 60 MSL, Lamar, Colo.; 20 miles, 116 miles 65 MSL, Hays, Kans.; Salina, Kans. The airspace within R-2531A and R-2531B is excluded.

V-245 From Alexandria, La., via Natchez, Miss.; Jackson, Miss.; Bigbee, Miss., excluding the airspace at and above 8,000 feet MSL from Jackson to Bigbee.

V-246 From Nodine, Minn., INT Nodine 055° and Stevens Point, Wis., 255° radials; to Stevens Point.

V-247 From Scottsbluff, Nebr., 75 MSL, INT Scottsbluff 307° and Douglas, Wyo., 109° radials, 75 MSL, Douglas; 90 miles 75 MSL, to Crazy Woman, Wyo.

V-248 From Paso Robles, Calif., Avenal, Calif.; Bakersfield, Calif.

V-249 From Sparta, N. J., INT Sparta, N. J., 023° and DeLancey, N. Y., 131° radials; DeLancey; Utica, N. Y.

V-250 From O'Neill, Nebr.; Yankton, S. Dak.; Worthington, Minn.; Mankato, Minn.

V-251 From Decatur, Ill., via Champaign, Ill.; Danville, Ill.; to Boiler, Ind.

V-252 From Buffalo, N. Y., Geneseo, N. Y.; Binghamton, N. Y.; Huguenot, N. Y.

V-253 From Fairfield, Utah, INT Fairfield 326° and Salt Lake City, 265° radials; 24 miles, 85 MSL Bonneville; 5 miles, 85 MSL, 90 MSL Lucin, Utah; 14 miles, 90 MSL 19 miles, 105 MSL, Twin Falls, Idaho; Boise, Idaho; 42 miles; 99 MSL McCall, Idaho; 11 miles 99 MSL, 33 miles 115 MSL, Lewiston, Idaho; Pullman, Wash.; Spokane, Wash.

V-254 From Douglas, Wyo., via Gillette, Wyo., to Miles City, Mont.

V-255 From Garden City, Kans., to Hays, Kansas.

V-256 From Pioneer, Okla., to Hutchinson, Kans.

V-257 From Pheonix, Ariz., Prescott, Ariz.; INT Prescott 003° and Grand Canyon, Ariz., 211° radials; Grand Canyon; 38 miles 12 AGL, 24 miles 125 MSL, 16 miles 95 MSL, 26 miles 12 AGL, Bryce Canyon, Utah; INT Bryce Canyon 338° and Delta, Utah, 186° radials, Delta; 39 miles, 105 MSL INT Delta 004° and Malad City, Idaho, 179° radials; 20 miles, 118 MSL, Malad City; Pocatello, Idaho; DuBois, Idaho; Dillon, Mont.; Butte, Mont.; 22 miles, 85 MSL INT Butte 002° and Helena, Mont., 272° radials; INT Helena 272° and Great Falls, Mont., 222° radials; Great Falls; 73 miles, 56 MSL, Havre, Mont. The airspace within R-6401 and R-6403 is excluded.

V-258 From Charleston, W. Va., Beckley, W. Va.; INT Beckley 125° and Roanoke, Va., 288° radials; Roanoke; INT Roanoke 145° and Danville, Va., 320° radials; Danville.

V-259 From Grand Strand, S. C., via Florence, S. C.; Chesterfield, S. C.; Fort Mill, S. C.; to Holston Mountain, Tenn.

V-260 From Charleston, W. Va., Rainelle, W. Va.; Roanoke, Va., Lynchburg, Va.; Flat Rock, Va.; Richmond, Va.; Hopewell, Va.; Franklin, Va.; to Cofield, N.C.

V-261 From Wichita, Kans., via INT Wichita 022° and Manhattan, Kans., 213° radials; to Manhattan.

V-262 From Peoria, Ill., Bradford, Ill.; Joliet, Ill.; Kedzie, Ill., RBN.

V-263 From Cimarron, N. Mex., Tobe, Colo., 54 miles, 69 MSL, Lamar, Colo.; 17 miles, 63 MSL Hugo, Colo.; INT Hugo 337° and Denver, Colo., 094° radials to Denver. From Pierre, S. Dak., Aberdeen, S. Dak.

V-264 From Los Angeles, Calif., INT Los Angeles 061° and Pomona, Calif., 269° radials; 6 miles wide, Pomona; Twentynine Palms, Calif., including a S alternate from Los Angeles to Twentynine Palms via Paradise, Calif., and Palm Springs, Calif.; 17 miles, 28 miles 55 MSL, Parker, Calif. From Prescott, Ariz.; Winslow, Ariz.; St. Johns, Ariz.; 55 miles, 25 miles, 115 MSL, Socorro, N. Mex.; Corona, N. Mex.; 15 miles, 35 miles 105 MSL, Tucumcari, N. Mex.

V-265 From INT Washington, D. C., 043° and Westminster, Md., 179° radials; via Westminster; Harrisburg, Pa.; Philipsburg, Pa.; Keating, N. Y.; Bradford, Pa.; Jamestown, N. Y.; Dunkirk, N. Y.

V-266 From Barretts Mountain, N. C., South Boston, Va.; Lawrenceville, Va.; Franklin, Va.

V-267 From Biscayne Bay, Fla., INT Biscayne Bay 340° and Pahokee, Fla., 150° radials; Pahokee; Orlando, Fla., including an east alternate from Biscayne Bay, INT Biscayne Bay 340° and Palm Beach, Fla., 201° radials; Palm Beach; INT Palm Beach 326° and Orlando 162° radials; Jacksonville, Fla., including an E alternate from Orlando to INT Ormond Beach, Fla., 308° and Jacksonville 174° radials via Ormond Beach; INT Jacksonville 333° and Dublin, Ga., 152° radials; Dublin; Athens, Ga.; INT Athens 340° and Harris, Ga., 148° radials; Harris; Knoxville, Tenn.

PENDING AMENDMENT

Under V-267, after "Jacksonville, Fla.," delete "including an E alternate from Orlando to INT Ormond Beach Fla., 308° and Jacksonville 174° radials via Ormond Beach;"

AMENDMENTS 12/25/80 45 F. R. 62795 (Changed) Corr: 45 F. R. 67072

V-268 From INT Grantsville, Md., 086° and Martinsburg, W. Va., 297° radials; Hagerstown, Md.; Westminster, Md.; Baltimore, Md.; INT Baltimore 094° and Kenton, Del., 262° radials; Kenton; Kenton 086° and Sea Isle, N. J., 050° radials. The airspace within R-4001 and the airpace below 2,000 feet MSL outside the United States is excluded.

V-269 From Ely, Nev., 125 MSL INT Ely 007° and Bonneville, Utah, 272° radials; Wells, Nev.; Twin Falls, Idaho; Burley, Idaho; Pocatello, Idaho; Salmon, Idaho; McCall, Idaho; Wildhorse, Oreg.; to Redmond, Oreg. That portion of the airway 11,000 feet MSL and above from 42 miles northwest of Wildhorse VOR to 41 miles southeast of Redmond VORTAC is suspended during the time that the Juniper MOA is activated by NOTAM.

AMENDMENTS 5/15/80 45 F. R. 17949 (Changed)

V-270 From Erie, Pa., Jamestown, N. Y.; Wellsville, N. Y.; Elmira, N. Y.; Binghamton, N. Y.; DeLancey, N. Y.; Chester, Mass.

V-271 From Muskegon, Mich., Manistee, Mich.; to Escanaba, Mich.

V-272 From Dalhart, Tex., via Borger, Tex.; Sayre, Okla.; Oklahoma City, Okla., including a N alternate via INT Sayre 070° and Oklahoma City 282° radials and also a S alternate via INT Sayre 101° and Oklahoma City 242° radials; to McAlester, Okla.

V-273 From INT Sparta, N. J., 133° and Solberg, N. J., 051° radials; Sparta; INT Sparta 331° and Hancock, N. Y., 148° radials; Hancock; Georgetown, N. Y.; 6 mi. wide, Syracuse, N. Y.

V-274 From Pullman, Mich., Grand Rapids, Mich.; Saginaw, Mich.

V-275 From Cincinnati, Ohio, INT Cincinnati 006° and Dayton, Ohio, 207° radials; Dayton, including a W alternate from Cincinnati to Dayton via INT Cincinnati 336° and Richmond, Ind., 190° radials, and Richmond; INT Dayton 007° and Salem, Mich., 202° radials; Salem.

V-276 From Erie, Pa., via Franklin, Pa.; Clarion, Pa.; Tyrone, Pa.; INT Tyrone 096° and Ravine, Pa., 279° radials Ravine; Yardley, Pa.; Robbinsville, N. J.; INT Robbinsville 112° and Sea Isle, N. J., 050° radials. The airspace below 2,000 feet MSL outisde the United States is excluded.

V-277 From Rosewood, Ohio, Fort Wayne, Ind.; Keeler, Mich.

V-278 From Texico, N. Mex., via Plainview, Tex.; Guthrie, Tex.; Bridgeport, Tex.; Blue Ridge, Tex.; Paris, Tex.; Texarkana, Ark.; Monticello, Ark.; Greenville, Miss.; Greenwood, Miss.; Bigbee, Miss.; Vulcan, Ala., including a S alternate from Bigbee to Vulcan via INT Bigbee 082° and Tuscaloosa, Ala., 304° radials, and Tuscaloosa, excluding the airspace between the main and this alternate airway.

V-279 From the Columbus, Ohio, RBN, INT Findlay, Ohio, 146° and Rosewood, Ohio, 045° radials; 7 miles wide (4 miles northeast and 3 miles southwest of the centerline) to Findlay.

V-280 From Ciudad Juarez, Mex., via El Paso, Tex.; INT El Paso 070° and Pinon, N. Mex., 219° radials; Pinon; Roswell, N. Mex.; INT
Roswell 063° and Texico, N. Mex., 216° radials; Texico, including a south alternate via INT Roswell 080° and Texico 216° radials; INT Texico 021° and Amarillo, Tex., 252° radials; Amarillo, including a south alternate from Texico to Amarillo via INT Texico 044° and Amarillo 252° radials; Gage,Okla.; INT Gage 025° and Hutchinson, Kans., 234° radials; Hutchinson;
INT Hutchinson 062° and Topeka, Kans., 236° radials; to Topeka. The airspace within Mexico is excluded.

V-281 From Moses Lake, Wash., to Pasco, Wash.

V-282 From Saranac Lake, N. Y., St. Eustache, Quebec, Canada. The airspace within Canada is excluded.

V-283 From Seal Beach, Calif.; March, Calif.; INT March 007° and Hector, Calif., 226° radials; Hector.

V-284 From Sea Isle, N. J.; INT Sea Isle 008° and Cedar Lake, N. J., 150° radials; Cedar Lake.

AMENDMENTS 10/30/80 45 F. R. 55711 (Changed)

V-285 From Indianapolis, Ind., via Kokomo, Ind.; including an E alternate via INT Indianapolis 038° and Kokomo 182° radials; Goshen, Ind.; INT of the Goshen 038° and the Kalamazoo, Mich., 191° radials; Kalemazoo; INT Kalamazoo 014° and Grand Rapids,
Mich., 167° radials; Grand Rapids; to White Cloud, Mich.

V-286 From Elkins, W. Va., via Casanova, Va.; INT Casanova 142° and Brooke, Va., 300° radials; Brooke; to Cape Charles, Va.

V-287 From Medford, Oreg., North Bend, Oreg.; Newberg, Oreg., including a west alternate from North Bend to Newberg via Newport, Oreg., and including an east alternate from Medford to the INT Corvallis, Oreg., 352° and Newberg 204° radials via Roseburg, Oreg., INT Roseburg 003° and Eugene, Oreg., 187° radials, Eugene, and Corvallis; Portland, Oreg.,
including an east alternate via INT Newberg 069° and Portland 196° radials; 20 miles, 51 miles, 45 MSL, Olympia, Wash.; INT Olympia 010° and Paine, Wash., 257° radials; to Paine.

AMENDMENTS 9/4/80 45 F. R. 41912 (Changed)

V-288 From Lucin, Utah, 50 miles, 85 MSL, INT Lucin 080° and Fort Bridger, Wyo., 278° radials; 17 miles, 50 miles, 105 MSL, Fort Bridger.

V-289 From Beaumont, Tex., via INT Beaumont 323° and Lufkin, Tex., 161° radials; Lufkin, including an E alternate; Gregg County, Tex.; Texarkana, Ark.; Fort Smith, Ark.; Harrison, Ark.; Dogwood, Mo.; Forney, Mo.; INT 046° and Vichy, Mo., 216° radials; to Vichy.
The airspace within R-4501A, R-4501B, R-4501C and R-4501D is excluded during their time of activation.

V-290 From Rainelle, W. Va., via Montebello, Va.; to Flat Rock, Va. From Franklin, Va., via Elizabeth City, N. C., to Wright Brothers, N. C. From Manteo NDB via INT Manteo 139° bearing and Hatteras Inlet, N. C., NDB 029° bearing; to Hatteras NDB. That airspace 8,000 feet MSL and above is excluded between Manteo and Hatteras Inlet during time of activation of the Pamlico A or B MOAs by NOTAM.

AMENDMENTS 5/15/80 45 F. R. 17950 (Rewritten) Corr: 45 F. R. 23406

V-291 From Albuquerque, N. Mex.; Gallup, N. Mex., including a north alternate via INT Albuquerque 303° and Gallup 089° radials; Winslow, Ariz.; Flagstaff, Ariz.; including a N alternate from Winslow to Flagstaff via INT Winslow 292° and Flagstaff 063° radials.

V-292 From Sparta, N. J.; INT Sparta 082° and Carmel, N. Y., 232° radials; Carmel; Hartford, Conn.; Putnam, Conn.; INT Putnam 011° and Gardner, Mass., 097° radials; INT Gardner, Mass., 097° and Boston, Mass., 015° radials; Boston.

AMENDMENTS 5/15/80 45 F. R. 17949 (Changed)

V-293 From Grand Canyon, Ariz., via Page, Ariz.; INT Page 340° and Bryce Canyon, Utah; 120° radials; Bryce Canyon; Cedar City, Utah; 37 miles, 108 MSL Wilson Creek, Nev.; 5 miles, 108 MSL,
[illegible] miles, 116 MSL, Ely, Nev.; 125 MSL Elko, Nev.;

2[illegible] miles, 57 miles, 99 MSL, Twin Falls, Idaho; 37 miles, 33 miles, 87 MSL, 76 miles, 113 MSL, 99 MSL McCall, Idaho.

V-294 From Des Moines, Iowa, INT Des Moines 086° and Cedar Rapids, Iowa, 238° radials; Cedar Rapids; to Davenport, Iowa.

V-295 From Biscayne Bay, Fla., INT Biscayne Bay 015° and Vero Beach, Fla., 143° radials; Vero Beach, INT Vero Beach, 296° and Orlando, Fla., 162° radials; Orlando; INT Orlando 283° and Ocala, Fla., 156° radials; Ocala; Cross City, Fla.; to Tallahassee, Fla. The portion outside the United States has no upper limit.

V-296 From Fort Mill, S. C.; 27 MSL INT Fort Mill 093° and Fayetteville, N. C., 267° radials; 27 MSL Fayetteville; Wilmington, N. C.

V-297 From Johnstown, Pa.; INT Johnstown 320° and Clarion, Pa., 176° radials; INT Johnstown 315° and Clarion, PA., 222° radials; INT Clarion 269° and Youngstown, Ohio, 116° radials; Akron, Ohio; INT Akron 298° and Carleton, Mich., 120° radials; to Carleton. From Saginaw; INT Saginaw 353° and Pellston, Mich., 164° radials; Pellston. The airspace within Canada is excluded.

AMENDMENTS 3/20/80 45 F. R. 6357 (Changed)

V-298 From Seattle, Wash., INT Seattle 107° and Yakima, Wash., 331° radials to Yakima, INT Yakima 129° and Pasco, Wash., 276° radials; Pasco; including a north alternate from Yakima to Pasco; Pendleton, Oreg., 74 miles,
43 miles 115 MSL, 99 MSL via McCall, Idaho; 41 mi. 99 MSL, 89 mi. 145 MSL, Dubois, Idaho; 68 mi., 130 MSL Dunoir, Wyo.; 62 miles 135 MSL, Boysen Reservoir, Wyo.; 9 miles, 34 miles 105 MSL, Casper, Wyo., including a south alternate from Dunoir 43 miles 130 MSL, 15 miles 110 MSL, via Riverton, Wyo., 19 miles, 48 miles 77 MSL, Casper; to Gillette, Wyo.; excluding the airspace between the main and the south alternate.

V-299 From Los Angeles, Calif., INT Los Angeles 291° and Fillmore, Calif., 163° radials; Ventura, Calif.; Fillmore; to Gorman, Calif. The airspace within R-2519 more than 3 statute miles W of Ventura 155° and 331° radials, the airspace within R-2519 below 5,000 feet MSL, and the airspace within R-2520 is excluded. The portion outside the United States has no upper limit.

V-300 From Victoria, British Columbia, Canada, RR to Vancouver, British Columbia, Canada. From Thunder Bay, Ontario, Canada, Sault Ste. Marie, Mich.; to Wiarton, Ont., Canada. From Sherbrooke, Quebec, Canada; Millinocket, Maine; Fredericton, New Brunswick, Canada. The airspace within Canada is excluded.

AMENDMENTS 10/30/80 45 F. R. 60896 (Changed)

V-301 From Point Reyes, Calif., Santa Rosa, Calif.; Williams, Calif.

V-302 From Augusta, Maine, INT Augusta 123° and Bangor, Maine, 192° radials.

V-303 From Hot Springs, Ark., Fort Smith, Ark.

V-304 From Amarillo, Tex., via Borger, Tex.; Liberal, Kans., including a W alternate via INT Borger 354° and Liberal 234° radials; 15 miles, 79 miles 55 MSL, Lamar, Colo.

V-305 From El Dorado, Ark., Little Rock, Ark.; Walnut Ridge, Ark.; Malden, Mo.; Cunningham, Ky.

V-306 From Junction, Tex., via INT Junction 009° and Austin, Tex., 279° radials; Austin; Navasota, Tex.; including a south alternate from Austin via INT Austin 109° and College Station, Tex., 240° radials; INT College, Tex., 240° and Industry, Tex., 310° radials;
INT Navasota 084° and Daisetta, Tex., 283° radials; Daisetta; including a south alternate from Navasota via Humble, Tex.; to Daisetta; Lake Charles, La., including a south alternate from Daisetta to Lake Charles via Beaumont.

V-307 From Harrison, Ark., via Neosho, Mo.; Oswego, Kans.; Chanute, Kans.; Emporia, Kans.; INT of Emporia 336° and Pawnee City, Nebr., 193° radials; Pawnee City; Omaha, Nebr.

V-308 From INT Kenton, Del., 217° and Sea Isle, N. J., 256° radials, via Sea Isle; INT Sea Isle 050° and Hampton, N. Y. 223° radials; Hampton; INT Hampton 050° and Norwich, Conn., 177° radials; Norwich; Putnam, Conn.; INT Putnam 043° and Boston, Mass., 251° radials; Boston. The airspace below 2,000 feet MSL that lies outside the United States and the airspace below 3,000 feet MSL between Kennedy, N. Y., 087° and 141° radials is excluded.

V-309 From Charleston, W. Va.; INT Charleston 034° and Morgantown, W. Va., 284° radials; Bellaire, Ohio.

V-310 From Louisville, Ky., London, Ky.; Holston Mountain, Tenn.; INT Holston Mountain 104° and Greensboro, N. C., 280° radials; Greensboro; INT Greensboro 105° and Raleigh-Durham, N. C., 278° radials; Raleigh-Durham; Tar River, N. C.; Elizabeth City, N. C.

V-311 From the INT of Harris, Ga., 187° and Toccoa, Ga., 222° radials via INT Toccoa 222° and Electric City, S. C., 274° radials; Electric City; Greenwood; S. C.; Columbia, S. C.

V-312 From INT Andrews, Md., 060° and Baltimore, Md., 165° radials, via INT Andrews 060° and Woodstown, N. J., 230° radials; Woodstown; INT Woodstown 065° and Coyle, N. J., 264° radials; Coyle; INT Coyle 090° and Sea Isle, N. J., 050° radials. The airspace within R-5002D, the airspace below 2,000 feet MSL outside the United States, and the airspace above 8,000 feet MSL between Woodstown and Coyle is excluded.

V-313 From Malden, Mo., Cape Girardeau, Mo.; Centralia, Ill.; Decatur, Ill.; Pontiac, Ill.

V-314 From Quebec, Province of Quebec, Canada, 99 miles 55 MSL, Millinocket, Maine; Princeton, Maine; St. John, New Brunswick, Canada. The airspace within Canada is excluded.

V-315 From Paris, Tex., Rich Mountain, Okla.

V-316 From Ironwood, Mich.; Marquette, Mich.; 15 miles, 100 miles 40 MSL, Sault Ste. Marie; INT Sault Ste. Marie 076° and Sudbury, Ont., Canada, 274° radial, to Sudbury. The airspace within Canada is excluded.

AMENDMENTS 7/10/80 45 F. R. 41911 (Changed)

PENDING AMENDMENT
V-317 From Mission Bay, Calif., via Poggi, Calif., to Imperial, Calif.
AMENDMENTS 12/25/80 45 F. R. 72634 (Added)

V-318 From Quebec, Province of Quebec, Canada, 81 miles 65 MSL, 26 miles 85 MSL, Houlton, Maine. The airspace within Canada is excluded.

V-319 From Boysen Reservoir, Wyo., Worland, Wyo.; Cody, Wyo.

V-320 From Peck, Mich.; Toronto, Ont., Canada. The airspace within Canada is excluded.

V-321 From Albany, Ga., via Columbus, Ga.; LaGrange, Ga.; INT LaGrange 342° and Gadsden, Ala., 124° radials; Gadsden; INT Gadsden 333° and Rocket, Ala., 149° radials; Rocket, Shelbyville, Tenn.; Livingston, Tenn.

V-322 From Concord, N. H., INT Concord, 022° and Berlin, N. H., 161° radials; Berlin, N. H.; Sherbrooke, Quebec, Canada. The airspace within Canada is excluded.

V-323 From Montgomery, Ala., via Eufaula, Ala.; Macon, Ga.; INT Macon 341° and Dublin, Ga., 309° radials; to INT Dublin 309° and Augusta, Ga., 263° radials.

V-324 From Crazy Woman, Wyo., to Gillette, Wyo.

V-325 From Columbia, S. C.; Athens, Ga.; INT Athens 288° and Toccoa, Ga., 222° radials to INT Toccoa 222° and Harris, Ga., 187° radials. From INT Gadsden, Ala., 091° and Rome, Ga., 133° radials via Gadsden; Muscle Shoals, Ala., including an E alternate via INT Gadsden 318° and Decatur, Ala., 130° radials, and Decatur.

V-326 From Fillmore, Calif., INT Fillmore 163° and Van Nuys, Calif., 270° radials; Van Nuys.

V-327 From Phoenix, Ariz.; Flagstaff, Ariz.
The airspace 14,000 feet MSL and above is excluded from 23 NM north of Phoenix to 29 NM south of Flagstaff, from 1300 GMT to 0200 GMT, Monday through Friday, and other times as advised by a Notice to Airmen.

V-328 From Jackson, Wyo., via Big Piney, Wyo.; 53 miles 95 MSL, Rock Springs, Wyo.; Hayden, Colo.; Kremmling, Colo.; INT Kremmling 145° and Denver, Colo., 225° radials; to Denver.

V-329 From INT Crestview, Fla., 091° and Eglin, Fla., 003° radials, INT Eglin 003° and Montgomery, Ala., 188° radials; Montgomery.

V-330 From Wildhorse, Oreg., via Boise, Idaho, INT Boise, Idaho, 130° and Mountain Home, Idaho, 084° radials; INT Mountain Home 084° and Burley, Idaho, 323° radials. From Idaho Falls, Idaho, Jackson, Wyo.

V-331 From Whitesburg, Ky., Newcombe, Ky.

PENDING AMENDMENT
V-332 From Friant, Calif., via Hangtown, Calif.; to Red Bluff, Calif.

AMENDMENTS 12/25/80 45 F. R. 70856 (Added)

V-333 From INT Rome, Ga., 133° and Gadsden, Ala., 091° radials via Rome; Chattanooga, Tenn.; Hinch Mountain, Tenn.; Lexington, Ky.

V-334 From San Jose, CA., INT San Jose 022° and Sacramento, CA., 194° radials; Sacramento.

V-335 From St. Louis, Mo.; INT St. Louis 171° and Marion, Ill., 290° radials; Marion.

V-336 From Ellensburg, Wash., to Ephrata, Wash.

V-337 From INT Briggs, Ohio, 077° and Youngstown, Ohio, 177° radials; Akron, Ohio; INT Akron 328° and Windsor, Ontario, Canada, 116° radials; Windsor; 29 miles 7 miles wide (3 miles east and 4 miles west of centerline), INT Windsor 335° and Saginaw, Mich., 131° radials; Saginaw; Mount Pleasant Mich.; White Cloud, Mich., excluding the portion within Canada.

PENDING AMENDMENT
V-338 From Linden, Calif., via Hangtown, Calif.; to Lake Tahoe, Calif.

AMENDMENTS 12/25/80 45 F. R. 70856 (Added)

V-339 From Whitesburg, Ky., Falmouth, Ky.

V-340 From Fort Wayne, Ind., to Richmond, Ind.

V-341 From Cedar Rapids, Iowa, Dubuque, Iowa; Madison, Wis.; INT Madison 042° and Oshkosh, Wis., 208° radials; to Oshkosh.

V-342 From Vancouver, British Columbia, Canada, INT Vancouver 090° and Princeton, British Columbia, Canada, 244 radials; Princeton, excluding the airspace within Canada.

V-343 From Dubois, Idaho, Bozeman, Mont., 51 miles, 34 miles, 103 MSL, 84 MSL Drummond, Mont.

V-344 From Dupree, S. Dak., Aberdeen, S. Dak.; Fargo, N. Dak.

V-345 From Dells, Wis., INT Dells 321° and Eau Claire, Wis., 134° radials; Eau Claire; Hayward; to Ashland, Wis.

V-346 From St. Georges, Quebec, Canada, to Millinocket, ME., excluding the portion within Canada.

V-347 From Ironwood, Mich., to Houghton, Mich.

V-348 From Thunder Bay, Ont., Canada, via INT Thunder Bay 102° and Sault Ste. Marie, Mich., 316° radials; Sault Ste. Marie; INT Sault Ste. Marie 076° and Sudbury, Ont., Canada, 274° radial to Sudbury. The airspace within Canada is excluded.

AMENDMENTS 7/10/80 45 F. R. 41911 (Changed)

V-349 From Bellingham, WA., to Williams Lake, British Columbia, Canada. The airspace within Canada is excluded.

V-350 From Wichita, Kans., to Chanute, Kans. The airspace at and above 6,000 feet MSL from 8 nautical miles to 54 nautical miles west of Chanute VOR is excluded during the time that the Eureka High MOA is activated.

AMENDMENTS 3/20/80 45 F. R. 10756 (Changed)

V-351 From Vancouver, British Columbia, Canada, INT Vancouver 090° and Princeton, British Columbia, Canada, 231° radials; Carmi, British Columbia, Canada, excluding the airspace within Canada.

V-352 From St. Georges, Quebec, Canada, to Houlton, ME., excluding the portion within Canada.

V-353 From Jackson, Mich., via INT Jackson 029° and Flint, Mich., 228° radials; to Flint.

V-354 From Pioneer, Okla., to Emporia, Kans. The airspace at and above 6,000 feet MSL from 45 nautical miles to 73 nautical miles north of Pioneer VORTAC is excluded during the time that the Eureka High MOA is activated.

AMENDMENTS 3/20/80 45 F. R. 10756 (Changed)

V-355 From Bridgeport, Tex.; Wichita Falls, Tex.

V-356 From Cheyenne, Wyo., via Gill, Colo.; to INT Gill 131° and Denver, Colo., 058° radials.

V-357 From Lakeview, Oreg., via Wildhorse, Oreg.; Baker, Oreg.; Walla Walla, Wash.; Moses Lake, Wash.; INT of Moses Lake 271° and Wenatchee, Wash., 132° radials; to Wenatchee; including a N alternate from Moses Lake via Ephrata, Wash., to Wenatchee.
That portion of the airway 11,000 feet MSL and above from 32 miles southwest of Wildhorse VOR to 13 miles northeast of Lakeview VORTAC is suspended during the time that the Juniper MOA is activated by NOTAM.

AMENDMENTS 5/15/80 45 F. R. 17949 (Changed)

V-358 From San Antonio, Tex., via Stonewall, Tex.; Lampasas, Tex.; INT Lampasas 041° and Waco 249° radials; Waco, Tex.; Dallas-Fort Worth, Tex.; to Ardmore, Okla.

V-359 From Nuevo Laredo, Mex., to Laredo, Tex., excluding the airspace within Mexico.

V-360 From Sault Ste. Marie, Mich., via Sault Ste. Marie 110° Radial to INT of Sault Ste. Marie 110° and Midland 313° radials; Midland. The airspace within Canada is excluded.

V-361 From Kremmling, Colo., via INT Kremmling 059° and Cheyenne, Wyo., 215° radials to Cheyenne.

V-362 From Alma, Ga., via INT Alma 311° and Vienna, Ga., 123° radials; Vienna; Macon, Ga.; INT Macon 349° and Norcross, Ga., 150° radials; Norcross; INT Norcross 336° and Chattanooga, Tenn., 127° radials; Chattanooga; Shelbyville, Tenn.; Nashville, Tenn.; INT Nashville 355° and Bowling Green, Ky., 219° radials; to Bowling Green.

V-363 From Mission Bay, Calif., via Oceanside, Calif.; INT Oceanside 316° and Pomona, Calif., 179° radials; to Pomona.

V-365 From Burley, Idaho, via INT Burley 042° and Idaho Falls, Idaho, 248° radials; Idaho Falls; to INT Idaho Falls 030° and Dubois, Idaho, 100° radials.

V-366 From Hugo. Colo., to Kiowa. Colo.

V-367 From International Falls, Minn., to Sioux Lookout, Ontario, Canada, NDB excluding the portion within Canada.

V-369 From Navasota, Tex., to Dallas-Fort Worth, Tex.

AMENDMENTS 1/24/80 44 F. R. 68448 (Added)

V-371 From Boiler, Ind., to Knox, Ind.

V-373 From Gordonsville, Va., via the Gordonsville 065° radial to the intersection of Richmond, Va., 009° and Brooke, Va., 075° radials.

AMENDMENTS 9/4/80 45 F. R. 38352 (Added)

V-374 From Roanoke, Va., via Gordonsville, Va.; including a N alternate via the INT Roanoke 035° and Montebello, Va., 250° and Montebello, Va.; to INT Gordonsville 034° and Casanova, Va., 142° radials.

V-376 From Richmond, Va.; to INT Richmond 009° and Nottingham, Md., 238° radials. The airspace within R-6612 is excluded.

V-377 From Montebello, Va., via Kessel, W. Va.; INT Kessel 055° and Hagerstown, Md., 267° radials; Hagerstown; to Harrisburg, Pa.

AMENDMENTS 3/20/80 45 F. R. 6355 (Changed)

V-378 From Baltimore, Md., via INT Baltimore 034° and Modena, Pa., 236° radials; to Modena.

V-379 From Nottingham, Md.; to Kenton, Del.

V-380 From O'Neill, Nebr.; via Wolbach, Nebr.; Grand Island, Nebr.; Hastings, Nebr.; to Mankato, Kans. The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM.

V-381 From Bishop, Calif., to INT Bishop 337° and Friant, Calif., 040° radials.

V-420 From Green Bay, Wis.; Traverse City, Mich.; Gaylord, Mich.; to Alpena, Mich.

V-421 From Zuni, N. Mex., via Gallup, N. Mex.; Farmington, N. Mex., including a west alternate via INT Gallup 008° and Farmington 233° radials; Durango, Colo.; Gunnison, Colo.; INT Gunnison 010° and Kremling, Colo., 203° radials; to Kremling.

V-422 From Chicago Heights, Ill., INT Chicago Heights 117° and Knox, Ind., 276° radials; Knox; Wolflake, Ind.; INT Wolflake 097° and Findlay, Ohio, 289° radials; Findlay.

V-423 From Williamsport, Pa., Binghamton, N. Y.; Ithaca, N. Y.; INT Ithaca 357° and Syracuse, N. Y., 210° radials; Syracuse.

V-424 From Napoleon, Mo., to Macon, Mo.

V-425 From Brookley, Ala., INT Brookley 357° and Mobile, Ala., 048° radials.

V-426 From St. Louis, Mo., to INT of St. Louis 062° radial and Troy, Ill., direct radial to Decatur, Ill.

V-428 From Elmira, N. Y., Ithaca, N. Y.; Georgetown, N. Y.; Utica, N. Y.

V-429 From Cape Girardeau, Mo., Marion, Ill.; INT Marion 011° and Bible Grove, Ill., 207° radials; Bible Grove; Mattoon, Ill.; Champaign, Ill.; Roberts, Ill.; Joliet, Ill.; INT Joliet 351° and Chicago-O'Hare, Ill., 237° radials; Chicago-O'Hare.

V-430 From Cut Bank, Mont., 10 miles, 74 miles 55 MSL, Havre, Mont.; 14 miles, 100 miles 50 MSL, Glasgow, Mont.; INT Glasgow 100° and Williston, N. Dak., 263° radials, 22 miles, 33 miles 55 MSL, Williston; Minot, N. Dak.; Devils Lake, N. Dak.; Grand Forks, N. Dak.; Bemidji, Minn., including a north alternate via Thief River Falls, Minn.; Grand Rapids, Minn.; Duluth, Minn., including a N alternate from Grand Rapids, to Duluth via Hibbing, Minn., excluding the airspace between the main and this N alternate airway; Ironwood, Mich.; Iron Mountain, Mich.; to Escanaba, Mich.

V-431 From Hyannis, Mass., via INT Hyannis 343° and Boston, Mass., 066° radials; Boston; INT Boston 015° and Gardner, Mass., 097° radials; Gardner; Keene, N. H.; Glens Falls, N. Y.; to INT Glens Falls 286° and Albany, N. Y., 350° radials. The airspace outside the United States below 2,000 feet MSL is excluded.

AMENDMENTS 7/10/80 45 F. R. 31973 (Rewritten)

V-432 From Thermal, Calif., Parker, Calif.

V-433 From INT Washington, D. C., 065° and Baltimore, Md., 197° radials; via INT Washington, D. C., 065° and New Castle, Del., 222° radials; New Castle; Yardley, Pa., including an E alternate via INT New Castle 058° and Yardley 196° radials; INT Yardley 059° and La Guardia, N. Y., 231° radials; La Guardia; INT La Guardia 049° and Bridgeport, Conn., 015° radials; INT Bridgeport 015° and Hartford, Conn., 268° radials.

V-434 From Ottumwa, Iowa, Moline, Ill.; Peoria, Ill.; Champaign, Ill.; Indianapolis, Ind.

V-435 From Rosewood, Ohio, via INT Rosewood 041° and Cleveland, Ohio, 252° radials; to Cleveland.

V-437 From Ormond Beach, Fla., Savannah, Ga.; Charleston, S.C.; Florence, S.C.

V-439 From Dickinson, N. Dak., to Williston, N. Dak.

V-441 From Melbourne, Fla., via INT Melbourne 269° and Lakeland, Fla., 080° radials; Lakeland; St. Petersburg, Fla.; INT St. Petersburg 010° and Ocala, Fla., 213° radials; Ocala, including an E alternate via INT St. Petersburg 040° and Ocala 171° radials.

PENDING AMENDMENT
Under V-441, delete "Ocala 171° radials." and substitute "Ocala 182°." therefor.

AMENDMENTS 12/25/80 45 F. R. 62795 (Changed) Corr: 45 F. R. 67072

V-442 From Paradise, Calif.; via INT Ontario 027° and Hector, Calif., 247° radials, Hector; 12 miles, 38 miles 85 MSL, 14 miles 75 MSL, INT Needles, Calif., 272° and Goffs, Calif., 163° radials; INT Goffs 163° and Parker, Calif., 333° radials; Parker.
The airspace above 10,000 feet MSL between Parker and a point 45 miles northwest is excluded.

V-443 From INT Newcomerstown, Ohio, 099° and Bellaire, Ohio, 044° radials; Newcomerstown, Ohio, Tiverton, Ohio; Cleveland, Ohio, including an E alternate via INT Tiverton 028° and Cleveland 138° radials; INT Cleveland 049° and Aylmer, Ont., Canada, 205° radials; Aylmer. The airspace within Canada is excluded.

V-445 From La Guardia, N. Y., INT La Guardia 034° and Hartford, Conn., 245° radials.

V-446 From Troy, Ill., INT Troy 099° and Centralia, Ill., 056° radials; Samsville, Ill.

V-447 From Cambridge, N. Y., Montpelier, Vt.; INT Montpelier 020° and Sherbrooke, Quebec, Canada, 217° radials; Sherbrooke. The airspace within Canada is excluded.

V-448 From Portland, Oreg., via Yakima, Wash., including a south alternate; Moses Lake, Wash., including a south alternate from Yakima to Moses Lake via the INT of Yakima 129° and Ephrata, Wash., 203° radials, and the INT of Ephrata 203° and Moses Lake 231° radials; Spokane, Wash., 45 miles 12 AGL, 21 miles 75 MSL, 20 miles 80 MSL, 59 miles 12 AGL, to Kalispell, Mont.

V-449 From Lake Henry, Pa.; DeLancey, N. Y.; Albany, N. Y.

V-450 From Green Bay, Wis.; Muskegon, Mich.; INT Muskegon 094° and Flint, Mich., 280° radials; Flint; INT Flint 088° and Peck, Mich., 237° radials.

The airspace at and above 10,000 feet MSL from 35 NM southeast of Green Bay to 33 NM northwest of Muskegon is excluded during the time that the Minnow Military Operations Area is activated by NOTAM.

V-451 From INT Whitman, Mass., 177° and Providence, R. I., 118° radials, Whitman; INT Whitman 041° and Kennebunk, Maine, 180° radials; INT Kennebunk 180° and Brunswick, Maine, 211° radials; Brunswick.

V-452 From Newport, Oreg.; Eugene, Oreg., via Klamath Falls, Oreg.; to Reno, Nev.

V-454 From Brookley, Ala.; Monroeville, Ala.; INT Monroeville 073° and Eufaula, Ala., 258° radials; INT Eufaula 258° and Columbus, Ga., 219° radials; Columbus; INT Columbus 068° and Athens, Ga., 195° radials; INT Athens 195° and Greenwood, S. C., 240° radials; Greenwood. Fort Mill, S. C.; Liberty, N. C.; Lawrenceville, Va.; Hopewell, Va.

V-455 From New Orleans, La., via Picayune, Miss.; Eaton, Miss., including an E alternate from New Orleans to Eaton via INT New Orleans 070° and Gulfport, Miss., 247° radials, Gulfport, INT Gulfport 344° and Eaton 171° radials, and also a W alternate from New Orleans to Eaton via INT New Orleans 357° and Eaton 221° radials; 6 mi. wide, Meridian, including a W alternate via INT Eaton 010° and Meridian 221° radials.

V-456 From Fort Dodge, Iowa, to Mankato, Minn.

V-458 From Santa Catalina, Calif., via Oceanside, Calif., Julian, Calif.; INT Julian 130° and Imperial, Calif., 272° radials; Imperial; 13 miles, 24 miles, 25 MSL, Bard, Ariz., excluding the airspace within R-2503 and below 2,000 feet MSL outside the United States. The portion outside the United States has no upper limit.

V-459 From Seal Beach, Calif., Lake Hughes, Calif.; Porterville, Calif., Friant, Calif.; INT Friant 319° and Linden, Calif., 124° radials; Linden.

V-460 From Julian, Calif., INT Julian 055° and Blythe, Calif., 272° radials; Blythe.
AMENDING AMENDMENT
Under V-460 "From Julian, Calif.," is deleted and "From Poggi, Calif., via Julian, Calif.;" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 72634 (Changed)

V-461 From Gila Bend, Ariz., Buckeye, Ariz.

V-463 From INT Harris, Ga., 187° and Toccoa, Ga., 222° radials; to Harris, Ga.

V-464 From the INT of Windsor, Ont., Canada, 083° and Aylmer, Ont., Canada 235° radials, via Aylmer; Dunkirk, N. Y.; to Genaseo, N. Y. The airspace within Canada is excluded.

V-465 From Elko, Nev., Wells, Nev.; 12 miles; 30 miles, 115 MSL, 20 miles, 90 MSL, 36 miles, 115 MSL, 24 miles, 95 MSL, Malad City, Idaho; 30 miles, 53 miles 124 MSL, Jackson, Wyo.; Dunoir, Wyo.; 14 miles, 45 miles, 137 MSL, Billings, Mont. From Miles City, Mont., Williston, N. Dak., including an E alternate.

V-467 From INT Kenton, Del., 217° and Sea Isle, N. J., 256° radials; INT Sea Isle 256° and Cedar Lake, N. J., 216° radials; Cedar Lake; INT Cedar Lake 037° and LaGuardia, N. Y., 209° radials; LaGuardia; Hartford, Conn.

AMENDMENTS 10/30/80 45 F. R. 55711 (Changed)

V-469 From Danville, Va., via Lynchburg, Va.; INT Lynchburg 347° and Elkins, W. Va., 142° radials; Elkins; Morgantown, W. Va.; INT Morgantown 010° and Johnstown, Pa., 260°; to Johnstown.

V-471 From INT Princeton, Maine, 206° and Bangor, Maine, 132° radials; Bangor; Millinocket, Maine; Houlton, Maine; INT Houlton 085° and the United States/Canadian border.

V-472 From Elizabeth City, N. C., via INT Elizabeth City 243° and Kinston, N. C., 029° radials; Kinston.

V-474 From INT Morgantown, W. Va., 010° and Johnstown, Pa., 260° radials; Indian Head, Pa.; St. Thomas, Pa.; INT St. Thomas 088° and Modena, Pa., 274° radials; Modena; INT Modena 095° and Woodstown, N. J., 043 radials.

V-475 From La Guardia, N. Y.; INT La Guardia 049° and Madison, Conn., 269° radials; Madison; Norwich, Conn.; Providence, R. I.; including an east alternate from Madison to Providence via INT Madison 082° and Providence 212° radials; INT Providence 013° and Boston, Mass., 223° radials; Boston.

V-477 From Humble, Tex., via Leona, Tex.; including a west alternate via Navasota, Tex.; Scurry, Tex., including a W alternate via INT Leona 330° and Scurry 182° radials.

V-478 From Falmouth, Ky., Newcombe, Ky.; Beckley, W. Va.

V-483 From Carmel, N. Y.; DeLancey, N. Y.; Rockdale, N. Y.; INT Rockdale 325° and Syracuse, N. Y. 100° radials; Syracuse.

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V-484 From INT Twin Falls, Idaho, 007° and Burley, Idaho, 323° radials, Twin Falls, 49 miles, 34 miles 114 MSL, Salt Lake City, Utah; 25 miles, 31 miles, 125 MSL, Myton, Utah; 14 miles, 79 MSL, 33 miles, 100 MSL, Grand Junction, Colo.; Gunnison, Colo., including a south alternate from Grand Junction to Gunnison via Montrose, Colo.; 13 miles, 112 MSL, 131 MSL INT Gunnison 110° and Alamosa, Colo., 330° radials; Alamosa.

V-485 From Ventura, Calif., via Fellows, Calif.; Priest, Calif.; INT of Priest 322° and San Jose, Calif., 139° radials; San Jose. The airspace within W-289 and R-2520, the airspace within R-2519 more than 3 statute miles W of the airway centerline and the airspace within R-2519 below 5,000 feet MSL is excluded.

V-487 From INT LaGuardia, N. Y., 034° and Carmel, N. Y., 188° radials; Carmel; Pawling, N. Y.; Cambridge, N. Y.; INT Cambridge 002° and Glens Falls, N. Y., 032° radials; Burlington, Vt.; INT Burlington 350° and St. Jean, Quebec, Canada, 158° radials; St. Jean. The airspace within Canada is excluded.

V-489 From Sparta, N. J.; INT Sparta 023° and Kingston 238° radials; Kingston, N. Y.; Albany, N. Y.; Glens Falls, N. Y.; Plattsburgh, N. Y.

V-490 From Utica, N. Y., Cambridge, N. Y.; Manchester, N. H.

V-492 From St. Petersburg, Fla., La Belle, Fla.; INT La Belle 101° and Palm Beach, Fla., 272° radials; Palm Beach, including a north alternate from La Belle to Palm Beach via INT La Belle 043° and Palm Beach 298° radials.

V-493 From Livingston, Tenn., Lexington, Ky.; York, Ky.; Appleton, Ohio; Waterville, Ohio; to Carleton, Mich. From Menominee, Mich., to Rhinelander, Wis.
AMENDMENTS 3/20/80 45 F. R. 6357 (Changed)

V-494 From Ukiah, Calif., INT Ukiah 147° and Santa Rosa, Calif., 325° radials; Santa Rosa; Sacramento, Calif.; INT Sacramento 038° and Lake Tahoe, Calif., 249° radials; Lake Tahoe; INT Lake Tahoe 078° and Hazen, Nev., 244° radials; Hazen.

V-496 From Utica, N. Y., via Glens Falls, N. Y.; Lebanon, N. H.; to Kennebunk, Maine.

V-497 From Rome, Oreg., via Wildhorse, Oreg.; Kimberly, Oreg., 49 miles, 65 MSL, The Dalles, Oreg.
AMENDMENTS 11/29/79 44 F. R. 57078 (Changed)

V-499 From Lancaster, Pa., to Binghamton, N. Y.

V-500 From Portland, Oreg., Newberg, Oreg.; 41 miles, 70 MSL Kimberly, Oreg.; 30 miles, 71 miles, 105 MSL, Boise, Idaho; 25 miles, 25 miles, 90 MSL, 26 miles, 95 MSL 22 miles, 25 miles, 70 MSL, Pocatello, Idaho.

V-501 From Martinsburg, W. Va., via Hagerstown, Md.; St. Thomas, Pa.; Philipsburg, Pa. From Wellsville, N. Y.; INT Elmira, N. Y., 357° and Geneseo, N. Y., 091° radials.

V-516 From Liberal, KS., Anthony, KS.; Pioneer, OK.; Oswego, KS.

V-518 From Fillmore, Calif., INT Fillmore 102° and Ventura, Calif., 061° radials; INT Ventura 061° and Palmdale, Calif., 233° radials; Palmdale.

V-520 From Portland, Oreg., via The Dallas, Oreg.; Pasco, Wash.; Walla Walla, Wash.; to Lewiston, Idaho; Salmon, Idaho; Dubois, Idaho; to Jackson, Wyo.

V-524 From Laramie, Wyo., INT Laramie 069° and Scottsbluff, Nebr., 254° radials; Scottsbluff; North Platte, Nebr.

V-530 From Texico, N. Mex., Childress, Tex.

V-536 From North Bend, Oreg., INT North Bend 023° and Corvallis, Oreg., 235° radials; Corvallis; Redmond, Oreg., 32 miles, 58 miles, 71 MSL, Pendleton, Oreg.; Walla Walla, Wash.; Pullman, Wash.; 27 miles, 85 MSL Mullan Pass, Idaho; 5 miles, 34 miles, 95 MSL Kalispell, Mont.; 20 miles, 41 miles, 115 MSL, Great Falls, Mont.

V-538 From Twentynine Palms, Calif., INT Twentynine Palms 043° and Goffs, Calif., 200° radials; 23 miles 95 MSL, 21 miles 75 MSL, Goffs; Las Vegas, Nev. The airspace within R-2501E is excluded.

§71.128 Alaskan VOR Federal Airways.

V-307 From Sandspit, B. C., Canada, to Annette Island, Alaska. The airspace within Canada is excluded.

V-309 From Prince Rupert, British Columbia, Canada RBN, Annette Island, Alaska. The airspace within Canada is excluded.

V-311 From Annette Island, Alaska, 42 miles 12 AGL, 99 miles 55 MSL, 31 miles 12 AGL, to Biorka Island, Alaska.

V-317 From Ethelda, British Columbia, Canada, NDB via Annette Island, Alaska; 42 miles 12 AGL, 42 miles 52 MSL, 15 miles 12 AGL Level Island, Alaska, including a W alternate via INT Annette Island 311° and Level Island 164° radials; Sisters Island, Alaska; to INT Sisters Island 272° and Yakutat, Alaska, 139° radials. The airspace within Canada is excluded.

V-319 From INT Sisters Island, Alaska, 272° and Yakutat, Alaska, 139° radials; 66 miles 20 MSL, 40 miles 12 AGL via Yakutat; Johnstone Point, Alaska; INT Johnstone Point 286° and Anchorage, Alaska, 117° radials; Anchorage; including a south alternate from Johnstone Point to Anchorage via INT Johnstone Point 271° and Anchorage 130° radials.

AMENDMENTS 9/4/80 45 F. R. 41910 (Changed)

V-321 From Cape Newenham, Alaska, NDB via King Salmon, Alaska; to Homer, Alaska, including a south alternate via the INT of King Salmon 087° and Homer 237° radials.

AMENDMENTS 7/10/80 45 F. R. 31975 (Rewritten)

V-334 From the INT King Salmon, Alaska, 068° and Kenai, Alaska, 217° radials; via Kenai; to Anchorage, Alaska.

V-362 From Ethelda, British Columbia, Canada NDB via INT Sandspit, British Columbia, Canada 039° and Annette Island, Alaska, 167° radials to Annette Island. That airspace within Canada is excluded.

V-427 From King Salmon, Alaska, 103 miles 12 AGL, 29 miles 135 MSL, to INT King Salmon 042° and Anchorage, Alaska, 246° radials.

V-428 From Biorka Island, Alaska, via Sisters Island, Alaska; Haines, Alaska, NDB; to Whitehorse, Yukon Territory, Canada. The airspace within Canada is excluded.

V-435 From Homer, Alaska, to Kenai, Alaska.

V-436 From Anchorage, Alaska, via INT Anchorage 347° and Talkeetna, Alaska, 196° radials; Talkeetna; Nenana, Alaska; Chandalar Lake, Alaska, NDB; to Deadhorse, Alaska.

V-438 From Kodiak, Alaska, 27 miles 12 AGL, 24 miles 35 MSL, 29 miles 55 MSL, 40 miles 12 AGL, via Homer, Alaska, including a west alternate from Kodiak, 27 miles 12 AGL, 24 miles 35 MSL, 33 miles 55 MSL, 40 miles 12 AGL, to Homer; INT Homer 027° and Anchorage, Alaska, 198° radials; Anchorage; Big Lake, Alaska; Fairbanks, Alaska; Fort Yukon, Alaska, including east and west alternates; 89 miles 12 AGL, 52 miles 95 MSL, 27 miles 75 MSL, 61 miles 12 AGL, Deadhorse, Alaska; to Barrow, Alaska.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

V-440 From Seattle, Wash., to Victoria, British Columbia, Canada. From Sandspit, British Columbia 83 miles 12 AGL, 115 miles 35 MSL, 55 miles 12 AGL, via Biorka Island, Alaska; 31 miles 12 AGL, 50 miles 47 MSL, 85 miles 20 MSL, 40 miles 12 AGL, Yakutat, Alaska; 67 miles 12 AGL, 82 miles 75 MSL, 56 miles 12 AGL, Middleton Island, Alaska; Anchorage, Alaska, including a south alternate via the INT Middleton Island 298° and Anchorage 163° radials, excluding the airspace between the main and the south alternate; McGrath, Alaska; 23 miles 12 AGL, 54 miles 55 MSL, 46 miles 40 MSL, 25 miles 12 AGL, Unalakleet, Alaska; 17 miles 12 AGL, 91 miles 25 MSL, 17 miles 12 AGL to Nome, Alaska. The airspace within Canada is excluded.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

V-444 From Barrow, Alaska, 117 miles 12 AGL, 102 miles 95 MSL, 69 miles 12 AGL, Evansville, Alaska, NDB; Bettles, Alaska; Fairbanks, Alaska, including a south alternate via INT Bettles 155° and Fairbanks 307° radials; Big Delta, Alaska; Northway, Alaska; Burwash, Yukon Territory, Canada. The airspace within Canada is excluded.

PENDING AMENDMENT

Under V-444, the following is added: The airspace within Restricted Area R-2213 is excluded from 0001 January 28 until 2359 local time February 3, 1981.

AMENDMENTS 12/25/80 45 F. R. 70236 (Changed)

V-447 From Fairbanks, Alaska, to Chandalar Lake, Alaska, NDB.

V-452 From Nome, Alaska, via Moses Point, Alaska; 47 miles, 87 miles, 55 MSL, Galena, Alaska; Nenana, Alaska.

V-453 From King Salmon, Alaska, Dillingham, Alaska, including a south alternate via INT King Salmon 271° and Dillingham 120° radials; 41 miles 12 AGL, 17 miles 60 MSL INT Dillingham 308° and Bethel, Alaska, 143° radials; 35 miles 60 MSL, 55 miles 12 AGL Bethel.

AMENDMENTS 9/4/80 45 F. R. 41910 (Changed)

V-456 From Cold Bay, Alaska, 20 AGL King Salmon, Alaska, 053° 93 miles, 9 miles 125 MSL; INT King Salmon 053° and Kenai, Alaska, 239° radials, 46 miles 125 MSL, 10 miles 115 MSL, Kenai; Anchorage, Alaska; Big Lake, Alaska; Gulkana, Alaska; Northway, Alaska.

V-462 From Cape Newenham, Alaska, NDB via Dillingham, Alaska; 35 miles 12 AGL, 77 miles 45 MSL, 74 miles 135 MSL, 11 miles 120 MSL, 85 miles 12 AGL, to Anchorage, Alaska.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

V-473 From Level Island, Alaska, to Biorka Island, Alaska, via INT Level Island 277° and Biorka Island 127° radials.

V-480 From Bethel, Alaska, 105 miles, 89 miles, 55 MSL, McGrath, Alaska, 28 miles, 64 miles, 45 MSL, Nenana, Alaska; Fairbanks, Alaska.

V-481 From Johnstone Point, Alaska, via Gulkana, Alaska, including an E alternate; Big Delta, Alaska; to Fort Yukon, Alaska.

V-488 From Galena, Alaska, INT Galena 074° and Tanana, Alaska, 260° radials; Tanana, including a south alternate; Fairbanks, Alaska.

V-491 From Big Lake, Alaska; to Talkeetna, Alaska.

V-498 From McGrath, Alaska, 24 miles 12 AGL, 54 miles 55 MSL, 34 miles 12 AGL, Galena, Alaska; 68 miles 12 AGL, 70 miles 55 MSL, 54 miles 12 AGL, to Kotzebue, Alaska.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

V-504 From Nenana, Alaska; via Bettles, Alaska; Evansville, Alaska, NDB; to Deadhorse, Alaska.

V-506 From INT Kodiak, Alaska, 107° radial and the Anchorage Oceanic CTA/FIR boundary, 37 miles 20 MSL, 24 miles 12 AGL, via Kodiak; 50 miles 12 AGL, 50 miles 95 MSL, 51 miles 12 AGL, King Salmon, Alaska; 51 miles 12 AGL, 84 miles 70 MSL, 63 miles 12 AGL, Bethel, Alaska; Nome, Alaska; 35 miles 12 AGL, 71 miles 55 MSL, 53 miles 12 AGL, Kotzebue, Alaska, including a west alternate from Nome 38 miles 12 AGL, 71 miles 55 MSL, 56 miles 12 AGL to Kotzebue; Hotham, Alaska, NDB; 69 miles 12 AGL, 124 miles 95 MSL, 98 miles 12 AGL, Barrow, Alaska.

AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

V-508 From Middleton Island, Alaska, to Kenai, Alaska.
AMENDMENTS 9/4/80 45 F. R. 41910 (Rewritten)

V-510 From McGrath, Alaska, INT McGrath 123° and Big Lake, Alaska, 294° radials; Big Lake.

V-515 From Gulkana, Alaska, via INT Gulkana 011° and Big Delta 139° radials; to Big Delta.

§71.127 Hawaiian VOR Federal Airways.

V-2 HAWAII From South Kauai, Hawaii, Lihue, ~~Hawaii~~, INT Lihue 130° and Honolulu, Hawaii, 269° radials; Honolulu; Lanai, Hawaii; INT Lanai 106° and Upolu Point, Hawaii, 305° radials; Upolu Point; INT Upolu Point 093° and Hilo, Hawaii, 336° radials; Hilo. The airspace within R-3104A, R-3104B and R-3104C is excluded.

V-3 Hawaii From INT Kamuela, Hawaii, 245° and Upolu Point, Hawaii, 211° radials, Kamuela; INT Kamuela 068° and Hilo, Hawaii, 336° radials.

V-4 HAWAII From INT Lihue, Hawaii, 186° and Koko Head, Hawaii, 254° radials, Koko Head.

V-5 Hawaii From Kona, Hawaii, INT Kona 338° and Maui, Hawaii, 179° radials, including a west alternate via INT Kona 323° and Maui 179° radials.

V-6 HAWAII From INT Molokai, Hawaii, 067° and Maui, Hawaii, 331° radials, to Maui.

V-7 HAWAII From Kona, Hawaii, INT Kona 323° and Lanai, Hawaii, 140° radials; Lanai; Molokai, Hawaii.
From Koko Head 050° and Molokai 358° radials to INT Molokai 358° and the Honolulu FIR/Oceanic CTA boundary.
AMENDMENTS 3/20/80 45 F. R. 5674 (Changed)

V-8 HAWAII From INT Honolulu, Hawaii, 179° and Molokai, Hawaii, 262° radials, Molokai; 30 miles, 25 MSL INT Molokai 067° and Upolu Point, Hawaii, 010° radials.

V-9 HAWAII From INT Lanai, Hawaii, 223° and Honolulu, Hawaii, 179° radials, 78 mi. 35 MSL, Honolulu. The airspace above FL-300 within W-321B is excluded.

V-11 HAWAII From INT Kona, Hawaii, 323° and Upolu Point, Hawaii 211° radials; Upolu Point; INT Upolu Point 349° and Maui, Hawaii, 080° radials; Maui; INT Maui 331° and Molokai, Hawaii, 091° radials; Molokai; INT Molokai 262° and Honolulu, Hawaii, 179° radials.

V-12 HAWAII From INT Lihue, Hawaii, 195° and Honolulu, Hawaii, 269° radials, 38 miles, 35 MSL, Honolulu; Koko Head, Hawaii, 14 miles, 25 MSL INT Koko Head 050° and Maui, Hawaii, 012° radials.

V-13 HAWAII From Lihue, Hawaii, INT Lihue 145° and Honolulu, Hawaii, 269° radials; INT South Kauai, Hawaii, 133° and Koko Head, Hawaii 254° radials; Koko Head, 14 miles, 25 MSL, INT Koko Head 050° and Molokai 016° radial and the Honolulu FIR/Oceanic CTA.

V-14 HAWAII From INT South Kauai, Hawaii, 271° radial and longitude 161°20'00" W.; 50 MSL longitude 158°42'00" W.; South Kauai; INT South Kauai 133° and Koko Head, Hawaii, 254° radials; Koko Head.

V-15 HAWAII From INT South Kauai, Hawaii, 288° radial and longitude 161°15'00" W.; 50 MSL longitude 158°42'00" W.; South Kauai; Honolulu, Hawaii; Koko Head, Hawaii; Molokai, Hawaii, Maui, Hawaii; INT Maui 095° and Hilo, Hawaii, 336° radials; Hilo; to INT Hilo 099° radial and the Honolulu FIR/Oceanic CTA.

V-16 HAWAII From Honolulu, Hawaii, INT Honolulu 179° and Lanai, Hawaii, 285° radial; Lanai; Upolu Point, Hawaii; INT Upolu Point 108° and Hilo, Hawaii, 336° radials; Hilo.

V-17 HAWAII From INT Lanai, Hawaii, 106° and Maui, Hawaii, 197° radials; Maui.
From INT Koko Head 071° and Maui 348° radials to INT Maui 348° and Lihue 065° radials.
AMENDMENTS 3/20/80 45 F. R. 5674 (Changed)

V-20 HAWAII From Honolulu, Hawaii, INT Honolulu 134° and Kona, Hawaii, 308° radials; Kona.

V-2[illegible] HAWAII From INT Honolulu, Hawaii, 179° and Lanai, Hawaii, 285° radials; Lanai; INT Lanai 106° and Hilo, Hawaii, 033° radials; to INT Upolu Point 093° radial and the Honolulu FIR/Oceanic CTA. The airspace within R-3104 is excluded.

V-22 Hawaii From Maui, Hawaii, INT Maui 095° and Hilo, Hawaii, 321° radials; Hilo; to INT Hilo 078° radial and the Honolulu FIR/Oceanic CTA.

V-23 HAWAII From Upolu Point, Hawaii; INT Upolu Point 277° and Honolulu, Hawaii, 134° radials.

V-24 HAWAII From Lanai to Maui.

V-25 HAWAII From Hilo, Hawaii, to INT Hilo 356° radial and the Honolulu FIR/Oceanic CTA.

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SUBPART D - CONTINENTAL CONTROL AREA

§ 71.151 Restricted areas included.

The airspace of the following restricted areas at or above 14,500 feet MSL and 1500 feet or more above the surface of the earth is continental control area:

R-2102 Fort McClellan, Ala.
R-2103 Fort Rucker, Ala.
R-2104A Huntsville, Ala.
R-2104B Huntsville, Ala.
R-2104C Huntsville, Ala.
R-2202A Big Delta, Alaska
R-2205 Yukon, Alaska
R-2211 Blair Lakes, Alaska
PENDING AMENDMENT
R-2213 Clear Creek, Alaska, from 0001 January 28 until 2359 local time February 3, 1981.
AMENDMENTS 12/25/80 45 F. R. 70236 (Added)
R-2301 Ajo, Arizona.
R-2303A Fort Huachuca, Arizona.
R-2303B Fort Huachuca, Arizona.
R-2304 Gila Bend, Arizona.
R-2305 Gila Bend. Arizona.
R-2306A Yuma West, Ariz.
R-2306B Yuma West, Ariz.
R-2306C Yuma West, Ariz.
R-2307 Yuma, Arizona
R-2308A Yuma East, Ariz.
R-2308B Yuma East, Ariz.
R-2310B Florence, Ariz. AMENDMENTS 7/10/80 45 F. R. 30424 (Added)
R-2310C Florence, Ariz. AMENDMENTS 7/10/80 45 F. R. 30424 (Added)
R-2401 Fort Chaffee, Ark.
R-2402 Fort Chaffee. Ark.
R-2403A Little Rock, Ark.
R-2403B Little Rock, Ark.
R-2501N Bullion Mountains, Calif.
R-2501S Bullion Mountains, Calif.
R-2501E Bullion Mountains, Calif.
R-2501W Bullion Mountains, Calif.
R-2502E Fort Irwin, Calif.
R-2502N Fort Irwin, Calif.
R-2503 Camp Pendleton, Calif.
R-2504 Camp Roberts, Calif.
R-2505 China Lake, Calif.
R-2507 Chocolate Mountains, Calif.
R-2508 California Complex.
R-2509 Cuddeback Dry Lake, Calif.
R-2510 El Centro, Calif.
R-2512 Holtville, Calif.
R-2513 Hunter-Liggett, Calif.
R-2515 Muroc Lake, Calif.
R-2519 Point Mugu, California
R-2521 Salton Sea, Calif.
R-2524 Trona, Calif.
R-2534A Point Arguello, Calif.
R-2534B Point Arguello, Calif.
R-2601 Fort Carson, Colo.
R-2602 Fort Carson, Colo.
R-2901B Avon Park, Fla.
R-2902A Cape Kennedy, Fla.
R-2903B Stevens Lake, Fla.
R-2907 Lake George, Fla.
R-2910 Pinecastle, Fla.
R-2914A Valparaiso, Fla.
R-2914B Valparaiso, Fla.
R-2915A Eglin AFB, Fla.
R-2915B Eglin AFB, Fla.
R-2915C Eglin AFB, Fla.
R-2918 Valparaiso, Fla.
R-2919A Valparaiso, Fla.
R-2919B Valparaiso, Fla.
R-2921 Cape Kennedy, Fla.
R-2922 Cape Kennedy, Fla.
R-2925 Cape Kennedy, Fla.
R-2926 Cape Kennedy, Fla.
R-2927 Cape Kennedy, Fla.
R-2928 Cape Kennedy, Fla.
R-3002F Fort Benning, Ga.
R-3004 Fort Gordon, Ga.
R-3005A Fort Stewart, Ga.
R-3005B Fort Stewart, Ga.

R-3202 Saylor Creek, Idaho
R-3401A Atterbury Reserve Forces Training Area, Ind.
R-3403 Jefferson Proving Ground, Ind.
R-3601A Brookville, Kans.
R-3602 Manhattan, Kans.
R-3701C Fort Campbell, Ky.
R-3702A Fort Campbell, Ky.
R-3702B Fort Campbell, Ky.
R-3703C Fort Campbell, Ky.
R-3704 Fort Knox, Ky.
R-3803A Fort Polk, La.
R-3803B Fort Polk, La.
R-3804A Fort Polk, La.
R-3804C Fort Polk, La.
R-4001A Aberdeen, Md.
R-4001B Aberdeen, Md.
R-4002 Bloodsworth Island, Md.
R-4005 Patuxent River, Md.
R-4006 Patuxent River, Md.
R-4007B Patuxent River, Md., until 1800 hours local time, January 1, 1982.
AMENDMENTS 2/19/80 45 F. R. 10757 (Added)
R-4105 No Man's Land Island, Mass.
R-4201 Camp Grayling, Mich.
R-4207 Upper Lake Huron, Mich.
R-4301 Camp Ripley, Minn.
R-4305 Lake Superior, Minn.
R-4401 Camp Shelby, Miss.
R-4501A Fort Leonard Wood West, Mo.
R-4803 Fallon, Nev.
R-4804 Twin Peaks, Nev.
R-4806 Las Vegas, Nev.
R-4808S Las Vegas, Nev.
R-4810 Desert Mountains, Nevada
R-4812 Sand Springs, Nev.
R-4813 Carson Sink, Nev.
R-4816N Dixie Valley, Nev.
R-4816S Dixie Valley, Nev.
R-5103 McGregor, N. Mex.
R-5104A Melrose, N. Mex.
R-5104B Melrose, N. Mex.
R-5107A White Sands Proving Grounds, N. Mex.
R-5107C White Sands Proving Grounds, N. Mex.
R-5107D White Sands Proving Grounds, N. Mex.
R-5107E White Sands Proving Grounds, N. Mex.
R-5107F White Sands Proving Grounds, N. Mex.
R-5107G White Sands Proving Grounds, N. Mex.
R-5109A White Sands, N. Mex.
R-5109B White Sands, N. Mex.
R-5111A Elephant Butte, N. Mex. AMENDMENTS 9/4/80 45 F. R. 41913 (Changed)
R-5111C Elephant Butte, N. Mex. AMENDMENTS 9/4/80 45 F. R. 41913 (Added)
R-5113 Socorro, N. Mex.
R-5201 Fort Drum, N. Y.
R-5201A Fort Drum, N. Y.
R-5201B Fort Drum, N. Y.
R-5201C Fort Drum, N. Y.
R-5201D Fort Drum, N. Y.
R-5203 Oswego, N. Y.
R-5306A Cherry Point, N. C.
R-5306B Cherry Point, N. C.
R-5306C Cherry Point, N. C.
R-5306D Cherry Point, N. C.
R-5306E Cherry Point, N. C.
R-5311B Fort Bragg, N. C.
R-5313 Long Shoal Point, N. C.
R-5314 Dare County, N. C.
R-5502B Lacarne, Ohio AMENDMENTS 1/24/80 44 F. R. 70714 (Added)
R-5503 Wilmington, Ohio
R-5504 Wilmington, Ohio
R-5601B Fort Sill, Okla.
R-5601C Fort Sill, Okla.
R-5601D Fort Sill, Okla.
R-5701 Boardman, Oreg.
R-6001 Fort Jackson, S. C.
R-6302A Fort Hood, Texas
R-6302B Fort Hood, Texas
R-6302C Fort Hood, Texas
R-6302D Fort Hood, Tex.
R-6302E Fort Hood, Tex.
R-6402 Dugway Proving Ground, Dugway, Utah
R-6404A Hill AFB Range South, Utah
R-6404B Hill AFB Range North, Utah
R-6404C Hill AFB Range East, Utah
R-6405 Wendover, Utah
R-6406 Wendover, Utah

R-6407	Dugway Proving Ground, Dugway, Utah
R-6413	Green River, Utah
R-6602	Camp Pickett, Va.
R-6604	Chincoteague Inlet, Va.
R-6606	Pendleton, Va.
R-6609	Tangier Island, Va.
R-6611	Dahlgren Complex, Va.
R-6613	Dahlgren Complex, Va.
R-6714A	Yakima, Wash.
R-6714B	Yakima, Wash.
R-6714C	Yakima, Wash.
R-6714D	Yakima, Wash.
R-6901	Camp McCoy, Wis.
R-6903	Sheboygan, Wis.
R-6904A	Volk Field, Wis.
R-6904B	Volk Field, Wis.
R-7001	Guernsey, Wyo.

SUBPART E - CONTROL AREAS AND CONTROL AREA EXTENSIONS

§ 71.161 Designation of control areas associated with jet routes outside the continental control area.

Unless otherwise specified, the airspace centered on each of the following jet route segments has a vertical extent identical to that of a Jet Route and a lateral extent identical to that of a Federal airway and is designated as a control area. Unless otherwise specified, the place names appearing in the descriptions indicate VOR or VORTAC facilities identified by those names.

Jet Route No. 37 From Hobby, Tex., to INT of Hobby 090° and New Orleans, La., 257° radials.

J-41 From Key West, Fla., to Tallahassee, Fla.

Jet Route No. 42 Robbinsville, N. J., to Hampton, N. Y.

J-43 From St. Petersburg, Fla., to Tallahassee, Fla.

Jet Route No. 53 from Key West, Fla., to Miami, Fla.

Jet Route No. 55 from Sea Isle, N. J., to Putnam, Conn.

Jet Route No. 58 from New Orleans, La., to Sarasota, Fla.

Jet Route No. 62 From Nantucket, Mass., to lat. 41°08'00"N., long. 67°00'00"W.

Jet Route No. 79 From Ormond Beach, Fla., to Charleston, S. C.

Jet Route No. 86 From Humble, Tex., to Sarasota, Fla.

Jet Route No. 97 From Nantucket, Mass., to lat. 39°07'00"N., long. 67°00'00"W.

Jet Route No. 103 From Ormond Beach, Fla., to Savannah, Ga.

Jet Route No. 111 From Nome, Alaska, to SNOUT INT.

Jet Route No. 115, King Salmon, Alaska, to 160° W.

Jet Route No. 121: Norfolk, Va., to Hampton, N. Y.; Providence, R. I., to INT of Providence 045° and Boston, Mass., 066° radials.

Jet Route No. 122, from Galena, Alaska, to Nome, Alaska.

Jet Route No. 123, From INT of Kodiak, Alaska, 107° radial and the NW boundary Anchorage Oceanic Control Area at latitude 57°28' N., longitude 150°32' W., to Kotzebue, Alaska.

Jet Route No. 125, From Kodiak, Alaska, to Anchorage, Alaska.

Jet Route No. 129, Nome, Alaska, to Kotzebue, Alaska.

Jet Route No. 133, From Biorka Island, Alaska, to Johnston Point, Alaska.

Jet Route No. 150 From Robbinsville, N. J., via Hampton, N. Y.; Hyannis, Mass.; to the INT of Hyannis 068° and Boston, Mass., 097° radials.

Jet Route No. 174 From Hampton, N. Y., via Hyannis, Mass., to HERIN INT.

Jet Route No. 501, from Oakland, Calif., to Anchorage, Alaska.

Jet Route No. 502, from the United States/Canadian border to Annette Island, AK.

Jet Route No. 573 from Providence, R. I., to Kennebunk, Maine

§ 71.163 Designation of additional control areas.

Unless otherwise specified, each control area designated below has a lateral extent identical to that of a Federal airway and extends upward from 700 feet (until designated from 1,200 feet or more) above the surface of the earth, except that the airspace of a control area within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

Control 1141

That airspace extending upward from 2,000 feet MSL within tangent lines from the circumference of a 5-mile radius circle centered at lat. 42°23'23"N., long. 70°59'10"W., to a 15-mile radius circle centered on the midway point of a direct line between lat. 42°23'23"N., long. 70°59'10"W., and the Yarmouth, Nova Scotia, Canada, NDB (lat. 43°47'36"N., long. 66°07'36"W.), to a 5-mile radius circle centered on the Yarmouth NDB, excluding the airspace east of 67 degrees west longitude.

Control 1142

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered at latitude 42°21'30" N., longitude 70°41'25" W., to a 15-mile radius circle centered at latitude 42°02'00" N., longitude 68°00'00" W., and that airspace within lines drawn from latitude 42°16'00" N., longitude 68°00'00" W., thence to latitude 42°14'00" N., longitude 67°00'00" W., thence to latitude 41°52'00" N., longitude 67°00'00" W., thence to latitude 41°46'00" N., longitude 68°00'00" W., thence to latitude 42°16'00" N., longitude 68°00'00" W., excluding the portion within the Boston Transition area, the airspace below 5,500 feet MSL E of longitude 68°00'00" W., and the airspace below 2,000 feet MSL W of longitude 68°00'00" W., except that airspace within the confines of Federal airways.

Control 1143

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Nantucket, Mass., RBN to a 15-mile radius circle centered at the midway point on a direct line between the Nantucket RBN and the Yarmouth, Nova Scotia, Canada, RBN to a 5-mile radius circle centered on the Yarmouth RBN excluding that portion below 2,000 feet except that airspace within the confines of Federal airways.

Control 1144

That airspace in the vicinity of Nantucket, Mass., within an area bounded by a line beginning at latitude 41°06'00" N., longitude 70°09'10" W., to latitude 41°25'35" N., longitude 70°09'35" W., to latitude 41°26'00" N., longitude 69°15'00" W., to latitude 41°46'00" N., longitude 68°00'00" W., to latitude 41°06'00" N., longitude 68°00'00" W., to the point of beginning, excluding the portion below 2,000 feet MSL except that airspace which lies within the confines of Federal airways.

Control 1146

That airspace within a 5 NM radius circle centered on the Nantucket, Mass., RBN and that airspace bounded by a line drawn from the tangent of the 5 NM radius circle centered on Nantucket RBN to latitude 42°05'20" N., longitude 68°00'00" W., thence to latitude 42°19'00" N., longitude 68°00'00" W., thence to latitude 43°00'00" N., longitude 67°00'00" W., thence to latitude 41°52'00" N., longitude 67°00'00" W., thence to latitude 41°46'00" N., longitude 68°00'00" W., thence to the tangent of the 5 NM radius circle centered on the Nantucket RBN excluding that airspace outside the United States below 2,000 feet MSL W of longitude 68°00'00" W., and below 5,500 feet MSL E of longitude 68°00'00" W.

Control 1149

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Norfolk, Va., VORTAC 088° radial at Long. 75° 32' 00" W. to the circumference of a 15-mile radius circle centered on the Norfolk, Va., VORTAC 088° radial on the west boundary of the New York Oceanic Control Area at Lat. 36° 57' 30" N., Long. 73° 00' 00" W., excluding the portion below 2,000 feet MSL outside the United States.

Control 1154

That airspace extending upward from 5,000' MSL bounded on the east by VOR Federal airway No. 199; on the south by a line extending from latitude 38°03'25" N., longitude 123°11'45" W.; to latitude 38°00'00" N., longitude 123°23'00" W.; to latitude 37°50'00" N., longitude 124°24'30" W.; to latitude 37°40'00" N., longitude 125°23'30" W.; on the west by the Oakland Oceanic Control Area; and on the north by a line extending from latitude 38°50'00" N., longitude 126°11'05" W.; to latitude 38°52'00" N., longitude 125°52'30" W.; to latitude 39°00'00" N., longitude 123°56'30" W.; to latitude 39°02'55" N., longitude 123°22'00" W.

Control 1155

That airspace extending upward from 5,000 feet MSL within 5 miles each side of the San Luis Obispo, Calif., VORTAC 242° radial, including the additional airspace within lines diverging at angles of 5° from the centerline at the VORTAC, extending from the U. S. coastline to the Oakland Oceanic CTA/FIR boundary.

Control 1156

That airspace extending upward from 5,000 feet MSL within 5 miles each side of the Mission Bay, Calif., VORTAC 262° radial, including the additional airspace within lines diverging at angles of 5° from the centerline at the VORTAC, extending from the VORTAC to its intersection with Control 1177.

Control 1173

That airspace W of San Francisco, Calif., bounded by a line extending from latitude 37°40'00" N., longitude 125°23'30" W., to latitude 37°50'00" N., longitude 124°24'30" W., to latitude 38°00'00" N., longitude 123°23'00" W., to latitude 38°03'25" N., longitude 123°11'45" W., thence via the W edge of V-199 and V-27 to latitude 37°09'20" N., longitude 122°34'50" W., to latitude 36°16'00" N., longitude 124°26'00" W., to the point of beginning, excluding the portion below 2,500 feet MSL. The portion within W-513 is excluded between the hours of 0800 and 2000 p.s.t., Monday through Friday, and below 3,000 feet MSL within W-513 between the hours of 2000 and 0800 p.s.t., Monday through Friday.

Control 1176

That airspace extending upward from 2,000 feet MSL, within lines 5 miles each side of the Santa Barbara, Calif., VORTAC 247° radial, including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines, extending from the VORTAC to the east boundary of the Oakland Oceanic Control Area, excluding the portion east of longitude 120°30'00" W.

Control 1177

That airspace SW of Los Angeles, Calif., bounded by a line beginning at Lat. 33°25'50" N, Long. 118°28' 50" W, thence to Lat. 33°19'00" N, Long. 118°21'45" W, thence to Lat. 32°44'30" N, Long. 119°07'00" W, thence to Lat. 31°41'00" N, Long. 120°15'00" W, thence to Lat. 31°18'40" N, Long. 121°11'30" W, thence to Lat. 31°54'00" N, Long. 121°34'30" W, thence to Lat. 32°10'45" N, Long. 120°16'15" W, thence to Lat. 32° 52'15" N. Long. 119°12'30" W, thence to point of beginning excluding the airspace below 5,000 feet MSL.

Control 1181

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Weeksville, N.C., RBN to a 10-mile radius circle centered on the INT of the 133° bearing from the Weeksville RBN and the W boundary of the New York Oceanic Control Area, excluding the portion below 2,000 feet which extends outside the United States.

Control 1217

That airspace within tangent lines drawn from the circumference of a 5 mile-radius circle centered on the Woody Island, Alaska, RBN to the circumference of a 10-mile radius circle centered at the INT of the 107° bearing from the Woody Island RBN with the NW boundary of the Anchorage Oceanic Control Area. The airspace below 2,000 feet MSL outside the United States is excluded.

Control 1218

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Kachemak, Alaska, RBN to the circumference of a 10-mile radius circle centered at the INT of the 118° bearing from the Kachemak RBN with the NW boundary of the Anchorage Oceanic Control Area.

Control 1234

That airspace extending upward from 2,000 feet above the surface within an area bounded by a line beginning at: latitude 58°07'00" N., longitude 160°00'00" W.; to latitude 53°30'00" N., longitude 160°00'00" W.; to latitude 51°24'00" N., longitude 167°49'00" W.; to latitude 50°08'00" N., longitude 176°34'00" W.; to latitude 51°05'00" N., longitude 173°44'00" E.; to latitude 51°30'00" N., longitude 170°00'00" E.; to latitude 54°40'40" N., longitude 170°00'00" E.; to latitude 54°49'00" N., longitude 170°12'30" E.; to latitude 54°23'00" N., longitude 174°30'00" E.; to latitude 53°36'00" N., longitude 176°47'00" W.; to latitude 54°33'00" N., longitude 169°58'00" W.; to latitude 56°39'00" N., longitude 164°25'00" W.; to latitude 57°46'00"N., longitude 161°46'00"W.; thence to point of beginning.

Control 1235

That airspace extending upward from 14,500 feet MSL to FL 450 within the area bounded by a line beginning at latitude 53°30'00" N., longitude 160°00'00" W.; to latitude 56°00'00" N., longitude 153°00'00" W.; to latitude 59°09'00" N., longitude 147°18'00" W.; thence clockwise via the arc of a 172-mile radius circle centered on the Anchorage, Alaska, VORTAC to latitude 58°50'00" N., longitude 151°58'00" W.; thence clockwise via the arc of a 172-mile radius circle centered on the King Salmon, Alaska, VORTAC to longitude 160°00'00" W.; thence to point of beginning, excluding the portion that lies within the Continental Control Area, Control 1217, Control 1218, Federal airways and the Kodiak, Alaska, transition area.

Control 1236

That airspace extending upward from 14,500 feet MSL to FL 450 within the area bounded by a line beginning at: latitude 60°00'00" N., longitude 170°00'00" W.; to latitude 61°00'00" N., longitude 165°00'00" W.; to latitude 60°00'00" N., longitude 164°00'00" W.; to latitude 60°00'00" N., longitude 160°00'00" W.; to latitude 57°00'00" N., longitude 160°00'00" W.; to latitude 60°00'00" N., longitude 168°00'00" W.; thence to the point of beginning, excluding the portion that lies within the Continental Control Area, Control 1234, Control 1463 and Control 1400.

Control 1238

That airspace extending upward from 14,500 feet MSL to FL 450 within an area bounded by a line beginning at latitude 60°57'00" N., longitude 165°17'00" W.; along the northern boundary of Control 1236 to latitude 60°17'00" N., longitude 168°42'00" W.; thence to latitude 62°35'00" N., longitude 175°00'00" W.; thence to latitude 65°00'00" N., longitude 168°58'23" W.; thence to latitude 68°00'00" N., longitude 168°58'23" W.; along the southern boundary of Control 1485 to latitude 68°00'00" N., longitude 165°30'00" W.; thence by a line 3 nautical miles from and parallel to the shoreline to the point of beginning, excluding that portion that lies within Continental Control Area, control areas, and transition areas at Nome and Kotzebue, Alaska.

Control 1310

That airspace within 4 nautical miles each side of a direct line extending from the Anchorage, Alaska, VORTAC to the Middleton Island, Alaska, VORTAC, including the additional airspace between lines diverging at 4.5° angles from the centerline, extending SE from the Anchorage VORTAC and NW from the Middleton Island VORTAC and which terminate at the intersecting points midway between Anchorage and Middleton Island; thence within 16 miles each each side of a line extending from the Wessels, Alaska, RBN to the Sandspit, British Columbia, Canada, RBN; including that airspace between lines diverging at 5° angles from the centerline, extending southeast from the Wessels, Alaska, RBN and northwest from the Sandspit RBN, and which terminate at the intersecting points midway between Wessels and Sandspit, excluding the portion within Canada, and the airspace below 2,000 feet MSL outside the United States.

Control 1316

That airspace within 5 miles each side of the Los Angeles, Calif., VOR 264° radial extending from the VOR to the Oakland Oceanic Control Area boundary and between lines diverging at an angle of 5° from the 264° radial extending from the Los Angeles VOR to the Oakland Oceanic Control Area boundary, excluding the airspace below 5,000 feet MSL within W-289.

Control 1318

That airspace within 5 miles each side of the Los Angeles, Calif., VORTAC 249° radial extending from the VORTAC to the Wilba Fix (lat. 32°41'00"N., long. 122°03'00"W.) and between lines diverging at an angle of 5° from the 249° radial extending from the Los Angeles VORTAC to the Wilba Fix, excluding the airspace below 6,000 feet MSL within W-289.

Control 1400

That airspace within 5 miles each side of the 262° bearing from King Salmon, Alaska, LOM extending from the LOM to the Anchorage CTA/FIR boundary, and between lines diverging at an angle of 5° from the King Salmon LOM 262° bearing extending from the LOM to the Anchorage CTA/FIR boundary, excluding the airspace below 2,000 feet MSL outside the United States.

Control 1401

That airspace within 5 miles each side of the 246° bearing from the King Salmon, Alaska, LOM extending from the LOM to long. 160°00'00" W., and between lines diverging at an angle of 5° from the King Salmon, LOM 246° bearing extending from the LOM to long. 160°00'00" W., excluding the airspace below 2,000 feet MSL outside the United States.

Control 1415

That airspace within parallel boundary lines 4 nmi each side of the Fortuna, Calif., VOR 270° radial including the additional airspace within lines diverging at angles of 4.5° from the centerline extending to the E boundary of the Oakland Oceanic Control Area, excluding the portion below 5,000 feet MSL W of longitude 124°30'00" W.

Control 1416

That airspace within 5 miles each side of the Fortuna, Calif., VORTAC 326° radial and the additional area between lines diverging at angles of 5° each side of the 326° radial, extending from the VORTAC to the Gateway Hemlock INT, excluding the airspace below 5,000 feet MSL which lies outside the continental limits of the United States.

Control 1418
From Hoquiam, Wash., to the INT of the Hoquiam 232° radial and the E boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL.

Control 1419
From Newport, Oreg., to the INT of the Newport 237° radial and the E boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL.

Control 1483
That airspace within 5 miles each side of the 237° bearing from the Oscarville, Alaska, RBN; extending from the RBN to the E boundary of the Anchorage Oceanic Control Area, and between lines diverging at a 5° angle from the 237° bearing extending from the Oscarville RBN to the E boundary of the Anchorage Oceanic Control area and excluding the airspace below 2,000 feet MSL outside the United States.

Control 1485
That airspace extending upward from FL-230 bounded by a line beginning at latitude 68°00'00" N., longitude 168°58'23" W.; to latitude 72°00'00" N., longitude 158°00'00" W.; to latitude 72°00'00" N., longitude 141°00'00" W.; to latitude 68°00'00" N., longitude 141°00'00" W.; to the point of beginning.

Control 1486
That airspace within 5 miles each side of the Ukiah, Calif., VOR 300° radial and the additional area between lines diverging at angles of 5° either side of the 300° radial extending from the VOR to the eastern boundary of the Seattle Oceanic Control Area; excluding the airspace below 5,000 feet MSL which lies outside the continental limits of the United States.

Control 1487
That airspace extending upward from 14,500 feet MSL; to FL 450, within the area bounded by a line beginning at latitude 59°08'30" N., longitude 147°16'00" W., counterclockwise via the arc of a 172-mile radius centered on the Anchorage VORTAC to latitude 60°14'10" N., longitude 145°29'30" W., thence southeastward 3 nmi from and parallel to the U. S. coastline to latitude 54°40'00" N., longitude 132°56'00" W., thence to latitude 54°14'00" N., longitude 134°57'00" W., thence along the eastern boundary of the Anchorage Oceanic control area to the point of beginning. The portion within Control 1310 and the portion within Canada is excluded.

Barnegat, N. J.
That airspace extending upward from 700 feet MSL beginning at lat. 39°40'00"N., long. 73°29'00"W.; to lat. 39°40'00"N., long. 72°50'00"W.; to lat. 39°34'00"N., long. 72°50'00"W.; to lat. 39°34'00"N., long. 72°33'00"W.; to lat. 39°19'00"N., long. 72°14'00"W.; to lat. 38°33'00"N., long. 73°08'00"W.; to lat. 38°33'00"N., long. 73°46'48"W.; to lat. 38°35'00"N., long. 73°50'00"W.; to lat. 38°58'00"N., long. 73°50'00"W.; to lat. 38°58'00"N., long. 73°13'00"W.; to lat. 39°09'00"N., long. 73°13'00"W.; to lat. 39°09'00"N., long. 73°29'00"W.; to point of beginning; and that airspace extending upward from 1,200 feet MSL beginning at lat. 39°44'00"N., long. 73°14'29"W.; to lat. 38°47'01"N., long. 72°19'41"W.; to lat. 38°20'00"N., long. 73°00'00"W.; to lat. 38°00'33"N., long. 73°00'00"W.; to lat. 39°07'24"N., long. 74°37'28"W.; thence along the east boundary of V-139 to lat. 39°44'00"N.; thence to the point of beginning. The portion within the North Atlantic Control Area is excluded.

AMENDMENTS 5/15/80 45 F. R. 17948 (Rewritten)

Boardman, Oreg.
That airspace extending upward from 1200 AGL bounded on the northeast by the southwest edge of V-4, on the southeast and the southwest by the north edge of V-112, and on the northwest by the southeast edge of V-520; excluding the portion within Restricted Area R-5704 during its published hours of designation.

Bozeman, Mont.
From Bozeman, Mont., VOR, 10,700 MSL Livingston, Mont., VORTAC.

Browerville/Barter Island, Alaska
From the Browerville, Alaska, RBN, 12 AGL Lonely, Alaska, RBN; 12 AGL Oliktok, Alaska, RBN; 12 AGL Put River, Alaska, RBN; 12 AGL Barter Island, Alaska, RBN.

Brunswick, Maine
That airspace extending upward from 2,000 feet MSL W of longitude 69°30'00" W. and from 5,500 feet MSL E of longitude 69°30'00" W., bounded on the W and N by the Portland, Maine, and the Bangor, Maine, transition areas; on the E by the W boundary of the Moncton Flight Information Region; on the S by the N boundary of Control 1141; and on the SW between latitude 42°40'10" N., longitude 70°30'00" W., and latitude 42°45'00" N., longitude 70°37'00" W., by a line 3 nautical miles from and parallel to the U. S. shoreline.

Colville, Wash.
That airspace extending upward from 7,000 feet MSL bounded on the north by the United States/Canadian border, on the east by the west edge of V-112, on the south by lat. 48°00' N., and on the west by long. 119°00' W., excluding the Spokane, Wash., transition area. That airspace below 1,200 feet AGL is excluded.

Gulf of Alaska
That airspace extending upward from 700 feet MSL bounded by lat. 60°09'00"N., long. 144°30'00"W., thence eastward 3 NM offshore and parallel to the shoreline to lat. 59°43'30"N., long. 140°00'00"W., to lat. 59°27'00"N., long. 140°00'00"W., thence westward along the south boundary of V-440 to long. 144°30'00"W., to point of beginning, excluding that portion that lies within transition areas at Yakataga and Yakutat, Alaska. The portion within Control 1487 is excluded.

AMENDMENTS 11/28/80 45 F. R. 79013 (Changed)

Gulf of Mexico
That airspace extending upward from 1,200 feet MSL bounded by a line beginning at a point 3 nautical miles offshore at latitude 25°58'30" N., longitude 97°05'20" W., thence northward 3 nautical miles from and parallel to the shoreline to latitude 27°32'00" N., longitude 82°48'00" W., to latitude 27°43'00" N., longitude 83°45'30" W., to latitude 27°35'00" N., longitude 83°45'00" W., thence west along the north boundary of the Miami and Houston Oceanic Control Area to latitude 26°00'00" N., longitude 96°00'00" W., to point of beginning; excluding that airspace east of Corpus Christi, Tex., beginning at a point 3 nautical miles offshore at latitude 27°49'00" N., thence to latitude 27°45'30" N., longitude 96°51'00" W., to latitude 27°28'20" N., longitude 96°45'30" W., to latitude 27°14'30" N., longitude 96°55'30" W., to latitude 27°23'00" N., longitude 97° 06'00" W., to a point 3 nautical miles offshore at latitude 27°11'20" N.

Kirksville, Mo.
From Kirksville, Mo., VORTAC 12 AGL to Moline, Ill., VORTAC, and from Kirksville VORTAC 45 MSL to St. Louis, Mo., VORTAC.

Lakeview, Oreg.
That airspace extending upward from 10,500 feet MSL bounded on the north by latitude 44°00" N., on the east by a line extending from latitude 44°00" N., longitude 120°00" W., to the north edge of V-122 at longitude 119°00" W., on the south by the north edge of V-122, and on the west by the east edge of V-165.

Newport, Oreg.
That airspace extending upward from 5,000 feet MSL bounded on the north by the Vancouver Oceanic Control boundary, on the east by a line beginning at Lat. 48°30'00"N., Long. 124°44'00"W., thence extending southward 3 nautical miles west of and parallel to the shoreline, thence via the west edge of V-27W and V-27 to the Oakland ARTCC Flight Advisory Area, on the south by the Oakland ARTCC Flight Advisory Area, and on the west by the Oakland Oceanic Control boundary.

North Atlantic
That airspace extending upward from 2,000 feet MSL bounded on the south by the South Atlantic control area; on the west along a line 3NM east of and parallel to the U. S. shoreline; on the north by lat. 41°40' 00"N.; on the east by a line from lat. 41°40'00"N., long. 67°00'00"W.; to lat. 39°00'00"N., long. 67°00' 00"W.; to lat. 38°35'00"N., long. 68°53'00"W.; to lat. 38°20'00"N., long. 69°57'00"W.; to lat. 37°31'00"N., long. 71°41'00"W.; to lat. 37°15'00"N., long. 73°00'00"W.; and the New York Oceanic CTA/FIR.

Omak, Wash.
That airspace extending upward from 4,500 feet MSL beginning at lat. 48°00'N., long. 118°36'W., to lat. 47°45'N., long. 118° 36'W., to lat. 47°45'N., long. 120°00'W., to lat. 48°00'N., long. 120°00'W., to lat. 48°00'N., long. 119°35' W., to lat. 48°09'30"N., long. 119°36'W., to lat. 48°10'N., long. 119°23'W., to lat. 48°00'N., long. 119°22' 20"W., to point of beginning. That airspace extending upward from 8,500 feet MSL bounded on the north by the U.S./Canadian border, on the east by longitude 119°00' W., on the south by latitude 48°00" N., and on the west by a line from latitude 48°00' N., longitude 120°30' W.; to latitude 49°00' N., longitude 120°00" W., excluding that airspace below 1200 feet AGL.

Olympic Peninsula, Wash.
That airspace extending upward from 5,500 feet MSL beginning at lat. 48°14' N., long. 124°45' W., to lat. 48° 00' N., long. 124°07' W., to lat. 47°38' N., long. 123°40' W., to lat. 47°15' N., long. 123°40' W., to lat. 47° 07' N., long. 124°11' W., to lat. 47°30' N., long. 124°21' W., to lat. 48°00' N., long. 124°45' W., to point of beginning. That airspace below 1,200 feet AGL is excluded.

Ottumwa, Iowa
From the Ottumwa, Iowa, VORTAC 12 AGL 26 miles, 50 MSL to Kansas City, Mo., VORTAC.

Rattlesnake, Wyo.

That airspace extending upward from 8,500 feet MSL bounded on the north by V-298S, on the east by Casper, Wyo., 1,200-foot transition area, on the south and southwest by a line 4 NM south and southwest and parallel to the Casper ILS west course and Riverton, Wyo., VOR 099° radial and on the west by the Riverton, Wyo., 1,200-foot transition area.

San Francisco, Calif.

That airspace extending upward from 5,000 feet MSL bounded on the north by the Seattle ARTCC flight advisory area, on the east by the west edge of V-27W and V-199 to a point 3 nautical miles offshore, then via a line 3 nautical miles west of and parallel to the shoreline,on the south by the Santa Barbara Control Area and on the west by the Oakland Oceanic CTA/FIR boundary.

Santa Barbara, Calif.

That airspace extending upward from 5,000 feet MSL bounded on the northwest by a line extending from lat. 34° 30'00" N., long. 123°15'00" W., to lat. 35°26'30" N., long. 121°03'40" W., on the northeast by a line 3 nautical miles southwest of and parallel to the shoreline, on the southeast by a line 5 nautical miles southeast of and parallel to the Santa Catalina 048° and 228° true radials and the northwest boundary of Warning Area W-291, and on the southwest by the Oakland Oceanic CTA/FIR boundary.

Sault Ste. Marie, Mich.

That airspace extending upward from 1,200 feet AGL within 4 nautical miles each side of a direct line extending from the Thunder Bay, Ontario, Canada, RBN to the Sault Ste. Marie, Mich., RBN, including the additional airspace between lines diverging at 4.5° from the centerline at the Thunder Bay and Sault Ste. Marie RBNS and extending until they meet. Also that airspace extending upward from 1,200 feet AGL in an area bounded by a line beginning at lat. 46°48'45" N., long. 84° 33'00" W., to lat. 46°33'00" N., long. 85°01'40" W., to lat. 47°00'00" N., long. 86°25'30" W., to lat. 47°19' 40" N., long. 86°10'10" W., thence to the point of beginning. The airspace within Canada is excluded.

Sidney, Mont.

That airspace extending upward from 1,200 feet AGL within 4 nautical miles each side of a direct line extending from latitude 47°41'00" N., longitude 104°06'15" W., to latitude 48°06'45" N., longitude 105°36'00" W.

South Atlantic

That airspace extending upward from 1,200 feet MSL bounded by a line beginning at lat. 24°00'00"N., long. 80°56'30"W.; to lat. 24°45'40"N., long. 80°48'20"W.; thence northward 3 NM from and parallel to the shoreline to lat. 35°29'30"N., long. 75°24'50"W.; to lat. 34°21'18"N., long. 73°58'53"W.; thence southward along the New York Oceanic CTA/FIR boundary to lat. 32°15'00"N., long. 77°00'00"W.; to lat. 27°00'00"N., long. 77°00'00"W.; to lat. 27°00'00"N., long. 78°53'00"W.; to lat. 26°27'00"N., long. 79°00'00"W.; to lat. 24°40'00"N., long. 79°00'00"W.; to lat. 24°00'00"N., long. 78°00'00"W.; thence to point of beginning.

South Florida

That airspace extending upward from 1,200 feet MSL bounded by a line beginning at lat. 27°32'00"N., long. 82° 48'00" W., thence southward 3 nautical miles from and parallel to the shoreline to lat. 24°45'40" N., long. 80° 48'20" W.; to lat. 24°00'00" N., long. 80°56'30" W.; to lat. 24°00'00" N., long. 83°10'00" W.; to lat. 27°35' 00" N., long. 83°45'00" W.; to lat. 27°43'00" N., long. 83°45'00" W.; thence to point of beginning.

Zuni, N. Mex.

From the Zuni, N. Mex., VORTAC 12,500 feet MSL to INT of Zuni VORTAC 226° and St. Johns, Ariz., VORTAC 247° radials.

71.168 Designation of control area extensions.

Unless otherwise specified, each control area extension designated below extends upward from 700 feet above the surface of the earth, except that the airspace of a control area extension within the lateral limits of a transition area has a floor coincident with that of the transition area.

§ 71.171 Designation.

The parts of airspace described below are designated as control zones.

Abbotsford, British Columbia, Canada

That airspace within the area bounded by a line beginning 48°57'30"N; 122°21'43"W, thence counter-clockwise along the arc of a circle of 4 nautical miles radius centered on the Abbotsford airport at 49°01'32"N; 122°21'43"W, to 49°02'00"N; 122°27'40"W, to 49°02'00"N; 122°33'45"W, to 48°57'30"N; 122°33'45"W, thence to the point of beginning excluding the airspace overlying the territory of Canada.

Aberdeen, Md.

Within a 5-mile radius of the center, lat. 39°28'00"N., long. 76°10'00"W., of Phillips AAF; within 4.5 miles each side of a 029° bearing from the Aberdeen, Md., RBN, extending from the RBN to 8.5 miles northeast of the RBN; within 3.5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 11.5 miles northeast of the VOR. This control zone is effective from 0800 to 1630 hours, local time, Monday through Friday, excluding Federal legal holidays.

Aberdeen, S. Dak.

Within a 5-mile radius of Aberdeen Municipal Airport (latitude 45°27'00" N., longitude 98°25'00" W.) and within 3 miles each side of the Aberdeen VORTAC 131° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; within 2 miles each side of the Aberdeen VORTAC 312° radial, extending from the 5-mile radius zone to 9 miles northwest of the VORTAC. This control zone is effective during specific dates and times as established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport/Facility Directory.

Abilene, Tex. (Municipal Airport)

Within a 5-mile radius of Abilene Municipal Airport (latitude 32°24'42" N., longitude 99°40'53" W.); within 2.5 miles west and 3 miles east of the Abilene ILS localizer north course, extending from the 5-mile radius zone to 6.5 miles north of the airport; within 2.5 miles west and 3 miles east of the Abilene ILS localizer south course extending from the 5-mile radius zone to 7.5 miles south of the airport; and within 2 miles each side of the Abilene VORTAC 112° radial, extending from the 5-mile radius zone to the VORTAC, excluding the portion within the Abilene, Tex. (Dyess AFB), control zone.

Abilene, Tex. (Dyess AFB)

That airspace within a 5-mile radius of Dyess AFB (latitude 32°25'10" N., longitude 99°51'15" W.); within 2 miles each side of the Dyess ILS localizer S course; extending from the 5-mile radius zone to 8.5 miles S of the 5-mile radius zone; within 2 miles each side of the Tuscola VOR 350° radial, extending from the 5-mile radius zone to 2 miles N of the VOR; and within 2 miles each side of the Abiline VORTAC 353° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Adak, Alaska

Within a 5-mile radius of the NS Adak Airport (latitude 51°52'59" N., longitude 176°38'54" W.); within 2 miles each side of the 054° bearing from the Adak RBN, extending from the 5-mile radius zone to 8 miles northeast of the RBN, and within 2 miles each side of the Navy Adak TACAN 067° radial, extending from the 5-mile radius zone to 8 miles northeast of the TACAN.

Akron, Colo.

Within a 5-mile radius of Akron-Washington County Airport (latitude 40°10'30" N., longitude 103°12'45" W.) and within 4 miles each side of the Akron VORTAC 123° radial, extending from the 5-mile radius zone to 11 miles southeast of the VORTAC.

Akron, Ohio (Akron-Canton Airport)

Within a 5.5-mile radius of the center, lat. 40°54'58" N., long. 81°26'32" W. of Akron-Canton Airport, Akron, Ohio, excluding the portion subtended by a chord drawn between the points of INT of the 5.5-mile radius zone with the Akron, Ohio (Akron Municipal Airport), control zone.

Akron, Ohio (Akron Municipal Airport)

Within a 5.5-mile radius of the center, lat. 41°02'18" N., long. 81°28'01" W. of Akron Municipal Airport, Akron, Ohio, excluding the portion subtended by a chord drawn between the points of INT of the 5.5-mile radius zone with the Akron, Ohio (Akron-Canton Airport), control zone.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alameda, Calif.

Within a 5-mile radius of NAS Alameda (Lat. 37°47'10" N, Long. 122°19'00" W), excluding the portion subtended by a chord drawn between the points of INT of this radius with the radius of the Oakland, Calif., control zone.

Alamogordo, N. Mex.

Within a 5-mile radius of the Holloman Air Force Base Airport (latitude 32°51'04" N., longitude 106°06'05" W.); within 2 miles each side of the Holloman VOR 015° radial extending from the 5-mile radius zone to 8 miles north of the VOR; within 2 miles each side of the extended centerline of Runway 3 extending from the 5-mile radius zone to 4.5 miles northeast of the northeast end of Runway 3; within 2 miles each side of the extended centerline of Runway 15 extending from the 5-mile radius zone to 4.5 miles south of the south end of Runway 15; within 2 miles each side of the extended centerline of Runway 21 extending from the 5-mile radius zone to 4.5 miles southwest of the southwest end of Runway 21; within 2 miles each side of the Holloman TACAN 349° radial extending from the 5-mile radius zone to 17.5 miles north of the TACAN; and within 2 miles each side of the VOR 350° radial extending from the 5-mile radius zone to 8 miles north of the VOR; excluding that portion within a 2-mile radius of the Alamogordo Municipal Airport (latitude 32°50'27" N., longitude 105°59'17" W.) and within a 2-mile radius of the Midway Airport (latitude 32°52'04" N., longitude 105°59'26" W.). The portion of this control zone within R-5107D extends upward to 22,000 feet MSL.

This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alamosa, Colo.

Within a 5-mile radius of Alamosa Municipal Airport (lat. 37°26'15"N., long. 105°51'40"W.) within 3.5 miles each side of the Alamosa VORTAC 127° and 335° radials extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Albany, Ga. (Albany-Dougherty County Airport)

Within a 5-mile radius of Albany-Dougherty County Airport (lat. 31°32'07" N., long. 84°11'41" W.); within 2.5 miles each side of Albany VORTAC 143° radial, extending from the 5-mile radius zone to 1 mile southeast of the VORTAC.

Albany, N. Y.

Within a 5-mile radius of the center 42°44'43"N., 73°48'05"W., of Albany County Airport, Albany, N. Y.; within 3 miles each side of the Albany VORTAC 354° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 4 miles each side of the Albany VORTAC 082° radial, extending from the 5-mile radius zone to 15 miles east of the VORTAC; within 2 miles each side of the extended centerline of Albany County Airport Runway 10; extending from the 5-mile radius zone to 5 miles west of the approach end of Runway 10; within 3 miles each side of the Albany VORTAC 181° radial, extending from the 5-mile radius zone to 8.5 miles south of the VORTAC.

Albuqueruqe, N. Mex.

Within a 5-mile radius of Albuquerque International Airport (latitude 35°02'42" N., longitude 106°36'02" W.); within 2 miles each side of the extended centerline of Runway 35, extending from the 5-mile radius zone to 5.5 miles north of the airport coordinates; within 2 miles east and 3.5 miles west of the extended centerline of runway 17, extending from the 5-mile radius zone to 6 miles south of the airport coordinates; and within 2 miles each side of the Albuquerque VORTAC 090° radial, extending from the 5-mile radius zone to the VORTAC

Alexandria, La. (England AFB)

That airspace within a 5-mile radius of England AFB (latitude 31°19'40" N., longitude 92°33'05" W.); within 2 miles each side of the 318° bearing from the England RBN, extending from the 5-mile radius zone to the RBN; within 2 miles each side of the Alexandria VORTAC 151° and 331° radials, extending from the 5-mile radius zone to 1.5 miles southeast of the VORTAC; within 2 miles each side of the Alexandria VORTAC 327° radial, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC; within 2 miles each side of the extended centerline of Runway 14, extending from the 5-mile radius zone to 6 miles northwest of the airport; within 2 miles each side of the extended centerline of Runway 18, extending from the 5-mile radius zone to 5.5 miles north of the airport; and within 2 miles each side of the extended centerline of Runway 36, extending from the 5-mile radius zone to 6.5 miles south of the airport.

This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alexandria, La. (Esler Regional Airport)

Within a 5-mile radius of Esler Regional Airport (latitude 31°23'45" N., longitude 92°17'40" W.), and within 3 miles each side of the Esler VOR 338° radial extending from the 5-mile radius zone to 8.5 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

lexandria, Minn.

Within a 5-mile radius of Alexandria Municipal Airport (latitude 45°52'00" N., longitude 95°23'40" W.); d within 2 miles each side of the Alexandria VORTAC 231° radial, extending from the 5-mile radius zone to 2 les southwest of the VORTAC.

Alice, Tex.

That airspace within a 5-mile radius of the Alice International Airport (latitude 27°44'30" N., longitude 98°01'40" W.); within 2 miles each side of the Alice VOR 153° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR; within 2 miles each side of the Alice VOR 270° radial, extending from the 5-mile radius zone to 8 miles west of the VOR; and within 2 miles each side of the 134° bearing from latitude 27°44'20" N., longitude 98°01'46" W., extending from the 5-mile radius zone to 8 miles southeast of latitude 27°44'20" N., longitude 98°01'46" W.

Allentown, Pa.

Within a 5.5-mile radius of the center, 40°39'16" N., 75°26'11" W. of Allentown-Bethlehem-Easton Airport, Allentown, Pa., extending clockwise from a 042° bearing to a 103° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 103° bearing to a 209° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 209° bearing to a 91° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from 291° bearing to a 042° bearing from the airport; within a 1.5-mile radius of the center, 40°34'13" N., 75° 29'19" W. of Allentown-Queen City Municipal Airport, Allentown, Pa.; within 2 miles each side of the Allentown-Bethlehem-Easton Airport localizer southwest course extending from the localizer to 1 mile northeast of the OM; within 3.5 miles each side of the Allentown VORTAC
178° and 358° radials, extending from 1 mile south to 5 miles north of the VORTAC;
within 3 miles each side of the Allentown-Bethlehem-Easton Airport localizer northwest course, extending from the localizer to 8.5 miles northwest of the OM.

Alliance, Nebr.

Within a 5-mile radius of Alliance Municipal Airport (lat. 42°03'11.3"N., long. 102°48'25.3"W.); within 3 miles each side of the Alliance VOR 302° radial, extending from the 5-mile radius zone to 6½ miles northeast of the VOR; and within 3 miles each side of the Alliance VOR 145° radial, extending from the 5-mile radius zone to 10 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alma, Ga.

Within a 5-mile radius of Bacon County Airport (lat. 31°32'17" N., long. 82°30'33" W.); within 3 miles each side of Alma VORTAC 146° radial, extending from the 5-mile radius zone to 8.5 miles southeast and northwest of the VORTAC. This control zone is effective from 0600 to 2200 hours, local time, daily.

Alpena, Mich.

That airspace within a 5-mile radius of Phelps-Collins Airport, Alpena, Mich. (latitude 45°04'50" N., longitude 83°33'35" W.); within 3 miles each side of the 360° bearing from the Alpena RBN, extending from the 5-mile radius to 8 miles north of the Alpena RBN; within 3 miles each side of the Alpena VORTAC 346° radial, extending from the 5-mile radius to 7½ miles north of the VORTAC; within 3 miles each side of the Alpena VORTAC 305° radial, extending from the 5-mile radius to 7 miles northwest of the VORTAC; and within 3 miles each side of the Alpena VORTAC 186° radial, extending from the 5-mile radius to 7 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alton, Ill.

Within a 5-mile radius of Civic Memorial Airport (latitude 38°53'30" N., longitude 90°03'00" W.); within 2½ miles each side of the 104° bearing from Civic Memorial Airport, extending from the 5-mile radius zone to 5½ miles east of the airport; and within 3 miles each side of the 009° bearing from Civic Memorial Airport; extending from the 5-mile radius zone to 7 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Altoona, Pa.

Within a 5-mile radius of the center, lat. 40°17'51"N., long. 78°19'10"W. of Altoona-Blair County Airport, extending clockwise from a 090° bearing to a 137° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 137° bearing to a 163° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 163° bearing to a 258° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 323° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 323° bearing to a 065° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 090° bearing from the airport and within 3 miles each side of the Altoona, Pa., VOR 026° radial, extending from the VOR to 8.5 miles northeast of the VOR.

Altus, Okla.
Within a 5-mile radius of the Altus AFB (latitude 34°39'40" N., longitude 99°16'30" W.); within 2 miles each side of the Altus AFB ILS localizer S course, extending from the 5-mile radius zone to 3.8 miles S of the 5-mile radius; and within 2 miles each side of the Altus AFB TACAN 185° radial, extending from the 5-mile radius zone to 9 miles S of the TACAN, excluding that airspace within a 1½-mile radius of the Altus, Okla., Municipal Airport (latitude 34°41'57" N., longitude 99°20'21" W.).

Amarillo, Tex.
That airspace within a 5-mile radius of the Amarillo Air Terminal (latitude 35°13'10" N., longitude 101°42'40" W.): within 2 miles each side of the Amarillo VORTAC 221° radial, extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the extended centerline of the Amarillo AFB/Air Terminal Runway 21, extending from the 5-mile radius zone to 4.5 miles SW of the lift-off end of the runway.

Anchorage, Alaska (Anchorage International Airport)
Within a 5-mile radius of the Anchorage International Airport (latitude 61°10'16" N., longitude 149°58'48" W.); within 2 miles each side of the Anchorage VORTAC 079° radial extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the Anchorage ILS localizer west course extending from the 5-mile radius zone to the OM; excluding the portion within the Anchorage (Merrill Field/Elmendorf AFB) control zone.

Anchorage, Alaska (Bryant AHP)
Within a 3-mile radius of Bryant AHP (lat. 61°16'N., long. 149°40'W.), excluding the portion west of long. 149°43'W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the United States Government Flight Information Publication Supplement Alaska.

AMENDMENTS 9/4/80 45 F. R. 45267 (Rewritten)

Anchorage, Alaska (Merrill Field)
Within a 3-mile radius of Merrill Field (lat. 61°13'N., long. 149°50.4'W.) excluding that portion north of a line beginning at lat. 61°12'N., long. 149°55.7'W., direct to lat. 61°13.6'N., long. 149°53.5'W., direct to lat. 61°13.5'N., long. 149°45.1'W.

AMENDMENTS 7/10/80 45 F. R. 20783 (Rewritten)

Anchorage, Alaska (Elmendorf AFB)
Within a 5-mile radius of Elmendorf AFB (lat. 61°15.2'N., long. 149°47.5'W.); within 2 miles each side of the Elmendorf ILS localizer course extending from the 5-mile radius zone to a point 7.5 miles from the localizer antenna, excluding those portions within the Anchorage (Bryant AAF) and Anchorage (Merrill Field) control zones and the portion south of a line drawn between lat. 61°13.5'N., long. 149°45.1'W., direct to lat. 61°13.9'N., long. 149°43'W.

AMENDMENTS 7/10/80 45 F. R. 20783 (Added)

Anderson, Ind.
Within a 5-mile radius of Anderson Municipal Airport (lat. 40°06'30" N., long. 85°36'55" W.) and within 3.5 miles either side of the 298° bearing from Anderson Municipal Airport, extending from the 5-mile radius to 7.5 miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Anderson, S. C.
Within a 5-mile radius of Anderson County Airport (latitude 34°2[illegible]40" N., longitude 82°42'30" W.); within 1.5 miles each side of Electric City VORTAC 039° radial, extending from the 5-mile radius zone to 1.5 miles northeast of the VORTAC and within 3 miles each side of the 171° bearing from the Anderson County RBN (lat. 34°29'53"N., long. 82°42'31"W.), extending from the 5-mile radius zone to 8.5 miles south of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Aniak, Alaska
Within a 5-mile radius of the Aniak airport (lat. 61°35'N., long. 159°32'W.); within 3 miles each side of the 114°T (094°M) bearing from Aniak NDB, extending from the 5-mile radius zone to 8 miles SE of the NDB, and within 2 miles each side of the Aniak localizer (lat. 61°35'02"N., long. 159°33'01"W.) west course extending from the 5-mile radius zone to 6.5 miles west of the localizer. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Ann Arbor, Mich.

Within a 5-mile radius of the Ann Arbor, Mich. Airport (latitude 42°13'22" N., longitude 83°44'40" W.); excluding that portion which overlies the Detroit, Mich., Willow Run Airport control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Anniston, Ala.

Within a 5-mile radius of Anniston-Calhoun County Airport (latitude 33°35'23" N., longitude 85°51'20" W.); within 1 mile each side of the ILS localizer SW course, extending from the 5-mile radius zone to the OM.

Appleton, Wis.

Within a 5-mile radius of Outagamie County Airport (latitude 44°15'38" N., longitude 88°31'15" W.); and within 2½ miles each side of the 135°, 285° and 016° bearings from Outagamie County Airport, extending from the 5-mile radius zone to 5½ miles southeast, west, and north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Arcata, Calif.

Within a 5-mile radius of Arcata Airport (latitude 40°58'45" N., longitude 124°06'25" W.); and within 2 miles each side of the 219° bearing from the Arcata RBN, extending from the 5-mile radius zone to 8 miles SW of the RBN.

Ardmore, Okla.

Within a 5-mile radius of Ardmore Municipal Airport (latitude 34°18'00" N., longitude 97°00'50" W), within 2 miles either side of the Ardmore VOR 053° radial extending from the 5-mile radius zone to the VOR, and within 2 miles either side of the 085° bearing from the Springton RBN extending from the 5-mile radius zone to the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Artesia, Miss.

Within a 5-mile radius of Golden Triangle Regional Airport (lat. 33°26'48"N., long. 88°35'30"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 69282 (Changed)

Asheville, N. C.

Within a 5-mile radius of Asheville Municipal Airport (lat. 35°26'04" N., long. 82°32'25" W.); within 2.5 miles each side of the 340° bearing from Broad River RBN, extending from the 5-mile radius zone to 2 miles north of the RBN; within 2 miles each side of Runway 16/34 extended centerlines, extending from the 5-mile radius zone to the Broad River RBN and the Keans LOM.

AMENDMENTS 8/20/80 45 F. R. 47132 (Changed)

Aspen, Colo.

Within a 5-mile radius of the Aspen-Pitkin County (Sardy Field) Airport (lat. 39°13'30" N., long. 106°52'09" W.); within 3 miles each side of the 316° bearing from the Aspen Airport, extending from the 5-mile radius to 8.5 miles northwest of the Aspen Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Astoria, Oreg.

Within a 5-mile radius of Clatsop County Airport, Astoria, Oreg. (latitude 46°09'25" N., longitude 123°52'38" W.), within 2 miles each side of the Astoria VOR 268° radial, extending from the 5-mile radius zone to 8 miles W of the VOR, and within 4.5 miles each side of the Astoria VOR 309° radial, extending from the 5-mile radius zone to 16 miles NW of the VOR.

Athens, Ga.

Within a 5-mile radius of Athens Municipal Airport (lat. 33°56'54" N., long. 83°19'37" W.); within 3 miles each side of Athens VORTAC 076° and 195° radials, extending from the 5-mile radius zone to 8.5 miles east and south of the VORTAC.

Atlanta, Ga.

Within a 5-mile radius of The William B. Hartsfield Atlanta International Airport (lat. 33°38'31" N., long. 84°25'34" W.); within 2 miles each side of the Rex VORTAC 264° and 271° radials, extending from the 5-mile radius zone to 1 mile west of the VORTAC; within 2 miles each side of Atlanta ILS Runway 9R localizer west course, extending from the 5-mile radius zone to the LOM; within 2 miles each side of Atlanta ILS Runway 8 localizer west course, extending from the 5-mile radius zone to the LOM.

Atlanta, Ga. (Charlie Brown County Airport)

Within a 5-mile radius of Charlie Brown County Airport (lat. 33°46'35"N., long. 84°31'15"W.).

Atlanta, Ga. (Dobbins AFB/NAS Atlanta)

Within a 6-mile radius of Dobbins AFB/NAS Atlanta (Lat. 33°54'54"N., Long. 84°30'59"W.); within 1.5 miles each side of Dobbins TACAN 301° radial; extending from the 6-mile radius zone to 6.5 miles northwest of the TACAN; excluding the portion within the Atlanta, Ga., (Charlie Brown County Airport) control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

Atlantic City, N. J.

Within a 5-mile radius of the center latitude 39°27'22" N., longitude 74°34'41" W. of NAFEC Atlantic City Airport, Atlantic City, N. J.; within 3 miles each side of the Atlantic City VORTAC 303° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 3-mile radius of the center latitude 39°21'35" N., longitude 74°27'28" W. of Atlantic City Municipal-Bader Field, Atlantic City, N J.; within 2 miles each side of the Atlantic City VORTAC 136° radial, extending from the VORTAC to the 3-mile radius zone and within 1.5 miles each side of a 283° bearing from a point latitude 39°21'43" N., longitude 74°27'46" W., extending from said point to 5.5 miles west.

Augusta, Ga.

Within a 5-mile radius of Bush Field (latitude 33°22'10" N., longitude 81°57'55" W.); within 2 miles each side of Augusta ILS localizer south course, extending from the 5-mile radius zone to 0.5 miles north of the LOM; within a 5-mile radius of Daniel Field (latitude 33°27'55" N., longitude 82°02'25" W.); within 2 miles each side of Augusta VORTAC 135° radial, extending from the 5-mile radius zone to 2 miles southeast of the VORTAC.

Augusta, Maine

Within a 5-mile radius of the center, (lat. 44°19'N., long. 69°48'W.) of Augusta State Airport, Augusta, Maine; within 4.5 miles each side of the Augusta, Maine, VORTAC 328° radial extending from the 5-mile radius zone to 12 miles northwest of the Augusta VORTAC, and within 3 miles each side of the Augusta, Maine, VORTAC 156° radial extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC.

Aurora, Ill.

That airspace within a 5-mile radius of the Aurora Municipal Airport (latitude 41°46'20" N., longitude 88° 28'20" W.) and within 1½ miles either side of the DuPage VOR 217° radial extending from the 5-mile radius to 7½ miles NE of the Aurora Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Austin, Tex. (Bergstrom AFB)

Within a 5-mile radius of Bergstrom AFB (latitude 30°11'45" N., longitude 97°40'35" W.); within 2 miles each side of the Bergstrom ILS localizer S course, extending from the 5-mile radius zone to the LOM, excluding that portion within the Austin, Tex. (Robert Mueller Municipal Airport) control zone.

Austin, Tex. (Robert Mueller Municipal Airport)

Within a 5-mile radius of Robert Mueller Municipal Airport (latitude 30°17'35" N., longitude 97°42'00" W.); within 1.5 miles each side of the Austin VORTAC 304° radial extending from the 5-mile radius zone to 6 miles northwest of the Austin VORTAC; and within 1.5 miles each side of the Austin VORTAC 329° radial extending from the 5-mile radius zone to 6 miles northwest of the Austin VORTAC.

Baker, Oreg.

Within a 5-mile radius of Baker Municipal Airport (latitude 44°50'25" N., longitude 117°48'35" W.), and within 3 miles each side of the Baker VORTAC 318° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC. This control zone is effective during specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bakersfield, Calif.

Within a 5-mile radius of Meadows Field, Bakersfield, Calif., (lat. 35°25'40"N., long. 119°03'05"W.), within 1 mile each side of the Bakersfield ILS localizer northwest course, extending from the 5-mile radius zone to 11.5 miles northwest of the Bakersfield LOM and within 2 miles each side of the Bakersfield ILS localizer southeast course, extending from the 5-mile radius zone to the Bakersfield LOM.

Baltimore, Md. Baltimore-Washington International Airport

Within a 5-mile radius of the center 39°10'26" N., 76°40'12" W. of Baltimore Washington International Airport, Baltimore, Md.; within a 5.5-mile radius of the center of the airport, extending clockwise from a 200° bearing to a 304° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 304° bearing to a 125° bearing from the airport; within 3.5 miles each side of the Baltimore Washington International Airport ILS localizer west course, extending from the 5-mile radius to 9 miles west of the localizer; within 3.5 miles each side of the centerline of Baltimore Washington International Airport runway 10, extended to 8.5 miles east of the end of the runway; within 2 miles each side of the Baltimore Washington International Airport ILS localizer southeast course, extending from the localizer to 4.5 miles southeast of the localizer; within 2 miles each side of the Baltimore VORTAC 314° radial, extending from the VORTAC to 10.5 miles northwest of the VORTAC.

Baltimore, Md. Glenn L. Martin State Airport

Baltimore, Md. (Glenn L. Martin State Airport) Within a 5-mile radius of the center, 39°19'40"N., 76°24'57"W., of Glenn L. Martin State Airport, Baltimore, Md.; within 3 miles each side of a 129° bearing from the Martin, Md. RBN, extending from the 5-mile radius zone to 8.5 miles southeast of the RBN; within 5 miles each side of a 17-mile radius arc of the Baltimore, Md. VORTAC, extending clockwise from the Baltimore, Md. VORTAC 030° radial to the Baltimore, Md. VORTAC 046° radial. This control zone is effective from 0700 to 2300 hours, local time, daily.

Bangor, Maine

Within a 5-mile radius of the center, lat. 44°48'28" N., long. 68°49'41" W. of Bangor International Airport, Bangor, Maine; within 2.5 miles each side of the Bangor, Maine, VORTAC 318° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; within 3.5 miles each side of the Bangor ILS localizer southeast course, extending from the 5-mile radius zone to 11.5 miles southeast of the OM.

AMENDMENTS 7/3/80 45 F. R. 45265 (Changed)

Bartlesville, Okla.

Within a 5-mile radius of the Phillips Airport (latitude 36°45'46" N., longitude 96°00'38" W.), excluding the area north of latitude 36°46'00" N., and east of longitude 95°58'30" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Baton Rouge, La.

Within a 5-mile radius of Ryan Airport (latitude 30°31'55" N., longitude 91°09'00" W.), within 1 mile each side of the Baton Rouge ILS localizer southeast course extending from the 5-mile radius zone to 6.8 miles southeast of Ryan Airport, and within 2 miles each side of the Baton Rouge VORTAC 071° radial extending from the 5-mile radius zone to 1 mile east of the VORTAC.

Battle Creek, Mich.

Within a 5-mile radius of Kellogg Field (latitude 42°18'31" N., longitude 85°14'57" W.) within 2 miles each side of the Battle Creek VORTAC 050°, 117° and 215° radials extending from the 5-mile radius zone to 8 miles NE, SE and SW of the VORTAC; and within 2 miles each side of the Kellogg Field ILS localizer SW course extending from the 5-mile radius zone to 5 miles SW of the approach end of runway 4. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Beaufort, S. C.

Within a 5-mile radius of Beaufort MCAS (lat. 32°28'53"N., long. 80°43'10"W.); within 3 miles each side of the 033° bearing from the Beaufort MCAS UHF RBN extending from the 5-mile radius zone to 8.5 miles northeast of the RBN.

AMENDMENTS 10/30/80 45 F. R. 56335 (Changed)

Beaumont, Tex.

Within a 7-mile radius of Jefferson County Airport (latitude 29°57'05" N., longitude 94°01'10" W.).

Beaver Falls, Pa.

Within a 5-mile radius of the center, 40°46'21"N., 80°23'37"W., of Beaver County Airport, Beaver Falls, Pa., within 1.5 miles each side of the Ellwood City, Pa., VORTAC 248° radial, extending from the 5-mile radius zone to 1.5 miles west of the VORTAC. This control zone is effective from 0900 to 2100 hours, local time daily June 1, through August 31, and from 0900 to 1700 hours, local time daily September 1, through May 31.

Beckley, W. Va.

Within a 6.5-mile radius of the center, 37°46'54"N., 81°07'27"W., of Raleigh County Memorial Airport, Beckley, W. Va.; within 3 miles each side of the Beckley VORTAC 284° radial, extending from the 6.5-mile radius zone to 8.5 miles west of the VORTAC; within 3 miles each side of the Beckley VORTAC 001° radial, extending from the 6.5-mile radius zone to 8.5 miles north of the VORTAC, and within 4 miles each side of the Beckley VORTAC 200° radial, extending from the 6.5-mile radius zone to 10.5 miles south of the VORTAC.

Bedford, Mass.

Within a 5-mile radius of Hanscom Airport (latitude 42°28'04" N., longitude 71°17'23" W.); within 2 miles each side of the Bedford ILS localizer W course extending from the 5-mile radius zone to 8 miles W of the LOM; within 2 miles each side of the extended centerline of Runway 23 extending from the 5-mile radius zone to 6 miles SW of the lift-off end of the runway; within 2 miles each side of the extended centerline of Runway 5 extending from the 5-mile radius zone to 6 miles NE of the lift-off end of the runway; and within a 1-mile radius of Erickson Airport (latitude 42°27'50" N., longitude 71°31'00" W.).

This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Beeville, Tex.

That airspace within a 5-mile radius of NAAS Chase Field, Beeville, Tex. (latitude 28°21'50" N., longitude 97°39'40" W.); within 2 miles each side of the NAAS Chase TACAN 129° and 321° radials extending from the 5-mile radius zone to 7 miles SE and NW of the TACAN.

Belleville, Ill.

Within a 5-mile radius of Scott AFB, Belleville, Ill. (latitude 38°32'30" N., longitude 89°51'05" W.), and within 2 miles each side of the 317° bearing from the Belleville RBN, extending from the 5-mile radius zone to 5.5 miles SE of the SE end of Scott AFB Runway 31.

Bellingham, Wash.

Within a 5-mile radius of Bellingham International Airport (latitude 48°47'40" N., longitude 122°32'13" W.); within 2 miles each side of the Bellingham VORTAC 169° radial extending north from the 5-mile radius zone to 3 miles south of the VORTAC.

Bemidji, Minn.

Within a 5-mile radius of Bemidji Municipal Airport (latitude 47°30'30" N., longitude 94°55'55" W.); within 1½ miles each side of the Bemidji VORTAC 138° radial, extending from the 5-mile radius zone to the VORTAC; and within 3½ miles each side of the 262° bearing from Bemidji Municipal Airport, extending from the 5-mile radius zone to 8 miles west of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Benton Harbor, Mich.

Within a 5-mile radius of Ross Field (latitude 42°07'40" N., longitude 86°25'40" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bethel, Alaska

Within a 5-mile radius of the Bethel Airport (latitude 60°46'54" N., longitude 161°50'06" W.); within 3 miles each side of the Bethel compass locator (ET) 023° bearing, extending from the 5-mile radius zone to 8.5 miles northeast of the compass locator; within 3 miles each side of the Bethel VORTAC 007° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; and within 3 miles each side of the Bethel VORTAC 214° radial, extending from the 5-mile radius zone to 9 miles southwest of the VORTAC.

Bettles, Alaska

Within a 5-mile radius of the Bettles Airport (latitude 66°54'57" N., longitude 151°31'31" W.); within 4 miles each side of the Evansville NDB 214° bearing extending from the 5-mile radius zone to 8.5 miles southwest of the NDB; and within 3 miles each side of the Bettles VORTAC 227° radial extending from the 5-mile radius zone to 9.5 miles southwest of the VORTAC.

This control zone is effective during dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the United States Government Flight Information Publication Supplement Alaska.

Beverly, Mass. (Beverly Municipal Airport)

Within a 5-mile radius of Beverly Municipal Airport (latitude 42°35'06" N., longitude 70°55'06" W.), and within 3.5 miles each side of the 333° bearing from the Topsfield RBN, extending 8 miles northwest of the NDB. This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established by a Notice to Airmen which, thereafter, will be continuously published in the Airport/Facility Directory.

Big Delta, Alaska

That airspace within a 5-mile radius of the Allen AAF, Fort Greeley, Alaska, (lat. 63°59'37"N., long. 145°43'08" W.) and within 4.5 miles each side of the Big Delta VORTAC 040° radial extending from the 5-mile radius zone to 11 miles northeast. This control zone is effective from 0600 to 2200 hours local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Billings, Mont.

Within a 5-mile radius of Logan Field Airport (latitude 45°48'25" N., longitude 108°31'55" W.); within 4 miles each side of the Billings ILS west localizer course extending from the 5-mile radius zone to 8 miles west of the OM; within 3.5 miles each side of the Billings VORTAC 267° radial extending from the 5-mile radius zone to 8 miles west of the VORTAC; within 2 miles each side of the Billings VORTAC 095° radial extending from the 5-mile radius zone to 12 miles east of the VORTAC; and within 2 miles each side of the Billings ILS east localizer course extending from the 5-mile radius zone to Lockwood NDB.

Biloxi, Miss.

Within a 5-mile radius of Keesler AFB (latitude 30°24'39"N., longitude 88°55'26"W.); within 1.5 miles each side of Keesler TACAN 041° and 203° radials, extending from the 5-mile radius zone to 7 miles northeast and southwest of the TACAN; excluding the portion west of long. 89°00'00" W. This control zone is effective from 0600 to 2300 hours, local time, daily.

Binghamton, N.Y.

Within a 5-mile radius of the center of Broome County Airport, Binghamton, N.Y., 42°12'35" N., 75°58'46" W.; within 2 miles each side of the Binghamton VOR 066° radial extending from the 5-mile radius zone to the VOR and within 2 miles each side of the airport ILS localizer SE course extending from the 5-mile radius zone to 2 miles SE of the OM.

Birmingham, Ala.

Within a 5-mile radius of Birmingham Municipal Airport (latitude 33°33'50" N., longitude 86°45'30" W.); within 2 miles each side of Birmingham ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM; within 3 miles each side of the 056° and 236° bearings from Roebuck RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN.

Bismarck, N. Dak.

Within a 5½-mile radius of Bismarck Municipal Airport (latitude 46°46'40" N., longitude 100°45'05" W.); and within 2 miles each side of the Bismarck ILS localizer southeast course, extending from the 5½-mile radius zone to 1 mile northwest of the OM.

Bloomington, Ill.

Within a 5-mile radius of Bloomington Normal Airport (latitude 40°28'55" N., longitude 88°55'40" W.); and within 2½ miles each side of the Bloomington VOR 043°, 103°, and 319° radials, extending from the 5-mile radius zone to 6½ miles northeast, east and northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bloomington, Ind.

Within a 5-mile radius of Monroe County Airport (latitude 39°08'35" N., longitude 86°37'00" W.); within 3 miles each side of the Bloomington VORTAC 181° radial, extending from the 5-mile radius zone to 10½ miles south of the VORTAC; within 3 miles each side of the Bloomington VORTAC 062° radial, extending from the 5-mile radius zone to 11 miles northeast of the VORTAC; within 3 miles each side of the Bloomington VORTAC 341° radial; extending from the 5-mile radius zone to 10½ miles north of the VORTAC; and within 3 miles each side of the Bloomington VORTAC 236° radial, extending from the 5-mile radius zone to 9½ miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bluefield, W. Va.

Within a 5.5-mile radius of the center, lat. 37°17'45" N., long. 81°12'29" W., of Mercer County Airport, Bluefield, W. Va.; within a 7.5-mile radius of the center of the airport, extending clockwise from a 079° bearing from the airport to a 125° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 170° bearing from the airport to a 239° bearing from the airport; within 3 miles each side of the Bluefield VORTAC 047° radial, extending from the 5.5-mile radius zone to 9.5 miles northeast of the VORTAC and within 4.5 miles each side of the Bluefield VORTAC 224° radial, extending from the 5.5-mile radius zone to 17 miles southwest of the VORTAC.

Blythe, Calif.

Within a 5-mile radius of Blythe Airport (Lat. 33°37'15" N, Long. 114°43'00" W).

Blytheville, Ark.

Within a 5-mile radius of Blytheville AFB (lat. 35°57'50"N., long. 89°56'40"W.), within 3 miles each side of the Gosnell VOR 357° radial (lat. 35°57'03"N., long. 89°56'28"W.), extending from the 5-mile radius zone to 8.5 miles north of the VOR, and within 1.5 miles each side of the Blytheville TACAN 188° radial (lat. 35°57'23"N., long. 89°56'26"W.), extending from the 5-mile radius zone to 5.5 miles south of the TACAN.

Bogue, N.C.

Within a 5-mile radius of MCALF Bogue Field, N.C., (latitude 34°41'25"N., longitude 77°01'46"W.). This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Boise, Idaho

Within a 5-mile radius of the Boise Air Terminal (latitude 43°33'55" N., longitude 116°13'30" W.); within 2 miles each side of the Boise VORTAC 304° radial, extending from the 5-mile radius zone to 12 miles northwest of the VORTAC; within 2 miles each side of the Boise VORTAC 319° radial extending from the 5-mile radius zone to 12 miles northwest of the VORTAC, within 5 miles each side of the Boise VORTAC 114° radial, extending from the 5-mile radius area to 12 miles southeast of the VORTAC; and within 2 miles west and 5 miles east of the Boise VORTAC 179° radial extending from the 5-mile radius area to 7 miles south of the VORTAC.

Boston, Mass.

Within an 8-mile radius of the Logan International Airport (latitude 42°21'55" N., longitude 71°00'05" W.).

Bowling Green, Ky.

Within a 5-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 4.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 5-mile radius zone to 10 miles southwest of the VORTAC.

Bozeman, Mont.

Within a 7-mile radius of Gallatin Field (latitude 45°46'50" N., longitude 111°09'20" W.).

Bradford, Pa.

Within a 5-mile radius of the center 41°48'09" N., 78°38'27" W. of Bradford Regional Airport, Bradford, Pa.; within 3.5 miles each side of the Bradford, Pa., VORTAC 139° radial, extending from the VORTAC to 10 miles southeast of the VORTAC.

Brainerd, Minn.

Within a 5-mile radius of Brainerd-Crow Wing County Airport (lat. 46°23'52"N., long. 94°08'12"W.); within 2½ miles each side of the 040° bearing from the Brainerd-Crow Wing County Airport extending from the 5-mile radius zone to 7 miles northeast of the airport; within 1½ miles each side of the 120° bearing from the airport extending from the 5-mile radius zone to 6 miles southeast of the airport; within 2½ miles each side of the 198° bearing from the airport extending from the 5-mile radius zone to 6 miles south of the airport; within 2½ miles each side of the 247° bearing from the airport extending from the 5-mile radius zone to 7 miles southwest of the airport; and within 1½ miles each side of the 302° bearing from the airport extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. This effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bremerton, Wash.

Within a 5-mile radius of Kitsap County Airport (latitude 47°29'35" N., longitude 122°45'35"W.), within 3 miles each side of the 209° bearing from the Kitsap RBN (latitude 47°29'48" N., longitude 122°45'36" W.) extending from the 5-mile radius to 8 miles SW of the RBN, and within 2 miles each side of the 028° bearing from the Kitsap RBN extending from the 5-mile radius zone to 7 miles northeast of the RBN. This control zone will be effective during the times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Bridgeport, Conn.

That airspace within a 5.5-mile radius of the center, latitude 41°09'48" N., longitude 73°07'34" W. of the Igor I. Sikorsky Memorial Airport, Bridgeport, Conn., extending clockwise from a 008° bearing to a 058° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 058° bearing to a 276° bearing from the airport; within a 5.5-mile radius of the airport extending clockwise from a 276° bearing to a 311° bearing from the airport and within a 6-mile radius of the center of the airport extending clockwise from a 311° bearing to a 008° bearing from the airport. This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Brookings, S. Dak.

That airspace within a 5-mile radius of Brookings, S. Dak., Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 2.5 miles each side of the Brookings VOR 316° radial extending from the 5-mile radius zone to 7 miles northwest of the VOR and within 2.5 miles each side of the Brookings VOR 118° radial extending from the 5-mile radius zone to 8.5 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Broomfield, Colo.

That airspace within a 5-mile radius of Jeffco Airport (latitude 39°54'30" N., longitude 105°06'50" W.). This control zone shall be effective during the specific dates and/or times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Brownsville, Tex.

That airspace overlying the United States within a 5-mile radius of Brownsville International Airport (latitude 25°54'25" N., longitude 97°25'25" W.), within 2 miles each side of the Brownsville VORTAC 071° radial extending from the 5-mile radius zone to 8 miles east of the VORTAC, and within 2 miles each side of the Brownsville ILS localizer northwest course extending from the 5-mile radius zone to the OM.

Brunswick, Ga. (Malcolm-McKinnon Airport)

Within a 5-mile radius of Malcolm-McKinnon Airport (latitude 31°09'05" N., longitude 81°23'20" W.); within 1.5 miles each side of the Brunswick VOR 022° radial, extending from the 5-mile radius zone to the VOR, excluding the portion within a 1.5-mile radius of Brunswick Municipal Airport (latitude 31°11'10" N., longitude 81°28'50" W.).

Brunswick, Maine

Within a 5-mile radius of NAS Brunswick (lat. 43°53'35"N., long. 69°56'20"W.) within 2 miles each side of the NAS Brunswick VORTAC 167° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC within 2 miles each side of the NAS Brunswick VORTAC 025° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Buffalo, N. Y.

Within a 5-mile radius of the center, 42°56'20" N., 78°43'50" W., of Greater Buffalo International Airport, Buffalo, N. Y.; within 2 miles each side of the Greater Buffalo International Airport northeast localizer course extending from the 5-mile radius zone to the OM; within 2 miles each side of the Greater Buffalo International Airport southwest localizer course extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Buffalo VORTAC 096° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC excluding the portion within a 1-mile radius of Buffalo Airpark, 42°51'45" N., 78°43'00" W.

Burbank, Calif.

Within a 5-mile radius of Hollywood-Burbank Airport, Calif. (latitude 34°12'15" N., longitude 118°21'30" W.), excluding the portion west of a line from latitude 34°16'00" N., longitude 118°25'55" W., to latitude 34°09'25" N., longitude 118°25'40" W., and the portion within a 1-mile radius of Whiteman Airpark, Pocoima, Calif. (latitude 34°15'35" N., longitude 118°24'45" W.).

Burley, Idaho

Within a 5-mile radius of Burley Municipal Airport (latitude 42°32'30" N., longitude 113°46'20" W.); within 3.5 miles each side of the Burley VORTAC 121° radial, extending from the 5-mile radius zone to 17.5 miles southeast of the VORTAC; within 3 miles each side of the Burley VORTAC 323° radial, extending from the 5-mile radius zone to 6 miles northwest of the VORTAC; within 3 miles each side of the Burley VORTAC 301° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; and within 1.5 miles each side of the 036° bearing from the Burley Municipal Airport extending from the 5-mile radius zone to 8 miles northeast of the airport.

Burlington, Iowa

Within a 5-mile radius of Burlington Municipal Airport (latitude 40°46'55" N., longitude 91°07'40" W.); within 3 miles each side of the 293° radial of the Burlington VORTAC extending from the 5-mile radius zone to 2 miles northwest of the VORTAC.

Burlington, Vt.

Within a 7-mile radius of the center, (lat. 44°28'17"N., long. 73°09'13"W.), of Burlington International Airport, Burlington, Vt., within 2.5 miles each side of Runway 33, extending from the 7-mile radius zone to 8 miles southeast of the runway end; within 3 miles each side of the Burlington, Vt., VORTAC 201° radial, extending from the 7-mile radius zone to 8.5 miles southwest of the VORTAC.

Butte, Mont.

Within a 5-mile radius of the Bert Mooney-Silver Bow County Airport, Butte, Mont., (lat. 45°57'15"N., long. 112°29'50"W.) and within 2 miles each side of the Butte VORTAC 115° radial extending from the 5-mile radius zone to the VORTAC; within 3 miles each side of the Bert Mooney-Silver Bow County Airport Runway 15 localizer course extending from the 5-mile radius zone to a point 13 miles northwest of the airport.

Caldwell, N. J.

Within a 5-mile radius of the center lat. 40°52'24"N., long. 74°17'00"W., of Essex County Airport; within 3 miles each side of a 276° bearing from a point lat. 40°52'48"N., long. 74°20'08"W., extending from the 5-mile radius zone to 8.5 miles west of said point; within 3 miles each side of a 237° bearing and a 057° bearing from the Paterson, N. J., RBN, extending from the 5-mile radius zone to 0.5 mile northeast of the RBN; within 3 miles each side of a 054° bearing from the Paterson, N. J., RBN, extending from the RBN to 8.5 miles northeast of the RBN; excluding the portion that coincides with the Morristown, N. J., control zone. This control zone is effective from 0800 to 2200 hours, local time, daily.

Calverton, N. Y.

Within a 5-mile radius of the center, lat. 40°54'55"N., long. 72°47'43"W., of Peconic River Plant (Grumann) Airport, Calverton, N. Y.; within 3 miles each side of the Calverton, N. Y., VORTAC 210° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective from 0800 to 1630 hours, local time, Monday through Friday.

Camp Douglas, Wis.

Within a 5-mile radius of Volk Field, Camp Douglas, Wis. (latitude43°56'25" N., longitude 90°15'20" W.). and within 2 miles each side of the Volk Field VORTAC 092° radial extending from the 5-mile radius zone to 12 miles E of the VORTAC. This control zone shall be effective during the specific dates and/or time established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Camp Pendleton, Calif.

Within a 3-mile radius of Camp Pendleton, MCAF (lat. 33°18'04"N., long. 117°21'06"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Camp Springs, Md.

Within a 5-mile radius of the center, 38°48'39" N., 76°52'02" W. of Andrews AFB, Camp Springs, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 7.5 miles north of the VORTAC; within 2.5 miles each side of the Andrews VORTAC 180° radial, extending from the VORTAC to 7 miles south of the VORTAC, excluding the portion within a 1-mile radius of the center 38°44'58" N., 76°55'58" W. of Hyde Field, Clinton, Md., excluding the west portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Washington, D. C., control zone.

Cape Girardeau, Mo.

Within a 5-mile radius of Cape Girardeau Municipal Airport (latitude 37°13'30" N., longitude 89°34'10" W.), within 2½ miles each side of the Cape Girardeau VOR 194°, 036° and 279° radials, extending from the 5-mile radius to 6½ miles south-northeast and west of the VOR.

Carbondale, Ill.

Within a 5-mile radius of the Southern Illinois Airport (latitude 37°46'45" N., longitude 89°15'00" W.). This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Carlsbad, N. Mex.

Within a 5-mile radius of Cavern City Air Terminal (lat. 32°20'14"N., long. 104°15'46"W.) and within 3.5 miles each side of the Carlsbad VOR 336° and 156° radials extending from the 5-mile-radius zone to 10 miles southeast of the VOR and 2.5 miles each side of the Carlsbad VOR 334° radial extending from the 5-mile-radius zone to 12.5 miles northwest of the VOR.

Casper, Wyo.

That airspace within 5 miles each side of the Casper VORTAC 216° radial extending from the VORTAC to 33 miles southwest of the VORTAC and within 3 miles each side of the ILS localizer west course, extending from 1 mile east to 10 miles west of the Johnson LOM.

Cedar City, Utah

Within a 5-mile radius of Cedar City Municipal Airport (latitude 37°42'05" N., longitude 113°05'52" W.) and within 2 miles on each side of the Cedar City VOR 195° radial extending from the 5-mile radius zone to the VOR.

Cedar Rapids, Iowa

Within a 5-mile radius of Cedar Rapids Municipal Airport (latitude 41°53'05" N., longitude 91°42'35" W.); within 3 miles each side of the Cedar Rapids VORTAC 094° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC; and within 3 miles each side of the Cedar Rapids VORTAC 264° radial, extending from the 5-mile radius zone to 9 miles west of the VORTAC.

Chadron, Nebr.

Within a 5-mile radius of Chadron Municipal Airport (lat. 42°50'00" N., long. 103°05'50" W.); and within 2 miles each side of the 010° bearing from the Chadron Municipal Airport, extending from the 5-mile radius zone to 8 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Chamblee, Ga.

Within a 5-mile radius of De Kalb-Peachtree Airport (latitude 33°52'30" N., longitude 84°18'10" W.); within 1.5 miles each side of Norcross VORTAC 242° radial, extending from the 5-mile radius zone to 1 mile southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Champaign, Ill.

Within a 5-mile radius of the University of Illinois-Willard Airport (latitude 40°02'25" N., longitude 88°16'35" W.); within 2 miles each side of the Champaign VORTAC 123°, 237° and 328° radials, extending from the 5-mile radius zone to 12 miles southeast, southwest, and northwest of the VORTAC; and within 2 miles each side of the University of Illinois-Willard Airport ILS localizer southeast course, extending from the 5-mile radius zone to the OM.

Chandler, Ariz.

Within a 5-mile radius of Williams AFB (latitude 33°18'30" N., longitude 111°39'27" W.), within 3 miles each side of the Chandler VORTAC 130° radial, extending from the 5-mile radius zone to 9 miles SE of the VORTAC, within 2 miles each side of the Chandler VORTAC 319° radial, extending from the 5-mile radius zone to 9 miles NW of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Chantilly, Va.

Within a 5.5-mile radius of the center, 38°56'40" N., 77°27'24" W., of Dulles International Airport; within a 6-mile radius of the center of the airport extending clockwise from a 063° bearing to a 160° bearing from the airport; within 2.5 miles each side of the Dulles International Airport runway 1R ILS localizer course, extending from the 5.5-mile radius zone to 0.5 miles north of the OM; within 2 miles each side of the extended centerline of Dulles International Airport runway 30, extending from the west end of runway 30 to 5.5 miles west and within 3.5 miles each side of the Dulles International Airport runway 19R ILS localizer course, extending from the 5.5-mile radius zone to 10 miles north of the OM.

Chanute, Kans.

Within a 5-mile radius of Chanute Martin Johnson Airport (latitude 37°40'05" N., longitude 95°29'10" W.).

Charleston, S. C.

Within a 5-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within 3.5 miles each side of Charleston VORTAC 018° and 332° radials, extending from the 5-mile radius zone to 10 miles north and northwest of the VORTAC; within 2.5 miles each side of Charleston VORTAC 135° radial, extending from the 5-mile radius zone to 5.5 miles southeast of the VORTAC; within 3.5 miles each side of Charleston VORTAC 211° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC.

Charleston, W. Va.

Within a 5.5-mile radius of the center, 38°22'22" N., 81°35'35" W., of Kanawha Airport, Charleston, W. Va.; within a 6-mile radius of the center of the Kanawha Airport, extending clockwise from a 319° bearing to a 229° bearing from the airport; within 2 miles each side of the extended centerline of Runway 5, extending from the 5.5-mile radius to 6.5 miles northeast of the lift-off end of Runway 5; within 1.5 miles each side of the extended centerline of Runway 14, extending from the 5.5-mile radius to 6.5 miles southeast of the lift-off end of Runway 14; within 2 miles each side of the Charleston VORTAC 081° radial, extending from the 5.5-mile radius to 2 miles east of the VORTAC; within 2 miles each side of the extended centerline of Runway 23 extending from the 5.5-mile radius to 6.5 miles southwest of the lift-off end of Runway 23 and within 2 miles each side of the extended centerline of Runway 32, extending from the 5.5-mile radius to 6.5 miles northwest of the lift-off end of Runway 32.

Charlotte, N. C.

Within a 5-mile radius of Douglas Municipal Airport (latitude 35°12'53" N., longitude 80°56'18" W.); within 3 miles each side of Charlotte VORTAC 003° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 2 miles each side of Charlotte VORTAC 058° radial, extending from the 5-mile radius zone to 6 miles northeast of the VORTAC; within 2 miles each side of Charlotte VORTAC 223° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the VORTAC; within 2 miles each side of Charlotte ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM.

Charlotte Amalie, St. Thomas, V. I. (Harry S. Truman Airport)

Within a 6-mile radius of Harry S. Truman Airport (lat. 18°20'26" N., long. 64°58'11" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Charlottesville, Va.

Within a 5-mile radius of the center, lat. 38°08'25" N., long. 78°27'09" W., of Charlottesville-Albemarle Airport, Charlottesville, Va., and within 2.5 miles each side of the Charlottesville-Albermarle Airport ILS localizer southwest course, extending from the 5-mile radius zone to 2.5 miles northeast of the Azalea Park RBN.

Chattanooga, Tenn.

Within a 5-mile radius of Lovell Field (latitude 35°02'05" N., longitude 85°12'10" W.); within 2 miles each side of Chattanooga ILS localizer north course, extending from the 5-mile radius zone to 2.5 miles southwest of Daisy RBN; within 1 mile each side of Chattanooga ILS localizer south course, extending from the 5-mile radius zone to 0.5 mile north of Chattanooga VORTAC 263° radial.

Cherry Point MCAS, N. C.

The airspace within a 5-mile radius of Cherry Point MCAS (latitude 34°54'30" N., longitude 76°53'00" W.); within 1.5 miles each side of the 316° bearing from Cherry Point RBN, extending from the 5-mile radius zone to 1.5 miles northwest of the RBN.

Chesterfield (Spirit of St. Louis), Mo.

Within a 5-mile radius of Spirit of St. Louis Airport (lat. 38°39'35"N., long. 90°38'45"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cheyenne, Wyo.

Within a 5-mile radius of Cheyenne Municipal Airport (latitude 41°09'20" N., longitude 104°48'30" W.) and within 2 miles each side of the Cheyenne ILS localizer E course, extending from the 5-mile radius zone to the OM.

Chicago, Ill. (Midway Airport)

Within a 5-mile radius of Chicago Midway Airport (latitude 41°47'04" N., longitude 87°45'12" W.); and within 2 miles each side of the Chicago Midway ILS localizer SE course extending from the 5-mile radius zone to 8 miles SE of the Kedzie RBN; and within 2 miles each side of the Chicago Midway ILS localizer NW course extending from the 5-mile radius zone to the OM.

Chicago, Ill. (Meigs Airport)

Within a 3-mile radius of Meigs Airport (latitude 41°51'30" N., longitude 87°36'30" W.) from 0600 to 2400 hours, local time, daily.

Chicago, Ill. (O'Hare International Airport)

Within a 5-mile radius of O'Hare International Airport (latitude 41°58'57" N., longitude 87°54'25" W.); within 2 miles each side of the O'Hare International Airport runway 14R and 14L ILS localizer courses, extending from the 5-mile radius zone to 7 miles northwest of the airport; and within 2 miles each side of the O'Hare International Airport runway 32R and 32L ILS localizer courses, extending from the 5-mile radius zone to 7 miles southeast of the airport.

Chico, Calif.

Within a 5-mile radius of Chico Municipal Airport (lat. 39°47'45"N., long. 121°51'25"W.); within 3 miles each side of the Chico VOR 316° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR and within 2 miles each side of the Chico Municipal Airport Runway 13 localizer northwest course extending from the 5-mile radius zone to 6.5 miles northwest of the airport, excluding the portion within a 1-mile radius of Ranchaero Airport, Chico, Calif., (lat. 39°43'10"N., long. 121°52'10"W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Childress, Tex.

Within a 5-mile radius of the Childress Municipal Airport (latitude 34°25'55" N., longitude 100°17'45" W.) and within 2 miles each side of the Childress VOR 182° radial, extending from the 5-mile radius zone to 8 miles S of the VOR.

China Lake, Calif.

Within a 5-mile radius of NAF China Lake (latitude 35°41'15" N., longitude 117°41'35" W.) and within 2 miles each side of the NAF China Lake TACAN 350° and 148° radials extending from the 5-mile radius zone to 8 miles N and SE of the TACAN.

Chincoteague, Va.

Within a 5-mile radius of NASA Wallops Station Airport, Chincoteague, Va. (latitude 37°56'15" N., longitude 75°28'15" W.) and within 2 miles each side of the Snow Hill, Md., VOR 181° radial, extending from the 5-mile radius zone to 2.5 miles south of the VOR. This control zone is effective from 0730 to 1730 hours, local time, Monday through Friday, excluding Federal legal holidays.

Chino, Calif.

Within a 3-mile radius of Chino, Calif., Airport (lat. 33°58'30" N., long. 117°38'10" W.) and within 1.5 miles each side of the Ontario, Calif., VORTAC 303° radial, extending from the 3-mile radius area to 1 mile northwest of the VORTAC. This control zone shall be effective during the specific dates and times published in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Christiansted, St. Croix, V. I.

Within a 5-mile radius of Alexander Hamilton Airport (lat. 17°42'13" N., long. 64°47'54" W.); within 3 miles each side of St. Croix VOR 068° and 248° radials, extending from the 5-mile radius zone to 8.5 miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cincinnati, Ohio

Within a 5-mile radius of Cincinnati Municipal-Lunken Field Airport (latitude 39°06'14" N., longitude 84°25'18" W.) within 2 miles each side of Runway 20L ILS localizer northeast course, extending from the 5-mile radius zone to 6.5 miles northeast of the airport; and within 1.5 miles each side of the 227° bearing from Lunken RBN, extending from the 5-mile radius zone to the RBN.

Clarksburg, W. Va.

Within a 5.5-mile radius of the center, lat. 39°17'44" N., long. 80°13'46" W. of Benedum Airport; within 3 miles each side of the Clarksburg VOR 219° radial, extending from the 5.5-mile radius zone to 8.5 miles southwest of the VOR; and within 2.5 miles each side of the Benedum Airport ILS localizer northeast course, extending from the 5.5-mile radius zone to 1 mile southwest of the OM. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be published continuously in the Airport/Facility Directory.

Clarksville, Tenn.

Within a 5-mile radius of Outlaw Field (lat. 36°37'15"N., long. 87°24'52"W.); within 3 miles each side of Clarksville VOR 171° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR; excluding that portion which coincides with the Hopkinsville, Ky., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cleveland, Ohio (Burke-Lakefront Airport)

Within a 5-mile radius of the Burke-Lakefront Airport (latitude 41°31'02" N., longitude 81°41'04" W.); within 2 miles each side of the Burke-Lakefront ILS localizer northeast course, extending from the 5-mile radius zone to the OM, excluding the portion overlying the Cleveland, Ohio (Cleveland-Hopkins International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cleveland, Ohio (Cleveland-Hopkins International Airport)

Within a 5-mile radius of the Cleveland-Hopkins International Airport (latitude 41°24'37" N., longitude longitude 81°50'56" W.).

Cleveland, Ohio (Cuyahoga County Airport)

Within a 5-mile radius of the Cuyahoga County Airport (latitude 41°34'00" N., longitude 81°29'30" W.); within 2½ miles each side of the 050° bearing from the Cuyahoga County RBN extending from the 5-mile radius zone to 5 miles northeast of the RBN, excluding the portion within the Cleveland, Ohio (Burke-Lakefront Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Clinton, Iowa

That airspace extending upward from the surface within a 5-mile radius of the Clinton Airport (lat. 41°49'55"N., long. 90°19'45"W.) and within 3 miles each side of Davenport VORTAC; 044° radial, extending from the 5-mile radius area to the VORTAC; and within 3 miles each side of the Clinton NDB 327° bearing from the airport, extending from the 5-mile radius area to 8½ miles northwest; and within 2½ miles each side of the 030° bearing from the Clinton Airport, extending from the 5-mile radius area to 6 miles northeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Clinton, Okla. (Clinton-Sherman Airport)

Within a 5-mile radius of Clinton-Sherman Airport (latitude 35°20'25" N., longtiude 99°12'00" W.), and within 2 miles each side of the extended centerline of Clinton-Sherman Runways 17 and 35 extending from 7 miles north to 6 miles south of the ends of the runways. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Clovis, N. Mex.

Within a 6-mile radius of Cannon AFB, N. Mex. (latitude 34°23'01" N., longitude 103°18'58" W.); within 2 miles each side of the Cannon AFB TACAN 040° radial extending from the 6-mile radius zone to 9.5 miles northeast of the TACAN; within 2 miles each side of a 045° bearing from latitude 34°18'45" N., longitude 103°24'32" W., extending from the 6-mile radius zone to latitude 34°18'45" N., longitude 103°24'32" W.; within 2 miles each side of the Cannon AFB TACAN 230° radial extending from the 6-mile radius zone to 9.5 miles southwest of the TACAN, and within 2 miles each side of the Cannon AFB TACAN 232° radial extending from the 6-mile radius zone to 7 miles southwest of the TACAN. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cocoa (Patrick AFB), Fla.

Within a 5-mile radius of Patrick AFB (lat. 28°14'21"N., long. 80°36'28"W.); excluding the portion south of a line connecting the 2 points of intersection within a 5-mile radius circle centered on Melbourne Regional Airport (lat. 28°06'06"N., long. 80°38'36"W.). This control zone is effective from 0700 to 2300 hours, local time, daily.

Cody, Wyo.

Within a 5-mile radius of the Cody Municipal Airport, Cody, Wyo. (latitude 44°31'09" N., longitude 109°01'25" W.), and within 1.5 miles each side of the Cody, Wyo., VOR 202° radial, extending from the 5-mile radius zone to the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cold Bay, Alaska

Within a 5-mile radius of the Cold Bay Airport (lat. 55°12'06" N., long. 162°43'28" W.); within 3 miles each side of the 339° bearing from the Cold Bay LOM, extending from the 5-mile radius zone to 10.5 miles north of the LOM, and within 5 miles west and 2.5 miles east of the Cold Bay VORTAC 150° radial, extending from the 5-mile radius zone to 18 miles south of the VORTAC.

College Station, Tex.

Within a 5-mile radius of Easterwood Field, College Station, Tex. (latitude 30°35'00" N., longitude 96°22'00" W.), within 2 miles each side of the College Station VOR 287° radial extending from the 5-mile radius zone to 8 miles west of the VOR, within 2 miles each side of the College Station VOR 307° radial extending from the 5-mile radius zone to 9 miles northwest of the VOR, and within 2 miles each side of the College Station VOR 107° radial extending from the 5-mile radius zone to 10 miles east of the VOR.

Colorado Springs, Colo.

Within a 6-mile radius of City of Colorado Springs Municipal Airport, Colorado Springs, Colo., (latitude 38°48'35" N., longitude 104°42' 20" W.); within 2 miles each side of the Colorado Springs ILS localizer north course, extending from the 6-mile radius zone to 7 miles north of the localizer, within 2 miles each side of the Colorado Springs VORTAC 205° radial extending from the 6-mile radius zone to the VORTAC.

Colorado Springs, Colo.

Within a 6.5-mile radius of the City of Colorado Springs Municipal Airport (lat. 38°48'35"N., long. 104° 42'20"W.); within 2 miles each side of the Colorado Springs VORTAC 205° radial extending from the 6.5-mile radius to the VORTAC; within 1.5 miles each side of the Colorado Springs Runway 17 ILS localizer course extending from the 6.5-mile radius to 9 miles north of the airport.

AMENDMENTS 1/24/80 44 F. R. 68446 (Rewritten)

Columbia, Mo. (Regional Airport)

Within a 5-mile radius of Columbia Regional Airport (latitude 38°48'49" N., longitude 92°13'12" W.).

Columbia, S. C.

Within a 5-mile radius of Columbia Metropolitan Airport (lat. 33°56'25.9" N., long. 81°07'11.2" W.); within 2 miles each side of Columbia ILS localizer west course, extending from the 5-mile radius zone to 1.5 miles east of the LOM.

Columbus, Ga. (Columbus Metropolitan Airport)

Within a 5-mile radius of Columbus Metropolitan Airport (lat. 32°30'55"N., long. 84°56'25" W.); within 1.5 miles each side of Columbus ILS localizer northeast course, extending from the 5-mile radius zone to the intersection of the Columbus VOR 102° radial; within 1.5 miles each side of Columbus VOR 149° radial, extending from the 5-mile radius zone to 1 mile southeast of the VOR; within 2 miles each side of Runway 5 extended centerline, extending from the 5-mile radius zone to 6 miles southwest of the runway end; within 2 miles each side of Runway 12 extended centerline, extending from the 5-mile radius zone to 6 miles northwest of the runway end.

Columbus, Ga. (Lawson AAF)

Within a 5-mile radius of Lawson AAF (lat. 32°20'20" N., long. 84°59'35" W.); within 2 miles each side of the 213° bearing from Lawson RBN, extending from the 5-mile radius zone to 6.5 miles southwest of the RBN; within 2 miles each side of Lawson VOR 339° radial, extending from the 5-mile radius zone to ½ mile south of the Columbus LOM; excluding the portion within Columbus Metropolitan Airport control zone.

Columbus, Miss.

Within a 5-mile radius of Columbus AFB, Miss. (latitude 33°38'38" N., longitude 88°26'39" W.); within 1.5 miles each side of the ILS localizer northwest course, extending from the 5-mile radius zone to 5 miles northwest of the runway end; within 1.5 miles each side of the Caledonia TACAN 141° and 312° radials, extending from the 5-mile radius zone to 6.5 miles southeast and northwest of the TACAN.

Columbus, Nebr.

Within a five-mile radius of the Columbus Municipal Airport (lat. 41°26'49"N., long. 97°20'31"W.), and within 4.5 miles each side of the 323° bearing from the Columbus Airport extending from the five-mile radius zone to 11 miles northwest of the airport, and within three miles each side of the 157° radial of the Columbus VOR extending from the five-mile radius zone to 8.5 miles southeast of the VOR. This control zone shall be effective during the times established by a Notice to Airmen or as published in the Airport/Facility Directory.

Columbus, Ohio (Bolton Field)

Within a 3-mile radius of Bolton Field (latitude 39°54'07" N., longitude 83°08'12" W.) and 2 miles either side of the 213° bearing from the airport extending from the 3-mile radius to 4 miles southwest of the airport excluding a 1-mile radius of Columbus Southwest Airport (latitude 39°54'45" N., longitude 83°11'00" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will therefore be continuously published in the Airport/Facility Directory.

Columbus, Ohio (Lockbourne AFB)

Within a 5.5-mile radius of the center, lat. 39°49'00" N., long. 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within 1.5 miles each side of the Lockbourne TACAN 042° radial, extending from the 5.5-mile radius zone to 7 miles northeast of the TACAN; within 1.5 miles each side of the Lockbourne TACAN 229° radial, extending from the 5.5-mile radius zone to 6 miles southwest of the TACAN; within a 1.5-mile radius of center, lat. 39°53' 11" N., long. 82°57'53" W. of South Columbus Airport, Columbus, Ohio.

Columbus, Ohio (Ohio State University Airport)

Within a 5-mile radius of the Ohio State University Airport (latitude 40°04'40" N., longitude 83°04'30" W.); within 3 miles each side of the 273° and 090° bearings from the airport extending from the 5-mile radius zone to 8½ miles west and east of the airport, excluding that portion within the Columbus, Ohio (Port Columbus International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Columbus, Ohio (Port Columbus International Airport)

Within a 6-mile radius of the center lat. 39°59'41" N., long. 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within 2 miles each side of the 094° bearing from the Grandview LOM, extending from the 6-mile radius zone to 2 miles east of the Grandview LOM and within a 1-mile radius of the center, lat. 39° 55'00" N., long. 82°54'00" W. of Price Field, Columbus, Ohio, excluding the portion that coincides with the Columbus, Ohio (Lockbourne AFB), control zone.

Concord, Calif.

Within a 3-mile radius of Buchanan Field, Concord, Calif. (latitude 37°59'20" N., longitude 122°03'20" W.). within 2 miles each side of the Concord VOR 188° radial extending from the 3-mile radius zone to the VOR, effective from 0700 to 2300 hours, local time daily.

Concord, N. H.

Within a 5-mile radius of the center, lat. 43°12'16"N., long. 71°30'07"W., of Concord Municipal Airport, Concord, N. H.; within 1.5 miles each side of the 352°M(337°T) bearing from the Epsom, N. H., NDB, lat. 43° 07'05"N., long. 71°27'13"W., extending from the 5-mile radius zone to the Epsom, N. H., NDB, and within 3 miles each side of the Concord, N. H., VORTAC 300°M(285°T) radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC, and within 3 miles each side of the Concord, N. H., VORTAC 315°M(300°T) radial extending from the 5-mile radius zone to 8 miles northwest of the VORTAC.

AMENDMENTS 7/14/80 45 F. R. 47133 (Rewritten)

Cordova, Alaska

Within a 5-mile radius of the Cordova (mile 13) airport, latitude 60°29'33" N., longitude 145°28'36" W.; within 2 miles each side of the 233° bearing from the Cordova (CDV) NDB extending from the 5-mile radius zone to the intersection of the 233° bearing from the Cordova (CDV) NDB and the Hinchinbrook, Alaska, RBN 106° bearing and within 2 miles each side of the Cordova localizer east course extending from the 5-mile radius zone to 10 miles east of the localizer.

Corpus Christi, Tex.

Within a 5-mile radius of the Corpus Christi International Airport (latitude 27°46'20" N., longitude 97°30'20" W.); within 2 miles each side of the Corpus Christi VORTAC 202° radial, extending from the 5-mile radius zone to the VORTAC: and within 2 miles each side of the Corpus Christi ILS localizer NW course, extending from the 5-mile radius zone to the OM.

Corpus Christi, Tex. (NALF Cabaniss Field)

Within a 5-mile radius of NALF Cabaniss Field (latitude 27°42'06" N., longitude 97°26'17" W.) excluding that airspace designated as the Corpus Christi (CRP) and Navy Corpus Christi (NGP) control zones. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Effective hours, local time, will be: 0600-2200 Monday through Friday.

Corpus Christi NAS, Tex.

That airspace within a 5-mile radius of NAS Corpus Christi (lat. 27°41'30"N., long. 97°17'15"W.) including the following extensions based on the Navy Corpus VORTAC (lat. 27°41'09"N., long. 97°17'40"W.); 3 miles each side of the 331° radial, extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; 1.5 miles each side of the 016° radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC; 3 miles each side of the 118° radial, extending from the 5-mile radius zone to 7 miles southeast of the VORTAC; and 1.5 miles each side of the 160° radial, extending from the 5-mile radius zone to 6.5 miles south of the VORTAC.

Cortez, Colo.

Within a 5-mile radius of Cortez-Montezuma County Airport, Cortez, Colo., (latitude 37°18'15" N., longitude 108°37'35" W.) and within 3 miles each side of the Cortez VOR 210° and 004° radials, extending from the 5-mile radius zone to 8 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cotulla, Tex.

That airspace within a 3-mile radius of Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99° 13'05" W.) and within 2 miles each side of the Cotulla VOR 266° radial extending from the 3-mile radius zone to 11 miles west of the VOR.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Covington, Ky.

Within a 5-mile radius of Greater Cincinnati Airport (lat. 39°02'56" N., long. 84°39'41" W.); within 1.5 miles each side of Runway 36 ILS localizer south course, extending from the 5-mile radius zone to the LOM.

Crescent City, Calif.

Within a 5-mile radius of Jack McNamara Field, Crescent City (lat. 41°46'50" N., long. 124°14'00" W.), within 3 miles each side of the Crescent City VORTAC 325° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC and within 1.5 miles each side of the Crescent City VORTAC 180° radial, extending from the 5-mile radius zone to 5.5 miles south of the VORTAC.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Crestview, Fla.

Within a 5-mile radius of Bob Sikes Airport (lat. 30°46'47" N., long. 86°31'21" W.); within 1.5 miles each side of Crestview VORTAC 109° radial, extending from the 5-mile radius zone to 0.5-mile east of the VORTAC.

Crossville, Tenn.

Within a 5-mile radius of the Crossville Memorial Airport (latitude 35°57'05" N., longitude 85°05'05" W.) and within 2 miles each side of the Hinch Mountain VORTAC 334° radial extending from the 5-mile radius zone to 1.5 miles northwest of the VORTAC.

Crows Landing, Calif.

Within a 5-mile radius of NALF Crows Landing (latitude 37°24'35"N., longitude 121°06'40"W.) excluding the portion within a 1-mile radius of Patterson Field, Patterson, California (latitude 37°28'05"N., longitude 121°10'06"W.) This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established as published in the Airport/Facility Directory.

Cut Bank, Mont.

Within a 5-mile radius of Cut Bank Airport (latitude 48°36'41" N., longitude 112°22'45" W.); within 3½ miles each side of the Cut Bank VORTAC 150° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

Dalhart, Tex.

That airspace within a 5-mile radius of Dalhart Municipal Airport latitude 36°01'10" N., longitude 102°33'10" W.).

Dallas, Tex. (Addison Airport)

That airspace within a 5-mile radius of Addison Airport (latitude 32°58'05" N., longitude 96°50'05" W.); and within 2 miles each side of the Addison VOR 334° radial, extending from the 5-mile radius zone to 6 miles NW of the VOR; excluding the portion S of a line from latitude 32°59'30" N., longitude 96°55'30" W., through latitude 32°56'30" N., longitude 96°51'30" W., to latitude 32°54'00" N., longitude 96°46'30" W.
This control zone is effective from 0600 to 2200 hours, local time, daily.

Dallas, Tex. (Love Field)

That airspace bounded by a line beginning at latitude 32°53'15" N., longitude 96°59'35" W.; thence northeast to latitude 32°56'30" N.; thence clockwise along the arc of a 5-mile radius circle centered at Addison Airport (latitude 32°58'05" N., longitude 96°50'05" W.) to latitude 32°59'30" N., longitude 96°55'30" W., through latitude 32°56'30" N., longitude 96°51'30" W., and continuing southeast along a line to latitude 32°54'00" N., longitude 96°46'30" W. until interception of the arc of a 5-mile radius circle centered at Addison Airport, southeast of Addison Airport; then clockwise along the arc of the 5-mile radius centered at Addison Airport to interception with and then clockwise along the arc of a 5-mile radius circle centered at Love Field (latitude 32°51'00" N., longitude 96°50'50" W.) to longitude 96°49'30" W., southeast of Love Field; thence south along longitude 96°49'30" W. to and counterclockwise along the arc of a 5-mile radius circle centered at Redbird Airport (latitude 32°40'50" N., longitude 96°52'00" W.) until interception with and then northeast along a line drawn between latitude 32°39'35" N. longitude 96°54'15" W., and longitude 96°53'30" W. and the arc of a 5-mile radius circle centered at Love Field, southwest of Love Field; thence clockwise along the arc of a 5-mile radius circle centered at Love Field to latitude 32°49'40" N., west of Love Field, to point of beginning; within 2 miles each side of the Love Field runway 31L ILS localizer southeast course, extending from the Love Field 5-mile radius zone to the OM; and excluding that airspace within the Dallas-Fort Worth, Tex. (Regional Airport), control zone.

Dallas, Tex. (NAS Dallas)

Within a 6-mile radius of NAS Dallas (lat. 32°44'00" N., long. 96°58'05" W.); within a 5-mile radius of Redbird Airport (lat. 32°40'50" N., long. 96°52'00" W.); excluding the portion within the Dallas-Fort Worth, Tex. (Regional Airport), and Dallas, Tex. (Love Field), control zones; and excluding the portion east of a line from latitude 32°37'00" N., longitude 96°56'00" W., to latitude 32°39'35" N., longitude 96°54'15" W., to latitude 32°48'00" N., longitude 96°53'45" W.

Dallas, Tex. (Redbird Airport)

That airspace within a 5-mile radius of Redbird Airport (latitude 32°40'50" N., longitude 96°52'00" W.); and within 3.5 miles each side of the 165° bearing from the Redbird RBN extending from the 5-mile radius zone to 10 miles south of the RBN; excluding the portion west of a line from latitude 32°37'00" N., longitude 96°56'00" W., to latitude 32°39'35" N., longitude 96°54'15" W., to latitude 32°48'00" N., longitude 96°53'49" W.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen.
The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Dallas-Fort Worth, Tex., Regional Airport

Within a 5-mile radius of Dallas/Fort Worth Regional Airport (lat. 32°53'53" N., long. 97°02'24" W.); within 2.5 miles west and 3.5 miles east of the runway 17R/35L ILS localizer courses extending from the 5-mile radius zone to the OMs, and within 2.5 miles each side of the runway 31 ILS localizer course extending from the 5-mile radius zone to the OM.

Danbury, Conn.

Within a 5-mile radius of the center latitude 41°22'15" N., longitude 73°29'00" W., of the Danbury Airport, Danbury, Conn., and within 2 miles each side of the Carmel VORTAC 038° radial extending from the 5-mile radius area to the Carmel VORTAC.

Within 2.5 statute miles each side of a 262° magnetic bearing from a point 41°25'05"N., 73°18'45"W., extending from the 5 statute mile radius zone to 3 statute miles west of said point; within 2.5 statute miles each side of a 082° magnetic bearing from a point 41°19'22"N., 73°39'19"W., extending from the 5 statute mile radius zone to 3 statute miles east of said point.
This control zone is effective from 0700 to 2300 local time
daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Danville, Ill.

That airspace within a 5-mile radius of Vermillion County Airport (lat. 40°11'54" N., long. 87°35'49" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Danville, Va.

Within a 5-mile radius of the center, lat. 36°34'30" N., long. 79°20'11" W., of Danville Municipal Airport, Danville, Va.; within 3 miles each side of the Danville, Va., VOR 044° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VOR; within 3 miles each side of the Danville, Va., VOR 208° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR; within 1.5 miles each side of a 017° bearing from a point 36°34'48" N., 79°20'08" W., extending from said point to 5 miles north. This control zone is effective from 0600 to 2200 hours, local time, daily.

Davenport, Iowa

Within a 5-mile radius of Davenport Municipal Airport (latitude 41°36'40" N., longitude 90°35'20" W.); within 3 miles each side of the 224° bearing from the Cody RBN, extending from the 5-mile radius zone to 6½ miles southwest of the RBN; and within 2 miles each side of the Davenport VOR 220° radial, extending from the 5-mile radius zone to 1 mile southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Dayton, Ohio (James M. Cox-Dayton Municipal)

Within a 5-mile radius of the center, 39°53'57" N., 84°12'45" W. of James M. Cox-Dayton Municipal Airport, Dayton, Ohio, excluding that airspace within a 1-mile radius of the center, 39°54'52" N., 84°18'45" W. of Studebaker Farms Airport, Union, Ohio.

Dayton, Ohio (Wright-Patterson AFB)

Within a 5-mile radius of Wright-Patterson AFB (latitude 39°49'25" N., longitude 84°02'55" W.); within a 6-mile radius of the Springfield Municipal Airport (latitude 39°50'22" N., longitude 83°50'21" W.); within 3 miles each side of the 055° bearing from the airport extending from the 6-mile radius zone to 9 miles northeast and within 3 miles each side of the 243° bearing from the airport extending from the 6-mile radius zone to 8.5 miles southwest.

Daytona Beach, Fla.

Within a 5-mile radius of Daytona Beach Regional Airport (lat. 29°10'49" N., long. 81°03'23" W.); within a 5-mile radius of Municipal Airport, Ormond Beach, Fla. (lat. 29°18'00" N., long. 81°06'49" W.); within 5 miles each side Ormond Beach VORTAC 256° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC.

Deadhorse, Alaska

Within a 5-mile radius of the Deadhorse Airport (latitude 70°11'40" N., longitude 148°28'05" W.); within a 5-mile radius of the Prudhoe Bay Airport (latitude 70°15'05" N., longitude 148°20'13" W.); within 3.5 miles each side of the Deadhorse VOR 255° radial extending from the 5-mile radius zone to 9.5 miles W of the VOR; within 3.5 miles each side of the Deadhorse VOR 081° radial extending from the 5-mile radius zone to 8.5 miles E of the VOR; within 3 miles each side of the Prudhoe Bay NDB 075° bearing extending from the 5-mile radius zone to 8.5 miles E of the NDB; and within 3 miles each side of the Prudhoe Bay NDB 259° bearing extending from the 5-mile radius zone to 8.5 miles W of the NDB.

Decatur, Ill.

Within a 5-mile radius of Decatur Airport (latitude 39°50'05" N., longitude 88°51'50" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Del Rio, Tex.

Within a 5-mile radius of Laughlin AFB (latitude 29°21'35" N., longitude 100°46'35" W.) within 3 miles each side of the Laughlin VORTAC 305° radial extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; within 3 miles each side of the Laughlin VORTAC 315° radial extending from the 5-mile radius zone to 14 miles northwest of the VORTAC; within 3 miles each side of the Laughlin VORTAC 148° radial extending from the 5-mile radius zone to 12 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Deming, N. Mex.

Within a 5-mile radius of Deming Municipal Airport (lat. 32°15'40" N., long. 107°43'10" W.).

Denver, Colo.

Within a 9-mile radius of Stapleton International Airport (latitude 39°46'30" N., longitude 104°52'40" W.), within a 9-mile radius of Buckley ANGB Airport (latitude 39°42'05" N., longitude 104°45'10" W.), and within 4 miles each side of the Buckley ANGB VOR 152° radial extending from the 9-mile radius zone to 14 miles southeast of the VOR, excluding the portion within a 1-mile radius of Skyline Airport (latitude 39°46'37" N., longitude 104°36'57" W.).

Des Moines, Iowa

Within a 5-mile radius of Des Moines Municipal Airport (latitude 41°32'10" N., longitude 93°39'27" W.); and within 1 mile each side of the Des Moines ILS localizer northwest course, extending from the 5-mile radius zone to 11½ miles northwest of the OM.

Detroit, Mich.

Within a 5-mile radius of the Detroit City Airport (latitude 42°24'35" N., longitude 83°00'35" W.), within 2 miles each side of the Detroit City Airport ILS localizer NW course extending from the 5-mile radius zone to 6 miles NW of the approach end of the Detroit City Airport Runway 15; and within 2 miles each side of the Windsor, Ontario, Canada VOR 320° radial extending from the 5-mile radius zone to the United States/Canadian border.

Detroit, Mich. (Metropolitan Wayne County Airport)

Within a 5-mile radius of Detroit Metropolitan Wayne County Airport (latitude 42°13'07" N., longitude 83°20'55" W.); within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS localizer northeast course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS east course, extending from the 5-mile radius zone to the OM, excluding the portion west of a line between the points of intersection of the 5-mile radius zone and the Detroit, Mich. (Willow Run) control zone.

Detroit, Mich. (Willow Run Airport)

Within a 5-mile radius of Willow Run Airport (latitude 42°14'05" N., longitude 83°31'45" W.), within 2 miles each side of the Willow Run VOR 237° radial, extending from the 5-mile radius zone to 8 miles SW of the VOR, within 2 miles each side of the Willow Run Airport ILS localizer SW course, extending from the 5-mile radius zone to the OM, excluding the portion subtended by a chord drawn between the points of INT of the 5-mile radius zone with the Detroit, Mich. (Metropolitan Wayne County Airport) control zone.

Devils Lake, N. Dak.

Within a 5-mile radius of the Devils Lake Municipal Airport (latitude 48°06'55" N., longitude 98°54'30" W.); within 3½ miles each side of the Devils Lake VORTAC 134° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC; within 3½ miles each side of the Devils Lake VORTAC 324° radial extending from the 5-mile radius zone to 10 miles northwest of the VORTAC; and within 3 nautical miles each side of the 026° bearing from the Devils Lake Municipal Airport extending from the 5-mile radius zone to 7 miles northeast of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Dickinson, N. Dak.

Within a 5.5-mile radius of Dickinson Municipal Airport (lat. 46°47'45"N., long. 102°48'00"W.) and within 3 miles each side of the Dickinson VORTAC (lat. 46°51'36"N., long. 102°46'23"W.) 013° radial extending from a 5.5-mile radius area to 8 miles north of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/10/80 45 F. R. 26034 (Rewritten)

Dillingham, Alaska

Within a 5-mile radius of the Dillingham Airport (latitude 59°02'30" N., longitude 158°30'28" W.); within 2 miles each side of the Dillingham VORTAC 025° radial extending from the 5-mile radius zone to 13.5 miles northeast of the Dillingham VORTAC and within 2 miles each side of the Dillingham VORTAC 205° radial extending from the 5-mile radius zone to 9 miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication, Supplement Alaska.

Dodge City, Kans.

Within a 5-mile radius of Dodge City Municipal Airport (latitude 37°45'42" N., longitude 99°57'51" W.).

Dothan, Ala.

Within a 5-mile radius of Dothan Airport (lat. 31°19'10"N., long. 85°27'30"W.); within 4.5 miles each side of Wiregrass VORTAC 157° radial, extending from the 5-mile radius zone to 10.5 miles SE of the VORTAC, within 3.5 miles each side of Wiregrass VORTAC 331° radial, extending from the 5-mile radius zone to 7.5 miles NW of the VORTAC.

Douglas, Ariz.

Within a 5-mile radius of Bisbee-Douglas International Airport (latitude 31°28'00" N., longitude 109°36'10" W.) and within 2 miles each side of the Douglas VORTAC 333° radial, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC.

Dover, Del.

Within a 5-mile radius of the center, lat. 39°07'30" N., long. 75°28'00" W. of Dover AFB, Dover, Del.; within 3 miles each side of the Dover TACAN 178° radial, extending from the 5-mile radius zone to 6.5 miles south of the TACAN; within 3 miles each side of the Dover TACAN 012° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN; within 3 miles each side of the Dover TACAN 132° radial, extending from the 5-mile radius zone to 6.5 miles southeast of the TACAN.

Du Bois, Pa.

Within a 5-mile radius of the center, 41°10'42" N., 78°53'50" W., of Du Bois-Jefferson County Airport, Du Bois, Pa.; within 3 miles each side of the Du Bois-Jefferson County Airport ILS localizer northeast course, extending from the 5-mile radius zone to 8.5 miles northeast of the OM; and within 2.5 miles each side of the Clarion, Pa., VORTAC 086° radial, extending from the 5-mile radius zone to 23 miles east of the Clarion, Pa., VORTAC, and within 2.5 miles each side of a 242° bearing from a point 41°10'30"N., 78°54'30"W., extending from said point to 5.5 miles southwest of said point.

Dubuque, Iowa

Within a 5-mile radius of Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°42'25" W.); within 3 miles each side of the Dubuque VORTAC 321° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; and within 3 miles each side of the Dubuque VORTAC 126° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; within 3 miles each side of the Dubuque VORTAC 182° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Duluth, Minn.

Within a 6.5-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); and within 3 miles each side of the Duluth VORTAC 197° radial extending from the 6.5-mile radius zone to 11 miles south of the VORTAC.

Durango, Colo.

Within a 5-mile radius of La Plata Field (latitude 37°09'12" N., longitude 107°45'04" W.) and within 3 miles each side of the Durango VOR 224° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Dyersburg, Tenn.

Within a 5-mile radius of the Dyersburg Municipal Airport (latitude 36°00'00" N., longitude 89°24'20" W.); within 1.5 miles each side of the Dyersburg VORTAC 258° radial, extending from the 5-mile radius zone to the VORTAC, effective from 0600 to 2200 hours local time daily.

Eagle, Colo.

Within a 5-mile radius of the Eagle County Airport (lat. 39°38'42"N., long. 106°54'43"W.); within 3 miles each side of the 072° and 252° bearings from the Wolcott NDB (lat. 39°40'33"N., long. 106°45'34"W.); extending from the 5-mile radius area to 13 miles northeast of the Wolcott NDB.

AMENDMENTS 10/30/80 45 F. R. 59839 (Rewritten)

PENDING AMENDMENT

The Eagle, Colo., control zone is amended by deleting "13 miles northeast" and substituting "9 miles northeast" therefor.

AMENDMENTS 12/25/80 45 F. R. 70235 (Changed)

Eastover, S. C.

Within a 5-mile radius of McEntire ANGB (lat. 33°55'26" N., long. 80°48'14" W.); within 2 miles each side of McEntire ANG TACAN 138° radial, extending from the 5-mile radius zone to 7 miles southeast of the TACAN.

East St. Louis, Ill.

Within a 5-mile radius of the Bi State Parks Airport (latitude 38°34'30" N., longitude 90°10'00" W.) and within 3 miles each side of the 129° bearing from the airport extending from the 5-mile radius area to 8 miles southeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Eau Claire, Wis.

Within a 5-mile radius of Eau Claire Municipal Airport (latitude 44°51'30" N., longitude 91°29'10" W.); within 2½ miles each side of the 304° bearing from Eau Claire Municipal Airport extending from the 5-mile radius zone to 5½ miles northwest of the airport; within 2½ miles each side of the 041° bearing from the Eau Claire Municipal Airport, extending from the 5-mile radius zone to 5½ miles northeast of the airport; and within 2½ miles each side of the 274° bearing from the Eau Claire Municipal Airport, extending from the 5-mile radius zone to 5½ miles west of the airport.

Edwards AFB, Calif.

Within an 8-mile radius of Edwards AFB (latitude 34°54'20"N., longitude 117°52'58"W.).

Eglin AFB, Fla.

Within a 5-mile radius of Eglin AFB (lat. 30°29'07" N., long. 86°31'35" W.); within 1 mile each side of the ILS localizer southeast course, extending from the 5-mile radius zone to 4.5 miles southeast of the runway end; within a 3-mile radius of Destin-Fort Walton Beach Airport (lat. 30°23'57" N., long. 86°28'47" W.); within 2 miles each side of the extended centerline of runway 14/32, extending from the 3-mile radius zone to 4 miles southeast of the airport.

Eglin AF Aux No. 3 (Duke Field), Fla.

Within a 5-mile radius of Eglin AF Aux No. 3 (Duke Field); (latitude 30°39'01" N., longitude 86°31'25" W.). The portion within a 5-mile radius of Bob Sikes Airport (latitude 30°46'47" N., longitude 86°31'21" W.) is excluded. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Eglin AF Aux No. 9 (Hurlburt Field), Fla.

Within a 5-mile radius of Eglin AF Aux No. 9 (Hurlburt Field) (lat. 30°25'42" N., long. 86°41'05" W.); within 2 miles each side of the Eglin VOR 285° radial, extending from the 5-mile radius zone to 1 mile west of the VOR; excluding the portion within Eglin AFB control zone.

El Centro, Calif.

Within a 5-mile radius of NAF El Centro (latitude 32°49'20" N., longitude 115°40'15" W.); within a 5-mile radius of Imperial County Airport, El Centro, Calif. (latitude 32°50'10" N., longitude 115°34'30" W.); within 2 miles each side of the Imperial VORTAC 297° radial, extending from the NAF El Centro 5-mile radius zone to the VORTAC, and within 2 miles each side of the Imperial VORTAC 327° radial, extending from the Imperial County 5-mile radius zone to the VORTAC.

El Dorado, Ark.

That airspace within a 5-mile radius of Goodwin Airport, El Dorado, Ark. (latitude 33°13'05" N., longitude [illegible]2°48'45" W.).

Elizabeth City, N. C.

Within a 5-mile radius of CGAS Elizabeth City (latitude 36°15'35" N., longitude 76°10'20" W.); within 3 les each side of Elizabeth City VOR 188° radial, extending from the 5-mile radius zone to 10 miles south the VOR; within 2.5 miles each side of Elizabeth City VOR 357° radial, extending from the 5-mile radius ne to 8.5 miles north of the VOR. This control zone is effective from 0700 to 2200 urs, local time, daily.

Elkhart, Ind.

Within a 5-mile radius of the Elkhart Municipal Airport (latitude 41°43'11" N., longitude 85°59'41" W.), within 2 miles each side of the 264° bearing from the airport extending from the 5-mile radius zone to 8 miles west, excluding that airspace within a 1-mile radius of the Mishawaka Pilots Club Airport (latitude 41°39'28" N., longitude 86°02'05" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Elkins, W. Va.

Within a 5-mile radius of the center, lat. 38°53'20" N., long. 79°51'24" W. of Elkins-Randolph County-Jennings Randolph Field, Elkins, W. Va., and within 3 miles each side of the 011° bearing from the Randolph County RBN, extending from the 5-mile radius zone to 8.5 miles north of the RBN. This control zone is effective from sunrise to sunset, daily.

Elko, Nev.

Within a 5-mile radius of Elko Municipal Airport (Lat. 40°49'35" N, Long. 115°47'20" W).

Elmira, N.Y.

Within a 5-mile radius of the center of Chemung County Airport, Elmira, N.Y., 42°09'37" N., 76°53'35" W.; within 2 miles each side of the Elmira VOR 057° radial extending from the 5-mile radius zone to the VOR; within 2 miles each side of the airport ILS localizer NE course extending from the 5-mile radius zone to 2 miles NE of the OM; within 2 miles each side of the centerline of Runway 10 extended easterly from the 5-mile radius zone for 1 mile; within 2 miles each side of the centerline of Runway 19 extended southerly from the 5-mile radius zone for 2 miles and within 2 miles each side of the centerline of Runway 28 extended westerly from the 5-mile radius zone for 4 miles.

AMENDMENTS 8/11/80 45 F. R. 53090 (Changed)

El Monte, Calif.

Within a 3-mile radius of El Monte Airport (latitude 34°05'05" N., longitude 118°02'00" W.) and within 2 miles each side of the Pomona VORTAC 271° radial, extending from the 3-mile radius zone to 8 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

El Paso, Tex.

That airspace bounded by a line beginning at latitude 31°45'45" N., longitude 106°27'43" W.; thence clockwise along the arc of a 6-mile radius circle centered at the El Paso International Airport (latitude 31°48'35" N., longitude 106°22'55" W.) to latitude 31°49'46" N., longitude 106°28'34" W.; thence clockwise along the arc of a 6-mile radius circle centered at latitude 31°50'55" N., longitude 106°22'45" W.; to latitude 31°55'12" N., longitude 106°28'00" W.; to latitude 31°56'20" N., longitude 106°26'00" W.; thence clockwise along the arc of a 7-mile radius circle centered at latitude 31°50'55" N., longitude 106°22'45" W.; to latitude 31°47'30" N., longitude 106°16'45" W.; thence clockwise along the arc of a 6-mile radius circle centered at the El Paso International Airport; to latitude 31°43'15" N., longitude 106°22'20" W.; thence via the United States/Mexican border to point of beginning.

El Toro, Calif.

Within a 5-mile radius of MCAS El Toro (latitude 33°40'34" N., longitude 117°43'50" W.); within 3.5 miles west and 3 miles east of the El Toro VOR 175° radial extending from the 5-mile radius zone to 12 miles south of the VOR, excluding the portions within the Santa Ana, Calif. (Orange County), and Santa Ana (MCAS), Calif., control zones.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Emporia, Kans.

Within a 5-mile radius of the Emporia, Kans., Municipal Airport (lat. 38°20'00"N., long. 96°11'15"W.) and 1.5 miles either side of the 010° bearing from the airport extending from the 5-mile radius to 6 miles north. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Enid, Okla. (Vance AFB)

That airspace within a 5-mile radius of Vance AFB (lat. 36°20'20"N., long. 97°55'00"W.) and within 3 miles west and 3 miles east of the Vance VORTAC (lat. 36°20'43"N., long. 97°55'04"W.) 178.5° radial extending from the 5-mile radius zone to the 7 DME fix; and within 4 miles west and 5 miles east of the Vance VORTAC 358.5° radial extending from the 5-mile radius zone to the 6 DME fix; and within a 5-mile radius of Enid Woodring Municipal Airport (lat. 36°22'46"N., long. 97°47'28"W.) and within 2 miles each side of the Woodring VOR (lat. 36°22'26"N., long. 97°47'17"W.) 354.5° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles east and 4 miles west of the Woodring VOR 184.5° radial, extending from the 5-mile zone to 8 miles south of the VOR; excluding that portion of airspace east of long. 97°51'00"W., when the Woodring Municipal Airport control zone is in effect. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Enid, Okla. (Woodring Municipal Airport)

That airspace within a 5-mile radius of Enid Woodring Municipal Airport (lat. 36°22'46"N., long. 97°47'28"W.) and within 2 miles each side of the Woodring VOR (lat. 36°22'26"N., long. 97°47'17"W.) 354.5° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles east and 4 miles west of the Woodring VOR 184.5° radial, extending from the 5-mile zone to 8 miles south of the VOR; excluding that portion of airspace west of long. 97°51'00"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Ephrata, Wash.

Within a 5-mile radius of Ephrata Municipal Airport (latitude 47°18'27" N., longitude 119°30'38" W.) and within 3 miles each side of the Ephrata VORTAC 043° and 223° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC. This control zone is effective during specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Erie, Pa.

Within a 5-mile radius of the center, lat. 42°04'53" N., long. 80°10'43" W. of Erie International Airport, Erie, Pa.; within a 6-mile radius area of the center of the airport, extending clockwise from a 060° bearing to a 235° bearing from the airport; within a 9.5 mile radius of the center of the airport, extending clockwise from a 090° bearing to a 175° bearing from the airport; within 3.5 miles each side of the Erie ILS localizer NE course extending from the 5-mile radius area to 8 miles NE of the OM.

Escanaba, Mich.

Within a 5-statute mile radius of Escanaba VORTAC (lat. 45°43'19"N., long. 87°05'31"W.); within 3 statute miles each side of the Escanaba VORTAC 007° and 101° radials, extending from the 5-mile radius zone to 8.5 statute miles north and east of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 266° radial extending from the 5-mile radius zone to 8 statute miles west of the VORTAC.

Eugene, Oreg.

Within a 5-mile radius of Mahlon-Sweet Field (latitude 44°07'25" N., longitude 123°13'05" W.), within 3 miles each side of the Eugene VORTAC 008° radial, extending from the 5-mile radius zone to 8 miles north of the VORTAC, and within 2.5 miles each side of the Eugene VORTAC 172° radial, extending from the 5-mile radius zone to 9 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Evansville, Ind.

Within a 5-mile radius of Dress Memorial Airport (latitude 38°02'15" N., longitude 87°32'00" W.); and within 2 miles each side of the Evansville ILS localizer northeast course, extending from the 5-mile radius zone to 1 mile southwest of the OM.

Everett, Wash.

Within a 5-mile radius of the Snohomish County Airport (Paine Field), Wash. (latitude 47°54'40" N., longitude 122°16'50" W.), and within 3 miles each side of the Paine VOR 356° radial, extending from the 5-mile radius zone to 8 miles north of the VOR. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fairbanks, Alaska (Eielson AFB)

Within a 5-mile radius of Eielson AFB (latitude 64°39'55" N., longitude 147°05'55" W.); within 2 miles each side of the Eielson localizer S course extending from the 5-mile radius zone to the Eielson outer marker; and within 2 miles SW and 3 miles NE of the Eielson TACAN 324° radial extending from the Eielson 5-mile radius zone to 6 miles NW of the TACAN.

Fairbanks, Alaska (Fairbanks International)

Within a 5-mile radius of Fairbanks International Airport (lat. 64°49'09"N., long. 147°51'14"W.); within 2 miles each side of the Fairbanks localizer NE course, extending from the Fairbanks 5-mile radius zone to the outer marker; within 2 miles each side of the Fairbanks localizer SW course, extending from the Fairbanks 5-mile radius zone to 5 miles SW of the localizer antenna (lat. 64°48'11"N., long. 147°53'01"W.).

Fairbanks, Alaska (Fort Wainwright AAF)

Within a 5-mile radius of the Fort Wainwright AAF (lat. 64°50'13"N., long. 147°36'52"W.); and within 2 miles each side of the Chena, Alaska, RBN 089° bearing, extending from the Fort Wainwright 5-mile radius zone to 5 miles E of the RBN; excluding the portion within the Fairbanks, Alaska, (Fairbanks International) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication, Supplement Alaska.

Fairfield, Calif.

Within a 5-mile radius of Travis AFB, Fairfield, Calif. (latitude 38°15'45" N., longitude 121°55'35" W.), and within 2 miles each side of the Travis VOR 229° radial, extending from the 5-mile radius zone NE to the VOR and 18 miles SW of the VOR.

Fairmont, Minn.

Within a 5-mile radius of Fairmont Municipal Airport (latitude 43°38'41" N., longitude 94°25'04" W.); within 2½ miles each side of the 132° bearing from the Fairmont Municipal Airport, extending from the 5-mile radius zone to 6½ miles southeast of the airport, and within 2½ miles each side of the 319° bearing from the Fairmont Municipal Airport, extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Falcon Field, Mesa, Ariz.

Within a 3-mile radius of Falcon Field Airport (lat. 33°27'35"N., long. 111°43'39"W.) excluding the portion within the Chandler, Ariz. (Williams Air Force Base) control zone and control zone extension. This control zone is effective from 0600 to 2100 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 10/30/80 45 F. R. 53087 (Added)

Fallon, Nev.

Within a 5-mile radius of NAAS Fallon (latitude 39°25'10" N., longitude 118°42'00" W.); within 2 miles each side of the NAAS Fallon TACAN 139° radial, extending from the 5-mile radius zone to 8 miles SE of the TACAN, and within 2 miles NE and 2.5 miles SW of the Fallon TACAN 296° radial, extending from the 5-mile radius zone to 5.5 miles NW of the TACAN.

Falmouth, Mass.

Within a 5-mile radius of Otis AFB, Falmouth, Mass. (latitude 41°39'30" N., longitude 70°31'35" W.); within 2 miles each side of the extended centerline of Runway 5, extending from the 5-mile radius zone to 6 miles NE of the end of Runway 5; within 2 miles each side of the Otis TACAN 030° radial, extending from the 5-mile radius zone to 8 miles NE of the TACAN; within 2 miles each side of the extended centerline of Runway 14, extending from the 5-mile radius zone to 5 miles SE of the end of Runway 14; within 2 miles each side of the Otis TACAN 139° radial, extending from the 5-mile radius zone to 7 miles SE of the TACAN; within 2 miles each side of the extended centerline of Runway 23, extending from the 5-mile radius zone to 5 miles SW of the end of Runway 23; within 2 miles each side of the Otis TACAN 224° radial, extending from the 5-mile radius zone to 8 miles SW of the TACAN; within 2 miles each side of the extended centerline of Runway 32, extending from the 5-mile radius zone to 5 miles NW of the end of Runway 32; within 2 miles each side of the Otis TACAN 299° radial, extending from the 5-mile radius zone to 7 miles NW of the TACAN.

Farewell, Alaska

Within a 5-mile radius of the Farewell Airport (latitude 62°30'30" N., longitude 153°52'30" W.); and within 3.5 miles each side of the 306° bearing from the Farewell RBN extending from the 5-mile radius zone to 8.5 miles northwest of the RBN. This control zone is effective from 0745 to 1545 local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication, Supplement Alaska.

Fargo, N. Dak.

Within a 7-mile radius of Hector Field (lat. 46°54'57" N., long. 96°48'53" W.); and within 2 miles each side of the Fargo VORTAC 009° radial, extending from the 7-mile radius zone to the VORTAC.

Farmingdale, N. Y.

Within a 5-mile radius of Republic Airport, Farmingdale, N. Y., (latitude 40°43'45" N., longitude 73°24'50" W.), extending clockwise from 065° bearing to the 270° bearing and within a 6-mile radius extending clockwise from the 270° to the 065° bearing from the airport. This control zone shall be in effect from 0700 to 2300 hours, local time, daily.

Farmington, N. Mex.

Within a 5-mile radius of Farmington Municipal Airport (lat. 36°44'28" N., long. 108°13'39" W.); and within 3 miles each side of the Farmington VORTAC 086° and 267° radials extending from the 5-mile radius zone to 8 miles east of the Farmington, N. Mex., VORTAC.

Fayetteville, Ark.

Within a 5.5-mile radius of Drake Field (latitude 36°00'13" N., longitude 94°10'12" W.), within 3 miles each side of the Drake VOR 325° radial extending from the 5.5-mile radius zone to 8 miles northwest of the VOR; and within 2 miles each side of the Fayetteville ILS localizer north course 349° bearing extending from the 5.5-mile radius zone to 11.5 miles north of the localizer site (latitude 35°59'37.5" N., longitude 94°10'02" W.).

Fayetteville, N. C.

Within a 5-mile radius of Fayetteville Municipal Airport (Grannis Field) (lat. 34°59'22" N., long. 78°52'52" W.); within 3 miles each side of Fayetteville VOR 015°, 080° and 233° radials, extending from the 5-mile radius zone to 8.5 miles north, east, and southwest of the VOR; excluding the portion within Simmons AAF control zone.

Findlay, Ohio

Within a 5-mile radius of the Findlay Airport (latitude 41°00'40" N., longitude 83°40'30" W.) excluding that portion within a 1-mile radius of the Lutz Airport (latitude 40°57'42" N., longitude 83°35'43" W.) within 3 miles each side of the 179° bearing from the Findlay Airport extending from the 5-mile radius zone to 8.5 miles south of the airport; within 3 miles each side of the 063° bearing from the Findlay Airport extending from the 5-mile radius zone to 8.5 miles northeast of the airport; within a 5-mile radius of Bluffton Flying Service Airport (latitude 40°53'09" N., longitude 83°52'04" W.) and within 2 miles each side of the Findlay VORTAC 231° radial extending from the 5-mile radius zone to the Findlay, Ohio, Airport 5-mile radius zone.

Flagstaff, Ariz. (Pulliam Airport)

Within a 7-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.) and within 2 miles each side of the Flagstaff VOR 127° radial, extending from the 7-mile radius zone to 10 miles southeast of the VOR. This control zone is effective from 0430 to 2030 hours, local time daily, or during specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Flint, Mich.

Within a 5-mile radius of Flint, Mich., Bishop Airport (latitude 42°57'55" N., longitude 83°44'30" W.), and within 2 miles each side of the Flint VORTAC 032° 075°, 187°, 219°, 280° and 351° radials extending from the 5-mile radius zone to 8 miles NE, E, S, SW, W, and N of the VORTAC.

Florence, S. C.

Within a 5-mile radius of Florence City-County Airport (lat. 34°11'17" N., long. 79°43'28" W.); within 3.5 miles each side of Florence VORTAC 049° and 229° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Ft. Belvoir, Va.

Within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 1-mile each side of the Davison AAF localizer southeast course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the extended centerline of Runway 32, extending from the northwest end of Runway 32 to 5 miles northwest, excluding the portion within P-73.

Fort Bragg, N. C.

Within a 5-mile radius of Pope AFB (lat. 35°10'15"N., long. 79°00'55"W.), excluding the portion southeast of a line extending from lat. 35°11'15"N., long. 78°56'05"W., to lat. 35°05'55"N., long. 79°00'50"W.

Fort Carson, Colo.

Within a 5-mile radius of Butts Army Airfield (latitude 38°40'46" N., longitude 104°45'41" W.), excluding the portion within the Colorado Springs, Colo., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Devens, Mass.

Within a 4-mile radius of the center of Devens AAF, Fort Devens, Mass., (lat. 42°34'15"N., long. 71°36'20"W.) excluding that portion within 1-mile radius of the center of Shirley Airport, Shirley, Mass., (lat. 42°31'30"N., long. 71°39'55"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Dodge, Iowa

Within a 5-mile radius of Fort Dodge Municipal Airport (latitude 42°33'05" N., longitude 94°11'10" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Eustis, Va.

Within a 5-mile radius of the center, lat. 37°07'45" N., long. 76°36'45" W., of Felker AAF, Fort Eustis, Va., and within 3 miles each side of the 323° bearing from the Felker AAF RBN, extending from the 5-mile radius zone to 8.5 miles northwest of the RBN, excluding the portion that coincides with the Newport News, Va., control zone. This control zone is effective from 0600 to 2300 hours, local time, daily.

Fort Huachuca, Ariz.

Within a 5-mile radius of Libby AAF, Fort Huachuca, AZ. (latitude 31°35'00" N., longitude 110°20'30" W.), within 5 miles each side of the Libby AAF VOR 093° radial, extending from the VOR to 12 miles east of the VOR. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Fort Indiantown Gap, Pa.

Within a 5-mile radius of the center 40°26'00"N., 76°34'00"W., of Muir AAF, Fort Indiantown Gap, Pa., within a 7-mile radius of the center of the airport, extending clockwise from a 215° bearing to a 290° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 032° bearing to a 075° bearing from the airport; within 2.5 miles each side of the 097° bearing from the Bellgrove, Pa., RBN, extending from the RBN to 6 miles east of the RBN. This control zone is effective from 0800 to 1630 hours, local time, Sunday and Monday and from 0800 to 2300 hours, local time, Tuesday through Saturday, excluding Federal legal holidays, or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Fort Knox, Ky.

Within a 5-mile radius of Godman AAF (lat. 37°54'27" N., long. 85°58'21" W.); within 3 miles each side of the 354° bearing from Fort Knox RBN, extending from the 5-mile radius zone to 8.5 miles north of the RBN; within 3 miles each side of Fort Knox VOR 001°, 172° and 324° radials, extending from the 5-mile radius zone to 8.5 miles north, south and northwest of the VOR.

Fort Lauderdale, Fla.

Within a 5-mile radius of Fort Lauderdale-Hollywood International Airport (lat. 26°04'26" N., long. 80°09'10" W.); within 3 miles each side of Fort Lauderdale VOR 084°, 276° and 306° radials, extending from the 5-mile radius zone to 8.5 miles east, west, and northwest of the VOR.

Fort Lauderdale, Fla. (Executive Airport)

Within a 5-mile radius of Fort Lauderdale Executive Airport (lat. 26°11'41" N., long. 80°10'15" W.); within 2 miles each side of the 084° bearing from Tropic RBN (lat. 26°11'08"N., long. 80°17'49"W.), extending from the 5-mile radius zone to 1.5 miles east of the RBN; excluding
the portion within Fort Lauderdale-Hollywood International Airport (lat. 26°04'26" N., long. 80°09'10" W.) control zone and
the portion northeast of a line 3 miles southwest of and parallel to Pompano Beach VOR 319° radial, and the portion east of Fort Lauderdale Executive Airport, north of a line 1 mile north of and parallel to the extended centerline of Runway 8/26.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Leonard Wood, Mo.

Within a 4-mile radius of Forney AAF (latitude 37°44'30" N., longitude 92°08'25" W.); within 3 miles each side of the Forney AAF VOR 323° radial extending from the 4-mile radius zone to 7½ miles northwest of the VOR; and within 3 miles each side of the 146° bearing from the Forney AAF RBN extending from the 4-mile radius zone to 7½ miles southeast of the Forney AAF RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Lewis, Wash.

Within a 5-mile radius of Gray AAF, Fort Lewis, Wash. (latitude 47°04'55" N., longitude 122°34'55" W.), excluding the portions within the Tacoma, Washington (McChord AFB) control zone and the portion east of a line 2 miles west of and parallel to the McChord AFB VOR 182° radial. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Meade, Md.

Within a 5-mile radius of the center 39°05'04"N., 76°45'37"W., of Tipton AAF, Fort Meade, Md., and within 3 miles each side of a line bearing 091° from the Fort Meade RBN (lat. 39°05'04" N., 76°45'37" W.) extending from the 5-mile radius zone to 8 miles east of the RBN excluding that airspace that coincides with the Baltimore, Md., control zone and a 1-mile radius centered on Beltsville, Md., (USDA), Airport (39°01'27"N., 76°49'21" W.). This control zone shall be in effect from 0700 to 2200 hours, local time Monday through Friday and 0800 to 1600 hours, local time Saturdays, Sundays, and Federal holidays.

Fort Myers, Fla.

Within a 5-mile radius of Page Field (lat. 26°35'09" N., long. 81°51'51" W.); within 3 miles each side of Fort Myers VORTAC 062°, 213°, and 318° radials, extending from the 5-mile radius zone to 8.5 miles northeast, southwest, and northwest of the VORTAC.

Fort Ord, Calif.

Within a 5-mile radius of the Fritzsche AAF (latitude 36°40'55" N., longitude 121°45'40" W.), excluding the portion SW of a chord drawn between the points of INT of 5-mile radius circles centered on the Monterey Peninsula Airport and Fritzsche AAF, and the portion E of a chord drawn between the points of INT of 5-mile radius circles centered on the Salinas Municipal Airport and Fritzsche AAF.
This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Polk, La.

That airspace within a 5-mile radius of Polk AAF (latitude 31°02'40" N., longitude 93°11'25" W.); within 2 miles each side of the 160° bearing from the Polk AAF RBN, extending from the 5-mile radius zone to 9 miles SE of the south fan marker; and within 2 miles each side of the 340° bearing from the Polk AAF RBN, extending from the 5-mile radius zone to 7 miles NW of the north fan marker. This control zone is effective during the dates and times established in advance by publication of Special Notices in the Airport/Facility Directory.

Fort Riley, Kans.

Within a 5-mile radius of Marshall AAF, Fort Riley, Kans. (lat. 39°03'15"N., long. 96°45'50"W.); within 2 miles each side of the Fort Riley VOR 042° radial extending from the 5-mile radius zone to the VOR; and within 2 miles each side of the 216° bearing from the Fort Riley RBN extending from the 5-mile radius zone to 8 miles SW of the RBN, excluding the portion within R-3602 and the portion bounded on the NE by the 318° bearing from the Fort Riley RBN and on the SE by a line 2 miles NW of and parallel to the Fort Riley VOR 042° radial. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Rucker, Ala.

Within a 5-mile radius of lat. 31°18'30"N., long. 85°42'20"W.; 3 miles each side of Cairns VOR 233° radial, extending from the 5-mile radius to 8.5 miles southwest of the VOR; within 2 miles each side of Cairns Army Air Field Runway 36 extended centerline, extending from the 5-mile radius to 5 miles south of the runway end.

Fort Smith, Ark.

Within a 5-mile radius of Fort Smith Municipal Airport (latitude 35°20'10" N., longitude 94°22'05" W.), within 2 miles each side of the Fort Smith VORTAC 238° radial extending from the 5-mile radius zone to the VORTAC, within 2 miles each side of the Fort Smilth ILS localizer east course extending from the 5-mile radius zone to the OM, and within 2 miles each side of the Fort Smith ILS localizer west course extending from the 5-mile radius zone to the Peno Bottoms RBN (latitude 35°19'21" N., longitude 94°28'28" W.).

Fort Stewart, Ga.

Within a 5-mile radius of Lyle H. Wright AAF (lat. 31°53'20"N., long. 81°33'45"W.). This control zone is effective from 0700 to 2300 hours, local time, daily.

Fort Wayne, Ind.

Within a 5-mile radius of Baer Field (latitude 40°58'45" N., longitude 85°11'25" W.); within 3 miles each side of the Fort Wayne VORTAC 229° radial, extending from the 5-mile radius zone to 8½ miles southwest of the VORTAC; within 3 miles each side of the Fort Wayne VORTAC 320° radial, extending from the 5-mile radius zone to 8½ miles northwest of the VORTAC; within 3 miles each side of the Fort Wayne VORTAC 038° radial, extending from the 5-mile radius zone to 8½ miles northeast of the VORTAC; and within 3½ miles each side of the Fort Wayne VORTAC 265° radial, extending from the 5-mile radius zone to 10 miles west of the VORTAC.

Fort Worth, Tex. (Carswell AFB)

That airspace within a 5-mile radius of Carswell AFB (latitude 32°46'20" N., longitude 97°26'30" W.); within 2 miles each side of the Carswell AFB TACAN 358° radial extending from the TACAN to 14 miles north; within 2 miles each side of the Carswell ILS localizer S course extending from the 5-mile radius zone to 9 miles south of the airport;
within 2 miles each side of the Carswell AFB TACAN 194° radial extending from the TACAN to 11.5 miles south; excluding the portion east of longitude 97°24'00" W.

Fort Worth, Tex. (Meacham Field)

That airspace within a 5-mile radius of Meacham Field (latitude 32°49'00" N., longitude 97°21'35" W.); within a 5-mile radius of Carswell AFB (latitude 32°46'20" N., longitude 97°26'30" W.); and within 2 miles each side of the Meacham Field ILS localizer S course, extending from Meacham Field to 6 miles S; excluding the portion W of longitude 97°24'00" W.

Fort Yukon, Alaska

Within a 5-mile radius of Fort Yukon Municipal Airport (latitude 66°34'16" N., longitude 145°14'50" W.) and within 3 miles south and 4.5 miles north of the Fort Yukon 076° radial extending from the 5-mile radius zone to 10.5 miles east of the Fort Yukon VORTAC and within 3 miles each side of the Fort Yukon VORTAC 214° radial extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective from 0600 to 1700 hours local time daily or during the specific days and times established in advance by Notice to Airmen. The effective times will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Franklin, Pa.

Within a 5-mile radius of the center, lat. 41°22'45" N., long. 79°51'40" W. of Chess-Lamberton Airport, Franklin, Pa.; within 3 miles each side of the Franklin, Pa. VOR 360° and 180° radials extending from the 5-mile radius zone to 8.5 miles north of the VOR.
This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

Fresno, Calif. (Chandler Municipal Airport)

Within a 5-mile radius of Chandler Municipal Airport (latitude 36°43'55" N., longitude 119°49'05" W.); within 2 miles each side of the 232° bearing from the Chandler RBN extending from the 5-mile radius zone to 8 miles SW of the RBN and within 2 miles each side of the Fresno VORTAC 185° radial, extending from the 5-mile radius zone to 1.5 miles S of the VORTAC, excluding the portion within the Fresno (Fresno Air Terminal) control zone. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fresno, Calif. (Fresno Air Terminal).

Within a 5-mile radius of Fresno Air Terminal (latitude 36° 46' 25" N., longitude 119° 42' 35" W.), within 2 miles each side of the Fresno VORTAC 143° radial, extending from the 5-mile radius zone to 15 miles SE of the VORTAC, and within 2 miles each side of the Fresno VORTAC 150° radial, extending from the 5-mile radius zone to the VORTAC.

Fullerton, Calif.

Within a 3-mile radius of Fullerton Municipal Airport (latitude 33°52'20"N., longitude 117°58'45"W.) and within 2.5 miles each side of the Fullerton Municipal Airport Runway 24 centerline extended, extending from the 3-mile radius zone to 5.5 miles east of Runway 24 threshold, excluding the portion within the Long Beach, California control zone. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Gadsden, Ala.

Within a 5-mile radius of the Gadsden Municipal Airport (lat. 33°58'26"N., long. 86°05'28"W.). This control zone is effective during the specific dates and times established at least 24 hours in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 72104 (Added) Corr: 45 F. R. 2011

Gage, Okla.

Within a 5-mile radius of the Gage Municipal Airport (latitude 36°17'45" N., longitude 99°46'30" W.), and within 2 miles each side of the Gage VORTAC 118° radial, extending from the 5-mile radius zone to the VORTAC.

Gainesville, Fla.

Within a 5-mile radius of Gainesville Regional Airport (lat. 29°41'22"N., long. 82°16'28"W.); within 1.5 miles each side of Gainesville VORTAC 034° radial, extending from the 5-mile radius zone to the VORTAC.

Galena, Alaska

Within a 5-mile radius of the Galena Airport (latitude 64°44'10" N., longitude 156°56'00" W.); within 2 miles each side of the Galena VORTAC 089° radial extending from the 5-mile radius zone to 8 miles E of the VORTAC; and within 2 miles each side of the Galena VORTAC 269° radial extending from the 5-mile radius zone to 14 miles W of the VORTAC.

Galesburg, Ill.

Within a 5-mile radius of the Galesburg Municipal Airport, Galesburg, Ill., (lat. 40°56'24"N., long. 90° 25'46"W.); within 2 miles each side of the Galesburg VOR 031° radial extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles each side of the Galesburg VOR 199° radial extending from the 5-mile radius zone to 8 miles southwest of the VOR. This control zone shall be effective during the times established by a Notice to Airmen and published in the Airport/Facility Directory.

AMENDMENTS 7/10/80 45 F. R. 31055 (Rewritten)

Gallup, N. Mex.

That airspace within a 5-mile radius of the Senator Clarke Field (latitude 35°30'35" N., longitude 108°47' 00" W.), within 3.5 miles each side of the Gallup, N. Mex., VORTAC 242° and 062° radials extending from the 5-mile radius zone to a point 10.5 miles southwest of the VORTAC.

Galveston, Tex.

Within a 5-mile radius of Scholes Field, Galveston, Tex., (Lat. 29°15'55" N., long. 94°51'35" W.); and within 2 miles either side of the Scholes VORTAC 119° radial extending from the 5-mile radius zone to the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Garden City, Kans.

Within a 5-mile radius of the Garden City Municipal Airport (latitude 37°55'40" N., longitude 100°43'40" W.), and within 2 miles each side of the 144° bearing from the Holcomb RBN, extending from the 5-mile radius zone to 2 miles southeast of the RBN; and within 2½ miles each side of the 004° radial of the Garden City VORTAC extending from the 5-mile radius zone to 8 miles north of the VORTAC; and within 2½ miles each side of the 171° radial of the Garden City VORTAC extending from the 5-mile radius zone to 5 miles south of the VORTAC.

Gary, Ind.

Within a 5-mile radius of Gary Municipal Airport (latitude 41°36'54" N., longitude 87°24'37" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Gillette, Wyo.

Within a 5-mile radius of the Gillette-Campbell County Airport (lat. 44°20'52"N., long. 105°32'34"W.); and within 3.5 miles each side of the Gillette VOR 171° radial extending from the 5-mile radius to 14 miles south of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 67105 (Rewritten)

Glasgow, Mont.

Within a 5-mile radius of Glasgow International Airport (latitude 48°12'50" N., longitude 106°37'10" W.); within 2½ miles each side of the 342° bearing from Glasgow International Airport, extending from the 5-mile radius zone to 5½ miles north of the airport; within 2½ miles each side of the Glasgow VOR 327° radial, extending from the 5-mile radius zone to 5½ miles northwest of the VOR; and within 2½ miles each side of the Glasgow VOR 127° radial, extending from the 5-mile radius zone to 5½ miles southeast of the VOR.

Glens Falls, N. Y.

Within a 5-mile radius of the center, latitude 43°20'32" N., longitude 73°36'35" W., of Warren County Airport, Glens Falls, N. Y., extending clockwise from a 357° bearing to a 275° bearing from the airport; within an 11-mile radius of the center of the airport extending clockwise from a 275° bearing to a 307° bearing from the airport; within a 7.5-mile radius of the center of the airport extending clockwise from a 307° bearing to a 357° bearing from the airport; within 2 miles each side of the Glens Falls VORTAC 008° radial extending from the VORTAC to 5.5 miles north of the VORTAC; and within 4 miles each side of the Glens Falls VORTAC 172° radial extending from the VORTAC to 12.5 miles south of the VORTAC.

Glenview, Ill.

Within a 5-mile radius of NAS Glenview (latitude 42°05'30" N., longitude 87°49'20" W.); within 2 miles each side of the Northbrook, Ill., VOR 162° and 140° radials extending from the Chicago, Ill., (O'Hare International Airport),and the Glenview, Ill., 5-mile radius zones to 3½ miles south and 3½ miles southeast of the VOR; two miles north and four miles south of the Northbrook VOR 071° radial, extending from 1 mile east to 6 miles east of the VOR; within 2 miles each side of the Northbrook VOR 070° radial, extending from 6 to 11 miles east of the VOR; within 2 miles each side of the 062° bearing from the Haley AAF, Fort Sheridan, Ill., RBN, extending from the RBN to 7 miles northeast of the RBN; within 2 miles each side of the 002° bearing from NAS Glenview RBN, extending from the 5-mile radius zone to 12 miles north of the RBN; and within 2 miles each side of the NAS Glenview TACAN 005° radial, extending from the 5-mile radius zone to 8 miles north of the TACAN, excluding the area that overlies the Chicago, Ill. (O'Hare International Airport) control zone.

Goldsboro, N. C.

Within a 5-mile radius of Seymour Johnson AFB (latitude 35°20'20" N., longitude 77°57'50" W.); within 2 miles each side of Seymour Johnson TACAN 073° radial, extending from the 5-mile radius zone to 4.5 miles east of the TACAN; within 2 miles each side of Seymour Johnson TACAN 253° radial, extending from the 5-mile radius zone to 8.5 miles west of the TACAN.

Goodland, Kans.

Within a 5-mile radius of Renner Field-Goodland Municipal Airport (latitude 39°22'10" N., longitude 101°41'55" W.).

Grand Canyon, Ariz. (Grand Canyon National Park Airport)

Within a 5-mile radius of Grand Canyon National Airport (lat. 35°57'16" N., long. 112°08'37" W.) and within 3 miles each side of the Grand Canyon VOR 211° radial, extending from the 5-mile radius zone to 6 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Grand Forks, N. Dak. (Grand Forks Air Force Base)

Within a 5-mile radius of Grand Forks AFB (latitude 47°57'40" N., longitude 97°24'00" W.), within 2 miles each side of the Red River VOR 360° radial extending from the 5-mile radius zone to 1 mile NE of the VOR, and within 2 miles each side of the Red River TACAN 004° radial, extending from the 5-mile radius zone to 7 miles N of the TACAN.

Grand Forks, N. Dak.(International Airport)

Within a 5-mile radius of Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.), within 2.5 miles each side of the Grand Forks VORTAC 012° radial, extending from the 5-mile radius zone to 6.5 miles north of the VORTAC and within 3 miles each side of the Grand Forks VORTAC 173° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC.

Grand Island, Nebr.

Within a 5-mile radius of Grand Island County Airport (latitude 40°58'03" N., longitude 98°18'30" W.); within 3 miles each side of the Grand Island VORTAC 303° radial, extending from the 5-mile radius zone to 8½ miles northwest of the VORTAC; and within 3 miles each side of the Grand Island VORTAC 360° radial, extending from the 5-mile radius zone to 8½ miles north of the VORTAC.

Grand Junction, Colo.

Within a 5-mile radius of Walker Field, Grand Junction, Colo. (lat. 39°07'05" N. Long. 108°31'10" W). and within 2 miles either side of the Grand Junction ILS localizer NW course extending from the 5-mile radius zone to 8 miles NW of the localizer.

Grand Rapids, Mich.

Within a 5-mile radius of Kent County Airport (latitude 42°52'50" N., longitude 85°31'25" W.).

Grandview, Mo.

Within a 5-mile radius of Richards-Gebaur AFB (latitude 38°50'50" N., longitude 94°33'20" W.); within 2½ miles each side of the Richards-Gebaur AFB ILS localizer south course, extending from the 5-mile radius zone to 1 mile south of the OM; and within 2½ miles each side of the Richards-Gebaur AFB TACAN 195° radial, extending from the 5-mile radius zone to 8½ miles south of the TACAN, excluding the area north of latitude 38°52'30" N., and west of longitude 94°35'50" W. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Grant County, Wash.

Within a 5-mile radius of the Grant County Airport, Moses Lake, Washington (latitude 47°12'29" N., longitude 119°19'05" W.), within 2 miles each side of the Ephrata VORTAC 156° radial extending from the 5-mile radius to 3 miles southeast of the VORTAC, excluding the Ephrata, Washington, control zone, within 2 miles each side of the Grant County ILS localizer south course, extending from the 5-mile radius zone to the Pelican Radio Beacon, within 2.5 miles each side of the Moses Lake VOR 050° radial extending from the 5-mile radius zone to 15.5 miles northeast and within 4 miles each side of the Moses Lake VOR 063° radial extending from the 5-mile radius 14.8 miles northeast. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Great Falls, Mont. (International Airport)

Within a 5-mile radius of the Great Falls International Airport (latitude 47°29'00" N., longitude 111°22'00" W.) within 3½ miles each side of the Great Falls VORTAC 225° radial, extending from the 5-mile radius zone to 10 miles southwest of the VORTAC; within 3½ miles each side of the Great Falls VORTAC 045° radial, extending from the 5-mile radius zone to 19 miles northeast of the VORTAC.

Great Falls, Mont. (Malmstrom Air Force Base)

Within a 5-mile radius of the Malmstrom AFB (latitude 47°30'05" N., longitude 111°11'20" W.); within 3½ miles each side of the Sand Coulee VOR 037° radial, extending from the 5-mile radius zone to 15½ miles northeast of the VOR; within 3½ miles each side of the Malmstrom AFB TACAN 227° radial, extending from the 5-mile radius zone to 7 miles southwest of the TACAN; excluding those portions within the Great Falls International Airport control zone.

Green Bay, Wis.

That airspace within a 5-mile radius of Austin-Straubel Airport, Green Bay, Wis., (latitude 44°29'16" N., longitude 88°07'49" W.).

Greensboro, N. C.

Within a 5-mile radius of Greensboro/High Point/Winston-Salem Regional Airport (latitude 36°05'36" N, longitude 79°56'34" W.); within 2 miles each side of Greensboro VORTAC 035° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; within 2 miles each side of Greensboro ILS localizer northwest course, extending from the 5-mile radius zone to 1 mile southeast of the LOM.

Greenville, Miss.

Within a 5-mile radius of the Greenville International Airport (lat. 33°29'05"N., long. 90°59'06"W.); within 3 miles each side of the Greenville VOR 358° radial extending from the 5-mile radius zone to 8.5 miles N of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 69282 (Changed)
PENDING AMENDMENT
The Greenville, Miss., control zone is amended by deleting the "Greenville International Airport" and substituting the "Greenville Municipal Airport" therefor.

AMENDMENTS 12/25/80 45 F. R. 70855 (Changed)

reenville, S. C.

Within a 5-mile radius of Greenville Municipal Downtown Airport (lat. 34°50'54" N., long. 82°21'01" W.); xcluding the portion within a 5-mile radius of Greenville-Spartanburg Airport (lat. 34°53'45"N., long. 82° 13'04"W.); effective from 0700 to 2300 hours local time daily.

reenville, Tex.

Within a 5-mile radius of the Majors Field Airport (lat. 33°04'00"N., long. 96°03'45"W.). This control zone will be effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

reenwood, Miss.

Within a 5-mile radius of the Greenwood Leflore Airport (latitude 33°20'30" N., longitude 90°04'50" W.); within 2.5 miles each side of the Greenwood VORTAC 081° radial, extending from the 5-mile radius zone to 1.5 miles east of the VORTAC.

Greenwood Village, Colo.

That airspace within a 5-mile radius of the Arapahoe County Airport (lat. 39°34'28"N., long. 104°51'02"W.) and within 2.07 miles each side of the Arapahoe ILS localizer south course extending from the 5-mile radius zone to 6.5 miles south of the airport, excluding that airspace within the Denver, Colo., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Greer, S. C.

Within a 5-mile radius of Greenville-Spartanburg Airport (lat. 34°53'45"N., long. 82°13'04"W.).

Grissom AFB, Ind.

Within a 5-mile radius of Grissom AFB (lat. 40°38'55"N., long. 86°09'10"W.).

Groton, Conn.

Within a 4-mile radius of the center 41°19'50"N., 72°02'50"W., of Trumbull Airport, Groton, Conn., within 2 miles each side of the Trumbull VOR 047° radial extending from the 4-mile radius zone to 7 miles NE of the VOR; within 2 miles each side of the Trumbull VOR 190° radial extended from the 4-mile radius zone to 6.5 miles south of the VOR. Excluding that portion within a 1-mile radius of the center 41°18'15" N., 72° 02'00" W. of the Elizabeth New York Airport. This control zone is effective from 0600 to 2300 hours daily, local time, and during specific dates and times established in advance by a Notice to Airmen.

Guam Island (Andersen AFB)

Within a 5-mile radius of Andersen AFB (lat. 13°35'00"N., long. 144°55'00"W.); within 2 miles each side of the Andersen TACAN 066° radial, extending from the 5-mile radius zone to 9 miles NE of the TACAN, and within 2 miles NW and 4 miles SE of the Andersen VOR 064° radial, extending from the 5-mile radius zone to the Guam Island (NAS Agana) 5-mile radius zone.

Guam Island (NAS Agana)

Within a 5-mile radius of NAS Agana (latitude 13°28'00" N., longitude 144°47'00" E); within 4 miles each side of Agana VORTAC 244°R. (245° T.), extending from the 5-mile radius zone to 8 miles southwest of the VORTAC, and within 1 mile northwest and 2 miles southeast of the Guam RBN 326° bearing, extending from the 5-mile radius zone
to 2 miles northeast of the RBN.

Gulfport, Miss.

Within a 5-mile radius of Gulfport-Biloxi Regional Airport (lat. 30°24'28"N., long. 89°04'05"W.); within 3.5 miles each side of Gulfport VORTAC 050°, 129°, 213° and 319° radials, extending from the 5-mile radius zone to 9.5 miles northeast, southeast, southwest and northwest of the VORTAC; excluding that portion within the Biloxi, Miss., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Gulkana, Alaska

Within a 5-mile radius of the Gulkana Airport (latitude 62°09'19" N., longitude 145°27'08" W.); within 3.5 miles each side of the Gulkana VORTAC 346° radial extending from the 5-mile radius zone to 11.5 miles N of the VORTAC; and within 3 miles each side of the Gulkana VORTAC 181° radial extending from the 5-mile radius zone to 8.5 miles S of the VORTAC.

Hagerstown, Md.

Within a 5-mile radius of the center, 39°42'27" N., 77°43'50" W., of Hagerstown Regional Airport, Hagerstown, Md.; within 3 miles each side of the Hagerstown, Md., VOR 239° radial and 059° radial, extending from 8.5 miles southwest of the VOR to 2 miles northeast of the VOR; within 3 miles each side of the Hagerstown, Md., VOR 084° radial, extending from the 5-mile radius zone to the VOR; within 4.5 miles each side of the Hagerstown Regional Airport ILS Runway 27 localizer course, extending from the localizer to 13.5 miles east of the localizer. This control zone is effective from 0600 to 2230 hours, local time, daily.

Hampton Roads, Va.

Within a 5-mile radius of Langley AFB, Hampton Roads, Va., (lat. 37°05'05"N., long. 76°21'25"W.).

AMENDMENTS 8/11/80 45 F. R. 53089 (Rewritten)

Harlingen, Tex.

Within a 5-mile radius of Harlingen Industrial Airport (latitude 26°13'37" N., longitude 97°39'12" W.); and within 2 miles each side of the Harlingen VOR 117° radial, extending from the 5-mile radius zone to 1 mile southeast of the VOR. This part-time control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory. Tentative dates and times will be: From 0600 to 2200 local time of a daily basis.

Harrisburg, Pa.

Within a 6.5-mile radius of the center, 40°12'59" N., 76°51'03" W., of Capital City Airport, Harrisburg, Pa.; within 2 miles each side of the extended centerline of Capital City Airport Runway 26, extending from the west end of Runway 26 to 6.5 miles west of the west end of Runway 26; within 2 miles each side of the Harrisburg, Pa., VORTAC 100° radial, extending from the 6.5-mile radius zone to 2.5 miles east of the VORTAC; excluding the portion that coincides with the Middletown, Pa., control zone east of the direct lines described as follows: a line bearing 028° from a point 40°12'23" N., 76°48"38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone and a line bearing 191° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone.

Harrison, Ark.

Within a 5-mile radius of Boone County Airport (latitude 36°15'55" N., longitude 93°09'14" W.), within a 7.5-mile radius of the airport extending from the Harrison VOR 165° radial clockwise to the 230° radial, and within 1.5 miles each side of the Harrison VOR 140° radial extending from the 5-mile radius zone to the VOR and within 3 miles each side of the ILS localizer south course extending from the 5-mile radius zone to 8.5 miles south of the LOM (lat. 36°11'28"N., long. 93°09'36"W.).

Hartford, Conn.

Within a 5-mile radius of Hartford-Brainard Airport (lat. 41°44'10" N., long. 72°39'02" W.); within a 5-mile radius of Rentschler Field, East Hartford, Connecticut (lat. 41°45'10" N., long. 72°37'25" W.); within 3.5 miles each side of the Brainard (ADQ) NDB (lat. 41°42'51" N., long. 72°36'48" W.) 130° bearing from the NDB extending from the 5-mile radius zone to 7 miles southeast of the NDB; within 4.5 miles each side of the Hartford, Connecticut, VORTAC 327° radial extending from the 5-mile radius zone to the VORTAC; within 2 miles each side of the Hartford VOR 334° radial extending from the 5-mile radius zone to the VOR; within 2 miles each side of the 182° bearing from the Brainard NDB extending from the 5-mile radius zone to 7 miles south of the NDB and within 2 miles each side of the Hartford VOR 327° radial extending from the 5-mile radius zone to the VOR.

Hastings, Nebr.

Within a 5-mile radius of Hastings, Nebr., Municipal Airport (latitude 40°36'20" N., longitude 98°25'30" W.). within 2 miles each side of the 338° bearing from Hastings Municipal Airport extending from the 5-mile radius zone to 9.5 miles N of the airport, and within 2 miles each side of the 143° bearing from Hastings Municipal Airport extending from the 5-mile radius zone to 8 miles SE of the airport. The control zone shall be effective during the time established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Havre, Mont.

Within a 5-mile radius of City-County Airport (latitude 48°32'45" N., longitude 109°45'40" W.); within 3 miles each side of the Havre VOR 080° radial, extending from the 5-mile radius zone to 7 miles east of the VOR: and within 3 miles each side of the Havre VOR 287° radial, extending from the 5-mile radius zone to 7 miles west of the VOR.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Directory.

Hayden, Colo.

Within a 5-mile radius of Yampa Valley Airport (latitude 40°28'53" N., longitude 107°13'08" W.), within 3.5 miles each side of the Hayden VOR 301° radial extending from the 5-mile radius zone to 11.5 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hays, Kans.

Within a 5-mile radius of Hays Municipal Airport (latitude 38°50'45" N., longitude 99°16'30" W.); and within 2 miles each side of the Hays, Kans., VOR 162° radial, extending from the 5-mile radius zone to 8 miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hayward, Calif.

Within a 5-mile radius of Hayward Air Terminal (latitude 37°39'30" N., longitude 122°06'45" W.), excluding the portion within the Oakland, Calif., control zone. This control zone is effective from 0600 to 0000 hours, local time, daily.

Helena, Mont.

Within a 5-mile radius of the Helena County-City Airport (lat. 46°36'27"N., long. 111°58'45"W.), within 2½ miles each side of the Helena VORTAC 102° radial extending from the 5-mile radius zone to 4½ miles east of the VORTAC, and within 1 mile each side of the 282° bearing from the airport reference point, from the 5-mile radius zone 8 miles west of the VORTAC.

Hibbing, Minn.

That airspace within a 5-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50' 15" W.); within 2 miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to 15 miles northwest of the VORTAC; within 1½ miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to the VORTAC.

Hickory, N. C.

Within a 5-mile radius of Hickory Municipal Airport (latitude 35°44'30"N., longitude 81°23'20"W.); within 1 mile each side of the ILS localizer northeast course, extending from the 5-mile radius zone to the outer marker.

Hillsboro, Oreg.

Within a 5-mile radius of Portland-Hillsboro Airport (latitude 45°32'15" N., longitude 122°56'46" W.): within 2 miles each side of the Newburg VORTAC 007° radial, extending from the 5-mile radius area to 8 miles south of the airport; within 2 miles each side of the 039° bearing from the airport reference point, extending from the 5-mile radius area to 9.5 miles northeast of the airport; and within 3.5 miles each side of the 323° bearing from the airport reference point, extending from the 5-mile radius area to 16 miles northwest.

Hilo, Hawaii

Within a 5-mile radius of General Lyman Field, Hilo, Hawaii (lat. 19°43'15" N., long. 155°02'55" W.), and within 3.5 miles each side of the Hilo VORTAC 090° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC.

Hobart, Okla.

Within a 5-mile radius of the Hobart Municipal Airport (latitude 34° 59' 20" N., longitude 99° 02' 55" W.) and within 2 miles each side of the Hobart VOR 003° radial, extending from the 5-mile radius zone to the VOR.

Hobbs, N. Mex.

That airspace within a 5-mile radius of the Lea County Airport (latitude 32°41'19" N., longitude 103°13' 01" W.), and within 3.5 miles each side of the Hobbs VORTAC 222° radial, extending from the 5-mile radius zone to 10.5 miles SW of the VORTAC.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hollywood, Fla.

Within a 3-mile radius of the North Perry Airport (latitude 26°00'06" N., longitude 80°14'24" W.); excluding the portion which coincides with the Fort Lauderdale and Miami, Fla., control zones. This control zone is effective during the specific dates and time established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Homer, Alaska

Within a 5-mile radius of the Homer Airport (latitude 59°38'43" N., longitude 151°28'31" W.); within 2 miles each side of the 266° bearing from the Kachemak NDB extending from the 5-mile radius zone to 4.5 miles W of the NDB; and within 1.5 miles each side of the Homer localizer SW course extending from the 5-mile radius zone to 11 miles SW of the localizer antenna site (latitude 59°39'06" N., longitude 151°27'22" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the U. S. Flight Information Publication Supplement Alaska.

Homestead, Fla.

Within a 5-mile radius of Homestead AFB (lat. 25°29'15" N., long. 80°23'00" W.); within 2 miles each side of the ILS localizer southwest course, extending from the 5-mile radius zone to 5 miles southwest of the runway end.

Honolulu, Hawaii

Within a 5-mile radius of Honolulu International Airport (lat. 21°19'15"N., long. 157°55'45"W.); within a 5-mile radius of NAS Barbers Point (latitude 21°18'35" N., longitude 158°04'30" W.); within 2 miles each side of the Honolulu VORTAC 089° radial, extending from the VORTAC to the Honolulu 5-mile radius zone; within 3 miles northwest and 4.5 miles southeast of the Honolulu VORTAC 242° radial, extending from the NAS Barbers Point 5-mile radius zone to 13 miles southwest of the Honolulu VORTAC.

Honolulu, Hawaii (Wheeler AFB)

Within a 3-mile radius of Wheeler AFB (latitude 21°29'00" N., longitude 158°02'30" W.), excluding the portion within R-3109. This control zone is effective from 0600 to 2200 hours, local time, daily.

Hopkinsville, Ky.

Within a 5-mile radius of the Campbell AAF (lat. 36°40'23"N., long. 87°29'27"W.); within 1.5 miles each side of the 224° bearing from Campbell RBN, extending from the 5-mile radius zone to 0.5 mile southwest of the RBN; excluding that airspace 3 miles southeast of, and parallel to, Campbell AAF Runway 4/22 centerline and centerline extended; within a 3-mile radius of Sabre Army Heliport (lat. 36°34'14"N., long. 87°28'50"W.).

Hoquiam, Wash.

Within a 5-mile radius of Bowerman Field, Hoquiam, Wash. (lat. 46°58'15" N., long. 123°56'05" W.), within 1.5 miles each side of the Hoquiam VORTAC 081° radial, extending from the 5-mile radius zone to the VORTAC and within 4 miles each side of the 081° radial, extending from the 5-mile radius zone to 20 miles east of the VORTAC.

Hot Springs, Ark.

Within a 9-mile radius of Memorial Field (latitude 34°28'40" N., longitude 93°05'45" W.), and within 3 miles each side of the 248° bearing from the Hot Springs RBN extending from the 9-mile radius zone to 8.5 miles west of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hot Springs, Va.

Within a 6-mile radius of the center, lat. 37°57'04" N., long. 79°50'02" W. of Ingalls Field, Hot Springs, Va. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.

Houghton, Mich.

Within a 6-mile radius of Houghton County Memorial Airport (latitude 47°10'06" N., longitude 88°29'20" W.); within 3 miles each side of the 020° bearing from the Calumet RBN, extending from the 6-mile-radius zone to 6½ miles north of the RBN.

Houlton, Maine

Within a 4-mile radius of the center, 46°07'25" N., 67°47'40" W., of Houlton International Airport, Houlton, Maine, and within 2 miles each side of the Houlton VOR 016° radial extending from the 4-mile radius zone to 2 miles north of the VOR, excluding the airspace within Canada.

Houston, Tex. (David Wayne Hooks Memorial Airport)

Within a 5-mile radius of the David Wayne Hooks Memorial Airport (lat. 30°04'00"N., long. 95°33'00"W.). The control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Houston, Tex. (Ellington AFB)

Within a 5-mile radius of Ellington AFB (latitude 29°36'25" N., longitude 95°09'20" W.), within a 3-mile radius of Clear Lake City Stolport (latitude 29°33'27" N., longitude 95°08'21" W.), within 2 miles each side of the Ellington VOR 209° radial extending from the 5-mile radius zone to 7 miles southwest of the VOR, within 2 miles each side of the Ellington TACAN 213° radial extending from the 5-mile radius zone to 7 miles southwest of the TACAN, within 2 miles each side of the Hobby VORTAC 142° radial extending from the William P. Hobby Airport (latitude 29°38'40" N., longitude 95°16'30" W.) 5-mile radius zone to 11.5 miles southeast of the VORTAC, and within 2 miles each side of the Hobby VORTAC 126° radial extending from the William P. Hobby Airport 5-mile radius zone to 13.5 miles southeast of the VORTAC, excluding the portions within the Houston, Tex. (William P. Hobby), control zone.

uston, Tex. (Intercontinental Airport)

That airspace within a 5-mile radius of Houston Intercontinental Airport (latitude 29°58'51" N., longitude °20'30" W.), within 2 miles each side of the Humble VORTAC 337° radial extending from the 5-mile radius zone 8 miles N of the VORTAC, within 2 miles each side of the Houston Intercontinental ILS localizer W course tending from the 5-mile radius zone to the OM, and within 2 miles each side of the Houston Intercontinental S localizer E course extending from the 5-mile radius zone to 7.5 miles E of the airport.

uston, Tex. (William P. Hobby)

That airspace within a 5-mile radius of William P. Hobby Airport (latitude 29°38'40" N., longitude 95°16'30"); within 2 miles each side of the the Houston William P. Hobby ILS localizer SW course extending from the mile radius zone to the OM, within 2 miles each side of the Houston William P. Hobby ILS localizer NE course tending from the 5-mile radius zone to t Pasadena RBN, within 2 miles each side of the Hobby VORTAC 306° radial extending from the 5-mile radius zone to 6 miles NW of the VORTAC, within 2 miles each side of the Hobby VORTAC 025° radial extending from the 5-mile radius zone to 6 miles NE of the VORTAC, within 2 miles each side of the Hobby VORTAC 239° radial extending from the 5-mile radius zone to 6 miles SW of the VORTAC, within 2 miles each side of the Hobby VORTAC 142° radial extending from the 5-mile radius zone to 11.5 miles SE of the VORTAC, and within 2 miles each side of a 223° bearing from the Hobby DF station (latitude 29°38'48" N., longitude 95°16'42" W.) extending from the 5-mile radius zone to 8 miles SW of the DF station, excluding the portion E of a line from the intersecting point of 5-mile radius circles centered on William P. Hobby Airport and Ellington AFB (latitude 29°36'25" N., longitude 95°09'20" W.) NE of William P. Hobby Airport, through the intersecting point of such 5-mile radius circles SE of William P. Hobby Airport, to latitude 29°32'00" N., longitude 95°15'00" W.

Huntington, W. Va.

Within a 6-mile radius of the center, latitude 38°22'00" N., longitude 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, West Virginia, and within 3.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 6-mile radius zone to 4.5 miles east of the Shoals, West Virginia, FM.

Huntsville, Ala.

Within a 5-mile radius of Huntsville-Madison County Jetport-Carl T. Jones (latitude 34°38'19" N., longitude 86°46'25" W.); within 2 miles each side of the Huntsville ILS localizer north course, extending from the 5-mile radius zone to 2.5 miles south of Capshaw RBN; within a 5-mile radius of Redstone AAF (latitude 34°40'29" N., longitude 86°40'54" W.); within 2 miles each side of the 352° bearing from Whitesburg RBN extending from the 5-mile radius zone to the RBN; within 2 miles each side of the 356° bearing from Redstone RBN, extending from the 5-mile radius zone to 2 miles north of the RBN; within 2.5 miles each side of Runway 35 extended centerline, extending from the threshold to 5.5 miles south; within 2.5 miles each side of Runway 17 extended centerline, extending from the threshold to 6 miles north.

Huron, S. Dak.

Within a 5-mile radius of Huron Regional Airport (latitude 44°23'05" N., longitude 98°13'35" W.); and within 1½ miles each side of the Huron VOR 134° radial, extending from the 5-mile radius zone to the VOR.

Hutchinson, Kans.

Within a 5-mile radius of Hutchinson Municipal Airport (latitude 38°06'56" N., longitude 97°51'37" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hyannis, Mass.

Within a 5-mile radius of the center, 41°40'10" N., 70°16'45" W., of Barnstable Municipal Airport, Hyannis, Mass., and within 2 miles each side of the Hyannis VORTAC 227° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC. This control zone is effective from 0600 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Idaho Falls, Idaho

Within a 5-mile radius of Fanning Field, Idaho Falls, Idaho (latitude 43°31'06" N., longitude 112°04'06" W.); within a 1-mile radius of Rigby, Idaho, Airport (latitude 43°38'45" N., longitude 111°56'45" W.); within 3.5 miles each side of the Idaho Falls VOR 223° radial extending from the 5-mile radius zone to 10.5 miles southwest of the VOR; within 4 miles each side of the Idaho Falls VOR 030° radial, extending from the 5-mile radius zone to 11 miles northeast of the VOR.

Iliamna, Alaska

Within a 5-mile radius of the Iliamna Airport (lat. 59°45'12"N., long. 154°54'54"W.); and within 2.5 miles each side of the 189° bearing from the Iliamna NDB, extending from the 5-mile radius zone to 9.5 miles south of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication, Supplement Alaska.

Imperial Beach, Calif.

Within a 3-mile radius of NAS Imperial Beach (latitude 32°34'00" N., longitude 117°06'50" W.); that airspace W of NAS Imperial Beach within the arc of a 6-mile radius circle centered in the Imperial Beach TACAN, extending counterclockwise from a line 2 miles north of and parallel to the Imperial Beach TACAN 288° radial to the United States/Mexican Flight Information Region Boundary, excluding the portion under the jurisdiction of Mexico; and that airspace east of a NAS Imperial Beach within the arc of a 6-mile radius circle centered on the Imperial Beach TACAN, extending clockwise from a line 2 miles north of and parallel to the Imperial Beach TACAN 065° radial to the United States/Mexican Border, excluding the portion east of longitude 117°01'00" W., when the San Diego, Calif. (Brown Field) control zone is effective.

Indianapolis, Ind.

Within a 5-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within 2 miles each side of the Indianapolis runway 4L ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM; within 2 miles each side of the Indianapolis runway 31L ILS localizer southeast course, extending from the 5-mile radius zone to 1 mile northwest of the OM; and within 2½ miles each side of the Indianapolis runway 22R ILS localizer northeast course, extending from the 5-mile radius zone to 14½ miles northeast of the OM.

International Falls, Minn.

Within a 5-mile radius of International Falls Airport (latitude 48°33'55" N., longitude 93°24'05" W.); within 2½ miles each side of the International Falls VOR 129° radial extending from the 5-mile radius zone to 7 miles southeast of the VOR; and within 2½ miles each side of the International Falls VOR 320° radial, extending from the 5-mile radius zone to 7 miles northwest of the VOR, excluding the portion outside the United States.

Iron Mountain, Mich.

Within a 7-mile radius of Ford Airport (latitude 45°48'57" N., longitude 88°06'36" W.); within 3 miles each side of the Iron Mountain VORTAC 192° radial, extending from the 7-mile radius zone to 8 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Ironwood, Mich.

Within a 6½-mile radius of Gogebic County Airport (latitude 46°31'32" N., longitude 90°07'54" W.); within 3 miles each side of the Ironwood VORTAC 258° radial, extending from the 6½-mile radius zone to 8 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Islip, N. Y.

Within a 5-mile radius of the center, 40°47'50"N., 73°06'01"W., of Long Island MacArthur Airport, Islip, N. Y.; within a 6-mile radius of the center of the airport extending clockwise from a 260° to 076° bearing from the airport.

Ithaca, N. Y.

Within a 5-mile radius of the center, 42°29'29" N., 76°27'30" W., of Tompkins County Airport, Ithaca, N. Y., extending clockwise from a 196° bearing to a 329° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 329° bearing to a 081° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 081° bearing to a 137° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 137° bearing to a 170° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 170° bearing to a 196° bearing from the airport; within 3 miles each side of the Ithaca, N. Y., VORTAC 305° radial, extending from the VORTAC to 8.5 miles northwest of the VORTAC. This control zone is effective during specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be published continuously in the Airport/Facility Directory.

Jackson, Mich.

Within a 5-mile radius of Reynolds Airport, Jackson, Mich. (latitude 42°15'30" N., longitude 84°27'40" W.), within 2 miles each side of the Jackson VOR 044° radial, extending from the 5-mile radius zone to 8 miles northeast of the VOR, within 2 miles each side of the Jackson VOR 238° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR, within 2 miles each side of the Jackson VOR 306° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR, and within 2 miles each side of the Jackson VOR 141° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR.

Jackson, Miss.

Within a 5-mile radius of Allen C. Thompson Field (latitude 32°18'40" N., longitude 90°04'35" W.); within 2.5 miles each side of Jackson VORTAC 157° and 160° radials, extending from the 5-mile radius zone to 20 miles SE and S of the VORTAC; within a 5-mile radius of Hawkins Field (latitude 32°20'10" N., longitude 90°13'15" W.); within 3 miles each side of the 008° bearing from Hawkins RBN, extending from the 5-mile radius zone to 8.5 miles N of the RBN; within 1.5 miles each side of the Jackson VORTAC 195° radial, extending from the 5-mile radius zone to 0.5 mile S of the VORTAC; within a 5-mile radius of Bruce Campbell Field (latitude 32°26'15" N., longitude 90°06'05" W.).

Jackson, Tenn.

Within a 5-mile radius of McKellar Field (latitude 35°35'55" N., longitude 88°54'55" W.); within 2.5 miles each side of the McKellar VOR 206° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the VOR.

Jacksonville, Fla. (Craig Municipal Airport)

Within a 5-mile radius of Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.); excluding the portion northeast of a line connecting the two points of intersection with a 5-mile radius circle centered on NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.) control zone.

Jacksonville, Fla. (International Airport)

Within a 5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.); within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to 1.5 miles east of the LOM.

acksonville, Fla. (NAS Jacksonville)

Within a 5-mile radius of NAS Jacksonville (lat. 30°14'00" N., long. 81°40'30" W.); within 3 miles each side of Navy Cecil VOR 064° radial, extending from the 5-mile radius zone to the NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.) control zone.

Jacksonville, Fla. (NAS Cecil Field)

Within a 5-mile radius of NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.); within 3.5 miles each side of Navy Cecil VOR 285° radial and the 285° bearing from Navy Cecil RBN, extending from the 5-mile radius zone to 11.5 miles west of the VOR and RBN; within 2 miles each side of Navy Cecil TACAN 184° radial, extending from the 5-mile radius zone to 14 miles south of the TACAN; within 1.5 miles each side of Navy Cecil TACAN 355° radial, extending from the 5-mile radius zone to 5.5 miles north of the TACAN.

Jacksonville, N. C.

Within a 5-mile radius of New River MCAS (latitude 34°42'25"N., longitude 77°26'35"W.); within 3 miles each side of the 226° bearing from New River RBN, extending from the RBN to 8.5 miles southwest of the RBN; within 2 miles each side of New River TACAN 236° radial, extending from the 5-mile radius zone to 9.5 miles southwest of the TACAN. This control zone is effective from 0700 hours, local time, to sunset, Monday through Friday; 0700 to 1200 hours, local time, Saturday; 1600 to 2000 hours, local time, Sunday, and closed on holidays.

Jacksonville, N.C. (Albert J. Ellis Airport)

Within a 5-mile radius of Albert J. Ellis Airport (Lat. 34°49'49"N., Long. 77°36'42"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Jamestown, N. Y.

Within a 5-mile radius of the center, 42°09'07" N., 79°15'26" W., of Chautauqua County Airport, Jamestown, . Y.; within 2 miles each side of the Jamestown, N. Y., VOR 071° and 251° radials extending from the 5-mile adius zone to the VOR and within 2 miles each side of a 053° bearing from the Jamestown, N. Y., RBN (42°11'02" ., 79°11'15" W.) extending from the 5-mile radius zone to 7 miles northeast of the RBN. This control zone is effective during specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be published continuously in the Airport/Facility Directory.

Jamestown, N. Dak.
Within a 5-mile radius of Jamestown Municipal Airport (latitude 46°55'56" N., longitude 98°40'40" W.); within 3 miles each side of the Jamestown VORTAC 140° radial, extending from the 5-mile radius zone to 7.5 miles southeast of the VORTAC; and within 3 miles each side of the Jamestown VORTAC 308° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC.

Janesville, Wis.
Within a 5-mile radius of the Rock County Airport (latitude 42°37'12" N., longitude 89°02'28" W.); within 3 miles each side of a 125° bearing from the Rock County Airport extending from the 5-mile radius zone to 6½ miles southeast of the airport; and within 3 miles each side of a 321° bearing from the Rock County Airport extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Jefferson City, Mo.
Within a 5-mile radius of the Jefferson City Memorial Airport (latitude 38°35'33" N., longitude 92°09'39" W.), and within 2 miles each side of the Jefferson City VOR 308° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR, and within 2.5 miles each side of the 118° bearing from the Jefferson City RBN facility (latitude 38°33'20" N., longitude 92°04'40" W.) and 2.5 miles each side of the 124° bearing from the Jefferson City RBN, extending from the 5-mile radius zone to 16 miles southeast of the VOR. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

Johnstown, Pa.
Within a 5.5-mile radius of the center, lat. 40°19'00" N., long. 78°50'00" W. of Johnstown-Cambria County Airport, Johnstown, Pa.; within 3.5 miles each side of the Johnstown VORTAC 044° radial, extending from the 5.5-mile radius zone to 10 miles northeast of the VORTAC; within 3 miles each side of the Johnstown VORTAC 216° radial, extending from the 5.5-mile radius zone to 8.5 miles southwest of the VORTAC, and within 3.5 miles each side of the Johnstown VORTAC 320° radial, extending from the 5.5-mile radius zone to 10.5 miles northwest of the VORTAC. This control zone is effective from 0630 to 2330 hours, local time, daily.

Jonesboro, Ark.
Within a 5-mile radius of Jonesboro Municipal Airport (latitude 35°49'50" N., longitude 90°38'55" W.) and within 3 miles each side of the Jonesboro VOR 048° radial extending from the 5-mile radius zone to 8 miles northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Joplin, Mo.
Within a 5-mile radius of the Joplin Municipal Airport (latitude 37°09'05" N., longitude 94° 29' 55" W.).

Juneau, Alaska
Within a 5-mile radius of Juneau Municipal Airport (latitude 58°21'30" N., longitude 134°35'00" W.), and within 2 miles each side of the Juneau localizer W course, extending from the 5-mile radius zone to 2 miles W of the Coghlan Island, Alaska, RBN.

Kahului, Hawaii
Within a 5-mile radius of Kahului Airport (latitude 20°54'05" N., longitude 156°26'05" W.); within 4 miles each side of the Maui VORTAC 038° radial, extending from the 5-mile radius zone to 14 miles northeast of the VORTAC; within 2 miles each side of the Maui VORTAC 201° radial, extending from the 5-mile radius zone to 11 miles south of the VORTAC and within 2 miles each side of the extended centerline of Runway 2/20, extending from the 5-mile radius zone to 11 miles south of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

Kalamazoo, Mich.
Within a 5-mile radius of the Kalamazoo Municipal Airport (lat. 42°14'07"N., long. 85°33'10"W.); within 2 miles each side of the Kalamazoo VOR 001° and 167° radials, extending from the 5-mile radius zone to 7 miles north and south of the VOR, and within 2 miles each side of the Kalamazoo ILS localizer south course, extending from the 5-mile radius zone to the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 9/4/80 45 F. R. 48598 (Rewritten)

Kalispell, Mont.
Within a 5-mile radius of the Glacier Park International Airport (latitude 48°18'40" N., longitude 114° 15'16" W.); within 2 miles each side of the 035° bearing from the Smith Lake NDB (latitude 48°06'26" N., longitude 114°27'37" W.); extending from the 5-mile radius zone to 4 miles northeast of the NDB (12.5 miles southwest of the airport).

Kaneohe, Hawaii

Within a 5-mile radius of MCAS Kaneohe (latitude 21°27'30" N., longitude 157°46'30" W.).

Kansas City, Mo.

Within a 5-mile radius of the Kansas City Downtown Airport (lat. 39°07'20.7"N., long. 94°35'30"W.) within 1.5 miles each side of the Riverside, Mo., VOR 043° radial extending from the 5-mile radius zone to 6 miles northeast of the VOR, within 1.5 miles each side of the Riverside, Mo., VOR 219° radial extending from the 5-mile radius zone to 6 miles southwest of the VOR, and within 2 miles each side of the Riverside, Mo., VOR 013° radial extending from the 5-mile radius zone to 10.5 miles north of the VOR, excluding that area which overlies the Kansas City, Mo., International Airport control zone.

Kansas City, Mo. (International Airport)

Within a 5-mile radius of the Kansas City International Airport (latitude 39°18'18" N., longitude 94°42'40" W.), and within 2 miles either side of the Rwy 9 ILS localizer west course extending from the 5-mile radius zone to the Rondell OM; and within 2 miles either side of the Rwy 19 ILS localizer north course extending from the 5-mile radius zone to 12 miles north of the Wyandotte OM; and within 1.5 miles either side of the 268° radial of the Kansas City VORTAC extending from the 5-mile radius zone to the VORTAC; and within 2 miles either side of the Rwy 1 ILS localizer south course extending from the 5-mile radius zone to 1.5 miles south of the Wyandotte OM.

e-ahole, Kona, Hawaii

Within a 5-mile radius of the Ke-ahole Airport (latitude 19°44'35" N., longitude 156°03'00" W.) and within .5 miles each side of the Kona VORTAC 340° radial, extending from the 5-mile radius zone to the VORTAC. his control zone is effective from 0600 to 2200 hours, local time, daily.

Kearney, Nebr.

Within a 5-mile radius of Kearney Municipal Airport (latitude 40°43'45" N., longitude 98°59'55" W.); within 3½ miles each side of the Kearney VOR 184° radial, extending from the 5-mile radius zone to 10½ miles south of the VOR; and within 3½ miles each side of the Kearney VOR 360° radial, extending from the 5-mile radius zone to 11½ miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Kenai, Alaska

Within a 5-mile radius of the Kenai Municipal Airport (latitude 60°34'21" N., longitude 151°14'44" W.), and within 2 miles northwest and 2.5 miles southeast of the Kenai VORTAC 031° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC.

Ketchikan, Alaska

Within a 3-mile radius of the Ketchikan Airport (lat. 55°21'00" N., long. 131°42'22" W.) extending clockwise from the 316° bearing to the 136° bearing from the airport; with a 4-mile radius of the Ketchikan Airport extending clockwise from the 136° bearing to the 316° bearing from the airport; and within 1 mile each side of the Ketchikan localizer northwest/southeast courses extending from the radius zone to 8 miles northwest and 5.8 miles southeast of the Ketchikan localizer. This control zone is effective from 0600 to 2200 hours local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Key West, Fla.

Within a 5-mile radius of Key West International Airport (lat. 24°33'22" N., long. 81°45'38" W.); within 3 miles each side of the 268° bearing from Fish Hook RBN, extending from the 5-mile radius zone to 8.8 miles west of the RBN; within 4 miles each side of Key West VORTAC 309° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 5-mile radius of Key West NAS (Boca Chica) (lat. 24°34'30" N., long. 81°41'15" W.); within 3.5 miles each side of the 251° bearing from Key West NAS UHF RBN, extending from the 5-mile radius zone to 10.5 miles west of the RBN.

Killeen, Tex.

Within a 5-mile radius of Fort Hood AAF (lat. 31°08'15"N., long. 97°42'50"W.); within a 4-mile radius of Killeen Municipal Airport (lat. 31°05'10"N., long. 97°41'05"W.); within 3 miles each side of the Hood VOR 219° radial extending from the 4-mile radius zone to 8 miles southwest of the VOR; within a 5-mile-radius of Robert Gray AAF (lat. 31°04'20"N., long. 97°49'45"W.); within 3.5 miles each side of the 341° bearing from the NDB (lat. 31°10'03"N., long. 97°52'41"W.), extending from the 5-mile-radius zone to 8 miles north of the NDB.

King Salmon, Alaska

Within a 5-mile radius of the King Salmon, Alaska, airport (latitude 58°40'43" N., longitude 156°38'50" W.), within 2.5 miles each side of the King Salmon VORTAC 312° and 132° radials, extending from the 5-mile radius zone to 12.5 miles northwest of the VORTAC; and within 2 miles each side of the King Salmon VORTAC 132° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC.

Kingsville, Tex.

Within a 5-mile radius of NAAS Kingsville (North) (latitude 27°30'10" N., longitude 97°48'25" W.); within 2 miles each side of the Kingsville TACAN 321° radial, extending from the 5-mile radius zone to 8 miles NW of the TACAN; within 2 miles each side of the Kingsville UHF RBN 321° bearing, extending from the 5-mile radius zone to 8 miles NW of the UHF RBN; within 2 miles each side of the Kingsville TACAN 187° radial, extending from the 5-mile radius zone to 7 miles S of the TACAN; within 2 miles each side of the Kingsville UHF RBN 187° bearing, extending from the 5-mile radius zone to 7 miles S of the UHF RBN.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in Part 3 of the Airport/Facility Directory.

Kinston, N. C.

Within a 5-mile radius of Stallings Field (lat. 35°19'36" N., long. 77°37'02" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Kirksville, Mo.

Within a 5-mile radius of Clarence Cannon Memorial Airport (lat. 40°05'45" N., long. 92°32'50"W.). This control zone will be effective initially during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

K. I. Sawyer AFB, Mich.

Within a 5-statute mile radius of the K. I. Sawyer Airport (lat. 46°21'N., long. 87°24'W.); within 2 statute miles each side of the extended centerline of Runway 01/19, extending from the 5-mile radius zone to 7.5 statute miles north and south of the airport.

Klamath Falls, Oreg.

Within a 5-mile radius of Kingsley Field (latitude 42°09'29" N., longitude 121°43'57" W.), within 4 miles east and 2 miles west of the Klamath Falls VORTAC 171° radial extending from the 5-mile radius zone to 8.5 miles south of the VORTAC, and within 2 miles each side of the Klamath Falls VORTAC 332° radial, extending from the 5-mile radius zone to 11 miles northwest of the VORTAC.

Knob Noster, Mo. (Whiteman AFB)

Within a 5-mile radius of Whiteman AFB, Knob Noster, Mo. (lat. 38°43'50"N., long. 93°33'00"W.); within 2 miles each side of Whiteman VOR 010° radial, extending from the 5-mile radius to 2 miles north of the Whiteman VOR, and within 2 miles each side of the Whiteman TACAN 185° radial, extending from the 5-mile radius to 7 miles south of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Knoxville, Tenn. (Downtown Island Airport)

Within a 5-mile radius of Downtown Island Airport (lat. 35°57'45" N., long. 83°52'30" W.); excluding the portion within the Knoxville control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Knoxville, Tenn.

Within a 5-mile radius of McGhee-Tyson Airport (latitude 35°48'40" N., longitude 83°59'35" W.); within 2 miles each side of Knoxville ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the LOM; within 1.5 miles each side of Knoxville VORTAC 220° radial, extending from the 5-mile radius zone to 1.5 miles southwest of the VORTAC.

Kodiak, Alaska

Within a 5-mile radius of the Kodiak Airport (latitude 57°45'02" N., longitude 152°29'19" W.), and within 3 miles north and 3.5 miles south of the Kodiak VORTAC 072° and 252° radials extending from the 5-mile radius zone to 9.5 miles east of the VORTAC.

Kotzebue, Alaska

Within a 5-mile radius of Wien Memorial Airport, Kotzebue, Alaska, (latitude 66°53'02" N., longitude 162°36'05" W.), within 3 miles each side of the 048° bearing from the Hotham NDB extending from the 5-mile radius zone to 7 miles northeast of the NDB; within 3 miles each side of the Kotzebue VORTAC 278° radial extending from the 5-mile radius zone to 10 miles west of the VORTAC; and within 3 miles each side of the Kotzebue VORTAC 090° radial extending from the 5-mile radius zone to 8 miles east of the VORTAC.

This control zone is effective from 0800 to 2400 hours local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Kwajalein Island, Marshall Islands

Within a 5-mile radius of the Bucholz AAF (lat. 08°43'32" N., long. 167°44'03" E.); within 2.5 miles each side of the Kwajalein TACAN 248° radial, extending from the 5-mile radius zone to 6 miles west of the TACAN; and within 3.5 miles each side of the 078° bearing from the Kwajalein RBN, extending from the 5-mile radius zone to 11 miles east of the RBN.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The date and time will thereafter be continuously published in the Pacific Chart Supplement.

La Crosse, Wis.

That airspace within a 5-mile radius of La Crosse Municipal Airport (latitude 43°52'38" N., longitude 91°15'2[illegible]" W.); within 3 miles each side of the La Crosse VOR 322° radial extending from the 5-mile radius zone to 1[illegible]½ miles northwest of the VOR; and within 2½ miles each side of the La Crosse VOR 185° radial extending from the 5-mile radius zone to 5½ miles south of the VOR; and within 2 miles each side of the La Crosse ILS localizer north course, extending from the 5-mile radius zone to 9 miles north of the airport.

Lafayette, Ind.

Within a 5-mile radius of Purdue University Airport (latitude 40°24'45" N., longitude 86°56'06" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lafayette, La.

That airspace within a 5-mile radius of Lafayette, La., Airport (lat. 30°12'00"N., long. 91°59'40"W.).

Lake Charles, La.

That airspace within a 5-mile radius of Lake Charles Municipal Airport (lat. 30°07'32"N., long. 93°13' 22"W.) within 2.5 miles each side of the Lake Charles VORTAC 256° radial extending from the 5-mile radius area to 6 miles east of the airport.

AMENDMENTS 5/15/80 45 F. R. 17003 (Rewritten) CORRECTION 7/10/80 45 F. R. 30423

Lakehurst, N. J.

Within a 5-mile radius of the center 40°02'00"N., 74°21'00"W., of NAEC Lakehurst, Lakehurst, N. J.; within 3 miles each side of the 050° bearing from the Navy Lakehurst UHF RBN, extending from the 5-mile radius zone to 3.5 miles northeast of the RBN. This control zone is effective from 0700 to 2300 hours, local time, daily, or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lakeland, Fla.

Within a 5-mile radius of the Lakeland Municipal Airport (lat. 27°59'20"N., long. 82°00'53"W.); excluding that airspace within a 1.5-mile radius of the Circle X Airport (lat. 27°55'59"N., long. 82°02'39"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lake Tahoe, Calif.

Within a 5-mile radius of Lake Tahoe Airport (latitude 38°53'30" N., longitude 119°59'50" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Lanai, Hawaii

Within a 5-mile radius of Lanai Airport (lat. 20°47'30" N., long. 156°57'00" W.). This control zone is effective during specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

Lancaster, Calif. (Fox Field)

Within a 5-mile radius of General William J. Fox Airfield (lat. 34°44'26" N., long. 118°13'04" W.), and within 2 miles each side of the Palmdale VORTAC 311° radial extending from the 5-mile radius zone to the Palmdale, Calif., 5-mile radius zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lancaster, Pa.

Within a 5-mile radius of the center, 40°07'16" N., 76°17'47" W., of Lancaster Airport, Lancaster, Pa.; within 3 miles each side of the Lancaster VORTAC 260° radial, extending from the VORTAC to 8.5 miles west; within 3 miles each side of the Lancaster VORTAC 128° radial, extending from the VORTAC to 8.5 miles southeast; within 2 miles each side of the Lancaster VORTAC 055° radial, extending from the VORTAC to 5 miles northeast. This control zone is effective from 0630 to 2330 hours, local time, daily.

Lansing, Mich.

Within a 5-mile radius of Capital City Airport, Lansing, Mich. (latitude 42°46'40" N., longitude 84°35'20" W.).

Laramie, Wyo.

Within a 5-mile radius of General Brees Field, Laramie, Wyoming (lat. 41°18'50" N., long. 105°40'25" W.); within 4 miles each side of the Laramie VORTAC 301° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC and within 4.5 miles each side of the Laramie VORTAC 126° radial, extending from the 5-mile radius zone to 20 miles southeast of the VORTAC.

Laredo, Tex.

Within a 5-mile radius of the Laredo International Airport (lat. 27°32'40"N., long. 99°27'40"W.); within 1.5 miles each side of the Laredo VORTAC 141° radial extending from the 5-mile radius area to 1 mile southeast; within a 5-mile radius of the Laredo Municipal Airport (lat. 27°36'56"N., long. 99°31' 12" W.); within 1.5 miles each side of the Laredo ILS localizer northwest course extending from the ILS localizer site (latitude 27°36'12.6" N., longitude 99°30'50.2" W.) to 7 miles northwest, excluding that portion outside the United States. This control will be effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Lewisburg, W. Va.

Within a 6-mile radius of the center, lat. 37°51'35" N., long. 80°23'55" W. of Greenbrier Valley Airport, Lewisburg, W. Va., extending clockwise from a 110° bearing from the airport to a 275° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 275° bearing from the airport to a 040° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 040° bearing from the airport to a 110° bearing from the airport and within 3 miles each side of the Greenbrier Valley Airport ILS localizer southwest course, extending from the 6-mile radius arc to 8.5 miles southwest of the OM.

This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.

Lewiston, Idaho

Within a 5-mile radius of Lewiston-Nez Perce County Airport (lat. 46°22'29" N., long. 117°00'52" W.); and within 3 miles each side of the Lewiston-Nez Perce ILS localizer course, extending from the 5-mile radius zone to 16.5 miles east of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lewistown, Mont.

Within a 5-mile radius of the Lewistown Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 1.5 miles each side of the Lewistown VORTAC 090° radial, extending from the 5-mile radius zone to the VORTAC.

Lexington, Ky.

Within a 5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 1.5 miles each side of the ILS localizer northeast course, extending from the 5-mile radius zone to 5 miles northeast of the runway end.

Liberal, Kans.

Within a 5-mile radius of Liberal Municipal Airport (latitude 37°02'35" N., longitude 100°57'45" W.); within 2 miles each side of the Liberal VORTAC 025° radial, extending from the 5-mile radius zone to 8 miles NE of the VORTAC; and within 2 miles each side of the Liberal VORTAC 153° radial, extending from the 5-mile radius zone to 8 miles SE of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lihue, Hawaii

Within a 5-mile radius of Lihue Airport (latitude 21°58'55" N., longitude 159°20'40" W.) and within 2 miles each side of the Lihue VORTAC 130° radial, extending from the 5-mile radius zone to 9 miles southeast of the VORTAC.

Limestone, Maine

Within a 5-mile radius of the center, 46°57'05" N., 67°53'10" W., of Loring AFB, Limestone, Maine, excluding the portion outside of the United States; within 2 miles each side of the Loring TACAN 168° radial extending from the 5-mile radius zone to 6.5 miles south of the TACAN; and within 2 miles each side of the Loring TACAN 348° radial extending from the 5-mile radius zone to 7 miles north of the TACAN.

Las Vegas, Nev. (McCarran Field)
Within a 5-mile radius of McCarran Field (latitude 36°05'06" N., longitude 115°09'00" W.); within 2 miles southeast and 3 miles northwest of the Las Vegas VORTAC 032° radial extending from the 5-mile radius zone to 6.5 miles northeast of the VORTAC; within 2 miles northwest and 3 miles southeast of the Las Vegas VORTAC 214° radial extending from the 5-mile radius zone to 6 miles southwest of the VORTAC; and within 2 miles each side of the Las Vegas VORTAC 268° radial extending from the 5-mile radius zone to 6.5 miles west of the VORTAC.

Las Vegas, Nev. (Nellis AFB)
Within a 5-mile radius of Nellis AFB (Lat. 36°14'10" N, Long. 115°02'00" W), and within 2 miles SE and 3 miles NW of the Las Vegas VORTAC 032° radial, extending from the 5-mile radius zone to 6.4 miles SW of the airport.

Las Vegas, N. Mex.
Within a 5-mile radius of the Las Vegas Municipal Airport (lat. 35°39'20" N., long. 105°08'30" W.), within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 025° radial extending beyond the 5-mile radius zone to a point 11 miles northeast of the VORTAC; and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 220° radial extending beyond the 5-mile radius zone to a point 10 miles southwest of the VORTAC.

Latrobe, Pa.
Within a 5-mile radius of the center, lat. 40°16'39"N., long. 79°24'14"W., of Westmoreland County Airport, Latrobe, Pa.; within 2 miles each side of the Westmoreland County Airport localizer northeast course extending from the 5-mile radius zone to 1.5 miles southwest of the BENJE RBN lat. 40°22'32"N., long. 79°16'19"W.; and within 1.5 miles each side of the Westmoreland County Airport localizer southwest course extending from the -mile radius zone to 17.5 miles southwest of the BENJE RBN. This control zone shall be effective from 0630 to 2200 hours, local time, daily.

LaVerne, Calif.
Within a 3-mile radius of Brackett Field (latitude 34°05'30" N., longitude 117°47'00" W.), within 2 miles each side of the Pomona VOR 179° radial, extending from the 3-mile radius zone to 3 miles south of the VOR. This control zone shall be effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lawrence, Mass.
Within a 5-mile radius of the Lawrence Municipal Airport (lat. 42°43'01.5"N., long. 71°07'26.2"W.) and within 4 miles either side of the Lawrence VOR 042° radial extending from the VOR to 8 miles northeast, and within 1.5 miles either side of the Haget NDB 038° bearing extending from the 5-mile radius zone to the NDB; excluding that airspace which overlaps the Beverly, Mass., (Beverly Municipal Airport) control zone. This control zone will be effective from 0700 to 2300 hours local time daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/10/80 45 F. R. 27746 (Added) Corr: 45 F. R. 34263

Lawton, Okla.
Within a 5-mile radius of Lawton Municipal Airport (latitude 34° 34'15" N., longitude 98°24'55" W.) and within a 3-mile radius of latitude 34°38'18" N., longitude 98°24'06" W.; excluding the portion within R-56 1A.

Lebanon, N. H.
Within a 5-mile radius of the center, lat. 43°37'41"N., long. 72°18'21"W., of Lebanon Regional Airport, Lebanon, N. H.; within 3 miles each side of the Hanover NDB 231° and 051° bearings, extending from the 5-mile radius zone to 8.5 miles northeast of the NDB; within 2 miles either side of the centerline of Runway 18 extended 5.5 miles from the end of the runway; within 2 miles either side of the White River NDB 060° bearing extending from the 5-mile radius zone to 7.5 miles from the end of Runway 07.

Lemoore, Calif.
Within a 6-mile radius of NAS Lemoore (latitude 36° 20' 00" N., longitude 119° 57' 04" W.); within 2 miles each side of the Lemoore TACAN 336° and 356° radials, extending from the 6-mile radius zone to 8 miles NW and N of the TACAN, and within 2 miles each side of the Lemoore TACAN 156° radial, extending from the 6-mile radius zone to 8 miles SE of the TACAN.

Lincoln, Nebr.
Within a 6-mile radius of Lincoln Airport (latitude 40°50'58" N., longitude 96°45'31" W.); and within 1.5 miles each side of the 325° track angle from the Runway 14 threshold extending from the 6-mile radius to 7 miles northwest of the Lincoln Airport; and within 2 miles each side of the Lincoln ILS localizer north course extending from the 6-mile radius to 14 miles north of the Lincoln Airport; and within 2 miles either side of the Lincoln VORTAC 015° radial extending from the 6-mile radius to 8 miles north of the Lincoln VORTAC; and within 2 miles each side of the Lincoln VORTAC 187° radial extending from the 6-mile radius to 13 miles south of the Lincoln VORTAC excluding the airspace within a 1-mile radius of Arrow Airport (latitude 40°52' 00" N., longitude 96°39'15" W.).

Little Rock, Ark. (Adams Field)
Within a 5-mile radius of Adams Field (latitude 34°43'45" N., longitude 92°13'45" W.), within 1.5 miles each side of the ILS localizer southwest course extending from the 5-mile radius zone to the LOM, and within 3.5 miles each side of the ILS localizer northeast course extending from the 5-mile radius zone to 12 miles northeast of the airport excluding the portion within the Little Rock, Ark. (Little Rock AFB), control zone.

Little Rock, Ark. (Little Rock AFB)
Within a 5-mile radius of Little Rock AFB (latitude 34°55'05" N., longitude 92°08'45" W.), within 1.5 miles each side of the ILS localizer northeast course extending from the 5-mile radius zone to 1 mile east of the 5-mile radius, within 1.5 miles each side of the Jacksonville TACAN 076° radial extending from the 5-mile radius zone to 6.5 miles east of the TACAN, within 2 miles each side of the extended centerline of Runway 24 extending from the 5-mile radius zone to 6 miles southwest of the airport, and within 1.5 miles each side of the Jacksonville TACAN 241° radial extending from the 5-mile radius zone to 7 miles southwest of the TACAN.

Livermore, Calif.
Within a 3-mile radius of Livermore Municipal Airport (latitude 37°41'38" N., longitude 121°49'02" W.).
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continually published in the Airport/Facility Directory.

Livingston, Mont.
That airspace within a 5-mile radius of Mission Field Airport (latitude 45°41'45" N., longitude 110°26'40" W.) and within 3 miles each side of the Livingston, Mont., VORTAC 340° radial, extending from the 5-mile radius zone to 8 miles north of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

London, Ky.
Within a 5-mile radius of London-Corbin Airport, Magee Field (lat. 37°05'15" N., long. 84°04'38" W.); within 2 miles each side of London VOR 030° radial, extending from the 5-mile radius zone to 10 miles northeast of the VOR within
3 miles each side of London VOR 202° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR.

Lonely DEW Station, Alaska
Within a 5-mile radius of Lonely DEW Station Airport (lat. 70°54'40"N., long. 153°14'20"W.) and within 3.5 miles each side of the 293° bearing from the Lonely NDB, extending from the NDB to 10 miles northwest of the NDB.

AMENDMENTS 3/20/80 45 F. R. 6354 (Rewritten)

Lone Rock, Wis.
Within a 5-mile radius of the Tri-County Airport (latitude 43°12'36" N., longitude 90°11'06" W.); excluding the portion overlying and south of the Wisconsin River. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Long Beach, Calif.
Within a 5-mile radius of Long Beach Municipal Airport (latitude 33°49'07" N., longitude 118°09'04" W.) within a 5-mile radius of NAS Los Alamitos, Calif. (latitude 33°47'30" N., longitude 118°02'50" W.); within 2 miles each side of the Long Beach ILS localizer NW course, extending from the Long Beach 5-mile radius zone to 5 miles NW of the localizer, excluding the portion within a 1-mile radius of Sunset Beach, Calif. Airport (latitude 33°43'08" N., longitude 118°02'13" W.).

Longview, Tex.
That airspace within a 5-mile radius of Gregg County Airport, Longview, Tex. (latitude 32°23'05" N., longitude 94°42'45" W.); within 2 miles each side of the Gregg County VORTAC 313° radial extending from the 5-mile radius zone to 7 miles NW of the VORTAC, within 2 miles each side of the Gregg County VORTAC 149° radial extending from the 5-mile radius zone to 9 miles southeast of the VORTAC, within 2 miles each side of the Gregg County ILS localizer NW course extending
from the 5-mile radius zone to 0.5 mile SE of the OM, and within 2 miles each side of the Gregg County ILS localizer SE course extending from the 5-mile radius zone to 6 miles SE of the airport.

Los Angeles, Calif. (Hawthorne Municipal Airport)
Within a 3-mile radius of the Hawthorne Municipal Airport (latitude 33°55'20" N., longitude 118°20'05" W.), and within 2 miles on each side of the Los Angeles VOR 096° radial extending from the 3-mile radius zone to 4 miles E. of the lift-off end of Runway 7, excluding the portion N. of latitude 33°55'30" N. and W. of longitude 118°21'40" W. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Los Angeles, Calif. (Los Angeles International Airport)

Within a 5-mile radius of the Los Angeles International Airport (latitude 33°56'25" N., longitude 118°24'10" W.); within a 3-mile radius of the Hawthorne Municipal Airport, Los Angeles, Calif. (latitude 33°55'20" N., longitude 118°20'05" W.); within 2 miles each side of the Los Angeles Runway 25L ILS localizer east course, extending from the 5-mile radius zone to the Lima OM; within 2 miles each side of the Los Angeles VOR 096° radial, extending from the Hawthorne 3-mile radius zone to 4 miles E of the lift-off end of Hawthorne Municipal Airport Runway 7, excluding the portion N of a line extending from latitude 34°00'43" N., longitude 118°23'30" W., to latitude 33°58'03" N., longitude 118°28'58" W., and excluding the portion within the Hawthorne Municipal Airport control zone, when it is effective.

Louisville, Ky. (Bowman Field)

Within a 5-mile radius of Bowman Field (lat. 38°13'40" N., long. 85°39'47" W.); within 1.5 miles each side of Louisville VOR 331° radial, extending from the 5-mile radius zone to the VOR; within 3 miles each side of Bowman VOR 018°, 068°, 151° and 182° radials, extending from the 5-mile radius zone to 8.5 miles north, east, southeast and south of the VOR; excluding the portion within Standiford Field control zone and the portion west of a line 1.5 miles east of and parallel to the Standiford Field ILS localizer north course.

Louisville, Ky. (Standiford Field)

Within a 5-mile radius of Standiford Field (lat. 38°10'33" N., long. 85°44'12" W.); within 1.5 miles each side of the ILS localizer north course, extending from the 5-mile radius zone to the arc of a 5-mile radius circle centered on Bowman Field; within 1.5 miles north and 2 miles south of the ILS localizer east course, extending from the 5-mile radius zone to 1 mile east of the VOR; within 1.5 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to the LOM; within 1.5 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of the Nabb VOR 206° radial; within 2 miles each side of Louisville VOR 301° radial, extending from the 5-mile radius zone to the VOR; excluding the portion within Bowman Field control zone east of a line 1.5 miles east of and parallel to Standiford Field ILS localizer north course and the portion north of a line 1.5 miles north of and parallel to Standiford Field ILS localizer east course.

Lubbock, Tex. (Lubbock Regional Airport)

That airspace within a 5-mile radius of Lubbock Regional Airport (latitude 33°39'33" N., longitude 101°49'41" W.); within 2 miles each side of the Lubbock VORTAC 123° radial, extending from the Lubbock 5-mile radius zone to the VORTAC; within 2 miles each side of the Lubbock VORTAC 124° and 116° radials, extending from the Lubbock 5-mile radius zone to 11.5 miles southeast of the VORTAC; and within 2 miles each side of the Lubbock ILS localizer north course, extending from the 5-mile radius zone to the OM.

Lubbock, Tex. (Reese AFB)

That airspace within a 5-mile radius of Reese AFB, Tex. (latitude 33°35'56" N., longitude 102°02'36" W.); within 2 miles each side of the Lubbock VORTAC 227° radial extending from the Reese AFB 5-mile radius zone to the VORTAC, within 2 miles each side of the Reese AFB TACAN 016° radial extending from the Reese AFB 5-mile radius zone to 8 miles north of the TACAN, within 2 miles each side of the Reese AFB ILS localizer north course extending from the Reese AFB 5-mile radius zone to 8 miles north of the TACAN, and within 2 miles each side of the Reese AFB TACAN 167° radial extending from the 5-mile radius zone to 9.5 miles south of the TACAN, excluding that portion which lies within the Lubbock Regional Airport control zone. This control zone is effective during the dates and times published in the Airport/Facility Directory.

Lufkin, Tex.

That airspace within a 5-mile radius of Angelina County Airport (latitude 31°14'05" N., longitude 94°45'00" W.), within 2 miles each side of the Lufkin VOR 337° radial extending from the 5-mile radius zone to the VOR, and within 2 miles each side of the 153° bearing from the Lufkin DF station (latitude 31°13'57" N., longitude 94°45'15" W.) extending from the 5-mile radius zone to 8 miles SE of the DF station.

Lynchburg, Va.

Within a 5.5-mile radius of the center lat. 37°19'37"N., long. 79°12'04"W., of Lynchburg Municipal-Preston Glenn Field, Lynchburg, Va.; within 3 miles each side of the Lynchburg, Va., VORTAC 021° and 201° radials extending from the 5.5-mile radius zone to 1 mile south of the VORTAC; within 2 miles each side of the Lynchburg, Va., VORTAC 023° radial extending from the 5.5-mile radius zone to 13 miles northeast of the VORTAC and within a 1.5-mile radius of the center lat. 37°22'40"N., long. 79°07'21"W., of Falwell Airport, Lynchburg, Va. This control zone is effective from 0700 to 2300 hours, local time, daily.

MacDill AFB, Fla.

Within a 5-mile radius of MacDill AFB (lat. 27°50'57" N., long. 82°31'18" W.); within 1.5 miles each side of MacDill AFB TACAN 216° radial, extending from the 5-mile radius zone to 6 miles southwest of the TACAN; within a 5-mile radius of Peter O. Knight Airport (lat. 27°54'55" N., long. 82°27'08" W.); excluding the portion within Tampa, Fla. (International Airport), control zone.

Macon, Ga.

Within a 5-mile radius of Lewis B. Wilson Airport (latitude 32°41'35" N., longitude 83°38'50" W.); within 2 miles each side of Runway 5 extended centerline, extending from the 5-mile radius zone to 5.5 miles southwest of the runway end; within 3 miles each side of Macon VORTAC 316° and 325° radials, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 5-mile radius of Robins AFB (latitude 32°38'30" N., longitude 83°35'30" W.); within 3 miles each side of Macon VORTAC 140° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC.

Madison, Wis.

That airspace within a 5½-mile radius of the Truax Field Airport (latitude 43°08'15" N., longitude 89°20'10" W.); within 2½ miles each side of the Madison VOR 359° radial extending from the 5½ mile radius to 6 miles north of the VOR; and within 2½ miles each side of the Madison VOR 134° radial extending from the 5½-mile radius to 6 miles southeast of the VOR.

Manchester, N. H.

Within a 5-mile radius of the center, lat. 42°56'00" N., long. 71°26'21" W. of Grenier Field-Manchester Municipal Airport, Manchester, N. H.; within 2.5 miles each side of the 157° bearing from the Derry RBN, lat. 42°52'12" N., long. 71°23'52" W., extending from the 5-mile radius zone to 8.5 miles south of the RBN and within 2.5 miles each side of the Manchester VORTAC 325° radial, extending from the 5-mile radius zone to 13 miles northwest of the VORTAC. This control zone is effective from 0600 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen, which thereafter will be continuously published in the Airport/Facility Directory.

Manhattan, Kans.

Within a 5-mile radius of the Manhattan, Kans., Municipal Airport (lat. 39°08'28"N., long. 96°40'10"W.) and within 2 miles each side of the Manhattan, Kans., VOR 146° radial, extending from the 5-mile radius zone to 11 miles southeast of the VOR, and within 2 miles northeast and 3 miles southwest of the 126° bearing from the McDowell Creek RBN, extending from the 5-mile radius zone to 10 miles southeast of the RBN, excluding the Fort Riley, Kans., control zone and the portion within R-3602. This control zone shall be effective during the times established by Notice to Airmen and published continuously in the Airport/Facility Directory.

Manistee, Mich.

Within a 5-mile radius of Manistee Blacker Airport (latitude 44°16'25" N., longitude 86°15'00" W.); within 2 miles each side of the Manistee VOR 274° radial, extending from the 5-mile radius zone to 13 miles west of the VOR; and within 2 miles each side of the Manistee VOR 099° radial, extending from the 5-mile radius zone to 8 miles east of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Manitowoc, Wis.

Within a 5-mile radius of Manitowoc, Wis., Municipal Airport (latitude 44°07'30" N., longitude 87°40'45" W.), within 2 miles each side of the Manitowoc VOR 343° radial extending from the 5-mile radius zone to 8 miles north of the VOR, and within 2 miles each side of the Manitowoc VOR 176° radial extending from the 5-mile radius zone to 8 miles south of the VOR. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

Mankato, Minn.

Within a 5-mile radius of Mankato Municipal Airport (lat. 44°13'25" N., long. 93°55'06" W.); within 2 miles each side of the Mankato VOR 166° radial, extending from the 5-mile radius zone to 8 miles south of the VOR; within 3 miles each side of the Mankato VOR 329° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mansfield, Ohio

Within a 5-mile radius of the Mansfield-Lahm Municipal Airport (latitude 40°49'17" N., longitude 82°31'00" W.); and within 2 miles each side of the Mansfield VORTAC 307° radial extending from the 5-mile radius zone to 5.5 miles NW of the airport.

Marion, Ill.

Within a 5-mile radius of the Williamson County Airport (latitude 37°45'15" N., longitude 89°00'40" W.), within 2 miles each side of the Marion VOR 014° radial extending from the 5-mile radius zone to 8 miles N of the VOR, and within 2 miles each side of the Marion VOR 209° radial extending from the 5-mile radius zone to 8 miles SW of the VOR. This control zone shall be effective during the times established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Marion, Ind.

Within a 5-mile radius of the Marion Municipal Airport (latitude 40°29'27" N., longitude 85°40'43" W.); and within 2.5 miles each side of the Marion VOR 042°, 211° and 320° radials; extending from the 5-mile radius to 6 miles northeast and northwest and 5.5 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Marquette, Mich.

Within a 5-statute-mile radius of the Marquette County Airport (lat. 46°32'02.8"N., long. 87°33'34.6"W. estimated) and within 3½ statute miles each side of the 075° magnetic bearing from the geographical center of the airport extending from the 5-statute-mile radius zone to 7 statute miles northeast of the airport; and within 3½ statute miles each side of the 250° magnetic bearing from the geographical center of the airport extending from the 5-statute-mile radius zone to 9½ statute miles southwest of the airport.

Martha's Vineyard, Mass.

Within a 4-mile radius of Martha's Vineyard Airport (latitude 41°23'35" N., longitude 70°36'50" W.); within 2 miles each side of the Martha's Vineyard VOR 055° radial, extending from the 4-mile radius zone to 8 miles NE of the VOR; within 2 miles each side of the 040° bearing from the Edgartown RBN, extending from the 4-mile radius zone to 8 miles NE of the RBN. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Martinsburg, W. Va.

Within a 5.5-mile radius of the center lat. 39°24'03" N., long. 77°59'09" W., of Eastern West Virginia Regional Airport, Martinsburg, W. Va.; within a 9.5-mile radius of the center of the airport, extending clockwise from a 230° bearing from the airport to a 269° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 269° bearing to a 285° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 285° bearing to a 315° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 315° bearing to a 003° bearing from the airport.

Marysville, Calif. (Beale AFB)

Within a 5-mile radius of Beale AFB (lat. 39°08'10"N., long. 121°26'05"W.), within 1.5 miles each side of the Beale TACAN 347° radial extending from the 5-mile radius zone to six miles north of the TACAN; and within 1.5 miles each side of the Beale TACAN 157° radial extending from the 5-mile radius zone to 6.5 miles south of the TACAN.

Marysville, Calif. (Yuba County Airport)

Within a 5-mile radius of Yuba County Airport (latitude 39°05'50" N., longitude 121°34'00" W.); within 2 miles each side of the Marysville VOR 153° radial, extending from the 5-mile radius zone to 8 miles SE of the VOR and within 2 miles each side of the Marysville VOR 343° radial, extending from the 5-mile radius zone to 8 miles NW of the VOR, excluding the portion within the Beale AFB control zone.

Mason City, Iowa

Within a 5-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.).

Massena, N. Y.

Within a 5-mile radius of the center, 44°56'10" N., 74°50'50" W., of Richards Field, Massena, N. Y.; within 2 miles each side of the Massena VOR 284° radial extending from the 5-mile radius zone to the VOR excluding the airspace within Canada.

Mattoon, Ill.

Within a 5-mile radius of Coles County Memorial Airport (lat. 39°28'45" N., long. 88°16'51" W.); within 4.5 miles each side of the Mattoon VOR 228° radial extending from the 5-mile radius zone to 11.5 miles southwest of the VOR; and within 3 miles each side of the Mattoon VOR 063° radial, extending from the 5-mile radius area to 8.5 miles northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mayaguez, P. R.

Within a 5-mile radius of Mayaguez Airport (lat. 18°15'26" N., long. 67°08'56" W.); within 3 miles each side of Mayaguez VOR 252° radial, extending from the 5-mile radius zone to 8.5 miles west of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mayport, Fla. (NS Mayport)
Within a 5-mile radius of NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.); within 3 miles each side of the 057° bearing from the Navy Mayport RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN, excluding the portion southwest of a line connecting the two points of intersection with a 5-mile radius circle centered on Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.).

McAlester, Okla.
Within a 5-mile radius of McAlester Municipal Airport (Lat. 34°53'05" N, Long. 95°46'55" W).

McAllen, Tex.
Within a 5-mile radius of Miller International Airport (latitude 26°10'40" N., longitude 98°14'25" W.); within 3 miles each side of the McAllen VOR 095° radial extending from the 5-mile radius zone to 10 miles east of the VOR and within 2 miles south and 1.5 miles north of the McAllen VOR 321° radial extending from the 5-mile radius zone to 6 miles northwest of the VOR, excluding the portion outside the United States.

McComb, Miss.
Within a 5-mile radius of McComb-Pike County Airport (lat. 31°10'35" N., long. 90°28'08" W.); within 2 miles each side of McComb VORTAC 234° radial, extending from the 5-mile radius zone to the VORTAC.

McCook, Nebr.
That airspace within a 5-mile radius of McCook Municipal Airport (latitude 40°12'25" N., longitude 100°35'25" W.); within 2 miles each side of the 120° bearing from McCook Municipal Airport, extending from the 5-mile radius zone to 8 miles southeast of the airport; and within 2 miles each side of the 324° bearing from McCook Municipal Airport, extending from the 5-mile radius zone to 8 miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

McGrath, Alaska
That airspace within a 5-mile radius of the McGrath Airport (latitude 62°57'15" N., longitude 155°36'06" W.) and within 5 miles northeast and 3 miles southwest of the McGrath VORTAC 123° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC; and within 4 miles each side of the McGrath VORTAC 008° radial extending from the 5-mile radius zone to 13 miles north of the VORTAC.

Medford, Oreg.
That airspace within a 5-mile radius of the Medford-Jackson County Airport (latitude 42°22'15" N., longitude 122°52'20" W.), and within 2 miles W and 3 miles E of the Medford ILS localizer N course, extending from the 5-mile radius zone to 3 miles N of the OM.

Melbourne, Fla.
Within a 5-mile radius of the Melbourne Regional Airport (lat. 28°06'06"N., long. 80°38'36"W.); within 3 miles each side of the Melbourne VOR 100° radial, extending from the 5-mile radius zone to 8.5 miles east of the VOR; within 3 miles north and 3.5 miles south of the 267° bearing from the Satellite RBN, extending from the 5-mile radius zone to 8.5 miles west of the RBN; excluding the portion north of a line connecting the 2 points of intersection within a 5-mile radius circle centered on Patrick AFB (lat. 28°14'21"N., long. 80°36'28"W.).

Memphis, Tenn.
Within a 5-mile radius of the Memphis International Airport (latitude 35°03'00" N., longitude 89°58'15" W.); excluding the portion within a 1-mile radius of Desoto Air Park, Horn Lake, Miss. (latitude 34°59'15" N., longitude 90°01'55" W.).

Memphis, Tenn. (NAS)
Within a 5-mile radius of Memphis NAS (lat. 35°21'15" N., long. 89°52'10" W.). This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Menominee, Mich.
Within a 5-mile radius of Menominee County Airport (latitude 45°07'20" N., longitude 87°38'15" W.); within 3 miles each side of the Menominee VOR 349° radial, extending from the 5-mile radius zone to 7 miles north of the VOR; and within 3 miles each side of the 320° bearing from Menominee County Airport, extending from the 5-mile radius zone to 7 miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Merced, Calif.
Within a 5-mile radius of Castle Air Force Base, Merced, Calif. (latitude 37°22'45" N., longitude 120°34'00" W.); within a 5-mile radius of Merced Municipal Airport (latitude 37°17'10" N., longitude 120°30'55" W.); and within 2 miles each side of the Castle TACAN 310° radial, extending from the Castle 5-mile radius circle to 6 miles NW of the TACAN.

Meridian, Miss. (Key Field)
Within a 5-mile radius of Key Field (latitude 32°19'58" N., longitude 88°45'05" W.); within 2 miles each side of the 011° and 012° bearings from Lauderdale RBN, extending from the 5-mile radius zone to 0.5 miles north of the RBN; within 2 miles each side of Meridian VORTAC 145° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC.

Meridian, Miss. (NAS Meridian)
Within a 5-mile radius of NAS Meridian (lat. 32°33'27" N., long. 88°33'33" W.); within 3.5 miles each side of the 021° bearing from NAS Meridian UHF RBN, extending from the 5-mile radius zone to 10.5 miles north of the RBN; within 1.5 miles each side of NAS Meridian TACAN 069° and 359° radials, extending from the 5-mile radius zone to 6 miles east and north of the TACAN; within 2 miles each side of NAS Meridian TACAN 194° radial, extending from the 5-mile radius zone to 9.5 miles south of the TACAN; within 2 miles each side of Runways 18L and 27 extended centerline, extending from the 5-mile radius zone to 4 miles north and east of the runway ends; within 2 miles each side of Runway 36L extended centerline, extending from the 5-mile radius zone to 5 miles south of the runway end.

AMENDMENTS 10/30/80 45 F. R. 49912 (Changed)

Miami, Fla. (Dade-Collier Training and Transition Airport)
Within a 5-mile radius of Dade-Collier Training and Transition Airport (latitude 25°51'46" N., longitude 80°53'50" W.).
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Miami, Fla. (International Airport)
Within a 5-mile radius of Miami International Airport (lat. 25°47'34" N., long. 80°17'10" W.); within 2 miles each side of Miami VORTAC 139° radial, extending from the 5-mile radius zone to 10 miles southeast of the VORTAC; within 1.5 miles each side of Runway 9L ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of Portland RBN; within 1.5 miles each side of Runway 27L ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of Miami VORTAC 161° radial.

Miami, Fla. (Opa Locka Airport)
Within a 5-mile radius of Opa Locka Airport (latitude 25°54'26" N., longitude 80°16'48" W.); within 2 miles each side of the Miami VORTAC 110° radial, extending from the 5-mile radius zone to 5.5 miles east of the VORTAC; excluding the portion which coincides with the Miami (International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Miami, Fla. (Tamiami Airport)
Within a 5-mile radius of the Tamiami Airport, Fla. (latitude 25°38'51" N., longitude 80°25'50" W.).

Middletown, Pa.
Within a 6-mile radius of the center, 40°11'34" N., 76°45'48" W., of the Harrisburg International Airport-Olmsted Field, Middletown, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 293° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 005° bearing to a 033° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 033° bearing to a 098° bearing from the airport; within 2 miles each side of the extended centerline of Harrisburg International Airport-Olmsted Field Runway 13, extending from the southeast end of Runway 13 to 6 miles southeast of the southeast end of Runway 13; excluding the portion that coincides with the Harrisburg, Pa., control zone west of direct lines described as follows: a line bearing 028° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone and a line bearing 191° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone.

Midland, Tex.
Within a 5-mile radius of Midland Regional Air Terminal (latitude 31°56'25" N., longitude 102°12'10" W.), and
within 2 miles each side of the Midland ILS localizer NW course, extending from the 5-mile radius zone to 7 miles NW of the airport.

Midway Island
Within a 5-mile radius of Midway NS (Henderson Field) (lat. 28°11'55" N., long. 177°22'50" W.) and within 2.5 miles northwest and 4.5 miles southeast of the 240° bearing from the Midway RBN, extending from the 5-mile radius zone to 10.5 miles southwest of the RBN.

Miles City, Mont.
Within a 5-mile radius of Miles City Airport (latitude 46°25'40" N., longitude 105°53'10" W.); within 3 miles each side of the 252° bearing from the Horton RBN, extending from the 5-mile radius zone to 8 miles west of the RBN; within 3 miles each side of the Miles City VORTAC 225° radial, extending from the 5-mile radius zone to 8 miles southwest of the VORTAC.

Millville, N. J.
Within a 5-mile radius of the center, 39°22'00" N., 75°04'45" W. of Millville Municipal Airport, Millville, N. J.

Milton, Fla. (NAS Whiting Field (North))
Within a 5-mile radius of NAS Whiting Field (North) (latitude 30°43'15" N., longitude 87°01'45" W.); within 2 miles each side of the Navy Whiting TACAN 309° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

PENDING AMENDMENT
Milton, Fla. (NAS Whiting Field (North) and (South))
Within a 5-mile radius of NAS Whiting Field (North) (lat. 30°43'21"N., long. 87°01'29"W.); within a 5-mile radius of NAS Whiting Field (South) (lat. 30°41'58"N., long. 87°00'47"W.); excluding the area below 701 feet AMSL within a 1-mile radius of Milton T Field (lat. 30°38'15"N., long. 86°59'37"W.)

AMENDMENTS 12/25/80 45 F. R. 73650 (Rewritten)

Milwaukee, Wis. (General Mitchell Field)
Within a 5-mile radius of General Mitchell Field (latitude 42°56'51"N., longitude 87°53'56" W.).

Milwaukee, Wis. (Timmerman Airport)
Within a 5-mile radius of Timmerman Airport (latitude 43°06'40" N., longitude 88°02'00" W.); and within 3 miles each side of Timmerman VOR 336° radial, extending from the 5-mile radius zone to 6½ miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mineral Wells, Tex.
Within a 5-mile radius of Mineral Wells Airport (latitude 32°46'59" N., longitude 98°03'34" W.) and within 3 miles each side of the 140° bearing from the Mineral Wells RBN, extending from the 5-mile radius zone to 8 miles SE of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date will thereafter be continuously published in the Airport/Facility Directory.

Minneapolis, Minn.
Within a 5-mile radius of Minneapolis-St. Paul International Airport (latitude 44°53'05" N., longitude 93°13'15" W.); within 2 miles each side of the Minneapolis MSP-ILS localizer front course extending from the 5-mile radius zone to 1½ miles northwest of the MS-OM; within 2 miles each side of the Minneapolis APL-ILS localizer front course, extending from the 5-mile radius zone to one-half mile southwest of AP-OM.

Minneapolis, Minn. (Crystal Airport)
Within a 5-mile radius of Crystal Airport (latitude 45°03'45" N., longitude 93°21'10" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Minneapolis, Minn. (Flying Cloud)
Within a 5-statute-mile radius of Flying Cloud Airport, Minneapolis, Minn., (lat. 44°49'30"N., long. 93°27'45"W.); within 2.5 statute miles north of the Flying Cloud (FCM) VOR 292° radial, extending from the 5-mile radius zone to 7.5 statute miles west of the VOR; within 3 statute miles each side of the 276° radial of the FCM VOR extending from the 5-mile radius zone to 8.5 statute miles west of the VOR; and within 2.5 statute miles each side of the FCM VOR 179° radial extending from the 5-mile radius zone to 6.5 miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/10/80 45 F. R. 32661 (Rewritten)

Minot, N. Dak. (International Airport)
Within a 5-mile radius of Minot International Airport (latitude 48°15'40" N., longitude 101°16'45" W.); within 4 miles each side of the Minot VORTAC 129° radial, extending from the 5-mile radius zone to 9 miles southeast of the VORTAC; within 4 miles each side of the Minot VORTAC 260° radial, extending from the 5-mile radius zone to 9½ miles west of the VORTAC; within 4 miles each side of the Minot VORTAC 327° radial, extending from the 5-mile radius zone to 9½ miles northwest of the VORTAC; and within 4 miles each side of the Minot VORTAC 097° radial, extending from the 5-mile radius zone to 8½ miles east of the VORTAC, excluding the portion which overlies the Minot AFB control zone.

Minot, N. Dak. (Minot AFB)

Within a 5-mile radius of Minot AFB (latitude 48°24'55" N., longitude 101°21'25" W.); within 2½ miles each side of the Deering TACAN 113° radial, extending from the 5-mile radius zone to 7 miles southeast of the TACAN; and within 2½ miles each side of the Deering TACAN 303° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN.

Miramar, Calif.

Within a 5-mile radius of NAS Miramar (Lat. 32°52'30" N, Long. 117°08'15" W) and within 2 miles either side of the NAS Miramar TACAN 078° radial extending from the 5-mile radius zone to 12 miles E of the TACAN, excluding the area S of Lat. 32°49'30" N.

Missoula, Mont.

Within a 5-mile radius of the Johnson-Bell Airport (latitude 46°54'54" N., longitude 114°05'14" W.); within 3 miles each side of the Missoula VORTAC 312° radial extending from the 5-mile radius zone to 16.5 miles northwest of the VORTAC; within 5 miles each side of the Missoula VORTAC 302° radial extending from the VORTAC to 11 miles northwest of the VORTAC; within 2 miles each side of the Missoula VORTAC 172° radial extending from the 5-mile radius zone to 10.5 miles southeast of the VORTAC.

Mitchell, S. Dak.

Within a 5-mile radius of Mitchell Municipal Airport (latitude 43°46'25" N., longitude 98°02'30" W.); within 3 miles each side of the Mitchell VOR 149° radial, extending from the 5-mile radius zone to 7½ miles southeast of the VOR; and within 3 miles each side of the Mitchell VOR 300° radial, extending from the 5-mile radius zone to 7½ miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mobile, Ala. (Bates Field)

Within a 5-mile radius of Bates Field (lat. 30°41'17.7"N., long. 88°14'26.6"W.); within 1.5 miles each side of Semmes VORTAC 113° radial, extending from the 5-mile radius zone to 2 miles southeast of the VORTAC.

Mobile, Ala. (Brookley Airport)

Within a 5-mile radius of Brookley Airport (lat. 30°37'08.5"N., long. 88°03'57.2"W.); within 3.5 miles each side of Brookley VORTAC 157° radial, extending from the 5-mile radius zone to 10 miles southeast of the VORTAC. This control zone is effective from 0800 to 1900 hours, local time, daily.

Modesto, Calif.

Within a 5-mile radius of the Modesto City-County Airport, Modesto, Calif. (latitude 37°37'35" N., longitude 120°57'15" W.); within 2 miles each side of the Modesto VOR 302° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR; within 2 miles each side of the Modesto VOR 122° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Moline, Ill.

Within a 5-mile radius of Quad City Airport (latitude 41°26'50" N., longitude 90°30'40" W.); and within 2 miles each side of the Quad City ILS localizer west course, extending from the 5-mile radius zone to the OM.

Molokai, Hawaii

Within a 5-mile radius of the Molokai Airport (latitude 21°09'25" N., longitude 157°05'55" W.), and within 2 miles each side of the Molokai VORTAC 268° radial, extending from the 5-mile radius zone to 3.5 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Pacific chart supplement.

Monroe, La.

That airspace within a 5-mile radius of Selman Field, Monroe, La. (latitude 32°30'30" N., longitude 92°02'20" W.).

Monterey, Calif.

Within a 5-mile radius of the Monterey Peninsula Airport (latitude 36°35'20" N., longitude 121°51'00" W.), and within 2 miles each side of the 317° bearing from the Monterey ILS LMM, extending from the 5-mile radius zone to 7 miles NW of the LMM, excluding the portion within the Fort Ord, Calif., control zone.

Montgomery, Ala.

Within a 6-mile radius of Dannelly Field (lat. 32°18'00"N., long. 86°23'36"W.); within 2 miles each side of Montgomery VORTAC 310° radial, extending from the 6-mile radius zone to 14.5 miles northwest of the VORTAC; within a 6-mile radius of Maxwell Air Force Base (lat. 32°22'48"N., long. 86°21'55"W.).

Montpelier, Vt.

Within a 6-mile radius of the center, lat. 44°12'15"N., long. 72°33'45"W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vt.; within 3 miles each side of the Montpelier VOR, lat. 44°12'41"N., long. 72°33'45"W., 163° radial extending from the 6-mile radius zone to 8.5 miles south of the VOR; within 2 miles each side of the centerline of Runway 23 extending from the 6-mile radius zone to 8 miles southwest of the end of Runway 23.

Montrose, Colo.

That airspace within a 5-mile radius of the Montrose County Airport (latitude 38°29'55" N., longitude 107°53'35" W.), and within 4 miles each side of the Montrose, Colo., VOR 313° radial extending from the 5-mile radius zone to 14 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Morgantown, W. Va.

Within a 5.5-mile radius of the center, lat. 39°38'34" N., long. 79°55'01" W., of Morgantown Municipal Airport-Walter L. Hart Field, Morgantown, W. Va., extending clockwise from a 220° bearing to a 030° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 030° bearing to a 040° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 040° bearing to a 075° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 075° bearing to a 105° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 105° bearing to a 140° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 140° bearing to a 202° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 202° bearing to a 220° bearing from the airport and within 2 miles each side of the 168° bearing from the Bobtown RBN, extending from the 5.5-mile radius arc to the RBN.

Morristown, N. J.

Within a 5-mile radius of the center, 40°47'58" N., 74°24'56" W., of Morristown Municipal Airport, Morristown, N. J., extending clockwise from a 339° bearing to a 229° bearing from the airport; within a 6-mile radius of the center of Morristown Municipal Airport, extending clockwise from a 229° bearing to a 339° bearing from the airport and within 3 miles each side of a 204° bearing from the Chatham, N. J., RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN, excluding a 1-mile radius of the center, 40°41'28" N., 74°32'08" W., of Somerset Hills Airport, Basking Ridge, N. J. This control zone is effective from 0630 to 2230 hours, local time, daily.

Mosinee, Wis.

Within a 5-mile radius of Central Wisconsin Airport (latitude 44°46'35" N., longitude 89°40'00" W.); within 1½ miles each side of the Wausau, Wis., VOR 219° radial, extending from the 5-mile radius zone to the VOR; within 3½ miles each side of the 242° bearing from Central Wisconsin Airport extending from the 5-mile radius zone to 10½ miles west of the airport; and within 3½ miles each side of the 087° bearing from Central Wisconsin Airport, extending from the 5-mile radius zone to 10½ miles east of the airport, excluding the portion which overlies the Wausau, Wis., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Moultrie, Ga.

Within a 5-mile radius of Moultrie-Thomasville Airport (lat. 31°04'58"N., long. 83°48'15"W.); within 3 miles each side of Moultrie VOR 031° and 230° radials, extending from the 5-mile radius zone to 8.5 miles northeast and southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Mountain Home, Idaho

Within a 5-mile radius of Mountain Home AFB (latitude 43°02'35" N., longitude 115°52'05" W.); within 2 miles each side of the extended centerline of Runway 12, extending from the 5-mile radius zone to 7.5 miles SE of the SE end of Runway 12; within 2 miles each side of the extended centerline of Runway 30, extending from the 5-mile radius zone to 7.5 miles NW of the NW end of Runway 30; within 2 miles each side of the Mountain Home TACAN 129° radial, extending from the 5-mile radius zone to 7 miles SE of the TACAN, and within 2 miles each side of the Mountain Home TACAN 321° radial, extending from the 5-mile radius zone to 7 miles NW of the TACAN.

Mountain View, Calif. (Moffett Field NAS)

Within a 5-mile radius of Moffett Field NAS (latitude 37°24'55" N., longitude 122°02'50" W.), within a 3-mile radius of Palo Alto, Calif. Airport (latitude 37°27'40" N., longitude 122°06'50" W.) within 2.5 miles southwest and 2 miles northeast of the Moffett TACAN 157° radial, extending from the 5-mile radius zone to 8 miles southeast of the TACAN and within 2 miles each side of the San Jose VOR 319° radial, extending from the VOR to 8 miles northwest of the VOR, excluding the portion southeast of a line from latitude 37°25'45" N., longitude 121°56'35" W. to latitude 37°19'30" N., longitude 122°00'10" W., and the portion within the Palo Alto control zone when it is effective.

Mount Clemens, Mich.

Within a 5-mile radius of Selfridge AFB (latitude 42°36'30" N., longitude 82°50'15" W.); within 2 miles each side of the Selfridge AFB ILS localizer north and south courses, extending from the 5-mile radius zone to 8 miles north and south of Selfridge AFB, and within 2 miles each side of the Selfridge AFB TACAN 353° radial, extending from the 5-mile radius zone to 8 miles north of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and time will, hereafter, be continuously published in the Airport/Facility Directory.

Mount Vernon, Ill.

Within a 5-mile radius of Mount Vernon-Outland Airport (latitude 38°19'23" N., longitude 88°51'33" W.); within 4.5 miles each side of the Mount Vernon VOR 044° radial, extending from the 5-mile radius zone to 10.5 miles northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Muncie, Ind.

Within a 5-mile radius of Delaware County-Johnson Field (latitude 40°14'26" N., longitude 85°23'43" W.); within 2½ miles each side of the Muncie VOR 125° radial, extending from the 5-mile radius zone to 6½ miles southeast of the VOR; within 2½ miles each side of the Muncie VOR 017° radial, extending from the 5-mile-radius zone to 6½ miles north of the VOR; and within 3½ miles each side of the Muncie VOR 320° radial, extending from the 5-mile-radius zone to 10 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Muscle Shoals, Ala.

Within a 5-mile radius of Muscle Shoals Airport (latitude 34°44'41" N., longitude 87°36'39" W.).

Muskegon, Mich.

Within a 5-mile radius of Muskegon County Airport (lat. 43°10'16" N., long. 86°14'09" W.); within 1.5 miles each side of the Muskegon VORTAC 272° radial, extending from the 5-mile radius zone to 1 mile west of the VORTAC; and within 1.5 miles each side of the ILS back course extending from the 5-mile radius zone to 10.5 miles northwest of the Muskegon County Airport ILS OM.

Myrtle Beach, S. C.

Within a 5-mile radius of Grand Strand Airport (latitude 33°48'40" N., longitude 78°43'30" W.); within 3 miles each side of Myrtle Beach VORTAC 064° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC; within 3 miles each side of the Myrtle Beach VORTAC 220° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Myrtle Beach AFB, S. C.

Within a 5-mile radius of Myrtle Beach AFB (lat. 33°40'45"N., long. 78°55'45"W.); within 1.5 miles each side of Myrtle Beach TACAN 355° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN; within 1.5 miles each side of the Myrtle Beach TACAN 165° radial, extending from the 5-mile radius zone to 6.5 miles south of the TACAN. This control zone is effective from 0600 to 2400 hours, local time, daily.

AMENDMENTS 5/15/80 45 F. R. 16166 (Changed)

Nantucket, Mass.

Within a 4-mile radius of Nantucket Memorial Airport, Nantucket, Mass. (latitude 41°15'15" N., longitude 70°03'40" W.), and within 2 miles each side of the Nantucket VORTAC 045° radial, extending from the 4-mile radius zone to 8 miles NE of the VOR.

This Control Zone is effective from 0600 to 2300 hours local time, daily or during specific dates and times established by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Napa, Calif.

Within a 3-mile radius of Napa County Airport (latitude 38°12'55" N., longitude 122°16'45" W.), from 0700 to 2300 hours, local time, daily.

Nashville, Tenn.

Within a 5-mile radius of Nashville Metropolitan Airport (lat. 36°07'36" N., long. 86°40'50" W.); within 3.5 miles each side of Nashville VORTAC 109° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC; within 1.5 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to the LOM; excluding the portion within a 1-mile radius of Cornelia Fort Airpark (lat. 36°11'45" N., long. 86°42'00" W.).

Needles, Calif.
Within a 5-mile radius of Needles Airport (latitude 34°46'05" N., longitude 114°37'30" W.). This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Nenana, Alaska
Within a 5-mile radius of the Nenana Airport (latitude 64°32'56" N., longitude 149°04'24" W.); and within 4 miles each side of the 132° bearing from the Julius RBN extending from the 5-mile radius zone to 8.5 miles southeast of the RBN. This control zone is effective during the specific days and times established in advance by Notice to Airmen. The effective times will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Newark, N. J.
Within a 5-mile radius of the center, 40°41'40" N., 74°10'02" W., of Newark International Airport, Newark, N. J., extending clockwise from a 030° bearing to a 263° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 263° bearing to a 342° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 342° bearing to a 030° bearing from the airport; within 2 miles each side of the Newark International Airport Runway 4L ILS localizer course, extending from the 5-mile radius to 2.5 miles northeast of the CHESA OM and within 2.5 miles each side of a 275° bearing from a point 40°42'12"N., 74°10'54"W., extending from said point to 5 miles west of said point.

New Bedford, Mass.
Within a 5-mile radius of the New Bedford Municipal Airport (latitude 41°40'37" N., longitude 70°57'34" W.). This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established in advance by a NOtice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

New Bern, N. C.
Within a 5-mile radius of Simmons-Nott Airport (latitude 35°04'20" N., longitude 77°02'35" W.); within 2.5 miles each side of New Bern VOR 210° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR.

Newburgh, N. Y.
Within a 5-mile radius of the center, 41°30'10" N., 74°06'11" W., of Stewart Airport, Newburgh, N. Y., extending clockwise from a 066° bearing to a 209° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 209° bearing to a 249° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 249° bearing to a 315° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 315° bearing to a 066° bearing from the airport; within 3 miles each side of the Stewart VOR (41°30'30" N., 74°05'51" W.) 325° radial, extending from the VOR to 15 miles northwest of the VOR and within 4.5 miles each side of the Stewart VOR 085° radial, extending from the VOR to 11.5 miles east of the VOR, excluding the portion that coincides with the Poughkeepsie, N. Y., control zone. This control zone is effective from 0000-2359 hours, local time, Tuesday through Friday; 0000-2300 hours, local time, Saturday; 0700-2300 hours, local time, Sunday; 0700-2400 hours, local time, Monday.

New Haven, Conn.
That airspace within a 5-mile radius of the center, latitude 41°15'51" N., longitude 72°53'15" W, of the Tweed-New Haven Airport, New Haven, Conn., extending clockwise from a 079° bearing to a 237° bearing from the airport; within a 5.5-mile radius of the center of the airport extending clockwise from a 237° bearing to a 357° bearing from the airport; and within a 6-mile radius of the center of the airport, extending clockwise from a 357° bearing to a 079° bearing from the airport. This control zone is effective from 0600 to 2400 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

New Orleans, La. (NAS New Orleans-Alvin Callender Field)
That airspace within a 5-mile radius of NAS New Orleans-Alvin Callender Field (latitude 29°49'40" N., longitude 90°01'25" W.); within 2 miles each side of the 241° bearing from the Navy New Orleans RBN, extending from the 5-mile radius zone to 12 miles SW of the RBN, within 2 miles each side of the 131° bearing from the Navy New Orleans RBN, extending from the 5-mile radius zone to 12 miles SE of the RBN, and within 2 miles each side of the Harvey VOR 053° radial extending from the 5-mile radius zone to 6 miles NE of the VOR.

New Orleans, La. (New Orleans Airport)
Within a 5-mile radius of New Orleans Airport (latitude 30°02'20" N., longitude 90°01'25" W.), excluding the portion W of longitude 90°04'03" W.

New Orleans, La. (New Orleans International Airport-Moisant Field).
Within a 5-mile radius of New Orleans International Airport (latitude 29°59'25" N., longitude 90°15'15" W.); within 2 miles each side of the New Orleans ILS localizer W course extending from the 5-mile radius zone to 2 miles E of the LOM; within 2 miles each side of the New Orleans VORTAC 085° radial extending from the VORTAC to 7 miles E; within 2 miles each side of the New Orleans VORTAC 243° and 063° radials extending from the 5-mile radius zone to 1 mile NE of the VORTAC, excluding that portion E of longitude 90°04'03" W.

Newport News, Va.

Within a 5-mile radius of the center, lat. 37°07'51" N., long. 76°29'35" W., of Patrick Henry International Airport, Newport News, Va., excluding the portion that coincides with the Hampton Roads, Va., control zone.

PENDING AMENDMENT

Newport, Oreg.

Within a 5-mile radius of the Newport Municipal Airport, (lat. 44°34'48"N., long. 124°03'25"W.); within 4 miles each side of the Newport VORTAC 357° radial extending from the 5-mile radius to 9 miles northwest of the VORTAC. This control zone is effective from 0900 to 1700 hours, local time daily.

AMENDMENTS 12/25/80 45 F. R. 71772 (Added)

New York, N. Y. (John F. Kennedy International Airport)

Within a 5-mile radius of the center, 40°38'25"N., 73°46'41"W., of John F. Kennedy International Airport; within a 3-mile radius of the center, 40°35'30"N., 73°53'30"W., of CGAS Brooklyn Airport, Brooklyn, N. Y.; within the area bounded by a line beginning at 40°36'16" N., 73°52'32" W., to 40°37'10° N., 73°54'55" W.; to 40°42'19" N., 73°51'07" W., to 40°41'23" N., 73°48'48" W., to the point of beginning; within 1.5 miles each side of the Kennedy VORTAC 106° radial, extending from the 5-mile radius zone to 6.5 miles east of the VORTAC; within 1.5 miles each side of the Kennedy VORTAC 207° radial, extending from the 5-mile radius zone to 5 miles southwest of the VORTAC; within 1.5 miles each side of the Kennedy VORTAC 134° radial, extending from the 5-mile radius zone to 5 miles southeast of the VORTAC.

New York, N. Y. (La Guardia Airport)

Within a 5-mile radius of the center, 40°46'38" N., 73°52'24" W. of La Guardia Airport; within 1.5 miles each side of a line bearing 124° from a point 40°46'20" N., 73°51'34" W., extending from said point to 5 miles southeast of said point.

Niagara Falls, N. Y.

Within a 5-mile radius of Niagara Falls International Airport (latitude 43°06'20" N., longitude 78°56'55" W.), and within 2 miles each side of Niagara Falls ILS localizer E course, extending from the 5-mile radius zone to the OM, excluding the portion outside the United States.

Nome, Alaska

Within a 5-mile radius of the Nome Airport (lat. 64°30'46"N., long. 165°26'31"W.); and within 3 miles north and 4 miles south of the Nome VORTAC 107° and 287° radials, extending from the 5-mile radius zone to 8.5 miles east of the VORTAC.

Norfolk, Nebr.

Within a 5-mile radius of Karl Stefan Memorial Airport (lat. 41°59'05"N., long. 97°26'10"W.); and within 2 miles each side of the Norfolk VOR 020°, 148°, 195° and 314° radials, extending from the 5-mile radius zone to 8 miles southeast, south, northwest and northeast of the Norfolk VOR (lat. 41°59'16"N., long. 97°26'03"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 9/4/80 45 F. R. 41907 (Rewritten)

Norfolk, Va. (NAS Norfolk)

Within a 5-mile radius of the center, 36°56'15" N., 76°17'15" W. of NAS Norfolk, Norfolk, Va., excluding the southeastern portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Norfolk, Va. (Norfolk International), control zone.

Norfolk, Va. (Norfolk International)

Within a 5-mile radius of the center; 36°53'45"N., 76°12'15"W., of Norfolk International Airport, Norfolk, Va., excluding the northwest portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Norfolk, Va. (NAS Norfolk), control zone.

North, S. C.

Within a 5-mile radius of North AFAF (latitude 33°38'30" N., longitude 81°05'00" W.) and within 2 miles each side of the North AFAF TACAN 234° radial extending from the 5-mile radius zone to 8 miles SW of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

North Bend, Oreg.

Within a 5-mile radius of North Bend Municipal Airport (latitude 43°25'00" N., longitude 124°14'48" W.); within 2 miles each side of the North Bend VORTAC 044° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the VORTAC; within 2 miles each side of the North Bend VORTAC 111° radial, extending from the 5-mile radius zone to 4.5 miles east of the VORTAC; and within 3 miles each side of the 241° bearing from the Empire LOM (latitude 43°23'42" N., longitude 124°18'33" W.), extending from the 5-mile radius zone to 7 miles southwest of the LOM.

North Las Vegas, Nev.

Within a 3-mile radius of the North Las Vegas Air Terminal (latitude 36°12'45" N., longitude 115°11'46" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

North Philadelphia, Pa.

Within a 5-mile radius of the center, 40°04'49" N., 75°00'45" W., of North Philadelphia Airport, Philadelphia, Pa., extending clockwise from a 030° bearing to a 252° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 030° bearing from the airport, excluding the north portion subtended by a chord drawn between the points of intersection of the 6-mile radius zone with that portion of the Willow Grove, Pa., control zone 5-mile radius zone centered on Warminster NAF.

North Platte, Nebr.

Within a 6-mile radius of Lee Bird Field (lat. 41°07'42"N., long. 100°41'49"W.); within 2 miles each side of the 186° bearing from the Big Nell RBN, extending from the 6-mile radius zone to 8 miles south of the RBN; and within 3 miles each side of the 125° bearing from the Lee Bird RBN, extending from the 6-mile radius zone to 10 miles southeast of the RBN.

AMENDMENTS 3/20/80 45 F. R. 6356 (Rewritten)

Northway, Alaska

Within a 5-mile radius of Northway Airport (lat. 62°57.7'N., long. 141°55.6'W.); within 3 miles each side of the 076° bearing from the Nabesna NDB extending from the 5-mile radius zone to 8 miles east of the NDB; within 3 miles each side of the 256° bearing from the Nabesna NDB extending from the 5-mile radius zone to 8 miles west of the NDB and within 3 miles each side of the 307° bearing from the Nabesna NDB extending from the 5-mile radius zone to 8 miles northwest of the Nabesna NDB.

AMENDMENTS 10/30/80 45 F. R. 49912 (Rewritten)

Norwood, Mass.

Within a 5-mile radius of the center (42°11'20" N., 71°10'15" W.) of Norwood Memorial Airport, Norwood, Mass.; within 3 miles each side of the 154° bearing and 334° bearing from the Stoughton, Mass., RBN (42°07'10"N., 71°07'41" W.) extending from the 5-mile radius zone to 8 miles southeast of the RBN and within 2 miles each side of the Whitman VORTAC 311° radial extending from the 5-mile radius zone to 2 miles northwest of the VORTAC, excluding the portion within the South Weymouth, Mass., control zone. This control zone is effective daily from 0700 to 2300 hours, local time, or during the specific times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Oak Grove, N. C.

Within a 5-mile radius of Oak Grove HOLF (Navy), N. C. (lat. 35°01'15" N., long. 77°15'12" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Oakland, Calif.

Within a 5-mile radius of Metropolitan Oakland International Airport (latitude 37°43'15" N., longitude 122°13'20" W.) excluding the portion subtended by a chord drawn between the points of INT of this radius with the radius of the NAS Alameda, Calif., control zone; within a 5-mile radius of Hayward Air Terminal, Hayward, Calif. (latitude 37°39'30" N., longitude 122°06'45" W.), excluding the portion within the Hayward control zone when it is effective.

Oceana, Va.

Within a 5-mile radius of the center, lat. 36°49'10"N., long. 76°02'05"W., of NAS Oceana (Soucek Field); within 2 miles each side of the Navy Oceana TACAN 213° radial, extending from the 5-mile radius zone to 10 miles southwest of the TACAN; within a 3-mile radius of the center; lat. 36°42'15"N., long. 76°08'00"W., of ALF Fentress.

Offutt AFR, Nebr.

Within a 5.5-mile radius of Offutt Air Force Base (lat. 41°07'20"N., long. 95°54'35"W.).

Ogden, Utah (Hill AFB)

Within a 5-mile radius of Hill AFB (latitude 41°07'25" N., longitude 111°58'20" W.); within a 5-mile radius of Ogden Municipal Airport (latitude 41°11'45" N., longitude 112°00'35" W.), excluding the portion within the Ogden (Ogden Municipal Airport) control zone when it is effective.

Ogden, Utah (Ogden Municipal Airport)

Within a 5-mile radius of Ogden Municipal Airport (latitude 41°11'45" N., longitude 112°00'35" W.), excluding the portion S of a line extending from latitude 41°08'10" N., longitude 112°04'00" W., to latitude 41°11'00" N., longitude 111°55'00" W., from 0600 to 2200 hours, local time, daily.

Oklahoma City, Okla. (Tinker AFB)

That airspace within a 5-mile radius of Tinker AFB (latitude 35°24'50" N., longitude 97°23'35" W.): within 2 miles each side of the Tinker AFB VOR 357° radial extending from the 5-mile radius zone to 8 miles north of the VOR; within 2 miles each side of the Tinker AFB TACAN 003° radial extending from the 5-mile radius zone to 9.5 miles north of the TACAN; and within 2 miles each side of the Tinker AFB VOR 187° radial extending from the 5-mile radius to 6 miles south of the VOR.

Oklahoma City, Okla. (Wiley Post Airport)

Within a 5-mile radius of Wiley Post Airport (latitude 35°32'05" N., longitude 97°38'40" W.) within 2 miles each side of the Wiley Post ILS localizer north course extending from the 5-mile radius zone to the OM (latitude 35°37'33" N., longitude 97°38'50" W.); within 2 miles each side of the Oklahoma City VORTAC 050° radial extending from the 5-mile radius zone to the VORTAC; and excluding the portion S of a line extending through latitude 35°26'33" N., longitude 97°46'21" W., and latitude 35°28'00" N., longitude 97°36'05" W.

Oklahoma City, Okla. (Will Rogers World Airport)

Within a 5-mile radius of Will Rogers World Airport (latitude 35°23'45" N., longitude 97°36'30" W.); within 3 miles each side of the Oklahoma City runway 17R ILS localizer north course, extending from the 5-mile radius zone to the Tulakes, Okla., RBN; within 2 miles southwest and 3.5 miles northeast of the Oklahoma City VORTAC 105° radial extending from the 5-mile radius zone to the VORTAC; and within 3 miles each side of the Oklahoma City runway 35R ILS localizer south course extending from the 5-mile radius zone to the LOM (latitude 35°18' 36" N., longitude 97°35'17" W.), excluding that portion which coincides with the Oklahoma City (Wiley Post) control zone.

Olathe, Kans. (Johnson County Executive Airport)

Within a 5-mile radius of the Johnson County Executive Airport (lat. 38°51'00"N., long. 94°44'15"W.) excluding that portion which overlaps the Grandview, Mo., control zone, and within 2.5 miles each side of the 183° bearing from Johnson County Executive Airport, extending from the 5-mile radius zone to 6.5 miles south of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/15/80 45 F. R. 8286 (Rewritten)

Olathe, Kans. (Johnson County Industrial Airport)

Within a 5-mile radius of the Johnson County Industrial Airport (lat. 38°49'47"N., long. 94°53'29"W.), excluding that portion which overlies the Olathe, Kans. (Johnson County Executive Airport) control zone, and excluding that portion bounded on the north by lat. 38°49'30"N., and on the east by long. 94°56'30"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Olympia, Wash.

Within a 5-mile radius of Olympia Municipal Airport (latitude 46°58'15" N., longitude 122°54'00" W.); within 4 miles each side of the Olympia VORTAC 195° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC, and within 2 miles each side of the Olympia VORTAC 010° radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Omaha, Nebr. (Eppley Field)

Within a 5-mile radius of Eppley Field (latitude 41°18'00" N., longitude 95°53'35" W.); and within 2 miles each side of the Eppley Field ILS localizer NW course extending from the 5-mile radius zone to 8 miles NW of the OM: and within 2 miles each side of the Eppley Field ILS localizer SE course extending from the 5-mile radius zone to 7 miles SE of the airport; and within 2 miles each side of the Omaha VORTAC 318° radial extending from the 5-mile radius zone to a point 7 miles SE of the airport.

Ontario, Calif.

Within a 5-mile radius of Ontario International Airport (latitude 34°03'25" N., longitude 117°36'30" W.); within 2 miles each side of the Ontario ILS localizer east course extending from the 5-mile radius zone to 3 miles east of the OM, and within a 3-mile radius of Chino, Calif., and within 1.5 miles each side of the Ontario, Calif., VORTAC 303° radial, extending from the 3-mile radius zone to 1 mile NW of the VORTAC, excluding the portion within the Chino control zone when it is effective.

Orlando, Fla.(Herndon Airport)

Within a 5-mile radius of Orlando (Herndon Airport) (lat. 28°32'40" N., long. 81°19'55" W.); within 3 miles each side of Orlando VORTAC 125° and 315° radials, extending from the 5-mile radius zone to 8.5 miles southeast and northwest of the VORTAC; excluding the portion south of a line connecting the two points of intersection with a 5-mile radius circle centered on Orlando International Airport (lat. 28°25'55"N., long. 81°19'15"W.).

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Orlando, Fla. (Orlando International Airport)

Within a 5-mile radius of Orlando International Airport (lat. 28°25'55"N., long. 81°19'15"W.); within 2 miles each side of Orlando VORTAC 175° radial, extending from the 5-mile radius zone to 13.5 miles south of the VORTAC: excluding the portion within the Orlando (Herndon Airport) (lat. 28°32'40" N., long. 81°19'55" W.) control zone.

Oscoda, Mich.

Within a 5-mile radius of Wurtsmith AFB (latitude 44°27'00" N., longitude 83°24'00" W.); within 2 miles each side of the Wurtsmith AFB VOR 240° radial extending from the 5-mile radius zone to 8 miles SW of the VOR; within 2 miles each side of the Wurtsmith AFB VOR 056° radial extending from the 5-mile radius zone to 12 miles NE of the VOR; within 2 miles each side of the Wurtsmith AFB TACAN 232° radial extending from the 5-mile radius zone to 8 miles SW of the TACAN and within 2 miles each side of the Wurtsmith AFB TACAN 064° radial extending from the 5-mile radius zone to 8 miles NE of the TACAN.

Oshkosh, Wis.

Within a 5-mile radius of Wittman Field (latitude 43°59'25" N., longitude 88°33'20" W.); within 3 miles each side of the Oshkosh VOR 275° radial extending from the 5-mile radius zone to 9½ miles west of the VOR; and within 3 miles each side of the Oshkosh VOR 182° radial extending from the 5-mile radius zone to 9½ miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Ottumwa, Iowa

Within a 5-mile radius of Ottumwa Municipal Airport (Lat. 41°06'25" N, Long. 92°26'50" W) and within 2 miles either side of the Ottumwa VORTAC 309° radial extending from the 5-mile radius zone to the VORTAC.

Owensboro, Ky.

Within a 5-mile radius of Owensboro-Daviess County Airport (lat. 37°44'31" N., long. 87°09'57" W.); within 3 miles each side of Owensboro VOR 222° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR; within 3 miles each side of Owensboro VOR 352° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Oxnard, Calif. (Ventura County Airport)

Within a 5-mile radius of Ventura County Airport (latitude 34°12'02" N., longitude 119°12'10" W.) and within 2 miles each side of the Ventura County Runway 25 localizer east course extending from the 5-mile radius zone to 2 miles east of the outer marker. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paducah, Ky.

Within a 5-mile radius of Barkley Field (lat. 37°03'45" N., long. 88°46'23" W.); within 3 miles each side of the 234° bearing from Paducah RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN.

Palacios, Tex.

That airspace within a 5-mile radius of Palacios Municipal Airport (latitude 28°43'35" N., longitude 96°15'15" W.) and within 2 miles each side of the 323° bearing from the Palacios DF station (latitude 28°43'22" N, longitude 96°15'07" W.) extending from the 5-mile radius zone to 8 miles northwest of the DF station.

Palm Beach, Fla.

Within a 5-mile radius of Palm Beach International Airport (lat. 26°41'05" N., long. 80°05'35" W.); within 3 miles each side of the Palm Beach VORTAC 275° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC; excluding that airspace within a 1.5-mile radius of Palm Beach County Park (Lantana) Airport (lat. 26°35'35" N., long. 80°05'10" W.).

Palmdale, Calif.

Within a 5-mile radius of Air Force Plant No. 42, Palmdale, Calif. (latitude 34°37'45" N., longitude 118°04'54" W.), within 3 miles each side of the ILS localizer east course, extending from the 5-mile radius zone to 7.5 miles east of the LOM, and within 2 miles south of and parallel to the Palmdale VORTAC 099° radial, extending from the 5-mile radius zone to 8 miles east of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Palm Springs, Calif.

Within a 5-mile radius of Palm Springs Airport (latitude 33°49'36" N., longitude 116°30'18" W.), and within 2 miles each side of the Palm Springs VOR 120° and 300° radials, extending from 3.5 miles SE to 3 miles NW of the VOR. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Palo Alto, Calif.

Within a 3-mile radius of Palo Alto Airport (latitude 37°27'30" N., longitude 122°06'50" W.) excluding the portion southeast of a line extending from latitude 37°25'14" N., longitude 122°08'30" W. to latitude 37°26'30" N., longitude 122°05'43" W. to latitude 37°29'10" N., longitude 122°04'08" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Palomar, Calif.

Within a 3-mile radius of Palomar Airport (latitude 33°07'40" N., longitude 117°16'45" W.); within 1.5 miles each side of the Oceanside VORTAC 134° radial extending from the 3-mile radius zone to 4.5 miles southeast of the VORTAC, and within 1.5 miles each side of the Palomar Runway 24 localizer east course extending from the 3-mile radius zone to 7.5 miles east of the airport. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Panama City, Fla.

Within a 5-mile radius of Panama City-Bay County Airport (latitude 30°12'41" N., longitude 85°40'57" W.); within 3 miles each side of the Panama City VOR 059°, 152° and 310° radials, extending from the 5-mile radius zone to 8.5 miles northeast, southeast and northwest of the VOR; excluding that portion within the Tyndall AFB control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paris, Tex.

That airspace within a 5-mile radius of Cox Field, Paris, Tex. (latitude 33°38'17" N., longitude 95°26'54" W.) and within 2 miles each side of the Paris, Tex., VOR 357° radial extending from the 5-mile radius to the VOR. The control zone shall be effective during the times established by a Notice to Airmen and published continuously thereafter in the Airport/Facility Directory.

Parkersburg, W. Va.

Within a 5-mile radius of the center, lat. 39°20'44" N., long. 81°26'16" W. of Wood County (Gill Rob Wilson Field) Airport, Parkersburg, W. Va.

Pasco, Wash.

That airspace within a 5-mile radius of the Tri-Cities Airport (latitude 46°15'50" N., longitude 119°06'53" W.), within 4 miles each side of the Pasco ILS localizer northeast course extending from the 5-mile radius zone to 10 miles northeast of the OM (46°18'41" North Latitude, 119°03'00" West Longitude) and within 3 miles each side of the Pasco VOR 131° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR, excluding that portion within a 1-mile radius of Vista Airport, Kennewick, Wash. (latitude 46°13'10" N., longitude 119°12'55" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paso Robles, Calif.

Within a 5-mile radius of Paso Robles County Airport (latitude 35°40'15" N., longitude 120°37'35" W.).

Patuxent River, Md.

Within a 5-mile radius of the center, 38°17'15"N., 76°24'30"W., of Patuxent River NAS (Trapnall Field), Patuxent River, Md.; within 2 miles each side of the Patuxent VORTAC 043° radial, extending from the 5-mile radius zone to 7 miles northeast of the VORTAC; within 2 miles each side of the Patuxent VORTAC 234° radial extending from the 5-mile radius zone to 7.5 miles southwest of the VORTAC; within 2 miles each side of the Patuxent River LF RBN 233° bearing extending from the 5-mile radius zone to 7 miles southwest of the RBN; within 2 miles each side of the Patuxent VORTAC 139° radial, extending from the 5-mile radius zone to 12 miles southeast of the VORTAC; within a ½-mile radius of the center, 38°13'30"N., 76°26'30"W., of Park Hall, Md., Airport; and within a ½-mile radius of the center, 38°21'40"N., 76°24'15"W., of Chesapeake Ranch Airpark.

Pellston, Mich.

Within a 5-mile radius of Emmet County Airport (latitude 45°34'00" N., longitude 84°47'45" W.); within 2½ miles each side of the 132° bearing from Emmet County Airport, extending from the 5-mile radius zone to 8½ miles southeast of the airport; and within 5 miles each side of the Pellston VORTAC 230° radial extending from the airport to 21 miles southwest of the VORTAC.

Pendleton, Oreg.

Within a 5-mile radius of Pendleton Airport (lat. 45°41'42"N., long. 118°50'25"W.), and within 2 miles each side of the Pendleton VORTAC 273° radial, extending from the 5-mile radius zone to 2 miles W of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Pensacola, Fla.

Within a 5-mile radius of Pensacola Regional Airport (lat. 30°28'25" N., long. 87°11'20" W.); within 3 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to 8.5 miles south of Pickens RBN.

Pensacola, NAS, Fla.

Within a 6-mile radius of Forrest Sherman Field (lat. 30°20'53"N., long. 87°19'04"W.); within 3 miles each side of the 174° bearing from NAS Pensacola UHF RBN, extending from the 6-mile radius zone to 8.5 miles south of the RBN.

Peoria, Ill.

Within a 5-mile radius of the Greater Peoria Airport (lat. 40°39'47" N., long. 89°41'22" W.) and within 4.5 miles each side of the Greater Peoria Airport ILS localizer northwest course, extending from the 5-mile radius zone to 17.5 miles northwest of the airport.

Philadelphia, Pa.

Within a 5-mile radius of the center, 39°52'23" N., 75°14'58" W., of Philadelphia International Airport, Philadelphia, Pa.; within a 6-mile radius of the center of the airport extending clockwise from a 266° bearing to a 016° bearing from the airport; within 2.5 miles each side of the Philadelphia International Airport Runway 27R ILS localizer course, extending from the localizer to 6.5 miles east; within 2 miles each side of the Philadelphia International Airport Runway 9R ILS localizer course, extending from the 5-mile radius zone to 2 miles east of the OM; within 2.5 miles each side of the New Castle, Del., VORTAC 055° radial, extending from the 5-mile radius zone to 18.5 miles northeast of the VORTAC.

Philipsburg, Pa.

Within a 5-mile radius of the center, 40°53'00" N., 78°08'18" W., of Mid-State Airport, Philipsburg, Pa., extending clockwise from a 248° bearing to a 031° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 031° bearing to a 098° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 098° bearing to a 187° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 187° bearing to a 248° bearing from the airport; and within 4 miles each side of a 327° bearing from a point 40°53'09" N., 78°08'06"W., extending from said point to a point 8.5 miles northwest.

Phoenix, Ariz. (Deer Valley)

Within a 3-mile radius of Deer Valley Airport (latitude 33°41'13" N., longitude 112°04'57" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established as published in the Airport/Facility Directory.

Phoenix-Litchfield, Ariz.

Within a 4-mile radius of Phoenix-Litchfield Airport (latitude 33°25'25" N., longitude 112°22'30" W.), excluding the portion within the Phoenix, Ariz. (Luke Air Force Base) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Phoenix, Ariz. (Luke AFB)

Within a 5-mile radius of Luke AFB (latitude 33°32'05" N., longitude 112°22'58" W.) within 2 miles each side of the Luke TACAN 058° radial, extending from the 5-mile radius zone to 6 miles northeast of the TACAN, and within 2 miles each side of the Luke TACAN 209° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the Luke TACAN. This control zone is effective from 0600 to 0000 hours local time daily.

Phoenix, Ariz. (Sky Harbor Airport)

Within a 5-mile radius of Sky Harbor Airport (latitude 33°26'10" N., longitude 112°00'45" W.); and within 2 miles each side of the Phoenix VORTAC 090° and 270° radials, extending from the 5-mile radius zone to 2 miles E and 13 miles W of the VORTAC.

Pierre, S. Dak.

Within a 5-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); and within 1 mile each side of the Pierre ILS localizer northwest course extending from the 5-mile radius zone to 6 miles northwest of the airport.

ne Belt, Miss.

Within a 5-mile radius of Pine Belt Regional Airport (lat. 31°28'03"N., long. 89°20'11.6"W.).
is control zone is effective during the specific dates and times established in advance by a Notice to rmen. The effective date and time will thereafter be continuously published in the Airport/Facility rectory.

ENDMENTS 1/24/80 44 F. R. 69282 (Changed)

ine Bluff, Ark.

That airspace within a 5-mile radius of Grider Field (latitude 34°10'35" N., longitude 91°55'55" W.) and thin 2 miles each side of the Pine Bluff VORTAC 186° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Pittsburgh, Pa. (Allegheny County)

Within a 5-mile radius of the center lat. 40°21'17" N., long. 79°55'48" W. of Allegheny County Airport, Pittsburgh, Pa., and within 3.5 miles each side of the 257° bearing from the Cecil RBN extending from the 5-mile radius zone to 8.5 miles west of the RBN.

Pittsburgh, Pa. (Greater Pittsburgh International Airport)

Within an 8-mile radius of the center, lat. 40°29'37" N., long. 80°13'54" W. of Greater Pittsburgh International Airport, Pittsburgh, Pa.

Plainview, Tex.

Within a 3-mile radius of the Hale County Airport, Plainview, Tex. (latitude 34° 10' 10" N., longitude 101° 43' 00" W.) and within 2 miles each side of the Plainview VOR 034° radial, extending from the 3-mile radius zone to the VOR, from 0600 to 2200 hours local time, daily.

Plattsburgh, N. Y.

Within a 5-mile radius of the center, 44°39'05"N., 73°28'08"W., of Plattsburgh AFB; within a 5-mile radius of the center 44°41'10"N., 73°31'10"W., of Clinton County Airport; within 3 miles each side of the Clinton County Airport ILS localizer south course, extending from the localizer to 3 miles south of the OM; within 1.5 miles each side of the Valcour, N. Y., TACAN 157° radial, extending from the TACAN to 2 miles southeast of the TACAN.

Pocatello, Idaho

Within a 5-mile radius of Pocatello Municipal Airport (latitude 42°54'35" N., longitude 112°35'25" W.), and within 3 miles each side of the Pocatello VORTAC 252° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC;
that airspace within 5 miles each side of the Pocatello VORTAC 225° radial extending from the 5-mile radius to 10½ miles southwest of the VORTAC excluding that airspace within a 1-mile radius of the American Falls Airport (latitude 42°48'00" N., longitude 112°49'30" W.), American Falls, Idaho.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Point Barrow, Alaska

Within a 5-mile radius of the Point Barrow AFS Airport (latitude 71°20'21" N., longitude 156°37'45" W.); within a 5-mile radius of the Wiley Post-Will Rogers Memorial Airport (latitude 71°17'11" N., longitude 156°46' 15" W.); within 3 miles each side of the Point Barrow RBN (PTR) 051° bearing extending from the 5-mile radius zone to 10 miles northeast of the RBN (PTR); within 2.5 miles each side of the Wiley RBN (IEY) 090° bearing, extending from the 5-mile radius zone to 10 miles east of the RBN; within 2.5 miles each side of the Wiley RBN (IEY) 226° bearing, extending from the 5-mile radius zone to 10 miles southwest of the RBN; and within 2.5 miles each side of the Wiley RBN (IEY) 270° bearing, extending from the 5-mile radius zone to 10.5 miles west of the RBN.

oint Mugu, Calif.

Within a 5-mile radius of NAS Point Mugu (lat. 34°07'05" N., long. 119°07'20" W.) and within the arc of a 12-mile radius circle centered on the Point Mugu TACAN, extending clockwise from the 200° radial to the 252° radial, excluding the portion within the Oxnard, Calif. (Ventura County Airport), control zone when it is effective.

mpano Beach, Fla.

Within a 5-mile radius of Pompano Beach Airpark (latitude 26°15'00" N., longitude 80°06'30" W.); within 3 miles each side of Pompano Beach VOR (latitude 26°14'52" N., longitude 80°06'32" W.) 319° radial, extending from the 5-mile radius zone to 5.5 miles northwest of the VOR; excluding the portion southwest of a line 3 miles southwest of and parallel to Pompano Beach VOR 319° radial, and the portion east of Fort Lauderdale Executive Airport, south of a line 1 mile north of and parallel to the extended centerline of Runway 8/26.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Ponca City, Okla.
Within a 5-mile radius of the Ponca City Municipal Airport (lat. 36°43'41"N., long. 97°05'57"W.).

Ponce, P. R.
Within a 5-mile radius of the Mercedita Airport, Ponce, P. R. (latitude 18°00'40" N., longitude 66°33'50" W.); within 3.5 miles each side of the Ponce VOR 111° radial, extending from the 5-mile radius zone to 8½ miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Pontiac, Mich.
Within a 5-mile radius of the Oakland-Pontiac Airport (latitude 42°39'53" N., longitude 83°25'01" W.); within 3 miles each side of the Pontiac VORTAC 116° and 272° radials, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC. This control zone is effective from 0600 to 2400 hours local time, daily.

Port Angeles, Wash.
Within a 5-mile radius of Williams R. Fairchild International Airport (latitude 48°07'10"N, longitude 123°29'44"W), including the airspace within 2 miles either side of the Port Angeles VOR 083° radial extending from the 5-mile radius zone to 4 miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. Effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Portland, Maine
Within a 5-mile radius of the center (43°38'50" N., 70°18'30" W.) of Portland International Jetport, excluding the portion within a 1-mile radius of Oak Knoll Airport, Scarboro, Maine (43°35'21" N., 70°22'03" W.). This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Portland, Oreg.
Within a 5-mile radius of Portland International Airport (lat. 45°35'21" N., long. 122°35'36" W.); within a 5-mile radius of the Portland-Troutdale Airport (lat. 45°33'00" N., long. 122°23'49" W.); within 2 miles each side of the Portland VORTAC 180° radial, extending from the 5-mile radius zone to 3.5 miles south of the VORTAC; within 3.5 miles each side of the Portland runway 10R ILS localizer west course, extending from the 5-mile radius zone to 1 mile west of the OM (lat. 45°37'28" N., long. 122°41'43" W.) and within 3 miles each side of the 119° and 299° bearings from the Lake LOM (lat. 45°32'38" N., long. 122°27'49" W.) extending from the 5-mile radius to 8 miles southeast of the LOM, excluding the portion within the Troutdale control zone when it is effective.

Portsmouth, N. H.
Within a 5-mile radius of Pease AFB, Portsmouth, N. H. (latitude 43°04'40" N., longitude 70°49'25" W.). within 2 miles each side of the centerline of Runway 16 extended from the 5-mile radius zone to 6 miles SE of the end of the runway; within 2 miles each side of the Pease AFB TACAN 142° radial, extending from the 5-mile radius zone to 8 miles SE of the TACAN; within 2 miles each side of the Pease AFB TACAN 332° radial, extending from the 5-mile radius zone to 8 miles NW of the TACAN.

Poughkeepsie, N. Y.
Within a 5-mile radius of the center, 41°37'36" N., 73°52'59" W., of Dutchess County Airport, Poughkeepsie, N. Y., within 3.5 miles each side of the Kingston, N. Y., VORTAC 025° radial, extending from the VORTAC to 9.5 miles northeast of the VORTAC; within 2 miles each side of the Kingston, N. Y., VORTAC 230° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC; and within 3.5 miles each side of the Kingston, N. Y., VORTAC 050° radial, extending from the VORTAC to 10.5 miles northeast of the VORTAC.

Prescott, Ariz.
Within a 6-mile radius of Prescott Municipal Airport (latitude 34°39'10" N., longitude 112°25'15" W.).

Presque Isle, Maine
Within a 5-mile radius of Northern Maine Regional Airport (latitude 46°41'30" N., long. 68°02'30" W.): within 3.5 miles each side of the Presque Isle localizer course extending from the 5-mile radius zone to 10 miles south of the LOM; within 2 miles each side of the Presque Isle VORTAC 158° radial extending from the 5-mile radius zone to the Presque Isle VORTAC. This control zone is effective from 0800 to 2000 hours, local time, Sunday through Friday; 0800 to 1730 hours, local time, Saturday or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Providence, R. I.

Within a 5-mile radius of Theodore Francis Green State Airport, Providence, R. I., (Lat. 41°43'30" N. Long. 71°26'48" W). and within 2 miles either side of the Providence ILS localizer SW course extending from the 5-mile radius zone to the OM.

Pueblo, Colo.

Within a 6-mile radius of Pueblo Memorial Airport (lat. 38°17'30"N., long. 104°30'00"W.); within 2 miles each side of the Pueblo ILS localizer west course extending from the 6-mile radius zone to the LOM; within 4 miles each side of the Pueblo VORTAC 077° radial, extending from the 6-mile radius zone to 9.5 miles east of the VORTAC.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Pullman, Wash.

Within a 5-mile radius of Pullman-Moscow Regional Airport (latitude 46°44'40" N., longitude 117°06'30" W.) and within 2 miles each side of the Pullman VOR 047° radial, extending from the 5-mile zone to the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Quantico, Va.

Within a 5-mile radius of the center, lat. 38°30'15"N., long. 77°18'15"W., of Quantico MCAF (Turner Field) Quantico, Va.; within 2 miles each side of the Brooke, Va., VORTAC 013° radial, extending from the 5-mile radius zone to 1.5 miles north of the VORTAC and within 3 miles each side of the 183° bearing from the Quantico UHF RBN, extending from the 5-mile radius zone to 8.5 miles south of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/19/80 45 F. R. 32667 (Changed)

Quincy, Ill.

That airspace within a 5-mile radius of Quincy Municipal Airport (latitude 39°56'35" N., longitude 91°11'40" W.), within 2 miles each side of the Quincy VORTAC 034° radial, extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Quincy VORTAC 035° radial extending from the 5-mile radius zone to 12 miles northeast of the airport.

Raleigh, N. C.

Within a 5-mile radius of Raleigh-Durham Airport (latitude 35°52'21" N., longitude 78°47'02" W.); within 3.5 miles each side of Raleigh VORTAC 033°, 127° and 230° radials, extending from the 5-mile radius zone to 10.5 miles northeast, southeast and southwest of the VORTAC.

Rapid City, S. Dak. (Ellsworth AFB)

Within a 5-mile radius of Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.); and within 2½ miles each side of the Ellsworth AFB TACAN 322° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN, excluding the portion which overlies the Rapid City, S. Dak. (Regional Airport) control zone.

Rapid City, S. Dak. (Regional Airport)

Within a 5-mile radius of Rapid City Regional Airport (latitude 44°02'30" N., longitude 103°03'20" W.); within 3 miles each side of the Rapid City VOR 155° and 335° radials, extending from the 5-mile radius zone to 8 miles southeast of the VOR; and within 3 miles each side of the Ellsworth AFB TACAN 129° radial, extending from the Rapid City, S. Dak. (Ellsworth AFB), 5-mile radius zone to 8 miles southeast of the TACAN, excluding the portion north of a line between the INTs of the 5-mile radius zone and the Rapid City, S. Dak. (Ellsworth AFB), 5-mile radius zone.

Rawlins, Wyo.

Within a 5-mile radius of Rawlins Municipal Airport (lat. 41°48'15"N., long. 107°12'05"W.) and within 5 miles north and 3.5 miles south of the 089° bearing from the Sinclair radio beacon (lat. 41°48'24"N., long. 107°05'06"W.) extending from the 5-mile radius area to 2.5 miles east of the radio beacon. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/15/80 45 F. R. 20058 (Rewritten)

Reading, Pa.

Within a 5-mile radius of the center, 40°22'30" N., 75°57'57" W., of Reading Municipal-General Carl A. Spaatz Field, Reading, Pa., extending clockwise from a 160° bearing to a 030° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 030° bearing to a 160° bearing from the airport; within 4.5 miles each side of the Reading Municipal-General Carl A. Spaatz Field ILS localizer south course, extending from the 5-mile radius zone and 5.5-mile radius zone to 8.5 miles south of the OM; within 4 miles each side of a 161° bearing from a point 40°22'32" N., 75°57'57" W., extending from said point to 8.5 miles south; within 2.5 miles each side of a 301° bearing from a point of 40°23'00"N., 75°58'42"W., extending from said point to 6 miles northwest of said point; within 2 miles each side of a 352° bearing from a point 40°23'06"N., 75°57'48"W., extending from said point to 4.5 miles north of said point.

Red Bluff, Calif.

Within a 5-mile radius of Bidwell Airport, Red Bluff, Calif. (latitude 40°09'15" N., longitude 122°14'50" W.), and within 2 miles each side of the Red Bluff VORTAC 167° radial, extending from the 5-mile radius zone to 8 miles S of the VORTAC.

Redding, Calif.

Within a 5-mile radius of Redding Municipal Airport (latitude 40°30'35" N., longitude 122°17'30" W.), and within 2 miles west and 4 miles east of the Redding VOR 192° radial extending from the 5-mile radius zone to 8 miles south of the VOR, excluding the portions within a 1-mile radius of Redding Sky Ranch Airport (latitude 40°30'00" N., longitude 122°22'35" W.) and Enterprise Sky Park (latitude 40°34'26" N., longitude 122°19'30" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Redmond, Oreg.

Within a 5-mile radius of Roberts Field, Redmond, Oreg. (latitude 44°15'10" N., longitude 121°08'55" W.), and within 1.5 miles each side of the Redmond VORTAC 269° and 089° radials extending from the 5-mile radius zone to 1 mile west of the VORTAC.

Redwood Falls, Minn.

Within a 5-mile radius of Redwood Falls Municipal Airport (latitude 44°32'45" N., longitude 95°04'45" W.).

Reno, Nev. (Reno Municipal Airport)

Within a 5-mile radius of the Reno Municipal Airport (latitude 39°30'02" N., longitude 119°46'07" W.), and within 2 miles each side of the Reno ILS localizer N course, extending from the 5-mile radius zone to the Sparks, Nev., RBN, and within 2 miles each side of the Reno localizer S course, extending from the 5-mile radius zone to 11 miles S of the airport.

Renton, Wash.

That airspace bounded by a line beginning at latitude 47°32'10" N., longitude 122°12'40" W.; thence clockwise along an arc of a 3-mile radius circle centered on the Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'59" N., longitude 122°09'46" W., to latitude 47°27'38" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122°12'06" W., thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'33" W., to latitude 47°31'27" N., longitude 122°13'33" W., thence to point of beginning. This control zone is effective from 0700 to 2300 hours local time daily.

Rhinelander, Wis.

Within a 5-statute-mile radius of the Rhinelander-Oneida County Airport (lat. 45°37'54"N., long. 89°27'35"W. estimated) and within 2½ statute miles each side of the Rhinelander VORTAC 322°T radial extending from the 5-statute-mile radius zone to 6 statute miles northwest of the VORTAC; and within 2 statute miles each side of the Rhinelander VORTAC 058°T radial extending from the 5-mile radius zone to 7 statute miles northeast of the VORTAC; and within 2½ statute miles each side of the Rhinelander VORTAC 229°T radial extending from the 5-statute-mile radius zone to 7 statute miles southwest of the VORTAC; and 3 statute miles each side of the Rhinelander VORTAC 262°T radial extending from the 7-statute-mile extension on the south and from the 6-statute-mile extension on the north to 8½ statute miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Richland, Wash.

That airspace bounded by a line beginning at lat. 46°15'46"N., long. 119°13'06"W., thence clockwise along an arc of a 5-mile radius circle centered on the Richland Airport (lat. 46°18'30"N., long. 119°18'00"W.) to lat. 46°18'27"N., long. 119°11'43"W., thence counterclockwise via an arc of a 5-mile radius circle centered on the Tri-Cities Airport (lat. 46°15'50"N., long. 119°06'53"W.) to the point of beginning. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Richmond, Va.

Within a 5.5-mile radius of the center, lat. 37°30'16" N., long. 77°19'11" W. of Richard Evelyn Byrd International Airport, Richmond, Va.; within 3.5 miles each side of the Richmond VORTAC 342° radial extending from the 5.5-mile radius zone to 10 miles north of the VORTAC; within 3.5 miles each side of the Richmond VORTAC 359° radial extending from the 5.5-mile radius zone to 10 miles north of the VORTAC; within 3 miles each side of the Richmond VORTAC 065° radial extending from the 5.5-mile radius zone to 8.5 miles northeast of the VORTAC; within 3.5 miles each side of the Richmond VORTAC 134° radial extending from the 5.5-mile radius zone to 10 miles southeast of the VORTAC; and within 2 miles each side of the Richmond VORTAC 137° radial extending from the 5.5-mile radius zone to 10 miles southeast of the VORTAC within 3 miles each side of the Richmond VORTAC 212° radial. extending from the 5.5-mile radius zone to 8.5 miles southwest of the VORTAC.

Riverside, Calif. (March AFB)

Within a five-mile radius of March AFB (lat. 33°52'50"N., long. 117°15'30"W.); within two miles either side of the March AFB TACAN 150° radial extending from the five-mile radius zone to 8.3 miles SE of the TACAN and within two miles either side of the March AFB TACAN 309° radial, extending from the five-mile zone to six miles NW of the TACAN.

Riverside, Calif. (Municipal Airport)

Within a 3-mile radius of the Riverside Municipal Airport (latitude 33°57'05" N., longitude 117°26'30" W.), within 2 miles each side of the Riverside VOR 292° radial, extending from the 3-mile radius zone to 4.5 miles W of the VOR; within 2 miles each side of the Riverside VOR 103° radial, extending from the 3-mile radius zone to 7 miles E of the VOR; and within 2 miles each side of the Riverside VOR 108° radial, extending from the 3-mile radius zone to 5 miles E of the VOR, excluding the portion within a 1-mile radius of the Riverside Fla-Bob Airport (latitude 33°59'20" N., longitude 117°24'35" W.), and the portion that coincides with the Riverside, Calif. (March AFB), control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Riverton, Wyo.

Within a 5-mile radius of Riverton Municipal Airport (latitude 43°03'45" N., longitude 108°27'15" W.) within 2 miles each side of the Riverton VOR 291° radial, extending from the 5-mile radius zone to 8 miles west of the VOR, within 3 miles each side of the Riverton VOR 123° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Roanoke, Va.

Within a 7-mile radius of the center, 37°19'30"N., 79°58'35"W., of the Roanoke Municipal-Woodrum Airport, Roanoke, Va.; within an 8-mile radius of the center of the airport, extending clockwise from a 237° bearing to a 258° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 302° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 302° bearing to a 336° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 336° bearing to a 007° bearing from the airport and within 2.5 miles each side of the Roanoke Municipal-Woodrum Airport ILS localizer southeast course, extending from the localizer to 2 miles southeast of the OM; within 4 miles each side of the Roanoke Municipal Airport LDA Runway 5 course, extending from the OM to 4 miles southwest of the OM.

Rochester, Minn.

Within a 5-mile radius of Rochester Municipal Airport (latitude 43°54'25" N., longitude 92°29'45" W.); within 2 miles each side of the Rochester ILS localizer southeast course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Rochester VORTAC 029° radial, extending from 1 mile northeast of the VORTAC to 15 miles northeast of the VORTAC.

Rochester-Monroe County Airport, N. Y.

Within a 5.5-mile radius of the Rochester-Monroe County Airport, N. Y., (lat. 43°07'11"N., long. 77°40'18"W.); within 3.5 miles each side of the Rochester VORTAC 214° radial extending from the 5.5-mile radius zone to 9 miles southwest of the VORTAC; within 3 miles each side of the Rochester VORTAC 280° radial, extending from the 5.5-mile radius zone to 8.5 miles west of the VORTAC; within 2 miles each side of the Rochester ILS localizer east course, extending from the 5.5-mile radius zone of the LOM.

Rockford, Ill.

Within a 5-mile radius of the Greater Rockford Airport (latitude 42°11'50" N., longitude 89°05'45" W.), within 2 miles each side of the Rockford ILS localizer S course, extending from the 5-mile radius zone to the OM, and within 2 miles each side of the Rockford VORTAC 117° radial, extending from the 5-mile radius zone to the VORTAC.

Rock Springs, Wyo.

Within a 5.5-mile radius of the Rock Springs-Sweetwater County Airport (lat. 41°35'45"N., long. 109°04'00"W.); within 3 miles each side of the Rock Springs ILS localizer east course, extending from the 5.5-mile radius zone to 9 miles east of the Thaer LOM (lat. 41°35'49"N., long. 108°58'09"W.); within 3.5 miles each side of the Rock Springs VORTAC 102° radial, extending from the 5.5-mile radius zone to 11.5 miles east of the VORTAC, and within 5 miles each side of the Rock Springs VORTAC 277° radial, extending from the 5.5-mile radius zone to 18 miles west of the VORTAC.

PENDING AMENDMENT

Rock Springs, Wyo.

Within 5.5 miles each side of the Rock Springs, Wyo., VORTAC (lat. 41°35'25"N., long. 109°00'53"W.) 095° 275° radials extending from the VORTAC to 18 miles west and 12.5 east. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 12/25/80 45 F. R. 67654 (Rewritten)

Rocky Mount, N. C.

Within a 5-mile radius of Rocky Mount-Wilson Airport (lat. 35°51'17" N., long. 77°53'34" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Rome, N. Y.

Within a 5-mile radius of the center, 43°13'45" N., 75°25'00" W., of Griffiss AFB, Rome, N. Y., and within 2 miles each side of bearing 135°/315° from a point 43°10'08" N., 75°19'08" W. extending from the 5-mile radius zone to 6 miles southeast of said point; within 2 miles each side of the Griffiss TACAN 306° radial extending from the 5-mile radius zone to 8 miles NW of the TACAN; within 2 miles each side of a bearing 142° from the Rome, N. Y., ILS OM, extending from the OM to 4 miles SE of the OM.

Roosevelt Roads, P. R.

Within a 5-mile radius of NS Roosevelt Roads (lat. 18°15'05" N., long. 65°38'35" W.); within 3 miles each side of the 062° bearing from Roosevelt Roads RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN.

Roswell, N. Mex.

Within a 6-mile radius of the Roswell Industrial Air Center Airport (lat. 33°17'59"N., long. 104°31'48"W.).

AMENDMENTS 3/20/80 45 F. R. 2011 (Rewritten)

Russell, Kans.

Within a 5-mile radius of Russell Municipal Airport (latitude 38°52'20" N., longitude 98°48'45" W.).

Sacramento, Calif. (Mather AFB)

Within a 5-mile radius of Mather AFB (latitude 38°33'10" N., longitude 121°18'05" W.) within 2 miles each side of the Mather TACAN 048° radial, extending from the 5-mile radius zone to 7 miles northeast of the TACAN, excluding the portion subtended by a chord drawn between the points of intersection of the Mather AFB 5-mile radius zone with the Sacramento, Calif. (McClellan AFB) 5-mile radius zone.

Sacramento, Calif. (McClellan AFB)

Within a 5-mile radius of McClellan AFB (latitude 38°39'45" N., longitude 121°24'10" W.), excluding the portion subtended by a chord drawn between the points of intersection of the McClellan AFB 5-mile radius zone with the Sacramento, Calif. (Mather AFB) 5-mile radius zone.

Sacramento, Calif. (Sacramento Metropolitan Airport)

That airspace within a 5-mile radius of the Sacramento Metropolitan Airport (latitude 38°41'43" N., longitude 121°36'01" W.), and within 2 miles each side of the Sacramento Metropolitan Airport localizer (latitude 38°40'32" N., longitude 121°36'02" W.) N and S courses, extending from the 5-mile radius zone to 6 miles north and south of the airport; and including that airspace adjoining the McClellan AFB and Sacramento Municipal Airport control zones between latitude 38°41'43" N. and the Sacramento VORTAC 351° T radial.

Sacramento, Calif. (Sacramento Municipal)

Within a 5-mile radius of Sacramento Municipal Airport (latitude 38°30'45" N., longitude 121°29'35" W.), within 2 miles each side of the Sacramento VORTAC 033° radial, extending from the 5-mile radius zone SW to the VORTAC and that airspace NE of the Sacramento Municipal Airport, extending from the Sacramento Municipal 5-mile radius zone to the McClellan AFB and Mather AFB 5-mile radius zones, bounded on the SE by the Sacramento 064° radial and on the NW by a line 2 miles NW of and parallel to the Sacramento 033° radial.

Saginaw, Mich.

That airspace within a 5-mile radius of Tri-City Airport (latitude 43°31'55" N., longitude 84°04'50" W.) and within 2½ miles each side of the Saginaw, Mich. VORTAC 030°, 146°, 233°, and 310° radius extending from the 5-mile radius zone to 6½ miles northeast, southeast, southwest, and northwest of the VORTAC.

St. Charles, Ill.

Within a 3-mile radius of Du Page County Airport, St. Charles, Ill. (latitude 41°54'45" N., longitude 88°14'35" W.); and within 2 miles either side of the Du Page VOR 069° radial, extending from the 3-mile radius zone to the VOR.

St. Joseph, Mo.

Within a 5-mile radius of the Rosecrans Memorial Airport (latitude 39°46'23" N., longitude 94°54'31" W.); within 2 miles each side of the St. Joseph ILS localizer S course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the St. Joseph VORTAC 175° radial, extending from the 5-mile radius zone to the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

St. Louis, Mo.
Within a 5-mile radius of St. Louis International Airport (latitude 38°44'50" N., longitude 90°21'55" W.); within 2 miles each side of the St. Louis International Airport Runway 24 ILS localizer southwest course, extending from the 5-mile radius zone to 10½ miles southwest of the OM; within 2 miles each side of the St. Louis VORTAC 142° radial; extending from the 5-mile radius zone to 7 miles northwest of the northwest end of the St. Louis International Airport Runway 12R; within 2 miles each side of the St. Louis International Airport Runway 12R ILS localizer northwest course, extending from the 5-mile radius zone to the Runway 12R OM; and within 2 miles each side of the St. Louis International Airport Runway 12R ILS localizer southeast course, extending from the 5-mile radius zone to 6 miles southeast of the Runway 12R localizer.

St. Paul, Minn.
Within a 5-mile radius of St. Paul Downtown Airport (Holman Field) latitude 44°56'10" N., longitude 93° 0 '40" W.), excluding the portion which overlies the Minneapolis, Minn., control zone and excluding the area within a 1-mile radius of South St. Paul Municipal Airport (Fleming Field) (latitude 44°51'25" N., longitude 93° 01'55" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

St. Petersburg, Fla.
Within a 5-mile radius of St. Petersburg Clearwater International Airport (lat. 27°54'33" N., long. 82°41' 1[illegible]" W.); within 2.5 miles each side of St. Petersburg VORTAC 343° radial, extending from the 5-mile radius zone to 6 miles northwest of the VORTAC.

St. Petersburg, Fla. (Albert-Whitted Airport)
Within a 5-mile radius of the Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'30" W.); within 1.5 miles each side of the St. Petersburg VORTAC 180° radial, extending from the 5-mile radius zone to 1 mile south of the VORTAC, excluding the portion within the St. Petersburg and MacDill AFB control zones. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Saipan Island
Within a 5-mile radius of Saipan International Airport (lat. 15°07'13"N., long. 145°43'49"E.) and within 3 miles each side of the Saipan RBN (lat. 15'06'46" N., long. 145°42'42" E.) 265° bearing, extending from the 5-mile radius zone to 8.5 miles west of the RBN, and within 2 miles each side of the extended centerline of the east/west runway, extending from the 5-mile radius zone to 7.5 miles east of Saipan International Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

Salem, Oreg.
Within a 5 mile radius of McNary Field, Salem, Oregon. Latitude 44°54'35"N., Longitude 123°00'05"W., and within 2 miles each side of the Salem ILS localiser E course, extending from the 5 mile radius zone to the LOM; within 4 miles each side of the Salem ILS localiser W course, extending from the 5 mile radius zone to 15 miles west of the airport.

Salina, Kans.
Within a 5-mile radius of Salina Municipal Airport (latitude 38°47'40" N., longitude 98°39'30" W.); within 1½ miles each side of the Salina VORTAC 192° radial, extending from the 5-mile radius zone to the VORTAC and within 2 miles each side of the Salina ILS localizer S course, extending from the 5-mile radius zone to 2½ miles N of the OM.

Salinas, Calif.
Within a 5-mile radius of the Salinas Municipal Airport (latitude 36°39'40" N., longitude 121°36'20" W.), and within 2 miles NE and 3 miles SW of the Salinas VORTAC 319° radial, extending from the 5-mile radius zone to 6 miles NW of the VORTAC, excluding the portion within the Fort Ord, Calif., control zone.

Salisbury, Md.
Within a 5-mile radius of the center, lat. 38°20'21" N., long. 75°30'41" W. of Salisbury-Wicomico County Airport, Salisbury, Md.; within 3.5 miles each side of the Salisbury VORTAC 209° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC; within 3.5 miles each side of the Salisbury VORTAC [illegible]32° radial, extending from the 5-mile radius zone to 9.5 miles northeast of the VORTAC; within 1 mile each side of the Salisbury-Wicomico County Airport localizer northwest course, extending from the 5-mile radius zone to 8.5 miles northwest of the localizer; and within 3.5 miles each side of the Salisbury VORTAC 132° radial, extending from the 5-mile radius zone to 10.5 miles southeast of the VORTAC.

Salt Lake City, Utah
Within a 5-mile radius of the Salt Lake International Airport (latitude 40°47'10" N., longitude 111°58'00" W.) and within 2.5 miles each side of the Salt Lake City VORTAC 003° radial extending from the 5-mile radius zone to 2 miles north of the VORTAC.

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San Angelo, Tex.
Within a 5-mile radius of Mathis Field, San Angelo, Tex., (latitude 31°21'35" N., longitude 100°29'40" W.); within 2 miles each side of the San Angelo VOR 065° radial, extending from the 5-mile radius zone to 8 miles NE of the VOR; within 2 miles each side of the San Angelo ILS localizer NE course, extending from the 5-mile radius zone to 8 miles NE of the INT of the ILS localizer NE course and the San Angelo VOR 311° radial; and within 2 miles each side of the San Angelo ILS localizer SW course, extending from the 5-mile radius zone to 6.5 miles SW of the airport.

San Antonio, Tex. (International Airport)
That airspace within a 5-mile radius of San Antonio International Airport (latitude 29°31'50" N., longitude 98°28'12" W.); within 2 miles each side of the San Antonio VORTAC 184° radial extending from the 5-mile radius zone to 1 mile south of the VORTAC; within 2 miles each side of the San Antonio ILS localizer northwest course extending from the 5-mile radius zone to 1 mile southeast of the OM, within 2 miles each side of the San Antonio ILS localizer northeast course extending from the 5-mile radius zone to 6 miles northeast of the airport, and within 2 miles each side of the San Antonio ILS localizer southeast course extending from the 5-mile radius zone to 7 miles southeast of the localizer, and within 2 miles each side of a 132° bearing from the LOM extending from the 5-mile radius zone to 15.5 miles southeast of the LOM.

San Antonio, Tex. (Kelly AFB)
That airspace within a 5-mile radius of Kelly AFB (latitude 29°22'57" N., longitude 98°34'25" W.); within 2 miles each side of the Kelly AFB ILS localizer N course extending from the 5-mile radius zone to 2 miles north of the 5-mile radius zone; and within 2 miles each side of the Kelly AFB TACAN 341° radial extending from the 5-mile radius zone to the TACAN.

San Antonio, Tex. (Randolph AFB)
That airspace within a 5-mile radius of Randolph AFB (lat. 29°31'43"N., long. 98°16'40"W.), and within 1.5 miles each side of the 334° radial of the Randolph VOR (lat. 29°31'08"N., long. 98°17'05"W.) extending from the 5-mile radius area to 6 miles northwest of the VOR.

AMENDMENTS 10/30/80 45 F. R. 56335 (Rewritten)

San Antonio, Tex. (Stinson Field)
Within a 3-mile radius of Stinson Field (latitude 29° 20' 15" N., longitude 98° 28' 20" W.), and within 2 miles each side of the Stinson VOR 346° radial, extending from the 3-mile radius zone to the VOR, excluding the portion within the Kelly AFB control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

San Bernardino, Calif. (Norton AFB)
Within a 5-mile radius of the Norton AFB (latitude 34°05'45" N., longitude 117°14'05" W.), and within 2 miles N and 2.5 miles S of the ILS localizer SW course extending from the 5-mile radius zone to 2 miles NE of Pettis NDB, excluding the portion within a 1-mile radius of the Redlands, Calif., Municipal Airport latitude 34°05'05"N., longitude 117°08'35"W.).

San Carlos, Calif.
Within a 3-mile radius of the San Carlos Airport (latitude 37°30'40" N., longitude 122°14'50" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

San Clemente Island, Calif.
Within a 5-mile radius of NALF San Clemente (latitude 33°01'20" N., longitude 118°35'15" W.) extending upward from the surface to and including 5,000 feet MSL, excluding that airspace beyond 3 NM from and parallel to the shoreline. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

PENDING AMENDMENT

San Clemente Island, Calif.
Within a 5-mile radius of NALF San Clemente (lat. 33°01'20"N., long. 118°35'15"W.), extending upward from the surface to and including 6,000 feet MSL and within 3 miles on either side of the San Clemente 334° radial extending from the 5-mile radius to Control Area 1177. The control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 12/25/80 45 F. R. 71771 (Rewritten)

San Diego, Calif. (Brown Field)
Within a 3-mile radius of Brown Field Municipal Airport (latitude 32°34'22" N., longitude 116°58'47" W.), excluding that airspace west of longitude 117°01'00" W., and south of the United States/Mexican Border. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

San Diego, Calif. (Lindbergh Field)

Within a 5-mile radius of Lindbergh Field, San Diego, Calif. (latitude 32° 43' 58" N., longitude 117° 11' 14" W.); and within 2 miles each side of the Lindbergh ILS localizer E course, extending from the 5-mile radius zone to 7 miles east of the airport, excluding the portion S of a line extending from latitude 32°43'22" N., longitude 117°16'20" W., to latitude 32° 43' 22" N., longitude 117° 12' 23" W., to latitude 32° 41' 02" N., longitude 117° 07' 25" W.; and the portion N of latitude 32° 47' 00" N.

San Diego, Calif. (Montgomery Field)

Within a 3-mile radius of Montgomery Field (lat. 32°49'00"N., long. 117°08'20"W.), and within one mile each side of the Montgomery Field ILS localizer E course, extending from the 3-mile zone to the outer marker, excluding those portions within the NAS Miramar and San Diego (Lindbergh Field) control zones. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/15/80 45 F. R. 26691 (Changed)

San Diego, Calif. (NAS North Island)

Within a 5-mile radius of NAS North Island (latitude 32° 42' 00" N., longitude 117° 12' 35" W.); within the arc of a 10-mile radius circle centered on the North Island TACAN, extending clockwise from a line 2 miles N of and parallel to the TACAN 120° radial to the 162° radial, excluding the portion N of a line from latitude 32° 43' 22" N., longitude 117° 17' 20" W., to latitude 32° 43' 22" N., longitude 117° 12' 23" W., to latitude 32°41'02" N., longitude 117°07'25" W., and the portion within the NAS Imperial Beach, Calif., control zone.

San Diego, Calif. (San Diego County-Gillespie Field)

Within a 3-mile radius of San Diego-Gillespie Field (latitude 32°49'26" N., longitude 116°58'18" W.) and within 1 mile each side of a 102° bearing from the end of Runway 27R, extending from the 3-mile radius zone to 5 miles east of the airport. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Sanford, Fla.

Within a 5-mile radius of Sanford Airport (lat. 28°46'30"N., long. 81°14'25"W.); within 3 miles each side of the 259° bearing from the Sanford RBN (lat. 28°47'05"N., long. 81°14'36"W.), extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone is effective from 0800 to 2100 hours, local time, daily.

San Francisco, Calif.

Within a 7-mile radius of the San Francisco International Airport (Lat. 37°37'07" N, Long. 122°22' 35" W, including the airspace bounded on the SW by the San Francisco 7-mile radius zone and on the N and NE by the Oakland and NAS Alameda control zones, excluding the portion within the Oakland control zone.

San Jose, Calif.

Within a 5-mile radius of San Jose Municipal Airport (latitude 37°21'35" N., longitude 121°55'30" W.), excluding the portion NW of a line from latitude 37°25'45" N., longitude 121°56'35" W. to latitude 37°19'30" N., longitude 122°00'10" W.

San Jose, Calif. (Reid-Hillview Airport)

That airspace within a 3-mile radius of the Reid-Hillview Airport (latitude 37°19'55" N., longitude 121° 49'10" W.), excluding that portion within the San Jose control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

San Juan, P. R. (International Airport)

Within a 5-mile radius of Puerto Rico International Airport (lat. 18°26'48" N., long. 66°00'07" W.); within a 3-mile radius of Isla Grande Airport (lat. 18°27'33" N., long. 66°05'55" W.); within 5 miles each side of the San Juan VORTAC 058° radial, extending from the VORTAC to 13 miles northeast of the VORTAC; within 3.5 miles each side of the San Juan VORTAC 086° radial, extending from the 5-mile radius zone to 11 miles east of the VORTAC; within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of the San Pat RBN.

San Luis Obispo, Calif.

Within a 5-mile radius of the San Luis Obispo County Airport (lat. 35°14'11"N., long. 120°38'26"W.) and within 2 miles each side of the San Luis Obispo County localizer course extending from the 5-mile radius zone to the outer marker. This control zone is effective from 0500 to 2330 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

San Nicolas Island, Calif. (San Nicolas Island OLF)

Within a 5-mile radius of the San Nicolas Island Outlying Field (lat. 33°13'30"N., long. 119°27'50"W.) and within one mile each side of the 135° and 315° bearings from the Navy San Nicolas Island NDB (lat. 33°14'10"N., long. 119°26'56"W.) extending from 7 miles southeast to 7 miles northwest of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Santa Ana, Calif. (Orange County Airport)

Within a 5-mile radius of Orange County Airport (latitude 33°40'32" N., longitude 117°52'15" W.) and within a 5-mile radius of MCAS Santa Ana (latitude 33°42'22" N., longitude 117°49'35" W.) excluding the portion within a 1-mile radius of Mile Square MCOLF, that portion east of a line extending from latitude 33°43'55" N., longitude 117°47'00" W. to latitude 33°36'10" N., longitude 117°50'20" W. and that portion within the Santa Ana, Calif. (MCAS) control zone when it is effective. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Santa Barbara, Calif.

Within a 5-mile radius of Santa Barbara Municipal Airport (latitude 34°25'35" N., longitude 119°50'20" W.); within 2 miles each side of the Santa Barbara ILS localizer west course, extending from the 5-mile radius zone to the OM.

Santa Fe, N. Mex.

Within a 6.5-mile radius of the Santa Fe County Municipal Airport (latitude 35°37'00" N., longitude 106°05'25" W.).

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Santa Maria, Calif.

Within a 5-mile radius of Santa Maria Public Airport (lat. 34°53'55"N., long. 120°27'20"W.); within 1.5 miles each side of the Santa Maria VOR 133° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Santa Monica, Calif.

Within a 3-mile radius of Santa Monica Municipal Airport (latitude 34°00'57" N., longitude 118°27'00" W.); within 2 miles each side of the Santa Monica VOR 231° radial, extending from the 3-mile radius zone to 3 miles SW of the VOR; within 2 miles each side of the Santa Monica VOR 056° radial, extending from the 3-mile radius zone to 5 miles NE of the VOR, excluding the portion S of a line extending from latitude 34°00'43" N., longitude 118°23'30" W., to latitude 33°58'03" N., longitude 118°28'58" W. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and time will thereafter be continuously published in the Airport/Facility Directory.

Santa Rosa, Calif.

Within a 5-mile radius of Sonoma County Airport (latitude 38°30'30" N., longitude 122°48'45" W.) and within a 1-mile radius of Santa Rosa Coddington Airport (latitude 38°28'30" N., longitude 122°44'25" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Sarasota, Fla.

Within a 5-mile radius of Sarasota-Bradenton Airport (lat. 27°23'47" N., long. 82°33'15" W.); within 3 miles each side of Sarasota VORTAC 050° and 302° radials, extending from the 5-mile radius zone to 8.5 miles northeast and northwest of the VORTAC; within 5 miles each side of Sarasota VORTAC 142° radial, extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Sault Ste. Marie, Mich.

Within a 5-statute-mile radius of the Chippewa County International Airport (lat. 46°14'52"N., long. 84°28'15"W. estimated). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Sault Ste. Marie, Mich. (Municipal Airport)

Within the United States within a 5-mile radius of Sault Ste. Marie Municipal Airport (latitude 46°28'40" N., longitude 84°21'55" W.), and within 2 miles each side of the 129° bearing from the Sault Ste. Marie RBN extending from the 5-mile radius zone to 8 miles SE of the RBN excluding the portion W of a line between the INTs of the 5-mile radius and the Sault Ste. Marie, Ontario, Canada, control zone.

Sault Ste. Marie, Ontario, Canada

Over the United States, within a 5-statute-mile radius of the Sault Ste. Marie, Ontario Airport (lat. 46° 29[illegible]., long. 84°31'W. estimated) and within 1.75 statute miles north of the 108°T bearing from the geographical center of the airport extending from the 5-statute-mile radius zone to 5.5 statute miles southeast, and within 1.75 statute miles each side of the 118°T bearing from the geographical center of the airport extending from the 5-statute-mile radius zone to 11 statute miles southeast, and within 1.75 statute miles each side of the 293°T bearing from the geographical center of the airport extending from the 5-statute-mile radius zone to 5.5 statute miles northeast.

Savannah, Ga.

Within a 5-mile radius of Savannah Municipal Airport (lat. 32°07'35" N., long. 81°12'05" W.); within a 5-mile radius of Hunter AAF (lat. 31°00'35" N., long. 81°08'45" W.).

Schenectady, N. Y.

Within a 5-mile radius of the center 42°51'15" N., 73°55'55" W. of Schenectady County Airport, Schenectady, N. Y.; within 2.5 miles each side of a 037° bearing from the Hunter RBN (42°51'13" N., 7[illegible]56'07" W.) extending from the 5-mile radius zone to 8.5 miles northeast of the RBN; within 2.5 miles each side of the Schenectady VOR (42°51'06" N., 73°56'05" W.) 030° radial extending from the 5-mile radius zone to 8[illegible] miles northeast of the VOR; within 2 miles each side of the extended centerline of Runway 28, extending from the 5-mile radius zone to 9 miles west of the end of the runway and within 2 miles each side of the extended centerline of Runway 33, extending from the 5-mile radius zone to 5 miles northwest of the end of the runway, excluding the portion that coincides with the Albany, N. Y., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

Scottsbluff, Nebr.

Within a 5-mile radius of the Scottsbluff County Airport (lat. 41°52'40"N., long. 103°35'47"W.); and within 2 miles each side of the Scottsbluff VORTAC 259° radial extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the ILS localizer northwest course extending from the 5-mile radius zone to 7 miles northwest of the airport; and within 4.5 miles each side of the Scottsbluff VORTAC 256° radial extending from the 5-mile radius zone to 15.5 miles west of the VORTAC.

Scottsdale, Ariz.

Within a 5-mile radius of the Scottsdale Airport (latitude 33°37'05" N., longitude 111°54'55" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established and published in the Airport/Facility Directory.

Seattle, Wash. (King County International Airport (Boeing Field))

That airspace bounded by a line beginning at latitude 47°34'10" N., longitude 122°12'40" W., to latitude 47°32'10" N., longitude 122°12'40" W., thence clockwise via an arc of a 3-mile radius circle centered on Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'59" N., longitude 122° 09'46" W., to latitude 47°27'36" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122° 12'06" W., thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'33" W., to latitude 47°29'20" N., longitude 122°13'33" W., to latitude 47°29' 20" N., longitude 122°23'10" W., thence clockwise along an arc of a 5-mile radius circle centered on King County International Airport (Boeing Field) latitude 47°31'45" N., longitude 122°18'00" W.) to point of beginning; within 2 miles each side of the 150° bearing from the Magnolia LOM, extending from the 5-mile radius arc to 2 miles southeast of the Magnolia LOM, excluding the portion within the Seattle, Wash. (Seattle-Tacoma International Airport), control zone, and the portion within the Renton, Wash., control zone when the Renton control zone is effective.

Seattle, Wash. (Seattle-Tacoma International Airport)

That airspace bounded by a line beginning at latitude 47°29'20" N., longitude 122°13'33" W., thence to latitude 47°28'09" N., longitude 122°13'33" W., thence to latitude 47°27'00" N., longitude 122°11'50" W., thence clockwise along the arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°29'20" N., longitude 122°23'10" W., thence to point of beginning, and within 2 miles each side of the 360° bearing from the Seattle-Tacoma ILS LOM, extending from the 5-mile radius arc to the LOM.

Shemya, Alaska

Within a 5-mile radius of the Shemya Airport (latitude 52°42'50" N., longitude 174°06'57" E.); within 2 miles each side of the 104° bearing from the Shemya RBN, extending from the RBN to 12 miles east of the RBN, and within 2 miles each side of the 284° bearing from the Shemya RBN, extending from the RBN to 8 miles west of the RBN.

Sheridan, Wyo.

Within a 5-mile radius of the Sheridan County Airport (latitude 44°46'25" N., longitude 106°58'15" W.); within 4 miles each side of the Sheridan VORTAC 312° and 327° radials, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC; and within 4 miles each side of the Sheridan VORTAC 140° radial extending from the 5-mile radius zone to 24½ miles southeast of the VORTAC.

Shreveport, La. (Barksdale AFB)

That airspace within a 5-mile radius of Barksdale AFB (latitude 32°30'05" N., longitude 93°39'45" W.); within 2 miles each side of the Elm Grove VOR 330° radial extending from the 5-mile radius zone to 0.5 of a mile NW of the VOR; within 2 miles each side of the Barksdale TACAN 148° radial extending from the 5-mile radius zone to 7.5 miles SE of the TACAN; excluding the portion within the Shreveport, La. (Shreveport Regional Airport) control zone and excluding the portion within the Shreveport, La. (Downtown Airport), control zone.

Shreveport, La. (Downtown Airport)

That airspace within a 5-mile radius of Shreveport Downtown Airport (latitude 32°32'25" N., longitude 93°44'40" W.), and within 2 miles each side of the Shreveport Downtown VOR 313° radial extending from the 5-mile radius zone to 5.5. miles NW of the VOR, excluding the portion SE of a direct line between the two intersecting points of a 5-mile radius circle centered on Downtown Airport and Barksdale AFB (latitude 32°30'05" N., longitude 93°39'45" W.) and the portion within the Shreveport, La. (Shreveport Regional Airport) control zone.

Shreveport, La. (Shreveport Regional Airport)

That airspace within a 5-mile radius of the Shreveport Regional Airport (latitude 32°26'45" N., longitude 93°49'25" W.); and within 2 miles each side of the Greater Shreveport ILS localizer SE course, extending from the 5-mile radius zone to 6 miles SE of the airport.

Sidney, Nebr.

Within a 5-mile radius of Sidney Municipal Airport (lat. 41°05'55" N., long. 102°58'55" W.); within 2 miles each side of the Sidney VORTAC 128° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; and within 2 miles each side of the Sidney VORTAC 321° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Silver City, N. Mex.

Within a 6.5-mile radius of the Silver City-Grant County Airport (lat. 32°37'56"N., long. 108°09'15"W.) and within 3 miles either side of the Silver City VORTAC 140° radial extending from the 6.5-mile radius zone to 8.5 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Simmons Army Air Field, N. C.

Within a 5-mile radius of Simmons AAF (latitude 35°07'55" N., longitude 78°56'06" W.); within 3 miles each side of Simmons VOR 085° radial, extending from the 5-mile radius zone to 8.5 miles east of the VOR; excluding the portion northwest of a line extending from latitude 35°11'15" N., longitude 78°56'05" W. to latitude 35°05'55" N., longitude 79°00'50" W.

Sioux City, Iowa

Within a 5-mile radius of Sioux City Municipal Airport (lat. 42°24'03"N., long. 96°22'55"W.) and within 2½ miles each side of the Sioux City VORTAC 140° radial, extending from the 5-mile radius zone to 6 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Sioux Falls, S. Dak.

Within a 5-mile radius of Joe Foss Field (latitude 43°34'55" N., longitude 96°44'35" W.); within 2 miles each side of the Sioux Falls VORTAC 156° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

Sitka, Alaska

Within a 5-mile radius of the Sitka Airport (lat. 57°02'55" N., long. 135°21'45" W.); within 2 miles each side of the Biorka Island VORTAC 029° and 209° radials, extending from the 5-mile radius zone to 2 miles southwest of the VORTAC; within 2 miles each side of the Sitka RBN 027° and 207° bearings, extending from the 5-mile radius zone to 2 miles southwest of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from the 5-mile radius zone to 14 miles northwest of the localizer.

Smyrna, Tenn.

Within a 5-mile radius of Smyrna Airport (lat. 36°00'32"N., long. 86°31'12"W.); excluding the portion within the Nashville, Tenn., Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 62883 (Added)

South Bend, Ind.

Within a 5-mile radius of Michiana Regional Airport, South Bend, Ind. (Lat. 41°42'15" N., Long. 86°18'50" W).

South Weymouth, Mass.

Within a 5-mile radius of South Weymouth NAS (latitude 42°08'55" N., longitude 70°56'25" W.); within 2 miles each side of the 337° bearing from the South Weymouth RBN extending from the 5-mile radius zone to the RBN; within 2 miles each side of the South Weymouth TACAN 165° radial extending from the 5-mile radius zone to 6 miles S of the TACAN; and within 2 miles each side of the South Weymouth TACAN 073° radial extending from the 5-mile radius zone to 6 miles E of the TACAN.

This control zone is effective from 0700-2300 hours, local time, Tuesday through Sunday, or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/22/80 45 F. R. 34262 (Changed)

Spartanburg, S. C.

Within a 5-mile radius of Spartanburg Downtown Memorial Airport (latitude 34°54'55" N., longitude 81°57'32" W.); within 2 miles each side of Spartanburg VORTAC 196° radial, extending from the 5-mile radius zone to the VORTAC; within 3 miles each side of the 237° bearing from Fairmont RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN; excluding the portion within the Greer (Greenville-Spartanburg Airport), S. C. control zone. This control zone is effective from 0600 to 2200 hours, local time, daily.

Spokane, Wash. (Fairchild AFB)

Within a 5-mile radius of Fairchild AFB (latitude 47°36'55" N., longitude 117°39'20" W.); within 2 miles each side of the Runway 23 extended centerline, extending from the 5-mile radius zone to 4 miles southwest of the liftoff end of Runway 23; and within 4 miles northwest and 4.5 miles southeast of the Spokane VORTAC 048° and 228° radials extending from 3 miles northeast to 8 miles southwest of the VORTAC, excluding the portion east of a line extending from latitude 47°30'19" N., longitude 117°34'45" W., to latitude 47°40'57" N., longitude 117°36'00" W.

Spokane, Wash. (Felts Field)

That airspace within a 5-mile radius of Felts Field (latitude 47°41'00" N., longitude 117°19'20" W.); within 2 miles northwest and 4.5 miles southeast of the Spokane VORTAC 060° radial, extending from the 5-mile radius zone to 11 miles northeast of the VORTAC, and within 2 miles each side of the 086° bearing from the Fort LOM, extending from the 5-mile radius zone to the LOM, excluding the portion within the Spokane, Wash. (International) control zone.

Spokane, Wash. (International)

Within a 5-mile radius of the Spokane International Airport (latitude 47°37'35" N., longitude 117°32'05" W.), within 2 miles each side of the Runway 21 centerline extended, extending from the 5-mile radius zone to 6 miles southwest of the lift-off end of Runway 21, and within 2 miles northwest and 4.5 miles southeast of the Spokane VORTAC 060° radial, extending from the VORTAC to 11 miles northeast of the VORTAC, excluding the portion west of a line extending from latitude 47°30'19" N., longitude 117°34'45" W., to latitude 47°40'57" N., longitude 117°36'00" W.

Springfield, Ill.

That airspace within a 5-mile radius of Capital Airport (latitude 39°50'35" N., longitude 89°40'35" W.); within 2 miles each side of the Capital ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Capital VORTAC 040° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; within 2 miles each side of the Capital VORTAC 036° radial, extending from the 5-mile radius zone to 7 miles northeast of the VORTAC; and within 2 miles each side of the Capital VORTAC 058° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Springfield, Mo.

Within a 5-mile radius of the Springfield Municipal Airport (latitude 37° 14' 35" N., longitude 93° 23' 20" [illegible] and within 2 miles W and 2.5 miles E of the Springfield VORTAC 200° radial. extending from the 5-mile radius zone to the VORTAC.

ate College, Pa.

Within a 5-mile radius of University Park Airport (lat. 40°50'57"N., long. 77°50'54"W.), within 1 mile ch side of University Park Airport Runway 24 centerline, extending from the 5-mile radius zone to 5.5 les northeast of the Runway 24 approach end. This control zone is effective during the specific dates d times established in advance by a Notice to Airmen. The effective date and time will thereafter be ntinuously published in the Airport/Facility Directory.

ENDMENTS 9/4/80 45 F. R. 53090 (Added)

ockton, Calif.

Within a 5-mile radius of Stockton Municipal Airport (latitude 37°53'39" N., longitude 121°14'14" W.); ithin 2 miles each side of the Stockton VORTAC 321° radial, extending from the 5-mile radius zone to the VORTAC, d within 2 miles each side of the Stockton ILS localizer SE course, extending from the 5-mile radius zone to 1 mile NW of the OM. This control zone is effective from 0430 to 2230 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

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Sumter, S. C.

Within a 5-mile radius of Shaw AFB (lat. 33°58'15" N., long. 80°28'19" W.); within 1.5 miles each side of Shaw AFB TACAN 033° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the TACAN; within 2 miles east side of Shaw AFB TACAN 215° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the TACAN.

Syracuse, N. Y.

Within a 5-mile radius of the center, latitude 43°06'50" N., longitude 76°06'35" W., of Syracuse Hancock International Airport extending clockwise from a 200° bearing to a 160° bearing from the airport; within a 6.5-mile radius of the center of the airport extending clockwise from a 160° to a 200° bearing from the airport; within 2.5 miles each side of the Syracuse Hancock International Airport Runway 10 ILS localizer back course extending from the localizer to a point 5 miles west of the localizer and within 1.5 miles each side of the Syracuse VORTAC 300° radial extending from the 5-mile radius area to the VORTAC excluding that airspace within a 0.5-mile radius of the center, lat. 43°10'45" N., long. 76°07'30" W. of Michael Field, Cicero, N. Y.

Tacoma, Wash. (McChord AFB)

Within a 5-mile radius of McChord AFB (latitude 47°08'20" N., longitude 122°28'30" W.), excluding the portion SW of a line extending from latitude 47°09'12" N., longitude 122°35'15" W., to latitude 47°04'15" N., longitude 122°31'15" W.; within 2 miles each side of the McChord AFB VOR 182° radial, extending from the 5-mile radius zone to 7.5 miles S of the VOR.

Tacoma, Wash. (Tacoma Industrial Airport)

Within a 5-mile radius of Tacoma Industrial Airport (latitude 47°15'55" N., longitude 122°34'40" W.), excluding the portion E of a line 2 miles E of and parallel to the 009° bearing from the Gray AAF RBN; within 2 miles each side of the 009° bearing from the Gray AAF RBN, extending from the 5-mile radius zone to 1 mile N of the RBN, excluding the portion within the McChord AFB control zone, and within 2 miles each side of the 187° bearing from the Crescent RBN (latitude 47°21'29" N., longitude 122°33'41" W.), extending from the 5-mile radius zone to 1 mile S of the RBN. The control zone will be effective during the times established in advance by a Notice to Airmen continuously published in the Airport/Facility Directory.

Talkeetna, Alaska

Within a 5-mile radius of Talkeetna Airport (latitude 62°19'20" N., longitude 150°05'20" W.). This control zone is effective from 0600 to 2400 hours local time daily, or during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Tallahassee, Fla.

Within a 5-mile radius of Tallahassee Municipal Airport (lat. 30°23'59" N., long. 84°21'22" W.); within 1.5 miles each side of the Tallahassee VORTAC 175° radial, extending from the 5-mile radius zone to 1.5 miles south of the VORTAC; within 1 mile each side of the ILS localizer north course extending from the 5-mile radius zone to 1.5 miles south of the Joseph Intersection.

Tampa, Fla. (International Airport)

Within a 5-mile radius of Tampa International Airport (lat. 27°58'59" N., long. 82°31'38" W.); within 1.5 miles each side of St. Petersburg VORTAC 064° radial, extending from the 5-mile radius zone to 1 mile northeast of the VORTAC; excluding the portion within St. Petersburg control zone and the portion southeast of a line 2 miles north of and parallel to MacDill AFB ILS localizer northeast course.

Tanana, Alaska

That airspace within a 5-mile radius of the Ralph M. Calhoun Memorial Airport (latitude 65°10'30" N., longitude 152°06'32" W.) and within 3.5 miles each side of the 251° bearing from the Bear Creek radio beacon, extending from the 5-mile radius zone to 11.5 miles west of the RBN, effective 0545 to 2145 hours, local time, daily or during the specific dates and times established in advance by Notice to Airmen. The effective date and time would thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Temple, Tex.

That airspace within a 5-mile radius of the Draughon-Miller Airport, Temple, Tex. (latitude 31°09'10" N., longitude 97°24'25" W.); and within 2 miles each side of the Temple, Tex., VOR 348° radial extending from the 5-mile radius zone to 11.5 miles N of the VOR. This control zone is effective during the dates and times published in the Airport/Facility Directory.

Terre Haute, Ind.

Within a 5-mile radius of Hulman Field (latitude 39°27'00" N., longitude 87°18'40" W.); within 2 miles each side of the Terre Haute ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Terre Haute VORTAC 051° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; and within 2 miles each side of the Terre Haute VORTAC 230° radial, extending from the 5-mile radius zone to 19 miles southwest of the VORTAC.

Teterboro, N. J.
Within a 5-mile radius of the center, 40°50'57" N., 74°03'47" W. of Teterboro Airport, Teterboro, N. J.; within 3.5 miles each side of the Teterboro Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11 miles southwest of the OM; excluding the portion that coincides with the Newark, N. J., control zone.

Texarkana, Ark.
That airspace within a 5-mile radius of the Texarkana, Ark., Municipal Airport (latitude 33°27'20" N., longitude 93°59'15" W.); and within 2 miles each side of the 129° radial of the Texarkana VORTAC extending from the 5-mile radius zone to 0.5 mile SE of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Thermal, Calif.
Within a 5-mile radius of Thermal Airport (latitude 33°37'40" N., longitude 116°09'45" W.).

Thief River Falls, Minn.
Within a 5-mile radius of Thief River Falls, Minn., Municipal Airport (latitude 48°03'58" N., longitude 96°11'06" W.), within 2 miles each side of the 138° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius zone to 8 miles SE of the airport, and within 2 miles each side of the 305° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius zone to 8 miles NW of the airport. This control zone will be effective during the times designated by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Titusville, Fla.
Within a 5-mile radius of TI-CO Airport (latitude 28°30'42" N., longitude 80°48'00" W.); excluding the portion within R-2922. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Toledo, Ohio
Within a 5-mile radius of the center of Toledo Express Airport, Toledo, Ohio 41°35'15" N., 83°48'23" W.; within 2 miles each side of the airport ILS localizer SW course extending from the 5-mile radius zone to OM; within 2 miles each side of the airport ILS localizer NE course extending NE from the 5-mile radius zone for 7.5 miles from the localizer and within 2 miles each side of the Waterville VOR 318° radial extending from the 5-mile radius zone to 7 miles northwest of the VOR.

Tonopah, Nev.
Within a 5-mile radius of Tonopah Airport (latitude 38°03'30" N., longitude 117°05'00" W.) and within 3.5 miles each side of the Tonopah VORTAC 115° radial, extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

Topeka, Kans. (Forbes Field)
Within a 5-mile radius of Forbes Field Airport (lat. 38°57'06"N., long. 95°39'45"W.) within 2.5 miles each side of the Forbes Field LOM 317° bearing extending from the 5-mile radius zone to 6 miles northwest of the airport, and within 2 miles each side of the Forbes Field ILS localizer SE course extending from the 5-mile radius zone to 1 mile SE of the LOM, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Philip Billard Airport, Topeka, Kans., control zone.

Topeka, Kans. (Philip Billard Airport)
Within a 5-mile radius of Philip Billard Airport (latitude 39°04'09" N., longitude 95°37'18" W.), within 2 miles each side of the Topeka VORTAC 219° radial extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Philip Billard Airport ILS localizer SE course, extending from the 5-mile radius zone to 11 miles SE of the SE end of the Philip Billard Airport Runway 31, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Topeka, Kans. (Forbes AFB) control zone.

Torrance, Calif.
Within a 3-mile radius of Torrance Municipal Airport (latitude 33°48'10" N., longitude 118°20'20" W.), within 2 miles each side of the Los Angeles VORTAC 150° radial, extending from the 3-mile radius zone to 7 miles southeast of the VORTAC, and within 1 mile each side of the Torrance localizer course extending from the 3-mile radius zone to 5 miles southeast of the lift-off end of Runway 11L. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Traverse, City, Mich.
Within a 5-mile radius of Cherry Capital Airport (latitude 44°44'35" N., longitude 85°34'55" W.); and within 3 miles each side of the Traverse City VORTAC 158° and 338° radials, extending from the 5-mile radius zone to 8 miles south of the VORTAC.

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Trenton, N. J.

Within a 5-mile radius of Mercer County Airport, Trenton, N. J. (latitude 40° 16' 33" N., longitude 74° 48' 55" W.); within 2.5 miles N and 2 miles S of the Yardley, Pa., VOR 071° and 065° radials, extending from the 5-mile radius zone to the VOR, excluding the portion within a 1-mile radius of the Morrisville, Pa., Airport (latitude 40°12'00" N., longitude 74°48'55" W.).

Tri-City, Tenn.

Within a 5-mile radius of Tri-City Municipal Airport (latitude 36°28'30" N., longitude 82°24'20" W.); within 2 miles each side of Tri-City ILS localizer Northeast course, extending from the 5-mile radius zone to the OM; within 3 miles each side of the 042° and 222° bearings from Boone RBN; extending from the 5-mile radius zone to 11 miles southwest of the RBN.

Trinidad, Colo.

Within a 5-mile radius of Los Animas County Airport (latitude 37°15'35" N., longitude 104°20'21" W.), and within 2 miles each side of the 352° bearing from the Trinidad, Colo., RBN extending from the 5-mile radius zone to 8 miles north of the RBN.

Troutdale, Oreg.

That airspace bounded on the north by a 5-mile radius area centered on the Portland-Troutdale Airport (lat. 45°33'30" N., long. 122°23'49" W.), on the south and east by a line parallel to and 3 miles southwest and northeast of the 119° bearing from the Lake LOM (lat. 45°32'38" N., long. 122°27'49" W.), extending from the LOM to 8 miles southeast, and on the west by the 154° radial of the Portland VORTAC. This control zone shall be effective from 0700 to 2300 hours, local time daily.

Troy, Ala.

Within a 5-mile radius of Troy Municipal Airport (lat. 31°51'40"N., long. 86°00'45"W.); within 3 miles each side of the 245° radial of the Troy VOR, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 62884 (Changed)

Truth or Consequences, N. Mex.

That airspace within a 5-mile radius of Truth or Consequences Municipal Airport (latitude 33°14'10" N., longitude 107°16'15" W.), and within 3.5 miles either side of the Truth or Consequences, N. Mex., VORTAC 013° and 193° radials extending from the 5-mile radius zone to a point 9.5 miles north of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Tucson, Ariz. (Davis-Monthan AFB)

Within a 5-mile radius of Davis-Monthan AFB (latitude 32°10'00" N., longitude 110°53'00" W.) excluding the portion subtended by a chord drawn between the points of INT of the Davis-Monthan 5-mile radius zone and the Tucson International 5-mile radius zone, and within 2 miles SW and 2.5 miles NE of the Davis-Monthan ILS localizer SE course, extending from the 5-mile radius zone to the Davis-Monthan TACAN 139° radial 6.5 miles southeast of the TACAN.

Tucson, Ariz. (Tucson International Airport)

Within a 5-mile radius of Tucson International Airport (latitude 32°07'05" N., longitude 110°56'32" W.); within 3 miles each side of the Tucson VORTAC 273° radial extending from the 5-mile radius zone to 15 miles west of the VORTAC; within 2 miles each side of the extended centerline of Runway 21L extending from the 5-mile radius zone to 5 miles southeast of the lift-off end of Runway 12L; within 2 miles northeast and 2.5 miles southwest of the extended centerline of Runway 30R extending from the 5-mile radius zone to 15.5 miles northwest of the lift-off end of Runway 30R, and within 2 miles southeast and 3 miles northwest of the extended centerline of Runway 21 extending from the 5-mile radius zone to 6.5 miles southwest of the lift-off end of Runway 21, excuding the portion subtended by a chord drawn between the points of INT of the Tucson International Airport 5-mile radius zone with the Davis Monthan-AFB 5-mile radius zone.

Tucumcari, N. Mex.

That airspace within a 6-mile radius of the Tucumcari Municipal Airport (latitude 35°10'50" N., longitude 103° 35'15" W.); within 2.5 miles each side of the Tucumcari, N. Mex., VORTAC 033° radial extending beyond the 6-mile radius zone to a point 6.5 miles northeast of the VORTAC; and within 2.5 miles each side of the Tucumcari, N. Mex., VORTAC 078° radial extending beyond the 6-mile radius zone to a point 6.5 miles east of the VORTAC.

Tulsa, Okla.

That airspace within a 5-mile radius of the Tulsa International Airport (latitude 36°12'00" N., longitude 95°53'15" W.); within 2 miles each side of the Tulsa ILS localizer N course, extending from the 5-mile radius zone to 1 mile S of the OM; within 2 miles each side of the Tulsa ILS localizer S course, extending from the 5-mile radius zone to 0.5 mile N of the OM; and within 2 miles each side of the Tulsa VORTAC 268° Radial, extending from the 5-mile radius zone to the VORTAC.

Tulsa, Okla. (Riverside Airport)

Within a 5-mile radius of Riverside Airport (latitude 36°02'19" N., longitude 95°59'00" W.), within 2 miles each side of the Glenpool TVOR 349° radial extending from the 5-mile radius zone to the TVOR and within 2.5 miles each side of the Tulsa VORTAC 223° radial extending from the 5-mile radius zone to 21 miles southwest of the VORTAC. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Tupelo, Miss.

Within a 5-mile radius of C. D. Lemons Municipal Airport (lat. 34°15'32"N., long. 88°45'32"W.); within 3 miles each side of Tupelo VOR 214° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/24/80 44 F. R. 69282 (Changed)

Tuscaloosa, Ala.

Within a 5-mile radius of Van De Graaff Airport (lat. 33°13'16" N., long. 87°36'39" W.); within 1.5 miles each side of the ILS localizer southwest course, extending from the 5-mile radius zone to 0.5 mile northeast of the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Tustin, Calif. (MCAS (H))

Within a 5-mile radius of MCAS Tustin (H) (lat. 33°42'22"N., long. 117°49'35"W.) excluding that portion east and south of a line from latitude 33°43'55" N., longitude 117°47'00" W., to latitude 33°41'15" N., longitude 117°48'10" W., to latitude 33°42'30" N., longitude 117°56'40" W. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Twentynine Palms, Calif.

Within a 5-mile radius of the Expeditionary Air Field (EAF), Marine Corps Base (lat. 34°17'20"N., long. 116°10'20"W.) and within 2 miles each side of the Twentynine Palms VORTAC 298° radial extending from the 5-mile radius zone to 16 miles west of the VORTAC. This control zone is effective from 0730 to 1630 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Twin Falls, Idaho

Within a 5-mile radius of the Twin Falls City-County (Joslin Field), Idaho Airport (latitude 42°28'54" N., longitude 114°29'11" W.) within 5 miles each side of Twin Falls VORTAC 086° and 281° radials, extending from the 5-mile radius zone to 10.5 miles east and 10.5 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Tyler, Tex.

That airspace within a 5-mile radius of Pounds Field, Tyler, Tex. (latitude 32°21'15" N., longitude 95°23'55" W.); within 2 miles each side of the Pounds Field ILS localizer NW course extending from the 5-mile radius zone to 0.5 mile SE of the OM, and within 2 miles each of the Pounds Field ILS localizer SE course extending from the 5-mile radius zone to 6 miles SE of the airport.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Tyndall AFB, Fla.

Within a 5-mile radius of Tyndall AFB (latitude 30°04'15" N., longitude 85°34'30" W.); within 1.5 miles each side of the Tyndall AFB TACAN 308° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the TACAN.

Umiat, Alaska

Within a 5-mile radius of the Umiat Airport, lat. 69°22'17"N., long. 152°08'00"W., within 3 miles each side of the 079° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles east of the NDB; and within 3 miles each side of the 259° bearing from the Umiat NDB extending from the 5-mile radius zone to 8 miles west of the NDB.

Unalakleet, Alaska

Within a 5-mile radius of Unalakleet Airport (lat. 63°53'12" N., long. 160°47'42" W.); within 3.5 miles each side of the Unalakleet 225° radial, extending from the VORTAC to 12.5 miles southwest of the VORTAC, and within 3.5 miles each side of the North River, Alaska, RBN 290° bearing, extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Utica, N. Y.

Within a 5-mile radius of the center, lat. 43°08'45" N., long. 75°22'55" W. of Oneida County Airport, Utica, N. Y.; within 2 miles each side of the 317° bearing from the Clay RBN, extending from the 5-mile radius zone to 3 miles northwest of the RBN; within 2 miles each side of the Utica VORTAC 306° radial, extending from the 5-mile radius zone to 1 mile northwest of the VORTAC, excluding the portion within the Rome, N. Y., control zone.

Valdez, Alaska

Within a 3-mile radius of the Valdez Municipal Airport, latitude 61°07'58" N., longitude 146°14'24" W. This control zone is effective from 0800 to 1600 local time daily from mid-October to mid-May, and from 0600 to 2200 local time daily from mid-May to mid-October or during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication Supplement Alaska.

Valdosta, Ga. (Moody AFB)

Within a 5-mile radius of Moody AFB (lat. 30°58'01"N., long. 83°11'27"W.); within 1.5 miles each side of Moody TACAN 007° radial, extending from the 5-mile radius zone to 6 miles north of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Valdosta, Ga. (Valdosta Municipal Airport)

Within a 5-mile radius of Valdosta Municipal Airport (lat. 30°46'58" N., long. 83°16'44" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Vandenberg AFB, Calif.

Within a 5-mile radius of Vandenberg AFB, Lompoc, Calif., (lat. 34°43'50"N., long. 120°34'30"W.); within 2 miles each side of the Vandenberg AFB ILS localizer southeast course, extending from the 5-mile radius zone to 8.2 miles southeast of the Vandenberg AFB TACAN and within a 1-mile radius of Lompoc Airport (lat. 34°39'55"N., long. 120°27'55"W.) excluding that portion within R-2516. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established as published in the Airport/Facility Directory.

Van Nuys, Calif.

Within a 5-mile radius of Van Nuys Airport (latitude 34°12'30" N., longitude 118°29'15" W.), within 2.5 miles each side of the 350° radial of the Van Nuys VOR/DME facility extending from the 5-mile radius zone to 9.5 miles north of the facility, excluding the portion east of a line from latitude 34°16'00" N., longitude 118°25'55" W. to latitude 34°09'25" N., longitude 118°25'40" W.

Vernal, Utah

Within a 5-mile radius of Vernal Airport (latitude 40°26'30" N., longitude 109°30'50" W.), and within 3 miles each side of the Vernal VOR 157° radial, extending from the 5-mile radius zone to 8.5 miles S of the VOR. This control zone will be effective during the times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Vero Beach, Fla.

Within a 5-mile radius of Vero Beach Municipal Airport (lat. 27°39'05" N., long. 80°24'51" W.).

Vichy, Mo.

Within a 5-mile radius of the Rolla National Airport (latitude 38°07'40" N., longitude 91°46'10" W.); and within 3 miles each side of the 067° radial of the Vichy VORTAC extending from the 5-mile radius zone to 6½ miles northeast of the Vichy VORTAC.

Victoria, Tex.

Within a 5-mile radius of the Victoria Regional Airport, Victoria, Tex., (lat. 28°51'06.9"N., long. 96°55'03.7"W.) and within 3.5 miles each side of the Victoria VOR 312° radial extending from the 5-mile radius zone to 10.5 miles northwest of the VOR; within 3 miles each side of the NDB (lat. 28°50'39"N., long. 96°54'26"W.) 355° and 160° bearing extending from the 5-mile radius zone to 8.5 miles from the NDB.

AMENDMENTS 3/20/80 45 F. R. 2012 (Rewritten)

Victorville, Calif.

Within a 5-mile radius of George AFB, Victorville, Calif. (lat. 34°35'45"N., long. 117°22'55"W.) and within 2 miles each side of the 001° radial of the George TACAN (lat. 34°35'40"N., long. 117°23'20"W.) extending from the 5-mile radius zone to 9 miles north of the TACAN. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Visalia, Calif.

Within a 4-mile radius of the Visalia Municipal Airport (lat. 36°19'10"N., long. 119°23'35"W.), and within 2 miles each side of the Visalia VOR 123° radial, extending from the 4-mile radius zone to the VOR, excluding the portion within a 1-mile radius of Green Acres Airport, Visalia, Calif. (lat. 36°20'20"N., long. 119°19'30"W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Waco, Tex.

That airspace within a 5-mile radius of Waco-Madison Cooper Airport (latitude 31°36'40" N., longitude 97°13'40" W.); within 2 miles each side of the Waco VORTAC 330° radial extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; within 2 miles each side of the Waco ILS localizer north course extending from the 5-mile radius zone to the OM and within a 5-mile radius of James Connally Airport (latitude 31°38'00" N., longitude 97°04'00" W.).

Waimea-Kohala, Hawaii

Within a 5-mile radius of the Waimea-Kohala Airport (latitude 20°00'17" N., longitude 155°40'16" W), and within an area 2 miles on the northwest side and 3 miles on the southeast side of the Kamuela VOR 063° radial, extending from the 5-mile radius zone to 9 miles northeast of the Kamuela VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective times will thereafter be continuously published in the Pacific Chart Supplement.

Walla Walla, Wash.

Within a 5-mile radius of Walla Walla City-County Airport (latitude 46°05'35" N., longitude 118°17'20" W.), within 3 miles each side of the Walla Walla VOR 215° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR and that airspace within an arc of a 14-mile radius circle centered on the Walla Walla VOR extending clockwise from a line 4 miles west to a line 4 miles southeast of and parallel to the Walla Walla VOR 354° and 036° radials.

Washington, D. C.

Within a 5-mile radius of the center, 38°51'07" N., 77°02'23" W., of Washington National Airport; within 1.5 miles each side of the Washington National Airport ILS localizer south course, extending from the 5-mile radius zone to 1 mile south of the OM; within 2 miles each side of the Washington National Airport ILS localizer south course, extending from the 5-mile radius zone to the OM; within 2.5 miles each side of the extended centerline of Washington National Airport Runway 15, extending from the 5-mile radius zone to 5 miles southeast of the southeast end of the runway; within 2.5 miles each side of the extended centerline of Washington National Airport Runway 33, extending from the 5-mile radius zone to 5 miles northwest of the northwest end of the runway; within 1.5 miles each side of the Washington VOR 320° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the VOR; within 2.5 miles each side of the Washington VOR 326° radial, extending from the 5-mile radius zone to 5.5 miles northwest of the VOR; within 2.5 miles each side of a 190° bearing from 38°55'13" N., 76°57'50" W., extending from said point to 5 miles south; excluding the portion within P-56, the east portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Camp Springs, Md., control zone, the portion of the southeast extension described by reference to the extended centerline of Washington National Airport Runway 15 that coincides with the Camp Springs, Md., control zone and the portion of the north extension described by reference to a 190° bearing from 38°55'13" N., 76°57'50" W., that coincides with the Camp Springs, Md., control zone.

Waterloo, Iowa

Within a 5-mile radius of Waterloo Municipal Airport (lat. 42°33'20" N., long. 92°24'00" W.); within 2½ miles each side of the Waterloo, Iowa, VORTAC 078° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC; and within 2½ miles each side of the Waterloo, Iowa, VORTAC 194° radial extending from the 5-mile radius zone to 6½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 001° radial extending from the 5-mile radius zone to 10½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 316° radial extending from the 5-mile radius zom to 10½ miles northwest of the airport.

Watertown, N. Y.

That airspace within a 5-mile radius of the center 43°59'20" N., 76°01'20" W. of Watertown International Airport, Watertown, N. Y., and within 3 miles each side of the Watertown, N. Y., VOR 211° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR.

Watertown, S. Dak.

Within a 5-mile radius of Watertown Municipal Airport (latitude 44°54'51" N., longitude 97°09'16" W.); within 1.5 miles each side of the Watertown VORTAC 001° radial, extending from the 5-mile radius zone to 2.5 miles north of the VORTAC; and within 1 mile each side of the Watertown VORTAC 181° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC.

Waukesha, Wis.
Within a 5-mile radius of the Waukesha County Airport (latitude 43°02'25" N., longitude 88°14'00" W.); excluding a one-mile radius of Capitol Drive Airport (latitude 43°05'15" N., longitude 88°10'40" W.); within 2½ miles each side of the 272° bearing from the airport extending from the 5-mile radius area to 5.5 miles west. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Wausau, Wis.
Within a 5-mile radius of the Wausau Municipal Airport (latitude 44°55'35" N., longitude 89°37'35" W.); and within 2½ miles each side of the 142° bearing from the Wausau Municipal Airport extending from the 5-mile radius zone to 6 miles southeast.

Wenatchee, Wash.
Within a 5-mile radius of Pangborn Field, Wenatchee, Wash. (lat. 47°24'00" N., longitude 120°12'30" W.) and within 3 miles each side of the Wenatchee VOR 124° radial extending from the 5-mile radius zone to 8 miles southeast of the VOR, excluding the airspace within a 1-mile radius of Fancher Field, Wash. (latitude 47°26'55" N., longitude 120°16'40" W.).

Westfield, Mass.
Within a 5-mile radius of the center 42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass.; within 3 miles each side of the Barnes VOR 012° radial, extending from the 5-mile radius zone to 10 miles north of the VOR; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius zone to 7.5 miles northwest of the end of the runway, excluding the portion which coincides with the Westover, Mass., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

Westhampton Beach, N. Y.
Within a 5.5-mile radius of Suffolk County Airport (lat. 40°50'39" N., long. 72°37'49" W.), excluding that portion within the Calverton, N. Y., control zone. This control zone shall be in effect from 0700 to 2300 hours, local time, daily.

West Memphis, Ark.
Within a 5-mile radius of the Municipal Airport, West Memphis, Ark. (latitude 35°08'24" N., longitude 90°14'00" W.); within 3 miles each side of the 351° bearing from the West Memphis RBN (latitude 35°08'20" N., longitude 90°14'02" W.), extending from the 5-mile radius zone 8 miles north of the RBN; and within 3 miles each side of the 186° bearing from the West Memphis RBN, extending from the 5-mile radius zone to 8 miles south of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Westover, Mass.
Within a 5-mile radius of the center, lat. 42°11'40"N., long. 72°32'15"W., Westover AFB, Chicopee Falls, Mass.; within 2 miles each side of the Westover ILS localizer NE course extending from the 5-mile radius zone to 16.5 miles NE of the Westover TACAN; within 2.5 miles NW of the Westover TACAN 028° radial extending from the 5-mile radius zone to 8 miles NE of the TACAN within 2 miles each side of the Westover TACAN 221° radial extending from the 5-mile radius zone to 6 miles SW of the TACAN.

AMENDMENTS 6/26/80 45 F. R. 43159 (Rewritten)

Weyers Cave, Va.
Within a 5-mile radius of the center (lat. 38°15'49" N., long. 78°53'46" W.), of Shenandoah Valley Airport, Weyers Cave, Va., and within 3.5 miles each side of the Shenandoah Valley Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11.5 miles southwest of the OM. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.

Wheeling, W. Va.
Within a 5-mile radius of Wheeling-Ohio County Airport (latitude 40° 10' 25" N., longitude 80° 38' 55" W.); within 2 miles each side of the Wheeling VOR 216° radial, extending from the 5-mile radius zone to the VOR, and within 2 miles each side of the Wheeling ILS localizer SW course, extending from the 5-mile radius zone to the OM.

Whidbey Island, Wash.
Within a 5-mile radius of Ault Field, Whidbey Island, Wash. (latitude 48°21'10" N., longitude 122°39'20" W.), within 2 miles each side of the Whidbey Island TACAN 351° radial, extending from the 5-mile radius zone to 6 miles north of the TACAN, and within 2 miles each side of the 283° bearing from the Whidbey Island RBN, extending from the 5-mile radius zone to 8 miles west of the RBN.

White Plains, N. Y.

Within a 5-mile radius of the center, 41°04'00" N., 73°42'33" W., of Westchester County Airport, White Plains, N. Y., extending clockwise from a 055° bearing to a 305° bearing from the airport; within a 6-mile radius of the center of the airport extending clockwise from a 305° bearing to a 055° bearing from the airport; and within 2 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 4 miles southeast of the southeast end of Runway 16.

Wichita, Kans. (McConnell AFB)

Within a 5-mile radius of McConnell AFB (latitude 37°37'25" N., longitude 97°16'00" W.); within 2 miles west and 4 miles east of the McConnell AFB TACAN 006° radial, extending from the 5-mile radius zone to 7 miles north of the TACAN; and within 2 miles each side of the McConnell AFB TACAN 199° radial, extending from the 5-mile radius zone to 6 miles south of the TACAN, excluding the portion subtended by a chord drawn between the points of INT of the 5-mile radius zone with the Wichita, Kans. (Wichita Municipal), control zone.

Wichita, Kans. (Wichita Municipal)

Within a 5-mile radius of the Wichita, KS., Municipal Airport (latitude 37°39'09" N., longitude 97°25'47" W.); and within 2 miles each side of the Wichita Municipal Airport ILS localizer north course, extending to 7.5 miles north, excluding that portion subtended by a chord drawn between the points of INT of the 5-mile-radius zone of the Wichita, KS., (McConnell AFB), 5-mile-radius control zone.

Wichita Falls, Tex.

That airspace within a 5-mile radius of Sheppard AFB/Municipal Airport, Wichita Falls, Tex., (latitude 33°58'55" N., longitude 98°29'35" W.); within 2 miles each side of the Wichita Falls VORTAC 092° radial extending from the 5-mile radius zone to the VORTAC; within 2 miles each side of the ILS localizer SE course extending from the 5-mile radius zone to the OM; within 2 miles each side of the Sheppard TACAN 333° radial extending from the 5-mile radius zone to 7.5 miles N of the TACAN, and within 2 miles each side of the Sheppard TACAN 163° radial extending from the 5-mile radius zone to 7 miles S of the TACAN.

Wilkes-Barre, Pa.

Within an 8-mile radius of the center, lat. 41°20'18" N., long. 75°43'20" W. of Wilkes-Barre-Scranton Airport, extending clockwise from a 235° bearing to a 355° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 025° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 050° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 050° bearing to a 210° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 210° bearing to a 235° bearing from the airport; within 3.5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer southwest course extending from the OM to 6 miles southwest of the OM and within 4 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer northeast course extending from the localizer to a point 11.5 miles northeast of the localizer.

Williamsport, Pa.

Within a 6-mile radius of the center, 41°14'32" N., 76°55'12" W. of Williamsport-Lycoming County Airport, extending clockwise from a 099° bearing to a 145° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 172° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 172° bearing to a 203° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 241° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 270° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 312° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 350° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 358° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 358° bearing to a 004° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 004° bearing to a 099° bearing from the airport; and within 4 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the MM to 8.5 miles east of the MM.

Williston, N. Dak. (Sloulin Airport)

Within a 5-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 1½ miles each side of the Williston VOR 136° radial, extending from the 5-mile radius zone to 1½ miles southeast of the VOR; and within 2 miles each side of the 126° bearing from the Sloulin International Airport, extending from the 5-mile radius zone to 10 miles southeast of the airport.

Willoughby, Ohio

Within a 5-mile radius of the Lost Nation Airport (latitude 41°40'45" N., longitude 81°23'43" W.); within 4 miles each side of the 088° bearing from the Lost Nation RBN extending from the 5-mile radius zone to 12 miles east of the RBN; within 3 miles each side of the 268° bearing from the RBN extending from the 5-mile radius zone to 8.5 miles west of the RBN; within 3 miles each side of the 050° radial of the Lost Nation TVOR extending from the 5-mile radius zone to 8.5 miles northeast of the TVOR; excluding the portion within the Cleveland, OH. (Cuyahoga County Airport), control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Airport/Facility Directory.

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Willow Grove, Pa.

Within a 5-mile radius of the center, 40°12'00" N., 75°08'55" W. of Willow Grove NAS, Willow Grove, Pa., extending clockwise from a 347° bearing to a 253° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 347° bearing from the airport; within 3 miles each side of the Willow Grove TACAN 136° radial, extending from the TACAN to 7 miles southeast of the TACAN; within 3.5 miles each side of the Willow Grove TACAN 325° radial, extending from the 5-mile radius and 5.5-mile radius zones centered on Willow Grove NAS to 8.5 miles northwest of the TACAN; within 3.5 miles each side of a 330° bearing from the Willow Grove RBN, extending from the 5-mile radius and 5.5-mile radius zone centered on Willow Grove NAS to 10 miles northwest of the RBN; within a 5-mile radius of the center, 40°12'15" N., 75°04'30"W., of Warminster NADC, Warminster, Pa.; within 1.5 miles each side of the Yardley VORTAC 244° radial, extending from the 5-mile radius zone centered on Warminster NADC to 2 miles southwest of the VORTAC; within 3 miles each side of the Warminster TACAN 083° radial, extending from the 5-mile radius zone centered on Warminster NADC to 6 miles east of the TACAN, excluding the south portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone centered on Warminster NADC with the North Philadelphia, Pa., control zone 6-mile radius zone and excluding that portion of the control zone southeast extension described by reference to the Willow Grove TACAN 136° radial that coincides with the North Philadelphia, Pa., control zone. This control zone is effective from 0700 to 2400 hours, local time, Monday through Friday; and 0001 to 2400 hours, local time, Saturday and Sunday or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Wilmington, Del.

Within a 6-mile radius of the center 39°40'42"N., 75°36'27"W. of Greater Wilmington Airport, Wilmington, Del.

Wilmington, N. C.

Within a 5-mile radius of New Hanover County Airport (latitude 34°16'15" N., longitude 77°54'05" W.).

Windsor Locks, Conn.

Within a 5-mile radius of the center lat. 41°56'10" N., long. 72°41'00" W., of Bradley International Airport, Windsor Locks, Conn.; within 3.5 miles each side of the Bradley International Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11.5 miles southwest of the OM; within 2 miles each side of the centerline of Runway 19 extended from the 5-mile radius zone to 6 miles S of the end of the runway; within 2 miles each side of the centerline of Runway 15 extended from the 5-mile radius zone to 6 miles SE of the end of the runway within 2 miles each side of the centerline of Runway 6 extended from the 5-mile radius zone to 5 miles from the end of the runway; within 2 miles each side of the centerline of Runway 1 extended from the 5-mile radius zone to 6 miles from the end of the runway.

Wink, Tex.

Within a 3-mile radius of the Winkler County Airport (latitude 31°46'45" N., longitude 103°12'05" W.); within 2 miles each side of the Wink VOR 161° radial, extending from the VOR to 5 miles south of the airport.

Winona, Minn.

Within a 5-mile radius of the Winona Municipal-Max Conrad Field (lat. 44°04'37"N., long. 91°42'22"W.) within 3 miles each side of the Winona (ONA) VOR (lat. 44°04'34.6"N., long. 91°42'20.1"W.) 320° radial extending from the 5-mile radius area out to 8.5 miles northwest, within 1.5 miles each side of the ONA 110° radial extending from the 5-mile radius out to 6 miles east of the airport.

AMENDMENTS 9/4/80 45 F. R. 48598 (Rewritten)

Winslow, Ariz.

Within a 6-mile radius of Winslow Municipal Airport (latitude 35°01'15" N., longitude 110°43'15" W.), and that airspace within an arc of an 8.5-mile radius circle centered on Winslow VORTAC, extending clockwise from a line 3.5 miles south of and parallel to the Winslow 277° radial to a line 3.5 miles north of and parallel to the Winslow 292° radial.

This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

Winston-Salem, N. C.

Within a 5-mile radius of Smith Reynolds Airport (lat. 36°08'01" N., long. 80°13'22" W.); within 2 miles each side of Winston-Salem ILS localizer southeast course, extending from the 5-mile radius zone to the LOM.

Worcester, Mass.

Within a 5-mile radius of the Worcester Municipal Airport (lat. 42°16'05"N., long. 71°52'20"W.). This control zone is effective from 0700 to 2300 hours local time daily or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Worland, Wyo.

Within a 5-mile radius of Worland Municipal Airport (latitude 43°58'10" N., longitude 107°56'50" W.), and and within 3.5 miles each side of the Worland VOR 352° radial, extending from the 5-mile radius zone to 12 miles north of the VOR.

Worthington, Minn.

Within a 5-mile radius of Worthington Municipal Airport (lat. 43°39'17"N., long. 95°35'01"W.); within 2.5 miles each side of the 098° true radial, extending from the 5-mile radius to 6.5 miles east of the VOR; within 2.5 miles each side of the 318° true radial, extending from the 5-mile radius to 6.5 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Wrightstown, N. J. (McGuire AFB)

Within a 5-mile radius of McGuire AFB (latitude 40°00'55" N., longitude 74°35'25" W.), within 2 miles each side of the McGuire VOR 350° radial extending from the 5-mile radius zone to 7 miles N of the VOR; within 2 miles each side of the McGuire VOR 051° radial extending from the 5-mile radius zone to 7 miles NE of the VOR; within 2 miles each side of the McGuire VOR 180° radial extending from the 5-mile radius zone to 6 miles S of the VOR; and within 2 miles each side of the McGuire AFB ILS localizer SW course extending from the 5-mile radius zone to 8 miles southwest of the localizer.

Yakima, Wash.

Within a 5-mile radius of the Yakima Municipal Airport (latitude 46°33'55" N., longitude 120°32'25" W.), within 4 miles north and 2 miles south of the Yakima ILS localizer east course, extending from the 5-mile radius zone to 4 miles east of the Donald OM, and within 2.5 miles each side of the Yakima ILS localizer west course, extending from the 5-mile radius zone to 18.5 miles west of the Donald OM.

Yakutat, Alaska

Within a 5-mile radius of Yakutat Airport (latitude 59°30'10" N., longitude 139°39'40" W.); within 2 miles each side of the Yakutat VORTAC 147° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; and that airspace bounded on the northeast by a line 2 miles northeast of and parallel to the 315° bearing from the Ocean Cape, Alaska, RBN, on the east and southeast by the 5-mile radius zone, on the south by a line 3 miles south of and parallel to the 283° bearing from the Ocean Cape, Alaska, RBN, and on the west and northwest by the arc of an 8-mile radius circle centered on the Ocean Cape, Alaska, RBN.

Yankton, S. Dak.

That airspace within a 5-mile radius of Chan Gurney Municipal Airport (latitude 42°54'45" N., longitude 97° 23'15" W.); within 2½ miles each side of the Yankton VOR 321° radial extending from the 5-mile radius to 7 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Youngstown, Ohio

Within a 5-mile radius of the center, lat. 41°15'28" N., long. 80°40'34" W. of Youngstown Municipal Airport, Youngstown, Ohio; within 2 miles each side of the extended centerline of Runway 5, extended from the 5-mile radius zone to 6 miles northeast of the center of the airport; within 2 miles each side of the extended centerline of Runway 14, extended from the 5-mile radius zone to 5.5 miles southeast of the center of the airport; within 2 miles each side of the extended centerline of Runway 23, extended from the 5-mile radius zone to 5.5 miles southwest of the center of the airport and within 1 mile each side of the Youngstown Municipal Airport localizer northwest course, extended from the 5-mile radius zone to 5.5 miles northwest of the center of the airport.

Yuma, Ariz.

Within a 5-mile radius of Yuma MCAS/Yuma International Airport (latitude 32°39'10" N., longitude 114°36' 20" W.); within 2 miles each side of the Yuma VORTAC 181° radial, extending from the 5-mile radius zone to 2 miles south of the VORTAC, and within 2.5 miles each side of the Yuma TACAN (latitude 32°38'48" N., longitude 114°36'46" W.) 037° radial, extending from the 5-mile radius zone to 8 miles northeast of TACAN.

Zanesville, Ohio

Within a 5-mile radius of the Zanesville Municipal Airport (latitude 39° 56' 40" N., longitude 81° 53' 20" W.); within 2 miles each side of the Zanesville RBN 210° bearing, extending from the 5-mile radius zone to 7 miles SW of the RBN; and within 2 miles each side of the Zanesville VOR 222° radial, extending from the 5-mile radius zone to 7 miles SW of the VOR; excluding that airspace within a 1-mile radius of the Riverside Airport, Zanesville, (latitude 39° 59' 10" N., longitude 81° 59' 00" W.).

SUBPART G - TRANSITION AREAS

§ 71.181 Designation.

The parts of airspace described below are designated as transition areas.

Aberdeen, Md.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 39°28'00"N., long. 76°10'00"W., of Phillips AAF; within a 9.5-radius of the center of the airport, extending clockwise from a 260° bearing to a 010° bearing from the airport; within 3.5 miles each side of a 029° bearing from the Aberdeen, Md., RBN, extending from the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of a 029° bearing from the Aberdeen, Md., RBN, extending from the RBN to 9.5 miles northeast of the RBN; within 5 miles each side of the Philips VOR 033° radial, extending from the VOR to 13 miles northeast of the VOR.

Aberdeen, S. D.

That airspace extending upward from 700 feet above the surface within a 15½-mile radius of the Aberdeen VORTAC; and within 5½ miles southwest and 9½ miles northeast of the Aberdeen VORTAC 131° radial, extending from the 15½-mile radius area to 21½ miles southeast of the VORTAC, and within 3½ miles southwest and 5 miles northeast of the Aberdeen VORTAC 312° radial, extending from the 15½-mile radius area to 22 miles northwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 22½-mile radius of the Aberdeen VORTAC; and within 6 miles northeast and 9½ miles southwest of the Aberdeen VORTAC 312° radial, extending from the 22½-mile radius area to 29 miles northwest of the VORTAC.

Abilene, Tex.

That airspace extending upward from 700 feet above the surface within a 23-mile radius of latitude 32°25'10" N., longitude 99°51'15" W., and within 8 miles east and 5 miles west of the Abilene ILS localizer south course extending from the OM to 12 miles south.

Ada, Okla.

That airspace extending upward from 700 feet AGL within a 5-mile radius of the Ada Municipal Airport (latitude 34°48'20" N., longitude 96°40'15" W.) and within 3.5 miles each side of the 139° bearing from the Ada RBN (latitude 34°48'30" N., longitude 96°40'23" W.) extending from the 5-mile radius area to 8.5 miles southeast of the RBN.

Adak, Alaska

That airspace extending upward from 700 feet above the surface within the arc of a 15-mile radius circle centered on the NS Adak Airport (latitude 51°52'59" N., longitude 176°38'54" W.), extending clockwise from the 033° bearing to the 090° bearing from the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Navy Adak TACAN 250° radial extending from the TACAN to 12 miles West of the TACAN.

Adrian, Mich.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Lenawee County Airport (latitude 41°52'10" N., longitude 84°04'30" W.); and within 3 miles each side of the 221° bearing from the Lenawee County Airport, extending from the 6½-mile radius area to 8 miles southwest of the airport.

Afton, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Shangri-La Airport, Afton, Okla. (lat. 36°34'45"N., long. 94°51'40"W.); within 3.5 miles each side of a 176° bearing from the Shangri-La NDB (lat. 36°34'38"N., long. 94°51'38"W.) extending from the 8.5-mile radius area to 11.5 miles south of the NDB.

Aguadilla, P. R.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Borinquen Airport (lat. 18°29'45" N., long. 67°08'00" W.); within a 10-mile radius of Mayaguez Airfield (lat. 18°15'26" N., long. 67°08'58" W.).

Ahoskie, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Tri-County Airport (lat. 36°17'56"N., long. 77°10'26"W.); within 3 miles each side of the 171° bearing from the Ahoskie RBN (lat. 36°17'57"N., long. 77°10'33"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Aiken, S. C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Aiken Municipal Airport (latitude 33°39'10" N., longitude 81°41'25" W.); within 3 miles each side of the 048° bearing from Aiken RBN (latitude 33°39'06" N., longitude 81°40'38" W.), extending from the 8-mile radius area to 8.5 miles northeast of the RBN.

Ainsworth, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ainsworth Municipal Airport (latitude 42°34'40" N., longitude 99°59'15" W.); and within 3 miles each side of the 344° bearing from Ainsworth Municipal Airport, extending from the 7-mile radius area to 8 miles north of the airport.

Aitkin, Minn.

That airspace extending upward from 700 feet above the surface within a five-statute-mile radius of the Aitkin Municipal Airport (lat. 46°32'45"N., long. 93°40'45"W.) and within 3 statute miles each side of the [illegible]55° bearing of the Aitkin NDB, extending from the 5-mile radius to 8.5 statute miles north of the airport.

Akron, Colo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Akron-Washington County Airport (latitude 40°10'30" N., longitude 103°12'45" W.), and that airspace extending upward from 1,200 feet above the surface within 10 miles northeast and 7 miles southwest of the Akron VORTAC 123° and 303° radials, extending from 20 miles southeast to 10 miles northwest of the VORTAC.

Akron, Ohio

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 40°54'58" N., long. 81°26'32" W. of Akron-Canton Airport, Akron, Ohio, and within 5 miles each side of the Akron-Canton Airport south localizer course extending from the Akron-Canton Airport 8.5-mile radius area to 11.5 miles south of the Akron-Canton Runway 1 OM; within a 10-mile radius area of the center, lat. 41°02'18" N., long. 81°28'01" W. of Akron Municipal Airport, Akron, Ohio; within 5 miles each side of the Akron VORTAC 255° radial extending from the Akron Municipal Airport 10-mile radius area to the VORTAC; within a 6-mile radius of the center, lat. 41°12'35" N., long. 81°14'55" W. of Portage County Airport, Ravena, Ohio; within 1.5 miles each side of the Akron VORTAC 340° radial extending from the Portage County Airport 6-mile radius area to the VORTAC; within a 5-mile radius area of the center of lat. 41°06'45" N., long. 81°25'00" W. of Andrew W. Paton of Kent State University Airport, Kent, Ohio; within a 7-mile radius of the center, lat. 41°08'06" N., long. 81°45'36" W. of Freedom Field, Medina, Ohio, and within 4.5 miles south and 6.5 miles north of the Medina, Ohio, RBN (lat. 41°08'29" N., long. 81°38'46" W.) 084° and 264° bearings extending from 5.5 miles west to 11.5 miles east of the RBN.

Alabama

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Alabama, including that airspace within 3 nautical miles from and parallel to the shoreline of Alabama, excluding the portion within R-2101.

Alabaster, Ala.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby County Airport (lat. 33°10'40"N., long. 86°47'00"W.); within a 6.5-mile radius of Bessemer Airport (lat. 33°18'49"N., long. 86°55'29"W.) within 3 miles each side of the 241° bearing from Bessemer RBN (lat. 33°18'42"N., long. 86°55'25"W.) extending from the 6.5-mile radius to 8.5 miles southwest of the RBN; excluding that portion which coincides with the Birmingham transition area.

PENDING AMENDMENT

Alabaster, Ala.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby County Airport (lat. 33°10'40"N., long. 86°47'00"W.); within 3 miles each side of the 171° bearing from the Calera RBN (lat. 33°07'04"N., long. 86°46'14"W.), extending from the 7-mile radius area to 8.5 miles south of the RBN; within a 6.5-mile radius of Bessemer Airport (lat. 33°18'49"N., long. 86°55'29"W.); within 3 miles each side of the 241° bearing from Bessemer RBN (lat. 33°18'42"N., long. 86°55'25"W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion within the Birmingham Transition Area.

MENDMENTS 12/4/80 45 F. R. 70235 (Rewritten)

Alamogordo, N. Mex.

That airspace extending upward from 700 feet above the surface within a 11-mile radius of the Holloman AFB Airport (latitude 32°5104" N., longitude 106°06'05" W.); within 4 miles east and 6 miles west of the Holloman AFB TACAN 349° radial extending from the 11-mile radius area to 17.5 miles north of the TACAN; within 2 miles east and 6 miles west of the extended centerline of Runway 15 extending from the 11-mile radius area to 12.5 miles south of the south end of Runway 15.

This transition area will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alamosa, Colo.

That airspace extending upward from 700 feet above the surface within 10 miles northeast and 12 miles southwest of the Alamosa VORTAC 335° and 155° radials extending from 23 miles northwest to 12 miles southeast of the VORTAC; and within 2 miles northwest and 6 miles southeast of the Alamosa VORTAC 200° radial extending from the VORTAC to 16 miles southwest of the VORTAC, and that airspace extending upward from 1,200 feet above the surface within 13 miles northeast of the Alamosa VORTAC 335° radial extending from the VORTAC to 31 miles northwest of the VORTAC; within 12 miles southwest of the Alamosa VORTAC 335° radial extending from the VORTAC to 38 miles northwest of the VORTAC; within 5 miles each side of the Alamosa VORTAC 018° radial extending from the VORTAC to 45 miles northeast of the VORTAC; within 5 miles each side of the Alamosa VORTAC 065° radial extending from the VORTAC to 37 miles northeast of the VORTAC; within 5 miles each side of the Alamosa VORTAC 080° radial extending from the VORTAC to 56 miles east of the VORTAC; within 13 miles northeast and 9.5 miles southwest of the Alamosa VORTAC 127° radial extending from the VORTAC to 19 miles southeast of the VORTAC; and within 5 miles each side of the Alamosa VORTAC 200° radial extending from the VORTAC to 37 miles southwest of the VORTAC. That airspace extending upward from 12,000 feet MSL within 5 miles each side of the Alamosa VORTAC 200° radial extending from 37 to 54 miles southwest of the VORTAC.

Albany, Ga.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Albany-Dougherty County Airport (lat. 31°32'07"N., long. 84°11'41"W.); within 2 miles each side of Albany VORTAC 143° radial, extending from the 9.5-mile radius area to the VORTAC.

Albany, N. Y.

That airspace extending upward from 700 feet above the surface within the area bounded by a point on the Albany VORTAC 007° radial 23 miles north of the VORTAC, thence clockwise along the arc of a 23-mile radius circle centered on the Albany VORTAC to its point of intersection with the Albany VORTAC 037° radial, thence southwest along the Albany VORTAC 037° radial to a point 12 miles northeast of the VORTAC, thence clockwise along the arc of a 12-mile radius circle centered on the Albany VORTAC to its point of intersection with the arc of a 9-mile radius circle centered on the Schenectady VOR (42°51'05" N., 73°56'05" W.), thence clockwise along the arc of the 9-mile radius circle centered on the Schenectady VOR to its point of intersection with a line 2 miles south and parallel to the extended centerline of the Schenectady County Airport Runway 28, thence west along this parallel line to its point of intersection with the arc of a 13-mile radius circle centered on the Schenectady VOR, thence clockwise along the arc of this 13-mile radius circle to its point of intersection with the Schenectady VOR 342° radial, thence north along a line bearing 356° from this point to the point of intersection of this line and the arc of a 19-mile radius circle centered on the Schenectady VOR, thence clockwise along the arc of the 19-mile radius circle centered on the Schenectady VOR to its point of intersection with the arc of a 23-mile radius circle centered on the Albany VORTAC;

within 5 miles each side of the Albany VORTAC 082° radial, extending from the Albany VORTAC to 18.5 miles east of the VORTAC;

within a 6.5-mile radius of the center lat. 43°03'00" N., long. 73°51'30" W., of Saratoga County Airport, Saratoga Springs, N. Y., and within 4 miles each side of the Cambridge VORTAC 279° radial, extending from 43 miles west of the Cambridge VORTAC to the 6.5-mile radius area.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 44°00'00" N., long. 73°47'00" W.; to lat. 44°00'00" N., long. 73°16'00" W.; to lat. 43°47'00" N., long. 72°39'00" W.; to lat. 43°11'00" N., long. 72°39'00" W.; to lat. 42°02'00" N., long. 73°16'00" W.; to lat. 42°01'00" N., long. 74°30'00" W.; to lat. 43°19'00" N., long. 74°30'00" W.; to point of beginning.

Albany, Ohio

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the University of Ohio Airport (latitude 39°12'38" N., longitude 82°13'53" W.).

Albemarle, N. C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Stanly County Airport (lat. 35°24'51"N., long. 80°09'08"W.); within 3 miles each side of a 208° bearing from the Stanly County RBN (lat. 35°24'42"N., long. 80°09'23"W.), extending from the 7-mile radius area to 8.5 miles southwest of the RBN.

AMENDMENTS 5/29/80 45 F. R. 29564 (Added)

Albert Lea, Minn.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Albert Lea Airport, (lat. 43°40'52"N., long. 93°22'04"W.).

AMENDMENTS 7/10/80 45 F. R. 32663 (Rewritten)

Albertville, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Albertville Municipal Airport (latitude 34°13'54" N., longitude 86°15'08" W.); within 3 miles each side of the 048° bearing from Saratoga RBN (latitude 34°15'00" N., longitude 86°13'25" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Albia, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Albia Municipal Airport (lat. 40°59'40"N., long. 92°45'46"W.).

Albion, N. J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 39°46'40"N., 74°56'55"W., of Albion Airport, Albion, N. J., and within 2 miles each side of the Cedar Lake VORTAC 003° radial extending from the 5-mile radius area to the VORTAC, excluding the portion that coincides with the Millville, N. J., transition area. This transition area is effective from sunrise to sunset, daily.

AMENDMENTS 10/30/80 45 F. R. 68646 (Changed)

Albion, N. Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°10'24"N., 78°16'29"W., of Pine Hill Airport, Albion, N. Y., and within 2.5 miles each side of the Rochester, N. Y., VORTAC 277° radial, extending from the 5-mile radius area to 20 miles west of the VORTAC.

Albuquerque, N. Mex.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Albuquerque International Airport (latitude 35°02'42" N., longitude 106°36'02" W.) and within a 10.5-mile radius of Alameda Airport (latitude 35°11'30" N., longitude 106°40'00" W.).

Alexander City, Ala.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Thomas C. Russell Field Airport (latitude 32°55'15" N., longitude 85°57'45" W.); within 3 miles each side of the 171° bearing from the Alexander City RBN (latitude 32°53'10" N., longitude 85°57'30" W.), extending from the 5-mile radius area to 8.5 miles south of the RBN.

Alexandria, Ind.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Alexandria Airport (latitude 40°13'25" N., longitude 85°38'15" W.) excluding the portion which overlies the Anderson, Ind., transition area.

Alexandria, La.

That airspace extending upward from 700 feet above the surface within a 16-mile radius of England AFB (latitude 31°19'40" N., longitude 92°33'05" W.), within a 7-mile radius of Esler Regional Airport (latitude 31°23'45" N., longitude 92°17'40" W.), and within 4 miles each side of the Esler VOR 155° radial extending from the Esler Regional Airport 7-mile radius area to 17 miles southeast of the VOR.

Alexandria, Minn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Alexandria Municipal Airport (latitude 45°52'00" N., longitude 95°23'40" W.); and within 2 miles each side of the Alexandria VORTAC 231° radial, extending from the 7-mile radius area to the VORTAC.

Algona, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Algona Municipal Airport (latitude 43°04'30" N., longitude 94°16'15" W.); and within 3.5 miles each side of the 297° bearing from the Algona Municipal Airport, extending from the 7-mile radius area to 11.5 miles northwest of the airport.

Allegan, Mich.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Padgham Field Airport (latitude 42°31'55" N., longitude 85°49'45" W.); and within 2½ miles each side of the 072° radial of the Pullman VORTAC, extending from the 7-mile radius area to 22 miles east of the VORTAC, excluding the portion which overlies the Battle Creek, Michigan 700-foot floor transition area.

Allendale, S. C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Allendale County Airport (latitude 33°59'30" N., longitude 81°16'05" W.); within 2.5 miles each side of Allendale VOR 329° radial, extending from the 6-mile radius area to 8.5 miles northwest of the VOR.

Allentown, Pa.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of the center, 40° [illegible]9'16" N., 75°26'11" W. of Allentown-Bethlehem-Easton Airport, Allentown, Pa., extending clockwise from a 311° bearing to a 001° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 001° bearing to a 028° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 028° bearing to a 311° bearing from the airport; within a 9-mile radius of the center, 40°34'13" N., 75°29'19" W. of Allentown-Queen City Municipal Airport, Allentown, Pa.; within 3.5 miles each side of the Allentown-Bethlehem-Easton Airport localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; within 4.5 miles west and 6.5 miles east of the Allentown VORTAC 358° radial extending from the VORTAC to 17.5 miles north of the VORTAC; within 5 miles each side of the East Texas VORTAC 103° and 283° radials, extending from 1 mile east of the VORTAC to 8.5 miles west of the VORTAC; within 5 miles each side of the East Texas VORTAC 095° radial, extending from the 9-mile radius area to the East Texas VORTAC; within a 15-mile radius of the Allentown VORTAC extending clockwise from the Allentown VORTAC 358° radial to the Allentown VORTAC 104° radial; within 4.5 miles northeast and 6.5 miles southwest of the Allentown-Bethlehem-Easton Airport localizer northwest course, extending from the OM to 11.5 miles northwest of the OM.

Alliance, Nebr.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Alliance Municipal Airport (lat. 42°03'11.3"N., long. 102°48'25.3"W.); within 3 miles each side of the Alliance VOR 145° radial, extending from the 10-mile radius area to 12 miles southeast of the VOR.

Alliance, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 40°59'00" N., long. 81°02'30" W. of Miller Airport, Alliance, Ohio, and within a 5.5-mile radius of the center, lat. 40°54'22" N., long. 81°00'02" W. of Tri-City Airport, Sebring, Ohio.

Alma, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Bacon County Airport (lat. 31°32'17" N., long. 82°30'33" W.). This transition area is effective from 0600 to 2200 hours, local time, daily.

Alma, Mich.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Gratiot Community Airport (latitude 43°19'15" N., longitude 84°41'12" W.); within 4 miles either side of a 267° bearing from Gratiot Community Airport extending from the 6.5-mile radius area to 15 miles west of the airport.

Almyra, Ark.

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Almyra Municipal Airport (latitude 34°24'30" N., longitude 91°27'30" W.).

Alpena, Mich.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of Alpena VORTAC; within 9½ miles west and 4½ miles east of the 360° bearing from the Alpena RBN, extending from the 17-mile radius area to 18½ miles north of the RBN; within 9½ miles west and 4½ miles east of the 346° radial of the Alpena VORTAC extending from the 17-mile radius area to 18½ miles north of the VORTAC; within 9½ miles southwest and 4½ miles northeast of the 305° radial of the Alpena VORTAC extending from the 17-mile radius area to 18½ miles northwest of the VORTAC; and within 9½ miles east and 4½ miles west of the Alpena VORTAC 186° radial extending from the 17-mile radius area to 18½ miles south of the VORTAC.

Alpine, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center of the Alpine Municipal Airport (latitude 30°23'00" N., longitude 103°41'00" W.) and extending 6.0 miles west and 9.5 miles east of the 023° bearing from the airport coordinates to a point 24.5 miles north of the airport coordinates.

Altoona, Pa.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 40°17'51"N., long. 78°19'10"W., of Altoona-Blair County Airport, extending clockwise from 061° bearing to a 076° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 076° bearing to a 096° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 096° bearing to a 128° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 128° bearing to a 158° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 158° bearing to a 180° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 180° bearing to a 245° bearing from the airport, within an 11-mile radius of the center of the airport, extending clockwise from a 245° bearing to a 260° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 260° bearing to a 314° bearing from the airport, within a 9-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 357° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 357° bearing to a 031° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 031° bearing to a 061° bearing from the airport; and within 9.5 miles northwest and 4.5 miles southeast of the Altoona, Pa., VOR 026° radial, extending from the VOR to 18.5 miles northeast of the VOR.

Alturas, Calif.

That airspace extending upward from 700 feet above the surface within a five-mile radius of Alturas Municipal Airport (lat. 41°29'02"N., long. 120°33'49"W.) and within three miles each side of the Alturas NDB (lat. 41°28'16"N., long. 120°33'25"W.) 167° bearing, extending from the five-mile radius area to nine miles south of the NDB; that airspace extending upward from 1,200 feet above the surface, within six miles east and nine miles west of the 167° and 347° bearings extending from the NDB to 21 miles south and nine miles north of the NDB and within five miles each side of the 079° and 239° bearings extending from the NDB to west edge of V-165 and the east edge of V-452.

Alva, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Alva Municipal Airport (latitude 36°46'00" N., longitude 98°40'00" W.); within 2 miles each side of the 170° bearing from the Alva RBN (latitude 36°46'47" N., longitude 98°40'34" W.), extending from the 5-mile radius area to 8 miles south of the RBN.

Amarillo, Tex.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Amarillo Air Terminal (latitude 35°13'10" N., longitude 101°42'40" W.).

Americus, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Souther Field (lat. 32°07'00" N., long. 84°11'30" W.); within 3 miles each side of the 041° bearing from Souther RBN (lat. 32°06' 09" N., long. 84°11'07" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Ames, Iowa

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Ames Municipal Airport (latitude 41°59'25" N., longitude 93°37'05" W.), and within 3 miles each side of the 127° bearing from Ames Municipal Airport, extending from the 5½-mile radius area to 7 miles southeast of the airport.

Anahuac, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chambers County Airport (latitude 29°46'12"N., longitude 94°39'51"W.) and within 3 miles each side of the 137° bearing from the Chambers County RBN (latitude 29°46'23"N., longitude 94°39'47"W.) extending from the 5-mile-radius area to 8.5 miles southeast of the RBN.

Anchorage, Alaska

That airspace extending upward from 700 feet above the surface within an 18-mile radius of the Anchorage International Airport (latitude 61°10'16" N., longitude 149°58'46" W.); that airspace extending upward from 1,200 feet above the surface within an 85-mile radius of the Anchorage VORTAC; that airspace extending upward from 9,500 feet MSL within a 172-mile radius of the Anchorage VORTAC extending from the 090° radial clockwise to the 165° radial, excluding the portions within federal airways, Control 1310, Control 1218, the Middleton Island, Alaska, Johnstone Point, Alaska, Cordova, Alaska, and the Valdez, Alaska, Transition Areas and the Anchorage Oceanic Control Area; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the Anchorage VORTAC extending from the 165° radial clockwise to the 090° radial excluding the portions within the United States, federal airways, Control 1218 and the King Salmon, Alaska, Transition Area.

AMENDMENTS 10/30/80 45 F. R. 56336 (Changed)

Anderson, Ind.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson Municipal Airport (lat. 40°06'30" N., long. 85°36'55" W.) and within 4 miles each side of the 298° bearing from the airport, extending from the 8.5-mile radius to 12 miles northwest of the airport; excluding the airspace that overlies the Muncie transition area.

Anderson, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson County Airport (latitude 34°29'40" N., longitude 82°42'30" W.).

Andover, N. J.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 41° [illegible]'00" N., 74°44'00" W. of Aeroflex-Andover Airport, Andover, N. J., extending clockwise from a 053° bearing to a 103° bearing from the airport, within a 9.5-mile radius of the center of the airport, extending clockwise from a 103° bearing to a 174° bearing from the airport; within an 8.5-mile radius of the center of the airport extending clockwise from a 174° bearing to a 225° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 295° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 295° bearing to a 053° bearing from the airport; within 1.5 miles each side of the Stillwater, N. J., VORTAC 083° radial, extending from the 7-mile radius area to the Stillwater, N. J., VORTAC.

That airspace extending upward from 1200 feet above the surface bounded by a line beginning at: 41°19'00" N., 74°33'00" W.; 40°49'00" N., 74°37'00" W.; 40°48'00" N., 75°00'00" W.; 40°56'16" N., 75°11'04" W.; 41°31'00" N., 75°07'00" W. to point of beginning.

Andrews, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Andrews Municipal Airport (lat. 33°27'30"N., long. 79°31'57"W.); within 3 miles each side of the 171° bearing from the Punch RBN (lat. 33°27'29"N., long. 79°32'00"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Andrews, Tex.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Andrews County Airport (lat. 32°20'00"N., long. 102°31'31"W.) and within 3.5 miles each side of the 355° bearing from the Andrews RBN (lat. 32°20'45"N., long. 102°32'07"W.) extending from the 9-mile radius area to 11.5 miles north of the RBN.

Angola, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Tri-State Airport (latitude 41°38'22" N., longitude 85°05'12" W.), and within 3 miles either side of the 239° bearing from the airport extending from the 7-mile radius to 8 miles southwest of the airport.

Aniak, Alaska

That airspace extending upward from 700 feet above the surface within a 22.5 mile radius of the Aniak localizer (lat. 61°35'02"N., long. 159°33'01"W.) extending from a bearing of 238°T (218°M) clockwise to 049°T (029°M) from the Aniak NDB; within 4.5 miles southwest and 9.5 miles northeast of the Aniak localiser west course extending from the localizer to 25.5 miles west of the localizer; within 9.5 miles southwest and 4.5 miles northeast of the Aniak NDB 114°T (094°M) bearing extending from the NDB to 22 miles southeast of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the Aniak NDB 230°T (210°M) bearing extending from the NDB to 24 miles southwest of the NDB.

Annette Island, Alaska

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Annette Island VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles northeast and 9 miles southwest of the Nichols, Alaska, RBN 331° bearing, extending from the RBN to 28 miles NW of the RBN; and within 14 miles northeast and 22 miles southwest of the Annette Island VORTAC 150° radial, extending from the VORTAC to 30 miles southeast of the VORTAC; excluding the portion outside the United States.

Anniston, Ala.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Anniston-Calhoun County Airport (latitude 33°35'23" N., longitude 85°51'20" W.); within a 12-mile radius of Talladega Municipal Airport (latitude 33°34'07" N., longitude 86°03'36" W.); within 9.5 miles southeast and 4.5 miles northwest of Talladega VORTAC 223° radial, extending from the 12-mile radius area to 18.5 miles southwest of the VORTAC; within 9.5 miles south and 4.5 miles north of the Talladega VORTAC 252° radial, extending from the 12-mile radius area to 18.5 miles west of the VORTAC; within an 8-mile radius of St. Clair County Airport, Pell City, Ala. (lat. 33°33'22" N., long. 86°14'58" W.); excluding the portion within R-2101.

Anoka, Minn.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Gateway North Industrial Airport (latitude 45°13'50" N., longitude 93°26'40" W.); excluding that portion overlying the Minneapolis transition area.

Anthony, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Anthony Municipal Airport (lat. 37°09'36"N., long. 98°04'45"W.) and within 1.5 miles each side of the Anthony VORTAC (lat. 37°09'32"N., long. 98°10'13"W.) 270° radial extending from the 5-mile radius area to 6.5 miles west of the airport.

AMENDMENTS 10/30/80 45 F. R. 57370 (Added)

Antigo, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Langlade County Airport (latitude 45°09'20" N., longitude 89°06'33" W.); within 3 miles each side of the 358° bearing from the airport extending from the 5-mile radius area to 8 miles north of the airport.

Antlers, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Antlers Municipal Airport (lat. 34°11'34"N., long. 95°38'59"W.) and within 3.5 miles each side of the 172° bearing of the NDB (lat. 34°11'30"N., long. 95°39'06"W.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 7/10/80 45 F. R. 32666 (Added)

Arcata, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the 323° bearing from the Arcata, Calif., RBN, extending from the RBN to 7.5 miles northwest of the RBN; that airspace bounded on the north by latitude 40°57'00" N., on the northeast by a line 2 miles northeast of and parallel to the ILS localizer southeast course, on the south by latitude 40°45'00" N., on the southwest by a line 2 miles southwest of and parallel to the 129° and 309° bearings from the Murray Airport latitude 40°48'18" N., longitude 124°06'52" W., on the west by a line 1 mile west of and parallel to the 219° bearing from the Arcata, Calif., RBN; that airspace extending upward from 1,200 feet above the surface, bounded on the north by latitude 41°16'00" N., on the east and south by a line 9 miles northeast of and parallel to the 333° and 153° bearings from the Arcata, Calif., RBN to latitude 40°34'00" N., latitude 40°22'00" N., longitude 124°12'00" W., thence to latitude 40°22'00" N., longitude 124°30'00" W., on the west by longitude 124°30'00" W., within 9 miles each side of the Fortuna, Calif., VORTAC 110° radial, extending from the VORTAC to 61 miles east of the VORTAC, and that airspace within an arc of a 28-mile radius circle centered on the Fortuna, Calif., VORTAC extending counterclockwise from the northeast edge of V-27 to the south edge of V-195.

Ardmore, Okla.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Ardmore Municipal Airport (latitude 34°18'00" N., longitude 97°00'50" W.); within a 5-mile radius of the Downtown Ardmore Airport (latitude 34°09'30" N., longitude 97°08'00" W.); within 2 miles each side of the Ardmore VOR 233° and 053° radials, extending from the 7-mile radius area to 8 miles SW of the VOR; within 2 miles N and 8 miles S f the 265° and 085° bearings from the Ardmore RBN, extending from 3 miles E to 8 miles W of the RBN.; nd within 3.5 miles each side of the 168° bearing from the Downtown Ardmore NDB (latitude 34°09'20"N., ongitude 97°07'35"W.) extending from the 5-mile-radius area to 11.5 miles south of the NDB.

Arkadelphia, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Arkadelphia Municipal Airport (latitude 34°06'15" N., longitude 93°03'45" W.), and within 3.5 miles each side of the 216° bearing from the Arkadelphia RBN (latitude 34°03'19" N., longitude 93°06'17" W.) extending from the 6.5-mile radius area to 11.5 miles southwest of the RBN.

Arkansas

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Arkansas.

rkansas City/Winfield, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Strother Field (latitude 37°10'10" N., longitude 97°02'25" W.); and within 5 miles each side of the 175° bearing from Strother Field, extending from the 7-mile radius area to 15 miles south to the airport.

Artesia, N. Mex.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Artesia Municipal Airport (lat. 32°50'58" N., long. 104°28'02" W.); and within 3.5 miles each side of the Artesia NDB (lat. 32°51'11" N., long. 104°27'34" W.) 152° bearing, extending from the 9.5-mile radius area to 12 miles south of the NDB; within 3.5 miles each side of the Artesia, N. Mex., NDB 296° bearing extending from the 9.5-mile radius area to 12 miles northwest of the NDB.

Asheboro, N. C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Asheboro Municipal Airport (latitude 35°39'18" N., longitude 79°53'41" W.), within 3 miles each side of the 051° bearing from the City Lake RBN, (latitude 35°42'58" N., longitude 79°51'56" W.), extending from the 8-mile radius area to 8.5 miles northeast of the RBN.

Asheville, N. C.

That airspace extending upward from 700 feet above the surface within 7 miles east and west of the 160° and 40° bearings from Keans LOM, extending from 7 miles north of Keans LOM to 12 miles south of Broad River BN; within 9.5 miles east and 4.5 miles west of the ILS localizer south course, extending from Broad River RBN o 18.5 miles south of the RBN; within 5 miles each side of Sugarloaf Mountain VORTAC 230° radial, extending rom the VORTAC to Broad River RBN; within 3 miles each side of the 339° bearing from Keans LOM, extending from the LOM to 8.5 miles north of the LOM.

AMENDMENTS 8/20/80 45 F. R. 47133 (Changed)

Ashland, Ky.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Ashland-Boyd County Airport (lat. 38°33'00" N., long. 82°44'15" W.); within 2.5 miles each side of York VORTAC 117° radial, extending from the 8-mile radius area to 0.5 mile east of the VORTAC; excluding the portion within Huntington, W. Va., transition area.

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Ashland, Ohio

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Ashland County Airport (latitude 40°54'11" N., longitude 82°15'21" W.); within 3 miles each side of the 002° bearing from the airport extending from the 5½-mile radius area to 12 miles north of the airport, excluding that portion which overlies the Mansfield, Ohio, transition area.

Ashland, Va.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center (lat. 37°42'27"N., long. 77°26'11"W.) of Hanover County Municipal Airport, Ashland, Va., and within 2.5 miles each side of the Richmond, Va., VORTAC 336° radial, extending from the 5.5-mile radius area to 22 miles northwest of the VORTAC.

Ashland, Wis.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the John F. Kennedy Memorial Airport (lat. 40°32'59"N., long. 90°56'06"W.) and within 4.5 miles west and 10.5 miles east of the Ashland, Wis., VOR 205° radial, extending from the 8-mile radius area to 18.5 miles southwest of the Ashland, Wis., VOR.

Ashtabula, Ohio

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Ashtabula County Airport, Ashtabula, Ohio (lat. 41°46'40" N., long. 80°41'45" W.) and within 3.5 miles each side of the Jefferson VORTAC 243° radial extending from the 8-mile radius area to 11.5 miles southwest of the VORTAC.

Aspen, Colo.

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 39°41'00" N., longitude 107°12'30" W., to latitude 39°31'30" N., longitude 107°25'00" W., to latitude 39°17'30" N., longitude 107°09'00" W., to latitude 39°10'24" N., longitude 106°56'04" W.; thence clockwise via a 5-mile arc from the Aspen-Pitkin County Airport (latitude 39°13'30" N., longitude 106°52'09" W.) to latitude 39°18'33" N., longitude 106°48'12" W., to latitude 39°27'30" N., longitude 107°01'00" W. to point of beginning.

Astoria, Oreg.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Astoria VOR 309° radial, extending from the arc of a 5-mile radius circle centered at the Clatsop County Airport, Astoria, Oreg. (latitude 46°09'25" N., longitude 123°52'40" W.) to 8 miles NW of the Fort Stevens FM (latitude 46°12'31" N., longitude 123°57'51" W.), and within 2 miles each side of the Astoria VOR 347° radial, extending from the arc of a 5-mile radius circle centered at the Clatsop County Airport to 8 miles N of the VOR; within 4.5 miles north and 9.5 miles south of the Astoria VOR 263° radial, extending from the western edge of V-27 to a point 18.5 miles west of the VOR; and that airspace extending upward from 1,200 feet above the surface within 6 miles NE and 5 miles southwest of the Astoria, Oreg., VOR 147° and 327° radials, extending from 7 miles southeast to 13 miles northwest of the VOR; within 9 miles south and 2 miles north of the Astoria VOR 268° radial; extending from the VOR to 13 miles west of the VOR; within 5 miles northeast and 8 miles southwest of the Astória VOR 309° radial, extending from the Fort Stevens fan marker to 12 miles northwest of the fan marker and within 8 miles northeast and 6 miles southwest of the Astoria VOR 309° radial extending from the Fort Stevens fan marker to 20 miles northwest of the fan marker.

That airspace extending upward from 4,500 feet MSL bounded on the northwest by the southeast edge of V-27E, on the east by the west edge of V-165, and on the south by the north edge of V-112.

PENDING AMENDMENT

Atchison, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Amelia Earhart Airport (lat. 39°34'15"N., long. 95°10'47"W.) and within 3 miles each side of the St. Joseph VORTAC (lat. 39°57'38"N., long. 94°55'30"W.) 207° radial extending to 5 miles northeast of the airport and within 2.5 miles each side of the SUMMR waypoint (lat. 39°42'29"N.) 174° bearing extending from the 5-mile radius area to 6 miles northwest of the airport.

AMENDMENTS 12/25/80 45 F. R. 65193 (Added) Corr: 45 F. R. 69212

Athens, Ga.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Athens Municipal Airport (latitude 33°56'54" N., longitude 83°19'37" W.).

Athens, Tenn.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of McMinn County Airport (lat. 35°23'45" N., long. 84°33'45" W.).

Athens, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jones Municipal Airport (latitude 32°10'00" N., longitude 95°50'00" W.); within an 8.5-mile radius of Lochridge Ranch Airport (latitude 31°59'21" N., longitude 95°57'03" W.); within 3.5 miles each side of the 176° bearing from the Athens RBN (latitude 32°09'35" N., longitude 95°49'50" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN; within 3 miles each side of a 211° bearing from the Athens RBN extending from the 5-mile radius area to the 8.5-mile radius area; and within 4.5 miles each side of the 356° bearing from the Lochridge Ranch RBN (latitude 32°03'48" N., longitude 95°57'27" W.) extending from the 8.5-mile radius area to 10.5 miles N of the RBN.

Atlanta, Ga.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of The William B. Hartsfield Atlanta International Airport (latitude 33°38'31" N., longitude 84°25'34" W.); within 4.5 miles north and 9.5 miles south of the 091° bearing from Bruce RBN, extending from the 15-mile radius area to 18.5 miles east of the RBN; within 9.5 miles south and 4.5 miles north of Atlanta ILS Runway 9R localizer west course, extending from the 15-mile radius area to 18.5 miles west of the LOM; within a 10-mile radius of Charlie Brown County Airport (latitude 33°46'35" N., longitude 84°31'15" W.); within an 11.5-mile radius of Dobbins AFB/NAS Atlanta (latitude 33°54'54" N., longitude 84°30'59" W.); within 4 miles each side of the Dobbins TACAN 301° radial, extending from the 11.5-mile radius area to 11.5 miles northwest of the TACAN; within an 8.5-mile radius of De Kalb-Peachtree Airport (latitude 33°52'30" N., longitude 84°18'10" W.); within a 6.5-mile radius of Falcon Field Airport, Peachtree City, GA, (latitude 33°21'23"N., longitude 84°34'07"W.), within a 10.5-mile radius of McCollum Airport, Marietta, Ga., (lat. 34°00'47"N., long. 84°35'55"W.), excluding the portion within the Carterville, Ga., transition area.

AMENDMENTS 9/4/80 45 F. R. 53088 (Changed)

Atlanta, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Atlanta Municipal Airport (latitude 33°06'10" N., longitude 94°11'40" W.) and within 3 miles each side of the 237° bearing from the NDB (latitude 33°06'13" N., longitude 94°11'25" W.) extending from the 5-mile radius area to a point 8 miles southwest of the NDB.

Atlantic, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Atlantic Municipal Airport (latitude 41°24'20" N., longitude 95°02'45" W.); and within 5 miles NE and 8 miles SW of the 313° bearing from the Atlantic, Iowa, RBN, extending from the RBN to 12 miles NW.

Atlantic City, N. J.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 39[illegible]7'25" N., 74°34'45" W. of Atlantic City Municipal (Pomona) Airport, Atlantic City, N. J., and the airspace bounded on the SW by the Atlantic City VORTAC 176° radial to 3 NM offshore; on the SE by a line 3 NM offshore; and on the NE by the Atlantic City VORTAC 112° radial, within 8 miles SW and 5 miles NE of the Atlantic City ILS localizer NW course extending from the 12-mile radius area to 12 miles NW of the OM.

Atterbury, Ind.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Bakalar AFB (latitude 39°15'50" N., longitude 85°53'55" W.) and within 2 miles each side of the 044° bearing from the AFB, extending from the 6-mile radius zone to 12 miles NE of the AFB.

Auburn, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Auburn-Opelika Robert G. Pitts Airport (lat. 32°36'52"N., long. 85°25'52"W.).

AMENDMENTS 1/24/80 44 F. R. 67105 (Changed)

Auburn, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Auburn-De Kalb Airport (latitude 41°18'25" N., longitude 85°04'00" W.); and within 2½ miles each side of the Fort Wayne, Ind., VORTAC 016° radial, extending from the 5-mile radius area to the arc of a 17-mile radius circle centered on Bear Field (latitude 40°58'50" N., longitude 85°11'25" W.).

Auburn, Maine

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°03'00" N., 70°17'00" W., of Auburn-Lewiston Municipal Airport; within 3 miles each side of the 204° and 024° bearing from the Poland Springs, Maine, NDB, 43°57'47" N., 70°20'14" W., extending from the 5-mile radius area to 9 miles southwest of the NDB; within 2 miles each side of the 048° bearing from the Poland Springs, Maine, NDB extending from the NDB to 13 miles northeast of the NDB.

Audubon, Iowa

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Audubon Municipal Airport (latitude 41°42'30" N., longitude 94°55'00" W.).

Augusta, Ga.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bush Field (lat. 32°22'10" N., long. 81°57'55" W.); within 9.5 miles west and 4.5 miles east of Augusta ILS localizer south course, extending from the 11-mile radius area to 18.5 miles south of the LOM; within a 9-mile radius of Daniel Field (lat. 33°27'55" N., long. 82°02'25" W.); within a 7-mile radius of Thomson-McDuffie Airport, Thomson, Ga. (lat. 33°31'45" N., long. 82°31'00" W.); within 9.5 miles north and 4.5 miles south of the 090° bearing from McDuffie RBN (lat. 33°31'45" N., long. 82°26'30" W.), extending from the 7-mile radius area to 18.5 miles east of the RBN.

Augusta, Maine

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center of the Augusta State Airport, (lat. 44°19'N., long. 69°48'W.) and within 6.5 miles northeast and 9.5 miles southwest of the 328° radial of the Augusta VORTAC extending 24 miles northwest of the Augusta VORTAC, and within an 11.5-mile radius of the center of Waterville Robert LaFleur Airport (lat. 44°32'10"N., long. 69°40'30"W.), Waterville, Maine, and within 4.5 miles southwest and 9.5 miles northeast of the Augusta VORTAC 156° radial extending 19.0 miles southeast of the Augusta VORTAC; excluding that portion which coincides with the Wiscasset, Maine, 700-foot Transition Area.

Aurora, Nebr.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of Aurora Municipal Airport (lat. 40°53'34"N., long. 97°59'37"W.) and within 2 miles each side of the 110° radial of the Grand Island VOR, extending from the 5 mile radius to 7 miles west of the airport, excluding that portion which overlies the Grand Island, Nebraska, transition area and within 3 miles each side of the 358° bearing from the Aurora, Nebraska, NDB extending from the 5 mile radius to 8.5 miles north of the airport.

Aurora, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Aurora State Airport (latitude 45°15'00" N., longitude 122°46'10" W.) and within 2.5 miles each side of the 126° radial of the Newberg VORTAC, extending from the 5-mile radius area to the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles southwest and 4.5 miles northeast of the 306° radial of the Newberg VORTAC, extending from the VORTAC to 18.5 miles northwest of the VORTAC.

Austin, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Austin Municipal Airport (latitude 43°40'00" N., longitude 92°56'00" W.); within 3 miles each side of the Austin VOR 350° radial extending from the 5-mile radius to 8 miles north of the VOR; and within 3 miles each side of the Austin VOR 175° radial extending from the 5-mile radius to 8 miles south of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 21½-mile radius of the Austin Municipal Airport; excluding the portions which overlie the Rochester, Minn., Albert Lea, Minn., and Mason City, Iowa, transition areas.

Austin, Tex.

That airspace extending upward from 700 feet above the surface within a 16-mile radius of Robert Mueller Municipal Airport (latitude 30°17'55" N., longitude 97°42'00" W.); within 2 miles each side of the Bergstrom ILS localizer south course, extending from the 16-mile radius area to 12 miles south of the LOM.

Ava, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bill Martin Memorial Airport (lat. 36°58'19"N., long. 92°40'52"W.), and within 2 miles each side of the 107° radial of the Dogwood, Mo., VORTAC, extending from the VORTAC to the 5-mile radius area, and within 2.5 miles each side of the 133° bearing from the airport extending from the 5-mile radius area to 6 miles southeast.

Babylon, N. Y.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Republic Airport, Farmingdale, N. Y. (latitude 40°43'45" N., longitude 73°24'50" W.); within 4.5 miles northeast and 6.5 miles southwest of the Republic Airport ILS localizer northwest course, extending from the outer marker (latitude 40°46'35" N., longitude 73°28'59" W.) to 11.5 miles northwest of the outer marker; within 3.5 miles each side of a 155° bearing from the Babylon, N. Y., radio beacon extending from the 10-mile radius area to 11.5 miles southeast of the radio beacon; within 3.5 miles each side of a 165° bearing from the Babylon, N. Y., radio beacon extending from the 10-mile radius area to 11.5 miles southeast of the radio beacon; within a 9.5-mile radius of Grumman-Bethpage Airport (latitude 40°44'45" N., longitude 73°29'30" W.).

Bad Axe, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Huron County Airport (latitude 43°47'00" N., longitude 82°59'00" W.); within 3 miles each side of the 023° and 215° bearings from the Huron County Airport extending from the 5-mile radius area to 8 miles northeast and southwest of the airport.

Bainbridge, Ga.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Commodore Decatur Airport (lat. 30°54'55"N., long. 84°36'16"W.).

Baker, Oreg.

That airspace extending upward from 1,200 feet above the surface within 6 miles northeast and 6 miles southwest of the Baker VORTAC 138° and 317° radials extending from 14 miles southeast to 16 miles northwest of the VORTAC and within 10 miles west and 5 miles east of the Baker VORTAC 346° radial, extending from the VORTAC to the south edge of V-298.

Bakersfield, Calif.

That airspace extending upward from 700 feet above the surface within 4.5 miles each side of the Bakersfield ILS localizer southeast course, extending from an arc of a 5-mile radius circle centered on Meadows Field, Bakersfield, Calif., (lat. 35°25'40"N., long. 119°03'05"W.) to 7 miles southeast of the LOM, within 4.5 miles each side of the Bakersfield VORTAC 144° radial, extending from an arc of a 5-mile radius circle centered on Meadows Field to 17.5 miles southeast of the VORTAC, within 4.5 miles each side of the Bakersfield ILS localizer northwest course, extending from an arc of a 5-mile radius circle centered on Meadows Field to 21.5 miles northwest of the LOM and within 4.5 miles each side of the Bakersfield VORTAC 338° radial, extending from the VORTAC to 13 miles north of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 36°00'00" N., on the east by longitude 118°45'00" W., on the south by latitude 35°05'00" N., and on the west by a line extending from latitude 35°05'00" N., longitude 120°05'00" W. to latitude 35°43'50" N., longitude 120°05'00" W. to latitude 35°43'50" N., longitude 119°30'00" W. to latitude 36°00'00" N., longitude 119°30'00" W.

Baltimore, Md.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 39°10' 26" N., 76°40'12" W., of Baltimore Washington International Airport, Baltimore, Md.; within a 15-mile radius arc of the Baltimore VORTAC extending clockwise from the Baltimore VORTAC 230° radial to the 342° radial; within 3.5 miles each side of the centerline of Baltimore Washington International Airport runway 10, extended to 8.5 miles east of the end of the runway; within 4.5 miles north and 6.5 miles south of the Baltimore Washington International Airport ILS localizer west course, extending from the OM to 11.5 miles west of the OM; within an 8.5-mile radius of the center 39°19'40"N., 76°24'57"W. of Glenn L. Martin State Airport, Baltimore, Md.; within a 9-mile radius of the center of the airport, extending clockwise from a 239° bearing to a 256° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 256° bearing to a 270° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 320° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 348° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 348° bearing to a 007° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 007° bearing to a 027° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 027° bearing to a 054° bearing from the airport; within 3.5 miles each side of a 129° bearing from the Martin, Md., RBN, extending from the Glenn L. Martin State Airport 8.5-mile radius area to 11.5 miles southeast of the RBN; within 5 miles each side of the Martin, Md. TACAN 317° radial, extending from the Glenn L. Martin State Airport 8.5-mile radius area to 17.5 miles northwest of the TACAN. Within 4.5 miles each side of a 357° bearing and a 177° bearing, from a point 39°09'15"N., 77°03'24"W., extending from 3.5 miles north of said point to 6 miles south of said point; within 4.5 miles each side of a 197° bearing and a 017° bearing from a point 39°30'21"N., 76°31'46"W., extending from 3.5 miles north of said point to 6 miles south of said point.

Bangor, Maine

That airspace extending upward from 700 feet above the surface, bounded by a line beginning at: lat. 45° 09'50"N., long. 68°35'30"W., to lat. 45°04'40"N., long. 68°20'40"W., to lat. 44°59'00"N., long. 68°30'00"W., to lat. 44°52'45"N., long. 68°36'45"W., to lat. 44°43'30"N., long. 68°18'10"W., to lat. 44°37'40"N., long. 68° 21'4[illegible]"W., to lat. 44°27'30"N., long. 68°36'50"W., to lat. 44°36'25"N., long. 68°49'45"W., to lat. 44°40' 50"N., long. 69°03'25"W., to lat. 44°54'45"N., long. 69°02'45"W., to lat. 44°57'50"N., long. 68°57'20"W., to lat. 44°59'45"N., long. 68°47'50"W., to the point of beginning; excluding that portion which coincides with the Bar Harbor, Maine, 700 foot transition area.

AMENDMENTS 10/2/80 45 F. R. 57371 (Changed)

Baraboo, Wis.

The airspace extending upward from 700 feet above the surface within an 11-mile radius of Baraboo-Wisconsin Dells Airport (latitude 43°31'30" N., longitude 89°46'15" W.); witin an 11-mile radius of the Reedsburg Airport (latitude 43°31'44" N., longitude 89°59'06" W.) and within a 10-mile radius of the Portage Airport (latitude 43°33'35" N., longitude 89°23'58" W.).

Bardstown, Ky.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Samuels Field (lat. 37°48'55" N., long. 85°29'58" W.); within 3 miles each side of the 022° bearing from Bardstown RBN (lat. 37°50' 52" N., long. 85°29'00" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

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Bar Harbor, Maine

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center (lat. 44°26'56" N., long. 68°21'42" W.) of the Bar Harbor Airport excluding that airspace previously designated as the Bangor, Maine, 700-foot transition area. Within 4.5 miles west and 9.5 miles east of the Bar Harbor ILS localizer course extending from the 12.5-mile radius to 11.5 miles north of the Surry (BH) NDB.

Barnesville, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 40° 00'10" N., long. 81°11'30" W., of the Bradfield Airport, Barnesville, Ohio.

Barnwell, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Barnwell County Airport (lat. 33°15'27"N., long. 81°23'24"W.); within 3 miles each side of the 009° bearing from Barnwell RBN (lat. 33°15'31"N., long. 81°22'43"W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; within 3 miles each side of the 237° bearing from Barnwell RBN extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

AMENDMENTS 4/3/80 45 F. R. 16170 (Changed)

Bartlesville, Okla.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Phillips Airport (lat. 36°45'46"N., long. 96°00'38"W.); and within 5 miles each side of the Bartlesville VORTAC 175° radial extending from the 9-mile radius to 21.5 miles south of the VORTAC; and within 5.5 miles west and 3.5 miles east of the Bartlesville localizer north course extending from the 9-mile radius to 12 miles north of the VORTAC.

Bassett, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Rock County Airport, Bassett, Nebr., (lat. 42°34'26"N., long. 99°34'21"W.); within 2.5 miles each side of the 129° bearing from the Rock County NDB extending from the 7-mile radius area to 7 miles southeast of the airport.

AMENDMENTS 3/20/80 45 F. R. 6359 (Added)

Bastrop, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Morehouse Memorial Airport (lat. 32°45'25"N., long. 91°52'50"W.) and within 3 miles each side of the 157° bearing of the NDB (lat. 32°45'35"N., long. 91°53'01"W.) extending from the 6.5-mile radius area to 8.5 miles southeast of the NDB.

AMENDMENTS 9/4/80 45 F. R. 41906 (Rewritten)

Batavia, N. Y.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center lat. 43°01'45"N., long. 78°10'15"W., of Genesee County Airport, Batavia, N. Y., and within 2.5 miles each side of the Rochester, N. Y., VORTAC 257° radial, extending from the 5.5-mile radius area to 19.5 miles west of the VORTAC.

Batesville, Ark.

That airspace extending upward from 700 feet above the surface within a 15-statute mile radius of Batesville Regional Airport, Batesville, Ark. (latitude 35°43'44"N., longitude 91°38'32"W.); and within 3.5 miles each side of the 255° bearing from the Batesville NDB (latitude 35°42'13" N., longitude 91°45'03" W.), extending from the 15-mile radius area to 11.5-statute miles west of the NDB; excluding that portion which overlies the Heber Springs, Ark., transition area.

Baton Rouge, La.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ryan Airport (latitude 30°31'55" N., longitude 91°09'00" W.); within 2 miles each side of the Baton Rouge ILS localizer southeast course extending from the 7-mile radius area to 7.5 miles southeast of Ryan Airport; within 5 miles northeast and 8 miles southwest of the Baton Rouge ILS localizer northwest course extending from the OM to 12 miles northwest; within 2 miles each side of the Baton Rouge VORTAC 071° radial extending from the 7-mile radius area to the VORTAC; within 2 miles each side of the Baton Rouge 068° radial extending from the 7-mile radius area to 7.5 miles east of the airport and within a 5-mile radius of the False River Airpark (latitude 30°42'55" N., longitude 91°28'43" W.); within 2 miles each side of the 325° radial of the Baton Rouge VORTAC extending from the 5-mile radius area of the False River Airpark to the northwest ILS localizer extension.

Battle Creek, Mich.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Kellogg Field, Battle Creek, Mich. (latitude 42° 18' 35" N., longitude 85° 14' 55" W.), within 8 miles NW and 5 miles SE of the Battle Creek ILS localizer NE course extending from the 12-mile radius area to 12 miles NE of the OM, within a 13-mile radius of Kalamazoo Airport (latitude 42° 14' 07" N., longitude 85° 33' 10" W.); within 8 miles W and 5 miles E of the Kalamazoo ILS localizer N course extending from the 13-mile radius area to 17 miles N of the airport; within a 4-mile radius of Haines Field, Three Rivers, Mich. (latitude 41° 57' 30" N., longitude 85° 35' 30" W.), and within 8 miles NW and 5 miles SE of the 034° bearing from Haines Field, extending from the 4-mile radius area to 12 miles NE of the airport.

Battle Mountain, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lander County Airport (latitude 40°36'03" N., longitude 116°52'25" W.) and within 5 miles each side of the Battle Mountain VORTAC 218° radial, extending from the VORTAC to 16 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles southeast and 9.5 miles northwest of the Battle Mountain 218° radial extending from the VORTAC to 23 miles southwest of the VORTAC, and within 6.5 miles south and 9 miles north of the Battle Mountain VORTAC 077° and 257° radials, extending from 8 miles west to 18.5 miles east of the VORTAC.

Baudette, Minn.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Baudette International Airport, Baudette, Minn. (latitude 48°43'15" N., longitude 94°36'00" W.); within 3 miles each side of the 106° bearing from the Baudette International Airport extending from the 5½-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles south and 9½ miles north of the 106° and 286° bearing from the Baudette International Airport, extending from 6 miles west to 18½ miles east of the airport; and within 5 miles each side of the 286° bearing from Baudette International Airport, extending from the airport to 12 miles west of the airport, excluding the portion outside the United States.

Baxley, Ga.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Baxley Municipal Airport (lat. 31°42'50" N., long. 82°23'25" W.); within 2 miles each side of Alma VORTAC 029° radial, extending from the 5-mile radius area to 8 miles north of the VORTAC.

Bay City, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bay City Municipal Airport (lat. 28°58'23"N., long. 95°51'48"W.), and within 3.5 miles either side of the 313° bearing from the NDB extending from the 5-mile radius to 11.5 miles northwest of the airport.

Bay Minette, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bay Minette Municipal Airport (lat. 30°52'20" N., long. 87°49'30" W.).

Bay St. Louis, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stennis International Airport (lat. 30°22'15" N., long. 89°27'16" W.).

Beatrice, Nebr.

That airspace extending upward from 700 feet above the surface within a six-mile radius of the Beatrice Municipal Airport (latitude 40°18'01" N., longitude 96°45'16" W.); and within five-miles each side of the Beatrice VOR 325° radial extending from the six-mile radius to 14 miles northwest of the VOR; that airspace extending upward from 1200 feet above the surface within twelve miles southwest and five miles northeast of the Beatrice VOR 325° radial extending from the VOR to 23 miles northwest of the airport excluding that portion which overlies the Lincoln, Nebr., transition area.

Beaufort, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Beaufort-Morehead City Airport (latitude 34°44'00" N., longitude 76°39'45" W.); within 3 miles each side of the 306° bearing from the Morehead RBN (latitude 34°43'49" N., longitude 76°39'15" W.), extending from the 6.5-mile radius to 8.5 miles north of the RBN.

Beaufort, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Beaufort MCAS (lat. 32°28'53"N., long. 80°43'10"W.); within 5 miles each side of Beaufort MCAS TACAN 037° radial extending from the 8.5-mile radius area to 9 miles northeast of the TACAN.

Beaumont, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Jefferson County Airport (latitude 29°57'05" N., longitude 94°01'10" W.), within a 5-mile radius of Beaumont Municipal Airport (latitude 30°04'15" N., longitude 94°13'00" W.), within 3 miles each side of the Beaumont ILS localizer southeast course extending from the 7-mile radius area to 13.5 miles southeast of the approach end of Jefferson County Airport Runway 29, and within 2.5 miles each side of the Beaumont ILS localizer northwest course extending from the 7-mile radius area to the 5-mile radius area.

Beaver Falls, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 40°46'21"N., long. 80°23'37"W., of Beaver County Airport, Beaver Falls, Pa., and within 2 miles of each side of the Elwood City, Pa., VORTAC 248° radial extending easterly from the 6.5-mile radius area to the VORTAC, excluding that portion which overlies the East Liverpool, Ohio, transition area.

AMENDMENTS 9/4/80 45 F. R. 53087 (Rewritten)

Beckley, W. Va.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 37° 46'54"N., 81°07'27"W., of Raleigh County Memorial Airport, Beckley, W. Va.; within a 14-mile radius of the center of Raleigh County Memorial Airport, extending clockwise from a 025° bearing to a 215° bearing from the airport; within 4.5 miles north and 9.5 miles south of the Beckley VORTAC 284° radial, extending from the VORTAC to 18.5 miles west of the VORTAC and within 4.5 miles each side of the Beckley VORTAC 200° radial, extending from the VORTAC to 11.5 miles south of the VORTAC.

Bedford, Ind.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Virgil I. Grissom Municipal Airport (lat. 38°50'25" N., long. 86°26'45" W.); within 5 miles each side of the Bloomington, Ind., VORTAC 156° radial, extending from the 6½-mile radius area to 35 miles southeast of the VORTAC; and within 3 miles each side of the 302° bearing from Virgil I. Grissom Municipal Airport, extending from the 6½-mile radius area to 8 miles northwest of the airport.

Beeville, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of NAS Chase Field (lat. 28°21'50"N., long. 97°39'40"W.); within 2 miles each side of the NAS Chase TACAN 129° and 321° radials extending from the 7-mile radius area to 10 miles northwest and southeast of the TACAN; within 2 miles each side of the 339° bearing from the NAS Chase RBN extending from the 7-mile radius area to 12 miles north of the RBN; within a 6.5-mile radius of Beeville Municipal Airport (lat. 28°22'00"N., long. 97°48'00"W.) within 3.5 miles each side of the 138° bearing from the Beeville NDB (lat. 28°22'03"N., long. 97°47'39"W.) extending from the 6.5-mile radius to 11.5 miles southeast of the NDB.

Belen, N. Mex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Alexander Municipal Airport (lat. 34°38'51"N., long. 106°49'57"W.).

AMENDMENTS 1/24/80 44 F. R. 70124 (Added)

Belfast, Maine

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 44°24'34"N., 69°00'45"W., of Belfast Municipal Airport; within 3.5 miles each side of the 126° bearing and the 306° bearing from the Belfast, Maine, NDB, 44°24'40"N., 69°00'41"W., extending from the 6-mile radius area to 18 miles northwest of the NDB; excluding that portion which coincides with the Pittsfield, Maine, 700-foot transition area.

Bellaire, Mich.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Antrim County Airport (latitude 44°59'15" N., longitude 85°12'00" W.); and within 3 miles each side of the 198° bearing from Antrim County Airport, extending from the 11-mile radius area to 14 miles south of the airport.

Bellefontaine, Ohio

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Bellefontaine Airport (latitude 40°24'45" N., longitude 83°44'10" W.) and within 3 miles each side of the 049° bearing from the airport extending from the 6-mile radius area to 13 miles northeast of the airport.

Belleville, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Scott AFB, Belleville, Ill. (latitude 38°32'30" N., longitude 89°51'05" W.), and within 2 miles each side of the 317° bearing from the Belleville RBN, extending from the 7-mile radius area to the RBN.

Belleville, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Belleville Municipal Airport (lat. 39°49'04"N., long. 97°39'30"W.); within 3 miles each side of the 356° bearing from the Belleville Municipal Airport, extending from the 5-mile radius to 8.5 miles north of the airport, within 3 miles each side of the 196° bearing from the Belleville Municipal Airport, extending from the 5-mile radius to 8.5 miles south of the airport.

Bellingham, Wash.

That airspace extending upward from 700 feet above the surface bounded on the east by longitude 122°15'00" W., on the south by latitude 48°52'00" N., on the west and north by the United States/Canada border, and within 4,5 miles each side of the Bellingham VORTAC 169° radial, extending from 21.5 to 24 miles south of the VORTAC; and within 3.5 miles north and 8 miles south of the 288° bearing from Lummi NDB (latitude 48°47'38" N., longitude 122°32'06" W.) extending from the NDB 11.5 miles west of the NDB.

Beloit, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Beloit Municipal Airport (lat. 39°28'13"N., long. 98°07'48"W.), and within 2.5 miles each side of the Mankato, Kans., VORTAC 161° radial, extending from the 5-mile radius area to 7 miles northwest of the airport.

AMENDMENTS 1/24/80 44 F. R. 65390 (Added)

Belvidere, Ill.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Belvidere Airport (lat. 42°19'25"N., long. 88°50'25"W.) Belvidere, Ill., and within 2 statute miles either side of the 252° bearing from the airport, extending from the 5-mile radius area to 6½ statute miles southwest of the airport.

AMENDMENTS 3/20/80 45 F. R. 13726 (Rewritten)

Belzoni, Miss.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Belzoni Municipal Airport (latitude 33°08'40" N., longitude 90°30'56" W.).

Bemidji, Minn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Bemidji Municipal Airport (latitude 47°30'30" N., longitude 94°56'55" W.); within 5 miles each side of the Bemidji VORTAC 135° radial, extending from the 7-mile radius area to 19½ miles southeast of the VORTAC; within 5 miles each side of the Bemidji VORTAC 318° radial, extending from the 7-mile radius area to 8 miles northwest of the VORTAC; and within 4½ miles north and 9½ miles south of the 262° bearing from Bemidji Municipal Airport, extending from the airport to 18½ miles west of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of Bemidji VORTAC, extending from the 318° radial, clockwise to the 014° radial; within a 23½-mile radius of Bemidji VORTAC extending from the 014° radial clockwise to the 285° radial; within 4½ miles northeast and 9½ miles southwest of the Bemidji VORTAC 318° radial, extending from the VORTAC to 18½ miles northwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Bemidji VORTAC 135° radial, extending from the 23½-mile radius area to 30 miles southeast of the VORTAC.

Bend, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bend Municipal Airport (latitude 44°05'35" N., longitude 121°12'00" W.) and within 2 miles each side of the Redmond VORTAC 334° and 154° radials, extending from the 5-mile radius area to 1 mile northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles southwest and 8 miles northeast of the Redmond VORTAC 334° radial, extending from the VORTAC to 12 miles northwest of the VORTAC.

Bennettsville, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bennettsville Airport (latitude 34°37'45" N., longitude 79°43'57" W.); within 3 miles each side of the 245° bearing from Bennettsville RBN (latitude 34°37'39" N., longitude 79°43'53" W.), extending from the 6.5-mile radius area to 8.[illegible] miles southwest of the RBN, excluding the portion within the Darlington, S. C., transition area.

Bennington, Vt.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 42°53'30" N., 73°14'50" W. of Bennington State Airport, Bennington, Vt., and within 2 miles each side of the Cambridge, N. Y., VOR 145° radial, extending from the 5-mile radius area to the VOR. This transition area is effective from sunrise to sunset, daily.

Benson, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Benson Municipal Airport (latitude 45°20'00" N., longitude 95°39'00" W.); and within 3 miles each side of the 323° bearing from Benson Municipal Airport extending from the airport to 8 miles northwest of the airport.

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Benton Harbor, Mich.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ross Field (latitude 42°07'40" N., longitude 86°25'40" W.), and within 2 miles each side of the ILS back course and Keller, Mich., VORTAC 266° radial extending from the 7-mile radius area to 12 miles west of the airport.

Berkeley Springs, W. Va.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the center (lat. 39°41'30"N., long. 78°09'45"W.) of Potomac Airpark, Berkeley Springs, W. Va., extending clockwise from the 062° bearing to the 167° bearing from the airport; within a 22.5-mile radius of Potomac Airpark, extending clockwise from the 167° bearing to the 215° bearing from the airport; within a 21.5-mile radius of Potomac Airpark, extending clockwise from the 215° bearing to the 266° bearing from the airport; within a 15.5-mile radius of Potomac Airpark, extending clockwise from the 266° bearing to the 304° bearing from the airport; within a 19.5-mile radius of Potomac Airpark, extending clockwise from the 304° bearing to the 342° bearing from the airport; within a 21.5-mile radius of Potomac Airpark, extending clockwise from the 342° bearing to the 023° bearing from the airport; within a 23.5-mile radius of Potomac Airpark, extending clockwise from the 023° bearing to the 062° bearing from the airport; within 2.5 miles each side of the Hagerstown VOR 268° radial, extending from the 14.5-mile radius to 1 mile west of the VOR, excluding the portion within the Hagerstown, Md., and Martinsburg, W. Va., transition areas.

Berlin, N. H.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 44°34'35" N., 71°10'40" W. of Berlin Municipal Airport, Berlin, N. H.; within 2 miles each side of the Berlin Municipal Airport Runway 18 centerline, extended from the 8.5-mile radius area to 12 miles south of the end of the runway; within 2 miles each side of the Berlin Municipal Airport Runway 36 centerline, extended from the 8.5-mile radius area to 20.5 miles north of the end of the runway and within 4.5 miles west and 9.5 miles east of the Berlin, N. H. VOR (44°38'05" N., 71°11'12" W.) 355° radial, extending from the 8.5-mile radius area to 18.5 miles north of the VOR.

AMENDMENTS 3/21/80 45 F. R. 13054 (Changed)

Berlin, N. J.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 39°49'20"N., 74°53'35"W., of Camden-Burlington County Airport, Berlin, N. J., and within 2 miles each side of the Cedar Lake, N. J., VORTAC 011° radial, extending from the 7-mile radius area to 13 miles north of the VORTAC.

AMENDMENTS 10/30/80 45 F. R. 68646 (Changed)

Bethel, Alaska

That airspace extending upward from 700 feet above the surface within 3 miles each side of the Bethel VORTAC 007° radial, extending from the north control zone extension to 11.5 miles north of the VORTAC; from the southwest control zone extension to 11.5 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Bethel VORTAC; and within 9.5 miles northwest and 4.5 miles southeast of the 023° bearing from BET localizer (latitude 60°46'08" N., longitude 161°50'30" W.) extending from the 20-mile radius area to 26 miles northeast of the BET localizer.

Biddeford, Maine

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Biddeford, Maine, Airport (lat. 43°27'55" N., long. 70°28'25" W.) extending clockwise from the 270° bearing to the 180° bearing; within a 10-mile radius extending from the 180° bearing clockwise to the 270° bearing excluding that airspace previously designated as the Sanford, Maine, 700-foot transition area.

Big Delta, Alaska

That airspace extending upward from 700 feet above the surface within 9.5 miles each side of the Big Delta VORTAC 220° and 040° radials extending from 2 miles southwest to 18.5 miles northeast of the Big Delta VORTAC; and within a 1[illegible].5-mile radius of the Big Delta VORTAC extending clockwise from the 309° radial to the 006° radial.

Big Piney, Wyo.

That airspace extending upward from 700 feet above the surface within 5.5 miles southwest and 9.5 miles northeast of the Big Piney VOR 134° and 314° radials, extending from 4.5 miles northwest to 19 miles southeast of the VOR, and that airspace extending upwards from 1,200 feet above the surface within 9 miles southwest and 13.5 miles northeast of the Big Piney 134° and 314° radials, extending from 11.5 miles northwest to 24.5 miles southeast of the VOR.

Big Rapids, Mich.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Roben-Hood Airport latitude 43°43'13" N., longitude 85°29'52" W.) and within 5 miles each side of the White Cloud VOR 047° radial extending from an 8-mile radius area to the VOR, excluding the portion overlying the Reed City transition area.

Big Sandy, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ambassador Field (lat. 32°35'03"N., long. 95°04'03"W.); and within a 5-mile radius of the Holly Lake Ranch Airport (lat. 32°41'51"N., long. 95°12'27"W.), and within a 5-mile radius of the Gilmer Upshur County Airport (lat. 32°42'10"N., long. 94°56'55"W.) and within a 5-mile radius of the Gladewater Municipal Airport (lat. 32° 31'45.2"N., long. 94°58'18.9"W.).

AMENDMENTS 7/10/80 45 F. R. 26033 (Rewritten)

Big Spring, Tex.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Big Spring Municipal Airport (lat. 32°12'51"N., long. 101°31'24"W.).

Billings, Mont.

That airspace extending upward from 700 feet above the surface within a 29-mile radius of Logan Field Airport (latitude 45°48'25" N., longitude 108°31'55" W.); that airspace extending upward from 1,200 feet above the surface within a 36-mile radius of Logan Field Airport; that airspace extending upward from 6,700 feet MSL within a 46-mile radius of the Billings VORTAC extending from the Billings VORTAC 008° radial clockwise to the 057° radial, excluding the portion that overlies V-2N; that airspace extending upward from 6,[illegible]00 feet MSL within a 58-mile radius of the Billings VORTAC extending from the Billings VORTAC 057° radial clockwise to the southwest edge of V-19/86 excluding the portion that overlies V-2 and V-2N; that airspace extending upward from 10,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the southwest edge of V-19/86 clockwise to the Billings VORTAC 192° radial excluding the portions that overlie VOR Federal airways; that airspace extending upward from 8,200 feet MSL within a 46-mile radius of the Billings VORTAC extending from the Billings VORTAC 192° radial clockwise to the northwest edge of V-465 excluding the portions that overlie VOR Federal airways; that airspace extending upward from 8,700 feet MSL within a 46-mile radius of the Billings VORTAC extending from the west edge of V-465 clockwise to the south edge of V-2/86; that airspace extending upward from 7,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the south edge of V-2/86 clockwise to the southwest edge of V-2N excluding that portion of V-2/86 that has a 1,200-foot AGL floor; that airspace extending upward from 6,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the north edge of V-2N clockwise to the Billings VORTAC 008° radial excluding those portions of V-187 and V-19 that have 1,200-foot AGL floors.

Binghamton, N.Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center of Broome County Airport, lat. 42°12'35"N., long. 75°58'46"W.; within 4 miles each side of the Binghamton VORTAC 066-246° radial extending SW from the 7-mile radius area for 11 miles from the Binghamton VORTAC; within 2 miles each side of the airport ILS localizer SE course extending from the 7-mile radius area to the Nimmons RBN; within 4.5 miles each side of the Binghamton VORTAC 068°-248° radial extending NE from the 7-mile radius area to 21.5 miles northeast of the VORTAC.
Within 5 miles each side of the Broome County Airport ILS localizer northwest course, extending from the localizer to 19 miles northwest of the localizer.

AMENDMENTS 1/24/80 44 F. R. 68450 (Changed)
AMENDMENTS 9/4/80 45 F. R. 53089 (Changed)

Birch Hollow, Va.

That airspace extending upward from 700 feet above the surface within an area 7 miles east of and parallel to and 14 miles west of and parallel to the Martinsburg, W. Va., 140° radial extending between the Martinsburg, W. Va., VORTAC and latitude 39°01'10" N., longitude 77°27'42" W.

Birmingham, Ala.

That airspace extending upward from 700 feet above the surface beginning at the intersection of a line 2 miles west of and parallel to the extended centerline of Runways 18/36 north of the Birmingham Municipal Airport and the arc of a 17-mile radius circle centered at Birmingham Airport surveillance radar antenna site (latitude 33°34'24" N., longitude 86°45'23" W.); thence clockwise along this arc to the intersection of the 2[illegible] bearing from the radar antenna site; thence east along the 270° bearing from the radar antenna site to the intersection of the arc of a 13-mile radius circle centered at the radar antenna site; thence clockwise along this arc to a line 2 miles northeast of and parallel to the Vulcan VORTAC 313° radial; thence southeast along this line to the intersection of the arc of a 10-mile radius circle centered at the radar antenna site; thence clockwise along this arc to the intersection of a line 2 miles west of and parallel to the extended centerline of Runways 18/36; thence north along this line to the point of beginning; within 5 miles each side of Birmingham ILS localizer southwest course, extending from the 17-mile radius area to 11.5 miles southwest of the OM.

Bishop, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bishop VOR (latitude 37°22'37" N., longitude 118°21'56" W.); that airspace extending upward from 1,200 feet above the surface within 8 miles southwest and 12 miles northeast of the Bishop VOR 156° and 336° radials, extending from 10 miles northwest to 22 miles southeast of the VOR; that airspace extending upward from 12,500 feet MSL within 5 miles each side of the Bishop VOR 341° radial extending from the VOR to V-244, within 5 miles each side of a direct course between the Bishop VOR and Lida Intersection, 42 miles 12,500 feet MSL, 10,500 feet MSL Lida Intersection, and within 5 miles each side of a direct course between Bishop VOR and Beatty, Nev., VOR 80 miles 12,500 feet MSL, 10,500 feet MSL Beatty.

Bismarck, N. Dak.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of Bismarck VORTAC; within a 20-mile radius of Bismarck VORTAC, extending from the Bismarck VORTAC 152° radial clockwise to the Bismarck VORTAC 182° radial; within 4½ miles north and 9½ miles south of the Bismarck VORTAC 105° radial extending from the 17-mile radius area to 18½ miles east of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Bismarck ILS localizer southeast course, extending from the 17-mile radius area to 18½ miles southeast of the OM;
and within 4½ miles northeast and 9½ miles southwest of the Bismarck ILS localizer northwest course extending from the 17-mile radius area to 32 miles northwest of the OM.
that airspace extending upward from 1,200 feet above the surface within a 41-mile radius of the Bismarck VORTAC excluding all Federal airways.

Black River Falls, Wis.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Black River Falls Area Airport (lat. 44°15'05"N., long. 90°51'05"W.) and within 3 statute miles each side of the 253° bearing from the Black River Falls Area Airport, extending from the 7-mile radius to 8½ miles southwest of the airport.

Blacksburg, Va.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 37°12'25" N., 80°24'30" W., of VPI Airport, Blacksburg, Va.; within 4 miles northwest and 3 miles southeast of the Pulaski VORTAC 064° radial, extending from the 6-mile radius area to 3 miles northeast of the Pulaski VORTAC; within 2 miles each side of the Runway 8 centerline extended from the 6-mile radius area to 7 miles east of the end of the runway; and within 2 miles each side of the Runway 30 centerline extended from the 6-mile radius area to 11 miles northwest of the end of the runway, excluding the portion within the Dublin, Va., transition area.

Blackstone, Va.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Blackstone AAF-Allen C. Perkinson Municipal Airport
(latitude 37°04'30" N., long. 77°57'45" W.). This transition area is effective from sunrise to sunset, daily.

Blanding, Utah

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Blanding, Utah, airport (latitude 37°34'50" N., longitude 109°28'55" W.) and within 3.5 miles each side of the 188° bearing from the Blanding, Utah RBN (latitude 37°31'03" N., longitude 109°29'31" W.) extending from the 6-mile radius area to 11.5 miles south of the RBN; that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 5 miles west of the 188° and 008° bearings from the Blanding RBN extending from 18.5 miles south to 7 miles north of the RBN, and within 5 miles each side of a direct line between the Blanding RBN and the Dove Creek, Colo., VORTAC excluding that portion within R-6410 during the times that R-6410 is in use.

Block Island, R. I.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Block Island State Airport (lat. 41°10'05" N., long. 71°34'40" W.).

Bloomfield, Iowa

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Bloomfield Municipal Airport (lat. 40°44'41"N., long. 92°25'46"W.); and within 3 miles each side of the 177° bearing from the Bloomfield Municipal Airport, extending from the 6.5-mile radius area to 8.5 miles south of the airport.

Bloomington, Ill.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Bloomington Normal Airport; and within 3 miles each side of the Bloomington VOR 043°, 103°, and 319° radials, extending from the 6½-mile radius area to 8 miles northeast, east and northwest of the VOR.

Bloomington, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Monroe County Airport (latitude 39°08'25" N., longitude 86°37'00" W.); within 5 miles each side of the Bloomington VORTAC 062° radial, extending from the 7-mile radius area to 14 miles northeast of the VORTAC; within 5 miles each side of the Bloomington VORTAC 181° radial, extending from the 7-mile radius area to 12 miles south of the VORTAC; within 5 miles each side of the Bloomington VORTAC 341° radial, extending from the 7-mile radius area to 12 miles north of the VORTAC; and within 3 miles each side of the Bloomington VORTAC 236° radial, extending from the 7-mile radius area to 10½ miles southwest of the VORTAC.

Bloomsburg, Pa.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center of Bloomsburg Municipal Airport, Bloomsburg, Pa., lat. 40°59'45"N., longitude 76°26'30"W., and within 3.5 miles each side of the Milton, Pa., VORTAC 099° radial, extending from the 7.5-mile radius area to 2.5 miles east of the VORTAC.

Bluefield, W. Va.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, lat. 3[illegible] 17'45"N., long. 81°12'29"W., of Mercer County Airport, Bluefield, W. Va.; within a 14.5-mile radius of the center of the airport, extending clockwise from a 078° bearing to a 113° bearing from the airport; within a 17-mile radius of the center of the airport, extending clockwise from a 113° bearing to a 195° bearing from the airport; within a 23.5-mile radius of the center of the airport, extending clockwise from a 195° bearing to a 248° bearing from the airport and within 3.5 miles each side of the Bluefield VORTAC 047° radial, extending from the 11-mile radius area to 11 miles northeast of the VORTAC.

Blythe, Calif.

That airspace extending upward from 700 feet above the surface within 3 miles each side of the Blythe VORTAC 264° radial, extending from the VORTAC to 9 miles W of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles S and 4.5 miles N of the Blythe VORTAC 264° radial, extending from the VORTAC to 18.5 miles W of the VORTAC; within 4.5 miles NW and 9.5 miles SE of the Blythe VORTAC 066° radial, extending from the VORTAC to 28 miles NE of the VORTAC; within 9 miles N and 10 miles S of the Blythe VORTAC 094° radial, extending from the VORTAC to 36 miles E of the VORTAC excluding the airspace within R-2306B and R-2308A, and that airspace within an arc of an 16-mile radius circle centered on the Blythe Airport (latitude 33°37'15" N., longitude 114°43'00" W.), extending clockwise from longitude 114°30'00" W. to the S edge of V-16.

Blytheville, Ark.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Blytheville AFB (lat. 35°57'50"N., long. 89°56'40"W.), excluding the portion within the Manila, Ark., transition area, within a 5-mile radius of Blytheville Municipal Airport (lat. 35°56'15"N., long. 89°49'45"W.), within 4 miles east and 7 miles west of a 005° bearing from the Hicks RBN (lat. 35°57'52"N., long. 89°49'35"W.), extending from the RBN to 12 miles north, and within 2 miles each side of the extended center line of Blytheville AFB Runways 18 and 36 extending from the 8.5-mile radius area to 12 miles north and south of the airport.

Bogalusa, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the George R. Carr Memorial Airport (lat. 30°48'42"N., long. 89°51'54"W.).

AMENDMENTS 5/15/80 45 F. R. 17004 (Rewritten)

Boise, Idaho

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 43°56' 00" N., longitude 116°33'00" W., direct to latitude 43°51'15" N., longitude 116°25'00" W., thence via a 21.5- radius arc, centered on the Boise VORTAC, clockwise to longitude 116°14'00" W., direct latitude 43°45'00" N., longitude 116°14'00" W., direct latitude 43°31'00" N., longitude 115°52'00" W., direct latitude 43°20'00" N., longitude 115°58'00" W., direct latitude 43°25'00" N., longitude 116°25'00" W., direct latitude 43°42'00" N., longitude 116°57'00" W., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface within a 35-mile radius arc from Boise VORTAC extending clockwise from V-253 to V-4N, within a 40-mile radius arc of Boise VORTAC extending clockwise from the southeast edge of V-113 to V-500, that airspace 8 miles each side of Boise VORTAC 269° radial extending from the 40-mile radius arc to 57 miles west of the VORTAC, within 8 miles northeast and 11 miles southwest of the Boise VORTAC 295° radial, extending from the 40-mile radius arc to 75 miles northwest of the VORTAC, that airspace northwest of Boise bounded on the north-west by the McCall VORTAC 223° radial, on the east by the west edge of V-253 on the southwest by V-4; that airspace southeast of Boise extending upward from 9,000 feet MSL extending from the 35-mile arc bounded on the north by V-500, on the east by the southwest edge of V-293, on the south by the north edge of V-330 and on the southwest by the northeast edge of V-4; that airspace northeast of Boise extending upward from 11,500 feet MSL, bounded on the northeast by the southwest edge of V-293, on the south by the north edge of V-500, on the south-west by the 35-mile radius arc and on the west by the east edge of V-253.

Boise City, Okla.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Boise City Airport, Boise City, Okla.; within 3.5 miles each side of a 225° bearing from the Thorp NDB (lat. 36°45' 19"N., long. 102°32'04"W.) extending from the 6-mile radius to 11.5 miles southwest of the NDB.

Bolivar, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Bolivar-Hardeman County Airport (lat. 35°13'00"N., long. 89°03'00"W.); within 3 miles each side of the 192° bearing from the Hardeman RBN (lat. 35°12'47"N., long. 89°02'33"W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN.

Bonneville, Utah

That airspace SE of Bonneville extending upward from 1,200 feet above the surface bounded by a line extending from latitude 40°30'00" N., longitude 112°30'00" W., to latitude 40°35'00" N., longitude 113°00'00" W., thence via longitude 113°00'00" W., to the S edge of V-32, thence via the S edge of V-32 to longitude 112°56'30" W., thence via longitude 112°56'30" W., to latitude 40°40'00" N., thence to point of beginning; and that airspace extending upward from 8,500 feet AMSL bounded on the S by latitude 40°35'00" N., on the W by longitude 113°51' 00" W., on the N by the S edge of V-32 and on the E by longitude 113°00'00" W.

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Boone, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Boone Municipal Airport (lat. 42°03'00"N., long. 93°50'45"W.) and within 3 miles each side of the 338° bearing from the Boone Municipal Airport, extending from the 5-mile radius area to 8 miles north of the airport, and within 3 miles each side of the 164° bearing from the Boone Municipal Airport extending from the 5-mile area to 8 miles south of the airport, excluding that portion which overlies the Ames, Iowa, transition area.

Booneville, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jesse Viertel Airport (latitude 38°56'50" N., longitude 92°41'19" W.); and within 3 miles each side of the 011° bearing from the Jesse Viertel Airport, extending from the 5-mile radius area to 8 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within an area north of the Jesse Viertel Airport bounded on the south by the north edge of V-4; on the northwest by the southeast edge of V-424; and on the northeast by the southwest edge of V-175, excluding the portion which overlies the Moberly, Missouri, transition area; and that airspace extending upward from 1,200 feet above the surface within an area south of the Jesse Viertel Airport bounded on the north by the southwest edge of V-12S; on the east by the west edge of V-63, excluding the portion which overlies the Columbia, Missouri, transition area; on the south by the north edge of V-234; and on the west by the east boundary of the Sedalia, Missouri, transition area.

Borger, Tex.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Hutchinson County Airport (lat. 35°41'55"N., long. 101°23'40"W.) and within 3 miles each side of the 185° radial of the Borger VORTAC (lat. 35°48'25"N., long. 101°22'54"W.), extending from the 7.5-mile radius area to 21 miles south of the VORTAC.

AMENDMENTS 10/30/80 45 F. R. 51546 (Rewritten)

Boscobel, Wis.

That airspace extending upward from 700' above the surface within an 8½ mile radius of the Boscobel Airport (latitude 43°09'30" N., longitude 90°40'45" W).

Boston, Mass.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at: latitude 42°53'00" N., longitude 71°05'00" W., to latitude 42°52'00" N., longitude 71°02'45" W., to latitude 42°54'00" N., longitude 71°00'15" W., to latitude 42°49'45" N., longitude 70°54'00" W., to latitude 42°48'15" N., longitude 70°55'30" W., to latitude 42°43'00" N., longitude 70°46'00" W., to latitude 42°30'00" N., longitude 70°48'00"W., to latitude 42°14'00" N., longitude 70°38'00" W., to latitude 41°59'00" N., longitude 70°48'00" W., to latitude 41°59'00" N., longitude 70°53'00" W., to latitude 42°03'00" N., longitude 71°10'00" W., to latitude 42°13'00" N., longitude 71°21'00" W., to latitude 42°21'00" N., longitude 71°25'00" W., to latitude 42°22'00" N., longitude 71°47'00" W., to latitude 42°27'00" N., longitude 71°55'00" W., to latitude 42°53'00" N., longitude 71°55'00" W., to latitude 42°45'00" N., longitude 71°38'25" W., to latitude 42°43'00" N., longitude 71°36'00" W., to latitude 42°40'00" N., longitude 71°35'00" W., to latitude 42°38'00" N., longitude 71°20'00" W., to latitude 42°43'00" N., longitude 71°15'00" W., to the point of beginning; and within 3.5 miles each side of the 154° bearing from the Stoughton, Mass., NDB, 42°07'10" N., 71°07'41" W., extending from the NDB to 10.5 miles southeast of the NDB.

Boulder Junction, Wis.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Boulder Junction Airport (latitude 46°08'15" N., longitude 89°38'45" W.); and within 3 miles each side of the 040° bearing from the Boulder Junction Airport, extending from the 5½-mile radius area to 8 miles northeast of the airport.

Bowie, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bowie Municipal Airport (lat. 33°36'06"N., long. 97°46'30"W.) and within 3 miles each side of the 351° bearing from the NDB (lat. 33°36'19"N., long. 97°46'23"W.) extending from the 6.5-mile radius area to 8.5 miles north of the NDB.

AMENDMENTS 1/24/80 44 F. R. 66190 (Rewritten)

Bowling Green, Ky.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 4.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 11-mile radius area to 11 miles southwest of the VORTAC.

Bowling Green, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bowling Green Municipal Airport (lat. 39°22'15"N., long. 91°13'30"W.) and within 2½ miles each side of the Quincy, Ill., VORTAC 174° radial extending from the 5-mile radius area to 7 miles north of the airport.

Bowman, N. D.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Bowman Municipal Airport (lat. 46°11'15"N., long. 103°25'15"W.); and that airspace extending upward from 1200 feet above the surface within 9.5 miles south and 4.5 miles north of the 311°T bearing from the Bowman NDB (lat. 46°10'26"N., long. 103°25'03"W.) extending from 6.5-mile radius area to 18.5 miles northwest; and within 9.5 miles north and 4.5 miles south of the 123°T bearing from the Bowman NDB extending from the 6.5-mile radius area to 18.5 miles southeast; and within 5 miles each side of the 212°T bearing from the Bowman NDB extending from the 6.5-mile radius area to 35 miles southwest; and within 5 miles each side of 034°T bearing from the Bowman NDB extending from the 6.5-mile radius area to the Dickinson, N. D., VORTAC.

Boyne Falls, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Boyne Mountain Airport (latitude 45°10'03" N., longitude 84°55'30" W.); and within 4½ miles west and 9½ miles east of the 176° bearing from the Boyne Mountain Airport extending from the airport to 17½ miles south of the airport excluding that position which overlies the Gaylord, Mich., Bellaire, Mich., and Grayling, Mich., transition areas.

Bozeman, Mont.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Gallatin Field (lat. 45°46'50"N., long. 111°09'20"W.) and within 5.5 miles northeast and 9.5 miles southwest of the Bozeman ILS northwest localizer course extending from the 11-mile radius area to 28 miles northwest of Gallatin Field, and that airspace extending upward from 1,200 feet above the surface bounded on the south by the northern edge of V-86, on the west by the east edge of V-21, on the north by the Helena, Mont., 1,200-foot transition area, on the east by a point 6 miles east of V-2, excluding that area designated as the Butte, Mont., 1,200-foot transition area.

Bradford, Pa.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 41° 48°00' N., 78°38'27" W., of Bradford Regional Airport, Bradford, Pa.; within 3.5 miles each side of the Bradford Regional Airport ILS localizer southeast course, extending from the OM to 11.5 miles southeast of the OM; within 5 miles each side of the Bradford, Pa., VORTAC 139° radial, extending from the VORTAC to 11.5 miles southeast of the VORTAC; within 5 miles each side of the Bradford, Pa., VORTAC 316° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC.

Brainerd, Minn.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Brainerd-Crow Wing County Airport (lat. 46°23'52"N., long. 94°08'12"W.); within 2 3/4 miles each side of the 120° radial of the Brainerd, VORTAC extending from the 9-mile radius area to 7½ miles southeast of the VORTAC; and within 2 3/4 miles each side of the Brainerd VORTAC 302° radial extending from the 9-mile radius area to 21 miles northwest of the VORTAC.

Breckenridge, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Stephens County Airport (latitude 32°43'01" N., longitude 98°53'34" W.) and within 3.5 miles each side of the 004° bearing from the Breckenridge RBN (latitude 32°44'50" N., longitude 98°53'27" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Brenham, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Brenham Municipal Airport (latitude 30°12'57" N., longitude 96°22'34" W.) and within 3 miles each side of the 341° bearing from the NDB (latitude 30°13'16" N., longitude 96°22'40" W.) extending from the NDB to 8 miles northwest.

Brewton, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Brewton Municipal Airport (lat. 31°03'00" N., long. 87°04'00" W.); within 5 miles each side of Crestview, Fla., VORTAC 303° radial, extending from the 6.5-mile radius area to 16 miles northwest of the VORTAC.

Bridgeport, Conn.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, latitude 41°09'48" N., longitude 73°07'34" W., of the Igor I. Sikorsky Memorial Airport, Bridgeport, Conn., extending clockwise from a 013° bearing to a 055° bearing from the airport within a 8.5-mile radius of the center of the airport extending clockwise from a 055° bearing to a 248° bearing from the airport; within an 11-mile radius of the center of the airport extending clockwise from a 248° bearing to a 291° bearing from the airport; within a 12.5-mile radius of the center of the airport extending clockwise from a 291° bearing to a 326° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 326° bearing to a 013° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Bridgeport, Conn., VOR 042° radial extending from the Bridgeport, Conn., VOR to 17.5 miles northeast of the Bridgeport, Conn., VOR; within an 8.5-mile radius of the center, latitude 41°15'51" N., longitude 72°53' 15" W., of the Tweed-New Haven Airport, New Haven, Conn.; within 5 miles southeast and 5 miles northwest of the Hartford, Conn., VORTAC 222° radial extending from 32 miles southwest of the Hartford, Conn., VORTAC to 14 miles southwest of the Hartford, Conn., VORTAC; within 5 miles northeast and 5 miles southwest of the Pawling, N. Y., VORTAC 138° radial extending from 31 miles southeast to 44 miles southeast of the Pawling, N.Y., VORTAC; within 5 miles northwest and 5 miles southeast of the Carmel, N. Y., VORTAC 065° radial extending from the Carmel, N. Y., VORTAC to 28 miles northeast of the Carmel, N. Y., VORTAC; within 5 miles north and 5 miles south of the Carmel, N. Y., VORTAC 093° radial extending from the Carmel, N. Y., VORTAC to 28 miles east of the Carmel, N. Y., VORTAC. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: latitude 41°31'00" N., longitude 73°30'00" W., to latitude 41°31'00" N., longitude 73°20' 00" W., to latitude 41°49'00" N., longitude 73°16'00" W., to latitude 41°31'00" N., longitude 72°46'00" W., to latitude 41°18'00" N., longitude 72°30'30" W., to latitude 41°00'00" N., longitude 72°45'00" W., to latitude 41°00'00" N., longitude 73°33'00" W., to latitude 41°10'00" N., longitude 73°33'00" W., to latitude 41° 20'00"N., longitude 73°23'00"W., to latitude 41°25'00"N., longitude 72°30'00"W., to point of beginning, and within 5 miles north and 5 miles south of a 274° bearing and a 094° bearing from a point lat. 41°02' 00"N., long. 73°18'45"W., extending 6 miles west and 3 miles east of said point.

Brigham City, Utah

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brigham City Airport (latitude 41°32'30" N., longitude 112°03'30" W.), and within 4.5 miles each side of the 205° T (188°M) bearing from the Brigham City RBN (latitude 41°30'58" N., longitude 112°04'38" W.) extending from the 5-mile radius area to 8 miles southwest of the RBN.

Brinkley, Ark.

That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of Frank Federer Memorial Airport, Brinkley, Ark. (lat. 34°52'45"N., long. 91°10'40"W.); and within 3.5 statute miles each side of the 030° bearing from Brinkley NDB (lat. 34°52'49"N., long. 91°10'43"W.), extending from the 7-mile radius area to 11.5 statute miles northeast of the NDB.

Britton, S. Dak.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Britton Municipal Airport (lat. 45°48'57"N., long. 97°44'37"W.) and within 3 miles each side of the 321° bearing from the Britton NDB (lat. 45°48'50.4"N., long. 97°44'36.8"W.) extending from the 6.5-mile radius to 8.5 miles northwest of the Britton NDB, and that airspace extending upward from 1,200 feet above the surface bounded on the west by long. 98°30'00"W., on the north by lat. 46°30'00"N., on the east by long. 97°00'00"W., and on the south by lat. 44°30'00"N., excluding the Gwinner, N. Dak., Fargo, N. Dak., Watertown, S. Dak., Huron, S. Dak., Aberdeen, S. Dak., 1,200 foot transition areas and all Federal airways.

Broadway, N. J.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Broadway, N. J., VORTAC.

AMENDMENTS 11/13/80 45 F. R. 68645 (Added)

Brockport, N. Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°10'53"N., 77°54'55"W., of Ledgedale Airpark, Brockport, N. Y.

Broken Bow, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Broken Bow Municipal Airport (lat. 41°26'05"N., long. 99°38'25"W.); and within 6 miles each side of the Broken Bow VOR 323° radial extending from the 7-mile radius area to 8.5 miles northwest of the VOR.

Brookfield, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Brookfield Municipal Airport (lat. 39°45'40"N., long. 93°06'17"W.) and within 3 miles each side of the 320° bearing from the Brookfield, Mo., nondirectional beacon (lat. 39°45'55"N., long. 93°06'39"W.), extending from the 5-mile radius area to 8 miles northwest of the nondirectional beacon.

Brookhaven, Miss.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brookhaven-Lincoln County Airport (lat. 31°36'20"N., long. 90°24'00"W.); within 3 miles each side of the 056° bearing from Brookhaven RBN (lat. 31°36'28"N., long. 90°24'36"W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN.

AMENDMENTS 9/25/80 45 F. R. 58104 (Rewritten)

Brookings, S. Dak.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Brookings, S. Dak., Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 4.5 miles northeast and 9.5 miles southwest of the Brookings VOR 316° radial extending from the 9.5-mile radius area to 18.5 miles northwest of the VOR; within 9.5 miles southwest of the Brookings VOR 300° radial extending from the 9.5-mile radius area to 18.5 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the Brookings VOR 118° radial extending from the 9.5-mile radius area to 18.5 miles southeast of the VOR.

Brooksville, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hernando County Airport (lat. 28°28'12" N., long. 82°27'30" W.); within 3 miles each side of the 276° bearing from Brooksville RBN (lat. 28°28'25" N., long. 82°27'00" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Brownfield, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brownfield, Tex., Terry County Airport (latitude 33°10'29" N., longitude 102°11'29" W.) and within 3.5 miles each side of a 200° bearing from the Brownfield nondirectional beacon (latitude 33°10'45" N., longitude 102°11'30" W.) extending from the 5-mile radius area to 8 miles south of the radio beacon.

Brownsville, Tex.

That airspace overlying the United States extending upward from 700 feet above the surface within a 7-mile radius of the Brownsville International Airport (latitude 25°54'25" N., longitude 97°25'25" W.).

Brownwood, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Brownwood Municipal Airport (lat. 31°47'40"N., long. 98°57'25"W.).

Brunswick, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Malcolm-McKinnon Airport (lat. 31°09'05" N., long. 81°23'20" W.); within a 5-mile radius of Jekyll Island Airport (lat. 31°04'00" N., long. 81°25'40" W.); within 5 miles each side of Brunswick VOR 215° radial, extending from the Malcolm-McKinnon Airport 8.5-mile and Jekyll Island Airport 5-mile radius areas to 8.5 miles south of the VOR; within an 8.5-mile radius of Glynco Jetport (lat. 31°15'32"N., long. 81°27'59"W.); within 3 miles each side of the Golden Isle localizer west course, extending from 8.5-mile radius area to 8.5 miles west of the LOM; excluding the portion outside the continental limits of the United States.

Brunswick, Maine

That airspace extending upward from 700 feet above the surface within a 9-mile radius of NAS Brunswick (lat. 43°53'35" N., long. 69°56'20" W.); within 2 miles each side of the Navy Brunswick VOR 166° radial, extending from the 9-mile radius area to 12 miles south of the VOR.

Bryan, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (41°28'05" N., 84°30'25" W.) of Williams County Airport, Bryan, Ohio; within 2 miles each side of the Runway 25 centerline extended from the 7-mile radius area to 7 miles west of the end of the runway and within 2 miles each side of a 068° bearing from the Bryan, Ohio, RBN (41°28'47" N., 84°27'58" W.) extending from the RBN to 8 miles east of the RBN, excluding the portion which coincides with the Defiance, Ohio, transition area.

Bryce Canyon, Utah

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bryce Canyon Airport (latitude 37°42'00" N., longitude 112°09'30" W.) and within 2 miles each side of the Bryce Canyon, Utah, VORTAC 085° radial, extending from the 5-mile radius area to the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles southeast and 9½ miles northwest of the Bryce Canyon VORTAC 240° and 060° radials, extending from 18½ miles southwest to 13 miles northeast of the VORTAC.

Bucyrus, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Port Bucyrus Airport (lat. 40°46'30"N., long. 82°58'15"W.).

Buffalo, Minn.
That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Buffalo Municipal Airport, Buffalo, Minn., (lat. 45°12'00"N., long. 93°51'00"W.).

AMENDMENTS 7/10/80 45 F. R. 36056 (Added)

Buffalo, N. Y.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 42°56'20" N., 78°43'50" W., of Greater Buffalo International Airport; within 2 miles each side of the Buffalo VORTAC 096° radial extending from the 8-mile radius area to 8 miles east of the VORTAC; within 8 miles northwest and 5 miles southeast of the Greater Buffalo International Airport northeast localizer course extending from the OM to 12 miles northeast of the OM; within 2 miles each side of the Greater Buffalo International Airport southwest localizer course extending from the 8-mile radius area to 8 miles southwest of the OM; within the arc of a 12-mile radius circle from 052° to 112° clockwise, centered on a point, 42°56'26" N., 78°44'11" W.; within an 8-mile radius of the center, 43°06'20" N., 78°56'55" W., of Niagara Falls International Airport; within 8 miles north and 5 miles south of the Niagara Falls International Airport localizer east course extending from the OM to 12 miles east of the OM; within 2 miles each side of the Niagara Falls International Airport localizer east course extending from the OM to the intersection of the localizer course and the Buffalo, N.Y. VORTAC 034° radial; within a 5.5-mile radius of the center latitude 43°01'15" N., longitude 78°29'06" W. of Akron Airport, Akron, N. Y.; within 2.5 miles each side of the Buffalo, N. Y., VORTAC 062° radial, extending from the 5.5-mile radius area to 17.5 miles northeast of the VORTAC; and within a 5-mile radius of Buffalo Airpark Airport, 42°51'45" N., 78°43'00" W.;
and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 43°21'00" N., longitude 78°00'00" W., to latitude 43°06'00" N., longitude 78°21'00" W., to latitude 42°32'00" N., longitude 78°21'00" W., to latitude 42°32'00" N., longitude 78°52'00" W., to latitude 42°37'00" N., longitude 79°15'00" W., to latitude 42°41'00" N., longitude 79°19'30" W., thence via the United States/Canadian border to longitude 78°00'00" W., thence south along longitude 78°00'00" W., to the point of beginning, excluding the portion outside the United States.

Buffalo, Okla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Buffalo Municipal Airport, Buffalo, Okla., (lat. 36°51'45"N., long. 99°37'00"W.) within 3 miles each side of the 109° bearing from the Buffalo NDB (lat. 36°51'48"N., long. 99°37'05"W.) extending from the 6.5-mile radius to 8.5 miles east of the NDB.

AMENDMENTS 5/15/80 45 F. R. 20783 (Rewritten) Corr: 45 F. R. 39836

Buffalo, Wyo.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Buffalo, Wyo., Airport (latitude 44°22'48" N., longitude 106°43'02" W.) and within 4.5 miles each side of the Crazy Woman, Wyo., VORTAC 332° radial, extending from the 6-mile radius area to 12 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5.5 miles southwest of the Crazy Woman VORTAC 332° radial, extending from 4 miles to 30 miles northwest of the VORTAC.

Bunkie, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bunkie Municipal Airport (latitude 30°57'25" N., longitude 92°14'02" W.).

Bunnell, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Flagler County Airport (lat. 29°27'35"N., long. 81°12'30"W.) excluding that portion that coincides with the Daytona Beach, Fla., transition area.

Burbank, Calif.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 34° 14' 00" N., longitude 118° 27' 00" W.; to latitude 34° 14' 00" N., longitude 118° 15' 00" W.; to latitude 34° 12' 00" N., longitude 118° 15' 00" W.; to latitude 34° 12' 00" N., longitude 117° 59' 00" W.; to latitude 33° 56' 00" N., longitude 117° 59' 00" W.; to latitude 33° 56' 00" N., longitude 118° 07' 00" W.; to latitude 34° 00' 00" N., longitude 118° 07' 00" W.; to latitude 34° 00' 00" N., longitude 118° 15' 00" W.; to latitude 34° 05' 00" N., longitude 118° 15' 00" W.; to latitude 34° 05' 00" N., longitude 118° 33' 00" W.; to latitude 34° 02' 30" N., longitude 118° 33' 00" W.; to latitude 34° 02' 30" N., longitude 118° 53' 30" W.; to latitude 34° 21' 30" N., longitude 118° 53' 00" W.; to latitude 34° 30' 30" N., longitude 118° 27' 00" W.; thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34° 30' 00" N., longitude 118° 50' 00" W.; to latitude 34° 30' 00" N., longitude 118° 45' 00"W.; thence N along longitude 118° 45' 00" W. to the S boundary of V-137, thence along the S boundary of V-137 to longitude 118° 20' 00" W.; to latitude 34° 30' 00" N., longitude 118° 20' 00" W.; to latitude 34° 30' 00" N., longitude 117° 43' 00" W.; to latitude 34° 10' 00" N., longitude 117° 43' 00" W.; to latitude 34° 10' 00" N., longitude 117° 59' 00" W.; to latitude 34° 05' 00" N., longitude 117° 59' 00" W.; to latitude 34° 05' 00" N., longitude 118° 33' 00" W.; to latitude 34° 00' 00" N., longitude 118° 33' 00" W.; to latitude 34° 00' 00" N., longitude 118° 50' 00" W.; thence to point of beginning.

Burley, Idaho

That airspace extending upward from 700 feet above the surface within 5.5 miles each side of the Burley VORTAC 121° radial extending from the VORTAC to 27 miles southeast of the VORTAC; within 5.5 miles each side of the Burley VORTAC 292° radial, extending from the VORTAC to 19 miles west of the VORTAC; within that airspace bounded on the southwest by a line parallel to and 9.5 miles southwest of the Burley VORTAC 323° radial, on the northwest by an arc of a 53-mile radius circle centered on Burley VORTAC, on the north by a line parallel to and 10 miles north of V-500, on the east by a line parallel to and 11 miles east of Burley 344° radial; and within 2.5 miles southeast and 6 miles northwest of the 036° bearing from Burley Municipal Airport, extending 9.5 miles northeast of the Burley Airport;

that airspace extending upward from 1,200 feet above the surface north of Burley bounded by a line 8 miles northwest of, and parallel to V-365 extending from the Burley VORTAC to the south edge of V-500; that airspace northeast of Burley bounded on the northeast by V-500, on the southeast by V-269, on the northwest by V-365; that airspace east of Burley bounded on the north by V-269 on the east by an arc of a 28-mile radius circle, centered on the Burley VORTAC, on the southwest by V-4; that airspace southeast of Burley bounded on the north by V-4, on the southeast by arc of a 33.5-mile circle centered on the Burley Municipal Airport (latitude 42°32'29" N., longitude 113°46'27" W.) on the southwest by the northeast edge of V-101; that airspace southwest of Burley within 14 miles southeast of the Burley VORTAC 223° radial, extending from the VORTAC to the north edge of V-484.

Burlington, Iowa

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Burlington Municipal Airport (latitude 40°46'55" N., longitude 91°07'40" W.); and within 2 miles each side of the 293° radial of the Burlington VORTAC extending from the 8½-mile radius area to the Burlington VORTAC.

Burlington, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Burlington Municipal Airport (latitude 36°02'45" N., longitude 79°28'40" W.); within 3 miles each side of the Greensboro VORTAC 090° radial, extending from the 6.5-mile radius area to 17 miles east of the VORTAC;
within 3 miles each side of the 218° bearing from Burlington RBN (latitude 36°02'59" N., longitude 79°28'49" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion within the Liberty, N. C., transition area.

Burlington, Vt.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, (lat. 44°28'17"N., long. 73°09'13"W.), of Burlington International Airport, Burlington, Vt.; within 9.5 miles northeast and 4.5 miles southwest of the Burlington ILS northwest localizer course, extending from the 14-mile radius area to 18.5 miles northwest of the Burlington LOM; within 3.5 miles each side of the Burlington, Vt., VORTAC 201° radial, extending from the 14-mile radius area to 12 miles southwest of the VORTAC; excluding that airspace that coincides with Plattsburgh, N. Y., and Highgate, Vt., transition areas.

AMENDMENTS 6/30/80 45 F. R. 43699 (Changed)

Burlington, Wis.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Burlington Municipal Airport (latitude 42°41'20" N., longitude 88°18'05" W.); and within 3 miles each side of the 101° bearing from the Burlington Municipal Airport extending from the 6½-mile radius area to 8 miles east of the airport.

Burnet, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Burnet Municipal Kate Craddock Field (lat. 30°44'34"N., long. 98°14'24"W.) and within 3 miles each side of the 200° bearing of the Burnet NDB (lat. 30°44'24"N., long. 98°14'10"W.), extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 9/4/80 45 F. R. 41908 (Rewritten)

Burns, Oreg.

That airspace extending upward from 700 feet above the surface within 12.5 miles northeast and 11.5 miles southwest of the 141° and 321° radials of the Wildhorse VOR (Burns, Oreg.), extending from 11 miles southeast to 10.5 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 12.5 miles northeast and 11.5 miles southwest of the 141° and 321° radials of the Wildhorse VOR (Burns, Oreg.), extending from 23 miles southeast to 10.5 miles northwest of the VOR.

AMENDMENTS 3/20/80 45 F. R. 11465 (Added)

Burwell, Nebr.

That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Burwell Municipal Airport (latitude 41°46'35" N., longitude 99°08'55" W.); and within 3 miles each side of the 330° bearing from the Burwell Municipal Airport, extending from the 7½-mile radius area to 8 miles northwest of the airport.

Butler, Ala.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Butler-Choctaw County Airport (lat. 32°07'06"N., long. 88°07'42"W.).

Butler, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Butler Memorial Airport (latitude 38°17'20" N., longitude 94°20'25" W.); and within 2 miles each side of the Butler, Mo., VORTAC 079° radial, extending from the 5-mile radius area to the VORTAC.

Butler, Pa.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, lat. 40°46'45" N., long. 79°57'15" W. of Butler-Graham Airport, Butler, Pa., and within 3.5 miles each side of the 181° bearing from the Butler RBN, lat. 40°41'54" N., long. 79°57'14" W., extending from the 7.5-mile radius area to 11.5 miles south of the RBN.

Butte, Mont.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Butte VORTAC and within 6 miles southwest and 10 miles northeast of the VORTAC 325° radial, extending from the VORTAC to 11 miles northwest of the VORTAC;

and the airspace extending upward from 1,200 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the VORTAC 325° radial extending from the VORTAC to 18.5 miles northwest of the VORTAC, and within 4.5 miles west and 9.5 miles east of the VORTAC 002° radial extending from the VORTAC to 18.5 miles north of the VORTAC, and within 10 miles north and 7 miles south of the Whitehall, Mont., VOR 096° and 276° radials, extending from 20 miles east to 19 miles west of the VOR, and within an area bounded by a line beginning at lat. 46°25'00"N., long. 112°48'00"W., to lat. 46°27'00"N., long. 112°31'00"W.; to lat. 45°49'00"N., long. 112°22'00"W.; to lat. 45°47'00"N., long. 112°39'00"W., thence to point of beginning.

Cabool, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cabool Memorial Airport (lat. 37°07'59"N., long. 92°05'00"W.), and within 3 miles each side of the NDB 032° bearing extending from the 5-mile radius area to 8.5 miles NE of the NDB, and within 3 miles each side of the NDB 209° bearing; extending from the 5-mile radius area to 8.5 miles SW of the NDB, and within 3 miles each side of the Maples, Mo., VORTAC, 205° radial, extending from the 5-mile radius area to 6.5 miles NE of the Cabool Memorial Airport.

AMENDMENTS 7/10/80 45 F. R. 29009 (Added)

Cadillac, Mich.

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of the Wexford County Airport, Cadillac, Mich., (lat. 44°16'30"N., long. 85°25'30"W.).

AMENDMENTS 7/10/80 45 F. R. 36057 (Rewritten)

Cadiz, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Harrison County Airport (latitude 40°14'18" N., longitude 81°00'45" W.); within 3 miles each side of the 311° bearing from the airport, extending from the 7-mile radius area to 8 miles northwest of the airport.

Cairo, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Cairo-Grady County Airport (lat. 30°53'19"N., long. 84°09'22"W.); within 3 miles each side of the 317° bearing from the Caidy RBN (lat. 30°53'17"N., long. 84°09'34"W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Cairo, Ill.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Cairo Airport (lat. 37°03'50"N., long. 89°13'15"W.); and within 3 miles each side of the 032° bearing from the airport extending from the 5½-mile radius to 8 miles northeast of the airport.

Caledonia, Minn.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Houston County Airport (lat. 43°35'48"N., long. 91°30'15"W.) and within 2 miles each side of the 185° true radial of the Nodine VORTAC extending from the 5-mile radius to 6 miles north of the airport and within 3 miles either side of 133° true bearing of the Caledonia NDB extending from the 5-mile radius to 8.5 miles southeast of the airport, excluding that portion which has been previously designated for the LaCrosse, Wisc., airport.

Calverton, N. Y.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 40°54'55"N., long. 72°47'43"W., of Peconic River Plant (Grumman)Airport, Calverton, N. Y.

Cambridge, Md.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°32'16"N., long. 76°01'47"W., of Cambridge-Dorchester Municipal Airport, Cambridge, Md.; and within 3 miles each side of the 145° bearing from the Cambridge, Md., RBN lat. 38°32'17"N., long. 76°01'56"W., extending from the 6.5-mile radius area to 8.5 miles southeast of the RBN.

AMENDMENTS 5/19/80 45 F. R. 32667 (Changed)

Cambridge, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cambridge Municipal Airport (latitude 45°33'35" N., longitude 93°15'49" W.); and within 3 miles each side of the 173° bearing from the airport, extending from the 5-mile radius area to 8 miles south of the airport.

Cambridge, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Cambridge, Nebr., Airport (lat. 40°18'20"N., long. 100°09'43"W.); within 3 miles each side of the Cambridge NDB 165° bearing extending from the 7-mile radius area to 8.5 miles southeast of the airport; within 3 miles each side of the Cambridge NDB 326° bearing extending from the 7-mile radius area to 8.5 miles northwest of the airport.

Cambridge, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cambridge Municipal Airport, Ohio (latitude 39°58'33" N., longitude 81°34'37" W.); and within 3 miles each side of the 214° bearing from the Cambridge Municipal Airport extending from the 5-mile radius to 8 miles southwest.

PENDING AMENDMENT

Cambridge, Ohio

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Cambridge Municipal Airport, Cambridge, Ohio, (lat. 39°58'33"N., long. 81°34'37"W.), and within 5 miles each side of the 030° bearing from the Cambridge, Ohio, NDB extending from the 7.5-mile radius to 13.8 miles northeast of the NDB.

AMENDMENTS 12/25/80 45 F. R. 66002 (Rewritten)

PENDING AMENDMENT

Camden, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Camden Municipal Airport (lat. 31°58'49"N., long. 87°20'13"W.,); within 3 miles each side of the 186° bearing from the Wilcox County RBN (lat. 31°58'49"N., long. 87°20'13"W.); extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

AMENDMENTS 12/4/80 45 F. R. 70853 (Added)

Camden, Ark.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harrell Airport (latitude 33°37'00" N., longitude 92°45'45" W.) and within 2 miles each side of the 012° bearing from the Camden RBN (latitude 33°37'15" N., longitude 92°45'45" W.), extending from the 5-mile radius area to 8 miles north of the RBN and 2.5 miles each side of the El Dorado, Ark., VORTAC (33°15'21.7" N., 92°44'37.6" W.) 356° radial extending from the 5-mile radius area to 20 miles north of the El Dorado VORTAC.

Camden, S. C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Woodward Field (latitude 34°17'03" N., longitude 80°33'53" W.); within 3 miles each side of the 040° bearing from Camden RBN (latitude 34°17'02" N., longitude 80°33'42.5" W.), extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

Camden, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Benton County Airport (lat. 36°00'40"N., long. 88°07'24"W.).

Cameron, Ariz.

That airspace extending upward from 1,200 feet above the surface within a three-mile radius of Humphreys Peak (lat. 35°21'00" N., long. 111°40'25" W.), and that airspace extending upward from 11,700 feet mean sea level (MSL) bounded by a line beginning at lat. 34°52'20"N., long. 112°00'00"W., to lat. 35°26'00"N., long. 112°00'00"W., to lat. 35°58'00"N., long. 111°43'30"W., to lat. 36°06'30"N., long. 111°00'00"W., to lat. 35°56'00"N., long. 110°21'00"W., thence south via long. 110°21'00"W., to the northwest edge of V-95, thence southwest via the northwest edges of V-95 and V-12 to point of beginning excluding that portion within the 1,200 foot area of Humphreys Peak.

Cameron, La.
That airspace extending upward from 700 feet above the surface within 2.5 miles each side of the 197° radial of the Lake Charles VORTAC extending 3.5 miles north and 2 miles south of lat. 29°46'31.4"N., long. 93°14'03.4"W.

AMENDMENTS 9/4/80 45 F. R. 46348 (Added)

Camilla, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Camilla-Mitchell County Airport (lat. 31°12'45"N., long. 84°14'20"W.); within 3 miles each side of the 253° bearing from the Camilla RBN (lat. 31°12'52"N., long. 84°14'13"W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Campbellsville, Ky.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Taylor County Airport (lat. 37°21'05"N., long. 85°18'45"W.); within 3 miles each side of the 211° bearing from the Arista RBN (lat. 37°21'19"N., long. 85°18'54"W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the NDB.

AMENDMENTS 7/15/80 45 F. R. 41401 (Changed)

Camp Douglas, Wis.
That airspace extending upward from 700 feet above the surface, within a 10-mile radius of Volk Field, Camp Douglas, Wis. (latitude 43°56'25" N., longitude 90°15'20" W.), and within 2 miles each side of the Volk Field VORTAC 092° radial extending from the 10-mile radius to 12 miles E of the VORTAC.

Camp McCoy, Wis.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the McCoy Army Air Field (lat. 43°57'15"N., long. 90°44'15"W.); excluding that portion that overlies the La Crosse, Wis., transition area.

Camp Pendleton, Calif.
That airspace extending upward from 700 feet above the surface within 4.5 miles southeast and 3 miles northwest of the Camp Pendleton TACAN (latitude 33°18'04" N., longitude 117°21'06" W.) 041° radial, extending from the TACAN to 18 miles northeast of the TACAN.

Camp Ripley, Minn.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Ray S. Miller Army Air Field (latitude 46°05'00" N., longitude 94°21'10" W.).

Canadian, Tex.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hemphill County Airport, Canadian, Tex. (lat. 35°53'42"N., long. 100°24'13"W.), and within 3 miles each side of the 056° and 218° bearings to the NDB (lat. 35°53'28"N., long. 100°24'18"W.), extending from the NDB to 8.5 miles southwest and northeast.

AMENDMENTS 3/20/80 45 F. R. 3885 (Rewritten)

Cape Girardeau, Mo.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Cape Girardeau Municipal Airport (latitude 37°13'31" N., longitude 89°34'15" W.); within 4.5 miles east and 9.5 miles west of the Cape Girardeau VOR 194° radial, extending from the 10-mile radius area to 18.5 miles south of the VOR, excluding the portion which overlies the Sikeston transition area.

Cape Hatteras, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Billy Mitchell Airport (latitude 35°14'00" N., longitude 75°37'05" W.); excluding the portion outside the continental limits of the United States.

Carlsbad, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Cavern City Air Terminal (lat. 32°20'14"N., long. 104°15'46"W.) and within 3.5 miles each side of the Carlsbad VOR 156° radial extending from the 8.5-mile-radius area to 11 miles southeast of the VOR.

Carmi, Ill.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Carmi Municipal Airport (latitude 38°06'00" N., longitude 88°09'00" W.); and within 3 miles either side of the 177° bearing from the airport extending from the 5.5-mile radius area to 8 miles from the airport.

Caro, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Caro Airport (lat. 43°27'45"N., long. 83°26'30"W.).

Carriso Springs, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Dimmit County Airport (latitude 28°31'25" N., longitude 99°49'30" W.) and within 3 miles each side of the 124° bearing from the NDB (latitude 28°31'19" N., longitude 99°49'38" W.) extending from the NDB to 8.5 miles southeast.

Carroll, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Arthur N. Neu Airport (latitude 42°02'50" N., longitude 94°47'20" W.); and within 3 miles each side of the 143° bearing from Arthur N. Neu Airport, extending from the 6½-mile radius area to 8 miles southeast of the airport.

Carrollton, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of West Georgia Regional Airport (latitude 33°37'47" N., longitude 85°09'13" W.); within 3 miles each side of the 169° bearing from Carrollton RBN (latitude 33°38'02" N., longitude 85°09'13" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Carrollton, Ohio

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Carroll County-Tolson Airport (latitude 40°33'45" N., longitude 81°04'30" W.).

Cartersville, Ga.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cartersville Airport (latitude 34°07'30" N., longitude 84°51'00" W.).

rthage, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Panola County Airport atitude 32°10'21" N., longitude 94°17'51" W.) and within 3 miles each side of the Gregg County VORTAC atitude 32°25'03.3" N., longitude 94°45'10.5" W.) 122° radial, extending from the 5-mile radius area to 25 les southeast of the Gregg County VORTAC.

sey, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Casey Municipal irport (latitude 39°18'00" N., longitude 88°00'15" W.); and within 3 miles each side of the 211° bearing from e airport extending from the 5-mile radius area to 8 miles southwest of the airport.

sper, Wyo.

That airspace extending upward from 700 feet above the surface within a 27 mile radius of the Casper ASR (latitude 42°55'17"N., longitude 106°27'14"W.); and that airspace extending upward from 1200 feet above the surface within a 43 mile radius of the Casper ASR; within an area extending from the 43 mile radius circle to an arc of a 42 mile radius circle centered on the Casper VORTAC bounded on the north by the Casper VORTAC 060° radial and on the south by the Casper VORTAC 111° radial; and that airspace extending upward from 11,500 feet MSL, extending from the 43 mile radius circle to an arc of a 60 mile radius circle centered on the Casper VORTAC, bounded on the east by the west edge of V19 and on the south by the north edge of V298.

Cassville, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cassville Municipal Airport (lat. 36°41'46"N., long. 93°53'56"W.); and within 2.5 miles each side of the Neosho VORTAC 108° radial, extending from the 5-mile radius area to 25 miles east of the VORTAC.

Castroville, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Castroville Municipal Airport (lat. 29°20'32"N., long. 98°51'03"W.), within 3.5 miles each side of the 170° bearing from the airport extending from the 6.5-mile radius to 11.5 miles south of the airport.

ENDMENTS 7/10/80 45 F. R. 45266 (Rewritten)

Cedar City, Utah

Thar airspace extending upward from 1,200 feet above the surface within 8 miles E and 10 miles W of the Cedar City VOR 184° and 004° radials extending from 8 miles S to 20 miles N of the VOR.

Cedar Rapids, Iowa

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cedar Rapids Municipal Airport (latitude 41°53'05" N., longitude 91°42'35" W.); within 4½ miles north and 9½ miles south of the Cedar Rapids ILS localizer west course, extending from the OM to 18½ miles west of the OM; and within 4½ miles north and 9½ miles south of the Cedar Rapids VORTAC 264° radial, extending from the VORTAC to 18½ miles west of the VORTAC.

Cedar Springs, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Great Southern Airport (latitude 31°08'25" N., longitude 85°02'48" W.); within 2.5 miles each side of the Dothan VORTAC 115° radial, extending from the 6.5-mile radius area to 17 miles east of the VORTAC.

Cedartown, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cornelius Moore Field (lat. 34°01'20" N., long. 85°08'50" W.); within 3 miles each side of Rome, Ga., VOR 009° and 189° radials, extending from the 8.5-mile radius area to 8.5 miles north of the VOR; excluding the portion within Rome, Ga., transition area.

Celina, Ohio

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Lakefield Airport (latitude 40°29'03" N., longitude 84°33'37" W.); excluding that portion overlying the Wapakoneta, Ohio, transition area.

Center, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Center Municipal Airport, Center, Tex. (lat. 31°50'00"N., long. 94°09'00"W.), and within 3.5 miles each side of the 321° bearing from the NDB (lat. 31°50'10"N., long. 94°08'59"W.), extending from the 6-mile radius area to 8.5 miles northwest of the NDB.

AMENDMENTS 1/24/80 44 F. R. 67371 (Added)

Centerville, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Centerville Municipal Airport (latitude 35°50'15" N., longitude 87°26'45" W.); within 3 miles each side of Graham, Tenn., VOR 177° radial, extending from the 5.5-mile radius area to 8.5 miles south of the VOR.

Centralia, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Centralia Municipal Airport (latitude 38°30'40" N., longitude 89°05'35" W.); and within 2 miles each side of the Centralia VOR 031° radial, extending from the 5-mile radius area to the VOR.

Centre, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Centre Municipal Airport (latitude 34°09'40" N., longitude 85°38'05" W.).

Chadron, Nebr.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Chadron Municipal Airport (latitude 42°50'00" N., longitude 103°05'50" W.), and within 5 miles each side of the Chadron VOR 030° radial, extending from the 14-mile radius area to the VOR.

Chambersburg, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 39°58'23"N., 77°38'37"W. of Chambersburg Municipal Airport, Chambersburg, Pa.; within an 8-mile radius of the center of the airport, extending clockwise from a 039° bearing from the airport to a 061° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 061° bearing from the airport to a 135° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 135° bearing from the airport to a 174° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 174° bearing from the airport to a 241° bearing from the airport; within 4 miles each side of the St. Thomas VORTAC 080° radial, extending from the 6.5-mile radius area to 29 miles east of the VORTAC.

Champaign, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the University of Illinois-Willard Airport (latitude 40°02'25" N., longitude 88°16'35" W.); within a 5½-mile radius of the Illinois Airport, Urbana, Ill. (latitude 40°08'31" N., longitude 88°12'00" W.) and within 8 miles southeast and 5 miles northwest of the Champaign VORTAC 030° radial extending from the VORTAC to 12 miles northeast of the VORTAC.

Chantilly, Va.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 38°56'40" N., 77°27'24" W., of Dulles International Airport, within 3 miles each side of the Armel, Va., VORTAC 292° radial, extending from the VORTAC to 20 miles west; within 5 miles west and 6.5 miles east of the Dulles International Airport Runway 19R ILS localizer course, extending from the OM to 13 miles north; within 6.5 miles east and 4.5 miles west of the Dulles International Airport Runway 19L ILS localizer course extending from 5.5 miles south of the OM to 11.5 miles north of the OM; within 5 miles each side of the Martinsburg, W. Va. VORTAC 176° radial, extending from 15 miles south of the VORTAC to 28.5 miles south of the VORTAC; within 6.5 miles west and 4.5 miles east of the Dulles International Airport Runway 1R localizer course, extending from the OM to 11.5 miles south; within an 8-mile radius of the center of Leesburg Municipal Airport (Godfrey Field), Leesburg, Va., 39°04'37" N., 77°33'25" W.; within a 6.5-mile radius of the center, 38°43'30" N., 77°31'00" W., of Manassas Municipal Airport (Harry P. Davis Field), Manassas, Va., within 2.5 miles each side of a 330° bearing from a point 38°43'36" N., 77°31'17" W., extending from said point to 9.5 miles northwest.

Chanute, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Chanute Martin Johnson Airport (latitude 37°40'05" N., longitude 95°29'10" W.).

Chappell, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Chappell Municipal Airport, Chappell, Nebr., (lat. 41°04'37"N., long. 102°27'47"W.) with an extension within 2.5 nautical miles each side of the true course 121 (magnetic 132) outbound from the Chappell NDB (lat. 41°04'36"N., long. 102°27'29"W.) extending from the 7-mile radius area to 8.5 miles southeast of the NDB facility. That airspace extending upward from 1,200 feet above the surface bounded on the west by V-169, on the north and east by the Nebraska/Colorado state lines, and on the south by V-80/V-8N.

AMENDMENTS 7/10/80 45 F. R. 24456 (Added)

Chariton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chariton Municipal Airport (latitude 41°01'00" N., longitude 93°21'30" W.); and within 3 miles each side of the 352° bearing from the Chariton Municipal Airport extending from the 5-mile-radius area to 8 miles north of the airport.

Charles City, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Charles City Municipal Airport (latitude 43°04'15" N., longitude 92°36'15" W.); and within 3 miles each side of the 311° bearing from Charles City Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

Charleston, Mo.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mississippi County Airport (latitude 36°50'22" N., longitude 89°21'42" W.); and within 3 miles each side of the 188° bearing from Charleston RBN (latitude 36°50'42" N., longitude 89°21'24" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN, excluding that portion overlying the Sikeston transition area.

Charleston, S. C.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Charleston AFB/Municipal Airport (latitude 32°53'55" N., longitude 80°02'20" W.); within 3.5 miles each side of Charleston VORTAC 018°, 211°, and 332° radials, extending from the 9-mile radius area to 11.5 miles north; southwest and northwest of the VORTAC; within 3.5 miles each side of Charleston VORTAC 135° radial, extending from the 9-mile radius area to 10.5 miles southeast of the VORTAC; within a 6.5-mile radius of Johns Island Airport (lat. 32°42'00" N., long. 80°00'00" W.); within 3 miles each side of the 278° bearing from Johns Island RBN (lat. 32°42'09" N., long. 80°00'10" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Charleston, W. Va.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, lat. 38°22'22"N., long. 81°35'35"W., of Kanawha Airport, Charleston, W. Va.; within 6.5 miles southwest and 5 miles northeast of a line bearing 321° from a point lat. 38°26'25" N., long. 81°30'50" W., extending from said point to 11.5 miles northwest; within 6.5 miles northeast and 5 miles southwest of a line bearing 141° from a point lat. 38°17'12" N., long. 81°30'30" W., extending from said point to 11.5 miles southeast; and within 8 miles northwest and 5 miles southeast of the Kanawha Airport ILS localizer northeast course, extending from the 14-mile radius area to 13 miles northeast of the OM.

Charlevoix, Mich.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Charlevoix Municipal Airport (latitude 45°18'17" N., longitude 85°16'06" W.) and within 3 miles each side of the 270° bearing from Charlevoix Municipal Airport, extending from the 5½-mile radius area to 8 miles west of the airport, and within 3 miles each side of the 69° bearing from Charlevoix Municipal Airport, extending from the 5½-mile radius area to 8 miles east of the airport.

Charlotte, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Fitch H. Beach Airport (latitude 42°34'30" N., longitude 84°48'45" W.); and within 2 miles each side of the Lansing, Mich., VOR 209° radial, extending from the 6-mile radius area to the VOR, excluding the portion which overlies the Lansing, Mich., 700-foot floor transition area.

Charlotte, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Douglas Municipal Airport (latitude 35°12'53" N., longitude 80°56'18" W.); within 3 miles each side of Charlotte VORTAC 058° radial, extending from the 8.5-mile radius area to 14 miles northeast of the VORTAC; within 9.5 miles west and 4.5 miles east of Charlotte VORTAC 171° radial, extending from the 5.5 NM DME Fix to 24 miles south of the VORTAC; within 9.5 miles northwest and 4.5 miles southeast of Charlotte VORTAC 223° radial, extending from the 5.5 NM DME Fix to 24 miles southwest of the VORTAC; within 9.5 miles northwest and 4.5 miles southeast of Charlotte ILS localizer southwest course, extending from the LOM to 18.5 miles southwest; within a 6.5-mile radius of Gastonia Municipal Airport, N. C. (latitude 35°12'00" N., longitude 81°09'05" W.); within a 6.5-mile radius of Rock Hill Municipal Airport, S. C. (latitude 34°59'05" N., longitude 81°03'30" W.); within a 7-mile radius of Jaars-Townsend Airport, Waxhaw, N. C. (latitude 34°51'50"N., longitude 80°44'50" W.); excluding the portion within Lancaster, S. C., transition area.

Charlotte Amalie, St. Thomas, V. I. (Harry S. Truman Airport)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Harry S. Truman Airport (lat. 18°20'26" N., long. 64°58'11" W.); that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Harry S. Truman Airport; within 9.5 miles west and 4.5 miles east of St. Thomas VOR 358° radial, extending from the 15-mile radius area to 18.5 miles north of the VOR.

Charlottesville, Va.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 38°08'25"N., long. 78°27'09"W., of Charlottesville-Albermarle Airport, Charlottesville, Va., extending clockwise from a 340° bearing to a 072° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 072° bearing to a 166° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 166° bearing to a 233° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 233° bearing to a 280° bearing from the airport; within a 19.5-mile radius of the center of the airport, extending clockwise from a 280° bearing to a 340° bearing from the airport and within 4.5 miles each side of the Charlottesville-Albermarle Airport ILS localizer southwest course, extending from the 13-mile radius arc to 11 miles southwest of the Azalea Park RBN.

Chase City, Va.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center of Chase City Municipal Airport, Chase City, Va. (lat. 36°47'18" N., long. 78°30'05" W.); and within 3 miles each side of a 179° bearing from the Chase City, Va., radio beacon (lat. 36°47'21" N., long. 78°30'05" W.), extending from the 5.5-mile radius area to 8 miles south of the radio beacon.

Chattanooga, Tenn.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Lovell Field (latitude 35°02'05" N., longitude 85°12'10" W.), extending clockwise from the 030° to the 210° bearing from Lovell Field; within a 19-mile radius of Lovell Field, extending clockwise from the 210° to the 030° bearing from Lovell Field; within 4.5 miles west and 9.5 miles east of the south ILS localizer course extending from the 19- and 15-mile radius areas to 18.5 miles south of the OM; within a 6.5-mile radius of Hardwick Field, Cleveland, Tenn. (lat. 35°13'20"N., long. 84°49'58"W.); within 3 miles each side of the 224° bearing from Hardwick RBN (lat. 35°09'13"N., long. 84°54'21"W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Cheraw, S. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cheraw Municipal Airport (latitude 34°42'45" N., longitude 79°57'35" W.); within 2 miles each side of the Chesterfield VOR 077° radial extending from the 5-mile radius area to the VOR; within 2 miles each side of the 251° bearing from the Cheraw RBN (lat. 34°44'47" N., long. 79°50'40" W.), extending from the 5-mile radius area to the RBN.

Cherokee, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Cherokee Municipal Airport (lat. 42°43'55"N., long. 95°33'22"W.), and within 3 miles each side of the 206° true bearing from the Cherokee NDB (lat. 42°43'55"N., long. 95°33'10"W.), extending from the 6½-mile radius area to 8½ miles southwest of the NDB.

Cherokee Village, Ark.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cherokee Village Airport (latitude 36°15'49" N., longitude 91°33'55" W.), within 3.5 miles each side of the 223° bearing from the Cherokee Village RBN (latitude 36°15'55" N., longitude 91°33'45" W.) extending from the 8-mile radius area to 11 miles southwest of the RBN.

Cherry Point MCAS, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cherry Point MCAS (latitude 34°54'30" N., longitude 76°53'00" W.); excluding the portion within the New Bern, N. C., transition areas.

Chesapeake, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 36°39'48"N., 76°19'23"W., of Chesapeake Municipal Airport, Chesapeake, Va.

Chester, Conn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center. 41°23'01" N., 72°30'20" W. of Chester Airport, Chester, Conn., and within 2 miles each side of the Madison VOR 062° radial extending from the 5-mile radius to the VOR.

Chester, S. C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Chester Municipal Airport (lat. 34°47'18"N., long. 81°11'45"W.) and within 3 miles each side of the 353° bearing from the Chester RBN (lat. 34°46'56"N., long. 81°11'48"W.), from the 7-mile radius area to 8.5 miles north of the RBN.

Chesterfield, Mo.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Spirit of St. Louis Airport (lat. 38°39'35"N., long. 90°38'45"W.); within 3 miles each side of the Foristell, Mo., VORTAC 093° radial; extending from the 9-mile radius area to 9½ miles west of the Spirit of St. Louis Airport, excluding the portion which overlies the St. Louis, Mo., 700 foot floor transition area.

Chesterfield, Va.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 37°24'25"N., 77°31'18"W., of Chesterfield County Airport, Chesterfield, Va.; within 3 miles each side of the Flat Rock, Va., VORTAC 116° radial, extending from the 5.5-mile radius area to 10 miles southeast of the VORTAC; within 1.5 miles each side of a 321° bearing from the Happy Hill, Va., RBN (37°20'00"N., 77°27'15"W.) extending from the 5.5-mile radius area to 0.5 mile northwest of the RBN.

Cheyenne, Wyo.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Cheyenne Municipal Airport (latitude 41°09'20" N., longitude 104°48'30" W.), and within 6 miles southeast and 8 miles northwest of the Cheyenne VORTAC 029° radial, extending from the 14-mile radius area to 14 miles northeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the NE by V-6, on the SE by V-207, on the SW by V-4N and on the NW by V-524, and that airspace NW of Cheyenne within 7 miles NE and 10 miles SW of the Cheyenne VORTAC 305° radial, extending from the VORTAC to 47 miles NW of the VORTAC, excluding the portions within the Laramie, Wyo. transition area.

Chicago, Ill.

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 42°29'00" N., longitude 88°30'00" W., to latitude 42°29'00" N., longitude 88°03'00" W., to latitude 42°40'00" N., longitude 88°03'00" W., to latitude 42°43'00" N., longitude 87°57'00" W., to latitude 42°30'00" N., longitude 87°35'00" W., to latitude 41°55'00" N., longitude 87°19'00" W., to latitude 41°38'00" N., longitude 87°19'00" W., to latitude 41°33'00" N., longitude 87°10'00" W., to latitude 41°28'00" N., longitude 87°14'00" W., to latitude 41°22'00" N., longitude 87°40'00" W., to latitude 41°22'00" N., longitude 88°30'00" W., to latitude 41°41'00" N., longitude 88°30'00" W., to latitude 41°53'00" N., longitude 88°50'00" W., to latitude 42°01'00" N., longitude 88°50'00" W., to latitude 42°01'00" N., longitude 88°40'00" W., to latitude 42°15'00" N., longitude 88°40'00" W., to latitude 42°15'00" N., longitude 88°25'00" W., to latitude 42°21'00" N., longitude 88°30'00" W., to point of beginning.

Chickasha, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Chickasha Municipal Airport (lat. 35°05'44"N., long. 97°58'09"W.), and within 3 miles each side of the 205° radial of the Oklahoma City VORTAC (lat. 35°26'32"N., long. 97°46'20.6"W.), extending from the 6.5-mile radius area to 9 miles northeast of the Chickasha Municipal Airport, and within 2.5 miles each side of the runway centerline extended 179° bearing from the 6.5-mile radius and to 7.5 miles south of the Chickasha Municipal Airport.

AMENDMENTS 9/4/80 45 F. R. 40572 (Added)

Chico, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chico Municipal Airport (latitude 39°47'45" N., longitude 121°51'25" W.) and within 2 miles each side of the Chico VOR 316° radial, extending from the 5-mile radius area to 8 miles northwest of the VOR, and that airspace within 2 miles each side of the Chico VOR 165° radial extending from the 5-mile radius area to 12 miles south of the VOR, excluding the portion within a 1-mile radius of the Ranchero Airport (latitude 39°43'10" N., longitude 121°52'10" W.

Chicopee Falls, Mass.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 42°11'40"N., long. 72°32'15"W., of Westover AFB, Chicopee Falls, Mass.; within 7 miles each side of the Westover AFB, Mass., ILS localizer NE course extending from the 12-mile radius to 19 miles NE of the Westover TACAN and within a 10-mile radius of the center, lat. 42°09'25"N., long. 72°42'50"W., of Barnes Municipal Airport, Westfield, Mass., and within that airspace bounded by a line beginning at lat. 42°11'50"N., long. 72°54'10"W.; to lat. 42°32'20"N., long. 72°49'20"W.; to lat. 42°30'00"N., long. 72°32'00"W.; to lat. 42°24'45"N., long. 72°34'00"W.; to lat. 42°24'50"N., long. 72°33'25"W.; to lat. 42°22'00"N., long. 72°34'00"W.; thence to the point of beginning within a 6.5-mile radius of the center, lat. 42°19'45"N., long. 72°37'00"W., of LaFleur Airport, Northampton, Mass.; within 3.5 miles each side of the Chester, Mass., VOR 082° radial, extending from the 6.5-mile radius area to the Chester, Mass., VOR, excluding the portion which coincides with the Hartford, Conn., transition area.

AMENDMENTS 3/21/80 45 F. R. 13054 (Changed)
AMENDMENTS 6/26/80 45 F. R. 43159 (Rewritten)

Childress, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Childress Municipal Airport (lat. 34°25'55"N., long. 100°17'45"W.).

Chillicothe, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chillicothe Municipal Airport (latitude 39°46'45" N., longitude 93°30'00" W.); and within 3 miles either side of the 337° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles northwest, and that airspace extending upward from 1,200 feet above the surface 5 miles southwest and 9.5 miles northeast of the 337° bearing from the Chillicothe MHW faciltiy extending from 6.5 miles southeast to 18.5 miles northwest of the Chillicothe MHW facility, excluding that portion which overlies the Trenton, Mo., transition area.

China Lake NAF, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the NAF China Lake TACAN 350° radial extending from 8 miles to 12 miles N of the TACAN and within 2 miles each side of the NAF China Lake TACAN 148° radial extending from 8 miles to 11 miles SE of the TACAN.

Chincoteague, Va.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of NASA Wallops Station Airport, Chincoteague, Va. (latitude 37°56'15" N., longitude 75°28'15" W.).

Christiansted, St. Croix, V. I.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Alexander Hamilton Airport (lat. 17°42'13" N., long. 64°47'54" W.); within 3 miles each side of St. Croix VOR 068° radial, extending from the 8.5-mile radius area to 8.5 miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Alexander Hamilton Airport; within 9.5 miles north and 4.5 miles south of the St. Croix VOR 068° radial, extending from the 15-mile radius area to 18.5 miles east of the VOR; within 9.5 miles south and 4.5 miles north of the ILS localizer west course, extending from the 15-mile radius area to 18.5 miles west of the LOM.

Cincinnati, Ohio

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Greater Cincinnati Airport (lat. 39°02'56" N., long. 84°39'41" W.); within 9.5 miles east and 4.5 miles west of Runway 36 ILS localizer south course, extending from the 11.5-mile radius area to 18.5 miles south of the LOM; within 3 miles each side of Runway 9R ILS localizer west course, extending from the 11.5-mile radius area to 8.5 miles west of Burlington RBN; within a 12-mile radius of Cincinnati Municipal-Lunken Field Airport (lat. 39°06'14" N., long. 84°25'18" W.); within 3 miles each side of the 044° bearing from Lunken RBN, extending from the 12-mile radius area to 8.5 miles northeast of the RBN; within a 5½-mile radius of Clermont County Airport, Batavia, OH, (latitude 39°04'43" N., longitude 84°12'38" W.); within a 5-mile radius of the Blue Ash Airport, Cincinnati, OH, (latitude 39°14'50" N., longitude 84°23'14" W.) and within 3 miles each side of the 046° bearing from the Blue Ash Airport from the 5-mile radius area to 7 miles northeast.

Circleville, Ohio

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Pickaway County Memorial Airport (latitude 39°31'00" N., longitude 82°58'55" W.) excluding the portion which lies within the Lockbourne AFB transition area.

Claremont, N. H.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Claremont Municipal Airport (latitude 43°22'15" N., longitude 72°22'00" W.); within 6.5 miles south and 4.5 miles north of the Claremont NDB (latitude 43°21'50" N., longitude 72°17'37" W.), 097° and 277° bearings from the NDB, extending from 12 miles east to 6 miles west of the NDB, excluding that portion within the Lebanon, N. H., and Springfield, Vt., transition areas.

Clarendon, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Clarendon Municipal Airport (lat. 34°54'34"N., long. 100°52'20"W.), and within 3.5 miles each side of the 209° bearing from the NDB (lat. 34°54'37"N., long. 100°52'03"W.), extending from the 5.5-mile radius area to 11.5 miles southwest of the NDB.

Clarion, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clarion Municipal Airport (lat. 42°44'30"N., long. 93°45'30"W.) and within 3 miles each side of the 311° bearing from the Clarion Municipal Airport, extending from the 5-mile radius to 8.5 miles northwest of the airport.

Clarion, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clarion County Airport (lat. 41°13'38"N., long. 79°26'30"W.).

Clarinda, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clarinda Municipal Airport (latitude 40°43'30" N., longitude 95°01'30" W.); within 3 miles each side of the 169° bearing from the Clarinda Municipal Airport extending from the 5-mile radius to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 169° bearing of the Clarinda Municipal Airport to 18½ miles south of the airport.

Clarksburg, W. Va.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 39°17'44" N., long. 80°13'46" W., of Benedum Airport; within 5 miles each side of the Clarksburg VOR 219° radial, extending from the 8.5-mile radius area to 11.5 miles southwest of the VOR and within 5 miles each side of the Benedum Airport ILS localizer northeast course, extending from the 8.5-mile radius area to 10 miles northeast of the OM.

Clarksdale, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fletcher Field (latitude 34°17'45" N., longitude 90°30'50" W.); within 3 miles each side of the 010° and 163° bearings from the Clarksdale RBN (latitude 34°17'33" N., longitude 90°30'57" W.), extending from the 6.5-mile radius area to 8.5 miles north and south of the RBN.

Clarksville, Ark.

That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of Clarksville Municipal Airport, Clarksville, Ark., (latitude 35°28'15" N., longitude 93°26'00" W.); and within 3.5 statute miles each side of the 136° bearing from Clarksville NDB (latitude 35°28'05" N., longitude 93°25'47" W.), extending from the 7-mile-radius area to 12 statute miles southeast of the NDB.

Clayton, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clayton Municipal Airport (lat. 31°53'00"N., long. 85°29'00"W.)

Clearfield, Pa.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41° 02'57" N., 78°24'53" W., of Clearfiedl-Lawrence Airport, Clearfield, Pa., within a 10-mile radius of the center of the airport, extending clockwise from a 134° bearing to a 238° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 238° bearing to a 057° bearing from the airport.

Clemson, S. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clemson-Oconee County Airport (latitude 34°40'22" N., longitude 82°53'07" W.); within 3 miles each side of the 099° bearing from the Oconee RBN (latitude 34°40'25" N., longitude 82°53'13" W.), extending from the 5-mile radius area to 8.5 miles east of the RBN;
within a 6.5-mile radius of Pickens County Airport (lat. 34°48'55" N., long. 82°41'55" W.); within 3 miles each side of the 229° bearing from Pickens RBN (lat. 34°48'32" N., long. 82°42'06" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion within Anderson transition area.

Cleveland, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Cleveland Municipal Airport (lat. 33°45'30" N., long. 90°45'15" W.); within 3 miles each side of the 355° bearing from Renova RBN (lat. 33°48'25" N., long. 90°45'45" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Cleveland, Ohio

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center (41°24'30" N., 81°51'00" W.), of Cleveland-Hopkins International Airport, Cleveland, Ohio; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 18-R centerline, extended from the 12.5-mile radius area to 14.5 miles south of the end of the runway; within 3 miles each side of the 230° bearing from the Gilbert, Ohio, RBN extending from the 12.5-miles radius area to 5 miles southwest of the RBN; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 28-R centerline, extended from the 12.5-mile radius area to 13 miles west of the end of the runway; within the area bounded by a line beginning at a point on the Cleveland, Ohio, VORTAC 041° radial 20 miles northeast of the VORTAC, thence along a line bearing 052° from this point to its intersection with the arc of a 15-mile radius circle centered on Lost Nation Airport, Willoughby, Ohio (41°41'00" N., 81°23'20" W.), thence clockwise along the arc of the 15-mile radius circle to its intersection with the arc of a 9-mile radius circle centered on Casement Airport, Painesville, Ohio (41°44'05" N., 81°13'25" W.), thence clockwise along the arc of the 9-mile radius circle to its intersection with the arc of a 7.5-mile radius circle centered on Concord Airpark, Painesville, Ohio (41°40'00" N., 81° 12'00" W.), thence clockwise along the arc of the 7.5-mile radius circle to its point of intersection with a line 2 miles east and parallel to the Chardon VORTAC 350° radial, thence south along this parallel line to its point of intersection with the Chardon VORTAC 080° radial, thence west along the Chardon VORTAC 080° radial to the Chardon VORTAC, thence southeast along the Chardon VORTAC 145° radial to a point 2 miles southeast of the VORTAC, thence southwest along a line 2 miles southeast and parallel to the Chardon VORTAC 235° radial commencing at the point of intersection of this parallel line and the Chardon VORTAC 145° radial to the point of intersection with the arc of a 5.5-mile radius circle centered on Chagrin Falls Airport, Chagrin Falls, Ohio (41°25'45" N., 81°19'50" W.), thence clockwise along the arc of the 5.5-mile radius circle to the point of intersection of the 5.5-mile arc with a line bearing 180° from a point 41°25'45" N., 81°19'50" W., thence direct to the intersection of a line bearing 126° from latitude 41°24'35" N., longitude 81°41'25" W., and the arc of a 12.5-mile radius circle centered on the Cleveland-Hopkins International Airport, thence to the point of beginning.

Cleveland, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cleveland Municipal Airport (latitude 30°21'30" N., longitude 95°00'29" W.), and within 2.5 miles each side of the Daisetta, Tex., VORTAC 298° radial extending from the 5-mile radius to 19.6 miles northwest of the VORTAC.

Clifton, Tenn.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hassell Field (lat. 35°23'00" N., long. 87°58'00" W.).

Clinton, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Clinton Municipal Airport (latitude 41°49'55" N., longitude 90°19'45" W.); within 2 miles each side of the Davenport VORTAC 043° radial, extending from the 7-mile radius area to the VORTAC; and within 8 miles southwest and 5 miles northeast of the 324° bearing from Clinton Municipal Airport, extending from the airport to 12 miles northwest of the airport.

Clinton, Mo.

That airspace extending upward from 700 feet above the surface within 5 miles of the Clinton, Missouri, Airport (latitude 38°21'27" N., longitude 93°40'54" W.); within 3 miles each side of the 054° bearing from the Clinton Memorial Airport extending from the 5-mile radius to 8 miles northeast of the airport; and within 3 miles each side of the 217° bearing from the Clintom Memorial Airport extending from the 5-mile radius to 8 miles southwest of the airport.

Clinton, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sampson County Airport (lat. 34°58'48" N., long. 78°21'48" W.); within 3 miles each side of the 247° bearing from Clinton RBN (lat. 34°58'31" N., long. 78°21'48" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Clinton, Okla. (Clinton Municipal Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clinton Municipal Airport (lat. 35°32'15" N., long. 98°56'00" W.), and within 3.5 miles each side of the 171° bearing from the Clinton RBN (lat. 35°32'00" N., long. 98°56'02" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

Clinton, Okla. (Clinton-Sherman Airport)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Clinton-Sherman Airport (latitude 35°20'25" N., longitude 99°12'00" W.), and within 8 miles west and 5 miles east of the extended centerline of Clinton-Sherman Runways 17 and 35 extending from the 8-mile radius area to 20 miles north and 18 miles south of the ends of the runways excluding the portion within the Hobart, Okla., and Elk City, Okla., transition areas.

Clintonville, Wis.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Clintonville Municipal Airport (latitude 44°36'50" N., longitude 88°43'52" W.).

Cloquet, Minn.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Cloquet-Carlton County Airport (latitude 46°42'10" N., longitude 92°30'20" W.); within 3 miles each side of the 355° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius to 8 miles north of the airport; within 3 miles each side of the 175° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius area to 8 miles south of the airport.

Clovis, N. Mex.

That airspace extending upward from 700 feet above the surface within a 23-mile radius of Cannon AFB, Clovis, N. Mex. (lat. 34°23'01" N., long.103°18'58" W.); within 7.5 miles north and 2 miles south of the Texico VORTAC 254° and 074° radials, extending from the 23-mile radius area to 1.5 miles east of the Texico VORTAC; and within 3.5 miles each side of the Portales NDB (lat. 34°10'45" N., long. 103°22'33" W.) 202° bearings extending from the 23-mile radius area to 12 miles south of the NDB.

Coaldale, Nev.

That airspace extending upward from 10,500 feet MSL within 9 miles northeast and 6 miles southwest of the Coaldale VORTAC 146° and 326° radials, extending from 17 miles southeast to 7 miles northwest of the VORTAC.

Coatesville, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 39°58' [illegible]" N., 75°51'44" W., of Chester County, G. O. Carlson Airport, Coatesville, Pa., extending clockwise from a 024° bearing to a 231° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 231° bearing to a 024° bearing from the airport; within 3.5 miles each side of a 282° bearing from the COATY LOM (39°59'32"N., 75°57'06"W.), extending from the 6-mile radius arc to 11.5 miles west of the LOM; within 4.5 miles south and 6.5 miles north of the Modena VORTAC 095° and 275° radials, extending from 11.5 miles east to 5.5 miles west of the VORTAC; within 5 miles each side of the Modena VORTAC 293° radial extending from the VORTAC to 11 miles northwest of the VORTAC, excluding the portion that coincides with the Toughkenamon, Pa., transition area.

Cochise, Ariz.

That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Cochise VOR 096° and 276° radials, extending from 9 miles W to 20 miles E of the VOR.

Cochran, Ga.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cochran Airport (lat. 32°23'45" N., long. 83°16'45" W.); within 2.5 miles each side of Vienna VORTAC 046° radial, extending from the 5-mile radius area to 12.5 miles northeast of the VORTAC.

Cody, Wyo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Cody Municipal Airport, Cody, Wyo. (latitude 44°31'09" N., longitude 109°01'25" W.), within 3 miles each side of the Cody VOR 022° and 202° radials, extending from the 8-mile radius area to 8.5 miles north of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles west and 9.5 miles east of the Cody VOR 022° and 202° radials, extending from 2.5 miles south to 18.5 miles north of the VOR.

Coffeyville, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Coffeyville, Kans., Municipal Airport (lat. 37°05'45"N., long. 95°34'25"W.); and within 3 miles either side of the 163° bearing from the airport extending from 7 miles to 8 miles south of the airport.

Colby, Kans.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Colby Municipal Airport (latitude 39°25'30" N., longitude 101°02'40" W.); and within 3 miles each side of the 017° bearing from Colby Municipal Airport, extending from the 5½-mile radius area to 8 miles north of the airport.

Cold Bay, Alaska

That airspace extending upward from 1,200 feet above the surface within a 16.5-mile radius of the Cold Bay VORTAC, extending clockwise from the 253° radial to the 041° radial; within 7 miles southeast of the Cold Bay VORTAC 041° radial, extending from the VORTAC to 16.5 miles northeast of the VORTAC; within 7 miles south of the Cold Bay VORTAC 253° radial, extending from the VORTAC to 16.5 miles west of the VORTAC; within 5 miles west and 11.5 miles east of the Cold Bay VORTAC 335° radial, extending from the VORTAC to 20 miles north of the VORTAC, and within 8.5 miles west and 5 miles east of the Cold Bay VORTAC 150° radial, extending from 18 to 20 miles south of the VORTAC.

Coldwater, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Branch County Memorial Airport (lat. 41°56'05"N., long. 85°02'55"W.), within 2 miles each side of the Litchfield, Mich., VORTAC 239° radial extending from the 5-mile radius area to 8 miles northeast of the airport, and within 2 miles each side of the 209° bearing from the Branch County Memorial Airport extending from the 5-mile radius area to 8 miles southwest of the airport, and within 2.5 miles each side of Litchfield, Mich., VORTAC 239° radial extending from the 5-mile radius area to 8 miles southwest of the airport.

Coleman, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Coleman Municipal Airport (lat. 31°50'31"N., long. 99°24'13"W.) and within 3.5 miles each side of the 343° bearing from the NDB (lat. 31°50'28"N., long. 99°24'21"W.) extending from the 7-mile radius area to 8.5 miles north of the NDB.

AMENDMENTS 1/24/80 44 F. R. 68450 (Added)

College Station, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Easterwood Field (latitude 30°35'19" N., longitude 96°21'54" W.); within 2 miles each side of the College Station VORTAC 107° radial extending from the 5-mile radius area to 18 miles east of the VORTAC; within 3.5 miles each side of the College Station northwest localizer course extending from the 5-mile radius area to 13 miles northwest of the localizer site (latitude 30°35'59" N., longitude 96°21'48.3" W.); within 1.5 miles each side of the southeast localizer course extending from the 5-mile radius area to 7 miles southeast of the localizer site; within a 5-mile radius of Coulter Field (latitude 30°43'00" N., longitude 96°19'45" W.); within 2 miles each side of the College Station VORTAC 025° radial extending from the 5-mile radius area of Coulter Field to 15 miles northeast of the College Station VORTAC.

Colorado Springs, Colo.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of the City of Colorado Springs Municipal Airport (lat. 38°48'35"N., long. 104°42'20"W.); and within 5 miles west and 8 miles east of the Colorado Springs Runway 17 ILS localizer course extending from the 20-mile radius area to 22.5 miles north of the airport, excluding that portion west of long. 104°52'00"W.; and that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 39°00'00"N., on the east by V-169, on the south by lat. 38°30'00"N., and on the west by long. 105°33'00"W.

AMENDMENTS 1/24/80 44 F. R. 68446 (Rewritten)

Columbia, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Columbia-Marion County Airport (lat. 31°17'45"N., long. 89°48'50"W.)

Columbia, Mo.

That airspace extending upward from 700 feet above the surface and within a 5-mile radius of the E. W. Cotton Woods Memorial Airport (lat. 39°00'15"N., long. 92°17'45"W.); within 1½ miles each side of the Hallsville, Mo., VORTAC 224° radial extending from the 5-mile radius area to the Hallsville, Mo., VORTAC; and within an 8½ mile radius of Columbia Regional Airport (lat. 38°48'49"N., long. 092°13'12"W.); within 2½ miles each side of the Hallsville, Mo., VORTAC 193° radial extending from the 8½-mile radius area to 10 miles south of the VORTAC; excluding the portion which overlies the Jefferson City, Mo., 700 foot floor transition area.

Columbia, S. C.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Columbia Metropolitan Airport (lat. 33°56'25.9" N., long. 81°07'11.2" W); within 9.5 miles southwest and 4.5 miles northeast of Columbia VORTAC 147° radial, extending from the 11-mile radius area to 18.5 miles southeast of the VORTAC; within 9.5 miles south and 4.5 miles north of Columbia ILS localizer west course, extending from the 11-mile radius area to 18.5 miles west of the LOM.

Columbus, Ga.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Columbus Metropolitan Airport (lat. 32°30'55" N., long. 84°56'25" W.); within a 10-mile radius of Lawson AAF (lat. 32°20'20" N., long. 84°50'35" W.); within 1.5 miles each side, expanding in width to 5 miles each side of Columbus ILS localizer northeast course, extending from the intersection of the Columbus VOR 102° radial to 11.5 miles northeast; within 9.5 miles southwest and 4.5 miles northeast of Lawson AAF ILS localizer southeast course, extending from the 10-mile radius area to 12 miles southeast of Louvale RBN; within 9.5 miles southwest and 4.5 miles northeast of Columbus VOR 149° and 329° radials, extending from the 10.5-mile radius area to 18.5 miles northwest of the VOR; within 4 miles each side of Lawson VOR 339° radial, extending from the 10-mile radius area to 20.5 miles north of the VOR.

Columbus, Miss

That airspace extending upward from 700 feet above the surface within a 17.5-mile radius of Columbus AFB latitude 33°38'38" N., longitude 88°26'39" W.); within an 8-mile radius of Monroe County Airport (latitude [illegible]°52'20" N., longitude 88°28'25" W.); within an 8-mile radius of Columbus-Lowndes County Airport (latitude [illegible]3°27'52"N., long. 88°22'50"W.); within 4.5 miles north and 9.5 miles south of the Bigbee VORTAC 281° radial, extending from the VORTAC to 18.5 miles west; within an 8.5-mile radius of Golden Triangle Regional Airport (lat. 33°26'48" N., long. 88°35'30" W.).

Columbus, Nebr.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Columbus Municipal Airport (lat. 41°26'49"N., long. 97°20'31"W.); and within 4.5 miles each side of the 323° bearing from the Columbus Airport extending from the 6.5-mile radius area to 11.5 miles northwest of the airport.

Columbus, Ohio

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 39°59'41" N., long. 82°53'06" W. of Port Columbus International Airport, Columbus, Ohio; within a 14-mile radius of the center, lat. 39°49'00" N., long. 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within an 8-mile radius of the center, lat. 40°19'43" N., long. 82°31'32" W. of Mount Vernon Airport, Mount Vernon, Ohio; within an 8-mile radius of the center, lat. 40°01'29" N., long. 82°27'44" W. of Licking County Airport, Newark, Ohio; within 7-mile radius of the center, lat. 40°04'40" N., long. 83°04'30" W. of Ohio State University Airport, Columbus, Ohio; within the arc of a 25-mile radius circle centered on a point located at lat. 39°59'59" N., long. 82°53'44" W., extending clockwise from the 048° bearing from this point to the 170° bearing from this point and within 3.5 miles each side of the 273° bearing from the Ohio State University RBN, lat. 40°04'47" N., long. 83°04'54" W., extending from the RBN to 11.5 miles west of the RBN; within a 6½-mile radius of Bolton Field (latitude 39° 54'07" N., longitude 83°08'12" W.); within a 9-mile radius of Fairfield County Airport (latitude 39°45'21" N., longitude 82°39'27" W.).

Columbus, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Columbus Airport (latitude 29°43'10" N., longitude 96°33'50" W.).

Colusa, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles E and 3.5 miles W of the Williams, Calif., VORTAC 015° radial, extending from the VORTAC to 11 miles N of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the E by the W edge of V-23, on the S by the N edge of V-200 and on the W by the W edge of V-195.

Commerce, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Commerce Municipal Airport (latitude 33°17'36" N., longitude 95°53'46" W.) and within 2.5 miles each side of the Sulphur Springs, Tex., VORTAC 286° radial extending from the 5-mile radius area to 14.5 miles west of the VORTAC.

Concord, N. H.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 43° 23'00"N., long. 71°11'50"W.; to lat. 43°09'00"N., long. 71°11'50"W.; to lat. 42°58'50"N., long. 71°01'00"W.; to lat. 42°53'00"N., long. 71°11'30"W.; to lat. 42°47'00"N., long. 71°09'00"W.; to lat. 42°38'00"N., long. 71°20'00"W.; to lat. 42°40'00"N., long. 71°35'00"W.; to lat. 42°43'00"N., long. 71°36'00"W.; to lat. 42°45'00"N., long. 71°38'25"W.; to lat. 42°53'30"N., long. 71°57'15"W.; to lat. 43°05'20"N., long. 71°49' 30"W.; to lat. 43°23'00"N., long. 71°49'30"W.; to point of beginning.

AMENDMENTS 7/14/80 45 F. R. 47133 (Rewritten)

Concordia, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Blosser Municipal Airport (lat. 39°32'55"N., long. 97°39'05"W.); and within 3 miles each side of the 346° bearing from Concordia NDB (lat. 39°33'12"N., long. 97°39'03"W.) extending from the 5-mile radius area to the 8-mile radius area to 8 miles northwest of the NDB.

Connecticut

That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of Connecticut.

Connellsville, Pa.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center lat. 39° [illegible]'35" N., long. 79°39'25" W. of Connellsville Airport and within 9.5 miles northwest and 4.5 miles southeast of the 229° bearing from the Connellsville, Pa., RBN lat. 39°57'37"N., long. 79°39'16"W., extending from the RBN to 19.5 miles southwest of the RBN, excluding the portion that coincides with the Morgantown, W. Va., transition area.

Connersville, Ind.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Mettel Airport (latitude 39°42'00" N.; longitude 85°08'00" W.), and within 3 miles each side of the 015° bearing from the Mettel Airport extending from the 6½-mile radius to 8 miles north of the airport; excluding that airspace designated at Richmond, Ind.

Conrad, Mont.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Conrad Airport (latitude 48°10'10" N., longitude 111°58'30" W.); within 3.5 miles each side of the 060° bearing from the Conrad RBN (latitude 48°11'12" N., longitude 111°55'31" W.) extending from the 9-mile radius area to 12 miles northeast of the RBN; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles northwest and 4.5 miles southeast of the 060° bearing from the Conrad RBN extending from the RBN to 18.5 miles northeast of the RBN.

Conway, Ark.

That airspace extending upward from 700 feet above the surface within a 9.5-statute-mile radius of Conway Municipal Airport, Conway, Ark. (lat. 35°04'42"N., long. 92°25'29"W.); and within 3.5 statute miles each side of the 095° bearing from Conway NDB (lat. 35°05'02"N., long. 92°25'36"W.) extending from the 9.5-mile radius area to 11.5 statute miles east of the NDB; excluding that portion which overlies the Little Rock, Ark., transition area.

Conway, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Conway-Horry County Airport (lat. 33°49'13" N., long. 79°07'16" W.); within 3 miles each side of the 296° bearing from Horry RBN (lat. 33°49'54" N., long. 79°07'13" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN; excluding the portion that coincides with the Myrtle Beach transition area.

Cookeville, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport (latitude 36°11'45" N., longitude 85°29'18" W.); within 3 miles each side of the 331° bearing from Cookeville RBN (latitude 36°11'34" N., longitude 85°29'04" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Cordele, Ga.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cordele Airport (latitude 31°58'15" N., longitude 83°46'24" W.).

Cordova, Alaska

That airspace extending upward from 700 feet above the surface within 6 miles northwest and 9.5 miles southeast of the 233° bearing from the Cordova (CDV) NDB extending from the intersection of the 233° bearing from the Cordova (CDV) NDB and Hinchinbrook, Alaska, RBN 106° bearing to 19 miles southwest; that airspace extending upward from 1,200 feet above the surface within 6 miles each side of the Cordova localizer east course extending from the localizer to 40 miles east; and within 5 miles each side of a line extending from the Johnstone Point VORTAC to the Cordova (CDV) NDB.

Corinth, Miss.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Roscoe Turner Airport (lat. 34°54'30" N., long. 88°36'00" W.); within 3 miles each side of the 185° and 346° bearings from Corinth RBN (lat. 34°54'39" N., long. 88°36'04" W.), extending from the 7-mile radius area to 8.5 miles south and north of the RBN.

Corning, Ark.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Corning Municipal Airport, Corning, Ark., lat. 36°24'14"N., long. 90°38'58"W.

Corning, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Corning Municipal Airport (latitude 40°59'30" N., longitude 94°45'40" W.); and within 3 miles each side of the 359° bearing from the Corning Municipal Airport, extending from the 5-mile radius to 8 miles north of the airport.

Corpus Christi, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Corpus Christi International Airport (latitude 27°46'20" N., longitude 97°30'20" W.); within a 9-mile radius of NAS Corpus Christi (latitude 27°41'30" N., longitude 97°17'15" W.); within a 4-mile radius of the Sinton Airport (latitude 28°02'25" N., longitude 97°32'34" W.); within 2 miles each side of the Corpus Christi VORTAC 328° radial, extending from the 4-mile radius area to the VORTAC; within 2 miles each side of the Corpus Christi ILS localizer SE course, extending from the 6-mile radius area to 13 miles SE of the airport; within 2 miles each side of the Corpus Christi ILS localizer NW course, extending from the International Airport 6-mile radius area to 8 miles NW of the OM; within 2 miles each side of the Navy Corpus RBN 135° bearing, extending from the NAS Corpus Christi 9-mile radius area to 8 miles SE of the RBN; and within 2 miles each side of the Navy Corpus TACAN 137° and 139° radials, extending from the NAS Corpus Christi 9-mile radius area to 1[illegible] miles SE of the TACAN.

Corry, Pa.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 41°54'30"N., 79°38'30"W. of Lawrence Airport, Corry, Pa.; within 3 miles each side of the 305° bearing from the Corry RBN (41°54'44"N., 79°38'54"W.), extending from the 5.5-mile radius area to 8.5 miles northwest of the RBN; and within 5 miles each side of the Tidioute, Pa., VORTAC 321° radial, extending from 5.5-mile radius area to the VORTAC.

Corsicana, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Corsicana Municipal Airport (latitude 32°02'00" N., longitude 96°24'00" W.); within 3 miles each side of the Scurry, Tex., VORTAC 186° radial extending from the 5-mile radius area to 24 miles south of the VORTAC and within 3 miles each side of the 155° bearing from the Corsicana, Tex., RBN (latitude 32°02'00" N., longitude 96°24'00" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

Cortez, Colo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Cortez-Montezuma County Airport, Cortez, Colo., (latitude 37°18'15" N., longitude 108°37'35" W.), within 3.5 miles each side of the Cortez VOR 184° and 004° radials extending from the 7-mile radius area to 11.5 miles north of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9.5 miles west of the Cortez VOR 184° and 004° radials, extending from 8 miles south to 19 miles north of the VOR, and within 5 miles northeast of and parallel to the Dove Creek VORTAC 129° radial, extending from the VORTAC to 21 miles southeast of the VORTAC.

Cortland, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 42°[illegible]'30" N., long. 76°13'00" W. of Cortland County Chase Field Airport, Cortland, N. Y., and within 6.8 miles north and 5 miles south of the Georgetown, N. Y., VORTAC 236° radial extending from the 9-mile radius area to the VORTAC.

Corvallis, Oreg.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Corvallis Municipal Airport (lat. 44°29'50"N., long. 123°17'10"W.) within 4.5 miles each side of the Corvallis VOR 029° radial, extending from the 7-mile radius area to 14 miles northeast of the VOR, within 5 miles west of the Corvallis VOR 014° radial, extending from the 7-mile radius area to 15 miles north of the VOR, within 5 miles each side of the Eugene, Oreg., VORTAC 345° radial, extending from 10 to 17 miles north of the VORTAC, and within 5 miles each side of the Corvallis VOR 180° radial, extending from the 7-mile radius area to 11 miles south of the VOR excluding that portion overlying the Eugene, Oreg., Transition Area; that airspace extending upward from 1,200 feet above the surface within 6 miles northwest and 8 miles southeast of the Corvallis VOR 029° and 209° radials, extending from 6 miles southwest to 17 miles northeast of the VOR.

Coshocton, Ohio

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Richard Downing Airport (latitude 40°18'37" N., longitude 81°51'17" W.); and within a 7-mile radius of the Tri-City Airport (latitude 40°15'45" N., longitude 81°44'35" W.).

PENDING AMENDMENT

Coshocton, Ohio

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Richard Downing Airport (lat. 40°18'37"N., long. 81°51'17"W.).

AMENDMENTS 12/25/80 45 F. R. 73649 (Rewritten)

Cotulla, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99°13'05" W.); within 2 miles each side of the Cotulla VOR 266° radial extending from the 5-mile radius area to 14 miles west of the VOR; and within 8 miles north and 5 miles south of the Cotulla VOR 086° and 266° radials extending to 5 miles west and 12 miles east of the VOR.

Covington, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Covington Municipal Airport (latitude 33°37'54" N., longitude 83°51'07" W.); within 5 miles each side of Rex VORTAC 093° radial, extending from the 6.5-mile radius area to 34 miles east of the VORTAC.

Covington, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Covington Municipal Airport (lat. 35°35'15"N., long. 89°35'15"W.); within 3 miles each side of the 186° bearing from Covington RBN (lat. 35°35'22" N., long. 89°35'14" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Cozad, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cozad Municipal Airport (latitude 40°52'23" N., longitude 100°00'19" W.); within 3 miles each side of the Cozad NDB 301° bearing, extending from the 5-mile radius to 8 miles NW of the NDB.

Cranberry Lake, N. Y.

That airspace extending upward from 1,200 feet above the surface beginning at the Saranac Lake, N. Y., VOR, thence southeast via the Saranac Lake VOR 134° radial to its point of intersection with the Burlington, Vt., VORTAC 215° radial; thence southwest along the Burlington, Vt., VORTAC 215° radial to its point of intersection with the Watertown, N. Y., VORTAC 123° radial; thence northwest along the Watertown VORTAC 123° radial to the Watertown VORTAC; thence northeast along the Watertown VORTAC 033° radial to its point of intersection with the Saranac Lake VOR 311° radial; thence southeast along the Saranac Lake VOR 311° radial to Saranac Lake VOR excluding the airspace in Canada.

Crawfordsville, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Crawfordsville Municipal Airport (latitude 39°58'45" N., longitude 86°55'00" W.) and within 3 miles each side of the 217° bearing from the Crawfordsville Municipal Airport extending from the 5-mile radius to 8 miles southwest.

Crescent City, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jack McNamara Field, Crescent City (lat. 41°46'50" N., long. 124°14'00" W.), within 3 miles each side of the Crescent City VORTAC 325° radial, extending from the 5-mile radius area to 9 miles northwest of the VORTAC and within 4 miles each side of the Crescent City VORTAC 180° radial, extending from the 5-mile radius area to 10 miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 10 miles east and 7 miles west of the Crescent City VORTAC 180° and 360° radials, extending from 8 miles north to 20 miles south of the VORTAC, within 5 miles each side of the Crescent City VORTAC 234° radial, extending from the VORTAC to 12 miles southwest of the VORTAC and within 8 miles northeast and 9.5 miles southwest of the Crescent City VORTAC 325° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC and within 9.5 miles southwest and 4.5 miles northeast of the ILS localizer northwest course, extending from the threshold of Runway 11 to 25 miles northwest.

Creston, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Creston Municipal Airport (latitude 41°01'05" N., longitude 94°21'35" W.); and within 3 miles each side of the 171° bearing from Creston Municipal Airport, extending from the 5-mile radius area to 8 miles south of the airport.

Crestview, Fla.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Bob Sikes Airport (lat. 30°46'47" N., long. 86°31'21" W.).

Crete, Nebr.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Crete Municipal Airport (lat. 40°37'30"N., long. 96°55'45"W.) and within 3 miles either side of the 204° true radial of the Lincoln VORTAC (lat. 40°55'25.7"N., long. 96°44'30.2"W.) extending from the 6½-mile radius area to 8½ miles southwest of the airport.

AMENDMENTS 1/24/80 44 F. R. 68449 (Rewritten)

Creve Coeur, Mo.

That airspace extending upward from 700 feet above the surface within 5 miles each side of the St. Louis, Mo., VORTAC 190° radial, extending from 12 miles south to 25½ miles south of the VORTAC, excluding the portions which overlie the Chesterfield, Mo., and St. Louis, Mo., 700-foot floor transition areas.

Crookston, Minn.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Crookston nicipal Kirkwood Field Airport (latitude 47°50'30" N., longitude 96°37'15" W.); within 3 miles each side of he 303° bearing from the airport extending from the 5½-mile radius area to 8 miles northwest of the airport; ithin 3 miles each side of the Grand Forks VORTAC 108° radial extending from the 5½-mile radius area to 7½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 55 mile arc southeast of the Grand Forks VORTAC between V-430 and V-171 excluding the portion which overlies the Grand Forks, N. Dak., transition area.

Crosbyton, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Crosbyton Municipal Airport (lat. 33°37'30"N., long. 101°14'30"W.), and 3.5 miles each side of the 189° bearing from the Crosbyton NDB (lat. 33°37'25"N., long. 101°14'17"W.), extending from the 7-mile radius to 11.5 miles south of the NDB.

Cross City, Fla.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cross City Airport (lat. 29°37'45" N., long. 83°06'15" W.); within 3.5 miles each side of Cross City VORTAC 121° radial, extending from the 8-mile radius area to 7.5 miles southeast of the VORTAC.

rossett, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Crossett Municipal irport (latitude 33°10'30" N., longitude 91°52'45" W.); and within 3 miles each side of the 056° bearing from the Crossett RBN (latitude 33°10'30" N., longitude 91°52'45" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Cross Keys, N. J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°42'09"N., 75°01'48"W., of Cross Keys Airport, Cross Keys, N. J., and within 2 miles each side of the Woodstown, N. J., VORTAC 071° radial, extending from the 5-mile radius to 9 miles east of the Woodstown, N. J., VORTAC.

Crossville, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Crossville Memorial Airport (latitude 35°57'05" N., longitude 85°05'05" W.); within 2 miles each side of the Hinch Mountain VORTAC 334° radial, extending from the 6.5-mile radius area to the VORTAC.

Crownpoint, N. Mex.

That airspace extending upward from 11,500 feet MSL within an area bounded on the north by a line beginning at lat. 35°56'20"N., long. 108°30'00"W., thence to lat. 36°11'00"N., long. 107°45'30"W.; bounded on the east by the west boundary of V-187; bounded on the south by the north boundary of V-62; and bounded on the west by the east boundary of V-421; excluding the portion which coincides with the Gallup, N. Mex., transition area.

Crows Landing, Calif.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Crows Landing ALF (latitude 37°24'35" N., longitude 121°06'40" W.), excluding the portion within a 1-mile radius of Patterson Field, Patterson, Calif., (latitude 37°28'05"N., longitude 121°10'06"W.), and that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 37°38'00" N., on the east by the west edge of V-109, on the southwest by the northeast edge of V-107 and on the west by longitude 121°31'00" W.

Cuba, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cuba Municipal Airport (lat. 38°04'08"N., long. 91°25'42"W.); and within 3 miles each side of the 358° bearing from the Cuba Municipal Airport, extending from the 5-mile radius area to 8½ miles north of the airport; and 3 miles each side of 196° bearing from the Cuba Municipal Airport extending from the 5-mile radius area to 8½ miles south of the airport.

Cullman, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Folsom Field (lat. 34°15'57"N., long. 86°51'35"W.); within 3.5 miles northwest and 6.5 miles southeast of the 016° bearing of the Cole Spring RBN (lat. 34°22'04"N., long. 86°49'26"W.) extending from the 6.5-mile radius to 11.5 miles northeast of the RBN; excluding the portion that coincides with the Huntsville, Ala., transition area.

Cullowhee, N. C.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Jackson County Airport (lat. 35°19'06"N., long. 83°12'43"W.).

Culpeper, Va.

That airspace extending upward from 700 feet above the surface within the arc of a 6.5-mile radius circle centered on Culpeper Municipal T. I. Martin Field (lat. 38°31'20"N., long. 77°51'40"W.) Culpeper, Va., extending clockwise from a 245° bearing to a 090° bearing from the center of the airport; within the arc of a 5.5-mile radius circle centered on Culpeper Municipal T. I. Martin Field, extending clockwise from a 090° bearing to a 245° bearing from the center of the airport and within 2.5 miles each side of the Casanova VORTAC 178° radial, extending from the 6.5-mile radius arc to the VORTAC, excluding the portion that coincides with the Midland, Va., transition area.

Cumberland, Md.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (lat. 39°37'02" N., long. 78°45'45" W.) of Cumberland Municipal Airport, Cumberland, Md.; and within 3.5 miles each side of the 022° bearing from the Cumberland RBN (lat. 39°39'00"N., long. 78°44'48"W.) extending from the 8.5-mile radius area to 11.5 miles north of the RBN; within 3.5 miles each side of the Cumberland Municipal Airport localizer northeast course extending from the 8.5-mile radius area to 18 miles northeast of the localizer.

Cushing, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cushing Municipal Airport (latitude 35°57'00" N., longitude 96°46'30" W.), and within 3.5 miles each side of the 180° bearing from the Cushing RBN (latitude 35°53'24" N., longitude 96°46'30" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

Cut Bank, Mont.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cut Bank Airport (latitude 48°36'41" N., longitude 112°22'45" W.); within 9½ miles northeast and 4½ miles southwest of the Cut Bank VORTAC 150° radial extending from the VORTAC to 18½ miles southeast of the VORTAC; and within a 12-mile radius of the Cut Bank VORTAC extending from a line 5 miles west of and parallel to the Cut Bank VORTAC 172° radial counterclockwise to a line 5 miles northeast of and parallel to the Cut Bank VORTAC 150° radial.

Daggett, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Barstow-Daggett Airport (latitude 34°51'20" N., longitude 116°47'10" W.); within 2 miles each side of the 050° bearing from Barstow-Daggett Airport extending from the 3-mile radius area to 6 miles NE of the airport, and within 2 miles each side of the 090° bearing from the Barstow-Daggett Airport extending from the 3-mile radius area to 6.5 miles E of the airport.

Dalhart, Tex.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Dalhart Municipal Airport (latitude 36°01'10" N., longitude 102°33'10" W.), and within 2 miles each side of the Dalhart VORTAC 002° radial extending from the 9-mile radius area to 12 miles N of the VORTAC.

Dallas-Fort Worth, Tex.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 33°11'00" N., long. 97°27'00" W., thence to lat. 33°11'00" N., long. 97°19'00" W., to lat. 33°26'00" N., long. 97°15'00" W., to lat. 33°26'00" N., long. 97°07'00" W., to lat. 33°19'00" N., long. 97°06'00" W., to lat. 33°19'00"N., long. 96°57'00"W., to lat. 33°08'30"N., long. 96°36'00"W.; to lat. 33°08'30"N., long. 96°25'00"W.; to lat. 33°00'15"N., long. 96°25'15"W.; thence clockwise along the arc of a 5-mile radius circle centered at lat. 32°56'00"N., long. 96°26'00"W.; to lat. 32°51'30"N., long. 96°25'30"W.; to lat. 32°44'00"N., long. 96°26'00"W.; to lat. 32°41'00"N., long. 96°29'30"W.; to lat. 32°37'30"N., long. 96°30'15"W.; to lat. 32°37'45"N., long. 96°32'45"W.; to lat. 32°34'00"N., long. 96°37'00"W.; to lat. 32°29'00"N., long. 96°32'00"W.; to lat. 32°25'00"N., long. 96°38'00"W.; to lat. 32°31'00"N., long. 96°44'00"W.; to lat. 32°29'00"N., long. 97°01'00"W.; to lat. 32°23'00" N., longitude 97°05'00" W.; to latitude 32°16'30" N., longitude 97°25'30" W.; to latitude 32°19'30" N., longitude 97°33'00" W.; thence north along longitude 97°33'00" W. to and clockwise along the arc of a 23-mile radius circle centered at latitude 32°46'20" N., longitude 97°26'30" W.; to latitude 32°55'00" N., to latitude 33°13'00" N., longitude 97°56'00" W.; to latitude 33°15'30" N., longitude 97°49'00" W.; to latitude 33°13'30" N., longitude 97°39'30" W.; thence clockwise along the arc of a 5-mile radius circle centered at latitude 33°15'30" N., longitude 97°34'40" W., to lat. 33°12'00"N., long. 97°31'30"W.; to point of beginning and within a 6.5-mile radius of the McKinney Municipal Airport (lat. 33°10'43"N., long. 96°35'25.5"W.) and within 3 miles either side of the 010° bearing from the NDB (lat. 33°10'43"N., long. 96°35'34.5"W.) extending from the 6.5-mile radius area to 8.5 miles north of the NDB.

AMENDMENTS 1/24/80 44 F. R. 69283 (Changed)

Dalton, Ga.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of Dalton Municipal Airport (lat. 34°43'00"N., long. 84°52'00"W.); within 5.5 miles southwest and 6.5 miles northeast of the 318° bearing from the Whitfield RBN (lat. 34°47'37"N., long. 84°56'53"W.), extending from the 14.5-mile radius area to 8.5 miles northwest of the RBN, excluding that portion that coincides with the Chattanooga, Tenn., transition area.

Danbury, Conn.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center latitude 41°22'15" N., longitude 73°29'00" W. of Danbury Airport, Danbury, Conn., extending clockwise from the 018° bearing from the center of the airport to the 288° bearing and within a 13-mile radius from the 288° bearing clockwise to the 018° bearing and within 3.5 miles each side of the Carmel VORTAC 218° radial extending from the 9-mile radius area to 11.5 miles southwest of the Carmel VORTAC.

Within 2.5 statute miles each side of a 262° magnetic bearing from a point 41°25'05" N., 73°18'45" W., extending from 1 statute mile west of said point to 9 statute miles west of said point; within 2.5 statute miles each side of a 082° magnetic bearing from a point 41°19'22" N., 73°39'19" W., extending from 1 statute mile east of said point to 9 statute miles east of said point, excluding that airspace which coincides with the Bridgeport, Conn., and White Plains, N. Y., 700-foot floor transition areas.

Danbury, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Garrett Ranch Airport, Danbury, Tex. (lat. 29°17'13"N., long. 95°21'34"W.).

AMENDMENTS 1/24/80 44 F. R. 67370 (Added)

Danielson, Conn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°49'10" N., 71°54'05" W., of Danielson Airport, Danielson, Conn.; within 2 miles each side of the runway 13 centerline, extended from the 5-mile radius area to 7.5 miles southeast of the end of the runway; within 2 miles each side of the runway 31 centerline, extended from the 5-mile radius area to 7.5 miles northwest of the end of the runway; and within 3 miles each side of the Putnam VORTAC 197° radial, extending from the 5-mile radius area to 2 miles south of the VORTAC.

Dansville, N. Y.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 42°34'11"N., 77°42'43"W., of Dansville Municipal Airport, Dansville, N. Y.; within a 16-mile radius of the center of the airport, extending clockwise from a 025° bearing from the airport to a 090° bearing from the airport; within 5 miles each side of the Geneseo, N. Y., VORTAC 177° radial, extending from the 10.5-mile radius area to the VORTAC, excluding the portion that coincides with the Hornell, N. Y., 700 foot floor transition area. This transition area is effective from sunrise to sunset daily.

Danville, Ill.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Vermillion County Airport (lat. 40°11'54" N., long. 87°35'49" W.); and within 2 miles each side of the Danville VORTAC 196° radial extending from the 6½-mile radius to the VORTAC.

Danville, Ky.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Goodall Field (lat. 37°34'45"N., long. 84°46'10"W.); within 3.5 miles each side of the 033° bearing from the Goodall RBN (lat. 37°34'35"N., long. 84°45'50"W.) extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

Danville, Va.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 36°34'30" N., long. 79°20'11" W., of Danville Municipal Airport, Danville, Va.; within 3 miles each side of the Danville, Va., VOR 044° radial, extending from the 8-mile radius area to 8.5 miles northeast of the VOR and within 3 miles each side of the Danville, Va., VOR 208° radial, extending from the 8-mile radius area to 8.5 miles southwest of the VOR; within 2.5 miles each side of a 017° bearing from a point 36°34'48" N., 79°20'08" W., extending from the 8-mile radius area to 11.5 miles north of said point.

Darlington, S. C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Darlington County Airport (latitude 34°26'50" N., longitude 79°53'23" W.).

Davis, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of University Airport (latitude 38°31'55" N., longitude 121°47'10" W.).

Dayton, Ohio

That airspace extending upward from 700 feet above the surface bounded by a line beginning at: 39°59'00" N., 83°40'00" W. to 39°55'00" N., 83°37'00" W. to 39°45'00" N., 83°43'00" W. to 39°39'00" N., 84°07'00" W. to 39°45'00" N., 84°24'00" W. to 39°49'00" N., 84°27'00" W. to 40°04'00" N., 84°17'00" W. to the point of beginning.

Dayton, Ohio (Montgomery County)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Montgomery County Airport (lat. 39°35'21" N., long. 84°13'21" W.), and within 3 miles each side of the Montgomery County VOR 145° radial extending from the 6-mile radius area to 8 miles southeast of the VOR; within 3 miles each side of the 027° radial extending from the 6-mile radius area to 8.5 miles northeast excluding the portions which overlie the Middletown and Dayton, Ohio, transition areas.

Dayton, Tenn.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Mark Anton Airport (lat. 35°29'09"N., long. 84°55'56"W.) excluding the portions that coincide with the Athens, Tenn., and Chattanooga, Tenn., transiton areas.

Daytona Beach, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Daytona Beach Regional Airport (lat. 29°10'49" N., long. 81°03'23" W.); within a 6.5-mile radius of Municipal Airport, Ormond Beach, Fla. (lat. 29°18'00" N., long. 81°06'49" W.); within 3 miles each side of Ormond Beach VORTAC 256° radial extending from the 6.5-mile radius area to 8.5 miles west of the VORTAC.

Deadhorse, Alaska

That airspace extending upward from 700 feet above the surface within 6.5 miles S and 9.5 miles N of the Deadhorse VOR 075° radial extending from the VOR to 20 miles E of the VOR; within 6.5 miles S and 10 miles N of the Deadhorse VOR 255° radial extending from the VOR to 25.5 miles W; and within a 16.5-mile radius of the Deadhorse VOR extending from the 099° radial clockwise to the 231° radial; that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 69°40'00" N., longitude 153°00'00" W.; to 70°33'00" N., 150°45'00" W.; thence east via 3 nautical miles offshore to latitude 70°14'00" N., longitude 146°00'00" W.; to 69°00'00" N., 148°00'00" W.; to 68°00'00" N., 148°00'00" W.; to 68°00'00" N., 153°00'00" W.; thence to point of beginning.

Decatur, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Decatur Aifport (latitude 39°50'05" N., longitude 88°51'50" W.).

Deckerville, Mich.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Lamont Airport (latitude 43°34'35" N., longitude 82°39'10" W.); within 3 miles each side of the 076° bearing from the airport extending from the 5.5-mile radius area to 8.5 miles east of the airport; within 3 miles each side of the 285° bearing from the airport, extending from the 5.5-mile radius area to 8.5 miles west of the airport.

Decorah, Iowa

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Decorah Municipal Airport (latitude 43°16'35" N., longitude 91°44'50" W.); and within 3 miles each side of the 122° bearing from Decorah Municipal Airport, extending from the 5½-mile radius area to 8 miles southeast of the airport.

Defiance, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Defiance Memorial Airport (latitude 41°20'15" N., longitude 84°25'45" W.); within 3.5 miles each side of the 303° bearing from the airport extending from the 6.5-mile radius area to 11.5 miles northwest of the airport.

DeLancey, N. Y.

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at: 42°40'00" N., 75°30'00" W. to 42°10'00" N., 75°25'00" W. to 42°00'00" N., 75°26'30" W. to 42°00'00" N., 75°00'00" W. to 42°01'00" N., 74°30'00" W. to 43°00'00" N., 74°30'00" W. to point of beginning.

De Land, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of De Land Municipal/Sidney H. Taylor Field (lat. 29°04'03" N., long. 81°17'00" W.); excluding the portion within Daytona Beach transition area.

Delano, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Delano Municipal Airport (latitude 35°44'48" N., longitude 119°14'08" W.) and within 3 miles each side of the Bakersfield VORTAC 336° T radial, extending from the 3-mile radius area to 12 miles NW of the VORTAC.

Delaware

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Delaware including the offshore airspace within 3 nautical miles and parallel to the shoreline.

Del Rio, Tex.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of lat. 29°23'00"N., long. 100°50'15"W., and within 4.5 miles west and 9.5 miles east of the Laughlin VORTAC 148° radial extending from the 12-mile radius area to 22 miles southeast of the VORTAC and within 8.5 miles west and 6.5 miles east of the Laughlin VORTAC 315° radial extending from the 12-mile radius area to 18 miles northwest of the VORTAC, excluding the portion outside of the United States and 2 miles each side of the 331° bearing from the LOM (lat. 29°26'43"N., long. 100°59'20"W.), extending from the LOM to 8.5 miles northwest of the LOM.

Delta, Utah

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Delta Municipal Airport (lat. 39°23'00"N., long. 112°30'35"W.); and within 10.5 miles northwest and 5 miles southeast of the Delta VORTAC 203° radial, extending from the 9-mile radius area to 18.5 miles southwest of the VORTAC; within 5 miles east of the Delta VORTAC 186° radial, extending from the 9-mile radius area to 13 miles south of the VORTAC; within 8 miles west and 6.5 miles east of the Delta VORTAC 360° radial, extending from the 9-mile radius area to 30 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9 miles southeast and 13.5 miles northwest of the Delta VORTAC 203° and 023° radials, extending from 12 miles northeast to 25.5 miles southwest of the VORTAC; and that airspace within 5 miles northeast and 5 miles southwest of the Delta VORTAC 326° radial extending from the VORTAC to the southeast boundary of Restricted Area R-6402.

Deming, N. Mex.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Deming Municipal Airport (lat. 32°15'40" N., long. 107°43'10" W.).

Demopolis, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Demopolis Municipal Airport (lat. 32°27'45" N., long. 87°57'05" W.).

Denison, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Denison, Iowa, Municipal Airport (latitude 41°59'15" N., longitude 95°23'00" W.) and within 2 miles each side of the 115° bearing from Denison Municipal Airport, extending from the 6-mile radius area to 8 miles southeast of the airport.

Denver, Colo.

That airspace extending upward from 700 feet above the surface, within an arc of a 22-mile radius circle centered on Stapleton Airport (latitude 39°46'30" N., longitude 104°52'40" W.) extending clockwise between the 253° and 078° bearings from Stapleton Airport, within an arc of a 37-mile radius circle centered on Stapleton Airport extending clockwise between the 078° and 160° bearings from Stapleton Airport, within an arc of a 31-mile radius circle centered on Stapleton Airport extending clockwise between the 160° and 194° bearings from Stapleton Airport, and within an arc of a 24-mile radius circle centered on Stapleton Airport extending clockwise between the 194° and 253° bearings from the Stapleton Airport;

that airspace extending upward from 1200 feet above the surface bounded on the north by lat. 40°30'00"N., thence northeast bound by V-207, thence eastbound by lat. 41°00'00"N., on the east by V-169, on the south by 39°00'00"N., on the west by long. 106°00'00"W., excluding the airspace within Federal airways;

that airspace extending upward from 12,700 feet MSL bounded on the north by latitude 40°30'00" N., on the east by longitude 105°23'00" W. to latitude 39°20'00" N., thence direct latitude 39°30'00" N., longitude 105°30'00" W., and on the west by longitude 105°30'00" W.; and that airspace extending upward from 13,700 feet MSL bounded on the north by latitude 40°30'00" N., on the east by longitude 105°30'00" W. to latitude 39°30'00" N., thence direct to latitude 39°20'00" N., longitude 105°23'00" W., thence direct latitude 39°05'00" N., longitude 105°23'00" W., thence direct latitude 39°05'00" N., longitude 105°26'00" W., thence direct latitude 39°44'00" N., longitude 105°38'00" W., thence direct latitude 40°30'00" N., longitude 105°33'00" W.

DeQueen, Ark.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sevier County Airport (latitude 34°02'44" N., longitude 94°23'58" W.) and within 3.5 miles each side of the 269° bearing from the DeQueen NDB (latitude 34°02'39" N., longitude 94°23'50" W.) extending from the 5-mile radius area to a point 10 miles west of the NDB.

De Quincy, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of De Quincy Industrial Airpark (lat. 30°26'17"N., long. 93°28'21"W.); within 2 miles each side of the Lake Charles VORTAC 313°T radial extending from the 5-mile radius area to 24.5 miles northwest of the VORTAC and within 3 miles either side of the 325°T bearing from the De Quincy NDB (lat. 30°26'06"N., long. 93°28'00"W.) extending from the 5-mile radius area to 8 miles northwest of the NDB.

DeRidder, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Beauregard Parish Airport (lat. 30°50'00"N., long. 93°20'00"W.) within 3.5 miles each side of the 347° bearing from the DeRidder NDB (lat. 30°50'00"N., long. 93°20'00"W.) extending from the 5-mile radius area to 11.5 miles north of the NDB, and within 3 miles each side of the 191° bearing from the DeRidder NDB extending from the 5-mile radius area to 8 miles south of the NDB.

Des Moines, Iowa
That airspace extending upward from 700 feet above the surface within an 18-mile radius of Des Moines Municipal Airport (latitude 41°32'05" N., longitude 93°39'35" W.).; and that airspace extending upward from 3,500 feet MSL bounded by a line starting at the intersection of longitude 93°30'00" W., and the north edge of V-216; thence southwest along the north edge of V-216 to and north along longitude 95°00'00" W., to and east along the south edge of V-6S to the intersection of the south edge of V-6S and longitude 94°10'15" W.; thence southeast to latitude 40°56'30" N., longitude 93°54'00" W.; thence northeast to latitude 41°01'45" N., longitude 93°30'00" W.; thence south to the point of beginning.

Detroit, Mich.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 43°00'00" N., longitude 82°25'00" W., on the Canadian boundary to latitude 43°04'00" N., longitude 82°30'00" W., to latitude 42°53'00" N., longitude 83°00'00" W., to latitude 42°45'00" N., longitude 83°50'00" W., to latitude 42°30'00" N., longitude 83°50'00" W., to latitude 42°10'00" N., longitude 84°00'00" W., to latitude 42°00'00" N., longitude 83°30'00" W., thence east along the 42nd parallel to the Canadian boundary, thence along the Canadian boundary to point of beginning.

Detroit Lakes, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Detroit Lakes Municipal Airport (latitude 46°49'34" N., longitude 95°53'06" W.); within 3 miles each side of the Detroit Lakes VOR 315° radial extending from the 5-mile radius area to 7½ miles northwest of the VOR; within 3 miles each side of the 145° radial extending from the 5-mile radius area to 8 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the Detroit Lakes VOR 315° radial extending from the VOR to 18½ miles northwest; within 4½ miles southwest and 9½ miles northeast of the VOR 145° radial extending from the VOR to 18½ miles southeast, excluding that portion which overlies the Fargo, N. Dak., transition area.

Devils Lake, N. Dak.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Devils Lake Municipal Airport (latitude 48°06'55" N., longitude 98°54'30" W.); within 4½ miles southwest and 9½ miles northeast of the Devils Lake VORTAC 134° radial extending from the VORTAC to 18½ miles southeast of the VORTAC; within 4½ miles northeast and 9½ miles southwest of the Devils Lake VORTAC 324° radial extending from the VORTAC to 18½ miles northwest of the VORTAC; within 4½ miles southeast and 9½ miles northwest of the 026° bearing from the Devils Lake Airport extending from the airport to 18½ miles northeast of the airport; and that airspace extending upward from 1200 feet above the surface within a 17½ mile radius of the Devils Lake VORTAC.

Dexter, Mo.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Dexter Municipal Airport (latitude 36°46'30" N., longitude 89°56'30" W.).

Dickinson, N. Dak.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Dickinson Municipal Airport (lat. 46°47'45"N., long. 102°48'00"W.) and that airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Dickinson VORTAC (lat. 46°51'36"N., long. 102°46'23"W.) extending clockwise from the Dickinson VORTAC 214° radial to the Dickinson VORTAC 093° radial.

AMENDMENTS 7/10/80 45 F. R. 26034 (Changed)

Dickson, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dickson Municipal Airport (lat. 36°07'47" N., long. 87°25'48" W.).

Dillingham, Alaska
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Dillingham Airport (latitude 59°02'30" N., longitude 158°30'28" W.); and that airspace within 2.5 miles each side of the Dillingham VORTAC 025° radial extending from the 8.5-mile radius zone to 15.5 miles northeast of the VORTAC and within 2 miles each side of the Dillingham VORTAC 205° radial extending from the 8.5 mile radius zone to 9 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles northwest and 9.5 miles southeast of the Dillingham VORTAC 025° and 205° radials extending from 23 miles northeast to 18.5 miles southwest of the VORTAC and within an 18-mile radius of the Dillingham VORTAC extending clockwise from the 056° radial to the 173° radial of the VORTAC.

Dillon, Mont.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Dillon Airport (lat. 45°15'20" N., long. 112°33'10" W.) and within 3 miles each side of the Dillon VORTAC 025° radial, extending from the 6-mile radius zone to 8.5 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Dillon VORTAC 025° radial, extending from the VORTAC to 24 miles northeast; and that airspace extending upward from 11,700 feet MSL within 7.5 miles west and 10.5 miles east of the Dillon VORTAC 168° and 348° radials extending from 4.5 miles north to 19.5 miles south of the VORTAC.

Dillon, S. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Dillon County Airport (lat. 34°27'00" N., long. 79°22'00" W.); within 3 miles each side of the 233° bearing from the Dillon RBN (lat. 34°26'59" N., long. 79°22'10" W.), extending from the 5-mile radius area to 8.5 miles southwest of the RBN.

District of Columbia

That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the District of Columbia. The portion within P-56 is excluded.

Dixon, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Charles R. Walgreen Field, Dixon, Ill. (latitude 41°50'03" N., longitude 89°26'37" W.), and within 2 miles each side of the Polo, Ill., VORTAC 155° radial extending from the 5-mile radius area to the VORTAC.

Dodge Center, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Dodge County Municipal Airport, Dodge Center, Minn., (lat. 44°01'15"N., long. 92°50'00"W.); excluding that portion which overlies the Rochester, Minn., transition area.

AMENDMENTS 7/10/80 45 F. R. 32665 (Added)

Dodge City, Kans.

That airspace extending upward from 700 feet above the surface within a 0.5 mile radius of the Dodge City Municipal Airport (latitude 37°45'42" N., longitude 99°57'51" W.).

Donalsonville, Ga.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Donalsonville Municipal Airport (lat. 31°01'00"N., long. 84°52'30"W.); within 3 miles each side of the 188° bearing from the Donalsonville RBN (lat. 31°00'37"N., long. 84°52'32"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Dothan, Ala.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Dothan Airport (lat. 31°19'10"N., long. 85°27'30"W.); within 5 miles each side of Wiregrass VORTAC 157° radial, extending from the 3.5-mile radius area to 11.5 miles SE of the VORTAC; within 4.5 miles each side of Wiregrass VORTAC 331° radial, extending from the 8.5-mile radius area to 10.5 miles NW of the VORTAC; excluding the airspace within a 1.5-mile radius of Headland Municipal Airport (lat. 31°21'45"N., long. 85°18'30"W.), the portion that coincides with the Fort Rucker, Ala., transition area, and the airspace within 1.5 miles each side of Wiregrass VORTAC 350° radial; within a 6.5-mile radius of Wheelless Airport (lat. 31°13'35"N., long. 85°29'30"W.); excluding the portion northwest of Wiregrass VORTAC 237° radial.

Douglas, Ariz.

That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Douglas VORTAC 333° radial extending from the VOR to 18.5 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 9-mile radius of the Douglas VORTAC, within a 23-mile radius of the Douglas VORTAC extending clockwise from the southwest edge of V-66 to the southeast edge of V-66, and within 5 miles east and 8.5 miles west of the Douglas VORTAC 347° radial extending from the 23-mile radius area to the Cochise VORTAC, excluding the portion within the Cochise, Ariz., transition area.

AMENDMENTS 9/4/80 45 F. R. 45265 (Changed)

Douglas, Ga.

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Douglas Municipal Airport (latitude 31°29'10" N., longitude 82°51'15" W.).

Douglas, Wyo.

That airspace extending upward from 8,500 feet MSL, bounded on the north by latitude 42°44'00" N., and the east by the Wyoming-Nebraska state boundary and V-169, on the southeast by V-89, on the south by V-100, on the west by V-19E and on the southwest by V-19E and V-247.

Dover, Del.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 39° 07'30" N., long. 75°28'00" W. of Dover AFB, Dover, Del.; within 3.5 miles each side of the Dover TACAN 178° radial, extending from the 9-mile radius area to 10.5 miles south of the TACAN; within 3.5 miles each side of the Dover TACAN 012° radial, extending from the 9-mile radius area to 10.5 miles north of the TACAN; within 3.5 miles each side of the Dover TACAN 132° radial, extending from the 9-mile radius area to 10.5 miles southeast of the TACAN; and within a 5-mile radius of the center, lat. 39°13'04" N., long. 75°35'56" W., of Delaware Airpark, Dover-Cheswold, Del.; and within 6.5 miles north and 4.5 miles south of the Kenton, Delaware VORTAC 078° and 258° radials extending from 5.5 miles west to 11.5 miles east of the VORTAC.

Dowagiac, Mich.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Cass County Memorial Airport, (latitude 41°59'30" N., longitude 86°07'37" W.); within 2 miles each side of the Keeler, Mich., 181° radial extending from the 7-mile radius area to the VOR, excluding the portion which overlies the South Bend, Ind., transition area.

Downingtown, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 39° 59'00" N., long. 75°44'30" W., of Bob Shannon Memorial Field, Downingtown, Pa., and within 6.5 miles northeast and 4.5 miles southwest of the Modena, Pa., VORTAC 320° radial and 140° radial, extending from 5.5 miles northwest to 11.5 miles southeast of the VORTAC. This transition area is effective from sunrise to sunset, daily.

Doylestown, Pa.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (latitude 40°20'20" N., longitude 75°07'20" W.) of Doylestown Airport, Doylestown, Pa.; within 8 miles northwest and 4.5 miles southeast of the 224° bearing and the 044° bearing from the Doylestown, Pa. RBN (latitude 40°19'59" N., longitude 75°07'21" W.), extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN; within 8 miles northwest and 4.5 miles southeast of the Solberg, N. J. VORTAC 229° radial, extending from 7.5 miles southwest of the VORTAC to 24.5 miles southwest of the VORTAC, excluding the portions which coincide with the North Philadelphia, Pa., Pittstown, N. J., and Readington, N. J., transition areas.

Drew, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ruleville-Drew Airport (lat. 33°46'39" N., long. 90°31'27" W.).

Dublin, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Dublin Municipal Airport (lat. 32°33'55" N., long. 82°59'10" W.); within 2.5 miles each side of Dublin VORTAC 274° radial, extending from the 6-mile radius area to the VORTAC.

Dublin, Va.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 37°08'12"N., long. 80°40'50"W., of New River Valley Airport, Dublin, Va.; within a 23-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 272° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 272° bearing to a 291° bearing from the airport; within an 18-mile radius of the center of the airport, extending clockwise from a 291° bearing to a 314° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 355° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 015° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 015° bearing to a 060° bearing from the airport; within 5 miles each side of the Pulaski VORTAC 102° radial extending from the VORTAC to 11.5 miles south of the VORTAC, and within 5 miles each side of the 233° bearing from a point lat. 37°08'39" N., long. 80°40' 03" W., extending from said point to a point 16 miles southwest.

Dubois, Idaho

That airspace extending upward from 1,200 feet above the surface within 11 miles east and 7 miles west of the Dubois VOR 170° and 350° radials, extending from 10 miles north to 20 miles south of the VOR.

Du Bois, Pa.

That airspace extending upward from 700 feet above the surface within an 11.5 mile radius of the center, 41° 10'45" N., 78°53'45" W. of Du Bois-Jefferson County Airport and within 3.5 miles each side of the Du Bois ILS localizer northeast course extending from the 11.5-mile radius area to 11.5 miles northeast of the OM.

ubuque, Iowa

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Dubuque unicipal Airport (latitude 42°24'10" N., longitude 90°42'32" W.); and within 3 miles on either side of the ubuque VORTAC 321° radial, extending from the VORTAC to 8 miles northwest of the airport reference point; nd within 3½ miles on either side of the Dubuque VORTAC 131° radial, extending from the VORTAC to 15½ miles utheast of the airport reference point, and that airspace extending upward from 1,200 feet above the surface ounded by a line beginning at latitude 42°05'00" N., longitude 91°00'00" W., thence W. along latitude 42°05' 0" N., to and N. along longitude 92°15'00" W., to and counterclockwise along the arc of a 29-mile radius circle entered on the Waterloo, Iowa, VORTAC to and E. along the S. edge of V-100, to and clockwise along the arc f a 29-mile radius circle centered on the Dubuque VORTAC, to and SE. along the SW. edge of V-218, to and S. along longitude 89°55'00" W. to and SW along the NW edge of V-216, to 90°08'00" W., and S. to the N. edge of V-172, to and N. along longitude 91°00'00" W., to the point of beginning, excluding the portion which overlies the State of Illinois.

Duchesne, Utah

That airspace extending upward from 1200 feet above the surface within 8 miles north and 6 miles south of the 104°T and 283°T radials extending from 14 miles east to 14 miles west of the Myton VORTAC.

Duluth, Minn.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); within a 17.5-mile radius of the Duluth International Airport, extending from the Duluth VOR 262° radial clockwise to the Duluth VOR 058° radial; within 4½ miles north and 9½ miles south of Duluth localizer west course, extending from 4 miles east to 18½ miles west of the OM; and within 4½ miles east and 9½ miles west of the Duluth VORTAC 023° radial, extending from the 17.5-mile radius area to 28 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Duluth International Airport; within 8 miles northwest and 5 miles southeast of the Duluth VORTAC 051° radial, extending from the 35-mile radius area to 41 miles northeast of the VORTAC; and within 4½ miles northwest and 9½ miles southeast of the Duluth VORTAC 244° radial, extending from the 35-mile radius area to 41 miles southwest of the VORTAC; excluding the portions which overlie the Hibbing, Minn., and Cloquet, Minn., transition areas; and the State of Wisconsin.

Dumas, Tex.

That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius of the Dumas Municipal Airport (lat. 35°51'30"N., long. 102°00'30"W.), and within 3 miles each side of the 197° bearing from the NDB (lat. 35°51'47"N., long. 102°00'44"W.) extending from the 6-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 1/24/80 44 F. R. 68451 (Changed)

Duncan, Okla.

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Halliburton Field (latitude 34°28'30" N., longitude 97°57'30" W.), and within 2 miles each side of the Duncan VOR 157° radial, extending from the 8.5-mile radius area to 7 miles southeast of the VOR.

Dunkirk, N. Y.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 42°29' 30" N., 79°16'30" W., of Dunkirk Municipal Airport, Dunkirk, N. Y., and within a 13.5-mile radius of the center of the airport extending clockwise from a 022° to 232° bearing from the airport.

Durango, Colo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the La Plata County Airport (lat. 37°09'12"N., long. 107°45'04"W.) and within 5 miles each side of the Durango VOR 224°T radial extending from the 7-mile radius area to 17.5 miles southwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 9.5 miles southeast and 6 miles northwest of the Durango VOR 224° and 044° radials, extending from 6 miles northeast to 25 miles southwest of the VOR.

Durant, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Eaker Field (lat. 33°56'30"N., long. 96°24'00"W.) and within 3 miles each side of a 167° bearing from the Durant NDB (lat. 33°56'32"N., long. 96°23'54"W.) extending from the 8.5-mile radius area to 9 miles SE of the NDB.

rhamville, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, t. 43°08'07"N., long. 75°38'54"W., of Kamp Airport within 2.5 miles each side of the 059° bearing of Kamp rport, extending from the 6.5-mile radius area to 7 miles northeast of the airport; within 5 miles each de of the 107° bearing of Kamp Airport extending from the 6.5-mile radius area to 26 miles east of the rport; within an 18.5-mile radius of the center of the airport extending from the 6.5-mile radius area tending clockwise from a 122° bearing from the center of the airport to a 235° bearing from the center of e airport.

ENDMENTS 9/4/80 45 F. R. 53086 (Added)

Dutch Harbor, Alaska

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Dutch Harbor NDB 360° bearing extending from the NDB to 17.5 miles north of the NDB and within 4.5 miles east and 9.5 miles west of the NDB 360° bearing extending from 11.5 miles to 36 miles north of the NDB.

Dwight, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Dwight Airport (latitude 41°08'05" N., longitude 88°26'30" W.); and within 3 miles either side of the 097° bearing from the airport extending from the 5-mile radius area to 3 miles from the airport.

Dyersburg, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dyersburg Municipal Airport (latitude 36°00'00" N., longitude 89°24'20" W.); within 3 miles each side of the Dyersburg VORTAC 078° radial, extending from the 6.5-mile radius area to 8.5 miles east of the VORTAC.

Eagle, Colo.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Eagle County Airport (lat. 39°38'42"N., long. 106°54'43"W.); within 3.5 miles each side of the 072° bearing from the Wolcott NDB (lat. 39°40'33"N., long. 106°45'34"W.) extending from the 9-mile radius area to 10 miles northeast of the Wolcott NDB; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 40°01'30"N., long. 106°34'00"W.; to lat. 39°35'15"N., long. 106°10'30"W.; to lat. 39°34'00"N., long. 106°35'40"W.; to lat. 39°25'00"N., long. 107°07'10"W.; to lat. 39°45'45"N., long. 107°15'45"W.; thence to point of beginning.

AMENDMENTS 10/30/80 45 F. R. 59839 (Rewritten)

Eagle Lake, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Eagle Lake Airport (latitude 29°36'00" N., longitude 96°19'26" W.); and within 2 miles each side of the Eagle Lake VOR 007° radial extending from the 5-mile radius area to 8 miles N of the VOR.

Eagle Pass, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Eagle Pass Municipal Airport (latitude 28°42'00" N., longitude 100°28'45" W.) and within 3 miles each side of the 089° bearing from the Eagle Pass RBN (latitude 28°42'20" N., longitude 100°29'10" W.) extending from the 5-mile radius area to 8 miles east of the Eagle Pass RBN excluding the portion outside the United States.

Eagle River, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Eagle River Municipal Airport (latitude 45°55'45" N., longitude 89°16'00" W.); and within 3 miles each side of the 037° bearing from Eagle River Municipal Airport extending from the 5-mile radius area to 7½ miles northeast of the airport.

East Hampton, N. Y.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°57'36" N., 72°15'04" W., of East Hampton Airport, East Hampton, N. Y., extending clockwise from a 307° bearing to a 044° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 044° bearing to a 092° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 092° bearing to a 232° bearing from the airport; and within a 7-mile radius of the center of the airport extending clockwise from a 232° bearing to a 307° bearing from the airport.

Eastland, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Eastland Municipal Airport (lat. 32°25'00"N., long. 98°48'45"W.) and within 3.5 miles each side of the 180° bearing from the NDB (lat. 32°23'55"N., long. 98°48'35.18"W.) extending from the 6.5-mile radius area to a point 8.5 miles south of the NDB.

AMENDMENTS 1/24/80 44 F. R. 67371 (Added)

East Liverpool, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Columbiana County Airport (latitude 40°40'24" N., longitude 80°38'30" W.); within 3 miles each side of the 070° bearing from the airport, extending from the 5-mile radius area to 8.5 miles east of the airport, excluding that portion which overlies the Beaver Falls, Pa., transition area.

Eastman, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Eastman-Dodge County Airport (latitude 32°12'51" N., longitude 83°07'42" W.).

Easton, Md.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°48'30" N., long. 76°04'30" W. of Easton Municipal Airport, and within 3 miles each side of the 038° bearing from the Easton, Md., RBN, lat. 38°48'25"N., long. 76°04'05"W., extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Easton, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, latitude 40°44'32" N., 75°14'35" W. of Easton Airport, Easton, Pa.; within an 8-mile radius of the center of the airport, extending clockwise from a 248° bearing from the airport to a 060° bearing from the airport; within a 10.5 mile radius of the center of the airport, extending clockwise from a 060° bearing from the airport to a 095° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 095° bearing from the airport to a 129° bearing from the airport; within 5 miles each side of the Allentown, Pa., VORTAC 085° radial, extending from 12 miles east of the VORTAC to 20.5 miles east of the VORTAC. This transition area is effective from sunrise to sunset, daily.

East St. Louis, Ill.

That airspace extending upward from the surface within a 7-mile radius of the Bi-State Parks Airport (lat. 38°34'17.8"N., long. 90°09'34.3"W.), and within 4.5 miles N of the 116° bearing from the LOM, and 4.5 miles S of the 129° bearing from the airport, extending from the 7-mile radius to 10.5 miles SE of the LOM; excluding that portion which overlies the St. Louis, Mo., transition area and the Belleville, Ill., transition area.

East Stroudsburg, Pa.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 41°[illegible]'08" N., 75°09'45" W., of Stroudsburg-Pocono Airpark, East Stroudsburg, Pa., extending clockwise from a [illegible]7° bearing to a 106° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 106° bearing to a 110° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 177° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 177° bearing to a 221° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 221° bearing to a 258° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 337° bearing from the airport; excluding the portion within the Mount Pocono, Pa., transition area.

East Tawas, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iosco County Airport (lat. 44°18'48"N., long. 83°25'30"W.), excluding the portion which overlies the Oscoda, Mich., transition area.

Eau Claire, Wis.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Eau Claire Municipal Airport (latitude 44°51'54" N., longitude 91°29'02" W.) and within 3½ miles each side of the Eau Claire ILS localizer northeast course extending from the 14-mile radius to 18 miles northeast of the airport; within 5 miles each side of the Eau Claire ILS localizer southwest course extending from the 14-mile radius to 15 miles southwest of the airport.

Ebensburg, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 40°27'40" N., 78°46'25" W., of Ebensburg Airport, Ebensburg, Pa.; within 2 miles each side of the Runway 24 centerline extended from the 6-mile radius area to 6 miles southwest of the end of the runway; within 2 miles each side of the Runway 28 centerline extended from the 6-mile radius area to 7 miles west of the end of the runway and within 2 miles each side of the Revloc, Pa., VORTAC 194° radial extending from the 6-mile radius area to the VORTAC, excluding the portion that coincides with the Johnstown, Pa., transition area.

Edenton, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Edenton Municipal Airport (latitude 36°01'30" N., longitude 76°33'30" W.); within 3 miles each side of the 218° and 352° bearings from Edenton RBN (latitude 36°01'33" N., longitude 76°33'57" W.), extending from the 6.5-mile radius area to 8.5 miles southwest and north of the RBN.

Edna, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jackson County Airport (lat. 29°00'03"N., long. 96°34'55"W.) and within 3.5 miles either side of the 322° bearing from the NDB extending 6.5 miles from the 5-mile radius.

Edwards AFB, Calif.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Edwards AFB (latitude 34°54'20"N., longitude 117°52'58"W.), within 2 miles SE and 8 miles NW of the Edwards AFB VORTAC 057° radial extending from the 15-mile radius area to 12.5 miles NE of the VORTAC.

Effingham, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Effingham County Memorial Airport (lat. 39°04'15"N., long. 88°32'15"W.); within 1½ miles either side of the 344° radial of the Bible Grove VORTAC extending from the 5-mile radius to the Bible Grove VORTAC.

Eglin AFB, Fla.

That airspace extending upward from 700 feet above the surface within 9-mile radii of Eglin AFB (lat. 30°29'07" N., long. 86°31'35" W.), Eglin AF Aux No. 3 (Duke Field) (lat. 30°39'01" N., long. 86°31'25" W.) and Eglin AF Aux No. 9 (Hurlburt Field) (lat. 30°25'42" N., long. 86°41'05" W.); within a 5-mile radius of Destin-Fort Walton Beach Airport (lat. 30°23'57" N., long. 86°28'47" W.); excluding the portions within W-151, Crestview, Fla., transition area, and a 1.5-mile radius of Fort Walton Beach Airport (lat. 30°24'25" N., long. 86°49'40" W.).

Elberton, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Elbert County-Patz Field Airport (lat. 34°05'42"N., long. 82°49'05"W.).

AMENDMENTS 5/29/80 45 F. R. 30423 (Added)

El Campo, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the El Campo Airpark (lat. 29°16'00"N., long. 96°19'30"W.); within a 5-mile radius of the El Campo Metro Airport (lat. 29°11'00"N., long. 96°18'45"W.) and within 3 miles each side of the 184° bearing from the proposed NDB (lat. 29°10'35"N., long. 96°19'11"W.) extending from the NDB to 8.5 miles south.

El Centro, Calif.

That airspace extending upward from 1,200 feet above the surface within 8 miles each side of the Imperial VORTAC 088° and 268° radials, extending from 15 miles E to 15 miles W of the VORTAC, and within 15 miles W and 5 miles E of the Imperial VORTAC 360° radial, extending from the VORTAC to 25 miles N of the VORTAC, excluding the portion under the jurisdiction of Mexico.

El Dorado, Ark.

That airspace extending upward from 700 feet above the surface within 5 miles southeast and 8 miles northwest of the El Dorado VORTAC 059° radial, extending from the VORTAC to 12 miles northeast; within 5 miles each side of the 239° radial, extending from the VORTAC to 5 miles southwest; and within 2 miles each side of the 236° radial, extending from the VORTAC to 18 miles southwest.

El Dorado, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the El Dorado Municipal Airport (lat. 37°46'32"N., long. 96°48'58"W.), and within 3 miles each side of the El Dorado NDB (lat. 37°46'46"N., long. 96°48'58"W.) 217° bearing extending from the 5-mile radius area to 8.5 miles southwest of the NDB.

AMENDMENTS 10/30/80 45 F. R. 59838 (Added)

Elizabeth City, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of CGAS Elizabeth City (latitude 36°15'35" N., longitude 76°10'20" W.); within 3 miles each side of the 128° bearing from Weeksville RBN, extending from the 8.5-mile radius area to 8.5 miles southeast of the RBN; within 5 miles east and 3 miles west of Elizabeth City VOR 188° radial, extending from the 8.5-mile radius area to 12.5 miles south of the VOR; within 3 miles each side of Elizabeth City VOR 357° radial, extending from the 8.5-mile radius area to 8.5 miles north of the VOR.

Elizabethtown, Ky.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elizabethtown-Hardin County Airport (lat. 37°45'13" N., long. 85°53'09" W.); within 2 miles each side of New Hope VOR 306° radial, extending from the 5-mile radius area to 9 miles northwest of the VOR; excluding the portion within Louisville transition area.

Elk City, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elk City Airport (latitude 35°25'40" N., longitude 99°23'45" W.); and within 3.5 miles each side of the 015° bearing from the Elk City NDB (latitude 35°25'33" N., longitude 99°23'52" W.) extending from the 5-mile radius area to 8 miles north of the NDB.

lkhart, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elkhart Municipal rport (lat. 41°43'11"N., long. 85°59'41"W.); and within 2 miles each side of the South Bend, Ind., ORTAC 101° radial, extending eastward from the 5-mile radius area to 23 miles east of the VORTAC, and within miles each side of the Goshen, Ind., VORTAC 008° radial, extending south from the 5-mile radius area to 5 les north of the Goshen VORTAC excluding the portion which overlies the South Bend, Ind., 700-foot floor ransition area.

kin, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Elkin Municipal Airport (lat. 36°16'40"N., long. 80°47'12"W.); within 3 miles each side of the 057° bearing from Zephyr RBN (lat. 36°18'35"N., long. 80°43'37"W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Elkins, W. Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38° 53'20" N., long. 79°51'24" W. of Elkins-Randolph County-Jennings Randolph Field, Elkins, W. Va.; within 4 miles each side of the Elkins VORTAC 098° radial extending from the 6.5-mile radius area to 1.5 miles east of the VORTAC and within 4.5 miles east and 9.5 miles west of the 011° bearing from the Randolph County RBN, extending from the RBN to 18.5 miles north of the RBN. This transition area is effective from sunrise to sunset, daily.

Elko, Nev.

That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9 miles west of the Elko VORTAC 161° radial, extending from the VORTAC to 19 miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by an arc of a 17-mile radius circle centered on the Elko VORTAC extending clockwise from the 091° to the 258° radial of the Elko VORTAC, and that airspace bounded on the northwest and north by V-6, on the southeast by V-465 and on the south by V-32.

Ellensburg, Wash.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bowers Field (latitude 47°02'02" N., longitude 120°31'49" W.); within the arc of a 13-mile radius circle centered on the Ellensburg VORTAC, beginning at the 016° radial and extending clockwise to the 063° radial; within the arc of a 20.5-mile radius circle centered on the Ellensburg VORTAC beginning at the 063° radial and extending clockwise to the 221° radial; that airspace extending upward from 1,200 feet above the surface southwest of Ellensburg bounded on the north by V-2S, on the southeast by the Ellensburg VORTAC 221° radial, on the southwest by V-4.

Elmira. N.Y.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center of Chemung County Airport, Elmira, N. Y., 42°09'37"N., 76°53'35"W., within 4.5 miles each side of the Elmira VORTAC 237° radial, extending from the 12-mile radius area to 11.5 miles SW of the VORTAC, within 5 miles SE and 8 miles NW of the airport ILS NE localizer course extending from the 12-mile radius area to 12 miles NE of the Alpine RBN.

El Paso, Tex.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the El Paso International Airport (latitude 31°48'35" N., longitude 106°22'55" W.) extending clockwise from the 261° to the 278° bearings from the El Paso International Airport; within a 9-mile radius of the Biggs AAF (latitude 31°50' 55" N., longitude 106°22'45" W.) extending clockwise from the 262° to the 029° bearings from the Biggs AAF; within 2 miles each side of the Newman, Tex., VORTAC 040° radial extending from the 9.5-mile radius area to 12 miles NE of the VORTAC; within a 15-mile radius of the El Paso International Airport extending clockwise from the 041° to the 161° bearings of the El Paso International Airport; thence via the United States/Mexican border to point of beginning.

El Rico, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of El Rico Airport (latitude 36°02'43" N., longitude 119°38'44" W.) and within 3 miles each side of the Avenal VORTAC 034° radial, extending from the 3-mile radius area to 24 miles NE of the VORTAC.

Ely, Minn.

That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius (5.2 nautical miles) from the 308° true bearing from the geographical center of the Ely, Minn., Airport (lat. 47°49'26"N., long. 91°49'42"W., estimated) clockwise to the 113° true bearing; then via the 8.5-statute-mile radius (7.1 nautical miles) from the 113° true bearing clockwise to 308° true bearing from the Airport, including that airspace 4 statute miles (3.5 nautical miles) each side of the 308° true bearing, extending northwest from the 6- and 8.5-statute-mile radius to 10.5 statute miles (9 nautical miles) from the airport, and that airspace 4 statute miles (3.5 nautical miles) each side of the 113° true bearing, extending southeast from the 6- and 8.5-statute-mile radius to 10.5 statute miles (9 nautical miles) from the airport, excluding that airspace overlying Prohibited Area 204 (P-204).

Ely, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ely, Nev., VOR, within 5 miles northeast and 9.5 miles southwest of the Ely VOR 303° radial, extending from the VOR to 18.5 miles northwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9.5 miles west of the Ely VOR 007° and 187° radials extending from 17 miles north to 2 miles south of the VOR and within 5 miles each side of the Ely VOR 167° radial, extending from the VOR to 21 miles south of the VOR.

Elyria, Ohio

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°20'40" N., 82°10'40" W., of Lorain County Regional Airport and within 3.5 miles each side of the Cleveland VORTAC 300° radial, extending from the 9-mile radius area to 9.5 miles northwest of the VORTAC, excluding the portion that coincides with the Cleveland, Ohio 700-foot transition area.

Emmetsburg, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Emmetsburg Airport (lat. 43°06'12"N., long. 94°42'24"W.) and within 3 miles each side of the 121° bearing from the Emmetsburg NDB (lat. 43°06'04"N., long. 94°42'25"W.), extending from the 5-mile radius area to 8½ miles southeast of the airport and within 3 miles each side of the 326° bearing from the Emmetsburg NDB extending from the 5-mile radius area to 8½ miles northwest of the airport.

Emporia, Kans.

That airspace extending upward from 700 feet above the surface within 2 miles either side of the Emporia VORTAC 134° radial, extending from the 5-mile radius of the airport (latitude 38°20'00" N., longitude 96°11' 15" W.); to 8 miles southeast of the VORTAC and 5 miles either side of the 010° bearing from the airport extending from the 5-mile radius to 12.5 miles north.

Emporia, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, (36° 41'30" N., 77°29'30" W.) of Emporia Municipal Airport, Emporia, Va., extending clockwise from a 057° bearing to a 183° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 183° bearing to a 057° bearing from the airport and within 3 miles each side of a 135° bearing from the Emporia RBN (36°40'58" N., 77°28'57" W.) extending from the RBN to 8.5 miles southeast of the RBN.

Endicott, N. Y.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center lat. 42° 04'42"N., long. 76°05'49"W., of Tri-Cities Airport, Endicott, N. Y.; within a 10.5-mile radius of the center of the airport, extending clockwise from a 020° bearing to a 090° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 090° bearing to a 125° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 125° bearing to a 235° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 235° bearing to a 263° bearing from the airport and within 3.5 miles each side of the Binghamton, N. Y., VORTAC 340° radial, extending from the 10-mile radius area to 11.5 miles north of the VORTAC.

Enid, Okla.

That airspace extending upward from 700 feet above the surface within 10 miles E and W of Vance AFB runway 17R-35L, extending to 15 miles N and S of Vance AFB (latitude 36°20'20" N., longitude 97°55'00" W.); and within 5 miles W and 8 miles E of the Woodring VOR 355° radial, extending from 2 miles SE of the VOR to 12 miles N of the VOR, and within 5 miles W and 8 miles E of the Woodring VOR 185° radial, extending from the VOR to 12 miles S.

Erie, Pa.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 42°04'53" N., long. 80°10'43" W. of Erie International Airport, Erie, Pa.; within a 15.5-mile radius of the center of the airport extending clockwise from a 074° bearing to a 221° bearing from the airport; within 4 miles each side of the Erie ILS localizer SW course, extending from the 8.5-mile radius area to 11 miles SW of the OM; within 5 miles each side of the Erie VORTAC 054° radial extending from the 8.5-mile radius area to 23.5 miles NE of the VORTAC.

Escanaba, Mich.

That airspace extending upward from 700 feet above the surface within a 6.5-statute mile radius of the Escanaba VORTAC; within 3 statute miles each side of the Escanaba VORTAC 007° radial from the 6.5-mile radius zone to 8.5 statute miles north of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 101° radial from the 6.5-mile radius zone to 9 statute miles east of the VORTAC; within 3 statute miles north and 4 statute miles south of the Escanaba VORTAC 270° radial from the 6.5-mile radius zone to 13.5 statute miles west of the VORTAC.

Estherville, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Estherville Municipal Airport (lat. 43°24'15"N., long. 94°44'45"W.); and within 3 miles each side of the 175° radial from the Estherville VOR (lat. 43°24'37"N., long. 94°44'20"W.), extending from the 6½-mile radius area to 8½ miles south of the VOR; and within 3 miles each side of the 340° radial from the Estherville VOR extending from the 6½-mile radius area to 8½ miles north of the VOR.

Eufaula, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Weedon Field (latitude 31°57'05" N., longitude 85°07'45" W.); within 4 miles each side of Eufaula VOR 014° radial, extending from the 6.5-mile radius area to 10 miles north of the VOR.

Eugene, Oreg.

That airspace extending upward from 700 feet above the surface within a 21-mile radius of the Eugene VORTAC; that airspace extending upward from 1200 feet above the surface northeast of Eugene, bounded on the north by V-536, on the southeast by V-121N (proposed), on the southwest by the arc of the 21-mile radius circle, on the northwest by V-23E; that airspace east of Eugene bounded on the north by V-121 (proposed), on the east by latitude 122°30'00" W. on the southwest by V-452 and on the west by the arc of the 21-mile radius circle.

Eunice, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Eunice Airport (latitude 30°28'00" N., longitude 92°25'30" W.) and within 2 miles each side of the Lafayette VORTAC 310° radial extending from the 5-mile radius area to 6 miles southeast of the approach end of Runway 34.

Evadale, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Evadale Airport (latitude 30°19'30" N., longitude 94°04'24" W.), and within 2 miles each side of the 150° bearing from the Evadale RBN (latitude 30°24'16" N., longitude 94°07'37" W.), extending from the 5-mile radius area to the RBN.

Evansville, Ind.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Dress Memorial Airport (latitude 38°02'15" N., longitude 87°31'45" W.); and within 2 miles each side of the Evansville VORTAC 060° radial, extending from the 10-mile radius area to the VORTAC.

Evergreen, Ala.

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Middleton Field Airport (lat. 31°24'52"N., long. 87°02'29"W.)

Excelsior Springs, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Excelsior Springs Memorial Airport (lat. 39°20'14"N., long. 94°11'51"W.) and within 3 miles each side of the Napoleon, Mo., VORTAC 348° radial extending from the 5-mile radius area to 13 miles north of the airport.

AMENDMENTS 10/30/80 45 F. R. 59837 (Added)

Fairbanks, Alaska

That airspace extending upward from 700 feet above the surface within 9.5 miles W and 4.5 miles E of the Eielson localizer S course extending from the Eielson VOR to 18.5 miles S of the VOR; within 2 miles NW and 4.5 miles SE of the Fairbanks localizer NE course, extending from the Fairbanks outer marker to Fox RBN; within 4.5 miles SE and 9.5 miles NW of the Fairbanks localizer NE course extending from Fox RBN to 18.5 miles NE of the RBN; within 4.5 miles NW and 9.5 miles SE of the Fairbanks localizer SW course, extending from 5 miles SW of the localizer antenna (latitude 64°48'11" N., longitude 147°53'01" W) to 18.5 miles SW of the localizer antenna; within 4.5 miles N and 9.5 miles S of the Chena 089° bearing, extending from Chena RBN to 18.5 miles E of the RBN; and that airspace extending upward from 1,200 feet above the surface beginning at latitude 68°00'00" N., longitude 153°00'00" W.; to 68°00'00" N., 144°00'00" W.; to 63°10'00" N., 144°00'00" W.; to 62°38'00" N., 145°41'00" W.; to 62°45'00" N., 148°48'00" W.; to 62°59'00" N., 150°15'00" W.; to 63°00'00" N., 151°10'00" W.; to 64°00'00" N., 153°00'00" W.; to point of beginning, excluding the portion within Restricted Areas R-2202B and R-2206.

Fairbury, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fairbury Municipal Airport (lat. 40°10'59"N., long. 97°09'54"W.). Within 3 miles each side of the 173° course, extending 3 miles north from the 5-mile radius; within 2 miles each side of the 192° course, extending 3 miles north from the 5-mile radius.

Fairfield, Ill.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Fairfield Airport (latitude 38°23'00" N., longitude 88°25'00" W.) and within 3 miles either side of the 179° bearing from the Fairfield Airport extending from the 5½-mile radius to 8 miles south of the airport.

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Fairfield, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fairfield-Municipal Airport (latitude 41°03'15" N., longitude 91°58'40" W.); and within 3 miles each side of the 188° bearing from Fairfield Municipal Airport, extending from the 5-mile radius area to 11 miles south of the airport.

Fairmont, Minn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Fairmont Municipal Airport (latitude 43°38'41" N., longitude 94°25'04" W.); within 3 miles each side of the 132° bearing from Fairmont Municipal Airport, extending from the 7-mile radius area to 8 miles southeast of the airport; and within 3 miles each side of the 319° bearing from Fairmont Municipal Airport, extending from the 7-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 132° bearing from the Fairmont Municipal Airport, extending from the airport to 18½ miles southeast of the airport; excluding the portion in Minnesota.

Fairmont, W. Va.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 39°26' 50" N., 80°10'00" W., of Fairmont Airport, Fairmont, W. Va., and within 5 miles each side of the Morgantown, W. Va., VORTAC 245° radial extending from the 8.5-mile radius area to 7.5 miles southwest of the VORTAC.

Fairview, Okla.

Within a 5-mile radius of the Fairview, Okla., Municipal Airport (latitude 36°17'12" N., longitude 98°28' 00" W.) and within 3.5 miles either side of the 360° bearing of the Fairview RBN (latitude 36°17'10" N., longitude 98°28'06" W.) extending from the 5-mile radius to 2.5 miles north.

Falfurrias, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brooks County Airport (latitude 27°12'15" N., longitude 98°07'15" W.) and within 3 miles each side of the 163° T bearing from the Brooks County RBN (latitude 27°12'23" N., longitude 98°07'24" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

Fallon, Nev.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of NAS Fallon TACAN and within 2 miles NE and 2.5 miles SW of the Fallon TACAN 296° radial, extending from the 11-mile radius area to 15 miles NW of the TACAN; that airspace extending upward from 1,200 feet above the surface beginning at latitude 40°01'00" N., longitude 118°01'00" W.; to latitude 39°51'00" N., longitude 117°58'00" W.; to latitude 39°51'00" N., longitude 117°31'00" W.; to latitude 39°34'00" N., longitude 117°39°30" W.; to latitude 39°18'00" N., longitude 117°47'30" W.; to latitude 39°00'00" N., longitude 117°40'00" W., to point of intersection of a line 8 miles NE of and parallel to the Reno VORTAC 135° radial and the NE edge of V-105E, thence via a line 8 miles NE of and parallel to Reno 135° radial to longitude 119°00'00" W., to latitude 39°42'00" N., longitude 119°00'00" W. to latitude 40°01'00" N., longitude 118°19'00" W., to point of beginning, excluding that airspace below 1,500 feet AGL within R-4816N and that airspace within R-4816S extending upward from 500 feet AGL to and including 2,000 feet AGL which lies N of and within 1 nautical mile from U. S. Highway 50 between the intersections of Highway 50 with longtiude 118°25'30" W. and 118°09'50" W.; that airspace extending upward from 9,500 feet MSL extending from 23 to 44 miles SE of Fallon TACAN bounded on the NE by a line 10 miles NE of and parallel to the Fallon TACAN 139° radial and on the SW by the NE edge of V-105E. The 1,200 foot portion underlying the 9,500 foot MSL portion of the transition area is excluded.

Falls City, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Brenner Field Airport, Falls City, Nebr. (lat. 40°04'39"N., long. 95°35'27"W.), and within 3 miles each side of the 142° bearing from the NDB facility (lat. 40°04'35"N., long. 95°35'12"W.), extending from the 5-mile radius to 8 miles SE of the NDB facility.

AMENDMENTS 1/24/80 44 F. R. 68449 (Added)

Falmouth, Mass.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Otis AFB, Falmouth, Mass. (latitude 41°39'30" N., longitude 70°31'35" W.); within a 6-mile radius of Barnstable Airport, Hyannis, Mass., (latitude 41°40'10" N., longitude 70°16'45" W.); within 5 miles NW and 8 miles SE of the Barnstable Airport ILS localizer NE course, extending from the OM to 12 miles NE of the OM; within a 4-mile radius of the Chatham Airport, Chatham, Mass. (latitude 41°41'20" N., longitude 69°59'25" W.); within a 6-mile radius of Martha's Vineyard Airport, Martha's Vineyard, Mass., (latitude 41°23'35" N., longitude 70°36'50" W.), and within 5 miles NW and 8 miles SE of the Martha's Vineyard VOR 055° radial, extending from the VOR to 12 miles NE of the VOR; within 2 miles each side of the 183° bearing from Edgartown RBN, extending from the 6-mile radius area to 8 miles S of the RBN; and within a 5-mile radius of the Oak Bluffs Airport, Oak Bluffs, Mass. (latitude 41°26'25"N., longitude 70°34'10"W.).

AMENDMENTS 3/21/80 45 F. R. 13054 (Changed)

Farewell, Alaska

That airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Farewell RBN 126° and 306° bearings, extending from 6 miles southeast to 18.5 miles northwest of the RBN.

Fargo, N. Dak.

That airspace extending upward from 700 feet above the surface within an 18.5-mile radius of Hector Field (latitude 46°54'37" N., longitude 96°48'53" W.) and that airspace extending upward from 1,200 feet above the surface within a 29-mile radius of Hector Field; and that airspace extending upward from 1,200 feet above the surface within a 46-mile radius of Hector Field extending clockwise from the Fargo VORTAC 056° radial to the north edge of V2N, west of Fargo; and within 10 miles east and 7 miles west of the Fargo VORTAC 187° radial extending from the 46-mile radius area to 56 miles south of the VORTAC; and that airspace extending upward from 2,700 feet MSL extending from the 29-mile radius area to the 46-mile radius area between the north edge of V2N, west of Fargo, clockwise to the Fargo VORTAC 056° radial, excluding V-181, V-181E, and the Grand Forks, N. Dak., transition area.

Faribault, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Faribault Municipal Airport (lat. 44°19'30"N., long. 93°18'30"W.), within 1.25 miles each side of 199° bearing from Faribault Municipal Airport, extending from the Faribault 5-mile radius area to 9 miles southwest of the airport, excluding the portion within the Owatonna, Minn., transiton area.

Farmerville, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Farmerville Airport, (lat. 32°43'30"N., long. 92°20'15"W.).

AMENDMENTS 9/4/80 45 F. R. 45266 (Added)

Farmington, Mo.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Farmington Municipal Airport (latitude 37°45'45" N., longitude 90°26'30" W.); and within 1½ miles each side of the Farmington VORTAC 300° radial, extending from the 9-mile radius area to the VORTAC.

Farmington, N. Mex.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Farmington Municipal Airport (lat. 36°44'28" N., long. 108°13'39" W.) within 3.5 miles each side of the Farmington VORTAC 086° radial extending from the 11-mile radius area to 12 miles east of the VORTAC, and within 4.5 miles each side of the Farmington VORTAC 265° radial extending from the 11-mile radius area to 23 miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of the Farmington VORTAC excluding the portion within the Durango, Colo., transition area.

Farmville, Va.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 37° 21'22" N., long. 78°26'16" W. of Farmville Municipal Airport, Farmville, Va.

Fayetteville, Ark.

That airspace extending upward from 700 feet above the surface within a 27.5-mile radius of latitude 36°12'00" N., longitude 94°14'00" W., within 5 miles each side of the Drake VOR 186° radial extending from the 27.5-mile radius area to 19 miles south of the VOR.

Fayetteville, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Fayetteville Municipal Airport (Grannis Field) (latitude 34°59'22" N., longitude 78°52'52" W.); within a 10-mile radius of Pope AFB (latitude 35°10'15" N., longitude 79°00'55" W.); within 10 miles north and 2 miles south of Simmons AAF (lat. 35°07'55" N., long. 78°57'05" W.)Runway 27 extended and centerline, extending from the 10-mile radius area to 17.5 miles east of the runway end; within 9.5 miles northeast and 4.5 miles southeast of Pope AFB ILS localizer northeast course, extending from the 10-mile radius area to 24 miles northeast of the Pope TACAN.

Fayetteville, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fayetteville Municipal Airport (lat. 35°03'28" N., long. 86°33'53" W.); within 3 miles each side of the 188° bearing from Highland RBN (lat. 35°03'32" N., long. 86°33'58" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Fergus Falls, Minn.

That airspace extending upward from 700' above the surface within a 6½-mile radius of Fergus Falls Municipal Airport (lat. 46°17'15"N., long. 96°09'45"W.); within 3 miles each side of the 187° bearing from the airport, extending from the 6½-mile radius area to 8 miles south of the airport; and within 3 miles each side of the 343° bearing from the airport, extending from the 6½-mile radius area to 8 miles northwest of the airport.

Fernandina Beach, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fernandina Beach Airport (lat. 30°36'34"N., long. 81°27'39"W.); excluding the portion outside of the continental limits of the United States.

Festus, Mo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Festus Memorial Airport (latitude 38°11'45" N., longitude 90°23'00" W.); and within 3 miles each side of the 180° bearing from Festus Memorial Airport, extending from the 7-mile radius area to 8 miles south of the airport.

Findlay, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Findlay, Ohio, Airport (latitude 41°00'40" N., longitude 83°40'30" W.) within 3 miles each side of the 063° bearing from the Findlay Airport extending from the 6.5-mile radius area to 8.5 miles northeast of the airport, within 3 miles each side of the 179° bearing from the Findlay Airport extending from the 6.5-mile radius area to 8.5 miles south of the airport within 2 miles each side of the Findlay VORTAC 231° radial extending from the Bluffton Flying Service Airport (latitude 40°53'09" N., longitude 83°52'04" W.) 5-mile radius area to the 6.5-mile radius area of the Findlay Airport.

Firebaugh, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Firebaugh Airport (latitude 36°51'36" N., longitude 120°27'49" W.); and within 3 miles each side of the Los Banos VORTAC 060° radial, extending from the 3-mile radius area to 15 miles NE of the VORTAC.

Fitzgerald, Ga.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fitzgerald Municipal Airport (lat. 31°41'00" N., long. 83°16'00" W.); within 3 miles each side of the 200° bearing from Fitzgerald RBN (lat. 31°41'06" N., long. 83°16'00" W.), extending from the 5-mile radius area to 8.5 miles southwest of the RBN.

Flagstaff, Ariz. (Pulliam Airport)

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.), and that airspace extending upward from 1,200 feet above the surface within 9.5 miles each side of the Flagstaff VOR 127° and 307° radials, extending from 8 miles northwest to 19 miles southeast of the VOR, excluding that portion within R-2302.

Flemingsburg, Ky.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fleming-Mason Airport (latitude 38°32'33" N., longitude 83°44'25" W.); within 3 miles each side of the 061° bearing from Flemingsburg RBN (latitude 38°32'17" N., longitude 83°44'49" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Flint, Mich.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Flint VOR, within 5 miles north and 8 miles south of the Flint ILS localizer west course, extending from the 12-mile radius area to 12 miles west of the outer marker; within a 4-mile radius of Owosso City Airport, (latitude 42°59'30" N., longitude 84°08'00" W.); within a 5½ mile radius of the Price Airport, (latitude 42°48'25" N., longitude 83°46'20" W.); and within a 5-mile radius of the Davison-Genova Airport, (latitude 43°01'45" N., longitude 83°31'34"W.); excluding the portion which overlies the Detroit, Mich., transition area.

Flippin, Ark.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Flippin Municipal Airport (latitude 36°17'30" N., longitude 92°35'30" W.); within 3.5 miles each side of the Flippin VOR 086° radial extending from the Flippin Municipal Airport 9.5-mile radius area to 8.5 miles east of the VOR; within an 8-mile radius of Mountain Home Municipal Airport (latitude 36°22'00" N., longitude 92°28'00" W.); and within 3.5 miles each side of the Flippin VOR 172° radial extending from the Mountain Home Municipal Airport 8-mile radius area to 8.5 miles south of the VOR.

Flora, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Flora Municipal Airport (FOA) (lat. 38°39'55"N., long. 88°27'10"W.), and within 3 miles each side of the 042° bearing from the FOA NDB, extending from the 5-mile radius to 8 miles NE of the NDB.

Florence, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Florence City-County Airport (lat. 34°11'17" N., long. 79°43'28" W.); within 4 miles each side of Florence VORTAC 049° radial, extending from the 8.5-mile radius area to 9 miles northeast of the VORTAC.

Florida

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Florida including the offshore airspace within 3 NM of and parallel to the shoreline of Florida.

Follett, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Follett-Libscomb County Airport (lat. 36°26'26"N., long. 100°07'24"W.), and within 4 miles each side of the 189° bearing from the NDB (lat. 36°26'08"N., long. 100°07'16.5"W.), extending from the 7-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 3/20/80 45 F. R. 3886 (Rewritten) Corr: 45 F. R. 14544

Foraker, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Codding Cattle Airport (latitude 36°46'00" N., longitude 96°33'00" W.).

Forest, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Forest Municipal Airport (lat. 32°21'12"N., long. 89°29'19"W.), within 3 miles each side of the 335° bearing from the Forest RBN, extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

AMENDMENTS 4/9/80 45 F. R. 17005 (Added)

Forest City, Iowa

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Forest City Municipal Airport (lat. 43°14'00"N., long. 93°37'30"W.), excluding that portion overlying the Mason City, Iowa, 700 foot transition area.

AMENDMENTS 1/24/80 44 F. R. 67104 (Rewritten)

Forrest City, Ark.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Forest City Municipal Airport (latitude 34°56'42" N., longitude 90°46'16" W.), and within 3.5 miles each side of the 180° bearing from the Forrest City RBN (latitude 34°56'28" N., longitude 90°46'24" W.) extending from the 5.5-mile radius area to 11.5 miles south of the RBN.

Forsyth, Mont.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Forsyth Airport (latitude 46°16'14" N., longitude 106°37'00" W.); within 4 miles north and 5 miles south of the 075° bearing from the Forsyth NDB (latitude 46°16'10" N., longitude 106°31'01" W.), extending from the NDB to 10 miles east of the NDB; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 5 miles south of 089° bearing from the Forsyth NDB, extending from the NDB to 18.5 miles east of the NDB, excluding that portion which overlies the Miles City, Mont., transition area.

Fort Bridger, Wyo.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Fort Bridger Municipal Airport (latitude 41°24'00" N., longitude 110°25'00" W.), and within 3.5 miles each side of the Fort Bridger VORTAC 047° radial extending from the 9-mile radius area to 11.5 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8.5 miles southeast and 12.5 miles northwest of the Fort Bridger VORTAC 047° and 227° radials extending from 23 miles northeast to 10.5 miles southwest of the VORTAC.

Fort Collins, Colo.

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 9.5 miles west of the 173° and 353° bearings from the Fort Collins-Loveland NDB (lat. 40°26'59"N., long. 105°00'19"W.) extending from 18 miles north to 18.5 miles south of the NDB.

AMENDMENTS 1/24/80 44 F. R. 60079 (Rewritten)

Fort Dodge, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Fort Dodge Municipal Airport (lat. 42°33'05"N., long. 94°11'10"W.); and that airspace extending upward from 3,500 feet MSL south and east of Fort Dodge bounded on the north by V-100, on the east by V-13, on the south by V-172 and on the northwest by V-138.

Fort Huachuca, Ariz.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Libby AAF, Fort Huachuca, Ariz. (lat. 31°35'00"N., long. 110°20'30"W.), that airspace within an arc of a 22-mile radius circle centered on the Libby AAF VOR, extending clockwise from a line 5 miles northwest of and parallel to the 033° radial of the Libby AAF VOR to a line 5 miles south of and parallel to the Libby AAF VOR 093° radial; that airspace extending upward from 1,200 feet above the surface bounded on the north by the Tucson, Ariz., transition area, on the northeast by the southwest edge of V-66, on the east by long. 109°44'00"W., on the south by lat. 31°25'00"N., on the west by long. 110°30'00"W., and that airspace northeast of Libby AAF bounded on the north by the south edge of V-16S, on the east by a line 5 miles west of and parallel to the Douglas, Ariz., VORTAC 347° radial, on the southwest by the northeast edge of V-66 and on the west by long. 110°00'00"W.

Fort Indiantown Gap, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°26'00"N., 76°34'00"W. of Muir AAF, Fort Indiantown Gap, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 230° bearing to a 252° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 037° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 037° bearing to a 086° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 086° bearing to a 136° bearing from the airport; within 4.5 miles each side of the 097° bearing from the Bellgrove, Pa., RBN, extending from the RBN to 10 miles east of the RBN.

Fort Jones, Calif.

That airspace extending upward from 9,500 feet MSL bounded on the NE by V-23 and V-23W, on the S by latitude 41°19'00" N., and on the W by longitude 123°01'00" W.

Fort Leonard Wood, Mo.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Forney AAF (latitude 37°44'30" N., longitude 92°08'25" W.); within 4½ miles southwest and 9½ miles northeast of the Forney AAF VOR 323° radial, extending from the VOR to 18½ miles northwest of the VOR; within 4½ miles southwest and 9½ miles northeast of the 146° and 326° bearings from Forney AAF RBN, extending from Forney AAF to 18½ miles southeast of the Forney AAF RBN; and within 4½ miles southwest and 9½ miles northeast of the Forney AAF VOR 152° radial extending from the VOR to 18½ miles southeast of the VOR.

Fort Madison, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Fort Madison Municipal Airport (lat. 40°39'30"N., long. 91°19'30"W.); and within 2 miles each side of the Burlington, Iowa, VORTAC 258° radial, extending from the 6-mile radius area to 12 miles west of the VORTAC excluding the portion which overlies the Burlington, Iowa, transition area.

Fort McCoy, Wis.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Camp McCoy Army Airfield (lat. 43°57'15"N., long. 90°44'15"W.), and within 3.5 miles each side of the 109° bearing from the Camp McCoy RBN, extending from the 11-mile radius to 7.8 miles east of the Camp McCoy RBN, excluding that portion that overlies the LaCrosse, Wis., transition area.

Fort Myers, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Page Field (lat. 26°35'09"N., long. 81°51'51"W.); within 3.5 miles each side of Fort Myers VORTAC 062° radial, extending from the 8.5-mile radius area to 10 miles northeast of the VORTAC.

Fort Polk, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Polk AAF (latitude 31°02'40" N., longitude 93°11'25" W.); within 2 miles each side of the 160° bearing from the Polk AAF RBN, extending from the 5-mile radius area to 10 miles SE of the south fan marker; and within 2 miles each side of the 340° bearing from the Polk AAF RBN, extending from the 5-mile radius area to 8 miles NW of the north fan marker.

Fort Rucker, Ala.

That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at lat. 31°38'00"N., long. 86°23'30"W.; thence northeast via V-70 to V-7; thence south via V-7 to V-241; thence southwest via V-241 to and clockwise along the arc of a 5-mile radius circle centered at lat. 31°03'00"N., long. 86°19'33"W.; to lat. 31°03'00"N., long. 86°24'30"W.; to the point of beginning; within a 6.5-mile radius of Blackwell Field, Ozark, Ala. (lat. 31°25'50"N., long. 85°37'10"W.); within a 6.5-mile radius of Andalusia-Opp Airport, Andalusia, Ala., (lat. 31°18'45"N., long. 86°23'00"W.)

Fort Scott, Kans.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fort Scott Municipal Airport (latitude 37°47'45" N., longitude 94°46'10" W.); and within 2 miles each side of the 348° bearing from Fort Scott Municipal Airport, extending from the 5-mile radius area to 8 miles north of the airport.

ort Smith, Ark.
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the Fort Smith Municipal Airport (latitude 35°20'10" N., longitude 94°22'05" W.), within an 11.5-mile radius of the Fort Smith VORTAC extending clockwise from the 078° to the 155° radials of the VORTAC, within 6 miles northwest and 5 miles southeast of the Fort Smith VORTAC 053° radial extending from the 12.5 and 14.5-mile radius areas to 12 miles northeast of the VORTAC, within 2 miles each side of the Fort Smith VORTAC 239° radial extending from the 12.5-mile radius area to 20 miles southwest of the VORTAC, within 3.5 miles each side of the VORTAC 119° radial extending from the VORTAC to 11.5 miles southeast of the VORTAC, and within 2 miles each side of the
Fort Smith ILS localizer west course extending from the 12.5-mile radius area to 8 miles west of the Peno Bottoms RBN (latitude 35°19'21" N., longitude 94°28'28" W.).

ort Stewart, Ga.
That airspace extending upwards from 700 feet above the surface within an 8.5-mile radius of Lyle H. Wright AAF (lat. 31°53'20"N., long. 81°33'45"W.).

Fort Stockton, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Pecos County Airport (latitude 30°55'00" N., longitude 102°54'30" W.), within 6 miles each side of the Fort Stockton VORTAC 308° and 128° radials extending from the airport to 8 miles northwest of the VORTAC, and within 7 miles each side of the Fort Stockton VORTAC 128° radial extending from 9 miles southeast to 21 miles southeast of the VORTAC.

Fortuna, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Fortuna VORTAC 327° radial, extending from the VORTAC to 8 miles northwest of the VORTAC; within 2 miles northeast and 4.5 miles southwest of the Fortuna VORTAC 147° radial, extending from the VORTAC to 3.5 miles southeast of the VORTAC; within 2.5 miles southwest and 3.5 miles northeast of the 129° and 309° bearings from the Rohnerville Airport (latitude 40°33'15" N., longitude 124°07'53" W.), extending from 7.5 miles northwest to 3 miles southeast of the airport, and within 2 miles each side of the Fortuna VORTAC 034° radial, extending from the VORTAC to 11 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southeast and 10 miles northwest of the Fortuna VORTAC 229° radial, extending from the VORTAC 18.5 miles southwest of the VORTAC.

ort Wayne, Ind.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Fort Wayne VORTAC; and within an 18½-mile radius of Fort Wayne VORTAC, extending from the Fort Wayne VORTAC 104° radial clockwise to the Fort Wayne VORTAC 335° radial.

Fort Yukon, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fort Yukon Municipal Airport (latitude 66°34'16" N., longitude 145°14'50" W.) and within 3 miles south and 4.5 miles north of Fort Yukon 076° radial extending from the 5-mile radius area to 10.5 miles east of the Fort Yukon VORTAC and within 3 miles each side of the Fort Yukon VORTAC 214° radial extending from the 5-mile radius area to 8.5 miles southwest of the VORTAC.

ENDING AMENDMENT
Fosston, Minn.
That airspace extending upward from 700 feet above the surface within a 5 statute mile radius of the Fosston Municipal Airport and extending 3 statute miles either side of the 175° bearing from the Fosston NDB to 8 statute miles south of the Fosston NDB.

AMENDMENTS 12/25/80 45 F. R. 73650 (Added)

Fostoria, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Fostoria Metropolitan Airport (latitude 41°11'30" N., longitude 83°23'50" W.); within 3 miles each side of the 084° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles east of the airport; excluding that portion that overlies the Tiffin, Ohio, transition area.

Frankfort, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Frankfort Municipal Airport (latitude 40°16'25" N., longitude 86°33'45" W.) and within 3 miles each side of the 221° bearing from the airport extending from the 5-mile radius area to 8.5 miles southwest.

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Frankfort, Ky.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Capital City Airport (lat. 38°10'56" N., long. 84°54'16" W.); within 3 miles each side of the 062° bearing from Jett RBN (lat. 38°12'56" N., long. 84°49'32" W.), extending from the 8.5-mile radius area to 8.5 miles northeast of the RBN; within 3 miles each side of Frankfort VOR 063° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of Jett RBN; within 3 miles each side of Frankfort VOR 240° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VOR.

Franklin, Pa.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (41° 22'45" N., 79°51'40" W.) of Chess-Lamberton Airport, Franklin, Pa.: within 3.5 miles each side of the Franklin, Pa., VOR 360° radial, extending from the 7-mile radius area to 11.5 miles north of the VOR.

Franklin, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Rocking 7 Ranch Airport (latitude 31°09'37" N., longitude 96°26'14" W.); within 2.5 miles each side of the 276° radial from the Leona, Tex., VORTAC extending from the 5-mile radius area to 22 miles southwest of the Leona VORTAC.

Franklin, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 36°41'50"N., 76°54'15"W., of John Beverly Rose Field-Franklin Municipal Airport; within 2 miles each side of the Franklin VORTAC 096° radial extending from the 6.5-mile radius area to 13 miles east of the VORTAC.

Frederick, Md.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 39°25'00" N., long. 77°22'30" W. of Frederick Municipal Airport, Frederick, Md.; within a 16-mile radius of the center of the airport, extending clockwise from a 245° bearing to a 350° bearing from the airport and within 3.5 miles each side of the Frederick VOR 040° radial, extending from the 8-mile radius area to 14.5 miles northeast of the VOR, excluding the portion within P-40.

AMENDMENTS 9/4/80 45 F. R. 49245 (Changed)

Frederick, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Frederick, Okla., Municipal Airport (latitude 34°21'09" N., longitude 98°59'21" W.) and within 3.5 miles each side of the 001° bearing from the Frederick, Okla., RBN (latitude 34°23'35" N., longitude 98°59'19" W.) extending from the 8.5-mile radius area to 11.5 miles north of the RBN.

Fredericksburg, Va.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 38°15'40" N., 77°26'20" W. of Shannon Airport, Fredericksburg, Va., and within 2 miles each side of the Brooke, Va., VORTAC 227° radial, extending from the 6-mile radius area to 1 mile southwest of the VORTAC.

Fredericksburg, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gillespie County Airport (lat. 30°14'56"N., long. 98°54'37"W.), and within 1.5 miles either side of the 282° radial from the Stonewall VORTAC (lat. 30°12'26"N., long. 98°42'17"W.), extending from the 5-mile radius to 6 miles east of the Gillespie County Airport.

Freeport, Ill.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Albertus Airport (latitude 42°14'50" N., longitude 89°34'45" W.); and within 2 miles each side of the 065° bearing from Albertus Airport, extending from the 6-mile radius area to 8 miles northeast of the airport.

Fremont, Mich.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Fremont Municipal Airport, Fremont, Mich. (latitude 43°26'31" N.; longitude 85°59'29" W.).

Fremont, Nebr.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Fremont Municipal Airport (latitude 41°26'55" N., longitude 96°30'50" W.).

Fremont, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 41° 20'00" N., long. 83°09'40" W. of Progress Field, Fremont, Ohio, and within 2.5 miles each side of the Waterville, Ohio, VORTAC 108° radial, extending from the 5-mile radius area to 10.5 miles east of the VORTAC.

French Lick, Ind.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the French Lick Municipal Airport, French Lick, Ind., (lat. 38°30'26"N., long. 86°37'59"W.).

AMENDMENTS 7/10/80 45 F. R. 31054 (Rewritten)

Frenchville, Maine
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center of the Northern Aroostook Regional Airport (latitude 47°17'18" N., longitude 68°19'00" W.) and within 5 miles each side of the 115° bearing of the Frenchville (FVE) NDB (latitude 47°16'05" N., longitude 68°15'26" W.) extending from the 6-mile radius to 11.5 miles southeast of the NDB, excluding the airspace within Canada.

Fresno, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chandler Municipal Airport (latitude 36°43'55" N., longitude 119°49'05" W.); within 2 miles each side of the 232° bearing from the Fresno RBN, extending from the 5-mile radius area to 8 miles SW of the RBN; within 2 miles each side of the Fresno VORTAC 185° radial, extending from the 5-mile radius area to the VORTAC, excluding the portion within the arc of a 5-mile radius circle centered on the Fresno Air Terminal, and the portion NE of a line 2 miles SW of and parallel to the Fresno VORTAC 143° radial, extending from the arc of a 5-mile radius circle centered on Fresno Air Terminal to the VORTAC; within 2 miles W and 4 miles E of the Fresno VORTAC 158° radial, extending from the arc of a 5-mile radius circle centered on the Fresno Air Terminal to 16 miles SE of the VORTAC, and within 2 miles each side of the Fresno ILS localizer SE course, extending from the arc of a 5-mile radius circle centered on the Fresno Air Terminal to 13 miles SE of the OM; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 37°29'00" N., longitude 119°15'00" W., to latitude 36°49'00" N., longitude 118°46'00" W., to latitude 36°39'00" N., longitude 118°48'00" W., to latitude 36°39'00" N., longitude 119°09'00" W., to latitude 36°00'00" N., longitude 118°45'00" W., thence west via latitude 36°00'00" N., to longitude 119°30'00" W., thence north via longitude 119°30'00" W., to the west edge of V-23, thence north via the west edge of V-23 to latitude 36°37'00" N., longitude 119°56'00" W., to latitude 37°02'00" N., longitude 120°18'00" W., to point of beginning.

Fryeburg, Maine
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 43°59'28" N., long. 70°56'53" W., of Eastern Slopes Airport, Fryeburg, Maine, and within 4.5 miles north and 6.5 miles south of the 118° bearing and the 298° bearing from the Fryeburg NDB, lat. 43°59'21" N., long. 70°56'5[illegible]" W., extending from 5.5 miles west of the NDB to 11.5 miles east of the NDB, excluding the portions within the North Conway, N. H., area.

Fulton, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fulton Municipal Airport (lat. 38°50'22"N., long. 92°00'17"W.), and within 2 miles each side of the Hallsville, Mo., VORTAC (lat. 39°06'49"N., long. 92°07'41"W.), 154° radial; extending from the 5-mile radius area to 6 miles NW of the Fulton Municipal Airport, and within 3 miles each side of the Fulton, Mo., NDB (lat. 38°50'34"N., long. 92°00'16"W.), 229° bearing; extending from the 5-mile radius area to 8.5 miles SW of the NDB, and within 3 miles each side of the NDB facility 065° bearing; extending from the 5-mile radius area to 8.5 miles NE of the NDB; excluding that portion which overlies the Columbia, Mo., 700 foot transition area.

AMENDMENTS 1/24/80 44 F. R. 65390 (Rewritten)
AMENDMENTS 5/15/80 45 F. R. 18913 (Rewritten)

Fulton, N. Y.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 43° 21'05" N., 76°23'20" W. of Oswego County Airport, Fulton, N. Y.
That airspace extending upward from 1,200 feet above the surface within 5.5 miles each side of the Syracuse, NY., 344° radial, extending from the VORTAC to the United States/Canadian border; and within 5 miles each side of the Watertown, NY., 309° radial extending from the VORTAC to the United States/Canadian border.

Gadsden, Ala.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Gadsden Municipal Airport (latitude 33°58'25" N., longitude 86°06'14" W.).

Gage, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Gage Municipal Airport (latitude 36°17'45" N. longitude 99°46'30" W.).

Gainesville, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Gainesville Regional Airport (lat. 29°41'22"N., long. 82°16'28"W.).

Gainesville, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lee Gilmer Memorial Airport (lat. 34°16'37" N., long. 83°49'42" W.); within 9.5 miles northwest and 4.5 miles southeast of the 216° bearing from Gainesville RBN (lat. 34°16'30" N., long. 83°49'56" W.), extending from the RBN to 18.5 miles southwest; excluding the portion within the Lawrenceville, Ga., transition area.

Gainesville, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gainesville Airport (lat. 33°39'00" N., long. 99°11'40" W.); and within 3.5 miles each side of the 001° bearing from the Gainesville RBN (lat. 33°42'12" N., long. 97°11'50" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Gaithersburg, Md.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (39° 09'54" N., 77°10'00" W.), of Montgomery County Airpark, Gaithersburg, Md.; within 5 miles each side of the Frederick, Md., VOR 176° radial, extending from the VOR to 13 miles south of the VOR; and within 4.5 miles south and 9.5 miles north of a 292° bearing from the Gaithersburg, Md., RBN (39°10'06" N., 77°09'42" W.), extending from the RBN to 18.5 miles west of the RBN.

Galax, Va.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, lat. 36°45'52" N., long. 80°49'20" W. of Twin County Airport; and within 4.5 miles each side of the Pulaski VORTAC 196° radial, extending from the 10.5-mile radius area to 8 miles south of the VORTAC.

Galena, Alaska

That airspace extending upward from 700 feet above the surface within a 19-mile radius of the Galena VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 28-mile radius of the Galena VORTAC; within a 40-mile radius of the Galena VORTAC extending from the 240° radial clockwise to the 298° radial and extending from the 28-mile radius area to 40 miles W of the VORTAC; and within a 35-mile radius of the Galena VORTAC extending from the 089° radial clockwise to the 119° radial and extending from the 28-mile radius area to 35 miles E of the VORTAC.

Galesburg, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Galesburg Municipal Airport, Galesburg, Ill. (lat. 40°56'24"N., long. 90°25'46"W.); within 8 miles each side of the Galesburg VOR 031° radial extending from the VOR to 12 miles north of the VOR; within 8 miles each side of the Galesburg VOR 199° radial extending from the VOR to 12 miles south of the VOR; within a 7-mile radius of the Monmouth, Ill., Municipal Airport (lat. 40°55'42"N., long. 90°38'06"W.).

AMENDMENTS 7/10/80 45 F. R. 31055 (Rewritten)

Galeton, Pa.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 41° 40'00"N., long. 77°49'15"W., of Cherry Springs Airport, Galeton, Pa., within 3.5 miles each side of the Slate Run, Pa., VORTAC 037° radial, extending from the 7-mile radius area to the Slate Run, Pa., VORTAC.

Gallipolis, Ohio

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Gallia-Meigs Regional Airport, Gallipolis, Ohio (latitude 38°50'03" N., longitude 82°09'49" W.).

Gallup, N. Mex.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Senator Clarke Field (lat. 35°30'35"N., long. 108°47'00"W.) and within 3.5 miles south and 5.5 miles north of the Gallup VORTAC 241° radial, extending from the 9-mile radius area to 11.5 miles southwest of the Gallup VORTAC; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 35°47'30"N., long. 108°34'00"W.; to lat. 35°26'50"N., long. 108°34'00"W.; to lat. 35°13'15"N., long. 109°06'00"W.; to lat. 35°20'25"N., long. 109°10'40"W.; to lat. 35°52'00"N., long. 108°47'00"W., to point of beginning, excluding the portion which coincides with the State of New Mexico transition area.

Galveston, Tex. (Offshore)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of coordinates lat. 28°53'00"N., long. 94°43'00"W.

Garden City, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Garden City Municipal Airport (latitude 37°55'49" N., longitude 100°43'40" W.), within 3 miles each side of the 144° and 324° bearings from Holcomb RBN, extending from the 7-mile radius to 8 miles northwest of the RBN; and 4½ miles east and 9½ miles west of the 004° radial of the Garden City VORTAC extending from the 7-mile radius to 18½ miles north of the VORTAC.

Gaylord, Mich.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Otsego County Airport, Gaylord, Mich., (lat. 45°01'00"N., long. 84°41'45"W.) and within an 8.5-mile radius of the Gaylord (GLR) VORTAC (lat. 45°00'45.3"N., long. 84°42'14.5"W.) and 4 miles south and 4 miles north of the 282° true radial of the GLR VORTAC extending from the 8.5-mile radius out to 13 miles, and within 5 miles north and 5 miles south of the 274° true bearing of the Alpine (ALV) NDB (lat. 45°04'58"N., long. 83°33'25"W.) extending from the 8.5-mile radius out to 13 miles.

Georgetown, Del.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°41'23" N., long. 75°21'38" W. of Sussex County Airport, Georgetown, DE., and within 2 miles each side of the Waterloo, Del., VORTAC 225° radial extending from the 6.5-mile radius area to the VORTAC and within 2.5 miles each side of a 033° bearing from a point 38°41'42"N., 75°21'18"W., extending from said point to 7 miles northeast of said point.

Georgetown, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Brown County Airport (latitude 38°52'55" N., longitude 83°52'58" W.); and within 3 miles either side of the 162° bearing from the airport extending from the 5-mile radius to 8 miles southeast of the airport.

Georgetown, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Georgetown County Airport (latitude 33°19'00" N., longitude 79°19'00" W.); within 3 miles each side of the 213° bearing from Georgetown RBN (latitude 33°18'55" N., longitude 79°19'29" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Georgetown, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Georgetown Municipal Airport (lat. 30°40'45"N., long. 97°40'45"W.), within 3.5 miles each side of the 358° bearing from the NDB (lat. 30°41'03"N., long. 97°40'45"W.), extending from the 5-mile radius to 11.5 miles northwest of the NDB.

Georgia

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Georgia including the offshore airspace within 3 nautical miles from the parallel to the shoreline of Georgia and including the additional airspace outside the United States southeast of Savannah bounded by a line beginning at latitude 32°03'25" N., longitude 80°46'30" W.; to latitude 32°00'00" N., longitude 80°33'00" W.; to latitude 31°30'00" N., longitude 80°51'05" W.; to latitude 31°30'00" N., longitude 80°47'30" W.; to latitude 31°11'30" N., longitude 81°01'10" W.; to latitude 30°44'00" N., longitude 81°18'10" W.; to latitude 30°43'05" N., longitude 81°21'00" W.; thence north via a line 3 nautical miles from and parallel to the shoreline to the point of beginning, and including the airspace extending upward from 2,000 feet MSL southeast of Brunswick bounded by a line beginning at latitude 31°11'30" N., longitude 81°01'10" W.; to latitude 30°45'15" N., longitude 80°58'50" W.; to latitude 30°44'00" N., longitude 81°18'10" W.; thence northeast to point of beginning.

Gibson City, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gibson City Municipal Airport, latitude 40°29'00" N., longitude 88°16'00" W., and within 2 miles either side of the Roberts VORTAC 220° radial extending from the 5-mile radius northeast to Roberts VORTAC.

Giddings, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Giddings-Lee County Airport (lat. 30°10'11"N., long. 96°58'51"W.), and 3 miles each side of the 351° bearing from the NDB (lat. 30°10'07.3"N., long. 96°58'46.6"W.) extending from the 5-mile radius area to 8.5 miles northwest of the NDB.

AMENDMENTS 1/24/80 44 F. R. 69284 (Changed)

Gideon, Mo.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Gideon Memorial Airport (lat. 36°26'45"N., long. 89°54'15"W.), excluding the portion which overlies the Malden, Mo., 700 foot transition area.

Gila Bend, Ariz.

That airspace extending upward from 5,500 feet MSL bounded on the north and northeast by the south and southwest edges of V-66, on the east by longitude 111°45'00" W., on the south by latitude 32°27'00" N., and on the west by longitude 113°35'00" W.

Gillette, Wyo.

That airspace extending upward from 700 feet above the surface within 7 miles east and 9.5 miles west of the Gillette VOR (lat. 44°20'52"N., long. 105°32'34"W.) 176° and 356° radials, extending from 17.5 miles south to 18.5 miles north of the VOR, and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 44°47'00"N., long. 106°22'30"W.; to lat. 44°23'00"N., long. 106°22'30"W.; to lat. 44°16'00"N., long. 105°58'00"W.; to lat. 44°05'00"N., long. 106°00'00"W.; to lat. 43°49'15"N., long. 106°09'30"W.; to lat. 43°39'00"N., long. 106°00'00"W.; to lat. 43°39'00"N., long. 105°09'00"W.; to lat. 44°08'00"N., long. 105°09'00"W.; to lat. 44°01'00"N., long. 104°51'00"W.; to lat. 44°30'00"N., long. 104°41'00"W.; thence to point of beginning.

AMENDMENTS 1/24/80 44 F. R. 67105 (Rewritten)

Glasgow, Ky.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Glasgow Municipal Airport (lat. 37°01'54"N., long. 85°57'10"W.); within 3 miles north and 4.5 miles south of the 252° bearing from Glasgow RBN (lat. 37°01'03" N., long. 86°00'33" W.), extending from the 9-mile radius area to 8.5 miles west of the RBN.

Glasgow, Mont.

That airspace extending upward from 700 feet above the surface within 9 miles each side of the Glasgow VORTAC (lat. 48°12'55"N., long. 106°37'30"W.) 016°/196° radials extending from the VOR 9 miles southwest and 24.5 miles northeast, and that airspace extending upward from 1,200 feet above the surface starting at lat. 48°40'00"N., long. 106°00'00"W.; to lat. 48°32'00"N., long. 105°50'00"W.; to lat. 48°03'00"N., long. 105°50'00"W.; to lat. 48°05'00"N., long. 106°10'00"W.; to lat. 47°54'00"N., long. 106°22'30"W.; to lat. 48°16'00"N., long. 107°07'00"W.; to lat. 48°40'00"N., long. 107°07'00"W.; thence to point of beginning, excluding that area designated as the Wolf Point, Mont., 1,200 foot transition area.

AMENDMENTS 3/20/80 45 F. R. 6358 (Rewritten)

Glendive, Mont.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Dawson Community Airport (latitude 47°08'20" N., longitude 104°48'25" W.); and within 4½ miles northeast and 9½ miles southwest of the 325° bearing from Dawson Community Airport, extending from the 12-mile radius area to 18½ miles northwest of the airport.

Glens Falls, N. Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, latitude 43°20'32" N., longitude 73°36'35" W., of Warren County Airport extending clockwise from 050° bearing to a 220° bearing from the airport; within an 18.5-mile radius of the center of the airport extending clockwise from a 220° bearing to a 050° bearing from the airport; within 7 miles west and 9.5 miles east of the Glens Falls VORTAC 172° radial extending from the VORTAC to 18.5 miles south of the VORTAC.

Glenwood, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Glenwood Municipal Airport, Glenwood, Minn. (lat. 45°38'41"N., long. 95°19'14"W.).

AMENDMENTS 3/20/80 44 F. R. 76269 (Added)

Globe, Ariz.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Globe-San Carlos Regional Air Facility Airport (lat. 33°21'10"N., long. 110°40'10"W.); and within 4 miles each side of the 080° bearing from the Globe-San Carlos Regional Air Facility Radio Beacon (RBN) (lat. 33°21'16"N., long. 110°39'53"W.) extending from the 5-mile radius area to 10 miles east of the RBN.

AMENDMENTS 5/15/80 45 F. R. 25054 (Added)

Gloucester, Mass.

That airspace east of Gloucester extending upward from 2,000 feet above the surface bounded by a line beginning at lat. 42°42'30"N., long. 69°30'00"W.; to lat. 42°58'45"N., long. 68°27'06"W.; to lat. 43°31'06"N., long. 66°59'15"W.; to lat. 42°46'27"N., long. 68°18'10"W.; to lat. 42°19'02"N., long. 68°53'01"W.; to lat. 42°23'40"N., long. 70°03'45"W.; to lat. 42°28'00"N., long. 70°03'45"W.; to lat. 42°39'00"N., long. 69°30'00"W.; to the point of beginning.

Gloucester, Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 37°23'45" N., 76°31'50" W. of the Gloucester Airport, Gloucester, Va.; and within 2 miles each side of the 110° radial of the Harcum, Va., VOR, extending from the 5-mile radius area to the VOR, excluding the portion within the West Point, Va., transition area. This transition area shall be in effect from sunrise to sunset, daily.

Goldsboro, N. C.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Seymour-Johnson AFB (lat. 35°20'20" N., long. 77°57'50" W.); within a 6.5-mile radius of Goldsboro-Wayne Municipal Airport (lat. 35° 27'30"N., long. 77°58'00"W.); within three miles each side of the 044° bearing from the Wayne RBN (lat. 35°27'15"N., long. 77°58'26"W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN; within a 6.5-mile radius of Mount Olive Municipal Airport (lat. 35°13'24"N., long. 78°02'21"W.).

Goodland, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Renner Field, Goodland Municipal Airport (lat. 39°22'10"N., long. 101°41'55"W.); within 5 miles each side of the Goodland VORTAC 163° radial, extending from the 7-mile radius area to 12 miles south of the VORTAC; within 3.5 miles each side of the Goodland localizer course extending from the 7-mile radius area to 8 miles southeast of the airport.

Gordon, Nebr.

That airspace extending upward from 700 feet along the surface within a 7-mile radius of the Gordon, Nebr., Municipal Airport (lat. 42°48'20"N., long. 102°10'34"W.); within 3 miles each side of the 032° bearing from Gordon NDB (lat. 42°48'04"N., long. 102°10'44"W.) extending from the 7-mile radius to 8.5 miles northeast of the airport.

Gordonsville, Va.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 38°09'21"N., long. 78°09'59"W., of Gordonsville Municipal Airport, Gordonsville, Va., and within 2 miles each side of the Gordonsville VORTAC 356° radial, extending from the 7-mile radius area to the VORTAC.

Gorman, Calif.

That airspace extending upward from 1,200 feet above the surface bounded on the E by Long. 118°45' 00" W, on the S by Lat. 34°30'00" N, on the W by Long. 119°30'00" W, and on the N by Lat. 35°05'00" N.

Goshen, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Goshen, Ind., Airport (latitude 41°31'43" N., longitude 85°47'48" W.), and within 2 miles each side of the Goshen, Ind., VORTAC 090° radial extending from the 5-mile radius area to the VORTAC.

Gothenburg, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gothenburg Airport (lat. 40°55'45"N., long. 100°09'00"W.) within 3 miles each side of the Gothenburg NDB 136° true bearing, extending from the 5-mile radius to 8 miles southeast of the NDB.

Grafton, N. Dak.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Grafton Municipal Airport, Grafton, N. Dak., (lat. 48°24'30"N., long. 97°22'00"W.) and within 3 miles each side of the 164° true bearing from the Grafton NDB (lat. 48°24'24"N., long. 97°22'17"W.) extending from the 6.5-mile radius area to 8.5 miles southeast of the Grafton NDB, and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 200° bearing from the Pembina, N. Dak., VORTAC to the Grafton NDB within the State of North Dakota.

AMENDMENTS 3/20/80 45 F. R. 2013 (Added)

Graham, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Graham Municipal Airport (latitude 33°06'20" N., longitude 98°33'10" W.), and within 2 miles each side of the 014° bearing from the Graham RBN (latitude 33°07'48" N., longitude 98°32'59" W.) extending from the 5-mile radius area to 8 miles north of the RBN.

Grain Valley, Mo.

That airspace extending upward from 700 feet above the surface within a 5½ mile radius of the East Kansas City Airport (lat 39°00'56"N., long. 94°12'47"W.) and within three miles each side of the 217° radial of the Napoleon, Mo., VORTAC (lat. 39°05'43.5"N., long. 94°07'43.0W.) extending from the 5½ mile radius area to the VORTAC.

Granbury, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Granbury Municipal Airport (latitude 32°26'38" N., longitude 97°49'00" W.); and within 1.5 miles each side of the Acton VORTAC 274° radial extending from the 5-mile radius of the Acton VORTAC.

Grand Canyon, Ariz. (Grand Canyon National Park Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Grand Canyon National Park Airport (lat. 35°57'16" N., long. 112°08'37" W.); and within 3.5 miles each side of the Grand Canyon VOR 211° radial, extending from the 5-mile radius area to 8 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°00'00" N., longitude 112°27'00" W., to latitude 36°05'00" N., longitude 112°00'00" W., to latitude 35°42'00" N., longitude 112°00'00" W., to latitude 35°42'00" N., longitude 112°07'00" W., to latitude 35°38'00" N., longitude 112°07'00" W., to latitude 35°38'00" N., longitude 112°27'00" W., thence to point of beginning; and that airspace within 5 miles each side of a direct line between the Grand Canyon, Ariz., VOR and Boulder City, Nev., VORTAC extending from the Grand Canyon VOR to 21 miles west of the VOR.

Grand Forks, N. Dak.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.) within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 173° radial, extending from the VORTAC to 18.5 miles south of the VORTAC, and within a 10-mile radius of Grand Forks AFB (latitude 47°57'40" N., longitude 97°24'00" W.) and within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 180° radial, extending from the 8.5-mile radius to 26½ miles south of the VORTAC;
and that airspace extending upward from 1,200 feet above the surface within a 39-mile radius of Grand Forks AFB, within the State of North Dakota.

Grand Island, Nebr.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Grand Island County Airport (latitude 40°58'03" N., longitude 98°18'30" W.); within 4½ miles northeast and 9½ miles southwest of the Grand Island VORTAC 303° radial, extending from the 10-mile radius area to 18½ miles northwest of the VORTAC; and within 4½ miles east and 9½ miles west of the Grand Island VORTAC 360° radial, extending from the 10-mile radius area to 18½ miles north of the VORTAC.

Grand Isle, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Grand Isle seaplane base (lat. 29°15'45"N., long. 89°57'40"W.), and within 2 miles each side of the Grand Isle RBN 052° bearing, extending from the 5-mile radius area to the RBN; within 2 miles each side of the Leeville, La., VORTAC 052° radial extending from the 5-mile radius area to the VORTAC, and within 2 miles each side of the Leeville, La., VORTAC 050° radial extending from the 5-mile radius area to 20 miles northeast of the VORTAC.

Grand Junction, Colo.

That airspace extending upward from 700 feet above the surface within 8 miles northwest and 5 miles southeast of the Grand Junction VORTAC 247° and 067° radials extending from 13 miles southwest to 14 miles northeast of the VORTAC and within 2 miles south and 10 miles north of the Grand Junction VORTAC 110° radial extending from the VORTAC to 22 miles southeast; that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of the Grand
Junction VORTAC, within 5 miles each side of the Grand Junction VORTAC 166° radial extending from the 35-mile radius area to 38 miles S of the VORTAC, within 5 miles each side of the Grand Junction ILS localizer NW course extending from the 35-mile radius area to the INT of the localizer NW course and the Grand Junction VORTAC 318° radial.

Grand Marais, Minn.

That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Devils Track Municipal Airport (latitude 47°49'35" N., longitude 90°22'45" W.); and within 4½ miles north and 9½ miles south of the 103° bearing from the Devils Track Municipal Airport, extending from the airport to 18½ miles east of the airport except for that portion which overlies P-204; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 273° bearing from the Devils Track Municipal Airport extending from the airport to 12 miles west of the airport.

Grand Rapids, Mich.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Kent County Airport (latitude 42°52'50" N., longitude 85°31'25" W.); within 2 miles each side of the 261° bearing from the Kent County Airport extending from the 9-mile radius area to 15½ miles west of the airport.

Grand Rapids, Minn.

That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Grand Rapids Municipal Airport (latitude 47°12'45" N., longitude 93°30'34" W.); and 5 miles each side of the Grand Rapids VOR 162° radial, extending from the 9½-mile radius area to 8 miles south of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the Grand Rapids VOR 162° radial extending from the VOR to 18½ miles south of the VOR.

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Grandview, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Richards-Gebaur AFB (lat. 38°50'50"N., long. 94°33'20"W.); within a 6-mile radius of Johnson County Executive Airport (lat. 38°51'00"N., long. 94°44'15"W.); within 3 miles each side of the 182° bearing from Johnson County Executive Airport extending from the 6-mile radius area to 8 miles south of the airport; and within an 8.5-mile radius of the Johnson County Industrial Airport (lat. 38°49'47"N., long. 94°53'29"W.).

PENDING AMENDMENT

Grantsburg, Wis.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Grantsburg Municipal Airport, Grantsburg, Wis., (lat. 45°47'45"N., long. 92°40'15"W.), and within 4 miles either side of the 188° bearing from the Grantsburg (GTG) VOR (lat. 45°46'09"N., long. 92°40'30"W.), extending from the 6.5-mile radius area out to 10 miles south of the airport.

AMENDMENTS 12/25/80 45 F. R. 65194 (Added)

Grayling, Mich.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Grayling Army Airfield (latitude 44°40'45" N., longitude 84°43'45" W.); excluding that portion which overlies restricted areas R-4201 and R-4202.

reat Barrington, Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°11'05" N., 73°24'15" W., of Great Barrington Airport, Great Barrington, Mass.; within 2 miles each side of the Runway 5 centerline extended from the 5-mile radius area to 9 miles northeast of the end of the runway; within 2 miles each side of the Runway 11 centerline extended from the 5-mile radius area to 13 miles east of the end of the runway; within 2 miles each side of the Runway 23 centerline extended from the 5-mile radius area to 12 miles southwest of the end of the runway; within 2 miles each side of the Runway 29 centerline extended from the 5-mile radius area to 6 miles west of the end of the runway and within 5 miles east and 8 miles west of the 152° bearing from Great Barrington, Mass., RBN 42°10'58" N., 73°24'17" W., extending from the RBN to 12 miles southeast of the RBN.

Great Bend, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Great Bend Municipal Airport (lat. 38°20'40"N., long. 98°51'43"W.); and within 4.5 miles each side of the 303° bearing from the Great Bend Municipal Airport, extending from the 7-mile radius to 18 miles northwest of the airport.

Great Bend, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 44° 03'15" N., 75°43'15" W. of Wheeler-Sack AAF, N. Y.; within an 8-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 135° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 135° bearing to a 165° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 165° bearing to a 195° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 195° bearing to a 242° bearing from the airport within 4.5 miles each side of the Watertown, N. Y., VORTAC 066° radial, extending from the 6.5-mile radius area and the 10.5-mile radius area to the VORTAC, and within 5 miles each side of the Watertown, N. Y., VORTAC 069° radial, extending from the 6.5-mile radius area and the 10.5-mile radius area to the VORTAC. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 43°52'00" N., 75°54'00" W., to 43°50'30" N., 75°53'30" W., to 43° 41'00" N., 75°49'15" W., thence clockwise along an arc with a radius of 40 miles from the center of Griffiss AFB, Rome, N. Y., to longitude 75°30'00" W., thence north along longitude 75°30'00" W., to 44°08'00" N., 75° 31'00" W., to 44°10'30" N., 75°31'00" W., to 44°13'00" N., 75°42'20" W., to point of beginning, excluding the portion which coincides with the Watertown, N. Y., 700-foot and 1,200-foot transition areas.

Great Falls, Mont.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of Malmstrom AFB (latitude 47°30'05" N., longitude 111°11'20" W.), within 3.5 miles each side of the Truly RBN 180° bearing, extending from the 17-mile radius area to 9 miles south of the RBN and within 3 miles each side of the Great VOR 157° radial, extending from the 17-mile radius area to 21.5 miles southeast of the VOR. and that airspace extending upward from 1,200 feet above the surface within a 40-mile radius of Malmstrom AFB; within 12 miles north and 8 miles south of the Great Falls VOR 074° radial, extending from the 40-mile radius area to 61 miles east of the VOR; and within 12 miles south and 8 miles north of the Great Falls VOR 272° radial extending from the 40-mile radius area to 56 miles west of the VOR.

PENDING AMENDMENT

The Great Falls, Mont., transition area is amended by deleting the 1,200 foot portion and substituting the following:

That airspace extending upward from 1,200 feet above the surface within a 60-mile radius of the Great Falls VOR (lat. 47°27'00"N., long. 111°24'41"W.); and that airspace beginning 60 miles southeast of the Great Falls VOR from the south edge of V-113, east to the west edge of V-187, southeast to the intersect of the east edge of V-2N, northwest to the intersect of the 60-mile radius of Great Falls VOR; thence to point of beginning, excluding that portion overlying the Billings and Helena, Mont., 1,200 foot transition areas.

AMENDMENTS 12/25/80 45 F. R. 67655 (Changed)

Greeley, Colo.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Weld County Airport (latitude 40°25'38" N., longitude 104°37'45" W.) and within 3.5 miles each side of the Gill VOR 038° and 218° radials extending from the 6-mile radius area to 11 miles northeast of the VOR; that airspace extending upward from 1,200 feet above the surface within 10 miles northwest and 7 miles southeast of the Gill VOR 038° and 218° radials, extending from 20 miles northeast to 13 miles southwest of the VOR.

Green Bay, Wis.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Austin-Straubel Airport, Green Bay, Wis. (latitude 44°29'16" N., longitude 88°07'49" W.); within 2½ miles each side of the Green Bay ILS southwest localizer course extending from the 9-mile radius to 8 miles southwest of the OM; within 5 miles each side of the Green Bay VORTAC 326° radial, extending from the 9-mile radius area to 8 miles northwest of the VORTAC; and within 5 miles each side of the Green Bay ILS localizer northeast course extending from the 9-mile radius to 14 miles northeast of the airport.

Greencastle, Ind.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport (lat. 39°38'00"N., long. 86°48'45"W.).

Greeneville, Tenn.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Greeneville Municipal Airport (lat. 36°11'30"N., long. 82°49'01"W.); excluding the portion within the Tri-City, Tenn., transition area.

Greensboro, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greensboro/High Point/Winston-Salem Regional Airport (latitude 36°05'36" N., longitude 79°56'34" W.); within 5 miles each side of Greensboro VORTAC 035° radial, extending from the 8.5-mile radius area to 17.5 miles northeast of the VORTAC; within 4 miles each side of Greensboro VORTAC 207° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VORTAC; within 9.5 miles southwest and 4.5 miles northeast of Greensboro ILS localizer northwest course, extending from the LOM to 18.5 miles northwest.

Greenville, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greenville Municipal Airport (latitude 31°50'44" N., longitude 86°36'38" W.); within 3 miles each side of the 148° bearing from Persimmon RBN (latitude 31°51'03" N., longitude 86°36'52" W.), extending from the 6.5-mile radius area to 8.5 miles southeast of the RBN.

Greenville, Ill.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greenville, Illinois, Airport (latitude 38°50'12" N., longitude 89°22'38" W.), and within 2 miles each side of the 348° bearing from Greenville Airport extending from the 6.5-mile radius to 8 miles north of the airport.

Greenville, Ky.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Muhlenberg County Airport (lat. 37°13'30"N., long. 87°09'31"W).

Greenville, Maine

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (lat. 45°27'47"N., long. 69°33'21"W.), Greenville Municipal Airport, Greenville, Maine, within 3.5 miles each side of a 305° bearing from the SQUAW, Maine, NDB extending from the 8.5-mile radius area to a point 11.5 miles northwest of the SQUAW NDB.

AMENDMENTS 10/30/80 45 F. R. 65196 (Rewritten)

Greenville, Miss.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greenville International Airport (lat. 33°29'05"N., long. 90°59'20"W.); within 3 miles each side of the Greenville VOR 358° radial, extending from the 8.5-mile radius area to 8.5 miles north of the VOR; within 3 miles each side of the 181° bearing from Metcalf RBN, extending from the 8.5-mile radius area south of the RBN.

PENDING AMENDMENT

The Greenville, Miss., transition area is amended by deleting the "Greenville International Airport" and substituting the "Greenville Municipal Airport" therefor.

AMENDMENTS 12/25/80 45 F. R. 70855 (Changed)

Greenville, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Pitt-Greenville Airport (latitude 35°37'55" N., longitude 77°23'05" W.); within 3 miles each side of the 007° bearing from Alwood RBN (latitude 35°42'32" N., longitude 77°22'03" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Greenville, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greenville Municipal Downtown Airport (lat. 34°50'54"N., long. 82°21'01"W.); within a 9.5-mile radius of Greenville-Spartanburg Airport (lat. 34°53'45"N., long. 82°13'04"W.); within 4 miles each side of Greenville-Spartanburg ILS localizer northeast course, extending from the 9.5-mile radius area to 15 miles northeast of the airport.

Greenville, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Majors Airport (latitude 33°04'00" N., longitude 96°03'45" W.); and within 2 miles each side of the Majors VOR 188° radial, extending from the 7-mile radius area to 8 miles S of the VOR.

PENDING AMENDMENT

Greenwood, Ind.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Skyway Airport, Greenwood, Ind., (lat. 39°38'00"N., long. 86°05'15"W.), excluding that portion that overlies the Indianapolis transition area.

AMENDMENTS 12/25/80 45 F. R. 65195 (Added)

Greenwood, Miss.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Greenwood-Leflore Airport (latitude 33°29'30" N., longitude 90°04'50" W.); within 1.5 miles each side of the Greenwood VORTAC [illegible]1° radial, extending from the 10-mile radius area to the VORTAC.

Greenwood, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greenwood County Airport (latitude 34°15'00" N., longitude 82°09'35" W.).

Greenwood Village, Colo.

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 4.5 miles west of the Arapahoe ILS south localizer course Runway 34R, extending from the Castle LOM (lat. 39°27'08"N., long. 104°50'43"W.) to 18.5 miles south of the LOM, excluding that portion which overlies the Denver, Colo., transition area.

Grenada, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grenada Municipal Airport (lat. 33°49'40"N., long. 89°47'55"W.).

Griffin, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Griffin-Spalding County Airport, Griffin, Ga. (lat. 33°13'30" N., long. 84°16'30" W.).

Groton, Conn.
That airspace extending upwards from 700 feet above the surface within the area bounded by a line beginning at 41°10'30" N., 72°00'00" W. to 41°12'00" N., 72°10'00" W. to 41°18'00" N., 72°14'00" W. to 41°27'00" N., 72°09'00" W. to 41°25'00" N., 71°42'30" W. to 41°18'00" N., 71°42'00" W. to 41°16'00" N., 71°49'00" W. to 41°13'00" N., 71°48'00" W. to point of beginning.

Grove City, Pa.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°08'42"N., 80°09'54"W., of Grove City Airport, Grove City, Pa.; within 2 miles each side of the Ellwood City, Pa., VORTAC 005° radial, extending from the 5-mile radius area to 16.5 miles north of the VORTAC; within 2.5 miles each side of a 261° bearing from a point 41°08'48"N., 80°10'18"W., extending from said point to 5.5 miles west; within 2.5 miles each side of a 081° bearing from a point 41°08'48"N., 80°09'36"W., extending from said point to 9 miles east.

Grundy, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 37°13'57"N., 82°07'30"W., of Grundy Municipal Airport, Grundy, Va., and within 2.5 miles each side of the Lonesome Pine, Va., VOR (36°59'03"N., 82°32'17"W.) 055° radial, extending from the 6-mile radius area to 21.5 miles northeast of the Lonesome Pine, Va., VOR.

Gruver, Tex.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Gruver Municipal Airport (lat. 36°14'12"N., long. 101°25'56"W.); within 3.5 miles each side of the NDB (lat. 36°14'01"N., long. 101°25'42"W.) 019° bearing extending from the 5.5-mile radius area to 11.5 miles north of the NDB.

Guam Island
That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 13°46'35"N., long. 144°51'15"E., thence clockwise along the arc of a 12-NM radius circle centered on Anderson AFB (lat. 13°35'00"N., long. 144°55'00"E.), to lat. 13°23'50"N., long. 145°01'00"E., thence to lat. 13°08'45"N., long. 144°29'20"E., thence to lat. 13°29'45"N., long. 144°18'30"E., thence to point of beginning, and within an 8-mile radius of the Rota International Airport (lat. 14°10'26"N., long. 145°14'41"E.); and that airspace extending upward from 1,200 feet above the surface within a 100-nautical mile radius of the Agana VOR and within a 35-nautical mile radius of the Saipan RBN, excluding the portion within W-517.

AMENDMENTS 9/4/80 45 F. R. 49913 (Changed)

Gulfport, Miss.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Gulfport-Biloxi Regional Airport (lat. 30°24'28"N., long. 89°04'05"W.); within 3.5 miles each side of Gulfport VORTAC 050°, 129°, 213°, and 319° radials, extending from the 8.5-mile radius area to 11 miles northeast, southeast, southwest and northwest of the VORTAC; within an 8.5-mile radius of Keesler AFB (lat. 30°24'39" N., long. 88°55'26"W.); within 4.5 miles each side of Keesler TACAN 041° and 203° radials, extending from the 8.5-mile radius area to 12.5 miles northeast and southwest of the TACAN.

Gulkana, Alaska
That airspace extending upward from 700 feet above the surface within 6 miles E and 10.5 miles W of the 346° radial extending from Gulkana VORTAC to 22 miles N of the VORTAC; within 4.5 miles E and 9.5 miles W of the 181° radial extending from the Gulkana VORTAC to 18.5 miles S of the VORTAC; and within a 16.5-mile radius of the Gulkana VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8.5 miles E and 5.5 miles W of the Gulkana VORTAC 184° radial extending from 9 miles S to 30 miles S of the VORTAC; and within 8.5 miles W and 5.5 miles E of the Gulkana VORTAC 356° radial extending from 9 miles N to 30 miles N of the VORTAC.

Gunnison, Colo.
That airspace extending upward from 700 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Gunnison VORTAC 045° and 225° radials extending from 12 miles northeast to 19 miles southwest of the VORTAC.

Gustavus, Alaska
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Sisters Island, Alaska, VORTAC; and that airspace extending upward from 1,200 feet above the surface within 22 miles SW and 19 miles NE of the 145° and 325° bearings from the Gustavus RBN, extending from 16 miles NW to 48 miles SE of the RBN; and within 22 miles SW of the 325° bearing from the Gustavus RBN, extending from 16 miles NW to 26 miles NW; and that airspace extending upward from 12,500 feet MSL within 5 miles each side of the Sisters Island VORTAC 302° radial extending from the NW boundary of the 1,200-foot portion transition area to 59 miles NW of the VORTAC, thence widening to 6 miles each side of the 302° radial at 69 miles NW of the VORTAC.

AMENDMENTS 9/4/80 45 F. R. 46350 (Changed)

Guthrie, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Guthrie Municipal Airport (latitude 35°50'30" N., longitude 97°25'00" W.) and within 3 miles each side of the 349° true bearing from the Guthrie RBN (latitude 35°51'04" N., longitude 97°25'10" W.) extending from the 5-mile radius area to 10 miles north of the RBN.

Guthrie, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of latitude 33°38'25" N., longitude 100°20'50" W., and within 2 miles each side of the Guthrie VOR 182° radial extending from the 6-mile radius area to the VOR.

Guymon, Okla.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Guymon Municipal Airport (latitude 36°40'45" N., longitude 101°30'30" W.), and within 3.5 miles each side of the 006° bearing from the Guymon RBN (latitude 36°42'10" N., longitude 101°30'17" W.) extending from the 8-mile radius area to 11 miles north of the RBN.

Gwinner, N. Dak.

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Gwinner Municipal Airport (latitude 46°13'10" N., longitude 97°38'27" W.); and that airspace extending upward from 1,200 feet above the surface within a 12-mile radius of the Gwinner Municipal Airport, and within 9.5 miles west and 4.5 miles east of the 167° T bearing from the Gwinner NDB (latitude 46°13'24" N., longitude 97°38'35" W.), extending from the 12-mile radius area to 18.5 miles south of the NDB;
and from 5 miles west of the 017° bearing from the Gwinner NDB clockwise to 5 miles south of the 088° bearing from the NDB, extending from the 12-mile radius area to the boundary of the Fargo, N. Dak., transition area.

Hagerstown, Md.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 39°42'27" N., 77°43'50" W., of Hagerstown Regional Airport, Hagerstown, Md.; within 3.5 miles each side of the Hagerstown, Md., VOR 239° radial and 059° radial, extending from 11 miles southwest of the VOR to 3 miles northeast of the VOR; within 5 miles each side of the Hagerstown Regional Airport ILS Runway 27 localizer course, extending from the localizer to 14.5 miles east of the localizer.
extending from the localizer to 14.5 miles east of the localizer, within 5 miles each side of the St. Thomas, Pa., VORTAC 143° radial, extending from the 8-mile radius area to the St. Thomas, Pa., VORTAC.

Haleyville, Ala.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Haleyville Municipal Airport (lat. 34°16'40" N., long. 87°36'05" W.); within 5 miles each side of Hamilton VORTAC 077° radial, extending from the 5.5-mile radius area to 11.5 miles E of the VORTAC.

Hallock, Minn.

That airspace extending upward from 700 feet above the surface within 5 miles northeast and 5 miles southwest of the Pembina VORTAC 135° radial extending from 6 miles southeast of the VORTAC to 22.5 miles southeast of the VORTAC, and that airspace extending upward from 1,200 feet above the surface 4.5 miles northeast and 7 miles southwest of the 315° radial and the 135° radial of Pembina VORTAC extending from 6 miles southeast of the VORTAC to 12.5 miles northwest of the VORTAC excluding that airspace north of latitude 49°00'00" N.; within 9.5 miles northeast and 4.5 miles southwest of the Pembina VORTAC 135° radial extending from 17.5 miles southeast of the VORTAC to 36 miles southeast of the VORTAC; and that airspace within a 29.5 mile radius of the Pembina VORTAC extending counterclockwise from the 183° radial to 4.5 miles southwest of and parallel to the 135° radial.

Hamilton, Ala.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Marion County Airport (lat. 34°07'10" N., long. 87°59'53" W.); within 3 miles each side of Hamilton VORTAC 349° radial extending from the 9-mile radius area to 8.5 miles northwest of the VORTAC.

Hamilton, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center lat. 42°50'35" N., long. 75°33'40" W. of AMA Executive Airport, Hamilton, N. Y., and within 5 miles each side of the Georgetown, N. Y., VORTAC 074° and 254° radials extending from the 6.5-mile radius area to 4.5 miles west of the Georgetown, N. Y., VORTAC.

Hamilton, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center 39°21'58" N., 84°31'30" W. of Hamilton Airport, Hamilton, Ohio; and within 2 miles north and 5 miles south of a 279° bearing from the Hamilton RBN extending from the 7-mile radius area to 8 miles west of the RBN excluding the portions within the Cincinnati, Ohio and Middletown, Ohio, transition areas.

Hammond, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hammond Municipal Airport (lat. 30°31'19"N., long. 90°24'57"W.).

AMENDMENTS 9/4/80 45 F. R. 47134 (Rewritten)

Hammonton, N. J.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center of lat. 39°40'30" N., long. 74°44'30" W. of Hammonton Municipal Airport, Hammonton, N. J.;within 2 miles each side of the Cedar Lake, N. J., VORTAC 051° radial extending from the 5.5-mile radius area to 7.5 miles northeast of the VORTAC.

AMENDMENTS 10/30/80 45 F. R. 68646 (Changed)

Hampton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hampton Municipal Airport (latitude 42°43'35" N., longitude 93°13'35" W.); excluding that airspace which overlies the Mason City, Iowa, transition area.

Hanford, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of the Hanford Municipal Airport (latitude 36°19'04" N., longitude 119°37'39" W.), and within 2 miles each side of the Visalia TVOR 246° radial extending from the 3-mile radius area toward the Visalia TVOR to abut the currently designated Visalia 700-foot transition area, excluding that airspace within a 1-mile radius of the Blair (private) Airport (latitude 36°16'31" N., longitude 119°38'23" W.).

Hanksville, Utah

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hanksville (FAA Site 54) Airport (latitude 38°25'01" N., longitude 110°41'57" W.), and within 3.5 miles each side of the Hanksville VORTAC 106° radial, extending from the 5-mile radius area to 11.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 6 miles north and 9.5 miles south of the Hanksville VORTAC 286° and 106° radials, extending from 7.5 miles west to 18.5 miles east of the VORTAC.

Hannibal, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hannibal, Missouri, Municipal Airport (latitude 39°43'30" N., longitude 91°26'35" W.); and within 3 miles each side of the 162° bearing from the Hannibal Municipal Airport extending from the 5-mile radius area to 8 miles southeast of the airport, excluding that portion which overlies the Quincy, Ill., transition area.

Harlan, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Harlan Municipal Airport (lat. 41°35'15"N., long. 95°20'15"W.) and within 5 miles each side of the Neola, Iowa, VORTAC 064° radial extending from the 7-mile radius to 8 miles northeast of the VORTAC and 3 miles each side of the 136° bearing from the Harlan NDB to 8½ miles southeast excluding that portion which overlies the Atlantic, Iowa, 700 foot transition area.

Harlingen, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Harlingen Municipal Airport (latitude 26°13'36" N., longitude 97°39'12" W.); within 3.5 miles either side of the Harlingen ILS localizer north course extending from the 5-mile radius zone to 11.5 miles north of the outer marker (latitude 26°18'17.7" N., longitude 97°39'28.2" W.); within 1.5 miles each side of the localizer (latitude 26°12'48" N., longitude 97°39'31" W.) back course 181° T radial extending from the 5-mile radius zone to 5.5 miles south of the localizer and within 2 miles either side of the Harlingen VOR 118° radial extending from the 5-mile radius zone to the VOR.

Harrisburg, Ill.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Harrisburg-Raleigh Airport (latitude 37°48'45" N., longitude 88°33'00" W.); and within 3 miles each side of the 040° bearing from Harrisburg-Raleigh Airport, extending from the airport to 8 miles northeast of the airport.

Harrisburg, Pa.

That airspace extending upward from 700 feet above the surface within a 19.5-mile radius of the center, 40° 12'59" N., 76°51'03" W., of Capital City Airport, Harrisburg, Pa., extending clockwise from a 009° bearing to a 035° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 099° bearing from the airport; within a 11.5-mile radius of the center of the airport, extending clockwise from a 099° bearing to a 161° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 161° bearing to a 233° bearing from the airport; within a 11.5-mile radius of the center of the airport, extending clockwise from a 233° bearing to a 290° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 009° bearing from the airport; within 5.5 miles each side of the Harrisburg, Pa., VORTAC 274° radial, extending from the VORTAC to 11.5 miles west of the VORTAC; within 9.5 miles north and 4.5 miles south of the Capital City Airport ILS localizer west course, extending from the OM to 18.5 miles west of the OM; within a 12.5-mile radius of the center, 40°11'34" N., 76°45'48" W., of Harrisburg International Airport-Olmsted Field, Middletown, Pa., extending clockwise from a 025° bearing to a 078° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 078° bearing to a 147° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 228° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 270° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 025° bearing from the airport; within a 26-mile radius of a point 40°13'24"N., 76°52'39"W., extending clockwise from a 072° bearing to a 094° bearing from said point.

Harrison, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Boone County Airport (lat. 36°15'55"N., long. 93°09'14"W.), within a 12.5-mile radius of the airport extending from the Harrison VOR 140° radial clockwise to the 320° radial and within 3.5 miles each side of the Harrison VOR 320° radial extending from the 6.5-mile radius area to 11.5 miles northwest of the VOR and within 4 miles each side of the ILS localizer south course extending from the 12.5-mile radius area to 11.5 miles south of the LOM (lat. 36°11'28"N., long. 93°09'36"W.).

Harrison, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Harrison Airport (lat. 39°15'50"N., long. 84°47'04"W.), Harrison, Ohio, and within 3.6 miles on each side of the 347° bearing from the airport reference point extending from the 5-mile radius to 9.5 miles north of the airport excluding that portion which overlies the Oxford, Ohio, transition area.

Hartford, Conn.

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 41°56'[illegible] N., long. 72°41'00" W. of Bradley International Airport, Windsor Locks, Conn.; within 6.5 miles southeast and 4 miles northwest of the Bradley International Airport back-course localizer northeast course, extending from the 11.5-mile radius area to 19.5 miles northeast of the Bradley International Airport; within 4.5 miles northwest and 15.5 miles southeast of the Bradley International Airport ILS localizer southwest course, extending from the 11.5-mile radius area to 18.5 miles southwest of the OM; within a 9-mile radius of the center 41°4[illegible]'10"N., 72°37'25"W., of the Rentschler Field, East Hartford, Conn.; within 4 miles each side of Runway 4 centerline extended from the 9-mile radius to 10 miles southwest of the runway threshold and within 4.5 miles each side of Runway 22 centerline extended from the 9-mile radius to 10 miles northeast of the runway threshold; within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles southeast of the NDB; within 2 miles each side of the Hartford VOR 154° radial extending from the 9-mile radius area to 8 miles southeast of the VORTAC; within 2 miles each side of the Hartford VORTAC 130° and 310° radials extending from the 9-mile radius area to 6 miles southeast of the VORTAC; within 5 miles northwest and 5 miles southeast of the Hartford VOR 223° radial extending from the VOR to a point 15 miles southwest; excluding those portions that coincide with the Chicopee Falls, Mass., 700-foot transition area.

Hartford, Wisc.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hartford Airport (latitude 43°20'55" N., longitude 88°23'30" W.).

Hartsville, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hartsville Municipal Airport (latitude 34°24'15" N., longitude 80°07'04" W.); within 3 miles each side of the 014° bearing from Hartsville RBN (latitude 34°24'25" N., longitude 80°06'56" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; excluding the portion within the Darlington, S. C., transition area.

Haskell, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Haskell, Tex., Municipal Airport (latitude 33°12'18" N., longitude 99°42'43" W.).

Hastings, Mich.

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of Hastings Municipal Airport (latitude 42°39'50" N., longitude 85°20'50" W.); and within 2 miles each side of the Grand Rapids, Mich., VOR 141° radial extending from the 6½ mile radius area to the Grand Rapids VOR, excluding the portion which overlies Grand Rapids, Mich, 700-foot floor transition area.

Hastings, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Hastings Municipal Airport (latitude 40°36'20" N., longitude 98°25'30" W.), within 2 miles each side of the 323° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 8 miles NW of the airport; within 2 miles each side of the 338° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 9.5 miles N of the airport, and within 2 miles each side of the 143° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 8 miles SE of the airport.

Hattiesburg, Miss.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hattiesburg Municipal Airport (lat. 31°16'01"N., long. 89°15'16"W.); within 1.5 miles each side of the Eaton VORTAC 156° radial, extending from the 7-mile radius area to the VORTAC; within 3 miles each side of the 330° bearing from Hub City RBN (lat. 31°17'57"N., long. 89°18'01"W.), extending from the 7-mile radius area to 8.5 miles northwest of the RBN; within an 8.5-mile radius of the Pine Belt Regional Airport (lat. 31°28'03"N., long. 89°20'11.6"W.); within 3 miles each side of the Eaton VORTAC 182° radial, extending from the 8.5-mile radius area to 8.5 miles south of the VORTAC.

Haverhill, Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°48'05" N., 71°03'45" W., of Haverhill Airport, Haverhill, Mass.; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius area to 6 miles northwest of the end of the runway, excluding the portion which coincides with the Boston, Mass. transition area. This transition area shall be effective from sunrise to sunset, daily.

Havre, Mont.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Havre VOR; within 4½ miles south and 9½ miles north of the Havre VOR 080° radial, extending from the 14-mile radius area to 18½ miles east of the VOR; and within 4½ miles north and 9½ miles south of the Havre VOR 287° radial, extending from the 14-mile radius area to 18½ miles west of the VOR.

Hawaiian Islands

That airspace extending upward from 5,500 feet above the surface within an area bounded by a line beginning at lat. 23°57'N., long. 160°46'W.; to lat. 24°19'N., long. 157°17'W.; to lat. 24°03'N., long. 156°19'W.; to lat. 23°32'N., long. 155°29'W.; to lat. 23°00'N., long. 154°39'W.; to lat. 22°22'N., long. 153°53'W.; to lat. 21°43'N., long. 153°09'W.; to lat. 20°49'N., long. 153°00'W.; to lat. 20°16'N., long. 152°14'W.; to lat. 19°14'N., long. 151°54'W.; to lat. 18°19'N., long. 157°49'W.; to lat. 18°26'N., long. 158°54'W.; to lat. 18°53'N., long. 159°53'W.; to lat. 19°32'N., long. 160°36'W.; to lat. 20°06'N., long. 161°52'W.; to lat. 21°01'N., long. 162°14'W.; to lat. 21°56'N., long. 162°29'W.; to lat. 22°50'N., long. 162°14'W.; to lat. 23°32'N., long. 161°35'W.; to the point of beginning; and the airspace upward from 1,200 feet above the surface within the area described above bounded by a line beginning at lat. 22°28'N., long. 155°48'W., to lat. 21°00'N., long. 153°51'W., thence clockwise along the arc of a 115-mile radius circle of the Hilo VORTAC (lat. 19°43'28"N., long. 155°00'49"W.), to lat. 19°00'N., long. 153°23'W., to lat. 19°00'N., long. 157°40'W., to lat. 20°28'N., long. 160°29'W., thence clockwise along the arc of a 115-mile radius circle of the South Kauai VORTAC (lat. 21°54'13"N., long. 159°31'54"W.). to lat. 23°30'N., long. 159°02'W., to the point of beginning.

AMENDMENTS 3/20/80 45 F. R. 5674 (Changed)

Hawesville, Ky.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hancock Airfield (lat. 37°56'40"N., long. 86°47'35"W.); excluding the portion which coincides with the Tell City, Ind., transition area.

Hawthorne, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Hawthorne Municipal Airport (lat. 38°32'40"N., long. 118°38'00"W.) and within 4 miles each side of the Mina, Nev., VORTAC 267° radial extending from the 5-mile radius area to the VORTAC.

AMENDMENTS 5/15/80 45 F. R. 20784 (Added)

Hayden, Colo.

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Hayden, Colo., VOR 248° radial extending from the VOR to 18 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at 40°06'00"N., long. 107°00'00"W.; to lat. 40°43'00"N., long. 107°00'00"W.; to lat. 40°43'00"N., long. 107°45'00"W.; to lat. 40°35'00"N., long. 107°45'00"W., to lat. 40°35'00"N., long. 108°08'00"W., to lat. 40°22'00"N., long. 108°08'00"W., to lat. 40°22'00"N., long. 107°45'00"W.; to lat. 40°07'30"N., long. 107°45'00"W.; thence along the north edge of V-200 to the point of beginning.

Hays, Kans.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Hays Municipal Airport (latitude 38°50'45" N., longitude 99°16'30" W.).

Hayward and Cable, Wis.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hayward Municipal Airport (latitude 46°01'00" N., longitude 91°27'00" W.) and within an 8-mile radius of Cable Union Airport (latitude 46°11'30" N., longitude 91°15'00" W.) and within 4½ miles each side of the 206° bearing from the Hayward Airport extending from the 7-mile radius to 11 miles southwest of the airport and within 4½ miles east and 9½ miles west of the 023° bearing from the Hayward Airport extending from the 7-mile radius to 18½ miles northeast of the airport.

Hazlehurst, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hazlehurst Airport (lat. 31°53'00"N., long. 82°38'45"W.); within 2.5 miles each side of Alma VORTAC 340° radial, extending from the 6-mile radius area to 18 miles north of the VORTAC; within 3 miles each side of the 330° bearing from the Hazlehurst RBN (lat. 31°52'48"N., long. 82°38'51"W.), extending from the 6-mile radius area to 8.5 miles northwest of the RBN.

AMENDMENTS 4/3/80 45 F. R. 16169 (Changed)

Hebbronville, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jim Hogg County Airport (lat. 27°20'57"N., long. 98°44'12"W.), within 3.5 miles each side of the 326° bearing from the proposed NDB (lat. 27°21'13"N., long. 98°44'38"W.) extending from the 5-mile radius to 11.5 miles northwest of the proposed NDB.

Heber, Ariz.

That airspace extending upward from 12,000 feet MSL bounded by a line beginning at latitude 34°39'00" N., longitude 111°39'00" W., to latitude 34°43'00" N., longitude 111°24'00" W., to latitude 34°43'00" N., longitude 110°20'00" W., thence south via longitude 110°20'00" W., to the north edge of V-190N, thence west and southwest via the north and northwest edges of V-190N to latitude 34°03'30" N., longitude 111°05'00" W., to latitude 34°10'00" N., longitude 111°30'00" W., to latitude 34°10'00" N., longitude 111°43'00" W., to point of beginning.

Heber Springs, Ark.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Heber Springs, Ark., Airport (latitude 35°30'41" N., longitude 92°00'25" W.).

Helena, Mont.

That airspace extending upward from 700 feet above the surface within a 16½-mile radius of the Helena VORTAC (latitude 46°36'25" N., longitude 111°57'09" W.), extending from the Helena VORTAC 352° radial clockwise to the 191° radial;

and that airspace extending upward from 1,200 feet above the surface within a 24-mile radius of the Helena VORTAC; within 6 miles south and 9 miles north of the Helena VORTAC 272° radial, extending from the 24-mile radius area to 45 miles west of the VORTAC; within 15.5 miles west and parallel to the Helena VORTAC 352° radial, extending from the 24-mile radius area to 31 miles north of the VORTAC; within 5 miles east and 9 miles west of the Helena VORTAC 023° radial, extending from the 24-mile radius area to 36 miles northeast of the VORTAC; and within 6 miles south and 9.5 miles north of the Helena VORTAC 102° radial, extending from the 24-mile radius area to 28.5 miles east of the VORTAC.

PENDING AMENDMENT

Under Helena, Mont., the 700-foot portion of the transition area is amended to read as follows:

That airspace extending upward from 700 feet above the surface within a 22-mile radius of the Helena VORTAC (lat. 46°36'25"N., long. 111°57'09"W.);

AMENDMENTS 12/25/80 45 F. R. 73651 (Changed)

Hemingway, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hemingway-Stuckey Airport (lat. 33°43'42"N., long. 79°30'46"W.); within 3 miles each side of the 287° bearing from the Stuckey RBN (lat. 33°43'44"N., long. 79°31'41"W.), extending from the 6.5-mile radius to 8.5 miles west of the RBN.

Henderson, Ky.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Henderson Airport (lat. 37°48'27" N., long. 87°41'00" W.); within 1.5 miles each side of Evansville, Ind., VORTAC 152° radial, extending from the 5.5-mile radius area to the VORTAC; excluding the portion within Evansville, Ind., transition area; within 3 miles each side of the 267° bearing from the Geneva RBN (lat. 37°48'13"N., long. 87°46'14"W.) from the 5.5-mile radius area to 8.5 miles west of the RBN.

AMENDMENTS 7/15/80 45 F. R. 39836 (Changed)

Henderson, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Rusk County Airport, Henderson, Tex., (lat. 32°08'30"N., long. 94°51'15"W.); within 5 miles each side of the Gregg County, Tex., VORTAC 197° radial extending from the 8.5-mile radius area to 11.5 miles south of the VORTAC; and within 3.5 miles each side of a 350° bearing from the Henderson NDB (lat. 32°11'16"N., long. 94°51'39"W.) extending from the 8.5-mile radius area to 11.5 miles northwest of the NDB.

Henryetta, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Henryetta Municipal Airport (latitude 35°24'40" N., longitude 96°00'50" W.), and within 3.5 miles each side of the 186° bearing from the Henryetta RBN extending from the 5-mile radius area to 8.5 miles south of the RBN.

Hereford, Tex.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of Hereford Municipal Airport, Hereford, Tex. (lat. 34°51'30"N., long. 102°19'25"W.), including an extension from the 5-statute-mile radius area to 11.5 statute miles north of the NDB and 3.5 statute miles either side of the 019° bearing from the NDB.

Herington, Kans.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Herington Municipal Airport (lat. 38°41'55"N., long. 96°48'27"W.), and within 3 miles each side of the NDB facility 011°T bearing extending from the 6.5-mile radius area to 8.5 miles NE of the NDB, and within 3 miles each side of the NDB facility 168°T bearing; extending from the 6.5-mile radius area to 8.5 miles SE of the NDB.

AMENDMENTS 7/10/80 45 F. R. 30422 (Added)

Hershey, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, lat. 40°17'35" N., long. 76°39'40" W. of Hershey Airpark, Hershey, Pa.; within a 7-mile radius of the center of the airport extending clockwise from a 092° bearing to a 041° bearing from the airport.

Hettinger, N. D.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hettinger Municipal Airport (lat. 46°00'48"N., long. 102°39'00"W.), and within 3 miles each side of the 157° bearing from the Hettinger NDB (lat. 46°00'59"N., long. 102°38'55"W.) extending from the 5.5-mile radius area to 8.5 miles southeast of the Hettinger NDB, and that airspace extending upward from 1,200 feet above the surface bounded on the north by V-2, on the east by V-169, on the south by V-120, and on the west by the Bowman, N. D., 1,200 foot transition area excluding the Bismarck, N. D., 1,200 foot transition area.

Hibbing, Minn.

That airspace extending upward from 700 feet above the surface within an 11½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'19" W.); within 5 miles each side of the Hibbing VORTAC 313° radial, extending from the 11½-mile radius area to 26 miles northwest of the VORTAC; within an 11-mile radius of Eveleth-Virginia Airport (latitude 47°25'55" N., longitude 92°30'03" W.); and within 9½ miles north and 4½ miles south of the Eveleth VOR 092° radial, extending from the 11-mile radius area to 18½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Hibbing VORTAC, extending from the Hibbing VORTAC 196° radial clockwise to the Hibbing VORTAC 340° radial; within a 13-mile radius of Hibbing VORTAC, extending from the Hibbing VORTAC 095° radial clockwise to the Hibbing VORTAC 196° radial; within 4½ miles northeast and 10 miles southwest of the Hibbing VORTAC 313° radial, extending from the 27-mile radius area to 33½ miles northwest of the VORTAC, excluding the portion which overlies the Duluth, Minn., transition area.

Hickory, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Hickory Municipal Airport (latitude 35°44'30"N., longitude 81°23'20"W.); within 5 miles each side of the ILS localizer northeast course, extending from the 8.5-mile radius area to 11.5 miles northeast of the airport.

Higgins, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Higgins Municipal Airport, Higgins, Tex., (lat. 36°06'20"N., long. 100°01'30"W.), and within 2 miles each side of the 207° radial of the Gage, Okla., VORTAC, extending from the 5.5-mile radius to 6.5 miles northeast of the airport.

V46/1 JA 2 81 UMI

Higginsville, Mo.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Higginsville Municipal Airport (latitude 39°04'20" N., longitude 93°40'39" W.); and within 3 miles either side of the 351° bearing from the airport, extending from the 5.5-mile radius to 8 miles north of the airport.

Highgate, Vt.

That airspace extending upward from 700 feet above the surface within an arc of a 5-mile radius circle centered on Franklin County State Airport, Highgate, Vt. (lat. 44°56'26"N., long. 73°05'54"W.) extending clockwise between the 305° and 050° bearings from the Franklin County State Airport; within an arc of a 7-mile radius circle centered on Franklin County State Airport, extending clockwise between the 050° and 305° bearings of Franklin County State Airport; within 6.5 miles northwest and 4 miles southeast of Plattsburgh, N. Y., VORTAC 060° radial extending from the radius area to the VORTAC, excluding that portion of the Plattsburgh, N. Y., 700-foot transition area.

Hillsboro, Ohio

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Highland County Airport (latitude 39°11'21" N., longitude 83°32'18" W.).

Hillsboro, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hillsboro Airport (latitude 45°32'15" N., longitude 122°56'30" W.), and within 2 miles of each side of the Newberg, Oreg., VORTAC 007° and 187° radials, extending from the 5-mile radius area to 1 miles S of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 15 miles SE and 10 miles NW of the Newberg VORTAC 024° and 204° radials, extending from 12 miles NE to 27 miles SW of the VORTAC.

Hillsboro, Wis.

That airspace extending upward from 700 feet above the surface within a 8-mile radius of the Kickapoo Airport (latitude 43°39'24" N., longitude 90°19'41" W.).

Hillsdale, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Hillsdale, Mich., Airport (latitude 41°55'15" N., longitude 84°35'05" W.), and within 2 miles each side of the Litchfield, Mich., VORTAC 140° radial extending from the 5-mile radius area to 8 miles northwest of the airport.

Hilo, Hawaii

That airspace extending upward from 700 feet above the surface within the arc of an 8.5-mile radius circle centered on General Lyman Field, Hilo, Hawaii (lat. 19°43'15" N., long. 155°02'55" W.), extending clockwise from a line 2 miles southwest of and parallel to the Hilo VORTAC 321° radial to a line 2 miles south of and parallel to the Hilo VORTAC 099° radial.

Hilton Head Island, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Hilton Head Airport (latitude 32°13'20" N., longitude 80°41'55" W.), excluding the portion outside the continental limits of the United States.

Hobart, Okla.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Hobart Municipal Airport; within 5 miles W and 8 miles E of the Hobart VOR 003° and 183° radials, extending from 5 miles N to 12 miles S of the VOR; within an 8-mile radius of the Altus AFB; within 5 miles W and 8 miles E of the 360° and 180° bearings from latitude 34°33'53" N., longitude 99°16'24" W.; extending from 24 miles N to 12 miles S of lat. 34°33'53"N., long. 99°16'24"W. and within a 6-mile radius of the Tipton Municipal Airport excluding the portion which overlies the Frederick, Okla., transition area.

Hobbs, N. Mex.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.), within 3.5 miles each side of the Hobbs VORTAC 222° radial extending from the VORTAC to 11.5 miles SW, and within 5 miles each side of the Hobbs VORTAC 042° radial extending from the VORTAC to 21 miles NE.

PENDING AMENDMENT

Holdenville, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Holdenville Municipal Airport, (lat. 35°05'15"N., long. 96°25'00"W.), and within 3 miles each side of the 348° bearing of the Holdenville NDB, (lat. 35°05'07"N., long. 96°23'47"W.), extending from the 5-mile radius area to 8.5 miles north of the Holdenville NDB.

AMENDMENTS 2/19/81 45 F. R. 77418 (Added)

V 46 / 1 JA 2 81 UMI

Holdrege, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brewster Field (latitude 40°27'15" N., longitude 99°20'15" W.); and within 3 miles each side of the 011° bearing from Brewster Field, extending from the 5-mile radius area to 8 miles north of the airport.

Holland, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Park Township Airport (lat. 42°47'45"N., long. 86°09'45"W.); within a 6-mile radius of Tulip City Airport (lat. 42°44'45"N., long. 86°06'30"W.); within 3 miles each side of the 175° bearing from Park Township Airport, extending from the 6-mile radius area to 8 miles south of the airport; and within 3 miles each side of the 237° bearing from Park Township Airport, extending from the 6-mile radius area to 8.5 miles southwest of the airport; and within 3 miles each side of the 040° bearing from Park Township Airport, extending from the 6-mile radius area to 8.5 miles northeast of the airport; and within 2 miles each side of the Pullman, Mich., VORTAC 359° radial, extending from the 6-mile radius area to 12 miles north of the VORTAC.

AMENDMENTS 10/30/80 45 F. R. 58105 (Rewritten)

Holly Springs, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Holly Springs-Marshall County Airport (lat. 34°48'12" N., long. 89°31'16" W.); within 2 miles each side of Holly Springs VORTAC 336° radial, extending from the 6.5-mile radius area to 11 miles northwest of the VORTAC.

Homer, Alaska

That airspace extending upward from 700 feet above the surface within a 11-mile radius of the Homer localizer antenna site (lat. 59°39'08"N., long. 151°27'22"W.); and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of the Homer VORTAC extending from the 027° radial clockwise to the 252° radial excluding the portion within Control 1218.

AMENDMENTS 7/10/80 45 F. R. 32664 (Changed)

Homer, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homer Municipal Airport (lat. 32°47'19"N., long. 93°00'13"W.) and within 3.5 miles each side of the Homer, La., Municipal Airport NDB (lat. 32°47'24"N., long. 93°00'02"W.) 296° bearing extending from the 6.5-mile radius area to a point 12.0 miles west of the NDB.

Homerville, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homerville Airport (latitude 31°03'00" N., longitude 82°46'30" W.); within 3 miles each side of the 310° bearing from the Homerville RBN (latitude 31°03'17" N., longitude 82°46'16" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Honesdale, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 41°30'52"N., long. 75°15'10"W., of Cherry Ridge Airport, Honesdale, Pa., and within 5 miles each side of the Wilkes-Barre VORTAC 054° radial extending from the 6.5-mile radius area to 10 miles northeast of the Wilkes-Barre VORTAC.

Honolulu, Hawaii (Honolulu International Airport)

That airspace extending upward from 700 feet above the surface south and southeast of Honolulu beginning at lat. 21°20'30"N., long. 157°51'15"W., thence south to lat. 21°15'30"N., long. 157°49'15"W., thence east along the shoreline to and clockwise along the arc of a 15 NM radius circle centered on Honolulu International Airport (lat. 21°19'15"N., long. 157°55'45"W.) to lat. 21°08'40"N., long. 158°07'35"W., thence northwest to lat. 21°10'10"N., long. 158°11'55"W., thence northeast along a line 4.5 miles southeast of and parallel to the Honolulu VORTAC 242° radial to and counterclockwise along the arc of a 5-mile radius circle centered on NAS Barbers Point (lat. 21°18'35"N., long. 158°04'30"W.) to and counterclockwise along the arc of a 5-mile radius circle centered on Honolulu International Airport to the point of beginning; and within 3 miles northwest and 4.5 miles southeast of the Honolulu VORTAC 242° radial, extending from 13 miles to 14 miles southwest of the VORTAC.

Honolulu, Hawaii (Wheeler AFB)

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Honolulu VORTAC 358° radial extending from the arc of a 3-mile radius circle centered on Wheeler AFB (lat. 21°29'00"N., long. 158°02'30"W.) to the INT of the Honolulu, Hawaii, VORTAC 358° and the Koko Head, Hawaii, VORTAC 298° radials, and that airspace extending upward from 700 feet above the surface within 2 miles northwest of and parallel to the centerline of Runway 06 (068°38'40" true bearing) beginning at the 3-mile radius arc and extending northeast to intercept an arc of a 5-mile radius circle centered on Wheeler AFB (lat. 21°29'00"N., long. 158°02'30"W.) thence clockwise along the 5-mile arc to the Koko Head, Hawaii, VORTAC 305° radial; thence northwest along the Koko Head, Hawaii, VORTAC 305° radial to the arc of the 3-mile radius circle.

Hope, Ark.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hope Municipal Airport (lat. 33°43'06"N., long. 93°39'30"W.); and within 2 miles each side of the Texarkana VORTAC 058° radial extending from the 6-mile radius area to 17 miles northeast of the Texarkana VORTAC and within 3 miles each side of the 355° bearing from the NDB (lat. 33°43'06"N., long. 93°39'26"W.) extending from the 6-mile radius area to 8.5 miles north of the NDB.

AMENDMENTS 3/20/80 45 F. R. 3886 (Changed)

Hopedale, Mass.

hat airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 42°06'2 "N., 71°30'40"W., of the Hopedale Draper Airport, Hopedale, Mass., within 5 miles southeast and 6.5 miles northwest of the 060° radial from the Putnam VORTAC, 41°57'19"N., 71°50'41"W., extending from the 6-mile radius area to the Putnam VORTAC, excluding that portion that coincides with the Danielson, Conn., and the Southbridge, Mass., transition area.

Hopewell, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 37°18'00"N., long. 77°13'00"W., of Hopewell Airport, Hopewell, Va.

Hopkinsville, Ky.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Campbell AAF (lat. 36°40'23" N., long. 87°29'27" W.); within 3 miles each side of the 044° bearing from Campbell RBN, extending from the 8.5-mile radius area to 8.5 miles northeast of the RBN; within an 8.5-mile radius of Outlaw Field, Clarksville, Tenn. (lat. 36°37'15"N., long. 87°24'52"W.); within a 5-mile radius of Sabre Army Heliport, F. Campbell, Ky. (lat. 36°34'14"N., long. 87°28'50"W.), within an 8-mile radius of the Hopkinsville-Christian County Airport (lat. 36°51'25"N., long. 87°27'25"W.).

AMENDMENTS 1/24/80 44 F. R. 65391 (Changed)

Hoquiam, Wash.

That airspace extending upward from 700 feet above the surface east of Bowerman Field, bounded on the north by a line 2 miles north of and parallel to the Hoquiam VORTAC 068° radial, on the south by a line 2 miles south of and parallel to the Hoquiam VORTAC 088° radial, extending eastward between the arcs of 5- and 13-mile radius circles centered on Bowerman Field, (lat. 46°58'15" N., long. 123°56'05" W.); and that airspace extending upward from 1,200 feet above the surface within 6 miles north and 9 miles south of the Hoquiam VORTAC 081° and 261° radials, extending from 8 miles east to 19 miles west of the VORTAC, excluding that portion coinciding with W-237.

Hornell, N. Y.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 42°22'30" N., long. 77°40'45" W. of Hornell Municipal Airport, extending clockwise from a 319° bearing to a 352° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 352° bearing to a 028° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 028° bearing to a 074° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 096° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 096° bearing to a 131° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 131° bearing to a 157° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 252° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 290° bearing from the airport and within a 10.5-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 319° bearing from the airport.

Hot Springs, Ark.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Memorial Field (latitude 34°28'40" N., longitude 93°05'45" W.), and within 3.5 miles each side of the 248° bearing from the Hot Springs RBN extending from the 15-mile radius area to 11.5 miles west of the RBN.

Hot Springs, Va.

That airspace extending upward from 700 feet above the surface within a 9.5 mile radius of the center, lat. 37°57'04" N., long. 79°50'02" W. of Ingalls Field, Hot Springs, Va.

ughton, Mich.

That airspace extending upward from 700 feet above the surface within an 18-mile radius of the Houghton OR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles st of the 020° bearing from the Calumet RBN, extending from the RBN to 18½ miles north of the RBN; within miles northeast and 10½ miles southwest of the Houghton ILS localizer northwest course, extending from the rport to 24½ miles northwest; within 4½ miles southeast and 9½ miles northwest of the Houghton VOR 060° dial extending from the VOR to 18½ miles northeast of the VOR; and within 4½ miles southwest and 9½ miles rtheast of the Houghton ILS localizer southeast course extending from the airport to 23½ miles southeast.

Houghton Lake, Mich.

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of the Roscommon County Airport, Houghton Lake, Mich., (lat. 44°21'N., long. 84°40'W.).

AMENDMENTS 3/20/80 44 F. R. 76268 (Added)

Houlton, Maine

That airspace extending upward from 700 feet above the surface within a 13-mile radius of the center, 46°07'25" N., 67°47'40" W., of Houlton International Airport, Houlton, Maine.

AMENDMENTS 10/2/80 45 F. R. 57371 (Changed)

Houma, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Houma-Terrebonne Airport (lat. 29°34'03"N., long. 90°39'37"W.) and within 2 miles each side of the 123° radial of the Tibby VORTAC (lat. 29°39'51"N., long. 90°49'44"W.) extending from the 6.5-mile radius area to the VORTAC.

AMENDMENTS 5/15/80 45 F. R. 20058 (Rewritten)

Houston, Tex.

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 30°35'00" N., longitude 95°28'00" W.; thence to latitude 29°45'00" N., longitude 94°44'00" W.; thence to the intersection of the arc of a 5-mile radius circle centered on Scholes Field, Galveston, Tex. (latitude 29°15'55" N., longitude 94°41'35"W.), and latitude 29°16'00" N., at a point east of Scholes Field; thence clockwise along the arc of the 5-mile radius circle to latitude 29°16'00" N., at a point west of Scholes Field; thence to latitude 29°30'00" N., longitude 95°54'00" W.; to latitude 30°26'00" N., longitude 95°42'00" W., to point of beginning and including within 3.5 miles each side of the 335° T (227°M) bearing from the Lakeside Airport NDB (latitude 29°50'52" N., longitude 95°41'19" W.) extending from the NDB to 11.5 miles northwest.

Howell, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Howell, Mich., Livingston County Airport (latitude 42°37'30" N., longitude 83°58'45" W.), and within 2 miles each side of the Salem, Mich., 308° radial extending from the 6-mile radius area to 7 miles southeast of the airport.

Hudson, N. Y.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 42°17'35" N., long. 73°42'38" W. of Columbia County Airport, Hudson, N. Y.; within a 17-mile radius of the center of the airport extending clockwise from a 025° bearing to a 180° bearing from the airport; within 3.5 miles each side of a 194° bearing from the Philmont, N. Y., radio beacon (lat. 42°15'08" N., long. 73°43'24" W.), extending from the 8-mile radius area to 11.5 miles south of the RBN.

Hugo, Colo.

That airspace south and east of Hugo, Colo., VOR extending upward from 8500 feet MSL, bounded on the west by V-19, on the northwest by V-108 and V-169, on the north by V-4, on the northeast by V-17, on the southeast by V-216, and on the south by V-210, excluding the airspace within Federal airways, the Pueblo and Colorado Springs, Colo., transition areas and the State of Kansas.

Humboldt, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Humboldt Municipal Airport (lat. 40°09'50"N., long. 95°55'54"W.) and within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC extending from the 5-mile radius to 7 miles west of the airport and within 4.75 miles each side of the 137° bearing from Humboldt Municipal Airport extending from the 5-mile radius to 9.5 miles southeast of the airport.

Humboldt, Tenn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Humboldt Municipal Airport (lat. 35°48'00" N., long. 88°52'00" W.); within 2.5 miles each side of the Dyersburg VORTAC 121° radial, extending from the 5-mile radius area to 23 miles southeast of the VORTAC.

Huntingburg, Ind.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Huntingburg Airport (lat. 38°15'00"N., long. 86°57'00"W.); and within 3 miles either side of a 091° bearing from the Huntingburg Airport extending from the 6.5-mile radius to 9 miles E of the airport; and within 3 miles either side of a 271° bearing from the Huntingburg Airport extending from the 6.5-mile radius to 9 miles W of the airport.

AMENDMENTS 1/24/80 44 F. R. 61941 (Rewritten)

Huntington, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Huntington Municipal Airport (latitude 40°51'15" N., longitude 85°27'50" W.), excluding the portion which overlies the Fort Wayne, Ind., 700-foot floor transition area.

Huntington, W. Va.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, lat. 38°22'00"N., long. 82°33'20"W., of Tri-State Airport (Walker-Long Field), Huntington, W. Va.; within 4.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 11-mile radius area to 6 miles east of the Shoals, W. Va., FM; and within 5 miles each side of the Tri-State (Walker-Long Field) ILS localizer west course, extending from the 11-mile radius area to 11.5 miles west of the OM.

Huntsville, Ala.

That airspace extending upward from 700 feet above the surface within a 15.5-mile radius of Redstone AAF (latitude 34°40'29" N., longitude 86°40'54" W.); within 3 miles each side of Huntsville ILS localizer north course, extending from the Capshaw RBN to 8.5 miles north of the RBN; within 3 miles each side of Huntsville ILS localizer south course, extending from the localizer to 14.5 miles south; within an 8.5-mile radius of Pryor Field (latitude 34°39'09" N., longitude 86°56'45" W.); within 3 miles each side of the Decatur VOR 197° radial, extending from the 8.5-mile radius area to 8.5 miles south of the VOR; within 9.5 miles west and 4.5 miles east of the Decatur VOR 351° radial, extending from the VOR to 18.5 miles north; within a 5-mile radius of Huntsville Airport North (lat. 34°51'25"N., long. 86°33'22"W.).

Huntsville, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Huntsville Municipal Airport (lat. 30°44'30" N., long. 95°35'30" W.), within 3 miles each side of the Leona VORTAC 139° radial extending from the 5-mile radius area to 27.5 miles southeast of the VORTAC, and within 3.5 miles each side of the 008° bearing from the Huntsville RBN (lat. 30°44'20" N., long. 95°35'17" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Huron, S. Dak.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Huron Regional Airport (latitude 44°23'03" N., longitude 98°13'39" W.); within 4½ miles northeast and 11 miles southwest of the Huron VORTAC 314° and 134° radials, extending from 5 miles southeast to 18½ miles northwest of the VORTAC; and within 5 miles each side of the Huron ILS localizer southeast course, extending from the 6½-mile radius area to 19½ miles southeast of the OM; and that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Huron VORTAC extending from a line 5 miles west of and parallel to the 343° radial clockwise to a line 5 miles north of and parallel to the 269° radial; and within 4½ miles southwest and 9½ miles northeast of the Huron localizer southeast course extending from 6 miles southeast of the OM to 29 miles southeast of the OM.

Hurtsboro, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sehoy Airport (lat. 32°13'12"N., long. 85°28'05"W.).

Hutchinson, Kans.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Hutchinson Municipal Airport (latitude 38°03'56" N., longitude 97°51'37" W.); within 3½ miles each side of the Hutchinson VORTAC 222° radial, extending from the 8½ mile radius area to 8 miles southwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Hutchinson ILS localizer northwest course, extending from the airport to 18½ miles northwest of the ILS outer marker.

Hutchinson, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Hutchinson Municipal Airport, Hutchinson, Minn., (lat. 44°52'N., long. 94°23'W.), excluding that portion which overlaps the Litchfield, Minn., transition area.

AMENDMENTS 3/20/80 44 F. R. 76269 (Added)
PENDING AMENDMENT
Hutchinson, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Hutchinson Municipal Airport, Hutchinson, Minn., (lat. 44°52'N., long. 94°23'W.), within 3 statute miles each side of the 340° bearing from the airport, extending from the 6.5-mile radius out to 8.5 statute miles northwest of the airport, excluding that portion that overlies the Litchfield, Minn., transition area.

AMENDMENTS 12/25/80 45 F. R. 65195 (Rewritten)

Idabel, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Idabel Municipal Airport (lat. 33°54'23" N., long. 94°50'41" W.) and within 3.5 miles each side of the 349° bearing from the NDB (lat. 33°54'23" N., long. 94°50'45" W.) extending from the 5-mile radius area to a point 8 miles north of the NDB.

Ida Grove, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ida Grove Municipal Airport (latitude 42°19'55" N., longitude 95°26'40" W.); and within 2 miles each side of the 117° bearing from Ida Grove Municipal Airport, extending from the 7-mile radius area to 8 miles east of the airport.

Idaho Falls, Idaho

That airspace extending upward from 700 feet above the surface within 10.5 miles northwest and 5 miles southeast of the Idaho Falls VOR 036° and 216° radials, extending from 25.5 miles northeast to 18.5 miles southwest of the VOR and within 6 miles northwest and 9 miles southeast of the 029° radial of the Pocatello VORTAC extending from 23 to 47 miles northeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the intersection of longitude 112°30'00" W., and the south edge of V-298, thence via the south edge of V-298 and V-328 to longitude 111°38'00" W., thence south via this longitude to the INT of an arc of a 23-mile radius circle centered on the Idaho Falls VOR, thence clockwise via the 23-mile radius arc to longitude 112°10'00" W., thence direct to latitude 43°20'30" N., longitude 112°45'30" W., thence direct latitude 43°32'00" N., longitude 112°35'00" W., thence to latitude 43°50'20" N., longitude 112°30'00" W., thence direct to point of beginning.

Iliamna, Alaska

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iliamna Airport (lat. 59°45'12"N., long. 154°54'54"W.); and within 2.5 miles each side of the 189° bearing from the Iliamna NDB, extending from the 5-mile radius area to 9.5 miles south of the NDB; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles west and 9.5 miles east of the Iliamna NDB 189° bearing from the Iliamna NDB, extending from the NDB to 18.5 miles south of the NDB.

Illinois

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Illinois.

PENDING AMENDMENT

Immokalee, Fla.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Immokalee Airport (lat. 26°25'45"N., long. 81°24'00"W.).

AMENDMENTS 12/22/80 45 F. R. 79013 (Added)

Imperial, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Imperial Municipal Airport, Imperial Nebr. (lat. 40°30'35"N., long. 101°37'11"W.), within 3 miles each side of the 133° bearing from the Imperial NDB (lat. 40°30'32"N., long. 101°37'43"W.) extending from the 7-mile radius area to 8 miles southeast of the NDB.

AMENDMENTS 7/10/80 45 F. R. 31972 (Added)

Independence, Iowa

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Independence Municipal Airport (lat. 42°27'04"N., long. 91°56'57"W.), excluding that airspace overlying the Waterloo, Iowa, transition area and the Oelwein, Iowa, transition area.

AMENDMENTS 7/10/80 45 F. R. 34263 (Added)

Independence, Kans.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Independence Municipal Airport (latitude 37°09'25" N., longitude 95°46'50" W.).

Indiana

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Indiana.

Indiana, Pa.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, (lat. 40°38'00" N., long. 79°06'15" W.) of Indiana County-Jimmy Stewart Field, Indiana, Pa., within 3.5 miles each side of the Indiana County-Jimmy Stewart Field ILS localizer east course, extending from the 7-mile radius area to 12 miles east of the OM (40°37'19"N., 78°58'43"W.), and within 4.5 miles each side of the 090° bearing from the Indiana RBN (lat. 40°37'54"N., long. 79°03'51"W.) extending from the 7-mile radius area to 11 miles east of the RBN.

Indianapolis, Ind.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within a 5½-mile radius of Bob Shank Airport (latitude 39°49'15" N., longitude 86°14'30" W.); within a 5½-mile radius of Eagle Creek Airpark (latitude 39°49'45" N., longitude 86°17'45" W.); and within 3 miles each side of the Indianapolis VORTAC 257° radial, extending from the 5½ and 9-mile radii to 8 miles west of the VORTAC.

Indianola, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Indianola Municipal Airport (lat. 33°29'05"N., long. 90°40'34"W.); within 3 miles each side of the 191° and 354° bearings from Indianola RBN (lat. 33°28'48"N., long. 90°40'34"W.), extending from the 6.5-mile radius area to 8.5 miles south and north of the RBN.

International Falls, Minn.

That airspace extending upward from 700 feet above the surface within 4½ miles northeast and 9½ miles southwest of the International Falls VORTAC 140° and 320° radials, extending from 6 miles southeast to 18½ miles northwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the International Falls VORTAC 129° and 309° radials extending from 6 miles northwest to 18½ miles southeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the International Falls VORTAC; and within 4½ miles southwest and 9½ miles northeast of the International Falls ILS southeast localizer course extending from the 20-mile radius area to 18½ miles southeast of the outer marker, excluding the portions outside the United States.

Intracoastal City, La.

That airspace extending upward from 700 feet above the surface within 3.5 miles either side of the White Lake, La., VORTAC 065° radial extending from 11 miles NE of the VORTAC to 23 miles NE of the VORTAC and within 5 miles either side of the 17.5-mile radius arc centered on the White Lake VORTAC extending clockwise between the 065° and 084° radials.

Iola, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Allen County Airport (lat. 37°52'22"N., long. 95°22'58"W.); and within 2 miles each side of the 019° bearing from the NDB facility (lat. 37°47'29"N., long. 95°24'53"W.); extending from the 5-mile radius to the NDB.

Ionia, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ionia County Airport (lat. 42°56'20"N., long. 85°04'15"W.); and within 3 miles each side of the 064° radial of the Grand Rapids, Mich., VOR, extending from the 5-mile radius area to 30 miles northeast of the VOR.

Iowa

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Iowa.

Iowa City, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Iowa City Municipal Airport (lat. 41°38'25"N., long. 91°32'50"W.), and within 2 miles each side of the Iowa City VOR 024° radial, extending from the 6-mile radius area to the VOR.

Iowa Falls, Iowa

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Iowa Falls Municipal Airport (lat. 42°28'10" N., long. 93°16'00" W.); and within 3 miles on each side of the 154° bearing from the airport reference point extending from the 6.5-mile radius 8.5 miles southeast of the airport.

Iron Mountain, Mich.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Iron Mountain VORTAC; within 6 miles west and 9½ miles east of the Iron Mountain ILS localizer south course extending from the 10-mile radius area to 24 miles south of the Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 5 miles each side of the Iron Mountain ILS localizer north course extending from the 10-mile radius to 18 miles north of the airport.

Ironwood, Mich.

That airspace extending upward from 700 feet above the surface within a 13-mile radius of the Gogebic County Airport (latitude 46°31'32" N., longitude 90°07'54" W.); within 3 miles each side of the 272° radial, extending from the 13-mile radius to 15 miles west of the Ironwood VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 24-mile radius of the Ironwood VORTAC excluding the portion in the State of Wisconsin.

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Islip, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 40°47' 50"N., 73°06'01"W., of Long Island MacArthur Airport, Islip, N. Y., and within 4.5 miles each side of the Long Island MacArthur Airport Runway 24 ILS localizer northeast course, extending from the OM to 5.5 miles northeast of the OM.

Ithaca, N. Y.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 42° 29'29" N., 76°27'30" W., of Tompkins County Airport, Ithaca, N. Y.; within a 10-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 012° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from the 012° bearing to a 036° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 036° bearing to a 065° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 096° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 096° bearing to a 111° bearing from the airport; within a 14.5-mile radius of the center of the airport extending clockwise from a 111° bearing to a 131° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 131° bearing to a 152° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 152° bearing to a 216° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 216° bearing to a 243° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 243° bearing to a 288° bearing from the airport; within 4.5 miles southwest and 9.5 miles northeast of the Ithaca, N. Y., VORTAC 305° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC; within 5.0 miles each side of the Tompkins County Airport ILS localizer southeast course extending from the OM to 11.5 miles southeast of the OM.

Jacksboro, Tenn.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Campbell County Airport (latitude 36°20'03" N., longitude 84°09'46" W.).

Jackson, Mich.
That airspace extending upward from 700 feet above the surface within a 13-mile radius of the Jackson VOR.

Jackson, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jackson Municipal Airport (latitude 43°39'00" N., longitude 94°59'05" W.); and within 3 miles each side of the 327° bearing from Jackson Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

Jackson, Miss.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Allen C. Thompson Field (latitude 32°18'40" N., longitude 90°04'35" W.); within an 8-mile radius of Hawkins Field (latitude 32°20'10" N., longitude 90°13'15" W.); within 1.5 miles each side of the Jackson VORTAC 195° radial, extending from the 8-mile radius area to the VORTAC; within a 5.5-mile radius of Bruce Campbell Field (latitude 32°26'15" N., longitude 90°06'05" W.); within 1.5 miles each side of the Jackson VORTAC 142° radial, extending from the 5.5-mile radius area to the VORTAC; within 1.5 miles each side of Runway 17 extended centerline, extending from the 5.5-mile radius area to 5.5 miles north of the runway end; within 3 miles each side of the 007° bearing from the Bruce RBN (lat. 32°26'24" N., long. 90°06'24" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

Jackson, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the James Rhodes Airport, Jackson, Ohio, (lat. 38°58'47"N., long. 82°34'41"W.).

AMENDMENTS 5/15/80 45 F. R. 14543 (Added)

Jackson, Tenn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of McKellar Field (latitude 35°35'55" N., longitude 88°54'55" W.).

Jackson, Wyo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius circle centered on the Jackson's Hole Airport (latitude 43°36'24" N., longitude 110°44'13" W.), within 5.5 miles west and 9.5 miles east of the Jackson VOR 200° radial, extending from the VOR to 24.5 miles south; and within 2.5 miles each side of the Jackson VOR 020° radial extending from the VOR to 12 miles north of the VOR; and that airspace extending upward from 1200 feet above the surface within 8 miles west and 12 miles east of the Jackson VOR 020° radial extending from the VOR to 38.5 miles north of the VOR; within 5 miles each side of the Jackson VOR 107° radial extending from the VOR to 15 miles east of the VOR; and within 6 miles north and 9 miles south of the Dunoir, Wyo., VOR 102° and 282° radials extending from 8 miles east to 21 miles west of the Dunoir VOR.

Jacksonville, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.); NAS Jacksonville (lat. 30°14'00" N., long. 81°40'30" W.); NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.); Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.), and NS Mayport (lat. 30°23'25" N., Long. 81°25'15" W.); within an 8.5-mile radius of OLF Whitehouse Field, Fla. (lat. 30°21'00" N., long. 81°52'00" W.

Jacksonville, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jacksonville Municipal Airport (latitude 39°46'30" N., longitude 90°14'15" W.); within 3 miles each side of the 311° bearing from the airport, extending from the 5-mile radius area to 8 miles northwest of the airport; and within 3 miles each side of the 136° bearing from the airport, extending from the 5-mile radius area to 6 miles southeast of the airport.

Jacksonville, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of New River MCAS (lat. 34°42'25"N., Long. 77°26'35"W.); within 2 miles each side of New River TACAN 236° radial, extending from the 8.5-mile radius area to 9.5 miles southwest of the TACAN; within an 8.5-mile radius of Albert J. Ellis Airport (lat. 34°49'49" N., long. 77°36'42" W.).

Jacksonville, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Cherokee County Airport (lat. 31°52'09"N., long. 95°13'22"W.) and within 3.5 miles each side of a 299° bearing from the Cherokee County NDB (lat. 31°52'12"N., long. 95°13'15"W.) extending from the 6.5-mile radius area to 11.5 miles northwest of the NDB.

Jamestown, N. Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center of Chautauqua County Airport, Jamestown, N. Y. (42°09'07" N., 79°15'26" W.); within 2 miles each side of the Jamestown VOR 071° and 251° radials, extending from the 7-mile radius area to 8 miles northeast of the VOR; and within 2 miles each side of a 053° bearing from the Jamestown, N. Y., RBN (42°11'02" N., 79°11'15" W.) extending from the 7-mile radius area to 8 miles northeast of the RBN; within 2 miles each side of the Jamestown, N. Y., ILS localizer northeast course extending from the 7-mile radius area to 8 miles northeast of the ILS OM.

Jamestown, N. Dak.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Jamestown Municipal Airport (latitude 46°55'55" N., longitude 98°40'40" W.); and within 3.5 miles each side of the Jamestown VORTAC 315° radial extending from the 10-mile radius area to 17.5 miles northwest of the Jamestown VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 19-mile radius of the Jamestown VORTAC extending from the 328° radial clockwise to the 083° radial; within a 20-mile radius of the Jamestown VORTAC extending from the 083° radial clockwise to the 279° radial; within a 21-mile radius of the Jamestown VORTAC extending from the 279° radial clockwise to the 287° radial; within 9.5 miles southwest and 4.5 miles northeast of the Jamestown VORTAC 315° radial extending from the 19- and 21-mile radius areas to 25.5 miles northwest of the Jamestown VORTAC; and within 4.5 miles southwest and 9.5 miles northeast of the Jamestown VORTAC 136° radial extending from the 20-mile radius area to 25.5 miles southeast of the Jamestown VORTAC.

Jamestown, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Jamestown Municipal Airport (lat. 36°20'56"N., long. 84°56'47"W.).

Janesville, Wis.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Rock County Airport, Janesville, Wisconsin (latitude 42°37'12" N., longitude 89°02'28" W.), within a 6-mile radius of the Beloit, Wisconsin Airport (latitude 42°29'51" N., longitude 88°58'05" W.), and within a 5-mile radius of the Wagon Wheel Airport, Rockton, Illinois (latitude 42°26'15" N., longitude 89°04'21" W.).

Jasper, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Walker County Airport (lat. 33°51'55"N., long. 87°15'40"W.); within 4.5 miles each side of Vulcan VORTAC 303° radial, extending from the 6.5-mile radius area to 14 miles northwest of the VORTAC.

Jasper, Tenn.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of Marion County-Brown Field (latitude 35°03'35" N., longitude 85°35'05" W.); excluding the portion that coincides with the Chattanooga, Tenn., transition area.

Jasper, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jasper County Airport (latitude 30°53'32" N., longitude 94°02'03" W.), within 3.5 miles each side of the 360° bearing from the Jasper RBN (latitude 30°57'16" N., longitude 94°02'00" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN, and within 3.5 miles each side of the 182° bearing from the Pine RBN (latitude 30°52'00" N., longitude 94°02'06" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

Jefferson, Iowa

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Jefferson Municipal Airport (latitude 42°00'36" N., longitude 94°20'31" W.); and within 3 miles each side of the 152° bearing from Jefferson Municipal Airport extending from the 5½-mile radius area to 8 miles southeast of the airport.

Jefferson City, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Jefferson City Memorial Airport (lat. 38°35'33"N., long. 92°09'39"W.) and within 4.5 miles south and 5 miles north of the 123° bearing from the Jefferson City RBN facility (lat. 38°33'20"N., long. 92°04'40"W.) extending from the 8-mile radius to 15.5 miles south/southeast of the Jefferson City RBN facility.

Jennings, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jennings Airport (latitude 30°14'30" N., longitude 92°40'00" W.); within 2.5 miles each side of the Lake Charles VORTAC 075° radial extending from the 5-mile radius area to 20.5 miles east of the VORTAC and within 3 miles either side of the 321° bearing from the Jennings NDB (latitude 30°14'19" N., longitude 92°40'13" W.) extending from the 5-mile radius area to 8 miles northwest of the NDB.

Jesup, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jesup-Wayne County Airport (latitude 31°33'18" N., longitude 81°52'54" W.); within 3 miles each side of the 286° bearing from Slover RBN (latitude 31°33'08" N., longitude 81°52'48" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Johnson, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Stanton County Municipal Airport (lat. 37°35'05"N., long. 101°43'50"W.), and within 3 miles each side of the Bear Creek NDB (lat. 37°38'08"N., long. 101°44'03"W.) 359° bearing, extending from the 7-mile radius area to 8.5 miles northeast of the airport.

AMENDMENTS 10/30/80 45 F. R. 57371 (Added)

Johnson City, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Johnson City Airport (latitude 30°15'05" N., longitude 98°37'21" W.); within a 5-mile radius of Shepherd Farm Airport (latitude 30°12'30" N., longitude 98°43'20" W.) and within 2.5 miles each side of the 175° bearing from the Johnson City RBN (latitude 30°12'32" N., longitude 98°37'05" W.) extending from the 7-mile radius area to 8 miles south of the RBN.

Johnstone Point, Alaska

That airspace extending upward from 700 feet above the surface within 4 miles north and 5 miles south of the Johnstone Point VORTAC 286° and the 106° radials, extending from 5 miles east to 23 miles west of the VORTAC; within a 35-mile radius of the Johnstone Point VORTAC, extending clockwise from the north edge of V-319 to the 332° radial of the VORTAC; and within 5 miles northeast of the Johnstone Point VORTAC 332° radial extending from the VORTAC to 23 miles northwest of the VORTAC.

Johnston Island, Johnston Atoll

That airspace extending upward from 700 feet above the surface within a 10 NM radius of the Johnston Island (Apollo) NDB (lat. 16°44'00"N., long. 169°32'00"W.); and that airspace extending upward from 1200 feet above the surface within a 25 NM radius of the NDB.

Johnstown, Pa.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, lat. 40° 19'00" N., long. 78°50'00" W. of Johnstown-Cambria County Airport, Johnstown, Pa.

Jonesboro, Ark.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jonesboro Municipal Airport (latitude 35°49'50" N., longitude 90°38'55" W.) and within 3.5 miles each side of the Jonesboro VOR 048° radial extending from the 8.5-mile radius area to 11.5 miles northeast of the VOR excluding the portion within the Paragould, Ark., transition area.

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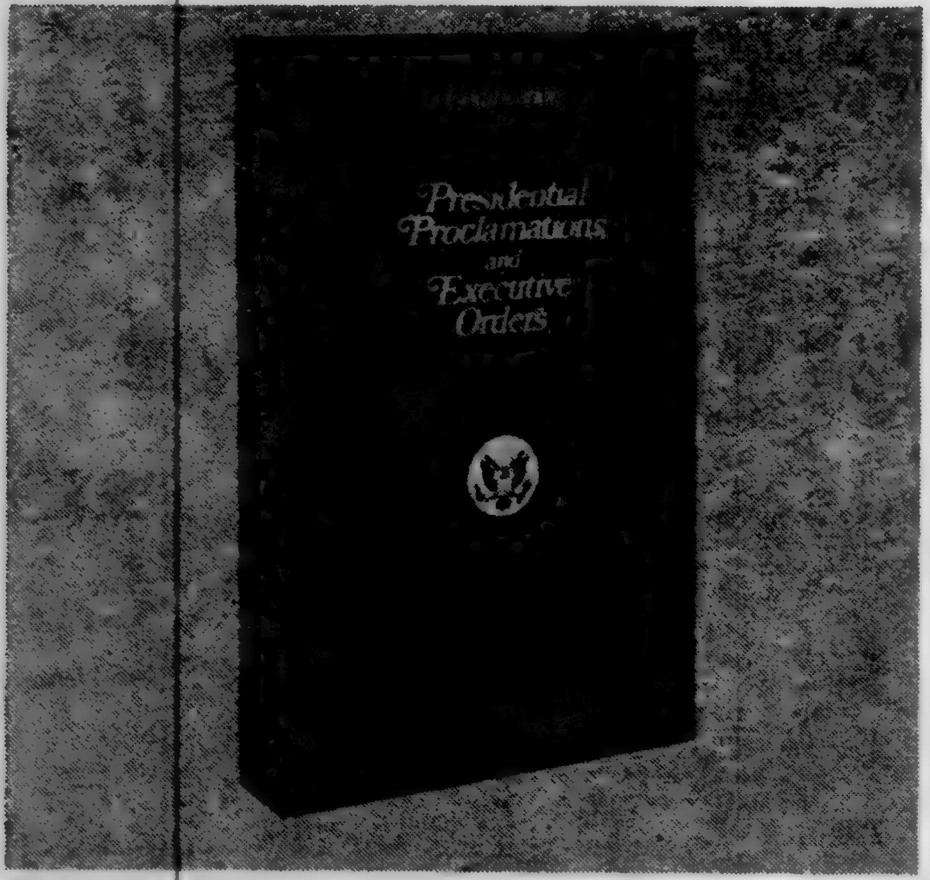

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Friday, January 2, 1981

Part II

Department of Transportation

Federal Aviation Administration

Airspace Designations; Compilation of Regulations

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Jonesboro, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jonesboro Municipal Airport, Jonesboro, La., (lat. 32°12'10"N., long. 92°44'10"W.) and within 3.5 miles each side of the 202° bearing from the Jonesboro NDB (lat. 32°12'10"N., long. 92°43'45"W.) extending from the 6.5-mile radius area to 12 miles south of the NDB.

Jonestown, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bar K Airpark (latitude 30°29'52" N., longitude 97°58'07" W.), and within 3 miles each side of the Austin, Tex., VORTAC 311° radial extending from the 5-mile radius to 28 miles northwest of the VORTAC.

Joplin, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Joplin Municipal Airport (latitude 37°09'05" N., longitude 94°29'55" W.).

PENDING AMENDMENT

Joplin, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Joplin Municipal Airport (lat. 37°09'05"N., long. 94°29'55"W.) within 3 miles each side of the Joplin NDB (LUNNS LOM, lat. 37°12'11"N., long. 94°33'30"W.) 306° bearing, extending from the 8-mile radius area to 8.5 miles northwest of the NDB.

AMENDMENTS 12/25/80 45 F. R. 70852 (Rewritten)

Junction, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kimble County Airport (latitude 30°30'35" N., longitude 99°45'45" W.), within 5 miles northeast and 8 miles southwest of the Junction VORTAC 150° and 330° radials extending from the VORTAC to 12 miles northwest and 5 miles southeast of the VORTAC.

Juneau, Alaska

That airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Coghlan Island, Alaska, RBN, that airspace northwest of Juneau bounded on the east by A-15; on the northwest by a line from the Gustavus, Alaska, RBN to the Haines, Alaska, RBN, and on the southwest by a line 19 miles northeast of and parallel to the 145° and 325° bearings from the Gustavus, Alaska, RBN, and that airspace south of Juneau, extending from the 20-mile radius area, bounded on the northeast by A-15 and on the southwest by B-37, excluding the portion within the Gustavus, Alaska, transition area.

Juneau, Wis.

That airspace extending upward from 700 feet above the surface within 6½-mile radius of Dodge County Airport (latitude 43°25'30" N., longitude 88°42'00" W.); and within 3 miles each side of a 195° bearing from Dodge County Airport extending from the 6½-mile radius to 8 miles south of the airport; and within 3 miles each side of the 032° bearing from Dodge County Airport extending from the 6½-mile radius to 8 miles northeast of the airport.

Jupiter, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the United Technologies Airport (lat. 26°54'28"N., long. 80°19'38"W.).

AMENDMENTS 1/24/80 45 F. R. 765 (Added)

Kaanapali, Hawaii

That area extending upward from 700 feet above the surface within a 5-mile radius of Kaanapali Airport (lat. 20°56'45"N., long. 156°41'35"W.), within 3 miles each side of the Molokai VORTAC 114°T radial extending from the 5-mile radius to 7.5 miles northwest of the airport.

Kahului, Hawaii

That airspace extending upward from 700 feet above the surface bounded on the southwest by a line 2 miles southwest of and parallel to the Maui VORTAC 331° radial, on the north by the arc of an 8.5-mile radius circle centered on the Kahului Airport (latitude 20°54'05" N., longitude 156°26'05" W.), on the southeast by a line 4 miles northwest of and parallel to the Maui VORTAC 038° radial and on the south by the arc of a 5-mile radius circle centered on the Kahului Airport, and within 4 miles each side of the Maui VORTAC 038° radial, extending from 14 to 17 miles northeast of the VORTAC.

Kaiser, Mo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (lat. 38°06'38"N., long. 92°40'50"W.), within a 9-mile radius of the Lee C. Fine Memorial Airport (lat. 38°05'44"N., long. 92°32'56"W.), within 3 miles each side of the 213° radial of the Sunshine VOR extending from the 9-mile radius area to 8 miles southwest of the VOR, and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7-mile radius area to 9 miles southeast of the VOR.

Kalispell, Mont.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Glacier Park International Airport (latitude 48°18'49" N., longitude 114°15'16" W.); within 5.5 miles each side of the 035° and 215° bearings from the Smith Lake NDB (latitude 48°06'28" N., longitude 114°27'37" W.); extending from the 8-mile radius area to 12 miles southwest of the NDB.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 47°30'00"N., long. 113°30'00"W.; to lat. 48°30'00"N., long. 113°30'00"W.; to lat. 48°30'00"N., long. 115°00'00"W.; to lat. 48°12'00"N., long. 115°00'00"W.; to lat. 48°12'00"N., long. 115°30'00"W.; to lat. 47°30'00"N., long. 115°30'00"W., to the point of beginning.

Kaneohe, Hawaii.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 21°23'15" N., longitude 157°46'30" W., thence counterclockwise along the arc of a 8-mile radius circle centered on MCAS Kaneohe (latitude 21°27'30" N., longitude 157°46'30" W.) to latitude 21°29'25" N., longitude 157°50'45" W., thence to latitude 21°32'45" N., longitude 157°51'20" W., thence clockwise along the arc of an 8-mile radius circle centered on MCAS Kaneohe to latitude 21°23'00" N., longitude 157°41'00" W., thence to point of beginning, and within 2 miles on each side of the MCAS Kaneohe TACAN 351° radial, extending from the 8-mile radius area to 12 miles N of the TACAN.

Kankakee, Ill.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Greater Kankakee Airport (latitude 41°04'15" N., longitude 87°50'56" W.); within 2 miles each side of the Peotone, Ill., VORTAC 192° radial extending from the 6½-mile radius area to the VORTAC; within 3 miles each side of the 212° bearing from Greater Kankakee Airport, extending from the 6½-mile radius area to 8 miles southwest of the airport; within 3 miles each side of the 222° bearing from Greater Kankakee Airport extending from the 6½-mile radius area to 8 miles southwest of the airport; and within 3 miles each side of the 052° bearing from Greater Kankakee Airport, extending from the 6½-mile radius area to 8 miles northeast of the airport.

Kansas

That airspace extending upward from 1,200 feet above the surface within the State of Kansas.

Kansas City, Mo.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Kansas City Downtown Airport (lat. 39°07'20.7"N., long. 94°35'30"W.) within 4.5 miles each side of the Riverside VOR 212° radial extending from the 10-mile radius area to 12.5 miles southwest of the Downtown Airport, within a 9.5-mile radius of the Sherman AAF (lat. 39°22'15"N., long. 94°54'45"W.) within an 8.5-mile radius of the Kansas City International Airport (lat. 39°17'50.8"N., long. 94°42'54.6"W.) within 5 miles each side of the Runway 19 ILS localizer north course extending from the 8.5-mile radius area to 25 miles north of the Wyandotte LOM, within 5 miles each side of the Kansas City VORTAC 096° radial extending from the 8.5-mile radius area to 11.5 miles east of the VORTAC, and within 5 miles each side of the Runway 1 ILS localizer south course extending from the 8.5-mile radius area to 11 miles south of the Wyandotte LOM.

Katy, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Woods No. 2 Airport (lat. 29°47'36"N., long. 95°55'30"W.).

AMENDMENTS 5/15/80 45 F. R. 17004 (Added)

Ke-ahole, Kona, Hawaii

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Ke-ahole Airport (latitude 19°44'35" N., longitude 156°03'00" W.), within 4.5 miles each side of the Kona VORTAC 179° radial, extending from the 8.5-mile radius area to 11 miles south of the VORTAC and within 4.5 miles each side of the Kona VORTAC 348° radial, extending from the 8.5-mile radius area to 17.5 miles north of the VORTAC.

Kearney, Nebr.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Kearney Municipal Airport (lat. 40°43'37"N., long. 99°00'04"W.).

Keene, N. H.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°01'00" N., 72°13'00" W., to 42°55'00" N., 72°00'00" W., to 42°51'30" N., 71°54'00" W., to 42°28'00" N., 71°54'00" W., to 42°28'00" N., 72°27'00" W., to 42°22'00" N., 72°27'00" W., to 42°22'00" N., 72°35'00" W., to 42°28'00" N., 72°35'00" W., to 42°28'00" N., 73°00'00" W., to 43°01'00" N., 73°00'00" W., to the point of beginning, excluding that portion within the Boston, Mass., Pittsfield, Mass., and Chicopee Falls, Mass., transition areas.

Kelso, Wash.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Kelso-Longview Airport (latitude 46°07'12" N., longitude 122°53'58" W.), within 9.5 miles west of and 4.5 miles east of the 012° bearing from the Kelso, Wash., NDB (latitude 46°09'14" N., longitude 122°54'40" W.), extending from the NDB to 18.5 miles north of the NDB; within 5 miles each side of the 336° bearing from the Kelso NDB extending from the NDB 22.8 miles northwest.

Kenai, Alaska

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Kenai Municipal Airport (latitude 60°34'21" N., longitude 115°14'44" W.), extending clockwise from the 048° to the 290° bearing from the airport.

PENDING AMENDMENT

Kenai, Alaska

That airspace extending upward from 700 feet above the surface within a 17.5-mile radius of the Kenai Municipal Airport (lat. 60°34'21"N., long. 151°14'44"W.), extending clockwise from the 007° to the 290° bearing from the airport.

AMENDMENTS 12/25/80 45 F. R. 59839 (Rewritten) Corr: 45 F. R. 69212

Kenansville, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Duplin County Airport (lat. 35°00'00" N., long. 77°59'00" W.); within 3 miles each side of the 034° bearing from Kenan RBN (lat. 35°02'51" N., long. 77°56'45" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Kendallville, Ind.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Kendallville Municipal Airport (latitude 41°28'30" N., longitude 85°15'30" W.); within 2 miles each side of the 037° radial of the Wolflake VOR, extending from the 5½-mile radius area to 6 miles southwest of the airport.

Kenedy, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Karnes County Airport (latitude 28°49'30" N., longitude 97°51'55" W.) and within 5 miles each side of the Three Rivers VORTAC 038°T (029° M) radial extending from the 5-mile radius to 17 miles northeast of the Three Rivers VORTAC.

Kennett, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kennett Memorial Airport (lat. 36°13'50"N., long. 90°02'05"W.); and within 2 miles each side of the 346° radial of he Gosnell VOR extending from the 5-mile radius area to 13½ miles north of the VOR.

entland, Ind.

That airspace extending upward from 700' above the surface within a 5-mile radius of the Kentland Municipal Airport (lat. 40°45'27"N., long. 37°25'48"W.); and within 2 statute miles either side of the 306° radial of the Lafayette VORTAC, extending from the 5-mile radius area to 6 miles southeast of the airport.

Kenton, Ohio

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, lat. 40°36'48"N., long. 83°38'39"W. of Hardin County Airport, Kenton, Ohio.

Kentucky

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Kentucky.

Keokuk, Iowa

That airspace extending upward from 700 feet above the surface within a 4-mile radius of Keokuk Municipal Airport (latitude 40° 27' 35" N., longitude 91° 25' 50" W.), within 2 miles each side of the 311° bearing from the Keokuk RBN (latitude 40° 27' 45" N., longitude 91° 26' 00" W.), extending from the 4-mile radius area to 8 miles NW of the RBN.

Kerrville, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Kerrville Municipal (Louis Schreiner Field) Airport (lat. 29°58'38"N., long. 99°05'13"W.).

Ketchikan, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Ketchikan ILS localizer southeast and northwest course, extending from 8.5 miles southeast to 26 miles northwest of the Ketchikan localizer (lat. 55°20'52" N., long. 131°41'53" W.); and that airspace extending upward from 1,200 feet above the surface within 13 miles northwest and 8.5 miles southeast of the 247° and the 067° bearings from the Guard Island RBN, extending from 11 miles northeast to 24 miles southwest of the RBN; within 7 miles northeast and 17 miles southwest of the 150° and 330° bearing from the Guard Island RBN, extending from 12 miles southeast to 26.5 miles northwest of the RBN, excluding the portion within the Annette Island 700- and 1,200-foot floor transition area.

Kewanee, Ill.

That airspace extending upward from 700 feet above the surface within a five-mile radius of the Kewanee Airport (latitude 41°13'06"N., longitude 89°57'42"W.); and within three miles each side of the 218° bearing from the airport, extending from the five-mile radius area to eight miles southwest.

Key West, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Key West International Airport (lat. 24°33'22" N., long. 81°45'35" W.); within 4 miles each side of Key West VORTAC 309° radial, extending from the 8.5-mile radius area to 9.5 miles northwest of the VORTAC; within an 8.5-mile radius of Key West NAS (Boca Chica) (lat. 24°34'30" N., long. 81°41'15" W.).

Killeen, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hood AAF (lat. 31°08'15"N., long. 97°42'50"W.); within a 7-mile radius of Robert Gray AAF (lat. 31°04'20"N., long. 97°49'45"W.); within 9.5 miles west and 5 miles east of the Hood VOR 352° and 172° radials extending from 2 miles north of the VOR to 12 miles south of the VOR; within 5 miles southeast and 9.5 miles northwest of the Hood VOR 219°T (210°M) radial extending from the VOR to 19 miles southwest of the VOR; within 3.5 miles each side of the 337° bearing from STARN RBN (lat. 31°10'03"N., long. 97°52'41"W.) extending from the 7-mile radius area to 11.5 miles north of the RBN; within a 5-mile radius of Killeen Municipal Airport (lat. 31°05'15"N., long. 97°41'00"W.), within 3.5 miles each side of the 197° bearing from the IRESH NDB (lat. 31°01'26"N., long. 97°42'28"W.), extending from the 5-mile radius to 11.5 miles southwest of the IRESH NDB.

Kingman, Ariz.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kingman Municipal Airport (latitude 35°15'31" N., longitude 113°56'20" W.); within 2 miles each side of the Kingman VOR 025° radial, extending from the 5-mile radius area to 7 miles NE of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles SE and 9 miles NW of the Kingman VOR 025° and 205° radials, extending from 38 miles NE to 13 miles SW of the VOR.

King Salmon, Alaska

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the King Salmon, Alaska, Airport (latitude 58°40'43" N., longitude 156°38'50" W.); that airspace extending upward from 1,200 feet above the surface within a 45-mile radius of the King Salmon, Alaska, airport; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the King Salmon VORTAC, excluding the portions within the United States, Federal Airways, Control 1217, Control 1234, Control 1400, and Control 1401.

Kingstree, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Williamsburg County Airport (lat. 33°43'01" N., long. 79°51'26" W.); within 3 miles each side of the 307° bearing from Kingstree RBN (lat. 33°43'04" N., long. 79°51'23" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Kingsville, Tex.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of NAAS Kingsville (north) (latitude 27°30'10" N., longitude 97°48'25" W.), within a 7-mile radius of the Kleberg County Airport (latitude 27°33'01" N., longitude 98°01'39" W.), and within 2 miles each side of a 316° bearing from the Kleberg County RBN (latitude 27°36'20" N., longitude 98°05'22" W.) extending from the 7-mile radius area to 8 miles northwest of the RBN, excluding that portion which lies within the Alice, Tex., control zone.

Kinston, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Stallings Field (latitude 35°19'40" N., longitude 77°36'55" W.); within 4.5 miles each side of the Kinston VORTAC 048° radial, extending from the 8.5-mile radius area to 10.5 miles northeast of the VORTAC.

Kirksville, Mo.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Clarence Cannon Memorial Airport (lat. 40°05'33"N., long. 92°32'41"W.), within 3 miles each side of the Kirksville, Mo., VORTAC 320° radial extending from the 6½-mile radius area to 8 miles northwest of the VORTAC, and within 5 miles each side of the 180° bearing from the Clarence Cannon Memorial Airport extending from the 6½-mile radius area to 13½ miles south of the airport.

K. I. Sawyer AFB, Mich.
That airspace extending upward from 700 feet above the surface within an 8.5-statute (7.1-nautical) mile radius of the K. I. Sawyer Airport.

Klamath, Calif.
That airspace extending upward from 2,000 feet above the surface bounded on the north by V-122, on the east by V-23W and V-23, the south by V-195 and on the west by V-27, excluding the airspace within federal airways and Red Bluff, Arcata, Crescent City and Fort Jones, Calif., Transition Areas.

Klamath Falls, Oreg.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Klamath Falls VORTAC and within 5 miles east and 9.5 miles west of the Klamath Falls ILS localizer south course extending from the 15-mile radius area to 18.5 miles south of the Merrill RBN; that airspace extending upward from 1,200 feet above the surface between 15- and 25-mile radius circles centered on Klamath Falls VORTAC; that airspace extending upward from 7,500 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 095° radial to a line 5 miles east of and parallel to the VORTAC 165° radial, and within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 245° to the 295° radials; that airspace extending upward from 7,700 feet MSL within the area bounded by the arcs of 25- and 32-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 332° radial to a line 9 miles northeast of and parallel to the VORTAC 332° radial; that airspace extending upward from 8,600 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from a line 5 miles east of and parallel to the VORTAC 165° radial to a line 11.5 miles west of and parallel to the VORTAC 181° radial; that airspace extending upward from 9,000 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC extending clockwise from the VORTAC 320° to the 095° radials; that airspace extending upward from 9,500 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from a line 11.5 miles west of and parallel to the VORTAC 181° radial to the 245° radial, and within the area bounded by the arcs of 25- and 28-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 295° to the 320° radials; and that airspace extending from 11,000 feet MSL within the area bounded by the arcs of 28- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 295° to the 320° radials.

AMENDMENTS 5/15/80 45 F. R. 16170 (Changed)

Knob Noster, Mo. (Whiteman AFB)
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Whiteman AFB (lat. 38°43'50"N., long. 93°33'00"W.); within 2 miles each side of Whiteman AFB ILS localizer south course, extending from the 8-mile radius area to 8 miles south of the OM.

Knoxville, Iowa
That airspace extending upward from 700 feet above the surface within a five (5)-mile radius of Knoxville Municipal Airport (latitude 41°18'00" N., longitude 93°06'40" W.) and within three (3) miles each side of the 342° bearing from Knoxville Municipal Airport extending from the five (5)-mile radius area to eight (8) miles northwest of the airport, and within three (3) miles each side of the 146° bearing from the Knoxville Municipal Airport extending from the five (5)-mile radius area to eight (8) miles southeast of the airport.

Knoxville, Tenn.
That airspace extending upward from 700 feet above the surface beginning at the intersection of the arc of n 11.5-mile radius circle centered on McGhee-Tyson Airport (latitude 35°48'40" N., longitude 83°59'35" W.) nd a line 3 miles northwest of and parallel to Knoxville VORTAC 040° radial, to and northeast along this ine, to and southeast along a line 8.5 miles northeast of and perpendicular to Knoxville VORTAC 040° radial, o and southwest along a line 3 miles southeast of and parallel to Knoxville VORTAC 040° radial, to and lockwise along the arc of an 11.5-mile radius circle centered on McGhee-Tyson Airport, to and east along he Knoxville VORTAC 100° radial, to and clockwise along the arc of a 25.5-mile radius circle centered on cGhee-Tyson Airport, to and north along the west boundary of V-97, to and southwest along a line 4.5 miles outheast of and parallel to Knoxville ILS localizer southwest course, to and northwest along a line 18.5 miles southwest of and perpendicular to Knoxville ILS localizer southwest course, to and northeast along a line 9.5 miles northeast of and parallel to Knoxville ILS localizer southwest course, to and clockwise along the arc of an 11.5-mile radius circle centered on McGhee-Tyson Airport, to point of beginning; within a 15-mile radius of Sevier-Gatlinburg Airport (lat. 35°51'25" N., long. 83°31'44" W.); within an 8-mile radius of Knoxville Downtown Island Airport (latitude 35°57'45" N., longitude 83°52'30" W.); within a 6.5-mile radius of Monroe County Airport, Madisonville, Tenn., (latitude 35°32'45" N., longitude 84°22'47" W.); excluding the portion within the Athens and Morristown, Tenn., transition areas.

Kodiak, Alaska
That airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Kodiak Airport (latitude 57°45'02" N., longitude 152°29'19" W.), and within a 35-mile radius of the Kodiak Airport, extending clockwise from the 029° to the 085° bearing from the airport.

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Kokomo, Ind.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Grissom AFB (lat. 40°38'55"N., long. 86°09'10"W.); within a 6½-mile radius of Kokomo Municipal Airport, (lat. 40°31'45"N., long. 86°03'30"W.); within a 5-mile radius of Logansport, Ind., Municipal Airport (lat. 40°42'35"N., long. 86°22'45"W.); within 4½ miles each side of the Grissom AFB ILS localizer southwest course, extending from the 8½-mile and 6½-mile radii areas to 4½ miles southwest of the OM; within 3 miles each side of the Kokomo VORTAC 045° radial, extending from the 6½-mile radius to 12 miles northeast of the VORTAC; and within 3 miles each side of the Kokomo VORTAC 129° radial, extending from the 6½-mile radius area to 8 miles southeast of the VORTAC.

AMENDMENTS 7/10/80 45 F. R. 36054 (Rewritten)

Kosciusko, Miss.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Kosciusko-Attala County Airport (latitude 33°05'20" N., longitude 89°32'25" W.); within 3 miles each side of the 142° and 310° bearings from the Kosciusko RBN (latitude 33°05'29" N., longitude 89°32'25" W.), extending from the 5.5-mile radius area to 8.5 miles southeast and northwest of the RBN.

Kotzebue, Alaska

That airspace extending upward from 700 feet above the surface within a 19-mile radius of the Kotzebue VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Kotzebue VORTAC 103° radial extending from the VORTAC to 43 miles east of the VORTAC; that airspace extending upward from 5,500 feet MSL within 5 miles each side of the Kotzebue VORTAC 103° radial extending from a point 43 miles east of the VORTAC to 59 miles east, and that airspace extending upward from 7,500 feet MSL within 5 miles each side of the Kotzebue 103° radial at 59 miles east of the VORTAC widening to 8.5 miles each side of the 103° radial at 111 miles east of the Kotzebue VORTAC.

Kountze-Silsbee, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hardin County Airport (lat. 30°20'13"N., long. 94°15'34"W.) and within 3.5 miles either side of the 327° bearing from the Hardin County NDB (lat. 30°20'14"N., long. 94°15'36"W.) extending from the 5-mile radius to 8.5 miles northwest of the NDB.

Kwajalein Island, Marshall Islands

That airspace extending upward from 700 feet above the surface within a 12-nmi radius of the Kwajalein TACAN; and that airspace extending upward from 1,200 feet above the surface within a 100-nmi radius of the Kwajalein TACAN.
This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The date and time will thereafter be continuously published in the Pacific Chart Supplement.

Lacon, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marshall County Airport (latitude 41°01'12" N., longitude 89°23'08" W.); and within 2 miles each side of the Bradford VORTAC 133° radial extending from the 5-mile radius area to 6.5 miles northwest of the airport.

Laconia, N. H.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 43°34'25"N., 71°25'22"W., of Laconia Municipal Airport, Laconia, N. H.; and within 6.5 miles northwest and 4.5 miles southeast of the 247° bearing and the 067° bearing from the Belmont NDB, 43°32'09"N., 71°32'09"W., extending from 11.5 miles southwest of the NDB to 5.5 miles northeast of the NDB.

La Crosse, Wis.

That airspace extending upward from 700 feet above the surface within a 19-mile radius of the La Crosse Municipal Airport (latitude 43°52'38" N., longitude 91°15'21" W.).

Lafayette, Ind.

That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Purdue University Airport (latitude 40°24'45" N., longitude 86°56'15" W.); within 2 miles each side of the 144° radial of the Lafayette VORTAC extending from the 7½-mile radius area to the Lafayette VORTAC; within a 5½-mile radius of Halsmer Airport (latitude 40°23'40" N., longitude 86°48'25" W.).

Lafayette, La.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Lafayette Regional Airport (lat. 30°12'14"N., long. 91°59'16"W.); within a 6.5-mile radius of the Abbeville Municipal Airport (lat. 29°58'30"N., long. 92°05'00"W.) and within 2 miles north and 3 miles south of the 206° radial of the Lafayette VORTAC extending from the 6.5-mile radius to 9.5 miles northeast; within a 6.5-mile radius of the Acadiana Regional Airport (lat. 30°02'15"N., long. 91°53'02"W.).

AMENDMENTS 7/10/80 45 F. R. 24455 (Rewritten) Corr: 45 F. R. 32667

Lafayette, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Lafayette Municipal Airport (lat. 36°31'05"N., long. 86°03'51"W.); within 3 miles either side of the 012° bearing from the Lafayette Nondirectional Radio Beacon (NDB) (lat. 36°30'54"N., long. 86°03'40"W.) extending from the 5.5-mile radius to 8.5 miles north of the NDB.

AMENDMENTS 1/24/80 45 F. R. 2012 (Added)

La Grande, Oreg.

That airspace extending upward from 700 feet above the surface bounded on the north by a line beginning at lat. 45°39'N., long. 118°02'W., extending eastwardly to lat. 45°37'N., long. 117°44'30"W., on the east by a line extending to lat. 45°15'30"N., long. 117°49'W., on the south by a line extending to lat. 45°17'30"N., long. 118°07'W., on the west by line extending to point of beginning; within a 5-mile radius of the La Grande Municipal Airport (lat. 45°17'22"N., long. 118°00'18"W.).

La Grange, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Callaway Airport (lat. 33°00'30" N., long. 85°04'20" W.); within 1.5 miles each side of La Grange VORTAC 110° radial, extending from the 6-mile radius area to the VORTAC.

La Grange, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Rocky Creek Ranch Airport (latitude 29°55'30" N., longitude 96°48'12" W.) and within 2 miles each side of the Industry VOR 262° radial extending from the 5-mile radius area to the VOR.

La Junta, Colo.

That airspace extending upward from 700 feet above the surface bounded on the north by the south edge of V-244, on the south by a line 9.5 miles south of and parallel to the 091° and 271° bearings from the La Junta, Colo., RBN (latitude 38°02'54" N., longitude 103°37'14" W.), extending from 12 miles east to 18.5 miles west of the RBN; and that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-244, on the east by the west boundary of the 700-foot portion of the transition area, on the south by the north edge of V-210, on the southwest by the northeast edge of V-81, excluding the airspace within the Pueblo, Colo., transition area.

Lake Charles, La.

That airspace extending upward from 700 feet above the ground within an 8.5-mile radius of the Lake Charles Municipal Airport (lat. 30°07'32"N., long. 93°13'22"W.).

AMENDMENTS 5/15/80 45 F. R. 17003 (Rewritten) CORRECTION 7/10/80 45 F. R. 30423

Lake City, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Lake City Municipal Airport (lat. 30°10'45" N., long. 82°34'45" W.).

Lake Geneva, Wis.

That airspace extending upward from 700 feet above the surface within an 8-statute mile radius of the Playboy Airport (latitude 42°36'53" N., longitude 88°23'27" W.).

ke Havasu, Ariz.

That airspace extending upward from 700 feet above the surface within 7 miles east and 5.5 miles west of e Needles, Calif., VORTAC 163° radial, extending from 17 to 27 miles south of the VORTAC, and that airspace ex- nding upward from 1,200 feet above the surface within 7 miles east and 5.5 miles west of the Needles VORTAC ° radial extending from the VORTAC to 17 miles south of the VORTAC.

ke Jackson, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the new Brazoria County Airport (lat. 29°06'35"N., long. 95°27'43"W.); and within a 6.5-mile radius of the old Brazoria County Airport (lat. 29°02'15"N., long. 95°27'20"W.) and within 3 miles each side of the 157° radial of the Lake Jackson VOR (lat. 29°02'25"N., long. 95°27'29"W.) extending from the 6.5-mile radius area to 8.5 miles southeast of the VOR.

AMENDMENTS 7/10/80 45 F. R. 41908 (Rewritten)

Lakeland, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lakeland Municipal Airport (lat. 27°59'15" N., long. 82°00'55" W.); within a 7-mile radius of Bartow Municipal Airport (lat. 27°57'00" N., long. 81°47'00" W.); within a 5-mile radius of Plant City Municipal Airport (lat. 28°00'00"N., long. 82°09'40"W.); within a 6.5-mile radius of Winter Haven's Gilbert Airport (lat. 28°03'40"N., long. 81°45'15"W.); within 2.5 miles each side of Lakeland VORTAC 071° radial, extending from the 6.5-mile radius area to the Lakeland Municipal Airport 8.5-mile radius area.

Lake Providence, La.

That airspace extending upward from 700 feet above the surface within a 5-statute mile radius of Byerley Airport, Lake Providence, La. (latitude 32°49'45" N., longitude 91°11'00" W.); and within 3.5 miles each side of the 008° bearing from the Lake Providence NDB (latitude 32°49'50" N., longitude 91°11'24" W.), extending from the 5-mile radius area to 11.5-statute miles north of the NDB.

Lakeview, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lake County-Lakeview Airport (latitude 42°09'35" N., longitude 120°24'15" W.), and within 2 miles each side of the 180° bearing from the Lakeview RBN (latitude 42°09'15" N., longitude 120°24'18" W.), extending from the RBN to 8 miles south of the RBN; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9 miles west of the 180° and 360° bearings from the Lakeview RBN extending from 5 miles north to 18 miles south of the RBN.

Lake Village, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lake Village Airport (lat. 33°20'42" N., long. 91°18'57" W.).

Lake Wales, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Lake Wales Municipal Airport (lat. 27°53'39"N., long. 81°37'12"W.) excluding that portion within the Lakeland, Fla., transition area.

Lamar, Colo.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lamar Airport (latitude 38°04'10" N., longitude 102°41'25" W.) and within 3.5 miles each side of the Lamar VOR 001° radial, extending from the 6-mile radius area to 10 miles north of the VOR; that airspace extending upward from 1,200' above the surface within 6 miles east and 9.5 miles west of the Lamar 001° and 181° radials extending from 18.5 miles north to 8 miles south of the VOR.

Lamesa, Tex.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Lamesa, Tex., Municipal Airport (lat. 32°45'00"N., long. 101°55'00"W.).

Lampasas, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lampasas Airport (lat. 31°06'27"N., long. 98°11'45"W.), and within 1.5 miles either side of the 211° radial from the Lampasas VORTAC (lat. 31°11'04"N., Long. 98°08'28"W.), extending from the 5-mile radius to 6 miles north of the Lampasas Airport.

Lanai, Hawaii

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lanai Airport (latitude 20°47'30" N., longitude 156°57'00" W.).

Lancaster, Pa.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, 40°07'16" N., 76°17'47" W. of Lancaster Airport, Lancaster, Pa.; within 3 miles each side of the Lancaster VORTAC 260° radial, extending from the 7.5-mile radius area to 8.5 miles west of the VORTAC; within 9.5 miles northeast and 4.5 miles southwest of the Lancaster VORTAC 128° radial, extending from the VORTAC to 18.5 miles southeast of the VORTAC; within 3.5 miles each side of the Lancaster Airport ILS southwest localizer course, extending from the 7.5-mile radius area to 10.5 miles southwest of the OM; within 5 miles each side of the Lancaster VORTAC 055° radial, extending from the 7.5-mile radius area to 16.5 miles northeast of the VORTAC.

Lancaster, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lancaster County Airport (lat. 34°43'22"N., long. 80°51'18"W.); within 3 miles each side of the 063° bearing from the Lancaster RBN (lat. 34°43'10"N., long. 80°51'24"W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Land O'Lakes, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of King's Land O'Lakes Municipal Airport (latitude 46°09'15" N., longitude 89°12'31" W.); and within 9½ miles southwest and 4½ miles northeast of the 312° and 132° bearings from the King's Land O'Lakes Municipal Airport extending from the 5-mile radius area to 18½ miles northwest of the airport to 6 miles southeast of the airport.

Lansing, Ill.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Chicago-Hammond Airport (latitude 41°32'20" N., longitude 87°32'05" W.); and within 3½ miles each side of the 228° radial of the Chicago Heights, Ill. VORTAC extending from the 5½-mile radius area to 11½ miles southwest of the VORTAC excluding the airspace within the Chicago, Ill., and Griffith, Ind., transition areas.

Lansing, Mich.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Capital City Airport (latitude 42°46'40" N., longitude 84°35'20" W.); within 3 miles each side of the Lansing ILS localizer east course, extending from the 8½-mile radius area to 14 miles east of the OM; and within 3 miles each side of the Lansing ILS localizer west course, extending from the 8½-mile radius area to 14 miles west of the OM.

Lapeer, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Dupont-Lapeer Airport (latitude 43°04'10" N., longitude 83°16'15" W.); and within 2 miles each side of the Flint, Mich., VORTAC 074° radial extending from the 5-mile radius area to 18 miles east of the VORTAC.

LaPorte, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the LaPorte Municipal Airport (latitude 41°34'21" N., longitude 86°44'02" W.); within 2 miles either side of the 165° bearing from the LaPorte Airport extending from the 5-mile radius area to 9 miles south of the airport, excluding that portion which overlies the Michigan City, Ind., transition area.

La Pryor, Tex. (Chaparrosa Ranch Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chaparrosa Ranch Airport (latitude 28°52'45" N., longitude 99°59'25" W.) and within 3.5 miles each side of a 330° bearing from the (Chaparrosa Ranch) RBN (latitude 28°54'35" N., longitude 100°00'10" W.) extending from the radio beacon to a point 11.5 miles northwest of the radio beacon.

La Pryor, Tex. (La Paloma Ranch Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of La Paloma Ranch Airport (latitude 28°53'30" N., longitude 99°51'09" W.) and within 3.5 miles each side of the 002° bearing from the La Pryor, Tex., NDB (latitude 28°55'47" N., longitude 99°51'16" W.) extending from the 5-mile radius area to 11.5 miles north of the La Pryor, Tex., NDB.

Laramie, Wyo.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of General Brees Field, Laramie, Wyoming (lat. 41°18'50" N., long. 105°40'25" W.); within 5.5 miles south and 9.5 miles north of the Laramie, Wyoming VORTAC 301° radial extending from the 9-mile radius area to 18.5 miles northwest of the VORTAC and within 5 miles each side of the Laramie VORTAC 126° radial extending from the 9-mile radius area to 21 miles southeast of the VORTAC.

Laredo, Tex.

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Laredo VORTAC 328° radial extending from the Laredo VORTAC to 22.5 miles northwest; within 3.5 miles each side of the Laredo ILS localizer northwest course extending from the localizer site (latitude 27°36'12" N., longitude 99°30'50.2" W.) to 19 miles northwest; within 5 miles each side of the Laredo VORTAC 141° radial extending from the Laredo VORTAC to 12 miles southeast; within a 5-mile radius of the Link Ranch Airport (latitude 27°25'32" N., longitude 99°28'21" W.), excluding those portions outside the United States.

Laredo, Tex. (Laredo Auxiliary No. 2 Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Laredo Auxiliary No. 2 Airport (latitude 27°28'00" N., longitude 99°13'45" W.) and within 2.5 miles each side of the Laredo, Tex., VORTAC 091° radial extending from the 5-mile radius area to 18.5 miles east of the VORTAC.

Larned, Kans.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Larned, Kans., NDB located at lat. 38°12'16"N., long. 99°05'17"W., and within 3 miles either side of the 276° bearing from the NDB, extending from the 5.5-mile radius to 8 miles west of the NDB, and within 3 miles either side of the 001° bearing from the NDB extending from the 5.5-mile radius to 8 miles north of the NDB.

Las Cruces, N. Mex.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Las Cruces Municipal Airport (lat. 32°17'27" N., long. 106°55'18" W.); and within 3.5 miles either side of the Las Cruces NDB (lat. 32°16'56" N., long. 106°55'23" W.) 180° bearing extending from the 10.5-mile radius areas to 12 miles south of the NDB.

Las Vegas, Nev.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 36°11'00" N., longitude 115°28'00" W., to latitude 36°11'00" N., longitude 115°11'00" W., to latitude 36°24'00" N., longitude 115°00'00" W., to latitude 36°18'00" N., longitude 114°51'00" W., to latitude 36°00'00" N., longitude 114°50'00" W., to latitude 35°52'00" N., longitude 115°11'00" W., to latitude 35°52'00" N., longitude 115°28'00" W., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°16'00" N., longitude 116°08'00" W., to latitude 36°16'00" N., longitude 115°55'00" W., to latitude 36°58'00" N., longitude 115°55'00" W., to latitude 36°58'00" N., longitude 114°41'00" W., to latitude 36°58'00" N., longitude 114°07'00" W., to latitude 36°47'00" N., longitude 113°59'00" W., to latitude 36°44'00" N., longitude 114°05'00" W., to latitude 36°25'00" N., longitude 114°05'00" W., to latitude 36°19'00" N., longitude 114°14'00" W., to latitude 35°39'00" N., longitude 114°14'00" W., to latitude 35°39'00" N., longitude 114°57'00" W., to latitude 35°30'00" N., longitude 115°02'00" W., to latitude 35°00'00" N., longitude 115°02'00" W., to latitude 35°00'00" N., longitude 115°24'00" W., to latitude 35°14'00" N., longitude 115°24'00" W., to latitude 35°14'00" N., longitude 115°50'00" W., to latitude 35°36'00" N., longitude 115°50'00" W., to latitude 36°06'00" N., longitude 116°18'00" W., to latitude 36°13'00" N., longitude 116°18'00" W., thence to point of beginning; that airspace extending upward from 9,000 feet MSL beginning at latitude 36°47'00" N., longitude 113°59'00" W., thence clockwise via an arc of an 82-mile radius circle centered on Las Vegas, Nev., VORTAC to a line 5 miles north of and parallel to a direct line between the Grand Canyon, Arizona VOR and Boulder City, Nev., VORTAC, thence west along a line 5 miles north of and parallel to a direct line between the Grand Canyon VOR and the Boulder City VORTAC to longitude 114°14'00" W., to latitude 36°19'00" N., longitude 114°14'00" W., to latitude 36°25'00" N., longitude 114°05'00" W., to latitude 36°44'00" N., longitude 114°05'00" W., to point of beginning; that airspace extending upward from 7,700 feet MSL beginning at lat. 36°51'00"N., long. 116°33'30"W., to lat. 36°51'00"N., long. 116°08'00"W., to lat. 37°00'00"N., long. 116°08'00"W., to lat. 37°00'00"N., long. 115°23'00"W., to lat. 36°58'00"N., long. 115°23'00"W., to lat. 36°58'00"N., long. 115°55'00"W., to lat. 36°41'00"N., long. 115°55'00"W., to lat. 36°41'00"N., long. 116°26'30"W., to lat. 36°46'00"N., long. 116°26'30"W., thence to point of beginning and that airspace extending upward from 9,700 feet MSL beginning at lat. 36°51'00"N., long. 116°33'30"W., thence via lat. 36°51'00"N., to the northeast boundary of V-135, thence north along the northeast/east boundaries of V-135 to the south boundary of V-244, thence east via the south boundary of V-244 and V-293 to the northwest boundary of V-21, thence southwest via the boundary of V-21 to lat. 36°58'00"N., thence via lat. 36°58'00"N., to long. 115°23'00"W., to lat. 37°00'00"N., long. 115°23'00"W., to lat. 37°00'00"N., long. 116°08'00"W., to lat. 36°51'00"N., long. 116°08'00"W., thence to point of beginning.

Las Vegas, N. Mex.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Las Vegas Municipal Airport (lat. 35°39'20" N., long. 105°08'30" W.), and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 025° radial, extending beyond the 9-mile radius area to 11.5 miles northeast of the VORTAC; and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 220° radial, extending beyond the 9-mile radius area to 11.5 miles southwest of the VORTAC.

Latrobe, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 40°16'39"N., long. 79°24'14"W., of Westmoreland County Airport, Latrobe, Pa.; within the arc of an 8.5-mile radius circle centered on Westmoreland County Airport, extending clockwise from a 270° bearing from the center of the airport to a 360° bearing from the center of the airport; within 2 miles each side of the 226° bearing from the BENJE RBN lat. 40°22'32"N., long. 79°16'19"W., extending from the 5-mile radius area to the RBN; within 4 miles each side of the 046° bearing from the BENJE RBN, extending from the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of the 213° bearing from the BENJE RBN, extending from the RBN to 3 miles southwest of the RBN; within 2 miles each side of the Westmoreland County Airport localizer southwest course extending from the 5-mile radius area to 17 miles southwest of the BENJE RBN and within 3.5 miles each side of the Westmoreland County Airport localizer southwest course, extending from 17 miles southwest of the BENJE RBN to 27 miles southwest of the RBN.

Laurel, Miss.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hesler-Noble Field (lat. 31°40'10"N., long. 89°10'20"W.); within 3 miles each side of the 315° bearing from Tallahala RBN (lat. 31°41'16" N., long. 89°11'26" W.), extending from the 7-mile radius area to 8.5 miles northwest of the RBN; within 3 miles each side of Laurel VOR 325° radial, extending from the 7-mile radius area to 8.5 miles northwest of the VOR.

Laurens, S. C

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Laurens Municipal Airport (Lat. 34°30'15" N., Long. 81°57'00" W.); within 3 miles each side of the 244° bearing from Laurens RBN (Lat. 34°30'29" N., Long. 81°57'00" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Laurinburg, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Laurinburg-Maxton Airport (latitude 34°47'25" N., longitude 79°21'55" W.); within 3 miles each side of Sandhills VORTAC 157° radial, extending from the 8.5-mile radius area to 20 miles southeast of the VORTAC; within 3 miles each side of the 226° bearing from Rocky Ford RBN (latitude 34°45'28" N., longitude 79°24'40" W.), extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN.

Lawrence, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lawrence Municipal Airport (latitude 39°00'30" N., longitude 95°13'00" W.); within 2 miles each side of the Topeka, Kans., VORTAC 116° radial, extending from the 5-mile radius area to 13 miles southeast of the VORTAC; and within 3 miles each side of the 318° bearing from Lawrence Municipal Airport, extending from the 5-mile radius to 8 miles northwest of the airport.

Lawrenceburg, Tenn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceburg Municipal Airport (lat. 35°14'00" N., long. 87°15'30" W.); within 9.5 miles west and 4.5 miles east of the 349° bearing from the Lawrenceburg RBN (lat. 35°15'51" N., long. 87°15'56" W.), extending from the RBN to 18.5 miles north; excluding the portion within the Mount Pleasant transition area.

Lawrenceville, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Gwinnett County rport (latitude 33°58'53" N., longitude 83°57'50" W.); within 1.5 miles each side of Norcross VORTAC 077° dial, extending from the 6-mile radius area to 3 miles east of the VORTAC.

wrenceville, Va.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, t. 36°46'20"N., long. 77°47'45"W., of Lawrenceville Municipal Airport, Lawrenceville, Va., and within 1.5 les each side of the Lawrenceville VORTAC 117° radial, extending from the 5.5-mile radius area to the VORTAC.

L ton, Okla.

hat airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawton Municipal Airport (latitude 34°34'15" N., longitude 98°24'55" W.); within 8 miles W and 5 miles E of the Lawton VOR 357° and 177° radials, extending from 5 miles N to 7 miles S of the VOR; within 10 miles W and 5 miles E of the Lawton VOR 177° radial extending from 7 miles S to 17 miles S of the VOR and within 2 miles each side of the 180° bearing from the Fort Sill RBN extending from the 7-mile radius area to the RBN and excluding that portion within the confines of the Wichita Falls, Tex., transition area.

Lebanon, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lebanon, Mo., airport located at latitude 37°38'56" N., longitude 92°39'06" W., and within 3 miles either side of the 177° bearing of the Lebanon Airport extending from 5 miles to 8.5 miles.

Lebanon, N. H.

That airspace extending upward from 700 feet above the surface, within an arc of a 23.5-mile radius circle centered on the Lebanon, NH., Regional Airport (lat. 43°37'41" N., long. 72°18'21" W.) extending clockwise between the 034° and 134° bearings from the Lebanon Airport; within an arc of an 18-mile radius circle centered on the Lebanon Airport extending clockwise between the 134° and 231° bearings from the Lebanon Airport; within an arc of a 23.5-mile radius circle centered on the Lebanon Airport extending clockwise between the 231° and 300° bearings from the Lebanon Airport; within an arc of a 19.5-mile radius circle centered on the Lebanon Airport extending clockwise between the 300° and 034° bearings from the Lebanon Airport.

AMENDMENTS 3/21/80 45 F. R. 13054 (Changed)

Lebanon, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Lebanon-Warren County Airport (lat. 39°27'30"N., long. 84°15'15"W.) excluding the portions which overlie the Dayton, Ohio, and Middletown, Ohio, transition areas.

Lee's Summit, Mo.

That airspace extending upward from 700 feet above the surface within a 5 statute mile radius of the McComas Airport (lat. 38°57'50"N., long. 94°22'25"W.), excluding those portions which overlie the Grandview, Mo., and Grain Valley, Mo., 700-foot transition areas.

Leeville, La.

That airspace extending upward from 700 feet above the surface within 3.5 miles either side of the Leeville, La., VORTAC 275° radial extending from the VORTAC to 14 miles west of the VORTAC.

Lehighton, Pa.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 40°48'34"N., long. 75°45'43"W., of Carbon County Airport, Lehighton, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 182° bearing from the airport to a 270° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 270° bearing from the airport to a 339° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 339° bearing from the airport to a 024° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 024° bearing from the airport to a 060° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 060° bearing from the airport to a 121° bearing from the airport; within 9.5 miles north and 4.5 miles south of a 070° bearing from the Carbon RBN (lat. 40°48'43"N., long. 75°45'34"W.) extending from the RBN to 18.5 miles east of the RBN.

AMENDMENTS 7/10/80 45 F. R. 31973 (Added)

LeMars, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of LeMars Municipal Airport (latitude 42°46'38" N., longitude 96°11'37" W.); and within 3 miles each side of the 358° bearing from LeMars Municipal Airport, extending from the 7-mile radius area to 8 miles north of the airport.

Lemoore, Calif.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the NAS Lemoore TACAN, and within 5 miles each side of a 156° bearing from the NAS Lemoore RBN extending from the 10-mile radius area to 13.0 miles southeast of the RBN; and that airspace extending upward from 1,200 feet above the surface bounded on the E by a line extending from latitude 36° 46' 00" N., longitude 120° 03' 50" W., to latitude 36° 37' 00" N., longitude 119° 56' 00" W., to latitude 36° 37' 00" N., longitude 119° 44' 10" W., thence S along the W boundary of V-23 to longitude 119° 30' 00" W., thence to latitude 35° 43' 50" N., longitude 119° 30' 00" W., on the S by latitude 35° 43' 50" N., on the W by V-485 S of the Priest, Calif., VOR and V-113 N of the Priest VOR, and on the N by V-230.

Leonardtown, Md.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 38°18'56"N., 76°33'06"W., of St. Marys County Airport, Leonardtown, Md., excluding that portion which coincides with the Patuxent River, Md., transition area.

Levelland, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Levelland Municipal Airport (lat. 33°33'32"N., long. 102°22'20"W.), and within 3 miles each side of the 010° bearing of the Levelland NDB (lat. 33°33'20"N., long. 102°22'29"W.), extending from the 7-mile radius area to 8.5 miles north of the Levelland NDB.

AMENDMENTS 10/30/80 45 F. R. 55710 (Rewritten)

Lewisburg, W. Va.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center (lat. 37°51'35" N., long. 80°23'55" W.) of Greenbrier Valley Airport, Lewisburg, W. Va., extending clockwise from the 252° bearing to the 278° bearing from the airport; within a 15-mile radius of Greenbrier Valley Airport, extending clockwise from the 278° bearing to the 291° bearing from the airport; within a 16-mile radius of Greenbrier Valley Airport, extending clockwise from the 291° bearing to the 301° bearing from the airport; within a 21.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 301° bearing to the 332° bearing from the airport; within a 22.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 332° bearing to the 347° bearing from the airport; within a 23.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 347° bearing to the 357° bearing from the airport; within a 17-mile radius of Greenbrier Valley Airport, extending clockwise from the 357° bearing to the 030° bearing from the airport; within an 18.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 030° bearing to the 086° bearing from the airport; within a 15-mile radius of Greenbrier Valley Airport, extending clockwise from the 086° bearing to the 143° bearing from the airport; within a 17-mile radius of Greenbrier Valley Airport, extending clockwise from the 143° bearing to the 192° bearing from the airport; within a 14-mile radius of Greenbrier Valley Airport, extending clockwise from the 192° bearing to the 252° bearing from the airport; within 6.5 miles west and 4.5 miles east of a 216° bearing from the BUSHI LOM extending from the LOM to a point 11.5 miles southwest and within 3 miles each side of the White Sulphur Springs, W. Va., VOR 115° radial, extending from the VOR to 8.5 miles southeast.

Lewiston, Idaho

That airspace extending upward from 700 feet above the surface within an area bound by a line beginning at lat. 46°27'25"N., long. 116°59'20"W., east to lat. 46°25'15"N., long. 116°35'10"W., south to lat. 46°15'00"N., long. 116°38'00"W., west to lat. 46°18'05"N., long. 117°00'00"W., thence via the arc of a 5-mile radius circle centered on Lewiston-Nez Perce County Airport (lat. 46°22'29"N., long. 117°00'51"W.) to lat. 46°26'58"N., long. 117°00'00"W., to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the east by W. long. 116°, bounded on the south by N. lat. 46°, bounded on the west by the arc of a 19-mile radius circle centered on the Walla Walla VOR (lat. 46°06'13"N., long. 118°17'29"W.) and bounded on the north by V-536.

Lewistown, Mont.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Lewistown, Mont., Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 4 miles each side of the Lewistown VORTAC 289° radial, extending from the 7-mile radius area to 10.5 miles west of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 4.5 miles north and 9.5 miles south of the Lewistown VORTAC 289° radial, extending from the VORTAC to 18.5 miles west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC.

Lexington, Ky.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 3 miles each side of the ILS localizer northeast course, extending from the 8.5-mile radius area to 14 miles northeast of the runway end; within 9.5 miles northwest and 4.5 miles southeast of the ILS localizer southwest course, extending from the 8.5-mile radius area to 18.5 miles southwest of the OM.

Lexington, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lexington Municipal Airport (latitude 40°47'38" N., longitude 99°46'10" W.); and within 3 miles each side of the Lexington RBN 314° bearing, extending from the 5-mile radius area to 8 miles northwest of the RBN.

Lexington, N.C.

That airspace extending upwards from 700 feet above the surface within a 5.5-mile radius of Lexington Municipal Airport (lat. 35°46'47"N., long. 80°18'20"W.); within 3 miles each side of the 266° bearing from the S[illegible]aring RBN, (lat. 35°46'44"N., long. 80°18'03"W.), extending from the 5.5-mile radius area to 8.5 miles west of the RBN, excluding that portion that coincides with the Salisbury transition area.

Lexington, Tenn.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Franklin-Wilkins Airport (latitude 35°39'07" N., longitude 88°22'47" W.); within 3 miles each side of the Jacks Creek VORTAC 165° radial, extending from the 8-mile radius area to 8.5 miles southeast of the VORTAC.

Liberal, Kans.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Liberal Municipal Airport (lat. 37°02'40"N., long. 100°57'42"W.), and within 3 miles each side of the 180° bearing from the Liberal NDB (lat. 36°57'32"N., long. 100°57'20"W.), extending from the 10-mile radius area to 8 miles south of the NDB.

Liberty, N. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Causey Airport (lat. 35°54'50" N., long. 79°37'03" W.); within 2 miles each side of Liberty VOR 358° radial, extending from the 5-mile radius area to the VOR.

Liberty, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Liberty Air Service Airport (latitude 30°04'30" N., longitude 94°41'50" W.); and within 2 miles each side of Daisetta VOR 203° radial extending from the 5-mile radius area to the VOR.

Lihue, Hawaii

That airspace extending upward from 700 feet above the surface within the arc of an 8.5-mile radius circle centered on the Lihue Airport (latitude 21°58'55" N., longitude 159°20'40" W.), extending clockwise from a line 2 miles west of and parallel to the Lihue VORTAC 021° radial to a line 2 miles northeast of and parallel to the Lihue VORTAC 130° radial and within 2 miles each side of the Lihue VORTAC 130° radial, extending from 9 miles southeast to 10.5 miles southeast of the Lihue VORTAC.

Lima, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Allen County Airport (latitude 40°42'26" N., longitude 84°01'36" W.); within 3 miles each side of the Allen County VOR 090° radial extending from the 6.5-mile radius to 8.5 miles east of the VOR.

Lincoln, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Logan County Airport (latitude 40°09'38" N., longitude 89°20'07" W.); within 2½ miles each side of the Capitol, Illinois, VORTAC 040° radial extending from the 5-mile radius area to 17 miles northeast of the VORTAC; within 3 miles each side of the 047° bearing from the airport extending from the 5-mile radius area to 8 miles northeast of the airport.

Lincoln, Nebr.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lincoln Municipal Airport (latitude 40°50'45" N., longitude 96°45'20" W.); within the area bounded by a line 5 miles west of and parallel to the Lincoln ILS localizer south course clockwise along a 17-mile arc centered on the Lincoln Municipal Airport to a line 2 miles east of and parallel to the Lincoln VORTAC 015° radial; and within 5 miles west and 9 miles east of the Lincoln ILS localizer south course, extending from the 9-mile radius area to 13 miles south of the OM.

Linden, N. J.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center Lat. 40°37'04"N., Long. 74°14'42"W. of Linden, N. J., Airport.

Litchfield, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Litchfield Municipal Airport (latitude 39°09'54"N., longitude 89°40'22"W.); and within 3 miles each side of the 079° bearing from the airport, extending from the 5-mile radius area to 8 miles east of the airport.

Litchfield, Minn.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Litchfield Municipal Airport (latitude 45°08'18" N., longitude 94°30'56" W.); and within 3½ miles each side of the Darwin VORTAC 139° radial, extending from the 6-mile radius to 11½ miles southeast of the VORTAC.

Little Falls, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Little Falls Municipal Airport, Little Falls, Minn., (lat. 45°56'56"N., long. 24°20'44"W.); within 3 miles each side of the 140° bearing from the airport, extending from the 6.5-mile radius area out to 8 miles southeast of the airport, excluding that portion which overlies the Camp Ripley, Minn., transition area.

AMENDMENTS 7/10/80 45 F. R. 32664 (Rewritten)

PENDING AMENDMENT

Littlefield, Tex.

That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of the Littlefield Municipal Airport (lat. 33°55'25"N., long. 102°23'10"W.) and within 3 statute miles each side of the 208° bearing from the Littlefield NDB (lat. 33°55'07"N., long. 102°23'11"W.) extending from the 7-statute-mile radius area to 8.5 statute miles southwest of the NDB.

AMENDMENTS 12/25/80 45 F. R. 67071 (Added)

Little Rock, Ark.

That airspace extending upward from 700 feet above the surface bounded by a 23-mile radius of Little Rock AFB, Ark. (latitude 34°55'00" N., longitude 92°09'00" W.), and clockwise along a 23 mile arc of Adams Field Airport, Little Rock, Ark. (latitude 34°43'48" N., longitude 92°13'59" W.), to latitude 34°26'50" N., longitude 92°26'00" W., to latitude 34°26'00" N., longitude 92°30'00" W., to latitude 34°28'00" N., longitude 92°36'00" W., thence clockwise along the arc of a 6.5-mile-radius circle centered at latitude 34°33'30" N., longitude 92°36'30" W., to latitude 34°39'30" N., longitude 92°37'50" W., thence clockwise along a 23-mile radius of Adams Field Airport.

Livermore, Calif.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 37°44'00" N., longitude 121°52'00" W., to latitude 37°48'15" N., longitude 121°40'00" W., to latitude 37°41'30" W., longitude 121°34'00" W., to latitude 37°38'00" N., longitude 121°52'00" W., thence to point of beginning.

Livingston, Mont.

That airspace extending upward from 700 feet above the surface within 9.5 miles west and 4.5 miles east of the Livingston VORTAC 340° radial extending from the VORTAC to 18.5 miles north of the VORTAC and within 2.5 miles each side of the Livingston 085° radial, extending from a 5-mile radius circle centered on Mission Field Airport, Livingston, Mont. (latitude 45°41'45" N., longitude 110°26'40" W.) to 9 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 6 miles south and 9.5 miles north of the Livingston VORTAC 085° and 265° radials, extending from 7 miles west to 21 miles east of the VORTAC.

Livingston, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Livingston Municipal Airport (lat. 36°24'42"N., long. 85°18'44"W.).

Llano, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Llano Municipal Airport (latitude 30°46'30" N., longitude 98°39'30" W.) and within 2 miles each side of the Llano VORTAC 100° radial (091° magnetic radial) extending from the 5-mile radius area to the Llano VORTAC.

Linden, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Linds Airport, Calif. (latitude 38°12'11" N., longitude 121°16'03" W.) and within 2.5 miles each side of the Linden, Calif., VORTAC 303° radial extending from the 3-mile-radius area to 10.5 miles northwest of the VORTAC.

Logan, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Logan-Cache Airport (lat. 41°47'09" N., long. 111°50'53" W.) and within 4.5 miles east and 9.5 miles west of the Logan VOR 352° radial, extending from the Logan VOR to 11 miles north of the Logan VOR; that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-4, on the east by longitude 111°40'30" W., on the south by the north edge of V-288, on the west by the east edge of V-21; and that airspace extending upward from 10,500 feet MSL bounded on the northeast by the southwest edge of V-48, on the west by longitude 111°40'30" W., and on the south by the north edge of V-288.

Logansport, Ind.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Logansport Municipal Airport, Logansport, Ind. (lat. 40°42'35"N., long. 86°22'45"W.).

AMENDMENTS 7/10/80 45 F. R. 31971 (Added)

Lompoc, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lompoc Airport (latitude 34°39'58"N., longitude 120°27'56"W.) and within 5 miles each side of the Gaviota VORTAC 293° radial, extending from the 5-mile radius area to 16 miles west of the Gaviota VORTAC. That airspace within R-2516 is excluded.

London, Ky.
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of London-Corbin Airport, Magee Field (lat. 37°05'15" N., long. 84°04'38" W.); within 4.5 miles each side of London VORTAC 202° radial, extending from the 12.5-mile radius area to 10 miles south of the VORTAC.

London, Ohio
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Madison County Airport, London, Ohio, (lat. 39°56'03"N., long. 83°27'59"W.); within 3 miles each side of the 257° bearing from the Madison County Airport extending from the 5.5-mile radius area to 8 miles southwest of the airport.

AMENDMENTS 7/10/80 45 F. R. 31056 (Added)

Lonely DEW Station, Alaska
That airspace extending upward from 700 feet above the surface within 4.5 miles north and 9.5 miles south of the 293° bearing from the Lonely NDB, extending from the NDB to 18.5 miles northwest of the NDB.

AMENDMENTS 3/20/80 45 F. R. 6354 (Added)

Lone Rock, Wis.
That airspace extending upward from 700'above the surface within an 8.5-mile radius of the Tri-County Airport (latitude 43°12'36" N.; longitude 90°11'06" W.); within a 10-mile radius of the Richland Airport (latitude 43°16'55" N.; longitude 90°16'52" W.).

Lone Star, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lone Star Airport (latitude 32°55'40" N., longitude 94°44'50" W.); and within 2 miles each side of the 316° bearing from the Lone Star RBN, extending from the 5-mile radius area to 8 miles NW of the RBN.

Longview, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Gregg County Airport, Longview, Tex. (latitude 32°23'05" N., longitude 94°42'45" W.); within 2 miles each side of the Gregg County ILS localizer NW course, extending from the 6-mile radius area to 8 miles NW of the OM, within 2 miles each side of the Gregg County ILS localizer SE course, extending from the 6-mile radius area to 14 miles SE of the airport, within 2 miles each side of the Gregg County VORTAC 149° radial extending from the 6-mile radius area to 17.5 miles southeast of the VORTAC, and within 2 miles each side of the Gregg County VORTAC 313° radial extending from the 6-mile radius area to 8 miles NW of the VORTAC.

Loris, S. C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Twin City Airport (lat. 34°05'19"N., long. 78°52'02"W.); within 3 miles each side of the 079° bearing from the Benton NDB (lat. 34°05'25"N., long. 78°52'06"W.); extending from the 6-mile radius area to 8.5 miles east of the RBN.

Los Angeles, Calif.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 34°05'00" N., longitude 118°33'00" W.; to latitude 34°05'00" N., longitude 118°15'00" W.; to latitude 34°00'00" N., longitude 118°15'00" W.; to latitude 34°00'00" N., longitude 118°07'00" W.; to latitude 33°56'00" N., longitude 118°07'00" W.; to latitude 33°56'00" N., longitude 117°53'00" W.; to latitude 33°46'00" N., longitude 117°45'00" W.; to latitude 33°39'00" N., longitude 117°30'00" W.; to latitude 33°30'00" N., longitude 117°30'00" W.; to latitude [illegible]°30'00" N., longitude 117°45'00" W.; to latitude 33°42'00" N., longitude 118°09'00" W., to latitude 33°42'00" N., longitude 118°26'00" W., to latitude 33°48'00" N., longitude 118°26'00" W., to latitude 33°53'00" N., longitude 118°33'00" W., thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°00'00" N., longitude 119°05'00" W.; to latitude 34°00'00" N., longitude 118°33'00" W.; to latitude 33°53'00" N., longitude 118°33'00" W.; to latitude 33°45'00" N., longitude 118°22'00" W.; to latitude 33°45'00" N., longitude 118°15'00" W.; to latitude 33°30'00" N., longitude 117°45'00" W.; to latitude 33°30'00" N., longitude 118°34'00" W.; to latitude 33°28'30" N., longitude 118°34'00" W.; to latitude 33°28'30" N., longitude 119°07'00" W.; to latitude 33°52'03" N., longitude 119°06'59" W.; thence to point of beginning.

Los Banos, Calif.

That airspace extending upward from 700 feet above the surface within a three-mile radius of Los Banos Municipal Airport (lat. 37°03'43"N., long. 120°52'05"W.) and within three miles each side of the Panoche VORTAC 348° radial, extending from the three-mile radius area to six miles south and six miles north of the airport.

Louisiana

That airspace extending upward from 1,200 feet above the surface bounded on the west, north, and east by the Louisiana/Texas, Arkansas/Louisiana, and Louisiana/Mississippi State lines and bounded on the south by the Gulf of Mexico control area (3 nautical miles offshore and parallel to the shoreline) beginning at the point of intersection of the Louisiana/Mississippi State line and the Gulf of Mexico control area; thence west to the intersection of the Louisiana/Texas State line and the Gulf of Mexico control area.

Louisville, Ky.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Standiford Field (lat. 38°10'33" N., long. 85°44'12" W.); within 3 miles each side of the ILS localizer north course, extending from the 11-mile radius area to 8.5 miles north of Louisville VOR 328° radial; within 3 miles each side of the ILS localizer east course, extending from the 11-mile radius area to 8.5 miles east of the LOM; within 9.5 miles west and 4.5 miles east of the ILS localizer south course, extending from the 11-mile radius area to 18.5 miles south of the OM; within 3 miles each side of the ILS localizer west course, extending from the 11-mile radius area to 8.5 miles west of Nabb VOR 206° radial; within a 10-mile radius of Bowman Field (lat. 38°13'40" N., long. 85°39'47" W.); within an 8.5-mile radius of Godman AAF, Fort Knox (lat. 37°54'27" N., long. 85°58'21" W.).

Louisville, Miss.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Louisville-Winston County Airport (lat. 33°08'35" N., long. 89°03'45" W.); within 3 miles each side of the 346° bearing from Louisville RBN (lat. 33°08'37" N., long. 89°03'39" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

Lovelock, Nev.

That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Lovelock VORTAC 068° and 248° radials, extending from 20 miles E to 7 miles W of the VORTAC, and within 7 miles NW and 10 miles SE of the Lovelock VORTAC 058° and 238° radials, extending from 20 miles SW to 7 miles NE of the VORTAC.

Lubbock, Tex.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of latitude 33°42'15" N., longitude 101°54'45" W.

Lucin, Utah

That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Lucin VOR 096° and 276° radials, extending from 9 miles W to 20 miles E of the VOR, excluding the airspace within Federal airways.

Ludington, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mason County Airport (latitude 43°57'40" N., longitude 86°24'30" W.) and within 2 miles each side of the 055° bearing from the airport extending from the 5-mile radius area to 8 miles northeast of the airport.

Lufkin, Tex.

That airspace extending upward from 700 feet above the surface within 8.5 miles of the Angelina County Airport (lat. 31°14'05"N., long. 94°45'00"W.) and within 8 miles east and 5 miles west of the Lufkin VOR 157° radial extending from the VOR to 12 miles southeast and within 3.5 miles either side of the 255° bearing from the LOM (lat. 31°13'06.92"N., long. 94°49'31.52"W.), extending 11.5 miles west of the LOM.

Lumberton, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lumberton Municipal Airport (latitude 34°36'36" N., longitude 79°03'30" W.); within 3 miles each side of the 302° bearing from Lumberton RBN (latitude 34°36'48" N., longitude 79°03'36" W.), extending from the 8.5-mile radius area to 8.5 miles northwest of the RBN.

Luray, Va.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, 38°40'01" N., 78°30'01" W., of Luray Caverns Airport, Luray, Va., extending clockwise from a 266° bearing to a 314° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 348° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 348° bearing to a 040° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 040° bearing to a 057° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 057° bearing to a 074° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 141° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 141° bearing to a 166° bearing from the airport; within a 20-mile radius of the center of the airport, extending clockwise from a 166° bearing to a 188° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 188° bearing to a 213° bearing from the airport; within a 20.5-mile radius of the center of the airport, extending clockwise from a 213° bearing to a 234° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 234° bearing to a 246° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 246° bearing to a 266° bearing from the airport.

Lynchburg, Va.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 37°19'37"N., long. 79°12'04"W., of Lynchburg Municipal-Preston Glenn Field, Lynchburg, Va.; within 3 miles each side of the Lynchburg, Va., VORTAC 201° radial, extending from the 9-mile radius area to 8.5 miles south of the VORTAC and within 3.5 miles each side of the Lynchburg, Va., VORTAC 023° radial extending from the 9-mile radius area to 24.5 miles northeast of the VORTAC.

Lyndonville, Vt.

That airspace extending upward from 700 feet above the surface within a 16.5-mile radius of the center (lat. 44°34'09"N., long. 72°01'09"W.) of the Caledonia County Airport, Lyndonville, Vt.

Lyons, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lyons Airport (lat. 38°20'30"N., long. 98°13'45"W.) and 3 miles either side of the 350° bearing from the airport, extending from 5 miles to 8.5 miles north, and that airspace extending upward from 1,200 feet above the surface, 9.5 miles west of and 4.5 miles east of the 350° bearing from 1.5 miles south to 18.5 miles north of the airport, excluding that airspace that overlies the Hutchinson, Kans., transition area.

Mackall AAF, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mackall AAF (lat. 35°02'13"N., long. 79°29'54"W.); excluding that portion that coincides with the Southern Pines, N. C., transition area.

Mackinac Island, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mackinac Island Airport (latitude 45°51'55" N., longitude 84°38'20" W.).

Macomb, Ill.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Macomb Municipal Airport (latitude 40°31'11" N., longitude 90°39'17" W.);and within 3 miles each side of the 084° bearing from Macomb Municipal Airport extending from the 6-mile radius area to 8 miles east of the airport.

Macon, Ga.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Herbert Smart Airport (latitude 32°49'20" N., longitude 83°33'45" W.); within an 11-mile radius of Lewis B.Wilson Airport (latitude 32°41'35" N., longitude 83°38'50" W.); within a 14-mile radius of Robins AFB (latitude 32°38'30" N., longitude 83°36'30" W.); within 5 miles each side of Macon VORTAC 227° radial, extending from the 14-mile radius area to 10.5 miles southwest of the VORTAC; within 4 miles each side of Macon ILS localizer southwest course, extending from the 14-mile radius area to 14 miles southwest of the LOM; within a 5.5-mile radius of Perry-Fort Valley Airport (lat. 32°30'36"N., long. 83°45'51"W.); within 5 miles each side of Vienna VORTAC 321° radial, extending from the 5.5-mile radius area to 16 miles northwest of the VORTAC; within 3 miles each side of the 189° bearing from the Bay Creek RBN (lat. 32°27'48"N., long. 83°45'57"W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN.

Madera, Calif.

That airspace extending upward from 700 feet above the surface within a 4.5-mile radius of Madera Municipal Airport (lat. 36°59'15"N., long. 120°06'40"W.); and within 4.5 miles each side of the Fresno VORTAC 291° radial, extending from the 4.5-mile radius area to 7 miles west of the VORTAC.

Madill, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Madill Municipal Airport, Madill, Okla., (lat. 34°08'25"N., long. 96°48'42"W.).

Madison, Conn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (lat. 41°16'17"N., long. 72°32'58"W.) of the Griswold Airport; within a 7-mile radius of the center of the airport extending clockwise from the 248° bearing to the 102° bearing.

Madison, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Madison Municipal Airport (lat. 33°36'46" N., long. 83°27'41" W.).

Madison, Ind.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Madison Municipal Airport (latitude 38°45'38" N., longitude 85°27'41" W.); within 3 miles each side of the 217° bearing from Madison Municipal Airport, extending from 5½-mile radius area to 8 miles southwest of the airport, excluding the portion which overlies Restricted Area R-3403.

Madison, Minn.

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of the Dawson-Madison Airport (lat. 44°59'25"N., long. 96°10'50"W.) and that airspace extending upward from 1,200 feet above the surface 5 statute miles either side of the 072° bearing from the Watertown, S. Dak., VORTAC to the Dawson-Madison NDB (lat. 44°59'03"N., long. 96°10'44"W.).

AMENDMENTS 10/30/80 45 F. R. 60897 (Added)

Madison, S. Dak.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Madison Municipal Airport (latitude 44°00'54" N., longitude 97°04'45" W.); within 3 miles each side of the 346° bearing from the Madison Municipal Airport, extending from the 5-mile radius to 8½ miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 5½ miles east and 9½ miles west of the 346° and 166° bearings from the Madison Municipal Airport; extending from 7 miles south of the airport to 18½ miles north of the airport.

Madison, Wis.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Traux Airport (latitude 42°08'15" N., longitude 89°20'10" W.); within 3 miles each side of the 181° bearing from the airport extending from the 11-mile radius area to 16 miles south of the airport; within 3 miles each side of the 315° bearing from the airport extending from the 11-mile radius area to 15.5 miles NW of the airport; within 3 miles each side of the 001° bearing from the airport extending from the 11-mile radius area to 17 miles N of the airport; within 3.5 miles each side of the 135° bearing from the airport extending from the 11-mile radius area to 17.5 miles SE of the airport; and within a 7-mile radius of the Morey Airport (latitude 42°07'00" N., longitude 89°32'00" W.); within 3 miles each side of the 305° bearing from the airport extending from the 7-mile radius area to 8 miles NW of the airport.

Madisonville, Ky.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Madisonville Municipal Airport (lat. 37°21'00" N., long. 87°24'00" W.); within 1.5 miles each side of Central City VOR 257° radial, extending from the 5.5-mile radius area to the VOR.

Magnolia, Ark.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Magnolia Municipal Airport (latitude 33°13'45" N., longitude 93°13'00" W.); within 3.5 miles each side of the 171° bearing from the NDB (latitude 33°13'40" N., longitude 93°13'07" W.) extending from the 8.5-mile radius area to 12 miles south of the NDB.

Maine

That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of Maine, including offshore airspace beginning at lat. 44°47'45"N., long. 66°53'00"W.; extend by a line 3 nautical miles from and parallel to the U. S. shoreline to lat. 44°20'10"N., long. 67°56'00"W.; to lat. 44°18'30"N., long. 67°56'00"W.; to lat. 43°52'00"N., long. 69°00'00"W.; to lat. 43°48'00"N., long. 69°03'00"W.; to lat. 43°44'00"N., long. 69°19'42"W.; to lat. 43°41'00"N., long. 69°30'00"W.; to lat. 43°30'00"N., long. 70°06'00"W.; to lat. 43°18'15"N., long. 70°25'00"W.; to lat. 42°56'00"N., long. 70°25'00"W.; to lat. 42°56'00"N., long. 70°34'00"W.; thence to clockwise via the state boundary to point of beginning.

AMENDMENTS 10/2/80 45 F. R. 57371 (Added)

Malad City, Idaho

That airspace extending upward from 1,200 feet above the surface within 9 miles E and 9 miles W of the Malad City VORTAC 165° and 345° radials, extending from 18 miles S to 8 miles N of the VORTAC, and within 5 miles N and 8 miles S of the Malad City VORTAC 290° radial, extending from the VORTAC to 12 miles W of the VORTAC.

Malden, Mo.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Malden Municipal Airport (latitude 36°36'20" N., longitude 89°59'20" W.), and within 3 miles each side of the Malden VOR 120° radial, extending from the 6½-mile radius area to 8 miles southeast of the VOR.

Malvern, Ark.

That airspace extending upward from 700 feet above the surface within a 5-statute mile radius of Malvern Municipal Airport, Malvern, Ark. (latitude 34°19'57" N., longitude 92°45'45" W.); and within 3.5 statute miles each side of an 046° bearing from the Malvern NDB (latitude 34°19'56" N., longitude 92°45'50" W.), extending from the 5-mile radius area to 11.5 statute miles northeast of the NDB; excluding that portion which overlies the Little Rock, Ark., transition area.

Manahawkin, N. J.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 39°42'00" N., 74°16'36" W. of Manahawkin Airport, Manahawkin, N. J.

Manhattan, Kans.

That airspace extending upward from 700 feet above the surface, within a 7-mile radius of the Manhattan, Kans., Municipal Airport (lat. 39°08'28"N., long. 96°40'10"W.) and within 4 miles each side of the Manhattan, Kans., VOR 046° radial extending from the 7-mile radius area to 11 miles northeast of the VOR, within 2 miles northeast and 3 miles southwest of the 126° bearing from the McDowell Creek RBN, extending from the RBN to 10 miles southeast, within 6 miles south and 9 miles north of the Fort Riley VOR 059° radial extending from the VOR to 21 miles northeast, within 2 miles each side of the Fort Riley VOR 222° radial extending from the VOR to 8 miles southwest.

Manila, Ark.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Manila Municipal Airport (latitude 35°53'25" N., longitude 90°09'20" W.); and within 2 miles each side of the 175° bearing from the Manila RBN (latitude 35°53'25" N., longitude 90°09'20" W.), extending from the 5-mile radius area to 8 miles south of the RBN.

Manistee, Mich.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Manistee-Blacker Airport (latitude 44°16'25" N., longitude 86°15'00" W.); within 5 miles north and 8 miles south of the Manistee VOR 274° radial, extending from 9-mile radius area to 16 miles west of the VOR; and within 5 miles south and 8 miles north of the Manistee VOR 099° radial, extending from the 9-mile radius area to 12 miles east of the VOR.

Manistique, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Schoolcraft County Airport (latitude 45°58'25" N., longitude 86°10'35" W.); and within 2 miles each side of the 099° bearing from Schoolcraft County Airport, extending from the 5-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the 099° bearing from Schoolcraft County Airport, extending from the airport to 12 miles east of the airport.

Manitowoc, Wis.

That airspace extending upward from 700 feet above the surface within 8 miles west and 5 miles east of the Manitowoc VOR 343° and 163° radials extending from 2 miles south to 13 miles north of the VOR, and within 8 miles west and 5 miles east of the Manitowoc VOR 176° radial extending from the VOR to 12 miles south of the VOR.

Mankato, Minn.

That airspace extending upward from 700 feet above the surface within an 6-mile radius of Mankato Municipal Airport (lat. 44°13'25" N., long. 93°55'06" W.).

Manning, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Clarendon County Airport (latitude 33°35'13" N., longitude 80°12'32" W.); within 3 miles each side of the 197° bearing from Manning, S. C., RBN (latitude 33°35'23" N., longitude 80°12'23" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN; within a 1.5-mile radius of the Grayson (private) Airport (latitude 33°36'48" N., longitude 80°20'17" W.); and within 2 miles each side of the Vance VOR 061° radial, extending from the 6.5-mile radius area to the VOR.

Mansfield, La.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of DeSoto Parish Airport (latitude 32°04'20" N., longitude 93°45'47" W.).

Mansfield, Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°00'05"N., 71°11'55"W., of the Mansfield Municipal Airport, Mansfield, Mass., and within 2 miles each side of the Whitman, Mass., VOR 249° radial extending from the 5-mile radius area to the VOR, excluding that portion that coincides with the Boston, Mass., transition area.

Mansfield, Ohio

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mansfield-Lahm Municipal Airport (lat. 40°49'17" N., long. 82°31'00" W.); within a 5-mile radius of Galion Municipal Airport (lat. 40°45'15" N., long. 82°43'30" W.); within a 5-mile radius of Shelby Community Airport (lat. 40°52'23" N., long. 82°41'48" W.); within a 7.5-mile radius of Willard Airport (lat. 41°02'23" N., long. 82°43'38" W.); within 7 miles each side of the Mansfield, Ohio, VORTAC 307° radial extending from the 9-mile radius area to 17 miles NW of the VORTAC; and within 5 miles each side of the Mansfield VORTAC 130° radial extending from the 9-mile radius area to 22 miles SE of the VORTAC.

Manteo, N. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Manteo Airport (lat. 35°55'07"N., long. 75°41'43"W.); within 3 miles each side of the 229° and 343° bearings from the Manteo RBN (lat. 35°54'56"N., long. 75°41'42"W.), extending from the 5-mile radius area to 8.5 miles southwest and north of the RBN.

Many, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hart Airport (lat. 31°32'45"N., long. 93°29'30"W.) and within 2 miles each side of the 326° bearing from the NDB (lat. 31°34'16"N., long. 93°32'29"W.) extending from the 6.5-mile radius area to 5 miles northwest of the NDB.

AMENDMENTS 3/20/80 45 F. R. 5673 (Rewritten)

Maple Lake, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Maple Lake Municipal Airport, Maple Lake, Minn. (lat. 45°14'10"N., long. 93°58'55"W.) and within 3 miles either side of the 276° bearing from the Minneapolis (MSP) VORTAC (lat. 45°08'45"N., long. 93°22'23"W.) extending from the 6.5-mile radius area out to 7.5 miles east of the airport, excluding that portion which overlaps the Buffalo, Minn., transition area.

AMENDMENTS 9/4/80 45 F. R. 45268 (Added)

Maples, Mo.

That airspace extending upward from 1,200 feet above the surface within 8 miles SE and 5 miles NW of the Maples VOR 057° and 237° radials, extending from 7 miles NE to 13 miles SW of the VOR, excluding that portion within the Fort Leonard Wood, Mo., transition area.

Mapleton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mapleton, Iowa, Municipal Airport (lat. 42°10'36" N., long. 95°47'42" W.); and within 3½ miles each side of the 035° bearing from Mapleton Municipal Airport, extending from the 5-mile radius area to 11½ miles northeast of the airport.

Maquoketa, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Maquoketa Airport (latitude 42°03'00" N., longitude 90°45'00" W.); and that airspace three miles each side of the 343° bearing from the Maquoketa NDB (latitude 42°03'05" N., longitude 90°44'27" W.); extending from the 7-mile radius area to 8.5 miles northwest of the NDB.

Marathon, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marathon Flight Strip (lat. 24°43'33"N., long. 81°03'05"W.); within 3 miles each side of the 251° bearing from the Marathon RBN, extending from the 6.5-mile radius area to 8.5 miles west of the RBN; excluding the portion outside the continental limits of the United States.

Marble Falls, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Horseshoe Bay Airport (latitude 30°31'27" N., longitude 98°21'45" W.), and within 3.5 miles each side of the 012° bearing extending from the 5-mile radius area to 11.5 miles north of the NDB site at latitude 30°31'27" N., longitude 98°21'45" W.

Marco Island, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marco Island Airport (lat. 25°59'46"N., long. 81°40'22"W.); within 3 miles each side of the 164° bearing from the Marco Island RBN (lat. 26°00'01"N., long. 81°40'30"W.); extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Marfa, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Marfa Municipal Airport (latitude 30°22'15" N., longitude 104°01'15" W.) and within 5 miles NE and 5 miles SW of the Marfa VOR 324° and 144° radials extending from 5 miles NW to 14 miles SE of the VOR.

Marianna, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Marianna Municipal Airport (lat. 30°50'08"N., long. 85°11'02"W.); within 4.5 miles northeast and 6.5 miles southwest of the Marianna VORTAC 133° radial, extending from the 8.5-mile radius area to 11.5 miles southeast of the VORTAC.

rion, Ill.

That airspace extending upward from 700 feet above the surface, bounded by a line beginning at latitude °53'40" N., longitude 88°48'35" W., thence west to latitude 37°56'25" N., longitude 89°02'40" W., thence st to latitude 37°58'45" N., longitude 89°20'25" W., thence south to latitude 37°47'25" N., longitude °26'00" W., thence south to latitude 37°42'10" N., longitude 89°24'00" W., thence southeast to latitude °32'50" N., longitude 88°59'00" W., thence northeast to latitude 37°42'35" N., longitude 88°52'15" W., hence north to the point of beginning.

arion, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marion Municipal Airport, Marion, Indiana (latitude 40°29'27" N., longitude 85°40'43" W.); and within 3 miles each side of the Marion VOR 042°, 211° and 320° radials, extending from the 5-mile radius to 8 miles northeast, southwest and northwest of the VOR.

Marion, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Marion Municipal Airport (latitude 40°36'58" N., longitude 83°03'51" W.); within 3 miles each side of the 067° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles northeast of the airport; and within 3 miles each side of the 327° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles northwest of the airport.

arion, S. C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marion County Airport (latitude 34°11'00" N., longitude 79°20'00" W.); within 2 miles each side of the Florence VORTAC 101° radial, extending from the 6-mile radius area to the Florence VORTAC; within 3 miles each side of the 211° bearing from Marion RBN (lat. 34°11'06" N., long. 79°20'00" W.), extending from the 6-mile radius area to 8.5 miles southwest of the RBN; excluding the portion within Florence transition area.

Marion, Va.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 36°53'45"N., 81°20'45"W., of Mountain Empire Airport, Marion, Va.; within a 16-mile radius of the center of the airport, extending clockwise from a 123° bearing to a 145° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 175° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 175° bearing to a 192° bearing from the airport; within a 22-mile radius of the center of the airport, extending clockwise from a 192° bearing to a 207° bearing from the airport; within a 24.5-mile radius of the center of the airport, extending clockwise from a 207° bearing to a 225° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 320° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 336° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 336° bearing to a 024° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 024° bearing to a 034° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 034° bearing to a 056° bearing from the airport, within an 18-mile radius of the center of the airport, extending clockwise from a 056° bearing to a 067° bearing from the airport; within 3.5 miles each side of a 069° bearing from the Retreat RBN (36°55'01"N., 81°16'27"W.), extending from the RBN to 10 miles east of the RBN, excluding the portion that coincides with Bluefield, W. Va., and Dublin, Va., 700-foot floor transition areas.

Marks, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Selfs Airport (lat. 34°13'50"N., long. 90°17'25"W.); within 3 miles each side of the 195° bearing from the Marks, Miss., RBN (lat. 34°13'53"N., long. 90°17'25"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN; within 3 miles each side of the 006° bearing from the Marks, Miss., RBN extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

AMENDMENTS 3/20/80 44 F. R. 75381 (Changed)

Marksville, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marksville NDB (latitude 31°05'39" N., longitude 92°04'17" W.); within 3.5 miles each side of a 206° bearing from the Marksville NDB extending from the 5-mile radius area to 11.5 miles southwest of the NDB.

Marlette, Mich.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Marlette Airport (latitude 43°18'37" N., longitude 83°05'31" W.).

Marshall, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marshall, Mich., Brooks Field (latitude 42°15'05" N., longitude 84°57'25" W.) and within 2 miles each side of the Battle Creek, Mich., VORTAC 105° radial extending from the 5-mile radius area to 7 miles east of the airport, excluding the portion which coincides with the Battle Creek, Mich., transition area.

Marshall, Minn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Marshall Municipal Airport (latitude 44°26'50" N., longitude 95°49'10" W.).

Marshall, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marshall Memorial Airport (lat. 39°06'00"N., long. 93°12'10"W.), and within 3 miles each side of the 347° bearing from the MHL NDB (lat. 39°05'49"N., long. 93°11'52"W.), extending from the 5-mile radius area to 8.5 miles northwest of the NDB facility; and within 3 miles each side of the 184° bearing from the MHL NDB extending from the 5-mile radius area to 8.5 miles southwest of the NDB facility.

AMENDMENTS 5/15/80 45 F. R. 18913 (Added)

Marshall, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harrison County Airport (latitude 32°31'18" N., longitude 94°18'29" W.) and within 2.5 miles each side of Gregg County VORTAC 075° radial extending from the 5-mile radius area to 21 miles east of the VORTAC.

Marshalltown, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marshalltown Municipal Airport (lat. 42°06'45"N., long. 92°54'50"W.) and within 3 miles each side of the 321° bearing from Marshalltown Municipal Airport, extending from the 6-mile radius area to 8 miles northwest of the airport; and within 3 miles each side of the 135° radial of the Elmwood VOR extending from the 6-mile radius to 8 miles southeast of the airport; and within 3 miles each side of the 303° radial of the Elmwood VOR extending from the 6-mile radius to 8 miles northwest of the airport.

Marshfield, Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marshfield Airport (42°05'45" N., 70°40'25" W.), Marshfield, Mass.; and within 2 miles each side of the centerline of Runway 24 extended from the end of the runway to 5 miles southwest, excluding the portion that coincides with the Boston, Mass. 700-foot floor transition area and excluding the portion outside the United States.

Marshfield, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marshfield Municipal Airport (latitude 40°38'10" N., longitude 90°11'15" W.); within 2 miles each side of the 216° bearing from Marshfield Municipal Airport, extending from the 5-mile radius area to 8 miles southwest of the airport; and ithin 2 miles each side of the 325° bearing from Marshfield Municipal Airport, extending from the 5-mile dius area to 8 miles northwest of the airport.

artinsburg, W. Va.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 39°24'03" N., long. 77°59'09" W. of Eastern West Virginia Regional Airport, Martinsburg, W. Va.; and within a 15-mile radius of the center of the airport, extending clockwise from a 263° bearing to a 335° bearing from the airport.

Martinsville, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (36°37'50" N., 80°01'00" W.), of Blue Ridge Airport, Martinsville, Va.; within 2 miles each side of the Runway 30 centerline, extended from the 6.5-mile radius area to 14 miles northwest of the end of the runway; within 4.5 miles each side of the Martinsville, Va., VOR 178° radial extending from the 6.5-mile radius area to 12 miles south of the airport; within 4.5 miles each side of the Martinsville, Va., VOR 115° radial extending from the 6.5-mile radius area to 11 miles southeast of the airport.

AMENDMENTS 9/4/80 45 F. R. 54027 (Changed)

Maryland

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Maryland including the offshore airspace within 3 nautical miles and parallel to the shoreline, excluding that airspace within P-40.

Marysville, Calif.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Beale AFB (latitude 39°08'10" N., longitude 121°26'05" W.); within an 8-mile radius of Yuba County Airport, Marysville, Calif. (latitude 39°05'50" N., longitude 121°34'00" W.), within 9 miles west and 5 miles east of the Beale VOR 162° and 342° radials, extending from the Beale 10-mile radius area to 17 miles north of the VOR; within 8 miles west and 5 miles east of the Marysville VOR 343° radial, extending from the Yuba County 8-mile radius area to 12 miles north of the VOR, and within 8 miles southwest and 5 miles northeast of the Marysville VOR 153° radial, extending from the Yuba County 8-mile radius area to 12 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the east by a line extending from latitude 40°00'00" N., longitude 120°30'00" W., to latitude 39°30'00" N., longitude 120°30'00" W., to latitude 39°30'00" N., longitude 120°55'00" W., to latitude 39°00'00" N., longitude 120°55'00" W., on the south by latitude 39°00'00" N., on the west by the west boundary of V-23, on the northwest by the Red Bluff, Calif., transition area, and on the north by latitude 40°00'00" N.; that airspace extending upward from 8,500 feet MSL bounded on the south by latitude 40°00'00" N., on the west by the Red Bluff, Calif., transition area, on the north by latitude 40°45'00" N., and on the east by a line extending from latitude 40°45'00" N., longitude 121°39'00" W., to latitude 40°23'00" N., longitude 121°39'00" W., to latitude 40°23'00" N., longitude 121°25'00" W., to latitude 40°00'00" N., longitude 121°25'00" W.; that airspace extending upward from 10,500 feet MSL bounded on the east by longitude 120°19'00" W., on the south by a line extending from latitude 39°30'00" N., longitude 120°19'00" W., to latitude 39°30'00" N., longitude 120°30'00" W., to latitude 40°00'00" N., longitude 120°30'00" W., to latitude 40°00'00" N., longitude 121°25'00" W., on the west by longitude 121°25'00" W., and on the north by latitude 40°45'00" N.; that airspace extending upward from 12,500 feet MSL bounded on the east by longitude 121°25'00" W., on the south by latitude 40°23'00" N., on the west by longitude 121°39'00" W., and on the north by latitude 40°45'00" N.

Marysville, Kans.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Marysville Municipal Airport, Marysville, Kans., lat. 39°51'12"N., long. 96°37'49"W., within 3 miles each side of the Marysville NDB 357° bearing extending from the 5.5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the Marysville NDB 147° bearing extending from the 5.5-mile radius area to 8 miles southeast of the airport.

Marysville, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Union County Airport (latitude 40°13'29" N., longitude 83°21'00" W.); and within 2 miles on each side of the 088° bearing from the airport extending from the 5-mile radius area to 8 miles west of the airport.

Maryville, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Maryville Memorial Airport (lat. 40°21'00"N., long. 94°54'45"W.). Excluding that airspace within a 1.25-mile radius of Rankin Airport (lat. 40°20'00"N., long. 94°50'00"W.).

Mason, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, lat. 42°33'50"N., long. 84°25'40"W., of the Mason-Jewett Airport, Mason, Mich.

Mason, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mason County Airport (latitude 30°43'54" N., longitude 99°11'06" W.).

Mason City, Iowa

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.); within 5 miles each side of the Mason City VORTAC 002° radial, extending from the 9-mile radius area to 24½ miles north of the VORTAC; and within 4½ miles west and 9½ miles east of the Mason City VORTAC 182° and 002° radials, extending from 5 miles north to 24½ miles south of the VORTAC.

Massachusetts

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Massachusetts including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Massachusetts and that airspace bound by a line beginning at lat. 42°41'20"N., long. 70°30'00"W.; to lat. 42°15'20"N., long. 70°30'00"W.; to lat. 42°10'50"N., long. 70°03'00"W.; to lat. 41°38'00"N., long. 69°45'10"W.; to lat. 41°20'00"N., long. 69°45'10"W.; to lat. 41°09'00"N., long. 70°00'00"W.; to lat. 41°10'25"N., long. 70°12'50"W.; to lat. 41°04'00"N., long. 70°42'30"W.; to lat. 41°12'45"N., long. 70°42'30"W.; to lat. 41°08'30"N., long. 71°04'45"W.; to lat. 41°25'15"N., long. 71°04'45"W.; to lat. 41°25'15"N., long. 71°04'45"W.; thence along a line 3 nautical miles from and parallel to the shoreline to the point of beginning.

Massena, N. Y.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 44°56'10" N., long. 74°50'50" W. of Richards Field, Massena, N. Y.; within 3 miles each side of the Massena, VORTAC 104° radial extending from the 8.5-mile radius area to 8 miles east of the VORTAC, excluding the airspace within Canada.

Matagorda, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Matagorda Peninsula Airport (latitude 28°32'35" N., longitude 96°07'10" W.), excluding that portion more than 3 nautical miles from and parallel to the shoreline.

Matawan, N. J.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, lat. 40°22'25"N., long. 74°15'15"W., of Marlboro Airport, Matawan, N. J., and within 1.5 miles each side of the Colts Neck, N. J., VORTAC 307° radial extending from the 5.5-mile radius area to the Colts Neck VORTAC.

Mattoon, Ill.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Coles County Memorial Airport (lat. 39°28'45" N., long. 88°16'51" W.); and within 4.5 miles each side of the Mattoon VOR 228° radial, extending from the 9-mile radius area to 13 miles southwest of the VOR.

Maxwell, Calif.

That airspace extending upward from 1,200 feet above the surface bounded on the E by V-195, on the S by V-200, on the W by V-25 and on the N by the Red Bluff, Calif., transition area.

Mayfield, Ky.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mayfield-Graves County Airport (latitude 36°46'03" N., longitude 88°35'05" W.).

McAlester, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the McAlester Municipal Airport (lat. 34°53'05"N., long. 95°46'55"W.).

McAllen, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Miller International Airport (latitude 26°10'40" N., longitude 98°14'25" W.); within 3.5 miles each side of the McAllen VOR 095° radial extending from the 5-mile radius area to 11.5 miles east of the VOR; within 4 miles south and 5 miles north of the McAllen VOR 321° radial extending from the 5-mile radius area to 18.5 miles northwest of the McAllen VOR; and within 2 miles each side of the localizer (latitude 26°09'59" N., longitude 98°13'53" W.) back course 141° radial extending from the 5-mile radius area to 5.5 miles southeast of the localizer, excluding the portion outside the United States.

McCall, Idaho

That airspace extending upward from 1,200 feet above the surface within 6 miles west and 9 miles east of the McCall VORTAC 344° and 164° radials extending from 8 miles south to 19 miles north of the VORTAC.

AMENDMENTS 5/15/80 45 F. R. 17948 (Changed)

McComb, Miss.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McComb-Pike County Airport (lat. 31°10'35" N., long. 90°28'08" W.).

McCook, Nebr.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of McCook Municipal Airport (latitude 40°12'25" N., longitude 100°35'25" W.); within 5 miles southwest and 8 miles northeast of the 120° bearing from McCook Municipal Airport extending from the 8-mile radius area to 12 miles southeast of the airport and within 5 miles southwest and 8 miles northeast of the 324° bearing from McCook Municipal Airport, extending from the 8-mile radius area to 12 miles northwest of the airport.

McCordsville, Ind.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Indianapolis Brookside Airport (latitude 39°54'19" N., longitude 85°55'29" W.); and within a 5½-mile radius of the Indianapolis Metropolitan Airport (latitude 39°56'10" N., longitude 86°02'45" W.).

McGehee, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of McGehee Municipal Airport, McGehee, Ark., (lat. 33°37'15"N., long. 91°22'00"W.).

McGrath, Alaska

That airspace extending upward from 700 feet above the surface within 5 miles northeast and 3 miles southwest of the McGrath VORTAC 123° radial extending from the control zone extension to 12.5 miles southeast of the VORTAC; within 4 miles each side of the McGrath VORTAC 008° radial extending from the control zone extension to 14.5 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 1.5-mile radius of the McGrath VORTAC extending clockwise from the 344° radial to the 236° radial of the VORTAC; within a 12-mile radius of the McGrath VORTAC extending clockwise from the 236° radial to the 344° radial of the VORTAC; and within 9.5 miles east and 4.5 miles west of the McGrath VORTAC 008° radial extending from the 21.5-mile radius area to 23 miles north of the VORTAC.

McMinnville, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of McMinnville Municipal Airport (latitude 45°11'35" N., longitude 123°08'15" W.) and within 2 miles each side of the Newberg VORTAC 215° radial extending from the 5-mile radius area to the VORTAC.

McMinnville, Tenn.

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Warren County Memorial Airport (lat. 35°42'00" N., long. 85°50'30" W.); within 9.5 miles northwest and 4.5 miles southeast of the 061° bearing from Warren County RBN (lat. 35°42'11" N., long. 85°50'40" W.), extending from the 13-mile radius area to 18.5 miles northeast of the RBN;
within a 6.5-mile radius of Smithville Municipal Airport (lat. 35°59'08" N., long. 85°48'31" W.);
within 3 miles each side of the 045° bearing from Hurricane RBN (lat. 35°59'02" N., long. 85°48'28" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

McPherson, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McPherson Municipal Airport (latitude 38°21'19" N., longitude 97°41'29" W.); and that airspace extending upward from 1,200 feet above the surface within 9½ miles southwest and 4½ miles northeast of the 309° bearing from the McPherson Municipal Airport, extending from the airport to 18½ miles northwest of the airport, excluding the portions that overlie the Salina and Hutchinson, Kans., 1,200-foot floor transition areas.

McRae, Ga.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Telfair-Wheeler Airport (lat. 32°05'46" N., long. 82°52'55" W.); within 3 miles each side of the 030° bearing from McRae RBN (lat. 32°05'40" N., long. 82°53'02" W.), extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

Meade, Kans.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Meade, Kans., Municipal Airport (lat. 37°16'45"N., long. 100°21'15"W.); within 3 miles each side of the Meade NDB (lat. 37°16'40"N., long. 100°21'31"W.); 008° bearing, extending from the 5.5-mile radius to 8.5 miles north of the NDB.

Meadville, Pa.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 41°37'37"N., long. 80°12'51"W., of Port Meadville Airport, Meadville, Pa.

Medford, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Medford Municipal Airport (lat. 36°47'26"N., long. 97°44'56"W.) and within 4 miles each side of the 349° bearing from the NDB (lat. 36°47'35"N., long. 97°44'46"W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

AMENDMENTS 7/10/80 45 F. R. 34261 (Added)

Medford, Oreg.

That airspace extending upward from 700 feet above the surface within 7 miles northeast and 5 miles southwest of the Medford ILS localizer northwest course extending from 3 miles northwest of the Pumic LOM (latitude 42°27'03.8" N., longitude 122°54'44.1" W.), to 24 miles northwest of the LOM; within 3.5 miles each side of the Medford ILS localizer southeast course extending from the LOM to 24 miles southeast of the LOM; that airspace extending upward from 1,200 feet above the surface bounded on the east by V-452, on the southeast by the 40-mile arc centered on Klamath Falls VORTAC, on the south by V-122, on the west by V-23; that airspace southeast of Medford bounded on the north by the south edge of V-122, on the east by the 40-mile arc centered on Klamath Falls VORTAC, on the south by the 7-mile radius area centered on the Siskiyou County Airport, on the west by the east edge of V-23E; and that airspace extending upward from 5,500 feet MSL within 7 miles north and 11 miles south of the Medford, Oreg., VORTAC 271° radial extending from the west edge of V-23W and north edge of V-122 to the east edge of V-27.

Medford, Wis.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Taylor County Airport (latitude 45°06'02" N., longitude 90°18'18" W.); within 3 miles each side of the 162° bearing from the airport extending from the 5.5-mile radius area to 8 miles southeast of the airport.

Meeker, Colo.

That airspace extending upward from 700 feet above the surface within an area bounded by a point beginning at lat. 40°16'20"N., long. 108°13'00"W.; to lat. 40°09'50"N., long. 107°36'00"W.; to lat. 39°40'00"N., long. 108°09'00"W.; to lat. 39°49'50"N., long. 108°22'30"W.; thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-101; on the west by the east edge of V-187; on the east by the west edge of V-26, excluding the Hayden and Grand Junction, Colo., transition areas.

AMENDMENTS 10/30/80 45 F. R. 58105 (Added)

Melbourne, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Melbourne Regional Airport (lat. 28°06'01" N., long. 80°38'00" W.); within an 8.5-mile radius of Patrick AFB (lat. 28° 14'21" N., long. 80°36'28" W.); within 3 miles each side of Patrick AFB TACAN 030° radial, extending from the 8.5-mile radius area to 9.5 miles northeast of the TACAN.

Melfa, Va.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 37° 38' 50" N., 75° 45' 40" W., of Accomack County Airport, Melfa, Va., and within 2 miles each side of a 200° bearing from the Melfa, Va., RBN 37°39'27" N., 75°45'27" W., extending from the 6-mile radius area to 8 miles south of the RBN.

Memphis, Tenn.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Memphis International Airport (latitude 35°03'00" N., longitude 89°58'15" W.); within 4.5 miles each side of Memphis ILS localizer east course, extending from the 8.5-mile radius area to Holly Springs, Miss., VOR 328° radial; within 3 miles each side of Memphis ILS localizer south course, extending from the 8.5-mile radius area to 8.5 miles south of the LOM; within 3 miles each side of Memphis ILS localizer west course, extending from the 8.5-mile radius area to 8.5 miles west of the LOM; within a 6.5-mile radius of Twinkle Town Airport (lat. 34°55'45"N., long. 90°10'05"W.); within 3 miles each side of the Memphis VORTAC 311° radial, extending from the 6.5-mile radius area to 32.5 miles northwest of the VORTAC; within a 6.5-mile radius of West Memphis Municipal Airport (latitude 35°08'24" N., longitude 90°14'00" W.); within 3 miles each side of Memphis VORTAC 311° radial, extending from the 6.5-mile radius area to 32.5 miles northwest of the VORTAC; within 3 miles each side of the 187° and 352° bearings from West Memphis RBN (latitude 35°08'20" N., longitude 90°14'02" W.), extending from the 6.5-mile radius area to 8.5 miles north and south of the RBN; within an 8.5-mile radius of Olive Branch Municipal Airport (lat. 34°58'44" N., long. 89°47'33" W.).

Memphis, Tenn. (NAS)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of NAS Memphis (lat. 35°21'15"N., long. 89°52'10"W.); within a 7-mile radius of Arlington Municipal Airport (lat. 35°16'58"N., longitude 89°40'22" W.); within 3 miles each side of the 161° bearing from Loosahatchie RBN (latitude 35°17'04" N., longitude 89°40'19" W.), extending from the 7-mile radius area to 8.5 miles south of the RBN.

Mena, Ark.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mena Municipal Airport (latitude 34°33'00" N., longitude 94°12'31" W.) and within 5 miles each side of the Rich Mountain, Okla., VORTAC 112° radial extending from the 5-mile radius area to the VORTAC and within 3.5 miles each side of the 087° bearing from the Mena, Ark., NDB (latitude 34°32'55" N., longitude 94°12'34" W.) extending from the 5-mile radius area to a point 12 miles east of the NDB.

Menominee, Mich.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Menominee County Airport (latitude 45°07'20" N., longitude 87°38'16" W.); within 4½ miles east and 9½ miles west of the Menominee VOR 349° radial, extending from the VOR to 18½ miles north of the VOR; and within 4½ miles northeast and 9½ miles southwest of the 140° and 320° bearings from Menominee County Airport, extending from 6 miles southeast to 18½ miles northwest of the airport.

Merced, Calif.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Castle Air Force Base (latitude 37°22'45" N., longitude 120°34'00" W.); within a 7-mile radius of Merced Municipal Airport (latitude 37°17'10" N., longitude 120°30'55" W.) and within 2 miles each side of the Castle VOR 141° and 321° radials extending from the Merced 7-mile radius area to 3 miles SE of the Castle VOR; that airspace extending upward from 1,200 feet above the surface bounded on the NE and E by V-459, on the S by V-230, on the W by V-109 and on the N by V-244, excluding the portions within the Fresno, Stockton, and Modesto, Calif., transition areas; that airspace extending upward from 7,500 feet MSL NE of Merced bounded on the E by V-165, on the SW by V-459, and on the N by V-244, and that airspace extending upward from 12,000 feet MSL E of Merced bounded on the E by longitude 119°30'00" W., on the S by the Fresno, CA., transition area, on the W by V-165 and on the N by V-244.

Mercury, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mercury Airport (latitude 36°39'16" N., longitude 116°00'54" W.); that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°41'00" N., longitude 116°26'30" W., to latitude 36°41'00" N., longitude 115°55'00" W., to latitude 36°16'00" N., longitude 115°55'00" W., to latitude 36°16'00" N., longitude 116°08'00" W., to latitude 36°36'00" N., longitude 116°26'30" W., thence to point of beginning, excluding the portion within R-4808.

Meriden, Conn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°30'35" N., 72°49'50" W. of Meriden Markham Municipal Airport, Meriden, Conn.; and within 2 miles each side of the Runway 36 centerline extended from the 5-mile radius area to 7 miles north of the end of the runway, excluding the portion which coincides with the Bridgeport, Conn., and Hartford, Conn., transition areas.

Meridian, Miss.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Key Field (lat. 32°19'58"N., long. 88°45'05"W.); within 3 miles each side of the 191° bearing from the Lauderdale RBN, extending from the 11-mile radius area to 8.5 miles south of the RBN; within 5 miles each side of Meridian VORTAC 315° radial, extending from the 11-mile radius area to 11.5 miles northwest of the VORTAC; within an 8.5-mile radius of OLF Bravo Field (lat. 32°47'33"N., long. 88°49'40"W.); within a 10-mile radius of NAS Meridian (lat. 32°33'27"N., long. 88°33'33"W.); within a 29-mile radius of the Meridian VORTAC, extending clockwise from the 340° radial to the 050° radial, and within 5 miles north and 7 miles south of the Kewanee VORTAC 273° radial, extending from the VORTAC to long. 88°36'00"W.

Merrill, Wis.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Merrill Municipal Airport (latitude 45°12'00" N., longitude 89°42'25" W.); and within 3 miles each side of the 332° bearing from Merrill Municipal Airport, extending from the 7-mile radius area to 8 miles northwest of the airport.

Mexia, Tex.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport (lat. 31°38'20"N., long. 96°30'52"W.) and within 3.5 miles each side of the 163° bearing from the Limestone County NDB (lat. 31°38'16"N., long. 96°30'43"W.) extending from the 6.5-mile radius area to a point 12 miles southeast of the NDB.

Mexico, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mexico Memorial Airport (lat. 39°09'35"N., long. 91°49'25"W.).

Miami, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Miami International Airport (Lat. 25°47'34"N., Long. 80°17'00"W.), Homestead AFB (Lat. 25°29'15"N., Long. 80°23'00"W.), Opa Locka Airport (Lat. 25°54'26"N., Long. 80°16'48"W.), Fort Lauderdale-Hollywood International Airport (Lat. 26°04'26"N., Long. 80°09'10"W.), and Tamiami Airport (Lat. 25°38'51"N., Long. 80°25'59"W.); within 3 miles each side of the 274° bearing from the Perrine RBN, extending from the 8.5-mile radius area to 8.5 miles west of the RBN; within a 6.5-mile radius of Fort Lauderdale Executive Airport (Lat. 26°11'41"N., Long. 80°10'15"W.), and Pompano Beach Airpark (Lat. 26°15'00"N., Long. 80°06'30"W.).

Miami, Fla. (Dade-Collier Training and Transition Airport)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Dade-Collier Training and Transition Airport (latitude 25°51'46" N., longitude 80°53'50" W.).

Miami, Okla.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Miami Municipal Airport (lat. 36°54'02"N., long. 94°53'03"W.) and that airspace within the State of Kansas extending upward from 1,200 feet above the surface which is bounded on the south by the Kansas-Oklahoma State line and on the west along a line which is 7 miles east of and parallel to the Oswego, Kans., VOR 207° radial, on the north by the south edge of VOR airway V-190 and on the east by the west edge of VOR airway V-88.

Michigan

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Michigan south of parallel 45°45'.

Michigan City, Ind.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Michigan City Airport (latitude 41°42'10" N., longitude 86°49'15" W.); and within a 6½-mile radius of Michigan City Municipal Airport (latitude 41°40'10" N., longitude 86°53'20" W.).

Middlefield, Ohio

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Geauga County Airport (latitude 41°27'00" N., longitude 81°03'48" W.); within 1½ miles each side of the Chardon VORTAC 132° radial extending from the 6-mile radius area to the VORTAC excluding the portion which overlies the Cleveland transition area.

Middleton Island, Alaska

That airspace extending upward from 700 feet above the surface within 12 miles northwest and 7.5 miles southeast of the Middleton Island VORTAC 037° and 217° radials, extending from 22.5 miles northeast to 11.5 miles southwest of the VORTAC; and within 9.5 miles west of the Wessels, Alaska, RBN 011° bearing, extending from the RBN to 18.5 miles north of the RBN.

Middletown. Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of 39°32'00" N., 84°23'30" W. of Hook Field Municipal Airport and within 2 miles each side of a 232° bearing from Hook Field, Ohio, RBN extending from the 5-mile radius area to 8 miles southwest of the RBN.

Midland, Tex.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Midland Regional Air Terminal (latitude 31°56'25" N., longitude 102°12'10" W.) and within a 5-mile radius of Mabee Ranch Airport (latitude 32°12'57" N., longitude 102°09'46" W.).

Midland, Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°35'15" N., 77°42'45" W. of Warrenton-Fauquier Airport, Midland, Va., and within 2 miles each side of the Casanova, Va. VORTAC 113° radial extending from the 5-mile radius area to the VORTAC.

Midway Island

That airspace extending upward from the 700 feet above the surface within a 10-nmi radius of NAS Midway (latitude 28° 12' 00" N., longitude 177° 23' 00" W.); and that airspace extending upward from 1,200 feet above the surface within a 100-nmi radius of NAS Midway.

Miles City, Mont.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Miles City Airport (latitude 46°25'40" N., longitude 105°53'10" W.); within 5 miles each side of the 252° bearing from the Horton RBN, extending from the 7-mile radius area to 11 miles southwest of the RBN; within 3.5 miles each side of the Miles City VORTAC 225° radial, extending from the 7-mile radius area to 11 miles southwest of the Miles City VORTAC; within 3.5 miles each side of the Miles City VORTAC 047° radial, extending from the 7-mile radius area to 22 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 17-mile radius of Miles City VORTAC south of V-120 and within a 25-mile radius of Miles City VORTAC north of the south edge of V-120, and within 9.5 miles southeast and 4.5 miles northwest of the Miles City VORTAC 225° radial extending from the VORTAC to 18½ miles southwest of the VORTAC.

Milford, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fuller Municipal Airport (lat. 43°19'57"N., long. 95°09'29"W.) and within 3 miles each side of the 019° bearing from the Fuller Municipal Airport extending from the 5-mile radius to 11.5 miles north of the airport excluding that portion which lies in the Spirit Lake, Iowa, transition area.

Milford, Utah

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Milford Municipal Airport (lat. 38°25'35"N., long. 113°00'40"W.) and within 2 miles either side of the Milford VORTAC (lat. 38°21'37"N., long. 113°00'45"W.) 360° radial extending from the 5-mile radius area to 14 miles north of the VORTAC and within 2 miles southeast and 5 miles northwest of the Milford VORTAC 210° radial extending from the 5-mile radius area to 5 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles northwest and 5 miles southeast of the Milford VORTAC 210° radial extending 18 miles southwest of the VORTAC; and within 8 miles southeast and 14 miles northwest of the Milford VORTAC 210° and 030° radials extending from 10 miles southwest to 23 miles northeast of the VORTAC.

Millard, Nebr.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Millard Municipal Airport (latitude 41°11'45" N., longitude 96°06'45" W.); and within 3 miles each side of the 314° bearing from the Millard Municipal Airport extending from the 6½-mile radius area to 8 miles northwest of the airport.

Milledgeville, Ga.

That Airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Baldwin County Airport (latitude 33°09'15" N., longitude 83°14'10" W.); within 3 miles each side of the 089° bearing from Milledgeville RBN (latitude 33°09'13" N., longitude 83°14'35" W.), extending from the 8.5-mile radius area to 8.5 miles east of the RBN.

Miller, S. Dak.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Miller Municipal Airport (lat. 44°31'00"N., long. 98°57'27"W.) and within 3 miles each side of the 326° bearing from the Miller NDB (lat. 44°31'17.4"N., long. 98°57'30.6"W.) extending from the 5-mile radius to 8.5 miles northwest of the Miller NDB; and that airspace extending upward from 1,200 feet above the surface bounded on the west and northwest by V-263, on the south by V-120 and on the east by V-15W excluding the Aberdeen, S. Dak., Pierre, S. Dak., Mitchell, S. Dak., and Huron, S. Dak., 1,200 foot transition areas and all Federal airways.

Millersburg, Ohio

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Holmes County Airport (latitude 40°32'20" N., longitude 81°57'05" W.) and within 3 miles each side of the 085° bearing from the airport extending from the 6-mile radius area to 12 miles east, and within 2 miles each side of the Tiverton, Ohio VOR 059° radial extending from the 6-mile radius area to the VOR.

Millinocket, Maine

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 45°38'50" N., 68°41'10" W. of Millinocket Municipal Airport, Millinocket, Maine, and within 3.5 miles each side of a 094° bearing from the Sterns RBN extending from the 7-mile radius area to 11.5 miles east of the RBN.

AMENDMENTS 10/2/80 45 F. R. 57371 (Changed)

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Millville, N. J.

That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at: 39°37'00" N., 75°05'00" W. to 39°35'00" N., 74°52'00" W. to 39°16'30" N., 74°59'00" W. to 39°16'30" N., 75°10'00"W. to 39°30'00"N., 75°15'00"W. to point of beginning and within 4.5 miles south and 6.5 miles north of the Cedar Lake, N. J., VORTAC 257° radial and 077° radial, extending from 5.5 miles west of the VORTAC to 11.5 miles east of the VORTAC, excluding the portion that coincides with the Atlantic City, N.J., 700-foot transition area.

AMENDMENTS 10/30/80 45 F. R. 68646 (Changed)

Milton, Fla.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of NAS Whiting Field (North) (latitude 30°43'15" N., longitude 87°01'45" W.); within 2 miles each side of the 315° bearing from Navy Whiting RBN, extending from the 6-mile radius area to 8 miles northwest of the RBN; within 2 miles each side of Navy Whiting TACAN 309° radial, extending from the 6-mile radius area to 8 miles northwest of the TACAN, and within a 5-mile radius of OLF Santa Rosa (Navy), Milton, Fla. (latitude 30°36'00" N., longitude 86° 56'00" W.).

PENDING AMENDMENT

Milton, Fla.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of NAS Whiting Field (North) (lat. 30°43'21"N., long. 87°01'29"W.); within 5 miles each side of the 313° bearing from the Navy Whiting Field RBN, extending from the 8-mile radius area to 11.5 miles northwest of the RBN; within a 5-mile radius of the OLF Santa Rosa (Navy) Airport (lat. 30°36'00"N., long. 86°56'00"W.).

AMENDMENTS 12/25/80 45 F. R. 73650 (Rewritten)

Milwaukee, Wis.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of General Mitchell Field (lat. 42°56'51"N., long. 87°53'58"W.); within an 8-mile radius of the Horlick-Racine Airport (lat. 42° 45'45"N., long. 87°49'00"W.); within an 8-mile radius of the Timmerman Airport (lat. 43°06'40"N., long. 88° 02'00"W.); within a 6½-mile radius of the Waukesha County Airport (lat. 43°02'25"N., long. 88°14'00"W.); and within 3 miles each side of the 274° bearing from the Waukesha County Airport extending from the 6½-mile radius area to 7½ miles west of the airport.

Minden, La.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Minden-Webster Airport (latitude 32°39'00" N., longitude 93°18'00" W.).

Mineola, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Wisener Airport (lat. 32°40'47"N., long. 95°30'45"W.) and within 2 miles each side of the Quitman, Tex., VORTAC 211° radial extending from the airport to 6 miles northeast of the airport.

Mineral Point, Wis.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Iowa County Airport, Mineral Point, Wis., (lat. 42°53'12"N., long. 90°13'52"W.) and within 3 statute miles either side of the 030° bearing from the Mineral Point RBN, extending from the 5-mile radius area to 8.5 statute miles northeast of the airport.

Mineral Wells, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mineral Wells Airport (latitude 32°46'59" N., longitude 98°03'34" W.) and within 3 miles each side of the 140° bearing from the Mineral Wells RBN, extending from the 5-mile radius area to 8 miles SE of the RBN.

Minneapolis, Minn.

That airspace extending upward from 700 feet above the surface within a 26-mile radius of Minneapolis-St. Paul International Airport (lat. 44°53'05"N., long. 93°13'15"W.); within a 28-mile radius of Minneapolis-St. Paul International Airport, extending from the 206° bearing from the airport clockwise to the 353° bearing from the airport; and within 4½ miles north and 9½ miles south of the Flying Cloud VOR 292° radial, extending from the 28-mile radius area to 18½ miles west of the VOR.

Minnesota

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Minnesota.

Minot, N. Dak.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Minot AFB (latitude 48°24'55" N., longitude 101°21'25" W.); within a 10-mile radius of Minot International Airport (latitude 48°15'40" N., longitude 101°16'45" W.); within 5 miles each side of the Minot VORTAC 260° radial, extending from the 10-mile radii areas to 12 miles west of the VORTAC; and within 4 miles each side of the Minot VORTAC 138° radial extending from the 10-mile radius area to 15.5 miles southeast of the VORTAC; and within 5 miles each side of the Minot VORTAC 097° radial, extending from the 10-mile radius area to 12 miles east of the VORTAC;
that airspace extending upward from 1,200 feet above the surface within a 54-mile radius of Minot AFB excluding the area north of lat. 49°00'00"N.

Mississippi

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Mississippi, including that airspace 3 nautical miles from and parallel to the shoreline, beginning at the intersection of the Mississippi/Alabama State line, extending west along a line 3 nautical miles from and parallel to the shoreline, to and south along longitude
88°51'00" W. to latitude 30°07'20" N. (point of intersection of the Mississippi State line and longitude 88°51'00" W.).

Missoula, Mont.

That airspace extending upward from 700 feet above the surface within a 23.5-mile radius of the Missoula VORTAC extending from the Missoula VORTAC 190° radial clockwise to the 290° R; within 9.5 miles southwest and 5.5 miles northeast of the Missoula VORTAC 312° radial extending from the VORTAC to 38 miles northwest of the VORTAC; within 3 miles each side of the Missoula VORTAC 172° radial extending from the VORTAC to 19.5 miles southeast; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Missoula VORTAC extending from the 357° radial clockwise to the 072° radial; within a 23.5-mile radius of the Missoula VORTAC extending from the 072° radial clockwise to the 190° radial; within a 34-mile radius of the Missoula VORTAC extending from the Missoula VORTAC 256° radial clockwise to the 357° radial; within 9.5 miles southwest of the Missoula VORTAC 298° radial extending from the 34-mile radius area to 38 miles northwest; within 5 miles west and 9.5 miles east of the Missoula VORTAC 172° radial extending from the VORTAC to 30 miles southeast of the VORTAC.

Missouri

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Missouri.

Mitchell, S. Dak.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mitchell Municipal Airport (latitude 43°46'25" N., longitude 98°02'30" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the Mitchell VOR 149° radial, extending from the VOR to 18½ miles southeast of the VOR; and within 4½ miles northeast and 9½ miles southwest of the Mitchell VOR 300° radial, extending from the VOR to 18½ miles northwest of the VOR;
and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the Mitchell VOR, lat. 43°46'37"N., long. 98°02'14"W., 149° radial, extending from the VOR to 18.5 miles southeast of the VOR; and within 4.5 miles northeast and 9.5 miles southwest of the Mitchell VOR [illegible]0° radial, extending from the VOR to 18.5 miles northwest of the VOR; and that airspace southwest of Mitchell within the area bounded on the east by V-159, on the south by V-148 and Nebraska/South Dakota state line, on the west by a line from lat. 43°00'00"N., long. 99°00'00"W., direct to lat. 44°00'00"N., long. 99°43'0[illegible]W., and on the north by the Pierre, S. Dak., 1,200 foot transition area and V-120.

Moab, Utah

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Canyonlands Field Airport, Moab, Utah, (lat. 38°45'34.3"N., long. 109°44'46.1"W.) and within 7 miles northeast and 10 miles southwest of the Moab VOR (lat. 38°45'23"N., long. 109°44'55"W.) 301° radial extending from the 10-mile radius area to 18.5 miles northwest of Moab, Utah; and that airspace extending upward from 1,200 feet above the surface bounded on the north by V-134, on the east by V-187W, on the south by V-244 and on the west by V-208, excluding the Price, Utah, and Grand Junction, Colo., transition areas and all Federal airways.

Moberly, Mo.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Omar N. Bradley Airport (lat. 39°27'50"N., long. 92°25'35"W.); and 3 miles either side of the 315° bearing from the airport extending from the 6.5-mile radius to 8 miles northwest of the airport; and 3 miles either side of the 126° bearing from the airport extending from the 6.5-mile radius to 8 miles southeast of the airport.

Mobile, Ala.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Bates Field (lat. 30°41'17.7"N., long. 88°14'26.6"W.); within an 8.5-mile radius of Brookley Airport (lat. 30°37'08.5"N., long. 88°03'57.2"W.); within 3.5 miles each side of Brookley VORTAC 157° radial, extending from the 8.5-mile radius area to 11 miles southeast of the VORTAC; within a 6.5-mile radius of Fairhope Municipal Airport (latitude 30°27'50" N., longitude 87°52'35" W.); within 2 miles each side of Brookley VORTAC 134° radial, extending from the 6.5-mile radius area to Brookley Airport 8.5-mile radius area.

Mocksville, N. C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Twin Lakes Airport (lat. 35°54'50"N., long. 80°27'20"W.); within 3 miles each side of the 275° bearing from the Davie RBN (lat. 35°54'48"N., long. 80°27'23"W.); extending from the 6-mile radius area to 8.5 miles west of the RBN.

AMENDMENTS 6/5/80 45 F. R. 32662 (Changed)

Modesto, Calif.

That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Modesto VOR 122° and 302° radials, extending from 18.5 miles northwest to 18.5 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 120°30'00" W., on the SE by a line extending from latitude 37°38'45" N., longitude 120°30'00" W., to latitude 37°25'00" N., longitude 120°48'00" W., on the S by latitude 37°25'00" N., on the W by V-109, and on the N by a line extending from the E boundary of V-109 through latitude 37°38'00" N., longitude 121°00'35" W., to latitude 37°45'45" N., longitude 120°30'00" W.

Mohall, N. Dak.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Mohall Municipal Airport (lat. 48°46'41"N., long. 101°32'20"W.) and within 2.5 miles each side of the 161° bearing from the Mohall Municipal Airport, extending from the 7.5-mile radius area to 9.5 miles southeast of the airport.

Moline, Ill.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Quad City Airport (latitude 41°26'56" N., longitude 90°30'34" W.); within 4½ miles north and 9½ miles south of the Quad City ILS localizer west course, extending from 1 mile east to 18½ miles west of the OM; within 5 miles either side of the Quad City ILS localizer east course extending from the 9-mile radius area to 16½ miles east of the airport; within a 6½-mile radius of Davenport Municipal Airport (latitude 41°36'40" N., longitude 90°35'20" W.); within 3 miles each side of the 224° bearing from the Cody RBN, extending from the 6½-mile radius area to 8 miles southwest of the RBN; and within 2 miles each side of the Davenport VOR 220° radial, extending from the 6½-mile radius area to the VOR.

Molokai, Hawaii

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Molokai Airport (latitude 21°09'25" N., longitude 157°05'55" W.), within 2 miles each side of the Molokai VORTAC 268° radial, extending from the 5-mile radius area to 8 miles west of the VORTAC and within 4 miles north and 2 miles south of the VORTAC 126° radial extending from the intersection of the Molokai VORTAC 126° and the Lanai, Hawaii, VORTAC 011° radials to a point 7 miles east of this intersection.

Moncks Corner, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Berkeley County Airport (lat. 33°11'13"N., long. 80°02'07"W.); within 3 miles each side of the 219° bearing from Moncks Corner RBN (lat. 33°11'27"N., long. 80°02'01"W.) extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

AMENDMENTS 11/21/80 45 F. R. 65196 (Rewritten)

Monee, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sanger Airport (latitude 41°22'39" N., longitude 87°41'03" W.); within 1½ miles either side of the 039° radial of the Peotone VORTAC extending from the 5-mile radius area to the VORTAC, excluding that portion that overlies the Chicago, Ill., transition area.

Monongahela, Pa.

That airspace extending upward from 700-feet above the surface within a 6.5-mile radius of the center, 40°12'40" N., 79°49'50" W., of Rostraver Airport, Monongahela, Pa., and within 2 miles each side of the Allegheny, Pa., VORTAC 113° radial extending from the 6.5-mile radius area to the VORTAC, excluding the portion which coincides with the Pittsburgh, Pa., transition area.

Monroe, La.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Monroe Regional Airport (lat. 32°30'37"N., long. 92°02'18"W.).

AMENDMENTS 9/4/80 45 F. R. 41906 (Rewritten)

Monroe, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Custer Airport (latitude 41°56'10" N., 83°26'15" W.); and within 2 miles each side of the Carleton, Mich., VORTAC 171° radial, extending from the 5-mile radius area to the VORTAC excluding the portion which overlies the Detroit, Mich. 700-foot floor transition area.

Monroe, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Monroe Airport (Lat. 35°01'13"N., Long. 80°37'08"W.) within 3 miles each side of the 057° bearing from the Wesley RBN (Lat. 35°01'25"N., Long. 80°37'01"W.), extending from the 6.5-mile radius to 8.5 miles northeast of the RBN.

Monroe, Wis.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Monroe Municipal Airport (latitude 42°36'57" N., longitude 89°35'26" W.).

Monroe City, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Monroe City, Mo. Airport (lat. 39°38'05"N., long. 91°43'40"W.) and within 4 miles each side of the 239° radial of the Quincy, Ill., VORTAC, extending from the 5-mile radius area to 8 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within the area southwest of the Quincy, Ill., VORTAC bounded on the north by the south edge of V-116, on the west by the east edge of V-175, and on the southeast by the northwest edge of V-63.

PENDING AMENDMENT

The Monroe City, Mo., transition area is amended by deleting the 700 foot portion and substituting the following:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Monroe City, Mo., Airport (lat. 39°38'05"N., long. 91°43'40"W.) and within 4 miles each side of the 239° radial of the Quincy, Ill., VORTAC, extending from the 5-mile radius area to 8 miles northeast of the airport; within 2.5 miles each side of the 090° bearing from the Monroe City, Mo., Airport extending from the 5-mile radius area to 7.5 miles east of the airport;

AMENDMENTS 12/25/80 45 F. R. 64171 (Changed)

Monroeville, Ala.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Monroeville County Airport (latitude 31°27'25" N., longitude 87°20'50" W.); within 3 miles each side of Monroeville VORTAC 039° and 201° radials, extending from the VORTAC to 9 miles northeast and south of the VORTAC.

Montague, Calif.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Siskiyou County Airport (latitude 41°46'55" N., longitude 122°28'00" W.); that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 6 miles west of the 180° and 356° bearings from the Montague RBN, extending from 8 miles north to 19 miles south of the RBN. Within 10 miles E and 7 miles W of the Siskiyou VOR (latitude 41°47'10" N., longitude 122°27'50" W.) 192° radial extending from 18 to 29 miles S of the VOR.

Monterey, Calif.

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Fritzsche AAF, Fort Ord, Calif. (latitude 36°40'55" N., longitude 121°45'40" W.), excluding the portion south of latitude 36°32'00" N.; within a 3-mile radius of Watsonville Municipal Airport (latiude 36°56'15" N., longitude 121°47'15" W.); within 3 miles each side of the Salinas VORTAC 330° radial, extending from the 3-mile radius area to the 13-mile radius of Fritzsche AAF and within 3 miles each side of the Watsonville localizer course extending from the 3-mile radius to 5 miles south of Runway 1 threshold of the Watsonville Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 37°05'00" N., long. 122°43'15" W., thence to lat. 37°08'45" N., long. 122°34'45" W., thence southeast via V-27 to lat. 37°00'00" N., thence to lat. 37°00'00" N., long. 121°29'30" W., thence to lat. 36°23'00" N., long. 121°03'20" W., thence to lat. 36°03'30" N., long. 121°29'00" W., thence southeast via V-27 to long. 121°03'00" W., thence to lat. 35°30'00" N., long. 121°03'00" W., thence to lat. 35°30'00" N., long. 121°37'00" W., to point of beginning; that airspace extending upward from 5,000 feet MSL bounded on the northwest by a line 12 miles southeast of and parallel to the Big Sur VOR 047° radial, on the northeast by V-25, on the south by a line extending from the southwest boundary of V-25 and latitude 35°33'00" N., to latitude 35°33'00" N., longitude 121°03'00" W., thence south to the northeast boundary of V-27 and longitude 121°03'00" W., and on the southwest by V-27.

Montevideo, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Montevideo Municipal Airport (latitude 44°58'15" N., longitude 95°42'40" W.); and within 3 miles each side of the 313° bearing from the Montevideo Municipal Airport extending from the 5-mile radius to 8 miles northwest of the airport.

Montgomery, Ala.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Dannelly Field (lat. 32°18'00"N., long. 86°23'36"W.); within a 9-mile radius of Maxwell Air Force Base (lat. 32°22'48"N., long. 86°21'55"W.).

Monticello, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Monticello Municipal Airport (latitude 33°38'10" N., longitude 91°45'10" W.).

Monticello, Indiana

That airspace extending upward from 700 feet above the surface within a 5-mile radius of White County Airport (latitude 40°42'30" N., longitude 86°46'00" W.) and within 3 miles each side of the 185° bearing from the airport extending from the 5-mile radius area to 8.5 miles south.

Monticello, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Monticello Municipal Airport (latitude 42°13'40" N., longitude 91°10'00" W.); and within 3 miles each side of the 135° bearing from Monticello Municipal Airport, extending from the 7-mile radius area to 10½ miles southeast of the airport.

Monticello, Ky.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wayne County Municipal Airport (lat. 36°51'22"N., long. 84°51'21"W.).

AMENDMENTS 7/15/80 45 F. R. 41400 (Added)

Monticello, N. Y.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 41°42'01" N., 74°47'59" W. of Sullivan County International Airport, Monticello, N. Y., extending clockwise from a 033° bearing to a 111° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 111° bearing to a 169° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 169° bearing to a 318° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 318° bearing to a 340° bearing from the airport; within an 11.5-mile radius of the center of the airport extending clockwise from a 340° bearing to a 033° bearing from the airport; and within 4.5 miles each side of the Sullivan County International Airport ILS localizer, 41°41'39" N., 74°47'16" W., northwest course, extending from the 6.5-mile, 8.5-mile and 11.5-mile radius areas to 11.5 miles northwest of the OM (41°45'59"N., 74°51'39"W.); within 4.5 miles each side of the Huguenot, N. Y., VORTAC 333° radial, extending from 5.5 miles northwest of the VORTAC to 22.5 miles northwest of the VORTAC; within a 5-mile radius of the center, 41°37'10"N., 74°42'10"W., of Monticello Airport, Monticello, N. Y., and within 2 miles each side of the Huguenot, N. Y., VORTAC 337° radial, extending from the 5-mile radius area to 9 miles northwest of the VORTAC.

Montpelier, Vt.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, lat. 44°12'15"N., long. 72°33'45"W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vt.; within 6.5 miles west and 5 miles east of the Montpelier VOR, lat. 44°12'41"N., long. 72°33'45"W., 163° radial extending from the 10-mile radius zone to 17.5 miles south of the VOR; within 4.5 miles each side of the Mount Mansfield NDB, lat. 44°23'11.8" N., long. 72°41'38.3"W., 332° and 152° bearing from the NDB, extending from the 10-mile radius zone to 10.5 miles northwest of the NDB, excluding that portion within the Morrisville, Vt., transition area.

Montrose, Colo.

That airspace extending upward from 700 feet above the surface within 6 miles northeast and 9.5 miles southwest of the Montrose VOR 313° and 133° radials extending from 7 miles southeast to 24.5 miles northwest of the VOR.

Mooreland, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mooreland Municipal Airport, Mooreland, Okla., (lat. 36°29'08"N., long. 99°11'39"W.) within 3.5 miles each side of the 359° bearing from the Mooreland NDB (lat. 36°29'04"N., long. 99°11'36"W.) extending from the 5-mile radius to 11.5 miles north of the airport.

Morgan City, La.

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Tibby, La., VORTAC 281° radial extending from 11.5 miles west of the VORTAC to 23 miles west of the VORTAC.

Morganton, N.C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Morganton-Lenoir Airport (lat. 35°49'20"N., long. 81°36'50"W.); within 3 miles each side of the 205° bearing from Fiddlers RBN (lat. 35°42'36"N., long. 81°40'17"W.), extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN; excluding the portion that coincides with the Hickory transition area.

Morgantown, W. Va.

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 39°38'34" N., long. 79°55'01" W. of Morgantown Municipal Airport-Walter L. Hart Field, Morgantown, W. Va., extending clockwise from a 205° bearing to a 030° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 030° bearing to a 055° bearing from the airport; within an 18-mile radius of the center of the airport, extending clockwise from a 055° bearing to a 065° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 095° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 095° bearing to a 157° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 205° bearing from the airport; within 5 miles each side of the Morgantown VORTAC 152° radial extending from the VORTAC to 9.5 miles southeast of the VORTAC and within 5 miles southwest and 7.5 miles northeast of the Morgantown VORTAC 334° radial, extending from the 11.5-mile radius arc to 22 miles northwest of the VORTAC.

Morrilton, Ark.

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Petit Jean Airport (lat. 35°08'15" N., long. 92°54'30" W.), and within 3.5 miles each side of the 216° bearing from the Morrilton RBN (lat. 35°07'07" N., long. 92°55'30" W.) extending from the 8.5-mile radius to 11.5 miles southwest of the RBN.

Morris, Minn.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Morris Municipal Airport (latitude 45°34'05" N., longitude 95°58'10" W.); and within 3 miles each side of the 138° bearing from the Morris Municipal Airport extending from the airport to 7 miles southeast of the airport.

Morristown, Tenn.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Moore-Murrell Airport (latitude 36°10'50" N., longitude 83°22'20" W.); within 4.5 miles northwest and 9.5 miles southeast of the 239° bearing from Morristown RBN (latitude 36°11'10" N., longitude 83°22'00" W.), extending from the 9.5-mile radius area to 18.5 miles southwest of the RBN.

Morrisville, Vt.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 44°32'10" N., long. 72°36'55" W. of Morrisville-Stowe State Airport, Morrisville, Vt., and within 3.5 miles each side of the 034° bearing and the 214° bearing from the Morrisville RBN lat. 44°35'13" N., long. 72°35'10" W., extending from the 5-mile radius area to 11.5 miles northeast of the RBN.

Moses Lake, Wash.

That airspace extending upward from 700 feet above the surface within a 19-mile radius of Grant County Airport (lat. 47°12'29"N., long. 119°19'05"W.), within a 19-mile radius of the Ephrata VORTAC (lat. 47°22'41"N., long. 119°25'22"W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 47°45'00"N., on the east by the arc of a 52-mile radius circle centered on Fairchild Air Force Base, Wash., (lat. 47°36'55"N., long. 117°39'20"W.), on the southeast by V-112W, on the south by V-298 and on the west by long. 120°00'00"W.

Moses Point, Alaska

That airspace extending upward from 1,200 feet above the surface within 5 miles N and 10 miles S of the Moses Point VOR 088° and 268° radials, extending from 11 miles W to 15 miles E of the VOR.

Mosinee, Wis.

The airspace extending upward from 700 feet above the surface within a 10-mile radius of Central Wisconsin Airport (latitude 44°46'35" N., longitude 89°40'00" W.); within 5 miles each side of the 087° bearing from Central Wisconsin Airport, extending from the 10-mile radius area to 13 miles east of the airport; and within 5 miles each side of the 242° bearing from Central Wisconsin Airport, extending from the 10-mile radius area to 12 miles southwest of the airport, excluding the portion which overlies the Wausau, Wis., transition area.

Moultrie, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Moultrie-Thomasville Airport (lat. 31°04'58" N., long. 83°48'15" W.); within an 8.5-mile radius of Thomasville Municipal Airport (lat. 30°54'05" N., long. 83°53'00" W.); within an 8.5-mile radius of Spence AF Auxiliary Field (lat. 31°08'15" N., long. 83°42'15" W.).

Mountain Home, Idaho

That airspace extending upward from 700 feet above the surface within 10 miles northeast and 9 miles southwest of the Mountain Home AFB TACAN (latitude 43°02'26" N., longitude 115°52'22" W.) 135° and 315° radials, extending from 18 miles southeast to 18 miles northwest of the TACAN and that airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Mountain Home Municipal Airport (lat. 43°07' 54.8"N., long. 115°43'43.9"W.), thence extending east of the radius 3.5 miles each side of the Sturgeon (STI) NDB 112° bearing to a point 8.5 miles east of STI NDB; that airspace extending upward from 1,200 feet above the surface bounded on the north and northeast by the southwest edge of V-253, on the southeast, south, and west by the arc of a 46-mile radius circle centered on Mountain Home AFB (latitude 43°02'35" N., longitude 115°52'05" W.), on the northwest by the southeast edge of V-113; that airspace southeast of Mountain Home AFB extending upward from 6,500 feet MSL, bounded on the northwest by the 46-mile arc, on the northeast by the southwest edge of V-253, on the south by latitude 42°24'00" N. to the 46-mile arc.

AMENDMENTS 7/10/80 45 F. R. 27747 (Changed)

Mountain View, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mills Memorial Airport (lat. 36°59'33"N., long. 91°42'42"W.); and within 3 miles each side of the 106° bearing from the Mills Memorial Airport, extending from the 5-mile radius area to 8 miles east of the airport.

Mount Airy, N. C.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Mount Airy-Surry County Airport (latitude 36°27'30" N., longiutde 80°33'08" W.); excluding that portion that coincides with the Elkin transition area.

Mount Comfort, Ind.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mount Comfort Airport (lat. 39°50'26"N., long. 85°54'04"W.), excluding the portion within the Indianapolis, Ind., transition area.

Mount Pleasant, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mount Pleasant Municipal Airport (latitude 40°56'45" N., longitude 91°30'30" W.); and within 3 miles each side of the 140° bearing from Mount Pleasant Municipal Airport extending from the 5-mile radius area to 8 miles southeast of the airport.

Mt. Pleasant, Mich.

That airspace extending upward from 700 feet above the surface within a 4-mile radius of Mt. Pleasant, Mich., Airport (lat. 43°37'00"N., long. 84°44'00"W.); and within 2 miles each side of the 093° bearing from Mt. Pleasant, Mich., Airport extending from the 4-mile radius area to 8 miles E of the airport.

Mount Pleasant, Tenn.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Maury County Airport (latitude 35°33'15" N., longitude 87°10'50" W.); within 9.5 miles southeast and 4.5 miles northwest of the 060° and 227° bearings from Maury County RBN (latitude 35°33'20" N., longitude 87°10'57" W.), extending from the 9.5-mile radius area to 18.5 miles northeast and southwest of the RBN.

Mt. Pleasant, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Mt. Pleasant Municipal Airport (latitude 33°07'45.4" N., longitude 94°58'31.3" W.) and within 3.5 miles each side of the Quitman, Tex., VORTAC 052° radial extending from the 8.5-mile radius area to a point 10.5 miles southwest of the airport.

Mount Pocono, Pa.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 41°07'40"N., 75°22'20"W., of Mount Pocono Airport, Mount Pocono, Pa., within 2 miles each side of the 333° bearing from the Tobyhanna RBN (41°12'15"N., 75°25'20"W.) extending from the RBN to 7.5 miles northwest of the RBN.

Mt. Sterling, Ky.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Mt. Sterling-Montgomery County Airport (lat. 38°03'35"N., long. 83°58'50"W.); within 2.5 miles either side of the Lexington VORTAC 077° radial from the 5.5-mile radius to 9.5 miles west of the airport.

AMENDMENTS 3/20/80 45 F. R. 3256 (Changed)

Mount Vernon, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Mount Vernon-Outland Airport (latitude 38°19'23" N., longitude 88°51'33" W.); within 5 miles each side of the the Mount Vernon VOR 044° radial extending from the 7-mile radius area to 11.5 miles northeast of the VOR.

Muleshoe, Tex.

That airspace extending upward from 700 feet above the surface within a 9-statute mile radius of Edward Warren Field (latitude 34°14'00" N., longitude 102°42'30" W.).

Mullan Pass, Idaho

That airspace extending upward from 8,500 feet MSL within 6 miles N and 9 miles S of the Mullan Pass VORTAC 095° and 275° radials, extending from 8 miles E to 15 miles W of the VORTAC.

Mullin, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Smokey Bend Ranch Airport (lat. 31°28'15"N., long. 98°42'03.5"W.), and within 3.5 miles each side of the 163° bearing from the NDB (lat. 31°28'24.01"N., long. 98°41'58.8"W.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 7/10/80 45 F. R. 26033 (Added)

Muncie, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Delaware County-Johnson Field (latitude 40°14'26" N., longitude 85°23'43" W.) within 3 miles each side of the Muncie VOR 136° radial, extending from the 7-mile radius area to 13.5 miles southeast of the VOR; within 3 miles each side of th Muncie VOR 125° radial, extending from the 7-mile radius area to 8 miles southeast of the VOR; within 3 miles each side of the Muncie VOR 017° radial, extending from the 7-mile radius area to 8 miles north of the VOR; and within 3½ miles each side of the Muncie VOR 320° radial, extending from the 7-mile radius area to 10 miles northwest of the VOR.

Murray, Ky.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Murray-Calloway County Airport (latitude 36°40'04" N., longitude 88°22'06" W.); within 3 miles each side of the 033° bearing from Calloway RBN (latitude 36°39'49" N., longitude 88°22'03" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Muscatine, Iowa

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Muscatine Municipal Airport (latitude 41°22'00" N., longitude 91°08'40" W.).

Muscle Shoals, Ala.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Muscle Shoals Airport (latitude 34°44'41" N., longitude 87°36'38" W.); within 3 miles each side of Muscle Shoals VOR 114° radial, extending from the 11-mile radius area to 8.5 miles east of the VOR.

Muskegon, Mich.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Muskegon County Airport (lat. 43°10'16" N., long. 86°14'09" W.); within a 7-mile radius of the Grand Haven Memorial Airpark (lat. 43°02'00" N., long. 86°12'00" W.), Grand Haven, Mich.; within 4.5 miles southwest and 9.5 miles northeast of the Muskegon County Airport ILS localizer southeast course, extending from the 10-mile radius area to 18.5 miles southeast of the OM; within 4 miles each side of the Muskegon VORTAC 092° radial, extending from the VORTAC to 11.5 miles east of the VORTAC; and within 4½ miles each side of the Muskegon County Airport runway 14 centerline extended to the northwest, extending from the 10-mile radius area to 17 miles northwest of the Muskegon County Airport ILS OM.

Muskogee, Okla.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Davis Field, Muskogee, Okla. (latitude 35°39'25" N., longitude 95°21'40" W.); and within 10 miles southwest and 5 miles northeast of the Muskogee VOR 137° T (130° M) radial extending from the VOR to 20 miles southeast.

Myrtle Beach, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Grand Strand Airport (latitude 33°48'40" N., longitude 78°43'30" W.); within an 8.5-mile radius of Myrtle Beach AFB (latitude 33°40'45" N., longitude 78°55'45" W.).

V 46/1 JA 2 81 UMI

Nacogdoches, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of East Texas Regional Airport (latitude 31°34'35" N., longitude 94°42'25" W.), within 2.5 miles each side of the Lufkin VORTAC 001° radial extending from the 5-mile radius area to 17 miles north of the VORTAC, and within 3.5 miles each side of the 339° and 159° bearings from the Nacogdoches RBN (latitude 31°38'01" N., longitude 94°44'01" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Nantucket, Mass.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Nantucket Memorial Airport, Mass., (lat. 41°15'15"N., long. 70°03'40"W.); within 2 miles each side of the Nantucket VORTAC 045° radial. extending from the 6-mile radius to 10 miles NE of the VOR.

AMENDMENTS 5/15/80 45 F. R. 17948 (Rewritten)

Naples, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Naples Municipal Airport (lat. 26°09'10"N., long. 81°46'30"W.); within 3 miles each side of the 049° and 220° bearings from the Naples RBN (lat. 26°09'20"N., long. 81°46'26"W.), extending from the 6.5-mile radius area to 8.5 miles northeast and southwest of the RBN.

AMENDMENTS 10/12/80 45 F. R. 59838 (Changed)

Napoleon, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Henry County Airport (lat. 41°22'27"N., long. 84°04'05"W.) excluding that portion within the Toledo, Ohio, transition area.

Nappanee, Ind.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Nappanee Municipal Airport (latitude 41°26'45" N., longitude 85°56'00" W.); and within 2 miles each side of the 138° radial of the Goshen, Ind., VORTAC extending from the 5½-mile radius area to 14 miles southeast of the VORTAC excluding the airspace which overlies the Goshen, Ind., transition area.

Nashville, Tenn.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Nashville Metropolitan Airport (lat. 36°07'36" N., long. 86° 40'50" W.); the airspace south bounded on the north by the arc of a 14-mile radius circle centered on Nashville Metropolitan Airport; on the northeast by the arc of an 8.5-mile radius circle centered on Smyrna Airport; on the south by the arc of a 17.5-mile radius circle centered on Nashville Metropolitan Airport, and on the west by Nashville VOR 205° radial; within an 8.5-mile radius of Smyrna Airport (lat. 36°00'33" N., long. 86°31' 13" W.); within 3 miles each side of Nashville VORTAC 131° radial, extending from the 8.5-mile radius area to 21.5 miles southeast of the VORTAC; within 3 miles each side of the 138° bearing from Sewart RBN (lat. 35°57'19" N., long. 86°27'45" W.), extending from the 8.5-mile radius area to 8.5 miles southeast of the RBN; within an 8-mile radius of Gallatin Municipal Airport (lat. 36°22'45" N., long. 86°24'30" W.); within an 8-mile radius of Lebanon Municipal Airport (lat. 36°11'22" N., long. 86°18'55" W.); within an 8-mile radius of Murfreesboro Municipal Airport (lat. 35°52'32" N., long. 86°22'45"W.); within 3 miles each side of the 007° bearing from Lascassas RBN (lat. 35°52'18" N., long. 86°22'37" W.), extending from the 8-mile radius area to 8.5 miles north of the RBN.

Natchez, Miss.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hardy-Anders Field (latitude 31°36'50" N., longitude 91°17'55" W.); within 3 miles each side of Natchez VOR 020° radial, extending from the 7-mile radius area to 8.5 miles north of the VOR.

Natchitoches, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Natchitoches Municipal Airport (lat. 31°44'15"N., long. 93°05'45"W.) and within 3 miles each side of the 176° bearing from the NDB (lat. 31°44'05"N., long. 93°05'41"W.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 5/15/80 45 F. R. 16169 (Rewritten)

Navasota, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Navasota Municipal Airport, Navasota, Tex. (lat. 30°22'23"N., long. 96°06'48"W.).

AMENDMENTS 1/24/80 44 F. R. 68451 (Added)

Nebraska

That airspace extending upward from 1,200 feet above the surface within the State of Nebraska.

Needles, Calif.

That airspace extending upward from 1,200 feet above the surface within 9 miles south and 13 miles north of the Needles VORTAC 092° and 272° radials, extending from 11 miles west to 24 miles east of the VORTAC.

Neillsville, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Neillsville Municipal Airport (lat. 44°33'16"N., long. 90°30'43"W.) and within 3 miles each side of the 092° bearing from the Neillsville Airport, extending from the 5-mile radius area to 8 miles east of the airport.

Nenana, Alaska

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Nenana Airport (latitude 64°32'56" N., longitude 149°04'24" W.); and within 4 miles each side of the 132° bearing from the Julius RBN extending from the 5-mile radius area to 10.5 miles southeast of the RBN.

Neodesha, Kans.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Neodesha, Kans., Municipal Airport, excluding that portion which coincides with the Parsons, Kans., transition area.

Neosho, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Neosho Memorial Airport (lat. 36°48'35"N., long. 94°23'15"W.) and within 2 miles each side of Neosho, Mo., VOR 310° radial, extending from the 5-mile radius area to 8 miles northwest of the VOR; and within 2½ miles each side of the 012° bearing from the Neosho Memorial Airport extending from the 5-mile radius area to 6 miles north of the airport.

Nevada, Mo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Nevada Municipal Airport (lat. 37°51'10"N., long. 94°18'05"W.); and within 3 miles each side of the 037° bearing from the Nevada Municipal Airport extending from the 7-mile radius area to 8 miles northeast of the airport.

New Bern, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Simmons-Nott Airport (lat. 35°04'20"N., long. 77°02'35"W.).

Newberry, Mich.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Luce County Airport (latitude 46°18'30" N., longitude 85°27'00" W.); within 3 miles each side of the 301° bearing from Luce County Airport, extending from the 6½-mile radius to 8 miles northwest of the airport; and within 3 miles each side of the 103° bearing from Luce County Airport, extending from the 6½-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the 301° bearing from Luce County Airport, extending from the airport to 18½ miles northwest of the airport; and within 4½ miles north and 9½ miles south of the 103° bearing from Luce County Airport, extending from the airport 18½ miles east of the airport, excluding the portion which overlies the Sault Ste. Marie, Mich., transition area.

Newberry, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Newberry Municipal Airport (lat. 34°18'40" N., long. 81°38'20" W.); within 3 miles each side of the 031° bearing from the Enoree RBN (lat. 34°18'41" N., long. 81°38'10" W.), extending from the 6.5-mile radius to 8.5 miles northeast of the RBN.

New Braunfels, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of New Braunfels Municipal Airport (lat. 29°42'10" N., long. 98°02'30" W.) and south of a line extending from the 5-mile radius area east along the San Antonio, Tex., VORTAC 070° radial to the 39-nautical mile DME fix and north of a line extending from the 5-mile radius area east along the San Antonio VORTAC 069° radial to the 39-nautical mile DME fix.

V46/1 JA2, 81 UMI

Newburgh, N. Y.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41°30'10" N., 74°06'11" W., of Stewart Airport, Newburgh, N. Y., extending clockdise from a 222° bearing to a 332° bearing from the airport; within an 11.5-mile radius of the center of Stewart Airport, extending clockwise from the 332° bearing to a 045° bearing from the airport; within an 8.5-mile radius of the center of Stewart Airport, extending clockwise from a 045° bearing to a 076° bearing from the airport, within a 10-mile radius of the center of Stewart Airport, extending clockwise from a 076° bearing to a 130° bearing from the airport; within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 130° bearing to a 159° bearing from the airport; within a 14.5-mile radius of the center of Stewart Airport, extending clockwise from a 159° bearing to a 191° bearing from the airport, within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 191° bearing to a 222° bearing from the airport; within 3.5 miles each side of the Stewart VOR (41°30'30" N., 74°05'51" W.) 325° radial, extending from the Stewart VOR to 18.5 miles northwest of the Stewart VOR; within 5 miles each side of the Stewart VOR 085° radial, extending from the Stewart VOR to 13 miles east of the Stewart VOR; within 5 miles each side of the Huguenot VORTAC 074° radial extending from the Huguenot VORTAC to 20 miles east of the Huguenot VORTAC; within a 7-mile radius of the center, 41°30'41" N., 74°15'51" W of Orange County Airport, Montgomery, N. Y., extending clockwise from a 332° bearing to a 074° bearing from the airport; withih a 7.5-mile radius of the center of Orange County Airport, extending clockwise from a 074° bearing to a 161° bearing from the airport; within an 8-mile radius of the center of Orange County Airport, extending clockwise from a 161° bearing to a 228° bearing from the airport within a 9-mile radius of the center of Orange County Airport, extending clockwise from a 228° bearing to a 332° bearing from the airport; within 4.5 miles each side of the Orange County Airport ILS localizer south course extending from the OTIMS LOM (41°26'42"N., 74°17'33"W.) to 10.5 miles south of the LOM; within a 6-mile radius of the center, 41°25'54"N., 74°23'45"W., of Randall Airport, Middletown, N. Y., extending clockwise from a 015° bearing to a 128° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 128° bearing to a 167° bearing from the airport; within a 6-mile radius of the center of Randall Airport, extending clockwise from a 167° bearing to a 227° bearing from the airport; within a 7-mile radius of the center of Randall Airport, extending clockwise from a 227° bearing to a 309° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 309° bearing to a 015° bearing from the airport; and within 2 miles each side of the Huguenot VORTAC 082° radial, extending from the Huguenot VORTAC to 10 miles east of the Huguenot VORTAC, within 8 miles south and 3.5 miles north of a 081° bearing from the OTIMS LOM, extending from the [illegible] to 11.5 miles east of the LOM.

Newbury[illegible] Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Plum Island Airport (lat. 42°47'45"N., long. 70°50'30"W.) extending 2 miles either side of the centerline of the Lawrence VOR 073° radial extending from the 5-mile radius area to the Lawrence VOR, excluding that portion which coincides with the Boston and Haverhill. Mass.. 700 foot transition areas.

AMENDMENTS 10/30/80 45 F. R. 62794 (Rewritten)

New Castle, Ind.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sky Castle Airport (lat. 39°52'34"N., long. 85°19'37"W.); and within 3 miles either side of a 260° bearing from the airport, extending from the 6-mile radius to 8 miles west of the airport.

New Castle, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center lat. 41°01'30"N., long. 80°24'45"W., of New Castle Municipal Airport, New Castle, Pa., within 3 miles each side of the 035° bearing of the New Castle, Pa., NDB, lat. 41°01'25"N., long. 80°24'54"W., extending from the 5-mile radius area to 8.5 miles northeast of the NDB, excluding that portion which overlies the Youngstown, Ohio, 700-foot floor transition area.

Newcastle, Wyo.

That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Newcastle VOR (latitude 43°52'54" N., longitude 104°18'26" W.), 154° and 334° radials extending from 6 miles northwest to 18.5 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the north by the north edge of V-86, on the east by an arc of a 53-mile radius circle centered on Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.), on the south by the north edge of V-26, on the west by a line 5 miles west of and parallel to the Newcastle VOR 360° radial, excluding the airspace within a 3-mile radius of Schloredt, Wyoming Airport (latitude 44°23'30" N., longitude 104°24'30" W.).

Newgulf, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Newgulf Airport (lat. 29°16'00" N., long. 95°53'00" W.) and within 3 miles each side of the Eagle Lake, Tex., VORTAC 136° radial extending from the 5-mile radius area to 30.5 miles southeast of the Eagle Lake VORTAC.

New Hampshire

That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of New Hampshire, including offshore airspace beginning at lat. 42°56'00"N., long. 70°34'00"W.; to lat. 42°56'00"N., long. 70°25'00"W.; to lat. 42°43'15"N., long. 70°25'00"W.; to lat. 42°41'20"N., long. 70°30'00"W.; to lat. 42°52'00"N., long. 70°45'00"W., thence via State territorial boundaries to point of beginning.

New Jersey

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of New Jersey including the offshore airspace within 3 nautical miles east of and parallel to the shoreline; that airspace east of Long Branch, NJ., bounded by latitude 40°17'30" N., longitude 73°54'45" W., to latitude 40° 1[illegible]'58" N., longitude 73°19'00" W.; to latitude 39°58'40" N., longitude 73°38'35" W., to latitude 39°37' [illegible]" N., longitude 74°07'00" W., thence north along that line 3-NM east and parallel to the State of New Jersey horeline to latitude 40°17'30"N., longitude 73°54'45"W.

ENDMENTS 5/15/80 45 F. R. 17948 (Changed)

w Madrid, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of County Memorial Airport (lat. 36°32'10"N., long. 89°35'50"W.); within 2.5 miles each side of the 360° bearing from Runway 18, extending from the 5-mile radius area to 6 miles north of the airport; within 3 miles each side of the 008° bearing from the New Madrid NDB (lat. 36°32'11"N., long. 89°36'06"W.) extending from the 5-mile radius area to 8.5 miles north of the airport; and within 2 miles each side of the Malden, Mo., VOR 94° radial, extending from the 5-mile radius area to 8 miles east of the VOR, excluding the portion which overlies the Malden, Mo., transition area.

AMENDMENTS 1/24/80 44 F. R. 65389 (Rewritten)

New Mexico

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of New Mexico, excluding that airspace north of a line beginning on the Arizona/New Mexico State line at lat. 35° 31'00" N., thence to lat. 35°52'00" N., long. 108°47'00" W., to lat. 35°47'30" N., long. 108° 34'00" W., thence along long. 108°34'00" W. to and along the north boundary of V-291N to and clockwise along the arc of a 46-mile radius circle centered at the Albuquerque VORTAC to lat. 35°37'35" N., long. 106°24'48" W., to lat. 35° 47'00" N., long. 106°15'00" W., to lat. 35°47'00" N., long. 106°12'30" W., to lat. 36°05'35" N., long. 106°09'50" W., to lat. 36°03'40" N., long. 105° 52'20" W., to lat. 35°47'00" N., long. 105°54'40" W., to lat. 35°47'00" N., long. 105°50'00" W., thence along long. 105°50' 00" W. to and along the north boundary of V-19 to long. 105°16'30" W., to lat. 36°00'00" N., long. 105°07' 00" W., thence along lat. 36°00'00" N., to and along the north boundary of V-190 to the New Mexico/Texas State line, excluding R-5101, R-5107B, and the portion of R-5107A north of lat. 32°18'00" N., excluding that airspace bounded by a line beginning on the Arizona/New Mexico State line at lat. 34°18'00" N., thence to the south boundary of V-264 at long. 108°54'00" W., thence along the south boundary of V-264 to and south along long. 1[illegible]7°00'00" W. to and along the northwest boundary of V-19 to lat. 33°35'00" N., to lat. 33°35'00" N., long. 107°20'00" W., to the northwest boundary of V-202 at long. 107°25'00"W., thence along the northwest boundary of V-202 to lat. 32°59'00" N., to lat. 32°35'00" N., long. 108°37'00" W., to the Arizona/New Mexico State line [illegible] lat. 32°25'00"N., thence along the State line to point of beginning, excluding that airspace south of V-66.

wnan, Ga.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Newnan-Coweta County Airport (lat. 33°19'06"N., long. 84°46'18"W.); within 2.5 miles each side of LaGrange VORTAC 053° radial, extending from the 5-mile radius area to 19.5 miles northeast of the VORTAC; within 3 miles each side of the 130° bearing from Coweta RBN (lat. 33°18'31"N., long. 84°46'22"W.), extending from the 5-mile radius area to 8.5 miles SE of the RBN.

New Orleans, La.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 30°06'25" N., longitude 90°16'35" W.; to latitude 30°08'20" N., longitude 90°02'30" W.; thence clockwise along the arc of a 7-mile radius circle centered at the New Orleans Airport (latitude 30°02'20" N., longitude 90°01'25" W.); to latitude 30°02'20" N., longitude 89°54'20" W.; to latitude 29°49'40" N., longitude 89°54'20" W.; thence clockwise along the arc of a 7-mile radius circle centered at NAS New Orleans-Alvin Callender Field (latitude 29°49'40" N., longitude 90°01'25" W.); to latitude 29°44'45" N., longitude 90°05'25" W.; to latitude 29°53'45" N., longitude 90°20'00" W.; thence clockwise along the arc of an 8-mile radius circle centered at New Orleans International-Moisant Field (latitude 29°59'25" N., longitude 90°15'15" W.); to point of beginning; and within 2 miles each side of the Harvey VOR 053° radial extending from the VOR to 8 miles NE.

New Philadelphia, Ohio

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Harry Clever Field (latitude 40°28'15" N., longitude 81°25'10" W.).

Newport, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Newport Municipal Airport (lat. 35°38'25" N., long. 91°10'55" W.), and within 3.5 miles each side of the 163° bearing from the Newport RBN (lat. 35°38'30" N., long. 91°10'00" W.) extending from the 6.5-mile radius area to 11.5 miles south of the RBN.

Newport, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Newport Municipal Airport (lat. 44°34'45" N., long. 124°03'24" W.); within 2 miles each side of the Newport VORTAC 005° radial, extending from the 5-mile radius area to 10 miles N of the VORTAC; within 2 miles each side of the Newport VORTAC 044° radial, extending from the 5-mile radius area to 13 miles NE of the VORTAC; and within 3 miles each side of the Newport VORTAC 341° radial, extending from the 5-mile radius area to 8 miles N of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within lines 5 miles each side of the Newport VORTAC 237° radial including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines extending from the VORTAC to a line extending through lat. 44°35'00" N., long. 124°17'30" W., and lat. 44°22'00" N., long. 124°13'25" W., and that airspace within 5 miles E and 10 miles W of the Newport VORTAC 341° radial, extending from the VORTAC to 19 miles N and that airspace within the area bounded by the arcs of 16- and 20-nautical-mile radius circles centered on the Newport VORTAC extending clockwise from the VORTAC 335° radial to the VORTAC 335° radial; including additional airspace within the area bounded by the arcs of 11- and 17-nautical mile radius circles centered on the Newport VORTAC extending clockwise from the VORTAC 200° radial to the VORTAC 220° radial.

AMENDMENTS 10/30/80 45 F. R. 57372 (Changed)

Newport, Vt.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 44°53'22"N., long. 72°13'48"W., of Newport State Airport, Newport, Vt., within 3 miles each side of the 029° bearing from the Newport, Vt., NDB extending from the 5-mile radius area to 8 miles northeast of the NDB, excluding the portion overlying Canada.

AMENDMENTS 10/2/80 45 F. R. 57372 (Rewritten)

New Port Richey, Fla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the West Pasco Airport (lat. 28°11'15" N., long. 83°37'50" W.); excluding the portion within a 1-mile radius of Torri Field (lat. 28°08'17" N., long. 82°40'30" W.).

New Richmond, Wis.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the New Richmond Municipal Airport, New Richmond, Wis. (lat. 45°08'46"N., long. 92°32'29"W.), and 3 statute miles either side of the 314°T bearing from the RNH NDB (lat. 45°08'33"N., long. 92°32'29"W.), extending from the 6.5-statute-mile radius area out to 7.5 statute miles, excluding that portion that overlies the Osceola, Wis., transition area.

AMENDMENTS 7/10/80 45 F. R. 31054 (Added)

New Smyrna Beach, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of New Smyrna Beach Airport (lat. 29°03'15" N., long. 80°56'54" W.); excluding that portion that coincides with the Daytona Beach transition area.

Newton, Iowa

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Newton, Iowa, Airport (lat. 41°40'04"N., long. 93°01'25"W.).

AMENDMENTS 10/30/80 45 F. R. 59837 (Rewritten)

Newton, Kans.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Newton Municipal Airport (latitude 38°03'20" N., longitude 97°16'35" W.).

New Town, N. D.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the New Town Municipal Airport (lat. 47°57'59"N., long. 102°28'36"W.) and within 3 miles each side of the 142° bearing from the New Town NDB (lat. 47°58'15"N., long. 102°28'40"W.) extending from the 5-mile radius to 8.5 miles southeast of the New Town NDB, and that airspace extending upward from 1,200 feet above the surface bounded on the east by the Minot, N. D., 1,200 foot transition area and long. 102°00'00"W., on the south and west by V-71, on the north by V-430 excluding the Williston, N. D., 1,200 foot transition area.

New Ulm, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of New Ulm Municipal Airport (latitude 44°19'15" N., longitude 94°30'05" W.); and within 2 miles each side of the 307° bearing from New Ulm Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

New York, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 40°38'25" N., 73°46'41" W., of John F. Kennedy International Airport, New York, N. Y., extending clockwise from a 035° bearing to a 065° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 228° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 244° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 290° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 338° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 338° bearing to a 035° bearing from the airport; within 3 miles each side of the Canarsie, N. Y., VOR 210° radial, extending from the Canarsie, N. Y., VOR to 4 miles southwest of the VOR; within a 9-mile radius of the center, 40°46'36" N., 73°52'24" W., of LaGuardia Airport, New York, N. Y., extending clockwise from a 029° bearing to a 080° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 080° bearing to a 117° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 117° bearing to a 243° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 243° bearing to a 320° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 029° bearing from the airport; within 3.5 miles each side of the LaGuardia, N. Y., VOR 038° radial, extending from the LaGuardia, N. Y., VOR to 9 miles northeast of the VOR; within 4.5 miles northwest and 6.5 miles southeast of a 027° bearing and a 207° bearing from a point 40°36'21" N., 74°04'34" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within 3 miles northwest and 5.5 miles southeast of 229° bearing from a point 40°56'27"N., 73°38'43"W., extending from said point to 8.5 miles southwest of said point; within a 10-mile radius of the center, 40°50'57"N., 74°03'47"W., of Teterboro Airport, Teterboro, N. J., extending clockwise from a 047° bearing to a 077° bearing from the airport; within a 8.5-mile radius of the center of the airport, extending clockwise from a 077° bearing to a 241° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 253° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 047° bearing from the airport; within 9.5 miles northwest and 4.5 miles southeast of the Teterboro Airport ILS localizer southwest course, extending from the OM to 18.5 miles southwest of the OM; within a 9-mile radius of the center, 40°41'40" N., 74°10'02" W., of Newark International Airport, Newark, N. J.

Extending clockwise from a 011° bearing to a 071° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 123° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 123° bearing to a 150° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 150° bearing to a 232° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 255° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 255° bearing to a 011° bearing from the airport; within 2.5 miles each side of a 105° bearing from a point 40°45'24" N., 74°30'48" W., extending from the 12-mile radius area to 4 miles east of said point; within 5 miles each side of a 098° bearing from the Chatham, N. J., RBN, extending from the 12-mile radius area to 2 miles east of the Chatham, N. J., RBN; within a 10-mile radius of the center, 40°47'58" N., 74°24'56" W., of Morristown Municipal Airport, Morristown, N. J., extending clockwise from a 022° bearing to a 116° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 116° bearing to a 225° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 264° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 264° bearing to a 335° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 022° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Morristown Municipal Airport ILS localizer northeast course, extending from 5.5 miles southwest of the OM to 11.5 miles northeast of the OM; within 9.5 miles southeast and 4.5 miles northwest of the Morristown Municipal Airport ILS localizer northeast course, extending from the OM to 18.5 miles northeast of the OM; within 9.5 miles northwest and 4.5 miles southeast of a 204° bearing from the Chatham, N. J., RBN, extending from the Chatham, N. J., RBN to 18.5 miles southwest of the RBN; within 5 miles each side of the Solberg, N. J., VORTAC 067° radial, extending from the Solberg, N. J., VORTAC to 10.5 miles northeast of the VORTAC; within 5 miles each side of the Morristown Municipal Airport ILS localizer southwest course, extending from the localizer to 14.5 miles southwest of the localizer; within a 5.5-mile radius of the center, 40°31'30" N., 74°35'52" W., of Kupper Airport, Manville, N. J.

Extending clockwise from a 064° bearing to a 331° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 331° bearing to a 064° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Solberg, N. J., VORTAC 298° radial and 118° radial, extending from 5.5 miles southeast to 11.5 miles northwest of the VORTAC; within a 7-mile radius of the center, 40°52'24"N., 74°17'00"W., of Essex County Airport, Caldwell, N. J., extending clockwise from a 062° bearing to a 149° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 149° bearing to a 267° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 267° bearing to a 346° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 346° bearing to a 062° bearing from the airport; within 3.5 miles each side of a 276° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 11.5 miles west of said point; within 5 miles each side of a 281° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 13.5 miles west of said point; within 9.5 miles northwest and 4.5 miles southeast of a 054° bearing from the Paterson, N. J., RBN, extending from the RBN to 18.5 miles northeast of the RBN; within a 6-mile radius of the center, 40°41'28" N., 74°32'08" W., of Somerset Hills Airport, Basking Ridge, N. J., extending clockwise from a 035° bearing to a 162° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 162° bearing to a 217° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 217° bearing to a 287° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 287° bearing to a 035° bearing from the airport; within 8 miles northwest and 4.5 miles southeast of a 058° bearing and a 238° bearing from the Chatham, N. J., RBN, extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of the Sparta, N. J., VORTAC 062° radial, extending from 23 miles east of the VORTAC

New York, N. Y., transition area continued on next page.

to 38 miles east of the VORTAC; within an 8.5-mile radius of the center, 40°37'30" N., 74°40'30" W., of Somerset Airport, Somerville, N. J.

Extending clockwise from a 044° bearing to a 138° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 138° bearing to a 274° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 312° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 044° bearing from the airport, within 8 miles southeast and 4.5 miles northwest of the Solberg, N. J., VORTAC 050° and 230° radials, extending from 5.5 miles northeast of the VORTAC to 11.5 miles southwest of the VORTAC; within 4 miles each side of a 015° bearing from a point 40°28'13"N., 74°01'11"W., extending from said point to 6 miles north of said point; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°19'00"N., 74°00'00"W., to 41°12'00"N., 74°00'00"W., to 41°11'00"N., 74°09'00"W., to 41°08'10"N., 74°13'00"W., thence northwesterly along the boundary of the State of New Jersey to 41°17'45"N., 74°33'15"W., to 41°19'00"N., 74°33'00"W., to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 40°30'00"N., 73°36'00"W.; thence east along 40°30'00"N., to the northwest edge of V-139, thence southwest along the northwest edge of V-139 to 40°12'55"N., 73°19'00"W.; to 40°17'30"N., 73°54'45"W., to 40°17'00" N., 73°58'00" W., to 40°24'00" N., 73°58'00" W., to 40°29'00" N., 74°16'00" W., to 40°32'00" N., 74°16'00" W., to 40°41'00" N., 74°11'45" W., to 40°32'00" N., 73°49'00" W., to 40°32'00" N., 73°45'00" W., to 40°33'00" N., 73°41'00" W., to 40°41'00" N., 73°39'00" W., to 40°55'00" N., 73°50'00" W., to 40°55'00" N., 73°58'00" W., to 41°00'00" N., 73°54'00" W., to 41°00'00" N., 73°33'00" W., to 40°50'00" N., 73°42'00" W., to 40°41'00" N., 73°33'30" W., to the point of beginning. The airspace within W-106 below 3,000 feet MSL is is excluded.

AMENDMENTS 6/5/80 45 F. R. 37811 (Changed)

Nogales, Ariz.

That airspace extending upward from 700 feet above the surface within a five-mile radius of Nogales International Airport (latitude 31°25'00" N., longitude 110°50'55" W.), within 4.5 miles S and 9.5 miles N of the Nogales VOR 289° radial, extending from the VOR to 18.5 miles W of the VOR and within four miles each side of the Nogales VOR 329° radial, extending from the VOR to 21 miles NW of the VOR, that airspace extending upward from 1,200 feet above the surface bounded on the N by the Tucson, Arizona transition area, on the E by longitude 110°45'00" W., on the S by the United States/Mexican border and on the W by longitude 111°18'00"W.

Nome, Alaska

That airspace extending upward from 700 feet above the surface within a 26-mile radius of the Nome VORTAC, extending clockwise from the 277° radial to the 313° radial; and within a 12-mile radius of the Nome VORTAC, extending clockwise from the 313° radial to the 134° radial; and that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Nome VORTAC.

Norfolk, Nebr.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Norfolk VOR.

Norfolk, Va.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 37°10'35" N., long. 76°17'35" W., to lat. 36°49'45" N., long. 75°52'05" W., to lat. 36°29'25" N., long. 76°09'40" W., to lat. 36°35'40" N., long. 76°18'40" W., to lat. 36°54'00" N., long. 76°27'30" W., to lat. 36°54'00" N., long. 76°36'15" W., to lat. 37°11'30" N., long. 76°46'40" W., to lat. 37°16'10" N., long. 76°39'25" W., to lat. 37°11'50" N., long. 76°16'20" W., thence to the point of beginning; within 2 miles southeast and 5 miles northwest of the Langley AFB, Hampton, Va. (lat. 37°05'05" N., long. 76°21'25" W.) Runway 7 centerline extended 15 miles northeast of the end of Runway 7; within the arc of an 8.5-mile radius circle centered on Patrick Henry International Airport, Newport News, Va. (lat. 37°07'51" N., long. 76°29'35" W.) extending clockwise from a 323° bearing to a 066° bearing from the center of the airport; within 3.5 miles each side of the Patrick Henry International Airport ILS localizer southwest course, extending from the LOM to 11.5 miles southwest, and within a 9-mile radius of Oceana NAS (Soucek Field) (lat. 36°49'10"N., long. 76°02'05"W.).

North, S. C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the North AFAF (latitude 33°38'30" N., longitude 81°05'00" W.); excluding the portion within Columbia transition area. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

North Bend, Oreg.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the North Bend VORTAC 004° radial, extending from the VORTAC to 6 miles north of the VORTAC; within a 13-mile radius arc of the North Bend VORTAC extending clockwise from the 004° radial to 130° radial; within 2 miles each side of the North Bend VORTAC 182° radial, extending from the VORTAC to 5 miles south of the VORTAC; within 2 miles south and 6.5 miles north of the VORTAC 241° radial, extending from the VORTAC to 17 miles southwest; that airspace extending upward from 1,200 feet above the surface within a 22-mile radius arc of the North Bend VORTAC extending clockwise from the west edge of V-27, south of the VORTAC, to the west edge of V-287, north of the VORTAC; within 2.5 miles southeast and 11.5 miles northwest of the North Bend VORTAC 241° radial extending from the VORTAC to 25.5 miles southwest.

North Carolina

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of North Carolina including that airspace within 3 nautical miles of and parallel to the shoreline of North Carolina; and including the additional airspace bounded by a line beginning at latitude 34°09'48" N., longitude 77°45'45" W., to latitude 34°03'05" N., longitude 77°42'30" W., to latitude 34°01'05" N., longitude 77°50'05" W.; thence via a line 3 nautical miles from and parallel to the shoreline to the point of beginning; and that airspace bounded by a line beginning at latitude 33°50'30" N., longitude 78°23'45" W., to latitude 33°45'50" N., longitude 78°31'00" W., to latitude 33°48'10" N., longitude 78°31'45" W.; thence via a line 3 nautical miles from and parallel to the shoreline to the point of beginning; and that airspace extending upward from 2,000 feet MSL to FL-600 bounded on the east by longitude 75°30'00" W., on the south and west by a line 3 nautical miles from and parallel to the shoreline and on the north by lat. 36°33'30"N.

orth Conway, N. H.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, atitude 44°01'30" N., longitude 71°06'45" W., of White Mountain Airport, North Conway, N. H.; within 4.5 miles northeast and 6.5 miles southwest of the 128° bearing and the 308° bearing from the North Conway NDB, latitude 44°01'26" N., longitude 71°06'50" W., extending from 6 miles northwest of the NDB to 12 miles southeast of the NDB; and within 4.5 miles northeast and 9.5 miles southwest of the 128° bearing from the North Conway NDB extending 18.5 miles southeast of the NDB.

AMENDMENTS 3/21/80 45 F. R. 13054 (Changed)

North Lima, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius area of the Youngstown Elser Metro Airport (lat. 40°57'30"N., long. 80°40'30"W.), within 2.5 miles each side of the Akron, Ohio, VORTAC 110° radial extending from the 5.5-mile radius area to 7 miles northwest of the airport excluding that portion that coincides with the Youngstown, Ohio, transition area.

North Philadelphia, Pa.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 40° 04'49" N., 75°00'45" W., of North Philadelphia Airport, Philadelphia, Pa., extending clockwise from a 058° bearing to a 227° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 227° bearing to a 277° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 277° bearing to a 058° bearing from the airport; within 3.5 miles each side of the North Philadelphia VOR 045° radial, extending from the VOR to 10 miles northeast of the VOR; within an 8.5-mile radius of the center, 40°16'39" N., 74°48'49" W., of Mercer County Airport, Trenton, N. J., extending clockwise from a 055° bearing to a 245° bearing from the airport; within a 10-mile radius of the center of the airport extending clockwise from a 245° bearing to a 055° bearing from the airport; within 5 miles each side of the Yardley VORTAC 251° radial, extending from the VORTAC to 5 miles west of the VORTAC; within 3.5 miles each side of the Yardley VORTAC 070° radial, extending from Yardley VORTAC to 16 miles east of the VORTAC; within a 5-mile radius of the center 40°08'15" N., 75°16'00" W., of Wings Field, Philadelphia, Pa., extending clockwise from a 118° bearing to a 181° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 181° bearing to a 305° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 118° bearing from the airport; within 4.5 miles rthwest and 6.5 miles southeast of a 053° bearing and a 233° bearing from a point 40°05'06"N., 75°21' "W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within 5 miles each side of 255° bearing from a point 40°05'06"N., 75°21'24"W., extending from said point to 6.5 miles west of said point; within 8.5 miles northwest and 3.5 miles southeast of a 233° bearing from the Ambler, Pa., RBN 40°07'33"N., 75°17'08"W., extending from the RBN to 11.5 miles southwest of the RBN; within a 9-mile radius of the center, 40°12'00"N., 75°08'55"W., of Willow Grove NAS, Willow Grove, Pa.; within 5 miles each side of the Willow Grove TACAN 136° radial, extending from the 9-mile radius area to 11.5 miles southeast of the TACAN; within 5 miles each side of the Willow Grove TACAN 325° radial, extending from the 9-mile radius area to 13.5 miles northwest of the TACAN; within an 8.5-mile radius of the center, 40°12'15"N., 75°04'30"W., of Warminster NADC, Warminster, Pa., extending clockwise from a 025° bearing to a 254° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 254° bearing to a 025° bearing from the airport; within 4 miles each side of a 262° bearing from the Willow Grove RBN, extending from the RBN to 8.5 miles west of the RBN; within 1.5 miles each side of the Yardley VORTAC 244° radial, extending from the 8.5-mile radius area centered on Warminster NADC to the VORTAC; within 5 miles each side of the Warminster TACAN 259° radial, extending from the TACAN to 9.5 miles west of the TACAN; within 4.5 miles each side of the Warminster TACAN 083° radial, extending from the TACAN to 5 miles east of the TACAN; within a 5-mile radius of the center, 40°13'15" N., 75°12'45" W. of Turner Field, Prospectville, Pa.; within 8 miles southwest and 3.5 miles northeast of the North Philadelphia VOR 312° radial, extending from 20 miles northwest of the VOR to 31.5 miles northwest of the VOR; within 5 miles each side of the North Philadelphia VOR 312° radial, extending from 20 miles northwest of the VOR to 26 miles northwest of the VOR; within 2.5 miles each side of the North Philadelphia VOR 312° radial extending from 18 miles northwest of the VOR to 20 miles northwest of the VOR; within a 5-mile radius of the center, 40°11'18" N., 74°53'54" W. of Buehl Field, Langhorne, Pa., extending clockwise from a 032° bearing to a 254° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 254° bearing to a 320° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 032° bearing from the airport; within 2 miles each side of the North Philadelphia VOR 038° radial, extending from the 8-mile radius to the North Philadelphia VOR; within 5 miles each side of a 219° bearing and a 039° bearing from a point, 40°05'51"N., 74°49'49"W., extending from 6 miles southwest of said point to 12 miles northeast of said point.

North Platte, Nebr.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lee Bird Field (lat. 41°07'42"N., long. 100°41'49"W.) and within 2 miles each side of the North Platte VOR 209° radial, extending from the 10-mile radius area to 8 miles southwest of the VOR; and within 5 miles each side of the 301° bearing from Lee Bird RBN, extending from the 10-mile radius area to 13 miles northwest of the RBN; and within 3 miles each side of the 125° bearing from Lee Bird RBN extending from the 10-mile radius to 14 miles southeast of the RBN.

AMENDMENTS 3/20/80 45 F. R. 6356 (Rewritten)

North Vernon, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the North Vernon Municipal Airport (latitude 39°02'30" N., longitude 35°36'45" W.) and within 3.5 miles either side of a 220° bearing from the airport extending from the 5-mile radius area to 7.5 miles SW of the airport.

Northway, Alaska

That airspace extending upward from 700 feet above the surface within 10 miles northeast and 10 miles southwest of the 304° and 124° bearings from Nabesna NDB, extending from 10 miles southeast to 20 miles northwest of the NDB; within 9.5 miles north and 4.5 miles south of the 076° bearing from the Nabesna NDB, extending from the NDB to 18.5 miles east of the NDB and within 4.5 miles north and 9.5 miles south of the 256° bearing from the Nabesna NDB extending from the NDB to 18.5 miles west of the NDB.

AMENDMENTS 10/30/80 45 F. R. 49912 (Rewritten)

Norwich, N. Y.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 42°34'00"N., 75°31'30"W., of Lt. Warren Eaton Airport, Norwich, N. Y.; within a 12.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 103° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 235° bearing to a 351° bearing from the airport.

Nucla, Colo.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Hopkins-Montrose County Airport (lat. 38°14'20"N., long. 108°33'44"W.) within 4.5 miles east and 9.5 miles west of the 328° bearing from the Nucla NDB (lat. 38°14'33"N., long. 108°33'57"W.) extending from the 9.5-mile radius to 18.5 miles northwest; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 38°34'00"N., long. 108°19'30"W.; to lat. 37°34'00"N., long. 108°15'00"W.; to lat. 37°32'30"N., long. 108°25'00"W.; to lat. 37°57'30"N., long. 109°00'00"W.; to lat. 38°34'00"N., long. 109°07'45"W.; thence to point of beginning.

AMENDMENTS 10/30/80 45 F. R. 58104 (Added)

Oakdale, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Oakdale Airport (latitude 37°45'23" N., longitude 120°48'01" W.) and within 2.5 miles each side of the Stockton VORTAC 104° radial, extending from the 3-mile radius area to 16 miles E of the VORTAC.

Oak Grove, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Oak Grove NOLF (Navy), N. C. (lat. 35°01'15" N., long. 77°15'12" W.), excluding the portion within New Bern, N. C., transition area. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Oakland, Md.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center lat. 39°34'49" N., long. 79°20'25" W. of Garrett County Airport, Oakland, Md., and within 2 miles each side of the Grantsville VORTAC 256° radial, extending from the 6-mile radius area to 9 miles west of the VORTAC.

Ocala, Fla.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Ocala Municipal (Jim Taylor Field) Airport (lat. 29°10'18" N., long. 82°13'26" W.).

Ocean City, Md.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 38°18'35" N., long. 75°07'09" W. of Ocean City Airport, Ocean City, Md.; within 2.5 miles each side of the Snow Hill, Md., VORTAC 047° radial, extending from the 5-mile radius area to 18.5 miles northeast of the VORTAC, excluding the portion outside the United States.

Oceanside, Calif.

That airspace extending upward from 700 feet above the surface between the Oceanside VORTAC 316° and 136° radials and a line 5 miles northeast of and parallel to the Oceanside VORTAC 316° and 136° radials, extending from latitude 33°15'00" N., to 5 miles northwest of the VORTAC.

Oconto, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Oconto Municipal Airport (lat. 44°52'00"N., long. 87°54'30"W.); and within 3 miles each side of the 280° bearing from the Oconto Airport, extending from the 5-mile radius area to 8 miles west of the airport.

Ocracoke, N.C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ocracoke Island Airport (lat. 35°06'04"N., long. 75°57'57"W.); within 3 miles each side of the 059° bearing from the Ocracoke RBN (lat. 35°06'16"N., long. 75°57'50"W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN, excluding the portion outside of the continental limits of the United States.

Oelwein, Iowa

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Oelwein Municipal Airport (lat. 42°41'04"N., long. 91°58'42"W.) and within 4 miles each side of the 304° bearing from the airport extending from the 9-mile radius to 12 miles northwest of the airport.

AMENDMENTS 7/10/80 45 F. R. 29009 (Rewritten)

O allala, Nebr.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Searle Airport (lat. 41°07'00"N., long. 101°46'00"W.); and that airspace within the State of Colorado extending upward from 1,200 feet above the surface within 9.5 miles south of the Searle VOR (lat. 41°07'08.3"N., long. 101°46'32.6"W.) 258° radial extending to 18.5 miles west.

Ogden, Utah

That airspace extending upward from 700 feet above the surface bounded on the north by latitude 41°27'00" N., on the east by longitude 111°55'00" W., on the south by latitude 41°00'00" N., and on the west by longitude 112°22'00" W., within 4.5 miles southwest and 9.5 miles northeast of the Ogden VORTAC 316° radial extending from the VORTAC to 18.5 miles northwest of the VORTAC;

that airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 111°50'00" W., on the S by latitude 41°00'00" N., on the W by longitude 112°45'00" W., and on the N by the N boundary of V-288, that airspace W of Ogden bounded on the S and W by the Wendover, Utah, transition area, on the N by V-6 and on the E by longitude 112°45'00" W., that airspace W of Ogden bounded on E by longitude 112°45'00" W., on the S by V-6 and on the N by V-288, that airspace NW of Ogden within 10 miles SW and 6 miles NE of the Ogden VORTAC 316° radial, extending from the N boundary of V-288 to 63 miles NW of the VORTAC, that airspace N of Ogden within 10 miles W and 7 miles E of the Ogden VORTAC 345° radial, extending from the N boundary of V-288 to 42 miles N of the VORTAC; that airspace E of Ogden extending upward from 10,500 feet m.s.l. bounded on the N by V-288 on the S by V-6 and on the W by longitude 111°50'00" W., and that airspace bounded on the N by V-6, on the SE by V-32, on the S by latitude 41°00'00" N., and on the W by longitude 111°50'00" W.

Ogdensburg, N. Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°40'52"N., 75°28'05"W., of Ogdensburg International Airport, Ogdensburg, N. Y., within 4.5 miles each side of a 075° bearing from the Ogdensburg RBN (lat. 44°41'30"N., long. 75°24'25"W.) extending from the RBN to 11.5 miles east of the RBN, excluding the portion over Canada. That airspace extending upward from 1,200 feet above the surface beginning at lat. 44°16'00"N., long. 75°30'00"W., to lat. 44°16'00"N., long. 76°1[illegible]'00"W., thence NE along the U.S./Canadian border to lat. 44°56'00"N., long. 75°05'00"W., to lat. 44°42'0[illegible]"N., long. 75°05'00"W., to lat. 44°42'00"N., long. 74°54'00"W.; to lat. 44°36'00"N., long. 75°00'00"W.; t[illegible] point of beginning.

Ohio

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Ohio.

Oklahoma

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Oklahoma, excluding the portion within R-5601A.

Oklahoma City, Okla.

That airspace west of long. 97°10'00"W., extending upward from 700 feet above the surface within a 23-mile radius of lat. 35°24'25"N., long. 97°23'50"W.; within 10 miles west and 5 miles east of the Will Rogers World Airport, Runway 35R ILS south course, extending from the LOM to 18.5 miles south of the LOM; and within 2 miles each side of the Wiley Post VOR (lat. 35°31'58.4"N., long. 97°38'48.7"W.) 269° radial extending from the 23-mile radius area to 7 miles west of the Wiley Post VOR; and within a 6.5-mile radius of the Clarence E. Page Municipal Airport (lat. 35°29'15"N., long. 97°49'00"W.).

AMENDMENTS 1/24/80 44 F. R. 65734 (Changed)

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Okmulgee, Okla.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Okmulgee, Okla., Airport (latitude 35°39'45" N., longitude 95°56'45" W.); and within 8 miles S and 5 miles N of the Okmulgee VOR 0[illegible]8° Radial extending from the VOR to 12 miles E.

Old Bridge, N. J.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 40°19'47"N., 74°20'47"W., of Old Bridge Airport, Old Bridge, N. J.; within 4.5 miles northwest and 6.5 miles southeast of the Robbinsville, N. J., VORTAC 042° radial, extending from 12.5 miles northeast of the VORTAC to 30 miles northeast of the VORTAC.

Olean, N. Y.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 42°14'20" N., long. 78°22'30" W. of Olean Municipal Airport and within 3.5 miles each side of the Olean, N. Y., RBN (lat. 42°17'20" N., long. 78°20'08" W.) 028° bearing extending from the 8-mile radius area to 11.5 miles northeast of the RBN.

Olivia, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Olivia Municipal Airport (latitude 44°46'44" N., longitude 95°01'58" W.); and within 2 miles each side of the 193° bearing from the airport extending from the 5-mile radius area to 6.5 miles south of the airport.

Olney, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Olney-Noble Airport (latitude 38°43'20" N., longitude 88°10'25" W.); within 2 miles each side of the 223° bearing from the airport, extending from the 5-mile radius area to 8 miles southwest of the airport, and within 2 miles each side of the 344° radial of Samsville VORTAC, extending from the 5-mile radius area to 5.5 miles southeast of the airport.

Olney, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Olney Municipal Airport (lat. 33°21'00"N., long. 98°49'00"W.) and within 4 miles each side of the 329° bearing from the Olney NDB (lat. 33°21'15"N., long. 98°48'57"W.) extending from the 6.5-mile radius area to 8.5 miles northwest of the NDB.

Omaha, Nebr.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Eppley Field (lat. 41°18'00"N., long. 95°53'35"W.); within 2 miles each side of the Eppley Field ILS localizer southeast course, extending from the 10-mile radius area to 15 miles southeast of the airport; and within 5 miles northeast and 8 miles southwest of the Eppley Field ILS localizer northwest course, extending from the 10-mile radius area to 12 miles northwest of the outer marker; within an 8.5-mile radius of Offutt AFB (lat. 41°07'20"N., long. 95°54'35"W.); within a 5-mile radius of Council Bluffs, Iowa, Municipal Airport (lat. 41°15'35"N., long. 95°45'40"W.); and within 2 miles each side of the Omaha VORTAC 341° radial, extending from the 5-mile radius area to the VORTAC.

Omak, Wash.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Omak Airport (latitude 48°27'50" N., longitude 119°31'00" W.), within 2 miles each side of the 177° bearing from the Omak radio beacon (latitude 48°27'13" N., longitude 119°30'56" W.), extending from the 5-mile radius area to 8 miles S of the radio beacon; and that airspace extending upward from 1,200 feet above the surface, within 7 miles E and 10 miles W of the 177° and 357° bearings from the Omak radio beacon, extending from 8 miles N to 20 miles S of the radio beacon.

Oneida, Tenn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Scott Municipal Airport (lat. 36°27'23" N., long. 84°35'10" W.); within 3 miles each side of the 055° bearing from Scott RBN (lat. 36°27'26" N., long. 84°35'11" W.), extending from the 5.5-mile radius area to 8.5 miles northeast of the RBN.

O'Neill, Nebr.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of O'Neill Municipal Airport (latitude 42°28'10" N., longitude 98°41'15" W.); and within 3½ miles each side of the O'Neill VORTAC 315° radial, extending from the 5½-mile radius area to 12 miles northwest of the VORTAC.

Oneonta, N. Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (42°31'25" N., 75°04'00" W.) of Oneonta Municipal Airport, Oneonta, N. Y., and within 2 miles each side of the Rockdale, N. Y., VORTAC 067° radial extending from the 7-mile radius area to the VORTAC.

Ontario, Oreg.

That airspace extending upward from 700 feet above the surface within 4.5 miles west and 9.5 miles east of the 168° and 348° bearings from the Ontario, Oreg., RBN, extending from 18.5 miles south to 6 miles north of the RBN.

Ontonagon, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Ontonagon County Airport (latitude 46°50'47" N., longitude 89°21'29" W.); and within 3 miles each side of a 042° bearing from Ontonagon County Airport, extending from the 6-mile radius area to 7.5 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the 042° bearing from Ontonagon County Airport, extending from the airport to 18½ miles northeast of the airport.

Opelousas, La.

That airsapce extending upward from 700 feet above the surface within a 5-mile radius of St. Landry Parish Airport (latitude 30°33'30" N., longitude 92°06'00" W.), and within 2.5 miles each side of the Lafayette VORTAC 347° radial extending from the 5-mile radius area to 22.5 miles north of the VORTAC.

Orange, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange NDB (lat. 30°04'14"N., long. 93°47'42"W.) within 2.5 miles each side of the 159°M bearing (165°T bearing) from the Orange NDB extending from the 5-mile radius to 8 miles southeast of the Orange NDB and within 2.5 miles each side of the 028°M bearing (034°T bearing) from the Orange NDB extending from the 5-mile radius to 8 miles northeast of the Orange NDB.

Orange, Va.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 38°14'44"N., long. 78°02'50"W., of the Orange County Airport, Orange, Va., and within 3.5 miles each side of the Gordonsville VORTAC, 020° radial, to 2 miles southwest of the radius circle excluding that area which lies within the Gordonsville, Va., transition area.

Orangeburg, S. C.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Orangeburg Airport (latitude 33°27'40" N., longitude 80°51'30" W.); within 3 miles each side of the 226° bearing from Orangeburg RBN (latitude 33°26'23" N., longitude 80°52'41" W.), extending from the 7.5-mile radius area to 8.5 miles southwest of the RBN; within 3 miles each side of Edisto VOR/DME (latitude 33°27'25" N., longitude 80°51'34" W.) 230° radial, extending from the 7.5-mile radius area to 8.5 miles southwest of the VOR/DME.

Orange City, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange City Municipal Airport (lat. 42°59'25"N., long. 96°03'45"W.); and within 3 miles each side of the 172° bearing from the Orange City Municipal Airport, extending from the 5-mile radius area to 8½ miles south of the airport.

Orange Grove, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange Grove NALF (latitude 27°54'03" N., longitude 98°03'05" W.), within 2.5 miles each side of the NAS Kingsville TACAN 332° radial extending from the 5-mile area to 21 miles northwest of the NAS Kingsville TACAN and within 5 miles each side of the NAS Kingsville TACAN 31-mile arc extending from the 5-mile radius area to the NAS Kingsville TACAN 320° radial excluding that portion that lies within the Alice, Tex., control zone.

Ord, Nebr.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Evelyn Sharp Field (lat. 41°37'20"N., long. 98°57'05"W.) and within 3 miles either side of the 311° true bearing from the Ord, NDB (lat. 41°37'23"N., long. 98°56'52"W.) extending from the 7-mile radius area to 8½ miles northwest of the airport.

AMENDMENTS 3/20/80 45 F. R. 6360 (Added)

Orland, Calif.

That airspace extending upward from 700 feet above the surface within a three-mile radius of Haigh Field (lat. 39°43'16"N., long. 122°08'50"W.); and within three miles each side of the Chico VOR 253° radial, extending from the three-mile radius area to twelve miles west of the VOR.

Orlando, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Herndon Airport (lat. 28°32'40"N., long. 81°19'55"W.); within an 8.5-mile radius of Orlando International Airport (lat. 28° 25'55" N., long. 81° 19'15" W.); within 3 miles each side of Orlando VORTAC 175° radial, extending from the 8.5-mile radius area to 23 miles south of the VORTAC; within 3 miles each side of McCoy ILS localizer south course, extending from the 8.5-mile radius area to 9.5 miles south of the OM; within a 6.5-mile radius of Kissimmee Municipal Airport (lat. 28°17'30" N., long. 81°26'15" W.); within 3 miles each side of the 322° bearing from Kissimmee RBN (lat. 28°17'21" N., long. 81°28'05" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Orr, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Orr Municipal Airport (latitude 48°01'00" N., longitude 92°51'21" W.); within 3 miles each side of the 324° bearing from the Orr Municipal Airport, extending from the 5-mile radius to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles east and 9½ miles west of the 324° bearing of the Orr Municipal Airport extending from the airport to 18½ miles northwest; within 5 miles each side of the 144° bearing of the Municipal Airport extending from the airport to 12 miles southeast of the airport.

Osceola, Wis.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Osceola Municipal Airport (latitude 45°18'40" N., longitude 92°41'30" W.); and within 3 miles each side of the 114° bearing from Osceola Municipal Airport, extending from the 6½-mile radius to 8 miles southeast of the airport.

Oscoda, Mich.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wurtsmith AFB (latitude 44°27'00" N., longitude 83°24'00" W.); within 2 miles each side of the Wurtsmith AFB TACAN 232° radial extending from the 7-mile radius area to 14 miles SW of the TACAN; and within 2 miles each side of the Wurtsmith AFB TACAN 064° radial extending from the 7-mile radius area to 14 miles NE of the TACAN.

Oshkosh, Nebr.

That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Oshkosh Municipal Airport (latitude 41°22'55" N., longitude 102°21'12" W.).

Oshkosh, Wis.

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 44°24'00" N., longitude 88°45'00" W., to latitude 44°24'00" N., longitude 83°27'00" W., to latitude 44°19'00" N., longitude 88°19'00" W., to latitude 43°33'00" N., longitude 88°19'00" W., to latitude 43°33'00" N., longitude 88°53'00" W., to latitude 43°52'00" N., longitude 88°53'00" W., to point of beginning.

Oskaloosa, Iowa

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Oskaloosa Municipal Airport (lat. 41°13'36"N., long. 92°29'30"W.) excluding the portion that overlies the Ottumwa, Iowa, transition area.

AMENDMENTS 3/20/80 45 F. R. 6354 (Rewritten)

Oswego, N. Y.

That airspace extending upward from 1,200 feet above the surface beginning at latitude 43°24'00" N., longitude 76°45'00" W., to latitude 43°24'00" N., longitude 77°50'00" W.; to latitude 43°20'00" N., longitude 77°50'00" W.; to latitude 43°20'00" N., longitude 78°00'00" W.; thence north along longitude 78°00'00" W., to the U. S./Canadian border, thence east along the U. S./Canadian border to longitude 75°00'00" W.; thence to latitude 43°32'00" N., longitude 76°23'00" W.; to latitude 43°24'00" N., longitude 76°40'00" W.; to point of beginning.

Ottawa, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ottawa Municipal Airport (lat. 38°32'21"N., long. 95°15'14"W.), and within 3 miles each side of the 167° bearing from the OWI NDB (lat. 38°32'33"N., long. 95°15'15"W.), extending from the 5-mile radius area to 8.5 miles southeast of the NDB facility.

AMENDMENTS 5/15/80 45 F. R. 18912 (Added)

Ottawa, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Putnam County Airport (latitude 41°02'08" N., longitude 83°59'01" W.); within 3 miles each side of the 090° bearing from the airport extending from the 5-mile radius area to 8.5 miles east of the airport.

Ottumwa, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Ottumwa Industrial Airport (latitude 41°06'20" N., longitude 92°26'50" W.) and within 2 miles each side of the Ottumwa VORTAC 309° radial extending from the 6-mile radius area to 13 miles northwest of the airport.

Owatonna, Minn.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Owatonna Municipal Airport (lat. 44°07'15"N., long. 93°15'16"W.), within 1.25 miles each side of the 315° bearing from Owatonna Municipal Airport, extending from the Owatonna 5.5-mile radius area to 9 miles northwest of the airport; and within 2 miles each side of the 134° bearing from Owatonna Municipal Airport, extending from the Owatonna 5.5-mile radius area to 6 miles southeast of the airport, excluding the portion within the Faribault, Minn., transition area.

Owensboro, Ky.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Owensboro-Daviess County Airport (lat. 37°44'31" N., long. 87°09'57" W.).

Oxford, Conn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius area of the center of lat. 41°28'45"N., long. 73°08'10"W., of Waterbury-Oxford Airport, Oxford, Conn., and within 4.5 miles each side of the Oxford, Conn., Waterbury NDB (lat. 41°31'45"N., long. 73°08'36"W.) 354° bearing extending from the 7-mile radius area to 11 miles north of the NDB.

Oxford, Miss.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the University-Oxford Airport (latitude 34°23'05" N., longitude 89°32'10" W.); within 3 miles each side of the 280 bearing from Oxford RBN (latitude 34°23'00" N., longitude 89°32'30" W.), extending from the 5-mile radius area to 8.5 miles west of the RBN; within 3 miles each side of the 094° bearing from Runway 27, extending from the 5-mile radius area to 8.5 miles east of the airport.

Oxford, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Oxford-Henderson Airport (lat. 36°21'50"N., long. 78°31'42"W.).

Oxford, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (39°30'10" N., 84°47'15" W.) of Miami University Airport, Oxford, Ohio, and within 2 miles each side of the Oxford, Ohio, RBN (39°30'27" N., 84°46'50" W.) 225° bearing extending from the 5-mile radius area to 11 miles southwest of the RBN.

Oxnard, Calif.

That airspace extending upward from 700 feet above the surface beginning at lat. 34°01'50" N., long. 119°03'00" W., to lat. 34°02'30" N., long. 118°53'30" W., to lat. 34°19'30" N., long. 118°53'00" W., to lat. 34°19'30" N., long. 119°29'50" W., thence 3 nautical miles from and parallel to the shoreline to lat. 34°14'50" N., long. 119°22'00" W., to lat. 34°14'45" N., long. 119°23'30" W., to lat. 34°06'55" N., long. 119°22'30" W., to lat. 34°07'45" N., long. 119°15'00" W., thence via a 7-mile radius of the Point Mugu RBN to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34°30'00"N., long. 118°50'00"W.; to lat. 34°00'00"N., long. 118°50'00"W.; to lat. 34°00'00"N., long. 119°05'00"W.; to lat. 33°52'30"N., long. 119°06'59"W.; to lat. 33°28'30"N., long. 119°07'00"W.; to lat. 32°56'31"N., long. 119°07'00"W.; to lat. 32°54'10"N., long. 119°10'01"W.; to lat. 33°35'36"N., long. 120°00'00"W.; to lat. 34°20'00"N., long. 120°00'00"W.; to lat. 34°20'00"N., long. 119°30'00"W.; to lat. 34°30'00"N., long. 119°30'00"W.; thence to the point of beginning; and that airspace extending upward from 5,000 feet MSL bounded by a line beginning at lat. 34°08'00"N., long. 120°00'00"W.; to lat. 34°00'00"N., long. 120°00'00"W.; to lat. 34°00'00"N., long. 120°30'00"W.; to lat. 34°06'15"N., long. 120°30'00"W.; to lat. 34°08'00"N., long. 120°26'00"W.; to the point of beginning.

Ozark, Ark.

That airspace extending upward from 700 feet above the surface within a 9-statute-mile radius of Ozark-Franklin County Airport, Ozark, Ark. (lat. 35°30'36"N., long. 93°50'23"W.); and within 3.5 statute miles each side of the 167° bearing from the Ozark RBN (lat. 35°30'27"N., long. 93°50'26"W.), extending from the 9-mile-radius area to 11.5 statute miles south of the RBN.

Ozark, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Air Park South Airport (lat. 37°03'35"N., long. 93°14'08"W.); within 2.75 miles either side of the Springfield, Mo., VORTAC 166°T radial, extending from the 5-mile radius to 4.5 miles north, excluding that portion which overlies the Springfield, Mo., control zone and 700-foot transition area.

Paducah, Ky.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Barkley Field (lat. 37°03'45" N., long. 88°46'23" W.); within 5 miles each side of Cunningham VORTAC 225° radial, extending from the 10-mile radius area to 11.5 miles southwest of the VORTAC.

Paducah, Ky. (Farrington Airpark)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Farrington Airpark Airport (lat. 36°58'00"N., long. 88°33'54"W.), excluding that portion within the Paducah, Ky., transition area.

AMENDMENTS 8/1/80 45 F. R. 45267 (Added)

Paducah, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Paducah. Tex.. Dan E. Richards Airport (latitude 34°01'30" N., longitude 100°17'00" W.).

Page, Ariz.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Page Airport (latitude 36°55'29" N., longitude 111°26'54" W.); within 2 miles each side of the Page VOR 340° radial, extending from the 6-mile radius area to 11 miles NW of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles NE and 9 miles SW of the Page VOR 340° radial extending from the VOR to 18 miles NW of the VOR; and within 6 miles E and 9 miles west of the Page VOR 175° radial extending from the VOR to 11.5 miles S of the VOR.

Pahokee, Fla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Palm Beach County Glades Airport (lat. 26°47'15" N., long. 80°41'45" W.); within 3 miles each side of Pahokee VORTAC 342° radial, extending from the 5-mile radius area to 9.5 miles north of the VORTAC.

Palacios, Tex.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Palacios VORTAC 308° radial extending from the VORTAC to 8 miles northwest of the VORTAC.

Palestine, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Palestine Municipal Airport (latitude 31°47'00" N., longitude 95°42'10" W.) and within 3 miles each side of the 193° bearing from the Palestine RBN (latitude 31°46'48" N., longitude 95°42'03" W.) extending from the 8.5-mile radius to 8.5 miles south of the RBN.

Palm Beach, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Palm Beach International Airport (lat. 26°41'05" N., long. 80°05'35" W.); within a 6.5-mile radius of Palm Beach County Park Airport (lat. 26°35'15" N., long. 80°05'15" W.); excluding the portion outside the continental limits of the United States.

Palmdale, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles S and 7 miles N of the Palmdale VORTAC 298° radial extending from the VORTAC to 18 miles NW; within 6 miles S and 12 miles N of the Palmdale VORTAC 298° and 118° radials extending from 11 miles NW to 13 miles SE of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 35°36'30" N., longitude 118°45'00" W., to latitude 35°44'00" N., longitude 117°53'00" W., to latitude 36°07'00" N., longitude 117°53'00" W., to lat. 36°07'00"N., long. 117°35'00"W., to lat. 35°47'46"N., long. 116°55'20"W., to lat. 35°21'35.8"N., long. 116°55'20"W., to lat. 35°34'30"N., long. 116°29'40"W., to lat. 35°34'30"N., long. 116°29'40"W., to lat. 35°34'30"N., long. 116°23'30"W., to lat. 35°28'35"N., longitude 116°18'45" W., to latitude 35°21'30" N., longitude 116°13'00" W., to latitude 34°43'00" N., longitude 116°13'00" W., thence W along latitude 34°43'00" N., to the SE boundary of V-21, thence along the SE boundary of V-21 to latitude 34°30'00" N., thence W along latitude 34°30'00" N., to longitude 118°20'00" W., thence N along longitude 118°20'00" W., to the S boundary of V-137, thence W along the S boundary of V-137 to longitude 118°45'00" W., thence to point of beginning.

Palmer, Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°13'25"N., 72°18'45"W., of Metropolitan Airport, Palmer, Mass.; within 2 miles each side of the Runway 4 centerline extended from the 5-mile radius area to 9 miles northeast of the end of the runway; within 2 miles each side of the Runway 22 centerline extended from the 5-mile radius area to 9 miles southwest of the end of the runway, and within 4.5 miles each side of the 202° bearing from the Palmer, Mass., RBN 42°13'26"N., 72°18'47"W., extending from the 5-mile radius area to 10.5 miles south of the RBN, excluding the portion which coincides with the Chicopee Falls, Mass., transition area.

Palm Springs, Calif.

That airspace extending upward from 700 feet above the surface beginning at lat. 34°05'00"N., long. 116°34'00"W., to lat. 33°42'45"N., long. 115°53'30"W., to lat. 33°26'00"N., long. 116°09'30"W., to lat. 33°55'00"N., long. 116°46'00"W., to point of beginning.

Pampa, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Perry Le Fors Airport (latitude 35°36'25" N., longitude 100°59'55" W.), and within 3½ miles each side of the 001° bearing from the Pampa RBN (latitude 35°36'40" N., longitude 100°59'45" W.), extending from the 7-mile radius area to 11.5 miles north of the RBN.

Panama City, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Panama City-Bay County Airport (latitude 30°12'41" N., longitude 85°40'57" W.); within an 8.5-mile radius of Tyndall AFB (latitude 30°04'15" N., longitude 85°34'30" W.); within 3 miles each side of the Panama City VOR 059° and 310° radials, extending from the 8.5-mile radius area to 8.5 miles northeast and northwest of the VOR; excluding the airspace outside of the continental limits of the United States.

Paragould, Ark.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Paragould Municipal Airport (latitude 36°03'52" N., longitude 90°30'45" W.), and within 2 miles each side of the 235° bearing from the Paragould RBN (latitude 36°03'52" N., longitude 90°30'45" W.), extending from the 7-mile radius area to 8 miles southwest of the RBN excluding the portion within the Jonesboro, Ark., control zone.

Paris, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Edgar County Airport (latitude 39°42'02" N., longitude 87°39'57" W.); and within 3 miles either side of the 072° bearing from the airport extending from the 5-mile radius area to 8 miles from the airport.

Paris, Tenn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Henry County Airport (lat. 36°20'15"N., long. 88°23'00"W.); within 2 miles each side of the 015° bearing from the Trainer RBN (lat. 36°14'57"N., long. 88°24'52"W.), extending from the 5-mile radius area to the RBN.

Paris, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Cox Field, Paris, Tex. (latitude 33°38'17" N., longitude 95°26'54" W.), and within 2 miles each side of the Paris, Tex., VOR 357° radial extending from the 6-mile radius area to the VOR.

Parker, Calif.

That airspace extending upward from 1,200 feet above the surface within 10 miles NW and 7 miles SE of the Parker VORTAC 071° and 251° radials, extending from 9 miles SW to 20 miles NE of the VORTAC.

Parkersburg, W. Va.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 39°20'44" N., long. 81°26'16" W. of Wood County (Gill Robb Wilson Field) Airport, Parkersburg, W. Va.; within 5 miles each side of the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course, extending from the 9-mile radius area to 10 miles south of the OM; within 4.5 miles west and 6.5 miles east of a 200° and a 020° bearing from the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course OM, extending from 5.5 miles north to 11.5 miles south of the OM; and within 5 miles each side of a 086° bearing from a point, lat. 39°09'38" N., long. 81°38'35" W., extending from said point to 5 miles east of the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course.

Park Rapids, Minn.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Park Rapids Municipal Airport (latitude 46°53'53" N., longitude 95°04'08" W.); within 3 miles each side of the 132° bearing from the airport extending from the 6½-mile radius area to 8 miles southeast of the airport; within 3 miles each side of the 320° bearing from the airport extending from the 6½-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 132° bearing from the airport extending from the airport to 18½ miles southeast; within 4½ miles northeast and 9½ miles southwest of the 320° bearing from the airport extending from the airport to 18½ miles northwest.

Parsons, Kans.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Tri-City Airport (latitude 37°19'52" N., longitude 95°30'32" W.); and within 3 miles each side of the 173° bearing from the Parsons RBN extending from the 6.5-mile radius to 8.5 miles south of the RBN, and within 3 miles each side of the 008° bearing from the Parsons RBN extending from the 6.5-mile radius to 8.5 miles north of the RBN.

Pascagoula, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jackson County Airport (latitude 30°22'43" N., longitude 88°29'37" W.); within 3 miles each side of the 060° bearing from Pascagoula RBN (latitude 30°22'53" N., longitude 88°29'33" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Pasco, Wash.

That airspace extending upward from 700 feet above the surface within 10.5 miles northwest and 6 miles southeast of the Pasco VOR 046° and 226° radials extending from 23 miles northeast to 12 miles southwest of the VOR; within 9.5 miles northeast and 7 miles southwest of the Pasco VOR 131° radial extending from the VOR to 30.5 miles southeast of the VOR; within 5 miles north and 7.5 miles south of the Pasco VOR 288° radial extending from 8 miles west of the VOR to 26.5 miles west of the VOR; within 9.5 miles west and 4.5 miles east from the Richland, Wash., Airport localizer north course located at lat. 46°17'57"N., long. 119° 18'29"W., to 24 miles north.

That airspace extending upward from 1200 feet above the surface, southwest of Pasco, Wash., bounded on the north by the south edge of V-298, on the east by the west edge of V-112W and on the southwest by the northeast edge of V-4.

AMENDMENTS 3/5/80 45 F. R. 8287 (Changed)

Paso Robles, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Paso Robles VORTAC 332° and 342° radials, extending from the arc of a 5-mile radius circle centered on the Paso Robles County Airport (latitude 35°40'15" N., longitude 120°37'35" W.) to 10 miles NW of the VOR, and within 2 miles each side of the Paso Robles VORTAC 149° radial, extending from the arc of a 5-mile radius circle centered on the Paso Robles County Airport to 8 miles SE of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 12 miles NE and 7 miles SW of the Paso Robles VORTAC 149° and 329° radials, extending from 20 miles SE to 9 miles NW of the VORTAC, and within 12 miles NE and 7 miles SW of the 142° and 322° radials, extending from 9 miles SE to 24 miles NW of the VORTAC.

Patterson, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Harry P. Williams Memorial Airport (lat. 29°42'40"N., long. 91°20'18"W.), and within 3 miles each side of the 233° bearing from the NDB (lat. 29°42'53"N., long. 91°20'12"W.) extending from the 6.5-mile radius area to 8.5 miles southwest of the NDB; and within 2.5 miles each side of the 276° radial of the Tibby VORTAC (lat. 29° 39'51"N., long. 90°49'44"W.) extending from the 6.5-mile radius area to 7.5 miles east of the airport.

AMENDMENTS 3/20/80 45 F. R. 3887 (Rewritten)

Patuxent River, Md.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Patuxent VORTAC, excluding the portion NW of a line extending from latitude 38°15'00"N., longitude 76°39'20"W., to latitude 38°26'20"N., longitude 76°14'00"W.

Pauls Valley, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Pauls Valley Municipal Airport (lat. 34°42'45"N., long. 97°13'30"W.) and within 3 miles each side of the 169° bearing from the NDB (lat. 34°42'55"N., long. 97°13'44"W.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 9/4/80 45 F. R. 46349 (Added)

Pawtucket, R. I.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°55'21" N., 71°29'30" W. of North Central State Airport, Smithfield, R.I., and within 2 miles east and 5 miles west of the Providence, R. I., VOR 347° radial extending from the 5-mile radius to the VOR, and within 5 miles each side of the 097° radial from the PUTNAM VORTAC extending from the 5-mile radius to VORTAC, and within 4 miles each side of Runway 5 centerline extended from the 5-mile radius area to 9 miles southwest of the runway threshold and within 2.5 miles each side of Runway 23 centerline extended from the 5-mile radius area to 6 miles northeast of the runway threshold; excluding that portion that coincides with the Providence, R. I., Danielson, Conn., Hopedale, Mass., and Southbridge, Mass., 700-foot transition areas.

Peach Springs, Ariz.

That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Peach Springs VORTAC 074° and 254° radials, extending from 9 miles W to 20 miles E of the VORTAC. That airspace extending upward from 9,000 feet MSL bounded on the north by a line 5 miles north of and parallel to a direct line between the Grand Canyon, Ariz., VOR and the Boulder City, Nev., VORTAC, on the south by the north edge of V-210 and on the southwest by the northeast edge of V-105E.

Pearsall, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of McKinley Field Airport (latitude 28°49'00" N., longitude 99°07'00" W.) and within 2.5 miles either side of the Cotulla, Tex., VORTAC 001° radial extending from the 5-mile radius area to 18.5 miles north of the VORTAC.

Pecos, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Pecos, Tex., Municipal Airport (latitude 31°23'45" N., longitude 103°30'50" W.); and within 2 miles each side of the Pecos VOR 146° radial, extending from the 6-mile radius area to the VOR.

Peebles, Ohio

That airspace extending upward from 700 feet above the surface within a 7-nautical-mile radius of the center (lat. 38°55'16"N., long. 83°10'37"W.) of General Electric Airport, Peebles, Ohio; excluding that portion which overlies the Salamon, Ohio, transition area.

Pella, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pella Municipal Airport (lat. 41°24'10" N., long. 92°56'40" W.); and within 3 miles each side of the 176° bearing from the Pella Municipal Airport extending from the 5-mile radius to 8 miles south of the airport.

Pellston, Mich.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Emmet County Airport (lat. 45°34'09" N., long. 84°47'45" W.) and within a 6-mile radius of the Cheboygen Municipal Airport (lat. 45°39'15" N., long. 84°31'06" W.); within 5 miles each side of the Pellston VORTAC 238° radial, extending from the 11-mile radius area to 22 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 19-mile radius of the Pellstom VORTAC north of parallel 45°45' excluding the portion overlying the Sault Ste. Marie, Mich., transition area.

Pembina, N. Dak.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Pembina Municipal Airport (lat. 48°56'43"N., long. 97°14'31"W.); and within 2 miles each side of Pembina VORTAC (lat. 48°52'09"N., long. 97°07'00"W.) 310° radial extending from the 6.5-mile radius area to 8 miles southeast of Pembina Municipal Airport; and that airspace extending upward from 1,200 feet above the surface beginning at lat. 49°00'00"N., long. 97°30'00"W.; to lat. 48°48'00"N., long. 97°30'00"W.; to lat. 48°18'30"N., long. 98°40'00"W.; to lat. 48°08'30"N., long. 98°32'00"W.; to lat. 48°07'00"N., long. 98°12'00"W.; to lat. 48°31'00"N., long. 97°14'30"W., excluding portions outside the United States, and the Minnesota and Grand Forks, N. Dak., 1,200 foot transition areas.

AMENDMENTS 10/30/80 45 F. R. 54733 (Added)

Pendleton, Oreg.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of latitude 45°41'30" N., longitude 118°47'24" W.; within 4.5 miles each side of the Pendleton VORTAC 254° radial extending from the 12-mile radius area to 12.5 miles west of the VORTAC; within 4.5 miles north and 1 mile south of the Pendleton 273° radial extending from the 12-mile radius area to 8 miles west of the VORTAC; and within 9.5 miles north and 5 miles south of the Pendleton 090° bearing from the Pendleton ILS OM (latitude 45°41'45" N., longitude 118°43'46" W.), extending from the 12-mile radius area to 18.5 miles east of the OM within a 5-mile radius of the Hermiston Municipal Airport (lat. 45°49'39"N., long. 119°15'41"W.) and within 2.5 miles each side of the Pendleton VORTAC 300° radial, extending from the 5-mile radius area to the Pendleton VORTAC; that airspace extending upward from 1,200 feet above the surface within 11 miles NE and 7 miles SW of the Pendleton VORTAC 137° radial extending from the 12-mile radius area to 50 miles SE of the VORTAC, within 10 miles S and 7 miles N of the Pendleton 254° radial extending from the 12-mile radius area to 33 miles W of the VORTAC, within 9.5 miles north and 5 miles south of the Pendleton 273° radial, extending from the 12-mile radius area to 18.5 miles west of the VORTAC; within 6 miles southwest and 9 miles northeast of the Pendleton 310° radial, extending from the 12-mile radius area to 30 miles NW of the VORTAC, within 5 miles NW of the 025° radial and 5 miles SE of the 049° radial, extending from the 12-mile radius area to an arc of a 35-mile radius circle centered on the Pendleton VORTAC, that airspace within the arc of a 32-mile-radius circle centered on the Pendleton VORTAC extending clockwise from the southeast edge of V-112E to the northeast edge of V-298.

Pennington Gap, Va.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 36°44'33" N., long. 83°01'50" W. of Lee County Airport, Pennington Gap, Va.

Pennsylvania

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 42°40'00" N., longitude 75°30'00" W., to latitude 42°10'00" N., longitude 75°25'00" W., to latitude 42°00'00" N., longitude 75°26'00" W., to latitude 42°00'00" N., longitude 75°00'00" W., to latitude 41°31'00" N., longitude 75°07'00" W., to latitude 40°56'16" N., longitude 75°11'04" W., to latitude 40°48'00" N., longitude 75°00'00" W., to latitude 40°49'00" N., longitude 74°37'00" W., to latitude 40°38'00" N., longitude 74°49'30" W., to latitude 40°31'15" N., longitude 74°42'30" W., to latitude 40°24'20" N., longitude 74°45'40" W., to latitude 40°16'10" N., longitude 74°39'20" W., to latitude 40°00'35" N., longitude 74°54'35" W., to latitude 39°53'00" N., longitude 74°48'00" W., to latitude 39°43'00" N., longitude 74°48'00" W., to latitude 39°18'20" N., longitude 75°36'40" W., to latitude 39°25'25" N., longitude 75°46'05" W., thence northerly along the Delaware State line to the Pennsylvania State line; thence westerly and northerly along the Pennsylvania State line to the United States/Canadian Border; thence northeasterly along the United States/Canadian Border to longitude 79°19'30" W.; to latitude 42°37'00" N., longitude 79°15'00" W.; to latitude 42°32'00" N., longitude 78°52'00" W., to latitude 42°32'00" N., longitude 77°36'00" W.; to latitude 42°40'00" N., longitude 77°23'45" W.; to latitude 42°41'30" N., longitude 76°23'00" W.; to point of beginning.

Penn Yan, N. Y.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 42° 38'30" N., 77°03'20". W., of Penn Yan Airport, Penn Yan, N. Y.; within 3 miles each side of a 095° bearing from the Penn Yan, N. Y., RBN 42°38'38" N., 77°03'22" W., extending from the 5.5-mile radius area to 8.5 miles east of the RBN.

Pensacola, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Pensacola Regional Airport (lat. 30°28'25"N., long. 87°11'20"W.); within 3 miles each side of the ILS localizer north course, extending from the 8.5-mile radius area to 8.5 miles north of Brent LOM; within an 8.5-mile radius of Forrest Sherman Field (lat. 30°20'53"N., long. 87°19'04"W.); and within a 17.5-mile radius of the NAS Pensacola TACAN, extending clockwise from the 070° radial to the 270° radial.

Peoria, Ill.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 40°54'N., long. 89°59'W., to lat. 40°53'N., long. 89°33'W., to lat. 40°49'N., long. 89°29'W., to lat. 40°23'N., long. 89°34'W., to lat. 40°26'N., long. 90°07'W., to lat. 40°34'N., long. 90°11'W., to lat. 40°47'N., long. 90°08'W., to point of beginning.

Perry, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Perry-Foley Airport (lat. 30°04'09" N., long. 83°34'43" W.).

Perry, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Perry Municipal Airport (latitude 41°49'35" N., longitude 94°09'30" W.); and within 2 miles each side of the 147° bearing from Perry Municipal Airport, extending from the 5-mile radius area to 8 miles southeast of the airport.

Perryton, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Perryton Airport (latitude 36° 24' 45" N., longitude 100° 45' 00" W.), and within 2 miles each side of the 101° bearing from the Perryton RBN (latitude 36° 24' 46" N., longitude 100° 44' 17" W.) extending from the 5-mile radius area to 8 miles E of the RBN.

Perryville, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Perryville, Mo., Municipal Airport (latitude 37°51'55" N., longitude 89°51'45" W.) and within 2 miles each side of the Farmington, Mo., VORTAC 057° radial extending from the 8-mile radius area to 15 miles northeast of the VORTAC.

Peru, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Peru Airport (latitude 40°47'10" N., longitude 86°08'47" W.), excluding the area which overlies the Kokomo transition area.

Petersburg, Mich.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lada Airport (lat. 41°53'15"N., long. 83°40'45"W.) and within 2 miles each side of the Carleton, Mich., VORTAC 226° radial extending from the 5-mile radius area to 9.5 miles southwest of the VORTAC.

Petersburg, Va.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 37°11'00"N., long. 77°31'00"W., of Petersburg Municipal Airport, Petersburg, Va., and within 5 miles each side of the 226° bearing from the Petersburg RBN, lat. 37°07'48"N., long. 77°34'30"W., extending from the 8-mile radius area to 11.5 miles southwest of the RBN.

Petersburg, W. Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°59'35"N., 79°08'34"W., of Grant County Airport, Petersburg, W. Va.; within 3 miles each side of the 116° bearing from the Dorcas, W. Va., RBN (lat. 38°59'26"N., long. 79°08'34"W.), extending from the RBN to 8.5 miles southeast of the RBN; within 5 miles each side of the 357° bearing from the Dorcas, W. Va., RBN, extending from the RBN to 20 miles north of the RBN.

Philadelphia, Pa.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 39°52'23" N., 75°14'58" W., of Philadelphia International Airport, Philadelphia, Pa.; within a 9-mile radius of the center of the airport, extending clockwise from a 136° bearing to a 256° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 256° bearing from the airport to a 058° bearing from the airport; within 6.5 miles south and 4.5 miles north of the Philadelphia International Airport Runway 9R ILS localizer course, extending from 5.5 miles east to 11.5 miles west of the OM; within 4.5 miles each side of the Modena, Pa., VORTAC 097° radial, extending from 24 miles east to 33 miles east of the VORTAC; within a 5.5-mile radius of the center, 39°47'50" N., 75°20'35" W., of Bridgeport Airport, Bridgeport, New Jersey; within 4.5 miles each side of the Woodstown, N. J. VORTAC 349° radial, extending from the 5.5-mile radius area to the Woodstown, N. J., VORTAC.

Philip, S. Dak.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Philip Airport (latitude 44°02'45" N., longitude 101°35'45" W.); that airspace bounded by a line 8 miles south of and parallel to the Philip, S. Dak., VORTAC 102° radial, extending from the VORTAC to 3 miles east of the VORTAC, and within 4.5 miles north and 9.5 miles south of the Philip VORTAC 282° radial, extending from the VORTAC to 18.5 miles west of the VORTAC.

Philipsburg, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°53'00" N., 78°05'15" W., of Mid-State Airport, Philipsburg, Pa., extending clockwise from a 281° bearing to a 012° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 012° bearing to a 098° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 098° bearing to a 183° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 183° bearing to a 281° bearing from the airport; within 3.5 miles each side of the Philipsburg VORTAC 067° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC; within 4 miles each side of the 327° bearing from a point 40°53'09" N., 78°06'06" W., extending from said point to a point 8.5 miles northwest; within 2.5 miles each side of the Philipsburg VORTAC 330° radial, extending from the VORTAC to 6 miles northwest of the VORTAC; and within 3.5 miles each side of the Philipsburg VORTAC 301° radial, extending from the VORTAC to 11.5 miles northwest of the VORTAC.

Phillipsburg, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Phillipsburg Municipal Airport (latitude 39°44'15" N., longitude 99°19'00" W.); and within 3 miles each side of the 142° bearing from Phillipsburg Municipal Airport, extending from the 7-mile radius area to 10½ miles southeast of the airport.

Phillipsburg, Ohio

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Myers Airport (latitude 39°54'40" N., longitude 84°24'00" W.); excluding that portion which overlies the Dayton, Ohio, and Troy, Ohio, transition areas.

Phoenix, Ariz.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°[illegible]'30" N., longitude 112°15'00" W., direct to latitude 33°34'45" N., longitude 111°32'15" W., thence clockwise via the arc of a 20-mile radius circle centered on Williams AFB (latitude 33°18'25" N., longitude 111 39°35" W.) to latitude 33°02'30" N., longitude 111°47'30" W., thence direct to latitude 33°16'00" N., longitude 112°31'00" W., thence via an arc of a 20-mile radius circle centered on Luke AFB (latitude 33°32'05" N., longitude 112°22'55" W.) to point of beginning; that airspace NW of Phoenix bounded by a line beginning at latitude 33°59'00" N., longitude 112°38'00" W., to latitude 33°49'00" N., longitude 112°25'00" W., thence counterclockwise via an arc of a 20-mile radius circle centered on Luke AFB to latitude 33°42'00" N., to latitude 33°44'00" N., longitude 112°45'00" W., to latitude 33°55'00" N., longitude 112°45'00" W., to point of beginning.

and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°10'00" N., longitude 112°39'00" W.; thence to latitude 34°10'00" N., longitude 111°30'00" W.: thence to latitude 34°00'00" N., longitude 110°52'00" W.: thence to latitude 32°33'00" N., longitude 110°52'00" W.: thence to latitude 32°33'00" N., longitude 112°00'00" W.: thence to latitude 32°51'00" N., longitude 112°30'00" W.; thence to latitude 32°51'00" N., longitude 113°00'00" W.; thence to latitude 33°19'00" N., longitude 113°00'00" W.; thence to latitude 33°19'00" N., longitude 113°10'00" W.; thence to latitude 34°00'00" N., longitude 113°10'00" W.; thence to latitude 34°00'00" N., longitude 112°52'00" W.; thence to the point of beginning. That airspace west of Phoenix extending upward from 5,500 feet MSL bounded on the north by the south edge of V-16, on the east by longitude 113°00'00" W., on the south by the north edge of V-66 and on the west by longitude 114°00'00" W., and that airspace extending upward from 7,000 feet MSL bounded on the north by latitude 34°00'00" N., on the east by longitude 113°00'00" W., on the south by the north edge of V-16 and on the west by longitude 114°00'00" W., excluding that airspace within restricted areas R-2308A, R-2308B, and R-2307.

That airspace extending upward from 9,500 feet MSL bounded on the north by the south edge of V-12, on the east by the west edge of V-327, on the south and southeast by the north and northwest boundary of the 1,200 foot portion of the transition area, and on the southwest by a line extending from latitude 34°05'00" N., longitude 112°37'00" W., to point of intersection of longitude 113°10'00" W., and the south edge of V-12.

V 46 / 1 JA 2, 81 UMI

Picayune, Miss.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Picayune-Pearl River Airport (lat. 30°31'20"N., long. 89°42'25"W.); within 3.5 miles each side of Picayune VORTAC 334° radial, extending from the 5-mile radius area to 8 miles northwest of the VORTAC.

Pierre, S. Dak.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Pierre Municipal Airport (latitude 44°22'30" N., longitude 100°17'15" W.); within 5 miles each side of the Pierre VORTAC 087° radial extending from the 8½-mile radius area to 7 miles east of the VORTAC; within 5 miles each side of the Pierre VORTAC 265° radial extending from the 8½-mile radius area to 18½ miles west of the VORTAC; within 5 miles each side of the Pierre ILS localizer northwest course extending from the 8½-mile radius area to 17½ miles northwest of the airport; within 3½ miles each side of the Pierre ILS localizer southeast course extending from the 8½-mile radius area to 18 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of the Pierre VORTAC.

Pine Bluff, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grider Field (latitude 34°10'35" N., longitude 91°55'55" W.), and within 5 miles each side of the Little Rock VORTAC 137° radial and the Pine Bluff VORTAC 007° and 186° radials extending from the Little Rock, Ark., transition area to 22.5 miles south of the Pine Bluff VORTAC.

Pine Mountain, Ga.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Callaway Gardens-Harris County Airport (latitude 32°50'30" N., longitude 84°52'55" W.); within 3 miles each side of the 264° bearing from Pine Mountain RBN (latitude 32°50'30" N., longitude 84°52'36" W.), extending from the 8-mile radius area to 8.5 miles west of the RBN.

Pineville, W. Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Kee Field, Pineville, W. Va. (lat. 37°36'01" N., long. 81°33'59" W.); within an 8.5-mile radius of the center of the airport, extending clockwise from a 265° bearing to a 305° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 343° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 343° bearing to a 005° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 005° bearing to a 025° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 085° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 085° bearing to a 125° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 125° bearing to a 172° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 172° bearing to a 210° bearing from the airport; within 5 miles each side of the Beckley VORTAC 243° radial, extending from 9 miles southwest of the VORTAC to 26 miles southwest of the VORTAC.

Pipestone, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pipestone Municipal Airport (lat. 43°59'15" N., long. 96°18'30" W.); and within 3 miles each side of the 198° bearing from Pipestone Municipal Airport, extending from the 5-mile radius area to 8 miles south of the airport.

Piqua, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Piqua Airport (lat. 40°09'55" N., long. 84°18'37" W.); and within 2 miles each side of the Dayton VORTAC 023° radial extending from the 5-mile radius area to the VORTAC, and within 1.5 miles each side of the 078° bearing from the airport extending from the 5-mile radius area to 6 miles northeast, excluding that portion overlying the Sidney, Ohio, transition area.

Pitman, N.J.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 39°45'15"N., 75°08'30"W., of Pitman Airport, Pitman, N.J., and within 5 miles each side of the Woodstown, N.J. VORTAC 046° radial, extending from the 5.5-mile radius area to the Woodstown, N.J. VORTAC, excluding the portion that coincides with the Philadelphia, Pa. transition area. This transition area is effective from sunrise to sunset, daily.

Pittsburg, Kans.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Atkinson Municipal Airport (lat. 37°26'48"N., long. 94°43'50"W.); and within 3 miles each side of the 346° true bearing from the Pittsburg, Kans., RBN (lat. 37°26'32"N., long. 94°43'35"W.); extending from the 6.5-mile radius to 8 miles NNW of the Pittsburg, Kans., RBN.

Pittsburgh, Pa.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 40°29'37"N., long. 80°13'54"W., of Greater Pittsburgh International Airport, Pittsburgh, Pa.; and within 3.5 miles each side of the Greater Pittsburgh ILS Runway 10L Localizer Course extending from the 12-mile radius area to 6.5 miles west of the OM; within an 8.5-mile radius of the center, lat. 40°21'17"N., long. 79° 55'48"W., of Allegheny County Airport, Pittsburgh, Pa., and within 3.5 miles each side of the 257° bearing from the Cecil RBN extending from the 8.5-mile radius area to 11 miles west of the RBN; and within a 7-mile radius of the center, lat. 40°21'15"N., long. 80°11'16"W., of Campbell Airport, Bridgeville, Pa.

AMENDMENTS 1/24/80 44 F. R. 72104 (Changed)

Pittsfield, Ill.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Pittsfield Penstone Airport (latitude 39°38'22" N., longitude 90°46'51" W.); and within 3 miles each side of the 124° bearing from the Pittsfield Penstone Airport extending from the 5.5-mile radius area to 8 miles southeast of the airport.

Pittsfield, Maine

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44° 46'05" N., 69°22'40" W. of Pittsfield Municipal Airport, Pittsfield, Maine and within 3.5 miles each side of the 350° bearing and the 170° bearing from the Burnham, Maine RBN 44°41'50" N., 69°21'30" W., extending from the 5-mile radius area to 10 miles south of the RBN.

Pittsfield, Mass.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 42°25'36"N., long. 73°17'30"W., of Pittsfield Municipal Airport, Pittsfield, Mass., and within 5 miles each side of the 065° bearing and the 245° bearing from the Dalton, Mass., NDB (lat. 42°28'15"N., long. 73° 10'[illegible].8"W.) extending from the 7-mile radius area to 12 miles northeast of the NDB.

AMENDMENTS 4/17/80 45 F. R. 27746 (Changed)

Pittstown, N. J.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°33'59"N., 74°58'43"W., of Sky Manor Airport, Pittstown, N. J., and within 4.5 miles each side of the Solberg, N. J., VORTAC 264° radial, extending from the 7-mile radius area to 23 miles west of the VORTAC.

Placerville, Calif.

That airspace extending upward from 700 feet above the surface within a 4-mile radius of Placerville Airport (lat. 38°43'30"N., long. 120°45'18"W.) and within 4 miles each side of the Hangtown, Calif., VOR (lat. 38°43'31"N., long. 120°44'52"W.) 242° radial extending from the 4-mile radius area to 11 miles southwest of the VOR.

AMENDMENTS 10/30/80 45 F. R. 53088 (Changed)

PENDING AMENDMENT

The Placerville, Calif., transition area is amended by deleting the period after "southwest of the VOR." and adding the following:

and within 4 miles each side of the Hangtown VOR 197° radial extending from the 4-mile radius area to 11 miles south of the VOR.

AMENDMENTS 12/25/80 45 F. R. 74468 (Changed)

Plains, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Peterson Field (lat. 32°05'25"N., long. 84°22'20"W.); within 5 miles each side of the Albany VORTAC 350° radial, extending from the 6.5-mile radius area to 39.5 miles north of the VORTAC; excluding the portion within the Americus transition area.

Plainview, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hale County Airport, Plainview, Tex., (latitude 34°10'10" N., longitude 101°43'00" W.).

Platteville, Wis.

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Platteville Municipal Airport (latitude 42°41'15" N., longitude 90°26'41" W.).

Plattsburgh, N. Y.

That airspace extending upward from 700 feet above the surface within a 13-mile radius of the center, 44°39'05"N., 73°28'08"W., of Plattsburgh AFB; within 5 miles each side of the Valcour, N. Y., TACAN 337° radial, extending from the 13-mile radius area to 20 miles northwest of the TACAN; within 4.5 miles each side of the Valcour, N. Y., TACAN 157° radial, extending from the 13-mile radius area to 16.5 miles southeast of the TACAN.

Plattsmouth, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Plattsmouth Municipal Airport (lat. 40°57'05"N., long. 95°55'05"W.) within 3 miles each side of the 176° bearing from the Plattsmouth Municipal Airport, extending from the 5-mile radius to 8 miles south of the airport; excluding the portion within the Omaha, Nebr., transition area.

Pleasanton, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pleasanton Municipal Airport (lat. 28°57'00"N., long. 98°31'20"W.) and within 3 miles each side of the 168° bearing from the Pleasanton NDB to 8 miles south of the NDB.

Plymouth, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Plymouth Municipal Airport (latitude 41°22'00" N., longitude 86°18'10" W.); within 2½ miles each side of the Knox, Ind. VOR 080° radial, extending from the 5-mile radius area to 12 miles east of the VOR; and within 2½ miles each side of the Knox VOR 081° radial, extending from the 5-mile radius area to 25½ miles east of the VOR.

Plymouth, Mass.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°54'35" N., 70°43'45" W., of Plymouth Municipal Airport, Plymouth, Mass., and within 2 miles each side of the Whitman, Mass., VOR 129° radial extending from the 5-mile radius area to the VOR, and within 2 miles each side of the 204° bearing from the Plymouth, Mass., RBN , 41°54'32" N., 70°44'11" W. extending from the 5-mile radius area to 8 miles southwest of the Plymouth RBN, excluding that airspace which coincides with the Boston, Mass., and Taunton, Mass., 700-foot transition areas.

Plymouth, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Plymouth Municipal Airport (lat. 35°48'30" N., long. 76°45'36" W.); within 3 miles each side of the 188° bearing from Plymouth RBN (lat. 35°48'35" N., long. 76°45'47" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Pocahontas, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pocahontas Municipal Airport (latitude 42°44'45" N., longitude 94°38'45" W.); within 3 miles each side of the 280° bearing from the Pocahontas Municipal Airport, extending from the 5-mile radius to 8 miles west of the airport; within 2 miles each side of the 116° bearing from the Pocahontas Municipal Airport; extending from the 5-mile radius to 6 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 41-mile arc of the Fort Dodge VORTAC (latitude 42°36'40" N., longitude 94°17'41" W.); starting at the 268° radial of the Fort Dodge VORTAC and extending clockwise to the 315° radial of the Fort Dodge VORTAC, excluding that portion which overlies the Fort Dodge, Iowa, Spencer, Iowa and Storm Lake, Iowa, transition areas.

Pocatello, Idaho

That airspace extending upward from 700 feet above the surface within 4.5 miles southeast and 11 miles northwest of the Pocatello VORTAC 048° radial, extending from the VORTAC to 28 miles northeast of the VORTAC; within 9.5 miles north and 4.5 miles south of the 252° radial extending from 18.5 miles west to 1.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 43°11'30" N., longitude 112°10'00" W., thence to latitude 42°52'00" N., longitude 112°11'45" W., thence clockwise via a 23-mile radius arc centered on the Pocatello VORTAC to latitude 43°05'20" N., longitude 113°00'00" W., thence to latitude 43°20'30" N., longitude 112°45'30" W., thence to point of beginning.

Point Barrow, Alaska

That airspace extending upward from 700 feet above the surface within 3 miles each side of the Browerville RBN (NMT) 155° bearing, extending from the control zone to 10 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of latitude 71°18'00" N., longitude 156°43'00" W.

PENDING AMENDMENT

The Point Barrow, Alaska, transition area is amended by deleting the period at the end of the description and adding a semicolon and a new clause to read as follows: within 4.5 miles each side of the Barrow, Alaska, ILS localizer E course extending from the localizer antenna (lat. 71°17'09"N., long. 156°43'54"W.) to 24.5 miles east of the localizer antenna and within 4.5 miles north and 9.5 miles south of the Barrow, Alaska, ILS localizer W course extending from the localizer antenna to 25.5 miles west of the localizer antenna.

AMENDMENTS 12/25/80 45 F. R. 67655 (Changed)

Point Lookout, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of School of the Ozarks Airport (latitude 36°37'25" N., longitude 93°13'45" W.).

Point Pleasant, W. Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 38°54'53"N., 82°05'53"W. of Mason County Airport, Point Pleasant, W. Va., excluding the portion that coincides with the Gallipolis, Ohio, transition area.

Point Reyes, Calif.

That airspace extending upward from 1,200 feet above the surface N of Point Reyes bounded on the NE and E by V-27, on the SW by V-107, and on the W by V-199; and W of Point Reyes bounded on the E by V-199; on the S by Control 1173, on the W by a line extending from latitude 38°02'35" N., longitude 123°14'25" W. to latitude 38°17'30" N., longitude 123°16'45" W., to latitude 38°25'30" N., longitude 123°23'00" W., to 38°43'30" N., longitude 123°23'15" W., and on the N by latitude 38°43'30" N.

Ponca City, Okla.

That airspace extending upward from 700 feet above the surface, within a 6.5-mile radius of the Ponca City Municipal Airport (lat. 36°43'50"N., long. 97°05'50"W.), and within 2 miles each side of the Pioneer, Okla., VORTAC 297° radial, extending from the 6.5-mile radius area to 8 miles NW of the VORTAC, and within 1.5 miles each side of the 180° bearing from the Ponca City LOM, extending from the 6.5-mile radius area to the LOM, and within

a 5-mile radius of the Blackwell/Tonkawa Airport (lat. 36°44'40"N., long. 97°20'58"W.), and 2 miles each side of the Pioneer, Okla., VORTAC 269° radial, extending from the 5-mile radius to the VORTAC, and 2.5 miles each side of the 180° bearing from the Blackwell/Tonkawa Municipal Airport, extending from the 5-mile radius to 6 miles south of the airport, and 2.5 miles each side of the 360° bearing from the Blackwell/Tonkawa Municipal Airport, extending from the 5-mile radius to 6 miles north of the airport.

AMENDMENTS 7/10/80 45 F. R. 34262 (Changed)

Ponce, P. R.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of Mercedita Airport Ponce, P. R. (latitude 18°00'40" N., longitude 66°33'50" W.) north of latitude 18°00'00" N., and within an 8-mile radius of Mercedita Airport south of latitude 18°00'00" N.; within 9.5 miles south and 4.5 miles north of the Ponce VOR 111° radial, extending from the VOR to 18.5 miles east of the VOR.

Poplar Bluff, Mo.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Earl Fields Memorial Airport (lat. 36°46'20"N., long. 90°19'20"W.); and within 3 miles each side of the 189° bearing from Earl Fields Memorial Airport, extending from the 5½-mile radius area to 8 miles south of the airport.

Portal, Ariz.

That airspace extending upward from 1,200 feet above the surface within 13 miles north and 8 miles south of the Cochise, Ariz., VORTAC 096° radial extending from 20 miles east to 56 miles east of the VORTAC, and that airspace extending upward from 1,200 feet above the surface bounded on the northeast by V-198, on the south by V-16, and on the west by longitude 108°49'00" W.

Port Angeles, Wash.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clallam County Airport, Port Angeles, Wash. (latitude 48°07'20" N., longitude 123°29'40" W.); within a 5-mile radius of CGAS Port Angeles (latitude 48°08'30" N., longitude 123°24'45" W.), within 2 miles N and 5 miles S of the Port Angeles VOR 093° radial, extending from the VOR to 12 miles E of the VOR; including the airspace within 2 miles either side of the William R. Fairchild International Airport Localizer west course, extending from the localizer location (lat. 48°07'00"N., long. 123°29'02"W.), to 8 miles west and that airspace extending upward from 1,200 feet above the surface bounded on the east by the west edge of V-440, on the south within 4.5 miles of the William R. Fairchild International Airport Localizer location (lat. 48°07'00"N., long. 123°29'02"W.), to 28 miles west, and on the north by the United States/Canadian border.

AMENDMENTS 12/18/79 44 F. R. 72105 (Changed)

Port Clinton, Ohio

That airspace extending upward from 700 feet above the surface wtihin a 7-mile radius of Carl R. Keller Field, Port Clinton, Ohio (latitude 41°30'57" N., longitude 82°51'58" W.) within 3 miles each side of the 082° Bearing from the airport extending from the 7-mile radius to 8 miles east of the airport.

Porterville, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Porterville Municipal Airport (latitude 36°02'00" N., longitude 119°04'00" W.) and within 2 miles each side of the Porterville VOR 343 radial extending from the 5-mile radius area to 1 mile north of the VOR.

Port Isabel, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Port Isabel, Cameron County Airport (latitude 26°10'00" N., longitude 97°20'45" W.) and within 2 miles each side of the Brownsville, Tex., VORTAC 006° radial extending from the 5-mile radius area to 10 miles north of the Brownsville VORTAC and within 2 miles each side of the Brownsville, Tex., VORTAC 005° radial extending 1 mile north of the 5-mile radius area.

Portland, Ind.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Steed Field (latitude 40°27'00" N., longitude 84°59'15" W.); and within 2 miles each side of the 100° bearing from Steed Field, extending from the 6-mile radius area to 8 miles East of the airport.

Portland, Maine

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, (latitude 43°38'50" N., longitude 70°18'30" W.) of Portland International Jetport; within 4.5 miles south and 9.5 miles north of the Portland ILS localizer west course, extending from the OM to 18.5 miles west of the OM.

AMENDMENTS 10/2/80 45 F. R. 57371 (Changed)

Portland, Oreg.

That airspace extending upward from 700 feet above the surface bounded on the north by latitude 46°00'00" N., on the east by longitude 122°05'00" W., on the south by latitude 45°10'00" N., and on the west by longitude 123°30'00" W.; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at a point 3 miles offshore at latitude 46°30'30" N., extending easterly via latitude 46°30'30" N., to longitude 121°40'00" W., thence easterly along the south edge of V-204 to latitude 46°30'40" N., longitude 120°36'00" W., on the east by V-25, on the south by V-536 to Corvalis, VOR, thence via latitude 44°30'00" N., to a point 3 miles offshore and on the west by a line 3 miles offshore to the point of beginning.

Portland, Tenn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Portland Municipal Airport (lat. 36°35'37" N., long. 86°28'39" W.); within 5 miles each side of Bowling Green VOR 184° radial, extending from the 7-mile-radius area to 11.5 miles south of the VOR.

Port Lavaca, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Calhoun County Airport (lat. 28°39'12"N., long. 96°40'56"W.) and within 2.5 miles each side of the Palacios VORTAC 250° radial extending from the 5-mile radius area to 16 miles southwest of the VORTAC; within 3 miles each side of the 330° bearing from the NDB (lat. 28°39'01"N., long. 96°40'52"W.), extending from the 5-mile radius area to 8.5 miles northwest of the NDB.

AMENDMENTS 1/24/80 44 F. R. 67373 (Rewritten)

Portsmouth, N. H. (Pease AFB)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Pease AFB (latitude 43°04'40" N., longitude 70°49'25" W.); within 2 miles each side of the extended centerline of Runway 16, extending from the 11-mile radius area to 13 miles SE of the lift-off end of the runway, and within 2.5 miles each side of the Pease AFB VOR 188° radial, extending from the 11-mile radius area to 14 miles south of the VOR.

Portsmouth, Ohio

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Greater Portsmouth Regional Airport (lat. 38°50'26" N., long. 82°50'52" W.), within 3 miles each side of a 177° bearing from the airport extending from the 8-mile radius area to 12 miles south of the airport.

Portsmouth, Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 36°46'45" N., long. 76°26'45" W. of Chesapeake Portsmouth Airport, Portsmouth, Va.; within 3 miles each side of the 203° bearing from the Portsmouth RBN, lat. 36°46'54" N., long. 76°26'39" W., extending from the 5-mile radius area to 8.5 miles southwest of the RBN; and within 3 miles each side of the 189° bearing from the Portsmouth RBN, extending from the 5-mile radius area to 6.5 miles south of the RBN excluding the portion that coincides with the Norfolk, Va., transition area.

Port Sulphur, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Port Sulphur, La., seaplane base (latitude 29°27'45" N., longitude 89°42'10" W.), and within 2 miles each side of the Harvey, La., VORTAC 145° radial extending from the 25-mile DME fix to the Port Sulphur 5-mile radius area, and within 2 miles each side of the Grand Isle VORTAC 050° radial extending from the 25-mile DME fix to the Port Sulphur 5-mile radius area.

Poteau, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of Robert S. Kerr Airport, Poteau, Okla. (lat. 35°01'11"N., long. 94°37'17"W.); and within 3.5 statute miles each side of the Rich Mountain, Okla., VORTAC (lat. 34°40'49"N., long. 94°36'32"W.) 351° radial extending from the 8.5-mile radius area to 13.5 statute miles north of the VORTAC.

Potsdam, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the center of Potsdam Municipal (Damon Field) Airport lat. 44°40'30" N., long. 74°57'00" W, and within 3.5 miles each side of a 044° bearing from the Potsdam, N. Y., radio beacon (lat. 44°43'24" N., long. 74°52'50" W.) extending from the 6.5-mile radius area to 11.5 miles northeast of the radio beacon.

Pottstown, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°15' 45" N., 75°40'00" W. of Pottstown Municipal Airport, Pottstown, Pa., extending clockwise from a 036° bearing to a 147° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 200° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 200° bearing to a 274° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 305° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 036° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Pottstown, Pa., VORTAC 294° and 114° radials, extending from 5.5 miles northwest of the VORTAC to 11.5 miles southeast of the VORTAC; within a 5-mile radius of the center, 40°14'15" N., 75°33'45" W. of Pottstown-Limerick Airport, Pottstown, Pa., extending clockwise from a 346° bearing to a 223° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 223° bearing to a 346° bearing from the airport; and within 9.5 miles west and 4.5 miles east of Pottstown, Pa., VORTAC 190° radial, extending from the VORTAC to 18.5 miles south of the VORTAC; within 5 miles each side of the Pottstown, Pa., VORTAC 086° radial, extending from the Pottstown, Pa., VORTAC to 18 miles east of the VORTAC; excluding the portion that coincides with the North Philadelphia, Pa., and Toughkenamon, Pa., transition areas.

Pottsville, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°42' 15" N., 76°23'00" W. of Schuylkill County (Joe Zerbey) Airport, Pottsville, Pa.; within 3 miles each side of the 03° bearing from the Zerbey RBN 40°42'25" N., 76°22'19" W., extending from the 6-mile radius area to 8.5 miles east of the RBN; and within 2 miles each side of the Ravine, Pa., VORTAC 049° radial, extending from the 6-mile radius area to 9 miles northeast of the VORTAC.

Poughkeepsie, N. Y.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 41°37' 36" N., 73°52'59" W., of Dutchess County Airport, Poughkeepsie, N. Y.; within a 15.5-mile radius of the center of Dutchess County Airport, extending clockwise from a 040° bearing to a 215° bearing from the airport; within 3.5 miles each side of the Kingston, N. Y., VORTAC 025° radial, extending from the 10-mile radius area to 10.5 miles northeast of the VORTAC; within 5 miles each side of the Kingston, N. Y., VORTAC 050° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC; within 6.5 miles northwest and 4.5 miles southeast of a 231° bearing from a point 41°34'06" N., 73°58'42" W., extending from said point to 11.5 miles southwest; within 5 miles each side of a direct line between a point 41°31'42" N., 74°06'48" W., and a point 41°34'06" N., 73°58'42" W.; within a 5-mile radius of the center, 41°42'30" N., 73°44'00" W. of Sky Acres Airport, Millbrook, N. Y.; within an 8.5-mile radius of the center of Sky Acres Airport extending clockwise from a 011° bearing to a 201° bearing from the airport; within a 6-mile radius of the center 41°34'30" N., 73°44'00" W., of Stormville Airport, Stormville, N. Y.; within a 10.5-mile radius of the center of Stormville Airport, extending clockwise from a 327° bearing to a 077° bearing from the airport; within a 7.5-mile radius of the center of Stormville Airport, extending clockwise from a 077° bearing to a 121° bearing from the airport; within a 10.5-mile radius of the center of Stormville Airport, extending clockwise from a 121° bearing to a 239° bearing from the airport; excluding the portion that coincides with the Newburgh, N. Y., transition area.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: 42°02'00" N., 73°16'00" W. to 41°49'00" N., 73°16'00" W. to 41°31'00" N., 73°20'00" W. to 41°31'00" N., 73°54'00" W. to 41°27'00" N., 73°54'00" W. to 41°19'00" N., 73°57'00" W. to 41°19'00" N., 74°33'00" W. to 41°31'00" N., 75°07'00" W. to 42°00'00" N., 75°00'00" W. to point of beginning.

Prairie Du Chien, Wis.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Prairie Du Chien Municipal Airport (latitude 43°01'17" N., longitude 91°07'24" W.); and within 4.5 miles each side of the 130° radial of the Waukon VORTAC, extending from the 9.5-mile radius to 18.5 miles southeast of the airport;
and that airspace extending upward from 1,200 feet above the surface within a 55-mile radius of the Waukon VORTAC between the 089° and the 145° radials excluding that portion which overlies in the State of Iowa.

Pratt, Kans.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Pratt Municipal Airport (latitude 37°42'13" N., longitude 98°44'47" W.); and within 3 miles each side of the 360° bearing from the Pratt nondirectional beacon (NDB), extending from the 6.5-mile radius area to 8 miles north of the NDB.

Prescott, Ariz.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Prescott Municipal Airport (latitude 34°39'10" N., longitude 112°25'15" W.) and within 3 miles each side of the Prescott VORTAC 319° radial extending from the 10.5-mile radius area to 8.5 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 21-mile radius of the Prescott VORTAC extending clockwise from a line 5 miles south of and parallel to the Prescott VORTAC 252° radial to a line 5 miles west of and parallel to the Prescott VORTAC 150° radial and within a 14-mile radius of Prescott VORTAC, extending clockwise from a line 5 miles west of and parallel to the Prescott VORTAC 150° radial to a line 5 miles south of and parallel to the Prescott 252° radial.

Presidio, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Presidio Lely International Airport (lat. 29°37'48"N., long. 104°22'24"W.) and within 3.5 miles either side of the 114° bearing from the Presidio NDB (lat. 29°38'02"N., long. 104°21'32"W.) extending from the 7-mile radius to 11.5 miles east of the Presidio NDB, excluding that portion outside the United States; extending upward from 1,200 feet above the surface within 9.5 miles north and 7 miles south of the 114° and 294° bearings from the Presidio NDB extending from 8 miles west to 17.5 miles east of the Presidio NDB, and within 5 nautical miles either side of the 207° radial of the Marfa VOR extending from the 9.5-mile line to the boundary of the State of Texas transition area, excluding that portion outside of the United States.

Presque Isle, Maine

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Northern Maine Regional Airport (lat. 46°41'30" N., long. 68°02'30" W.); within 3.5 miles east and 8 miles west of the Presque Isle localizer course extending from the 13-mile radius area to 11.5 miles south of the LOM; within 3.5 miles east and 8 miles west of the Presque Isle VORTAC 338° radial extending from the 13-mile radius area to 11.5 miles north of the VORTAC; within an 8.5 mile radius of Caribou, Maine, Municipal Airport (lat. 46°52'20" N., long. 68°01'10" W.); within a 10-mile radius of Loring AFB (lat. 46°57'05" N., long. 67°53'10" W.); Limestone, Maine; excluding that portion outside of the United States.

AMENDMENTS 10/2/80 45 F. R. 57371 (Changed)

Price, Utah

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Carbon VOR (latitude 39°36'50" N., longitude 110°44'56" W.), and within 2 miles each side of the 201° radial of the Carbon VOR, extending from the 5-mile radius area to 8 miles south of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles west and 11 miles east of the 021° and 201° radials of the Carbon VOR extending from 9 miles north to 18.5 miles south of the VOR.

Priest, Calif.

That airspace extending upward from 1,200 feet above the surface bounded on the E by V-107, on the S by latitude 35° 5[illegible]' 00" N., and the arc of a 20-mile radius circle centered on the Paso Robles, Calif., VOR, on the W by V-25 [illegible], and on the N by V-111, excluding the portion within the Lemoore, Calif., transition area.

Princeton, Maine

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Princeton Airport (latitude 45°12'05" N., longitude 67°34'00" W.); and within 2 miles each side of the Princeton VOR 143° radial, extending from the 5-mile radius area to the VOR.

Princeton, N. J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 40°23'54" N., 74°39'31" W., of Princeton Airport, Princeton, N. J.; within a 6-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 120° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 191° bearing to a 225° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 268° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 268° bearing to a 310° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from 310° bearing to a 357° bearing from the airport; and within 3.5 miles each side of the Solberg, N. J., VOR 161° radial, extending from the 5-mile radius area to the VOR, excluding the portions which coincide with the Readington, N. J., New York, N. Y., and North Philadelphia, Pa., transition areas.

Providence, R. I.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Theodore Francis Green State Airport, Providence, R. I., (lat. 41°43'30"N., long. 71°25'48"W.) within 2 miles each side of the Providence ILS localizer NE course, extending from the 8-mile radius area to the intersection of the Putnam, Conn., VORTAC 106° radial, within 5 miles SE and 8 miles NW of the Providence ILS localizer SW course, extending from the 8-mile radius area to 12 miles SW of the OM, within a 12-mile radius of the Quonset State Airport, Kingston, R. I., (lat. 41°35'55"N., long. 71°24'50"W.) within a 7-mile radius of the New Bedford, Mass., Municipal Airport (lat. 41°40'37"N., long. 70°57'34"W.) within 8 miles SE and 11 miles NW of the New Bedford ILS localizer SW course, extending from the localizer to 12 miles SW of the OM, and within 3 miles each side of the 038° bearing from the New Bedford OM extending from the 7-mile radius to 14.5 miles NE of the New Bedford OM within a 5-mile radius of the Fall River, Mass., Municipal Airport (lat. 41°45'15"N., long. 71°06'40"W.) and within 2 miles each side of the 050° bearing from the Fall River, Mass., NDB, extending from the 5-mile radius area to 8 miles NE of the NDB, and within 3 miles each side of the Island, R. I., NDB 188° bearing extending from the NDB to 8 miles south.
AMENDMENTS 9/4/80 45 F. R. 43698 (Rewritten)

Provincetown, Mass.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Provincetown Municipal Airport (lat. 42°04'15"N., long. 70°13'15"W.) and within 3.5 miles each side of the Racepoint NDB 240° bearing extending from the NDB to 11.5 miles southwest and within 4.5 miles each side of the NDB 060° bearing extending from the NDB to 10.2 miles northeast.
AMENDMENTS 7/10/80 45 F. R. 31975 (Rewritten)

Pueblo, Colo.

That airspace extending upward from 700 feet above the surface within a 25-mile radius of Pueblo Memorial Airport (lat. 38°17'30"N., long. 104°30'00"W.), within an arc of a 33-mile radius circle of Pueblo Memorial Airport clockwise between the 088° and 133° bearings from the airport; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 38°30'00"N., on the east by V-169, on the south by V-210 on the west by a line from 37°38'00"N., 105°00'00"W., to 38°16'00"N., 105°10'00"W., to 38°30'00"N., 105°0[illegible]'00"W.; that airspace extending upward from 13,700 feet MSL bounded by a line beginning at 38°16'00"N., 105°10'00"W., to 37°38'00"N., 105°00'00"W., to 37°34'00"N., 105°12'00"W., to 38°10'00"N., 105°33'00"W., to point of beginning; that airspace extending upward from 11,700 feet MSL bounded by a line beginning at 38°16'00"N., 105°10'00"W., to 38°10'00"N., 105°33'00"W., to 38°41'00"N., 105°33'00"W., to 38°36'00"N., 105°08'00"W., to 38°30'00"N., 105°09'00"W., to point of beginning.

Pulaski, Tenn.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Abernathy Airport (lat. 35°08'45" N., long. 87°03'30" W.); excluding the portion within Lawrenceburg, Tenn., transition area.

Pulaski, Wis.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Austin-Straubel Airport, Green Bay, Wis., (lat. 44°29'16"N., long. 88°07'49"W.); within 2½ miles each side of the Green Bay ILS southwest localizer course extending from the 9-mile radius to 8 miles southwest of the OM; within 5 miles to the southwest side and 8 miles to the northeast side of the Green Bay 326° radial, extending from the 9-mile radius area to 10 miles northwest of the VORTAC; and within 5 miles each side of the Green Bay ILS localizer northeast course extending from the 9-mile radius to 14 miles northeast of the airport.

Pullman, Wash.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pullman-Moscow Regional Airport (latitude 46°44'40" N., longitude 117°06'30" W.) and within 2 miles each side of the Pullman VOR (latitude 46°40'25" N., longitude 117°13'30" W.) 232° and 047° radials extending from the 5-mile radius area to 8 miles southwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 9 miles northwest and 6 miles southeast of the Pullman VOR 052° and 232° radials extending from 17.5 miles southwest to 7.5 miles northeast of the VOR.

Punta Gorda, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Charlotte County Airport (lat. 26°55'15"N., long. 81°59'30"W.); within 3 miles either side of the Punta Gorda VOR (lat. 26°54'59"N., long. 81°59'29"W.) 038° radial, extending from the 6.5-mile radius area to 8.5 miles northeast of the VOR.

Quakertown, Pa.

That airspace extending upward from 700 feet above the surface within an 8-mile radius area of the center of Quakertown Airport, Quakertown, PA., lat. 40°26'15" N., long. 75°22'40" W., and within 3.5 miles each side of a line bearing 099° from the Quakertown, Pa. RBN (lat. 40°26'29" N., long. 75°17'52" W.) extending from the 8-mile radius area to 11 miles east of the RBN.

Quantico, Va.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 38°30'15"N., long. 77°18'15"W., of Quantico MCAF (Turner Field) Quantico, Va.; within a 9-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 355° bearing from the airport; within 6.5 miles east and 4.5 miles west of the Brooke, Va., VORTAC 013° radial and 193° radial, extending from 4.5 miles south of the VORTAC to 8.5 miles north of the VORTAC.
AMENDMENTS 5/19/80 45 F. R. 32667 (Changed)

Quincy, Ill.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Quincy Municipal Baldwin Field Airport (latitude 39°56'30" N., longitude 91°11'45" W.), and within 5 miles northwest and 8 miles southeast of the Quincy ILS localizer southwest course, extending from the 8.5-mile radius to 12 miles southwest of the OM.

Raeford, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Raeford Municipal Airport (lat. 35°01'12"N., long. 79°11'28"W.); excluding that portion that coincides with the Fayetteville, N. C., transition area.

Raleigh, N. C.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Raleigh-Durham Airport (lat. 35°52'21" N., long. 78°47'02" W.); within 9.5 miles northwest and 4.5 miles southeast of the 045° bearing from Leesville RBN, extending from the RBN to 18.5 miles northeast of the RBN; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham ILS localizer southwest course, extending from the LOM to 18.5 miles southwest; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham VORTAC 231° radial, extending from the VORTAC to 18.5 miles southwest of the VORTAC; within a 6.5-mile radius of Horace Williams Airport (lat. 35°55'50" N., long. 79°04'00" W.).

Rapid City, S. Dak.

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Ellsworth AFB TACAN; and within 4½ miles southwest and 10½ miles northeast of the Rapid City VOR 155° radial, extending from the 14-mile radius area to 19 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 53-mile radius of Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.).

Raton, N. Mex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Crews Field (lat. 36°44'29"N., long. 104°30'04"W.) excluding that portion northwest of a line 5 miles northwest of and parallel to the Cimarron VORTAC 050° radial, and within 3.5 miles each side of the 214° bearing from the NDB (lat. 36°42'02"N., long. 104°32'21"W.) extending from the 8.5-mile radius area to 9.5 miles southwest of the NDB; and that airspace extending upward from 1,200 feet above the surface within 6.5 miles northwest of the Cimarron VORTAC 050° radial extending from the VORTAC to 45 miles northeast, within 16.5 miles southeast of the Cimarron VORTAC 050° and 230° radials extending from 1.5 miles southwest to 29 miles northeast of the VORTAC, and within 8.5 miles southeast of the Cimarron VORTAC 050° radial extending from 29 miles northeast to 45 miles northeast of the VORTAC.

Rawlins, Wyo.

That airspace extending upward from 700 feet above the surface within the 9-mile radius of the Rawlins Municipal Airport (lat. 41°48'15"N., long. 107°12'05"W.) and within 5 miles each side of the 089° bearing from the Sinclair radio beacon (lat. 41°48'24"N., long. 107°05'06"W.) extending from the radio beacon to 11.5 miles east; that airspace extending upward from 1,200 feet above the surface within 13 miles south and 8 miles north of the Cherokee VORTAC (lat. 41°45'21"N., long. 107°34'53"W.) 261° radial extending on the north from the west edge of V-26 and on the south from the south edge of V-4 to a point 23 miles west of the Cherokee VORTAC; and that airspace east of the Cherokee VORTAC within an arc of the 46-mile radius circle centered on the Cherokee VORTAC bounded on the north by the north edge of V-26 and on the south by V-4.

AMENDMENTS 5/15/80 45 F. R. 20058 (Rewritten)

Rayville, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Rayville Municipal Airport (lat. 32°28'57"N., long. 91°46'07"W.) and within 2.5 miles each side of the 181° bearing of the NDB (lat. 32°24'24"N., long. 91°46'21"W.) extending from the 5-mile radius area to 4 miles south of the NDB.

AMENDMENTS 9/4/80 45 F. R. 41907 (Rewritten)

Reading, Pa.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center; 40°22'39" N., 75°57'57" W., of Reading Municipal-General Carl A. Spaatz Field, Reading, Pa., extending clockwise from a 050° bearing to a 100° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 100° bearing to a 140° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 140° bearing to a 280° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 280° bearing to a 050° bearing from the airport; within 5 miles each side of the Reading Municipal-General Carl A. Spaatz Field ILS localizer south course extending from the OM to 9.5 miles south of the OM; within 9.5 miles east and 4.5 miles west of the Reading Municipal-General Carl A. Spaatz Field ILS localizer south course, extending from the OM to 18.5 miles south of the OM; within 6.5 miles north and 4.5 miles south of the East Texas, Pa. VORTAC 252° radial, extending from 12 miles west of the VORTAC to 29 miles west of the VORTAC; within 4.5 miles each side of 301° bearing from a point 40°27'10"N., 76°07'40"W., extending from said point to 8.5 miles northwest of said point.

Readington, N. J.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°34'56" N., 74°44'20" W., of Solberg-Hunterdon Airport, Readington, N. J., and within 8 miles east and 5 miles west of Solberg, N. J., VORTAC 227° radial extending from the 6-mile radius area to 14 miles southwest of the VORTAC excluding the portion that coincides with the New York, N. Y., transition area.

Red Bluff, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Redding Municipal Airport (latitude 40°30'35" N., longitude 122°17'30" W.) within 2 miles W and 4 miles E of the Redding VOR 102° radial, extending from the 5-mile radius area to 10 miles S of the VOR, within 2 miles each side of the Redding ILS localizer N course, extending from the 5-mile radius area to 8 miles N of the threshold of Runway 16, excluding the portions within a 1-mile radius of Redding Sky Ranch Airport (latitude 40°30'00" N., longitude 122°22'35" W.) and Enterprise Sky Park (latitude 40°34'26" N., longitude 122°19'30" W.), and within 2 miles each side of the Red Bluff VORTAC 347° radial extending from the VORTAC to 11.5 miles N of the VORTAC, that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Red Bluff VORTAC, within 9 miles each side of the Red Bluff VORTAC 291° radial, extending from the 20-mile radius area to 52 miles W of the VORTAC; within 9 miles W and 10 miles E of the Red Bluff VORTAC 342° radial, extending from the 20-mile radius area to 67 miles N of the VORTAC, within 10 miles W and 6 miles E of the Red Bluff VORTAC 018° radial, extending from the 20-mile radius area to 56 miles N of the VORTAC and that airspace NE and E of Red Bluff within an arc of a 24-mile radius circle centered on the Red Bluff VORTAC, extending from the Red Bluff VORTAC 015° radial clockwise via the 24-mile arc to long. 40°00'00"W. That airspace NW of Red Bluff within an arc of a 30 mile radius circle centered on Red Bluff VORTAC, extending from the N edge of V-195 to the W edge of the V-23 and that airspace north of Redding within an arc of a 23-mile radius circle centered on Redding VOR, extending from the E edge of V-23 to the W edge of V-25.

Red Hook, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°59'12" N., 73°50'12" W., of Skypark Airport, extending clockwise from a 012° bearing to a 130° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 130° bearing to a 168° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 168° bearing to a 232° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 309° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 309° bearing to a 012° bearing from the airport and within 3 miles each side of the Kingston, N. Y., VORTAC 358° radial, extending from the 8-mile radius area and 6.5-radius area to 10.5 miles north of the Kingston, N. Y., VORTAC.

Redmond, Oreg.

That airspace extending upward from 700 feet above the surface within 2 miles north and 13.5 miles south of the Redmond VORTAC 059° radial to 33 miles east of the VORTAC; within 2 miles each side of a 230° bearing from the center of the 5-mile radius circle centered on Roberts Field Airport extending from the radius of the 5-mile circle to 10 miles southwest of the airport; within 2 miles each side of Redmond VORTAC 162° radial extending from the VORTAC to 5 miles south of the VORTAC; within 2 miles each side of the Redmond VORTAC 281° radial extending from the VORTAC to 5 miles west of the VORTAC; within 2 miles each side of a 302° bearing from the Roberts RBN extending from the RBN to 6 miles northwest of the RBN; and within 4 miles each side of the Redmond VORTAC 014° radial, extending from 15 miles north of the VORTAC to 35 miles north; that airspace extending upward from 1,200 feet above the surface within a 37-mile radius of the VORTAC between the 006° and 048° radials; within a 31-mile radius of the VORTAC between the 048° radial and a line 6 miles west of and parallel to the 189° radial; that airspace extending upward from 1,700 feet above the surface within a line beginning at Redmond, Oreg., VORTAC, extending north on V-25 to the Dalles VORTAC, east on V-112 to Pendleton VORTAC, southeast on V-4 to Baker VORTAC, southwest on V-357 to Lakeview VORTAC, west on V-122 to Klamath Falls, VORTAC, northwest on V-452 to Eugene VORTAC, east on V-121N to Redmond VORTAC, excluding that airspace within Federal Airways, the Juniper MOA, the Lakeview Control Area, and the Baker, Eugene, Klamath Falls, Pendleton, The Dalles, and Burns (Wildhorse), Oreg., transition areas.

AMENDMENTS 9/4/80 45 F. R. 46348 (Changed) Corr: 45 F. R. 54028

Red Oak, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Red Oak Municipal Airport (latitude 41°00'40" N., longitude 95°15'25" W.); and within 3 miles each side of a 335° bearing from the Red Oak Municipal Airport, extending from the 6-mile radius to 9½ miles northwest of the airport.

Redwood Falls, Minn.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Redwood Falls Municipal Airport (latitude 44°32'45" N., longitude 95°04'45" W.).

Reed City, Mich.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Miller Airport (latitude 43°54'05" N., longitude 85°31'05" W.); within 9 miles east and 8 miles west of the 352° bearing from Miller Airport, extending from the airport to 16 miles north of the airport; and within 8 miles east and 8 miles west of the 003° bearing from Miller Airport, extending from the airport to 12 miles north of the airport.

Reedsville, Pa.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the center, lat. 40°40'44"N., long. 77°37'22"W., of Mifflin County Airport, Reedsville, Pa., and within 3.5 miles each side of the 228° bearing from a point lat. 40°36'55"N., long. 77°43'09"W., extending from said point to a point 11.5 miles southwest.

Refugio, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Tom O'Connor Oilfield Airport (lat. 28°20'04"N., long. 97°08'58"W.); within 2 miles each side of the 335° bearing from the Vidauri RBN (lat. 28°23'51"N., long. 97°10'40"W.), extending from the 5-mile radius area to 8 miles northwest of the Vidauri NDB; within a 5-mile radius of Mellon Ranch Airport (lat. 28°16'50"N., long. 97°12'30"W.), and within 3.5 miles each side of the 319° bearing from the Mellon Ranch NDB (lat. 28°16'47"N., long. 97°12'20"W.), extending from the 5-mile radius to 12 miles northwest of the Mellon Ranch NDB and within 3.5 miles each side of the 152° bearing from the Mellon Ranch NDB, extending from the 5-mile radius to 11.5 miles southeast of Mellon Ranch NDB.

Rehoboth Beach, Del.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°43'10" N., 75°07'35" W., of Rehoboth Aircrafters Airport, Rehoboth Beach, Del., and within 2 miles each side of the Waterloo, Del., VORTAC 144° radial extending from the 5-mile radius area to the VORTAC. This transition area is effective from sunrise to sunset, daily.

Reidsville, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Shiloh Airport (lat. 36°26'10"N., long. 79°50'30"W.).

Reno, Nev.

That airspace extending upward from 700 feet above the surface within an arc of a 25-mile radius circle centered on Reno Municipal Airport (latitude 39°30'02" N., longitude 119°46'07" W.) beginning at longitude 120°00'00" W., clockwise to latitude 39°25'00" N.; thence direct latitude 39°13'00" N., longitude 119°47'00" W.; thence south via longitude 119°47'00" W. to its intersection with an arc of a 25-mile radius circle centered on Reno Municipal Airport; thence clockwise via the 25-mile radius arc to longitude 120°00'00" W.; thence direct to point of beginning; that airspace extending upward from 1,200 feet above the surface within a 45-mile radius of the Reno VORTAC, excluding the portion west of longitude 120°19'00" W., east of longitude 119°00'00"W.; that airspace extending upward from 12,300 feet MSL within 10 miles east of the Reno, Nev., VORTAC 173° radial and westerly to the east edge of V-165 extending from the 45-mile radius of the Reno VORTAC to the north edge of V-244; and that airspace southwest of Reno within 22 miles north and 13 miles south of the Lake Tahoe,
Calif., VOR 090° and 270° radials, extending from 7 miles east to 35 miles west of the VOR;
and that airspace northwest of Reno extending from the 45-mile radius area bounded on the northeast by the southwest edge of V-452 and on the west by longitude 120°19'00" W.

AMENDMENTS 9/4/80 45 F. R. 47840 (Changed)

Rensselaer, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jasper County Airport (latitude 40°56'30" N., longitude 87°11'00" W.) and within 3 miles each side of the 007° bearing from the airport extending from the 5-mile radius area to 8 miles north of the airport.

Rexburg, Idaho

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Rexburg-Madison County Airport (latitude 43°49'30" N., longitude 111°49'00" W.).

Rhinelander, Wis.

That airspace extending upward from 700 feet above the surface within a 9½-statute-mile radius of the Rhinelander-Oneida County Airport.

Rhode Island

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Rhode Island including the offshore airspace within 3 NM of and parallel to the shoreline of Rhode Island and that airspace bounded by a line beginning at lat. 41°25'15"N., long. 71°04'45"W.; to lat. 41°08'30"N., long. 71°04'45"W.; to lat. 41°07'43"N., long. 71°07'36"W.; to lat. 41°01'50"N., long. 71°47'00"W.; to lat. 41°11'15"N., long. 71°47'00"W.; thence along a line 3 NM from and parallel to the shoreline to the point of beginning; and that airspace bounded by a line beginning at lat. 41°11'15"N., long. 71°47'00"W.; to lat. 41°01'50"N., long. 71°47'00"W.; to lat. 41°00'35"N., long. 72°05'00"W.; to lat. 41°12'12"N., long. 72°21'58"W.; thence easterly via the New York and Connecticut State boundaries to point of beginning.

AMENDMENTS 9/4/80 45 F. R. 43698 (Rewritten)

Rice Lake, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Arrowhead Airport (lat. 45°28'45" N., long. 91°43'20" W.); within 3½ miles each side of the 178° bearing from the Arrowhead Airport, extending from the 5-mile radius to 8 miles south of the airport.

Richmond, Ind.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Richmond Municipal Airport (latitude 39°45'23" N., longitude 84°50'36" W.); within 3 miles each side of the Richmond VOR 045° radial, extending from the 6½-mile radius area to 8 miles northeast of the VOR; within 3 miles each side of the Richmond VOR 243° radial, extending from the 6½-mile radius area to 8 miles southwest of the VOR.

Richmond, Ky.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Madison Airport (lat. 37°37'45"N., long. 84°19'56"W.).

AMENDMENTS 9/27/80 45 F. R. 57370 (Added)

Richmond, Va.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 37° 30' 16" N., long. 77°19'11" W. of Richard Evelyn Byrd International Airport, Richmond, Va., extending clockwise from a 245° bearing from the airport to a 045° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 045° bearing to a 245° bearing from the airport; within 3.5 miles each side of the Richmond VORTAC 134° radial, extending from the VORTAC to 11.5 miles southeast of the VORTAC; within 2 miles each side of the Richmond VORTAC 137° radial, extending from the VORTAC to 11.5 miles southeast of the VORTAC; within 3.5 miles each side of the Richard Evelyn Byrd International Airport ILS localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; within 3.5 miles each side of the Richmond VORTAC 342° radial, extending from the VORTAC to 11.5 miles north of the VORTAC; within 3.5 miles each side of the Richmond VORTAC 350° radial, extending from the VORTAC to 11.5 miles north of the VORTAC within 4.5 miles each side of the Richard Evelyn Byrd International Airport ILS localizer northwest course, extending from the localizer to 13.5 miles northwest of the localizer within 3 miles each side of the Richmond VORTAC 212° radial, extending from the VORTAC to 8.5 miles southwest of the VORTAC.

Rio Vista, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Rio Vista Airport (latitude 38°10'20" N., longitude 121°41'20" W.) and within 2 miles each side of the Sacramento VORTAC 202° radial extending from the 3-mile radius area to 8 miles north of the airport.

Ripley, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ripley Airport (lat. 34°43'25" N., long. 89°00'49" W.).

Riverhead, N. Y.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 41°00'35" N., longitude 72°05'00" W.; thence S via longitude 72°05'00" W. to the S boundary of V-139; thence SW via the SE boundary of V-139 to latitude 40°30'00" N., thence to latitude 40°30'00" N., longitude 73°36'00" W.; to latitude 40°41'00" N., longitude 73°33'30" W.; to latitude 40°50'00" N., longitude 73°42'00" W.; to latitude 41°00'00" N., longitude 73°33'00" W.; to latitude 41°00'00" N., longitude 72°45'00" W.; to latitude 41°18'00" N., longitude 72°30'30"W.; to the point of beginning.

AMENDMENTS 5/15/80 45 F. R. 17948 (Changed)

Riverside, Calif.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 34° 10'00"N., long. 117°59'00"W., to lat. 34°10'00"N., long. 117°01'00"W., to lat. 33°50'00"N., long. 117°01'00"W., to lat. 33°42'30"N., long. 116°56'30"W., to lat. 33°38'00"N., long. 117°09'00"W., to lat. 33°43'00"N., long. 117°15'00"W., to lat. 33°43'00"N., long. 117°25'00"W., to lat. 33°39'00"N., long. 117°25'00"W.; to lat. 33°39'00"N., long. 117°30'00"W., to lat. 33°46'00"N., long. 117°45'00"W., to lat. 33°56'00"N., long. 117°53'00"W., to lat. 33°56'00"N., long. 117°59'00"W., thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34°30'00"N., long. 117°43'00"W., thence E along lat. 34°30'00"N., to the SE boundary of V-21, thence along the SE boundary of V-21 to long. 116°30'00"W., thence direct to lat. 34°40'30"N., long. 116°29'40"W., to lat. 34°30'00"N., long. 116°26'30"W., to lat. 34°16'00"N., long. 116°18'00"W., to lat. 33°30'00"N., long. 116°18'00"W., to lat. 33°30'00"N., long. 117°30'00"W., to lat. 33°39'00"N., long. 117°30'00"W., to lat. 33°46'00"N., long. 117°45'00"W., to lat. 33°56'00"N., long. 117°53'00"W., to lat. 33°56'00"N., long. 117°59'00"W., to lat. 34° 10'00"N., long. 117°59'00"W., to lat. 34°10'00"N., long. 117°43'00"W., thence to point of beginning.

Riverton, Wyo.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Riverton Municipal Airport (latitude 43°03'45" N., longitude 108°27'15" W.), within 4.5 miles each side of the Riverton VOR 291° radial, extending from the 10-mile radius area to 19 miles west of the VOR, and within 3.5 miles each side of the Riverton VOR 123° radial extending from the 10-mile radius area to 12 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Riverton VOR, within 10 miles east and 7 miles west of the Riverton VOR 016° radial, extending from the 25-mile radius area to 38 miles north of the VOR; within 7 miles northeast and 14.5 miles southwest of the Riverton VOR 301° radial, extending from the 25-mile radius area to 37 miles northwest of the VOR.

Roanoke, Va.

That airspace extending upward from 700 feet above the surface within an 18-mile radius of the center 37° 19'30"N., 79°58'35"W., of Roanoke Municipal-Woodrum Airport, Roanoke, Va.; within a 23.5-mile radius of the center
of the airport, extending clockwise from a 203° bearing to a 296° bearing from the airport; within a 19.5-mile radius of the center of the airport, extending clockwise from a 296° bearing to a 307° bearing from the airport; within 9.5 miles northwest and 4.5 miles southeast of the Roanoke Municipal Airport LDA Runway 5 course, extending from 5 miles southwest of the OM to 23.5 miles southwest of the OM, excluding the portion within the Blacksburg, Va., transition area.

Roanoke Rapids, N. C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Halifax County Airport (lat. 36°26'22"N., long. 77°42'37"W.); within 3 miles each side of the 230° bearing from the Rapids RBN (lat. 36°26'27"N., long. 77°42'31"W.) extending from the 7-mile radius area to 8.5 miles southwest of the RBN.

AMENDMENTS 7/18/80 45 F. R. 41400 (Rewritten)

Robinson, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Robinson, Ill., Municipal Airport (lat. 39°01'00"N., long. 87°39'00"W.) and within 5 miles each side of the 348° and 091° bearings from the Robinson Municipal Airport extending from the 7-mile radius area to 12 miles north and east of the airport, excluding the area which overlies the Sullivan, Ind., transition area.

Rochelle, Ill.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Rochelle Municipal Airport (latitude 41°53'35" N., longitude 89°04'45" W.) and within 3 miles either side of the Polo VORTAC 102° radial extending 1 mile west from the 5½-mile radius area excluding the portion that overlies the Rockford, Ill., transition area.

Rochester, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fulton County Airport (latitude 41°03'55" N., longitude 86°11'55" W.); and within 2 miles each side of the 096° bearing from Fulton County Airport, extending from the airport to 8 miles east of the airport.

Rochester, Minn.

That airspace extending upward from 700 feet above the surface within a 19½-mile radius of the Rochester Municipal Airport, Rochester, Minn., (lat. 43°54'32"N., long. 92°29'47"W.); and within 4½ miles southwest and 9½ miles northeast of the Rochester ILS localizer southeast course, extending from the 19½-mile radius to 24 miles southeast of the airport; and within 5 miles each side of the Rochester ILS localizer northwest course, extending from the 19½-mile radius to 22½ miles northwest of the airport.

AMENDMENTS 7/10/80 45 F. R. 32663 (Rewritten)

Rochester, N. H.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (lat. 43°17'00"N., long. 70°57'00"W.) of the Sky Haven Airport, Rochester, N. H., excluding those portions that coincide with the Sanford, Maine, and Portsmouth, N. H., 700-foot transition areas.

Rochester, N. Y.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Rochester-Monroe County Airport, N. Y. (lat. 43°07'11"N., long. 77°40'18"W.); within 3.5 miles each side of the Rochester ILS localizer east course, extending from the 9.5-mile radius area to 11.5 miles east of the LOM; within 5 miles each side of the 141° bearing from the Briet LOM, extending from the 9.5-mile radius area to 13 miles southeast of the LOM; within 4 miles each side of the Rochester VORTAC 214° radial extending from the 9.5-mile radius area to 10.5 miles southwest of the VORTAC; within 4 miles each side of the VORTAC 280° radial extending from the 9.5-mile radius area to 10 miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line extending from lat. 43°24'00"N., long. 76°53'00"W., to lat. 42°57'00"N., long. 76°57'00"W., to lat. 42°32'00"N., long. 77°36'00"W., to lat. 42°32'00"N., long. 78°21'00"W., to lat. 43°06'00"N., long. 78°21'00"W., to lat. 43°24'00"N., long. 77°55'00"W., to point of beginning.

Rockford, Ill.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Greater Rockford Airport (latitude 42°11'50" N., longitude 89°05'45" W.), within 8 miles E and 5 miles W of the Rockford ILS localizer S course, extending from the Greater Rockford Airport to 12 miles S of the OM; and that airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 42°45'00" N., on the E by longitude 88°30'00" W., on the S by the Illinois-Wisconsin boundary, and on the W by longitude 89°55'00" W.

Rockingham, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Rockingham-Hamlet Airport (lat. 34°53'30"N., long. 79°45'35"W.); within 3 miles each side of the 126° bearing from the Roscoe RBN (lat. 34°51'09"N., long. 79°41'38"W.), extending from the 6.5-mile radius to 8.5 miles southeast of the RBN.

Rockland, Maine

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Knox County Regional Airport, Rockland, Maine (latitude 44°03'40" N., longitude 69°06'05" W.) and within 3.5 miles each side of the 194° bearing from the Sprucehead NDB (latitude 43°59'54" N., longitude 69°07'17" W.), extending from the 7.5-mile radius area to 11.5 miles south of the NDB.

Rockport, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Aransas County Airport (latitude 28°05'14" N., longitude 97°02'30" W.), and within 2 miles each side of the 314° bearing from the Rockport RBN (latitude 28°05'30" N., longitude 97°02'40" W.), extending from the 5-mile radius area to 8 miles northwest of the RBN, and within 2 miles each side of the Corpus Christi VORTAC 062° radial, extending from the 5-mile radius area to 20.5 miles northeast of the VORTAC.

Rock Rapids, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Rock Rapids Municipal Airport (lat. 43°27'10"N., long. 96°10'50"W.) and within 3 miles either side of the 347° bearing from the Rock Rapids NDB (lat. 43°27'04"N., long. 96°10'40"W.) extending from the 6½-mile radius area to 8½ miles northwest of the NDB.

Rocksprings, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Edwards County Airport (latitude 29°56'30" N., longitude 100°10'30" W.) and within 1.5 miles each side of the Rocksprings VORTAC 125° radial extending from the 5-mile radius area to the Rocksprings VORTAC.

PENDING AMENDMENT

Rocksprings, Tex. (Four Square Ranch Airport)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Four Square Ranch Airport (lat. 30°05'47"N., long. 100°24'15"W.); and within 2.5 miles each side of the 010° bearing from the Four Square Ranch Airport, extending from the 7-mile radius area to 9.5 miles north of the airport.

AMENDMENTS 12/25/80 45 F. R. 67070 (Added)

Rock Springs, Wyo.

That airspace extending upward from 700 feet above the surface within 11.5-mile radius of the Rock Springs-Sweetwater County Airport (lat. 41°35'45"N., long. 109°04'00"W.), within 12.5 miles north and 4.5 south of the 090° bearing and 12.5 miles north and 7.5 south of the 270° bearing from the Thaer LOM (lat. 41°35'49"N., long. 108°58'09"W.) extending from the 11.5-mile radius area to 18.5 miles east of the Thaer LOM and from the 11.5-mile radius area to 32 miles west of the Thaer LOM; and within 1 mile north and 6 miles south of the Rock Springs VORTAC 102° radial extending from the 11.5-mile radius area to 18.5 miles east of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 23-mile radius of the Rock Springs VORTAC and within 4.5 miles each side of the Rock Springs VORTAC 117° radial extending from the 23-mile radius circle to 35 miles southeast of the VORTAC.

PENDING AMENDMENT

The Rock Springs, Wyo., transition area is amended by deleting the 700 foot portion and substituting the following:

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the Rock Springs-Sweetwater County Airport (lat. 41°35'39"N., long. 109°03'53"W.) within 10 miles north and 7 miles south of the Rock Springs, Wyo., VORTAC 269° radial and 089° radial extending from the 11.5-mile radius to 29.5 miles west and 21 miles east of the VORTAC; and within 2.5 miles north and 5.5 miles south of the Rock Springs, Wyo., VORTAC 109° radial extending to 19 miles east of the VORTAC;

AMENDMENTS 12/25/80 45 F. R. 67654 (Changed)

Rockwood, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Rockwood Municipal Airport (lat. 35°56'20" N., long. 84°41'23" W.); excluding the portion within Crossville, Tenn., transition area.

Rocky Mount, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Rocky Mount Downtown Airport (lat. 35°58'01"N., long. 77°47'33"W.); within 5 miles each side of Tar River VORTAC 084° radial, extending from the 7-mile radius area to 11 miles east of the VORTAC; within an 8.5-mile radius of Rocky Mount-Wilson Airport (lat. 35°51'17" N., long. 77°53'34" W.).

PENDING AMENDMENT

Rocky Mount, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Rocky Mount-Wilson Airport (lat. 35°51'17"N., long. 77°53'34"W.)

AMENDMENTS 12/4/80 45 F. R. 70234 (Rewritten)

Rogers City, Mich.
That airspace extending upward from 700 feet above the surface within a 5 (statute) mile radius of the Presque Isle County Airport (lat. 45°24'27"N., long. 83°48'46"W.) and within 2.75 miles each side of the proposed NDB 261° (true) bearing, extending from the 5-mile radius area to 7.5 miles (statute) east of the NDB, excluding the portion that coincides with the Alpena, Mich., transition area.

Rolla, Mo.
That airspace extending upward from 700 feet above the surface within a 5.5-statute mile radius of the Rolla Downtown Airport (latitude 37°56'10" N., longitude 91°48'55" W.).

Rome, Ga.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Richard B. Russell Airport (lat. 34°20'57" N., long. 85°09'31" W.); within 5 miles each side of Rome VOR 350° radial, extending from the 12-mile radius area of the VOR; within a 6.5-mile radius of Tom B. David Field, Calhoun, Ga., (latitude 34°27'18" N., longitude 84°56'24" W.); excluding the portion within the Dalton, Ga., transition area.

Romulus, N. Y.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of a point lat. 42°44'30" N., long. 76°52'20" W., and within 3.5 miles each side of the 330° bearing from the Seneca RBN lat. 42° 44'40" N., long. 76°54'18" W., extending from the 6-mile radius area to 11 miles northwest of the RBN.

Roosevelt, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Roosevelt Municipal Airport, Roosevelt, Utah (lat. 40°16'33"N., long. 110°03'02"W.) and within 2 miles either side of the Myton, Utah, VORTAC 023° radial extending from the 5-mile radius of the airport to the Myton VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 39°52'04.7"N., long. 110°15'10.2"W., to lat. 40°27'47.3"N., long. 110°15'58.9"W., to lat. 40°19'20.4"N., long. 109°33'14.6"W., to lat. 40°03'27.8"N., long. 109°24'47.7"W., to lat. 40°04'04.3"N., long. 109°44'49.1"W., to lat. 39°52'27.4"N., long. 109°44'33.3"W., to point of beginning.

Roosevelt Roads, P.R.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of NS Roosevelt Roads (latitude 18°15'05" N., longitude 65°38'35" W.), excluding the portion within the San Juan 700-foot transition area.

Rosanky, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Double D Ranch Airport (lat. 29°52'36"N., long. 97°17'20"W.) within 3 miles each side of the 293° bearing from the proposed NDB (lat. 29°53'44"N., long. 97°20'15"W.) extending from the 5-mile radius to 10 miles northwest of the proposed NDB.

Roscommon, Mich.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Roscommon County Airport (latitude 44°21'30" N., longitude 84°40'15" W.); and within 3 miles each side of the 082° bearing from Roscommon County Airport, extending from the 5½-mile radius area to 8 miles east of the airport.

Roseau, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Roseau Municipal Airport (lat. 48°51'25" N., long. 95°41'40" W.); within 2½ miles each side of the 163° bearing from Roseau Municipal Airport, extending from the 5-mile radius area to 7 miles south of the airport; and within 2½ miles each side of the 341° bearing from Roseau Municipal Airport, extending from the 5-mile radius area to 7 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 163° bearing from Roseau Municipal Airport, extending from the airport to 18½ miles south of the airport; and within 4½ miles west and 9½ miles east of the 341° bearing from Roseau Municipal Airport, extending from the airport to 18½ miles north of the airport, including that airspace east of and within a 9½-mile radius of the airport between the 71° and 73° bearings from the airport, and excluding the portions outside the United States.

Roseburg, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Roseburg Municipal Airport (latitude 43°14'20" N., longitude 123°21'15" W.), within 2 miles each side of the Roseburg VOR 177° radial, extending from the 5-mile radius area to 3.5 miles S of the VOR; that airspace extending upward from 1,200 feet above the surface within 8 miles W and 5 miles E of the 177° radial, extending from the VOR to 12 miles S of the VOR, and within 8 miles W and 8 miles E of the 003° and 183° radials, extending from 18 miles N to 7 miles S of the VOR.

Roswell, N. Mex.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Roswell Industrial Air Center Airport (lat. 33°17'59"N., long. 104°31'48"W.), and within 3.5 miles each side of the 0[illegible]4° bearing from the TOPAN LOM (lat. 33°21'54"N., long. 104°26'29"W.), extending from the 9.5-mile radius area to 12.5 miles NE of the TOPAN LOM, and within 1.5 miles each side of the Roswell ILS localizer southwest course extending from the 9.5-mile radius area to 9.5 miles SW, and within 3.5 miles each side of the 289° radial of the Roswell VORTAC (lat. 33°20'15"N., long. 104°37'15"W.) extending from the 9.5-mile radius area to 11 miles W of the VORTAC.

AMENDMENTS 3/20/80 45 F. R. 2011 (Rewritten)

Rugby, N. Dak.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Rugby Municipal Airport (latitude 48°23'15" N., longitude 100°01'15" W.); that airspace extending upward from 1,200 feet above the surface within a 12-mile radius of the Rugby Municipal Airport and within 9.5 miles north and 4.5 miles south of the 114° bearing from the Rugby, N. Dak., NDB (latitude 48°23'25" N., longitude 100°01' 30" W.); extending from the NDB to 18.5 miles east of the NDB;
and within 9.5 miles south and 4.5 miles north of the 314° T bearing from the Rugby, N. Dak., NDB, extending from the NDB to 18.5 miles northwest of the NDB.

Rushford, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Rushford Municipal Airport, Rushford, Minn., (lat. 43°49'15"N., long. 91°49'45"W.) and 2.5 miles each side of the 242° true bearing from the Nodine, Minn., VORTAC (lat. 43°54'45"N., long. 91°28'03"W.) extending from the 6.5-mile radius area out to 7 miles.

AMENDMENTS 3/20/80 45 F. R. 13727 (Added)

Russell, Kans.

That airspace extending upward from 700 feet above the surface within 2½ miles each side of the Hays, Kans., VORTAC 086° radial, extending from a 5-mile radius circle centered on the Russell Municipal Airport (latitude 3[illegible]°52'20" N., longitude 98°48'45" W.) to 19 miles east of the VORTAC.

Russellville, Ark.

That airspace extending upward from 700 feet above the surface within a 7.5-statute mile radius of Russellville Municipal Airport, Russellville, Ark. (latitude 35°15'34" N., longitude 93°05'38" W.); and within 3.5 statute miles each side of the 186° bearing from Russellville NDB (latitude 35°15'34" N., longitude 93°05'40" W.), extending from the 7.5-mile radius area to 11.5 statute miles south of the NDB; excluding that portion which overlies the Morrilton, Ark., transition area.

Russellville, Ky.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Russellville-Logan County Airport (lat. 36°47'57"N., long. 86°48'40"W.).

AMENDMENTS 9/18/80 45 F. R. 56836 (Added)

Ruston, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ruston Municipal Airport (lat. 32°30'45"N., long. 92°37'45"W.), and within 3 miles each side of the 089° bearing from the airport extending from the 6.5-mile radius area to 7.5 miles east; and within 3.5 miles each side of the Ruston, La., VOR (lat. 32°27'54"N., long. 92°36'30"W.) 159° radial extending from the 6.5-mile radius area to 11.5 miles south of the VOR.

AMENDMENTS 3/20/80 45 F. R. 6358 (Rewritten)

Rutherford, N. C.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Rutherford County Airport (latitude 35°25'38" N., longitude 81°56'06" W.); within 3 miles each side of the 192° bearing from Rutherford RBN (latitude 35°20'56" N., longitude 81°57'11" W.), extending from the 9-mile radius area to 8.5 miles southwest of the RBN.

Rutland, Vt.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, lat. 43° 31'46" N., long. 72°56'54" W., of the Rutland State Airport, Rutland, Vermont, and an area bounded by a line beginning at lat. 43°30'00"N., long. 73°10'00" W., to lat. 43°53'00" N., long. 73°10'00" W., to lat. 43°53' 00" N., long. 73°50'00" W., to lat. 43°30'00" N., long. 72°50'00" W., to point of beginning.

Sabine Pass, Tex.

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Sabine Pass, Tex., VORTAC 093° radial extending from the VORTAC to 17.5 miles east of the VORTAC.

Sabine Pass, Tex. (Offshore)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of coordinates lat. 29°15'53.2"N., long. 94°08'46.9"W.

Sac City, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Sac City Municipal Airport (lat. 42°22'30"N., long. 94°58'45"W.), and within 3 miles each side of the 138° bearing from the Sac City NDB (lat. 42°22'33"N., long. 94°58'51"W.), extending from the 6½-mile radius area to 8½ miles southeast of the NDB and within 3 miles each side of the 172° bearing from the Sac City NDB, extending from the 6½-mile radius area to 8½ miles south of the NDB.

Sacramento, Calif.

That airspace extending upward from 700 feet above the surface within a 13-mile radius circle centered on the Sacramento, Calif., VORTAC (latitude 38°26'37" N., longitude 121°33'02" W.); that airspace within an arc of a 38-mile radius circle centered on the Sacramento VORTAC, bounded on the west by the west edge of V-23, and on the southwest by the northeast edge of V-23, and that airspace SW of Sacramento bounded by a line beginning at latitude 38°16'00" N., longitude 122°05'00" W., thence to latitude 38°27'00" N., longitude 121°47'00" W., thence to latitude 38°16'-00" N., longitude 121°39'00" W., thence to latitude 38°02'00" N., longitude 121°52'00" W., thence via latitude 38°02'00" N. to the W edge of V-195, thence via the W edge of V-195 to latitude 38°16'00" N., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the point of intersection of the E edge of V-195 and the S edge of V-200, thence via the S edge of V-200, the W edge of V-23 and latitude 39°00'00" N. to the W edge of V-165, thence via the W edge of V-165 to the N edge of V-244, thence via the N edge of V-244 to longitude 120°04'00" W., thence via longitude 120°04'-00" W., to latitude 38°07'00" N., thence via latitude 38°07'00" N., to longitude 121°37'00" W., thence via longitude 121°37'00" W., to latitude 38°02'00" N., thence via latitude 38°02'00" N., to the E edge of V-195, thence via the E edge of V-195 to point of beginning.

Saginaw, Mich.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Harry W. Browne Airport (lat. 43°25'58"N., long. 83°51'43"W.), excluding that portion presently designated the Clements Airport and the Tri-City Airport.

St. Augustine, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of St. Augustine Airport (lat. 29°57'30" N., long. 81°20'27" W.); within 3 miles each side of the St. Augustine VOR (lat. 29° 57'30" N., long. 81°20'19" W.) 311° radial, extending from the 6.5-mile radius area to 8.5 miles west of the VOR.

St. Clairsville, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Alderman Field Airport (lat. 40°03'25"N., long. 80°57'48"W.); within 1.5 miles either side of the Bellaire VORTAC 290° radial extending from the 5.5-mile radius to the VORTAC.

St. Cloud, Minn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the St. Cloud Municipal Airport (lat. 45°32'43"N., long. 94°03'42"W.); and within 3 miles each side of the 123° radial from the airport, extending from the 7-mile radius area to 8.5 miles southeast of the airport.

St. George, Utah

That airspace extending upward from 700 feet above the surface within 9.5 miles northeast and 6 miles southwest of the St. George, Ut., VOR (lat. 37°05'17"N., long. 113°35'30"W.) 131 radial extending from 7 miles northwest to 18.5 miles southeast; and within 5 miles each side of the St. George VOR 183 radial extending from the VOR to 15.5 miles south; that airspace extending upward from 1200 feet above the surface within an arc of a 23 mile radius of the St. George VOR extending clockwise from the 058 radial to the 239 radial; and within 10 miles east and 6.5 miles west of the St. George VOR 183 radial extending from the 23 mile arc to 37.5 miles south of the VOR.

St. Johns, Ariz.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of St. Johns Municipal Airport (lat. 34°31'15"N., long. 109°22'45"W.) and within 4 miles each side of the St. Johns VORTAC 294° radial extending from the 5-mile radius area to the VORTAC.

That airspace extending upward from 1,200 feet above the surface within 10 miles SE and 7 miles NW of the St. Johns VORTAC 067° and 247° radials, extending from 9 miles NE to 20 miles SW of the VORTAC, excluding the portion within the State of New Mexico.

AMENDMENTS 7/10/80 45 F. R. 32666 (Changed)

St. Joseph, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Rosecrans Memorial Airport (latitude 39°46'25" N., longitude 94°54'45" W.); and within 5 miles east and 8 miles west of the St. Joseph ILS localizer south course, extending from the 8-mile radius area to 12 miles south of the OM; and that airspace extending upward from 4,500 feet MSL in the vicinity of St. Joseph bounded by V-13 on the west, V-161 on the east and V-50 on the south; within the area bounded on the west by V-13, on the north by V-50, on the east by V-161 and on the south by a direct line from latitude 39°39'30" N., longitude 94°07'40" W. to latitude 39°40'45" N., longitude 94°18'35" W.; within the area bounded on the north by V-216, on the east by V-15 and on the southwest by a line starting at the intersection of the south edge of V-216 and on the north edge of V-50, to the intersection of the north edge of V-50 and a line from latitude 40°00'35" N., longitude 95°32'30" W. to latitude 40°09'00" N.; longitude 95°30'00" W.; thence direct to latitude 40°09'00" N., longitude 95°30'00" W., to latitude 40°05'40" N., longitude 95°07'35" W., thence clockwise along the arc of a 14-mile radius circle centered on the St. Joseph VOR to its intersection with the west edge of V-15; and the area bounded on the southwest by V-15, on the north by V-216, on the southeast by V-77 and on the south by the arc of a 14-mile radius circle centered on the St. Joseph VOR.

St. Louis, Mo.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lambert-St. Louis International Airport (latitude 38°44'50" N., longitude 90°21'55" W.); within 5 miles southeast and 8 miles northwest of the Lambert-St. Louis International Airport Runway 24 ILS localizer northeast course, extending from the 10-mile radius area to 12 miles northeast of the Runway 24 OM; within 5 miles southwest and 9 miles northeast of the Lambert-St. Louis International Airport Runway 12R ILS localizer northwest course extending from the Runway 12R OM to 12 miles northwest of the OM; within a 7-mile radius of St Charles Smartt Airport, St. Charles, Missouri (latitude 38°55'43" N., longitude 90°25'41" W.); within an 8-mile radius of Civic Memorial Airport, Alton, Illinois (latitude 38°53'30" N., longitude 90°03'00" W.); within a 6.5-mile radius of Weiss Municipal Airport, Fenton, Missouri (latitude 38°32'15" N., longitude 90°26'50" W.); that airspace extending upward from 2,500 feet MSL within the area bounded on the northwest by the southeast edge of V-335, on the east by the Missouri-Illinois boundary, on the south by the north edge of V-190 and on the west by the east edge of V-9; and that airspace extending upward from 4,500 feet MSL within the area bounded on the north by the south edge of V-88, on the northeast by the southwest edge of V-9W, on the south by the north edge of V-72, on the west by a line 5 miles west of and parallel to the St. Louis VORTAC 200° radial, on the northwest by the southeast edge of V-238; within the area bounded on the north by the south edge of V-12, on the southeast by the northwest edge of V-14N, on the southwest by the northeast edge of V-175, and on the northwest by a line 5 miles southeast of and parallel to the Jefferson City, Missouri VOR 041° radial, and within the area bounded on the northeast by the southwest edge of V-52 and the Missouri-Illinois boundary, on the south by the north edge of V-4N, and on the northwest by the southeast edge of V-63.

St. Marys, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the 198°T(180°M) bearing from the St. Marys NDB, extending from the NDB to 18.5 miles south of the NDB and within 9.5 miles west of the 351°T(333°M) bearing from the St. Marys NDB, and 9.5 miles east of the 002°T (3[illegible]°M) bearing from the St. Marys NDB, including that airspace between these bearings, extending from the NDB to 21 miles north of the NDB.

AMENDMENTS 3/20/80 45 F. R. 3885 (Added)

St. Marys, Pa.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, lat. 41°24'45"N., long. 78°30'20"W. of St. Marys Municipal Airport, St. Marys, Pa.; within 2.5 miles each side of the Slate Run, Pa. VORTAC 256° radial, extending from the 5.5-mile radius area to 21.5 miles west of the VORTAC; within 3.5 miles each side of a 091° bearing from the center of the airport, extending from the 5.5-mile radius area to 10 miles east of the center of the airport; within 3.5 miles each side of a 271° bearing from the center of the airport, extending from the 5.5-mile radius area to 9 miles west of the center of the airport.

St. Paul Island, Alaska

That airspace extending upward from 700 feet above the surface within a 10-mile radius of St. Paul Airport (lat. 57°09'48"N., long. 170°13'06"W.), and that airspace extending upward from 1,200 feet above the surface within a 50-mile radius of the St. Paul Island Marine NDB excluding that portion that is west of a line 4.5 miles west of the 360°T and 215°T bearing from the St. Paul Island Marine NDB.

AMENDMENTS 9/4/80 45 F. R. 50723 (Added)

Salem, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Salem-Leckrone Airport (latitude 38°38'45" N., longitude 88°57'45" W.); and within 2 miles each side of the 003° bearing from Salem-Leckrone Airport, extending from the 5-mile radius area to 6½ miles north of the airport.

Salem, Oreg.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McNary Field, Salem, Oreg. (latitude 44°54'35" N., longitude 123°00'05" W.); within 2 miles each side of a 196° bearing from the Salem ILS LOM, extending from the 7-mile radius area to 8 miles S of the LOM and within 2 miles each side of the Salem ILS localizer SE course, extending from the 7-mile radius area to 6 miles SE of the LOM; that airspace extending upward from 1,200 feet above the surface within 6 miles SW and 7 miles NE of the 150° and 330° bearings from the Salem ILS LOM, extending from V-23E to V-23W.

Salina, Kans.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Salina Municipal Airport (latitude 38°47'40" N., longitude 97°39'30" W.); within 4½ miles W and 9½ miles E of the Salina ILS localizer course, extending from 3 miles N to 18½ miles S of the ILS OM; and within 5 miles each side of the Salina VORTAC 012° radial extending from the 9-mile radius area to 17½ miles N of the VORTAC, excluding the portion which overlies Restricted Area R-3601 and the McPherson, Kans., 700-foot floor transition area.

Salisbury, Md.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°20'21" N., long. 75°30'41" W. of Salisbury-Wicomico County Airport, Salisbury, Md.; within 3.5 miles each side of the Salisbury VORTAC 209° radial, extending from the 6.5-mile radius area to 11.5 miles southwest of the VORTAC; within 3.5 miles each side of the Salisbury VORTAC 052° radial, extending from the 6.5-mile radius area to 11 miles northeast of the VORTAC; within 4 miles each side of the Salisbury-Wicomico County Airport localizer northwest course, extending from the 6.5-mile radius area to 10.5 miles northwest of the localizer; and within 3.5 miles each side of the Salisbury VORTAC 132° radial extending from the 6.5-mile radius area to 11.5 miles southeast of the VORTAC.

Salisbury, N. C.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Rowan County Airport (lat. 35°38'30"N., long. 80°31'10"W.); within 3 miles each side of the 023° bearing from Salisbury RBN (lat. 35°40'27"N., long. 80°30'22"W.), extending from the 9-mile radius area to 8.5 miles north of the RBN.

AMENDMENTS 12/6/79 44 F. R. 67106 (Changed)
AMENDMENTS 4/[illegible]/80 45 F. R. 17005 (Rewritten)

Salt Lake City, Utah

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 41°00'00"N., long. 111°45'00"W., thence south along long. 111°45'00"W., to lat. 40°22'30"N., thence southeast to lat. 40°10'20"N., long. 111°35'00"W., thence southwest to lat. 40°03'30"N., long. 111°48'30"W., thence northwest to lat. 40°43'00"N., long. 112°22'00"W., thence north along long. 112°22'00"W., to lat. 41°00'00"N., thence east along lat. 41°00'00"N., to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 41°00'00"N., on the east by long. 111°25'30"W., on the south by lat. 39°56'30"N., and on the west by the east edge of R-6402 and long. 113°00'00"W.; that airspace east of Salt Lake City extending upward from 11,000 feet MSL bounded on the northwest by the southeast edge of V-32, on the southeast by the northwest edge of V-235, on the southwest by the northeast edge of V-101 and on the west by long. 111°25'30"W.; and that airspace southeast of Salt Lake City extending upward from 13,500 feet MSL bounded on the northeast by the southwest edge of V-484, on the south by the north edge of V-200 and on the west by long. 111°25'30"W.; excluding the portion within Restricted Area R-6403 and the Bonneville, Utah, transition area.

Salyer Farms, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Salyer Farms Airport (latitude 36°05'01" N., longitude 119°32'39" W.), and within 2 miles each side of the 151° bearing from the Salyer Farms radio beacon (latitude 36°05'14" N., longitude 119°32'44" W.) extending from the 3-mile radius area to 8 miles southeast of the radio beacon excluding that airspace within a 1-mile radius of Corcoran Airport (latitude 36°06'10" N., longitude 119°35'40" W.), that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the 151° bearing from the Salyer Falms radio beacon extending from the radio beacon to 12 miles southeast.

San Angelo, Tex.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Mathis Field, San Angelo, Tex. (latitude 31°21'35" N., longitude 100°29'40" W.); within 5 miles northwest and 8 miles southeast of the San Angelos ILS localizer southwest course extending from the OM to 12 miles southwest.

San Antonio, Tex.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 29°22'30" N., longitude 97°47'00" W.; thence west via latitude 29°22'30" N. to and clockwise along the arc of a 23-mile radius circle centered at latitude 29°31'50" N., longitude 98°28'12" W., to latitude 29°13'15" N., longitude 98°20'00" W.; thence southeast to latitude 29°05'30" N., longitude 98°14'30" W.; thence southwest to latitude 29°01'40" N., longitude 98°21'40" W.; thence northwest to latitude 29°06'30" N., longitude 98°34'10" W.; thence north to the 23-mile radius circle at latitude 29°12'00" N., longitude 98°32'40" W.; thence clockwise along the arc of the 23-mile radius circle to latitude 29°38'00" N., longitude 98°50'15" W.; thence northwest to latitude 29°43'30" N., longitude 98°57'00" W.; thence northeast to latitude 29°53'00" N., longitude 98°50'30" W.; thence southeast to the 23-mile radius circle at latitude 29°47'30" N., longitude 98°42'40" W.; thence clockwise along the arc of the 23-mile radius circle to latitude 29°46'30" N., longitude 98°12'30" W.; thence to latitude 29°43'00" N., longitude 98°01'30" W.; thence to point of beginning and within 5 miles northeast and 8 miles southwest of the La Vernia VOR 149° radial extending from the VOR to 12 miles southeast.

San Carlos, Ariz.

That airspace extending upward from 1,200 feet above the surface bounded on the northwest by the southeast edge of V-190,
on the east by an arc of a 115 mile radius circle centered on Williams AFB, Ariz. (latitude 33°18'25" N., longitude 111°39'35" W.); on the south by the north edge of V-94 and on the west by longitude 110°52'00" W.

San Diego, Calif.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°15'00" N., longitude 117°30'30" W., to latitude 33°15'00" N., longitude 117°02'00" W., to latitude 33°00'00" N., longitude 116°45'00" W., thence S along longitude 116°45'00" W., to the United States/Mexican Border, thence W along the United States/Mexican Border and Flight Information Region Boundary to lat. 32°29'40"N., long. 117°21'00"W., to lat. 32°31'30"N., long. 117°30'00"W.; to lat. 32°36'50"N., long. 117°32'54"W.; to lat. 32°34'45"N., long. 117°39'00"W.; to lat. 32°49'30"N., long. 117°45'15"W.; to lat. 32°53'00"N., long. 117°41'40"W.; to lat. 33°12'30"N., long. 117°58'45"W.; to lat. 33°15'00"N., long. 117°30'00"W.; thence north via long. 117°30'00"W., to the point of beginning.

Sand Point, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles west and 9.5 miles east of the 175°T(157°M) bearing from the Humboldt NDB, extending from the NDB to 24.5 miles south of the NDB and within 4.5 miles east and 9.5 miles west of the 345°T(327°M) bearing from the Humboldt NDB, extending from the NDB to 23.5 miles north of the NDB and 4.5 miles east of the 165°T and 345°T bearing extending from 2 miles south and 23.5 miles north of the NDB.

AMENDMENTS 3/20/80 45 F. R. 6356 (Added) Corr: 45 F. R. 14544

Sand Springs, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the William R. Pogue Municipal Airport (lat. 36°10'25"N., long. 96°08'55"W.) excluding that airspace that overlies the Tulsa, Okla., transition area.

Sandusky, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Griffing-Sandusky Airport (latitude 41°26'01" N., longitude 82°39'08" W.); within 3 miles either side of the Sandusky VOR 090° radial extending from the 5-mile radius to 7½ miles east of the airport excluding that portion that overlies the Port Clinton transition area.

Sanford, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sanford Airport (lat. 28°46'30" N., long. 81°14'25" W.); within 3 miles each side of the 260° bearing from Sanford RBN (lat. 28°37'05" N., long. 81°14'30" W.); extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Sanford, Maine

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Sanford Municipal Airport (latitude 43°23'30" N., longitude 70°42'35" W.); within 2 miles each side of the Kennebunk, Maine VOR 066° radial, extending from the 7-mile radius area to 8 miles NE of the VOR.

Sanford, N. C.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Sanford Municipal Airport (latitude 35°25'55" N., longitude 79°11'10" W.); within 2.5 miles each side of Sandhills VORTAC 057° radial, extending from the 5.5-mile radius area to 21 miles northeast of the VORTAC.

San Francisco, Calif.

That airspace extending upward from 700 feet above the surface bounded on the N by latitude 38°02'00" N., on the E by longitude 121°52'00" W., on the S by latitude 37°30'00" N., and on the W by a line extending from latitude 37°30'00" N., longitude 122°27'00" W., to latitude 37°34'00" N., longitude 122°31'00" W., to latitude 37°55'00" N., longitude 122°31'00" W., to latitude 38°02'00" N., longitude 122°40'00" W.; and that airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 38°02'00" N., on the E by a line extending from latitude 38°02'00" N., longitude 121°37'00" W., to latitude 37°38'00" N., longitude 121°37'00" W., to latitude 37°38'00" N., longitude 121°50'00" W., to latitude 37°30'00" N., longitude 121°50'00" W., on the S by latitude 37°30'00" N., and on the W by V-27 and V-199.

San Jose, Calif.

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Moffett TACAN 157° radial extending from the TACAN to 23 miles southeast of the TACAN, within 2 miles each side of the San Jose ILS localizer course extending from the San Jose 5-mile radius control zone to 1 mile SE of the San Jose LOM, within 5 miles SW and 8 miles NE of the San Jose VOR 139° radial, extending from 16 miles SE to 28 miles SE of the VOR, and that airspace bounded by a line beginning at latitude 37°30'00" N., longitude 121°52'00" W., thence to latitude 37°22'00" N., longitude 122°08'00" W., thence to latitude 37°22'00" N., longitude 122°24'00" W., thence to latitude 37°30'00" N., longitude 122°27'00" W., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 37°30'00" N., on the E and NE by longitude 121°50'00" W., and the SW edge of V-107, on the SE and S by the NW edge of V-111 and latitude 37°00'00" N., and on the W by the E edge of V-27 to latitude 37°30'00" N.

San Juan, P. R.

That airspace extending upward from 700 feet above the surface south of lat. 18°23'00" N., within a 20-mile radius of Puerto Rico International Airport (latitude 18°26'48" N., longitude 66°00'07" W.); that airspace north of latitude 18°23'00" N., within a 12-mile radius of Puerto Rico International Airport; within 5 miles each side of the San Juan VORTAC 058° radial, extending from the 12-mile radius area to 15 miles northeast of the VORTAC; within 4 miles each side of the San Juan VORTAC 086° radial, extending from the 12-mile radius area to 12 miles east of VORTAC; within 5 miles each side of the 101° bearing from the Dorado RBN, extending from the 12-mile and 20-mile radius areas to the Dorado RBN; within 9.5 miles north and 4.5 miles south of the 277° bearing from the San Pat RBN, extending from the 12-mile and 20-mile radius areas to 18.5 miles west of the RBN; and that airspace

extending upward from 1,200 feet above the surface beginning at the intersection of a line 4 nautical miles north of and parallel to the centerline of Route 2 and the arc of a 41-mile radius circle centered at Puerto Rico International Airport west of San Juan VORTAC; thence clockwise along this arc to the centerline of Route 3; thence southeast along the centerline of Route 3 to the arc of a 23-mile radius circle centered at Puerto Rico International Airport; thence clockwise along this arc to longitude 65°55'00" W.; thence south to latitude 18°40'00" N., longitude 65°55'00" W.; thence east to latitude 18°40'00" N., longitude 65°26'00" W.; thence south along longitude 65°26'00" W. to a line 4 nautical miles north of and parallel to the centerline of Route 2; thence east and southeast along this line to the arc of a 15-mile radius circle centered at Harry S. Truman Airport (latitude 18°20'26" N., longitude 64°58'11" W.); thence counterclockwise along this arc to a line 3 nautical miles southwest of and parallel to the centerline of Route 2; thence northwest and west along this line to longitude 65°26'00" W.; thence south along longitude 65°26'00" W. to the arc of a 15-mile radius circle centered at NS Roosevelt Roads Airport (latitude 18°15'05" N., longitude 65°38'35" W.); thence clockwise along this arc to the intersection of a line 5 miles southeast of and parallel to the 052° bearing from the Point Tuna RBN; thence southwest along this line to latitude 18°00'00" N.; thence west along latitude 18°00'00" N., to and south along longitude 66°15'00" W., to and east along a line 4.5 miles north of and parallel to Ponce VOR 111° radial, to and south along a line 18.5 miles east of Ponce VOR and perpendicular to the Ponce VOR 111° radial, to latitude 17°46'15" N., longitude 66°18'30" W.; thence west along a line 9.5 miles south of and parallel to Ponce VOR 111° radial to the intersection of a 15-mile radius circle centered at Mercedita Airport (latitude 18°00'40" N., longitude 66°33'50" W.); thence clockwise along this arc to latitude 18°00'00" N.; thence west to latitude 18°07'00" N., longitude 67°22'00" W.; thence north to the intersection of longitude 67°23'00" W. and the arc of a 25-mile radius circle centered at Borinquen Airport (latitude 18° 29'45" N.,

longitude 67°08'00" W.); thence clockwise along this arc to a line 4 nautical miles north of and parallel to the centerline of Route 2 east of Borinquen Airport; thence east along this line to the point of beginning; and that

airspace extending upward from 2,000 feet MSL within a 100 nautical mile radius of the Isla Grande Airport (Latitude 18°27'33" N., longitude 66°05'55" W.) San Juan, P. R.; excluding the portion that coincides with the 1,200-foot floor portions of the San Juan, St. Croix, and St. Thomas transition areas.

San Luis Obispo, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of San Luis Obispo County Airport (latitude 35°14'16" N., longitude 120°38'20" W.); within 2 miles each side of the San Luis Obispo VORTAC 280° and 100° radials, extending from the 3-mile radius area to 8 miles west of the VORTAC; and within 2 miles west and 3 miles east of the 191° bearing from the San Luis Obispo County Airport, extending from the 3-mile radius area to 6 miles south of the airport.

San Marcos, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the San Marcos Municipal Airport (lat. 29°53'38"N., long. 97°51'45"W.) and 2 miles either side of the 138° bearing from the San Marcos, Tex., Gary NDB (lat. 29°54'00"N., long. 97°52'14"W.), extending from the 6-mile radius to a point 8 miles from the NDB.

San Rafael, Calif.

That airspace extending upward from [illegible] feet above the surface bounded on the E by the W edge of V-195, on the S by latitude 38°02'00" N., and on the W and N by an arc of a 23-mile radius circle centered on Hamilton AFB (latitude 38°03'35" N., longitude 122°30'35" W.); that airspace extending upward from 1,200 feet above the surface bounded on the N by the S edge of V-200, on the E by the W edge of V-195, on the S by latitude 38°02'00" N., on the W by the E edge of V-199 to latitude 38°43'30" N., thence via latitude 38°43'30" N. to the E edge of V-25, thence via the E edge of V-25 to the S edge of V-200.

San Simon, Ariz.

That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the San Simon VOR 089° and 269° radials, extending from 9 miles W to 20 miles E of the VOR, excluding the portion within the Cochise, Ariz., Portal, Ariz., and New Mexico transition areas.

Santa Barbara, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Santa Barbara ILS localizer west course, extending from the OM to 2 miles west of the OM; between the arcs of a 5-mile radius circle and 8.5-mile radius circle centered on the Santa Barbara Municipal Airport (latitude 34°25'35" N., longitude 119°50'20" W.), extending clockwise from a line 2 miles north of the 089° bearing from the Santa Barbara LMM to a line 2.5 miles south of the 115° bearing from the LMM; and within 2 miles east and 7 miles west of the Santa Barbara VORTAC 196° radial, extending from a 5-mile radius circle centered on the Santa Barbara Municipal Airport to 15.5 miles south of the VORTAC;
and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 35°35'00" N., longitude 120°05'00" W., thence to latitude 35°05'00" N., longitude 120°05'00" W., to latitude 35°05'00" N., longitude 119°30'00" W., to latitude 34°20'00" N., longitude 119°30'00" W., to latitude 34°20'00" N., long. 120°00'00"W., to lat. 34°08'00"N., long. 120°00'00"W., to lat. 34°08'00"N., long. 120°26'00"W., to lat. 34°06'15"N., long. 120°30'00"W., to lat. 34°24'00"N., longitude 120°30'00" W., to latitude 34°24'45" N., longitude 120°27'20" W., to latitude 34°35'00" N., longitude 120°31'40" W., to latitude 34°39'50" N., longitude 120°31'15" W., to latitude 34°46'15" N., longitude 120°26'40" W., to latitude 34°49'00" N., longitude 120°27'15" W., to latitude 34°59'32" N., longitude 120°41'50" W., to latitude 35°10'00" N., longitude 120°55'00" W., to latitude 35°21'00" N., longitude 121°03'00" W., to latitude 35°33'00" N., longitude 121°03'00" W., to latitude 35°33'00" N., longitude 120°40'30" W., to latitude 35°22'25" N., longitude 120°31'50" W., to latitude 35°31'40" N., longitude 120°15'00" W., to latitude 35°35'35" N., longitude 120°18'10" W., thence to point of beginning.

Santa Catalina, Calif.

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Santa Catalina 229°T (214°M) and 012°T (357°M) radials extending from 6 miles north to 12 miles southwest of the Santa Catalina VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded on the E by long. 117°30'00"W., on the S by a line extending from lat. 33°15'00"N., long. 117°30'00"W., to lat. 33°11'00" N., longitude 117° 48' 55" W., to latitude 33° 18' 00" N., longitude 118° 34' 00" W., on the W by longitude 118° 34' 00" W., and on the N by latitude 33° 30' 00" N., excluding the portion within Control Area 1177.

Santa Elena, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Diamond "O" Ranch Airport (latitude 26°43'10" N., longitude 98°33'25" W.), and within 3.5 miles each side of the 350° bearing from the Santa Elena RBN (latitude 26°43'07" N., longitude 98°33'37" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Santa Fe, N. Mex.

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the Santa Fe County Municipal Airport (latitude 35°37'00" N., longitude 106°05'25" W.), and within 3 miles each side of the Santa Fe VORTAC 165° radial, extending from the 11.5-mile radius area to 9 miles south of the VORTAC.

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Santa Maria, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Santa Maria Public Airport (latitude 34°53'55" N., longitude 120°27'20" W.) and within 3 miles each side of the Santa Maria VOR 133° and 327° radials extending from 17 miles southeast to 7 miles northwest of the VOR.

Santa Rosa, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sonoma County Airport (latitude 38°30'30" N., longitude 122°48'45" W.) and within a 1-mile radius of Santa Rosa Coddingtown Airport (latitude 38°28'30" N., longitude 122°44'25" W.).

Santa Ynez, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Santa Ynez Airport (latitude 34°36'25" N., longitude 120°04'30" W.), within 5 miles each side of the Santa Barbara VORTAC 291° radial extending from the 5-mile radius area to 35 miles west of the VORTAC and within 1.5 miles each side of the Gaviota VORTAC 009° and 178° radials from the 5-mile radius area to 1 mile south of the VORTAC.

Saranac Lake, N. Y.

That airspace extending upward from 700 feet above the surface beginning at lat. 44°38'00" N., long. 74°12'00" W.; to lat. 44°40'00" N., long. 73°55'00" W.; to lat. 44°21'00" N., long. 73°50'00" W.; to lat. 44°08'00" N., long. 74°27'00" W.; to lat. 44°21'00" N., long. 74°38'00" W.; to point of beginning.

Sarasota, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Sarasota-Bradenton Airport (lat. 27°23'47" N., long. 82°33'15" W.); within 3 miles each side of Sarasota VORTAC 050° and 302° radials, extending from the 8.5-mile radius area to 8.5 miles northeast and northwest of the VORTAC; within 5 miles each side of Sarasota VORTAC 142° radial, extending from the 8.5-mile radius area to 8.5 miles southeast of the VORTAC; excluding that airspace outside the continental limits of the United States.

Sault Ste. Marie, Mich.

That airspace extending upward from 700 feet above the surface within 8.5 statute miles of the Chippewa County Airport (lat. 46°14'52"N., long. 84°28'15"W. estimated).

Sault Ste. Marie Ontario, Canada

Over the United States, that airspace extending 700 feet above the surface within 8.5 statute miles of the Sault Ste. Marie, Ontario Airport; (lat. 46°29'N., long. 84°31'W. estimated); and within 1.75 statute miles each side of the 297°T bearing from the geographical center extending from the 8.5-statute-mile radius to 12 statute miles northwest.

Savanna, Ill.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Stransky Memorial Airport, Savanna, Ill., (lat. 42°03'00"N., long. 90°07'00"W.).

AMENDMENTS 7/10/80 45 F. R. 31057 (Added)

Savannah, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Savannah Municipal Airport (lat. 32°07'35" N., long. 81°12'05" W.); within 3 miles each side of Savannah VORTAC 081° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of the VORTAC; within 3 miles each side of the ILS localizer east course, extending from the 8.5-mile radius area to 13 miles east of Runway 27 threshold; within an 8.5-mile radius of Hunter AAF (Lat. 32°00'35" N., Long. 81°08'45" W.); excluding the portion east bounded on the south by a line 2 miles north of and parallel to the extended centerline of Hunter AAF Runway 27; on the west by a line 6 miles east of and parallel to Hunter VOR 001° radial, and on the north by a line 3 miles south of and parallel to Savannah ILS localizer east course.

Savannah, Tenn.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Savannah Municipal Airport (latitude 35°10'15" N., longitude 88°13'00" W.); within 3 miles each side of the 197° bearing from Savannah RBN (latitude 35°10'13" N., longitude 88°12'50" W.), extending from the 7-mile radius area to 8.5 miles south of the RBN.

Scottsbluff, Nebr.

That area extending upward from 700 feet above the surface within a 9.5-mile radius of the Scottsbluff County Airport (lat. 41°52'40"N., long. 103°35'47"W.); within 4.5 miles south and 9.5 miles north of the Scottsbluff VORTAC 079° radial extending from the 9.5-mile radius to 13 miles east of the VORTAC; within 4.5 miles southwest and 9.5 miles northeast of the ILS localizer southeast course extending from the 9.5-mile radius to 13 miles southeast of the outer marker; within 5 miles northeast and 9.5 miles southwest of the ILS localizer northwest course extending from the 9.5-mile radius to 17.5 miles northwest of the airport; within 4.5 miles south and 4.5 miles north of the Scottsbluff VORTAC 256° radial extending from the 9.5-mile radius to 19.5 miles west of the VORTAC.

Searcy, Ark.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Searcy Municipal Airport (latitude 35°13'17" N., longitude 91°44'15" W.).

Seattle, Wash.

That airspace extending upward from 700 feet above the surface bounded on the east by a line beginning at lat. 49°00' N., long. 122°21' W.; to lat. 48°40' N., long. 122°21' W.; to lat. 48°40' N., long. 122°05' W.; to lat. 47°30' N., long. 121°48' W.; to lat. 47°10' N., long. 121°48' W.; to lat. 46°48' N., long. 122°15' W., on the south by a line extending to lat. 46°42' N., long. 123°17' W., on the west by a line extending to lat. 47°10' N., long. 123°17' W.; to lat. 47°40'00"N., long. 123°03'30"W.; to lat. 48°17' N., long. 123°15' W.; thence via the Canada/United States boundary to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at lat. 48°05' N., long. 123°40' W.; to lat. 48°05' N., long. 121°35' W., on the east by a line extending to the south via long. 121°35' W., to the south edge of V-204, on the south by the south edge of V-204 and lat. 46°30' N., to the east edge of V-27, on the west by east edge of V-27 to long. 123°40' W., to the point of beginning; that airspace east of Seattle extending upward from 9,500 feet MSL bounded on the north by a line beginning at lat. 48°00' N., long. 121°35'W.; to lat. 48°00'N., long. 120°00'W., on the east by a line extending south via long. 120°00'W., to the north edge of V-2N; on the south by the north edge of V-2N to long. 121°35'W.; and on the west by long. 121°35'W., to the point of beginning.

Sebring, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sebring Airport and Industrial Park (lat. 27°27'20"N., long. 81°20'30"W.); within 3 miles each side of the 161° bearing from Sebring RBN (lat. 27°27'37"N., long. 81°21'00"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Sedalia, Mo.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sedalia Memorial Airport (lat. 38°42'15"N., long. 93°11'00"W.); within 3 miles each side of the 010° bearing from Sedalia Memorial Airport, extending from the 6.5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the 176° bearing from Sedalia Memorial Airport, extending from the 6.5-mile radius area to 8 miles south of the airport.

Sedona, Ariz.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Sedona Airport (latitude 34°51'00" N., longitude 111°47'10" W.), within 2.5 miles each side of the 219° bearing from the Sedona radio beacon (latitude 34°49'41" N., longitude 111°48'48" W.), extending from the 3-mile radius area to 7 miles SW of the radio beacon; that airspace extending upward from 1,200 feet above the surface within 9 miles NW and 12 miles SE of the 219° bearing from the Sedona radio beacon extending from the radio beacon to 18.5 miles SW of the radio beacon.

Selinsgrove, Pa.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, lat. 40°4 '04" N., long. 76°51'51" W. of Penn Valley Airport, Selinsgrove, Pa.; within 3.5 miles each side of the Selinsgrove, Pa., VORTAC 209° radial extending from the 10.5-mile radius area to 10.5 miles southwest of the VORTAC; within the arc of a 14-mile radius circle centered on Penn Valley Airport extending clockwise from 095° to 125°.

Selma, Ala.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Craig Field Airport (lat. 32°20'30"N., long. 86°59'15"W.).

Selmer, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Robert Sibley Airport (latitude 35°12'38" N., longitude 88°30'30" W.); within 3 miles each side of the 334° bearing from Sibley RBN (latitude 35°14'15" N., longitude 88°31'03" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Seven Springs, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 40°00'35"N., 79°19'20"W., of Seven Springs Borough Airport, Seven Springs, Pa.; within 3.5 miles each side of the Indian Head, Pa. VORTAC 218° radial, extending from the 6-mile radius area to 11.5 miles southwest of the Indian Head VORTAC. This transition area is effective from sunrise to sunset, daily.

Seymour, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Freeman Field, Seymour, Ind., (lat. 38°55'36"N., long. 85°54'20"W.); within 3 miles each side of the 061° bearing from Freeman Field, extending from the 7-mile radius area to 7½ miles northeast of the airport; and within 3 miles each side of the 161° bearing from Freeman Field extending from the 7-mile radius area to 7½ miles southeast of the airport; and within 3 miles each side of the 225° bearing from Freeman Field extending from the 7-mile radius to 13½ miles southwest of the airport.

AMENDMENTS 7/10/80 45 F. R. 31056 (Rewritten)

Seymour, Tex.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°39'00" N., longitude 99°20'00" W., thence to latitude 33°46'00" N., longitude 99°23'00" W., to latitude 33°52'00" N., longitude 99°07'00" W., to latitude 33°42'00" N., longitude 99°03'00" W., to point of beginning.

Shamokin, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°50'15"N., 76°33'00"W. of Northumberland County Airport, Shamokin, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 069° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from 069° bearing to a 110° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 157° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 260° bearing from the airport; within 4.5 miles each side of the Selinsgrove, Pa., VORTAC 080° radial, extending from the 6.5-mile radius area to the Selinsgrove, Pa., VORTAC.

Shawnee, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Shawnee Municipal Airport (lat. 35°21'16"N., long. 96°56'33"W.); within 3.5 miles each side of the 007° bearing from the Shawnee NDB (lat. 35°20'51"N., long. 96°56'48"W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB; within an 8.5-mile radius of Seminole Municipal Airport (lat. 35°16'15"N., long. 96°40'30"W.); and within 3.5 miles each side of the 353° bearing from the Seminole NDB (lat. 35°16'08"N., long. 96°40'30"W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB.

Sheboygan, Wis.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Sheboygan County Memorial Airport (latitude 43°46'18" N., longitude 87°51'08" W.).

Shelby, Mont.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Shelby Airport (latitude 48°32'26" N., longitude 111°52'30" W.) and within 3 miles each side of the 043° bearing from Shelby Airport extending from the 6-mile radius area to 8.5 miles northeast of the airport; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct course between the Cut Bank, Mont., VORTAC and the Shelby Airport, extending from the airport to 7 miles east of the VORTAC and within 4.5 miles southeast and 9.5 miles northwest of the 043° bearing from the Shelby Airport, extending from the airport to 18.5 miles northeast of the airport.

Shelby, N. C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby Municipal Airport (latitude 35°15'25" N., longitude 81°36'00" W.); within 3 miles each side of the Spartanburg VORTAC 052° radial, extending from the 7-mile radius area to 13 miles northeast of the VORTAC.

Shelbyville, Ill.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Shelby County Airport (latitude 39°24'30" N., longitude 88°50'45" W.); and within 3 miles either side of the 186° bearing from the Shelby County Airport extending from the 5.5-mile radius area to 8 miles south of the airport.

Shelbyville, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Shelbyville Memorial Airport (latitude 39°34'50" N., longitude 85°48'20" W.), and within 2 miles each side of the Shelbyville, Ind., VOR 340° radial extending from the 5-mile radius area to 8 miles north of the VOR.

Shelbyville, Tenn.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bomar Field (latitude 35°33'44" N., longitude 86°26'33" W.); within 4.5 miles north and 9.5 miles south of the Shelbyville VOR 272° radial, extending from the VOR to 18.5 miles west; within 4.5 miles east and 9.5 miles west of the Shelbyville VOR 195° radial, extending from the VOR to 18.5 miles south; within a 9.5 mile radius of Ellington Airport, Lewisburg, Tenn. (latitude 35°30'35" N., longitude 86°48'15" W.); excluding the portion within the Mount Pleasant, Tenn., transition area.

Sheldon, Iowa

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Sheldon Municipal Airport (latitude 43°12'38" N., longitude 95°50'05" W.); and within 3 miles each side of the 163° bearing from Sheldon Municipal Airport, extending from the 5½-mile radius area to 8 miles south of the airport.

Shell Lake, Wis.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Shell Lake Municipal Airport, Shell Lake, Wis., (lat. 45°45'N., long. 91°55'W.) and 3 miles each side of the 325° true bearing to the Shell Lake (SSQ) NDB (lat. 45°43'55"N., long. 91°55'05"W.) extending from the 6.5-mile radius area out to 8.5 miles.

AMENDMENTS 3/20/80 44 F. R. 76270 (Added)

Shemya, Alaska

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Shemya Airport (latitude 52°42'50" N., longitude 174°06'57" E.); and that airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Shemya Airport.

Shenandoah, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Shenandoah, Iowa, Municipal Airport (latitude 40°45'15" N., longitude 95°25'15" W.), and within 5 miles NE and 8 miles SW of the 133° bearing from the Shenandoah RBN, extending from the RBN to a point 12 miles SE of the RBN.

Sheridan, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sheridan Airport (latitude 40°10'33" N., longitude 86°13'58" W.); within 2.5 miles either side of the 019° bearing from the airport, extending from the 5-mile radius to 6 miles north excluding the portion which overlies the Zionsville, Ind., transition area.

Sheridan, Wyo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sheridan County Airport (latitude 44°46'25" N., longitude 106°58'15" W.); that airspace extending upward from 1,200 feet above the surface within 7 miles southwest and 10 miles northeast of the Sheridan VORTAC 138° and 318° radials, extending from 18.5 miles northwest to 34 miles southeast of the VORTAC;

and that airspace southeast of Sheridan bounded on the north by a line located 5 miles south of and parallel to the Sheridan VORTAC 104° radial, on the east by a 35-mile radius arc of the Sheridan VORTAC, and on the south by a line located 10 miles north of and parallel to the Sheridan VORTAC 138° radial.

Sherman, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sherman Municipal Airport (lat. 33°37'30"N., long. 96°35'00"W.) and within an 8.5-mile radius of Grayson County Airport (lat. 33°42'55"N., long. 96°40'25"W.).

Shirley, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°49'00" N., 72°51'45" W., of Brookhaven Airport, Shirley, N. Y., and within 4.5 miles northwest and 6.5 miles southeast of the 065° bearing and the 245° bearing from the Peconic, N. Y., RBN, extending from 5.5 miles northeast to 11.5 miles southwest of the RBN, excluding the portions that coincide with the Islip, N. Y., Calverton, N. Y., and Westhampton Beach, N. Y., transition areas.

Shreveport, La.

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 32°48'10" N., longitude 93°48'30" W.; to latitude 32°42'00" N., longitude 93°37'00" W.; to latitude 32°25'00" N., longitude 93°27'00" W.; to latitude 32°14'00" N., longitude 93°27'00" W.; to latitude 32°16'30" N., longitude 93°53'30" W.; to latitude 32°35'30" N., longitude 94°00'30" W.; to point of beginning.

Sidney, Mont.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sidney-Richland Municipal Airport (latitude 47°42'35" N., longitude 104°11'10" W.); within 9.5 miles east and 4.5 miles west of the 356° bearing from the Sidney NDB (latitude 47°42'41" N., longitude 104°10'52" W.) extending from the 9-mile radius area to 18.5 miles north of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the 215° bearing from the Sidney NDB extending from the 9-mile radius area to 18.5 miles southwest of the NDB.

Sidney, Nebr.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Sidney Municipal Airport (latitude 41°05'55" N., longitude 102°58'55" W.); within 5 miles NE and 8 miles SW of the Sidney VORTAC 321° radial, extending from the 10-mile radius area to 12 miles NW of the VORTAC; and that airspace in the state of Colorado extending upward from 1,200 feet above the surface within 5 miles SW and 8 miles NE of the Sidney VORTAC 128° radial, extending from the VORTAC to 12 miles southeast of the VORTAC.

Sidney, N. Y.

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center, lat. 42°18'22" N., long. 75°24'57" W. of Sidney Municipal Airport, Sidney, N. Y.; within a 16-mile radius arc from the center of the airport extending clockwise from a 080° bearing to a 215° bearing from the airport excluding the airspace within a 2-mile radius area of the Harmony Crest Airpark (lat. 42°13'56" N., long. 75°38'00" W.).

Sidney, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sidney Airport (lat. 40°14'23"N., long. 84°09'17"W.).

Sikeston, Mo.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sikeston Memorial Airport (latitude 36°53'50" N., longitude 89°33'45" W.); and within 2 miles each side of the 016° bearing from Sikeston Memorial Airport, extending from the 6-mile radius area to 8 miles north of the airport.

Siler City, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Siler City Municipal Airport (lat. 35°42'10"N., long. 79°30'22"W.).

Silver City, N. Mex.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Silver City-Grant County Airport (lat. 32°37'56"N., long. 108°09'15"W.) and within 3.5 miles either side of the 107° bearing from the Cosey LOM (lat. 32°37'56"N., long. 108°03'44"W.) extending from the 10.5-mile radius to 8.5 miles east of the LOM.

Sioux Center, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sioux Center Municipal Airport (lat. 43°08'05"N., long. 96°11'15"W.) and within 3 miles each side of the 006° (true) bearing from the Sioux Center Municipal Airport extending from the 5-mile radius to 8.5 miles north of the airport.

Sioux City, Iowa

That airspace extending upward from 700 feet above the surface within a 19-mile radius of Sioux City Municipal Airport (latitude 42°24'03" N., longitude 96°22'55" W.); within 5 miles southwest and 9½ miles northeast of the Sioux City VORTAC 140° radial, extending from the 19-mile radius area to 24½ miles southeast of the VORTAC; within 4½ miles southwest and 9½ miles northeast of the Sioux City ILS localizer northwest and southeast courses, extending from the 19-mile radius area to 24½ miles southeast of the OM; within 4½ miles northeast and 11½ miles southwest of the Sioux City VORTAC 320° radial, extending from the VORTAC to 35 miles northwest of the VORTAC.

Sioux Falls, S. Dak.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Joe Foss Field (latitude 43°34'56" N., longitude 96°44'35" W.); within 9.5 miles southwest and 4.5 miles northeast of the Sioux Falls VORTAC 330° radial extending from the 20-mile radius area to 18.5 miles northwest of the VORTAC; and within 9.5 miles northwest and 4.5 miles southeast of the Sioux Falls ILS localizer northeast course, extending from the 20-mile radius area to 23 miles northeast of the airport;
and that airspace extending upward from 1,200 feet above the surface within the State of South Dakota bounded on the west by long. 97°50'00"W., and on the north by lat. 44°30'00"N., excluding all Federal airways.

Siren, Wis.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Burnett County Airport, Siren, Wis. (lat. 45°49'30"N., long. 92°22'00"W.).

AMENDMENTS 7/10/80 45 F. R. 31971 (Added)

Sitka, Alaska

That airspace extending upward from 700 feet above the surface within 3 miles northwest and 2 miles southeast of the Sitka RBN 207° bearing, extending from the RBN to 8 miles southwest of the RBN; within 2 miles each side of the Biorka Island VORTAC 148° radial, extending from the VORTAC to 8 miles southeast of the VORTAC; within 2 miles each side of the Sitka RBN 147° bearing, extending from the RBN to 8 miles southeast of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from 14 miles northwest to 22 miles northwest of the localizer;
and that airspace extending upward from 1,200 feet above the surface within 9 miles southwest and 22 miles northeast of the Biorka Island VORTAC 308° radial, extending from the VORTAC to 33 miles northwest of the VORTAC, and within 9 miles northwest and 6 miles southeast of the Biorka Island VORTAC 027° and 207° radials, extending from 8 miles northeast to 19 miles southwest of the VORTAC.

Slidell, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Slidell Airport (latitude 30°20'37" N., longitude 89°49'18" W.), and within 2.5 miles each side of the New Orleans VORTAC 043° radial extending from the 5-mile radius area to 23 miles northeast of the VORTAC.

Smithfield, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Johnston County Airport (lat. 35°32'26"N., long. 78°23'27"W.).

Snyder, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winston Field Airport (lat. 32°41'50"N., long. 100°57'10"W.) and within 3 miles each side of the 184° true bearing from the Snyder, Tex., radio beacon extending from the 5-mile radius area to 8 miles south of the radio beacon.

Socorro, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center of the Socorro Municipal Airport (lat. 34°01'17.7"N., long. 106°53'58.7"W.), excluding airspace west of long. 107° 00'00"W.

Soldotna, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Soldotna Airport (latitude 60°28'25" N., longitude 151°02'20" W.), excluding the portion within the Kenai 700-foot floor transition area.
PENDING AMENDMENT
The Soldotna, Alaska, transition area is revoked.

AMENDMENTS 12/25/80 45 F. R. 59839 (Revoked)

Somerset, Ky.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Somerset-Pulaski County Airport (lat. 37°03'24"N., long. 84°36'45"W.); within
3.5 miles each side of the 222° bearing from the Cumberland River RBN (lat. 36°59'48"N., long. 84°40'51.5"W.); extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN, excluding the portion within the Monticello, Ky., transition area. Somerset RBN (lat. 37°03'19"N., long. 84°36'58"W.), extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN.

AMENDMENTS 11/30/80 45 F. R. 70852 (Changed)

Somerset, Pa.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the center, (lat. 40°02'15"N., long. 79°01'00"W.) of Somerset County Airport, Somerset, Pa., and within 3.5 miles each side of the 056° bearing from the Stoystown RBN (lat. 40°05'17"N., long. 78°55'20"W.) extending from the 9.5-mile radius area to 11 miles northeast of the RBN, excluding the portion that coincides with the Johnstown, Pa., transition area.

Sonora, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sonora Municipal Airport (latitude 30°35'00" N., longitude 100°39'00" W.) and within 3 miles each side of the 358° bearing from the Sonora, Tex., NDB (latitude 30°34'54" N., longitude 100°38'48" W.) extending 8.5 miles northwest of the Sonora, Tex., NDB.

South Bend, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Michiana Regional Airport, South Bend, Ind. (lat. 41°42'15"N., long. 86°18'50"W.) and within 5 miles south and 8 miles north of the South Bend ILS localizer east course, extending from Michiana Regional Airport to 12 miles east of the ILS outer marker and within 5 miles west and 8 miles east of the South Bend, Ind., VOR 360° radial, extending from the Michiana Regional Airport to 12 miles north of the VOR and within a 5-mile radius of Tyler Memorial Airport, Niles, Mich. (lat. 41°50'30"N., long. 86°13'30"W.), extending from the Niles (Tyler Memorial Airport) 2.5 miles either side of the South Bend, Ind., VORTAC 045° radial to 8 miles northeast of the Tyler Airport, excluding that airspace which overlies the Dowagiac, Mich., transition area.

South Boston, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 36°42'45"N., long. 78°51'00"W., of William M. Tuck Airport, South Boston, Va., and within 2 miles each side of the South Boston VORTAC 076° radial, extending from the 6.5-mile radius area to the VORTAC.

Southbridge, Mass.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 42°06'05" N., 72°02'20" W. of Southbridge Municipal Airport, Southbridge, Mass.; within 3.5 miles each side of the Putnam, Conn., VORTAC 315° radial, extending from the 6.5-mile radius area to the VORTAC; within 2 miles each side of the Runway 2 centerline extended from the 6.5-mile radius area to 6.5 miles north of the end of the runway and within 2 miles each side of the Runway 20 centerline extended from the 6.5-mile radius area to 6.5 miles south of the end of the runway.

South Carolina

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of South Carolina including the offshore airspace within 3 nautical miles of and parallel to the shoreline of South Carolina, and including the airspace outside the United States southeast of Myrtle Beach, S. C., bounded by a line beginning at latitude 33°48'10" N., longitude 78°31'45" W.; to latitude 33°46'15" N., longitude 78°30'25" W.; thence clockwise along a 25-mile radius circle centered on Conway TACAN to latitude 33°19'40" N., longitude 79°02'10" W.; to latitude 33°14'15" N., longitude 79°06'15" W.; thence north along a line 3 nautical miles from and parallel to the shoreline to point of beginning; and east of Charleston, S. C., bounded by a line beginning at latitude 33°04'55" N., longitude 79°13'10" W.; to latitude 32°58'30" N., longitude 79°18'00" W.; to latitude 32°50'40" N., longitude 79°23'15" W.; thence clockwise along the arc of a 38-mile radius circle centered on the Charleston VORTAC to latitude 32°38'40" N., longitude 79°27'25" W.; to latitude 32°44'00" N., longitude 79°45'10" W.; thence north along a line 3 nautical miles from and parallel to the shoreline to point of beginning; and southeast of Beaufort, S. C., bounded by a line beginning at latitude 32°15'00" N., longitude 80°30'00" W.; to latitude 32°00'00" N., longitude 80°33'00" W.; to latitude 32°03'25" N., longitude 80°46'30" W.; thence north along a line 3 nautical miles from and parallel to the shoreline to point of beginning.

Southern Pines, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Moore County Airport (lat. 35°14'02"N., long. 79°23'36"W.); within 1.5 miles each side of Sandhills VORTAC 082° radial, extending from the 8.5-mile radius area to the VORTAC.

AMENDMENTS 8/10/80 45 F. R. 46349 (Changed)

South Haven, Mich.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of South Haven Municipal Airport (lat. 42°21'15" N., long. 86°15'45" W.); and within 1.5 miles each side of the Pullman VORTAC 224° radial, extending from the 7-mile radius area to the VORTAC.

South Kauai, Hawaii

That airspace extending upward from 700 feet above the surface within 2 miles north and 4 miles south of the South Kauai, Hawaii, VORTAC 271° radial extending from the VORTAC to 8 miles west of the VORTAC; within 2 miles each side of the South Kauai, VORTAC 089° radial extending from the VORTAC to 6 miles east of the VORTAC and within 2 miles each side of the South Kauai, VORTAC 133° radial extending from the VORTAC to 6 miles southeast of the VORTAC.

Southport, N. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brunswick County Airport (lat. 33°55'44"N., long. 78°04'33"W.); within 3 miles each side of the 291° bearing from the Yaupon RBN (lat. 33°55'39"N., long. 78°04'31"W.), extending from the 5-mile radius area to 8.5 miles northwest of the RBN.

Sparta, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sparta Community Airport (latitude 38°08'55" N., longitude 89°41'55" W.); and within 3 miles each side of the 009° bearing from Sparta Community Airport, extending from the 5-mile radius area to 8 miles north of the airport.

Sparta, Mich.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sparta Airport (lat. 43°07'45"N., long. 85°40'30"W.); excluding that airspace which overlies the Muskegon, Mich., transition area.

Sparta, Tenn.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Sparta-White County Airport (lat. 36°03'30"N., long. 85°31'43"W.); excluding the portions that coincide with the McMinnville, Tenn., and Cookeville, Tenn., transition area.

Spartanburg, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Spartanburg Downtown Memorial Airport (latitude 34°54'55" N., longitude 81°57'32" W.); 3.5 miles each side of Spartanburg VORTAC 016° radial, extending from the 6.5-mile radius area to 9 miles north of the VORTAC; within 3.5 miles each side of Spartanburg VORTAC 191° radial, extending from the 6.5-mile radius area to 16.5 miles south of the VORTAC; within 3 miles each side of the 237° bearing from Fairmont RBN, extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding the portion within the Greenville, S. C., transition area.

Spencer, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Spencer, Iowa, Municipal Airport (latitude 43°09'45" N., longitude 95°11'30" W.); and within 3 miles each side of the Spencer VOR 298° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR; within 5 miles east and 3 miles west of the Spencer VOR 134° radial, extending from the 5-mile radius zone to 15 miles southeast of the VOR.

Spirit Lake, Iowa

That airspace extending upward from 700 feet above the surface within a 5.5-statute-mile radius of Spirit Lake Municipal Airport (lat. 43°23'05"N., long. 95°08'10"W.); within 3 miles each side of the 353° bearing from Spirit Lake Municipal Airport extending from the 5.5-mile radius to 8 miles north of the airport; within 3 miles each side of the 158° bearing from the Spirit Lake Airport, extending from the 5.5-mile radius to 8 miles southeast of the Spirit Lake Airport, excluding that portion of the Milford, Iowa, transition area.

Spofford, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Spofford Airport (lat. 29°09'58"N., long. 100°25'05"W.), within 3.5 miles each side of the 204° bearing from the NDB (lat. 29°08'42"N., long. 100°25'38"W.), extending from the 5-mile radius to 8.5 miles southwest of the NDB.

Spokane, Wash.

That airspace extending upward from 700 feet above the surface bounded on the north by a line beginning at latitude 47°50' N., longitude 118°00' W., extending to latitude 47°50' N., longitude 117°30' W., to latitude 47°[illegible]' N., longitude 117°16' W., to latitude 47°51' N., longitude 117°08' W., to latitude 47°56' N., longitude 116°[illegible]7' W., to latitude 47°44' N., longitude 116°41' W., to latitude 47°37' N., longitude 117°13' W., to latitude [illegible]7°28' N., longitude 117°16' W., to latitude 47°17' N., longitude 117°47' W., to latitude 47°26' N., longitude [illegible]8°00' W.; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface within a 52-mile radius of Fairchild AFB (latitude 47°36'55" N., longitude 117°39'20" W.), excluding that portion southeast of Spokane bounded on the north by the arc of a 38-mile radius circle centered on the Fairchild AFB, on the northeast by V-2S, on the southeast by the arc of the 52-mile radius area, on the southwest by a line parallel to and 10 miles northeast of V-253; that airspace south of Spokane extending from the 52-mile radius area bounded on the east by V-253, on the south by V-536, on the west by the east edge of V-112E; that airspace southeast of Spokane extending upward from 6,000 feet MSL, bounded on the north by the arc of a 38-mile radius circle centered on the Fairchild AFB on the northeast by V-2S, on the southeast by the arc of the 52-mile radius area, on the southwest by a line parallel to and 10 miles northeast of V-253; that airspace southeast of Spokane extending upward from 7,000 feet MSL bounded on the northwest by the 52-mile radius area, on the north by V-2S, on the southeast by the north edge of V-536, and on the southwest by V-253.

Springfield, Ill

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Capital Airport (latitude 39°50'35" N., longitude 89°40'35" W.); and within the arc of a 23-mile radius circle centered on the Capital VORTAC, extending from a line 2 miles southeast of and parallel to the Capital VORTAC 213° radial clockwise to a line 2 miles northwest of and parallel to the Capital VORTAC 228° radial.

Springfield, Ky.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Lebanon-Springfield Airport (lat. 37°38'02"N., long. 85°14'30"W.).

Springfield, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Springfield Municipal Airport (lat. 44°13'53"N., long. 94°59'54"W.) and within 2 statute miles each side of the 158° radial of the Redwood Falls VORTAC, extending from the 5-mile radius to 6 miles northwest of the airport, excluding that portion within the Windom Municipal Airport transition area.

Springfield, Mo.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Springfield, Mo., Municipal Airport (latitude 37°14'35" N., longitude 93°23'20" W.); within 2 miles each side of the 324° bearing from the Willard RBN, extending from the 7-mile radius area to 8 miles northwest of the RBN; within 5 miles west and 6 miles east of the Springfield ILS localizer south course, extending from 1 mile north to 12 miles south of the OM.

Springfield, Vt.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center (latitude 43°20'29" N., longitude 72°31'18" W.) of Springfield State-Hartness Airport, Springfield, Vt., within 5 miles each side of the 033° and 213° bearings from the Springfield NDB (latitude 43°16'12" N., longitude 72°35'12" W.) extending from the 6-mile radius area to 11.5 miles southwest of the NDB.

Springhill, La.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Springhill Municipal Airport, Springhill, La. (latitude 32°58'50" N., longitude 93°24'35" W.).

Spring Valley, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 41°06'30"N., long. 74°01'30"W., of Ramapo Valley Airport, Spring Valley, N. Y.; within a 7-mile radius of the center of the airport, extending clockwise from a 104° bearing to a 146° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 256° bearing to a 308° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 308° bearing to a 016° bearing from the airport; within 5 miles each side of the Sparta, N. J., VORTAC 084° radial, extending from the 6.5-mile radius area to the VORTAC; within 6.5 miles north and 4.5 miles south of the Sparta, N. J., VORTAC 084° radial, extending from 3 miles east of the VORTAC to 20.5 miles east of the VORTAC.

Standish, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Standish City Airport (latitude 43°58'48" N., longitude 83°58'25" W.).

Staples, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Staples Municipal Airport (latitude 46°22'48" N., longitude 94°48'08" W.), and within 3 miles each side of the 311° bearing from Staples Municipal Airport, extending from the 5-mile radius to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 311° bearing from the airport, extending to 18½ miles northwest of the airport, excluding that portion south of latitude 46°30'00" N.

Starkville, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of George M. Bryan Field (lat. 33°26'00"N., long. 88°50'45"W.); within 5 miles each side of Bigbee VORTAC 260° radial extending from the 6.5-mile radius area to 32.5 miles west of the VORTAC; within 3 miles each side of the 350° bearing from BRYAN RBN (lat. 33°35' 53" N., long. 88°51'01" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; excluding the portion within Columbus, Miss., transition area.

State College, Pa.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, latitude 40°51'05" N., longitude 77°51'00" W., of University Park Airport, State College, Pa., extending clockwise from a 020° bearing to a 130° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 130° bearing to a 165° bearing from the airport; within a 5-mile radius of the center of University Park Airport, extending clockwise from a 165° bearing to a 210° bearing from the airport; within a 7-mile radius of the center of University Park Airport, extending clockwise from a 210° bearing to a 280° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 280° bearing to a 020° bearing from the airport; within 3.5 miles each side of the University Park Airport ILS Runway 24 localizer course, extending from the OM to 10.5 miles northeast of the OM; within a 5-mile radius of the center, latitude 40°46'15" N., longitude 77°52'45" W., of State College Air Depot Airport, State College, Pa., extending clockwise from a 010° bearing to a 045° bearing from the airport; within a 12-mile radius of the center of State College Air Depot Airport, extending clockwise from a 045° bearing to a 080° bearing from the airport; within a 13.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 080° bearing to a 230° bearing from the airport; within a 6.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 230° bearing to a 260° bearing from the airport; and within a 14.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 260° bearing to 010° bearing from the airport, excluding the portion that coincides with the Phillipsburg, Pa., and Reedsville, Pa., transition areas.

Statesboro, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Statesboro Municipal Airport (lat. 32°29'25" N., long. 81°44'08" W.); within 3 miles each side of the 120° and 326° bearings from Statesboro RBN (lat. 32°28'27" N., long. 81°44'40" W.), extending from the 6.5-mile radius area to 8.5 miles southeast and northwest of the RBN.

Statesville, N. C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Statesville Municipal Airport (lat. 35°45'36"N., long. 80°57'15"W.), within 3.5 miles each side of the Barretts Mountain VORTAC 115° radial, extending from the 7-mile radius area to 10 miles southeast of the VORTAC.

AMENDMENTS 2/11/80 45 F. R. 2649 (Changed)

Steamboat Springs, Colo.

That airspace extending upward from 700 feet above the surface within 5 miles east and 7.5 miles west of the 153° and 333° bearings from the Rocky Mountain Airways NDB (latitude 40°28'13" N., longitude 106°49'46" W.), extending from 6.5 miles northwest of the NDB to 12.5 miles southeast of the NDB; that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at latitude 40°04'30" N., longitude 106°30'00" W.; to latitude 40°05'40" N., longitude 107°00'00" W.; to latitude 40°35'00" N., longitude 107°00'00" W.; to latitude 40°35'00" N., longitude 106°30'00" W.; to point of beginning; that airspace extending upward from 13,300 feet MSL within an area bounded by a line beginning at latitude 40°04'15" N., longitude 106°30'00" W.; to latitude 40°25'00" N., longitude 106°30'00" W.; to latitude 40°08'00" N., longitude 105°52'00" W.; thence along the north edge of V-220 to the point of beginning.

Stephenville, Tex.

That airspace extending upward from 700 feet AGL within a 5-mile radius of Clark Field, Tex. (latitude 32°13'00" N., longitude 98°10'42" W.); within 3 miles each side of the Acton, Tex., VORTAC 244° radial extending from the 5-mile radius area to 27 miles from the VORTAC; and within 3 miles each side of the 139° bearing from the Stephenville, Tex., RBN (latitude 32°13'00" N., longitude 98°10'42" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

Sterling, Colo.

That airspace extending upward from 700 feet above the surface within a 10.5 mile radius of the Crosson Field Airport (Lat. 40°36'58"N., Long. 103°15'48"W.) and that airspace within 9.5 miles west and 4.5 miles east of the 163° bearing from the Batten NDB (lat. 40°31'56"N., long. 103°13'45"W.) extending from the 10.5 mile radius area to 18.5 miles south of the Batten NDB and within 5 miles each side of the 023° bearing from Crosson Field extending from the 10.5 mile radius area to 23.5 miles northeast of Crosson Field Airport.

Sterling, Ill.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Whiteside County Airport (latitude 41°44'35" N., longitude 89°40'30" W.); within 2 miles each side of the 074° bearing from Whiteside County Airport, extending from the 7 mile radius area to 14 miles east of the airport; and within 2 miles each side of the 232° bearing from Whiteside County Airport, extending from the 7-mile radius area to 8 miles southwest of the airport, excluding the portion which overlies the Dixon, Ill., transition area.

Stevens Point, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Stevens Point, Wis., Municipal Airport (latitude 44°32'38" N., longitude 89°31'50" W.); within 2 miles each side of the Stevens Point, Wis., VOR 024° radial extending from the 5-mile radius area to 11 miles NE of the VOR; within 2 miles each side of the Stevens Point VOR 111° radial extending from the 5-mile radius area to 8 miles E of the VOR; within 2 miles each side of the Stevens Point VOR 217° radial extending from the 5-mile radius area to 8 miles SW of the VOR; and within 2 miles each side of the Stevens Point VOR 306° radial extending from the 5-mile radius area to 8 miles NW of the VOR.

Stillwater, Okla.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Searcy Field, Stillwater, Okla., lat. 36°09'31"N., long. 97°05'08"W.; and within 2 miles each side of the Stillwater VOR 005° radial extending from the 6-mile radius area to 8 miles north of the VOR.

Stockton, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Stockton ILS localizer SE course, extending from the OM to 1 mile NW of the OM; within 2 miles each side of the Stockton VORTAC 140° radial, extending from the VORTAC to 8 miles SE of the VORTAC, and within a 12-mile radius of the Stockton VORTAC, extending from the arc of a 5-mile radius circle centered on the Stockton Municipal Airport (latitude 37° 53' 45" N., longitude 121° 14' 10" W.) clockwise from a line 2 miles SW of and parallel to the Stockton VORTAC 303° radial to a line 2 miles NE of and parallel to the Stockton VORTAC 334° radial; and that airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 120° 04' 00" W., on the SE by a line extending from latitude 37° 52' 00" N., longitude 120° 04' 00" W., to latitude 37° 38' 00" N., longitude 121° 00' 00" W., on the S by latitude 37° 38' 00" N., on the W by longitude 121° 37' 00" W., and on the N by latitude 38° 07' 00" N. The airspace within R-2531 is excluded.

Stone Harbor, N. J.

That airspace extending upward from 1,200 feet MSL beginning at lat. 39°10'00"N., long. 74°40'00"W.; to lat. 38°48'00"N., long. 74°08'00"W.; to lat. 38°59'00"N., long. 74°45'00"W.; to the point of beginning.

Storm Lake, Iowa

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Storm Lake, Iowa Municipal Airport (lat. 42°36'00"N., long. 95°14'31"W.) and within 3 miles each side of the 174°T bearing from Storm Lake NDB extending from the 6.5-mile radius area to 8.5 miles south of the airport.

AMENDMENTS 5/15/80 45 F. R. 18911 (Rewritten)

Stratford, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stratford Field (latitude 36°20'46" N., longitude 102°02'30" W.).

Sturgeon Bay, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Door County Cherryland Airport (latitude 44°50'30" N., longitude 87°25'10" W.); and within 3 miles each side of a 195° bearing from the Door County Cherryland Airport extending from the 5-mile radius area to 7½ miles south of the airport.

Sturgis, Ky.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sturgis Municipal Airport (latitude 37°32'30" N., longitude 87°56'51" W.).

Sturgis, Mich.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Kirsch Airport, Sturgis, Michigan (latitude 41°48'35" N., longitude 85°26'10" W.); within 3½ miles either side of the 059° bearing from the airport, extending from the 5.5 mile radius area to 1.3 miles northeast of the airport and within 3 miles either side of the 341° bearing from the airport, extending from the 5.5-mile radius area to 8 miles north of the airport.

Stuttgart, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stuttgart Municipal Airport (latitude 34°36'15" N., longitude 91°34'30" W.), and within 3.5 miles each side of the 350° bearing from the Stuttgart RBN (latitude 34°39'52" N., longitude 91°35'30" W.) extending from the 6.5-mile radius area to 11.5 miles north of the RBN.

Suffolk, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, (36°40'53"N., 76°36'11"W.), of Suffolk Municipal Airport, Suffolk, Va.; within 3 miles each side of a 249° bearing from the Suffolk RBN (36°40'49"N., 76°36'28"W.) extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Sullivan, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sullivan County Airport (latitude 39°07'00" N., longitude 87°26'55" W.); and within 3 miles each side of the 187° bearing from Sullivan County Airport, extending from the 5-mile radius area to 8 miles south of the airport.

Sulphur Springs, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sulphur Springs Airport (lat. 33°09'30"N., long. 95°37'15"W.), and within 2 miles each side of the Sulphur Springs VORTAC 240° radial extending from the 5-mile radius area to 18 miles southwest of the VORTAC and within 3 miles each side of the 002° bearing from the NDB (lat. 33°09'30"N., long. 95°37'05"W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

AMENDMENTS 1/24/80 44 F. R. 67373 (Changed)

Summersville, W. Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°13'50"N., long. 80°52'15"W., of Summersville Airport, Summersville, W. Va.; within 4.5 miles each side of a 035° bearing and a 215° bearing from the Nicholas, W. Va., RBN (lat. 38°10'30"N., long. 80°55'13"W.), extending from 4.5 miles northeast of the RBN to 9 miles southwest of the RBN; within 3.5 miles each side of a 214° bearing from the Nicholas, W. Va., RBN, extending from the RBN to 11 miles southwest of the RBN.

Sumter, S. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Shaw AFB (lat. 33°58'15" N., long. 80°28'19" W.); within 4 miles each side of Shaw AFB TACAN 033° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of the TACAN; within 5 miles each side of the TACAN 215° radial, extending from the 8.5-mile radius to 21.5 miles southwest of the TACAN; within a 10.5-mile radius of McEntire ANGB (lat. 33°55'26" N., long. 80°48'14" W.); within 5 miles each side of McEntire ANGB TACAN 138° radial, extending from the 10.5-mile radius area to 12.5 miles southeast of the TACAN; within a 5-mile radius of Sumter Municipal Airport (lat. 33°59'39" N., long. 80°21'45" W.); within 3 miles each side of the 028° bearing from Sumter RBN (lat. 33°59'24" N., long. 80°21'38" W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN; excluding the portion within the Columbia transition area.

Sunol, Calif.

That airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 121°31'00" W., on the SW by V-107 and on the NW by V-244S.

Superior, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Richard I. Bong Airport (lat. 46°40'56" N., long. 92°05'35" W.), excluding the portion which overlies the Duluth, Minn., transition area.

Superior, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Superior Municipal Airport (lat. 40°03'00"N., long. 98°03'45"W.) and within 2.5 miles each side of the 021° radial of the Mankato (TKO) VORTAC, extending from the 5-mile radius 5 miles north of the airport and within 2.5 miles each side of the 024° radial of the Mankato (TKO) VORTAC, extending from the 5-mile radius to 5 miles south of the airport.

ussex, N. J.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°12' 0" N., 74°37'00" W. of Sussex Airport, Sussex, N. J., extending clockwise from a 005° bearing to a 074° earing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 197° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 197° bearing to a 234° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 234° bearing to a 269° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 269° bearing to a 329° bearing from the airport; and within a 12-mile radius of the center of the airport, extending clockwise from a 329° bearing to a 005° bearing from the airport.

Swainsboro, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Emanuel County Airport (lat. 32°36'30" N., long. 82°22'15" W.); within 3 miles each side of Swainsboro TVOR (lat. 32°36'24" N., long. 82°22'10" W.) 294° radial extending from the 6.5-mile radius area to 8.5 miles northwest of the TVOR.

Sweetwater, Tex.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sweetwater Municipal Airport (lat. 32°28'00"N., long. 100°28'00"W.) and within 3.5 miles each side of the 350° bearing from the Sweetwater RBN (lat. 32°27'41"N., long. 100°27'59"W.) extending from the 9-mile radius area to 11.5 miles north of the RBN.

Sylacauga, Ala.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Lee Merkle Airport (latitude 33°10'14" N., longitude 86°18'12" W.).

Syracuse, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, latitude 43°06'50" N., longitude 76°06'35" W., of Syracuse Hancock International Airport extending clockwise from a 270° bearing to a 090° bearing from the airport; within a 16-mile radius of the center of the airport extending clockwise from a 090° bearing to a 270° bearing from the airport; within 9.5 miles north and 4.5 miles south of the Syracuse Hancock International Airport Runway 28 ILS localizer course extending from the OM to 18.5 miles east of the OM; within 9.5 miles north and 4.5 miles south of the Syracuse Hancock International Airport Runway 10 ILS localizer back course extending from the localizer to 26 miles west of the localizer; within 5 miles each side of the Syracuse VORTAC 283° radial extending from the VORTAC to a point 16 miles west of the VORTAC; and within 5 miles each side of the Syracuse VORTAC 242° radial extending from the VORTAC to a point 16 miles southwest of the VORTAC.

Tahlequah, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Tahlequah Municipal Airport, Tahlequah, Okla., (lat. 35°55'40"N., long. 95°00'15"W.); within 3.5 miles each side of the 007° bearing from the Tahlequah NDB (lat. 35°55'35"N., long. 95°00'20"W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB.

Talkeetna, Alaska

That airspace extending upward from 1,200 feet above the surface within 23 miles W and 18 miles E of the 022° and 202° bearings from the Peters Creek NDB, extending from 40 miles N to 15 miles S of the NDB, excluding the airspace within Federal airways.

Tallahassee, Fla.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Tallahassee Municipal Airport (lat. 30°23'59" N., long. 84°21'22" W.); within a 6.5-mile radius of the Tallahassee Commercial Airport (lat. 30°33'02" N., long. 84°22'31" W.); within 3 miles each side of the ILS localizer south course, extending from the 10-mile radius area to 9 miles south of the OM.

Tallassee, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Tallassee Municipal Airport (lat. 32°28'52" N., long. 85°53'06" W.).

Tallulah, La.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Scott Airport (lat. 32°25'00"N., long. 91°09'00"W.), and within 3 miles either side of the Tallulah NDB 005° bearing from the Tallulah NDB (lat. 32°24'44"N., long. 91°09'00"W.) extending from the 5.5-mile radius area to 8.5 miles northeast of the NDB.

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Tampa, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Tampa International Airport (lat. 27°58'29" N., long. 82°31'38" W.); within an 8.5-mile radius of St. Petersburg Clearwater International Airport (lat. 27°54'33" N., long. 82°41'10" W.); within 3 miles each side of St. Petersburg VORTAC 343° radial, extending from the 8.5-mile radius area to 8 miles north of the VORTAC; within an 8.5-mile radius of MacDill AFB (lat. 27°50'57" N., long. 82°31'18" W.); within 3 miles each side of MacDill AFB ILS localizer northeast course, extending from the 8.5-mile radius area to 8.5 miles northeast of the OM; within a 7-mile radius of Peter O. Knight Airport (lat. 27°54'55" N., long. 82°27'05" W.); within a 5-mile radius of Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'39" W.).

Tanana, Alaska

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ralph M. Calhoun Memorial Airport, latitude 65°10'30" N., longitude 152°06'32" W. and within 9.5 miles south and 4.5 miles north of the Bear Creek radio beacon 251° bearing extending from the radio beacon to 18.5 miles west.

Tangier, Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Tangier Island Airport, lat. 37°49'30" N., long. 75°50'55" W.; within 3 miles each side of the Cape Charles, Va., VORTAC 360° radial extending from the 5-mile radius area to 26 miles north of the VORTAC.

Taos, N. Mex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Taos Municipal Airport (lat. 36°27'33"N., long. 105°40'31"W.); within 9.5 miles on the northwest side and within 4.5 miles on the southeast side of the 203° bearing from the Ski NDB (lat. 36°27'40"N., long. 105°40'10"W.), extending from the NDB to 18.5 miles southwest of the NDB excluding that airspace within the 6.5-mile airport radius area; and that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°07'00"N., long. 105°50'00"W., thence via a 25-mile arc centered on the Taos Municipal Airport coordinates (lat. 36° 27'33"N., long. 105°40'31"W.) clockwise to lat. 36°48'00"N., long. 105°49'15"W., thence direct to lat. 36° 30'00"N., long. 105°30'00"W., thence direct to the point of beginning.

Taunton, Mass.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 41°52'35" N., 71°01'00" W., of Taunton Municipal Airport, Taunton, Mass.; within 2 miles each side of the Whitman, Mass., VORTAC 187° radial, extending from the 6-mile radius area to the Whitman VORTAC and within 2 miles each side of the 118° bearing from the Taunton, Mass., RBN, 41°52'35" N., 71°01'03" W., extending from the 6-mile radius area to 8 miles southeast of the Taunton RBN.

Taylorville, Ill.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Taylorville Municipal Airport (lat. 39°32'05"N., long. 89°19'45"W.) and within 3 statute miles each side of the 348° true bearing of the Taylorville NDB extending from the 5-statute-mile radius area to 8 statute miles north of the Taylorville NDB.

Tecumseh, Mich.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Tecumseh, Mich. Airport (latitude 42°01'30" N., longitude 83°56'20" W.).

Tekamah, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Tekamah Airport (lat. 41°45'50"N., long. 96°10'38"W.) and within 3 miles each side of the 135°T bearing from the Tekamah VOR (lat. 41°45'35"N., long. 96°10'42"W.) extending from the 5-mile radius area to 8½ miles southeast of the VOR.

Tell City, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Perry County Municipal Airport, Ind., (lat. 38°01'05"N., long. 86°41'30"W.); and within 3 miles each side of the 105° bearing from the Perry County Municipal Airport extending from the 5-mile radius to 8 miles southeast.

Tennessee

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Tennessee.

Terre Haute, Ind.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hulman Field (latitude 39°27'07" N., longitude 87°18'25" W.); within 5 miles southeast and 9 miles northwest of the Terre Haute VORTAC 051° radial, extending from the VORTAC to 13 miles northeast and within 7 miles southeast and 8 miles northwest of the Terre Haute VORTAC 230° radial, extending from the VORTAC to 23 miles southwest; within a 5-mile radius of the Sky King Airport (latitude 39°32'56" N., longitude 87°22'38" W.); within a 5-mile radius of the Arthur Airport (latitude 39°28'36" N., longitude 87°06'00" W.).

Terrell, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Terrell, Tex., Municipal Airport (lat. 32°43'00"N., long. 96°16'00"W.).

Texarkana, Ark.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Municipal-Webb Field (lat. 33°27'20" N., long. 93°59'15" W.), within 2 miles each side of the Texarkana ILS localizer northeast course extending from the 5-mile radius area to the OM, and within 2 miles each side of the Texarkana VORTAC 129° radial extending from the 5-mile radius area to the VORTAC.

Texas

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Texas including the airspace within 3 nautical miles of and parallel to the shoreline of Texas, that airspace south of Beaumont, Tex., bounded on the north by a line 3 nautical miles from and parallel to the shoreline, on the east by the Louisiana/Texas State line and on the south by the arc of a 25-mile radius circle centered at latitude 29°54'40" N., longitude 94°02'40" W., that airspace east of Corpus Christi, Tex., bounded by a line 3 nautical miles from and parallel to the shoreline and a line beginning at a point 3 nautical miles from the shoreline at latitude 27°49'00" N., thence to latitude 27°45'30" N., longitude 96°51'00" W., to latitude 27°28'20" N., longitude 96°45'30" W., to latitude 27°14'30" N., longitude 96°55'30" W., to latitude 27°23'00" N., longitude 97°06'00" W., to a point 3 nautical miles from the shoreline at latitude 27°11'20" N., excluding that airspace south of a line beginning at the intersection of the United States/Mexican Border and 30°00'00" north latitude, thence east along 30°north latitude to and counterclockwise along the arc of a 105-mile radius circle centered at latitude 29°21'35" N., longitude 100°46'35" W., to and along the United States/Mexican Border to point of beginning.

The Dalles, Oreg.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of The Dalles Municipal Airport (latitude 45°37'05" N., longitude 121°10'05" W.), that airspace south of The Dalles, extending from a line 2 miles east of and parallel to The Dalles VORTAC 186° radial clockwise to the 222° radial, extending from the 5-mile radius area to an ARC of an 11.5-mile radius circle centered on The Dallas Municipal Airport; that airspace extending upward from 1,200 feet above the surface within 8 miles N and 6 miles S of The Dalles VORTAC 281° and 101° radials, extending from 7 miles W to 14 miles E of the VORTAC; within 5 miles N of The Dalles VORTAC 101° radial, extending from 14 miles E to 23 miles E of the VORTAC, and that airspace within a 23-mile radius of The Dalles VORTAC, extending clockwise from the 101° radial to the 272° radial, excluding the airspace within the Portland, Oreg., transition area.

Thedford, Nebr.

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Thedford Municipal Airport (latitude 41°58'47" N., longitude 100°32'01" W.); within 2.5 miles each side of the Thedford VOR 090° radial extending from the 5.5-mile radius to 7.5 miles west of the airport.

Thermal, Calif.

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Thermal VORTAC 140° radial, extending from the VORTAC to 8 miles southeast of the VORTAC, within 3.5 miles southwest of and parallel to the Thermal VORTAC 155° radial, extending from the VORTAC to 6.5 miles southeast of the VORTAC and within 3 miles each side of the Thermal VORTAC 324° radial, extending from the VORTAC to 16 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Thermal VORTAC 140° radial extending from the VORTAC to 20 miles southeast of the VORTAC, excluding the portion within R-2521.

Thibodaux, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Thibodaux Municipal Airport (latitude 29°44'50" N., longitude 90°49'55" W.) and within 2 miles each side of the Tibby, La., VORTAC 359°T radial extending from the 5-mile radius to the Tibby VORTAC excluding the portion that overlaps the Houma, La., transition area.

Thief River Falls, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Thief River Falls, Minn., Municipal Airport (latitude 48°03'58" N., longitude 96°11'06" W.), within 2 miles each side of the 138° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius area to 8 miles SE of the airport, and within 2 miles each side of the 305° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius area to 8 miles NW of the airport; and that airspace extending upward from 1,200 feet above the surface within 8 miles NE and 5 miles SW of the 138° bearing from Thief River Falls Municipal Airport extending from the airport to 12 miles SE of the airport, and within 5 miles NE and 8 miles SW of the 305° bearing from Thief River Falls Municipal Airport extending from the airport to 12 miles NW of the airport.

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Thunder Bay, Ontario, Canada

That airspace extending upward from 1,200 feet above the surface within a 35-nautical mile radius of Thunder Bay Airport (lat. 48°22'19" N., long. 89°19'26" W.), excluding the portion outside the United States.

Tiffin, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Seneca County Airport (latitude 41°05'38" N., longitude 83°12'45" W.); within 3 miles each side of the 053° bearing from the Seneca County Airport extending from the 7-mile radius area to 8.5 miles northeast of the airport.

Tifton, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Henry Tift Myers Airport (lat. 31°25'36" N., long. 83°29'06" W.), within a 5-mile radius of Eaglehead Airport (lat. 31°23' 00" N., long. 83°36'00" W.).

Titusville, Fla.

That airspace extending upward from 700' above the surface within an 8.5-mile radius of the Titusville-Cocoa Airport (lat. 28°30'42" N., long. 80°48'00" W.); within an 8.5 mile radius of Kennedy Spaceport (lat. 28°36'53" N., long. 80°41'41" W.).

Titusville, Pa.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center lat. 41° 36'45" N., long. 79°44'45" W. of Titusville Airport, excluding the portion that coincides with the Franklin, Pa., transition area.

Tobe, Colo.

That airspace north of Tobe, Colo., VORTAC, extending upward from 8,500 feet MSL, bounded on the north by V-210, on the southeast by V-263, and on the west by V-19E, excluding the airspace within Federal airways.

Toccoa, Ga.

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Toccoa Airport (latitude 34°35'40" N., longitude 83°17'40" W.); within a 9-mile radius of Habersham County Airport, Cornelia, Ga. (lat. 34°30'20" N., long. 83°33'15" W.).

Toledo, Ohio

That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at latitude 41°40'00" N., longitude 84°20'00" W.; to latitude 41°49'00" N., longitude 83°37'00" W.; to latitude 41°34'00" N., longitude 83°19'00" W.; to latitude 41°17'00" N., longitude 83°36'00" W.; to latitude 41°22'00" N., longitude 84°05'00" W.; to point of beginning.

Tonopah, Nev.

That airspace extending upward from 1,200 feet above the surface within 14 miles north and 5 miles south of the 083° and 263° radials of the Tonopah VORTAC extending from 12 miles west to 25.5 miles east of the VORTAC, and within 10 miles south of and parallel to the Tonopah VORTAC 089° radial, extending from the VORTAC to 21.5 miles east of the VORTAC.

Topeka, Kans.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Philip Billard Airport, Topeka, Kans., (lat. 39°04'09"N., long. 95°37'18"W.) within 2 miles each side of the Topeka VORTAC 039° radial extending from the 7-mile radius area to 8 miles northeast of the VORTAC, within 5 miles southwest and 8 miles northeast of the Philip Billard Airport ILS localizer northwest course extending from 3 miles southeast to 12 miles northwest of the Billard LOM, within an 8.5-mile radius of Forbes Field Airport, Topeka, Kans., (lat. 38°57'06"N., long. 95°39'45"W.) within 4 miles each side of the Forbes Field LOM 317° bearing extending from the 8.5-mile radius area to 15 miles northwest of the airport, and within 3.5 miles each side of the Forbes Field ILS localizer southeast course extending from the 8.5-mile radius area to 8 miles southeast of the Forbes Field LOM.

Toughkenamon, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, lat. 39°49'55"N., long. 75°46'08"W., of the New Garden Flying Field, Toughkenamon, including that airspace 5 miles west and 3 miles east of the Modena, Pa., VORTAC 047° and 227° radials extending from 5 miles southwest to 10 miles northeast of the VORTAC.

Tracy, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Tracy Municipal Airport (latitude 37°41'15" N., longitude 121°26'25" W.), and within 2.5 miles each side of the Stockton VORTAC 237° radial, extending from the 3-mile radius area to 10.5 miles southwest of the VORTAC.

Traverse City, Mich.

That airspace extending upward from 700 feet above the surface within a 10½-mile radius of Cherry Capital Airport (latitude 44°44'35" N., longitude 85°34'55" W.); within 4½ miles west and 9½ miles east of the Traverse City VORTAC 158° radial, extending from the 10½-mile radius area to 18½ miles south of the VORTAC; and within 5 miles each side of the Traverse City VORTAC 344° radial, extending from the 10½-mile radius area to 20 miles north of the VORTAC.

Trenton, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Trenton Municipal Airport (latitude 40°05'03" N., longitude 93°35'26" W.); and within 3 miles either side of the 172° bearing from the MHW facility extending from the 5-mile radius to 8 miles south, and 3 miles either side of the 007° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles north.

Trenton, Tenn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Gibson County Airport (latitude 35°56'02" N., longitude 88°50'54" W.); within 3 miles each side of the 020° bearing from Gibson RBN (latitude 35°56'03" N., longitude 88°51'02" W.), extending from the 5-mile radius area to 8.5 miles north of the RBN; excluding the portion within the Humboldt, Tenn., transition area.

Tri-City, Tenn.

That airspace extending upward from 700 feet above the surface beginning at the intersection of the arc of a 21.5-mile radius circle centered on Tri-City Airport (latitude 36°28'30" N., longitude 82°24'20" W.) and a line 5 miles northwest of and parallel to Glade Spring, Va., 216° radial (northeast of Tri-City Airport); thence northeast along this line to and clockwise along the arc of a 30-mile radius circle centered on Tri-City Airport to the northwest boundary of V-16S; thence northeast along the northwest boundary of V-16S to and clockwise along the arc of a 21.5-mile radius circle to point of beginning; including the airspace within 3 miles each side of the Abingdon, Va., NDB lat. 36°42'35"N., long. 81°59'15"W., 059° bearing, extending from the arc of a 30-mile radius circle centered on Tri-City Airport to 8.5 miles northeast of the Abingdon NDB; within an 8.5-mile radius of Hawkins County Airport, Rogersville, Tenn. (lat. 36°27'27"N., long. 82°53'05"W.).

Trinidad, Colo.

That airspace extending upward from 1,200 feet above the surface within 8 miles west and 8 miles east of the 172° and 352° bearings from the Trinidad, Colo. RBN, extending from 7 miles south to 13 miles north of the RBN.

Troy, Ala.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Troy Municipal Airport (latitude 31°51'40" N., longitude 86°00'45" W.); within 3 miles each side of the ILS localizer west course, extending from the 9-mile radius area to 8.5 miles west of the OM.

Troy, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Troy Skypark Airport (latitude 39°59'27" N., longitude 84°16'14" W.), excluding that portion which lies within the Piqua, Ohio, and Dayton, Ohio, transition areas.

Truth or Consequences, N. Mex.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Truth or Consequences Municipal Airport (latitude 33°14'10" N., longitude 107°16'15" W.), and within 3.5 miles either side of the Truth or Consequences, N. Mex., VORTAC 013° radial, extending from the 8-mile radius area to 11 miles north of the VORTAC.

Tucson, Ariz.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Tucson International Airport (lat. 32°07'05"N., long. 110°56'32"W.); within 16 miles NE and 13 miles SW of the Tucson VORTAC 138° radial extending from the 10-mile radius area to 16 miles SE of the VORTAC, within 1 mile NE and 9 miles SW of the Tucson VORTAC 318° radial, extending from the 10-mile radius area to 22 miles NW of the VORTAC and within 16 miles NE of the Tucson VORTAC 318° radial extending from the Tucson VORTAC to 30 miles NW of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 32°33'00" N., longitude 111°45'00" W.; to latitude 32°33'00" N., longitude 110°52'00" W.; thence N via longitude 110°52'00" W. to the S boundary of V-94; thence SE via the S boundary of V-94 to longitude 110°00'00" W.; thence S to latitude 31°39'00" N., longitude 110°00'00" W.; to latitude 31°39'00" N., longitude 111°00'00" W.; to latitude 32°00'00" N., longitude 111°45'00" W.; to point of beginning.

Tucumcari, N. Mex.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Tucumcari Municipal Airport (latitude 35°10'30" N., longitude 103°36'15" W.).

Tullahoma, Tenn.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Arnold Air Force Station (latitude 35°23'33" N., longitude 86°05'10" W.); within 3 miles each side of the Arnold VOR 216° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VOR; within a 7-mile radius of Tullahoma Municipal Airport; Soesbe-Martin Field (lat. 35°23'00"N., long. 86°14'30"W.); within 3 miles each side of Shelbyville VOR 136° radial, extending from the 7-mile radius area to 8.5 miles southeast of Arnold VOR 226° radial; within a 13.5-mile radius of Winchester Municipal Airport, Winchester, Tenn. (latitude 35°10'40" N., longitude 86°03'49" W.); excluding the portions within Shelbyville and Chattanooga transition areas.

Tulsa, Okla.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Tulsa International Airport (latitude 36°12'00" N., longitude 95°53'15" W.); within 8 miles west and 5 miles east of the Tulsa ILS localizer north course extending from the OM to 12 miles north; and within 8 miles north and 5 miles south of the Tulsa VORTAC 088° radial extending from the 9-mile radius area to 33 miles east of the VORTAC.

Tupelo, Miss.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the C. D. Lemons Municipal Airport (latitude 34°15'32" N., longitude 88°45'32" W); within 3 miles each side of the Tupelo VOR 214° radial, extending from the 5-mile radius area to 8.5 miles southwest of the VOR.

Tuscaloosa, Ala.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Van De Graaff Airport (lat. 33°13'16" N., long. 87°36'39" W.); within 2.5 miles each side of Tuscaloosa VORTAC 052° radial, extending from the 11-mile radius area to 6.5 miles northeast of the VORTAC.

Tuskegee, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Moton Field (lat. 32°27'36" N., long. 85°40'44" W.); within 3 miles each side of the Tuskegee VORTAC 018° radial, extending from the 6.5-mile radius area to 8.5 miles north of the VORTAC; excluding the portion within the Tallassee transition area.

Twentynine Palms, Calif.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°17'00" N., longitude 115°25'00" W., to latitude 33°28'00" N., longitude 115°25'00" W., to latitude 33°28'00" N., longitude 116°18'00" W., to latitude 34°17'00" N., longitude 116°18'00" W., thence to point of beginning, excluding the portions within R-2501E, R-2501S, and R-2507.

Twin Falls, Idaho

That airspace extending upward from 700 feet above the surface within 9.5 miles north and 5 miles south of the Twin Falls VORTAC 086° and 281° radials extending from the VORTAC to 30 miles east and 18.5 miles west; within 5 miles each side of the Twin Falls 156° radial extending from the VORTAC to 9.5 miles southeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 16.5-mile radius of the Twin Falls VORTAC, extending clockwise from the VORTAC 121° radial to the VORTAC 311° radial; within that airspace southeast of Twin Falls bounded on the north by V-269, on the east by a 21-mile arc centered on the VORTAC and on the southeast by V-484; within that airspace north of Twin Falls bounded on the north by V-500, on the east by longitude 114°01'00" W., on the south by V-269 and on the southwest by V-293; that airspace northwest of Twin Falls bounded on the north by V-330, on the east by V-293, and on the south by V-4; that airspace within 9 miles southwest and 6 miles northeast of the Twin Falls VORTAC 311° radial extending from the VORTAC to 30 miles northwest of the VORTAC.

Tyler, Tex.

That airspace extending upward from 700 feet above the surface bounded by a line extending from latitude 32°05'30" N., longitude 95°17'00" W., to latitude 32°27'00" N., longitude 95°42'30" W., to latitude 32°35'30" N., longitude 95°32'30" W., to latitude 32°13'30" N., longitude 95°07'00" W., to point of beginning.

Ukiah, Calif.

That airspace extending upward from 700 feet above the surface within a five-mile radius of the Ukiah Municipal Airport (lat. 39°07'36"N., long. 123°12'00"W.);

that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Ukiah, Calif., VORTAC bounded on the E by the W edge of V-25, that airspace S of Ukiah bounded on the E by the W edge of V-25, on the S by latitude 38°43'30" N., on the W by longitude 123°23'15" W., and that airspace between the 20- and 24-mile arcs of the Red Bluff, Calif., VORTAC bounded on the NW by the NW edge of V-199 and on the SE by the SE edge of V-25; that airspace extending upward from 7,500 feet MSL between the 24- and 45-mile arcs of the Red Bluff, Calif., VORTAC bounded on the NW by the NW edge of V-199 and on the SE by the SE edge of V-25; that airspace extending upward from 8,500 MSL bounded on the NE by a 45-mile arc of the Red Bluff, VORTAC, on the SE by the SE edge of V-25, on the S and SW by the N edge of V-200 and a 20-mile arc of the Ukiah VORTAC, and on the NW by the NW edge of V-199; that airspace extending upward from 9,500 feet MSL bounded on the SE by the NW edge of V-199, on the W by the E edge of V-27, and on the N by a line 9 miles S of and parallel to the Red Bluff VORTAC 291° and Fortuna VORTAC 110° radials and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the east/southeast edge of V-27W.

Ulysses, Kans.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ulysses, Kans., Municipal Airport (latitude 37°36'10" N., longitude 101°22'15" W.); within 3 miles each side of the 307° bearing from the Ulysses radio beacon (latitude 37°35'51" N., longitude 101°22'00" W.); extending from the 5-mile radius area 2.5 miles northwest.

Umiat, Alaska
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Umiat Airport (latitude 69°22'17" N., longitude 152°08'00" W.).

Unalakleet, Alaska
That airspace extending upward from 700 feet above the surface within 4.5 miles north and 9.5 miles south of the North River, Alaska, RBN 290° bearing, extending from the RBN to 24.5 miles west of the RBN; within 4.5 miles southeast and 9.5 miles northwest of the Unalakleet VORTAC 225° radial, extending from the VORTAC to 24.5 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 7.5 miles north and 9.5 miles south of the Unalakleet VORTAC 110° and 290° radials, extending from 13 miles east to 13 miles west of the VORTAC.

Union, S. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Union County Airport (lat. 34°41'15"N., long. 81°38'25"W.) within 3 miles either side of the 234° bearing from the Union County Nondirectional Radio Beacon (NDB) (lat. 34°41'02"N., long. 81°38'33"W.), extending from the 5-mile radius to 8.5 miles southwest of the NDB.

AMENDMENTS 7/15/80 45 F. R. 41400 (Added)

Union City, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Everett-Stewart Airport (latitude 36°22'50" N., longitude 88°50'15" W.); within 3 miles each side of Dyersburg VORTAC 037° radial, extending from the 5.5-mile radius area to 25.5 miles northeast of the VORTAC; within 3 miles each side of the 186° bearing from the Obion RBN (lat. 36°17'51"N., long. 88°59'40"W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN.

Upper Sandusky, Ohio
That airspace extending upward from 700 feet above the surface with a 5.5-mile radius of the Wyandot County Airport (lat. 40°53'00"N., long. 83°18'52"W.).

Utica, N. Y.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 43°13'45" N., 75°25'00" W., of Griffiss AFB, Rome, N. Y., and within 2 miles each side of the Griffiss-TACAN 30[illegible] radial extending from the 10-mile radius to 14 miles NW of the TACAN.

Within a 12-mile radius of the center, 43°08'45" N., 75°22'55" W. of Oneida County Airport, Utica, N. Y., and within 3.5 miles each side of the 137° bearing from the Clay RBN, extending from the 12-mile radius area to [illegible]1.5 miles southeast of the RBN.

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at 43°24'00" N., 76°53'00" W., to 42°57'00" N., 76°57'00" W., to 42°40'00" N., 77°23'45" W., to 42°41'30" N., 76°13'00" W., to 42°40'00" N., 75°30'00" W., to 43°00'00" N., 74°30'00" W., to 43°18'40" N., 74°30'30" W., thence counterclockwise along an arc with a radius of 46 miles from the center of Griffiss AFB to 43°36'00" N., 74°39'30" W., to 43°31'00" N., 74°43'00" W., thence counterclockwise along an arc with a radius of 40 miles from the center of Griffiss AFB to 43°44'00" N., 75°40'15" W., to 43°32'00" N., 76°23'00" W., to 43°24'00" N., 76°40'00" W., to point of beginning.

Uvalde, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Garner Field (latitude 29°12'54" N., longitude 99°44'30" W.), and within 2.5 miles each side of the 154° bearing from the Uvalde RBN (latitude 29°13'06" N., longitude 99°44'29" W.), extending from the 5-mile radius area to 8.5 miles southeast of the RBN.

Vacaville, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Nut Tree Airport, Calif., (lat. 38°22'18"N., long. 121°57'33"W.), and within 2.5 miles each side of the Sacramento VORTAC 259° radial, extending from the 3-mile radius area to 13 miles W of the VORTAC.

Valdez, Alaska
That airspace extending upward from 1,200 feet above the surface within an area beginning at lat. 60°43'11.7"N., long. 147°50'36.3"W., thence north along the 85-mile radius arc centered on the Anchorage VORTAC to lat. 61°27'37"W., long. 147°44'10"W., thence east to lat. 61°16'05"N., long. 146°13'04"W., thence south along the west boundary of V-481 to the north boundary of V-319, thence west along the north boundary of V-319 to the point of beginning.

AMENDMENTS 9/4/80 45 F. R. 46350 (Added)

Valdosta, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Valdosta Municipal Airport (lat. 30°46'58"N., long. 83°16'44"W.); within an 8.5-mile radius of Moody AFB (lat. 30°58'01"N., long. 83°11'27"W.); within 3.5 miles west and 2 miles east of Moody TACAN 007° radial, extending from the 8.5-mile radius area to 11.5 miles north of the TACAN.

Valentine, Nebr.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Miller Field Airport (latitude 42°51'25" N., longitude 100°32'50" W.); and that airspace in the State of South Dakota extending upward from 1,200 feet above the surface within 5 miles each side of the 325° bearing from the Miller Field Airport within 12 miles northwest of the airport.

Valparaiso, Ind.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Porter County Airport (latitude 41°27'10" N., longitude 87°00'20" W.).

Vandalia, Ill.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vandalia Municipal Airport (lat. 38°59'26" N., long. 89°09'55" W.) and within 2 miles each side of the Vandalia VOR 183° radial extending from the 5-mile radius area to the VOR.

Vandenberg AFB, Calif.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Vandenberg AFB ILS localizer southeast course, extending from 2.5 miles northwest to 1 mile southeast of the OM.

Van Horn, Tex.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Culberson County Airport (latitude 31°03'42" N., longitude 104°47'09" W.) and extending 6.0 miles north and 9.5 miles south of the 054° bearing from the airport coordinates to a point 19 miles northeast of the airport coordinates.

Van Wert, Ohio

That airspace extending upward from 700 feet above the ground within a 5-mile radius of Van Wert Municipal Airport, Van Wert, Ohio, (lat. 40°51'51"N., long. 84°36'36"W.) within 3 miles either side of the 271° bearing from the airport extending from the 5-mile radius area to 8 miles west of the airport.

AMENDMENTS 7/10/80 45 F. R. 32662 (Rewritten)

Venice, Fla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Venice Municipal Airport (lat. 27°04'30" N., long. 82°26'00" W.).

Venice, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Garden Island Bay Seaplane Base (lat. 29°05'46"N., long. 89°11'55"W.) and within 3.5 miles each side of the 344° bearing from the Venice NDB (lat. 29°07'06"N., long. 89°12'20"W.) extending from the 5-mile radius to 13.5 miles from the seaplane base.

Vermont

That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of Vermont; and that airspace bounded by a line beginning at lat. 44°00'00"N., and the border of the States of New York and Vermont; to lat. 44°00'00"N., long. 74°35'00"W.; to lat. 44°12'00"N., long. 74°54'00"W.; to lat. 44°42'00"N., long. 75°05'00"W.; to lat. 44°56'00"N., long. 75°05'00"W.; thence clockwise along the New York State border to the point of beginning.

AMENDMENTS 6/30/80 45 F. R. 43699 (Rewritten)

Vernal, Utah

That airspace extending upward from 700 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Vernal VOR 157° and 337° radials, extending from 10 miles northwest to 18.5 miles southeast of the VOR.

Vernon, Ala.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lamar County Airport (lat. 33°50'30" N., long. 88°07'10" W.); within 2.5 miles each side of Hamilton VORTAC 196° radial, extending from the 6.5-mile radius area to 17 miles south of the VORTAC, excluding the portion within Columbus, Miss., transition area.

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Virginia
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Virginia including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Virginia and that airspace extending upward from 2,000 feet MSL to FL-600 bounded on the east by longitude 75°30'00" W., on the south by latitude 36°33'30" N, and on the west and north by a line 3 nautical miles from and parallel to the shoreline, excluding that airspace within Control 1149.

Visalia, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Visalia Municipal Airport (latitude 36°19'10" N., longitude 119°23'35" W.), within 2 miles each side of the Visalia VOR 123° and 303° radials, extending from the 5-mile radius area to 8 miles northwest of the VOR and within 4 miles each side of the Visalia VOR 150° radial, extending from 7 to 20 miles southeast of the VOR.

Vivian, La.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Vivian Municipal Airport (latitude 32°51'55" N., longitude 94°00'30" W.); within 2 miles each side of the Shreveport VORTAC 299° radial extending from the 6.5-mile radius area to 5.5 miles northwest of the VORTAC; and 3 miles each side of the 277° bearing from the NDB (latitude 32°51'37" N., longitude 94°00'42" W.) extending from the 6.5-mile radius area to 8.5 miles west of the NDB.

Wabash, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Wabash Municipal Airport (latitude 40°45'50" N., longitude 85°48'05" W.); within 5 miles each side of the 105° bearing from Wabash Municipal Airport extending from the 5-mile radius area to 12 miles east of the airport; and within 2 miles each side of the 040° radial of the Kokomo, Ind., VORTAC, extending from the 5-mile radius area to 15 miles northeast of the Kokomo, Ind., VORTAC: excluding the portion which overlies the Kokomo, Ind., 700-foot floor transition area.

Waco, Tex.
That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at latitude 32°08'00" N., longitude 96°34'00" W.; to latitude 32°02'00" N., longitude 96°50'40" W.; to latitude 31°46'00" N., longitude 96°55'00" W.; to latitude 31°39'30" N., longitude 96°43'50" W., to latitude 31°17'00" N., longitude 96°47'00" W., to latitude 31°17'00" N., longitude 97°13'00" W.; to latitude 30°56'30" N., longitude 97°25'30" W.; to latitude 30°58'30" N., longitude 97°35'40" W.; to latitude 31°11'00" N., longitude 97°31'00" W.; to latitude 31°27'00" N., longitude 97°34'00" W.; to latitude 31°27'00" N., longitude 97°41'00" W.; to latitude 31°35'00" N., longitude 97°44'00" W.; to latitude 31°46'30" N., longitude 97°41'50" W.; to latitude 31°59'00" N., longitude 97°24'00" W.; to point of beginning.

PENDING AMENDMENT

Wadesboro, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Anson County Airport (lat. 35°01'15"N., long. 80°04'45"W.); within 2.5 miles each side of the Sandhills, N. C., VORTAC 245° radial, extending from the 6.5-mile radius area to 20 miles southwest of the VORTAC.

AMENDMENTS 12/18/80 45 F. R. 76658 (Added)

Wagner, S. Dak.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wagner Municipal Airport (lat. 43°03'33"N., long. 98°17'31"W.) and within 3 miles each side of the 086° bearing from Wagner Municipal Airport extending from the 5-mile radius area to 8 miles east of the airport.

Wahoo, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wahoo Municipal Airport (lat. 41°14'27"N., long. 96°35'15"W.) and within 3 miles each side of the 032° bearing from the Wahoo Municipal Airport extending from the 5-mile radius 8.5 miles northeast of the airport excluding that portion which lies in the Freemont, Nebr., transition area.

Wahpeton, N. Dak.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Breckenridge-Wahpeton Interstate Airport (lat. 46°14'47"N., long. 96°36'23"W.); and that airspace extending upward from 1,200 feet above the surface within a 28-mile arc south of the Breckenridge-Wahpeton Interstate Airport bounded on the east by the Minnesota border and on the west by V-181.

AMENDMENTS 7/10/80 45 F. R. 31053 (Added)

Waimea-Kohala, Hawaii
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waimea-Kohala Airport (latitude 20°00'17" N., longitude 155°40'16" W.); within an area 2 miles on the northwest side and 3 miles on the southeast side of the Kamuela VOR 063° radial, extending from the 5-mile radius area to 11.5 miles northeast of the Kamuela VOR.

Vernon, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Wilbarger County Airport (lat. 34°14'00"N., long. 99°17'30"W.) within 2 miles west of the Altus VOR 182° radial extending from the 6-mile radius to 7 miles north of the airport; within 3 miles each side of the 016° bearing from the Vernon NDB (lat. 34°13'48"N., long. 99°16'44"W.) extending from the 6-mile radius area to 11.5 miles north of the NDB, excluding the portion within the Hobart, Okla., transition area.

Vero Beach, Fla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Vero Beach Municipal Airport (lat. 27°39'05" N., long. 80°24'51" W.); within 5 miles each side of Vero Beach VORTAC 291° radial, extending from the 8.5-mile radius area to 8.5 miles west of the VORTAC; within a 6.5-mile radius of St. Lucie County International Airport, Fort Pierce, Fla. (lat. 27°29'38"N., long. 80°22'02"W.); excluding the portion outside the continental limits of the United States.

AMENDMENTS 10/30/80 45 F. R. 45577 (Changed)

Versailles, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Darke County Airport (latitude 40°12'17" N., longitude 84°31'38" W.); and within 3 miles either side of the 265° bearing from the airport, extending from the 5-mile radius area to 8 miles from the airport.

Vichy, Mo.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Rolla National Airport (latitude 38°07'40" N., longitude 91°46'10" W.); and within 3 miles of each side of the 007° radial of the Vichy VORTAC, extending from 6½-mile radius area to 8½ miles northeast of the Vichy VORTAC.

Vicksburg, Miss.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Vicksburg Municipal Airport (latitude 32°14'20" N., longitude 90°55'40" W.).

Victoria, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Victoria Regional Airport, Victoria, Tex., (lat. 28°51'06.9"N., long. 96°55'03.7"W.); and within 3.5 miles each side of the Victoria VOR 312° radial extending from the 6.5-mile radius area to 11.5 miles northwest of the VOR; within 3 miles each side of the NDB (lat. 28°50'39"N., long. 96°54'26"W.) 355° and 160° bearing extending from the 6.5-mile radius to 8.5 miles from the NDB.

AMENDMENTS 3/20/80 45 F. R. 2012 (Rewritten)

Victorville, Calif.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of George AFB, Victorville, Calif. (lat. 34°35'45"N., long. 117°22'55"W.), and within 14.5 miles west of the 016° and 166° true radials, George AFB TACAN (lat. 34°35'40.5"N., long. 117°23'20.5"W.) extending from the 12-mile radius area to 20.5 miles north and south of the TACAN, excluding the airspace within a 3.5-mile radius of El Mirage Airport (lat. 34°37'30"N., long. 117°36'15"W.).

Vidalia, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Vidalia Municipal Airport (lat. 32°11'45" N., long. 82°22'15" W.); within a 6.5-mile radius of Reidsville Airport, Reidsville, Ga. (latitude 32°03'19" N., longitude 82°09'19" W.); within 3 miles each side of the 295° bearing from Prison RBN (latitude 32°03'27" N., longitude 82°09'09" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Vincennes, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceville-Vincennes Municipal Airport (latitude 38°45'35" N., longitude 87°36'27" W.); within 3 miles each side of the 186° bearing from the airport, extending from the 7-mile radius to 8 miles south; and 3 miles each side of the 352° bearing from the airport, extending from the 7-mile radius to 8 miles north; within 3 miles each side of the 102° bearing from the airport, extending from the 7-mile radius to 8 miles east; and within a 5.5-mile radius of O'Neal Airport (latitude 38°41'29" N., longitude 87°33'08" W.); and within 3 miles each side of the 258° bearing from the airport, extending from the 7-mile and 5½-mile radius area to 8 miles west of the airport, within a 5-mile radius of the Mt. Carmel Municipal Airport (latitude 38°36'24" N., longitude 87°43'34" W.); and within 3 miles either side of the 038° bearing from the airport, extending from the 5-mile radius area northeast to join the Lawrenceville and O'Neal radius areas.

Vincentown, N. J.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, lat. 39°54'15"N., long. 74°45'00"W., of Red Lion Airport, Vincentown, N. J.

Wakefield, Va.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 36°59'14" N., long. 77°00'06" W., of Wakefield Municipal Airport, Wakefield, Va., and within 3 miles each side of the 013° bearing from the Wakefield RBN, lat. 36°58'59" N., long. 77°00'05" W., extending from the 5-mile radius area to 8.5 miles northeast of the RBN.

Wake Island

That airspace extending upward from 700 feet above the surface within a 10 NM radius of the Wake Island VORTAC; and that airspace extending upward from 1200 feet above the surface within a 25 NM radius of the Wake Island VORTAC.

Wallace, N. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Henderson Field (latitude 34°43'05" N., longitude 78°01'20" W.); within 3 miles each side of Wilmington VORTAC 344° radial, extending from the 5-mile radius area to 22 miles northwest of the VORTAC; within 3 miles each side of the 078° bearing from Pendy NDB (latitude 34°42'58" N., longitude 78°00'14" W.), extending from the 5-mile radius area to 8.5 miles east of the RBN.

Walla Walla, Wash.

That airspace extending upward from 700 feet above the surface within 4 miles each side of the Walla Walla VOR [illegible]8° radial, extending from the VOR to 16 miles northeast; within 5 miles southeast and 3.5 miles northwest of the Walla Walla VOR 215° radial, extending from the VOR to 18.5 miles southwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles SE and 13 miles NW of the Walla Walla VOR 023° and 203° radials, extending from 14 miles SW to 28 miles NE of the VOR, within 5 miles each side of the Walla Walla TACAN 041° radial extending from the TACAN to 23 miles NE of the TACAN, within 5 miles SE and 9 miles NW of the Pendleton, Oreg., VORTAC 025° radial, extending from 33 miles NE to 61 miles NE of the VORTAC, and that airspace bounded by an arc of a 19-mile radius circle centered on the Walla Walla VOR (latitude 46°05'13"N., longitude 118°17'29" W.), from 5 miles SE of the Walla Walla 040° radial, to 4 miles SE of the Pendleton VORTAC 025° radial, within 5 miles east and 10 miles west of the Walla Walla 165° radial, extending from the 19-mile radius area to the northeast edge of V-298 and within 5 miles each side of the Walla Walla 329° radial extending from the northwest edge of V-112 to the southeast edge of V-112W, excluding the portion within the Pendleton, Oreg., transition area.

Walnut Ridge, Ark.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Walnut Ridge Regional Airport (latitude 36°07'30"N., longitude 90°55'25"W.); within three miles each side of the Walnut Ridge VORTAC 240° radial, extending from the 6.5-mile-radius area to 8.5 miles southwest of the VORTAC; within 3.5 miles each side of the 005° bearing from the proposed RBN (latitude 36°07'36"N., longitude 90°55'36"W.), extending from the 6.5-mile-radius area to 12 miles north of the RBN; and within a 5-mile radius of the Pocahontas Municipal Airport (latitude 36°14'40"N., longitude 90°56'45"W.).

Walterboro, S. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Walterboro Municipal Airport (lat. 32°55'08" N., long. 80°38'25" W.); within 3 miles each side of the 060° bearing from Walterboro RBN (lat. 32°55'32" N., long. 80°38'27" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Wapakoneta, Ohio

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Neil Armstrong Field (lat. 40°29'36" N., long. 84°18'04" W.).

Waring, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Rust Airport (lat. 29°57'25"N., long. 98°45'25"W.) and within 2.5 miles either side of the 180° bearing from the Runway 35 reference point, lat. 29°57'14"N., long. 98°47'25"W.) extending 3 miles from the 5-mile radius, excluding that portion which overlies the San Antonio, Tex., transition area.

Warren, Ark.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Warren Municipal Airport (latitude 33°33'50" N., longitude 92°05'00" W.), and within 2 miles each side of the Monticello VORTAC 270° radial extending from the 5-mile radius area to 16 miles west of the VORTAC.

Warrensburg, Mo.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Skyhaven Airport, Warrensburg, Mo. (lat. 38°47'N., long. 93°48'W.); and within 2.5 miles either side of the Napoleon, Mo., VORTAC 140° radial, extending from the 5.5-mile radius to 7 miles northwest of the airport.

Warroad, Minn.

That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius (5.3 nautical miles) of the Warroad International, Swede Carlson Field (lat. 48°65'15"N., long. 95°20'30"W., estimated) excluding that area north of lat. 49° (Canadian airspace) and within 3 statute miles (2.5 nautical miles) each side of the 108° true bearing from the Warroad International, Swede Carlson Field, extending from the 6-statute-mile (5.3 nautical miles) radius to 8.5 statute miles (7 nautical miles) east southeast of the airport.

Warsaw, Ind.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Warsaw Municipal Airport (latitude 41°16'39" N., longitude 85°50'48" W.); and within 3½ miles each side of the 359° bearing from the airport extending from the 7-mile radius area to 12½ miles north of the airport, excluding the airspace that overlies the Nappanee, Ind., and Goshen, Ind., transition areas.

Waseca, Minn.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waseca Municipal Airport (latitude 44°04'24" N., longitude 93°33'10" W.); within 3½ miles each side of the 339° bearing from the Waseca Municipal Airport, extending from the 5-mile radius to 8 miles north of the airport; within 1½ miles each side of the 046° bearing from the Waseca Municipal Airport, extending from the 5-mile radius to 6 miles northeast of the airport.

Washington, D. C.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 38°51'07" N., 77°02'23" W., of Washington National Airport, Washington, D. C.; within an 11-mile radius of the center of Washington National Airport, extending clockwise from a 022° bearing to a 165° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 210° bearing to a 270° bearing from the airport; within a 12.5-mile radius of the center of Washington National Airport, extending clockwise from a 270° bearing to a 310° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 310° bearing to a 022° bearing from the airport; within 4.5 miles each side of a 317° bearing from the Georgetown, D. C., RBN, extending from the RBN to 5.5 miles northwest; within an 8.5-mile radius of the center, 38°48'39" N., 76°52'02" W., of Andrews AFB, Camp Springs, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 9.5 miles north of the VORTAC; within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 5 miles each side of a 180° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 9.5 miles south; within 5 miles each side of a 081° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 20 miles east; within 3.5 miles each side of the extended centerline of Davison AAF Runway 32, extending from the northwest end of Runway 32 to 9 miles northwest; within 6.5 miles southwest and 4.5 miles northeast of a 134° bearing and a 314° bearing from a point 38°39'41" N., 77°06'37" W., extending from 5.5 miles northwest to 11.5 miles southeast of said point; excluding the portion within P-56 and P-73.

Washington, Ga.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Washington-Wilkes County Airport (lat. 33°47'20" N., long. 82°48'30" W.); within 2.5 miles each side of Athens VOR 112° radial, extending from the 6.5-mile radius area to 25 miles east of the VOR.

Washington, Ind.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Daviess County Airport (latitude 38°41'58" N., longitude 87°07'55" W.); within 3 miles each side of the 010° bearing from Daviess County Airport, extending from the 8-mile radius area to 8½ miles north of the airport.

Washington, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Washington Airport (latitude 41°16'00" N., longitude 91°41'00" W.); and that airspace 3 miles each side of the 141° bearing from Washington NDB (latitude 41°16'13" N., longitude 91°41'04" W.); extending from the 5-mile radius to a point 8.5 miles southeast of the NDB.

Washington, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Washington Memorial Airport (lat. 38°35'55"N., long. 90°59'55"W.) and within 1½ miles each side of the Foristell, Mo., VORTAC 193° radial extending from the 5-mile radius area to 7½ miles north of the airport.

Washington, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Warren Field (lat. 35°34'15" N., long. 77°03'00" W.); within 3 miles each side of the 156° bearing from Wanoca RBN (lat. 35°32'40" N., long. 77°02'00" W.), extending from the 8.5-mile radius area to 8.5 miles south of the RBN.

Washington, Pa.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center of lat. 40°08'15" N., long. 80°17'15" W. of Washington County Airport, Washington, Pa.

Washington Court House, Ohio

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Fayette County Airport (latitude 39°34'18" N., longitude 83°25'13" W.) and within 3 miles each side of the 037° bearing from the airport extending from the 5½-mile radius area to 10 miles northeast of the airport.

Waterloo, Iowa

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Waterloo Municipal Airport (lat. 42°33'20" N., long. 92°24'00" W.); and within 3½ miles each side of the Waterloo ILS localizer northwest course extending from the 10-mile radius area to 8 miles northwest of the OM; and 3 miles each side of the Waterloo, Iowa, VORTAC 120° radial extending from the 10-mile radius to 18 miles southeast of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 194° radial extending from the 10-mile radius to 11½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 001° radial extending from the 10-mile radius to 11½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 316° radial extending from the 10-mile radius to 11½ miles northwest of the VORTAC; and within 2½ miles each side of the LOC back course extending from the 10-mile radius to 16 miles southeast of the airport.

Watersmeet, Mich.

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of the NRC Airport, Watersmeet, Mich., (lat. 46°17'15"N., long. 89°16'35"W.), excluding that portion which overlaps the Land-O-Lakes transition area; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 4.5 miles south of the 265° true bearing of the Watersmeet (RXW) NDB (lat. 46°17'18"N., long. 89°16'43"W.), extending 18.5 miles east of the NDB and 9.5 miles north and 4.5 miles south of the 100° true bearing of the RXW NDB extending 18.5 miles west, excluding that portion which overlaps the Land-O-Lakes and the Boulder Junction transition areas and that 1,200 foot airspace designated to encompass VOR Federal Airways V-430, V-63 and V-91E.

AMENDMENTS 1/24/80 44 F. R. 58686 (Added)

Watertown, N. Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 43°[illegible]'20" N., 76°01'20" W. of Watertown International Airport, Watertown, N. Y., and within 3.5 miles each side of the Watertown, N. Y., VOR 211° radial, extending from the 7-mile radius area to 12 miles southwest of the VOR;

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at: 44°16'00" N., 75°40'00" W. to 44°16'00" N., 76°10'00" W. to 43°52'00" N., 76°21'00" W. to 43°[illegible]'00" N., 76°23'00" W. to 43°44'00" N., 75°49'00" W. to 43°52'00" N., 75°54'00" W. to point of beginning

Watertown, S. Dak.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Watertown VORTAC; within a 26-mile radius of the Watertown VORTAC extending clockwise from the 086° radial to a line located parallel to and 4.5 miles west of the 181° radial; and within 6 miles east and 9.5 miles west of the Watertown VORTAC 001° radial extending from the VORTAC to 21 miles north; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 7 miles west of the 181° radial extending from the Watertown VORTAC to 31.5 miles south; and within a 26-mile radius of the Watertown VORTAC extending clockwise from a line 7 miles west of and parallel to the 181° radial to the 238° radial; and 5 miles each side of the 053° radial from the Watertown VORTAC within the State of South Dakota.

Watertown, Wis.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Watertown Municipal Airport (latitude 43°10'18" N., longitude 88°43'20" W.).

Watford City, N. Dak.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Watford City Municipal Airport (lat. 47°47'58"N., long. 103°15'24"W.) and within 3 miles each side of the 303° bearing from the Watford City NDB (lat. 47°47'58"N., long. 103°15'09"W.) extending from the 5.5-mile radius to 8.5 miles northwest of the Watford City NDB, and airspace extending upward from 1,200 feet above the surface bounded on the south by lat. 47°30'00"N., on the west and northwest by V-465E, on the northeast and east by V-71 excluding Williston, N. Dak., 1,200 foot transition area.

Watonga, Okla.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Watonga, Okla., Airport (lat. 35°51'35"N., long. 98°25'13"W.).

Waupaca, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waupaca Municipal Airport (lat. 44°20'02"N., long. 89°00'51"W.); and within 3 miles each side of the 118° bearing from the airport, extending from the 5-mile radius area to 8 miles southeast of the airport.

Wausau, Wis.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Wausau Municipal Airport (latitude 44°55'33" N., longitude 89°37'32" W.).

Waverly, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Waverly Municipal Airport (lat. 42°44'33"N., long. 92°30'26"W.) excluding that portion that overlies the Waterloo, Iowa transition area.

AMENDMENTS 1/24/80 44 F. R. 65388 (Added)

Waverly, Tenn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Humphreys County Airport (lat. 36°07'02"N., long. 87°44'17"W.); within 3 miles each side of the 034° bearing from the Waverly RBN (lat. 36°07'00"N., long. 87°44'25"W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Waycross, Ga.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Waycross-Ware County Airport (lat. 31°14'55" N., long. 82°23'48" W.); within 1.5 miles each side of Waycross VORTAC 099° radial, extending from the 8.5-mile radius area to the VORTAC; excluding the portion within a 1.5-mile radius of Bivins Airport (lat. 31°11'06" N., long. 82°16'25" W.).

Wayne, Nebr.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wayne Municipal Airport (lat. 42°14'23"N., long. 096°59'01"W.), and within 3 miles each side of the 047° bearing from the Wayne Municipal Airport extending from the 5-mile radius to 8.5 miles northeast of the airport.

Webster City, Iowa

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Webster City Municipal Airport (latitude 42°26'15" N., longitude 93°52'15" W.).

Welch, Okla.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Patch Airport (lat. 36°52'39"N., long. 95°08'58"W.).

Wellington, Kans.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wellington Municipal Airport (lat. 37°19'24"N., long. 97°23'15"W.), and within 3 miles each side of the NDB facility 017°T bearing extending from the 5-mile radius area to 8.5 miles NE of the NDB, excluding that portion which overlaps the Wichita, Kans., transition area.

AMENDMENTS 7/10/80 45 F. R. 29563 (Added)

Wells, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harriet Field (latitude 41°06'54" N., longitude 114° 55'24" W.) and within 4.5 miles south and 9.5 miles north of the Wells VOR 287° radial, extending from the VOR to 18.5 miles west of the VOR. That airspace extending upward from 1,200 feet above the surface within 12 miles north and 8 miles south of the Wells VOR 287° and 107° radials extending from 23 miles west to 10 miles east of the VOR.

Wellsboro, Pa.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 41°43'45" N., 77°23'30" W., of Grand Canyon State Airport, Wellsboro, Pa., and within 2 miles each side of Stonyfork, Pa., VOR 212° radial extending from the 6-mile radius area to 8 miles southwest of the VOR. This transition area is effective from sunrise to sunset daily.

Wellsville, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center (lat. 42° 06'34" N., long. 77°59'59" W.) of Wellsville Municipal (Tarantine) Airport, Wellsville, NY., within 4 miles each side of the 090° bearing from the Hallsport RBN, lat. 42°06'34" N., long. 77°54'33" W., extending from the 9-mile radius area to 11.5 miles east of the RBN, and within 3.5 miles each side of the Wellsville, N. Y., VOR 196° radial extending from the 9-mile radius area to 11.5 miles south of the VOR.

Welsh, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Welsh Municipal Airport (latitude 30°14'30" N., longitude 92°49'45" W.), but excluding that portion within the Jennings, La., 700-foot transition area.

Wenatchee, Wash.

That airspace extending upward from 700 feet above the surface within 4 miles each side of the Wenatchee VOR 124° radial, extending from the VOR to 12.5 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the Wenatchee VOR 092° and 272° radials, extending from 7 miles west to 14 miles east of the VOR and within 5 miles southwest and 9.5 miles northeast of the 124° radial, extending from the VOR to 23 miles southeast of the VOR.

Wendover, Utah

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Wendover AF Auxiliary Field (latitude 40°43'41" N., longitude 114°02'12" W.); that airspace extending upward from 1,200 feet above the surface within 12.5 miles north and 8.5 miles south of the Bonneville VORTAC 084° and 272° radials, extending from the VORTAC to 23 miles east and west of the VORTAC; and that airspace extending upward from 8,500 feet MSL bounded on the north by V-6, on the west by V-253, on the south by V-32, and on the east by a line extending from latitude 40°51'30" N., longitude 112°56'30" W.; north to latitude 41°00'00" N., longitude 112°56'30" W.; thence east to latitude 41°00'00" N., longitude 112°45'00" W., thence north to latitude 41°10'40" N., longitude 112°45'00" W., thence northwest to latitude 41°12'00" N., longitude 112°52'00" W.; thence north via longitude 112°52'00" W., to V-6, excluding that portion which falls within the 1200-foot transition area.

West Bend, Wis.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Bend Municipal Airport (latitude 43°25'17" N., longitude 88°07'41" W.); within 3 miles each side of the 051° bearing from the airport, extending from the 7-mile radius area to 8 miles northeast of the airport, and within 3 miles each side of the 133° bearing from the airport, extending from the 7-mile radius area to 7½ miles southeast of the airport.

West Branch, Mich.

ThAt airspace extending upward from 700 feet above the surface within a 5½-mile radius of West Branch Community Airport (latitude 44°14'36" N., longitude 84°10'58" W.); and within 3 miles each side of the 87° bearing from West Branch Community Airport, extending from the 5½-mile radius area to 13 miles east of the airport.

Westhampton Beach, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Suffolk County Airport, Westhampton Beach, N. Y. (latitude 40°50'39" N., longitude 72°37'49" W.); and within 5 miles each side of the Squire, N. Y. OM (lat. 40°54'16" N., long. 72°33'25" W.) extending from the 9-mile radius area to 11.5 miles northeast of the OM.

West Helena, Ark.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Thompson-Robbins Airport (latitude 34°34'29" N., longitude 90°40'48" W.), and within 3.5 miles each side of the 350° bearing from the Thompson-Robbins RBN (latitude 34°34'16" N., longitude 90°40'33" W.) extending from the 5.5-mile radius area to 11.5 miles north of the RBN.

West Milford, N. J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, Lat. 41°07'45"N., Long. 74°20'50"W., of Greenwood Lake Airport, West Milford, N. J.; within a 7-mile radius of the center of the airport, extending clockwise from a 154° bearing from the airport to a 217° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 217° bearing from the airport to a 318° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 318° bearing from the airport to a 079° bearing from the airport; within 2 miles each side of the Sparta, N. J., VORTAC 067° radial, extending from the 5-mile radius area to the VORTAC.

Westminster, Md. (Clearview Airpark)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°28'01" N., 77°01'06" W. of Clearview Airpark, Westminster, Md.; within a 5.5-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 045° bearing from the airport and within 2.5 miles each side of the Westminster VORTAC 047° radial, extending from the 5-mile radius area to 6 miles northeast of the VORTAC. This transition area is effective from sunrise to sunset, daily.

Westminster, Md. (Westminster Airport)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 39°36'15" N., long. 77°00'15" W. of Westminster Airport, Westminster, MD.; within an 8-mile radius of the center of the airport, extending clockwise from a 035° bearing from the airport to a 085° bearing from the airport and within 1.5 miles each side of the Westminster VORTAC 351° radial, extending from the 6.5-mile radius area to the VORTAC.

West Plains, Mo.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the West Plains, Mo., Airport, lat. 36°44'43"N., long. 91°51'50"W.; and within 3 miles each side of the 307° bearing from the West Plains, Mo., NDB, lat. 36°44'57"N., long. 91°51'49"W., extending from the 8-mile radius area to 8.5 miles northwest of the NDB.

AMENDMENTS 9/4/80 45 F. R. 41909 (Added)

West Point, Va.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center of West Point Municipal Airport 37°31'00" N., 76°45'40" W. , and within 4 miles each side of the Harcum, Va., VORTAC 148° radial and 328° radial extending from the 6-mile radius area to 11 miles southeast of the VORTAC.

West Union, Iowa (George L. Scott Municipal Airport)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the George L. Scott Municipal Airport (lat. 42°59'00"N., long. 91°48'00"W.). Within 3 miles each side of the 174° bearing from the George L. Scott Municipal Airport, extending from the 8-mile radius to 10.5 miles south of the airport.

West Union, Ohio

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Alexander Salamon Airport (latitude 38°51'05" N., longitude 83°34'00" W.); and within 3 miles either side of the 049° bearing from the airport extending from the 6-mile radius to 8 miles northeast of the airport.

West Virginia

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of West Virginia.

West Woodward, Okla.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Woodward, Okla., Airport (lat. 36°26'12"N., long. 99°31'30"W.) and within 5 miles each side of the Gage, Okla., VORTAC 072° radial, extending from the 7-mile radius area, southwest to the Gage, Okla., VORTAC, and within 3.5 miles each side of the 349° bearing from the West Woodward NDB, extending from the 7-mile radius area to 11.5 miles northwest of the West Woodward NDB, excluding the Gage, Okla., Control Zone and Transition Area.

PENDING AMENDMENT

Woodward, Okla.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Woodward Airport (lat. 36°26'10"N., long. 99°31'35"W.); within 3 miles each side of the NDB facility (lat. 36°26'03"N., long. 99°31'25"W.) 008° bearing, extending from the 7-mile radius to 8.5 miles north of the NDB, and within 5 miles either side of the Gage VORTAC 072° radial, extending from the 7-mile radius southwest of Gage VORTAC; excluding the Gage, Okla., control zone and transition area.

AMENDMENTS 12/25/80 45 F. R. 71772 (Rewritten)

West Yellowstone, Mont.

That airspace extending upward from 700 feet above the surface within 5 miles west and 9.5 miles east of the 026° and 206° bearings from the Targhee, Montana LOM (latitude 44°34'33" N., longitude 111°11'48" W.), extending from 18 miles northeast to 18.5 miles southwest of the LOM; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 209° bearing from the LOM extending from the LOM to 41.5 miles southwest of the LOM, and 5 miles each side of the 304° bearing from the LOM extending from the LOM to the east edge of V-343; that airspace extending upward from 10,700 feet MSL within a 29-mile radius of the Targhee LOM extending clockwise from the 081° bearing from the LOM to 5 miles east of the 236° bearing from the LOM and within 5 miles each side of the 236° bearing from the LOM extending from the LOM to 50 miles southwest of the LOM; that airspace extending upward from 12,000 feet MSL within a 35-mile radius of the Targhee LOM extending clockwise from the 026° bearing from the LOM to the 081° bearing from the LOM; that airspace extending upward from 13,000 feet MSL, within a 35-mile radius of the Targhee LOM extending clockwise from the 315° bearing to the 026° bearing from the LOM, excluding that portion that overlies V-343. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Wetumpka, Ala.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wetumpka Airport, excluding the portion that coincides with the Montgomery, Ala., transition area.

Weyers Cave, Va.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (lat. 38°15'49" N., long. 78°53'46" W.) of Shenandoah Valley Airport, Weyers Cave, Va., within 4.5 miles southeast and 9.5 miles northwest of the Shenandoah Valley Airport ILS localizer southwest course, extending from the localizer to 18.5 miles southwest of the OM;
within a 7.5-mile radius of the center (lat. 38°21'58" N., long. 78°57'35" W.) of Bridgewater Airpark, Bridgewater, Va., and within 4.5 miles northwest and 6.5 miles southeast of the 210° bearing and the 030° bearing from the Bridgewater RBN (lat. 38°21'56" N., long. 78°57'41" W.), extending from 5.5 miles northeast of the RBN to 11.5 miles southwest of the RBN.

Wharton, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wharton Municipal Airport (latitude 29°15'15" N., longitude 96°09'15" W.); within 2.5 miles each side of the Eagle Lake, Tex., VORTAC 162° radial extending from the 5-mile radius to 23.5 miles southeast of the Eagle Lake VORTAC and within 3.5 miles each side of the 153° bearing of the Wharton RBN (latitude 29°15'17" N., longitude 96°09'11" W.) extending from the 5-mile radius to 11.5 miles southeast of the RBN and within 3.5 miles each side of the 324° bearing from the Wharton RBN extending from the 5-mile radius to 11.5 miles northwest of the RBN, excluding the portion within the El Campo, Tex., transition area.

Wheeling, W. Va.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wheeling-Ohio County Airport (latitude 40° 10' 25" N., longitude 80° 38' 55" W.); within 2 miles each side of the Wheeling VOR 036° and 216° radials, extending from the 7-mile radius area to 8 miles NE of the VOR, and within 2 miles each side of the Wheeling ILS localizer SW course, extending from the 7-mile radius area to 8 miles SW of the OM.

Whidbey Island, Wash.

That airspace extending upward from 700 feet above the surface bounded on the E by a line extending from latitude 48°40'00" N., longitude 122°05'00" W. to latitude 48°05'00" N., longitude 121°55'00" W., on the S by latitude 48°05'00" N., on the W by the W edge of V-440, and the United states/Canadian border to latitude 48°25'00" N., thence via latitude 48°25'00" N. to an arc of a 13-mile radius circle centered on Ault Field, Whidbey Island, Wash. (latitude 48°21'10" N., longitude 122°39'20" W.), thence clockwise via the 13-mile radius arc to longitude 122°45'00" W., thence to latitude 48°40'00" N., longitude 122°43'00" W., on the N by latitude 48°40'00" N. to point of beginning, and that airspace NW of Whidbey Island NAS bounded by a line beginning at the point of intersection of latitude 48°25'00" N., and the United States/Canadian border, thence via the United States/Canadian border to altitude 48°40'00" N., thence via latitude 48°40'00" N., to longitude 123°02'00" W., thence direct to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 48°52'00" N., longitude 122°00'00" W., thence via longitude 122°00'00" W. to latitude 48°43'00" N., thence via latitude 48°43'00" N. to longitude 121°45'00" W., thence via longitude 121°45'00" W., to latitude 48°05'00" N., thence via latitude 48°05'00" N., to longitude 121°55'00" W., thence to latitude 48°40'00" N., longitude 122°05'00" W., thence via latitude 48°40'00" N., to longitude 122°43'00" W., thence to latitude 48°31'00" N., longitude 122°45'00" W., to intercept an arc of a 13-mile radius circle centered on Ault Field, Whidbey Island, Wash. (latitude 48°21'10" N., longitude 122°39'20" W.), thence counterclockwise via the 13-mile radius arc to latitude 48°25'00" N., thence via latitude 48°25'00" N., to its intersection with the United States/Canadian border, thence to latitude 48°40'00" N., longitude 123°02'00" W., thence via latitude 48°40'00" N., to the east edge of Canadian VOR airway V-300, thence N via the east edge of V-300 to the United States/Canadian border, thence via the United States/Canadian border to latitude 48°52'00" N., thence to point of beginning; that airspace extending upward from 8,200 feet MSL bounded on the E by longitude 121°30'00" W., to latitude 48°00'00" N., thence via latitude 48°00'00" N., to longitude 121°35'00" W., thence via longitude 121°35'00" W., to latitude 48°05'00" N., thence via latitude 48°05'00" N., to longitude 121°45'00" W., on the W by longitude 121°45'00" N., to latitude 48°38'00" N., thence via latitude 48°38'00" N., to longitude 121°30'00" W.; that airspace extending upward from 12,000 feet MSL bounded on the E by longitude 121°00'00" W., on the S by latitude 48°00'00" N., on the W by longitude 121°30'00" W., and on the N by latitude 48°30'00" N.

Whitefield, N. H.

That airspace extending upward from 700 feet above the surface within an arc of a 25.5-mile radius circle centered on the Whitefield, NH., Regional Airport (lat. 44°21'53" N., long. 71°33'07" W.) extending clockwise between the 012° and 160° bearings from the Whitefield Airport; within an arc of a 29.5-mile radius circle centered on the Whitefield Airport extending clockwise between the 160° and 218° bearings from the Whitefield Airport; within an arc of a 12.5-mile radius circle centered on the Whitefield Airport extending clockwise between the 218° and 294° bearings from the Whitefield Airport; within an arc of a 24-mile radius circle centered on the Whitefield Airport extending clockwise between the 294° and 337° bearings from the Whitefield Airport; within an arc of a 17-mile radius circle centered on the Whitefield Airport extending clockwise between the 337° and 012° bearings from the Whitefield Airport; within 3.5 miles each side of the 267° bearing from the Dalton, NH., NDB extending from the 12.5-mile radius area to 11.5 miles west of the NDB, excluding that airspace contained within the Berlin, NH., and North Conway, NH., transition areas.

AMENDMENTS 3/21/80 45 F. R. 13054 (Changed)

White Plains, N. Y.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41°04'00" N., 73°42'33" W., of Westchester County Airport, White Plains, N. Y., extending clockwise from a 047° bearing to a 307° bearing from the airport, within a 10-mile radius of the center of the airport, extending clockwise from a 307° bearing to a 047° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Carmel, N. Y., VORTAC 245° and 065° radials, extending from 5.5 miles southwest to 11.5 miles northeast of the VORTAC; within 6.5 miles southwest and 4.5 miles northeast of the Westchester County Airport ILS localizer northwest course, extending from 5.5 miles southeast of the OM to 11.5 miles northwest of the OM; within 5 miles each side of the Westchester County Airport ILS localizer northwest course, extending from the 8.5-mile radius area and 10-mile radius area to 12 miles northwest of the OM; within 5 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 13 miles southeast of the southeast end of Runway 16; within 5 miles each side of the Carmel, N. Y., VORTAC 206° radial, extending from the 8.5-mile radius area and 10-mile radius area to the Carmel, N. Y., VORTAC; and within 5 miles each side of the Carmel, N. Y., VORTAC 232° radial, extending from 4 miles southwest to 10 miles southwest of the Carmel, N. Y., VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°31'00" N., 73°54'00" W., to 41°31'00" N., 73°30'00" W., to 41°25'00" N., 73°30'00" W., to 41°20'00" N., 73°44'00" W., to 41°18'00" N., 73°42'00" W., to 41°16'00" N., 73°45'00" W., to 41°20'00" N., 73°49'00" W., to 41°15'00" N., 73°59'30" W., to 41°00'00" N., 73°38'00" W., to 41°00'00" N., 73°54'00" W., to 41°08'10" N., 74°13'00" W., to 41°11'00" N., 74°09'00" W., to 41°12'00" N., 74°00'00" W., to 41°19'00" N., 74°00'00" W., to point of beginning.

Whiteville, N.C.

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Columbus County Municipal Airport (lat. 34°16'23"N., long. 78°42'52"W.); within 3 miles each side of the 231° bearing from the Camp RBN (lat. 34°16'19"N., long. 78°42'55"W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Wichita, Kans.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wichita, Kans., Mid-Continent Airport (lat. 37°39'09"N., long. 97°25'47"W.) and from 9.5 miles west of the LOC (BC) to Runway 1L extending from 8.5 miles to 15 miles south of the airport to 4.5 miles east of the LOC (FC) to Runway 1R to 6.5 miles east of the 176° radial of the Wichita, Kans., VORTAC facility, extending from the 8.5-mile radius to 15 miles south of the airport; within an 8.5-mile radius of the McConnell AFB (lat. 37°37'26"N., long. 97°15'51"W.); and 2 miles each side of the McConnell AFB ILS localizer south course, extending from the 8.5-mile radius to 13 miles south of the AFB within a 5-mile radius of the Comotara Airpark (lat. 37°44'45"N., long. 97°13'20"W.); and within 2 miles each side of the 344° bearing from the Comotara Airpark extending from the 5-mile radius to 6 miles north; within a 5-mile radius of the Augusta, Kans., Airport (lat. 37°40'21"N., long. 97°04'38"W.), and 3 miles each side of the 116° radial of the Wichita, Kans., VORTAC extending from the 8.5-mile radius of the AFB to 14 miles east of the Cessna Aircraft Field Airport (lat. 37°38'55"N., long. 97°15'01"W.).

Wichita Falls, Tex.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of lat. 33°59'56"N., long. 98°30'25"W., and 3 miles each side of the 177° bearing from the Scotland RBN (lat. 33°47'24"N., long. 98°29'10"W.), extending from the 20-mile radius area to 8.5 miles south of the RBN.

Wildwood, N. J.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 39°00'15" N., 74°54'30" W. of Cape May County Airport, Wildwood, N. J.; within 2 miles each side of the Sea Isle, N. J., VORTAC 225° radial, extending from the 6-mile-radius area to the VORTAC and within 2.5 miles each side of a 360° bearing from a point 39°00'15" N., 74°54'30" W., extending from the 6-mile-radius area to 6.5 miles north of said point.

Wilkes-Barre, Pa.

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center, lat. 41°20'18" N., long. 75°43'29" W. of Wilkes-Barre-Scranton Airport, extending clockwise from a 280° bearing to a 355° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 025° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 050° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 050° bearing to a 210° bearing from the airport; within a 10-mile radius of the center of the airport extending clockwise from a 210° bearing to a 280° bearing from the airport; within 3.5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; and within 5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer northeast course, extending from the localizer to 13.5 miles northeast of the localizer, excluding the portions that coincide with the Honesdale, Pa., and Mount Pocono, Pa., transition areas.

Wilkesboro, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Wilkes County Airport (lat. 36°08'33" N., long. 81°11'36" W.); within 5 miles north and 3 miles south of the 070° bearing from Wilkesboro RBN (lat. 36°08'36" N., long. 81°11'44" W.), extending from the 8.5-mile radius area to 10 miles east of the RBN.

Williamsburg, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 37°14'20"N., 76°42'59"W., of Williamsburg-Jamestown Airport.

Williamson, N. Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 43°14'10" N., long. 77°07'20" W. of Williamson-Sodus Airport, Williamson, N. Y., extending clockwise from a 055° to a 320° bearing from the airport; within a 5-mile radius of the center of the airport extending clockwise from a 320° to a 055° bearing from the airport.

Williamsport, Pa.

That airspace extending upward from 700 feet above the surface within a 20.5-mile radius of the center, 41° 14'32" N., 76°55'12" W. of Williamsport-Lycoming County Airport, extending clockwise from a 025° bearing to a 067° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 067° bearing to a 145° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 203° bearing from the airport; within a 20.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 316° bearing from the airport; within a 22.5-mile radius of the center of the airport, extending clockwise from a 316° bearing to a 025° bearing from the airport; within 4.5 miles north and 9.5 miles south of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the Picture Rocks, Pa., RBN to 18.5 miles east of the RBN; within 5 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the Picture Rocks, Pa., RBN to 13 miles east of the RBN.

Williamston, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Martin County Airport (lat.35°51'45" N., long. 77°10'35" W.); within 3 miles each side of the 018° bearing from the Williamston RBN (lat. 33°51'39" N., long. 77°10'31" W.), extending from the 6.5 mile radius area to 8.5 miles north of the RBN.

Willimantic, Conn.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center 41°44'40" N., 72°10'46" W. of Windham Airport, Willimantic, Conn.; within 2 miles each side of the centerline of Runway 9 extended from the 8-mile radius area to 9.5 miles E of the end of the runway; within 2 miles each side of the Norwich VOR 323° radial extended from the 8-mile radius area to the VOR; and within 2 miles each side of the centerline of Runway 27 extended from the 8-mile radius area to 9 miles W of the end of the runway. This transition area shall be in effect from sunrise to sunset.

Williston, N. Dak.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 3½ miles each side of the Williston VOR 316° radial, extending from the 10-mile radius area to 11½ miles northwest of the VOR; and within 3½ miles each side of the 126° bearing from the Sloulin International Airport, extending from the 10-mile radius area to 14½ miles southeast of the airport;
and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Williston VOR, lat. 48°15'12"N., long. 103°45'01"W., extending from the Williston VOR 203° radial clockwise to the Williston VOR 088° radial, and within 9.5 miles southwest and 4.5 miles northeast of the Williston VOR 316° radial, extending from the 13-mile radius area to 18.5 miles northwest of the VOR, and within 45 miles of the Williston VOR extending clockwise from V-430 to V-439.

Willmar, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of the Willmar Municipal Airport, Willmar, Minn., (lat. 45°06'45"N., long. 95°05'15"W.) and within 3 miles either side of the 091°T bearing and the 279°T bearing from the Willmar, Minn., (ILL) VOR (lat. 45°06'50"N., long. 95°05'12"W.) extending from the 6.5-statute-mile radius zone to 8.5 statute miles.

AMENDMENTS 7/10/80 45 F. R. 36055 (Rewritten)

Willows, Calif.

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Maxwell, Calif., VORTAC 360° radial, extending from 3.5 miles to 19.5 miles north of the VORTAC.

Wilmington, Del.

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center 39°40'42"N., 75°36'27"W. of Greater Wilmington Airport, Wilmington, Del., extending clockwise from a 270° bearing to a 030° bearing from the airport; within a 10-mile radius of the center of Greater Wilmington Airport, extending clockwise from a 030° bearing to a 270° bearing from the airport; within 5 miles each side of the New Castle, Del., VORTAC 281° radial, extending from the VORTAC to 16.5 miles west of the VORTAC; within 5 miles each side of the New Castle, Del., VORTAC 111° radial, extending from the VORTAC to 11 miles east of the VORTAC; within a 5-mile radius of the center 39°31'17"N., 75°43'17"W. of Summit Airpark Airport, Middletown; Del.; within 2.5 miles each side of a line bearing 345° from a point 39°23'36"N., 75°40'36"W., extending from said point to the 5-mile radius area centered on Summit Airpark Airport and within 3 miles each side of a 234° bearing from the Greater Wilmington Airport ILS RWY 1 LOM, extending from the Summit Airpark Airport 5-mile radius area to 13 miles southwest of the LOM.

Wilmington, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of New Hanover Airport (latitude 34°16'15" N., longitude 77°54'05" W.).

Wilmington, Ohio

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Wilmington Industrial Airport (latitude 30°28'45" N., longitude 83°48'00" W.).

Wilson, N. C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wilson Municipal Airport (lat. 35°46'00"N., long. 77°58'00"W.); within 3 miles each side of the 223° bearing from the Wilson RBN, extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion that coincides with the Rocky Mount, N. C., transition area.

Winamac, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Arens Airport (lat. 41°05'35"N., long. 86°36'45"W.); within 2 miles each side of the Knox VORTAC 173° radial extending from the 5-mile radius area to 10 miles south of the VORTAC, and within 3 miles each side of a 265° bearing from the airport extending from the 5-mile radius area to 8 miles west of the airport.

AMENDMENTS 7/10/80 45 F. R. 36057 (Rewritten)

Winchester, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Randolph County Airport (lat. 40°10'15"N., long. 84°55'13"W.); within 2.5 miles either side of the 111° bearing extending from the 5-mile radius to 6 miles southeast of the airport, and within 3 miles either side of the 068° bearing extending from the 5-mile radius to 8 miles northeast of the airport.

AMENDMENTS 7/10/80 45 F. R. 36055 (Rewritten)

Winchester, Ky.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Codell Airport (lat. 38°01'21" N., long. 84°13'00" W.); within 2 miles each side of Lexington VORTAC 074° radial, extending from the 5-mile radius area to 8 miles east of the VORTAC.

Winchester, Va.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 39° 08'30" N., 78°08'30" W. of Winchester Municipal Airport; within a 9.5-mile radius of the center of the airport extending clockwise from a 187° bearing to a 008° bearing from the airport; within 3.5 miles each side of the Front Royal, Va., VORTAC 223° radial, extending from the VORTAC to 11.5 miles southwest of the VORTAC; within 2.5 miles each side of a 133° bearing from a point 39°08'17" N., 78°08'16" W., extending from said point to 11 miles southeast of said point.

Winder, Ga.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Winder Airport (lat. 33°58'52" N., long. 83°40'02" W.); within 2 miles each side of Athens VORTAC 277° radial, extending from the 6-mile radius area to 13.5 miles west of the VORTAC.

Windom, Minn.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Windom Municipal Airport (latitude 43°54'50" N., longitude 95°06'35" W.); and within 9½ miles west and 4½ miles east of the 354° and 174° bearings from the Windom Municipal Airport extending from 4 miles south of the airport to 18½ miles north of the airport.

Window Rock, Ariz.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Window Rock Airport (latitude 35°39'29"N. longitude 109°03'28"W) and within 3 miles each side of the Gallup VORTAC 318° radial, extending from the 5-mile radius area to the Gallup VORTAC.

Winnemucca, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnemucca Municipal Airport (lat. 40°53'50"N., long. 117°48'07"W.) and within 9 miles west and 5 miles east of the Winnemucca NDB (lat. 40°53'50"N., long. 117°48'20"W.) 342° bearing, extending from the 5-mile radius area to 11 miles north of the NDB; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 342° and 162° bearings extending from the NDB to the southeast edge of V-113 and the north edge of V-6N.

Winner, S. Dak.

That airspace extending upward from 700 feet above the surface within a 7½-mile radius of the Wiley Field (latitude 43°23'25" N., longitude 99°50'40" W.); within three miles each side of the Winner VOR 212° radial extending from the 7½-mile radius area to the VOR; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northwest and 4½ miles southeast of the Winner VOR 032° and 212° radials extending from 5 miles southwest of the VOR to 18½ miles northeast of the VOR; and within 5 miles each side of the Winner VOR 212° radial extending from the VOR to 20 miles southwest of the VOR.

Winnfield, La.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Winnfield NDB (latitude 31°57'46" N., longitude 92°39'25" W.); within 3 miles each side of a 276° bearing from the Winnfield NDB extending from the 5-mile radius area to 8 miles west of the NDB.

Winnsboro, S. C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fairfield County Airport (latitude 34°19'00" N., longitude 81°06'30" W.); within 3 miles each side of the 208° bearing from Winnsboro RBN (latitude 34°18'56" N., longitude 81°06'41" W.), extending from the 5-mile radius area to 8.5 miles southwest of the RBN.

Winnsboro, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnsboro Municipal Airport (latitude 32°56'22" N., longitude 95°16'43" W.) and within 1.5 miles each side of the Quitman, Tex., VORTAC 052° radial extending from the 5-mile radius area to the VORTAC.

Winona, Minn.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Winona Municipal-Max Conrad Field (latitude 44°04'37" N., longitude 91°42'22" W.); excluding that portion which overlies the La Crosse, Wis., transition area.

Winslow, Ariz.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Winslow Municipal Airport (latitude 35°01'15" N., longitude 110°43'15" W.), and that airspace within an arc of a 10-mile radius circle centered on Winslow VORTAC extending clockwise from a line 4 miles south of and parallel to the Winslow 27[illegible] radial to a line 4 miles north of and parallel to the Winslow 292° radial; that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 16.5 miles south of the Winslow 112° and 292° radials, extending from 15.5 miles east to 19 miles west of the VORTAC.

Winters, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Winters Municipal Airport (lat. 31°56'45"N., long. 99°59'08"W.) and within 3.5 miles each side of the 187° bearing from the NDB (lat. 31°57'12"N., long. 99°59'00"W.) extending from the 7-mile radius area to 8.5 miles south of the NDB.

AMENDMENTS 1/24/80 44 F. R. 67372 (Added)

Winston-Salem, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Smith Reynolds Airport (latitude 36°08'01.3" N., longitude 80°13'22.1" W.); within 3 miles each side of Winston-Salem ILS localizer southeast course, extending from the 8.5-mile radius area to 8.5 miles southeast of the LOM; excluding the portion that coincides with the Greensboro transition area.

Wiscasset, Maine

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°57'40" N., 69°42'50" W. of the Wiscasset, Maine, Airport; within 6 miles on the north side and 4 miles on the south side of the 252° and 072° bearings from the Wiscasset, Maine, NDB, 43°58'57" N., 69°38'27" W., extending to 5.5 miles southwest, and 11.5 miles northeast of the NDB; excluding that portion which coincides with the Brunswick, Maine, 700-foot transition area.

Wisconsin

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Wisconsin.

Wisconsin Rapids, WI.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Alexander Field, Southwood County Airport (latitude 44°21'31" N., longitude 89°50'15" W.); and within 3 miles each side of the 193° bearing from Alexander Field, Southwood County Airport, extending from the 6½-mile radius area to 8 miles south of the airport and within 3 miles each side of the 125° bearing from Alexander Field, Southwood County Airport, extending from the 6½-mile radius to 8 miles southeast of the airport and within 4 miles each side of the Stevens Point VORTAC 230° radial extending from the 6½-mile radius to 13 miles northeast of the airport excluding the portion that overlies the Stevens Point, Wis., transition area.

Wise, Va.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, 36°59'15"N., 82°31'50"W., of Lonesome Pine Airport, Wise, Va., and within 3 miles each side of the 056° bearing from the Wise NDB (37°01'18"N., 82°28'04"W.), extending from the 11-mile radius area to 8.5 miles northeast of the NDB.

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Wolf Point, Mont.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wolf Point, Mont., NDB (lat. 48°06'16"N., long. 105°36'05"W.); and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 47°50'00"N., long. 105°00'00"W., to lat. 47°50'00"N., long. 106°00'00"W., to lat. 48°20'00"N., long. 106°00'00"W., to lat. 48°20'00"N., long. 105°00'00"W., to the point of beginning.

Woodland, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Woodland-Watts Airport (lat. 38°40'30"N., long. 121°52'15"W.) and within 3 miles each side of the Sacramento VORTAC 313° radial, extending from the 3-mile radius area to the Sacramento VORTAC.

Woodruff, Wis.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lakeland Airport (latitude 45°55'38" N., longitude 89°43'53" W.).

Woodsfield, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Monroe County Airport (latitude 39°46'45" N., longitude 81°06'15" W.).

Wooster, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 40° 52'29" N., long. 81°53'14" W., of Wayne County Airport, Wooster, Ohio, and within 3.5 miles each side of the 090° bearing from the Smithville RBN, lat. 40°52'30" N., long. 81°50'00" W., extending from the 7-mile radius area to 11.5 miles east of the RBN.

Worcester, Mass.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Worcester, Mass., Airport (latitude 42°16'05" N., longitude 71°52'20" W.).

Worland, Wyo.

The airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the Worland VOR 352° and 172° radials extending from 18.5 miles north to 6 miles south of the VOR; that airspace extending upward from 1,200 feet above the surface, within a 23-mile radius of the VOR.

Worthington, Minn.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Worthington Municipal Airport (lat. 43°39'17"N., long. 95°35'01"W.).

AMENDMENTS 3/20/80 44 F. R. 76268 (Rewritten)

Wrangell, Alaska

That airspace extending upward from 700 feet above the surface within 2 miles south and 4 miles north of the 087° radial of the Level Island VOR extending from 6 miles east to 30 miles east of the VOR; and within 5 miles southwest and 5 miles northeast of the Wrangell localizer southeast and northwest courses extending from 3 miles southeast to 30 miles northwest of the Wrangell localizer (latitude 56°29'03" N., longitude 132°21'35" W.).

Wrightstown, N. J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 40°04'00" N., 74°10'40" W. of Lakewood Airport, Lakewood, N. J.; within a 12-mile radius of McGuire AFB (latitude 40°00'55" N., longitude 74°35'25" W.); within a 9.5-mile radius of the center, 40°02'00"N., 74°21'00"W., of NAEC Lakehurst, Lakehurst, N. J.; within a 13-mile radius of the Navy Lakehurst TACAN, extending clockwise from the Navy Lakehurst TACAN 310° radial to the 148° radial; within 5 miles each side of the Coyle VORTAC 031° radial, extending from the Coyle VORTAC to 13 miles northeast; within 5 miles each side of the Robbinsville VORTAC 148° radial, extending from the Robbinsville VORTAC to 18.5 miles southeast; within 3 miles southwest and 5 miles northeast of the Navy Lakehurst TACAN 148° radial, extending from the TACAN to 14 miles southeast; within 3.5 miles each side of the 050° bearing from the Navy Lakehurst UHF RBN, extending from the RBN to 11.5 miles northeast; within a 5-mile radius of the Trenton-Robbinsville Airport (lat. 40°12'50" N., long. 74°36'05" W.); within 6.5 miles north and 4.5 miles south of the 278° and 098° radials of the Robbinsville VORTAC, extending from 5.5 miles west to 11.5 miles east of the VORTAC; within a 5-mile radius of Monmouth County Airport (latitude 40°11'05" N., longitude 74°07'20" W.); within 2 miles each side of the Colts Neck VOR 167° radial extending from the Monmouth County Airport 5-mile radius area to the VOR; within 4 miles each side of the Belmar (BLM), N. J., localizer (lat. 40°10'57"N., long. 74°07'14"W.) 315° bearing extending from the Monmouth County Airport 5-mile radius area to 7 miles northwest of the approach end of Runway 14; within a 7-mile radius of lat. 39°55'41"N., long. 74°17'30"W., of Robert J. Miller Air Park, Toms River, N. J.; within 1.5 miles each side of the Coyle, N. J. VORTAC 044° radial extending from the 7-mile radius area to the Coyle VORTAC; within a 6-mile radius of the center of latitude 39°56'30" N., longitude 74°50'30" W. of Burlington County Airpark, Mt. Holly, N. J.

AMENDMENTS 9/4/80 45 F. R. 54027 (Changed)

Wurtsboro, N. Y.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 41°35'52" N., 74°27'32" W., of Wurtsboro-Sullivan County Airport, Wurtsboro, N. Y.; within a 9.5-mile radius of the center of the airport, extending clockwise from a 352° bearing to a 016° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 016° bearing to a 025° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 036° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 036° bearing to a 070° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 070° bearing to a 086° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 169° bearing to a 192° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 192° bearing to a 238° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 238° bearing to a 310° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 310° bearing to a 335° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 352° bearing from the airport; within 4.5 miles north and 6.5 miles south of the Stewart VOR (41°30'30" N., 74°05'51" W.) 288° radial extending from 2.5 miles west to 19.5 miles west of the Stewart VOR; excluding the portions that coincide with the Newburgh, N. Y., and Monticello, N.Y., transition areas. This transition area is effective from sunrise to sunset, daily.

Xenia, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Greene County Airport (latitude 39°41'30" N., longitude 83°58'25" W.); and within 3.5 miles each side of the 063° bearing from the Greene County Airport extending from the 5.5-mile radius to 14.5 miles northeast of the airport excluding that airspace that overlies the Dayton, Ohio, transition area.

Yakataga, Alaska

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Yakataga Airport (lat. 60°04'57"N., long. 142°29'30"W.); within 3 miles each side of the 268° bearing from the Yakataga NDB, extending from the 5-mile radius area to 18 miles west of the NDB.

Yakima, Wash.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Yakima Airport (lat. 46°33'35"N., long. 120°32'25"W.), within 5 miles northeast and 10 miles southwest of the Yakima VORTAC 115° and 295° radials, extending from 1 mile northwest to 23 miles southeast of the VORTAC, and within 3.5 miles north and 5 miles south of the ILS localizer west course, extending from 11 to 27 miles northwest of the Donald OM; that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Yakima VORTAC, excluding the airspace north of Yakima that overlies the Ellensburg, Wash., Transition Area; that airspace northeast of the 25-mile radius circle bounded on the north by lat. 47°00', on the east by 120°00', on the southeast by V-448, and on the northwest by the Ellensburg, Wash., Transition Area; that airspace within 9 miles northeast and 6 miles southwest of the Yakima VORTAC 129° radial, extending from the VORTAC to 33 miles southeast of the VORTAC; and that airspace south of the 25-mile radius circle bounded on the northeast by [illegible]-4, on the south by V-520, and on the west by V-25E.

Yakutat, Alaska

That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Yakutat VORTAC, and within a 15-mile radius of the Ocean Cape, Alaska, RBN, excluding the portion NE of a line 5 miles NE of and parallel to the Yakutat VORTAC 319° and 139° radials; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Yakutat VORTAC 147° radial, extending from the 15-mile radius area to 18 miles SE of the VORTAC; and within 5 miles each side of the Yakutat VORTAC 119° radial, extending from the 700-foot transition area to 65 miles southeast of the VORTAC.

Yankton, S. Dak.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Chan Gurney Municipal Airport (latitude 42°54'45" N., longitude 97°23'15" W.); and within 9½ miles northeast and 4½ miles southwest of the Yankton VOR 321° radial extending from the VOR to 18½ miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the Yankton VOR 135° radial extending from the VOR to 18½ miles southeast of the VOR; excluding that portion in the State of Nebraska.

Yazoo City, Miss.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Barrier Field (latitude 32°52'30" N., longitude 90°24'25" W.); within 3 miles each side of the Jackson, Miss., VORTAC 332° radial, extending from the 6.5-mile radius area to 17.5 miles northwest of the VORTAC.

Yerington, Nev.

That airspace extending upward from 11.000 feet MSL within 12 miles, southwest and 8 miles northeast of the Reno, Nev., VORTAC 135° radial, extending from 10 miles northwest to 22 miles southeast of the INT of Reno VOR 135° and Lovelock, Nev., VORTAC 197° radials, excluding the airspace within Federal airways.

York, Pa.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°55'09" N., 76°52'30" W., of the York Airport, York, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 069° bearing to a 205° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 205° bearing to a 244° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 271° bearing from the airport and within 3.5 miles each side of the 336° and 156° bearings from the Thomasville, Pa., RBN (39°58'39" N., 76°54'35" W.); extending from the 5-mile radius area to 11.5 miles northwest of the RBN.

Youngstown, Ohio

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 41°15'28" N., long. 80°40'34" W. of Youngstown Municipal Airport, Youngstown, Ohio; within a 7-mile radius of the center, lat. 41°03'33" N., long. 80°49'55" W. of Youngstown Executive Airport, Youngstown, Ohio; within a 5.5 mile radius of the center, lat. 41°07'45" N., long. 80°37'15" W. of Lansdowne Airport, Youngstown, Ohio; within 3.5 miles each side of the Youngstown VORTAC 358° radial, extending from the Youngstown Municipal Airport 9-mile radius area to 11.5 miles north of the Youngstown VORTAC; within 3.5 miles each side Youngstown Municipal Airport ILS localizer southeast course, extending from the OM to 11.5 miles southeast of the OM; within 4.5 miles each side of the Youngstown VORTAC 203° radial, extending from 9 miles southwest of the VORTAC to 15.5 miles southwest of the VORTAC; within 5 miles each side of the 023° radial of the Youngstown VORTAC extending from the Youngstown Municipal Airport 9-mile radius area to 11.5 miles north of the VORTAC.

Yuma, Ariz.

That airspace extending upward from 700 feet above the surface, within an 11-mile radius of Yuma MCAS/Yuma International Airport (latitude 32°39'10" N., longitude 114°36'20" W.), within 2 miles each side of the Yuma VORTAC 181° radial, extending from the 11-mile radius area to 21 miles south of the VORTAC, that airspace within a 13-mile radius of the Yuma VORTAC extending from the 11-mile radius area bounded on the west by a line 4 miles west of and parallel to the Yuma VORTAC 351° radial and on the east by longitude 114°30'00" W., within 3 miles each side of the Yuma VORTAC 062° radial, extending from the VORTAC to 16 miles northeast of the VORTAC and within 5 miles north and 6 miles south of the Yuma VORTAC 089° radial, extending from the VORTAC to 20.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface, within 12 miles west and 11 miles east of the Yuma VORTAC 351° radial, extending from the north edge of V-66 to 20 miles north of the VORTAC, within 5 miles north and 8 miles south of the Yuma VORTAC 087° radial, extending from the VORTAC to 14 miles east of the VORTAC, within 11 miles east and 8 miles west of the Yuma VORTAC 180° radial, extending from the VORTAC to the United States/Mexico border; within six miles each side of the Yuma VORTAC 211° radial, extending from the VORTAC to the United States/Mexico border, and that airspace northwest of Yuma, extending upward from 4,000 feet MSL, bounded on the north by the arc of an 18-mile radius circle centered on the Blythe, Calif., Airport (latitude 33°37'15" N., longitude 114°43'00" W.), on the east by the west edge of V-135, on the south by the north edge of V-66, and on the northwest and west by lines 5 miles northwest and west of and parallel to the Imperial and Blythe, Calif., VORTAC's, 064° and 187° radials respectively; excluding that portion outside the United States; that airspace extending upward from 9,000 feet MSL bounded on the west by the west edge of V-135, on the east by R-2306C, and R-2306A, extending from 20 miles north of the Yuma VORTAC to the arc of an 18-mile radius circle centered on the Blythe, Calif., VORTAC.

Zanesville, Ohio

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Zanesville Municipal Airport (latitude 39°56'40" N., longitude 81°53'20" W.); within 8 miles E and 5 miles W of the Zanesville VOR 222° radial extending from the VOR to 12 miles SW of the VOR.

Zionsville, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Indianapolis Terry Airport (latitude 40°02'08" N., longitude 86°15'18" W.); within 2 miles either side of the 359° bearing extending from the airport to 6 miles north.

Zuni, N. Mex.

That airspace extending upward from 8,500 feet MSL within 10 miles N and 7 miles S of the Zuni VORTAC 087° and 267° radials extending from 20 miles E to 9 miles W of the VORTAC, excluding the portion within the State of New Mexico.

SUBPART H - POSITIVE CONTROL AREAS

§71.193 Designation of Positive Control Areas.
The parts of airspace described below are designated as positive control areas.

Continental positive control area.
That airspace within the continental control area from 18,000 feet MSL to and including flight level 600 within the 48 contiguous States and District of Columbia excluding the Santa Barbara Island, Farallon Island, and the portion south of lat. 25°04'00" N.

Alaska Positive Control Area
That airspace of the State of Alaska, from 18,000 feet MSL to and including flight level 600 but not including the airspace less than 1,500 feet above the surface of the earth and the Alaska Peninsula west of long. 160°00'00"W.

SUBPART I - REPORTING POINTS

§ 71.201 Designation.
The locations described in this Subpart are designated as reporting points.

§ 71.203 Domestic low altitude reporting points.
The reporting points listed below are designated at all altitudes up to but not including 18,000 feet MSL.

Aberdeen, S. Dak.
Abilene, Tex.
Acton, Tex.
Ainsworth, Nebr.
Akron, Colo.
Alamosa, Colo.
Albany, Ga.
Albany, N. Y.
Albuquerque, N. Mex.
Alexandria, La.
Alexandria, Minn.
Allendale, S. C.
Allentown, Pa.
Alma, Ga.
Amarillo, Tex.
AMZIE: INT Bangor, Maine, 146° radial, centerline of Control 1143.
Anderson, S. C.
Anton Chico, N. Mex.
Appleton, Ohio
Ardmore, Okla.
Atlanta, Ga.
Augusta, Ga.
Augusta, Maine
Austin, Tex.
Avenal, Calif.
Badger, Wis.
Baker, Oreg.
Bakersfield, Calif.
Bangor, Maine
Bard, Ariz.
Barretts Mountain, N. C.
Baton Rouge, La.
Battle Mountain, Nev.
Beatty, Nev.
Beaumont, Tex.
Bellingham, Wash.
Bemidji, Minn.

Berlin, N. H.
Bible Grove, Ill.
Bigbee, Miss.
Big Spring, Texas
Big Sur, Calif.
Billings, Mont.
Binghamton, N. Y.
Biscayne Bay, Fla.
Bismarck, N. Dak.
Bluefield, W. Va.
Blue Ridge, TX
Blue Springs, Mo.

Blythe, Calif.
Boise, Idaho.
Bonneville, Utah
Boston, Mass.
Boulder City, Nev.
Bowling Green, Ky.
Boysen Reservoir, Wyo.
Bozeman, Mont.
Bradford, Ill.
Brainerd, Minn.
Bridgeport, Tex.
Brooke, Va.
Brookley, Ala.
Brookwood, Ala.
Brownsville, Tex.
Brunswick, Ga.
Bryce Canyon, Utah
Buckeye, Ariz.
Buffalo, N. Y.
Burley, Idaho
Burlington, Iowa
Burlington, Vt.
Butler, Mo.
Cape Girardeau, Mo.
Capital, Ill.
Carleton, Mich.
Carlsbad, N. Mex.
Carmel, N. Y.
Casa Grande, Ariz.
Casper, Wyo.
Cedar Rapids, Iowa
Centralia, Ill.
Chadron, Nebr.
Champaign, Ill.
Chanute, Kans.
CHARL: Lat. 47°28'21" N., Long. 114°07'19" W. (a. INT Mullan Pass, Idaho, 089°, Kalispell, Mont., 177° radials. b. Mullan Pass, Idaho, 089° radials, 62 NM from Mullan Pass).
Charleston, S. C.
Charleston, W. Va.
Chattanooga, Tenn.
Cherokee, Wyo.
Chesterfield, S. C.
Cheyenne, Wyo.
Chicago Heights, Ill.
Childress, Tex.
Cimarron, N. Mex.
Cincinnati, Ohio
Cleveland, Ohio
Coaldale, Nev.
Cochise, Ariz.
COFAX: INT Johnstown, Pa., 093°, St. Thomas, Pa., 358° radials.
Cofield, N. C.
Columbia, Mo.
Columbia, S. C.
Columbus, Ga.
Columbus, Nebr.
Columbus, N. Mex.
Concord, N. H.
COOBE: INT Clarion, Pa., 044°, Franklin, Pa., 099° radials.
Corona, N. Mex.
Corpus Christi, Tex.
Cotulla, Tex.
Coyle, N. J.
Crazy Woman, Wyo.
Crescent City, Calif.
Crestview, Fla.
Cross City, Fla.
Cunningham, KY
Cut Bank, Mont.
Dalhart, Tex.
Dallas-Fort Worth, Tex.
Danville, Ill.
Darwin, Minn.
Davenport, Iowa
Dayton, Ohio
Decatur, Ill.
DeLancey, N. Y.
Delta, Utah.
Deming, N. Mex.
Denver, Colo.
Des Moines, Iowa
Dickinson, N. Dak.

Dillon, Mont.
Dogwood, Mo.
Douglas, Ariz.
Douglas, Wyo.
Dublin, Ga.
Dubois, Idaho
Dubuque, Iowa
Duluth, Minn.
Dunkirk, N. Y.
Dupree, S. Dak.
Dyersburg, Tenn.
Eagle Lake, Tex.
Eaton, Miss.
Eau Claire, Wis.
EDGEE: INT Fort Wayne, Ind., 039°, Waterville, Ohio, 273° radials.
El Dorado, Ark.
Elkins, W. Va.
Elko, Nev.
Ellensburg, Wash.
Elmira, N. Y.
El Paso, Tex.
Ephrata, Wash.
Erie, Pa.
Escanaba, Mich.
Eugene, Oreg.
Fairfield, Utah
Fairmont, Minn.
Falmouth, Ky.
Fargo, N. Dak.
Farmington, Minn.
Farmington, Mo.
Farmington, N. Mex.
Fayetteville, N. C.
Fellows, Calif.
Fillmore, Calif.
Findlay, Ohio
Fish Hook, Fla. RBN
Flat Rock, Va.
FLIBB: INT Carmel. N. Y., 093° and Calverton, N. Y., 044° radials.
FLINT: INT Kessel, W. Va., 038°, Martinsburg, W. Va., 297° radials.
Flint, Mich.
Florence, S. C.
Fort Bridger, Wyo.
Fort Dodge, Iowa
Fort Jones, Calif.
Fort Mill, S. C.
Fort Myers, Fla.
Fort Smith, Ark.
Fort Stockton, Tex.
Fortuna, Calif.
Fort Wayne, Ind.
Franklin, Va.
Fresno, Calif.
Friant, Calif.
PENDING AMENDMENT
Front Royal. Va. AMENDMENTS 12/25/80 45 F. R. 71774 (Revoked)
Gage, Okla.
Gainesville, Fla.
Garden City, Kans.
GAREN: INT Goshen, Ind., 108°, Ft. Wayne, Ind., 016° radials.
GARRI: INT Drummond, Mont., 092° Butte, Mont., 002° radials.
Gaviota, Calif.
Gaylord, Mich.
Gila Bend, Ariz.
Gill, Colo.
GILLS: INT Jefferson, Ohio, 279°, Cleveland, Ohio, 024° radials.
Goffs, Calif.
Goodland, Kans.
Gordonsville, Va.
Goshen, Ind.
Graham, Tenn.
Grand Island, Nebr.
Grand Junction, Colo.
Grand Rapids, Minn.
Grand Strand, S. C.
GRANT: INT Columbus, Ga., 068° and Albany, Ga., 357° radials.
Grantsburg, Wis.
Grantsville, Md.
Great Falls, Mont.
Green Bay, Wis.
Greensboro, N. C.

Greenville, Fla.
Greenville, Miss. AMENDMENTS 7/10/80 45 F. R. 31976 (Added)
Greenwood, Miss.
Greenwood, S. C.
Gregg County, Tex.
Gulfport, Miss.
Gunnison, Colo.
Guthrie, Tex.
Hallsville, Mo.
Hamilton, Ala.
Hanksville, Utah
Harcum, Va.
Harris, Ga., VORTAC
Harrisburg, Pa.
Harrison, Ark.
Hartford, Conn.
Hastings, Nebr.
Hayden, Colo.
Hayes Center, Nebr.
Hays, Kansas
Hazen, Nev.
Hector, Calif.
HEFIN: INT Talladega, Ala., 087°, LaGrange, Ga., 342° radials.
Helena, Mont.
Hibbing, Minn.
Hill City, Kans.
Hinch Mountain, Tenn.
Hobart, Okla.
Hobbs, N. Mex.
Hobby, Tex.
Hoquiam, Wash.
Holston Mountain, Tenn.
Hot Springs, Ark.
Houghton, Mich.
Houlton, Maine
Hudspeth, Tex.
Hugo, Colo.
Huron, S. Dak.
Hutchinson, Kans.
Imperial, Calif.
Indianapolis, Ind.
International Falls, Minn.
Iron Mountain, Mich.
Ironwood, Mich.
Jacks Creek, Tenn.
Jackson, Mich.
Jackson, Miss.
Jacksonville, Fla.
Jamestown, N. Dak.
Janesville, Wis.
Joliet, Ill.
Julian, Calif.
Junction, Tex.
Kansas City, Mo.
Kearney, Nebr.
Keating, Pa.
Keeler, Mich.
Kennebunk, Maine
Kenton, Del.
Kessel, W. Va. AMENDMENTS 3/20/80 45 F. R. 6355 (Added)
Key West, Fla.
Kimberly, Oregon
Kingston, N. Y.
Kinston, N. C.
Kirksville, Mo.
Klamath Falls, Oreg.
Knoxville, Tenn.
Kokomo, Ind.
Kremmling, Colo.
LaBelle, Fla.
Lafayette, Ind.
Lafayette, La.
Lake Charles, La.
Lake Henry, Pa.
Lake Hughes, Calif.
Lakeland, Fla.
Lamar, Colo.
Lamoni, Iowa
Lancaster, Pa.
Lansing, Mich.
Laramie, Wyo.

Laredo, Tex.
Las Vegas, Nev.
Lawrenceville, Va.
Leona, Tex.
LESSY: INT Salem, Mich., 273°, Lansing, Mich., 189° radials.
Lewis, Ind.
Lewistown, Mont.
Lexington, Ky.
Liberal, Kans.
Liberty, N. C.
Linden, Calif.
Linden, Va.
Litchfield, Mich.
Little Rock, Ark.
Livingston, Mont.
Llano, Tex.
Lometa, Tex.
London, Ky.
Lone Rock, Wis.
Los Angeles, Calif.
Louisville, Ky.
Lovelock, Nev.
Lubbock, Tex.
Lucin, Utah
Lufkin, Tex.
Lynchburg, Va.
Macon, Ga.
MADDI: INT Greenwood, S. C., 240° and Athens, Ga., 195° radials.
Malad City, Idaho
Malden, Mo.
Manistee, Mich.
Mankato, Kans.
Mankato, Minn.
Mansfield, Ohio
Maples, Mo.
Marianna, Fla.
Marion, Ill.
Marquette, Mich.
Martinsburg, W. Va.
Massena, N. Y.
Mason City, Iowa
McAlester, Okla.
McCall, Idaho
McComb, Miss.
McCook, Nebr.
Medford, Oreg.
Medicine Bow, Wyo.
Menominee, Mich.
Meridian, Miss.
Miami, Fla.
Midland, Tex.
Miles City, Mont.
Milford, Utah
Millinocket, Maine
Millsap, TX
MILTO: INT Eau Claire, Wis., 134°, and Nodine, Minn., 055° radials.
Milton, Pa.
Minneapolis, Minn.
Minot, N. Dak.
Missoula, Mont.
Mitchell, S. Dak.
Modena, Pa.
Moline, Ill.
Monroe, La.
Monroeville, Ala.
Montebello, Va.
Montgomery, Ala.
Mormon Mesa, Nev.
Morgantown, W. Va.
Mount Pleasant, Mich.
Mullan Pass, Idaho
Muncie, Ind.
Muscle Shoals, Ala.
Muskegon, Mich.
Myton, Utah
Nabb, Ind.
Nantucket, Mass.
Nashville, Tenn.
Needles, Calif.
NELLO: INT Atlanta, Ga., 001°, Chattanooga, Tenn., 127° radials.
Neola, Iowa
Neosho, Mo.

Newcombe, Ky.
Newman, Tex.
New Orleans, La.
Newport, Oreg.
Nodine, Minn.
Norfolk, Nebr.
North Bend, Oreg.
Northbrook, Ill.
North Platte, Nebr.
Nottingham, Md.
Oakland, Calif.
Ocala, Fla.
Oceanside, Calif.
Ogden, Utah
Oklahoma City, Okla.
Omaha, Nebr.
O'Neill, Nebr.
Orlando, Fla.
Ormond Beach, Fla.
Oshkosh, Wis.
Oswego, Kans.
Ottumwa, Iowa
Pahokee, Fla.
Palacios, Tex.
Palm Beach, Fla.
Palmdale, Calif.
Palm Springs, Calif.
Panoche, Calif.
Paradise, Calif.
Parker, Calif.
Parkersburg, W. Va.
Park Rapids, Minn.
Paso Robles, Calif.
Patuxent, Md.
Pawling, N. Y.
Pawnee City, Nebr.
Peach Springs, Ariz.
Pecos, Tex.
Pellston, Mich.
Pembina, N. Dak.
Pendleton, Oreg.
Peoria, Ill.
Peotone, Ill.
Philipsburg, Pa.
Phoenix, Ariz.
Pierre, S. Dak.
Pine Bluff, Ark.
Pinon, NM.
Pioneer, OK.
Plainview, Tex.
Plattsburg, N. Y.
Pocatello, Idaho
Pocket City, Ind.
Point Reyes, Calif.
Polo, Ill.
Pomona, Calif.
Pontiac, Ill.
Porterville, Calif.
Portland, Fla. RBN
Portland, Oreg.
Prescott, Ariz.
Presque Isle, Maine
Priest, Calif.
Princeton, Maine
Providence, R. I.
Pueblo, Colo.
Pulaski, Va.
Pullman, Mich.
Quincy, Ill.
Quitman, Tex.
Raleigh-Durham, N. C.
Rapid City, S. Dak.
Ravine, Pa.
Raymond, Nebr.
Razorback, Ark.
Readsville, Mo.
Red Bluff, Calif.
Redmond, Oreg.
Redwood Falls, Minn.
Reno, Nev.
Rewey, Wis.

Rhinelander, Wis.
Roberts, Ill.
Rochester, Minn.
Rochester, N. Y.
Rocket, Ala.
Rockford, Ill.
Rock Springs, Wyo.
Rocky Mount, N. C.
Rome, Oreg.
Rosewood, Ohio
Roswell, N. Mex.
Sacramento, Calif.
Saginaw, Mich.
St. Johns, Ariz.
St. Louis, Mo.
St. Petersburg, Fla.
Salem, Mich.
Salina, Kans.
Salisbury, Md.
Salt Flat, Tex.
Salt Lake City, Utah
Samsville, Ill.
San Angelo, Tex.
San Antonio, Tex.
San Luis Obispo, Calif.
San Simon, Ariz.
Santa Barbara, Calif.
Santa Fe, N. Mex.
Sault Ste. Marie, Mich.
Savannah, Ga.
Sayre, Okla.
Schoolcraft, Mich.
SCIPO: INT Syracuse, N. Y., 210° Georgetown, N. Y., 273° radials.
Scottsbluff, Nebr.
Scurry, Tex.
Sea Isle, N. J.
Seal Beach, Calif.
Seattle, Wash.
Selinsgrove, Pa.
Semmes, Ala.
PENDING AMENDMENT
Shawnee, Va. AMENDMENTS 12/25/80 45 F. R. 71774 (Added)
Shelbyville, Ind.
Sheridan, Wyo.
Shreveport, La.
Sidney, Nebr.
Sioux City, Iowa
Sioux Falls, S. Dak.
Snow Hill, Md.
Sod House, Nev.
South Bend, Ind.
South Boston, Va.
Spokane, Wash.
Springfield, Mo.
STACY: INT Glade Spring, Va., 009°, Bluefield, W. Va., 267° radials.
Stevens Point, Wis.
Stockton, Calif.
Sugarloaf Mountain, N. C.
Sulphur Springs, Tex.
Syracuse, N. Y.
Tallahassee, Fla.
Tar River
Texarkana, Ark.
The Dalles, Oreg.
Thermal, Calif.
Thurman, Colo.
Tidioute, Pa.
Tiverton, Ohio
Tobe, Colo.
Topeka, Kans.
Traverse City, Mich.
PENDING AMENDMENT
TRIAD, Tex. AMENDMENTS 2/19/81 45 F. R. 77417 (Added)
Troy, Ill.
Truth or Consequences, N. Mex.
Tuba City, Ariz.
Tucson, Ariz.
Tucumcari, N. Mex.
Tulsa, Okla.
Tuscola, Tex.
Tuskegee, Ala.

Twenty-Nine Palms, Calif.
Twin Falls, Nev.
Tyrone, Pa.
Ukiah, Calif.
Vance, S. C.
Vandalia, Ill.
Ventura, Calif.
Vero Beach, Fla.
Vichy, Mo.
Vienna, Ga.
Vulcan, Ala.
Waco, Tex.
Walnut Ridge, Ark.
Waterloo, Iowa
Watertown, N. Y.
Watertown, S. Dak.
Waterville, Ohio
Waukon, Iowa
Wausau, Wis.
Waycross, Ga.
White Cloud, Mich.
Whitehall, Mont.
White Lake, La.
Whitesburg, Ky.
Wichita, Kans.
Wichita Falls, Tex.
Wilkes-Barre, Pa.
Williams, Calif.
Williamsport, Pa.
Wilmington, N. C.
Wink, Texas
Winslow, Ariz.
Wiregrass, Ala.
Wolbach, Nebr.
Woodside, Calif.
Woodstown, N. J.
Worthington, Minn.
Yakima, Wash.
Yankton, S. Dak.
York, Ky.
Youngstown, Ohio
Zuni, N. Mex.

§ 71.207 Domestic high altitude reporting points.

The reporting points listed below are designated at all altitudes from 18,000 feet MSL to Flight Level 450, inclusive.

Aberdeen, S. Dak.
Abilene, Tex.
Alamosa, Colo.
Albany, N. Y.
Albuquerque, N. Mex.
Alexandria, La.
Alma, Ga.
Amarillo, Tex.
Appleton, Ohio
Atlanta, Ga.
Augusta, Ga.
Austin, Tex.
Badger, Wis.
Bakersfield, Calif.
Bangor, Maine
Bard, Ariz.
Battle Mountain, Nev.
Beckley, W. Va.
Bellaire, Ohio
Billings, Mont.
Biscayne Bay, Fla.
Blythe, Calif.
Boise, Idaho
Boston, Mass.
Boulder City, Nev.
Bowling Green, Ky.
Bradford, Ill.
Brownsville, Tex.
Bryce Canyon, Utah

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Buffalo, N. Y.
Butler, Mo.
Carleton, Mich.
Casanova, Va.
Chardon, Ohio
Charleston, S. C.
Charleston, W. Va.
Cleveland, Ohio
Coaldale, Nev.
Columbia, S. C.
Coyle, N. J
Crazy Woman, Wyo.
Crestview, Fla.
Dallas-Fort Worth, Tex.
DAVES: INT Yarmouth, Nova Scotia, 230°, Bangor, Maine, 152° radials.
Delta, Utah
Denver, Colo.
Des Moines, Iowa
Dickinson, N. Dak.
Dove Creek, Colo.
Dubois, Idaho
Duluth, Minn.
Dunkirk, N. Y.
Dupree, S. Dak.
El Paso, Tex.
Falmouth, Ky.
Fargo, N. Dak.
Farmington, Mo.
Farmington, N. Mex.
Fort Stockton, Tex.
Flat Rock, Va.
Flint, Mich.
Florence, S. C.
Fresno, Calif.
PENDING AMENDMENT
Front Royal, Va. AMENDMENTS 12/25/80 45 F. R. 71774 (Revoked)
Garden City, Kans.
Gila Bend, Ariz.
Goodland, Kansas
Gordonsville, Va.
Grand Junction, Colo.
Great Falls, Mont.
Green Bay, Wis.
Greensboro, N. C.
Greenwood, Miss.
Hancock, N. Y.
Harrisburg, Pa.
Hector, Calif.
Hill City, Kans.
Hobby, Tex.
Indianapolis, Ind.
Iowa City, Iowa
Jackson, Miss.
Jacksonville, Fla.
Jamestown, N. Y.
Joliet, Ill.
KANNA: Lat. 26°00'00"N., Long. 96°36'04"W. (INT Hobby, Tex., 198° radial, Houston Oceanic CTA/FIR boundary).
Kansas City, Mo.
Keating, Pa.
Kennedy, N. Y.
Key West, Fla.
Kimberly, Oreg.
Knoxville, Tenn.
Lake Charles, La.
Lakeview, Oreg.
Laredo, Tex.
Las Vegas, N. Mex.
Lewistown, Mont.
Lincoln, Nebr.
Little Rock, Ark.
Los Angeles, Calif.
Louisville, Ky.
Lufkin, Tex.
Malad City, Idaho
Mason City, Iowa
Massena, N. Y.
Meeker, Colo.
McCall, Idaho
McComb, Miss.
Medford, Oreg.

Memphis, Tenn.
Meridian, Miss.
Miami, Fla.
Milford, Utah
Millinocket, Maine
Millsap, Tex.
Minneapolis, Minn.
Mission Bay, Calif.
Montgomery, Ala.
Mullan Pass, Idaho
Nantucket, Mass.
Nashville, Tenn.
New Orleans, La.
Nodine, Minn.
Norfolk, Va.
Northbrook, Ill.
Oakland, Calif.
Oklahoma City, Okla.
O'Neill, Nebr.
Orlando, Fla.
Ormond Beach, Fla.
Palmdale, Calif.
Parker, Calif.
Pawnee City, Nebr.
Peach Springs, Ariz.
Peck, Mich.
Pembina, N. Dak.
Pendleton, Oreg.
Philipsburg, Pa.
Phoenix, Ariz.
Plattsburgh, N. Y.
Pocket City, Ind.
Presque Isle, Maine
Pueblo, Colo.
Pulaski, Va.
Pullman, Mich.
Putnam, Conn.
Raleigh-Durham, N. C.
Rapid City, S. Dak.
Razorback, Ark.
Red Bluff, Calif.
Reno, Nev.
Richmond, Va.
Robbinsville, N. J.
Rock Springs, Wyo.
Rome, Oreg.
Roswell, N. Mex.
Rosewood, Ohio
Sacramento, Calif.
St. Louis, Mo.
St. Petersburg, Fla.
Salem, Mich.
Salina, Kans.
Salt Lake City, Utah
San Antonio, Tex.
San Juan, P. R. RBN
San Simon, Ariz.
Sault Ste. Marie, Mich.
Savannah, Ga.
Scottsbluff, Nebr.
Seattle, Wash.
Semmes, Ala.
PENDING AMENDMENT
Shawnee, Va.

AMENDMENTS 12/25/80 45 F. R. 71774 (Added)

Shreveport, La.
Sidney, Nebr.
Sioux Falls, S. Dak.
South Bend, Ind.
Sparta, N. J.
Spartanburg, S. C.
Spokane, Wash.
Springfield, Mo.
Stockton, Calif.
Syracuse, N. Y.
Tallahassee, Fla.
Taylor, Fla.
Texarkana, Ark.
Tuba City, Ariz.
Tucson, Ariz.
Tulsa, Okla.

Vero Beach, Fla.
Vulcan, Ala.
Waco, Tex.
Walnut Ridge, Ark.
Westminster, Md.
Whitehall, Mont.
Wichita, Kans.
Wilmington, N. C.
Wilson Creek, Nev.
Wink, Tex.
Wolbach, Nebr.

§ 71.209 Other domestic reporting points.

The reporting points listed below are designated at all altitudes.

ABACO: Lat. 27°00'00" N., Long. 77°34'10" W. (INT of a direct line between Carolina Beach, N. C., RBN and Nassau, Bahamas, RBN, with the 050° bearing from Bimini, Bahamas, RBN.)

AL SK: Lat. 16°49'30" N., Long. 66°32'27" W. (INT Ponce, P. R., 181°, St. Croix, V. I., 243° radials.

ALLBA: Lat. 27°32'05" N., Long. 95°08'52" W. (INT Galveston, Tex., NDB 191°, Corpus Christi, Tex., NDB 097° bearings).

BACUS: Lat. 34°26'41" N., Long. 73°50'36" W. (INT Weeksville, N. C., NDB 133° bearing and New York Oceanic CTA/FIR boundary).

Bimini, Bahamas, RBN.

BOGGY: Lat. 28°15'00" N., Long. 91°27'47" W. (INT New Orleans, La., NDB 208° Galveston, Tex., NDB 110° bearings).

BRIMS: Lat. 28°15'00" N., Long. 91°12'34" W. (INT Grand Isle, La., NDB 227°, Galveston, Tex., NDB 108° bearings).

CARPS: Lat. 30°24'07" N., Long. 77°44'00" W. (INT of a direct line between Carolina Beach, N. C., RBN and Nassau, Bahamas, RBN, with the 090° bearing from Dinsmore, Fla., RBN, and with the Jacksonville, Fla., VORTAC 090° radial.)

CAT I: Lat. 28°15'00" N., Long. 90°57'52" W. (INT Grand Isle, La., NDB 220°, Galveston, Tex., NDB 107° bearings).

COVIA: Lat. 27°56'10" N., Long. 84°44'10" W. (INT Sarasota, Fla., 286°, Tallahassee, Fla., 187° radials).

CRABI: Lat. 28°01'14" N., Long. 84°43'24" W. (INT Wakulla, Fla., NDB, 188°, Egmont Key, Fla., NDB 284° bearings).

CROAK: Lat. 36°57'18" N., Long. 73°00'00" W. (a. INT Weeksville, N. C., NDB 073° bearing and New York Oceanic CTA/FIR boundary. b. INT Norfolk, Va., 088° radial, Sea Isle, N. J., 146° radials. c. Norfolk, Va., 088° radial, 154 NM from Norfolk).

DAKES: Lat. 17°03'00" N., Long. 67°00'00" W. (Ponce, Puerto Rico 206°, St. Croix, V. I., 253° radials).

DOLPH: Lat. 28°15'00" N., Long. 90°01'09" W. (INT Grand Isle, La., NDB 177°, Galveston, Tex., NDB 103° bearings).

Dorado, Puerto Rico, NDB

EAR[illegible]S: Lat. 28°15'00" N., Long. 93°44'55" W. (INT Galveston, Tex., NDB 140°, Grand Isle, La., NDB 255° bearings).

FLASH: Lat. 28°15'00" N., Long. 89°32'02" W. (INT Grand Isle, La., NDB 153°, Pickens, Fla., RBN 223° bearings).

FLC I: Lat. 16°53'47" N., Long. 65°25'56" W. (San Juan, P. R., NDB 149° and St. Croix, V. I., 220° radials).

GATES: Lat. 34°12'53" N., Long. 123°03'27" W. (INT San Luis Obispo, Calif., 242° radial and Oakland Oceanic

HEMLO: Lat. 43°18'08" N., Long. 126°40'46" W. (INT Newport, Oreg., 237° radial and Oakland Oceanic CTA/FIR boundary).

HERIN: Lat. 42°00'09" N., Long. 67°47'30" W. (INT Nantucket, Mass., 066° radial, Long. 67°47'30" W.).

HOBEE: Lat. 29°13'10" N., Long. 79°09'38" W. (INT of the 192° bearing from Carolina Beach, N. C., RBN and the Orlando, Fla., VORTAC 070° radials).

IDAHO: Lat. 19°11'09" N., Long. 67°35'45" W. (INT Ramey, P. R. 326°, San Juan, P. R., 296° radials).

OHIOS: Lat. 19°53'34" N., Long. 66°46'07" W. (INT Ramey, P. R. 013°, San Juan, P. R., 333° radials).

PERCH: Lat. 33°52'03" N., Long. 119°09'24" W. (INT Los Angeles, Calif., 264°, Ventura, Calif., 200° radials).

Ramey, P. R.

St. Croix, Virgin Islands

San Juan, P. R.

SEDAR: Lat. 45°30'28" N., Long. 126°42'59" W. (INT Hoquiam, Wash., 232° radial and Oakland Oceanic CTA/FIR boundary).

SMELT: Lat. 31°58'38" N., Long. 77°00'00" W. (INT Ashley, S. C. NDB 110° bearing, Long. 77°00'00" W.).

SQUID: Lat. 30°24'40" N., Long. 78°03'42" W. (INT of the 191° bearing from Croaton, N. C., RBN, the 090° bearing from Dinsmore, Fla., RBN, and the Jacksonville, Fla., VORTAC 090° radial.)

TADPO: Lat. 24°00'00" N., Long. 81°13'02" W. (INT Marathon, Fla., NDB 189° bearing, Lat. 24°00'00" N.).

TROUT: Lat. 30°22'35" N., Long. 77°00'00" W. (INT Dinsmore, Fla., NDB 090° bearing, Long. 77°00'00" W.).

UTAHS: Lat. 19°34'40" N., Long. 67°13'42" W. (INT San Juan, P. R., 314°, Ramey, P. R., 354° radials).

VERMO: Lat. 20°04'09" N., Long. 66°15'42" W. (INT Ramey, P. R., 027°, San Juan, P. R., 351° radials).

VIPER: Lat. 28°14'17" N., Long. 88°53'08" W. (INT Grand Isle, La., NDB 132°, Pickens, Fla., NDB 215° radials).

§ 71.211 Alaskan low altitude reporting points.

The reporting points listed below are designated up to but not including 18,000 feet MSL.

Adak, Alaska, NDB
Anchorage, Alaska
Aniak, Alaska, NDB
Annette Island, Alaska
Barrow, Alaska
Barter Island, NDB
Bear Creek, Alaska, NDB
Bethel, Alaska
Bettles, Alaska
Big Delta, Alaska
Big [illegible], Alaska
Biorka Island, Alaska
Bishop, NDB
Cape Newenham, Alaska, NDB
CARTS: Lat. 55°41'49" N., Long. 136°34'31" W. (INT Sandspit, British Columbia, Canada, NDB 314°, Sitka, Alaska, NDB 207° bearings).
Chandalar, Alaska, NDB

Chena, Alaska, NDB
CLAMS: Lat. 59°53'27" N., Long. 152°16'23" W. (INT Homer, Alaska, 294°,Kenai, Alaska, 217° radials).
Coghlan Island, Alaska, NDB
Cold Bay, Alaska
Cold Bay LOM
CORVA: Lat. 60°15'32" N., Long. 145°09'28" W. (INT Hinchinbrook, Alaska, NDB 106°, Cordova, Alaska, NDB 161° bearings).
CRACK: Lat. 57°20'51"N., Long. 159°24'09"W. (INT King Salmon, Alaska, LOM 226°, Port Heiden, Alaska, NDB 314° bearings).
Deadhorse, Alaska
Delta Junction, Alaska, NDB
Dillingham, Alaska
Dutch Harbor, Alaska, NDB
Elephant, NDB
Evansville, NDB
Fairbanks, Alaska
Farewell, Alaska, NDB
FLUKE: Lat. 60°05'48" N., Long. 163°57'49" W. (INT Oscarville, Alaska, NDB 237°, Cape Newenham, Alaska, NDB 327° bearings).
Fort Davis, Alaska, NDB
Fort Yukon, Alaska
FRIED: Lat. 54°13'20"N., long. 133°37'51"W. (INT Nichols, Alaska, NDB 235°, Sandspit, British Columbia, Canada, NDB 314° bearings).
Galena, Alaska
G[illegible]RS: Lat. 58°19'09" N., Long. 161°20'25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 13[illegible]° bearings).
Glennallen, Alaska, NDB
Gulkana, Alaska
Haines, Alaska, NDB
HAZZY: Lat. 56°19'14" N., Long. 134°17'19" W. (INT Sitka, Alaska, NDB 127° and Petersburg, Alaska, NDB 238° bearings.
HERRY: Lat. 57°50'30" N., Long. 160°20'27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).
Hinchinbrook, Alaska, NDB
Homer, Alaska
Hotham, NDB
Iliamna, Alaska, NDB
Johnstone Point, Alaska
Julius, Alaska, NDB
Kachemak, Alaska, NDB
Kenai, Alaska
King Salmon, Alaska
King Salmon LOM
Kodiak, Alaska
Kotzebue, Alaska
Level Island, Alaska
MARLO: Lat. 57°27'53" N., Long. 150°31'44" W. (INT Kodiak, Alaska, 107° radial and Anchorage CTA/FIR boundary).
McGrath, Alaska
Middleton Island, Alaska
NO[illegible]MA: Lat. 54°30'13"N., long. 133°01'40"W. (INT Nichols, Alaska, NDB 236°, Sandspit, British Columbia, Canada, NDB 331° bearings).
Moses Point, Alaska
Nabesna, Alaska, NDB
Nenana, Alaska
Nichols, Alaska, NDB
Nome, Alaska
North River, Alaska, NDB
Northway, Alaska
Norton Bay, Alaska, NDB
Ocean Cape, Alaska, NDB
Oliktok, Alaska, NDB
Oscarville, Alaska, NDB
Petersburg, Alaska, NDB
Peters Creek, NDB
Puntilla Lake, Alaska, NDB
Put River, Alaska, NDB
St. Marys, Alaska, NDB
Shemya, Alaska, NDB
SHRIM: Lat. 56°40'57" N., Long. 138°45'53" W. (INT Wessels, Alaska, NDB 122°, Cape Spencer, Alaska, NDB 218° bearings).
Sisters Island, Alaska
Sitka, Alaska, NDB
SKILA: Lat. 60°29'31" N., Long. 150°38'18" W. (INT Anchorage, Alaska, 198°, Homer, Alaska, 037° radials).
SNOUT: Lat. 57°53'28" N., Long. 141°45'13" W. (INT Wessels, Alaska, NDB 122°, Ocean Cape, Alaska, NDB 213° bearings).
SOL[illegible]: Lat. 58°41'13" N., Long. 148°14'03" W. (INT Kachemak, Alaska, NDB 118° bearing and Anchorage CTA/FIR boundary).
Sparrevohn, Alaska, NDB
Summit, Alaska, NDB
Talkeetna River, Alaska, NDB
Tanana, Alaska

TUCKS: Lat. 60°13'43" N., Long. 152°28'08" W. (INT Kenai, Alaska, 239°, Homer, Alaska, 316° radials).
Umiat NDB
Unalakleet, Alaska
Wessels, Alaska, NDB
WIDTH: Lat. 57°20'35"N., Long. 155°59'16"W. (INT King Salmon, Alaska, LOM 163°, Port Heiden, Alaska, NDB 074° bearings).
Wildwood, Alaska, NDB
Woody Island, Alaska, NDB
Yakutat, Alaska
Yukon River, NDB
ZANDA: Lat. 56°09'10" N., Long. 134°44'52" W. (INT Sitka, Alaska, NDB 148° and Petersburg, Alaska, NDB 238° bearings.

§ 71.213 Alaskan high altitude reporting points.

The reporting points listed below are designated at 18,000 feet MSL to Flight Level 450.

Adak, Alaska, NDB
Anchorage, Alaska
Annette Island, Alaska
Barrow, Alaska
Barter Island, NDB
Bethel, Alaska
Bettles, Alaska
Big Delta
Big Lake, Alaska
Biorka Island, Alaska
Browerville, Alaska, NDB
Cape Newenham, Alaska, NDB
CARTS: Lat. 55°41'49" N., Long. 136°34'31" W. (INT Sandspit, British Columbia, Canada, NDB 314° bearing, Biorka Island, Alaska, 207° radial).
Cold Bay, Alaska
Deadhorse, Alaska
Dillingham, Alaska
Dutch Harbor, Alaska, NDB
Fairbanks, Alaska
FLUKE: Lat. 60°05'48" N., Long. 163°57'49" W. (INT Oscarville, Alaska, NDB 237°, Cape Newenham, Alaska, NDB 327° bearings).
FRIED: Lat. 54°13'20"N., long. 133°37'51"W. (INT Nichols, Alaska, NDB 235°, Sandspit, British Columbia, Canada, NDB 314° bearings).
Fort Yukon, Alaska
Galena, Alaska
GARRS: Lat. 58°19'09" N., Long. 161°20'25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).
Gulkana, Alaska.
HERRY: Lat. 57°50'30" N., Long. 160°20'27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).
JIMMY: Lat. 57°19'59"N., Long. 159°22'27"W. (INT King Salmon, Alaska, 226° radial, Port Heiden, Alaska, NDB 314° bearing).
Johnstone Point, Alaska
KILLA: Lat. 58°44'58" N., Long. 140°35'38" W. (INT Yakutat, Alaska, 213° radial, Hinchinbrook, Alaska, NDB 118° bearing).
King Salmon, Alaska.
Kodiak, Alaska
Kotzebue, Alaska
MARLO: Lat. 57°27'53" N., Long. 150°31'44" W. (INT Kodiak, Alaska, 107° radial and Anchorage CTA/FIR boundary).
McGrath, Alaska
Middleton Island, Alaska
MOCHA: Lat. 54°30'13"N., long. 133°01'40"W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials).
Nenana, Alaska
Nome, Alaska
Northway, Alaska
Ocean Cape, Alaska, NDB
Prudhoe Bay, Alaska, NDB
Put River, Alaska, NDB
Saint Paul, Alaska, NDB
Sisters Island, Alaska
SNOUT: Lat. 57°53'28" N., Long. 141°45'13" W. (a. INT Wessels, Alaska, NDB 122° bearing, Yakutat, Alaska, 215° radial. b. INT Middleton Island, Alaska, 121°, Yakutat, Alaska, 215° radials. c. INT Middleton Island, Alaska, 121° radial, 171 NM from Middleton Island).
Unalakleet, Alaska
Yakutat, Alaska.

§ 71.[illegible]18 Hawaiian reporting points.

The reporting points listed below are designated at all altitudes.

BATES: Lat. 20°00'42" N., Long. 153°33'16" W. (Hilo, Hawaii, 078° radial, Honolulu CTA/FIR boundary).

BROMS: Lat. 21°19'11" N., Long. 158°31'06" W. (INT Honolulu, Hawaii, 269°, Lihue, Hawaii, 130° radials).

CODDY: Lat. 21°26'16" N., Long. 155°08'30" W. (INT Hilo, Hawaii, 356° radial and Honolulu CTA/FIR boundary).

CUTLE: Lat. 20°04'48" N., Long. 153°37'40" W. (INT Upolu Point, Hawaii, 093° radial and Honolulu CTA/FIR boundary).

DOGGY: Lat. 21°55'23"N., Long. 161°19'31"W. (INT South Kauai, Hawaii, 271° radial and Honolulu CTA/FIR boundary).

EELIC: Lat. 19°27'35" N., Long. 153°18'21" W. (INT Hilo, Hawaii, 099° radial and Honolulu CTA/FIR boundary).

FISHE: Lat. 21°48'50" N., Long. 156°32'18" W. (INT Molokai, Hawaii, 067°, Upolu Point, Hawaii, 010° radials).

Hilo, Hawaii

Honolulu, Hawaii

Lanai, Hawaii

Lihue, Hawaii

LULUS: Lat. 19°43'21" N., Long. 158°00'10" W. (INT Honolulu, Hawaii, 179°, Lanai, Hawaii, 223° radials).

MAKAI: Lat. 21°01'34" N., Long. 158°01'36" W. (INT Honolulu, Hawaii, 179°, Molokai, Hawaii, 262° radials).

Maui, Hawaii

Molokai, Hawaii

PALMS: Lat. 21°06'15" N., Long. 157°34'26" W. (INT Honolulu, Hawaii, 119° and Molokai, Hawaii, 262° radials).

PARIS: Lat. 20°10'16" N., long. 155°13'29" W. (INT Hilo, Hawaii, 336°, Upolu Point, Hawaii, 093° radials).

POTEN: Lat. 20°47'03" N., Long. 159°28'01" W. (INT Koko Head, Hawaii, 254°, Lihue, Hawaii, 180° radials).

SHARK: Lat. 22°31'06" N., Long. 156°05'33" W. (INT Koko Head, Hawaii, 050°, Upolu Point, Hawaii, 356° radials).

SILLS: Lat. 21°17'40" N., Long. 159°31'53" W. (INT Honolulu, Hawaii, 269°, Lihue, Hawaii, 193° radials).

South Kauai, Hawaii

TOADS: Lat. 22°46'14" N., Long. 156°41'38" W. (INT Molokai, Hawaii, 015° radial and Honolulu CTA/FIR boundary).

Upolu, Hawaii

VANDA: Lat. 22°24'00" N., Long. 161°15'00" W. (INT South Kauai, Hawaii, 288° radial, Long. 161°15'00" W.).

SUBPART J - AREA LOW ROUTES

§71.301 Designation.
The parts of airspace described below are designated as area low routes.

SUBPART K - TERMINAL CONTROL AREAS

§71.401 Designation.
The parts of the airspace described below are designated as terminal control areas. The primary airport or airports for each terminal control area are also designated. Except as otherwise specified, all mileages are nautical miles.

(a) Group I, Terminal Control Areas:

Atlanta, Ga., Terminal Control Area

Primary Airport
The William B. Hartsfield Atlanta International Airport (lat. 33°38'31"N., long. 84°25'34"W.)

Boundaries.

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL, bounded on the east and west by a 7-mile radius of the Atlanta VORTAC, on the south by a line 4 miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line 4 miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Airport Control Zone.

Area B. That airspace extending upward from 2,100 feet MSL to and including 12,500 feet MSL east of Atlanta Hartsfield Airport between the 7- and 9-nautical-mile radius of Atlanta VORTAC, bounded on the south by the Atlanta VORTAC 090° radial and on the north by a line 4 miles north of and parallel to the Runway 08/26 localizer courses.

Area C. That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 12-mile radius of the Atlanta VORTAC, on the south by a line 4 miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line 4 miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Airport Control Zone and that airspace contained in Areas A and B.

Area D. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 20-mile radius of the Atlanta VORTAC, on the south by a line 8 miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line 8 miles north of and parallel to the Runway 08/26 localizer courses; excluding that airspace contained in Areas A, B, and C.

Area E. That airspace extending upward from 4,000 feet MSL to and including 12,500 feet MSL south of the Atlanta VORTAC 090° and 270° radials, bounded on the east and west by a 25-mile radius of the Atlanta VORTAC, on the south by a line 12 miles south of and parallel to the Runway 09R/27L localizer courses; excluding that airspace from the Atlanta VORTAC 138° radial clockwise to the Atlanta VORTAC 218° radial and within Areas A, C, and D.

Area F. That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 25-mile radius of the Atlanta VORTAC, clockwise between a line 12 miles south of and parallel to the Runway 09R/27L localizer courses and the Atlanta VORTAC 138° radial, and clockwise between the Atlanta VORTAC 218° radial and a line 12 miles south of and parallel to the Runway 09R/27L localizer courses; excluding that airspace contained in Areas A, C, D, and E.

Area G. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL within a 25-mile radius of the Atlanta VORTAC north of the Atlanta VORTAC 090° and Atlanta 270° radials, and south of Atlanta VORTAC in an area bounded on the north by a line 8 miles south of and parallel to the Runway 09R/27L localizer courses, on the east by the Atlanta VORTAC 138° radial, on the south by a line 12 miles south of and parallel to the Runway 09R/27L localizer courses, and on the west by the Atlanta VORTAC 218° radial; excluding that airspace clockwise between the Atlanta VORTAC 323° and 031° radials north of a line 12 miles north of and parallel to the Runway 08/26 localizer courses, and that airspace contained in Areas A, B, C, and D.

Area H. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 29-mile radius of the Atlanta VORTAC, and within a 35-mile radius of the Atlanta VORTAC clockwise between the Atlanta VORTAC 118° radial and Atlanta 138° radial and clockwise between the Atlanta VORTAC 218° radial and Atlanta 238° radial; excluding that airspace contained within Areas A, B, C, D, E, F, and G.

Area I. That airspace extending upward from 10,000 feet MSL to and including 12,500 feet MSL within a 35-mile radius of the Atlanta VORTAC, and within a 42-mile radius clockwise between the Atlanta VORTAC 118° radial and Atlanta 138° radial and clockwise between the Atlanta VORTAC 218° radial and Atlanta 238° radial; excluding that airspace contained within Areas A, B, C, D, E, F, G, and H.

Group I, Terminal Control Areas:

Boston, Mass., Terminal Control Area

Primary Airport
Logan International Airport (lat. 42°21'47" N., long. 71°00'19" W.); Boston VORTAC (lat. 42°21'28" N., long. 70°50'38" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius of the Boston VORTAC.

Area B. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 10.5-mile radius of the Boston VORTAC, excluding Area A.

Area C. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of the Boston VORTAC, excluding Areas A and B previously described and that airspace within and underlying Area D described hereinafter.

Area D. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15- and 20-mile radii of the Boston VORTAC extending from the Boston VORTAC 230° radial clockwise to the Boston VORTAC 005° radial.

Chicago, Ill., Terminal Control Area

Primary Airport
Chicago O'Hare International Airport (lat. 41°58'57"N., long. 87°54'25"W.)
Chicago O'Hare VORTAC (lat. 41°59'16"N., long. 87°54'17"W.)

Boundaries.

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within 5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 347° radial clockwise to the 070° radial then within the 6.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 070° radial clockwise to the 242° radial thence via a direct line to intercept the 6.5 DME (NM) on the 295° radial, then clockwise via the 6.5 DME (NM) radius to the 347° radial, thence via the 347° radial to the point of origin.

Area B. That airspace extending upward from 1,900 feet MSL to and including 7,000 feet MSL within 10.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Area A previously described and that area bounded on the southeast by a line 2 nautical miles northwest and parallel to the extended centerline of Runway 22R, on the south by the Chicago O'Hare (ORD) VORTAC 5 DME (NM) radius, and southwest by the southwest boundary of Glenview, Ill., control zone, on the north by a 10.5 DME (NM) radius of the Chicago O'Hare (ORD) VORTAC, and excluding Area E described hereinafter.

Area C. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within 15 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Areas A and B, previously described, Area E, described hereinafter.

Area D. That airspace extended upward from 3,600 feet MSL to and including 7,000 feet MSL within 25 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Areas A, B, and C, previously described, Area E described hereinafter, and excluding the area between the 20 and 25 DME (NM) radii of Chicago O'Hare (ORD) VORTAC from a line 7 nautical miles southwest of and parallel to the extended centerline of Runway 32L, clockwise to a line 7 nautical miles southeast of and parallel to the extended centerline of Runway 4R, and excluding the area between the 20 and 25 DME (NM) radii of Chicago O'Hare (ORD) VORTAC from a line 7 nautical miles northwest of and parallel to the extended centerline of Runway 4L clockwise to a line extending from a point on the 20 DME (NM) radius of Chicago O'Hare (ORD) VORTAC 7 nautical miles southwest of the extended centerline of Runway 14R and a point on the 25 DME (NM) radius of Chicago O'Hare (ORD) VORTAC 6 nautical miles southwest of the extended centerline of Runway 14R.

Area E. That airspace northeast of Chicago extending upward from 2,500 feet MSL to and including 7,000 feet MSL bounded on the northeast by the 10.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, on the south by the extended centerline of Runway 9/27 at NAS Glenview and on the northwest of and parallel to the extended centerline of Runway 22R at Chicago O'Hare International Airport.

Group I, Terminal Control Areas:

Dallas-Fort Worth, Tex., Terminal Control Area

Primary Airport
Dallas-Fort Worth Airport (lat. 32°53'53" N., long. 97°02'24" W.).

Boundaries.

Area A. That airspace extending from the surface to and including 8,000 feet m.s.l. beginning at latitude 33°00'30" N., longitude 96°59'30" W., thence counterclockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to latitude 32°58'30" N., longitude 97°08'45" W., to latitude 32°55'30" N., longitude 97°05'30" W., to latitude 32°47'30" N., longitude 97°05'30" W., thence counterclockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to latitude 32°51'45" N., longitude 96°54'30" W., to latitude 32°56'00" N., longitude 96°59'30" W., to point of beginning.

Area B. That airspace extending from 2,000 feet m.s.l. to and including 8,000 feet m.s.l., beginning at latitude 33°00'30" N., longitude 96°59'30" W., to latitude 33°02'45" N., longitude 96°59'30" W., thence counterclockwise along a 9-nmi arc of the Dallas-Fort Worth Airport to latitude 33°00'00" N., longitude 97°10'15" W., to latitude 32°58'30" N., longitude 97°08'45" W., thence clockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to the point of beginning; and that airspace beginning at latitude 32°51'45" N., longitude 96°54'30" W., to latitude 32°50'10" N., longitude 96°52'30" W., thence clockwise along a 9-nmi arc of the Dallas-Fort Worth Airport to latitude 32°45'15" N., longitude 97°05'30" W., to latitude 32°47'30" N., longitude 97°05'30" W., thence counterclockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to the point of beginning.

Area C. That airspace extending from 3,000 feet MSL to and including 8,000 feet MSL beginning at lat. 32°51'45"N., long. 96°54'30"W.; to lat. 33°07'15"N., long. 96°54'30"W.; thence counterclockwise along a 15 NM arc of the Dallas-Fort Worth Airport to lat. 33°08'44"N., long. 97°01'47"W.; to lat. 33°11'43"N., long. 97°01'47"W.; to lat. 33°11'30"N., long. 97°11'30"W.; to lat. 32°35'20"N., long. 97°11'30"W.; thence counterclockwise along the 20 NM arc to lat. 32°33'56"N., long. 97°01'47"W.; to lat. 32°38'57"N., long. 97°01'47"W.; thence counterclockwise along the 15 NM arc to lat. 32°45'45"N., long. 96°47'30"W.; thence to the point of beginning, excluding Areas A and B.

Area D. That airspace extending from 4,000 feet MSL to and including 8,000 feet MSL beginning at lat. 32°45'45"N., long. 96°47'30"W.; thence clockwise along a 15 NM arc of the Dallas-Fort Worth Airport to lat. 32°38'57"N., long. 97°01'47"W.; to lat. 32°33'56"N., long. 97°01'47"W.; thence counterclockwise along a 20 NM arc of the Dallas-Fort Worth Airport to lat. 32°42'00"N., long. 96°43'10"W.; to the point of beginning; and that airspace beginning at lat. 33°07'15"N., long. 96°54'30"W.; to lat. 33°12'00"N., long. 96°54'30"W.; to lat. 33°11'43"N., long. 97°01'47"W.; to lat. 33°08'44"N., long. 97°01'47"W.; thence clockwise along the 15 NM arc of the Dallas-Fort Worth Airport to the point of beginning.

Area E. That airspace extending from 3,000 feet m.s.l. to and including 8,000 feet m.s.l., beginning at latitude 33°12'00" N., longitude 96°52'10" W., thence clockwise via a 20-nmi arc of the Dallas-Fort Worth Airport to latitude 33°11'20" N., longitude 97°14'15" W., thence direct to point of beginning, excluding Areas A, B, C, and D.

Los Angeles, Calif., Terminal Control Area

Primary Airport
Los Angeles International Airport (lat. 33°56'25" N., long. 118°24'10" W.)

Boundaries
That airspace up to and including 7,000 feet MSL.

Area A. That airspace extending upward from the surface to 2,500 feet MSL and from 5,000 feet MSL to and including 7,000 feet MSL bounded on the north by Bolona Creek, on the east by the San Diego Freeway, on the south by Imperial Boulevard, and on the west by the Pacific Ocean shoreline.

Area B. That airspace extending upward from the surface to and including 7,000 feet MSL east of Los Angeles Airport bounded on the east by the Los Angeles, Calif., VORTAC 10-mile radius arc, on the south by the Los Angeles VORTAC 091° radial, on the west by the San Diego Freeway and on the north by the Los Angeles VORTAC 061° radial; and that airspace west of Los Angeles Airport bounded on the east by the Pacific Ocean shoreline, on the southeast by the Los Angeles VORTAC 207° radial, on the west by the Los Angeles VORTAC 11-mile radius arc, and on the north by the Santa Monica VOR 270° radial and the Ventura, Calif., VORTAC 107° radial.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL east of Los Angeles between the 10- and 15-mile radii of the Los Angeles VORTAC bounded on the north by the Los Angeles VORTAC 061° radial and on the south by the Santa Monica VOR 112° radial; and that airspace west of Los Angeles bounded on the east by the Los Angeles VORTAC 11-mile radius arc and the Los Angeles VORTAC 207° radial, and the south by the Seal Beach, Calif., VORTAC 266° radial, on the west by the Los Angeles VORTAC 20-mile radius arc, and on the north by the Santa Monica VOR 270° radial.

Los Angeles TCA continued on next page.

Group I. Terminal Control Areas:

Area D. That airspace extending upward from 2,500 feet MSL to and including 7,000 feet MSL east and northeast of Los Angeles Airport bounded by a line beginning at the intersection of the Los Angeles VORTAC 061° radial and the San Diego Freeway, thence northwest along the San Diego Freeway to and northeast along the Los Angeles VORTAC 024° and the Santa Monica VOR 057° radials to and east along the Ontario, Calif., VORTAC 268° and the Pomona VORTAC 266° radials to and south along the Los Angeles VORTAC 20-mile radius arc to and west along the Ontario VORTAC 268° radial to and north along the Los Angeles VORTAC 15-mile radius arc to and southwest along the Los Angeles VORTAC 061° radial to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL east of Los Angeles bounded on the east by the Los Angeles VORTAC 25-mile radius arc, on the south by the Ontario VORTAC 268° radial, on the west by the Los Angeles VORTAC 20-mile radius arc, and on the north by the Pomona VORTAC 266° radial; that airspace bounded on the east by the Los Angeles VORTAC 180° radial, on the south by the Seal Beach VORTAC 266° radial, and on the northwest by the Los Angeles VORTAC 207° radial; and that airspace northwest of Los Angeles bounded on the northeast by the Los Angeles VORTAC 320° radial, on the south by the Santa Monica VOR 270° radial and the Ventura VORTAC 107° radial, on the west by the Los Angeles VORTAC 20-mile radius arc, and on the north by the Ventura VORTAC 090° radial.

Area F. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL north of Los Angeles bounded by a line beginning at the intersection of the Ventura VORTAC 090° radial and the Santa Monica VOR 057° radial, thence southwest along the Santa Monica VOR 057° radial to the Los Angeles VORTAC 024° radial, thence southwest along the Los Angeles VORTAC 024° radial to Bolona Creek, thence southwest along Bolona Creek to the Pacific Ocean shoreline, thence northwest along the Los Angeles VORTAC 320° radial to the Ventura 090° radial, thence east along the Ventura 090° radial to the point of beginning; and that airspace southeast of Los Angeles bounded on the southeast by the Los Angeles VORTAC 12-mile radius arc, on the south by the Seal Beach VORTAC 266° radial, on the west by the Los Angeles VORTAC 180° radial and on the north by Areas A, B, and C.

Area [illegible]. That airspace extending upward from 6,000 feet MSL to and including 7,000 feet MSL southeast of Los Angeles bounded on the southeast by the Los Angeles VORTAC 25-mile radius arc, on the southwest by the Seal Beach VORTAC 330°/150° radials, and on the north by the Ontario 268° radial.

Miami, Fla., Terminal Control Area

Primary Airport
Miami International Airport (Lat. 25°47'34" N., Long. 80°17'10" W.).

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Miami International Airport, excluding that airspace that is both northeast of the Miami VORTAC (lat. 25°57'47" N., long. 80°27'39" W.) 130° radial and north of lat. 25°52'02" N., (northwest 103rd Street/49th Street in the City of Hileah), and within and underlying Area F described hereinafter.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of Miami International Airport, excluding that airspace that is both northeast of the Miami VORTAC 130° radial and north of lat. 25°52'02" N., that airspace south of the Biscayne Bay VORTAC (lat. 25°40'17" N., long. 80°10'40" W.) 090° and 270° radials, Area A previously described, and within and underlying Areas C and F described hereinafter.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within an area bounded on the northeast by a 5-statute mile radius arc of the New Tamiami Airport (lat. 25°38'51" N., long. 80° 25'5[illegible] W.), on the south by the Biscayne Bay VORTAC 270° radial, and on the southwest by a 10-mile radius arc of the Miami International Airport.

Area D. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Miami International Airport, excluding that airspace beyond a 15-mile radius of Miami International Airport extending clockwise from the Miami VORTAC 270° radial to the Miami VORTAC 090° radial, and extending clockwise from the Miami VORTAC 150° radial to the Biscayne Bay VORTAC 270° radial, Areas A, B, and C previously described, and within and underlying Areas F and G described hereinafter.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15-mile and 20-mile radii of the Miami International Airport extending clockwise from the Miami VORTAC 270° radial to the Biscayne Bay VORTAC 331° radial.

Area F. That airspace extending upward from but not including 1,000 feet MSL to and including 7,000 feet MSL bounded on the east by a 6-mile radius arc of the Miami International Airport, and on the west by the west shoreline of Biscayne Bay.

Area G. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL south of the Biscayne Bay VORTAC 270° radial, north and east of the 15-mile radius arc of the Miami International Airport and west of U. S. Route 1.

Group I, Terminal Control Areas:

New York, N. Y., Terminal Control Area

Primary Airports
John F. Kennedy International Airport (lat. 40°38'25" N., long. 73°46'41" W.).
La Guardia Airport (lat. 40°46'36" N., long. 73°52'24" W.).
Newark International Airport (lat. 40°41'40" N., long. 74°10'02" W.).

Boundaries
That airspace up to and including 7,000 feet MSL.

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius circle of Kennedy (JFK) VORTAC; within a 4-mile radius circle centered at Lat. 40°41'30" N., Long. 74° 10'00" W.; and within a 6-mile radius circle of La Guardia (LGA) VOR; excluding the airspace within and below Areas B, D and J hereinafter described and excluding that airspace east of La Guardia Airport bounded by a line beginning at the point of intersection of the LGA VOR 071° radial and the 6-mile arc of the LGA VOR, thence clockwise along the LGA VOR 6-mile arc to the LGA 093° radial, thence westerly to the intersection of the Clearview Expressway with a line extending from the LaGuardia 093° radial 6-mile DME fix to the southern edge of Bowne Park; thence to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 340° radial 9-mile DME fix; direct to the JFK VORTAC 341° radial 10-mile DME fix; thence direct to the point of beginning.

Area B. That airspace extending upward from above 500 feet MSL to and including 7,000 feet MSL within an 8-mile radius circle of JFK VORTAC south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline, thence easterly along the shoreline to its intersection with the JFK VORTAC 125° radial 5-mile DME fix, thence northerly along the 5-mile DME arc to and easterly along the JFK VORTAC 094° radial to the 8-mile radius circle of JFK VORTAC; that airspace within a 6-mile radius circle of LGA VOR bounded by a line beginning at the intersection of the 6-mile radius circle and the LGA VOR 039° radial, thence southwesterly along the LGA VOR 039° radial to and southerly along the Bronx shoreline to the north stanchion of the Throggs Neck Bridge, thence direct to the intersection of the LGA VOR 071° radial and the 6-mile radius circle of LGA VOR, thence counterclockwise along the 6-mile radius circle to the point of beginning; and that airspace between the 4-mile and the 6.5-mile radii of a circle centered at Lat. 40°41'30" N., Long. 74°10'00" W.; excluding that airspace within and below Areas C, D and J hereinafter described.

Area C. That airspace extending upward from above 800 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., and bounded by a line beginning at the point where the 6.5-mile radius circle intersects U. S. Highway No. 1, thence northeast along U. S. Highway No. 1 to its point of intersection with a 4-mile radius circle centered at Lat. 40°41'30: N., Long. 74°10'00" W., at the Esso Research Center, thence direct to the public service powerplant, thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle, thence east via the Staten Island Expressway to Richmond Avenue, thence south along Richmond Avenue to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning.

Area D. That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the 6-mile radius circle of LGA VOR west of the east bank of the Hudson River; that airspace between the east and west banks of the East River southwest of the north end of Roosevelt Island; and that airspace within the 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., east of the Colts Neck VORTAC 012° radial.

Area E. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile radius circle of JFK VORTAC and the JFK VORTAC 208° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile radius circle of JFK VORTAC to and counterclockwise along the 11-mile radius circle of LGA VOR to the LGA VOR 361° radial, thence direct to the LGA VOR 283° radial at the LGA VOR 17-mile DME fix, thence counterclockwise along a 10-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker, excluding that airspace within and below Areas A, B, C, and D previously described; and excluding the airspace within and below Areas F and J hereinafter described.

Area F. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR 337° radial and the Erie Lackawanna Railroad tracks, thence south along the railroad tracks to the east branch of the Hackensack River, thence south and west along the river to the LGA VOR 299° radial, thence direct to the intersection of the six-mile radius circle of LGA VOR and the LGA VOR 264° radial, thence south along the west bank of the Hudson River to its intersection with, then counterclockwise along the 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to and southwest along the New Jersey Highway Route No. 22 to and clockwise along a 10-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to LGA VOR 283° radial, thence direct to the point of beginning.

Area G. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., within a 20-mile radius circle of JFK VORTAC; and within a 20-mile radius circle of LGA VOR, excluding the airspace within and below Areas A, B, C, D, E, and F previously described and excluding the airspace within and below Areas H and J hereinafter described.

New York TCA continued on next page.

Group I, Terminal Control Areas:

Area H. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 13- and 20-mile radii circles of JFK VORTAC bounded on the north by the JFK VORTAC 050° radial and on the south by the Long Island shoreline, excluding that airspace north of Hempstead Turnpike and west of the Seaford-Oyster Bay Expressway.

Area I. That airspace extending upward from above 1,200 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., and bounded by a line beginning at the intersection of the 6.5-mile radius circle and the tracks of the Central Railroad of New Jersey, thence eastward along the railroad tracks to their point of intersection with the 4-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., thence counterclockwise along the 4-mile radius circle to U. S. Highway No. 1 thence southwest along U. S. Highway No. 1 to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning; and that airspace beginning at the north stanchion of the Throggs Neck Bridge, thence westerly to the Kennedy VORTAC 341° radial 10-mile DME fix, thence southerly to the Kennedy VORTAC 340° radial 9-mile DME fix, thence direct to the southern edge of Leavitts Park, thence direct to the south edge of Bowne Park, thence easterly to the intersection of the Clearview Expressway with a line extending from the south edge of Bowne Park to the LaGuardia 093° radial 6-mile DME fix; thence northerly along the Clearview Expressway to the north stanchion of the Throgs Neck Bridge.

San Francisco, Calif., Terminal Control Area

Primary Airport

San Francisco International Airport (latitude 37°37'07" N., longitude 122°22'35" W.), San Francisco LVOR/DME (latitude 37°37'10" N., longitude 122°22'22" W.).
Boundaries

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 7-mile radius of the San Francisco (SFO) VOR extending clockwise from the SFO VOR 247° radial to the SFO VOR 127° radial and within a 5-mile radius of the SFO VOR extending clockwise from the SFO VOR 127° radial to the SFO VOR 247° radial, excluding that airspace within a 3-mile radius of the Oakland VORTAC and excluding that airspace west of the Pacific coast shoreline.

Area B. That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 5-mile radius arc of the SFO VOR, on the southeast by a 10-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial, excluding that airspace within Area A.

Area C. That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 10-mile radius arc of the SFO VOR, on the southeast by a 15-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 137° radial thence southeast along the 137° radial to and counterclockwise along a 15-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 20-mile radius DME arc of the SFO VOR to and northwest along the SFO VOR 167° radial to and counterclockwise along the 5-mile radius DME arc of the SFO VOR to the point of beginning.

Area E. That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 167° radial thence southeast along the 167° radial to and counterclockwise along the 20-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 25-mile DME arc of the SFO VOR to and northwest along the Point Reyes VORTAC 161° radial to and northeast along the SFO VOR 217° radial to and counterclockwise along the 5-mile DME arc of the SFO VOR to the point of beginning.

Area F. That airspace extending upward from 2,100 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 10-mile DME point on the SFO VOR 247° radial thence clockwise along the 10-mile DME arc to and west along the SFO VOR 107° radial to and counterclockwise along the 7-mile DME arc of the SFO VOR to and clockwise along the 3-mile DME arc of the Oakland VORTAC to and counterclockwise along the 7-mile DME arc of the SFO VOR to and southwest along the SFO VOR 247° radial to the point of beginning.

Area G. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10- and 15-mile radii of the SFO VOR from the SFO VOR 247° radial clockwise to the SFO VOR 107° radial, excluding the airspace southwest of the Point Reyes VORTAC 161° radial.

Area H. That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the intersection of the Sausalito VORTAC 052° radial and the Oakland VORTAC 305° radial thence northeast along the Sausalito VORTAC 052° radial to and clockwise along the 20-mile DME arc of the SFO VOR to and southwest along the SFO VOR 072° radial to and counterclockwise along the 15-mile DME arc of the SFO VOR to and northwest along the Oakland VORTAC 305° radial to the point of beginning.

San Francisco TCA continued on next page.

Group I, Terminal Control Areas:

Area I. That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL between the 20- and 25-mile radii of the SFO VOR from the Sausalito VORTAC 052° radial clockwise to the SFO VOR 072° radial, excluding the airspace north of latitude 38°00'00" N.

Area J. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL bounded on the northeast by a 5-mile radius arc of the SFO VOR, on the southeast by the SFO VOR 217° radial, on the southwest by the Point Reyes VORTAC 161° radial, and on the northwest by the SFO VOR 247° radial.

Area K. That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the west by a 7-mile radius arc of the SFO VOR and on the east by the Pacific coast shoreline.

Washington, D. C. Terminal Control Area

Primary Airports
1. Washington National Airport (lat. 38°51'05" N., long. 77°02'20" W.).
2. Andrews AFB (lat. 38°48'40" N., long. 76°52'05" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 7-mile radius of the Washington, D. C., VOR and within a 7-mile radius of the Andrews, Md., VORTAC excluding the airspace bounded on the north by lat. 38°45'50" N., on the east by long. 76°54'25" W., on the south by a 7-mile radius circle of the Andrews VORTAC, and on the west by long. 76°59'30" W.; and excluding Prohibited Area P-56.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of the Washington VOR and a 10-mile radius of the Andrews VORTAC, excluding Area A.

Area C. That airspace extending upward from 2,500 feet MSL to and including 7,000 feet MSL between the 10-mile and 15-mile radius circles of the Washington VOR and the Andrews VORTAC, excluding that airspace west of a line from a point on the Nottingham 308° T radial 31.75 nautical miles northwest of the VORTAC to a point on the Nottingham 268° T radial 25.25 nautical miles west of the VORTAC.

SUBPART K - TERMINAL CONTROL AREAS

71.401 Designation.

The parts of the airspace described below are designated as terminal control areas. The primary airport or airports for each terminal control area are also designated. Except as otherwise specified, all mileages are nautical miles.

(b) Group II, Terminal Control Areas:

Cleveland, Ohio, Terminal Control Area

Primary Airport
Cleveland-Hopkins International Airport (Lat. 41°24'37" N., Long. 81°50'56" W.).
Cleveland-Hopkins distance measuring equipment (DME) antenna (Lat. 41°24'15" N., Long. 81°51'44" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 5-mile radius of the Cleveland-Hopkins International Airport DME antenna, excluding that airspace within a 1-mile radius of the Strongsville Airpark (Lat. 41°19'25" N., Long. 81°52'00" W.) and Gilbert Airport (Lat. 41°22'00" N., Long. 81°58'00" W.).

Area B. That airspace extending upward from 1900 feet MSL to and including 8,000 feet MSL within an 8.5-mile radius of the Cleveland-Hopkins International Airport DME antenna excluding Area A previously described, and that airspace within a 2-mile radius of Burke Lakefront Airport (Lat. 41°30'45" N., Long. 81°41'15" W.).

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the Cleveland-Hopkins International Airport DME antenna excluding Areas A and B previously described.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of the Cleveland-Hopkins International Airport DME antenna, excluding Areas A, B, and C previously described.

Group II. Terminal Control Areas:

Denver, Colo., Terminal Control Area

Primary Airport
Denver Stapleton International Airport (lat. 39°45'55"N., long. 104°52'46"W.)
Denver VORTAC (lat. 39°48'02.12"N., long. 104°53'12.26"W.)
Denver-Stapleton International distance measuring equipment (DME) antenna (lat. 39°45'21"N., long. 104°53'54"W.)
Boundaries
Area A. That airspace extending upward from the surface to and including 11,000 feet MSL beginning at a point 10 miles north of the Stapleton International DME antenna and 1.5 miles west of the Denver VORTAC 004° radial; thence clockwise along the 10-mile radius arc of the Stapleton International DME antenna to and south parallel 2.5 miles east of the Denver VORTAC 004° radial, to and clockwise along the 7-mile radius area of the Stapleton International DME antenna to and south parallel 4 miles east of the Denver VORTAC 004° radial to and east parallel 3.5 miles north of the Denver VORTAC 093° radial to and clockwise along the 7-mile radius circle of the Stapleton International DME antenna to and west along Colfax Avenue to and south parallel 3.5 miles east of the Denver VORTAC 184° radial to and clockwise along the 7-mile radius arc of the Stapleton International DME antenna to and north parallel 3.5 miles west of the Denver VORTAC 184° radial to and west parallel 5 miles south of the Denver VORTAC 273° radial to and clockwise along the 7-mile radius of the Stapleton International DME antenna to and east parallel 1.5 miles north of the Denver VORTAC 273° radial to and north parallel 1.5 miles west of the Denver VORTAC 004° radial to and clockwise along the 7-mile radius of the Stapleton International DME antenna to and north parallel 1.5 miles west of the Denver VORTAC 004° radial to the point of beginning excluding Prohibited Area P-26.

Area B. That airspace extending upward from 7,000 feet MSL to and including 11,000 feet MSL bounded on the north by the 16-mile point of the Stapleton International DME antenna and 3.5 miles west of the Denver VORTAC 004° radial, then clockwise along the 16-mile radius arc of the Stapleton International DME antenna to and south parallel 4 miles east of the Denver VORTAC 004° radial to and clockwise along the 10-mile radius arc of the Stapleton International DME antenna to and east parallel 1.5 miles north of the Denver VORTAC 093° radial to and clockwise along the 16-mile radius arc of the Stapleton International DME antenna to and west along Colfax Avenue to the 7-mile radius circle of the Stapleton International DME antenna. Thence beginning again at line 8.5 miles south of and parallel to the extended centerline of Runway 26L/8R Stapleton International Airport and 3.5 miles west of the Denver VORTAC 184° radial, thence west parallel 8.5 miles south of the extended centerline of Runway 26L/8R Stapleton International Airport to and clockwise along the 10-mile radius circle of the Stapleton International DME antenna to and north parallel 3.5 miles west of the Denver VORTAC 004° radial to the point of beginning excluding Areas A and C.

Area C. That airspace extending upward from 7,500 feet MSL to and including 11,000 feet MSL bounded on the north by Colfax Avenue, on the east by the 16-mile radius arc of the Stapleton International DME antenna, on the west by Area A and a line parallel 3.5 miles west of the Denver VORTAC 184° radial to and east along a line 8.5 miles south and parallel of the extended centerline of Runway 26L/8R Stapleton International Airport to and southeast bound along the 162° radial of the Denver VORTAC to the 16-mile radius arc of the Stapleton International DME antenna.

Area D. That airspace extending upward from 8,000 feet MSL to and including 11,000 feet MSL within a 16-mile radius of the Stapleton International DME antenna bounded on the west by long. 105°11'00"W. and that airspace east of Denver between the 16-mile and 20-mile radius circles centered on the Stapleton International DME antenna bounded on the north by Interstate 70 and on the west by the 162° radial of the Denver VORTAC excluding Areas A, B, and C.

Area E. That airspace extending upward from 9,000 feet MSL to and including 11,000 feet MSL between the 16-mile and 20-mile radius circles centered on the Stapleton International DME antenna bounded on the north by a line 1.5 miles north of the Denver VORTAC 093° radial and on the south by Interstate 70 and that airspace north of Denver bounded on the west by a line 3.5 miles west of the Denver VORTAC 004° radial and on the east by a line 4 miles east of the Denver VORTAC 004° radial.
Area F. That airspace extending upward from 10,000 feet MSL to and including 11,000 feet MSL between the 16-mile and 20-mile radius circles centered on the Stapleton International DME antenna excluding Areas D and E and that area west of long. 105°11'00"W.

Detroit, Mich., Terminal Control Area

Primary Airport
Detroit Metropolitan Wayne County Airport (lat. 42°13'07" N., long. 83°20'55" W.).
Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the Detroit, Mich. (Metropolitan Wayne County Airport), control zone.

Area B. That airspace extending upward from 2,300 feet MSL to and including 8,000 feet MSL within a 10-mile radius of Detroit Metropolitan Wayne County Airport excluding Area "A" previously described, that airspace east of the west edge of the Detroit River, and the Detroit, Mich. (Willow Run Airport) control zone.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL, within a 16-mile radius of Detroit Metropolitan Wayne County Airport, excluding Areas A and B previously described, that airspace within a 3-mile radius arc of the Salem VORTAC, west of the Salem VORTAC 197° radial, and east of the United States/Canadian Border.

Detroit TCA continued on next page.

Group II, Terminal Control Areas:

Area D. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL south of Detroit Metropolitan Wayne County Airport, bounded on the north by a 16-mile radius arc of the Detroit Metropolitan Wayne County Airport, on the east by the United States/Canadian Border, on the south by a 25-mile radius arc of the Detroit Metropolitan Wayne County Airport, on the west by the Salem VORTAC 197° radial and the Waterville VORTAC 353° radial; and an area north of Detroit Metropolitan Wayne County Airport bounded on the south by a 16-mile radius arc of Detroit Metropolitan Wayne County Airport, on the northwest by the Salem 052° radial, on the northeast by the Windsor VOR 320° radial and on the southeast by the United States/Canadian Border.

Honolulu, Hawaii, Terminal Control Area

Primary Airport
Honolulu International Airport (lat. 21°19'20"N., long. 157°55'27"W.)

Boundaries.

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at the Honolulu ILS Runway 4R DME (lat. 21°20'01"N., long. 157°54'23"W.), to lat. 21°18'39"N., long. 157°51'15"W.; thence direct to a point on bearing 145°, and 4.5 miles from the ILS Runway 4R DME; thence along the 145° bearing to, and then clockwise along, the 7.5-mile radius arc of the ILS Runway 4R DME to, and along, the Honolulu VORTAC (lat. 21°19'41"N., long. 158°01'56"W.) 179°/359° radial to, and then east along, a line 0.5 miles north of, and parallel to, the ILS Runway 8L localizer course to a point 1.5 miles west of the ILS Runway 4R DME, thence direct to the point of beginning.

Area B. That airspace extending upward from 1,500 feet MSL to and including 9,000 feet MSL between 7.5 miles and 15 miles of the ILS Runway 4R DME and bounded on the east by the Honolulu VORTAC 134° radial and on the west by a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course, excluding that airspace within Area A.

Area C. That airspace extending upward from 2,000 feet MSL to and including 9,000 feet MSL between 15 miles and 22 miles of the ILS Runway 4R DME and bounded on the northeast by the Koko Head VORTAC (lat. 21°16'06"N., long. 157°42'21"W.) 111° radial and on the west by a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course.

Area D. That airspace extending upward from 3,000 feet MSL to and including 9,000 feet MSL within 22 miles of the ILS Runway 4R DME, south of a line 0.5 miles north of, and parallel to, the Honolulu VORTAC 293° radial, north of a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course, and west of the Honolulu VORTAC 179°/359° radial, excluding that airspace within Areas G, H, and I.

Area E. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL within 32 miles of the ILS Runway 4R DME extending from the Honolulu VORTAC 119° radial clockwise to lat. 20°49'00"N., long. 157°46'35"W.; to lat. 20°52'00"N., long. 157°50'00"W.; to lat. 20°48'20"N., long. 157°50'00"W.; thence clockwise along the 32-mile radius arc of the ILS Runway 4R DME to lat. 20°51'30"N., long. 158°10'00"W.; to lat. 21°00'00"N., long. 158°10'00"W.; to lat. 21°00'00"N., long. 158°18'00"W.; to lat. 20°59'02"N., long. 158°19'58"W.; thence clockwise along the 32-mile radius arc of the ILS Runway 4R DME to a line 0.5 miles north of, and parallel to, the Honolulu VORTAC 293° radial, excluding that airspace within Areas A, B, C, D, G, H, I, and J.

Area F. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL bounded by a line 0.5 miles northwest of, and parallel to, the Koko Head VORTAC 050° radial beginning at the Koko Head 291° radial and extending to lat. 21°25'15"N., thence southeast along a 152° heading to, and then along, the 32-mile radius arc of the ILS Runway 4R DME to, and then along, the Honolulu VORTAC 119° radial to a point 22 miles from the ILS Runway 4R DME, thence direct to the point of beginning, excluding that airspace within Areas C and J.

Area G. That airspace extending upward from 1,600 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of, the ILS Runway 8L localizer course, on the east by the Honolulu VORTAC 179°/359° radial and, on the west by the 1.1-mile radius arc of the Honolulu VORTAC.

Area H. That airspace extending upward from 1,900 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of, the ILS Runway 8L localizer course, on the east by the 1.1-mile radius arc of the Honolulu VORTAC, and on the west by the 1.9-mile radius arc of the Honolulu VORTAC.

Area I. That airspace extending upward from 2,200 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of the ILS Runway 8L localizer course, on the east by the 1.9-mile radius arc of the Honolulu VORTAC, and on the west by the 9-mile radius arc of the Honolulu VORTAC.

Honolulu TCA continued on next page.

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Group II, Terminal Control Areas:

Area J. That airspace extending upward from 1,000 feet MSL to and including 9,000 feet MSL within 15 miles of the ILS Runway 4R DME, bounded on the north by a line extending west along the Koko Head VORTAC 111°/281° radial until intersecting, and then proceeding along, the H-1 Freeway to lat. 21°18'39"N., long. 157°51'15"W.; bounded on the west by Area A, and on the south by the Honolulu VORTAC 134° radial.

Area K. That airspace extending upward from the surface to and including 2,000 feet MSL within an area south of the H-1 Freeway, between lat. 21°22'32"N., long. 157°55'40"W.; lat. 21°21'29"N., long. 157°54'00"W.; and lat. 21°18'39"N., long. 157°51'15"W.; east of long. 157°55'40"W., and north of Area A.

AMENDMENTS 11/27/80 45 F. R. 54015 (Added)

Houston, Tex., Terminal Control Area

Primary Airport
Houston Intercontinental Airport (lat. 29°59'08" N., long. 95°20'46" W.).
Boundaries
Humble VORTAC (IAH) (lat. 29°57'24" N., long. 95°20'44" W.).

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL, within 8 miles of the IAH VORTAC, excluding that airspace within and underlying Area D, hereinafter described.

Area B. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL, within a 15-mile radius of the IAH VORTAC, excluding Area A, previously described, that airspace within and underlying Areas C and D described hereinafter and that airspace south of an east-west line extending from the IAH VORTAC 125° radial 20-mile DME point to the IAH VORTAC 233° radial 20-mile DME point.

Area C. That airspace northwest of IAH extending from 3,000 feet MSL to and including 7,000 feet MSL, bounded on the northeast by the IAH VORTAC 313° radial, on the east by the 8-mile DME arc of the IAH VORTAC, on the south by a line 2 miles north of and parallel to the IAH Runway 8L centerline extended, and on the west by the 15-mile DME arc of the IAH VORTAC.

Area D. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15- and 20-mile radii of the IAH VORTAC and that airspace southwest of the IAH VORTAC bounded on the east by the 7-mile DME arc of the IAH VORTAC, on the southeast by the 215° radial of the IAH VORTAC, on the west by the 15-mile DME arc of the IAH VORTAC, and on the north by the 258° radial of the IAH VORTAC. Excluding that airspace within a 2-mile radius of Lakeside Airport (lat. 29°49'02" N., long. 95°40'29" W.) and that airspace south of an east-west line extending from the IAH VORTAC 125° radial 20-mile DME point to the IAH VORTAC 233° radial 20-mile DME point.

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Group II, Terminal Control Areas:

Kansas City, Mo., Terminal Control Area
Primary Airport
Kansas City International Airport (lat. 39°18'18" N., long. 94°42'40" W.).
Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius of the Kansas City International Airport, excluding that airspace within a 1-mile radius of the Noah's Ark Airport (lat. 39°13'50" N., long. 94°48'15" W.).

Area B. That airspace extending upward from 2,400 feet MSL to and including 8,000 feet MSL within a 10-mile radius of the Kansas City International Airport excluding Area A, that airspace within a 2-mile radius of the Fairfax Airport (lat. 39°08'49" N., long. 94°36'09" W.) and that airspace within a 1½-mile radius of the Sherman Army Airfield (lat. 39°22'15" N., long. 94°54'45" W.).

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the Kansas City International Airport excluding Area A and Area B.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of the Kansas City International Airport excluding Area A, Area B and Area C.
PENDING AMENDMENT
Kansas City, Mo., Terminal Control Area
Primary Airport
Kansas City International Airport (lat. 39°18'18"N., long. 94°42'40"W.).
Kansas City VORTAC (lat. 39°16'46"N., long. 94°35'28"W.).
Boundaries - Based on arcs/radius of Kansas City International Airport and radials of Kansas City VORTAC.
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius arc of the Kansas City International Airport, excluding that airspace within a 1-mile radius of Noah's Ark Airport (lat. 39°13'50"N., long. 94°48'15"W.), and that area between the 5-mile radius arc and 6-mile radius arc of Kansas City International Airport, bounded on the south by a line parallel to, and 2 miles north of, the Kansas City International Airport Runway 9 ILS localiser course and on the north by a line parallel to, and 2 miles west of, the Runway 19 ILS localiser.

Area B. That airspace extending upward from 2,400 feet MSL to and including 8,000 feet MSL within a 10-mile radius arc of the Kansas City International Airport, excluding that airspace within Area A, that airspace within a 1-1/2-mile radius arc of Sherman Army Airfield (lat. 39°22'10"N., long. 94°54'45"W.) and that airspace in Area D.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within the following subareas - (1) The area between the 10-mile radius arc and 15-mile radius arc of Kansas City International Airport, bounded on the southeast by a line between lat. 39°08'15"N., long. 94°40'58"W.; and lat. 39°03'05"N., long. 94°41'02"W.; and bounded on the north by the Missouri River; (2) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the west by a line between lat. 39°27'35"N., long. 94°47'18"W.; and lat. 39°32'57"N., long. 94°47'10"W.; and on the east by the 010°T radial of Kansas City VORTAC; and (3) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the north by a line between lat. 39°22'00"N., long. 94°30'35"W.; and lat. 39°22'05"N., long. 94°23'57"W.; and on the south by a line between lat. 39°12'12"N., long. 94°32'01"W.; and lat. 39°13'02"N., long. 94°24'12"W.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within the following subareas - (1) The area bounded by the 15-mile radius arc of the Kansas City International Airport and lines between the points defined by the following coordinates: lat. 39°03'05"N., long. 94°41'02"W.; to lat. 39°08'15"N., long. 94°40'58"W.; to lat. 39°11'30"N., long. 94°37'00"W.; to lat. 39°12'12"N., long. 94°32'30"W.; to lat. 39°13'02"N., long. 94°24'12"W.; (2) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport and including airspace within 1-1/2 miles of Sherman Army Airfield which was excluded from Area B, bounded on the southwest by the Missouri River; and on the northeast by a line between lat. 39°27'35"N., long. 94°47'18"W.; and lat. 39°32'57"N., long. 94°47'10"W.; (3) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the west by the 010°T radial of Kansas City VORTAC and bounded on the south by a line between lat. 39°22'00"N., long. 94°30'35"W.: and lat. 39°22'05"N., long. 94°23'57"W.; (4) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the east by a line between lat. 39°03'05"N., long. 94°41'02"W.; and lat. 38°58'02"N., long. 94°43'32"W.; and bounded on the northwest by the 231°T radial of Kansas City VORTAC; (5) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the south by the Kansas City VORTAC 259°T radial and on the north by the Missouri River; and (6) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the west by a line between lat. 39°32'57"N., long. 94°47'10"W.; and lat. 39°38'10"N.; long. 94°47'00"W.; and on the east by the Kansas City VORTAC 010°T radial.

Area E. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL within the following subareas - (1) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the northwest by the 010°T radial of Kansas City VORTAC and on the southwest by a line between lat. 39°03'05"N., long. 94°41'02"W.; and lat. 38°58'02"N., long. 94°43'32"W.; (2) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the southeast by the 231°T radial of Kansas City VORTAC and on the north by the 259°T radial of Kansas City VORTAC; and (3) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the southwest by the Missouri River; and bounded on the northeast by a line between lat. 39°32'57"N., long. 94°47'10"W.; and lat. 39°38'10"N., long. 94°47'00"W.
AMENDMENTS 12/25/80 45 F. R. 76654 (Rewritten)

Group II, Terminal Control Areas:

Las Vegas, Nev., Terminal Control Area

Primary Airport:
McCarran International Airport (lat. 36°04'45" N., long. 115°09'08" W.).
Las Vegas VORTAC (lat. 36°04'47" N., long. 115°09'32" W.).

Boundaries: (Based on Las Vegas VORTAC (LAS) arcs, DME distances, and radials).

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 005° radial, thence clockwise via the 15-mile arc to the 022° radial, thence direct to the 20-mile DME point on the 033° radial, thence northeast along the 033° radial to and southeast along the 22-mile arc to and southwest along the 046° radial to and south along the 7-mile arc to and nortnwest along the 150° radial to and counterclockwise along the 2-mile radius circle of Henderson Sky Harbor Airport (lat. 35°58'35" N., long. 115°07'55" W.) to and south along the 180° radial to and north along the 6-mile arc to and counterclockwise along the 2.5-mile radius circle of North Las Vegas Air Terminal (lat. 36°12'17" N., long. 115°11'42" W.) to and north along the 005° radial to the point of beginning.

Area B. That airspace extending upward from 3600 feet MSL to and including 9,000 feet MSL between the LAS 7 and 10-mile radii bounded on the North by the 046° radial and on the South by the 150° radial.

Area C. That airspace extending upward from 4,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 075° radial thence clockwise along the 15-mile arc to and northwest along the 115° radial to and counterclockwise along the 10-mile arc to and east along the 075° radial to the point of beginning.

Area D. That airspace extending upward from 5,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile point on the LAS 046° radial thence clockwise along the 15-mile arc to and west along the 075° radial to and counterclockwise along the 10-mile arc to and northeast along the 046° radial to the point of beginning.

Area E. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 20-mile DME point on the LAS 055° radial thence clockwise along the 20-mile arc to and west along the 115° radial to and counterclockwise along the 15-mile arc to and northeast along the 055° radial to the point of beginning.

Area F. That airspace extending upward from 6,000 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 10-mile DME point on the LAS 150° radial thence northwest along the 150° radial to and counterclockwise along the 2-mile radius circle of the Henderson Sky Harbor Airport to and south along the 180° radial to and counterclockwise along the 15-mile arc to and northwest along the 115° radial to and clockwise along the 10-mile arc to the point of beginning.

Area G. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 155° radial thence southeast along the 155° radial to and clockwise along the 20-mile arc to and north along the 200° radial to and counterclockwise along the 15-mile arc to the point of beginning.

Area H. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL between the LAS 10 and 15-mile radii bounded on the east by the 180° radial and on the northwest by the 235° radial.

Area I. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL between the LAS 6 and 10-mile radii bounded on the east by the 180° radial and on the north by the 275° radial.

Area J. That airspace extending upward from 5,500 feet MSL to and including 9,000 feet MSL between the LAS 10 and 12-mile radii bounded on the south by the 235° radial and on the north by the 275° radial.

Area K. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL between the LAS 12 and 15-mile radii bounded on the south by the 235° radial and on the north by the 275° radial.

Area L. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 005° radial thence south along the 005° radial to and clockwise along the 2.5-mile radius circle of North Las Vegas Air Terminal until intercepting U. S. Highway 95 2.5 miles southeast of North Las Vegas Air Terminal thence northwest along U. S. Highway 95 to and clockwise along a 15-mile arc to the point of beginning.

Area M. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 20-mile DME point on the LAS 033° radial thence direct to the 15-mile DME point on the LAS 022° radial thence west along the 15-mile arc to and northwest along U. S. Highway 95 to and clockwise along the 20-mile arc to the point of beginning.

Area N. That airspace extending upward from 7,500 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 36-mile DME point on the LAS 033° radial thence southwest along the 033° radial to and counterclockwise along the 20-mile arc to U. S. Highway 95 direct to the 36-mile DME point on the 005° radial thence clockwise along the 36-mile arc to the point of beginning.

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Group II, Terminal Control Areas:

Area O. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 36-mile DME point on the IAS 055° radial thence southwest along 055° radial to and counterclockwise along the 15-mile arc to and northeast along the 046° radial to and counterclockwise along the 28-mile arc to and northeast along the 033° radial to and clockwise along the 36-mile arc to the point of beginning.

Area P. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 28-mile DME point on the IAS 046° radial thence southwest along the 046° radial to and counterclockwise along the 22-mile arc to and northeast along the 033° radial to and clockwise along the 28-mile arc to the point of beginning.

Minneapolis, Minn., Terminal Control Area

Primary Airport
Minneapolis-St. Paul International Airport (lat. 44°53'03" N., long. 93°12'54" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius of Minneapolis-St. Paul International Airport Distance Measuring Equipment (DME) Antenna (lat. 44°52'38" N., long. 93°12'21" W.).

Area B. That airspace extending upward from 2,300 feet MSL to and including 8,000 feet MSL within an 8.5-mile radius of Minneapolis-St. Paul International Airport DME antenna excluding Area A previously described.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 12-mile radius of Minneapolis-St. Paul International Airport DME Antenna excluding Areas A and B previously described.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of Minneapolis-St. Paul International Airport DME antenna excluding Areas A, B, and C previously described.

New Orleans, La., Terminal Control Area

Primary Airport
New Orleans International Airport-Moisant Field (lat. 29°59'30" N., long. 90°15'37" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 7-mile radius of the New Orleans International Airport-Moisant Field, and within a 1.5-mile radius of the ILS Runway 10 outer compass locator (lat. 30°01'30" N., long. 90°23'59" W.) excluding that airspace north of the south shore of Lake Pontchartrain, that airspace within and underlying Area C described hereinafter, and that airspace ½ nautical mile either side of a line extending from lat. 30°01'09" N., long. 90°07'47" W., to lat. 29°59'30" N., long. 90°15'37" W., to lat. 30°03'36" N., long. 90°22'10" W.

Area B. That airspace extending upward from 600 feet MSL to and including 7,000 feet MSL north of the south shore of Lake Pontchartrain within a 7-mile radius of the New Orleans International Airport-Moisant Field excluding that airspace ½ nautical mile either side of a line extending from lat. 30°01'09" N., long. 90°07'47" W., to lat. 29°59'30" N., long. 90°15'37" W., to lat. 30°03'36" N., long. 90°22'10" W.

Area C. That airspace extending upward from 1,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning 7 miles southwest of the New Orleans International Airport-Moisant Field on the north shore of the Mississippi River, thence east along the Mississippi River north shore to and southeast along a line ½ mile east of and parallel to the Sellers Field Runway 16/34 extended centerline, to and southwest along the Southern Pacific Railroad track to and counterclockwise along a 4-mile radius of the New Orleans International Airport-Moisant Field to and east along the north shore of the Mississippi River to and southeast along the Harvey 300°T (295°M) radial to and clockwise along the 7-mile radius of the New Orleans International Airport-Moisant Field to the point of beginning.

Area D. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of the New Orleans International Airport-Moisant Field excluding Areas A, B, and C previously described, Area F described hereinafter, the airspace within the New Orleans Lakefront Airport Control Zone which lies within a 15-mile radius of the New Orleans International Airport-Moisant Field, and the airspace within a 5-statute mile radius of NAS New Orleans-Alvin Callender Field (lat. 29°49'40" N., long. 90°01'25" W.).

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of the New Orleans International Airport-Moisant Field, excluding Areas A, B, C, and D previously described and Area F described hereinafter.

Area F. That airspace extending upward from the surface to 1,000 feet MSL and from 2,000 feet MSL to 7,000 feet MSL ½-nautical mile either side of a line extending from lat. 30°01'09" N., long. 90°07'47" W., to lat. 29°59'30" N., long. 90°15'37" W., to lat. 30°03'36" N., long. 90°22'10" W., excluding that airspace below 600 feet MSL north of the south shore of Lake Pontchartrain.

FEDERAL REGISTER

Group II, Terminal Control Areas:

Philadelphia, Pa., Terminal Control Area

Primary Airport
Philadelphia International Airport (Lat. 39°52'23" N., Long. 75°14'56" W.).

Boundaries.
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Philadelphia International Airport, excluding that airspace within and underlying Areas B and C.

Area B. That airspace extending upward from 300 feet MSL to and including 7,000 feet MSL, beginning at the east tip of Tinicum Island, along the south shore of Tinicum Island to the westernmost point, thence direct to the outlet of Darby Creek at the north shore of the Delaware River, thence along the north shore of the river to Chester Creek, thence eastward direct to Thompson Point, thence eastward along the south shore of the Delaware River to Bramell Point, thence direct to the point of beginning.

Area C. That airspace extending upward from 800 feet MSL to and including 7,000 feet MSL, beginning at Bramell Point, along the south shore of the Delaware River to Thompson Point, thence direct to the outlet of Chester Creek at the Delaware River, thence southwestward along the north shore of the Delaware River, to the 6-mile arc of the Philadelphia International Airport, thence counterclockwise along the 6-mile arc to Kings Highway (Route 551), thence northward direct to Bramell Point.

Area D. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within an 11-mile radius of the Philadelphia International Airport, excluding Areas A, B, and C.

Area E. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending from lat. 39°32'50" N., long. 75°10'30" W., to lat. 40°00'00" N., long. 74°50'45" W., and Areas A, B, C, and D.

Area F. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending through lat. 39°32'50" N., long. 75°10'30" W., and lat. 40°00'00" N., long. 74°50'45" W., and Areas A, B, C, D and E.

Pittsburgh, Pa., Terminal Control Area

Primary Airport
Greater Pittsburgh Airport (Latitude 40°29'37"N., Longitude 80°13'54"W.)
Boundaries. (Based on Latitude 40°29'12"N., Longitude 80°14'03"W.)

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the Pittsburgh, Pa. (Greater Pittsburgh) Control Zone.

Area B. That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL within a 10-mile radius of Latitude 40°29'12"N., Longitude 80°14'03"W., excluding Area A.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10-mile and 12.5-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 076° bearing clockwise to the 106° bearing excluding Areas A and B; between the 10-mile and 12-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 117° bearing clockwise to the 147° bearing excluding Areas A and B; between the 10-mile and 14-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 259° bearing clockwise to the 288° bearing excluding Areas A and B.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of Lat. 40°29'12"N., Long. 80°14'03"W., and between the 20-mile and 30-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 076° bearing clockwise to the 106° bearing and from the 259° bearing clockwise to the 288° bearing; excluding Areas A, B and C.

St. Louis, Mo., Terminal Control Area

Primary Airport
St. Louis International Airport (lat. 38°44'54"N., long. 90°21'47"W.).
Boundaries.

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius arc of the St. Louis International Airport ASR Antenna (lat. 38°44'25"N., long. 90°22'14"W.), excluding that airspace within a 2-mile radius arc of the Creve Coeur Airport (lat. 38°43'35"N., long. 90°30'35"W.).

Area B. That airspace extending upward from 2,000 feet MSL to and including 8,000 feet MSL within a 10-mile radius arc of the St. Louis International Airport ASR Antenna, excluding Area A and excluding the area south of the Foristell VORTAC 093° radial.

St. Louis TCA continued on next page.

Group II, Terminal Control Areas:

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius arc of the St. Louis International Airport ASR Antenna, and that area which lies south of the Foristell VORTAC 093° radial which is contained within the 10-mile radius arc of the St. Louis International Airport ASR Antenna, excluding Areas A and B, and excluding the area within and underlying Area E.

Area D. That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL between the 15-mile and 20-mile radii arcs of the St. Louis International Airport ASR Antenna, excluding an area bounded on the east by a line 5 miles northwest of and parallel to the St. Louis International Airport Runway 24 ILS localizer northeasterly course, counterclockwise to a line 8 miles south of and parallel to the St. Louis International Airport Runway 12R ILS localizer northwesterly course, and excluding an area bounded on the south by a line 5 miles south of and parallel to the St. Louis International Airport Runway 6 localizer southwesterly course, counterclockwise to a line 8 miles north of and parallel to the St. Louis International Airport Runway 30L ILS localizer southeasterly course.

Area E. That airspace extending upward from 3,600 feet MSL to and including 8,000 feet MSL within a 15-mile radius arc of the St. Louis International Airport ASR Antenna, bounded on the northwest by the Troy VORTAC 229° radial, and on the west by a line extending from lat. 38°35'00"N., long. 90°12'00"W., to lat. 38°10'00"N., long. 90°07'00"W.

Area F. That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL in two areas: (1) Within 8 miles of each side of the St. Louis International Airport Runway 12R ILS localizer northwesterly course extending outward from the 15-mile radius arc to the 25-mile radius arc of the St. Louis International Airport ASR Antenna; and (2) Within 8 miles of each side of the St. Louis International Airport Runway 30L ILS localizer southeasterly course extending outward from the 15-mile radius arc to the 25-mile radius arc of the St. Louis International Airport ASR Antenna.

AMENDMENTS 11/27/80 45 F. R. 70853 (Rewritten)

San Diego, Calif., Terminal Control Area

Primary Airports
1. San Diego, Calif., (Lindbergh Field), (lat. 32°43'58"N., long. 117°11'14"W.).
2. Miramar NAS, Miramar, Calif., (lat. 32°52'30"N., long. 117°08'15"W.).

Boundaries
Based on the Mission Bay VORTAC ("Mission Bay":MZB) (lat. 32°46'57"N., long. 117°13'29"W.) arcs, DME distances, and radials and the Miramar NAS TACAN (lat. 32°52'11"N., long. 117°09'14"W.).
Southern boundary of the San Diego TCA is 3 nautical miles north of the United States/Mexico border beginning at lat. 32°33'00"N., long. 117°31'00"W., and extending to lat. 32°38'30"N., long. 116°29'00"W.; the United States/Mexico border is referred to as "the border."

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL within an area bounded on the west by a 5-nautical-mile radius arc of Mission Bay, on the east by a 10-mile radius arc of Mission Bay, on the north by the Mission Bay 325° and 099° radials and on the south by an extension of the Lindbergh Field/NAS North Island Control Zone line, excluding that airspace from 3,300 feet to 4,700 feet MSL in an area beginning at the Mission Bay 099° radial and bounded on the west by Interstate 5 south to Interstate 8 thence direct to lat. 32°44'15"N., long. 117°12'30"W., direct to lat. 32°41'00"N., long. 117°10'45"W., to intercept and proceed along the Silver Strand Highway to the Mission Bay 10-mile radius arc, and on the east via Highway 163 south to Interstate 5 thence south via Interstate 5 to the Mission Bay 10-mile radius arc.

Area B. That airspace extending upward from 1,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 10-mile and 15-mile radii arcs bounded on the north by the Mission Bay 099° radial and on the south by an extension of the Lindbergh Field/NAS North Island Control Zone line.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL between the Mission Bay 15-mile and 20-mile radii arcs bounded on the north by a line between the Mission Bay 099° and 090° radials and on the south by the Lindbergh Field/NAS North Island Control Zone line extension to 3 miles north of the border thence via the Mission Bay 17.8-mile radius arc to the Mission Bay 120° radial thence east to the Mission Bay 115° radial and the 20-mile radius arc intersection.

Area D. That airspace extending upward from 4,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 20-mile and 23-mile radii arcs bounded on the north by a line between the Mission Bay 090° and 087° radials and on the south from the 23-mile radius arc intersection at 3 miles north of the border, to the Mission Bay 115° radial at the 20-mile radius arc intersection.

Area E. That airspace extending upward from 5,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 23-mile and 28-mile radii arcs bounded on the north by a line between the Mission Bay 081° and 084° radials and on the south by the line 3 miles north of the border.

San Diego TCA continued on next page.

Group II. Terminal Control Areas:

Area F. That airspace extending upward from 7,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 28-mile radius arcs and by a line 3 miles north of the border to long. 116°29'00"W., then along long. 116°29'00"W., to lat. 32°58'00"N., bounded on the north by a line between the Mission Bay 084° radial and the Mission Bay 068° radial/36.5 DME fix and by a line between the Mission Bay 068° radial/36.5 DME fix and lat. 32°58'00"N.

Area G. That airspace extending upward from 7,800 feet MSL to and including 12,500 feet MSL bounded on the west by a line from the Mission Bay 17.8-mile radius arc between Lindbergh Field/NAS North Island Control Zone line extension intersecting 3 miles north of the border and the Mission Bay 120° radial, on the north by a line between the Mission Bay 120° radial/17.8 DME fix and the Mission Bay 115° radial/20 DME fix, on the east by a line between the Mission Bay 115° radial/20 DME fix and Mission Bay 23-mile radius arc at the 3-mile line north of the border and on the south by the 3-mile line north of the border.

Area H. That airspace extending upward from 5,800 feet MSL to and including 12,500 feet MSL bounded on the west by a line between lat. 32°33'00"N., long. 117°30'45"W., and lat. 32°43'33"N., long. 117°36'32"W., to an extension of the Lindbergh Field/NAS North Island Control Zone line at the Mission Bay 10-mile radius arc thence counterclockwise to the eastern extension of the Lindbergh Field/NAS North Island Control Zone line thence via that extension to the line 3 miles north of the border thence via that line to the point of beginning.

Area I. That airspace extending upward from 2,800 feet MSL to and including 12,500 feet MSL, bounded on the north and east by an extension of the Lindbergh Field/NAS North Island Control Zone line and on the south by the 10-mile radius arc of Mission Bay, excluding that airspace from 3,300 feet to 4,700 feet MSL in the corridor excluded under the description in Area A.

Area J. That airspace extending upward from 4,800 feet MSL to and including 12,500 feet MSL bounded on the south beginning at the Mission Bay VORTAC thence via the Mission Bay 099° radial to the 15-mile DME fix thence via a line to the Mission Bay 087° radial/23 DME fix thence counterclockwise on the 23-mile arc to the Mission Bay 081° radial thence via a line to the Mission Bay 065° radial/10 DME fix extending to the NAS Miramar Control Zone clockwise to the south and along an extension of the NAS Miramar Control Zone line westward to the Mission Bay 325° radial and along the 325° radial to the point of beginning.

Area K. That airspace extending upward from 1,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 5-mile and 13-mile radii arcs bounded on the northwest by the Mission Bay 325° radial and on the south by the Lindbergh Field/NAS North Island Control Zone west extension.

Area L. That airspace extending upward from 2,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 13-mile and 21-mile radii arcs bounded on the northwest by the Mission Bay 325° radial, on the south by the Lindbergh Field/NAS North Island Control Zone west extension to lat. 32°43'33"N., long. 117°36'32"W., and on the west to lat. 32°46'45"N., long. 117°38'22"W., at the intersection of the 21-mile radius arc of Mission Bay.

Area M. That airspace extending upward from 4,800 feet MSL to and including 12,500 feet MSL from the Mission Bay 21-mile radius arc beginning at lat. 32°46'45"N., long. 117°38'22"W., thence via a line to lat. 32°53'00"N., long. 117°41'40"W., thence via a line to lat. 33°05'00"N., long. 117°51'55"W., thence via a line to Mission Bay 325° radial/31.5 DME fix thence via 325° radial to the Mission Bay 21-mile DME fix thence via the 21-mile radius arc counterclockwise to the point of beginning.

Area N. That airspace extending upward from 6,800 feet MSL to and including 12,500 feet MSL beginning at the Mission Bay 325° radial/16-mile DME fix thence via the Mission Bay 325° radial to the Mission Bay 31.5 DME fix thence direct to the Mission Bay 357° radial/22.5 DME fix thence direct to the Mission Bay 047° radial/10.5 DME fix thence counterclockwise via the Miramar NAS Control Zone to the Miramar TACAN 300° radial thence direct to the point of beginning.

Area O. That airspace extending upward from 1,500 feet MSL to and including 2,500 feet MSL and that airspace extending upward from 6,800 feet MSL to and including 12,500 feet MSL beginning at the Mission Bay 325° radial and a line extended from the NAS Miramar Control Zone thence via the Mission Bay 325° radial to the Mission Bay 16-mile DME fix thence direct to the intersection of the Miramar TACAN 300° radial and the Miramar NAS Control Zone thence south via Interstate 805 to the southern edge of the Miramar NAS Control Zone thence westward via an extension of the Miramar NAS Control Zone line to the point of beginning.

Area P. That airspace extending upward from the surface to and including 3,000 feet MSL and that airspace from 6,800 feet MSL to and including 12,500 feet MSL within a 5-statute-mile radius arc of NAS Miramar, excluding that area south of the NAS Miramar Control Zone and that area west of Interstate 805.

Area Q. That airspace extending upward from the surface to and including 6,000 feet MSL within 2 statute miles on each side of the NAS Miramar TACAN 078° radial extending from the 5-statute-mile radius zone to 10 miles east of the TACAN.

AMENDMENTS 5/15/80 45 F. R. 18336 (Added)

Group II, Terminal Control Areas:

Seattle, Wash., Terminal Control Area

Primary Airport:
Seattle Tacoma International Airport (lat. 47°26'55" N., long. 122°18'28" W.).

Boundaries: (Based on Seattle VORTAC (SEA) (lat. 47°26'08" N., long. 122°18'30" W.) arcs, DME distances, and radials.)

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an area bounded by a line beginning at the 4-mile DME point on the SEA 012° radial thence south along the 012° radial to and clockwise along a 2-mile arc to and southeast along the 163° radial to and clockwise along a 5-mile arc to and north along the 192° radial to and clockwise along a 2-mile arc to and northwest along the 342° radial to and clockwise along a 4-mile arc to the point of beginning.

Area B. That airspace extending upward from 1,100 feet MSL to and including 7,000 feet MSL beginning at the 6-mile DME point on the SEA 007° radial, thence south along the 007° radial to and counterclockwise along a 4-mile arc to and north along the 346° radial to and clockwise along a 6-mile arc to the point of beginning.

Area C. That airspace extending upward from 1,600 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 5-mile DME point on the SEA 163° radial, thence south along the 163° radial to and clockwise along an 11-mile arc to and north along the 192° radial to and counterclockwise along the 5-mile arc to the point of beginning.

Area D. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 12-mile DME point on the SEA 007° radial, thence south along the 007° radial to and counterclockwise along a 6-mile arc to and northwest along the 342° radial to and clockwise along the 12-mile arc to the point of beginning.

Area E. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 18-mile DME point on the SEA 007° radial, thence south along the 007° radial to and counterclockwise along a 12-mile arc to and southeast along the 342° radial to and clockwise along a 6-mile arc to and southeast along the 346° radial to and counterclockwise along a 4-mile arc to and southeast along the 342° radial to and counterclockwise along a 2-mile arc to and south along the 192° radial to and counterclockwise along an 11-mile arc to and northwest along the 163° radial to and counterclockwise along a 5-mile arc to and southeast along the 137° radial to and clockwise along a 15-mile arc to and north along the 185° radial to the 14-mile DME point, thence direct to the 15-mile DME point on the 257° radial, thence clockwise along a 15-mile arc to and northwest along the 312° radial to and clockwise along an 18-mile arc to the point of beginning, and that airspace within an area bounded by a line beginning at the 12-mile DME point on the 032° radial, thence southwest along the 032° radial to and counterclockwise along the 8-mile arc to and north along the 007° radial to and clockwise along the 12-mile arc to the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 5-mile DME point on the SEA 123° radial, thence southeast along the 123° radial to and clockwise along a 15-mile arc to and northwest along the 137° radial to and counterclockwise along a 15-mile arc to the point of beginning; and that airspace within an area bounded by a line beginning at the 15-mile DME point on the SEA 137° radial, thence southeast along the 137° radial to and clockwise along an 18-mile arc to and north along the 185° radial to and counterclockwise along a 15-mile arc to the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 22-mile DME point on the SEA 032° radial, thence south along the 032° radial to and counterclockwise along a 12-mile arc to and north along the 007° radial to and counterclockwise along the 18-mile arc to and northwest along the 312° radial to and clockwise along the 22-mile arc to the point of beginning; and that airspace within an area bounded by a line beginning at the 15-mile DME point on the 123° radial, thence southeast along the 123° radial to and clockwise along an 18-mile arc to and northwest along the 137° radial to and counterclockwise along a 15-mile arc to the point of beginning.

FEDERAL REGISTER

PART 73

SPECIAL USE AIRSPACE

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Sec.

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73.5 Bearings; radials; miles.

SUBPART B -- RESTRICTED AREAS

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DESCRIPTIONS OF DESIGNATED PROHIBITED AREAS

73.87 P-56, District of Columbia.

FEDERAL REGISTER

SUBPART A — GENERAL

§ 73.1 Applicability.

The airspace that is described in Subpart B and Subpart C of this part is designated as special use airspace. These parts prescribe the requirements for the use of that airspace.

§ 73.3 Special use airspace.

(a) Special use airspace consists of airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, or wherein limitations are imposed upon aircraft operations that are not a part of those activities, or both.

(b) The vertical limits of special use airspace are measured by designated altitude floors and ceilings expressed as flight levels or as feet above mean sea level. Unless otherwise specified, the word "to" (an altitude or flight level) means "to and including" (that altitude or flight level).

(c) The horizontal limits of special use airspace are measured by boundaries described by geographic coordinates or other appropriate references that clearly define their perimeter.

(d) The period of time during which a designation of special use airspace is in effect is stated in the designation.

§ 73.5 Bearings; radials; miles.

(a) All bearings and radials in this part are true from point of origin.

(b) Unless otherwise specified, all mileages in this part are stated as statute miles.

SUBPART B — RESTRICTED AREAS

§ 73.11 Applicability.

This subpart designates restricted areas and prescribes limitations on the operation of aircraft within them.

§ 73.13 Restrictions.

No person may operate an aircraft within a restricted area between the designated altitudes and during the time of designation, unless he has the advance permission of

(a) The using agency described in § 73.15; or

(b) The controlling agency described in § 73.17.

§ 73.15 Using agency.

(a) For the purposes of this subpart, the following are using agencies:

(1) The agency, organization, or military command whose activity within a restricted area necessitated the area being so designated.

(2) [Reserved]

(b) Upon the request of the FAA, the using agency shall execute a letter establishing procedures for joint use of a restricted area by the using agency and the controlling agency, under which the using agency would notify the controlling agency whenever the controlling agency may grant permission for transit through the restricted area in accordance with the terms of the letter.

(c) The using agency shall --

(1) Schedule activities within the restricted area;

(2) Authorize transit through, or flight within, the restricted area as feasible; and

(3) Contain within the restricted area all activities conducted therein in accordance with the purpose for which it was designated.

§ 73.17 Controlling agency.

For the purposes of this part, the controlling agency is the FAA facility that may authorize transit through or flight within a restricted area in accordance with a joint-use letter issued under § 73.15.

§73.19 Reports by using agency.

(a) Each using agency shall prepare a report on the use of each restricted area assigned thereto during any part of the preceding 12-month period ended September 30, and transmit it by the following January 31 of each year to the Chief, Air Traffic Division in the regional office of the Federal Aviation Administration having jurisdiction over the area in which the restricted area is located, with a copy to the Director, Air Traffic Service, Federal Aviation Administration, Washington, D. C. 20591.

(b) In the report under this section the using agency shall:

(1) State the name and number of the restricted area as published in this part, and the period covered by the report.

(2) State the activities (including average daily number of operations if appropriate) conducted in the area, and any other pertinent information concerning current and future electronic monitoring devices.

(3) State the number of hours daily, the days of the week, and the number of weeks during the year that the area was used.

(4) For restricted areas having a joint-use designation, also state the number of hours daily, the days of the week, and the number of weeks during the year that the restricted area was released to the controlling agency for public use.

(5) State the mean sea level altitudes or flight levels (whichever is appropriate) used in aircraft operations and the maximum and average ordinate of surface firing (expressed in feet, mean sea level altitude) used on a daily, weekly, and yearly basis.

(6) Include a chart of the area (of optional scale and design) depicting, if used, aircraft operating areas, flight patterns, ordnance delivery areas, surface firing points, and target, fan, and impact areas. After once submitting an appropriate chart, subsequent annual charts are not required unless there is a change in the area activity or altitude (or flight levels) used, which might alter the depiction of the activities originally reported. If no change is to be submitted, a statement indicating "no change" shall be included in the report.

(7) Include any other information not otherwise required under this part which is considered pertinent to activities carried on in the restricted area.

(c) If it is determined that the information submitted under paragraph (b) of this section is not sufficient to evaluate the nature and extent of the use of a restricted area, the FAA may request the using agency to submit supplementary reports. Within 60 days after receiving a request for additional information, the using agency shall submit such information as the Director of the Air Traffic Service considers appropriate. Supplementary reports must be sent to the FAA officials designated in paragraph (a) of this section.

SUBPART C — PROHIBITED AREAS

§ 73.81 Applicability.

This subpart designates prohibited areas and prescribes limitations on the operation of aircraft therein.

§ 73.83 Restrictions.

No person may operate an aircraft within a prohibited area unless authorization has been granted by the using agency.

§ 73.85 Using agency.

For the purpose of this subpart, the using agency is the agency, organization or military command that established the requirements for the prohibited area.

Note: Sections 73.87 through 73.99 are reserved for descriptions of designated prohibited areas.

FEDERAL REGISTER

SUBPART B — RESTRICTED AREAS

§ 73.21 Alabama

R-2101 Anniston Army Depot, Ala.

Boundaries. Beginning at latitude 33°41'20" N., longitude 86°00'30" W.; to latitude 33°41'20" N., longitude 85°59'00" W.; to latitude 33°40'30" N., longitude 85°59'00" W.; to latitude 33°39'40" N., longitude 85°59'50" W.; to latitude 33°39'40" N., longitude 86°00'30" W.; to the point of beginning.

Designated altitude. Surface to 5,000 feet MSL.

Time of designation. From 0700 to 1800 c.s.t., Monday through Friday.

Using agency. Commanding Officer, Anniston Army Depot.

R-2102 Fort McClellan, Ala.

Boundaries: Beginning at latitude 33°45'00" N., longitude 85°53'55" W.; to latitude 33°44'07" N., longitude 85°53'36" W.; to latitude 33°44'07" N., longitude 85°52'55" W.; to latitude 33°41'04" N., longitude 85°52'55" W.; to latitude 33°40'15" N., longitude 85°54'00" W.; to latitude 33°41'20" N., longitude 85°55'30" W.; to latitude 33°41'20" N., longitude 86°01'07" W.; to latitude 33°43'55" N., longitude 86°01'07" W.; to latitude 33°44'11" N., longitude 86°00'54" W.; to latitude 33°45'00" N., longitude 86°00'45" W.; to latitude 33°45'20" N., longitude 86°00'31" W.; to latitude 33°45'27" N., longitude 86°00'16" W.; to latitude 33°45'27" N., longitude 85°59'26" W.; to latitude 33°45'14" N., longitude 85°59'26" W.; to latitude 33°45'14" N., longitude 85°55'17" W.; to latitude 33°45'00" N., longitude 85°55'17" W.; to point of beginning.

Designated altitudes: Subarea A, surface to and including 8,000 feet MSL. Subarea B, from 8,000 feet MSL to and including 14,000 feet MSL. Subarea C, from 14,000 feet MSL to 24,000 feet MSL.

Time of use: Continuous.

Controlling agency: Federal Aviation Administration, Atlanta ARTC Center.

Using agency: Commanding Officer, Fort McClellan, Ala.

R-2103 Fort Rucker, Ala.

Boundaries. A circular area with a radius of 4 miles centered at latitude 31°26'55" N., longitude 85°47'45" W.

Designated altitudes. Surface to 15,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commanding General, U. S. Army Aviation Center, Fort Rucker, Ala.

R-2104A Huntsville, Ala.

Boundaries. Beginning at lat. 34°38'40"N., long. 86°43'00"W., to lat. 34°38'40"N., long. 86°41'00"W., to lat. 34°38'00"N., long. 86°40'53"W., to lat. 34°37'35"N., long. 86°37'40"W., to lat. 34°37'00"N., long. 86°37'00"W., to lat. 34°36'27"N., long. 86°36'38"W., to lat. 34°34'50"N., long. 86°36'38"W., thence west along the Tennessee River to lat. 34°35'02"N., long. 86°43'25"W., to lat. 34°37'19"N., long. 86°43'20"W., to lat. 34°37'19"N., long. 86°43'05"W., thence to point of beginning.

Designated altitudes. Surface to FL 300.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, U. S. Army Missile Command, Redstone Arsenal, Ala.

R-2104B Huntsville, Ala.

Boundaries. Beginning at lat. 34°38'53"N., long. 86°37'40"W., to lat. 34°37'55"N., long. 86°35'21"W., to lat. 34°35'05"N., long. 86°35'24"W., thence west along the Tennessee River to lat. 34°34'50"N., long. 86°36'38"W., to lat. 34°36'27"N., long. 86°36'38"W., to lat. 34°37'00"N., long. 86°37'00"W., thence to point of beginning.

Designated altitudes. Surface to 2400 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, U. S. Army Missile Command, Redstone Arsenal, Ala.

R-2104C Huntsville, Ala.

Boundaries. Beginning at lat. 34°41'25"N., long. 86°42'57"W., to lat. 34°42'00"N., long. 86°41'35"W., to lat. 34°38'40"N., long. 86°41'00"W., to lat. 34°38'40"N., long. 86°43'00"W., thence to point of beginning.

Designated altitudes. Surface to FL 300.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, U. S. Army Missile Command, Redstone Arsenal, Ala.

FEDERAL REGISTER

§ 73.22 Alaska

R-2202A Big Delta, Alaska

Boundaries. Beginning at latitude 64°14'45" N., longitude 146°43'15" W.; to latitude 63°56'17" N., longitude 145°49'30" W.; to latitude 63°54'20" N., longitude 145°50'20" W.; to latitude 63°50'30" N., longitude 145°50'00" W.; to latitude 63°43'00" N., longitude 145°54'01" W.; to latitude 63°42'15" N., longitude 146°13'26" W.; to latitude 63°44'00" N., longitude 146°30'00" W.; to latitude 63°50'50" N., longitude 146°47'30" W.; thence along the E bank of the East Fork and Little Delta Rivers to the point of beginning, excluding that airspace within R-2202B.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Anchorage ARTC Center.

Using agency. President, U. S. Army Arctic Test Board, Fort Greely, Alaska.

R-2202B Big Delta, Alaska

Boundaries. Beginning at latitude 64°07'30" N., longitude 146°27'30" W.; to latitude 64°02'30" N., longitude 146°11'30" W.; to latitude 63°53'00" N., longitude 146°24'30" W.; to latitude 63°57'00" N., longitude 146°41'00" W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Continuous.

Using agency. President, U. S. Army Arctic Test Board, Fort Greely, Alaska

R-2203A Eagle River. Alaska

Boundaries. Beginning at latitude 61°22'00" N., longitude 149°33'48" W.; thence southwesterly along the Alaska Railroad to lat. 61°18'00"N., long. 149°39'45"W.; to lat. 61°18'00"N., long. 149°44'00"W.; to lat. 61°17'15"N., long. 149°42'25"W.; to lat. 61°17'15"N., long. 149°36'15"W.; to the point of beginning.

Designated altitudes. Surface to 11,000 feet MSL.

Time of designation: Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.

Controlling agency: FAA, Anchorage Approach Control.

Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

R 2203B Eagle River, Alaska

Boundaries. Beginning at lat. 61°24'34"N., long. 149°33'48"W.; thence southwesterly along the shoreline to lat. 61°19'45"N., long. 149°44'00"W.; to lat. 61°18'00"N., long. 149°44'00"W.; to lat. 61°18'00"N., long. 149°39'45"W.; thence northeasterly along the Alaska Railroad to lat. 61°22'00"N., long. 149°33'48"W; to the point of beginning.

Designated altitudes. Surface to 11,000 feet MSL.

Time of designation: Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.

Controlling agency: FAA, Anchorage Approach Control.

Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

R-2203C Eagle River, Alaska

Boundaries. Beginning at lat. 61°19'45"N., long. 149°44'00"W.; thence westerly along the shoreline to lat. 61°19'38"N., long. 149°46'36"W.; to lat. 61°19'12"N., long. 149°46'36"W.; to lat. 61°18'00"N., long. 149°44'00"W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.

Controlling agency. FAA, Anchorage Approach Control.

Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

R-2205 Yukon, Alaska

Boundaries. Beginning at Lat. 64°45'30" N, Long. 146°47'20" W; Counterclockwise along the arc of a 20-mile radius circle centered at Lat. 64°50'13" N, Long. 147°36'46" W; to Lat. 64°46'12" N, Long. 146°46'40" W; to Lat. 64°46'10" N. Long. 146°11'15" W; to Lat. 64°35'18" N, Long. 146°11'15" W; to Lat. 64°33'24" N, Long. 146°18'30" W; to Lat. 64°33'25" N, Long. 146°25'00" W; to the point of beginning.

Designated altitudes. Surface to 20,000 feet MSL.

Time of Designation. Continuous from April 1 through November 30; other times as activated by NOTAM issued by the using agency at least 24 hours in advance.

ontrolling agency. FAA, Fairbanks Approach Control.

sing agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

FEDERAL REGISTER

R-2206 Clear, Alaska
Boundaries: Beginning at latitude 64°19'46" N., longitude 149°10'08" W.; to latitude 64°19'46" N., longitude 149°15'33" W.; to latitude 64°16'19" N., longitude 149°15'33" W.; to latitude 64°16'19" N., longitude 149°10'05" W ; thence north, 100 feet west of and parallel to the Alaskan railroad to the point of beginning.
Designated altitudes: Surface to 8,800 feet MSL.
Time of designation: Continuous.
Using agency: Commander 13th Missile Warning Squadron, Clear, Alaska.

R-2211 Blair Lakes, Alaska
Boundaries. Beginning at lat. 64°30'00"N., long. 147°44'00"W.; to lat. 64°20'00"N., long. 147°19'00"W.; to lat. 64°13'30"N., long. 147°32'00"W.; to lat. 64°22'30"N., long. 147°58'00"W.; to point of beginning.
Time of designation. 0800 to 1800, local time, Monday through Friday and at other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Designated altitudes. Surface to 18,000 feet MSL.
Controlling agency. FAA, Fairbanks Approach Control.
Using agency. Alaskan Air Command.

PENDING AMENDMENT
R-2213 Clear Creek, Alaska
Boundaries. Beginning at lat. 64°41'00"N., long. 147°55'00"W.; to lat. 64°40'00"N., long. 147°20'00"W.; to lat. 64°20'00"N., long. 147°00'00"W.; to lat. 64°14'45"N., long. 146°43'15"W.; thence along the east bank of the East Fork and Little Delta Rivers to lat. 63°50'50"N., long. 146°47'30"W.; to lat. 63°56'00"N., long. 147°02'00"W.; to lat. 63°58'00"N., long. 148°00'00"W.; to lat. 64°23'00"N., long. 148°05'00"W.; to point of beginning.
Designated altitudes. Surface to FL200.
Time of designation. Continuous, from 0001 January 28 until 2359 local time February 3, 1981.
Controlling agency. Federal Aviation Administration, Anchorage ARTCC.
Using agency. Alaskan Air Command, Elmendorf AFB, Alaska.

AMENDMENTS 12/25/80 45 F. R. 70236 (Added)

§ 73.23 Arizona

R-2301E Ajo East, Ariz.
Boundaries. Beginning at lat. 32°50'25"N., long. 112°49'00"W.; thence to lat. 32°11'30"N., long. 112°56'45"W.; to lat. 32°11'30"N., long. 113°05'30"W.; to lat. 31°58'00"N., long. 113°05'30"W.; along the United States-Mexican border to the intersection of the United States-Mexican border and long. 113°30'30"W.; to lat. 32°44'15"N., long. 113°41'05"W.; to lat. 32°45'50"N., long. 113°34'30"W.; to the point of beginning.
Designated altitudes. Surface to Flight Level 800.
Time of designation. Intermittent.
Controlling agency. Federal Aviation Administration, Albuquerque ARTCC.
Using agency. Commander, Luke AFB, Ariz.

R-2301W Ajo West, Ariz.
Boundaries. Beginning at the intersection of the United States-Mexican Border and long. 113°30'30"W.; thence along the United States-Mexican Border to lat. 32°23'45"N., long. 114°28'30"W.; thence direct to lat. 32°30'00"N., long. 114°28'30"W.; thence direct to lat. 32°30'00"N., long. 114°31'00"W.; thence direct to lat. 32°35'00"N., long. 114°31'00"W.; thence direct to lat. 32°35'00"N., long. 114°28'30"W.; thence direct to lat. 32°39'40"N., long. 114°28'30"W.; thence direct to lat. 32°40'45"N., long. 114°18'29"W.; thence along the Southern Pacific Railroad and U.S. Highway to lat. 32°44'15"N., long. 113°41'05"W.; thence direct to the point of beginning.
Designated altitudes. Surface to Flight Level 800.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. Commander, Luke AFB, Ariz.

R-2302 Flagstaff, Ariz.
Boundaries. A circular area with a 6,600-foot radius centered at latitude 35°10'20" N., longitude 111°51'19" W.
Designated altitudes. Surface to 11,000 feet MSL.
Time of designation. 0800 to 2400 MST, Monday through Saturday.
Using agency. Commanding Officer, Navajo Ordance Depot, Flagstaff, Arizona.

R-2303A Fort Huachuca, Ariz.

Boundaries: Beginning at latitude 31°40'40" N., longitude 110°11'00" W.; to latitude 31°34'00" N., longitude 110°08'30" W.; to latitude 31°34'00" N., longitude 110°22'00" W.; to latitude 31°33'00" N., longitude 110°23'00" W.; to latitude 31°29'00" N., longitude 110°23'00" W.; to latitude 31°29'00" N., longitude 110°41'30" W.; to latitude 31°34'00" N., longitude 110°43'30" W.; to latitude 31°38'30" N., longitude 110°42'00" W.; to latitude 31°38'30" N., longitude 110°39'30" W.; to latitude 31°41'00" N., longitude 110°33'30" W.; to latitude 31°41'00" N., longitude 110°12'00" W.; to point of beginning.

Designated altitudes: Surface to 15,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Headquarters, Fort Huachuca, Ariz.

R-2303B Fort Huachuca, Ariz.

Boundaries: Beginning at latitude 31°35'00" N., longitude 110°00'00" W.; to latitude 31°24'00" N., longitude 110°00'00" W.; to latitude 31°24'00" N., longitude 110°46'00" W.; to latitude 31°48'00" N., longitude 110°46'00" W.; to latitude 31°48'00" N., longitude 110°25'45" W.; to point of beginning.

Designated altitudes: 15,000 feet MSL to FL 450.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Headquarters, Fort Huachuca, Ariz.

R-2304 Gila Bend, Arizona.

Boundaries. Beginning at latitude 32°38'30" N., longitude 112°18'00" W.; to latitude 32°26'40" N., longitude 112°18'00" W.; to latitude 32°26'40" N., longitude 112°43'30" W.; to latitude 32°49'00" N., longitude 112°39'00" W.; to the point of beginning.

Designated altitudes. Surface to flight level 240.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Albuquerque Center.

Using agency. Commander, Luke AFB, Arizona.

R-2305 Gila Bend, Arizona

Boundaries. Beginning at Lat. 32°50'25" N, Long. 112°49'00" W; to Lat. 32°50'52" N, Long. 112°42'53" W; to Lat. 32°49'00" N, Long. 112°39'00" W; to Lat. 32°29'00" N, Long. 112°43'00" W; to Lat. 32°29'00" N, Long. 112°53'30" W; to the point of beginning.

Designated altitudes. Surface to flight level 240.

Time of designation. Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque Center.

Using agency. Commander, Luke AFB, Ariz.

R-2306A Yuma West, Ariz.

Boundaries: Beginning at latitude 33°00'00" N., longitude 114°30'00" W.; to latitude 33°02'48" N., longitude 114°20'00" W.; to latitude 33°02'48" N., longitude 114°34'00" W.; to latitude 33°15'00" N., longitude 114°34'37" W.; to latitude 33°15'00" N., longitude 114°15'00" W.; thence south along Highway 95 to latitude 33°00'00" N., longitude 114°17'20" W.; to point of beginning.

Designated altitudes: Surface to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding officer, Yuma Proving Ground, Yuma, Ariz.

R-2306B Yuma West, Ariz.

Boundaries: Beginning at latitude 33°28'00" N., longitude 114°13'00" W.; thence south along Highway 95 to latitude 33°15'00" N., longitude 114°15'00" W.; to latitude 33°15'00" N., longitude 114°30'00" W.; to latitude 33°26'00" N., longitude 114°30'00" W.; to latitude 33°28'00" N., longitude 114°28'00" W.; to point of beginning.

Designated altitudes: Surface to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2306C Yuma West, Ariz.

Boundaries: Beginning at latitude 33°15'00" N., longitude 114°34'37" W.; to latitude 33°23'00" N., longitude 114°34'37" W.; to latitude 33°26'00" N., longitude 114°30'00" W.; to latitude 33°15'00" N., longitude 114°30'00" W.; to point of beginning.

Designated altitudes: Surface to 17,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

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R-2307 Yuma, Ariz.

Boundaries. Beginning at latitude 32°52'00" N., longitude 114°00'00" W.; to latitude 32°52'50" N., longitude 113°50'10" W.; to latitude 32°58'00" N., longitude 113°37'20" W.; to latitude 33°02'00" N., longitude 113°37'20" W.; to latitude 33°02'00" N., longitude 113°56'30" W.; to latitude 33°00'00" N., longitude 114°11'00" W.; to latitude 33°00'00" N., longitude 114°30'00" W.; thence along the west bank of the Colorado River to latitude 32°51'45" N., longitude 114°27'50" W.; to latitude 32°52'30" N., longitude 114°21'00" W.; to latitude 32°51'15" N., longitude 114°21'00" W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2308A Yuma East, Ariz.

Boundaries: Beginning at latitude 33°28'00" N., longitude 114°13'00" W.; to latitude 33°17'30" N., longitude 113°39'04" W.; to latitude 33°17'30" N., longitude 113°45'00" W.; to latitude 33°02'00" N., longitude 113°45'00" W.; to latitude 33°02'00" N., longitude 113°56'30" W.; to latitude 33°00'00" N., longitude 114°11'00" W.; to latitude 33°00'00" N., longitude 114°17'20" W.; thence north along Highway 95 to point of beginning.

Designated altitudes: 1,500 feet AGL to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2308B Yuma East, Ariz.

Boundaries: Beginning at latitude 33°02'00" N., longitude 113°45'00" W.; to latitude 33°17'30" N., longitude 113°45'00" W.; to latitude 33°17'30" N., longitude 113°39'04" W.; to latitude 33°02'00" N., longitude 113°39'04" W.; to point of beginning.

Designated altitudes: Surface to 80,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.

Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2310A Florence, Ariz.

Boundaries. Beginning at lat. 33°14'07"N., long. 111°17'44"W.; to lat. 33°14'07"N., long. 111°14'52"W.; to lat. 33°04'45"N., long. 111°19'30"W.; to lat. 33°03'40"N., long. 111°22'40"W.; to lat. 33°09'41"N., long. 111°21'15"W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Intermittent by NOTAM at least 48 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Arizona Army National Guard.

AMENDMENTS 7/10/80 45 F. R. 30424 (Added)

R-2310B Florence, Ariz.

Boundaries. Beginning at lat. 33°12'20"N., long. 111°19'09"W.; to lat. 33°12'20"N., long. 111°15'45"W.; to lat. 33°06'42"N., long. 111°18'32"W.; to lat. 33°06'42"N., long. 111°21'57"W.; to lat. 33°09'41"N., long. 111°21'15"W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to 17,000 feet MSL.

Time of designation. Intermittent by NOTAM at least 48 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Arizona Army National Guard.

AMENDMENTS 7/10/80 45 F. R. 30424 (Added)

R-2310C Florence, Ariz.

Boundaries. Beginning at lat. 33°11'15"N., long. 111°20'00"W.; to lat. 33°11'15"N., long. 111°16'17"W.; to lat. 33°06'42"N., long. 111°18'32"W.; to lat. 33°06'42"N., long. 111°21'57"W.; to lat. 33°09'41"N., long. 111°21'15"W.; to point of beginning.

Designated altitudes. 17,000 feet MSL to 35,000 feet MSL.

Time of designation. Intermittent by NOTAM at least 48 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Arizona Army National Guard.

AMENDMENTS 7/10/80 45 F. R. 30424 (Added)

R-2311 Army Proving Grounds, Yuma, Ariz.

Boundaries. Beginning at lat. 33°05'00"N., long. 113°39'04"W.; to lat. 33°05'00"N., long. 113°21'00"W.; to lat. 33°01'00"N., long. 113°21'00"W.; to lat. 32°53'50"N., long. 113°36'20"W.; to lat. 32°52'50"N., long. 113°50'10"W.; to lat. 32°58'00"N., long. 113°37'20"W.; to lat. 33°02'00"N., long. 113°37'20"W.; to lat. 33°02'00"N., long. 113°39'04"W.; to point of beginning.

Designated altitudes. 1,500 feet MSL to 5,500 feet MSL.

Time of designation. By NOTAM at least 24 hours in advance, October 1, 1980, through March 31, 1982.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commanding Officer, U. S. Army Proving Grounds, Yuma, Ariz.

AMENDMENTS 10/1/80 45 F. R. 58106 (Changed)

FEDERAL REGISTER

§ 7 24 Arkansas

R-2401 Fort Chaffee, Ark.

Boundaries. Beginning at lat. 35°18'35" N., long. 94°11'48" W.; to lat. 35°18'10" N., long. 94°16'30" W.; to lat. 35°16'06" N., long. 94°19'03" W.; to lat. 35°13'50" N., long. 94°15'00" W.; to lat. 35°13'50" N., long. 94°11'30" W.; to point of beginning.

Designated altitudes. Surface to and including 30,000 feet MSL.

Time of designation. Continuous April 1 through September 30 and 0600 Saturday to 2400 Sunday, October 1 through March 31, other times following issuance of a NOTAM at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, Fort Chaffee, Ark.

R-2402 Fort Chaffee, Ark.

Boundaries. Beginning at lat. 35°17'51" N., long. 94°03'00" W.; to lat. 35°17'00" N., long. 94°03'00" W.; to lat. 35°17'00" N., long. 94°01'00" W.; to lat. 35°10'20" N., long. 94°01'00" W.; thence west along Arkansas State Highway No. 10 to lat. 35°11'33" N., long. 94°12'00" W.; to lat. 35°18'10" N., long. 94°12'24" W.; to lat. 35°18'12" N., long. 94°09'51" W.; thence east along Arkansas State Highway No. 22 to point of beginning.

Designated altitudes. Surface to and including 30,000 feet MSL.

Time of designation. Continuous April 1 through September 30 and 0600 Saturday to 2400 Sunday, October 1 through March 31, other times following issuance of NOTAM at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, Fort Chaffee, Ark.

R-2403A Little Rock, Ark.

Boundaries. Beginning at lat. 34°57'00" N., long. 92°15'00" W.; to lat. 34°54'52" N., long. 92°15'00" W.; to lat. 34°54'08" N., long. 92°19'30" W.; to lat. 34°57'00" N., long. 92°19'30" W.; to point of beginning.

Designated altitudes. Surface to 16,000 feet MSL.

Time of designation. Daily 0700 to 2100 May 1 through August 31, to be activated by NOTAM 48 hours in advance. Other times, 0700 Saturday to 1700 Sunday, September 1 through April 30, to be activated by NOTAM at least 24 hours in advance. All times local.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Arkansas Army National Guard.

R-2403B Little Rock, Ark.

Boundaries. Beginning at lat. 34°54'52" N., long. 92°15'00" W.; to lat. 34°51'45" N., long. 92°15'00" W.; to lat. 34°51'45" N., long. 92°19'30" W.; to lat. 34°54'08" N., long. 92°19'30" W.; to point of beginning.

Designated altitudes. Surface to 16,000 feet MSL.

Time of designation. Daily 0700 to 2100 1 May through 31 August, to be activated by NOTAM 48 hours in advance stating period of activation. Other times, 0700 Saturday to 1700 Sunday, 1 September through 30 April, to be activated by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Arkansas Army National Guard.

§ 73.25 California

R-2501N Bullion Mountains North, Calif.

Boundaries. Beginning at lat. 34°30'00"N., long. 116°26'20"W.; to lat. 34°36'00"N., long. 116°28'00"W.; to lat. 34°40'30"N., long. 116°29'40"W.; to lat. 34°43'00"N., long. 116°26'20"W.; to lat. 34°43'00"N., long. 116°17'00"W.; to lat. 34°41'15"N., long. 116°04'30"W.; lat. 34°41'00"N., long. 116°03'00"W.; to lat. 34°35'30"N., long. 115°58'00"W.; to lat. 34°34'40"N., long. 115°54'55"W.; to lat. 34°34'00"N., long. 115°58'00"W.; to lat. 34°29'40"N., long. 115°58'12"W.; to lat. 34°27'30"N., long. 116°04'13"W.; to lat. 34°28'13"N., long. 116°12'20"W.; to lat. 34°32'00"N., long. 116°17'34"W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commanding General, Marine Corps Base, Twentynine Palms, Calif.

R-250[illegible] Bullion Mountains South, Calif.

Boundaries. Beginning at lat. 34°28'13"N., long. 116°12'20"W.; to lat. 34°27'30"N., long. 116°04'13"W.; to lat. 34°20'09"N., long. 115°59'03"W.; to lat. 34°14'00"N., long. 115°57'00"W.; to lat. 34°14'00"N., long. 116°17'00"W.; to lat. 34°19'30"N., long. 116°20'26"W.; to lat. 34°19'30"N., long. 116°15'47"W.; to lat. 34°24'54"N., long. 116°17'52"W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commanding General, Marine Corps Base, Twentynine Palms, Calif.

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R-2501E Bullion Mountains East, Calif.

Boundaries. Beginning at lat. 34°34'40"N., long. 115°54'55"W.; to lat. 34°33'00"N., long. 115°47'00"W.; to lat. 34°25'00"N., long. 115°47'00"W.; to lat. 34°25'00"N., long. 115°44'00"W.; to lat. 34°14'00"N., long. 115°44'00"W.; to lat. 34°14'00"N., long. 115°57'00"W.; to lat. 34°20'09"N., long. 115°59'03"W.; to lat. 34°27'30"N., long. 116°04'13"W.; to lat. 34°29'40"N., long. 115°58'12"W.; to lat. 34°34'00"N., long. 115°58'00"W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commanding General Marine Corps Base, Twentynine Palms, Calif.

R-2501W Bullion Mountains West. Calif.

Boundaries. Beginning at lat. 34°30'00"N., long. 116°26'20"W.; to lat. 34°32'00"N., long. 116°17'34"W.; to lat. 34°28'13"N., long. 116°12'20"W.; to lat. 34°24'54"N., long. 116°17'52"W.; to lat. 34°19'30"N., long. 116°15'47"W.; to lat. 34°19'30"N., long. 116°20'26"W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commanding General, Marine Corps Base, Twentynine Palms, Calif.

R-2502N Fort Irwin, Calif.

Boundaries. Beginning at latitude 35°37'45" N., longitude 116°29'40" W.; to latitude 35°34'30" N., longitude 116°29'40" W.; to latitude 35°34'30" N., longitude 116°23'30" W.; to latitude 35°28'35" N., longitude 116°18'45" W.; to latitude 35°10'25" N., longitude 116°42'15" W.; to latitude 35°08'50" N., longitude 116°48'40" W.; to latitude 35°10'00" N., longitude 116°49'00" W.; to latitude 35°19'00" N., longitude 116°49'00" W.; to latitude 35°19'00" N., longitude 116°55'20" W.; to latitude 35°37'45" N., longitude 116°55'20" W.; to point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles, ARTC Center.

Using agency. Commander, Fort Irwin, Calif.

R-2502E Fort Irwin, CA.

Boundaries. Beginning at latitude 35°28'35" N., longitude 116°18'45" W.; to latitude 35°18'45" N., longitude 116°18'45" W.; to latitude 35°07'00" N., longitude 116°34'00" W.; to latitude 35°07'00" N., longitude 116°47'45" W.; to latitude 35°08'50" N., longitude 116°48'40" W.; to latitude 35°10'25" N., longitude 116°42'15" W.; to point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles, ARTC Center.

Using agency. Commander, Fort Irwin, Calif.

R-2503 Camp Pendleton, Calif.

Boundaries. Beginning at latitude 33°24'23" N., longitude 117°15'15" W.; to latitude 33°18'00" N., longitude 117°16'08" W.; to latitude 33°17'30" N., longitude 117°16'40" W.; to latitude 33°18'20" N., longitude 117°21'48" W.; to latitude 33°27'48" N., longitude 117°33'15" W.; to latitude 33°30'13" N., longitude 117°29'13" W.; to the point of beginning.

Designated altitudes. Surface to 15,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.

Using agency. Commanding General, Camp Pendleton, Calif.

R-2504 Camp Roberts, Calif.

Boundaries. Beginning at latitude 35° 42' 18" N., longitude 120° 47' 55" W.; to latitude 35° 42' 18" N., longitude 120° 47' 20" W.; to latitude 35° 42' 58" N., longitude 120° 45' 33" W.; to latitude 35° 46' 38" N., longitude 120° 44' 38" W.; to latitude 35° 47' 18" N., longitude 120° 44' 45" W.; to latitude 35° 47' 54" N., longitude 120° 45' 49" W.; to latitude 35° 49' 10" N., longitude 120° 45' 40" W.; to latitude 35° 51' 00" N., longitude 120° 46' 25" W.; to latitude 35° 51' 11" N., longitude 120° 47' 55" W.; to latitude 35° 48' 50" N., longitude 120° 49' 58" W.; to latitude 35° 46' 00" N., longitude 120° 49' 55" W.; to latitude 35° 44' 03" N., longitude 120° 48' 08" W.; to latitude 35° 43' 08" N., longitude 120° 49' 00" W.; to latitude 35° 42' 44" N., longitude 120° 48' 48" W.; to the point of beginning.

Designated altitudes. Surface to 15,000 feet MSL.

Time of designation. 0600 to 2400 P.s.t., daily.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commander, Camp Roberts, Calif.

R-2505 China Lake, Calif.

Boundaries. Beginning at Lat. 36°14'00" N, Long. 117°53'00" W; to Lat. 36°14'00" N, Long. 117°25'00" W; to Lat. 35°40'30" N, Long. 117°25'00" W; to Lat. 35°37'30" N, Long. 117°35'30" W; to Lat. 35°37'30" N, Long. 117°47'30" W; to Lat. 35°54'00" N, Long. 117°53'00" W; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2506 China Lake South, Calif.

Boundaries. Beginning at latitude 35°37'30" N., longitude 117°41'20" W.; to latitude 35°28'00" N., longitude 117°40'50" W.; to latitude 35°28'00" N., longitude 117°47'00" W.; to latitude 35°37'30" N., longitude 117°47'30" W.; to the point of beginning.

Designated altitudes. Surface to 6,000 feet MSL.

Time of designation. Sunrise to sunset, Monday through Friday.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2507 North Chocolate Mountains, Calif.

Boundaries. Beginning at lat. 33°32'40"N., long. 115°33'50"W.; to lat. 33°31'30"N., long. 115°32'00"W.; to lat. 33°31'15"N., long. 115°26'45"W.; to lat. 33°29'00"N., long. 115°20'00"W.; to lat. 33°25'50"N., long. 115°14'30"W.; to lat. 33°24'15"N., long. 115°17'00"W.; to lat. 33°23'00"N., long. 115°14'30"W.; to lat. 33°14'00"N., long. 115°22'30"W.; to lat. 33°21'30"N., long. 115°32'55"W.; to lat. 33°23'40"N., long. 115°33'20"W.; to lat. 33°28'30"N., long. 115°42'10"W.; thence to the point of beginning.

Designated altitudes. Surface to FL 400.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.

Using agency. Commanding Officer, U. S. Marine Corps Air Station, Yuma, Ariz.

R-2507 South Chocolate Mountains, Calif.

Boundaries. Beginning at lat. 33°23'00"N., long. 115°14'30"W.; to lat. 33°21'40"N., long. 115°12'00"W.; to lat. 33°22'50"N., long. 115°09'58"W.; to lat. 33°08'45"N., long. 114°56'40"W.; to lat. 33°01'00"N., long. 115°06'00"W.; to lat. 33°14'00"N., long. 115°22'30"W.; thence to the point of beginning.

Designated altitudes. Surface to FL 400.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.

Using agency. Commanding Officer, U. S. Marine Corps Air Station, Yuma, Ariz.

R-2508 Complex, Calif.

Boundaries. Beginning at Lat. 37°12'00" N, Long. 117°20'00" W; to Lat. 35°34'00" N, Long. 116°23'00" W; to Lat. 35°28'35" N, Long. 116°18'45" W; to Lat. 35°18'45" N, Long. 116°18'45" W; to Lat. 35°07'00" N, Long. 116°34'00" W; to Lat. 35°07'00" N, Long. 116°47'45" W; to Lat. 35°08'50" N, Long. 116°48'40" W; to Lat. 35°06'30" N, Long. 116°58'40" W; to Lat. 34°53'30" N, Long. 117°11'50" W; to Lat. 34°50'20" N, Long. 117°32'00" W; to Lat. 34°48'30" N, Long. 117°32'00" W; to Lat. 34°48'00" N, Long. 117°35'00" W; to Lat. 34°48'00" N, Long. 118°01'00" W; to Lat. 34°49'40" N, Long. 118°05'45" W; to Lat. 34°51'30" N, Long. 118°05'45" W; to Lat. 34°56'00" N, Long. 118°21'00" W; Lat. 35°15'00" N, Long. 118°35'00" W; to Lat. 37°12'00" N, Long. 118°35'00" W; to the point of beginning.

Designated altitudes. 20,000 feet MSL to unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2509 Cuddeback Dry Lake, Calif.

Boundaries. Beginning at Lat. 35°25'00" N, Long. 117°28'00" W; to Lat. 35°25'00" N, Long. 117°16'52" W; to Lat. 35°15'56" N, Long. 117°16'52" W; to Lat. 35°15'56" N, Long. 117°28'00" W; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Agency, Los Angeles ARTC Center.

Using agency. Commander, George AFB, Calif.

R-2510 El Centro, Calif.

Boundaries. Beginning at latitude 32°59'35" N., longitude 115°43'30" W.; to latitude 32°55'35" N., longitude 115°40'15" W.; to latitude 32°53'45" N., longitude 115°40'15" W.; thence counterclockwise along the arc of a 5-mile radius circle centered at latitude 32°49'20" N., longitude 115°40'15" W.; to latitude 32°50'05" N., longitude 115°45'20" W.; to latitude 32°50'05" N., longitude 115°55'00" W.; to latitude 32°55'50" N., longitude 115°55'00" W.; to latitude 33°01'20" N., longitude 116°02'15" W.; to latitude 33°06'35" N., longitude 115°56'50" W.; to latitude 33°06'35" N., longitude 115°51'12" W.; to point of beginning.

Designated altitudes. Surface to flight level 500.

Time of designation. Continuous, surface to 20,000 feet MSL; Sunrise to sunset, Monday through Friday, 20,000 feet MSL to flight level 500.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commanding Officer, U. S. Marine Corps Air Station, Yuma, Ariz.

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R-2511 Fort Ord, California

Boundaries. Beginning at latitude 36° 37' 42" N., longitude 121° 48' 47" W.; to latitude 36° 38' 25" N., longitude 121° 46' 29" W.; thence counterclockwise around the arc of a 3-mile radius circle centered at latitude 36° 40' 55" N., longitude 121° 45' 41" W.; to latitude 36° 38' 43" N., longitude 121° 44' 00" W.; to latitude 36° 38' 08" N., longitude 121° 43' 20" W.; to latitude 36° 35' 45" N., longitude 121° 42' 42" W.; to latitude 36° 34' 45" N., longitude 121° 47' 24" W.; thence counterclockwise along the arc of a 3-mile radius circle centered at latitude 36° 35' 30" N., longitude 121° 50' 30" W.; to the point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Monterey Approach Control

Using agency. Commanding General, Fort Ord, California.

R-2512 Holtville. Calif.

Boundaries. Beginning at Lat. 33°05'00" N, Long. 115°17'30" W; to Lat. 33°00'00" N, Long. 115° 13'30" W; to Lat. 32°51'00" N, Long. 115°05'30" W; to Lat. 32°51'00" N, Long. 115°17'00" W; to Lat. 32°58'00" N, Long. 115°17'30" W; to Lat. 33°05'00" N, Long. 115°20'00" W; to the point of beginning.

Designated altitudes. Surface to 23,000 feet MSL.

Time of designation. Continuous.

Using agency. Commanding Officer, U.S. Marine Corps Air Station, Yuma, Ariz.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

R-2513 Hunter-Liggett, Calif.

Boundaries. From lat. 36°03'43"N., long. 121°22'38"W., to lat. 36°02'45"N., long. 121°17'45"W., to latitude 35°59'18" N., longitude 121°13'30" W., to latitude 35°56'45" N., longitude 121°09'45" W., to latitude 35°55'20" N., longitude 121°05'45" W., to latitude 35°48'17" N., longitude 121°10'53" W., to latitude 35°51'02" N., longitude 121°16'15" W., to latitude 35°51'02" N., longitude 121°17'20" W., to latitude 35°58'10" N., longitude 121°23'40" W., to latitude 35°58'10" N., longitude 121°21'40" W., to latitude 36°02'12" N., longitude 121°24'40" W., to the point of beginning.

Designated altitudes. Surface to FL 240.

Time of designation. Continuous.

Controlling agency. FAA, Oakland ARTC Center.

Using agency. Commanding General, Fort Ord, Calif.

R-2515 Muroc Lake, Calif.

Boundaries. Beginning at Lat. 35°19'00" N, Long. 116°49'00" W; to Lat. 35°10'00" N, Long. 116° 49'00" W; to Lat. 35°08'50" N, Long. 116°48'40" W; to Lat. 35°06'30" N, Long. 116°58'40" W; to Lat. 34°53'30" N, Long. 117°11'50" W; to Lat. 34°50'20" N, Long. 117°32'00" W; to Lat. 34°48'30" N, Long. 117°32'00" W; to Lat. 34°48'00" N, Long. 117°35'00" W; to Lat. 34°48'00" N, Long. 118°01'00" W; to Lat. 34°49'40" N, Long. 118°05'45" W; to Lat. 35°01'00" N, Long. 118°05'45" W; to Lat. 35°27'40" N, Long. 117°26'00" W; to Lat. 35°15'56" N, Long. 117°26'00" W; to Lat. 35°15'56" N, Long. 116°55'20" W; to Lat. 35°19'00" N, Long. 116°55'20" W; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commander, Air Force Flight Test Center, Edwards AFB, Calif.

R-2516 Naval Missile Facility, Point Arguello, Calif.

Boundaries: Beginning at latitude 34°59'32" N., longitude 120°41'50" W.; to latitude 34°53'30" N., longitude 120°33'20" W.; to latitude 34°50'15" N., longitude 120°31'30" W.; to latitude 34°46'15" N., longitude 120°26'40" W.; to latitude 34°39'50" N., longitude 120°31'15" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to latitude 34°34'52" N., longitude 120°42'37" W.; thence 3 nautical miles from and parallel to the shoreline to the point of beginning.

Designated altitudes: Surface to unlimited.

Time of designation: Continuous.

Using agency: HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg, AFB, Calif.

R-2517 Naval Missile Facility, Point Arguello, Calif.

Boundaries. Beginning at latitude 34°34'52" N., longitude 120°42'37" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to latitude 34°24'45" N., longitude 120°27'20" W.; to latitude 34°24'00" N., longitude 120°30'00" W.; thence three nautical miles from and parallel to the shoreline to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Using agency. HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg AFB, Calif.

R-2518 Castle Rock, Calif.

Boundaries. A circular area with a 300-yard radius centered at Lat. 33°02'04" N, Long. 118°36'47" W.

Designated altitudes. Surface to 2,000 feet MSL.

Time of designation. Sunrise to 2000 local time.

Using agency. Commanding Officer, Fleet Air Control and Surveillance Facility, San Diego, Calif.

-2519 Point Mugu, Calif.
Boundaries. Beginning at Lat. 34°07'00" N, Long. 119°07'00" W; to Lat. 34°04'15" N, Long. 119° 3'40" W; to Lat. 34°02'15" N, Long. 119°04'20" W; thence 3 nautical miles from and parallel to he shoreline to Lat. 34°05'30" N, Long. 119°13'00" W; to Lat. 34°06'55" N, Long. 119°11'15" W; to Lat. 34°07'06" N, Long. 119°09'32" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Pacific Missile Range, Point Mugu, Calif.

R-2520 Point Mugu, Calif.
Boundaries. Beginning at Lat. 34°06'30" N, Long. 119°06'10" W; to Lat. 34°07'00" N, Long. 119° 05'00" W; to Lat. 34°06'15" N, Long. 119°05'25" W; to Lat. 34°07'00" N, Long. 119°07'00" W; to Lat. 34°07'07" N, Long. 119°09'00" W; to Lat. 34°06'30" N, Long. 119°07'40" W; to the point of beginning.
Designated altitudes. Surface to 3,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Pacific Missile Range, Point Mugu, Calif.

R-2521 Salton Sea, Calif.
Boundaries. Beginning at latitude 33°18'00" N., longitude 115°44'00" W.; to latitude 33°10'40" N., longitude 115°44'00" W.; to latitude 33°10'40" N., longitude 115°49'50" W.; to latitude 33°23'15" N., longitude 5°58'40" W.; to latitude 33°26'15" N., longitude 115°54'00" W.; to the point of beginning.
esignated altitudes: Surface to flight level 400 sunrise to sunset; surface to 4,000 feet MSL sunset to rise.
Time of designation: Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using Agency. Commanding Officer, Naval Air Facility, El Centro, Calif.

R-2524 Trona, Calif.
Boundaries. Beginning at Lat. 35°47'46" N, Long. 116°55'20" W; to Lat. 35°15'56" N, Long. 116° 55'20" W; to Lat. 35°15'56" N, Long. 117°16'52" W; to Lat. 35°25'00" N, Long. 117°16'52" W; to Lat. 35°25'00" N, Long. 117°26'00" W; to Lat. 35°36'00" N, Long. 117°26'00" W; to Lat. 35°36'00" N, Long. 117°16'52" W; to Lat. 35°47'46" N, Long. 117°16'52" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angelos ARTC Center.
Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2529 Fort Ord West, California

Boundaries. Beginning at latitude 36° 42' 00" N., longitude 121° 49' 45" W.; to latitude 36° 40' 48" N., longitude 121° 48' 22" W.; thence south along California State Highway No. 1 to latitude 36° 38' 05" N., longitude 121° 49' 55" W.; to latitude 36° 38' 15" N., longitude 121° 51' 45" W.; to the point of beginning.
Designated altitudes. Surface to 1,000 feet MSL.
Time of designation. Thirty minutes before sunrise to thirty minutes after sunset.
Controlling agency. Federal Aviation Administration, Monterey Approach Control.
Using agency. Commanding General, Fort Ord, California.

R-2530 Sierra Army Depot, Calif.
Boundaries. Beginning at latitude 40° 18' 21" N., longitude 120° 05' 06" W.; to latitude 40° 18' 21" N., longitude 120° 02' 51" W.; to latitude 40° 16' 06" N., longitude 120° 02' 51" W.; to latitude 40° 16' 06" N., longitude 120° 05' 06" W.; to the point of beginning.
Designated altitudes. Surface to 8,600 feet MSL.
Time of designation. 0800 to 1800 p.s.t., Monday through Friday.

Using agency. Commanding Officer, Sierra Army Depot, Herlong, California.

R-2531A Tracy, Calif.
Boundaries. Beginning at lat. 37°40'34"N., long. 121°33'42"W.; to lat. 37°40'45"N., long. 121°31'29"W.; to lat. 37°39'28"N., long. 121°30'28"W.; to lat. 37°38'50"N., long. 121°31'05"W.; to lat. 37°39'03"N., long. 121°34'03"W.; thence to the point of beginning.
Designated altitudes. Surface to but not including 3,000 feet MSL.
Time of designation. 1000 to 1800 local time, Monday through Friday.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. United States Energy Research and Development Administration, San Francisco Operations Office.

R-2531B Tracy, Calif.

Boundaries. Beginning at lat. 37°40'34"N., long. 121°33'42"W.; to lat. 37°40'45"N., long. 121°31'29"W.; to lat. 37°39'28"N., long. 121°30'28"W.; to lat. 37°38'50"N., long. 121°31'05"W.; to lat. 37°39'03"N., long. 121°34'03"W.; thence to the point of beginning.

Designated altitudes. 3,000 feet MSL to and including 4,000 feet MSL.

Time of designation. 1000 to 1800 local time, Monday through Friday.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. United States Energy Research and Development Administration, San Francisco Operations Office.

R-2533 Oceanside, Calif.

Boundaries: Beginning at latitude 33°27'48" N., longitude 117°33'15" W.; thence to latitude 33°18'20" N., longitude 117°21'48" W.; thence to latitude 33°17'30" N., longitude 117°16'40" W.; thence to latitude 33°13'20" N., longitude 117°29'00" W.; thence 3 nautical miles from and parallel to the shoreline to latitude 33°22'30" N., longitude 117°39'45" W.; thence to the point of beginning.

Designated altitudes: Surface to 2,000 feet MSL.

Time of designation: Continuous.

Controlling agency: FAA, El Toro RATCF

Using agency: Commanding General, Marine Corps Base (MCB), Camp Pendleton, Calif.

R-2534A Point Arguello, Calif.

Boundaries: Beginning at latitude 34°38'35" N., longitude 120°31'20" W.; to latitude 34°35'45" N., longitude 120°28'10" W.; to latitude 34°36'20" N., longitude 120°27'20" W.; to latitude 34°30'00" N., longitude 120°15'30" W.; to latitude 34°25'10" N., longitude 120°15'30" W.; thence 3 miles from and parallel to the shoreline to latitude 34°24'40" N., longitude 120°19'10" W.; to point of beginning.

Designated altitudes: 500 feet above the surface to unlimited.

Time of designation: Continuous.

Controlling agency: FAA, ARTCC, Los Angeles, Calif.

Using agency: HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg AFB, Calif.

R-2534B Point Arguello, Calif.

Boundaries: Beginning at latitude 34°38'35" N., longitude 120°31'20" W.; to latitude 34°24'40" N., longitude 120°19'10" W.; to latitude 34°24'45" N., longitude 120°27'20" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to point of beginning.

Designated altitudes: 500 feet above the surface to unlimited.

Time of designation: Continuous.

Controlling agency: FAA, ARTCC, Los Angeles, Calif.

Using agency: HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg, AFB, Calif.

§ 73.28 Colorado

R-2601 Fort Carson, Colo.

Boundaries: Beginning at lat. 38°38'19" N., long. 104°52'00" W.; thence northeasterly along Colorado Highway No. 115 to lat. 38°42'40" N., long. 104°49'04" W.; to lat. 38°41'20" N., long. 104°47'00" W.; to lat. 38°40'15" N., long. 104°46'20" W.; to lat. 38°40'00" N., long. 104°45'40" W.; to lat. 38°32'06" N., long. 104°45'00" W.; to lat. 38°32'06" N., long. 104°49'18" W.; to lat. 38°36'20" N., long. 104°52'00" W.; to the point of beginning.

Designated altitudes: Surface to 35,000 feet MSL; 35,000 feet MSL to 60,000 feet MSL, by NOTAM issued 24 hours in advance.

Time of designation. Continuous.

Controlling agency: Federal Aviation Administration, Denver ARTC Center.

Using agency: Commanding General, Fort Carson, Colo.

R-2602 Fort Carson, Colo.

Boundaries: Beginning at Lat. 38°38'19" N., Long. 104°52'00" W.; thence to Lat. 38°36'20" N., Long. 104°52'00" W.; to Lat. 38°32'06" N., Long. 104°49'18" W.; to Lat. 38°32'06" N., Long. 104°45'00" W.; to Lat. 38°25'35" N., Long. 104°45'00" W.; to Lat. 38°25'35" N., Long. 104°49'00" W.; to Lat. 38°26'10" N., Long. 104°49'00" W.; to Lat. 38°26'10" N., Long. 104°57'13" W.; to Lat. 38°32'58" N., Long. 104°57'00" W.; thence northeast along Colorado Highway Number 115 to point of beginning.

Designated altitudes: Surface to and including 35,000 feet MSL; 35,000 feet MSL to and including 60,000 feet MSL, by NOTAM issued 24 hours in advance.

Time of designation. Continuous.

Controlling agency: Federal Aviation Administration, Denver ARTC Center.

Using agency: Commanding General, Fort Carson, Colo.

R-2604 Platteville, Colo.

Boundaries. A circular area with a 3,000-foot radius centered at lat. 40°10'48"N., long. 104°43'30"W.

Designated altitude. Surface to 6,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Denver Approach Control.

Using agency. Office of Telecommunications, Boulder, Colo.

73.27 Connecticut

73.28 Delaware

73.29 Florida

R-2901A Avon Park, Fla.
Boundaries. Beginning at lat. 27°44'45"N., long. 81°25'20"W.; via lat. 27°44'45"N., long. 81°11'40"W.; lat. 27°35'00"N., long. 81°09'00"W.; lat. 27°32'30"N., long. 81°07'30"W.; lat. 27°29'00"N., long. 81°13'30"W.; lat. 27°32'40"N., long. 81°16'50"W.; lat. 27°32'32"N., long. 81°21'40"W.; lat. 27°42'00"N., long. 81°25'20"W.; to point of beginning.
Designated altitudes. Surface to and including 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2901B Avon Park, Fla.
Boundaries. Beginning at lat. 27°44'45"N., long. 81°25'20"W.; via lat. 27°44'45"N., long. 81°11'40"W.; lat. 27°35'00"N., long. 81°09'00"W.; lat. 27°32'40"N., long. 81°12'20"W.; lat. 27°32'32"N., long. 81°21'40"W.; lat. 27°42'00"N., long. 81°25'20"W.; to point of beginning.
Designated altitudes. 14,000 feet MSL to and including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2901C Avon Park, Fla.
Boundaries. Beginning at lat. 27°44'45"N., long. 81°25'20"W.; via lat. 27°46'00"N., long. 81°25'20"W.; thence east along Florida State Routes 60 and 630 to lat. 27°48'30"N., long. 81°14'00"W.; lat. 27°44'50"N., long. 81°14'00"W.; to point of beginning.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R 2901D Avon Park, Fla.
Boundaries. Beginning at lat. 27°46'00"N., long. 81°25'20"W.; via lat. 27°50'00"N., long. 81°25'20"W.; lat. 27°50'00"N., long. 81°14'00"W.; lat. 27°48'30"N., long. 81°14'00"W.; thence west along Florida State Routes 60 and 630 to the point of beginning.
Designated altitudes. 500 feet MSL to 4,000 feet MSL east of long. 81°21'00"W.; 1,000 feet AGL to 4,000 feet MSL west of long. 81°21'00"W.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2901E Avon Park, Fla.
Boundaries. Beginning at lat. 27°50'00"N., long. 81°25'20"W.; via lat. 27°55'00"N., long. 81°25'20"W.; lat. 28°00'00"N., long. 81°21'00"W.; lat. 28°00'00"N., long. 81°14'00"W.; lat. 27°50'00"N., long. 81°14'00"W.; to point of beginning.
Designated altitudes. 1,000 feet MSL to 4,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2901F Avon Park, Fla.
Boundaries. Beginning at lat. 27°32'32"N., long. 81°21'40"W.; via lat. 27°32'40"N., long. 81°16'50"W.; lat. 27°29'00"N., long. 81°13'30"W.; lat. 27°24'45"N., long. 81°11'00"W.; lat. 27°30'45"N., long. 81°17'50"W.; to point of beginning.
Designated altitudes. 4,000 feet MSL to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2901G Avon Park, Fla.
Boundaries. Beginning at lat. 27°29'00"N., long. 81°13'30"W.; via lat. 27°32'30"N., long. 81°07'30"W.; lat. 27°29'30"N., long. 81°05'30"W.; lat. 27°24'45"N., long. 81°11'00"W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

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R-2901H Avon Park, Fla.

Boundaries. Beginning at lat. 27°24'45"N., long. 81°11'00"W.; via lat. 27°29'30"N., long. 81°05'30"W.; lat. 27°21'00"N., long. 81°00'00"W.; to point of beginning.

Designated altitudes. 1,000 feet MSL to 4,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Miami ARTCC.

Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2901I Avon Park, Fla.

Boundaries. Beginning at lat. 27°24'45"N., long. 81°11'00"W.; via lat. 27°21'00"N., long. 81°00'00"W.; lat. 27°16'45"N., long. 81°06'00"W.; to point of beginning.

Designated altitudes. 1,500 feet MSL to 4,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Miami ARTCC.

Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

R-2903B Stevens Lake, Fla.

Boundaries: Within a 5 nautical mile radius of lat. 29°53'04" N., longitude 81°59'09" W., excluding the airspace bounded by lat. 29°53'45" N., long. 82°04'50" W.; lat. 29°52'35" N., long. 82°02'00" W.; lat. 29°50'27" N., long. 82°00'00" W.; lat. 29°48'30" N., long. 81°57'00" W.; with a southeast extension beginning at lat. 29°52'30" N., long. 81°53'30" W.; to lat. 29°49'00" N., long. 81°46'20" W.; to lat. 29°44'50" N., long. 81°49'05" W.; to lat. 29°'48'30" N., long. 81°57'00" W.; counterclockwise along an arc of a circle 5 nautical miles in radius centered at lat. 29°53'04" N., long. 81°59'09" W.; to the point of beginning; and a northeast extension beginning at lat. 29°59'50" N., long. 81°57'40" W.; to lat. 29°56'45" N., long. 81°53'15" W.; to lat. 29°55'30" N., long. 81°54'10" W.; counterclockwise along an arc of a circle 5 nautical miles in radius centered at lat. 29°53'04" N., long. 81°59'00" W.; to lat. 29°58'10" N., long. 81°59'10" W.; to point of beginning.

Designated altitudes: Within the circular area, surface to FL 230; within the southeast extension, surface to 7,000 feet MSL in the area beginning at lat. 29°52'30" N., long. 81°53'30" W.; to lat. 29°51'10" N., long. 81°51'00" W.; to lat. 29°47'00" N., long. 81°53'55" W.; to lat. 29°48'30" N., long. 81°57'00" W.; counterclockwise along an arc of a circle 5 nautical miles in radius centered at lat. 29°53'04" N., long. 81°59'09" W.; to point of beginning. Surface to 5,000 feet MSL in the area beginning at lat. 29°51'10" N., long. 81°51'00" W.; to lat. 29°49'00" N., long. 81°46'20" W.; to lat. 29°44'50" N., long. 81°49'05" W.; to lat. 29°47'00" N., long. 81°53'55" W.; to lat. 29°51'10" N., long. 81°51'00" W.; within the northeast extension, surface to 7,000 feet MSL.

Time of designation: Continuous.

Controlling agency. Federal Aviation Administration, Jacksonville TRACON.

Using agency: Department of Army Affairs, State of Fla., St. Augustine, Fla.

R-2904 Starke, Fla.

Boundaries. Beginning at lat. 30°03'30"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 82°02'46"W.; to lat. 30°03'30"N., long. 82°02'46"W.; to point of beginning.

Designated altitudes. Surface to but not including 1800 feet MSL.

Time of designation. Daily, April through August 0800-1700 local. September through March, Saturday and Sunday 0800-1700 local. Other times by NOTAM at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Jacksonville TRACON.

Using agency. Department of Military Affairs, State Arsenal, St. Augustine, Fla.

R-2905A Tyndall AFB, Fla.

Boundaries. Beginning at lat. 30°01'30"N., long. 85°32'30"W., to lat. 30°01'15"N., long. 85°30'00"W., to lat. 29°56'00"N., long. 85°33'00"W., thence 3 nautical miles from and parallel to the shoreline to lat. 29°59'00"N., long. 85°36'30"W. to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Intermittent, as announced by NOTAM, for periods of approximately 10 minutes during launch or recovery.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Air Defense Weapons Center, Tyndall AFB, Fla.

R-2905B Tyndall AFB, Fla.

Boundaries. Beginning at lat. 30°01'15"N., long. 85°30'00"W., to lat. 30°01'00"N., long. 85°27'00"W., to lat. 29°54'00"N., long. 85°27'00"W., thence 3 nautical miles from and parallel to the shoreline to lat. 29°56'00"N., long. 85°33'00"W., to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Intermittent, as announced by NOTAM, for periods of approximately 10 minutes during launch or recovery.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Air Defense Weapons Center, Tyndall, AFB, Fla.

R-2906 Rodman, Fla.

Boundaries: A circle with a 5-nautical-mile radius centered at latitude 29°29'00" N., longitude 81°46'00" W.; excluding the area east of the east bank of the St. Johns River.

Designated altitudes: Surface to 14,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Jacksonville TRACON.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

R-2907 Lake George, Fla.

Subarea A

Boundaries: Beginning at latitude 29°23'00" N., longitude 81°31'10" W.; to latitude 29°12'30" N., longitude 81°30'00" W.; to latitude 29°12'30" N., longitude 81°38'30" W.; to latitude 29°15'05" N., longitude 81°40'00" W.; to latitude 29°20'30" N., longitude 81°40'00" W.; to latitude 29°23'00" N., longitude 81°40'00" W.; to latitude 29°23'00" N., longitude 81°39'10" W.; thence via a 5-nautical-mile arc centered at latitude 29°19'11" N., longitude 81°35'15" W.; to point of beginning.

Designated altitudes: Surface to FL 230.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.

Using agency: Jacksonville Operating Area Coordination Center (JOACC), NAS Jacksonville, Fla.

Subarea B

Boundaries: Beginning at latitude 29°20'05" N., longitude 81°40'00" W.; to latitude 29°15'05" N., longitude 81°40'00" W.; to latitude 29°15'05" N., longitude 81°51'30" W.; to latitude 29°20'05" N., longitude 81°51'30" W.; to point of beginning.

Designated altitudes: Surface to 9,000 feet MSL from a line of longitude 81°40'00" W., to a line of longitude 81°42'55" W.; surface to 6,000 feet MSL from a line of longitude 81°42'55" W., to a line of longitude 81°51'30" W.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

-2908 Pensacola, Fla.

Boundaries. Bounded on the N by the Alabama-Florida shoreline; on the E by a line extending from Lat. 30°15'00" N, Long, 87°41'00" W to Lat. 30°11'20" N, Long. 87°44'15" W; on the S by a line 3 nautical miles from and parallel to the Alabama-Florida shoreline; and on the W by Long. 88°01'30" W.

Designated altitudes. Surface to 12,000 feet MSL.

Time of designation. Sunrise to sunset.

Controlling agency. FAA, Pensacola RATCF.

Using agency. Commander, Training Air Wing SIX, Naval Air Station, Pensacola, Fla.

R-2910 Pinecastle, Fla.

Boundaries: A circle withi a 5-nautical mile radius centered at latitude 29°06'52" N., longitude 81°42'55" W.; with a northwest extension to the circle beginning at latitude 29°07'55" N., longitude 81°48'20" W.; to latitude 29°10'00" N., longitude 81°50'35" W.; to latitude 29°14'00" N., longitude 81°45'50" W.; to latitude 29°11'50" N., longitude 81°43'00" W.; and with a southeast extension to the circle beginning at latitude 29°10'05" N., longitude 81°38'50" W.; to latitude 28°57'55" N., longitude 81°28'25" W.; to latitude 28°53'50" N., longitude 81°33'45" W.; to latitude 29°03'05" N., longitude 81°47'00" W.

Designated altitudes: Surface to FL 230 within the 5-nautical mile radius. Surface to 9,000 feet MSL within the northwest extension. Surface to 9,000 feet MSL within the southeast extension from the circle to a line from latitude 29°04'25" N., longitude 81°33'55" W.; to latitude 28°58'50" N., longitude 81°40'30" W. Surface to 6,000 feet MSL within that portion of the southeast extension that lies southeast of a line from latitude 29°04'25" N., longitude 81°33'55" W.; to latitude 28°58'50" N., longitude 81°40'30" W.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

R-2914A Valparaiso, Fla.

Boundaries: Beginning at lat. 30°43'15" N., long. 86°25'00" W.; to lat. 30°43'45" N., long. 86°10'30" W.; to lat. 30°41'00" N., long. 86°05'10" W.; to lat. 30°24'00" N., long. 85°56'00" W.; to lat. 30°19'15" N., long. 85° 5 '00" W.; to lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°23'20" N., long. 86°08'10" W.; to lat. 30°30' 4 " N., long. 86°25'00" W.; thence to point of beginning.

Designated altitudes: Surface to unlimited, excluding that airspace within R-2917.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.

Using agency: Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2914B Valparaiso, Fla.

Boundaries: Beginning at lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°19'15" N., long. 85°56'00" W.; to lat. 30°11'00" N., long. 85°56'00" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 30° 15'00" N., long. 86°06'51" W.; to point of beginning.

Designated altitudes: 8,500 feet MSL to unlimited.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.

Using agency: Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2915A Eglin AFB, Fla.

Boundaries. Beginning at latitude 30°33'40" N., longitude 86°55'00" W.; to latitude 30°38'45" N., longitude 86°55'00" W.; thence along the L and N Railroad to latitude 30°42'45" N., longitude 86°45'45" W.;to latitude 30°42'50" N., longitude 86°38'02" W.; to latitude 30°29'01" N., longitude 86°38'02" W.; to latitude 30°26'30" N., longitude 86°51'30" W.; thence along the Navarre-Milton Highway to point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2915B Eglin AFB, Fla.
Boundaries. Beginning at lat. 30°26'30" N., long. 86°51'30" W.; to lat. 30°29'01" N., long. 86°38'02" W.; to lat. 30°23'45"N., long. 86°38'15"W.; thence along the shoreline to lat. 30°22'46"N., long. 86°51'30"W.; to lat. 30°24'20" N., long. 86°48'00" W.; to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2915C Eglin AFB, Fla.
Boundaries. Beginning at lat. 30°22'46"N., long. 86°51'30"W.; thence along the shoreline to lat. 30°23'45" N., long. 86°38'15" W.; to lat. 30°20'50" N., long. 86°38'50" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 30°19'30" N., long. 86°51'30" W.; to point of beginning.
Designated altitudes. 8,500 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC) Eglin AFB, Fla.

R-2916 Cudjoe Key, Fla.
Boundaries. A circular area 4 statute miles in diameter centered at latitude 24°42'01" N., longitude 81°30'30" W.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. USAF, 20th Air Division.

R-2917 DeFuniak Springs, Fla.
Boundaries: A circle with a 1½-mile radius centered at latitude 30°34'18" N., longitude 86°12'56" W.
Designated altitude: Surface to 5,000 feet MSL.
Time of designation: Continuous.
Using agency. Commander, Armament Development and Test Center (DTC), Eglin AFB, Fla.

R-2918 Valparaiso, Fla.
Boundaries: Beginning at latitude 30°43'10" N., longitude 86°27'37" W., to latitude 30°43'15" N., longitude 86°25'00" W., to latitude 30°33'00" N., longitude 86°25'00" W., to latitude 30°33'00" N., longitude 86°25'30" W., to latitude 30°37'00" N., longitude 86°25'30" W., to latitude 30°37'00" N., longitude 86°27'37" W., to point of beginning.
Designated altitudes: Surface to unlimited.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency: Commander, Armament Development and Test Center, Eglin AFB, Fla.

R-2919A Valparaiso, Fla.
Boundaries. Beginning at lat. 30°30'45" N., long. 86°25'00" W.; to lat. 30°23'20" N., long. 86°08'10" W.; to lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°25'00" N., long. 86°22'26" W.; to lat. 30°25'00" N., long. 86°25'00" W.; to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2919B Valparaiso, Fla.
Boundaries. Beginning at lat. 30°25'00" N., long. 86°22'26" W.; to lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°15'00" N., long. 86°06'15" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 30°19'45" N., long. 86°23'45" W.; to point of beginning.
Designated altitudes. 8,500 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2921 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°49'10"N., long. 80°50'45"W.; to lat. 28°51'15"N., long. 80°47'15"W.; to lat. 28°51'15"N., long. 80°42'20"W.; thence three nautical miles from and parallel to the shoreline to lat. 28°45'20"N., long. 80°38'25"W.; to lat. 28°42'10"N., long. 80°48'20"W.; to point of beginning.
Designated altitudes. 8,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, to be activated by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2922 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°42'10"N., long. 80°48'20"W.; to lat. 28°45'20"N., long. 80°38'25"W.; to lat. 28°40'00"N., long. 80°40'28"W.; to lat. 28°38'00"N., long. 80°47'02"W.; to point of beginning.
Designated altitudes. 1200 feet MSL to but not including FL 180.
Time of designation. Intermittent, to be activated by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2923 Cape Kennedy, Fla.
Boundaries. Beginning at Lat. 28°40'00"N., Long. 80°40'28"W.; to Lat. 28°41'40"N., Long. 80°35'00"W.; thence three nautical miles from, and parallel to the shoreline to Lat. 28°30'00"N., Long. 80°29'05"W.; to Lat. 28°30'00"N., Long. 80°36'42"W.; to Lat. 28°34'00"N., Long. 80°35'45"W.; to point of beginning.
Designated altitudes. Surface to 5000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick AFB, Fla.

R-2924 Cape Kennedy, Fla.
Boundaries. Beginning at Lat. 28°24'30"N., Long. 80°38'00"W.; to Lat. 28°24'30"N., Long. 80°30'30"W.; thence three nautical miles from, and parallel to the shoreline to Lat. 28°30'00"N., Long. 80°29'05"W.; to Lat. 28°30'00"N., Long. 80°36'42"W.; to point of beginning.
Designated altitudes. Surface to 5000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick AFB, Fla.

R-2925 Cape Kennedy, Fla.
Boundaries. Beginning at Lat. 28°40'00"N., Long. 80°40'28"W.; to Lat. 28°41'40"N., Long. 80°35'00"W.; thence three nautical miles from, and parallel to the shoreline to Lat. 28°24'30"N., Long. 80°30'30"W.; to Lat. 28°24'30"N., Long. 80°38'00"W.; to Lat. 28°34'00"N., Long. 80°35'45"W.; to point of beginning.
Designated altitudes. 5000 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick AFB, Fla.

R-2926 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°38'00"N., long. 80°47'02"W.; to lat. 28°40'00"N., long. 80°40'28"W.; to lat. 28°34'00"N., long. 80°35'45"W.; to lat. 28°24'30"N., long. 80°38'00"W.; to lat. 28°24'30"N., long. 80°41'45"W.; to lat. 28°30'30"N., long. 80°43'30"W.; to lat. 28°37'35"N., long. 80°46'50"W.; to point of beginning.
Designated altitudes. Surface to unlimited—except that airspace below 1200 feet AGL west of line from lat. 28°31'20"N., long. 80°43'50"W.; to lat. 28°28'40"N., long. 80°40'30"W.; to lat. 28°24'30"N., long. 80° 40' 0"W.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2927 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°24'30"N., long. 80°41'45"W.; to lat. 28°24'30"N., long. 80°30'30"W.; to lat. 28°22'30"N., long. 80°35'00"W.; to lat. 28°22'30"N., long. 80°40'50"W.; to point of beginning.
Designated altitudes. 8,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, to be activated by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2928 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°40'00"N., long. 80°40'28"W.; to lat. 28°45'20"N., long. 80°38'25"W.; thence three nautical miles from and parallel to the shoreline to lat. 28°41'40"N., long. 80°35'00"W.; to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

§ 73.30 Georgia

R-3002A Fort Benning, Ga.

Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence along the Central of Georgia Railroad to lat. 32°20'54" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°53'10" W.; thence along the Chattahoochee River to lat. 32°14'40" N., long. 84°55'30" W.; to lat. 32°14'40" N., long. 84°58'42" W.; to lat. 32°20'15" N., long. 84°58'42" W.; thence along the north side of Dixie Road to lat. 32°21'10" N., long. 84°56'45" W.; to lat. 32°22'30" N., long. 84°56'45" W.; thence along Upatoi Creek to lat. 32°24'00" N., long. 84°53'30" W.; to lat. 32°29'17" N., long. 84°52'32" W.; to lat. 32°29'17" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°52'21" W.; to lat. 32°30'50" N., long. 84°52'15" W.; thence along the Central of Georgia Railroad to point of beginning.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.

Using agency. Commanding Officer, Fort Benning, Ga.

R-3002B Fort Benning, Ga.

Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence along the Central of Georgia Railroad to lat. 32°20'54" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°53'10" W.; thence along the Chattahoochee River to lat. 32°14'40" N., long. 84°55'30" W.; to lat. 32°14'40" N., long. 84°58'42" W.; to lat. 32°20'15" N., long. 84°58'42" W.; thence along the north side of Dixie Road to lat. 32°21'10" N., long. 84°56'45" W.; to lat. 32°22'30" N., long. 84°56'45" W.; thence along Upatoi Creek to lat. 32°24'00" N., long. 84°53'30" W.; to lat. 32°29'17" N., long. 84°52'32" W.; to lat. 32°29'17" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°52'21" W.; to lat. 32°30'50" N., long. 84°52'15" W.; thence along the Central of Georgia Railroad to point of beginning.

Designated altitudes. 4,000 feet MSL to 8,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.

Using agency. Commanding Officer, Fort Benning, Ga.

R-3002C Fort Benning, Ga.

Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence along the Central of Georgia Railroad to lat. 32°20'54" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°53'10" W.; thence along the Chattahoochee River to lat. 32°14'40" N., long. 84°55'30" N.; to lat. 32°14'40" N., long. 84°58'42" W.; to lat. 32°20'15" N., long. 84°58'42" W.; thence along the north side of Dixie Road to lat. 32°21'10" N., long. 84°56'45" W.; to lat. 32°22'30" N., long. 84°56'45" W.; thence along Upatoi Creek to lat. 32°24'00" N., long. 84°53'30" W.; to lat. 32°29'17" N., long. 84°52'32" W.; to lat. 32°29'17" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°52'21" W.; to lat. 32°30'50" N., long. 84°52'15" W.; thence along the Central of Georgia Railroad to point of beginning.

Designated altitudes. 8,000 feet MSL to 14,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.

Using agency. Commanding Officer, Fort Benning, Ga.

R-3002D Fort Benning, Ga.

Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; thence along the Central of Georgia Railroad to lat. 32°32'10" N., long. 84°40'40" W.; to lat. 32°31'20" N., long. 84°40'20" W.; thence along Upatoi Creek to lat. 32°31'46" N., long. 84°39'25" W.; to lat. 32°18'30" N., long. 84°39'25" W.; to lat. 32°18'55" N., long. long. 84°41'45" W.; thence northwest to point of beginning.

Designated altitudes. Surface to 8,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.

Using agency. Commanding Officer, Fort Benning, Ga.

R-3002E Fort Benning, Ga.

Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; thence along the Central of Georgia Railroad to lat. 32°32'10" N., long. 84°40'40" W.; to lat. 32°31'20" N., long. 84°40'20" W.; thence along Upatoi Creek to lat. 32°31'46" N., long. 84°39'25" W.; to lat. 32°18'30" N., long. 84°39'25" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence northwest to point of beginning.

Designated altitudes. 8,000 feet MSL to 14,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.

Using agency. Commanding Officer, Fort Benning, Ga.

R-3002F Fort Benning, Ga.

Boundaries. Beginning at lat. 32°31'46"N., long. 84°51'13"W.; thence along the Central of Georgia Railroad to lat. 32°32'10"N., long. 84°40'40"W.; to lat. 32°31'20"N., long. 84°40'20"W.; thence along Upatoi Creek to lat. 32°31'46"N., long. 84°39'25"W.; to lat. 32°18'30"N., long. 84°39'25"W.; to lat. 32°18'55"N., long. 84°41'45"W.; thence along the Central of Georgia Railroad to lat. 32°20'54"N., long. 84°47'20"W.; to lat. 32°20'00"N., long. 84°47'20"W.; to lat. 32°27'00"N., long. 84°52'53"W.; to lat. 32°29'17"N., long. 84°52'32"W.; to lat. 32°29'17"N., long. 84°51'35"W.; to lat. 32°30'19"N., long. 84°51'35"W.; to lat. 32°30'19"N., long. 84°52'21"W.; to lat. 32°30'50"N., long. 84°52'15"W.; thence along the Central of Georgia Railroad to point of beginning.

Designated altitudes. 14,000 feet MSL to FL 250.

Time of designation. Intermittent, activated by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Atlanta ARTC Center.

Using agency. Commanding Officer, Fort Benning, Ga.

R-3003 Fort Gordon, Ga.

Boundaries. Beginning at latitude 33°23'35" N., longitude 82°08'30" W.; to latitude 33°22'15" N., longitude 82°08'18" W.: to latitude 33°21'35" N., longitude 82°09'10" W.; to latitude 33°22'15" N., longitude 82°17'00" W.; to latitude 33°25'00" N., longitude 82°12'00" W.; to point of beginning.

Designated altitude. Surface to 4,000 feet MSL.

Time of designation. 0730 to 1700 local time, Monday through Sunday and at other times when published by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Augusta, Ga., ATC Tower.

Using agency. Commanding Officer, Fort Gordon, Ga.

R-3004 Fort Gordon, Ga.

Boundaries. Beginning at latitude 33°21'53" N., longitude 82°12'15" W.; to latitude 33°19'43" N., longitude 82°12'15" W.; to latitude 33°16'20" N., longitude 82°18'00" W.; to latitude 33°17'29" N., longitude 82°23'00" W.: to latitude 33°21'15" N., longitude 82°18'47" W.; to latitude 33°22'15" N., longitude 82°17'00" W.; to point of beginning.

Designated altitudes. Surface to 17,000 feet MSL.

Time of designation. As published by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commanding Officer. Fort Gordon, Ga.

R-3005A Fort Stewart, Ga.

Boundaries. Beginning at latitude 32°04'40" N., longitude 81°50'00" W.; to latitude 32°07'00" N., longitude 81°43'30" W.; to latitude 32°06'15" N., longitude 81°31'30" W.; to latitude 32°05'30" N., longitude 81°31'30" W.; to latitude 32°05'15" N., longitude 81°30'00" W.; to latitude 31°56'30" N., longitude 81°30'00" W.; thence along the arc of a 5-mile circle centered at latitude 31°53'20" N., longitude 81°33'45" W.; to latitude 31°56'48" N., longitude 81°30'42" W.; thence SW along Georgia Highway 144 to latitude 31°53'11" N., longitude 81°37'51" W.: to latitude 31°51'45" N., longitude 81°38'08" W.; to latitude 31°55'30" N., longitude 81°53'00" W.; to latitude 31°57'00" N., longitude 81°53'15" W.; to latitude 31°59'45" N., longitude 81°51'06" W., to the point of beginning.

Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commanding Officer. Fort Stewart. Ga.

R-3005B Fort Stewart, Ga.

Boundaries. Beginning at latitude 32°05'15" N., longitude 81°30'00" W.; to latitude 32°04'15" N., longitude 81°22'30" W.; thence along the Ogeechee River to latitude 32°00'30" N., longitude 81°19'30" W.; to latitude 31°58'45" N., longitude 81°19'45" W.; to latitude 31°56'15" N., longitude 81°23'00" W.; to latitude 31°54'03" N., longitude 81°28'45" W.; thence along the arc of a 5-statute-mile-radius circle centered at latitude 31°53'20" N., longitude 81°33'45" W.; to latitude 31°56'30" N., longitude 81°30'00" W., to the point of beginning.

Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commanding Officer. Fort Stewart, Ga.

§ 73.31 Hawaii

R-3101 PMRFAC FOUR, Hawaii

Boundaries: Beginning at latitude 22°13'00" N., longitude 159°42'00" W.; thence to latitude 22°09'45" N., longitude 159°42'00" W.; thence counterclockwise along the shoreline of Kauai to latitude 22°04'36" N., longitude 159°46'20" W.; thence to latitude 22°04'25" N., longitude 159°46'06" W.; thence to latitude 22°03'55" N., longitude 159°46'20" W.; thence to latitude 22°01'45" N., longitude 159°46'53" W.; thence to latitude 22°01'07" N., longitude 159°46'20" W.; thence to latitude 22°00'55" N., longitude 159°45'53" W.; thence to latitude 21°59'52" N., longitude 159°45'14" W.; thence to latitude 21°59'35" N., longitude 159°45'55" W.; thence counterclockwise along the shoreline of Kauai to latitude 21°58'25" N., longitude 159°43'35" W.; thence to latitude 21°58'30" N., longitude 159°48'55" W.; thence clockwise along a line 3 nautical miles from the shoreline of Kauai to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation: Continuous.

Controlling agency: Honolulu Air Route Traffic Control Center.

Using agency: Commanding Officer, Pacific Missile Range Facility, Hawaii (COPMRFAC HAWAII).

AMENDMENTS 7/10/80 45 F. R. 28084 (Changed)

R-3103 Humuula, Hawaii

Boundaries. Beginning at latitude 19°48'25" N., longitude 155°37'30" W.; thence to latitude 19°43'30" N., longitude 155°29'20" W.; thence to latitude 19°35'00" N., longitude 155°34'30" W.; thence to latitude 19°35'00" N., longitude 155°40'25" W.; thence to latitude 19°40'15" N., longitude 155°43'45" W.; thence to latitude 19°46'40" N., longitude 155°42'20" W.; to the point of beginning.

Designated altitudes. Surface to 30,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Hilo Combined Station/Tower.

Using agency. Commanding General, U. S. Army, Hawaii, Schofield Barracks, Hawaii.

R-3104 Island of Kahoolawe, Hawaii

Boundaries. Beginning at latitude 20°34'20" N., longitude 156°40'30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°36'20"N., long. 156°36'30"W.; to lat. 20°36'20"N., long. 156°34'50"W.; to lat. 20°35'20"N., longitude 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to latitude 20°30'20" N., longitude 156°31'45" W.; to latitude 20°30'00" N., longitude 156°31'00" W.; to latitude 20°28'30" N., longitude 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to latitude 20°35'25" N., longitude 156°43'00" W.; to the point of beginning.

Designated altitudes. Surface to 18,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

AMENDMENTS 7/10/80 45 F. R. 28084 (Changed)

R-3107 Kaula Rock, Hawaii

Boundaries. The airspace within 3 NM of the Island of Kaula (lat. 21°39'30"N., long. 160°32'30"W.).

Designated altitudes. Surface to 18,000 feet MSL.

Time of designation. Continuous.

Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.

Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

AMENDMENTS 7/10/80 45 F. R. 28084 (Changed)

R-3109A Schofield-Makua, Oahu, Hawaii

Boundaries. Beginning at lat. 21°30'29"N., long. 158°04'09"W.; to lat. 21°29'25"N., long. 158°05'00"W.; to lat. 21°27'28"N., long. 158°05'55"W.; to lat. 21°29'11"N., long. 158°07'35"W.; to lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to lat. 21°32'14"N., long. 158°05'12"W.; to the point of beginning.

Designated altitudes. Surface to but not including 9,000 feet MSL.

Time of designation. Intermittent.

Controlling agency. FAA, Honolulu Flight Service Station.

Using agency. U. S. Army. Hawaii. Schofield Barracks. Hawaii.

R-3109B Schofield-Makua, Oahu, Hawaii

Boundaries. Beginning at lat. 21°30'29"N., long. 158°04'09"W.; to lat. 21°29'25"N., long. 158°05'00"W.; to lat. 21°27'28"N., long. 158°05'55"W.; to lat. 21°29'11"N., long. 158°07'35"W.; to lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to lat. 21°32'14"N., long. 158°05'12"W.; to the point of beginning.

Designated altitudes. From 9,000 feet MSL to but not including 19,000 feet MSL.

Time of designation. Intermittent.

Controlling agency. FAA, Honolulu Flight Service Station.

Using agency. U. S. Army. Hawaii. Schofield Barracks. Hawaii.

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R-3110A Schofield-Makua, Oahu, Hawaii

Boundaries. Beginning at lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°31'00"N., long. 158°14'00"W.; to lat. 21°32'30"N., long. 158°14'30"W.; to lat. 21°33'15"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°13'15"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to the point of beginning.

Designated altitudes. Surface to but not including 9,000 feet MSL.

Time of designation. Intermittent.

Controlling agency. FAA, Honolulu Flight Service Station.

Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

R-3110B Schofield-Makua, Oahu, Hawaii

Boundaries. Beginning at lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°31'00"N., long. 158°14'00"W.; to lat. 21°32'30"N., long. 158°14'30"W.; to lat. 21°33'15"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°13'15"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to the point of beginning.

Designated altitudes. From 9,000 feet MSL to but not including 19,000 feet MSL.

Time of designation. Intermittent.

Controlling agency. FAA, Honolulu Flight Service Station.

Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

§ 73.32 Idaho

R-3202 Saylor Creek, Idaho

SUBAREA A

Boundaries. Beginning at latitude 42°53'00" N., longitude 115°42'20" W.; to latitude 42°53'00" N., longitude 115°24'15" W.; to latitude 42°36'00" N., longitude 115°24'15" W.; to latitude 42°36'00" N., longitude 115°42'20" W.; to point of beginning.

Designated altitudes. Surface to flight level 180.

Time of designation. Daily 0600 to 0200 local time. Other times by NOTAM.

Controlling agency. FAA, Salt Lake City ARTC Center.

Using agency. Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho.

SUBAREA B

Boundaries. Beginning at latitude 42°36'00" N., longitude 115°37'00" W.; to latitude 42°36'00" N., longitude 115°30'00" W.; to latitude 42°33'00" N., longitude 115°30'00" W.; to latitude 42°33'00" N., longitude 115°37'00" W.; to point of beginning.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. Daily 0600 to 0200 local time. Other times by NOTAM.

Controlling agency. FAA, Salt Lake City ARTC Center.

Using agency. Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho.

SUBAREA C

Boundaries. Beginning at latitude 42°33'00" N., longitude 115°37'00" W.; to latitude 42°33'00" N., longitude 115°30'00" W.; to latitude 42°07'00" N., longitude 115°30'00" W.; to latitude 42°07'00" N., longitude 115°37'00" W.; to point of beginning.

Designated altitudes. Surface to 11,000 feet MSL.

Time of designation. Daily 0600 to 0200 local time. Other times by NOTAM.

Controlling agency. FAA, Salt Lake City ARTC Center.

Using agency. Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho.

§ 73.33 Illinois

R-3302 Savanna, Ill.

Boundaries. A circular area with a 1,800-foot radius centered on latitude 42°13'59" N., longitude 90°21'43" W.

Designated altitudes. Surface to 2,300 feet MSL.

Time of designation. 0800 to 2200 c.s.t.

Using agency. Commanding Officer, Ordnance Depot, Savanna, Ill.

§ 73.34 Indiana

R-3401A Atterbury Reserve Forces Training Area, Ind.

Boundaries. Beginning at Lat. 39°21'30" N, Long. 86°06'00" W; to Lat. 39°21'30" N, Long. 85°59'30" W; to Lat. 39°13'00" N, Long. 85°59'30" W; to Lat. 39°13'00" N, Long. 86°06'00" W; to the point of beginning.

Designated altitudes. Surface to 40,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Adjutant General, State of Indiana, Indianapolis, IN.

R-3401B Atterbury Reserve Forces Training Area, Ind.

Boundaries. Beginning at lat. 39°22'00" N., long. 86°06'40" W.; to lat. 39°22'00" N., long. 85°59'30" W.; to lat. 39°21'30" N., long. 85°59'30" W.; to lat. 39°21'30" N., long. 86°06'00" W.; to lat. 39°13'00" N., long. 86°06'00" W.; to lat. 39°13'00" N., long. 85°59'30" W.; to lat. 39°12'30" N., long. 85°59'30" W.; to lat. 39°12'30" N., long. 86°09'50" W.; to lat. 39°19'00" N., long. 86°11'20" W.; to point of beginning.

Designated altitude. 1200 feet AGL to and including 14,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Adjutant General, State of Indiana, Indianapolis, Ind.

R-3403A Jefferson Proving Ground, Ind.

Boundaries. Beginning at latitude 39°02'57" N., longitude 85°27'42" W.; to latitude 39°02'00" N., longitude 85°22'00" W.; to latitude 38°56'06" N., longitude 85°22'00" W.; to latitude 38°50'35" N., longitude 85°22'50" W.; to latitude 38°50'00" N., longitude 85°24'00" W.; to latitude 38°50'00" N., longitude 85°27'42" W.; to the point of beginning.

Designated altitudes. Surface to 43,000 feet MSL.

Time of designation. Daily, 0630 to 2400 local time.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Commanding Officer, Jefferson Proving Ground, Madison, Ind.

AMENDMENTS 3/20/80 45 F. R. 3887 (Changed)

R-3403B Jefferson Proving Ground, Ind.

Boundaries. Beginning at lat. 39°05'00"N., long. 85°30'00"W.; to lat. 39°05'00"N., long. 85°22'00"W.; to lat. 39°02'00"N., long. 85°22'00"W.; to lat. 39°02'57"N., long. 85°27'42"W.; to lat. 38°55'00"N., long. 85°27'42"W.; to lat. 38°57'30"N., long. 85°30'00"W.; to point of beginning.

Designated altitudes. 1200 feet AGL to FL 180.

Time of designation. Daily 0800 to 2300 local time.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Commanding Officer. Jefferson Proving Ground. Madison. Ind.

R-3404 Crane, Ind.

Boundaries. A circular area 1 nautical mile in diameter, centered on latitude 38°49'18" N., longitude 86°50'03" W.

Designated altitudes. Surface to 2,500 feet MSL.

Controlling agency. Federal Aviation Administration, Indianapolis ARTCC.

Time of designation. Sunrise to sunset daily from May 1 through and including November 1. Other times by NOTAM 24 hours in advance.

Using agency. Commanding Officer, Naval Ammunition Depot, Crane, IN.

§ 73.35 Iowa

§ 73.36 Kansas

R-3601A Brookville, Kans.

Boundaries. Beginning at latitude 38°45'20" N., longitude 97°46'00" W.; to latitude 38°39'45" N., longitude 97°46'00" W.; along the Missouri Pacific Railroad to latitude 38°38'20" N., longitude 97°47'30" W.; to latitude 38°38'20" N., longitude 97°56'00" W.; to latitude 38°45'20" N., longitude 97°56'00" W.; to point of beginning.

Designated altitudes. Surface to FL 180.

Time of designation. Monday through Saturday, sunrise to 2400 c.s.t.; other times by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.

Using agency. Commander, Kansas ANG, McConnell AFB, Kans.

R-3601B Brookville, Kans.

Boundaries. Beginning at latitude 38°38'20" N., longitude 97°50'00" W.; to latitude 38°35'00" N., longitude 97°50'00" W.; to latitude 38°35'00" N., longitude 97°56'00" W.; to latitude 38°38'20" N., longitude 97°56'00" W.; to point of beginning.

Designated altitudes. Surface to 6,500 feet MSL.

Time of designation. Monday through Saturday, sunrise to 2400 c.s.t.; other times by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.

Using agency. Commander, Kansas ANG, McConnell AFB, Kans.

R-3602 Manhattan, Kans.

Subarea A

Boundaries: Beginning at latitude 39°17'45" N., longitude 96°49'50" W.; thence along the southern edge of the Chicago, Rock Island and Pacific Railroad right-of-way to latitude 39°18'33" N., longitude 96°57'39" W.; thence south to the shoreline of the main body of Milford Reservoir at latitude 39°12'27" N., longitude 96°57'39" W.; thence along the shoreline of the main body of Milford Reservoir to latitude 39°10'58" N., longitude 96°55'00" W.; to latitude 39°10'58" N., longitude 96°53'13" W.; to latitude 39°08'22" N., longitude 96°52'13" W.; to latitude 39°08'22" N., longitude 96°49'52" W.; thence north along U. S. Highway No. 77 to the point of beginning.

Designated altitudes: Surface to 29,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Kansas City ARTC Center.

Using agency: Commanding General, Fort Riley, Kans.

Subarea B

Boundaries: Beginning at latitude 39°17'45" N., longitude 96°49'50" W.; thence south along U. S. Highway No. 77 to latitude 39°07'54" N., longitude 96°49'52" W.; to latitude 39°04'24" N., longitude 96°52'22" W.; to latitude 39°04'24" N., longitude 96°51'15" W.; thence clockwise along the arc of a 4 nautical mile radius circle centered on the Marshall Army Air Field RBN at latitude 39°01'34" N., longitude 96°47'40" W.; to latitude 39°05'25"N., longitude 96°46'17"W.; to latitude 39°06'25"N., longitude 96°44'40"W.; to latitude 39°08'20"N., longitude 96°43'00"W.; to latitude 39°09'23" N., longitude 96°43'00" W.; to latitude 39°10'43" N., longitude 96°40'55" W.; to latitude 39°12'17" N., longitude 96°40'55" W.; to latitude 39°13'00" N., longitude 96°42'35" W.; to latitude 39°13'16" N., longitude 96°42'35" W.; thence along the southerly edge of the Chicago, Rock Island and Pacific Railroad right-of-way to the point of beginning.

Designated altitudes: Surface to 29,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Kansas City ARTC Center.

Using agency: Commanding General, Fort Riley, Kans.

AMENDMENTS 1/24/80 44 F. R. 68452 (Changed)

§ 73.37 Kentucky

R-3701A Fort Campbell, Ky.

Boundaries. Beginning at lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°39'00"N., long. 87°32'30"W., to lat. 36°39'15"N., long. 87°30'12"W., to lat. 36°39'30"N., long. 87°29'45"W., to Lat. 36°39'30"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'00"N., long. 87°32'22"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'19"N., long. 87°34'13"W., thence to point of beginning.

Altitudes. Surface to and including 5,000 feet MSL.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, Fort Campbell, Ky.

R-3701B Fort Campbell, Ky.

Boundaries. Beginning at lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°39'00"N., long. 87°32'30"W., to lat. 36°39'15"N., long. 87°30'12"W., to lat. 36°39'30"N., long. 87°29'45"W., to lat. 36°39'30"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'00"N., long. 87°32'22"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'19"N., long. 87°34'13"W., thence to point of beginning.

Altitudes. 5,000 feet MSL to and including 10,000 feet MSL.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, Fort Campbell, Ky.

R-3701C Fort Campbell, Ky.

Boundaries. Beginning at lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°39'00"N., long. 87°32'30"W., to lat. 36°39'15"N., long. 87°30'12"W., to lat. 36°39'30"N., long. 87°29'45"W., to lat. 36°39'30"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'00"N., long. 87°32'22"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'19"N., long. 87°34'13"W., thence to point of beginning.

Altitudes. 10,000 feet MSL to and including FL 180.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Memphis ARTC Center.

Using agency. Commanding General, Fort Campbell, Ky.

R-3702A Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°43'30"N., long. 87°48'15"W., to lat. 36°43'30"N., long. 87°43'00"W., to lat. 36°42'00"N., long. 87°40'30"W., to lat. 36°39'00"N., long. 87°40'00"W., to lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°38'19"N., long. 87°34'13"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'00"N., long. 87°32'32"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°32'00"N., long. 87°32'30"W., to lat. 36°32'00"N., long. 87°35'00"W., to lat. 36°33'30"N., long. 87°42'30"W., to lat. 36°35'30"N., long. 87°45'00"W., to lat. 36°37'30"N., long. 87°48'15"W., thence to point of beginning.
Altitudes. Surface to and including FL 220.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3702B Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°43'30"N., long. 87°48'15"W., to lat. 36°43'30"N., long. 87°43'00"W., to lat. 36°42'00"N., long. 87°40'30"W., to lat. 36°39'00"N., long. 87°40'00"W., to lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°38'19"N., long. 87°34'13"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'00"N., long. 87°32'32"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°32'00"N., long. 87°32'30"W., to lat. 36°32'00"N., long. 87°35'00"W., to lat. 36°33'30"N., long. 87°42'30"W., to lat. 36°35'30"N., long. 87°45'00"W., to lat. 36°37'30"N., long. 87°48'15"W., thence to point of beginning.
Altitudes. FL 220 to and including FL 270.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3703A Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°29'50"W., to lat. 36°34'00"N., long. 87°29'50"W., to lat. 36°32'00"N., long. 87°32'30"W., thence to point of beginning.
Altitudes. Surface to and including 5,000 feet MSL.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3703B Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°29'50"W., to lat. 36°34'00"N., long. 87°29'50"W., to lat. 36°32'00"N., long. 87°32'30"W., thence to point of beginning.
Altitudes. 5,000 feet MSL to and including 10,000 feet MSL.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3703C Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°29'50"W., to lat. 36°34'00"N., long. 87°29'50"W., to lat. 36°32'00"N., long. 87°32'30"W., thence to point of beginning.
Altitudes. 10,000 feet MSL to FL 180.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3704 Fort Knox, Ky.
Boundaries. Beginning at Lat. 37°59'00" N, Long. 85°45'00" W; to Lat. 37°47'30" N, Long. 85°45'00" W; to Lat. 37°47'30" N, Long. 85°55'30" W; along U. S. Highway 31-W to Lat. 37°50'45" N, Long. 85°57'00" W; along Wilson Road to Lat. 37°55'17" N, Long. 85°56'46" W; to Lat. 37°55'17" N, Long. 85°57'16" W; to Lat. 37°56'04" N, Long. 85°57'33" W; to Lat. 37°56'23" N, Long. 85°57'00" W; along Wilson Road to Lat. 37°58'00" N, Long. 85°57'45" W; along the Illinois Central Railroad to Lat. 37°59'00" N, Long. 85°57'00" W; to Lat. 38°01'00" N, Long. 85°54'30" W; along Kentucky Route 44 to Lat. 38°00'30" N, Long. 85°52'00" W; to Lat. 37°59'00" N, Long. 85°52'00" W; to the point of beginning.
Designated altitudes: Subarea A surface to and including 10,000 feet MSL.
Subarea B from 10,000 feet MSL to 20,000 feet MSL.
Time of designation: Subarea A 0600 to 2400 e.s.t.; other times by NOTAM 24 hours in advance.
Subarea B by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Standiford Control Tower, Louisville, Ky.
Using agency. Commanding General, U. S. Army Armor Center, Fort Knox, Ky.

R-3801A Camp Claiborne, La.

Boundaries. Beginning at latitude 31°18'00" N., longitude 92°46'30" W.; to latitude 31°13'55" N., longitude 92°49'45" W.; to latitude 31°23'40" N., longitude 93°05'45" W.; to latitude 31°27'30" N., longitude 93°03'00" W.; to point of beginning.

Designated altitudes. 1,500 feet AGL to and including 4,000 feet MSL northwest of a line extending from latitude 31°20'50" N., longitude 92°51'15" W.; to latitude 31°16'40" N., longitude 92°54'30" W.; and 500 feet AGL to and including 4,000 feet MSL southeast of a line extending from latitude 31°20'50" N., longitude 92°51'15" W.; to latitude 31°16'40" N., longitude 92°54'30" W.

Time of designation. Continuous.

Controlling agency. FAA, Houston ARTC Center.

Using agency. Commander, England AFB, La.

R-3801B Camp Claiborne, La.

Boundaries. Beginning at latitude 31°11'45" N., longitude 92°30'15" W.; to latitude 31°05'15" N., longitude 92°34'50" W.; to latitude 31°13'55" N., longitude 92°49'45" W.; to latitude 31°18'00" N., longitude 92°46'30" W.; to latitude 31°15'15" N., longitude 92°41'45" W.; to latitude 31°17'10" N., longitude 92°40'10" W.; to point of beginning.

Designated altitudes. Surface to and including 7,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Houston ARTC Center.

Using agency. Commander, England AFB, La.

R-3801C Camp Claiborne, La.

Boundaries. Beginning at latitude 31°11'45" N., longitude 92°30'15" W.; to latitude 31°05'15" N., longitude 92°34'50" W.; to latitude 31°13'55" N., longitude 92°49'45" W.; to latitude 31°18'00" N., longitude 92°43'30" W.; to latitude 31°15'15" N., longitude 92°41'45" W., to latitude 31°17'10" N., longitude 92°40'10" W.; to point of beginning.

Designated altitudes. 7,000 feet MSL to and including 14,000 feet MSL.

Time of designation. Continuous. R-3801C shall not be activated unless the Houston ARTC Center radar (Alexandria system) is operational.

Controlling agency. FAA, Houston ARTC Center.

Using agency. Commander, England AFB, La.

R-3803A Fort Polk, La.

Boundaries. Beginning at lat. 31°23'36"N., long. 93°09'57"W.; to lat. 31°23'12"N., long. 93°09'48"W.; to lat. 31°22'00"N., long. 93°10'05"W.; to lat. 31°19'16"N., long. 93°11'10"W.; to lat. 31°19'16"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°16'42"W.; to lat. 31°23'35"N., long. 93°13'24"W.; to point of beginning.

Designated altitudes. Surface to FL 180.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commanding General, Fort Polk, La.

R-3803B Fort Polk, La.

Boundaries. Beginning at lat. 31°23'36"N., long. 93°09'57"W.; to lat. 31°23'12"N., long. 93°09'48"W.; to lat. 31°22'00"N., long. 93°10'05"W.; to lat. 31°19'16"N., long. 93°11'10"W.; to lat. 31°19'16"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°16'42"W.; to lat. 31°23'35"N., long. 93°13'24"W.; to point of beginning.

Designated altitudes. FL 180 to FL 450.

Time of designation. As activated by NOTAM issued at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commanding General, Fort Polk, La.

R-3804A Fort Polk, La.

Boundaries. Beginning at latitude 31°00'52" N., longitude 93°08'11" W.; to latitude 31°00'52" N., longitude 92°56'52" W.; to latitude 31°00'19" N., longitude 92°56'13" W.; to latitude 31°00'19" N., longitude 92°54'22" W.; to latitude 31°03'54" N., longitude 92°51'33" W.; to latitude 31°09'34" N., longitude 92°58'24" W. to latitude 31°09'34" N., longitude 93°00'55" W.; to latitude 31°08'42" N., longitude 93°01'54" W.; to latitude 31°08'42" N., longitude 93°08'11" W.; to point of beginning.

Designated altitudes. Surface to FL 180.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston, Tex. ARTC Center.

Using agency. Commanding General, Fort Polk, Louisiana.

R-3804B Fort Polk, La.

Boundaries. Beginning at latitude 31°00'52" N., longitude 93°10'52" W.; to latitude 31°00'52" N., longitude 93°08'11" W.; to latitude 31°06'10" N., longitude 93°08'11" W.; to latitude 31°04'14" N., longitude 93°12'30" W.; to point of beginning.

Designated altitudes. Surface to 3,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commanding General, Fort Polk, Louisiana.

R-3804C Fort Polk, La.

Boundaries. Beginning at latitude 31°00'52" N., longitude 93°08'11" W.; to latitude 31°00'52" N., longitude 92°56'52" W.; to latitude 31°00'19" N., longitude 92°56'13" W.; to latitude 31°00'19" N., longitude 92°54'22" W.; to latitude 31°03'54" N., longitude 92°51'33" W.; to latitude 31°09'34" N., longitude 92°58'24" W.; to latitude 31°09'38" N., longitude 93°00'55" W.; to latitude 31°08'42" N., longitude 93°01'54" W.; to latitude 31°08'42" N., longitude 93°08'11" W.; to point of beginning.

Designated altitudes. FL 180 to FL 450.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Time of designation. As published by NOTAM 24 hours in advance.

Using agency. Commanding General, Fort Polk, La.

R-3806 England Air Force Base, La.

Boundaries. Beginning at latitude 31°03'00" N., longitude 92°49'30" W.; to latitude 30°58'00" N., longitude 92°39'00" W.; to latitude 30°38'00" N., longitude 92°49'00" W.; to latitude 30°43'00" N., longitude 92°58'00" W.; to latitude 30°50'30" N., longitude 93°01'00" W.; to latitude 30°55'25" N., longitude 92°54'40"W.; to point of beginning.

Designated altitudes. 500 feet AGL to and including 7,000 feet MSL, excluding the airspace below 1,500 feet AGL within a two-nautical-mile radius of the City of Elizabeth, La.

Time of designation. Daylight hours, Monday through Friday.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Commander. 23rd Tactical Fighter Wing, England AFB, La.

§ 73.39 Maine

§ 73.40 Maryland

R-4001A Aberdeen, Md.

Boundaries. Beginning at lat. 39°30'30" N., long. 76°10'00" W.; to lat. 39°29'00" N., long. 76°08'00" W.; to lat. 39°29'30" N., long. 76°05'00" W.; to lat. 39°27'00" N., long. 76°00'30" W.; to lat. 39°19'47" N., long. 76°11'34" W.; to lat. 39°17'30" N., long. 76°12'59" W.; to lat. 39°16'24" N., long. 76°16'18" W.; to lat. 39°17'13" N., long. 76°18'49" W.; to lat. 39°19'41" N., long. 76°22'01" W.; to lat. 39°22'00" N., long. 76°22'00" W.; to lat. 39°23'28" N., long. 76°20'40" W.; to lat. 39°26'10" N., long. 76°14'50" W.; to lat. 39°27'00" N., long. 76°12'30" W.; to point of beginning.

Designated altitudes and time of designation.

1. Surface to unlimited, 0700 to 2400 local time.
2. Surface to 10,000 feet MSL, 0000 to 0700 local time; higher altitudes by NOTAM issued 24 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commanding General, Aberdeen Proving Ground, Md.

R-4001B Aberdeen, Md.

Boundaries. Beginning at lat. 39°17'30" N., long. 76°12'59" W.; to lat. 39°12'10" N., long. 76°16'30" W.; to lat. 39°12'45" N., long. 76°22'30" W.; to lat. 39°17'30" N., long. 76°19'45" W.; to lat. 39°18'30" N., long. 76°22'00" W.; to lat. 39°19'41" N., long. 76°22'01" W.; to lat. 39°17'13" N., long. 76°18'49" W.; to lat. 39°16'24" N., long. 76°16'18" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL, higher altitudes by NOTAM issued 24 hours in advance.

Time of designation. Intermittent, as activated by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commanding General, Aberdeen Proving Ground, Md.

R-4002 Bloodsworth Island, Md.

Boundaries. Beginning at Lat. 38°13'00" N, Long. 76°00'00" W; to Lat. 38°08'00" N, Long. 76°00'00" W; to Lat. 38°08'00" N, Long. 76°08'50" W; to Lat. 38°13'00" N, Long. 76°11'20" W; to the point of beginning.

Designated altitudes. Surface to and including 20,000 feet MSL.

Time of designation. From sunrise to 2400 hours, local time, daily, other times as specified in a NOTAM issued 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commanding Officer, Naval Amphibious School Little Creek, Norfolk, Va.

R-4005 Patuxent River, Md.

Boundaries. Beginning at latitude 38°05'40" N., longitude 76°33'32" W.; to latitude 38°11'10" N., longitude 76°25'10" W.; to latitude 38°18'20" N., longitude 76°17'05" W.; to latitude 38°18'26" N., longitude 76°14'30" W.; to latitude 38°13'00" N., longitude 76°11'20" W.; to latitude 38°08'00" N., longitude 76°08'50" W.; to latitude 37°55'15" N., longitude 76°02'30" W.; to latitude 37°53'10" N., longitude 76°14'00" W.; to the point of beginning.

Designated altitudes. Surface to FL 850.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commanding Officer, NAS Patuxent River, Md.

R-4006 Patuxent River, Md.
Boundaries: Beginning at latitude 38°41'15" N., longitude 75°46'00" W.; to latitude 38°32'30" N., longitude 75°43'45" W.; to latitude 38°19'00" N., longitude 75°37'00" W.; along Pennsylvania Railroad to latitude 38°12'30" N., longitude 75°41'30" W.; to latitude 38°02'30" N., longitude 75°52'30" W.; to latitude 37°55'00" N., longitude 75°52'30" W.; to latitude 37°45'00" N., longitude 75°58'45" W.; to latitude 37°45'00" N., longitude 76°23'30" W.; to latitude 37°50'30" N., longitude 76°32'00" W.; to latitude 38°05'10" N., longitude 76°34'15" W.; to latitude 38°11'10" N., longitude 76°25'10" W.; to latitude 38°30'00" N., longitude 76°04'00" W.; to latitude 38°36'00" N., longitude 75°55'30" W.; along the Pennsylvania Railroad to point of beginning, excluding R-4002, R-4005, and R-6609.
Designated altitudes: 3,500 feet MSL to FL 850.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Washington ARTC Center.
Using agency: Commanding Officer, NAS Patuxent River, Md.

R-4007A Patuxent River, Md.
Boundaries. Beginning at lat. 38°21'00"N., long. 76°14'00"W.; to lat. 38°11'10"N., long. 76°25'10"W.; to lat. 38°05'10"N., long. 76°34'05"W.; to lat. 38°15'00"N., long. 76°36'35"W.; to lat. 38°17'25"N., long. 76°33'00"W.; to lat. 38°25'40"N., long. 76°23'35"W.; to the point of beginning.
Designated altitudes. Surface to but not including 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTCC.
Using agency. Commanding Officer, NAS Patuxent River, Md.

R-4007B Patuxent River, Md.
Boundaries. Beginning at lat. 38°21'00"N., long. 76°14'00"W.; to lat. 38°11'10"N., long. 76°25'10"W.; to lat. 38°05'10"N., long. 76°34'05"W.; to lat. 38°15'00"N., long. 76°36'35"W.; to lat. 38°17'25"N., long. 76°33'00"W.; to lat. 38°25'40"N., long. 76°23'35"W.; to the point of beginning.
Designated altitudes. 5,000 feet MSL to 17,000 feet MSL.
Time of designation. 0800 to 1800 hours, local time, daily to January 1, 1982.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding Officer, NAS Patuxent River, Md.

§ 73.41 Massachusetts

R-4101 Camp Edwards, Mass.
Boundaries. Beginning at Lat. 41°40'52" N., Long. 70°33'09" W.; to Lat. 41°41'01" N., Long. 70°34'00" W.; to Lat. 41°41'58" N., Long. 70°34'58" W.; to Lat. 41°42'52" N., Long. 70°34'58" W.; to Lat. 41°43'52" N., Long. 70°34'32" W.; to Lat. 41°44'30" N., Long. 70°34'16" W.; to Lat. 41°45'17" N., Long. 70°34'13" W.; to Lat. 41° 45'12" N., Long. 70°34'01" W.; to Lat. 41°46'07" N., Long. 70°33'04" W.; to Lat. 41°45'18" N., Long. 70°31' 18" W.; to Lat. 41°44'37" N., Long. 70°30'42" W.; to Lat. 41°44'11" N., Long. 70°29'40" W.; to Lat. 41°43'08" N., Long. 70°30'08" W.; to Lat. 41°43'07" N., Long. 70°30'36" W.; to Lat. 41°42'45" N., Long. 70°30'50" W.; to Lat. 41°42'38" N., Long. 70°30'33" W.; to Lat. 41°41'51" N., Long. 70°30'52" W.; to Lat. 41°41'38" N., Long. 70° 31'18" W.; to Lat. 41°41'20" N., Long. 70°31'29" W.; to Lat. 41°41'18" N., Long. 70°31'26" W.; to Lat. 41°41'06" N., Long. 70°31'54" W.; to point of beginning.
Designated altitudes. Surface to 9,000 feet MSL.
Time of designation. From 0600 to 1800 local time, daily, or other times as specified by NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Otis Approach Control.
Using agency. Commander, U. S. Army Garrison, Camp Edwards, Massachusetts.

R-4105 No Man's Land Island, Mass.
Boundaries. A circular area with a 3-mile radius centered at lat. 41°15'30"N., long. 70°48'40"W.
Designated altitudes. Surface to but not including 18,000 feet MSL.
Time of designation. Sunrise to sunset, other times by NOTAM at least 48 hours in advance.
Controlling agency. Federal Aviation Administration, Otis Approach Control.
Using agency. Commanding Officer, NAS South Weymouth, Mass.

§ 73.42 Michigan

R-4201 Camp Grayling, Mich.
SUBAREA A
Boundaries: Beginning at latitude 44°56'00" N., longitude 84°29'00" W.; to latitude 44°47'00" N., longitude 84°29'00" W.; to latitude 44°47'00" N., longitude 84°39'00" W.; to latitude 44°56'00" N., longitude 84°39'00" W.; to point of beginning.
Designated altitudes: Surface to 23,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Minneapolis ARTC Center.
Using agency: Adjutant General, State of Michigan, Lansing, Mich.

SUBAREA B

Boundaries: Beginning at latitude 44°47'00" N., longitude 84°29'00" W.; to latitude 44°41'00" N., longitude 84°29'00" W.; to latitude 44°41'00" N., longitude 84°40'00" W.; to latitude 44°43'00" N., longitude 84°40'00" W.; to latitude 44°43'00" N., longitude 84°38'00" W.; to latitude 44°47'00" N., longitude 84°38'00" W.; to point of beginning.

Designated altitudes: Surface to 9,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Minneapolis ARTC Center.

Using agency: Adjutant General, State of Michigan, Lansing, Mich.

R-4202 Lake Margrethe, Mich.

Boundaries. Beginning at latitude 44°36'45" N., longitude 84°51'00" W.; to latitude 44°36'45" N., longitude 84°48'00" W.; to latitude 44°34'15" N., longitude 84°48'00" W.; to latitude 44°34'15" N., longitude 84°50'00" W.; to latitude 44°35'00" N., longitude 84°51'00" W.; to the point of beginning.

Designated altitudes. Surface to 8,200 feet MSL.

Time of designation. June 1 through August 31, with specific dates to be published by NOTAM.

Using agency. Adjutant General, State of Michigan, Lansing, Mich.

Controlling agency. Federal Aviation Administration, Traverse City Flight Service Station.

R-4207 Upper Lake Huron, Mich.

Boundaries. Beginning at latitude 45°17'00" N., longitude 83°00'00" W.; to latitude 45°20'24" N., longitude 82°31'18" W.; along the United States-Canadian Border to latitude 44°31'00" N., longitude 82°19'54" W.; to latitude 44°27'42" N., longitude 82°47'08" W.; to the point of beginning.

Designated altitudes. Surface to flight level 450.

Time of designation. Sunrise to sunset.

Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.

Using agency. Commander, Permanent Field Training Site Detachment, Phelps-Collins ANGB, Alpena, Mich.

§ 73.43 Minnesota

R-4301 Camp Ripley, Minn.

Boundaries. Beginning at Lat. 46°18'54"N., Long. 94°29'02"W.; thence along south bank of Crow Wing River and west bank of Mississippi River to Lat. 46°10'49"N., Long. 94°21'52"W.; to Lat 46°07'11"N., Long. 94°21'52"W.; thence along the west bank of Mississippi River to Lat. 46°06'22"N., Long. 94°21'10"W.; to Lat. 46°06'22"N., Long. 94°22'15"W.; to Lat. 46°06'03"N., Long. 94°22'15"W.; to Lat. 46°06'03"N., Long. 94°26'06"W.; to Lat. 46°08'00"N., Long. 94°26'06"W.; to Lat. 46°08'00"N., Long. 94°30'00"W.; to Lat. 46°18'18"N., Long. 94°30'00"W.; to point of beginning.

Designated altitudes. Surface to 27,000 feet MSL.

Time of designation. 0730 to 2400 local times daily. Other times as specified by NOTAM issued 24 hours in advance.

Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.

Using agency. Commanding Officer, Camp Ripley, Minn.

R-4305 Lake Superior, Minn.

Boundaries. Beginning at latitude 47°45'00" N., longitude 90°05'00" W.; to latitude 47°45'00" N., longitude 89°28'00" W.; to latitude 46°55'00" N., longitude 89°28'00" W.; to latitude 46°55'00" N., longitude 90°05'00" W.; to the point of beginning.

Designated altitudes. Surface to flight level 450.

Time of designation. 0001 local time Monday to 2400 local time Friday.

Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.

Using agency. Commander, Eighth Air Force, Barksdale AFB, La.

§ 73.44 Mississippi

R-4401 Camp Shelby, Miss.

Boundaries. Beginning at latitude 31°12'54" N.; longitude 89°11'03" W.; to latitude 31°11'48" N.; longitude 89°00'00" W.; to latitude 31°10'15" N.; longitude 88°56'34" W.; to latitude 31°09'10" N.; longitude 88°56'34" W.; thence southwest along Mississippi State Highway No. 15 to latitude 31°04'36" N.; longitude 88°59'24" W.; to latitude 31°04'36" N.; longitude 89°11'03" W.; to point of beginning.

Designated altitudes. Subarea A, surface to 4,000 feet MSL. Subarea B, 4,000 feet MSL to 18,000 feet MSL. Subarea C, 18,000 feet MSL to 29,000 feet MSL.

Time of designation. As activated by NOTAMs at least 24 hours in advance. NOTAMs to contain information concerning deactivation of area.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Adjutant General, State of Mississippi, Jackson, Miss.

R-4403 Gainesville, Miss.
Boundaries. Beginning at latitude 30°21'02" N., longitude 89°36'53" W.; to latitude 30°22'33" N., longitude 89°36'53" W.; to latitude 30°22'34" N., longitude 89°34'05" W.; to latitude 30°21'03" N., longitude 89°34'04" W.; to the point of beginning.
Altitudes. From surface to 5,000 feet MSL.
Time of use. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Manager, Mississippi Test Operations, National Aeronautics and Space Administration, Bay St. Louis, Miss.

R-4404A Macon, Miss.
Boundaries. Beginning at lat. 33°02'39"N., long. 88°42'37"W.; to lat. 33°04'30"N., long. 88°40'18"W.; to lat. 33°03'34"N., long. 88°39'08"W.; to lat. 33°01'43"N., long. 88°41'23"W.; to point of beginning.
Designated altitudes. Surface to 11,500 feet MSL.
Time of designation. Sunrise to sunset daily, other times by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commander, Training Wing One, NAS, Meridian, Miss.
AMENDMENTS 7/10/80 45 F. R. 31976 (Rewritten)

R-4404B Macon, Miss.
Boundaries. A circle with a 5-nautical-mile radius centered at lat. 33°03'11"N., long. 88°40'41"W.
Designated altitudes. From 1,200 feet AGL to 11,500 feet MSL.
Time of designation. Sunrise to sunset daily, other times by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commander, Training Wing One, NAS, Meridian, Miss.
AMENDMENTS 7/10/80 45 F. R. 31976 (Added) Corr: 45 F. R. 38352

R-4404C Macon, Miss.
Boundaries. A circle with a 5-nautical-mile radius centered at lat. 33°03'11"N., long. 88°40'41"W.
Designated altitudes. 11,500 feet MSL to 14,500 feet MSL.
Time of designation. Sunrise to sunset daily, other times by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commander, Training Wing One, NAS, Meridian, Miss.
AMENDMENTS 7/10/80 45 F. R. 31976 (Added)

§ 73.45 Missouri

R-4501A Fort Leonard Wood West, Mo.
Boundaries. Beginning at lat. 37°41'06"N., long. 92°09'17"W.; to lat. 37°38'15"N., long. 92°09'17"W.; to lat. 37°37'35"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°15'21"W.; to lat. 37°39'28"N., long. 92°15'21"W.; to lat. 37°41'07"N., long. 92°14'23"W.; to the point of beginning.
Designated altitudes. Surface to but not including 2,200 feet MSL.
Time of designation. As specified by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.
Using agency. Commanding General, Fort Leonard Wood, Mo.

R-4501B Fort Leonard Wood East, Mo.
Boundardies. Beginning at latitude 37°43'00" N., longitude 92°06'55" W.; to latitude 37°42'11" N., longitude 92°06'14" W.; to latitude 37°39'07" N., longitude 92°06'17" W.; to latitude 37°38'15" N., longitude 92°09'17" W.; to latitude 37°43'02 N., longitude 92°09'17" W.; to the point of beginning.
Designated altitudes.
The area north of a line between latitude 37°42'51" N., longitude 92°06'47" W.; and latitude 37°42'53" N., longitude 92°09'17" W. surface to 1,500 feet MSL.
The area south of this line, surface to 2,200 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.
Using agency. Commanding General, Fort Leonard Wood, Mo.

-4501C Fort Leonard Wood, Mo.
Boundaries. Beginning at lat. 37°41'00"N., long. 92°16'10"W.; to lat. 37°41'26"N., long. 92°10'15"W.; to lat. 37°40'16"N., long. 92°07'05"W.; to lat. 37°38'20"N., long. 92°06'55"W.; to lat. 37°36'07"N., long. 92°10'27"W.; to lat. 37°35'22"N., long. 92°15'31"W.; to the point of beginning.
Designated altitudes. From 2,200 feet MSL to but not including FL 180.
Time of designation. As specified by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Kansas City ARTCC.
Using agency. Commanding General, Fort Leonard Wood, Mo.

R-4501D Fort Leonard Wood, Mo.
Boundaries. Beginning at lat. 37°41'06"N., long. 92°09'17"W.; to lat. 37°38'15"N., long. 92°09'17"W.; to lat. 37°37'35"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°15'21"W.; to lat. 37°39'28"N., long. 92°15'21"W.; to lat. 37°41'07"N., long. 92°14'23"W.; to the point of beginning.
Designated altitudes. From 2,200 feet MSL to but not including FL 180.
Time of designation. As specified by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Kansas City ARTCC.
Using agency. Commanding General, Fort Leonard Wood, Mo.

§ 73.46 Montana

§ 73.47 Nebraska

§ 73.48 Nevada

R-4802 Lone Rock, Nev.

Boundaries. A circular area with a 3-mile radius centered at Lat. 39°52'38" N. Long. 118°20'47" W.

Designated altitudes. Surface to 8,000 feet MSL.

Time of designation. 0600 to 2400 local time, Monday through Saturday.

Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4803 Fallon, Nev.

Boundaries. A 3-nautical mile radius circle centered at Lat. 39°20'40" N, Long. 118°52'15" W; and within 3 nautical miles W and 2 nautical miles E of a line extending 349.5° True from the center to 15 nautical miles NNW.

Designated altitudes. Surface to 8,000 feet MSL N, and surface to 18,000 feet MSL S of a line extending from Lat. 39°27'40" N, Long. 118°57'55" W; to Lat. 39°30'20" N, Long. 118°51'35" W.

Time of designation. 0600 to 2400 local time daily.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4804 Twin Peaks, Nev.

Boundaries. A 5-nautical mile radius circle centered at lat. 39°13'00"N., long. 118°12'42"W.; and a 3-nautical mile radius circle centered at lat. 39°14'15"N., long. 118°17'30"W.

Designated altitudes. Surface to but not including FL 180 excluding that portion from 2,000 feet AGL up to but not including 4,000 feet AGL, which lies north of and one NM from U. S. Highway 50, between the intersections of U. S. Highway 50 with longitudes 118°25'30"W. and 118°09'50"W.

Time of designation. 0600 to 2400 local time daily.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4806 Las Vegas, Nev.

Boundaries: Beginning at latitude 37°17'00" N., longitude 115°18'00" W.; to latitude 36°26'00" N., longitude 115°18'00" W.; to latitude 36°26'00" N., longitude 115°23'00" W.; to latitude 36°35'00" N., longitude 115°37'00" W.; to latitude 36°35'00" N., longitude 115°53'00" W.; to latitude 36°36'00" N., longitude 115°56'00" W.; to latitude 37°06'00" N., longitude 115°56'00" W.; to latitude 37°06'00" N., longitude 115°35'00" W.; to latitude 37°17'00" N., longitude 115°35'00" W.; to point of beginning.

Designated altitudes. Unlimited.

Time of designation: Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commander, Tactical Fighter Weapons Center, Nellis AFB, Nev.

R-4807 Tonopah, Nev.

Boundaries. Beginning at latitude 36°51'00" N., longitude 116°33'30" W.; to latitude 37°26'30" N., longitude 117°04'30" W.; to latitude 37°53'00" N., longitude 117°01'00" W.; to latitude 37°53'00" N., longitude 116°55'00" W.; to latitude 37°47'00" N., longitude 116°55'00" W.; to latitude 37°33'00" N., longitude 116°43'00" W.; to latitude 37°33'00" N., longitude 116°26'00" W.; to latitude 37°53'00" N., longitude 116°26'00" W.: to latitude 37°53'00" N., longitude 116°11'00" W.; to latitude 37°42'00" N., longitude 116°11'00" W.; to latitude 37°42'00" N., longitude 115°53'00" W.; to latitude 37°33'00" N., longitude 115°53'00" W.: to latitude 37°33'00" N., longitude 115°48'00" W.; to latitude 37°28'00" N., longitude 115°48'00" W.; to latitude 37°28'00" N., longitude 116°00'00" W.; to latitude 37°16'00" N., longitude 116°00'00" W.; to latitude 37°16'00" N., longitude 116°34'00" W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. Commander, Tactical Fighter Weapons Center, Nellis AFB, Nev.

R-4808N Las Vegas, Nev.

Boundaries. Beginning at latitude 36°41'00" N., longitude 115°56'00" W.; to latitude 36°41'00" N., longitude 116°14'45" W.; to latitude 36°46'00" N., longitude 116°26'30" W.; to latitude 36°51'00" N., longitude 116°26'30" W.; to latitude 36°51'00" N., longitude 116°33'30" W.; to latitude 37°16'00" N., longitude 116°34'00" W.; to latitude 37°16'00" N., longitude 116°00'00" W.; to latitude 37°28'00" N., longitude 116°00'00" W.; to latitude 37°28'00" N., longitude 115°35'00" W.; to latitude 37°06'00" N., longitude 115°35'00" W.; to latitude 37°06'00" N., longitude 115°56'00" W.; to point of beginning.

Designated altitudes: Unlimited.

Time of designation: Continuous.

Using agency: Manager, United States Energy Research and Development Administration, Las Vegas, Nev.

R-4808S Las Vegas, Nev.

Boundaries. Beginning at latitude 36°46'00" N., longitude 116°26'30" W.; to latitude 36°41'00" N., longitude 116°14'45" W.; to latitude 36°41'00" N., longitude 116°26'30" W.; to point of beginning.

Designated altitudes: Unlimited.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Los Angeles ARTC Center.

Using agency: Manager, United States Energy Research and Development Administration, Las Vegas, Nev.

R-4809 Tonopah, Nev.

Boundaries. Beginning at Lat. 37°53'00" N, Long. 116°26'00" W; to Lat. 37°33'00" N, Long. 116°26'00" W; to Lat. 37°33'00" N, Long. 116°43'00" W; to Lat. 37°47'00" N, Long. 116°55'00" W; to Lat. 37°53'00" N, Long. 116°55'00" W; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Using agency. Manager, United States Energy Research and Development Administration, Albuquerque, N. Mex.

R-[illegible]810 Desert Mountains, Nev.

Boundaries. A 5-nautical mile radius circle centered at Lat. 39°10'00" N, Long. 118°37'30" W; and a [illegible]-nautical mile radius circle centered at Lat. 39°08'15" N, Long. 118°42'20" W.

Designated altitudes. Surface to and including Flight Level 170.

Time of designation. 0600 to 2400 local time daily.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4811 Hawthorne, Nev.

Boundaries. A 1½-nautical-mile radius circle centered at latitude 38°14'45" N., longitude 118°38'15" W.

Designated altitudes. Surface to 15,000 feet MSL.

Time of designation. 0800 to 1500 local time, Monday through Friday.

Using agency. Commander, Hawthorne Army Ammunition Plant, Hawthorne, Nev.

R-4812 Sand Springs, Nev.

Boundaries: That area within 5-nautical miles either side of a line extending from latitude 39°10'00" N., longitude 118°37'30" W.; to latitude 39°13'00" N., longitude 118°12'42" W.; and bounded on the east by R-4804 and bounded on the west by R-4810.

Designated altitudes. Surface to but not including Flight Level 180 excluding that portion from 2,000 feet AGL up to but not including 4,000 feet AGL, which lies north of and one NM from U. S. Highway 50, between the intersections of U. S. Highway 50 with longitudes 118°25'30"W. and 118°09'50"W.

Time of designation: 0600 to 2400 local time daily.

Controlling agency: Oakland ARTC Center.

Using agency: Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4813 Carson Sink, Nev.

Boundaries. Beginning at lat. 39°51'00" N., long. 118°38'00" W.; to lat. 40°01'00" N., long. 118°15'00" W.; to lat. 40°01'00" N., long. 118°01'00" W.; to lat. 39°58'00" N., long. 118°01'00" W.; to lat. 39°38'00" N., long. 118°17'00" W.; thence via the arc of a 15-nautical mile radius circle centered at lat. 39°52'36" N., long. 118°20'27" W.; to lat. 39°45'50" N., long. 118°38'00" W.; thence to point of beginning.

Designated altitudes. Surface to but not including Flight Level 180.

Time of designation. 0600 to 2400 local time daily.

Controlling agency: Oakland ARTC Center.

Using agency: Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4816 Dixie Valley, Nev.

Boundaries. Beginning at lat. 39°51'00" N., long. 118°00'00" W.; to lat. 39°51'00" N., long. 117°31'00" W.; to lat. 39°34'00" N., long. 117°39'30" W.; to lat. 39°34'00" N., long. 118°12'30" W.; to point of beginning.

Designated altitudes. 1500 feet AGL to but not including Flight Level 180.

Time of designation. 0700 to 2400 local time, Monday through Saturday.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commanding Officer, Naval Air Station, Fallon, Nev.

R-4816S Dixie Valley, Nev.

Boundaries. Beginning at lat. 39°34'00" N., long. 118°12'30" W.; to lat. 39°34'00" N., long. 117°39'30" W.; to lat. 39°18'00" N., long. 117°47'30" W.; to lat. 39°18'00" N., long. 118°13'15" W.; to lat. 39°17'00" N., long. 118°21'00" W.; to lat. 39°30'00" N., long. 118°15'30" W.; to point of beginning.

Designated altitudes. 500 feet AGL to but not including Flight Level 180 excluding that portion from 2,000 feet AGL up to but not including 4,000 feet AGL, which lies north of and one NM from U. S. Highway 50, between the intersections of U. S. Highway 50 with longitudes 118°25'30"W. and 118°09'50"W.

Time of designation. 0700 to 2400 local time, Monday through Saturday.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commanding Officer, Naval Air Station, Fallon, Nev.

§ 73.49 New Hampshire

§ 73.50 New Jersey

R-5001 Fort Dix, N. J.

Subarea A

Boundaries: Beginning at latitude 40°02'45" N., longitude 74°27'00" W.; to latitude 40°00'00" N., longitude 74°26'20"W.; to latitude 39°59'00"N., longitude 74°25'08"W.; to latitude 39°58'00"N., longitude 74°25'00"W.; to latitude 39°57'30"N., longitude 74°25'17"W.; to latitude 39°57'23"N., longitude 74°25'50"W.; to latitude 39°58'45"N., longitude 74°28'00"W.; to latitude 39°58'45"N., longitude 74°31'25" W.; to latitude 39°59'15" N., longitude 74°33'30" W.; to latitude 40°01'53" N., longitude 74°33'30" W.; to latitude 40°02'45" N., longitude 74°32'30" W.; to the point of beginning.

Designated altitudes: Surface to and including 4,000 feet MSL.

Time of designation: Continuous.

Controlling agency. Federal Aviation Administration, New York ARTC Center.

Using agency: Commanding General, Fort Dix, N. J.

Subarea B

Boundaries: Beginning at latitude 40°02'45" N., longitude 74°27'00" W.; to latitude 40°00'00" N., longitude 74°26'20"W.; to latitude 39°59'00"N., longitude 74°25'08"W.; to latitude 39°58'00"N., longitude 74°25'00"W.; to latitude 39°57'30"N., longitude 74°25'17"W.; to latitude 39°57'23"N., longitude 74°25'50"W.; to latitude 39°58'45"N., longitude 74°28'00"W.; to latitude 39°58'45"N., longitude 74°31'25" W.; to latitude 40°01'53" N., longitude 74°33'30" W.; to latitude 40°02'45" N., longitude 74°32'30" W.; to the point of beginning.

Designated altitudes: From 4,000 feet MSL to and including 8,000 feet MSL.

Time of designation: Continuous, sunrise Friday to sunset Sunday, other times by NOTAM, 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTC Center.

Using agency: Commanding General, Fort Dix, N. J.

R-5002A Warren Grove, N. J.

Boundaries. Beginning at lat. 39°43'25"N., long. 74°17'37"W.; to lat. 39°38'25"N., long. 74°24'20"W.; to lat. 39°38'30"N., long. 74°29'30"W.; to lat. 39°39'20"N., long. 74°30'00"W.; to lat. 39°44'50"N., long. 74°24'40"W.; to lat. 39°44'50"N., long. 74°19'20"W.; to the point of beginning.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTCC.

Using agency. Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N. J.

R-5002B Warren Grove, N. J.

Boundaries. Beginning at lat. 39°41'00"N., long. 74°20'52"W.; to lat. 39°40'10"N., long. 74°20'15"W.; to lat. 39°38'50"N., long. 74°21'20"W.; to lat. 39°36'00"N., long. 74°26'30"W.; to lat. 39°36'00"N., long. 74°27'30"W.; to lat. 39°37'00"N., long. 74°28'50"W.; to lat. 39°38'30"N., long. 74°29'30"W.; to lat. 39°38'25"N., long. 74°24'20"W.; to the point of beginning.

Designated altitudes. 1,000 feet MSL to 14,000 feet MSL.

Time of designation. Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTCC.

Using agency. Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N. J.

R-5002C Warren Grove, N. J.

Boundaries. Beginning at lat. 39°39'20"N., long. 74°30'00"W.; to lat. 39°40'30"N., long. 74°30'40"W.; to lat. 39°44'50"N., long. 74°27'30"W.; to lat. 39°44'50"N., long. 74°24'40"W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet MSL.

Time of designation. Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTCC.

Using agency. Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N. J.

R-5002D Warren Grove, N. J.

Boundaries. Beginning at lat. 39°44'50"N., long. 74°24'40"W.; to lat. 39°45'20"N., long. 74°23'45"W.; to lat. 39°45'50"N., long. 74°20'00"W.; to lat. 39°44'50"N., long. 74°19'20"W.; to the point of beginning.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTCC.

Using agency. Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N. J.

R-5002E Warren Grove, N. J.
Boundaries. Beginning at lat. 39°43'25"N., long. 74°17'37"W.; to lat. 39°41'00"N., long. 74°20'52"W.; to lat. 39°40'10"N., long. 74°20'15"W.; to the point of beginning.
Designated altitudes. 3,500 feet MSL to 14,000 feet MSL.
Time of designation. Sunrise to sunset, other times as activated by NOTAM issued at least 48 hours in advance.
Controlling agency. Federal Aviation Administration, New York ARTCC.
Using agency. Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N. J.

§ 73.51 New Mexico

R-5101 Los Alamos, N. Mex.
Boundaries: Beginning at lat. 35°47'00"N., long. 106°14'48"W.; to lat. 35°50'03"N., long. 106°21'36"W.; to lat. 35°52'22"N., long. 106°20'42"W.; to lat. 35°52'52"N., long. 160°16'48"W.; to lat. 35°52'30"N., long. 106°14'48"W.; to the point of beginning.
Designated altitudes: Surface to 12,000 feet MSL.
Time of designation: Continuous.
Using agency: Manager, Energy Research and Development Administration, Los Alamos, N. Mex.

R-5103A McGregor, N. Mex.
Boundaries. Beginning at lat. 32°15'00"N., long. 106°10'00"W.; to lat. 32°15'00"N., long. 105°42'00"W.; to lat. 32°00'15"N., long. 105°56'40"W.; to lat. 32°00'30"N., long. 106°10'25"W.; to lat. 32°05'20"N., long. 06°09'20"W.; to lat. 32°06'00"N., long. 106°15'30"W.; thence along the Southern Pacific Railroad to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.
Using agency. Commanding General, Fort Bliss, Tex.

AMENDMENTS 1/24/80 44 F. R. 72106 (Rewritten)

R-5103B McGregor, N. Mex.
Boundaries. Beginning at lat. 32°45'00"N., long. 105°59'00"W.; to lat. 32°45'00"N., long. 105°52'20"W.; to lat. 32°33'20"N., long. 105°30'00"W.; to lat. 32°26'20"N., long. 105°30'00"W.; to lat. 32°15'00"N., long. 105°42'00"W.; to lat. 32°15'00"N., long. 106°10'00"W.; thence along the Southern Pacific Railroad to lat. 32°28'00"N., long. 106°02'00"W.; to lat. 32°27'40"N., long. 106°00'00"W.; to lat. 32°36'00"N., long. 106°00'00"W.; from the surface to 12,500 feet MSL; to point of beginning excluding that airspace within a 2 NM radius of lat. 32°39'02"N., long. 105°40'34"W.; from the surface to 1,500 feet above the surface and also excluding that airspace beginning at lat. 32°42'49"N., long. 105°48'10"W.; to lat. 32°40'47"N., long. 105°49'38"W.; to lat. 32°39'42"N., long. 105°47'42"W.; to lat. 32°41'58"N., long. 105°46'12"W.; to point of beginning from the surface to 1,500 feet above the surface.
Designated altitudes. Surface to 12,500 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.
Using agency. Commanding General, Fort Bliss, Tex.

AMENDMENTS 1/24/80 44 F. R. 72106 (Added) Corr: 45 F. R. 5675

R-5103C McGregor, N. Mex.
Boundaries. Beginning at lat. 32°45'00"N., long. 105°59'00"W.; to lat. 32°45'00"N., long. 105°52'20"W.; to lat. 32°33'20"N., long. 105°30'00"W.; to lat. 32°26'20"N., long. 105°30'00"W.; to lat. 32°15'00"N., long. 105°42'00"W.; to lat. 32°15'00"N., long. 106°10'00"W.; thence along the Southern Pacific Railroad to lat. 32°28'00"N., long. 106°02'00"W.; to lat. 32°27'40"N., long. 106°00'00"W.; to lat. 32°36'00"N., long. 106°00'00"W.; to point of beginning from 12,500 feet MSL to unlimited.
Designated altitudes. 12,500 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.
Using agency. Commanding General, Fort Bliss, Tex.

AMENDMENTS 1/24/80 44 F. R. 72106 (Added) Corr: 45 F. R. 5675

R-5104A Melrose, N. Mex.
Boundaries: Beginning at lat. 34°28'00" N., long. 103°43'15" W., to lat. 34°25'25" N., long. 103°40'00" W., to lat 34°14'30" N., long. 103°40'00" W., to lat. 34°10'00" N., long. 103°46'00" W., to lat. 34°10'00" N., long. 103°55'00" W., to lat. 34°28'00" N., long. 103°55'00" W., to point of beginning.
Designated altitudes: Surface to 18,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.
Using agency: Commander, Cannon AFB, N. Mex.

R-5104B Melrose, N. Mex.

Boundaries: Beginning at lat. 34°28'00" N., long. 103°43'15" W., to lat. 34°25'25" N., long. 103°40'00" W., to lat. 34°14'30" N., long. 103°40'00" W., to lat. 34°10'00" N., long. 103°46'00" W., to lat. 34°10'00" N., long. 103°55'00" W., to lat. 34°28'00" N., long. 103°55'00" W., to point of beginning.

Designated altitudes: 18,000 feet MSL to 23,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.

Using agency: Commander, Cannon AFB, N. Mex.

R-5105 Melrose, N. Mex.

Boundaries. Beginning at lat. 34°39'00"N., long. 103°55'00"W.; to lat. 34°39'00"N., long. 103°40'00"W.; to lat. 34°25'25"N., long. 103°40'00"W.; to lat. 34°28'00"N., long. 103°43'15"W.; to lat. 34°28'00"N., long. 103°55'00"W.; to the point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Albuquerque ARTCC.

Using agency. Commander, Cannon AFB, N. Mex.

R-5107A White Sands Missile Range, N. Mex.

Boundaries. Beginning at latitude 32°23'18" N., longitude 106°07'03" W.; to latitude 32°05'00" N., longitude 106°18'20" W.; to latitude 32°05'00" N., longitude 106°29'00" W.; to latitude 32°06'20" N., longitude 106°34'00" W.; to latitude 32°18'00" N., longitude 106°34'00" W.; to latitude 32°18'00" N., longitude 106°39'00" W.; to latitude 32°19'30" N., longitude 106°39'30" W.; to latitude 32°19'30" N., longitude 106°20'36" W.; to latitude 32°24'48" N., longitude 106°09'00" W.; to the point of beginning.

Designated altitude. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commanding General, Fort Bliss, Texas.

R-5107B White Sands Missile Range, N. Mex.

Boundaries: Beginning at latitude 33°44'45" N., longitude 106°04'00" W.; to latitude 32°50'00" N., longitude 106°04'00" W.; to latitude 32°36'00" N., longitude 106°06'00" W.; to latitude 32°25'00" N., longitude 106°06'00" W.; to latitude 32°23'18" N., longitude 106°07'03" W.; to latitude 32°24'48" N., longitude 106°09'00" W.; to latitude 32°19'30" N., longitude 106°20'36" W.; to latitude 32°19'30" N., longitude 106°39'30" W.; to latitude 33°13'00" N., longitude 106°52'00" W.; to latitude 33°49'45" N., longitude 106°45'20" W.; to latitude 33°49'30" N., longitude 106°16'30" W.; thence along the south side of U. S. Highway 380 to the point of beginning; excluding the airspace in R-5107D, R-5107F, and R-5107G; and that airspace from the surface to and including 1,500 feet above the surface within a 2-nautical mile radius of latitude 32°26'35" N., longitude 106°40'45" W., latitude 32°30'00" N., longitude 106°41'10" W., and latitude 32°23'49" N., longitude 106°41'27" W.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107C White Sands Missile Range, N. Mex.

Boundaries: Beginning at latitude 34°17'00" N., longitude 106°04'00" W.; to latitude 33°44'45" N., longitude 106°04'00" W.: thence along the south side of U. S. Highway 380 to latitude 33°49'30" N., longitude 106°16'30" W.; to latitude 33°49'45" N., longitude 106°45'20" W.; to latitude 34°15'45" N., longitude 106°40'30" W.; to latitude 34°17'00" N., longitude 106°12'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous Monday through Friday. Other times as activated by NOTAM issued at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107D White Sands Missile Range, N. Mex.

Boundaries: Beginning at lat. 33°34'00" N., long. 106°04'00" W.; to lat. 33°04'00" N., long. 106°21'00" W.; to lat. 32°34'00" N., long. 106°15'00" W.; to lat. 32°34'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°06'00" W.; to lat. 32°50'00" N., long. 106°04'00" W.; to point of beginning.

Designated altitudes: Surface to 22,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, ARTC Center.

Using agency: Deputy for Air Force, White Sands Missile Range, N. Mex. 88002

R-5107E White Sands Missile Range, N. Mex.

Boundaries. From the point where an arc of 19 nautical miles radius centered at latitude 33°45'00" N., longitude 106°26'30" W., intersects the western boundary of R-5107C, to latitude 33°54'00" N., longitude 106°46'30" W.; to latitude 33°32'45" N., longitude 106°58'45" W.; to latitude 33°26'50" N., longitude 107°00'00" W.; to latitude 33°35'00" N., longitude 106°48'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of use. As published in NOTAMs at least 12 hours in advance.

Controlling agency. FAA, Albuquerque ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107F White Sands Missile Range, N. Mex.

Boundaries: Beginning at lat. 33°10'10" N., long. 107°10'55" W.; to lat. 33°20'30" N., long. 107°08'20" W.; to lat. 33°16'10" N., long. 106°51'40" W.; to lat. 33°05'30" N., long. 106°04'00" W.; to lat. 33°00'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°49'00" W.; to lat. 32°50'30" N., long. 106°04'00" W.; to lat. 33°05'00" N., long. 106°50'20" W.; to point of beginning.

Designated altitude: From FL 240 to FL 450.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107G White Sands Missile Range, N. Mex.

Boundaries: Beginning at lat. 33°11'40" N., long. 107°10'25" W.; to lat. 33°21'00" N., long. 107°08'00" W.; to lat. 3[illegible]°22'55" N., long. 107°05'50" W.; to lat. 33°25'20" N., long. 105°27'00" W.; to lat. 33°14'00" N., long. 10[illegible]27'00" W.; to point of beginning.

Designated altitude: From FL 240 to FL 450.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, ARTC Center.

Using agency: Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5109A White Sands Missile Range, N. Mex.

Boundaries. Beginning at latitude 33°31'30" N., longitude 105°27'00" W.; to latitude 32°45'00" N., longitude 105°27'00" W.; to latitude 32°45'00" N., longitude 105°59'00" W.; to latitude 32°36'00" N., longitude 106°00'00" W.; to latitude 32°36'00" N., longitude 106°06'00" W.; to latitude 32°50'00" N., longitude 106°04'00" W.; to latitude 33°44'10" N., longitude 106°04'00" W.; to the point of beginning, excluding the airspace in Restricted Areas R-5107F and R-5107G.

Designated altitudes. From 24,000 feet MSL to unlimited.

Time of designation. Continuous Monday through Friday. Other times as activated by NOTAM issued at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5109B White Sands Missile Range, N. Mex.

Boundaries. Beginning at latitude 34°17'00" N., longitude 106°04'00" W.; to latitude 34°17'00" N., longitude 105°[illegible]1'00" W.; to latitude 33°57'00" N., longitude 105°27'00" W.; to latitude 33°31'30" N., longitude 105°27'00" W.; to latitude 33°44'10" N., longitude 106°04'00" W.; to the point of beginning.

Designated altitudes. From 24,000 feet MSL to unlimited.

Time of designation. Continuous Monday through Friday. Other times as activated by NOTAM issued at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5111A Elephant Butte, N. Mex.

Boundaries. Beginning at lat. 32°43'00"N., long. 106°45'00"W.; to lat. 32°45'45"N., long. 106°57'00"W.; to lat. 32°52'00"N., long. 107°00'00"W.; to lat. 33°26'50"N., long. 107°00'00"W.; to lat. 33°35'00"N., long. 106°48'00"W.; to lat. 33°13'00"N., long. 106°52'00"W.; to point of beginning, excluding the airspace in R-5107F and R-5107G.

Designated altitudes. 13,000 feet MSL to unlimited.

Time of designation. As published by NOTAM at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for United States Air Force, White Sands Missile Range; N. Mex. 88002.

AMENDMENTS 9/4/80 45 F. R. 41913 (Rewritten)

R-5111B Elephant Butte, N. Mex.

Boundaries. Beginning at lat. 32°43'00"N., long. 106°45'00"W.; to lat. 32°45'45"N., long. 106°57'00"W.; to lat. 3[illegible]°52'00"N., long. 107°00'00"W.; to lat. 33°26'50"N., long. 107°00'00"W.; to lat. 33°35'00"N., long. 10[illegible]48'00"W.; to lat. 33°13'00"N., long. 106°52'00"W.; to point of beginning.

Designated altitudes. Surface to 13,000 feet MSL.

Time of designation. As published by NOTAM at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for United States Air Force, White Sands Missile Range, N. Mex. 88002.

AMENDMENTS 9/4/80 45 F. R. 41913 (Rewritten)

R-5111C Elephant Butte, N. Mex.

Boundaries. Beginning at lat. 32°45'45"N., long. 106°57'00"W.; to lat. 32°47'00"N., long. 107°06'00"W.; to lat. 33°00'00"N., long. 107°13'00"W.; to lat. 33°21'00"N., long. 107°08'00"W.; to lat. 33°26'50"N., long. 107°00'00"W.; to lat. 32°52'00"N., long. 107°00'00"W.; to point of beginning, excluding the airspace in R-5107F and R-5107G.

Designated altitudes. Surface to unlimited.

Time of designation. As published by NOTAM at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for United States Air Force, White Sands Missile Range, N. Mex. 88002.

AMENDMENTS 9/4/80 45 F. R. 41913 (Added)

R-5113 Socorro, N. Mex.

Boundaries. Beginning at latitude 34°00'00" N., longitude 107°07'30" W.; thence to latitude 33°55'30" N., longitude 107°07'30" W.; to latitude 33°55'30" N., longitude 107°12'30" W.; to latitude 34'00'00" N., longitude 107°12'30" W.; to point of beginning.

Designated altitudes. Surface to 45,000 feet MSL.

Time of designation. From 0900 to 1900 local time, daily June 1 through September 30, annually.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. U. S. Navy, Office of Naval Research, Atmospheric Sciences.

§ 73.52 New York

R-5201 Fort Drum, N. Y.

Boundaries. Beginning at lat. 44°15'00" N., long. 75°31'30" W.; to lat. 44°11'15" N., long. 75°25'00" W.; to lat. 44°03'00" N., long. 75°33'30" W.; to lat. 44°00'45" N., long. 75°37'25" W.; to lat. 44°03'25" N., long. 75°39'30" W.; to lat. 44°05'47" N., long. 75°44'30" W.; to lat. 44°10'00" N., long. 75°39'30" W.; to point of beginning.

Designated altitudes. Surface to 23,000 feet MSL, April 1 through September 30; surface to 20,000 feet MSL, October 1 through March 31.

Time of designation. Continuous April 1 through September 30 and 0600 through 1800 hours local time, October 1 through March 31; other times by NOTAM 48 hours in advance.

Controlling agency. Federal Aviation Administration, Watertown, N. Y. Flight Service Station.

Using agency. Commanding Officer, Fort Drum, N. Y.

R-5202 Gardiner's Island, N. Y.

Boundaries. A circular area with a 3-nautical mile radius centered at Lat. 41°08'30" N, Long. 72° 08'50" W.

Designated altitudes: Surface to 10,000 feet MSL, inclusive.

Time of designation: 0900 to 1800 local time, April 15 through October 14; 0900 to 1600 local time, October 15 through April 14.

Controlling agency: FAA, Quonset RATCF.

Using agency: Naval Plant Representative Office, Grumman Aerospace Corporation, Bethpage, N. Y.

R-5203 Oswego, N. Y.

Boundaries. Beginning at Lat. 43°37'00" N, Long. 76°45'00" W; to Lat. 43°24'00" N, Long. 76°45'00" W; to Lat. 43°24'00" N, Long. 78°00'00" W; to Lat. 43°37'00" N, Long. 78°00'00" W; to the point of beginning.

Designated altitudes. Surface to Flight Level 500.

Time of Designation. Continuous

Controlling agency. Federal Aviation Administration, Cleveland ARTC Center.

Using agency. 21st Air Division, Hancock Field, Syracuse, N. Y.

R-5206 West Point, N. Y.

Boundaries: Beginning at lat. 41°23'08" N., long. 74°00'00" W.; to lat. 41°23'08" N., long. 73°59'42" W.; thence along south side of U. S. Highway 9W to lat. 41°22'32" N., long. 73°58'58" W.; to lat. 41°22'18" N., long. 73°58'58" W.; to lat. 41°20'04" N., long. 74°00'42" W.; thence along north side of Mine Torne Road to lat. 41°21'24" N., long. 74°02'38" W.; thence along east side of New York State Highway 293 to point of beginning.

Designated altitudes: Surface to and including 5,000 feet MSL.

Time of designation: 0600 to 2400 local, July 1 to August 31, other dates and times by NOTAM 48 hours in advance.

Controlling agency: Federal Aviation Administration, New York ARTC Center.

Using agency: Superintendent, U. S. Military Academy, West Point, N. Y.

R-5207 Romulus, N. Y.

Boundaries. A circular area with a radius of 1,350 feet centered at latitude 42°46'50" N., longitude 76°53'06" W.

Designated altitudes. Surface to 2,000 feet MSL.

Time of designation. 0730 to 1600 local time, Monday through Friday.

Using agency. Commanding Officer, Seneca Army Depot, Romulus, N. Y.

§ 73.33 North Carolina

R-5301A Albemarle Sound, N. C.

Boundaries. A circular area with a 3-mile radius centered at latitude 36° 03' 30" N., longitude 76° 20' 00" W., excluding the airspace within R-5301B.
Designated altitudes. Surface to 6,000 feet MSL.
Time of designation. Sunrise to sunset.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Avistion Administration, Washington ARTC Center.

R-5301B Albemarle Sound, N. C.

Boundaries. A circular area within a 1½-nmi radius centered at latitude 36° 05' 25" N., longitude 76° 18' 30" W.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.

R-5301C Albemarle Sound, N. C.

Boundaries. A circular area within a 1½ nautical mile radius centered at Lat. 36°05'25" N., Long. 76° 18' 30" W.
Designated altitudes. From 5,000 feet MSL to and including 14,000 feet MSL.
Time of designation. As activated by NOTAM at least 24 hours in advance.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.

R-5302 Harvey Point, N. C.

Boundaries. Beginning at lat. 36°06'30"N., long. 76°20'00"W.; to lat. 36°05'25"N., long. 76°17'00"W.; to lat. 36°03'30"N., long. 76°05'30"W.; to lat. 36°00'00"N., long. 76°05'30"W.; to lat. 36°00'00"N., long. 76°15'00"W.; to lat. 36°00'30"N., long. 76°20'00"W.; thence clockwise via a 3 NM arc centered at lat. 36° 03'30"N., long. 76°20'00"W.; to the point of beginning, excluding the airspace within R-5301A, B, or C, when either or all of these areas are activated.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. 1300Z to 0400Z.
Controlling agency. Federal Aviation Administration, Washington ARTC Center, Leesburg, Va.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC), NAS Oceana, Va.

R-5306A Cherry Point, N. C.

Boundaries. Beginning at latitude 35°23'15" N., longitude 76°34'40" W.; to latitude 35°18'15" N., longitude 76°16'40" W.; to latitude 35°04'30" N., longitude 76°04'30" W.; to latitude 34°46'45" N., longitude 76°24'45" W.; to latitude 34°46'00" N., longitude 76°30'00" W.; to latitude 35°08'00" N., longitude 76°51'20" W.; thence to point of beginning.
Designated altitudes. Surface to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5306C Cherry Point, N. C.

Boundaries. Beginning at latitude 34°51'00" N., longitude 77°05'30" W.; to latitude 34°42'00" N., longitude 76°54'45" W.; to latitude 34°41'50" N., longitude 76°56'20" W.; to latitude 34°37'30" N., longitude 76°56'20" W.; thence southwest along a line 3-nautical miles from and parallel to the shoreline to latitude 34°34'30" N., longitude 77°09'00" W.; to latitude 34°44'50" N., longitude 77°14'40" W.; to latitude 34°49'30" N., longitude 77°10'00" W.; thence to point of beginning.
Designated altitudes. From 1200 feet MSL to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5306D Cherry Point, N. C.

Boundaries. Beginning at latitude 34°44'50" N., longitude 77°14'40" W.; to latitude 34°34'30" N., longitude 77°09'00" W.; thence southwest along a line 3-nautical miles from and parallel to the shoreline to latitude 34°30'20" N., longitude 77°15'50" W.; to latitude 34°33'00" N., longitude 77°19'00" W.; to latitude 34°36'05" N., longitude 77°26'08" W.; to latitude 34°40'00" N., longitude 77°22'00" W.; to latitude 34°39'10" N., longitude 77°10'50" W.; thence to point of beginning.
Designated altitudes. Surface to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5306E Cherry Point, N. C.

Boundaries. Beginning at latitude 34°40'20" N., longitude 77°22'12" W.; to latitude 34°40'00" N., longitude 77°22'00" W.; to latitude 34°36'05" N., longitude 77°26'08" W.; to latitude 34°38'12" N., longitude 77°26'00" W.; thence to point of beginning.

Designated altitudes. Surface to, but not including FL 180.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5311A Fort Bragg, N. C.

Boundaries. Beginning at latitude 35°10'46" N., longitude 79°01'56" W.; to latitude 35°08'47" N., longitude 79°02'00" W.; to latitude 35°07'00" N., longitude 79°02'30" W.; to latitude 35°05'35" N., longitude 79°01'50" W.; to latitude 35°02'55" N., longitude 79°05'40" W.; to latitude 35°02'45" N., longitude 79°20'10" W.; to latitude 35°07'05" N., longitude 79°22'50" W.; to latitude 35°09'40" N., longitude 79°20'10" W.; thence along Little River to point of beginning.

Designated altitudes. Surface to but not including 7,000 feet MSL.

Time of designation. Continuous.

Using agency. Commanding General, Fort Bragg, N. C.

Controlling agency. Federal Aviation Administration, Washington ARTCC.

R-5311B Fort Bragg, N. C.

Boundaries: Beginning at latitude 35°10'46" N., longitude 79°01'56" W.; to latitude 35°08'47" N., longitude 79°02'00" W.; to latitude 35°07'00" N., longitude 79°02'30" W.; to latitude 35°05'35" N., longitude 79°01'50" W.; to latitude 35°02'55" N., longitude 79°05'40" W.; to latitude 35°02'45" N., longitude 79°20'10" W.; to latitude 35°07'05" N., longitude 79°22'50" W.; to latitude 35°09'40" N., longitude 79°20'10" W.; thence along Little River to point of beginning.

Designated altitudes. From 7,000 feet MSL to but not including 12,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, ARTC Center, Washington.

Using agency: Commanding General, Fort Bragg, N. C.

R-5311C Fort Bragg, N. C.

Boundaries. Beginning at lat. 35°10'46"N., long. 79°01'56"W.; to lat. 35°08'47"N., long. 79°02'00"W.; to lat. 35°07'00"N., long. 79°02'30"W.; to lat. 35°05'35"N., long. 79°01'50"W.; to lat. 35°02'55"N., long. 79°05'40"W.; to lat. 35°02'45"N., long. 79°20'10"W.; to lat. 35°07'05"N., long. 79°22'50"W.; to lat. 35°09'40"N., long. 79°20'10"W.; thence along Little River to the point of beginning.

Designated altitudes. From 12,000 feet MSL but not including FL 290.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTCC.

Using agency. Commanding General, Fort Bragg, N. C.

R-5313 Long Shoal Point, N. C.

Boundaries. A circular area with a 3-mile radius centered at Lat. 35°32'48" N, Long. 75°41'26" W.

Designated altitudes. Surface to 18,000 feet MSL.

Time of designation. Continuous.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

R-5314 Dare County, N. C.

Subarea A

Boundaries. Beginning at latitude 35°45'40" N., longitude 75°49'20" W.; to latitude 35°40'10" N., longitude 75°50'15" W.; to latitude 35°41'30" N., longitude 76°00'20" W.; to latitude 35°47'00" N., longitude 75°59'00" W; to the point of beginning.

Designated altitudes. Surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea B

Boundaries. Beginning at latitude 35°39'30" N., longitude 75°45'45" W.; to latitude 35°34'40" N., longitude 75°46'50" W.; to latitude 35°36'45" N., longitude 76°01'20" W.; to latitude 35°41'30" N., longitude 76°00'20" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea C.

Boundaries. Beginning at latitude 35°48'30" N., longitude 75°43'40" W.; to latitude 35°45'00" N., longitude 75°44'35" W.; to latitude 35°47'00" N., longitude 75°59'00" W.; to latitude 35°51'35" N., longitude 75°57'55" W.; to latitude 35°49'30" N., longitude 75°45'00" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea D.

Boundaries. Beginning at latitude 35°40'30" N., longitude 75°52'15" W.; to latitude 35°38'40" N., longitude 75°52'35" W.; to latitude 35°39'00" N., longitude 75°54'35" W.; to latitude 35°40'40" N., longitude 75°54'10" W.; to the point of beginning.

Designated altitudes. Surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea E.

Boundaries. Beginning at latitude 35°47'50" N., longitude 75°48'50" W.; to latitude 35°45'40" N., longitude 75°49'20" W.; to latitude 35°46'10" N., longitude 75°52'35" W.; to latitude 35°48'00" N., longitude 75°52'00" W.; to the point of beginning.

Designated altitudes. Surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea F.

Boundaries. Beginning at latitude 35°45'00" N., longitude 75°44'35" W.; to latitude 35°39'30" N., longitude 75°45'45" W.; to latitude 35°40'10" N., longitude 75°50'15" W.; to latitude 35°45'40" N., longitude 75°49'20" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea G

Boundaries. Beginning at lat. 35°51'35"N., long. 75°57'55"W.; to lat. 35°38'55"N., long. 76°01'00"W.; to lat. 35°39'20"N., long. 76°05'00"W.; to lat. 35°51'52"N., long. 76°02'09"W.; to the point of beginning.

Designated altitudes. 200 feet above the surface to 15,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

AMENDMENTS 1/24/80 44 F. R. 68452 (Changed) Corr: 44 F. R. 72106

Subarea H

Boundaries. Beginning at lat. 35°51'52"N., long. 76°02'09"W.; to lat. 35°39'20"N., long. 76°05'00"W.; to lat. 35°40'25"N., long. 76°12'25"W.; to lat. 35°52'22"N., long. 76°09'53"W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

AMENDMENTS 1/24/80 44 F. R. 68452 (Changed) Corr: 44 F. R. 72106

Subarea J

Boundaries. Beginning at lat. 35°52'22"N., long. 76°09'53"W.; to lat. 35°40'25"N., long. 76°12'25"W.; to lat. 35°43'50"N., long. 76°35'30"W.; to lat. 35°53'50"N., long. 76°33'10"W.; to the point of beginning.

Designated altitudes. 1,000 feet above the surface to 8,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

AMENDMENTS 1/24/80 44 F. R. 68452 (Changed) Corr: 44 F. R. 72106

§ 73.54 North Dakota

§ 73.55 Ohio

R-5502A Lacarne, Ohio

Boundaries. Beginning at lat. 41°35'19"N., long. 82°55'30"W.; to lat. 41°32'30"N., long. 83°01'00"W.; to lat. 41°36'35"N., long. 83°04'52"W.; thence via a 5 NM arc centered at lat. 41°32'30"N., long. 83°01'00"W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. 0800 to 1700 local time April 1 to November 30; 0800 to 1700 local time Tuesday, Wednesday and Thursday, December 1 to March 31; other times by NOTAM 48 hours in advance.

Controlling agency. Federal Aviation Administration, Cleveland ARTC Center.

Using agency. The Adjutant General, State of Ohio.

AMENDMENTS 1/24/80 44 F. R. 70714 (Rewritten)

R-5502B Lacarne, Ohio

Boundaries. Beginning at lat. 41°41'30"N., long. 83°00'00"W.; to lat. 41°35'40"N., long. 82°54'50"W.; to lat. 41°32'30"N., long. 83°01'00"W.; to lat. 41°36'35"N., long. 83°04'52"W.; to lat. 41°41'30"N., long. 83°07'30"W.; to point of beginning.

Designated altitudes. Surface to 23,000 feet MSL.

Time of designation. Tuesday, Wednesday and Thursday, 0800 to 1700 local time; other times by NOTAM 48 hours in advance.

Controlling agency. Federal Aviation Administration, Cleveland ARTC Center.

Using agency. The Adjutant General, State of Ohio.

AMENDMENTS 1/24/80 44 F. R. 70714 (Added)

R-5503 Wilmington, Ohio

Boundaries. Beginning at lat. 39°30'00" N., long. 83°02'00" W.; to lat. 38°48'30" N., long. 83°02'00" W.; to lat. 38°58'30" N., long. 84°05'00" W.; to lat. 39°15'45" N., long. 84°05'00" W.; to lat. 39°17'50" N., long. 84°02'30" W.; to lat. 39°26'05" N., long. 83°48'10" W.; to lat. 39°30'00" N., long. 83°38'35" W.; to point of beginning.

Designated altitudes. 4,000 feet MSL to flight level 600.

Time of designation. 0800 to 2200 hours, local time, Monday through Saturday.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Aeronautical Systems Division, Wright-Patterson AFB, Ohio.

§ 73.56 Oklahoma

R-5601A Fort Sill, Okla.

Boundaries. Beginning at latitude 34°38'15" N., longitude 98°17'00" W.; to latitude 34°38'15 N., longitude 98°20'55" W.; thence counterclockwise along the arc of a 3-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°40'12" N., longitude 98° 26'17" W.; to latitude 34°39'33" N., longitude 98°26'17" W.; thence counterclockwise along the arc of a 2.5-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°38'15" N., longitude 98°26'46" W.; to latitude 34°38'15" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°39'43" W.; to latitude 34°43'30" N., longitude 98°35'39" W.; to latitude 34°43'30" N., longitude 98°21'20" W.; to latitude 34°43'45" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°17'00" W.; to point of beginning.

Designated altitude. Surface to 23,000 feet MSL.

Time of designation. Continuous.

Using agency. Commanding General, Fort Sill, Oklahoma.

R-5601B Fort Sill, Okla.

Boundaries Beginning at latitude 34°38'15' N., longitude 98°26'46" W.; thence clockwise along the arc of a 2.5-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°39'33" N., longitude 98°26'17" W.; to latitude 34°40'12" N., longitude 98°26'17" W.; thence clockwise along the arc of a 3-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°38'15" N., longitude 98°20'55" W.; thence to point of beginning.

Designated altitude. Surface to 23,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.

Using agency. Commanding General, Fort Sill, Okla.

R-5601C, Fort Sill, Okla.

Boundaries. Beginning at latitude 34°38'15" N., longitude 98°17'00" W.; to latitude 34°38'15" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°39'43" W.; to latitude 34°43'30" N., longitude 98°35'39" W.; to latitude 34°43'30" N., longitude 98°21'20" W.; to latitude 34°43'45" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°17'00" W.; to point of beginning.

Designated altitude. 23,000 feet MSL to 65,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.

Using Agency. Commanding General, Fort Sill, Okla.

R-5601D Fort Sill, Okla.

Boundaries. Beginning at latitude 34°38'15" N., longitude 98°38'00" W.; to latitude 34°38'15" N., longitude 98°48'00" W.; to latitude 34°42'15" N., longitude 98°50'00" W.; to latitude 34°45'00" N., longitude 98°40'30" W.; to latitude 34°43'30" N., longitude 98°35'39" W.; to latitude 34°41'58" N., longitude 98°39'43" W.; to latitude 34°41'58" N., longitude 98°45'20" W.; to latitude 34°38'15" N., longitude 98°45'20"W.; to point of beginning.

Designated altitudes. 500 feet AGL to 16,500 feet MSL.

Time of designation. Sunrise to sunset.

Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.

Using agency. Commanding General, Fort Sill, Okla.

AMENDMENTS 11/28/80 45 F. R. 79014 (Changed)

R-5601E Fort Sill, Okla.

Boundaries. Beginning at latitude 34°38'15" N., longitude 98°38'00" W.; to latitude 34°36'00" N., longitude 98°36'45" W.; to latitude 34°38'15" N., longitude 98°48'00" W.; to point of beginning.

Designated altitudes. 500 feet AGL to 6,000 feet MSL.

Time of designation. Sunrise to sunset.

Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.

Using agency. Commanding General, Fort Sill, Okla.

AMENDMENTS 11/28/80 45 F. R. 79014 (Changed)

§ 73.57 Oregon

R-5701 Boardman Oreg.

Boundaries and designated altitudes. A 5-nautical-mile radius circle centered at latitude 45°43'36" N., longitude 119°41'03"W., surface to flight level 200; within 2 nautical miles N and 3 nautical miles S of the 082° bearing from the center of the circle extending to a line one nautical mile W of and parallel to Butter Creek, surface to 10,000 feet MSL to a distance of 7 nautical miles from the center of the circle, thence surface to 6,000 feet MSL to the E extremity; within 3 nautical miles either side of the 234° bearing from the center of the circle extending to 10 nautical miles from the center, excluding the airspace within VOR Federal airway No. 112, surface to 10,000 feet MSL to a distance of 7 nautical miles from the center of the circle, thence surface to 6,000 feet MSL to the SW extremity; within 3 nautical miles either side of the 270° bearing from the center of the circle extending to 15 nautical miles from the center, surface to 10,000 feet MSL to a distance of 7 nautical miles from the center of the circle, thence surface to 6,000 feet MSL to the W extremity.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

R-5704 Hermiston, Oreg.

Boundaries. Beginning at latitude 45°52'00" N., longitude 119°29'00" W.; to latitude 45°50'00" N., longitude 119°29'00" W.; to latitude 45°50'00" N., longitude 119°30'30" W.; to latitude 45°52'00" N.; longitude 119°30'30" W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. 0800 to 2000 Pst, Monday through Friday.

Using agency. Commanding Officer, Umatilla Ordnance Depot, Hermiston, Oreg.

R-5706 Boardman, Oreg.

Boundaries. Beginning at latitude 45°40'40" N., longitude 120°02'25" W.; to latitude 45°40'40" N., longitude 120°09'00" W.; to latitude 45°45'45" N., longitude 120°09'00" W.; thence east along the south shore of the Columbia River to latitude 45°51'00" N., longitude 119°40'00" W.; to latitude 45°53'00" N., longitude 119°31'00" W.; to latitude 45°46'35" N., longitude 119°31'00" W.; to latitude 45°46'10" N., longitude 119°35'00" W.; thence counterclockwise along the arc of a 5-nautical-mile radius circle centered at latitude 45°43'36" N., longitude 119°41'03" W.; to latitude 45°46'35" N., longitude 119°46'50" W.; to latitude 45°46'35" N., longitude 120°02'25" W.; to point of beginning.

Designated altitudes. 3,500 feet MSL to 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Seattle ARTC Center.

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

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§ 73.58 Pennsylvania

R-5801 Chambersburg, Pa.

Boundaries. The arc of a circle, having a 5,000-foot radius, centered at latitude 39°50'44" N., longitude 77°43'55" W.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. 0800 to 1600 EST, Monday through Friday.

Using agency. Commanding Officer, Letterkenny Ordnance Depot, Chambersburg, Pa.

R-5802A Fort Indiantown Gap, Pa.

Boundaries. Beginning at lat. 40°27'30"N., long. 76°44'35"W.; to lat. 40°29'31"N., long. 76°39'08"W.; to lat. 40°28'31"N., long. 76°36'22"W.; to lat. 40°25'06"N., long. 76°44'48"W.; to the point of beginning.

Designated altitudes. 200 feet AGL to 5,000 feet MSL.

Time of designation. February 15 through May 10 and September 1 through December 15, 0800-2300 local time on Saturdays and 0800-1200 local time on Sundays; May 11 through August 31, 0800-2400 local time on Saturdays and 0800-2000 local time on all other days; other times by Notice to Airmen (NOTAM) issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTCC.

Using agency. Commander, Fort Indiantown Gap, Annville, Pa.

R-5802B Fort Indiantown Gap, Pa.

Boundaries. Beginning at lat. 40°25'06"N., long. 76°44'48"W.; to lat. 40°28'31"N., long. 76°36'22"W.; to lat. 40°27'00"N., long. 76°35'06"W.; to lat. 40°23'24"N., long. 76°43'35"W.; to the point of beginning.

Designated altitudes. Surface to 13,000 feet MSL.

Time of designation. February 15 through May 10 and September 1 through December 15, 0800-2300 local time on Saturdays and 0800-1200 local time on Sundays; May 11 through August 31, 0800-2400 local time on Saturdays and 0800-2000 local time on all other days; other times by Notice to Airmen (NOTAM) issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTCC.

Using agency. Commander, Fort Indiantown Gap, Annville, Pa.

R-5803 Chambersburg, Pa.

Boundaries. A circular area with a 2,400-foot radius centered at Lat. 40°02'29" N, Long. 77°44'20" W.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. 0800 to 1600 EST, Monday through Friday.

Using agency. Commanding Officer, Letterkenny Ordnance Depot, Chambersburg, Pa.

§ 73.59 Rhode Island

§ 73.60 South Carolina

R-6001 Fort Jackson, S. C.

Boundaries. Beginning at Lat. 34°03'51" N, Long. 80°42'12" W; to Lat. 34°01'40" N, Long. 80°42'15" W; to Lat. 34°01'50" N, Long. 80°55'15" W; to Lat. 34°02'21" N, Long. 80°56'02" W; to Lat. 34°04'45" N, Long. 80°53'02" W; to Lat. 34°06'19" N, Long. 80°48'47" W; to Lat. 34°05'58" N, Long. 80°46'05" W; to the point of beginning.

Designated altitudes. Surface to 24,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commanding General, Fort Jackson, S. C.

R-6002 Poinsett-Sumter, S. C.

Boundaries. Beginning at latitude 33°54'24" N., longitude 80°24'12" W., to latitude 33°46'25" N., longitude 80°23'12" W., to latitude 33°44'27" N., longitude 80°31'42" W., to latitude 33°50'13" N., longitude 80°31'03" W., to latitude 33°53'37" N., longitude 80°31'03" W., to point of beginning. Excluding that airspace within the Shaw AFB control zone.

Designated altitudes. Surface to 13,000 feet MSL.

Time of designation. Sunrise to 2400 hours local time.

Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.

Using agency. Commander, Shaw AFB, S. C.

§ 73.61 South Dakota

§ 73.62 Tennessee

§ 73.63 Texas

R-6302A Fort Hood, Tex.

Boundaries. Beginning at lat. 31°10'00"N., long. 97°35'40"W.; to lat. 31°10'00"N., long. 97°41'00"W.; to lat. 31°11'00"N., long. 97°43'00"W.; to lat. 31°10'00"N., long. 97°45'00"W.; to lat. 31°09'00"N., long. 97°45'00"W.; to lat. 31°10'00"N., long. 97°48'00"W.; to lat. 31°15'00"N., long. 97°51'00"W.; to lat. 31°19'00"N., long. 97°51'00"W.; to lat. 31°24'00"N., long. 97°48'00"W.; to lat. 31°23'00"N., long. 97°43'00"W.; to lat. 31°21'00"N., long. 97°41'00"W.; to lat. 31°20'00"N., long. 97°41'00"W.; to lat. 31°14'00"N., long. 97°33'00"W.; to the point of beginning.

Designated altitudes. Surface to 30,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Commanding Officer, Fort Hood, Tex.

R-6302B Fort Hood, Tex.

Boundaries. Beginning at lat. 31°10'00"N., long. 97°41'00"W.; to lat. 31°09'30"N., long. 97°43'00"W.; to lat. 31°09'00"N., long. 97°43'30"W.; to lat. 31°09'00"N., long. 97°45'00"W.; to lat. 31°10'00"N., long. 97°45'00"W.; to lat. 31°11'00"N., long. 97°43'00"W.; to the point of beginning.

Designated altitudes. Surface to 30,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Commanding Officer, Fort Hood, Tex.

R-6302C Fort Hood, Tex.

Boundaries. Beginning at lat. 31°09'00"N., long. 97°45'00"W.; to lat. 31°09'00"N., long. 97°52'00"W.; to lat. 31°09'00"N., long. 97°55'00"W.; to lat. 31°16'00"N., long. 97°54'00"W.; to lat. 31°19'00"N., long. 97°51'00"W.; to lat. 31°15'00"N., long. 97°51'00"W.; to lat. 31°10'00"N., long. 97°48'00"W.; to the point of beginning.

Designated altitudes. Surface to 30,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Commanding Officer, Fort Hood, Tex.

R-6302D Fort Hood, Tex.

Boundaries. Beginning at lat. 31°08'00"N., long. 97°37'00"W.; to lat. 31°08'00"N., long. 97°39'00"W.; to lat. 31°10'00"N., long. 97°41'00"W.; to lat. 31°10'00"N., long. 97°35'40"W.; to the point of beginning.

Designated altitudes. Surface to 30,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Commanding Officer, Fort Hood, Tex.

R-6302E Fort Hood, Tex.

Boundaries. Beginning at lat. 31°14'00"N., long. 97°33'00"W.; to lat. 31°06'00"N., long. 97°33'00"W.; to lat. 31°08'00"N., long. 97°39'00"W.; to lat. 31°08'00"N., long. 97°37'00"W.; to the point of beginning.

Designated altitudes. Surface to 30,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. Commanding Officer, Fort Hood, Tex.

R-6312 Cotulla, Tex.,

Boundaries: The area within 5 nmi of geographical points located at 28°14'30" N., 98°43'30" W.: and 28°05'53" N., 98°42'51" W.

Designated altitudes: Surface to 12,000 feet MSL except for the area west of a line between 28°17'40" N., 98°47'55" W., and 28°11'55" N., 98°48'00" W., and the area along Highway 624 extending ½ mile each side where the floor is 1,000 feet AGL.

Time of designation: Sunrise to sunset.

Controlling agency. Federal Aviation Administration, ARTCC, Houston, Tex.

Using agency: Chief of Naval Air Advanced Training Command, NAS Corpus Christi, Tex.

§ 73.64 Utah

R-6402 Dugway Proving Ground, Dugway, Utah

Boundaries. Beginning at latitude 40°25'00" N., longitude 112°56'00" W., to latitude 40°13'00" N., longitude 112°43'00" W., to latitude 39°49'00" N., longitude 112°43'00" W., to latitude 39°44'00" N., longitude 113°08'00" W., to latitude 39°49'00" N., longitude 113°08'00" W., to latitude 39°52'00" N., longitude 113°27'00" W., to latitude 39°55'00" N., longitude 113°26'40" W., to latitude 40°20'20" N., longitude 113°20'02" W., to latitude 40°20'20" N., longitude 113°07'00" W., to latitude 40°25'00" N., longitude 113°07'00" W., to the point of beginning.

Designated altitudes. Surface to Flight Level 580.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency. Commanding Officer, Dugway Proving Ground.

R-6403 Tooele, Utah

Boundaries: Beginning at latitude 40°30'44" N., longitude 112°27'30" W.; to latitude 40°29'32" N., longitude 112°27'30" W.; to latitude 40°29'32" N., longitude 112°29'15" W.; to latitude 40°30'44" N., longitude 112°29'15" W.; to the point of beginning.

Designated altitudes. Surface to 9,000 feet MSL.

Time of designation. 0800 to 2000 local time, Monday through Friday.

Using agency. Commanding Officer, Tooele Army Depot, Tooele, Utah.

R-6404A Hill AFB, Utah

Boundaries. Beginning at Lat. 41°15'00"N., Long. 113°43'50"W.; to Lat. 41°10'40"N., Long. 112°45'00"W.; to Lat. 41°00'00"N., Long. 112°45'00"W.; to Lat. 41°00'00"N., Long. 112°56'30"W.; to Lat. 40°51'30"N., Long. 112°56'30"W.; to Lat. 40°48'30"N., Long. 113°40'00"W.; to point of beginning.

Designated altitudes. Surface to FL 580.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency. Commander, 6501st Range Squadron, Hill AFB, Utah.

AMENDMENTS 10/30/80 45 F. R. 54028 (Changed)

R-6404B Hill AFB, Utah

Boundaries. Beginning at lat. 41°10'40"N., long. 112°45'00"W.; to lat. 41°07'00"N., long. 112°39'00"W.; to lat. 41°01'00"N., long. 112°39'00"W.; to lat. 40°51'30"N., long. 112°56'30"W.; to lat. 41°00'00"N., long. 112°56'30"W.; to lat. 41°00'00"N., long. 112°45'00"W.; to point of beginning.

Designated altitudes. 100 feet AGL to FL 580.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency. Commander, 6501st Range Squadron, Hill AFB, Utah.

AMENDMENTS 10/30/80 45 F. R. 54028 (Changed)

R-6405 Wendover, Utah

Boundaries. Beginning at latitude 39°44'00" N., longitude 113°08'00" W., to latitude 39°23'00" N., longitude 113°19'00" W., to latitude 39°23'00" N., longitude 113°48'00" W., to latitude 39°55'00" N., longitude 113°48'00" W., to latitude 39°55'00" N., longitude 113°26'40" W., to latitude 39°52'00" N., longitude 113°27'00" W., to latitude 39°49'00" N., longitude 113°08'00" W., to the point of beginning.

Designated altitudes. Surface to flight level 580.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency. Commander, 6501st Range Squadron, Hill AFB, Utah.

AMENDMENTS 10/30/80 45 F. R. 54028 (Changed)

R-6406 Wendover, Utah

Boundaries. Beginning at 40°40'30" N., 113°00'00" W., to 40°29'00" N., 113°00'00" W., to 40°25'00" N., 112°56'00" W., to 40°25'00" N., 113°07'00" W., to 40°20'20" N., 113°07'00" W., to 40°20'20" N., 113°49'00" W., to 40°17'00" N., 114°00'00" W., to 40°38'30" N., 114°00'00" W., to point of beginning.

Designated altitudes. Surface to flight level 580.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Salt lake City ARTC Center.

Using agency. Commander, 6501st Range Squadron, Hill AFB, Utah.

AMENDMENTS 10/30/80 45 F. R. 54028 (Changed)

R-6407 Dugway Proving Ground, Dugway, Utah

Boundaries. Beginning at latitude 40°20'20" N., longitude 113°20'02" W., to latitude 39°55'00" N., longitude 113°26'40" W., to latitude 39°55'00" N., longitude 113°48'00" W., to latitude 40°00'00" N., longitude 113°48'00" W., to latitude 40°00'00" N., longitude 114°00'00" W., to latitude 40°17'00" N., longitude 114°00'00" W., to latitude 40°20'20" N., longitude 113°49'00" W., to the point of beginning.

Designated altitudes. Surface to Flight Level 580.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.

Using agency. Commanding Officer, Dugway Proving Ground

R-6410 Blanding, Utah

Boundaries. Beginning at lat. 37°34'08"N., long. 109°34'16"W.; to lat. 37°16'10"N., long. 109°16'00"W.; to lat. 37°11'40"N., long. 109°25'15"W.; to lat. 37°32'36"N., long. 109°36'54"W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. To be activated by NOTAM at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Denver Air Route Traffic Control Center.

Using agency. Deputy for Air Force, Armament Development and Testing Center, White Sands Missile Range, New Mex.

R-6412 Camp Williams, Utah

Beginning at latitude 40°27'30" N., longitude 111°58'24" W.; thence southerly along Redwood Road (Utah Highway 68) to latitude 40°23'30" N., longitude 111°54'58" W.; to latitude 40°23'30" N., longitude 112°06'00" W.; to latitude 40°27'30" N., longitude 112°06'00" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Maximum two-week period during the month of June each year with specific dates to be published by NOTAM.

Controlling agency. Federal Aviation Administration, Salt Lake City Tower.

Using agency. The Adjutant General, State of Utah.

R-6413 Green River, Utah

Boundaries. Beginning at lat. 38°57'00" N., long. 110°03'40" W.; thence to lat. 38°46'03" N., long. 110° 06'00" W.; to lat. 38°31'30" N., long. 109°57'00" W.; to lat. 38°31'30" N., long. 109°51'00" W.; to lat. 38° 33'27" N., long. 109°46'00" W.; to lat. 38°49'15" N., long. 109°57'02" W.; to lat. 38°58'02" N., long. 110°05' 38" W.; thence to point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. As published by NOTAM issued 48 hours in advance of area activation.

Controlling agency. Federal Aviation Administration, Denver ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

§ 73.65 Vermont

R-6501 Underhill, Vt.

Subarea A

Boundaries. Beginning at lat. 44°30'00"N., long. 72°52'00"W.; to lat. 44°27'00"N., long. 72°52'00"W.; to lat. 44°27'00"N., long. 72°55'00"W.; to lat. 44°28'30"N., long. 72°56'30"W.; to lat. 44°29'15"N., long. 72° 56'30"W.; to lat. 44°30'00"N., long. 72°53'30"W.; to the point of beginning.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Burlington Approach Control.

Using agency. Adjutant General, State of Vermont, Montpelier, Vt.

Subarea B

Boundaries. Beginning at lat. 44°30'00"N., long. 72°52'00"W.; to lat. 44°27'00"N., long. 72°52'00"W.; to lat. 44°27'00"N., long. 72°55'00"W.; to lat. 44°28'30"N., long. 72°56'30"W.; to lat. 44°29'15"N., long. 72° 56'30"W.; to lat. 44°30'00"N., long. 72°53'30"W.; to the point of beginning.

Designated altitudes. 4,000 feet MSL to 13,600 feet MSL.

Time of designation. Intermittent.

Controlling agency. Federal Aviation Administration, Burlington Approach Control.

Using agency. Adjutant General, State of Vermont, Montpelier, Vt.

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§ 73.66 Virginia

R-6601 Fort A. P. Hill, Va.

Boundaries. Beginning at latitude 38°06'50" N., longitude 77°10'34" W.; to latitude 38°05'30" N., longitude 77°09'06" W.; to latitude 38°04'40" N., longitude 77°10'20" W.; to latitude 38°03'12" N., longitude 77°09'35" W.: to latitude 38°02'22" N., longitude 77°11'40" W.; to latitude 38°02'30" N., longitude 77°14'40" W.; to latitude 38°01'50" N., longitude 77°16'08" W.; to latitude 38°02'15" N., longitude 77°18'04" W.; to latitude 38°03'40" N., longitude 77°18'45" W.; to latitude 38°04'37" N., longitude 77°18'45" W.; thence along highway U. S. 301 to latitude 38°08'01" N., longitude 77°14'04" W.; to latitude 38°07'53" N., longitude 77°13'40" W.; to latitude 38°06'46" N., longitude 77°12'21" W.; thence to the point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. 0700 to 2300 e.s.t., June 1 through September 8; and 0700 to 2300 e.s.t., September 9, through May 31. by NOTAM issued at least 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, Fort Lee, Va.

R-6602 Fort Pickett, Va.

Boundaries. Beginning at latitude 37°05'37" N., longitude 77°51'54" W.; to latitude 37°04'25" N., longitude 77°51'45" W.; along State Highway No. 40 to latitude 37°03'55" N., longitude 77°51'05" W.; to latitude 37°02'43" N., longitude 77°50'38" W.; to latitude 37°01'05" N., longitude 77°50'43" W.; to latitude 36°59'50" N., longitude 77°50'34" W.; to latitude 36°57'58" N., longitude 77°52'14" W.; to latitude 36°57'54" N., longitude 77°53'19" W.; to latitude 36°58'12" N., longitude 77°57'42" W.; to latitude 37°01'50" N., longitude 77°58'40" W.; to latitude 37°01'50" N., longitude 77°55'58" W.; to latitude 37°05'37" N., longitude 77°56'00" W.; to point of beginning.

Designated altitudes. The area NW of a line between latitude 37°01'05" N., longitude 77°50'43" W., and latitude 36°57'54" N., longitude 77°53'19" W., surface to 18,500 feet MSL. The area SE of this line, surface to 1,900 feet MSL.

Time of designation. Continuous from June 1 through September 8; 0600 EST Saturday to 2200 EST Sunday from September 9 through May 31; other times after issuance of NOTAMS by the using agency at least 48 hours in advance. When activated by NOTAM, another NOTAM shall be issued upon termination of use.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, Fort Lee, Va.

R-6604 Chincoteague Inlet, Va.

Boundaries. Beginning at Lat. 37°56'45" N. Long. 75°27'30" W; to Lat. 37°51'30" N, Long. 75°17'15" W; thence 3 nautical miles from and parallel to the shoreline to Lat. 37°38'45" N, Long. 75°31'20" W; to Lat. 37°50'24" N, Long. 75°31'20" W; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency: Federal Aviation Administration, Washington ARTC Center.

Using agency. Chief, Wallops Station, National Aeronautics and Space Administration, Wallops Island, Va.

R-6606 Pendleton, Va.

Boundaries. Beginning at lat. 36°50'41" N., long. 75°54'40" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 36°34'33" N., long. 75°48'40" W.; to lat. 36°45'03" N., long. 75°56'12" W.; to lat. 36°44'45" N., long. 75°57'05" W.; to lat. 36°44'39" N., long. 75°58'00" W.; to lat. 36°47'00" N., long. 75°58'45" W.; to lat. 36°47'18" N., long. 75°56'54" W.; to the point of beginning.

Designated altitudes. Surface to and including 51,000 feet MSL.

Time of designation. 0800-1700 hours local time, Monday through Friday. Other times by NOTAM issued 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Fleet Area Control and Surveillance Facility, VACAPES, Virginia Beach, Va.

R-6608A Quantico, Va.

Boundaries. Beginning at lat. 38°35'10"N., long. 77°34'07"W.; to lat. 38°37'00"N., long. 77°34'07"W.; to lat. 38°37'50"N., long. 77°32'20"W.; to lat. 38°37'00"N., long. 77°25'34"W.; to lat. 38°35'45"N., long. 77°24'55"W.; to the point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, 0700 to 2400 hours, local time; other times by NOTAM issued at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTCC.

Using agency. Commanding General, Marine Corps Development and Education Command, Quantico, Va.

R-6608B Quantico, Va.

Boundaries. Beginning at lat. 38°35'10"N., long. 77°34'07"W.; to lat. 38°35'45"N., long. 77°24'55"W.; to lat. 38°34'00"N., long. 77°24'00"W.; to lat. 38°31'15"N., long. 77°24'20"W.; to lat. 38°29'00"N., long. 77°28'45"W.; to lat. 38°31'20"N., long. 77°34'07"W.; to the point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, 0700 to 2400 hours, local time; other times by NOTAM issued at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTCC.

Using agency. Commanding General, Marine Corps Development and Education Command, Quantico, Va.

R-6609 Tangier Island, Va.

Boundaries: Beginning at latitude 37°53'10" N., longitude 76°14'00" W.; to latitude 37°55'15" N., longitude 76°02'30" W.; to latitude 37°50'00" N., longitude 76°00'52" W.; to latitude 37°41'00" N., longitude 76°00'52" W.; to latitude 37°40'00" N., longitude 76°01'30" W.; to latitude 37°40'00" N., longitude 76°10'00" W.; to latitude 37°45'00" N., longitude 76°11'33" W.; to point of beginning.

Designated altitudes: Surface to FL 200.

Time of designation: 0800 to 2300 hours, local time, other times by NOTAM issued at least 48 hours in advance.

Controlling agency: Federal Aviation Administration, Washington ARTC Center.

Using agency: Commanding Officer, NAS Patuxent River, Md.

R-6611 Dahlgren Complex, Va.
Subarea A

Boundaries. Beginning at Lat. 38°21'30" N, Long. 77°01'15" W; to Lat. 38°17'30" N, Long. 76°56'00" W; to Lat. 38°15'45" N, Long. 76°52'00" W; to Lat. 38°13'00" N, Long. 76°54'35" W; to Lat. 38°19'15" N. Long. 77°02'00" W; to the point of beginning.

Designated altitudes. Surface to 40,000 feet MSL.

Time of designation. 0800-1700 local time, Monday through Friday, other times by NOTAM issued 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

Subarea B

Boundaries. Beginning at lat. 38°21'30" N., long. 77°01'15" W.; to lat. 38°17'30" N., long. 76°56'00" W.; to lat. 38°15'45" N., long. 76°52'00" W.; to lat. 38°13'00" N., long. 76°54'35" W.; to lat. 38°19'15" N., long. 77°02'00" W.; to the point of beginning.

Designated altitudes. 40,000 feet MSL to 60,000 feet MSL.

Time of designation. By NOTAM issued 48 hours in advance.

Controlling agency: Federal Aviation Administration, Washington ARTC Center

Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

R-6612 Dahlgren Complex, Va.

Boundaries. Two overlapping circular areas with 7,000-foot radii centered at Lat. 38°17'50" N, Long. 77°02'15" W, and Lat. 38°18'23" N, Long. 77°02'57" W.

Designated altitudes. Surface to 7,000 feet MSL.

Time of Designation. 0800-1700 local time, Monday through Friday, other times by NOTAM issued 48 hours in

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

R-6613 Dahlgren Complex, Va.
Subarea A

Boundaries. Beginning at Lat. 38°15'45" N, Long. 76°52'00" W; to Lat. 38°13'30" N, Long. 76°46'35" W; to Lat. 38°10'00" N, Long. 76°50'00" W; to Lat. 38°13'00" N, Long. 76°54'35" W; to the point of beginning.

Designated altitudes. Surface to 40,000 feet MSL.

Time of designation. 0800-1700 local time, Monday through Friday, other times by NOTAM 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

Subarea B.

Boundaries. Beginning at lat. 38°15'45" N., long. 76°52'00" W.; to lat. 38°13'30" N., long. 76°46'35" W.; to lat. 38°10'00" N., long. 76°50'00" W.; to lat. 38°13'00" N., long. 76°54'35" W.; to the point of beginning.

Designated altitudes. 40,000 feet MSL to 60,000 feet MSL.

Time of designation. By NOTAM issued 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

§ 73.67 Washington

R-6701 Admiralty Inlet, Wash.

Boundaries. Beginning at Lat. 48°10'00" N, Long. 122°34'48" W; to Lat. 48°05'45" N, Long. 122°31'30" W; to Lat. 48°06'06" N; Long. 122°41'12" W; to Lat. 48°10'00" N, Long. 122°40'56" W; to the point of beginning.

Designated altitudes: Surface to 5,000 feet MSL.

Time of designation. Sunrise to sunset, Monday through Friday. Saturday and Sunday as published by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

R-6703 Fort Lewis, Wash.

Subarea A

Boundaries. Beginning at latitude 47°03'08" N., longitude 122°41'05" W.; to latitude 47°04'35" N., longitude 122°41'05" W.; to latitude 47°04'42" N., longitude 122°38'15" W.; to latitude 47°03'38" N., longitude 122°35'36" W.; to latitude 46°58'17" N., longitude 122°37'40" W.; thence via the Nisqually River to point of beginning.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, McChord Approach Control.

Using agency. Commanding General, Fort Lewis, Wash.

Subarea B

Boundaries. Beginning at latitude 47°03'38" N., longitude 122°35'36" W.; to latitude 47°02'36" N., longitude 122°34'48" W.; to latitude 47°00'46" N., longitude 122°34'48" W.; to latitude 47°00'00" N., longitude 122°35'35" W.; to latitude 46°58'17" N., longitude 122°37'40" W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, McChord Approach Control.

Using agency. Commanding General, Fort Lewis, Wash.

Subarea C

Boundaries. Beginning at latitude 46°58'17" N., longitude 122°37'40" W.; to latitude 46°54'35" N., longitude 122°41'25" W.; to latitude 46°54'18" N., longitude 122°43'32" W.; to latitude 46°55'12" N., longitude 122°44'30" W.; to latitude 47°03'08" N., longitude 122°41'05" W.; thence via the Nisqually River to point of beginning.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, McChord Approach Control.

Using agency. Commanding General, Fort Lewis, Wash.

Subarea D

Boundaries. Beginning at latitude 47°03'38" N., longitude 122°35'36" W.; to latitude 47°02'14" N., longitude 122°32'15" W.; to latitude 47°01'46" N., longitude 122°31'36" W.; to latitude 47°01'00" N., longitude 122°31'37" W.; to latitude 47°00'42" N., longitude 122°33'12" W.; to latitude 47°00'30" N., longitude 122°33'16"W.; to latitude 47°00'00" N., longitude 122°35'35" W.; to latitude 47°00'46" N., longitude 122°34'48" W.; to latitude 47°02'36" N., longitude 122°34'48" W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, McChord Approach Control.

Using agency. Commanding General, Fort Lewis, Wash.

R-6707 Queets, Wash.

Boundaries. Beginning at lat. 47°29'25"N., long. 124°25'00"W.; clockwise along the arc of a 3-mile radius circle centered at lat. 47°27'00"N., long. 124°24'15"W.; to lat. 47°24'25"N., long. 124°24'30"W.; thence 3 nautical miles from and parallel to the shoreline to the point of beginning.

Designated altitudes. Surface to 12,000 feet MSL.

Time of designation. 0800 to 1700 local time, Monday through Friday.

Controlling agency. Hoquiam FSS.

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

PENDING AMENDMENT

Under R-6707, Queets, Wash., the boundary description is deleted and the following is substituted therefor: Boundaries. Beginning at lat. 47°29'35"N., long. 124°25'00"W.; clockwise along the arc of a 3-mile radius circle centered at lat. 47°27'00"N., long. 124°24'15"W.; to lat. 47°24'25"N., long. 124°24'30"W.; to point of beginning.

AMENDMENTS 12/25/80 45 F. R. 70237 (Changed)

R-6713 Whidbey Island, Wash.

Boundaries. Beginning at lat. 48°14'54" N., long. 122°53'30" W.; to lat. 48°21'27" N., long. 122°59'34" W.; to lat. 48°23'06" N., long. 122°55'18" W.; to lat. 48°22'54" N., long. 122°49'12" W.; to lat. 48°20'12" N., long. 122°46'42" W.; to lat. 48°16'00" N., long. 122°48'27" W.; to point of beginning excluding that airspace within 1000 feet both horizontally and vertically around Smith Island centered at lat. 48°19'10" N., long. 122°50'33" W.; and excluding that airspace from the surface to 100 feet AGL beyond a 1.25-nautical mile surface radius of lat. 48°19'11" N., long. 122°54'12" W.

Designated altitudes. Surface to 1,000 feet AGL.

Time of designation. Daily, 0700 to 2400 local time.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commander Medium Attack Tactical Electronic Warfare Wing. U. S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

AMENDMENTS 9/24/80 45 F. R. 56337 (Changed)

R-6714A Yakima, Wash.
Boundaries. Beginning at lat. 46°51'00"N., long. 119°58'00"W.; along the west shore of the Columbia River to lat. 46°42'30"N., long. 119°58'15"W.; to lat. 46°33'00"N., long. 120°04'00"W.; to lat. 46°37'00"N., long. 120°20'00"W.; to lat. 46°43'00"N., long. 120°26'38"W.; to lat. 46°51'00"N., long. 120°21'30"W.; to lat. 46°51'00"N., long. 120°16'30"W.; to lat. 46°54'30"N., long. 120°15'00"W.; clockwise along the arc of a 12-mile radius circle centered at lat. 46°44'45"N., long. 120°20'00"W.; to lat. 46°51'00"N., long. 120°08'30"W.; to the point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Seattle ARTCC.
Using agency. Commanding General, Fort Lewis, Wash.

R-6714B Yakima, Wash.
Boundaries. Beginning at lat. 46°42'30"N., long. 119°58'15"W.; along the west shore of the Columbia River, to lat. 46°38'30"N., long. 119°55'30"W.; to lat. 46°33'00"N., long. 119°55'30"W.; to lat. 46°33'00"N., long. 120°04'00"W.; to point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commanding General, Fort Lewis, Wash.

R-6714C Yakima, Wash.
Boundaries. Beginning at lat. 46°33'00"N., long. 120°04'00"W.; to lat. 46°33'00"N., long. 120°09'00"W.; to lat. 46°37'00"N., long. 120°20'00"W.; to point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commanding General, Fort Lewis, Wash.

R-6714D Yakima, Wash.
Boundaries. Beginning at lat. 46°43'00"N., long. 120°26'38"W.; to lat. 46°37'00"N., long. 120°20'00"W.; to lat. 46°40'35"N., long. 120°26'35"W.; to the point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Intermittent, activated by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Seattle ARTCC.
Using agency. Commanding General, Fort Lewis, Wash.

§ 73.68 West Virginia

§ 73.69 Wisconsin

R-6901 Camp McCoy, WI.
Boundaries: Beginning at latitude 44°08'40" N., longitude 90°44'20" W.; to latitude 44°08'40" N., longitude 90°40'22" W.; to latitude 44°09'36" N., longitude 90°40'22" W.; to latitude 44°09'36" N., longitude 90°36'50" W.; to latitude 44°00'02" N., longitude 90°36'35" W.; to latitude 44°00'02" N., longitude 90°35'15" W.; to latitude 43°56'22" N., longitude 90°35'20" W.; to latitude 43°56'22" N., longitude 90°39'00" W.; to latitude 43°56'38" N., longitude 90°41'00" W.; to latitude 43°56'40" N., longitude 90°45'05" W.; to latitude 43°58'30" N., longitude 90°44'30" W.; to latitude 43°58'40" N., longitude 90°43'55" W.; to latitude 44°02'45" N., longitude 90°44'30" W.; and then to the point of beginning.
Designated altitudes: Surface to 20,000 feet MSL.
Time of designation: Continuous.
Using agency: Commanding Officer, Camp McCoy, WI.
Controlling agency: Federal Aviation Administration, Chicago ARTC Center.

R-6903 Sheboygan, Wis.
Boundaries. Beginning at latitude 43°19'00" N., longitude 87°41'00" W.; to latitude 44°05'30" N., longitude 87°29'45" W.; to latitude 44°02'00" N., longitude 87°02'30" W.; to latitude 43°15'30" N., longitude 87°14'00" W.; to the point of beginning.
Designated altitudes. Surface to flight level 450.
Time of designation. Continuous, sunrise to sunset.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. Commander, Volk Field, Wisconsin.

R-6904A Volk Field, Wis.
Boundaries. Beginning at lat. 44°18'00"N., long. 89°59'00"W.; to lat. 44°10'00"N., long. 89°59'00"W.; to lat. 44°10'00"N., long. 90°11'00"W.; to lat. 44°18'00"N., long. 90°11'00"W.; thence to point of beginning excluding that airspace within R-6904B.
Designated altitudes. 150 feet AGL to 17,000 feet MSL.
Time of designation. Continuous, sunrise to sunset.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. Commander, Volk Field, Wis.

R-6904B Volk Field, Wis.
Boundaries. Beginning at lat. 44°15'00"N., long. 89°59'00"W.; to lat. 44°13'00"N., long. 89°59'00"W.; to lat. 44°13'00"N., long. 90°07'00"W.; to lat. 44°15'00"N., long. 90°07'00"W.; thence to point of beginning.
Designated altitudes. Surface to 17,000 feet MSL.
Time of designation. Continuous, sunrise to sunset.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. Commander, Volk Field, Wis.

R-6905A Lake Michigan
Boundaries. Within 1½ NM each side of a direct line between coordinates lat. 44°17'00"N., long. 87°32'00"W., and lat. 44°05'00"N., long. 86°29'00"W., ending at the shoreline.
Designated altitude. Surface to 6,000 feet MSL.
Time of use. As activated by NOTAM, 12 hours in advance.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. University of Wisconsin.

R-6905B Lake Michigan
Boundaries. Within 1½ NM each side of a direct line between coordinates lat. 44°09'00"N., long. 86°56'30"W., and lat. 43°15'00"N., long. 87°10'00"W.
Designated altitude. Surface to 6,000 feet MSL.
Time of use. As activated by NOTAM, 12 hours in advance.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. University of Wisconsin.

§ 73.70 Wyoming

R-7001A Guernsey, Wyo.
Boundaries. Beginning at lat. 42°27'30"N., long. 104°52'30"W.; to lat. 42°27'30"N., long. 104°42'30"W.; to lat. 42°22'30"N., long. 104°42'30"W.; to lat. 42°20'00"N., long. 104°52'30"W.; to the point of beginning.
Designated altitudes. Surface to but not including 8,000 feet MSL.
Time of designation. Intermittent, 24 hours in advance by NOTAM.
Controlling agency. Federal Aviation Administration, Denver ARTCC.
Using agency. Adjutant General, State of Wyoming.

R-7001B Guernsey, Wyo.
Boundaries. Beginning at lat. 42°27'30"N., long. 104°52'30"W.; to lat. 42°27'30"N., long. 104°52'30"W.; to lat. 42°27'30"N., long. 104°42'30"W.; to lat. 42°22'30"N., long. 104°42'30"W.; to lat. 42°20'00"N., long. 104°52'30"W.; to the point of beginning.
Designated altitudes. 8,000 feet MSL to 23,500 feet MSL.
Time of designation. Intermittent, 24 hours in advance by NOTAM.
Controlling agency. Federal Aviation Administration, Denver ARTCC.
Using agency. Adjutant General, State of Wyoming.

§ 73.71 Puerto Rico

R-7103 Salinas, P. R.

SUBAREA A

Boundaries: Beginning at latitude 18°03'00" N., longitude 66°14'35" W.; to latitude 18°01'16" N., longitude 6°15'14" W.; to latitude 17°59'57" N., longitude 66°16'00" W.; to latitude 17'59'16" N., longitude 66°17'11" .; to latitude 18°01'00" N., longitude 66°19'58" W.; to latitude 18°01'53" N., longitude 66°18'53" W.; to latitude 18°02'34" N., longitude 66°18'47" W.; to latitude 18°03'25" N., longitude 66°17'54" W.; to latitude 18°04'07" N., longitude 66°17'00" W.; to point of beginning.

SUBAREA B

Boundaries: Beginning at latitude 18°03'00" N., longitude 66°14'35" W.; to latitude 18°02'37" N., longitude 66°13'39" W.; to latitude 17°58'53" N., longitude 66°15'22" W.; to latitude 17°58'30" N., longitude 66°16'30" W.; to latitude 17°59'00" N., longitude 66°17'37" W.; to latitude 17°59'16" N., longitude 66°17'11" W.; to latitude 17°59'57" N., longitude 66°16'00" W.; to latitude 18°01'16" N., longitude 66°15'14" W.; to point of beginning.

SUBAREA C

Beginning at latitude 17°59'16" N., longitude 66°17'11" W.; to latitude 17°59'00" N., longitude 66°17'37" W.; to latitude 17°59'44" N., longitude 66°19'17" W.; to latitude 18°00'27" N., longitude 66°18'58" W.; to point of beginning.

Designated altitudes: Subarea A, Surface to 12,000 feet MSL. Subarea B, 3,000 feet MSL to 12,000 feet MSL. Subarea C, 2,000 feet MSL to 12,000 feet MSL.

Time of designation: Continuous, June 1 through August 31, other times as activated by NOTAMs issued at least 24 hours in advance.

Controlling agency: Federal Aviation Administration, San Juan ARTC Center.

Using agency: The Adjutant General, Commonwealth of Puerto Rico.

R-7104 Vieques Island, P. R.

Boundaries. The airspace over Vieques Island and the surrounding waters beginning at latitude 18°02'45" N., longitude 65°27'05" W.; to latitude 18°13'10" N., longitude 65°25'27" W.; thence clockwise along the 3-nautical-mile limit from the shoreline to point of beginning.

Designated altitudes. Surface to FL 500.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, San Juan ARTC Center.

Using agency. Commanding Officer, Atlantic Fleet Weapons Training Facility, NS, Roosevelt Roads, Puerto Rico.

§ 73.72 Guam

R-7201 Farallon De Medinilla Island, Mariana Islands

Boundaries: The area within a 3-nautical mile radius of lat. 16°01'00" N., long. 146°04'30" E.

Designated altitudes: Surface to FL 600.

Time of use: Continuous.

Using agency: Commander, Naval Forces, Marianas.

SUBPART B — PROHIBITED AREAS

§ 73.87 Prohibited Areas

P-56 District of Columbia
Boundaries:

A. Beginning at the southwest corner of the Lincoln Memorial (latitude 38°53'20" N.; longitude 77°03'03" W.);

Thence via a 327° bearing, 0.6 mile, to the intersection of New Hampshire Avenue and Rock Creek and Potomac Parkway NW (latitude 38°53'45" N.; longitude 77°03'24" W.);

Thence northeast along New Hampshire Avenue, 0.6 mile, to Washington Circle, at the intersection of New Hampshire Avenue and K street NW (latitude 38°54'06" N.; longitude 77°03'02" W.);

Thence east along K Street, 2.5 miles, to the railroad overpass between First and Second Streets NE (latitude 38°54'06" N.; longitude 77°00'14" W.);

Thence southeast via a 158° bearing, 0.7 mile, to the southeast corner of Stanton Square, at the intersection of Massachusetts Avenue and Sixth Street NE (latitude 38°53'35" N.; longitude 76°59'57" W.);

Thence southwest via a 211° bearing, 0.8 mile, to the Capitol Power Plant at the intersection of New Jersey Avenue and E Street SE. (latitude 38°52'59" N.; longitude 77°00'25" W.);

Thence west via a 265° bearing, 0.7 mile, to the intersection of the Southwest Freeway (Interstate Route 95) and Sixth Street SW., extended (latitude 38°52'56" N.; longitude 77°01'13" W.);

Thence north along Sixth Street, 0.4 mile, to the intersection of Sixth Street and Independence Avenue SW. (latitude 38°53'15" N.; longitude 77°01'13" W.);

Thence west along the north side of Independence Avenue, 0.8 mile, to the intersection of Independence Avenue and 15th Street SW. (latitude 38°53'16" N.; longitude 77°02'02" W.);

Thence west along the southern lane of Independence Avenue, 0.4 mile to the west end of the Kutz Memorial Bridge over the Tidal Basin (latitude 38°53'12" N.; longitude 77°02'28" W.);

Thence west via a 285° bearing, 0.6 mile, to the southwest corner of the Lincoln Memorial, the point of beginning.

B. That area within a one-half mile radius from the center of the U. S. Naval Observatory located between Wisconsin and Massachusetts Avenues at 34th Street NW. (latitude 38°55'17" N.; longitude 77°04'02" W.).

Designated altitudes: Surface to 18,000 feet MSL.
Time of designation: Continuous.
Using agency: Administrator, Federal Aviation Administration, Washington, D. C.

§73.88

P-77 Plains, Ga.

Boundaries. That airspace within one mile each side of a line extending from lat. 32°02'00"N., long. 84°23'38"W.; to lat. 32°01'03"N., long. 84°25'25"W., and within a one mile radius of each of the above coordinates.
Designated altitudes. Surface to 1500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator. Federal Aviation Administration. Washington, D. C.

§73.89

P-47 Amarillo, Tex.

Boundaries. Beginning at lat. 35°21'09"N., long. 101°37'03"W., to lat. 35°21'11"N., long. 101°32'27"W., to lat. 35°18'09"N., long. 101°32'27"W., to lat. 35°18'09"N., long. 101°34'48"W., to lat. 35°17'55"N., long. 101°35'08"W., to lat. 35°17'55"N., long. 101°35'37"W., to lat. 35°19'05"N., long. 101°35'40"W., to lat. 35°19'05"N., long. 101°36'04"W., to lat. 35°18'02"N., long. 101°36'27"W., to lat. 35°18'02"N., long. 101°37'03"W., to point of beginning.
Designated altitudes. Surface to 4,800 feet MSL (1,200 feet AGL).
Time of designation. Continuous.
Using agency. Manager. Pantex Field Office, Department of Energy. Amarillo, Tex.

§73.90

P-40 Thurmont, Md.

Boundaries: That airspace within a one nautical mile radius of the Naval Support Facility, latitude 39°38'53" N., longitude 77°28'01" W.
Designated altitudes: Surface to but not including 5,000 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D. C.

§73.91

P-73 Mount Vernon, Va.

Boundaries: That airspace within a 0.5-mile radius of latitude 38°42'28" N., longitude 77°05'11" W.
Designated altitudes. Surface to but not including 1,500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D. C.

§73.92

P-28 Denver, Colo.

Boundaries. Beginning at latitude 39°48'45" N., longitude 104°50'46" W.; to latitude 39°50'00" N., longitude 104°50'46" W.; to latitude 39°51'22" N., longitude 104°50'18" W.; to latitude 39°51'22" N., longitude 104°48'00" W.; to latitude 39°48'45" N., longitude 104°48'00" W.; to point of beginning.
Designated altitudes. Surface to 6,900 feet MSL.
Time of designation. Continuous.
Using agency. Commanding Officer. Rocky Mountain Arsenal. Denver. Colo.

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

SUBPART A -- GENERAL

Sec.
75.1 Applicability.
75.11 Jet routes
75.13 Area high routes; control area designation.
75.15 Reserved
75.17 Bearings; Radials; Miles

SUBPART B -- JET ROUTES
Sec.
75.100 Jet routes

SUBPART C — RESERVED

SUBPART D — AREA HIGH ROUTES
75.400 Area high routes.

SUBPART A -- GENERAL

§75.1 Applicability.

The routes described in Subpart B, between high altitude navigational aids or intersections of their signals, are designated as jet routes along which aircraft may be operated between 18,000 feet MSL and flight level 450.

The routes described in Subpart D of this Part are designated as area high routes.

§75.11 Jet Routes

Each jet route designated in Subpart B consists of a direct course for navigating aircraft between 18,000 feet MSL and flight level 450, inclusive, between the navigational aids and intersections specified for that route.

§75.13 Area high routes; control area designation.

(a) Each area high route designated in Subpart D of this Part consists of a direct course for navigating aircraft at altitudes between 18,000 feet MSL and flight level 450, inclusive, between the waypoints specified for that route.

(b) Unless otherwise specified, that airspace on each side of an area high route that has a lateral extent specified in §71.6 and that extends outside the continental control areas, is designated as a control area.

§75.15 Reserved

§75.17 Bearings; Radials; Miles

(a) All bearings and radials in this Part are true and are applied from point of origin.

(b) Unless otherwise specified, all mileages in this Part are stated as nautical miles.

SUBPART B -- JET ROUTES

§75.100 Jet Routes.

SUBPART C — RESERVED

SUBPART D — AREA HIGH ROUTES

§ 75.400 Area high routes.

SUBPART B - JET ROUTES

§ 75.100 Jet routes.

(Unless otherwise specified the place names appearing in the description of the jet routes indicate the VOR or VORTAC facilities identified by such names.).

Jet Route No. 1 From the INT of the United States/Mexican Border with the direct course between the Mission Bay, Calif., VORTAC and the Tijuana, Mexico, VOR, via Mission Bay; Oceanside, Calif.; Los Angeles, Calif.; INT of the Los Angeles 319° and the Avenal, Calif., 145° radials; Avenal; Oakland, Calif.; Red Bluff, Calif.; Medford, Oreg.; Portland, Oreg., to Seattle, Wash.

Jet Route No. 2 From Mission Bay, Calif., via Imperial, Calif.; Bard, Ariz.; INT of the Bard 089° and Gila Bend, Ariz., 261° radials; Gila Bend, Cochise, Ariz.; El Paso, Tex.; Fort Stockton, Tex.; Junction, Tex.; San Antonio, Tex.; Humble, Tex.; Lake Charles, La.; INT of the Lake Charles 089° and the New Orleans, La., 275° radials; New Orleans; Semmes, Ala.; Crestview, Fla.; INT of the Crestview 091° and the Tallahassee, Fla., 290° radials; Tallahassee; to Jacksonville, Fla.

Jet Route No. 3 From Oakland, Calif., via Red Bluff, Calif.; Lakeview, Oreg.; Kimberly, Oreg.; Spokane, Wash., to Cranbrook, British Columbia, excluding the portion that lies over Canadian territory.

Jet Route No. 4 From Los Angeles, Calif., via INT Los Angeles 083° and Twentynine Palms, Calif., 269° radials; Twentynine Palms, Calif.; via intersection of Twentynine Palms 103° and Casa Grande, Ariz., 299° radials; Casa Grande; San Simon, Ariz.; Newman, Tex.; Wink, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.; Shreveport, La.; Jackson, Miss.; Meridian, Miss.; Montgomery, Ala.; INT Montgomery 051° and Augusta, Ga., 273° radials; Augusta; Columbia, S. C.; Florence, S. C.; to Wilmington, N. C.

Jet Route No. 5 From Los Angeles, Calif., via the INT of the Palmdale, Calif., 291° and the Bakersfield, Calif., 149° radials; Bakersfield; Reno, Nev.; Lakeview, Oreg.; Seattle, Wash.; to Vancouver, British Columbia, excluding that portion within Canada.

Jet Route No. 6 From the INT of the Salinas, Calif., 145° and the Palmdale, Calif., 291° radials via Palmdale; Hector, Calif.; Needles, Calif.; Prescott, Ariz.; Zuni, Ariz.; Albuquerque, N. Mex.; Tucumcari, N. Mex.; Amarillo, Tex.; Oklahoma City, Okla.; Little Rock, Ark.; Bowling Green, Ky.; Charleston, W. Va.; Front Royal, Va.; Westminster, Md.; INT of Westminster 080° and Robbinsville, N. J. 239° radials; to Robbinsville.

PENDING AMENDMENT

In Jet Route No. 6 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

Jet Route No. 7 From Oakland, Calif., via Sacramento, Calif.; Reno, Nev.; Rome, Oreg.; Boise, Idaho; Dillon, Mont.; Great Falls, Mont.; to Swift Current, Saskatchewan, Canada. The airspace within Canada is excluded.

Jet Route No. 8 From Needles, Calif., via Winslow, Ariz.; Gallup, N. Mex.; Las Vegas, N. Mex.; Borger, Tex.; INT Borger 095° and Kingfisher, Okla., 261° radials; Kingfisher; Springfield, Mo.; St. Louis, Mo.; Louisville, Ky.; Charleston, W. Va.; Casanova, Va.; INT Casanova 051° and Westminster, Md., 080° radials; INT Westminster 080° and Robbinsville, N. J., 239° radials; to Robbinsville.

Jet Route No. 9 From Los Angeles, Calif., via Daggett, Calif.; Las Vegas, Nev.; INT Las Vegas 046° and Milford, Utah, 213° radials; Milford; Fairfield, Utah; Salt Lake City, Utah; Dubois, Idaho; Dillon, Mont., to Great Falls, Mont.

Jet Route No. 10 From Los Angeles, Calif., via intersection Los Angeles 083° and Twentynine Palms, Calif., 269° radials; Twentynine Palms; intersection of Twentynine Palms 075° and Prescott, Ariz., 262° radials; Prescott; Farmington, N. Mex., Gunnison, Colo.; INT Gunnison 060° and Denver, Colo., 225° radials; Denver; INT Denver 058° and North Platte, Nebr., 260° radials; North Platte, Nebr.; Wolbach, Nebr.; to Des Moines, Iowa.

Jet Route No. 11 From Tucson, Ariz., via INT Tucson 316° and Phoenix, Ariz., 161° radails; Phoenix; Prescott, Ariz.; Bryce Canyon, Utah; Fairfield, Utah; to Salt Lake City, Utah.

Jet Route No. 12 From Salt Lake City, Utah, via Fairfield, Utah; to Grand Junction, Colo.

Jet Route No. 13 From the INT of the United States/Mexican border and the Truth or Consequences, N. Mex., 162° radial via Truth or Consequences; Albuquerque, N. Mex.; Alamosa, Colo.; Denver, Colo.; Cheyenne, Wyo.; Casper, Wyo.; Billings, Mont.; Great Falls, Mont.; to Lethbridge, Alberta, Canada. The airspace within Canada is excluded.

Jet Route No. 14 From Amarillo, Tex., via Oklahoma City, Okla.; Little Rock, Ark.; Vulcan, Ala.; to Atlanta, Ga.; INT Atlanta, Ga., 092° and Spartanburg, S. C., 234° radials; Spartanburg; Greensboro, N. C.; Richmond, Va.; to Kenton, Del.

Jet Route No. 15 From Humble, Tex., via INT Humble 269° and Junction, Tex., 112° radials; Junction; Wink, Tex.; Roswell, N. Mex.; INT of the Roswell 319° and the Albuquerque, N. Mex., 126° radials; Albuquerque; Farmington, N. Mex.; Grand Junction, Colo.; Salt Lake City, Utah; Boise Idaho; Kimberly, Oreg.; INT Kimberly 288° and Portland, Oreg., 136° radials; to Portland.

Jet Route No. 16 From Portland, Oreg., via Pendleton, Oreg.; Whitehall, Mont.; Billings, Mont.; Dupree, S. Dak.; Sioux Falls, S. Dak.; Mason City, Iowa; Badger, Wis.; Peck, Mich.; via the Peck 100° radial to the United States/Canadian Border. From the United States/Canadian Border to Buffalo, N. Y., via the Buffalo 274° radial; Albany, N. Y., to Boston, Mass.

Jet Route No. 17 From San Antonio, Tex., via Abilene, Tex.; Amarillo, Tex.; Tobe, Colo.; Pueblo, Colo.; Denver, Colo., to Rapid City, S. Dak.

Jet Route No. 18 From Mission Bay, Calif., via Imperial, Calif.; Bard, Ariz.; INT of the Bard 089° and Gila Bend, Ariz., 261° radials; Gila Bend; Phoenix, Ariz.; St. Johns, Ariz.; Albuquerque, N. Mex.; Las Vegas, N. Mex.; Garden City, Kans.; Salina, Kans.; St. Joseph, Mo.; Bradford; to Joliet, Ill.

AMENDMENTS 1/24/80 44 F. R. 70715 (Changed)

Jet Route No. 19 From Phoenix, Ariz., via INT Phoenix 051° and Zuni, Ariz., 242° radials; Zuni; Las Vegas, N. Mex.; Liberal, Kans.; Wichita, Kans.; Butler, Mo.; to St. Louis, Mo.

Jet Route No. 20 From Seattle, Wash., via Yakima, Wash.; Pendleton, Oreg.; McCall, Idaho; Pocatello, Idaho; Rock Springs, Wyo.; Denver, Colo.; Kiowa, Colo.; Lamar, Colo.; Liberal, Kans.; INT Liberal 137° and Oklahoma City, Okla., 282° radials; Oklahoma City; Shreveport, La.; Jackson, Miss.; Montgomery, Ala.; Meridian, Miss.; Tallahassee, Fla.; INT Tallahassee 129° and Orlando, Fla., 306° radials; Orlando; INT Orlando 154° and Fort Lauderdale, Fla., 339° radials to Fort Lauderdale.

Jet Route No. 21 From the INT of the United States/Mexican Border and the Laredo, Tex., 172° radial via Laredo; San Antonio, Tex.; Austin, Tex.; Waco, Tex.; Dallas-Fort Worth, Tex.; INT Dallas-Fort Worth 355° and Oklahoma City, Okla., 158° radials; Oklahoma City; Wichita, Kans.; Omaha, Nebr.; Minneapolis, Minn.; to Duluth, Minn.

Jet Route No. 22 From Nuevo Laredo, Mexico, via Laredo, Tex.; Corpus Christi, Tex.; Palacios, Tex.; Lake Charles, La.; McComb, Miss.; Meridian, Miss.; Vulcan, Ala.; Knoxville, Tenn.; Pulaski, Va.; to Gordonsville, Va. The airspace within Mexico is excluded.

Jet Route No. 23 From San Antonio, Tex., via Millsap, Tex.; Oklahoma City, Okla.; Pioneer, Okla.; to Wichita, Kans.

Jet Route No. 24 From Myton, Utah, to Hayden Colo. From Hugo, Colo., via Salina, Kans.; Kansas City, Mo.; St. Louis, Mo.; Indianapolis, Ind.; Falmouth, Ky.; Charleston, W. Va.; to Richmond, Va.

Jet Route No. 25 From Matamoras, Mex., via Brownsville, Tex.; INT of the Brownsville 358° and the Corpus Christi, Tex., 178° radials; Corpus Christi; INT of the Corpus Christi 311° and the San Antonio, Tex., 167° radials; San Antonio; Austin, Tex.; Waco, Tex.; Dallas-Fort Worth, Tex., Tulsa, Okla.; Kansas City, Mo.; Des Moines, Iowa; Mason City, Iowa; to Minneapolis, Minn. The airspace within Mexico is excluded.

Jet Route No. 26 From Ciudad Juarez, Mex., via El Paso, Tex.; INT of El Paso 070° and Roswell, N. Mex., 215° radials; Roswell; Amarillo, Tex.; Gage, Okla.; Wichita, Kans.; Kansas City, Mo.; Kirksville, Mo.; Bradford, Ill.; to Joliet, Ill. The airspace within Mexico is excluded.

Jet Route No. 27 From San Antonio, Tex., to Lufkin, Tex.

Jet Route No. 28 From Pueblo, Colo., via Garden City, Kans., to Wichita, Kans.

Jet Route No. 29 From the INT Of the United States/Mexican Border and the Corpus Christi, Tex., 229° radial via Corpus Christi; Palacios, Tex.; Humble, Tex.; Lufkin, Tex.; Shreveport, La.; Memphis, Tenn.; Pocket City, Ind., INT Pocket City 051° and Rosewood, Ohio, 230° radials; Rosewood; Cleveland, Ohio; Jamestown, N. Y.; Syracuse, N. Y.; Plattsburgh, N. Y.; Bangor, Maine, to Presque Isle. The airspace within Mexico is excluded.

Jet Route No. 30 From Minneapolis, Minn., via Nodine, Minn.; Joliet, Ill., Appleton, Ohio; INT of Appleton 111° and Belaire, Ohio, 142° radials; to Front Royal, Va.

PENDING AMENDMENT

In Jet Route No. 30 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

Jet Route No. 31 From New Orleans, La., via Meridian, Miss.; to Vulcan.

Jet Route No. 32 From Oakland, Calif., via Sacramento, Calif.; Reno, Nev.; Battle Mountain, Nev.; Malad City, Idaho; Boysen Reservoir.
Wyo.; Crazy Woman, Wyo., Dupree, S. Dak.; Aberdeen, S. Dak.; Duluth, Minn.; to the INT of the Duluth 061° radial and the United States/Canadian Border.

Jet Route No. 33 From Humble, Tex., via INT Humble 349° and Dallas-Fort Worth, Tex., 138° radials to Dallas-Fort Worth.

Jet Route No. 34 From Hoquiam, Wash., via Olympia, Wash., Moses Lake, Wash.; Helena, Mont.; Billings, Mont.; Dupree, S. Dak.; Redwood Falls, Minn.; Nodine,
Minn.; Badger, Wis.; INT of Badger 098° and Carleton, Mich., 297° radials; Carleton; Cleveland, Ohio; Bellaire, Ohio; to Martinsburg, W. Va.

Jet Route No. 35 From New Orleans, La., via McComb, Miss.; Greenwood, Miss.; Memphis, Tenn.; Farmington, Mo.; St. Louis, Mo.;
Capital, Ill.; the INT of the Capital 036° and the Joliet, Ill., 204° radials; Joliet, to Northbrook, Ill.

Jet Route No. 36 From Mullan Pass, Idaho, via Great Falls, Mont.; Dickinson, N. D., via Fargo, N. Dak.; Minneapolis, Minn.; Nodine, Minn.; Badger, Wis.; INT Badger 086° and Flint, Mich., 278° radials; Flint; INT Flint 102° and Dunkirk, N. Y., 274° radials;
Dunkirk; to Huguenot, N. Y., excluding the portion within Canada.

Jet Route No. 37 From Hobby, Tex., via INT of the Hobby 090° and New Orleans, La., 257° radials; New Orleans; Semmes, Ala.; Montgomery, Ala.; Spartanburg, S. C.; Gordonsville, Va.; Kenton, Del.; Coyle, N. J.; Kennedy, N. Y.; Albany, N. Y.; Massena, N. Y., to the INT of the Massena 037° radial and the United States/Canadian Border.

Jet Route No. 38 From the INT of the United States/Canadian Border and the direct radial between Duluth, Minn., and Sioux Narrows, Ont., via Duluth; Green Bay, Wis., to Pock, Mich.

Jet Route No. 39 From Crestview, Fla., via Montgomery, Ala.; Vulcan, Ala., Nashville, Tenn.; Louisville, Ky., to Rosewood, Ohio.

Jet Route No. 40 From Montgomery, Ala., via Macon, Ga.; Charleston, S. C.; Wilmington, N. C.; Richmond, Va.; INT Richmond 009° and Gordonsville, Va., 059° radials; INT Gordonsville 059° and New Castle, Del., 222° radials; to New Castle.

Jet Route No. 41 From Key West, Fla., via INT of Key West 358° and St. Petersburg, Fla., 151° radials; St. Petersburg; Tallahassee, Fla.; Montgomery, Ala.; Vulcan, Ala.; Memphis, Tenn.; Springfield, Mo., Kansas City, Mo., to Omaha, Nebr.

Jet Route No. 42 From Delicias, Mexico, via Fort Stockton, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.; Texarkana, Ark.; Memphis, Tenn.; Nashville, Tenn.; Beckley, W. Va.; Casanova, Va.; INT Casanova 051° and Westminster, Md., 080° radials; INT Westminster 080° and Robbinsville, N. J., 239° radials; Robbinsville; INT Robbinsville 073° and Hampton 223° radials; to Hampton. The portion of this route outside of the United States is excluded.

Jet Route No. 43 From Miami, Fla., via LaBelle, Fla.; St. Petersburg, Fla.; Tallahassee, Fla.; Atlanta, Ga.; Knoxville, Tenn.; Falmouth, Ky.; Rosewood, Ohio; Carleton, Mich., to Sault Ste. Marie, Mich.

Jet Route No. 44 From Phoenix, Ariz., via Winslow, Ariz., Farmington, N. Mex.; Alamosa, Colo.; INT Alamosa 003° and Denver, Colo.; 225° radials; to INT Denver 225° and Kiowa, Colo., 266° radials.

Jet Route No. 45 From Biscayne Bay, Fla., via INT Biscayne Bay 015° and Vero Beach, Fla., 143° radials; Vero Beach; Ormond Beach, Fla., Jacksonville, Fla.; Alma, Ga.; Macon, Ga.; Atlanta, Ga.; Nashville, Tenn.; St. Louis, Mo.; Des Moines, Iowa; Sioux Falls, S. Dak.; to Aberdeen, S. Dak.

Jet Route No. 46 From Tulsa, Okla., via Walnut Ridge, Ark.; Nashville, Tenn., to Knoxville, Tenn.

Jet Route No. 47 From Charleston, S. C., via Columbia, S. C., to Spartanburg, S. C.

Jet Route No. 48 From Pulaski, Va., via Westminster, Md.; INT Westminster 043° and Kennedy, N. Y., 252° radials: Kennedy: INT Kennedy 042° and Boston, Mass., 252° radials; to Boston.

Jet Route No. 49 From Philipsburg, Pa., via Hancock, N. Y.; Albany, N. Y.; Bangor, Maine; Presque Isle, Maine.

Jet Route No. 50 From Bakersfield, Calif., via Paradise, Calif.; intersection Paradise 093° and Blythe, Calif., 282° radials; Blythe; intersection Blythe 096° and Gila Bend, Ariz., 299° radials; Gila Bend; Casa Grande, Ariz.; San Simon, Ariz.; INT San Simon 105° and El Paso, Tex., 275° radials; El Paso; INT El Paso 093° and Wink, Tex., 266° radials; Wink; Abilene, Tex.; Waco, Tex.; Lufkin, Tex.; INT of the Lufkin 086° and the Alexandria, La., 270° radials; Alexandria; McComb, Miss., to Crestview, Fla.

Jet Route No. 51 From Jacksonville, Fla., via Savannah, Ga.; Columbia, S. C.; Raleigh-Durham, N. C.; to Norfolk, Va.

Jet Route No. 52 From Vancouver, British Columbia, Canada, via Spokane, Wash.; Salmon, Idaho; Dubois, Idaho; Rock Springs, Wyo.; Denver, Colo.; Kiowa, Colo.; Lamar, Colo.; Liberal, Kans.; INT Liberal 137° and Ardmore, Okla., 309° radials; Ardmore; Dallas-Fort Worth, Tex.; Texarkana, Ark.; Greenwood, Miss.; Bigbee, Miss.; Vulcan, Ala.; Atlanta, Ga.; Augusta, Ga.; Columbia, S. C.; Raleigh-Durham, N. C.; to Richmond, Va.
The portion within Canada is excluded.

Jet Route No. 53 From Biscayne Bay, Fla., via Orlando, Fla.; Jacksonville, Fla.; Augusta, Ga.; Spartanburg, S. C.; Pulaski, Va.; INT of Pulaski 015° and Ellwood City, Pa., 177° radials; Ellwood City; to Kleinburg, Ontario, Canada. The portion within Canada is excluded.

Jet Route No. 54 From Tatoosh, Wash., via Olympia, Wash.; Pendleton, Oreg.; Boise, Idaho; to Pocatello, Idaho.

Jet Route No. 55 From Jacksonville, Fla., via Savannah, Ga.; Charleston, S. C.; Florence, S. C.; INT of the Florence 0[illegible]° and the Raleigh, N. C., and the Raleigh-Durham, N. C., 224° radials; Raleigh-Durham, Flat Rock, Va.; INT of the Flat Rock 025° and the Gordonsville, Va., 059° radials; INT of the Grodonsville 059 and Sea Isle, N. J., 253° radials; Sea Isle; INT Sea Isle 050° and Hampton, N. Y., 223° radials; Hampton; Providence, R. I.; Boston, Mass.; Kennebunk, Maine: Presque Isle, Maine: to Mont Joli, Quebec, Canada, excluding the portion within Canada.

Jet Route No. 56 From Mina, Nev., via Salt Lake City, Utah; Hayden, Colo.; INT Hayden 090° and Denver, Colo., 325° radials; to Denver.

Jet Route No. 57 From Truth or Consequences, N. Mex., via Socorro, N. Mex.; to Albuquerque, N. Mex.

Jet Route No. 58 From Oakland, Calif., via Stockton, Calif.; Coaldale, Nev.; Wilson Creek, Nev.; Bryce Canyon, Utah; Farmington, N. Mex.; Las Vegas, N. Mex.; Amarillo, Tex.; Wichita Falls, Tex.; Dallas-Fort Worth, Tex., Alexandria, La.; INT of the Alexandria 126° and the New Orleans, La., 295° radials; New Orleans; INT of Grand Isle, La., 104° and Crestview, Fla., 201° radials; INT of Grand Isle 104° and Sarasota, Fla., 286° radials; Sarasota; INT of Sarasota 138° and Biscayne Bay, Fla., 301° radials; to Biscayne Bay.

Jet Route No. 59 From Philipsburg, Pa., to Syracuse, N.Y.

Jet Route No. 60 From Los Angeles, Calif., via Paradise, Calif.; Hector, Calif.; Boulder City, Nev.; Bryce Canyon, Utah; Hanksville, Utah; Grand Junction, Colo.; Denver, Colo.; Hayes Center, Nebr.; Lincoln, Nebr.; Iowa City, Iowa; Joliet, Ill.; Cleveland, Ohio; Philipsburg, Pa.; INT Philipsburg 100° and Robbinsville, N. J., 293° radials; to Robbinsville.

Jet Route No. 61 From Westminster, Md., via Philipsburg, Pa., to Buffalo, N.Y.

Jet Route No. 62 From Kennedy, N. Y., via the INT of Kennedy 080° and the Nantucket, Mass., 255° radials; Nantucket; to lat. 41°08'00"N., long. 67°00'00"W.

Jet Route No. 63 From Kennedy, N. Y., via Huguenot, N. Y.; INT of Huguenot 321° and Syracuse, N. Y., 149° radials; to Syracuse.

Jet Route No. 64 From Los Angeles, Calif., via INT Los Angeles 083°T and Hector, Calif., 226°T radials; radials; Hector; Peach Springs, Ariz.;
Tuba City, Ariz.; Farmington, N. Mex.; Alamosa, Colo.; Hill City, Kans.; Pawnee City, Nebr.; Lamoni, Iowa; Bradford, Ill.; via the INT of the Bradford 089° and the Fort Wayne, Ind., 280° radials; Fort Wayne; Ellwood City, Pa.; to Robbinsville, N.J.

AMENDMENTS 5/15/80 45 F. R. 22013 (Changed)

Jet Route No. 65 From Abilene, Tex., via Roswell, N. Mex.; Truth or Consequences, N. Mex.; Phoenix, Ariz.; INT Phoenix 272° and Blythe, Calif., 096° radials; Blythe; Palmdale, Calif.; INT Palmdale 291° and Bakersfield, Calif., 149° radials; Bakersfield; Fresno, Calif.; Sacramento, Calif.; to Red Bluff, Calif.
PENDING AMENDMENT
Under Jet Route No. 65, "to Red Bluff, Calif." is deleted and "Red Bluff, Calif.; Klamath Falls, Oreg.; to Seattle, Wash." is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 67656 (Changed)

Jet Route No. 66 From Dallas-Fort Worth, Tex., via Little Rock, Ark.; Memphis, Tenn.; to Rome, Ga.

Jet Route No. 67 From Lakeview, Oreg., direct Portland, Oreg.

Jet Route No. 68 From Badger, Wis., via INT Badger 086° and Flint, Mich., 278° radials; Flint; INT Flint 102° and Dunkirk, N.Y., 274° radials; Dunkirk; Hancock, N.Y.; INT Hancock 082° and Putnam, Conn., 293° radials; Putnam; Providence, R.I.; to Nantucket, Mass., excluding the portion within Canada.

Jet Route No. 69 From Semmes, Ala., via INT of the Semmes 015° and the Vulcan, Ala., 232° radials; to Vulcan.

Jet Route No. 70 From Hoquiam, Wash., via Seattle, Wash.; Ephrata, Wash.; Mullan Pass, Idaho; Lewiston, Mont.; Dickinson, N. Dak.; Aberdeen, S. Dak.; Minneapolis, Minn.; INT of the Minneapolis 100° and the Badger, Wis., 312° radials; Badger; Pullman, Mich.; Salem, Mich.; Jamestown, N. Y.; Sparta, N. J.; to Kennedy, N. Y.

Jet Route No. 71 From Memphis, Tenn., Centralia, Ill.; INT Centralia 019° and Northbrook, Ill., 186° radials; to Northbrook.

Jet Route No. 72 From Boulder City, Nev., via Peach Springs, Ariz.; Gallup, N. Mex.; Albuquerque, N. Mex.: Texico, N. Mex.: Wichita Falls, Texas; to Dallas-Fort Worth, Tex.

Jet Route No. 73 From Miami, Fla., via LaBelle, Fla.; Lakeland, Fla.; Tallahassee, Fla.; LaGrange, Ga.; Nashville, Tenn.; Lewis, Ind.; to Northbrook, Ill.

Jet Route No. 74 From Los Angeles, Calif., via Paradise, Calif.; INT of the Paradise 093° and the Parker, Calif., 261° radials; Parker; St. Johns, Ariz., Scorro, N. Mex.; Texico, N. Mex.; to Oklahoma City, Okla.

Jet Route No. 75 From Biscayne Bay, Fla., via the Biscayne Bay 301° and the Lakeland, Fla., 175° radials; Lakeland, Fla.; Taylor, Fla.; Columbia, S.C.; Greensboro, N.C.; Gordonsville, Va.; Westminster, Md.; Huguenot, N.Y.; Albany, N.Y.; Plattsburgh, N.Y., to the INT of the Plattsburgh 334° radial and the United States/Canadian Border.

Jet Route No. 76 From Las Vegas, Nev., via INT Las Vegas 090° and Tuba City, Ariz., 268° radials; Tuba City; Las Vegas, N. Mex.; Tucumcari, N. Mex.; Wichita Falls, Tex.; to Dallas-Fort Worth, Tex.

Jet Route No. 77 From Wilmington, N. C., via Gordonsville, Va.; Westminster, Md.; Huguenot, N. Y.; to Boston, Mass.

Jet Route No. 78 From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.; Prescott, Ariz; Zuni, Ariz.; Albuquerque, N. Mex.; Tucumcari, N. Mex.; Amarillo, Texas; Oklahoma City, Okla.; Tulsa, Okla.; Farmington, Mo.; Louisville, Ky.; Charlesto, W. Va.; Philipsburg, Pa.; INT Philipsburg 083° and Keating, Pa., 099° radials; to Kennedy, N. Y.

Jet Route No. 79 From Key West, Fla., via Miami, Fla.; Palm Beach, Fla.; Vero Beach, Fla.; Ormond Beach, Fla.; INT of Ormond Beach 360° and Jacksonville, Fla., 028° radials; Charleston, S.C.; Wilmington, N.C.; Haw, N.C.; Norfolk, Va.; INT of Norfolk 023° and Coyle, N.J., 208° radials; Coyle; Kennedy, N. Y.; INT Kennedy 080° and Nantucket, Mass., 255° radials; INT Nantucket 255° and Hyannis, Mass., 205° radials; Hyannis; INT Hyannis 003° and Bangor, Maine, 206° radials; Bangor.

Jet Route No. 80 From Oakland, Calif.; via Stockton, Calif., Coaldale, Nev.; Wilson Creek, Nev.; Milford, Utah; Grand Junction, Colo.; Denver, Colo.; Goodland, Kans.; Hill City, Kans.; Kansas City, Mo.; Capital, Ill.; Indianapolis, Ind.; Bellaire, Ohio; INT of the Bellaire 090° and Robbinsville, N. J., 264° radials; Robbinsville; to Kennedy, N.Y.

Jet Route No. 82 From Portland, Oreg., via McCall, Idaho; Dubois, Idaho; Crazy Woman, Wyo.; Rapid City, S. Dak; Sioux Falls, S. Dak.; Fort Dodge, Iowa; Dubuque, Iowa; INT of Dubuque 095° and Joliet, Ill., 317° radials; Joliet; Cleveland, Ohio; Jamestown, N.Y.; to Albany, N.Y.

Jet Route No. 83 From Spartanburg, S. C., via INT Spartanburg 341° and Appleton, Ohio, 184° radials; Appleton; to Cleveland, Ohio.

Jet Route No. 84 From Oakland, Calif., via Linden, Calif.; Mina, Nev.; Delta, Utah; Meeker, Colo.; Sidney, Nebr.; Wolbach, Nebr.; Dubuque, Iowa; to Northbrook, Ill.

Jet Route No. 85 From Biscayne Bay, Fla., via INT Biscayne Bay 328° and Lakeland, Fla., 140° radials; Lakeland; Taylor, Fla.; Alma, Ga.; Augusta, Ga.; Spartanburg, S.C.; Charleston, W. Va.; INT of the Charleston 357° and the Cleveland, Ohio 172° radials; Cleveland; to Salem, Mich. The portion within Canada is excluded.

Jet Route No. 86 From Boulder City, Nev., via Peach Springs, Ariz.; Winslow, Ariz.; El Paso, Tex.; Fort Stockton, Texas; Junction, Tex.; Austin, Tex.; Humble, Tex.; Leeville, La.; INT of Leeville 104° and Sarasota, Fla., 286° radials; Sarasota; INT of Sarasota 103° and LaBelle, Fla., 313° radials; LaBelle; to Miami.

Jet Route No. 67 From Humble, Tex., via Navasota, Tex.; Dallas-Fort Worth, Tex.; Tulsa, Okla.; Butler, Mo.; Kirksville, Mo.; Bradford, Ill.; Joliet, Ill.; to Northbrook, Ill.

Jet Route No. 88 From Los Angeles, Calif., via Santa Barbara, Calif.; Salinas, Calif.; to Point Reyes, Calif.

Jet Route No. 89 From Biscayne, Fla., via the INT of Biscayne Bay 301° and Lakeland, Fla., 166° radials; Lakeland; Atlanta, Ga.; Louisville, Ky.; Boiler, Ind.; Northbrook; Badger, Wis.; Duluth, Minn.; to Winnipeg, Manitoba, Canada. The portion within Canada is excluded.

AMENDMENTS 5/15/80 45 F. R. 17951 (Changed)

Jet Route No. 90 From Seattle, Wash., via Ephrata, Wash.; Mullan Pass, Idaho; Lewistown, Mont.; Miles City, Mont.; Aberdeen, S. Dak.; Redwood Falls, Minn.; Mason City, Iowa; INT of the Mason City 095° and the Northbrook, Ill., 292° radials; to Northbrook.

Jet Route No. 91 From Cross City, Fla., via INT Cross City 338° and Atlanta, Ga., 169° radials; Atlanta; Knoxville, Tenn., Henderson, W. Va.; to Bellaire, Ohio.

AMENDMENTS 5/15/80 45 F. R. 17951 (Changed)

Jet Route No. 92 From Reno, Nev., via Coaldale, Nev.; Beatty, Nev.; INT Beatty 131° and Boulder City, Nev., 284° radials; Boulder City; Prescott, Ariz.; Phoenix, Ariz.; Casa Grande, Ariz.; INT of Casa Grande 145° and Tucson, Ariz., 298° radials; Tucson; to the INT of the Tucson 185° radial and the United States/Mexican border.

Jet Route No. 93 From the INT of the United States/Mexican Border and the Julian, Calif., 123° radial via Julian; Paradise, Calif.; INT Paradise 290° and Los Angeles, Calif., 083° radials; to Los Angeles.

Jet Route No. 94 From Oakland, Calif., via Stockton, Calif.; Reno, Nev.; Battle Mountain, Nev.; Lucin, Utah; Rock Springs, Wyo.; Scottsbluff, Nebr.; O'Neill, Nebr.; Fort Dodge, Iowa; Dubuque, Iowa; Northbrook; Pullman, Mich.; Flint, Mich.; Peck, Mich.; to the INT of the Peck 100° radial with the United States/Canadian Border. From the United States/Canadian Border at its INT with the Buffalo, N.Y., 274° radial via Buffalo; Albany, N.Y., to Boston, Mass.

Jet Route No. 95 From Kennedy, N.Y., via Huguenot, N.Y., Buffalo, N.Y.; to Kleinburg, Ontario, Canada, excluding the portion which lies over Canadian territory.

Jet Route No. 96 From Los Angeles, Calif., via Paradise, Calif.; INT Paradise 093° and Parker, Calif., 261° radials; Parker; Prescott, Ariz.; Gallup, N. Mex.; Cimarron, N. Mex.; Garden City, Kans.; Salina, Kans.; Kirksville, Mo.; Bradford, Ill.; to Joliet, Ill.

Jet Route No. 97 From lat. 39°07'00"N., long. 67°00'00"W., via Nantucket; Boston, Mass.; to Plattsburgh, N. Y.

Jet Route No. 98 From Liberal, Kans., via Gage, Okla.; Oklahoma City, Okla.; via Tulsa, Okla.; Springfield, Mo.; to Farmington, Mo.

Jet Route No. 99 From Augusta, Ga., via Knoxville, Tenn.; to Louisville, Ky.

Jet Route No. 100 From Los Angeles, Calif., via Daggett, Calif.; Las Vegas, Nev.; INT of Las Vegas 046° and Bryce Canyon, Utah, 240° radials; Bryce Canyon; Meeker, Colo.; Sidney, Nebr.; Wolbach, Nebr.; Dubuque, Iowa; to Northbrook, Ill.

Jet Route No. 101 From Humble, Texas, via Lufkin, Texas; Shreveport, La.; Little Rock, Ark.; St. Louis, Mo.; Capital, Ill.; INT of the Capital 036° and the Joliet, Ill., 204° radials; Joliet; Northbrook, Ill.; Badger, Wis.; Green Bay, Wis.; to Sault Ste. Marie, Mich.

Jet Route No. 102 From Phoenix, Ariz., via INT of Phoenix 066° and Zuni, N. Mex., 226° radials; Zuni; Alamosa, Colo.; Lamar, Colo.; to Salina, Kans.

Jet Route No. 103 From St. Petersburg, Fla., via Orlando, Fla.; Ormond Beach, Fla.; to Savannah, Ga.

Jet Route No. 104 From Los Angeles, Calif., via INT Los Angeles 083° and Twentynine Palms, Calif., 269° radials; Twentynine Palms; via intersection Twentynine Palms 103° and Gila Bend, Ariz., 312° radials; Gila Bend, Tucson, Ariz.; San Simon, Ariz.; Socorro, N. Mex.; Las Vegas, N. Mex.; to Pueblo, Colo.

Jet Route No. 105 From Dallas-Fort Worth, Tex., via Razorback, Ark.; Springfield, Mo.; Bradford, Ill.; to Badger, Wis.

Jet Route No. 106 From Minneapolis, Minn., via Green Bay, Wis.; INT Green Bay 106° and Flint, Mich., 310° radials; Flint; INT Flint 127° and Salem, Mich., 092° radials; Jamestown, N.Y.; Sparta, N.J.; to Kennedy, N.Y., excluding the portion within Canada.

Jet Route No. 107 From Los Angeles, Calif., via Los Angeles 083°T and Hector, Calif., 226°T radials; Hector; Boulder City; Milford, Utah; Delta, Utah; Rock Springs, Wyo.; Crazy Woman, Wyo.; Dickinson, N. Dak.; Pembina, N. Dak.; to Kenora, Ontario, Canada. The portion within Canada is excluded.

AMENDMENTS 5/15/80 45 F. R. 22013 (Rewritten)

Jet Route No. 108 From Winslow, Ariz., via St. Johns, Ariz.; Truth or Consequences, N. Mex.; INT Truth or or Consequences, N. Mex., 106° and Wink, Tex., 297° radials; to Wink, Tex.

Jet Route No. 109 From Wilmington, N.C., via Gordonsville, Va.; Front Royal, Va.; to Buffalo, N.Y.

PENDING AMENDMENT

In Jet Route No. 109 "Front Royal" is deleted and "Shawnee" is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

Jet Route No. 110 From Oakland, Calif., via Salinas, Calif.; Fresno, Calif.; Boulder City, Nev.; Farmington, N. Mex.; Alamosa, Colo.; Garder City, Kans.; Butler, Mo.; St. Louis, Mo.; Indianapolis, Ind.; Bellaire, Ohio; Coyle, N. J.; to Kennedy, N. Y.

Jet Route No. 111 From Nome, Alaska, via Unalakleet, Alaska; McGrath, Alaska; Anchorage, Alaska; Middleton Island, Alaska; to SNOUT INT (Middleton Island 121° and Yakutat, Alaska 218° radials).

Jet Route No. 112 From Butler, Mo., via Farmington, Mo., to Louisville, Ky.

Jet Route No. 113 From Northbrook, Ill., via Dubuque, Iowa; to Minneapolis, Minn.

Jet Route No. 114 From Denver, Colo.; O'Neill, Nebr.; Sioux Falls, S. Dak.; to Minneapolis, Minn.

Jet Route No. 115 From Shemya, Alaska, NDB, via Adak, Alaska, NDB; Dutch Harbor, Alaska, NDB; Cold Bay, Alaska; King Salmon, Alaska; INT King Salmon 053° and Kenai, Alaska, 239° radials; Kenai; Anchorage, Alaska; Fairbanks, Alaska; Chandalar, Alaska, NDB; to Deadhorse, Alaska.

Jet Route No. 116 From Salt Lake City, Utah, via Fairfield, Utah; Meeker, Colo.; to Denver, Colo.

Jet Route No. 117 From McGrath, Alaska, via Galena, Alaska; to Kotzebue, Alaska.

Jet Route No. 118 From Memphis, Tenn., via Chattanooga, Tenn., to Spartanburg, S.C.

Jet Route No. 119 From St. Petersburg, Fla., to Taylor, Fla.

Jet Route No. 120 From the INT of the Anchorage Oceanic CTA/FIR boundary and the Bethel, Alaska, 234° radial via Bethel; McGrath, Alaska; Fairbanks, Alaska; Fort Yukon, Alaska; to the Barter Island, Alaska, NDB.

AMENDMENTS 9/4/80 45 F. R. 43160 (Changed)

Jet Route No. 121 From Jacksonville, Fla., via Charleston, S. C.; Norfolk, Va.; INT Norfolk 023° and Snow Hill, Md., 211° radials; Snow Hill; Sea Isle, N. J.; INT Sea Isle 050° and Hampton, N. Y., 223° radials; Hampton; Providence, R. I.; to INT Providence 045° and Boston, Mass., 066° radials.

Jet Route No. 122 From Fairbanks, Alaska, via Galena, Alaska; to Nome, Alaska.

Jet Route No. 123 From INT Kodiak, Alaska, 107° radial and NW boundary Anchorage Oceanic Control Area at lat. 57°28'00"N., long. 150°32'00"W., via Kodiak; King Salmon, Alaska; Bethel, Alaska; Nome, Alaska; Kotzebue, Alaska; to Barrow, Alaska.

Jet Route No. 124 From Anchorage, Alaska, via Big Lake, Alaska; Gulkana, Alaska; to Northway, Alaska.

Jet Route No. 125 From Kodiak, Alaska, via Anchorage, Alaska; INT Anchorage 347° and Talkeetna, Alaska, 19[illegible]° radials; Talkeetna; to Nenana, Alaska.

Jet Route No. 126 From Los Angeles, Calif., via the INT of the Los Angeles 319° and the Avenal, Calif., 148° radials; Avenal; Stockton, Calif.; Sacramento, Calif.; Red Bluff, Calif.; Medford, Oreg.; Eugene, Oreg.; Newberg, Oreg.; Olympia, Wash.; to Vancouver, British Columbia, Canada. That portion outside the United States is excluded.

Jet Route No. 127 From Cape Newenham, Alaska, NDB via King Salmon, Alaska; to INT King Salmon 042° and Anchorage, Alaska, 246° radials.

Jet Route No. 128 From Los Angeles, Calif., via INT Los Angeles 083°T and Peach Springs, Ariz., 244°T radials; Peach Springs; Tuba City, Ariz.;
Gunnison, Colo.; Denver, Colo.; Hays Center, Nebr.; Wolbach, Nebr.; Dubuque, Iowa; to Northbrook, Ill.

AMENDMENTS 5/15/80 45 F. R. 22013 (Changed)

Jet Route No. 129 From Nome, Alaska, to Kotzebue, Alaska, via INT Nome 009° and Kotzebue 221° radials.

Jet Route No. 130 From Wilson Creek, Nev., via INT Wilson Creek 068° and Grand Junction, Colo., 274° radials; Grand Junction; INT Grand Junction 090° and Kiowa, Colo., 256° radials; INT Kiowa 256° and Denver, Colo., 225° radials to INT Denver 225° and Kiowa 266° radials.

Jet Route No. 131 From San Antonio, Tex., via INT San Antonio 007° and Dallas-Fort Worth, Tex., 218° radials; Dallas-Fort Worth; Texarkana, Ark.; Little Rock, Ark.; to Pocket City, Ind.

Jet Route No. 132 From Fort Dodge, Iowa, to Mason City, Iowa.

Jet Route No. 133 From Biorka Island, Alaska, via Hinchinbrook, Alaska, NDB; to Johnstone Point, Alaska.

Jet Route No. 134 From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.; Prescott, Ariz.; Gallup, N. Mex.; Cimarron, N. Mex.; Liberal, Kans., Wichita, Kans.; Butler, Mo.; St. Louis, Mo.; Falmouth, Ky.; INT of Falmouth 085° and Front Royal, Va., 264° radials; to Front Royal.
PENDING AMENDMENT
In Jet Route No. 134 all after "Falmouth, Ky.;" is deleted and "Henderson, W. Va.; INT Henderson 083° and Shawnee, Va., 262° radials; to Shawnee." is substituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

Jet Route No. 135 From Bethel, Alaska, to Unalakleet, Alaska.

Jet Route No. 136 From Newport, Oreg., via Portland, Oreg., Yakima, Wash., Spokane, Wash.; Mullan Pass, Idaho; INT Mullan Pass 101° and Billings, Mont., 301° radials; to Billings.

Jet Route No. 137 From Capital, Ill., via Farmington, Mo.; Walnut Ridge, Ark.; to Little Rock, Ark.

Jet Route No. 138 From Fort Stockton, Tex., via Center Point, Tex.; San Antonio, Tex.; Hobby, Tex.; to Lake Charles, La.

Jet Route No. 139 From Bettles, Alaska, to Deadhorse, Alaska.

Jet Route No. 140 From Fargo, N. Dak., via Duluth, Minn., to Sault Ste. Marie, Mich.

Jet Route No. 142 From San Simon, Ariz., via the INT of the San Simon 038° and the Socorro, N. Mex., 233° radials; to Socorro.

Jet Route No. 143 From Eugene, Oreg., via The Dallas, Oreg.; to Spokane, Wash.

Jet Route No. 144 From Wolbach, Nebr.; via Des Moines, Iowa; to Dubuque, Iowa.

Jet Route No. 145 From Toccoa, Ga., via Charleston, W. Va.; INT Charleston 034° and the Ellwood City, Pa., 194° radials to Ellwood City, Pa.

Jet Route No. 146 From Los Angeles, Calif., via Daggett; Calif.; Las Vegas, Nev.; Dove Creek, Colo.; Gunnison, Colo., Goodland, Kans.; Lincoln, Nebr.; Iowa City, Iowa; Joliet, Ill.; South Bend, Ind.; INT South Bend 089° and Chardon, Ohio, 279° radials; Chardon, Keating, Pa.; to Kennedy, N. Y., excluding the portion within Canada.

Jet Route No. 147 From Beckley, W. Va., to Gordonsville, Va.

Jet Route No. 148 From Coaldale, Nev., via Delta, Utah; Myton, Utah; Cheyenne, Wyo.; to O'Neill, Nebr.

Jet Route No. 149 From Casanova, Va., via INT of Casanova 280° and Rosewood, Ohio, 116° radials; Rosewood; to Fort Wayne, Ind.

Jet Route No. 150 From Gordonsville, Va., via INT Gordonsville 059° and Woodstown, N. J., 230° radials; Woodstown; Robbinsville, N. J.; Hampton, N. Y.; INT Hampton 069° and Hyannis, Mass., 237° radials; Hyannis; to the INT Hyannis 068° and Boston, Mass., 097° radials.

Jet Route No. 151 From Vulcan, Ala., via INT Vulcan 335° and Farmington, Mo., 139° radials; Farmington; St. Louis, Mo.; Des Moines, Iowa; O'Neill, Nebr.; Rapid City, S. Dak.; Billings, Mont.; INT Billings 266° and Whitehall, Mont., 103° radials; to Whitehall.

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et Route No. 152 From Capital, Ill., via INT Capital 091° and Rosewood, Ohio, 263° radials; Rosewood; ohnstown, Pa.; Harrisburg, Pa.; to INT Harrisburg 099° and Westminster, Md., 058° radials.

Jet Route No. 153 From Rome, Oreg., via Baker, Oreg., to Spokane, Wash.

MENDMENTS 10/30/80 45 F. R. 60898 (Added)

Jet Route No. 154 From Battle Mountain, Nev., via Bonneville, Utah; Salt Lake City, Utah; to Rock Springs, Wyo., Bonneville, Utah; Salt Lake City, Utah; to Rock Springs, Wyo.

Jet Route No. 155 From the Chandalar Lake, Alaska, NDB to Nenana, Alaska.

Jet Route No. 156 From Wilson Creek, Nev., to Meeker, Colo.

Jet Route No. 157 From the INT of Denver, Colo., 058° and Gill, Colo., 151° radials, via INT Denver 058° and Scottsbluff, Nebr., 189° radials; Scottsbluff; to Rapid City, S. Dak.

Jet Route No. 158 From Mina, Nev., via Lucin, Utah; Malad City, Idaho; INT Malad City 087° and Casper, o., 241° radials; Casper; Rapid City, S. D.; to Aberdeen, S. D.

Jet Route No. 159 From Portland, Oreg., to Redmond, Oreg.

Jet Route No. 160 From Fairbanks, Alaska, via INT Fairbanks 016° and Fort Yukon, Alaska, 229° radials; Fort Yukon; to Komakuk, Yukon Territory, Canada, NDB. The airspace within Canada is excluded.

Jet Route No. 161 From Zuni, N. Mex., to Farmington, N. Mex.

Jet Route No. 162 From Cleveland, Ohio, via Bellaire, Ohio, INT of Bellaire 142° and Front Royal, Va., 3° radials; to Front Royal.

ENDING AMENDMENT

n Jet Route No. 162 all after "Bellaire 142°" is deleted and "Shawnee, Va., 281° radials; to Shawnee." is bstituted therefor.

AMENDMENTS 12/25/80 45 F. R. 71774 (Changed)

Jet Route No. 163 From Rock Springs, Wyo., to Hayden, Colo.

Jet Route No. 165 From Charleston, S. C., to Richmond, Va.

Jet Route No. 166 From San Simon, Ariz.; via Truth or Consequences, N. Mex.; Roswell, N. Mex.; to Wichita Falls, Texas.

Jet Route No. 167 From Johnstone Point, Alaska, via Gulkana, Alaska; Big Delta, Alaska; to Fort Yukon, Alaska.

Jet Route No. 168 From Wichita Falls, Tex., via Lamar, Colo.; Hugo, Colo.; to Kiowa, Colo.

Jet Route No. 169 From Los Angeles, Calif.; via Seal Beach, Calif.; Thermal, Calif.; Blythe, Calif.

Jet Route No. 170 From Crazy Woman, Wyo., via Casper, Wyo.; Medicine Bow, Wyo.; INT Medicine Bow 165° and Denver, Colo., 325° radials; to Denver.

Jet Route No. 171 From Tobe, Colo., via Hugo, Colo.; to Kiowa, Colo.

Jet Route No. 172 From the INT of Denver, Colo., 058° and Gill, Colo., 151° radials, via INT Denver 058° and Sidney, Nebr., 189° radials; to Sidney.

Jet Route No. 173 From Salt Lake City, Utah, to Meeker, Colo.

Jet Route No. 174 From Hampton, N. Y., via INT Hampton 069° and Hyannis, Mass., 237° radials; Hyannis; to the INT of Hyannis 080° and Nantucket, Mass., 066° radials.

Jet Route No. 177 From Humble, Tex., via Hobby, Tex., to Tampico, Mexico, excluding the portion south of Lat. 26°00'00" N.

Jet Route No. 178 From Fort Wayne, Ind., to Appleton, Ohio.

Jet Route No. 180 From Humble, Tex., via Daisetta, Tex.; to Little Rock, Ark.

Jet Route No. 181 From Phoenix, Ariz., to Newman, Tex.

PENDING AMENDMENT

Jet Route No. 182 From Goodland, Kans., via Wichita, Kans., INT Wichita 115° and Razorback 285° radials; Razorback.

AMENDMENTS 12/25/80 45 F. R. 71775 (Added)

Jet Route No. 185 From Traverse City, Mich., to Flint, Mich.

Jet Route No. 186 From Toccoa, Ga., to the INT of the Spartanburg, S. C., 341° and the Appleton, Ohio, 164° radials.

Jet Route No. 189 From Avenal, Calif., via Linden, Calif.; Klamath Falls, Oreg.; Portland, Oreg.; to Seattle, Wash.

Jet Route No. 192 From Goodland, Kans., to Pawnee City, Nebr.

Jet Route No. 195 From Annette Island, Alaska, to Biorka Island, Alaska.

Jet Route No. 196 From Bryce Canyon, Utah, via INT Bryce Canyon 048° and Meeker, Colo., 247° radials; to Meeker.

Jet Route No. 197 From Gunnison, Colo., via INT Gunnison 083° and Goodland, Kans., 251° radials; Goodland: Wolbach. Nebr.: to Sioux Falls. S.D.

Jet Route No. 198 From Mina, Nev., via Wilson Creek, Nev.; INT Wilson Creek 075° and Meeker, Colo., 247° radials: to Meeker.

Jet Route No. 199 From Wilson Creek, Nev., via Delta, Utah; INT Delta 068° and Meeker, Colo., 262° radials: to Meeker.

Jet Route No. 201 From Myton, Utah, via INT Myton 056° and Rock Springs, Wyo., 084° radials; to Scottsbluff. Nebr.

Jet Route No. 202 From Fairfield, Utah, via INT Fairfield 026° and Rock Springs, Wyo., 249° radials; Rock Springs; to Casper, Wyo.

Jet Route No. 203 From Billings, Mont., via INT Billings 347° and Great Falls, Mont., 093° radials; to Great Falls.

Jet Route No. 204 From Dupree, S.D., via Miles City, Mont.; INT Miles City 295° and Great Falls, Mont., 093° radials; to Great Falls.

Jet Route No. 500 From Thunder Bay, Ontario, via Sault Ste. Marie, Mich.; North Bay, Ontario, Canada; Killaloe, Ontario, RBN; Ottawa, Ontario; St. Johns, Quebec; Sherbrooke, Quebec; Millinocket, Maine to Fredericton, New Brunswick excluding the portions outside the United States.

Jet Route No. 501 From Point Reyes, Calif., via Medford, Oreg.; Hoquiam, Wash., INT Hoquiam 354° and Tatoosh, Wash., 162° radials; Tatoosh; Cape Scott, British Columbia, Canada, RBN; Sandspit, British Columbia, Canada; Biorka Island, Alaska; Yakutat, Alaska; Johnstone Point, Alaska; Anchorage, Alaska; Sparrevohn, Alaska, NDB; Bethel, Alaska; to the INT of the Bethel 258° radial and the Anchorage Oceanic CTA/FIR boundary, excluding the airspace within Canada.

AMENDMENTS 9/4/80 45 F. R. 43160 (Changed)

Jet Route No. 502 From Seattle, Wash.; via Victoria, British Columbia, Canada; Port Hardy, British Columbia, Canada;
Annette Island, Alaska; Level Island, Alaska; Sisters Island, Alaska; Burwash Landing, Yukon Territory Canada, RBN; Northway, Alaska; Fairbanks, Alaska, to Kotzebue, Alaksa, excluding the airspace within Canada.

AMENDMENTS 9/4/80 45 F. R. 50724 (Changed)

Jet Route No. 503 From Seattle, Wash., to the United States/Canadian Border via the Seattle direct radial to Princeton, British Columbia.

Jet Route No. 505 From Seattle, Wash., via the Seattle 061° radial to the United States/Canadian border.

Jet Route No. 506 From Millinocket, Maine, via the intersection of Millinocket 114° and St. John, N.B., 267° radials; to the intersection of the St. John 267° radial with the United States/Canadian border.

Jet Route No. 507 From Barrow, Alaska, via Deadhorse, Alaska; Port Yukon, Alaska, Northway, Alaska; to Yakutat, Alaska, excluding the portion within Canada.

Jet Route No. 509 From Beauce, Quebec, via Houlton, Maine, to Moncton, New Brunswick, excluding the portion outside the United States.

Jet Route No. 511 From Cape Newenham, Alaska, NDB via Dillingham, Alaska; Anchorage, Alaska; Big Lake, Alaska; Gulkana, Alaska; to Burwash Landing,
Yukon Territory, Canada, RBN, excluding the portion which lies over Canadian territory.

Jet Route No. 513 From Thunder Bay, Ontario, Canada, direct to Sudbury, Ontario, Canada, excluding the portion within Canada.

Jet Route No. 515 From Fargo, N. Dak., via Pembina, N. Dak.; to INT Pembina 356° radial and the United States/Canadian border. From Whitehorse, Yukon Territory, Canada, via Northway, Alaska; Fairbanks, Alaska; Bettles, Alaska; to Barrow, Alaska. The airspace within Canada is excluded.

Jet Route No. 516 From Great Falls, Mont., to Lethbridge, Alberta, Canada. The airspace within Canada is excluded.

Jet Route No. 517 From Boise, Idaho, via Spokane, Wash., to Cranbrook, British Columbia, Canada, excluding the portion which lies over Canadian territory.

Jet Route No. 518 From Cleveland, Ohio, via INT of Cleveland 120° and Westminster, Md., 288° radials; to Westminster.

Jet Route No. 522 From Green Bay, Wis., via Traverse City, Mich.; Kleinburg, Ontario, Canada; Hancock, N.Y.; to Huguenot, N.Y., excluding the airspace within Canada.

Jet Route No. 523 From Seattle, Wash.; Tatoosh, Wash., to Port Hardy, British Columbia, Canada. From Sandspit, British Columbia, Canada, to Annette Island, Alaska; excluding the airspace within Canada.

AMENDMENTS 9/4/80 45 F. R. 50724 (Changed)

Jet Route No. 524 From the INT of Albany, N. Y., 353° and Montreal, Quebec, 188° radials to the INT of the Montreal 188° radial with United States/Canadian border.

AMENDMENTS 1/24/80 44 F. R. 68453 (Changed)

Jet Route No. 528 From Bellingham, WA., to Williams Lake, British Columbia, Canada. The airspace within Canada is excluded.

Jet Route No. 530 From Great Falls, Mont., to Swift Current, Saskatchewan, Canada. The airspace within Canada is excluded.

Jet Route No. 531 From Buffalo, N.Y., via Kleinburg, Ont., Canada; Wiarton, Ont., Canada; to Sault Ste. Marie, Mich., excluding the portion which lies over Canadian territory.

Jet Route No. 532 From Pembina, N. Dak., to the United States/Canadian Border via the Pembina to Red Lake, Ontario RBN direct radial.

Jet Route No. 533 From Duluth, Minn., to the United States/Canadian border via the Duluth to Thunder Bay, Ontario, direct radial.

Jet Route No. 534 From Bellingham, Wash., to Williams Lake, British Columbia, Canada, excluding the airspace within Canada.

Jet Route No. 536 From Sisters Island, Alaska; to Whitehorse, Yukon Territory, Canada. The airspace within Canada is excluded.

Jet Route No. 537 From Rome, Oreg., via Mullan Pass, Idaho; to Calgary, Alberta, Canada; excluding the airspace within Canada.

AMENDMENTS 9/4/80 45 F. R. 45268 (Added)

Jet Route No. 538 From the INT of the United States/Canadian border and the direct radial between Duluth, Minn., and Kenora, Ont., to Duluth.

Jet Route No. 540 From Mullan Pass, Idaho, to the INT of Mullan Pass 041° radial and the United States/Canadian border.

Jet Route No. 541 From Yakutat, Alaska, to Sisters Island, Alaska.

Jet Route No. 545 From Cleveland, Ohio, to the INT of the Cleveland 024° radial and the United States/Canadian Border.

Jet Route No. 546 From Peck, Mich., to the United States/Canadian Border via the Peck to Kleinburg, Ontario direct radial.

Jet Route No. 547 From Northbrook, Ill., via Pullman, Mich.; Flint, Mich.; Peck, Mich.; London, Ontario; Buffalo, N.Y.; Syracuse, N.Y.; INT Syracuse 094° and Albany, N.Y., 058° radials; to Kennebunk, Maine, excluding the portion which lies over Canadian territory.

Jet Route No. 548 From Pullman, Mich.; via Traverse City, Mich.; Sault Ste Marie, to the United States/Canadian border via the Sault Ste. Marie to Timmins, Ontario, RR direct radial.

Jet Route No. 551 From Peck, Mich., to the United States/Canadian border via the Peck to Wiarton, Ontario, direct radial.

Jet Route No. 552 From Sault Ste. Marie, Mich., to United States/Canadian Border via the Sault Ste. Marie to Kapuskasing, Ontario, direct radial.

Jet Route No. 553 From Peck, Mich., to Midland, Ontario, Canada. That airspace within Canada is excluded.

Jet Route No. 554 From South Bend, Ind., via Carleton, Mich.; to Jamestown, N. Y., excluding the portion within Canada.

Jet Route No. 559 From Syracuse, N.Y., to the INT of Syracuse 005° radial and the United States/Canadian border.

Jet Route No. 560 From Plattsburgh, N.Y., to Quebec, Quebec, Canada, excluding the airspace over Canada.

Jet Route No. 561 From Presque Isle, Maine, to Mont Joli, Quebec, excluding the portion outside the United States.

Jet Route No. 563 From Albany, N.Y., via INT of Albany 008° and Sherbrooke, Quebec, Canada, 217° radials to Sherbrooke, excluding the airspace over Canada.

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Jet Route No. 564 From Beauce, Quebec, Canada, via Presque Isle, Maine; Charlo, New Brunswick NDB; to Port Menier, Quebec, Canada, excluding the airspace within Canada.

Jet Route No. 566 From Massena, N.Y., to the INT of the Massena 037° radial and the United States/Canadian border.

Jet Route No. 567 From Plattsburgh, N.Y., to the INT of the Plattsburgh 334° radial and the United States/Canadian border.

Jet Route No. 570 From Albany, N. Y., to Mirabel, Quebec, excluding the portion outside the United States.

Jet Route No. 573 From Providence, R.I., via INT Providence 045° and Kennebunk, Maine, 180° radials; Kennebunk; to St. John, New Brunswick, Canada, excluding the portion within Canada.

Jet Route No. 575 From Boston, Mass., to Yarmouth, N.S., Canada, excluding the portion under the jurisdiction of Canada.

Jet Route No. 581 From Kennedy, N. Y., via INT of Kennedy 042° and Putnam, Conn., 236° radials; Putnam; Kennebunk, Maine; Bangor, Maine, to the INT of the Bangor 058° radial and the United States/Canadian border.

Jet Route No. 582 From Presque Isle, Maine, to Sept Isle, Quebec, excluding the portion outside the United States.

Jet Route No. 584 From Northbrook, Ill., via INT of Northbrook 094° and Carleton, Mich., 270° radials; Carleton; Slate Run, Pa.; INT Slate Run 101° and Kennedy, N.Y., 291° radials; to Kennedy.

Jet Route No. 585 From Nantucket, Mass., to Yarmouth, N.S., Canada, excluding the portion under the jurisdiction of Canada.

Jet Route No. 586 From Carleton, Mich., via London, Ont., Canada; Stirling, Ont., Canada; Massena, N.Y.; to St. Jean, Quebec, Canada. That airspace within Canada is excluded.

Jet Route No. 587 From Thunder Bay, Ontario to WaWa, Ontario, Canada. That airspace within Canada is excluded.

AMENDMENTS 10/30/80 45 F. R. 62032 (Rewritten)

Jet Route No. 588 From Sault Ste. Marie, MI., via INT Sault Ste. Marie 110° and Stirling, Ontario, Canada, 297° radials; to Stirling, excluding the portion within Canada.

Jet Route No. 595 From London, Ontario via latitude 43°52'30"N., longitude 78°43'00"W.); Watertown, N.Y.; Plattsburgh, N.Y.; Bangor, Maine; to St. John, New Brunswick, Canada; excluding the portion outside the United States.

SUBPART D - AREA HIGH ROUTES

§75.400 Area high routes.

The parts of airspace described below are designated as area high routes.

Waypoint name	Location		Reference facility
J800R New York, N. Y., to Los Angeles, Calif.			
Robbinsville, N. J., VORTAC	40°12'08" N.	74°29'44" W.	Robbinsville, N. J.
NIDES	39°58'04" N.	78°04'45" W.	Philipsburg, Pa.
HORNS	40°00'43" N.	80°13'38" W.	Elwood City, Pa.
THACK	39°59'34" N.	84°01'53" W.	Rosewood, Ohio
MELOT	39°53'23" N.	87°00'54" W.	Boiler, Ind.
CHAPS	39°39'52" N.	90°35'08" W.	St. Louis, Mo.
WALCO	39°13'06" N.	94°59'28" W.	Butler, Mo.
ENTER	38°58'04" N.	96°59'46" W.	Wichita, Kans.
CEDAR	38°29'43" N.	100°10'41" W.	Garden City, Kans.
GRAND	37°59'43" N.	102°37'19" W.	Lamar, Colo.
Delhi, Colo.	37°40'09" N.	104°13'02" W.	Pueblo, Colo.
SANDY	37°19'13" N.	105°48'11" W.	Alamosa, Colo.
Flora, N. Mex.	36°46'16" N.	108°09'14" W.	Farmington, N. Mex.
CAMEL	35°58'37" N.	111°12'21" W.	Tuba City, Ariz.
FENNY	34°48'12" N.	115°00'57" W.	Parker, Calif.
MORRO	34°02'51" N.	117°14'54" W.	Oceanside, Calif.

Waypoint name	Location		Reference facility
J801R Los Angeles, Calif., to New York, N. Y.			
MESIC	35°44'20" N.	115°32'01" W.	Boulder City, Nev.
Boulder City, NV.	35°59'45" N.	114°51'46" W.	Boulder City, NV.
Paria, Ariz.	36°53'51" N.	111°55'43" W.	Bryce Canyon, Utah
MONTE	37°51'16" N.	108°33'32" W.	Farmington, N. Mex.
CABIN	38°21'36" N.	106°34'31" W.	Gunnison, Colo.
GOFEL	38°42'44" N.	105°05'24" W.	Pueblo, Colo.
DRESS	39°38'14" N.	100°23'38" W.	Hayes Center, Nebr.
RUSKI	40°08'16" N.	97°56'34" W.	Wolbach, Nebr.
GARDE	40°53'49" N.	93°30'28" W.	Des Moines, Iowa
Joliet, Ill., VORTAC	41°32'47" N.	88°19'06" W.	Joliet, Ill.
WOLVI	42°13'36" N.	83°58'14" W.	Carleton, Mich.
SPOTS	42°00'19" N.	80°56'16" W.	Carleton, Mich.
ORMBY	41°48'09" N.	78°38'27" W.	Buffalo, N. Y.
Sparta, N. J., VORTAC	41°04'03" N.	74°32'19" W.	Sparta, N. J.

Waypoint name	Location		Reference facility
J802R New York, N. Y., to Oakland, Calif.			
Robbinsville, N. J., VORTAC	40°12'08" N.	74°29'44" W.	Robbinsville, N. J.
FURNA	40°36'35" N.	78°02'40" W.	Philipsburg, Pa.
SHILO	40°57'44" N.	82°30'16" W.	Appleton, Ohio
PERRY	41°08'24" N.	87°02'53" W.	Boiler, Ind.
Bradford, Ill.	41°09'35" N.	89°35'16" W.	Iowa City, Iowa
Lincoln, Nebr.	40°55'26" N.	96°44'30" W.	Pawnee City, Nebr.
MELTO	40°39'38" N.	100°57'02" W.	Hayes Center, Nebr.
GILLY	40°16'43" N.	104°49'59" W.	Denver, Colo.
BLAND	39°53'01" N.	107°52'45" W.	Meeker, Colo.
HILLS	39°33'51" N.	109°58'03" W.	Myton, Utah
NEBOS	39°16'43" N.	111°38'27" W.	Fairfield, Utah
GRAFT	38°43'06" N.	114°32'58" W.	Wilson Creek, Nev.
Coaldale, Nev., VORTAC	38°00'12" N.	117°46'10" W.	Coaldale, Nev.

Waypoint name	Location		Reference facility
J803R Mina, Nev., to Sparta, N. J.			
Mina, Nev.	38°33'55" N.	118°01'55" W.	Coaldale, Nev.
BRISK	39°23'01" N.	114°50'10" W.	Wilson Creek, Nev.
CLARA	39°52'08" N.	112°42'38" W.	Delta, Utah
Ouray, Utah	40°22'59" N.	110°12'19" W.	Myton, Utah
MAYBE	40°45'44" N.	108°07'47" W.	Meeker, Colo.
TANKS	41°17'12" N.	104°47'30" W.	Cheyenne, Wyo.
SANDS	41°44'19" N.	101°09'59" W.	Hayes Center, Nebr.
PLUMS	42°07'05" N.	96°53'26" W.	Lincoln, Nebr.
SCALE	42°22'53" N.	90°24'00" W.	Iowa City, Iowa
Haven, Mich.	42°19'27" N.	86°17'17" W.	South Bend, Ind.
WOLVI	42°13'36" N.	83°58'14" W.	Carleton, Mich.
SPOTS	42°00'19" N.	80°56'16" W.	Carleton, Mich.
ORMBY	41°48'09" N.	78°38'27" W.	Buffalo, N. Y.
Sparta, N. J. VORTAC	41°04'03" N.	74°32'19" W.	Sparta, N. J.

Waypoint name	Location		Reference facility
J808R Gateway Hemlock, Oreg., to Woodstock, Ill.			
HEMLO	43°18'08" N.	126°40'46" W.	Newport, Oreg.
Newport, Oreg.	44°34'32" N.	124°03'34" W.	Newport, Oreg.
DAYAH	44°35'59" N.	119°26'41" W.	Pendleton, Oreg.
McCall, Idaho	44°46'02" N.	116°12'19" W.	McCall, Idaho
LIMES	44°52'56" N.	112°13'36" W.	Dubois, Idaho
BIGGS	44°52'08" N.	108°42'55" W.	Billings, Mont.
CLEAR	44°43'43" N.	106°20'12" W.	Crazy Woman, Wyo.
ASHEY	44°19'46" N.	101°52'35" W.	Dupree, S. Dak.
Sioux Falls, S. Dak.	43°38'58" N.	96°46'51" W.	Sioux Falls, S. Dak.
WILDT	42°57'17" N.	91°45'37" W.	Nodine, Minn.
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

Waypoint name	Location		Reference facility
J806R Robbinsville, N. J., to Gateway Hemlock			
Robbinsville, N. J.	40°12'06" N.	74°29'44" W.	Robbinsville, N. J.
FURNA	40°36'35" N.	78°02'40" W.	Philipsburg, Pa.
SHILO	40°57'44" N.	82°30'16" W.	Appleton, Ohio
Plant, Ind.	41°37'29"N.	87°15'57"W.	Boiler, Ind.
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill.
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
KAMRA	42°25'45" N.	93°43'56" W.	Fort Dodge, Iowa
Sioux Falls, S. Dak.	43°38'58" N.	96°46'51" W.	Sioux Falls, S. Dak.
ASHEY	44°19'46" N.	101°52'35" W.	Dupree, S. Dak.
CLEAR	44°43'43" N.	106°20'12" W.	Crazy Woman, Wyo.
BIGGS	44°52'08" N.	108°42'55" W.	Billings, Mont.
LIMES	44°52'56" N.	112°13'36" W.	Dubois, Idaho
McCall, Idaho	44°46'02" N.	116°12'19" W.	McCall, Idaho
DAYAH	44°35'59" N.	119°26'41" W.	Pendleton, Oreg.
Newport, Oreg.	44°34'32" N.	124°03'34" W.	Newport, Oreg.
HEMLO	43°18'08" N.	126°40'46" W.	Newport, Oreg.

Waypoint name	Location		Reference facility
J810R South Bend, Ind., to New York, N. Y.			
KINDS	41°47'37" N.	85°00'23" W.	Fort Wayne, Ind.
MARCH	41°38'30" N.	82°31'06" W.	Cleveland, Ohio
AVAST	41°07'46" N.	77°23'00" W.	Philipsburg, Pa.
SWEET	40°48'06"N.	74°55'59"W.	Sparta, N. J.

Waypoint name	Location		Reference facility
J811R Chicago, IL., to Miami, FL.			
JUDYS	40°14'20" N.	87°22'35" W.	Indianapolis, Ind.
ELMAN	36°19'34" N.	85°50'29" W.	Nashville, Tenn.
Rome, Ga.	34°09'45"N.	85°07'10"W.	Vulcan, Ala.
MAUKS	32°29'12" N.	84°24'51" W.	Macon, Ga.
PENNY	30°07'24" N.	83°33'01" W.	Gainesville, Fla.
REPLY	26°10'38" N.	81°06'53" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J812R Miami, Fla., to Chicago, Ill.			
HIGHT	28°11'22" N.	80°42'24" W.	Vero Beach, Fla.
APORT	28°25'30" N.	81°55'45" W.	Ormond Beach, Fla.
ARCHI	29°34'20" N.	82°33'00" W.	Gainesville, Fla.
Alma, GA.	31°32'11" N.	82°30'30" W.	Savannah, GA.
CORNI	33°04'52"N.	83°36'18"W.	Augusta, Ga.
CANTE	34°19'29" N.	84°25'39" W.	Chattanooga, Tenn.
SHUTO	37°14'52" N.	85°21'50" W.	Knoxville, Tenn.
BORDE	38°37'12"N.	86°02'11"W.	Pocket City, Ind.
FORES	40°51'20" N.	87°11'36" W.	Fort Wayne, Ind.
Chicago Heights, IL.	41°30'36" N.	87°34'17" W.	Fort Wayne, IN.

Waypoint name	Location		Reference facility
J815R Washington, D. C., to Atlanta, Ga.			
Casanova, Va.	38°38'28" N.	77°51'57" W.	Gordonsville, Va.
COPPA	36°52'22" N.	80°35'26" W.	Greensboro, N. C.
SHINE	35°18'05" N.	83°02'00" W.	Spartanburg, S. C.
MACEY	34°19'37"N.	83°41'45"W.	Spartanburg, S. C.

Waypoint name	Location		Reference facility
J819R Boston, Mass., to Chicago, Ill.			
TERRY	42°41'31" N.	71°24'10" W.	Putnam, Conn.
SPADS	43°04'37" N.	74°41'42" W.	Hancock, N. Y.
PEKIN	43°02'17" N.	78°39'07" W.	Buffalo, N. Y.
VERMI	42°37'50" N.	84°40'50" W.	Carleton, Mich.
POPPY	42°16'16" N.	87°36'28" W.	South Bend, Ind.

Waypoint name	Location		Reference facility
J820R Chicago, Ill., to Boston, Mass.			
O'Hare, IL.	41°59'16" N.	87°54'17" W.	Joliet, IL.
WOLVI	42°13'36" N.	83°58'14" W.	Carleton, Mich.
SCHOO	42°20'03" N.	80°20'13" W.	Chardon, Ohio
HAMET	42°20'40" N.	79°05'55" W.	Slate Run, Pa.
CHERI	42°40'52" N.	73°18'11" W.	Albany, N. Y.
Gardner, MA.	42°32'45" N.	72°03'31" W.	Putnam, CT.

Waypoint name	Location		Reference facility
J836R Chicago, Ill., to Cincinnati, Ohio			
JUDYS	40°14'20" N.	87°22'35" W.	Indianapolis, Ind.
OGDEN	39°09'27" N.	85°12'25" W.	Fort Wayne, Ind.

Waypoint name	Location		Reference facility
J842R Dallas-Fort Worth, Tex., to New York, N. Y.			
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
Texarkana, AR.	33°30'50" N.	94°04'23" W.	Shreveport, LA.
SURRY	34°56'34"N.	89°57'35"W.	Walnut Ridge, Ark.
ELMAN	36°19'34" N.	85°50'29" W.	Nashville, Tenn.
WOODI	36°50'56" N.	84°02'21" W.	Knoxville, Tenn.
KIMBO	37°24'00" N.	81°27'57" W.	Charleston, W. Va.
Gordonsville, VA.	38°00'48" N.	78°09'12" W.	Richmond, VA.
Atlantic City, NJ.	39°27'21" N.	74°34'36" W.	Westminster, MD.

Waypoint name	Location		Reference facility
J843R New York, N. Y., to Dallas-Fort Worth, Tex.			
Robbinsville, NJ.	40°12'08" N.	74°29'44" W.	Robbinsville, NJ.
Westminster, MD.	39°29'42" N.	76°58'44" W.	Gordonsville, VA.
RENFO	38°24'04" N.	81°23'29" W.	Beckley, W. Va.
SHUTO	37°14'52" N.	85°21'50" W.	Knoxville, Tenn.
SADER	36°41'06"N.	87°06'56"W.	Pocket City, Ind.
BIRLE	35°27'43" N.	90°35'28" W.	Walnut Ridge, Ark.
HOMEB	33°58'47" N.	94°21'05" W.	Texarkana, Ark.
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.

Waypoint name	Location		Reference facility
J851R San Francisco, Calif., to Los Angeles, Calif.			
LOGAN	36°58'59" N.	121°43'26" W.	Fresno, Calif.
VIRGA	34°13'24" N.	118°49'11" W.	Los Angeles, Calif.

Waypoint name	Location		Reference facility
J853R Los Angeles, Calif., to Phoenix, Ariz.			
Seal Beach, Calif.	33°47'00" N.	118°03'14" W.	Oceanside, Calif.
KOFFA	33°30'58" N.	113°53'17" W.	Yuma, Ariz.
Phoenix, Ariz.	33°25'53" N.	111°53'17" W.	Phoenix, Ariz.

Waypoint name	Location		Reference facility
J855R Dallas, Tex., to San Francisco, Calif.			
Wichita Falls, TX.	33°59'14" N.	98°35'35" W.	Wichita Falls, TX.
CROWS	34°08'33" N.	99°45'50" W.	Wichita Falls, Tex.
Texico, NM	34°29'42" N.	102°50'21" W.	Texico, NM.
PALMA	34°54'19" N.	105°18'29" W.	Las Vegas, N. Mex.
VOLCA	35°06'22" N.	106°39'29" W.	Socorro, N. Mex.
DEFER	35°26'19" N.	109°09'39" W.	Gallup, N. Mex.
FOURR	35°41'03"N.	111°20'14"W.	Tuba City, Ariz.
Boulder City, Nev.	35°59'45" N.	114°51'46" W.	Boulder City, Nev., VORTAC
LUCKY	36°02'22" N.	115°50'08" W.	Beatty, Nev.
Modesto, CA.	37°37'39" N.	120°57'25" W.	Fresno, CA.

Waypoint name	Location		Reference facility
J861R El Paso, Tex., to Los Angeles, Calif.			
El Paso, Tex.	31°48'57" N.	106°16'52" W.	El Paso, Tex.
WYCOX	32°23'21" N.	109°50'08" W.	San Simon, Ariz.
ELOPE	32°46'04" N	111°37'04" W.	Phoenix, Ariz.
KOFFA	33°30'58" N.	113°53'17" W.	Yuma, Ariz.
BEAUT	34°05'40" N.	116°44'17" W.	Thermal, Calif.

Waypoint name	Location		Reference facility
J862R Jacksonville, Fla., to Pittsburgh, Pa.			
SIMON	30°41'20" N.	81°17'25" W.	Alma, Ga.
Columbia, SC.	33°51'26" N.	81°03'15" W.	Spartanburg, SC.
Elkins, WV.	38°54'52" N.	80°05'56" W.	Charleston, WV.
NESTO	40°11'39" N.	79°42'49" W.	Bellaire, Ohio

Waypoint name	Location		Reference facility
863R New York, NY., to Atlanta, GA.			
Coyle, NJ.	39°49'02" N.	74°25'55" W.	Coyle, NJ.
Gordonsville, Va.	38°00'48" N.	78°09'12" W.	Richmond, Va.
Galax, Va.	36°28'30" N.	80°34'05" W.	Greensboro, N. C.
MACEY	34°19'37"N.	83°41'45"W.	Spartanburg, S. C.

Waypoint name	Location		Reference facility
J864R Chicago, Ill., to Washington, D. C.			
Peotone, IL	41°16'11" N.	87°47'28" W.	Indianapolis, IN.
TIPPY	41°06'17" N.	85°59'10" W.	Indianapolis, Ind.
Rosewood, OH.	40°17'16" N.	84°02'36" W.	Rosewood, OH.
CAMEO	39°41'31" N.	80°55'50" W.	Bellaire, Ohio
Front Royal, VA.	39°05'26" N.	78°12'02" W.	Casanova, VA.
Armel, Va,	38°56'04" N.	77°28'01" W.	Casanova, Va.

Waypoint name	Location		Reference facility
J865R Washington, D. C., to Chicago, Ill.			
Martinsburg, W. Va.	39°23'06" N.	77°50'55" W.	Philipsburg, Pa.
BALSA	40°29'20" N.	81°04'05" W.	Appleton, Ohio
SHILO	40°57'44" N.	82°30'16" W.	Appleton, Ohio
PLANT	41°37'29" N.	87°15'57" W.	Lafayette, Ind.

Waypoint name	Location		Reference facility
75R Atlanta, Ga., to Memphis, Tenn.			
REME	33°39'32" N.	85°12'55" W.	Montgomery, Ala.
Vulcan, Ala.	33°40'12"N.	86°53'59"W.	Montgomery, Ala.
ANKS	34°46'20" N.	89°29'51" W.	Memphis, Tenn.

Waypoint name	Location		Reference facility
J880R Jacksonville, Fla., to Cleveland, Ohio			
KICKS	30°45'00" N.	81°44'02" W.	Savannah, Ga.
Augusta, GA.	33°32'40" N.	82°08'00" W.	Columbia, SC.
BEECH	36°05'30" N.	82°04'58" W.	Spartanburg, S. C.
Henderson, WV.	38°45'15" N.	82°01'35" W.	Charleston, WV.
RITZS	40°59'52" N.	81°44'06" W.	Bellaire, Ohio

Waypoint name	Location		Reference facility
J883R Minneapolis, Minn., to New York, N. Y.			
Minneapolis, MN.	45°08'45" N.	93°22'23" W.	Minneapolis, MN.
DENNY	44°23'25"N.	87°53'34"W.	Badger, Wis.
NIRVA	44°01'23" N.	85°45'09" W.	Pullman, Mich.
SANIL	43°32'29" N.	82°37'40" W.	Peck, Mich.
BLAKE	42°47'58" N.	78°41'50" W.	Buffalo, N. Y.
Kingston, NY.	41°39'55" N.	73°49'22" W.	Huguenot, NY.

Waypoint name	Location		Reference facility
J884R New York, N. Y., to Minneapolis, Minn.			
Huguenot, N. Y.	41°24'35" N.	74°35'31" W.	Hancock, N. Y.
GOWER	42°33'27" N.	78°48'58" W.	Buffalo, N. Y.
CARTE	43°25'49" N.	82°38'59" W.	Peck, Mich.
NIRVA	44°01'23" N.	85°45'09" W.	Pullman, Mich.
DENNY	44°23'25"N.	87°53'34"W.	Badger, Wis.
Minneapolis, Minn.	45°08'45" N.	93°22'23" W.	Minneapolis, Minn.

Waypoint name	Location		Reference facility
J886R Chicago, Ill., to REDOO			
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill.
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
DANNY	42°13'53" N.	95°38'35" W.	Omaha, Nebr.
DRIES	42°20'04" N.	98°25'33" W.	Wolbach, Nebr.
Otsie, Nebr.	42°29'03" N.	103°28'24" W.	Scottsbluff, Nebr.
SPLIT	42°25'17" N.	108°14'00" W.	Boysen Reservoir, Wyo.
Malad City, Idaho	42°12'00" N.	112°27'02" W.	Malad City, Idaho
DELIA	42°02'01" N.	114°24'46" W.	Twin Falls, Idaho
COLES	41°40'53" N.	117°39'54" W.	Rome, Oreg.
LIKED	41°20'21" N.	120°12'08" W.	Lakeview, Oreg.
Fortuna, Calif.	40°40'17" N.	124°14'00" W.	Fortuna, Calif.
REDOO	40°38'22" N.	126°56'27" W.	Fortuna, Calif.

Waypoint name	Location		Reference facility
J887R REDOO to Chicago, Ill.			
REDOO	40°38'22" N.	126°56'27" W.	Fortuna, Calif.
Fortuna, Calif.	40°40'17" N.	124°14'00" W.	Fortuna, Calif.
LIKED	41°20'21" N.	120°12'09" W.	Lakeview, Oreg.
COLES	41°40'53" N.	117°39'54" W.	Rome, Oreg.
DELIA	42°02'01" N.	114°24'46" W.	Twin Falls, Idaho
Malad City, Idaho	42°12'00" N.	112°27'02" W.	Malad City, Idaho
SPLIT	42°25'17" N.	108°14'00" W.	Boysen Reservoir, Wyo.
Otsie, Nebr.	42°29'03" N.	103°28'24" W.	Scottsbluff, Nebr.
DRIES	42°20'04" N.	98°25'33" W.	Wolbach, Nebr.
KAMRA	42°25'45" N.	93°43'56" W.	Des Moines, Iowa
SCALE	42°22'53" N.	90°24'00" W.	Iowa City, Iowa
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

Waypoint Name	Location		Reference facility
J888R AMOTT-RHODE			
AMOTT	60°54'04"N.	151°21'11"W.	Anchorage, Alaska
MALOS	60°49'00"N.	155°00'00"W.	King Salmon, Alaska
MOUSY	60°44'00"N.	157°00'00"W.	Bethel, Alaska
KULIK	60°29'15"N.	161°44'30"W.	Bethel, Alaska
RHODE	60°19'10"N.	164°09'46"W.	Bethel, Alaska

AMENDMENTS 1/24/80 44 F. R. 68453 (Changed)

Waypoint name	Location		Reference facility
J889R Anchorage, Alaska, to Yakutat, Alaska			
NOWEL	60°29'01"N.	148°38'01"W.	Anchorage, Alaska
ARISE	60°00'02"N.	146°09'06"W.	Middleton Island, Alaska
KONKS	59°33'04"N.	144°00'00"W.	Middleton Island, Alaska
KILLA	58°45'00"N.	140°35'00"W.	Yakutat, Alaska

Waypoint name	Location		Reference facility
J896R Chicago, Ill., to Philadelphia, Pa.			
Peotone, IL.	41°16'11" N.	87°47'28" W.	Indianapolis, IN.
TIPPY	41°06'17" N.	85°50'10" W.	Indianapolis, Ind.
Rosewood, OH.	40°17'16" N.	84°02'36" W.	Rosewood, OH.
CONIC	40°19'10" N.	80°48'55" W.	Bellaire, Ohio
Harrisburg, PA.	40°14'29" N.	77°01'19" W.	Westminster, MD.
BUCKS	40°04'49" N.	75°43'26" W.	Westminster, Md.

Waypoint name	Location		Reference facility
J900R San Francisco, Calif., to Seattle, Wash.			
Napa Calif.	38°10'46" N.	122°22'18" W.	Ukiah, Calif.
HILLY	40°05'56" N.	122°21'35" W.	Redbluff, Calif.
Hyatt, Oreg.	42°27'23" N.	122°20'36" W.	Medford, Oreg.
YACHT	45°44'50" N.	122°19'12" W.	Portland, Oregon
SUMMA	47°11'08" N.	122°18'30" W.	Portland, Oregon

Waypoint name	Location		Reference facility
J903R Los Angeles, Calif., to Tucson, Ariz.			
Seal Beach, CA.	33°47'00" N.	118°03'14" W.	Oceanside, CA.
KOFFA	33°30'58" N.	113°53'17" W.	Yuma, Ariz.
Tucson, Ariz.	32°07'21" N.	110°49'12" W.	Tucson, Ariz.

Waypoint name	Location		Reference facility
J906R Los Angeles, Calif., to Ogden, Utah			
Los Angeles, Calif.	33°55'59" N.	118°25'52" W.	Palmdale, Calif.
Hector, Calif.	34°47'49" N.	116°27'43" W.	Boulder City, Nev.
MESIC	35°44'20" N.	115°32'01" W.	Boulder City, Nev.
ADAPT	37°40'22" N.	113°31'53" W.	Wilson Creek, Nev.
FOOLS	39°38'15" N.	112°18'42" W.	Delta, Utah
Ogden, Utah	41°13'27" N.	112°05'51" W.	Malad City, Mont.

Waypoint name	Location		Reference facility
J907R Hobby, Tex., to Los Angeles, Calif.			
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.
Austin, TX,	30°17'51" N,	97°42'11" W.	San Antonio, TX.
Junction, Tex.	30°35'52" N,	99°49'02" W.	San Angelo, Tex.
Fort Stockton, Tex.	30°57'07" N.	102°58'31" W.	Wink, Tex.
TOYAH	31°31'23" N.	104°03'00" W.	Wink, Tex.
CHUAN	32°14'48" N.	106°52'20" W.	Truth or Consequences, N. Mex.
WYCOX	32°23'21" N.	109°50'08" W.	San Simon, Ariz.
ELOPE	32°46'04" N.	111°37'04" W.	Phoenix, Ariz.
BRENT	33°43'58" N.	113°47'00" W.	Yuma, Ariz.
BEAUT	34°05'40" N.	116°44'17" W.	Thermal, Calif.

Waypoint name	Location		Reference facility
J912R Dallas-Fort Worth, Tex., to Chicago, Ill.			
Dallas-Fort Worth, Tex.	32°51'57" N.,	97°01'40" W.	Dallas-Fort Worth, Tex.
STICK	35°06'27" N.	95°07'27" W.	Tulsa, Okla.
Springfield, Mo.	37°21'21" N.	93°20'02" W.	Butler, Mo.
PEONY	40°40'07" N.	89°41'28" W.	Capital, Ill.
Joliet, Ill.	41°32'47" N.	88°19'06" W.	Joliet, Ill.
WRENS	41°48'38" N.	88°16'07" W.	Joliet, Ill.

Waypoint name	Location		Reference facility
J914R Dallas-Fort Worth, Tex., to New Orleans, La.			
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
TENNA	31°52'49" N.	94°14'33" W.	Shreveport, La.
Alexandria, La.	31°15'23" N.	92°30'02" W.	Alexandria, La.
New Orleans, La.	30°01'47" N.	90°10'20" W.	New Orleans, La.

Waypoint name	Location		Reference facility
J917R San Francisco, Calif., to Phoenix, Ariz.			
LOGAN	36°58'59" N.	121°43'26" W.	Fresno, Calif.
EASTA	36°45'17" N.	119°49'48" W.	Fresno, Calif.
WILDY	36°19'37" N.	116°51'41" W.	Beatty, Nev.
Boulder City, Nev.	35°50'45" N.	114°51'46" W.	Boulder City, Nev.
SYCMO	34°37'25" N.	112°55'26" W.	Needles, Calif.
Phoenix, Ariz.	33°25'53" N.	111°53'17" W.	Phoenix, Ariz.

Waypoint name	Location		Reference facility
J918R Hobby, Tex., to New Orleans, La.			
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.
GU ST	30°01'21" N.	92°28'52" W.	Alexandria, La.
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.

Waypoint name	Location		Reference facility
J919R El Paso, Tex., to San Antonio, Tex.			
El Paso, Tex.	31°48'57" N.	106°16'53" W.	El Paso, Tex.
Fort Stockton, Tex.	30°57'07" N.	102°58'31" W.	Wink, Tex.
TELIA	30°06'45" N.	100°00'31" W.	Junction, Tex.
San Antonio, Tex.	29°38'38" N.	98°27'40" W.	Austin, Tex.

Waypoint name	Location		Reference facility
J920R Great Falls, Mont., to Salt Lake City, Utah			
KRIMS	49°00'00" N.	109°27'26" W.	Lewistown, Mont.
MILLE	47°02'01" N.	111°24'11" W.	Lewistown, Mont.
JEPPE	45°11'50" N.	111°38'35" W.	Dillon, Mont.
CHESS	44°03'49" N.	111°46'44" W.	Dubois, Idaho
Ogden, Utah	41°13'27" N.	112°05'51" W.	Malad City, Idaho

Waypoint name	Location		Reference facility
J924R Los Angeles, Calif., to Seattle, Wash.			
Avenal, CA.	35°38'49" N.	119°58'40" W.	Fresno, CA.
WASHY	39°25'23" N.	120°39'06" W.	Reno, Nev.
QUART	42°24'45" N.	121°14'23" W.	Lakeview, Oreg.
SUMMA	47°11'08" N.	122°18'30" W.	Portland, Oreg.

Waypoint name	Location		Reference facility
J929R Atlanta, Ga., to Hobby, Tex.			
BREME	33°39'32" N.	85°12'55" W.	Montgomery, Ala.
Meridian, MS.	32°22'42" N.	88°48'15" W.	Jackson, MS.
BURKE	30°43'25" N.	93°24'11" W.	Lake Charles, La.
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.

Waypoint name	Location		Reference facility
J932R New Orleans, LA., to Memphis, TN.			
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.
Jackson, MS.	32°30'26" N.	90°10'03" W.	Meridian, MS.
SURRY	34°56'34"N.	89°57'35"W.	Walnut Ridge, Ark.

Waypoint name	Location		Reference facility
J933R Dallas, Tex., to Los Angeles, Calif.			
Wichita Falls, TX.	33°59'14" N.	98°35'35" W.	Wichita Falls, TX.
CROWS	34°08'33" N.	99°45'50" W.	Wichita Falls, Tex.
Texico, N. Mex.	34°29'42" N.	102°50'21" W.	Texico, N. Mex.
VAULT	34°37'10" N.	105°12'02" W.	Las Vegas, N. Mex.
TERRA	34°43'28" N.	109°08'57" W.	Gallup, N. Mex.
MANIA	34°48'42" N.	110°48'56" W.	Gallup, N. Mex.
DRAKE	34°56'54" N.	112°32'15" W.	Prescott, Ariz.
CHUBS	34°32'20" N.	114°48'08" W.	Parker, Calif.
MORRO	34°02'51" N.	117°14'54" W.	Oceanside, Calif.

Waypoint name	Location		Reference facility
J934R Dallas-Fort Worth, Tex., to Atlanta, Ga.			
Dallas-Fort Worth, Tex.	32°51'57"N.	97°01'40" W	Dallas-Fort Worth, Tex.
Texarkana, AR.	33°30'50" N.	94°04'23" W.	Shreveport, LA.
MONEY	33°31'12" N.	90°08'54" W.	Jackson, Miss.
Bigbee, Miss.	33°29'07"N.	88°30'49"W.	Jackson, Miss.
Vulcan, Ala.	33°40'12"N.	86°53'59"W.	Montgomery, Ala.
Rome. Ga.	34°09'45"N.	85°07'10"W.	Vulcan, Ala.

Waypoint name	Location		Reference facility
J937R ALCOA to Chicago, Ill.			
ALCOA	37°50'00"N.	125°50'00"W.	Ukiah, Calif.
SAWED	38°37'27" N.	123°04'28" W.	Ukiah, Calif.
Reno, NV.	39°31'53" N.	119°39'18" W.	Reno, NV.
TENBO	40°06'20" N.	116°46'26" W.	Battle Mountain, Nev.
Bonneville, UT.	40°43'34" N.	113°45'24" W.	Bonneville, UT.
WOODS	40°58'05" N.	112°06'09" W.	Malad City, Idaho
QUEEN	41°25'15" N.	108°58'31" W.	Rock Springs, Wyo.
SLATE	41°53'12" N.	104°53'16" W.	Cheyenne, Wyo.
Berea, NE.	42°02'38" N.	103°07'04" W.	Sidney, NE.
[illegible]	42°20'04" N.	98°25'33" W.	Wolbach, Nebr.
KAMRA	42°25'45" N.	93°43'56" W.	Fort Dodge, Iowa
SCALE	42°22'53" N.	90°24'00" W.	Iowa City, Iowa
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

Waypoint name	Location		Reference facility
J938R Chicago, Ill., to BEBOP			
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
UTERO	42°02'05" N.	95°44'37" W.	Omaha, Nebr.
CUMIN	41°59'41" N.	98°22'59" W.	Wolbach, Nebr.
ANGLO	41°47'19" N.	103°03'32" W.	Sidney, Nebr.
BORAX	41°39'48" N.	104°50'04" W.	Cheyenne, Wyo.
VERON	41°16'13" N.	108°57'02" W.	Rock Springs, Wyo.
MAGNA	40°52'19" N.	112°05'03" W.	Fairfield, Utah
ARIES	40°37'37" N.	113°43'47" W.	Bonneville, Utah
TENBO	40°06'20" N.	116°46'26" W.	Battle Mountain, Nev.
Reno, NV.	39°31'53" N.	119°39'18" W.	Reno, NV.
Napa, Calif.	38°10'46" N.	122°22'19" W.	Ukiah, Calif.
PALIS	37°36'00" N.	123°30'00" W.	Ukiah, Calif.
BEBOP	37°00'00"N.	125°00'00"W.	Oakland, Calif.

Waypoint name	Location		Reference facility
J93 R Chicago, Ill., to Seattle, Wash.			
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill.
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
CORBY	42°58'37" N.	93°54'48" W.	Fort Dodge, Iowa
HEIDY	44°07'06" N.	96°00'04" W.	Sioux Falls, S. Dak.
TURTS	44°45'05" N.	98°39'52" W.	Aberdeen, S. Dak.
REVAS	45°39'50" N.	103°12'58" W.	Dickinson, N. Dak.
Klein, Mont.	46°27'51" N.	108°26'58" W.	Billings, Mont.
HOLTE	46°51'21" N.	111°54'03" W.	Helena, Mont.
Avery, Idaho	47°10'05" N.	115°41'12" W.	Mullan Pass, Idaho
Amber, Wash.	47°17'02" N.	117°39'24" W.	Spokane, Wash.
Seattle, Wash.	47°26'08" N.	122°18'30" W.	Seattle, Wash.

Waypoint name	Location		Reference facility
J940R Seattle, Wash., to Chicago, Ill.			
Seattle, WA.	47°26'08" N.	122°18'30" W.	Seattle, WA.
Amber, WA.	47°17'02" N.	117°39'24" W.	Spokane, WA.
Avery, ID.	47°10'05" N.	115°41'12" W.	Mullan Pass, ID.
HOLTE	46°51'21" N.	111°54'03" W.	Helena, Mont.
Klein, MT.	46°27'51" N.	108°26'58" W.	Billings, MT.
REVAS	45°39'50" N.	103°12'58" W.	Dickinson, N. Dak.
TURTS	44°45'05" N.	98°39'52" W.	Aberdeen, S. Dak.
HEIDY	44°07'06" N.	96°00'04" W.	Sioux Falls, S. Dak.
ORATO	43°27'29" N.	93°09'59" W.	Mason City, Iowa
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

Waypoint name	Location		Reference facility
J941R Dallas-Fort Worth, Tex., to Las Vegas, Nev.			
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
Bridgeport, TX.	33°14'16" N.	97°45'58" W.	Ardmore, OK.
CROWS	34°08'33" N.	99°45'50" W.	Wichita Falls, Tex.
Texico, NM.	34°29'42" N.	102°50'21" W.	Texico, NM.
PALMA	34°54'19" N.	105°18'29" W.	Las Vegas, N. Mex.
VOLCA	35°06'22" N.	106°39'29" W.	Socorro, N. Mex.
DEFER	35°26'19" N.	109°09'39" W.	Gallup, N. Mex.
FOURR	35°41'03"N.	111°20'14"W.	Tuba City, Ariz.
Boulder City, NV.	35°59'45" N.	114°51'46" W.	Boulder City, NV.

Waypoint name	Location		Reference facility
J945R CAMEL to DINTY			
CAMEL	35°58'37" N.	111°12'21" W.	Tuba City, Ariz.
DODIE	35°21'49" N.	114°38'38" W.	Needles, Calif.
Palmdale, Calif.	34°37'53" N.	118°03'47" W.	Palmdale, Calif.
Santa Barbara, Calif.	34°30'35" N.	119°46'12" W.	Santa Barbara, Calif.
DINTY	33°29'00"N.	122°35'00"W.	Santa Barbara, Calif.

Waypoint name	Location		Reference facility
J948R New Orleans, La., to Oklahoma City, Okla.			
KENNA	29°59'05" N.	90°15'04" W.	New Orleans, La.
MONZA	30°30'42" N.	90°47'09" W.	New Orleans, La.
DIXIE	32°43'53" N.	93°50'55" W.	Shreveport, La.
DIBBS	35°10'02" N.	97°31'55" W.	Oklahoma City, Okla.

Waypoint name	Location		Reference facility
J949R Oklahoma City, Okla., to Houston, Tex.			
KAYES	35°16'32" N.	97°46'21" W.	Oklahoma City, Okla.
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
Navasota, Tex.	30°17'20" N.	96°03'30" W.	Humble, Tex.

Waypoint name	Location		Reference facility
J952R New York, N. Y., to Hobby, Tex.			
Coyle, NJ.	39°49'02" N.	74°25'55" W.	Coyle, NJ.
Gordonsville, VA.	38°00'48" N.	78°09'12" W.	Richmond, VA.
COPPA	36°52'22" N.	80°35'26" W.	Greensboro, N. C.
BEECH	36°05'30" N.	82°04'58" W.	Spartanburg, S. C.
TRION	34°27'25" N.	85°14'12" W.	Atlanta, Ga.
IRONY	33°19'28" N.	87°13'18" W.	Montgomery, Ala.
Meridian, MS.	32°22'42" N.	88°48'15" W.	Jackson, MS.
BURKE	30°43'25" N.	93°24'11" W.	Lake Charles, La.
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.

Waypoint name	Location		Reference facility
J953R New Orleans, La., to New York, N. Y.			
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.
Monroeville, AL.	31°27'37" N.	87°21'10" W.	Montgomery, AL.
Montgomery, AL.	32°13'20" N.	86°19'11" W.	Montgomery, AL.
STONE	33°39'00" N.	84°01'00" W.	Macon, Ga.
GRAMS	34°57'15" N.	82°06'05" W.	Columbia, S. C.
SEMOL	36°31'24" N.	79°25'48" W.	Raleigh-Durham, N. C.
Atlantic City, NJ.	39°27'21" N.	74°34'36" W.	Westminster, MD.

Waypoint name	Location		Reference facility
J957R Jacksonville, FL., to Washington, D. C.			
SIMON	30°41'20" N.	81°17'25" W.	Alma, Ga.
BAGGY	32°36'40" N.	80°27'00" W.	Charleston, S. C.
Florence, SC.	34°13'58" N.	79°39'26" W.	Florence, SC.
Richmond, VA.	37°30'08" N.	77°19'14" W.	Flat Rock, VA.
MARBY	38°30'12" N.	77°07'07" W.	Flat Rock, Va.

Waypoint name	Location		Reference facility
J958R Washington, DC., to Jacksonville, FL.			
Brooke, VA.	38°20'10" N.	77°21'11" W.	Richmond, VA.
Flat Rock, Va.	37°31'42" N.	77°49'43" W.	Richmond, Va.
SOCHE	34°37'30" N.	79°45'00" W.	Florence, S. C.
RITES	32°47'00" N.	80°37'30" W.	Charleston, S. C.
CHEST	30°52'25" N.	81°28'52" W.	Jacksonville, Fla.

Waypoint name	Location		Reference facility
J959R Miami, Fla., to Detroit, Mich.			
ANDRE	26°09'43"N.	80°17'36" W.	Vero Beach, Fla.
PONTE	30°12'23" N.	81°21'39" W.	Jacksonville, Fla.
Augusta, GA.	33°32'40" N.	82°08'00" W.	Columbia, SC.
BADER	36°06'51" N.	82°59'07" W.	Knoxville, Tenn.
MINER	38°42'28" N.	83°54'20" W.	Louisville, Ky.
Dayton, OH.	40°00'59" N.	84°23'49" W.	Fort Wayne, IN.
Milan, MI.	42°03'05" N.	83°44'55" W.	Fort Wayne, IN.

Waypoint name	Location		Reference facility
J961R DINTY to PARIA			
DINTY	33°29'00"N.	122°35'00"W.	Santa Barbara, Calif.
Santa Barbara, Calif.	34°30'35" N.	119°46'12" W.	Santa Barbara, Calif.
Palmdale, Calif.	34°37'53" N.	118°03'47" W.	Palmdale, Calif.
RABBI	34°44'09" N.	117°08'00" W.	Hector, Calif.
SANUP	36°08'19" N.	113°51'29" W.	Peach Springs, Ariz.
PARIA	36°53'51" N.	111°55'43" W.	Bryce Canyon, Utah

Waypoint name	Location		Reference facility
J964R Coaldale. Nev.. to BEBOP			
Coaldale, NV.	38°00'12" N.	117°46'10" W.	Coaldale, NV.
BUCKO	37°40'09" N.	119°59'55" W.	Fresno, Calif.
MERLE	37°20'54" N.	122°50'36" W.	Oakland, Calif.
BEBOP	37°00'00"N.	125°00'00"W.	Oakland, Calif.

Waypoint name	Location		Reference facility
J966R ALCOA to Mina, Nev.			
ALCOA	37°50'00"N.	125°50'00"W.	Ukiah, Calif.
PALIS	37°36'00" N.	123°30'00" W.	Ukiah, Calif.
MAYAN	38°00'02" N.	121°25'14" W.	Sacramento, Calif.
Mina, Nev.	38°33'55" N.	118°01'55" W.	Coaldale, Nev.

Waypoint name	Location		Reference facility
J967R CLUKK to Mina, Nev.			
CLUKK	36°05'00"N.	124°50'00"W.	Oakland, Calif.
MERLE	37°20'54" N.	122°50'36" W.	Oakland, Calif.
STANI	37°46'30" N.	120°51'48" W.	Linden, Calif.
Mina, Nev.	38°33'55" N.	118°01'55" W.	Coaldale, Nev.

Waypoint name	Location		Reference facility
J974R Washington, D. C., to Los Angeles, Calif.			
Front Royal, Va.	39°05'26" N.	078°12'02" W.	Casanova, Va.
Henderson, W. Va.	38°45'15" N.	082°01'38" W.	Charleston, W. Va.
MINER	38°42'28" N.	083°54'20" W.	Louisville, Ky.
MARIN	38°43'46" N.	089°51'54" W.	Capital, Ill.
HAWKS	38°42'35" N.	090°55'59" W.	Farmington, Mo.
TIGRT	38°21'43" N.	093°34'00" W.	Springfield, Mo.
Wichita, Kans.	37°43'40" N.	097°27'11" W.	Pioneer, Okla.
IARCH	37°10'36" N.	100°29'46" W.	Garden City, Kans.
SOFIA	36°25'38" N.	104°01'41" W.	Tucumcari, N. Mex.
SPRIN	36°15'07" N.	104°46'52" W.	Las Vegas, N. Mex.
DEFER	35°26'19" N.	109°09'39" W.	Gallup, N. Mex.
DRAKE	34°56'54" N.	112°32'15" W.	Prescott, Ariz.
CHUBS	34°32'20" N.	114°48'08" W.	Parker, Calif.
MORRO	34°02'51" N.	117°14'54" W.	Oceanside, Calif.

Waypoint name	Location		Reference facility
J978R Seattle, Wash., to Minneapolis, Minn.			
BOTHS	47°43'56" N.	122°05'03" W.	Seattle, Wash.
COULE	47°39'42" N.	119°24'00" W.	Ephrata, Wash.
Mullan Pass, ID.	47°27'25" N.	115°38'42" W.	Mullan Pass, ID.
EDENS	47°21'50" N.	111°25'15" W.	Great Falls, Mont.
MOULT	47°16'24" N.	109°34'42" W.	Lewiston, Mont.
BROCK	46°59'51" N.	105°50'24" W.	Miles City, Mont.
LARKS	46°29'51" N.	101°20'11" W.	Dupree, S. Dak.
Oakes, ND.	46°01'58" N.	98°09'59" W.	Aberdeen, SD.
Minneapolis, MN.	45°08'45" N.	93°22'23" W.	Minneapolis, MN.

Waypoint name	Location		Reference facility
J981R Los Angeles, Calif., to Washington, D. C.			
Parker, Calif.	34°06'07" N.	114°40'53" W.	Needles, Calif.
Prescott, Ariz.	34°42'09" N.	112°28'46" W.	Phoenix, Ariz.
WELLS	35°13'59" N.	108°47'53" W.	St. Johns, Ariz.
MORAE	35°52'40" N.	105°18'54" W.	Las Vegas, N. Mex.
CANAS	36°21'15" N.	101°48'33" W.	Amarillo, Tex.
TANGY	36°32'14" N.	099°56'38" W.	Kingfisher, Okla.
IRWIN	37°30'10" N.	094°18'35" W.	Butler, Mo.
SPROT	37°56'21" N.	090°16'20" W.	Farmington, Mo.
CANTO	38°16'02" N.	085°35'26" W.	Louisville, Ky.
RENFO	38°24'04" N.	081°23'29" W.	Beckley, W. Va.
Diana, W. Va.	38°29'44" N.	080°11'01" W.	Beckley, W. Va.

Waypoint name	Location		Reference facility
J983R Miami, FL., to New Orleans, LA.			
HIGRT	26°11'22" N.	80°42'24" W.	Vero Beach, Fla.
Sarasota, FL.	27°23'51" N.	82°33'16" W.	Sarasota, FL.
NEPTA	28°36'40" N.	87°38'36" W.	Crestview, Fla.
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.

Waypoint name	Location		Reference facility
J984R Hobby, Tex., to Miami, Fla.			
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.
Leeville, LA.	29°10'30" N.	90°06'14" W.	Leeville, LA.
NEPTA	28°36'40" N.	87°38'36" W.	Crestview, Fla.
Sarasota, FL.	27°23'51" N.	82°33'16" W.	Sarasota, FL.
REPLY	26°10'36" N.	81°06'53" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J988R San Antonio, TX., to Phoenix, AZ.			
San Antonio, TX.	29°38'36" N.	98°27'40" W.	Austin, TX.
TELIA	30°06'45" N.	100°00'31" W.	Junction, Tex.
Fort Stockton, TX.	30°57'07" N.	102°58'31" W.	Wink, TX.
TOYAH	31°31'23" N.	104°03'00" W.	Wink, Tex.
ORGAN	32°14'48" N.	106°52'20" W.	Truth or Consequences, N. Mex.
SHELL	32°47'55" N.	109°05'10" W.	San Simon, Ariz.
Phoenix, AZ.	33°25'53" N.	111°53'17" W.	Phoenix, AZ.

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Waypoint name	Location		Reference facility
J990R Phoenix, AZ., to Bridgeport, TX.			
Phoenix, AZ.	33°25'53" N.	111°53'17" W.	Phoenix, AZ.
MULEY	33°21'55" N.	109°11'49" W.	St. Johns, Ariz.
Truth or Consequences, NM.	33°16'57" N.	107°16'48" W.	Socorro, NM.
Roswell, NM.	33°20'15" N.	104°37'15" W.	Roswell, NM.
PLAIN	33°20'52" N.	102°50'29" W.	Texico, N. Mex.
ROCKS	33°18'28" N.	99°50'01" W.	Abilene, Tex.
Bridgeport, TX.	33°14'16" N.	97°45'58" W.	Ardmore, OK.

Waypoint name	Location		Reference facility
J993R John F. Kennedy Airport, N. Y., to Miami, Fla.			
BOUND	38°06'45" N.	75°26'05" W.	Richmond, Va.
RESCO	36°47'30" N.	76°25'30" W.	Richmond, Va.
SURFY	34°06'00" N.	78°00'00" W.	Raleigh-Durham, N. C.
AZANA	32°23'32" N.	78°14'57" W.	Charleston, S. C.
GAUGE	30°25'29" N.	78°33'57" W.	Ormond Beach, Fla.
SAILS	30°00'00" N.	78°38'00" W.	Ormond Beach, Fla.
TARPO	28°00'00" N.	79°30'00" W.	Vero Beach, Fla.
PINES	26°17'31" N.	79°54'49" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J994R John F. Kennedy Airport, N. Y., to Orlando, Fla.			
BOUND	38°06'45" N.	75°26'05" W.	Richmond, Va.
RESCO	36°47'30" N.	76°25'30" W.	Richmond, Va.
CLARK	34°26'30" N.	78°57'30" W.	Raleigh-Durham, N. C.
HITES	32°47'00" N.	80°37'30" W.	Charleston, S. C.
CREST	30°52'25" N.	81°28'52" W.	Jacksonville, Fla.
Jacksonville, Fla.	30°27'00" N.	81°33'52" W.	Jacksonville, Fla.
Orlando, Fla.	28°32'33" N.	81°20'07" W.	Orlando, Fla.

Waypoint name	Location		Reference facility
J995R Dulles International Airport, Va., to Miami, Fla.			
Casanova, Va.	38°38'28" N.	77°51'57" W.	Gordonsville, Va.
Flat Rock, Va.	37°31'42" N.	77°49'43" W.	Richmond, Va.
SURFY	34°06'00" N.	78°00'00" W.	Raleigh-Durham, N. C.
AZANA	32°23'32" N.	78°14'57" W.	Charleston. S. C.
GAUGE	30°25'29" N.	78°33'57" W.	Ormond Beach, Fla.
SAILS	30°00'00" N.	78°38'00" W.	Ormond Beach, Fla.
HALBI	26°41'00" N.	79°08'05" W.	Vero Beach, Fla.
BONDI	26°03'28" N.	79°46'14" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J996R Cape Newenham-Amott			
Cape Newenham	58°39'24"N.	162°04'25"W.	King Salmon, Alaska
NERKA	59°26'00"N.	158°55'00"W.	King Salmon, Alaska
CAREN	60°15'30"N.	154°58'00"W.	King Salmon, Alaska
AMOTT	60°54'04"N.	151°21'11"W.	Anchorage, Alaska

AMENDMENTS 1/24/80 44 F. R. 68453 (Changed)

Waypoint name	Location		Reference facility
J997R Anchorage, Alaska, to Annette Island, Alaska			
NOWEL	60°29'01"N.	148°38'01"W.	Anchorage, Alaska
TONTS	59°51'06"N.	146°18'00"W.	Middleton Island, Alaska
DUNKS	57°58'07"N.	140°14'00"W.	Yakutat, Alaska
HOLLI	56°40'00"N.	137°00'00"W.	Biorka Island, Alaska
MOCHA	54°29'05"N.	133°00'02"W.	Annette Island, Alaska

[FR Doc. 80-40450 Filed 12-31-80; 8:45 am]

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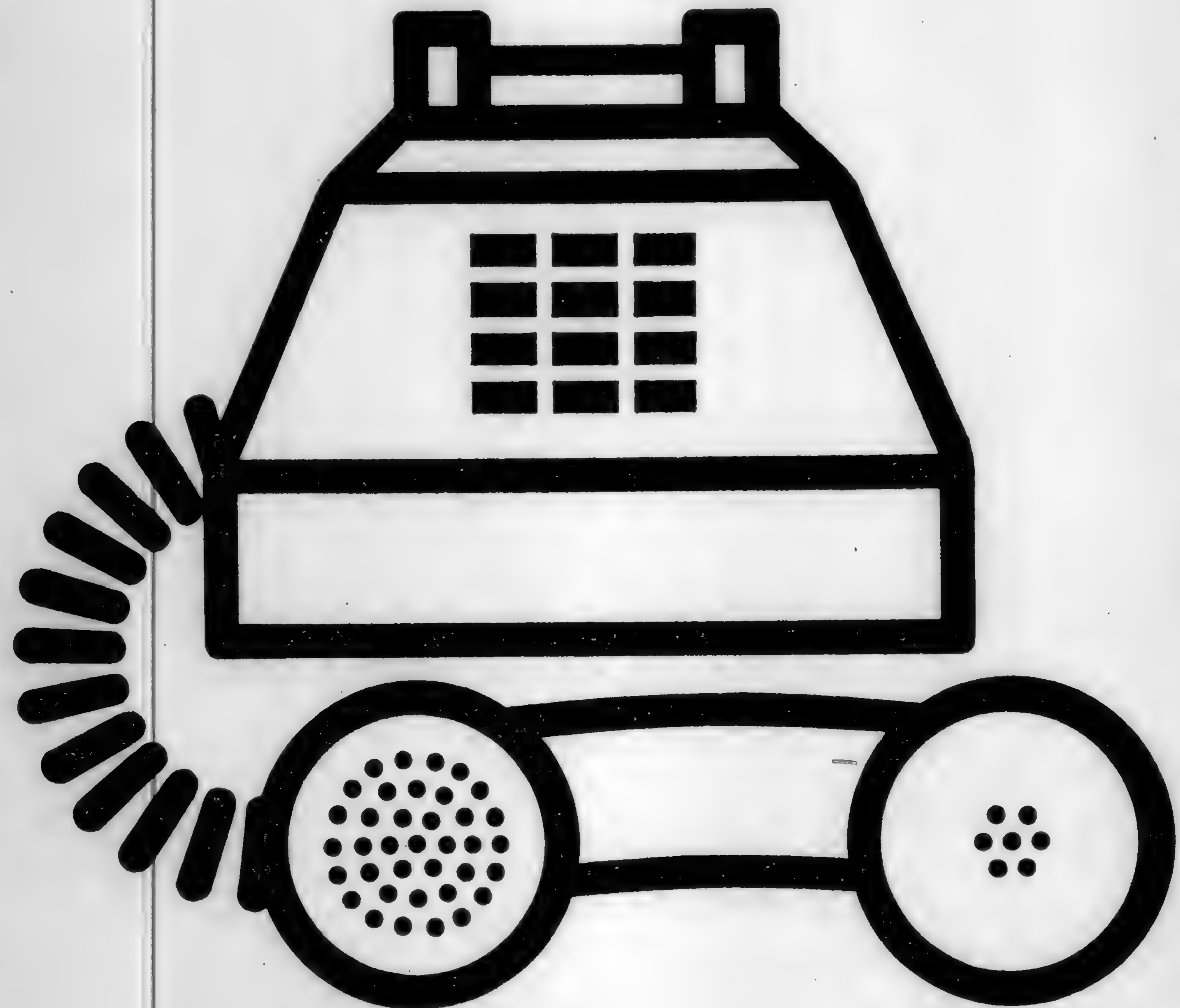

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federal register

Monday
January 5, 1981

Highlights

1222 **Grant Programs** USDA/SEA solicits applications for special research grants program for FY 1981 (Part VII of this issue)

1120 **Nondiscrimination on the Basis of Handicap** Treasury/RSO issues final rules; effective 2-4-81 (Part III of this issue)

931 **Nondiscrimination** SBA proposes rule concerning nondiscrimination in financial assistance programs of SBA; comments by 2-27-81

1132 **Post Employment Conflicts of Interest** EXIMBANK revises rules; effective 2-4-81 (Part IV of this issue)

859 **Public Works and Development Facilities Program** Commerce/EDA issues interim rule setting forth requirements for funding certain types of projects; effective 1-5-81; comments by 3-6-81

935 **Textiles** FTC proposes amendment concerning care labeling of textile products and leather clothing; comments by 2-4-81

1049 **Imports** ITC makes determination concerning snow-grooming vehicles and parts and accessories from the Federal Republic of Germany

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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1196, 1213 **Automated Data Processing Equipment** GSA issues procurement and property management regulations; effective 1-15-81 (2 documents) (Part VI of this issue)

1020 **Toxic Substances** EPA approves premanufacture exemption application for carbomonocyclic anhydride alkanediols

1102 **Metal Coil Surface Coating** EPA proposes standards of performance to limit emissions of volatile organic compounds (VOCs) from coating operations; comments by 3-6-81 (Part II of this issue)

1068 **Small Businesses** SBA issues notice concerning maximum annual cost of money to small business concerns

943 **Controlled Substances** Justice/DEA proposes to place the drug temazepam into Schedule IV of the Controlled Substances Act; comments by 3-6-81

974 **Crop Insurance** FCIC gives notice of offer to provide reinsurance for writers of multiple-peril crop insurance policies; effective on 1-5-81

952 **Postal Service** PRC serves notice of postponement of annual review of rules of practice

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1002 DOD/Army

1074 **Sunshine Act Meetings**

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1120 **Part III, Treasury/ORS**
1132 **Part IV, Export-Import Bank**
1136 **Part V, EPA**
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Rules and Regulations

Federal Register
Vol. 46, No. 2
Monday, January 5, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Harris County in Texas, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicated that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: December 24, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Harris County in Texas, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect.

§ 82.3 [Amended]

In § 82.3(a)(3), relating to the State of Texas, paragraph (ii) relating to the premises of Dr. R. Ann Mayes, 110 Carl Street, Houston, Harris County is removed.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therfore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 24th day of December 1980.

Pierre A. Chaloux, VMD,
Deputy Administrator, Veterinary Services.

[FR Doc. 81-108 Filed 1-2-81; 8:45 am]
BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 305 and 309

Funding of Health-Related Facilities and Other Projects Under the Public Works and Development Facilities Program

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Interim rule.

SUMMARY: This interim rule modifies two regulations setting forth requirements for funding certain types of projects under the Public Works and Development Facilities Program. One regulation is amended to clarify its scope by noting that its requirements apply to Public Works Impact Program projects. The other regulation is amended to tighten its standards relating to economic impact and to specify that projects involving health-related facilities must be reviewed and approved by the Department of Health and Human Services and, if appropriate, the State Health Planning and Development Agency. In addition, a third regulation regarding project modification is amended to clarify the scope of one provision.

DATES: Effective date: January 5, 1981. Comments by: March 6, 1981.

ADDRESSES: Mail comments to: Assistant Secretary for Economic Development, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Charles W. Coss, Director, Office of Public Investments, Washington, D.C. 20230, (202-377-5265).

SUPPLEMENTARY INFORMATION: Under its Public Works and Development Facilities Program, EDA may provide funding for projects which will create or retain jobs in economically distressed areas. Regulations regarding this program are set forth at 13 CFR Part 305. Subpart C to Part 305 sets forth requirements regarding specific types of projects which EDA may fund under the program. This interim rule makes the following changes to two regulations in Subpart C:

1. § 305.41. This regulation sets forth the purpose of Subpart C. Currently, this regulation provides broadly that Subpart

C applies to "public works and development facility projects." Some readers have questioned whether the requirements of Subpart C apply to Public Works Impact Program (PWIP) projects funded under § 305.4. To clarify the scope of Subpart C, EDA is amending § 305.41 to note that the requirements of the subpart apply to all public works and development facility projects funded under Part 305 of the type addressed in Subpart C, including those funded as PWIP projects under § 305.4.

2. § 305.42. This regulation sets forth requirements regarding projects for hospitals, nursing homes and convalescent care facilities. This rule amends this regulation to:

a. provide a new title, "Health-related facilities";

b. tighten the requirements to ensure that EDA-assisted health care facilities have been reviewed by the Department of Health and Human Services (the primary Federal agency involved in funding such projects) and, if appropriate, the State Health Planning and Development Agency;

c. tighten the standards relating to the requisite economic impact of such projects; and

d. clarify when EDA will allow exceptions to the general criteria.

In addition, this rule amends one regulation in 13 CFR Part 309. This part sets forth general requirements which apply to EDA projects. Paragraph (a)(3) of § 309.26 sets forth certain requirements regarding project modification in the Public Works and Development Facility Program. Paragraph (a)(3)(iv) of this regulation provides that EDA will not approve project modifications involving changes in the "general geographic location (i.e., city, community, Indian Reservation, Redevelopment Area) of the project". This rule amends that paragraph by adding a clause at the end to provide that this restriction does not apply to changes in the location of the project if the project has a multi-county, regional focus which is better carried out at a different location.

Executive Order 12044 Determinations. EDA has reviewed this rule under the criteria of Executive Order 12044 regarding improving Government regulations. Because the revision to § 305.41 is editorial in nature and does not reflect a change in policy, EDA has determined that it is not a "significant" action under the criteria of that Order. Since the revision of § 305.42 concerns a type of project which EDA rarely funds (EDA is an Agency of "last resort" with respect to such projects and will consider funding them only if there is no other source of Federal assistance), EDA has also determined that this revision is not a "significant" action under the criteria of the Order. Similarly, the change to § 309.26 has extremely limited application to most projects and does not meet the criteria for determining significance. To provide an opportunity to participate in the rulemaking, EDA will not publish the rule in final form at least 60 days and invites interested persons and organizations to comment to the Assistant Secrétary in writing at the above address. The "Catalogue of Federal Domestic Assistance" official number and title for the Public Works and Development Facilities Program is "11.300, Economic Development—Grants and Loans for Public Works and Development Facilities". Projects under this program are subject to the clearinghouse review requirements imposed by Office of Management and Budget Circular No. A–95 as set forth in 13 CFR 309.17.

For the reasons set out in the preamble, 13 CFR 305.41, 305.42, and 309.26(a)(3)(iv) are amended to read as follows.

1. 13 CFR 305.41 is revised to read as follows:

§ 305.41 Purpose.

The purpose of this subpart is to set forth requirements for certain specific types of public works and development facility projects which EDA may fund under this part (including § 305.4).

2. 13 CFR 305.42 is revised to read as follows:

§ 305.42 Health-related facilities.

(a) EDA will not fund a project involving health-related facilities unless there is no other source of Federal assistance available to fund that portion of the project for which EDA assistance is requested. In addition EDA will not fund such projects unless:

(1) the Department of Health and Human Services and the State Health Planning and Development Agency, if appropriate, concur; and

(2) the project meets the requirements of this section and this part.

(b) Except as provided in subsection (c) of this section, EDA will not fund health-related facilities unless EDA determines that:

(1) the proposed facility is immediately necessary to the retention, expansion or establishment of an identified commercial or industrial enterprise which has significant employment potential in relationship to the cost of the facility (job/cost ratio of $10,000 or less to one job—in calculating this ratio, EDA will not consider the effect of construction employment and employment in the operation of the health facility);

(2) the proposed project is the first priority in the Overall Economic Development Program (except for PWIP projects under § 305.4) of the area and is an integral part of the implementation of the projected plan for long-term economic development;

(3) the proposed facility meets appropriate accreditation standards; and

(4) the lack of medical facilities is seriously hampering the implementation of economic development programs of the community in which the project will be located or of the broader area planning and development districts in which the community is located.

(c) EDA may consider funding projects which do not meet all of the requirements of subsection (b)—

(1) for clinics and outpatient facilities on Indian reservations if the proposed project meets the requirements of paragraphs (b)(3) and (b)(4) of this section;

(2) for clinics and outpatient facilities located in neighborhoods with a significant number of disadvantaged persons if the proposed project meets the requirements of paragraphs (b)(3) and (b)(4) of this section;

(3) in exceptional circumstances, for other types of projects which otherwise meet the requirements of paragraph (b) and for which the Assistant Secretary has waived the requirement of paragraph (b)(1); or

(4) for projects for which EDA is supplementing assistance from the Department of Health and Human Services for construction, renovation or alteration of health facilities, if the projects otherwise meet the requirements of subsection (b) above and the Assistant Secretary has waived the requirement of (b)(1).

3. 13 CFR 309.26(a)(3)(iv) is revised to read as follows:

§ 309.26 Project modifications.

(a) *Public works projects.*

(3) * * *

(iv) Changes in the general geographic location of the project (i.e., city, community, Indian Reservation, Redevelopment Area), except that EDA may consider accepting such a change if the project has a multi-county or regional focus.

* * * * *

Authority: Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211), Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended).

Dated: December 22, 1980.

bert T. Hall,

sistant Secretary for Economic velopment.

Doc. 81-198 Filed 1-2-81; 8:45 am]

LING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-SO-76; Amdt. No. 39-4008]

Airworthiness Directives; Bendix Avionics M-4(A,B,C,D) Autopilot and YD-4 Yaw Damper Servo Models 3013E, 3013F, 3013G, 3013H, 3013J and 3013K

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the inspection of certain Bendix Avionics M-4(A,B,C,D) Autopilot and YD-4 Yaw Damper Primary Servos Models 3013E, 3013F, 3013G, 3013H, 3013J and 3013K and replacement of nonconforming magnetic clutches P/N 717503-0001. This AD is needed to prevent the possible failure of the autopilot primary servo which could result in partial loss of control of the aircraft.

DATES: Effective January 12, 1981. Compliance required within the next 50 hours time in service after the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service bulletin, M-4D-060, may be obtained from Bendix Avionics Division, Post Office Box 9414, Fort Lauderdale, Florida 33310, telephone (305) 776-4100.

A copy of the service bulletin is contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: W. H. Trammell, telephone (404) 763-7781, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

SUPPLEMENTARY INFORMATION: There have been reports of the seizure of the magnetic clutches (P/N 717503-0001) in the primary servos of the M-4C/D Autopilot Systems installed in various make and model aircraft. Primary servo failure may result in additional stick forces commensurate with the torque setting of the primary servo slip-capstan. Since this condition is likely to exist or develop in any aircraft having the M-4(A,B,C,D) Autopilot System of the same type design installed, an AD is being issued which requires inspection of certain primary servos and replacement of nonconforming magnetic clutches in these Bendix Avionics Primary Servos Models 3013E, 3013F, 3013G, 3013H, 3013J and 3013K installed in any aircraft.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Bendix Avionics: Applies to M-4 (A, B, C, D) Autopilot Primary Servo Models 3013E, 3013F, 3013G, 3013H, 3013J and 3013K and YD-4 Yaw Damper Servo Models 3013J and 3013K having magnetic clutch, P/N 717503-0001, Serial Numbers 16750 through 18396, installed, repaired or overhauled after January 1, 1979, that do not contain Modification Number 4, as defined in Bendix Service Bulletin M-4D-060.

mary servo model No.	Primary servo part No.	Primary servo serial No.
13E,[1] 3013F,[1] 3013G[1]	1U014-01, 1U014-02, 1U014-03.	Any primary servo that has had magnetic clutches installed after January 1, 1979.
3013H	4000523-8501	9630 through 9825 and any primary servo that has been repaired or overhauled after January 1, 1979.
3013J	4009508-8501	1775 through 1792 and any primary servo that has been repaired or overhauled after January 1, 1979.
3013K	4009508-8502	2067 through 2110 and any primary servo that has been repaired or overhauled after January 1, 1979.

[1] Older model primary servos which may contain magnetic clutches manufactured by Bendix.

Compliance is required as indicated below unless already accomplished. To prevent the possible failure of the primary servo due to seizure of the magnetic clutches (P/N 717503-0001, Serial Numbers 16750 through 18396), accomplish the following:

Within the next 50 hours' time in service after the effective date of this AD, inspect and modify the affected primary servo in accordance with Bendix Service Bulletin M-4D-060, dated November 1980 or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

This amendment is effective January 12, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Ga., on December 19, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-200 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-41-AD; Amendment 39-4007]

Airworthiness Directives; Cessna Model P210N Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 80-19-16, (Amendment 39-3944) and adopts a new AD applicable to Cessna Model P210N (Serial Number P21000001 through P21000590) airplanes. To detect and preclude engine detonation damage, AD 80-19-16 required initial and repetitive inspection of the engine, engine modifications and restricted fuel leaning. This superseding AD, applicable to the same airplanes, incorporates the above requirements, except for the inspections, and requires additional engine and airplane modifications. These actions will assure improved engine and airplane performance, thereby precluding a safety hazard.

EFFECTIVE DATE: January 5, 1981.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Single-engine Customer Care Service Information Letter SE80-94 dated November 10, 1980, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. Teledyne Continental Motors Service Bulletins M68-2, Revision 1, dated September 15, 1971; M73-19 dated December 3, 1973, and M79-8 dated May 25, 1979, also applicable to this AD, may be obtained from Teledyne Continental Motors, Aircraft Products Division, P.O. Box 90, Mobile, Alabama 36601. Copies of the Service Information Letter and Bulletins are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, ACE-214, Aircraft Certification Program, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) AD-80-19-07, Amendment 39-3912 and superseding AD 80-19-16, Amendment 39-3944 (45 FR 67653), applicable to certain serial numbers of Cessna Model P210N airplanes, required initial and repetitive inspection of the engine, engine modifications and restricted fuel leaning. Subsequent to these actions, the manufacturer undertook additional investigations involving the detonation problem covered by these ADs. The results of these investigations identified additional power plant installation design and operational changes that will improve engine performance and minimize the possibility of engine detonation. These changes will also make the inspections now required by AD 80-19-16 unnecessary. Instructions for accomplishing the manufacturer's findings are contained in Cessna Single-Engine Customer Care Service Information Letter SE80-94. The FAA has determined that compliance with the manufacturer's instructions is necessary in the interest of safety. Accordingly, to accomplish this, a new AD is being issued, superseding AD 80-19-16, and applicable to Cessna Model P210N (S/Ns P21000001 through P21000590) airplanes, making compliance with the aforementioned service letter mandatory.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Cessna: Applies to Model P210N (Serial Numbers P21000001 thru P21000590) airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished. To reduce the possibility of engine detonation, within the next 50 hours time-in-service after the effective date of this AD, accomplish the following:

(1) Reset the engine timing to 20° ± 1° before top dead center. Reference TCM Service Bulletin No. M68-2, Rev. 1, page 2, and restamp the engine nameplate accordingly.

(2) Reset the full rich fuel flow by fuel pump adjustments to the following specification referenced in TCM Service Bulletin No. M79-8:

RPM	Pump pressure (PSI)	Metered pressure (PSI)	Fuel flow lbs/Hr
600	5.5-6.5	3.5-4.0	
2,700	35-39	19.5-21	180-195

(3) Remove Cessna P/N 2105026-1 placard next to the fuel flow indicator which reads as follows:

"Set fuel flow per limitations section of POH/AFM. Do not lean to "peak EGT" above 60 percent power."

(4) Replace the cabin pressurization sonic nozzle, manifold pressure/fuel flow guage, and engine operating placards and revise the Pilot's Operating Handbook/Airplane Flight Manual (POH/AFM) in accordance with Cessna Service Kit SK-210-97 and Cessna Single-Engine Customer Care Service Information Letter SE80-94 dated November 10, 1980.

(5) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(6) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Aircraft Certification Program Office, FAA Central Region, Room 238, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-4285.

This AD supersedes AD 80-19-16, Amendment 39-3944.

This Amendment becomes effective on January 5, 1981.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 19, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 81-198 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 21239; Amdt. 39-4014]

Airworthiness Directives; Costruzioni Aeronautiche Giovanni Agusta Model A109 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Costruzioni Aeronautiche Giovanni Agusta Model A109 series helicopters by individual telegrams. The AD requires a one time inspection of the threaded area of the trunion assembly for deformation, distortion or damage due to overtorque at time of installation, replacement if necessary, and interim hand correction of the torque value specified in the maintenance and overhaul manuals. The AD is necessary to prevent loss of the main rotor blade pitch control.

DATES: Effective January 5, 1981, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T80EU-22, issued May 1, 1980, which contained this amendment. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The manufacturer's service messages may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy. A copy of each service message is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Capman, Acting Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: 202-426-8192.

SUPPLEMENTARY INFORMATION: On May 1, 1980, telegraphic AD T80EU-22 was issued and made effective immediately as to all known U.S. owners and operators of Costruzioni Aeronautiche Giovanni Agusta Model A109 series helicopters. The AD required a one time inspection of the threaded area of the trunion assembly for deformation, distortion or damage due to overtorque at time of installation and replacement of a defective trunion assembly. The AD also required interim hand correction of the torque value specified in the maintenance and overhaul manuals in accordance with the criteria described in the AD. AD action was necessary to prevent loss of the main rotor blade pitch control.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Costruzioni Aeronautiche Giovanni Agusta Model A109 series helicopters by telegraphic means. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Costruzioni Aeronautiche Giovanni Agusta (CAGA). Applies to Models A109 and A109A series helicopters, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent loss of the main rotor blade pitch control, accomplish the following: (a) Before further flight, hand correct the CAGA manuals referenced in paragraphs (a)(1) and (a)(2) by changing the torque value from "500 to [illegible]0 Kg, 434 to 486 inch/pound" to "311 to 34[illegible] Kg, 275 to 300 inch/pound."

(1) CAGA A109/A109A overhaul manual (all change dates), Chapter 65-10-01, page 24[illegible], paragraph 8, subparagraph (e);

(2) CAGA A109/A109A maintenance manual (all change dates), Chapter 65-10-03, page 201, paragraph 3; and

(3) Retain the hand corrected pages in both manuals until revised replacement pages are available from CAGA.

(b) Within the next 25 hours time in service after the effective date of this AD—

(1) Remove the main rotor pitch horn trunion assembly;

(2) Permanently remove from service, nut P/N MS 17825-7, and replace with a new nut of the same part number; and

(3) Using a 5X magnifying glass, visually inspect the threaded area of P/N 109-0101-09-1, for deformation, distortion or damage.

(c) If as a result of the inspection of the trunion assembly required in paragraph (b)(3) of this AD, no deformation, distortion, damage, or defect is found—

(1) Reinstall the main rotor pitch horn trunion assembly in accordance with CAGA A109/A109A overhaul manual, Chapter 65.10.01, or an FAA-approved equivalent, using the torque values listed in paragraph (a) of this AD; or

(2) Reinstall the main rotor pitch horn trunion assembly in accordance with CAGA A109/A109A maintenance manual, or an FAA-approved equivalent, using the revised torque values listed in paragraph (a) of this AD;

(3) During reinstallation of the main rotor pitch horn trunion assembly, check to insure that there is 0.10 to 0.20 millimeter play between the trunion shoulder and the bearing inner race; and

(4) Return the serviceable trunion assembly to service.

(d) If as a result of the inspection of the trunion assembly required in paragraph (b)(3) of this AD, deformation, distortion, damage, or defect indicating overtorque is found—

(1) Remove the trunion assembly from service;

(2) Replace with a new or serviceable trunion assembly of the same part number; and

(3) Reinstall the main rotor pitch horn trunion assembly and torque in accordance with paragraph (c)(1) or (c)(2) of this AD.

(e) Report defects found to the Chief, Aircraft Certification Staff, Europe, Africa and Middle East Office, c/o American Embassy, Brussels, Belgium. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

(f) If an equivalent means of compliance is used in complying with this AD, that equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

Note.—Costruzioni Aeronautiche Giovanni Agusta Service Engineering Department messages LD/7/1815 and LD/7/1845, both dated April 22, 1980, refer to this subject.

This amendment becomes effective January 5, 1981, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T80EU-22, issued May 1, 1980, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on December 29, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-206 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NE-10; Amdt. 39-4006]

Airworthiness Directives; General Electric Company CJ610-6A and -9 Turbojet and CF700-2D and -2D-2 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment amends existing AD 80-08-06, amendment 39-3740. On March 7, 1980, an emergency Airworthiness Directive (AD) was issued requiring removal from service, within 50 cycles, certain serial numbered CJ610/CF700 turbine disks. This AD was published, April 10, 1980, in the **Federal Register** as a Final Rule. On May 30, 1980, an emergency amendment to this AD was issued which required removal from service of additional serial numbered disks. The Airworthiness Directive, as amended, is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (FAR).

DATES: Effective date—This amendment was effective upon receipt of the emergency airworthiness directive dated May 30, 1980, and is effective to all others on February 2, 1981.

Comments—Comments must be received on or before April 2, 1981.

Compliance schedule—Compliance required within the next 50 cycles after the effective date of this airworthiness directive unless already accomplished.

ADDRESSES: Send comments on the rule in duplicate to:

Federal Aviation Administration (FAA), Office of Regional Counsel, Attention: Rules Docket (ANE-7), Docket No. 80-NE-D, 12 New England Executive Park, Burlington, Massachusetts 01803,

or deliver comments in duplicate to:

Federal Aviation Administration (FAA) Rules Docket, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be examined in the Rules Docket, weekdays except Federal holidays between 8:00 a.m. and 4:30 p.m.

The applicable service bulletins may be obtained from General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910.

FOR FURTHER INFORMATION CONTACT:
John E. Tigue, Engine Standards Section, ANE-215, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

The Airworthiness Directive, AD 80-08-06 published in the **Federal Register** and made effective to all known U.S. operators of General Electric CJ610-8A and -9 turbojet and CF700-2D and -2D-2 turbofan engines on April 10, 1980, was required as a result of an uncontained low cycle fatigue failure of a second stage turbine disk on a military J85 engine. This disk was found to have failed because of foreign material segregation. Two other J85 disks from the same ingot were also found, upon laboratory examination, to have foreign material segregation. These disks are identical to first and second stage turbine disks used in the CJ610/CF700 engines. Specific CJ610/CF700 turbine disks are suspected of having similar defects. The emergency amendment to the airworthiness directive adopted and made effective to all known U.S. operators of General Electric CJ610-8A and -9 turbojet and CF700-2D and -2D-2 turbofan engines on May 30, 1980, was required to add additional serial numbered suspect first and second stage turbine disks which were identified after the issuance of the original airworthiness directive.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impractical and contrary to the public interest, and good cause existed for making the amended AD effective immediately to all U.S. operators of General Electric Company CJ610-8A and -9 turbojet and CF700-2D and -2D-2 turbofan engines by priority mail dated May 30, 1980. These conditions still exist, and the amended Airworthiness Directive is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations.

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment periods ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive 80-08-06 to read as follows:

General Electric Company. Applies to CJ610-8A and -9 turbojet and CF700-2D and -2D-2 turbofan engines with turbine disks identified by serial numbers below.

To prevent low cycle fatigue failure of turbine disks suspected to have foreign material segregation, accomplish the following within the next 50 cycles.

Remove from service first stage turbine disks, P/N 5011T75P01, and second stage turbine disks, P/N 5011T76P01, with serial numbers listed below and replace with serviceable disks.

Serial Numbers:
First stage: GATWZA 00585, GATWZA 00587, GATWZA 00599, GATWZA 00601, GATWZA 00604, GATWZA 00607, GATWZA 00610, GATWZA 00611, GATWZA 00613, GATWZA 00615, GATWZA 00616, GATWZA 00617, GATWZA 00618, GATWZA 00624, GATWZA 00626, GATWZA 00627, GATWZA 00630, GATWZA 00632, GATWZA 00633, GATWZA 00634, GATWZA 00635, GATWZA 00637, GATWZA 00640, GATWZA 00641, GATWZA 00642, GATWZA 00644, GATWZA 00645, GATWZA 00646, GATWZA 00647, GATWZA 00649, GATWZA 00652, GATWZA 00658, GATWZA 00662, GATWZA 00663, GATWZA 00664, GATWZA 00665, GATWZA 00667, GATWZA 00671, GATWZA 00672, GATWZA 00673, GATWZA 00674, GATWZA 00676, GATWZA 00677, GATWZA 00679, GATWZA 00680, GATWZA 00681, GATWZA 00682, GATWZA 00683, GATWZA 00687, GATWZA 00690, GATWZA 00691, GATWZA 00692, GATWZA 00693, GATWZA 00704, GATWZA 00705, GATWZA 00706, GATWZA 00707, GATWZA 00708, GATWZA 00709, GATWZA 00710, GATWZA 00713, GATWZA 00714, GATWZA 00715, OJAWZA 11J774-22, OJAWZA 11J796-01, OJAWZA 11J796-03, OJAWZA 11J796-04, OJAWZA 11J796-05, OJAWZA 11J796-06, OJAWZA 11J796-07, OJAWZA 11J796-08, OJAWZA 11J796-09, OJAWZA 11J796-11, OJAWZA 11J796-13, OJAWZA 11J796-15, OJAWZA 11J796-16, OJAWZA 11J796-20, OJAWZA 11J796-21, OJAWZA 11J796-23, OJAWZA 11J796-24, OJAWZA 11J796-31, OJAWZA 11J796-32, OJAWZA 11J796-35, OJAWZA 11J796-41, OJAWZA 11J796-42, OJAWZA 11J796-43, OJAWZA 11J796-44, OJAWZA 11J796-45
Second stage: GATWZA 00541, GATWZA 00542, GATWZA 00545, GATWZA 00547, GATWZA 00548, GATWZA 00549, GATWZA 00550, GATWZA 00551, GATWZA 00552, GATWZA 00553, GATWZA 00554, GATWZA 00557, GATWZA 00563, GATWZA 00564, GATWZA 00565, GATWZA 00566, GATWZA 00567, GATWZA 00570, GATWZA 00571, GATWZA 00574, GATWZA 00575, GATWZA 00577, GATWZA 00580, GATWZA 00581, GATWZA 00583, GATWZA 00585, GATWZA 00587, GATWZA 00588, GATWZA 00589, GATWZA 00590, GATWZA 00592, GATWZA 00593, GATWZA 00594, GATWZA 00595, GATWZA 00596, GATWZA 00597, GATWZA 00598, GATWZA 00600, GATWZA 00601, GATWZA 00602, GATWZA 00604, GATWZA 00605, GATWZA 00607, GATWZA 00609, GATWZA 00610, GATWZA 00611, GATWZA 00612, GATWZA 00613, GATWZA 00614, GATWZA 00616, GATWZA 00617, GATWZA 00618, GATWZA 00619, GATWZA 00621, GATWZA 00622, GATWZA 00623, GATWZA 00624, GATWZA 00630, GATWZA 00632, GATWZA 00634, GATWZA 00636, GATWZA 00637, GATWZA 00638, GATWZA 00640, GATWZA 00642, GATWZA 00643, GATWZA 00646, GATWZA 00648, GATWZA 00649, GATWZA 00651, OJAWZA 11J781-01, OJAWZA 11J781-02, OJAWZA 11J781-03, OJAWZA 11J781-04, OJAWZA 11J781-05, OJAWZA 11J781-06, OJAWZA 11J781-07, OJAWZA 11J781-08, OJAWZA 11J781-09, OJAWZA 11J781-10, OJAWZA 11J781-11, OJAWZA 11J781-12, OJAWZA 11J781-13, OJAWZA 11J781-14, OJAWZA 11J781-15, OJAWZA 11J781-16, OJAWZA 11J781-17, OJAWZA 11J781-18, OJAWZA 11J781-19, OJAWZA 11J781-20, OJAWZA 11J781-21, OJAWZA 11J781-22, OJAWZA 11J781-23, OJAWZA 11J781-24, OJAWZA 11J781-25, OJAWZA 11J781-26, OJAWZA 11J781-27, OJAWZA 11J781-28, OJAWZA 11J781-29, OJAWZA 11J781-31, OJAWZA 11J781-32, OJAWZA 11J781-33, OJAWZA 11J781-34, OJAWZA 11J781-35, OJAWZA 11J781-37, OJAWZA 11J781-38

General Electric Company Alert Service Bulletin Nos. (CJ610) A72-135, Addendum 1, dated May 19, 1980, and (CF700) A72-142, Addendum 1, dated May 19, 1980, refer to this subject.

This amendment was effective upon receipt of the Emergency Airworthiness Directive dated May 30, 1980, and is effective to all others on February 2, 1981.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this action is an emergency nonsignificant regulation under Executive Order 12044 as implemented by Department of Transportation Policies and Procedures (44 FR 11034, February 26, 1979). A final evaluation is contained in the Rules Docket.

Issued in Burlington, Massachusetts, on December 17, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-197 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NE-15; Amendment 39-4004]

Airworthiness Directives; General Electric Company CT58 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection for an undersized radius of certain stage one turbine wheels used in General Electric CT58 engines. This AD is prompted by a report of an undersized radius which contributed to a stage one turbine wheel failure.

DATES: Effective—Feburary 2, 1981. Compliance/Applicability Dates—As prescribed in text of AD.

ADDRESSES: All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, 1000 Western Ave., Lynn, Massachusetts 01910.

Copies of the service bulletin are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Ralph S. Hawkins, Engine Projects Section, ANE-214E, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection for undersized radius of certain stage one turbine wheels used in General Electric CT58 engines was published in the Federal Register at 44 FR 67435. The proposal was prompted by a report of an undersized radius which contributed to a stage one turbine wheel failure.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without substantive change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

General Electric Company. Applies to all General Electric CT58 turboshaft engines incorporating stage one turbine wheel, part number 4002T17P02, with the following wheel serial numbers: 7753, 7761, 7762, 7767, 7768, 7783, 7799, 7803, 7811, 7815, 7817, 7819, 7820, 7823, 7824, 7826, 7839, 7845, and 7846.

Compliance required as indicated, unless already accomplished.

To prevent failure of stage one turbine wheels due to cracks originating from undersize rabbet groove radii, inspect forward and aft radii in accordance with the procedures contained in the accomplishment instruction section of General Electric Alert Service Bulletin CT58 (A72-159) CEB-255, dated July 9, 1979, or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region.

Inspect in accordance with the following schedule: 1. Turbine wheels with 3,950 hours or 7,900 cycles, or more, in service on the effective date of this AD, must be inspected within the next 50 hours or 100 cycles, whichever comes first.

2. Turbine wheels with less than 3,950 hours or 7,900 cycles in service, on the effective date of this AD, must be inspected prior to exceeding 4,000 hours or 8,000 cycles, whichever comes first.

Stage one turbine wheels with forward or aft rabbet groove radii of less than 0.010 inch must be removed and replaced with serviceable turbine wheels prior to further flight.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its Headquarters in Washington, D.C., and at FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective February 2, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as amended, on June 27, 1980, by Executive Order 12221, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final Regulatory Evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Burlington, Massachusetts, on December 17, 1980.

Robert E. Whittington,

Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 81-209 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-64-AD; Amdt. 39-4012]

Airworthiness Directive; McDonnell Douglas DC-8 Series Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends an existing Airworthiness Directive (AD) which requires repetitive inspections of flap link support fittings on McDonnell Douglas DC-8 series airplanes. This amendment identifies certain flap link support fittings which, due to the type of aluminum from which they are made, can be excluded from the repetitive inspection requirement. This amendment will enable operators to more readily identify parts affected by the AD.

DATES: Effective January 13, 1981. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication and Training, C1–750–(54–60).

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 6W14, FAA Western Region, 1500 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Mr. Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANW–120L, Federal Aviation Administration, Los Angeles Area Aircraft Certification Office, Northwest Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone (213) 536–6356.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39–3079 (42 FR 59375), AD 77–23–06, as amended by 39–3105 (43 FR 4) which currently requires repetitive inspections for cracks on the flap link support fittings on McDonnell Douglas DC–8 series airplanes. After issuing Amendment 39–3105, the FAA has determined that additional flap link support fittings are manufactured from 7075–T73 aluminum and can be excluded from the repetitive inspection. Therefore, the FAA is further amending Amendment 39–3079, as amended by Amendment 39–3105, by expanding paragraph (a) to include additional part numbers of fittings that are 7075–T73 material on the McDonnell Douglas DC–8 series airplanes.

Since this amendment relieves a restriction, has no adverse economic impact, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39–3079 (42 FR 59375), AD 77–23–06, as amended by Amendment 39–3105 (43 FR 4), by revising paragraph (a) of the amendment to add the following DC–8 flap link support fitting assembly part numbers:

* * * * *

5614372–501, 5614374–503, 5614374–504, 5614376–505, 5614376–506, 5614376–507, 5614376–508, 5614376–501, 5614376–502

* * * * *

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This amendment becomes effective January 13, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Issued in Seattle, Washington, on December 24, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81–302 Filed 1–2–81; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 76–NE–14; Amdt. 39–4006]

Airworthiness Directives; Sikorsky S–61L Helicopters Prior to and Including Serial No. 61454, and S–61A, S–61D, S–61E, and S–61V Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises airworthiness directive (AD) 76–06–01 to include the tail rotor pylon upper and lower right hinge fitting lugs in the inspections and to increase the areas to be inspected.

DATES: Effective date—December 29, 1980. Comments must be received on or before March 2, 1981.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No., 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins may be obtained from Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. Copies of the service bulletins are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: William E. Garlock, Airframe Section, ANE–212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

Because of cracks found in the alignment pads of the tail rotor pylon left hinge fittings and evidence of improper contact of these pads, Amendment 39–1899 (39 FR 25645), AD 74–15–01, was issued to require inspection for cracks and rework or replacement of the fittings. Reworked fittings were required to be inspected at each of the next three 150-hour intervals of service. After issuing Amendment 39–1899, additional cracks in the alignment pads were found in service, and Amendment 39–1921 (39 FR 28975), AD 74–17–06, was issued to include an additional inspection and to provide expanded and more specific requirements for inspections. It also provided a more extensive description of the rework procedures and limits. After issuing Amendment 39–1921, reports were received of additional cracks and the separation of a pylon hinge fitting because of a fatigue crack. Therefore, Amendment 39–2581 (41 FR 16452), AD 76–06–01, superseding AD 74–17–06, was issued to require inspections whether or not there was contact between the lug alignment pads, to require extended repetitive inspections, and to require the rework or replacement of the fittings.

Need for Amendment

Subsequent to the publication of AD 76–06–01, there have been reports of cracking of the lugs of the right hinge fittings and cracking in the webs near the lugs. Therefore, this amendment revises AD 76–06–01 to include the right hinge fitting lugs in the inspections and to expand the area to be inspected to include some of the web near the lugs.

Since a situation exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate ulemaking proceedings to amend the egulation. Comments that provide the actual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended effective December 29, 1980, by revising Amendment 39–2581 (41 FR 16452), AD 76-08-01, as follows:

In paragraph (a) delete the phrase "within the last 50 hours time in service" and insert in its place: "within the last 120 hours time in service."

In paragraph (a) delete: "No. 61B20-13A dated April 2, 1976," and insert in its place: No. 61B20-13C, dated November 12, 1980.

Revise paragraph (b) to read: "If a crack is found around the edge of the bushings in the lug or in the shaded area shown in Detail B, Figure 1, of the above service bulletin, replace the fitting prior to further flight."

The manufacturer's procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Sikorsky Aircraft, Stratford, Connecticut 06602. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 300 Independence Avenue, S.W., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on December 18, 1980.

Robert E. Whittington,

Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 81-109 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 80–ASW–39; Amdt. 39–4006]

Airworthiness Directives; Swearingen Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness (AD) which requires periodic replacement of rudder cable to rudder link attaching bolts and bushings, and inspection of rudder pedal links at bolt holes with replacement of links as necesary. This AD is prompted by 13 reports of worn rudder cable to rudder link attaching bolts and bushings, and, in some cases, elongated bolt holes in rudder pedal links at attaching bolt holes which could eventually result in complete failure of rudder cable to rudder link attachment and loss of rudder control of the airplane.

DATES: Effective January 16, 1981. Compliance required as prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from the Director of Products Support, Swearingen Aviation Corporation, P.O. Box 32486, San Antonio, Texas 78284.

These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Milton G. Martin, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624–4911, extension 516.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making (NPRM) to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring periodic replacement of rudder cable to rudder link attaching bolts and bushings and inspection of rudder pedal links at bolt holes with replacement of links as necessary on Swearingen Models SA226–T, SA226–T(B), SA226–AT, and SA226–TC airplanes was published in the Federal Register (45 FR 67679).

The NPRM was prompted by 13 reports of worn rudder cable to rudder link attaching bolt holes which could eventually result in complete failure of the rudder cable to rudder link attachment and loss of rudder control of the airplane.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Two comments were received. Both commenters suggested that the material of the rudder links be replaced with more durable material to eliminate repetitive replacements. An engineering evaluation indicates the problem would not be alleviated by changing materials. Swearingen is currently developing a detail redesign for the SA227 series Swearingen airplanes. If this is successful and FAA approved, this redesign may be made available as an alternate method of complying with this AD, if applicable. The wording of the Notice of Proposed Rule Making is, therefore, unchanged except for minor editing.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Swearingen: Applies to Swearingen Models SA226–T, SA226T(B), SA226–AT, and SA226–TC airplanes certificated in all categories. Compliance required within the next 50 hours' time in service for airplanes with 5,000 or more hours' time in service, unless already accomplished, and thereafter at intervals of 5,000 hours since last compliance. (Airworthiness Docket No. 80–ASW–39).

To prevent failure of rudder cable to rudder pedal link attachments, accomplish the following: (a) Replace rudder cable to rudder pedal link attachment bolts and bushings with new parts of the same part numbers.

(b) Inspect rudder pedal links, Part Number 26–72016, at attachment bolt hole and replace links if hole is elongated.

A special flight permit may be issued in accordance with FAR 21.197 to allow flight of the aircraft to a base where this AD can be accomplished.

Equivalent methods of complying with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region. Note: Swearingen Service Bulletin SB27–027 issued July 17, 1980, refers to this same subject.

This amendment becomes effective January 16, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1980).

Issued in Fort Worth, Texas, on December 22, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 81-301 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-NE-36]

Amend the Description of the Portsmouth, New Hampshire (Pease AFB) 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the Portsmouth, New Hampshire, 700-foot transition area so as to provide additional airspace for helicopters executing the RNAV-066 Standard Instrument Approach Procedure (SIAP), Tyco Heliport, Exeter, New Hampshire.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: On Monday, October 6, 1980, a Notice of Proposed Rulemaking was published in the Federal Register, Volume 45, No. 195, pages 66176 and 66177, stating that the Federal Aviation Administration proposed to amend the description of the Portsmouth, New Hampshire, 700-foot transition area so as to provide additional airspace for helicopters executing the RNAV-066 Standard Instrument Approach (SIAP), Tyco Heliport, Exeter, New Hampshire.

Interested persons were invited to participate in the proposed rulemaking process by submitting comments on the proposal to the Federal Aviation Administration. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71.181 of the Federal Aviation Regulations (14 CFR 71.181) is amended effective February 19, 1981, by: 1. Delete the present description of the New Hampshire (Pease AFB) 700-foot transition in its entirety and substitute in lieu thereof: "That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°-23'-00"N., 71°-11'-50"W., 43°-23'-00"N., 70°-47'-00"W., 43°-14'-00"N., 70°-36'-00"W., 42°-50'-00"N., 70°-36'-00"W., 42°-50'-00"N., 71°-06'00"W., 43°-03'-00"N., 71°-05'-00"W., 43°-09-00"N., 71°-11'-50"W to point of beginning."

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a)) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as amended on June 27, 1980, by Executive Order 12221, as implemented by Department of Transportation Regulatory and Procedures [44 FR 11034; February 26, 1979]. The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on December 19, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-300 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71, 73, and 75

[Airspace Docket No. 80-AWA-18]

Compilation of Airspace Designation Regulations

Cross Reference: For a compilation of the current airspace designations and pending amendments to those designations issued by the FAA and published in the Federal Register, see FR Doc. 80-40450 published in the Federal Register, of Friday, January 2, 1981 (46 FR 401).

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 368, 370, 372, 373, 379 and 385

Changes in Export Administration Regulations; Special Nuclear Controls

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: A revised version of Part 378, Special Nuclear Controls, of the Export Administration Regulations was published in the Federal Register on June 25, 1980 (45 FR 43142). This rule amends the remainder of the Export Administration Regulations to conform them with the new Part.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are revised as follows:

1. Section 368.1(a)(2)(i)(B) is revised as follows:

§ 368.1 Effect of regulation.

(a) * * *
(2) * * *
(i) * * *

(B) By agreement with the Nuclear Regulatory Commission for nuclear equipment and materials under the export licensing jurisdiction of the Commission (see 10 CFR 110); and

* * * * *

2. Section 370.3(a)(1) is revised as follows:

§ 370.3 Prohibited exports.

(a) * * *

(1) Any export to Canada, for consumption in Canada.[1] However, the following do require a validated license to Canada.

(i) The types of technical data described in § 379.4(c);

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[1] See § 368.1(d) for shipments to Canada, not intended for consumption in Canada, and regarding the requirement of a Shipper's Export Declaration for certain exports to Canada.

(ii) Commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium (see § 378.3);

(iii) Helium, isotopically enriched in the helium-3 isotope in any form or quantity, and whether or not admixed with other materials, or contained in any equipment or device, as described on the Commodity Control List under ECCN 4[illegible]21B;

(iv) Electronic, mechanical, or other devices, as described in § 376.13(c) and the Commodity Control List under ECCN 4[illegible]17B, primarily useful for surreptitious interception of wire or oral communications;

(v) Certain commodities subject to Short Supply validated licensing controls, including horses for export by sea, as set forth in Supplements to Part 377;

(vi) Communications countermeasures equipment (electronic, mechanical, optical, or other) as described in ECCN 4516B, capable of detecting, monitoring, locating, or jamming surreptitious intercepting devices; and

(vii) Mandrels and bellows forming dies; certain valves; plants specially designed for the production of uranium hexafluoride, including uranium hexafluoride purification equipment; uranium hexafluoride mass spectrometers; inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2,000 hertz; and cylindrical tubing, rings and discs (These commodities are identified on the Commodity Control List under ECCNs 4094B, 3131A, 3336A, 4530B, 4569B, 4675B, 4676B and 4677B.);

* * * * *

3. Section 372.11(g)(3)(v) is revised to read as follows:

§ 372.11 Amending export licenses.

* * * * *

(g) * * *
(3) * * *

(v) Amendment or extension of a license to export commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium (see § 378.3).

4. Section 373.2(b) is revised to remove paragraph (2) and revise paragraphs (3) and (4), as follows:

§ 373.2 Project license.

* * * * *

(b) * * *

(2) [Reserved]

(3) The commodities are related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonimum (see § 378.3).

(4) The technical data are not generally available to the public (see General License GTDA, § 379.3) and relate to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in § 379.4(c)(1) or other nuclear-related commodities as listed in § 379.4(c)(2) through (9).

5. Section 373.3(b)(1) is revised as follows:

§ 373.3 Distribution license.

* * * * *

(b) * * *

(1) Commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear materials, or the fabrication of nuclear reactor fuel containing plutonium (see § 378.3).

6. Paragraphs (1) and (3) of § 373.7(b) are revised as follows:

§ 373.7 Service supply (SL) procedure.

* * * * *

(b) * * *

(1) Parts to service commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium (see § 378.3);

* * * * *

(3) Parts to service commodities subject to the Nuclear Regulatory Commission licensing authority referred to in Supplement No. 3 to Part 370;

* * * * *

7. Section 379.4(c), first paragraph and (1) and (2) are revised as follows:

§ 379.4 General license GTDR: Technical data under restriction.

* * * * *

(c) *Technical Data Restrictions Applicable to All Destinations.* No technical data [1] (including operating and maintenance instructional material) related to the following may be exported under this general license, and a validated export license is required for all destinations, *including Canada*, for export of technical data related to the following:

(1) Any commodity where the exporter knows or has reason to know that it will be used directly or indirectly in the following activities, whether or not it is specifically designed or modified for such activities (see § 378.3)—

(i) Designing, developing, fabricating or testing nuclear weapons or nuclear explosive devices, [12] or

(ii) Designing, constructing, fabricating, or operating the following facilities, or components for such facilities [3]—

(A) Facilities for the chemical processing of irradiated special nuclear or source material;

(B) Facilities for the production of heavy water;

(C) Facilities for the separation of isotopes of source and special nuclear material; or

(D) Facilities for the fabrication of nuclear reactor fuel containing plutonium.

(2) Training of personnel for paragraph (c)(1) of this section.

8. Section 379.5(e) (2) (i) and (x) are revised, (xi) is renumbered as (xvi), and new (xi) through (xv) are added as follows:

§ 379.5 Validated license applications.

* * * * *

(e) * * *
(2) * * *

(i) Commodities where the exporter knows or has reason to know that the item will be used directly or indirectly, whether or not specifically designed, for developing or testing nuclear weapons or nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in § 378.3, or training of personnel for any activity listed above;

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[1] This restriction does not apply to data included in the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office (See § 379.3(c)).

[2] Commodities and technical data specifically designed or specifically modified for use in designing, developing or fabricating nuclear weapons or nuclear explosive devices are subject to export licensing or other requirements of the Office of Munitions Control, U.S. Department of State, or the licensing or other restrictions specified in the Atomic Energy Act of 1954, as amended. Similarly, commodities and technical data specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions (except such items as are in normal commercial use for other purposes) are subject to the same requirements.

[3] Also see § 379.5(e) for special provisions relating to technical data for maritime nuclear propulsion plans and other commodities.

* * * * *

(x) Submersible watercraft other than military or naval types;[1]

(xi) Plants specially designed for the production of uranium hexafluoride (UF_6), and specially designed or prepared equipment (including UF_6 purification equipment) and specially designed parts and accessories therefor;

(xii) Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz;

(xiii) Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) maraging steel or high-strength titanium allows (e.g., Ti–6 Al–4 V, etc.) having the following characteristics:

(A) Wall thickness of ½ inch, or less;

(B) Diameter of 3 inches or more;

(xiv) Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:

(A) Tensile strength equal to or greater than 150,000 psi;

(B) Wall thickness of 3 millimeters or less; and

(C) Diameter of 3 inches or more;

(xv) Pipes, valves, fittings, heat exchangers, or magnetic, electrostatic or other collectors made of graphite or stainless steel, or of other materials coated in graphite, yttrium or yttrium compounds resistant to the heat and corrosion of uranium vapor; and

(xvi) Any other commodity under the export control jurisdiction of the Office of Export Administration if such commodity is not covered by an entry on the Commodity Control List.

9. Section 385.6 is revised to read as follows:

§ 385.6 Canada.

Except as indicated below, the general policy is to permit shipments of commodities and technical data to Canada for consumption or use in that country without an export license. When the commodities or technical data are transiting Canada or are intended for reexport from Canada to another foreign destination and such shipment would require a validated license if made directly from the United States to that destination, an export license or reexport authorization is required. The licensing action will be based on the policy applicable to a direct shipment from the United States to such other destination. (See §§ 374.1 and 386.1(d) for commodities in transit via Canada.) A validated license also is required for export to Canada if—

(a) The technical data are described in § 379.4(c) or § 379.5(e) unless the technical data may be exported under the provisions of General License *GTDA*;

(b) The commodity is related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in § 378.3; or

(c) The Commodity Control List (§ 399.1) indicates that a validated license is required for export to Canada.

(Secs. 5, 6, 13, 15, 17, and 21, Pub. L. 96–72, 50 U.S.C. App. § 2401 *et seq.*, Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980) and 41–4 (effective August 26, 1980).)

Dated: December 18, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 81–193 Filed 1–2–81; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 51

Procedures for the Administration of Section 5 of the Voting Rights Act of 1965; Revision of Procedures

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Procedures with respect to the administration of Section 5 of the Voting Rights Act of 1965, as amended, the "preclearance" requirement of the Voting Rights Act, were established in 1971. 36 FR 18186 (Sept. 10, 1971), 28 CFR Part 51. As a result of experience under these Procedures, changes mandated by the 1975 Amendments to the Voting Rights Act, and interpretations of Section 5 contained in judicial decisions, it was decided that revisions were required. Proposed revised Procedures were published for comments on March 21, 1980 (45 FR 18890).

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: David H. Hunter, Attorney, Voting Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530, (202) 724–7189.

SUPPLEMENTARY INFORMATION: In response to the March 21, 1980 request, 22 comments were received, including 1 from a Federal agency, 7 from representatives of State governments, 6 from representatives of local governments, 6 from private organizations, 1 from a political science professor, and 1 from a private citizen. (These comments are available for inspection at the Department of Justice.) All comments have been studied carefully, and a number of changes have been made in the Procedures as a result of the comments.

The discussion that follows focuses first on a number of general issues raised by the comments and second on a number of specific topics that were the subject of comments.

Scope. A number of commenters were concerned with issues outside the scope of the Procedures, for example, procedures and substantive standards required by statute, the legal consequences of the absence of preclearance, the Department's litigation policy, the Department's policy under the Freedom of Information Act (for which see 28 CFR 16.9), and the interests of particular jurisdictions.

Formality. To satisfy some commenters would require an increase in the formality of the preclearance process. They advocate, for example, requiring a limitation on telephone communication between Department personnel and submitting authorities, the inclusion of interested individuals and groups in any informal meetings held with submitting authorities, the preparation of transcripts of conferences held under § 51.46, adherence to the rules of evidence in the information gathering process, and increased notice requirements. Because submission of changes to the Attorney General was designed to be an expeditious alternative to declaratory judgement actions brought in the U.S. District Court for the District of Columbia, we believe the level of formality suggested is not appropriate.

Exercise of discretion. Some commenters sought assurance that the Attorney General would not abuse his discretion. Concern was expressed, for example, with respect to what would constitute "good cause" justifying expedited consideration by the Attorney General (§ 51.32) or with respect to the possibility of the Attorney General's using an unjustified request for additional information (under § 51.35) to extend the 60-day period. Although written procedures can establish standards, they cannot by themselves guarantee reasonableness. To some extent, however, safeguards or alternatives do exist. For instance, submitting authorities always have the option of an action for a declaratory judgment (§ 51.1). On the other hand, interested individuals and groups are given the opportunity to participate in the preclearance process by the various notice requirements provided (see "Role of third parties" below) and, although a decision by the Attorney General not to object is not subject to judicial review (§ 51.48), independent actions otherwise available are preserved by the statute.

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[1] * * *

Misinterpretation. Misinterpretation of the intent of the proposed Procedures may be evidence of a lack of clarity. Where a commenter has failed to discern the intended meaning, we have given close scrutiny to whether that meaning could be more effectively communicated.

Some commenters misinterpreted the Procedures by reading one section in isolation from the remainder or by overlooking the section that addressed a particular issue. For example, one commenter believed that the Attorney General would not consider a change that must be adopted by referendum until after the referendum is held; this commenter failed to note that § 51.20 excepts from the finality requirement measures subject to a referendum requirement.

Role of third parties. Providing an opportunity for interested persons to express their views with respect to a submitted change is an important part of our preclearance procedures. A number of sections have been revised to indicate more clearly the practice of the Attorney General in this regard (see §§ 51.31, 51.35, 51.43, 51.44, 51.45, and 51.47). To summarize, the submitting authority is requested to provide names of minority contacts (§ 51.28(f)) and evidence of publicity and public participation (51.28(e)) and may be requested to publicize a reconsideration request (§ 51.44(c)), and the Attorney General may publicize a submission in some circumstances (§ 51.36(b)). Persons who have commented on a submission or who have requested notification with respect to action taken on a specific submission are sent copies of letters requesting further information (§ 51.35(b)), letters of no objection (§ 51.40(c)), letters of objection (§ 51.43(d)), and letters following reconsiderations of objections (§ 51.47(d)). Such persons are also notified of reconsideration requests (§ 51.44(c)), reconsiderations at the instance of the Attorney General (§ 51.45(b)), and requests for conferences (§ 51.46(c)). Interested individuals and groups registered under § 51.30 are given notice of submissions (§ 51.31), requests for expedited consideration (§ 51.32(c)), additional information requests and receipts of additional information (§ 51.35(d)), objections (§ 51.43(e)), reconsiderations of objections (§§ 51.44(c) and 51.45(b)), and decisions after reconsideration (§ 51.47(e)). The 1971 Procedures had specified that "prompt" notice of submissions be given to registrants (§ 51.16); this was changed in the proposed Procedures (§ 51.31) to "regular" notice. In response to one comment, "weekly" notice, which has been the normal practice, is now specified.

One commenter objected to the maintenance of a registry of interested individuals and groups. Other commenters believe that the present notice system is inadequate. We believe the notice system as revised and described in the Procedures is both necessary and sufficient for the efficient and fair administration of the preclearance program.

Delegation of authority, §§ 51.2(b), 51.3. Two commenters, both representing States, expressed reservations with respect to the delegation of authority from the Attorney General to the Assistant Attorney General, Civil Rights Division, and opposed any delegation below the level of the Assistant Attorney General. As a practical matter, given the volume of Section 5 submissions, such delegation is unavoidable. It should be noted, however, that the Assistant Attorney General is the final decisionmaker when a determination adverse to a submitting authority is made.

Political parties, § 51.7. In response to one query, this section and § 51.21 have been revised to make it clear that a political party can make a submission on its own behalf.

Further clarification of what changes by political parties are subject to Section 5 has not been attempted. § 51.7 delineates in a general way which "political party" changes are covered; where there is uncertainty with respect to the applicability of Section 5, determinations should be made on a case-by-case basis.

Computation of time, § 51.8. Two commenters questioned the clarity and propriety of the method of determining when 60 days have elapsed. The method employed is identical to that of Rule 6(a) of the Federal Rules of Civil Procedure.

It was suggested that the 60-day period commence with the date of mailing of the submission rather than the date of receipt by the Attorney General, and that the date of the Attorney General's response be the date of receipt by the submitting authority rather than the date of mailing by the Attorney General. Section 5, however, provides for a 60-day period for review by the Attorney General, and it is proper for the Procedures to allow a full 60 days for review by the Attorney General. This would not be the case if delivery time for the submission and delivery time for the decision were counted in the 60-day period. In our view, the full period is necessary for proper administration. See also § 51.32.

Examples of changes, § 51.12. One commenter objected to including, as an example of a change cover by Section 5, a change with respect to vote-counting procedures. Such changes, however, are covered by Section 5. See *Allen* v. *State Board of Elections,* 393 U.S. 544, 563–66 (1969). Moreover, the submission requirement does not operate to prevent State and local governments from implementing voting changes which they decide are desirable.

A new subsection k has been added, based on experience since *Dougherty County, Board of Education* v. *White,* 439 U.S. 32 (1978), to clarify that governmental regulation of employee political activity is covered by Section 5.

Recurrent practices, enabling legislation, and procedural changes, §§ 51.13, 51.14, 51.15. These sections constitute an attempt to clarify what constitutes a change, when a change has occurred, and what the consequences of preclearance of a change are. It is hoped that § 51.13 will result in the reduction of submissions made unnecessarily. For example, a county which always conducts voter registration at extra locations prior to elections does not have to make a submission prior to each election; a submission would be required only when the practice is first instituted or is changed. Sections 51.14 and 51.15 do not require that local implementation of a precleared State requirement of general, noncontingent application be precleared. For example, were a State to lower its voting age from 18 to 17, only one submission, by the State, would be required. (See also § 51.21) On the other hand, if a State were to pass legislation making a 17-

year voting age a matter of local option, the preclearance of exercise of the option would be required (§ 51.14).

Court-ordered changes, § 51.16. Requested clarification of the exemption, from the preclearance requirement, of changes ordered by Federal courts has not been attempted. This section is designed only to alert affected jurisdictions and the public to the existence of this exemption. Its exact scope can only be determined through the application of the developing case law in this area to the particular situation in question. See *Sanchez* v. *McDaniel,* 615 F. 2d 1023 (5th Cir. 1980), application for stay pending consideration of petition for certiorari granted, —— U.S. —— (Aug. 14, 1980) (Powell, Circuit Justice).

The issue of the status of changes resulting from orders of State courts is not addressed in the Procedures. The reference in § 51.20 to approval by State courts is to the system in some States by which courts have an administrative role in the approval of some voting changes.

Premature Submissions, § 51.20. This section has been expanded to conform to present practice under which we consider unripe for review proposed changes which are based upon or are otherwise directly related to other voting changes which have not been precleared.

Contents of submissions, §§ 51.24, 51.25, 51.26. A number of commenters complained of the burden imposed on jurisdictions by these sections; some commenters sought additional clarity. The specific requests for information contained in §§ 51.25 and 51.26 should be read in conjunction with the general provisions of § 51.24. See especially § 51.24(c) and (e). Providing the information requested should usually not be burdensome for the submitting authority but will result in more prompt and efficient handling of submissions, fewer requests under § 51.35, and fewer objections. For example, in many instances, "the anticipated effect of the change on members of racial or language minority groups" (§ 51.25(m)) could be provided by a brief statement. Also, in our view, identifying minority group contacts (§ 51.26(f)) does not place an undue burden on the submitting authority. Moreover, we do not expect jurisdictions with insignificant minority populations routinely to provide the names of minority contacts.

Because legal descriptions are generally integral parts of acts or ordinances, excluding them from a submission will frequently be a greater inconvenience than including them; accordingly, the exception for legal descriptions has been dropped from § 51.25(a). Revisions to increase clarity and specificity have been made in § 51.26.

Obtaining information, § 51.35(c). One commenter noted that we did not specify the event that triggers the beginning of the 60-day period when information necessary to complete a submission is obtained from a source other than the submitting authority. § 51.35 has been revised to indicate that the 60-day period begins on the date on which the Attorney General sends notification to the submitting authority of the receipt of the information.

Failure to complete submission, § 51.38. Two commenters were critical of the discretion allowed by § 51.38. That section provides that, if requested additional information is not received within 60 days, "the Attorney General, absent extenuating circumstances and consistent with the burden of proof under Section 5 * * * may object to the change * * *." One commenter advocated the substitution of "shall" for "may", explaining that in order to postpone an adverse determination, political subdivisions will deliberately fail to provide additional information requested by the Department of Justice. To the extent that such a problem may exist, we believe that the practice described in § 51.38 provides a sufficient remedy. Ordinarily, the schedule by which requested information is provided is of greater interest to the submitting authority than to the Attorney General.

Burden of proof, § 51.39(e). One commenter opposed placing the burden of proof on the submitting authority. In our view, the burden of proof described in § 51.39(e) is consistent with and required by the scheme of Section 5. See *Georgia* v. *United States,* 411 U.S. 526, 536–39 (1973); *South Carolina* v. *Katzenbach,* 383 U.S. 301, 335 (1966); see also *Evers* v. *State Board of Election Commissioners,* 327 F. Supp. 640 (S.D. Miss. 1971), appeal dismissed 405 U.S. 1001 (1972). *No objection, §§ 51.40, 51.42, 51.48.* Concern with respect to the finality of a decision not to interpose an objection was expressed by one commenter. However, Section 5 itself states: "Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure." It is the practice of the Attorney General, reflected in § 51.40, to notify submitting authorities of this provision. The "subsequent action" referred to could not be under Section 5 but would have to have some other legal basis and could not constitute judicial review of the action of the Attorney General (see § 51.48). Accordingly, the Attorney General's reservation of the right to reexamine within the 60-day period a decision not to object (§ 51.42) is necessary if the Attorney General is to continue the practice of accommodating jurisdictions by making decisions as early as possible within the 60-day period.

Failure to respond, § 51.41. One commenter asserted that there would be insufficient procedural safeguards if preclearance were accomplished by the failure of the Attorney General to respond within the 60-day period. As § 51.41 was intended to make clear, it is the practice of the Attorney General to respond within the 60-day period. This section was added to clarify the rare occasions when, through the failure of administrative mechanisms, no response is made. Another commenter considered the provisos contained in the section inappropriate. The first proviso, that the submission be properly addressed, is necessary to assure that the submission can be routed to the proper unit within the Department of Justice. The second proviso, that response on the merits be appropriate, only makes clear that, if Section 5 does not apply (for one of the reasons listed in § 51.33), no preclearance is possible. In response to concern expressed by a number of commenters, § 51.41 has been changed to indicate explicitly (what was implicit in § 51.8(c)) that actions of the Attorney General under Section 5 are in writing.

Objections and Reconsiderations, §§ 51.43, 51.44, 51.45, 51.46, 51.47. The sections relating to notification of the decision to interpose an objection and the procedures for the reconsideration of objections have been reorganized and renumbered, without substantive change, to improve the clarity of presentation.

Accordingly, 28 CFR Part 51 is revised to read as set forth below.

Dated: December 18, 1980.

Benjamin R. Civiletti,

Attorney General.

PART 51—PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED

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Authority: The provisions of this Part 51 are issued under 5 U.S.C. 301; 28 U.S.C. 509, 510; and 42 U.S.C. 1973c.

Subpart A—General Provisions

§ 51.1 Purpose.

Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, prohibits the enforcement in any jurisdiction covered by Section 4(b) of the Act, 42 U.S.C. 1973(b), of any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage, until either (1) a declaratory judgment is obtained from the U.S. District Court for the District of Columbia that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, or (2) it has been submitted to the Attorney General and the Attorney General has interposed no objection within a 60-day period following submission. In order to make clear the responsibilities of the Attorney General under Section 5 and the interpretation of the Attorney General of the responsibility imposed on others under this section, the procedures in this part have been established to govern the administration of Section 5.

§ 51.2 Definitions.

As used in this part—

(a) "Act" means the Voting Rights Act of 1965, 79 Stat. 437, as amended by the Civil Rights Act of 1968, 82 Stat. 73, the Voting Rights Act Amendments of 1970, 84 Stat. 314, and the Voting Rights Act Amendments of 1975, 89 Stat. 400, 42 U.S.C. 1973 *et seq.* Section numbers, such as "Section 14(c)(3)," refer to sections of the Act.

(b) "Attorney General" means the Attorney General of the United States or the delegate of the Attorney General.

(c) "Vote" and "voting" are used, as defined in the Act, to include "all action necessary to make a vote effective in any primary, special, or general election, including but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election." Section 14(c)(1).

(d) "Change affecting voting" means any voting qualification, prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage under Section 4(b) and includes, *inter alia*, the examples given in § 51.12.

(e) "Political subdivision" is used, as defined in the Act, to refer to "* * * any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting." Section 14(c)(2).

(f) "Covered jurisdiction" is used to refer to a State, where the determination referred to in § 51.4 has been made on a statewide basis, and to a political subdivision, where the determination has not been made on a statewide basis.

(g) "Preclearance" is used to refer to the obtaining of the declaratory judgment described in Section 5 or to the failure of the Attorney General to interpose an objection pursuant to Section 5.

(h) "Submission" is used to refer to the written presentation to the Attorney General by an appropriate official of any change affecting voting.

(i) "Submitting authority" means the jurisdiction on whose behalf a submission is made.

(j) "Language minority" or "language minority group" is used, as defined in the Act, to refer to persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage. Section 14(c)(3). See 28 CFR Part 55, Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups.

§ 51.3 Delegation of authority.

The responsibility and authority for determinations under Section 5 have been delegated by the Attorney General to the Assistant Attorney General, Civil Rights Division. With the exception of objections and decisions following the reconsideration of objections, the Chief of the Voting Section is authorized to act on behalf of the Assistant Attorney General.

§ 51.4 Date used to determine coverage; list of covered jurisdictions.

(a) The requirement of Section 5 takes effect upon publication in the **Federal Register** of the requisite determinations of the Director of the Census and the Attorney General under Section 4(b). These determinations are not reviewable in any court. Section 4(b).

(b) Section 5 requires the preclearance of changes affecting voting made since the date used for the determination of coverage. For each covered jurisdiction that date is one of the following: November 1, 1964; November 1, 1968; or November 1, 1972. A list of covered jurisdictions, together with the applicable date used to determine coverage, is contained in the appendix to this part. Any additional determinations of coverage will be published in the **Federal Register**.

§ 51.5 Termination of coverage.

A covered jurisdiction may terminate the application of Section 5 by obtaining the declaratory judgment described in Section 4(a) of the Act.

§ 51.6 Political subunits.

All political subunits within a covered jurisdiction (e.g., counties, cities, school districts) are subject to the requirement of Section 5.

§ 51.7 Political parties.

Certain activities of political parties are subject to the preclearance requirement of Section 5. A change affecting voting effected by a political party is subject to the preclearance requirement (1) if the change relates to a public electoral function of the party and (2) if the party is acting under authority explicitly or implicitly granted by a covered jurisdiction or political subunit subject to the preclearance requirement of Section 5. For example, changes with respect to the recruitment of party members, the conduct of political campaigns, and the drafting of party platforms are not subject to the preclearance requirement. Changes with respect to the conduct of primary elections at which party nominees, delegates to party conventions, or party officials are chosen are subject to the preclearance requirement of Section 5. Where appropriate the term "jurisdiction" (but not "covered jurisdiction") includes political parties.

§ 51.8 Computation of time.

(a) The Attorney General shall have 60 days in which to interpose an objection to a submitted change affecting voting.

(b) Except as specified in §§ 51.35, 51.37, and 51.41 the 60-day period shall commence upon receipt by the Department of Justice of a submission.

(c) The 60-day period shall mean 60 calendar days, with the day of receipt of the submission not counted. If the final day of the period should fall on a Saturday, Sunday, any day designated as a holiday by the President or Congress of the United States, or any other day that is not a day of regular business for the Department of Justice, the Attorney General shall have until the close of the next full business day in which to interpose an objection. The date of the Attorney General's response shall be the date on which it is mailed to the submitting authority.

§ 51.9 Requirement of action for declaratory judgment or submission to the Attorney General.

Section 5 requires that, prior to enforcement of any change affecting voting, the jurisdiction that has enacted or seeks to administer the change must either (1) obtain a judicial determination from the U.S. District Court for the District of Columbia that denial or abridgment of the right to vote on account of race, color, or membership in a language minority group is not the purpose and will not be the effect of the change or (2) make to the Attorney General a proper submission of the change to which no objection is interposed. It is unlawful to enforce a change affecting voting without obtaining preclearance under Section 5. The obligation to obtain such preclearance is not relieved by unlawful enforcement.

§ 51.10 Right to bring suit.

Submission to the Attorney General does not affect the right of the submitting authority to bring an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change affecting voting does not have the prohibited discriminatory purpose or effect.

§ 51.11 Scope of requirement.

Any change affecting voting, even though it appears to be minor or indirect, even though it ostensibly expands voting rights, or even though it is designed to remove the elements that caused objection by the Attorney General to a prior submitted change, must meet the Section 5 preclearance requirement.

§ 51.12 Examples of changes.

Changes affecting voting include, but are not limited to, the following examples:

(a) Any change in qualifications or eligibility for voting.

(b) Any change concerning registration, balloting, and the counting of votes and any change concerning publicity for or assistance in registration or voting.

(c) Any change with respect to the use of a language other than English in any aspect of the electoral process.

(d) Any change in the boundaries of voting precincts or in the location of polling places.

(e) Any change in the constituency of an official or the boundaries of a voting unit (e.g., through redistricting, annexation, deannexation, incorporation, reapportionment, changing to at-large elections from district elections, or changing to district elections from at-large elections).

(f) Any change in the method of determining the outcome of an election (e.g., by requiring a majority vote for election or the use of a designated post or place system).

(g) Any change affecting the eligibility of persons to become or remain candidates, to obtain a position on the ballot in primary or general elections, or to become or remain holders of elective offices.

(h) Any change in the eligibility and qualification procedures for independent candidates.

(i) Any change in the term of an elective office or an elected official or in the offices that are elective (e.g., by shortening the term of an office, changing from election to appointment or staggering the terms of offices).

(j) Any change affecting the necessity of or methods for offering issues and propositions for approval by referendum.

(k) Any change affecting the right or ability of persons to participate in political campaigns which is effected by a jurisdiction subject to the requirement of Section 5.

§ 51.13 Recurrent practices.

Where a jurisdiction implements a practice or procedure periodically or upon certain established contingencies, a change occurs (1) the first time such a practice or procedure is implemented by the jurisdiction, (2) when the manner in which such a practice or procedure is implemented by the jurisdiction is changed, or (3) when the rules for determining when such a practice or procedure will be implemented are changed. The failure of the Attorney General to object to a recurrent practice or procedure constitutes preclearance of the future use of the practice or procedure if its recurrent nature is clearly stated or described in the submission or is expressly recognized in the final response of the Attorney General on the merits of the submission.

§ 51.14 Enabling legislation and contingent or nonuniform requirements.

(a) The failure of the Attorney General to interpose an objection to legislation (1) that enables or permits political subunits to institute a voting change or (2) that requires or enables political subunits to institue a voting change upon some future event or if they satisfy certain criteria does not exempt the political subunit itself from the requirement to obtain preclearance when it seeks or is required to institute the change in question, unless implementation by the subunit is explicitly included and described in the submission of such parent legislation.

(b) Such legislation includes for example, (1) legislation authorizing counties, cities, or school districts to institute any of the changes described in § 51.[illegible], (2) legislation requiring a political subunit that chooses a certain form of government to follow specified election procedures, (3) legislation requiring or authorizing political subunits of a certain size or a certain location to institute specified changes, (4) legislation requiring a political subunit to follow certain practices or procedures unless the subunit's charter or ordinances specify to the contrary.

§ 51.15 Distinction between changes in procedure and changes in substance.

The failure of the Attorney General to interpose an objection to a procedure for instituting a change affecting voting does not exempt the substantive change from the preclearance requirement. For example, if the procedure for the approval of an annexation is changed from city council approval to approval in a referendum, the preclearance of the new procedure does not exempt an annexation accomplished under the new procedure from the preclearance requirement.

§ 51.16 Court-ordered changes.

Changes affecting voting that are specifically ordered by a Federal court as a result of the court's equitable jurisdiction over an adversary proceeding are not subject to the preclearance requirement of Section 5. However, subsequent changes necessitated by the court order but decided upon by the jurisdiction are subject to the preclearance requirement. For example, although a court-ordered districting plan may not be subject to the preclearance requirement, changes in voting precincts and polling places made necessary by the new plan remain subject to Section 5.

§ 51.17 Request for notification concerning voting litigation.

A jurisdiction subject to the preclearance requirement of Section 5 that becomes involved in any litigation concerning voting is requested promptly to notify the Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20530. Such notification will not be considered a submission under Section 5.

Subpart B—Procedures for Submission to the Attorney General

§ 51.18 Form of submissions.

Submissions may be made in letter or any other written form.

§ 51.19 Time of submissions.

Changes affecting voting should be submitted as soon as possible after they become final.

§ 51.20 Premature submissions.

The Attorney General will not consider on the merits (a) any proposal for a change affecting voting submitted prior to final enactment or administrative decision or (b) any proposed change which has a direct bearing on another change affecting voting which has not received Section 5 preclearance. However, with respect to a change for which approval by referendum, a State court or a Federal agency is required, the Attorney General may make a determination concerning the change prior to such approval if the change is not subject to alteration in the final approving action and if all other action necessary for approval has been taken.

§ 51.21 Party and jurisdiction responsible for making submissions.

(a) Changes affecting voting shall be submitted by the chief legal officer or other appropriate official of the submitting authority or by any other authorized person on behalf of the submitting authority. When one or more counties or other political subunits within a State will be affected, the State may make a submission on their behalf. Where a State is covered as a whole, State legislation (except legislation of local applicability) or other changes undertaken or required by the State shall be submitted by the State.

(b) A change effected by a political party (see § 51.7) may be submitted by an appropriate official of the political party.

§ 51.22 Address for submissions.

Changes affecting voting shall be mailed or delivered to the Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20530. The envelope and first page of the submission shall be clearly marked: Submission under Section 5 of the Voting Rights Act.

§ 51.23 Withdrawal of submissions.

If while a submission is pending the submitted change is repealed, altered, or declared invalid or otherwise becomes unenforceable, the jurisdiction may withdraw the submission. In other circumstances, a jurisdiction may withdraw a submission only if it shows good cause for such withdrawal.

Subpart C—Contents of Submissions

§ 51.24 General.

(a) The source of any information contained in a submission should be identified.

(b) Where an estimate is provided in lieu of more reliable statistics, the submission should identify the name, position, and qualifications of the person responsible for the estimate and should briefly describe the basis for the estimate.

(c) Submissions should be no longer than is necessary for the presentation of the appropriate information and materials.

(d) A submitting authority that desires the Attorney General to consider any information supplied as part of an earlier submission may incorporate such information by reference by stating the date and subject matter of the earlier submission and identifying the relevant information.

(e) Where information requested by this subpart is relevant but not known or available, or is not applicable, the submission should so state.

§ 51.25 Required contents.

Each submission should contain the following information or documents to enable the Attorney General to make the required determination pursuant to Section 5 with respect to the submitted change affecting voting:

(a) A copy of any ordinance, enactment, order or regulation embodying a change affecting voting.

(b) If the change affecting voting is not readily apparent on the face of the document provided under paragraph (a) or is not embodied in a document, a clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

(c) The name, title, address, and telephone number of the person making the submission.

(d) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

(e) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.

(f) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of State legislature, ordinance of city council, administrative decision by registrar).

(g) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

(h) The date of adoption of the change affecting voting.

(i) The date on which the change is to take effect.

(j) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

(k) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

(l) A statement of the reasons for the change.

(m) A statement of the anticipated effect of the change on members of racial or language minority groups.

(n) A statement identifying any past or pending litigation concerning the change or related voting practices.

(o) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure for the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

(p) Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in § 51.26 and is most likely to be needed with respect to redistricting, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in § 51.35.

§ 51.26 Supplemental contents.

Review by the Attorney General will be facilitated if the following information, where pertinent, is provided in addition to that required by § 51.25.

(a) *Demographic information.* (1) Total and voting age population of the affected area before and after the change by race and language group. If such information is contained in publications of the U.S. Bureau of the Census, reference to the appropriate volume and table is sufficient.

(2) The number of registered voters for the affected area by voting precinct before and after the change, by race and language group.

(3) Any estimates of population, by race and language group, made in connection with the adoption of the change.

(b) *Maps.* Where any change is made that revises the constitutency that elects any office or affects the boundaries of any geographic unit or units defined or employed for voting purposes (e.g., redistricting, annexation, change from district to at-large elections) or that changes voting precinct boundaries, polling place locations, or voter registration sites, maps in duplicate of the area to be affected, containing the following information:

(1) The prior and new boundaries of the voting unit or units.

(2) The prior and new boundaries of voting precincts.

(3) The location of racial and language minority groups.

(4) Any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units.

(5) The location of prior and new polling places.

(6) The location of prior and new voter registration sites.

(c) *Election returns.* Where a change may affect the electoral influence of a racial or language minority group, returns of primary and general elections conducted by or in the jurisdiction, containing the following information:

(1) The name of each candidate.

(2) The race or language group of each candidate, if known.

(3) The position sought by each candidate.

(4) The number of votes received by each candidate, by voting precinct.

(5) The outcome of each contest.

(6) The number of registered voters, by race and language group, for each voting precinct for which election returns a furnished. Information with respect to elections held during the last ten years will normally be sufficient.

(d) *Language usage.* Where a change is made affecting the use of the language of a language minority group in the electoral process, information that will enable the Attorney General to determine whether the change is consistent with the minority language requirements of the Act. The Attorney General's interpretation of the minority language requirements of the Act is contained in Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 CFR Part 55.

(e) *Publicity and participation.* For submissions involving controversial or potentially controversial changes, evidence of public notice, of the opportunity for the public to be heard, and of the opportunity for interested parties to participate in the decision to adopt the proposed change and an account of the extent to which such participation, especially by minority group menbers, in fact took place. Examples of materials demonstrating public notice or participation include:

(1) Copies of newspaper articles discussing the proposed change.

(2) Copies of public notices that describe the proposed change and invite public comment or participation in hearings or that announce submission to and invite comments for the consideration of the Attorney General and statements regarding where such public notices appeared (e.g., newspaper, radio, or television, posted in public buildings, sent to identified individuals or groups).

(3) Minutes or accounts of public hearings concerning the proposed change.

(4) Statements, speeches, and other public communications concerning the proposed change.

(5) Copies of comments from the general public.

(6) Excerpts from legislative journals containing discussion of a submitted enactment, or other materials revealing its legislative purpose.

(f) *Minority group contacts.* For submissions from jurisdictions having a significant minority population, the names, addresses, telephone numbers, and organizational affiliation (if any) of racial or language minority group members who can be expected to be familiar with the proposed change or who have been active in the political process.

Subpart D—Communications From Individuals and Groups

§ 51.27 Communications concerning voting changes.

Any individual or group may send to the Attorney General information concerning a change affecting voting in a jurisdiction to which Section 5 applies.

(a) Communications may be in the form of a letter stating the name, address, and telephone number of the individual or group, describing the alleged change affecting voting and setting forth evidence regarding whether the change has or does not have a discriminatory purpose or effect, or simply bringing to the attention of the Attorney General the fact that a voting change has occurred.

(b) The communications should be mailed to the Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20[illegible]0. The envelope and first page should be marked: Comment under Section 5 of the Voting Rights Act.

(c) Comments by individuals or groups concerning any change affecting voting may be sent at any time; however, individuals and groups are encouraged to comment as soon as they learn of the change.

(d) Department of Justice officials and employees shall comply with the request of any individual that his or her identity not be disclosed to any person outside the Department, to the extent permitted by the Freedom of Information Act, 5 U.S.C. 552. In addition, whenever it appears to the Attorney General that disclosure of the identity of an individual who provided information regarding a change affecting voting "would constitute a clearly unwarranted invasion of personal privacy" under 5 U.S.C. 552(b)(6), the identity of the individual shall not be disclosed to any person outside the Department.

(e) When an individual or group desires the Attorney General to consider information that was supplied in connection with an earlier submission, it is not necessary to resubmit the information but merely to identify the earlier submission and the relevant information.

§ 51.28 Action on communications from individuals or groups.

(a) If there has already been a submission received of the change affecting voting brought to the attention of the Attorney General by an individual or group, any evidence from the individual or group shall be considered along with the materials submitted and materials resulting from any investigation.

(b) If such a submission has not been received, the Attorney General shall advise the appropriate jurisdiction of the requirement of Section 5 with respect to the change in question.

§ 51.29 Communications concerning voting suits.

Individuals and groups are urged to notify the Assistant Attorney General Civil Rights Division, of litigation concerning voting in jurisdictions subject to the requirement of Section 5.

§ 51.30 Establishment and maintenance of registry of interested individuals and groups.

The Attorney General shall establish and maintain a Registry of Interested Individuals and Groups, which shall contain the name and address of any individual or group that wishes to receive notice of Section 5 submissions. Information relating to this registry and to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a *et seq.*, is contained in Justice/CRT-004, 43 FR 44676 (Sept. 28, 1978).

Subpart E—Processing of Submissions

§ 51.31 Notice to registrants concerning submissions.

Weekly notice of submissions that have been received will be given to the individuals and groups who have registered for this purpose under § 51.30.

§ 51.32 Expedited consideration.

(a) When a submitting authority is required under State law or local ordinance or otherwise finds it necessary to implement a change within the 60-day period following submission, it may request that the submission be given expedited consideration. The submission should explain why such consideration is needed and provide the date by which a determination is required.

(b) Jurisdictions should endeavor to plan for changes in advance so that expedited consideration will not be required and should not routinely request such consideration. When a submitting authority demonstrates good cause for expedited consideration the Attorney General will attempt to make a decision by the date requested. However, the Attorney General cannot guarantee that such consideration can be given.

(c) Notice of the request for expedited consideration will be given to interested parties registered under § 51.30.

§ 51.33 Disposition of inappropriate submissions.

The Attorney General will make no response on the merits with respect to an inappropriate submission but will notify the submitting authority of the inappropriateness of the submission. Such notification will be made as promptly as possible and no later than the 60th day following receipt and will include an explanation of the inappropriateness of the submission. Inappropriate submissions include the submission of changes that do not affect voting (see, e.g., § 51.12), the submission of standards, practices, or procedures that have not been changed (see, e.g., §§ 51.4, 51.13), the submission of changes that affect voting but are not subject to the requirement of Section 5 (see, e.g., § 51.16), premature submissions (see § 51.20), and submissions by jurisdictions not subject to the requirement of Section 5 (see §§ 51.4, 51.5).

§ 51.34 Release of information concerning submissions.

The Attorney General shall have the discretion to call to the attention of the submitting authority or any interested individual or group information or comments related to a submission.

§ 51.35 Obtaining information from the submitting authority.

(a) If a submission does not satisfy the requirements of § 51.25, the Attorney General shall request such further information as is necessary from the submitting authority and advise the submitting authority that the 60-day period will not commence until such information is received by the Department of Justice. The request shall be made as promptly as possible after receipt of the original inadequate submission and no later than the 60th day following its receipt.

(b) A copy of the request shall be sent to any party who has commented on the submission or has requested notice of the Attorney General's action thereon.

(c) If, after a request for further information is made pursuant to this section, the information requested becomes available to the Attorney General from a source other than the submitting authority, the Attorney General shall promptly notify the submitting authority, and the 60-day period will commence upon the date of such notification.

(d) Notice of the request for and receipt of further information will be given to interested parties registered under § 51.30.

§ 51.36 Obtaining information from others.

(a) The Attorney General may at any time request relevant information from governmental jurisdictions and from interested groups and individuals and may conduct any investigation or other inquiry that is deemed appropriate in making a determination.

(b) If a submission does not contain evidence of adequate notice to the public, and the Attorney General believes that such notice is essential to a determination, steps will be taken by the Attorney General to provide public notice sufficient to invite interested or affected persons to provide evidence as to the presence or absence of a discriminatory purpose or effect. The submitting authority shall be advised when any such steps are taken.

§ 51.37 Supplementary submissions.

When a submitting authority provides documents and information materially supplementing a submission (or a request for reconsideration of an objection) or, before the expiration of the 60-day period, makes a second submission such that the two submissions cannot be independently considered, the 60-day period for the original submission will be calculated from the receipt of the supplementary information or the second submission.

§ 51.38 Failure to complete submissions.

If after 60 days the submitting authority has not provided further information in response to a request made pursuant to § 51.35(a), the Attorney General, absent extenuating circumstances and consistent with the burden of proof under Section 5 described in § 51.39(e), may object to the change, giving notice as specified in § 51.43.

§ 51.39 Standards for determination by the Attorney General.

(a) Section 5 provides for submission to the Attorney General as an alternative to the seeking of a declaratory judgment from the U.S. District Court for the District of Columbia. Therefore, the Attorney General shall make the same determination that would be made by the court in an action for a declaratory judgment under Section 5: whether the submitted change has the purpose or will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

(b) Guided by the relevant judicial decisions, the Attorney General shall base a determination on a review of material presented by the submitting authority, relevant information provided by individuals or groups, and the results of any investigation conducted by the Department of Justice.

(c) If the Attorney General determines that a submitted change does not have the prohibited purpose or effect, no objection shall be interposed to the change.

(d) If the Attorney General determines that a submitted change has the prohibited purpose or effect, an objection shall be interposed to the change.

(e) The burden of proof on a submitting authority when it submits a change to the Attorney General is the same as it would be if the change was the subject of a declaratory judgment action in the U.S. District Court for the District of Columbia. Therefore, if the evidence as to the purpose or effect of a change is conflicting and the Attorney General is unable to determine that the submitted change does not have the prohibited purpose or effect, an objection shall be interposed to the change.

§ 51.40 Notification of decision not to object.

(a) The Attorney General shall within the 60-day period allowed notify the submitting authority of a decision to interpose no objection to a submitted change affecting voting.

(b) The notification shall state that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change.

(c) A copy of the notification shall be sent to any party who has commented on the submission or has requested notice of the Attorney General's action thereon.

§ 51.41 Failure of the Attorney General to respond.

It is the practice and intention of the Attorney General to respond to each submission within the 60-day period. However, the failure of the Attorney General to make a written response within the 60-day period constitutes preclearance of the submitted change, provided the submission is addressed as specified in § 51.22 and is appropriate for a response on the merits as described in § 51.33.

§ 51.42 Reexamination of decision not to object.

After notification to the submitting authority of a decision to interpose no objection to a submitted change affecting voting has been given, the Attorney General may reexamine the submission if, prior to the expiration of the 60-day period, information indicating the possibility of the prohibited discriminatory purpose or effect is received. In this event, the Attorney General may interpose an objection provisionally and advise the submitting authority that examination of the change in light of the newly raised issues will continue and that a final decision will be rendered as soon as possible.

§ 51.43 Notification of decision to object.

(a) The Attorney General shall within the 60-day period allowed notify the submitting authority of a decision to interpose an objection. The reasons for the decision shall be stated.

(b) The submitting authority shall be advised that the Attorney General will reconsider an objection upon a request by the submitting authority.

(c) The submitting authority shall be advised further that notwithstanding the objection it may institute an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change objected to by the Attorney General does not have the prohibited discriminatory purpose or effect.

(d) A copy of the notification shall be sent to any party who has commented on the submission or has requested notice of the Attorney General's action thereon.

(e) Notice of the decision to interpose an objection will be given to interested parties registered under § 51.30.

§ 51.44 Request for reconsideration.

(a) The submitting authority may at any time request the Attorney General to reconsider an objection.

(b) Requests may be in letter or any other written form and should contain relevant information or legal argument.

(c) Notice of the request will be given to any party who commented on the submission or requested notice of the Attorney General's action thereon and to interested parties registered under § 51.30. In appropriate cases the Attorney General may request the submitting authority to give local public notice of the request.

§ 51.45 Reconsideration of objection at the insistance of the Attorney General.

(a) Where there appears to have been a substantial change in operative fact or relevant law, an objection may be reconsidered, if it is deemed appropriate, at the insistance of the Attorney General.

(b) Notice of such a decision to reconsider shall be given to the submitting authority, to any party who commented on the submission or requested notice of the Attorney General's action thereon, and to interested parties registered under § 51.30, and the Attorney General shall decide whether to withdraw or to continue the objection only after such persons have had a reasonable opportunity to comment.

§ 51.46 Conference.

(a) A submitting authority that has requested reconsideration of an objection pursuant to § 51.44 may request a conference to produce information or legal argument in support of reconsideration.

(b) Such a conference shall be held at a location determined by the Attorney General and shall be conducted in an informal manner.

(c) When a submitting authority requests such a conference, individuals or groups that commented on the change prior to the Attorney General's objection or that seek to participate in response to any notice of a request for reconsideration shall be notified and given the opportunity to confer.

(d) The Attorney General shall have the discretion to hold separate meetings to confer with the submitting authority and other interested groups or individuals.

(e) Such conferences will be open to the public or to the press only at the discretion of the Attorney General and with the agreement of the participating parties.

§ 51.47 Decision after reconsideration.

(a) The Attorney General shall within the 60-day period following the receipt of a reconsideration request or following notice given under § 51.45(b) notify the submitting authority of the decision to continue or withdraw the objection, provided that the Attorney General shall have at least 15 days following any conference that is held in which to decide. The reasons for the decision shall be stated.

(b) The objection shall be withdrawn if the Attorney General is satisfied that the change does not have the purpose and will not have the effect of discriminating on account of race, color, or membership in a language minority group.

(c) If the objection is not withdrawn, the submitting authority shall be advised that notwithstanding the objection it may institute an action in the U.S. District Court for the District of Columbia for a declaratory judgment that the change objected to by the Attorney General does not have the prohibited purpose or effect.

(d) A copy of the notification shall be sent to any party who has commented on the submission or reconsideration or has requested notice of the Attorney General's action thereon.

(e) Notice of the decision after reconsideration will be given to interested parties registered under § 51.30.

§ 51.48 Absence of judicial review.

The decision of the Attorney General not to object to a submitted change or to withdraw an objection is not reviewable. However, Section 5 states: "Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure."

§ 51.49 Records concerning submissions.

(a) Section 5 files: The Attorney General shall maintain a Section 5 file for each submission, containing the submission, related written materials, correspondence, memoranda, investigative reports, notations concerning conferences with the submitting authority or any interested individual or group, and copies of any letters from the Attorney General concerning the submission.

(b) Objection files: Brief summaries regarding each submission and the general findings of the Department of Justice investigation and decision concerning it will be prepared when a decision to interpose, continue, or withdraw an objection is made. Files of these summaries, arranged by jurisdiction and by the date upon which such decision is made, will be maintained.

(c) Computer file: Records of all submissions and of their dispositions by the Attorney General shall be electronically stored and periodically retrieved in the form of computer printouts.

(d) The contents of the above-described files shall be available for inspection and copying by the public during normal business hours at the Civil Rights Division, Department of Justice, Washington, D.C. Materials that are exempt from inspection under the Freedom of Information Act, 5 U.S.C. 552(b), may be withheld at the discretion of the Attorney General. Communications from individuals who have requested confidentiality or with respect to whom the Attorney General has determined that confidentiality is appropriate under § 51.27(d) shall be available only as provided by § 51.27(d). Applicable fees, if any, for the copying of the contents of these files are contained in the Department of Justice regulations implementing the Freedom of Information Act, 28 CFR 16.9.

Subpart F—Sanctions

§ 51.50 Enforcement by the Attorney General.

(a) The Attorney General is authorized to bring civil actions for appropriate relief against violations of the Act's provisions, including Section 5. See Section 12(d).

(b) Certain violations may be subject to criminal sanctions. See Sections 12 (a) and (c).

§ 51.51 Enforcement by private parties.

Private parties have standing to enforce Section 5.

Subpart G—Petition To Change Procedures

§ 51.52 Who may petition.

Any jurisdiction or interested individual or group may petition to have these procedural guidelines amended.

§ 51.53 Form of petition.

A petition under this subpart may be made by informal letter and shall state the name, address, and telephone number of the petitioner, the change requested, and the reasons for the change.

§ 51.54 Disposition of petition.

The Attorney General shall promptly consider and dispose of a petition under this subpart and give notice of the disposition, accompanied by a simple statement of the reasons,to the petitioner.

Appendix—Jurisdictions Covered Under Section 4(b) of the Voting Rights Act, as Amended

The preclearance requirement of Section 5 of the Voting Rights Act, as amended, applies in the following jurisdictions. The date in parentheses is the date that was used to determine coverage for the jurisdiction it follows.

Alabama (statewide) (Nov. 1, 1964)
Alaska (statewide) (Nov. 1, 1972)
Arizona (statewide) (Nov. 1, 1972)

(The following Arizona counties were covered individually through the use of earlier dates.)

- Apache County (Nov. 1, 1968)
- Cochise County (Nov. 1, 1968)
- Coconino County (Nov. 1, 1968)
- Mohave County (Nov. 1, 1968)
- Navajo County (Nov. 1, 1968)
- Pima County (Nov. 1, 1968)
- Pinal County (Nov. 1, 1968)
- Santa Cruz County (Nov. 1, 1968)
- Yuma County (Nov. 1, 1964

California (the following counties only)
- Kings County (Nov. 1, 1972)
- Merced County (Nov. 1, 1972)
- Monterey County (Nov. 1, 1968)
- Yuba County (Nov. 1, 1968)

Colorado (the following county only)
- El Paso (Nov. 1, 1972)

Connecticut (the following towns only)
- Groton Town (Nov. 1, 1968)
- Mansfield Town (Nov. 1, 1968)
- Southbury Town (Nov. 1, 1968)

Florida (the following counties only)
- Collier County (Nov. 1, 1972)
- Hardee County (Nov. 1, 1972)
- Hendry County (Nov. 1, 1972)

Hillsborough County (Nov. 1, 1972)
Monroe County (Nov. 1, 1972)
Georgia (statewide) (Nov. 1, 1964)
Hawaii (the following county only)
Honolulu County (Nov. 1, 1964)
Idaho (the following county only)
Elmore County (Nov. 1, 1968)
Louisiana (statewide) (Nov. 1, 1964)
Massachusetts (the following towns only)
Amherst Town (Nov. 1, 1968)
Ayer Town (Nov. 1, 1968)
Belchertown (Nov. 1, 1968)
Bourne Town (Nov. 1, 1968)
Harvard Town (Nov. 1, 1968)
Sandwich Town (Nov. 1, 1968)
Shirley Town (Nov. 1, 1968)
Sunderland Town (Nov. 1, 1968)
Wrentham Town (Nov. 1, 1968)
Michigan (the following townships only)
Buena Vista Township (Saginaw County) (Nov. 1, 1972)
Clyde Township (Allegan County) (Nov. 1, 1972)
Mississippi (statewide) (Nov. 1, 1964)
New Hampshire (the following political subdivisions only)
Antrim Town (Nov. 1, 1968)
Benton Town (Nov. 1, 1968)
Boscawen Town (Nov. 1, 1968)
Millsfield Township (Nov. 1, 1968)
Newington Town (Nov. 1, 1968)
Pinkhams Grant (Nov. 1, 1968)
Rindge Town (Nov. 1, 1968)
Stewartstown (Nov. 1, 1968)
Stratford Town (Nov. 1, 1968)
Unity Town (Nov. 1, 1968)
New York (the following counties only)
Bronx County (Nov. 1, 1968)
Kings County (Nov. 1, 1968)
New York County (Nov. 1, 1968)
North Carolina (the following counties only)
Anson County (Nov. 1, 1964)
Beaufort County (Nov. 1, 1964)
Bertie County (Nov. 1, 1964)
Bladen County (Nov. 1, 1964)
Camden County (Nov. 1, 1964)
Caswell County (Nov. 1, 1964)
Chowan County (Nov. 1, 1964)
Cleveland County (Nov. 1, 1964)
Craven County (Nov. 1, 1964)
Cumberland County (Nov. 1, 1964)
Edgecombe County (Nov. 1, 1964)
Franklin County (Nov. 1, 1964)
Gaston County (Nov. 1, 1964)
Gates County (Nov. 1, 1964)
Granville County (Nov. 1, 1964)
Greene County (Nov. 1, 1964)
Guilford County (Nov. 1, 1964)
Halifax County (Nov. 1, 1964)
Harnett County (Nov. 1, 1964)
Hertford County (Nov. 1, 1964)
Hoke County (Nov. 1, 1964)
Jackson County (Nov. 1, 1972)
Lee County (Nov. 1, 1964)
Lenoir County (Nov. 1, 1964)
Martin County (Nov. 1, 1964)
Nash County (Nov. 1, 1964)
Northampton County (Nov. 1, 1964)
Onslow County (Nov. 1, 1964)
Pasquotank County (Nov. 1, 1964)
Perquimans County (Nov. 1, 1964)
Person County (Nov. 1, 1964)
Pitt County (Nov. 1, 1964)
Robeson County (Nov. 1, 1964)
Rockingham County (Nov. 1, 1964)
Scotland County (Nov. 1, 1964)
Union County (Nov. 1, 1964)
Vance County (Nov. 1, 1964)
Washington County (Nov. 1, 1964)
Wayne County (Nov. 1, 1964)
Wilson County (Nov. 1, 1964)
South Carolina (statewide) (Nov. 1, 1964)
South Dakota (the following counties only)
Shannon County (Nov. 1, 1972)
Todd County (Nov. 1, 1972)
Texas (statewide) (Nov. 1, 1972)
Virginia (statewide) (Nov. 1, 1964)
Wyoming (the following county only)
Campbell County (Nov. 1, 1968)

[FR Doc. 81-128 Filed 1-2-81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

National Security Agency/Central Security Service

32 CFR Part 286f

Obtaining Information From Financial Institutions

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Final rule.

SUMMARY: This rule establishes National Security Agency (NSA) policies and procedures for obtaining information from financial institutions in accordance with Pub. L. 95-630, Title XI, the Right to Financial Privacy Act of 1978. This rule provides for the access to financial records of individuals from financial institutions when such records are relevant to a final determination with respect to employment, continued assignment or detail, clearance, access or other related actions.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: LCDR M. E. Bowman, JAGC, USN, Office of the General Counsel, Fort George C. Meade, MD 20755, telephone 301-688-6054.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-32207, appearing in the **Federal Register** (45 FR 68685) on October 16, 1980, the National Security Agency published as a proposed rule their policies and procedures for obtaining information from financial institutions in accordance with the Financial Privacy Act of 1978. No comments were received on the proposed rule and it is adopted as proposed.

Accordingly, 32 CFR is amended by adding a new Part 286f that reads as follows:

PART 286f—OBTAINING INFORMATION FROM FINANCIAL INSTITUTIONS

Sec.
286f.1 Purpose and applicability.
286f.2 Policy.
286f.3 Procedures.
286f.4 Reports.

Authority: Title XI, Pub. L. 95-630, 92 Stat. 3697 (12 U.S.C. 3401 et seq.).

§ 286f.1 Purpose and applicability.

(a) This part establishes procedures for the National Security Agency/Central Security Service (NSA/CSS) to obtain records from financial institutions and implements 12 U.S.C. 3401-3422, 92 Stat. 3697 (Pub. L. 95-630).

(b) The provisions of this part apply only to financial records maintained by any office of a bank, savings bank, credit card issuer, industrial loan company, trust company, savings and loan, building and loan, homestead association (including cooperative banks), credit union, or consumer finance institution that is located in any district, state or territory of the United States.

(c) All NSA/CSS elements are subject to the provisions of this part.

§ 286f.2 Policy.

(a) Financial records shall be sought regarding any individual who is an applicant for employment with the NSA/CSS or who has a current security clearance and/or access granted by the NSA/CSS, and regarding any other individual assigned or detailed to the NSA/CSS when such records are relevant to a final determination with respect to employment, continued assignment or detail, clearance, access or other related actions.

(b) The NSA/CSS shall seek the consent of an individual when obtaining that individual's financial records from a financial institution. Refusal of an individual to provide such consent may be grounds for denying access to all Sensitive Compartmented Information (SCI) and to other classified information in NSA/CSS custody if the circumstances of such refusal or the nature of the records sought prevent the NSA/CSS from determining that such access is or would be clearly consistent with the national security.

(c) Any actions relative to obtaining financial records without an individual's consent shall be conducted in accordance with the provisions of DoD Directive 5400.12, found in 32 CFR Part 294, as appropriate.

§ 286f.3 Procedures.

(a) Representatives of NSA/CSS Security shall use a consent form as set out in Enclosure 2 of CFR Part 294, relative to obtaining financial records. A copy of the consent form shall be made a part of the individual's NSA/CSS security file, and an additional record copy of the form kept be security for the purpose of an annual report. A certification form as set out in Enclosure 4 of 32 CFR Part 294 shall be provided to financial institutions by security representatives along with the consent form certifying compliance with 12 U.S.C. § 3401 *et seq.*

(b) Procedures used by security regarding matters referenced in paragraph (a) of this section, shall be established on a case-by-case basis and shall be in consonance with the appropriate provisions of 32 CFR Part 294.

(c) Financial records obtained under 12 U.S.C. § 3401 *et seq.* shall be marked: "This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. § 3401 *et seq.*, and may not be transferred to another federal agency or department without prior compliance with the transferring requirements of 12 U.S.C. 3412." Except in accordance with paragraph (e) of this section such records shall not be transferred to another agency or department outside the Department of Defense unless the Chief, Security, or delegate certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. Such certificates shall be maintained in the appropriate NSA/CSS security file with copies of the released records.

(d) Unless alternate procedures are involved as referenced in paragraph (b) of this section, when financial records have been transferred to another agency, a security representative shall, within 14 days, personally serve or mail to the individual whose records have been transferred, at his or her last known address, a copy of the certificate required by paragraph (c) of this section, and the following notice: "Copies of or information contained in your financial records lawfully in possession of the NSA/CSS have been furnished to (name of agency) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose(s): (state reason). If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

(e) In cases where another federal agency authorized to conduct foreign intelligence or foreign counterintelligence activities requests a financial record held by the NSA/CSS, and makes such a request for the purpose of conducting that Agency's protective functions, the NSA/CSS may release the information without notifying the individual to whom the financial record pertains.

§ 2901.4 Reports.

Security shall compile an annual report setting forth the data required in the Right to Financial Privacy Act of 1978. The report shall be submitted to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration), by 15 February annually, and shall be assigned the Report Control Symbol DD-COMP(A) of 1538.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

December 22, 1980.

[FR Doc. 81-182 Filed 1-2-81; 8:45 am]

BILLING CODE 3810-70-M

Defense Investigative Service

32 CFR Part 298a

Defense Investigative Service, Privacy Act of 1974

AGENCY: Defense Investigative Service (DIS).

ACTION: Final rule.

SUMMARY: The Defense Investigative Service is deleting the rules establishing the general exemption (5 U.S.C. 552a(j)(2)) for three systems of records maintained by that agency.

DATES: This action shall be effective February 4, 1981.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Dale L. Hartig, Office of Information and Legal Affairs, Defense Investigative Service, 1900 Half Street, SW, Washington, DC 20324. Telephone: (Area Code: 202) 693-1740.

SUPPLEMENTAL INFORMATION: The Defense Investigative Service is deleting the rules permitting the general exemption under 5 U.S.C. 552a(j)(2) to be claimed for three systems of records. These systems will no longer be exempt from any portion of the Privacy Act under the general exemption.

§ 298a.14 [Amended]

Accordingly, § 298a.14 of 32 CFR is amended by removing and reserving paragraph (c) and by removing paragraphs (g) and (h).

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 24, 1980.

[FR Doc. 81-64 Filed 1-2-81; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Office of the Under Secretary

34 CFR Part 78

Education Appeal Board

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the regulations for the Education Appeal Board by designating certain proceedings, such as appeals from final audit determinations in discretionary grant programs, to be heard by the Education Appeal Board. Included in this designation are audit appeals in discretionary grant programs previously administered by the Office of Education (OE) which were pending before the Department of Health, Education and Welfare (HEW) Grant Appeals Board, and its successor, the Department of Health and Human Services (HHS) Grant Appeals Board.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, U.S. Department of Education, 400 Maryland Ave. S.W., Room 2141 (FOB-6), Washington, D.C. 20202. Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION:

A. Designation of Jurisdiction

Section 451 of the General Education Provisions Act, 20 U.S.C. 1234, empowers the Education Appeal Board (EAB) to hear certain specified proceedings, including appeals from final audit determinations in State-administered programs and from withholding, termination and cease and desist actions. It also gives the EAB the authority to conduct other proceedings designated by the Secretary of Education. The Secretary of Education through these final regulations is designating to the EAB review of appeals from final audit determinations in discretionary grant programs administered by the Department of Education. In addition, the Secretary of Education is designating to the EAB review of appeals from determinations,

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in any program administered by the Department of Education, that—

(1) Void a grant;

(2) Disapprove a recipient's written request for permission to incur an expenditure during the term of a grant; or

(3) Are from an appropriate Department of Education official, with respect to cost allocation plans negotiated with State and local units of government, and indirect cost rates, computer, fringe benefit, and other special rates negotiated with colleges and universities, State and local government agencies, hospitals, and other nonprofit institutions.

In order to avoid the possibility of conflicting decisions, the Board will not have jurisdiction to review an issue regarding the appropriateness of cost allocation plans and other rates described in (3) above where the appellant has raised the same issue before another agency's review board on appeal of a determination made under a contract with the Department. These matters now may be appealed to the General Services Contract Appeal Board, and formerly were appealable to the Armed Services Board of Contract Appeals.

The following amendments to the EAB regulations give the Board jurisdiction of those proceedings designated to it by the Secretary of Education. This designation includes review of matters previously appealed to the HEW Grant Appeals Board, and which were pending before that Board or that Board's successor, the HHS Grant Appeals Board. Those pending appeals include—

1. Appeal of Alaska Federation of Natives, Inc., Docket No. 78–1;
2. Appeal of D–Q University, Docket No. 78–10;
3. Appeal of Cecil Community College, Docket No. 78–12;
4. Appeal of Southern University, Docket No. 78–63;
5. Appeal of University of the District of Columbia, Docket No. 78–64;
6. Appeal of Mississippi State University, Docket No. 78–141;
7. Appeal of University of Oklahoma, Docket No. 78–139;
8. Appeal of University of Northern Colorado, Docket No. 78–149;
9. Appeal of Snead State Junior College; Docket No. 79–19;
10. Appeal of Lummi Indian Council, Docket No. 79–28;
11. Appeal of University of Northern Colorado, Docket No. 79–65;
12. Appeal of Research Foundation of the City University of New York, Docket No. 79–91;
13. Appeal of Alaska Federation of Natives, Inc., Docket No. 79–95;
14. Appeal of Wake County Opportunities, Inc., Docket No. 79–240;
15. Appeal of American Indian Center of Dallas, Docket No. 80–67;
16. Appeal of Standing Rock Community College, Docket No. 80–91;
17. Appeal of Indian Centers, Inc., Docket No. 80–93;
18. Appeal of Ya-Ka-Ama Indian Education and Development, Docket No. 80–100;
19. Appeal of Mississippi Board of Chocktaw Indians, Docket No. 80–104.

These amendments also clarify several technical matters relating to the jurisdiction of the Education Appeal Board set forth in the Board's final regulations published on April 3, 1980 (45 FR 27634) as 45 CFR Part 100d, redesignated as 34 CFR Part 78 (45 FR 77368). The definition of "Applicable Program" contained in § 78.3 of Subpart A (Definitions) has been amended to reflect the exclusion of additional student assistance programs, that were created by the Education Amendments of 1980, from the EAB's jurisdiction to conduct withholding or termination hearings. The exclusions are required by Section 453 of the General Education Provisions Act. The definition of "Applicable Program" also has been amended to reflect the Board's jurisdiction under Section 454 of the General Education Provisions Act to conduct cease and desist actions that relate to student assistance programs authorized by Title IV and governed by Section 497 of the Higher Education Act of 1965, as amended.

In addition, § 78.2 of Subpart A (Jurisdiction) permits the Board to conduct cease and desist proceedings that involve a complaint issued in connection with any applicable program. While Section 454 of the General Education Provisions Act gives the Board specific authority to conduct cease and desist proceedings that involve complaints issued only to a State or a local educational agency, the Secretary, by virtue of Section 451 of the General Provisions Act, designated to the Board jurisdiction to conduct proceedings involving complaints issued to any recipient of an applicable program. An appropriate citation of legal authority has been added to all provisions of the regulations contained in Subpart D—Cease and Desist. Where appropriate, the citations of legal authority following other provisions of the Education Appeal Board's regulations have also been amended in order to reflect the designation of jurisdiction announced in these final regulations.

Section 455 of the General Education Provisions Act authorizes judicial review for recipients who would be adversely affected by final decisions of the Secretary of Education that result from proceedings before the Education Appeal Board. Section 455 however, expressly applies only to decisions that result from proceedings before the EAB that are specifically authorized by Sections 452–454 of the General Education Provisions Act. It does not apply to any decisions that result from proceedings designated to the EAB by the Secretary of Education. These final regulations also incorporate this statutory limitation into the regulations of the Education Appeal Board.

B. Applicable Procedures

The EAB's review of audit determinations in discretionary grant programs will be governed by the EAB regulations for final audit determinations in 34 CFR Part 78, Subpart B and by the general rules for practice and procedure in 34 CFR Part 78, Subpart E. The EAB's review of the other determinations designated in these final regulations will be governed by the EAB regulations for withholding and termination in 34 CFR Part 78, Subpart C as amended by these amendments and by the general rules for practice and procedure in 34 CFR Part 78, Subpart E.

The applicable procedures for seeking review are in the final regulations of the Education Appeal Board, published on April 3, 1980 (45 FR 22634). A recipient who failed to request review from the HEW Grant Appeals Board and whose time to do so expired before May 4, 1980, the date on which the Department of Education was created, may not file an appeal with the EAB.

A recipient who previously sought review from the HEW Grant Appeals Board, and whose case is still pending, does not have to file a new application for review with the Education Appeal Board. All documents accepted for consideration by the Grant Appeals Board will be accepted for consideration by the Education Appeal Board. The Education Appeal Board will notify the parties in these cases of further proceedings.

A recipient who was unable to request review by the HEW Grant Appeals Board because the time for filing an appeal expired on or after May 4, 1980, may seek review from the Education Appeal Board by filing an appropriate application for review within 30 days of the effective date of these regulations.

Since these amendments to the regulations merely designate a forum for review of certain determinations, they are procedural and not subject to the requirement for public comment contained in the Administrative Procedure Act.

(5 U.S.C. 553)

C. Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: December 24, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary amends Part 78 of Title 34 of the Code of Federal Regulations in the following respects: 1. Section 78.2 is amended by revising paragraphs (a)(1); redesignating paragraph (a)(4) as paragraph (a)(5) and adding a new paragraph (a)(4) to read as follows:

§ 78.2 Jurisdiction.

(a) The Board has jurisdiction to—

(1) Review final audit determinations concerning an applicable program (see § 78.3 (Definitions) for the definition of an applicable program)

* * * * *

(4) Conduct hearings, in connection with an applicable program, which involve—

(i) A determination that a grant is void;

(ii) The disapproval of a recipient's written request for permission to incur an expenditure during the term of a grant; or

(iii) A determination from an authorized ED official with respect to cost allocation plans negotiated with State and local units of government, and indirect cost rates, computer, fringe benefit, and other special rates negotiated with colleges and universities, State and local government agencies, hospitals, and other nonprofit institutions (except for determinations which are the subject of an appeal filed by the grantee to the Grant Services Contract Appeal Board or to the Armed Services Board of Contract Appeals regarding a contract with the Department); and

(5) Conduct other proceedings as designated by the Secretary of Education (the Secretary) in the **Federal Register.**

* * * * *

(20 U.S.C. 1234(a) 2832(b))

2. Section 78.3 is amended by revising the definitions of "Appellant" and "Applicable Program" to read as follows:

§ 78.3 Definitions.

"Appellant" means an SEA or other recipient that requests—

(a) A review of a final audit determination;

(b) A withholding or termination hearing; or

(c) A hearing regarding a matter described in § 78.2(a)(4) of these regulations (Jurisdiction).

"Applicable program" means—

(a) In the case of any proceeding listed in § 78.2(a) (Jurisdiction) except a cease and desist proceeding (§ 78.2(a)(3)), any program administered by an authorized ED official except the following student assistance programs authorized by Title IV and governed by Section 497 A of the Higher Education Act of 1965, as amended:

(1) National Direct Student Loan Program.

(2) College Work-Study Program.

(3) Pell Grant Program, formerly known as the Basic Educational Opportunity Grant Program.

(4) Supplemental Educational Opportunity Grant Program.

(5) Guaranteed Student Loan Program.

(6) Parent Loans for Undergraduate Students Program.

(b) In the case of a cease and desist proceedings described in § 78.2(a)(3) (Jurisdiction), any program administered by an authorized ED official.

* * * * *

(20 U.S.C. 1234(a) and (e))

3. Section 78.6 is amended by redesignating paragraph (a)(4) as paragraph (a)(7); and adding new paragraphs (a)(4), (5), and (6) to read as follows:

§ 78.6 Eligibility for review.

(a) Review under these regulations is available to a recipient that receives a written notice from an authorized ED official of—

* * * * *

(4) A determination that a grant is void;

(5) The disapproval of a recipient's written request for permission to incur an expenditure during the term of a grant;

(6) A determination with respect to cost allocation plans negotiated with State and local units of government, and indirect cost rates, computer, fringe benefit, and other special rates negotiated with colleges and universities, State and local government agencies, hospitals, and other nonprofit institutions (except for determinations which are the subject of an appeal filed by the grantee to the Grant Services Contract Appeal Board or to the Armed Services Board of Contract Appeals regarding a contract with the Department); or

(7) Any other proceeding designated by the Secretary.

* * * * *

(20 U.S.C. 1234(a) and (e), 2832(b))

4. Section 78.11 is amended by revising paragraph (a) and the citation of statutory authority at the end of the section to read as follows:

§ 78.11 Written notice of a final audit determination.

(a) An authorized ED official may issue a written notice of a final audit determination to a recipient in connection with an applicable program (See § 78.3 for the definition of an applicable program.).

* * * * *

(20 U.S.C. 1234 (a) and (e), 1234a(a))

5. The citation of statutory authority immediately following the test of each provision in §§ 78.12, 78.13, 78.14, 78.15, and 78.16 of Subpart B (Final Audit Determinations) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234a(b))

6. The title of Subpart C is revised to read as follows:

Subpart C—Withholding, Termination, Voiding and Other Cost Determinations

7. Section 78.21 is amended by revising the section heading, paragraph (a), and adding paragraphs (a) (1) and (2); by redesignating paragraph (b)(3) as (b)(4) and revising paragraph (b) (1), (2) and adding new (b)(3); and revising the citation of statutory authority to read as follows;

Written Notice

§ 78.21 Written notice of an intent to withhold or terminate funds, void a grant or of other cost determinations.

(a) An authorized ED official may issue a written notice to a recipient under any applicable program of—

(1) An intent to withhold or terminate funds, or

(2) A determination, as described in paragraphs (a)(4) through (a)(6) of § 78.6 (Eligibility for review), that a grant is void, that a request to incur an expenditure during the term of a grant is denied, or with respect to cost allocation plans, indirect cost rates or other special rates.

(b) In the written notice, the authorized ED official—

(1) In the case of an intent to withhold or terminate funds, states the facts that indicate the recipient failed to comply substantially with a requirement that applies to the funds;

(2) In the case of a determination that a grant is void, that an expenditure may not be incurred, or with respect to cost allocation plans, indirect cost rates or

other special rates, states the reasons for the determination;

(3) Cites the requirement that is the basis for the alleged failure to comply or for the determination; and

(4) Advises the recipient that it may request a hearing before the Board.

* * * * *

(20 U.S.C. 1234 (a) and (e), 1234b (a) and (b))

8. The center heading is revised as follows:

Application for a Hearing

9. Section 78.22 is amended by revising the section title; revising paragraphs (a) and (b); and revising the citation of statutory authority to read as follows:

§ 78.22 Filing an application for a hearing.

(a) An appellant seeking a withholding or termination hearing, or a hearing regarding a determination described in paragraphs (a)(4) through (a)(6) of § 78.6 (Eligibility for review), before the Board, shall file a written application with the Board Chairperson within 30 calendar days after the date it receives the written notice.

(b) In the application for a hearing, the appellant shall attach a copy of the written notice and shall, to the satisfaction of the Board Chairperson—

* * * * *

(20 U.S.C. 1234 (a) and (e), 1234b(b))

10. Section 78.23 is amended by revising paragraph (a) and the citation of statutory authority to read as follows:

§ 78.23 Acceptance of the application.

(a) If the appellant files an application that meets the requirements of § 78.22 (Filing an application for a hearing), the Board Chairperson issues a notice of the acceptance of the application to the appellant and to the authorized ED official who issued the notice of the intent to withhold or terminate, or the determination that is the subject of the appeal.

* * * * *

(20 U.S.C. 1234 (a) and (e), 1234b(b))

11. Section 78.24 is amended by revising paragraphs (a) and (c) and the citation of statutory authority to read as follows:

§ 78.24 Rejection of the application.

(a) If the Board Chairperson determines that an application for a hearing does not satisfy the requirements of § 78.22 (Filing an application for a hearing), the Board Chairperson returns the application to the appellant, together with the reasons for the rejection, by certified mail with return receipt requested.

* * * * *

(c) If an application is rejected twice, ED takes appropriate administrative action to withold or terminate funds, or to enforce the determination described in § 78.21(a)(2) (Written notice of an intent to withhold or terminate funds, void a grant or of other determinations).

(20 U.S.C. 1234 (a) and (e), 1234b(b))

12. The citation of statutory authority immediately following the text of each provision in §§ 78.25, 78.26, 78.27 and 78.28 of Subpart C (Withholding, Termination, Voiding and Other Cost Determinations) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234b(c))

13. The citation of statutory authority immediately following the text of § 78.31 of Subpart D (Cease and Desist) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e) 1234c(a))

14. The citation of statutory authority immediately following the text of each provision in Sections 78.32 and 78.33 of Subpart D (Cease and Desist) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234c(b))

15. The citation of statutory authority immediately following the text of § 78.34 of Subpart D (Cease and Desist) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234c(c))

16. The citation of statutory authority immediately following the text of each provision in §§ 78.81 and 78.82 of Subpart F (Decisions and Orders) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234a(d), 1234b(d))

17. Section 78.83 is amended by redesignating paragraphs (b) and (d) and revising paragraph (d) as paragraph (c) and (f) respectively and by revising paragraph (a), and adding new paragraphs (b) and (e) to read as follows:

§ 78.83 The Secretary's decision.

(a) The Panel's decision becomes the final decision of the Secretary 60 calendar days after the date the recipient receives the Panel's decision, unless the Secretary, for good cause shown, modifies or sets aside the Panel's decision.

(b) If the recipient is subject to the judicial review provisions contained in Section 455 of the General Education Provisions Act (20 U.S.C. 1234d), and the recipient wishes to file a petition for judicial review of the Panel's decision, the recipient shall file the petition within the 60 days specified in paragraph (a) of this section.

(Section 455 of the General Education Provisions Act for a discussion of judicial review.)

(c) If the Secretary modifies or sets aside the Panel's decision within the 60 days, the Secretary issues a decision that—

(1) Includes a statement of the reasons for this action; and

(2) Becomes the Secretary's final decision 60 calendar days after it is issued.

(d) The Board Chairperson sends a copy of the Secretary's final decision and statement of reasons, or a notice that the Panel's decision has become the Secretary's final decision, to the Panel and to each of the parties.

(e) If the recipient is subject to the judicial review provisions contained in Section 455 of the General Education Provisions Act (20 U.S.C. 1234d), and the recipient wishes to file a petition for judicial review of the Secretary's final decision specified in paragraph (c) of this section, the recipient shall file the petition within 60 calendar days of the date of the Secretary's final decision.

(20 U.S.C. 1234d)

(f) The final decision of the Secretary is the final decision of the Department.

(20 U.S.C. 1234 (a) and (e), 1234a(d), 1234(d), 1234d)

18. The citation of statutory authority immediately following the text of § 78.84 of Subpart F (Decisions and Orders) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234a(d), 1234b(d), 1234b)

19. The citation of statutory authority immediately following the text of § 78.85 of Subpart F (Decisions and Orders) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234c(d), 1234d)

20. The citation of statutory authority immediately following the text of § 78.86 of Subpart F (Decisions and Orders) is revised to read as follows:

(20 U.S.C. 1234 (a) and (e), 1234c(e))

Appendix A—[Removed]

21. Appendix A to 34 CFR Part 78 is removed.

[FR Doc. 81-101 Filed 1-2-81; 8:45 am]

BILLING CODE 4000-01-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 306

[Docket No. CRT 80-1]

1980 Adjustment of the Royalty Rate for Coin-Operated Phonorecord Players

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal adopts the rule establishing the rate of royalty payments for the public performance of nondramatic musical works by coin-operated phonorecord players.

EFFECTIVE DATE: February 4, 1981.

FOR FURTHER INFORMATION CONTACT: Clarence L. James, Jr., Chairman, Copyright Royalty Tribunal, (202) 653-5175.

SUPPLEMENTARY INFORMATION:

Introduction

17 U.S.C. 804(a)1 provides that the Copyright Royalty Tribunal (Tribunal) shall publish a notice in the **Federal Register** on January 1, 1980 of the commencement of proceedings concerning the adjustment of royalty rates for coin-operated phonorecord players as provided in section 116. It is further provided that the Tribunal shall render its final decisions in this proceeding within one year from the date of such publication.

Background and Chronology

The Amusement and Music Operators (AMOA) and the three principal music performing rights societies—American Society of Authors, Composers, and Publishers (ASCAP); Broadcast Music, Inc. (BMI); and SESAC, Inc. responded to the Tribunal's notice of January 2, 1980.

On February 13 in the offices of the Tribunal a meeting was held with all interested parties to discuss the economic survey to be conducted by AMOA and to make recommendations on the information to be solicited. The Tribunal and the performing rights societies offered suggestions to be included in the survey but were informed by AMOA that the questionnaire for the survey had already been mailed.

The Tribunal conducted public hearings to receive testimony on the adjustments of royalty rates as provided in section 116 on April 2, 3, 4, 21, and 22. Rebuttal was heard on May 16 and 19, 1980. In addition to the material presented at these hearings, the Tribunal also received written statements and documentary evidence submitted in accordance with the rules of the Tribunal. Proposed findings of fact and conclusions of law were submitted on September 16, 1980 at the direction of the Tribunal.

At a public session on December 10, 1980 the Tribunal made its final determination concerning the roy[illegible] rate adjustment for coin-operated phonorecord players.

Summary of Evidentiary Positions of the Parties

The American Society of Composers, Authors and Publishers (ASCAP) and SESAC considered that by application of the standards in 17 U.S.C. Sec. 801(b)(1) a reasonable compulsory license fee for the public performance of all copyrighted musical compositions by a jukebox is $70.[1] They also contended that because the royalty rate is to apply for at least a ten year period, the $70 fee should be subject to annual adjustments reflecting the increase in the cost of living as determined by the Consumer Price Index.[2] Moreover they contend that the annual adjustments should commence for the 1982 calendar year.[3]

Although ASCAP and SESAC contend that the record in this proceeding supports a compulsory license rate expressed in dollars or as a percentage of the revenue of each jukebox, they conclude that "at this time and on this record, practical considerations and the stated preference of the jukebox operators * * * convince us that the more appropriate fee for all jukeboxes is a fee expressed in dollars."[4]

These two performing rights societies stated that in order to apply the standards in Section 801(b) they felt compelled to determine a compulsory license fee similar to the fee which would be reached on the open marketplace if performing rights societies and jukebox operators were free to negotiate for licenses absent a compulsory license.[5]

With that as a benchmark they concluded that the most useful approach in reaching a marketplace value was to use close marketplace analogies.[6]

Three analogies were used: (a) general establishments, such as bars, grills, restaurants and taverns using mechanical music (i.e., music provided by non-live means); (b) background music services; and (c) foreign jukebox operators.[7]

ASCAP's direct case was presented through testimony of Robert R. Nathan, Chairman of Robert R. Nathan Associates, Inc., and Dr. Paul Fagan, ASCAP's Chief Economist and Director of Special Programs.

Mr. Nathan testified that in our economy value is usually determined in the marketplace, and when a regulatory agency must set a rate it should do so based on the most likely parallel or similar economic circumstances relating to the goods or services in question.[8]

Mr. Nathan discussed the four objectives in Sec. 801 which in his opinion the Tribunal must apply in determining a reasonable compulsory license fee. He said that the first objective, maximizing the availability of creative works to the public, means that the rate must be sufficient to maintain the creator's incentive to create the work and to encourage its exploitation. He added that the fee should not be so high as to reduce the demand for music.[9]

The second objective, providing a fair return to the copyright owner and a fair income to the copyright user, is one which would be met by free negotiation between the parties. Mr. Nathan urged the tribunal to consider market experience in parallel areas, pointing out that a fair return to owners and fair income to users does not guarantee every owner a maximum return or every user a profit.[10]

The third objective, Mr. Nathan testified, required the balancing of the relative contributions of the copyright owner and the copyright user. He pointed out that marketplace value is the only effective measure of the relative creative contributions, capital investments, costs and risks of the copyright user and owner.[11]

Mr. Nathan testified that the fourth objective was to seek to minimize the disruptive impact on both the jukebox industry and the established license structure of music performing rights.[12]

Dr. Paul Fagan detailed the three marketplace analogies ASCAP proposed to the Tribunal. The first analogy is to the license fees paid by establishments like restaurants, taverns, bars and grills which use tape recorders, record players or jukeboxes not subject to compulsory license. He testified the lowest such fee for ASCAP alone is $70. When the fees for BMI and SESAC are added, the total minimum fee paid by such establishments is $190.[13] Dr. Fagan stressed that there would be an administrative savings if all three repertories were licensed at once, estimating the resulting total minimum license fee at $140.[14]

The second analogy addressed by Dr. Fagan was to license fees paid by background music services. He said that

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[1] "Proposed Findings of Fact and Conclusions of Law Submitted by ASCAP and SESAC" September 16, 1980, p. 1.

[2] Ibid., p. 1.

[3] Ibid., p. 1.

[4] Ibid., p. 2.

[5] Ibid., p. 2.

[6] Ibid., p. 2.

[7] Ibid., p. 2.

[8] Ibid., p. 20.

[9] Ibid., p. 20.

[10] Ibid., pp. 20-21.

[11] Ibid., p. 21.

[12] Ibid., p. 21.

[13] Ibid., p. 24.

[14] Ibid., p. 24.

ASCAP licenses about 700 background music operators. The annual rate charged by ASCAP alone for locations similar to those in which jukeboxes may be found is $27. This rate, however, was described as an interim fee subject to retroactive adjustment to 1971.[15] Assuming that the rates were adjusted only for inflation, he said that, it would be $52.08 in 1980.[16]

The third analogy testified to by Dr. Fagan was for license fees paid for jukeboxes abroad. He noted that the foreign analogy was particularly appropriate. One, the licenses granted by foreign performing right societies are identical in scope to the American compulsory license. Two, the fees are either negotiated with industry groups or are subject to governmental approval. Three, foreign jukebox operators operate in the same way as their American counterparts. Four, the rates here should be higher than abroad because income levels in foreign countries are generally lower than those in the United States.[17]

The average fee paid by jukeboxes in the nineteen countries ASCAP surveyed is $96.33 and the mean is $70.92.[18]

Dr. Fagan further testified that the proposed $70 fee is one that coin-machine operators can afford, amounting to only 19 cents per day.[19]

Broadcast Music, Inc. (BMI) through testimony by Edward W. Chapin, vice president and general counsel underscored its agreement with ASCAP and SESAC in the adoption of a royalty rate which would vary annually in accordance with the Consumer Price Index.[20]

BMI, based on prior congressional findings, has proposed a royalty rate of approximately $30 adjusted annually in accordance with the CPI.[21]

BMI's proposed royalty rate follows directly from the legislative history and the statutory mandate requiring balancing of economic considerations. Therefore, BMI applies historical changes in the CPI to the $19.70 base specifically recognized by Congress in 1975 as a reasonable fee.[22]

Application of the CPI from 1975 to the $19.70 base results in a royalty rate of approximately $30, adjusted annually.[23]

In BMI's view its proposal represents a compromise between maximizing the return to copyright owners, whose works presents the means by which the users gain their profits, and any economic considerations applicable to the copyright users.[24]

BMI believes the $30 fee, although considerably smaller than many applicable State, local or foreign license fees, can be considered as providing a "fair-return" to the copyright owner. Moreover, the $30 fee would amount to approximately 8 cents per day per jukebox—equal to or less than the cost of one play per day—thus it would not deny a "fair income" for the copyright user.[25]

As a consequence, adoption of the proposed rate is likely to "maximize the availability of creative works," "reflect the relative roles of the copyright owner and the copyright user," and "minimize any disruptive impact on the industries involved."[26]

The Amusement and Music Operators Association (AMOA) presented its case through the testimony of eleven witnesses and the submission of thirty exhibits, the principal one being Exhibit #10, the Peat, Marwick, Mitchell and Company (PMM&Co.) survey of the economic condition of the jukebox operators' business.[27]

AMOA contends that there has been a marked increase in recent years in the numbers of amusement games that are in operation, especially in contrast to the decline in number of jukeboxes that are in operation and that many operators do not segregate their operating expenses for jukeboxes and games.[28]

AMOA estimated that there are between 3000 and 5000 operators who operate between 251,000 and 388,000 jukeboxes in the country.[29]

They introduced testimony which indicated that during the years 1975 through 1978 Rockola, Rowe and Seeburg produced between 38,000 and 42,000 jukeboxes annually, about one-half of which were for the U.S. market.[30]

The PMM&Co survey indicates that on the average a typical operator operated 77 jukeboxes and 225 amusement games, and that jukeboxes and games were both operated in 65% of all locations with 65% of all jukeboxes operating in cities of 40,000 or less.[31]

The AMOA produced testimony that new jukeboxes cost up to $2500 each, and accessories may add another $500.[32] They further indicated that the useful life of a jukebox at the operators' preferred locations is about five years.[33]

They also indicated that jukebox operators purchase phonorecords at an average rate of 2½ to 3 records per box per week, or about 130 to 150 records per box per year.[34]

Although prices per play differ between operators and between different areas popular pricing generally is two for a quarter or five for 50 cents which averages about 10 cents per play.[35]

Several of AMOA's witnesses stressed that their boxes are limited to an income based upon time.[36]

The PMM&Co survey indicates that for the industry at large 16% of the boxes in operation earned for the operators less than $300 per year, and that 47% earned less than $700 per year. For smaller operators of fewer than 40 machines, 23% of the boxes earned less than $300 per year, and 57% earned less than $600 per year.[37]

A report by professors Sequin and Malone of Notre Dame University indicates that over the 40 year period 1940 to 1980, while the Consumer Price Index increased 452%, the average price per play on jukeboxes increased 150%.[38]

AMOA reported statistics from the U.S. Department of Commerce on the jukebox manufacturing business which show a drop in total shipments and sales from a high of about 75,000 units in 1973 to about 38,000 units in 1975, and a continuation at about that level through 1978.[39]

Jukebox operator witnesses offered testimony reflecting a continuing decline in the numbers of jukeboxes that are in operation, citing two basic causes for the decline, (1) the operators' inability to increase prices per play so as to keep up with the rate of inflation, and (2) the loss of jukebox locations due to socio-economic changes such as urban redevelopment, and replacement of jukeboxes by other means of entertainment such as background music, radio, television, discos and live entertainment.[40]

The AMOA, citing evidence of the decline in the jukebox operating business, decreasing revenues and margins of profit, and industrywide reduction in numbers of locations and of jukeboxes in operation, argued strongly that the $8 royalty fee should be left unchanged.[41]

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[15] Ibid., p. 25.

[16] Ibid., p. 25.

[17] Ibid., p. 26.

[18] Ibid., p. 26.

[19] Ibid., p. 28.

[20] "Proposed Findings of Fact and Conclusions of Law submitted by BMI" September 16, 1980, p. 10.

[21] Ibid., p. 12.

[22] Ibid., pp. 12–13.

[23] Ibid., p. 13.

[24] Ibid., p. 13.

[25] Ibid., p. 14.

[26] Ibid., p. 14.

[27] "Proposed Findings of Fact and Conclusions of Law submitted by AMOA," September 16, 1980, p. 5.

[28] Ibid., p. 6.

[29] Ibid., p. 15.

[30] Ibid., p. 16.

[31] Ibid., p. 18.

[32] Ibid., p. 17.

[33] Ibid., p. 17.

[34] Ibid., p. 17.

[35] Ibid., p. 21.

[36] Ibid., p. 22.

[37] Ibid., p. 24.

[38] Ibid., p. 25.

[39] Ibid., p. 26.

[40] Ibid., p. 27.

Legal Considerations

The Issue of Burden of Proof

AMOA has asserted that the performing rights organizations have the burden of proof in this proceeding. They cite as authority McCormick, *On The Law Of Evidence* [42] and certain provision of the Administrative Procedure Act.[43]

We find the McCormick rule is inapplicable in the circumstances of this proceeding. The Copyright Act of 1976 mandates review of the interim rate pursuant to Section 804(a)(1). In Section 804 Congress clearly distinguishes between procedures applicable to the 1980 royalty determination and the subsequent 10-year review proceedings. Section 804(a)(1) states:

> (O)n January 1, 1980, the Chairman of the Tribunal shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter * * *

17 U.S.C. Section 804(a)(1). Section 804(a)(2) states:

> (D)uring the calendar years specified in the following schedule (i.e. every subsequent tenth year for jukebox) any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, *may file a petition declaring that the petitioner requests an adjustment of the rate.* (Italics added)

This proceeding commenced without any petition by an owner or user according to 17 U.S.C. 804(a)(1). The Senate Report recognized the mandatory nature of these proceedings: "This subsection requires that there be a review in 1980 of such royalty rates, and it is mandatory for the CRT to commence such proceedings." [44] We conclude that none of the parties has the burden of showing that the Tribunal should examine the fee. We find the statute requires the Tribunal to do so.

Further this proceeding differs from others which may occur in future years. Proceedings in 1990 and each subsequent tenth calendar year will occur only if a copyright owner or jukebox operator petitions the Tribunal for an adjustment of the rate.[45]

We therefore conclude, that while subsequent review proceedings may be initiated only by petition of an interested party, the 1980 review is mandatory. Since none of the parties herein has initiated this royalty rate proceeding, each party carries an equal burden of proof.

The Issue of the Annual Cost of Living

AMOA's position is that the Copyright Act does not permit an annual adjustment for inflation under Section 116. They argue that the approach used by the CRT in Section 118 public broadcasting proceeding is not provided for under Section 116. They further argue that Section 118's reference to "rates and terms" for public broadcasting royalty provides the CRT with authority to adopt the annual cost of living approach, while Section 116's reference only to "rate" limits the Tribunal's flexibility.[46]

Both BMI and ASCAP/SESAC advocate the adoption of a royalty rate which would vary annually in accordance with the Consumer Price Index.[47] As both BMI and ASCAP/SESAC point out, the Tribunal adopted this approach in its Section 118 public broadcasting proceeding.

We find that the legislative history of Section 118 shows clearly that the use of the word "terms" has nothing to do with cost of living adjustments. It states:

> The Committee anticipates that the "terms" established by the Commission shall include provisions as to acceptable methods of payment of royalties by public broadcasting entities to copyright owners. For example, where the whereabouts of the copyright owner may not be readily known, the terms should specify the nature of the obligation of the public broadcasting entity to locate the owner, or to set aside or otherwise assure payment of appropriate royalties, should he or she make a claim.[48]

AMOA further claims that the Tribunal is restricted in its application of the Consumer Price Index to the jukebox rate by criteria specified in Section 801(b) (A)–(D) and that it is not so restricted under Section 118.[49]

We find that AMOA's position is at odds with the legislative history of the section. It states:

> Similar considerations (to jukebox royalty standards) are noted in connection with Commission review of rates and terms for public broadcasting in the discussion of Section 118, above.[50]

We conclude that there are no essential differences in the Tribunal's authority with respect to Sections 116 and 118 which would permit the Tribunal to provide annual cost of living adjustments in one case and not the other. We find that there is nothing in the statute or legislative history which could be construed to limit the application of annual cost of living adjustments.

In conclusion, we find that the adoption of adjusted jukebox royalty rate which varies annually with the Consumer Price Index is a proper exercise of Tribunal authority.

The Issue of the Performing Rights Societies Financial Data

AMOA sought to bring into issue in this proceeding the manner of how the performing rights organizations distributed jukebox royalties to their affiliates and members. AMOA argued that § 801(b)(1)(B) of the Copyright Act called for an investigation of the performing rights organizations distribution methods.[51] AMOA further argued that performing rights organizations are not in "compliance" with the Copyright Act unless they distribute royalties among their affiliates and members in accordance with a requirement contained in section 116(c)(5).[52]

Finally AMOA argued that there is no logical way the Tribunal can determine if a change should be made in the compensation that is to be provided without calculation of the specific compensation to individuals.[53] Under AMOA's approach this was the only way that the "fair return" standard of the Act could be met.

In summary AMOA's position in essence was asking the Tribunal to establish the value of individual musical works based on the time and expense incurred by the songwriters for each one, together with a value inexplicably derived from the placement of a work on a popularity chart. It then asks the Tribunal to investigate the internal distribution procedures of the performing rights organizations to establish the exact payout for each member or affiliate. A comparison of the two calculations—the costs and the payout—would, according to AMOA, produce the "fair return" calculations supposedly required by the Copyright Act.[54]

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[41] Ibid., p. 31.

[42] Pre-hearing Brief, AMOA p. 6.

[43] Memorandum in Support of AMOA Proposed Finding of Facts and Conclusions of Law, pp. 7–8.

[44] S. Rep. No. 94–473, 94th Cong. 1st. Sess. (1975) p. 158.

[45] 17 U.S.C. § 804(a)(2).

[46] AMOA Reply Brief to Prehearing Brief of BMI, pp. 5–6.

[47] Proposed Findings of Facts and Conclusions of Law of BMI, p. 13, and Proposed Findings of Facts and Conclusions of Law submitted by ASCAP and BMI, p. 11.

[48] H. Rep. No. 94–1476, 94th Cong., 2nd Sess. 118 (1976).

[49] Memorandum in Support of AMOA Proposed Findings of Facts and Conclusions of Law, p. 11.

[50] H. Rep. No. 94–1476, 94th Cong., 2nd Sess. 118 (1976).

[51] AMOA Brief on admissibility of certain exhibits.

[52] *Id.*

[53] AMOA Pre-hearing Brief, p. 9.

BMI argued that the language cited by AMOA "to afford the Copyright owner a fair return for his creative work", reflects the broad goal of the legislation to insure that creators are fairly compensated through adoption of license fees establishing a reasonable value for the use of the Copyright works. We agree. The language in the statute is not a directive authorizing the Tribunal to investigate individual members or affiliates collections from the performing rights organizations.

We find that there is no indication either in the statute or the legislative history, that Congress intended the Tribunal to calculate rates or return for each piece of music and then base royalty adjustments on these rates of return.

We find that the Copyright Act in section 116(c)(4)(B) specifically provides that royalty fees are to be distributed to the performing rights organizations. The section reads in pertinent part:

> (4) The fees to be distributed shall be divided as follows:
>
> * * * * *
>
> (B) to the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

The performing rights organizations are specifically referred to by name in the definition of "performing rights society" set out in section 116(e)(3) of the Act. It is thus our opinion that the Act recognizes a practical necessity for individual creators of music to adequately protect their performing rights and for users, such as the jukebox industry, to conveniently acquire performing rights. We conclude, therefore, that the "fair return" to music copyright owners, *i.e.* the reasonable value of the performing right can be established on a collective basis.

We find nothing in the Copyright Act or its legislative history which indicates that the Tribunal was intended to regulate the internal operations of the performing rights societies. In our opinion the Tribunal's authority is strictly limited to setting applicable royalty fees and establishing the distribution to claimants.

In our opinion section 116(c)(5) establishes authority in the Tribunal to promulgate regulations permitting prospective claimants to enter establishments and sample jukeboxes to establish the basis of a claim. We find, however, that this section does not require that performing rights organizations must establish that they have segregated jukebox royalties from royalties collected from other sources, and therefore, since the Copyright Act does not create authority in the Tribunal to establish such regulations, no such regulations have been adopted.

Determination of Royalty Rate

The AMOA Case

The Tribunal finds that the case presented by the AMOA, including the industry survey, has failed to provide reliable data concerning the operating expenses, revenues, or return on investment on jukebox operators.

The Tribunal convened a conference of the parties on February 13, 1980 in order to permit the Tribunal and all of the parties to make suggestions concerning the contents of a questionnaire which would be used by AMOA to survey the financial condition of jukebox operators. At that conference the representatives of AMOA stated that it was too late to revise the questionnaire.

We note the limited response rate to the questionnaire, estimated by Peat Marwick to be approximately 14%. Dr. John Scarbrough, the Peat Marwick manager in charge of the survey, testified:

> I wouldn't argue very hard if you wanted to say that it was not a good response.[55]

The record of this proceeding contains detailed testimony reciting the procedures utilized in the preparation and distribution of the questionnaire, which present significant questions as to the survey's methodology and objectivity, as well as the nature and scope of the data provided.

We also note that the survey information is not consistent with other evidence in this record, such as 1979 Playmeter survey of the jukebox industry[56] and a survey of the industry published in the March 1978 issue of Replay.[57] We have reviewed the testimony of the AMOA witnesses—five jukebox operators, representatives or distributors of the three American jukebox manufactures, a "one-stop" distributor of records, and a trade association official. We find that this testimony does not provide a basis for forming any representative picture of the jukebox industry nor does it create a foundation for the industry's claim of economic hardship. The testimony does establish an industry practice to turn over 50% of the gross revenues from jukeboxes to the location owner.

The BMI Case

BMI proposed that we determined the rate by applying the Consumer Price Index from 1975 to a proposed jukebox royalty fee of $19.70 that had been mentioned in a congressional committee report. We have concluded that this approach is not in accord with our statutory responsibilities in this proceeding.

The ASCAP/SESAC Case

In reaching our determination in this proceeding, we found the ASCAP/SESAC *concept* of basing the rate on marketplace analogies to be most attractive. We have examined the three marketplace analogies urged upon us by ASCAP/SESAC—the licenses fees paid by general establishments using mechanical music, background music services, and foreign jukebox fees.

These analogies individually and collectively are subject to limitations and distinguishing features. We believe that certain of the distinctions set forth in the AMOA pleading have validity.[58] While acknowledging that our rate cannot be directly linked to marketplace parallels, we find that they serve as an appropriate benchmark to be weighed together with the entire record and the statutory criteria.

Tribunal Rate

We find that a per box payment of $50 is a reasonable fee for the jukebox industry as a whole. We have phased in the rate to accord the jukebox industry an opportunity to adjust, since in our view the jukebox industry has never previously paid reasonable compensation for the use of copyrighted music. We note that ASCAP/SESAC, in their proposed findings, concluded that an interim fee would be appropriate "to afford the coin machine industy an opportunity to adopt to compulsory licensing at marketplace rates."[59] Consequently, the adjustment of the jukebox rate on January 1, 1982 will be limited to $25.

We are aware that some jukebox operators function on a narrow profit margin, and that certain jukeboxes produce modest revenues. The Tribunal is satisfied that adequate attention has been given to the small operator, including the adoption of an amendment to the proposed fee schedule that was proposed for the benefit of such operators.

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[54] AMOA Pre-hearing Brief, pp. 7–9.

[55] Transcript, April 4, 1980, p. 61.

[56] ASCAP Exhibit 8.

[57] BMI Rebuttal Exhibit A.

[58] AMOA Proposed Findings, p. 40–42.

[59] ASCAP Findings, p. 3.

Based on the Playmeter and Replay surveys and other evidence in this record, we believe that it would be reasonable for some operators to be paying more than $50. If the Tribunal had adopted a fee schedule based on such factors as per box revenue or the number of boxes owned by a particular operator, a higher payment by certain operators or for particular boxes might be warranted. The Tribunal has chosen to adopt a flat rate for all boxes—the course urged upon us by all parties in this proceeding.

It is not reasonable that the fees adopted in this proceeding should remain unchanged until at least 1990. We have therefore made provision for a single cost of living adjustment.

Statutory Criteria

We have reached our decision in full recognition of the application to this proceeding of the criteria in 17 U.S.C. 801(b). We observe that the criteria were not drafted for specific application exclusively to the determination of the jukebox rate. The Tribunal has analyzed each of the criteria.

To Maximize the Availability of Works

The first statutory objective of our rate determination listed in Section 801(b)(1) is "To maximize the availability of creative works to the public". We do not maintain that the jukebox rate is crucial to assuring the public of the availability of creative works. As has been observed in the pleadings, musical works were created and exploited for many years, during which in our view, songwriters and publishers were unjustly denied reasonable compensation for a commercial use of their works. We concur in the ASCAP/SESAC finding that "reasonable payment for jukebox performances will add incrementally to the encouragement of creation by songwriters and exploitation by music publishers, and so maximize availability of musical works to the public."[60] We find nothing in this record which would justify any reasonable concern that the schedule we have adopted will deprive the public of access to music.

Fair Return to the Copyright Owner and Fair Income for the Copyright User

The second statutory criteria is "To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions." We have previously discussed our conclusion that, within the limitations necessarily inherent in a flat industry rate, our schedule affords the copyright owner a fair return. We reject the contention that copyright owners are paid for jukebox performances by mechanical royalties derived from record sales. We recognize that performing rights are distinct from recording rights. The Congress has determined that copyright owners are entitled to be paid reasonable fees for both. The Tribunal also rejects the contention that no adjustment of the royalty fee should be made unless the copyright owners established their "need to receive" an increase.

We have above given our analysis of the testimony presented by the jukebox industry. We find nothing in that testimony which would warrant a conclusion that our schedule will deprive the jukebox operator of a fair income under existing economic conditions. In adopting the rate, we have given sympathetic consideration to the circumstances of small jukebox operators, and reflected in the determination of our rate that certain boxes produce modest revenues.

Relative Contributions

The third statutory criteria is "To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication." On the basis of the record in this proceeding we have no basis for concluding that jukebox operators and owners of establishments with jukeboxes make any unique or distinctive contribution concerning creativity, technology, capital investment, cost, risk, and the opening of new markets for creative expression and media for their communication. We find in this record no basis for a conclusion that the efforts of jukebox operators through the selection of records and their performance promote the dissemination of songs in any significant manner. We find that the owners of the establishments in which jukeboxes are located do not make a contribution in the areas encompassed in this statutory objective.

On the other hand, the contribution of the copyright owner whose works are performed under the compulsory license directly benefits the jukebox operator and location owner.

Disruption of the Industries

The fourth statutory criteria is "To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices." We find that a failure of this Tribunal to establish a reasonable fee for jukebox performance could interfere with performing rights societies receiving reasonable fees from similar users of music, whose rates are not established in accordance with statutory provisions.

We cannot on the basis of the evidence presented by the jukebox industry find that our schedule will have a disruptive impact on the structure of the jukebox industry or disturb generally prevailing industry practices. By introducing the fee schedule in two phases, we have, in our view, adequately reflected in our decision the objective of this statutory criteria. The jukebox industry pays reasonable market prices for all other goods and services they require. We hold that they can pay the schedule we have adopted for the central commodity of their boxes without adverse impact.

Conclusion

On the basis of the marketplace analogies presented during the proceeding, taking the record as a whole, and with regard for the statutory criteria, the Tribunal has adjusted the royalty rate for coin-operated phonorecord players to $50 per machine. That rate takes account both of what is paid for music elsewhere under similar circumstances and, since it is a flat rate, of the Tribunal's concern for the smaller, less profitable operators.

In order to ease the impact of a rate increase upon the jukebox industry and in recognition of the fact that royalty payments for jukeboxes have been in effect in the United States only since 1978, the Tribunal has elected to stagger the introduction of the rate. It will take effect on January 1, 1982, and for two years, from 1982 to 1984, the rate will be half—$25.

Because the $50 rate set as a result of this proceeding cannot be reviewed until 1990, the Tribunal feels that the copyright owners might not be fairly compensated unless a provision is included to adjust for inflation. This adjustment takes place on January 1, 1987, and is based upon the Consumer Price Index convering the period February 1981 to August 1986.

Accordingly, pursuant to 17 U.S.C. 801(b)(1) and 804(e), 37 CFR Chapter III is hereby amended as follows:

By adding a new Part 306, to read as follows:

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[60] ASCAP Findings, p. 4.

PART 306—ADJUSTMENT OF ROYALTY RATE FOR COIN OPERATED PHONORECORD PLAYERS

Sec.
306.1 General.
306.2 Definition of coin-operated phonorecord player.
306.3 Compulsory license fees for coin-operated phonorecord players.
306.4 Cost of living adjustment.

Authority: 17 U.S.C. 801(b)(1) and 804(e).

§ 306.1 General.

This Part 306 establishes the complusory license fees for coin-operated phonorecord players beginning on January 1, 1982, in accordance with the provisions of 17 U.S.C. 116 and 804(a).

§ 306.2 Definition of coin-operated phonorecord player.

As used in this Part, the term "coin-operated phonorecord player" shall have the same meaning as set forth in 17 U.S.C. 116(e)(1).

§ 306.3 Compulsory license fees for coin-operated phonorecord players.

(a) Commencing on January 1, 1982 the annual compulsory license fee for a coin-operated phonorecord player, as set forth in 17 U.S.C. 116(b)(1)(A), shall be $25.

(b) Commencing on January 1, 1984 the annual compulsory license fee for a coin-operated phonorecord player, as set forth in 17 U.S.C. 116(b)(1)(A), shall be $50, subject to adjustment in accordance with § 306.4 hereof.

(c) In accordance with 17 U.S.C. 116(b)(1)(A), if performances are made available on a particular phonorecord player for the first time after July 1 of any year, the compulsory license fee for the remainder of that year shall be one half of the annual rate of (a) or (b) above, subject to adjustment in accordance with § 306.4 hereof.

§ 306.4 Cost of living adjustment.

(a) On August 1, 1986 the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the first Index published subsequent to February 1, 1981 to the last Index published prior to August 1, 1986.

(b) On the same date as the notices published pursuant to paragraph (a), the CRT shall publish in the **Federal Register** a revised schedule of the compulsory license fee which shall adjust the dollar amount set forth in § 306.3(b) according to the change in the cost of living determined as provided in paragraph (a). Such compulsory license fee shall be fixed at the nearest dollar.

(c) The adjusted schedule for the compulsory license fee shall become effective on January 1, 1987.

Adopted December 10, 1980.

Note.—Commissioners Brennan, Coulter and Burg concurred in the above opinion. Commissioner Garcia disagreed with the conclusion reached and has filed a separate conclusion. Commissioner James has filed separate Findings of Facts, Conclusions and Opinion.

Clarence L. James, Jr.,
Chairman, Copyright Royalty Tribunal.

Separate Conclusion of Commissioner Garcia

It is my considered opinion and thus my conclusion that the royalty rate increase should have been $30.00 and $60.00.

Separate Findings of Facts, Conclusions and Opinion of Commissioner James

I cannot support the findings of facts, the conclusions reached from those facts, and the specific rationale of the majority of the members of the Tribunal. In my opinion their determination of an equitable and reasonable statutory rate is unsupported by the record in this proceeding.

This is a proceeding to adjust the reasonable copyright royalty rate as provided for in section 116. The statutory authority which governs the Tribunal in this adjustment, states that the rate shall be calculated to achieve certain enumerated objectives. They are as follows:

1. To maximize the availability of creative works to the public;
2. To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;
3. To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets of creative expression and media for their communication;
4. To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

The compulsory license fee requires payment to copyright owners for use of their property by others, preventing free negotiation in the marketplace as to value. Thus, the issue before the Tribunal was value in the marketplace. The legislative history of the Copyright Act and the record in this proceeding supports the proposition that the Tribunal must determine a license fee comparable to the fee reached in the open marketplace by analogous music users. Because performing rights societies and jukebox operators are not free to negotiate, the only fair, logical and equitable approach to establishing a compulsory license fee is on the basis of marketplace value.

It is therefore my opinion that to determine marketplace value, the Tribunal can only rely on marketplace analogies. Based on the record in this proceeding, it is clear that the marketplace guidelines of other analogous music users, provide the *only* credible evidence in the record to establish a "reasonable" fee. Negotiated fees by analogous music users, which are identical or similar, based on this record is the only indicator of true market value.[1]

The above position is supported by ASCAP's expert economic witness, Robert E. Nathan. Mr. Nathan testified that, "In our economy, value is usually determined in the marketplace. When a regulatory agency must set a rate, it should do so based on the most likely parallel or similar economic circumstances relating to the goods and services in question."[2]

In this record the only evidence of marketplace value was based on close marketplace analogies of other music users.[3] The evidence in the record provided three such close marketplace analogies:

1. License fees paid by general establishments (on location rates);
2. License fees paid by background operators;
3. The licensing fee arrangement and foreign countries.[4]

The first analogy is license fees paid by establishments which use tape recorders, record players, or free jukeboxes. Evidence offered by ASCAP indicated the minimum fee for such an establishment is $70.[5] Evidence offered by BMI indicated that the minimum fee is $60 per year.[6] SESAC offered no evidence in this regard. Further the evidence indicated that the maximum fee for ASCAP for this type of establishment in $490, and for BMI $240. Combining the minimum for both ASCAP and BMI would result in an annual fee of $130. This evidence was uncontroverted or refuted by AMOA.

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[1] Tr. 4/2 p. 23, pp. 25–32, p. 57, pp. 73–74; Tr 4/3 p. 124.

[2] Tr. 4/2 pp. 22–23.

[3] Tr. 4/2 p. 66; ASCAP/SESAC Pre-Hearing Statement pp. 10–12; Charles T. Duncan's letter to Chairman 5/12/80 with enclosure.

[4] Ibid.

[5] Tr. 4/2 p. 66; ASCAP/SESAC Pre-Hearing Statement pp. 10–12.

[6] Charles T. Duncan's letter to Chairman 5/12/80 with enclosure.

The second analogy was license fees paid by background music service. Both ASCAP[7] and BMI[8] indicated that the fees, charged under this category, have been the subject of litigation since 1971 and consequently have been frozen since that time. Because current ASCAP and BMI fees do not reflect the rate of inflation since 1971, it was not possible to ascertain the marketplace value or background music.[9]

The third analogy is license fees paid for jukeboxes abroad.[10] In my opinion, any consideration of foreign fees by the Tribunal must be excluded. Foreign fees reflect different licensing systems and cultural values. Further, the foreign fees are applied based on various criteria. In essence, the foreign fees involve such a diversity of circumstances as to be of little or no probative value.

In essence, the majority reached a conclusion on the premise that a true market value rate would result in too large an increase in fees. The majority was set on course by what they deemed were the guiding standards of the statute which referred to minimizing the disruptive impact on the economic structure of the industries involved. It was the majority view and opinion that a large increase in fees would be oppressive to the industry and would "impact on small operators."[11] In my opinion the majority misconceived the evidence in the record when this standard was applied. First, it is apparent that the standard was applied only to jukebox operations. There apparently was no consideration given to significant disruption in existing market prices for performing rights societies, fees paid by other analogous music users. The majority, in essence, appears to have reached a conclusion based on an ability to pay theory.[12]

The real economic impact of increased fees on jukebox operators cannot be determined from this record.[13] Economic data supplied by AMOA was of questionable reliability and validity and could not be used as a basis for any rate determination.[14] In addition, the record simply does not support AMOA testimony that jukebox operators are destitute or will go out of business if fees are increased.

In fact, the evidence is clear and convincing to the contrary. The record in this proceeding shows that coin machine operators pay fair market price for all goods and services they use.[15] Further it has been established in the record that jukebox operators have traditionally shared one half of the gross revenue with a joint venture partner who neither contributes to the venture nor takes any risk.[16] This arrangement is neither bargained, nor negotiated, but traditionally given away. How is it that jukebox operators can claim destitution or inability to pay a fair and reasonable rate, when for years over one half of their revenue has been given away? Even the small operator, the concern of the majority, split revenue 50–50 with the establishment owner. Is it appropriate for jukebox operators to come before this Tribunal and claim economic hardship?[17] In my opinion it would be far better to reanalyze or reevaluate the traditional practice of giving away one half of the revenue than to seek economic redress from this Tribunal.

The rate established by the majority is not reasonable. Nor does it afford the copyright owner a fair return for his creative work. There is no evidence in the record to support the rate, no logic behind it and no equity in it.

In my opinion the record is replete with evidence that the minimum reasonable marketplace value fee should be $130, not $25 or $50. I find that the record is void of any valid argument that once a reasonable rate is established there should be a discount because of economic hardship. There is simply no probative evidence in the record that jukebox operators should not and can not pay rates comparable to those paid by other analogous music users for the same product.[18]

In conclusion, there is substantial evidence in the record to show that jukebox operators have the ability to pay a fair, equitable and reasonable rate. They already give one half of their revenues away. Further, I find $130, as a minimum, is a reasonable fee based on market value, and that it meets each of the standards of 17 U.S.C. 801(b).[19]

[FR Doc. 80-40825 Filed 12-31-80; 8:45 am]

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37 CFR Part 307

Adjustment of Royalty Payable Under Compulsory License for Making and Distributing Phonorecords; Rates and Adjustment of Rates

AGENCY: Copyright Royalty Tribunal (CRT).

ACTION: Final rule.

SUMMARY: Copyright Royalty Tribunal adopts rule adjusting the rates of royalty payable under compulsory license of 17 U.S.C. 115 for making and distributing phonorecords embodying nondramatic musical works. The rule also provides for possible subsequent adjustment of the royalty rates.

EFFECTIVE DATE: January 31, 1981.

FOR FURTHER INFORMATION CONTACT: Clarence L. James, Jr., Chairman, Copyright Royalty Tribunal, 1111 20th St., N.W., Rm. 450, Washington, D.C. 20036, 202–653–5175.

SUPPLEMENTARY INFORMATION: The detailed findings required by 17 USC 803(b) will be published in the **Federal Register** within thirty days of this publication.

The detailed findings required by 17 U.S.C. 803(b) will be published within thirty days of this publication. For purposes of 17 U.S.C. § 809 the thirty day period shall commence with the date of this publication.

Clarence L. James, Jr.,
Chairman, Copyright Royalty Tribunal.
December 21, 1980.

Pursuant to 17 U.S.C. §§ 801(b)(1) and 804, 37 CFR Chapter III is hereby amended as follows:

By adding a new Part 307, to read as follows:

PART 307—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

Sec.
307.1 General.
307.2 Royalty payable under compulsory license.
307.3 Adjustment of royalty rate.
307.4 Use of wholesale prices in certain cases.

Authority: 17 U.S.C. 801(b)(1) and 804.

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[7] Tr. 4/2 pp. 63–64.

[8] Charles T. Duncan's letter to Chairman 5/12/80 with enclosure.

[9] ASCAP/SESAC Pre-Hearing Statement pp. 13–14; Proposed Findings of Facts and Conclusions of Law submitted by ASCAP and SESAC p. 25, and Charles T. Duncan's letter to Chairman 5/12/80 with enclosure.

[10] ASCAP/SESAC Pre-Hearing Statement p. 15; Tr. 4/2 p. 66; Findings of Facts and Conclusions of Law submitted by ASCAP and SESAC pp. 25–28.

[11] Tr. [illegible]/10 pp. 4–5.

[12] Determination of Royalty Rate by majority, *supra.*

[13] Findings of Facts and Conclusions of Law submitted by ASCAP and SESAC, p. 7.

[14] AMOA Survey: Tr. 4/3 p. 36; pp. 51–53; and Findings of Facts and Conclusions of Law submitted by ASCAP and SESAC, pp. 33–46.

[15] Tr. 4/21 p. 135; Tr. 4/2 pp. 24–25, 106–109.

[16] Tr. 4/4 p. 120; Tr. 4/21, p. 96, 138; Tr. 4/22 pp. 50–51.

[17] Tr. 5/19 pp. 52–54; ASCAP Exh. R–4 pp. 47–51; R–22 pp. 16–17; Tr. 5/19 pp. 49–52.

[18] ASCAP Exh. R–4, pp. 47–51; Tr. 4/21 pp. 72–74, 98, 102–4, 134 and 138; Tr. 4/22 pp. 73–76 and 99.

[19] Findings of Facts and Conclusions of Law submitted by ASCAP and SESAC, pp. 3–11.

§ 307.1 General.

This Part 307 adjusts the rates of royalty payable under compulsory license for making and distributing phonorecords embodying nondramatic musical works, under 17 U.S.C. 115.

§ 307.2 Royalty payable under compulsory license.

With respect to each work embodied in the phonorecord, the royalty payable shall be either four cents, or three-quarters of one cent per minute of playing time or fraction thereof, whichever amount is larger, for every phonorecord made and distributed on or after July 1, 1981, subject to adjustment pursuant to Sections 307.3 and 307.4.

§ 307.3 Adjustment of royalty rate.

(a) On December 1, 1981 the CRT shall publish in the **Federal Register** a notice of any changes in the rates established in § 307.2. The change, if any, shall be directly proportionate to the change, if any, in the average suggested retail list price of albums between the twelve-month period ending October 31, 1980 and the twelve-month period ending October 31, 1981. On each December 1 thereafter, the CRT shall publish in the **Federal Register** a notice of any further changes in the rates, which shall be directly proportionate to the change, if any, in the average suggested retail list price of albums between the twelve-month period ending October 31 of the preceding year and the twelve-month period ending October 31 of the year in which such notice is published. Provided however, in no event shall the rate be less than that established in § 307.2.

(b) The average suggested retail list price of albums shall be the average suggested retail list price of a representative group of all albums made and distributed in disk form in the United States, whether or not works embodied in such albums are licensed through the use of the compulsory license. In the event that a different configuration of phonorecords becomes the predominant configuration of phonorecords made and distributed in the United States, changes in the average suggested retail list price of that configuration shall be used as the basis of the adjustment.

(c) The average suggested retail list price shall be determined by the CRT from CRT-conducted surveys and/or studies which it may deem necessary, advisable and appropriate to ascertain what, if any, changes in suggested retail list prices have occurred between the relevant twelve-month periods. The CRT shall also give due consideration to comments, surveys, studies, or recommedations submitted to the CRT by November 3 of each year by any persons affected by the adjustment. Voluntary agreement on an adjusted rate by parties affected by an adjustment may be submitted and shall be given due consideration by the CRT. Any such voluntary agreement must be presented to the CRT prior to November 3 of any given year.

(d) The adjusted rate, if any, shall be effective on the January 1 immediately following publication of the CRT's notice in the **Federal Register**, and shall apply to every phonorecord made and distributed on or after that date.

§ 307.4 Use of wholesale price in certain cases.

(a) In the event that albums made and distributed in the United States without a suggested retail list price distort the average suggested retail list price, so that it does not reflect record price changes in the relevant period, the adjustment as provided for under Section 307.3 hereof shall be directly proportionate to the change in the average wholesale price of albums for the corresponding periods.

(b) For purposes of the foregoing "Wholesale Price" of an album shall mean the highest price at which the album is normally available for sale by the record manufacturer to non-affiliated, regular customers in the ordinary course of business. Said price shall be based on the average per-unit price of 100 or more albums shipped for resale. The average wholesale price of albums shall be the average wholesale price of a representative group of all albums made and distributed in disk form in the United States, whether or not works embodied in such albums are licensed through the use of the compulsory license. In the event that a different configuration of phonorecords becomes the predominant configuration of phonorecords made and distributed in the United States, changes in the average wholesale price of that configuration shall be used as the basis of the adjustment.

(c) The average wholesale price shall be determined by the CRT from CRT-conducted surveys and/or studies which it may deem necessary, advisable and appropriate to ascertain what, if any, changes in wholesale prices have occurred between the relevant twelve-month periods. The CRT shall also give due consideration to comments, surveys, studies, or recommendations submitted to the CRT by November 3 of each year by any persons affected by the adjustment. Voluntary agreement on an adjusted rate by parties affected by any adjustment may be submitted and shall be given due consideration by the CRT. Any voluntary agreement must be presented to the CRT prior to November 3 of each year.

(d) The adjusted rate, if any, shall be published by the CRT in the **Federal Register** in accordance with the provisions of Section 307.3(a), and shall be effective on the January 1 immediately following such publication and shall apply to every phonorecord made and distributed on or after that date.

[FR Doc. 80-40625 Filed 12-31-80; 8:45 am]
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37 CFR Part 308

[Docket No. CRT 80-3]

1980 Adjustment of the Royalty Rate for Cable Systems

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal adopts the rule establishing the rate of royalty payments for the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station

EFFECTIVE DATE: February 4, 1981.

FOR FURTHER INFORMATION CONTACT: Clarence L. James, Jr., Chairman, Copyright Royalty Tribunal, (202) 653-5175.

SUPPLEMENTARY INFORMATION:

Introduction

The Copyright Royalty Tribunal (Tribunal) instituted these proceedings by a public notice issued January 1, 1980 (45 FR 63). This notice was pursuant to 17 U.S.C. 804(a)(1) which requires that the Tribunal conduct a proceeding in 1980 in accordance with 17 U.S.C. 801(b)(2) (A) and (D) concerning the adjustment of royalty rates and gross receipts limitations established in 17 U.S.C. 111 pertaining to secondary transmissions by cable systems.

Section 801(b)(2) (A) and (D) authorizes the Tribunal to make determinations solely in accordance with the following provisions:

> The rates established by section 111(d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act;
>
> The gross receipts limitations established by section 111(d)(2) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the

average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section.

Background and Chronology

The American Society of Composers, Authors and Publishers; Broadcast Music, Inc.; Major League Baseball; Motion Picture Association of America, Inc.; National Association of Broadcasters; National Basketball Association; National Hockey League; and North American Soccer League; filed a joint response to the Tribunal's order as published in the **Federal Register** on January 2, 1980 and shall herein be referred to as "Copyright Owners." The National Cable Television Association (NCTA) filed a response on behalf of the cable operators.

In order to establish the necessary factual information with respect to this proceeding, the Tribunal developed a cable system questionnaire which requested cable operators to list their monthly first-set subscriber rates as of October 19, 1976 and April 1, 1980. In addition, the questionnaire requested information on whether the responding cable system was subject to rate regulation and, if so, the extent to which rate increases had been denied by regulatory agencies. The Tribunal accorded Motion Picture Association of America, National Cable Television Association and Community Antenna Television Association the opportunity to review the questionnaire and to suggest additional questions. The questionnaire was then sent to all cable systems that had filed a statement of account with the Copyright Office. The Tribunal received 2,251 replies.

Pursuant to the Tribunal's Notice, a statement on jurisdictional and legal questions was filed on May 1, 1980, by National Cable Television Association (NCTA). Economic and other studies were filed with the Tribunal on May 19, 1980, by NCTA and Copyright Owners, and each of these parties filed replies on June 2, 1980. No other parties responded to the Tribunal's Notice.

The Tribunal allowed the Copyright Owners and NCTA to review the responses to the questionnaire received. These questionnaires were analyzed by the Copyright Owners and NCTA and the results included in their respective direct cases before the Tribunal.

Hearings were conducted by the Tribunal on September 29, 30, October 2, 3, and 6, 1980 at which time Copyright Owners and NCTA presented their direct cases through their respective witnesses. Rebuttal testimony was heard on November 13 and 14.

Proposed findings and conclusions concerning the adjustment of cable television compulsory license rates and gross receipts limitations were received on December 1, 1980.

Summary of Evidentiary Positions of the Parties

The "Copyright Owners" presented the testimony of three witnesses during their direct case. These witnesses were: Jack Valenti, President of Motion Picture Association of America, Inc., who testified on the need for an upward adjustment of the cable royalty rates; Allen R. Cooper, Vice President of MPAA, Inc., who testified on the results of the cable industry survey conducted by the Tribunal, and the effect on royalty payments of new cable marketing practices such as tiering and free service offerings; and Alexander Korn, an independent consultant, who testified on the choice of an inflation measurement, and the adjustment formula proposed by Copyright Owners.[1]

Mr. Valenti testified that the single product that cable systems sell to their subscribers is programming, and that cable systems obtain the benefits of programming at rates that have no relationship to the true worth of those programs.[2]

Mr. Valenti stressed that it was, therefore, critically important that the adjustments to be made in this proceeding fully maintain the 1976 real constant dollar value of the royalty payments prescribed by Congress, and insure that the value of the royalty fees paid by cable systems is not eroded by a reduction in the value of the dollar. He declared that the full measure of the royalty rate increase permitted by the Act must be granted lest the gap between the value of programs and what cable systems pay for those programs is widened further.[3]

Mr. Valenti testified that the impact of inflation on the cost of programming has been dramatic in recent years, citing that the average negative cost of a motion picture increased about 150 percent between 1976 and 1980.[4]

He further stated that during the same period the cable industry has grown to an extraordinarily profitable business dominated by large corporations, which according to reports, he said, give away stock and other valuable inducements in order to secure franchises to build new systems.[5]

Allen Cooper testified that an analysis of 620 responses by DSE cable systems to the Tribunal's cable industry questionnaire shows that the average basic subscriber rate for first sets increased from $6.605 in October, 1976, to $7.606 in April of 1980.[6] He said these figures amounted to an average increase of 15.15 percent during this period, and is consistent with subscriber rate data introduced by NCTA.

Of the DSE systems that responded to the questionnaire and were analyzed by Mr. Cooper, 72.3 percent answered that their subscriber rates were subject to regulation, and 27.7 percent indicated that their rates were not subject to regulation.[7] He continued that the subscriber rates of regulated systems increased an average of 95 cents (14.315 percent) between October, 1976 and April, 1980. The average increase for unregulated systems during this period was $1.14 (17.327 percent). Thus there was only a 19 cents (three percentage points) difference between the average rate increases of regulated and unregulated cable systems.[8]

Mr. Cooper testified that 17 percent of all regulated cable systems had not requested a subscriber rate increase since 1976. Of the remaining 83 percent, better than three-fourths (78 percent) received the full amount (or more) of the subscriber rate increases that were requested. Only 12.5 percent of all regulated systems said that they received less than the full rate increase that they had requested. Less than 2 percent reported that their request had been denied.[9]

Mr. Cooper's findings from the Tribunal's survey indicate that subscriber rate regulation has had a relatively minor impact upon basic subscriber rates. This conclusion was corroborated by the results of an analysis of information published by Paul Kagan Associates Associated in "Cable TV Regulation Newsletter." That analysis, covering the period 1976 through mid-1980, shows that 95.6 percent of the published requests for subscriber rate increases were granted by the regulating authorities, and that cable systems requesting rate increases received on the average 99.7 percent of the amount requested.[10]

Mr. Cooper also introduced evidence demonstrating that a large number of applicants for new cable franchises and some established systems are offering tiered basic services, and in a significant number of instances, very low or no-cost basic cable services. The concept of tiering relates to the packaging of various groups of retransmitted broadcast programs and programs from other sources into single price units that are sold to cable subscribers. The rates for these service tiers vary from zero to as much as $20 to $30 per month per subscriber.[11]

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[1] "Proposed Findings of Fact and Conslusions of Law submitted by the Copyright Owners", December 1, 1980, p. 10.

[2] Ibid, p. 11.

[3] Ibid., p. 11.

[4] Ibid., p. 11.

[5] Ibid., p. 12.

[6] Ibid., p. 12.

[7] Ibid., p. 12.

[8] Ibid., p. 12–13.

[9] Ibid., p. 13.

[10] Ibid., p. 14.

Mr. Cooper asserted that the Tribunal's decision must be structured to assure that cable systems that follow the trend toward tiered services are not allowed to avoid royalty payments by adopting a marketing technique that was not contemplated in 1976.[12]

Alexander Korn testified that the most appropriate measure of inflation to be utilized in adjusting cable royalty rates is the Consumer Price Index, because it is the most widely recognized general price index and is readily available for use by the Tribunal.[13]

Mr. Korn conceded that some economists feel that the CPI overstates the actual rise in prices, but responded to the criticisms by saying no index measures quality; that if the market basket were changed whenever the price changed one would not know whether the index went up because the price changed or because the market basket changed; and that the CPI gives weight to house prices and mortgage interest costs for only a small group of families who actually purchased a home during the base period.[14]

Mr. Korn recommended that the Tribunal stay out of the controversies over the CPI, and to let the specialists at the Bureau of Labor Statistics decide any questions concerning the construction of the CPI. With respect to the Personal Consumption Expenditures (PCE) index recommended by the NCTA, Mr. Korn stated that it is used only by the Commerce Department in balancing out the national accounts which make up the gross national product.[15]

If the Tribunal should choose the CPI as the most appropriate measurement of inflation, as he recommended, Mr. Korn also recommended that the Tribunal adjust the royalty rates by requiring each DSE cable system to compute the difference between the change of the CPI and the change of the system's subscriber rates since October 1976. This difference would then be applied as a surcharge on that system's royalty rates to maintain the 1976 real constant dollar value of that system's royalty payments.[16] Pursuant to this formula, the average cable system would compute its royalty payment as follows:

1. The percentage increase in the CPI since October, 1976 base period would be determined from the tables released by the Bureau of Labor Statistics, and published by the Tribunal. As of April, 1980, this figure would have been 39.9%.

2. The cable system would compute the change in its average subscriber rates for first sets since October, 1976. If the system was not in operation in 1976, it would use the industry average of $6.60 to compute the percentage change in its rates. According to the Tribunal's survey, the average DSE system's first set rate was $6.60 in October, 1976, and $7.60 in April, 1980, an increase of 15.15%.

3. The difference between the CPI increase of 39.9% and the subscriber rate increase of 15.15% is 24.75%. Because the surcharge adjustment is to be applied to the current year's royalty payment, the system would divide the 24.75% by 1.1515. The result, 21.49% is that system's royalty rate surcharge factor which simply would be applied to the total royalty rate or royalty payment as computed from the present statement of account forms.[17]

Mr. Korn rejected an industry-wide royalty rate adjustment primarily because it could be unfair to cable systems.[18]

Mr. Korn also recommended that the Tibunal include within its royalty adjustment a mechanism to automatically reflect the 1976 real constant dollar level of royalty payments for each accounting period. This would be accomplished by the procedure described above, whereby cable systems use their current subscriber rate and a current CPI factor each time they file their statements of account.[19]

Finally, Mr. Korn recommended that the gross revenue limitations defining the statutory small system exemptions be adjusted by a factor equal to the percentage change in each system's subscriber charges. Thus if a cable system increased its subscriber rates by 20% since 1976, the gross receipts limitations for that system would be increased 20% and, assuming its number of basic subscribers remained constant, that system would remain in the same gross revenue category. However, if the gross receipt limitations were increased by the inflation rate, of say 40%, that system might fall into a lower revenue category than it qualified for in 1976, again assuming all other factors remained constant. This would increase the value of the small exemptions for that system.[20]

The direct case of the National Cable Television Association consisted of the testimony of Robert Crandall, an economist and senior fellow at the Brookings Institution; Charlotte Beales, Vice President of Research for NCTA; Joseph Collins, Executive Vice President for American Television and Communications Corporation; Edward Addiss, Vice President of Development for Warner Amax Cable Communications, Inc.; and Richard Young, Vice President of Communications for the Times Mirror Cable Television Company.

Through a series of exhibits and the testimony of a witness, the NCTA argued that the easiest and most common way of measuring inflation is through the use of a publicly available government index.[21] The NCTA conceded that several were available, including consumer indices and producer indices, but contended that a consumer index was clearly preferable for the Tribunal's purposes.[22] They cited that the two most common consumer indices are the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, and the Personal Consumption Expenditure deflator (PCE) published by the Bureau of Economic Analysis.[23]

The NCTA witness pointed out that although the two indices have not diverged greatly in past years, there has been an increasing difference in the most recent time periods, with the CPI rising much faster than the PCE.[24]

The NCTA witness proceeded to point out the principal criticisms of the CPI. One, the index does not recognize that higher prices may be a reflection of higher quality.[25] Two, the CPI assumes a fixed market basket of goods which is wholly unrealistic in a period of rapidly changing prices.[26] In effect a fixed weight index overstates inflation.[27] Three and four can be lumped together under the housing component of the index, namely house prices and mortgage interest rates.[28]

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[11] Ibid., p. 14–15.

[12] Ibid., p. 15.

[13] Ibid., p. 16.

[14] Ibid., p. 16.

[15] Ibid., p. 17.

[16] Ibid., p. 18.

[17] Ibid., p. 18–19.

[18] Ibid., p. 19.

[19] Ibid., p. 21.

[20] Ibid., p. 22.

[21] Tr. 77, 9/30.

[22] Tr. 100, 9/29.

[23] Tr. 97, 9/29; Tr. 77, 9/30.

[24] Tr. 79–80, 9/30; NCTA Ex. 2.

[25] Tr. 106, 9/29; Tr. 82, 9/30.

[26] Tr. 82, 84, 9/30.

[27] Tr. 82, 9/30.

Finally, the CPI measures prices for urban consumers only whereas the PCE is truly a national inflation index since it includes all consumers.[29]

The NCTA recommended, that in view of the acknowledged faults of the CPI and the relatively greater accuracy of the PCE, the Tribunal should adopt the PCE as its measurement of "national monetary inflation."[30]

In order to ascertain whether the "royalty fee per subscriber which existed as of the date of enactment of this Act" has been maintained in real constant dollar terms the NCTA argues that the royalty fee per subscriber must be determined as of the date of enactment and as of the most current possible date.

Because Congress had to estimate as to what the royalty fee per subscriber would have been on the date of enactment, it used a figure of $0.81 per annum based on a predicted $8.7 million copyright fee pool for 1976 and an actual 10.8 million subscriber total derived from publicly available data.[31]

The $8.7 million estimate for the 1976 copyright pool was supplied to the House Committee on the Judiciary by two of the most "interested parties," NCTA and MPAA.[32] The $8.7 million was not derived from the rate schedule in section 111, but rather the rate schedule was set so that it would yield $8.[illegible] million in 1976 if fees were actually paid for that year.[33]

NCTA maintains that given that the computations in question were based on actual 1976 rate and subscriber information and a full analysis of current signal carriage there is simply no way that a more accurate number than $8.7 million can be estimated for 1976.[34]

Turning to 1980 NCTA states that actual data can be used to calculate the annual royalty fee per subscriber. The most current data available is found on the Statement of Account forms for the second half of 1979 which produce a figure as of December 31, 1979.[35] By totalling up the number of subscribers, dividing that number into the total royalty payments made, and doubling the result, an annualized royalty fee per subscriber of $1.08 for all systems is calculated.[36] For DSE systems only the annualized royalty fee per subscriber is $1.28.[37] As a check on these calculations NCTA said two additional methodologies were utilized to determine the 1980 per subscriber fee. Under one the royalty fee per subscriber figure for each cable system was calculated and the results were then averaged.[38] The second approach will resolve any minor questions about the accuracy of the number of subscribers reported on the Statement of Account forms using a methodology similar to that used by Congress in 1976. The actual royalties paid in 1978, $15.4 million, can be divided by the number of subscribers reported in the 1980 Television Factbook, and thus produce a royalty fee per subscriber.[39]

The NCTA stated that if, for whatever reason, the Tribunal finds that the increase in royalty fee per subscriber has not kept pace with inflation, it will be necessary to examine whether, and to what extent, regulatory authorities have restrained cable operators from increasing their charges.

The Tribunal's survey revealed that 72.3% of the DSE-paying systems must obtain the approval of a state or local regulatory body before rates can be raised. However, the NCTA maintains that very few of the 27.7% of the respondents classifying themselves as unregulated, or deregulated, are truly free to set their rates unfettered by regulatory-type consideration.[40]

Furthermore, NCTA contends, the experiences of regulated systems are also not adequately reflected by the raw numbers. Added to that is the length of time that it takes to get a rate increase, and the questions of whether a rate increase can be requested at all, when it should be submitted, and what amount should be requested. As to delay, the Tribunal's survey showed that, on the average, 13.9 weeks elapse between a request for a rate increase and the data on which a grant becomes effective.[41] A more precise sampling of larger systems by NCTA, asking the same questions, revealed an average delay of 17.0 weeks.[42]

NCTA said that in sum, the problem of regulatory restraint, in all of its many guises, pervades the industry and is a significant factor in holding down the average basic subscriber rates. In fact, cable industry witnesses declared that in their opinion their rates would be from 10 to 25% higher if there really was no rate regulation.[43]

In response to the suggestion that individual cable operators are beginning to effectively lower their basic service charges in order to sell other services such as pay cable, and thus shield revenue from copyright liability, via the device of tiering, i.e., giving away or charging much less for a first level of service which contains retransmitted television broadcast signals, NCTA testified that this phenomenon was virtually non-existent during the 1976–1980 time period under review.[44]

NCTA stated that the concept of tiering, is a part of many franchise proposals for the larger urban markets.[45]

The idea is to spread a system's service offerings over a number of tiers as an optimal merchandising practice since the classic methods of marketing cable are not considered viable in larger urban markets.[46] Tiering is structured to offer a free or low-priced first tier of a few channels with access channels, community service programs and sometimes the local off-air television stations.[47] Then a second or third add-on tier is offered with more channels and services including the distant broadcast signals on which copyright is paid.[48] For the most part the expanded basic must be taken before a subscriber can choose to purchase a pay cable service,[49] although occassionally a lower-priced pay service can be purchased by subscribers to a lower tier.[50]

NCTA contends that the advent of pay cable and other non-broadcast services have actually resulted in more subscribers taking the basic service and thus more revenue is exposed to copyright liability.[51] This lift phenomenon arises in two contexts. Operating cable systems with a stagnant penetration level add a significant number of new basic subscribers when pay and other non-broadcast services are introduced.[52]

Also, the existence of pay makes cable television possible in many of the major markets, again allowing copyright holders the benefit of additional cable revenue.[53]

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[28] Tr. 80–81, 9/30.

[29] Tr. 83–84, 9/30.

[30] Tr. 83, 95, 9/30.

[31] House Report No. 94–1476, p. 91; Tr. 99, 102, 9/30.

[32] House Report No. 94–1476, p. 175; Tr. 117, 11/13.

[33] Tr. 119, 145–146, 156–157, 11/13.

[34] Tr. 119–120, 9/30; Tr. 113, 10/2; Tr. 155, 11/13.

[35] Tr. 104, 9/30.

[36] Tr. 105–106, 9/30.

[37] Tr. 106–107, 9/30.

[38] Tr. 77–78, 11/13.

[39] Tr. 75–76, 11/13.

[40] Tr. 106–107, 10/2.

[41] Tr. 22, 10/2.

[42] Tr. 24, 10/2.

[43] Tr. 74, 10/3; Tr. 9, 10/6.

[44] Tr. 14, 10/2; Tr. 30–31, 10/3.

[45] Tr. 20, 10/3.

[46] Tr. 20, 10/3.

[47] Tr. 20, 74–75, 10/3; Tr. 23, 10/6.

[48] Tr. 21, 75, 10/3; Tr. 24–25, 10/6.

[49] Tr. 13, 10/2; Tr. 22, 75, 10/3; Tr. 27–28, 10/6.

[50] Tr. 22, 10/3.

[51] Tr. 25-26, 10/3.

[52] Tr. 25-26, 10/3; Tr. 23-27, 10/6.

[53] Tr. 25, 10/3; Tr. 112-113, 11/13.

Legal Issues

During this proceeding NCTA raised a number of legal issues, certain of which do not require analysis by us in view of our final determination.

NCTA maintained that the proposal of the Copyright Owners to provide for a system by system cable adjustment is contrary to the statute. We have determined to adopt an industry adjustment, consequently it is not necessary for us to reach the legal issue.

The Copyright Owners proposed that a cost of living adjustment be made on a semi-annual basis. NCTA has argued that "a semi-annual adjustment runs totally contrary to the statute." We have not adopted an interim cost of living adjustment in this proceeding. Our authority to adopt interim cost of living adjustments must be judged in each proceeding by reference to the specific statutory provisions. The Congress has chosen to narrowly confine our authority to adjust cable royalty fees to reflect national monetary inflation or deflation or changes in the average rates charged cable subscribers. We concur in the NCTA finding that a "continuous adjustment mechanism would render this periodic review scheme all but meaningless."[54]

NCTA has correctly noted the limited scope of this proceeding. We also agree with NCTA that while the Tribunal's adjustment decision must be made within the specific limits of section 801(b)(2)(A) and (D), "the Tribunal's discretion within those limits is broad, particularly under subsection (A)."[55]

We have discussed elsewhere in this document our reasons for adopting a particular adjustment mechanism. We have not found persuasive the NCTA argument that we could and should construct a rate adjustment formula on the basis of 1976 estimates of subscribers and royalty payments contained in the 1976 House report. The statute expressly states that the purpose of this proceeding is "to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act." We find nothing in the statute which compels us to base our adjustment determination on the estimates in the House committee report, even if those estimates were established as accurate.

Determination of an Equitable Statutory Rate

The Tribunal found that in adjusting for inflation the CPI was the appropriate measure. It has general acceptance and usage,[56] and whatever its alleged deficiencies, the Tribunal did not consider that the Tribunal is in a position to make judgments concerning them, or to employ an inflationary measure that, in comparison with the CPI, could not be said to enjoy the same general acceptance.[57]

The Tribunal judged that any inflationary adjustment should be made on an industry-wide basis. That is the method of payment currently under the statute, and, whatever potential advantages might be achieved from a system-by-system basis as advocated by the copyright owners, they did not, in the Tribunal's judgment, counterbalance the anomalies, inconsistencies, and complexity of such a system.[58] Furthermore, the cable operators themselves preferred an industry-wide adjustment.[59] If any party should be concerned with the inequities that the copyright owners consider an industry-wide adjustment might cause, the Tribunal judged that it should be the cable operators themselves.

Regulatory restraint was not judged by the Tribunal to be an extenuating factor in an adjustment of the rate. The record did not support that subscriber rate regulation has had any more than a minimal impact upon subscriber rates as between regulated and unregulated cable systems.[60]

The Tribunal judged, however, that a discrepancy did exist between the rate of inflation and the amount subscriber rates have increased since the date of enactment of the statute. The NCTA's claim that cable rates have in fact kept pace with inflation was not found to be substantiated by the record. The amount additional set revenues have increased, the increase in distant signal or DSE carriage, and the growth of small cable systems into larger, DSE-paying systems were not shown to be sufficient to account for the difference between the average increase in the subscriber rate found from the Tribunal study and the increase in inflation.[61] Therefore, regardless of the legal question concerning using the estimate for 1976 royalties cited in the House report as the basis for the NCTA claim, the Tribunal did not feel that its validity could be corroborated.[62] The Tribunal accepted at face value the difference between the increase in the subscriber rate and the increase in inflation produced by the analyses of the two parties. For the increase in the subscriber rate this was 15% according to the NCTA analysis for all systems, and 15.15% according to the Copyright Owners' analysis of DSE system alone.[63] For the increase in inflation this was 30.8% if the PCE is used[64] or 39.93% if the CPI.[65]

The Tribunal judged that for any adjustment the same time span must be used both for the DSE rates and for the gross receipts limitation ceilings. In its survey the Tribunal solicited information as of April 1, 1980, in order to obtain the most recent information on subscriber rate increases prior to the proceeding. However, the Tribunal's survey cut-off date has no statutory relationship with the gross receipts limitation ceilings and the maintenance of their real constant dollar value. Instead the Tribunal determined that, in order to be consistent, the inflationary adjustment for both DSE rates and gross receipts limitations should be calculated as of January 1, 1980, the date the statute stipulates for the initiation of the proceeding.

The Tribunal informed the parties on December 11, 1980 of these general determinations and solicited comments. The NCTA in its comments calculated the increase in the CPI for October 1976 until the end of December 1979 as 33.06%, however, did not calculate an average as of January 31, 1980 in order to establish the increase as of January 1, 1980.[66] The copyright owners calculated such an average and established the increase in the CPI at 33.81%.[67]

The NCTA, in its calculation of the difference between the increase in the subscriber rate and the increase of the CPI to be applied to the DSE rates, also included a factor to adjust for revenues as of 1980.[68] However, because the purpose of the adjustments is to maintain the real constant dollar value of the rates and of the gross receipts limitation as of the date of enactment of the statute, the Tribunal did not judge that such a factor could be applied.

To determine the amount subscriber rates have increased from October 19,

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[54] NCTAFindings, p. 32.

[55] NCTA Statement on Jurisdictional and Legal Questions, p. 4.

[56] "Proposed Findings and Conclusions of Copyright Owners," Dec. 1, 1980, p. 16.

[57] Ibid., p. 17.

[58] Ibid., p. 22 and "Findings of Fact and Conclusions of Law", NCTA, Dec. 1, 1980, p. 35.

[59] "Findings of Fact and Conclusions of Law," NCTA, Dec. 1, 1980, p. 30.

[60] "Proposed Findings and Conclusions of Copyright Owners," Dec. 1, 1980, p. 34.

[61] Ibid., p. 28.

[62] Ibid., p. 25.

[63] Ibid., p. 26.

[64] "Findings of Fact and Conclusions of Law," NCTA, Dec. 1, 1980, p. 7.

[65] "Proposed Findings and Conclusions of Copyright Owners," Dec. 1, 1980, p. 3.

[66] Joint letter from Copyright Owners and NCTA to Chairman James, Copyright Royalty Tribunal, December 15, 1980, p.3.

[67] Joint letter from Copyright Owners and NCTA to Chairman James, Copyright Royalty Tribunal, December 15, 1980, p.4.

[68] Ibid., p. 1.

1976 to January 1, 1980, the NCTA employed a straight average.[69] The copyright owners, however, submitted an extrapolation that took into account the assumption that subscriber rates increased at an uneven rate, more closely resembling the "real world."[70] The Tribunal in its final calculations considered that the extrapolation of the Copyright owners was the most accurate basis for the rate adjustment. The Copyright owners found that according to information provided by the NCTA the difference between the increase in the CPI and the increase in subscriber rates was 21.70% [71] and that according to their own information it was 20.75%.[72] Consistent with having chosen the Copyright owners' extrapolation, the Tribunal remained with the result obtained from the Copyright owners own information—20.75%—and rounded to the nearest whole percent—21%—to reach the figure by which the DSE rates would be adjusted upward.

The gross receipts limitation ceilings were adjusted by the simple amount the CPI has increased from October 19, 1976 to January 1, 1980; once again using the figure submitted by the Copyright owners, which the Tribunal judged was the most nearly accurate—33.81%. The results were rounded to the nearest thousand dollars.

Conclusion

On December 11, 1980, the Copyright Royalty Tribunal adopted a resolution calling for an adjustment of the cable copyright royalty rates established by 17 U.S.C. 111(d)(2)(B) and the gross receipts limitations established by 17 U.S.C. 111(d)(2) (C) and (D). The parties were directed to submit proposed regulations and appropriate cost of living data in accordance with the following principles:

1. That inflation shall be measured by the Consumer Price Index (CPI).
2. That the royalty rates shall be adjusted on an industry-wide basis to reflect in the period from October 19, 1976 to January 1, 1980 the difference between inflation and the change in subscriber rates.
3. The gross receipts limitations shall be adjusted by the measure of inflation as of January 1, 1980 from October 1976.

Implementation of these principles requires measurement of two factors for the period October 19, 1976 to January 1, 1980. These are:

a) The change in the CPI, and
b) The change in subscriber rates.

Both parties submitted proposals. The Tribunal concluded that the proposal submitted by the copyright owners, based upon the record was more valid, fair and reasonable. Further that it reflected more adequately the true to life circumstances.

Thus the Tribunal determined that the royalty rates should be adjusted by an increase of 20.75% (rounded off to 21%). The gross receipts limitations was determined to be adjusted by an increase of 33.81% rounded off to the nearest one hundred dollars.

Accordingly, pursuant to 17 U.S.C. 801(b)(2) (A) and (D), and 804, 37 CFR Chapter III is amended as follows:

By adding a new Part 308, to read as follows:

PART 308—ADJUSTMENT OF ROYALTY FEE FOR COMPULSORY LICENSE FOR SECONDARY TRANSMISSION BY CABLE SYSTEM

Sec.
308.01 General.
308.2 Royalty fee for compulsory license for secondary transmission by cable systems.

Authority: 17 U.S.C. 801(b)(2) (A) and (D).

§ 308.1 General.

This Part establishes adjusted terms and rates or royalty payments in accordance with the provisions of 17 U.S.C. 111 and 801 (b)(2) (A) and (D). Upon compliance with 17 U.S.C. 111 and the terms and rates of this Part, a cable system entity may engage in the activities set forth in 17 U.S.C. 111.

§ 308.2 Royalty fee for compulsory license for secondary transmission by cable systems.

(a) Commencing with the first semiannual accounting period of 1981 and for each semiannual accounting period thereafter, the royalty rates established by 17 U.S.C. 111(d)(2)(B) shall be as follows:

(1) .817 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (a)(2) through (4);

(2) .817 of 1 per centum of such gross receipts for the first distant signal equivalent;

(3) .514 of 1 per centum of such gross receipts for each of the second, third and fourth distant signal equivalents; and

(4) .242 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter.

(b) Commencing with the first semiannual accounting period of 1981 and for each semiannual accounting period thereafter, the gross receipts limitations established by 17 U.S.C. 111(d)(2) (C) and (D) shall be adjusted as follows:

(1) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmission of primary broadcast transmitters total $107,000 or less, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $107,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to les than $4,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum regardless of the number of distant signal equivalents, if any; and

(2) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $107,000 but less than $214,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts up to $107,000 and (ii) 1 per centum of any gross receipts in excess of $107,000 but less than $214,000, regardless of the number of distant signal equivalents, if any.

Adopted December 17, 1980.

Clarence L. James, Jr.,
Chairman, Copyright Royalty Tribunal.

[FR Doc. 80-40827 Filed 12-31-80; 8:45 am]
BILLING CODE 1410-01-M

POSTAL SERVICE

39 CFR Part 232

Conduct on Postal Property; Posting of Notices by Government-Related Organizations

AGENCY: Postal Service.

ACTION: Final Rule.

SUMMARY: This rule amends postal regulations to permit the posting of notices by United States Government-related organizations such as the Inaugural Committee, as defined by 36 U.S.C. 721, on postal premises. This change in the regulations is prompted by a request by the Presidential Inaugural Committee that it be permitted to post

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Ibid., p. 2.
Ibid., p. 3.
Ibid., p. 6.
Ibid.

promotional materials for 1981 inaugural souvenirs in post office lobbies.

EFFECTIVE DATE: January 9, 1981. Written comments should be received on or before February 5, 1981.

ADDRESS: Comments on this regulation are solicited and will be considered with a view toward making any changes that may be needed. Comments should be sent to U.S. Postal Service, Room 10401, 475 L'Enfant Plaza, West, SW, Washington, D.C. 20260 or delivered to Room 10401, 475 L'Enfant Plaza between 8:15 a.m. and 4:45 p.m. Copies of all written comments received will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday in Room 10401, 475 L'Enfant Plaza.

FOR FURTHER INFORMATION CONTACT: Neva Watson, (202) 245-4642.

SUPPLEMENTARY INFORMATION: Although exempt from the notice and comment requirement of the Administrative Procedure Act (5 U.S.C. 553(b)(c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service ordinarily invites comments from the public whenever it proposes a new or amended regulation such as this, which would or might have a substantial effect on the public. In this case, however, publishing this rule as a proposal, with a comment period of 30 days, would unnecessarily delay relief from a restriction. For the Inaugural Committee, which has requested that its promotional materials be posted in post offices from January 9, 1981 until January 31, 1981, a 30 day delay would negate its request.

Accordingly, the Postal Service finds it unnecessary and contrary to the public interest to follow its customary practice of publishing these rules as proposed rules for comment before they become effective. However, we reiterate that comments are welcomed on this published rule and any proposed changes will be considered and acted upon as appropriate.

In view of the considerations discussed, the Postal Service hereby adopts the following amendment to title 39, Code of Federal Regulations:

In 39 CFR 232.6 add a new subparagraph (3) to paragraph (o) reading as follows:

§ 232.6 Conduct on postal property.

* * * * *

(o) * * *

(3) Posting of notices by United States Government-related organizations such as the Inaugural Committee as defined in 36 U.S.C. 721.

* * * * *

(39 U.S.C. 401(2), 403(b)(3))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 81-199 Filed 1-2-81; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1717-1]

Approval and Promulgation of Implementation Plans; Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Maine Department of Environmental Protection (the Maine Department) submitted a revision to its State Implementation Plan (SIP) to satisfy a condition of the approval of the Augusta secondary TSP attainment plan. EPA is approving the schedule for the Augusta street sweeping program which will satisfy one condition and is taking no action on another portion of the revision which was submitted to satisfy a second condition, analysis of Reasonably Available Control Technology (RACT) for sources in Augusta.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Harley F. Laing, Chief, Air Branch, EPA Region 1, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On February 19, 1980 EPA published in the **Federal Register** (45 FR 10775) a final rulemaking conditionally approving Maine's attainment plan SIP revisions submitted on May 1, 1979. These revisions were found to be in substantial compliance with the requirements of Part D of the Clean Air Act, since they implement new measures for controlling air pollution which will result in attainment of the primary National Ambient Air Quality Standards (NAAQS) by December 31, 1982. However, the conditions of the approval of the Augusta Secondary TSP attainment plan required that the state submit to EPA by April 30, 1980:

A schedule for evaluating, adopting and implementing a vacuum street sweeping program throughout Augusta, contingent on the successful demonstration of this measure's control effectiveness in Bangor/Brewer and by August 1, 1980:

(1) An analysis of Reasonably Available Control Technology (RACT) sources of TSP in the city of Augusta.

(2) An assessment of the impact of sources which do not meet RACT requirements.

(3) Evidence of the adoption of RACT where and if it will expedite attainment of secondary TSP standards.

On July 31, 1980 the Maine Department of Environmental Protection (the Maine Department) submitted a revision to its SIP to satisfy the first condition. The July 31, 1980 submittal consists of a Memorandum of Understanding between the Maine Department and the Augusta City Council. The memorandum provides that:

(1) No later than November 30, 1980, the Augusta City Council will report to the Maine Department on the availability and cost of implementing removal/control methods for urban road dust including vacuum street sweeping.

(2) No later than April 30, 1981 the Maine Department will report to the Augusta City Council on the effectiveness of the Bangor/Brewer street sweeping program.

Although the memorandum does not specifically state that the Augusta City Council will adopt a street sweeping program if the Bangor/Brewer program is shown to be effective, EPA has received oral assurances that this is the Council's intention.

EPA has determined that the schedule submitted by the Maine Department satisfies the first condition of the approval of the Augusta secondary TSP attainment plan.

EPA notes that the current attainment date for the secondary TSP standard in the Augusta area is December 31, 1980. See 45 FR 10766, 10774 (February 19, 1980). However, the Maine Department is preparing to submit a request for a revision to this attainment date based on the implementation of the street sweeping program.

The memorandum also lists a schedule for determining RACT for sources in Augusta, which does not satisfy the second condition of the Augusta secondary TSP attainment plan. EPA is taking no action on this condition at this time. EPA intends to publish a disapproval of this schedule in the near future.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 52.1025 [Amended]

1. *Section 52.1020 Identification of Plan:* Section 52.1020(c)(11) is amended by striking the phrase "on May 1, 1979, October 26, 1979, December 20, 1979,

and July 9, 1979" and substituting in place thereof the phrase "on May 1, 1979, October 26, 1979, December 20, 1979, July 9, 1979 and July 31, 1980."

§ 52.1025 [Amended]

2. *Section 52.1025 Control strategy: particulate matter:* Section 52.1025, paragraph (e) is amended by removing subparagraph (4).

EPA finds that good cause exists for making this action immediately effective for the following reasons:

1. Implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.
2. EPA has responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

Authority: Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601.

Dated: December 24, 1980.

Douglas M. Costle,
Administrator.

Note.—Incorporation by reference of the State Implementation plan for the state of Massachusetts was approved by the Director of the Federal Register on July 1, 1980.

[FR Doc. 81-104 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Parts 52 and 81

[A-7-FRL-1711-3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On October 3, 1980, EPA proposed in the **Federal Register** to approve the redesignation of certain areas in the State of Missouri in regard to the national ambient air quality standards (NAAQS). No comments were received as a result of that proposal. EPA is taking final action today to approve these redesignations.

DATE: These regulations are effective February 4, 1981.

ADDRESSES: Copies of the state submission and the EPA prepared plan evaluation document are available at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Mo. 64106.

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Mo. 65102.

St. Louis County Department of Health and Medical Care, Division of Environmental Health Care Service, Air Pollution Control Branch, 801 South Brentwood Boulevard, Clayton, Mo. 63105.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION: In response to Section 107(d) of the Clean Air Act, as amended, the State of Missouri and EPA have designated all areas of the state as attaining the national ambient air quality standards (NAAQS), not attaining the standards, or having insufficient data to make a determination. An attainment area is one in which air quality does not exceed the NAAQS. A nonattainment area is one in which the air quality is worse than the standards. An unclassified area is one for which there is insufficient data to determine whether the area is attainment or nonattainment. At 40 CFR Part 81, Subpart C, the areas of the state which are nonattainment for one or more pollutants are identified.

On May 28, 1980, the Missouri Air Conservation Commission (MACC) adopted recommendations for redesignating certain areas of the state from nonattainment to attainment. These recommendations, submitted to EPA on July 21, 1980, include the redesignation of the Chambers and St. Ann areas of St. Louis County from nonattainment for the secondary standard for total suspended particulates (TSP) to attainment and the redesignation of the St. Louis "Hotspot" from nonattainment for the primary and secondary SO_2 standards to attainment.

On October 3, 1980, EPA proposed to approve these redesignations (45 FR 65630). A complete discussion of the criteria for redesignations to attainment and the recommendations adopted by the MACC are given in that notice. EPA received no comments in response to the proposed rulemaking. EPA now is taking final action to approve the redesignations.

Action

EPA approves the MACC recommendations that the Chambers and St. Ann areas be redesignated attainment for TSP and that the St. Louis "Hotspot" be redesignated attainment for SO_2.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under authority of Section 107 of the Clean Air Act as amended.

Dated: December 24, 1980.

Douglas M. Costle,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. Title 40, Part 81 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.326 [Amended]

In § 81.326 in the table Missouri—TSP under St. Louis AQCR (070), delete the entire entry for the Chambers area:

Chambers area: Beginning at the St. Louis city limits and I-270, west to Highway 367, south to St. Louis city limits and along this boundary to point of origin.		X		

and delete the entire entry for the St. Ann area:

St. Ann area: (An area of about one mile radius located in the City of St. Ann).		X		

The Missouri—SO_2 table is amended to read as follows:

Missouri SO_2

Designated area	Does not meet primary standard	Does not meet secondary standard	Cannot be classified	Better than national standard
Entire State				X

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

2. Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

Section 52.1332 is amended by revising the table to read as follows:

§ 52.1332 Attainment dates for national standards.

* * * * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants [1]
	Primary	Secondary	Primary	Secondary			
Metropolitan Kansas City Interstate	b	e	d	d	d	May 31, 1975	b
Southwest Missouri Intrastate	a	a	d	d	d	d	d
Southeast Missouri Intrastate	d	d	d	d	d	d	d
Northern Missouri Intrastate	a	a	d	d	d	d	d
Metropolitan St. Louis Interstate	b	e	d	d	d	c	c

[FR Doc. 81-108 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-60, 5A-60, and 5B-60

Contract Appeals

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding contract appeals from Chapters 5A and 5B. This transfer is part of the action to incorporate appropriate material in Chapters 5A and 5B into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: February 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703-557-8947).

SUPPLEMENTARY INFORMATION: Outstanding Procurement Letters remain in effect until cancelled.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2 CHGE 14]

1. The Table of Parts is amended by adding the following entry:

Table of Parts

Part

5-60 Contract appeals.

2. The Contents of Part for Part 5-60 is added as follows:

PART 5-60—CONTRACT APPEALS

Sec.

5-60.000 Scope of part.

Subpart 5-60.1—Rules of the GSA Board of Contract Appeals

5-60.100 Index to the rules of the GSA Board of Contract Appeals.
5-60.101 Rules of the GSA Board of Contract Appeals.

Subpart 5-60.2 Processing Contract Appeals

5-60.201 Notice of appeal.
5-60.202 Contents of notices of appeal.
5-60.203 Appeal files.
5-60.203-1 Preparation of the appeal file.

Sec.
5-60.203-2 Transmittal of the appeal file.
5-60.204 Contracting officer's memorandum of position.
5-60.205 Procedure following decision of the GSA Board of Contract Appeals.
5-60.206 Sample of the contracting officer's memorandum of position.

3. Part 5-60 Contract Appeals is added as follows:

§ 5-60.000 Scope of part.

This part sets forth the rules of the GSA Board of Contract Appeals and establishes procedures for processing contract appeals.

Subpart 5-60.1—Rules of the GSA Board of Contract Appeals

§ 5-60.100 Index to the rules of the GSA Board of Contract Appeals.

Index to Rules

Preface to Rules

1. Jurisdiction for considering appeals.
2. Organization and location of the Board.
3. Decisions on questions of law.
4. Board of Contract Appeals procedure.
   (a) Rules
   (b) Administration and interpretation of rules.
   (c) Preliminary procedures.
   (d) Time, computation, and extensions.
   (e) Representation of parties.

Preliminary Procedures

Rule 1 Appeals, how taken.
Rule 2 Notice of appeal, contents of.
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Rule 4 Preparation, contents, organization, forwarding, and status of appeal file.
  (a) Duties of contracting officer.
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  (c) Organization of appeal file.
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Rule 5 Dismissal for lack of jurisdiction.
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Rule 11 Submission without a hearing.
Rule 12 Optional accelerated procedures.
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Rule 13 Settling the record.
Rule 14 Discovery—depositions.
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  (a) Interrogatories to parties.
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Rule 16 Service of papers.

Hearings

Rule 17 Where and when held.
Rule 18 Notice of hearings.
Rule 19 Unexcused absence of a party.
Rule 20 Nature of hearings.
Rule 21 Examination of witnesses.
Rule 22 Copies of papers.
Rule 23 Posthearing briefs.
Rule 24 Transcript of proceedings.
Rule 25 Withdrawal of exhibits.

Representation

Rule 26 The appellant.
Rule 27 The respondent.

Decisions

Rule 28 Decisions.

Motion for Reconsideration

Rule 29 Motion for reconsideration.

Dismissals

Rule 30 Dismissal without prejudice.
Rule 31 Dismissal for failure to prosecute.

Ex parte Communications

Rule 32 Ex Parte communications.

Sanctions

Rule 33 Sanctions.

Subpoenas

Rule 34 Subpoenas.

(End of Index to Rules)

§ 5-60.101 Rules of the GSA Board of Contract Appeals.

The rules of the GSA Board of Contract Appeals prescribed by the Administrator of General Services in GSA Order ADM 2806.4, dated January 9, 1975, and Change 1, dated April 25, 1979, are as follows:

Preface to Rules

1. Jurisdiction for considering appeals.

(a) Except as stated in (b), below, the General Services Administration Board of Contract Appeals (referred to herein as "the Board") shall consider and determine appeals from decisions of contracting officers arising under contracts which contain provisions requiring the determination of appeals by the head of an agency or his duly authorized representative or board. In addition, the Board shall have jurisdiction over matters assigned to it by the Administrator. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Administrator himself.

(b) The authority of the Board does not apply to any matters arising from complaints originating under the Equal Opportunity clause in contracts.

2. Organization and location of the Board.

(a) The Board is located in Washington, DC, and is part of the staff of the Administrator.

(b) The Board consists of a Chairman and six other members, all of whom shall be attorneys at law duly licensed by any State, commonwealth, territory, or the District of Columbia. In general, the appeals are assigned to a panel of at least three members of the Board. The decision of a majority of the panel constitutes the decision of the Board. Board members are designated as Administrative Judges and the Chairman is designated as Chief Administrative Judge.

3. *Decisions on questions of law.*

When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such claim without expressing an opinion on the question of liability.

4. *Board of Contract Appeals procedure*

(a) *Rules.* Appeals referred to the Board are handled in accordance with the rules of the Board.

(b) *Administration and interpretation of rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(c) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(d) *Time, computation and extensions.*

(1) All time limitations specified for various procedural actions are maximums, and they are not to be fully exhausted if the action can be completed in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(2) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(3) Requests for extensions of time from either party shall be made in writing and stating good cause therefor.

(e) *Representation of parties.* An appellant may appear before the Board in person or may be represented by counsel or by any other duly authorized representative as soon as appropriate notices of appearance have been filed with the Board. Whenever reference is made to contractor, appellant, contracting officer, respondent, and parties, these references shall include respective counsel.

Preliminary Procedures

1. *Appeals, how taken.* Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

2. *Notice of appeal, contents of.* A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the department and agency or bureau cognizant of the dispute,

and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

3. *Forwarding of appeals.* When a notice of appeal in any form has been received by the contracting officer, he shall endorse the notice and affix the date of mailing (or date of receipt, if otherwise conveyed), and within 10 days shall forward the notice of appeal to the Board. Following receipt by the Board of the notice of appeal (whether through the contracting officer or otherwise), the contractor will be furnished a copy of these rules.

4. *Preparation, contents, organization, forwarding, and status of appeal file.*

(a) *Duties of contracting officer.* Within 30 days of receipt of an appeal, or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board, through the Assistant General Counsel, Claims and Litigation Division, an appeal file consisting of all documents pertinent to the appeal, including:

(1) The decision and findings of fact from which appeal is taken;

(2) The contract, including specifications, plans and drawings, and pertinent amendments;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any Government witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

Within the same time above specified, the Assistant General Counsel, Claims and Litigation Division, shall furnish the appellant a copy of each document he transmits to the Board, except those stated in subparagraphs (a)(2) and (a)(3), above, as to which a list furnished appellant indicating specific contractual documents transmitted will suffice, and those stated in subparagraph (d), below.

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall supplement the same by transmitting to the Board any documents not contained therein which he considers pertinent to the appeal, and furnishing two copies of such documents to the Government trial attorney.

(c) *Organization of appeal file.* Documents in the appeal file may be originals or legible facsimile or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthy documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or of settling the record in the event there is no hearing on the appeal. If objection to a document is made, the Board will rule upon its admissibility into the record and/or the weight to be attached to it as evidence in accordance with Rules 13 and 20, hereof.

5. *Dismissal for lack of jurisdiction.* Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

6. *Pleadings.*

(a) Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise, and direct statements of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Clerk of the Board shall serve a copy upon the respondent. Should the complaint not be received within 30 days, appellant's claim and appeal, if in the opinion of the Board the issues before the Board are sufficiently defined, may be deemed to set forth his complaint, and the respondent shall be so notified.

(b) Within 30 days from receipt of said complaint, or the aforesaid notice from the Clerk of the Board, respondent shall prepare and file with the Board an original and two copies of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims as appropriate. Upon receipt thereof, the Clerk shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

7. *Amendments of pleadings or record.*

(a) The Board, upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer.

(b) The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

8. *Hearing election.* Upon receipt of respondent's answer or the notice referred to in the last sentence of Rule 6(b), above, appellant shall advise whether he desires a hearing, as prescribed in Rules 17 through 25, or whether in the alternative he elects to submit his case on the record without a hearing, as prescribed in Rule 11. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in Rule 12.

9. *Prehearing briefs.* Based on an examination of the documentation described in Rule 4, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. In the absence of a Board requirement therefor, either party may in its discretion, and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

10. *Prehearing or presubmission conference.* Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Rules 17 through 25, the Board may, upon its own initiative or upon the application of either party, call upon the parties to appear before a member or examiner of the Board for a conference to consider:

(a) The simplification or clarification of the issues;

(b) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(c) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;

(d) The possibility of agreement disposing of all or any of the issues in dispute; and

(e) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the Board member or examiner in the presence of the parties, and this writing shall thereafter constitute part of the record.

11. *Submission without a hearing.* Either party may elect to waive a hearing and to submit his case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and/or by briefs, arranged in accordance with Rule 23.

12. *Optional accelerated procedure.*

(a) In appeals involving $25,000 or less, either party may elect, in his notice of appeal, complaint, answer, or by separate correspondence or statement prior to commencement of hearing or settlement of the record, to have the appeal processed under a shortened and accelerated procedure. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by either party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of a Board decision favorable to it does not exceed $25,000. Upon such election, a case shall then be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board, acting through the Chairman, sustains such objection. In cases proceeding under this rule, parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) Written decision by the Board in cases proceeding under this rule normally will be short and contain summary findings of fact and conclusions only. The Board will endeavor to render such decisions within 30 days after the appeal is ready for decision. Such decisions will be rendered for the Board by a single Board member with the concurrence of the Chairman; except that in cases involving $5,000 or less where there has been a hearing, the single Board member presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions and decision of the appeal. In the latter instance, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the date from which the period commences for filing a motion for reconsideration under Rule 29.

(c) Except as herein modified, these rules otherwise apply in all respects.

12.1. *Optional small claims and accelerated procedures.* These procedures are available solely at the election of the appellant.

(a) *Elections to utilize small claims and accelerated procedures.*

(1) In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a small claims procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in paragraph (b) of this Rule 12.1. An appellant may elect the accelerated procedure rather than the the small claims procedure for any appeal eligible for the small claims procedure.

(2) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an accelerated procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in paragraph (c) of this Rule 12.1

(3) The appellant's election of either the small claims procedure or the accelerated procedure may be made by written notice within 20 days after receipt of notice of docketing, unless this period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

(4) In deciding whether the small claims procedure or the accelerated procedure is applicable to a given appeal, the Board shall determine the amount in dispute by adding the amount claimed by the appellant against the respondent to the amount claimed by the respondent against the appellant. If either party making a claim against the other party does not otherwise state in writing the amount of its claim, the amount claimed by such party shall be the maximum amount which such party represents in writing to the Board that it can reasonably expect to recover against the other.

(b) *The small claims procedure.*

(1) This procedure shall apply only to appeals where the amount in dispute is $10,000 or less as to which the appellant has elected the small claims procedure.

(2) In cases proceeding under the small claims procedure, the following time periods shall apply: (i) Within 10 days from the respondent's receipt of a copy of the appellant's notice of election of the small claims procedure, from either the appellant or the Board, the respondent shall send the Board the documents required by Rule 4; (ii) within 15 days after the Board has acknowledged receipt of the notice of election, either party desiring an oral hearing shall so inform the Board. If either party requests an oral hearing, the Board shall promptly schedule such a hearing for a mutually convenient time consistent with administrative due process and the 120-day limit for a decision, at a place determined under Rule 17. If a hearing is not requested by either party within the time prescribed by this rule, the appeal shall be deemed to have been submitted under Rule 11 without a hearing.

(3) In cases proceeding under the small claims procedure, pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirements to conduct the hearing on the date scheduled or, if no hearing is scheduled, to close the record on a date that will allow decision within the 120-day limit. The Board, in its discretion, may shorten time periods prescribed elsewhere in these rules as necessary to enable the Board to decide the appeal within 120 days after the Board has received the appellant's notice of election of the small claims procedure, allowing up to 30 days for preparation of the decision after closing the record and the filing of briefs, if any.

(4) Written decision by the Board in cases processed under the small claims procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may, in the Judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will furnish the parties a typed copy of the oral decision for record and payment purposes and to establish a date of commencement of the period for filing a motion for reconsideration under Rule 29.

(5) Decisions of the Board under the small claims procedure will not be published, will have no value as precedents, and, in the absence of fraud, cannot be appealed.

(c) *The accelerated procedure.*

(1) This procedure shall apply only to appeals where the amount in dispute is $50,000 or less as to which the appellant has made the requisite election.

(2) In cases proceeding under the accelerated procedure, the parties are encouraged, to the extent possible consistent, with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed elsewhere in these rules as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the accelerated procedure, allowing up to 30 days for the preparation of the decision after closing the record and the filing of briefs, if any.

(3) Written decisions by the Board in cases processed under the accelerated procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or Vice Chairman or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the accelerated procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion

of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of the oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under Rule 29.

(d) *Motions for Reconsideration in Rule 12.1 cases.* Motions for Reconsideration of cases decided under either the small claims procedure or accelerated procedure need not be decided within the time periods prescribed by this Rule 12.1 for the initial decision of the appeal, but all of these motions shall be processed and decided rapidly so as to fulfill the intent of this rule.

13. *Settling the record.*

(a) The record upon which the Board's decision will be rendered consists of the appeal file described in Rule 4, and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

14. *Discovery—depositions.*

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions as evidence in supplementation of that record.

(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

15. *Interrogatories to parties, production and inspection of documents.*

(a) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 15 days. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by Rule 14.

(b) *Production and inspection of documents.* Upon motion of any party showing good cause therefor, and upon notice, the Board may order the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot themselves agree thereon, the Board shall specify just terms and conditions in making the inspection and taking the copies and photographs.

16. *Service of papers.* Papers shall be served personally or by mailing the same, addressed to the party upon whom service is to be made. All copies of complaints, answers, and simultaneous briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board, or on the letter transmitting the same, that a copy has been so furnished.

Hearings

17. *Where and when held.* Hearings will ordinarily be held in Washington, D.C., except that upon request reasonably made and upon good cause shown, the Board may, in its discretion, set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. On request or motion by either party and upon good cause shown, the Board may, in its discretion, advance a hearing.

18. *Notice of hearings.* The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have submitted his case upon the Board record as provided in Rule 11.

19. *Unexcused absence of a party.* The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

20. *Nature of hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in non-jury trials, subject, however, to the sound discretion of the presiding member or examiner in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member or examiner. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

21. *Examination of witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member or examiner shall otherwise order. If the testimony of a witness is not given under oath, the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, any any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

22. *Copies of papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

23. *Posthearing briefs.* Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member or examiner at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

24. *Transcript of proceedings.* Testimony and argument at hearings shall be reported

verbatim, unless the Board otherwise orders. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by General Services Administration.

25. *Withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Representation

26. *The appellant.* An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed in any State, commonwealth, territory, or in the District of Columbia.

27. *The respondent.* Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Whenever at any time it appears that appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal: *Provided, however,* that if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

Decisions

28. *Decisions.* Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 13.

Motion for Reconsideration

29. *Motion for reconsideration.* A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion, and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Dismissals

30. *Dismissal without prejudice.* In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

31. *Dismissal for failure to prosecute.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

Ex Parte Communications

32. *Ex parte communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to *ex parte* communications concerning the Board's administrative functions or procedures.

Sanctions

33. *Sanctions.* If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal.

Subpoenas

34. *Subpoenas.*

(a) *General.* Upon written request of either party filed with the Clerk, or on his own initiative, the Administrative Judge to whom a case is assigned or who is otherwise designated by the Chairman may issue a subpoena requiring:

(1) Testimony at a deposition—The deposing of a witness in the city or county where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(2) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) Production of books, papers, documents, or tangible things—in addition to (1) or (2), above, the production by the witness at the deposition or hearing of relevant books, papers, documents, or tangible things designated in the subpoena.

(b) *Voluntary cooperation.* Each party is expected (1) to cooperate and make available witnesses and books, papers, documents, or tangible things under its control as requested by the other party, without issuance of a subpoena and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things.

(c) *Requests for subpoenas.*

(1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought. The Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books, papers, documents, or tangible things sought.

(d) *Requests to quash or modify.* Upon written request by the person subpoenaed or by a party made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books, papers, documents, or tangible things. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form issuance.*

(1) Every subpoena shall state the name of the Board and the title of the appeal and shall command each person to whom it is directed to attend and give testimony and, if appropriate, to produce specified books, papers, documents, or tangible things, at a time and place specified therein. In issuing a subpoena to a requesting party, the Administraive Judge shall sign the subpoena and may, at the discretion of the Judge, enter the name of the witness or leave it blank.

The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service.*

(1) The Administrative Judge may arrange for service of the subpoenas or may release them to the parties for service, at the discretion of the Judge.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or his deputy, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to him and tendering to him the fees for 1 day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make a payment of these charges on demand may be deemed by the Board to be sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) *Contumacy or refusal to obey a subpoena.* In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence, or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

(End of Rules)

Subpart 5-60.2—Processing Contract Appeals

§ 5-60.201 Notice of appeal.

(a) Unresolved disputes arising under the Disputes clause of a contract must be decided initially by the contracting officer. An aggrieved contractor may appeal any final decision of the contracting officer.

(b) Notices of appeal are to be addressed to the Administrator of General Services, in care of the contracting officer, and mailed or otherwise delivered to the contracting officer who issued the final decision being appealed within 30 days from the date the decision of the contracting officer is received. Any request for an extension of the 30-day appeal period shall be denied.

(c) If the notice of appeal was mailed or otherwise submitted in an untimely manner, a separate letter, signed by the procuring director, shall be sent to the Assistant General Counsel, Claims and Litigation Division (LC), requesting that a motion for dismissal of the appeal be submitted to the GSA Board of Contract Appeals (the Board). The letter shall state the name of the appellant, contract number, and date of contracting officer's final decision, and shall be accompanied by (1) the certified mail receipt showing the date on which the appellant received the contracting officer's final decision, and (2) the envelope which contained the notice of appeal or other evidence of late submission of the notice of appeal.

§ 5-60.202 Contents of notices of appeal.

A notice of appeal should indicate that an appeal is thereby intended, should identify the decision and the date thereof from which the appeal is taken, the GSA office cognizant of the dispute, and the number of the contract in question. The appeal should describe the nature of the dispute and the relief sought, the contract provisions involved, and any other additional information or comments relating to the dispute which are considered to be important. The notice of appeal should be signed personally by the appellant (the prime contractor making the appeal) or by an officer of the appellant corporation, or member of the appellant firm, or by the contractor's duly authorized representative or attorney.

§ 5-60.203 Appeal files.

(a) Appeal files shall be prepared in accordance with this section and Rule 4 of the Board's preliminary procedures (see § 5-60.101), and forwarded, after concurrence by assigned counsel, to LC within 20 calendar days after receipt of the notice of appeal or advice that an appeal has been filed.

(b) Upon receipt of the notice of appeal, the procuring activity shall establish a record to ensure the timely preparation and submission of appeal cases. The record shall show, as a minimum, the name of the appellant, the date of the contracting officer's final decision, the date the appeal was filed, contract number, docket number, and name of the contracting officer.

(c) The Office of Contract Settlements (FCS) shall be responsible for maintaining a followup record for Federal Supply Service Central Office cases.

§ 5-60.203-1 Preparation of the appeal file.

(a) Appeal files shall be prepared in quadruplicate. Each file shall be identified by the name of the appellant, contract number, and docket number. All copies of the appeal file must be identical both as to content and position of items. If more than one appeal is filed under the same contract, upon request to, and waiver by, the Board, the appeal file for the second and subsequent appeals need not duplicate the documents included in the first appeal file, but shall make reference to the appeal file which contained such documents, including the docket and item numbers. Such files shall also include any documents pertinent to the later appeal but not previously furnished.

(b) Content of appeal file.

(1) Each appeal file shall be assembled by using a two-piece red pressboard binder 11 by 8½-inches punched with a 3-inch capacity fastener (NSN 7510-00-582-4201). A gummed label (NSN 7510-00-284-5460) shall be used on top of the file to identify the case by contractor, contract number, and docket number.

(2) Individual appeal files shall not be more than 1 inch in thickness. If the file will be more than 1 inch in thickness, two or more consecutive binders shall be used and identified with the appropriate exhibit numbers contained in each.

(3) Each document to be included in the appeal file (i.e., letter, telegram, memo, report, invoice, etc.) shall be legible, complete, included as a separate exhibit in the file, and listed in the "Index of Exhibits" by exhibit number and brief description. If a document cannot be legibly reproduced, the unaltered document shall be submitted with an attached accurate typewritten transcription thereof. Assigned counsel will assist the contracting officer in determining which documents are relevant to the issue in the appeal or not privileged for inclusion in the appeal file.

(4) Each appeal file shall contain division sheets separating the different documents listed in the "Index of Exhibits." Division sheets shall be tabbed and numbered consecutively commencing with number one.

(c) Arrangement of documents.

(1) The first (top) document in the appeal file shall be the "Index of Exhibits." The index shall list, opposite each exhibit number, a brief description of the document. Each document shall be filed (exhibited) in chronological order beginning with the most recent document. For example:

	Exhibit
Board of Contract Appeals acknowledgement of contractor's notice of appeal	1
Notice of appeal (letter and/or GSA Form 2465, Notice of Appeal, with attachments, if any)	2
Facsimile of Post Office receipt of the final decision letter	3
Contracting officer's final decision letter applicable to the dispute	4
Contractor's request for final decision or other documents of claim in response to which the decision was issued	5

(2) If any individual exhibit consists of more than one document, each additional document shall be separately numbered and subindexed on the division sheet (e.g., 1.1, 2.1, 5.2.5, etc.) but not shown in the "Index of Exhibits." In addition to the exhibits listed in (1), above, other pertinent exhibits, such as the following, should be included and exhibited in chronological order:

(i) Copy of the basic contract, including referenced terms and conditions.

(ii) Copy of the repurchase contract, including referenced terms and conditions.

(iii) Copies of specifications/drawings applicable to the dispute.

(iv) Copy of the abstract of offers and list of all offerors solicited for the repurchase contract.

(v) Copy of letter of assessment, including worksheet showing determination of excess costs.

(vi) Copies of defaulted purchase/delivery orders.

(vii) Copies of purchase/delivery orders issued under the repurchase contract.

(viii) Proof of payment and a detailed disbursement listing annotated and certified, if applicable. (Note.—The information and documents needed shall be obtained from the appropriate GSA accounting center. The finance information will include a detailed disbursement listing annotated with the check number and date, and the amount applicable to the repurchase order if different than the check amount. The disbursement listing will be certified by an appropriate finance division official whose title of signature will also be shown.)

§ 5-60.203-2 Transmittal of the appeal file.

(a) The original and two copies of the appeal file shall be forwarded to LC by a transmittal letter from the procuring director. The appeal file shall be accompanied by the contracting officer's detailed statement of facts in a memorandum of position as a separate document which shall be concurred in by assigned counsel who shall also prepare and attach a statement of legal position. A point of contact must be given LC; name of individual, position, title, and telephone number. (See § 5-60.206.)

(b) In the case of FSS Central Office contracts, FCS shall forward the appeal file to LC, together with the documentation required in (a), above.

(c) One copy of the appeal file shall be retained by the contracting officer for examination by the appellant. The contracting officer's memorandum of position including assigned counsel's statement of legal position or documents which are not part of the appeal file, furnished separately as background information, are not for examination by the appellant.

(d) In FSS, unless the appeal file and contracting officer's memorandum of position are prepared by FCS, a copy of each letter transmitting the appeal file to LC and a copy of the contracting officer's memorandum of position shall be sent to FCS.

(e) After reviewing the appeal file for adequacy, the trial attorney in LC will transmit the appeal file to the Board.

§ 5-60.204 Contracting officer's memorandum of position.

In addition to preparing the appeal file, the contracting officer (FCS in the case FSS of Central Office appeal files) shall prepare a memorandum of position (see § 5-60.206) with concurrence of assigned counsel and with the approval of the procuring director. Assigned counsel concurring in the contracting officer's memorandum of position shall also prepare and attach to the memorandum of position a statement of legal position. The memorandum of position is a chronological summary of the actions leading to the dispute and a rationale of the contracting officer's actions for the information of the trial attorney. The memorandum of position shall be submitted to LC simultaneously with the appeal file but as a separate document; i.e., it shall not be included as part of the appeal file, or included in the index. The memorandum of position should include a proposed list of witnesses for a hearing as well as a list of other individuals, whether employees of the Government, appellant, or others, with personal knowledge of the facts concerning the appeal, provided such a list is readily available and does not interfere with timely processing of the memorandum of position. The name, position, affiliation, address, and telephone number of each witness or other individual listed shall be included.

§ 5-60.205 Procedure following decision of the GSA Board of Contract Appeals.

(a) Decisions of the Board shall be promptly implemented. However, it must be recognized that the contractor may decide to bring suit regarding a Board decision in the United States Court of Claims or the Federal District Court. It is also possible for either party to file a motion for reconsideration by the Board within 30 calendar days from the date of the receipt of a copy of the Board decision.

(b) The contracting officer need take no further action (other than administrative) if the Board affirms the contracting officer's original decision, provided a recovery of costs is not due from the contractor. Where a recovery is due, collection shall be initiated by the contracting officer either by (1) a contract amendment adjusting the contract price or (2) a written demand for immediate payment, as appropriate. (In excess cost cases, the Financial Management Division, Office of Finance, (BCF), or regional counterpart, as appropriate, will normally pursue the necessary collection.) Any written demand shall instruct the contractor to make payment to the General Services Administration and address it to the appropriate GSA accounting center. A copy of any written demand shall be provided to the appropriate GSA accounting center for information and followup.

(c) When the Board does not uphold the contracting officer's original decisions and the Board's decision provides for payment in favor of the contractor, the contracting officer shall prepare a supplemental agreement with concurrrence of assigned counsel. The supplemental agreement will ensure against further litigation of the same dispute. The contracting officer shall forward the recommendation for payment to the appropriate accounting center with the original of the supplemental agreement and a copy of the Board's decision.

§ 5-60.206 Sample of the contracting officer's memorandum of position.

Memorandum of Position

Appeal of the John Doe Corporation

Contract No. ______

Docket No. ______

Background

This is a requirement contract for dishwashing compound for the period ——— through ———. Shipment was required to be made within 45 days after receipt of order. It was necessary to terminate for default four purchase orders, one on ———, and three on ———. Repurchases were accomplished in a timely manner on a competitive basis at considerably higher prices resulting in excess costs of $—.

The First Termination (date ———)

Material submitted on purchase order ——— for 484 bags was rejected on ———, based on laboratory test number —. When the material was rejected, a 10-day cure letter was issued on ——— to which the appellant replied on ———.

After considering the reply, the purchase order was terminated.

Appellant requested a deviation on ———, to supply liquid detergent for powder detergent which was considered and denied on ———.

The Second Termination (date ———)

Appellant became delinquent on three additional orders and was issued a 10-day cure letter on ———. Appellant replied on ———. After full consideration of the reply, the three delinquent purchase orders were terminated for default. Before terminating, the contracting officer checked with quality control personnel to ascertain whether the contractor had submitted material on the three orders involved.

Appellant requested approval to change the formulation by using olefin sulfonate instead of alkyl benzene as a means of resolving its problems. Appellant was advised that the specification permitted this change.

Reprocurement

After the first termination, five sources were solicited on ———, including those who bid on the original solicitation. There was no requirements contract yet established for the new period. Offers were due by ———. A copy of the abstract of bids is attached as Exhibit — and request for approval of awards is Exhibit —. A copy of repurchase contract ——— is Exhibit —.

After the second termination, three sources were solicited on ———. There was no requirements contract yet established for the new period. Offers were due by ———. A

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copy of abstract of bids is Exhibit — and request for approval of awards is exhibit —. A copy of repurchase contract ——— is Exhibit —.

Other excess costs supporting data are under Exhibit ———.

Discussion

Appellant contends it could not get sufficient raw material from its suppliers to meet its contract obligations. Appellant has not shown that it exhausted all sources of supply before it ceased its efforts to perform or that unavailable material from its normal sources was not available from other sources. The material was unquestionably available because other suppliers offered it a short time after termination.

Conclusion

The default and reprocurement actions of the contracting officer are supported by the facts and evidence. The appellant has not shown that either action should not be sustained. The appeal should be denied.

Prepared By:
Contracting Officer ____________________
Date: ____________________

Concur:
Assigned Counsel[1] ____________________
Date: ____________________
Procuring Director ____________________
Date: ____________________

Note.—Include names of witnesses and other persons having knowledge of the case.

(End of sample memorandum of position)

(End of Part)

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION

[APD 2800.3 Chge 18]

PART 5A-60 [REMOVED]

1. The Table of Parts for GSPR 5A is amended to Remove Part 5A-60—Contract Appeals.

2. Part 5A-60 is removed in its entirety.

CHAPTER 5B—GENERAL SERVICES ADMINISTRATION

[APD 2800.4 Chge 6]

PART 5B-60 [REMOVED]

1. The Table of Parts for GSPR 5B is amended to Remove Part 5B-60—Contract Appeals.

2. Part 5B-60 is removed in its entirety.

(Sec. 205(c), 63 Stat.; 40 U.S.C. 486(c))

Dated: December 15, 1980.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 81-192 Filed 1-2-81; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Parts 5-6 and 5A-6

Foreign Purchases

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding foreign purchases from Chapter 5A. This transfer is part of the action to incorporate appropriate material in Chapter 5A into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: February 27, 1981.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703-557-8947).

SUPPLEMENTARY INFORMATION: Outstanding Procurement Letters remain in effect until canceled.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2 Chge 12]

1. The Table of Parts is amended by adding the following entry:

Table of Parts

Part 5-6 Foreign Purchases.

2. The Contents of Part for Part 5-6 is added as follows:

PART 5-6 FOREIGN PURCHASES

Subpart 5-6.1 Buy American Act—Supply and Service Contracts

Sec.
5-6.104-4 Evaluation of bids and proposals.
5-6.104-50 Evaluating bids for hand and measuring tools.
5-6.104-51 Evaluating bids for stainless steel flatware (for other than the Department of Defense).
5-6.105 Excepted articles, materials, and supplies.

Subpart 5-6.8 Balance of Payments Program

5-6.801 General.
5-6.805 Exceptions.
5-6.806-1 Restricted solicitation.
5-6.806-50 Solicitation provision.

3. Part 5-6 Foreign Purchases is added as follows:

Subpart 5-6.1 Buy American Act—Supply and Service Contracts

§ 5-6.104-4 Evaluation of bids and proposals.

(a) Proposed awards requiring the approval of the head of the agency, pursuant to § 1-6.104-4 (b) and (c), shall be submitted to the Assistant Commissioner for Contracts (FC) together with a statement of facts containing the following information:

(1) Description of the item(s), including unit and quantity.

(2) Estimated cost.

(3) Statement as to whether duty is included in the estimated cost and if not, the reasons for exclusion.

(4) Transportation costs for delivery to destination if the item is to be procured f.o.b. origin.

(5) Country of origin.

(6) Name and address of proposed contractor(s), if available.

(7) Brief statement as to necessity for procurement.

(8) Reasons why an award to a small business concern or labor surplus area concern would or would not be unreasonable as to cost or inconsistent with the public interest, when an award for more than $100,000 to a domestic concern would be made if the 12 percent factor is applied, but would not be made if the 6 percent factor is applied.

(9) Reasons for recommending rejection of an acceptable low foreign bid to protect essential national security interests, or rejection of any bid or proposal for other reasons of national interest.

(b) With the exception of (a)(8), before final action under paragraph (a) of this section, the Assistant Commissioner for Contracts (FC) will (1) obtain advice from the Director, Federal Emergency Management Agency, with respect to rejection of bids or offered prices on the grounds that such rejection is necessary to protect essential national security interests, and (2) apprise the Executive Office of the President, Office of Management and Budget, of the facts in the matter with respect to rejection of bids or offered prices for reasons of the national interest not described or referred to in Executive Order 10582, as amended.

§ 5-6.104-50 Evaluating bids for hand and measuring tools.

(a) *Appropriation Act restrictions.* The current Appropriation Act for GSA includes the following:

"No part of any appropriation contained in this Act shall be available for the procurement of or for the payment of the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969, as such regulation existed on June 15, 1970. This section shall be applicable to all solicitations for bids opened after its enactment."

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[1] Assigned counsel's statement of legal position will be attached by the counsel.

(b) *Definition.* "Hand and measuring tools" are Groups 51 and 52, in Cataloging Handbook H2-1, Federal Supply Classification, Part I, Groups and Classes, published by the Defense Logistics Agency, Defense Logistics Services Center, Battle Creek, Michigan.

(c) *Solicitation provision.* All solicitations for hand and measuring tools shall include the following special provision:

Buy American Act—Hand and Measuring Tools

The following is added to Article 14 of Standard Form 32, General Provisions:

Congressional policy requires that GSA purchases of hand and measuring tools must be from domestic sources except in accordance with procedures prescribed by § 6-1[illegible]4(b) of Armed Services Procurement Regulation (as such regulation existed on June [illegible] 1970). Accordingly, bids under this solicitation offering domestic source end products normally will be evaluated against bids offering other end products by adding a factor of 50 percent to the latter, exclusive of import duties. Details of the evaluation procedure are set forth in § 5-6.104-50 of the General Services Administration Procurement Regulations.

Each bid offering a foreign source end product must state below or on an attachment to the bid the amount of duty included in each bid price. Failure to furnish duty information will result in use of the entire item bid price (inclusive of any unspecified duty) when adding the "Buy American" differential.

Item No.	Unit	Amount of Duty (in dollars and cents)

(End of Provision)

(d) *Procedures.* Bids and proposals for hand and measuring tools shall be evaluated in accordance with the following procedures, which are the GSA adaptations of ASPR 6-104.4(b):

(1) Bids and proposals shall be evaluated to give preference to domestic bids. Bids offering end products manufactured in Canada shall be evaluated on the same basis as bids offering domestic end products after applicable duty is included for evaluation purposes (whether or not a duty free entry certificate is issued).

(2) Each foreign bid shall be adjusted for purposes of evaluation by either (i) excluding the duty from the foreign bid and adding 50 percent of the bid (exclusive of duty) to the remainder, or (ii) by adding to the foreign bid (inclusive of duty) a factor of 6 percent of that bid, whichever results in the greater evaluated price.

(3) A 12 percent factor shall be used instead of the 6 percent factor, if (i) the firm submitting the low acceptable domestic bid is a small business or a labor surplus area concern, or both, and (ii) any contract award to a domestic concern which would result from applying the 12 percent factor, but which would not result from applying the 6 percent or 50 percent factor, would not exceed $100,000. (If an award for more than $100,000 would be made to a domestic concern if the 12 percent factor is applied, but would not be made if the 6 percent or 50 percent factor is applied, the matter shall be submitted to the Commissioner, FSS, for a decision as to whether the award to the small business or labor surplus area concern would involve unreasonable cost or inconsistency with the public interest).

(4) If the foregoing results in a tie between a foreign bid as evaluated and a domestic bid, award shall be made on the domestic bid. When more than one line item is offered in response to a solicitation, the appropriate factor shall be applied on an item-by-item basis, except that the factor may be applied to a specific group of items if the solicitation specifically designates that award may be made on a specific group of items.

(e) *Supplemental instructions.* The following examples illustrate how the procedure in (d) above, should be applied. Throughout these examples, "foreign bid" means a bid or offered price for a foreign end product which is not a Canadian end product; "domestic bid—large" means a domestic bid which is not from a small business or labor surplus area concern, and "domestic bid—small" means a domestic bid which is from either a small business concern or a labor surplus area concern, or both. Bid prices are evaluated net prices including transportation costs and prompt payment discounts. The same differentials shall be applied when using small purchase procedures.

Example A

Foreign bid, including duty of $4,500	$14,500
Domestic bid—large	15,100
Domestic bid—small	15,110

Award on domestic bid—large. Domestic bid—small is out because it is not the low acceptable domestic bid. Foreign bid, if adjusted by the 50 percent factor, would be $14,500 less $4,500 duty (i.e., $10,000), plus 50 percent of $10,000 (i.e., $5,000), or $15,000; but if adjusted by the 6 percent factor, it would be $14,500 plus 6 percent of $14,500 (i.e., $870), or $15,370; therefore, the 6 percent factor is added and domestic bid—large is the low evaluated bid.

Example B

Foreign bid, including duty of $2,000	$12,000
Domestic bid—large	15,000

Award on domestic bid—large. Foreign bid adjusted by 50 percent factor is $15,000; adjusted by 6 percent factor, it is $12,720. Therefore, foreign bid is evaluated at $15,000, resulting in a tie and consequent award on the domestic bid—large.

Example C

Foreign bid, including duty of $3,500	$13,500
Domestic bid—large	17,000
Domestic bid—small	15,100

Award on domestic bid—small. Foreign bid adjusted by 50 percent factor is $15,000; adjusted by 12 percent factor, it is $15,120. Therefore, it is evaluated at $15,120, resulting in award on the domestic bid—small.

Example D

Foreign bid, including duty of $70,000	$270,000
Domestic bid—large	310,000
Domestic bid—small	302,000

Foreign bid adjusted by 50 percent factor is $300,000; adjusted by 12 percent factor, it is $302,400; adjusted by 6 percent factor, it is $286,200. Therefore, domestic bid—small is in line for possible award only because of the bidder's small business or labor surplus area status. But since the contract award would exceed $100,000, the matter requires submission for decision pursuant to § 5-6.104-50(d)(3).

§ 5-6.104-51 Evaluating bids for stainless steel flatware (for other than the Department of Defense).

(a) *Appropriation Act restrictions.* The currently effective Appropriation Act for GSA includes the following:

"No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment."

(b) *Definition.* For purposes of this instruction, "stainless steel flatware" means stainless steel knives, forks, and spoons as listed in Federal Supply Class 7340.

(c) *Solicitation provision.* All solicitations (other than for the Department of Defense) for stainless steel flatware shall include the following special provision:

Buy American Act—Stainless Steel Flatware

The following is added to Article 14 of Standard Form 32, General Provisions:

Congressional policy requires that GSA purchases of stainless steel flatware must be from domestic sources except in accordance with procedures prescribed by § 6–104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969.

Accordingly, bids under this solicitation offering domestic source end products normally will be evaluated against bids offering other end products by adding a factor of 50 percent to the latter, exclusive of import duties. Details of the evaluation procedure are set forth in § 5–6.104–50 of the General Services Administration Procurement Regulations.

Each bid offering a foreign source end product must state below or on an attachment to the bid the amount of duty included in each bid price. Failure to furnish duty information will result in use of the entire item bid price (inclusive of any unspecified duty) when adding the "Buy American" differential.

Item No.	Unit	Amount of Duty (in dollars and cents)

(End of Provision)

(d) *Bid evaluation procedures.* The procedures set forth in § 5–6.104–50 shall apply in the evaluation of bids for foreign source stainless steel flatware.

§ 5–6.105 Excepted articles, materials, and supplies.

(a) Requests for determinations concerning nonavailability of domestic supplies (see § 1–6.103–2) shall be submitted to the Assistant Commissioner for Contracts, FSS, or the Assistant Regional Administrator, FSS, with an appropriate statement of facts and a proposed determination. The statement of facts shall include the following information:

(1) Description of the item(s), including unit and quantity;

(2) Estimated cost, including duty, if any (show the amount of duty separately);

(3) Transportation costs for delivery to destination, if item is to be procured f.o.b. origin;

(4) Country of origin;

(5) Name and address of prospective contractor(s), if available;

(6) Brief statement as to the necessity for the procurement; and

(7) Statement of effort made to procure a similar item of domestic origin or statement that there is no domestic item which can be used as a reasonable substitute.

(b) Ordinarily, the findings and determination of nonavailability shall be prepared in the format shown below:

General Services Administration

Reference No. ———

Findings and determination of nonavailability under the Buy American Act regarding purchase of (*insert description*)

Pursuant to the provisions of the Buy American Act (41 U.S.C. 10a–d) and Executive Order 10582, December 17, 1954 (3 CFR Supp.), and by virtue of delegated authority, the following findings of fact and determination are hereby made:

1. Findings (set forth a statement of facts).

2. Determination. In view of the foregoing, it is hereby determined that for the purposes of the Buy American Act (*insert item description*) is not mined, produced, or manufactured at the present time in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Date ——— Signed ———

(End of Findings and Determination)

(c) When it has been determined that the Buy American Act is not applicable to the purchase of the end product, or to the components from which it is manufactured, the original of the determination shall be made a part of the contract file. In addition, a statement substantially as follows shall be inserted in the applicable contract documents:

Determination of Nonavailability of Domestic Supplies

For the purpose of the Buy American Act, the (insert the title of person making determination), General Services Administration, has determined that (insert item description) is not mined, produced, or manufactured at the present time in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(End of Statement)

Subpart 5–6.8 Balance of Payments Program

§ 5–6.801 General.

(a) When FSS enters into contracts as the contracting agent for the Agency for International Development (AID), including contracts under the Commercial Import Program (CIP), such contracts (except those involving administrative purchases) are not governed by the policies and procedures in Subparts 1–6.8 and 5–6.8, but shall be governed by AID policies and procedures.

(b) When FSS procures articles or services for use outside the United States for another agency it will be assumed (unless a specific notation is made on the purchase request) that use of excess or near excess foreign currencies has been considered by the requisitioning agency and that such currencies are not available.

§ 5–6.805 Exceptions.

When the contracting officer has knowledge that the domestic cost of an end product or service exceeds the foreign cost by more than 50 percent of the foreign cost pursuant to the procedures in § 1–6.805(a)(6), the matter shall be submitted to the Assistant Commissioner for Contracts, FSS, or the Assistant Regional Administrator, FSS, for a determination to procure the domestic product or service. This procedure shall be followed for all Balance of Payments Program procurements over $10,000.

§ 5–6.806–1 Restricted solicitation.

(a) Estimates of comparative delivered prices of end products or services of domestic origin versus foreign origin normally will not be made by FSS procuring activities. Such cost estimates will have been made by the requisitioning offices prior to the submission of purchase requests to FSS for procurement action. Specific written evidence from the requisitioning office concerning such estimates is not required. Accordingly, procurements made directly for other agencies of items to be used outside the United States shall be made under the Balance of Payments Program, except for AID (including Commercial Import Program) items.

(b) Prior to procuring any item for GSA use outside the United States, cost estimates, as required by § 1–6.806–1, shall be made before restricting competition to U.S. end products or services.

§ 5-6.806-50 Solicitation provision.

The certificate and clause, as set forth in §§ 1-6.806-3 and 1-6.806-4, respectively, shall be included in solicitations issued to implement the Balance of Payments Program. In addition, the following introductory language shall be entered immediately above such certificate and clause:

Procurement Under Balance of Payments Program

To alleviate the impact of Government expenditures on the U.S. balance of international payments, only United States end products and services may be delivered under this contract. Accordingly, the Certification on page 2 of this solicitation entitled "Buy American Certificate" and the clause in the General Provisions entitled "Buy American Act" are inapplicable to this contract, and the following certificate and clause are substituted therefor:

U.S. Products Certificate

Use the language in § 1-6.806-3.

U.S. Products and Service Clause

Use the clause prescribed in § 1-6.806-4.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION

[APD 2800.3 Chge 16]

PART 5A-6 [Removed]

1. The Table of Parts for GSPR 5A is amended to remove Part 5A-6—Foreign Purchases.

2. Part 5A-6 is removed in its entirety.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 15, 1980.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 81-100 Filed 1-2-81; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Parts 5-14 and 5A-14

Inspection and Acceptance

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding inspection and acceptance from Chapter 5A. This transfer is part of the action to incorporate appropriate material in Chapter 5A into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: February 27, 1981.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703-557-8947).

SUPPLEMENTARY INFORMATION: Outstanding Procurement Letters remain in effect until canceled.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2 Chge 13]

1. The Table of Parts is amended by adding the following entry:

Part

5-14 Inspection and acceptance.

2. The Contents of Part for Part 5-14 is added as follows:

PART 5-14—INSPECTION AND ACCEPTANCE

Subpart 5-14.1 Inspection

Sec.

5-14.101 General.

5-14.105-1 General.

5-14.150 Testing articles and commodities.

5-14.150-1 General.

5-14.150-2 Acceptance testing.

5-14.150-3 Certification testing.

5-14.150-4 Qualification (QPL) testing.

5-14.150-5 Research or development testing.

Subpart 5-14.2 Acceptance

5-14.203 Point of acceptance.

5-14.206 Acceptance of supplies or services not conforming with contract requirements.

5-14.250 Waiver of contractor's inspection or tests.

3. Part 5-14 Inspection and Acceptance is added as follows:

Subpart 5-14.1 Inspection

§ 5-14.101 General.

(a) The Federal Supply Service Quality Approved Manufacturer Program requires the manufacturer to perform all inspections and tests in the purchase description or governing specification. The Government shall maintain periodic verfication inspections to ensure that the contractor is meeting all requirements of the contract. Manufacturers who have had an excellent performance record are considered for inclusion under this program if they maintain a quality control system that ensures the reliability of the product, and provides GSA with a detailed written description outlining their quality control system.

(b) This method of Government quality control is established by formal written agreement between the manufacturer and the Government. This agreement, when entered into, becomes a part of the contract and warrants the product for a 6-month period (see Ch. 13, FSS P 2900.5, Supply Operations).

§ 5-14.105-1 General.

The criteria for designating the place of inspection (source or destination) are as follows:

(a) Source inspection shall be designated on contracts for:

(1) National requirements regardless of dollar amounts (including shipments to key GSA supply distribution facilities);

(2) Federal Supply Schedules selected for source inspection;

(3) Area buying assignments;

(4) Regional requirements—estimated value $15,000 and over;

(5) Definite quantity over $10,000;

(6) Definite quantity under $10,000, if it is known that the contractor has a quality approved manufacturer agreement or holds one or more GSA contracts under the administration of a quality assurance specialist (QAS); otherwise inspection will be at destination;

(7) Class 8010 items over $5,000, or under this amount when one of the situations in (6), above, is known;

(8) The following vehicles:

(i) Special purpose;

(ii) Trucks over 10,000 pounds gross vehicle weight (GVW); and trucks 10,000 pounds GVW and under not covered by a Federal Standard; and

(iii) Those shipped outside the conterminous United States; and

(9) Other instances when the procuring director determines it would be in the best interest of the Government due to the critical nature of the material. In these instances, the procuring activity shall notify the appropriate Quality Assurance/Contract Management Division that the contract provides for origin inspection and state the reasons.

(b) Destination inspection shall be designated on contracts:

(1) For subsistence items and wiping rags;

(2) With domestic consignees for:

(i) Standard vehicles;

(ii) Trucks 10,000 pounds GVW and under covered by a Federal Standard; and

(3) For lower dollar values than those listed in (a)(4) and (a)(5), above, unless othewise excepted under (a)(6) and (a)(7).

(c) The regional Director, Quality Assurance/Contract Management Division, may request the appropriate procuring director to initiate contractual procedures to change the place of inspection from destination to source (except nonselected Federal Supply Schedules) when the manufacturer has:

(1) A quality control manufacturer agreement; or

(2) Contracts administered by the QAS.

§ 5-14.150 Testing articles and commodities.

§ 5-14.150-1 General.

(a) Article testing is conducted to determine conformance with specification and standard requirements and to aid in the development of new or revised specifications and standards. This subpart establishes certain types of articles testing, including the facilities therefor, and prescribes policy regarding the fixing and collection of fees for such testing.

(b) The facilities of the General Services Administration (GSA), other Federal agencies, manufacturers, independent testing laboratories, and others, as appropriate, may be used in the conduct of tests.

(c) The procedures set forth in this § 5-14.150 are not applicable to the procurement of software and automated data processing equipment except disk packs.

§ 5-14.150-2 Acceptance testing.

(a) Acceptance testing is conducted to determine conformance with requirements of purchase descriptions or specifications before a shipment is accepted. Such testing shall not be solely for the purpose of furnishing information to a producer or vendor as to conformance of his article or commodity with specification requirements.

(b) The cost of services for acceptance testing of representative samples of a shipment normally shall be borne by GSA. However, if the samples tested fail to meet the requirements of the specification or purchase description, the contractor shall be required to pay any additional costs incurred for a retest as a result of the failure. (See § 1-14.107(a)).

(c) When testing will be performed by a Federal Supply Service (FSS) testing laboratory for the account of the contractor, the contracting officer, upon request, shall inform the contractor of test charges involved. When a testing facility other than a FSS laboratory performs all or part of the required tests, the contractor shall be assessed the actual amount of the costs incurred by the Government.

§ 5-14.150-3 Certification testing.

(a) Certification testing is conducted to determine conformance of an article or commodity with a specification requirement for the purpose of executing a certificate of compliance when a certification is called for by the specification.

(b) A certificate from a recognized laboratory may be a requirement in a Federal Specification. When there is a lack of suitable commercial testing facilities, producers or vendors may obtain a certification from a Government laboratory such as the National Bureau of Standards, and shall be required to bear the cost of testing, including all components of that cost. In this event GSA will, when feasible, arrange for the required testing upon receipt of a request from a producer or vendor and upon payment of the required test fee.

§ 5-14.150-4 Qualification (QPL) testing.

(a) Qualification testing is conducted to determine conformance of an article or commodity with the qualification requirements of a specification for inclusion of the article or commodity in a Qualified Products List (QPL).

(b) When QPL tests will serve predominantly the interest of the producer or vendor, GSA shall fix the test fee in such an amount as will recover the cost of conducting the test, including all components of such cost determined in accordance with accepted accounting principles. Usually, the producer or vendor shall be required to bear the cost of testing to qualify an article or commodity for inclusion in a qualified products list, except when it is determined that making these tests will not serve predominantly the interest of the producer or vendor. This may be the case where adequate competition has not been developed in industry because of an insufficient number of qualification approvals, or sources of supply have not been sufficiently established to ensure availability.

(c) Normally, payment shall be made to the General Supply Fund and appropriate reimbursement shall be made by GSA to the agency whose laboratory conducted the tests. In certain cases the producer or vendor may be required to submit his product to one or more independent testing laboratories approved by GSA. In these cases, the producer or vendor may be directed to pay the testing fee directly to the laboratory that conducted the test.

(d) Other instructions concerning establishment of qualified products lists, qualification of products, etc., are contained in FPMR 101-29 and the Federal Standardization Handbook.

§ 5-14.150-5 Research or development testing.

(a) Research or development testing is conducted to determine whether a new article or commodity that is not covered by an existing specification may be suitable for Government use, or to aid in the development of contemplated specifications and standards.

(b) When tests are conducted in the development of specifications or standards, those procedures in § 5.14.150-4 (b) and (c) pertaining to test fees shall apply.

Subpart 5-14.2—Acceptance

§ 5-14.203 Point of acceptance.

(a) To implement the requirements of § 1-14.203, each contract for supplies shall contain the following clause:

Point of Acceptance

Acceptance shall be at the delivery point specified in this contract.

(End of Clause)

(b) The clause in (a), above, is not appropriate for use in contracts for services. However, each contract for services shall clearly define the manner in which the Government will give final approval to specific services rendered as partial or complete performance of the contract.

§ 5-14.206 Acceptance of supplies or services not conforming with contract requirements.

(a) As used in this section, the term "nonconforming supplies or services" refers to supplies or services that do not conform to the physical requirements of the specification, or to supplies or services that have not received contractually required tests or inspections by the contractor.

(b) If the contracting officer or the authorized representative determines that acceptance of supplies or services is in the Government's best interest, recommendations for deviation shall be referred to the appropriate specification manager.

(c) Recommendations for deviation shall contain (1) a copy of the solicitation (or contract), (2) the reasons why the item does not conform to contract requirements, (3) a statement as to whether or not a similar deficiency was the basis for rejection of an otherwise low bid received on the same solicitation, and (4) the reasons why it is in the best interest of the Government to accept the nonconforming item. If urgency of acceptance is a factor, recommendations for deviation shall be handled expeditiously. When stock items are involved, the contracting officer shall coordinate with the appropriate national inventory manager to determine urgency of need.

(d) When the recommendation for deviation is concurred in by the appropriate specification manager, he or she shall furnish the contracting officer with an estimate of the savings in cost that will accrue to the contractor. The contracting officer shall be guided by the estimate in negotiating an equitable price reduction (including direct and indirect costs, plus profit) for the deviation and shall annotate the contract file with a statement justifying the adequacy and reasonableness of the price reduction.

(e) For nonstock items the approval of the requiring activity must be obtained in all cases involving acceptance of nonconforming supplies or services. (See § 1-14.206).

(f) Contracting officers shall not accept nonconforming supplies or services if the deviation is similar to a deviation which was the basis for rejection of an otherwise low bid received on the same invitation for bids.

(g) When it is determined to accept nonconforming material, the contracting officer shall provide appropriate notice to the regional Quality Assurance/Contract Management Division that submitted the rejection report.

§ 5-14.250 Waiver of contractor's inspection or tests.

Contractual inspection or test requirements may be the responsibility of either the Government or the contractor (see § 1-14.104(c)); however, performance of an inspection or tests by the Government does not relieve the contractor of the responsibilities under the contract to deliver conforming supplies or services. Under special circumstances, such as urgency of the requirement, the contracting officer may consider it to be in the best interest of the Government to waive certain contractual inspection or test requirements. However, a waiver action shall be processed in accordance with the same procedures as specified for acceptance of nonconforming supplies or services (see § 5-14.206).

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 17]

PART 5A-14 [REMOVED]

1. The Table of Parts for GSPR 5A is amended to remove Part 5A-14—Inspection and Acceptance.

2. Part 5A-14 is removed in its entirety.

(Sec. 205(c); 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 15, 1980.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 81-191 Filed 1-2-81; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Parts 255, 284, 286 and 291

Capital Reserve Fund and Special Reserve Fund Regulations

AGENCY: Maritime Administration, Commerce.

ACTION: Revocation of regulations.

SUMMARY: The regulations in 46 CFR Parts 255, 284, 286 and 291 govern the establishment and maintenance of the Capital and Special Reserve Funds by vessel owners. The purpose of these funds is to fulfill the obligation under an operating-differential subsidy agreement (ODSA) to replace subsidized vessels with vessels to be constructed. The Merchant Marine Act of 1970 (Pub. Law 91-469) amended section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), by providing for the establishment of a Capital Construction Fund, with expanded eligibility for vessel owners and lessors. Amended section 607 allows any person who was maintaining an "old fund" (Capital Reserve or Special Reserve Fund) to continue such old fund until the expiration date in the ODSA. Since all agreements providing for Capital and Special Reserve Funds have expired, the regulations in 46 CFR Parts 255, 284, 286 and 291 no longer serve any useful purposes.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Pripeton, Chief, Division of Capital Construction Funds, Maritime Administration, Washington, DC 20230 Tel. (202) 377-4400.

PARTS 255, 284, 286, and 291 [REMOVED]

Accordingly, 46 CFR Parts 255, 284, 286 and 291 are hereby removed.

(Secs. 204(b) and 607, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1177); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. Law 91-469 (84 Stat. 1036); and Department of Commerce Organization Order 10-8 (38 F 19707, July 23, 1973))

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated: December 22, 1980.

Robert J. Patton Jr.,

Secretary, Maritime Administration.

[FR Doc. 81-106 Filed 1-2-81; 8:45 am]

BILLING CODE 3510-15-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use; Opening of Certain National Wildlife Refuges to Public Access, Use and Recreation: Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, and Vermont

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access, use and recreation of certain national wildlife refuges in Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire and Vermont is compatible with the objectives for which the areas were established and will provide additional recreational opportunity to the public through a non-consumptive use. This document establishes special regulations governing this use.

DATES: January 1, 1981 through December 31, 1983.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100, Ext. 200).

SUPPLEMENTARY INFORMATION: Public access, use and recreation is permitted on the national wildlife refuges indicated below in accordance with 50 CFR 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or shown on maps available from addresses indicated below. No vehicle travel is permitted except on designated roads and trails. Special regulations applying to individual refuges are listed on leaflets available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following special regulations:

§ 26.34 Special regulations concerning public access, use and recreation; for individual national wildlife refuges.

Public access, use and recreation is permitted on the following refuges: Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special conditions: Entry into those portions of the refuge not posted as closed is permitted for certain uses. The entrance gate at the south end of Sunset Boulevard is the only legal point of access on the island portion of the refuge. Visitor hours are generally dawn to dusk, but, at times of high public use, the entrance gate may be closed and access denied by refuge officials to protect the wildlife habitat from overuse. Sight-seeing, nature study, photography, hiking, snowshoeing, and cross-country skiing are permitted. Vehicle parking is permitted only in designated lots. Parking may be restricted to certain purposes and conditions designated by special signs. Boating is permitted on navigable tidal waters which lie within the refuge. Public boat launching and landing is not permitted on the refuge except during the waterfowl hunting season (see Part 32.12—Hunting). The entire refuge beach has no lifeguards. Swimming will be at the visitor's own risk. A limit of 3 quarts each of plums and cranberries per person per year may be picked from the first Tuesday after Labor Day until October 31. Cranberry rakes or scoops are not permitted. Access to clam flats for clamming is permitted across refuge marshes on designated trails. Permits are required and may be obtained at the refuge. Small cooking fires are permitted only on the ocean beach. No other fires are permitted at other locations on the refuge. Alcoholic beverages, camping, tents, camping trailers, floating devices (including surfboards), and nudity are not permitted on the refuge. Nudity is defined as failure by persons over 10 years of age to cover with fully opaque covering their own genitals, pubic areas, rectal area or female breasts below a point immediately above the top of the areola when in a public place. Pets and horses are not permitted on the refuge. Dogs may be used for hunting in accordance with refuge hunting regulations (see Part 32.12—Hunting). Pets are not allowed on the refuge at any other time or under any other condition except under Special Use Permit. Group activities may be confined to the northern one-quarter mile of ocean beach east of Lot 1. Advance reservations and permits are required, group size is limited to 60 persons, and there must be at least one adult supervisor for every 10 children. Identification must be displayed upon request of any authorized officer. Refusing to display identification or providing false information to any authorized officer of the United States or any local or State government is prohibited. The possession of any device (clubs, knives, metal knuckles, etc.) prohibited by State law and/or deemed a dangerous weapon by refuge officials is prohibited. Bicycles and registered motor vehicles are permitted only on the main refuge road and in numbered parking areas except when being used under the terms of a special permit for over-the-sand surf fishing vehicles (see Part 33—Sport Fishing). Snowmobiles, air-cushion, all-terrain, hang-gliders or other similar vehicles or devices deemed improper by refuge agents are not permitted on the refuge.

Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager, at 617–443–4661. Special conditions: Entry to the parking areas on foot, bicycle or by registered motor vehicle is permitted during daylight hours. Foot and bicycle travel is permitted on designated routes. Nature study, photography, hiking, ice skating, snowshoeing and cross-country skiing are permitted. Entry upon the refuge of any unconfined domestic animal, including, but not limited to dogs, cats, hogs, horses, sheep and cattle, is prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which is handheld so as to restrict the movements of the animal.

Oxbow National Wildlife Refuge, Harvard, Massachusetts, under the administration of Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager, at 617–443–4661. Special conditions: Entry by foot, bicycle, or motor vehicle is permitted along the tank road for the purposes of nature study, photography, hiking, snowshoeing and cross-country skiing. Parking for vehicles is available at designated areas. Entry upon the refuge of any unconfined domestic animal, including, but not limited to dogs, cats, hogs, horses, sheep and cattle, is prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which is handheld so as to restrict the movements of the animal.

Monomoy National Wildlife Refuge, Chatham, Massachusetts, under the administration of Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special conditions: Foot entry to the Monomoy Wilderness Area is permitted for photography, nature study, and hiking during daylight hours and fishing 24 hours per day. Shellfishing is permitted in accordance with Town of Chatham regulations. Pets are permitted if on a leash not over 10 feet in length, one end of which is handheld so as to restrict the movements of the animal. Fires are permitted on the ocean beach. Boats may be beached on the refuge. Erection of tents and other structures is not permitted. Entry to the Morris Island portion of Monomoy Refuge is permitted during daylight hours by advance reservation for photography, nature study, and hiking. Only a limited number of motor vehicles can be accommodated on the refuge at the designated parking area adjacent to the refuge headquarters. Entrance permits for specific dates are issued by mail or by telephone during the period June 1 through September 10, of each year at the Monomoy National Wildlife Refuge office, Wiki Way, Morris Island, Chatham, Massachusetts 02633, telephone 617–945–0594; or during the period January 1 through May 31, and September 11 through December 31, of each year from the Refuge Manager, Parker River National Wildlife Refuge.

Nantucket National Wildlife Refuge, Nantucket, Massachusetts under administration of Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special Conditions: Entry by foot, motor vehicle, or boat is permitted during daylight hours for nature study, photography, hiking, shell collecting, shellfishing and surf fishing. Surf and shellfishing shall be in accordance with all State and local regulations. Registered over-the-sand vehicles are permitted on designated sand trails and on the open ocean beach. Vehicle permits will be required and may be obtained from the Trustees of Reservations, Coskata-Coatue Wildlife Refuge Manager, Harbor Square, P.O. Box 13, Nantucket, Massachusetts 02554. All over-the-sand vehicle permit requirements and regulations promulgated by the Trustees of Reservations for the Coskata-Coatue Wildlife Refuge will apply to vehicles operating on Nantucket National Wildlife Refuge.

Rachel Carson National Wildlife Refuge, Kennebunkport Road, Wells, Maine 04090. Contact Maurice Mills, Assistant Refuge Manager, at 207–646–9226. Special conditions: Entry by foot into those portions of the refuge not posted as closed is permitted for certain uses specified herein. Visitor hours are dawn to dusk. Sight-seeing, nature study, wildlife observation, photography, hiking, snowshoeing, and cross-country skiing are permitted. Group activities may be confined to areas designated by the refuge manager. Advance reservations and permits are required for group activities, and there must be at least one adult supervisor for every 10 children. Vehicles are permitted only in designated parking areas. Parking may be restricted to certain purposes and conditions designated by special signs. Public boat launching and landing are not permitted on the refuge except by special permit. Clamming will be permitted subject to State and local regulation. Access to clam flats across refuge marshes will be by Special Use Permit only. Alcoholic beverages, nudism, camping, tents, camping trailers, and fires are not permitted on the refuge. Pets are permitted if on a leash not over 10 feet in length, one end of which is secured so as [illegible] restrict the movements of the animal. The possession of any device prohibited by State law and/or deemed a dangerous weapon by refuge officials is prohibited. Snowmobiles, trail bikes, all-terrain or other similar unregistered vehicles or devices deemed improper by refuge agents are not permitted on the refuge. Identification must be displayed upon request of any authorized officer. Refusing to display identification or providing false information to any authorized officer of the United States or any local or State government is prohibited.

Pond Island National Wildlife Refuge, located near Popham Beach, Maine, is under administration of Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special conditions: Boat access and entry by foot is permitted from August 1 through February 28 during daylight hours for the purposes of environmental education, nature study and photography. Open fires and camping are prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Moosehorn National Wildlife Refuge, Box X, Calais, Maine, 04619. Contact Douglas Mullen, Refuge Manager, at 207–454–3521. Special conditions: Entry on foot or by motor vehicle on designated travel routes is permitted for the purpose of nature study, photography, hiking and sight-seeing during daylight hours. Pets are permitted if kept on a leash not over 10 feet in length, the end of which is secured so as to restrict the movements of the animal. The use of snowmobiles is permitted on the Baring and Edmunds Units subject to the following special conditions: (1) Use is restricted to the periods December 1 through April 15; (2) Use shall be in accordance with all applicable State laws and regulations governing snowmobiles; (3) Use is permitted 24 hours a day and is limited to designated roads.

Petit Manan National Wildlife Refuge, Steuben, Maine, under administration of Moosehorn National Wildlife Refuge, Box X, Calais, Maine, 04619. Contact Douglas Mullen, Refuge Manager, at 207–454–3521. Special Conditions: Entry by motor vehicle and on foot is permitted for the purpose of nature study, photography, hiking and sight-seeing during daylight hours between April 15 and November 15. Entry by motor vehicle is restricted to Petit Manan Point Road and the designated parking area only. Foot travel only is permitted beyond the parking area on designated trails. Clamming is permitted in accordance with State and Town regulations; access to clamming areas is by water routes only. Pets are permitted if kept on a leash not over 10 feet in length, the end of which is secured so as to restrict the movements of the animal. The picking of blueberries for off-site use is prohibited. No entry to or use of the island portion of the refuge is permitted.

Carleton Pond Waterfowl Production Area, Detroit, Maine, under administration of Moosehorn National Wildlife Refuge, Box X, Calais, Maine 04619. Contact Douglas Mullen, Refuge Manager, at 207–454–3521. Special conditions: Entry by foot is permitted for the purposes of sight-seeing, nature observation, photography, and hiking during daylight hours. Hunting of migratory game birds, upland game, and big game is permitted subject to the provisions of State law and regulations. Dogs may be used for waterfowl and upland game hunting. Pets are permitted if kept on a leash not over 10 feet in length, the end of which is secured so as to restrict the movements of the animal.

Wapack National Wildlife Refuge, located between Peterborough, Greenfield and West Hilton, New Hampshire, is under administration of Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager, at 617–443–4661. Special conditions: Entry by foot is permitted during daylight hours for hiking, nature and geology study, photography, and blueberry picking. No motor vehicle of any kind is permitted on the refuge. Open fires and camping are prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Missisquoi National Wildlife Refuge, Swanton, Vermont 05488. Contact Thomas Mountain, Refuge Manager, at 802–868–4781. Special conditions: Entry by motor vehicle or on foot is permitted on designated travel routes for the purposes of nature study, photography, hiking, and sight-seeing during daylight hours. Pets are permitted if they are kept on a leash not over 10 feet in length, the end of which is secured so to restrict the movements of the animal. Launching of boats and parking of boat trailers is permitted in designated areas.

Ninigret National Wildlife Refuge, Box 307, Charleston, Rhode Island 02813. Contact Donald Tiller at 401–364–3106. Trustom Pond National Wildlife Refuge, Green Hill, Rhode Island, under administration of Ninigret National Wildlife Refuge. Sachuest Point National Wildlife Refuge, Middletown, Rhode Island, under administration of Ninigret National Wildlife Refuge. Special conditions for Ninigret, Trustom Pond and Sachuest Point National Wildlife Refuges: Entry on foot is permitted from sunrise to sunset on designated routes of travel for the purposes of nature study, photography, and sight-seeing. Pets are permitted if they are kept on a leash not over 10 feet in length, the end of which is secured so as to restrict the movements of the animal. The entire refuge beach has no lifeguards. Swimming will be at the visitor's own risk. Access along designated routes for surf fishing and shellfishing is permitted. Surf and shellfishing shall be in accordance with all state and local regulations. Fires are permitted only on the ocean beach. No other fires are permitted at other locations on the refuge. Camping, tents, floating devices, and nudity are not permitted on the refuge. Nudity is defined as intentional failure by persons over 10 years of age to cover with fully opaque covering their own genitals, pubic areas rectal area or female breasts below a point above the top of the areola when in a public place. Over-the-sand vehicles, snowmobiles, air cushion, all terrain or other similar vehicles are not permitted on the refuge except for emergency and law enforcement purposes.

Block Island National Wildlife Refuge, New Shoreham, Rhode Island, under administration of Ninigret National Wildlife Refuge, Box 307, Charlestown, Rhode Island 02813. Contact Donald Tiller, Refuge Manager, at 401-364-3106. Special Conditions: Entry by foot or motor vehicle on designated roads and trails is permitted during daylight hours for the purposes of nature study, photography, hiking, shell collecting, shellfishing, and surf fishing. Surf and shellfishing shall be in accordance with all state and local regulations. Pets are permitted if kept on a leash not over 10 feet in length, the end of which is secured so as to restrict the movements of the animal.

Salt Meadow National Wildlife Refuge, Westbrook, Connecticut, under administration of Ninigret National Wildlife Refuge, Box 307, Charlestown, Rhode Island 02813. Contact Donald Tiller at 401-364-3106. Special Conditions: Foot entry is permitted during daylight hours by advance reservation only, for the purposes of environmental education studies, hiking, nature study, and photography. Entrance permits may be obtained for specific dates, by mail, from the above address. Motor vehicles are limited to the designated parking areas. Pets are not permitted on the refuge unless authorized in the entrance permit.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge area generally, which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-00148 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 26

Public Entry and Use; Opening of Certain National Wildlife Refuges to Public Access, Use and Recreation: New York, New Jersey, and Pennsylvania

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access, use and recreation of certain national wildlife refuges in New York, New Jersey and Pennsylvania is compatible with the objectives for which the areas were established and will provide additional recreational opportunity to the public through a non-consumptive use. This document establishes special regulations governing this use.

DATES: January 1, 1981 through December 31, 1983.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Public access, use and recreation is permitted on the national wildlife refuges indicated below in accordance with 50 CFR 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or shown on maps available from addresses indicated below. No vehicle travel is permitted except on designated roads and trails. Special regulations applying to individual refuges are listed on leaflets available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorized the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following special regulations:

§ 26.34 Special regulations concerning public access, use and recreation; for individual national wildlife refuges.

Public access, use and recreation is permitted on the following refuges:

Iroquois National Wildlife Refuge, Alabama, New York 14003. Contact Edwin H. Chandler, Refuge Manager at 716-948-5445. Special Conditions: Entry by foot or motor vehicle is permitted during daylight hours on designated travel routes for the purposes of nature study, photography, hiking and sight-seeing. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Target Rock National Wildlife Refuge, P.O. Box 533, Huntington, New York 11743. Contact Roger Spaulding, Refuge Manager, at 516-271-2409. Special Conditions: Entry to the refuge is permitted by advance telephone or mail reservation only, for the purpose of photography, nature study, and hiking on roads, trails and the beach, from 9:00 AM to 5:00 PM daily. Entrance permits are issued for specific dates only. Weekday visitors may obtain a permit the same day of their visit. For weekend visitation visitors must contact the refuge office Monday through Friday from 8:00 AM to 4:30 PM. Visitation is limited to 50 individuals at any one time. Motor vehicles are permitted on entrance road and designated parking area only. Pets are not allowed.

Morton National Wildlife Refuge, R.D. Box 359, Noyack Road, Sag Harbor, New York 11963. Contact Roger Spaulding, Refuge Manager, at 516-271-2409.

Special Conditions: Entry by foot is permitted daily from 9:00 AM to 5:00 PM for the purpose of photography, nature study, and hiking. Vehicles are permitted on entrance road and parking area only. Pets are not allowed.

Amagansett National Wildlife Refuge, P.O. Box 533, Huntington, New York 11743. Contact Roger Spaulding, Refuge Manager, at 516–271–2409. Special Conditions: Entry by foot along the refuge beachfront is permitted during daylight hours for the purpose of nature study, photography, and shell collecting. Interior access beyond the beachfront for the purpose of environmental education studies is permitted by special use permit on a prior reservation basis. Motor vehicle access is limited to designated Town of East Hampton parking areas.

Brigantine National Wildlife Refuge, Great Creek Road P.O. Box 72, Oceanville, New Jersey 08231. Contact Gaylord L. Inman, Refuge Manager, at 609–651–1665. Special Conditions: Entry by foot, bicyle, and vehicle is permitted on designated travel routes during daylight hours for the purposes of nature study, wildlife observation, photography, and hiking. The refuge beach has no lifeguards. Swimming will be at the visitor's own risk. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal. Motorcycles or mopeds with motor in operation are not permitted on the refuge. The use of mopeds or motorized bicyles shall be governed as follows: as a bicyle when motor is not in operation; as a motorcycle when motor is in operation.

Barnegat National Wildlife Refuge, P.O. Box 72, Oceanville, New Jersey 08231. Contact, Gaylord L. Inman, Refuge Manager, at 609–652–1665. Special Conditions: Entry by foot and vehicle is permitted on designated travel routes during daylight hours for the purposes of nature study, wildlife observation, photography, and hiking. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Erie National Wildlife Refuge, R.D. No. 2, Box 191, Guys Mills, Pennsylvania 163[illegible]. Contact William McCoy, Refuge Manager, at 814–789–3585. Special Conditions: Entry on foot or by motor vehicle is permitted on designated routes of travel from sunrise to sunset for the purposes of nature study, photography, wildlife observation, skiing, snowshoeing, and hiking. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal. The use of the picnic area is permitted by reservation only from May 15 through October 15. The use of artificial lights is permitted for the purpose of viewing white-tailed deer from public roads in accordance with State law.

Great Swamp National Wildlife Refuge, Pleasant Plains Road, R.D. No. 1, Box 148, Basking Ridge, New Jersey 07920. Contact John L. Fillio, Refuge Manager, at 201–647–1222. Special Conditions: The refuge is composed of two distinct units: the Management Area and the Great Swamp Wilderness Area. The Management Area, with the exception of the road around Pool 3A, Pleasant Plains Road, and the Wildlife Observation Center, is closed to unauthorized public entry. The dike road which adjoins Pool 3A is open daily to foot traffic from 8:00 AM to dusk. Pleasant Plains Road is open daily to through motor vehicle, bicycle, equestrian, and pedestrian traffic from 8:00 AM to dusk. The Wildlife Observation Center is open daily to foot travel from dawn to dusk. No other means of transportation is permitted beyond the designated parking areas and access road. The Great Swamp Wilderness Area is open daily to foot travel from dawn to dusk. All other means of travel are prohibited. Possession or use of alcoholic beverages is not permitted. Fishing or the possession of fishing equipment is prohibited. Smoking is permitted only in designated parking areas. Pets are permitted only in designated parking areas if they are contained or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Montezuma National Wildlife Refuge, R.D. No. 1, Box 1411, Seneca Falls, New York 13148. Contact Grady Hocutt, Refuge Manager, at 315–568–5987. Special Conditions: Entry by foot or motor vehicle is permitted during daylight hours on designated travel routes for the purposes of nature study, photography, hiking, and sight-seeing. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Tinicum National Environmental Center, Suite 104, Scott Plaza II, Philadelphia, Pennsylvania 19113. Contact Dick Nugent, Refuge Manager, at 215–521–0662. Special Conditions: Public entry into the Center, on the east end, is permitted from the 86th Street and Lindbergh Boulevard gate; public entry into the Center, on the west end, is permitted from Wanamaker Avenue (Route No. 420). Permitted public use activities include bicycling, hiking, jogging, nature study, sight-seeing, and photography from dawn to dusk. Registered motor vehicles are permitted only on the Center entrance road and parking lot at the Visitor Center and adjacent to Wanamaker Avenue. Trail bikes, dirt bikes, three-wheel bikes, snowmobiles, all-terrain vehicles and all other unregistered motorized recreational vehicles are prohibited from entering any lands owned or controlled by the Center. Visitors are prohibited from entering any impoundments or water areas by foot or by boat unless involved in an organized environmental education group which has obtained a permit from the Refuge Manager. Pets are permitted if on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal. Possession or use of alcoholic beverages is not permitted.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-147 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; Opening of Certain National Wildlife Refuges to Sport Fishing; New York, New Jersey, and Pennsylvania

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in New York, New Jersey and Pennsylvania is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1981, through December 31, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachuetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231. Contact Gaylord L. Inman, Refuge Manager, at 609-652-1665. Special Conditions: Saltwater sport fishing is permitted from the beach on Holgate peninsula and Little Beach Island, except for those areas posted as closed. Saltwater sport fishing from the auto tour route is prohibited. Freshwater sport fishing from the South Dike of the William Vogt Pool is permitted during daylight hours from July 20 through September 21, 1981. The possession of fish or minnows for use as bait is not permitted. Freshwater fishermen may park at the Headquarters and South Tower parking areas only.

Erie National Wildlife Refuge, R.D. #2, Box 191, Guys Mills, Pennsylvania 16327. Contact William McCoy, Refuge Manager, at 814-789-3585. Special Conditions: Refuge areas designated by signs are open to fishing during daylight hours, unless otherwise specified. Boats are permitted in Lake Creek above Sugar Lake, and boats without motors are permitted above the Pool 9 dike where designated by signs. Fishing in Pools 9 and K is permitted from the second Saturday in June to September 15, 1981, only. Pools 9 and K will be open to ice fishing at the discretion of the refuge manager. Seasonal ice fishing permits must be secured at refuge headquarters. Baitfish may be taken with minnow traps only from road rights-of-way off Hanks Road (T-744) into Woodcock Creek and from State Routes 27 and 173 into Lake Creek. The refuge is closed to taking frogs at all times. A refuge permit is required to take turtles.

Iroquois National Wildlife Refuge, Alabama, New York 14003. Contact Edwin H. Chandler, Refuge Manager, at 716-948-5445. Special Conditions: Refuge areas designated by signs are open to fishing during daylight hours only. All areas, except Feeder Canal and Oak Orchard Creek, are closed to fishing from March 1 through July 14, 1981, and from October 1 through November 30, 1981. Ice fishing will be permitted only on Ringneck, Schoolhouse, and Center Marshes. Ice fishing will only be permitted during the period December 19 through the last day of February. No boats or other flotation devices will be permitted, except that boats without motors may be used on Oak Orchard Creek from Knowlesville Road to a wire two miles westward. Firearms are not permitted in boats. With the exception of ice fishing, fishing on refuge impoundments will be limited to posted areas on dikes and roads. No wading or swimming is permitted. Leaving boats, structures, or other equipment overnight on the refuge is not permitted.

Montezuma National Wildlife Refuge, R.D. #1, Box 1411, Seneca Falls, New York 13148. Contact Grady Hocutt, Refuge Manager, at 315-568-5987. Special Conditions: Sport fishing in State waters is permitted from the refuge at locations designated by signs.

The provisions of this special regulation supplement the regulation which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-146 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; Opening of Certain National Wildlife Refuges to Sport Fishing: Massachusetts, Maine, and Vermont

AGENCY: United States Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Massachusetts, Maine, and Vermont is compatible with the objectives for which the areas were established, will utilize renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1981 through December 31, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617-965-5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager at 617–443–4661. Special Conditions: Sport fishing is permitted during daylight hours along the Concord River, Sudbury River, Harvard Pond and ponds in the West Bedford area. Foot access for this purpose is permitted.

Oxbow National Wildlife Refuge, Harvard, Massachusetts, under administration of Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776. Contact David Beall, Refuge Manager, at 617–443–4661. Special Conditions: Sport fishing is permitted during daylight hours along the Nashua River. Foot access for this purpose is permitted.

Parker River National Wildlife Refuge, Northern Boulevard, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special conditions: There is no freshwater fishing on Parker River National Wildlife Refuge. Saltwater sport fishing is permitted only on the ocean beach as follows:

Walk-in Fishermen:
  Entire year: Day only, no permit required.
  May 1 through October 31: Day and night. Night permit required.
Over-the-sand surf fishing vehicles:
  May 1 through October 31 only, permit required.
  May 1 through May 22, day and night.
  May 22 through September 7, night (6:00 PM to 6:00 AM) only.
  No vehicle shall be operated on the beach between the hours of 6:00 AM to 6:00 PM. During these hours all permit vehicles shall remain in the designated over-the-sand fishing vehicle parking area in the unvegetated area between the dunes at the east end of Beach Access Trail #2 or exit from the beach area.
  September 8 through October 31, day and night.
  No fishing or vehicles are permitted on the northern one-quarter mile of beach east of Lot 1 from 8:00 AM to 6:00 PM.

Permit requirements are as follows: Night permittees may enter the refuge only until dusk except they may enter until 10:00 PM from May 22 through September 7. Night permittees may remain on the refuge, or may exit through a one-way gate at any time. Vehicles with the special permit may be on the ocean beach only when the occupants over 12 years old are actively engaged in surf fishing and each have at least one fishing rod. Permission to inspect vehicle, sanitary facilities, and all fishing equipment must be granted to refuge agents upon request. Vehicles with sleeping compartment interiors not visible for inspection are prohibited from all refuge lots between 8:00 PM and 6:00 AM. All vehicle permits must be affixed to the vehicles as instructed at the time of issuance. Motorcycles, or any vehicle deemed improper by refuge agents, may not receive the permit. "Light Truck" type traction treads designed primarily for use in snow and mud are not permitted. Over-the-sand surf fishing vehicles must be registered and equipped with spare tire, shovel, jack, tow rope, or chain, board or similar support for jack, and low-pressure tire gauge. Vehicles, under the terms of an over-the-sand surf fishing permit, may drive only on designated beach access routes and on the unvegetated beach east of the line formed by the eastern base of the dunes. The maximum speed limit in these areas is 15 miles per hour. Ruts or holes resulting from freeing a stuck vehicle shall be promptly filled in by the operator. Tires must be properly deflated to permit sufficient flotation while vehicle is operated over sand. Riding on fenders, tailgates, roof, or any other position outside the vehicle is prohibited. Failure to comply with any State or Federal regulation shall be grounds for immediate cancellation of all permits.

Vehicle must stay 50 feet away from tern nesting areas marked by signs. The maximum speed limit past tern areas is five miles per hour.

Monomoy National Wildlife Refuge, Chatham, Massachusetts, under administration of Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950. Contact George W. Gavutis, Jr., Refuge Manager, at 617–465–5753. Special conditions: Sport fishing in tidal and fresh waters is permitted 24 hours per day from refuge lands. Boats may be beached on the refuge and wilderness areas.

Moosehorn National Wildlife Refuge, Box X, Calais, Maine 04619. Contact Douglas Mullen, Refuge Manager, at 207–454–3521. Special conditions: Sport fishing is permitted during daylight hours on areas designated by signs as open. The use of boats without motors is permitted on Bearce, Conic and Cranberry Lakes.

Missisquoi National Wildlife Reguge, Swanton, Vermont 05488. Contact Thomas Mountain, Refuge Manager, at 802–868–4781. Special conditions: Sport fishing is permitted in Lake Champlain, and the Missisquoi river from refuge lands. The use of firearms to take fish is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-148 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

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Proposed Rules

Federal Register
Vol. 46, No. 2
Monday, January 5, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Penalty for Early Withdrawals of Funds From Share Certificate Accounts in the Event of Bankruptcy

AGENCY: National Credit Union Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The National Credit Union Administration (NCUA) Board is considering amending the penalty for early withdrawals of funds from share certificate accounts to permit penalty-free withdrawal in the event of bankruptcy of the certificate holder.

DATES: Comments must be received by February 23, 1981.

ADDRESS: Interested parties are invited to submit written data, views, or comments regarding the proposed rule to Robert S. Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Director, Division of Regulatory Policy and Research, Office of Policy Analysis, National Credit Union Administration (202-357-1091).

SUPPLEMENTARY INFORMATION: The NCUA Board is considering amending the early withdrawal penalty rule to permit penalty-free early withdrawals of funds in share certificate accounts in the event of the bankruptcy of the certificate holder. Under current rules, Federal credit unions are required, with certain exceptions, to impose a penalty upon the withdrawal of share certificate funds prior to maturity. Where the original maturity of the share certificate is one year or less, the minimum required penalty generally is an amount equal to the lesser of all dividends for 90 days on the amount withdrawn or all dividends on the amount withdrawn since the date of issuance or renewal. Where the original maturity is greater than one year, the minimum penalty is an amount equal to the lesser of all dividends for 180 days on the amount withdrawn or all dividends on the amount withdrawn since the date of issuance or renewal.

Imposition of the early withdrawal penalty when funds are withdrawn in the event of bankruptcy may reduce the assets available to pay the claims against the debtor's estate. The NCUA Board believes that adoption of a bankruptcy exception would not significantly increase the administrative burden of determining the applicability of the penalty since the exception, as in the case of the current exception providing for penalty-free withdrawals where an IRA/Keogh shareholder is 59½ or disabled, would be subject to well-defined criteria.

Specific comment is requested on whether such an exception, if adopted, should:

(1) Apply to corporations as well as to individuals with regular incomes and small sole proprietors (Chapter 13);*

(2) apply to liquidations (Chapter 7), municipal debt adjustments (Chapter 9), rehabilitations and reorganizations (Chapter 11) and, in the case of individuals, extended repayment plans (Chapter 13) under the bankruptcy code;

(3) permit penalty-free withdrawals to be made upon the filing of a petition for bankruptcy or only upon an adjudication of bankruptcy or a court ordered distribution of the debtor's estate; and

(4) permit penalty-free withdrawals to be made by a debtor-in-possession as well as by a trustee in bankruptcy.

By order of the National Credit Union Administration Board, December 18, 1980.

Rosemary Brady

Secretary to the Board.

December 29, 1980.

[FR Doc. 81-135 Filed 1-2-81; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 701

Retirement Accounts

AGENCY: National Credit Union Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The National Credit Union Administration is considering proposed rules that would: (1) enable share certificates held in Individual Retirement Accounts ("IRAs") and Keogh (H.R. 10) plans to accommodate routine additions more conveniently; and (2) increase, revise, or eliminate the current dividend ceiling payable on the IRA/Keogh accounts. The proposed rules would facilitate the use of share certificates for retirement savings and encourage the increased use of IRA/Keogh plans consistent with the intent of Congress in the Employees Retirement Income Security Act (ERISA) of 1974 to encourage individuals to save for their retirements.

DATES: Comments must be received by March 20, 1981.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed rules to Robert Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G St., NW, Washington, DC, 20456.

FOR FURTHER INFORMATION CONTACT: Dan Gordon, Financial Economist, Office of Policy Analysis, National Credit Union Administration at (202) 357-1090.

SUPPLEMENTARY INFORMATION: Although the intent of the Employee Retirement Income Security Act of 1974 is to encourage qualified individuals to develop their own pension plans, IRAs and Keoghs have not been fully utilized. In 1977, only 3.3 percent of eligible taxpayers in the $11,000 to $15,000 income class held some form of retirement account in a depository or nondepository institution, while 52.4 percent of those with incomes of $50,000 or more held some form of retirement account. In view of the Congressional intent to encourage individuals to save for their retirement, NCUA is considering regulatory actions that would increase the attractiveness of IRA/Keogh accounts at Federal credit unions by reducing present adminsitrative obstacles to periodic additions to IRA/Keogh accounts and by increasing the yield available to retirement savers.

The current dividend ceiling on retirement accounts is the greater of (1) 9½ percent or (2) the lesser of 12 percent or the average 2½ year yield on United States Treasury securities. Credit unions also may pay a maximum rate equal to one-quarter of one percent above the discount rate for 26 week Treasury bills for funds invested in 26-week money market certificates.

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*Chapter references are to Title II of the United States Code entitled "Bankruptcy."

NCUA regulations permit regularly scheduled additions to a share certificate account, including variable ceiling accounts, without changing the maturity of the account, so long as the date and amount of each addition is arranged for at the time the account is opened. Rates paid on additions would be equal to the originally agreed upon contract rate. NCUA rules require that additions be specifically arranged for in advance to encourage credit union members to set up and save according to an established plan rather than attempt to time account additions to take advantage of interest rate variations.

The National Credit Union Administration requests comment on four options designed to reduce the administrative complexities associated with IRA/Keogh funds and to provide a more attractive yield to retirement savers. Options 1 and 2 provide for the creation of a new IRA/Keogh one-year notice account that would facilitate the receipt of periodic additions. Option 3 presents three alternative ceiling rate options that could be applied to the currently authorized retirement accounts or the notice accounts presented in Options 1 and 2. Option 4 provides for the creation of a new IRA/Keogh share account with a minimum maturity of 14 days and with no prescribed dividend ceiling. A discussion of the four options follows.

Options 1 and 2—Create IRA/Keogh Notice Account to Facilitate Periodic Additions

A notice account is an account from which funds may not be withdrawn prior to the expiration of a period of notice which must be given by the shareholder a specified number of days in advance of withdrawal. Notice could take a variety of forms including a specific written notice from the shareholder or arrangements in which notice is given automatically on the anniversary of the account or each time an addition to the account is made.

Under Option 1:

(a) A one-year notice of intent to withdraw on a specified date is required;

(b) The Federal credit union may accept additions to the account at any time up to 14 days before the expiration or end of the notice period, and all funds in shares could be withdrawn upon the expiration of the notice period;

(c) Dividends could be paid on all additions to the account at the specified contract rate; and

(d) An early withdrawal penalty would be imposed on withdrawals made prior to the expiration of the one-year notice period.

Under Option 2:

(a) A one-year notice of intent to withdraw on a specified date is required;

(b) The Federal credit union may accept additions to the account at any time, but the amount withdrawn could not exceed the amount in shares at the time of notice;

(c) Dividends could be paid on all additions to the account at the specified contract rate; and

(d) An early withdrawal penalty would be imposed on withdrawals made prior to the expiration of the one-year notice period.

A strength of these options is that they establish IRA/Keogh accounts that readily accommodate routine periodic additions and can easily be understood by both shareholders and the Federal credit unions authorized to offer the accounts. Under both Options 1 and 2 the one-year notice required for withdrawal accommodates IRA shareholders' annual rollover privilege as provided by in the amended ERISA; it also facilitates shareholders shifting to more attractive retirement investment alternatives when they exist, as contemplated by the recent amendment to ERISA. NCUA believes that structuring either account as a one-year notice account is preferable to establishing an account with a stated maturity of one year that could accept periodic additions. A notice account would tend to lessen deposit volatility since funds would not mature automatically at the end of a year.

Option 1 would make the administration of the notice account less complex since all funds could be withdrawn at one time. Under this Option, however, the ability to make additions up to 14 days prior to the expiration of the notice period would make it possible for shareholders to earn a high rate of dividends on very short-term funds.

Options 1 and 2 establish a minimum maturity of one year on IRA/Keogh accounts. Federal credit unions have been authorized to offer a notice account with a maturity of 90 days. However, additions are not permitted unless contracted in advance. Under the proposed one-year notice account in Options 1 and 2, additions will be permitted at any time without prior contractual arrangements between the shareholder and the Federal credit union. This change removes existing regulatory restrictions.

Option 3—Increase, Revise, or Eliminate IRA/Keogh Dividend Ceilings

Options 1 and 2 deal primarily with the administrative problems of making routine additions to IRA/Keogh accounts, but do not address the issue of what dividend ceilings, if any, should be applied. NCUA is considering the following dividend ceiling options that could be applied to the current retirement account or the notice accounts presented in Options 1 and 2.

(a) Prescribe no dividend ceiling;

(b) Establish a fixed ceiling at a rate considerably above current rate ceilings. Within the ceiling rate limitations, Federal credit unions could change the rate paid on the account with one year's notice or change the rate immediately if required by a regulatory ceiling rate change; or

(c) Establish a floating ceiling indexed to the rate on U.S. Government securities of specified maturity (e.g., 91 day, 182 day, one year, or two and a half year Treasury security yield). Change in the ceiling rate could occur quarterly, semi-annually, or annually.

Option 3(a) and 3(b) would represent a liberalization of the current dividend ceiling now existing on IRA/Keogh accounts. Option 3(c) most likely will result in a liberalization of the regulation. However, there is the possibility that the choice of an index different from those included in the current regulation could result in a lower rate ceiling at certain stages of the interest rate cycle.

Option 4—Create 14-day IRA/Keogh Share Account

NCUA also is considering establishment of an IRA/Keogh share account with a minimum required maturity or notice period of 14 days. No dividend ceiling on this special category would be prescribed. This option would provide maximum flexibility to Federal credit unions in structuring retirement accounts.

NCUA believes that the proposals presented would enable Federal credit unions to tailor IRA/Keogh plans to specific member needs and market circumstances and thereby attract and retain relatively stable retirement funds. In addition, these proposals would encourage savings and, by enhancing the competitive posture of Federal credit unions vis-a-vis nondepository institutions, would enable Federal credit unions to function more safely and soundly in increasingly competitive financial markets. NCUA is concerned, however, that adoption of any of the proposals making IRA/Keogh accounts significantly more attractive could encourge credit union members not qualifies to open IRA/Keogh accounts to open such accounts. To lessen the potential for abuse, NCUA is considering adoption of a provision requiring an appropriate official of the Federal credit union to obtain certification from each shareholder that he or she qualifies to hold an IRA/Keogh account. Such certification for IRAs might include presentation of a W-2 form indicating eligibility.

To aid in its consideration, comments are requested on the four options discussed above. Specific comments are also requested on:

(1) The minimum required early withdrawal penalty that should be imposed on withdrawals prior to the receipt and expiration of the one-year notice period under Options 1 and 2;

(2) The potential for misuse of IRA/Keogh accounts under any of the options and steps that might be taken to lessen the potential for misuse;

(3) The ceiling rate options (e.g., no ceiling, fixed rate ceiling, or floating ceiling) that would be most attractive to Federal credit unions and their members;

(4) The Treasury bill maturity that should be selected as the index if a floating rate ceiling were adopted (Option 3(c)) and the frequency of change in the ceiling rate (e.g., quarterly, semi-annually, annually);

(5) The potential impact of the proposals on share stability at Federal credit unions;

(6) The effect of the proposals on the earnings of Federal credit unions; and

(7) Whether, in the event any of the options is adopted, Federal credit unions should be authorized to permit existing IRA/Keogh shareholders to immediately convert their accounts without imposition of the early withdrawal penalty.

Comment also is solicited on any other proposals that would reduce the administrative complexities of using share accounts to fund IRAs and Keoghs.

By order of the Board, December 18, 1980.

Rosemary Brady,
Secretary to the Board.
December 29, 1980.
[FR Doc. 81-136 Filed 1-2-81; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Part 701

Effective Date of Share Certificate Ceiling Rates

AGENCY: National Credit Union Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The National Credit Union Administration (NCUA) Board proposes to adopt rules reducing the period between the announcement and the effective date of share certificate dividend ceilings based on the discount yields of United States Treasury securities. Under the current rules, the ceiling rates based on Treasury securities are announced on Monday (occasionally on Friday) and are effective the following Thursday. Under the proposed rules, the ceiling rates announced by Treasury would become effective on the following day, or as an alternative, two days afterward.

DATES: Comments must be received by February 23, 1981.

ADDRESS: Interested parties are invited to submit written data, views, or comments regarding the proposed rules to Robert S. Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G St., NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Director, Division of Regulatory Policy and Research, Office of Policy Analysis, National Credit Union Administration (202)-357-1090.

SUPPLEMENTARY INFORMATION: With one exception, the dividend ceiling payable on share certificates is the greater of (1) 9½% or (2) the lesser of 12% or the average 2½ year yield for United States Treasury securities. The exception is share certificates with minimum denominations of $10,000 and minimum maturities of 26 weeks. The dividend ceiling on these share certificates is the greater of (1) the share certificate dividend ceiling or (2) one quarter of one percent greater than the discount rate for 26 week Treasury bills. U.S. Treasury bills maturing in 26 weeks normally are auctioned on Monday (occasionally on Friday) and, under current rules, the dividend ceiling based on the discount yield (auction average) is effective the following Thursday, the day on which the Treasury Bills are issued. This dividend ceiling is effective until the next issuance of 26 week United States Treasury bills. The average 2½ year yield on United States securities is announced by Treasury on Monday (occasionally on Friday) afternoon (based on the average 2½ year yield for the five business days ending on Monday) and, under current rules, the dividend ceiling based on that average 2½ year yield are effective for a two-week period beginning on the following Thursday.

In order to more closely link the dividend ceiling payable on share certificates with current market rates, the NCUA Board proposes to adopt rules reducing the time between the announcement and effective date of the dividend ceilings. Under the proposed rules, the dividend ceilings announced by Treasury would be effective for a share certificate issued on the following day, or two days later, rather than on the following Thursday. Comment is requested on whether these alternatives would allow sufficient time for credit unions to make any changes necessary for implementation of the new dividend ceilings. Comment is particularly requested on potential problems that credit unions may encounter in (1) obtaining information on the new dividend ceilings and (2) posting or advertising the new ceiling.

By order of the National Credit Union Administration Board, December 18, 1980.

Rosemary Brady,
Secretary to the Board.
December 29, 1980.
[FR Doc. 81-137 Filed 1-2-81; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Parts 701 and 741

Organization and Operations of Federal Credit Unions and Requirements for Insurance and Voluntary Termination of Insurance; Correction

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule; Correction.

SUMMARY: On December 17, 1980, (45 FR 82955) the National Credit Union Administration published in the **Federal Register** a proposed rule which adopts the Board policy of requiring each Federally insured credit union to file a Financial and Statistical report on a semi-annual basis. The previous practice required only an annual report. The National Credit Union Administration Board approved the use of the current revised Forms FCU 109 (a, b, c) by those credit unions filing their semi-annual call reports, as instructed by the Board.

The proposed regulation referenced the Forms FCU 109 (a, b, c) as an attachment to the regulation. The Form was inadvertently omitted from the publication. We are, therefore, publishing the Form at this time to accompany the proposed regulation.

DATES: Comments are due on or before February 17, 1981. There is no change from the original due date.

ADDRESS: Send comments to: Robert S. Monheit, Regulatory Development Coordinator/Senior Attorney, Office of

General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Steven R. Bisker, Office of General Counsel, or Mike Fischer, Office of Examination and Insurance, at the above address. Telephone numbers: (202) 357–1030 (Mr. Bisker), (202) 357–1065 (Mr. Fischer).

Rosemary Brady,

Secretary, NCUA Board.

December 29, 1980.

BILLING CODE 7535-01-M

STATEMENT OF FINANCIAL CONDITION AS OF ____________

Charter # or Ins. Cert. # ____________

____________________________________ CREDIT UNION

ASSETS:

Ref •	LOANS & CASH	$ Amount	¢	Acct. code no.
	1. a. Outstanding balances of lines of credit loans to members			702
	b. Real estate loans to members (first lien) (Orig maturity over 12 years)			703
	c. Loan balances fully secured by shares			706
	d. All other loans to members (excluding a,b,c, above)			001
	e. Total loans to members (include items a,b,c, and d)			700
	2. All other loan accounts (excluding amts. in 1,a,b,c,&d)			710
	3. (Less) Allowance for loan losses			719
	4. Net Loans Outstanding (Sum of 1e plus 2 less 3)			002
	5. Cash (cash on hand, petty cash, checking accts., etc.)			730

Ref •	INVESTMENTS (A + B = C)	Remaining Maturities A. 1 Yr. or less		Remaining Maturities B. More than 1 Yr.		C. Total $	¢	Acct. code no.
	6. U.S. Govt. Obligations							741
	7. Federal agency securities							742
	8. Common trust investments							743
	9. Shares, deposits, & certif. in corp. centrals							744
	10. Shares, deposits, & certif. in other CUs							745
	11. Shares, deposits, & certif. in banks S&L's & MSB's							746
	12. Loans to other credit unions							747
	13. All other investments							003
	14. Shares in Central Liquidity Facility (Direct or Indirect)							751
	15. (Less) Allowance for investment losses							759
	16. Net Investments (Sum of 6 through 14 Less 15)							004

Ref •	OTHER ASSETS	$	¢	Acct. code no.
	17. Land and building (net of depreciation)			007
	18. Other fixed assets (net of depreciation)			008
	19. Monetary control reserve deposits			793
	20. All other assets			009
	21. TOTAL ASSETS (Sum of 4,5,16 & 17 through 20)			010

FCU 100A

LIABILITIES SAVINGS EQUITY

Ref •	(A+B=C)	Remaining Maturities A. 1 yr. or less		Remaining Maturities B. More than 1 yr.		C. Total $	¢	Acct. code no.
	22. Promissory notes							812
	23. Reverse Repurchase Transac.							813
	24. Other notes Payable							814
	25. Interest payable							818
	26. Accounts payable							800
	27. Dividends/Interest on shares/deposit payable							820
	28. All other liabilities							012
	29. Total Liabilities (Sum of 22 through 28)							01

Ref •		Remaining Maturities A. 1 yr. or less		Remaining Maturities B. More than 1 yr.		C. Total $	¢	Acct. code no.
	30. a. Share certificates							908
	b. Share draft accounts							902
	c. Member Deposits (SCU's Only)							05
	d. Other member savings							006
	e. Non-member Savings							920
	f. Total savings/shares/deposits (Sum of 30a through 30e)							013
	31. Regular/statutory reserve							931
	32. Investment Valuation reserve (SCU's only)							015
	33. Special Reserves							016
	34. Other reserves							017
	35. Undivided Earnings							940
	36. Net Income (Loss)							960
	37. TOTAL LIABILITIES SAVINGS & EQUITY (Sum of 29, 30f and 31 through 36)							014

Ref •	MARKET VALUES OF INVESTMENTS	Remaining Maturities A. 1 Yr. or less		Remaining Maturities B. More than 1 Yr.		C. Total $	¢	Acct. code no.
	38. U.S. Governmnt Obligations							018
	39. Federal agency securities							019
	40. a. All other Investments							020
	b.________							021

*Numbers in this column refer to notes to financial statements, letters refer to supplementary schedules which are attached.

Charter # or Ins. Cert. # ______

STATEMENT OF INCOME FOR PERIOD ENDED ______

Ref *	OPERATING INCOME:	Month ______	Period Ended ______	Year-to-date	Acct. code no.
	41. Interest on loans (gross)				110
	42. (Less) interest refunded				119
	43. Income from investments				120
	44. Other operating income				050
	45. TOTAL GROSS INCOME (Items 41-44)				100
	OPERATING EXPENSES:				
	46. Employee compensation				210
	47. Employee benefits				220
	48. Travel & conference expense				230
	49. Association dues				240
	50. Office occupancy expense				250
	51. Office operations expense				260
	52. Education & promotional expense				270
	53. Loan servicing expense				280
	54. Professional & outside services				290
	55. Provision for loan losses				300
	56. Member insurance				310
	57. Operating fees (exam., & super)				320
	58. Interest on borrowed money				340
	59. Annual meeting expense				350
	60. Misc. operating expense				370
	61. Total Oper. Exp. Before Div. & Int. on Dep. (Total of Items 46 to 60)				051
	62. Net Operating Inc. (Loss) Before Div. & Int. on Dep. (Item 45 less 61)				052
	NON-OPERATING GAINS OR LOSSES				
	63. Gain (loss) on investments				420
	64. Gain (loss) on disposition of assets				430
	65. Other non-operating income (expense)				440
	66. Total non-operating gains and losses				053
	ALLOCATION OF INCOME				
	67. Total Net Income (Loss) before div & int/dep				054
	68. Interest on deposits (SCU's only)				055
	69. Dividends				380
	70. Net Income (Loss) after div & int/dep				056
	71. (Less) Req. trans to reg. or stat. reserve				057
	72. Provision for loan losses adjustment				058
	73. Change to Undivided Earnings as a Result of Operations				059

FCU 109B

______ CREDIT UNION

Ref *	CLASSIFICATION OF LOANS OUTSTANDING	A. Number	B. $ Amount ¢	Acct. code no.
	74. Degree of delinquency: a. current and less than 2 months			060
	b. 2 to less than 6 months			061
	c. 6 to less than 12 months			062
	d. 12 months and over			063
	e. Total loans (sum of 74a thru 74d.) (must equal 1e. + 2)			064
	OTHER LOAN INFORMATION	A. Number	B. $ Amount ¢	Acct. code no.
	75. Loans sold and being serviced by the credit union			065
	76. Real estate loans made during current year			066
	77. Total loans made during current year (include real estate loans)			067
	78. Total loans made since organization			068
	79. Total loans charged off since organization			069
	80. Recovery of loans charged off since organization			070
	81. Net loans charged off since organization			071
	MISCELLANEOUS INFORMATION			
	82. Dollar amount of forward commitments to purchase (securities, etc.)			072
	83. Number of members at end of month			073
	84. Number of potential members			074

We certify, to the best of our knowledge and belief, this statement and the related statements are true and correct and present fairly the financial position and the results of operations for the periods covered.

Certified correct by: ______ (Please Print) ______ Telephone No.

Treasurer-Manager (Signature) ______ Date ______

President/Authorized Officer ______ Date ______

* Numbers in this column refer to notes to financial statements, letters refer to supplementary schedules which are attached.

SUPPLEMENTARY SCHEDULES

FOR FINANCIAL STATEMENTS OF

Charter # or Ins. Cert. #

Date

CREDIT UNION

Schedule	Ref. Item No.	Account Title	Acct. No.		

FCU 109 C

INSTRUCTIONS

ASSETS

ITEM

1 –

a. **Outstanding Balances of Lines of Credit Loans to Members (Acct. 702).** Report the outstanding balances as of the report date in all approved line of credit accounts to members. Open-end loans, granted under "Special Loan Plans" should not be reported in this item; such loans are to be reported in item 1d.

b. **Real Estate Loans (Acct. 703).** The total amount of first lien real estate loans to members outstanding as of the report date should be recorded in this account. Only those loans with original maturities in excess of 12 years should be reported on this line.

c. **Loan Balances Fully Secured By Shares (Acct. 706).** Report the amount of loans to members outstanding as of the report date that are completely secured by pledged shares.

d. **All Other Loans to Members.** This amount should be the residual of loans to members after lines of credit, real estate loans, and loan balances fully secured by shares have been deducted. Include Accounts 701, 704, 705, 707, 708 and 709.

e. **Total Loans to Members (Acct. 700).** Include all loans to members (including Lines of Credit, Real Estate Loans and Loans fully secured by shares) outstanding as of the report date. Do not include loans to other credit unions which are reported in the investment section.

2 – **All Other Loan Accounts (Acct. 710-718).** Represents all other loan accounts of the credit union such as loans purchased, in whole or in part, from other credit unions, any note or contract receivable resulting from the sale of assets and similar accounts, if any. Include Accounts 710 through 718. Do not include loans to other credit unions which are reported in the investment section.

3 – **(Less) Allowance for Loan Losses (Acct. 719).** This item, if applicable to your credit union, represents the amount set aside by the credit union which is necessary to absorb possible losses on loans. This should not include amounts reported in items 31 through 34 as reserves.

4 – **Net Loans Outstanding.** This represents the value of loans outstanding net of the allowance for loan losses. Add items 1e and 2 and subtract item 3.

5 – **Cash (Acct. 730-739).** This account represents cash on hand, petty cash, checking accounts, etc.

6 – **U.S. Government Obligations (Acct. 741).** Represents the "book value" of credit union funds invested in obligations of the United States which are fully guaranteed as to both principal and interest. The amounts reported in 6A plus 6B must equal the amount in 6C.

7 – **Federal Agency Securities (Acct. 742).** Represents the "book value" of credit union funds invested in agency securities and participation certificates which are secured by collateral owned by these agencies. The amounts reported in 7A plus 7B must equal the amount in 7C.

8 – **Common Trust Investments (Acct. 743).** Represents the "book value" of credit union funds placed in common trust fund investments such as ICU, NIFCUS, etc. The amounts reported in 8A plus 8B must equal the amount in 8C.

ITEM

9 – **Shares, Deposits and Certificates Invested in Corporate Central Credit Unions (Acct. 744).** Report the total amount of shares, deposits and certificates invested in Corporate Central Credit Unions as of the report date. Special share accounts established in a corporate central credit union to fund the corporate central's Central Liquidity Facility stock subscription should not be reported in this item; such accounts should be reported in item 15. The amounts reported in 9A plus 9B must equal the amount in 9C.

10 – **Shares, Deposits and Certificates in Other Credit Unions (Acct. 745).** Represents the amount as of the report date of credit union funds invested in shares, deposits and certificates of other credit unions, excluding corporate central credit unions. The amounts reported in 10A plus 10B must equal the amount in 10C.

11 – **Shares, Deposits and Certificates in Banks, S&L's and Mutual Savings Banks (Acct. 746).** Represents the amount of outstanding shares, deposits and certificates invested in Banks, S&L's and MSB's as of the report date. The amounts reported in 11A plus 11B must equal the amount in 11C.

12 – **Loans to Other Credit Unions (Acct. 747).** Represents the amount outstanding of loans made to other credit unions as of the report date. The amounts reported in 12A plus 12B must equal the amount in 12C.

13 – **All Other Investments.** This amount should reflect all other investments other than those listed in items 6 through 12 and item 14, as of the report date. Include Accounts 748, and 752 through 759.

14 – **Investment in Central Liquidity Facility (Acct. 751).** Represents the total amount of shares invested directly or indirectly in the Central Liquidity Facility as of the report date. Credit unions that have gained access to the Central Liquidity Facility (CLF) through a CLF Agent member should report on this line the amount of their "CLF Stock Reimbursement" (a special share account established in a corporate central to fund the corporate central's CLF stock subscription). A corporate central credit union that is a member of a CLF Agent Group should report on this line the amount it has invested in its Agent Group Representative (AGR) to reimburse the AGR for purchasing CLF stock on its behalf.

15 – **(Less) Allowance for Investment Losses (Acct. 759).** This item, if applicable to your credit union, represents the amount set aside to absorb possible losses in the liquidation of investments.

16 – **Net Investments.** This represents the sum of items 6 through 14 less 15.

17 – **Land and Building (Net).** Represents the amount of land and building less depreciation on building, if any. (Account 771 plus 772 less 773).

18 – **Other Fixed Assets.** Represents all other fixed assets of the credit union such as furniture and fixtures, leasehold improvements, less related depreciation items, if any. Include Accounts 774 through 779.

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ITEM

19 – **Monetary Central Reserve Deposits (Acct. 793).** Represents amounts deposited by the credit union in the Federal Reserve Bank or Branch or any pass-through Financial Institution as required reserves to comply with the Federal Reserve Board's Regulation "D" requirements.

20 – **All Other Assets.** Represents all other assets of the credit union not included in the above items. Includes such items as prepaid expenses and insurance, accounts receivable, accrued income, etc. Include Accounts 720 through 729, 760 through 769, 780 through 789 and 790 through 792, and 794 through 799.

21 – **Total Assets.** Represents the sum of the amounts in items 4, 5, 16, 17, 18, 19 and 20 (total columns).

LIABILITIES/SAVINGS/EQUITY

22 – **Promissory Notes (Certificates of Indebtedness) (Acct. 812).** Report the amount of funds borrowed by the credit union from individuals for which a promissory note (CI) was issued. The amounts reported in items 22A plus 22B must equal the amount in item 22C.

23 – **Reverse Repurchase Transactions (Acct. 813).** Report the outstanding balance of funds borrowed by the credit union from any source, using its securities as collateral on the loans.

24 – **Other Notes Payable (Acct. 814).** Represents the amount of liability of the credit union for borrowed funds, other than those reported in items 22 and 23. The amounts reported in items 24A plus 24B must equal the amount in item 24C.

25 – **Accrued Interest Payable (Acct. 818).** Represents the amount of interest accrued on all notes and borrowings of the credit union. Do not include interest on deposits.

26 – **Accounts Payable (Acct. 800-809).** Represents all accounts payable of the credit union such as undistributed payments, undistributed payroll deductions, etc. Include Accounts 800 through 809.

27 – **Dividends/Interest on Shares/Deposits Payable (Acct. 820).** This account should reflect the total amount of dividends/interest on shares/deposits payable that are declared for the last dividend period and not paid.

28 – **All Other Liabilities.** This is a balancing item and represents all other liability accounts that are not shown separately. Include such items as taxes payable, accrued expenses, deferred income, etc. Include Accounts 830 through 889.

29 – **Total Liabilities.** This represents the sum of items 22 through 28 (Total Column).

30 –

a. **Share Certificates and Time Deposits.** Represents the total amount of regular, Money Market, Jumbo and other share certificates and time deposits held by the credit union members, if any. The sum of the amounts in the two maturity categories for share certificates must equal the total.

b. **Share Draft Accounts.** Represents the total amount outstanding of share draft accounts held by the credit union members.

ITEM

c. **Member Deposits.** Represents the amount of deposits (not shares) of members in the credit union. For use by State chartered credit unions only.

d. **Other Member Savings.** This amount represents the total member savings of the credit union, excluding share draft accounts, share certificates and member deposits.

e. **Non-member Savings.** This represents the total amount of non-member savings in the credit union. Primarily applicable to Limited Income Credit Unions.

f. **Total Savings/Shares/Deposits.** Represents the sum of amounts held in all savings/shares/deposits accounts of members and non-members. Includes Share Certificates, Share Draft Accounts, Public Unit Accounts, Retirement Plans and special share accounts such as Christmas and Vacation accounts, if any. The sum of the Total Columns of items 30a, 30b, 30c, 30d, and 30e must equal 30f.

31 – **Regular/Statutory Reserve (Acct. 931).** Represents the statutory (regular) reserve balance as of the report date.

32 – **Investment Valuation Reserve (SCU's only).** Represents the reserves to cover the excess of Book Value over Market Value for investments other than those authorized for Federal credit unions by Section 107 of the Federal Credit Union Act. For use by state chartered credit unions only.

33 – **Special Reserves.** This represents any other reserves required by regulation, special agreement or order of the credit union's supervisory authority.

34 – **Other Reserves.** Represents the sum of other reserve accounts (excluding amounts in items 31, 32 & 33) such as reserve for contingencies, additional reserves for losses, insurance reserves, etc.

35 – **Undivided Earnings (Acct. 940).** Represents the total amount of accumulated income or surplus of the credit union. Should not include the amount of dividends and interests on deposits paid or payable which are reported in item 27.

36 – **Net Income (Loss).** Represents the net income (loss) from operations.

37 – **Total Liabilities, Savings and Equity.** Represents the sum of amounts in items 29, 30f and 31 through 36.

MARKET VALUES OF INVESTMENTS

38 – Represents the market value, as of the statement date, for the U.S. Government Obligations reported in item 6.

39 – Represents the market value, as of the statement date, for the Federal agency securities reported in item 7.

40 – Identify any other investment reported in items 8 through 14 which have a market value below the reported amount (in items 8 through 14) and show the market value for that investment(s) as of the statement date.

THE FOLLOWING INCOME AND EXPENSE ITEMS SHOULD REFLECT TOTALS FOR THE PERIODS

OPERATING INCOME

41 – **Interest on Loans (Gross) (Acct. 110-118).** Represents the total amount of income from interest on loans.

ITEM

42 – **(Less) Interest Refunded (Acct. 119).** Represents the total amount of interest refunded.

43 – **Income from Investments (Acct. 120-129).** Represents the total amount of income earned on investments.

44 – **Other Operating Income (Acct. 130-169).** Represents all operating income other than income on loans and income from investments received by the credit union.

45 – **Total Gross Income.** Represents the sum of items 41, 43, 44 minus item 42.

OPERATING EXPENSES

46 – **Employee Compensation (Acct. 210-219).** Represents the total amount of salaries paid to employees of the credit union, including the treasurer, if paid. Also includes reimbursement to sponsor when credit union employees are on the sponsor company's payroll.

47 – **Employee Benefits (Acct. 220-229).** Represents all expenses of the credit union that relate to employee benefits. Includes such items as pension plan costs, employer's social security taxes, unemployment compensation taxes, and other benefits provided to employees.

48 – **Travel and Conference Expense (Acct. 230-239).** Represents the amount of authorized expenses incurred by employees and officers (including the treasurer) for travel and attendance at conferences and other meetings.

49 **Association Dues (Acct. 240-249).** Represents membership dues and other fees paid to credit union organizations of which the credit union is a member.

50 **Office Occupancy Expense (Acct. 250-259).** Represents all expenses relating to occupying an office including rent, utilities (except telephone) depreciation of building if owned by the credit union, real estate taxes, and amortization of leasehold improvements.

51 – **Office Operation Expense (Acct. 260-269).** Represents all expenses relating to the operation of an office including communications, stationery and supplies, insurance, furniture rental and/or maintenance, depreciation, bank service charges, etc.

52 – **Educational and Promotional Expense (Acct. 270-279).** Represents expenses incurred for advertising in newspapers, periodicals, radio or television and publicity and promotions in education of members.

53 – **Loan Servicing Expense (Acct. 280-289).** Represents all expenses incurred in the servicing of loans such as collection expense, credit reports, recording fees, chattel lien insurance, etc.

54 – **Professional and Outside Services (Acct. 290-299).** Represents expenses incurred by the credit union for such items as legal fees, audit fees, accounting services, and management and consultant fees.

ITEM

55 – **Provision for Loan Losses (Acct. 300-309).** Represents the current period provision for all loans and related costs on loans and other receivables.

56 – **Member Insurance (Acct. 310-319).** Represents the cost of members' insurance, including premiums paid for life savings insurance, annual share insurance premium and borrowers protection insurance.

57 – **Operating Fees (Acct. 320-329).** Represents the NCUA annual operating fee, state supervision fee and the cost of periodic examinations assessed by the Supervisory Agency, if any.

58 – **Interest on Borrowed Money (Acct. 340-349).** Represents the interest cost to the credit union for borrowed money. Interest paid on member and non-member deposits (if authorized in your State) should be included in item 68, Interest on Deposits.

59 – **Annual Meeting Expense (Acct. 350-359).** Represents all costs incurred by the credit union in connection with the annual meeting of shareholders; includes costs of hall rental, printing of notices, etc.

60 – **Miscellaneous Operating Expense (Acct. 330-339, 360-379).** Includes all miscellaneous operating expenses for which no separate expense categories are listed.

61 – **Total Operating Expenses Before Dividends and Interest on Deposits.** Represents the sum of all expense items listed above. (Items 46 through 60).

62 – **Net Operating Income (Loss) Before Dividends and Interest on Deposits.** Represents the total amount of income or loss resulting from operations (operating income less operating expenses). (Item 45 less item 61).

NON-OPERATING INCOME AND EXPENSES

63 – **Gain (Loss) on Investments (Acct. 420).** Report the amount of non-operating income or expense resulting from the gain or loss on investments.

64 – **Gain (Loss) on Disposition of Assets (Acct. 430).** Report the amount of non-operating income or expense resulting from the disposition of assets.

65 – **Other Non-Operating Income (Expense) (Acct. 440).** Represents miscellaneous non-operating income or expenses.

66 – **Total Non-Operating Gains and Losses.** The sum of items 63, 64, and 65.

67 – **Total Net Income (Loss) Before Dividends/Interest on Deposits.** Represents the total amount of operating and non-operating income or loss before the deduction of dividends and interest on deposits. (Total of items 62 and 66).

ITEM

ALLOCATION OF INCOME

68 – **Interest on Deposits.** Represents interest paid on member and non-member deposits (as authorized in your state). State chartered credit unions only.

69 – **Dividends (Acct. 380).** Report the total amount of dividends paid or declared on all savings accounts. If dividends have not been declared enter the estimated amount which will be required based upon the anticipated dividend rate.

70 – **Net Income (Loss) After Dividends and Interest on Deposits.** Item 67 less items 68 and 69.

71 – **Transfer to Regular or Statutory Reserve.** Report the amount transferred from gross income to regular or statutory reserves.

72 – **Provision for Loan Losses Adjustment.** Enter the lesser of the amount shown in the Provision for Loan Losses Expense (item 55) or the Required Reserve transfer (item 71). This adjustment is necessary to eliminate the double counting of transfers to the reserves through the Provision for Loan Losses Expense as well as the direct transfers to the Regular Reserve. The purpose of this adjustment to permit the determination of the net effect on retained earnings as a result of current operations.

73 – **Change to Undivided Earnings as a Result of Operations.** Item 70 plus 72 less 71. This item represents the amount remaining from current earnings after paying all expenses, including the cost of funds, providing for losses on loans and meeting the net reserve transfer requirement.

CLASSIFICATION OF LOANS OUTSTANDING

74 – **Classification of Loans Outstanding.** This section calls for the reporting of the number and amount of delinquent loans, current and less than two months delinquent, and the total number and amount of loans outstanding including line of credit balances, if any. Information on loans delinquent should be taken from a schedule of delinquent loans as of the report date.

OTHER LOAN INFORMATION

75 – **Loans Sold and Being Serviced by the Credit Union.** Record the number and the outstanding dollar amount of loans sold to others which the credit union continues to service.

76 – **Real Estate Loans Made During Current Year.** Record the number and the dollar amount of real estate loans (first lien with original maturities in excess of 12 years) made during the current year.

77 – **Total Loans Made During Current Year.** Report the total number and amount of loans made during the current year.

[FR Doc. 81-138 Filed 1-2-81; 8:45 am]

BILLING CODE 7535-01-C

ITEM

78 – **Total Loans Made Since Organization.** Report the total number and amount of loans made since the organization of the credit union.

79 – **Loans Charged Off Since Organization.** Represents the total amount of loans charged off since the credit union was organized. Loans charged off during the current period should be added to the amount reported on the previous period's form to obtain the total charged off since organization as of the report date.

80 – **Recoveries on Loans Charged Off Since Organization.** Represents the total amount of recoveries on previously charged off loans since the organization of the credit union. Add the amount recovered during the current period to the previous period's total.

81 – **Net Loans Charged Off Since Organization.** Represents net charge offs; item 79 less item 80.

MISCELLANEOUS INFORMATION:

82 – **Dollar Amt. of Forward Commitments to Purchase.** If the credit union is committed to purchase U.S. Government obligations or Federal agency securities at a future date, report the total commitment as of the report date.

83 – **Number of Members at End of Month.** Enter the actual number of members of record as of the month end. Do not enter the number of accounts.

84 – **Number of Potential Members.** Represents the number of actual members plus persons in the field of membership who have not yet jointed the credit union. If the field of membership is stated in terms of the number of families, use an average of 3 persons per family to estimate the total potential membership.

SUPPLEMENTARY SCHEDULES FOR FINANCIAL STATEMENTS

This schedule is to be used by those credit unions that wish to provide additional information as to what is included in any line item on either the Statement of Financial Condition or the Statement of Income.

Schedules should be indentified alphabetically beginning with "A". A separate schedule letter should be used for each line item on the Statement of Financial Condition or on the Statement of Income for which a breakdown is shown on the Supplementary Schedules page. The item number which is being further defined will be shown in the "Ref. Item No." column. On the Statement of Financial Condition and the Statement of Income , the item being further defined on the Supplementary Schedules page should have the schedule letter shown in the "Ref." column for that item.

SMALL BUSINESS ADMINISTRATION

1[illegible] CFR Part 113

[R[illegible]v. 1, Amdt. 2]

Nondiscrimination in Financial Assistance Programs of SBA; Effectuation of Policies of Federal Government and SBA Administrator

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: On November 6, 1978, an amendment was made to Section 504 of the Rehabilitation Act of 1973 by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. In accordance with this amendment Subsection 113.3–1(i) is being added to include a prohibition against the Small Business Administration's (SBA's) discriminating against the handicapped in the administration of its programs and activities.

DATES: Comments must be submitted on or before February 27, 1981.

ADDRESS: Submit comments to Doris A. Dockett, Deputy Chief, Civil Rights Compliance Division, Small Business Administration, 1441 L Street, NW., Suite 1200, Vermont Building, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Doris A. Dockett at (202) 653–6054.

For the reasons set out in the preamble, Part 113 of Title 13 of the Code of Federal Regulations is amended by adding paragraph 113.3–1(i):

§ 1[illegible]3.3–1 Consideration of race, color, religion, sex, marital status, handicap, or national origin.

* * * * *

(i) SBA shall administer programs and activities in the most integrated setting appropriate to the needs of handicapped persons, and shall not participate in a contractual relationship that has the effect of subjecting handicapped persons to discrimination prohibited by Section 504 of the Rehabilitation Act of 1973, as amended.

Dated: December 10, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-123 Filed 1-2-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 36

[Docket No. 13410; Notice No. 79-13B]

Civil Helicopter Noise Type Certification, Air Worthiness Certification, and Acoustical Change Approvals, Proposed Noise Standards for Helicopters in the Normal, Transport, and Restricted Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of reopening the comment period.

SUMMARY: On July 19, 1979, the FAA published Notice No. 79–13 containing its proposed noise regulations governing type certification, air worthiness certification, and acoustical change approvals for helicopters in the normal, transport, restricted categories (44 FR 42410). The notice provided that comments on the proposal were to be received on or before November 19, 1979. Subsequently, the FAA granted a request to extend the comment period 60 days until January 19, 1980 (44 FR 61376; October 25, 1979). Recently, the FAA was requested to reopen the comment period to receive yet further information on the matters addressed in Notice No. 79–13. This notice grants that request in the public interest.

DATES: Comments must be received on or before March 5, 1981.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 13410, 800 Independence Avenue, SW., Washington, D.C. 20591.

Or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, NW., Washington, D.C. 20591.

Comments must be marked "Docket No. 13410." Comments may be examined in the Rules Docket weekdays, except Federal holidays between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard N. Tedrick, Noise Policy and Regulations Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591; telephone (202) 755–9027.

SUPPLEMENTAL INFORMATION:

Background

Notice No. 79–13 (44 FR 42410; July 19, 1979) proposes noise standards for helicopters certificated in the normal, transport, and restricted categories. For purposes of the proposal, "helicopters" include other aircraft for which lift is furnished, in whole or in part, by an engine-driven rotor during takeoff, hover, or landing. The proposal covers noise levels and test procedures for the issuance of new type certificates and of original standard airworthiness certificates and restricted category airworthiness certificates for newly produced helicopters of older design types. It also would prohibit certain changes in type designs of helicopters that might increase their noise levels beyond prescribed limits. The original comment period for Notice No. 79–13 would have closed on November 19, 1979, but was extended to January 19, 1980.

On November 7, 1980, management representatives of Bell Helicopter, Boeing Vertol, Aerospatiale, and Sikorsky Aircraft met with the FAA Administrator regarding the FAA's consideration of helicopter noise standards. At that meeting those representatives indicated they wished to submit additional materials for consideration in that rulemaking. By letter, dated November 12, 1980, Mr. G. J. Tobias, on behalf of the management representatives, formally petitioned the Administrator to reopen the comment period for Notice No. 79–13 for approximately 30 days to permit the submission of additional materials petitioner believes are pertinent to the issues and which could significantly impact the FAA's decisions in its development of final regulatory action. The petitioner stated that since the close of the comment period several significant events dictate submission of additional information in the interest of developing a well-reasoned regulatory decision. The FAA notes that, while the notice and extension provided a comment period in excess of 180 days, the proposal is complex both technically and in the nature of its potential economic, environmental, and regulatory impacts.

On December 17, 1980, the FAA received from the helicopter manufacturers representatives a document entitled "Helicopter Manufacturers Economic Impact Assessment of FAA Proposed Helicopter Certification Noise Rules (NPRM 79–13)," dated December 15, 1980. To ensure that there is an adequate opportunity for interested persons to review that submission and to present any other new, available information, the FAA concludes that reopening the comment period for a

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limited period would be in the public interest and that the additional time is adequate but would not unduly delay achieving the environmental benefits contemplated from the proposal.

Reopening the Comment Period

Accordingly, pursuant to the authority delegated to me by the Administrator, the comment period for Notice No. 79-13 (44 FR 42410; July 19, 1979; and 44 FR 61376; October 25, 1979) is hereby reopened until March 5, 1981.

(Secs. 313(a), 601(a), 603, and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1354(a), 1421(a), 1423, and 1431(b)); Sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); Title I, National Environmental Policy Act of 1969 (49 U.S.C. § 4321 et seq.); Executive Order 11514, March 5, 1970; and 14 CFR 11.45).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for that action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Washington, D.C., on December 24, 1980.

J. E. Wesler,

Director, Office of Environmental and Energy.

[FR Doc. 81-110 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-46]

Proposed Designation of Transition Area; Delaware, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Delaware, Ohio, to accommodate a new instrument approach into Delaware Municipal Airport, Delaware, Ohio, which was established on the basis of a request from the local Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual conditions.

DATES: Comments must be received on or before January 26, 1981.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-46, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extention 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedure requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-46, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 26, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Delaware, Ohio. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (45 FR 445) the following transition area is added:

Delaware, Ohio

That airspace extending upward from 700' above the surface within an 8 mile radius of the Delaware Municipal Airport (Lat 40°16'46" N Long 83°06'22" W) excluding that portion overlying the Maryville, Ohio and Columbus, Ohio transition.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-46, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on December 12, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 81-204 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 93

[Docket No. 70; Notice No. 80-16B]

Special Air Traffic Rules and Airport Traffic Patterns; Slot Allocation at Washington National Airport

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Proposed rule; change of public hearing date.

SUMMARY: This notice announces the rescheduling of a public hearing with respect to Notice of Proposed Rulemaking (NPRM) No. 80-16 (45 FR 71[illegible]6; October 27, 1980), which proposed procedures for allocating the hourly number of reservations for instrument flight rules operations (takeoffs and landings or "slots") at Washington National Airport (DCA) in accordance with the Federal Aviation Administration (FAA) High Density Rule ([illegible] CFR 93-121-133). The public hearing date is being changed in response to a petition from the Air Transport Association (ATA) on behalf of its air carrier members who would be directly affected by the proposed rule.

DATES: *Public hearing:* Thursday, February 12, 1981, 9:00 a.m. to 4:30 p.m.; and Friday, February 13, 1981, 9:30 a.m. to 4:30 p.m.

ADDRESS: The public hearing will be held at: Auditorium, Third Floor, Federal Aviation Administration, Department of Transportation, Federal Office Building 10A, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harvey B. Safeer, Director, Office of Aviation Policy, AVP-1, Federal Aviation Administration, Department of Transportation, Washington, D.C. 20591, Telephone No. 202-426-3331.

SUPPLEMENTARY INFORMATION: The Department in Notice 80-16A (45 FR 83252, December 18, 1980) announced that it would hold a public hearing in connection with the Notice 80-16 proposals on January 8 and 9, 1981. That same Notice extended the comment period on the rulemaking unit January 26, 1981, with the right to reply to comments until February 26, 1981. ATA, noting that the hearing was scheduled to be held before the comment period closed, expressed concern at the burden this would place upon persons wishing both to submit comments and participate at the hearing; it therefore requested that the hearing be delayed until March 1981 or, alternatively, that it be held during the reply comment period. DOT is anxious to conclude the rulemaking in order to have a slot allocation mechanism in place at National as quickly as is practicable, and therefore is not adopting ATA's recommendation for a March hearing; however, we consider the ATA's comments well taken, and in order to relieve the burden on commenters who wish to appear at the hearing, the hearing has therefore been rescheduled to February 12 and 13, 1981. This will give the parties an opportunity to review all comments in the docket before the hearing, but will avoid creating an occasion for surrebuttal, which would occur if the hearing were scheduled after the close of the rebuttal period and would thereby disadvantage those who do not attend the hearing. All interested persons are invited to attend to present their views on any aspect of the slot allocation proposals.

Request To Make a Presentation

Interested persons are invited to attend the hearing and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the rules docket. Persons wishing to make oral statements at the hearing must notify the FAA on or before January 30, 1981, and indicate the amount of time requested for the initial statements. Presentations will be scheduled on a first-come, first-served basis as time permits. Requests to be heard should indicate the subject matter of the presentation and time required, and be sent to Mr. Safeer, whose address is printed above.

Hearing Procedures

The following procedures will be followed to facilitate the workings of the hearing:

(a) The hearing will be informal in nature and will be conducted by the designated representatives of the Secretary and the Federal Aviation Administrator. Each participant will be given an opportunity to make a presentation. After all presentations have been made, an opportunity for rebuttal will be given.

(b) The hearing will begin at 9:00 a.m., February 12, 1981, at the Federal Aviation Administration, Department of Transportation, Federal Office Building 10A, 800 Independence Avenue, S.W., Washington, D.C., in the third floor auditorium. There will no admission fee or other charge to attend and participate. The hearing sessions will be open to all on a space available basis. The presiding officer may accelerate the hearing agenda to enable early adjournment if the progress of the hearing is more expeditious than planned.

(c) The hearing will run from 9:00 a.m. to 4:30 p.m. on February 12 and from 9:30 a.m. to 4:30 p.m. on February 13, with a one-hour break between 12:30 and 1:30.

(d) All hearing sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter. A copy of the transcript will be filed in the docket. The sessions will also be recorded on tape.

(e) Position papers or other material may be accepted at the discretion of the presiding officer.

Statements made by the DOT participants at the hearing should not be taken as expressing a final agency position.

(Secs. 103, 307(a) and (c), 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348 (a) (and (c), and 1354(a)); Sec. 6 of the Department of Transportation Act (49 U.S.C. 1655); Sec. 2, Act for the Administration of Washington National Airport (54 Stat. 686))

Issued at Washington, D.C. on December 29, 1980.

Thomas G. Allison,

Acting Secretary of Transportation.

[FR Doc. 81-170 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 93

[Docket No. 21192; Notice No. 80-26A]

High Density Traffic Airports

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice announces an extension of the comment period for Notice of Proposed Rulemaking (NPRM) No. 80-26 (45 FR 84380; December 22, 1980), which proposed modification to the provisions of the high density rule which establishes the number of reservations or "slots" for operations (takeoffs or landings) at high density airports. The proposals would clarify 14 CFR 93.129 which allows aircraft operators to obtain additional reservations under certain circumstances, to provide that air carriers and scheduled air taxis may not obtain reservations beyond those specifically allocated by section 93.123. This proposal is necessary for maintenance of orderly operations at these airports and for efficient utilization of the navigable airspace.

DATES: Comments must be received on or before January 9, 1981.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21192, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C.

Comments delivered must be marked: Docket No. 21192.

Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Faberman, Assistant Chief Counsel for Regulations and Enforcement, (AGC-200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426-3072.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before January 9, 1981, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket.

Comment Extension

On December 10, 1980, the FAA issued Notice of Proposed Rulemaking No. 80-26 (45 FR 84380; December 22, 1980). The notice set forth a proposed modification to the provisions of the high density rule which establishes the number of reservations or "slots" for operations (takeoffs or landings) at high density airports. The proposal would clarify 14 CFR 93.129 which allows aircraft operators to obtain additional reservations under certain circumstances, to provide that air carriers and scheduled air taxis may not obtain reservations beyond those specifically allocated by § 93.123. The comment period for the notice was proposed to close the comment period on January 2, 1981. On December 18, 1980, a letter was hand carried to the General Counsel of the Department of Transportation from the attorney for New York Air requesting an extension of 31 days to respond to NPRM 80-26. The reasons given were that comment period coincides almost exactly with the holiday period compressing the time for reasoned consideration of the proposed amendment. In addition, they state that there are several actions in court and before the Civil Aeronautics Board and Department of Transportation which closely relate to the subject matter of this proposal.

Finally, they state that the assumption that this notice will have minimum impact on existing levels of National Airport traffic might be a "fundamentally incorrect premise."

On December 19, 1980, a letter was hand delivered to the General Counsel of the Department from the attorney for the Commuter Airliner Association (CAA) supporting the request of New York Air for extension of the comment period to at least February 2, 1980. In support of this request he stated:

> The intervening two weeks allowed for comment include the Christmas and New Year's holidays. This not only precludes a meaningful examination of the impact of this rule with our members, but comes at the time of year when their energies must be focused on serving unusually heavy traffic demands.

In addition, he stated:

> 2) The proposed rule amounts to far more than clarification of existing provisions of the high density rule. It appears to reverse the plain language of certain provisions of those rules and also appears to rest on erroneous legal and factual premises.

There have been administrative and legal actions affecting the entire high density rule for the past few years and it is likely that these actions will continue over the next several months. In this connection, it must be noted that the Department of Transportation's rulemaking hearing on the slot allocation process related to high density rule (45 FR 71236, October 27, 1980) has been extended from early January until February. Therefore, the argument made to extend the comment period applicable to this proposal based upon the existence of other pending proposals which may affect this proposed rulemaking is not valid.

The action proposed in this NPRM affects one specific section of the high density rule. Its impact (both legally and factually) should be readily apparent to all those who would be affected by it. As stated in the preamble to Notice No. 80-26, this proposal is consistent with the preamble to the original notice of proposed rulemaking. As such, it is a clarification. The rulemaking process cannot come to a halt because certain individuals are busy during the holiday season. If those individuals wish to comment on this rulemaking action, then they will have to make necessary arrangements. The agency, however, does recognize that this particular time of year does present certain specific problems for air carriers that do not exist at other times. Therefore, the agency will extend the comment period by seven days until January 9, 1981.

(Secs. 103, 307(a) and (c), 313(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348(a) and (c), 1354(a)); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); Section 2 of the Act for the Administation of Washington National Airport, 54 Stat. 688)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on December 31, 1980.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 80-40044 Filed 12-31-80; 11:37 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 221, 296 and 297

[EDR-408C, Economic Regulations Docket 38746; Dated: Dec. 24, 1980]

Tariffs: Air Freight Forwarders, Cooperative Shippers Associations, Foreign Air Freight Forwarders, and Foreign Cooperative Shippers Associations

AGENCY: Civil Aeronautics Board.

ACTION: Deferral of rulemaking.

SUMMARY: The CAB has proposed to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged. The proposed rule would also allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The CAB is now deferring action in the rulemaking until after the hearing on related issues in its *Competitive Marketing Investigation.*

FOR FURTHER INFORMATION CONTACT: George S. Baranko, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428; 202-673-6011.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is deferring action on notice of proposed rulemaking EDR-408 (45 FR 64864, September 30, 1980, Docket 38746) until after the hearing on related issues in the *Competitive Marketing Investigation* (Docket 36595). Supplementary information about the deferral appears in Order 80–12–92, issued along with this notice.[1]

(Secs. 204, 403, 404, 416, 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 771, 788; 49 U.S.C. 1324, 1373, 1374, 1386, 1482)

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–133 Filed 1–2–81; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 423

Amendment to Trade Regulation Rule Concerning Care Labeling of Textile Products and Leather Clothing

AGENCY: Federal Trade Commission.

ACTION: Notice of opportunity for technical comment on proposed rule.

SUMMARY: On December 17, 1980, the Federal Trade Commission approved in substance the amendments to the Trade Regulation Rule concerning Care Labeling of Textile Products and Leather Clothing that it proposed on January 28, 1976 (41 FR 3747). A number of changes have been made in the text of the amendments. The amendment now reflects the Commission's determination to adopt a warning approach in the area of care labeling; thus, the previous requirements for alternative care labeling have been deleted, and the rule generally requires the disclosure of less information than was proposed in the amendment proceeding. Changes have also been made to clarify the effect and scope of the rule amendment. For example, labeling of leather clothing, upholstered furniture, and yarn are addressed in separate paragraphs for each product. The definitions of certain terms that appeared in the proposed glossary have been modified. Certain labeling requirements have been deleted, and the exemption provisions of the amendment have been changed. The text of the rule is now written in plain English for purposes of clarity and understanding. Finally, the proposed Rule has been revised to include a statement of the acts and practices in the care labeling of textile products and leather clothing which the Commission has determined to be unfair or deceptive.

The record of the amendment proceedings will be opened for 30 days for technical comments on the drafting of certain language changes the Commission has made. Comments on other issues will not be considered. Following the close of the comment period, the Commission will make any changes it considers appropriate, promulgate the final amendment, and set an effective date that provides for a period of Congressional review as required by Section 21 of the Federal Trade Commission Improvements Act of 1980.

DATES: Comments on the drafting of the changes made in the Rule will be accepted on or before February 4, 1981.

ADDRESS: Send comments to Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Submissions should be labeled "Care Labeling Amendment."

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 724–1362.

SUPPLEMENTARY INFORMATION: Text of Amendment Voted by the Commission:

Accordingly, it is proposed to amend Chapter I of 16 CFR by revising Part 423 to read as follows:

PART 423—CARE LABELING OF TEXTILE PRODUCTS AND LEATHER CLOTHING [AMENDED]

Sec.
§ 423.1 What this regulation does.
§ 423.2 Who is covered.
§ 423.3 Unfair or deceptive acts or practices.
§ 423.4 Textile clothing, draperies, curtains, slipcovers, and linens.
§ 423.5 Leather and suede clothing.
§ 423.6 Piece goods.
§ 423.7 Yarns.
§ 423.8 Upholstered furniture.
§ 423.9 Carpets and rugs.
§ 423.10 Proof of care information.
§ 423.11 Terminology.
§ 423.12 Exemptions.
§ 423.13 Waivers.
§ 423.14 Conflict with flammability standards.
§ 423.15 Stayed or invalid parts.
Appendix A—Glossary of standard terms.

Authority: 38 Stat. 717, as amended; (15 U.S.C. 41, et seq.)

§ 423.1 What this regulation does.

This regulation deals with care labels on products that need cleaning care for their ordinary use. It applies to certain textile products and to leather clothing and suede clothing in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act. The textile products covered by this regulation are clothing, draperies, curtains, slipcovers, linens, piece goods, yarn, carpets and rugs, and upholstered furniture.

§ 423.2 Who is covered.

Manufacturers and importers of textile products, suede clothing, or leather clothing are covered by this regulation. This includes any person or organization that directs or controls the manufacture or importation of covered products.

Retail sellers of piece goods are also covered by a part of this regulation. See § 423.6(d).

§ 423.3 Unfair or deceptive acts or practices.

(a) *Textile wearing apparel, draperies, curtains, slipcovers, linens, yarn, piece goods, leather clothing and suede clothing.*

In connection with the sale, in or affecting commerce, of textile products in the form of wearing apparel, draperies, curtains, slipcovers, linens, yarn and piece goods, or of leather clothing and suede clothing, it is an unfair or deceptive act or practice for a manufacturer or importer:

(1) to fail to disclose to a purchaser, prior to sale, instructions which inform the purchaser of a care procedure adequate to effect the care necessary for the ordinary use and enjoyment of the product;

(2) to fail to warn a purchaser, prior to sale, when the product cannot be cleaned by any cleaning procedure without being harmed;

(3) to fail to warn a purchaser, prior to sale, when any regular part of the prescribed care procedure which a consumer or professional cleaner could reasonably be expected to use would harm the product or others being cleaned with it;

(4) to fail to provide the care instructions and warnings in a form that can be referred to by the consumer throughout the useful life of the product;

(5) to fail to provide care instructions and warnings using standardized terminology;

(6) to fail to possess, prior to the sale, a reasonable basis for all care information disclosed to the purchaser.

(b) *Upholstered furniture and carpets and rugs.*

In connection with the sale, in or affecting commerce, of upholstered furniture, carpets, and rugs, it is an unfair or deceptive act or practice for a manufacturer or importer:

(1) to fail to disclose to a purchaser, prior to sale, instructions which inform the purchaser of a cleaning method and a cleaning agent adequate to effect the care necessary for the ordinary use and enjoyment of the product;

(2) to fail to warn a purchaser, prior to sale, when the product cannot be cleaned by any commercially available method without being harmed;

(3) to fail to warn a purchaser, prior to sale, when any regular part of the

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[1] See FR Doc. 81–15 in the Notices section of this issue.

prescribed cleaning procedure which a consumer or professional cleaner could reasonable be expected to use would harm the product;

(4) to fail to provide the cleaning instructions and warnings in a form that can be used by the consumer throughout the useful life of the product;

(5) to fail to possess, prior to sale, a reasonable basis for all care information disclosed to the purchaser.

(c) *Retail sale of piece goods.*

In connection with the retail sale, in or affecting commerce, of piece goods, it is an unfair or deceptive act or practice for retailers to fail to deliver, upon the purchasers' request, care labels as provided by the manufacturer.

(d) *Violations of this regulation.*

The Commission has adopted this regulation to prevent the unfair or deceptive acts or practices defined in subsections (a), (b) and (c) of this section. Each manufacturer, importer, or retail seller covered by this regulation must comply with §§ 423.4 through 423.13 of this regulation. Any such manufacturer, importer, or retail seller who complies with the requirements of §§ 423.4 through 423.13 does not violate this regulation.

§ 423.4 Textile clothing, draperies, curtains, slipcovers and linens.

The rules in this section apply to finished textile clothing products which are used to protect and cover the body. This includes hosiery, but it excludes footwear, gloves, hats or other products used only to cover the head or hands.

This section also applies to draperies, curtains, slipcovers, and bed, table, bath and kitchen linens.

(a) Care labels must be fastened so that they can be seen or easily found when the product is offered for sale to consumers. The label must be made to stay fastened and legible during the useful life of the product. If the product is packaged, displayed, or folded so that customers cannot easily see the label, the care information must also appear on the outside of the package or on a hang tag fastened to the product.

(b) Care labels must say what regular care is needed for the ordinary use of the product. In general, the label for textile products must have either a washing instruction or a drycleaning instruction. If a washing instruction is included, it must comply with the rules in subsection (1) below. If a drycleaning instruction is included, it must comply with the rules in subsection (2) below.

If either washing or drycleaning can be used on the product, the label need have only one of these instructions.

If the product cannot be cleaned by any commercially available cleaning method without being harmed, the label must say so. For example, if a product would be harmed both by washing and by drycleaning, the label might say "Do not wash—do not dryclean," or "Cannot be successfully cleaned."

The rules for washing and drycleaning instructions are as follows:

(1) Washing instructions must follow these rules of washing, drying, ironing, bleaching, and special warnings:

(i) *Washing.* The label must say whether the product should be washed by hand or machine. If hot water cannot be used, the label must say whether "warm" or "cold" water should be used. If no temperature is given, this means that regular use of a hot water will not harm the product. For example, "Machine wash" means hot, warm or cold water can be used. "Machine wash warm" means only warm or cold water can be used.

(ii) *Drying.* The label must say whether the product should be dried by machine or by some other method. If machine drying is called or, but a high temperature cannot be used, the label must say whether a "medium" temperature should be used. If no temperature setting is given, this means that regular drying at a hot setting will not harm the product. For example, "Tumble dry" means the product can safely be machine dried at a high setting.

(iii) *Ironing.* Ironing must be mentioned on a label only if it will be needed on a regular basis to preserve the appearance of the product, or if it is required under subsection (v), *Special Warnings.* If ironing is mentioned, but a hot iron cannot be used, the label must say whether a "warm" or "cool" iron should be used. If no temperature is given, this means that regular use of a hot iron will not harm the product.

(iv) *Bleaching.* If all commercially available bleaches can safely be used on a regular basis, the label need not mention bleaching.

If all commercially available bleaches would harm the product when used on a regular basis, the label must say "No bleach" or "Do not bleach."

If regular use of a chlorine bleach would harm the product, but regular use of a non-chlorine bleach would not, the label must say "Only non-chlorine bleach, when needed."

(v) *Special warnings.* If there is any regular part of the washing procedure which consumers can reasonably be expected to use, and that procedure would harm the product itself or others being washed with it in one or more washings, the label must contain a warning. It must use the words "Do not," "No," "Only," or some other clear wording. For example, if a shirt can be washed by home laundering methods, but would be harmed by commercial laundering processes using sour rinses and high temperatures, the label must say "Do not have commercially laundered." If a napkin is not colorfast, its label must say "Wash with like colors." If a pair of pants will be harmed by ironing, its label must say "Do not iron."

Warnings for procedures already addressed in the instruction need not be repeated. For example, if an instruction states "Dry flat," it is not necessary to give the warning "Do not tumble dry."

(2) *Drycleaning.*

(i) *General.* If a drycleaning instruction is included on the label, it must mention the type of solvent(s) to be used. However, if all commercially available types of solvent can be used, the label need not mention any types of solvent. The terms "Drycleanable" or "Commercially Dryclean" may not be used in an instruction. For example, if drycleaning in perchlorethylene would harm a coat, the label might say "Dryclean flourocarbon or petroleum," or name some other safe solvent(s).

(ii) *Special warnings.* If there is any regular part of the drycleaning procedure which consumers or drycleaners can reasonably be expected to use, and that procedure would harm the product itself or others being cleaned with it, the label must contain a warning. It may use the words "Do not," "No," "Only," or some othe clear wording. For example, the drycleaning process normally includes moisture addition to solvent up to 75% relative humidity, hot tumble drying up to 160°F and restoration by steam press or steam air finish. If a product can be drycleaned in all solvents but steam should not be used, it must be labeled "Dryclean. No steam."

§ 423.5 Leather and suede clothing.

The rules in this section apply to finished leather or suede clothing products which are used to protect and cover the body. Footwear, gloves, hats and othe products used only to cover the head or hands are excluded.

(a) Care labels must be fastened so that they can be seen or easily found when the product is offered for sale to consumers. The label must be made to stay fastened and legible during the useful life of the product. If the product is packaged, displayed, or folded so that customers cannot easily see the label, the care information must also appear on the outside of the package or on a hang tag fastened to the product.

(b) Care labels must say what regular care is needed for the ordinary use of the product. The label for leather and sueded clothing must say whether the product should be cleaned by a textile method, a leather method, or some other special method. It must also say whether any other care is needed for ordinary use of the product. For example, a leather jacket label might say "Leather clean."

(a) If a textile method is prescribed, the label must comply with the rules in § 423.4 above.

(b) If a leather or suede clothing product cannot be cleaned by any commercially available cleaning method without being harmed, the label must say so. For example, if a product would be harmed by either washing, drycleaning, or professional suede or leather cleaning, the label might say "Cannot be cleaned."

(c) If there is any regular part of the prescribed cleaning procedure which consumers or professional cleaners can reasonably be expected to use, and that procedure would harm the product itself or others being cleaned with it, the label must contain a warning. It may use the words "Do not," "No," "Only," or some other clear wording. Warnings for procedures already addressed in the instruction need not be repeated.

§ 423.6 Piece goods.

The following rules apply to textile products sold by the piece from bolts or rolls for home sewing. This includes remnants whose fiber content is known and which are cut by a retailer or at his or her request. It does not include manufacturers' remnants up to 10 yards long, which are clearly and conspicuously marked "pound goods" or "fabrics of undetermined origin" and whose fiber content is not known and cannot easily be found. Trim up to 5 inches wide is also excluded.

(a) Manufacturers and importers of piece goods must provide care information clearly and conspicuously on the end of each bolt or roll.

(b) Manufacturers and importers also must make sure that retailers get enough permanent care labels to supply a reasonable number of them to each purchaser of the fabric. These labels must be made so that they can be fastened to the finished product by normal household methods and will remain legible during the useful life of the product.

(c) Care labels must say what regular care is needed for the ordinary use of the product. Care information on the end of the bolt and on the labels need only address information applicable to the fabric. If a textile method is prescribed, the label must comply with the rules in § 423.4 above. If a cleaning agent and method appropriate for furniture or carpets is prescribed, the label must comply with the rules in § 423.8 or § 423.9, as appropriate.

(d) Retail sellers of piece goods must give buyers a reasonable number of care labels, if the buyers ask for them.

§ 423.7 Yarns.

Manufacturers and importers of yarn for retail sale must print care instructions clearly and conspicuously on the band or wrapper of each skein or other unit of yarn. Care labels must say what regular care is needed for the ordinary use of the product. The instructions need only address the proper care applicable to the yarn. If a textile method is prescribed, the label must comply with the rules in § 423.4 above. If a cleaning agent and method appropriate for furniture or carpets is prescribed, the label must comply with the rules in § 423.8 or § 423.9, as appropriate.

§ 423.8 Upholstered furniture.

The following rules apply to any textile or plastic product in the form of finished upholstered furniture to be used mainly indoors.

(a) Care labels must be made to stay fastened and legible during the useful life of the product. For upholstered furniture, this means the useful life of the outer covering.

(b) Care labels must be fastened so that they can be seen or easily found when the product is offered for sale to consumers. If fastening the label to the product is a place where it can be seen or easily found would harm the product's appearance or usefulness, the care instructions can be put on a hang tag or other appropriate kind of label. The hang tag must be made so that it will still be on the product when it is bought by a consumer.

(c) Care labels must say that regular care is needed for the ordinary use of the upholstered (textile or plastic) parts of the product. Care labels must say whether the upholstered (textile or plastic) parts of the product should be cleaned by the consumer or by professional care. If either consumer care or professional care may be used, the label need mention only one. The label must fully describe a cleaning method and a cleaning agent to be used.

(d) If there is any regular part of the prescribed cleaning method or cleaning agent which consumers or professional cleaners can reasonably be expected to use, and that method or agent would harm the product, the label must contain a warning. It must use the words "Do not," "No," "Only," or some other clear wording.

(e) If the product cannot be cleaned by any commercially available cleaning method without being harmed, the label must say so.

§ 423.9 Carpets and rugs.

The following rules apply to any textile product in the form of finished area rugs and rolled goods to be used mainly indoors. A finished area rug is one made to certain measurements by the manufacturer and sold to the consumer in that size.

(a) Care labels for area rugs must be permanently fastened under one corner of the rug. The label must be made to stay fastened and legible during the useful life of the product. If the rug is packaged or folded so that customers cannot see or easily find the label, the care instructions must also be put on the outside of the package or on a hand tag fastened to the rug.

(b) Labels for rolled goods must be temporarily fastened to the top of the carpet. Manufacturers must make sure that each roll has enough labels which are appropriately spaced so that the manufacturer can reasonably anticipate there will be one for each carpet cut from the roll.

(c) Care labels must say what regular care is needed for the ordinary use of the product. Care labels must say whether the rug or carpet should be cleaned by the consumer or by professional care. If either consumer care or professional care may be use, the label need mention only one. The labels must fully describe a cleaning method and a cleaning agent to be used. If the rug should be washed or drycleaned, the label must comply with the washing or drycleaning rules in § 423.4 above.

(d) If there is any regular part of the prescribed cleaning method or cleaning agent which consumers or professional cleaners can reasonably be expected to use, and that method or agent would harm the product, the label must contain a warning. It must use the words "Do not," "No," "Only," or some other clear wording.

(e) If the product cannot be cleaned by any commercially available cleaning method without being harmed, the label must say so.

§ 423.10 Proof of care information.

(a) Manufacturers and importers must have possessed and relied upon, prior to sale, proof they can reasonably trust for all care information on their labels. The proof may include any one or more of the following:

(1) Reliable proof that the final product was not harmed when cleaned reasonably often according to the

instructions on the label. This includes instructions when silence has a meaning. For example, if a shirt is labeled "Machine wash. Tumble dry. Cool iron", the manufacturer or importer must have reliable proof that the shirt is not harmed when cleaned reasonably often if machine washed in hot water, tumble dried at a high setting, ironed with a cool iron and any type of bleach is regularly used.

(2) Reliable proof that the final product or a fair sample of the final product was harmed when cleaned by methods warned against on the label.

(3) Reliable proof, like that described in (1) or (2) above, for each component part of the final product.

(4) Reliable proof that the final product of a fair sample of the final product was successfully tested by a reputable lab. The tests may simulate the care suggested or warned against on the label.

(5) Reliable evidence of current technical literature, past experience, or industry expertise supporting the care information on the label.

(6) Other reliable evidence.

§ 423.11 Terminology.

(a) In any care instruction, the terms as contained and defined in Appendix A to this Rule must be used to the extent applicable.

(b) When applicable terms are not contained in Appendix A, any appropriate terms may be used in care instructions, as long as the terms clearly and accurately describe the care procedures and otherwise fulfill the disclosure requirements of this regulation.

(c) In any care instruction, symbols may be used in addition to words, as long as the words fulfill the requirements of this regulation.

§ 423.12 Exemptions.

(a) Manufacturers or importers can ask for an exemption from the rule requiring a permanent label on a product or product line, if the label would harm the appearance or usefulness of the product. The request must be made in writing to the Secretary of the Commission. The request must be accompanied by a labeled sample of the product and a full statement explaining why the request should be granted.

If the exemption request is granted, consumers still must get the required care information for the product. However, the care information can be put on a hang tag, on the package, or in some other conspicuous place, as long as consumers will be able to see the care information before buying the product.

(b) Manufacturers and importers of products covered by §§ 423.4 and 423.5 are exempt from the requirement for a permanent label if the product can be cleaned safely under the harshest procedures. This exemption is available only if there is reliable proof that all of the following washing and drycleaning procedures can safely be used on a product:

(1) Machine washing in hot water;

(2) Machine drying at a high setting;

(3) Ironing at a hot setting;

(4) Bleaching with all commercially available bleaches;

5. Drycleaning with all commercially available solvents.

In such case, the statement "Wash or dryclean, any normal method" is acceptable and may appear on a hand tag, on the package, or in some other conspicuous place, as long as consumers will be able to see the care information [or "the statement"] before buying the product.

If a product meets the requirements outlined above, it is automatically exempt from the requirement that the care label be a permanent one. It is not necessary to file a request for this exemption.

(c) Any finished product manufacturer who receives a textile component from an ultimate consumer (a "COM component") is not required to provide care instructions for the product that is manufactured with that component. A COM component is one selected or purchased by a consumer or a consumer's agent, and then ordered to be made into a finished product ordinarily covered by this regulation. However, if a component is selected or purchased by a consumer or a consumer's agent from samples or literature pre-selected by a finished product manufacturer, the final product is not exempted by this subsection.

(d) All exemptions granted under Section 423.1(c) (1) or (2) of the Care Labeling Rule issued on December 9, 1971, stay in effect if the product still meets the standards on which the original exemption was based. Otherwise, the exemption is automatically revoked.

§ 423.13 Waivers.

Manufacturers or importers need not provide care information with products sold to institutional buyers for commercial use other than resale, rather than for personal use. However, this rule only applies if the manufacturer or importer has a written waiver of the buyer's rights to care information. Manufacturers or importers must keep those waivers for three years, and must make them available to the Commission representatives on request.

§ 423.14 Conflict with flammability standards.

If there is a conflict between this regulation and any regulations issued under the Flammable Fabrics Act, the Flammable Fabrics regulations govern over this one.

§ 423.15 Stayed or invalid parts.

If any part of this regulation is stayed or held invalid, the rest of it will stay in force.

Appendix A

Glossary of Standard Terms

1. *Washing, Machine Methods:* a. "Machine wash"—a process by which soil may be removed from products or specimens through the use of water, detergent or soap, agitation and a machine designed for this purpose. When no temperature is given, e.g., "warm" or "cold", hot water up to 150° F (66° C) can be regularly used.

b. "Warm"—initial water temperature setting 90° to 110° F (32° to 43° C) (hand comfortable).

c. "Cold"—initial water temperature setting same as cold water tap up to 85° F (29° C).

d. "Do not have commercially laundered"—do not employ a laundry which uses special formulations, sour rinses, extremely large loads or extremely high temperatures or which otherwise is employed for commercial, industrial or institutional use. Employ laundering methods designed for residential use or use in a self-service establishment.

e. "Small load"—smaller than normal washing load.

f. "Delicate cycle" or "gentle cycle"—slow agitation and reduced time.

g. "Durable press cycle" or "Permanent press cycle"—cool-down rinse or cold rinse before reduced spinning.

h. "Separately"—alone.

i. "With like colors"—with colors of similar hue and intensity.

j. "Wash inside out"—turn product inside out to protect face of fabric.

k. "Warm rinse"—initial water temperature setting 90° to 110° F (32° to 43° C).

l. "Cold rinse"—initial water temperature setting same as cold water tap up to 85° F (29° C).

m. "Rinse thoroughly"—rinse several times to remove detergent or soap.

n. "No spin" or "Do not spin"—remove material start of final spin cycle.

o. "No wring" or "Do not wring"—do not use roller wringer, nor wring by hand.

2. *Washing, Hand Methods:* a. "Hand wash"—a process by which soil may be manually removed from products or specimens through the use of water, detergent or soap and gentle squeezing action. When no temperature is given, e.g., "warm" or "cold," hot water up to 150°F (66°C) can be regularly used.

b. "Warm"—initial water temperature 90° to 110°F (32° to 43°C) hand comfortable).

c. "Cold"—initial water temperature same as cold water tap up to 85°F (29°C).

d. "Separately"—alone.

e. "With like colors"—with colors of similar hue and intensity.

f. "No wring or twist"—handle to avoid wrinkles and distortion.

g. "Rinse thoroughly"—rinse several times to remove detergent, soap, and bleach.

h. "Damp wipe only"—surface clean with damp cloth or sponge.

3. *Drying, All Methods:* a. "Tumble dry"—use machine dryer. When no temperature setting is given, machine drying at a hot setting may be regularly used.

b. "Medium"—set dryer at medium heat.

c. "Low"—set dryer at low heat.

d. "Durable press" or "Permanent press"—set dryer at permanent press setting.

e. "No heat"—set dryer to operate without heat.

f. "Remove promptly"—when items are dry, remove immediately to prevent wrinkling.

g. "Drip dry"—hang dripping wet with or without hand shaping and smoothing.

h. "Line dry"—hang damp from line or bar in or out of doors.

i. "Line dry in shade"—dry away from sun.

j. "Line dry away from heat"—dry away from heat.

k. "Dry flat"—lay out horizontally for drying.

l. "Block to dry"—reshape to original dimensions while drying.

m. "Smooth by hand"—by hand, while wet, remove wrinkles, straighten seams and facings.

4. *Ironing and Pressing:* a. "Iron"—Ironing is needed. When no temperature is given iron at the highest temperature setting may be regularly used.

b. "Warm iron"—medium temperature setting.

c. "Cool iron"—lowest temperature setting.

d. "Do not iron"—item not to be smoothed or finished with an iron.

e. "Iron wrong side only"—article turned inside out for ironing or pressing.

f. "No steam" or "Do not steam"—steam in any form not to be used.

g. "Steam only"—steaming without contact pressure.

h. "Steam press" or "Steam iron"—use iron at steam setting.

i. "Iron damp"—articles to be ironed should feel moist.

j. "Use press cloth"—use a dry or a damp cloth between iron and fabric.

5. *Bleaching:* a. "Bleach when needed"—all bleaches may be used when necessary.

b. "No bleach" or "Do not bleach"—no bleaches may be used.

c. "Only non-chlorine bleach when needed"—only the bleach specified may be used when necessary. Chlorine bleach may not be used.

6. *Washing or Drycleaning:* a. "Wash or dryclean, any normal method"—can be machine washed in hot water, can be machine dried at a high setting, can be ironed at a hot setting, can be bleached with all commercially available bleaches and can be drycleaned with all commercially available solvents.

7. *Drycleaning, All Procedures:* a. "Dryclean"—a process by which soil may be removed from products or specimens in a machine which uses any common organic solvent (for example, petroleum, perchlorethylene, fluorocarbon) located in any commercial establishment. The process may include moisture addition to solvent up to 75% relative humidity, hot tumble drying up to 160°F (71°C) and restoration by steam press or steam-air finishing.

b. "Professionally dryclean"—use the drycleaning process but modified to ensure optimum results either by a drycleaning attendant or through the use of a drycleaning machine which permits such modifications or both.

c. "Petroleum", "Fluorocarbon", or "Perchlorethylene"—employ solvent(s) specified to dryclean the item.

d. "Short cycle"—reduce or minimum cleaning time, depending upon solvent used.

e. "Minimum extraction"—least possible extraction time.

f. "Reduced moisture" or "Low moisture"—decreased relative humidity.

g. "No tumble" or "Do not tumble"—do not tumble dry.

h. "Tumble warm"—tumble dry up to 120°F (49°C).

i. "Tumble cool"—tumble dry at room temperature.

j. "Cabinet dry warm"—cabinet dry up to 120°F (49°C).

k. "Cabinet dry cool"—cabinet dry at room temperature.

l. "Steam only"—employ no contact pressure when steaming.

m. "No steam" or "Do not steam"—do not use steam in pressing, finishing, steam cabinets or wands.

8. *Leather and Suede Cleaning:* a. "Leather clean"—have cleaned only by a professional cleaner who uses special leather or suede care methods.

Subjects on Which the Commission Is Soliciting Comment

The record is open for comment on the drafting changes in the amendment which are listed below. The description of the changes, including substantive changes, is provided for an understanding of the Commission's intentions in this amendment. The Commission is interested in comments on the extent to which the language chosen is suited to achieving the Commission's intentions as set forth below. Suggestions for improvements in drafting that do not alter the intended meaning will also be considered. The record is not being reopened for comment on substantive changes or any other issues.

1. *Leather and suede clothing.* In the proposed amendment leather and suede clothing was to be labeled in the same general manner as textile wearing apparel. However, it has been established that the cleaning procedures for leather and suede garments differ greatly from the cleaning procedures used on textile fabrics. Consequently, the Commission has decided to address care labeling for leather and suede garments in a separate section. (See § 423.5) This will permit expression of care instructions in terms of a textile, leather, or other special method, as appropriate. As with other products, only one appropriate method need be disclosed, although others may be disclosed as well.

2. *Upholstered furniture.* The proposed amendment grouped upholstered furniture together with curtains, draperies, slipcovers and linens as "household furnishings". However, it is now clear that care instructions for wearing apparel, which are used on most "household furnishings", are not appropriate for upholstered furniture. Thus, the Commission has addressed care labeling for upholstered furniture in a separate section. (See § 423.8) This will permit the care label to say whether the textile part should be cleaned by the consumer or a professional and to describe a proper cleaning agent and cleaning method to be used.

The broad provisions for exemptions are contained in a separate section as discussed in a later paragraph. However, the section covering the labeling of upholstered furniture provides a specific and automatic exemption if the utility or appearance of the furniture product will be harmed by attaching a permanent label. Permanent labels must be used unless such labels will impair the utility or appearance of the item when made visible or readily accessible to the purchaser at the point of sale and at the point of care without unreasonable effort. In all other situations, the manufacturer or importer may use hang tags.

The provisions for upholstered furniture, reflecting the general approach taken by the Commission to require warnings and to eliminate the requirement for alternative care labeling, are discussed in items 8 and 9, below.

3. *Yarn.* The proposed amendment grouped piece goods and yarn together because the requirements for providing permanent labels and for the distribution of those labels was to have been the same for each product. The Commission has determined not to require the transmittal of permanent labels by manufacturers and the distribution of such labels by yarn retailers. Thus, yarn manufacturers are required to print care instructions on the band wrapper of each retail skein of year. (See Section 423.7)

4. *Piece goods.* The current rule requires manufacturers of piece goods to provide retailers with labels clearly disclosing instructions for the care of the product, which can, by normal household methods, be permanently affixed to the finished item by the consumer. The proposed amendment reiterated this requirement and posed questions soliciting the best way to ensure that this information reached the consumer. The Commission has now added to the above requirements the necessity for manufacturers and importers to print care labeling instructions on the end of each bolt of material. (See § 423.6) The retailer is required to provide buyers a reasonable number of care labels, if the buyer asks for them. The Commission intends that buyers who ask for care labels will be given at least one label for each item to be made from the purchased fabrics.

5. *Carpets and rugs.* The proposed amendment included coverage of carpets and rugs and required manufacturers and importers to supply retailers with care instructions to be transmitted to the consumer at the time of retail purchase. It

was established that these products can be divided into two distinct groups: (1) area rugs which are manufactured in specific measurements and sold to consumers in that size, and (2) rolled goods which are cut to consumers' specifications and frequently affixed in a wall to wall intallation. The Commission determined that the most efficient and effective method of distributing care information would be to require that a permanent label be attached under one corner of each area rug, and that detachable labels be temporarily fastened to the top of rolled goods. Manufacturers must make sure that each roll has enough labels with appropriate spacing so that they can reasonably anticipate one label will accompany each carpet cut from the roll.

6. *Intermediate components*. Piece goods, trim, thread and other such items sold to finished product manufacturers for use as part of a finished product were proposed for coverage under the amendment. However, the Commission has decided such intermediate components should not be covered. Product manufacturers who are unable to obtain care information from a component supplier can either bargain for the information or turn to another supplier. Thus, there are adequate market forces to generate this care information in an economical and effective manner.

7. *Washing and drycleaning instructions*. The proposed amendment required that in each washing instruction the method of washing, method of drying, use and type of bleach, when not all bleaches can be used, and the use of an iron, when necessary, be clearly disclosed. In the case of washing, drying, and ironing, it was proposed to require adjectival descriptions of temperature such as hot, warm, or cold. The Commission has determined that it is unnecessary to require disclosure of temperature information when the product can safely be washed, dried, or ironed at any temperature. Similarly, the Commission has determined that it is unnecessary to require the disclosure of bleach instructions when any bleach can safely be used on the product. Thus, if a product can safely be machine washed in hot water, tumble dried at the hot setting, ironing is needed and the iron can be used at the highest setting, and any bleach can be used on the product, the care label could read, "Machine wash. Tumble dry. Iron." Conversely, if the use of high temperatures or the use of any bleach would harm the product, then a care label utilizing a warning approach is required. For example, an appropriate label might read, "Machine wash, warm. Tumble dry, medium. Warm iron. Only non-chlorine bleach when needed." The provisions reflecting the general approach to require special warnings and eliminate alternative care information, are discussed in items 8 and 9, below.

The proposed amendment required a drycleaning instruction to specify the type of solvent to be used, if all commercially available solvents could not be used. The Commission has not changed this requirement since it is consistent with the warning approach used in the washing instructions.

8. *Alternative care*. The proposed amendment would have required instructions for both washing and drycleaning when either method could be used without damaging the product. The Commission has deleted this requirement. Instead, the Commission has adopted a system which requires disclosure of an accurate, complete, and appropriate care method for each product. This does not preclude manufacturers and importers from including multiple methods of care on the labels but each method included on the label must have a reasonable basis for all care information disclosed to the purchaser.

9. *Special warnings*. The proposed amendment would have required warnings if there was any regular care and maintenance procedure which, under all reasonably foreseeable circumstances, would damage or substantially impair the item to which the care instructions applied or would impair other articles being cleaned with that item. Consistent with the elimination of alternative care requirements and the warning approach used in washing and drycleaning instructions, the Commission has decided to modify the proposal to two types of special warnings applicable to all covered products. First, if a product cannot be cleaned by any commercially available cleaning method without being harmed, the label must say so. Second, the label must contain a warning when any regular part of the prescribed care procedure which a consumer or professional cleaner could reasonably be expected to use would harm the product or others being cleaned with it. Warnings for procedures already addressed to the instruction need not be repeated.

10. *Definitions*. Basic definitions were contained in a single section of the proposed amendment. These definitions have now been placed in appropriate individual sections of the Rule for easier reading and application.

11. *Glossary*. Initially, it is proposed to adopt terms and definitions for care labels which had been developed by the American Society for Testing and Materials (ASTM). The terms as listed and defined would be used to the extent applicable. Where applicable terms were not defined, other terms which accurately described the care procedure could be used. The Commission has adopted this concept for terminology but has found it necessary to modify some of the definitions.

It was determined that there were significant differences between consumer usage of certain terms listed in the ASTM glossary and the manner in which the glossary defined these terms. Consequently, the following terms have been given new definitions in the glossary that has been adopted by the Commission:

(a) "Machine wash"—a process by which soil may be removed from products or specimens through the use of water, detergent or soap, agitation and a machine designed for this purpose. When no temperature is given, e.g., "warm" of "cold," hot water up to 150°F (66°) can be regularly used.

(b) "Do not have commercially laundered"—do not employ a laundry which uses special formulations, sour rinses, extremely large loads or extremely high temperatures or which otherwise is employed for commercial, industrial or institutional use. Employ laundering methods designed for residential use in a self-service establishment.

(c) "Separately"—alone.

(d) "With like colors"—with colors of similar hue and intensity.

(e) "Hand wash"—a process by which soil may be manually removed from products or specimens through the use of water, detergent or soap and gentle squeezing action. When no temperature is given, e.g., "warm" or "cold," hot water up to 150°F (66°C) can be used.

(f) "Tumble dry"—use machine dryer. When no temperature setting is given, machine drying at a hot setting may be regularly used.

(g) "Iron"—Ironing is needed. When no temperature is given iron at the highest temperature setting may be regularly used.

(h) "Bleach when needed"—all bleaches may be used when necessary.

(i) "Only non-chlorine bleach when needed"—only the bleach specified may be used when necessary. Chlorine bleach may not be used.

(j) "Wash or dryclean, any normal method"—can be machine washed in hot water, can be machine dried at a high setting, can be ironed at a hot setting, can be bleached with all commercially available bleaches and can be drycleaned with all commerically available solvents.

(k) "Dryclean"—a process by which soil may be removed from products or specimens in machine which uses any common organic solvent (for example, petroleum, perchlorethylene, fluorocarbon) located in any commercial establishment. The process may include moisture addition to solvent up to 75% relative humidity, hot tumble drying up to 160°F (71°C) and restoration by steam or steam-air finishing.

(l) "Professionally dryclean"—use the drycleaning process but modified to ensure optimum results either by a drycleaning attendant or through the use of a drycleaning machine which permits such modifications or both.

(m) "Petroleum," "Fluorocarbon," or "Perchlorethylene"—employ solvent(s) specified to dryclean the item.

(n) "Short cycle"—reduced or minimum cleaning time, depending upon solvent used.

(o) "Minimum extraction"—least possible extraction time.

(p) "Reduced moisture" or "Low moisture"—decreased relative humidity.

(q) "No tumble" or "Do not tumble"—do not tumble dry.

(r) "Tumble warm"—tumble dry up to 120°F (49°C).

(s) "Tumble cool"—tumble dry at room temperature.

(t) "Cabinet dry warm"—cabinet dry up to 120°F (49°C).

(u) "Cabinet dry cool"—cabinet dry at room temperature.

(v) "Steam only"—employ no contact pressure when steaming.

(w) "No steam" or "Do not steam"—do not use steam in pressing, finishing, steam cabinets or wands.

(x) "Leather clean"—have cleaned only by a professional cleaner who uses special leather or suede care methods.

In addition, the Commission wishes to know whether any of the terms in the glossary are obvious in meaning, redundant of other provisions in the rule, or otherwise unnecessary to effectuate either standardization or the labeling requirements of the rule.

12. *Exemptions.* The current rule provides for two types of exemptions, based on written petitions submitted to the Commission. The first type is granted if the utility or appearance of the product will be harmed by attaching a permanent label. The second type is granted if a product sells at retail for $3.00 or less and can be machine washed and dried at high temperatures without damage. In the first instance, a temporary care label is required and in the second instance, no label is required. The proposed amendment would have contained these same exemptions with a specific provision to continue all previous exemptions if the products still meet the standards of the applicable exemption.

The Commission has adopted the same provision for exemptions based on harm to utility or appearance and the extension of previously granted exemptions. However, the Commission has modified the exemption based on care traits. In this case, an exemption will be automatically granted, without need for a petition and without regard for price, if a product can be machine washed in hot water, machine dried at a high setting, ironed at a hot setting, bleached with all commercially available bleaches, and drycleaned with all commercially available solvents. If a product is not damaged by any of the above care procedures, the care label may be temporary in nature and need only say, "Wash or dryclean, any normal method".

One additional exemption has been added. Consumers frequently select or purchase textile materials which are thereafter sent to a finished product manufacturer to be made into a product covered by this rule. The Commission recognizes that the finished product manufacturer could not obtain reliable evidence of care traits for consumers' own materials. Therefore, finished products containing consumers' own materials are exempt under this rule. Consumers' own materials do not include materials selected from samples or literature describing that material which has been pre-selected by the finished product manufacturer.

13. *Waivers.* The proposed amendment contained a provision which would allow manufacturers to obtain waivers from rental service companies, and hospitals, nursing homes and other similar institutional users. The waiver would have been filed with the Commission. As presently drafted, however, any covered product sold for institutional use need not be labeled with care information, provided the manufacturer or importer obtains a written waiver of the buyers' rights and retains that waiver for three years.

1[illegible] *Proof of care information.* The current rule contains no specific requirement for manufacturers to have a reasonable basis for care instructions used on their products.

Based upon a review of the record, the Commission has decided to include the requirement that manufacturers and importers must possess and rely upon, prior to sale, proof they can reasonably trust for all care information on their labels. Several ways to establish reliable proof have been suggested in the rule. However, any reliable evidence is acceptable.

By direction of the Commission.

James A. Tobin,
Acting Secretary.

Statement of Commissioner David A. Clanton

The Commission has approved in substance a number of salutory amendments to the Trade Regulation Rule Concerning Care Labeling of Textile Products and Leather Clothing. In general, these amendments are desirable, inasmuch as they sharpen the focus of the existing rule and provide for more flexible means of compliance. This greater clarity and flexibility is achieved, I believe, with due regard for the burdens imposed on those subject to the rule.

I have, however, two reservations about the Rule, as amended. First, I am not convinced that it is necessary to require retailers to carry care instructions in stock. The added nuisance or burden that this provision imposes probably is not worth the incremental benefit that will accrue from the occasional customer requesting such information from the retailers.

Second, while the Commission's approach to care labeling of carpets and rugs has significantly improved since the amendments were first proposed, I do not believe it goes far enough. All that was really necessary in this area was a provision requiring a warning label when a traditional or common means of carpet cleaning might have injured the product. As matters stand, the requirement that manufacturers include on the label one satisfactory method of cleaning is probably superfluous. Many different methods are likely to be equally efficacious for most carpet cleaning, and the consumer has available numerous sources of information about how to clean carpets generally. In addition, other information relating to spot removal is not addressed by the Rule. That is proper, but it only underscores the limited value of requiring affirmative carpet care instructions in all instances.

Statement of Commissioner Robert Pitofsky

An FTC Care Labeling Trade Regulation Rule has been in place since 1971 and has generally been regarded by consumers and industry as providing a highly useful form of consumer protection at an acceptable cost. Amendments to that Rule published today extend its provisions to product categories previously uncovered—for example, carpets and rugs, leather and suede—and I support those amendments.

The major change effected by these amendments, however, has to do with the nature of the Commission's regulation. The 1971 Rule essentially required only that care labeling information be included in all designated garments and products. The Commission further announced that it would rely on Section 5 of the Federal Trade Commission Act to sue any manufacturers who systematically included inaccurate or incomplete directions. On the other hand, the Commission did not undertake to regulate the precise content of care labels nor to set up a detailed system of standardized terminology which must be followed. If the label managed to communicate accurate and adequate care instructions, the Commission regarded it as of no concern exactly what words were used.

These amendments take the step that the Commission avoided nine years ago. They provide that it is not just a violation of law to fail to provide accurate care labeling instructions, but also to fail to provide those instructions using a standardized terminology [see Section 423.3(a)(5)] and specifies that certain terms contained in Appendix A to this proposal [designated a "Glossary of Standard Terms"] must be used in order to comply with the Rule [see Section 423.11(a)]. The Glossary itself is extremely detailed, for example, defining what constitutes "warm"—"initial water temperature setting 90° to 110°F (32° to 43°C) (hand comfortable)", as well as what constitutes "cold"—"initial water temperature setting same as cold water tap up to 85°F (29°C)". Scores of other terms—such as what constitutes "tumble dry", "iron damp", and a "short cycle"—are also defined. Even with all this detail, the Rule published today is far simpler and straightforward than earlier drafts.

My concern is that the Commission here is undertaking an unnecessary and unduly burdensome form of regulation. The real aim of consumer protection in ths area should be to see to it that some reasonably accurate care labels are attached to garments—not to insure that every word and phrase is exactly accurate and standardized.

Supporters of these amendments have suggested that industry would welcome some guidance concerning care labeling terminology. They also argue that the lack of standardization produces confusion in the market place, regardless of whether individual care labels provide adequate notice of risks. Assuming that is true, it seems to me we discharge our regulatory role by leaving the Care Labeling Rule as it is and simply issuing some guides concerning care directions. Unfortunately, as this Rule now stands, failure to follow government-designated terminology is a rule violation. I think that is unwise and hope the Commission will reconsider its tentative decision and amend the Rule before making it final.

[FR Doc. 81-102 Filed 1-2-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Ohio-1)]

High Cost Gas Produced From Tight Formations; Ceiling Prices

Issued: December 23, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Ohio Department of Natural Resources, Oil and Gas Division, that the Clinton Sandstone Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on January 23, 1981. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 9, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8299 or John Roy Johnson, (202) 357-8731.

SUPPLEMENTARY INFORMATION:

I. Background

On December 9, 1980, the Ohio Department of Natural Resources, Division of Oil and Gas (Ohio), submitted to the Commission a recommendation in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980) that the Clinton Sandstone Formation located in eastern Ohio be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Ohio's recommendation that the Clinton Sandstone Formation be designated as a tight formation should be adopted. Ohio's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Ohio recommends that the Clinton Sandstone Formation encountered in eastern Ohio be designated as a tight formation. The recommendation includes only those portions of the Clinton Sandstone Formation which Ohio designated as meeting tight formation guidelines. The Clinton Sandstone is a driller's name referring to a sequence of interbedded sandstones, siltstones, and shales of the Silurian System that lie on the northwestern flank of the Appalachian Basin in eastern Ohio. Regionally, the Clinton Sandstone Formation dips to the southeast approximately 50 feet per mile. Net sandstone thickness is a maximum of 80 to 90 feet in eastern Ohio. The Clinton Sandstone Formation thins westward and eventually pinches out in the subsurface of central Ohio in an erratic zone extending from Lorain County in northern Ohio to Lawrence County in southern Ohio.

III. Discussion of Recommendation

Ohio claims in its submission that evidence gathered through information and testimony presented at public hearings held July 15, 1980, and November 10, 1980, by Ohio on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Ohio further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Ohio that portions of the Clinton Sandstone Formation, as described and delineated in Ohio's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 23, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Ohio—1), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 9, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Ohio's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is amended by adding new subparagraph (26) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) * * *

(11) through (25) [Reserved]

(26) *Clinton Sandstone Formation in Ohio.*

(i) *Delineation of formation.* The portions of the Clinton Sandstone Formation that the Ohio Department of Natural Resources, Division of Oil and Gas, has designated as a tight formation are found in the eastern half of Ohio.

(ii) *Depth.* The Clinton Sandstone is defined as that formation occurring within the Silurian System between the Dayton Limestone and the Queenston Shale found at approximately 2,500 feet in the updip areas near its pinch out, dipping to the southeast approximately 50 feet per mile.

[FR Doc. 81-195 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances Proposed Placement of Temazepam in Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice is a proposed rule to place the drug, temazepam, into Schedule IV of the Controlled Substances Act. By letter to the Administrator of the Drug Enforcement Administration, the Assistant Secretary for Health, on behalf of the Secretary of Health and Human Services, recommended that temazepam be controlled in Schedule IV.

DATES: Comments must be submitted on or before March 6, 1981.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Washington, D.C. 20537, Tele.: (202) 633–1366.

SUPPLEMENTARY INFORMATION: On November 28, 1980, the Assistant Secretary for Health, on behalf of the Secretary of Health and Human Services sent a letter to the Administrator of the Drug Enforcement Administration, recommending that temazepam be placed in Schedule IV of the Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801–966). Enclosed with this letter from the Assistant Secretary was a document which listed the factors which the Act requires the Secretary to consider and the summarized considerations of the Secretary in recommending control for temazepam.

The factors considered by the Secretary concerning temazepam were:

(1) its actual or relative potential for abuse;

(2) scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the drug or other substance;

(4) its history and current pattern of abuse;

(5) the scope, duration, and significance of abuse;

(6) what, if any, risk there is to the public health;

(7) its psychic or physiological dependence liability; and

(8) whether the substance is an immediate precursor of a substance already controlled under the Controlled Substances Act.

Relying on the scientific and medical evaluation and the recommendation of the Secretary of Health and Human Services, received in accordance with section 201(f) of the Act (921 U.S.C. 811(f)), the Administrator of the Drug Enforcement Administration, pursuant to sections 201(a) and 201(b) of the Act, (21 U.S.C. 811(a) and 811(b)), finds that:

(1) based on information now available, temazepam has a low potential for abuse relative to the drugs or other substances currently listed in Schedule III;

(2) Temazepam will, upon issuance of a New Drug Application by the Food and Drug Administration, have a currently accepted medical use in treatment in the United States; and,

(3) abuse of temazepam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Therefore, under the authority vested in the Attorney General by section 201(a) of the Act (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part O)), the Administrator hereby proposes to amend 21 CFR 1308.14(c) by adding paragraph (21) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(21) Temazepam.. 2925

* * * * *

All interested persons are invited to submit their comments or objections in writing regarding this proposal. If a persons believe that one of more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, Washington, D.C. 20537, Attention: DEA Federal Register Representative.

In the event that a comments or objections to this proposal raise one of more issues which the Administrator finds, in his sole discretion, warrant a hearing, the Administrator will have published in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Dated: December 23, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-183 Filed 1-2-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. 79-31, Notice 3]

Traffic Safety in Highway and Street Work Zones; Separation of Opposing Traffic and Edge of Pavement Excavation Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for comments on the notice of proposed rulemaking published on October 16, 1980 (45 FR 68663), requesting comment by December 15, 1980, on proposed revisions to existing requirements for the separation of opposing traffic where two-way traffic is maintained on one roadway of a normally divided highway. The comment period is being extended until February 17, 1981, in order to provide interested parties additional time to respond to the notice.

DATE: Comments will be received until February 17, 1981.

ADDRESS: FHWA Docket No. 79-31, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth L. Ziems, Office of Highway Operations, 202-426-4847, or Mr. Stanley H. Abramson, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b))

Issued on: December 24, 1980.

Alinda Burke,

Deputy Administrator.

[FR Doc. 81-114 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 260

Regulation of Reserved Waters on Indian Reservations

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to amend Chapter IX of Title 25 of the Code of Federal Regulations by adding a new Part 260 to provide for tribal regulation of reserved waters on Indian reservations. This proposed rule states the criteria the Secretary will follow in (a) approving and adopting tribal water codes and (b) promulgating a water code where a tribe fails or refuses to adopt a code. This rule is proposed primarily to implement the Secretary's statutory responsibility to promulgate regulations necessary to secure a just and equal distribution of reserved waters on Indian reservations for irrigation for agricultural purposes. The rule is also being proposed to fulfill the federal government's commitment to assist Indian tribes in reaching full self-determination. The proposed rule will recognize, defer to and assist in the exercise of the inherent authority of Indian tribes within their reservations to govern the use of all water rights reserved for the tribe therein.

DATE: Comments must be submitted on or before March 6, 1981.

ADDRESS: Written comments must be addressed to Department of the Interior, Office of the Solicitor, 18th and C Sts., N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Daniel M. Rosenfelt, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-6967.

SUPPLEMENTARY INFORMATION:

History

On March 17, 1977, the Bureau of Indian Affairs published a proposed rule on pages 14885-14887 of the **Federal Register** which specified the procedures the Secretary would follow in approving water codes enacted by Indian tribes to regulate the use of reserved waters on Indian reservations. Comments on the proposed rule suggested potential legal and practical difficulties with the rule as written. Consequently, the rule was never issued in final form.

On March 20, 1978, the Secretary of the Interior submitted an affidavit to the Federal District Court for the Eastern District of Washington which stated that the Department of the Interior was preparing and would issue "at the earliest convenient date" rules providing for the regulation of reserved waters on Indian reservations. This rule is being promulgated in fulfillment of the Secretary's pledge to the court.

Authority and Purpose

This rule provides for Secretarial approval and adoption of water codes enacted by Indian tribes to govern the use of reserved waters on Indian reservations. Primary authority for this rule is contained in 25 U.S.C. 381 which empowers the Secretary to prescribe such rules as are necessary to secure a just and equal distribution of water for irrigation for agricultural purposes among Indians on Indian reservations. In recognition of the federal government's policy of encouraging tribal self-determination and in recognition of the inherent authority of Indian tribes within their reservations, the instant rule is structured to allow Indian tribes considerable freedom in developing individualized water codes for approval and adoption by the Secretary. The regulation provides that a tribe may authorize the use of reserved waters for any beneficial use. "Beneficial use" is defined broadly in § 260.1(c) to include any use of water on an Indian reservation that is consistent with the maintenance of the reservation as a permanent homeland for the tribe. Enumerated uses include agricultural, industrial, domestic, municipal, commercial, religious, recreational and aesthetic.

Approval and Adoption of Code

Section 260.3 of this rule articulates several criteria, both substantive and procedural, that must be incorporated into a tribal water code before it will be approved and adopted. The most important procedural requirements are the due process of law guarantees listed in § 260.3(a)(1)(i) through (v). The tribe must also limit its code to the regulation of reserved waters as defined in this Part (260.3(a)(3)), and must possess adequate administrative and economic resources to implement the code (260.3.(a)(2)).

Substantively, § 260.3(a)(4) requires that the code allow for the continued use of reserved water by existing users until such time as an authorized tribal permittee or the tribe is prepared to make beneficial use of such reserved water in accordance with this rule. Section 260.3(a)(6) requires that the code exclude from its regulation rights to the use of water held by purchasers of land within an irrigation project located within the reservation and administered by the Bureau of Indian Affairs. The circumstances under which a nonmember of an Indian tribe who owns an interest in fee to any former allotment or portion thereof may claim the right to use reserved water are clarified in § 260.3(a)(5). Finally, § 260.3(a)(9) specifically provides the tribal water code must comply with all relevant acts of Congress and with all binding judicial decisions.

Codes With Individual Water Permits

If a tribe chooses to enact a permit system of regulation, § 260.4 specifies that the issuance or transfer of a permit to a non-member of the tribe requires Secretarial approval. This provision is included to insure that only non-members of the tribe who are entitled to use reserved waters, as provided in § 260.3(a)(5), obtain water permits, whether such permits are sought through the initial application process or through subsequent acquisition of existing permits.

Secretarial Water Codes

If an Indian tribe does not enact a water code, and if the Secretary finds that such a code is necessary to fulfill his statutory responsibility under 25 U.S.C. 381 to ensure a just and equal distribution of water on the reservation for agricultural irrigation purposes, the Secretary may, upon consultation with the tribe, promulgate a water code for the reservation. (§ 260.5).

Appeals

Section 260.3(a)(1)(v) requires that a tribal water code include an appeals procedure for persons aggrieved by tribal administrative decisions concerning their rights to use reserved water. If the Secretary publishes a code for the reservation under the circumstances outlined in § 260.5, § 260.6 provides that appeals from the determinations of the designated Department official concerning any person's right to use reserved waters shall be within the jurisdiction of the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary, Department of the Interior.

Effect of Rule on Reserved and State-Created Water Rights

One recurring comment received when the rule was first published in 1977 should be specifically addressed. Several commentators voiced concern that enactment of tribal water codes would, in effect, enable Indian tribes to quantify their reserved water rights. Such is not the intent or effect of the rule.

This rule does not affect the validity of state-created water rights, nor the legal right of any water user to obtain an adjudication of his or her water rights in a court of competent jurisdiction. The amount of water reserved for a tribe upon creation of an Indian reservation and the priority of that water right vis-a-vis individual, state-created water rights are issues that require judicial resolution. This rule does not address and will not affect the determination of those issues.

As did its predecessor, § 260.3(a)(1)(i) of this rule does require tribes to provide a system for establishing the measure, nature and place of use of reserved waters. To the extent that tribal measurement of reserved waters is permitted under this rule, such measurement constitutes only an interim estimate, which is necessary to enable the tribe to control and manage the use of reserved waters on the reservation pending final resolution of the issue through litigation or negotiation. Such interim management is imperative if effective and integrated tribal development of natural resources on the reservation is to occur during the complex and often protracted quantification process.

Approval of a tribal code by the Secretary will not bind the Secretary or the United States to endorse or support the tribe's interim estimate in other contexts such as litigation. Once a final determination is made of the amount of reserved waters on a reservation either through a general stream adjudication or negotiation, the tribe's regulation of the use of such water will be adjusted accordingly. Section 250.3(a)(5) mandates this result.

Public Comment

It's the policy of the Department to encourage broad public participation in the rulemaking process. The comments of interested individuals, organizations and government agencies on all facets of the proposed rule are welcome.

Environmental Impact Statement

Because this rule is procedural in nature and simply articulates the criteria the Secretary will follow in determining whether to approve and adopt a tribal water code, no environmental impacts will result from its promulgation. Accordingly, the Secretary has determined that this rulemaking is not a major federal action for which an Environmental Impact Statement is required. If and when a tribe submits a code to the Secretary for approval and adoption, a review of the individual code will be made pursuant to the provisions of the National Environmental Policy Act.

Classification

The Bureau of Indian Affairs has determined that this regulation is not significant under the guidelines established by E.O. 12044.

Regulatory Analysis

A regulatory analysis is not required for this rulemaking. Subchapter IX of Title 25 of the Code of Federal Regulations is proposed to be amended by adding a new Part 260, reading as follows:

PART 260—THE USE OF WATER ON INDIAN RESERVATIONS

Sec.
260.1 Definitions.
260.2 Purposes.
260.3 Approval and adoption of tribal water codes.
260.4 Codes with individual water permits.
260.5 Secretarial water codes.
260.6 Appeals.

Authority: Sec. 7, Act of February 8, 1887, 24 Stat. 390 (25 U.S.C. 381); Act of August 8, 1946, 60 Stat. 939 (25 U.S.C. 1a); R.S. § 463 (25 U.S.C. 2); R.S. § 465 (25 U.S.C. 9); sec. 1, Pub. L. 84–255 as amended, 69 Stat. 539 (25 U.S.C. 415) and in recognition of the inherent authority of Indian tribes within their reservations.

§ 260.1 Definitions.

(a) "Secretary" means the Secretary of the Interior or the Secretary's delegated representative.

(b) "Reserved water rights" means those rights to the use of waters established in accordance with the principles enunciated in *Winters v. United States*, 207 U.S. 564 (1908), and subsequent cases, and includes the water rights of Indian Pueblos derived from Spanish, Mexican or federal law.

(c) "Beneficial use" means any use of water, consumptive or otherwise, for agricultural, domestic, municipal, commercial, industrial aesthetic, religious, or recreational purposes, or for the maintenance of adequate stream flows for fishery, environmental, or any other purposes consistent with the maintenace of the reservation as a permanent homeland for the tribe.

(d) "Just and equal distribution of reserved water rights" means a method of allocating the available reserved water among those eligible to share in the use of that water in such a manner, alleviating hardship where possible, that all those similarly situated will have an equal opportunity to use the water.

(e) A "water code" or "code" shall mean ordinances, rules, and regulations adopted by the governing body of an Indian tribe which provide for regulation and control of the use of reserved water rights among those eligible to share therein in accordance with the provisions of this part and other applicable laws.

(f) "Indian tribe" or "tribe" means any Indian tribe, band, nation or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

§ 260.2 Purposes.

The purposes of these regulations are:

(a) To implement the Secretary's statutory authority to promulgate regulations mecessary to secure a just and equal distribution of reserved waters on Indian reservations for irrigation for agricultural purposes and

(b) To recognize, defer to and assist in the exercise of the inherent authority of Indian tribes within their reservations to govern the use of all water rights reserved for the Indians therein.

§ 260.3 Approval and adoption of tribal water codes.

(a) The Secretary may approve and adopt as a federal regulation any water code enacted by an Indian tribe to control, distribute, allocate and regulate the use of reserved water rights on its reservation for a beneficial use by any person or entity, including non-Indian persons and entities, that may be eligible to exercise such reserved water rights if the following criteria are met:

(1) The code affords procedural due process of law to all persons who apply for the use of reserved water rights, by providing for the following:

(i) A system for establishing the measure, nature, and place of use of reserved waters. That system will enable the tribe to make an interim quantification of the extent of its reserved rights, subject to future judicial or legislative quantifications.

(ii) Procedures that allow any person who seeks to use reserved waters to apply to the tribe for such permission. All issues must be determined by an impartial administrative official or body duly constituted by the tribe. A written decision on the issues raised by the application must be rendered within ninety days and reasons shall be given for each division.

(iii) Notice of hearings on all applications. Such notice must be given in a reasonable manner so as to afford interested persons the opportunity to

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support or contest any application for an allocation.

(iv) A complete record of all applications and actions taken thereon. All permits issued shall be maintained by the tribe and shall be open for public inspection on the reservation.

(v) The right of aggrieved persons to seek appellate review of administrative determinations.

(2) The tribe possesses adequate administrative and economic resources to implement the code.

(3) The code is limited to administration and enforcement of reserved water rights as defined in this Part.

(4) The code allows for the continued use of reserved water by existing users until such time as an authorized tribal permittee or the tribe is prepared to make beneficial use of such reserved water.

(5) The code specifically provides that any non-member of an Indian tribe who owns an interest in fee to any former allotment or portion thereof may claim a right to use reserved waters only to the extent that water was actually used on the former allotment or portion thereof prior to its initial transfer from the ownership of a tribal member to a non-member of the tribe.

(6) The code excludes from its regulation rights to the use of water held by purchasers of land within an irrigation project located with any Indian reservation and administered by the Bureau of Indian Affairs pursuant to 25 CFR 191–203.

(7) In the case of reserved waters used for irrigation for agricultural purposes the code provides for a just and equal distribution of water among those eligible to share in the use thereof.

(8) Secretarial approval is expressly required by a tribal Constitution, Federal or Tribal statute or by the code itself.

(9) The code is subject to and consistent with all relevant acts of Congress and to all binding judicial decisions.

(b) The Secretary may decline to approve and adopt amendments to the code if they are inconsistent with the criteria set forth in this part.

§ 260.4 Codes with individual water permits.

(a) At the option of the tribe, the code may adopt an individual permit system authorizing the diversion and use of water. Where a permit system is utilized, the issuance or transfer of permits to non-members of the tribe shall be subject to the approval of the Secretary and such permits thereafter shall be fully subject to all provisions of the code.

§ 260.5 Secretarial water codes.

(a) If a tribe fails to enact an approved water code for its reservation and the Secretary finds that such a code is necessary to provide for a just and equal distribution of reserved waters on an Indian reservation for irrigation for agricultural purposes, the Secretary shall notify the tribe in writing of such need and offer assistance in the preparation of an acceptable water code. If the tribe notifies the Secretary that it elects not to enact a water code or if the tribe does not respond within 60 days from the date of the request, the Secretary may prepare and publish a water code for the reservation. The water code shall cover at least the areas set forth in Part 260.3 above, and shall otherwise comply fully with these regulations.

(b) In this code, the Secretary may act on behalf of the tribe in the issuance of permits and in the regulation of the reserved water rights of the reservation.

(c) When the water code has been completed, it shall be submitted to the governing body of the tribe of the reservation for its review, comment and appropriate revision. The water code shall then be enforced by the Secretary on the reservation covered by the code.

(d) The code may be amended by the Secretary from time-to-time subject to rights under existing permits after submitting such amendments to the governing body of the tribe for its approval. *Provided, however*, that any amendment shall become effective if the tribe neither approves nor disapproves the amendment within 60 days.

(e) The tribe may replace such a code with one enacted by it at any time, or it may amend the code, with approval of the Secretary.

§ 260.6 Appeals.

Where the Secretary has promulgated a water code for an Indian reservation in accordance with § 260.5, appeals from the determinations of the designated Department official concerning any person's right to the use of water shall be within the jurisdiction of the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary, Department of the Interior. A hearing shall be held on the appeal by the Board at which the tribe and appealing party may appear and present evidence and argument. When practicable, this hearing shall be held on or near the reservation. A determination by the Board of Indian Appeals shall be final and there shall be no further administrative remedy available.

Dated: December 29, 1980.

Cecil D. Andrus,

Secretary of Interior.

[FR Doc. 81-207 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-17-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Public Hearing and Public Comment Period on the Resubmitted Permanent Regulatory Program of the State of Utah

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM).

ACTION: Revision and correction.

SUMMARY: This notice explains and corrects an oversight in the Federal Register of December 23, 1980, FR 84824–26 which inadvertently omitted the time of the State of Utah's public hearing on the resubmitted permanent regulatory program.

A public hearing will be held at 1:30 p.m. on January 7, 1981, in the Governor's Board Room, in the State Capitol, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Office of Surface Mining, Region V, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5421.

SUPPLEMENTARY INFORMATION: On December 23, 1980 OSM published notice of procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Utah regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which have been resubmitted by the State and which were not previously approved by the Secretary of Interior. For further information see Federal Register (45 FR 84824–26) published on December 23, 1980.

Dated: December 30, 1980.

Walter Heine,

Director, Office of Surface Mining.

[FR Doc. 81-186 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 92, 161

[CGD 78-079]

St. Marys River Vessel Traffic Service

AGENCY: Coast Guard.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to revoke the anchorage and navigation regulations for the St. Marys River, Michigan, and to establish a vessel traffic service (VTS) under the authority of the Ports and Waterways Safety Act (33 U.S.C. 1221–1227). The existing regulations for anchorage and navigation on the St. Marys River (33 CFR 92) are somewhat archaic, do not reflect the present use of the river during winter months, and do not recognize the capabilities and common usage of the radiotelephone. The new VTS regulations address the use of VHF–FM radiotelephone and the special concerns regarding navigation through ice during the winter season. The geographic scope of these regulations is extended to include the lower portion of Whitefish Bay which is not presently addressed in 33 CFR Part 92. It is expected that these regulations will provide for safer, more efficient transits of vessels on the St. Marys River.

DATES: Comments must be received on or before February 19, 1981.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/24), (CGD 78–079), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–1477 between the hours of 7 a.m. and 5 p.m., Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue, Jr., Project Manager, Office of Marine Environment and Systems, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–4958. Normal office hours are between 7 a.m. and 5 p.m. Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 78–079) and give the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped, self-addressed postcard or envelope.

All comments received before expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be beneficial.

Drafting Information

The principal persons involved in drafting this proposal are Edward J. LaRue, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Commander John Orchard, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The existing "Anchorage and Navigation Regulations; St. Marys River" and the "St. Marys River Patrol" which enforces those regulations were established to minimize the dangers to vessels transiting the regulated area. Although most of the improved channels are 600 feet or more in width, there are nearly 20 miles of channel only 300 feet in width. The 300 foot channels are normally used for one-way traffic but one channel (300 feet wide with a 200 foot auxiliary channel of lesser depth) must, at times, be used for two-way or alternating one-way traffic.

The vessels using this waterway range up to 1,000 feet in length and 105 feet in breadth. The most commonly used vessels range from 500 to 800 feet in length and 60 to 80 feet in breadth. These vessels frequently navigate with a net bottom clearance of about 1 foot. Over the past five years, there have been an average of 42 vessel transits each day.

If traffic is temporarily stopped due to vessel casualty, low visibility, closure of the St. Marys Falls Canal, or other reasons, up to 50 or more vessels can rapidly accumulate in the river. Because of the narrowness of many channels, a vessel casualty (grounding or anchoring due to propulsion failure) generally results in a complete obstruction of the channel. The sudden onset of reduced visibility can force a vessel to anchor and require the anchoring of following vessels. Anchorages outside the channel are very limited and at some locations the narrow channels and strong following currents preclude anchoring by vessels not fitted with stern anchors. These factors make traffic management essential.

In summary, the narrow channels, large vessels operating with minimal net bottom clearance, and frequent vessel congestion warrant improvement of the existing regulations and formal establishment of a Vessel Traffic Service in the St. Marys River.

In drafting these proposed regulations, the provisions of the existing regulations contained in 33 CFR Part 92 have been incorporated except as noted. Provisions which have been transferred without substantive change are not discussed in the following paragraphs.

Proposed § 161.801(c) would make the communications rules applicable to those vessels required to have VHF–FM radiotelephone equipment by the "Agreement with Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973". This approach insures participation by the category of vessels of greatest importance to this vessel traffic control system is consistent with the international agreement, and avoids additional cost for equipment on vessels not otherwise required to be equipped with VHF–FM radiotelephones.

The Speed Rules of § 92.49 have been relocated in §§ 161.880–161.886 and have been made applicable to all vessels over 20 meters (65 feet) in length. (The existing regulations apply to vessels of 50 gross tons or more.) Since gross tonnage is a unit of measurement which is generally only applicable to commercial vessels and is not a measure of a vessel's propensity to cause shore damage or erode waterway improvements at higher speeds, the speed regulations have been made applicable to all vessels over 20 meters. Furthermore, because of the wide variety of vessel shapes, it is difficult to establish a direct conversion from gross tonnage to length. However, nearly all vessels of 50 gross tons or more are greater than 20 meters (65 feet) in length and for this reason this figure has been adopted in order to provide a level of protection which is equivalent to that which is provided by the current regulations.

Proposed § 161.803 provides additional definitions which promote clarification and better understanding of these regulations.

Under the current regulations in Part 92, authority for routing of traffic in channels is vested in the St. Marys River Patrol while the authority to terminate passage of a vessel because of ice or other special conditions is vested in the Captain of the Port. Proposed § 161.807 vests in Soo Control, the authority provided by the Ports and Waterways Safety Act to specify times of entry and movement or departure of vessels located within controlled vessel traffic areas. It is considered essential that Soo Control possess this authority in order to effectively control vessel traffic during conditions which adversely affect navigation safety.

Proposed § 161.809 provides reasonable flexibility to the Commander, Ninth Coast Guard District to authorize a deviation from these rules when he has determined that an operation can be accomplished safely. It is recognized that special operations may make compliance with each of these rules impossible or that alternative safety measures may be imposed which would make strict compliance with each of these rules unnecessary. The Coast Guard believes that the local District Commander is in the best position to determine when a deviation from these rules can be safely accomplished.

Proposed § 161.811 allows the master to deviate from these rules in order to avoid immediate danger. This provision is considered necessary in order to avoid requiring a vessel to comply with a rule which may, because of a special, sudden condition, place the vessel in danger of collision, grounding or foundering.

Proposed § 161.820 is designed to provide adequate communications capabilities for vessels required to communicate with Soo Control, and conform with the "Agreement with Canada for the Promotion of Safety in the Great Lakes by Means of Radio, 1973", which requires a listening watch on Channel 16 VHF-FM and also requires that radiotelephone equipment be equipped with Channel 12. This approach will avoid a requirement for additional radiotelephone equipment.

Proposed § 161.821 requires routine reports to be made to Soo Control on Channel 12 VHF-FM. FCC regulations do not authorize the use of Channel 16 for passing vessel traffic information.

Proposed § 161.822 is similar to the requirements of the Bridge-to-Bridge Radiotelephone Act and is intended to provide for communications in a timely fashion without interference with the piloting of vessels.

Proposed § 161.824 requires reports to be made in English and reflects the need for a common language for all VTS participants.

Proposed § 161.826 requires reports to be made in the local zone time in effect even though many Great Lakes vessels, for their own operations, use Eastern Standard Time throughout the year. This will ensure that a consistent time standard is used by all participants.

Proposed § 161.828 requires an initial report in order to provide notice to Soo Control regarding vessels which will be entering into or getting underway from within the VTS Area. Advance notice is necessary to allow the VTS Controller to adequately assess the impact of the vessel's movement on the traffic situation.

Proposed § 161.830 requires movement reports in order to allow Soo Control to monitor the movement of all vessels within the VTS Area and, when necessary, to apprise them of the presence of hazards to navigation or other vessels, or to direct their movement. Formerly, the passage of vessels was determined by observation from manned lookout stations at various narrow turns in the river. These lookout stations have been discontinued because vessel movement can more economically be determined by VHF-FM radiotelephone reports. Alternative methods of surveillance which were considered included television and radar coverage. These methods were rejected because although they would definitely increase the effectiveness of the VTS system, the current number of vessel transists (40 per day) is not sufficient to offset the costs involved in manning and installing required equipment. Periodic radio reports to the VTS are considered to be the least expensive, yet effective, means of providing vessel traffic service coverage.

Proposed § 161.832 requires a final report when the vessel completes its movement in the VTS area. The Final Report is necessary so that Soo Control is aware of the vessel's location within the VTS Area, or that the vessel has departed the VTS Area and is no longer involved in the traffic system.

Proposed § 161.834 establishes permanent reporting points which have been selected to allow Soo Control to coordinate traffic, as necessary, and to allow Soo Control to apprise the lockmaster of vessels approaching the St. Marys Falls Canal.

Proposed § 161.836 provides for the establishment of additional reporting points that are necessary during the winter navigation season in order to schedule icebreaking and facilitate navigation. Temporary reporting points are intended for use during periods of unusual hazard such as partial channel obstruction or closure. The District Commander is provided the flexibility to designate those reporting points based upon the prevailing ice conditions.

Proposed § 161.838 recognizes that a few short portions of the navigation channel lie in Canadian waters. This section makes it clear that a final Report and an Initial Report are not desired when navigating these areas. Such reports are not considered necessary, would clutter the reporting frequency and distract the vessel's master and the Soo Controller.

Proposed § 161.840 requires that a report of radio failure be made if practicable. This report is necessary because of the reliance on VHF-FM radiotelephone in these regulations. The procedures for reporting radio failure required by the "Agreement with Canada for the Promotion of Safety on the Great Lakes by Means of Radio, 1973", are incorporated.

Proposed § 161.842 requires reports of impairment of vessels transiting the VTS area and obstructions. These reports are necessary to enable Soo Control to effectively manage traffic and advise vessels of potential hazards.

Proposed § 161.844 exempts ferrys from the movement reporting requirement when they are operating in accordance with a schedule which has been provided to Soo Control. The presence of a ferry on a scheduled route can be presumed by both Soo Control and vessels navigating the area. Reports are required from ferries only when they deviate from their schedules.

Because of the narrowness of certain channels, proposed § 161.850 establishes one-way traffic patterns for vessels in order to minimize collisions and groundings.

Proposed § 161.854 specifies interests which will be considered before West Neebish Channel and Pipe Island Passage are closed to traffic during the winter navigation season. This section specifically provides for the use of Middle Neebish Channel and Pipe Island Course by both upbound and downbound vessels during the winter navigation season. Consideration of these interests is considered necessary in order to adequately manage marine navigation within legitimate economic and environmental constraints.

Proposed § 161.880 would reduce the speed limit from De Tour Reef Light to Sweets Point Light from 17 miles per hour to 14 miles per hour. This reduction is proposed in order to reduce wake damage to shore property and moored vessels which has been reported in the vicinity of De Tour Village by the De Tour Village Harbor Commission. The speed limit will now apply to vessels of over 20 meters (65 feet) in accordance with section 161.801.

Proposed § 161.890 clarifies the maximum distance which may be maintained between towing vessels and their tows.

Proposed § 161.894 effectively requires a vessel navigating in the VTS area to have its anchors ready for letting go after the COTP has ordered the closing of a channel. This measure is considered necessary to ensure that every vessel transiting toward the closed channel is capable of immediately anchoring. Soo Control may direct approaching vessels to anchor at a considerable distance from the point of closure in order to avoid traffic congestion.

Disposition of Existing Regulations

This supplementary information shows the disposition of certain existing regulations in 33 CFR 92. As indicated in the following table, most of the existing regulations have been reworded and are included in the proposed regulations. Some portions have been deleted for various reasons as set forth below.

TABLE I.—*Disposition of Part 92*

Existing section	Disposition
92.01	Sec. 161.801.
92.03	Sec. 161.803.
92.05	Deleted.
92.07	Sec. 161.803.
92.13	Sec. 161.807, 161.850, 161.894.
92.19	Sec. 161.854, 161.894.
92.21	Deleted
92.23	Sec. 161.880.
92.25	Sec. 161.804.
92.26	Sec. 161.830.
92.27	Sec. 161.860.
92.29	Sec. 161.862.
92.31	Sec 161.864.
92.33	Sec. 161.866.
92.35	Sec. 161.868.
92.37	Sec. 161.870, 161.807
92.39	Deleted.
92.41	Deleted
92.43	Deleted.
92.45	Deleted.
92.47	Sec. 161.807.
92.49	Sec. 161.801, 161.850.
92.55	Deleted.
92.57	Sec. 161.850.
92.59	Sec 161.850.
92.61	Sec. 161.852.
92.63	Deleted.
92.65	Deleted.
92.67	Sec. 161.890.
92.69	Sec. 161.890.
92.71	Sec. 161.886.
92.73	Deleted.
92.75	Deleted.
92.77	Deleted.
92.79	Sec. 161.842.
92.81	Deleted.
92.83	Sec. 161.801.

Section 92.05, St. Marys River Patrol, will be deleted because the term is archaic. There is no Coast Guard unit by that name and the vessels and personnel under the control to the Captain of the Port are not commonly referred to in that manner.

Section 92.21 describing sound signals used by patrolling vessels will be deleted because the reliability of VHF-FM radio-telephone eliminates the need for those special sound signals.

Section 92.39, Visual Signals for Dredges and Wrecking Plants, will be deleted because these signals are prescribed by the Pilot Rules for the Great Lakes at 33 CFR 90.22 thru 90.29.

Section 92.41, Visual signals on vessels aground in channel, will be deleted because these signals are prescribed by Rule 30 of the Great Lakes Rules of the Road (33 U.S.C 295). Furthermore, adequate warning regarding grounded vessels can be provided by VHF-FM radiotelephone.

Section 92.43, Sound signal for vessels aground in channel, will be deleted because it places a burden on the overtaken vessel to take action. This is inconsistent with Rules 20 and 22 of the Rules of the Road for the Great Lakes (33 U.S.C. 285 and 287).

Section 92.45, Special sound signal for Middle Neebish Channel, will be deleted because the signal for vessels approaching a bend in the channel is adequately provided for in the Pilot Rules for the Great Lakes (33 CFR 90.6).

Section 92.55, Speed limit approaching St. Marys Falls Canal, will be deleted because failure to maintain proper control of a vessel is adequately provided for by Rule 28 of the Great Lakes Rules of the Road (33 U.S.C. 293).

Section 92.63, Vessel passing towing tug going in same direction, will be deleted because the overtaking situation is adequately provided for by Rule 25 of the Great Lakes Rules of the Road (33 U.S.C. 290).

Section 92.65, Vessels going in the same direction; when passing prohibited, will be deleted because comprehensive rules for overtaking are contained in the Pilot Rules for the Great Lakes (33 CFR 90.8).

Section 92.73, Navigation of dredged channels by sail, will be deleted because it is archaic.

Section 92.75, Obstruction of traffic; retarding of other vessels, will be deleted because this matter is adequately covered by Rules 20 and 27 of the Rules of the Road for the Great Lakes (33 U.S.C 285 and 293).

Section 92.77, Rafts in channels, will be deleted because it is archaic. Rafts are no longer used as a mode of transportation in this area.

Section 92.81, Government vessels, will be deleted because sufficient authority to control movement of vessels is available under 33 CFR 160.35 and the proposed § 161.807 without providing special rules for government vessels. Additionally, the right of way granted to government vessels by § 92.81 is potentially in conflict with the Rules of the Road for the Great Lakes (33 U.S.C. 281–290).

The Coast Guard has evaluated this proposal under the Department of Transportation's Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," May 22, 1980, and has found this to be a nonsignificant rulemaking. A Draft Evaluation has been prepared and is available for inspection and copying from the Marine Safety Council.

An environmental assessment was completed in June, 1980, which determined that this action will have no significant impact upon the environment.

In consideration of the foregoing, the Coast Guard proposes to amend Title 33, Code of Federal Regulations as follows:

§ 1.01-30 [Amended]

1. By removing and reserving § 1.01-30(b).

PART 92—[Reserved]

2. By removing and reserving Part 92.

3. By revising Subpart B of Part 161 to read as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

* * * * *

Subpart B—Vessel Traffic Service

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St. Marys River Vessel Traffic Service

General Rules

161.801 Purpose and applicability.
161.803 Definitions.
161.804 Vessel operation in the VTS area.
161.805 Laws and regulations not affected.
161.807 Soo Control directions.
161.809 Authority to deviate from these rules.
161.811 Emergency deviations.

Communications Rules

161.820 Radio listening watch.
161.821 Frequency for routine reports.
161.822 Radiotelephone equipment.
161.824 English language.
161.826 Time.
161.828 Initial report.
161.830 Movement reports.
161.832 Final Report.
161.834 Permanent reporting points.
161.836 Seasonal or temporary reporting points.
161.838 Transit of Canadian waters.
161.840 Radio failure.
161.842 Report of impairment or other hazard.
161.844 Ferry vessels.

Traffic Rules

161.850 One way traffic—normal conditions.
161.852 Meeting or overtaking in channels.
161.854 Winter navigation.

Anchorage Rules

161.860 Anchorage, general.
161.862 Emergency anchoring.
161.864 Unauthorized anchorage.
161.866 Anchoring of dredging, construction, or wrecking plants in channels.
161.868 Shifting anchorage under the direction of Soo Control.
161.870 Order of departure from anchorage.

Speed Rules

161.880 Maximum speed limits.
161.884 Temporary speed limits.
161.886 Minimum speed limit, through dredged channels.

Miscellaneous Rules

161.890 Rules for towing vessels.
161.894 Channel closure and special rules.

Authority: 92 Stat. 1471, (33 U.S.C. 1221 et seq., as amended); 49 CFR 1.46(n)(4).

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Subpart B—Vessel Traffic Service

St. Marys River Vessel Traffic Service

General Rules

§ 161.801 Purpose and applicability.

(a) Sections 161.800–899 prescribe rules for vessel operation in the St. Marys River Vessel Traffic Service (VTS) Area to prevent collisions and groundings, to protect improvements to the waterways, and to protect the navigable waters of the VTS Area from environmental harm.

(b) The General Rules in §§ 161.800–161.811, the Anchorage Rules in §§ 161.860–161.870, and the Miscellaneous Rules in §§ 161.890–161.894 apply to all vessels.

(c) The Communications Rules in §§ 161.820–161.844 and the Traffic Rules in §§ 161.850–161.856 apply only to the following vessels:

(1) Vessels over 20 meters (65 feet) in length, except fishing vessels of under 300 gross tons;

(2) Commercial vessels over 8 meters (26 feet) in length engaged in towing another vessel astern, alongside, or by pushing ahead; and

(3) Dredges and floating plants.

(d) The Speed Rules in §§ 161.880–161.886 apply only to vessels over 20 meters (40 feet) in length.

§ 161.803 Definitions.

As used in §§ 161.800–161.899—

"Area Engineer" means the local representative of the District Engineer who acts for that officer with respect to the St. Marys Falls Canal and the VTS Area. His office is located at the locks of the St. Marys Falls Canal.

"Captain of the Port, Sault Ste. Marie, Michigan" (COTP) means the officer of the U.S. Coast Guard assigned the duty of enforcing the VTS regulations.

"District Engineer" means the officer of the U.S. Army Corps of Engineers responsible for enforcing the regulations for the St. Marys Falls Canal and Locks (33 CFR 207.440). His office is at Detroit, Michigan. The movements of vessels in the St. Marys Falls Canal are under the direction of the District Engineer or his local representative.

"No Passing Zone" means an area where meeting, U-turns, or overtaking, are prohibited.

"Soo Control" means the shore-based facility that operates the St. Marys River VTS for the COTP.

"Vessel Traffic Service Area (VTS Area)" means the navigable waters of the United States in the St. Marys River and lower Whitefish Bay from latitude 45 57′ N. (De Tour Reef Light), to the south, to latitude 46 38.7′ N (Ile Parisienne Light), to the north, except the waters of the St. Marys Falls Canal. The waters of the VTS Area are delineated, to the east, from Potagannissing Bay and Worsley Bay by a line from La Pointe to Sims Point.

§ 161.804 Vessel operation in the VTS Area.

No person may cause or authorize the operation of a vessel in the VTS Area contrary to the rules in §§ 161.800–161.899.

§ 161.805 Laws, and regulations not affected.

Nothing in §§ 161.800–161.899 is intended to relieve any person from complying with—

(a) The Navigation Rules for the Great Lakes and their connecting and tributary waters (33 U.S.C. 241–295);

(b) Vessel Bridge-to-Bridge Radiotelephone Regulations (Part 26 of this chapter);

(c) Pilot Rules for the Great Lakes (Part 90 of this chapter);

(d) The Federal Boat Safety Act of 1971 (46 U.S.C. 1451–1489); and

(e) Any other laws or regulations.

§ 161.807 Soo Control Directions.

(a) During conditions of vessel congestion, full or partial channel obstruction, severe storms, reduced visibility, heavy ice, strong currents, low water, or similar hazardous circumstances in the VTS Area, Soo Control may issue directions specifying times when vessels may enter, move within or through, or depart from ports, harbors, reaches, channels, or other waters in the VTS Area.

(b) When by reason of ice or other special conditions, low powered vessels, vessels with one or more tows, or vessels of a particular construction cannot maintain their order of proceeding and will constitute a hazard to other vessels, Soo Control may temporarily refuse such vessels permission to enter or proceed in the river.

(c) The master of a vessel in the VTS Area shall comply with directions issued to him under this section.

§ 161.809 Authority to Deviate from these Rules.

(a) The Commander, Ninth Coast Guard District may, upon written request, issue an authorization to deviate from any rule in §§ 161.800–161.899 if that officer finds the proposed operation can be accomplished safely. Each written application for authorization must state the need for the authorization and describe how the proposed operation can be conducted safely.

(b) Soo Control may, upon verbal request, issue an authorization to deviate from any rule in this subpart, for a single voyage or part of a single voyage on which the vessel is embarked or about to embark. Such authorizations by Soo Control shall not be for an extended period of time nor shall they be granted for successive voyages.

§ 161.811 Emergency deviations.

In an emergency, any person may deviate from any provision in §§ 161.800 through 161.899 to the extent necessary to avoid endangering persons, property, or the environment.

Communications Rules

§ 161.820 Radio Listening watch.

The master of a vessel in the VTS Area shall continuously monitor Channel 16 (156.8 mhz) VHF–FM and be prepared to communicate with Soo Control on Channel 12 (156.6 mhz) VHF–FM.

§ 161.821 Frequency for routine reports.

Routine reports to Soo Control (including preliminary reports, initial reports, movement reports, and final reports) shall be made on Channel 12 (156.6 mhz) VHF–FM.

§ 161.822 Radiotelephone equipment.

Each report required by §§ 161.800–161.899 to be made by radiotelephone must be made using a radiotelephone that is capable of operation on the navigational bridge of the vessel, or in the case of a dredge, at its main control station.

§ 161.824 English language.

Each report required by §§ 161.800–161.899 must be made in the English language.

§ 161.826 Time.

Each report required by §§ 161.800–161.899 must specify time using:

(a) The zone time in effect in the VTS Area; and

(b) The 24-hour clock system.

§ 161.828 Initial report.

At least 15 minutes, but not more than 30 minutes, before a vessel enters into or gets underway within the VTS Area the master of the vessel shall report the following information to Soo Control:

(a) Name and draft of the vessel;

(b) Location and estimated time of entering or getting underway;

(c) The nature of any tow, including log booms or rafts;

(d) Destination; and

(e) Type of cargo.

§ 161.830 Movement reports.

Whenever a vessel passes a reporting point listed in § 161.834 or promulgated in accordance with § 161.836 or whenever a vessel within the VTS Area gets underway and begins to navigate, the master shall report the following to Soo Control:

(a) Name of the vessel; and

(b) The reporting point or the location.

§ 161.832 Final report.

Whenever a vessel anchors in, moors in, or departs from the VTS Area, the master shall report the place and time of anchorage or mooring or the location of departure to Soo Control.

§ 161.834 Permanent reporting points.

The following are permanent reporting points—

Upbound vessels	Reporting points	Downbound vessels
Initial Report	De Tour Reef Light.	Final Report.
Movement Report	Lake Munuscong Junction Buoy.	Movement Report.
	Oak Ridge	Movement Report.
Movement Report	Ninemile Point	Movement Report.
Movement Report	Six Mile Point	Movement Report.
Movement Report	Mission Point	Movement Report.
Movement Report	Leaving locks	Movement Report.
Movement Report	Brush Point	Movement Report.
Movement Report	Birch Point	Movement Report.
Final Report	Ile Parisienne Light.	Initial Report.

§ 161.836 Seasonal or temporary reporting points.

(a) Commander, Ninth Coast Guard District, may publish additional reporting points for use during the winter navigation season. These seasonal reporting points with their effective dates will be published in a Local Notice to Mariners. This information is also available from Soo Control.

(b) Captain of the Port Sault Ste. Marie may publish additional reporting points as temporary navigation conditions may require. These temporary reporting points with their effective times will be published by Broadcast Notice to Mariners and will be available from Soo Control.

§ 161.838 Transit of Canadian waters.

Vessels which have already reported to Soo Control shall not make a Final Report or an Initial Report when departing or reentering the VTS Area for a brief transit of Canadian waters.

§ 161.840 Radio failure.

Whenever a vessel's radiotelephone equipment fails—

(a) The master shall, if practical to do so, notify Soo Control.

(b) The master is not required to moor or anchor the vessel for this reason alone, but the master shall give due consideration to this loss of capability and navigate with extraordinary caution;

(c) Compliance with respect to §§ 161.820 and 161.830 is not required; and

(d) Compliance with respect to §§ 161.828, 161.829, and 161.832 is not required unless the required reports can be made by telephone.

§ 161.842 Report of impairment or other hazard.

The master of any vessel in the VTS Area shall report to Soo Control as soon as possible:

(a) Any condition on the vessel that may impair its navigation, such as fire, defective propulsion machinery, or defective steering equipment;

(b) Any tow that the towing vessel is unable to control, or can control only with difficulty; and

(c) Any grounding, striking of obstruction, or striking of an aid to navigation, whether in or out of the channel.

Note.—The master of any vessel in the VTS Area is encouraged to report to Soo Control as soon as possible:

(a) Any locations where the visibility is less than one mile; and

(b) Any obstruction of a channel, grounded vessels, malfunctioning aid to navigation, or other hazardous or dangerous situation which has not been published by Notice to Mariners or Broadcast Notice to Mariners.

§ 161.844 Ferry vessels.

The master of any ferry vessel operating in the VTS Area which is operating in accordance with a route and schedule which has been provided to Soo Control, need not comply with §§ 161.828, and 161.832.

Traffic Rules

§ 161.850 One way traffic—normal conditions.

Under normal conditions, two-way traffic will be permitted in all channels except the following:

(a) West Neebish Channel from buoy 53 to buoy 1 shall be used only by vessels proceeding in a downbound direction;

(b) Middle Neebish Channel from buoy 2 to buoy 76 shall be used only by vessels proceeding in an upbound direction;

(c) Pipe Island Course from Sweets Point to Watsons Reef light shall be used only by vessels proceeding in a downbound direction; and

(d) Pipe Island Passage to the east of Pipe Island Shoal and north of Pipe Island Twins from Watsons Reef Light to Sweets Point shall be used only by vessels proceeding in an upbound direction.

§ 161.852 Meeting or overtaking in channels.

(a) No vessel 100 meters (350 feet) or greater in length shall overtake or approach within one quarter of a statute mile (0.2 nautical miles) of a vessel proceeding in the same direction when in the following channels:

(1) West Neebish Channel between Ninemile Point and Lake Munuscong Junction Buoy;

(2) Middle Neebish Channel between Lake Munuscong Junction Buoy and Ninemile Point; and

(3) Little Rapids Cut from Six Mile Point to Buoy 102.

(b) In addition to paragraph (a) of this section, when two-way traffic is permitted in Middle Neebish Channel, no vessel 100 meters (350 feet) or greater in length shall meet or overtake another vessel in the vicinity of:

(1) Johnson Point from Buoy 18 to Buoy 22;

(2) Mirre Point from Buoy 26 to Buoy 28; and

(3) Stribling Point from Buoy 39 to Buoy 43.

(c) This section does not apply when navigating through ice fields.

§ 161.854 Winter navigation.

(a) During the winter navigation season West Neebish Channel (from Buoy 53 to Buoy 1) and Pipe Island Passage to the east of Pipe Island Shoal and north of Pipe Island Twins (from Watson Reef Light to Sweets Point) normally will be closed to traffic. The COTP will close or open these channels as ice conditions dictate after giving due consideration to: the protection of the marine environment, the protection of waterway improvements and aids to navigation, the need for cross channel traffic (e.g. ferrys), the availability of icebreakers, and the safety of island residents who, in the course of their daily business, must use naturally formed ice bridges for transportation to and from the mainland. Under normal seasonal conditions only one closing each winter and one opening each spring are anticipated. Prior to closing or opening these channels, the COTP will give interested parties, including both shipping interests and island residents, not less than 72 hours notice.

(b) When West Neebish Channel is closed, Middle Neebish Channel (from Buoy 2 to Buoy 76) will either be opened to a two-way traffic or open to one-way traffic in alternate directions. When two-way traffic is authorized in Middle Neebish Channel, all upbound vessels will use the easterly 60 meters (197 feet) of the channel and all downbound vessels will use the westerly 91 meters (295 feet) of the channel. When two-way traffic is authorized in Middle Neebish Channel, upbound vessels drawing more than 20 feet shall not proceed past Buoy 2 unless specifically authorized by Soo Control. When one-way traffic in alternate directions is authorized in Middle Neebish Channel, all vessels will use the westerly 91 meters (295 feet) of the channel.

(c) When Pipe Island Passage is closed, Pipe Island Course will be open to two-way traffic.

Ancohorage Rules

§ 161.860 Anchorage, General.

Vessels shall not be anchored so as to swing into the channel limits or across charted steering courses.

§ 161.862 Emergency anchoring.

In an emergency a vessel may anchor in a dredged channel. Such vessels shall anchor as near the edge of the channel as possible and shall get underway as soon as the emergency ceases, unless otherwise directed. Soo Control must be advised of any emergency anchoring as soon as possible.

§ 161.864 Unauthorized anchorage.

No vessel shall anchor at any time in the area southward of the Point Aux Pins Range between Brush Point and the waterworks intake crib off Big Point or within a quarter of a statute mile (0.2 nautical miles) of the intake crib in any direction.

§ 161.866 Anchoring of dredging, construction, or wrecking plants in channels.

Dredging, construction, or wrecking plants may be permitted to anchor or moor in the channel under such conditions as the COTP deems appropriate to protect the safety of navigations.

§ 161.868 Shifting anchorage under direction of Soo Control.

Soo Control may direct any anchored vessel to shift anchorage whenever such action is deemed necessary for the safety of vessels, the safe or expeditious passage of shipping, or the preservation or effective operation of Government installations.

§ 161.870 Order of departure from anchorage.

Vessels collected in any part of the VTS Area by reason of temporary closure of a channel or an impediment to navigation shall get underway and depart in the order in which they arrived, unless otherwise directed by Soo Control. Soo Control may advance any vessel in the order of departure to expedite the movement of mails, passengers, cargo of a perishable nature, facilitate passage of vessels through any channel by reason of special circumstance, or to facilitate passage through the St. Marys Falls Canal.

Speed Rules

§ 161.880 Maximum speed limits.

The following speed limits indicate speed over the ground.

The speed limit between—	Speed (miles/hr)	Limit (knots)
De Tour Reef Light and Sweets Point Light	14	12.2
Round Island Lt. and Point Aux Frenes Lt.	14	12.2
Munuscong Channel Buoy 8 and Everens Point	12	10.4
Everens Point and Reed Point	9	7.8
Reed Points and Lake Nicolet Lighted Buoy 9	10	8.7
Lake Nicolet Lighted Buoy 62 and Ninemile Point Lt.	12	10.4
Ninemile Point Lt. and Winter Point (West Neebish Channel)	10	8.7
Ninemile Point Lt. and Six Mile Point Lt.	10	8.7
Six Mile Point and Lower Limit of the St. Marys Falls Canal:		
Upbound	8	7
Downbound	10	8.7
Upper Limit of the St. Marys Falls Canal and Point Aux Pins Main Light	12	10.4

§ 161.884 Temporary speed limits.

The Commander, Ninth Coast Guard District may establish temporary speed limit regulations in the VTS area, including amendments to the speed limits under section 161.880 of this part. The temporary speed limits established by the Commander, Ninth Coast Guard District are published in the **Federal Register** and in the Notice to Mariners.

§ 161.886 Minimum speed limit through dredged channels.

No vessel may make regular passage through any dredged channel at a speed of less than 5 statute miles per hour (4.3 knots) over the ground. Any craft which cannot maintain this speed shall not enter any of the channels until permission has been granted by Soo Control.

Miscellaneous Rules

§ 161.890 Rules for towing vessels.

(a) Towing vessels shall not drop their tows or otherwise leave them unattended south of Gros Cap Reef Light.

(b) Towing vessels engaged in shortening or lengthening tows, dropping or making up tows, transferring stores or cargo from boats alongside, or waiting, shall stand clear and allow unobstructed passage to other vessels.

(c) Vessels of less than 61 meters (200 feet) in length shall not be towed with more than 76 meters (250 feet) of tow line. Vessels of 61 meters (200 feet) or more shall not be towed with a tow line longer than the length of the vessel plus 15 meters (50 feet).

§ 161.894 Channel closure and special rules.

Should channel obstructions or other conditions of unusual hazard so require, the COTP may order the closing of a channel, designate additional no overtaking zones or areas of one-way traffic, or establish other temporary traffic rules. Should a channel be closed, vessels transiting in the direction of the closed channel shall make preparations to be able to immediately anchor.

(92 Stat. 1471, (33 U.S.C. 1221 et. seq., as amended); 49 CFR 1.46(n)(4))

Dated: December 29, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 81-117 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-14-M

POSTAL RATE COMMISSION

39 CFR Part 3001

Annual Review of Rules of Practice; Notice of Postponement

December 23, 1980.

AGENCY: Postal Rate Commission.

ACTION: Notice of Postponement.

SUMMARY: The Commission serves notice that it is postponing initiation of its annual review of its rules of practice from the normal commencement date of December 1, 1980, to the month of March, 1981, as authorized by its final plan for implementing Executive Order No. 12044 (43 FR 12661; March 24, 1978) published in the **Federal Register** on January 12, 1979 (44 FR 2606-08).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel; Postal Rate Commission, Suite 500; 2000 L Street, N.W.; Washington, D.C. 20268; Telephone 202-254-3824.

SUPPLEMENTARY INFORMATION: The Commission's plan for implementation of Executive Order No. 12044, under which an annual review of the Commission's rules of practice is conducted for the purpose of identifying and putting into effect any needed improvements, calls for initiation of the annual review on or about December 1 of each year. Foreseeing that other business might at times interfere with the maintenance of this schedule, the Commission provided in setting up the plan that

> * * * When it is necessary to depart by more than a few days from the schedule given in the plan, the Commission will publish notice of the fact, setting forth the reasons for the departure.

44 FR 2607 (January 12, 1979).

At the present time, the Commission has before it a general rate increase proposal by the Postal Service. This case has proceeded according to schedule, and the Commission anticipates completing it within the 10 months contemplated by the Postal Reorganization Act [39 U.S.C. 3624(c)(1)]. In order to do so, it will, however, be necessary to employ our staff resources so substantially on issues in the rate proceeding as to preclude work on the annual review. The rate proceeding, under the statutory schedule, should terminate with the issuance of a Recommended Decision in late February 1981. Accordingly, the Commission hereby notifies all interested persons that it contemplates issuing the initial document (Advance Notice of Proposed Rulemaking) in the E.O. 12044 procedure by the end of March 1981.

David F. Harris,

Secretary.

[FR Doc. 80-40610 Filed 12-31-80; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1717-4]

Approval and Promulgation of Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979. On April 9, 1980, EPA conditionally approved certain elements of Missouri's plan (45 FR 24140). On December 16, 1980, the State submitted documentation for the purpose of fulfilling one of these conditions. This condition involves a requirement that the State submit a report outlining an inspection/maintenance (I/M) program for vehicle emissions control.

The purpose of this notice is to advise the public that the State of Missouri has made a submission involving this condition. EPA is reviewing the material submitted and intends to issue a notice of proposed rulemaking after the review is complete. Until final action is published in the **Federal Register**, the conditional approval of the SIP is being continued.

ADDRESSES: Copies of the State submission are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri, 64106.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Room 2922, Washington, D.C. 20460.

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101.

East-West Gateway Coordinating Council, 112 North Fourth Street, St. Louis Missouri 63102.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374-3791 (FTS) 758-3791.

SUPPLEMENTARY INFORMATION: On April 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of that action can be found in the **Federal Register** notice published on that date (45 FR 24140).

One of the conditions promulgated by EPA requires the State of Missouri to report to EPA no later than December 1, 1980, the recommended type of I/M program for vehicle emissions control including stringency factor, vehicle test mix, program resources and justification. The report is to be submitted to the Missouri General Assembly for its review.

The public is advised that the State has made a submission. EPA is reviewing the material to determine if it complies with the requirements of the Clean Air Act and the condition promulgated by EPA. A notice of proposed rulemaking will be issued after EPA completes a review of the submission. EPA's conditional approval of the Missouri SIP is being continued until final action on the submittal is published in the **Federal Register.**

Dated: December 23, 1980.

William Rice,

Acting Regional Administrator.

[FR Doc. 81-111 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 52

[A-2-FRL 1717-5]

Approval and Promulgation of Implementation Plans; Proposed Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of New Jersey to revise its State Implementation Plan (SIP). If approved by the Environmental Protection Agency, this revision will incorporate into the SIP an Amended Consent Judgment that requires the Atlantic City Electric Company's unit 1 and unit 2 at its B.L. England Generating Station to comply with applicable particulate emission requirements by March 31, 1982 and June 1, 1982, respectively. Current requirements promulgated at 40 CFR 52.1604(b) require compliance by June 1, 1981.

DATES: Comments must be received on or before March 6, 1981.

ADDRESSES: All comments should be addressed to: Charles S. Warren, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during business hours at:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, Room 1108, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264-2517.

SUPPLEMENTAL INFORMATION:

I. Background

On July 6, 1978 the State of New Jersey submitted to the Environmental Protection Agency (EPA) two proposed revisions to its State Implementation Plan (SIP). One of the revisions involved a substantive change in the State's

"Sulfur in Coal" regulation, N.J.A.C. 7:27–10.1 *et seq.*, which permitted a temporary increase to 3.5 percent, by weight, in the allowable sulfur content of bituminous coal burned at existing steam or electric power generating facilities in Atlantic, Cape May, Cumberland, and Ocean Counties. This use of this higher sulfur coal could be authorized by the State for a period not exceeding five years.

This revision request was approved by EPA on December 15, 1978 at 43 FR 58567 and had the effect of allowing the Atlantic City Electric Company to use bituminous coal with a sulfur content not to exceed 3.5 percent, by weight, at units 1 and 2 of its B.L. England Generating Station in Beesley's Point, Cape May County.

The December 15, 1978 EPA approval notice also dealt with a State request to temporarily relax the particulate matter emission limitation applicable to these two units of the B.L. England Generating Station. In order to allow more efficient particulate matter control equipment to be installed, as a part of a Consent Judgment between the utility and the New Jersey Department of Environmental Protection, the emission limitation of 0.1 lbs/million BTU applicable to these units was relaxed to 0.5 lbs/million BTU until June 1, 1981. A Federal requirement to this effect was promulgated at 40 CFR 52.1604(b) on December 15, 1978 (43 FR 58567) and underwent minor correction on March 12, 1979 (44 FR 13478). Today's notice deals with this particulate matter control requirement on units 1 and 2 of the B.L. England plant.

II. Current Submittals

On June 30, 1980, the State of New Jersey submitted to EPA as a proposed revision to its SIP an Amended Consent Judgment which, if approved by EPA, would extend from June 1, 1981 until March 31, 1982 and June 1, 1982, respectively, the dates by which units 1 and 2 of the Atlantic City Electric Company's B.L. England Generating Station must comply with a 0.1 lbs/million BTU particulate matter emission limitation. Today's proposed SIP revision has the effect of revising an earlier Consent Judgment and the Federal requirement which, as discussed, requires units 1 and 2 to comply by June 1, 1981.

The State's SIP revision, including the fully executed Amended Consent Judgment was submitted in accordance with all EPA requirements under 40 CFR Part 51. These include the need for a public hearing, which was held by the State on March 7, 1980.

The Amended Consent Judgment between the Atlantic City Electric Company and the New Jersey Department of Environmental Protection (NJDEP), provides a revised compliance schedule for controlling particulate matter emissions from units 1 and 2 at the B. L. England Generating Station. The original Consent Judgment involved the installation of new electrostatic precipitators at units 1 and 2 at the site of existing precipitators. This plan, if implemented, would have required the temporary termination of coal burning at these units and a return to oil burning while the existing precipitators were being dismantled and until the new precipitators were installed and became operational. This conversion to oil would have been necessary in order to avoid a large increase in particulate matter emissions.

To obviate the need to burn oil, a new construction plan was prepared and forms the basis of the Amended Consent Judgment. This plan would stage the construction of the two new electrostatic precipitators, allowing unit 1 to use the new precipitator built for unit 2 while the existing inadequate precipitator at unit 1 was being dismantled. It is the use of a sequential construction schedule which results in the delay. It should be noted also, that at no time will the emissions of particulate matter exceed the previously approved emission limitation of 0.5 lbs/million BTU.

EPA notes that while the alteration of emission limitation requirements applicable to the Atlantic City Electric Company's B. L. England Station may not be approved by EPA as a compliance order, Section 110(a)(3) of the Clean Air Act allows a State to relax emission limitation requirements, as long as such relaxations do not jeopardize the attainment and maintenance of national ambient air quality standards. Since both the primary and secondary standards for particulate matter are being met in the area in which the B. L. England Station is located, and the continued imposition of the less stringent particulate emission limitation of 0.5 lbs/million BTU proposed in this rulemaking will not change the attainment status of the area, approval of such new emission limitations is not inconsistent with Section 110 of the Clean Air Act. Furthermore, the affected units are not subject to the provisions of the Prevention of Significant Deterioration regulations since both units were emitting no more than 0.5 lbs/million BTU of particulate matter prior to August 7, 1977. In keeping with the intent of the Amended Consent Judgment, EPA proposes to require the return to the more stringent emission limitation of 0.1 lbs/million BTU at unit 1 by March 31, 1982 and unit 2 by June 1, 1982.

Based upon EPA's review of the Amended Consent Judgment, EPA proposes to approve the State's SIP revision submittal. However, EPA's proposed approval of this SIP revision does not make the compliance schedules contained in the Amended Consent Judgment federally enforceable and the Company's failure to comply with such incremental requirements prior to the final date at which the more stringent emission limitations must be met will not trigger noncompliance penalties under Section 120 of the Clean Air Act.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New Jersey State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110(a)(2)(a)–(k) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sections 110, 301, Clean Air Act, amended (42 U.S.C. 7410, 7601))

Dated: December 22, 1980.

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 81–105 Filed 1–2–81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-3-FRL 1719-3]

Maryland Application for Interim Authorization, Phase I; Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region III.

ACTION: Public Comment Period Extension.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the Federal

Register on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today, EPA is announcing the availability for public review of the Maryland application for Phase I Interim Authorization, inviting public comment, and giving notice of a Public hearing to be held on the application. A previous notice was published in the December 4, 1980, **Federal Register** stating that public comment must be received by January 15, 1981. That date has been changed to January 23, 1981 to allow the public to review minor revisions to Maryland's application and organizational changes in Maryland's Emergency Regulations subsequently published in Maryland's Register on December 19, 1980. The revised authorization application will be made available for public inspection at the EPA Public Hearing. A two-week period beyond the public hearing will allow opportunity for written comments to be submitted to EPA, and should not substantially delay a final decision on Maryland's application.

DATE: Comments on the Maryland Interim Authorization application must be received by January 23, 1981.

PUBLIC HEARING: EPA will conduct a Public hearing in the Maryland Interim Authorization application 7 p.m. on Thursday, January 8, 1981. EPA reserves the right to cancel the Public hearing if significant pubic interest in a hearing is not expressed. The State of Maryland will participate in any Public hearing held by EPA on this subject.

ADDRESSES: Copies of the Maryland Interim Authorization application are available at the following addresses for inspection and copying by the public:

Dept. of Health & Mental Hygiene, Waste Management Enforcement Program, 2nd Floor—O'Connor Building, 201 West Preston Street, Baltimore, Maryland 21201

Office of Environmental Programs, Failinger Complex, Route 8 & Naves Crossroad, Cumberland, Maryland 21502

Wicomico County Health Dept., 300 West Carrol Street, Salisbury, Maryland 21801

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460

U.S. EPA, Region III, Library, 2nd Floor, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106

Written comments should be sent to: Robert L. Allen, Chief, Air, Toxics & Hazardous Materials Branch (3AH30), U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106

The Public hearing will be held at: Loch Haven Senior High School Auditorium, Cromwell Bridge Road & Cowpens Road, Baltimore, Maryland 21234.

FOR FURTHER INFORMATION CONTACT: Robert L. Allen, U.S. EPA, Air, Toxics & Hazardous Materials Division (3AH30), 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of Interim Authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980 and

(2) submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase I Interim Authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant interest is not expressed.

A. R. Morris,

Acting Regional Administrator.

[FR Doc. 81-169 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF ENERGY

41 CFR Part 9-15

Cost Principles Applicable to Commercial Organizations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The proposed rule revises the Department of Energy cost principles for bid and proposal (B&P) cost and independent research and development (IR&D) cost as applicable to commercial organizations. The basis for the change is to provide for more uniformity with the IR&D concepts introduced by the Cost Accounting Standards Board, the IR&D/B&P rules followed by the Department of Defense and the National Aeronautics and Space Administration, and DOE management of IR&D/B&P costs allocable to DOE contracts.

DATE: Comments must be received on or before February 4, 1981.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Division (PR-222), Mail Stop IJ-009, Forrestal Building, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Mr. G. L. Allen, Policy and Procedures Division (PR-222), Procurement and Assistance Management Directorate (202) 252-8179.

Robert L. Forst, Attorney, Office of Assistant General Counsel for Procurement and Financial Incentives (GS-44), Office of the General Counsel (202) 252-1526.

SUPPLEMENTARY INFORMATION:

I. Background
II. Statutory and Regulatory Requirements
III. Public Comments

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as "the Act") (Pub. L. 95-91, 91 Stat. 565, 41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. Accordingly, the Department of Energy Procurement Regulations (DOE-PR) were promulgated with an effective date of June 30, 1979 (see 44 FR 34424). The proposed rule revises those DOE-PR sections applicable to commercial cost principles for bid and proposal and independent research and development costs. Significant changes included in the proposed rule:

(1) Deleting the requirement for development cost to be allocated over its related line of business or field of research and providing for allocation to all business.

(2) Providing a formula for determining reasonable bid and proposal expense in lieu of a historical arithmetic average.

(3) Providing a formula for determining reasonable IR&D expense.

(4) Providing for mandatory negotiation of advance ceilings of IR&D and B&P where such costs to be paid by the DOE exceed established thresholds.

(5) Adopting the accounting and allocation criteria of the Cost Accounting Standards Board.

(6) Providing for a certification of those IR&D projects believed relevant to the Department of Energy mission.

II. Statutory and Regulatory Requirements

Pursuant to section 501 of the Act (42 U.S.C. 7191) relating to the opportunity for oral presentations on proposed regulations, the Department has determined that no substantial issue of fact or law exists and that this DOE-PR regulation and revision thereto are unlikely to have a substantial impact on the Nation's economy, or large numbers of individuals or businesses. Accordingly, public hearings relating to this DOE-PR regulation will not be held. However, all written comments received by the Department in response to this proposed regulation will be carefully assessed and fully considered in the formulation of the final DOE-PR.

Note.—The Department has determined that the regulation will not affect the quality of the environment and that the requirements of Section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

III. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to the proposed DOE-PR revisions set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with a designation "Proposed Amendments—Department of Energy Procurement Regulations." All written comments received will be carefully assessed and fully considered prior to publication of the amendment as a final regulation.

For the reasons set out in the preamble, Part 9 of Title 41 CFR of the Code of Federal Regulations is proposed to be amended as set forth below.

Dated: December 24, 1980.

For the Department of Energy.

Berton J. Roth,

Deputy Director, Procurement and Assistance Management Directorate.

(Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254))

41 CFR Chapter 9 is proposed to be amended to read as follows:

PART 9-15 CONTRACT COST PRINCIPLES AND PROCEDURES

§ 9-15.205.3 [Revised]

By deleting the entire text of the section and substituting the following therefor: A contractor's bidding costs are allowable in accordance with the provisions in § 9-15.205-35 of this Part 9-15.

§ 9-15.205.35 [Revised]

By deleting the title and entire text of the section and substituting the following therefor:

§ 9-15.205-35 Independent research and development (IR&D) and/or bid and proposed (B&P) Costs

(a) *Definitions.* For the purpose of this § 9-15.205-35:

(1) The term "Independent research and development" (IR&D) means those company research and development efforts which are not (i) sponsored by outside sources or (ii) required in performance of a contract, grant, or cooperative agreement.

(2) The term "Research" means:

(i) "Basic research" which is the systematic, intensive study directed toward greater knowledge and understanding of the subject studied; or

(ii) "Applied research" which is the systematic study directed specifically toward applying new knowledge to meet a potential or recognized need. As intended herein, attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques, and attempts to advance the state of the art are efforts of applied research.

(3) The term "Development" means the systematic application and use of scientific and technical knowledge directed toward the design, development, test, and evaluation of useful materials, devices, systems, and operations for potential new products or services or improvement in an existing product or services to meet specific requirements.

"It includes technology development, concept and demonstration development, and full-scale development.

(i) "Technology development" is the systematic application of knowledge toward proof of technology, including development of nonspecific application prototypes and processes.

(ii) "Concept and demonstration development" is the systematic application of knowledge toward identification of solutions to meet specific requirements, including development of specific application prototypes and processes.

(iii) "Full-scale development" is the systematic application of knowledge toward production of useful materials, devices, systems, or methods, including design, development, and improvement of equipment and processes to meet specific requirements.

(4) The term "Bid and proposal (B&P) expense means the cost of those efforts incurred in preparing, submitting, and supporting bids and proposals (whether or not solicited) for Government or non-Government businesses. It includes the cost of:

(i) Administrative efforts, including the nontechnical effort for the physical preparation of technical proposal documents, and the technical and nontechnical effort for the preparation and publication of the cost data and other administrative data necessary to support a business organization's bids and proposals.

(ii) Technical efforts incurred to specifically support a bid or proposal, including the costs of system and concept formulation studies and the development of engineering and production engineering data.

(5) The term "business organization" includes all segments (i.e., divisions, subsidiaries, affiliates, or business units) of a business entity under a common control.

(6) The term "business unit" means any segment of an organization or an entire business organization which is not divided into segments.

(7) The term "segment" means one of two or more divisions, plants, product departments, or other subsidiaries reporting directly to a home or corporate office and usually identified with responsibility for profit and/or producing a product or service.

(8) The term "home office" means an office responsible for directing or managing two or more, but not necessarily all, segments of an organization. It typically establishes policy for, and provides guidance to the segments in their operations. It usually performs management, supervisory, or administrative functions, and may also perform service functions in support of the operations of the various segments.

(b) *Allowability.* (1) The costs for administrative and technical efforts incurred for (i) independent research and development and/or (ii) preparing, supporting, and submitting bids and proposals of a business organization, which are not separately identified and classified as IR&D/B&P expenses within its business unit's or segment's established accounting systems, shall be allowable in accordance with the general principles of FPR 1–15.2 as implemented and supplemented by the DOE regulations in this Subpart 9–15.2, provided they are treated as indirect costs, allocated to all business of the business unit or segment incurring such costs, and the total to be allocated does not exceed $25,000 on either an organization, business unit, or segment basis. Where such costs exceed this limit, they shall be unallowable unless separately accounted for and determined to be reasonable in accordance with the requirements of this section.

(2) The cost of IR&D/B&P which are separately identified and classified as such shall be allowable and recoverable in DOE contracts in accordance with paragraph (f) of this section provided the costs are measured and accounted for as described in paragraph (c) of this section, are reasonable in amount as determined in paragraph (d) of this section, and are allocated in accordance with paragraph (e) of this section.

(3) Allowability of IR&D/B&P as defined and provided for herein is not applicable to contracts covering operation of Government-owned/leased facilities, or other cost-type contracts that require the use of DOE cost principles set forth in DOE–PR 9–50.15.

(c) *Accounting for IR&D/B&P.* (1) The basic unit for the identification and accumulation of IR&D/B&P cost shall be the individual IR&D/B&P project. However, when the costs of individual IR&D/B&P efforts are not material in amount (less than $25,000 per project) these costs may be accumulated in one or more projects within each of these two types of efforts.

(2) IR&D/B&P project costs shall be accumulated into IR&D/B&P cost pools. The IR&D/B&P cost pools for a business unit or segment shall consist of that segment's IR&D project costs benefiting only that segment, plus (i) the allocable home office or corporate IR&D/B&P costs, and (ii) those IR&D/B&P costs that may be allocated directly to it from another segment.

(3) B&P cost incurred in a given cost accounting period is not assignable or deferrable to any other cost accounting period for recovery in DOE contracts.

(4) IR&D cost incurred in a cost accounting period shall not be assigned to any other cost accounting period for recovery in DOE contracts except as may be permitted pursuant to provisions of existing laws, regulations, or other controlling factors.

(5) IR&D/B&P programs or efforts shall be treated as if they were a final cost objective. The IR&D/B&P project cost shall include, as if it were a direct cost, the cost for administrative and technical efforts incident to its performance. IR&D/B&P costs shall also include an allocable portion of allowable indirect costs (i.e., productive overhead and any other indirect costs) related to the project, allocated in accordance with generally accepted accounting principles or, where required, Government cost accounting principles and standards for allocation of indirect costs. Allowable IR&D/B&P project costs shall not include allocations of general and administrative expenses.

(d) *Reasonableness.* A determination of reasonableness shall be made as follows:

(1) Through negotiation of advance ceilings, when required as specified in paragraph (g) of this section establishing maximum dollar amounts of allowable (reasonable) cost for allocation to all work.

(2) By application of a formula, computed as described in paragraph (h) of this section.

(e) *Allocation.* (1) IR&D/B&P cost properly accumulated in a segment's or business unit's IR&D/B&P cost pools shall be recoverable as a cost under DOE contracts only if it is allocated to DOE contracts with that segment or business unit, as if it were an indirect expense. Allocations must be made on the same allocation base as used in allocating the general and administrative (G&A) expense grouping, of that business unit or segment in which the IR&D/B&P costs are incurred, to its Government contracts.

(2) Where the use of the G&A base for allocation of IR&D/B&P expense to final cost objectives does not provide an equitable allocation or distribution to a particular DOE contract or all of DOE's contracts, the DOE awarding activity may approve use of a different base for DOE contracts, or otherwise provide for a special allocation to DOE final cost objectives commensurate with the benefits received unless otherwise prohibited by applicability of Cost Accounting Standards Regulations, or other authority. The amount of any particular special allocation pursuant to such a agreement shall be excluded from the IR&D/B&P cost pools to be allocated to other DOE final cost objectives; and the particular cost objective base data shall be excluded from the base of allocate these pools.

(3) The cost of any work performed by one segment for another segment shall not be accounted for as IR&D/B&P cost of the performing segment unless the work is part of an IR&D or B&P project of the performing segment. The cost of such work shall be allocated directly to the benefiting segment or transferred to a home office for allocation to its segments. Direct allocation to the benefiting segment is allowed provided that such allocation is not substantially different from the allocation that would be made were it first allocated to a home office and reallocated to the benefiting segment.

(4) IR&D/B&P project costs accumulated at a home office or corporate office shall be directly allocated (for assignment to cost objectives) to any specific segment or business unit, where such costs are directly identified with that segment. The cost of all other IR&D/B&P projects accumulated at a home or corporate office shall be allocated among all segments by means of the same base used to allocate its other residual home or corporate office expenses. However, where a segment receives significantly more or less benefit from the IR&D/B&P projects than will be reflected by the allocation of their cost using this base, a special allocation may be agreed upon commensurate with the benefits received. The amount of any such special allocation shall be excluded from the pools to be allocated to other segments, and the base data of any such segment shall be excluded from the base used to allocate these pools.

(5) Where the allocable IR&D/B&P costs are established by negotiation, the memorandum of agreement shall specify the allocation procedure and base for assignment of cost to DOE contracts.

(f) *Recovery of Cost.* (1) The total amount of annual IR&D costs recoverable under all DOE contracts with a single organization, business unit, or segment shall not exceed (i) those contracts' allocable share of the appropriate (organization, business unit, or segment) allocable IR&D amounts, or (ii) the total cost of the organization's, business unit's, or segment's (as is appropriate) annual IR&D activities determined to have a potential benefit or relationship to the DOE program, whichever is less.

(2) For those contracts that do not provide for final cost determinations on a historical or "after-the-fact basis," the IR&D benefit requirement will be considered to have been met if the estimated IR&D cost allocated to any contract does not exceed its proportional share of the total estimated cost of IR&D with a potential benefit to DOE.

(3) The maximum amount of B&P expense which is recoverable under DOE contracts with an organization, business unit, or segment shall be those contracts' share of the allocable B&P expense computed in accordance with paragraphs (d) and (e) of this section.

(4) The organization, business unit, or segment shall submit no later than 90 days after the close of the cost accounting period for which IR&D shall be claimed for reimbursement under DOE contracts, a written statement identifying those IR&D projects and the cost incurred therefor for those IR&D projects it believes to be of benefit to the DOE program and so certify by use of the certificate described in paragraph (k) of this section. This certified amount shall normally be used to establish the threshold(s) of cost to be recovered in accordance with paragraph (f)(1) of this section. However, notwithstanding the provisions of this paragraph, the DOE reserves the right to make the final decision as to benefit to the DOE program.

(5) No IR&D/B&P cost shall be recoverable under a DOE contract if negotiation of a required advance ceiling agreement is not initiated prior to the end of the fiscal year for which the agreement is required.

(6) For purposes of this paragraph, the term "DOE program" encompasses the DOE total mission and its objectives. However, IR&D costs that exceed the benefit threshold at one business unit or segment of a business organization cannot be used to offset IR&D costs that are less than the benefit threshold of another segment or business unit.

(g) *Advance Agreements.* (1) Any business organization which, during its most recent completed fiscal year, receives from the DOE conjunctive IR&D and B&P payments, either as a prime contractor or subcontractor, which are in excess of $4 million, shall be required to initiate and negotiate with the DOE an advance agreement(s) that establishes a separate ceiling, i.e., one each, for the allocable IR&D/B&P cost to be recovered in DOE contracts with that organization for the following fiscal year. Prior to the elapse of 6 months of any fiscal year where no such requirement exists and DOE payments during tht period exceed the $4 million threshold, an advance agreement shall also be required for allowability of IR&D/B&P costs for that year.

(2) When a business organization meets the criteria for negotiation of advance ceilings, the ceilings may be negotiated at the home office level, corporate level, and/or with those business units or segments which contract directly with the DOE and which in the preceding year allocated recoverable IR&D/B&P expense of $500,000 or more to contracts and subcontracts for which submission and certification of cost or pricing data was required. When ceilings are negotiated for separate business units or segments, the ceiling limits of allocable IR&D/B&P cost for any activity, which in its previous fiscal year did not reach the $500,000 threshold, may be determined in accordance with the formula approach.

(3) When negotiations of advance ceilings are required and negotiations were initiated but (i) no agreement of an acceptable ceiling can be reached, and/or (ii) negotiations have not established a ceiling prior to the end of the fiscal year for which compliance is required, negotiations shall be immediately terminated and the DOE negotiating activity shall establish allocable/allowable amounts. The amount of such a determination shall not be less than an amount which, in the opinion of the DOE contracting activity, the organization or business unit should be entitled to receive under a negotiated ceiling and/or the DOE benefit threshold. Written notification of the determination of amount shall be furnished the contractor.

(4) Business organizations that meet the threshold in (g)(3) of this section shall submit their request for negotiations, together with supporting technical and financial documentation, in accordance with guidance furnished by the DOE contracting officer.

(h) *Formula Application.* (1) Reasonable (allocable) IR&D/B&P costs for business organizations not required to negotiate advance agreements, except as specified in paragraph (h)(3) of this section, shall be determined on a historical or "after the fact" basis for an organization, business unit, or segment, using the technique in (h)(2) of this section.

(2) IR&D/B&P costs shall be considered reasonable for the current year if the costs are not in excess of 120 percent of the product of the organization, business unit, or segment's actual total sales (or other accepted base) for the current year and the historical IR&D/B&P ratio(s) computed under (h)(2)(i) of this section. If the product is less than 80 percent of the average as computed under (h)(2)(ii) of this section costs up to 80 percent of the average shall be considered as reasonable. The historical ratio(s) and average are computed as follows:

(i) Determining separately the ratio of IR&D/B&P costs to total sales (or other base acceptable to the contracting officer) for each of the preceding 3 years and averaging the two highest of these ratios (this is called the historical ratio);

(ii) Computing separately the average annual IR&D/B&P costs (herein called "the average"), using the two highest of the preceding 3 years.

(3) At the discretion of the contracting officer, the reasonableness (allocability) of IR&D/B&P costs may be negotiated when the contractor can demonstrate that the formula would produce an inequitable cost recovery. Such negotiations may be "after-the-fact" or prior to incurrence of the cost.

(4) Where no DOE advance negotiation is required to establish reasonableness, but an advance ceiling requirement for allowability of IR&D exists due to other Government agency regulations, and such an agreement has been executed by that activity for the current year, that agreement may be recognized as meeting the reasonableness criterion of paragraph (d)(2) of this section and application of the formula need not be applied.

(i) *IR&D/B&P Interchangeability.* Due to the similarity of IR&D/B&P regarding concept and system studies and the development of engineering and production engineering data, the allowable IR&D for allocation and recovery may exceed the required ceiling, provided the B&P ceiling provision is reduced by the same amount. Notwithstanding this provision, the recoverable IR&D amounts are still governed by Paragraph (f) of this section. B&P shall not exceed the required ceiling.

(j) *Appeals.* Determinations by the DOE contracting officer that established allocable/allowable IR&D costs, when efforts for advance agreements are unsuccessful, are subject to appeals. Such appeals should be directed to the senior Procurement official, Headquarters, Department of Energy, within 30 days of receipt of the written determination.

(k) *Certification of Benefit to the DOE Program.* Where a Certificate of IR&D Benefit to the DOE Program is required in accordance with paragraph (f)(4) of this section, the certificate set forth below shall be submitted by the business organization, business unit, or segment.

Certificate of Benefit to Department of Energy for Independent Research and Development

This is to certify that to the best of its knowledge, information and belief, and based on its understanding of the term "DOE Program," i.e., the goals, mission and objectives of the Department of Energy, the ——————— (name of business) considers the following listed IR&D projects and expenses of said business for the period of (identify) ——————— to be of benefit to the DOE program and subject to recovery under DOE contracts.

(Identify here or on attached list those projects benefiting the DOE program. Provide title and short description of program.)

This is to also certify that I,

(name am duly authorized to file this certificate on behalf of said business, which is so filed this date of ——————
Name(s) ——————
Title ——————

[FR Doc. 81-60 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

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41 CFR Part 9-50

Cost Principles as Applicable to Subcontract Awards

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The proposed rule revises the Department of Energy cost principles as applicable to subcontract awards made by Department operating contractors. The basis for the change is to provide for acceptance of accounting principles and cost of doing business normally found in the commercial, educational and state/local government systems.

DATE: Comments must be received on or before February 4, 1981, to be considered.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Division (PR-222), Mail Stop IJ-009, Forrestal Building, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Mr. G. L. Allen, Policy and Procedures Division (PR-222), Procurement and Assistance Management Directorate, (202) 252-8179

Mr. Robert L. Forst, Attorney, Office of Assistant General Counsel for Procurement and Financial Incentives (GS-44), Office of the General Counsel, (202)-252-1526

SUPPLEMENTARY INFORMATION:

I. Background
II. Statutory and Regulatory Requirements
III. Public Comments

I. Background

Under section 644 of the Department of Energy Organization Act (hereinafter referred to as "the Act") (Pub. L. 95-91, 91 Stat. 565, 41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. Accordingly, the Department of Energy Procurement Regulations (DOE-PR) were promulgated with an effective date of June 30, 1979 (see 44 FR 34424). The proposed rule revises those DOE-PR sections governing cost principles applicable to contract awards made by DOE operating contractors.

II. Statutory and Regulatory Requirements

Pursuant to section 501 of the Act (42 U.S.C. 7191) relating to the opportunity for oral presentations on proposed regulations, the Department has determined that no substantial issue of fact or law exists and that this DOE-PR regulation and revision thereto are unlikely to have a substantial impact on the Nation's economy, or large numbers of individuals or businesses. Accordingly, public hearings relating to this DOE-PR regulation will not be held. However, all written comments received by the Department in response to this proposed regulation will be carefully assessed and fully considered in the formulation of the final DOE-PR.

Note.—The Department has determined that the regulation will not affect the quality of the environment and that the requirements of section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed DOE-PR revisions set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with a designation "Proposed Amendments—Department of Energy Procurement Regulations." All written comments received will be carefully assessed and fully considered prior to publication of the amendment as a final regulation.

For the reasons set out in the preamble, Part 9 of Title 41 CFR of the Code of Federal Regulations is proposed to be amended as set forth below.

Dated: December 22, 1980

For the Department of Energy.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

(Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254))

41 CFR Chapter 9 is proposed to be amended to read as follows:

PART 9-50—OPERATING AND ON-SITE SERVICE CONTRACTS

§ 9-50.302-3 [Amended]

By amending Paragraph (c) to insert after the first sentence a new sentence as follows: Allowable cost shall be determined in accordance with the cost principles of Part 9-15 appropriate for the type of organization to which the subcontract is awarded.

§ 9-50.1500 [Amended]

By amending Paragraph (a) to delete the second sentence which reads: Contracting Officer shall take action to make this subpart applicable to cost-type subcontracts by: (1) directing compliance by the prime contractor if consistent with his currently existing contract; or (2) conditioning future contracting officer approval of subcontracting procedures or subcontracts upon such compliance.

§ 9-50.1505 [Amended]

By amending the single sentence under this Section to delete the 11 words beginning after the initials "DOE" and which reads: in connection with cost-type contracts and with cost-type subcontracts.

41 CFR Chapter 9 is amended by adding a new § 9-50.1510-21 as follows:

§ 9-50.1510-21 Subcontracts.

Award and management policies for subcontracts placed under operating contracts when necessary to the performance of the required services and work efforts of the operating contractor are set forth in Subpart 9-50.3 of this Part 9-50. The cost of performing such subcontracts shall be made allowable under the DOE contract when the award/approval is in accord with the provisions of that subpart and the reimbursement of subcontractor costs by the operating contractor are in accordance with the provisions of the DOE cost principles set forth in Part 9-15, as appropriate to the type of subcontractor being selected, i.e., commercial, educational, state/local government, nonprofit organization.

[FR Doc. 81-100 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 431, and 482

Medicare and Medicaid Programs; Conditions of Participation: Hospitals Correction Notice

AGENCY: Heath Care Financing Administration (HCFA), HHS.

ACTION: Correction to proposed rule.

SUMMARY: This notice corrects proposed rules on conditions of participation which hospitals must meet to be certified to participate in Medicare and Medicaid programs. These proposed rules were originally published on June 20, 1980 (45 FR 41794; FR Doc. 80-17412).

FOR FURTHER INFORMATION CONTACT:

Janet Harryman, 301–594–9712.

SUPPLEMENTARY INFORMATION:

Background

This notice deals with two separate items in the June 20, 1980 publication of proposed revisions of the hospital conditions of participation (45 FR 41794; FR Doc. 80–17412).

First, during the traditional period in establishing the reorganized Department of Health and Human Services, we have changed the location at which written comments on the proposed rule are available for public inspection.

Second, a recent amendment to the current hospital conditions of participation was inadvertently omitted from the proposed rule. This amendment (45 FR 20802; March 31, 1980; FR Doc. 80–9550) deleted the language in the hospital laboratory regulations which stated that hospitals accredited by the American Osteopathic Association (AOA) were not deemed to meet the standards on proficiency testing and quality control. We have received a number of phone contacts inquiring if we are proposing to reinstate this language. We are not. Hospitals accredited by AOA are now deemed to meet these requirements, and we do not intend to rescind the March amendment. Therefore, we are making appropriate changes in the proposed rule.

FR Doc. 80–17412 is corrected as follows:

1. In the preamble, on page 41794, under the address section in the left column, correct the second paragraph as follows: "Comments will be available for public inspection Monday through Friday, from 8:30 a.m. to 5:00 p.m. beginning approximately 2 weeks after publication, in Room 309G, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. (202–245–7890)

2. On page 41812, left column, correct 482.30(k) to read as follows:

(k) *Standard; Proficiency Testing.* The laboratory meets the proficiency testing provisions of § 405.1314(a). The definition of "proficiency testing program", as stated in § 405.1310(c), is also applicable.

3. On page 41812, left column, correct 482.30(l) to read as follows:

(l) *Standard; Quality Control.* The laboratory meets the quality control provisions of § 405.1317.

(Secs. 1102, 1861(e), 1861(f), 1861(g), 1864, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(e), 1395x(f), 1395x(g), 1395aa, and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program and No. 13.773, Medicare-Hospital Insurance.)

Approved: December 16, 1980.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 81–[illegible] Filed 1–2–81; 8:45 am]

BILLING CODE 4110–35–M

ACTION

45 CFR Ch. XII

Semiannual Agenda of Significant Regulations

AGENCY: Action.

ACTION: Semiannual Agenda of Significant Regulations.

SUMMARY: In accordance with Executive Order 12044, Improving Government Regulations, ACTION is publishing its semiannual agenda of significant regulations and guidelines under development or review. The purpose of this agenda is to help the public become aware of the agency's review of existing regulations and the development of new regulations, and to enable the public to more effectively contribute to those processes.

DATES: Comments on regulations scheduled for review or development must be received before the target dates set forth in the agenda. If a target date does not indicate a specific date, comments will be accpeted until the last day of the month identified as the target date.

ADDRESSES: Send comments to the program office initiating the review or development of the regulation. The mailing address for each initiating office of ACTION is 806 Connecticut Avenue, N.W., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: For more specific information about particular items, contact the individual named in the agenda. For further information about the agenda in general, contact Randi Greenwald, Assistant General Counsel, ACTION, Room M.607, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, telephone 202–254–7974.

SUPPLEMENTARY INFORMATION: Explanation of Information in the Agenda. The agenda includes the following information for each item listed: a brief description of the proposed or existing regulation; the need andl legal basis for the action being taken; a target date for publication of a draft regulation in the **Federal Register**; the name and telephone number of an agency official familiar with the regulation.

ACTION's last agenda, which appeared in the July 7, 1980 **Federal Register**, contained three (3) items. The revision of the Older American Volunteer Program (OAVP) regulations and handbooks has been postponed to March 30, 1981 for the regulations and June 30, 1981 for the handbooks.

The final guidelines for the Office of Voluntary Citizen Participation (OVCP) Mini-Grant Program are scheduled for publication on or before February 17, 1981.

The revision of Handbook 2650.2, Policies and Procedures for Business Management of Domestic Project Grants, has been postponed indefinitely.

The publication of this agenda does not impose any binding obligation on ACTION with respect to any specific item on the agenda.

Issued in Washington, D.C., on December 30, 1980.

Sam Brown,

Director, ACTION.

Regulation	Initiating office	Need and legal basis	Contact	Target date
Revision of Older American Volunteer Program regulations and handbooks.		Clarify regulations and handbooks in light of amendments to Title II of the Domestic Volunteer Service Act of 1973 (DVSA).		Regulations: Mar. 30, 1981. Handbooks: June 30, 1981.
Retired Senior Volunteer Program (RSV)	a. RSVP		a. Alfred Larsen, (202) 254–8124.	
Foster Grandparent Program (FGP)	b. FGP		b. Jack Kenyon, 254–7605	
Senior Companion Program (SCP)	c. SCP		c. Suzanne Fahy, 254–7605	
Final guidelines for Office of Voluntary Citizen Participation (OVCP) Mini-Grant Program.	OVCP	Clarify requirements for mini-grants authorized by Title I, Part C of the DVSA.	Dagnija Kreslins, 254–3545	Feb. 17, 1981.
Development of Support Services Assistance (SSA) Guidelines	OVCP	Set forth requirements for SSA grants under Title I, Part C of the DVSA.	Dagnija Kreslins, 254–3545	June 30, 1981.
Revision of Guidelines for VISTA Supervision and Transportation Grants.	VISTA	Clarify requirements for grants under Title I, Part A of the DVSA.	Angelo Traficanti, 254–6880	June 30, 1981.

[FR Doc. 81–00194 Filed 1–2–81; 8:45 am]

BILLING CODE 6050–01–M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1062

Community Action Agencies; Eligibility and Establishment

AGENCY: Community Services Administration.

ACTION: Proposed revision of a rule.

SUMMARY: CSA is publishing a proposed revision of its policy governing the eligibility and establishment of Community Action Agencies (Catalog of Federal Domestic Assistance number 49.[illegible]2). This revision implements two legislative amendments to the Economic Opportunity Act and addresses problems in the policies and procedures of the current rule which have been identified through operational experience.

DATE: CSA welcomes and encourages comments on this proposed revision. Comments received by March 6, 1981 will be considered in drafting the final rule.

ADDRESS: Address all comments to: Ms. Jacqueline G. Lemire, Community Services Administration, Policy Development and Review Division, 1200 19th Street, N.W., Washington, D.C., 20506, Telephone (202) 254-5047, Teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: Based on its published criteria implementing Executive Order 12044, CSA has determined that this proposal is a significant change to a rule. This proposed revision to Chapter X, Part 1062, CAAs: Eligibility and Establishment, has been developed primarily to implement legislative changes to Sections 210(c) and 210(d) of the Economic Opportunity Act. In addition CSA is taking this opportunity to address issues and problems which have arisen at the local, Regional and Headquarters levels in operating under the current policy. Our objectives include assuring that prior to a dedesignation that the existing CAA and citizens of the community have an opportunity to hear and understand the issues leading to the proposed dedesignation and to make known their positions on the matter; and assuring that when dedesignating there is minimal disruption of the programs and minimal impact on beneficiaries. The current rule also has been written and reorganized in response to the President's directive (Executive Order 12044) that rules be written in plain English.

We would like the public to review this proposed revision to determine whether or not, and how well, we have accomplished our objectives; to highlight issues or problems which have yet to be addressed; to identify the vacuums that still exist; and to identify the need for any major shifts in policy. Following is a summary of the major changes proposed in the revision:

Subpart A

—Definitions no longer needed have been removed.

Subpart B

—Entirely new section.

Subpart C

—Implementats legislative amendment to Section 210(c).

Subpart D

—In "Powers" section "age" and "handicap" have been added to anti-discrimination list.

—Statement has been added requiring that, although project operation can be delegated to other agencies, ultimate responsibility for carrying out the legislatively mandated functions must rest with one administrative entity.

Subpart E

—Terminology has been changed in order to be specific regarding responsibilities, e.g. the term "governing officials" is always used rather than "a State", "a county", etc. when actions are required to be taken.

—Immediately prior to the time when a designation would take place, policy would require governing officials to inform other political subdivisions and existing CAA(s) of citizen input at public hearings and of the decision of whether or not to continue with plans to designate and to provide them with information on comments received at public hearings and from other jurisdictions. The current regulation requires that they merely inform these entities after designation.

—Would require that when a multi-county CAA is proposed that hearings be held at least in the county seat of each county and in cities with a population of 100,000 or more. For a proposed single county or urban CAA hearings would be held in areas where the CAA plans to concentrate its program activities. The current regulation requires that for Statewide designation hearings be held in each county seat and each municipality with a population over 100,000—it does not specify location for other designations.

—The current rule requires that during the 30 day notification period the CAA should have proceeded to organize its governing board, etc. The *status* of these activities is to be reported to CSA at time of application for recognition. In order to preclude the approval of an entity as a CAA without knowing what it will really "look like", this has been changed to require that all of this be finalized and ready for CSA review and approval by time of application for recognition.

—The proposed regulation changes the sequence of when the CAA is to be organized, board selected, etc. to a period following notice of intent and public hearings. The current rule places this activity in the same time frame as the 30 day notification period which would appear to make the public hearings a mere formality.

—CSA would grant only interim recognition of a CAA upon submission of acceptable documents. Final recognition would be given when the agency's initial Planning Process Narrative has been approved.

—The proposed revision would require that public hearings be held prior to revocation. Hearings would be for the sole purpose of receiving input from low-income and other interested citizens and the existing CAA. If the governing officials decided to proceed with the revocation and subsequently to designate a new agency or organization to serve as the CAA, they would be required to again hold public hearings.

—CSA would withdraw recognition if it determined that a CAA was no longer able to exercise its powers or was not carrying out the functions required of a CAA.

—There is no role for the entity receiving Section 231 funds in the proposed rule.

—If CSA were to directly designate a CAA, it would follow the same procedures as those required of governing officials.

—CSA would provide recognition of a new CAA only at the end of the existing CAA's program year. However, criteria for granting exceptions have been built in.

—Board, bylaw requirements, and Executive Director's relationship to Community Action Board reflect policy in revised Board rule (Subpart J of Part 1062.)

—The proposed rule allows for use of a Closedown Plan rather than a Transition Plan when the CSA official responsible for recognizing the CAA and the governing officials agree to do so.

—Language regarding the need for an adequate level of Title II funds has been included. This statement was in the original but had been deleted by a revision.

—In the instance where it is too burdensome for governing officials of all municipalities within the county to make a designation and, therefore, it is agreed that the designation be made by governing officials of one of the municipalities, CSA proposes that governing officials of all the jurisdictions should work out formal arrangements detailing those officials who will have the powers of the designating officials for such activities as selecting public officials to serve on the board.

Subpart F

—When revoking a designation, governing officials would conduct hearings for the sole purpose of affording representatives of the existing CAA and low income and other interested citizens an opportunity to express their views on the proposed revocation.

—Terminology has been changed to eliminate terms that must be defined, e.g., "revocation" and "opt-out".

Appendices

—Portions of CSA Form 513, Grantee Board and Participants Characteristics, would be substituted for the current CAP Form 5.

—Appendix A would be revised to reflect proposed changes in the policy statement.

—Closedown Plan—An element has been added describing how and when the Closedown Plan can be used in lieu of the Transition Plan.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942 45 CFR Part 1062)

Richard J. Rios,
Director.

Subparts A through I are proposed to be revised to read as follows:

PART 1062—COMMUNITY ACTION AGENCIES; ELIGIBILITY AND ESTABLISHMENT

Subpart A—General

Sec.
1062.1-1 Definitions of terms used in this part.

Subpart B—What Is a Community Action Agency?

1062.5-1 What it is?
1062.5-2 The functions of a CAA.

Subpart C—When Is a Community Eligibile To Be Served by a CAA?

1062.10-1 Minimum tests of community eligibility.
1062.10-2 How a community currently served by a CAA can lose its eligibility and what happens to the funds allocated to that community.

Subpart D—Structure and Powers of a CAA

1062.15-1 Who can serve as the CAA?
1062.15-2 What does a CAA look like?
1062.15-3 What are the powers of a Community Action Agency?

Subpart E—How a Community Action Agency Is Established

1062.20-1 Who selects the agency or organization which will serve as the CAA?
1062.20-2 What areas can a single CAA serve?
1062.20-3 What procuedures are to be followed in designating an organization or agency as the CAA?
1062.20-4 How and to whom does an agency designated to be a CAA apply for recognition as a CAA?
1062.20-5 How does CSA decide whether or not to recognize an agency or organization as a CAA?
1062.20-6 Under what circumstances will CSA withdraw recognition?

Subpart F—When Governing Officials Choose Not To Be Served by a CAA

1062.25-1 What happens when governing officials do not want to be served by a CAA designated by the State or another political subdivision?
1062.25-2 What happens when the governing officials no longer wish to have an agency, which they themselves designated, continue to serve as the CAA?

Appendices to Subparts A through F

A—CSA Form 370, Application for Recognition of a Community Action Agency [1]
B—CSA Form 372, Attorney's Certification [1]
C—CSA Form 373, Local Civil Service Agency's Certification [1]
D—CSA Form 374, Notice to Political Subdivision [1]
E—CSA Form 375, Certification of Compliance with Section 211 [1]
F—CSA Form 513, Grantee Board and Participants Characteristics (NOTE: Not published as part of proposed rule—awaiting OMB approval as part of GPMS rule.) [1]
G—CAP Form 11, Assurance of Civil Rights Compliance [1]
H—Transition Plan [1]
I—Closedown Plan
J—Addresses of CSA Regional Offices

Subpart A—General

§ 1062.1 Definitions of terms used in this part.

(a) *"Community"*—the geographic area and population to be served by a community action agency. Section 210(c) of the Economic Opportunity Act provides that:

"For the purpose of this title, a community may be a city, county, multicity, or multicounty unit, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed for a community action program. . . ."

(b) *"State"*—The 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) *"Political Subdivision"* or *"Subdivision"*—A unit of general local government for a specific geographic area within a State. Normally this will be a county, township, metropolitan or regional government, city, town or village. The term also includes the tribal government of a State or Federal Indian reservation. It does not include specialized governmental agencies, such as school boards, conservation districts, or separate park or police authorities.

(d) *"Governing Officials"*—Normally, (1) the governor and legislature of any of the 50 States, the Commonwealth of Puerto Rico, or a self-governing territory, or (b) the chief elected or duly appointed officials of a local political subdivision, of the District of Columbia, or of a non self-governing territory, who collectively posses the power to adopt and carry out local laws or ordinances. However, if the Attorney General or other chief legal officer of the political jurisdiction certifies in writing that the governor, mayor or other chief executive officials, or a specific group of the officials described about possesses the power either (i) to plan, conduct, administer, and evaluate a community action program, or (ii) to designate a separate public agency or private non-profit organization as a community action agency, then that official or group of officials may be considered the "governing officials" for that purpose.

(e) *"Separate public agency"*—A public agency which is not itself a State, a political subdivision, or a combination of political subdivisions and which has a governing board as described in Subpart J of Part 1062, Chapter X.

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[1] Appendix filed as a part of original document.

Subpart B—What is a Community Action Agency?

§ 1062.5–1 What it is.

(a) Title II of the Economic Opportunity Act of 1964, as amended, provides for the establishment of Community Action Agencies (CAAs) and community action programs, and prescribes the structure and describes the functions of these Agencies.

(b) A Community Action Agency is an organization or agency which has overall responsibility for planning, coordinating, evaluating, and administering a community-based and operated program known as a community action program. This program is made up of projects or components which, in toto, provide a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem. The projects need not be only those funded under the Economic Opportunity Act but also may be projects assisted by other public or private sources. In fact this latter effort—the mobilization of other resources—is one of the specific purposes of Title II of the Economic Opportunity Act. The community action program also must be developed in a manner which will enable it to carry out the purposes of Title II, and its component projects and activities should be organized and combined to accomplish these goals.

§ 1062.5–2 The functions of a CAA.

Section 212(b) requires that at a minimum each CAA must carry out the following functions:

(1) It must be an advocate for the poor. In this role it must encourage agencies engaged in community action activities related to the community action program to plan for, secure and administer assistance available to them under Title II or other sources on a common or cooperative basis and it must provide planning or technical assistance to those agencies. Generally, it must undertake actions to improve existing efforts to attack poverty.

(2) It also must serve as an advocate for the poor by assuring that there is maximum feasible participation of the poor both in the community action program and in other programs which affect their lives. In this effort the CAA must establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of these programs, providing for their regular participation in the implementation of these programs, and providing technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from other public and private sources.

(3) It must plan systematically for and evaluate the community action program.

(4) It must initiate and sponsor projects responsive to the needs of the poor which are not otherwise being met. The emphasis must be on the provision of central or common services, the development of new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs.

(5) The CAA must join with and encourage business, labor and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities.

Subpart C—When Is a Community Eligible To Be Served by a CAA?

§ 1062.10–1 Minimum tests of community eligibility.

(a) To be eligible to be served by a CAA at a minimum a community must be one of the following:

(1) A state.

(2) A city or other municipality, or a group of municipalities, with a population of at least 100,000 people, according to the most recent Bureau of Census survey or census.

(3) A county, group of counties or predominantly rural part or parts of one or more counties. A minimum of 50,000 persons according to the most recent Bureau of Census survey or census will apply in each of these cases unless: (1) at least 20% of the families and unrelated individuals residing in these areas have incomes below the poverty line as determined by the most recent Bureau of the Census survey or census, (2) this area or these areas have not refused at any time after June 1, 1978 to continue to be served by a CAA which covered a larger geographical area than that proposed to be covered by the new CAA (Section 210(c) of the Economic Opportunity Act), and (3) there is an adequate amount of Title II funds available for the proposed CAA. (See discussion in § 1062.20–3(a) of this Part).

(4) Area or areas governed by one or more Indian tribal governments.

(b) The above tests are not applicable to a community or communities served by a Community Action Agency if the CAA was recognized by OEO/CSA prior to February 1, 1969, provided that the political subdivisions within the area and the existing CAA have not rejected a reasonable opportunity to combine the area with other areas so as to enable the combined area to satisfy one of the tests.

§ 1062.10–2 How a community currently served by a CAA can lose its eligibility and the results of loss of eligibility.

(a) If, because of a loss of population or as a result of an area's decision that it no longer wishes to be served by an existing CAA, the community can no longer meet the requirements of 10–1 of this subpart, the community will lose its eligibility to be served by a CAA.

(b) When a community loses its eligibility, the appropriate governing officials with the power to designate may designate a CAA serving another community to serve the ineligible community by following the procedures in 20–3 of this subpart. Where these governing officials fail to make such a designation, CSA itself may make such a designation by following the same procedures.

(c) When another CAA is designated to serve a community which has been rendered ineligible, the funds currently available for the ineligible community will be allocated to the CAA so designated. The loss of eligibility, however, will not preclude CSA from providing Title II assistance for appropriate limited purpose projects within the area rendered ineligible.

Subpart D—Structure and Powers of a CAA

§ 1062.15–1 Who can serve as a CAA?

Section 210(a) of the Economic Opportunity Act states that a Community Action Agency will be (a) a State, or (b) a political subdivision of a State having elected or duly appointed officials, or a combination of such political subdivisions; or (c) an Indian Tribal government. It also notes that any such unit or combination of governments may designate another public agency or a private nonprofit organization or agency to serve as the CAA if it does not choose to carry out the functions of a CAA through one of its own agencies.

§ 1062.15–2 What does a CAA look like?

(a) *Boards of Directors.* Section 211(a) of the Economic Opportunity Act requires that each Community Action Agency have a broadly representative board. The appropriate type of Board for a given CAA is determined by which entity the State or local government designates to be the CAA—itself, a private nonprofit corporation, or a separate public agency. Subpart J of this Part provides detailed policy on board requirements.

(b) *Administrative unit.*

(1) Although the organization and management of every CAA will differ one from the other depending on the size and nature of the geographic area each serves and the nature of the CAA (public or private nonprofit), the legislation requires that each CAA "* * * observe standards * * * of organization, management, and administration which will assure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of [Title II] and the objective of providing assistance effectively [and] efficiently * * *."

(2) Therefore, in carrying out a community action program, a CAA may have a highly centralized or decentralized structure or something which falls somewhere in between. The nature of its administrative structure depends on how the organizers of a new CAA, and subsequently its board of directors, perceive that it can best fulfill the legislative requirements quoted in § 1062.15–2(b)(1) of this Chapter. Whatever the structure, however, the entity administering the community action program must be so organized as to be readily identifiable as a Community Action Agency—in other words, although it can delegate project operation to other agencies, ultimate responsibility for carrying out the legislatively-mandated functions must rest with one administrative entity.

(3) A CAA may use one or all of the following means to carry out the community action program:

(i) Direct performance of activities by staff of the agency.

(ii) Delegation of portions or all of a component project or all projects to another public or private nonprofit agency or agencies by means of a contract or agreement. (See § 1063.131 of this Chapter for policy on delegating the operation of projects.)

(iii) Retaining the services of qualified consultants or other organizations, whether nonprofit or profit-making, to conduct specialized activities or to provide advice under contract.

In general, consultants or other organizations should only be used when it is not feasible to operate a program by using the staff of the community action agency or local public or nonprofit agencies. (See § 1050.160 of this Chapter for policy on contracting for consulting services.)

§ 1062.15-3 What are the powers of a Community Action Agency?

In designating an agency to serve as the Community Action Agency, the designating officials must assure that the prospective CAA is permitted under State or local law to exercise the following powers:

(a) A CAA must have the legal powers to contract with other agencies and organizations to conduct all operating programs within the community action program where such conduct by another agency would contribute to efficiency or effectiveness or otherwise further program objectives.

(b) A CAA must be able, in choosing the best qualified delegate agencies to conduct those projects and activities which it does not itself conduct, to contract with, and transfer funds to, any of the following without limitation:

(1) Private nonprofit organizations, including churches and church-related organizations.

(2) Other private organizations, including business firms.

(3) The State government.

(4) Political subdivisions which are included in the community served by the CAA.

(5) Other specialized State, regional, or local public agencies, such as welfare departments, public schools and school systems, and regional planning agencies.

(c) A CAA must be able to procure necessary program facilities, goods, and services in a manner which best meets the needs and interests of its program.

(d) A CAA must be able to enforce its delegation agreements and procurement contracts by appropriate means, including:

(1) Audit and disallowance of improper costs.

(2) Suspension and termination of the contract.

(3) Court action to require performance.

(4) Court action to recover any funds spent or withheld in violation of a delegation agreement or damages for breach of contract.

(e) A CAA must be able to receive, hold, expend, or transfer, and account for, Federal and State assistance funds, including all types of assistance which is available under applicable Federal or State law to other similar public or private nonprofit agencies.

(f) A CAA must be able, since most Federal assistance under the Economic Opportunity Act is provided on a matching basis, to accept, use, and account for, contributions from non-Federal sources of:

(1) Cash.

(2) Space and physical plant facilities.

(3) Goods, materials, and equipment.

(4) Volunteer or paid services.

(g) A CAA also must be able to contribute its own property and funds, as necessary, to match Federal assistance.

(h) A CAA must be able, to the extent that goods, equipment, or property are acquired for use in the community action program, to hold and dispose of them as directed by the United States in accordance with the conditions of Federal assistance.

(i) A CAA's employment or other policies must allow the CAA to:

(1) hire any qualified poor person, in preference to other qualified persons who are not poor;

(2) hire any qualified person who lives in the neighborhood or area where the job is to be performed, in preference to other qualified persons who do not live there;

(3) employ persons without any fixed upper age limit;

(4) hire for non-professional positions persons who have ties to the program or to the program's beneficiaries, for example, parents of pre-school children, manpower program trainees, the elderly, tenants of a particular project or block;

(5) hire any person who can perform a non-professional job, even though he or she lacks a formal education.

(6) hire a qualified person even though that person has a criminal record, unless such a restriction is required by CSA policies governing the employment of persons with criminal records; (See § 1069 of this Chapter.)

(7) employ persons without regard to their race, religion, sex, color, age, national origin, or handicap; and

(8) pay program employees the current Federal minimum wage for employment in interstate commerce.

(9) The requirement to be free of restrictions preventing (1) through (8) above shall be waived by the CSA Regional or Headquarters office recognizing the CAA, for public CAAs (government CAAs or separate public agencies) which are subject to civil service laws or regulations which impose such restrictions, *provided* that:

(i) The CAA delegate the conduct of all programs and activities funded under the Economic Opportunity Act other than basic central administration to other agencies which, with such exceptions as CSA may agree to for compelling programmatic reasons, are free of such restrictions; and

(ii) The CAA commit itself to make every effort to seek changes in such civil service laws or regulations so as to eliminate such restrictions.

(iii) A waiver granted under (9)(i) and (ii) above shall be extended beyond a year only upon receipt of documentation by the CAA that adequate efforts to change restrictive regulations have, in fact, been made.

(j) A CAA must also be free, with regard to the community action program, from any rules or restrictions which would prevent:

(1) Restriction of program participation to persons who qualify under CSA income eligibility guidelines.

(2) Restriction of program participation to persons who are residents of particular neighborhoods or areas.

(3) Restriction of program participation to particular groups or classes of poor or low income persons in accordance with specific program guidelines (for example, the elderly, members of specific neighborhood organizations or cooperatives, and students in specific schools).

(4) Free participation in the program by persons who currently are living in the community, whether or not they qualify as legal or permanent residents.

(5) Participation by all eligible persons without regard to race, religion, sex, color, age, national origin, or handicap.

(k) The CAA's governing laws, charter, or by-laws must not artificially restrict its ability to conduct the community action program within all political subdivisions included in the community, in accordance with the program and fiscal policies, plans and priorities set by the CAA. For example, if the CAA is an agency which is a combination of two or more political subdivisions or is a public agency jointly formed or designated by two or more subdivisions, it must be able in appropriate cases to use contributions of funds, equipment, or services from one subdivision for approved projects in another subdivision.

(l) The CAA must be able to meet all applicable requirements of 45 CFR 1062 Subpart J which deals with the powers, structure, composition and procedures of representative boards.

Subpart E—How a Community Action Agency is Established

§ 1062.20-1 Who selects the agency or organization which will serve as the CAA?

Section 210 of the Economic Opportunity Act gives State and local governing officials the authority to select the CAA which will serve a given community. Section 210, however, also authorizes CSA to designate a CAA when State or local officials choose not to make a designation at all or fail to submit an acceptable plan for a community action program.

§ 1062.20-2 What areas can a single CAA serve?

(a) Generally, governing officials will designate an organization to serve as a CAA only in the areas over which they have jurisdiction. However, in the two groups of cases described in (1) and (2) below, governing officials may designate a separate public CAA or a private non-profit CAA to serve a community which extends beyond the boundaries of their political subdivision(s). (It should be noted that this subsection addresses only those areas in which a CAA may provide on-going, comprehensive community action planning and programming. This does not preclude the operation of a project or several projects by a CAA in a community outside of its designated jurisdiction.)

(1) *Where no appropriate governing officials are willing to designate,* e.g. if neither the governing officials of the State nor of a group of counties are willing to designate a multi-county CAA, the governing officials of a county within the multi-county area may make a multi-county designation; if neither the governing officials of a State nor of the county are willing to designate, the governing officials of a municipality within the county may make a county-wide designation; etc.

(2) *Where there is no general county government and the governing officials of the State are unwilling to designate:*

(i) It may be burdensome for governing officials of all municipalities within the county to make designations. In this instance governing officials of one of the municipalities within the county accordingly may make a county-wide designation. However, in this case governing officials of all jurisdictions should make formal, written arrangements indicating which officials will serve as the designating officials for such activities as the selection of public officials to serve on the board.

(ii) In addition, where no appropriate governing officials are willing to designate or where CSA has refused to grant recognition of a State or local designation, the Director of CSA may designate a public or private nonprofit agency to serve as the Community Action Agency in that community. In no case, however, will CSA make a designation that it would not have recognized had it been made by governing officials of a State or local government.

(b) In all cases cited in (a) (1) and (2) above, the community to be served (as opposed to the subdivision making the designation) must meet the eligibility standards specified in § 1062.10-1 of this part.

(c) When the governing officials of two or more political jurisdictions make simultaneous designations for all or part of the same community, the designation of the smallest jurisdiction shall take precedence. For example, if the governing officials of a State designate a State agency as the CAA and the governing officials of one or more counties make their own designations, the county designations shall be recognized by CSA and the State CAA will serve only that portion of the State outside those counties.

§ 1062.2-3 What procedures are to be followed in designating an organization or agency as the CAA?

(a) Prior to undertaking the process of designating an agency or organization to serve as a CAA, governing officials should contact the appropriate CSA Regional Director to discuss their proposed activities and to determine the availability of Title II funds to support the CAA in carrying out its legislatively-mandated functions. Experience has shown that CAAs can have a significant impact on local poverty only if they can secure an adequate level of assistance under Title II of the Economic Opportunity Act. Accordingly, CSA will not be able to recognize new CAAs designated to serve communities which are not now served by a CAA unless there is a likelihood that the CAA can secure an adequate level of Title II assistance. Moreover, the designation of two or more CAAs to serve a community now served by a single CAA might result in increased administrative costs which would decrease the remaining Title II assistance to an inadequate level.

(b) The procedures outlined in (g)(i) through (vii) and (h) below are to be followed by governing officials when making initial designations and in situations where they are designating another agency to serve as a CAA following (2) the revocation of a prior designation or (2) where the governing officials have chosen not to be included in the community action program of a Community Action Agency which has been designated by the State or by one or more other political subdivisions but have chosen to make their own designation.

(c) the procedures outlined in (g)(i) through (iv), (viii) and (ix) will be followed when an existing CAA proposes to expand to cover additional jurisdictions. However, all activities, e.g. hearings, Notice of Intent, etc., need only be undertaken in the area(s) to be served.

(d) In the case where the Director of CSA proposes to make the designation,

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CSA will follow the procedures in (g)(i) through (vii) below. Also, if governing officials have completed some of the actions required in this procedure prior to a decision not to designate, CSA will make a determination as to the acceptability of these actions and may begin the designation process at the point where governing officials left off.

(e) CSA will not defray the expenses of any costs incurred in the process of designating a CAA and/or applying to CSA for recognition of that agency or organization as a CAA unless prior written agreement has been reached with CSA.

(f) The designation of a CAA may be made at any time. However, if the designation will require the revocation of a designation of an existing CAA or a decision to no longer be included in the ongoing community action program of a Community Action Agency, CSA will provide recognition to the new CAA only at the end of the existing CAA's program year to preclude serious disruptions in program operations with resulting hardships to program beneficiaries and the lessening of program impact. CSA will make exceptions to this policy only in instances where, in the judgment of the CSA Office responsible for recognizing the CAA, the continuation of program operations under the currently designated CAA would impact negatively on beneficiaries or due to violations of CSA's policies and grant conditions by the existing CAA would require CSA to suspend or terminate the CAA's grant(s) for cause.

(g) *Summary of designation process.*

(1) Designating officials will undertake the following activities sequentially:

(i) Issue Notice of Intent to Designate;

(ii) hold public hearings;

(iii) review citizen input and responses to Notice of Intent; and

(iv) provide information to affected political subdivisions regarding citizen input and a final decision on whether or not to designate.

(2) *If the decision is made to designate a new CAA*, the designating officials also will undertake the following additional activities:

(i) Establish an interim board;

(ii) give notice to the proposed CAA that it may proceed to organize itself; and

(iii) make designation.

(3) *If the decision is made to expand a CAA*, the designating officials also must take the steps necessary to reorganize the CAA's representative board prior to making the designation.

(4) After the above actions have been taken, the organization designated to be the CAA may apply for recognition from CSA.

(h) *Detailed requirements of designation process.*

(1) *Notice of Intent to Designate.*

(i) As the first step in the designation process, governing officials of the designating government(s) shall send written notice of their intent to designate to every political subdivision within the community which has not already given its written endorsement of the designation, to the affected CAA(s), and to the appropriate CSA Regional Office.

(ii) In the event that the designation is by governing officials of a State, written notice need be mailed only to governing officials of county governments and governing officials of municipalities with populations of at least 100,000, plus any existing CAAs. In addition, state-wide public notices shall be published in the news media in the same manner as that prescribed by law for other important matters.

(iii) Written notice to political subdivisions shall consist of a CSA Form 374, Notice to Political Subdivision, (see Appendix D); and a CSA Form 513, Grantee Board and Participants Characteristics (section B only), if the area served is other than that presently served. (See Appendix F.)

(iv) Written notice to the affected CAAs shall consist of a letter advising them of their right to submit to the designating government(s) within 30 days their written comments and will include all the documents noted in (h)(1) through (iii) above.

(2) *Responses to a Notice of Intent to Designate.*

(i) Within 30 days of receipt of a notice of intent to designate, the government receiving the notice shall submit a written response by registered mail to the designating government(s). If no response is made within 30 days, the government receiving the notice shall be assumed to have approved the designation.

(ii) Responses to a notice of intent to designate may consist of comments, recommended modifications, an endorsement, or a refusal to be served by the new CAA. Where the response is a refusal to be served, a copy of the document formalizing that decision (e.g. an act, ordinance, proclamation, etc.) must be attached to the written response.

(3) *Public hearings prior to designation.*

(i) Before the governing officials of a State or political subdivision make a designation, they have 30 days within which they shall conduct public hearings in the community(s) which the proposed CAA would serve. At these hearings low-income citizens who would be served by the proposed CAA and other interested persons and organizations must be given a reasonable opportunity to express publicly their views on the question and to submit written comments.

(ii) In the event that the proposed designation is by governing officials of a State or governing officials of more than one county, at a minimum hearings shall be held in the county seat of each county and in each municipality with a population of 50,000 or more. In designations for single counties and municipalities, hearings must be held in each of the areas where the CAA plans to concentrate its activities.

(iii) The procedures for the public hearing, including written comment, shall be in accordance with those prescribed by law for other important matters to be decided by the governing officials.

(iv) At least ten days before the public hearing the governing officials shall assure that written notice of the hearing is posted in places which are available to all interested persons or organizations, and that they are mailed to each political subdivision, any existing CAA currently serving any part of the community in question, each delegate agency of any such CAA, and each board or council under any such CAA, and the appropriate CSA Regional Office. In addition notices shall be placed in the news media in the same manner prescribed by law for other important matters.

(v) The notice shall clearly indicate that the question of designating a CAA is being considered and also shall indicate any specific proposal or tentative decision which already has been made on the question.

(3) *Review of citizens' comments.* Following the public hearings, governing officials will review the statements made by those low-income citizens who would be served by the proposed CAA and by other interested persons and organizations at the public hearings and determine what actions, if any, they will take in light of the statements made.

(4) *Establishment of interim board.* If after reviewing comments from other political subdivisions and those made at the public hearings the governing officials decide to continue with the process of designating a CAA, they shall establish an interim governing board or community action board, whichever is appropriate, to draw up the bylaws. (See 45 CFR 1062, Subpart J.)

(5) *Organization of the CAA.* At the same time that they are establishing an

interim board, the governing officials proposing to make the designation may notify the proposed CAA to begin to organize itself and to otherwise prepare itself for recognition.

(6) *Follow-up notice.* Governing officials of the designating unit(s) of government will inform those other political subdivisions who received the initial notice of intent to designate, and any existing CAA within the community, of (1) the comments received from all political subdivisions and the CAA(s), (2) the views expressed by citizens and particularly low-income citizens at the public hearings, (3) changes, if any, which have been made as a result of these responses, and (4) the final determination of the governing officials on whether or not to proceed with the designation.

([illegible]) *The manner of designation.* Following consideration of statements made at the public hearings, the appropriate governing officials may make a designation. This is done in the same manner in which the governing officials normally exercise their legislative or major executive powers. This would either be by act, ordinance, or resolution of a legislative body subject to any concurrence or veto power of the chief executive; or executive order or proclamation of the chief executive, if the chief legal officer certifies in writing that the chief executive possesses the power to make the designation on behalf of the State or local government in question.

§ 1062.20-4 How and to whom does an agency designated as a CAA apply for recognition as a CAA?

(a) Once the designation has been made, the organization designated to be the CAA may apply for recognition. In applying for recognition, those officials shall submit two copies of the following documents to the appropirate CSA Regional Office. Where CSA has directly designated a new CAA, the latter must submit documents listed in items (3) through (12) below.

(1) *CSA form 370,* Application for Recognition of a Community Action Agency.

(2) *The designation document.* (If the chief executive has made the designation, the certification of the chief legal officer referred to in 20-3(h)(7) of this Part must be included.)

([illegible]) *Notice of Public Hearing.* A copy of the notice of the public hearing(s) held prior to the designation must be submitted along with a list of all locations where the notice was posted, copies of the minutes of the hearing(s), number of persons in attendance, and all written statements or comments received in connection with the hearing(s).

(4) *"Notice of Intent to Designate to Political Subdivisions" and copies of their responses.* Attach copies of all written endorsements received from subdivisions prior to the designation, a list of all other entities which were notified, and copies of each response.

(5) *CSA Form 372, Attorney's Certification* (Appendix B) *and governing legal documents.* This form must be completed by the designating government's chief legal officer or the designated CAA's attorney.

(6) *CSA Form 373, Local Civil Service Agency's Certification.* (Appendix C.) This form is required if the proposed CAA's personnel policies are subject to regulation by a State or local civil service system. The form should be completed by an official of the State or local civil service agency. If the State or local civil service laws or regulations impose the restrictions prohibited in § 1062.15-3, the CSA Form 373 must be accompanied by a written request for a waiver from the requirements of that subsection together with a plan and timetable for seeking changes in such restrictive laws or regulations and a certification that all program operations will be delegated to agencies which are free from such restrictions. The waiver is valid for periods of one year only. At the end of each year the CAA must report on progress made and the Regional Director will make a new determination re whether or not to extend the waiver for another year.

(7) *OEO Form 375, Certification of Compliance with Section 211 of the Economic Opportunity Act.* (Appendix E.)

(8) *A map.* The map should be large enough and marked to show clearly and in reasonable detail all geographic areas and political subdivisions which will be served by the proposed CAA.

(9) *CSA Form 513, Grantee Board and Participants Characteristics.* (Appendix F.) Complete the following items in Section B only: Items 6, 7, 9, 10, 13 through 17, 20 through 25.

(10) *CSA Form 11, Assurance of Civil Rights Compliance.* (Appendix G.) This form is to be executed by the appropriate official of the designated Community Action Agency.

(11) *Organization chart.* This chart must show how the agency seeking recognition as a CAA is organized. If it is a public Community Action Agency, also indicate its location in the governmental structure, the lines of authority and reporting relationships of its senior staff members, and the Executive Director's relationship to the Community Action Board.

(12) *Bylaws.* The draft bylaws at a minimum must include those elements required by Subpart J of this part.

(13) *Successor-in-Interest Agreement, Transition Plan or Closedown Plan.* One of the following documents must accompany the application for recognition of a new CAA which will replace one or more CAAs currently funded by CSA to serve all or part of the proposed community.

(i) *Successor-in-Interest Agreement.*

OR

(ii) *Transition Plan.* (Appendix H.)

(A) The purpose of such a Plan is to insure an orderly transfer of the funded program functions, obligations, records, authority, and funds from the existing CAA(s) to the new CAA so as to minimize disruption or other problems. (See Appendix H for contents of Plan.) Where the designated CAA will replace an existing CAA that also serves areas outside of the proposed community, the transfer shall apply only as directed by CSA.

(B) In order to recognize the new CAA, the Transition Plan must be found to be acceptable by CSA.

(C) (NOTE: The Transition Plan is not the vehicle for making major changes in the existing CAA's programs and activities. Such changes are to be accomplished through the new CAA's grant application process. No such changes shall be made except as approved by CSA in response to a formal funding or amendment request submitted by the new CAA in accordance with CSA's grant application policies. (SEE PART 1067 of this Chapter.))

OR

(iii) *Closedown Plan.* (Appendix I.)

(A) The purpose of a Closedown Plan is to insure the orderly closedown of CSA-funded operations, the fulfillment of all contractual obligations, and the proper disposition of records and property. A Closedown Plan is used when governing officials revoke a designation or refuse to continue to be served by an existing CAA and make no new designation.

(B) In addition, with the approval of CSA, a Closedown Plan may be used under certain circumstances when a new CAA will replace one or more CAAs currently funded by CSA. Such circumstances include, but are not limited to, situations where acceptance of the financial obligations of the current CAA(s) would place the new CAA in a financially untenable position; claims against the current CAA have been filed in the courts; etc.

(C) The Closedown Plan will be developed by the CAA whose operations are being terminated. The

Plan must be approved by CSA before the revocation or refusal to continue to be served can take effect. However, CSA may recognize the new CAA while allowing the former CAA to expend CSA funds to phase-out programs or complete limited-term programs or projects as detailed in their Closedown Plan. When a Closedown Plan is used under these circumstances, the new CAA must give priority consideration to hiring staff of the old CAA and must provide CSA with a document outlining the process and criteria to be used in implementing this requirement.

(D) Where the designation of a CAA is revoked, the Closedown Plan must cover all of the CAA's CSA-funded operations. Where a political subdivision chooses not to continue to be served by a CAA serving a larger jurisdiction, the Closedown Plan will apply only to those CAA programs and activities operating within that subdivision.

(E) A Closedown Plan, at a minimum, shall include arrangements and a timetable for the actions affecting CSA-funded operations as outlined in Appendix I.

§ 1061.20-5 How does CSA decide whether or not to recognize an agency or organization as the CAA?

(a) *Interim Recognition.* In response to an application for recognition of an agency or organization designated by governing officials to serve as the CAA, the appropriate CSA Regional or Headquarters office will review the documents submitted. CSA will grant the CAA interim recognition once it is satisfied that: the legal documents are in order; the proposed CAA can exercise its powers; and the bylaws, and (where appropriate) the Successor-in-Interest Agreement, the Transition Plan, or the Closedown Plan, are acceptable.

(b) *Final Recognition.* CSA will grant the CAA final recognition when the CAA's initial Planning Process Narrative required by § 1067.70-4 has been found acceptable and been approved by the appropriate CSA Regional Director.

§ 1062.20-6 Under what circumstances will CSA withdraw recognition?

(a) Where CSA terminates all assistance to a CAA for cause, such action shall constitute a withdrawal of CSA's recognition of the agency as a CAA.

(b) Where CSA suspends, terminates, or refuses to refund less than all assistance to a CAA, such action may constitute a withdrawal of CSA recognition of the agency as a CAA if the CSA official responsible for recognition so determines. (CSA may continue to fund the agency as a limited purpose agency. In such cases, however, the agency will no longer be required to comply with the requirements applicable solely to CAAs, e.g. tripartite board structure, comprehensive planning activities.)

(c) If at any time CSA determines that the CAA cannot exercise all of its powers or that it is not adequately carrying out one or more of the functions required of a CAA, CSA may withdraw recognition. In such cases the CAA shall have an opportunity to show cause why recognition should not be withdrawn in the same manner provided for in CSA's regulations governing refusal to refund.

Subpart F—When Governing Officials Choose Not To Be Served by a CAA

§ 1062.25-1 What happens when governing officials do not want to be served by a CAA designated by the State or another political subdivision?

(a) Governing officials of a political subdivision may choose not to be served, or choose not to continue to be served, by a CAA designated by a State, other political subdivisions, or CSA. In this case the governing officials may designate a new or existing CAA to serve their political subdivision if it, together with any other subdivisions which wish to join it, meet the community eligibility requirements in § 1062.10-1 of this Chapter. If the governing officials choose to continue to be served by a CAA currently serving their political subdivision, they need not take any further action. If they choose to make a new designation, they must follow the designation process outlined in § 1062.20-3 of this Chapter.

(b) These governing officials also may choose to make no designation. In this instance CSA may designate an agency to serve as the CAA and the political subdivision's right not to be served by this CAA is limited to situations in which it's governing officials make a valid designation of another CAA. Where CSA designates an existing CAA which has already met all requirements for recognition, CSA designation also will constitute CSA recognition. Where CSA proposes to designate a new CAA, the designation process as well as the recognition process must be followed.

(c) When governing officials of a political subdivision choose not to be served by a CAA designated by another political subdivision to serve an area extending beyond its boundaries, those governing officials may exercise their right not to be served. For example, where a municipality makes a county-wide designation, the governing officials of the county may choose not to have that portion of the county which is outside of the designating municipality served by the CAA. In this situation if the municipality making the designation, together with any other municipalities which may wish to join it, has a population of 100,000 or more, it is still eligible to apply for recognition as a CAA.

§ 1062.25-2 What happens when the governing officials no longer wish to have an agency, which they themselves designated, continue to serve as the CAA?

(a) The authority to designate a CAA includes the authority to revoke a designation. Accordingly, the appropriate State or local governing officials may revoke a designation which they previously have made and either designate a new or existing CAA to serve the community or make no new designation.

(b) Prior to revoking a designation governing officials must conduct public hearings for the sole purpose of affording representatives of the board and staff of the existing CAA, low-income citizens in the areas served by that CAA, and interested members of the public and community organizations an opportunity to express their views on the proposed revocation. The public hearings shall be announced and held in the manner described in § 1070.2 of this Chapter.

(c) If, after consideration of the opinions expressed by the citizens and representatives of the existing CAA the governing officials determine to follow through on the revocation, within 30 days of taking official action they will provide the CSA Regional Office with a copy of the official document by which they carried out their action along with lists of all locations where the notice was posted and meetings were held, a copy of the minutes of the hearings and all written statements received.

(d) If they are not designating a new CAA they must also submit a Closedown Plan. In no event shall the revocation of a designation take place or refusal to continue to be served take effect until CSA has approved the Closedown Plan.

(e) At the time that the governing officials report their action to CSA, they also shall send written notice to every subdivision in the community advising them of the nature of the action taken, and shall include a copy of the official document (e.g. act, proclamation, or ordinance) and, if appropriate, the Closedown Plan.

(f) If, subsequently, the governing officials wish to designate another organization to serve as the CAA the

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procedures outlined in § 1061.20-3(g)(1)(i) through (vii) must be followed.

Note.—Appendix A-H filed as a part of original document.

Appendix I—Closedown Plan

A Closedown Plan shall include arrangements and a timetable for the following actions affecting CSA-funded operations. These actions are to be undertaken by the CAA which is terminating its CAA-related activities:

(1) The phase-out of program operations and the provision, if necessary, for the extention of program or staff operations into the next program year to permit an orderly phase-out.

(2) Permitting persons enrolled in limited-term programs at the time of revocation or refusal to be served to complete those programs.

(3) Determination of the balance of funds required to cover closedown costs and the liquidation of liabilities, and the preparation, if necessary, of funding requests to extend operations into the next program year and/or apply for additional funds to complete closedown.

(4) Protection of all employment rights of employees of the CAA which have accrued in accordance with those provisions of the CAA's personnel policies which were in effect at the time of revocation or refusal to be served, including final disposition of leave and retirement fund payments.

(5) Termination of all contracts and subcontracts.

(6) Settling of all outstanding liabilities and claims.

(7) Cancellation of all leases for equipment or property.

(8) Cancellation of all insurance policies and bonds.

(9) An inventory of all property purchased with CSA grant funds, and the taking of measures necessary to safeguard all such property pending disposition instructions from CSA.

(10) Preparation and submission within 90 days of termination of financial statements.

(11) A final audit with the report available within 180 days of termination.

(12) Maintenance of all financial and accounting records, including supporting documentation, for a period of three years following termination, to be made available for inspection as necessary.

If a Closedown Plan is developed in lieu of a Transition Plan the following also must be included:

(13) The process by which the new CAA will assure that priority consideration is given to the hiring of staff of the CAA which is being closed down.

[FR Doc. 81-107 Filed 1-2-81; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[Docket No. 64; Notice No. 80-22]

Definition of "Hispanic" in Department of Transportation Minority Business Enterprise Regulation

AGENCY: Office of the Secretary.

ACTION: Request for comment on petition to amend 49 CFR Part 23.

SUMMARY: The Department has received from the Hispanic American Contractors' Association a petition for rulemaking asking the Department to amend the definition of the term "Hispanic" in the Department's minority business regulation. The petition requests that the Department expand the definition to inlcude persons of European Spanish origin. This notice asks for comments from the public about whether the Department should make the requested change.

DATE: Comments are requested on this notice by April 6, 1981.

ADDRESS: Comments should be sent to the following address. Docket Clerk, (Docket 64), 400 Seventh Street, S.W., Room 10421, Washington, D.C. 20590. Comments are available for public inspection at this address on Monday through Friday from 9:00 AM to 5:30 PM. Persons wishing to have their comments acknowledged should sent a stamped, self-addressed postcard with their comments. The Docket Clerk will return these postcards when the comments are docketed.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street, S.W., Room 10421, Washington, D.C. 20590. 202/426-4723.

SUPPLEMENTARY INFORMATION: On March 31, 1980, the Department of Transportation (DOT) published a final rule establishing a Minority Business Enterprise (MBE) program in DOT's financial assistance programs (49 CFR Part 23; 45 FR 21172). This regulation requires recipients of DOT financial assistance to set goals and to take other steps to improve opportunities for MBEs to participate in DOT-assisted programs. The regulation requires that recipients of DOT financial assistance take these steps only with respect to businesses that are owned and controlled by members of minority groups or by women. One of the minority groups eligible to participate in the DOT MBE program consists of Hispanics. Section 23.5 of the regulation defines a Hispanic as being "a person of Spanish or Portuguese culture with origins in Mexico, Central or South America or the Caribbean Islands, regardless of race." This definition is the subject of the petition for rulemaking that occasioned this notice.

The regulation's definition of Hispanic was drafted explicitly to include persons with origins in all Latin American countries. The definition, equally explicitly, excludes persons of European origin, including persons with origins in Spain or Portugal. The Department's Notice of Proposed Rulemaking (NPRM) used a different definition of Hispanic. The NPRM would have defined Hispanic as "a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race."

During the period between publication of the NPRM and publication of the final rule, representatives of DOT discussed this definition with members of an Interagency Committee composed of DOT, the Department of Housing and Urban Development, the Environmental Protection Agency, the Economic Development Administration of the Department of Commerce, the then-Department of Health, Education and Welfare, and the Department of the Interior. This Committee was established with the purpose of ensuring the uniformity among MBE programs established by Federal grant agencies. During the discussion among representatives of the various agencies in this Committee, it was noted that the definition, as written in the DOT NPRM, appeared to exclude persons of Portuguese language and culture. Consequently, persons with origins in the largest and most populous South American county—Brazil—were excluded by the definition. At the same time, the question was raised whether it would be equitable to include within the scope of this definition persons with origins in Spain and Portugal while excluding persons with origins in every other European country. It was concluded that this would not be an equitable result. Consequently, the Committee recommended to its member agencies, and the Department adopted, the definition of Hispanic that appears in DOT's final rule.

Starting shortly after DOT published the final rule, members of Hispanic organizations and other members of the public began writing to the Department of Transportation expressing their objections to the Department's definition of Hispanic. To date, the Department has received approximately 81 such letters, all of which express the point of view that persons of European Spanish and/or Portugese origin should be included within the scope of the regulation's definition. Among these comments was the formal petition for rulemaking to which this notice responds. The petition was submitted by the Hispanic American Contractors' Association of McLean, Virginia, by its President, Angel Roubin, and its Counsel, Virgilio Roel. The Department is publishing the text of the Association's petition as an attachment to this notice.

The Association's petition requests that the Department go back to the definition of Hispanic used in the NPRM. The petition, and other letters supporting a similar change, cite three basic arguments for making this change. First, the semantic, historical, and cultural meaning of the term "Hispanic" clearly refers to Spain and Portugal and their people. It does not make sense, it is said, to have a definition of the term "Hispanic" that excludes people from Spain and Portugal. Second, it is argued that for DOT to use a definition excluding persons of European Spanish or Portuguese origin could create unnecessary divisions within the Hispanic community, providing benefits to some members of that community and denying them to others. Third, and probably most important, argument is that the present definition is inconsistent with the basis on which Hispanics are designated as a protected class under the regulation. The very reason why Hispanics are targeted as a group for which affirmative action is appropriate is that people who speak Spanish or Portuguese as their first language, who may speak English with an accent, whose names are recognizably Hispanic, or whose culture is recognizably Hispanic, have suffered discrimination and have not had the same opportunities for success in business as non-minority persons. According to correspondence favoring changing the definition, someone who has these characteristics, whether from Mexico, Puerto Rico, Spain or Portugal, is equally likely to have had problems of this kind. If American society in general has denied opportunities to Hispanics, the argument runs, it has done so without regard to the precise national origin of the Hispanics to whom opportunities have been denied. Hispanics to whom opportunities have been denied. Hispanics with origins in Europe, in this view, are not any less likely to have encountered these problems than Hispanics from Latin America. Consequently, the petition and other correspondence suggest, it does not make sense to exclude persons of European Spanish and Portuguese origin from the scope of the definition.

The precise change requested by the Hispanic American Contractors' Association—a return to the NPRM definition of Hispanic—would problably result in the exclusion of persons of Portuguese language and culture from the scope of the program. However, it is the Department's understanding that the Association does not object to a modification of the NPRM definition to include persons of Portuguese and Brazilian origins.

It should be pointed out that the fact that the regulation's definition of Hispanic does not include persons of European Spanish or Portuguese origin does not mean that these persons are precluded from participating in the Department's program. The DOT regulation treats as MBEs businesses owned and controlled by any person certified by the Small Business Administration as socially and economically disadvantaged under the Small Business Administration's 8(a) program. If a man of European Spanish or Portuguese origin (women are included in the DOT program regardless of ethnicity) is socially and economically disadvangated, he and his business can obtain 8(a) certification from the Small Business Administration and can participate in the DOT MBE program notwithstanding the fact that he does not fall within any of the DOT regulation's racial/ethnic categories.

In addition to the fact that any socially and economically disadvantaged person can gain entry to the DOT program via 8(a) certification, the Department has some unresolved questions concerning the petitioner's request to change the definition of Hispanic. First, the Department does not know whether the requested change in the definition would affect a significant number of contractors. While the Department has received letters from a number of firms owned by persons of Spanish or Portuguese origin, the Department does not have and has not been presented with any statistics or estimates of the number of such firms interested in working in DOT-assisted programs nationwide. This information, while not in itself determinative of the Department's position on this issue, would be helpful to the Department in formulating its policy. We are hopeful that commenters may be able to provide us with this information.

Second, the Department is interested in receiving additional information concerning the necessity of protected class status for firms owned and controlled by persons of European Spanish or Portuguese origin. Correspondence from Hispanic contractors and organizations has asserted that persons of European origin have suffered similar denials of opportunity to those visited upon firms owned and controlled by persons of Latin American origin. The Department hopes that commenters will be able to provide direct evidence concerning this assertion. This evidence will be helpful to the Department in deciding how much weight to give to the assertions of Hispanic groups and contractors on this point.

If it is not clearly established that persons of European Spanish or Portuguese origin actually suffer the same discriminatioin as the persons of Latin American origin, it could be difficult for the Department to distinguish the situation of Spanish or Portuguese-Americans from that of other European origin-Americans. Consequently, it could be hard to justify extending affirmative action to one group but not to the other. In this connection, it should be noted that other minority groups (e.g., Blacks, Asian-Americans) could be adversely affected by broadening the definition of minority to include some Europeans, in that additional categories of contractors would be competing for the same benefits of the DOT MBE program. To date, we have heard only from Hispanic persons, groups and contractors on the issues raised by the petition. We are particularly interested in hearing from members of other minority groups concerning their views on the merits of expanding the Hispanic category in the regulation.

The Department has three principal options in responding to the Hispanic Contractors Association's petition for rulemaking:

(1) *Deny the petition for rulemaking.* If the Department follows this option, it will not take any action as the result of the petition, and will inform the petitioner that the Department has decided to retain the definition of Hispanic as it presently exists. One variation on this option that the Department could follow is to change the name of the racial/ethnic category from "Hispanic" to "Latin American." While this change would not achieve the substantive result that the petition for rulemaking seeks, it could correct the

semantic problem that some commenters have identified.

(2) *Grant the petition for rulemaking and publish an NPRM proposing to make the requested change.* If the Department follows this course, the change will not be made immediately, but would be preceded by a further opportunity for public comment.

(3) *Grant the petition for rulemaking and publish an interim final rule.* In this case, the regulatory change would be made effective immediately, although there would be an additional opportunity for public comment following the publication of the final rule. This option would cause the requested change to go into effect more rapidly, or course.

If the Department grants the petition for rulemaking, the Department would, unless good reasons for not doing so were brought to the Department's attention during the comment period on this notice, change or propose to change the definition not only to include of European Spanish origin, as the Hispanic American Contractors' Association petition specifically requests, but also persons of European Portuguese origin. If the Department decides, as a matter of policy, to grant the petition, the Department's decision between options (2) and (3) would depend, in large part, on whether the Department believes, after reviewing the information received in response to this notice, that it would be necessary or productive to obtain additional public comment before changing the regulation.

We recognize that many of the persons and organizations who are likely to be most interested in this notice have already provided the Department with written comments. While we would welcome additional comments from these persons and organizations, particularly concerning the specific concerns and questions the Department has identified in this notice, these persons and organizations need not write to the Department again in order to have their views considered. In deciding what action to take in response to the petition for rulemaking, the Department will fully consider all comments previously received on this subject, and persons and organizations who have already commented do not need to duplicate efforts they have already made.

Issued at Washington, D.C., December 29, 1980.

Thomas G. Allison,

Acting Secretary of Transportation.

Petition of the Hispanic American Contractors' Association

Pursuant to Section 5.11, Subpart B, 49 CFR, Part 5, the members of the Hispanic American Contractors Association hereby petition the Secretary of Transportation to repeal or amend that portion of the rule published by the Department of Transportation on March 31, 1980, which sets out the definition of the term "Hispanic", dealing with "Participation by Minority Business Enterprise in Department of Transportation Programs", under 49 CFR, Part 23.

The text of the Rule that Petitioner seeks to have repealed is set out under Subpart A, § 23.5, "Definitions", on pages 21175, and 21185 of the referred-to Register.

The text on Page 21175 in the "Synopsis" reads as follows:

> Second, a "Hispanic" is now defined as a person of Spanish or Portuguese culture with origins in Mexico, South or Central America or the Caribbean Islands. This definition is now consistent with that used by the Interagency Committee and reflects the suggestions of commenters. The major substantive difference between this definition and the one in the NPRM is that it includes persons of Portuguese culture. This change was made to avoid excluding Brazilians, and rests on a policy decision that the program should cover all persons of Latin American origin. The definition deliberately excludes persons of European origin, including persons from Portugal and Spain * * * economically and socially disadvantaged.

The material text on page 21185, reads as follows:

> "Minority means a person who is a citizen or lawful permanent resident of the United States and who is:
>
> (a) Black, (a person having origins in any of the black racial groups of Africa);
>
> (b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);

The interest of the Petitioner in the action requested is to correct the error in the definition, and to prevent the social and economic inequities inherent in the present Rule, to the great loss and detriment to the persons excluded from the benefits of the Minority Business Enterprise Program by virtue of the restrictive and exclusionary use of the term "Hispanic".

The persons to be covered by the vacating of the present definition of the term "Hispanic", and amending the term to include all U.S. Citizens or legal resident Hispanics living in the United States, would be all those included under the present Rule plus those now wrongfully excluded under the definition of "Hispanic" adopted by the Department of Transportation in the Rule published March 31, 1980.

Specifically, the requested amended definition would include persons born in Spain who are now citizens or legal residents of the United States, and who have suffered, and still suffer the same indignities, discrimination, prejudice, and social and economic disadvantage in the business of contractors as the Hispanics presently included under the Rule.

In addition, the requested amended definition of "Hispanic" would also include and benefit U.S. born Hispanics who may be excluded under a strict interpretation of the present Rule. Under the present definition, a U.S. born Hispanic who was or is directly descendent from a Spaniard, who came to the U.S. generations ago who did not come through Latin America or the Caribbean, does not qualify as a beneficiary of the MBE Program under the present Rule.

The bases for filing this Petition are many, including those set out in the comments submitted by the President of the Hispanic American Contractors Association in his letter of June 25, 1980 to the Docket Clerk (Docket No. 64), with a personally addressed copy to the Secretary of Transportation, as well as the many arguments submitted by numerous commenters, both organizations and individuals, on the definition of "Hispanic" to the Docket Clerk, following the publication of the present Rule in March 31, 1980. Many of these comments were also directly sent to the Secretary.

In addition to the comments set out above, there are other arguments why the present definition of "Hispanic" should be set aside, as follows:

(1) *In Fullilove vs Klutznick,* in the upholding Congress' authority to set aside certain federal funds to be expanded for minority business enterprises the U.S. Supreme Court, in its decision issued on July 2, 1980, held that, "Minority group members are citizens of the United States who are Negroes, *Spanish-speaking,* Orientals, Indians, Eskimos, and Aleuts." (emphasis added). There is nothing in the Supreme Court decision that would exclude a "Hispanic" from the benefits of the MBE Program based on the place of birth of the Hispanic person.

(2) On page 21172 of the **Federal Register** of March 31, 1980, under "Sypnosis", DOT defines what a minority is in a Minority Business Enterprise, and states: "Minorities

include Blacks, Hispanics, Asian Americans, American Indians, and Alaskan Natives and * * * " Nowhere are Hispanics or other racial or ethnic minorities hyphenated or excluded on the basis of place of birth.

(3) Section 23.7, under Part 23, published in the **Federal Register** of March 31, 1980 reads:

> Discrimination Prohibited. No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated in connection with the award and performance of any contract covered by this Part, on the grounds of race, color, national origin, or sex.

We question the right of the Department of Transportation, or any other Federal agency, to deprive or strip persons of their Hispanic identification, on the basis of place of birth.

We contend that the Hispanics being excluded under the present Rule from the benefits of the Minority Business Enterprise Program are being discriminated against on the basis of their national origin. Both Administrative and Federal Court decisions have held that Hispanics are covered under the national origin designation of the Civil Rights laws prohibiting discrimination, and that the geographic place of birth has no relevance to the minority status of Hispanics in the United States, or to their right of protection under the laws of this country.

(4) The definition of "Hispanic", as published in the **Federal Register** of March 31, 1980 by the DOT is different and contrary to the Department of Commerce's definition in Directive No. 15 of the Office of Federal Statistical Policy and Standards, "Race and Ethnic Standards For Federal Statistics And Administrative Reporting", which in pertinent part, reads:

Definitions

The basic racial and ethnic categories for Federal Statistics and program administrative reporting are defined as follows:

(a) American Indian or Alaskan Notice ——
(b) Asian or Pacific Islander ——————
(c) Black ————————————
(d) Hispanic. A person of Mexican, Puerto Rican, Cuban, Central or South American or *other Spanish culture or origin*, regardless of race. (emphasis added).

The above definition supports our contention that the term "Hispanic", under the Civil Rights laws refers to ethnic and national origin definition, and of said Hispanic minority in the United States being the victims of historical and present social and economic discrimination in the United States, and has nothing to do with the Hispanics' place of birth.

(5) In further argument that the exclusionary definition of "Hispanic" as published by DOT in the March 31, 1980 **Federal Register** is improper and erroneous, we refer you to the Congressional enunciations in the past dealing with the rights of minorities, and more specifically of Hispanics as one of the included minorities. In none of the numerous Congressional legislative actions from the time of the Civil Rights legislation in 1964, through the present, have the rights of U.S. Hispanics living in this country been dissected, restricted, or limited by virtue of their place of birth.

More recently, the Second Session of the 96th Congress, the U.S. House or Representatives, in H.R. 6004, with date of March 25, 1980, "A bill to Establish the Minority Business Development Administration in the Department of Commerce," includes, in pertinent part, the following language:

Findings and Purposes

> Sec. 2. (a) The Congress hereby finds and declares that—
>
> (1) the opportunity for full participation in our free enterprise system by socially and economically disadvantaged individuals is essential if we are to obtain social and economic equality for such individuals and improve the functioning of our national economy;
>
> (2) that many such individuals are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar inviduous circumstances over which they have no control;
>
> (3) such groups include, but are not limited to, black Americans, *Hispanic Americans*, Native Americans, Asian-Pacific Americans, and other minorities; (emphasis added).

Definitions

> Sec. 3. As used in this Act:
> (1) The ————————————
> (2) The terms ——————————
> (3) The terms ——————————
>
> (4) The term "*socially* disadvantaged individuals" means those who have been subjected to racial or *ethnic* prejudice or cultural bias because of their identify as a member of a group without regard to their individual qualities. (emphasis added).
>
> (5)(A) The term "*economically* disadvantaged individuals" means *socially* disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. (underlining added)
>
> (B) The Assistant Secretary *shall presume* that socially and economically disadvantaged individuals include Black Americans, *Hispanic Americans*, Native Americans, Asian-Pacific Americans, individuals found to be disadvantaged by the Small Business Administration * * * (emphasis added).

As can be seen from the above language, which appears to be the latest Congressional expression on the subject, the inclusion of Hispanics as beneficiaries under the Act is not limited, conditioned, or dissected on the basis of the Hispanic Americans' place of birth.

Last, but not least, we refer you to the Proclamation by the President of the United States of July 31, 1980, proclaiming National Hispanic Heritage Week (copy enclosed).

Nowhere does President Carter's Proclamation infer that Hispanics in our country should be treated any differently because of their place of birth. In effect, those Hispanic to whom President Carter refers, who landed in our country 150 years before the Independence of the United States—and their now U.S. citizens descendants in this country—were originally from European Spain and not of Latin American or Caribbean origin.

In conclusion, we feel very strongly that the present definition of the term "Hispanic", as published by DOT in the **Federal Register** of March 31, 1980 should be immediately vacated and substituted by one which does not punish U.S. resident Hispanics in the contracting business, who are U.S. citizens, and many of whom are U.S. war veterans, including Vietnam, on the basis of their place of birth.

Our statue of liberty at the entrance of New York harbor does not advertise which immigrants will not be protected against social and economic discrimination, depending on their country of birth.

The recent history of this country's efforts to end present and correct past discrimination against Blacks, Hispanics, Women, Jews, and other persons who have been victims of religious discrimination, as interpreted by the Congress, the Courts, the Executive, the U.S. Commission on Civil Rights, and Federal agencies, have been based on race, color, religion, sex, and national origin, and never on the country of birth of the victims of discrimination.

Those contractors now excluded under DOT's present Rule suffer exactly the same discrimination and social and economic disadvantages as those covered and benefited under the present Department of Transportation Minority Business Enterprise Program.

The Department of Transportation has tried to justify its changing of the definition of Hispanic on the basis of comments following the publication of the Notice of Proposed Rule in the **Federal Register** of May 17, 1979, and on an alleged Inter-Agency agreement. However, in reviewing the comments filed between May 17, 1979, and March 31, 1980 on file with DOT's Docket

Clerk, we failed to find any comments which called for a change in the definition of "Hispanic".

In connection with the alleged Inter-Agency agreement on the change of the definition, the copy of the so-called agreement which we obtained from the Department of Transportation appears to be no more than a draft document which falls far short of any formal agreement or even of a specific definition of the term "Hispanic", even amongst the very limited number of agencies alleged to have agreed.

The sole criteria which should be used for eligibility for benefits under the Minority Business Enterprise Program is the discrimination and social and economic disadvantage which the Hispanics suffer in the United States because of their national origin and culture.

The present application and enforcement of DOT's definition of the term "Hispanic" has already brought, and will continue to cause, irreparable harm and damage to those contractors who are being excluded from the DOT's MBE Program. Not only are they being excluded from Federal and District of Columbia contracts and sub-contracts, but the different States are using DOT's Rule as a basis for disqualifying these Hispanics from State contracts and subcontracts. Others, like the State of Maryland, who feel compelled to follow DOT's Rule are disqualifying these Hispanics from Federal contracts, but including these same contractors under Maryland State MBE Programs.

We believe and strongly request and recommend that the definition of "Hispanic" now in the Department of Transportation's present Rule be vacated as soon as possible.

We petition and urge that the Department of Transportation adopt the definition of Hispanic used by the Department of Commerce's Office of Federal Statistical Policy and Standards in Directive No. 15, which reads:

> Hispanic. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

For the foregoing reasons, and because the presently excluded contractors are suffering present, immediate, and irreparable harm and damage, as a result of being unable to participate under the Department of Transportation's Minority Business Enterprise Program, we respectfully request and petition the Secretary of Transportation that the specific portion of the Rule, published in the **Federal Register** of March 31, 1980, and dealing with the definition of Hispanic be given urgent consideration, so that the Hispanic American Contractors Association may receive a response to this Petition within 30 days of receipt at the Department of Transportation.

Respectfully submitted,

Angel Sieiro Roubin,

President, Hispanic American Contractors Association.

Virgilio C. Roel,

Counsel for Hispanic American Contractors Association, 6136 Long Meadow Road, McLean, Virginia 22101, Phone No. 442-0192.

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Notices

Federal Register
Vol. 46, No. 2
Monday, January 5, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Offer To Provide Reinsurance for Writers of Multiple-Peril Crop Insurance Policies

AGENCY: Federal Crop Insurance Corporation.

ACTION: Notice of offer to provide reinsurance for writers of multiple-peril crop insurance policies.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby gives notice to writers of multiple-peril crop insurance policies of an offer to provide reinsurance coverage on such policies. The intended effect of this notice is to provide explanation of the offer. The terms of the Standard Reinsurance Agreement are outlined below for the purpose of providing writers of multiple-peril crop insurance policies as much information as possible.

EFFECTIVE DATE: The offer to provide reinsurance to multiple-peril crop insurance writers, as outlined below, is effective January 5, 1981.

ADDRESS: Written comments on this notice should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Alan Walter, Federal Crop Insurance Corporation, P.O. Box 293, Kansas City, Missouri 64141. Phone (816) 926-6284 before January 17, 1981 or (816) 926-7937 after January 17, 1981.

The Draft Impact Analysis Statement describing options considered in developing this notice and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*), as amended by Public Law 96-365 (September 26, 1980), authorizes and directs the Federal Crop Insurance Corporation (FCIC) to offer reinsurance, to the maximum extent practicable, to writers of multiple-peril crop insurance.

The purposes of this notice are:

1. To offer publicly, to eligible insurers, reinsurance against excess aggregate losses accruing to writers of multiple-peril crop insurance resulting from adverse weather conditions and other unavoidable causes;
2. To provide the method by which the offer may be accepted; and
3. To set forth the terms and conditions of the Standard Reinsurance Agreement.

The availability of reinsurance is generally a condition to insurance companies writing multiple-peril insurance. The terms and conditions of the Standard Reinsurance Agreement must appear in time for acceptance by eligible insurers in advance of when policies must be marketed, which is generally before planting. The terms and conditions must be made known promptly so that such multiple-peril policies may be written for the 1981 crop year.

Offer to Provide Reinsurance

This offer is made to all insurance companies licensed to conduct business in the United States, pursuant to the Federal Crop Insurance Act of 1938, as amended, and to all terms and conditions contained in the Standard Reinsurance Agreement.

Comments Requested

Any interested party is invited to comment on the provisions in this Agreement. The Federal Crop Insurance Corporation (FCIC) will consider all suggestions and may choose to publicly offer an additional or amended agreement for subsequent crop years incorporating the suggested changes.

Method of Entering Into an Agreement

1. Any company desiring to enter into the Standard Reinsurance Agreement shall mail an application to FCIC enclosing a proposed plan of operation. The material should be mailed to Alan Walter, FCIC, P.O. Box 293, Kansas City, MO 64141. The proposed plan of operation shall include the crop year for which insurance will first be written under this Agreement, the crops to be covered, the States in which the insurance will be written, the use of other reinsurance for policies covered by this Agreement, copies of policy forms to be utitlized, premium rates to be charged if different from those charged by FCIC, and the maximum amount of book premium to be covered for the first and subsequent crop seasons under this Agreement. Applicants desiring reinsurance for the 1981 crop year should submit the required information to be received by FCIC not later than January 20, 1981. The plan must also identify the legal entities who will be participating in the Agreement as an insurance pool, partnership, joint venture, or other legal relationships other than reinsurance, and the legal relationship for these parties.

2. FCIC may ask for additional information, including but not limited to (1) the capability of the Company to underwrite and service the insurance covered by the Agreement and (2) to meet the financial commitments entailed. FCIC may also utilize other information available to it in evaluating the application.

3. Upon review of the application, including any supplementary information obtained by FCIC, FCIC will notify the Company in writing of its acceptance or rejection of the application and the plan of operation. If rejected, the notice will indicate any reasons for rejection.

4. The items in the proposed plan of operation, as submitted by the Company and approved by FCIC, become part of the Agreement and may be changed only with written permission of both parties.

5. FCIC may need to limit participation in this program in accordance with funds available. It has been determined the total amount of reinsurance for the 1981 crop year will be limited to approximately $30 million in book premium. The amount of book premium as estimated in the plan of operation may be reduced by FCIC so such a ceiling may be maintained. FCIC will notify each company of its allocation for the 1981 crop year by February 5, 1981. The allocation for subsequent crop years will be announced in accordance with provisions in the Standard Agreement.

Standard Reinsurance Agreement

Section I. Business Reinsured

A. The Federal Crop Insurance Corporation (FCIC) hereby agrees to reinsure the excess liability which may accrue to the Company as a result of losses incurred during the period this Agreement is in force under policies, contracts and binders of multiple-peril crop insurance (hereinafter called "policies") issued or renewed on or after the effecitve date of this Agreement.

B. The multiple-peril crop insurance subject to this Agreement shall be written exclusively on policy forms and at premium rates approved by the FCIC, and the policies so approved shall only be issued on crops and in territories authorized by the FCIC. Such policy forms shall provide coverage identical to the coverage provided by FCIC policies at premium rates not less than those used by FCIC.

C. The plan of operation submitted by the Company and accepted by FCIC is incorporated into this Agreement, and may be changed only upon agreement in writing by both parties except for the maximum amount of book premium to which reinsurance shall apply which may be limited in accordance with paragraph D of this section.

D. FCIC reserves the right to place a ceiling on the amount of book premium subject to reinsurance. The provisions in the public notice of this Agreement shall apply for the 1981 crop year. For subsequent years the Company shall advise FCIC of the book premium to be covered, if different from that in the plan of operation, by the termination date for this Agreement. FCIC will notify the Company of the maximum amount of book premium to be covered by reinsurance for the next crop year within 30 days after the termination date. The ceiling may be raised by FCIC at a later date, in which case proper notice will be given to the Company. Notwithstanding any of the above, FCIC's ability to sustain the agreement depends upon the availability of funds and all maximum amounts are subject to a reduction or cancellation within 30 days of the passage of FCIC's Congressional Appropriation of funding will be insufficient to support the Agreements.

E. Closing of sales

FCIC may require the Company to immediately refrain from accepting applications for insurance or otherwise accepting liability that could affect the financial situation of FCIC if FCIC closes sales due to adverse risk conditions for any geographic area or for any crop.

F. Refusal of risk

FCIC may require the Company to notify it of the name(s) and address(es) of any applicant(s) refused insurance or cancelled from insurance subject to this Agreement, and the reasons for the action(s).

Section II. Commencement and Termination

A. This Agreement shall become effective upon signature of authorized officials for both the Company and FCIC unless specified otherwise in the plan of operation. FCIC will reinsure only liability accepted on or after the effective date.

B. Either party may terminate this Agreement effective at the end of the current crop year by giving notice to the other party before December 1 unless the Company has insurance in force with a cancellation date earlier than December 31, in which case notification must be not later than April 1. If notice is given after the above date, the termination shall take effect at the end of the following crop year.

C. FCIC may, in its notice of termination, require the Company to refrain from accepting any applications for insurance after the notice is received.

D. The provisions of Section IV, pertaining to level and timing of expense reimbursement, may be renegotiated for subsequent crop years upon written request of either party. The provision as written shall apply if agreement cannot be reached.

Section III. Distribution of Underwriting Gains and Losses

A. An annual computation of underwriting gains or losses for the Company shall be made for each crop year with the gains or losses to be shared between the Company and FCIC according to the formula specified. The computation shall be based upon the loss ratio for the year. The loss ratio shall be computed to the nearest hundredth of a percent with the numbers 5 and above rounded upwards and numbers 4 and below rounded down in calculating the nearest hundredth of a percent.

1. If the loss ratio for the year is 95 percent or over, but not over 105 percent, FCIC shall not participate in the underwriting gains or losses for the year, except to the extent that any positive balance in the reinsurance fund is distributed for the extended period according to paragraph B.

2. If the loss ratio is over 105 percent but not over 150 percent, FCIC's share of the loss is 95 percent of book premiums multiplied by the difference between the loss ratio percent and 105 percent, or a maximum of 42.75 percent of book premium.

3. If the loss ratio is over 150 percent but not over 200 percent, FCIC's share of underwriting losses shall be 42.75 percent of book premium plus 97.5 percent of book premium multiplied by the difference between the loss ratio percent and 150 percent, or a maximum of 91.5 percent of book premium.

4. If the loss ratio exceeds 200 percent, FCIC's share of losses shall be 91.5 percent of book premium plus 100 percent of book premium multiplied by the difference between the loss ratio percent and 200 percent.

5. FCIC's share of underwriting losses shall be charged against the Company reinsurance account maintained by FCIC, and which may show a negative balance. The remainder is the Company's share of underwriting losses.

6. If the loss ratio is less than 95 percent for the crop year, FCIC shall receive an amount equal to 100 percent of book premium multiplied by the difference between the loss ratio percent and 95 percent. FCIC's share (if any) shall be credited to the Company reinsurance account.

7. The amount due either party under this paragraph shall be payable upon submission of the annual summary or amendments thereto for the crop season.

B. At the end of the extended reinsurance period, any positive balance in the Company reinsurance account will be distributed between the Company and FCIC according to the formula specified below.

1. If the loss ratio for the extended period (calculated on the basis of total book premiums and total ultimate net losses for the extended period) is 95 percent or higher, the Company shall receive 100 percent of the balance in the Company reinsurance account.

2. If the loss ratio for the extended period is less than 95 and not less than 60 percent, the Company is entitled to total underwriting gains from the extended period equal to 5 percent of book premium for the extended period plus 25 percent of total book premium multiplied by the difference between the loss ratio percent and 95 percent, or a maximum of 8.75 percent of book premium. The amount due the Company shall equal the amount calculated in this subparagraph minus total net underwriting gains retained by the Company from annual settlements determined under paragraph A. The total net underwriting gains retained by the Company in annual settlements equals the positive gains from years with loss ratios less than 100 minus the Company's share in years with loss ratios of over 100 percent.

3. If the loss ratio for the extended period is less than 80 but not less than 50 percent, the Company is entitled to total underwriting gains of 8.75 percent of book premium plus an amount equal to the difference in the loss ratio percent and 80 percent multiplied by 20 percent of book premium for the extended period, or a maximum of 14.75 percent of book premium. The balance due the Company shall equal the amount calculated in this subparagraph minus total net underwriting gains retained by the Company through annual settlements determined under paragraph A and as described in subparagraph B-2.

4. If the loss ratio for the extended period is less than 50 percent, the Company is entitled to total underwriting gain of 14.75 percent of book premium. The Company shall not share in that portion of underwriting gains for the portion of loss ratio less than 50 percent. The balance due the Company shall equal the amount calculated in this subparagraph minus total net underwriting gains retained by the Company through annual settlements determined under paragraph A, and as described in subparagraph B-2.

5. Under no circumstances shall the Company be entitled to receive in excess of the amount in the Company reinsurance account in any settlement at the end of an extended period.

6. The amount due either party shall be payable upon submission of the annual summary or amendments thereto for the last crop season in the extended period.

C. If the Agreement is terminated by FCIC, the extended period shall be considered to end at the end of the crop year when terminated and the Company shall be entitled to share in any positive balances in the Company reinsurance account according to the provisions in paragraph B.

D. If the Agreement is terminated by the Company to take effect prior to the end of an extended period, the Company share of any positive balance in the Company reinsurance account will be determined upon the basis of the following short term cancellation clause after any distribution for the final year of the agreement is made in accordance with paragraph A of this section. The formula specified in paragraph B of this section will be computed. The Company will be entitled to an amount equal to:

(1) 20 percent of the computed amount if the termination takes effect after the first year of an extended period;

(2) 40 percent of the computed amount if the termination takes effect after the second year of an extended period;

(3) 60 percent of the computed amount if the termination takes effect after the third year of an extended period; or

(4) 80 percent of the computed amount if the termination takes effect after the fourth year of an extended period.

Notwithstanding the above computation, the company shall not be required to refund any underwriting gains previously earned.

Section IV. Expense Reimbursement

A. FCIC shall provide the Company an operating and administrative expense reimbursement allowance equal to 22 percent of the Company's earned book premium on the business covered by this Agreement for Company operating and agent commission expenses. An additional reimbursement of 5 percent of the book premium earned will be provided for new policies issued and for crops added to an existing policy. This additional reimbursement is provided for the purpose of covering the additional expense of selling a policy for the initial year of insurance. This additional reimbursement shall not be applicable to any policy for which the crop was insured the previous year under a multiple-peril policy issued by another company reinsured by FCIC or issued by the Federal Crop Insurance Corporation. FCIC will also reimburse the Company 4 percent of book premium earned and 3 percent of ultimate net losses for direct loss adjustment expenses.

B. It is expressly agreed that FCIC shall not be liable for any dividends, commissions or taxes, or any board, exchange or bureau assessments, or any other expenses of whatever nature incurred by the Company, except the expense reimbursements provided in this section.

C. The expense reimbursement shall be due and payable in accordance with the following schedule:

1. Eighty (80) percent of the estimated reimbursement for Company operating and agent expenses for the crop year shall be due the Company upon submission of its report (due not later than July 15) on the status of the reinsurance account as of the end of June.

2. The remaining reimbursement for operating and agent expenses shall be due upon submission of the end-of-September report.

3. Loss adjustment reimbursement in the amount of 4 percent of book premium shall be due upon submission by the Company of its end-of-July report.

4. Any adjustment in expense reimbursement due the Company or overpayment returnable to FCIC as a result of changes in book premium reported shall be due upon submission of each end-of-month report.

5. Loss adjustment reimbursement in the amount of 3 percent of ultimate net losses paid under this reinsurance agreement shall be due upon submission of the annual summary report or amendment thereto.

Section V. Applicability of Premium Subsidy

FCIC shall pay a portion of each producer's premiums on the policies reinsured by this Agreement as authorized by the Federal Crop Insurance Act of 1980. Any restrictions or conditions on eligibility for subsidy imposed on producers insured directly by the Federal Crop Insurance Corporation shall apply to this Agreement.

Section VI. Hail and Fire Exclusion

The Company shall provide the insured the option of deleting the perils of hail and fire from the policies covered by this Agreement, as authorized by the Federal Crop Insurance Act of 1980. A premium credit for the deletion of hail and fire coverage shall be provided in the rates approved by FCIC.

Any hail and/or fire losses to crops insured under policies from which hail and fire coverages have been deleted shall not be subject to coverage under this Agreement. The liability of the Company on such policies, if hail and/or fire losses are paid, will be reduced according to provisions in the policy issued to the insured, as approved by FCIC.

Section VII. Reports

A. Within 15 days after the end of each month the Agreement is in force, and on forms mutually acceptable, the Company shall report to FCIC the following statistics on the reinsured business as of the end of the previous month (end of month report):

1. Sales of crop insurance policies with separate totals for new policies for which the higher reimbursement allowance is applicable;

2. Cancellations of insurance contracts;

3. The known amount of book premiums earned for the crop year;

4. The portion of producer premium paid or payable by FCIC (subsidy) for the crop year as provided in Section V;

5. The expense reimbursement allowance earned for the crop year as provided in Section IV;

6. Ultimate net losses paid to the insured and premiums collected from the insured; and

7. Any distribution of underwriting gains or losses due FCIC, calculated in accordance with Section III.

The Company may, at its option if loss volume warrants, make a report indicating the above as of the middle of each month (referred to as an interim report).

B. Not later than April 15 of the calendar year following the crop year under consideration, the Company shall prepare and foward to FCIC and annual summary setting forth:

1. Book premiums earned for the crop year showing separate totals for new policies (qualifying for the higher expense reimbursement rate) and other book premiums;

2. Ultimate net losses incurred for the crop year;

3. Advance loss payments from FCIC;

4. The portion of producer premium paid or payable by FCIC as provided in Section V;

5. The expense reimbursement allowances as provided in Section IV.

6. Expense reimbursement previously paid;

7. Underwriting gains or losses, and their distribution between the Company and FCIC in accordance with Section III, paragraph A.

8. At the end of the extended period, a summary of experience for the extended period so that a distribution of any positive balance in the Company reinsurance account can be made in accordance with Section III, paragraph B.

C. The Company shall submit an annual summary of experience for each insured in accordance with forms and at such time as mutually agreed to by both parties to this Agreement.

Section VIII. Retained Liability and other Reinsurance

A. This Agreement shall apply only to that portion of any insurance which the Company retains net for its own account (except for other reinsurance permitted in paragraphs B and C of this section), and in calculating the amount of any loss hereunder and also in computing the amount on which this Agreement attaches, only loss or losses in respect to that portion of any insurance which the Company retains net for its own account shall be included. It is, however, understood and agreed that the amount of FCIC's liability hereunder with respect to any loss or losses shall not be increased by reason of the inability of the Company to collect from any other reinsurers, whether specific or general, any amounts which may have come due from them, whether such inability arises from the insolvency of such other reinsurers or otherwise.

B. The Company shall have the right to reinsure the classes of business covered hereunder on a pro rata basis, and if it is agreed that such reinsurance is maintain by the Company, recoveries thereunder shall inure solely to the benefit of the Company and be totally disregarded for purposes of applying all the provisions of this Contract, including, but not be way of limitation, the provisions of Sections III, IV, and V.

C. Unless otherwise agreed to in writing by FCIC upon application by the Company in its proposed plan of operation or amendments thereto, the Company shall retain for its own account at least 66⅔ percent of the liability not assumed by FCIC for the business covered under this Agreement. Any liability transferred to another company reinsured by FCIC shall be considered as part of the liability retained by the Company for purposes of this subsection.

Section IX. Insolvency

A. In the event of insolvency of the Company, this reinsurance shall be payable directly to the Company or to its liquidator, receiver, conservator or statutory successor on the basis of the liability of the Company without diminution becuse of the insolvency of the Company or because the liquidator, receiver, conservator or statutory successor of the Company has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator or statutory successor of the Company shall give written notice to FCIC of the pendency of a claim against the Company indicating the policy or bond reinsured which claim would involve a possible liability on the part of FCIC within a reasonable time after such claim is filed in the conservation or liquidation proceeding or in the receivership, and that during the pendency of such claim, FCIC may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses that it may deem available to the Company or its liquidator, receiver, conservator or statutory successor. The expense thus incurred by FCIC shall be chargeable, subject to the approval of the Court, against the Company as part of the expense of conservation or liquidation to the extent of a pro rata share of the benefit which may accrue to the Company solely as a result of the defense undertaken by FCIC.

B. It is further understood and agreed that, in the event of the insolvency of the Company, the reinsurance under this Agreement shall be payable directly by FCIC to the Company or to its liquidator, receiver or statutory successor except (a) where the Agreement specifically provides another payee of such reinsurance in the event of the insolvency of the Company and (b) where FCIC with the consent of the direct insured or insureds has assumed such policy obligations of the Company as direct obligations of FCIC to the payees under such policies and in substitution for the obligations of the Company to such payees.

Section X. Arbitration

If any misunderstanding or dispute arises between the Company and FCIC with reference to the amount of premium due, the amount of loss, the amount of expense reimbursement, or to any other factual issue under any provisions of this Agreement, other than as to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by FCIC. The Company and FCIC may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make a determination. If the Company and FCIC cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by FCIC. The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by FCIC. The Company and FCIC shall bear equally all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section shall upon objection by FCIC or the Company, be inadmissible as evidence in any subsequent proceedings in any court or competent jurisdiction.

Section XI. Access to Books and Records

FCIC and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of the Company that are pertinent to the business reinsured under this Agreement. The Company shall keep records which fully disclose all matters pertinent to the business reinsured, including premiums and claims paid or payable under this Agreement. Records relating to premiums shall be retained and available for three (3) years after final adjustment of premiums, and to reinsurance claims three (3) years after final adjustment of such claims.

Section XII. Errors and Omissions

Inadvertent delays, errors or omissions made in connection with this Agreement or any transaction hereunder shall not relieve either party from any liability which would have attached had such delay, error or omission not occurred, provided always that such error or omission will be rectified as soon as possible after discovery.

Section XIII. Salvage and Recoveries

With respect to any salvage or recovery in connection with any loss hereunder received subsequent to the payment of such loss, the loss shall be refigured on the basis on which it would have been settled had the amount of salvage or recovery been known at the time the loss hereunder was originally determined. Any amounts thus found to be due FCIC shall be immediately paid to FCIC by the Company.

Section XIV. Remittances

A. FCIC shall pay the Company the balance equal to the following after submission of each end of month or interim report:

1. Losses paid by the Company for the crop year (loss advances); less
2. Net prior loss advances during the crop year; less
3. Cash premiums collected by the Company for the crop year; plus
4. Unremitted amount due to date for operating expense reimbursements; plus
5. Unremitted amount due to date for loss adjustment expense; plus or less
6. Any amounts due either party under the annual distribution of underwriting gains or losses (Section III, paragraph A) based upon the annual summary report or amendments thereto; plus
7. Premium subsidy payable to the Company under Section V based upon the book premium indicated in the annual summary or amendments thereto; plus or less
8. Any amounts due either party under the distribution of any positive balance in the Company reinsurance account based upon the summary report or amendments thereto at the end of the extended period (Section III, paragraph B); less
9. Any amounts due FCIC under any other part of this Agreement.

B. FCIC shall pay the Company any balance due within 15 days after submission of an end of month, interim, or annual summary report or amendment thereto. Any payments shall be subject to appropriations or the availability of funds to FCIC.

C. If the balance of paragraph A is negative, the Company shall remit to FCIC with the end of month, interim, annual summary report or amended annual summary report the amount equal to the negative balance under consideration.

D. FCIC retains a claim on any premiums outstanding to the Company from their insureds on the policies of insurance covered under this Agreement to offset advance loss payments to the Company. The Company shall not encumber FCIC's claim on balances due from the insureds through pledging as collateral on debt or other obligations of the Company, except the company may pledge premiums outstanding as collateral in any amount equal to the amount by which loss payments exceed the sum of premiums collected plus loss advances from FCIC.

Section XV. Miscellaneous Clauses

A. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

B. The Company will not discriminate against any employee, applicant for employment, insured or applicant for insurance because of race, color, religion, sex, age, handicap, marital status or national origin.

Section XVI. Sales by Agents

The Company shall sell the policies covered under this Agreement through licensed agents or brokers.

Section XVII. Loss Adjustment

The Company shall utilize loss adjustment procedures and methods consistent with those utilized by FCIC. FCIC may, at its own expense, cooperate with the Company in the adjustment of claims.

Section XVIII. Definitions

As used in this Agreement the term—

1. "Loss ratio" means the percentage computed by dividing the amount of ultimate net losses of the reinsurance period by the book premium for the reinsurance period, the result multiplied by 100.

2. "Book premiums" means gross premiums earned by the Company on the policies reinsured under the agreement including the portion of producer premium subsidy paid or due from FCIC or other Governments in accordance with Section V.

3. "Crop year" means the calendar year within which the crops insured by the policies reinsured hereunder are normally harvested or mature for harvest.

4. "Ultimate net loss" means the sum or sums (excluding litigation expenses and all allocated and unallocated loss adjustment expenses incurred by or on behalf of the Company) paid or payable by the Company in settlement of claims and in satisfaction of judgments rendered on account of such claims, after deduction of all salvage, all recoveries and all claims on inuring reinsurances, if any. Nothing herein shall be construed to mean that losses under this Agreement are not recoverable until the Company's ultimate net loss has been ascertained, it being understood and agreed that salvage recovered and/or recoveries received by the Company after a loss settlement hereunder shall be applied as if recovered or received before the said settlement, and all necessary adjustments shall be made by the parties hereto.

5. "Incurred" as applied to ultimate net losses incurred and to losses incurred shall mean losses happening to crops for the crop year under consideration.

6. "Company" means the parties indicated in the plan of operation who will participate in writing the reinsured business. At least one of the parties must be a firm authorized to engage in the crop insurance business under the laws of the states in which the insurance is to be written.

7. "Extended period" means the period of time encompassing five crop years beginning with the crop year for which this Agreement is initiated and including the next four crop years with subsequent periods running from the expiration of an extended period through five crop years. If the Agreement is terminated by FCIC, the provisions of Section III, paragraph C shall apply to the timing of the end of the extended period.

8. "Company reinsurance account" means a balance maintained by FCIC for the Company party to this Agreement in accordance with Section III. A separate Company reinsurance account shall apply for each extended period.

Done in Washington, D.C., on December 24, 1980.

Dale E. Hathaway,

Acting Secretary.

[FR Doc. 80-40759 Filed 12-31-80; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Allegheny Wild and Scenic River Study; Intent to Conduct the Study and Prepare an Environmental Impact Statement

The USDA Forest Service is starting a study of a segment of the Allegheny River (Warren, Forest, Clarion, Butler, Armstrong, and Venango Counties, Pa.) to determine its eligibility for inclusion in the National Wild and Scenic River System. The segment in the study extends from Kinzua Dam to east Brady, Pennsylvania. The study is authorized by the Wild and Scenic Rivers Act (Pub. L. 90–542) as amended by the National Parks and Recreation Act of 1978. The Forest Service is the lead agency conducting the study. A Field Task Force comprised of Federal, State, and local agencies will cooperate in the study effort.

The Forest Service held public informational meetings during the week of October 13, 1980, in Warren, Oil City, Emlenton, and Tidioute, Pennsylvania. The study process to be used was explained to the meeting participants.

The scope of issues and concerns to be addressed in the environmental impact statement will be identified through public meetings, mail solicitation, and newspaper notices. Alternatives will be developed relating to the issues and concerns and will be displayed in the draft environmental impact statement to be issued about June 1981. After public review and comment, a final environmental impact statement will be prepared.

The official responsible for recommending a preferred alternative to the Secretary of Agriculture is R. Max Peterson, Chief, Forest Service. The final environmental impact statement and study report will be submitted by the Secretary of Agriculture to the President for his consideration.

Written comments and suggestions concerning the study process should be sent to John Butt, Forest Supervisor, Allegheny National Forest, Box 847, Warren, Pennsylvania 16365. Telephone inquires concerning the study or environmental impact statement may be directed to Arnold Irvine, Study Coordinator at (814) 723–5150.

Dated: December 18, 1980.

R. Max Peterson,
Chief, Forest Service.

[FR Doc. 81–181 Filed 1–2–81; 8:45 am]

BILLING CODE 3410-11-M

Forest Land and Resource Management Plans; Intent To Prepare an Environmental Impact Statement

This notice revises the date of availability of the following Forest Land and Resource Management Plan Draft and Final Environmental Impact Statements:

National forest	Location	Previously published in FEDERAL REGISTER	New availability date	
			DEIS	FEIS
Deschutes	Oregon, Deschutes, Jefferson, Klamath, and Lake Counties.	Vol. 45, No. 164, 8/21/80, DEIS–1/81, FEIS–11/81.	4/81	2/82
Clifford Pinchot	Washington, Clark, Cowlitz, Klickitat, Lewis, Thurston, and Yakima Counties.	Vol 45, No. 87, 5/2/80, DEIS–6/30/82, FEIS–12/31/82.	12/82	6/83
Mount Hood	Oregon, Clackamas, Hood River, Jefferson, Marion, Multnomah, and Wasco Counties.	Vol 45, No. 27, 2/7/80, DEIS–11/80, FEIS–7/81.	12/81	9/82
Rogue River	Oregon, Jackson, Josephine, Klamath and Douglas Counties, Calif., Siskiyou Counties.	Vol. 45, No. 21, 1/30/80, DEIS–8/82, FEIS–2/83.	8/82	6/83
Siskiyou	Oregon Counties	Vol. 45, No. 27, 2/7/80, DEIS–3/81, FEIS–9/81.	1/82	7/82
Wallowa-Whitman	Oregon, Baker Grant, Malheur, Umatilla, Union and Wallowa County.	Vol 45, No. 27, 2/7/80, DEIS–12/31/81, FEIS–6/30/82.	7/82	6/83

In addition, in reference to the Pacific Northwest Region, Regional Plan, Notice of Intent published in Vol. 44, No. 159, 8/15/79, item #4 sentence two should read, "the limits for guidelines will not necessarily be set according to geographic area, soil type, growth potential, utilization standards, management intensity and potential for environmental degradation of any land but these will be factors considered." The dates of availability have been revised as follows:

		Previously published dates	Revised dates	
			DEIS	
Regional Plan	Oregon, Washington	Vol 44, No. 159, 8/15/79, DEIS–6/80, FEIS–12/80.	2/81	9/81

James F. Torrence,
Deputy, Regional Forester.
December 23, 1980.

[FR Doc. 80–40751 Filed 12–31–80; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.
Date: January 14, 1981.
Time and Place: 8:30 a.m.–4:30 p.m., Room 3109, South Building, USDA, Washington, D.C.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: Review final draft of the report *Proposed Initiatives for Food and*

V46/2 JA5 81 UMI

Agricultural Sciences 1981–86; discuss response to *1980 Report of the National Agricultural Research and Extension Users Advisory Board;* further consideration of Joint Council structure for planning and coordination.

CONTACT PERSON: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C. this 15th day of December, 1980.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 81–232 Filed 1–2–81; 8:45 am]

BILLING CODE 3410–03–M

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the first calendar quarter of 1981.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect: (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent; or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. The fee, in any event, may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound.

The average of the daily spot (world) price quotations for raw sugar for the applicable period prior to the first calendar quarter of 1981 has been calculated to be 30.26 cents per pound. This results in a fee of 0.00 cents per pound for item 956.15, since the sum of the 30.26 cents average spot price + 0.625 cents duty + .90 cents attributed costs is greater than 15.0 cents. Accordingly, the fee for items 956.05 and 957.15 for the first calendar quarter of 1981 is 0.52 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the first calendar quarter of 1981 shall be as follows:

Item and Fee

956.05—0.52 cents per lb.
956.15—0.00 cents per lb.
957.15—0.52 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of Headnote 4.

Signed at Washington, D.C. on December 29, 1980.

Dale Hathaway,

Secretary of Agriculture.

[FR Doc. 81–128 Filed 1–2–81; 8:45 am]

BILLING CODE 3410–10–M

CIVIL AERONAUTICS BOARD

[Docket 39001; Order 80–12–128]

Air Illinois, Inc.; Compensation for Losses at Mount Vernon, Illinois

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of December, 1980.

On August 28, 1980, Air Illinois, Inc., filed a thirty-day notice under section 419 of the Federal Aviation Act of its intent to terminate all service at Mount Vernon, Illinois, effective October 1, 1980. By Order 80–9–143, September 24, 1980, the Board found that the proposed suspension would deprive Mount Vernon of essential air service, and required Air Illinois to continue to provide service for 30 days, or until replacement service could be provided. By Orders 80–10–126 and 80–11–120, the Board extended Air Illinois' service obligation for successive 30–day periods.

On November 26, 1980, Air Illinois filed an application for compensation for losses incurred in providing essential air transportation at Mount Vernon. The carrier claims that operating losses plus interest (excluding return) were $45,225 for the month of October, and requests an interim rate of compensation in that amount.

The Board has examined Air Illinois' application, and finds that the appropriate interim rate of compensation for October is $28,396.

By Order 80–2–124, February 25, 1980, the Board defined essential air transportation for Mount Vernon as at least two round trips to St. Louis on weekdays and two round trips over the weekend, providing at least 50 seats in each direction each weekday or weekend, and required that all service be non-stop.

Air Illinois currently operates three non-stop round trips to St. Louis with 18-seat DeHavilland Twin Otters, for a total of 54 seats in each direction. However, the carrier also operates a highly circuitous one-stop flight from St. Louis to Mount Vernon via Carbondale, Illinois. This flight is included in Air Illinois' request for compensation. Since the one-stop flight via Carbondale is in excess of the essential level and does not meet the requirements for essential air service, we will disallow all expenses connected with this flight. Using Air Illinois' allocation methodology, these amount to $16,829. The adjusted rate of compensation, therefore, is $28,396.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204, 419, and 1002 thereof, and the regulations promulgated in 14 CFR 32[illegible].

1. We set the interim rate of compensation for losses sustained by Air Illinois, Inc., by virtue of its provision of essential air service at Mount Vernon, Illinois, for all periods beginning on or after October 1, 1980, at $194.49[1] per essential air service flight completed, subject to a maximum compensation of $1,051.70[2] for each weekday or weekend that essential air service is provided;

2. This proceeding will remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate established here; and

3. We will serve a copy of this order on Air Illinois, Inc.

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board (all members concurred).

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-242 Filed 1-2-81; 8:45 am]
BILLING CODE 6320-01-M

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[1] $28,396 ÷ 146 flights completed (162 flights scheduled × 90% completion factor).

[2] $28,396 ÷ 27 (23 weekdays plus 4 weekends).

[Docket 39058; Order 80-12-114]

Air Transport Association of America; Order Granting Exemption

Issued Under Delegated Authority December 19, 1980.

By application filed December 16, 1980, the Air Transport Association of America (ATA) requests on behalf of various air carriers an exemption from section 403 of the Federal Aviation Act and Part 221 of the Board's Economic Regulations to the extent necessary to permit them to provide free round-trip transportation to Congressional Medal of Honor members and their wives to Washington, D.C. to attend the Presidential Inauguration. The transportation will be provided during the period January 12 through January 26, 1981.

In support of this request, ATA states that the exemption is consistent with past practices of the carriers in granting free transportation to these individuals. (see Orders 75-5-86, 77-1-34 and 77-9-121.

We find that the reasons given by ATA supporting this request are consistent with the public interest, and therefore we will approve the exemption.[1] We will also extend the exemption to any other U.S. air carrier.

Accordingly, acting under authority delegated by the Board in the Board's Regulations, 14 CFR 385.16,

1. We exempt all U.S. air carriers from the provisions of Section 403 of the Federal Aviation Act of 1958, and Part 221 of the Board's Economic Regulations, insofar as the enforcement of Section 403 and Part 221 would prevent them from providing the transportation requested in Docket 39058.

2. We will serve a copy of this order on the Air Transport Association of America and on all U.S. air carriers.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of this service.

This order shall be effective immediately and the filing of a petition for review shall not preclude its effectiveness.

This order will be published in the **Federal Register.**

Julien R. Schrenk,
Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-239 Filed 1-2-81; 8:45 am]
BILLING CODE 6320-01-M

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[1] ATA was orally notified of our approval on December 18, 1980.

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et. seq.); Week Ended December 19, 1980

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application.

Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 17, 1980	39069	ANA, Ltd., d.b.a. Air North P.O. Box 2326, South Burlington, Vermont 05401. Application of ANA, Ltd., d.b.a. Air North pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its certificate of public convenience and necessity for Route 216, so as to allow nonstop service between Burlington, Vermont and White Plains, New York. Conforming Applications, motions to modify scope, and Answers may be filed by January 14, 1981.
Dec. 17, 1980	39073	German Cargo Services GmbH, c/o Arthur D. Bernstein, Galland, Kharasch, Calkins & Short, 1054 Thirty-First Street, N.W., Washington, D.C. 20007. Application of German Cargo Services GmbH pursuant to Section 402 of the Act, and Subpart Q of the Board's Procedural Regulations, requests a foreign air carrier permit authorizing it to engage in foreign air transportation focusing its operations on service between New York, Chicago, and Boston in the United States and the Federal Republic of Germany. Answers may be filed by January 14, 1981.
Dec. 17, 1980	39074	Global International Airways Corp., Ambassador 1, Air World Center, 10920 Ambassador Drive, Kansas City, MO. 64153. Application of Global International Airways Corp. pursuant to Section 401 of the Act and subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity authorizing it to engage in transatlantic charter air transportation of property. Conforming Applications, motions to modify scope, and Answers may be filed by January 14, 1981.
Dec. 18, 1980	39075	Wien Air Alaska, Inc., 4100 W. International Airport Rd., Anchorage, Alaska 99502. Application of Wien Air Alaska, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of an amended certificate of public convenience and necessity for route 126 or for a seperate such certificate authorizing it to engage, as a seperate segment of operations, in the air transportation of persons, property, and mail over bush routes out of Kodiak, King Salmon, and Dillingham, and between Kodiak, King Salmon, and Dillingham. Conforming Applications, motions to modify scope, and Answers may be filed by January 15, 1980.
Dec. 18, 1980	39078	Transamerica Airlines, Inc., c/o Jeffrey A. Manley, Burwell, Hansen & Manley, Suite 560, 1815 H Street, N.W., Washington, D.C. 20006. Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment of its certificate of public convenience and necessity for Route 194 authorizing it to engage in foreign air transportation of passengers, property and mail by realigning and augmenting its segments as set forth below:

Date filed	Docket No.	Description
		i. Include all transatlantic authority on a new segment 1 to extend between all eligible U.S. and foreign points and to read as follows: "1. Between a point or points in the United States (excluding, if necessary, Sarasota/Bradenton, Orange County, and/or West Palm Beach),[1] on the one hand, and Shannon, Ireland, and a point or points in Belgium, the Netherlands, Luxembourg, the Federal Republic of Germany, Switzerland, Israel and Jordan, on the other hand." ii. Add Boston, Massachusetts, to Transamerica's U.S. points-Bermuda segment and renumber it as segment 2, to read as follows. "2. Between the coterminal points Atlanta, GA; Baltimore, MD; Boston, MA; Chicago, IL; Detroit, MI; Miami, FL; New York, NY-Newark, NJ; Philadelphia, PA; and Washington, DC, and the terminal point Bermuda." iii. Renumber Transamerica's U.S.-Costa Rica segment as segment 3. iv. Eliminate the following permit condition imposed by Order 80-8-147: "The authority to serve Shannon, Ireland, is limited to combination carriage only." b. *Scheduled Transatlantic All-Cargo.* Transamerica also requests that its certificate for Scheduled Transatlantic All-Cargo Foreign Air Transportation issued pursuant to Order 80-9-106 be amended to delete Boston, Massachusetts, from the list of U.S. gateways from which scheduled all-cargo authority is excluded. Conforming Applications, motions to modify scope, and Answers may be filed by January 15, 1981.
Dec. 16, 1980	38673	ALM Antillean Airlines, c/o Bruce H. Rabinovitz, Ginsburg, Feldman, Weil and Bress, Suite 300, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Supplement to the Application of ALM Antillean Airlines, submitting the additional information required Answers may be filed by January 13, 1981.
Dec. 19, 1980	32629	Saudi Arabian Airlines Corporation, c/o William A. Nelson, Shea & Gould, 1627 K Street, N.W., Washington, D.C. 20006. Amendment No. 1 to the Application of Saudi Arabian Airlines Corporation, requests that its permit be renewed for a two-year period and that the restriction limiting the number of weekly flight operations be modified in accordance with the request set forth herein Answers may be filed by January 16, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-245 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et. seq.); Week Ended December 24, 1980

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No	Description
Dec. 23, 1980	39095	Aerolineas Dominicanas, S. A., c/o David S. Kaufman, Lopez & Harris, Suite 202—Roberts Bldg., 28 West Flagler Street, Miami, Florida 33130. Application of Aerolineas Dominicanas, S. A. pursuant to Section 402 of the Act, and Subpart Q of the Board's Procedural Regulations requests that the foreign air carrier permit previously issued by CAB Order 78-12-193 be reissued on a permanent basis authorizing Applicant to engage in scheduled or non-scheduled foreign air transportation with respect to property, mail, and passengers on the following route: Between a point or points in the Dominican Republic, and the terminal point of San Juan, Puerto Rico. Answers may be filed by January 21, 1981

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-246 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38138; Order 80-12-129]

Aspen Airways, Inc.; Compensation for Losses

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of December, 1980.

On February 25, 1980, Aspen Airways, Inc. (Aspen) filed notice of its intent to suspend all service between Montrose/Delta, and Denver, Colorado, effective April 1, 1980. By Order 80-3-191, March 28, 1980, we prohibited Aspen's suspension through April 30, 1980.[1]

On November 13, 1980, Aspen filed an amended application for compensation for its losses in serving Montrose/Delta for the months December 1980 through March [illegible]981.[2] The carrier provided an explanation of its estimated traffic, revenues, and expenses for the four-month period, and requested compensation totalling $105,731.

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[1] We have since extended Aspen's obligations.

We have reviewed Aspen's request and have found its revenue and expense estimates to be reasonable and in line with its most recent Form 41 data filed with the Board.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(d) thereof, and the regulations promulgated in 14 CFR 302 and 324:

1. We set the interim level of compensation for losses sustained by Aspen Airways, Inc., by virtue of its provision of essential air service to Montrose/Delta, Colorado, for the months of December 1980 through March 1981, as follows:

Month	Per scheduled flight [a] completed	Maximum
December	$449.13	$27,846
January	449.13	27,846
February	396.30	22,193
March	449.13	27,846

[a] For December, January, and March, 62 flights are scheduled. For February, 56 flights are scheduled.

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the **Federal Register**.

By the Civil Aeronautics Board (All members concurred).

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-243 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37498]

Carrier Selection Case for New Bedford, Mass.; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Tuesday, January 13, 1981, at 10:[illegible]0 A.M. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before Wednesday, January 7, 1981, together with the name or the person who will represent it at the argument.

Dated at Washington, D.C., December 22, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-244 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38267; Order 80-12-127]

Century Airlines, Inc.; Compensation for Losses

Adoped by the Civil Aeronautics Board at its offices in Washington, D.C. on the 24th day of December, 1980.

On June 4, 1980, Century Airlines, Inc. (Century) filed a notice of intent to reduce service at Eureka/Arcata, California. By Order 80-7-16, July 3, 1980, we required Century to continue to provide essential air service for a 30-day period through August 3, 1980.[1]

On November 18, 1980, Century filed an amended application for losses [2] at Eureka/Arcata to Portland, Oregon seeking $72,239 without profit for the period July 5 through September 30, 1980. The carrier requested that we extend the August and September rate on a daily basis to cover losses for the period October 2 through November 14, 1980, inclusive.[3] This results in an additional $35,753 in compensation.

We have reviewed Century's application and find that the information contained therein reasonably supports the requested compensation on an interim basis.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(d) thereof, and the regulations promulgated in 14 CFR 302 and 304:

1. We set the interim level of compensation for losses sustained by Century Airlines, Inc., by virtue of its provision of essential air transportation at Eureka/Arcata at $72,239 for the period July 5 through October 2, 1980, inclusive, and for the period October 3 through November 14, 1980, inclusive, at $241.574 per secheduled flight completed, subject to a maximum compensation of $35,753;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here: and

3. We shall serve the order upon all parties to this proceeding.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board:[4]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-341 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38497; Order 80-12-108]

Continental Air Lines, Inc. and Air Micronesia, Inc.; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of December 1980.

On July 21, 1980, Continental Air Lines, Inc. and Air Micronesia, Inc. petitioned the Board for an increase in their service mail rates for mail service to and within the Trust Territory. The carrier proposed rates of $1.118 per ton-mile for priority mail and $0.69 per ton-mile for space available mail (SAM). The petition describes how the current rates have been in effect since January 26, 1971, and that its direct operating costs per aircraft mile have increased by about 184 percent.

On August 8, 1980, the Board granted the United States Postal Service's request for an extension of time until September 22, 1980, to file its answer. The Postal Service stated that the extension was necessary because the economic justification submitted by the carrier was not adequate. It also stated that on August 27, 1980, the carrier had revised its original data and requested rates per billed ton-mile of $1.109 for priority mail and $0.684 for SAM. This revision was never filed with the Board.

On September 10, 1980, the Postal Service requested an additional extension of time for filing its answer until October 13, 1980, in order to request and analyze further data and to explore the possibility of the parties arriving at mutually agreeable rates. The Postal Service's request was granted on September 17, 1980.

The Board's staff also requested the carrier to submit a more detailed economic justification to support the reasonableness of the proposed increase. Response to this request was received October 6, 1980.

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[2] Order, [illegible]6–138, June 23, 1980, established interim compensation for April through June, 1980; and Order [illegible]–7–173, July 28, 1980, established interim compensation for July through November, 1980.

[1] We have since extended Century's obligation.

[2] Century earlier filed an application on October 30, 1980, and an amended application on November 12, 1980.

[3] On November 15, 1980, Century began subsidy-free service form Eureka/Arcata to Medford, Oregon.

[4] All Members concurred.

On October 10, 1980, the Postal Service filed its answer stating that it had reached agreement with the carrier and proposing rates per billed ton-mile of $1.023 for priority mail and $0.65 for SAM.

On October 14, 1980, the carrier filed a reply to the answer of the Postal Service stating that it fully concurs with the rates set forth in the answer, but not with the methodology employed.

Our review of the data submitted by the carrier in its petition and data responses, the Postal Service in its answer, and data contained in CAB Form 41 reports indicates the need for an increase in the carrier's Trust Territory service mail rates. While the Board recognizes that a certain amount of judgment has been exercised in arriving at the cost estimates underlying the proposed rates, as we have noted before, costing the mail does not lend itself to mathematical precision. In addition, the proposed rates are the product of arm's length bargaining between Continental and the Postal Service and are acceptable to the parties. Consistent with past policy, we have given weight to the fact that the carrier and the Postal Service have agreed upon the rates and that the carrier is not subsidized and we can find no basis to declare the rates unreasonable even though the methodology used by the Postal Service to determine the rates differs somewhat from the methodology that we prefer to use. Finally, it is our judgment that the proposed rates, which are about 84 percent above the currently effective rates, are well within the zone of reasonableness on the basis of all the considerations involved.

In reaching this conclusion, we have confined our determinations to the facts peculiar to this case and do not necessarily accept and/or agree with the methodology used by the Postal Service in arriving at those rates, nor do we intend that our determination in this instance be construed as a precedent for use of a different methodology.

On the basis of the foregoing, the Board tentatively finds and concludes that:

(1) The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to Continental Air Lines, Inc. for the transportation of mail by aircraft between points within the Trust Territory, between Honolulu, Guam, and Okinawa, on the one hand, and Johnston Island and points within the Trust Territory, on the other hand, between Honolulu, Guam and Okinawa, on the one hand, and Midway Island and points within the Trust Territory, on the other hand, and between Nauru and Majuro, Trust Territory, the facilities used and useful therefor, and the services connected therewith, on and after July 21, 1980, are as follows:

(a) For all mail matter other than specific mail matter for which rates are elsewhere established; $1.023 per billed ton-mile.

(b) For that class of mail (hereinafter referred to as SAM mail) consisting of the mail matter described in sections 4303(d)(5) and 4560 of Title 39 of the United States Code when airlifted on a space available basis; $0.69 per billed ton-mile.

(2) The terms and conditions applicable to the transportation of each class of mail at the rates proposed here are those set forth in Order 72-2-22.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We direct all interested persons, particularly Continental Air Lines, Inc., Air Micronesia, Inc., the Department of Defense and the Postmaster General, to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine and publish those rates to be effective as specified above.

2. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within 30 days after service of this order.

3. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix.[1]

4. We shall serve this order on the Postmaster General, the Department of Defense, Continental Air Lines, Inc. and Air Micronesia, Inc.

We shall publish this order in the **Federal Register**.

By the Civil Aeronautics Board:[2]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-238 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

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[1] Appendix filed as part of the original document.

[2] All Members concurred.

[Docket 38503; Order 80-12-100]

Mississippi Valley Airlines, Inc.; Order

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C. on the 18th day of December, 1980.

On July 21, 1980, Mississippi Valley Airlines, Inc., (MVA) filed a notice of intent to terminate essential air service at Clinton, Iowa, effective August 20, 1980. By order 80-8-106, August 20, 1980, we prohibited the carrier from suspending or reducing its service at Clinton for a 30-day period through September 19, 1980.[1]

On October 10, 1980, MVA filed an application for compensation for losses at Clinton for the period August 20 through September 19, 1980, inclusive. The carrier provided a detailed explanation of its estimated traffic revenue, expenses, and operating statistics and sought interim compensation of $34,676.55, excluding profit, for each 30-day period of forced service. On November 14, 1980, the carrier filed an amended application reducing its compensation request to $14,146.48, exclusive of profit, to reflect actual rather than estimated August costs, a prorated portion of the Dubuque-Chicago passenger revenue, and a change from flight hours to available-seat miles and revenue-passenger miles as a basis for allocating most indirect expenses.

We have reviewed MVA's amended application and find that the information contained therein reasonably supports the requested compensation on an interim basis. A profit element will be considered when we propose a final settlement of the carrier's claim.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(d) thereof, and the regulations promulgated in 14 CFR 302 and 304:

1. We set the interim level of compensation for losses sustained by Mississippi Valley Airlines, Inc. by virtue of its provision of essential air transportation at Clinton, Iowa at $86.2561 for each scheduled flight completed beginning August 20, 1980, subject to a maximum compensation of $14,146 per 30-day period;

2. This proceeding shall remain open pending entry of an order fixing the final

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[1] We have since extended the carrier's obligation.

rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here; and

3. We shall serve the order upon all parties to this proceeding.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board:[2]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-237 Filed 1-2-81; 8:45 am]

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[Docket 38574; Order 80-12-97]

Reeve Aleutian Airways, Inc.; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of December, 1980.

By this order the Board proposes to further amend Order 78-9-113, September 27, 1978, so as to provide for a higher surcharge to cover additional increases in fuel costs.[1]

On August 8, 1980, Reeve Aleutian Airways, Inc. petitioned the Board for an increased fuel surcharge applicable to mail transported in its intra-Alaska service of 22.9 cents per linehaul ton-mile and 0.9 cents per pound originated to become effective August 9, 1980. The petition describes the continuing substantial increases in fuel prices that it is experiencing. On August 20, 1980, the United States Postal Service requested and was granted an extension of time to September 18, 1980, in which to file answers to Reeve's petition. Subsequently, the Board's staff requested Reeve to submit a more detailed economic justification to support the reasonableness of the proposed increase.

On September 16, 1980, Reeve filed an amended petition requesting approval of a fuel surcharge of 36.6 cents per linehaul ton-mile and 1.5 cents per pound of mail originated effective August 9, 1980. Subsequently, on October 3, 1980, the Postal Service filed a motion for leave to file an untimely document and answer to the amended petition of Reeve,[2] proposing a mutually agreed upon fuel surcharge of 28.8 cents per ton-mile and 1/2 cents per pound originated.

Our review of the data submitted by Reeve in its petitions, the Postal Service in its answer and fuel data contained in CAB Form 41 reports indicates the need for an increase in the fuel surcharge added to Reeve's service mail rates set in Order 78-9-113. Consistent with past policy, we have given weight to the fact that both parties have agreed upon the fuel surcharges and that Reeve is not a subsidized carrier, and we can find no basis to declare the rates unreasonable even though the revenue ton-mile methodology used by the Postal Service to determine the surcharge differs somewhat from the available ton-mile methodology that we prefer to use. Therefore, we tentatively find that the rates proposed by the Postal Service fall within the zone of reasonableness and constitute fair and reasonable rates for Reeve's intra-Alaska mail services.

In reaching this conclusion, we have confined our determinations to the peculiar facts of this case and do not necessarily accept and/or agree with the methodology used by the Postal Service in arriving at these rates, nor do we intend that our determination in this instance be construed as a precedent for use of a different methodology. The proposed fuel surcharges will increase the currently effective linehaul and terminal charges by about 17.9 percent and 3.5 percent, respectively.

On the basis of the foregoing, the Board tentatively finds and concludes that the fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General to Reeve Aleutian Airways, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are the rates specified in Order 78-9-113, September 27, 1978, plus a fuel surcharge of 28.8 cents per linehaul ton-mile and 1/2 cents per pound originated to be effective on and after August 9, 1980.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We direct all interested persons, particularly Reeve Aleutian Airways, Inc. and the Postmaster General, to show cause why the Board should not adopt the foregoing findings and conclusions, and fix, determine and publish those rates to be effective as specified above.

2. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within 30 days after service of this order.

3. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix.[3]

4. We shall serve this order on the Postmaster General and Reeve Aleutian Airways, Inc.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board:[4]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-236 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-116, Dockets 34802, 37165, 38180 and 38773]

Wien Air Alaska, Inc., et al.; Order Fixing Final and Temporary Service Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22nd day of December, 1980.

In the matter of the petition of Wien Air Alaska, Inc. for the establishment of fair and reasonable service mail rates (Docket 34802), Great Northern Airlines Service Mail Rates Investigation (Docket 37165), Sea Airmotive, Inc. Service Mail Rates Investigation (Docket 38180) and Alaska International Air, Inc. Service Mail Rates Investigation (Docket 38773).

By Order 80-8-123, served August 25, 1980, the Board directed all interested persons to show cause why we should not establish the proposed intra-Alaska service mail rates as the final rates of compensation for Wien Air Alaska, Inc. for the periods January 1 through June 30, 1980, and July 1 through December 31, 1980. That order implemented the review procedure and updating formula for establishing final intra-Alaska service mail rates for Wien for future periods on a semi-annual basis.[1]

Wien filed a notice of objection to the show cause order on September 4, 1980, and filed its answer on September 24, 1980. Subsequently, on October 6 and

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[2] All Members concurred.

[1] See also Orders 80-4-117 and 80-5-33.

[2] We believe that the Postal Service's motion is not required and will dismiss it. The date Reeve filed its amended petition, containing new proposed rates and economic justification, begins the 20-day period in which answers shall be filed. The Postal Service's answer was filed within 20 days after service of the amended petition and, therefore, was timely filed.

[3] Appendix filed as part of the original document.

[4] All Members concurred.

[1] See Orders 79-11-22 and 80-4-53.

November 4, 1980, the carrier filed supplements to its answer. On October 21, 1980, the United States Postal Service filed a motion for leave to file an otherwise unauthorized document and reply to Wien's answer and first supplement.[2] On November 7, 1980, Wien filed a motion for leave to file a response to the Postal Service's reply which was accompanied by its response.[3]

Wien objects to the updating methodology employed in the show-cause order arguing that it is distorted because it is based on a comparison of system operating costs for the latest period, including new mainland-Alaska services, with intra-Alaska costs for the base period. Therefore, it does not reflect accurately the changes in intra-Alaska costs. The lower cost mainland-Alaska operations when coupled with the higher cost intra-Alaska operations result in lower system average costs. The carrier proposed what it believes to be a proper basis for determining the impact of inflation and cost increases on its intra-Alaska services.[4] It took reported system data for the year ended March 31, 1980 and adjusted it by removing the United Parcel Service contract operations. Unit costs per available ton-mile for this period were then compared to reported system unit costs per ATM for calendar year 1979. This ratio was then applied to the base year costs shown in Order 80–8–123 to arrive at intra-Alaska unit costs for the year ended March 31, 1980, which were then increased by the escalation factors shown in that order to arrive at the estimated unit costs at March 31 and September 30, 1980. The methodology would provide rate increases of 14.04 and 22.09 percent for the first and last half, respectively, of 1980. The same computations were made using calendar year 1978 as the base year and this would provide rate increases of 16.31 and 25.24 percent for the first and last half, respectively, of 1980. Wien also infers that since the Consumer Price Index and Alaska Airlines costs have increased by a substantial amount that its costs must have increased accordingly.

The Postal Service is of the opinion that by failing to object to the updating methodology at the time it was established, (See Orders 79–11–22 and 80–4–53) Wien has waived the right to do so now. Its position is that Wien has failed to offer a substantiated methodology that addresses the issue of the change in Wien's operations. It also requests that, with the exception of an arithmetic error, the rates proposed in Order 80–8–123 be made final and that Wien's answer and supplements be denied.

Wien's objection is well taken. Since mid-1979, Wien's routes have been extended into the lower-48 states, thereby increasing its average stage length and decreasing its average cost per aircraft-mile. Its system costs, consequently, contain mileage efficiencies that make them generally unsuited for use in establishing cost and rate changes for Wien's fundamentally short-haul intra-Alaska routes. Further, an examination of the available data indicates that the cost and operational characteristics of Wien's intra-Alaska, mainland-Alaska and 48-states operations are different.

We do not agree with the Postal Service's contention that Wien has waived its right to object to the updating methodology. It has demonstrated that the technique used in Order 80–8–123 does not reflect intra-Alaska cost changes. We do, however, agree with its position that Wien has failed to offer a viable alternative methodology for two reasons.

First, Wien's proposal fails to indicate what the direct effect of the shorter intra-Alaska average stage length has on its unit costs. It states that intra-Alaska costs are higher than system average costs but fails to quantify them. Second, it related projected costs to costs for a period differing from the base period used in determining the rates. Neither calendar years 1978 or 1979 are the correct base years. Base year data were derived by adjusting calendar year 1978 data to reflect increases in fuel prices as well as all known contractual labor costs increases that would occur in 1979.

We believe that a more sophisticated updating methodology than the one used in Order 80–8–123 or that proposed by Wien is necessary. Our staff has developed such a method based on the pleadings. The modified rate computations, which are shown in Appendix B, also reflect the latest reported operating data for Wien for the year ended June 30, 1980.[5] We believe that our revised methodology is superior to that proposed by Wien because it increases system unit costs by a factor that reflects the difference attributable to the shorter intra-Alaska stage lengths.

Wien's scheduled services, other that its bush services, are now performed entirely with B–737 aircraft. Data provided by the carrier show that for the year ended June 30, 1980, the B–737 system average stage length was 451 miles compared to 1,106 miles for States-Alaska operations and only 360 miles for intra-Alaska operations. The carrier also provided data supplied by the aircraft manufacturer showing B–737 operating costs per mile at various stage lengths. These data show that costs per mile for a stage length of 360 miles are about 14 percent greater than those for a stage length of 451 miles.

We began, as usual, with a fuel cost projection. The cost per gallon as at March 31, 1980, is the average fuel cost for the first six months of 1980. The cost per gallon as at September 30, 1980, is the average cost for the months of September and October. (See Appendix C). Nonfuel cost escalation was also determined in the usual manner. Cost escalation from January 1, 1979, to January 1, 1980, is based on a comparison of unit costs per available ton-mile for the year ended June 30, 1979, with unit costs for the year ended June 30, 1980. The rates of change were then projected to the midpoint of the rate period to arrive at the estimated system unit costs as at March 31 and September 30, 1980. The estimated system unit costs were then increased by 14 percent to arrive at the estimated intra-Alaska unit costs.

These rates represent an increase over the base year rates of 11.09 percent for the first half of 1980 and 13.94 percent for the last half of 1980. The cause of the increase is attributed to the increase in aircraft operating costs—both fuel and nonfuel.

Inasmuch as the temporary rates of compensation to be paid to Great Northern Airlines, Inc., Alaska International Air, Inc., and Sea Airmotive, Inc., are based upon rates for Wien,[6] the establishment of new rates for Wien also results in the fixing of new temporary rates for these carriers. We waive the procedural requirements of Rule 310 with respect to the temporary rates for these carriers. In future orders, we will adjust the two tier rates established for Wien in Docket 38019 by Order 80–11–81, November 13, 1980, to reflect cost increases and apply these rates to other intra-Alaska carriers where appropriate.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended particulary sections 204(a) and 406, and the Board's Procedural

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[2] We grant the motion of the Postal Service.

[3] We grant the motion of Wien.

[4] See Attachments I and II of Wien's answer filed September 24, 1980.

[5] An adjustment was made to include $1,293,371 of fuel used for charter services performed for the United Parcel Service which were not included in the amount of fuel expense reported by the carrier on Schedule P–5.2. A correction was also made to the base year total operating expense.

[6] See Orders 79–11–203, 80–10–1 and 80–10–159.

Regulations promulgated in 14 CFR. Part 302.

1. The fair and reasonable final rates of compensation to be paid in their entirely by the Postmaster General in accordance with the provisions of Section 406 of the Federal Aviation Act of 1958, as amended, to Wien Air Alaska, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, the facilites used and useful therefor, and the services connected therewith are:

(a) For the period January 1 through June 30, 1980, per great-circle mail ton-mile, $2.5494 for priority mail and $1.0567 for nonpriority mail.

(b) For the period from July 1 through December 31, 1980, per great-circle mail ton-mile, $2.6148 for priority mail and $1.0638 for nonpriority mail.

3. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General to Wien Air Alaska, Inc., Great Northern Airlines, Inc., Alaska International Air, Inc. and Sea Airmotive, Inc. for the transportation of mail by aircraft in inter-Alaska service from January 1, 1981, until further Board order, are the final rates established for the period July 1 through December 31, 1981.[7]

4. A copy of this order shall be served upon the Postmaster General, Wien Air Alaska, Inc. Great Northern Airlines, Inc., Alaska International Air, Inc. and Sea Airmotive, Inc.

We shall publish this order in the **Federal Register.**[8]

By the Civil Aeronautics Board.[9]

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-240 Filed 1-2-81; 8:45 am]

BILLING CODE 6320-01-M

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[7] These rates are subject to the rate determinations pending in Docket 38019.

[8] Appendixes A through C filed with the original document.

[9] All members concurred.

[Order 80-12-92, Dockets 36595 and 38746, EDR-408]

Investigation Into the Competitive Marketing of Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of December, 1980.

On October 9, 1980 the International Air Transport Association (IATA) filed a motion in which it requested that we coordinate our review of pricing issues in the *Investigation into the Competitive Marketing of Air Transportation* and in EDR-408, 45 FR 64864, September 30, 1980, the so-called maximum tariff rulemaking. IATA argues that the pricing issues in the two proceedings are essentially the same and that, absent Board action to avoid that result, adoption of the proposed rule would effectively preempt and render moot the already costly litigation of retail pricing issues in Docket 36595. IATA believes that the scheme proposed in EDR-408, which would allow air carriers to file tariffs stating only the maximum prices they may charge, would remove all impediments to carriers charging fares and rates not exceeding such maximums. As such, IATA believes the proposed rule would legalize selective price cutting of all kinds. Air carriers could then give price discounts to large volume customers, offer net remittance fares for use by travel agents or offer "wholesale" fares for resale by other intermediaries. In its view these pricing innovations are a part of the broad inquiry into the need for increased retail price competition in the *Marketing* case.

IATA requests that we take procedural steps to reconcile our tentative policy determinations in the proposed rulemaking with our earlier decision to have the subject of retail pricing flexibility determined on a public hearing record in the *Marketing* case.[1] IATA asks that we postpone the comment period in the rulemaking,[2] and simultaneously issue an order expediting consideration of pricing issues in the *Marketing* case so that evidence in that proceeding might be considered in the rulemaking. It suggests that we issue an order requesting that the presiding administrative law judge in the *Competitive Marketing Investigation* hear retail pricing issues in that proceeding first. IATA states that the record in that phase could then be promptly certified to the Board, with the judge's recommendations, as a matter to be coordinated with the public comments on EDR-408.

Three other parties have also filed motions directed to the overlap of pricing issues in the two cases. The American Society of Travel Agents (ASTA) has moved to terminate the rulemaking proceeding. In the alternative, it believes parties to the two proceedings need an explanation of how the issues to each relate to one another. The Association of Retail Travel Agents (ARTA) has moved to consolidate the proposed maximum tariff rule into the *Marketing* case on the grounds that the proceedings involve issues which are substantially the same or closely related. Associated Travel Nationwide (ATN) has also moved to terminate the rulemaking, or, in the alternative, to consolidate it with the pricing issues in the *Competition Marketing Investigation.*[3]

The American Automobile Association and British Airways have filed answers in support of ASTA's motion. The National Passenger Traffic Association (NPTA) has filed an answer in which it opposes all three motions.[4] It argues there is no justification for further delay of consideration and resolution of pricing flexibility issues in view of the substantial delays which have already occurred in the processing of the *Marketing Investigation.* Republic Airlines has filed an answer in which it suggests we make EDR-408 the forum for resolution of pricing flexibility issues as they apply to international markets and the *Competitive Marketing Investigation* the forum where domestic pricing freedom is explored. It argues that this approach reflects the different focuses of the two proceedings: EDR-408 was intended to deal with the peculiar international problem of incentives to deviate from filed tariffs, while the *Marketing* case involves primarily domestic concerns.

We have decided to grant relief that substantially conforms to that IATA proposed in its motion. We agree that the two proceedings should be restructured to permit contemporaneous consideration. We believe that, rather than terminating or consolidating EDR-408, we can adopt procedures that will eliminate the need some parties may feel to participate in both proceedings. We have already decided to expedite consideration of pricing issues in the *Market* case.[5] We now direct that the record on pricing issues be certified to the Board on or before April 15, 1981. We will then coordinate our review of that record with comments on the rulemaking. Our procedures will also permit timely consideration of pricing issues.

For the reasons set out below we have decided to hold EDR-408 in abeyance until the record of an oral evidentiary hearing on pricing issues, as they are raised in the *Competitive Marketing Investigation,* can be completed and certified to the Board. On the basis of that record, and comments already filed in Docket 38746, we expect to prepare a document, either a revised notice of proposed rulemaking or a tentative decision, in which we reach some tentative conclusions on pricing issues. All interested persons will then be afforded an additional opportunity to comment or raise objections, and to present oral argument to the Board. A final decision will then be made on all the evidence before us.

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[1] Order 79-9-64.

[2] By EDR-408A, dated October 22, 1980 the due date for comments on EDR-408 was postponed from October 30, 1980 to December 1, 1980.

[3] The Electronic Shippers have filed a motion requesting that we consolidate PSDR-65 with the maximum tariff rulemaking. We will dispose of that motion by a separate order.

[4] Its filing was accompanied by a motion to file an otherwise unauthorized document which we will grant.

[5] We decided in Order 80-12-70, December 12, 1980, to, at a minimum, expedite consideration of pricing issues in the *Marketing* case. That order directed the presiding administrative law judge to reorder the sequence in which major presentations are heard so that pricing issues would be considered first. We issued a separate order on this question in order to give the parties to the case the maximum possible notice of our action.

I. The Marketing case.

When we instituted the *Competitive Marketing Investigation*, we stated that the close relationship between pricing freedom and marketing structure mitigated against the institution of a separate rulemaking at that time.[6] We also stated in a companion order that issues such as the impact of pricing freedom on the present distribution system are best studied within the context of an evidentiary proceeding.[7] It was for that reason that we suggested six alternative means of granting air carriers increased pricing freedom in the sale of air transportation. We believed that the parties' discussion of those six options would allow us to thoroughly explore the legal and policy implications of increased price competition.[8]

We remain convinced that an oral evidentiary hearing can be useful in providing a basis for our final decision on some pricing issues. The evidence gathered there may be helpful in elucidating the effect of price competition on the present network of travel agents. The effect of various alternatives on travel agents will be an important consideration in determining what action we should take, on an interim basis, concerning retail competition, in light of the elimination of tariffs for interstate and overseas air transportation in January 1983.

II. EDR-408.

While we believe that the *Competitive Marketing Investigation* will be helpful in deciding some of the pricing issues, we are not ready to terminate EDR-408. In EDR-408 we proposed a rule that would allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged.[9] We found this approach to be attractive because it appeared to best promote competition and meet various carriers' requests for pricing freedom in Pacific markets. The rule would also lessen the competitive inhibitions that may flow from the present tariff system and the higher retail prices such a system may produce. Moreover, the proposal appears to be consistent with our statutory policy goal of promoting increased competition in the air transportation industry to the maximum possible extent. We believe that the possibility of securing such benefits dictate that we consider the maximum tariff proposal further. Finally, the rulemaking will afford us the opportunity to treat pricing issues more comprehensively than they can be treated in the *Market* case.

III. IATA's motion

IATA has suggested (1) that we expedite consideration of pricing issues in the *Competitive Marketing Investigation;* (2) that the record on that part of the case be certified to the Board, with recommendations from the presiding judge, for simultaneous consideration with the comments on EDR-408; and (3) that pricing decisions be made on the basis of the entire record before the Board. We are in substantial agreement with IATA's approach. It would afford parties to the *Marketing* case the opportunity to create a record, and yet allow us to weigh the possible benefits and costs of the maximum tariff rule. Since the principal concern of the parties addressing pricing issues in the *Marketing* case has been the impact of pricing freedom on travel agents, the proceeding has not been conducive to a broad ranging inquiry into the many implications of changes in pricing policies. Furthermore, EDR-408 specifically deals with several international pricing issues not placed at issue in the *Marketing* case. Consequently, we expect a fuller discussion of pricing issues in the comments on our proposed rule than is possible in the *Marketing* proceeding alone.

Just as important, the IATA approach will expedite consideration of the pricing issues. When we instituted the *Marketing* case our principal reason for placing retail price competition at issue was to determine what action we should take in light of the elimination of tariffs for interstate and overseas air transportation in 1983. Unfortunately, the proceeding has been slowed by several delays. Given its current schedule, it probably could not be a vehicle for establishing an interim pricing policy. Our action today should allow us to once again meet that objective. Moreover, it will give air carriers some guidance on our pricing policies in the transition to a tariff-less environment.

IV. Procedures

We have elsewhere directed the presiding administrative law judge in the *Marketing* case to revise the order in which the principal issues in the case are to be heard.[10] By an order dated June 25, 1980, wholesale and retail pricing competition were designated as one of five major categories of presentations. At the present time they are scheduled to be heard last.

It is our intention that restructuring the case should not delay the hearing. We recognize that the presiding judge may be asked to delay taking evidence on the pricing issues because witnesses, relying on the earlier schedule, will have made other commitments that will make them unavailable to testify in mid-January. Within the time constraints we have outlined above, the presiding judge has ample discretion to accommodate parties' schedules, by taking witnesses out of turn, holding hearings at special times and taking such other action as he deems warranted in the circumstances.

Moreover, as we indicated above, we will afford parties to the *Competitive Marketing Investigation* and all other interested persons the opportunity for further comment before a final decision. After the record is certified and we have had an opportunity to review it, we expect to issue a proposed rule or a tentative decision. All parties will have the opportunity for comments or objections and oral argument.

We are now taking the additional step of directing the judge to certify the record on the pricing issues immediately after he has received the parties' evidence on that phase, but in no event later than April 15, 1981. We must expedite consideration of these issues if we are to be in a position to develop an interim pricing policy before our authority over tariffs terminates.

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[6] Order 79-9-64 at 15, n. 47.

[7] Order 79-9-65 at 14-15. *See also*. 80-2-33 at 8.

[8] The six options were as follows:

1. A complete exemption allowing carrier and/or other retailers to engage in total pricing freedom in interstate and overseas markets;

2. A limited exemption for carriers and/or ticket agents conditioned on charging rates in enterstate and overseas markets keyed to the zone established by the Act and the Board's policy statements creating a non-suspend zone;

3. A policy concluding that tariffs may provide for price ranges, which would gradually widen over time;

4. A policy statement permitting tariffs with two-tiered pricing, one price for sales by the carrier directly to the public and second price, filed or open, for sales to the public by non-airline retailers.

5. A policy statement permitting tariffs to stipulate a single price for all sales made by air carriers, with retailers adding their own charges; and

6. A policy statement permitting carrier to issue tickets to retailers at a price which would not include the airline's own marketing costs.

[9] Northwest Airlines suggested this scheme after Pan American and Braniff applied for more limited relief from section 403. Pan Am and Braniff had requested an exemption from sections 403 and 404 of the Federal Aviation Act to the extent necessary to honor other carriers' tickets. The Northwest scheme would afford carriers greater pricing freedom to meet the competitive practices of other carriers, by not referring to specific tariff amounts.

[10] Order 80-12-70, December 12, 1980.

After our Order 80–10–78, the judge in the *Marketing* case issued a decision in which he permitted the Bureau of Domestic Aviation to present alternatives in lieu of taking a position where it had not formally developed one. While such a statement of options is consistent with Board policies concerning staff participations in administrative proceedings, (*see* PS–63), it is not clear that BDA will be permitted to engage in what some may regard as friendly cross-examination. The Bureau is customarily exempted from the bar on friendly cross-examination of other parties' witnesses in order to develop the record and we believe it is important that this freedom be assured in the *Marketing* case. We are also concerned that rulings or objections to friendly cross-examination at the hearing might further delay and burden the proceeding. We direct the presiding judge to except BDA from the rule that cross-examination will be limited to witnesses whose testimony is adverse to the party desiring to cross-examine, and to permit it to engage in friendly cross-examination of other parties' witnesses.

In order to insure a thorough record for Board review, we have decided to grant parties the right to file a motion with the Board, without the ALJ's prior consent, for interlocutory appeal of adverse evidentiary or procedural rulings by the presiding law judge. Parties seeking such an appeal shall file a motion within two working days of the ALJ's ruling. The motion shall be captioned "Motion for Interlocutory Appeal" and shall set out the grounds for requesting the Board to entertain the appeal, as well as the reasons for reversing the administrative law judge's ruling. Answers, if any, must be filed within one working day after the motion for interlocutory appeal is filed. Within three working days of receipt of a motion for interlocutory appeal, we will decide whether to entertain the appeal. Only by affirmative vote of three Board members will an appeal be entertained. A final decision on the merits will be made within seven working days of receipt of the motion. The proceedings shall not be stayed pending appeal unless three members specifically direct such action when the vote to grant the appeal is taken. We will be reluctant to interfere with the judge's determination, especially where the request is not thoroughly justified.

Finally, to insure resolution of issues raised by this order before the hearing in the *Marketing* case commences on January 13, 1981, we have decided to shorten the time afforded parties to petition for reconsideration of this order by our procedural rules. Rule 37 generally permits such petitions to be filed within 10 days of service of an interlocutory order, and answers to such petitions must be filed within 10 days thereafter. Petitions for reconsideration of this order, however, must be filed within five working days of the date of service of this order. Answers to such a petition must be filed within three working days of the date the petition is filed.

Accordingly,

1. Except to the extent granted, we deny IATA's motion for coordinated review procedures on parallel issues in the *Investigation into the Competitive Marketing Investigation,* Docket 36595, and EDR–408, Docket 38746;

2. We direct the presiding administrative law judge to certify the record on retail price competition issues when all parties have completed their evidentiary presentations on that phase of the case, but in no event later than April 15, 1981;

3. We grant NPTA's request for leave to file an otherwise unauthorized document;

4. We deny the motions of ARTA, ASTA, and ATN to consolidate EDR–408 into the *Competitive Marketing Investigation* and/or terminate the rulemaking proceeding;

5. We direct the presiding judge in the *Competitive Marketing Investigation* to permit the Bureau of Domestic Aviation to engage in friendly cross-examination, except of its own witnesses, as set forth above;

6. We afford parties to the *Competitive Marketing Investigation* the right to petition the Board to entertain an interlocutory appeal, as set out above;

7. Petitions for reconsideration of this order will be due within five working days of service of this order, and answers to such a petition are due within three working days of the date the petition is filed;

8. We shall publish a copy of this order in the **Federal Register**; and

9. We shall serve copies of this order on all parties to Dockets 36595 and 38746.

By the Civil Aeronautics Board.[11]

Phylis T. Kaylor,

Secretary.

Schaffer, Member, Concurring and Dissenting

As it is now constituted, the *Competitive Marketing Investigation* is a large, complex and difficult case that, contrary to the Board's expressed desire, has proceeded at a very slow pace. Unfortunate problems beyond our control have slowed the process significantly. The relationship between the *Investigation,* the proposed maximum tariff rulemaking and the imminent "sunset" of the Board's jurisdiction over domestic fares and rates properly have prompted a reevaluation of the case with an eye toward coordinating and speeding up our review of pricing issues. The *Investigation* also seems to have become sidetracked by procedural rather than substantive disputes.

Under these circumstances, I am not opposed to some of the Board's actions. I agree that the issues raised by the petition of the Department of Defense concerning the ATC prohibition against the payment of commissions to travel agents for government travel should be considered separately. I concur with the Chairman's proposal to remove from consideration here certain alleged violations of the Board's Rules of Conduct and I agree with the proposal to grant parties the right to file a motion, without the Administrative Law Judge's prior consent, for interlocutory appeal of adverse evidentiary or procedural rulings in order to insure a thorough record for Board review.

Unfortunately, I cannot agree with my colleagues on the action taken regarding the Phase 5 pricing issues; that is to hear those issues first and then to certify the record to the Board when all parties have completed their evidentiary presentations. First, the pricing issues cannot be neatly packaged and removed without confusing the remaining portion of the proceeding. The phases were not meant to be watertight compartments but were designed as a procedural convenience for the parties and the Administrative Law Judge.

I fear that the Board's action will do more to confuse the case than clarify the issues. Obviously, there are going to be evidentiary problems; some material surely will overlap various phases of the case and the Board's action undoubtedly will create new difficulties for the litigants. Changing the rules of the game at this late date will disrupt evidentiary presentations and witness schedules. Similarly, we have markedly added to the enormous burden facing the Administrative Law Judge.

Finally, I am disturbed that the action today denies the Board the benefits of an ALJ's initial decision on retail pricing issues and, to some extent, ignores the potential interrelationship between the pricing issues and the organizational aspects of the travel agent industry. While I recognize that the pressures of time, particularly the statutory schedule which calls for "sunset" of our fare and rate jurisdiction, already have limited our options to fashion a transition; I feel it is preferable to allow the case to proceed as originally constituted without further intrusion by the Board.

Gloria Schaffer.

[FR Doc. 81–151 Filed 1–2–81; 8:45 am]

BILLING CODE 6320-01-M

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[11] All Members concurred except Member Schaffer who concurred and dissented and filed the attached concurring and dissenting statement.

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Marketing Association; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce determined that the renewal of the Census Advisory Committee of the American Marketing Association is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established by the Secretary of Commerce in 1946, and its present charter was to terminate December 14, 1980. It was initially chartered under the Federal Advisory Committee Act in 1973. Its purpose is to provide the Bureau of the Census with recognized expertise from the business and academic fields regarding the statistical needs of data users concerned with marketing the Nation's products and services.

The Bureau of the Census will continue to utilize the expertise of this Committee in its continuing evaluation of present, planned, and recommended programs of interest to the marketing community. The Committee's recommendations are concerned both with the Bureau's demographic and economic statistics programs which encompass demographic and economic censuses as well as current sample surveys. The Committee has made valuable recommendations which have had significant impact on the Bureau's programs in such areas as census promotion, the quality of survey estimates, publication timing, sample improvements, data content, and respondent burden.

As presently chartered, the Committee will consist of 15 members appointed by the President of the American Marketing Association from the membership of this organization, from a list of nominees provided by the Director, Bureau of the Census. An effort is made to select members from varied academic and business communities and to provide a diverse mix by geographic area, sex, and race. The Committee will report and be responsible to the Director, Bureau of the census, and will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Tyler R. Sturdevant, Chief, Business Division, Room 2633, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 763-7564.

Dated: December 19, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-40773 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-17-M

Census Advisory Committee on Housing for the 1980 Census Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 of March 1974, and after consultation with General Services Administration, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on Housing for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was established in 1976 by the Secretary of Commerce under the Federal Advisory Committee Act. Its present charter is scheduled to expire December 12, 1980. The present objective of the Committee is to provide technical advice and guidance in planning the census and post-census activities of the decennial census of housing to ensure that the major statistical requirements of decisionmakers are met. The Committee provides advice on housing subject-matter concepts, tabulations, data dissemination plans and other relevant aspects of the overall 1980 census program. The Committee is strictly advisory. In renewing the Committee, no significant change of objectives is planned, but the emphasis will be upon the postcensus activities.

The Committee will continue to consist of 18 members including a representative from each of nine major national organizations with different interests and nine members appointed by the Secretary of Commerce. These represent as widely as possible the data users vitally concerned with the many aspects of the Nation's housing. The Chairperson and Chairperson-elect will continue to be elected for a 1-year term by the Committee which will operate in compliance with the Federal Advisory Committee Act.

Copies of the Committee's charter will be filed with the appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Arthur F. Young, Chief, Housing Division, Room 1731, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 763-2863.

Dated: December 19, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-40770 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-17-M

Census Advisory Committee on Population Statistics; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), the Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on Population Statistics is in the public interest in connection with the performance of duties imposed on the department by law.

The Committee was first established on April 13, 1965, and is due to terminate on December 14, 1980. Its continuing purpose is to advise the Director, Bureau of the Census, on current programs and the decennial census of population. During the last 2 years the Committee has made important contributions to the consideration of alternative actions as a consequence of the possible undercount in the 1980 census. It has provided sound advice concerning steps to be taken to make possible the comparison of industry and occupation data from the 1980 and 1970 censuses in view of the substantial change in the coding system. The Committee members have had a significant impact on the Bureau's decisions with regard to the presentation of information on race and ethnic origin from the 1980 census and the Current Population Survey. A wide range of problems connected with the collection of data through the publication of data from the 1980 census and from the Bureau's population surveys has been carefully scrutinized by the Committee, and from its deliberations many important modifications of the Bureau's plans have evolved.

In the next 2 years, the Committee will evaluate the completeness of the 1980 census count, review the plans for analyzing the census tabulations, and continue to review the many current surveys the Bureau undertakes in the area of population statistics.

The Committee will continue with a balanced representation of 15 members, chaired by one of the Committee members which they select. The Committee will report and be responsible to the Director, Bureau of the Census, and will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Paul C. Glick, Senior Demographer, Population Division, Room 2019, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 763–7030.

Dated: December 19, 1980

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-40707 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-17-M

Census Advisory Committee on the Spanish Origin Population for the 1980 Census; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on the Spanish Origin Population for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in March 1975, and is due to terminate on December 14, 1980. Its purpose is to provide an organized and continuing channel of communication between the Spanish origin population and the Bureau of the Census on problems and opportunities of the Twentieth Decennial Census as they relate to the Spanish origin population of the United States. Having an established channel of communication has been helpful to the Census Bureau in its efforts to develop techniques designed to minimize the undercount of the Spanish origin population, and to develop improved procedures to disseminate the 1980 census data.

The Bureau will continue to draw on the knowledge and expertise of the Committee members to provide advice during the postenumeration period of the 1980 Census of Population and Housing on such elements as improving the tabulation and presentation and census data of special use to the Spanish origin population, on alternative approaches to the possible adjustment for the census undercount, and on ways to maximize the usefulness of the overall census product.

The Committee will continue to consist of 21 members appointed from among a broad spectrum of community leaders, who will elect a Committee Chairperson from among the members. The Committee will report and be responsible to the Director, Bureau of the Census. The Committee will function solely as an advisory body, in compliance with the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Clifton S. Jordan, Decennial Census Division, Room 3779, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 736–5169.

Dated: December 19, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-40771 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-17-M

Census Advisory Committee of the American Statistical Association; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee of the American Satistical Association is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was established in 1919 by the Secretary of Commerce and has been periodically renewed. It was initially chartered under the Federal Advisory Committee Act in January 1973. Its present charter is scheduled to expire December 14, 1980. The present objective of the Committee is to advise the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, drawing on the experience and expertise of the members to make professional judgments and recommendations. In renewing the Committee, no significant change of objectives or of emphasis is planned.

The Committee will continue to consist of 15 members designated by the President of the American Statistical Association from the membership of that Association, from a list of nominees submitted by the Director, Bureau of the Census. The members will be representative of the diverse users of census statistics. The Chairperson will continue to be selected annually by the Committee, which will function solely as an advisory body, and in compliance with the Federal Advisory Committee Act.

Copies of the Committee's charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. James L. O'Brien, Statistical Research Division, Room 3573, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 763–5350.

Dated: December 19, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-40768 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-17-M]

Census Advisory Committee of the American Economic Association; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee of the American Economic Association is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was established in March 1960, and has been periodically renewed. It was initially chartered under the Federal Advisory Committee Act in January 1973. Its current charter terminates on December 14, 1980. The Committee advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses and surveys and other Bureau surveys with economic content; reviews major aspects of the Bureau's programs; and advises on the role of analysis within the Bureau and the level of detail required of data for effective economic analysis.

In renewing the Committee, it is anticipated that the contributions made by the Committee in the performance of its objectives will continue, and that the

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Committee will draw on the experience and expertise of its members to form a collective judgment concerning statistics issued by the Bureau of the Census.

As currently organized, the Committee will continue with a balanced representation of 15 members designated by the President of the American Economic Association from the membership of the Association, from a list of nominees presented by the Director, Bureau of the Census. Members will be appointed for a 3-year term on a rotating basis, such term being contingent upon the Committee's continuation. A Chairperson and Chairperson-elect will be elected by the Committee for a 1-year term. The Committee will function solely as an advisory body in compliance with the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Elmer S. Biles, Office of the Director, Room 3061, Federal Building 3, Bureau of the Census, Washington, D.C. 20233, telephone (301) 763-7184.

Dated: December 19, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-40769 Filed 12-31-80; 8:45 am]

BILLING CODE 3510-17-M

International Trade Administration Advisory Committee on East-West Trade; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Advisory Committee on East-West Trade was initially established on February 11, 1974, and rechartered on December 5, 1980 in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. (1976). The Committee advises the Department of Commerce on ways to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries.

TIME AND PLACE: January 14, 1981, at 9:30 A.M. The meeting will take place at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda

General Session (9:30 A.M.–12:30 P.M.)

(1) Welcome and Opening Remarks by the Chairman.

(2) Remarks by Secretary Klutznick.

(3) Report on the U.S. National Exhibition in Beijing.

(4) Review of Developments in East-West Trade.

(5) Committee Views on U.S. Trade Prospects with the German Democratic Republic.

(6) Committee Views on Recent Developments in PRC Patent Legislation and PRC Technology Licensing Policies.

Executive Session (2:00 P.M.–4:00 P.M.)

(7) Committee Recommendations on Administration Initiatives in East-West Trade in the Coming Four Years.

Public Participation: The General Session of the meeting will be open to the public. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis. A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments may be submitted in writing at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 29, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5 (c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters in 5 U.S.C. 552b (c)(1) and (9)(B); i.e., material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which is properly classified pursuant to such Executive Order, and whose premature disclosure would be likely to significantly frustrate implementation of U.S. policy.

A copy of the Notice of Determination to close the aforementioned portion of the January 14, 1981 meeting is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377-4217. Summary minutes of the General Session will be available 30 days after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Ronald G. Oechsler, Committee Control Officer, Office of East-West Policy and Planning, International Trade Administration, Room 4816, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-5896.

Dated: December 29, 1980.

J. Mishell George,

Acting Deputy Assistant Secretary for East-West Trade.

[FR Doc. 80-40834 Filed 12-30-80; 3:23 pm]

BILLING CODE 3510-25-M

Melamine in Crystal Form From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the antiduping finding on melamine in crystal form from Japan. The review covers the five known exporters of this merchandise to the United States. The review covers separate time periods for each exporter up to January 31, 1980. Only one firm reported shipments to the United States during the reviewed periods. The Department found a dumping margin for these shipments.

As a result of this review, the Department has preliminarily determined to assess dumping duties for that firm equal to the calculated differences between foreign market value and purchase price on each of its shipments occurring during the covered period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5345).

SUPPLEMENTARY INFORMATION:

Procedural Background

On February 2, 1977, a dumping finding with respect to melamine in crystal form from Japan was published in the **Federal Register** as Treasury Decision 77-54 (42 FR 6366). On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Act"), the Department has conducted an administrative review of the finding on melamine in crystal form from Japan, however, the substantive provisions of the Antidumping Act, 1921, as amended ("Antidumping Act") will be applied to all entries made and unassessed prior to January 1, 1980.

Scope of the Review

This review covers imports of melamine in crystal form, which is a fine white crystalline powder used to manufacture melamine formaldehyde resins, and is currently classifiable under item 425.10 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of five exporters to the United States of Japanese melamine in crystal form. This review covers all of them. This review covers all periods for which information is available, that is, all periods up to January 31, 1980, during which shipments of melamine may have been made to the United States and for which appraisement instructions ("master lists") have not been issued. Therefore, different periods are involved for different companies. The issue of the Department's obligation to conduct administrative review of entries unliquidated as of January 1, 1980 and covered by such master lists is under review. Liquidation has been suspended pending disposition of the issue.

The Department's records show that a sixth firm, Ataka & Co., Ltd., was identified as an exporter at the time of the fair value investigation but showed no shipments from the time of the investigation to October 1, 1977. Ataka merged with C. Itoh & Co., Ltd., one of the five covered exporters, effective october 1, 1977. Prior to that date, C. Itoh was not known to be an exporter of melamine in crystal form. Any activity by Ataka is covered by our review of C. Itoh.

Nissan Chemical Industries, Ltd. was the only Japanese exporter investigated at the time of the fair value phase. A 69% weighted average dumping margin resulted from this investigation. C. Itoh & Co., Ltd., Nichimen Co., Ltd., Nosawa & Co., Ltd., and Nissan reported no shipments during the time periods covered by this administrative review, and the fair value margin of 60% is the most recent information for estimated dumping duty deposits for these exporters.

Purchase Price

The Department used purchase price, as defined in section 203 of the Antidumping Act, since all U.S. sales were made to unrelated purchasers. In this case, purchase price was calculated on the basis of the f.o.b. packed price to unrelated purchasers in the United States. Where applicable, adjustments were made to this price for inland freight, shipping charges, and royalty fees. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 205 of the Antidumping Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The manufacturer sold more than 60% of its total production in Japan. The home market price is based on the delivered price with adjustments for inland freight, interest, and royalty fees. Claimed adjustments for quantity discounts, insurance, commissions, inventory warehousing, and import duty on raw materials were not adequately explained or quantified. Additionally, the claim for inventory warehousing was not shown to be directly related to sales. These claims for adjustments therefore were not allowed.

Results of the Review

As a result of our comparison of purchase price to foreign market value, we preliminarily determine that the following margins exists:

Firm	Time Period	Margin (percent)
C. Itoh & Co., Ltd.	4/1/78–1/31/80	*60
Mitsui Toatsu Chemicals, Inc.	4/1/78–3/31/79	70.22
	4/1/79–1/31/80	*70.22
Nichimen Co., Ltd.	4/1/79–1/31/80	*60
Nissan Chemical Industries, Ltd.	4/1/79–1/31/80	*60
Nosawa & Co., Ltd.	10/1/79–1/31/80	*60

*No shipments during this period.

Interested parties may submit written comments on these preliminary results on or before February 4, 1981, and may request disclosure and/or a hearing within 15 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, duties, where appropriate, on all entries made during the time periods involved. Individual differences between purchase price and foreign market value may vary from the period stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice publication are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,
Deputy Assistant Secretary for Import Administration.
December 22, 1980.

[FR Doc. 80-40786 Filed 12-31-80; 8:45 am]
BILLING CODE 3510-25-M

Chains and Parts Thereof, of Iron or Steel From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: This notice is to advise the public that, as a result of an administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain for the period of January 1, 1979 to December 31, 1979, the Department of Commerce has preliminarily determined to assess countervailing duties equal to the calculated value of the net subsidy, that is, of 12.50 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Mary A. Martin, Office of Compliance, Room 1126, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1770).

SUPPLEMENTARY INFORMATION:

Procedural Background

On January 24, 1978, a notice of "Final Countervailing Duty Determination," T.D. 78-20, was published in the Federal Register (43 FR 3258). The notice stated that the Treasury Department had determined that exports of chains and parts thereof, of iron or steel, from Spain were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)("the Act"). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 (the "TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative revews of all outstanding countervailing duty orders. As required by section 751 of the Act, the Department has conducted an administrative review of the finding on chains and parts thereof, of iron or steel, from Spain.

Scope of the Review

Imports covered by this review are chains and parts thereof, of iron or steel. They are currently classifiable under items 652.24, 652.27, 652.30, 652.33, and 652.35, of the Tariff Schedules of the United States.

The review covers calendar year 1979, and the review is limited to the Desgravacion Fiscal rebate program, which was the only program found countervailable in the Final Determination.

Preliminary Results of Review

Under the Desgravacion Fiscal rebate program, exporters receive a rebate of a set percent of the f.o.b. value of exported merchandise. The rates differ for particular types of products. Tax rebates under this program are to compensate for the cascade effect of the Spanish indirect tax system.

The Government of Spain provided no response to our questionnaire of May 14, 1980. In a letter dated September 17, 1980, the Spanish Government provided a new schedule of Desgravacion Fiscal rebates for all products from Spain covered by outstanding countervailing duty orders. These rate changes resulted from the passage of Spanish Law 6/1979 of September 25, 1979 and Decree 2950/1979. The new Desgravacion Fiscal rebate for chains and parts thereof, of iron or steel, is 12.50 percent.

Because we have received no information to indicate that any part of the 12.50 percent Desgravacion Fiscal rebate is not countervailable, we preliminarily determine that the net subsidy conferred upon producers exporting to the United States is 12.50 percent *ad valorem* of the f.o.b. invoice price.

The Department intends to instruct the Customs Service to assess countervailing duties at 12.50 percent *ad valorem* of the f.o.b. invoice price on all unliquidated entries of chains and parts thereof, of iron or steel, from Spain exported through Devember 31, 1979.

Further, as required by § 355.36(c) of the Department Regulations, a cash deposit of estimated countervailing duties at the rate of 12.50 percent *ad valorem* shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the present administrative review. This requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, a deposit of estimated duties of 12.50 percent of the f.o.b. invoice price shall continue to be required on each entry of the subject merchandise.

Interested parties may submit written comments on these preliminary results on or before Febrauary 4, 1981, and may request disclosure and/or a hearing on or before January 21, 1981. The Department will publish a notice of the final results of the administrative review after analysis of issues raised in written comments or at a hearing.

This administrative review and notice publication are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

December 30, 1980.

[FR Doc. 81-00250 Filed 1-2-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-663]

Application; American Heavy Lift Shipping Co.; Merchant Marine Act; Show Cause Notice

AGENCY: Maritime Subsidy Board, Maritime Administration, Department of Commerce.

ACTION: Extension of time for filing comments.

SUMMARY: By Show Cause Notice appearing in the **Federal Register** on December 10, 1980 (45 FR 81241) interested parties were given an opportunity to show cause why the Board should not find, under section 605(c) of the Merchant Marine Act, that the effect of awarding an operating-differential subsidy contract to American Heavy Lift Shipping Co., for an existing service to the extent of a minimum of 14 and a maximum of 28 sailings annually with two C1-MT-123a heavy lift, Ro/Ro type vessels for a period of 20 years, should not be unduly prejudicial or give undue advantage as between citizens of the United States operating heavy lift services in worldwide operation. Interested parties were given until January 2, 1981 to make such filing.

The Board on December 24, 1980 granted the request of Moore McCormick Lines, Incorporated for an extension of time to make such filing until January 9, 1981. All interested parties are hereby extended the same opportunity to make such filings by close of business January 9, 1981.

COMMENT DATE: January 9, 1981.

ADDRESS: Send comments to Robert J. Patton, Jr., Secretary, Maritime Subsidy Board/Maritime Administration, U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Edward A. Uttridge, Director, Office of Subsidy Contracts, Maritime Administration, Washington, D.C. 20230, telephone number (202) 377-3797.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

By Order of the Maritime Subsidy Board

Dated: December 24, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-112 Filed 1-2-81; 8:45 am]

BILLING CODE 3510-15-M

National Telecommunications and Information Administration

Satellite Communications in a Developing World; Application Announcement for a Cooperative Agreement

The National Telecommunications and Information Administration announces that it is seeking applications under its Satellite Applications Program to design and conduct an educational program for a group of foreign citizens of lesser-developed countries. The cost of the project is estimated to be $150,000.00. The program is to be conducted in the summer of 1981, for a period of three to four weeks.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a cooperative agreement.

Program Description: Presidential Directive 42 authorized NTIA "to formulate policy to assist in market aggregation, technology transfer, and possible development of domestic and international public satellite services. The policy direction is intended to stimulate the aggregation of the public service market * * *"

The aggregation of widely dispersed public service users of satellite services in the United States is being facilitated by a four-year assistance program, the Public Telecommunications Services Program, established by NTIA in fiscal year 1980. The proposed project announced here is designed to initiate the international mission of PD 42. Applicants shall propose to plan and conduct an educational program for a small group of foreign citizens of developing countries who will be invited by NTIA to the United States to share experiences and exchange knowledge of social service delivery via communications satellites.

Eligibility Requirements: Educational, non-profit, and for-profit institutions are eligible to apply.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of technology transfer in developing nations, knowledge of satellite communications, expertise in public service delivery via telecommunications, experience in short-term educational or training programs, organizational structure, and cost. Specific criteria will be included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to prepare and submit an application before the closing date of February 25, 1981. Detailed submission procedures are outlined in each application kit.

Application Materials: Questions concerning the application process or requests for application kits should be directed to: Susan Irwin, Grants Program Administrator, Satellite Applications Program, National Telecommunications and Information Administration, 608 13th St., N.W., Washington, D.C. 20004, (202) 724-3464.

John J. O'Neill,

Acting Associate Administrator.

[FR Doc. 81-[illegible] Filed 1-2-81; 8:45 am]

BILLING CODE 3510-60-M

Patent and Trademark Office

Recognition of United States Depository as an International Depository Authority Under the Budapest Treaty

As provided in Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, the United States announces recognition of the American Type Culture Collection, Rockville, Maryland, as an international depository authority. The communication of the Director General of the World Intellectual Property Organization according this recognition as of January 31, 1981 follows:

Dated: December 30, 1980.

Sidney A Diamond,

Commissioner of Patents and Trademarks.

Budapest Notification No. 11

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

Communication of the United States of America Relating to the Acquisition of the Status of International Depositary Authority by the American Type Culture Collection.

The Director General of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to notify him of the receipt, on November 17, 1980, of a written communication from the Government of the United States of America, relating to the American Type Culture Collection, indicating that the said depositary institution is located on the territory of the United States of America and including a declaration of assurances to the effect that the said institution complies and will continue to comply with the requirements concerning the acquisition of the status of international depositary authority as specified in Article 6(2) of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977.

The American Type Culture Collection will acquire the status of international depositary authority under the said Treaty as from January 31, 1981, the date of publication of the said comunication in the January 1981 issue of *Industrial Property/La Propriété industrielle* (see Article 7(2) of the said Treaty).

December 3, 1980.

[FR Doc. 81-214 Filed 1-2-81; 8:45 am]

BILLING CODE 3510-16-M

Recognition of United States Depository as an International Depository Authority Under the Budapest Treaty

As provided in Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, the United States announces recognition of the Agricultural Research Culture Collection, Peoria, Illinois, as an international depository authority. The communication of the Director General of the World Intellectual Property Organization according this recognition as of January 31, 1981 follows:

Dated: December 30, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Budapest Notification No. 12

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

Communication of the United States of America Relating to the Acquisition of the Status of International depositary Authority by the Agricultural Research Culture Collection.

The Director General of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to notify him of the receipt, on December 2, 1980, of a written communication from the Government of the United States of America, relating to the Agricultural Research Culture collection, indicating that the said depositary institution is located on the territory of the United States of America and including a declaration of assurances to the effect that the said institution complies and will continue to comply with the requirements concerning the acquisition of the status of international depositary authority as specified in Article 6 (2) of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977.

The Agricultural Research Culture Collection will acquire the status of international depositary authority under the said Treaty as from January 31, 1981, the date of publication of the said communication in the January 1981 issue of *Industrial Property/La Propriété industrielle* (see Article 7 (2) of the said Treaty).

December 8, 1980

[FR Doc. 81-213 Filed 1-2-81; 8:45 am]

BILLING CODE 3510-16-M

Office of the Secretary

Senior Executive Service; Bonuses

Below is a listing of Senior Executive Service employees who are scheduled to receive bonuses:

Frederic A. Heim, Assistant Inspector General for Audits, Office of the Inspector General, $6,013—to be paid 1/19/81

Herbert S. Becker, Assistant Director for Planning, Budget, and Evaluation, Minority Business Development Agency, $5,512—to be paid 1/19/81

John C. Williams, Deputy Director for the Office of Product Standards, $5,512—to be paid 1/19/81
Melvin S. Day, Director, National Technical Information Service, $5,512—to be paid 1/19/81

Jo Ann Sondey-Hersh,

Executive Secretary, Office of the Secretary, Performance Appraisal System.

[FR Doc. 81-235 Filed 1-2-81; 8:45 am]

BILLING CODE 3510-86-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1981 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 2, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 17, 1980, October 31, 1980, and October 3, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 68996, 45 FR 72248, and 45 FR 65647) of proposed additions to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1981:

Class 6532

Pajamas, Ladies' Tops:
  6532-00-NSH-0001 Medium
  6532-00-NSH-0002 Large
Pants:
  6532-00-NSH-0003 Medium
  6532-00-NSH-0004 Large
Robe, Ladies:
  6532-00-NSH-0005

Class 9905

Tree Shade:
  9905-00-NSH-0001

Sic 7349

Janitorial/Custodial, U.S. Customs, 160-10 Rockaway Blvd., Jamaica, New York
Janitorial/Custodial, Federal Building, 45 Bay Street, Staten Island, New York

Sic 7699

Repair, Maintenance, and Overhaul of Building Maintenance, Grounds Maintenance, and Related Types of Equipment in:
  New York City (5 Boroughs)
  Nassau County
  Suffolk County
  Newark, New Jersey plus five miles radius

C. W. Fletcher,

Executive Director.

[FR Doc. 80-40765 Filed 12-31-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1981 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 4, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1981, November 12, 1980 (45 FR 74836):

Class 6645

Clock, Wall, 24 Hour Dial, Battery-operated
  6645-00-NIB-0001 (8")
  6645-00-NIB-0002 (11")

Sic 0782

Grounds Sweeping and Cleaning at the following locations in Long Beach, California:
  Terminal Island Naval Complex
  Navy Housing
  Navy Regional Medical Center
  Naval Fuel Depot (San Pedro)

C. W., Fletcher,

Executive Director.

[FR Doc. 80-40636 Filed 12-31-80; 8:45 am]

BILLING CODE 6820-33-M

COMMUNITY SERVICES ADMINISTRATION

Executive Order 12232 of August 8, 1980; Historically Black Colleges and Universities

Note.—This document originally appeared in the **Federal Register** for Tuesday, December 23, 1980. It is reprinted in this issue to meet requirements for publication on the Monday-Thursday schedule assigned to the Community Services Administration.

AGENCY: Community Services Administration.

ACTION: Notice of Community Services Administration's designated official to implement Executive Order 12232.

SUMMARY: Executive Order 12232, Historically Black Colleges and Universities, directs Executive Agencies to designate an official to implement the Agency's responsibility set forth in this order and to act as the Agency liaison to the Secretary of Education. In compliance with this Executive Order the Community Services Administration (CSA) has designated William W. Allison, Deputy Director of CSA, as the CSA official to implement this order.

FOR FURTHER INFORMATION CONTACT: William W. Allison, 1200 19th Street, N.W., Washington, D.C. 20506, (202) 254-6218.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.)

Richard J. Rios,

Director.

[FR Doc. 80-40017 Filed 12-22-80; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF DEFENSE

Defense Investigative Service

Privacy Act of 1974; Amendment to Systems of Records Notice

AGENCY: Defense Investigative Service.

ACTION: Proposal to amend three system notices.

SUMMARY: The Defense Investigative Service (DIS) proposes to delete the general exemption (5 U.S.C. 522a(j)(2)) from three systems of records. Also the retention schedule for one of these systems is being amended and new category of records, the DCII Disclosure Accounting System is being added to another system. In addition all three system notices are being amended to reflect the current name of a branch within Headquarters, DIS. These three systems are set forth in their entirety below.

DATES: The systems notices shall be amended as proposed without further notice February 4, 1981, unless comments are received on or before February 4, 1981, which would result in a contrary determination.

ADDRESS: Send comments to the System Managers identified in the system notices.

FOR FURTHER INFORMATION: Contact Lt. Col. Dale L. Hartig, Office of Information and Legal Affairs, Defense Investigative Service, 1900 Half Street SW., Washington, DC 20324. Telephone: (Area Code 202) 693–1740.

SUPPLEMENTAL INFORMATION: These amendments are not deemed to be within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of an altered system report pursuant to the Office of Management and Budget guidance set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 24, 1980.

V5–01

System name:

Investigative Files System

Changes:

System location:

Delete words "Special Investigations Center" in line 4 and insert "Special Investigations Unit."

Retention and disposal:

Delete first paragraph and substitute the following:

"Retention of closed DIS investigative files is authorized for 15 years maximum, except as follows: (1) Files which have resulted in adverse action against the individual will be retained 25 years; (2) Files developed on persons who are being considered for affiliation with the Department of Defense will be destroyed within one year if the affiliation is not completed. In cases involving a pre-appointment investigation, if the appointment is not made due to information developed by investigation, the file will be retained 25 years. If the appointment is not made for some other reasons not related to the investigation, the file will be destroyed within one year; (3) Information within the purview of the Department of Defense Directive 5200.27, 'Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense', is destroyed within 90 days after acquisition by DIS unless its retention is required by law or unless its retention has been specifically authorized by the Secretary of Defense or his designee."

Systems exempted from certain provisions of the act:

Delete the entire entry and insert:

"The portions of this system of records which fall within the scope of 5 U.S.C. 522a (k)(2), (k)(3) and (k)(5) may be exempt from the provisions of subsection 5 U.S.C. 552a (c)(3), (d), (e)(4)(G), (e)(4)(H), (e)(4) (I) and (f). See the Defense Investigative Service exemption rules at section 298a.14 of 32 CFR Part 298a."

V5–02

System name:

Defense Central Index of Investigations (DCII)

Changes:

Categories of records in the system:

Add at the end:

"DCII DISCLOSURE ACCOUNTING SYSTEM (DDAS)

A record of disclosures of DIS investigative information contained in the DCII to agencies outside the Department of Defense. This system identifies the subject individual by name, date of birth, and social security number. It indicates the date on which disclosure was made, the name and address of the agency receiving the information, the specific information released and the purpose or use to which the information will be put."

Contesting record procedures:

Delete "Assistant for Information" and replace with "Office of Information."

Systems exempted from certain provisions of the act:

Delete the entire entry and substitute "none.".

V5–04

System name:

Defense Case Control System (DDCS)

Changes:

Contesting record procedures:

Delete "Assistant for Information" and replace with "Office of Information."

Systems exempted from certain provisions of the act:

Delete the entire entry and substitute "none."

V5–01

SYSTEM NAME:

V5–01 Investigative Files System

SYSTEM LOCATION:

Defense Investigative Service (DIS), Investigative Files Division, P.O. Box 1211, Baltimore MD 21203 has primary control over the system and is responsible for the maintenance of completed investigative records. The Special Investigations Unit, 1900 Half St. S.W., Washington, DC 20324 maintains limited categories of these records. DIS operational centers; District Offices; Field Offices; Resident Agencies and various DIS headquarters staff elements originate and have temporary control over portions of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel who are on active duty, applicants for enlistment or appointment and reservists and National Guardsmen; DoD civilian personnel who are paid from appropriated funds; industrial or contractor personnel who are working in private industry in firms which have contracts involving access to classified DoD information or installations; Red Cross personnel and personnel paid from nonappropriated funds who have DoD affiliation; ROTC cadets; former military personnel; individuals residing on, having authorized official access to, or conducting or operating any business or other functions at any DoD installation or facility.

Individuals not affiliated with the Department of Defense when, during the previous year, their activities have directly threatened the functions property or personnel of the DoD or they have engaged in, or conspired to engage in, criminal acts on DoD installations or directed at the DoD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigations (ROI's) prepared by DIS or other DoD, Federal, State or local official investigation activities.

DIS Information Summary Reports (ISR's) which record unsolicited information received by DIS concerning a person or incident which is of direct interest to other DoD components or Federal agencies. (When such information is received by DIS it is reported as it was received, without investigation or confirmation, by IRS and transmitted to the interested activity.)

Attachments to ROI's or ISR's including exhibits, subject or interviewee statements, police records, medical records, fingerprint cards, credit bureau reports, employment records, education records, release statements, summaries of or extracts from other similar records or reports.

Case control and management documents which are not reports of investigation, but that serve as the basis for investigation, or serve to guide and facilitate investigative activity, including documents providing the data to open and conduct the case, such as the Personnel Security Investigation Request; documents, initiated by the subject such as personnel history documents, and fingerprint records; and documents used in case management and control, such as release statements, case transfer forms, and documents directing the inquiry.

DIS file administration and management documents accounting for the disclosure, control and access to a file, such as warning sheets, separators, forwarding correspondence and accounting records required by 5 U.S.C. 552 and 552a.

Cross references to chronological correspondence files disclosing unfavorable and administrative action taken based on DIS investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of 5 U.S.C. Departmental Regulations.

Section 310 of 44 U.S.C. Records Management.

Sections 2, 3, 4, 5, 6, 8 and 9, Executive Order 10450, Security Requirements for Government Employment.

Section 6(A), Executive Order 11652, Classification and Declassification of National Security Information and Material.

Sections III and V, DoD Directive 5101.42. Charter for the Defense Investigative Service.

Section III A, DoD Directive 5200.2b, Defense Investigative Program.

Section IV A and B, DoD Directive 5200.27, Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense.

Section IX, DoD Director 5210.7, Department of Defense Civilian

Applicant and Employee Security Program.

Section I, DoD Directive 5210.8, Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information.

Section VII, DoD Directive 5210.9, Military Personnel Security Program.

Section V A 2, DoD Instruction 5210.25, Security Acceptability of American National Red Cross Employees at Department of Defense Installations and Activities.

Section I, DoD Instruction 5210.26, Investigation of American National Red Cross Employees on Duty at Department of Defense Installations and Activities in the Zone of Interior.

Encl 3, paragraph b 2 and 3, DoD Directive 5210.41, Security Criteria and Standards for Protecting Nuclear Weapons.

Section III, DoD Directive 5210.45, Personnel Security in the National Security Agency.

Section VII, DoD Directive 5210.55, Selection of Department of Defense Military and Civilian Personnel for Assignment to Presidential Support Activities.

Section IV, C, DoD Directive 5220.6, Industrial Personnel Security Clearance Program.

Section V B, DoD Directive 5220.28, Application of Special Eligibility and Clearance Requirements in the SIOP–ESI Program for Contractor Employees.

Section 1(a) and 2, Executive Order 10865, Safeguarding Classified Information Within Industry.

Section III, DoD Instruction 5030.34, Agreement between the Department of Defense concerning Protection of the President and Other Officials.

Paragraph 10, Director of Central Intelligence Directive No. 1/14, Uniform Personnel Security Standards and Practices Governing Access to Sensitive Compartmented Information C.

Section II, DSA Regulation 5705.2, Criminal Investigative Support to the Defense Supply Agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose for which collected.

Personnel security investigative information is collected to insure that the acceptance or retention of persons to sensitive DoD positions, or granting individuals access to classified information, including those employed in defense industry, is clearly consistent with national security.

Criminal investigative information is collected on request to identify offenders, provide facts and evidence upon which to base prosecution and effect the recovery of property which has been wrongfully appropriated.

Information contained in ISR's (see description in RECORD CATEGORY) regarding criminal, personnel security, counterintelligence, or intelligence matters, when received is disseminated to appropriate Federal agencies or other DoD components.

Criminal and personnel security information is collected during reciprocal investigations conducted for other DoD and federal investigative elements (or in limited instances, criminal information for local, or state law enforcement agencies) for maintenance and use by the requesting activity.

Information regarding alleged security violations is collected on request to establish whether or not a compromise occurred and to identify the personnel involved.

Criminal information received by DIS personnel in the course of their duties which is of direct interest to a local law enforcement agency and therefore furnished to that agency orally or by letter.

Users of DIS investigative information are:

(1) DIS personnel in the course of their official duties.

(2) Other accredited DoD investigative components, DoD agencies, elements and representatives of the Secretary of Defense and the Joint Chiefs of Staff.

(3) Accredited Federal criminal and civil law enforcement and intelligence agencies.

(4) State and local official criminal law enforcement agencies.

(5) Other accredited federal agencies conducting investigations to evaluate suitability for employment or access to classified information.

(6) Congressional committees and the Government Accounting Office.

Specific uses of DIS investigative records are:

To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for access to Defense information and facilities by the first two categories of users, above.

To determine the eligibility and suitability of individuals for entry into and retention in the Armed Forces by the second category of users, above.

To provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056, by the first three categories of users, above.

For use in criminal law enforcement investigations including statutory violations, counterintelligence, as well as counterspionage and other security matters by the first through fourth and the sixth categories of users, above.

In the event that records maintained in this system indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

To provide information in judicial or adjudicative proceedings including litigation, or in accordance with a court order by the first three categories of users, above.

To make statistical evaluations of DIS investigative activities by the first, second and sixth categories of users, above.

To respond to Freedom of Information and Privacy Act access requests, by the first category of users, above.

To provide information in response to Inspector General, and EEO or other complaint investigations and Congressional inquiries by the first, second and sixth categories of users, above.

To determine the eligibility and suitablity of an individual for personnel actions in the Armed Forces of the United States, as deemed appropriate by the second category of users, above.

A record such as identification data, from this system of records may be disclosed as a routine use to a federal, state, local or foreign agency maintaining relevant information or to business enterprises to obtain employment records if necessary to obtain information relevant to an assigned investigation.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter by any agency of the first, second, third or fifth categories of users, above.

Transfers of information from this record system to other DoD components is a routine intra-agency use under the provisions of 5 U.S.C. 552a3(b)(1).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm, magnetic tape or supplementary index cards.

RETRIEVABILITY:

Investigations are centrally retrievable through the DIS Case Control System (DCCS) or the Defense Central Index of Investigations (DCII) systems described separately in this notice. Reciprocal investigations jurisdictions, may be retrieved only through a limited manual disclosure accounting system.

SAFEGUARDS:

Completed investigative records are maintained and stored in power files, open shelves and filing cabinets which are housed in secured areas accessible only to authorized personnel who are properly screened and have a need to know. Information contained on magnetic tape is secured in the same manner as the DCII, described separately. Recipients of investigative information are responsible for safeguarding information within the guidelines provided by DIS.

RETENTION AND DISPOSAL:

Retention of closed DIS investigative files is authorized for 15 years maximum, except as follows: (1) Files which have resulted in adverse action against the individual will be retained 25 years; (2) Files developed on persons who are being considered for affiliation with the Department of Defense will be destroyed within one year if the affiliation is not completed. In cases involving a pre-appointment investigation, if the appointment is not made due to information developed by investigation, the file will be retained 25 years. If the appointment is not made for some other reasons not related to the investigation, the file will be destroyed within one year; (3) Information within the purview of the Department of Defense Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense", is destroyed within 90 days after acquisition by DIS unless its retention is required by law or unless its retention has been specifically authorized by the Secretary of Defense or his designee.

Generally, ISR's and reciprocal investigations are retained for only 60 days.

Partial duplicate records of personnel security investigations are retained for 60 days by DIS field elements. Partial duplicate records in criminal and special investigations are retained for one year.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. SW., Washington, DC 20324.

NOTIFICATION PROCEDURE:

Requests should be addressed to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. S.W., Washington, DC 20324, are necessary for retrieval of information. More information or a notarized statement verifying the identity of requesters may be required. The Information and Legal Affairs Office, 1900 Half St. S.W., Washington, DC 20324 may be visited by personnel making inquiries regarding this system. A check of personal identification will be required of all visitors making such inquiries.

RECORD ACCESS PROCEDURES:

Access may be obtained through the Information Office at the address listed above.

CONTESTING RECORD PROCEDURES:

DIS rules for contesting and appealing initial determinations may be obtained from the Assistant for Information at the address listed above.

RECORD SOURCE CATEGORIES:

Categories of sources of records.

Subjects of investigations.

Records of other DoD activities and components.

Federal, State, county and municipal records.

Employment records of private business and industrial firms.

Educational and disciplinary records of schools, colleges, universities, technical and trade schools.

Hospital, clinic and other medical records.

Records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks and other financial institutions which maintain credit information on individuals, transportation companies (airlines, railroad, etc.).

The interview of individuals who are thought to have knowledge of the subject's background and activities.

The interview of witnesses, victims and confidential sources.

The interview of individuals deemed necessary to complete the DIS investigation.

Miscellaneous directories, rosters and correspondence.

Any other type of record deemed necessary to complete the DIS investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The portions of this system of records which fall within the scope of 5 U.S.C. 552a (k)(2), (k)(3) and (k)(5) may be exempt from the provisions of subsections 5 U.S.C. 552a (c)(3), (d), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f). See the Defense Investigative Services exemption rules at section 298a.14 of 32 CFR Part 298a.

V5-02

SYSTEM NAME:

V5-02 Defense Central Index of Investigations (DCII)

SYSTEM LOCATION:

Central Facility:

Information Services Division, Personnel Investigations Center, PO Box 11211, Baltimore, Maryland 21203.

Remote Terminal Locations:

Crime Records Directorate, US Army Criminal Investigations Command, 2301 Chesapeake Avenue, Baltimore, Maryland 21222.

Air Force Office of Special Investigations, Bolling AFB, Washington, DC 20332.

Naval Investigative Service Headquarters, Hoffman Building 1, 2461 Eisenhower Avenue, ATTN: Code 30, Alexandria, Virginia 22331.

Defense Industrial Security Clearance Office, PO Box 2499, Columbus, Ohio 43216 (DISCO).

US Army Investigative Records Repository, Building 4452, Fort Meade, Maryland 20755.

DIS Personnel Investigations Center, PO Box 1211, Baltimore, Maryland 21203.

US Army Central Personnel Clearance Facility, Bldg. 4452, Fort Meade, MD 20755.

Defense Intelligence Agency, Room 2B535, ATTN: RSS-3A, Pentagon, Washington, DC 20301.

HQ Air Force Security Clearance Office, Room 5D-460, Pentagon, Washington, DC 20330.

Office of Personnel Management, Division of Personal Investigations, Investigative Support Branch, Boyers, PA 16016.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person described as a subject, a victim, or a cross-reference in an investigation completed by or for a DoD investigative organization when that investigation is retained by the organization and the name is submitted for central indexing.

CATEGORIES OF RECORDS IN THE SYSTEM:

DCII Master Index: Composed of locator references to investigations conducted by or for DoD investigative organizations and retained by them. Index records contain the name and other personal identifying information on individuals who were indexed.

File Tracing: Reference to an investigation maintained by one of the investigative records repositories. It identifies the individual by name and personal identifiers, the custodian or the file, the year indexed and the number used by the repository to locate the file.

Open Case Tracing: A record input by either Army investigative activities or DIS reflecting the existence of an investigation in progress. It identifies the subject individual by name and personal identifiers, the location of the open investigation, the year indexed and the number used to locate the investigative file.

NAC Pending Tracing: Record of a National Agency Check (NAC) investigation in progress. It identifies the subject individual by name, personal identifiers, the case number, the category of the requester of the NAC, and the type of NAC being run.

NAC History Tracing: A record of completed favorable, or incomplete, national agency checks. It identifies the individual by name and personal identifiers, the date the NAC was completed and the agencies that were checked.

DCII Name Only Index (NOI): Composed of names of persons who are referenced but not fully identified in investigative files. A Name Only Index record identifies the individual by name and lists the custodian agency of the file, year indexed and the number used by the repository to locate the file. Positive identification is impossible from the index and may well be impossible from the case file itself. DIS has placed no records in this index.

DCII Disclosure Accounting System (DDAS): A record of disclosures of DIS investigative information contained in the DCII to agencies outside the Department of Defense. This system identifies the subject individual by name, date of birth, and social security number. It indicates the date on which disclosure was made, the name and address of the agency receiving the information, the specific information released and the purpose or use to which the information will be put.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental Regulations

44 U.S.C. 3101 Records Management

Memorandum, Secretary of Defense, May 27, 1965

Memorandum, Secretary of Defense, December 3, 1965, subject: Establishment of a Central Index of DoD Investigations.

DoD Directive No. 5105.42, April 18, 1972, subject: Charter for Defense Investigative Service (DIS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

File tracing information is collected and maintained in the DCII so that authorized users may determine the existence and location of DoD investigative records.

NAC history information is maintained for authorized users in granting clearances, access to defense installations, entry into military service or employment in sensitive civilian positions.

Categories of users:

Components listed under the Location caption are the principal users and (with the exception of DISCO) the file custodians. Listed terminal holders (with the exception of DISCO) may release general DCII information to users of their investigative records or listed in their investigative records systems descriptions in this register.

It should be noted that information contained in the system is regarded as the property of the submitting activities. DIS can neither monitor, nor assume responsibility for the propriety or accuracy of the data in the system, other than that portion belonging to DIS.

Transfer of information from this records system to other DoD components is a routine intra-agency use under the provisions of 5 U.S.C. 552a3(b)(1). The use of the DCII by terminal holders to advise requesters of the possible location of information, where there is no disclosure of personal information from the DCII, does not require an accounting.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Master Index data is maintained in direct access storage devices, disk and data cell. It is also contained on magnetic tape for continuity of operations purposes to permit processing at alternate locations in the event of computer failure.

Name Only Index data is maintained on magnetic tape and microfiche.

Each contributor is provided his portion on a quarterly basis.

RETRIEVABILITY:

Master Index records are accessed through name and at least one personal identifier (PID). Personal identifiers are: date of birth, place of birth, social security number and the last four (4) digits of military service number. Inquiries may enter the system in card form or by being keyed in at remote terminals. A non-standard retrieval capability also exists which permits retrieval without PID, or on parts of a name, and produces to all individuals by that name. It should be noted that in many cases, the subject's SSAN is necessary to make a positive identification.

Name Only Index records are accessed through the name or some portion thereof. Records are retrieved based on an exact match with the name submitted. Inquiries may enter the system only in card form.

SAFEGUARDS:

Generalized validation is provided in batch retrieval through program edits to prevent unauthorized access.

User terminals with access to the Master Index are located in controlled access areas. Access to the system is limited to specified time of the day. Terminals are connected via dedicated data circuits which prevent access from standard dial-up telephones.

Activities must be a part of DoD and accredited on the basis of authorized requirements before a new terminal is established or before batch requests will be honored and processed. Terminal holders and organizations authorized access by other means, are responsible for insuring that individuals and organizations to whom they disclose index information have appropriate authority and need to know.

The computer room is located within a building controlled by security personnel at all times. Identification badges are required for entrance. Access to the computer room is controlled by a combination lock on the entrance. Critical backup files are stored in locked fire-proof data safes.

RETENTION AND DISPOSAL:

Retained for as long as files are retained. When the record repository disposes of the file, they are responsible to delete all index tracings pertaining thereto, in accordance with established procedures. Processing of a deletion transaction flags the computer record which precludes it being given out thereafter. Such flagged records are eliminated from the system during periodic file restructuring procedures.

Open Case Tracings. Retained for as long as the investigation is open. When the investigation is completed, the contributor replaces the open case tracing with a file tracing as described above.

NAC History Tracings. Retained for a period of four (4) years from the date of completion and then automatically deleted unless specific action is sooner taken to delete the record. Should a subsequent favorable NAC be completed, the entering of a new history record will delete the first history record.

NAC Pending Tracings. Retained until completion of the NAC at which time they are replaced by a NAC History or file tracing, unless sooner deleted by the originator.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. S.W., Washington, DC 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from:

Defense Investigative Service, Information and Legal Affairs Office, 1900 Half St. S.W., Washington, DC 20324.

Information Required: Full name and all maiden and alias names under which files may be maintained and personal identifiers listed under RETRIEVABILITY. Note, Social Security Account Numbers may be necessary for positive identification of certain records.

Office Which May be Visited: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. S.W., Washington, D.C. 20324.

Proof of Identity: Check of personal documents.

RECORD ACCESS PROCEDURES:

Access may be obtained through the Information Office at the address previously listed.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records, contesting contents and appealing initial determinations by the subject individual may be obtained from the Office of Information, at the above address.

RECORD SOURCE CATEGORIES:

DoD investigative organizations listed under the Location caption, excluding DISCO, and additionally:

Defense Supply Agency, ATTN: DSAH-T Cameron Station, Alexandria, Virginia 22314.

Director of Security, National Security Agency, ATTN: M-552, Fort Meade, Maryland 20755.

Assistant Chief of Staff of Intelligence, Department of the Army, ATTN: Counterintelligence Division, Washington, DC. 20315 (ACSI).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

V5-04

SYSTEM NAME:

V5-04 Defense Case Control System (DCCS)

SYSTEM LOCATION:

Information Services Division, Personnel Investigation Center, PO Box 1211, Baltimore, Maryland 21203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person or activity the subject of an ongoing or recently completed Defense Investigative Service (DIS) investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The DCCS Master file is composed of records of investigations which are being or have been conducted for DoD activities. Records contain the name and other personal identifying information on individuals who are investigated.

The DCCS History File consists of records of investigations that have been closed. Records contain the name and other personal identifying information on individuals who have been investigated.

The DCCS Investigative Assignment File (IAF) consists of records of leads assigned to DIS field elements for those investigations in progress as reflected in the DCCS Master file. Records contain the name, social security number, case control number, the investigative leads assigned and their status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, 44 U.S.C. 3101, Records Management, DoD Directive No. 5105.32, April 18, 1972, Charter for the Defense Investigative Service (DIS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes: The DCCS Master File contains open cases and cases closed during the prior 15 days to aid in case management and for the production of statistical reports.

The DCCS History File contains a record of all closed cases to obtain case management data and statistical reports.

The DCCS assignment files are used by DIS field elements to control local aspects of the investigation.

Categories of Users: DIS case control centers and field elements.

The Defense Industrial Security Clearance Office

Specific Uses: To determine the existence, location and status of the cases. To control workload and prepare statistical reports. To inform federal agencies or requesters of investigations regarding the status of on-going cases.

Automated Interfaces: The DCII System as described separately in this notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The DCCS Master File in Direct Access Storage Devices (DASD). A copy of the Master File is also contained on magnetic tape for continuity of operations to permit processing at alternate locations in the event of computer failure.

The DCCS History File is contained in magnetic tape. DCCS Investigative Assignment Files are retained in paper form.

RETRIEVABILITY:

Master and History File Records are accessed primarily through the case control number. Records can also be accessed through Military Service Number or Social Security Number. Queries may enter the system in card form and from magnetic tape or indirectly through the DCII.

Lead assignment (IAF) data is retrievable by name of individual or case control number.

SAFEGUARDS:

For the master and History Files as described in the DCII system description, this notice.

IAF documents.

RETENTION AND DISPOSAL:

Monthly history tapes are retained for two years. IAF records are retained one year after completion of field leads.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. S.W., Washington, DC 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half, St. S.W., Washington, DC 20324.

Information required: Full name and all maiden or alias names under which files may be maintained.

Personal Identifiers which include date and place of birth, social security number, and last four digits of military service number.

Offices Which May Be Visited: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, DC 20324.

Proof of Identity: Routine check of personal documents.

RECORD ACCESS PROCEDURES:

Information Office, at above address.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Office of Information.

RECORD SOURCE CATEGORIES:

DIS Case Control Centers

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-66 Filed 1-2-81; 8:45 am]

BILLING CODE 3810-70-M

Department of the Army

Privacy Act of 1974; Deletion/Addition of System Notices

AGENCY: Department of the Army.

ACTION: Notice of deletions/addition system notices.

SUMMARY: The Army has consolidated information now contained in 5 system notices into a single comprehensive system notice to be added to the Army inventory as A0708.02dDAPC, Enlisted Personnel Management Information System (EPMIS). The EPMIS system notice will result in deleting 5 system notices now describing segments of total enlisted personnel management system. The intended effect of this action provides a service to Army enlisted personnel and facilitates internal administration of the Privacy Act. Notices being deleted and the consolidated notice being added are printed below.

DATES: Effective February 4, 1981.

ADDRESS: Any comments, including written data, views or arguments concerning this action should be addressed to the System Manager identified in the added system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Christian, The Adjutant General's Office (DAAG-AMR-R), 1000 Independence Avenue, SW, Washington, DC 20310; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: Department of the Army systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc. 79-37052 (44 FR 73729) December 17, 1979
FR Doc. 80-594 (45 FR 1658) January 8, 1980
FR Doc. 80-3891 (45 FR 8399) February 7, 1980
FR Doc. 80-7515 (45 FR 15736) March 11, 1980
FR Doc. 80-9633 (45 FR 20992) March 31, 1980
FR Doc. 80-10014 (45 FR 21673) April 2, 1980
FR Doc. 80-150501-M (45 FR 26117) April 17, 1980
FR Doc. 80-13706 (45 FR 29390) May 2, 1980
FR Doc. 80-18501 (45 FR 41478) June 19, 1980
FR Doc. 80-20779 (45 FR 46842) July 11, 1980
FR Doc. 80-21847 (45 FR 48936) July 22, 1980
FR Doc. 80-29170 (45 FR 62875) September 22, 1980
FR Doc. 80-32460 (45 FR 68996) October 17. 1980
FR Doc. 80-33133 (45 Fr 70298) October 23, 1980
FR Doc. 80-34706 (45 FR 73728) November 6, 1980
FR Doc. 80-35825 (45 FR 75734) November 17, 1980
FR Doc. 80-36775 (45 FR 78748) November 28, 1980

The system of records being added is not deemed to be within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of an altered system report pursuant to Office of Management and Budget guidance set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 22, 1980.

Addition

A0708.02dDAPC

System name:

708.02 Enlisted Personnel Management Information System (EPMIS).

System location:

United States Army Military Personnel Center (MILPERCEN), 200 Stoval Street, Alexandria, VA 22332.

Categoreis of individuals covered by the system:

Army enlisted personnel on active duty; non-prior service and prior service personnel who have, or indicate, a desire to enlist in the U.S. Army, U.S. Army National Guard, or U.S. Army Reserves; initial active duty training (IADT) personnel undergoing basic training or advanced individual training (BT/AIT); former military personnel who are applicants for enlistment in grades E1-E9.

Categories of records in the system:

a. Enlisted Master File (EMF) contains name, social security number (SSN), sex, race, citizenship, religion, marital status, dependents, date and place of birth, residence, assignments, physical profile, ethnic group, grade/date of rank, enlistment and service promotion qualifications, Military Occupational Skill code, education and training, aptitude, separation, retirement, and mailing address.

b. Recruit Quota System (Request) contains selected information from EMF and soldier's educational level achieved and school subjects, driver's license color perception, aptitude battery scores, audio perception score, defense language aptitude battery (DLAB) score, motor vehicle battery test score; type of enlistment and date, term, and option; initial processing and training assignments, types, locations, and dates; unit of assignment identification, system identification of location that created accession record, recruiter identification and recruiting area credit code.

c. Enlisted Training Base (Act) contains selected information from EMF and the Soldier's enlistment and Service, assignment, enlistment commitments by MOS and type, college subjects, civilian acquired skills, advanced or basic individual training start and graduation date, location and MOS, follow-on MOS, location training recommended versus preferred, aptitude area scores and categories.

d. Enlisted Year Group Management File (Retain) contains selected information from the EMF and control number, reclassification/enlistment action, type of enlistment basic active service date, estimated termination of service (ETS), reenlistment date, civilian education, career management field (CMF), primary military occupational specialty code (PMOSC) and date of award, source of new PMOSC, personnel charged to school code, status of application, assignment code, date of last status change, current location, year group, security investigation status (SIS) and term reenlisted.

e. Enlisted Linquist Data Base (ELDB) contains selected information from the EMF and foreign language code, listening and reading proficiency, ratings and scores, dates of evaluation test or interview, how each language capability was acquired, with the principal type, highest level and date of recency for each foreign language in which proficients.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army (DA): Records are used for personnel management, strength accounting and manpower management; Department of Defense: Records are used for interdepartmental actions and personnel managemnet; Social Security Administration: Used to verify SSN.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes and disks.

Retrievability:

Normal access is by SSN, name, or other individually identifying characteristics.

Safeguards:

Physical security devices, guards, computer hardware and software safeguard features, personnel clearances and passwords.

Retention and disposal:

Records are retained 5 years after separation except enlisted linguist data base (ELDB) records which are retained 6 months after separation.

System manager(s) and address:

Commander, United States Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from Commander, United States Army Military Personnel Center (DAPC–POO–S), 200 Stovall Street, Alexandria, VA 22332. (AC 202/325–9310).

Record access procedures:

Written requests for information should contain the name of the individual, social security account number (SSN), whether awaiting active duty, active, or separated, return address and must identify the specific category of records involved. Blanket requests against this consolidated system will not be accepted. Visits are limited to United States Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332. The individual must be able to provide acceptable identification and give verbal information that could be verified with his/her record.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

Record source categories:

From the individual, from documents and computer readable output, other DA Staff Agencies and Commands, other Federal Agencies and Departments.

Systems exempted from certain provisions of the act:

None.

Deletions

A0225.11eDAPC

System name:

225.11 Enlisted Master File (44 FR 73782), December 17, 1979.

Reason:

Information is incorporated in system notice A0708.02dDAPC, Enlisted Personnel Management Information System (EPMIS), appearing as an added system in this **Federal Register**.

A0225.11fDAPC

System name:

225.11 Enlisted Year Group/RETAIN (44 FR 73782) December 17, 1979.

Reason:

Information is incorporated in system notice A0708.02dDAPC, Enlisted Personnel Management Information System (EPMIS), appearing as an added system in this **Federal Register**.

A0225.11gDAPC

System name:

225.11 Recruit Quota System (Request) (44 FR 73783) December 17, 1979.

Reason:

Information is incorporated in system notice A0707.02dDAPC, Enlisted Personnel Management Information System (EPMIS), appearing as an added system in this **Federal Register**.

A0708.13dDAPC

System name:

708.13 Enlisted Linquist Data Base (44 FR 73876) December 17, 1979.

Reason:

Information is incorporated in system notice A0708.02dDAPC, Enlisted Personnel Management Information System (EPMIS), appearing as an added system in this **Federal Register**.

A1002.05aDAPC

System name:

1002.05 Enlisted Training Base (44 FR 73949) December 17, 1979.

Reason:

Information is incorporated in system notice A0708.02dDAPC, Enlisted Personnel Management Information

System (EPMIS), appearing as an added system in this Federal Register.

[FR Doc. 81-85 Filed 1-2-81: 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Alternatives for the Protection of Bushy Park Reservoir, Cooper River Rediversion Project Lake Moultrie and Santee River, South Carolina

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Description of proposed action:

The proposed project provides for an alternative to prevent possible intrusion of oceanic salt water into the Bushy Park Reservoir as a result of the Cooper River Rediversion Project. A number of structural and non-structural alternatives are being studied.

2. Description of alternatives:

a. *Auxiliary Canal and Dam:* Under this structural scheme, the present Bushy Park Canal entrance would be closed and the Canal rerouted to a new intake point about four miles upstream.

b. *Fabridam:* Under this structural scheme, an inflatable rubberized fabric dam (Fabridam) would be constructed in the existing Bushy Park Canal entrance. It would serve as a barrier against ocean salinity intrusion from the Cooper River.

c. *Tunnel:* Under this structural scheme, the present Bushy Park Canal entrance would be closed. Water from the Cooper River would enter Bushy Park Reservoir through a tunnel having an intake about four river miles upstream from the present canal.

d. *Gates:* Under this structural scheme, a set of lock gates would be constructed in the existing Bushy Park Canal entrance. The gates would serve as a barrier against ocean salinity intrusion from the Cooper River.

Non-structural alternatives being evaluated include:

a. *Increased Water Flows from the Pinopolis Hydro Plant to Repel a Salinity Threat:* Under this non-structural scheme, assurances would be provided to the city that, when ocean salinity reached a certain magnitude as measured by monitors at predetermined locations in the river, the Corps would automatically require an increase in the discharge of the Pinopolis Hydro Plant that would be sufficient to prevent salt water from entering Durham Canal.

b. *No Action:* No specific action would be taken to control a possible salinity intrusion.

a. *Public and Private Participation in the DEIS Process:* Full participation by interested Federal, State and local agencies as well as other interested private organizations and parties will be invited. Coordination as needed will be accomplished with aforementioned agencies and other parties during the preparation of the DEIS.

b. *Significant Issues to be Discussed in the DEIS Include:*

(1) Comparative impacts of alternatives on land use types.

(2) Impacts of the alternatives considered in detail on fish and wildlife habitat.

(3) Impact on cultural resources that may occur in the study area.

(4) Impact of selected alternative on recreation.

(5) Impact on threatened and endangered species which may occur in the study area.

(6) Impact on prime and unique farmlands which may occur in the study area.

c. *Environmental Review:* Environmental review of the DEIS and EIS as well as consultations will be made with the U.S. Fish and Wildlife Service, Environmental Protection Agency, National Marine Fisheries Service, South Carolina Department of Health and Environmental Control, South Carolina Wildlife and Marine Resources Department, and State Historic Preservation Officer.

4. The formal scoping process has been initiated through correspondence. Additional scoping and coordination will continue through telephone communication, correspondence and meetings.

5. The Draft EIS *"Alternatives for the Protection of Bushy Park Reservoir, Cooper River Rediversion Project Lake Moultrie and Santee River, South Carolina"* will be made available to the public about March 31, 1981.

6. Questions about the proposed action and DEIS can be answered by: John Carothers, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Charleston District, Box 919, Charleston, South Carolina 29402.

Dated: December 22, 1980.

Bernard E. Stalmann,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 80-40748 Filed 12-31-80; 8:45 am]

BILLING CODE 3710-AJ-M

Intent To Prepare a Draft Supplement I to the Papillion Creek and Tributaries, Nebraska Final Environmental Statement

AGENCY: U.S. Army Corps of Engineers, Omaha District.

ACTION: Notice of Intent to Prepare a Draft Supplement I.

SUMMARY: 1. The authorized Federal action is to provide flood control in the Papillion Creek Basin, Nebraska.

2. The current plan for flood control along the west branch of Papillion Creek consists of two dams and reservoirs (Dam Sites 18 and 20 of the original plan). The only reasonable alternative to the authorized plan is the no action alternative.

3. To date, public involvement has included meetings and discussions with public entities, local planning agencies, and concerned citizens groups. The major issue to be analyzed in depth in the Draft Supplement is the Federal acquisition of an estimated 1,000 acres of land. The project will comply with the requirements of applicable environmental laws and executive orders.

4. A scoping meeting will not be held. The scoping process to be utilized will consist of specific coordination with appropriate governmental agencies having jurisdiction by law of special expertise and any locally interested party.

5. The Omaha District estimates that the Draft Supplement I will be releasd for public review in February 1981.

ADDRESS: Questions about the Draft Supplement I should be directed to Richard Gorton; Chief, Environmental Analysis Branch; Omaha District, CE; 6014 U.S. Post Office and Courthouse; Omaha, Nebraska 68102. Phone: (402) 221-4605.

Dated: December 22, 1980.

Arvid L. Thomsen,

Chief, Planning Division.

[FR Doc. 80-40743 Filed 12-31-80; 8:45 am]

BILLING CODE 3710-62-M

Intent To prepare draft environmental impact statement (DEIS) for Truckee Meadows (Reno-Sparks Metropolitan Area) Investigation in Washoe and Storey Counties, Nevada, and in Sierra, Nevada, and Placer Counties, California

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed Action.*—At the request of Washoe County and the Cities of Sparks and Reno and in response to a resolution of the Congress of the United States, the Corps of Engineers is investigating the feasibility of providing additional flood protection for the Reno-Sparks Metropolitan Area and Truckee Meadows.

DATE:

2. *Alternatives.*—Alternatives being considered include no action, nonstructural, and structural measures. The structural measures include reservoirs, channel enlargement and levees, bridge replacement and flood walls, and bypass tunnels. Recreation and fish and wildlife enhancement opportunities are being examined for the alternatives being considered.

3. *Scoping of the DEIS.*—Close coordination will continue with local agencies, other Federal agencies, and interested parties. Due to the presence of two threatened and endangered fish species, detailed analysis of potential impacts and enhancement measures for these species will be made.

4. Several public meetings have occurred during the past study phase. Additional meetings presently unscheduled will take place for developing recreation and environmental quality plans. A public meeting is scheduled for November 1971 to assist in finalizing the feasibility report.

5. The DEIS is scheduled to be made available to the public in October 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Jerry Key, Study Manager, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, CA 95814, telephone (916) 440–2464 (FTS 448–2464).

Dated: December 22, 1980.

Henry [illegible]ee,

Lieutenant Colonel, CE Acting District Engineer.

[FR Doc. 81–224 Filed 1–2–81; 8:45 am]

BILLING CODE 3710–GH–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) on the Historical Use and Maintenance, Plus Projected Use and Maintenance, of the Okeechobee Waterway, Florida

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: The U.S. Army Corps of Engineers, Jacksonville District, complying with requirements of Pub. L. 96–09, dated September 25, 1979, intends to prepare an Environmental Impact Statement to document, in a full and fair manner, identified significant impacts of the Okeechobee Waterway and its maintenance. The goal is to identify and evaluate means that can be used to avoid or minimize adverse impacts from operation and maintenance or to enhance the quality of the human environment associated with the waterway. The investigation will not duplicate the study on the project's economic feasibility, nor the ongoing survey study dealing with navigation improvements and bank stabilization of the St. Lucie Canal, sediment removal from the St. Lucie Canal and estuary, sediment source identification, increased flood control, control of inflow into the outlet canals, spillway sizes, and need for additional Lake Okeechobee outlets.

The Okeechobee Waterway extends from the Atlantic Intracoastal Waterway on the Florida east coast near Stuart, across the peninsula via the St. Lucie Canal, to Lake Okeechobee, a large freshwater lake about 31 miles in diameter. The portion of the waterway west of Lake Okeechobee, known as the Caloosahatchee River, extends westward to the Gulf Intracoastal Waterway west of Ft. Myers. Total length of the waterway is about 155 miles; six railroad and 16 highway bridges cross the waterway. The waterway traverses, or borders seven counties in which the population of 1970 was about 580,000, increased considerably by seasonal visitors.

Impacts from the historical and current construction, maintenance, and operation of the Okeechobee Waterway will be referenced to the year 1880 for the Caloosahatchee River and the year 1916 for the St. Lucie Canal. The cited dates are those when construction commenced on respective segments of the waterway and will be used as reference dates in developing an estimate, based upon available data and professional judgment, of preconstruction conditions in the area.

The scoping process will include this public notice of the study and is a request for comments from the public. Information will be solicited from affected Federal, State, and local agencies. Issues to be analyzed in the DEIS will include effects on wetlands, drainage and flooding, land use, induced development, fish and wildlife, navigation and recreation. A scoping meeting is not contemplated at this time.

The DEIS will be made available to the public in May 1982 unless circumstances warrant additional time for preparation.

Questions concerning the proposed action and DEIS may be addressed to: Dr. Gerald Atmar, Environmental Studies Section, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232, Telephone: (904) 791–3615.

Dated: December 17, 1980.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81–143 Filed 1–2–81; 8:45 am]

BILLING CODE 3710–AJ–M

Intent To Prepare Draft Environmental Statement (DEIS) For Proposed Small Hydroelectric Power Facility; South-Fork Wailua River, Kauai, Hawaii

December 11, 1980.

AGENCY: U.S. Army Corps of Engineers, Pacific Ocean Division, Honolulu District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. This study was initiated at the request of the State of Hawaii and is being conducted under the authority of Section 209 of the River and Harbor and Flood Control Act of 1962. The Corps is investigating the feasibility of installing a run-of-river hydroelectric power facility on the South Fork Wailua River, Kauai, Hawaii. The facility will have a power generating capacity of less than 25 megawatts. There are four basic alternative plans under consideration. Alternatives include three possible water intake sites and penstock alignments and two possible locations for a power generating plant. Three of the basic alternatives involve placement of the power generating plant approximately one mile downstream of the Wailua Falls, which is within the Wailua River State Park.

2. A scoping meeting for preparation of the DEIS will be held at 10:00 a.m. on Monday, January 5, 1981 at Building 230, Fort Shafter, Hawaii (first floor conference room). Interested Federal, State, and Local agencies, organizations and public are invited to attend.

3. A public notice announcing initiation of this study was published June 24, 1980. A public workship and two public meetings will be held over the course of calendar years 1981–1982 to review the development of the alternative plans. Significant issues which may be discussed include affects of a hydroelectric power facility on stream flow, sport fisheries and indigenous migratory fishes, aesthetics and recreational activities within the Wailua Falls State Park.

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4. The estimated date for public release of the DEIS is October, 1981.

Address: Questions about the proposed action and DEIS can be answered by: Dr. James E. Maragos, Chief, Environmental Resources Section, U.S. Army Corps of Engineers, Pacific Ocean Division, Building 230, Fort Shafter, Hawaii 96858, Telephone: (808) 438–2263.

Dated: December 11, 1980.

Alfred J. Thiede,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80–40782 Filed 12–31–80; 8:45 am]

BILLING CODE 3710-NN-M

Organization of the Joint Chiefs of Staff

National Defense University Panel of The Board of Visitors for National Defense University and Defense Intelligence School; Meeting

The President of the National Defense University has scheduled a meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School on Thursday, January 29, 1981, from 0830–1145 and 1330–1600. The meeting will be held in the Hill Conference Center, Theodore Roosevelt Hall, Building 61, Fort Lesley J. McNair, Washington, D.C. The discussions will include progress and plans for the National Defense University and the curricula, faculty, and students of the Industrial College of the Armed Forces and the National War College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (693–1075), the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 29, 1980.

[FR Doc. 81–144 Filed 1–2–81; 8:45 am]

BILLING CODE 3810-70-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee; Changes in Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 99. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 99 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325–9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 99

to the Heads of Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense August 17, 1966, "Executive Order 11294, August 4, 1966 Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status," in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 98 except in the case identified by an asterisk which rate is effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	72.00
Barrow	111.00
Bethel	93.00
College	67.00
Cordova	84.00
Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
Eielson AFB	67.00
Elmendorf AFB	72.00
Fairbanks	67.00
Ft. Richardson	72.00
Ft. Wainwright	67.00
Juneau	83.00
Kodiak	84.00
Kotzebue	91.00
Murphy Dome	67.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Prudhoe Bay	94.00
Johnston Atoll [2]	15.50
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Fajardo:	
12-16—5-15	102.00
5-16—12-15	75.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	102.00
5-16—12-15	75.00
Ponce (Incl. Ft. Allen NCS) Roosevelt Roads:	68.00
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
Shemya AFB [1]	11.00
Shungnak	91.00
Spruce Cape	84.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
All Other Localities	71.00
American Samoa	85.00
Guam M.I.	
Hawaii:	
Oahu	70.00
All Other Localities	60.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	102.00
5-16—12-15	75.00
All other Localities	63.00
*Virgin Islands of U.S.:	
St Thomas:	
12-1—4-30	126.00
5-1—11-30	74.00
Other:	
12-1—4-30	91.00
5-1—11-30	69.00
Wake Island [2]	15.00

Locality	Maximum rate
Other Localities	20.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meal and incidental expenses.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-40775 Filed 12-31-80; 8:45 am]

BILLING CODE 3810-70-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board ad hoc subcommittee on epidemiological methods in clincial health delivery systems.
Date of Meeting: 28 January 1981.
Time: 900–1700.
Place: Naval Health Research Center, San Diego, CA.
Proposed Agenda: Epidemological methods in clinical health delivery systems.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, D.C. 20310.

Dated: December 18, 1980.

Charles W. Halverson,
CAPT., MSC, USN, Executive Secretary.

[FR Doc. 80-40762 Filed 12-31-80; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Implementation of Executive Order 12114—Environmental Effects Abroad of Major Federal Actions; Final Guideline

AGENCY: Department of Energy.

ACTION: Final guideline for implementation of Executive Order 12114.

SUMMARY: The Department of Energy (the Department) hereby adopts final Departmental guidelines implementing Executive Order 12114—Environmental Effects Abroad of Major Federal Actions, which was issued on January 4, 1979.

The guidelines published herein reflect certain revisions to the proposed guidelines, published in the **Federal Register** on September 6, 1979 (44 FR 52146), based upon the Department's consideration of comments received and upon experience acquired in working under Executive Order 12114. The guidelines supplement the procedures set forth in the Department's final guidelines for compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, which were published in the **Federal Register** on March 28, 1980 (45 FR 20694), and are designed to be coordinated with the environmental review procedures established by those procedures. They are applicable to all organizational units of the Department, except the Federal Energy Regulatory Commission, an independent regulatory commission within the Department not subject to the supervision or direction of the other parts of the Department.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environment, Department of Energy, Room 4G–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–252–4600

Stephen H. Greenleigh, Esq., Assistant General Counsel for Environment, Department of Energy, Room 6D–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–252–6947

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments and Other Revisions

I. Background

A. National Environmental Policy Act

The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies give appropriate weight to factors affecting the human environment during all stages of their decisionmaking process. In this connection, Federal agencies are required to prepare detailed statements on proposals for major Federal actions significantly affecting the quality of the human environment.

B. Council on Environmental Quality Regulations

The Council on Environmental Quality promulgated regulations establishing uniform procedures implementing the National Environmental Policy Act on November 29, 1978 (43 FR 55978). These regulations (40 CFR 1500 *et seq.*) require agencies to adopt implementing procedures to supplement these uniform procedures.

C. Department of Energy National Environmental Policy Act Guidelines

On March 28, 1980, the Department published in the **Federal Register** (45 FR 20694) final guidelines implementing the Council on Environmental Quality National Environmental Policy Act regulations.

D. Executive Order 12114

On January 4, 1979, President Carter signed Executive Order 12114, entitled Environmental Effects Abroad of Major Federal Actions. The Order represents the exclusive and complete determination by the Executive Branch of the procedural and other actions to be taken by Federal agencies to further the purposes of the National Environmental Policy Act with respect to the environment outside the United States, its territories and possessions.

E. Department Guidelines Implementing Executive Order 12114

The guidelines published herein provide the supplemental implementing procedures required by Executive Order 12114. They are intended for use by all persons acting on behalf of the Department in carrying out the Executive Order. The Executive Order and these final guidelines are not intended to create or enlarge any substantive or procedural rights or cause of action against the Department.

These implementing guidelines in large measure reiterate the Executive Order provisions. It is recommended that these guidelines be read and interpreted in conjunction with Executive Order 12114, the Department's guidelines implementing the Council on Environmental Quality National Environmental Policy Act regulations and the Department's Order 5440.1 governing internal National Environmental Policy Act processes to obtain a more complete understanding of the Department's environmental review policies and procedures.

The guidelines are applicable to all organizational elements of the Department except the Federal Energy Regulatory Commission, an independent regulatory body within the Department.

As required by section 2–1 of Executive Order 12114, the Department has consulted with the Department of State and the Council on Environmental Quality in developing these guidelines.

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II. Comments and Other Revisions

Written comments on the proposed guidelines were received from the Department of State and one private organization. The Department has carefully considered all comments and has modified the proposed guidelines, as appropriate, to reflect those comments.

A. Department of State Comments

The State Department submitted a number of comments regarding the applicability of the Department's guidelines to nuclear activities. The following revisions were made to the proposed guidelines to reflect these comments:

1. Section 5.1.5 in the proposed guidelines was revised to clearly indicate that the environmental review of actions involving the export of a nuclear production, utilization or waste management facility will be accomplished under a set of Unified Procedures recently developed by the State Department and other Federal agencies, including the Department of Energy, and promulgated at 44 FR 65560 (November 13, 1979).

2. The exemption contained in the proposed guidelines regarding "small quantities" of nuclear material (number 4 in Appendix B) has been revised to remove the "small quantity" limitation. The Department believes that this revision will more closely follow the exemption contained in Section 2-5(a)(v) of Executive Order 12114 regarding nuclear fuel and material exports. The Department believes that, in general, the export of and subsequent arrangements involving nuclear material or isotopic material in accordance with the provisions of the Nuclear Non-Proliferation Act of 1978, the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (published in the **Federal Register** on June 9, 1978, 43 FR 25328), and Section 131 of the Atomic Energy Act of 1954, as amended, will not have a significant environmental impact on the global commons. Section 6.1 of these guidelines requires that the Department still review every such action to determine whether an exemption is warranted. If an exemption is used, section 7 of the guidelines requires that a brief record documenting the exemption be prepared.

3. The definitions of "foreign nation," "United States" and "global commons" in section 16 of the proposed guidelines have been revised.

B. Private Organization Comments

One private organization submitted three comments on the Department's proposed guidelines:

1. Referring to Part II B. 2. of the preamble and section 4.2 of the guidelines, it was unclear to the commentor what kinds of projects could be conducted in a foreign country without requiring that country's approval.

The referenced sections in the guidelines apply to actions taken by the United States, in concert with one or more foreign nations, which significantly affect the environment of a foreign nation which is not participating with the United States in the action and which is not otherwise involved in the action, such as by regulatory control. An example of such an action could be the construction, by the United States (with Departmental funding) and a foreign nation, of a coal liquefaction plant situated near the border between that foreign nation and a neighboring country which is not participating in the project. If the construction and operation of such a plant will significantly affect the environment of this neighboring country, section 4.2 of the Department's guidelines requires that the United States prepare an environmental study relevant or related to the action, or a concise analysis of the environmental issues involved. Pursuant to other provisions in the Department's guidelines, these studies or analyses will discuss all significant environmental impacts associated with the project, including those on the environment of the non-participating foreign nation. The Department believes that this section is sufficiently clear and that no revisions are necessary.

2. Referring to the general issue of the preparation of environmental review documents by the United States in concert with foreign nations or international organizations, the commentor felt that specific guidelines are needed to avoid potential delay while responsibilities and detailed content were being coordinated.

The Department recognizes that its procedures implementing Executive Order 12114 do not contain specific guidelines governing the preparation of environmental review documents by the United States in conjunction with foreign nations or international organizations. This lack of specificity could lead to some delay in the program while these details are determined. However, the Department believes that, given the variety of foreign policy sensitivities and considerations that are present in situations involving foreign nations and international organizations, it would be impractical to develop detailed generic procedures governing the cooperative preparation of environmental review documents. The Department believes that any potential delays can be minimized by proper coordination in the early stages of the environmental review process. The Department has thus not altered the language in its proposed guidelines regarding this subject area.

3. Should a foreign nation prepare its own environmental review for an action in which the United States is involved, the commentor felt that provisions should be provided in the guidelines to allow the United States to formally adopt all or portions of this review.

The Department agrees with the commentor that this authority should be explicity defined in the guidelines, and has revised the proposed guidelines by adding section 14.2 to so indicate.

With respect to Executive Order 12044, "Improving Government Regulations," the Department has determined that its guidelines implementing Executive Order 12114 are "significant" but not "major" because the anticipated effects of the guidelines primarily would be to provide internal direction for implementation of Executive Order 12114. Consequently, a regulatory analysis has not been prepared.

Issued in Washington, D.C., December 18, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

Department of Energy Guidelines for Implementation of Executive Order 12114—Environmental Effects Abroad of Major Federal Actions

Part A—General

Sec.

1 Background.
2 Purpose and Scope.
3 Applicability.

Part B—Actions for Which Environmental Review Is Required

4 Categories of Actions and Mandatory Environmental Review Requirements.

Part C—Actions Exempted from Mandatory Environmental Review

5 Actions Exempted by Executive Order 12114.
6 Actions Exempted by the Department.
7 Required Documentation for Exempted Actions.

Part D—Other Provisions

8 Public Involvement.
9 Timing.
10 Contents.
11 Notice of Availability.

12 Modifications to Contents, Timing and Availability.
13 Coordination with Department of State.
14 Duplication of Resources.
15 Miscellaneous Provisions.
16 Definitions.
17 Compliance.
Appendix A—Illustrated List for Determining Compliance with Section 4.3.
B—Generic Exemptions.

Part A—General

Section 1 Background

Executive Order 12114 of January 4, 1979, represents the United States Government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act with respect to the environment outside the United States, its territories and possessions. The Executive Order requires that all Federal agencies taking actions subject to environmental review under the Order adopt their own implementing procedures.

Section 2 Purpose and Scope

These guidelines are intended for use by all persons acting on behalf of the Department in implementing Executive Order 12114. The guidelines are not intended to create or enlarge any procedural or substantive rights or cause of action against the Department.

Section 3 Applicability

These guidelines apply to all organizational elements of the Department except the Federal Energy Regulatory Commission.

Part B—Actions for Which Environmental Review Is Required

Section 4 Categories of Actions and Mandatory Environmental Review Requirements

In the decisionmaking process for actions in the following categories, the Department will prepare and take into consideration the documents or studies specified below:

4.1 Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica).

Actions in this category require the preparation of an environmental impact statement, including, as appropriate, generic, program and specific statements.

4.2 Major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action.

Actions in this category require the preparation either:

4.2.1 A bilateral or multilateral environmental study relevant or related to the proposed action. The study is to be conducted by the United States and one or more foreign nations, or by an international body or organization in which the United States is a member or participant; or

4.2.2 A concise analysis of the environmental issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

4.3 Major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(a) A product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk (see Appendix A); or

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

For actions in this category, the Department will either:

4.3.1 Prepare a document as specified in Section 4.2.1; or

4.3.2 Prepare a document as specified in Section 4.2.2.

4.4 Major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection by the President pursuant to section 2–3(d) of Executive Order 12114 or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

For actions in this category, the Department will either:

4.4.1 Prepare a document as specified in Section 4.1; or

4.4.2 Prepare a document as specified in Section 4.2.1; or

4.4.3 Prepare a document as specified in Section 4.2.2.

Part C—Actions Exempted From Mandatory Environmental Review

Section 5 Actions Exempted by Executive Order 12114

5.1 The following actions are exempt from these guidelines:

5.1.1 Actions not having a significant effect on the environment outside the United States, as determined by the Department. (Actions having a potentially significant impact on the United States, its territories or possessions are subject to the provisions of the Council on Environmental Quality's National Environmental Policy Act regulations (40 CFR Part 1500, November 29, 1978) and the Department's guidelines implementing those regulations (45 FR 20694, March 28, 1980).

5.1.2 Actions taken by the President;

5.1.3 Actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

5.1.4 Intelligence activities and arms transfers;

5.1.5 Actions providing to a foreign nation a nuclear production, utilization or waste management facility. The environmental review of these actions is governed by the Unified Procedures promulgated by the State Department at 44 FR 65560 (November 13, 1979).

5.1.6 All other nuclear actions not covered in section 5.1.5 above, except those actions which significantly affect the environment of the global commons, which will undergo environmental review pursuant to section 4.1 of these guidelines.

5.1.7 Votes and other actions in international conferences and organizations;

5.1.8 Disaster and emergency relief action.

Section 6 Actions Exempted by the Department

6.1 The Department has determined that the general classes of actions which are listed in Appendix B generally do not have significant environmental impacts requiring review under these guidelines. They are hereby excluded from mandatory environmental review under these guidelines unless the Department determines that a particular action within such classes will have a significant environmental effect requiring such review. The Department may amend or expand Appendix B, as appropriate.

6.2 The Department may exempt, on a case-by-case basis, any action from these guidelines when such exemption is determined by the Department to be necessary to meet:

6.2.1 Emergency circumstances;

6.2.2 Situations involving exceptional foreign policy or national security sensitivities;

6.2.3 Other such special circumstances.

6.3 In utilizing an exemption pursuant to section 6.2 above, the Department will consult with the Department of State and the Council on

Environmental Quality as soon as is feasible.

Section 7 Required Documentation for Exempted Actions

For actions in connection with which the Department utilizes any exclusion or exemption pursuant to section 5 or 6 of these guidelines, the Department will prepare a brief record which describes the basis for its determination to utilize such exclusion or exemption.

Part D—Other Provisions

Section 8 Public Involvement

The Department will provide for public involvement in the environmental review process conducted pursuant to these guidelines to the following extent:

8.1. Environmental impact statements prepared pursuant to Sections 4.1 or 4.4.1 of these guidelines shall be subject to the provisions of:

8.1.1 Departmental guidelines regarding publication of a Notice of Intent to prepare an environmental impact statement and public involvement in the environmental impact statement scoping process;

8.1.2 40 CFR 1502.9 regarding preparation of a draft and final environmental impact statement;

8.1.3 40 CFR 1503 regarding comment procedures for a draft environmental impact statement.

8.2 Documents or studies prepared pursuant to sections 4.2, 4.3 or 4.4.2 and 3 of these guidelines are not subject to the public involvement procedures in 8.1.1 through 8.1.3 above. The Department may, at its discretion, elect to utilize any or all of these procedures for any such document or study.

Section 9 Timing

9.1 The Department will commence preparation of environmental documents required by these guidelines as close as practicable to the time the Department is developing or is presented with a proposal, and complete such documents early enough so that they can serve practically as an important contribution to the decisionmaking process.

9.2 Until an environmental document required by these guidelines has been completed and considered, the Department will take no action concerning the proposal which would have an adverse environmental impact or limit or prejudice the choice of reasonable alternatives.

9.3 For actions which have significant impacts both on the environment of the United States, its territories or possessions and on the environment of foreign nations or the global commons, documents prepared pursuant to sections 4.1, 4.2 or 4.3 of these guidelines analyzing the impacts outside the U.S. will, to the extent practicable, be prepared and reviewed in conjunction with the analyses of the domestic impacts of the proposed action.

Section 10 Contents

10.1 Environmental impact statements prepared pursuant to section 4.1 or 4.4.1 of these guidelines will follow the recommended format of 40 CFR 1502.10 and contain the types of information specified in 40 CFR 1502.11–1502.18.

10.2 Bilateral or multilateral environmental studies prepared pursuant to sections 4.2.1, 4.3.1 or 4.4.2 will contain a currently valid analysis of all significant environmental impacts of the proposed action.

10.3 Environmental analyses prepared pursuant to section 4.2.2, 4.3.2 or 4.4.3 will include brief discussions of:

10.3.1 The proposed action and the need therefor;

10.3.2 The reasonable alternatives to the proposed action which could be implemented directly or indirectly by the United States; and

10.3.3. All significant environmental impacts associated with the proposed action and the reasonable alternatives.

Section 11 Notice of Availability

11.1 The Department will, as soon as feasible, inform other Federal agencies with relevant interest and expertise of the availability of any documents prepared pursuant to these guidelines.

11.2 The Department will determine, after consultation with the Department of State, the appropriate time and manner for informing an affected nation of the availability of any relevant documents prepared pursuant to these guidelines.

11.3 As soon as practicable after notification to an affected nation in accordance with section 11.2 of these guidelines, the Department will provide notice to the public of the availability of the environmental review documents specified in sections 4.1, 4.2, 4.3, and 4.4 of these guidelines.

Section 12 Modifications to Contents, Timing and Availability

The Department will make appropriate modifications to the contents, timing and availability of documents, where necessary, to:

12.1 Enable the Department to decide and act promptly as and when required;

12.2 Avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities; or

12.3 Ensure appropriate reflection of:

12.3.1 Diplomatic factors;

12.3.2 International commercial, competitive and export promotion factors;

12.3.3 Needs for governmental or commercial confidentiality;

12.3.4 National security considerations;

12.3.5 Difficulties of obtaining information and agency ability to analyze meaningfully environmental effects of a proposed action; and

12.3.6 The degree to which the Department is involved in or able to affect a decision to be made.

12.4 Modifications to the contents of documents might include, for example, the use of generic, typical or hypothetical environmental impact analyses where critical site specific data cannot be obtained from an affected foreign nation. Regarding modifications to the availability of a document, where an affected nation notifies the Department of its desire not to notify the public of the availability of a document prepared pursuant to sections 4.2, 4.3, 4.4.2, or 4.4.3 of these guidelines, the Department may waive the requirements of section 11.3 above regarding notices of availability.

Section 13 Coordination With the Department of State

The Department will coordinate all communications with foreign governments concerning environmental agreements and other arrangements implementing these guidelines with the Department of State.

Section 14 Duplication of Resources

14.1 The Department will not have to prepare any document or study required by Section 4 of these guidelines if it determines that a document or study already exists that is adequate in scope and content to meet the requirements of these guidelines.

14.2 The Department may adopt all or part of existing environmental analyses, including those prepared by foreign countries or international organizations, when the Department determines that these analyses are adequate in scope and content to fulfill the requirements of these guidelines.

14.3 The Department will, in the early stages of preparing any document or study described in Section 4 above, request the cooperation of any Federal agency which the Department determines to possess a statutory mission or expertise relevant to the proposed action.

14.4 Where an action involves multiple Federal agencies including the Department of Energy, a lead agency, as determined by the agencies involved, will have responsibility for implementing the provisions of Executive Order 12114 using its own procedures implementing the Executive Order.

14.5 If a major Federal action having significant effects on the environment of the United States or the global commons requires preparation of an environmental impact statement by the Department, and if the action is included in Section 4.2 or 4.3 above as an action having significant effects upon the environment of a foreign nation, the environmental impact statement does not have to contain a review of these foreign impacts. The appropriate type of environmental review, as described in Section 4.2 or 4.3 above, may be issued as a separate document.

Section 15 Miscellaneous Provisions

The provisions of Sections 5 and 6 regarding exclusions or exemptions from these procedures do not apply to major Federal actions significantly affecting the environment of the global commons unless permitted by law.

Section 16 Definitions

16.1 *Environment* means the natural and physical environment, and it excludes social, economic and other environments. Social and economic effects do not give rise to any requirements under these guidelines.

16.2 *Federal Action* means any action that is potentially subject to United States Government control and responsibility. It includes actions that are implemented, funded or approved directly or indirectly by the United States Government. It does not include actions in which the United States participates in an advisory, information gathering, representational or diplomatic capacity but does not implement, fund or approve the action or cause the action to be implemented. An action significantly affects the environment if it does significant harm to the environment even though on balance the Department believes the action to be beneficial to the environment.

16[illegible] *Foreign Nation* means any territory under the jurisdiction of one or more foreign governments, including the territorial seas thereof. For the purpose of these procedures, actions having significant environmental effects on the resources of a foreign nation's continental shelf or, to the extent its claim of jurisdiction is recognized by the United States, its fisheries zone, shall be considered to be actions having significant environmental effects on that foreign nation.

16.4 *United States* means the States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, American Samoa, the United States Virgin Islands, Guam and the other territories and possessions of the United States, including the territorial seas thereof. For the purpose of these procedures, actions having significant environmental effects on the resources of the continental shelf of the United States, or on resources of United States Fisheries Conservation Zones subject to the jurisdiction of the United States, shall be considered to be actions having significant environmental effects in the United States.

16.5 *Global Commons* is equivalent to *areas outside the jurisdiction of any nation* and means all areas not described in subsection 16.3 and not described in subsection 16.4 above.

Section 17 Compliance

These guidelines are intended for use by all persons acting on behalf of the Department of Energy in carrying out the provisions of Executive Order 12114. Any deviations from the guidelines must be soundly based and must have the advance approval of the Secretary of the Department of Energy.

Appendix A—Illustrative List for Determining Compliance with Section 4.3

1. The following is an illustrative, non-inclusive list of the products, emissions and effluents encompassed by section 4.3 of these proposed guidelines: Asbestos, acrylonitrile, pesticides, mercury, arsenic, polychlorinated biphenyls, vinyl chloride, isocyanates, benzene, beryllium, and cadmium.

2. The following is an illustrated, non-inclusion list of the products, emissions and effluents *not* encompassed by section 4.3: Ammonia, chlorine, sulphuric acid, sulphur dioxide, sulfate and sulfate liquors, caustic soda, nitric acid, nitrogen oxides, and phosphoric acid.

Appendix B—Actions Normally Excluded by the Department From Preparation of an Environmental Impact Statement, Bilateral or Multilateral Environmental Study or Concise Environmental Analysis Under These Guidelines

1. Approval of Departmental participation in international "umbrella" agreements for cooperation in energy research and development which do not commit the United States to any specific projects or activities.

2. Approval of technical exchange arrangements for information, data or personnel with other countries or international organizations.

3. Approval of arrangements to assist other countries in identifying and analyzing their energy resources, needs and options.

4. Approval of the export of and subsequent arrangements involving nuclear materials or isotopic material in accordance with the provisions of the Nuclear Non-Proliferation Act of 1978, the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (published in the **Federal Register** on June 9, 1978, 43 FR 25326) and Section 131 of the Atomic Energy Act of 1954, as amended.

[FR Doc. 81-158 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Crude Oil Buy/Sell Program; Third Supplemental Notice for Allocation Period of October 1, 1980, through March 31, 1981; Notice of Issuance of Emergency Allocations for January and February 1981

The notice specified in 10 CFR 211.65(g)(1) of the crude oil allocation (buy/sell) program for the allocation period of October 1, 1980, through March 31, 1981, was issued September 17, 1980 (45 FR 63046, September 23, 1980). A first supplemental buy/sell notice for the allocation period of October 1, 1980, through March 31, 1981, was issued November 13, 1980 (45 FR 76510, November 19, 1980). A second supplemental buy/sell notice for the allocation period was issued December 10, 1980 (45 FR 82897, December 16, 1980). The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a third supplemental buy/sell notice for the allocation period of October 1, 1980, through March 31, 1981. This supplemental notice sets forth emergency allocations for the months of January and February 1981, assigned pursuant to 10 CFR 211.65(c)(2).

The supplemental buy/sell list is set forth as an appendix to this notice. The list includes the names of the small refiners granted emergency allocations for the months of January and February 1981, and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; and the additional sales obligation of each refiner-seller for the allocations listed.

The allocations for the small refiners on the third supplemental buy/sell list were determined in accordance with 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period,

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directly or through exchanges with refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this third supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions;

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery;

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries;

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the supplemental buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller;

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller;

(vi) Such other pertinent information as ERA may request.

Please note change of address. All reports and applications made under this notice should be addressed to: Jay F. Lubin, Program Manager, Crude Oil Buy/Sell Program, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710-822-9454 (answer back EVFTJ WSH). *Also note that the telephone number for the Crude Oil Allocation and Production Branch is 202-653-3420.*

Copies of the decision and orders assigning the emergency allocations listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

10 CFR 211.65(c)(2)(ii) states in part that applications for emergency allocations "must be submitted by the first day of the month prior to the month(s) for which an allocation is sought but not before the 20th day of the second month prior to the month(s) for which an allocation is sought." Thus, any small refiner that wants to apply for an emergency allocation for the month of February 1981 must submit its application to ERA between December 20, 1980, and January 1, 1981, inclusive.

ERA requires all applicants for emergency allocations to serve copies of their applications on the designated refiner-seller representatives listed in the appendix to this notice. Comments regarding an application will be accepted if received within eight days of receipt of the application. Applicants are required to serve copies of their application (and any amendments thereto) on refiner-sellers simultaneously with the filing of the application with ERA.

ERA has previously stated that it does not consider the names of potential suppliers contacted by small refiners in unsuccessful attempts to obtain crude oil, or offers of crude oil that an applicant has rejected, to be proprietary (45 FR 46850, July 11, 1980). Some small refiner applicants have taken exception to ERA's position in this regard, claiming that to reveal offers of crude oil made by potential suppliers, even if the offers were rejected by the applicant, would unfairly affect the future negotiating position of the applicant. Several small refiners further claim that some offers of crude oil made to them are considered by the potential suppliers to be proprietary. In consideration of these comments, and pursuant to 10 CFR 205.9(f), ERA will consider claims of confidentiality regarding the *names* of potential crude oil suppliers contacted by an applicant *only if the applicant provides a detailed statement as to why he considers the name of the potential supplier to be proprietary.* Applications that withhold from public disclosure copies served on refiner-sellers the names of potential suppliers or any other information that ERA has determined not to be confidential or proprietary will be considered incomplete and may be dismissed unless all non-confidential information is disclosed to refiner-sellers. ERA does not consider the quality, quantity, or price of crude oil offered to applicants to be proprietary. Applications which do not contain such information will also be considered incomplete and may be dismissed unless such information is disclosed to refiner-sellers.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before February 4, 1981.

Issued in Washington, D.C., on December 24, 1980.

T. Wendell Butler,

Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The buy/sell list for the period October 1, 1980, through March 31, 1981, is hereby amended to reflect new emergency allocations assigned pursuant to 10 CFR 211.65(c)(2). The amended list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner seller, the additional volumes of crude oil that each refiner-seller is required to offer for sale to small refiners, and the volumes of crude oil that each refiner-buyer is eligible to purchase for each eligible refinery.

All refiner-sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order issued by DOE's Office of Hearings and Appeals on March 20, 1979 (3 DOE Para. 82,551). While the refiner-sellers' percentage shares displayed are rounded to three decimal places, six decimal places have been utilized to establish actual sales obligations.

Included in the appendix is a list of the names and addresses of the persons designated by refiner-sellers to receive service of copies of applications for emergency crude oil allocations. Additionally, a list of other actions taken by ERA on recent applications, including denials and applications that have been withdrawn, is included herein.

Refiner-Sellers' Sales Obligations October 1, 1980, Through March 31, 1981, Allocation Period

The following list sets forth refiner-sellers' additional sales obligations for the October 1980 through March 1981 period resulting from the allocations listed in the notice. Total sales obligations also include the previous obligation published in the first supplemental list issued on November 13, 1980 (45 FR 76510, November 19, 1980), and the second supplemental list issued on December 10, 1980 (45 FR 82697, December 16, 1980).

Refiners-sellers	Share	Additional obligation (barrels)	Total obligation (barrels)
Amoco Oil Co	0.105	450,855	3,343,970
Atlantic Richfield Co	.077	331,094	2,956,526
Chevron U.S.A., Inc	.102	437,184	2,761,056
Cities Service Co	.025	105,880	1,933,192
Continental Oil Co	.004	17,218	107,280
Exxon Co., U.S.A	.089	383,094	2,564,760
Getty Refining & Marketing Co	.021	91,318	877,306
Gulf Refining & Marketing Co	.091	392,185	3,296,747
Marathon Oil Co	.023	98,378	918,074
Mobil Oil Corp	.094	404,978	2,831,866
Phillips Petroleum Co	.041	178,098	1,706,764
Shell Oil Co	.114	489,061	4,996,440
Sun Co	.055	236,883	1,677,883
Texaco, Inc	.114	489,461	3,515,285
Union Oil Co. of California	.046	196,758	3,744,335
Total sales obligations		4,304,431	38,046,187

Emergency Allocations for January and February 1981

Refiner-buyer	Refinery location	January allocation (barrels)	February allocation (barrels)
Commonwealth Refining	Ponce, PR	1,920,512	1,673,224
Hudson Refining	Cushing, OK	294,531	416,164
Total		2,215,043	2,089,388

Summary of Additional Allocations Oct. 1, 1980, Through Mar. 31, 1981, Allocation Period

	Barrels
Emergency Allocations (January 1981)	2,215,043
Emergency Allocations (February 1981)	2,089,388
Total allocations	4,304,431

Actions Taken on Other Applications for Emergency Allocations

On July 31, 1980, Thriftway Company filed an application for an allocation under Section 211.65(a)(1)(iii). ERA issued a Decision and Order on December 10, 1980, denying Thriftway's application.

On September 30, 1980, Gladieux Refining filed an application for an emergency allocation under Section 211.65(c)(2). On October 22, 1980, Gladieux withdrew its application.

On October 30, 1980, Gladieux filed an application for an emergency allocation under Section 211.65(c)(2). On December 10, 1980, Gladieux withdrew its application.

On October 1, 1980, Lakeside Refining filed an application for an emergency allocation under Section 211.65(c)(2). On October 30, 1980, Lakeside withdrew its application.

On December 1, 1980, Good Hope Refineries filed an application for an emergency allocation under Section 211.65(c)(2). ERA issued a Decision and Order on December 22, 1980, denying Good Hope's application.

Contact List for Refiner-Sellers

Matthew J. Gallo, Amoco Oil Company, 200 E. Randolph Drive, P.O. Box 5910-A, Chicago, IL 60601
J. J. Hur, Atlantic Richfield Company, 515 South Flower Street, P.O. Box 2679, Los Angeles, CA 90071
Frank W. Bradley, Chevron, U.S.A., Inc., 1700 K. Street, N.W., Suite 1204, Washington, DC 20006
C. D. Head, Cities Service Company, P.O. Box 300, Tulsa, OK 74102
Mike McNeese, Conoco, Inc., P.O. Box 2197, Houston, TX 77001
Barbara Finney, Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001
Eugene F. Gervino, Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102
L. G. Armel, Gulf Oil Corporation, Gulf Building, P.O. Box 2001, Houston, TX 77001
Victor Beghini, Vice President, Marathon Oil Company, 539 South Main Street, Findlay, OH 45840
W. L. Fanning, Jr., Mobil Oil Corporation, 3325 Gallows Road, Fairfax, VA 22037
A. L. Hobbs, Phillips Petroleum Company, Phillips Building, Bartlesville, OK 74004
G. G. Carnahan, Shell Oil Company, P.O. Box 283, Houston, TX 77001
C. Steven LeBaron, Sun Petroleum Products, Company, 9th Floor, Law Department, 1608 Walnut Street, Philadelphia, PA 19103
Paul D. McNaughton, Texaco, Inc., P.O. Box 52332, Houston, TX 77052
Howard Johnson, Texaco, Inc., c/o Legal Department, 2000 Westchester Avenue, White Plains, NY 10650
Lowell Way, Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196.

[FR Doc. 81-130 Filed 1-2-81; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FR-80-0-34; OFC Case No. 63003-9188-01-77]

Georgia-Pacific Corp.; Request for Classification

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Request for Classification.

SUMMARY: On December 18, 1979, the Georgia-Pacific Corporation (G-P) requested that the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) classify as "existing," a field-erected standby boiler at its Plaquemine, Louisiana facility pursuant to § 515.13 of the "Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities," issued by ERA on October 19, 1979, (10 CFR Part 515), Page 60690 and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 72 U.S.C. 8301 *et seq.* (FUA), which became effective on May 8, 1979. FUA imposes statutory prohibitions against the use of petroleum and natural gas by new major

fuel burning installations (MFBIs). The statutory prohibitions that apply to new MFBIs do not apply to MFBIs that are classified as existing.

The purpose of this notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.26 of the Final Rule, no public hearing will be held.

DATES: Written comments are due on or before January 26, 1981.

ADDRESSES: Ten (10) copies of written comments shall be submitted to:
Department of Energy, Case Control Unit, Economic Regulatory Administration, 2000 M Street, NW., Room 3214, Washington, D.C. 20461.

Docket No. ERA–FC–80–034 should appear on the envelope and the document therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128–J, Washington, D.C. 20461, Phone (202) 653–4226.

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128K, Washington, D.C. 20461, Phone (202) 653–4226.

James Renjilian, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B–178, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: The MFBI for which the request for classification was filed is a field-erected natural gas-fired boiler (designated as "B&W Standby Boiler" by G–P) having a design capability to consume fuel at a fuel heat input rate of 554 million Btu's per hour. The B&W Standby Boiler was placed in operation on November 5, 1980, and is used to provide 400,000 lb/hr steam production should the existing 400,000 lb/hr Foster-Wheeler boiler, 600,000 lb/hr reformer, or 230,000 lb/hr auxiliary boiler become inoperative.

Section 515.10 of the Final Rule requires that to be eligible to request that a transitional facility be classified as existing, a contract for the construction or acquisition of the installation must have been signed prior to November 9, 1978. G–P states in its request that a contract for the acquisition of the B&W Standby Boiler was signed on April 4, 1978.

In accordance with the provisions of § 515.13 of the Final Rule, ERA will classify an eligible installation as "existing" if it is demonstrated to the satisfaction of ERA that cancellation, rescheduling, or modification of the construction or acquisition of the installation would result in a substantial financial penalty or significant operational detriment. G–P's request for classification of the B&W Standby Boiler As "Existing" is based on a demonstration of substantial financial penalty. A summary of the pertinent facts relied on by G–P and submitted as part of its petition are as follows:

Substantial Financial Penalty.—Pursuant to § 515.13(a) of the Final Rule, ERA will classify a facility as existing upon demonstration that at least 25 percent of the total projected project cost as of November 9, 1978, was expended in nonrecoverable outlays as of that date. G–P relies on the figures below to meet this requirement.

B&W Standby Boiler

—Total projected project cost as of November 9, 1978—3,610,000.
—Total project expenditures, including obligation and cancellation charges, as of November 9, 1978—1,890,000.
—Total recoverable expenditures—130,000.
—Total nonrecoverable outlays—1,760,000.
—Nonrecoverable outlays percent of total projected project cost as of November 9, 1978—49.0%.

The expenditures are deemed nonrecoverable since they could not be used in the construction or operation of a facility to burn an alternate fule. based on the information contained in G–P's request for classification these expenditures consist of $1,500,000 for one 554 mm Btu/hr field erected boiler, $70,000 for engineering, $150,000 for foundations, and $40,000 for other permanent material for a total of $1,760,000. Based on these figures G–P had expended, as of November 9, 1978, 49.0 percent of its total projected project cost.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B–110, 2000 M Street NW., Washington, D.C., Monday–Friday, 8:00 a.m. to 4:30 p.m.

Issued in Washington, D.C. on December 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81–00161 Filed 1–2–81; 8:45 am]

BILLING CODE 6450–01–M

[ERA Case No. 65006-9096-22-22]

Modesto Irrigation District; McClure Station Unit 2 Decision and Order Granting Exemption from Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order to Modesto Irrigation District (Modesto) granting a permanent peakload exemption from the prohibitions against (1) the use of petroleum or natural gas as a primary energy source by new powerplants and (2) the construction of new powerplants without the capability to use an alternate fuel as a primary energy source, which are contained in section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Background

On May 13, 1980, Modesto filed a petition with ERA for a permanent peakload powerplant exemption in order to use oil/natural gas as a primary energy source in a 49,900 KW oil/natural gas-fired combustion turbine powerplant to be known as McClure Station Unit 2 (McClure 2) at its McClure Generating Station, in Stanislaus County, California. ERA accepted the petition on July 15, 1980, and published notice of acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the Federal Register on July 21, 980 (45 FR 48692). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to section 701 of FUA. During this period, interested parties were also afforded an opportunity to request a public hearing. The comment period ended September 3, 1980. No comments were submitted. No hearing was requested.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis (TSA) recommended that ERA issue an order granting Modesto a permanent peakload powerplant exemption to use oil/natural gas in McClure 2 subject to certain terms and conditions. A Notice of Availability of the Tentative Staff Analysis was published in the Federal Register on November 19, 1980 (45 FR 76512). The publication of the notice of availability commenced a 14-day public comment period which ended December 3, 1980.

On the basis of ERA's review of the entire record of this proceeding, ERA has determined to grant the exemption requested by Modesto to use oil/natural gas in McClure 2, subject to the terms and conditions enumerated below.

Based upon information provided by Modesto, ERA conducted an environmental analysis which was reviewed by the DOE's Office of Environment in consultation with the Office of the General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environmnent, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

DATES: This order will take effect on March 6, 1981.

ADDRESSES: For further information contact:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3012 B, Phone (202) 653-4208.

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The ERA published interim rules on May 15, 1979, and May 17, 1979 (44 FR 28530 and 44 FR 28950) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act). Title II of FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted. The final rule was published in the **Federal Register** on June 6, 1980 (45 FR 38276), and became effective on August 5, 1980.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis recommended that ERA issue an order granting Modesto a permanent peakload powerplant exemption to use oil/natural gas in McClure 2, subject to certain terms and conditions.

A Notice of Availability of the Tentative Staff Analysis was published in the **Federal Register** on November 19, 1980 (45 FR 76512). The publication of the Notice of Availability commenced a 14-day public comment period which ended December 3, 1980. No comments were submitted and no requests for a public hearing were made.

Order

ERA hereby grants Modesto a permanent exemption from the prohibitions of FUA with respect to the use of oil/natural gas in McClure 2 provided that the powerplant is operated solely as a peakload and to meet peakload demand, subject to the following terms and conditions imposed pursuant to the authority granted to ERA by Section 214(a) of the Act:

Terms and Conditions

A. Modesto shall not produce more than 74,650,000 KWH during any 12-month period with the McClure Unit 2. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 2 for peakload purposes (e.g. 8:00-10:00 am and 3:00-6:00 pm during the June-September period, etc.). Estimates of the hours during which Modesto expects to operate McClure 2 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. Modesto shall comply with the reporting requirements set forth in 10 CFR 503.41(d).

C. The quality of any petroleum to be burned in this unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. This order shall not take effect earlier than March 6, 1981.

Issued in Washington, D.C. on December 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-157 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-041; ERA Case No. 51368-9006-22-22]

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Petition.

SUMMARY: On December 10, 1979, Imperial Irrigation District (IID) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 et seq.). The Act prohibits the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption are published at 10 CFR 501.3 and 503.41.

IID proposes to install an oil/natural gas-fired 25,000 kilowatt combustion turbine unit to be known as Rockwood Unit 2, and certifies that the unit will be operated solely as a peakload powerplant and operated to meet peakload demand for the life of the plant. Additional information was required by ERA to process the petition which was submitted by IID on November 13, 1980.

ERA has accepted IID's petition pursuant to 10 CFR 501.3 and 501.63. In accordance with the provisions of Section 701 (c) and (d) of FUA, and 10 CFR 501.31, 501.63 and 501.33, any interested person may submit written comments, in regard to this matter, and a written request that ERA convene a public hearing.

DATES: Written comments are due on or before February 19, 1981. A request for a public hearing may be made by any interested person within this same 45-day period.

ADDRESSES: Fifteen copies of written comments, or a request for a public hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461.

Docket Number ERA-FC-80-041 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, New Powerplants Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3012B, Washington, D.C. 20461, Phone (202) 653-4208.

James Renjilian, Office of General Counsel, Department of Energy, 6B-178 Forrestal Bldg., Washington, D.C. 20461, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION:

FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption under the Act for such use has been granted by ERA. IID has filed a petition for a permanent peakload powerlant exemption to install a 25,000 kw oil/natural gas-fired combustion turbine unit to be called Rockwood Unit 2 at its Rockwood Plant site in Imperial County, California.

As part of its petition, IID submitted a sworn statement by a duly authorized officer, Mr. R. Ogilvie, Manager, Power Department, Imperial Irrigation District, as required by 10 CFR 503.41(b)(1). In his statement, Mr. Ogilvie certified that the proposed oil natural gas-fired combustion turbine will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

Mr. Ogilvie also certified that the maximum design capacity of the powerplant is 25,000 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 37,500,000 kwh.

ERA retains the right to request additional relevant information from IID at any time during the pendency of these proceedings where circumstances or procedural requirements may require. The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on December 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-00159 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Royal Oil; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of October. The Consent Order represents resolutions of outstanding compliance investigations or proceedings by the DOE and the firm which involves a sum of less than $500,000, excluding penalties and interest. For Consent Orders involving sums of $500,000 or more, Notice will be separately published in the Federal Register. This Consent Order is concerned exclusively with payment of the refunded amount to injured parties for alleged overcharges made by the specified companies during the time periods indicated through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Edward F. Momorella, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pa. 19102, telephone number (215) 597-2633.

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Royal Oil	$15,832	Gasoline	Mar. 1, 1979, Sept. 30, 1970.	End-user customers.

Issued in Philadelphia on the 8th day of December 1980.

Edward F. Momorella,

District Manager of Enforcement.

[FR Doc. 81-160 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52727-1011-22-22]

Southern Indiana Gas and Electric Co.; Broadway Unit No. 2 Decision and Order Granting Exemption from Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order to Southern Indiana Gas and Electric Company (SIGECO) granting a permanent peakload exemption from the prohibitions against (1) the use of petroleum or natural gas as a primary energy source by new powerplants and (2) the construction of new powerplants without the capability to use an alternate fuel as a primary energy source, which are contained in Section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Background

On February 12, 1980, (SIGECO) filed a petition with ERA for a permanent peakload powerplant exemption in order to use oil/natural gas as a primary energy source in a 81,440 KW oil/natural gas-fired combustion turbine powerplant to be known as Broadway Unit No. 2 (Broadway 2) at its Ohio River Station site, in Vanderburgh County, Indiana. Additional information was required by ERA and a revised petition was submitted on April 8, 1980. ERA accepted the petition on June 20, 1980, and published notice of acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the Federal Register on June 25, 1980 (45 FR 42790). Publication of the notice of acceptance commenced a 45-day public comment period, ending on August 11, 1980, pursuant to Section 701 of FUA. During this period, interested parties were also afforded an opportunity to request a public hearing.

Comments on SIGECO's petition were received from the United States Environmental Protection Agency—Region V (EPA). No public hearing was requested.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis (TSA) recommended that ERA issue an order granting SIGECO a permanent peakload powerplant exemption to use oil/natural gas in Broadway 2 subject to certain terms and conditions. A Notice of Availability of the Tentative Staff Analysis was published in the Federal Register on November 12, 1980 (45 FR 74751). The publication of the notice of availability opened a 14-day public comment period which ended November 26, 1980.

On the basis of ERA's review of the entire record of this proceeding, including a review of the public comments received after publication of the notice of acceptance, ERA has determined to grant the exemption requested by SIGECO to use oil/natural gas in Broadway 2, subject to the terms and conditions enumerated below.

Based upon information provided by SIGECO, ERA conducted an environmental analysis which was reviewed by the DOE's Office of Environment, with consultation from the Office of the General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

DATES: This order will not take effect earlier than March 6, 1981.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3012 B, Washington, D.C. 20461, Phone (202) 653-4208.

Douglas F. Mitchell, Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The ERA published interim rules on May 15, 1979, and May 17, 1979 (44 FR 28530 and 44 FR 28950), to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act). Title II of FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted. A final rule applicable to new facilities and published in the **Federal Register** on June 6, 1980 (45 FR 38276), became effective August 5, 1980.

On July 30, 1980, the United States Environmental Protection Agency—Region V submitted comments advising ERA that SIGECO may require a permit to construct Broadway 2 under the Federal Rules for Prevention of Significant Deterioration (PSD), promulgated pursuant to the Clean Air Act Amendments of 1977.

On August 29, 1980, the State of Indiana Air Pollution Control Board issued an exemption from the requirements of these rules and from the Emissions Offset Policy for the Ohio River Station, which includes Broadway 2.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis recommended that ERA issue an order granting SIGECO a permanent peakload powerplant exemption to use oil/natural gas in Broadway 2, subject to certain terms and conditions.

A Notice of Availability of the Tentative Staff Analysis was published in the **Federal Register** on November 12, 1980 (45 FR 74751). The publication of the Notice of Availability opened a 14-day public comment period which ended November 26, 1980. No additional comments were submitted during this period nor were any requests for a public hearing received.

Order

ERA hereby grants to SIGECO a permanent exemption from the prohibitions of FUA with respect to the use of oil/natural gas in Broadway 2 provided that the powerplant is operated solely as a peakload powerplant and to meet peakload demand subject to the following terms and conditions imposed pursuant to the authority granted to ERA by Section 214(a) of the Act:

Terms and Conditions

A. SIGECO shall not produce more than 122,160,000 KWH during any 12-month period with the proposed unit. SIGECO shall provide annual estimates of the expected periods (hours during specific months) of operation of Broadway 2 for peakload purposes (e.g. 8:00-10:00 am and 3:00-6:00 pm during the June-September period, etc.). Estimates of the hours during which SIGECO expects to operate Broadway 2 inside the first 12-month period shall be furnished within 30 days from the date of this order.

B. SIGECO shall comply with the reporting requirements set forth in 10 CFR § 503.41(d).

C. The quality of any petroleum to be burned in this unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. This order shall not take effect earlier than March 6, 1981.

Issued in Washington, D.C. on December 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-188 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Order Extending Duration of Exemptions Issued Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice and proposed order.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives notice that it proposes to issue an Order extending the duration of previously issued temporary public interest exemptions under section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, to the petitioners listed below. The original Orders granting the exemptions were issued on August 7, 1979, (44 FR 47398, August 13, 1979), on behalf of the following petitioners:

Case Control Number	Owner	Generating station	Powerplant identification No.
50653-2491-01-41	Consolidated Edison Company of New York.	Astoria	1
50653-2491-02-41			2
50653-2491-03-41			3
50653-2491-04-41			4
50653-2491-05-41			5
50653-2500-01-41		Ravenswood	1
50653-2500-02-41			2
50653-2493-05-41		East River	5
50653-2493-06-41			6
50653-2493-07-41			7
50653-2502-04-41		Waterside	4
50653-2502-05-41			5
50653-2502-06-41			6
51695-2513-04-41	Long Island Lighting Company.	Far Rockaway	4
80490-6190-01-41	Central Louisiana Electric Company.	Rodemacher	1

ERA is publishing this notice of a proposed Order extending the duration of previously issued temporary exemptions for these petitioners for a period of 3 years, from December 31, 1980 to December 31, 1983. Interested persons are invited to submit written comments or request that a public hearing be convened with respect to this proposed Order under the provisions of section 701 of FUA.

DATES: Written comments relating to the proposed Order are due on or before February 23, 1981. Requests for a public hearing are also due on or before February 23, 1981.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Acting Director, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–4055.

James W. Workman, Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3112, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–4268.

Henry K. Garson, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule, 10 CFR Part 508, implementing the authority granted to DOE by section 311(e) of FUA. Pursuant to section 311(e) of FUA and 10 CFR Part 508, the above listed petitioners filed for temporary public interest exemptions. Notices of the petitions and the proposed Orders granting the temporary exemptions were published in the **Federal Register** on May 11, and June 1, 1979, (44 FR 27668 and 44 FR 31677). The Orders were issued on August 7, 1979, (44 FR 47398, August 13, 1979). The previously issued temporary exemptions allowed the above-listed electric powerplants to use natural gas as a primary energy source in excess of the amounts which would otherwise have been permitted by sections 301(a) (2) and (3) of FUA until December 31, 1980. The natural gas use permitted by these temporary exemptions is displacing low sulfur residual fuel oil.

The Orders provided that the temporary exemption would be automatically extended for an additional three year period upon the written acceptance by ERA of a system-wide fuel conservation plan under the third term and condition of the Order. ERA has received and proposes to accept system-wide fuel conservation plans from the above-listed owners/operators. This action will have the effect of extending the duration of temporary exemptions to December 31, 1983.

Special temporary public interest exemptions do not relieve existing powerplants from compliance with any pertinent rules or regulations concerning the acquisition or the distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any pertinent state regulatory agency of from any public utility obligation to pertinent categories of customers.

Because the notice and comment period on the proposed extension Order extends beyond the termination date for the previously issued Orders, ERA, pursuant to the policy set forth in the notice implementing the Special Rule (44 FR 21230), will take no action with respect to any natural gas used by the above-listed powerplants, pending final ERA action on the proposed extension Order.

To the extent that the *near-term* choice of fuels for existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred. The extension of natural gas use by these powerplants will be a significant step toward reducing the Nation's oil consumption in the short term. The increased use of natural gas will help the United States meet its international commitments to resolve its demand for imported petroleum products, protect the Nation from the effects of oil shortages, and cushion the impact of increasing would oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rates.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas for oil displacement is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have submitted system-wide fuel conservation plans, ERA proposes to accept the system-wide fuel conservation plans which will extend the exemptions until December 31, 1983.

Proposed Order Granting Extension of Special Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) Of the Department of Energy (DOE) hereby sets forth its Order proposing to extend the duration of previously issued temporary public interest exemptions from the prohibitions of sections 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 42 U.S.C. § 8301 *et seq.* (FUA Or the Act), pursuant to section 311(e) of FUA, 10 CFR § 501.68 and 10 CFR Part 508, to the following powerplants:

Case control number	Owner	Generating station	Powerplant identification number
50653-2491-01-41	Consolidated Edison Company of New York.	Astoria	1
50653-2491-02-41			2
50653-2491-03-41			3
50653-2491-04-41			4
50653-2491-05-41			5
50653-2500-01-41		Ravenswood	1
50653-2500-02-41			2
50653-2493-05-41		East River	5
50653-2493-06-41			6
50653-2493-07-41			7
50653-2502-04-41		Waterside	4
50653-2502-05-41			5
50653-2502-06-41			6
50653-2513-04-41	Long Island Lighting Company.	Far Rockaway	4
50490-6190-01-41	Central Louisiana Electric Company.	Rodemacher	11

I. Statutory Prohibitions

The above-listed powerplants are prohibited by section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited from using gas as a primary energy source in excess of the average base year proportions allowed in section 301(a)(3) of the Act.

II. Eligibility for Exemption

The existing powerplants listed above have submitted petitions to EPA for special temporary public interest exemptions and have asserted that:

a. Each existing powerplant is:

1. Prohibited on May 8, 1979, from using natural gas as a primary energy source by section 301(a)(2) of FUA, or

2. Prohibited from using gas in excess of the average base year proportions allowed in section 301(a)(3) of FUA.

b. The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by section 301(a) (2) or (3) of FUA:

1. Will displace consumption of low sulfur residual fuel oil, and

2. Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption petition was submitted.

III. Rationale

To the extent that the *near-term* choice of fuels for existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred. The expanded use of natural gas in these powerplants will be a significant step toward reducing the Nation's oil consumption in the short term. This increased use of natural gas will help the United States meet its international commitments to reduce its demand for imported petroleum products, protect the Nation from the effects of oil shortages, and cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas for oil displacement is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have submitted system-wide fuel conservation plans, ERA proposes to accept the submitted system-wide fuel conservation plans and to extend the exemptions until December 31, 1983.

IV. Duration

ERA proposes to extend the period of the exemptions to December 31, 1983; however, the temporary exemptions are subject to termination upon six months written notice, if ERA determines such termination to be in the public interest.

V. Terms and Conditions

Pursuant to the authority of section 314 of FUA and 10 CFR 506.6, ERA will require the order recipient upon issuance of a final Order to: (1) report the actual monthly volumes of natural gas used in each exempted powerplant and the estimated number of barrels of each type of fuel oil displaced during the exemption period and (2) submit annually to ERA a report on progress achieved in implementing the system-wide fuel conservation plan.

Issued in Washington, D.C. on December 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-251 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act of 1978; Fuel Technology Review Committee; Meeting

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Meeting of the Fuel Technology Review Committee.

SUMMARY: There will be a meeting of the DOE Fuel Technology Review Committee (FTRC) on January 13, 1981, from 1:30–3 p.m. at the Forrestal Building, 1000 Independence Avenue, SW., Room GJ-015, Washington, D.C. to discuss the comments submitted in response to a notice of inquiry published on September 19, 1980 at (45 FR 62525), seeking public comment on whether to issue guidelines to assist petitioners for exemptions under the Powerplant and Industrial Fuel Use Act.

The Fuel Technology Review Committee consists of representatives from the Office of Fossil Energy, Resource Applications, Conservation and Solar, Environment, Policy and Evaluation and the Economic Regulatory Administration. The Committee is responsible for assessing the feasibility of alternate fuels, innovative technologies including fluidized bed combustion, fuel mixtures and conservation measures for use in implementing the Powerplant and Industrial Fuel Use Act of 1978. Issues to be addressed at the meeting include private sector participation in the assessment process, determination of technical readiness and candidates for assessment.

Initial candidates for assessment include fluidized bed combustion, fuel mixtures and low/medium BTU gasification.

Attendance is open to the interested public. If you wish to participate, please contact Stephen M. Stern or Donald Kreps by January 12, 1981, Department of Energy, Economic Regulatory Administration, 2000 M Street, NW., Room 7002, Washington, D.C. 20461, or by calling (202) 653-3217.

Issued in Washington, D.C. December 30, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-253 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 1 gram of Uranium containing greater than 99% U-234 to be used to manufacture fission ionization chambers nuclear power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S-EU-676 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 29, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-140 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between U.S. and Sweden

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement Between The Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the retransfer of 5,000 kilograms of Uranium, containing 175 kilograms of U-235 (3.5% enrichment) from the Federal Republic of Germany to Sweden. The material is to be used to fabricate fuel elements for Swedish power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement, designated as RTD/SW(EU)-117 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 29, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-141 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between U.S. and Sweden

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the shipment of enriched uranium/aluminum alloy fuel from the R-2 research reactor in Sweden to the Department of Energy Savannah River facility for reprocessing and storage of 50 kilograms of recovered uranium.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security. This arrangement for returning U.S. origin highly enriched uranium (HEU) to the U.S. is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 29, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-142 Filed 1-2-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS—59041A; TSH—FRL 1717-7]

Modified Polyester Based on Carbomonocyclic Anhydride Alkanediols; Approval of Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 28, 1980, EPA received an application for a test marketing exemption from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA) from a manufacturer claiming its identity confidential. The Test Marketing Exemption (TME) number assigned to the substance was T-80-46. EPA has determined that the manufacturer's test market of the chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted the manufacturer an exemption from the TSCA premanufacture reporting requirements for test marketing in the manner described in the application. The exemption is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-221, Washington, DC 20460, (202-426-3980):

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemption" contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement or section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities. On October 28, 1980, EPA received an application from a manufacturer claiming its identity confidential for an exemption from the requirements of section 5(a) and 5(b) of TSCA, to manufacture a new chemical substance. The submitter claimed specific chemical identity and use in the application as confidential business information, and provided the generic name, modified polyester based on carbomonocyclic anhydride and modified alkane diols.

A **Federal Register** notice published on November 26, 1980 (45 FR 78796) announced the receipt of the exemption application and requested comment on the appropriateness of granting the exemption. The Agency received no comment concerning the application. In the application, the submitter provided information on the volume of the substance to be produced during test marketing, the number of customers to be provided samples of the substance and persons who will come in contact with the material, and the route and duration of such exposure. The company also submitted test data on the acute toxicity of thermal decomposition products of the TME substance. The test method measured relative toxicity, designating wood as "least toxic" and teflon as "most toxic." Results show that the TME substance is classified "as toxic as wood."

Considering both the toxicity and exposure, the Agency had determined that the manufacture, production, and use of the substance, in the manner described in the test market application, will not present any unreasonable risk to the people who will come into contact with it during manufacture, processing, or use. There are no environmental concerns with the release or disposal of these substances. Thus, the Agency has decided to grant a test market exemption to this company for the limited manufacture of the substance described in the test marketing exemption application.

At least 90 days prior to manufacturing the substance listed in the application for commercial purposes other than test marketing or in small quantities solely for research and development activities, the manufacturer must submit a premanufacture notice (PMN) as required under section 5(a) of TSCA. This exemption is granted solely to the applicant of TME 80-46 with the following provisions:

1. That the company not exceed the production amounts specified on the test market application;

2. That worker exposure not exceed the levels specified;

3. That the company only use the TME substance for the purposes described in the Test Market application and in other contacts with the submitter;

4. That a material safety data sheet or similar document shall accompany the product and be available for employees who come into contact with it during its processing and use;

5. That the company maintain records of customers to whom the test market substance has been given or sold and that these records may be inspected by EPA;

6. That each shipment contains a statement informing the recipient that the substance shipped may only be used for the purpose allowed in the exemption; and

7. That the Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which indicates that the substance may present an unreasonable risk to human health or the environment.

Dated: December 24, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-40607 Filed 12-31-80; 8:45 am]
BILLING CODE 6560-31-M

[EN-FRL 1717-8]

Wisconsin Pretreatment Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the National Pollution Discharge Elimination System Pretreatment Program of the State of Wisconsin.

SUMMARY: On December 24, 1980, the Environmental Protection Agency approved the State of Wisconsin's National Pollutant Discharge Elimination System State Pretreatment Program. This action enables the State of Wisconsin to assume primary control over the Pretreatment Program.

FOR FURTHER INFORMATION CONTACT: George E. Young, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:

Background

The pretreatment program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the pretreatment program are to: (1) prevent introduction of pollutants into POTWs which will interfere with the operation of the POTW or contaminate the sewage sludge; (2) prevent introduction of pollutants into POTWs which will pass through treatment works into receiving waters or the atmosphere or otherwise be incompatible with the works; (3) improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment. Local pretreatment programs will be the primary vehicle for administering, applying and enforcing pretreatment standards for industrial users of POTWs. The EPA and States approved to administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program will enforce the national standards where local governments do not develop a pretreatment program. To receive pretreatment program approval a State must submit to the EPA a modification to its NPDES program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

Federal Register Notice of Approval of State NPDES Programs or Modifications.

Under the Consolidated Permit Regulations (45 FR 33290, May 19, 1980), EPA will provide **Federal Register** notice of any action by the Agency approving or modifying a State NPDES program. Each notice will include a table similar to the following one, setting forth the current status of program approval. This table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	Oct. 19, 1979	Oct. 19, 1979	Oct. 19, 1979.
California	May 14, 1973	May 5, 1978	
Colorado	Mar. 27, 1975		
Connecticut	Sept. 26, 1973		
Delaware	Apr. 1, 1974		
Georgia	June 28, 1974		
Hawaii	Nov. 28, 1974	June 1, 1979	
Illinois	Oct. 23, 1977	Sept. 20, 1979	
Indiana	Jan. 1, 1975	Dec. 9, 1978	
Iowa	August 10, 1978	August 10, 1978	
Kansas	June 28, 1974		
Maryland	Sept. 5, 1974		
Michigan	Oct. 17, 1973	Dec. 9, 1978	
Minnesota	June 30, 1974	Dec. 9, 1978	July 16, 1979.
Mississippi	May 1, 1974		
Missouri	Oct. 30, 1974	June 26, 1979	
Montana	June 10, 1974		
Nebraska	June 12, 1974	Nov. 2, 1979	
Nevada	Sept. 19, 1975	August 31, 1978	
New York	Oct. 28, 1975	June 13, 1980	
North Carolina	Oct. 19, 1975		
North Dakota	June 13, 1975		
Ohio	Mar. 11, 1974		
Oregon	Sept. 26, 1973	Mar. 2, 1979	
Pennsylvania	June 30, 1978	June 30, 1978	
South Carolina	May 10, 1975	Sept. 26, 1980	
Tennessee	Dec. 28, 1977		
Vermont	Mar. 11, 1974		
Virgin Islands	June 30, 1974		
Virginia	Mar. 31, 1975		
Washington	Nov. 14, 1973		
Wisconsin	Feb. 4, 1974	Nov. 26, 1979	Dec. 24, 1980.
Wyoming	Jan. 30, 1975		

Dated: Dec. 2, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-40655 Filed 12-31-80; 8:45 am]
BILLING CODE 6560-33-M

[A9-FRL 1717-L]

Availability of "Project Look Review Guide"

AGENCY: Office of Inspector General, Environmental Protection Agency.

ACTION: Notice of Availability of "Project Look Review Guide".

SUMMARY: The Office of Inspector General (OIG) intends to make available to the public portions of the October 1980 "Project Look Review Guide." This guide is a document used by the OIG in reviewing construction grant projects which are funded under EPA's Wastewater Treatment Construction Grants Program. The availability of portions of this document will provide additional information to grantees, engineering firms, contractors, subcontractors and others who are subject to a "Project Look" review of their operations. For example, the "Project Look Review Guide." includes information about laws and regulations pertinent to the "Project Look" review, as well as records, documents and papers that grantees, engineering firms, contractors, subcontractors and others must make available to the OIG during the review.

EFFECTIVE DATE: December 31, 1980.

ADDRESSES: A copy of the document is available for inspection and copying from Monday through Friday, 9:00 a.m. to 5:00 p.m. at the: Environmental Protection Agency, Public Information Reference Unit, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Barry E. Hill, Legal Counsel to the Inspector General, A-109, Room 2812, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 245-3090 or 3091.

Dated: December 29, 1980.

Inez Smith Reid,

Inspector General.

[FR Doc. 80-40742 Filed 12-31-80; 8:45 am]

BILLING CODE 6560-38-M

[A-10-FRL 1719-1]

Atlantic Richfield Co. and SOHIO Petroleum Co.; Issuance of PSD Permit

Notice is hereby given that on December 17, 1980 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Atlantic Richfield Co. and SOHIO Petroleum Co. for approval to install ten gas-fired turbines and nine gas-fired heaters in the oil field at Prudhoe Bay, Alaska.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x) and carbon monoxide (CO) shall not exceed the following:

Emission Limitations

Location	Equipment	Pollutants (tons/year)	
		NO_x	CO
Seawater Treatment Plant	*Heaters	158	35
East Injection Plant	*Turbines	2,065	386
	*Heaters	35	8
West Injection Plant	*Turbines	2,065	386
	*Heaters	35	8

Equipment	Pollutant	Emission factor
*Gas turbines	NO_x	150 (14.4/Y)ppm.**
	CO	109 lb/10⁶ scf (fuel).
		10% opacity limit.
*Heaters	NO_x	0.06 lb/10⁶ Btu.
	CO	0.018 lb/10⁶ Btu.
		5% opacity limit.

*

**NO_x emissions factor for gas-fired turbines is modified by an efficiency factor (Y) which cannot exceed 14.4 kilo-joules/watt hour (manufacturer's rated heat rate at rated peak load). Based on 15% oxygen on a dry basis.

2. With the exception of NO_x and CO, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this modification will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 17, 1980.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 81-179 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-38-M

[TSH-FRL 1719-2; OPTS-51194]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80-338, January 23, 1981.

PMN 80-339, January 23, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data sbmitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted an part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restricitons. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51194]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: December 24, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-338

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. February 22, 1981.

Manufacturer's Identity. The B. F. Goodrich Company, Chemical Group, 6100 Oak Tree Blvd, Cleveland, OH 44131.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Salt form of acrylic acid-acrylate copolymer.

Use. Absorbent for body fluids.

Production Estimates. First year, 5,000 kg.; second year, 70,000 kg.; third year, 230,000 kg.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted on the PMN substance. The manufacturer states that test data on related substances showed to be non-irritant on rabbits and albino guinea pigs and believes these toxicity data accurately predict that the PMN substance is not a skin or eye irritant or a skin sensitizer.

Exposure. The manufacturer states that the new substance will be manufactured by an automatic process; that dermal exposure to five workers of a minute duration may occur only during the film changing process.

Environmental Release/Disposal. No data were submitted. Manufacturer anticipates that disposal will be minimal at both manufacture site and industrial sites controlled by others, and disposal will be by landfill or incineration.

PMN 80-339

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. February 22, 1981.

Manufacturer's Identity. The B. F. Goodrich Company, Chemical Group, 6110 Oak Tree Blvd., Cleveland, OH 44131.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Salt form of acrylic acid-acrylate copolymer.

Use. Absorbent for body fluids.

Production Estimates. First calendar year, 5,000 kg.; second calendar year, 70,000 kg.; third calendar year, 230,000 kg.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted. The manufacturer states that test data on related substance showed to be non-irritant to skin or eye or a skin sensitizer.

Exposure. The manufacturer states that no significant exposure is expected from industrial use. The manufacturer also states that the manufacture of the substance will be by an automatic process; that dermal exposure to five workers of a minute duration may occur only during the film changing process.

Environmental Release/Disposal. No data were submitted. The manufacturer states that disposal will be minimal, at both manufacture site and at sites not controlled by manufacturer, and disposal will be by landfill or incineration.

[FR Doc. 81-171 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-31-M

[WH-FRL 1706-3]

Conventional Pollutant List: Notice Denying the Addition of Phosphate

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of petition denial.

SUMMARY: Following receipt and evaluation of public comments, the Environmental Protection Agency denies the proposal to add phosphate to the conventional pollutants list as petitioned by the FMC Corporation, Hooker Chemicals and Plastics Corporation, and Stauffer Chemical Company (hereafter referred to as the "the petitioners"). While phosphate is naturally occurring and a nutrient, it is not of itself oxygen demanding nor biodegradable and has not traditionally been the primary focus of wastewater control.

Background

Pursuant to section 304(a)(4) of the Clean Water Act (CWA), the Administrator shall, as appropriate and from time to time, publish information identifying conventional pollutants. In a previous action published at 43 FR 32857 (July 28, 1978), the Environmental Protection Agency described pollutant criteria employed to substantiate the listing of a substance as a conventional pollutant. Based on a review of the Clean Water Act and its legislative history, the Agency identified three classes of substances which *may* contain conventional pollutants: oxygen demanding substances, solids and nutrients (emphasis added). One group of criteria represents characteristics common to all of these classes: pollutants which are naturally occurring, biodegradable, oxygen demanding materials, and solids which have similar characteristics to naturally occurring biodegradable substances. The second criterion is that the pollutants traditionally have been the primary focus of wastewater control.

On June 2, 1980, the Agency received the subject petition along with supporting information. Subsequently, on July 21, 1980 (45 FR 48704), the Agency published a notice of petition receipt and solicited public comments on the petition before deciding on the listing status of phosphate.

The Agency received comments on the petition from 19 respondents, 15 of which opposed the petition, 3 of which supported the petition, and one that suggested deferral of action until additional information could be developed by the Agency. (A summary of the specific comments received is attached as an Appendix to this notice.) After consideration of the petitioners' and the public comments and evaluation of phosphate in light of the listing criteria, the Agency has determined to deny the petition.

Discussion

Evaluation of Phosphate According to the Conventional Pollutants Selection Criteria

In the final rule establishing oil and grease as a conventional pollutant (40 CFR 401.16) (44 FR 44501, July 30, 1979), the Agency confirmed the use of the selection criteria and pollutant classes for any future identification of conventional pollutants. Phosphate fails to meet these criteria, and EPA is therefore denying the petitioners' request to list it as a conventional pollutant. The Agency agrees with the petitioners that phosphate is a naturally occurring nutrient. However, the petitioners acknowledge that phosphate is not biodegradable nor is it oxygen demanding and the Agency concurs. The Agency disagrees with the petitioners' contention that phosphate has been the primary focus of wastewater control. The bases for these conclusions are set out below.

(a) Oxygen Demanding Substance:

An oxygen demanding substance is any substance which throughout the course of its decomposition, whether biological, chemical, or photochemical, depletes the dissolved oxygen concentration in water. Phosphates do not exhibit this characteristic and therefore are not oxygen demanding. Their chemical formulas indicate that they exist at their highest oxidative state and, therefore, by themselves cannot consume oxygen and be further oxidized. The petitioners claim that phosphate is indirectly an oxygen demanding substance by being essential to the growth of aquatic microorganisms and to the growth of and subsequent decay of aquatic vegetation, both of which are involved in biological processes which do deplete dissolved oxygen. It is clear that one of EPA's listing criteria for conventional pollutants specifies that a substance must *directly* be oxygen demanding. Phosphate is clearly not in this category.

(b) Naturally Occurring:

Phosphates are naturally occurring and ubiquitous in the aquatic environment. They serve as nutrients in the growth of aquatic organisms and the growth of aquatic vegetation. However, the fact that phosphates are nutrients for certain organisms does not automatically classify them as conventional pollutants as the petitioners claim. The Agency at 43 FR 32857 states that nutrients are a class of substances which *may* contain conventional polutants (emphasis added).

(c) Biodegradable:

The criterion refers to the rate at which a living organism will reduce an original chemical concentration or alter the original chemical into another substance with different characteristics. Phosphates are not biodegradable in that living organisms cannot alter their chemical forms.

(d) A Traditional and Primary Focus of Wastewater Control

This criterion refers to those pollutants intended to be removed by conventional primary and secondary treatment. This conclusion is based on the definition of the BCT test (44 FR 50733, August 29, 1979), which indicates that conventional pollutants are those removed by primary and secondary treatment at Publicly Owned Treatment Works (POTWs). Phosphates are not commonly removed by primary or secondary treatment at POTWs and have not traditionally been the primary focus of this conventional treatment technology. Phosphates removal technology consisting of chemical precipitation exists but is recognized by the Agency as wastewater treatment beyond coventional. Furthermore, although conventional secondary treatment can result in some *incidental* removal of phosphates, incidental pollutant removal is not, however, equivalent to intended removal. Obviously, only intended removal can be the primary focus in treatment technology. Phosphates, therefore, do not meet the criterion of being traditionally the primary focus of wastewater control.

The Agency therefore determines that phosphates are not a primary focus of traditional wastewater treatment, and therefore fail EPA's second listing criterion. This determination is factually consistent with our earlier determinations to list substances under section 304(a)(4). Thus, oil and grease, listed as conventional pollutants in 44 FR 44501 (July 30, 1979), are intentionally removed in conventional wastewater treatment facilities. Phosphorus, which the Agency decided against listing as a conventional pollutant in the same rulemaking, "is not commonly treated by POTW's employing secondary treatment . . . ," and as such has not traditionally been a primary focus of wastewater control (*id.*).

In the rulemaking for phosphorus, the Agency stated that whether a substance is commonly treated by secondary treatment is not relevant in designating conventional pollutants (44 FR at 44502). This was an erroneous statement. What was in fact intended was that, for phosphorus, this criterion was not of primary concern. Instead, the Agency placed greater importance on phosphorus being an environmental problem only in limited geographical areas (*id.*). Non-conventional status, therefore, was desirable to retain regulatory flexibility (i.e., §§ 301(c) and 301(g) waivers from BAT when justified), which flexibility would be unavailable if phosphorus were listed as a conventional pollutant. The Agency's position on this has not changed.

Summary

Phosphates, while meeting an EPA criterion of being naturally occurring, fail the other EPA listing criteria. Namely, they are not oxygen demanding nor biodegradable substances. Neither have they traditionally been a primary focus of wastewater control.

Economic Impacts of Listing Phosphates as Conventional Pollutants

Although not necessary to the disposition of this petition, in EPA's judgment the retention of phosphates as non-conventional pollutants may be economically less impactive than listing them as conventional pollutants under § 304(a)(4). Conventional pollutants are subject without exception to Best Conventional Pollutant Control Technology (BCT). Non-conventional pollutants are subject to Best Available Technology Economically Achievable (BAT) but may be eligible for economic or water-quality based waivers under §§ 301(c) and 301(g), respectively. Although relative costs have not yet been quantified, it may be that BAT waivers (if granted) would prove less costly than (mandatory) imposition of BCT.[*]

However, the petitioners claim that failure to list phosphates as conventional pollutants has serious regulatory implications by placing an unnecessary economic burden on dischargers of phosphates. The petitioners further claim that "designation of a pollutant as conventional may be of great significance to an industrial category discharging that pollutant, without any sacrifice of environmental goals under the Act. BCT limitations for conventional pollutants must meet a test of cost reasonableness not required of BAT. Thus, BCT in some instances will result in limitations which are less stringent and less economicaly burdensome and which are more closely related to environmental need than those established under BAT. The establishment of BCT for conventional pollutants, they state, reflects Congressional intent that EPA avoid treatment for treatment's sake" (45 FR at 48705).

EPA disagrees with the petitioners on the issue of economic impact. The petitioners do not adequately identify or discuss the availability of §§ 301(c) and 301(g) waivers. These statutory provisions are designed to assure that control of certain pollutants is required only where adverse environmental conditions exist and where cleanup is affordable. These waivers thus provide sufficient flexibility to avoid treatment for treatment's sake, and indeed, provide in some respects more flexibility than is available for regulation of conventional pollutants, whose regulatory standards are not subject to waiver. The Agency thus does not accept petitioners' characterization of relative economic burdens.

Action

Since phosphates do not meet the criteria for listing as conventional pollutants, the petition is denied.

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

Appendix

Summary of Public Comments

1. Of 19 respondents, 15 opposed the petition and urged that EPA retain phosphate in the non-conventional pollutant category. These respondents generally based their opinion on their perception of phosphate's failure to meet conventional pollutant listing criteria. A number of these respondents also pointed out the availability of section 301(c) and 301(g) waivers for non-conventional pollutants, thus lessening the economic impact to dischargers for this class of pollutants, mechanisms not available to dischargers of conventional pollutants.

2. One respondent pointed out that the petition is merely a restatement of the previous proposal of July 28, 1978 to add phosphate to the conventional pollutant list that was denied in 1979. Over-taxed Agency resources should not be wasted by reconsideration of previously decided matters. As such the petition should be denied because it is outside the scope of §§ 505 and 509 of the Clean Water Act and violates the principle of administrative *res judicata.*

3. One respondent supported the petition based on the legislative history of the Act, its perception of phosphate meeting the listing criteria and its view of regulatory implications that would result from a negative Agency decision to list. EPA disagrees with the respondent's views of the legislative history of the Act, the respondent's interpretation of the listing criteria and the respondent's conclusion on regulatory implications resulting from a negative decision.

4. One respondent supported the petition by agreeing with the petitioners that phosphate is a nutrient and as such does contribute to oxygen depletion in water. As such it meets the listing criteria. The respondent states that water pollution control regulations should be established more on a scientific basis rather than on consideration of the cost of pollution abatement equipment. New equipment and technology are being developed to efficiently remove phosphate. Therefore the requirement of industry to install BCT "across the board" without waiver availability if phosphate were listed as conventional should have minimal economic impact.

5. One respondent supported the petition by stating that EPA should provide itself with the ability to apply a "cost reasonableness" assessment for certain phosphate discharges (boiler blowdown). Because of the nature, sources, and occurrence of phosphates, it would appear inappropriate to apply the full diligence of BAT to this pollutant for many sources such as boiler blowdown. Cost should be fully allowed as a factor in setting effluent guidelines and standards for phosphates.

EPA agrees that costs are important in selecting from regulatory options. The Agency disagrees with the respondent that application of BCT to phosphates is the most effective way to insure that minimal costs to industry occur. The Agency believes that applying BAT to phosphate discharges with the availability of waivers gives the Agency the flexibility that is needed to control phosphates in a manner sufficient to insure environmental protection with the most cost-effective pollution control technology.

[FR Doc. 81–180 Filed 1–2–81; 8:45 am]

BILLING CODE 6560–29–M

[WH–FRL 1716–4]

Public Hearings on the 1990 Construction Grants Strategy

The U.S. Environmental Protection Agency (EPA) will hold a series of public hearings on 1990 Construction Grants Strategy. The 1990 Strategy proposes major changes to redirect and improve EPA's municipal wastewater construction grants program. The Strategy will be published in the Federal Register during the third week of January, no later than January 23, 1981.

Since 1972 EPA has awarded $25 billion to over 10,000 communities to plan, design and construct municipal wastewater treatment facilities. The program, authorized under Title II of the Clean Water Act, is one of the largest and most complex Federal environmental public works programs in our Nation's history. Progress has been made in solving water pollution problems, but remaining needs are large and the overall water quality goals of the act remain elusive. Many have criticized the program because of the burdensome requirements, complexity, project delays and high costs.

For the past several months EPA staff has worked with State and local governments and a wide range of interest groups and citizens from across the country in developing specific proposals to improve the grants program. This work has included mailings of preliminary concept papers, summaries and updates, informal work groups, public meetings, and numerous presentations. The ideas and comments received so far have helped to shape the Strategy. Public comments, based on the public hearings, the publication of the Strategy in the Federal Register, and direct mailing of the Strategy, will be considered in the final formulation of the 1990 Strategy. The Strategy will then be submitted to the Administration and Congress.

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[*] Additional discussion of this issue appears in the Agency's notice withdrawing its proposal to list ammonia as a toxic pollutant under § 307(a) [45 FR 803].

Written comments should be submitted to Ms. Merna Hurd, Associate Assistant Administrator for Water and Waste Management, WH-556, Environmental Protection Agency, Washington, D.C. 20460. Expressions of interest in testifying at one of the hearings should be submitted to Ms. Hurd by February 16, 1981.

For more information on the scheduling of testimony and to receive a copy of the Strategy, contact Francine Zucker, Water Planning Division WH-554, Environmental Protection Agency, Washington, D.C. 20460, (202) 755-7003 or 7005.

EPA will accept written comments on the 1990 Strategy until March 16, 1981.

Date, location, and time

February 23–24, 1981—Copley Plaza Hotel, Copley Square, Boston, MA—8:30 a.m. to 6:00 p.m.;
McCormick Inn, 23rd St. and the Lake, Chicago, IL—8:30 a.m. to 6:00 p.m.
February 26–27, 1981—Sir Francis Drake Hotel, Powell and Sutter Streets, San Francisco, CA—8:30 a.m. to 6:00 p.m.
March 5–6, 1981—Springfield Hilton, 6550 Loisdale Road, Springfield, VA (Franconia Exit off Interstate 95 South of Beltway)—8:30 a.m. to 6:00 p.m.

Dated: December 24, 1980.

Merna Hurd,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81-00084 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-29-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-23]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: December 30, 1980.

Cut-Off Date: February 9, 1981.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after February 9, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on February 9, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on February 9, 1981.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on February 9, 1981.

Federal Communications Commission.

Alan R. McKie,

Deputy Executive Director.

Appendix

BP-781116AN (KWKW), Pasadena, California, Lotus Communications Corp., Has: 1300 kHz, 1kW, 5 kW-LS, DA-2, U, Req: 1300 kHz, 2.5 kW, 5 kW-LS, DA-2, U
BP-800707AI (new), Los Ranchos de Albuquerque, New Mexico, Spanish Community Radio, Ltd., Req: 1240 kHz, 250 W, 1 kW-LS, U
BP-800808AC (new), Heber City, Utah, Majestic Broadcasting, Inc., Req: 1340 kHz, 0.25 kW, 0.5kW-LS, U
BP-800829AQ (new), Williamsburg, Kentucky, Williamsburg Broadcasting Company, Inc., Req: 710 kHz, 0.25 kW, D
BP-800911AE (WCGA), Conyers, Georgia, Communications Investment, Inc., Has: 1050 kHz, 0.25 kW, D, Req: 1050 kHz, 1 kW, D
BP-801007AF (WCLW), Mansfield, Ohio, Greater Mansfield Broadcasting Company, Has: 1140 kHz, 0.25 kW, DA-D, Req: 1140 kHz, 1 kW (0.5 kW-CH), DA-D
BP-801103AJ (KDUN), Reedsport, Oregon, KDUN, Radio, Inc., Has: 1470 kHz, 5 kW, D, Req: 700kHz, 0.5 kW, 10 kW-LS, U
BP-801110AD (KFIA), Carmichael, California, Olympic Broadcasters, Inc., Has: 710 kHz, 0.25 kW, 1 kW-LS, DA-2, U, Req: 710 kHz, 0.25 kW, 10 kW-LS, DA-2, U
BP-801117AC (new), Oceanside, California, Oceanside Radio, Inc., Req: 830 kHz, 1 kW, DA-N, U
BP-801119AA (WCHB), Inkster, Michigan, Bell Broadcasting Company, Has: 1440 kHz, 1 kW, DA-2, U, Req: 1200 kHz, 1 kW, 50.0 kW-LS, DA-2, U
BP-801119AD (KFQD), Anchorage, Alaska, Pioneer Broadcasting Company, Inc., Has: 750 kHz, 10 kW, 50 kW-LS, U, Req: 750 kHz, 50 Kw, U
BP-801202AH (new), Beaufort, South Carolina, Ronald J. Prohaska, Sr., and Patricia P., Prohaska, d/ba Radio Station WSIB, Req: 1490 kHz, 250W, 500W-LS, U
BP-801205AA (KCCV), Independence, Missouri, Bott Broadcasting Company, Has: 1510 kHz, 1 kW, D, Req: 1510 kHz, 1 kW, 10kW-LS (10 kW-CH), U
BPI-801120AK (new), Beaufort, South Carolina, William and Vivian Galloway, Req: 1490 kHz, 250 W, 500 W-LS, U
BPI-801201AN (new), Cornwall, New York, Cornwall Radio, Req: 1170 kHz, 1 kW, DA-D

[FR Doc. 81-164 Filed 1-2-81; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Executive Committee Meeting

Notice of January Meeting, Thursday, January 15, 1981—9:30 a.m., Conference Room 8238, Nassif (D.O.T.) Building, 400 Seventh Street, S.W., at D Street, Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of SC-71 Report concerning "VHF Automated Radiotelephone Systems".
3. Discussion concerning Selective Calling (SelCall) National Planning.
4. Appointment of Nominating Committee.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

Alan R. McKie,

Deputy Executive Director.

[FR Doc. 81-165 Filed 1-2-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-15-5]

Continental Grain Co.; Westwego Elevator; Availability of Finding of no Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on this agreement will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. For a description of this agreement, please refer to 45 FR 80903 (December 8, 1980).

This Finding of No Significant Impact (FONSI) will become final within 7 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81-127 Filed 1-2-81; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-3938]

Permit No. 441 Granted by City of Los Angeles to American President Lines, Ltd.; Intent to Prepare Environmental Assessment

Agreement No. T-3938, between the City of Los Angeles (City) and American President Lines, Ltd. (APL), was filed with the Commission for approval under section 15 of the Shipping Act, 1916. Under this agreement, APL will continue to use the marine terminal it presently uses while the City improves and constructs a new marine terminal facility for APL's use. APL will move to the new facility upon its completion.

The Federal Maritime Commission's Office of Energy and Environmental Impact (OEEI) is preparing an environmental assessment on this agreement pursuant to the National Environmental Policy Act of 1969. The OEEI invites interested parties to submit written comments which will aid in the preparation of the assessment. Such comments should be submitted on or before January 26, 1981, to the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

Francis C. Hurney,

Secretary.

[FR Doc. 81-128 Filed 1-2-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BSD Bancorp, Inc.; Formation of Bank Holding Company

BSD Bancorp, Inc., San Diego, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 18[illegible]2(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to Bank of San Diego, San Diego, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-219 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

Daingerfield Bancshares, Inc.; Formation of Bank Holding Company

Daingerfield Bancshares, Inc., Daingerfield, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The National Bank of Daingerfield, Daingerfield, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-215 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

Exchange Holding, Inc.; Formation of Bank Holding Company

Exchange Holding, Inc., El Dorado, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 89.58 per cent or more of the voting shares of Exchange Investors, Inc., El Dorado, Kansas, a bank holding company with respect to First National Bank and Trust Company El Dorado, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-217 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

Financial Growth Systems, Inc.; Formation of Bank Holding Company

Financial Growth Systems, Inc., Inverness, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of Citizens First National Bank of Citrus County, Inverness, Florida and Citizens First National Bank of Crystal River, Crystal River, Florida, and 95 percent or more of the voting shares of Lake County Bank, Leesburg, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-216 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

First Granbury Bancorp.; Formation of Bank Holding Company

First Granbury Bancorporation, Granbury, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Granbury, Granbury, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 26, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-222 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

First Medicine Lodge Bancshares, Inc.; Formation of Bank Holding Company

First Medicine Lodge Bancshares, Inc., Medicine Lodge, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Medicine Lodge, Medicine Lodge, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-218 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

Morrill Bancshares, Inc.; Proposed Acquisition of Saylor Insurance Service, Inc.

Morrill Bancshares, Inc., Sabetha, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Saylor Insurance Service, Inc., Sabetha, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of selling insurance in a community with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Sabetha, Kansas, and the geographic area to be served is the area in Kansas within a twenty-mile radius of Sabetha. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating now the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later that January 29, 1981.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-221 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

Mulvane Bancshares, Inc.; Formation of Bank Holding Company

Mulvane Bancshares, Inc., Mulvane, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 per cent of the voting shares of The Mulvane State Bank, Mulvane, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-220 Filed 1-2-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of two questionnaires intended for use in collecting information from the public ws received by the Regulatory Reports Review Staff, GAO, on December 22, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 20, 1981, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The Interstate Commerce Commission is seeking approval for two new voluntary questionnaires for the purpose of gathering information concerning the extent to which minority-owned businesses participate in regulated interstate trucking and the manner in which the Motor Carrier Act of 1980 has affected them.

One voluntary questionnaire will be sent to the approximately 20,000 motor carriers that hold ICC certificates to determine the present universe of minority carriers. This questionnaire is to be completed only by those recipients which are minority-owned carriers. The Commission estimates that it will receive 200 responses to add to the list of 140 known minority-owned motor carriers which will not be sent this questionnaire. The Commission has estimated that responding to this questionnaire will require 5 minutes. Later, in the final phase of the study plan, ICC proposes to send this same questionnaire to all motor carriers receiving initial permanent authority. The Commission has stated that this will enable it to monitor future changes in minority participation in the trucking industry. The Commission estimates that it will receive 30 responses out of an estimated 500 carriers which will receive initial permanent authority per year. It also estimated that the burden associated with completion of this questionnaire will be 5 minutes per respondent.

A second voluntary questionnaire will be sent only to minority-owned motor carriers to identify their minority groups, the commodities they normally carry, their familiarity with the provisions of the Motor Carrier Act of 1980, their view of opportunities stemming from passage of the Act and recent ICC decisions, and changes in revenue and operations resulting from passage of the Act. ICC estimated that there will be a maximum of 340 respondents and the burden associated with completion of the questionnaire will be 30 minutes per respondent.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 81-121 Filed 1-2-81; 8:45 am]

BILLING CODE 1610-01-M

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 19, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 20, 1981, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The ICC requests clearance of a revision of Form OP-1, Application for Motor or Water Carrier Certificate or Permit, Brokerage License, Freight Forwarder Permit, or Water Carrier Exemption, pursuant to the provisions of 4 CFR Part 10. Form OP-1 as originally designed was adopted in response to the Motor Carrier Act of 1980 which mandated significant changes in Commission regulatory policy, including requiring expedited procedures, altering entry standards applicable to motor carriers of property, and redefining contract carriage of property by motor vehicle. Cumulatively, the statutory changes necessitated revision of the Commission's operating rights application procedures. The interim rules in Ex Parte No. 55 (Sub-No. 43), Rules governing Applications for Operating Authority, adopted Form OP-1, incorporating the informational requests required by the revised application proceedings and superseding five application forms previously employed: (1) OP-OR-9, Application for Motor Carrier Certificate or Permit; (2) OP-OR-11, Application for Brokerage License; (3) OP-FF-10, Application for Freight Forwarder Permit; (4) Application for Exemption from Part III of the Interstate Commerce Act Under Section 302(e) or Section 303(h); and (5) OP-WC-20, Application for Water Carrier Certificate or Permit Under Section 309 of the Interstate Commerce Act.

On December 19, 1980, the Commission approved the final rules in Ex Parte No. 55 (Sub-No. 43), adopting Form OP-1 in revised form. The form revisions derive from the Commission's consideration of public comments filed in response to the interim rules and from experience in evaluating applications filed on Form OP-1 as originally adopted. The revised form represents an attempt to further simplify the style, wording, and format of the information requests it contains and to clarify the nature of specific information elicited. In conjunction with the applicable rules and supplementary explanatory materials available to assist applicants, the revisions serve to minimize evidentiary burdens on applicants for operating authority or exemptions and to expedite internal Commission processing of applications. Particular beneficiaries of the facilitated application procedures will be independent owner-operators, small businesses, and other applicants with limited clerical or legal resources and minimal experience in Commission licensing procedures. The revisions include: a request that an applicant specifically designate the authority it seeks on the application form; that a supporting witness indicate the extent to which it supports the request for authority; a question requiring applicant to indicate whether the application is supported by public witnesses; where responses indicate the existence of financial or managerial interests extending between applicant and another ICC regulated carrier, a question requiring information concerning Commission approval of such interests; a request concerning applicant's holding of a certificate of registration as a single state operator; and a requirement that applicants for irregular route authority involving

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unusual boundaries provides maps depicting the authority sought. Other revisions are deletion of the requirement that applicants must provide information concerning the form of business operation, list names and addresses for all partners, directors and officers, or list a preference regarding hearing site location. Also the verification statement has been redefined to eliminate the need for notarization. The ICC estimates that applicants will number approximately 20,000 to 25,000 annually and burden will average 8 hours per application.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 81–124 Filed 1–2–81; 8:45 am]

BILLING CODE 1610-01-M

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 29, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before January 23, 1981, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW, Washington, D.C. 20548.

Further information may be obtained form Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Interstate Commerce Commission

ICC request an extension-no-change clearance of Form OCP–102 (formerly Form BOp–102), Notice to Commission of Intent to Perform Interstate Transportation for Certain Nonmembers Under 49 U.S.C. 10526(a)(5). Due to the recodification of the Interstate Commerce Act, the former reference to Section 203(b)(5) concerning agricultural cooperatives is now replaced by 49 U.S.C. 10526(a)(5). The designation of the form BOp–102 to OCP–102 is due to the reorganization of the Bureau of Operations into the Office of Consumer Protection. Form OCP–102 is required to be filed by a cooperative association, or federation of cooperative associations, as defined in the Agricultural Marketing Act, which perform or intend to perform transportation for nonmembers—who are neither farmers, cooperative associations, nor federations of cooperative associations—and the transportation is not otherwise exempt under Subchapter II, Chapter 105 of the Recodified Interstate Commerce Act. The information requested on Form OCP–102 is ordinary business information readily available from basic records and requires no compilation of data. There are 16 items of information, primarily dealing with the names and addresses of principal officers and directors. ICC estimates that there will be 125 respondents who will file one response annually. The estimated time per response is 30 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–225 Filed 1–2–81; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 141]

The Improvements at Tern Island French Frigate Shoals, Hawaiian Island Chain 9–U–HI–546; Transfer of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By transfer letter from the General Services Administration dated July 11, 1980, the property comprising nine buildings and miscellaneous improvements identified as the French Frigate Shoals, Tern Island, Hawaiian Island Chain, 9–U–HI–546, has been transferred to the Department of the Interior, Fish and Wildlife Service.

2. The above described property was conveyed for the purpose of carrying out the national migratory bird management program in accordance with the provisions of section 1 of said Pub. L. 80–537 (16 U.S.C. 667b), as amended by Pub. L. 92–432.

Dated: December 10, 1980.

Roy Markon,

Commissioner, Federal Property Resources Service.

[FR Doc. 81–189 Filed 1–2–81; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health

Centers for Disease Control

Inorganic Mercury Control Technology Feasibility Study, Neurotoxicity Evaluations of Fumigators, Pathology of Occupational Lung Disease Registry, Methods Development in Nephrotoxicology, and Control Technology Assessment of Chemical Process Batch Unit Operations; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Inorganic Mercury Control Technology Feasibility Study

Date: January 13, 1981.
Time: 9:30 a.m. to 2:00 p.m.
Place: Federal Building, Room 4022, 550 Main Street, Cincinnati, Ohio 45202.
Purpose: To discuss the study, which is to document effective means of controlling occupational exposure to mercury and investigate feasibility of control, with representatives from labor, industry, academia, and government.
Additional information may be obtained from: Mr. Alfred A. Amendola, Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: (513) 684–4222.

Neurotoxicity Evaluations of Fumigators

Date: January 14, 1981.
Time: 10:00 a.m. to 4:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway—Room B–38, Cincinnati, Ohio 45226.
Purpose: To discuss project protocol aimed at evaluating behavioral and neurological functions of persons working with primary fumigants (including methyl bromide).
Additional information may be obtained from: W. Kent Anger, Ph. D., Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: (513) 684–8383.

Pathology of Occupational Lung Disease Registry

Date: January 15, 1981.

Time: 1:30 p.m. to 4:30 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway—Room B-38, Cincinnati, Ohio 45226.
Purpose: To discuss protocol for developing a pathology of occupational lung disease registry.
Additional information may be obtained from: David H. Groth, M.D., Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: (513) 684-8361.

Methods Development in Nephrotoxicology

Date: January 21, 1981.
Time: [illegible]:00 a.m. to 12 noon.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway—Room B-38, Cincinnati, Ohio 45226.
Purpose: To discuss protocol for developing sensitive and effective methods to detect renal damage and dysfunction in immature and adult laboratory rodents chronically and subchronically exposed to suspected neurotoxins. Furthermore, to determine the applicability of these tests to the assessment of renal injury among workers occupationally exposed to known and suspected chemical hazards.
Additional information may be obtained from: Edwin A. Knecht, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: (513) 684-8487.

Control Technology Assessment of Chemical Process Batch Unit Operations

Date: January 22, 1981.
Time: 9:30 a.m. to 3:00 p.m.
Place: The Carrousel Inn, 8001 Reading Road, Cincinnati, Ohio 45237.
Purpose: To discuss the study which will document effective means of controlling occupational exposure to hazardous chemicals during batch unit operations in chemical processing industries. Viewpoints and suggestions from industry, organized labor, academia, and other government agencies are invited.
Additional information may be obtained from: Harold D. Van Wagenen, Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: (513) 684-4295.

Dated: December 22, 1980.

William C. Watson, Jr.,

Deputy Director, Centers for Disease Control.

[FR Doc. 81-212 Filed 1-2-81; 8:45 am]

BILLING CODE 4110-87-M

Mine Health Research Advisory Committee; Rechartering

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), 5 U.S.C. Appendix I, the Centers for Disease Control announces the rechartering of the Mine Health Research Advisory Committee by the Secretary of Health and Human Services effective December 24, 1980.

This Committee provides advice on matters involving or relating to all types of mine health research, including grants and contracts for such research, provides a peer review function in assessing health research needs, and advises on agency program options.

Dated: December 22, 1980.

William C. Watson, Jr.,

Deputy Director, Centers for Disease Control.

[FR Doc. 81-211 Filed 1-2-81; 8:45 am]

BILLING CODE 4110-86-M

National Institutes of Health

Board of Scientific Counselors; Division of Resources, Centers, and Community Activities; Working Group on Cancer Centers Support Grant Guidelines; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities, Working Group on Cancer Centers Support Grant Guidelines, National Cancer Institute, January 9, 1981, Pan Am Room, Howard Johnson's O'Hare International Hotel and Conference Center, 10249 W. Irving Park Road, Schiller Park, Illinois 60176. The entire meeting will be open to the public from 9:00 a.m. until 5:00 p.m., for consideration of proposed revisions for Cancer Center Support (CORE) Grant. Attendance by the public will be limited to space available.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Donald M. Pitcairn, Executive Secretary, National Cancer Institute, Blair Building, Room 714, National Institutes of Health, Bethesda, Maryland 20205, (301/427-8663) will furnish substantive program information.

Dated: December 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-40777 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-08-M

Cardiology Advisory Committee; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cardiology Advisory Committee sponsored by the National Heart, Lung, and Blood Institute, which was published in the **Federal Register** on November 28, 1980, 45FR79168.

This meeting was to have convened at 8:30 a.m. on January 12 and 13, 1981, but has been changed to a one-day meeting to be convened at 8:30 a.m. on January 12, 1981, only, in Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Acting Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496-5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: December 18, 1980.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-40778 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-08-M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on February 12 and 13, 1981, in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. on February 12 to 4:00 p.m. on February 13, will be open to the public. The Committee will discuss initiatives proposed for the Division of Lung Diseases implementation plan for fiscal 1982. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: December 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-40776 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

Title XV of the Public Health Service Act; National Health Planning and Development; Delegation of Authority

Notice is hereby given that on November 20, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary of Health, with authority to redelegate, all the authorities vested in the Secretary of Health and Human Services under Title XV of the Public Health Service Act (42 U.S.C. 300k *et seq.*), as amended, pertaining to national health planning and development, excluding (a) the authority under Section 1503 to establish and to select members to the National Council on Health Planning and Development; (b) the authority to determine whether by the date specified in Section 1521(d)(1) the State Agency for a State is ineligible for designation under Section 1521(b)(3); (c) the authority under Section 1526 to provide grants to State Agencies to demonstrate the effectiveness of having the States regulate rates for the provision of health care; and (d) the authority under Section 1533(d) to establish various uniform systems for institutional providers of health care, and the authority under Section 1533(a) to make grants for the establishment of such uniform systems.

The delegation from the Secretary to the Assistant Secretary for Health also excluded (a) the authority to promulgate regulations, (b) the authority to establish advisory committees and councils, (c) the authority to select members to advisory councils, and (d) the authority to submit reports to Congress or to a congressional committee.

Previous delegations made to the Assistant Secretary for Health of authorities under Title XV of the Public Health Service Act have been superseded. Provision has been made for previous delegations and redelegations made to other officials within the Public Health Service of authority under Title XV of the Public Health Service Act to continue in effect pending further redelegation provided that are consistent with the delegation to the Assistant Secretary for Health.

The delegation to the Assistant Secretary for Health became effective on November 20, 1980.

Dated: December 18, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 81-248 Filed 1-2-81; 8:45 am]

BILLING CODE 4110-85-M

Title XVI of the Public Health Service Act; Health Resources Development; Delegation of Authority

Notice is hereby given that on November 20, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authorities vested in the Secretary of Health and Human Services under Title XVI of the Public Health Service Act (42 U.S.C. 300o *et seq.*), as amended, pertaining to health resources development, excluding (a) the authority to promulgate regulations, (b) the authority to establish advisory committees and councils, (c) the authority to select members to advisory councils, and (d) the authority to submit reports to Congress or to a congressional committee. The Title XVI authorities delegated to the Assistant Secretary for Health may be redelegated, except that the authority under Section 1602(f) concerning loan default prevention and protection of the interests of the United States in the event of default may be redelegated to the PHS agency head level with further delegation authorized only after regulations establishing the terms and conditions for making expenditures under Section 1602(f) are in effect.

Previous delegations made to the Assistant Secretary for Health of the authorities under Title XVI of the Public Health Service Act have been superseded. Provision has been made for previous delegations and redelegations made to other officials within the Public Health Service of authority under Title XVI of the Public Health Service Act to continue in effect pending further redelegation provided they are consistent with the delegation to the Assistant Secretary for Health.

The delegation to the Assistant Secretary for Health became effective on November 20, 1980.

Dated: December 18, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 81-249 Filed 1-2-81; 8:45 am]

BILLING CODE 4110-83

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR 1780 that a meeting of the Prineville District Advisory Council will be held on February 6, 1981.

The Council will meet in the District conference room at 9:00 a.m. at 185 E. 4th Street, Prineville, OR 97754.

The agenda includes:

1. Identification of issues related to land use planning in the Brothers Environmental Statement area.
2. Consideration of nominations of Areas of Critical Environmental Concern.
3. Discussion of Oregons program outlook guides.

The public and news media is welcome to attend any segment of the Council meeting.

Persons wishing to address the Council either orally or in writing are requested to contact the District Manager at the above address by February 2, 1981.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

Paul W. Arrasmith,

District Manager.

December 18, 1980.

[FR Doc 80-40761 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Advisory Council Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Carson City District Multiple Use Advisory Council.

DATE: February 13, 1981—9:00 a.m.

ADDRESS: Nevada Room, Churchill County Library, 553 S. Maine Street, Fallon, Nevada.

FOR FURTHER INFORMATION CONTACT: Stephen A. Weiss, Public Affairs Officer, Carson City District, Bureau of Land Management, 1050 East Williams Street, Suite 335, Carson City, Nevada 89701 (702/882–1631).

SUPPLEMENTARY INFORMATION: The Council is chartered to provide citizen counsel and advice to the Carson City District Manager regarding planning and management of the public lands and resources within the District. The agenda for this meeting will include consideration of cultural resources.

The meeting is open to the public. Any person may attend, file a written statement by mail, or appear before the Council at 4:00 p.m.

Thomas J. Owen,

District Manager.

December 31, 1980.

[FR Doc. 80-40734 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Challis MFP Wilderness Amendment

Notice is hereby given in accordance with Pub. L. 94–579 section 603 and 43 CFR Part 1601 that the Salmon District is beginning the process of amending the Challis Management Framework Plan (MFP) to include consideration of areas which possess wilderness characteristics. Wilderness values were not included in the original MFP because the BLM was not involved in wilderness inventory or management at that time. Public Law 94–579 requires the BLM to inventory lands under its jurisdiction to determine those areas which meet the minimum wilderness characteristics.

This has been done and a final decision on areas to be classified as Wilderness Study Areas (WSA) was released by the Idaho State Director in January, 1980 (Decision is still under appeal). Lands under WSA classification receive special management considerations (Interim Management Policy) until such time as Congress makes a final wilderness or non-wilderness decision for each area. This Interim Management may conflict with decisions made in the Challis MFP and Grazing Environmental Statement (ES) which were made without benefit of wilderness inventory data.

The Challis MFP is being amended in order to:

(1) Bring consideration of wilderness values into the multiple-use mix of public land use;

(2) Avoid delaying implementation of range improvement decisions in the Challis Grazing ES by the prolonging of Wilderness Interim Management until the Challis MFP is revised in the late 1980's;

(3) Resolve conflicts between Wilderness Interim Management Policies and other resource uses in a timely manner; and

(4) Comply with Pub. L. 94–579 and 43 CFR 1601.

As alternatives and preliminary land use mixes are formulated, public input will be extensively sought-out in the form of meetings, news releases, mailings and formal public hearings.

Dated: December 19, 1980.

Harry R. Finlayson,

District Manager.

[FR Doc. 80-40740 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Implementation of Final Intensive Wilderness Inventory Decision

Implementation of Final Intensive Wilderness Inventory Decision, Notice of Protests Received and Release From Wilderness Review Certain BLM Managed Areas Which Are No Longer Contiguous to Wilderness Proposals on Lands Managed by the Forest Service, USDA.

I hereby announce the implementation of my final intensive wilderness inventory decision for those intensive wilderness inventory units which did not receive protests. Implementation of decisions which were protested is delayed pending a decision on protests received and any resulting appeal to the Department of the Interior Board of Land Appeals. I also announced my decision to release from further BLM wilderness review certain small BLM wilderness inventory units which are no longer contiguous to proposed wilderness areas managed by the Forest Service, USDA as a result of Pub. L. 96–560 as signed into law December 22, 1980. This decision is announced under the authority of Section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579) and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3. Decisions announced in this notice became effective December 16, 1980 except for those related to Pub. L. 96–560 which became effective December 22, 1980.

By publication in the **Federal Register**, Vol. 45, No. 222, Friday, November 14, 1980, pages 75584–75586, the Colorado State Director of BLM announced his Final Intensive Wilderness Inventory Decision for 118 intensive wilderness inventory units encompassing 1,316,804 acres of public lands administered by the Bureau of Land Management in Colorado. This decision identified 70 Wilderness Study Areas (WSAs) totaling 804,432 acres The decision also identified 48 intensive wilderness inventory units and portions of other wilderness inventory units totaling 512,372 acres which were found not to contain wilderness characteristics. A 30-day protest period, ending December 15, 1980, was also announced.

Seventy (70) protests were filed with the Colorado State Director by the December 15, 1980 deadline. On or before February 15, 1981 the Colorado State Director will issue a written decision to each protestant. Each protestant will also be provided information on the procedures for taking appeals to the Department of the Interior Board of Land Appeals (43 CFR Part 4).

Unit No.[1]	Acres intensively inventoried	BLM wilderness study area decision			BLM nonwilderness study area decision		
		Acres Nov. 14, 1980, decision	Acres protested	Acres not protested	Acres Nov. 14, 1980, decision	Acres protested	Acres not protested
Craig District							
CO-010-001	12,757	11,777	11,777	0	980	0	980
CO-010-002	18,080	13,368	13,368	0	4,712	0	4,712
CO-010-003	13,740	13,740	13,740	0	0	0	0
CO-010-007A	16,134	9,932	9,932	0	6,202	0	6,202
CO-010-007C	12,274	12,274	12,274	0	0	0	0
CO-010-046	17,740	17,740	17,740	0	0	0	0
CO-010-155	11,915	8,250	8,250	0	3,665	0	3,665
CO-010-208	40,290	14,352	14,352	0	25,938	0	25,938
CO-010-214	33,990	31,480	31,480	0	2,510	0	2,510
CO-010-230	17,480	14,081	14,081	0	3,399	0	3,399
CO-010-224	5,210	4,340	4,340	0	870	0	870
CO-010-224A	1,320	1,320	1,320	0	0	0	0
CO-010-226	4,880	4,880	4,880	0	0	0	0
CO-010-228	6,200	5,200	5,200	0	1,000	0	1,000
CO-010-229D	6,900	6,900	0	6,900	0	0	0
CO-010-008B	8,778	0	0	0	8,778	0	8,778
CO-010-166	9,670	0	0	0	9,670	0	9,670

Unit No.[1]	Acres intensively inventoried	BLM wilderness study area decision			BLM nonwilderness study area decision		
		Acres Nov. 14, 1980, decision	Acres protested	Acres not protested	Acres Nov. 14, 1980, decision	Acres protested	Acres not protested
Craig District							
CO-010-178	9,590	0	0	0	9,590	0	9,590
CO-010-208E	8,740	0	0	0	8,740	8,740	0
CO-010-210	8,600	0	0	0	8,600	8,600	0
CO-010-210D	16,960	0	0	0	16,960	0	16,960
CO-010-N1	110	0	0	0	110	110	0
CO-010-N2	80	0	0	0	80	80	0
CO-010-N3	320	0	0	0	320	320	0
CO-010-N4A	240	0	0	0	240	240	0
CO-010-N4B	4,100	0	0	0	4,100	4,100	0
CO-010-N4C	1,600	0	0	0	1,600	1,600	0
CO-010-N4D	1,200	0	0	0	1,200	1,200	0
CO-010-N4E	4,500	0	0	0	4,500	4,500	0
CO-010-N5	560	0	0	0	560	560	0
CO-010-N6A	3,800	0	0	0	3,800	3,800	0
CO-010-218	8,230	0	0	0	8,230	8,230	0
CO-010-218A	1,900	0	0	0	1,900	1,900	0
CO-010-227	240	0	0	0	240	0	240
CO-010-271/N6B	4,800	0	0	0	4,800	4,800	0
UT-080-104	4,520	0	0	0	4,520	4,520	0
UT-080-110	10,769	0	0	0	10,769	10,769	0
UT-080-114	2,071	0	0	0	2,071	2,071	0
Montrose District							
CO-030-053A(2)	2,440	(2)	(2)	(2)	(2)	(2)	(2)
CO-030-057(2)	6,070	(2)	(2)	(2)	(2)	(2)	(2)
CO-030-363	2,520	2,520	2,520	0	0	0	0
CO-030-085	400	350	350	0	50	0	50
CO-030-086	880	880	880	0	0	0	0
CO-030-088	1,120	1,120	1,120	0	0	0	0
CO-030-089	50,140	(4)	(4)	(4)	(4)	(4)	(4)
CO-030-208	38,100	32,800	32,800	0	5,300	0	5,300
CO-030-211	1,960	1,640	1,640	0	320	0	320
CO-030-213	2,240	720	720	0	1,520	0	1,520
CO-030-217	7,900	3,400	3,400	0	4,500	2,250	2,250
CO-030-229A	5,920	5,780	5,780	0	140	0	140
CO-030-229B	4,200	4,200	4,200	0	0	0	0
CO-030-230B	6,800	5,640	5,640	0	1,160	0	1,160
CO-030-238B	4,600	1,840	1,840	0	2,760	0	2,760
CO-030-241	19,560	16,100	16,100	0	3,460	0	3,460
CO-030-251	7,630	7,360	7,360	0	0	0	0
CO-030-252	6,320	6,320	6,320	0	0	0	0
CO-030-265	9,160	8,440	8,440	0	720	0	720
CO-030-265A	5,320	4,680	4,680	0	640	0	640
CO-030-265D	8,385	8,385	8,385	0	0	0	0
CO-030-286	44,060	21,900	21,900	0	22,160	0	22,160
CO-030-290	31,585	25,550	25,550	0	6,035	630	5,405
CO-030-300	8,814	7,270	7,270	0	1,544	0	1,544
CO-030-332(2)	800	(2)	(2)	(2)	(2)	(2)	(2)
CO-030-353	13,943	10,900	10,900	0	3,043	0	3,043
CO-030-370A(2)	22,041	(2)	(2)	(2)	(2)	(2)	(2)
CO-030-370B	10,720	10,560	10,560	0	160	0	160
CO-030-388	22,280	19,560	19,560	0	2,720	1,360	1,360
CO-030-210	5,980	0	0	0	5,980	0	5,980
CO-030-212	80	0	0	0	80	0	80
CO-030-253	720	0	0	0	720	0	720
CO-030-262	6,240	0	0	0	6,240	0	6,240
CO-030-263	13,410	0	0	0	13,410	0	13,410
CO-030-363	47,487	43,810	43,810	0	3,677	0	3,677
CO-030-310A	1,840	1,680	1,680	0	160	0	160
Cannon City District							
CO-050-002	6,614	6,614	6,614	0	0	0	0
CO-050-013	20,100	16,800	16,800	0	3,300	0	3,300
CO-050-014	13,000	11,700	11,700	0	1,300	0	1,300
CO-050-016	26,210	26,150	26,150	0	60	0	60
CO-050-017	11,080	10,200	10,200	0	880	0	880
CO-050-131	2,739	2,300	2,300	0	439	0	439
CO-050-132B	1,587	870	870	0	717	0	717
CO-050-135	1,644	1,644	0	1,644	0	0	0
CO-050-137	1,020	1,020	1,020	0	0	0	0
CO-050-139B	720	720	720	0	0	0	0
CO-050-141	12,514	10,240	0	10,240	2,274	0	2,274
CO-050-033	160	0	0	0	160	0	160
CO-050-010	12,950	0	0	0	12,950	0	12,950
CO-050-140	9,114	0	0	0	9,144	9,114	0
CO-050-142	3,300	0	0	0	3,300	0	3,300

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Unit No.[1]	Acres intensively inventoried	BLM wilderness study area decision: Acres Nov. 14, 1980, decision	Acres protested	Acres not protested	BLM nonwilderness study area decision: Acres Nov. 14, 1980, decision	Acres protested	Acres not protested
Grand Junction District							
CO-070-009	29,890	21,050	21,050	0	8,840	6,100	2,740
CO-070-086	43,600	26,525	26,525	0	17,075	0	17,075
CO-070-103(²)	6,400	(²)	(²)	(²)	(²)	(²)	(²)
CO-070-103A(²)	6,500	(²)	(²)	(²)	(²)	(²)	(²)
CO-070-113	20,400	18,150	18,150	0	2,250	0	2,250
CO-070-1[illegible]A	49,200	49,200	49,200	0	0	0	0
CO-070-[illegible]	27,700	26,050	26,050	0	1,650	0	1,650
CO-070-[illegible]	33,600	33,600	33,800	0	1,810	0	1,810
CO-070-1[illegible]	17,900	17,420	17,420	0	480	0	480
CO-070-3[illegible]	346	330	330	0	16	0	16
CO-070-425	5,300	3,360	3,360	0	1,940	0	1,940
CO-070-430	21,000	15,000	15,000	0	6,000	0	6,000
CO-070-4[illegible]	17,500	11,940	11,940	0	5,560	0	5,560
CO-070-0[illegible]	17,500	0	0	0	17,500	0	17,500
CO-070-0[illegible]A	13,005	0	0	0	13,005	13,005	0
CO-070-0[illegible]B	12,810	0	0	0	12,810	0	12,810
CO-070-0[illegible]	28,860	0	0	0	28,860	28,860	0
CO-070-1[illegible]	21,500	0	0	0	21,500	21,500	0
CO-070-1[illegible]A	8,000	0	0	0	8,000	8,000	0
CO-070-1[illegible]A	12,280	0	0	0	12,280	12,280	0
CO-070-1[illegible]B	6,720	0	0	0	6,720	0	6,720
CO-070-1[illegible]	8,900	0	0	0	8,900	0	8,900
CO-070-150A	11,600	0	0	0	11,600	11,600	0
CO-070-316	9,000	0	0	0	9,000	0	9,000
CO-070-3[illegible]	7,000	0	0	0	7,000	0	7,000
CO-070-372	8,800	0	0	0	8,800	0	8,800
CO-070-4[illegible]1	15,518	0	0	0	15,518	15,518	0

[1] Portions of intensive wilderness inventory units numbers CO-010-208, CO-010-214, CO-010-001, CO-070-113A, CO-070-132B, CO-070-132A, CO-030-265A, CO-030-265, CO-030-263, UT-060-110 and UT-060-104 extended into Utah; only those acres in Colorado are listed here.

[2] These units were released from further wilderness review by BLM upon passage of the Colorado Wilderness Act (Pub. L. 96-560) December 22, 1980. These units were identified as BLM Wilderness Study Areas only as a continuation of the Forest Service, USDA proposed wilderness on contiguous lands; Pub. L. 96-560 did not designate the lands contiguous to these BLM areas as wilderness.

[3] This unit released from wilderness review.

[4] Already a WSA; not subject to protest.

SUMMARY

Total USA acreage not protested	68,924	(4 units)
Total USA acreage protested	713,558	(80 units)
*Total non-USA acreage not protested	339,965	(74 units)
Total non-USA acreage protested	194,357	(30 units)
Total BLM acreage intensively inventoried	1,316,804	(118 units)

*Note.—Acreages are based on November 14, 1980 **Federal Register** notice and are approximate. These wilderness inventory units or portions of units are released from further wilderness review and are available for other multiple use activities.

Additional Information

Information on the wilderness review process and inventory units can be obtained by contacting BLM personnel at the following locations:

Cannon City District Office, 275-0631, 3080 East Main Street, Canon City, Colorado 81212: District Manager: Mel Clausen. Wilderness Specialist: Ken Smith.

Craig District Office, 824-3417, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81625: District Manager: Marvin Person. Wilderness Specialist: Vaughn Baker.

Grand Junction District Office, 243-6552, 764 Horizon Drive, Grand Junction, Colorado 81501: District Manager: Dave Jones. Wilderness Specialist: Wade Johnson.

Montrose District Office, 249-7791, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81402: District Manager: Marlyn Jones. Wilderness Specialist: Jon Sering.

In Denver contact: Colorado State Office, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202; State Wilderness Coordinator: Harold Belisle, 837-3393.

Dated: December 29, 1980.

Charles W. Luscher,

Acting State Director, Colorado, Bureau of Land Management, Denver, Colorado.

[FR Doc. 80-40715 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

[ORE 015973]

Oregon; Termination of Disposal Classification

1. By Order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on February 24, 1967 (32 FR 3231), the following described public land was classified for disposal through exchange pursuant to Section 2 of the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1412):

Willamette Meridian

T. 34 S., R. 41 E.,

Sec. 6, Lot 1, S½NE¼, SE¼NW¼, and E½SW¼.

The area described contains 240.32 acres in Malheur County, Oregon.

2. The above-described public land has been eliminated from any exchange proposal; accordingly, pursuant to 43 CFR 2461.5(c)(2), the classification is terminated upon publication of this notice in the **Federal Register**.

3. At 10:00 a.m., on February 6, 1981 the above-described public land will be relieved of the segregative effect of the above-mentioned classification order.

Dated: December 22, 1980.

Frank A. Edwards,

Acting State Director.

[FR Doc. 80-40716 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Prineville District; Dry River and Upper Crooked River Planning Units; Invitation to Comment

In accordance with 43 CFR 1601.3, Notice is hereby given that the Bureau of Land Management, Prineville District, is progressing with land use planning on public lands in Crook, Deschutes, and a portion of Lake County. This Management Framework Plan (MFP) will carry out the requirements of the Federal Land Policy and Management Act of 1976 (F.L.P.M.A.).

This first phase, an intensive inventory of the resources in the planning unit, has been completed. The collected data will be used to evaluate the capabilities and limitations of the land for resource use and development. Management recommendations for public lands involving approximately 1.1 million acres will result from the evaluation.

BLM resource specialists in range, forestry, recreation, wildlife, minerals, soil conservation and cultural resources together with socio-economic specialists will comprise an inter-disciplinary team developing these plans.

General types of issues anticipated include: allocation of vegetation for use by livestock, wildlife and for watershed protection; water quality; potential land exchanges; access to public lands; ORV activities and other recreation uses; firewood availability; wilderness and Areas of Critical Environmental Concern.

The plan and ensuing Environmental Impact Statement (E.I.S.) will provide the basis for resource allocations and will define and guide subsequent management decisions within the Dry River and Upper Crooked River Planning Units. Draft plans are scheduled for completion by August, 1981.

Those who desire to discuss the BLM planning and environmental assessment efforts and the availability of information, may do so by contacting the District Manager, Bureau of Land Management, P.O. Box 550, Prineville, OR 97754, (503) 447-4115.

Paul W. Arrasmith,

District Manager.

December 18, 1980.

[FR Doc. 80-40764 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

California Desert Conservation Area Advisory Committee; Meeting

Notice is hereby given in accordance with Public Laws 92-463 and 94-579 that the California Desert Conservation Area Advisory Committtee to the Bureau of Land Management, U.S. Department of the Interior, will meet January 16, 1981, in Claremont, California. The purpose of the meeting is to review decisions relative to the final version of the California Desert Plan, and discuss strategy for implementation. The meeting will begin at 9:00 a.m., Friday, January 16, and is scheduled to adjourn by 5:00 p.m. Location is the Flamenco Room, Griswold's 555 W. Foothill Blvd., Claremont, California 91711. The meeting is open to the public and interested persons may attend and file statements with the Advisory Committee.

Further information may be obtained from Mr. Clayton A. Record Jr., Chairman, California Desert Conservation Area Advisory Committee, c/o California Desert District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

Dated: December 23, 1980.

Gerald E. Hillier,

District Manager.

[FR Doc. 80-40779 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Notice Concerning BLM Form 3112-1, Used in the Simultaneous Oil and Leasing Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice concerning the Availability of BLM Form 3112-1.

SUMMARY: The "Simultaneous Oil and Gas Lease Application", BLM Form 3112-1, is required for participation in the simultaneous oil and gas leasing program. Responsibility for bulk distribution of the form has been transferred to the Superintendent of Documents.

EFFECTIVE DATE: January 5, 1981.

ADDRESS: Any inquiries should be sent to: Director (530), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles Weller (202) 343-7753.

SUPPLEMENTARY INFORMATION: Effective immediately, the Denver Service Center of the Bureau of Land Management will no longer serve as a center for distribution to the public of BLM Form 3112-1. Bureau of Land Management State Offices will continue to distribute free copies of the form, up to a maximum of 25 forms during any 2-month filing cycle. Multiple orders will be rejected. All orders on hand as of the date of this notice or more than 25 forms will be returned unfilled.

Bulk orders of copies of BLM Form 3112-1 "Simultaneous Oil and Gas Lease Application" may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20401, at a cost of $7.50 per 100 copies (sold only in 100's). Checks or money orders should be made payable to the Superintendent of Documents. Orders may also be charged to MasterCard, Visa, or prepaid Superintendent of Documents deposit account. On orders for 10,000 or more copies of this form to be sent to a single address, a discount of 25 percent will be allowed. Please include the stock number 024-011-00131-0 with your request.

Anyone ordering BLM Form 3112-1 "Simultaneous Oil and Gas Lease Application", should be aware that a revision of the current form is anticipated in early 1981, and the current form will not be acceptable for use after the revised form is issued.

December 23, 1980.

James W. Curlin,

Acting Assistant Secretary of the Interior.

[FR Doc. 81-185 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Offshore Gulf of Mexico; Availability of Final Environmental Impact Statement; Proposed Oil and Gas Lease Sales A66 and 66

[INT FES 80-54]

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement relating to proposed oil and gas lease sales of 423 tracts consisting of 2,170,928 acres of submerged lands on the Outer Continental Shelf of the Gulf of Mexico (OCS Sale Nos. A66 and 66).

Single copies of the final environmental impact statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental impact statement will also be available for review in the following libraries:

Austin Public Library, 401 West Ninth Street, Austin, Texas.
Houston Public Library, 500 McKinney Street, Houston, Texas.
Rosenburg Library, 2310 Sealy Street, Galveston, Texas.
Dallas Public Library, 1954 Commerce Street, Dallas, Texas.
New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana.
Lafayette Public Library, 301 West Congress Street, Lafayette, Louisiana.

Calcasieu Parish Library, Downtown Branch, Lake Charles, Louisiana.
Harrison County Library, 21st Avenue & Beach Street, Gulfport, Mississippi.
Brazoria County Library, 410 Brazosport Boulevard, Freeport, Texas.
La Retama Library, 505 Mesquite Street, Corpus Christi, Texas.
Texas Southmost College Library, 80 Fort Brown Street, Brownsville, Texas.
West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida.
Northwest Regional Library System, 25 West Government Street, Panama City, Florida.
Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida.
Mobile Public Library, 701 Government Street, Mobile, Alabama.
Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama.
St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida.
Lee County Free Library, 3355 Fowler Street, Fort Myers, Florida.
Charlotte-Glades Regional Library System, 801 NW Aaron Street, Fort Charlotte, Florida.
Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, Florida.

George D. Lea,

Director, Bureau of Land Management.

Approved:

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-40774 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; Hard Mineral Leasing; Request for Comments

ACTION: Request for Expression of Interest and Information Regarding Hard Mineral Leasing on the Outer Continental Shelf.

SUMMARY: The Secretary of the Interior is authorized under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), to issue leases for minerals other than oil, gas, and sulphur on the Outer Continental Shelf. The Department wishes information from State and local governments, industry, and other interested parties concerning exploration and possible development of hard mineral resources and the regulation of such activity.

DATE: Comments and information must be received on or before April 13, 1981.

ADDRESS: Information should be submitted to the Director (540), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Envelopes or packages should be marked "Request for Comments on Hard Mineral Leasing on the Outer Continental Shelf."

FOR FURTHER INFORMATION CONTACT: Hans Larsen (202) 343-5121 or Sandy Seim (202) 343-6906.

SUPPLEMENTARY INFORMATION: Mineral resources of the continental margin subject to the jurisdiction of the United States are to be considered for possible leasing. Precise marine boundaries between the United States and opposite or adjacent Nations have not been determined in all cases. Accordingly, certain areas are or may be subject to negotiation or dispute.

The Outer Continental Shelf Lands Act, as amended, provides that the leasing of these minerals on the OCS will be by cash bonus bid with royalty established by the Secretary. Also annual rental payments will be established by the Secretary.

A. Comments are requested on the following items. Information should be commodity-specific. Respondents should identify any proprietary data so that the Department can protect its confidentiality.

1. Interest in leasing hard minerals on the OCS.

a. Mineral or minerals of interest.

b. Location and approximate area of interest for each mineral; identify by latitude and longitude coordinates.

c. Timing of lease sale.

d. Location of probable markets.

2. Ability to mine and transport commodity.

a. Technology required for extraction and processing.

b. Technology to transport commodity to shore.

c. Estimated magnitude of exploration, development, and production activities.

d. Proposed schedule of operations (timing), including whether activities will be continuous or intermittent.

3. Potential offshore and onshore effects.

a. Environmental

b. Economic

c. Social

d. Onshore facility siting and waste disposal.

4. Appropriate lease terms and conditions. Justifications for responses to these items should be provided.

a. *Size of Lease.* There are no statutory restrictions as to the size of tracts to be leased. Consequently, leases larger than the 5,760 acres currently used for oil and gas leasing may be offered.

b. *Term of Lease.* There are also no statutory restrictions as to the duration of a lease which may exceed the 10-year maximum set out for oil and gas leases.

c. *Royalty.* The royalty rate for OCS minerals may be set at the discretion of the Secretary.

5. Any other relevant information.

B. Geological and geophysical (G&G) permits. Notice is also given that permits are available, upon suitable application pursuant to 30 CFR 251, for hard mineral exploration on the Outer Continental Shelf. Activities authorized under this regulation include geological and geophysical activities for exploration of mineral resources and for scientific research which involves the use of solid or liquid explosives or shallow test drilling. For further information in regard to these permits, contact Ron W. Michelson, U.S. Geological Survey, Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860-7564.

Approved December 22, 1980.

Cecil D. Andrus,

Secretary of the Interior.

George D. Lea,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 81-184 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-84-M

San Juan/San Miguel Resource Management Plan

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notification of Resource Management Plan and Environmental Impact Statement preparation: San Juan Resource Area, a portion of which is administered by the Uncompahgre Basin Resource Area, Montrose District.

SUMMARY: Identification of issues for the San Juan/San Miguel Planning Area is in progress for the four-year Resource Management Plan (RMP) process. Approximately 986,000 acres of public lands administered by the BLM in southwestern Colorado will be studied for multiple use management. The area under consideration includes the Sacred Mountain, Hermosa, Pagosa, Dolores and Lone Cone Planning Units, which are found in La Plata, Montezuma, Archuleta, Dolores, San Miguel, Mesa and Montrose Counties in Colorado and Rio Arriba County in New Mexico.

High resource values include precious metal and mineral mining, archeological values, livestock forage, a proposed wild and scenic river, several wilderness study areas, wildlife values and dispersed recreational use.

The RMP for this area will provide a comprehensive data base for future management decisions and give overall direction to land management for the San Juan/San Miguel Planning Area.

V46/2 JA 5 81 UMI

Issues in Area

The general types of issues anticipated include those related to energy and mineral development, archeological values, lands actions, forestry and woodland products, range and wildlife forage allocations, water quality, floodplains, soil erosion, aquatic and riparian habitat, wildlife management, threatened and endangered plants and animals, recreation, wilderness, access needs and problems, and uses of fire for management benefits.

Planning Team

This Resource Management Plan will be prepared through use of an interdisciplinary team. Members of the team will include those with experience and knowledge in the following areas: lands, minerals, hydrology, soils, forestry, range, wildlife, recreation, wilderness, archeology, fire, access transportation, visual resources and engineering.

Public Involvement

All concerned publics are invited to participate during the planning process by attending public meetings and hearings. Quarterly newsletters, news releases and use of the Montrose District Advisory Council will supplement direct contact with interested publics.

The first set of public meetings will be held in January/February 1981, in the towns of Durango, Cortez, Dove Creek, Nucla or Naturita, Telluride, Montrose and Denver. News releases will identify specific places and times.

ADDRESS: Comments or requests for further information should be addressed to Henri Bisson, Chief, Division of Planning and Environmental Coordination, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81401; (303) 249-7791 or Jerry Kendrick, Area Manager, San Juan Resource Area, Bureau of Land Management, Federal Building, 701 Camino del Rio, Durango, Colorado 81301; (303) 247-4082.

Availability of Planning Documents

All planning documents relating to existing management of the planning area are available for review at the Montrose District Office. Documents developed during preparation of the resource management plan will be available to the public for review at the District or Resource Area Office. Press releases will indicate their availability.

Henri R. Bisson,
Acting District Manager.

[FR Doc. 80-40780 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Wilderness Decision

The final intensive wilderness inventory decision for BLM lands in Idaho was announced in the November 14, 1980, **Federal Register.**

During the protest period which followed the November 14 decision, fourteen letters of protest were received covering the following units:

Protest of Decision To Identify Unit as WSA

Boise District and Acres

17-10 Lower Salmon Falls Creek [1]	3,500
17-11 Jarbidge River	75,340
110-91a Box Creek	428
111-6 Little Jack's Creek	58,040
111-7c Big Jack's Creek	54,833
111-17 Bruneau River	107,020
111-18 Pole Creek	24,509
111-36a Sheep Creek West	11,680

[1] Partially in the Burley District.

Burley District and Acres

28-1 Petticoat Peak	11,298

Idaho Falls District and Acres

31-14 Appendicitis Hill	24,870
31-17 White Knob Mountains	9,950
32-3 Hawley Mountain	15,510
32-9 Black Canyon	5,400
33-4 Cedar Butte	35,700
33-15 Hell's Half Acre	66,200

Salmon District and Acres

43-3 Eighteen Mile	24,922
45-12 Burnt Creek	24,980
47-4 Borah Peak	3,100

Shoshone District and Acres

54-5 Little City of Rocks	5,875
54-6 Black Canyon	10,371
54-8a Gooding City of Rocks	14,743
54-8b Gooding City of Rocks	6,287
54-10 Deer Creek	7,487
56-2 Lava	23,680
57-2 Shale Butte	15,968
57-8 Sand Butte	20,792
57-10 Raven's Eye	67,110
57-11 Little Deer	33,531
57-14 Bear Den Butte	9,700
59-7 Shoshone	6,914

Coeur d'Alene District and Acres

61-1 Selkirk Crest	720
61-10 Crystal Lake	9,027
61-15a Grandmother Mountain	10,339
61-15b Grandmother Mountain	6,790
62-1 Snowhole Rapids	5,068
62-10 Marshall Mountain	6,524

Protest of Decision Concluding That Acreage Lacked Wilderness Characteristics

Boise District and Acres

16-9 Reynolds Creek Canyon	14,650
111-5 Poison Gulch	30,742
111-7b Duncan Creek	10,005
111-17 Bruneau River	27,042
111-19b Bull Gulch	33,150
111-20b Upper Battle Creek	17,767
111-36a Sheep Creek West	3,698
111-36b Sheep Creek East	12,412

Burley District and Acres

26-1 Hanzel Mountain	20,615
26-3 South Samaria	6,615
27-1 South Deep Creek	9,609
27-2 Deep Creek Peak	6,646

Idaho Falls District and Acres

32-4 Taylor Mountain	11,134
33-5 Skull	8,650
33-6 Rye Grass	8,000
33-7 Cottontail	9,300
33-13 Bear Point	20,650
33-14 Mosby Butte	35,720
33-16 Morgan	9,420
33-23 Bear Trap	13,860

Salmon District and Acres

41-3 Geertson Creek	10,720
44-2 King Mountain	12,602
44-3 Hat Creek	9,707
44-4 Ellis Creek	28,040
44-9 Cronks Canyon	7,470

Shoshone District and Acres

57-4 Black Ridge Crater	8,138
57-5 Lone Rock	10,934
57-6 Wildhorse	21,544
57-7 Pagari	33,116
57-8 Sand Butte	10,000

Coeur d'Alene District and Acres

62-2 Confluence	5,110

After detailed analysis of the statements on wilderness characteristics contained within these protests, the State Director will issue written decisions on the protests. These decisions will be published in the **Federal Register** on or before February 13, 1981. All inventory units listed above will remain under wilderness interim management, pending the outcome of the protests.

Decisions in Effect

For the following inventory units, the November 14, 1980, decision is now in effect and subject to appeal in accordance with the policy and procedures in Title 43 Code of Federal Regulations (CFR), Part 4 and as amended in 45 FR 5713.

Boise District and Acres Not Identified as WSA

11-17 Outcrop	6,420
14-19 Long Tom Creek	13,226
14-21 Bennett Creek	11,162
16-2 Jump Creek	8,301
16-49c Squaw Meadows	10,316
17-1a Lookout Butte	20,077
17-1b East Fork Bruneau River	10,178
17-6 Dry Lakes	26,206
17-7 Clover Crossing	6,314
17-10 Lower Salmon Falls Creek [1]	[3] 18,787
17-11 Jarbidge River	[3] 35,670
17-12 Poison Creek	13,532
18-1 Wildhorse	7,472

19–1 Cold Springs Creek	21,380
111–6 Little Jack's Creek	[3]16,879
111–7a Big Hill	12,924
111–7c Big Jack's Creek	[3]10,301
111–12 Sheep Trail	19,702
111–18 Pole Creek	[3]7,247
111–19a Camas Creek	19,347
111–20a Big Springs	5,342
111–21 Bull Basin	17,625
Burley District and Acres Not Identified as WSA	
23–1a Jim Sage	6,901
23–1c Jim Sage	7,010
28–1 Petticoat Peak	[3]1,748
Idaho Falls District and Acres Not Identified as WSA	
31–10 Illinois	11,150
31–11 Deadman Canyon	23,000
31–13 Timbered Dome	10,240
31–1[illegible] Appendicitis Hill	[3]630
31–1[illegible] Dry Hollow	17,800
32–2[illegible] [illegible]ands Canyon	8,010
32–3 [illegible]awley Mountain	[3]640
32–1[illegible] Pass Creek	1,220
33–4 Cedar Butte	[3]3,120
33–12 Split Top	18,080
33–15 Hell's Half Acre	[3]2,720
33–22 Cox's Place	12,790
33–24 Firth Quad Islands	86
33–25 Moreland Quad Islands	807
Salmon District and Acres Not Identified as WSA	
42–6 Baldy Basin	10,720
45–5 Mill Creek	1,330
45–12 Burnt Creek [2]	[3]5,130
47–4 Borah Peak	[3]780
Shoshone District and Acres Not Identified as WSA	
54–3 Preacher Creek	8,827
54–4 Rattlesnake Canyon	11,355
54–5 Little City of Rocks	[3]95
54–6 Black Canyon	[3]10,589
54–7 Four Mile Bench	7,542
54–8 Gooding City of Rocks	[3]2,440
54–9 Clover Creek	8,455
54–10 Deer Creek	[3]1,394
54–11 Indian	16,966
54–12 Dempsey Creek	23,644
54–13 Forgotten Hills	9,420
56–2 Lava	[3]1,913
57–2 Shale Butte	[3]5,930
57–3 Antelope	12,271
57–8 Sand Butte	[3]5,953
57–10 Raven's Eye	[3]190
57–11 Little Deer	[3]9,443
57–12 Laidlaw Butte	9,868
57–13 Potter Butte	16,180
57–14 Bear Den Butte	[3]4
57–15 Point	7,398
57–16 MacRae Lake	7,876
59–7 Shoshone	[3]3,014
Coeur d'Alene District and Acres Not Identified as WSA	
61–1 Selkirk Crest	440
61–6c Hideaway Island	170
61–9 Rochat Creek	6,960
62–1 Snowhole Rapids	[3]238
62–4 Big Canyon	1,100
62–10 Marshall Mountain	[3]966

[1] Partially in the Burley District.

[2] Partially in the Idaho Falls District.

[3] The decision on the remaining acreage in this unit has been protested.

For further information, contact the Idaho State Office of the BLM: Idaho State Office, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724.

Dated: December 20, 1980.

B. Buffington,

State Director, Idaho.

[FR Doc. 80–40781 Filed 12–31–80; 8:45 am]

BILLING CODE 4310–84–M

Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92–579 that a meeting of the Vale District Multiple Use Advisory Council will be held January 27, 1981, beginning at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 365 "A" Street West, Vale, Oregon 97918.

The agenda for this meeting will include: (1) Introduction of Council members not in attendance at the previous meeting, (2) Approval of October 17, 1980 Council meeting minutes, (3) Briefings on: (a) Vines Hill Fire Rehabilitation, (b) Off-Road Vehicle Designations, (c) Wild Horse Gathering, (d) Wilderness Studies, (e) Owyhee River Access, and (f) Range Improvement Policy for Water System Maintenance; and (4) Council action on: (a) Southern Malheur EIS Area Planning concerning identification of Issues and Concerns, identification of possible Areas of Critical Environmental Concern (ACEC's), review and comment on Southern Malheur Public Participation Plan; (b) Ironside EIS Area Program Decision Document; and (c) Program Priority Guidelines.

The meeting is open to the public. Interested person may make oral statement to the Council, or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, telephone 503–473–3144 by close of business January 20, 1981. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. The meeting will be opened for public comment at 4:00 p.m.

Summary minutes of the Council meeting will be maintained in the District Office and will available during regular business hours for public inspection, for cost of duplication, within 30 days following the meeting. A copy will be furnished each Council member.

Fearl M. Parker,

District Manager.

[FR Doc. 80–40745 Filed 12–31–80; 8:45 am]

BILLING CODE 4310–84–M

Winnemucca District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Winnemucca District Grazing Board will be held on February 12, 1981. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Introduction of District Manager.
2. Paradise-Denio and Sonoma-Gerlach Draft EIS.
3. Coordinated Resource Planning.
4. Wild Horse/Burro Briefing.
5. Discussion of Range Improvements.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 p.m. on February 12, 1981, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, by January 28, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: December 22, 1980.

Robert J. Neary,

Acting District Manager for State Director, Nevada.

[FR Doc. 80–40747 Filed 12–31–80; 8:45 am]

BILLING CODE 3410–84–M

Vale District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vale District Advisory Board will be held on January 30, 1981.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management at 365 "A" Street West, Vale, Oregon 97918.

The agenda for the meeting will include: (1) proposed expenditure of range betterment funds, (2) development of allotment management plans, and (3) briefings on current grazing management related programs.

The meeting is open to the public. Interested persons may make oral statements to the Board, or may file written statements for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, by January 23, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District office and be available during regular business hours for public inspection and reproduction within 30 days following the meeting.

Fearl M. Parker,

District Manager.

[FR Doc. 80-40774 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Indian Affairs

Coushatta Indian Reservation, La., Proclaiming Certain Lands as Part of the Reservation

December 17, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.1.

On December 17, 1980, pursuant to the authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), the following described land is hereby added to and made a part of the Coushatta Indian Reservation.

In Section 21 of T. 6 S., R. 3 W., bounded by a line commencing at a distance of 1365.8 feet running North 89° 20′ East from the common corner of Sections 20 and 21 of T. 6 S., R. 3 W., and Sections 24 and 13 of T. 6 S., R. 4 W., and proceeding from said point of commencement a distance of 1365.8 feet North 89° 20′ East, thence South 0° 6′ East a distance of 663.5 feet, thence South 89° 23′ West a distance of 1365.9 feet, thence North 0° 08′ West a distance of 664.5 feet back to the point of commencement, consisting of 20.8 acres more or less.

NW¼ NW¼ the West 15 acres of NE¼ NW¼, the North 20 acres of SW¼ NW¼, Section 21, T. 6 S., R. 4 W., La. Mer., in Allens Parish, La., consisting of 76.45 acres, more or less.

SW¼ NE¼, Section 32, T. 6 S., R. 3 W., La. Mer., in Allens Parrish, La., consisting of 41.82 acres more or less.

Subject to all valid rights, reservation rights-of-way, and easements of record.

Thomas W. Fredericks,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-40736 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-02-M

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Crow Irrigation Project, Monatana

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DMB and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the Project Engineer and to the Superintendent by the Area Director in 10 BIAM 7.0 §§ 2.70–2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Crow Irrigation Project, Crow Agency, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. Three comments were received during the 30-day comment period, from the three Water Districts. As a result two meetings were held to supply the District Water Users additional information on the propose increases. As the result of the meetings the three Water Districts were in agreement that the increase was justifiable. In compliance with the above, the operation and maintenance charges for the lands under the Crow Irrigation Project, Montana for the season of 1981 and subsequent years until further notice, are hereby fixed as follows:

Unit, and Rate per acre

Two Leggins—$5.18 or minimum of $20 per land owner
Bozeman Trail—$2.18
All Regular Units—$5.85
All Units under Willow Creek Storage—$0.20
Two Leggins Drainage—$1.25

Gale F. Loomis,

Superintendent, Crow Indian Agency.

[FR Doc. 80-40733 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-02-M

Fish and Wildlife Service

Intent To Prepare Environmental Impact Statement on Proposed Preservation of Wildlife Habitat in Area of Cape May County, New Jersey, Known as South Cape May Meadows

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the preservation of wildlife habitat in an area of Cape May County, New Jersey, known locally as South Cape May Meadows. A public meeting regarding this proposal and preparation of the EIS will also be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: A public meeting to discuss the Draft EIS will be announced via the **Federal Register** at a future date. Those persons, organizations or agencies who desire to participate in these scoping meetings should contact the persons listed below.

ADDRESS: Comments should be addressed to: Area Manager, U.S. Fish and Wildlife Service, Harrisburg Area Office, 100 Chestnut St., Room 310, Harrisburg, Pennsylvania 17101.

FOR FURTHER INFORMATION CONTACT: Walter J. Quist, Ascertainment Biologist, Land Planning Section, Office of Realty, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, MA 02158. (617) 965-5100 ext. 300 FTS 829-9300.

SUPPLEMENTARY INFORMATION: The peninsula configuration of Cape May County creates a "funneling" effect on those bird populations which migrate southward along the Atlantic Coast. These diverse populations have a tendency to congregate at the southern terminus of the peninsula, Cape May Point. This area provides important feeding and resting habitat for birds prior to a critical over-water stage of their migration. Land use patterns in the area are changing, thus threaten to reduce or significantly alter these important wildlife habitats. Preservation of the South Cape May Meadows area would ensure that habitats critical to migrating raptors (such as the threatened peregrine falcon and endangered bald eagle), passerines, and associated waterbirds are protected.

Alternatives to be explored in the EIS will include:

1. No action, including reliance on existing zoning, legislation, and/or other regulations to protect the area.
2. Preservation by easement or lease.
3. Fee acquisition of South Cape May Meadows and inclusion of the area into the National Wildlife Refuge System.
4. Protection by other agencies or organizations.

The purpose of the scoping process in EIS preparation is to determine the scope of issues to be addressed and to identify the significant issues related to the preservation of South Cape May Meadows. The Environmental Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1506), and other appropriate Federal Regulations and FWS procedures. The estimated completion date for the Draft EIS is January 30, 1981.

William C. Ashe,

Deputy Regional Director.

[FR Doc. 81-223 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Mr. Jan Vinicky, 3131 S. Jones Avenue, Las Vegas, Nevada 89114.

The applicant requests a permit to export and re-import one female Asian elephant (*Elephas maximus)* for the purpose of conservation exhibition.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-7273. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 30, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 81-234 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Randall W. Weems, Megargel, Texas. PRT 2-7366

The applicant requests a permit to purchase in interstate commerce three captive-bred Nene geese *(Branta sandvicensis)* for enhancement of propagation or survival.

Applicant: Zoological Society of Cincinnati, Cincinnati, Ohio. PRT 2-7369

The applicant requests a permit to export in foreign commerce one captive-bred ocelot *(Felis pardalis)* to the Japan Felinae Research Institute, Japan for enhancement of propagation and survival.

Applicant: Blake H. Rossow, Windom, Minnesota. PRT 2-7310

The applicant requests a permit to purchase in interstate commerce two captive-bred Nene geese *(Branta sandvicensis)* for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: December 29, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 81-233 Filed 1-2-81; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil Gas and Sulphur Operations in the Outer Continental Shelf, Texaco, Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Texaco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 0986, Block 229, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metarie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

December 22, 1980.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 80-40752 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A., Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass block 40 Federal Unit Agreement No. 14-08-001-3847, submitted on December 16, 1980, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the High Island Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 19, 1980.

J. Courtney Reed,

Staff Asst. for Resource Evaluation.

[FR Doc. 80-40730 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

[516 DM 6, Appendix 7]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of final revised instructions for the National Park Service.

SUMMARY: This notice announces a final appendix to the Department's NEPA procedures for the National Park Service. The final Departmental procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541).

DATE: The appendix was adopted December 24, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240; Telephone (202) 343-3891, FTS 343-3891. For National Park Service, contact David Jervis, Telephone (202) 343-2163, FTS 343-2163.

SUPPLEMENTARY INFORMATION: This appendix to the Departmental Manual (516 DM 6, Appendix 7) provides more specific NEPA compliance guidance to the National Park Service (NPS). In particular it provides information about NPS organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an EIS, and categorical exclusions. The appendix must be taken in conjunction with the Departmental procedures (516 DM 1-6) and the CEQ regulations (40 CFR 1500-1508). In addition, the Service will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Response to Comments. The proposed appendix was published in the **Federal Register** on May 15, 1980 (45 FR 32126) and one comment was received. As a result of this comment and other internal input, several technical changes were made to improve the instructions. The following is the response to the comment:

Categorical Exclusions. Concern was expressed by the commentor that Section 7.4D(2) as written may allow changes in off-road vehicle or fishing access without appropriate study or explanation. In a parallel situation in Section 7.4D(4), the commentor found acceptable exclusion of minor noncontroversial changes in programs and regulations pertaining to visitor activities. Accordingly, Section 7.4D(2) has been similarly limited to minor noncontroversial changes.

Additions to the Appendix. Sections 7.4B(4), C(10), C(11), D(6), D(7), and F(1-6) have been added to the list of categorical exclusions. These pertain to commercial use licenses, pit toilet sanitation, trail relocations, trailside camping zones, parking areas and grant activities. Comments are welcome on these additions.

Format.

Chapter 6 (516 DM 6) Managing the NEPA Process

Appendix 7 National Park Service

7.1 NEPA Responsibility.

7.2 Guidance to Applicants.

7.3 Major Actions Normally Requiring an EIS.

7.4 Categorical Exclusions.

Other Bureaus. Final appendices for other bureaus have been published in the **Federal Register** as follows:

Appendix 1 Fish and Wildlife Service (45 FR 47941).

Appendix 3 Heritage Conservation and Recreation Service (45 FR 76801).

Appendix 9 Water and Power Resources Service (45 FR 47944).

Proposed appendices have been published for the following bureaus:

Geological Survey, November 14, 1980 (45 FR 75336).

Bureau of Indian Affairs, July 24, 1980 (45 FR 49388).

Bureau of Land Management, December 15, 1980 (45 FR 82367).

Bureau of Mines, February 14, 1980 (45 FR 10043).

Office of Surface Mining, February 14, 1980 (45 FR 10043).

Dated December 24, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

National Park Service

7.1 *NEPA Responsibility.*

A. *Director* is responsible for NEPA compliance for National Park Service (NPS) activities.

B. *Regional Directors* are responsible to the Director for integrating the NEPA process into all regional activities and for NEPA compliance in their regions.

C. *Denver Service Center* performs most major planning efforts for the National Park Service and integrates NEPA compliance and environmental planning with project planning consistent with direction and oversight provided by the appropriate Regional Director.

D. *Office of Park Planning and Environmental Quality (Washington)* serves as the focal point for all matters relating to NEPA compliance; coordinates NPS review of NEPA documents prepared by other agencies and provides policy review for NPS NEPA documents. Information concerning NPS NEPA documents or the NEPA process can be obtained by contacting this office.

7.2 *Guidance to Applicants.*

Actions in NPS areas that are initiated by private or non-Federal entities include the following:

A. *Mining Operations and Exercise of Non-Federal Oil and Gas Rights*

All NPS areas are closed to mineral entry, and mining operations are limited to valid, prior existing rights. Prior to conducting mining operations under the authority of the 1872 Mineral Law or the exercise of non-Federally owned oil and gas rights within the National Park System, operators must provide to the Service information required to understand the scope of proposed operations, evaluate the impacts on parklands, prepare stipulations and conditions for operations, and make a decision on approval/denial/modification of the plan of operations. Detailed informational requirements are contained in 36 CFR 9.

B. *Mineral Leasing*

Mineral leasing is restricted to five national recreation areas in the National Park System. The Bureau of Land Management (BLM) administers leases on these lands and the Geological Survey (GS) controls and monitors operations. Applicable BLM general leasing procedures are contained in 43 CFR 3100 and 3500. Regulations governing operations are found in 43 CFR 23 and 30 CFR 231 for minerals other than oil and gas; and in 30 CFR 231 for oil and gas. The NPS, as the surface management agency, is consulted at all stages of the leasing and operating process, and can require special lease stipulations for protecting the environment. In addition, the NPS participates with BLM and GS in preparing environmental analyses of all activities and sets forth the reclamation requirements. Also, the NPS controls access to leases over parklands through special permit procedures.

Note.—NPS special regulations in 43 CFR regarding mineral leasing are currently being revised. Substantial changes to the established procedures are not expected.

C. *Grazing in NPS-Administered Areas*

Grazing management plans for NPS units subject to legislatively authorized grazing are normally prepared by the BLM, which presently determines informational requirements from applicants for BLM permits, the issuance of which requires prior concurrence by NPS. Applicants for grazing allotments must provide the BLM with such information as may be required to enable the preparation of environmental documents or grazing management plans.

Additionally, grazing is permitted in some NPS areas as a condition of land acquisition in instances where grazing rights were held prior to Federal acquisition. The availability of these grazing rights is limited and information should be sought through individual park superintendents.

D. *Issuance of Special use Permits, Rights-of-Way, and Easements for non-Park Uses in NPS-Administered Areas.*

Informational requirements are determined on a case-by-case basis, and applicants should consult with the park superintendent before making formal application. The applicant must provide sufficient information on the proposed non-park use, as well as park resources and resource-related values to be affected directly and indirectly by the proposed use, in order to allow the Service to evaluate the application, assess the impacts of the proposed use on the NPS unit, develop restrictions/stipulations to mitigate impacts, and reach a final decision on issuance of the instrument. Authorities for such permits, rights-of-way, etc., are found in the enabling legislation for individual National Park System units and in 16 U.S.C. 5 and 79 and 23 U.S.C. 317. Right-of-way and easement regulations are found at 36 CFR 14. Policies concerning regulation of special uses are described in the NPS Management Policies Notebook.

7.3 *Major Actions Normally Requiring Environmental Impact Statements*

A. The following types of NPS proposals will normally require the preparation of an EIS:

(1) Wild and Scenic River proposals

(2) Wilderness proposals

(3) National Trail proposals

(4) Proposals for major boundary adjustments to existing units of the National Park System, and

(5) General Management Plans for National Parks, National Recreation Areas, National Seashores, National Lakeshores, and National Preserves.

B. If, for any of these proposals it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2).

7.4 *Categorical Exclusions*

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Service also performs, the following NPS actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. *Plans and Studies*

(1) Changes or amendments in approved plans, when such changes have no potential for causing significant environmental impact.

(2) Cultural resources maintenance guides, collections, management plans, and historic furnishings reports.

(3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans).

(4) Plans for non-manipulative research.

(5) Statements for management, outlines of planning requirements, and task directives for plans and studies.

B. *Actions Related to General Administration*

(1) Land and boundary surveys.

(2) Reissuance of special use permits not entailing environmental disturbance.

(3) Extensions or minor modifications of concession contracts or permits, not entailing construction.

(4) Commercial use licenses involving no construction within NPS areas.

(5) Park publications.

C. *Actions Related to Development*

(1) Land acquisition not involving condemnation.

(2) Day-to-day maintenance and repairs to non-historic structures, facilities, utilities, grounds, and trails.

(3) Day-to-day maintenance and repairs to cultural resource sites, structures, utilities, and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide.

(4) Installation of signs, displays, kiosks, etc.

(5) Installation of navigation aids in open waters.

(6) Experimental testing of mass transit systems and changes in operation of existing systems (routes and schedule changes).

(7) Replacement in kind for minor structures and facilities with no change in location, capacity, or appearance.

(8) Road repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails.

(9) Sanitary facilities operation.

(10) Installation of single-unit pit toilet sanitation in areas of existing use.

(11) Minor trail relocations.

D. *Actions Related to Visitor Use*

(1) Carrying capacity analyses.

(2) Minor noncontroversial changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

(3) Changes in interpretive and environmental education programs.

(4) Minor noncontroversial changes in programs and regulations pertaining to visitor activities.

(5) Issuance of short-term permits for small demonstrations, gatherings, concerts, arts and crafts shows, etc.

(6) Designation of trailside camping zones with no, or minimal, improvements.

(7) Designation of small (10-car or less) improved parking areas.

E. *Actions Related to Resource Management*

(1) Archeological surveys, including small-scale test excavations.

(2) Day-to-day resource management and research activities.

(3) Designation of environmental study areas and research natural areas.

(4) Dune stabilization of small areas by planting of native plant species.

(5) Issuance of individual hunting and/or fishing licenses in accordance with State and Federal regulations.

(6) Planting of native species in natural and development zones.

F. *Actions Related to Grant Programs*

(1) Grants for land acquisition not involving condemnation, when it is known that such lands will be conveyed

to the Service for administration and any development activity.

(2) Grants for acquisition of areas which will continue in the same use or in a lower density use with no greater disturbance to the natural setting.

(3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural opportunities provided; or the integrity of the existing setting and cultural resources of the area.

(4) Grants for construction at a park or recreation area required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.

(5) Grants for construction of new facilities within an existing recreation area provided that the facilities will not:

(a) introduce motorized recreation vehicles; or

(b) introduce active recreation pursuits into a passive recreation area; or

(c) increase public use to the extent of compromising the nature and character of the property or causing physical damage to it; or

(d) cause a nuisance to adjacent owners or occupants; or

(e) institute noncompatible uses which might compromise the nature and characteristics of the property, or cause physical damage to it; or

(f) extend use beyond daylight hours; or

(g) add or alter access to the park from the surrounding areas; or

(h) conflict with adjacent ownerships or land use.

(6) Grants for construction of facilities on lands acquired under a previous NPS grant project, provided that the development is in accord with plans submitted with the acquisition project.

[FR Doc. 80-40783 Filed 12-31-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29541]

Fordyce & Princeton Railroad Company—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) Between Fordyce and Whitlow Junction, AR

AGENCY: Interstate Commerce Commission.

ACTION: Application Accepted For Consideration.

SUMMARY: The Commission is accepting for consideration the application of the Fordyce & Princeton Railroad Company to acquire and operate a line of railroad owned by the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), located between Fordyce and Whitlow Junction, AR, and title to the trackage agreement between the Trustee of the Rock Island and the Ashley, Drew & Northern between Whitlow Junction and Crossett, AR.

DATES: (1) Verifed statements supporting or opposing the application are due January 20, 1981.

(2) Verified statements from the United States Secretary of Transportation and the Attorney General of the United States are due January 20, 1981.

(3) Verified replies are due January 30, 1981.

ADDRESS: An original and 5 copies of all statements, referenced to Finance Docket No. 29541, should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423, Attention: Rock Island Acquisition.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7026 or Ellen D. Hanson (202) 275-7245.

SUPPLEMENTARY INFORMATION: The Fordyce & Princeton Railroad Company (F&P) filed an application December 12, 1980, under Section 17(b) of the Milwaukee Railroad Restructuring Act, Pub. L. 96-101, 93 Stat. 736 (1979) and 49 CFR Part 1111, *et seq.*, for authority to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) located in Arkansas. The application will be handled under the rules adopted in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980), 45 *FR* 6107 (January 25, 1980).

Applicant seeks to purchase a 54.37 mile portion of the Rock Island's line from Fordyce, AR (milepost 49.06) to Tinsman, AR (milepost 65.50 and from Tinsman, AR (milepost 0) to Whitlow Junction, AR (milepost 37.93). Applicant also seeks title to the trackage agreement between the Trustee of the Rock Island and the Ashley, Drew & Northern (AD&N) between Whitlow Junction and Crossett, AR. In addition, applicant seeks to purchase certain rolling stock (detailed in its application). The purchase price for the trackage, trackage rights, and rolling stock is $2.6 million.

Applicant F&P is a wholly-owned subsidiary of the Georgia Pacific Corporation. An agreement for the purchase was signed by the Trustee and an F&P representative on December 9, 1980. It is anticipated that the Trustee will seek approval of this contract from the Reorganization Court on December 22, 1980.

We have reviewed this application and find that it contains the information required by our regulations. It is therefore complete. To facilitate a final decision in this proceeding, the dates set forth in the schedule noted above will apply. A copy of all statements should be served upon applicant's representatives: Dickson R. Loos, David H. Baker, Pope Ballard & Loos, 888 17th Street, N.W., Washington, D.C. 20006.

This action will not significantly affect either energy consumption or the quality of the human environment.

It is ordered:

1. The application in Finance Docket No. 29541 is accepted for consideration.
2. The parties shall comply with all provisions as stated above.
3. This decision is effective on December 29, 1980.

Dated: December 19, 1980.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-120 Filed 1-2-81; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before February 19, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before March 6, 1981, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–104

Decided: December 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 33500 (Sub-22F), filed December 8, 1980. Applicant: TOWNE VAN LINES, INC., 10214 North Interregional Hwy., Austin, TX 78753. Representative: Herbert Burstein, Suite 2373, One World Trade Center, New York, NY 10048. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 75840 (Sub-146F), filed December 3, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 146380 (Sub-3F), filed November 20, 1980, and previously noticed in FR issue of December 8, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Note.—This republication clarifies the type of service being performed.

Volume No. OP1–106

Decided: December 19, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 112070 (Sub-21F), filed November 28, 1980. Applicant: GRAY MOVING & STORAGE, INC., 1290 So. Pearl St., Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a), or submit an affidavit indicating why such approval is unnecessary.

MC 144981 (Sub-4F), filed December 9, 1980. Applicant: JOHN DAY-PORTLAND AUTO FREIGHT, INC., P.O. Box 5, John Day, OR 97845. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between John Day, OR, on the one hand, and, on the other, points in the U.S.

Note.—Applicant seeks authority under 49 U.S.C. 10922(b)(4)(A) on the ground that John Day, OR, is a community not regularly served by a certificated motor carrier.

MC 150480 (Sub-1F), filed December 8, 1980. Applicant: YOWELL TRANSPORTATION SERVICE, INC., 1840 Cardington Rd., Dayton, OH 45409. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *As a broker* at Dayton, OH, in arranging for the transportation of *general commodities* (except household goods) between points in the U.S.

MC 153120F, filed December 8, 1980. Applicant: METROPOLITAN MESSENGER SERVICE, INC., 764 South 1st St., Louisville, KY 40201. Representative: Herbert D. Liebman, 403 W. Main St., P.O. Box 478, Frankfort, KY 40602. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 153121F, filed December 9, 1980. Applicant: CALIFORNIA WESTERN EXPRESS, INC., 1315D NE 134th St., Vancouver, WA 98665. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. *As a broker* at Vancouver , WA, in arranging for the transportation of *general commodities* (except household goods) between points in the U.S.

MC 153150F, filed December 15, 1980. Applicant: HEAVEN SENT, LTD., 60 North Second St., Philadelphia, PA 19106. Representative: Barnett Satinsky, 2000 Market St., 10th Floor, Philadelphia, PA 19103. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 153151F, filed December 11, 1980. Applicant: E. L. BOYLES AND S. K. BOYLES, d.b.a. SHORTGRASS TRANSPORATION, 103 Choctow, Clinton, OK 73601. Representative: E. L. Boyles (same address as applicant). Transporting *general commodities*, between Devol, Grandfield, Loveland, Hollister, Frederick, Tipton, Humphreys, Altus, Mangum, Granite, Foss, Canute, Elk City, Doxey, Sayre, Erick, and Texola, OK, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

Volume No. OP2–134

Decided: December 16, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not particiapting.

MC 56623 (Sub-1F), filed December 1, 1980. Applicant: SHANNON YOUNG TRUCKING COMPANY d.b.a. OIL FIELD TRUCKING SERVICE, P.O. Box 5707, Abilene, TX 79605. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237 214/339-1408. Transporting *general commodities*, (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 107012 (Sub-629), filed October 21, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN

V 46/2 JA 5 81 UMI

46801. Representative: David D. Bishop (same as applicant). Transporting (1) *insulating materials* and (2) *parts, materials and supplies* used in the manufacture and installation of the commodities in (1) above, from Pueblo, CO, Fontana, CA, Alexandria, IN, Cameron, MO and Belton, TX, to points in the U.S.

MC 131052 (Sub-2F), filed November 16, 1980. Applicant: J. W. BOYLES, 500 S. Western (P.O. Box 25852), Oklahoma City, OK 73125. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036. Transporting *general commodities*, between Waurika, Hastings, Temple, Walters, Geronimo, Lawton, Ft. Sill Military Reservation, Richards Spur, Apache, Stecker, Anadarko, Verden, Chickasha, Pocasset, Minco, Union City, El Reno, Calumet, Geary, Bridgeport, Hydro, Weatherford, Clinton, Hobart, Gotebo, Mountain View, Carnegie, Ft. Cobb, and Washita, OK, on the one hand, and, on the other, points in the U.S. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 151073 (Sub-1F), filed December 8, 1980. Applicant: APOLLO EXPEDITING, INC., 38500 Van Born Rd., Wayne, MI 48184. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *general commodities* (except household goods, hazardous or secret material, and sensitive weapons and munitions) For the United States Government, between points in the U.S.

MC 153062F, filed December 8, 1980. Applicant: FLOYD R. McLEMORE and BETTY L. McLEMORE, a partnership, 300 West Ave. B, Box 378, Nickerson, KS 67511. Representative: Lawrence Marquette, P.O. Box 711, Pebble Beach, CA 93953. Transporting *food or other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, *agricultural limestone and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 153083FS, filed December 8, 1980. Applicant: FREIGHTWAYS, INC., 2696 Coyle, Elk Grove Village, IL 60007. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds one hundred pounds, between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2-135

Decided: December 18, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 59292 (Sub-44F), filed December 11, 1980. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfurst Avenue, Baltimore, MD 21225. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th St., NW., Washington, D.C. 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP4-179

Decided: December 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 59666 (Sub-3F), filed December 12, 1980. Applicant: TRAFIK SERVICES, INC., 25 Esten Ave., Pawtucket, RI 02860. Representative: A. Joseph Mega (same address as applicant). Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-122 Filed 1-2-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29408F (Sub-No. 1)]

Transkentucky Transportation Railroad, Inc.—Exemption under 49 U.S.C. 10505 From 49 U.S.C. 10901

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts Transkentucky Transportation Railroad, Inc. (TTI) from the requirement that it receive approval of its pending application under 49 U.S.C. 10901(a) prior to performing operations on TTI's Paris-Maysville line.

DATE: The exemption is effective at 12:00 a.m. January 1, 1981, and remains effective until the Commission rules on TTI's pending application under 49 U.S.C. § 10901, unless earlier revoked.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th St., and Constitution Ave., Washington, DC 20423

(2) Petitioner's representative: John L. Richardson, Suite 1100, 1660 L Street, N.W., Washington, DC 20036.

Pleadings should refer to the docket number—Finance Docket No. 29408F (Sub-No. 1).

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275-7245

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1976, the Louisville and Nashville Railroad Company (L&N) filed an application to abandon its line between Maysville and Paris, KY, a distance of approximately 50 miles. Docket No. AB-2 (Sub-No. 14), *Louisville and Nashville Railroad Company Abandonment Between Paris and Maysville, Kentucky*. The application was granted by an Administrative Law Judge in a decision served November 22, 1978. After considering appeals the Commission, Division 2, affirmed the initial decision in a decision served May 25, 1979. On August 20, 1979 the certificate of abandonment was issued.

In the interim L&N and TTI had begun discussions regarding TTI's purchase of the line. L&N and TTI entered into an interim lease while the negotiations proceeded. In order for TTI to operate the line without a certificate it was necessary to seek authority through issuance of an emergency service order. On July 24, 1979, the Commission's Railroad Service Board issued Service Order No. 1389 authorizing TTI to begin operations over the line on August 16, 1979. (L&N was to cease operations on August 15, 1979).

On October 10, 1979, L&N and TTI reached an agreement for the sale of the line. Since then TTI has operated the line under the initial service order and four amendments. The most recent amendment, decided on August 21, 1980, extended the service order until 11:59 p.m., December 31, 1980.

On June 26, 1980, TTI applied pursuant to 49 U.S.C. § 10901 for a certificate of public convenience and necessity authorizing its operations. That application has been assigned Finance Docket No. 29408F. An investigation to determine TTI's financial and operational fitness was requested by L&N on August 25, 1980. On October 8, 1980, the Commission set the proceeding for modified procedure. Under that schedule, applicant's reply verified statements are not due until January 19, 1981.

On October 28, 1980, the Commission issued a policy statement stating that the Commission's authority to issue service orders under 49 U.S.C. 11123(a) had been limited substantially by Section 228 of the Staggers Rail Act of 1980.[1] *See,* Ex Parte No. 396, *Emergency Car Service Orders, (49 CFR Part 1033), Policy Statement on Section 49 U.S.C. 11123(a) Orders* (decided October 24, 1980). Under the new law, we can issue a service order only when we find that a failure in traffic movements exists which create an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States."

Request for action

On December 9, 1980, TTI's counsel wrote a letter to Gary Edles, Director of the Office of Proceedings. In that letter TTI noted that (1) its service order authority would expire on December 31, 1980 and (2) its application for a certificate had been assigned for modified procedure and, therefore, could not be acted upon until late January, 1981 at the earliest. TTI noted correctly that its situation does not justify extension of the service order.

TTI specifically requested advice on how it could receive authority to continue rail operations. As one possible recourse, the issuance of an exemption under 49 U.S.C. § 10505 was suggested.

Discussion and Conclusions

TTI is seeking a certificate to operate a rail line which it owns and is currently operating under a service order. The service order will expire before we can reach a decision on its application for a certificate. Cessation of the service may result in (1) the destruction of or injury to the property TTI is seeking to operate and/or (2) substantial interference with the future usefulness of the property in providing adequate and continuous service to the public.

Moreover, the evidence in both the service order and section 10901 proceedings indicates that there is a significant public need for continued operations.[2] The principal commodity to be transported over the line is coal. With our nation suffering from an energy shortage we would be remiss to allow a cessation of service to occur while we process an application. Also, shipper support for the service can be seen in the number of statements filed in support of TTI's application and the increased traffic handled over the line. In November, 1979, TTI handled 16 cars. Its projection for November, 1980, was at least 46 cars.

While we cannot now say that TTI's application for a certificate should be granted, we can say that there is sufficient evidence of a public need for continued service until that issue can be resolved. Further, we find a strong private need to continue this service when we consider the possible injury to TTI if shippers move, go out of business or find transportation alternatives.

A rail carrier can only provide service if it has a certificate to do so or has been authorized to do so by a service order. We have already noted that TTI cannot make a sufficient showing under amended section 11123(a) for issuance of a service order. We have also noted that its application for a certificate is being processed, but will take some time. Therefore, we cannot order or even affirmatively authorize TTI to perform uninterrupted service over the line.

However, Congress has given us a new method to eliminate unduly burdensome regulation of rail carriers—our authority to exempt rail carrier transportation. 49 U.S.C. § 10505, as modified by section 213 of the Staggers Act, provides that the Commission "shall" exempt a transaction from the application of any provision of the Interstate Commerce Act when it finds that (1) continued regulation is not necessary to carry out the Rail Transportation Policy in 49 U.S.C. § 10101a; and (2) either (A) the transaction is of limited scope, or (B) regulation is not necessary to protect shippers from the abuse of market power.[3] Moreover, we can issue the exemption on our own initiative. 49 U.S.C. § 10505(b).

We believe the instant exemption meets the three criteria. First, the transaction is of limited scope. Although important to TTI and the communities and shippers in the affected area, this is a short 50 mile branch line which carries, in a good month, only 50 cars. Moreover, our proposed exemption is limited in time to the period necessary to process a pending application under 49 U.S.C. § 10901.

Given our limited scope finding, we need not determine whether prior approval of rail operations under § 10901 is necessary to protect shippers from abuse of market power. However, it would appear that TTI does not have market power to any degree likely to result in abuse. Moreover, shippers will have more transportation alternatives, and more protection against abuse of market power, if we will grant an exemption and allow service to continue, rather than force a complete cessation of rail operations.

Finally, prior approval of TTI's pending § 10901 application is not necessary to carry out any of the 15 factors listed in the rail transportation policy. Indeed, at least three of the factors listed will be enhanced. The second factor listed is to minimize the need for regulatory control and to require expeditious decisions when regulation is necessary. This decision, exempting TTI from the requirement that it receive a § 10901 certificate *prior* to beginning operations on a line it purchased after the line was abandoned will help ensure that regulatory lag does not cause an interruption in service to the public. Similarly, the seventh factor listed discusses the reduction of barriers to entry. As noted, this exemption will help ease entry into the industry by allowing service to be provided while permanent authority is being sought. Finally, the last factor deals with encouraging and promoting energy conservation. Because coal is the major commodity carried on this line, exemption from the prior approval requirements promotes energy conservation.

In light of these findings we are able to exempt this transaction. However, our exemption authority provides us with the power to limit the duration of our exemptions. 49 U.S.C. 1050(c). Accordingly, the exemption is effective only until we issue a decision on TTI's pending application for a permenent operating certificate.

Our grant of this exemption has not resolved the financial and operational fitness issues raised by L&N in opposition to TTI's application for a permanent operating certificate. We have merely determined that these issues are unlikely to cause harm to the public during the limited time this exemption will be in effect, and that there is a virtual certainty of harm to the public, stemming from an interruption in service, if this exemption is not issued.

Section 10505 enables us to revoke an exemption if we find the exempted provision necessary to carry out the rail transportation policy. We have found otherwise on the facts currently available to us. However, we will permit interested parties to file petitions for reconsideration alleging that grant of the exemption harms our ability to carry out the rail transportation policy. Petitions for reconsideration must be filed on or before January 26, 1981.

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[1] Pub. L. No. 96–448, 94 Stat. 1895.

[2] This discussion is not meant to prejudge our decision on whether the certifcate to operate should be issued. The allegations raised by L&N will be considered in that proceeding.

[3] The Section creates two additional limitations on our broad exemption power. We may not exercise this exemption authority "(1) to authorize intermodal authority that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle". 49 U.S.C. § 10505(g).

In conclusion, TTI will be granted an exemption from the requirements of section 10901 to obtain a certificate to operate a rail line before beginning rail operations. The exemption shall remain in effect until we act on TTI's application for a certificate or unless the exemption is revoked. The purpose of the exemption is to ease an unduly burdensome regulatory restraint which, if left untouched, would result in the cessation of operations harming shippers and communities and injuring the viability of the TTI and its properties. Because of this exemption TTI will be able to provide a necessary rail service prior to obtaining a certificate of public convenience and necessity to operate.

In exempting this transaction we are not deciding whether TTI's application should be granted. We will decided that question when all the evidence is before us. Until that time we will maintain the status quo—rail service to the shippers and communities in the affected region. Applicant filed its application in June and has prosecuted it in compliance with our regulations. We will not cause TTI and the public to be harmed during the processing of the application.

Labor protection In granting this exemption we may not relieve a carrier of its obligation to protect the interests of employees. However, amended section 10901(e) indicates that the imposition of labor protective conditions is discretionary when authority is sought, as here, to operate a line. Since no obligation exists, TTI has not been relieved of any obligation by this temporary exemption.

We find: (1) Application of the requirements of 49 U.S.C. § 10901 that TTI receive prior authority to operate the Paris-Maysville, KY rail line is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) This transaction is of limited scope.

(3) Application of the prohibition of 49 U.S.C. 10901 against institution of service prior to Commission authorization is not needed to protect shippers from the abuse of market power.

(4) This decision will not operate to relieve TTI from an obligation either (a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. § 11707, or (b) to protect the interest of its employees; and does not authorize intermodal ownership that is otherwise prohibited.

(5) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) Pursuant to 49 U.S.C. 10505 we exempt the operation by TTI of the Maysville-Paris, KY rail line from 49 U.S.C. 10901(a).

(2) Notice of our action shall be given to the general public by delivery of the copy of this decision to the Director, Federal Register, for publication.

(3) This exemption will continue in effect until or unless (1) revoked or (2) we issue a decision under 49 U.S.C. 10901(c) granting or denying TTI's application for authority to operate this rail line.

(4) This decision shall be effective at 12:00 a.m., January 1, 1981.

(5) Petitions to reopen this proceeding for reconsideration must be filed no later than January 26, 1981.

Dated: December 23, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and William. Commissioner Clapp and Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-119 Filed 1-2-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 110F)]

Chicago and North Western Transportation Company—Abandonment—Near Marenisco and Ironwood in Gogebic County, MI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided December 24, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad known as the Marenisco-Ironwood line extending from railroad milepost 322.7 near Marenisco to railroad milepost 348.1 near Ironwood, a distance of 25.4 miles, in Gogebic County, MI, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from December 24, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting the abandonment was issued to the Chicago and North Western Transportation Company. Since no investigation was instituted, the requirements of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than January 15, 1981. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-172 Filed 1-2-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-67]

Certain Inclined-Field Acceleration Tubes and Components Thereof; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation.

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed on May 17, 1979, the Commission on June 27, 1979, published a notice of institution of an investigation (44 FR 37567), pursuant to section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, of alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of inclined-field acceleration tubes and components thereof.

On December 16, the Commission unanimously determined that there was a violation of the statute in the importation or sale of certain inclined-field acceleration tubes and components thereof that infringe claims 2–6 of U.S. Letters Patent 3,308,323 and that an exclusion order is the appropriate remedy. The Commission unanimously determined, however, that the public interest factors enumerated in subsection 337(d) of the statute preclude the imposition of a remedy.

Copies of the Commission's Action and Order, Opinion, and any other public documents in this investigation are available for inspection by the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Michael B. Jennison, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0189.

Issued: December 29, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-[illegible] Filed 12-31-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No., 731-TA-36 (Preliminary)]

Snow Grooming Vehicles, Parts Thereof and Accessories Therefor From the Federal Republic of Germany

Determination

On the basis of the record in investigation No. 731–TA–36 (preliminary), the Commission unanimously determines that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded by reason of the importation of certain snow-grooming vehicles, provided for in items 692.16 or 692.35 of the Tariff Schedules of the United States (TSUS) or parts thereof, and accessories therefor chiefly used on such vehicles, wherever provided for in the TSUS, from the Federal Republic of Germany that are allegedly sold or likely to be sold at less than fair value (LTFV).

Background

On November 6, 1980, a petition was filed with the U.S. International Trade Commission and the Department of Commerce on behalf of the Logan Division of De Lorean Manufacturing Co. alleging that snow-grooming vehicles imported from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. Accordingly, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of certain snow-grooming vehicles, provided for in items 692.16 or 692.35 of the TSUS and parts thereof and accessories therefor chiefly used on such vehicles, wherever provided for in the TSUS, that are allegedly being sold or likely to be sold at less than fair value. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case, by December 22, 1980.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of November 20, 1980 (45 FR 76811). A public conference was held in Washington, D.C. on December 4, 1980.

In arriving at its determination, the Commission has given due consideration to the information provided by the Department of Commerce, to all written submissions from interested parties, and to information adduced at the conference and obtained by the Commission's staff from questionnaires, documented personal interviews, and other sources, all of which have been placed on the administrative record of this preliminary investigation.

On November 26, 1980, the Department of Commerce issued a notice announcing that it had found the petition to be properly filed within the meaning of its rules and that it was instituting an investigation. Notice to such effect was published in the Federal Register of December 5, 1980 (45 FR 80565). The product scope of the Commerce investigation is the same as that instituted by the Commission.

Views of Chairman Bill Alberger, Vice Chairman Michael Calhoun and Commissioners George M. Moore and Catherine Bedell

Determination

On the basis of the record developed in investigation, No. 731–TA–36 (preliminary), we determine, pursuant to section 733(a) of the Tariff Act of 1930, that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury,[1] by reason of imports from West Germany of snow grooming vehicles, parts thereof and accessories therefor, chiefly used on such vehicles, allegedly sold or likely to be sold in the United States at less than fair value.[2]

Discussion

Domestic Industry

Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) defines the domestic industry as the U.S. producers of a "like product," which is defined in section 771(10) as a product "like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." The imported article under investigation is the Kassbohrer PB 170D, a snow grooming vehicle in the "super" class, which is specifically designed for optimum use on large and steep inclines of the kind found at ski resorts.

In this investigation, we determine that the domestic industry consists of the U.S. Producers of ski area snow grooming vehicles. These vehicles, sometimes referred to as "super" snow grooming vehicles, are designed to groom ski slopes at large ski areas with a large vertical drop. For that reason, the vehicles have engines with greater than 150 horsepower and can operate on steep slopes at high altitudes carrying payloads of 3,000 pounds or more.[3]

There are three U.S. producers of super snow-grooming vehicles. They are the Logan Division of De Lorean Manufacturing Co. (DMC), the Tucker Sno-Cat Corporation and the Miller W. Corporation. For purposes of this determination, we do not consider Valley Engineering, Inc. to be a part of the domestic industry.

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[1] Since there are three domestic producers of the imported article subject to investigation, the material retardation of the establishment of an industry in the United States is not an issue in this investigation.

[2] The vehicles are provided for in items 692.16 or 692.35 of the Tariff Schedules of the United States (TSUS). The parts and accessories are provided for in various sections of the TSUS.

[3] See report to the Commission on Investigation No. 731–TA–36 (Preliminary) at p. A–2, hereafter the report is referred to as the staff report.

Our definition of the "domestic industry" does not include over-snow vehicles of the type commonly described as transport or utility vehicles. While the information available indicates that transport vehicles can groom smaller ski slopes, we find that the vehicles can be differentiated in terms of their characteristics and uses. Super snow grooming vehicles are specifically designed for use at large ski areas, where high altitudes and steep slopes make grooming difficult. As a result, the vehicles have engines with greater than 150 horsepower and a two-person cab, and incorporate special light weight components. In contrast, transport vehicles are designed for transporting people or equipment over snow covered areas, and have smaller engines and a large cab. While a transport vehicle can be used to groom the smaller ski slopes found in the Midwest, it is not intended to groom steep ski slopes at high altitudes and cannot do so effectively.

These differences are readily apparent when one examines the markets for the two vehicles. Super snow grooming vehicles are generally purchased by large ski resorts on the East Coast or in the Rocky Mountain and Pacific Coast regions. Transport vehicles are generally sold to utility companies for use in servicing power lines or microwave stations, or to smaller Midwestern ski areas. The information available indicates that a potential buyer would not regard the two vehicles as equivalents.

We further determine that the domestic industry does not consist of the producers of snow grooming vehicle parts. The Commission's analysis in this investigation has focused on the snow-grooming vehicles themselves and not the parts thereof. This analysis gives the petitioner the best possible case. Respondent, Valley Engineering, Inc., imports the PB 170D in the form of a kit containing most of the parts for one vehicle. In view of above considerations, we find that the like product of the kits is the domestically produced "super" snow-grooming vehicle.

Material Injury by Reason of LTFV Imports

In making our determination of no reasonable indication of material injury, we considered, among other factors: (1) the volume of imports, (2) the effect of imports on prices of like products produced in the United States, and (3) the impact of imports on the domestic industry. We base our decision on the findings of fact and conclusions of how discussed below.

a. Volume of LTFV Imports:

Imports of the allegedly LTFV Kassbohrer vehicles were relatively stable from 1977–79, and accounted for less than 10 percent of apparent U.S. consumption. In January–September, 1980, Kassbohrer imports increased significantly and the import penetration ratio grew to more than 20 percent. However, we cannot accept petitioner's contention that this most recent increase represents a significant change in the status quo. Since the imports are in kits, they must enter the United States before September if they are to be assembled and delivered during the peak sales months of October, November and December. In contrast, U.S. producers sell a disproportionately large number of their vehicles during the October–December period. Thus, the market share captured by imports during January–September, 1980, is significantly overstated, and will fall sharply in October–December as domestic producers enter their peak selling period.[4] This has occurred in each of the previous three years.

b. Impact on Prices:

Under the antidumping laws LTFV sales do not create a presumption of injury. Such sales are condemned only when they adversely affect domestic producers. The antidumping laws were not intended to—

> proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price. Such so-called "technical dumping" is not anti-competitive, hence, not unfair; it is procompetitive in effect.[5]

We find no evidence in the record before us that the imports in question are priced at less than a competitive level, so as to materially injure domestic competition. The information available indicates that the prices of imported vehicles have been consistently higher than those of domestic vehicles.[6] During 1980, the difference between the price of De Lorean's Model No. 3700 and Kassbohrer's PB 170D increased.[7] The absence of *any* indication of underselling strongly suggests that there is not basis for concluding that the imports have adversely affected the prices of domestically produced vehicles.

Petitioner has argued that while consumers are willing to pay more for the PB 170D because of perceived differences in quality and styling, the prices of the German vehicles are not as high as they should be,[8] and have forced the petitioner to suppress its own prices in order to remain competitive. However, the information available does not support petitioner's contention of price suppression. The price of DMC's Model 3700 increased from January 1977 through September 1980, at a faster rate than consumer prices or producer prices for all transportation equipment over the same period.[9] In January-September 1980, when the alleged LTFV sales occurred, petitioner's prices rose significantly.

There is, moreover, no indication that Kassbohrer's PB–170D is underpriced. None of the purchasers of Kassbohrer machines contacted by the Commission cited price as a primary consideration in their decision to purchase the West German machine.[10] Most spoke of perceived differences in quality, service or reliability. There is no evidence that consumers regard the Kassbohrer vehicle as a bargain at its higher price. Furthermore, the price differential between the De Lorean and Kassbohrer vehicles is increasing.

c. Impact on Domestic Industry.

While there were some difficulties experienced by the domestic ski area snow-grooming vehicle industry in 1979 and 1980, they are readily explained by a variety of other factors. The 1979 ski season was an extremely poor one. The lack of snow in November and December deprived Eastern and Midwestern ski area operators of a substantial portion of their revenues. As a result, many found themselves in tight financial circumstances and chose to postpone or forego purchases of snow grooming equipment.[11] Thus, total consumption declined sharply in 1979. In fact it fell by more than a quarter. The recession in early 1980 further discouraged investment in equipment. These problems were compounded by the fact that the super snow-grooming vehicle is a relatively recent creation, and a substantial replacement market has yet to develop.[12]

Although DMC's net profit dropped drastically in 1980, the cause of the drop appears to be a sharp rise in selling and administrative expenses,[13] and not LTFV imports. When Thiokol sold the Logan Division to DMC in July 1979, the Logan Division assumed various selling and administrative expenses previously borne by Thiokol. These new expenses account for the increase in selling and administrative costs and the drop in profitability.

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[4] Staff Rept., p. A23.

[5] See Sen. Rept. NO. 93–1298, p. 179. While this statement concerns the Antidumping Act, 1921, Congress has indicated that the new "material injury" test set forth in the Trade Agreements Act of 1979 is consistent with the injury criteria developed under the Antidumping Act. Sen. Rept. 96–249, p. 87.

[6] Staff Rept., p. A–25. Both Tucker and Mille refused to supply price data.

[7] Ibid.

[8] Transcript, p. 34 (12/4/80)

[9] Staff Rept., p. A–28.

[10] Id. at pp. A–28–29.

[11] Staff Rept., p. A–28.

[12] Ibid.

The data available to the Commission shows a decline during 1980 in production of super snow grooming vehicles, in capacity to produce such vehicles and in the number of workers employed in producing the vehicles. We find, however, no causal connection between the decline and LTFV imports. Plants in which super snow-grooming vehicles are produced are also used to produce other types of over snow-vehicles.[14] The vehicles are produced in different production runs. If one examines the production data available, it becomes apparent that DMC's overall production of over-snow vehicles has increased. This was accomplished by shortening the production run for super snow grooming vehicles, and lengthening the run for other types of over-snow vehicles.[15]

It is significant that sales of transport vehicles in January-September 1980 are up sharply in relation to the corresponding period in 1979.[16] The declines in production, capacity and employment do not mean that DMC experienced an increase in idle time, but that more time was devoted to producing transport vehicles.[17] We also note that as a result of poor demand during 1979, DMC had a large year end inventory as of December 31, 1979, which was available for sale in 1980.[18]

In our view, the drop in DMC's production of super snow grooming vehicles in 1980 is completely out of proportion to Valley's increased imports of Kassbohrer vehicles. This disparity further weakens any inference that the two are related. We conclude that the decline in production and shipments of super snow-grooming vehicles is the result of the poor season experienced by Eastern and Midwestern ski area operators during 1979, and the other factors described above.

While overall sales by domestic producers decreased in 1980, much of the decline is the result of a decline in the export market,[19] although the industry has been and remains a net exporter of snow-grooming vehicles.

In analyzing domestic sales of Kassbohrer vehicles, the Commission staff found no examples of sales lost as a result of underselling. Almost every purchaser contacted paid a higher price for the Kassbohrer vehicle. In the remaining sales, the purchasers cited DMC's refusal to demonstrate its product or a belief that the imported vehicle was markedly superior.[20] The purchasers of Kassbohrer vehicles generally cited perceived differences in quality, service, reliability or operating cost as their primary considerations.[21] None gave price as a critical consideration. In the absence of underselling or price suppression, we find no indication that Kassbohrer vehicles have any anticompetitive advantage over like domestic products. We conclude that the margin of LTFV sales, if any, is "technical dumping" not proscribed by the statute, and that any decline in the industry's position must be the result of other causes.

d. Threat of Material Injury:

A finding of threat of material injury "must be based on information showing that the threat is real and injury is imminent, not a mere supposition or conjecture."

There is no indication that imports of Kassbohrer's super snow-grooming vehicles will increase sharply in the imminent future. At the present time, Valley's orders for 1981 are small and are consistent with import levels over the 1977–79 period. Valley has no standing inventory and could not make an immediate delivery to a potential purchaser. The long lead time for obtaining engines and various other parts, coupled with a strong demand for the vehicles in Europe and limited production facilities, should prevent any significant increases in imports from West Germany.

Conclusion

We conclude on the basis of the information available, that there is no reasonable indication that the domestic super snow-grooming industry has suffered material injury or is threatened with material injury by reason of alleged LTFV imports from West Germany. The information available to us indicates that the Kassbohrer vehicles imported during 1980 by Valley Engineering, Inc., were sold for higher prices than like domestically produced vehicles. We perceive no indication that the imports from Germany have suppressed prices or adversely affected the domestic industry. While there is some basis for concluding that the domestic industry has experienced difficulties in 1980, the causes of its problems are clearly not related to the alleged LTFV imports.

Views of Commissioner Paula Stern

This preliminary case was marked by novel issues regarding the definition of the domestic industry, a hazy picture of the health of the relevant U.S. industry, but a very clear lack of causal linkage between the subject imports and any problems in the domestic industry. I discuss each of these subjects in turn, concluding with references to statutory framework.

I. The Domestic Industry and the Imported Products

In this investigation, I have determined that the domestic industry consists of U.S. producers of ski area snow grooming vehicles. These vehicles, sometimes referred to as "super" snow grooming vehicles, are designed to groom ski slopes at large ski areas with high vertical drops. For that reason, the vehicles have engines with greater than 150 horsepower and can operate on steep slopes at high altitudes carrying payloads of 3,000 pounds or more.

There are three U.S. producers of super snow grooming vehicles. They are the Logan Division of DeLorean Manufacturing Co. (DMC), the Tucker Sno-Cat Corporation (Tucker), and the Miller W. Corporation (Miller).

I fully join the views of my colleagues on the appropriate boundaries and definition of the domestic industry and will not repeat the logic here. The Commission has unanimously found that:

(1) The definition of the domestic industry does not include over snow vehicles of the type commonly described as transport vehicles.

(2) For the purposes of this determination, Valley Engineering, Inc. (Valley) is not to be considered part of the domestic industy. Valley is the importer of the allegedly dumped merchandise and is a wholly-owned subidiary of Karl Kassbohrer Fahrzcugwerke, GmbH (Kassbohrer). The imported article under investigation is the Kassbohrer PB 170D, a snow grooming vehicle in the "super" class.[22]

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[13] *Id.* at. A–22–23. While petitioner's cost of goods sold showed an increasing trend in 1980, it was neither marked nor stable. As the volume of production decreased, DMC's cost of goods sold increased.

[14] Staff Rept., p. A–21–22.

[15] Staff Rept., p. A–14.

[16] *Id.* at A–16.

[17] While a slight decline in employment occurred, we note productivity increased markedly.

[18] Staff Rept., p. A–19.

[19] Significant quantities of U.S. production are exported to Western Europe. See staff report at p. A–18.

[20] Staff Rept. p. A–29.

[21] Staff Rept., p. A–24.

[22] The Commission has not had an opportunity to verify Valley's claim that 30% of the value of a PB170D is added in the United States. Furthermore, under Section 771(4)(B) of the Tariff Act of 1930, the

Footnotes continued on next page

(3) The domestic industry does not consist of the producers of snow grooming vehicle parts.

II. Causation

This case fails because there is no demonstrable connection linking the alleged LTFV imports to any negative aspect of the domestic industry's performance. Thus, there is no reasonable indication of material injury by reason of the alleged less-than-fair-value (LTFV) imports.

The volume of imports of super snow grooming vehicles from West Germany was stable from 1977 to 1979. During the January-September 1980 period, it doubled compared to the figure for the same period of 1979. In 1977, the 7 vehicles imported from Germany supplied a slightly greater percentage of apparent U.S. consumption than did the same number of German vehicles imported in 1979. In the first three quarters of 1980, 14 vehicles were imported with the resulting import penetration nearly doubling the percentage recorded during the similar period a year earlier. Virtually all imports are entered into the United States prior to September so that they will be ready for delivery during the peak sales months of October, November and December. By contrast, domestic producers made over 40 percent of their 1979 sales during the last three months of the year. Thus, import penetration figures for January-September significantly overstate the penetration likely to be achieved for the full year.[23] Kassbohrer's increased market share has apparently come at the expense of another foreign producer.[24]

Examination of data on lost sales has not established any credible link between the success of the German imports and the LTFV margins from which they have allegedly benefitted. For 1980 the Commission staff contacted the potential customers involved in 21 of the 22 sales alleged to have been lost by the petitioner in 1979 and 1980. One did not purchase an import, and four purchased used vehicles. In four instances, the petitioner's product could not be given serious consideration because DMC refused to demonstrate it or because the import was markedly superior. In the remaining twelve cases, import sales were made at prices higher than those offered by the petitioner; the German product was perceived to have better quality and/or servicing arrangements.

There is no indication whatsoever that the imports in question caused injury by price suppression or depression. Quite to the contrary, the actual selling prices of the petitioner's super snow groomers increased slight more than prices of the imported product (from January 1978 to September 1980, the period over which the Commission has obtained comparable data).[25] The average price of the top-of-the-line DMC snow groomers grew between January 1977 and September 1980 slightly faster than the consumer price index and significantly more rapidly than producer prices for all transportation equipment.[26]

Moreover, there is no indication that the imports have been underselling the domestic products. Prices of the imported vehicles exceed the prices of the domestic products in each quarter that transactions are reported for both. In fact, comparisons of the average prices paid for DMC 3700 and the Kassbohrer super snow groomer show that the premium paid for the import has steadily grown from 1978 to the first three quarters of 1980.

Price comparisons are complicated by many differences in optional equipment, general quality, and servicing networks. When adjustments are made for differences in optional equipment, the relative prices of domestic and imported equipment do not seem to be affected significantly.[27] Adjustments for differences in quality and service would be highly subjective and have not been attempted. Some differences do seem justified. By all accounts, including the petitioners' own statements,[28] the imported product seems to have a significant quality advantage which is no longer diminished by its earlier lack of an effective domestic service network. Cost and reliability of operation outshine purchase price as the most significant factors in the choice of snow groomers. In sum, alleged LTFV margins have apparently played no role in creating the existing quality differences or in suppressing domestic prices.

III. Condition of the Domestic Industry

Despite analysis of all relevant economic indicators, the health of the domestic industry remains unclear. In any event, those economic factors which may point to injury do not indicate that the alleged LTFV imports have caused injury to the domestic industry.

U.S. production of super snow grooming vehicles increased rapidly from 1977 to 1978 and then declined slightly in 1979.[29] The figure for January–September 1980 is, however, 45 percent below that for the same period of 1979.

Domestic capacity increased 3 percent from 1977 to 1978, and fell by 8 percent in 1979. In the first nine months of 1980, it dropped 23 percent relative to that for the corresponding period one year earlier.

Capacity utilization in the production of super snow grooming vehicles increased from 1977 to 1979 before declining in January–September 1980. However, productive capacity and capacity utilization are not reliable indicators in this industry. Production is effectively limited by the number of parts and components ordered by the company, often early in the season. Further, all equipment and personnel are used interchangeably in the manufacture of all products made in each plant. Thus, it is important to note that the decline in domestic capacity to produce super snow groomers during Janaury–September 1980 (over the same period of 1979) was accompanied by a greater increase in the domestic capacity to produce all other snow grooming vehicles. The petitioner accounted for almost all this growth.

U.S. producers' sales of super snow groomers doubled from 1977 to 1978 before declining in 1979. Another decline was posted for January–September 1980 relative to sales for the corresponding period in 1979. There are no reasonable indications that the recent decline in sales and production of super snow groomers has been related to the alleged LTFV imports. Rather, as a result of poor snow during the 1979 ski season, many Eastern and Mid-Western ski area operators experienced financial

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Footnotes continued from last page

Commission has discretion to exclude a domestic producer, which is also an importer or which is related to an exporter, when "appropriate circumstances" exist. 19 U.S.C. 1677(4)(b). Under the circumstances, it would be counterproductive to include Valley in the domestic industry, since its inclussion would decrease the impact of the alleged dumping on the domestic industry.

[23] For example, subject import penetration for all of 1979 was less than half that for the first three quarters of the year.

[24] Bombardier Limited of Canada and Kassbohrer of West Germany are the only foreign producers known to have exported ski area snow grooming vehicles to the United States during the period under investigation. In the past, Bombardier exported a significant number of vehicles to the United States. It has accounted for less than 20 percent of apparent U.S. consumption. But in recent years, imports of Bombardier vehicles have dropped, and its share of the U.S. market has declined sharply. If previous patterns hold, the market share of all imports will be significantly lower in 1980 than in 1977 due to the sharp decline in Canadian imports.

[25] Report at A–25.

[26] Report at A–28.

[27] Report at Table 12 and A–28.

[28] Conference Transcript at 34.

[29] Production figures are significantly understated due to the lack of information on one producer which accounts for a more than negligible share of the U.S. market. *See* Report at A–14.

difficulties and postponed purchases of equipment.[30]

Exports are significant and growing in importance for the U.S. industry. Accounting for nearly half of the sales of super snow groomers in 1977, exports in January–September 1980 represented two-thirds of U.S. producers' sales. The absolute quantities grew sharply from 1977 to 1979, but posted a significant decline in January–September 1980 from the like period in 1979.

Inventories held by U.S. producers grew steadily both in terms of quantity and as a ratio of total sales from 1977 to 1979, but declined in 1980. Inventory/sales ratios declined from January–September 1979 to the corresponding period of 1980. Although both these ratios appear unusually high, it should be remembered that most of these vehicles are delivered during the last quarter. The Commission lacks an adequate reference level to determine the true significance of present inventory levels in this industry.

Employment data are sketchy—Miller provided no data for 1980 and no data at all were available for Tucker. Moreover, because labor moves freely between all operations, data had to be collected for the production of all snow groomers. Reported employment of production and related workers in facilities producing all snow grooming vehicles grew from 1977 to 1979, but then declined in January–September 1980. Labor time has been shifted from super snow groomers to other types of production in 1980. Wages paid and man-hours worked generally the pattern of overall employment.

Information on financial performance was submitted by only one U.S. producer—DMC, the most significant member of the domestic industry—with a market share in excess of 50 percent. Sales of super snow grooming vehicles accounted for about two-thirds of DMC's total vehicle sales during 1977–1979. Although DMC provided separate data on super snow grooming operations, these data were the result of allocations on the basis of net sales of the various vehicles. Such information is inadequate for a Commission injury determination. The best available information was on DMC's experience in all products produced by the Logan Division, and therefore includes information on smaller over-snow vehicles as well as snow grooming implements.[31] The ratio of net operating profit to net sales grew from 1977 to 1978 before declining markedly in 1979. For January–September 1980, the ratio was sharply lower compared to the same period in 1979. The changes in profitability do not appear to be related in any manner to alleged LTFV imports. Sales and gross profit margins have grown rapidly. Primarily because of rapidly increasing general, administrative, and selling expenses, net profits have shrunk rapidly from their 1978 peak. A possible explanation of this phenomenon is that accounting techniques for these various expenses changed considerably when the Logan operations were acquired by DMC in July 1979.

Although continuing on to a final investigation could possibly clarify the industry's health particularly with respect to employment, inventories, and financial performance, the absence of any reasonable causal link between the imports and the industry's problems mandates a negative determination at the preliminary stage.

IV. Threat of Material Injury

A finding of threat of material injury "must be based on information showing that the threat is real and injury is imminent, not a mere supposition or conjecture."[32]

There is no indication that imports of Kassbohrer's super snow grooming vehicles will increase rapidly in the imminent future. At the present time, Valley's orders for 1981 are small and are consistent with import levels over the 1977–79 period. It has no standing inventory and could not make an immediate delivery to a potential purchaser. The long lead time for obtaining engines and various other parts should prevent any large increases in the U.S. sales of the West German product.

V. Conclusion

Section 733 of the Tariff Act of 1930 [33] establishes the standards for preliminary determinations by the ITC during an antidumping investigation. The Commission is mandated to determine, "based on the best information available to it at the time * * *" that there is a "reasonable indication" of material injury or threatened material injury to a domestic industry by reason of imports of the subject merchandise. The statute does not elaborate on the "reasonable indication" requirement. However, the Senate Finance Committee has noted that the standard "is to be applied in essentially the same manner" as the predecessor standard of the Antidumping Act of 1921.[34]

In preliminary investigations, the Commission searches for a reasonable indication of injury by reason of the subject LTFV imports. When there was no reasonable indication that the imports are tied to material injury to the domestic industry, a negative determination resulted. In the present case, neither the petitioner nor the Commission's own efforts have been able to establish a reasonable indication of material injury or threatened material injury by reason of the alleged LTFV imports from West Germany.

Issued: December 22, 1980.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-40786 Filed 12-31-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Seminar on Standards for the Administration of Juvenile Justice

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the NAC) will conduct a seminar, February 9, 1981 at the Eighth National Conference on Juvenile Justice in San Francisco, California. The seminar is open to the public.

The seminar will be held from 3:15–4:45 p.m. at the Sheraton-Palace Hotel, 639 Market at New Montgomery, San Francisco, California 94105.

The purpose of the seminar will be to present and hear public commentary on the *Intervention* and *Adjudication* chapters of the NAC *Standards for the Administration of Juvenile Justice.*

The presentation will be conducted by The Honorable Margaret C Driscoll, Past President of the National Council of Juvenile and Family Court Judges and Chair of the National Advisory Committee's Subcommittee on Standards.

For further information, please contact Dr. James C. Howell, NAC Coordinator, Office of Juvenile Justice and Delinquency Prevention, U.S.

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[30] Report at A–8ff.

[31] Although only aggregated data on employment and financial performance were available, a determination on a narrow product line basis (as requested by the petitioner) was possible because of the distanct demand for super snow groomers and the availability of other information on this product line.

[32] S. Rept. No. 96–249, 96th Cong., 2d Sess. (1979) at 88–89.

[33] 19 U.S.C. 1671b.

[34] See Section 201(c)(2) of the Antidumping Act, 1921. *Also*, S. Rept. 96–249, 96th Cong., 2d Sess. (1979) at 68.

Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

Dated: December 30, 1980.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 81-187 Filed 1-2-81; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Open Meeting

December 30, 1980

The Nuclear Safety Oversight Committee (NSOC) will meet on January 20 and 21, 1981 from 9:00 am to 12:30 pm and 2:00 pm to 5:00 pm at the University of California at Santa Barbara, California. The meeting will be held in Cheadle Hall, Conference Room 5119.

The Committee was established by Executive Order 12202 on March 18, 1980, in response to the recommendations of the President's Commission on the Accident at Three Mile Island (the Kemeny Commission). Generally, the Committee is responsible for monitoring the progress of the utilities and their suppliers, the Nuclear Regulatory Commission, other Federal agencies, and State and local authorities in implementing the Kemeny Commission's recommendations and in improving the safety of nuclear power. The Committee will report periodically to the President.

Thus far the Committee has held seven meetings, approximately one a month. The Committee has heard testimony and had discussion in a number of areas including:

The Nature of the Committee's responsibilities as set forth in Executive Order 12202;

The Nuclear Regulatory Commission's (NRC) "Action Plan Developed as a Result of the TMI-2 Accident," designated NUREG-0660 and available through the Document Management Branch, Division of Technical Information and Document Control, NRC, Washington, D.C. 20555;

The procedure utilized in the federal decision-making process as it relates to nuclear safety, and public and private participation;

FEMA's Report to the President (June 1980), and procedures for emergency planning;

The status of generic safety issues; the analysis and evaluation of operational data;

The NRC budget and allocation of its staff resources to implement the "Action Plan" and how that will affect other NRC functions;

NRC's inspection and enforcement program;

Backfitting and standardization of plant design;

The regulatory relationship between FEMA and NRC;

Nuclear safety research and training programs;

Quality control in plant design;

Labor/management problems, and the union's role in safety programs;

Human factors in nuclear power safety including training, control room design, balance of plant, and ANSI standards;

Action Plan provisions for human factors and training, and certification of operators;

Release of Iodine-131 as a consequence of nuclear power plant operations;

Problems of plant releases at nuclear power plants;

Planning of safety systems and balance of plant.

During the next meeting the Committee will receive testimony and, when appropriate, written materials and documents, concerning the following matters:

Issues concerning the TMI-1 restart hearings and their relationship to the TMI-2 accident;

Regulatory licensing and scientific and technical uncertainty—the case of hydrogen;

A panel discussion on nuclear power operator training.

Testimony on these matters will be received from a number of individuals specifically invited by the Committee.

The meeting will be open to public observation. Written comments or statements may be submitted at anytime before or after the meeting and should be related to the substantive matters identified above. Approximately 40 seats will be available for the public on a first come, first served basis. The Committee meeting will be recorded and the transcript may be examined in the Committee's office at 113 15th Street, N.W., Suite 307, Washington, D.C.

For further information contact Margo von Kaenel at (202) 653-8468

Margo W. von Kaenel,

Executive Assistant.

[FR Doc. 81-184 Filed 1-2-81; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

December 24, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and an abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

Extensions (Burden Change)

Animal and Plant Health Inspection Service
Epidemiologic investigation of brucellosis reactor herd
VS 4-108, 4-108A, 4-108B, and 4-108C
On occasion
Farms
Farms with brucellosis reactor livestock
Sic: 021 024
Agricultural research and services, 12,842 responses; 10,787 hours; $232,750 Federal cost; 4 forms
Charles A. Ellett, 202-395-7340
A national form is needed to achieve uniformity in the epidemiologic investigation and provide a suitable determining that appropriate follow-up action is accomplished on individual infected herds. A concerted effort through effective screening programs and extensive epidemiologic investigations is required to locate and eradicate brucellosis.

Departmental Administration
Application for reimbrusement of participant in a rulemaking proceeding
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
All those in public sector interested in USDA rulemaking
Agricultural research and services, 10 responses; 80 hours; $1,500 Federal cost; 1 form
Charles A. Ellett, 202-395-7340
Funds may be allotted at agency discretion for certain costs of participation in rulemaking actions when applicant is reasonably expected to contribute substantially to decision, demonstrates financial need, is from area affected, and is not otherwise adequately affected.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—202-633-9464

Revisions

Energy Information Administration
Bulk Terminal Stocks Report
22
EIA-88 Monthly Businesses or other institutions
Bulk terminal operating companies
Sic: 517
Small businesses or organizations
Energy information, policy, and regulation, 1,968 responses; 1,968 hours; $29,534 Federal cost; 1 form
Jefferson B. Hill, 202-395-7340
As part of DOE's joint petroleum reporting system, the data are used as input for monitoring the supply and disposition of crude petroleum, petroleum products, and natural gas liquids.

Energy Information Administration
Refinery report
EIA-87
Monthly
Businesses or other institutions
Petroleum refineries
Sic: 291
Small businesses or organizations
Energy information, policy, and regulation, 4,332 responses; 17,328 hours; $62,000 Federal cost; 1 form
Jefferson B. Hill, 202-395-7340
The information collected will be used to monitor petroleum refinery operations and petroleum supply and demand.

Energy Information Administration
Crude oil stocks report
EIA-90
Monthly
Businesses or other institutions
Crude pipeline Co., crude oil producers, crude oil terminal
Sic: 641 517 131
Small businesses or organizations
Energy information, policy, and regulation, 3,852 responses; 15,408 hours; $29,534 Federal cost; 1 form
Jefferson B. Hill, 202-395-7340
As part of DOE's joint petroleum reporting system, the data are used as input for monitoring the supply and disposition of crude petroleum, petroleum products, and natural gas liquids.

Energy Information Administration
Pipeline products report
EIA-89
Monthly
Businesses or other institutions
Product pipeline companies
Sic: 461
Small businesses or organizations
Energy information, policy, and regulation, 1,008 responses; 3,024 hours; $29,534 Federal cost; 1 form
Jefferson B. Hill, 202-395-7340
As part of DOE's joint petroleum reporting system, the data are used as input for monitoring the supply and disposition of crude petroleum, petroleum products, and natural gas liquids.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

Health Care Financing Administration
Application for Federal assistance for ESRD network coordinating council
HCFA-1518
Annually
Businesses or other institutions
The coordinating council for each of the 32 ESRD networks
Sic: 808
Small businesses or organizations
Health, 32 responses; 3,200 hours; $210 Federal cost; 1 form
Richard Eisinger, 202-395-6880
This form, which is required by proposed regulations, will be used by the coordinating councils of each of the 32 end stage renal disease (ESRD) networks to apply for Federal funding.

Revisions

Social Security Administration
Letter to employer requesting earnings information for SSI
SSA-L-4201
On occasion
Businesses or other institutions
Any employer having wages to report for an SSI claimant/recipient
Sic: 944
Small businesses or organizations
Public assistance and other income supplements, 133,000 responses; 11,083 hours; $248,710 Federal cost; 1 form

V 46 / 2 JA 5 81 UMI

Barbara P. Young, 202–395–6880

This form letter is used in supplemental security income claims to establish claimant/recipient's wages when an individual is unable to provide necessary evidence.

Extensions (Burden Change)

Center for Disease Control
Study of coalworkers' pneumoconiosis
CDC/NIOSH 2.18
On occasion
Individuals or households
Working coalminers
Health, 4,000 responses; 1,000 hours; 1 form
Richard Eisinger, 202–395–6880

The data collected are needed to evaluate the effectiveness of new dose standards on retarding the rates of progression of coal workers' pneumoconiosis and other respiratory ailments associated with coal mining. This study helps to identify miners who are developing respiratory disease at early stages and guides the miner and his physician to take appropriate steps to prevent pneumoconiosis from becoming disabling.

Reinstatements

Alcohol, Drug Abuse, and Mental Health Administration
Community mental health centers panel survey
Nonrecurring
Businesses or other institutions
CMHC staff
Health, 32 responses; 192 hours; 1 form
Richard Eisinger, 202–395–6880

This survey of clients in community mental health centers (CMHC's) will be conducted to enlist the cooperation of each of the participating CMHC's and to develop a methodology for data retrieval. This will be accomplished by a series of site visits to each center. This submission includes question to be asked at each of the CMHC's and the tasks to be performed during each site visit.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—202–633–3526.

New

Office of Justice Assistance, Research and Statistics
Directory of criminal justice information sources entry questionnaire
NIJ (series 6640)
Biennially
State or local governments/businesses or other institutions agencies providing information about criminal justice
Sic: 922
Criminal justice assistance, 125 responses; 38 hours; $12,225 Federal cost; 1 form
Andy Uscher, 202–395–4814

The directory of criminal justice information sources facilitates information exchange among criminal justice professionals and other interested parties. This centralized listing of U.S. organizations providing information and services in various criminal justice areas includes a description of each agency, its areas of interest and activity, user restrictions, and contact information.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6341.

New

Occupational Safety and Health Administration
Initial application for training and education grant
OSHA-177 SF-424
On occasion
Businesses or other institutions
Nonprofit organizations that provide safety and health training to emp.
Sic: multiple
Small businesses or organizations
Consumer and occupational health and safety, 300 responses; 60,000 hours; $0 Federal cost; 2 forms
Arnold Strasser, 202–395–6880

The application package is submitted by parties interested in participating in the program. The application is used by OSHA staff to select organizations that can effectively carry out the objectives of the program. Information requested includes: Detailed description of proposed program, project summary, standard form 424 (Federal assistance), OMB budget information sheets, detailed breakdown of budget, and biographical sketches of key personnel.

Extensions (Burden Change)

Labor-Management Services Administration
Simplified annual report format
LMSA-SAR-1
Annually
Businesses or other institutions
Labor unions
Sic: 863
Small Businesses or organizations
Other labor services, 5,000 responses; 417 hours; $7,500 Federal cost; 0 form
Arnold Strasser, 202–395–6880

On April 9, 1976, a notice of proposed amendments to 29 CFR 403.4(b) was published to provide for simplified reporting under the LMRDA for local unions which are not in trusteeship, have no assets, liabilities, receipts and disbursements and meet other specified conditions.

Bureau of Labor Statistics
Producer price indexes, by industry
BLS-1810 A thru F BLS-473P
Monthly
Businesses or other institutions
Manufacturing establishments in SBL. sic's in mining and manufacturing
Sic: Multiple
Small businesses or organizations
Other labor services, 136,900 responses; 57,800 hours; $8,300,000 Federal cost; 6 forms
Office of Federal statistical policy and standard, 202–673–7974

The form is used to collect price information for the producer price index, which is one of the Nation's most important economic indicator. The burden will increase each year until a steady state is reached.

Bureau of Labor Statistics
Current point of purchase questionnaire
CPP-1, CPP-2A, CPP-2B, CPP-3
Annually
Individuals or households
HSDHLDS in 86 SBL. SMSA's and smaller cities (W/N.Y. divided)
Other labor services, 5,328 responses; 6,132 hours; $937,600 Federal cost; 4 forms
Office of Federal statistical policy and standard, 202–673–7974

The survey is needed to obtain information on where consumers purchase the items. This information is used to update the outlet sample for the consumer price index data collection. The project is required in order to maintain the accuracy of the consumer price index. Funds for this purpose were specifically requested and received from the Congress during the fiscal year 1977 appropriations process.

DEPARTMENT OF STATE

Agency Clearance Officer—Gail J. Cook—202–632–3538.

Reinstatements

Administration of Foreign Affairs
Report of birth (U.S. citizens born abroad)
FS-240
On occasion
Individuals or households
U.S. citizen abroad registering child
Conduct of foreign affairs, 35,000 responses; 8,750 hours; 1 form
Phillip T. Balazs, 202–395–4814

FS-240 is used by Foreign Service posts to record the birth abroad of U.S. citizens. This form in many instances is the most satisfactory record available of the child's birth.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. White—202–389–2146.

Revisions

Notice to VA of veteran or beneficiary incarcerated in penal institution
VA21–4193
On occasion
State or local governments
Penal institutions
Sic: 922
Income security for veterans, 5,000 responses; 417 hours; $4,175 Federal cost; 1 form
Laverne V. Collins, 202–395–6880
This form is used to obtain information regarding the incarceration of any individual in receipt of or for whom benefits are paid. When such an individual is incarcerated, benefits must be discontinued until release from incarceration. Authority is 38 U.S.C. 505.

C. Louis Kincannon,
Deputy Assistant Director for Reports Management.

[FR Doc. 81–96 Filed 1–2–81; 8:45 am]
BILLING CODE 3110–01–M

Agency Forms Under Review

December 29, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and an abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201.

Revisions

- Economics and Statistics Service

Farm production expenditure survey
Annually
Farms
Livestock and crop producers
Sic: 029 019
Small businesses or organizations
Agricultural research and services, 36,900 responses; 16,817 hours; $2,250,000 Federal cost; 1 form
Office of Federal statistical policy and standard, 202–673–7974
Provides data on farm production expenditures to compute parity index weights and two components of index which are prices for farm services and cash rent. Parity index used by analysts throughout Government in drafting farm policy legislation.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Extensions (Burden Change)

- National Oceanic and Atmospheric Administration

Data documentation form
NOAA 24–13
On occasion
Individuals or households/businesses or other institutions scien. within govt. and uni. who have partic. in oceanograph
Other natural resources, 1,000 responses; 1,000 hours; 1 form
William T. Adams, 202–395–4814
Assist in acquiring, processing, preserving and disseminating oceanographic data. The user will be able to identify and understand the data and thus determine their applicability to his/her research problem. P. Hadsell (202) 634–7505.

Extensions (No Change)

- International Trade Administration

Tailored export marketing plan application
ITA–4072 ITA–4072P
On occasion
Businesses or other institutions
U.S. firms inexper. in export. desirous of init. sales
Sic: All
Small businesses or organizations

Other advancement and regulation of commerce, 80 responses; 160 hours; 1 form
William T. Adams, 202-395-4814
Form is necessary to convey U.S. firm's interest in and commitment to utilizing a tailored export marketing plan (Temp) as a tool in the development of its export business. Information will be used to acquaint USDOC analyst with the firm, its product/service, and to provide knowledge and guidance for the analyst in the evaluation and development of a Temp.

- Economic Development Administration

Interview guide for Indian economic development
Evaluation
ED-446Q
Nonrecurring
State or local governments
Members of Indian tribes
Sic: Multiple
Area and regional development, 360 responses; 180 hours; $120,000 Federal cost; 5 forms
William T. Adams, 202-395-4814
To evaluate the impact of EDA's Indian initiative (based on 42 USC 3151(c)).

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—202-633-9464

Revisions

- Economic Regulatory Administration

Refiners' monthly cost allocation report[1]
EIA-14
Monthly
Businesses or other institutions
All persons and/or firms who are defined as refiners
Energy information, policy, and regulation, 3,600 responses; 54,000 hours; $350,000 Federal cost; 1 form
Jefferson B. Hill, 202-395-7340
The EIA-14 will be used by DOE to monitor certain cost and price movements within the petroleum industry and to ensure compliance with price control regulations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

- National Institutes of Health

The cancer construction program: Program instructions
PHS 5162
On occasion
Businesses or other institutions
Biomedical research institutions
Sic: Multiple
Health, 20 responses; 480 hours; $2,500 Federal cost; 1 form
Richard Eisinger, 202-395-6880
Provides supplemental program instructions for completion of standard construction application form. It provides instructions for completing a construction application to assure proper and complete peer review by NCI and is required of all applicants requesting NCI construction funds.

- Health Resources Administration

An evaluation of enrollment trends of minority students in pre-health sciences and health sciences schools—student panel survey
Nonrecurring
Individuals or households
Applicants to medical and dental schools
Health, 3,000 responses; 1,200 hours; $72,000 Federal cost; 2 forms
Richard Eisinger, 202-395-6880
The data to be collected are needed for the analysis of barriers to minorities in pursuing medical and dental careers. The data will be used to develop policies designed to increase minority representation in the health professions, and thus improve health care delivery to minority populations.

Extensions (Burden Change)

- Health Resources Administration

A study of dental health-related and process outcomes with prepaid dental care
Nonrecurring
Individuals or households
Probability sample of U.S. households and referrals to insur.
Health, 22,508 responses; 6,749 hours; $0 Federal cost; 5 forms
Richard Eisinger, 202-395-6880
A full-price demand model will be deployed to analyze the effects of dental prepaid insurance on the consumption of dental services and dental health outcomes in the United States study results will facilitate the interpretation of at least price as a policy variable including the effects of dental plan characteristics as mechanisms for policy implementation.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202-755-5184

Extensions (Burden Change)

- Community Planning and Development

Urban renewal program physical progress report
HUD-6000 and 6000A
Annually
State or local governments
Units of loc. gov't with still active urban renewal proj.
Community development, 118 responses; 1,416 hours; 2 forms
Richard Sheppard, 202-395-6880
Pub. L. 81-171 sec. 106(h) requires the local public agencies contracts to be in substantial accordance with the urban renewal plan. This form is necessary for HUD to monitor contracts in progress, and as a source of information to be used in status reports by the secretary.

Community Planning and Development
Report on budgetary status and project balance sheet
HUD-6250 and 6251
Semiannually
State or local governments
Units of loc. govt with still active urban renewal proj.
Community development, 236 responses; 1,416 hours; 2 forms
Richard Sheppard, 202-395-6880
Pub. L. 81-171, sec. 103(a)(2). This form is designed to reflect any changes from the latest approved project cost estimate and the effect of such changes on net project cost and the sharing of net project cost.

Community Planning and Development
Redevelopers statement for public disclosure and statement of qualifications and financial responsibility
HUD 6004 6004A
Annually
Businesses or other institutions
Pers and redevelopers or real property
Small businesses or organizations
Community development, 1,085 responses; 4,340 hours; 2 forms
Richard Sheppard, 202-395-6880
Form HUD-6004 is for the guidance of the LPA in prescribing the information to be furnished by proposed redevelopers as evidence of their qualifications to undertake the obligations to be improsed under proposed agreements for the purchase or lease of project property and redevelopment or rehabilitation. Pub. L. 81-171, sec. 105(E).

Extensions (No Change)

Community Planning and Development
Project cost estimate and financing plan
HUD-6200
On occasion
State or local governments
N units of loc. govt with still active urban renewal proj.
Community development, 60 responses; 960 hours; 1 form

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[1] At the request of the agency, the 10-day public comment period has been waived. However, public comment will still be carefully considered, and any changes will be made whenever possible.

Richard Sheppard, 202-395-6880
Pub. L. 81-171 sec. 103 requires HUD to obtain gross and net project cost from the urban renewal program local public agencies. This plan.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—202-633-3526

Extensions (No Change)

Immigration and Naturalization Service
Data relating to beneficiary of private bill
G-79A
Nonrecurring
Individuals or households
Parties to private bills
Federal law enforcement activities, 500 responses; 500 hours; 1 form
Andy Uscher, 202-395-4814
Information needed in order to make report concerning private bill to the Congress when requested.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6341

New

Employment and Training Administration
National longitudinal survey of work experience of mature men, questionnaire and letter
LGT-1111, LGT-1113, MT-290 (ETA)
Annually
Individuals or households
Men 45-59 in 1966
Training and employment, 22,600 responses; 19,360 hours; $1,600,000 Federal cost; 3 forms
Arnold Strasser, 202-395-6880
The NLS cohorts represent unique data collection efforts since they (1) permit longitudinal examination of labor force behavior patterns, which usually can only be analyzed cross-sectionally, (2) provide economic, social, demographic, and environmental data for in-depth analysis of this behavior, and (3) include detailed information about government employment and training programs necessary for improving these programs and devel new ones.

Revisions

Employment and Training Administration
National longitudinal survey of work experience of (mature women) 1981
LGT-3103 (census) LGT-3101, MT-290 (ETA).
Other—See SF83
Individuals or households
Women 30-44 in 1967
Training and employment, 22,600 responses; 19,360 hours; $1,600,000 Federal cost; 3 forms
Arnold Strasser, 202-395-6880
The information provided in this survey will be used by the Department of Labor to help develop programs designed to ease the employment and unemployment problems faced by women in this age group.

PEACE CORPS

Agency Clearance Officer—Richard Celeste—202-254-7970

Revisions

Peace Corps volunteer background information form
PC-5/A-857
On occasion
Individuals or households
All appli. for Peace Corps volunteer service
Foreign economic and financial assistance, 10,000 responses; 3,300 hours; $1,000 Federal cost; 2 forms
Phillip T. Balazs, 202-395-4814
All Peace Corps volunteers shall be investigated to insure that their service is consistent with the national interest in accordance with the standards and procedures established by the President. Information requested to provide this check is name/other names used: Places of residence, and armed services serial number.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—202-287-0754

New

Cost or price summary format for subagreements under U.S. EPA grants
5700-41
On occasion
Businesses or other institutions
Contractors under EPA grants
Sic: 891 495
Small businesses or organizations
Pollution control and abatement, 8,000 responses; 16,000 hours; $0 Federal cost; 1 form
Edward H. Clarke, 202-395-7340
The data submitted is used in negotiations with the contractor and is used to verify that the costs and prices appear acceptable for award.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202-389-2146

Revisions

Request for postponement of offsite or exterior onsite improvements—home loan
26-1847
On occasion
Businesses or other institutions/individuals or households veterans, lenders
Sic: 612 616
Small businesses or organizations
Veterans housing, 32,000 responses; 16,000 hours; $54,080 Federal cost; 1 form
Laverne V. Collins, 202-395-6880
Veterans' and lenders' request for guaranty of home loan, for which offsite or exterior onsite improvements are incomplete, to permit guraranty of loan and veteran's occupancy of property. Form provides basic information for VA determinations as to whether loan funds where properly disbursed as required by VA regulations 4301(n) and 403(d).

Consumer sampling letter (questionnaire re quality of service rendered
FL 270652
On occasion
Individuals or households
Veterans
Other veterans benefits and services, 18,000 responses; 3,000 hours; $27,750 Federal cost; 1 form
Laverne V. Collins, 202-395-6880
Responses obtained from this letter provide an indication to supervisors of quality of service being provided and whether there is a need for closer supervision, 38 U.S.C. 210 and 219B.

C. Louis Kincannon,

Deputy Assistant Director for Reports Management.

[FR Doc. 81-109 Filed 1-2-81; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11518; 811-2656]

American Music Stores, Inc.; Application

December 24, 1980.

Notice is hereby given that American Music Stores, Inc. ("Applicant"), P.O. Box 126, Bloomfield Hills, Mich. 48013, a closed-end, non-diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on January 28, 1980, and an amendment thereto on July 31, 1980, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On July 28, 1976, Applicant registered under the Act and on October 29, 1976, Applicant filed its registration statement on form N-8B-1. Applicant states that it has not issued any securities to the public since becoming a registered investment company and has not filed any registration statements under the Securities Act of 1933. Applicant represents that its only public offering took place in 1965 when it was an operating company. The application states that it was Applicant's intention to liquidate and dissolve from the time it filed its registration statement. According to the application, Applicant's board of directors adopted a plan of liquidation on August 11, 1977, and December 9, 1977. On November 28, 1978, Applicant's shareholders approved of Applicant's dissolution and on that date the board of directors authorized the creation of a liquidating trust in accordance with the plan of liquidation. Applicant represents that its certificate of dissolution was filed with the state of Delaware on December 11, 1978, and that Applicant was dissolved in accordance with Delaware law. The application states that Applicant is not a party to any litigation or administrative proceedings.

Applicant states that a first liquidating distribution has been made to all shareholders except those who failed to file necessary forms and that a final liquidating distribution has been made to all shareholders except those failing to return their stock certificates. Applicant indicates that it has set aside funds to pay first and final liquidating distributions to such shareholders. According to the application, as of June 20, 1980, 62 shareholders, who own 2,392 shares of Applicant's common stock in the aggregate, did not receive the first liquidating distribution for failure to file necessary forms, and are entitled to $28,192.40 in the aggregate as a first liquidating distribution. In addition, Applicant states that as of June 20, 1980, 222 shareholders, owning 35,114 shares of Applicant's common stock in the aggregate, did not receive the final liquidating distribution for failure to submit stock certificates, and are entitled to $31,953.74 in the aggregate. Applicant represents that except for a broker owning 1,000 shares on behalf of customers, it has been unable to locate the shareholders who failed to file necessary forms. The application states that a representative of Applicant has attempted to locate such shareholders: (1) by reviewing the Detroit telephone directory to determine whether any such stockholders have a different address; (2) by placing an advertisement in the April 30, 1980, edition of the Detroit Free Press; (3) by placing an advertisement in the June 5, 1980, Mid-Western edition of the Wall Street Journal; (4) by placing an advertisement in the June 11, 1980, Western edition of the Wall Street Journal; (5) by placing an advertisement in the June 11, 1980, Eastern edition of the Wall Street Journal; and (6) by placing an advertisement in the June 11, 1980, South-Western edition of the Wall Street Journal.

Applicant states that the Detroit Bank and Trust Company will hold the amounts due such shareholders until the necessary filings are made or until the time periods have elapsed such that the amounts pass under the escheat laws of the various states to the shareholder's last known state of residence, based upon Applicant's books. Applicant further states that as of June 20, 1980, $26,500 in cash and commercial paper was held by the trustee of the liquidating trust at the National Bank of Detroit for the payment of all known and contingent liabilities of Applicant and costs of liquidation, which do not include liquidating distributions. According to the application, the trustee estimates that all such amounts will be distributed within 60 to 90 days from the receipt of the requested order and the filing of final tax returns. Applicant states that any amounts not required for the payment of known and contingent liabilities of Applicant and costs of liquidation will be donated to charity, subject to approval of Applicant's board of directors. Applicant estimates these amounts to be less than $7,000.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 12, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-40799 Filed 12-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17401; SR-BSE-80-7]

Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 24, 1980.

On November 3, 1980, the Boston Stock Exchange, Inc., 53 State Street, Boston, MA 02109, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which amends Chapter II, Section 23 of its Rules which governs off-floor transactions to conform its provisions with the requirements of Commission Rule 19c-3 under the Securities Exchange Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17309, November 17, 1980) and by publication in the **Federal Register** (45 FR 77212, November 21, 1980). No comments with respect to the proposed rule change were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange and in particular, the requirements of Section 6(b)(5) and 11(a)(1) and the rules and regulations thereunder in that by expanding the market in which a public order may be executed it removes impediments to and perfects the mechanism of a free and open market and a national market system.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-40798 Filed 12-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11518; 812-4758]

Daily Tax Exempt Cash Fund, Inc.; Filing of an Application

December 24, 1980.

Notice is hereby given that Daily Tax Exempt Cash Fund, Inc. ("Applicant"), 3600 South Yosemite Street, Denver, Colo. 80237, registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified management investment company, filed an application on October 30, 1980, and an amendment thereto on December 5, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund designed as an investment vehicle for investors with temporary cash balances or cash reserves who are seeking income exempt from Federal income taxes. In this regard, Applicant represents that its objective is to seek maximum short-term interest income exempt from Federal income taxes to the extent consistent with low capital risk and the maintenance of liquidity.

Applicant states that its portfolio may, as a matter of fundamental investment policy, be invested in debt obligations ("municipal securities") issued by states, territories and possessions of the United States and by the District of Columbia and their political subdivisions, duly constituted authorities and corporations. According to the application, these portfolio securities will either be backed by the full faith and credit of the United States, or be rated Aaa or Aa, MIG-1 or MIG-2 by Moody's Investor Services, Inc., or AAA or AA, or A-1 or A-2 by Standard & Poor's Corporation, Inc. Applicant further represents that it may also purchase municipal securities which are neither rated nor backed by the full faith and credit of the United States if, in the opinion of Applicant's directors, such securities possess creditworthiness comparable to those rated securities in which the Applicant may invest. Applicant states that from time to time for defensive purposes on a temporary basis its portfolio may also be invested in taxable short-term investments subject to the same quality limitations applicable for rated municipal securities. In addition, Applicant states that its portfolio securities will mature not later than one year from the date of acquisition, and the Applicant will maintain a dollar weighted average portfolio maturity of 120 days or less.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

In support of the relief requested, Applicant states that experience indicates that two features are necessary in a "money market" fund, namely, certainty of stability of principal and a steady flow of predictable and competitive investment income. Applicant asserts that by maintaining a portfolio of high quality, short-term money market instruments valued at amortized cost it can provide these features to investors. Applicant represents that its directors have properly determined in good faith under the provisions of the Act to value the portolio of Applicant by use of the amortized cost method and that this method is in the best interest of its shareholders. Applicant believes that experience has shown that, given the unique nature of Applicant's policies and operations, there should be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method. Applicant further represents that its directors have determined in good faith, in light of the characteristics of Applicant, that the amortized cost method of valuation of portfolio instruments is appropriate and preferable to the use of a market valuation method, and that its directors have further determined to continuously monitor valuation indicated by methods other than amortized cost so that any necessary changes in the valuation method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant consents to the imposition of the following conditions in any order granting the exemptive relief it requests:

1. In supervising Applicant's operations and delegating special

responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1, above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the directors' consideration and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the directors determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 19, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary,

[FR Doc. 80-40801 Filed 12-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11517; 811-3026

Delaware Cash Reserve II, Inc.; Filing of an Application

December 24, 1980.

Notice is hereby given that Delaware Cash Reserve II, Inc. ("Applicant"), Seven Penn Center Plaza, Philadelphia, Pa. 19103, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on November 13, 1980, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on March 27, 1980 and that it has merged with Delaware Cash Reserve, Inc. According to the application, the board of directors of Applicant and Delaware Cash Reserve, Inc., met on various occasions and at a special meeting held August 5, 1980, adopted a plan of merger which would take place on August 13, 1980. Applicant states that Delaware Cash Reserve, Inc., made an offer to Applicant's shareholders on August 6, 1980, to exchange shares on a share for share basis at the close of business on August 13, 1980. The application states that immediately prior to the exchange, a dividend was paid to Applicant's shareholders for income earned through August 13, 1980. Applicant represents that shareholders who did not respond to the offer of exchange were automatically exchanged, while shareholders who objected in writing to the exchange were redeemed involuntarily and checks were sent to them for the proceeds of their shares. Applicant states that immediately prior to the merger it had 5,690,724 shares of common stock outstanding and a net asset value per share of $10.00 on an amortized cost basis and $9.997 per share on a mark to market basis. The application states that articles of merger were filed with the state of Maryland on August 13, 1980.

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the directors in the exercise of their discretion to be appropriate indicators of value which may include, inter alia, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Applicant further states that total costs in connection with the merger were $21,525, which were borne by Delaware Management Company, Inc., Applicant's investment manager. Applicant represents that all of its assets, which consisted of money market instruments, were acquired at their value on an amortized cost basis by Delaware Cash Reserve, Inc., and that no brokerage commissions were paid. The application states that Applicant has no securities holders and is not now engaged nor proposes to engage in any business activity.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 13, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-40800 Filed 12-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11515; 812-4226]

Insured Municipals-Income Trust, et al.; Application

December 24, 1980.

Notice is hereby given that Insured Municipals-Income Trust (the "Municipal Fund"), Investors' Corporate-Income Trust (the "Corporate Fund"), Investors' Governmental Securities-Income Trust (the "Government Fund"), Investors' Quality Tax-Exempt Trust (the "Tax-Exempt Fund"), Investors' Municipal Pennsylvania Unit Trust ("IMPUT"), Pennsylvania Insured Municipal Bond Trust (the "Pennsylvania Insured Fund") and New York Insured Municipal Bond Trust (the "New York Fund"), registered under the Investment Company Act of 1940 (the "Act") as unit investment trusts (collectively referred to herein as the "Funds"), their sponsor, Van Kampen Filkin & Merritt, Inc., and a co-sponsor of the Corporate Fund, Dain Bosworth Incorporated (collectively referred to as the "Applicants"), c/o Van Kampen Filkin & Merritt, Inc., 208 South LaSalle Street, Chicago, Ill. 60604, filed an applicaton on December 8, 1980, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated August 12, 1980 (Investment Company Act Release No. 11300), which earlier order amended other orders of the Commission dated June 29, 1979 (Investment Company Act Release No. 10752), November 28, 1978 (Investment Company Act Release No. 10498), October 17, 1978 (Investment Company Act Release No. 10442), and January 31, 1978 (Investment Company Act Release No. 10109).

The above orders pursuant to Section 6(c) of the Act exempted from the provisions of Section 22(d) of the Act the offer and sale of units of such Funds pursuant to a conversion option (the "Plan"), and pursuant to Section 11 of the Act permitted such Funds to offer their units at net asset value plus a fixed dollar sales charge pursuant to the Plan. Applicants propose to extend the conversion option to certificateholders of Series 1 and subsequent series (as such series may from time to time be created) of the New York Fund and to increase the sales charge imposed on all such exchange transactions from $15.00 per unit to $25.00 per unit. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Under the Plan a certificateholder in one of the Funds wishing to dispose of his units in a series of that Fund for which a secondary market is being maintained has the option to convert his units into units of another Fund (e.g., Corporate into Municipal, or Municipal into Government) of any series for which units are available for sale. The Applicants state that the purpose of the Plan is to provide investors in each of the Funds a convenient and less costly means of transferring interests as their investment requirements change. The Applicants state that the respective sponsors have indicated that they intend to maintain a market for the units of each series of the respective Funds; however, there is no obligation to maintain such a market. Consequently, the respective sponsors reserve the right to modify, suspend or terminate the Plan at any time without further notice to certificateholders.

Under the Plan, as amended, the Applicants state that each exchange transaction operates in a manner essentially identical to any secondary market transaction except that a certificateholder wishing to exercise the conversion privilege must have held his Fund units for at least eight months prior to any such conversion.

The portfolio securities of the Municipal Fund, the Government Fund, the Tax-Exempt Fund, IMPUT and the Pennsylvania Insured Fund ("Daily Valued Funds") are valued on a daily basis, and the secondary market for units of the Daily Valued Funds is maintained at a price based on the bid side evaluation of the underlying portfolio securities for each Fund. The New York Fund will operate as a Daily Valued Fund. The portfolio securities of the Corporate Fund are valued on a weekly basis for secondary market transactions at a price based on the offering side evaluation of such securities. The Applicants state that the following sales charges apply to secondary market transactions in units of the Municipal Fund, Tax-Exempt Fund, Government Fund, IMPUT, the Pennsylvania Insured Fund and Corporate Fund, 5.7%, 5.9%, 4.0%, 5.9%, 5.7% and 4.5%, respectively, of the

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related public offering prices for such Funds. Thus, under the Plan the purchase of units from certificateholders of the Daily Valued Funds is made at prices based on the bid side evaluation of the units of such Funds being purchased, and the resale of units upon conversion to such certificateholders is made at prices based on the bid side evaluation of units in the case of resales of units of the other Daily Valued Funds and at prices based on the offering side evaluation of units in the case of resales of units of the Corporate Fund. In the case of purchases of units from certificateholders of the Corporate Fund, prices are based on the offering side evaluation of the units being purchased, and resales of units upon conversion to such certificateholders are made at prices based on the bid side evaluation of units of the Daily Valued Funds being sold.

Applicants hereby seek to extend the Plan to certificateholders of Series 1 and subsequent series (as such series may from time to time be created) of the New York Fund, a unit investment trust sponsored by Van Kampen Filkin & Merritt, Inc. The New York Fund will be comprised of securities the interest income from which is exempt from both federal and New York state and local income taxes. The Fund has an insurance feature virtually identical to that in the Municipal Fund. Applicants propose to allow New York Fund certificateholders to use the proceeds from the sale of units of the New York Fund to acquire units in any series or group of series of any one or more than one of the Daily Valued Funds and/or the Corporate Fund. In connection therewith, the New York Fund will be treated exactly the same as the Daily Valued Funds and all sales and acquisitions related thereto will consequently be based on the same terms and be subject to the same conditions referred to above, as such terms and conditions relate to transactions in the Daily Valued Funds.

Applicants assert that the rationale for allowing certificateholders of the Municipal Fund, Tax-Exempt Fund, Government Fund, IMPUT, the Pennsylvania Insured Fund or Corporate Fund to participate in the Plan and effect exchange transactions at a reduced sales charge is equally applicable to certificateholders of the New York Fund. Thus, Applicants argue that certificateholders of the New York Fund should be allowed to participate in the Plan and convert their units into units of the Municipal Fund, Tax-Exempt Fund, Government Fund, IMPUT, the Pennsylvania Insured Fund or Corporate Fund at the reduced sales charge referred to below.

Applicants state that currently the reduced sales charge relating to transactions under the Plan is a fixed dollar amount of $15 per unit. Applicants state that if an exchange transaction were to be effected under the Plan, the applicable sales charge of $15 per unit would be substantially below the sales charge applicable to the general public (ranging from 4.0% in the case of the Government Fund to 5.9% in the case of the Tax-Exempt Fund and IMPUT). Applicants assert that the rationale for the reduced sales charge was to pass along certain cost savings to investors and yet cover reasonable costs and provide adequate compensation for investment counselling provided to such investors. Through the experience gained from the ongoing operation of this exchange program, Applicants now assert that the $15 per unit sales charge does not achieve the objectives of providing adequate compensation for services provided. Consequently, Applicants propose to increase the fixed dollar sales charge to $25 per unit. Applicants state that they originally assumed that the entire $15 per unit charge would be available to the broker-dealer performing the exchange transaction. Applicants assert, however, that in actual practice such broker-dealer receives substantially less if it does not have in its own inventory the units into which the exchange will take place since the broker-dealer will be obligated to buy such units in the secondary market at a dealer price which will greatly limit the profitability of the transaction. Applicants assert that broker-dealers have had little incentive to encourage the use of this exchange program by purchasing Fund units from other dealers in order to effect exchanges under the Plan, which in turn has tended to render this program useless. Applicants assert that this problem with the Plan's operation has been evident in the market-place. Thus, Applicants argue that since the purpose of the exchange program is to provide a cost savings to investors and yet to pay reasonable expenses and to compensate the broker-dealer for investment services given, and since those objectives are being thwarted, an increase of the fixed dollar sales charge to $25.00 per unit for all exchange transactions under this program is justified and will both accomplish the ojectives of the exchange program and encourage a greater use of the same.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds for effecting regular secondary market purchase and sale transactions is greater than the sales charge which will be applicable to transactions under the Plan. Rule 22d-1 under the Act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 19, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Mangement, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-40802 Filed 12-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11514; 812–4520]

Insured Municipals-Income Trust, et al.; Application

December 24, 1980.

Notice is hereby given that Insured Municipals-Income Trust, Investors' Quality Tax-Exempt Trust, Investors' Corporate-Income Trust, Investors' Governmental Securities-Income Trust, Investors' Municipal Pennsylvania Unit Trust ("IMPUT"), Pennsylvania Insured Municipal Bond Trust (the "Insured Fund") and New York Insured Municipal Bond Trust (the "New York Fund"), registered under the Investment Company Act of 1940 ("Act") as unit investment trusts (collectively referred to herein as the "Funds"), their sponsor, Van Kampen Filkin & Merritt, Inc., and a co-sponsor of Investors' Corporate-Income Trust, Dain Bosworth, Incorporated ("Sponsors") (collectively with the Funds referred to as the "Applicants"), c/o Van Kampen Filkin & Merritt, Inc., 208 South LaSalle Street, Chicago, Ill. 60604, filed an application on October 14, 1980, and an amendment thereto on December 8, 1980, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated October 9, 1979 (Investment Company Act Release No. 10895). The earlier order (1) permitted pursuant to Section 11 of the Act the exchange of units of any series of a Fund for units of any other series of the same Fund at net asset value plus a fixed and reduced sales charge of $15 per unit pursuant to an exchange option, and (2) exempted pursuant to Section 6(c) of the Act such transactions of the Applicants from the provisions of Section 22(d) of the Act. Applicants propose to extend the exchange option to certificateholders of Series 1 and subsequent series (as such series may from time to time be created) of the Insured Fund, IMPUT (IMPUT and the Insured Fund, referred to herein as the "Pennsylvania Funds") and the New York Fund, and to increase the sales charge imposed on all such exchange transactions from $15 per unit to $25 per unit. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The investment objectives of the Insured Fund and IMPUT are protection of federal and Pennsylvania state tax-exempt income and conservation of capital through an investment in a diversified portfolio of tax-exempt bonds. All of such bonds are obligations issued by or on behalf of the Commonwealths of Pennsylvania and Puerto Rico and authorities or political subdivisions thereof, the interest on which in the opinion of counsel to the various issuers of such bonds is exempt from all federal and Pennsylvania state income taxes under existing law. The investment objectives of the New York Fund are the same as those of the Pennsylvania Funds except that New York state and local tax-exempt income is desired rather than Pennsylvania tax-exempt income. This is accomplished through the holding of obligations of New York state (as well as Puerto Rican) issuers. The underlying bonds in the portfolios of the Pennsylvania Funds and the New York Fund are collectively referred to herein as the "Bonds". Applicants state that with respect to each series of the Insured Fund and the New York Fund, Van Kampen Filkin & Merritt, Inc. obtains a portfolio insurance policy protecting the Bonds therein against default in the payment of principal and interest from MGIC Indemnity Corporation, a subsidiary of MGIC Investment Corp. In certain series, there have been or may be a Bond or Bonds on which separate insurance has been obtained by the issuer thereof.

At the present time approximately 15 series of the Pennsylvania Funds have been issued. Units of beneficial interest in the various series of each Fund have been offered for sale to the public pursuant to effective registration statements under the Securities Act of 1933. It is anticipated that further Fund series will be created in full compliance with the representations herein made concerning the respective series now outstanding. The New York Fund is a new unit investment trust which, as of December 5, 1980, had filed Series 1 under the Securities Act of 1933 but had no series yet outstanding. It is proposed that the New York Fund will be virtually identical to the Insured Fund; thus, references hereafter to the operations of the Pennsylvania Funds will be equally applicable to the New York Fund.

Each series of the Pennsylvania Funds is presently governed by the provisions of such series' trust indenture and agreement entered into or to be entered into in respect thereof by the Sponsor and a corporation organized and doing business under the laws of the United States or a state thereof, which is authorized under such laws to exercise corporate trust powers and having at all times an aggregate capital, surplus and undivided profits of not less than $5,000 (referred to herein as the "Trustee").

The Applicants propose to extend the exchange option (the "Plan"), as described below, to certificateholders of the various series of the Pennsylvania Funds and the New York Fund. The purpose of the Plan is to provide investors in each of the Funds a convenient and less costly means of transferring interests as their investment requirements change. The Sponsors intend to hold open this option at all times although they reserve the right to modify, suspend or terminate the Plan at any time without further notice to certificateholders. The Plan currently operates as follows: A certificateholder wishing to dispose of his units in a Fund series for which a secondary market is being maintained has the option to exchange his units for units of any other series of the same Fund for which units are available for sale in the secondary market. When a certificateholder notifies the Sponsors of his desire to exercise this exchange privilege, the Sponsors will provide that certificateholder with a prospectus for each series that the certificateholder indicates interest. The certificateholder may then select the series into which he desires his investment to be converted. As indicated in the various prospectuses of each Fund, the Sponsors intend to maintain a market for the units of each series of the respective Funds. However, there is no obligation to maintain such a market and this Plan is not meant in any way to create such obligation.

An exchange transaction operates in a manner essentially identical to any secondary market transaction, except that Applicants allow a reduced sales charge for all transactions effected under the Plan. Traditionally, units in the Insured Fund and IMPUT are repurchased by the Sponsors and other underwriters of such Funds at prices based on the bid side evaluations of the underlying securities in the portfolio of each Fund series and are resold at that price per unit (the "public offering price") plus a sales charge of 5.7% and 5.9%, respectively, of such public offering price. It is proposed that the New York Fund will have a comparable sales charge of 5.7%. During the initial distribution of units in the Insured Fund and IMPUT, the units are sold at the aggregate offering side evaluations of the underlying securities (the "public offering price") plus a sales charge of 4.7% and 4.9%, respectively, of such public offering price. If is proposed that the New York Fund will have a comparable sales charge of 4.7%. Applicants propose to resell units in the secondary market under the Plan at the secondary market public offering price of the Pennsylvania Funds and the New York Fund plus a fixed sales charge of $25 per unit (approximately 2.5% of the secondary market public offering price at current market values).

It should be noted that the Plan will only be available for exchanges into secondary market units of the New York Fund and the Pennsylvania Funds. Applicants state that restricting the exchange option to exchanges into secondary market units of the New York Fund and the Pennsylvania Funds is appropriate in light of the different methods of determining the public offering price utilized by the New York Fund and the Pennsylvania Funds and the varying sales charges between the primary and secondary markets for the sale of units of such Funds. Exchange transactions will also only be effected in whole units. Any amounts not used to acquire whole units under the Plan will be remitted to certificateholders and certificateholders will not be permitted to make up any difference between the amount representing the units being submitted for exchange and the units of the new Fund series being acquired.

The Applicants assert that the rationale for allowing certificateholders of the Funds to participate in the Plan and effect Fund transactions at a reduced sales charge is equally applicable to certificateholders of the Pennsylvania Funds and the New York Fund. Thus, the Applicants argue that certificateholders of the Pennsylvania Funds and the New York Fund should be allowed to participate in the Plan and exchange their units into units of other series of the same Pennsylvania and New York Fund at a reduced sales charge.

Applicants state that currently the reduced sales charge relating to transactions under the Plan is a fixed dollar amount of $15 per unit. Applicants state that if an exchange transaction were to be effected under the Plan, the applicable sales charge of $15 per unit would be substantially below the sales charge applicable to the general public (ranging from 4.0% in the case of Investors' Governmental Securities-Income Trust to 5.9% in the case of Investors' Quality Tax-Exempt Trust and Investors' Municipal Pennsylvania Unit Trust). Applicants assert that the rationale for the reduced sales charge was to pass along certain cost savings to investors and yet cover reasonable costs and provide adequate compensation for investment counselling provided to such investors. Through the experience gained from the ongoing operation of this exchange program, Applicants now assert that the $15 per unit sales charge does not achieve the objectives of providing adequate compensation for services provided. Consequently, Applicants' propose to increase the fixed dollar sales charge to $25 per unit. Applicants state that they originally assumed that the entire $15 unit charge would be available to the broker-dealer performing the exchange transaction. Applicants assert, however, that in actual practice such broker-dealer receives substantially less if it does not have in its own inventory the units into which the exchange will take place, since the broker-dealer will be obligated to buy such units in the secondary market at a dealer price which will greatly limit the profitability of the transaction. Applicants assert that broker-dealers have had little incentive to encourage the use of this exchange program by purchasing Fund units from other dealers in order to effect exchanges under the Plan, which is turn has tended to render this program useless. Applicants assert that this problem with the Plan's operation has been evident in the market place. Thus, Applicants argue that since the purpose of the exchange program is to provide a cost savings to investors and yet to pay reasonable expenses and to compensate the broker-dealer for investment services given, and since those objectives are being thwarted, an increase of the fixed dollar sales charge to $25 per unit for all exchange transactions under this program is justified and will both accomplish the objectives of the exchange program and encourage a greater use of the same.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exhange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectuses of each of the Funds for effecting regular secondary market purchase and sale transactions is greater than the sales charge which will be applicable to transactions under the Plan. Rule 22d-1 under the Act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 19, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–40803 Filed 12–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17402; SR–NASD–78–3]

National Association of Securities Dealers, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 24, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(1) (the "Act"), notice is hereby given that on December 23, 1980, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, filed with the Commission copies of a proposed rule change to extend from December 12, 1980 to March 1, 1981 the effective date of rules concerning member practices in connection with fixed price offerings of securities (the "Papilsky rules"). The rules were approved by the Commission in Securities Exchange Act Release No. 17371 (December 12, 1980), (45 FR 83707).

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–NASD–78–3.

Copies of the submission, all subsequent amendments, all written statements wth respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities associations, and in particular, the requirements of section 15A, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. It is necessary to delay the effective date of the Papilsky rules approved by the Commission on December 12 to afford sufficient time for NASD members to establish apropriate compliance procedures and for the NASD to establish its own surveillance program.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–40787 Filed 12–31–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Availability of Fiscal Year 1981 Funds To Promote a Small Business Economic Research Program

AGENCY: Small Business Administration, Office of Advocacy.

ACTION: Notice.

SUMMARY: The Office of Economic Research, Office of Advocacy announces the availability of fiscal year 1981 funds to promote a small business economic research program. Under Pub. L. 94–305, passed in 1976, funds will be awarded as grants or as cooperative agreements. Cooperative agreements required substantial performance involvement between the Small Business Administration and the recipient.

Any person or group outside the Federal Government may submit a proposal. Grant proposals must be prepared and submitted in accordance with the instructions contained in the *Program Announcement for Fiscal Year 1981* publication available from the address given below. Application forms are contained in the publication.

Send requests for the Program Announcement to: Small Business Administration, Research Program Coordinator, 1441 L Street, N.W. (Room 221), Washington, D.C. 20416.

There will be three cycles for this program. Applications and accompanying proposals must be postmarked no later than the closing date specified for the topic category as follows:

Macroeconomic Section, February 27, 1981.

Microeconomic Section, March 31, 1981.

Dynamic Studies and Related Data Requirements, April 30, 1981.

FOR FURTHER INFORMATION CONTACT: Research Program Coordinator Ms. Alice Cullen (202) 634–4884.

(Catalog of Federal Domestic Assistance No. 59.034, Small Business Economic Research. OMB Circular A–95 does not apply to this program.)

Dated: December 22, 1980.

William H. Mauk, Jr., Acting Administrator.

[FR Doc. 81–131 Filed 1–2–81; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, Connecticut, will hold a public meeting at 10:00 a.m., Friday, January 23, 1981, at Schatz & Schatz, Ribicoff & Kotkin, One Financial Plaza, Fourth Floor, Hartford, Connecticut, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Jack M. Bernstein, District Director, U.S. Small Business Administration, One Financial Plaza, Fourth Floor, Hartford, Connecticut 06103—(203) 244–2511.

Dated: December 22, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 81–132 Filed 1–2–81; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Boston, Massachusetts, will hold a public meeting from 10:00 a.m. to 4:00 p.m., Tuesday, January 13, 1981, at the Valley Bank Tower, 1500 Main Street, Director's Room, 28th Floor, Springfield, Massachusetts, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Constance Roberts, U.S. Small Business Administration, 150 Causeway Street, Boston, Massachusetts 02114—(617) 223-4074.

Dated: December 29, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-133 Filed 1-2-81; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161) to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective January 1, 1981, and until further notice the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR Section 107.301(c) is 12.265% per annum.

Dated: December 29, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 81-130 Filed 1-2-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Tahoe Federal Coordinating Council; Operating Procedures

SUMMARY: On October 15, 1980 the President issued Executive Order 12247 directing Federal executive agencies to give special consideration to the environmental effects of their proposed actions in the Lake Tahoe Region and establishing an interagency committee to be known as the Tahoe Federal Coordinating Council. The purpose of the Executive Order was "to ensure that Federal agency actions protect the extraordinary natural, scenic, recreational, and ecological resources in the Lake Tahoe Region (as defined by Pub. L. 91-148), an area of national concern . . .". These operating procedures, which outline the Council's interpretation of the Executive Order, are designed to implement the Order in a timely and equitable manner.

The Council would welcome public comment and suggestions on these procedures. Comment should be directed to: Marc Petty, Executive Director, Tahoe Federal Coordinating Council, c/o USDA, Forest Service, 630 Sansome Street, San Francisco, California 94111.

Opportunity to comment in person will be provided February 3 in San Francisco, February 11 in the Tahoe Basin, February 18 in Carson City and February 18 in Las Vegas.

Only at the February 11 session in the Basin will the full Council convene. Please contact the Executive Director for details as to time and location.

The Council hopes to formally adopt these operating procedures at its March 1981 meeting so to be most effective comments should be received no later than February 18.

The Council will use these operating procedures to guide its actions until final procedures are formally adopted.

I. Introduction

A. Scope

This document sets forth the operating procedures for the Tahoe Federal Coordinating Council (TFCC) established by Executive Order 12247. These procedures provide a framework and the criteria for the assessment of proposed Federal actions and a mechanism for resolving questions and concerns among agencies in accordance with provisions of the Executive Order.

The area covered by these operating procedures includes the Lake Tahoe Basin, as defined by the Tahoe Regional Planning Agency (TRPA) legislation, plus Federal actions which could, directly or indirectly, have an adverse effect on the Basin's environment.

B. Background

In October 1972, Congress directed the Environmental Protection Agency to study the Lake Tahoe Basin to determine the need for extending Federal oversight and control in order to preserve its extraordinary natural environment. The resulting report, *The Lake Tahoe Study,* recommended a special Federal policy for Lake Tahoe to guide Federal agencies. It also recommended the establishment of environmental thresholds to guide Federal programs that relate to activities on private lands. As a followup to this study, the Western Federal Regional Council (WFRC) adopted a *Federal Policy for the Lake Tahoe Basin* in August 1978 and proposed to coordinate Federal programs through a Tahoe Coordinating Group. Only limited success was achieved due to the difficulty in evaluating the cumulative impact of environmental decisions and because each agency was still bound by its own legislative and regulatory mandates.

The *Federal Policy* also encouraged the establishment of environmental threshold standards as recommended in *The Lake Tahoe Study.* The WFRC, in cooperation with the Council on Environmental Quality, undertook a program to establish and implement these standards. The first phase of this program was the December 1979 *Lake Tahoe Environmental Assessment,* which assembled previous studies on Lake Tahoe, integrated them to show the effect that change in one part of the ecosystem has on other parts, examined the feasibility of establishing threshold standards and focused on the Federal Government's role in the Tahoe Basin. This study found that Government agencies contribute a significant part of the problem in Tahoe by providing assistance to expanding development. The study concluded that environmental threshold standards should be developed.

On October 15, 1980, the President issued Executive Order 12247 directing certain actions by Federal agencies and creating a Federal Tahoe Coordinating Council (FTCC) with authority to review all proposed Federal activities that may adversely affect the enviornment of the Lake Tahoe Basin and develop threshold standards and environmental carrying capacities for air, water, and terrestrial components of the Tahoe Basin. Subsequent to their adoption these standards and capacities will guide Federal decisionmaking. Until these threshold standards are developed, the EO sets forth interim criteria to evaluate significant Federal decisions.

II. General Policy

It is the policy of the Tahoe Federal Coordinating Council to work with State, regional and local governments to insure that proposed Federal actions support long term environmental protection of the Lake Tahoe Basin and are in harmony with social and economic needs both locally and at large. It will be the policy of the TFCC to review proposed Federal actions which may have an environmental effect on the Basin for the purpose of assuring compliance with the intent of the Executive Order. Where the full impact of a potentially significant Federal action cannot be adequately assessed in terms of the environmental carrying capacity of the Basin or where it could directly or indirectly have a significant adverse impact on the resources and ecological values of the region, the TFCC will recommend the responsible Executive agency defer action (EO Sec. 1–303c). The Executive Order is directed to all Executive agencies, and the responsibility for complying with it falls first and foremost on the individual agencies.

III. Organization and Responsibilities

The organizational structure and responsibilities of the Tahoe Federal Coordinating Council and its relationship to other agencies are described below.

A. Tahoe Federal Coordinating Council (TFCC)

The Council has implementation responsibilities under Executive Order 12247. It is comprised of the representatives to the WFRC from the Departments of Defense, Interior, Agriculture, Commerce, Health and Human Services, Housing and Urban Development, and Transportation as well as the Environmental Protection Agency (EO Sec. 1–102). Other agencies may be invited to designate representatives to participate in the activities of the Council from time to time (EO Sec. 1–104). The Council will be assisted by a small staff and a member agency working group. The Council will be chaired by the Department of Agriculture representative. The Council will:

- Approve Council organizational structure, staff, budget, and project review criteria for coordinating federal actions affecting the Basin and otherwise implementing Executive Order 12247;
- Approve a project plan for the "Threshold Project" and review progress at key milestones identified in the project plan;
- Approve and publish environmental quality thresholds and carrying capacities for the air, water and terrestrial components of the Basin after consultation with the States, TRPA, local governments and public;
- Assist State and local governments in adopting and utilizing these thresholds and carrying capacities;
- Review and take action on the Executive Director's findings and recommendations relative to proposed federal agency action;
- Refer agency disagreements with the recommendations of the Council to CEQ for resolution in accordance with Section 1–304 of the EO and 40 CFR Part 1504 (National Environmental Policy Act implementing regulations); and,
- Coordinate Council actions with TRPA, State, and local governments.

B. Tahoe Working Group (TWG)

Under the direction of the TFCC Executive Director, this group will be comprised of officially designated staff of each member agency, TRPA and the WFRC. Others may be invited to participate on an ad hoc basis. This group will be responsible for:

—Acting as technical advisory committee for the "Threshold Project";

—Drafting operating procedures and proposed revisions;

—Acting as staff for TFCC on project evaluation matters; and,

—Preparing reports as needed.

C. Western Federal Regional Council (WFRC)

The WFRC represents the full scope of Federal activities in Federal planning Region IX. The WFRC will (a) provide necessary communication links with the Office of Management and Budget and the White House, (b) assure the dissemination of information regarding implementation of the EO, and (c) assure that policies and procedures adopted by the TFCC are consistent with those of the WFRC.

D. Council on Environmental Quality (CEQ)

Pursuant to Section 1–304 of the EO, the CEQ will resolve TFCC/agency disputes in accordance with 40 CFR Part 1504.

IV. Threshold Project (Ref. EO Sec. 1–2 et seq.)

The Executive Order mandates that the TFCC "shall develop and issue environmental quality thresholds and carrying capacities for the air, water, and terrestrial components" of the Tahoe Basin. The Order also requires that the thresholds/capacities be developed in consultation with State and local governments. These thresholds will aid Federal, State and local jurisdictions manage growth at Lake Tahoe.

A bi-State compact between California and Nevada approved by both States and ratified by Congress requires, among other things, a 2-year study of threshold/carrying capacities to be used as a basis for the regions land use plan. In summary, Federal, State and local governments have agreed that the concept of threshold/carrying capacities will be the keystone of Basin planning.

In order not to duplicate efforts, it is the policy of the TFCC to develop thresholds and carrying capacities using the *Lake Tahoe Environmental Assessment* in a manner compatible with the goals and objectives of the proposed new bi-State compact. The threshold analysis project will be undertaken as a TFCC effort with participation and support from the Tahoe Regional Planning Agency (TRPA) and the States of California and Nevada and their political subdivisions.

Note.—The environmental carrying capacity of the Basin can be generally described as the maximum population and associated human activity that the Tahoe Basin can accommodate without exceeding air, water and terrestrial standards, i.e., thresholds, established to protect the unique natural resources of the region.

This study is expected to be completed within a 2 year period. Minimal TFCC project staff is envisioned. Direct responsibility for the project will be assigned to a project director who will be responsible to the TFCC through its Chairman. Administrative support will be assumed by the Forest Service. Funding and staffing support for the study will be provided by TFCC agencies through a mutually agreed upon sharing of project requirements.

V. Project Review Procedures (Ref. EO Section 1–3 et seq.)

This section sets forth procedures to be used until threshold standards and environmental carrying capacities have been established for the Tahoe Basin. Upon adoption of those standards and capacities these procedures may be modified.

The Executive Order places primary responsibility for public involvement and analysis of Federal agency actions on the originating agency. The role of the Council will be to review proposed actions. Agency presentations before the Council should be of sufficient detail to allow evaluation by members unfamiliar with the specific area or activity.

The following sequence will be used in reviewing projects.

(1) Each agency shall evaluate its proposed actions and determine which may directly or indirectly affect the Lake Tahoe Basin. Individual agency procedures to accomplish this will be available from the appropriate agency.

(2) For proposed actions that might affect the Basin, the agency shall determine if the proposed undertaking will (a) have a significant or potentially significant adverse effect on the environment (EO Sec. 1–301), (b)

stimulate additional development in environmentally sensitive areas (EO Sec. 1–305), or (c) promote automobile traffic into the Basin (EO Sec. 1–305). If the agency determines the proposed action will cause any of the above it should defer the action at least until the threshold/capacities have been developed and approved and the project can be judged within that context. If the agency determines the proposed action will not cause any of the above (a–c) the agency shall inform the TFCC Executive Director of its determination in writing and in the format provided by the TFCC.

(3) The Executive Director shall then send copies of the agency analysis and determination to TFCC and TWG member agencies. Each agency has 30 calendar days to complete its review and forward its findings to the Executive Director and the initiating agency. The Executive Director will maintain a calendar of actions for review.

(4) The Executive Director shall convene a meeting of the TWG monthly to review all actions where significant interagency comments have been raised.

(5) Findings of the TWG shall be forwarded to TFCC for review.

(6) The Council will not review proposed Federal actions unless a quorum (5 members or alternates) is present, and shall reach its findings by a like opinion of at least 5.

(7) The Council will normally reach a finding within 60 days of the date of receipt by the Executive Director of the agency determination.

(8) If the Council concludes that the proposed agency action would (a) have a significant or potentially significant adverse impact on the resources and ecological values of the Basin (EO Sec. 1–303c), (b) would stimulate additional development in environmentally sensitive areas (EO Sec. 1–305), or (c) would promote automobile traffic into the Basin (EO Sec. 1–305), the Chairman of the Council shall recommend to the responsible agency that the action not be undertaken or that it be modified to eliminate the adverse impact.

(9) If the agency disagrees with the recommendations of the Council, the Chairman of the Council shall promptly refer the matter to the Council on Environmental Quality for its recommendation as to the prompt resolution of any disagreement.

It is the responsibility of each agency to conform with the A–95 review process (if applicable) and to solicit information from interests outside the Federal government prior to Council review; thus public comment will not ordinarily be solicited at regular Council meetings. Meetings will, however, be open. Disagreements with agency procedures brought to the attention of the TFCC will normally be referred back to the agency for resolution.

The Council will make every effort to provide for expedited review at the request of a member agency due to legal requirements, moral obligations or other special circumstances.

VI. Interim Review Criteria (Ref. EO Section 1–3 et seq.)

Section 1–303 requires the Council to evaluate all Federal actions for their impact on the resources and ecological values of the Region with the clear intent that environmental thresholds and carrying capacities will ultimately provide the yardstick by which to measure whether the action is adverse. However, until these standards are adopted, the following interim criteria, in accordance with both sections 1–303 and 1–305, will be used to evaluate proposed Federal actions and direct operations.

1. The proposed action must not significantly stimulate additional development in environmentally sensitive areas as defined by land use plans or zoning ordinances (EO Sec. 1–305).

Environmentally sensitive areas are further defined to include:

a. Stream environment zones (e.g., riparian areas);

b. Fish spawning areas;

c. Presently undeveloped shorezone areas;

d. Land areas where the proposed action would directly or indirectly result in exceeding the allowable disturbed surface guides of the TRPA land capability system; and,

e. High erosion hazard zones as defined in the TRPA land capability system.

2. The proposed action, directly or indirectly, must not promote or potentially promote a significant increase in automobile use into the Basin (EO Sec. 1–305). The Council interprets this to include any proposed action that would cause a net increase in vehicle trips in areas of the Basin where roadway capacity is exceeded and/or where violations of the Federal CO standard is occurring or will occur as a result of the proposed Federal action.

3. The proposed action must not have a significant or potentially significant adverse impact on the resources and ecological values of the region (EO Sec. 1–303c).

4. In evaluating the effectiveness of proposed mitigating measures to offset adverse impacts, it will be the policy of the Council to require that:

a. The measure be demonstrated technically feasible and effective;

b. An enforceable schedule be developed to insure that all measures be actually in place or provided for prior to any construction or development; and,

c. The mitigation measures themselves be evaluated to insure that there are no adverse impacts created.

In addition, the Council will not issue any decision until it has received adequate assurance from the initiating agency that:

1. The public has been given adequate opportunity to comment on the agency determination;

2. The proposed action complies with Federally approved or recognized environmental management plans for the Basin, such as air, water and transportation plans; and,

3. The proposed action will not limit future environmental management options that may be developed under the threshold project.

VII. Council Meetings

Meeting schedule—The Executive Director shall schedule monthly TWG meetings. Should the Director receive no items of business by the first of the month, the meeting will be canceled. The Council shall meet bi-monthly or as needed.

Alternate Council Members—Alternate members shall be designated in writing. Each member agency is encouraged to designate at least 2 alternates.

Quorum—Five or more Council members or alternates shall constitute a quorum for the purpose of conducting Council business.

VIII. Memorandum of Understanding

Each of the undersigned agencies agrees to work cooperatively for the implementation of both the specific requirements and the intent of the Tahoe Executive Order. In that respect each agrees to:

1. Insure appropriate representation on the Council and TWG. The representative(s) will be delegated sufficient authority to deal with the issues involved; and,

2. Comply with the policy and procedures in this document.

Department of Agriculture, Department of Transportation, Department of Housing and Urban Development, Department of Defense, Environmental Protection Agency, Department of the Interior, Department of

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Commerce, and Department of Health and Human Services.

Zane G. Smith, Jr.,

Chairperson, Tahoe Federal Coordinating Council.

[FR Doc. 80-[illegible] Filed 12-31-80; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-158]

National Boating Safety Advisory Council Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Tuesday and Wednesday, January 27 and 28, 1981, at the St. Thomas Sheraton Hotel and Marina, Long Bay Road, Charlotte Amalie, St. Thomas, U.S., Virgin Islands, beginning at 9:30 a.m. on Tuesday, January 27, 1981. The meeting is scheduled to recess at 4:00 p.m. on Tuesday, January 27, 1981. On Wednesday, January 28, 1981, the meeting is scheduled to begin at 9:30 a.m. and adjourn at 3:00 p.m. The agenda for the meeting will be as follows:

1. Review of action taken at the twenty-fifth Meeting of the Council.
2. Executive Directors Report.
3. Level Flotation Subcommittee report and discussion.
4. Presentation on Level Flotation Research and Development.
5. Discussion and vote on ICW Drawbridge Regulations Resolution.
6. Presentation on ICW Drawbridge Regulations.
7. Update on Status of Personal Flotation Device Exemption for Sailboards.
8. Presentation on Boating Accident Statistics.
9. Report on Kill-Switch Study.
10. Briefing on Federal Regulatory procedure changes.
11. Presentation on Interpretative ruling for C-drive power units.
12. Progress report on Navigation Light requirements.
13. Update on Inland Rules Act.
14. Annual report on Compliance Testing.
15. Presentation on results of Coast Guard Auxiliary experiences using inflatable life saving devices.
16. Presentation on California's Red Water Ski Flag regulations.
17. Members Items.
18. Chairman's Session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Commander Neal Mahan, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BA), Washington, D.C. 20593, or by calling (202) 426-1080.

Issued in Washington, D.C., December 15, 1980.

H. W. Parker,

Rear Admiral, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 81-134 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 145—Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 145 on Digital Avionics Software to be held on January 13-15, 1981 in Conference Rooms 9A-B-C, DOT/Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Second Meeting Held on September 30 and October 1-2, 1980; (3) Review First Draft of Committee Report; (4) Working Groups Meet in Separate Sessions; (5) Committee Plenary Session; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on December 12, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-113 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

Swearingen Corporation Model SA226-TC, METRO IIA; Aircraft Certification and Availability of Documents

The formal recertification process of the Swearingen SA226-TC, METRO IIA to include the provisions of Special Federal Aviation Regulation (SFAR) No. 41 has been completed. The findings made during this recertification program represent the first such compliance with SFAR 41.

The Director of the FAA Southwest Region has conducted a thorough review of the issues involved in the METRO IIA type certification program and the findings of the FAA certification team. He has also reviewed and discussed with his staff a document entitled "Decision Basis for Type Certification of the Swearingen SA226-TC, METRO IIA." Based on this review, the Director approved the amendment of Type Certificate A8SW to include SFAR 41 in the approval basis for the Swearingen SA226-TC.

A copy of the "Decision Basis for Type Certification of the Swearingen SA226-TC, METRO IIA" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the recertification program wherein Swearingen was required to demonstrate compliance with SFAR 41. It provides a brief overview of the type inspection test results and a compliance checklist showing the means of specific compliance with each paragraph of SFAR 41. The report is available for examination and copying at the FAA Rules Docket, Room 916, 800 Independence Avenue, SW, Washington, D.C. Copies of the report may be obtained from the Office of the Director, FAA Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

Issued in Fort Worth, Texas, on December 16, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 81-208 Filed 1-2-81; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Demonstration Projects; Public Notice and Invitation for Sources

AGENCY: Materials Transportation Bureau, Department of Transportation (DOT).

ACTION: Public Notice and Invitation for Sources.

V 46/2 JA 5 81 UMI

SUMMARY: The Research and Special Programs Administration has the requirement to establish cost sharing demonstration projects to develop hazardous materials accident prevention and emergency response programs. The objectives of the demonstration projects are to document the steps taken by State and local governments, including Council of Governments, to develop a hazardous materials management program. The DOT has a total of $450,000 available in FY 1981 funds to support these demonstration projects. Not more than six (6) projects shall be approved for FY 1981. Projects reports are intended to be used by other Government agencies for developing similar programs in other jurisdictions. The Department of Transportation reserves the right to make any resulting procurement in the manner determined solely by DOT.

DATES: Sources received on or before January 20, 1981 will be issued a request for proposal.

ADDRESS: Department of Transportation, Research and Special Programs Administration, Procurement Division, DPA-14, 400 Seventh Street, S.W., Washington, D.C., 20590 Attn: John E. Doyle, Jr.

Issued in Washington, D.C., on December 24, 1980.

John E. Doyle, Jr.,

Contracting Officer.

[FR Doc. 81-106 Filed 1–[illegible]–81; 8:45 am]

BILLING CODE 4910–[illegible]–M

Urban Mass Transportation Administration

New Bus Equipment Introduction Program

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Announcement of New Bus Equipment Introduction Program.

SUMMARY: The New Bus Equipment Introduction Program (NBEI) has been established by the Urban Mass Transportation Administration (UMTA) to test various domestic and foreign bus design features in order to assess the extent to which they improve fuel efficiency, accessibility and reliability and reduce maintenance cost. Major emphasis will be on innovative features in standard-sized buses; however, innovative features in non-standard-sized buses will also be included. A limited number of projects will be selected to evaluate the most promising innovative features. Project selection will be based on the desirability of the proposed features, local topographic conditions, climate, user population, other operating characteristics and ability of prospective grantees to provide local share for the program. It is planned to include up to 200 buses in the program, depending on available funding.

DATES: UMTA will hold special briefing sessions for suppliers, manufacturers and prospective grantees beginning at 9:30 A.M. in Room 2230, at 400 Seventh Street SW., Washington, D.C. 20590, on the following dates:

Suppliers and manufacturers—January 26, 1981.

Prospective grantees—January 27, 1981.

Interested parties should contact Mr. John Marino at the address listed below to reserve space.

Transit operators interested in participating in the program should send a "letter of interest" to the UMTA Associate Administrator for Technology Development and Deployment by February 27, 1981.

FOR FURTHER INFORMATION CONTACT: John Marino, Director, Office of Bus and Paratransit Technology, UTD-20, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590. (202) 426-4035.

SUPPLEMENTARY INFORMATION: The goals of the program are to provide:

An introduction into public transportation service of innovative and improved products that emphasize accessibility, fuel economy and lower costs of operation and maintenance.

An opportunity for transit operators and the general public to form a greater consensus on the features required to provide more useful, efficient, and suitable buses.

An opportunity for bus manufacturers, transit operators and the public to assess the marketability and acceptance of those design features selected for evaluation.

Actual cost data and operational experience as a basis for evaluation of various bus features, prior to the introduction of such features in widespread service.

Comparative data on the operational impact of current U.S. regulatory requirements.

The NBEI program is to be funded through local public agencies from a set-aside within UMTA's Capital Assistance program which will provide 80 percent of the capital costs required to implement the program. Buses procured under this program will be in addition to any other grants for bus purchase which might otherwise be made to the area. Therefore, Federal grants under this program will be supplementary to other capital assistance grants. Local participation for the remaining costs must be provided by or through the sponsoring public agency. In cases where Section 3 capital grants for purchase are impractical, lease arrangements may be considered. Purchase of buses is preferred since a very limited amount of funds is available for equipment leasing. The program is expected to be conducted over a period of up to two years. Additionally, UMTA will provide financial support for test plan preparation, data collection and analysis, evaluation, documentation and dissemination of information resulting from the program.

This program is designed to test and evaluate innovative features that are incorporated on existing production vehicles. It is anticipated that no fewer than five and no more than 20 buses of any one type will be purchased by any one public agency. It is UMTA's intent to insure compliance with all Federal requirements (e.g., 504, Buy America, EPA, NHTSA, etc.) in carrying out this program. However, UMTA will consider, on a case-by-case basis, the appropriateness of any requests for waivers of Federal and state regulations to permit the testing of a promising design feature.

The "letters of interest" should provide the following information:

1. The design features of interest, expected benefit, number of each type of vehicle desired and willingness to buy (or lease) with UMTA funding assistance existing production buses with innovative features not available at present (no brand names should be identified);

2. Adequacy of financial resources to fund the local share of the capital costs of the project and operating costs;

3. Willingness to operate these buses in passenger service and to collect or allow for the collection of operating and maintenance data for a period of 12 to 24 months;

4. Brief description of the existing local operating and maintenance record-keeping system;

5. Total number and types of buses presently used (including number and types of buses with lifts) in the service area and specifically on routes proposed for test equipment; and

6. Ability and willingness to participate in multiple awards and to enter into a consortium with other grantees. Information should be provided regarding local and/or state regulations that may restrict procurement options as mentioned above.

The proposal must provide sufficient data to permit evaluation of the merits of the project. Based on its review of the information submitted, UMTA will select up to eight projects to be funded in FY 81. The number of projects selected will depend on the availability of FY 81 and FY 82 funds. The desirability of the proposed features, number of vehicles desired, geographical location, adequacy of operating and maintenance record-keeping and local commitment will be evaluative factors in selecting the final projects.

Theodore D. Lutz,
Administrator.

[FR Doc. 81-209 Filed 1-2-81; 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate

The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury is publishing the current rate of interest.

Therefore, notice is hereby given that, pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended, (50 U.S.C. App. § 1215(b)(2)) the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such Act, for the period beginning January 1, 1981 and ending on June 30, 1981, is 14⅝ per centum per annum.

Dated: December 30, 1980.

Gerald Murphy,
Acting Fiscal Assistant Secretary.

[FR Doc. 81-163 Filed 1-2-81; 8:45 am]
BILLING CODE 4810-35-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding the Effective Date of the Implementation of the Protocol to the Customs Valuation Agreement

This notice makes a determination to make effective on January 1, 1981, the amendments to title II of the Trade Agreements Act of 1979 necessary to implement the Protocol to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, also referred to as the Protocol to the Customs Valuation Agreement.

Determination is made pursuant to the functions of the President under section 2 of the Act to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes, P.L. 96-490 ("the Act"), delegated by the President to the United States Trade Representative by memorandum of December 3, 1980 (45 FR 80465).

Now, therefore, I, Reubin O'D. Askew, United States Trade Representative, in conformity with the provisions of section 2 of the Act, do determine, effective on January 1, 1981, that the conditions in subparagraphs (1), (2), and (3) of section 2 of the Act have been satisfied.

Reubin O'D. Askew,
United States Trade Representative.

[FR Doc. 81-210 Filed 1-2-81; 8:45 am]
BILLING CODE 3190-01-M

V46/2 JA5 81 UMI

1074-1100

Sunshine Act Meetings

Federal Register
Vol. 46, No. 2
Monday, January 5, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 45, issue no. 249, page No. 85244, date published, December 24, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Wednesday, December 31, 1980 at the conclusion of the open meeting being held at 10 a.m.

PLACE: 1700 G Street NW., board room sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the open meeting:

Corporate debt obligation as liquidity.

[S-2379 Filed 12-31-80; 10:20 am]

BILLING CODE 6720-01-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., January 7, 1981.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Paulssen & Guice, Ltd.—Independent Ocean Freight Forwarder License No. 1166—Operation of branch office.
3. Agreement No. 10396: An Association Agreement between Empresa Lineas Maritimas Argentinas S.A. and A. Bottacchi S.A. de Navegacion C.F.I.I. to provide for sharing in the Brazil/U.S. Gulf Pooling Agreement.
4. Agreements Nos. 8210-36 and 9214-23: Modification to two North Atlantic European Conference Agreements relating to through movements.
5. Agreement No. 10387: A Rate Agreement between the Pacific/Australia-New Zealand Conference and Karlander Kangaroo Line.
6. Agreement No. 6200-20: Modification of the U.S. Atlantic & Gulf/Australia—New Zealand Conference to extend its ratemaking authority to inland points.
7. Agreement No. 9925-2: Modification of the Pacific Australia Container Express (PACE) Line Joint Service and Agreement No. 9767-1: Modification of the Associated Container Transportation Joint Service to provide for intermodal authority.
8. Agreement No. 10402: The Bank and Savill Line, Ltd., Service Agreement and reconsideration of Agreement No. 10355 between The Bank and Savill Line, Ltd., and the Shipping Corporation of New Zealand.
9. Petitions for exemption from the independent policing authority requirement of General Order 7, Revised.
10. Section 15 Agreement Processing Reports.
11. Report on Military Rate Review—RFP-1500, First Cycle.
12. Section 15 Standards of Approvability.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2380-80 Filed 12-31-80; 12:40 pm]

BILLING CODE 6730-01-M

3

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, January 8, 1981.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: OPEN.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Consideration of Staff Study on the Feasibility of a Floating or Indexed Loan Interest Rate Ceiling.
3. Merit Pay.
4. Report of actions taken under delegations of authority.
5. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Thursday, January 8, 1981.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed conversion. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Report of actions taken under delegation of authority that led to Administrative Action under Sections 120 and 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Actions under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
4. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Consideration of an alternate member to the Performance Review Board. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant, telephone (202) 357-1100.

[S-2381-80 Filed 12-31-80; 2:34 pm]

BILLING CODE 7535-01-M

federal register

Monday
January 5, 1981

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Metal Coil Surface Coating

V46/2 JA5 81 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1629-2]

Standards of Performance for New Stationary Sources; Metal Coil Surface Coating

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: Standards of performance are proposed to limit emissions of volatile organic compounds (VOCs) from new, modified, and reconstructed metal coil surface coating operations. The proposed standards would limit VOC emissions to 0.28 kilogram per liter (kg/l) of coating solids applied for any prime or finish coat operation where low-VOC content coatings are used without a VOC capture system and emission control device. The proposed standards would limit VOC emissions to 0.14 kg/l of coating solids applied where higher VOC content coatings are used in conjunction with a VOC capture system and emission control device. As an alternative, the owner or operator would also be allowed to achieve compliance by demonstrating an overall VOC emission reduction of 90 percent or more prior to discharge to the atmosphere. The determination of average VOC content would be made for each calendar month for each affected facility. Reference Method 24 would be the reference method for determining the VOC content of coatings but the Administrator will allow the use of formulation data from the coating manufacturer except in cases where the validity of the formulation data is in doubt. Reference Method 25 would be used to determine the VOC concentration in the exhaust gas streams. Both reference methods were promulgated at 45 FR 65956, October 3, 1980.

The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that metal coil surface coating operations contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed coil coating operations to use the best demonstrated system of continuous emission reduction, when costs, non-air-quality health, and environmental and energy impacts are considered.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before March 6, 1981.

Public Hearing. A public hearing will be held on Febuary 4, 1981 beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony should contact EPA by January 28, 1981 (1 week before hearing).

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to Central Docket Section (A-130), Attention: Docket Number A-80-5, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at OA Auditorium, R.T.P., North Caroline. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-533.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *Metal Coil Surface Coating Operations, Background Information Document for Proposed Standards,* EPA-450/3-80-035a.

Docket. Docket No. A-80-5, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Section Chief, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5421.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would apply to all new, modified, and reconstructed metal coil surface coating (coil coating) operations. Existing facilities would not be subject to the proposed standards unless they undergo a modification or a reconstruction as defined in 40 CFR 60.14 and 60.15. Compliance with the proposed standards could be achieved by any of three approaches for each affected facility. The owner or operator could use coatings whose average VOC content on a monthly basis is 0.28 kg/l of coating solids applied or less; or, the owner or operator could apply higher VOC content coatings if he reduces VOC emissions to 0.14 kg/l of coating solids applied or less; or, the owner or operator could comply by demonstrating an overall VOC emission reduction of 90 percent or greater prior to discharge to the atmosphere. These standards will be reviewed at 4-year intervals after their promulgation date.

The proposed standards would require each owner or operator to conduct monthly performance tests to demonstrate compliance with the proposed emission limits. Where coatings are used without a VOC capture system and emission control device to meet the proposed numerical limit of 0.28 kg/l of coating solids applied, the owner or operator would be required to calculate and record a weighted average of the VOC content of coatings applied (including dilution solvents) for each affected facility for each calendar month. Reference Method 24 would be used to determine the VOC content of coatings, but the Administrator will allow the use of manufacturer's formulation data for that purpose except where the validity of the formulation data is in doubt. For each affected facility, the owner or operator would be required to report each month for which the average VOC content of the coatings exceeded 0.28 kg/l of coating solids applied. These reports would have to be submitted within 10 days after the end of each such month.

Where higher VOC content coatings are used with a VOC capture system and emission control device to meet the proposed numerical limit of 0.14 kg/l of coating solids applied, the owner or operator would be required to calculate and record the weighted average of the VOC content (including dilution solvents) of coatings applied for each affected facility for each calendar month according to the equations contained in the proposed standards. The owner or operator would also have to calculate and record the overall VOC emission reduction required to meet the emission limit. In addition, during the first monthly test, the owner or operator would have to measure the actual overall VOC emission reduction achieved by the VOC capture system and emission control device. Reference

Method 25 and the equations provided in the proposed standards would be used for these determinations. Compliance would be demonstrated where the measured value of the actual overall VOC emission reduction is greater than or equal to the overall VOC emission reduction required to meet the emission limit. For each affected facility, the owner or operator would report each month for which the average VOC content of coatings applied, when reduced by the overall destruction rate of the VOC capture system and emission control device (as determined during the most recent measurement), exceeds the proposed numerical limit. These reports would have to be submitted within 10 days after the end of each such month.

Where compliance is achieved through the demonstration of a 90 percent overall reduction in VOC emissions, the owner or operator would conduct the first monthly performance test by using Reference Method 25 and the equations provided in the proposed standards to calculate the overall percent reduction achieved by the VOC capture system and control device. Compliance would be demonstrated where the overall percent reduction is equal to or greater than 90 percent. After the first monthly test, the owner or operator would monitor the operating parameters of the emission control device.

If thermal incineration is used, the owner or operator would be required to install and operate a device to continuously monitor and record the combustion temperature of the control device. The proposed standards would require the owner or operator to report quarterly all coating periods of more than 3 hours duration where the average combustion temperature fell 28° C (50° F) or more below the temperature at which compliance was demonstrated during the most recent measurement of incinerator efficiency. If catalytic incineration is used, the owner or operator would be required to install a device to continuously monitor and record the gas temperature both upstream and downstream of the incinerator catalyst bed. The owner or operator would report quarterly all coating periods in excess of 3 hours where the average difference between the temperatures upstream and downstream of the catalyst bed falls below 80 percent of the temperature difference at which compliance was demonstrated during the most recent measurement of incinerator efficiency or where the average inlet (or upstream) temperature falls 28° C (50° F) or more below the inlet temperature at which compliance was demonstrated during the most recent measurement of incinerator efficiency.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of proposed standards of performance are normally expressed as incremental differences between the impacts of complying with the proposed standards and those for complying with a typical State Implementation Plan (SIP). Many existing metal coil surface coating operations are located in areas that are considered nonattainment areas for purposes of achieving the National Ambient Air Quality Standard (NAAQS) for ozone. New facilities are expected to have the same geographic distribution as existing plants. States are in the process of revising their SIPs for these areas. In revision SIPs, States generally consider the recommendations contained in Control Techniques Guideline (CTG) documents. The CTG applicable to this source category is *Control of Volatile Organic Emissions From Existing Stationary Sources*, Volume II, *Surface Coating of Cans, Coil, Paper, Fabrics, Automobiles and Light-Duty Trucks* (EPA-450/2-77-008 [CTG]). Although the CTG documents are published for guidance only and are not legally binding on the States, most States are expected to revise their existing SIPs in accordance with the CTG recommendations or to retain their existing limits on VOC emissions.

Approximately 70 percent of the existing coil coating plants are located in States that currently require VOC emissions to be reduced by at least 85 percent prior to discharge except for plants that use waterborne or other low-VOC content coatings. This emission limit is more stringent than the CTG recommendations, and it appears that these States plan to maintain this level of control for VOC emissions. The remaining plants are located in States that use a permit system for controlling VOC emissions. These States are expected to revise their implementation plans to require VOC emission reductions to the CTG-recommended level, which is equivalent to a 64 percent reduction in the emissions from the average industry solvent-borne coating formulation of 60 percent VOCs and 40 percent solids by volume.

The proposed standards would reduce VOC emissions from a typical plant by approximately 33 percent in those States that currently control VOC emissions by a numerical limit (85 percent reduction) and would reduce emissions from a typical plant by approximately 72 percent in those States that adopt the CTG-recommended level of control (64 percent reduction). Nationwide VOC emissions would be reduced by about 3,600 megagrams (Mg) per year by 1986 from a projected level of 12,500 Mg with no New Source Performance Standard (NSPS).

Little or no water pollution or solid waste impact from new, modified, or reconstructed coil coating plants is expected to result from application of the proposed standards. None of the control techniques used by the coil coating industry generates either liquid or solid waste and, therefore, the proposed standards would have no impact in these areas.

Nationwide energy usage by the coil coating industry totaled about 6,600 terajoules (TJ) in 1978. The proposed standards would result in an energy usage increase of about 1 percent per year, which is equivalent to 200,000 barrels of crude oil in the fifth year. Plants that are located in States requiring an 85 percent reduction and that achieve compliance through the use of higher VOC content coatings in combination with an incinerator could be expected to decrease their energy consumption by about 5 percent. However, for those plants regulated to the CTG-recommended level of control, compliance with the proposed standards through the use of incineration could result in up to a 50 percent increase in energy consumption in some individual plants if one of the more energy-efficient systems identified as being capable of achieving the CTG-recommended limits is used as the baseline. Little or no impact in energy consumption would be expected to result from the proposed standards for plants meeting the proposed emission limits with the use of waterborne or other low-VOC content coatings without the use of incineration.

The proposed standards could increase both the capital and annualized costs of new coil coating plants. Based on a predicted industry growth rate of 12 percent per year through 1985, the increased capital cost of new plants that locate in States requiring an 85 percent reduction in VOC emissions could range from $110,000 for a small plant to $140,000 for a large plant. This capital outlay represents an increase in the total capital cost of a new plant of approximately 0.9 percent for a large plant and 1.4 percent for a small plant. The increase in total annualized costs could range from $11,000 for a small plant to $23,000 for a large plant. For plants that locate in States that adopt the CTG-recommended limits, capital costs for a new plant could increase by $180,000 for a small plant and by $920,000 for a large plant, 2.3 and 6.8 percent increases, respectively, in the total capital costs of a new plant. Nationally, the cumulative capital costs over the first 5 years could reach $20 million. Total annualized costs could increase by $55,000 for a small plant and by $395,000 for a large plant. On an industry-wide basis, the increase in total annualized costs in the fifth year could be $7 million. Compliance with the proposed standards could result in increases in the price of coil coated metal ranging from 0.2 percent for a large plant in 85 percent reduction areas to 4.1 percent for a large plant in States that adopt the CTG-recommended limits. The effects for other plant sizes fall between these two values. In the fifth year, the average price of coil-coated metal could have increased by 2.6 percent.

Rationale

Selection of Source and Pollutants

The "Priority List and Additions to the List of Categories of Stationary Sources," promulgated at 44 FR 49222 on August 21, 1979, ranked sources according to the quantity of emissions, endangerment of health and welfare, and the mobility and competitiveness associated with each source. The coil coating industry ranked 22nd on this list of 59 sources to be controlled for air pollutants. Recent studies conducted by and for EPA estimate that current emissions from the coil coating industry in 1978 amount to 12,700 Mg (14,000 tons) annually.

Although coil coating plants were identified in 27 States, most plants are concentrated around industrial centers in the Northeast and Midwest. A total of 109 individual coil coating plants containing an estimated 147 coil coating lines were identified during this study. Of these plants, 42 are known to be located in areas designated as nonattainment areas for ozone.

VOC emissions from individual plants vary widely as a consequence of the wide variations in annual production. Estimated annual emissions for 60 of the 109 coil coating plants were found to be listed in emission inventory files maintained by individual States. A total of 40 of the 60 plants were identified as having annual uncontrolled (or potential) emissions of greater than 90 Mg (100 tons) per year, and 12 of these 40 plants had annual uncontrolled (or potential) emissions of greater than 900 Mg (1,000 tons) per year. Emission data for some coil coating plants are not contained in the emission inventory files, both because some States do not include companies with potential emissions of 45 Mg (50 tons) per year or less and because many of the coil coaters are captive operations in other industries that are identified by their major end products.

In the coil coating industry, VOC emissions result from the evaporation of organic solvents from the applied coating during the drying process. Typical coatings applied to coiled metal strip include epoxies, epoxyacrylics, acrylics, and polyester enamels. These coatings generally contain organic solvents such as ketones, esters, ethers, and aromatics. Coil coatings are applied in two main steps: prime coat and finish coat. Prime coat and finish coat operations both contribute to VOC emissions.

VOCs are the major air pollutants emitted from the coil coating industry. Particulate matter emitted from this industry is minimal. Technology is currently available to reduce VOC emissions from coil coating operations. The use of higher VOC content coatings with incineration or low-VOC content coatings was identified as having the potential for reducing nationwide industry emissions by as much as 46 percent from all new, modified, and reconstructed sources. Consequently, the coil coating industry has been selected for regulation of VOC emissions by new source standards of performance.

Selection of Affected Facilities

The choice of the affected facility for this standard is based on the Agency's interpretation of Section 111 of the Act, and judicial construction of its meaning.* Under Section 111, the NSPS must apply to "new sources"; "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which might be viewed as "sources." EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner; if, for example, an entire plant were designated as the affected facility, no part of the plant would be covered by the standard unless the plant as a whole were "modified." If, on the other hand, each piece of equipment were designated as the affected facility, then as each piece was replaced, the replacement piece would be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that the relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader definition. The application of these factors is discussed below.

The metal coil coating process is a continuous operation that begins with a roll or coil of bare sheet metal and ends with a roll or coil of sheet metal that has a surface finish on one or both sides. A typical coil coating line consists of an inlet station, where the metal strip is unrolled from the coil and enters the process; a metal cleaning and pretreatment section, where the metal is prepared for the coating application; a coating section, which may consist of a single coating station and curing oven or may consist of a prime coating station and curing oven and a finish coating station and curing oven; and an exit station, where the finished metal strip is repackaged into a roll or coil.

Significant quantities of VOC emissions are generated from the application and curing of each prime coat and each finish coat on the metal strip. The application and curing of each coating is accomplished by three devices in series: a coating application station, a curing oven, and a quench station. Existing reports on industry studies indicate that, of the total VOC content of the coatings, approximately 90 percent evaporates in the ovens, 8 percent evaporates at the application station, and about 2 percent evaporates during the quench operation.

Consideration was given to the following alternatives in the selection of affected facilities for proposed

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*The most important case is *ASARCO, Inc. v. EPA*, 578 F.2d 319 (D.C. Cir. 1978).

regulation: (1) including all of the coating operations on a coil coating line (from unwind to rewind) as a single affected facility; (2) designating each application station, oven, and quench station as separate facilities; and (3) treating each coating operation—consisting of the application station, oven, and quench station—as separate affected facilities.

The first alternative, consideration of all coating operations on the line as a single affected facility, was rejected because of the diversity of coating formulations used throughout the industry. A large segment of the industry coats metal coil according to the needs or specifications of the purchaser or owner of the metal. In some cases, a low-VOC content (waterborne) prime coating may be followed by a higher VOC content finish coating. In such a situation, if the low-VOC content coating has emissions much lower than the limit required, the reduction required for the emissions from the higher VOC content coating would be less than optimum because the emissions from both coatings would be considered in combination. A similar situation could occur if a modification resulted in a decrease in emissions from one coating application and an increase in emissions from the other coating application. The net result may be no change in emissions if the entire line is considered a single affected facility, and the line would not become subject to the NSPS. This could lead to higher emissions than the case where the best system of control is used on each emission source. Therefore, this alternative was rejected.

Consideration was also given to treating each application station, oven, and quench station as separate affected facilities. However, the operations are so closely associated, both physically and operationally, that their treatment as separate affected facilities appears inappropriate. Many modern coil coating lines have the coating station enclosed in a room so that a large fraction of the emissions occurring during application of the coating is captured by the flow of air into the ovens. The quench station is also located immediately adjacent to the oven. Emission test data in existing reports of industry studies indicate that VOC emissions at the quench station may account for up to 2 percent of total emissions. However, a large fraction (and possibly all) of these emissions is captured by the flow of ventilating air into the oven. Designation of the quench station as a separate affected facility would require the application of an emission limit, method of control, and compliance testing for any fugitive emissions that escape from the quench area. Because of the close relationship among the three emission points and the fact that all of the emissions come from the same coating, this alternative was concluded to be impractical. Therefore, this alternative was rejected.

The third alternative is the designation of each coating operation—consisting of a coating application station, a curing oven, and a quench station—as separate affected facilities. This alternative would provide plant owners or operators with flexibility in their choice of coating formulations, and compliance with the proposed standards could be achieved by different techniques for each coating application. Therefore, each prime coat operation and each finish cost operation have been selected as the affected facilities for control in the proposed standards of performance.

The proposed standards would apply to each prime coat operation and each finish coat operation on all new, modified, or reconstructed coil coating lines and would include emissions that result from the use of VOCs (solvent) as a dilution agent. Cleanup operations may entail equipment flushing or cleaning. The cleanup solvent is typically recovered by a commercial recovery facility. The proposed standards would not include VOC emissions that result from the use of solvent in cleanup operations or activities that do not generate VOC emissions, such as metal cleaning, pretreatment, pickling, galvanizing, and physical handling of materials. Although some fugitive emissions from paint mixing stations may occur, the quantity of these emissions is considered insignificant and would not be subject to the proposed standards.

Although some flashoff occurs between the coating applicator rolls and the oven, the flashoff area is not considered a separate operation but, instead, part of the application process. Most coil coating lines have two separate coating sections—one for the application and curing of the prime coat and another for the application and curing of the finish coat. These lines are referred to as tandem lines and would contain two affected facilities. Lines that apply a one-coat finish to the metal and, consequently, have a single coating section are considered as a single affected facility. One coil coating line was identified that uses electrodeposition (EDP) to apply a prime, coat, followed immediately with a wet-on-wet application of the finish coat by conventional roller coating. Both coats are then cured simultaneously by a single oven. Because of the wet-on-wet application and the single curing oven, this type of operation would be considered a single affected facility.

Controls Technologies

The normal technique by which coatings are applied in the coil coating industry is roll coating. In this technique, a roller, wet with the coating, contacts the moving metal strip and transfers the coating to the metal surface. A major advantage of this application technique is that the transfer efficiency consistently approaches 100 percent. Because of this characteristic, applied coating solids are assumed to be equal to consumed coating solids for all coatings. In coil coating operations, prime and finish coats may be applied to one or both sides of the metal in one or two applications. After the prime coat application, the strip generally passes through an oven, where the prime coating is dried and cured; after the finish coat application, the metal strip passes through an oven, which dries and cures the finish coatings. Air is passed through the ovens to carry off the volatile solvent vapors that are released when the volatile portion of the applied coatings evaporates. This exhaust gas stream, in combination with the exhaust gas streams from the application and quench process, is the source of VOC emissions to the atmosphere. It is these gas streams that are treated when emission control devices are installed.

There are two general techniques for reducing VOC emissions from coil coating operations. The first is to pass the exhaust gas stream through a VOC emission control device, and the second is to reduce the amount of VOCs in the coating.

The only emission control device that has been identified as effective in controlling VOC emissions from coil coating operations is an incinerator. Both thermal and catalytic incinerators have been successfully used in the industry. The results of seven emission tests indicate that thermal incinerators can achieve greater than 95 percent reduction in VOC emissions when they are operated at temperatures of 760° C (1,400° F) or greater; however, large amounts of supplemental fuel are frequently required to raise the exhaust gases from oven temperatures in the range of 260° to 428° C (500° to 800° F) to incineration temperature. If heat recovery units are installed along with the incinerator, the energy consumption can be dramatically reduced. The recovered heat can be used to produce steam or hot water for the wet section of the line or to preheat the oven air. In many existing installations, the use of a thermal incinerator with heat recovery has resulted in an overall energy savings relative to a coil coating line with no emission control.

Thermal incinerators were identified in several configurations. In some configurations, the internal oven burners are replaced with incinerators (zone incinerators) that pull air and VOC's from the oven atmosphere, burn the VOC's and exhaust directly back into the oven to supply both heat and "cleaned" oven ventilating air. These units reportedly reduce VOC emissions by 50 to 70 percent and reduce the amount to external oven ventilation needed. An external incinerator can be used in conjunction with the zone incinerators to further reduce VOC emissions. When this is done, the external incinerator can be smaller that when and external incinerator is used alone because the volume of external oven ventilation required is reduced. The zone incinerators are not widely used without an external after burner because alone they may not achieve compliance with the numerical limits of existing SIPs, and, in some cases, may not achieve adequate odor control. Other configurations of incinerators use a single external incinerator and return a portion of the incinerator exhaust back to the oven to supply heat. These units are used with various forms of additional heat recovery systems, such as regenerative or recuperative units that heat the oven exhaust before it enters the incinerator and remove heat from the incinerator exhaust before it is returned to the oven.

Vendors of catalytic incinerators indicate that these devices are also capable of achieving VOC emission reductions in excess of 95 percent, and their use requires substantially less energy than the thermal incinerator because of the lower incineration temperature. If heat recovery is used in conjunction with the catalytic units, they become even more attractive economically. However, literature and industry sources also indicate that there are restrictions on the applicability of catalytic incinerators because many of the coatings used in the coil coating industry contain ingredients that may foul or mask the catalyst. If this happens, the active catalyst life is greatly reduced, resulting in higher operating costs for the incinerator because of the more frequent catalyst replacement. Consequently, the use of catalytic incinerators is normally restricted to those plants that use only a few different coating formulations in which the ingredients are accurately known. Plants of this type are usually captive coaters.

Although carbon adsorption has been used to control VOC emissions from many industrial processes, none was identified on coil coating operations. The high temperature of the oven exhaust has been cited by industry sources as the reason that these systems are not used in coil coating. For this reason, carbon adsorption systems were not described in the Background Information Document (BID) as a control technique for the coil coating industry, although their use would not be precluded if desired by the plant owner or operator.

When control devices are used to reduce VOC emissions, capture efficiency must also be considered. Capture efficiency in excess of 95 percent is achievable by the judicious application of hoods and/or enclosures at the coating application station.

Industry has estimated that 90 percent of the VOC emissions from coil coating operations occur in the oven. Of the remaining 10 percent, 8 are emitted at the coating application station, and 2 are emitted in the quench area. During the background study for these proposed standards, a number of coil coating lines were observed in which the coating application stations were enclosed in coating rooms. The normal design practice for these rooms has oven ventilating air entering from the side of the room opposite the oven. The oven ventilating air then flows across the room, the coating application equipment, and the wet metal strip before entering the oven. The installation of a hood that extends from the oven entrance over the wet metal strip to the coating application equipment further contains the VOCs emitted in the coating application station. This hood, when properly placed as close to the wet metal strip as feasible, helps direct the oven make-up air drawn from the coating room through the coating application equipment and over the wet metal strip. Although all coating room ventilation air cannot normally be used as oven make-up air, EPA's study of coating room air flow indicates that the pattern of air flow normally used would entrain almost all of the VOCs emitted at the coating application station. Coating rooms were determined to be applicable at all new, modified, and reconstructed coil coating plants.

When the coated metal coil exits the oven, it is immediately cooled at the quench station. Because of the enclosed nature of the quench operation and its proximity to the oven exit, most of the quench area VOC emissions are entrained in the ventilating air that passes through the quench area into the exit end of the oven. By drawing oven ventilation air from the coating room and quench area in this manner an overall capture efficiency of at least 95 percent is achievable.

Low-VOC content coatings include organosols, plastisols and other high-solids coatings, waterborne coatings, and powder coatings. Some of these low-VOC content coatings are successfully used in coil coating processes, but their use is generally restricted to certain specialized applications. Organosols and plastisols are used to coat some products, but their use is not expected to expand to general applications because they are costly and because thin film thicknesses are difficult to achieve with high speed application equipment. Radiation cured waterborne coatings are also in limited use in the industry. However, installations known to use radiation cured coatings are restricted to single coat processes, and the single coat process is not expected to have more general applications in the foreseeable future.

Waterborne coatings are the most widely used low-VOC content technology in the industry. Approximately 15 percent of all coil coating is currently done with waterborne coatings. However, waterborne coatings are limited in their application because they have not been developed with the wide range of finish characteristics that is needed for the many products for which coil coated metal is used. Data submitted by coating manufacturers indicate that the VOC content in the waterborne coatings now used by the industry ranges from 0.07 to 0.54 kg/l of solids and that most are in the range of 0.11 to 0.28 kg/l of solids. Several manufacturers indicate that, within the next 5 to 8 years, the VOC content of most waterborne coatings could be reduced to the range of 0.10 to 0.18 kg/l of solids. The use of waterbornes is expected to increase in proportion to the general growth of the industry, but their use is not expected to expand rapidly into areas where solvent-borne coatings are now required. Although waterborne coatings cannot be considered a universal control technique for all coil coating operations, they have proved effective in some installations. Therefore, incineration and waterborne coatings have been determined to be the most widely applicable control techniques for all segments of the industry. Based on the use of these control techniques, the following five regulatory alternatives were considered. These alternatives differ from those in the BID and are based on new data submitted by the industry at the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) meeting.

Regulatory Alternatives

Regulatory Alternative I is no NSPS for prime coat and finish coat operations in the coil coating industry (no NSPS). Under this alternative, VOC emissions from the coating process would be controlled through existing and revised SIPs.

Regulatory Alternative II is an overall VOC emission reduction of 85 percent, or an emission limit equivalent to an 85 percent overall reduction in the emissions from the average coating formulation used by the industry. Based on data obtained from coil coaters and from coating manufacturers, the average coating formulation is estimated to consist of 40 percent solids and 60 percent VOCs by volume. Regulatory Alternative II (85 percent) is based on the use of an incinerator with up to a 95 percent destruction efficiency and a capture efficiency of at least 90 percent.

Regulatory Alternative III is different from that described in the BID and is similar to Regulatory Alternative II, with the addition of a separate emission limit for users of low-VOC content coatings. This alternative is an overall VOC emission reduction of 85 percent, or an emission limit equivalent to an 85 percent overall reduction in the emissions from the average industry coating formulation when higher VOC content coatings are used in conjunction with an emission control device. When low VOC content coatings are used without an emission control device, this alternative would require that emissions be limited to the equivalent of an 80 percent reduction in the emissions from the average industry coating formulation.

Regulatory Alternative IV is similar to Regulatory Alternative III in the BID but has a slightly less stringent capture requirement. This alternative is an overall VOC emission reduction of 90 percent, or an emission limit equivalent to a 90 percent overall reduction in the emissions from the average coating formulation used by the industry. Regulatory Alternative IV (90 percent) is based on the use of an incinerator with up to a 95 percent destruction efficiency and a capture efficiency of 95 percent of VOC emissions.

Regulatory Alternative V is similar to Regulatory Alternative IV, with the addition of a separate emission limit for users of low-VOC content coatings. This alternative is an overall VOC emission reduction of 90 percent, or an emission limit equivalent to a 90 percent overall reduction in the emissions from the average industry coating formulation when higher VOC content coatings are used in conjunction with an emission control device. When low-VOC content coatings are used without an emission control device, this alternative would require that emissions be limited to the equivalent of an 80 percent reduction in the emissions from the average industry coating formulation.

Environmental, Energy, and Economic Impacts

The environmental impact of each regulatory alternative was computed as the VOC emission reduction that could be achieved relative to the emissions allowable under existing and projected State regulations. A study of the geographic distribution of existing coil coating plants revealed that 70 percent of the plants are located in States that impose numerical limits on VOC emissions. On the average, these States require that VOC emissions be reduced by 85 percent prior to their discharge to the atmosphere, except for plants that use waterborne or other low-VOC content coatings. The remaining 30 percent of existing plants are located in States that use a permit system to control VOC emissions.

States are currently revising their SIPs for nonattainment areas. To evaluate the impacts of the regulatory alternatives, a baseline level of control must be established from which the impacts can be calculated. Because of the revisions that are being made in the SIPs, a choice had to be made between the use of the existing SIP requirements and the revised SIP requirements as the baseline level of control. Because many of the coil coating plants are located in nonattainment areas, it is expected that many States that now use the permit system will adopt the emission limits recommended by the CTG on coil coating operations even though the CTG document does not legally bind the States. This recommended limit is 0.31 kg VOC/l of coating minus water (0.48 kg/l of coating solids) and is equivalent to a 64 percent reduction in the emissions from the average industry coating formulation. It is further anticipated that those States that already have numerical limits in their SIPs will continue to impose those limits. Therefore, these two baselines—an 85 percent reduction for 70 percent of the plants and the CTG-recommended limits for 30 percent of the plants—were used to estimate the environmental impact of the regulatory alternatives for the proposed NSPS. Inherent in the estimates are the assumptions that plants that become subject to the proposed NSPS will have the same geographic distribution as existing plants and that all plants now covered by a permit system will be subject to the CGT-recommended limits.

Regulatory Alternative I, no NSPS, would have no impact on VOC emissions from coil coating operations. A total of 70 percent of existing plants would continue to reduce emissions by 85 percent prior to their discharge or use low-VOC content coatings, while the remaining 30 percent would be subject to revised SIP regulations based on the CTG-recommended limits. The current or baseline level of VOC emissions from existing plants would be maintained. Total VOC emissions from new and existing plants located in States imposing numerical limits are estimated to be about 6,500 Mg in the fifth year, a 58 percent increase from current levels of 4,100 Mg. VOC emissions from plants located in States subject to revised SIP regulations based on the CTG-recommended limitations would also increase approximately 58 percent from the current emission level of 3,800 Mg per year to 6,000 Mg per year. Total nationwide emissions in the fifth year are expected to be about 12,500 Mg.

Regulatory Alternative II would have no effect relative to Alternative I on the VOC emissions from new and modified plants that locate in States that now impose numerical limits and use higher VOC content coatings and incineration. In the absence of any additional standards, some plants would use currently available low-VOC content coatings. It is unlikely that these plants would be able to meet the emission limit of Regulatory Alternative II by using these coatings alone. If it is assumed that these plants would switch to higher VOC-content coatings and incineration, their VOC emissions would be reduced by about 70 MG (75 tons).

Alternative II would result in an average reduction of 30 percent from new and modified plants that locate in States that adopt the CTG-recommended limits. Emission reductions from plants that use higher VOC content coatings and incineration would amount to 1,800 Mg (2,000 tons), and emission reductions from plants that use low-VOC content coatings would amount to about 25 Mg (30 tons) if they switched from low-VOC content coatings to higher VOC content coatings and incineration. The fifth year impact on overall emissions would amount to a reduction of 1,900 Mg (2,100 tons) relative to the baseline levels. In this case, total emissions in the fifth year would decrease to 10,600 Mg (11,700 tons) from the baseline level of 12,500 Mg (13,800 tons).

Regulatory Alternative III would have no impact on the VOC emissions from plants in areas that now impose numerical limits but would lead to a reduction of 1,800 Mg (2,000 tons) relative to the baseline from plants in areas that adopt the CTG-recommended limits. Total emissions in the fifth year would decrease to 10,700 Mg (11,800 tons) from the baseline level of 12,500 Mg (13,800 tons).

An NSPS based on Regulatory Alternative IV would result in an average 33 percent reduction relative to the baseline in the emissions from new and modified plants that locate in States that now impose numerical limits and an average 72 percent reduction from new and modified plants that locate in States that adopt the CTG-recommended limits. The effect of these reductions on overall emissions in the fifth year would amount to a decrease of approximately 3,600 Mg (4,000 tons). Emissions in the fifth year would decrease from 12,500 Mg (13,800 tons) to 8,900 Mg (9,800 tons).

An NSPS based on Regulatory Alternative V would reduce emissions the same as Regulatory Alternative IV for plants that use higher VOC content coatings and incineration but would result in an increase in emissions, relative to Regulatory Alternative IV, of approximately 400 Mg (400 tons) in the fifth year from plants that use waterborne coatings. The overall emission reduction in the fifth year would amount to 3,200 Mg (3,500 tons). Emissions in the fifth year would decrease from the baseline level of 12,500 Mg (13,800 tons) to 9,300 Mg (12,300 tons).

Each of the regulatory alternatives is based on the use of incineration as the primary means of VOC emission control. Incinerators do not generate either solid or liquid wastes, and, consequently, no impact on water pollution and solid waste disposal is expected to occur from either of the regulatory alternatives when incineration is used. If compliance is achieved by the use of low-VOC content coatings, no changes in liquid or solid waste discharge would be expected.

Energy Impacts

To estimate the energy impacts of the regulatory alternatives, specific control systems were defined that could be used to achieve compliance with existing regulations and with the regulatory alternatives. The equipment identified as being capable of meeting the CTG-recommended limits is an energy efficient system that consists of a series of incinerators inside the ovens that recycles the hot exhaust gases back to the oven. This system is not widely used at present without an external afterburner. The control technology identified as capable of achieving compliance with the numerical limits of existing SIPs and to achieve the numerical limits of the regulatory alternatives when higher VOC content coatings are used is incineration with a VOC destruction efficiency of 95 percent used in conjunction with up to a 95 percent capture efficiency. The control technology identified as being capable of achieving the numerical limits established for low-VOC content coatings is the use of waterborne coatings.

Regulatory Alternative I would have no impact on energy consumption compared to current levels. New plants that locate in States requiring an 85 percent reduction would continue to consume in the range of 27 TJ/yr for small plants to 170 TJ/yr for large plants. Plants that locate in States subject to revised SIP limitations would continue to consume from 17 TJ/yr in small plants to 120 TJ/yr in large plants. In the fifth year, total energy consumption by the industry is estimated to increase by about 3,500 TJ over current levels.

Regulatory Alternative II would have very little effect on fuel consumption for plants that locate in States that now impose numerical limits; fuel and electrical energy consumption would remain at about the current level of 27 to 170 TJ per year for small and large plants, respectively. For plants that locate in States imposing the CTG-recommended limits, fuel consumption could increase in a range from 42 percent for a large plant to 60 percent for a small plant. In a small plant, annual natural gas consumption would increase from a current usage of 13.6 million ft^3 to 21.2 million ft^3. For a large plant, annual natural gas consumption would increase from a current usage of 96 million ft^3 to 136 million ft^3. The increase in electrical energy consumption could range from 38 percent for a large plant to 58 percent for a small plant. For a small plant, annual electrical energy consumption would increase from 760,000 to 1.2 million kilowatt-hours (hWh). For a large plant, annual consumption would increase from 5.2 to 7.2 million kWh. The overall impact on national energy consumption is estimated to be the equivalent of 40,000 barrels of crude oil per year, or 1 percent relative to the baseline case. The fifth year impact would be an increase equivalent to 200,000 barrels of crude oil per year or 5 percent relative to the baseline.

The energy impacts of Regulatory Alternative III would be the same as those of Regulatory Alternative II for individual plants, but fewer plants would be affected because more plants could comply with the standard by using low-VOC content coatings for which there is no energy impact. The overall energy impacts of the two alternatives are about the same because no more than 15 percent of the plants would have a change in their energy impact as a result of this alternative.

Regulatory Alternative IV would have very little effect on fuel consumption for plants that locate in States that now impose numerical limits. There could be up to a 5 percent decrease in fuel consumption as a result of the assumed improvement in the capture efficiency of VOC emissions. No increase in electrical energy consumption is estimated for the plants in numerical limit areas. For plants that locate in States that adopt the CTG-recommended limits, the effect of Regulatory Alternative IV on fuel consumption could range from a 34 percent increase for a large plant to a 50 percent increase for a small plant. In a small plant, annual natural gas consumption would increase from the current usage rate of 13.6 million ft^3 to 20.0 million ft^3. for a large plant, annual natural gas consumption would increase from a current usage of 96 million ft^3 to 128 million ft^3. The effect on electrical energy consumption for plants in areas that adopt the CTG-recommended limit would be an increase in the range of 38 percent for a large plant to 58 percent for a small plant. For a small plant, annual electrical energy consumption would increase from 760,000 to 1,200,000 kWh. For a large plant, annual consumption would increase from 5.2 to 7.2 million kWh. The overall impact on national energy consumption is estimated to be the equivalent of 40,000 barrels of crude oil per year, or 1 percent relative to the baseline case. The fifth year impact would be an increase equivalent to 200,000 barrels of crude oil per year, or 5 percent relative to the baseline.

The energy impacts of Regulatory Alternative V would be the same as those for Regulatroy Alternative IV for individual plants, but fewer plants would be affected because more would be able to meet the standards by using low-VOC content coatings. The overall energy impact would be about the same for both alternatives.

Economic Impacts

A discounted cash flow approach was used to analyze the model plant costs and to determine the price impacts of each of the regulatory alternatives. The analysis was based on data consisting of the capital, installation, operating, and maintenance costs of the control equipment that could be used to achieve compliance with each of the baseline levels of control and with each of the regulatory alternatives. The cost data were obtained from coil coaters and from the vendors of coating equipment and emission control equipment for the coil coating industry.

Regulatory Alternative I, no NSPS, would have no economic or price impacts on plants located in States imposing numerical limits or on plants subject to revised SIP limitations based on the CTG-recommended limits. Current total installed capital costs for a new plant located in a State imposing numerical emission limits are estimated at $7.6 million for a small plant and $14.7 million for a large plant. Total annualized costs range from $4.2 million for a small plant to $11.0 million for a large plant. For a plant located in an area subject to revised SIP regulations based on the CTG-recommended limits, total installed costs range from $7.5 million for a small plant to $13.9 million for a large plant, and total annualized costs range from $4.2 million to $11.8 million for small and large plants, respectively.

Regulatory Alternatives II and III would have no impact on product price for plants that locate in States that currently impose numerical limits on VOC emissions. For plants that locate in States that adopt the CTG-recommended limits, the estimated price increase under Regulatory Alternatives II and III ranges from 1.0 to 3.9 percent for small and large plants, respectively, if the plants use higher VOC content coatings and incineration. This price impact represents increased installed capital costs in the range of $70,000 (about 1 percent) for a small plant to $780,000 (about 5 percent) for a large plant and increased total annualized costs in the range of $32,000 (about 1 percent) for a small plant to $380,000 (about 4 percent) for a large plant.

Alternatively, if prices are held constant, the return on investment (ROI) of a typical plant would decrease from the baseline level of 12 percent by an amount ranging from 0.38 percentage point for small plants to 2.70 percentage points for large plants that locate in areas that adopt the CTG-recommended limits. There could be no impact for plants in numerical limit areas. The 12 percent baseline ROI is the after-tax, weighted average cost of capital from equity, debt, and preferred stock. Financial data from 29 individual firms for 1978 were used to calculate this value. (For a full discussion of the derivation of this figure, see chapter 8 of the BID.)

The difference in the economic impacts between Regulatory Alternatives II and III occurs because fewer plants incur a cost under Regulatory Alternative III than under Alternative II. If a plant were forced to switch from the use of low-VOC content coatings to higher VOC content coatings and incineration to meet the requirements of Regulatory Alternative II, the economic impact would be the same as those described above. The number of such plants is indeterminate but would be no more than 15 percent of all new, modified, and reconstructed plants. Under Regulatory Alternative III, it is assumed that no plants would switch from waterborne coatings.

The economic impact of Regulatory Alternatives IV and V would be the same on plants that use higher VOC content coatings and incineration and would be relatively small for plants that locate in States that now impose numerical limits on VOC emissions. The price increase for these plants in estimated to range from 0.2 percent for a large plant to 0.8 percent for a small plant. The increase in the total installed capital costs of these plants ranges from $110,000 (about 1 percent) for a small plant to $140,000 (about 1 percent) for a large plant, and the increase in total annualized costs would be in the range of $11,000 (less than 1 percent) for a small plant to $23,000 (less than 1 percent) for a large plant. For plants that locate in areas that adopt the CTG-recommended limits, the impact of an NSPS based on Regulatory Alternatives IV or V would be a price increase in the range of 1.9 percent for a small plant to 4.2 percent for a large plant if the plants use higher VOC content coatings and incineration. The increase in the total installed cost of a new plant locating in these areas would be in the range of $180,000 (about 2 percent) for a small plant to $920,000 (about 6 percent) for a large plant. The increase in total annualized costs would be in the range of $55,000 (about 1 percent) for a small plant to $390,000 (about 4 percent) for a large plant.

If prices are held constant, the ROI of a typical plant would decrease from the baseline level of 12 percent by an amount ranging from 0.7 percentage point for a small plant to 2.4 percentage points for large plants that locate in areas that adopt the CTG-recommended limits and by an amount ranging from 0.1 to 0.3 percentage point for large and small plants, respectively, that locate in numerical limit areas.

Nationally, the average price increase of coil coated metal could be expected to increase by about 3.1 percent if an NSPS were promulgated based on Regulatory Alternative IV and by 2.6 percent if an NSPS were based on Regulatory Alternative V. The price increase for Regulatory Alternative IV is based on the assumption that plants would not be able to meet the emission limits by using low-VOC content coatings but, instead, would switch to higher VOC content coatings and incineration. The price increase for Regulatory Alternative V is based on the assumption that 15 percent of the new and modified plants would use low-VOC content coatings.

As can be seen from the above discussion, the price impacts, relative to the baseline, of Regulatory Alternatives II through V are relatively small for plants that locate in States that already impose numerical limits on VOC emissions. The impacts are higher for plants that locate in States that adopt the CTG-recommended limits, but the estimated impacts are probably an overstatement of the actual impacts because a number of plants already operate incinerators and coating rooms for reasons other than emission regulations. Costs in these situations would not be attributable to the proposed standards. The differences between the impacts of Alternatives II, III, IV, and V are small. The impacts of each alternative are concluded to be reasonable.

Selection of Best System of Continuous Emission Reduction

Regulatory Alternatives IV and V are estimated to reduce emissions in the fifth year by 3,900 and 3,200 Mg, respectively, relative to the emissions under Regulatory Alternative I. This amount is 1,400 to 2,100 Mg greater than the reduction that would be achieved by Regulatory Alternative II or III. There are no adverse environmental impacts from any of the regulatory alternatives, which leads to a conclusion that Regulatory Alternatives IV and V are the most reasonable from an environmental standpoint.

The energy impacts of Regulatory Alternatives II through V on plants that locate in States that adopt the CTG-recommended limits might be considered large (up to a 58 percent increase relative to Alternative I); however, a low-cost, energy-efficient system of control was used as the

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baseline from which the impacts are estimated. Numerous contacts with the coil coating industry revealed that few such systems are in use in existing plants. The energy impact on plants that locate in areas that impose numerical limits on VOC emissions is quite small and may even be positive. The energy impact of Alternative IV or V relative to Alternative II or III may be positive, which makes Alternatives IV and V appear to be the more reasonable choices in view of the greater reduction in VOC emissions that they achieve.

The greater emission reduction associated with Regulatory Alternatives IV and V relative to Alternatives II and III is achieved with only a small increase in the economic impact compared to Alternative II or III. The differential increase in the total installed capital costs and total annualized cost for Regulatory Alternative IV or V (1 to 6 percent increase) over these costs for Regulatory Alternative II or III (0 to 5 percent increase) are relatively small. Price increases attributed to Regulatory Alternatives IV and V are in the range of 0.2 to 4.1 percent, while the corresponding increases attributed to Regulatory Alternatives II and III range from 0.0 to 3.9 percent. This is a differential price increase of 0.2 percent over the range of plant sizes studied. These additional impacts appear reasonable relative to the additional reduction in emissions that is achieved, which again makes Regulatory Alternatives IV and V appear to be the best candidates for the best system of continuous emission reduction.

A comparison of Regulatory Alternatives IV and V shows that Alternative IV produces an additional emission reduction of 700 Mg (or 22 percent) in the fifth year relative to Alternative V, which makes Alternative IV the better choice for environmental considerations. The energy and economic impacts of both alternatives are the same for individual plants, but Alternative V is estimated to affect about 15 percent fewer plants than Alternative IV, which makes Alternative V the more attractive choice from energy and economic considerations. Data submitted by coating manufacturers indicate that many of the waterborne coatings used by the coil coating industry would not meet the emission limit in Alternative IV, which could force new, modified, and reconstructed plants to abandon the use of low-VOC content coatings. However, coating data indicate that most commonly used waterborne coatings could meet a higher emission limit than would be allowed for these coatings under Regulatory Alternative V, which implies that no shifts away from low-VOC content coatings are likely under this alternative. There are some advantages to the use of low-VOC content coatings over the use of incineration systems. The overall energy requirement for low-VOC content coatings is lower than that for higher VOC content coatings and incineration because of the lower volume of oven ventilation required for low-VOC content coatings. Additionally, EPA has for a number of years encouraged the development and use of low-VOC content coatings as a means of reducing VOC emissions and EPA does not wish to preclude the use and further development of these coatings by setting an emission limit that cannot be met by their use. These considerations make Regulatory Alternative V more reasonable than Regulatory Alternative IV.

In view of the above assessment of the environmental, energy, and economic impacts, the large emission reductions that would be achieved, and the reasonable energy and economic impacts relative to these reductions, Regulatory Alternative V appears to be the most reasonable choice as the best system of continuous emission reduction. Regulatory Alternative V has therefore been selected as the basis for the proposed new source standards of performance. This alternative has been determined to be affordable, and the environmental, energy, and economic impacts have been determined to be reasonable.

Selection of Format for the Proposed Standards

A number of different formats were considered for the proposed standards. The format selected must be compatible with all of the control methods or systems that would be used to comply with the proposed standards, such as the use of low-VOC content coatings or the use of higher VOC content coatings coupled with an incinerator. The formats considered were emission limits expressed in terms of the VOC concentration in exhaust gases, mass of emissions per unit of production, mass of emissions per unit of coating solids applied, and an overall percentage emission reduction.

Typically, concentration standards are preferred over mass standards because mass standards require more measurements and conversion calculations. Exhaust gas flow rates and raw material or product flow rates have to be measured, and concentration measurements have to be converted to mass measurements. Where incineration is used as a control technique, there is a potential for air dilution. Excess air is used in incinerators to ensure complete combustion, and the quantity of excess air used can vary. Due to the potential for air dilution, correction factors are necessary to ensure that measurements of emissions from all control devices are referenced to the same basis and that the quantity of VOCs emitted is the same no matter how much excess air is used. If incinerators are used, correction factors referencing all calculations to a specific oxygen concentration level in the exhaust gases are a solution to the problem of using varying quantities of excess air. These factors, however, do not compensate for indirect air dilution resulting from combustion of more fuel and air than is necessary. In any event, a concentration standard would require a measurement of exhaust oxygen concentration. For these reasons, this format was not selected for the proposed standards.

For an emission limit expressed in terms of mass of VOCs per unit of production, compliance is relatively simple to demonstrate when low-VOC content coatings are used but is more difficult with the use of emission control devices. For low-VOC content coatings, the VOC content of the coatings used would be determined and multiplied by the volume of coatings used over a given time period. This value would then be divided by the production during that same time period to give the VOC emissions per unit of production. When emission control devices are used, stack tests would be necessary in addition to the determination of the VOC content of the coating to determine VOC emissions. The emissions over a period of time could then be divided by the production over the same period of time to yield the VOC emissions per unit of production. This format would not be very flexible in accommodating the large variations that exist in the VOC and solids content of the coatings used by the industry and the range of coating thicknesses that are used to meet the requirements of the many end products for which coil coated metal is used. This format could also penalize those coaters who, for reasons of product performance, must use a coating with a high VOC content or must use an above-average coating thickness. Therefore, an emission limit expressed in terms of mass of VOCs per unit of production was rejected as the format for the proposed standards.

An emission limit expressed in terms of VOC emissions per volume of coating solids applied overcomes the problems associated with the first two formats.

Because roller coating is the method of application, transfer efficiency is nearly 100 percent, which eliminates the need to consider this parameter explicitly in the compliance procedures. Stack testing would not be required unless emission control devices were used, and this format is compatible with all of the control methods that might be used. The difficulty with this format lies with the selection of the level of the emission limit, because the range of VOC content varies widely in the many different coating formulations used by the industry. To allow the use of coatings with varying VOC contents, a level would have to be selected that would permit compliance when coatings are used with the higher levels of VOC content. Such a limit may not achieve optimum VOC emissions control for coaters that use coatings with average or lower VOC content.

A format requiring an overall percentage reduction overcomes the problem with varying VOC content of the coatings but is not as compatible with compliance by the use of low-VOC content coatings as is the format of VOC content per unit of coating solids applied. However, the combination of this format with an emission limit expressed in terms of mass of emissions per unit of coating solids applied would allow the plant owner or operator to decide which method of compliance is most compatible with the VOC content of the coatings applied in his plant. Therefore, this combined format was selected for the proposed standards. This format has all of the advantages associated with the third format (mass of emissions per unit of coating solids applied) and does not penalize those coaters who must use coatings with a high VOC content because they are allowed to demonstrate the required percentage reduction in overall emissions.

Selection of Emission Limits

Section 111(a)(1) requires the emission limits to reflect "application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." Section 111(a)(1). The "best technological system" defined by Section 111(a)(1) is one that is not "exorbitantly costly." *Essex Chemical Corp.* v. *Ruckelshaus*, 486 F.2d 427, 433 (D.C. Cir. 1973).

Application of the "best technological system" results in a three-step standard: for coatings with VOC contents of 1.4 or more kg/l of coating solids, the standard is 90 percent reduction in VOC emissions. For coatings with VOC contents of .28 to 1.4 kg/l of coating solids, the standard is .14 kg VOC/l of coating solids. For coatings with VOC contents below .28 kg/l of coating solids, the standard is .28 kg/l.

As discussed earlier, VOC reductions of 90 percent are achievable by systems of capture and control. However, the cost and energy requirements of achieving VOC emission reductions varies according to the VOC content of the coating being controlled. The lower the VOC content of the coating, the higher are the cost and energy requirements of achieving a given reduction in emissions. This is for two reasons. First, control of lower VOC coatings generally requires capture and control systems of the same size and cost as control of higher-VOC coatings, but it achieves less emission reduction because there is less VOC to be controlled. Second, the cost and energy requirements of controlling lower-VOC coatings in incinerators are further increased by the need to use additional supplemental fuel to operate the incinerator.

In the Administrator's judgment, the cost and energy requirements of a capture and control system that achieves a 90 percent reduction are reasonable on coatings with VOC contents of 1.4 or more kg/l of coating solids. Such a control system is therefore the "best technological system" and the standard for such coatings is 90 percent reduction.

For coatings with VOC contents between .28 and 1.4 kg/l of coating solids, the standard is .14 kg VOC/l of coating solids. In the Administrator's judgment, the cost and energy requirements of achieving significantly greater emission reduction on these coatings would be exorbitant. Therefore, the "best technological system" for these coatings is one that can achieve .14 kg VOC/l of coating solids.

For coatings with VOC contents below .28 kg/l of coating solids, the standard is .28 kg VOC/l of coating solids. That is, no capture and control system is required on these coatings. This emission limitation reflects the Administrator's judgment that the cost and energy requirements of using any add-on control and capture system to control such coatings would be exorbitant.

Modification Considerations

The history of steady growth by the coil coating industry has lead many owners and operators of coil coating lines to look for ways of increasing their production capacity. Because the lead time to construct a new coil coating line is often as long as 2 years, more expedient means of increasing production capacity were developed. Many coaters have found that the design speed of existing coil coating lines can be increased by replacing or modifying the drive motors, electrical controls, or both. This increased speed is often achievable without modifications to the ovens because of improvements that occur in coating technology. This method of increasing production has played an important part in the growth of the coil coating industry to date and is expected to continue to play an important part in future industry growth. When accompanied by a capital expenditure, such changes to increase the design speed of coil coating lines would subject an existing coil coating line to the proposed standards if VOC emissions increase. There are no technological reasons why one of the control techniques on which the proposed standards are based—incineration with heat recovery and low-VOC content coatings—cannot be applied to existing coil coating lines that undergo a modification or reconstruction. The use of incineration with heat recovery as a retrofit on existing lines is well documented in the literature. To exclude these lines from the requirements of the proposed standards would be to exclude a large portion of projected industry growth. This fact, when considered with the feasibility of retrofitting, leads to the conclusion that it is reasonable to apply the proposed standards to all capital expenditure modifications for increasing the design speed of a coil coating line that results in an increased VOC emission rate. The impacts of the proposed standards are reasonable as applied to modified and reconstructed facilities.

Method of Determining Compliance

The two most likely methods of compliance with the proposed standards are the installation of emission control devices or the use of low-VOC content coatings. Because of the variations that exist in emission control systems and in the physical configurations of coil coating lines, the exact procedure used in determining compliance may vary from plant to plant. Generally, each owner or operator of a new, modified, or reconstructed coil coating plant must begin conducting performance tests within the first 6 months of operation. Following is a summary of the major requirements for determining compliance with the proposed standards:

(1) Where low-VOC content coatings are used to achieve compliance with the proposed numerical emission limit (0.28 kg/l of coating solids applied), the plant owner or operator must conduct monthly performance tests that consist of a calculation of a weighted average of the VOC content (including dilution solvents) per liter of coating solids for each prime coat and for each finish coat operation for each calendar month of operation. Equations are provided for calculating the weighted average. The data necessary to calculate the average VOC content of the coatings may be obtained from formulation data supplied by the manufacturer of the coatings or, in cases where the validity of the formulation data is in doubt, through a coating analysis performed with Reference Method 24.

(2) Where higher VOC content coatings are used with an emission control device to meet the proposed numerical emission limit (0.14 kg/l of coating solids applied), the owner or operator must conduct monthly performance tests that consist of a calculation of a weighted average of the VOC content (including dilution solvents) of the coatings applied for each prime coat and each finish coat operation for each calendar month according to the equations provided. The owner or operator must also calculate the overall VOC removal efficiency required to meet the emission limit and, during the first monthly performance test, must measure the actual overall VOC destruction rate achieved. If incineration is used, the latter value is determined by measuring the concentration of VOCs in the effluent gases in and out of the control device and to the atmosphere and by then calculating the overall control efficiency with the equations provided in the proposed standards. If carbon adsorption is used, the actual overall VOC removal efficiency is determined by a material balance performed with the equations provided in the proposed standards. Compliance is demonstrated where the measured value of the overall VOC removal rate is greater than or equal to the required overall VOC removal rate. If incineration is used, the operating temperature of the control device must be measured and recorded during the measurement of incinerator efficiency. Subsequent to the first monthly performance test, compliance is demonstrated if the computed overall VOC destruction rate required is less than or equal to the overall VOC destruction rate measured during the most recent measurement of incinerator efficiency. The measurement of the VOC destruction rate of the incinerator must be repeated when directed by the Administrator or when the owner or operator elects to operate the control device at conditions that are different from those during the most recent measurement.

(3) Where compliance is achieved through the demonstration of a 90 percent overall emission reduction, the owner or operator must conduct the first monthly performance test with the equations provided in the proposed standards and Reference Method 25 to determine the overall percent reduction of the control device. Compliance is demonstrated where the overall percent reduction is equal to or greater than 90 percent. The operating temperature of the control device must be measured during the test. In subsequent months, if the operating temperature of the control device is maintained within specified intervals of the temperature measured during the most recent measurement of incinerator efficiency, compliance is demonstrated. The test of the efficiency of the control device must be repeated when directed by the Administrator or when the owner or operator elects to operate the control device at conditions that are different from those during the most recent measurement.

(4) During the first monthly performance test for a capture system and incinerator one must be able to measure all of the potential emissions, both fugitive emissions and those ducted to the incinerator. To do this, all fugitive emissions from the coating application area must be captured and vented through stacks suitable for testing. Prior to the performance test for incineration-controlled affected facilities, the owner or operator will be required to construct a temporary total enclosure around the coating application station for the purpose of capturing fugitive VOC emissions. A total enclosure is defined as any structure or building around the coating applicator and flashoff area or the entire coating line for the purpose of confining and totally capturing fugitive VOC emissions. If a permanent total enclosure exists on the line prior to the performance test, and the enforcing agency is satisfied that the enclosure is totally capturing fugitive emissions, the construction of a temporary enclosure is not required.

Two types of violations may occur at a source that achieves compliance through the use of incineration in conjunction with higher VOC content coatings. The first is an increase in the average VOC content of the coatings. The second type of violation would involve improper operation and maintenance of the control device. These two types of violations are discussed below.

When incineration is used to achieve compliance with the numerical limits of the proposed standards, the first monthly performace test consists of determining the weighted average VOC content of all coating formulations applied for a calendar month and of measuring the overall VOC destruction rate of the incinerator. The overall VOC destruction rate measured during that test will determine the maximum allowable average VOC content of coatings that can be used by the source. The VOC content must not exceed a value that, when reduced by the measured overall VOC destruction rate of the incinerator, is less than or equal to the numerical emission limit. If, during any subsequent monthly performance test, the average VOC content exceeds the allowable level (as determined by the most recent measurement), the source would be considered in violation. If an owner or operator wishes to increase the VOC content above the allowable level (as determined by the most recent measurement), he must demonstrate, by conducting another measurement that the overall VOC destruction rate of the incinerator is sufficient to meet the proposed standards with the higher VOC content coatings.

The second type of violation would involve a recurring pattern of temperature fluctuations lasting for 3 hours or more during the coating process. Although the proposed standards would require the owner or operator to report each such occurrence and its duration, the temperature drop in itself would not necessarily be considered a violation; however, repeated incidents may indicate improper operation and maintenance of control equipment, a violation of 40 CFR 60.11(d). If a source's continuous monitor shows repeated drops in temperature, the Administrator may require that a test of the overall VOC destruction rate of the incinerator be conducted at the lower temperature. If the test shows a violation of the standard, the plant may be cited for improper operation and maintenance of the control device and would be required to increase the operating temperature to that at which compliance was demonstrated.

A source that achieves compliance with the proposed standards through the use of Low-VOC content coatings without the use of emission control devices must determine a weighted average of the VOC content of the coatings applied for each calendar month. Each of these calculations or measurements would be considered a performance test. Therefore, each measurement or calculation that results in an average VOC content greater than 0.28 kg/l, as averaged over the calendar month, would be a violation.

Performance Test Methods

Reference Method 24, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings," provides the data necessary for a determination of the VOC content of coating material measured as mass of volatile organics per volume of coating solids. For prime coat and finish coat operations, Reference Method 24 could used to determine the VOC content of the coating material. The Administrator may at any time require that Reference Method 24 be used, but generally he will allow the owner or operator to obtain these data from the coating formulator or from company records, in which case Reference Method 24 would be retained as the reference method for verification when there is cause to doubt the validity of the formulation data. The method by which the VOC concentration is to be measured in the gas streams is Reference Method 25, "Determination of Total Gaseous Nonmethane Organic Emissions as Carbon." The method by which the volumetric flow rate of stack gases is to be measured is Reference Method 2, "Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)," as described in 40 CFR Part 60, Appendix A. During all measurements performed with Reference Method 25, the operating temperature of the control device must be measured for use as a standard against which the operating temperature during subsequent operations may be compared.

Selection of Monitoring Requirements

Monitoring requirements are generally included in standards of performance to provide a means for ensuring proper operation and maintenance of emission control systems and to provide plant and enforcement personnel with sufficient data to determine compliance with the proposed standards.

Although continuous monitoring of total VOC emissions may be considered technically feasible, there are substantial technical problems and questions associated with this procedure, and it would also involve a significant expense to the industry for equipment and manpower. When incineration is used to achieve compliance with the proposed standards, operating parameters can be used to monitor VOC removal once the effectiveness of the system is demonstrated.

The proposed standards would require the plant owner or operator to measure the incinerator temperature parameters during each measurement of the overall VOC destruction rate of the incinerator. Monitoring would then consist of recording the temperature parameters on a continuous basis. Recording devices for these parameters are normally installed on coil coating lines for process control and would, therefore, require no additional expenditures. For thermal incinerators, the plant owner or operator would also be required to report on a quarterly basis all periods in excess of 3 hours during which the average temperature of the incinerator is more than 28° C (50° F) below the combustion temperature for which compliance was demonstrated. For catalytic incinerators, the plant owner or operator would be required to report, on a quarterly basis, all coating periods in excess of 3 hours during which the difference between the upstream and downstream temperatures fall below 80 percent of the difference at which compliance was demonstrated or during which the upstream temperature falls more than 28° C (50° F) below the temperature at which compliance was demonstrated. In addition, for those facilities that use thermal incineration, continuous daily records of the incinerator temperature must be maintained at the source. For those facilities using catalytic incineration, the plant owner or operator would be required to maintain continuous daily records of the gas temperature, both upstream and downstream of the catalyst bed, since a decline in the temperature difference between the inlet and exhaust would be indicative of a reduction in catalyst activity.

In addition, each plant owner or operator that uses higher VOC content coatings in combination with an incinerator or that uses low-VOC content coatings without an incinerator to comply with the numerical limit specified in the proposed standards would be required to calculate for each calendar month a weighted average of the VOC content of coatings applied for each affected facility. For each affected facility, the plant owner or operator would be required to report each calendar month of operation following the first compliance test where the numerical limit was exceeded. These reports would have to be submitted within 10 days after the end of each such month.

Impact of Reporting Requirements

A reports impact analysis for the metal coil surface coating industry was prepared in response to the U.S. Environmental Protection Agency (EPA) guidelines for implementing Executive Order 12044 (44 FR 30988, May 29, 1979). The purpose of the analysis is to estimate the economic impact of the reporting and recordkeeping requirements that would be imposed by the proposed standards and by those appearing in the General Provisions of 40 CFR Part 60. Included in the analysis are the rationale for the selection of the proposed requirements, and evaluation of the major alternatives considered prior to the selection required by the General Provisions and by the proposed standards. A copy of the reports impact analysis is included in Subcategory II–I of the metal coil surface coating docket (EPA Docket No. OAQPS A–80–5).

Based on the reports impact analysis, a total of 23 industry person-years would be required to comply with the recordkeeping and reporting requirements through the first 5 years of applicability.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see the ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for Metal Coil Surface Coating was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the test methods.

Comments are specifically requested on the definition of the affected facility that is contained in the proposed standards. Any comments submitted to the Administrator on the definition of the affected facility should contain specific information and data pertinent to an evaluation of the magnitude and severity of the impact of the current proposal and suggested alternative courses of action that would avoid this impact.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that new or modified sources constructed in an area where ambient pollutant concentrations exceed the National Ambient Air Quality Standards (NAAQS) must reduce emissions to the level that reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3) for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) the most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable New Source Performance Standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources [referred to in Section 169(1)] employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. BACT must be determined on a case-by-case basis, taking energy, environmental, and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants that will exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIPs) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reduction than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Documents.

Dated: December 18, 1980.

Douglas M. Costle,

Administrator.

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart TT as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

* * * * *

Subpart TT—Standards of Performance for Metal Coil Surface Coating

Sec.
60.460 Applicability and designation of affected facility.
60.461 Definitions.
60.462 Standards for volatile organic compounds.
60.463 Performance test and compliance provisions.
60.464 Monitoring of emissions and operations.
60.465 Reporting and recordkeeping requirements.
60.466 Test methods and procedures.

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

Subpart TT—Standards of Performance for Metal Coil Surface Coating

§ 60.460 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to the following affected facilities in a metal coil surface coating line: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously.

(b) This subpart applies to any facility identified in paragraph (a) of this section that commences construction, modification, or reconstruction after ———— (date of publication in **Federal Register**).

§ 60.461 Definitions.

(a) All terms used in this subpart not defined below are given the same meaning as in the Act or in Subpart A of this part.

"Coating" means any organic material that is applied to the surface of metal coil for decorative or protective purposes.

"Coating application station" means that portion of the metal coil surface coating operation where the coating is applied to the surface of the metal coil. Included as part of the coating application station is the flashoff area between the coating application station and the curing oven.

"Curing oven" means the device that uses heat or radiation to dry or cure the coating applied to the metal coil.

"Finish coat operation" means the coating application station, curing oven, and quench station used to apply and dry or cure the final coating(s) on the surface of the metal coil. Where only a single coating is applied to the metal coil, that coating is considered a finish coat.

"Metal coil surface coating operation" means the application system used to apply an organic coating to the surface of any continuous metal strip that is packaged in a roll or coil.

"Prime coat operation" means the coating application station, curing oven, and quench station used to apply and dry or cure the initial coating on the surface of the metal coil.

"Quench station" means that portion of the metal coil surface coating operation where the coated metal coil is cooled, usually by a water spray, after baking or curing.

"VOC content" means that quantity, in kilograms per liter of coating solids, of volatile organic compounds (VOCs) in a coating as applied to metal coil.

(b) All symbols used in this subpart not defined below are given the same meaning as in the Act and in Subpart A of this part.

C_a = the VOC concentration in each effluent gas stream leaving the control device and entering the atmosphere, in parts per million by volume.

C_b = the VOC concentration in each effluent gas stream entering the control device, in parts per million by volume.

C_f = the VOC concentration in each effluent gas emitted directly to the atmosphere, in parts per million by volume.

D_{ci} = density of each coating as applied, in kilograms per liter.

E = the overall VOC destruction rate of the capture system and control device.

ER = the required overall VOC destruction rate.

G = the monthly average VOC content per unit of coating solids applied, in kilograms per liter.

k = the number of coating formulations applied.

L_{ci} = the volume of each coating applied, in liters.

L_s = volume of solids in coatings applied, in liters.

N = weighted average of mass of VOCs per volume of solids, after the control device.

$$\frac{\text{kg VOCs}}{\text{liter of solids}}$$

l = the number of effluent gas streams entering the control device from one affected facility.

n = the number of effluent gas streams leaving the control device and entering the atmosphere.

m = the total number of effluent gas streams entering the control device.

M_o = total mass of VOCs consumed in a calendar month, in kilograms.

M_r = total mass of VOCs recovered from a affected facility during a calendar month, in kilograms.

p = the number of effluent gas streams emitted directly to the atmosphere from one affected facility.

Q_a = the volumetric flow rate of each effluent gas stream leaving the control device and entering the atmosphere, in dry standard cubic meters per second.

Q_b = the volumetric flow rate of each effluent gas stream entering the control device, in dry standard cubic meters per second.

Q_f = the volumetric flow rate of each effluent gas stream emitted directly to the atmosphere, in dry standard cubic meters per second.

V_{si} = the proportion of solids in each coating as applied, by volume.

W_{oi} = the proportion of VOCs in each coating as applied, by weight.

§ 60.462 Standards for volatile organic compounds.

(a) On and after the date on which the initial performance test required by § 60.8 has been completed, each owner or operator subject to this subpart shall not cause to be discharged into the atmosphere more than:

(1) 0.28 kilogram VOC per liter (kg VOC/*l*) of coating solids applied for each calendar month for each prime coat or finish coat operation without the use of emission control device(s); or

(2) 0.14 kg VOC/*l* of coating solids applied for each calendar month for each prime coat or finish coat operation by using emission control device(s) operated at the most recently demonstrated overall efficiency; or

(3) 10 percent of the VOCs applied for each calendar month for each prime coat or finish coat operation (90 percent emission reduction).

§ 60.463 Performance test and compliance provisions.

(a) Paragraphs 60.8(d) and (f) do not apply to the performance test procedures required by this subpart.

(b) Each owner or operator of an affected facility shall conduct a performance test for each calendar month for each affected facility according to the procedures in this section.

(c) Where compliance with the numerical limit specified in § 60.462(a)(1) or (2) is achieved through the use of low-VOC content coatings without an emission control device or through the use of higher VOC content coatings in conjunction with an emission control device, the owner or operator shall compute and record a weighted average of the VOC content per volume of coating solids applied for each calendar month. The owner or operator shall obtain the data necessary to compute the weighted average through information provided by the formulator of the coating material or, if there is any doubt as to the validity of the formulation data, through the analysis of each coating, as applied, with Reference Method 24. Coating and solvent usage data may be obtained from company records. The owner or operator shall compute the average VOC content of coatings applied by the following equations:

(1) The total mass of VOCs consumed shall be computed with the following equation:

$$M_o = \sum_{i=1}^{k} W_{oi} D_{ci} L_{ci}$$

(2) The total volume of solids consumed shall be computed with the following equation:

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$$L_s = \sum_{i=1}^{k} V_{si} L_{ci} \cdot$$

(3) The average VOC content shall be computed with the following equation:

$$G = \frac{M_o}{L_s} \cdot$$

(d) Where compliance with the numerical limit specified in § 60.462(a)(1) is achieved through the use of low-VOC content coatings without emission control devices, compliance is achieved where the value of the VOC content per unit of coating solids applied (G) is less than or equal to 0.28 kg/l for each affected facility.

(e) Where compliance with the numerical limit specified in

§ 60.462(a)(2) is achieved through the use of higher VOC content coatings in conjunction with an emission control device that destroys VOCs, the owner or operator shall determine and record, in addition to the average VOC content per volume of coating solids applied, the required overall VOC destruction rate and, during the first monthly test, the actual overall VOC destruction rate of the control device according to the following procedures.

(1) The required overall VOC destruction rate is calculated with the following equation:

$$ER = \frac{G - 0.14}{G} \;,$$

(2) The actual overall VOC destruction rate is calculated with measured values of the VOC concentration and volumetric flow rate of each gas stream entering and leaving the control device and of each gas stream emitted directly to the atmosphere by the following equation:

$$E = \frac{\sum_{i=1}^{\ell} (C_{bi} \times Q_{bi})}{\sum_{i=1}^{\ell} (C_{bi} \times Q_{bi}) + \sum_{i=1}^{p} (C_{fi} \times Q_{fi})} \; \frac{\sum_{i=1}^{m} (C_{bi} \times Q_{bi}) - \sum_{i=1}^{n} (C_{ai} \times Q_{ai})}{\sum_{i=1}^{m} (C_{bi} \times Q_{bi})}$$

(i) The owner or operator of the affected facility shall construct the overall VOC emission reduction system so that all volumetric flow rates and total VOC emissions can be accurately determined by the applicable test methods and procedures specified in § 60.466(a)(2).

(ii) The owner or operator of an affected facility shall construct a temporary total enclosure around the coating applicator and flashoff area during the performance test for the purpose of capturing fugitive VOC emissions. If a permanent total enclosure exists in the affected facility prior to the performance test and the Administrator is satisfied that the enclosure is totally capturing fugitive VOC emissions, then no additional total enclosure will be required for the performance test.

(3) Where compliance with the numerical limit specified in § 60.462(a)(2) is achieved through the use of higher

VOC content coatings in conjunction with an emission control device that destroys VOCs, compliance is achieved when the value of the overall VOC destruction rate (E) is greater than or equal to the required overall VOC destruction rate (ER).

(f) Where compliance with § 60.462(a)(3) is achieved through the demonstration of a 90 percent overall reduction in VOC emissions, the owner or operator shall determine and record the actual overall VOC destruction rate using the equations provided in paragraph (e) of this section. Compliance with § 60.462(c) is achieved when the value of the overall reduction in emissions (E) is equal to or greater than 0.90.

(g) An owner or operator shall use the following procedure for each calendar month for each affected facility that uses a capture system and a control device that recovers VOCs (e.g., carbon adsorber) to comply with the applicable emission limit specified under § 60.462(a)(2):

(1) Calculate the weighted average of mass of VOCs per volume of solids emitted after the control device with the following equation:

$$N = \frac{M_o - M_r}{L_s}$$

(2) If the weighted average of mass of VOCs per volume of solids emitted after the control device (N) is less than or equal to the applicable emission limit specified under § 60.462(a)(2), the affected facility is in compliance. Each monthly calculation is a performance test for the purposes of this subpart.

§ 60.464 Monitoring of emissions and operations.

(a) Where compliance with the numerical limit specified in § 60.462(a)(1) is achieved through the use of low-VOC content coatings without the use of emission control devices, the owner or operator shall compute and record the average VOC content per volume of coating solids applied during each calendar month for each affected facility, according to the equations provided in § 60.463(c).

(b) Where compliance with the numerical limit specified in § 60.462(a)(2) is achieved through the use of higher VOC content coatings in combination with the use of an emission control device that destroys VOCs, the owner or operator shall compute and record for each affected facility the average VOC content per volume of coating solids applied during each calendar month, according to the equations provided in § 60.463(c).

(c) If thermal incineration is used, each owner or operator subject to the provisions of this subpart shall install, calibrate, operate, and maintain a device that continuously records the combustion temperature of any effluent gases incinerated to achieve compliance with § 60.462(a)(2) or (3). This device shall have an accuracy of ±2.5° C or ±0.75 percent of the temperature being measured expressed in degrees Celsius, whichever is greater. Each owner or operator shall also record all periods (during actual coating operations) in excess of 3 hours during which the average temperature in any thermal incinerator used to control emissions from an affected facility remains more than 28° C (50° F) below the temperature at which compliance with § 60.462(a)(2) or (3) was demonstrated during the most recent measurement of incinerator efficiency required by § 60.8. The report required by § 60.7 shall identify each such occurrence and its duration. If catalytic incineration is used, the owner or operator shall install, calibrate, operate, and maintain a device to continuously monitor and record the gas temperature both upstream and downstream of the incinerator catalyst bed. This device shall have an accuracy of ±2.5° C or ±0.75 percent of the temperature being measured expressed in degrees Celsius, whichever is greater. The owner or operator shall record all periods during the coating operation in excess of 3 hours where the average difference between the temperature upstream and downstream of the incinerator catalyst bed remains below 80 percent of the temperature difference at which compliance was demonstrated during the most recent measurement of incinerator efficiency or when the inlet temperature falls more than 28° C (50° F) below the temperature at which compliance with § 60.462(a) (2) or (3) was demonstrated during the most recent measurement of incinerator efficiency required by § 60.8. The report required by § 60.7 shall identify each such occurrence and its duration.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.465 Reporting and recordkeeping requirements.

(a) Where compliance with the numerical limit specified in § 60.462(a)(1) or (2) is achieved through the use of low-VOC content coatings without emission control devices or through the use of higher VOC content coatings in conjunction with emission control devices that destroy VOCs, each owner or operator subject to the provisions of this subpart shall include in the initial compliance report required by § 60.7 the weighted average of the VOC content of coating solids applied during a period of one calendar month for each affected facility.

(b) Where compliance with § 60.462(a) (2) or (3) is achieved through the use of an emission control device that destroys VOCs, each owner or operator subject to the provisions of this subpart shall include the following data in the initial compliance report required by § 60.7:

(1) The actual overall VOC destruction rate, and required overall VOC destruction rate used to attain compliance with § 60.462(a) (2) or (3); and

(2) The combustion temperature of the thermal incinerator or the gas temperature, both upstream and downstream of the incinerator catalyst bed, used to attain compliance with § 60.462(a) (2) or (3).

(c) Where compliance with § 60.462(a)(1) is achieved through the use of low-VOC content coatings without the use of an emission control device, each owner or operator shall report for each affected facility each month where the average VOC content of coatings applied exceeds the limits specified in § 60.462(a)(1). These reports must be submitted within 10 days after the end of each such month.

(d) Where compliance with § 60.462(a)(2) is achieved through the use of higher VOC content coatings and an emission control device that destroys VOCs, each owner or operator shall report for each affected facility each month for which the average VOC content of the coatings applied, when reduced by the destruction efficiency of the control device (as determined by the most recent measurement), exceeds the numerical limit specified in § 60.462(a)(2). These reports must be submitted within 10 days after the end of each such month.

(e) Where compliance with § 60.462(a) (2) or (3) is achieved by the use of a thermal incinerator, each owner or operator must report quarterly all periods in excess of 3 hours during which the average combustion temperature of the incinerator, as measured by the continuous monitor, remained more than 28° C (50° F) below the temperature at which compliance was demonstrated during the most recent measurement of incinerator efficiency. Where compliance is achieved with a catalytic incinerator, the owner or operator must report quarterly all periods in excess of 3 hours during which the average difference between the temperature upstream and downstream of the catalyst bed remains below 80 percent of the temperature difference at which compliance was demonstrated during the most recent measurement of incinerator efficiency and must report all periods in excess of 3 hours during which the average temperature upstream of the catalyst bed remains more than 28° C (50° F) below the temperature at which compliance was demonstrated during the most recent measurement of incinerator efficiency.

(f) Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall record daily the amount of solvent recovered by the system for each affected facility. The owner or operator shall report each month where the amount of solvent recovered by the system falls below that necessary for compliance. These reports must be submitted within 10 days after the end of each such month.

(g) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed.

§ 60.466 Test methods and procedures.

(a) The Reference Methods in Appendix A to this part except as provided under § 60.8(b) shall be used to determine compliance with § 60.462 as follows:

(1) Reference Method 24, or data provided by the formulator of the coating for determining the VOC content of each coating as applied to the surface of the metal coil. In the event of a dispute, Reference Method 24 shall be the reference method;

(2) Reference Method 25 for the measurement of the VOC concentration in the effluent gas stream entering and leaving the incinerator for each stack equipped with an emission control device, and for the measurement of the VOC concentration in each effluent gas stream emitted directly to the atmosphere;

(3) Method 1 for sample and velocity traverses;

(4) Method 2 for velocity and volumetric flow rate;

(5) Method 3 for gas analysis; and

(6) Method 4 for stack gas moisture.

(b) For Method 24 the coating sample must be a 1-liter sample taken at a point where the sample will be representative of the coating as applied to the surface of the metal coil.

(c) For Method 25, the sampling time for each of three runs is to be at least 60 minutes, and the minimum sample volume is to be at least 0.003 dry standard cubic meter (dscm); however, shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(d) The Administrator will approve testing of representative stacks on a case-by-case basis if the owner or operator can demonstrate to the satisfaction of the Administrator that testing of representative stacks yields results comparable to those that would be obtained by testing all stacks.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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Part III

Department of the Treasury

Office of Revenue Sharing

Discrimination on the Basis of Handicap

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

31 CFR Part 51

Fiscal Assistance to State and Local Governments; Discrimination on the Basis of Handicap

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule contains final regulations implementing the incorporation into the State and Local Fiscal Assistance Act of 1972, as amended (the "Revenue Sharing Act") of Section 504 of the Rehabilitation Act of 1973, as amended. Section 504 prohibits discrimination on the basis of handicapped status.

EFFECTIVE DATE: February 4, 1981.

FOR FURTHER INFORMATION CONTACT:
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Taped copies of Section 51.55 are available upon request.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 1976, the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) were enacted to amend the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 *et seq.* hereinafter referred to as the "Revenue Sharing Act"), which established the General Revenue Sharing Program. Among other revisions the Amendments added the prohibition against discrimination on the basis of handicap to the nondiscrimination requirements in Section 122 of the Revenue Sharing Act. Interim regulations implementing the nondiscrimination provisions of the Amendments were published in interim form on April 6, 1977 (42 FR 18362). To date, Section 504 is enforced by the Office of Revenue Sharing (hereinafter referred to as the "ORS") pursuant to the general prohibitions contained in § 51.52 of the interim regulations (31 CFR 51.52).

On April 14, 1978, the ORS published proposed regulations to fully implement Section 504 of the Rehabilitation Act of 1973, as amended (43 FR 15735). Another proposed rule was published on December 31, 1979 (44 FR 77356) together with proposed age discrimination regulations, as provided in the Age Discrimination Act of 1975, and technical revisions of other provisions of Subpart E.

The proposed rule published on December 31, 1979 also contained revisions to the complete set of revenue sharing regulations contained in 31 CFR Part 51. These final regulations contain only the implementation of Section 504. The current authorization for the General Revenue Sharing Program ended on September 30, 1980, and it was determined that publication of revisions to the other provisions of the regulations, currently in final or interim form, should be delayed pending passage of renewal legislation by the Congress and discussion with EEOC concerning a cooperative agreement.

Pursuant to Section 122 of the Revenue Sharing Act, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 11914, the ORS is required to issue rules and regulations consistent with the standards published by the Department of Health, Education and Welfare (HEW). Those standards were issued on January 13, 1978 and may be found in 45 CFR Part 85. This final rule is consistent with the Guidelines and the HEW regulations contained in 45 CFR Part 84, and it has been approved for publication by the Department of Health and Human Services (HHS).

Regulatory Analysis

Executive Order 12044 "Improving Government Regulations", (43 FR 12661, March 24, 1978) requires, subject to certain relevant exceptions, that Federal agencies prepare a regulatory analysis of those regulations which have a major economic impact on the public prior to their issuance. The proposed regulations published on December 31, 1979, requested comments from the public as to whether a regulatory analysis should be prepared on the handicapped discrimination regulations. The preliminary position taken in the preamble to the proposed regulations was that a regulatory analysis need not be prepared. A few comments requested the preparation of a regulatory analysis but did not state a persuasive rationale for the delay of these final regulations pending completion of a regulatory analysis. For the following reasons the Department does not intend to publish a regulatory analysis:

(A) A regulatory analysis need not be prepared because Paragraph 13(c) of the Treasury Department Implementation Directive implementing Executive Order 12044, provides that an analysis is not necessary if the economic consequences flow directly from a statute. In this case, the economic consequences flow directly from Section 122(a)(1) of the Revenue Sharing Act, which specifically incorporates the requirements of Section 504 of the Rehabilitation Act of 1973, as amended. The ORS is bound by Executive Order 11914 (April 28, 1976), requiring implementation of Section 504, and HEW Guidelines for other Federal agencies (43 FR 2132, January 13, 1978) which set specific requirements for agencies with Section 504 responsibility, such as Treasury. That Executive Order and the HEW Guidelines impose on other Federal agencies the requirements from which the economic consequences flow.

The Revenue Sharing handicapped discrimination regulations are required to be consistent with the Executive Order and the HEW Guidelines (which are based in large part upon the HEW final regulations). Section 85.4(c) of the Guidelines requires that each Federal agency issue regulations which contain a definition of handicapped individual and which set forth specific discriminatory practices prohibited in the provision of services and employment. The regulations must also include requirements for self-evaluations, transition plans and for achieving program accessibility. Section 85,5(b) of the Guidelines specifies that each agency regulation must require the recipient to provide for notice to employees and beneficiaries, self-evaluation and consultations with handicapped organizations and persons. Since the requirements from which the economic consequences would flow to States and local governments are those which are required by HEW pursuant to Executive Order 11914, the Department has little discretion to consider alternative approaches to the issuance of such regulations.

(B) Section 13(b) of the Treasury Department Implementation Directive requires a regulatory analysis where the regulation will cause an annual impact on the general economy of $100 million or more or an annual increase in costs or prices for a level of government of $40 million or more. The Treasury Department has not estimated that the economic impact of implementation of Section 504 upon States and local governments would meet or exceed either dollar figure. These regulations are new and have generated concern in recipient governments that they will be required to extensively retrofit all of their existing buildings and establish new programs at excessive cost. It is likely that the Department will find that the potential costs have been exaggerated because the emphasis is not on complete physical accessibility, but upon making programs and activities accessible to the handicapped. Accessibility may be achieved by something as simple and inexpensive as building a wheelchair ramp over a set of stairs, or moving a public meeting from the second to the first floor of a building.

While some commenters expressed concern about the costs of compliance with Section 504, the comments neither addressed the issue of ORS's lack of discretion over most requirements, nor suggested alternatives to the requirements of the proposed regulations.

The costs flowing from these final regulations are likely to be reduced also because of the overlapping jurisdiction that ORS shares with other Federal agencies, such as the Departments of HHS, Education, Transportation and HUD. HHS and DOT have already imposed administrative requirements such as the self-evaluation and the transition plan. Some of the study and research that will be required by ORS has already been undertaken by recipient governments. Accordingly, the economic impact of Revenue Sharing regulations may not be as great as expected.

(C) The Treasury Department Implementation Directive of Executive Order 12044 provides that the effective date of the Directive is May 22, 1978 (43 FR 52120 November 8, 1978). Any regulation in the process of active preparation before that date would not require a regulatory analysis under the Executive Order. The handicapped discrimination regulations were published in proposed form on April 14, 1978, and were therefore in the process of active preparation before May 22, 1978.

(D) A more accurate assessment of the cost of compliance with Section 504 can be made when the recipient governments undertake the required self-evaluation of their programs and activities. The deficiencies of the recipient governments and the cost of resolving the deficiencies will vary with each of the approximately 39,000 governments. Any regulatory analysis or assessment of the costs of implementation of Section 504 would be more difficult to make without the benefit of these self-evaluations.

(E) While the Director has little discretion due to the requirements of the Executive Order, where alternative provisions were possible, the Director chose alternatives which appeared to be the least costly to recipient governments, in the following manner:

(1) *Definition of Smaller Recipient Government.*

A number of provisions in the revenue sharing Section 504 regulations provide waivers of administrative requirements for smaller recipient governments. "Smaller recipient" is defined in the HHS regulations as a recipient which employs fewer than 15 employees. Since revenue sharing recipients are general purpose governments, as opposed to particular departments of State and local governments, it is less likely that a meaningful number of revenue sharing recipients will be governments employing fewer than 15 employees. Further, other provisions in the Revenue Sharing Act, which contain exemptions from administrative requirements, refer to the amount of entitlement funds governments receive, as opposed to the number of employees employed by such governments.

Because this provision is not a requirement of the HEW guidelines, the ORS has some discretion as to how smaller recipient government will be defined. The alternatives considered were to follow the lead of HHS and define smaller government as 15 or fewer employees or to adopt a definition that would exempt smaller recipient governments based upon a dollar figure of entitlement funds, which would exempt more governments. There are approximately 39,000 governments which receive revenue sharing funds. The dollar figures considered for the definition of smaller recipient government were receipt of less than $1,000 in revenue sharing funds, receipt of less than $5,000 in revenue sharing funds, receipt of less than $10,000 and receipt of less than $25,000 in revenue sharing funds.

There are approximately 5,000 governments which receive less than $1,000 in revenue sharing funds. There are approximately 16,000 governments which receive less than $5,000 in revenue sharing funds. There are approximately 22,000 governments which receive less than $10,000 in revenue sharing funds, and approximately 28,000 governments which receive less than $25,000 in revenue sharing funds.

The definition of smaller recipient government was set at those governments which receive less than $25,000 because that figure is consistent with the audit standards in Section 123(c) of the Revenue Sharing Act. This exclusion is likely to carry a concomitant reduction in the cost of implementation of Section 504 to those governments, and to revenue sharing recipients as a whole.

(2) *Requirement for Provision of Auxiliary Aids for Individuals With Impaired Sensory, Manual, and Speaking Skills.*

The HEW regulations require recipients to provide appropriate auxiliary aids to handicapped individuals in the community. The alternative approaches to this provision would be to include the provision as set forth in the HEW regulations, which requires a provision of such aids without consideration of individuals who might need them, or to include in the revenue sharing regulations the requirement that the auxiliary aids must be provided only at the request of and in consultation with the handicapped individual.

It was believed that the HEW regulation in which the recipient is required to provide auxiliary aids without consideration of the needs of particular individuals, might require that certain auxiliary aids be kept on hand or obtained whether the need for them was established or not. The alternative of requiring auxiliary aids only at the request of the handicapped individual should minimize costs, and would increase the quality of service provided since the handicapped individual would receive the type of assistance needed.

(3) *Prohibition Against Use of Revenue Sharing Funds for Zoning Purposes.*

The HEW regulations and guidelines do not prohibit the use of zoning authority to discriminate against the handicapped. During review of these regulations, the Departments of Justice and HEW suggested that the ORS include such a provision in its handicap discrimination regulations. The ORS considered whether the inclusion of such a provision would increase the cost of implementation of Section 504. The alternatives were to include the provision or not to include the provision. It is believed that this provision would not increase the cost of Section 504 implementation, because it does not require the recipient to take any affirmative action, nor does it require any record keeping or other administrative costs. It was therefore determined that the proposed regulation should be retained to govern those cases where illegal actions were taken in a zoning context; to delete the regulation would imply a lack of jurisdiction over such cases.

(4) *Self-Evaluation And Transition Plans.*

Self-evaluations and transition plans are required by the HEW guidelines and regulations. The ORS therefore had no discretion as to the inclusion of such provisions. Discretion was exercised, however, concerning the manner in which the requirements were applied to the recipients of revenue sharing funds. One alternative considered by the ORS was to use the provisions contained in the HEW regulations. The HEW regulations provide for a self-evaluation plan which provides a one-year period within which the evaluation, the modification of policies and practices which do not meet the Section 504 requirements and the remedial actions to eliminate the effects of discrimination, were all to be accomplished. These regulations provide that the transition plan for making structural changes for accessibility must be completed within six (6) months and nonstructural changes to improve accessibility must be completed within sixty (60) days. The provision does not allow recipients to review accessibility as part of the overall review required for self-evaluation.

The alternative chosen is to combine performance of the self-evaluation with review of accessibility of programs and activities and the preparation of the transition plan for structural changes. It was also decided to lengthen the time within which the actual modifications must take place. This alternative appears to be the most cost effective, because it allows additional time for evaluation of programs and activities. It would also completely eliminate the period of 60 days in which a recipient is required to make nonstructural changes to achieve accessibility to programs and activities, and instead require that those changes be made in conjunction with other changes required after review pursuant to the self-evaluation. Accordingly, there would be a one-year period in which the recipient government would evaluate all programs and activities to determine that they meet the requirements of Section 504 in employment and in the provision of services, as well as in the provision of access to programs and activities. Only after completion of the evaluaton process would modification of policies and practices, including those concerning accessibility, have to take place.

It is believed that a review of all aspects of compliance with Section 504 as part of a single process, would reduce the cost of preparing the self-evaluation and transition plan. For this reason, the ORS chose the alternative of combining the self-evaluation, transition plans and modifications of programs and activities for accessibility purposes.

Another cost and time reducing measure considered and added to the self-evaluation and transition plan provisions was to allow those self-evaluation transition plans prepared for other departments and agencies to be used in part to meet revenue sharing requirements. It is believed this provision will reduce the cost to recipients in complying with the self-evaluation requirement. The same provision was included with respect to designation of responsible employees and adoption of grievance procedures. Compliance with the similar requirements by other departments and agencies will be credited towards compliance for revenue sharing purposes.

(5) *Leased Facilities.*

The ORS exercised discretion to prohibit discrimination against the handicapped in facilities leased by recipients, as opposed to only those constructed or purchased by recipients. Alternatives considered in drafting this prohibition were to leave the provision out, require absolute accessibility in such facilities and thereby require recipients to make structrual changes or break leases, or to refuse to lease buildings which landlords refused to make accessible. Because it was determined to be a serious loophole which would permit a recipient government to avoid the accessibility requirements of the regulations merely by leasing, as opposed to purchasing a building, the alternative of not including the provision was rejected. The alternative which the ORS adopted was to require that all facilities leased be made accessible, but not require that structural changes be made if the lessor refuses to make them. The recipient is not required to vacate buildings which are not, or cannot, be made accessible. Recipient governments are not required to undertake or demand structural changes to leased facilities though they may have to remove a program from such a facility or take other action to achieve accessibility. The alternative chosen appears to be the one which would be the least costly to recipients which also protects the program accessibility requirements.

(6) *Exemption For Construction Commencing Prior To January 1, 1977.*

Section 122(a)(2)(B) of the Revenue Sharing Act exempts those governments which have begun construction of facilities prior to January 1, 1977, from the accessibility requirements of Section 504. While the Director had no discretion concerning whether or not to include this provision, there was discretion as to the application of the provision, particularly, how to define commencement of construction. One alternative available was to define commencement of construction as HHS defines that the term, i.e., when the actual ground is broken for the construction of the building. Another alternative was to define commencement of construction as when the physical construction of the building is obligated by contract. The later alternative was determined to be the least burdensome one which would exempt the greater number of governments, and reduce the cost of compliance with Section 504. It was therefore adopted.

Section-by-Section Analysis of Regulation

As mentioned above, the Department received approximately 50 comments on the proposed regulations published in December 31, 1979, the vast majority of which concerned Section 504. The Department's response to the comments and explanation of significant changes made to the proposed regulations are set forth in a section-by-section analysis of the regulation which appears in Appendix A.

Authority: This final regulation is issued under the authority of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 *et seq.*) as amended by the State and Local Fiscal Assistance Amendments of 1976, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 706), and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision No. 1) dated May 17, 1977.

In consideration of the foregoing, 31 CFR Part 51 is amended by the addition of the following new section:

Dated: December 29, 1980.

Judith A. Denny,

Deputy Director, Office of Revenue Sharing.

Roger C. Altman,

Assistant Secretary (Domestic Finance).

31 CFR is amended by adding § 51.55 to read as follows:

§ 51.55 Discrimination on the basis of handicap.

(a) *Definition.* As used in this section the phrase:

(1) "Handicapped individual" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(2) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific

learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(3) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(4) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(5) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities, but that is treated by a recipient government as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (a)(1) of this section but is treated by a recipient government as having such impairment.

(6) "Qualified handicapped individual" means (i) with respect to employment, a handicapped individual who, with reasonable accommodation, can perform the essential functions of the job in question; and (ii) with respect to services, a handicapped individual who meets the essential eligibility requirements for the receipt of such services.

(b) *General prohibitions with respect to discrimination against a qualified handicapped individual.*

(1) Those general prohibitions described in § 51.52(b) of this subpart, also apply to discrimination against a handicapped individual, with the exception of § 51.52(b)(1) (ii), (iii) and (iv) of this section which are covered by the provisions of this subsection. In addition, a recipient government shall:

(i) Not exclude a qualified handicapped individual from participation in programs or activities open to the general public, regardless of the availability of permissibly separate or different programs or activities designed especially for the handicapped;

(ii) Administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped individuals;

(iii) Take appropriate steps to ensure that communications with applicants, employees, beneficiaries, and the general public are available to persons with impaired vision or hearing, through means such as brailled or taped material, telecommunication devices, televised information or other media;

(iv) Take the appropriate steps to ensure that the public hearings required under §§ 51.13 and 51.14 of this part are accessible to qualified handicapped individuals and that notice of such hearings is made available to individuals with impaired vision and hearing, through means such as telecommunication devices, brailled or taped material, televised information, qualified sign language interpreters or other media;

(v) Provide a qualified handicapped individual with an aid, benefit, or service that is as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(vi) Not provide a different or separate aid, benefit, or service to qualified handicapped individuals or to any class of qualified handicapped individuals than is provided to others unless such action is necessary to provide qualified handicapped individuals with aid, benefits, or services that are as effective as those provided to others;

(vii) Not aid or perpetuate discrimination against a qualified handicapped individual by funding an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the program or activity;

(viii) A recipient government shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration that:

(A) Have the effect of subjecting qualified handicapped individuals to discrimination on the basis of their handicaps;

(B) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient government's program with respect to handicapped individuals; or

(C) Perpetuate the discrimination of another department of the recipient government if both departments are subject to common administrative control or are agencies of the same recipient government; and

(ix) Not use it zoning authority in a manner that will have the effect of subjecting qualified handicapped individuals to discrimination on the basis of handicap.

(2) The exclusion of persons that are not handicapped individuals from the benefits of a program limited by Federal statute or executive order to handicapped individuals, or the exclusion of a specific class of handicapped individuals from a program limited by Federal statute or executive order to a different class of handicapped individuals, is not prohibited by this section.

(3) For purposes of this sections, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped individuals. They must, however, afford qualified handicapped individuals equal opportunity to obtain the identical result, or achievement in the most integrated setting appropriate to the individual's needs.

(4) A recipient government which government receives $25,000 or more entitlement funds in each entitlement period, shall, at the request of, and in consultation with such individual, provide appropriate auxiliary aids to individuals with impaired sensory, manual or speaking skills, where necessary to prevent a qualified handicapped individual from being denied the benefits of, excluded from participation in or subjected to discrimination under a program or activity. Such auxiliary aids may include brailled or typed material, the provision of qualified sign language interpreters, the provision of telecommunication devices, captioned films, video tapes, televised information or other media. The Director may require recipient governments which receive less than $25,000 in entitlement funds in each entitlement period to provide appropriate auxiliary aids when the Director finds that such aids are appropriate to remedy a violation of the provisions of this section.

(5) The enforcement provisions contained in this subpart are applicable to violations of the provisions of this section.

(c) *Self-evaluation.*

(1) A recipient government shall, within one year of the effective date of this section, with the assistance of interested individuals, including handicapped individuals and organizations representing them:

(i) Evaluate its current policies and practices and their effects which do not meet the requirements of this section;

(ii) Modify any policies and practices that do not meet the requirements of this section, and take appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these discriminatory policies and practices, except as otherwise provided where structural changes may be required pursuant to paragraph (k) of this section.

(2) Self-evaluations already prepared (or under preparation) to comply with the Section 504 requirements imposed by other Federal departments or agencies, may be used as part of the self-evaluation required pursuant to this section.

(3) The self-evaluation may incude but is not limited to an examination of: a recipient government's policies and practices concerning employment decisions; the extent to which its programs and activities are readily accessible to and usable by the handicapped; whether its policies and practices concerning the delivery of aids, benefits and services to beneficiaries are free from discriminatory effects on the handicapped; and, whether it is engaging in contractual arrangements which have the effect of subjecting handicapped persons to discrimination.

(4) A recipient government, which government receives $25,000 or more entitlement funds in each entitlement period, shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request (i) a list of the interested individuals consulted, (ii) a description of policies and practices examined and problems identified, and (iii) a description of modifications made and remedial steps taken (record-keeping requirement cleared by OMB, No. 1505–0036, through January 31, 1982).

(d) *Designation of responsible employee and adoption of grievance procedures.*

(1) A recipient government, which government receives $25,000 or more entitlement funds in each entitlement period, shall designate at least one person to coordinate its efforts to comply with this section. Where designation of such a person has already been made to comply with the Section 504 requirements of other Federal departments or agencies, that person may also be used to comply with the requirements of this section.

(2) A recipient government, which government receives $25,000 or more entitlement funds for one or more entitlement periods, shall adopt a grievance procedure that incorporates appropriate due process standards and that provides for the prompt and equitable resolution of complaints alleging any action prohibited by this section. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to post-secondary educational institutions. Existing grievance procedures may be used to meet the requirements of this subsection.

(e) *Notice.*

(1) A recipient government, which government receives $25,000 or more entitlement funds in each entitlement period, shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient government, that it does not discriminate on the basis of handicapped status in violation of this section. The notification shall state, where appropriate, that the recipient government does not discriminate on the basis of handicapped status in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to section 51.55(d). A recipient government shall make the initial notification required by this paragraph within 90 days of the effective date of this section. Methods of initial and continuing notification shall ensure that the information is communicated to the visually or hearing impaired. Such methods may include the use of public service radio and television announcements, and telecommunications devices, the posting of notices, the publication of notices in newspapers and magazines, the placement of notices in recipient governments' publications, and the distribution of memoranda or other written and taped communications.

(2) Whenever a recipient government publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiares, applicants, or employees, or the general public, it shall include in those materials or publications a statement that it is the policy of the recipient government not to discriminate against the handicapped in employment or the provisions of services. A recipient government may meet the requirements of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

(f) *Administrative requirements for small recipient governments.* The Director may require any recipient government, which government receives less than $25,000 in entitlement funds in each entitlement period, to comply with the provisions of § 51.55 (c), (d), and (e), in whole or in part, when the Director finds that such requirements are appropriate to remedy a violation of the provisions of this section.

(g) *Employment discrimination against a qualified handicapped individual.*

(1) A recipient government shall:

(i) Not discriminate against a qualified handicapped individual in employment in any program or activity;

(ii) Not participate in a contractual or other relationship that has the effect of subjecting a qualified handicapped applicant or employee to discrimination prohibited by this section. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient government, and with organizations providing training and apprenticeship programs;

(iii) Make all decisions concerning employment under any program or activity in a manner which ensures that discrimination on the basis of handicap does not occur and not limit, segregate, nor classify applicants or employees in any way that adversely affects their opportunities or status because of handicap;

(iv) Take appropriate steps to ensure that communications with its applicants and employees are available to persons with impaired vision and hearing as described in § 51.55(b)(1)(iii) and (b)(4);

(v) Not discriminate against a qualified handicapped individual in the following specific activities:

(A) Recruitment, advertising, and the processing of applications for employment;

(B) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(C) Setting rates of pay or any other form of compensation and changes in compensation;

(D) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(E) Granting leaves of absence, sick leave, or any other leave;

(F) Providing fringe benefits available by virtue of employment, whether or not administered by the recipient government;

(G) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Employer sponsored activities, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) A recipient government's obligation to comply with this section is not affected by any inconsistent term of any collective-bargaining agreement to which it is a party.

(3) A recipient government's obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are more limited for handicapped individuals than for nonhandicapped individuals.

(h) *Reasonable accommodation.*

(1) A recipient government shall make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee unless the recipient government can demonstrate that the accommodation would impose an undue hardship on the operation of its program or activity.

(2) Reasonable accommodation may include:

(i) Making facilities used by employees readily accessible to and usable by handicapped persons, and

(ii) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices (e.g., telecommunications devices and other telephone devices), the provision of readers or qualified sign language interpreters, and other similar actions. Accommodations shall be made in consultation with the handicapped individual.

(3) The determination of whether an accommodation would impose an undue hardship on the operation of a recipient government's program or activity shall be made on a case-by-case basis upon consideration of the following factors:

(i) The overall size of the recipient government's operations with respect to number of employees, number and type of facilities, and size of budget;

(ii) The type, composition and structure of the specific program or activity and the structure of the workforce required; and

(iii) The nature and cost of the accommodation needed. Such reasonable accommodation may require a recipient government to undertake more than an insignificant economic cost in making allowance for the handicap of a qualified applicant or employee and to accept minor inconvenience which does not bear on the ability of the handicapped individual to perform the essential functions of the job in question.

(4) A recipient government may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(i) *Employment criteria and policies.*

(1) A recipient government may not use any employment test, selection criterion or policy, that screens out, or tends to screen out from consideration for employment, a handicapped individual or any class of handicapped individuals unless:

(i) The test, selection criterion or policy as used by the recipient, is shown to be directly related to the essential functions of the position in question, and

(ii) Alternative job-related tests, criteria or policies that do not screen out, or tend to screen out as many handicapped individuals are shown to be not available.

(2) A recipient government shall select and administer tests using procedures (e.g., auxiliary aids such as readers for visually-impaired individuals or qualified sign language interpreters for hearing-impaired individuals) that accommodate the special problems of handicapped individuals to the fullest extent consistent with the objectives of the test. The test results shall accurately reflect the applicant's or employee's ability to perform the essential functions of the job in question, rather than the applicant's or employee's impaired sensory, manual or speaking skills, except where such skills are essential requirements of the job.

(3) If a recipient government has established a test, selection criterion or policy that explicitly or implicitly screens out, or tends to screen out, a class of handicapped individuals from a particular job, and cannot establish that the class as a whole is unqualified to perform the job, the recipient government shall evaluate each such individual who applies for the job to determine whether the applicant can perform the essential functions of the job in question despite the handicap. As part of the determination, the recipient government shall also decide whether such applicant would be qualified to perform the essential functions of the job in question through reasonable accommodation without undue hardship, as provided in § 51.55(h) of this section.

(j) *Preemployment inquiries.*

(1) Except as provided in paragraphs (j) (2) and (3) of this subsection, a recipient government may not conduct a preemployment medical examination or make preemployment inquiry of an applicant as to whether the applicant is a handicapped individual or as to the nature or the severity of a handicap. A recipient government may, however, make preemployment inquiry into an applicant's ability to perform the essential functions of the job.

(2) When a recipient government is taking remedial action to correct the effects of past discrimination; when a recipient government is taking voluntary action to overcome the effects of conditions that resulted in limited participation in a program or activity, or when a recipient government is taking affirmative action, the recipient government may invite applicants for employment to indicate whether and to what extent they are handicapped, provided that:

(i) The recipient government states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(ii) The recipient government states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (j)(4) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this section.

(3) Nothing in this section shall prohibit a recipient government from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided that: (i) all entering employees are subjected to such an examination regardless of handicap, and (ii) the results of such an examination are used only in accordance with the requirements of this section.

(4) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms and shall be accorded confidentiality as used for medical records, except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals and regarding necessary accommodations;

(ii) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be provided relevant information upon request.

(k) *Program accessibility.*—(1) *Discrimination prohibited.* No qualified handicapped individual shall, because the facilities owned or leased by a recipient government are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity of a recipient government, which government receives entitlement funds.

(2) *Existing facilities.*—(i) *Program accessibility.* A recipient government shall operate each program or activity in existing facilities owned or leased by it, so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped individuals. Recipient governments are not necessarily required to make each existing facility, or every part of an existing facility accessible to and usable by handicapped individuals. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of this regulation except as otherwise provided in this section. Recipient governments shall not be required to revoke leases on which lessors refuse to make the structural changes needed if no more accessible facility is available, but shall use the provisions of subparagraph (ii) to ensure that the maximum possible accessibility is achieved.

(ii) *Methods of compliance.* A recipient government may comply with the requirements of paragraph (1) of this section through such means as redesign of equipment, the use of telecommunications devices or other telephone equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of paragraph (k)(7) of this section, or any other methods that result in making its programs or activities accessible to handicapped individuals. A recipient government is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (k)(1) of this section. In choosing among available methods for meeting the requirements of paragraph (k)(1) of this section, a recipient government shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate to obtain the full benefits of the program.

(3) *Exception for small recipient governments.* If a recipient government, which government receives less than $25,000 in entitlement funds, in each entitlement period, determines, after consultation with a handicapped individual seeking a health, welfare or social service, that there is no method of complying with paragraph (k)(1) of this section other than making a significant alteration in its existing facilities, that government may, as an alternative, refer the handicapped individual to other providers of those services that are accessible at no additional cost to the handicapped individual. Examples of other providers of those services are States, counties or other larger units of local government.

(4) *Time periods.*—(i) *Nonstructural changes for accessibility.* Where a recipient government has determined that certain nonstructural changes are necessary to make its programs and activities readily accessible to and usable by the handicapped, after evaluating its policies and practices during the self-evaluation required pursuant to subsection (c), these changes shall be made, with other modifications determined to be needed, within the one year period for completion of the self-evaluation.

(ii) *Structural changes for accessibility.* Except as otherwise provided in subparagraph (iii), where a recipient government has determined that structural changes in facilities are necessary to make its programs and activities readily accessible to and usable by the handicapped, after evaluating its policies and practices during the self-evaluation required pursuant to paragraph (c), those changes shall be made as soon as possible but not later than three years from the effective date of this section.

(iii) *Transportation systems.* Transportation systems shall be made accessible to qualified handicapped individuals as provided in paragraph (k)(1) of this subsection in the same manner and within the time periods prescribed in regulations issued by the Department of Transportation (49 CFR Part 27, Subpart E).

(5) *Transition plan.* In the event that structural changes to facilities are necessary to comply with the requirements of paragraph (k)(1) of this section, a recipient government shall develop, within one year of the effective date of this section, a transition plan setting forth the steps necessary to complete such changes within the time periods in paragraph (k)(4) of this section. The plan shall be prepared as part of the self-evaluation required under § 51.55(c) and developed with the assistance of interested individuals, including handicapped individuals or organizations representing handicapped individuals. Transition plans already prepared (or under preparation) to comply with the Section 504 requirements imposed by other Federal agencies, may be used as part of the transition plan required pursuant to this section. A recipient government which government receives $25,000 or more in entitlement funds shall make a copy of the transition plan available for public inspection for a period of three years and furnish it to the Director upon request. The plan shall, at a minimum:

(i) Identify physical obstacles in the recipient government's facilities that limit the accessibility of its program or activity to handicapped individuals;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period for the transition is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the person responsible for implementation of the plan.

(6) *Notice.* The recipient government shall adopt and implement procedures to require that interested individuals, including individuals with impaired vision or hearing, can obtain information as to the existence and location of particular services, activities, and facilities that are accessible to and usable by handicapped individuals.

(7) *New construction.* The construction of facilities by a recipient government financed in whole or in part with entitlement funds or the construction of a facility pursuant to a contract for the recipient government to lease the building facility in its entirety, on or after January 1, 1977, shall be accomplished so as to be readily accessible to and usable by handicapped individuals.

(8) *Alterations.* Alterations to existing facilities owned, or leased by a recipient government, which alterations are funded with entitlement funds and commenced on or after January 1, 1977, shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped individuals.

(9) *American National Standards Institute Accessibility Standards.* Design, construction, or alteration of facilities in conformance with the

"American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A 117.1–1961 (197[illegible]),[*] which is incorporated by reference, shall constitute compliance with paragraphs (k) (1) and (2) of this section. A recipient government also may use the revised ANSI standards issued in May of 1980, which are also incorporated by reference and are obtainable at the same address. A recipient government may use standards other than the 1961 or 1980 standards or other methods, if the government establishes that it is clearly evident that equivalent or better access to the facility or part of the facility is provided.

(10) *Exception for construction projects commenced prior to January 1, 1977.* The provisions of this subsection do not apply to buildings or construction projects, including those funded with revenue sharing funds, commenced prior to January 1, 1977, including those funded with revenue sharing funds, unless it is determined that programs or activities funded in whole or in part with revenue sharing funds are conducted within or make use of such facilities, in which case, those programs and activities must be readily accessible to and usable by handicapped individuals as described in paragraphs (k)(2) (i) and (ii) of this subsection.

(11) *"Commencement of construction" defined.* A construction project shall be deemed to have commenced when the recipient government has obligated itself by contract for the physical construction of the project or any substantial portion of the project.

(1) *Coordination of unresolved legal issues.*

Whenever the Director receives a complaint which alleges a violation of the provisions of this section and involves a legal issue that has not been resolved judicially or administratively, the Director shall request guidance from the Department of Justice which was designated by Executive Order 12250 to coordinate Section 504, within one week of receipt of such complaint. The Director may defer action on the complaint pending receipt of the guidance if it is determined that such guidance will be received within one month from the issuance of the request. Thereafter, the Director shall then act in accordance with the guidance. If the Director determines that the Department of Justice cannot provide guidance concerning the proper course of action within a period of one month (30 days), the Director shall proceed to initiate fact-finding activities with respect to the complaint. During that process, the Director shall continue to keep the Department of Justice advised of the actions taken, pending receipt of the guidance requested.

Appendix A—Section-by-Section Analysis

Section 51.55 Discrimination on the Basis of Handicap

Most of the approximately 50 comments on the proposed regulations concerned discrimination on the basis of handicap, as provided in Section 504 of the Rehabilitation Act of 1973. As with the previous proposed handicapped discrimination regulations, the majority of the comments expressed concern about the cost of compliance and objected to specific provisions such as the definition of handicapped individual, the self-evaluation requirement and the accessibility requirements. The Department has little discretion concerning the substantive provisions contained in these regulations. Executive Order 11914 "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs" requires Federal departments and agencies with Section 504 responsibility to issue regulations consistent with the standards and procedures established by HEW. Comments requesting elimination of or major revisions to these provisions were not acted upon due to the requirements of the Executive Order, which was issued to ensure consistent Federal enforcement of Section 504. Revisions have primarily been made for clarification purposes and in some instances to make the substantive requirements conform more closely with the requirements for the General Revenue Sharing Program.

One such revision is that all references in the proposed rule to special provisions for smaller recipient governments as those employing fewer than 15 employees have been changed to those receiving $25,000 or more in entitlement funds in each entitlement period. The reference to fewer than 15 employees has little relevance for the General Revenue Sharing Program which unlike grant programs, provides financial assistance to States and local governments, as opposed to particular departments and agencies or even private entities. The number of recipient governments which employ fewer than 15 persons is negligible. Further, the independent audit requirements in Section 123(c) of the Revenue Sharing Act exempt local governments receiving less than $25,000 in entitlement funds. In the interest of consistency with this Congressional guidance, the General Revenue Sharing Program's final regulations prohibiting discrimination on the basis of handicap, should also incorporate the $25,000 standard.

Section 51.55(b) entitled, "General prohibitions with respect to discrimination against a qualified handicapped individual" contains the prohibitions against discrimination in the provision of services. Section 51.55(b)(1) (iii) and (iv) were amended in response to comments that the provisions did not provide sufficient guidance concerning how recipients can make communications and services available to persons with impaired sensory, manual and speaking skills. Examples of methods were added to the regulations. Section 51.55(b)(1)(v) was deleted and a new § 51.55(b)(4) was added to expand the discussion of how to provide appropriate auxiliary aids to individuals with impaired sensory, manual and speaking skills. It is noted that auxiliary aids must be provided only at the request of the handicapped individual. Further, recipient governments must consult with the individual to determine the most appropriate auxiliary aids to be used. It is expected that requiring such aids only upon request, as recommended by organizations representing the handicapped, will reduce the cost of providing handicapped individuals with access to programs and activities. It will do so in a manner that will meet as closely as possible the individual needs of the handicapped.

Section 51.55(b)(1)(iv), which requires that the public hearings required under the Act and regulations be accessible to the handicapped, was amended in response to comments to how such hearings can be made more accessible.

Proposed §§ 51.55(b)(1) (vi), (vii) and (viii) are redesignated § 51.55(b)(1) (v), (vi) and (vii). Further, § 51.55(b)(1)(vii) was amended to remove reference to secondary recipients because this definition is currently under review. This does not mean, however, that secondary recipients (as currently defined) are not covered by these provisions.

Section 51.55(b)(1)(ix) has been redesignated § 51.55(b)(1)(viii). One commenter suggested that subparagraph (C) had been drafted too narrowly, prohibiting discrimination against a secondary recipient only if subject to the common administrative control of a recipient government. This subparagraph was amended to delete the reference to the secondary recipient situation and to clarify that where a recipient government funds a particular department in whole or in part with revenue sharing funds, any subdivision of that department cannot use those funds to discriminate.

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[*] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018—(212) 354–3300. Copies are also on file with the Federal Register.

Section 51.55(b)(1)(x) has been redesignated § 51.55(b)(1)(ix). This section provides that a recipient government may not use its zoning authority in a manner that will have the effect of discriminating against the handicapped. This section received a number of negative comments from recipient governments and organizations representing them. The commenters expressed the view that this section was an unwarranted intrusion by the Federal government in local affairs.

The Director recognizes that land use control through the exercise of zoning authority is fundamentally within the power of recipient governments, and historically is one of their most zealously guarded functions. This regulation does not restrict the lawful use by a recipient government of its zoning authority. The purpose of § 51.55(b)(1)(ix) is to notify recipient governments that it is not permissible to use zoning authority to discriminate unlawfully against the handicapped. Zoning authority may not be used to restrict the rights of the handicapped to equal access to facilities in the most integrated settings appropriate to their needs. The addition of this provision was recommended by HEW during a review of the regulations which became the second proposed rule. This was because the ORS is the only Federal agency which potentially provides assistance to the entire operations of recipient governments, as opposed to particular departments or functions. The Director therefore declines to accept the recommendation that this provision be entirely eliminated.

Section 51.55(c) "Self-evaluation" was reorganized to improve its clarity. This section was amended to clarify that where the self-evaluation discloses the need to make structural changes, those changes are to be made within three years, rather than the one-year period provided for the self-evaluation. A new subsection (c)(2) was also added to allow recipient governments to use self-evaluations already undertaken for departments such as HHS or the Department of Transportation. This provision was added to improve the coordination of Federal enforcement of Section 504. A new subsection (c)(3) was added in response to comment that the proposed regulations did not provide sufficient guidance as to what a recipient government is to evaluate. Essentially, a recipient government must review all of its policies and practices concerning the provision of services, employment and the selection of facilities to determine their impact upon the handicapped and devise methods to remedy the effects of discrimination found.

In implementing the self-evaluation and transition plan, a recipient government must review all policies and practices, not just those in which revenue sharing funds are currently being expended. This is because a recipient government potentially can spend revenue sharing funds for any purpose permissible under State and local law, therefore, review only of those areas in which such funds are actually expended would not affect those programs and activities which may be funded in the future. Further, a large number of recipient governments appropriate revenue sharing funds to their general funds resulting in the expenditure of revenue sharing funds in part to support all governmental functions. Lastly, this position is consistent with other revenue sharing compliance activities. Recipient governments are requested to conduct public hearings not solely on the use of revenue sharing funds, but also on the use of those funds in relation to their entire budget. Recipient governments are also required to conduct independent audits. Such audits must encompass all funds of the recipient government, not just those in which revenue sharing funds are placed.

Section 51.55(d), "Designation of responsible employee and adoption of grievance procedure" was amended to provide that individuals designated to coordinate Section 504 compliance for other Federal departments and agencies and existing grievance procedures may be used to comply with the requirements of The General Revenue Sharing Program.

Section 51.55(e), "Notice" was amended to provide examples of how public notices can be communicated to the sensory impaired.

Section 51.55(f), "Administrative requirements for small recipient governments" was amended to provide that a small recipient government may be required to comply with the administrative requirements to remedy violations found by the Director. A number of commenters expressed the view that the administrative requirements were too burdensome on smaller recipient governments and should never be required. Others objected to any lessening of the requirements for smaller recipient governments. In an effort to balance these competing interests, the exceptions for smaller recipient governments are maintained but such governments may be required to comply with the applicable provisions.

Section 51.55(g) "Employment discrimination" was amended to add a new subsection (g)(1)(iii) because it is one of the basic prohibitions contained in the HEW Guidelines and is therefore required to be contained in the regulation. Proposed Sections 51.55(g)(1)(iii) and (iv) are redesignated (iv) and (v). In response to comments, § 51.55(g)(1)(iv) was amended to include examples of how communication can be made available to the sensory impaired. Concerning this section, one commenter questioned whether a recipient government can be required to undertake affirmative action to employ the handicapped. Section 504 does not require affirmative action, as does Section 503. Section 504 requires only that recipient governments refrain from discriminating and undertake remedial action where discrimination is found.

Section 51.55(h), "Reasonable accommodation" was amended in response to comments to add examples of reasonable accommodation for the sensory impaired. The section was also amended to provide that the accommodations shall be made in consultation with the handicapped individual. One commenter requested greater specificity concerning what is required for reasonable accommodation. Considering the broadness of the definition of handicapped individual, what constitutes reasonable accommodation must be determined on a case-by-case basis and the regulation must remain broad. A new sentence is added to subsection (h)(3)(iii) to reflect the fact that an accommodation that causes inconvenience to the recipient government or result in some economic cost is not per se unreasonable.

Section 51.55(i), "Employment criteria and policies" was revised to conform subparagraph (2) more closely to the HEW regulations. Several comments suggested the application of the Uniform Guideliens on Employee Selection Procedures to these provisions. The Guidelines specifically apply only to race, color, national origin, sex and religion. If they are formally revised to apply to handicapped discrimination, the Director will adopt that application. One commenter questioned the use of the phrase "class as a whole" in subsection (i)(3). The Director does not agree that the phrase should be changed. To be able to use a selection procedure which excludes a class of handicapped individuals as a whole, the recipient government must establish to the satisfaction of the Director that no member of that class of individuals would be able to perform the essential functions of the job in question.

Section 51.55(k), "Program accessibility" received a majority of the comments relating to the cost of compliance. It is emphasized that compliance with this subsection does not mean that recipient governments will be forced to retrofit all of their public buildings. For a particular program or activity to be accessible, it is not required that the entire facility in which the program or activity is conducted be accessible. Structural changes to facilities are required only after all other means of making programs accessible have been pursued.

Recipient governments should first, as part of the self-evaluation, review their program and activities to determine which ones are not accessible; then, recipient governments should determine how those programs and activities can be made accessible. Where structural changes are required, the transition plan should be prepared at the same time as the self-evaluation. Non-structural changes which can be made to achieve accessibility should be accomplished as part of the modifications and remedial action required during the self-evaluation. A period of one year is given for the whole self-evaluation process. It is not likely that the review part of the self-evaluation can be completed within 60 days. Accordingly, the subsection (4) time periods are amended to allow the non-structural changes to be made, with other modifications required under the self-evaluation, during the one year period. Structural changes are still required within three years unless transportation systems are involved, as provided in the proposed rule.

A number of comments were received on § 51.55(k)(10), "Leased facilities." The Director agrees that this provision as written needed clarification. It is important, however, to make it clear that a recipient government cannot avoid the program accessibility requirements merely by conducting its programs and activities in leased facilities. Accordingly, Section 51.55(k)(10) has been eliminated and subsections (k) (1), (2), (k) (7) and (8) have been amended to clarify that programs and activities operated in existing facilities, owned or leased by the recipient government, must be accessible. Where a recipient government leases a facility, it must make whatever non-structural changes are necessary to make facilities accessible. Where an existing facility is leased, however, structural changes will not be required if the lessor refuses to make them and no other more readily accessible facility is available.

Subsection 51.55(k)(2) is amended to add examples of how greater accessibility can be achieved for handicapped individuals with sensory impairments.

Existing facilities newly leased after January 1, 1977, or on which leases are renewed must meet the requirements of § 51.55(k)(2) for existing facilities. Leases of newly constructed facilities must meet the requirements set forth in § 51.55(k)(7) for new construction. Alterations to existing facilities which are leased must meet the requirements of § 51.55(k)(8).

Section 51.55(k)(5), "Transition plan" was amended to extend the time period for preparation to one year, in order that it could be prepared in conjunction with the self-evaluation. The proposed rule was amended to provide that transition plans prepared to comply with Section 504 requirements for other departments or agencies may also be used to comply with the requirements for the General Revenue Sharing Program.

Section 51.55(k)(9) is amended to incorporate the 1980 American National Standard Institute Standards, as well as the 1961 version and allow compliance with either.

Proposed § 51.55(k)(10), as discussed above, was eliminated.

Proposed § 51.55(k) (11) and (12) have been redesignated § 51.55(k) (10) and (11). One commenter suggested that the definition of commencement of construction be amended to conform with definition contained in the HEW regulations. In this instance, however, the provision being interpreted is one uniquely included in the Revenue Sharing Act and need not be consistent with HEW's definition.

One commenter suggested that subsection (k) should provide specific provisions concerning the need for structural changes to historical properties. However, the regulations with their emphasis upon program accessibility over structural changes to facilities, do not need specific treatment of historical properties.

A new § 51.55(l) is added to the regulations to cover the situation in which the ORS is requested to act upon a complaint concerning subject matters unresolved by another Federal agency, the agency in charge of coordination of Section 504, or by the courts. One example of such an unresolved issue is whether obesity should be considered a handicap. Another example is whether all public television broadcasting must be captioned for the deaf. The Department of Education is currently involved in litigation on this issue and at the same time the complainants have filed a complaint with the ORS. This provision is particularly needed because the ORS supports an almost unlimited range of programs and activities of State and local governments that are under the primary jurisdiction of other departments and agencies.

The Director has determined that the ORS should defer action on matters not resolved until the coordinating agency provides guidance in the intent of uniformity of Federal enforcement of Section 504. In this way, the ORS will hopefully avoid prematurely creating solutions to unresolved problems in this still evolving area of the law. The coordinating agency referred to is the Department of Justice pursuant to Executive Order 12250, which supersedes Executive Order 11914, which gave such authority to the old Department of HEW.

At the same time, the Director is concerned that consultation with the coordinating agency may impede resolution of complaints in the expeditious manner required by the Revenue Sharing Act. In order to ensure that coordination will take place as expeditiously as possible, and at the same time allow for flexibility, the regulations would require the Director to consult with the coordinating agency within one week. The Director would also have to make a determination as to whether the Department of Justice will act within thirty (30) days. If guidance cannot be expected within thirty (30) days, the Director shall begin to obtain preliminary information needed to investigate the complaint once the request for guidance is received. The ORS may defer making any findings until the Department of Justice has provided the necessary guidance. With these safeguards, possible deferral of action on the complaint should not result in undue delay in the processing of complaints. Accordingly, when a complaint concerning unresolved issues under Section 504 is received, the Director would immediately consult with the appropriate lead agency and act upon the guidance received.

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Monday
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Part IV

Export-Import Bank of the United States

Post Employment Conflicts of Interest

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 400

Post Employment Conflicts of Interest

AGENCY: Export-Import Bank of the United States.

ACTION: Final rule.

SUMMARY: Export-Import Bank of the United States (the "Bank") is revising its regulations dealing with conflicts of interest of former employees to make such regulations consistent with the restrictions on post employment activity established by Title V of the Ethics in Government Act of 1978, as amended, and regulations issued by the Office of Personnel Management 5 CFR Part 737. The final regulations will provide guidelines for enforcement of such restrictions by the Bank.

EFFECTIVE DATE: February 4, 1981.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick, General Counsel, (202) 566-8334 at the Office of the General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571.

SUPPLEMENTARY INFORMATION: In view of the enactment of the Ethics in Government Act of 1978, and its subsequent amendments, a number of significant changes and additions were made to pre-existing legislation on post employment conflicts of interest affecting employees of the United States Government, including Bank employees. Pursuant to the Act, the Office of Government Ethics in the Office of Personnel Management has issued final regulations on the subject. Accordingly, it has been necessary to revise and restate Eximbank regulations on Standards of Conduct relating to post employment conflicts of interest by adding this new Subpart G to Part 400 which appears in Chapter IV of Title 12 of the Code of Federal Regulations.

Proposed regulations were published in the **Federal Register** on October 17, 1980 (45 FR 68963-68965). The notice of proposed rulemaking provided a 60-day period for public comment. The Bank received some inquiries regarding the proposed regulations but only one comment of a substantive nature was received. It related to Section 400.735-74 (b)(4) where the word "Generally" has been inserted at the beginning to recognize the possibility that an appearance before an agency or court other than the Bank in a proceeding directly affecting the Bank could be effectively prohibited by this Section. Other minor editorial revisions also have been made.

1. Accordingly, the Bank is amending Chapter IV of Title 12 Part 400 by removing § 400.735-9 *Former Employees* and adding a new subpart G *Regulations Concerning Post Employment Conflicts of Interest*, to read as follows:

PART 400—STANDARDS OF CONDUCT

* * * * *

Subpart G—Regulations Concerning Postemployment Conflicts of Interest

Sec.
400.735-70 General nature of restrictions.
400.735-71 Permanent restriction on any former Bank Employee's acting as representative as to a particular matter in which the employee personally and substantially participated.
400.735-72 Two-year restriction on any former Bank Employee's acting as representative as to a particular matter for which the employee had official responsibility.
400.735-73 Two-year restriction on a former Senior Employee's assisting in representing as to a matter in which the employee participated personally and substantially.
400.735-74 One-year restriction on a former Senior Employee's transactions with the Bank on a particular matter regardless of prior involvement.
400.735-75 Administrative enforcement proceedings.
400.735-76 Effective date of restrictions.

Authority: 18 U.S.C. 207; 5 CFR 737.

Subpart G—Regulations Concerning Postemployment Conflicts of Interest

§ 400.735-70 General nature of restrictions.

(a) *Authority.* Title IV of the Ethics in Government Act of 1978, as amended ("the Act") established the Office of Government Ethics ("OGE") within the Office of Personnel Management ("OPM") and, pursuant to the Act, the OPM has on the recommendation of the Director of the OGE in consultation with the Attorney General issued regulations in 5 CFR 737 giving content to the restrictions on post employment activity established by Title V of the Act (18 U.S.C. 207) for administrative enforcement with respect to former officers and employees of the executive branch; generally to guide agencies in exercising the administrative enforcement authority reflected in Section 18 U.S.C. 207(j); to set forth the procedures to be employed in making certain determinations and designations pursuant to the Act; and to provide guidance to individuals who must conform to the law. Criminal enforcement of the provisions of 18 U.S.C. 207 remains the exclusive responsibility of the Attorney General.

(b) *Purpose.* It is the purpose of these regulations to provide guidelines for Bank employees within the framework of the Act and the OPM regulation to which reference should be made for detailed statements of the law, definitions, exemptions, limitations and illustrative examples.

(c) *Policy and limitations.* The restrictions set forth bar certain acts by former Bank employees which may reasonably give the appearance of making unfair use of prior Bank employment and affiliations. They do not, however, bar any former Bank employee, regardless of rank, from employment with any private or public employer after Bank employ. Nor do they bar employment even on a particular matter to which the former Bank employee had major official involvement, except in certain circumstances involving persons engaged in professional advocacy. In general, the specific prohibitions arise from a combination of factors which in any given situation may include the following: (1) the nature and extent of the involvement in a particular matter by the employee while in Bank employ, (2) the identity of the particular matter with which the employee dealt while in Bank employ with the same matter with respect to which the employee represents others after leaving Bank employ, (3) the manner in which the former Bank employee appears before or communicates with the U.S. Government, (4) the position occupied by the former employee while in Bank employ, (5) the time limits applicable to the periods before and after the employee leaves his or her position or activity in the Bank to which the restriction applies.

§ 400.735-71. Permanent restriction on any former bank employee's acting as representative as to a particular matter in which the employee personally and substantially participated.

(a) *Basic prohibition of 18 U.S.C. 207(a).* No former Bank employee after terminating employment with the Bank shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Bank matter involving a specific party, (3) in which such employee participated personally and substantially as an employee of the Bank.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) since the prohbition has no time limit, it provides a permanent bar to the proscribed activity; (2) the former employee is prohibited from acting as agent or attorney for any other person, but not for himself; (3) it prohibits representation by an "appearance," even if only in a technical procedural sense regardless of physical presence; (4) it also prohibits any communication with intent to influence; (5) the prohibition against an appearance or communication extends to other departments, agencies and courts of the United States and is not limited to the agency in which the employee became involved with the particular matter; (6) the representation by the former employee must be in connection with a particular Bank matter involving specific parties; and (7) the particular matter must be one in which the former employee participated personally and substantially while in Bank employ.

§ 400.735–72 Two-year restriction on any former bank employee's acting as representative as to a particular matter for which the employee had official responsibility.

(a) *Basic Prohibition of 18 U.S.C. 207(b)(i).* No former Bank employee, within two years after terminating employment by the Bank, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Bank matter involving a specific party, (3) if such matter was actually pending under the employee's responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) Comments (2)–(6) made under paragraph (b) of § 400.735–71 apply equally to this Section; (2) The particular matter must be one which was actually pending under the employee's responsibility as an officer or employee of the Bank; (3) Two time periods limit the applicability of this Section. The particular matter which came under the responsibility of the employee must have been pending within one year prior to the termination of such responsibility. In addition, the prohibition against the employee's representing any other person on such matter lasts for two years after the termination of the employment where such responsibility was held with the Bank; (4) The time periods applicable to the prohibition of this Section are measured from the date when the employee's responsibility in a particular area ends, not from the termination of Bank employ, unless the two occur simultaneously. (See 5 CFR 737.7(e)).

§ 400.735–73 Two-year restriction on a former senior employee's assisting in representing as to a matter in which the employee participated personally and substantially.

(a) *Basic prohibition of 18 U.S.C. 207(b)(ii).* No former Senior Employee (defined below), within two years after terminating employment by the Bank, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person by personal presence at any formal or informal appearance (1) before the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter he or she participated personally and substantially as an employee of the Bank.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) Comments (2), (5), (6), and (7) set forth under paragraph (b) of § 400.735–71 are equally applicable to prohibitions of this Section; (2) The statutory two-year period is measured from the date of termination of employment in the Senior Employee position held by the former employee when he or she participated personally and substantially in the particular matter. (See 5 CFR 737.9(e)); (3) This prohibition deals with the same activity of the employee while in Bank employ as does § 400.735–71 i.e. "a particular matter in which the employee participated personally or substantially" but deals with a different aspect of the employee's conduct after leaving Bank employ. Thus, even though the former Senior Employee does not represent another as agent or attorney or communicate with intent to influence, he or she is also prohibited from "aiding, counseling, advising, consulting, or assisting in representing any other person by personal presence at any formal or informal appearance"; (4) The term "Senior Employee" refers to an officer or employee named in, or designated by, the Director of the Office of Government Ehtics, pursuant to Section 207(d) of Title 18 U.S.C.

§ 400.735–74 One-year restriction on a former senior employee's transactions with the bank on a particular matter regardless of prior involvement.

(a) *Basic prohibition of 18 U.S.C. 207(c).* For a period of one year after terminating employment by the Bank, no former Senior Employee (other than a special Government employee who serves for fewer than sixty days in a calendar year) shall knowingly act as an agent or attorney for, or otherwise represent, anyone in any formal or informal appearance before, or with intent to influence, make any written or oral communication on behalf of anyone to (1) the Bank or any of its officers or employees, (2) in connection with any particular Bank matter, whether or not involving a specific party, which is pending before the Bank, or in which it has a direct and substantial interest.

(b) *Comment.* The pertinent combination of factors involved in this prohibition are the following: (1) Comments (3) and (4) set forth under paragraph (b) of Section 400.735–71 apply equally to the prohibitions of this Section; (2) The statutory one-year period is measured from the date when the individual's responsibility as a Senior Employee in the Bank ends, not from the termination of Bank employ, unless the two occur simultaneously (See 5 CFR 737.11(j)); (3) Not only is the Senior Employee prohibited from representing any other person, but is also prevented from representing himself or herself; (4) The prohibited appearance does not extend to other departments, agencies and courts of the United States, but only to appearances before, or communications to, the agency at which he or she was employed on a particular matter pending before such agency or in which such agency has a direct and substantial interest; (5) The prohibited representation must involve a particuar matter, but it need not involve specific parties; (6) Unlike other sections of these regulations, the prohibitions of this Section applies without regard to whether the former Senior Employee had participated in, or had responsibility for, the particular matter and includes matters which first arise after the employee leaves Bank employ.

§ 400.735–75 Administrative enforcement proceedings.

(a) *Information of Violation.* On receipt of information regarding a possible violation of 18 U.S.C. 207 and after determining that such information appears substantiated, the President of the Bank or the Chairman of the Ethics Committee, if so directed by the President, shall expeditiously provide such information along with any comments or Bank regulations to the Director of the OGE and to the Criminal Division, Department of Justice. Any continuing investigation by the Bank on administrative action shall be coordinated with the Department of Justice to avoid prejudicing criminal proceedings unless the Department of Justice advises the Bank that it does not intend to initiate criminal prosecution.

(18 U.S.C. 207, 5 CFR 737.27)

(b) *Initiation of administrative proceedings.* Whenever the Bank has determined after appropriate review that there is reasonable cause to believe that a former Bank employee has violated any of these regulations or 18 U.S.C. 207 (a), (b), or (c) or 5 CFR 737, it may initiate an administrative disciplinary proceeding by providing the former Bank employee with notice as defined in paragraph (c) of this Section. Prior to a determination of sufficient cause to initiate an administrative disciplinary hearing, all records under the Bank's control relating to allegations of a violation shall be confidential, subject to applicable law.

(18 U.S.C. 207, 5CFR 737.27)

(c) *Notice and hearing.* The notice of an administrative disciplinary proceeding and any hearing pursuant to such notice requested by the former Bank employee, shall follow the procedures set forth in 5 CFR 737.27(a) (3), (4), (5), (6), (7), and (8).

(d) *Administrative sanctions.* Actions which may be taken by the Bank in the case of an individual who is found in violation of these regulations or 18 U.S.C. 207 (a), (b), or (c) or 5 CFR 737, after a final administrative decision, or who failed to request a hearing after receiving adequate notice, shall include: (1) prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Bank on any matter of business for a period not to exceed five years, which may be accomplished by directing Bank employees to refuse to participate in any such appearance or to accept any such communication; or (2) taking other appropriate disciplinary action.

§ 400.735-76 Effective date of restrictions.

Any person who holds a Bank position after June 30, 1979, becomes subject to any additional restrictions relating to the holder of that position contained in the amendments to 18 U.S.C. 207, as set forth in these regulations. Restrictions, which depend on the designation of a position by the Director of the OGE, shall become applicable on the date such designation becomes effective.

2. The authority for Part 400 is revised to read as follows:

Authority: (E.O. 11222, 30 FR 6469, 3 CFR 1964-65 Comp., P. 306; 5 CFR 735.104, unless otherwise noted.)

Warren W. Glick,

General Counsel.

December 18, 1980.

[FR Doc. 81-91 Filed 1-2-81; 8:45 am]

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January 5, 1981

Part V

Environmental Protection Agency

Volatile Organic Compounds (VOC) Fugitive Emission Sources in the Synthetic Organic Chemicals Manufacturing Industry and Benzene Fugitive Emissions in the Petroleum Refining and Chemical Manufacturing Industries

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1635-6]

Standards of Performance for New Stationary Sources; VOC Fugitive Emission Sources; Synthetic Organic Chemicals Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from fugitive emission sources in the synthetic organic chemicals manufacturing industry (SOCMI). SOCMI is a portion of the organic chemical industry which produces the group of chemicals listed in Appendix E. These proposed standards would (1) require a leak detection and repair program to reduce VOC emissions from valves and (2) specify the use of certain equipment to reduce VOC emissions from pumps, compressors, sampling connections, and open-ended lines. the proposed standards would also prohibit leaks from safety/relief valves during normal operations. The standards would apply only to equipment that contains 10 percent or more VOC. Reference Method 21 and Appendix E are being proposed with the standards.

The proposed standards implement the Clean Air Act and are based on the Administrator's determination that fugitive emission sources of VOC in SOCMI contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. As required by Section 111 of the Clean Air Act, the proposed standards are intended to require new, modified, and reconstructed sources in SOCMI to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* comments must be received by April 6, 1981.

Public Hearing. A public hearing will be held on March 3, 1981, beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony should contact EPA by March 24, 1981.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. A-79-32, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at the EPA Administration Bldg. Auditorium Research Triangle Park North Carolina.

Persons wishing to present oral testimony should notify Ms. Naomi Durkee, Emissions Standards & Engineering Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *VOC Fugitive Emissions in the Synthetic Organic Chemicals Manufacturing Industry—Background Information For Proposed Standards,* EPA-450/3-80-033a.

Docket. Docket No. A-79-32, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Wyatt, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards of performance would apply to fugitive emission sources within process units operated to produce one or more of the organic chemicals listed in proposed Appendix E. Certain equipment processing VOC liquids and gases would be covered by the standards. Implementation of the proposed standards would reduce fugitive emissions of VOC from pumps, compressors, valves, sampling connections, safety/relief valves, and open-ended valves in VOC service. The proposed standards would require: (1) a leak detection and repair program for in-line valves in gas and light liquid VOC service; (2) certain equipment for certain fugitive emission sources in VOC service; and (3) no detectable VOC emissions from safety/relief valves in VOC service during normal operation. VOC service means that a fugitive emission source contains or contacts a process fluid composed of equal to or greater than 10 percent VOC by weight. In addition, the proposed standards would provide a procedure for determining the equivalency of alternative control measures.

The proposed standards include a leak detection and repair program that would require monthly monitoring for valves in gas and light liquid service. Valves found not to leak for two successive months could be monitored quarterly. Monitoring would be conducted in accordance with Reference Method 21 which is being proposed with these proposed standards. The proposed standards would require repair of leaking valves within 15 days after detection of the leak unless repair would require a process unit shutdown. A Leak is defined as a detectable VOC concentration equal to or greater than 10,000 parts per million by volume (ppmv). An initial attempt at repairing these valves would be required within 5 days after detection of a leak.

Two alternative standards have been provided for valves in gas and light liquid service. A plant owner or operator might elect to comply with one of the alternative standards which would be based on data gathered during one year's monthly monitoring in his affected facility. The first alternative standard would provide an allowable percentage of valves leaking. The second alternative standard would provide for the use of a different leak detection and repair program which would achieve the same level of control as the program designed by EPA.

The proposed standards would require pumps in light liquid service to be equipped with dual mechanical seal systems that include a barrier fluid system. The barrier fluid would be required to be something other than a light liquid or gaseous VOC. Light liquids are defined as VOC liquids with vapor pressures greater than 0.3 kPa at 20°C. Each barrier fluid system would be equipped with a sensor so that failure of the inner and outer seals could be detected. In addition, each barrier fluid system would be operated at a pressure greater than the seal area pressure or would be equipped with a barrier fluid degassing reservoir. The degassing reservoir would be connected, by a closed vent system, to a control device having a VOC control efficiency of at least 95 percent. The proposed standards would also require weekly visual inspections of the seals on light liquid pumps in order to identify failure of the outer seal. Repair of the pump would be required within 15 days after a seal failure or leak was detected unless repair would require a process unit shutdown. The first attempt at repairing the pump would be required within 5 days after detection of the leak. If a pump could not be equipped with dual mechanical seals and a barrier fluid system, a closed vent system would be required to transport leakage to a control device having a VOC control efficiency of at least 95 percent.

The proposed standards would require compressors to be equipped with seals having a barrier fluid system that prevents leakage of the process fluid to the atmosphere. The barrier fluid would be required to be something other than a light liquid or gaseous VOC. These standards would also require each barrier fluid system either to operate at a pressure greater than the compressor seal area pressure or to be equipped with a barrier fluid degassing reservoir. The degassing reservoir would be connected by a closed vent system to a control device having a VOC control efficiency of at least 95 percent. The proposed standards would require each barrier fluid system to be equipped with a sensor so that seal failures may be detected. When seal failure is detected, repair would be required within 15 days unless repair would require a process unit shutdown. An initial attempt at repair would be required within 5 days. If a compressor could not be equipped with a barrier fluid system, a closed vent system would be required to transport leakage from the seal to an enclosed combustion source or vapor recovery system having a VOC control efficiency of at least 95 percent.

The proposed standards would require that VOC's purged from sampling connections be recycled to the process by a closed sampling loop. Alternatively these VOC's could be collected in a closed collection system for recycle or disposal without VOC emissions to atmosphere *In-situ* sampling systems would be exempt from these requirements.

The proposed standards would require that safety/relief valves have "no detectable emissions" of VOC except in cases of pressure relief. "No detectable emissions" of VOC in this case means 200 ppm or less above the background level as measured by Reference Method 21. After each overpressure relief, the proposed standards would require the safety/relief valves to be returned to a state of no detectable emissions within 5 days.

Open-ended lines would be required to be sealed with a second valve, cap, blind flange or plug except when the open-ended line is in use. If a second valve is used, the valve on the process side would be required to be closed first to avoid trapping VOC between the valves.

Cooling towers, agitator seals, and equipment not in VOC service would not be covered by the proposed standards. Flanges, safety/relief valves in liquid service, equipment operating at subatmospheric pressures and all equipment components in "heavy liquid" VOC service, would be excluded from the routine monitoring requirements of the proposed standards. Heavy liquids are defined as VOC liquids with vapor pressure less than 0.3 kPa at 20°C. However, the proposed standards would require VOC leaks which were visually or otherwise detected from these sources in VOC service to be repaired within 15 days after the leak is confirmed using Reference Method 21.

Compliance with the proposed leak detection and repair program and equipment requirements would be assessed through review of records and reports and by inspection. Each owner/operator would report quarterly the number of leaks found and repaired during the quarter. Each owner/operator would also submit quarterly a signed report stating that all monitoring had been performed in accordance with the standards, all specified equipment had been installed and operated in accordance with the standards, and all emission limits had been met.

Under the proposed standards, any owner or operator of a facility subject to the standards could request that the Administrator determine the equivalence of any alternative means of emission limitation to the equipment, design, operational, and work practice requirements of the proposed standards. Upon receiving a request for determination of equivalence, the Administrator would provide an opportunity for public hearing. After such a hearing, the Administrator would make a decision and publish the decision in the **Federal Register**.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards of performance would reduce fugitive emissions of VOC from new and modified process units in SOCMI by approximately 87 percent in comparison to those emissions that would result in the absence of the proposed standards. In the fifth year after implementation the proposed standards would reduce the total uncontrolled fugitive emissions from new, reconstructed and modified process units from approximately 200 to 26 gigagrams (Gg).

The proposed standards of performance would not increase the energy usage of SOCMI process units. In general, the controls required by the standards do not require much energy. Furthermore, the effect of the standards would be to increase efficiency of raw material usage, so that a net positive energy impact would result. Implementation of the proposed standards could result in a minor negative contribution to solid waste. However, the standards would also cause a positive impact on water quality by containment of potential liquid leaks.

The economic impact of the proposed standards would be reasonable. The proposed standards would require of the producers of SOCMI chemicals a capital investment ranging from $41 million in 1981 to $52 million in 1985. The total industry-wide capital investment over the five-year period would be approximately $232 million. The industry-wide net annualized cost would range from about $2 million in 1981 to about $11 million in 1985. This net annualized cost includes a credit resulting from "recovered" fugitive emissions. The costs would be distributed among 830 facilities affected during the five year period. Industry-wide price increases are not expected to result from implementation of these standards.

Rationale

Selection of Sources and Pollutants

The synthetic organic chemical manufacturing industry (SOCMI) source category ranked first on the Priority List, 40 CFR 60.16 (44 FR 49222, August 21, 1979), of 59 major source categories for which standards of performance are to be promulgated by 1982. The Priority List consists of categories of air pollution sources that, in the judgment of the Administrator, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

The segment of the organic chemical industry covered by the proposed standards should be a readily identifiable portion or subgroup of the organic chemical industry. EPA has identified a list of organic chemicals produced in a segment of this industry. The products of this industry segment are derived from about ten basic petrochemical feedstocks and are used as feedstocks in a number of synthetic products industries. Organic chemicals such as acetone, methyl methacrylate, toluene, and glycine are produced in this segment of SOCMI. Large quantities of SOCMI products are used in the production of plastics, fibers, surfactants, pharmaceuticals, synthetic rubber, dyes, pesticides, and specialty organics. They are typically intermediates, although they may be used as final products. Many of these products are high volume chemicals. The Administrator is proposing the list of organic chemicals in Appendix E as the segment of SOCMI covered by the proposed standards.

The total VOC emissions from SOCMI were estimated to be about 1,000 Gigagrams/year (Gg/yr) in 1976 or about 5 percent of the 19,000 Gg total annual VOC emissions from stationary sources in this country. Fugitive emissions of VOC are a significant portion of the total VOC emissions from SOCMI. Fugitive emissions of VOC from smaller SOCMI process units are about 70 Mg/yr and larger SOCMI process units are about 800 Mg/yr. It is estimated that approximately 400 Gg/yr of the total emissions of VOC from SOCMI are currently attributable to fugitive emission sources. Fugitive emissions are unintentional emissions caused by leaks in processing equipment. Fugitive emission sources include pumps, valves, compressors, flanges, and agitators. Other potential sources of VOC emissions in this industry include process sources, storage and handling equipment sources, and secondary emission sources. Standards are currently under development for some of these VOC emission sources. Other pollutants emitted from SOCMI include particulate matter, carbon monoxide (CO), nitrogen oxides (NO_x), sulfur oxides (SO_x), sulfuric acid (H_2SO_4) and hydrochloric acid (HCl) as well as other chemicals. Most particulate matter, NO_x and (SO_x) emissions from this industry are regulated under combustion and process standards that have been developed or are under development.

VOC emissions from SOCMI contribute to the production of ozone which is one of the criteria pollutants for which an ambient air quality standard exists under Section 109 of the Clean Air Act. Because fugitive emissions of VOC are a significant portion of the total SOCMI emissions of VOC, the Administrator is proposing standards of performance that are intended to reduce fugitive emissions of VOC from SOCMI. These proposed standards would reduce emissions of VOC by about 175 Gg/yr in 1985. The VOC that would be regulated by the proposed fugitive emissions standards are compounds which participate in atmospheric photochemical reactions or can be measured by Reference Method 21 which is being proposed with the standards. In addition to reducing fugitive emissions of VOC from SOCMI, the proposed standards would reduce emissions of organic chemicals that are toxic and in some cases potentially carcinogenic. However, specific VOC which the Administrator lists as hazardous air pollutants would be regulated under Section 112 of the Clean Air Act rather than under this regulation.

Selection of Regulatory Approach and Affected Facilities

Two general regulatory approaches could be used in developing standards for SOCMI. The first approach involves the development of standards applicable to each specific chemical process; this approach has historically been the most commonly used approach in developing standards of performance for new stationary sources. Following this approach would involve establishing standards for each specific chemical process.

The second approach involves the development of standards on the basis of similar types of emission sources and applicable emission control techniques. The second approach is more resource efficient than the first approach because a large number of specific chemical processes can be covered by one regulation.

SOCMI plants contain similar fugitive emission sources. In general, a few fugitive emission sources within SOCMI process plants contribute the greatest proportion of fugitive emissions. Leaks from fugitive emission sources generally occur randomly and are not related to process variables. These similarities in the behavior of fugitive emission sources in SOCMI allow the same control techniques to be applied to all of the processes. Therefore, because the control techniques can be applied to the entire industry group and because regulating the entire group would be more resource efficient, a single regulation is being proposed for controlling fugitive emissions from SOCMI.

An affected facility for standards of performance is an emission source or group of emission sources to which the standard applies. Affected facilities for fugitive emissions standards could be defined as individual emission sources (equipment components), groups of equipment components that are operated in conjunction with each other (process units), or groups of process units at one location (plant sites). The selection of one of these definitions for affected facilities is influenced by the fact that the provisions of the proposed standards would apply to new, modified or reconstructed facilities.

An existing facility, as defined in 40 CFR 60.2, is a facility that was constructed or modified before the proposal date of the applicable standards of performance. However, an existing facility that is modified or reconstructed after the date of proposal of the standards becomes an affected facility and then is subject to applicable standards of performance.

Modification is defined in 40 CFR 60.14(a) as any physical or operational change of an existing facility which increases the emission rate of any pollutant to which a standard applies. Exemptions to this definition include an increase in production rate, if such an increase can be made without capital expenditure; an increase in the hours of operation; the use of an alternative fuel or raw material if the facility was designed to accommodate the alternate fuel or raw material prior to the standards; the addition of air pollution control equipment; routine maintenance, repair, and replacement; and relocation or change in ownership.

Reconstruction is defined in 40 CFR 60.15 as any replacement of components in an existing facility where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility. Under such conditions, the Administrator would determine whether an existing facility would become an affected facility. Fixed capital cost means the capital needed to provide all depreciable components of the facility.

The three different alternatives for defining affected facilities and the implications of each one were considered in selecting the definition. If the affected facilities covered by the proposed standards were defined on the basis of individual equipment components, any replacement of an equipment component (pump, valve, etc.) would be considered a new source and would be subject to the new source standards. Under this definition situations would result in which replaced equipment components in existing process units would be subject to new source standards, while adjacent components would not be subject to the standards. Determining which components were subject to requirements of the standards could be difficult for the owner/operator and for EPA.

Designating affected facilities on the basis of process units would combine individual fugitive emission sources within the process unit into a unified group. Any like-for-like replacement of fugitive emission sources within an existing unit would not increase the overall emission rate, and would be a small capital expenditure compared to the cost of the entire unit. Therefore, the unit would not be subject to the standards due to modification or reconstruction considerations. Defining an affected facility as a process unit would reflect industry construction practices. Almost all new construction in SOCMI is by process unit. Furthermore, most reconstruction and modification occurs by process units.

Affected facilities could also be defined as plant sites, i.e., all process units at each plant site. If affected facilities were defined as plant sites, construction of new process units at existing sites could make the entire site subject to the standards. This broad coverage would be an unreasonable burden for owner/operators that have existing plant sites that may consist of many process units. The burden could be so severe that expansion might be limited at existing sites. If an entire process unit were replaced within an existing plant site, no emission increase would result, and, therefore, the unit and site would not be subject to the standards under modification considerations. If the plant site consisted of many process units, the replacement of one unit would probably not exceed 50 percent of the replacement cost of the affected facility (all process units at the site), and therefore the unit and site would not be subject to the standards.

After carefully considering each of the above alternatives, the Administrator selected process units as the basis for defining affected facilities. This definition allows for routine equipment replacement and minor changes or expansions in existing facilities without subjecting either single emission sources or entire plant sites to requirements of the proposed standards while also providing for full coverage for all new process units.

A disadvantage of implementing a decision to designate the process unit as the affected facility is that some small, routine changes and additions in an existing SOCMI unit could result in the unit's being modified and, therefore, subject to the standards of performance. These changes and additions may increase the number of fugitive emission sources within an existing facility, thereby increasing the fugitive emissions by a small amount. In most cases it would be feasible to control fugitive emissions from some other fugitive emission sources within the existing facility to keep fugitive emissions to their original level. In cases where existing facilities are already operating with a good fugitive emission control program, however, it might not be possible to control fugitive emissions from another fugitive emission source.

Standards of performance for new SOCMI sources are not intended to cover existing plants making routine and minor additions. There are two exceptions to the modifications provisions in the General Provisions of 40 CFR Part 60 which may exclude some plants making such additions. Exemptions are made for routine replacement and for additions made to increase production rate if they can be accomplished without capital expenditures. There are many specific reasons for routine additions and changes made in a SOCMI unit. For example, a small number of fugitive emission sources might be added in making changes to increase productivity, to increase ease of maintenance, to improve plant safety, and to correct minor design flaws. While the two reasons for exemptions included in the General Provisions might be interpreted to cover these types of changes, there may be different interpretations. To clarify the intent that existing SOCMI units making routine changes and additions would not be covered, the proposed standards would exempt additions made for process improvements if they are made without incurring a "capital expenditure" as defined in the General Provisions.

The General Provisions define "capital expenditure" as an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service Publication 534 and the existing facility's basis, as defined by Section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded addition" as defined in IRS Publication 534, as would be done for tax purposes.

Using the process unit as the basis for an affected facility, an affected facility would be a group of all fugitive emission sources within a process unit. In this way, the process unit is used as the basis for defining an affected facility, but coverage is restricted to fugitive emission sources. A process unit is specifically defined as equipment assembled to produce one or more of the chemicals listed in proposed Appendix E which can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the final product. A process unit includes intermediate storage or surge tanks and all fluid transport equipment connecting the reaction, separation and purification devices. All equipment within the battery limits is included. However, offsite fluid transport and storage facilities are excluded. Under this definition, if a number of SOCMI process units were integrated into a continuous operation, each would be considered a separate process unit. For example, if chemical A was produced as a feedstock for the production of chemical B and chemical B, in turn, was used as a feedstock to produce chemical C, the whole continuous operation would consist of three process units. If A, B, and C were SOCMI chemicals, there would be three affected facilities.

Selection of Regulatory Alternatives

Fugitive emissions of VOC can be reduced by two types of control techniques: (1) leak detection and repair programs and (2) equipment, design, and operational specifications. Four regulatory alternatives which would achieve different levels of emission reduction using various combinations of leak detection and repair programs and equipment, design, and operational requirements were considered.

Control Techniques. The leak detection and repair programs included in the various regulatory alternatives consist of two phases. The initial phase involves monitoring potential fugitive emission sources within a process unit to detect fugitive emissions of VOC. After detection of the leak, the second phase involves repair or replacement of the fugitive emission source.

Several leak detection methods were considered in the development of the regulatory alternatives. Methods considered included the use of VOC detection instruments and soap bubble solutions to locate individual leaking sources. Different modes of monitoring were also considered. Included were periodic monitoring for fugitive emission leaking sources on an individual component or an area basis and continuous automatic instrument monitoring of ambient air at multiple sites within a facility. As detailed in the Selection of Test Methods section of this preamble, the individual component survey using a portable VOC detection instrument has been selected as the leak detection method for the proposed standards. This method requires that the VOC concentration at the surface of each fugitive emission source would be monitored with a portable VOC detection instrument.

The effectiveness of an individual source leak detection program would depend not only on the detection method, but also on the frequency of the monitoring schedule. More frequent monitoring would allow leaks to be detected earlier and thus allow more frequent maintenance and a corresponding reduction in fugitive emissions.

The second phase of a leak detection and repair program consists of repair or replacement of leaking fugitive emission sources. Repair or replacement of a fugitive emission source would be required within a specified period of time after the detection of a VOC concentration equal to or in excess of a predetermined level. These repair and replacement procedures would vary for each fugitive emission source. Fugitive emissions from packed seals on a pump or compressor, for example, could be reduced by tightening the packing gland. However, the packing could deteriorate to a point where further tightening would no longer reduce, but instead, would increase the emission rate. At this point, the packing would have to be replaced. Mechanical seals on pumps and compressors would need to be removed for repair. Replacement of these seals would be included in their repair, if necessary.

Many valve leaks can be repaired while the equipment is in service. Most process valves have a packing gland which could be tightened while the valve is in service. Tightening of the packing gland would normally reduce fugitive emissions from a leaking valve, but the emission rate could increase if the packing is old and brittle or if the packing were overly tightened. When this orrurs, the packing would have to be replaced. Plug valves might be repaired by addition of grease.

Some valves could not be repaired while in service. These valves include control valves, which may be excluded from in-service repair by operating or safety considerations, and block valves, whose removal for repair or replacement might require a process shutdown. Other valves, such as control valves with a manual bypass loop, could be isolated for repair or removal. The repair of a leaking safety/relief valve normally requires that it be removed from service.

Leaks from flanges could often be reduced by tightening of the flange bolts. Most flanges could not be isolated from the process to permit replacement of the gasket.

Fugitive emissions of VOC also could be reduced by installing certain equipment. Requiring installation of certain equipment was considered for the following fugitive emission sources in the development of the regulatory alternatives: pumps, compressors, pressure relief devices, open-ended lines, sampling connections, and valves.

Fugitive emissions from pumps occur primarily at the pump seal. These emissions could be reduced by installation of the following equipment: sealless pumps, pumps with improved seals (e.g., dual mechanical seals), or closed vent systems for collection and control of emissions.

Because of process condition limitations, sealless pumps are not suitable for all pump applications but would reduce emissions whenever applicable. Enclosing the seal area and venting the captured emissions to a control device is an alternative control technique for pumps; however, it is not generally used because such a system is costly.

Dual mechanical seals are currently used in many SOCMI process applications. These seals characteristically include a barrier fluid between the seals. If the pressure in the barrier fluid system is higher than that in the pump seal area, VOC would not leak from the seal. If, however, the pressure in the pump seal area is higher, VOC could leak into the barrier fluid and later be emitted to the atmosphere through degassing vents on the barrier fluid reservoir. Connecting the degassing vents to a control device (enclosed combustion or vapor recovery system) could effectively control fugitive emissions originating from the double mechanical seals. The control efficiency would vary with the condition of the mechanical seals and the type of control device used, but control efficiencies approaching 100 percent can be achieved. Consequently, a system combining dual mechanical seal systems equipped with controlled degassing vents were considered as the equipment for pumps.

Emissions from compressors also occur primarily at the seal. An enclosed seal area or replacement of the seal with an improved seal (mechanical) could be specified to reduce emissions from compressors. Enclosing the seal area and venting the captured emissions to a control device is an alternative control technique for compressors; however, it is not generally used because it is too costly. The use of mechanical seals on compressors and connection of the barrier fluid reservoir to a control device (enclosed combustion or vapor recovery system) with a closed vent system could provide control efficiencies approaching 100 percent. If the barrier fluid pressure is higher than the compressor seal area pressure, there would be no VOC emissions to atmosphere. However, if the pressure in the barrier fluid system is lower than that in the compressor seal area, the degassing vents on the barrier fluid reservoir should be connected to a control device to effectively control fugitive emissions. Therefore, a system combining mechanical seals and controlled degassing vents was considered as the equipment for compressors.

Safety/relief valves may emit fugitive VOC due to defects in valve seating surfaces, improper reseating after relieving, or process operation near the relief valve set point. Equipment considered for controlling fugitive VOC emissions from relief valves include closed vent systems connected to a control device or rupture disks upstream of safety/relief valves.

A closed vent system can be used to transport the relief valve discharge (and fugitive emissions) to a control device such as a flare. These types of systems are currently used in SOCMI process units; however, under certain applications, such as flaring halogenated compounds, these systems could result in undersirable emissions. The control efficiency of a closed vent and control device system is mostly dependent on the effectiveness of the control device. For example, a closed vent system is about 100 percent effective in VOC capture, and a typical flare process is about 60 to 99 percent effective for VOC destruction; thus, the overall efficiency would be about 60 to 99 percent, depending on the turn-down capability of the flare.

Rupture disks can be installed upstream of safety-relief valves to prevent the emission of VOC through the valve seat during normal processing conditions. The use of a rupture disk upstream of a safety/relief valve results in no emissions of VOC from the valve. Rupture disks would provide more control than systems vented to a control device because the control device could not achieve 100 percent VOC emissions reduction, whereas rupture disks could. Consequently, rupture disks were considered as the equipment for safety/relief valves.

When process samples are taken for analysis, obtaining a representative stream sample requires purging some process fluid through the sample connection. This sample purge could be vented to the atmosphere if the fluid were gaseous, and liquid sample purges could be drained onto the ground or into open collection systems where evaporative emissions could result. There is no leakage from in-site sampling systems but they may not be applicable in all situations. Fugitive emissions from other sampling connections can be reduced by using a closed-loop sampling system that eliminates atmospheric purging of process material.

Fugitive emissions of VOC from open-ended lines can be controlled by installing a cap, plug, blind flange, or second valve on the open end of the line. Capping of open-ended lines and closed-loop sampling are common industrial practices applied in SOCMI which exhibit control efficiencies for fugitive emissions of VOC of approximately 100 percent. The actual control efficiencies will depend on site-specific factors. Because the equipment is readily available, commonly used, and inexpensive, caps, plugs, blinds, or valves were considered for open-ended lines, and closed-loop sampling was considered for sampling connections.

Fugitive emissions from valves occur at the stem or gland area of the valve body. These emissions can be controlled by using valves which have actuating mechanisms isolated from the process fluid such as diaphragm or bellows valves. Although the control effectiveness of diaphragm or bellows seal valves is about 100 percent, their use is limited. Because the application of these valves would be limited to certain services, they were not considered and, therefore, no equipment was considered for valves in the regulatory alternatives.

Regulatory Alternatives. Four regulatory alternatives, which represent different levels of emission reduction achievable by combining various leak detection and repair programs, operational and design requirements and equipment specifications, were considered in the development of the proposed standards. Regulatory Alternative I is the baseline alternative and represents the level of control that would exist in the absence of any standards of performance. Under Regulatory Alternative I SOCMI facilities located in areas attaining the National Ambient Air Quality Standard for ozone would not be subject to any VOC fugitive emission regulations; however, facilities in nonattainment areas would be subject to applicable SIP regulations. Only a few states have developed or are considering near-term development of these specific regulations. Under Regulatory Alternative I fugitive emissions of VOC could also be controlled to some extent by OSHA health standards or controls based on provisions of insurance policy for fire and/or explosion protection. Estimates of emissions from fugitive emission sources have been developed based on existing levels of fugitive emission control. Thus, Regulatory Alternative I was based on current levels of control, considering possible new regulatory controls, and represents the level of control that would exist in the absence of any standards of performance.

Regulatory Alternative II includes the same monitoring requirements and equipment specifications included in the petroleum refinery Control Techniques Guidelines (CTG) document (EPA-450/2-78-036). These requirements and specifications are:

1. Quarterly monitoring of all in-line valves, open-ended valves and safety/relief valves in gas service (relief valves would also be monitored after overpressure relief to check for proper reseating);
2. Annual monitoring of all in-line valves and open-ended valves in light liquid service;
3. Quarterly monitoring of compressor seals;
4. Annual monitoring of light liquid service pumps (such pumps would also be inspected visually for liquid leaks each week; immediate instrument monitoring of visually leaking pumps would be required); and
5. Installation of caps, blinds, plugs, or second valves to seal all open-ended lines.

Regulatory Alternative III specifies a more frequent equipment monitoring schedule than Regulatory Alternative II, thereby providing for more stringent control of fugitive emissions of VOC. For instance, Regulatory Alternative III would require monthly, rather than quarterly or annual monitoring. Monthly monitoring would result in a reduction of emissions from residual leaking sources, i.e., those sources which are found to be leaking and are repaired but begin to leak again before the next inspection and those previously non-leaking sources that begin leaking between inspections. Regulatory Alternative III would also require the use of caps, plugs, or second valves on open-ended lines.

Of the four alternatives, Regulatory Alternative IV would provide the greatest level of control for fugitive emissions of VOC through the use of equipment specifications for some fugitive emission sources. The implementation of equipment specifications for the various potential fugitive emission sources would lessen the need for periodic monitoring. The monitoring and equipment specifications requirements of Regulatory Alternative IV are:

1. Monthly monitoring of all in-line valves and open-ended valves in gas and light liquid service;
2. Installation of rupture disks upstream of as service safety/relief valves that vent to the atmosphere (the disk would be replaced if disk failure were detected);
3. Installation of closed vents and control devices for compressor seal areas and/or degassing vents from compressor barrier fluid reservoirs;
4. Installation of dual mechanical seals on pumps in light liquid service and installation of closed vent control devices for degassing vents from barrier fluid reservoirs of all pumps in light liquid service (weekly visual inspections of pumps in light liquid service would also be required, with subsequent instrument monitoring required for those pumps with visible liquid leaks);
5. Installation of closed loop sampling systems; and
6. Installation of caps, blinds, plugs, or second valves to seal all open-ended lines.

Selection of Basis for the Proposed Standard

The Clean Air Act requires that standards for performance be based on the best system of continuous emissions reduction, considering costs, energy usage, and environmental impact. Selection of a regulatory alternative as the basis for the proposed standards was made after considering estimated fugitive emission reductions, energy savings or usage, and cost and economic impacts of the regulatory alternatives. SOCMI, with approximately 1,680 operating process units in the United States in 1980, is projected to grow at an annual rate of 5.9 percent. Based on this growth rate, approximately 2,240 process units will be in operation in 1985. Approximately 830 of these facilities would be subject to the proposed standards in 1985 due to new construction. Of this total, about 560 facilities would be newly constructed and subject to the standards on this basis. The remaining 270 facilities would result from replaced facilities which would be subject to the standards.

To examine the environmental impacts of the regulatory alternatives, estimates of fugitive emissions of VOC are required. To make these estimates for SOCMI, fugitive emissions data developed in petroleum refineries have been used. Transferring data in this way is justified because the fugitive emission sources and the substances processed in the two industries are similar. Both industries use the same types of pumps, compressors, valves, flanges and other chemical processing equipment.

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Furthermore, both industries process VOC. Leak rates of VOC from similar fugitive emission sources are similar; leak frequencies in the two industries are similar. Available EPA data as presented in the Background Information Document shows this to be true. To further verify this similarity, EPA is currently gathering more data in SOCMI units for comparison to the refinery data. These data will be in the docket before the end of the comment period. These data and comments on this data will be fully considered before promulgation of these standards.

Regulatory Alternative II would reduce fugitive emissions of VOC from the 830 affected facilities in 1985 from an uncontrolled level of 200 Gg/yr to approximately 73 Gg/yr, or by 63 percent. The total energy associated with a VOC being processed is made up of the energy value of the compound and the energy expended to process (condense, pump, vaporize, etc.) the compound. The total energy associated with the VOC would be lost if the VOC were to leak to the atmosphere. This energy loss could be reduced if the VOC were combusted in an enclosed combustion system because some of the energy released during combustion could be recovered. If the VOC could be kept within the process and sold as product, the energy loss would be eliminated. Regulatory Alternative II reduces the energy loss that would result in the absence of any standards.

During the first five years after implementation of Regulatory Alternative II, SOCMI's cumulative capital costs would be $21 million. In the firth year, Regulatory Alternative II would result in an annualized net credit of $29 million due to the value of the recovered product. Implementation of Regulatory Alternative II would tend to hold individual price increases down because it would result in a net annualized credit. Implementation of Regulatory Alternative II could have a slight positive impact on wastewater from SOCMI facilities because leak detection would result in the identification and repair of liquid VOC leaks, and therefore, reduction of VOC's in wastewater from SOCMI facilities. Regulatory Alternative II would have no impact on any solid wastes associated with SOCMI.

Regulatory Alternative III would result in a fugitive emission rate of approximately 62 Gg/yr from the 830 affected facilities in 1985; this represents a 69 percent reduction over the baseline, or Regulatory Alternative I level. Regulatory Alternative III, like Regulatory Alternative II, reduces the energy loss that would result from SOCMI in the absence of any standards. SOCMI would incur cumulative capital costs of $21 million during the first five years after implementation of this alternative. However, due to the increased cost of implementing a more frequent monitoring schedule, Regulatory Alternative III would result in a smaller annualized net credit than Regulatory Alternative II. Implementation of Regulatory Alternative III would result in an annualized net credit of $21 million in 1985. As with Regulatory Alternative II, an annualized net credit would tend to hold individual price increases down. Regulatory Alternative III would have the same potential positive impact on wastewater from SOCMI facilities as Regulatory Alternative II, and no impact on solid waste.

Regulatory Alternative IV would reduce fugitive emissions of VOC from the 830 affected facilities in 1985 to 26 Gg/yr; this represents an 87 percent reduction from the Regulatory Alternative I level. Regulatory Alternative IV would minimize the energy loss that would result from SOCMI in the absence of any standards.

For Regulatory Alternative IV the cumulative capital costs would be about $232 million after the first five years of implementation. The net annualized cost for this regulatory alternative would be $11 million in 1985. These costs should not significantly increase the prices of SOCMI products because net annualized costs of control are extremely small (less than 0.03 percent) relative to the value of total industry output. Implementation of Regulatory Alternative IV could have a slight positive impact on wastewater for the same reasons as Regulatory Alternatives II and III. A wastewater containing suspended solids and some solid waste could result from the use of various control processes such as carbon adsorption units with the equipment specifications implemented under this alternative. However, the impact of these waste streams would be slight. Solid waste impact would also be minimal.

The Administrator selects a regulatory alternative as the basis for the proposed standards of performance after considering emission reductions, energy requirements, and cost and economic impacts of the regulatory alternative. This selection is based on choosing the best system of continuous emission reduction considering costs, energy and environmental impacts. Regulatory Alternative IV would reduce fugitive emissions of VOC by 170 Gg/yr in 1985. Of all the regulatory alternatives, Regulatory Alternative IV would achieve the greatest reduction of VOC fugitive emissions. The costs and economic impacts of Regulatory Alternative IV, as presented above, are reasonable. Energy requirements and nonair quality impacts of Regulatory Alternative IV would be similar to those of the other regulatory alternatives. Therefore, Regulatory Alternative IV represents the best system of emission reduction considering cost, energy requirements, and environmental impact and the Administrator selected Regulatory Alternative IV as the basis for the proposed standards.

Selection of Format for the Proposed Standards

Several formats could be used to implement Regulatory Alternative IV. Section 111 of the Clean Air Act requires that standards of performance be prescribed unless, in the judgement of the Adminsitrator, it is not feasible to prescribe or enforce such standards. Section 111(h) defines two conditions under which it is not feasible to prescribe or enforce a performance standard. These conditions are (1) if the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations, or (2) if the pollutants cannot be emitted through a conveyance device. If a standard of performance is not feasible to prescribe or enforce, then the Administrator may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof as provided in Section 111(h).

For most SOCMI fugutive emission sources, it is not feasible to prescribe a performance standard. Except in those cases in which standard can be set at "no detectable emissions", the only way to measure emissions from such SOCMI fugitive emission sources as pumps, pipeline valves, and compressors would be to use a bagging technique for each of the pipeline sources in a process unit. The great number of such sources and their dispersion over large areas would make such a requirement economically impracticable. Therefore, the Administrator has not selected this format in prescribing the proposed standards.

Another approach to prescribing a standard would be to specify a number or percent of fugitive emission sources that would be allowed to leak. This approach would be qualitative. It differs from the performance standard appoach which is based on quantitive emissions measurements (e.g. bagging). However, it would have some of the same benefits of flexibility provided by performance standards. The only fugitive emission source for which a leak frequency limit would be applicable is valves. However, the variability in the percentage of valves leaking among process units limits the setting of an allowable percentage of valves leaking which could be achieved by all process units within SOCMI. This variability is observed even among units in which leak detection and repair programs are being implemented. Even so, establishing an allowable percentage of valves leaking based on data collected for that unit, may be feasible for each individual process unit. This approach is discussed in more depth in Alternative Standards for Valves in the next section of this preamble as one which would add desirable flexibility to the proposed standard.

Another possible regulatory format is an equipment standard. For those sources for which performance standards cannot feasibly be prescribed, work practices, design standards, operational standards, or equipment standards may be prescribed. Each of these formats has its own advantages and disadvantages. Equipment standards provide well-documented reductions. Compliance monitoring would require only an initial check to insure that the equipment had been installed properly and periodic checks to insure that equipment was continuing to operate properly. However, an inherent disadvantage associated with this type of format is that less site-specific flexibility is provided than with a performance standard and innovation may be stymied. Design and operational standards have similar advantages and disadvantages as those for equipment standards.

Another format is work practices. An example of this format would be a program for detecting and repairing leaks. Inspection methods, inspection time intervals, and time allowed for repair would be defined in detailing the work practices. Compliance with a work practice standard would be determined by judging success in implementing the work practices. Some recordkeeping and reporting would be needed to serve as the basis for judging this success.

The proposed standards could incorporate all of the potential regulatory formats. Different formats are required for different fugitive emission sources because characteristics of the emission sources, the available emission control options, and the applicability of proposed Reference Method 21 differ among the sources. In the next section the rationale for selecting a particular format is explained for each type of fugitive emission source. For each fugitive emission source, the feasibility of prescribing or enforcing a performance standard is discussed. If a performance standard is not feasible, the rational for selecting another format is presented.

Selection of Emission Limit, Equipment, Work Practice, Design and Operational Standards

Safety relief valves. Section 111(h) of the Clean Air Act requires that a standared of performance be promulgated unless it is not feasible to prescribe or enforce. Thus, control techniques included in Regulatory Alternative IV were first evaluated to determine if a performance standard could be proposed. The conclusion of this evaluation is that the only fugitive emission sources for which it would be feasible to prescribe and enforce a performance standard are safety/relief valves, and in certain cases, fugitive emission sources which are designed not to leak.

Rupture disks were evaluated as the equipment specification for gas service service safety/relief valves under Regulatory Alternative IV. When the integrity of rupture disks is maintained, fugitive emissions through the relief valve are eliminated. Rupture disks maintain their integrity unless an overpressure occurs. After an overpressure, replacement of the rupture disk once again eliminates fugitive emissions through the safety relief valve.

For control techniques the eliminate fugitive emissions, and emission limit measurement for "no detectable emissions" is feasible by the proposed Reference Method 21. Measurement methods for determing the quantitative emission rate from safety/relief valves are not feasible because they would require bagging each piece of equipment. However, Method 21, while it does not allow quantitative measurement of emissions, does allow the detection of leaks of fugitive VOC emissions from safety/relief valves. Therefore, the proposed standard for safety/relief valves in gas service is "no detectable emissions." The "no detectable emission" limit would not apply to discharges through the safety/relief valve during pressure relief because the function of relief valves is to discharge process fluid, thereby reducing dangerous high pressures within the equipment. The Standard would specify, however, that the relief valve be returned to a state of no detectable emissions within 5 days after such a discharge. It would further require an annual test to verify the "no detectable emissions" status of the safety relief valves. Also, a test would be required when the Administrator makes such a request.

A test to determine if a fugitive emission source is complying with a "no detectable emissions" requirement is a performance test. Performance tests require three separate runs, unless otherwise specified in an applicable subpart, as required in 40 CFR 60.8(f). A test to determine if a fugitive emission source is complying with a "no detectable emissions" requirement does not require three runs. Thus, tests to determine "no detectable emissions" would be exempted from 40 CFR 60.8(f) in the proposed standards.

In addition to three runs, performance test requirements include a notification to the Administrator 30 days before each performance test. For fugitive emission sources, tests to determine "no detectable emissions" may occur throughout a year and at least, after each over pressure relief. Requiring an owner or operator to notify the Administrator, as required in 40 CFR 60.8(d), is not considered reasonable for these standards. Thus, to reduce the reporting burden on industry, owners or operators of affected facilities are exempted from 40 CFR 60.8(d) in the proposed standards.

Pumps. It is not feasible to prescribe a performance standard for pumps because application of measurement technology to pumps is technologically and economically impractical. First, even though pump seals can be designed to release emissions into a conveyance mechanism, measurement of these emissions is not practicable. Dilution of the fugitive emissions in a conveyance mechanism limits the economical and technological application of measurement methods. Second, determining emission levels from each pump would require the time-consuming, expensive and impractical method of bagging each pump as described in the Selection of Test Method section of this preamble. Furthermore, a "no detectable emission" limit is not feasible because dual mechanical pump seals leak on occasion.

After determining that a performance standard for pumps would not be practicable because of technological and economic limitations, equipment standards were evaluated. Equipment specifications evaluated for pumps were dual mechanical seals with closed vents for the barrier fluid degassing reservoirs, closed vents for the pump seal areas, and sealless pumps. After evaluation, dual mechanical seal systems that include barrier fluid systems and

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sensors to detect failure of either seal or barrier fluid system were selected as the basis for the equipment specifications for pumps in Regulatory Alternative IV. They are frequently used in SOCMI pump applications. If the barrier fluid system is maintained at a pressure greater than the stuffing box pressure, no VOC leakage would occur because all leaks would be inward into the process fluid. If the stuffing box pressure is greater than the barrier fluid pressure, the barrier fluid between the two seals collects leakage from the inner seal, and the VOC collected by the barrier fluid is controlled by connecting the barrier fluid reservoir to a control device (enclosed combustion or vapor recovery) with a closed vent system or by returning it to the process. The dual mechanical seals with controlled degassing vents system is the most universally applicable of the three options evaluated. Thus, because they provide the best control efficiency (dependent upon the efficiency of the control device) considering costs, the equipment requirement for pumps is the use of dual mechanical seals with closed barrier fluid degassing vents connected to a control device or designed to return the VOC to the process.

Section 111(h) of the Clean Air Act requires that when equipment standards are established, requirements must also be established to insure the proper operation and maintenance of the equipment. Such provisions have been made in the proposed regulation. An indicator on the barrier fluid system would reveal any catastrophic failure of the inner or outer seal or barrier fluid system. The failure indication criterion would be determined, for each piece of equipment. Leakage through the outer seal could be detected by weekly visual inspections and would be limited by the barrier fluid. Although the intent of the standards would best be preserved by inspections as frequent as possible, weekly inspections were specified to keep the requirement from being burdensome. Detection of any leaks should be followed by repair within 15 days.

The barrier fluid would be either a non-VOC fluid or a heavy-liquid VOC. The use of light liquid VOC as a barrier fluid could result in emissions of VOC of the same magnitude as those which would occur if product VOC were allowed to leak past the seals. Leakage of process fluid through the inner seal would be captured and controlled by the barrier fluid/closed vent system.

Sealless pumps, such as diaphragm or canned pumps, do not have a potential leak area, and therefore should achieve approximately 100 percent control. However, sealless pumps may not be suitable for use in some SOCMI process applications due to throughput, pressure, or fluid composition constraints. Sealless pumps were not selected under Regulatory Alternative IV and, therefore, were not selected as required equipment for the proposed standards.

Sealless pumps are at least equivalent to dual mechanical seals with barrier fluid degassing vents connected to control devices in controlling fugitive emissions. Therefore, the proposed standards allow them for owners/operators who wish to use them. Sealesss pumps would be required to operate under a "no detectable emission" limit as discussed in *Leakless Equipment* in this section.

The seal area of a pump could be completely enclosed, and this enclosed area could be connected to a control device (enclosed combustion or vapor recovery) with a closed vent system. The control efficiency of this arrangement is dependent on the control efficiency of the vapor recovery system or enclosed combustion device. The closed vent system could require a flow inducing device to transport emissions from the seal area to the control device. Because of safety or operating limitations, enclosure of the pump seal area may not be feasible in all cases.

There may be isolated and unusual pump applications which require pumps which cannot be equipped with mechanical seals. For example, if a reciprocating pump is required, mechanical seals may not be possible. The enclosed seal area would be the best control option for such pumps. Therefore, enclosed seal areas connected to a control device with a closed vent system would be allowed for pumps that cannot be equipped with dual mechanical seal systems. Although enclosing seal areas would be as effective in reducing emissions as other effective techniques, this option would most likely be used on a limited basis.

Compressors. As in the case for pumps, a performance standard for compressors is not feasible. Even though compressor seals can be designed to release fugitive emissions into a conveyance mechanism, measurement of these emissions would be limited by technological and economical factors. Measuring emissions from each compressor would require bagging each seal area. This method is time-consuming and expensive and is therefore, impracticable. An emission limit of "no detectable emissions" using proposed Reference Method 21 as the measurement method, is not feasible because mechanical contact seals leak on occasion.

Because performance standards cannot feasibly be prescribed for compressors, the several alternative formats were considered and equipment standards found to be most appropriate. Equipment specifications evaluated for compressors were sealless compressors, mechanical contact seals equipped with barrier fluid system with the barrier fluid degassing reservoirs vented to control devices, and closed vents for the compressor seal area vented to a control device. Dual seal systems that include barrier fluid systems and sensors to detect failure of either seal or barrier fluid system were selected as the basis for Alternative IV. Some compressors in current SOCMI applications have a seal system with a circulating barrier fluid system. This barrier fluid system is similar to the system described for pumps with dual mechanical seals, although the compressor seals may be mechanical contact, oil film, or another type of seal. If the barrier fluid system is maintained at a pressure greater than the stuffing box pressure, no VOC leakage would occur because all leaks would be towards process fluid. If the stuffing box pressure is greater than the barrier fluid pressure, the barrier fluid between the two seals collects leakage from the inner seal. Leakage through the seal results in the presence of VOC in the barrier fluid which would be a non-VOC fluid or gas or a heavy VOC. The use of a light liquid VOC or VOC gas a barrier fluid could result in emissions of VOC of the same magnitude as those which would occur if product VOC were allowed to leak past the seals. VOC trapped in the barrier fluid would be emitted from the barrier fluid reservoir. However, this VOC could be collected and directed to a control device (enclosed combustion or vapor recovery system) or returned to the process (probably the suctions of the compressor) by a closed vent system that is connected to the barrier fluid reservoir. A seal system which uses a barrier fluid system provides a high control efficiency and is the most applicable effective control technique for compressors.

Section 111(h) of the Clean Air Act requires that proper maintenance and operation of equipment specified in a regulation be insured. To provide this insurance the proposed standard requires visual inspection and monitoring of the barrier fluid system to detect seal failure or barrier fluid system failure and the use of non-VOC or heavy VOC liquids for the barrier fluid. The failure indication criterion would be determined for each piece of equipment.

Although sealless compressors would achieve approximately 100 control, sealless compressors are not readily available in capacities large enough for most SOCMI process applications, and therefore, have limited use in SOCMI. Consequently, sealless compressors were not considered under Regulatory Alternative IV and were not selected as equipment specifications for the proposed standards.

However, sealless compressors are at least equivalent to compressors equipped with barrier fluid systems and degassing vents connected to control devices because VOC emissions are eliminated and, therefore, can be used as an alternative. Leakless compressors would be required to operate under a "no detectable emissions" limit as discussed in the *Leakless Equipment* section.

There are some cases in which seals with barrier fluid systems cannot be utilized. A barrier fluid system cannot be used under all process conditions due to pressure limitations. For those cases, enclosure of the seal area would be the best option. The enclosed area would be connected to a control device (enclosed combustion or vapor recovery) with a closed vent system. Therefore, enclosed seal areas connected to a control device with a closed vent system would be allowed for compressors that cannot utilize a barrier fluid system. Although enclosing seal areas would be as effective in reducing emissions as other effective techniques, this option would most likely be used on a limited basis.

Open-ended valves. The equipment chosen for open-ended valves as the basis for Regulatory Alternative IV was equipment which would effect enclosure of the open end. Because performance standards cannot feasibly be prescribed for open-ended valves, the several alternative formats were considered and equipment standards found to be most appropriate. An emission limit is not feasible because open-ended valves are generally not designed to emit fugitive emissions into a conveyance mechanism and because they would require bagging, which is economically impracticable, as previously explained in the Selection of Formats section. A "no detectable emissions" level could not be selected as the basis for the proposed standard because VOC's could leak through the valve seat and become trapped in the line between the valve and enclosure. These trapped VOC's would be emitted when the enclosure was removed for operation of the valves and open-ended valve.

After consideration and rejection of the possibilities for performance standards for open-ended valves, equipment standard options were considered. Equipment specifications considered included improved valve seat technology and enclosure of the open end. Improved valve seat technology was not selected because the effectiveness of such technology could be nullified by operating variables such as incomplete closure of the valve by operating personnel.

Specific equipment which would be required to close the open end would be a cap, plug, blind flange, or a second valve. The control efficiency associated with these techniques is approximately 100 percent.

To insure the proper operation of the equipment, open-ended lines are also covered by operational standards. If a second valve is used to close the open end, the proposed standards would require the upstream valve to be closed first. After the upstream valve is completely closed, the downstream valve would be closed. This operational requirement is necessary in order to prevent trapping process fluid between the two valves, which could result in a situation equivalent to the uncontrolled open-ended line.

Sampling connections. Closed loop sampling was considered as the equipment specification for sampling connections. Closed loop sampling systems eliminate emissions due to purging by either returning the purge material directly to the process or by collecting the purge in a collection system which is not open to the atmosphere for recycle or disposal. An emission limit was not specified because measuring mass emissions from each sampling system would require bagging each system, a measurement method which is time-consuming, costly, and impractical. A "no detectable emissions" limit is not feasible because although the VOC control efficiency of a closed loop sampling system is approximately 100 percent, some VOC could be emitted during its transfer to a closed collection device or during its ultimate disposal.

Because performance standards cannot feasibly be prescribed for sampling connections, the several alternative formats were considered and equipment standards found to be most appropriate. The equipment standards in the proposed standards require the use of closed loop sampling equipment. In addition to closed loop sampling systems any system that collects all the VOC purged in the sampling and either recycles or disposes of this VOC without emissions to atmosphere is allowed. *In situ* sampling systems are exempted from these requirements.

Valves. Work practices consisting of periodic leak detection and repair programs were considered for valves in Regulatory Alternative IV.

A performance standard for valves was considered and found infeasible. Valves are not designed to release fugitive emissions into a conveyance mechanism. Furthermore, determining mass emissions from each valve would require bagging each valve. This measurement method would be time-consuming and prohibitively expensive, especially considering the number of valves in a SOCMI process unit. A "no detectable emissions" limit is not feasible for valves because some percent of the valves are expected to lead.

Since performance standards were found to be infeasible for valves, equipment standards were considered. Equipment specifications considered for valves were diaphragm valves and bellows-sealed valves. These equipment specifications would not be suitable for all SOCMI process applications, and therefore, were not selected as part of Regulatory Alternative IV. However, use of these valves would be at least equivalent because they eliminate leakage of VOC. The use of such valves is allowed as an alternative. These valves would be required to operate with "no detectable emissions" as described in *Leakless Equipment* in this section.

Work practices were selected as the format for control of fugitive VOC emissions from valves. Several factors influence the level of emission reduction that can be achieved by a leak detection and repair program. The three main factors are the monitoring interval, leak definition, and repair interval. Training and diligence of personnel conducting the program, repair methods attempted, and other site-specific factors may also influence the level of emission reduction achievable; however, these factors are less quantifiable than the three main factors.

The monitoring interval is the frequency at which individual component monitoring is conducted. The length of time between inspections should be determined by the rate at which new leaks occur and the rate at which repaired leaks recur. More frequent inspections could then be required for souces which tend to leak more often. Available data with which to quantify the frequency of occurrence and recurrence of leaks from valves are limited. However, more frequent monitoring would result in greater emissions reduction because more frequent monitoring would allow leaks to be detected earlier and thus allow more immediate repair.

Monthly monitoring was considered for Regulatory Alternative IV. Test data indicate that leaks would be found with monthly inspections. More frequent intervals were not considered because the large number of valves in certain SOCMI process units limits the practical minimum for the monitoring intervals. For example, a typical large process unit, Model Unit C (defined in the Background Information Document), includes 2800 valves (in gas and light liquid service) requiring periodic monitoring. Each leak detection and repair survey for a single process unit would require approximately 95 man hours for monitoring and 16 man hours for repair. If the monitoring were performed by a two man team more than one week would be required to complete the monitoring. A week would clearly be too short a time interval to select for monitoring. Since some time would be required to schedule repair after a leak is detected, monitoring intervals shorter than one month could result in a situation where a detected leak could not be repaired before the next monitoring was required. One month was selected as the required monitoring interval because it would provide the greatest emission reduction potential without imposing difficulties in implementing the leak detection and repair program.

Industry representatives argued at the National Air Pollution Control Techniques Advisory Committee meeting (a public meeting held during the development of standards of performance) that monitoring all valves monthly would be an inefficient expense of time and manpower for valves that leak infrequently or less often than other valves. The analysis in the BID assumed that about half the valves found leaking at any given time are valves which have been repaired and which have begun leaking again. This assumption emphasizes the importance of valve leak recurrence. If this assumption is correct, more monitoring effort should be expended on valves found leaking and less on those found leaking infrequently. Therefore, the proposed standard would require monthly monitoring of valves unless they are not found leaking for two successive months. If a valve were not found leaking for two successive months, an owner or operator would have the option to exclude that valve from monitoring until the first month of the next quarterly period. Thereafter, the valve could be monitored once every quarter until a leak was detected. If a valve leak were detected, monthly monitoring of that valve would be required until it had been shown leak free for two successive months.

EPA wants to make clear that this proposed standard is based on the assumption that recurrence is an important factor in predicting valve leaks. This assumption was used to develop a monitoring program which would result in a level of fugitive emission control comparable to that which would result from monthly monitoring. It is not EPA's intent in this action to propose a monitoring plan which would be comparable in effect to quarterly monitoring. This would be the case under the proposed standard if occurrence rather than recurrence is the more important factor.

EPA is currently collecting data concerning the importance of valve leak recurrence. The data being collected will be available before promulgation. If the data shows that recurrence is not a significant contributor to the total number of leaks, the proposed program will be reassessed and consideration will be given to returning to monthly monitoring.

The leak definition is the VOC concentration observed during monitoring that defines leaking sources that require repair. Two primary factors affect the selection of the leak definition. These factors are: (1) the percent of total mass emissions which can potentially be controlled by the leak detection/repair program, and (2) the ability to repair the leaking components.

As the leak definition decreases, the maximum potential emission reduction increases due to the increasing number of sources that have VOC concentrations that are greater than the decreasing leak definitions. The overall emission reduction of a leak detection and repair program depends on several factors as noted above. Each of these factors limits the effectiveness of the program. If each of the factors considered in selecting the leak detection and repair program is 90 percent effective, then the overall effectiveness would be about 73 percent. Each factor is a limiting factor to the overall effectiveness. Thus, the most restrictive definition that is reasonable for each factor should be selected. In order to maximize control effectiveness of the leak detection and repair program, the lowest leak definition which is feasible in terms of monitoring and controlling effectively without being unreasonably burdensome should be selected.

The leak definition selected for leak detection monitoring was 10,000 ppm. Preliminary data show that attempting on-line repair of valves at or above a leak definition of 10,000 ppm could result in a few cases where the attempted repair would increase the emission rate from the valve, but these cases do not offset emission reductions achieved by repair of other valves. When repair does not reduce the VOC concentration to less than 10,000 ppm, the valve would require a more extensive repair effort than tightening or regreasing the packing. Replacement of the valve may be necessary. Preliminary data also show that attempting the repair of valves in the 1,000–10,000 ppm range (low level) could result in more cases in which individual valve emission rates increase after repair when compared to the number of such cases which would result from attempting to repair valves in the over 10,000 ppm range. If such increases were to occur, the attempted repair of "low level" leaks could result in a lower overall emission reduction at a leak definition of 1,000 ppm than at 10,000 ppm. Because the 10,000 ppm action level may provide a higher overall emission reduction than the 1,000 ppm action level, 10,000 ppm was selected as the leak definition for leak detection monitoring.

The repair interval is defined as the length of time allowed between the detection of a leak and repair of the leak. In order to provide the maximum effectiveness of the leak detection and repair program, the repair interval should require expeditious reduction of the fugitive emission but should also allow the owner/operator to maintain a reasonable degree of flexibility in overall maintenance scheduling.

The length of the repair interval would affect emission reductions achievable by the leak detection and repair programs because leaking sources would be allowed to continue to leak for a given length of time. Repair intervals of 1, 5, 10, 15, 30 and 45 days were evaluated. The effect on the maximum emission reduction potential is proportional to the number of days the source is allowed to leak between detection and repair. Estimates of emission reduction efficiency as a function of repair interval are presented in the Background Information Document.

The repair interval selected for the leak repair program was 15 days. A repair interval of one day would cause problems in coordinating activities of personnel involved in leak detection and leak repair and in certain circumstances, would not be technically feasible. A one day repair interval would essentially require repair of each component as soon as the leak was discovered.

Some valves may not be repairable by simple field maintenance. These valves may require spare parts or removal from the process for repair. Repair intervals of 5 and 10 days could cause problems in obtaining acceptable repair for these valves. However, a 15-day interval provides the owner/operator with sufficient time for flexibility in repair scheduling, and provides time for better determination of methods for isolating pieces of leaking equipment for repair. In general, a 15 day repair interval allows more efficient handling of repair tasks while maintaining an effective reduction in fugitive emissions and was, therefore selected as the repair interval. A repair interval of 30 or 45 days was not selected because a 15 day repair interval provides the most effective emission reduction without being burdensome.

However, the first attempt at repair of a leaking source would be required as soon as practicable after detection of the leak, and no later than 5 days after discovery. Most repairs can be done quickly, and 5 days should provide sufficient time to schedule maintenance and repair a leaking source. Attempting to repair the leak within 5 days will help to identify the leaks that cannot be repaired within the 15 day repair interval. Delay of repair beyond 15 days would be allowed for leaks which could not be repaired without a process unit shutdown.

Alternative Standards. In an effort to provide as much flexibility as possible, two alternative standards are being proposed for valves in gas and light liquid service. Owners or operators of affected facilities could identify and elect to comply with either of the alternative standards which allow tailoring of fugitive emissions control programs to their own operations. This would be accomplished by carrying out a monthly monitoring program for at least one year. Then, a plant owner or operator could elect to comply with one of the alternative standards which would be based on information gathered during the one year's implementation of monthly monitoring.

The first alternative standard would provide an allowable percentage of valves leaking. This type of standard would provide the flexibility of a performance standard by setting a limit which could be achieved by the most efficient and practical methods for a particular operation. As previously pointed out in the Selection of Format for the Proposed Standards section of this preamble, an industry-wide allowable leak percentage was not possible for valves because of the variability in valve leak frequency among plants within the industry. However, the alternative standard would allow each affected facility to comply with an allowable percentage of valves leaking which is determined by their individual performance based on monthly monitoring in the leak detection and repair program.

The allowable percentage of leakers would be determined by averaging the percentage of valves found leaking in each month of the last six months of monitoring, excluding those which could not be repaired without a process unit shutdown. To this average would be added the additional percentage of leaks which would occur if valves found leaking were monitored monthly and those found not leaking for two successive months were monitored quarterly. The resulting sum would be the performance standard for the percentage of valves leaking which would be allowed at any time. If an owner or operator elected to comply with an allowable percentage of valves leaking, he would be required to meet this standard at any point in time, even though his allowable percentage would be based on his average performance of a leak detection and repair program. Choosing this alternative standard would allow for the possibility of different monitoring and maintenance programs and substitution of engineering controls at the discretion of the owner or operator. It would also eliminate a large part of the recordkeeping and reporting associated with the proposed standard for valves.

This alternative would require a minimum of one performance test per year. Additional performance tests could be requested by EPA. If the results of a performance test showed a percentage of valves leaking higher than the allowable limit, the process unit would be in violation. Reporting would consist of submitting performance test results to the Administrator; quarterly reporting would be eliminated for valves.

The second alternative standard would provide for the use of different work practices which would achieve the same level of control as the standard for valves described in proposed § 60.482(f). After performing monthly monitoring for at least a year, the data collected would be used to devise work practices which would achieve the same control as the work practices specified in the proposed standards. Using this approach an owner or operator could optimize labor and capital costs to achieve the required level of control by varying monitoring intervals or installing valves with lower probabilities of leaking. Quarterly reporting would be required under this alternative as it is under the proposed standard in § 60.482(f).

An owner or operator would request approval from EPA to use either of the alternative standards for valves. A request for approval would be accompanied by a description of the standard being selected for compliance and data and calculations supporting the basis for the alternative standard. The Administrator would either approve or disapprove the request for the use of the alternative standard within ninety days after the request is submitted. A denial from the Administrator would be accompanied by his reasoning for denial. Until the alternative is approved, an owner or operator would be required to comply with the work practice standard propsoed for valves.

The approach of providing optional standards would be reassessed before promulgation of the proposed standards and if promulgated would be reviewed at the fourth year review. At that time, changing, eliminating, or continuing the alternative standards would be considered.

Control device. Control devices would be used to dispose of VOC captured in closed vent systems from barrier fluid degassing systems and enclosed pump and compressor seal areas. In all cases, these control devices would receive streams with low and intermittent flow rates. These control devices would in some cases be designed to dispose of organic streams from other sources in the plant, so that the VOC streams may contribute a very small percentage of the total loading on the control device. Because it would be technologically and economically impracticable to measure very low-flow streams and differentiate these streams from others, an emission standard was not proposed for these control devices.

Design requirements for control devices were considered to insure that appropriate emission reductions would be achieved from control devices used in conjunction with closed vent systems. Enclosed combustion sources and vapor recovery systems were considered as control devices for the closed vent system. Enclosed combustion was specified because open flares may only be 60 percent efficient for VOC destruction of these low flow intermittent streams. The design requirements specified in the proposed standard for enclosed combustion are the attainment of a minimum temperature of 816°C for 0.75 seconds. Under these conditions, at least 95 percent VOC destruction is achieved.

Vapor recovery systems were also evaluated as control devices for VOC from closed vent systems used with pumps and compressors. A control efficiency of at least 95 percent was chosen as the design requirement because it is the highest reasonable control efficiency practically achievable for vapor recovery systems such as carbon adsorption or condensation units used for fugitive emission sources. The design requirement selected for control devices was at least 95 percent VOC emission reduction. This control efficiency can be achieved by boiler furnaces, incinerators, process heaters, and carbon adsorption units.

Leakless equipment. As discussed in the previous sections, leakless equipment was considered for several of the fugitive emission sources to which these proposed standards apply. Sealed-bellows and diaphragm valves, canned and diaphragm pumps, and sealless compressors were considered for equipment standards. Although use of this equipment achieves excellent control (100 percent) of fugitive VOC emissions, its specification in the proposed standards was rejected because it is not widely applicable to SOCMI processes. However, use of leakless equipment is clearly equivalent if not better than the proposed standards for pumps, compressors, and valves and the proposed standards would allow the use of such equipment as an alternative to the required practices.

Leakless equipment would be required to operate with "no detectable emissions" at all times when it is in service. "No detectable emissions" of VOC means 200 ppm or less above background. The 200 ppm limit resulted from the measurement method of proposed Reference Method 21 as discussed in the Selection of Test Methods section of this preamble. Because leaks are not expected to occur in leakless equipment, the proposed standards require that its leakless status need only be verified annually using Method 21.

Exclusions. Flanges in all services, relief valves in light liquid service, and all components in "heavy liquid" (VOC fluids with vapor pressures less than 0.3 kPa at 20°C) VOC service were excluded from the routine monitoring and inspection requirements. However, if leaks are detected from these sources, the same allowable repair interval which applies to pumps, valves, and compressors would apply. These sources would be excluded from routine monitoring on the basis of data from EPA testing in petroleum refineries. Flanges in refineries have very low emission rates, and although they represent 61 percent of the total sources in refineries, their total contribution to overall emissions is about 2.2 percent. In EPA testing of fugitive emission sources in refineries, safety/relief valves in liquid VOC service also exhibited very low emission rates. These valves contribute only 0.2 percent of all emissions from refineries. Components in "heavy liquid" VOC service have emission rates that are much lower than "light liquid" or gas service components. Since all three of these types of sources contribute a very small portion of overall emission, including them in the monitoring and equipment requirements was not considered reasonable.

Also excluded would be equipment operating under a vacuum because leaks to atmosphere would not occur while the equipment operated at subatmospheric internal pressures.

Selection of Recordkeeping and Reporting Requirements

Recordkeeping and reporting would be required by the proposed standards to provide documentation for the assessment of compliance with (1) work practice standards, (2) equipment standards, (3) designs standards, (4) emission standards, and (5) operational standards. Review of records and reports would provide information for enforcement personnel to assess implementation of the proposed standards.

Compliance with the proposed standards would be determined by inspection and review of records. The General Provisions of 40 CFR Part 60 state that compliance with standards of performance, other than opacity standards, shall be determined only by performance tests. However, the proposed standards are, in general, not standards of performance and performance tests are not applicable. Therefore, an amendment to 40 CFR 60.11 is being proposed which would add a provision that allows compliance to be determined by review of records and inspection. The proposed standards then specify that compliance with the standards other than those for safety/relief devices will be determined by review of records and inspection.

Recordkeeping. Three recordkeeping alternatives were considered in evaluating the amount of recorded information needed to assess compliance with the proposed standards. These alternatives represent varying levels of the amount of information which could be recorded during activities associated with complying with the standards. Consequently, these alternatives represent varying levels of resource requirements for industry.

The first alternative would be to require no formal recordkeeping other than the recordkeeping required by the General Provisions of 40 CFR 60.7 for notification of construction or modification; reconstruction; and start-up, and shutdown or malfunction. Failure to require recorded documentation of the proposed work practice, equipment, design, and operational standards would not provide a mechanism for checking the thoroughness of the implementation of the proposed standards and, therefore, would not ensure fugitive emission reduction. Because the effectiveness of the proposed standards is dependent upon the thoroughness of industry's efforts, this alternative was not chosen as the basis of the recordkeeping requirements.

The second alternative would require recordkeeping to document results of the leak detection and repair program and information relating to equipment, design, and operation requirements. Information would be recorded in sufficient detail to enable owners/operators to demonstrate compliance with the standards and therefore provide reasonable assurance of adequate reduction of fugitive emissions. This alternative would require the maintenance of quantitiative records of repaired and unrepaired leaking fugitive emission sources. This alternative would require only the minimum amount of records on the equipment, design, emission, and operational standards and the work practice leak detection and repair program necessary to ensure the effective implementation of the proposed standards.

The third alternative would require recordkeeping of all the information generated by the proposed standards e.g., the number of fugitive emission sources detected at a concentration less than 10,000 ppmv. Much of this information would not be necessary to insure the implementation of the proposed standards. The level of recordkeeping in the third alternative is more appropriate for requirements to establish equivalent methods for emission limitation.

The second alternative was selected as the basis for the recordkeeping requirements of the proposed standards. This alternative would require the minimum industry resources to provide the necessary records to ensure effective implementation of the proposed standards. This alternative would also provide a basis for efficient reporting.

The proposed standards would require recording of specific information pertaining to the monthly monitoring for the work practice standards. Also information pertaining to repair of leaking pumps and compressors would be recorded. Each leaking fugitive emission source would be identified with readily visible weatherproof identification bearing the I.D. number of the fugitive emission source. The identification could be a tag or any other marking which allows ready location of the equipment. It could be removed after the fugitive emission source was repaired and verified non-leaking in two successive months. A log would be maintained for information pertaining to the leaking sources. The log would contain the instrument and operator identification numbers for valve monitoring, the leaking source identification number, the date of detection of the leak, the date of each attempt to repair the leak, and the maximum screening value after each attempt. The log would be kept for 2 years following the survey.

The proposed standards would require that "repair delayed" be recorded in the log for that particular fugitive emission source if repair were delayed beyond 15 calendar days after the date of detection. The reasons for unsuccessful repair, date of detection, repair methods attempted and the expected date of repair of the leak and the maximum screening value observed after repair would be recorded in the log. These records would be needed to establish a data base to provide the information necessary to allow enforcement personnel to assess compliance with the work practice standards.

The proposed standards would require no records for valves which were found not to leak. Similarly, no records would need to be maintained of the weekly pump inspections if no leaks were observed visually.

For the design standards, the proposed standards would require records to be maintained of the location of materials documenting control device design criteria, such as design specifications for a vapor recovery system or an incinerator. When the control equipment was modified or replaced, the date of replacement and new design criteria would be recorded.

A record of the source identification numbers for those fugitive emission sources operating under "no detectable emissions" limits would be required. Fugitive emission sources included in this category would be all safety relief valves and leakless equipment which has been designated for operation under "no detectable emissions" such as diaphragm valves or sealless pumps. Records of each measurement made to verify "no detectable emissions" would be required. The dates of the verification tests, ambient background VOC concentration measured, and the maximum VOC concentration measured at the source would be recorded.

The proposed standards contain very specific requirements concerning recordkeeping. These requirements are in addition to the requirements set forth in the General Provisions (40 CFR 60.7). Some of the requirements in § 60.7 are duplicated in the proposed standards. Also § 60.7 requires some records that may be unnecessary to determining compliance with the proposed standards. To eliminate redundancy and unnecessary recordkeeping, the proposed standards state that §§ 60.7 (b) and (d) would not be applicable to owners or operators affected by the proposed standards. A revision to the General Provisions is also being proposed to provide a mechanism to exclude the coverage of §§ 60.7 (b) and (d).

Reporting. Three reporting alternatives were considered in evaluating the amount of reported information needed to assess compliance with the proposed standards. These alternatives represent varying levels of enforcement monitoring of the proposed standards. They also represent varying levels of resources required for industry and enforcement personnel. Enforcement personnel would review the reports submitted by industry personnel on the status of implementing the proposed standards. This review procedure reduces the need for in-plant inspections.

The first alternative would require minimum reporting of information which was recorded to monitor compliance with the proposed standards. Recorded information would be available at the plant to enforcement personnel, but the owner/operator would be required only to supply a report testifying that all equipment, design, emission, and operational standards had been met, that all components had been monitored and that those with leaks had been repaired. The more detailed recorded information would then be available upon specific request or plant visit by enforcement personnel. This alternative would not provide a mechanism for checking the thoroughness of the industry's efforts to reduce VOC fugitive emissions without a visit to the plant site. Thus, assessment of compliance with the standards would be intermittent and somewhat random since it would mainly be determined through in-plant inspections rather than through submittal of information to enforcement agencies.

The second reporting alternative would require the submittal of information in sufficient detail to insure compliance with the proposed work practice, equipment, design, emission, and operational standards. Included in the reports would be summarized data concerning leaks detected during the reporting period. This requirement would provide enforcement personnel with an overview of the repair of leaks. A report signed by the plant owner/operator attesting to the validity of the results of the monitoring surveys and instrument calibration procedures would allow enforcement personnel to assess the compliance of facilities with the work practice standards. This report would also attest to the proper application, operation, and maintenance of the equipment required by the proposed equipment, design, emission, and operational standards. These requirements would not necessarily include all records kept by industry. Only information that would be necessary to assess the implementation of the equipment standards would be required.

The third reporting alternative would require the submittal of all the information obtained while conducting leak detection and repair programs. This information would include the information reported in the second alternative and, additionally, comprehensive information on all tested components. This reporting alternative would necessitate the reporting of all information included in the recordkeeping requirements. The extensiveness of the reported information would require the SOCMI to report data that would be more appropriate for demonstrating equivalency of alternate methods of emission control than for establishing compliance with proposed standards.

The second alternative was selected as the reporting requirement for the proposed standards. This alternative provides sufficient information to review compliance without requiring excessive resources from industry. The first alternative was not selected because the compliance with work practice standards and the implementation of equipment design, emission, and operational standards could not be adequately assessed by enforcement personnel to insure that reductions in fugitive emissions were achieved. The third reporting alternative

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was not selected because the additional resources expended by industry would not facilitate assessment of compliance and implementation of work practice, equipment, design, emission and operational standards.

Under the proposed standards quarterly reports would be submitted. The reports would contain summary data of the number of leaks found and repaired within the reporting period. The number of leaks not repaired within 15 days, reasons for their non-repair, and anticipated dates of repair would also be required. The owner or operator would be required to sign the report stating whether or not the process unit was operated in full compliance with all work practice, design and operational, and equipment provisions of the standard. If the owner or operator had more than one affected facility, he could submit one statement of compliance for all of them. Example report formats are shown in Figures 1, 2, 3, and 4 in the proposed standards. These are examples only. The required information could be submitted in any other useful form.

As stated previously in the Safety/Relief Valves section of this preamble, performance tests generally require three runs and notification of the Administrator 30 days before the test. However, this prenotification is not reasonable for the proposed standards because tests to determine no detectable emissions must occur within five days after an overpressure relief. Because of this conflict in reporting requirements, affected facilities have been exempted from 40 CFR 60.8(d).

Impacts of reporting requirements. In addition to requirements of the General Provisions of Subpart A of 40 CFR Part 60, the proposed standards would require quarterly reports including information pertaining to the required work practices. Estimates of the efforts associated with the reporting requirements indicate that the industry would incur manpower expenditures of approximately 53 manyears in 1985 to fulfill the requirement which would apply to about 830 affected facilities. No overlapping data requirements with other government agencies are anticipated.

Equivalence of Alternative Means of Emission Limitation

Under the provisions of Section 111(h) of the Clean Air Act, if the Administrator establishes work practices, equipment, design or operational standards, then the Administrator must allow the use of alternative means of emission limitations if they achieve a reduction in air pollutants equivalent to that achieved under requirements of a standard of performance. Sufficient data would be required to show equivalency and a public hearing would be required.

Individual owners/operators in SOCMI could request alternatives beyond those now provided for specific requirements such as the proposed equipment and the proposed leak detection and repair program. Sufficient information would have to be collected by a facility to demonstrate that the alternative control techniques would be equivalent to the control techniques required by the proposed standards. This information would then be submitted to EPA in a request for a determination of equivalence. A public hearing notice would be published in the **Federal Register.**

The data submitted in a request for equivalency of alternative control measures would take the form of test data to substantiate equivalency. To obtain permission to use alternate types of equipment, VOC emissions test data would be supplied for comparison to emissions data from the specified equipment. Application for equivalence of work practices would require submission of twelve months' data for the leak detection and repair program specified in the standards and data for the alternate system.

After public notice and opportunity for public hearing, the Administrator would determine the equivalence of an alternative means of emission limitation and would publish his determination in the **Federal Register.**

Selection of Test Methods

Several fugitive emission measurement and monitoring methods were identified and analyzed in the development of the proposed standards. Evaluation of these alternative methods was based upon results of emission testing conducted at petroleum refineries and synthetic organic chemical manufacturing plants.

One method of emission measurement is the direct measurement of mass per unit time, e.g. kg/hr, from each source. For the wide variety of sources subject to this standard, direct measurement would require "bagging" techniques for the measurement of mass emissions. "Bagging" means to enclose a fugitive emission source with a shroud in order to capture all of the emissions from the source. The shroud must be attached securely to the source in order to insure complete capture of emissions, and a flow measurement device is needed to measure the volumetric emission rate. After an appropriate equilibration time, which depends on the shroud and the leak rate (5–30 minutes), a sample of the effluent from the shroud is taken to determine the VOC concentration. The VOC mass emission rate is then calculated based on the low volumetric flow rate and VOC concentration. Because of the large numbers of sources in an affected facility as well as the different physical configurations and diverse locations, direct measurements of leak rates would be costly, time-consuming, and impractical for routine testing. Therefore, direct measurement of leak rates was not selected as the emission measurement method for the proposed standard.

Indirect emission measurement methods or monitoring methods that would yield qualitative indications of leaks were reviewed. These monitoring methods are: (1) a periodic individual component survey that would monitor all fugitive emission sources using portable VOC detectors; (2) a periodic area, or walkthrough survey that would monitor ambient concentrations of VOC using portable VOC detectors; and (3) a continuous fixed-point monitoring system that would consist of stationary sensing devices with a remotely located central readout or a central analyzer system (gas chromatograph) with remote sample collection.

Individual component surveys using portable VOC detectors would be the most efficient method for detecting all leaks. The periodic individual component survey could be done in a reasonable amount of time by monitoring personnel and could be accomplished with relative ease. The cost of leak detection equipment for an individual component survey would be reasonable.

Two individual component survey methods were identified: (1) leak detection by spraying each component with a soap solution and observing bubble formation; and (2) leak detection by measuring VOC concentration with a portable VOC detector. The magnitude of leak rates based on bubble formation is difficult to assess. In addition, soap bubble formation does not distinguish VOC emissions from other leaking gases or vapors, and bubble formation is subject to component temperature and component configuration restraints. Therefore, measurement of VOC concentration with a portable VOC detector was selected as the method for monitoring individual components.

A periodic area, or walkthrough survey of ambient VOC concentrations with a portable VOC detector and recorder would be a less effective method for detecting specific leaks than an individual component survey. Interference due to local meteorological conditions and leaks from adjacent units would probably prevent the detection of all leaks within a process unit. In fact, previous studies have indicated that the area survey is suitable only for locating large leaks. In order to have a walkthrough method that is as sensitive to leaks as an individual component survey, the "action level" indicating the need to do a complete survey of equipment within a specific area would necessarily need to be very low. It would also probably need to be unit and meteorology specific (different action levels for different wind speeds). With an action level this low the background level of VOC could cause considerable interference and leaks would undoubtedly be indicated almost everywhere in the unit. An individual component survey would in many cases be necessary to locate the actual leak. Therefore, since it is not possible to provide an industry-wide action level indicative of leaks for a given process unit, and, since any action level that was determined could give so many false indications of leaks that an essentially complete individual component survey would be necessary to detect the actual leaks, walkthrough testing was not judged to be a reasonable approach for leak detection.

Implementation of a continuous fixed-point monitoring system would require a portable VOC detector to locate specific leaking components in addition to multiple stationary monitors or sample collectors. This system may be less efficient than the other methods for detecting VOC emissions. Possible meteorological interference and problems with measuring VOC concentrations of remotely collected samples would limit the efficiency of leak detection by a fixed-point system. Except for possible monitoring equipment calibration problems, the fixed-point system would be operated with relative ease by monitoring personnel, who would still be required to use portable VOC detection equipment to find the individual leaking components indicated by the fixed-point monitoring system. Implementation of a continuous fixed-point monitoring system would be capital-intensive, although leak detection labor costs would probably be the least of the three monitoring methods.

Some characteristics of the three indirect emission measurement methods are similar, including safety considerations and ease of operation for monitoring personnel. Some aspects of the three methods are different. Capital and operating costs vary, as do the efficiencies of the methods in detecting VOC leaks. The individual component method is characterized by a superior leak detection efficiency and reasonable costs. Considering these factors, the individual component method was selected as the monitoring method for the proposed standards.

Selected Test Procedure. The proposed test method, Method 21, would incorporate the use of a portable VOC detector to measure the concentration of VOC at a source to yield a qualitative or semiquantitative indication of the VOC emission rate from the source. The general approach of this technique assumes that if a VOC leak exists, there is an increased VOC concentration in the vicinity of the leak. Tests in petroleum refineries have established general concentration versus mass emission relationships for various fugitive emission sources. Also, tests have indicated that local conditions cause variations in concentration readings at points removed from the surface of the interface on the component where leaking occurs. Therefore, the proposed method requires the concentration to be measured at the leak interface.

As discussed in the Selection of Emission Limit, Equipment, Work Practice, Design, and Operational Standards section in this preamble, a definition of a leak for valves was selected to be 10,000 ppm. This concentration level is measured at the leak interface and qualitatively relates to emission rates. Also discussed in that section is the definition of no detectable emissions. A concentration for no detectable emissions needs to be defined such that when emissions occur they can be detected and when emissions are not occuring they are not mistakenly detected. Based on considerations of the calibration procedures and monitor variability at low meter deflections, two percent of the definition of a leak was selected as the definition of no detectable emissions. Thus, in this case, no detectable emissions means a VOC concentration of less than 200 ppm above background concentration at the leak interface.

The portable VOC detector used in the proposed monitoring program would be required to conform to several specifications to insure consistent industry-wide monitoring, effective VOC emission reduction efforts, and safe leak detection programs. Equipment specifications are proposed in Method 21 as follows: (1) The instrument should respond to total hydrocarbons or combustible gases. Detector types which may meet this requirement include catalytic oxidation, flame ionization, infrared absorption, and photoionization; (2) the instrument should be safe for operation in explosive atmospheres; (3) the instrument should incorporate an appropriate range or dilution option so that concentration levels of 10,000 ppmv can be measured; (4) the instrument should be equipped with a pump so that a continuous sample can be provided to the detector. The nominal sample flow rate should be 1–3 liters per minute; (5) the scale of the instrument readout meter should be readable to ±5 percent at 10,000 ppmv.

The proposed standards would require that the monitoring instrument be calibrated before each monitoring survey. The proposed standards would require that the monitoring instrument be calibrated with methane. The required calibration gases would be a zero gas (air, 3 ppmv VOC) and a methane-air mixture of approximately 10,000 ppmv methane. If cylinder calibration gas mixtures would be used, they would have to be analyzed and certified by the manufacturer to within ±2 percent accuracy as required in proposed Method 21. Calibration gases prepared by the user according to an accepted gaseous standards preparation procedure would also have to be accurate within ±2 percent, as required in proposed Method 21.

Proposed Method 21 requires that the monitoring instrument would be subjected to other performance requirements prior to being placed in service for the first time. The instrument would be subjected to these performance criteria every six months and after any modification or replacement of the instrument detector.

Public Hearing

A public hearing will be held to discuss these proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

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Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for the synthetic organic chemical manufacturing industry was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that sources within this industry contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed standards, including economic and technological issues, and on the proposed Appendix E and Method 21.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance because of costs associated with its use Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas, i.e., those areas where statutorialy mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that new or modified sources constructed, in an area where ambient pollutant concentrations are above the National Ambient Air Quality Standard (NAAQS), must reduce emissions to the level that reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3) for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) The most stringent emission limitation which is contained in the implementation plant of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard (Section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources [referred to in Section 169(1)] employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts, and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by an applicable standard established pursuant to Section 111 (or 112) of the Act.

In all cases, State Implementation Plans (SIP's) approved or promulgated under Section 110 of the Act must provid for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reduction than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 of those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: December 18, 1980.

Douglas M. Costle,
Administrator.

It is proposed to amend 40 CFR Part 60 as follows:

1. By adding paragraph (f) to § 60.7 to Subpart A—General Provisions as follows:

§ 60.7 Notification and recordkeeping.

* * * * *

(f) Individual subparts of this part may include specific provisions which clarify or make inapplicable the provisions set forth in this section.

(Sec. 111, 114, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, 7601(a)))

2. By adding paragraph (f) to § 60.11 to Subpart A—General Provisions as follows:

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(f) Special provisions set forth under an applicable subpart of this part shall supersede any conflicting provisions of this section.

(Sec. 111, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a)))

3. By adding Subpart VV as follows:

Subpart VV—Standards of Performance for Fugitive Emission Sources in the Synthetic Organic Chemicals Manufacturing Industry

Sec.
60.480 Applicability and designation of affected facility.

Sec.
60.481 Definitions.
60.482 Standards.
60.483 Alternative Standards.
60.484 Equivalence of alternative means of emission limitation.
60.485 Test methods and procedures.
60.486 Recordkeeping requirements.
60.487 Reporting requirements.

Authority: Sec. 111, 301(a) of the Clean Air Act as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

Subpart VV—Standards of Performance for Fugitive Emission Sources in the Synthetic Organic Chemicals Manufacturing Industry

§ 60.480 Aplicability and designation of affected facility.

(a) The provisions of this subpart apply to affected facilities within the synthetic organic chemicals manufacturing industry. An affected facility is the group of all fugitive emission sources within a process unit.

(b) Any facility under paragraph (a) of this section that commences construction or modification after January 5, 1981 would be subject to the requirements of this subpart.

(c) Addition or replacement of fugitive emission sources for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

§ 60.481 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in Subpart A of Part 60, and the following terms shall have the specific meanings given them.

"Closed Vent System" means a system which is not open to the atmosphere and which is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from a fugitive emission source to an enclosed combustion device or vapor recovery system.

"Enclosed Combustion Device" means any combustion device which is not open to the atmosphere such as a process heater or furnace, but not a flare.

"First Attempt at Repair" means to take rapid action for the purpose of stopping or reducing leakage of organic material to atmosphere using best modern practices.

"Fugitive Emission Source" means each pump, valve, safety/relief valve, open-ended valve, flange or other connector, compressor, or sampling system.

"In Gas/Vapor Service" means that the fugitive emission source contains process fluid that is in the gaseous state at operating conditions.

"In Light Liquid Service" means that the fugitive emission source contains a liquid that meets the conditions specified in § 60.485(c).

"Open-Ended Valve" means any valve, except safety/relief valves, with one side of the valve seat in contact with process fluid and one side that is open to the atmosphere, either directly or through open piping.

"Process Improvement" means routine changes made for safety and occupational health requirements, for energy savings, for better utility, for ease of maintenance and operation, for correction of design deficiencies, for bottleneck removal, for changing product requirements, or for environmental control.

"Process Unit" means equipment assembled to produce, as intermediates or final products, one or more of the chemicals listed in Appendix E of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the final product.

"Quarter" means a three month period. The first quarter concludes at the end of the last full month during the 180 days following initial startup.

"Repaired" means that a fugitive emissions source is adjusted or otherwise altered in order to reduce fugitive emissions below the level that indicates the necessity for repair as required in § 60.482.

"Synthetic Organic Chemicals Manufacturing Industry" means the industry that produces, as intermediates or final products, one or more of the chemicals listed in Appendix E of this part.

"In Vacuum Service" means that a fugitive emission source is operating at an internal pressure which is continuously less than 100 kPa.

"Vapor Recovery System" means any type of control device capable of removing VOC vapor from a gas stream, such as carbon adsorption, vapor compression, and vapor refrigeration systems.

"Volatile Organic Compound (VOC)" means any organic compound, which participates in atmospheric photochemical reactions or is measured by the applicable test methods described in Reference Method 21.

"In VOC Service" means that a fugitive emission source contains or contacts a process fluid that is at least 10 percent VOC by weight as determined according to the provisions of § 60.485(d).

§ 60.482 Standards.

Each owner or operator subject to the provisions of this subpart shall comply with the following requirements for fugitive emission sources in VOC service, except those in vacuum service.

(a) Pumps in light liquid service.

(1) Each pump shall be equipped with a dual mechanical seal system that includes a barrier fluid system except as provided in § 60.482(a)(7), § 60.482(a)(8), or § 60.482(j).

(2) Each fluid system as required in § 60.482(a)(1) shall be equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both. The barrier fluid shall not be a light liquid or gaseous VOC.

(3) Each dual mechanical seal system as required in § 60.482(a)(1) shall be—

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure;

(ii) Equipped with a barrier fluid degassing reservoir that is connected by a closed vent system to an enclosed combustion device designed for a minimum VOC residence time of 0.75 seconds at 816°C or to a vapor recovery system designed for a minimum of 95 percent capture of VOC input to the vapor recovery system; or

(iii) Equipped with a system to purge the barrier fluid into a process stream, with no VOC emission to atmosphere.

(4) Each pump shall be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seal. If indications of liquids dripping from the pump seal are seen, then a leak is detected.

(5) Each sensor as required in § 60.482(a)(2) shall be checked daily or shall be equipped with an audible alarm. Based on design considerations and operating experience, a criterion that indicates failure of the seal system or the barrier fluid system, or both shall be determined for each dual mechanical seal system. If this criterion is registered by the sensor, a leak is detected.

(6) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.482(h). A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(7) Any pump that is not equipped as required in § 60.482(a)(1) shall be equipped with a closed vent system capable of transporting any leakage from the seal to an enclosed combustion device designed for a minimum VOC residence time of 0.75 seconds at 816°C or to a vapor recovery system designed for a minimum of 95 percent capture of the VOC input to the system. Closed vent systems, enclosed combustion

devices and vapor recovery systems used to comply with this requirement shall be operated at all times when VOC emissions could occur.

(8) Any pump that is designated as required in § 60.486(d)(1) for emissions having a concentration of less than 200 ppm above background, as determined by the methods specified in § 60.485(b), is exempt from the requirements of §§ 60.482(a)(1)–(7) if the pump—

(i) Has no externally actuated shaft penetrating the pump housing,

(ii) Is operated with emissions less than 200 ppmv above background as measured by the methods specified in § 60.485(b), and

(iii) Is tested for compliance with § 60.482(a)(8)(ii) annually and at the request of the Administrator.

(9) Closed vent systems, enclosed combustion devices, and vapor recovery systems used to comply with §§ 60.48a(3) (ii) and (iii) shall be operated at all times when VOC emissions may occur.

(b) Compressors.

(1) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of process fluid to the atmosphere, except as provided in § 60.482(b)(6), § 60.482(b)(7), or § 60.482(j)

(2) Each barrier fluid system as required in § 60.482(b)(1) shall be equipped with a sensor that will detect failure of the seal system. The barrier fluid shall not be a light liquid or gaseous VOC.

(3) Each seal system as required in § 60.482(b)(1) shall be—

(i) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure;

(ii) Equipped with a barrier fluid system that is connected by a closed vent system to an enclosed combustion device designed for a minimum VOC residence time of 0.75 seconds at 816°C or to a vapor recovery system designed for a minimum of 95 percent capture of VOC input to the system; or

(iii) Equipped with a system to purge, with no VOC emission to atmosphere, the barrier fluid into a process stream.

(4) Each sensor as required in § 60.482(b)(2) shall be checked daily or shall be equipped with an audible alarm. Based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system or both shall be determined for each dual mechanical seal system. If this criterion is attained and is registered by the sensor, a leak is detected.

(5) When a leak in detected it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.482(h). A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(6) Any compressor that is not equipped as required in § 60.482(b)(1) shall be equipped with a closed vent system capable of transporting any leakage from the seal to an enclosed combustion device designed for a minimum VOC residence time of 0.75 seconds at 816°C or to a vapor recovery system designed for a minimum of 95 percent capture of VOC input to the vapor recovery system. Closed vent systems, enclosed combustion devices and vapor recovery systems used to comply with this requirement shall be operated at all times.

(7) Each compressor that is designated as required in § 60.486(d)(1) for concentrations of emissions less than 200 ppm above background, as determined by the methods specified in § 60.485(b), is exempt from the requirements of §§ 60.482(b)(1)–(6) if it is operated with emissions having concentrations of less than 200 ppmv above background, as measured by the methods specified in § 60.485(b) and if it is tested for compliance annually.

(8) Closed vent systems, enclosed combustion devices, and vapor recovery systems used to comply with §§ 60.482(b)(3) (ii) and (iii) shall be operated at all times when VOC emissions may occur.

(c) Safety/relief valves in gas/vapor service.

(1) Each safety/relief valve in gas/vapor service shall be operated at a state of emissions having a concentration of less than 200 ppm above background, as determined by the methods specified in § 60.485(b), except during pressure releases.

(2) Each safety/relief valve shall be returned to a state of emissions having a concentration of less than 200 ppm above background after each emergency pressure release as soon as practicable, but no later than 5 calendar days, after each episode of pressure release.

(d) Sampling systems.

(1) Each sampling system shall be equipped with a closed purge system.

(2) Each closed purge system as required by § 60.482(d)(1) shall return the purged process fluid directly to the process line, or shall collect the purged process fluid for recycle or disposal without VOC emissions to the atmosphere.

(3) *In-situ* sampling systems are exempt for §§ 60.482(d)(1) and (2).

(e) Open-ended valves.

(1) Each open-ended valve shall be equipped with a cap, blind flange, plug, or a second closed valve which is attached to seal the open end at all times except during operations requiring process fluid flow through the open-ended line.

(2) Each open-ended valve equipped with a second valve attached to the open end of the process valve, as required in § 60.482(e)(1), shall be operated such that the process side valve is closed first, after operations requiring flow through the open-ended valve.

(f) Valves in gas/vapor service and valves in light liquid service.

(1) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.485(a).

(2) If a VOC concentration of 10,000 ppm or greater is measured, a leak is detected.

(3) Any valve for which a leak is not detected for two successive months may be monitored the first month of every quarter beginning with the next quarter by the methods specified in § 60.485(a) until a leak is detected. If a leak is detected, the valve shall be monitored monthly until a leak is not detected for two successive months.

(4) When a leak is detected it shall be repaired as soon as practicable, but no later than 15 calendar days after it is detected except as provided in § 60.482(h). A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(5) First attempts at repair include, but are not limited to, the following best modern practices if practicable:

(i) Tightening of bonnet bolts.

(ii) Replacement of bonnet bolts.

(iii) Tightening of packing gland nuts.

(iv) Injection of lubricant into lubricated packing.

(6) Any valve that is designated as required in § 60.486(d)(1) for emissions having a concentration of less than 200 ppm above background as determined by the methods specified in § 60.485(b) is exempt from the requirements of §§ 60.482(f)(1) and (3) if the valve—

(i) Has no external actuating mechanism in contact with the process fluid;

(ii) Is operated with emissions having a concentration of less than 200 ppm above background as determined by the method specified in § 60.485(b); and

(iii) Is tested for compliance with § 60.482(f)(6)(ii) annually and at the request of the Administrator.

(g) Pumps and valves in heavy liquid service, safety/relief valves in light liquid and heavy liquid service, and flanges and other connectors shall be monitored within 5 days by the method specified in § 60.485(a) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method, as follows:

(1) If a VOC concentration of 10,000 ppm or greater is measured, a leak is detected.

(2) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected. The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(h) Delay of repair of fugitive emission sources for which leaks have been detected will be allowed only if the repair is technically infeasible without a complete or partial process unit shutdown. Delay of repair will not be allowed beyond a process unit shutdown.

(i) Compliance with §§ 60.482 (a), (b), (c), (d), (e), (f), and (h) in this subpart shall be determined by review of records and inspection. Compliance with §§ 60.482 (a)(8), (b)(7), (c), and (f)(6) shall be determined by the methods specified in § 60.485(b). Compliance shall be achieved within 180 days of initial startup.

(j) A determination of equivalence of alternative means of emission limitation to the requirements of §§ 60.482 (a), (b), (d), (e), (f), or (g) may be requested as provided in § 60.484. If the Administrator determines that an alternative means of emission limitation is at least equivalent to the requirements of §§ 60.482 (a), (b), (d), (e), (f), or (g), the requirements of that determination shall apply.

§ 60.483 Alternative standards.

(a) Valves in gas/vapor and valves in light liquid service—allowable percentage of valves leaking.

(1) After performing a monthly leak detection and repair program in accordance with §§ 60.482(f) (1), (2), (4), and (5) for at least twelve months, an owner or operator may request approval from the Administrator to comply with an allowable percentage of valves leaking in gas/vapor and light liquid service.

(2) The following requirements shall be met if an owner or operator wishes to comply with an allowable percentage of valves leaking.

(i) An owner or operator must request approval of the Administrator to comply with an allowable percentage of valves leaking.

(ii) An owner or operator must have performed a monthly leak detection and repair program in accordance with §§ 60.482 (f), (1), (2), (4), and (5) for at least twelve months before a request for approval is submitted.

(iii) A request of approval of an allowable percentage of valves leaking must be accompanied by data and calculations which describe the methodology used for determining the allowable percentage of valves leaking.

(iv) A performance test as specified in § 60.483(a)(4) shall be conducted annually and at the request of the Administrator. A written report of the results of the performance test shall be submitted to the Administrator within a time interval specified by the Administrator.

(v) If a valve leak is detected, an attempt must be made to repair it.

(3) The allowable percentage of leaks shall be determined by adding the monthly baseline percentage of leaks demonstrated during the last six months under monthly monitoring and the monthly incremental percentage of leaks which would have occured if the provisions of § 60.482(f)(3) had been followed.

(i) The monthly baseline percentage of leaks shall be determined by obtaining a monthly average of the percentage of leaks found in an affected facility during the last six months of operation under monthly monitoring.

(ii) The monthly incremental percentage of leaks shall be determined by averaging the percentage of valves for which leaks had been detected in the second and third months of the last two quarters but which had not been detected during the first months of the last two quarters.

(iii) A percentage of leaks shall be determined by dividing the total number of leaks by the total number of valves in an affected facility, excluding those leaks for which repair has been delayed because a process unit shutdown would be required as provided in § 60.482(h) and excluding those valves which are complying with the provisions of § 60.482(f)(6).

(4) Performance tests shall be conducted in the following manner.

(i) All valves within the affected facility shall be monitored by the methods specified in § 60.485(a).

(ii) If a VOC concentration of 10,000 ppm or greater is measured, a leak is detected.

(iii) The leak percentage shall be determined by dividing the number of valves for which leaks are detected by the number of valves within the affected facility, excluding valves for which repair has been delayed because a process unit shutdown would be required, and excluding those which are complying with the provisions of § 60.482(f)(6).

(iv) For those valves for which repair has been delayed because a process unit shutdown would be required, records of attempted repair must be provided at the request of the Administrator. Records of attempted repair for those valves for which repair has been delayed shall be kept for two years.

(5)(i) The Administrator will either approve or disapprove the request for the use of the alternative standard within ninety days after the request is submitted.

(ii) If the Administrator denies the use of this alternative, the owner or operator will be notified of the reasons for the denial.

(iii) If the Administrator is reviewing a request for the use of this alternative as specified in §§ 60.483(a) (1) and (2), additional information may be requested of the owner or operator seeking approval of this option.

(iv) Until this alternative is approved, the owner or operator shall be subject to the requirements of § 60.482(f).

(6) The reporting provisions of §§ 60.487(b), (2), (3), (4), (5), (6) and (9) would not apply to owners or operators complying with an allowable percentage of valves leaking.

(b) Valves in gas/vapor and valves in light liquid service—alternative work practices.

(1) After performing a monthly leak detection and repair program in accordance with §§ 60.482(f), (1), (2), (4) and (5) for at least twelve months, an owner or operator may request approval of the administrator to comply with an alternative work practice for valves in gas/vapor and valves in light liquid service which differs from the work practice required in §§ 60.482(f) (1) and (3).

(2) The following requirements shall be met if an owner or operator wishes to comply with an optional work practice.

(i) An owner or operator must request approval of the Administrator to comply with an optional work practice standard.

(ii) An owner or operator must have performed a monthly leak detection and repair program in accordance with §§ 60.482(f) (1), (2), (4) and (5) for twelve months before a request for approval is submitted.

(iii) A request for approval of an optional work practice standard must be accomplished by data and calculations showing that the optional work practice complies with the requirements of § 60.487(b)(3).

(3) The optional work practice program shall be designed to accomplish the emission reduction associated with the required program in §§ 60.482(1)(f), (2), (3), (4) and (5). To demonstrate this reduction, an owner or operator shall determine the leak occurrence and recurrence for each program. These data shall be used to show that the expected

percentage of valves leaking in the affected facility under the optional program is equal to or less than the expected percentage of valves leaking under the required program.

(4) (i) The Administrator may deny the use of this option for any owner or operator within 90 days of the request for approval. If disapproval is not given within 90 days of the request for approval, the request is approved.

(ii) If the Administrator denies the use of this option, the owner or operator will be notified of the reasons for the denial.

(iii) If the Administrator is reviewing a request for the use of this alternative as specified in §§ 60.483(a) (1) and (2), additional information may be requested of the owner or operator seeking approval of this alternative.

(iv) Until this alternative is approved, the owner or operator shall be subject to the requirements of § 60.482(f).

§ 60.484 Equivalence of alternative means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalence for any alternative means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in §§ 60.482 (a), (b), (d), (e), (f), and (g).

(b) Determination of equivalence to the equipment requirements of §§ 60.482 (a), (b), (d), and (e) will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of any alternative means of emission limitation to the requirements of §§ 60.482 (a), (b), (d), or (e).

(2) The Administrator will compare test data for the alternative means of emission limitation to test data for the equipment requirements of §§ 60.482 (a), (b), (d), or (e).

(3) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the requirements of §§ 60.482 (a), (b), (d), or (e).

(c) Determination of equivalence to the work practices required in § 60.482(f) will be evaluated by the following guidelines:

(1) Each owner or operator applying for a determination of equivalence shall be responsible for collecting and verifying test data to demonstrate equivalence of an alternative means of emission limitation to the requirements of § 60.482(f).

(2) For each affected facility for which a determination of equivalence is requested, the emission reduction achieved by the requirements of § 60.482(f) shall be demonstrated for a minimum period of 12 months. A quantitative performance level shall be determined that describes the emission reduction achieved by the requirements of § 60.482(f).

(3) For each affected facility, the emission reduction achieved by any alternative means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit to compliance with a performance that provides for emission reductions equal to or greater than the emission reductions achievable by the requirements of § 60.482(f).

(5) The Administrator will compare the demonstrated emission reduction for the alternative means of emission limitation to the demonstrated emission reduction for the work practices required in § 60.482(f) and will consider the commitment in § 60.484(c)(4).

(6) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the requirements of § 60.482(f).

(d) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for public hearing. After notice and opportunity for public hearing, the Administrator will determine the equivalence of an alternative means of emission limitation and will publish the determination in the **Federal Register**.

§ 60.485 Test methods and procedures.

Each owner or operator subject to the provisions of this subpart shall comply with the following test method and procedure requirements:

(a) Fugitive emission monitoring as required in § 60.482(f) shall comply with the following requirements.

(1) Monitoring shall comply with Reference Method 21.

(2) The VOC detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on the day of its use by the methods specified in Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than 3 ppm of VOC in air); and

(ii) A mixture of methane and air at a concentration of approximately 10,000 ppmv methane.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(b) When fugitive emission sources are tested for emissions having a concentration of less than 200 ppm above background as required in §§ 60.482 (a), (b), (c), and (f), the testing shall comply with the following requirements:

(1) The requirements of §§ 60.485(a) (1), (2), and (3) shall apply.

(2) The background level shall be determined, as set forth in Reference Method 21.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(4) The provisions of § 60.8(f) do not apply to affected facilities subject to the provisions of this subpart.

(c) A fugitive emission source is in light liquid service if the following conditions apply:

(1) The vapor pressure of one or more of the components is greater than 0.3 kPa at 20°C. Vapor pressures may be obtained from standard reference texts or may be determined by ASTM Method D-2879.

(2) The total concentration of the pure components having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 10 percent by weight; and

(3) The fluid is a liquid at operating conditions.

(d) For purposes of determining the percent VOC in the process fluid within a fugutive emission source, procedures that conform to the general methods described in ASTM methods E-260, E-168, and E-169 shall be used.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.486 Recordkeeping requirements.

Each owner or operator subject to the provisions of this subpart shall comply with the following recordkeeping requirements.

(a) When each leak is detected as specified in §§ 60.482 (a), (b), (f), and (g); the following recordkeeping requirements apply:

(1) Weatherproof and readily visible identification, marked with the source identification number, shall be attached to the leaking source.

(i) The identification may be removed if the fugitive emission source has been monitored for two successive months as specified in § 60.482(f)(3) and no leak has been detected during those two months.

(b) When each leak is detected as specified in §§ 60.482 (a), (b), (f), and (g), the following information shall be recorded in a log and shall be kept for two years in a readily accessible location:

(1) The instrument and operator identification numbers and the fugutive emission source identification number.

(2) The date the leak was detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) "Above 10,000" if the maximum VOC concentrations measured by the methods specified in § 60.485(a) after each repair attempt is greater than 10,000 ppm.

(5) "Repair delayed" if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner/operator whose decision it was that repair could not be effected without a process shutdown.

(7) The expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) The date of successful repair of the leak.

(c) The following information pertaining to the design requirements for closed vent systems, enclosed combustion devices, and vapor recovery systems required in §§ 60.482 (a) and (b) shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any changes in the design specifications.

(3) Periods when the enclosed combustion devices and vapor recovery systems required in §§ 60.482 (a) and (b) are not functioning as designed and dates of startups and shutdowns.

(d) The following information pertaining to all fugitive emission sources subject to the requirements in §§ 60.482 (a), (b), (c), and (f) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for fugutive emission sources that are designated for emissions having a concentration of less than 200 ppm above background under the provisions of §§ 60.482 (a)(8), (b)(7), and (f)(7). The designation of these sources as subject to the requirements of §§ 60.482 (a)(8), (b)(7), or (f)(6) shall be signed by the owner or operator.

(2) A list of source identification numbers for safety/relief valves required by § 60.482(c) to meet no detectable emissions.

(3) The dates of each verification test for "no detectable emissions" status as determined by the methods specified in § 60.485(b).

(4) The background level measured during each verification test as required in § 60.485(b).

(5) The maximum VOC concentration measured at the source during each verification test as required in § 60.485(b).

(e) The following information shall be recorded in a log that is kept in a readily accessible location: (1) the design criterion required in § 60.482(a)(5) and § 60.482(b)(4), and (2) any changes to this criterion and the reasons for this change.

(f) The provisions of §§ 60.7(b) and (d) do not apply to affected facilities subject to the provisions of this subpart.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.487 Reporting requirements.

Each owner or operator subject to the provisions of this subpart shall comply with the following reporting requirements.

(a) A summary of the information recorded as required in § 60.486(b) shall be reported quarterly to the Administrator.

(b) Quarterly reports as required in § 60.487(a) shall be similar to the forms as shown in Figures 1, 2, 3, and 4 and shall include the following information:

(1) Process unit identification.

(2) Number of valves in the process unit excluding those designated for emissions having a concentration of less than 200 ppm above background under the provisions of § 60.482(f)(5).

(3) Number of valves for which leaks were detected by the monitoring method specified in § 60.485(a) during each month of the reporting quarter.

(4) Number of valves repaired.

(5) Number of valves not repaired within 15 days as required in § 60.482(f)(4).

(6) Reasons for non-repair of valves within 15 days as required in § 60.482(f)(4).

(7) Number of pumps for which leaks were detected during the reporting quarter as specified in §§ 60.482(a)(4) and (a)(5).

(8) Number of compressors for which leaks were detected during the reporting quarter as specified in § 60.482(b)(4).

(9) Statement signed by the owner or operator stating whether all provisions of 40 CFR 60 Subpart VV had been fulfilled during the reporting quarter.

(c) The provisions of § 60.8(d) do not apply to affected facilities subject to the provisions of this subpart.

(d) In the first report submitted as required in §§ 60.487(a), the report shall include a reporting schedule stating the months that quarterly reports shall be submitted. Subsequent reports shall be submitted according to that schedule unless a revised schedule has been submitted in a previous quarterly report.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

BILLING CODE 6560-26-M

Figure 1

QUARTERLY REPORT FOR PROCESS UNIT
FUGITIVE EMISSION SOURCES OPERATING UNDER THE
PROVISIONS OF 40 CFR Part 60, Subpart VV, §60.484(b)

Date____________________

Company Name____________________

Plant Location (City, State)____________________

Mailing Address____________________

____

Telephone Number____________________

Reporting Period____________________

This report filed____________________
(Process Unit Name)

Producing____________________
(Chemical product(s))

EXAMPLE

Figure 2

SUMMARY STATISTICS FOR LEAK DETECTION
AND REPAIR REQUIREMENTS
OF 40 CFR Part 60, Subpart VV, §60.484(b)

1. Process Unit Name____________________
(one report required for each affected facility)

2. Number of valves covered under the leak detection and repair program. ____________

3. Number of valves found leaking during the reporting period. ____________

4. Number of leaking valves repaired during the reporting period. ____________

5. Number of pumps found leaking during the reporting period. ____________

6. Number of compressors found leaking during the reporting period. ____________

EXAMPLE

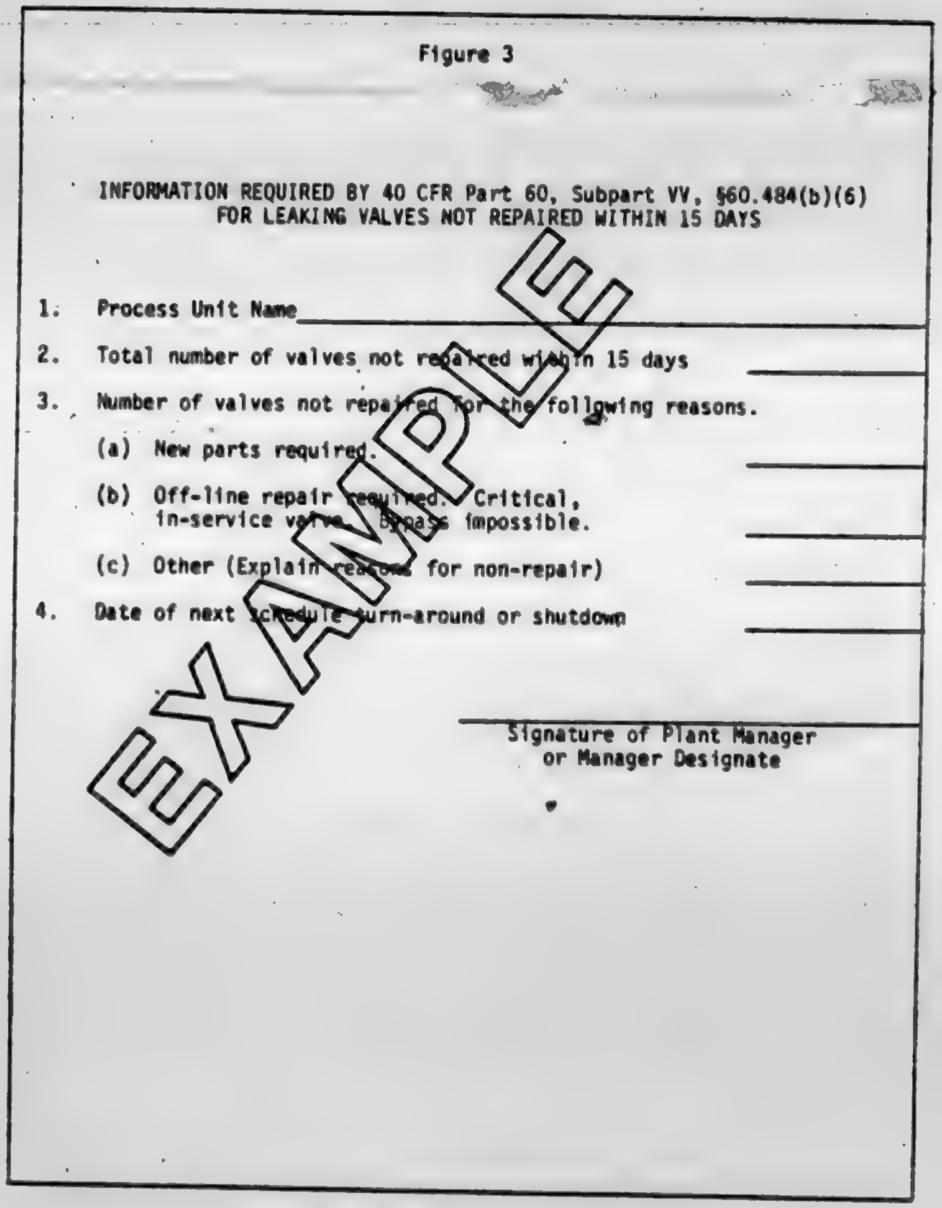

Figure 3

INFORMATION REQUIRED BY 40 CFR Part 60, Subpart VV, §60.484(b)(6)
FOR LEAKING VALVES NOT REPAIRED WITHIN 15 DAYS

1. Process Unit Name________________________

2. Total number of valves not repaired within 15 days ________

3. Number of valves not repaired for the following reasons.

   (a) New parts required. ________

   (b) Off-line repair required. Critical, in-service valve. Bypass impossible. ________

   (c) Other (Explain reasons for non-repair) ________

4. Date of next schedule turn-around or shutdown ________

____
Signature of Plant Manager
or Manager Designate

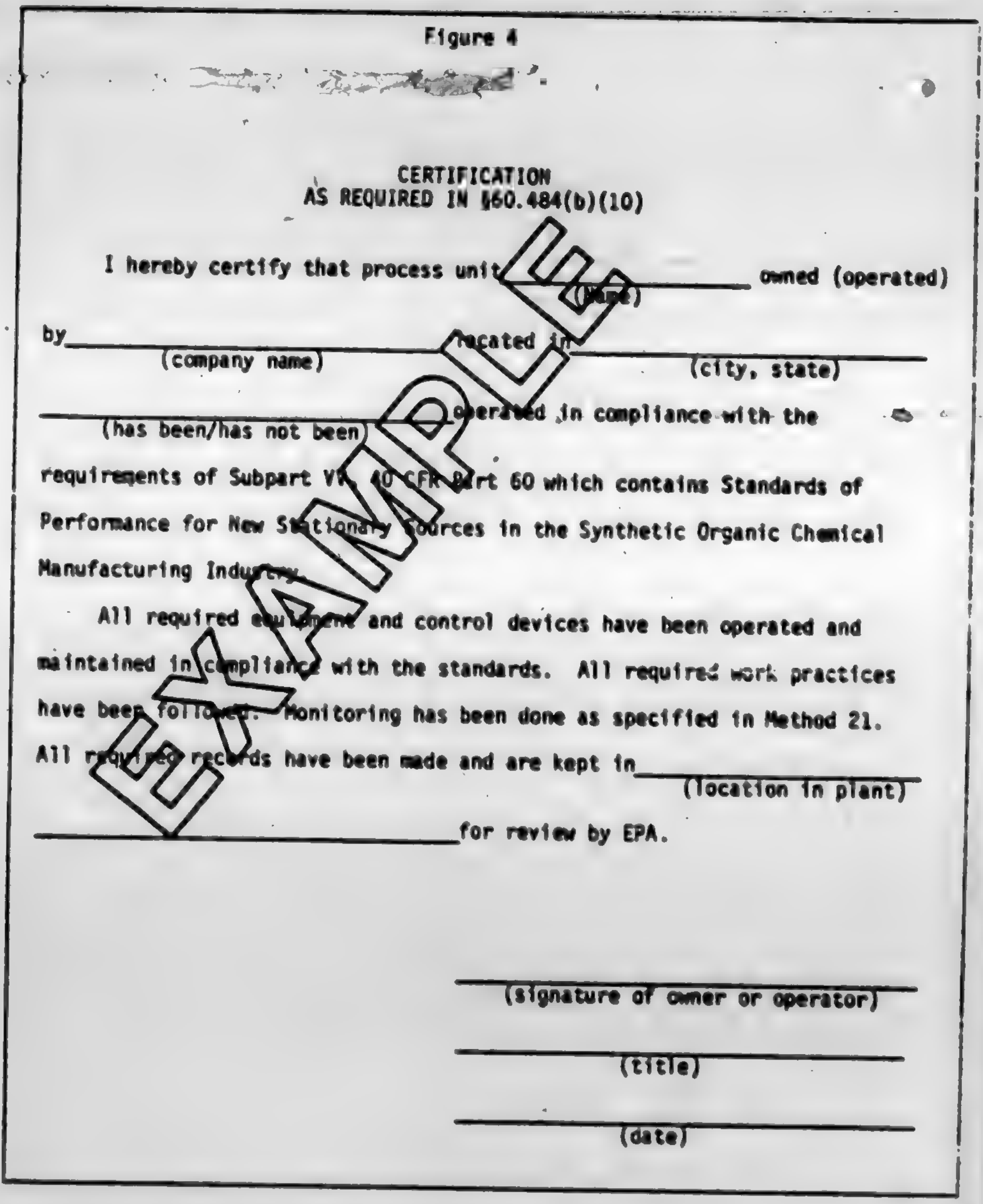

Figure 4

CERTIFICATION
AS REQUIRED IN §60.484(b)(10)

I hereby certify that process unit____________ (Name) owned (operated) by____________ (company name) located in____________ (city, state) ____________ (has been/has not been) operated in compliance with the requirements of Subpart VV, 40 CFR Part 60 which contains Standards of Performance for New Stationary Sources in the Synthetic Organic Chemical Manufacturing Industry.

All required equipment and control devices have been operated and maintained in compliance with the standards. All required work practices have been followed. Monitoring has been done as specified in Method 21. All required records have been made and are kept in____________ (location in plant) ____________ for review by EPA.

____
(signature of owner or operator)

____
(title)

____
(date)

BILLING CODE 6560-26-C

V 46 / 2 JA 5 81 UMI

4. By adding Reference Method 21 to Appendix A as follows:

Appendix A—Reference methods

* * * * *

Method 21. Determination of Volatile Organic Compound Leaks

1. *Applicability and Principle*

1.1 Applicability. This method applies to the determination of volatile organic compound (VOC) leaks from organic process equipment. These sources include, but are not limited to, valves, flanges and other connections, pumps and compressors, pressure relief devices, process drains, open-ended valves, pump and compressor seal system degassing vents, accumulator vessel vents, and access door seals.

1.2 Principle. A portable instrument is used to detect VOC leaks from individual sources. The instrument detector is not specified, but it must meet the specifications and performance criteria contained in paragraph 2.1.

2. *Apparatus*

2.1 Monitoring Instrument. The monitoring instrument shall be as follows:

2.1.1 Specifications.

a. The VOC instrument detector shall respond to the organic compounds being processed. Detectors which may meet this requirement include, but are not limited to, catalytic oxidation, flame ionization, infrared absorption, and photoionization.

b. The instrument shall be intrinsically safe for operation in explosive atmospheres as defined by the applicable U.S.A Standards (e.g., National Electrical Code by the National Fire Prevention Association).

c. The instrument shall be able to measure the leak definition concentration specified in the regulation.

d. The instrument shall be equipped with a pump so that a continuous sample is provided to the detector. The nominal sample flow rate shall be 1–3 liters per minute.

e. The scale of the instrument meter shall be readable to ±5 percent of the specified leak definition concentration.

2.1.2 Performance Criteria. The instrument must meet the following performance criteria. The definitions and evaluation procedures for each parameter are given in Section 4.

2.1.2.1 The instrument response time must be 30 seconds or less. The response time must be determined for the instrument system configuration to be used during testing, including dilution equipment. The use of a system with a shorter response time than that specified will reduce the time required for field component surveys.

2.1.2.2 Calibration Precision: The calibration precision must be less than or equal to 10 percent of the calibration gas value.

2.1.2.3 Quality Assurance. The instrument shall be subjected to response time and calibration precision tests prior to being placed in service. The calibration precision test shall be repeated every 6 months thereafter. If any modification or replacement of the instrument detector is required, the instrument shall be retested and a new 6 month quality assurance test schedule will apply. The response time test shall be repeated if any modifications to the sample pumping system or flow configuration is made that would change the response time.

2.3 Calibration Gases. The monitoring instrument is calibrated in terms of parts per million by volume (ppmv) of the compound specified in the applicable regulation. The calibration gases required for monitoring and instrument performance evaluation are a zero gas (air, 3 ppmv VOC) and a calibration gas in air mixture approximately equal to the leak definition specified in the regulation. If cylinder calibration gas mixtures are used, they must be analyzed and certified by the manfacturer to be within ±2 percent accuracy. Calibration gases may be prepared by the user according to any accepted gaseous standards preparation procedure that will yield a mixture accurate to within ±2 percent. Alternative calibration gas species may be used in place of the calibration compound if a relative response factor for each instrument is determined so that calibrations with the alternative species may be expressed as calibration compound equivalents on the meter readout.

3. *Procedures*

3.1 Calibration. Assemble and start up the VOC analyzer and recorder according to the manufacturer's instructions. After the appropriate warmup period and zero or internal calibration procedure, introduce the calibration gas into the instrument sample probe. Adjust the instrument meter readout to correspond to the calibration gas value.

If a dilution apparatus is used, calibration must include the instrument and dilution apparatus assembly. The nominal dilution factor may be used to establish a scale factor for converting to an undiluted basis. For example, if a nominal 10:1 dilution apparatus is used, the meter reading for a 10,000 ppm calibration would be set at 1,000. During field surveys, the scale factor of 10 would be used to convert measurements to an undiluted basis.

3.2 Individual Source Surveys.

3.2.1 Case I—Leak Definition Based on Concentration Value. Place the probe inlet at the surface of the component interface where leakage could occur. Move the probe along the interface periphery while observing the instrument readout. If an increased meter reading is observed, slowly probe the interface where leakage is indicated until the maximum meter reading is obtained. Leave the probe inlet at this maximum reading locations for approximately two times the instrument response time. If the maximum observed meter reading is greater that the leak definition in the applicable regulation, record and report the result as specified in the regulation reporting requirements. Examples of the application of this general technique to specific equipment types are:

a. Valves—The most common source of leaks from valves is at the seal between the stem and housing. Place the probe at the interface where the stem exists the packing gland and sample the stem circumference. Also, place the probe at the interface of the packing gland take-up flange seat and sample the periphery. In addition, survey valve housings of multipart assembly at the surface of all interfaces where leaks can occur.

b. Flanges and Other Connections—For welded flanges, places the probe at the outer edge of the flange-gasket interface and sample around the circumference of the flange. Sample other types of nonpermanent joints (such as threaded connections) with a similar traverse.

c. Pumps and Compressors—Conduct a circumferential traverse at the outer surface of the pump or compressor shaft and seal interface. If the source is a rotating shaft, position the probe inlet within one centimeter of the shaft-seal interface for the survey. If the housing configuration prevents a complete traverse of the shaft periphery, sample all accessible portions. Sample all other joints on the pump or compressor housing where leakage can occur.

d. Pressure Relief Devices—The configuration of most pressure relief devices prevents sampling at the sealing seat interface. For those devices equipped with an enclosed extension, or horn, place the probe inlet at approximately the center of the exhaust area to the atmosphere for sampling.

e. Process Drains—For open drains, place the probe inlet at approximately the center of the area open to the atmosphere for sampling. For covered drains, place the probe at the surface of the cover interface and conduct a peripheral traverse.

f. Open-Ended Lines or Valves—Place the probe inlet at approximately the center of the opening to the atmosphere for sampling.

g. Seal System Degassing Vents and Accumulator Vents—Place the probe inlet at approximately the center of the opening to the atmosphere for sampling.

h. Assess Door Seals—Place the probe inlet at the surface of the door seal interface and conduct a peripheral traverse.

3.2.2. Case II-Leak Devinition Based on "NO Detactable Emission".

a. Determine the local ambient concentration around the source by moving the probe inlet randomly upwind and downwind at distance of one to two meters from the source. If an interference exists with this determination due to a nearby emission or leak, the local ambient concentration may be determined at distances closer to the source, but in no case shall the distance be less than 25 centimeters. Note the ambient concentration and then move the probe inlet to the surface of the source and conduct a survey as described in 3.2.1. If a concentration increase greater than 2 percent of the concentration-based leak definition is obtained, record and report the results as specified by the regulation.

b. For those cases where the regulation requires a specific device installation, or that specified vents be ducted or piped to a control device, the existence of these conditions shall be visually confirmed. When the regulation also requires that no detectable emissions exist, visual observations and sampling surveys are required. Examples of this technique are:

i. Pump or Compressor Seals—If applicable, determine the type of shaft seal. Perform a survey of the local area ambient VOC concentration and determine if detectable emissions exist as described in 3.2.2.a.

ii. Seal system degassing vents, accumulator vessel vents, pressure relief device—If applicable, observe whether or not the applicable ducting or piping exists. Also, determine if any sources exist in the ducting or piping where emissions could occur prior to the control device. If the required ducting or piping exists and there are no sources of where the emissions could be vented to the atmosphere prior to the control device, then it is presumed that no detectable emissions are present.

4. Instrument Performance Evaluation Procedures

4.1 Definitions.

4.1.1 Calibration Precision. The difference between the average VOC concentration indicated by the meter readout for consecutive repetitions and the know concentration of a test gas mixture.

4.1.2 Response time. The time interval from a step change in VOC concentration at the input of the sampling system to the time at which 90 percent of the corresponding final value is reached as displayed on the instrument readout meter.

4.2 Evaluation Procedures. At the beginning of the instrument performance evaluation test, assemble and start up the instrument according to the manufacturer's instructions for recommended warmup period and preliminary adjustments. If a dilution apparatus is used during field surveys, the evaluation procedure must be performed on the instrument-dilution system combination.

4.2.1. Calibration Precision Test. Make a total of nine measurements by alternately using zero gas and the specified calibration gas. Record the meter readings (example data sheet shown in Figure 21–1).

4.2.2 Response time Test Procedure. Introduce zero gas into the instrument sample probe. When the meter reading has stabilized, switch quickly to the specified calibration gas. Measure the time from concentration switching to 95 percent of final stable reading. Perform this test sequence three times and record the results (example data sheet given in Figure 21–2).

4.3 Calculations. All results are expressed as mean values, calculated by:

$$\bar{x} = \frac{1}{n} \sum_{i=1}^{n} x_i$$

Where:

x_i = VALUE OF THE MESUREMENTS.

Σ = Sum of the individual values.

± = Mean value.

n = Number of data points.

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Instrument ID ____________________

Calibration Gas Data

Calibration = ________ppmv

Run No.	Instrument Meter Reading, ppm	Difference[1] ppm
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

Mean Difference ____

$$\text{Calibration Error} = \frac{\text{Mean Difference}^{(2)}}{\text{Calibration Gas Concentration}} \times 100 \quad \_\_\_\_$$

---

(1) Calibration Gas Concentration - Instrument Reading

Figure 21-1. Calibration Error Determination

Instrument ID ______________________________

Calibration Gas Concentration ________________

90% Response Time:

1. ________ Seconds

2. ________ Seconds

3. ________ Seconds

Mean Response Time _____________ Seconds

Figure 21-2. Response Time Determination

BILLING CODE 6560-16-C

5. By adding Appendix E as follows:

Appendix E—Synthetic Organic Chemicals Manufacturing Industry

OCPDB No.*	Chemical
20	Acetal.
30	acetaldehyde.
40	Acetaldol.
50	Acetamide.
65	Acetanilide.
70	Acetic acid.
80	Acetic anhydride.
90	Acetone.
100	Acetone cyanohydrin .
110	Acetonitrile.
120	Acetophenone.
125	Acetyl chloride.
130	Acetylene.
140	Acrolein.
150	Acrylamide.
160	Acrylic acid and esters.
170	Acrylonitrile.
180	Adipic acid.
185	Adiponitrile.
190	Alkyl naphthalenes.
200	Allyl alcohol.
210	Allyl chloride.
220	Aminobenzoic acid.
230	Aminoethylethanolamine.
235	p-Aminophenol.
240	Amyl acetates.
250	Amyl alcohols.
260	Amyl amine.
270	Amyl chloride.
280	Amyl mercaptans.
290	Amyl phenol.
300	Aniline.
310	Aniline hydrochloride.
320	Anisidine.
330	Anisole.
340	Anthranilic acid.
350	Anthraquinone.
360	Benzaldehyde.
370	Benzamide.
380	Benzene.
390	Benzenedisulfonic acid.
400	Benzenesulfonic acid.
410	Benzil.
420	Benzilic acid.
430	Benzoic acid.
440	Benzoin.
450	Benzonitrile.
460	Benzophenone.
480	Benzotrichloride.
490	Benzoyl chloride.
500	Benzyl alcohol.
510	Benzyl amine.
520	Benzyl benzoate.
530	Benzyl chloride.
540	Benzyl dichloride.
550	Biphenyl.
560	Bisphenol A.
570	Bromobenzene.
580	Bromonaphthalene.
590	Butadiene.
592	1-butene.
600	n-butyl acetate.
630	n-butyl acrylate.
640	n-butyl alcohol.
650	s-butyl alcohol.
660	t-butyl alcohol.
670	n-butylamine.
680	s-butylamine.
690	t-butylamine.
700	p-tert-butyl benzoic acid.
710	1,3-butylene glycol.
750	n-butyraldehyde.
760	Butyric acid.
770	Butyric anhydride.
780	Butyronitrile.
785	Caprolactam.
790	Carbon disulfide.
800	Carbon tetrabromide.
810	Carbon tetrachloride.
820	Cellulose acetate.
840	Chloroacetic acid.
850	m-chloroaniline.
860	o-chloroaniline.
870	p-chloroaniline.
880	Chlorobenzaldehyde.
890	Chlorobenzene.
900	Chlorobenzoic acid.
905	Chlorobenzotrichloride.
910	Chlorobenzoyl chloride.
920	Chlorodifluoroethane.
921	Chlorodifluoromethane.
930	Chloroform.
940	Chloronapthalene.
950	o-chloronitrobenzene.
951	p-chloronitrobenzene.
960	Chlorophenols.
964	Chloroprene.
965	Chlorosulfonic acid.
970	m-chlorotoluene.
980	o-chlorotoluene.
990	p-chlorotoluene.
992	Chlorotrifluoromethane.
1000	m-cresol.
1010	o-cresol.
1020	p-cresol.
1021	Mixed cresols.
1030	Cresylic acid.
1040	Crotonaldehyde.
1050	Crotonic acid.
1060	Cumene.
1070	Cumene hydroperoxide.
1080	Cyanoacetic acid.
1090	Cyanogen chloride.
1100	Cyanuric acid.
1110	Cyanuric chloride.
1120	Cyclohexane.
1130	Cyclohexanol.
1140	Cyclohexanone.
1150	Cyclohexene.
1160	Cyclohexylamine.
1170	Cyclooctadiene.
1180	Decanol.
1190	Diacetone alcohol.
1200	Diaminobenzoic acid.
1210	Dichloroaniline.
1215	m-dichlorobenzene.
1216	o-dichlorobenzene.
1220	p-dichlorobenzene.
1221	Dichlorodifluoromethane.
1240	Dichloroethyl ether.
1244	1,2-dichloroethane (EDC).
1250	Dichlorohydrin.
1270	Dichloropropene.
1280	Dicyclohexylamine.
1290	Diethylamine.
1300	Diethylene glycol.
1304	Diethylene glycol diethyl ether.
1305	Diethylene glycol dimethyl ether.
1310	Diethylene glycol monobutyl ether.
1320	Diethylene glycol monobutyl ether acetate.
1330	Diethylene glycol monoethyl ether.
1340	Diethylene glycol monoethyl ether acetate.
1360	Diethylene glycol monomethyl ether.
1420	Diethyl sulfate.
1430	Difluoroethane.
1440	Diisobutylene.
1442	Diisodecyl phthalate.
1444	Diisooctyl phthalate.
1450	Diketene.
1460	Dimethylamine.
1470	N,N-dimethylaniline.
1480	N,N-dimethyl ether.
1490	N,N-dimethylformamide.
1495	Dimethylhydrazine.
1500	Dimethyl sulfate.
1510	Dimethyl sulfide.
1520	Dimethyl sulfoxide.
1530	Dimethyl terephthalate.
1540	3,5-dinitrobenzoic acid.
1545	Dinitrophenol.
1550	Dinitrotoluene.
1560	Dioxane.
1570	Dioxolane.
1580	Diphenylamine.
1590	Diphenyl oxide.
1600	Diphenyl thiourea.
1610	Dipropylene glycol.
1620	Dodecene.
1630	Dodecylaniline.
1640	Dodecylphenol.
1650	Epichlorohydrin.
1660	Ethanol.
1661	Ethanolamines.
1670	Ethyl acetate.
1680	Ethyl acetoacetate.
1690	Ethyl acrylate.
1700	Ethylamine.
1710	Ethylbenzene.
1720	Ethyl bromide.
1730	Ethylcellulose.
1740	Ethyl chloride.
1750	Ethyl chloroacetate.
1760	Ethylcyanoacetate.
1770	Ethylene.
1780	Ethylene carbonate.
1790	Ethylene chlorohydrin.
1800	Ethylenediamine.
1810	Ethylene dibromide.
1830	Ethylene glycol.
1840	Ethylene glycol diacetate.
1870	Ethylene glycol dimethyl ether.
1890	Ethylene glycol monobutyl ether.
1900	Ethylene glycol monobutyl ether acetate.
1910	Ethylene glycol monoethyl ether.
1920	Ethylene glycol monoethyl ether acetate.
1930	Ethylene glycol monomethyl ether.
1940	Ethylene glycol monomethyl ether acetate.
1960	Ethylene glycol monophenyl ether.
1970	Ethylene glycol monopropyl ether.
1980	Ethylene oxide.
1990	Ethyl ether.
2000	2-ethylhexanol.
2010	Ethyl orthoformate.
2020	Ethyl oxalate.
2030	Ethyl sodium oxalacetate.
2040	Formaldehyde.
2050	Formamide.
2060	Formic acid.
2070	Fumaric acid.
2073	Furfural.
2080	Glycerol (Synthetic).
2081	Glycerol dichlorohydrin.
2100	Glycerol triether.
2110	Glycine.
2120	Glyoxal.
2145	Hexachlorobenzene.
2150	Hexachloroethane.
2160	Hexadecyl alcohol.
2165	Hexamethylenediamine.
2170	Hexamethylene glycol.
2180	Hexamethylenetetramine.
2190	Hydrogen cyanide.
2200	Hydroquinone.
2210	p-hydroxybenzoic acid.
2240	Isoamylene.
2250	Isobutanol.
2260	Isobutyl acetate.
2261	Isobutylene.
2270	Isobutyraldehyde.
2280	Isobutyric acid.
2300	Isodecanol.
2320	Isooctyl alcohol.
2321	Isopentane.
2330	Isophorone.
2340	Isophthalic acid.
2350	Isoprene.
2360	Isopropanol.
2370	Isopropyl acetate.
2380	Isopropylamine.
2390	Isopropyl chloride.
2400	Isopropylphenol.
2410	Ketene.
2414	Linear alkyl sulfonate.
2417	Linear alkylbenzene.
2420	Maleic acid.
2430	Maleic anhydride.
2440	Malic acid.
2450	Mesityl oxide.
2455	Metanilic acid.
2460	Methacrylic acid.
2490	Methallyl chloride.
2500	Methanol.
2510	Methyl acetate.
2520	Methyl acetoacetate.
2530	Methylamine.
2540	n-methylaniline.
2545	Methyl bromide.
2550	Methyl butynol.
2560	Methyl chloride.
2570	Methyl cyclohexane.
2590	Methyl cyclohexanone.
2620	Methylene chloride.
2630	Methylene dianiline.
2635	Methylene diphenyl diisocyanate.
2640	Methyl ethyl ketone.
2645	Methyl formate.
2650	Methyl isobutyl carbinol.
2660	Methyl isobutyl ketone.
2665	Methyl methacrylate.
2670	Methyl pentynol.
2690	α-methylstyrene.
2700	Morpholine.
2710	α-naphthalene sulfonic acid.
2720	β-naphthalene sulfonic acid.
2730	α-naphthol.
2740	β-naphthol.

OCPDS No.*	Chemical
2750	Neopentanoic acid.
2756	o-nitroaniline.
2757	p-nitroaniline.
2760	o-nitroanisole.
2762	p-nitroanisole.
2770	Nitrobenzene.
2780	Nitrobenzoic acid (o,m, and p).
2790	Nitroethane.
27	Nitromethane.
27	Nitrophenol.
27	Nitropropane.
28	Nitrotoluene.
28	Nonene.
2820	Nonyl phenol.
2830	Octyl phenol.
2840	Paraldehyde.
2850	Pentaerythritol.
2851	n-pentane.
2856	1-pentene.
2860	Perchloroethylene.
2862	Perchloromethyl mercaptan.
2890	o-phenetidine.
2900	p-phenetidine.
2910	Phenol.
2920	Phenolsulfonic acids.
2930	Phenyl anthranilic acid.
2940	Phenylenediamine.
2950	Phosgene.
2960	Phthalic anhydride.
2970	Phthalimide.
2973	β-picoline.
2976	Piperazine.
3000	Polybutenes.
3010	Polyethylene glycol.
3025	Polypropylene glycol.
3063	Propionaldehyde.
3066	Propionic acid.
3070	n-propyl alcohol.
3075	Propylamine.
3080	Propyl chloride.
3090	Propylene.
3100	Propylene chlorohydrin.
3110	Propylene dichloride.
3111	Propylene glycol.
3120	Propylene oxide.
3130	Pyridine.
3140	Quinone.
3150	Resorcinol.
3160	Resorcylic acid.
3170	Salicylic acid.
3180	Sodium acetate.
3181	Sodium benzoate.
3190	Sodium carboxymethyl cellulose.
3191	Sodium chloroacetate.
3200	Sodium formate.
3210	Sodium phenate.
3220	Sorbic acid.
3230	Styrene.
3240	Succinic acid.
3250	Succinonitrile.
3251	Sulfanilic acid.
3260	Sulfolane.
3270	Tannic acid.
3280	Terephthalic acid.
3290 and 3291.	Tetrachloroethanes.
3300	Tetrachlorophthalic anhydride.
331	Tetraethyllead.
3	Tetrahydronapthalene.
33	Tetrahydrophthalic anhydride.
33	Tetramethyllead.
33	Tetramethylenediamine.
33	Tetramethylethylenediamine.
33	Toluene.
33	Toluene-2,4-diamine.
33	Toluene-2,4-diisocyanate.
33	Toluene diisocyanates (mixture).
336	Toluene sulfonamide.
337	Toluene sulfonic acids.
33	Toluene sulfonyl chloride.
338	Toluidines.
339 3391, a 3393.	Trichlorobenzenes.
339	1,1,1-trichloroethane.
340	1,1,2-trichloroethane.
341	Trichloroethylene.
341	Trichlorofluoromethane.
342	1,2,3-trichloropropane.
343	1,1,2-trichloro-1,2,2-trifluoroethane.
345	Triethylamine.
346	Triethylene glycol.
347	Triethylene glycol dimethyl ether.
3480	Triisobutylene.
3490	Trimethylamine.
3500	Urea.
3510	Vinyl acetate.
3520	Vinyl chloride.
3530	Vinylidene chloride.
3540	Vinyl toluene.
3541	Xylenes (mixed).
3560	o-xylene.
3570	p-xylene.
3580	Xylenol.
3590	Xylidine

*The OCPDS Numbers are reference indices assigned to the various chemicals in the Organic Chemical Producers Data Base developed by EPA.

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40 CFR Part 61

[AD-FRL 1610-3]

National Emission Standard for Hazardous Air Pollutants; Benzene Fugitive Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: The proposed standard would limit benzene emissions from new and existing fugitive emission sources containing 10 or more percent by weight benzene in the petroleum refining and chemical manufacturing industries. The proposed standard would allow no detectable emissions due to leaks from safety/relief valves and product accumulator vessels; would require a leak detection and repair program for pipeline valves and existing pumps and compressors; and would require certain equipment for new pumps, new compressors, sampling connections, and open-ended valves.

The proposed standard implements the Clean Air Act and results from the Administrator's determination of June 8, 1977, that benzene presents a significant carcinogenic risk to human health and is, therefore, a hazardous air pollutant. The intent of the proposed standard is to protect the public health with an ample margin of safety.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standard for benzene fugitive emissions.

DATES: *Comments:* Comments must be received on or before April 6, 1981.

Public Hearing. A public hearing will be held on March 4, 1981 beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony should contact EPA at least one week before the hearing.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Attention: Docket No. A-79-27, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at the EPA administration Bldg auditorium, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Naomi Durkee, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

Background Information Document. The background information document for the proposed standard is contained in the docket and may be obtained from the U.S. EPA library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *Benzene Fugitive Emissions—Background Information for Proposed Standard (EPA-450/3-80-032a).* Other related documents which can be obtained from the same location include *Assessment of Health Effects of Benzene Germane to Low Level Exposures* (EPA-600/1-78-061); *Assessment of Human Exposures to Atmospheric Benzene* (EPA-450/3-78-031); and *Population Risk to Ambient Benzene Exposures: Final Report of the Carcinogen Assessment Group* (EPA-450/5-80-004).

Docket. Docket No. A-79-27, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. Supplementary information on the regulation of benzene emissions can be obtained from the Maleic Anhydride Docket No. OAQPS-79-3, which is available for public review at EPA's Central Docket Section. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

SUPPLEMENTARY INFORMATION: Notice is hereby given that under the authority of Section 112(b)(1)(B) of the Clean Air Act the Administrator is proposing a national emission standard for benzene fugitive emissions. Although the proposed EPA *Policy and Procedures for Identifying, Assessing, and Regulating*

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Airborne Substances Posing a Risk of Cancer (see 44 FR 58642) is not final, this proposed standard for benzene fugitive emissions has been developed consistent with the proposed EPA policy and procedures. As prescribed in Section 112(b)(1)(A) of the Act, the proposal of this standard was preceded by the Administrator's determination that benzene is a hazardous air pollutant as defined in Section 112(a)(1) of the Act. Accordingly, the Administrator revised the list of hazardous air pollutants on June 8, 1977, by adding benzene (42 FR 29332).

A background information document has been prepared that contains information on the petroleum refining and chemical manufacturing industries, the available control technologies for benzene fugitive emissions, and an analysis of the environmental, energy, economic, and inflationary impacts of regulatory alternatives. Information of the health effects of benzene is contained in other documents prepared by or for EPA. These documents can be obtained as indicated in the ADDRESSES section of this preamble.

Proposed Standard

The proposed standard would apply to new and existing pumps, pipeline valves, compressors, safety/relief valves, open-ended valves, sampling connections, pipeline flanges, and product accumulator vessels in benzene service at petroleum refineries and organic chemical manufacturing plants (excluding coke-oven by-product plants). Equipment components in benzene service are those containing materials having a benzene concentration of 10 or more percent by weight.

The proposed standard would limit leaks from safety/relief valves and product accumulator vessels to "no detectable emissions," that is, emissions having a concentration less than 200 parts per million (ppm) by volume above a background concentration as measured by proposed Reference Method 21 (40 CFR Part 60, Appendix A). Proposed Reference Method 21 measures organic chemicals, including benzene, but the method is not benzene-specific. Leaks from safety/relief valves during emergency conditions would be allowed but would be returned to no detectable emissions within five days of the emergency conditions.

The proposed standard would require that pipeline valves, existing pumps, and existing compressors in benzene service be monitored monthly for the detection of leaks by proposed Reference Method 21. However, valves that are found not to be leaking for two successive months could be monitored quarterly until a leak is detected. The proposed standard would require that any valve, existing pump, or existing compressor with a concentration at or above 10,000 ppm above background as measured by proposed Reference Method 21 be repaired within 15 days, except when repair would require a process unit shutdown. Repair means that the measured concentration is below 10,000 ppm. An initial attempt to repair such a leak would have to be made within 5 calendar days after the leak is detected. Valves, existing pumps, and existing compressors that can achieve a no detectable emission level, such as sealed bellows valves, would be exempted from monthly monitoring, but would have to be monitored on an annual basis to verify the no detectable emission level.

The proposed standard provides two alternative standards for pipeline valves in benzene service (i.e., containing 10 or more percent by weight benzene). After implementing the required leak detection and repair program (monthly monitoring) for one year, a plant owner or operator may request to use one of two alternative standards. The first alternative standard would be an allowable percentage of valves leaking. The second alternative standard would be a different leak detection and repair program. For this alternative standard, a plant owner or operator must demonstrate that the alternative leak detection and repair program achieves a percentage of valves leaking comparable to the required program. In either case, the alternative standard would be based on data collected during a 1-year implementation of the required leak detection and repair program. After a plant owner or operator requests the use of an alternative standard for valves, the Administrator would approve or disapprove the request within 90 days.

Additionally, the proposed standard would require that new pumps in benzene service use dual mechanical seal systems with a barrier fluid. In addition to mechanical seals, new compressors in benzene service would also be required to utilize a barrier fluid system. Degassing vents from barrier fluid systems would be required to be connected to a control device (e.g., an enclosed combustion device) by a closed vent system, and benzene concentration in the barrier fluid would be limited to less than 10 percent by weight. In addition, sensing devices would be required in order to detect failure of the seal systems. Pumps or compressors that can achieve no detectable emissions as measured by proposed Reference Method 21, such as canned motor pumps, diaphragm pumps, and magnetically coupled pumps, would be allowed but would be monitored on an annual basis to verify the no detectable emissions level.

Closed-loop sampling would be required by the proposed standard. The standard would require that material purged from sampling connections be returned to the process or collected in a closed disposal system without emissions to atmosphere. In-situ sampling would be excluded altogether from the proposed standard.

The proposed standard would require open-ended valves to be sealed with a cap, blind, plug, or second valve. The cap or other device could be removed or opened only when the open-ended valve is placed into service.

Sources excluded from routine monitoring and equipment requirements of the proposed standard include safety/relief valves in liquid service and flanges. If, however, leaks are visually or audibly detected from any source in benzene service, leak detection and repair requirements similar to those for pipeline valves would apply.

Compliance with the proposed standard would be assessed through review of records and reports which would document implementation of the requirements. On a quarterly basis, the owner or operator would report the number of leaks detected and repaired during the quarter. The owner or operator would also submit quarterly a signed statement stating whether provisions of the standard had been met.

Any owner or operator of a source designated by the proposed standard could request that the Administrator determine the equivalence of any alternative means of emission limitation to the equipment, design, operational and work practice requirements of the proposed standard. Upon receiving a request for determination of equivalence, the Administrator would provide an opportunity for public hearing. After such a hearing, the Administrator would make a decision and publish the decision in the **Federal Register.**

Summary of Environmental, Energy, and Economic Impacts

The proposed standard would reduce benzene fugitive emissions for existing petroleum refineries and chemical manufacturing units from about 8,300 megagrams per year to about 2,200 megagrams per year. As a result of this emission reduction, the proposed standard would reduce the estimated maximum lifetime risk for the most exposed population from a range of 1.[illegible] $\times 10^{-4}$ to $\times 10^{-3}$ at current controls, to a range of 4.6×10^{-5} to 32×10^{-5}, and would reduce the estimated incidence of leukemia deaths per year from new and existing plant exposure in the fifth year from a range of 0.21 to 1.4 at current controls, to a range of 0.6 to 0.4.

No significant adverse impacts to air quality, water quality, solid waste, energy, or noise are expected as a result of implementing the proposed standard for the existing industry. In fact, benefits to air and water quality would result because the controls utilized in implementing the standard would also reduce emissions of other potentially toxic hydrocarbons and because leak control techniques would reduce the amount of benzene and other organic compounds entering wastewater systems. Also, a positive energy benefit would result because leak control techniques increase conservation of process materials and thereby reduce the energy required to produce these materials.

The proposed standard is expected to affect about 250 existing petroleum refining and chemical manufacturing units. These units contain equipment that are assembled to produce benzene, benzene derivatives, or benzene-containing chemicals as intermediates or final products. The proposed standard would increase annualized costs to the existing petroleum refining and chemical manufacturing industries by about $2.1 million per year. In addition, the proposed standard would require a capital cost of $9.7 million. The increase in operating costs could be expected to increase the average cost of benzene derivatives by about 0.13 percent. There would be no plant closures or loss of employment as a result of implementing the standard.

The proposed standard would affect an estimated 70 new petroleum refining and organic chemical manufacturing units by 1985. The proposed standard would reduce benzene fugitive emissions from these new units from a possible level of 2,500 megagrams per year to 500 megagrams per year. The proposed standard for new facilities through 1985 would require a cumulative capital cost of $6.5 million for new facilities constructed through 1985. The proposed standard would increase annualized cost for new units in these industries by $1.3 million in 1985 and could increase the average cost of products from new facilities by about 0.30 percent.

Background Information on Health Effects of Benzene

The Administrator announced in the June 8, 1977, **Federal Register** (42 FR 29332) his decision to list benzene as a hazardous air pollutant under Section 112 of the Clean Air Act. A public hearing was held on August 21, 1980, to discuss the listing of benzene as a hazardous air pollutant. A hazardous pollutant is defined as an "* * * air pollutant to which no ambient air quality standard is applicable and which * * * may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating, reversible illness."

Numerous occupational studies conducted over the past 50 years have shown that health hazards result from prolonged inhalation exposure to benzene. Since 1900 the scientific and medical communities have recognized benzene as a toxic substance capable of causing acute and chronic effects. Benzene attacks the hematopoietic system, especially the bone marrow, and its toxicity is manifested primarily by alterations in the levels of the formed elements in the circulating blood (red cells, white cells, and platelets). The degree of severity ranges from mild and transient episodes to severe and fatal disorders. The mechanism by which benzene causes toxic effects is still unknown.

These adverse effects on the blood-forming tissues, including leukemia, have been documented in studies of workers in a variety of industries and occupations, including the manufacturing or processing of rubber, shoes, rotogravure, paints, chemicals, and more recently, natural rubber cast film. These studies include single case reports, cross-sectional studies, and retrospective studies of morbidity and mortality among a defined group of workers industrially exposed to benzene.

Based on the entire set of these studies, the Administrator concluded that benzene exposure is causally related to a number of blood disorders, including leukemia.[*] Although the studies which form the basis of this conclusion involve occupational exposure to benzene at higher levels than those found in the ambient air, the Administrator has "made a generic determination that, in view of the existing state of scientific knowledge, prudent public health policy requires that carcinogens be considered for regulatory purposes to pose some finite risk of cancer at any exposure level above zero" (44 FR 58646). Because of the widespread use of benzene, benzene emissions in the ambient air have been determined to result in significant human exposure. For these reasons, exposure to benzene emissions may reasonably be anticipated to result in one or more serious effects that can be expected to lead to an increase in mortality or an increase in serious, irreversible or incapacitating, reversible illness. Therefore, the Administrator concluded that benzene satisfies the definition of hazardous air pollutant under Section 112 of the Clean Air Act.

Rationale for Regulating Benzene Fugitive Emission Sources

Stationary source categories of benzene emissions include fugitive emissions from petroleum refineries and chemical manufacturing plants, the gasoline marketing system, process vents at several types of chemical manufacturing plants, coke-oven by-product plants, and benzene storage and handling facilities. Together, these five categories of stationary benzene emission sources account for national emissions of about 49,000 megagrams of benzene per year.

The first step in establishing standards for benzene was to determine which of the source categories emitting benzene would be regulated. Currently, there are about 130 petroleum refineries and organic chemical plants, which include about 250 units, involved in the production of benzene, benzene derivatives, and benzene-containing materials. These units emit about 8,300 megagrams per year of benzene from fugitive emission sources, or approximately 17 percent of the total benzene emissions from stationary sources. By 1985, 70 additional units are expected to be operating, which would increase the current benzene emission level from about 8,300 megagrams per year to a projected level of 10,800 megagrams of benzene per year if no additional controls are implemented. Although benzene emissions from some new and existing units will be regulated under separate emission standards, those standards would not regulate fugitive emissions of benzene, except fugitive emissions of benzene at coke-oven by-product plants, which will be covered under a separate standard for coke-oven by-product plants.

An estimated 65 million people live within 20 kilometers of the existing 250 units that produce or use benzene in the petroleum refining and chemical manufacturing industries. This estimate is considered an estimate of the population at risk, i.e., the population exposed to ambient concentrations of benzene emissions from fugitive emission sources in those industries. As a result of exposure to these ambient benzene concentrations of benzene, the maximum lifetime risk was estimated to be within a range of 1.7×10^{-4} to 1.2×10^{-3} at current controls. This maximum lifetime risk is defined as the probability of dying of leukemia for an individual within the population at risk who is exposed continuously for 70 years to the highest maximum annual average ambient benzene concentration due to benzene emissions from fugitive emission sources. In addition, the number of people within the population at risk that would die from leukemia due to benzene exposure from fugitive emission sources in the existing industries was estimated to be within the range of 0.15 to 1.14 deaths per year.

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[*] Benene also has been shown to be causally related to various cytopenias (decreased levels of formed element in the circulating blood), aplastic anemia (a non-functioning bone marrow), and potentially inheritable chromosomal aberrations.

Although the operational life of units which may be affected by this proposed standard is difficult to estimate, a 20-year operational life would be common to these industries. Operational lives of 50 years or more may occur particularly in the petroleum refining industry. However, operational lives may be less than 20 years for some chemical manufacturing industries. Consequently, a 20-year operational life is a reasonable estimate. On this basis, the number of deaths estimated to occur over the life of the 250 existing units would range from 3.5 to 23.5.

The ranges presented here include only the uncertainty of estimates made concerning the benzene concentrations to which workers were exposed in the occupational studies of Infante, Aksoy, and Ott, that were the basis for developing the benzene unit risk factor (discussed in Appendix E of "Benzene Fugitive Emissions—Background Information for Proposed Standard," EPA 450/3–800–32a) and are based on a 95 percent confidence interval that assumes the estimated concentrations are within a factor of two.

However, there are several other uncertainties associated with the estimated number of leukemia deaths that are not quantified in these ranges. The number of deaths were calculated based on an extrapolation of leukemia risk associated with a presumably healthy white male cohort of workers to the general population, which includes men, women, children, nonwhites, the aged, and the unhealthy. Uncertainty also occurs in estimating the benzene levels to which people are exposed in the vicinity of petroleum refining and chemical manufacturing plants. Furthermore, leukemia is the only health effect of benzene considered. Additionally, the benefits to the general population of controlling other hydrocarbon emissions from fugitive emission sources in these industries are not quantified. Finally, these estimates do not include the cumulative or synergistic effects of concurrent exposure to benzene and other substances. As a result of these uncertainties, the number of deaths and the maximum lifetime risk calculated around petroleum refining and chemical manufacturing plants could be overestimated. However, and more important, they could just as likely be underestimated for the same reasons.

Based on the magnitude of benzene exposures from emissions from this source category, on the resulting estimated maximum individual risks and estimated incidence of fatal cancers in the exposed population for the life of existing sources in the category, on the projected increase in benzene emissions as a result of new sources, and on consideration of the uncertainties associated with these quantitative risk estimates (including the effects of concurrent exposures to other substances and to other benzene emissions), the Administrator finds that benzene emissions from fugitive emission sources at petroleum refining and chemical plants create a significant risk of cancer and require the establishment of a national emission standard under Section 112.

The Administrator considered the alternative of taking no action to regulate benzene fugitive emissions and relying instead on the OSHA standard for benzene emissions and volatile organic compound (VOC) control under the State Implementation Plans (SIPs). The current OSHA standard stipulates a level of benzene that cannot be exceeded in the work place. Implementation of an emission standard under Section 112 of the Clean Air Act would require direct control of emissions sources by specific limits or other measures. Implementation of an OSHA benzene standard, on the other hand, requires indirect control of the emission sources. That is, OSHA standards require controls only to the extent necessary to reduce worker exposures to levels less than the maximum permissible exposure. Some fugitive emission sources can be located away from the workplace and, hence, may not require control. Therefore, OSHA standards may not require all emission sources to be controlled to a similar extent that an emission standard under Section 112 would require. Also, benzene fugitive emissions controlled to comply with an OSHA standard may be removed from the workplace but still be emitted to atmosphere. Relying on indirect control would be an unreasonable approach to reducing the public risks associated with fugitive emissions of benzene. In contrast, OSHA standards include requirements that regulate worker exposures that emission standards under Section 112 would not cover. Thus, establishment of both standards is appropriate and any redundancy would be superficial. Consequently, the Administrator rejected reliance on OSHA benzene regulations for control of benzene fugitive emissions.

Volatile organic compound emissions, as potential precursors to photochemical oxidant (ozone) formation, are now being regulated under SIPs. The goal of SIP regulations for VOC is to effect statewide compliance with the national ambient air quality standard (NAAQS) for ozone. Regulations under SIPs for reducing VOC emissions could also reduce benzene emissions. However, a particular State may not need to require reduction of VOC fugitive emissions to meet the NAAQS. Consequently, the Administrator rejected reliance on SIPs for control of benzene fugitive emissions.

Standards of performance for fugitive VOC emissions from new petroleum refineries and synthetic organic chemical manufacturing plants are currently being developed under Section 111 of the Clean Air Act. As discussed for SIP regulations, these new source performance standards (NSPS) for VOC emissions will effect some concurrent reductions in benzene emissions. However, since the standards would not apply to existing units and might not require a reduction of VOC emissions to the same extent as may be appropriate for benzene, the Administrator rejected reliance on NSPS for control of benzene emissions.

Thus, after considering the available alternatives, the Administrator determined that Section 112 of the Clean Air Act was the most reliable and expeditious mechanism for the control of benzene fugitive emissions. The Administrator, therefore concluded that a standard for the regulation of benzene fugitive emissions would be developed under the authority of Section 112.

Selection of Designated Sources

Benzene fugitive emissions occur in the petroleum refining and chemical manufacturing industries as a result of the production and use of materials that contain benzene. Benzene-containing materials originate in several ways. In petroleum refineries, benzene is present in numerous process streams. It is present in crude oil in small concentrations and is formed in various refining operations such as pyrolysis and dealkylation. It is also present in many finished refinery products such as gasoline and aromatic products.

In the chemical industry, benzene is present in many processes because it is used in the manufacture of organic chemicals and because it is produced as a by-product in the manufacture of some organic chemicals. Benzene is used as a feedstock in the production of many chemicals, including, but not necessarily limited to, ethylbenzene, cumene, cyclohexane, benzene sulfonic acid, resorcinol, maleic anhydride, chlorobenzene, detergent alkylate, nitrobenzene, and hydroquinone. Additionally, benzene may be produced as a by-product in the manufacture of ethylene and styrene, or it may be produced as a pure product by extraction of mixed aromatics or hydrogenation of toluene.

Organic materials must be moved to and from various process vessels (reactors, distillation columns, etc.) in order to perform the chemical and physical changes required to manufacture a given organic product. These materials are normally moved from vessel to vessel through pipes. The materials are usually driven through the pipes by pumps, and the volume of flow is normally regulated by valves. Pipeline flanges (a method of joining sections of pipe), valves and pumps all require sealing mechanisms such as gaskets and packing glands to prevent leakage of process materials. These sealing mechanisms may develop leaks due to the wear of normal use and, in some cases, may be designed to leak. A small amount of leakage must be allowed for many sealing mechanisms used on rotating shafts in order to provide lubrication for the shaft. Because these sealing mechanisms allow leakage of benzene or benzene-containing materials to atmosphere, they are sources of benzene emissions.

In addition to the potential fugitive emissions resulting from leaks in sealing mechanisms, benzene may also be released during several other operations associated with the processing of organic compounds. Benzene can be released due to leaks in safety/relief valves; from purging, venting, and draining operations; and during product sampling operations. Benzene may also be released from cooling towers, wastewater separators, and process drains due to the leakage of organic materials into these systems.

A decision was made which defines the scope of the proposed standard. Present estimates indicate that 90 percent or more of the total benzene fugitive emissions arise from components which process materials containing 10 or more percent by weight benzene. Thus, the proposed standard would regulate the majority of benzene fugitive emissions if a 10 percent cutoff were applied. In addition, a 10 percent cutoff would eliminate covering trace quantities of benzene, such as those found in crude oil. Therefore, it was decided that the proposed standard would be applied only to fugitive emission sources in benzene service, i.e., those components containing materials of 10 or more percent by weight benzene. However, if information becomes available that indicates that benzene emissions from fugitive emission sources which handle benzene streams below the 10 percent cutoff are greater than presently estimated, the standard could be revised in the future.

An emission standard promulgated under Section 112 of the Clean Air Act covers new and existing stationary sources of a hazardous air pollutant, such as benzene. The coverage of an emission standard depends on the specific definition of stationary source designated for any particular emission standard. A new source includes an existing source which has been modified. In general, an existing source is modified if a change in the source results in increased emissions. New and existing sources covered by Section 112 have different compliance schedules, and, in some cases, new sources may be covered by a more restrictive standard than the standard for existing sources. The designation of fugitive emission sources to be covered by the proposed emission standard was chosen such that the proposed standard would have maximum effectiveness in reducing benzene fugitive emissions from new and existing sources, yet would not cause excessive adverse impacts.

Three possible definitions for the designated sources were considered before making a selection. These were (1) designating all fugitive emission sources within an entire plant site (e.g., an entire refinery or chemical plant) as the source, (2) designating all fugitive emission sources within a process unit (e.g., an alkylation unit or a nitration unit) as a source, and (3) designating each fugitive emission source such as a pump, a valve, or a pipeline flange, as a source.

A plant site consists of all chemical manufacturing and petroleum refining benzene process units under common ownership at the same geographical location. All fugitive emission sources in benzene service at one geographical location could be designated as the source to be covered by the proposed standard. However, entire plant sites are not typically constructed. More typically, a new production unit would be added to an existing site to produce a new product, or larger capacity equipment might be installed to increase production of an existing product. Thus, the effectiveness of the proposed standard would be limited to a standard for existing plant sites or plant sites that would become new plant sites through reconstruction or modification.

If the standards for new and existing fugitive emission sources are identical, then an existing plant site that would become a new source through reconstruction or modification would not be required to comply with any different requirements (except compliance date requirements). If the standard for new sources is more restrictive than the standard for existing sources, then an existing plant site that might become a new source through reconstruction or modification would be required to retrofit additional controls to all fugitive emission sources at that plant site. This could have adverse impacts, especially if the new source standard would require extensive retrofitting. These adverse impacts would be related generally to cost and economic impacts associated with retrofitting an entire plant site. In contrast to these adverse impacts, positive impacts in reducing benzene emissions could be associated with retrofitting an entire plant site.

The designated sources could also be defined as process units. Process units would be considered to be all the fugitive emission sources in benzene service assembled to manufacture benzene, benzene derivatives, or benzene-containing compounds as intermediates or final products. Designating the source as a process unit would have the same impacts as designating the source as a plant site but to a lesser extent. If the standard for new sources is more restrictive than for existing sources, then an existing process unit that might become a new source through reconstruction or modification would be required to retrofit the additional controls. Even though this could have adverse impacts, the impacts would not be as substantial as those if the source were designated as a plant site. In addition, positive emission reduction impacts could result.

Benzene fugitive emission sources could be designated as individual pieces of equipment, such as pumps and valves, that leak benzene or benzene-containing materials, thereby generating benzene emissions to atmosphere. The key factor common to benzene fugitive emissions are directly related to the number of leaking components, but they are not necessarily related to the type of process unit in which the components are found.

If the standard is not different for new and existing fugitive emission sources, then an existing individual component that might become a new source through reconstruction or modification would not be required to comply with any different requirements. However, approval of construction or modification as required in 40 CFR 61.05(a) for each modification or replacement would generally be required. This would require the identification of each component. However, individual components containing at least 10 percent benzene would be identified in such a manner that they would not be confused with components containing less than 10 percent benzene. Thus, the identification of each component for purposes of modification and reconstruction would not be an additional requirement. This procedure would be the same for process units and plant sites.

If the standard for new sources is more restrictive than the standard for existing sources, then existing individual components that might become new sources through reconstruction or modification would be required to retrofit the additional controls to the existing source. In general, this would not happen through modification because most changes in individual pieces of equipment would not increase their emission rates. However, an existing component could become a new source if it were reconstructed or replaced. Cost and economic impacts associated with retrofitting existing sources when they become new sources through modification or reconstruction would be minimized if the sources are designated as individual components. This would occur since replacement of an existing component that becomes a new source would not affect other components. Individual components containing at least 10 percent benzene would be identified in such a manner that they would not be confused with components containing less than 10 percent benzene. In addition, they could be clearly identified as either an existing source or a new source. Identifying existing and new individual components could be difficult but would not be burdensome because both new and existing components would be covered. The only difference would be the requirements of the applicable standard. However, approval of construction or modification for each modification or replacement would generally be required.

The adverse impacts associated with potentially extensive retrofitting of existing plant sites would prohibit the designation of the sources covered by the standard as plant sites. Even though designating the sources covered by the standard as process units would result in less adverse impacts than designating the sources as plant sites, this approach could have adverse impacts. These impacts are minimized by designating the sources as individual components. Thus, because adverse impacts are minimized by designating the sources covered by the standard as individual components, the Administrator has designated individual components as the sources covered by the proposed standard. As a result of this decision, however, the modification and construction approval provisions of 40 CFR Part 61 were reviewed.

Modification is not likely to result in existing sources becoming new sources because, in general, such changes do not increase the emission rate from the source. On the other hand, replacement of a source would essentially be construction of a new source. A definition of reconstruction is being proposed with this standard. The purpose of the application of modification or construction provisions in the General Provisions of 40 CFR Part 61 is to provide EPA with information on new sources and to ensure that new sources comply with the standard. Replacement of existing fugitive emissions sources that comply with the standard for new sources does not warrant a review and subsequent approval of construction. Thus, the Administrator has excluded from approval of construction or modification existing sources that become new sources through reconstruction and that comply with the standard for new sources. However, a notification of the replacement or reconstruction would be reported in the quarterly report that occurs immediately after the reconstruction or modification.

According to the definition of reconstruction which is contained in the proposed standard, there are two criteria which the Administrator will consider in deciding whether a source is reconstructed. The first is that "the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable, entirely new source." The second is that "it is feasible, considering economic impacts and the technological problems associated with retrofit, to meet the applicable standard for new sources set forth in this subpart." The second criterion is only meaningful to portions of the proposed standard which have different requirements for new and existing sources. That is, for any existing source that has the same requirements as a new source, the economic impacts and technological problems associated with retrofit have already been considered. For those existing sources, it has already been decided that they can meet the proposed standard for new sources.

In developing the proposed standard, 13 types of individual process components have been identified as potential sources of benzene fugitive emissions. These components are pumps, pipeline valves, safety/relief valves, open-ended valves, sampling connections, flanges, process drains, compressors, product accumulator vessels, agitators, wastewater separators, cooling towers, and process unit turnarounds.

Four of these types of process components are not included in the proposed standard. At present no data are available that indicate the extent of benzene emissions or emission reduction techniques for wastewater separators, cooling towers, and process unit turnarounds. If information becomes available that indicates the extent of emissions from these sources, standards could be proposed for them in the future. Agitators are not considered to be a significant source of benzene fugitive emissions. Agitated vessels in benzene operations operate at atmospheric pressure; consequently, no leakage is expected at the seal. For pumps, pipeline valves, safety/relief valves, open-ended valves, sampling connections, flanges compressors, and product accumulator vessels, information indicating the extent of benzene emisssions and available control technology are available. Therefore, all except four of these types of equipment have been included in the scope of the proposed standard.

In summary, the sources designated to be covered by the proposed standard are pieces of equipment of the following types that contain fluids (liquid or gas) with a concentration of 10 or more percent by weight benzene: pumps, pipeline valves, safety/relief valves, open-ended valves, sampling connections, pipeline flanges, compressors, and product accumulator vessels.

Selection of Regulatory Alternatives

Benzene fugitive emissions can be reduced by two types of control techniques: (1) leak detection and repair programs, and (2) equipment, design, and operational requirements. Six regulatory alternatives which would achieve different levels of emission reduction where developed by employing various combinations of the available control techniques.

Control Techniques

The leak detection and repair programs included in the various regulatory alternatives consist of two phases. The initial phase involves monitoring potential fugitive emission sources to detect fugitive emissions. After detection of the leak, the fugitive emission source would be repaired or replaced in order to reduce the emissions.

Several leak detection methods were considered in the development of the regulatory alternatives. Methods considered included the use of VOC detectors and soap bubble solutions to locate leaking fugitive emission sources. Different modes of monitoring were also considered. Included were periodic monitoring for leaking fugitive emission sources on an individual component or an area basis and continuous automatic instrument monitoring of background air at multiple sites within a facility. As detailed in the Selection of Test Method section of this preamble, the individual component survey using a portable VOC detector has been selected as the leak detection method for the proposed standard. This method requires that the VOC concentration at the surface of each fugitive emission source be monitored with a portable VOC detector.

The effectiveness of an individual source leak detection program would depend not only on the detection method, but also on other factors. For example, more frequent monitoring would allow more frequent maintenance and a corresponding reduction in fugitive emissions. The selection of the level at which a leak is defined also influences the potential effectiveness of a leak detection and repair program. Other factors such as the length of time allowed between detection and repair of a leak also influence the emission reduction achievable by a leak detection and repair program.

The second phase of a leak detection and repair program consists of repair or replacement of leaking fugitive emission sources. Repair or replacement of a fugitive emission source would be required within a specified period of time after the detection of a VOC concentration equal to or in excess of a predetermined level. These repair and repacement procedures would vary for each fugitive emission source. Fugitive emissions from packed seals on a pump or compressor, for example, could be reduced by tightening the packing gland. However, the packing could deteriorate to a point where further tightening would no longer reduce emissions, but instead would increase the emission rate. At this point, the packing would have to be replaced. Mechanical seals on pumps and compressors would need to be removed for repair. Replacement of these seals would be included in their repair, if necessary.

Most valve leaks can be repaired while the equipment is in service. Most process valves have a packing gland which could be tightened while the valve is in service. Tightening of the packing gland would normally reduce fugitive emissions from a leaking valve. If the packing is old and brittle or if the packing were to be overly tightened, the emission rate could increase. When this occurs, the packing would have to be replaced. Plug valves may be repaired by addition of grease.

Some valves can not be repaired while in service. These valves include control valves, which may be excluded from in-service repair by operating or safety considerations, and block valves, whose removal for repair or replacement might require a process shutdown. Other valves, such as control valves with a manual bypass loop, can be isolated for repair or removal. The repair of a leaking safety/relief valve normally requires that it be removed from service.

Leaks from flanges can often be reduced by tightening the flange bolts. Most flanges can not be isolated from the process to permit replacement of the gasket.

In addition to a leak detection and repair program, certain equipment can be used to reduce fugitive emissions. Possible types of equipment for controlling emissions were considered for the following source types in the development of the regulatory alternatives: pumps, compressors, safety/relief valves, open-ended valves, sampling connections, process drains, and product accumulator vessels.

Fugitive emissions from pumps occur primarily at the pump seal. These emissions could be reduced by elimination of the seal by replacing the pump with a sealless pump, use of an improved seal (e.g., double mechanical seals), or collection and control of the emission with closed vent system.

Because of process condition limitations, sealless pumps are not suitable for all pump applications. However, dual mechanical seals are currently used in many process applications. These seals characteristically include a barrier fluid between the seals. If the pressure in the barrier fluid system is higher than that in the pump seal area, benzene would not leak from the seal. If, however, the pressure in the pump seal area is higher than the barrier fluid pressure, benzene could leak into the barrier fluid and could be emitted to atmosphere through degassing vents the barrier fluid reservoir. Connecting the degassing vents to a control device (enclosed combustion or vapor recovery system) and maintaining the benzene concentration in the barrier fluid below 10 percent by weight could effectively control fugitive emissions originating from the dual mechanical seals. The control efficiency would vary with the condition of the mechanical seals and the type of control device used, but control efficiencies approaching 100 percent can be achieved.

Emissions from compressors also occur primarily at the seal. A closed vent system or replacement of the seal with an improved seal (mechanical) could be used to reduce emissions from compressors. The use of mechanical seals on compressors, connection of the barrier fluid reservoir to a control device (enclosed combustion or vapor recovery system) with a closed vent system, and maintaining the benzene concentration in the barrier fluid below 10 percent by weight could provide control efficiencies approaching 100 percent.

Safety/relief valves may emit benzene fugitive emissions due to the failure of valve seating surfaces, improper reseating after relieving, or process operation near the relief valve set point. Equipment for controlling fugitive emissions from relief valves include closed vent systems connected to a control device or rupture disks upstream of these valves. A closed vent system can be used to transport the relief valve discharge (and fugitive emissions) to a control device. These types of systems are currently used in petroleum refinery and organic chemical process units; however, under certain applications, such as combustion of halogenated compounds, these systems could result in undersirable emissions.

The control efficiency of a closed vent and control device system is mostly dependent on the effectiveness of the control device. For example, a typical flare is about 60 to 90 percent effective for organic compound destruction, and a

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closed vent system is about 100 percent effective in organic compound capture; thus, the overall efficiency is about 60 to 90 percent.

Rupture disks can be installed upstream of safety/relief valves to prevent fugitive emissions from the valve seat. Unlike a closed vent system, a rupture disk does not require a downstream control device. Therefore, the control efficiency is approximately 100 percent.

When process samples are taken for analysis, obtaining a representative sample requires purging some process fluid through the sample connection. This sample purge would be vented to atmosphere if the fluid is gaseous, and liquid sample purges could be drained onto the ground or into open collection systems where evaporative emissions would result. Fugitive emissions from sampling connections can be reduced by using a closed loop sampling system that eliminates purging of process material.

Fugitive emissions from open-ended valves can be controlled by installing a cap, plug, blind, or second valve on the open end of the valve. These equipment specifications, capping of open-ended valves and closed-loop sampling, represent readily available technologies that have been applied in the industry and exhibit control efficiencies of approximately 100 percent. The actual control efficiencies will depend on site-specific factors.

Fugitive emissions from process drains can be controlled by three methods. First, if drain traps have been installed in the process drain system, then regular flushing of process drains to prevent the build up of benzene-containing organic compounds can effectively reduce fugitive emissions from these sources. Second, sealed drain covers may be installed so that benzene emissions from process drains could not occur. The effectiveness of either of these techniques, however, would depend on the degree of control of other sources in the drain systems such as drain vents and wastewater separators. Thus, another method for controlling fugitive emissions from process drains is to minimize the potential for benzene leakage into the drain system. This is done by minimizing the potential for leakage from other sources such as sampling systems, open-ended valves, and pumps. When the degree of control for these sources is maximized, as discussed above, then their potential for leakage into the drain system will be minimized and the potential for benzene fugitive emissions from the drain system will, likewise, be minimized.

Fugitive emissions from product accumulator vessels (e.g., distillate receiver vessels) occur through the vessel vents. Where a vent is employed, it may discharge directly to atmosphere or indirectly to atmosphere through a vacuum system. Most accumulator vessels in refineries are presently controlled. The vent discharge can be collected by a closed vent system and destroyed by an enclosed combustion device.

Regulatory Alternatives

Six regulatory alternatives of increasing emission reduction efficiency were developed by employing various combinations of the available control techniques. These regulatory alternatives were then analyzed to determine which would serve as the basis of the proposed standard for new and existing sources.

Regulatory Alternative I represents a baseline alternative. The baseline regulatory alternative describes the industry in the absence of new regulations, and it provides the basis for incremental comparison of the impacts of the other regulatory alternatives.

A number of factors influence the baseline emission level. Examination of benzene control programs at individual plants reveals a range of existing control levels. Many plants rely on normal maintenance procedures to control fugitive emissions due to large leaks. Other plants may have developed a leak detection and repair program in response to OSHA regulation requirements, State or local agency regulations, or emission offset provisions. To characterize baseline conditions, however, a general description of the entire industry is desirable, rather than a description of site-specific or geographic-specific conditions. Thus, Regultory Alternative I reflects existing plant maintenance procedures as characterized by emission factors developed from recent studies of fugitive emission sources.

Regulatory Alternative II would require periodic leak detection and repair for most sources and the installation of equipment for other sources and would reduce benzene fugitive emissions by about 60 percent. The requirements of this regulatory alternative are based upon the recommendations of the refinery VOC leak control techniques guideline (CTG) document (EPA-450/2-78-036). Quarterly monitoring for leaks from relief valves, pipeline valves and open-ended valves in gas service, and compressors would be required. Pumps, drains, and valves in liquid service would be required to be monitored annually for leaks. Weekly visual inspections of pump seals would be required; visual detection of a liquid leak would direct that monitoring be initiated to determine if the action level were being exceeded and that the pump seal be subsequently repaired, if necessary. Relief valve monitoring would also be required after over pressure relieving, to detect improper reseating. Finally, open-ended valves would be required to be sealed with a cap, blind, plug, or another valve.

Regulatory Alternative III would provide for more effective control than Regulatory Alternative II by increasing the frequency of leak detection and repair for some sources and requiring the installation of certain equipment for other sources. Regulatory Alternative III would reduce benzene fugitive emissions by about 70 percent. Monthly monitoring for detection of leaks from pumps, compressors, drains, and valves would be required in this regulatory alternative. The purpose of the increased frequency of monitoring is to reduce emissions from residual leaking sources; i.e., those sources that are found leaking and are reparied and then recur before the next inspection, and those sources that begin leaking between inspections.

Regulatory Alternative III would also require the installation of certain equipment. Regulatory Alternative III is based on installation of closed-loop sampling systems; rupture disks on gas service relief valves that vent to atmosphere; accumulator vessel vents tied into a control device; and open-ended valves sealed with a cap, blind, plug, or another valve. Based on a preliminary cost analysis, each of these controls is expected to have similar costs for the amount of benzene emissions reduced.

Regulatory Alternative IV includes equipment that is expected to have greater costs for the amount of benzene emissions reduced than those included in Regulatory Alternative III. Regulatory Alternative IV would reduce benzene fugitive emissions by about 80 percent. Regulatory Alternative IV is based on mechanical seal systems on pumps and compressors, in addition to the other equipment included in Regulatory Alternative III. Diaphragm and sealed-bellows valves were not included because the expected cost for the amount of benzene emissions reduced, based on a preliminary cost analysis, was much greater than for double mechanical seal systems. In addition, drains and valves would be required to be monitored for leaks each month, as in Regulatory Alternative III.

Regulatory Alternative V would require leakless emission control equipment for all designated sources and would reduce benzene fugitive emissions by about 90 percent. In addition to the equipment discussed for Regulatory Alternative IV, this regulatory alternative would require installation of diaphragm or sealed-bellows type valves, and would require drains to be enclosed. Consequently, all designated sources would be controlled to the maximum degree, and leaks would virtually be eliminated from these sources. Equipment would be required to be monitored annually for leaks to ensure continued leakless operation.

Regulatory Alternative VI would require the elimination of all benzene fugitive emissions from the source category. Although the equipment upon which Regulatory Alternative V is based would virtually eliminate benzene emissions from equipment handling greater than 10 weight percent benzene, there would still be some benzene emissions from spills and occasional equipment failure.

The use of substitute feedstocks could eliminate all benzene from some operations; for example, n-butane could be used in the production of maleic anhydride instead of using benzene. However, this approach could not be used for all benzene-consuming processes, as there are no substitutes for benzene in some cases. Therefore, this approach is best considered on a case-by-case process standard basis.

The only approach that could totally eliminate benzene fugitive emissions is the prohibition of all benzene-producing and consuming processes. However, this approach would lead to the shutdown of all refineries and a number of chemical plants because benzene is present in most refinery feedstocks and organic chemical process streams. This approach is considered unreasonable because the economic impacts, although difficult to quantify, would be extremely adverse to the benzene-producing and consuming industries and, consequently, the public.

Selection of the Basis for the Standard—Existing Sources

Selection of a regulatory alternative to serve as the basis for the proposed standard for existing sources involved evaluating the environmental and economic impacts of each alternative discussed in Selection of Regulatory Alternatives. Included for the evaluation of environmental impacts were estimates of air quality, water, noise, and solid waste impacts. Included for the evaluation of economic impacts were estimates of the total capital and annualized costs for implementing each alternative, estimates of the effect on final product prices, and estimates of energy impacts.

After consideration of the environmental, energy, and economic impacts of each alternative, one alternative was selected as best available technology (BAT) for existing sources. After BAT was identified, the estimated risks remaining after application of BAT were examined to determine whether they are unreasonable in view of the health benefits and other impacts that would result if a more stringent option were applied.

To assess the environmental impacts of the regulatory alternatives, existing conditions were first characterized (Regulatory Alternative I). Then incremental impacts were determined from this level of control.

Three model units were chosen to represent average inventories of equipment handling process streams containing greater than 10 weight percent benzene. These model units were developed by analyzing various production operations that are presently known to involve benzene fugitive emissions. The model units are based on the number of pieces of equipment involved in the various production operations because fugitive emissions are proportional to the number of pieces of equipment. Thus, the model units generally reflect process complexity rather than production rate.

Model Unit A represents an average inventory for units involved in the production of ethylbenzene, styrene, cumene, cylohexane, benzene sulfonic acid, resorcinol, benzene from toluene, or maleic anhydride; Model Unit B represents an average inventory for units involved in the extraction of benzene from reformate, or in the production of chlorobenzene or linear alkylbenzene; Model Unit C represents an average inventory for units involved in the production of nitrobenzene, hydroquinone, or benzene by extraction from pyrolysis gasoline. Ethylene production may be represented by either Model Unit A, B, or C, depending on the number of ethylene production units at the plant site; one ethylene unit would be represented by Model Unit A, two or three ethylene units would be represented by Model Unit B, and four or five ethylene units would be represented by Model Unit C. The 1980 industry totals for these model units were estimated to be: Model Unit A, 145 units; Model Unit B, 72 units; Model Unit C, 24 units.

Air Quality Impact

Using baseline emission factors and the equipment inventories developed for the model units, baseline benzene fugitive emissions were determined to be about 19 Mg/year for Model Unit A, 45 Mg/year for Model Unit B, and 97 Mg/year for Model Unit C. These rates multiplied by the number of each model unit present in the existing industry yield a nationwide unregulated total of 8,300 Mg/year.

Regulatory Alternative II would reduce benzene fugitive emissions from the existing industry from 8,300 Mg/year to 3,600 Mg/year, yielding a 57 percent reduction in emissions. Regulatory Alternative III would reduce these emissions to 2,200 Mg/year, yielding a 73 percent reduction. Regulatory Alternative IV would reduce emissions to 1,900 Mg/year, yielding a 77 percent reduction. Regulatory Alternative V would reduce emissions to 900 Mg/year, yielding a 90 percent reduction in emissions from the baseline.

Ambient benzene concentrations attributable to uncontrolled benzene fugitive emissions (Regulatory Alternative I) and those attributable to fugitive emissions reduced to the levels required by Regulatory Alternatives II through V were estimated. The estimated maximum annual average benzene concentration for the facility with the highest expected benzene fugitive emission rate was 13.4 parts per billion by volume (ppbv) at a distance of 0.1 kolometer from the plant. The maximum annual concentrations for this plant under Regulatory Alternatives II through V were 5.9, 3.6, 3.1, and 2.8 ppbv. All of these maximum annual concentrations occurred at 0.1 kilometer from the plant.

Water, Solid Waste, and Noise Impacts

Since none of these regulatory alternatives would require any additional water discharges, there would be no negative impact on water quality. There is potential for a positive benefit to water quality, however, due to decreased amounts of organic materials entering drains, sewers, and wastewater discharges because of better leak control. This benefit would increase with the stringency of the regulatory alternative because each successive regulatory alternative requires additional leak control measures.

There would be minimal impact on solid waste and no impact on noise as a result of implementing any of the regulatory alternatives. The solid wastes associated with the regulatory alternatives are replaced mechanical seals, packing, rupture disks, and valves. The quantities of waste to be disposed are not expected to be significant for any of the regulatory alternatives.

Energy and Economic Impacts

The industry total capital and annualized costs, including recovery credits, can be summarized as follows for Regulatory Alternatives II, III, IV, and V: (1) Regulatory Alternative II would require a total capital investment of $2.9 million and would result in an annualized savings of $25 thousand; (2) Regulatory Alternative III would require a capital investment of $9.7 million and an annualized cost of $2.1 million; (3) Regulatory Alternative IV would require a capital investment of $25.3 million and an annualized cost of $5.5 million; (4) Regulatory Alternative V would require a capital investment of $242 million and an annualized cost of $58.6 million. The annualized costs required to implement Regulatory Alternatives II, III, IV, and V could cause the average price of benzene derivatives to rise by about 0.04, 0.13, 0.37, and 4.1 percent, respectively.

Since the controls required to implement the regulatory alternatives are passive in nature, there would be no negative energy impact. In fact, there would be a slight energy benefit from the conservation of raw materials and products that results from the control of leaks.

In selecting best available technology (BAT) for existing sources, the Administrator reviewed technology to determine the most advanced level of controls adequately demonstrated, considering economic, energy, and environmental impacts, and the technological problems associated with retrofit. First, Regulatory Alternative VI was examined. This regulatory alternative would eliminate benezene fugitive emissions from the industries. However, it would result in closure of a number of industries. Thus, the Administrator did not select Regulatory Alternative VI as the basis for BAT because the closure of these industries would result in extremely adverse economic impacts.

Second, Regulatory Alternative V was examined. This alternative would require the most advanced level of controls without shutdown of any industries. The main difference between this regulatory alternative and the less stringent alternatives is that it would require replacement of existing valves with new leakless valves. Replacing existing valves with leakless valves could result in retrofit problems. For example, in some cases, replacing the valves would increase the pressure drop in the system, and possibly result in reduction in throughputs and/or redesign of the system. Regulatory Alternative V would also result in replacement of some existing pumps with new pumps and replacement of some relief valves with new relief valves, but these replacements would also be required by some of the other alternatives. This regulatory alternative would result in a 7,400 megagram per year reduction in benzene emissions from the baseline for existing plants. Capital cost for this alternative would be $242 million, and the annualized cost would be $58.6 million. Regulatory Alternative V could result in cumulative percent price increases for benzene-derivative products from about 2 percent to about 7 percent. Even if the price increase for benzene production is not passed through to benzene-derivative products, this alternative could still result in price increases of greater than 5 percent for several specialty products made from benzene. Because the implementation of Regulatory Alternative V would result in substantial price increases which could cause adverse economic impacts, the Administrator examined Regulatory Alternative IV before selecting BAT.

Regulatory Alternative IV would require the next most advanced level of controls to the levels for Regulatory Alternative V and would result in a 6,400 megagram per year reduction in benzene emissions. This alternative would require replacement of some equipment. However, this replacement would not be as extensive as that in Regulatory Alternative V, and the technological problems and costs associated with this retrofitting would be reduced accordingly. Regulatory Alternative IV would result in cumulative percent price increases of less than 1 percent for all affected chemicals. Capital costs would be about $25.3 million, and annualized costs would be about $5.5 million.

The Administrator compared the level of controls for Regulatory Alternative V and Regulatory Alternative IV and their economic impacts before selecting BAT. The level of controls for Regulatory Alternative V would result in an additional 1,000 Mg/year emission reduction compared with Regulatory Alternative IV. In contrast to this impact, Regulatory Alternative V would result in much greater economic impacts than Regulatory Alternative IV. The cumulative percent price increases associated with Regulatory Alternative V, which could be as high as 7 percent for some products, could result in significant adverse impacts. Thus, because the additional economic impacts associated with Regulatory Alternative V, in comparison to Regulatory Alternative IV, are grossly disproportionate to the corresponding emission reductions, the Administrator did not select Regulatory Alternative V (90 percent control) as BAT and further evaluated Regulatory Alternative IV.

While Regulatory Alternative IV would not have the same magnitude of economic impacts associated with Regulatory Alternative V, it would still require replacement of some equipment and there could be some retrofit problems associated with this replacement. The Administrator therefore compared the impacts of Regulatory Alternative IV with those of Regulatory Alternative III before selecting BAT.

The only difference between Regulatory Alternatives IV and III is that Regulatory Alternative IV requires replacement of certain mechanical seal systems on pumps and compressors. Some existing pumps can not be retrofitted with dual mechanical seals to meet Regulatory Alternative IV because they do not have pump castings which would adequately house the seal systems. These pumps would have to be replaced. Some of the others which would not have to be replaced would require retrofitting of equipment, such as drive shaft bearings, so that the equipment would operate properly. Regulatory Alternative IV would reduce emissions by 6400 Mg/year. The capital and annualized costs which result from this emission reduction would be $25.3 million and $5.5 million, respectively. Regulatory Alternative III, on the other hand, would reduce emissions by 6100 Mg/year. The capital and annualized costs which would result from this emission reduction would be $9.7 million and $2.1 million per year, respectively.

Because the additional costs associated with nationwide retrofitting and replacing pump and compressor seal systems to meet Regulatory Alternative IV would be exorbitant in light of the resulting emission reductions and the fact that some otherwise properly functioning pumps would have to be replaced, the Administrator did not select Regulatory Alternative IV as BAT and evaluated Regulatory Alternative III.

After examining the costs associated with Regulatory Alternative III the Administrator concluded that its economic impact was reasonable. However, because Regulatory Alternative III could require some replacement of existing equipment, the Administrator compared the impacts of Regulatory Alternative III with those of

Regulatory Alternative II before selecting BAT. Regulatory Alternative III primarily requires monitoring for leaks rather than replacement of existing equipment. However, it does include some requirements for retrofitting equipment, such as placing rupture disks on the process side of relief valves. In some cases, this could result in derating of the relief valve to such an extent that it would need to be replaced by another relief valve. The costs of this replacement were considered in examining Regulatory Alternative III, and are considerably smaller than those associated with replacement of valves and pumps.

Regulatory Alternative III would reduce emissions by 6100 Mg/year and the associated capital and annualized costs would be $9.7 million and $2.1 million, respectively. Regulatory Alternative II would reduce emissions by 4700 Mg/year, and the associated capital cost would be $2.9 million. Regulatory Alternative II would result in an annualized cost credit. After considering the substantially greater emission reduction that would result from implementing Regulatory Alternative III rather than Regulatory Alternative II, the fact that the capital and annualized costs compared with emission reductions in these alternatives which were judged not to be exorbitant, and the lack of significant adverse economic impacts or technological problems associated with retrofit that would result from implementing Regulatory Alternative III, the Administrator selected Regulatory Alternative III as BAT. Thus, Regulatory Alternative III was selected as BAT because it represents the most advanced level of control considering economic, energy, and environmental impacts, and the technological problems associated with retrofit.

After Regulatory Alternative III was selected as BAT for existing sources, the estimated risks remaining after application of BAT were examined to determine whether they were unreasonable in view of the health benefits and costs that would result if a more stringent regulatory alternative were applied. The number of estimated excess leukemia deaths remaining after application of BAT to existing sources is estimated to range from 0.05 to 0.32 per year. After application of BAT to existing sources, the remaining estimated maximum lifetime risk of acquiring leukemia is estimated to range from 4.6×10^{-5} to 32×10^{-5} for the most exposed group.

The Administrator considered one control level beyond BAT for existing sources: 77 percent control, Regulatory Alternative IV. Requiring 77 percent control instead of 73 percent control would reduce the projected incidence of excess leukemia deaths from a range of 0.05 to 0.32 per year to a range of 0.04 to 0.27 per year. As discussed in the Rationale for Regulating Benzene Fugitive Emission Sources section of this preamble, a 20-year operational life is a reasonable estimate for petroleum refining and chemical manufacturing units. On this basis, the number of deaths estimated to occur over the life of the existing units would be reduced from a range of 1.0 to 6.4 (73 percent control) to a range of 0.8 to 5.4 (77 percent control). It would reduce the estimated maximum lifetime risk at the point of maximum exposure caused by fugitive emissions from a range of 4.6×10^{-5} to 32×10^{-5} to a range of 3.9×10^{-5} to 27×10^{-5}. On the other hand, requiring 77 percent control rather than 73 percent control would increase the capital costs from $9.7 to $25.3 million, the total annualized cost from $2.1 to $5.5 million, and the percentage increase in average benzene derivation prices from 0.13 to 0.37.

In view of the relatively small health benefits that would result with the additional costs of requiring 77 percent rather than 73 percent control for benzene fugitive emissions, the Administrator concluded that the risks remaining after application of BAT to existing sources are not unreasonable. Therefore, the Administrator decided not to require more stringent control than BAT for control of fugitive emissions.

Selection of the Basis for the Standard—New Sources

Selection of one of the regulatory alternatives to serve as the basis for the proposed standard for new sources involved the same type of analysis employed for existing sources. As with existing sources, the environmental, energy, and economic impacts of each alternative were considered and based on these considerations, one alternative was selected as BAT. After BAT was identified, the estimated risks remaining after application of BAT were examined to determine whether they were unreasonable in view of the health benefits and costs that would result if a more stringent option were applied.

To determine the incremental environmental, energy, and economic impacts of the regulatory alternative for new sources, an uncontrolled 1985 baseline was used. The baseline was established by estimating the number of new and reconstructed Model Units A, B, and C which would be affected by the proposed standard by 1985. Emission factors were then applied to the Model Units to establish the baseline.

Since each of the Model Units represents average component counts for several different chemical processes, the growth rate (including both new and reconstructed facilities) for each Model Unit was different. The projected growth rates were: Model Unit A, 6 percent per year; Model Unit B, 2 percent per year; Model Unit C, 10 percent per year.

Thus, the total numbers of new units for 1985 were determined to be: Model Unit A, 47 units; Model Unit B, 7 units; Model Unit C, 14 units. Based on these numbers, the 1985 baseline emissions (Regulatory Alternative I) were determined to be 2,500 Mg per year.

Regulatory Alternative II would reduce benzene fugitive emissions from new facilities through 1985 from 2,500 Mg per year to 1,100 Mg per year, yielding a 56 percent reduction in emissions. Regulatory Alternative III would reduce these emissions to 700 Mg per year, yielding a 72 percent reduction. Regulatory Alternative IV would reduce fugitive emissions to 500 Mg per year, yielding a 80 percent reduction. Regulatory Alternative V would reduce emissions to 200 Mg per year, yielding a 92 percent reduction from the baseline.

As in the case for existing sources, the implementation of the regulatory alternatives for new sources would not result in any significant impact on water quality, solid waste, or noise. As previously discussed, there would be slight positive benefits to water quality and energy as a result of increasingly stringent leak control associated with more stringent regulatory alternatives.

The main difference in the considerations of applying the alternatives to new sources was in the capital and annualized costs of implementing the alternatives. The costs of implementing the alternatives are lower for new sources than for existing sources because no retrofitting expenses are involved. Fifth-year industry costs, including recovery credits, can be summarized for new sources as follows: (1) Alternative II would require a total capital investment of $620 thousand and would result in an annualized savings of $70 thousand; (2) Alternative III would require a capital investment of $2.2 million and an annualized cost of $420 thousand; (3) Alternative IV would require a capital investment of $6.5 million and an annualized cost of $1.3 million; (4) Alternative V would require a capital investment of $48.4 million and an annualized cost of $11.4 million.

The annualized costs required to implement Alternatives II, III, IV, and V for new sources could cause the average price of benzene derivatives produced in new plants to rise by about 0.03, 0.10, 0.30, and 3.3 percent, respectively. With regard to the burden imposed by the increased capital costs, the average percentage increase in required capital investment for new plants would be about 0.07 percent for Alternative II, 0.20 percent for Alternative III, 0.50 percent for Alternative IV, and 4.5 percent for Alternative V.

In selecting best available technology (BAT) for new sources, the Administrator reviewed technology to determine the most advanced level of controls adequately demonstrated, considering economic, energy, and environmental impacts. First, Regulatory Alternative VI was examined. This regulatory alternative would eliminate benzene fugitive emissions from the industries. However, it would result in no new construction for a number of industries. Thus, the Administrator did not select Regulatory Alternative VI as the basis for BAT because the lack of growth in these industries would result in adverse economic impacts.

Second, Regulator Alternative V was examined. This alternative would require the most advanced level of controls. This regulatory alternative would result in a 2,300 megagram per year reduction in benzene emissions from the baseline for new plants. Regulatory Alternative V could result in price increases of greater than 4 percent for several specialty products made from benzene, although the average percent price increase for these products would be 3.3 percent. In addition, this alternative would result in industry-wide cumulative percent price increases (i.e., percent price increases that are passed through due to price increases for benzene production and price increases in benzene-derivative production) from 1.5 percent to about 5 percent. Capital cost for this alternative would be $48.4 million, and the annualized cost would be $11.4 million. Because the implementation of Regulatory Alternative V could result in adverse economic impacts, the Administrator examined Regulatory Alternative IV before Selecting BAT.

Regulatory Alternative IV would require the next most advanced level of controls to the levels for Regulatory Alternative V. This alternative would reslt in a 2,000 megagram per year reduction in benzene. Regulatory Alternative IV would result in cumulative percent price increases of less than 1 percent for all affected chemicals. Capital costs would be $6.5 million, and annualized costs would be $1.3 million. This regulatory alternative would not result in adverse economic impacts.

The Administrator considered the level of controls for Regulatory Alternative V and Regulatory Alternative IV and their economic impacts before selecting BAT. The level of controls for Regulatory Alternative V would result in an additional 15 percent emission reduction over the level for Regulatory Alternative IV. In contrast to these impacts, Regulatory Alternative V would result in much greater economic impacts than Regulatory Alternative IV. For example, the capital and annualized costs of Regulatory Alternative V are seven times the cost for Regulatory Alternative IV. In addition, the percent price increases associated with Regulatory Alternative V could result in adverse impacts, whereas those associated with Regulatory Alternative IV would not result in adverse impacts. Thus, becaue the additional emission reduction associated with Regulatory Alternative V in comparison to Regulatory Alternative IV and the economic impacts associated with Regulatory Alternative V and Regulatory Alternative IV are grossly disproportionate, the Administrator selected Regulatory Alternative IV (77 percent control) as BAT.

The proposed *Policy and Procedures for Identifying, Assessing and Regulating Airborne Substances Posing a Risk of Cancer* includes certain requirements for the siting of new sources (44 FR 58651). These are not implemented in the proposed standard because the details of the procedures have not been formulated. New source siting requirements for fugitive emission sources of benzene may be proposed in the future, but would only apply to new sources constructed, modified, or reconstructed after the proposal data of such siting requirements.

For new sources constructed, modified, or reconstructed in the interim, the Administrator is making a judgment concerning whether the estimated risks remaining after the application of BAT selected for new sources are unreasonable in view of the health benefits and costs, economic impacts, and other impacts that would result if a more stringent alternative were selected. In making this judgment, the approach used was that of estimating the residual risks based on the assumption that population distributions would be similar to those around existing plants and estimates of benzene emissions from new plants. The Administrator decided to use this approach because it seemed the most reasonable approach in the absence of new source siting requirements.

No information is available on the number of people which will be exposed to the emissions from new refining and chemical manufacturing units. They could be located at existing plant sites or entirely new sities. There is no available information to indicate that population distributions around new units will be greater or less than they are for existing units. Therefore, for purposes of estimating deaths due to emissions from new units, it was assumed that the population distributions would be the same as they are for existing units. Therefore, residual deaths were calculated for new sources by using the growth projections for new unit capacity and assuming the population distrubutions were the same new for units as for existing units. Even if new units were added at existing plant sites, this would be accurate assumption since the people living in the vicinity of these plants would be exposed to additional emissions and a linear dose-response model was used to calculate deaths.

In calculating the residual maximum lifetime risk after application of BAT to new sources, it is reasonable to assume that exposures around new facilities would be no greater than they are around existing plant sites. They could be greater if new units were added to the existing plant site associated with the maximum lifetime risk for existing sources. Since there is no information indicating that this will occur, it was assumed that the maximum lifetime risk associated with new sources would be no greater than for existing sources.

After Alternative IV was identified as BAT for new sources, the estimated risks remaining after application of BAT were estimated using the assumption discussed above and used to determine whether they were unreasonable in view of the health benefits and costs that would result if a more stringent option were applied. The number of estimated excess leukemia deaths remaining after application of BAT to new sources is estimated to range from 0.01 to 0.06 per year. The remaining estimated maximum lifetime risk of acquiring leukemia is estimated to range from 3.9×10^{-5} to 27×10^{-5} for the most exposed group living near a source of benzene fugitive emissions.[8]

The Administrator considered one control level beyond BAT for new sources: 90 percent control, Alternative

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[8] This range is the same for new and existing sources because it was assumed that new sources could be built that would have the same maximum potential emissions as the largest existing source.

V. Requiring 90 percent control instead of 77 percent control would reduce the projected incidence of excess leukemia deaths from a range of 0.01 to 0.06 per year to a range of 0.005 to 0.03 per year. It would reduce the estimated maximum lifetime risk at the point of maximum exposure caused by fugitive emissions from a range of 3.9×10^{-5} to 27×10^{-5} to a range of 1.7×10^{-5} to 12×10^{-5}. On the other hand, requiring 90 percent control rather than 77 percent control would increase the capital costs from $6.5 to $48.4 million, the total annualized cost from $1.3 to $11.4 million, and the percentage increase in average benzene derivative prices from 0.30 to 3.3.

In view of the relatively small health benefits that would be gained with the additional costs of requiring 90 percent rather than 77 percent control for benzene fugitive emissions, the Administrator concluded that the risks remaining after application of BAT to new sources are not unreasonable. Therefore, the Administrator decided not to require more stringent control than BAT for fugitive emissions.

New Source Siting

New source siting requirements were included in the proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk of cancer (44 FR 58642). The proposed standard does not include provisions to implement these new source siting requirements. However, they may be proposed at a later date. Such a proposal for new source siting provisions would apply to designated sources that become new sources after that proposal date.

Selection of Format for the Proposed Standard

Section 112 of the Clean Air Act requires that an emission standard, or mass emission limitation, be established for control of a hazardous air pollutant unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such a standard. An emission standard allows for some flexibility in complying with the standard, since any control technique that achieves the standard may be applied.

Section 112(e)(2) defines the following conditions under which it is not feasible to prescribe or enforce an emission standard: (1) if the pollutants can not be emitted through a conveyance designed and constructed to emit or capture the pollutant; or (2) if the application of measurement methodology is not practicable due to technological or economic limitations. Section 112(e)(1) allows that if an emission standard is not feasible to prescribe or enforce, then the Administrator may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof.

An emission standard may not be feasible to prescribe or enforce for benzene fugitive emission sources. Another approach for prescribing a standard would be to specify an allowable leak percentage in terms of a maximum number or percentage of fugitive emission sources that would be allowed to leak. This approach would not establish an emission level on a mass emission rate basis but would have some of the same advantages of an emission standard in that it would allow for flexibility in complying with the standard.

An allowable leak percentage might be defined by utilizing proposed Reference Method 21. However, available test data indicate variability in leak percentages among process units. This variability has precluded the setting of an industry-wide allowable leak percentage that would represent an achievable limit. The allowable leak percentage approach is discussed in Alternative Standard for Pipeline Valves in the next section of this preamble. Using that approach, a plant owner or operator would collect data for at least one year and then commit to an allowable leak percentage on a site-specific basis. The variability in leak percentages would be a factor that an owner of operator would consider before committing to an allowable leak percentage.

The equipment standard format, in general, provides well-documented emissions reductions. Published information is available on applications of various types of equipment; and in some cases, emission test data may be available from existing installations. Compliance would require an initial check to ensure that the equipment had been installed properly and periodic checks to assure that the equipment was continuing to operate properly. However, an inherent disadvantage associated with this type of format is that less site-specific flexibility is provided and innovation may be stymied.

Another format would be work practices. An example of this format would be a program for detecting and repairing leaks. Inspection methods, inspection time intervals, and time allowed for repair would be defined in detailing the work practices. Compliance with a work practice standard would be determined by judging success in implementing the work practices. Some recordkeeping and reporting would be needed to serve as the basis for judging this success.

The proposed standard incorporates these potential regulatory formats. Different formats could be required for different fugitive emission sources, because characteristics of available emission control techniques differ among the fugitive emission sources. In the next section the rationale for selecting a particular format is explained for each type of fugitive emission source. For each fugitive emission source, the feasibility of precribing or enforcing an emission standard is carefully considered. If an emission standard is not feasible, then one of the other formats is selected.

Selection of Emission, Equipment, Work Practice, Design and Operational Standards

As discussed in Selection of Format for the Proposed Standard, Section 112(e) of the Clean Air Act requires that an emission standard be promulgated unless it is not feasible to prescribe or enforce such a standard. Thus, control techniques in Regulatory Alternatives III and IV were evaluated for existing and new sources, respectively to determine if an emission standard could be promulgated.

Safety/Relief Valves

The control technique of applying rupture disks was evaluated as a potential equipment specification for existing and new gas service safety/relief valves under Regulatory Alternatives III and IV, respectively. When the integrity of a rupture disk is maintained, fugitive emissions through the relief valve are eliminated. Properly installed rupture disks will generally maintain their integrity under normal operating conditions unless an overpressure relief situation occurs. After an overpressure relief, replacement of the rupture disk, once again, eliminates fugitive emissions through the safety/relief valve.

Since there is a control technique available that eliminates fugitive emissions from safety/relief valves, it is feasible to prescribe an emission limit of "no detectable emissions," that is, an organic chemical concentration less than 200 ppm above a backgraound concentration as measured by proposed Reference Method 21. The application of a quantitative measurement methodology, such as bagging, to prescribe a no detectable emissions limit would not be feasible due to technological limitations discussed in Selection of Test Method. However, proposed Reference Method 21 can be used to detect leaks of fugitive emissions from safety/relief valves. A safety/relief valve equipped with a properly functioning rupture disk would not leak. The detection of an organic chemical concentration at or above 200 ppm by proposed Reference Method 21 would indicate that the relief valve was leaking. Therefore, it is feasible to prescribe a no detectable emissions limit as the proposed standard for existing and new safety/relief valves in gas service.

The no detectable emissions limit would not apply to discharges through the safety/relief valve during overpressure conditions because the function of the safety/relief valve is to discharge process fluid, thereby reducing dangerous high pressures within the process. The standard would specify, however, that the safety/relief valve be returned to a state of no detectable emissions within five days after such a discharge. It would further require an annual test to verify the no detectable emissions status of the safety/relief valve.

Product Accumulator Vessels

The control technique of connecting existing and new product accumulator vessels to a control device with a closed vent system was evaluated under Regulatory Alternatives III and IV, respectively. A properly designed and installed closed vent system would completely eliminate fugitive emissions from the product accumulator vessel. Since the flow rates of the gaseous emissions from product accumulator vessels are of a much smaller magnitude than those from safety/relief valves, the emissions can be safely disposed of in an enclosed combustion device or can be collected by a vapor recovery system. Specifications for the control device used to dispose of or capture emissions from the closed vent system are included in the proposed standard and are discussed later in this section.

As with safety/relief valves, a control technique is available that eliminates fugitive emissions from the product accumulator vessels. Also, proposed Reference Method 21 can be used to verify that a closed vent system has been designed and installed properly and has eliminated fugitive emissions from a product accumulator vessel. Therefore, since it is feasible to prescribe an emission limit, the proposed standard for product accumulator vessels is no detectable emissions. As with safety/relief valves, the proposed standard requires an initial performance test, using proposed Reference Method 21, to verify that a product accumulator vessel meets the no detectable emissions limit, and annual rechecks to ensure continued operation at no detectable emissions.

Other Fugitive Emission Sources With No Detectable Emissions

As discussed in the following sections, fugitive emission sources other than safety/relief valves and product accumulator vessels can operate with no detectable emissions when leakless equipment is used. For example, canned pumps and diaphragm valves can operate with no detectable emissions. Even though leakless equipment can not be used in all cases, it can comply with a no detectable emissions requirement when it is used. Leakless equipment is at least as effective as work practices and other equipment in reducing benzene emissions, because emissions of benzene from leakless equipment are eliminated. Therefore, the proposed standard considers the application of leakless equipment to be equivalent to the application of work practices and other equipment for fugitive emission sources other than safety/relief valves and product accumulator vessels. As with safety/relief valves, the proposed standard requires an initial performance test, using proposed Reference Method 21, to verify that a piece of leakless equipment meets the no detectable emissions limit, annual rechecks to ensure continued operation at no detectable emissions, and rechecks at the request of the Administrator.

New Pumps

In the analysis of the impacts of Regulatory Alternative IV, dual machanical seal systems were considered as the control technique for new pumps. The evaluation of this control technique first considered the practicability of setting an emission limit. An emission limit standard for pumps is not practicable, however. First, even through new pumps can, in some instances, be equipped to release fugitive emissions into a conveyance mechanism, measurement of these emissions is not practicable due to technological limitations with measuring very low flow, intermittent emission sources. Second, determining emission levels at the pump would require that each pump be bagged as described in the Selection of Test Method section of this preamble. Measurement of an emission level using the bagging method is time consuming, expensive, and impractical. A no detectable emissions limit is not possible to prescribe because data currently available show that pumps equipped with dual mechanical seal systems may not meet such a standard. Thus, because the application of available measurement methods would not be practicable due to technological or economic limitations, an emission standard has not been proposed for new pumps.

Equipment specifications evaluated for new pumps were dual mechanical seal systems (double and tandem), closed vents for the pump seal areas, and sealless pumps. Double mechanical seal systems have two seals in a back-to-back arrangement, with a barrier fluid between the two seals. The barrier fluid is typically maintained at a pressure greater than the pump stuffing box pressure so that any leakage between the seals would be from the barrier fluid to the working fluid; therefore, no benzene would be emitted.

Tandem mechanical seal systems also utilize a barrier fluid; however, the barrier fluid pressure is maintained at a pressure lower than the pump stuffing box pressure. In this arrangement, there is leakage of the working fluid into the barrier fluid. Leakage into the barrier fluid is controlled by either (1) connecting the barrier fluid degassing system to a control device (enclosed combustion or vapor recovery) with a closed vent system or (2) by continuously replacing the fluid with fresh barrier fluid and properly disposing of the contaminated barrier fluid. In either case, the benzene concentration in the barrier fluid must be maintained below 10 percent by weight in order to minimize potential benzene leakage from the outer seal.

Dual mechanical seals utilizing a barrier fluid are the most universally applicable of the options evaluated, and these systems provide a high control efficiency (dependent on the degassing vent control device efficiency). Thus, the Administrator selected the dual mechanical seal and barrier fluid system as the required equipment for new pumps.

Section 112(e) of the Clean Air Act requires that when equipment standards are established, requirements must also be established to ensure the proper operation and maintenance of the equipment. A pressure or level indicator on the barrier fluid system would reveal any catastrophic failure of the inner or outer seal, or of the barrier fluid system. This indicator would be monitored in the control room or equipped with an alarm to signal a failure of the system. These requirements are proposed, therefore, to ensure the proper operation and maintenance of the dual mechanical seal system.

Sealless pumps, such as diaphragm or canned pumps, do not have a potential leak area and, therefore, should achieve approximately 100 percent control. However, sealless pumps may not be suitable for use in some process applications due to throughput, pressure or fluid composition constraints. For these reasons, sealless pumps were not selected under Regulatory Alternative IV. Leakless equipment, such as sealless pumps, are at least equivalent to dual mechanical seal systems, because benzene emissions from leakless equipment are eliminated. Thus, any equipment that complies with a no detectable emissions limit is equivalent to the dual mechanical seal system. As with other leakless equipment, the proposed standard requires an initial performance test, using proposed Reference Method 21, to verify that the piece of leakless equipment meets the no detectable emissions limit, and annual rechecks to ensure continued operation at no detectable emissions.

The seal area of a pump could be completely enclosed, and this enclosed area could be connected to a control device (enclosed combustion or vapor recovery) with a closed vent system. The control efficiency of this arrangement is dependent on the control efficiency of the vapor recovery system or enclosed combustion device. The closed vent system could require a flow-inducing device to transport emissions from the seal area to the control device. Because of safety or operating constraints, enclosure of the pump seal area may not be feasible in all cases. However, there may be pump applications that require pumps that can not be equipped with dual mechanical seals and can not be replaced with a sealless pump, and the enclosed seal area would be the best option for such pumps. Therefore, the Administrator is proposing to allow new pumps to be equipped with enclosed seal areas that are connected to a control device with a closed vent system.

New Compressors

As in the case for new pumps, emission limits for new compressors have not been proposed because the application of available measurement methods would not be practicable due to technological or economic limitations. Like pumps, compressors are not generally designed to release fugitive emissions into a conveyance, and bagging of compressors for emission measurement would be expensive and impractical.

Equipment specifications evaluated for new compressors were (1) sealless compressors; (2) mechanical contact seal systems with barrier fluid systems and, if degassing is necessary, barrier fluid degassing vents connected to a control device; and (3) enclosed compressor seal areas vented to a control device. Mechanical contact seal systems were selected as the basis for Regulatory Alternative IV. The barrier fluid system used in this equipment would be similar to the system described for pumps with dual mechanical seals, although the compressor seal may be mechanical contact, oil film, or another type of seal. Leakage through the seal results in the presence of benzene in the barrier fluid, and this benzene could be emitted from the barrier fluid system. However, this benzene would be collected and directed to a control device (enclosed combustion or vapor recovery system) by a closed vent system that is connected to the barrier fluid system. This approach provides a high control efficiency and is the most applicable effective control technique for new compressors. Thus, the Administrator selected a seal system which includes a barrier fluid system as the required equipment for new compressors.

Section 112(e) of the Clean Air Act requires that when equipment standards are established, requirements must also be established to ensure the proper operation and maintenance of the equipment. A pressure or level indicator on the barrier fluid system would reveal any catastrophic failure of the inner or outer seal, or of the barrier fluid system. This indicator would be monitored in the control room or equipped with an alarm to signal a failure of the system. These requirements are proposed, therefore, to ensure the proper operation and maintenance of the mechanical contact seal system.

Although sealless compressors would achieve approximately 100 percent control, sealless compressors are not readily available in capacities large enough for most process applications and, therefore, have limited use. Consequently, sealless compressors were not considered under Regulatory Alternative IV and were not selected as equipment for the proposed standard. Leakless equipment, such as sealless compressors, are at least equivalent to mechanical contact seal systems, because benzene emissions from leakless equipment are eliminated. Thus, any equipment that complies with a no detectable emissions limit is equivalent to the mechanical contact seal system. As with other leakless equipment, the proposed standard requires an initial performance test, using proposed Reference Method 21, to verify that the piece of leakless equipment meets the no detectable emissions limit, and annual rechecks to ensure continued operation at no detectable emissions.

There are some cases in which seals with barrier fluid systems can not be utilized. For example, for some high pressure applications, reciprocating compressors may be required. Mechanical seals with a barrier fluid system can not be used under all process conditions due to pressure limitations. For those cases in which mechanical contact seals are not technically feasible, enclosure of the seal area would be the best option for new compressors. The enclosed area would be connected to a control device (enclosed combustion or vapor recovery) with a closed vent system. Therefore, the Administrator proposes to allow seal areas to be enclosed and connected to a control device with a closed vent system for new compressors.

Open-Ended Valves

Benzene from open-ended valves occurs due to leakage through the valve seat of a valve which seals the open end from the process fluid. Generally, open-ended valves are not designed to release fugitive emissions to a conveyance, and bagging of these sources for emission measurement would not be practical. A no detectable emissions limit is not feasible to prescribe because benzene could leak through the valve seat and become trapped in the line between the valve and closure. Consequently, benzene could be emitted. Thus, the approach of requiring equipment was examined.

Equipment considered for open-ended valves included improved valve seat technology and closure of the open-end. Improved valve seat technology was not selected because the effectiveness of such technology could be nullified by operating variables such as incomplete closure of the valve by operating personnel. Closure of the open end could be achieved by installing a cap, plug, blind, or a second valve on the open end. The control efficiency associated with these techniques is approximately 100 percent, except when the line is used for a draining or venting operation. Thus, the Administrator is proposing standards that require open-ended valves to be equipped with a cap, plug, blind, or a second valve.

To ensure the proper operation of the equipment, open-ended lines would also be covered by an operational standard. If a second valve is used, the proposed standard would require the upstream valve to be closed first. After the upstream valve is completely closed, the downstream valve must be closed. This operational requirement is necessary in order to prevent trapping process fluid between the two valves, which could result in a situation equivalent to the uncontrolled open-ended valve.

Sampling Connections

When process samples are taken for analysis, it is necessary to purge some process fluid through the sample connection to obtain a representative stream sample. This sample purge would be vented to atmosphere if the fluid was gaseous, and liquid sample purges could be drained onto the ground or into open collection systems where evaporative emissions would result. Generally, sampling connections are not designed to release fugitive emissions to a conveyance, and bagging of these sources for emission measurement would not be practical. A no detectable emissions limit is not feasible to prescribe because no available data indicate that application of any control technique would be able to comply with such a standard at all times.

Closed-loop sampling was considered as the equipment specification for sampling connections. Closed-loop sampling systems eliminate emissions due to purging by either returning the purge materiaal directly to the process or by collecting the purge in a collection system which is not open to atmosphere for recycle or disposal. Thus, the Administrator selected closed-loop sampling systems as the required equipment for sampling connections.

Process Drains

Control by minimizing the potential for benzene leakage into the process drain system was considered for process drains. However, controls are specified for all potential major sources of benzene leakage into process drain systems. Thus, the Administrator did not consider it necessary to specify additional controls for process drains in the proposed standard.

Pipeline Valves, Existing Pumps, and Existing Compressors

Like some of the previously discussed fugitive emission sources, pipeline valves, existing pumps, and existing compressors are generally not designed to release fugitive emissions to a conveyance. Because of the large number and diverse location of valves, existing pumps, and existing compressors, bagging of these sources for emission measurement would not be economical or practical. A no detectable emissions limit can not be prescribed, because, with the control technique specified in Regulatory Alternatives III and IV, pipeline valves, existing pumps, and existing compressors are expected to leak occasionally. However, pipeline valves, existing pumps, and existing compressors that are designed to achieve a no detectable emission limit would be allowed and exempted from other requirements as discussed in the Other Fugitive Emission Sources with No Detectable Emissions section of this preamble.

Work practices consisting of periodic leak detection and repair programs were considered for valves, existing pumps, and existing compressors. Several factors influence the level of emission reduction that can be achieved by a leak detection and repair program. The three main factors are the monitoring interval, leak definition, and repair interval. Training and diligence of personnel conducting the program, repair methods attempted, and other site-specific factors may also influence the level of emission reduction achievable; however, these factors are less quantifiable than the three main factors.

The monitoring interval is the frequency at which individual component monitoring is conducted. The length of time between inspections is best determined by the rate at which new leaks occur and repaired leaks recur. More frequent inspections could then be required for sources which tend to leak more often. Available data that quantify the frequency of occurrence and recurrence of leaks are limited. However, more frequent monitoring would result in greater emission reduction because more frequent monitoring would require earlier leak detection and, therefore, would result in repair of leaks sooner.

Monthly monitoring was considered in Regulatory Alternatives III and IV. Tests indicate that leaks will be found with monthly inspections. Since some time may be required to schedule repair after a leak is detected, monitoring intervals shorter than one month could result in a situation where a detected leak could not be repaired before the next monitoring was required. One month was selected as the required monitoring interval because it would provide the greatest emission reduction potential without imposing difficulties in implementing the leak detection and repair program.

Monthly monitoring of valves to detect leaks is reasonable. However, some valves may leak less frequently than others. One indicator that might predict which valves leak is valve leak history. That is, once a valve leaks, then it may be more likely to leak again than a valve that has not leaked. The Administrator decided to implement the monthly monitoring requirement by focusing on the valves that tend to leak more often. One approach of doing this is to allow an alternative monitoring period for valves found to leak less frequently than others. The Administrator is proposing that leak detection and repair work practices include monthly monitoring for valves unless they are found not to leak for two successive months. If a valve is found not to leak for two successive months, the owner or operator may elect to monitor during the first month of the next quarter and quarterly thereafter until a leak is detected. Whenever a leak is detected, the valve would be monitored once a month until the valve did not leak for two successive months.

The proposed standard for valves is based on the assumption that recurrence is an important factor in predicting valve leaks. This assumption was used to develop a monitoring program that would result in a level of fugitive emission control comparable to that resulting from monthly monitoring. EPA does not intend to propose a monitoring plan that would be comparable to quarterly monitoring.

EPA is currently collecting data concerning the importance of valve leak recurrence. This data should be available for public review before the end of the public comment period. If the data show that recurrence is not a significant contributor to the total number of leaking valves, the proposed program will be reassessed and consideration will be given to returning to strict monthly monitoring.

The leak definition is the concentration observed during monitoring that defines leaking sources that require repair. As discussed in the Selection of Test Method section, the proposed standard would require the use of proposed Reference Method 21 to measure concentrations of organic chemicals at the leak interface. Two primary factors affect the selection of the leak definition. These factors are (1) the percent of total mass emissions which can potentially be controlled by the leak detection/repair program, and (2) the ability to repair the leaking components. The maximum potential emission reduction resulting from various leak definitions can be estimated for valves, pumps, and compressors in benzene service. Estimated emission reduction potentials (i.e., the maximum control efficiency that could be achieved if other contributing factors were 100 percent) are shown in Table 4–2 of the Background Information Document.

As the leak definition decreases, the maximum potential emission reduction increases due to the increasing number of sources that are found to be leaking and are repaired. The overall emission reduction of a leak detection and repair program depends on several factors as noted above. Each of these factors limits the effectiveness of the program. If each of the factors considered in selecting the leak detection and repair program is 90 percent effective, then the overall effectiveness would be about 73 percent. Thus, the most restrictive definition that is reasonable for each factor should be selected. In order to provide the maximum control effectiveness of the leak detection and repair program, the lowest leak definition that is feasible in terms of monitoring and repair-ability should be selected.

Preliminary data from petroleum refineries show that attempting on-line repair at or above a leak definition of 10,000 ppm could result in a few cases where the attempted repair would increase the emission rate. However, these cases do not offset emission reductions achieved by repair. In these cases, more extensive repair effort than tightening or regreasing the packing would be required. These data also show that attempting repair in the 1,000 to 10,000 ppm (low level) range could result more often in individual emission rates with increases after simple repair. If such increases were to occur, the attempted repair of "low level" leaks could result in a lower overall emission reduction at 1,000 ppm than at the 10,000 ppm leak definition. Because the 10,000 ppm leak definition may provide a higher overall emission reduction of benzene fugitive emissions than the 1,000 ppm action level, 10,000 ppm was selected as the leak definition for leak detection monitoring.

The repair interval is the length of time allowed between the detection of a leaking source and repair of the source. As noted above, in order to make the overall program effective, the most restrictive selection for this factor should be chosen. Thus, in order to provide the maximum effectiveness of the leak detection and repair program, the repair interval should require expeditious reduction of emissions but should allow the owner or operator sufficient time to maintain some degree of flexibility in overall maintenance scheduling.

The length of the repair interval would affect emission reductions achievable by the leak detection and repair program because leaking sources would be allowed to continue to leak for a given length of time. Repair intervals of 1, 5, 10, 30 and 45 days were evaluated. The effect on the maximum emission reduction potential is proportional to the number of days the source is allowed to leak between detection and repair.

A repair interval of one day would cause problems in coordinating activities of personnel involved in leak detection and leak repair and in some instances would not be technically feasible. A repair interval of one day would essentially require repair of each component as soon as the leak was discoverd.

Some valves, pumps, and compressors may not be repairable by simple field maintenance. They may require spare parts or removal from the process for repair. Repair intervals of 5 and 10 days could cause problems in obtaining acceptable repair, especially when removal from the process would be required. However, a 15-day interval provides the owner or operator with sufficient time for flexibility in repair scheduling, and provides time for better determination of methods for isolating pieces of leaking equipment for repair. In general, a 15-day repair interval allows more efficient handling of repair tasks while maintaining an effective reduction in fugitive emissions. Thus, the repair interval selected for proposal in the leak repair program is 15 days. A repair interval of 30 or 45 days was not selected because 15 days is the most restrictive yet feasible selection.

However, the first attempt at repair of a leaking source should be accomplished as soon as practicable after detection of the leak, but no later than five days after discovery. Most repairs can be done quickly, and five days should provide sufficient time to schedule maintenance and repair a leaking valve. Attempting to repair the leak within five days will help to identify the leaks that can not be repaired within the 15-day repair interval. Delay of repair would be allowed for leaks that could not be repaired without a process unit shutdown. These leaks would have to be repaired at the next scheduled unit shutdown.

Some existing pumps and compressors have been built with dual mechanical seal systems like those that would be required for new pumps and compressors. Because these existing pumps and compressors would achieve an emission reduction greater than that associated with the proposed work practices, they would be allowed and, therefore, would be exempted from the required work practices if a plant owner or operator chooses to reduce emissions through the use of the seal system. However, they would be required to comply with the dual mechanical seal system requirements as specified for new pumps and compressors.

Alternative Standard for Pipeline Valves

In an effort to provide more flexibility, two alternative standards are being proposed for pipeline valves in benzene service. Plant owners or operators could elect to comply with one of the alternative standards in order to tailor fugitive emission control programs to their own operations. Before the alternative standard could be considered, however, a plant owner or operator would implement a monthly monitoring program for at least one year. A plant owner or operator then could elect to comply with one of the alternative standards which would be based on information gathered during the 1-year implementation of monthly monitoring.

The first alternative standard would provide an allowable percentage of leaking valves. This type of standard would provide the flexibility of a performance standard by setting a limit which could be achieved by the most efficient and practical methods for a particular operation. As previously pointed out in Selection of Format for the Proposed Standard section of this preamble, an industry-wide allowable leak percentage was not possible for valves because of the variability in valve leak percentages among similar processes within the industry. However, the alternative standard would allow each process unit to comply with an allowable percentage of leaking valves which is determined by valve performance based on monthly monitoring in the leak detection and repair program.

The allowable percentage of leaking valves would be determined by averaging the percentage of valves found leaking in each month of the last six months of monitoring, excluding those which could not be repaired without a process unit shutdown. To this average would be added the additional percentage of leaks which would occur if valves found leaking were monitored monthly and those not found leaking for two successive months were monitored quarterly. The resulting sum would be the performance standard for the percentage of leaking valves that would be allowed at any time. If an owner or operator elected to comply with an allowable percentage of leaking valves, he would be required to meet this alternative standard at any time, even though his allowable percentage would be based on the average performance of a leak detection and repair program. Choosing this alternative standard would allow the possibility of using different monitoring and maintenance programs and substitution of engineering controls at the discretion of the owner or operator. In addition, the alternative standard would eliminate much of the recordkeeping and reporting associated with the proposed standard for pipeline valves.

This alternative would require a minimum of one performance test per year. Additional performance tests could be requested by EPA. If the results of a performance test showed a precentage of leaking valves higher than the allowable limit, the process unit would be in violation. Reporting would consist of submitting performance test results to the Administrator; quarterly reporting would be eliminated for valves.

The second alternative standard would provide for the use of different work practices which would achieve the same level of control as the proposed standard for valves. After performing monthly monitoring for at least a year, the data collected would be used to devise work practices which would achieve the same control as the work practices specified in the proposed standard. Using this approach, an owner or operator could optimize labor and capital costs to achieve the required level of control by varying monitoring intervals or installing valves with lower probabilities of leaking. Quarterly reporting would be required under this alternative as it is under the proposed standard.

An owner or operator would request approval from the Administrator to use either alternative standard for pipeline valves. A request for approval would be accompanied by a description of the standard being selected for compliance and data and calculations supporting the basis for the alternative standard. The Administrator would approve or disapprove the alternative standard within 90 days of the request for approval. A denial from the Administrator would be accompanied by his reasoning for denial. An owner or operator would be required to comply with the proposed work practice standard for pipeline valves until the alternative is approved.

The approach of providing an alternative standard would be reassessed before promulgation of the proposed standard and, if promulgated, would be reviewed at the fifth-year review. At that time, changing, eliminating, or continuing the alternative standard would be considered.

Control Devices

Control devices would be used to dispose of benzene captured in closed vent systems from barrier fluid degassing systems, enclosed pump and compressor seal areas, and product accumulator vessels. In all cases, these control devices would receive streams with low and intermittent flow rates. These control devices may be designed to dispose of organic streams from other sources in the plant; therefore, the benzene streams may contribute a very small portion of the total loading on the control device. For these reasons, and because of technological limitations with measuring very low-flow streams, an emission standard was not proposed for these control devices.

Design requirements were evaluated in order to ensure that appropriate emission reductions would be achieved from control devices used in conjunction with closed vent systems. Enclosed combustion devices and vapor recovery systems were considered in evaluating control device design requirements. Enclosed combustion was specified because open flares may only be 60 percent efficient for benzene destruction in these low flow, intermittent streams. The design requirements specified for enclosed combustion are the attainment of a minimum 760° C for 0.5 seconds. Under these conditions, greater than 95 percent benzene destruction is achieved. Vapor recovery systems may also be used to control benzene from closed vent systems. A controlled efficiency of 95 percent was chosen as the design requirement because it is a reasonable control efficiency achievable for vapor recovery systems such as carbon adsorption or condensation units. These control devices would receive intermittent flows from the fugitive emission sources and, therefore, would require operation only during emissions from these sources. The Administrator is, therefore, proposing that the standard require enclosed combustion devices and vapor recovery systems used as control devices for closed vent systems to be designed for 95 percent benzene emission reduction and operated when emissions from sources covered by the proposed standard are vented to the control device.

Exclusions

Safety/relief valves in liquid service and flanges were excluded from routine monitoring and equipment requirements. However, if leaks from these sources are observed, repair would be required. These sources were excluded from routine monitoring and equipment requirements based on data from petroleum refineries, which is also applicable to the chemical industry. Flanges in refineries have very low emission rates. They contribute 2.2 percent of all emissions, but include 61 percent of the total number of sources. Safety/relief valves in liquid service also have very low emission rates in refineries. They contribute only 0.2 percent in all emissions. Since these types of sources contribute a very small portion of overall emissions, including them in the routine monitoring and equipment requirements was not considered reasonable.

Control Technique and Equipment Failures

Control technique and equipment failures can cause increased emissions from fugitive emission sources. Most control techniques and equipment for fugitive emission sources do not eliminate the possibility of emissions that result from control technique and equipment failures. For example, failure of dual mechanical seal systems does occur and can result in emissions of benzene that would not have otherwise occurred. The requirements included in the proposed standard, however, include provisions for controlling fugitive emissions during these failures. Thus, as discussed below, additional requirements for reducing emissions during control technique and equipment failures were not necessary.

For pipeline valves, existing pumps, and existing compressors, the proposed standard requires periodic leak detection and repair. This practice focuses on locting leaking valves, existing pumps, and existing compressors and requiring their repair. Certain leaking valves, existing pumps, and existing compressors can not be repaired within 15 days without a process unit shutdown. The proposed standard allows delays for repair of these pieces of equipment beyond 15 days and provides for repair of the leaking equipment during a process unit shutdown.

For new pumps, new compressors, open-ended valves, and sampling connections, the proposed standard would require certain equipment. The proposed standard includes provisions to assure the proper operation and maintenance of the equipment and, thus, focuses on detecting equipment failures and requiring their repair.

The proposed standard for safety/relief valves in gas/vapor service would require no detectable emissions except during overpressure releases. Emissions during over-pressure releases do not result from equipment failures, because the function of safety/relief valves is to discharge process fluid to reduce dangerous high pressures within the process. The proposed standard would require a return to no detectable emissions within five days of an emergency episode.

The proposed standard for product accumulator vessels would require no detectable emissions. This requirement could be achieved by properly installing and maintaining a closed vent system to convey the emissions to a convenient but acceptance portion of the process/operation, to a plant fuel-gas sytem connected to a boiler furnace, or to a control device. A closed vent system that is properly installed and maintained will not allow emissions to occur. Therefore, emissions from equipment failures should not occur.

The proposed standard would require control devices to meet certain design requirements and to operate when emissions from fugitive sources are vented to them. Properly designed and operated control devices would not result in control equipment failures that would result in emissions. For example, emissions from new pump or compressor barrier fluid systems can be vented manually to a control device. The emissions, therefore, can be vented when the control device is operating, thus eliminating these emissions during control equipment failures. Increased emissions during control equipment failures should not occur with this requirement because emissions vented to control devices can be regulated so that the device is operating when emissions are vented. Therefore, dual control systems would not be needed to comply with this requirement.

In summary, it was not necessary to consider additional control techniques for reducing emissions during equipment failures because the proposed standard already contains provisions for handling these emissions. During control equipment failures, fugitive emissions collected by closed vent systems can be vented to a control device when it is operating.

Selection of Recordkeeping and Reporting Requirements

Recordkeeping.—Three recordkeeping alternatives were considered in evaluating the amount of recorded information needed to assess compliance with the proposed standard.

The first alternative would be to require no formal recordkeeping. If recorded documentation of the proposed leak detection and repair program were not required, no mechanism would be provided for checking the thoroughness of the industry's efforts to reduce fugitive emissions effectively. Because the effectiveness of the leak detection and repair program is dependent upon the thoroughness of the industry's efforts, this alternative was not chosen as the basis of the recordkeeping requirements.

The second alternative would require recordkeeping to document results of the leak detection and repair program and information relating to equipment specifications. Information would be recorded in sufficient detail to enable owners or operators to demonstrate compliance with the standard and, therefore, provide reasonable assurance of adequate reduction of fugitive emissions. This alternative would require the maintenance of quantitative records of repaired and unrepaired leaking components. This alternative would require only the minimum amount of records of the work practice leak detection and repair program necessary to ensure the effective implementation of the proposed standard.

The third alternative would require recordkeeping of all the information generated by the proposed standard. This information would include, for example, the leak rate (ppm) detected for all components monitored at a given facility. Much of this information would not be necessary to ensure the implementation of the proposed standard.

The second alternative was selected as the basis for the recordkeeping requirements of the proposed standard. This alternative would require the minimum industry resources for providing the necessary records to ensure effective implementation of the proposed standard. This alternative would also provide a basis for efficient reporting.

Specific information pertaining to the leak detection and repair would be recorded. Each source found to be leaking during the first month of a quarter would be identified with readily visible weatherproof identification bearing an I.D. number. The identification could be removed after the source had been repaired and monitored for leaks and repaired as necessary for the next two successive months. A log would be maintained for information pertaining to the leaking sources. The log would contain the instrument and operator identification numbers, the leaking source identification number, the date of detection of the leaking source, the date of the first attempt to repair the leaking source, repair methods applied in the first attempt to repair the source, and the date of final repair. The log would be kept for two years following the survey.

If the leaking component could not be repaired within 15 days, the reasons for unsuccessful repair and the date of anticipated successful repair would be recorded on the leak report form. Once the leaking source was successfully repaired, the date of repair would be recorded on the leak report form. These records would be needed to provide the information necessary to allow enforcement personnel to assess compliance with the work practice standards.

For equipment specifications, records would be maintained of the dates of installation, start-up, control equipment repair, and control equipment modifications. The dates and descriptions of any control equipment failures would also be recorded. These records would be needed to provide information necessary to allow enforcement personnel to assess the effectiveness of implementation and maintenance of equipment standards.

For design standards, records would be maintained of the location and type of equipment to which the standard applies. As an example, if a boiler furnace is used as a benzene emission control device, then the design fuel and air usage rates, the firebox volume, the average firebox temperature and other design specifications would be recorded.

Reporting.—Three alternatives were considered in evaluating the reporting information needed to assess compliance with the proposed standard. These alternatives represent varying levels of enforcement monitoring of the proposed standard. Enforcement personnel would review the reports submitted by industry personnel on the status of implementing the proposed standard. This review procedure reduces the need for in-plant inspections.

The first alternative would include an affidavit testifying that all specified equipment had been installed, that all components had been monitored, and that those with leaks in excess of the action level had been repaired. These requirements would provide less than the minimum information necessary to monitor compliance with the proposed standard. This alternative would not ensure that fugitive emission reductions had been achieved and would not provide a mechanism for checking the thoroughness of the industry's efforts to reduce these emissions. Thus, compliance with the proposed standard would be assessed mainly through in-plant inspections.

The second reporting alternative would require the submittal of information in sufficient detail to ensure the implementation and maintenance of emission and operational standards and of the specified equipment and the leak detection and repair programs as required by the proposed standard. These requirements would stipulate the submittal of quarterly reports. Included in the reports would be a summary of information on the leaking components which had been detected during the quarter. This requirement would provide enforcement personnel with an overview of the repair of leaking components. A statement signed by the plant owner or operator attesting to the validity of the results of the monitoring surveys and instrument calibration procedures would allow enforcement personnel to assess the compliance of facilities with the work practice standards. The report would also attest to the proper application and operation of the equipment required by the proposed standard.

The third reporting alternative would require the submittal of all the information obtained while conducting leak detection and repair programs. This information would include the information reported in the second alternative and, additionally, comprehensive information on all tested components. This reporting alternative would necessitate the reporting of all information included in the recordkeeping requirements and would require more resources than the second alternative.

The second alternative was selected as the reporting requirement for the proposed standard. This alternative provides sufficient information to review compliance without requiring excessive resources from industry and enforcement personnel. The first alternative was not selected because the compliance with work practice standards and the implementation of equipment standards could not be adequately assessed by enforcement personnel to ensure that reductions in fugitive emissions were achieved. The third reporting alternative was not selected because the additional resources expended by industry and enforcement personnel would not facilitate assessment of compliance with emission, operational, and work practice standards and implementation of equipment standards.

In the proposed standard, quarterly reporting of information pertaining to leaking sources detected but not repaired within 15 days of detection would be required. The necessary information would include the location, I.D. number, reasons for unsuccessful repair and the expected date when repair would be accomplished. The date of successful repair after 15 days of initial detection of the leak would also be reported. In addition, the owner or operator would submit a signed statement with the report certifying that compliance with the requirements has been met. One signed statement would be sufficient to cover all process units at the plant.

Equivalence of Alternative Means of Emission Limitation

Under the provisions of Section 112(e) of the Clean Air Act, if the Administrator establishes work practices, equipment, design or operational standards, then the Administrator must allow the use of alternative means of emission limitations if they achieve a reduction in air pollutants equivalent to that achieved under requirements of a standard of performance. Sufficient data would be required to show equivalency, and a public hearing would be required.

Individual owners or operators could request alternatives for specific requirements, such as the proposed equipment and the proposed leak detection and repair program. Sufficient information would have to be collected by a plant to demonstrate that the alternative control techniques would be equivalent to the control techniques required by the proposed standard. This information would then be submitted to EPA in a request for a determination of equivalence. A public hearing notice would be published in the **Federal Register.**

The data submitted in a request for equivalency of alternative control measures would take the form of test data to substantiate equivalency. To obtain permission to use alternate types of equipment, emission test data would be supplied for comparison to emission data from the specified equipment. Application for equivalence of alternative work practices would require submission of twelve months' data for the leak detection and repair program specified in the proposed standard and data for the alternate system. Based on the data collected for at least one year, an alternative work practice would then be set to take the place of the required work practice.

After public notice and opportunity for public hearing, the Administrator would determine the equivalence of an alternative means of emission limitation and would publish his determination in the **Federal Register.**

Impacts of Reporting Requirements

In addition to requirements of the General Provision of Subpart A of 40 CFR Part 61, the proposed standard would require quarterly reports including information pertaining to the required work practices. Estimates of the efforts associated with the reporting requirements indicate that the industry would incur manpower expenditures of approximately 20 man-years in 1985 to fulfill the requirements. No overlapping data requirements with other government agencies are anticipated.

Selection of Test Method

Several fugitive emission measurement and monitoring methods were identified and analyzed in the development of the proposed standard. Evaluation of these alternative methods was based upon results of emission testing conducted at petroleum refineries and organic chemical manufacturing plant.

One method of emission measurement is the direct measurement of leak rates from each source. Direct measurement of leak rate refers to the determination of mass emissions. For the wide variety of sources subject to the proposed standard, direct measurement would require "bagging" techniques for the determination of mass emissions from each source on a kg/hr basis. "Bagging" means to enclose a fugitive emission source with a shroud in order to capture all of the emissions from the source. The shroud must be attached securely to the source in order to ensure complete capture of emissions, and a flow measurement device is needed to measure the volumetric emission rate. After an appropriate equilibration time (5 to 30 minutes), depending on the shroud and the leak rate, a sample of the effluent from the shroud is taken to determine the organic compound concentration. The mass emission rate is then calculated based on the volume flow rate and concentration. Because of the large numbers of sources in a plant, direct measurements of leak rates would be costly, time-consuming, and impractical for routine testing. Therefore, direct measurement of leak rates was not selected as the emission measurement method for the proposed standard.

Indirect emission measurement methods or monitoring methods that would yield qualitative indications of leaks were reviewed. These monitoring methods are (1) a periodic individual component survey that would monitor all fugitive emission sources using portable detectors; (2) a periodic area, or walkthrough, survey that would monitor background concentrations of organic compounds using portable detectors; and (3) a continuous fixed-point monitoring system that would consist of stationary sensing devices with a remotely located central readout or a central analyzer system (gas chromatograph) with remotely collected samples.

Individual component surveys using portable detectors would be the most efficient method for detecting all leaks. The periodic individual component survey could be performed in a reasonable amount of time by monitoring personnel and could be accomplished with relative ease. The cost of a leak detector for the individual component survey would be reasonable.

Two individual component survey methods were identified: (1) leak detection by spraying each component with a soap solution and observing bubble formation; and (2) leak detection by measuring organic compound concentration with a portable detector. The magnitude of leak rates based on bubble formation is difficult to assess. In addition, bubble formation is subject to component temperature and component configuration restraints. Monitoring with a portable detector reduces the amount of variability in the measurement method. There is still some variability induced by this method, however, because of such uncontrollable factors as operator diligence and training. The portable detector is a good method for determining the number of leaks from a source. However, the correlation between emission rate and number of leaks is marginal. Therefore, for regulatory purposes, the portable detector is not suitable for quantifying the emission rate for each source. For these reasons, measurement of organic compound concentration with a portable detector was selected as the method for monitoring individual components.

A periodic area, or walkthrough, survey of background organic compound concentrations with a portable detector and recorder would be a less effective method for detecting leaks than the individual component survey. Interference due to local meteorological conditions and leaks from adjacent units would probably prevent the detection of all leaks within a process unit. In fact, experience has indicated that the area survey is suitable only for locating large leaks. In order to design a walkthrough method that is as sensitive to leaks as an individual component survey, the "action level" indicating the need to survey equipment within a specific area would need to be very low. In addition, the action level would need to be unit- and meteorology-specific (different action levels for different wind speeds). With an action level this low, the background level of organic compound concentration measured could cause considerable interference. Furthermore, leaks would be indicated almost everywhere within the unit. In many cases, an individual component survey would be necessary to locate the actual leaks. Therefore, since it is not possible to provide an industry-wide action level indicative of leaks for a given process unit, and since any action level that was determined could give so many false indications of leaks that a complete individual component survey would be necessary to detect the actual leaks, a walkthrough survey was not judged to be a reasonable approach for leak detection.

Implementation of a continuous fixed-point minitoring system would require a portable detector to locate specific leaking components in addition to multiple stationary monitors or sample collectors. This system would also be a less efficient method for detecting emissions. Possible meteorological interference and problems with measuring concentrations of remotely collected samples would prevent efficient leak detection by a fixed-point system. Except for possible monitoring equipment calibration problems, the fixed-point system would be operated with relative ease by monitoring personnel, who would still be required to use portable detectors to find the individual leaking components indicated by the fixed-point monitoring system. Implementation of a continuous fixed-point monitoring system would be capital-intensive, although labor costs would probably be the least of the three monitoring methods.

Some characteristics of the three indirect emission measurement methods are similar, including safety considerations and ease of operation for monitoring personnel. Some aspects of the three methods are different. Capital and operating costs vary, as do the efficiencies of the methods in detecting leaks. The component method is characterized by a superior leak detection efficiency and reasonable costs; other aspects of the method, including safety and ease of operation, are similar to those of the walkthrough and fixed-point methods. Therefore, the individual component survey was selected as the monitoring method for the standard. Reference Method 21 is being proposed under 40 CFR Part 60, Appendix A and uses the individual component survey monitoring method and, thus, is the method being recommended for the proposed standard.

Selected Test Procedure—The recommended test method would incorporate the use of a portable detector to measure the concentration of volatile organic vapors at a source to yield a qualitative or semiquantitative indication of the emission rate from the source. The test procedure does not detect benzene specifically; instead, the volatile organic compound concentration is measured. There is commercially available one type of portable detector that has the capability of measuring benzene by chromatographic techniques. However, the addition of the requirement that benzene be measured specifically would require more time and more extensive testing support. Measurement of benzene would not yield additional information, since the designated sources are those in which benzene is transported; and a measure of organic vapor leakage is indicative of a benzene leak.

Tests in petroleum refineries have established concentrations versus mass emission relationships for various fugitive emission sources. Also, tests have indicated that local conditions cause variations in concentration readings at points removed from the surface of the interface on the component where leaking occurs. Therefore, the proposed standard would require the concentration to be measured at the interface surface.

The proposed standard would require periodic monitoring for certain fugitive emission sources, including in-line process valves. These valves would include control, globe, gate, plug, and ball valves in benzene service. For monitoring of these valves, the instrument detector probe would be placed at the interface where the stem exits the packing gland (or O-ring seal). The valve stem circumference would be monitored, and special emphasis would be placed on positioning the probe inlet at the local upwind and downwind side of the stem. If the maximum observed concentration is greater than 10,000 ppm above background, leak would be detected. Monitoring is similar for pumps and compressors.

Additionally, the proposed standard would require that safety/relief valves and product accumulator vessels comply with a no detectable emissions limit. A concentration for no detectable emissions needs to be defined such that when emissions occur they can be detected and when emissions do not occur they are not mistakenly detected. Based on considerations with the calibration procedures and monitor variability, 2 percent of the definition of a leak was selected as the definition of no detectable emissions. Thus, in this case, no detectable emissions means less than 200 ppm above background concentration at the leak interface. To determine compliance with this emission limit for safety/relief valves and product accumulator vessels, the background concentration around each source would first be determined by moving the probe inlet randomly upwind and downwind of the source at a distance of 1 to 2 meters from the source. If an interference exists due to a nearby emission or leak, then the background concentration could be determined at a distance closer to the source; however, this distance could not be less than 25 centimeters from the source. The background concentration would then be noted and the probe inlet would be moved to the surface of the source to conduct the survey.

For safety/relief valves equipped with a rupture disk, the probe inlet would be placed at approximately the center of the exhaust area, or horn. If the observed concentration is greater than 200 ppm above background concentration, a leak would be detected. The sampling would be repeated after each discharge of the valve to verify that the valve has been returned to a state of no detectable emissions.

For safety/relief valves vented to a flare and for accumulator vessels vented to a closed vent system, compliance would be determined by visual inspection and an initial survey of all piping connections prior to the flare or control device. The visual inspection would verify the existence of the required ducting and control device and that there are no sources where emissions could be vented to the atmosphere prior to the control device. The initial sampling survey would verify that there are no detectable emissions from any of the piping connections between the source and the control device. The sampling survey would be repeated after any maintenance work requiring the opening of any piping connections in the closed vent system.

The VOC detector used in the proposed monitoring program would be required to conform to several specifications to ensure consistent industry-wide monitoring, effective VOC emission reduction efforts, and safe leak detection programs. These equipment specifications are as follows: (1) the instrument should respond to total hydrocarbons or combustible gases. Detector types which may meet this requirement include catalytic oxidation, flame ionization, infrared absorption, and photoionization; (2) the instrument should be safe for operation in explosive atmospheres; (3) the instrument should incorporate an appropriate range or dilution option so that concentration levels of 10,000 ppm above background can be measured; (4) the instrument should be equipped with a pump so that a continuous sample can be provided to the detector. The nominal sample flow rate should be 1 to 3 liters per minute; (5) the scale of the instrument readout meter should be readable to ±5 percent at 10,000 ppm above background.

The monitoring instrument would be calibrated before each monitoring survey with methane. Thus, the required calibration gases would be a zero gas (air, <3 ppm VOC) and a methane-air mixture (approximately 10,000 ppm methane). If cylinder calibration gas mixtures would be used, they would have to be analyzed and certified by the manufacturer to within ±2 percent accuracy. Calibration gases prepared by the user according to an accepted gaseous standards preparation procedure would also have to be accurate within ±2 percent.

The monitoring instrument would be subjected to other performance requirements prior to being placed in service for the first time. The instrument would be subjected to the performance criteria every six months and after any modification or replacement of the instrument detector.

The proposed standard also requires that ASTM Method D2267-68 ("Aromatics in Light Naphthas in Aviation Gasoline by Gas Chromatography") be used to determine the percent benzene in the process fluid within a fugitive emission source. This determination would be made only when the exact concentration of benzene is uncertain.

Public Hearing

A public hearing will be held to discuss the proposed standard for benzene fugitive emissions in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations on the proposed standard for benzene fugitive emissions should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble and should refer to docket number A-79-27.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow members of the public and industries involved to identify and locate documents so they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. In addition, members of the benzene task group of the Interagency Regulatory Liaison Group, representing EPA, OSHA, the Food and Drug Administration, and the Consumer Product Safety Commission, have met and reviewed the proposed standard to ensure that the statement of the rule is jointly understood and is consistent with their programs. The Administrator will welcome comments on all aspects of the proposed regulations, including economic and technological issues, and on the proposed test method.

This regulation will be reviewed five years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and the reporting requirements. The reporting requirements in this regulation will be reviewed as required under the EPA sunset policy for reporting requirements in regulations.

Dated: December 18, 1980.

Douglas M. Costle,

Administrator.

It is proposed to amend 40 CFR Part 61 by adding Subpart J as follows:

Subpart J—National Emission Standard for Benzene Fugitive Emissions

Sec.
61.110 Applicability and designation of sources.
61.111 Definitions.
61.112 Standard for new and existing sources.
61.113 Alternative standard.
61.114 Equivalence of alternative means of emission limitation.
61.115 Test methods and procedures.
61.116 Recordkeeping requirements.
61.117 Reporting requirements.

Authority: Section 112, 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart J—National Emission Standard for Benzene

§ 61.110 Applicability and designation of sources.

(a) The provisions of this subpart apply to each of the following designated sources that are intended to operate in benzene service: pumps, compressors, pipeline valves, safety/relief valves, sampling systems, open-ended valves, pipeline flanges, and product accumulator vessels. The provisions of this subpart do not apply to coke oven by-product plants.

(b) While the provisions of this subpart are effective, a designated source that is also subject to the provisions of 40 CFR Part 60 shall only be required to comply with the provisions of this subpart.

§ 61.111 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in subpart A of Part 61, and the following terms shall have the specific meanings given them:

"In Benzene Service" means that the fugitive emission source either contains or contacts a fluid (liquid or gas) that is at least 10 percent by weight benzene.

"Closed Vent System" means a system that is not open to atmosphere and is a combination of piping, connections and, if necessary, flow-inducing devices that transports gas or vapor from a fugitive emission source to an enclosed combustion device or vapor recovery system.

"Enclosed Combustion Device" means any combustion device that is not open to atmosphere, such as a process heater or furnace, but not a flare.

"First Attempt at Repair" means to take action for the purpose of stopping or reducing leakage of organic material to atmosphere using best modern practices.

"Fixed Capital Cost" means the capital needed to provide all the depreciable components.

"Fugitive Emission Source" means each pump, pipeline valve, safety/relief valve, open-ended valve, flange or other connector, compressor, product accumulator vessel, or sampling system.

"In Gas/Vapor Service" means that the fugitive emission source contains process fluid that is in the gaseous state at operating conditions.

"Open-Ended Valve" means any valve, except safety/relief valves, with one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.

"Pipeline Valve" means the stem packing and collar seat of any externally actuated device that has a stem that extends into the process fluid and is used to regulate the flow of liquids or gases through a pipe.

"Process Unit" means equipment assembled to produce benzene or benzene derivatives as intermediates or final products, or equipment that uses benzene in the production of a final product.

"Product Accumulator Vessel" means any distillate receiver, bottoms receiver, surge control vessel, or product separator in benzene service that is vented to atmosphere either directly or through a vacuum-producing system. A product accumulator vessel is in benzene service if the liquid or the vapor in the vessel is at least 10 percent by weight benzene.

"Reconstruction" means the replacement of components of an existing source to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable, entirely new source; and

(2) It is feasible, considering economic impacts and the technological problems associated with retrofit, to meet the applicable standard for new sources set forth in this subpart.

"Repaired" means that a fugitive emission source is adjusted or otherwise altered in order to reduce fugitive emissions below the level which indicates the necessity for repair as required in § 61.112.

"In Vacuum Service" means that the fugitive emission source is operating at internal pressures that are continously less than 100 kPa.

"Vapor Recovery System" means any type of control device capable of capturing benzene vapor from a gas stream, such as carbon adsorption, vapor compression and vapor refrigeration systems.

§ 61.112 Standard for new and existing sources.

Each owner or operator subject to the provisions of this subpart shall comply with the following requirements for fugitive emission sources in benzene service, execpt those in vacuum service:

(a) New pumps and compressors.

(1) Each new pump shall be equipped with a dual mechanical seal system that includes a barrier fluid between the seals, except as provided in §§ 61.112(a)(7), 61.112(a)(8), and 61.112(i). Each new compressor shall be equipped with a seal system that includes a barrier fluid and that prevents leakage of process fluid to atmosphere, except as provided in §§ 61.112(a)(7), 61.112(a)(8), and 61.112(i). Benzene concentration in the barrier fluid shall be maintained below 10 percent by weight at all times.

(2) Each system as required in § 61.112(a)(1) shall be equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(3) Each sensor as required in § 61.112(a)(2) shall be checked daily or shall be equipped with an audible alarm. Based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both shall be determined for each dual mechanical seal system. If this criterion is registered by the sensor, a leak is detected.

(4) Each pump shall be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seal. If indications of liquids dripping from the pump seal are observed, a leak is detected.

(5) When leak is detected, it shall be repaired as soon as is practicable, but no later that 15 calendar days after the leak is deteced. A first attempt at repair shall be made no later than five calendar days after each leak is detected.

(6) Each dual mechanical seal system as required in § 61.112(a)(1) shall be—

(i) Operated with the barrier fluid at a pressure that is greater at all times than the pump stuffing box pressure,

(ii) Equipped with a barrier fluid degassing reservoir that is connected by a closed vent system to an enclosed combustion device designed for a minimum residence time of 0.50 seconds at 760°C or to a vapor recovery system designed for a minimum of 95 percent capture of benzene input to the vapor recovery system, or

(iii) Designed and operated so that no benzene can be emitted to atmosphere when barrier fluid purging is required.

(7) Any new pump or compressor that is not equipped with the requirements of § 61.112(a)(1) shall be equipped with a closed vent system capable of transporting all leakage from the seal to an enclosed combustion device designed to provide a minimum residence time of 0.50 seconds at a minimum temperature of 760°C or to a vapor recovery system designed for a minimum of 95 percent capture of benzene input to the system. Closed vent systems, enclosed combustion devices, and vapor recovery systems used to comply with this requirement shall be operated at all times when benzene emissions may occur.

(8) Any new pump or compressor that is designated as required in § 61.116(d)(1) for emissions having a concentration of less than 200 parts per million (ppm) by volume above background, as determined by the methods specified in § 61.115(b), is exempt from the requirements of § 61.112(a)(1)–(7) if the pump—

(i) Has no externally actuated shaft penetrating the pump housing,

(ii) Is operated with emissions less that 200 ppm above background as determined by the methods specified in § 61.115(b), and

(iii) Is tested for compliance with § 61.112(a)(8)(ii) annually and at the request of the Administrator.

(9) Closed vent systems, enclosed combustion devices, and vapor recovery systems used to comply with §§ 61.112(a)(6) (ii) and (iii) shall be operated at all times when benzene from the barrier fluid degassing reservoir may occur.

(b) Safety/relief valves in gas/vapor service.

(1) Each safety/relief valve in gas/vapor service shall be operated at a state of emissions having a concentration of less than 200 ppm above background, as determined by the methods specified in § 61.115(b), except during pressure releases.

(2) Each safety/relief valve shall be returned to a state of emissions having a concentration of less than 200 ppm above background after each pressure release as soon as is practicable, but no later than five calendar days, after each pressure release.

(c) Sampling systems.

(1) Each sampling system shall be equipped with a closed purge system.

(2) Each closed purge system as required by § 61.112(c)(1) shall return the purged process fluid directly to the process line, or shall collect the purged process fluid for recycle or disposal without benzene emissions to atmosphere.

(3) *In-situ* sampling systems are exempt from §§ 61.112(c) (1) and (2).

(d) Pipeline valves, open-ended valves, and existing pumps and compressors.

(1) Each pipeline valve, existing pump, and existing compressor shall be monitored monthly to detect leaks by the methods specified in § 61.115(a). If a concentration greater than or equal to 10,000 ppm above background is measured, a leak is detected.

(2) When a leak is detected, it shall be repaired as soon as is practicable, but no later than 15 days after it is detected except as provided in § 61.112(g). A first attempt at repair of the designated source shall be made no later than five calendar days after each leak is detected.

(3) First attempts at repair for pipeline valves should include, but are not limited to, the following procedures, if practicable:

(i) Tightening of bonnet bolts.

(ii) Replacement of bonnet bolts.

(iii) Tightening of packing gland nuts.

(iv) Injection of lubricant into lubricated packing.

(4) Any pipeline valve for which a leak is not detected for two successive months may be monitored during the first month of every quarter beginning with the next quarter by the methods specified in § 61.115(a) until a leak is detected. If a leak is detected, the valve shall be monitored monthly until a leak is not detected for two successive months.

(5) Any pipeline valve, existing pump, or existing compressor that is designated as required in § 61.116(d)(1) for emissions having a concentration less than 200 ppm above background, as determined by the methods specified in § 61.115(b), is exempt from the requirements of §§ 61.112 (d) (1)–(4) if it—

(i) Has no external actuating mechanism in contact with the process fluid,

(ii) Is operated with emissions having a concentration less than 200 ppm above background, as determined by the methods specified in § 61.115(b), and

(iii) Is tested for compliance with § 61.112(d)(5)(ii) annually and at the request of the Administrator.

(6) Each open-ended valve shall be equipped with a cap, blind, plug, or a closed second valve that is attached to seal the open end at all times except during operations requiring flow through the open-ended valve.

(7) Each open-ended valve equipped with a second valve, as required in § 61.112(d)(6), shall be operated such that the open-ended valve is completely closed before the second valve is closed.

(8) Any existing pump or existing compressor that is designated as required in § 61.116(d)(1) for compliance with the new pump or compressor requirements in § 61.112(a) is exempt from the requirements of § 61.112(d). These existing pumps and compressors shall comply with the requirements of § 61.112(a).

(9) Each pump shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. If indications of liquids dripping from the pump seal are observed, a leak is detected.

(e) Product accumulator vessels.

(1) Each product accumulator vessel shall be operated at a state of emissions having a concentration less than 200 ppm above background, as measured by the methods specified in § 61.115(b)

(2 Product accumulator vessels that are used in the production of ethylbenzene or styrene are exemped from § 61.112(e)(1).

(3) Closed vent systems used to achieve compliance with § 61.112(e)(1) shall be designed to transport emissions from the product accumulator vessel to either an enclosed combustion device designed to provide a minimum residence time of 0.50 seconds at a minimum temperature of 760°C or to a vapor recovery system designed for a minimum of 95 percent capture of benzene input to the system. Closed vent systems, enclosed combustion devices, and vapor recovery systems used to comply with the requirement specified in § 61.112(e)(1) shall be operated at all times when benzene emissions may occur.

(f) Other fugitive emission sources.

(1) Fugitive emission sources in benzene service that are not covered in §§ 61.112 (a)–(e) of this subpart, such as safety/relief valves in liquid service and pipeline flanges or other connectors, shall be monitored to detect leaks by the methods specified in § 61.115(a) as soon as practicable, but no later than five calendar days, after leakage is detected by visual, audible, olfactory, or any other method.

(2) If a concentration greater than or equal to 10,000 ppm above background is measured, a leak is detected.

(3) If a leak is detected, it shall be repaired as soon as is practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 61.112(g) of this subpart. A first attempt at repair shall be made within five calendar days after each leak is detected.

(g) Delay of repair of fugitive emission sources for which leaks have been detected will be allowed only if repair is technically infeasible without a complete or partial process unit shutdown. Delay of repair will not be allowed beyond a process unit shutdown.

(h) Each designated source shall be marked in such a manner that will be readily obvious to both plant and enforcement personnel.

(i) A determination of equivalence of alternative means of emission limitation to the requirements of §§ 61.112(a), (c), (d), and (f) may be requested as provided in § 61.114. If the Administrator determines that an alternative means of emission limitation is at least equivalent to the requirements of §§ 61.112(a), (c), (d), and (f), the requirements of that determination shall apply.

(j) Upon reconstruction, an existing source shall become a new source for the purposes of this subpart.

(k) Compliance with §§ 61.112 (a)–(j) shall be determined by review of records and inspection. Compliance with §§ 61.112(a)(8), (b), (d)(5), and (e) shall be determined by the methods specified in § 61.115(b).

§ 61.113 Alternative standard.

(a) Pipeline valves in benzene service—allowable percentage of leaking valves.

(1) After performing a monthly leak detection and repair program in accordance with §§ 61.112(d) (1)–(5) for at least 12 months, an owner or operator may request approval from the Administrator to comply with an allowable percentage of leaking pipeline valves in benzene service.

(2) The following requirements shall be met if an owner or operator wishes to comply with an allowable percentage of leaking pipeline valves:

(i) An owner or operator must request approval of the Administrator to comply with an allowable percentage of leaking valves.

(ii) An owner or operator must have performed a monthly leak detection and repair program in accordance with §§ 61.112(d) (1)–(5) for at least 12 months before a request for approval is submitted.

(iii) A request for approval of an allowable percentage of leaking valves musts be accompanied by data and calculations which describe the methodology used for determining the allowable percentage of leaking valves.

(iv) A performance test as specified in § 61.113(a)(4) shall be conducted annually and at the request of the Administrator. A written report of the results of the performance test shall be submitted to the Administrator within a time interval specified by the Administrator.

(v) If a valve leak is detected, an attempt must be made to repair it.

(3) The allowable percentage of leaking valves shall be determined by adding the monthly baseline percentage of leaking valves demonstrated during the last six months under monthly monitoring and the monthly incremental percentage of leaking valves which would have occurred if the provisions of § 61.112(d)(4) had been followed.

(i) The monthly baseline percentage of leaking valves shall be determined by obtaining a monthly average of the percentage of leaking valves found in an affected process unit during the last six months of operation under monthly monitoring.

(ii) The monthly incremental percentage of leaking valves shall be determined by averaging the percentage of valves for which leaks had been detected in the second and third months of the last two quarters but which had not been detected during the first months of the last two quarters.

(iii) A percentage of leaking valves shall be determined by dividing the total number of leaking valves by the total number of valves in an affected process unit, excluding those leaking valves for which repair has been delayed because a process unit shutdown would be required as provided in § 61.112(g) and those valves which are complying with the provisions of § 61.112(d)(5).

(4) Performance tests shall be conducted in the following manner:

(i) All valves within the affected process unit shall be monitored by the methods specified in § 61.115(a).

(ii) If a VOC concentration of 10,000 ppm or greater is measured, a leak is detected.

(iii) The leak percentage shall be determined by dividing the number of valves for which leaks are detected by the number of valves within the affected process unit, excluding valves for which repair has been delayed because a process unit shutdown would be required, and those which are complying with the provisions of § 61.112(d)(5).

(iv) For those valves for which repair has been delayed because a process unit shutdown would be required, records of attempted repair must be provided at the request of the Administrator. Records of attempted repair for those valves for which repair has been delayed shall be kept for two years.

(5) (i) The Administrator will approve or disapprove this alternative within 90 days of the request for approval.

(ii) If the Administrator denies the use of this alternative, the Administrator will notify the owner or operator of the reasons for the denial.

(iii) If the Administrator is reviewing a request for the use of this alternative as specified in §§ 61.113(a) (1) and (2), the Administrator may request additional information. If the Administrator is reviewing a denial of this alternative, as specified in § 61.113(a)(5)(i), the Administrator may request additional information.

(iv) The owner or operator shall be subject to the requirements of §§ 61.112(d)(1)–(5) until this alternative is approved.

(6) The reporting provisions of §§ 61.117(b)(2)–(6) and (8) would not apply to owners or operators complying with an allowable percentage of leaking valves.

(b) Pipeline valves in benzene service-alternative work practices.

(1) After performing a monthly leak detection and repair program in accordance with §§ 61.112(d)(1)–(5) for at least 12 months, an owner or operator may request approval of the Administrator to comply with an alternative work practice for pipeline valves in benzene service which differs from the work practice required in §§ 61.112(d) (1) and (4).

(2) The following requirements shall be met if an owner or operator wishes to comply with an alternative work practice:

(i) An owner or operator must request approval of the Administrator to comply with an alternative work practice standard.

(ii) An owner or operator must have performed a monthly leak detection and repair program in accordance with §§ 61.112(d)(1)–(5) for 12 months before a request for approval is submitted.

(iii) A request for approval of an alternative work practice standard must be accompanied by data and calculations showing that the alternative work practice complies with the requirements of § 61.113(b)(3).

(3) The alternative work practice program shall be designed to accomplish the emission reduction associated with the required program in §§ 61.112(d)(1)–(5). To demonstrate this reduction, an owner or operator shall determine the leak occurrence and recurrence for each program. These data shall be used to show that the expected percentage of leaking valves in the affected process unit under the alternative program is equal to or less than the expected percentage of leaking valves under the required program.

(4)(i) The Administrator will approve or disapprove this alternative within 90 days of the request for approval.

(ii) If the Administrator denies the use of this alternative work practice, the Administrator will notify the owner or operator of the reasons for the denial.

(iii) If the Administrator is reviewing a request for the use of this alternative work practice as specified in §§ 61.113(b) (1) and (2), the Administrator may request additional information. If the Administrator is reviewing a denial of this alternative work practice, as specified in § 61.113(b)(4)(i), the Administrator may request additional information.

(iv) The owner or operator shall be subject to the requirements of §§61.112(d)(1)–(5) until this alternative is approved.

§ 61.114 Equivalence of alternative means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalence for any alternative means of emission limitation that achieves a reduction in emissions of benzene at least equivalent to the reduction in emissions of benzene of the controls required in §61.112.

(b) Determination of equvalence to the equipment requirements in §§ 61.112 (a), (c), and (d) will be evaluated by the following guidelines:

(1) Each owner or operator apply for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of an alternative means of emission limitation to the requirements of §§ 61.112 (a), (c), and (d).

(2) The Administrator will compare test data for the alternative means of emission limitation to test data for the specific equipment requirement.

(3) The Administrator may condition approval of equivalency on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the equipment requirements of §§ 61.112 (a), (c), and (d).

(c) Determination of equivalence to the work practices required in § 61.112(d) will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of an alternative means of emission limitation to the requirements of § 61.112(d).

(2) For designated sources for which a determination of equivalence is requested, the emission reduction achieved by the requirements of § 61.112(d) shall be demonstrated for a minimum period of 12 months. A quantitative performance level shall be determined that describes the emission reduction achieved by the requirements of § 61.112(d).

(3) For these designated sources, the emission reduction achieved by any alternative means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit to compliance with a performance that provides for emission reductions equal to or greater than the emission reductions achievable by the requirements of § 61.112(d).

(5) The Administrator will compare the demonstrated emission reduction for the alternative means of emission limitation to the demonstrated emission reduction for the work practice requirements of § 61.112(d) and will consider the commitment in § 61.114(c)(4).

(6) The Administrator may condition approval of equivalency on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the requirements of § 61.112(d).

(d) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for public hearing. After notice and opportunity for public hearing, the Administrator will determine the equivalence of an alternative means of emission limitation and will publish the determination in the **Federal Register**.

§ 61.115 Test methods and procedures.

Each owner or operator subject to the provisions of this subpart shall comply with the following test method and procedure requirements:

(a) Monitoring as required by § 61.112(d)(1) shall comply with the following requirements:

(1) Monitoring shall comply with 40 CFR Part 60, Appendix A, Reference Method 21.

(2) The detection instrument shall meet the performance criteria of 40 CFR Part 60, Appendix A, Reference Method 21.

(3) The instrument shall be calibrated on the day of its use by the methods specified in 40 CFR Part 60, Appendix A, Reference Method 21.

(4) Calibration gases shall be:

(i) zero air (less than 3 ppm of VOC in air), and

(ii) approximately 10,000 ppm methane in air.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible, as described in 40 CFR Part 60, Appendix A, Reference Method 21.

(b) When fugitive emission sources are tested for emissions having a concentration less than 200 ppm above background as required by §§ 61.112 (a), (b), and (d), the testing shall comply with the following requirements:

(1) The requirements of §§ 61.115(a) (1), (2), (3), and (4) shall apply.

(2) If a test for emissions less than 200 ppm above background is requested by the Administrator, then the background level shall be determined and the instrument probe shall be traversed around all potential leak interfaces at the minimum distance possible, as set forth in 40 CFR Part 60, Appendix A, Reference Method 21.

(3) If the difference in the background level and the concentration level measured at all potential leak interfaces is less than 200 ppm, then the emissions are less than 200 ppm above background.

(c) For purposes of determining the percent benzene in the process fluid within a fugitive emission source, procedures that conform to the general methods in ASTM Method D2267–68 shall be used.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 61.116 Recordkeeping requirements.

Each owner or operator subject to the provisions of this subpart shall comply with the following recordkeeping requirements:

(a) When each leak is detected as specified in §§ 61.112 (a), (d), and (f), the following requirements shall apply:

(1) Weatherproof and readily visible identification, marked with the source identification number, shall be attached to the leaking source.

(2) The identification may be removed after the fugitive emission source (except pipeline valves) has been repaired. For pipeline valves, the identification may be removed after it has been monitored for two successive months as specified in § 61.112(d)(4) and no leak has been detected during those two months.

(b) When each leak is detected as specified in §§ 61.112 (a), (d), and (f), the following information shall be recorded in a log and shall be kept for two years in a readily accessible location:

(1) The instrument and operator identification numbers and the source identification number.

(2) The date the leak is detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) Whether the maximum VOC concentration measured by the methods specified in § 61.115(a) after each repair attempt was greater than or less than 10,000 ppm above background.

(5) "Repair delayed" if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner or operator whose decision it was that repair could not be effected without a process unit shutdown.

(7) the expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) the date of successful repair of the leak.

(c) The following information pertaining to the design requirements for closed vent systems, enclosed combustion devices, and vapor recovery systems specified in § 61.112 (a) and (e) shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any changes in the design specifications.

(3) Dates of startups and shutdowns of enclosed combustion devices and vapor recovery systems specified in § 61.112 (a) and (e) and dates when these systems are not functioning as designed.

(d) the following information pertaining to all fugitive emission sources subject to the requirements in §§ 61.112 (a), (b), (d), and (e) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for fugitive emission sources that are designated for emissions having a concentration less than 200 ppm above background under the provisions of §§ 61.112 (a)(8), (b)(1), (d)(5), and (e)(1) and are designated for compliance with new source requirements under the provisions of § 61.112(d)(8). The designation of these sources as subject to these sections shall be signed by the owner or operator.

(2) the dates of each verification test for emissions having a concentration less than 200 ppm above background.

(3) the background level measured during each verification test as described in § 61.115(b).

(4) the maximum VOC concentration measured at the source during each verification test as described in § 61.115(b).

(e) The following information shall be recorded in a log that is kept in a readily accessible location:

(1) the design criterion required in § 61.112(a)(3).

(2) Any changes to this criterion and the reasons for the change. (Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

§ 61.117 Reporting requirements.

Each owner or operator subject to the provisions of this subpart shall comply with the following reporting requirements:

(a)(1) An owner or operator of any source to which this subpart applies shall submit a statement in writing notifying the Administrator that the requirements of §§ 61.112, 61.116, and 61.117 are being implemented.

(2) In the case of an existing source or a new source which has an initial startup date preceding the effective date, the statement is to be submitted within 90 days of the effective date, unless a waiver of compliance is granted under § 61.11, along with the information required under § 61.10. If a waiver of compliance is granted, the statement is to be submitted on a date scheduled by the Administrator.

(3) In the case of new sources which did not have an initial startup date preceding the effective date, the statement shall be submitted with the application for approval of construction or modification, § 61.07.

(4) the statement is to contain the following information for each designated source:

(i) Fugitive emission source identification number.

(ii) Type of fugitive emission source (i.e., pump, pipeline valve, etc.).

(iii) Percent by weight benzene in the fluid at the fugitive emission source.

(iv) Process fluid state at the fugitive emission source (gas/vapor or liquid).

(v) Method of compliance with the standard (i.e., "equipped with dual mechanical seal system," or "monthly leak detection and repair," etc.).

(b) A report shall be submitted to the Administrator each quarter, starting three months after the initial report required in § 61.117(a), that includes the following information; the format of the report may be similar to that shown in Figures 1, 2, 3, and 4:

(1) Process unit identification.

(2) Nunber of pipeline valves in the process unit excluding those designated for emissions having a concentration less than 200 ppm above background under the provisions of § 61.112(d)(5).

(3) Number of pipeline valves, existing pumps, and existing compressors for which leaks were detected as required in § 61.112(d) during each month of the reporting quarter.

(4) Number of pipeline valves, existing pumps, and existing compressors repaired.

(5) Number of pipeline valves, existing pumps, and existing compressors not repaired within 15 days as required in § 61.112(d)(2).

(6) Reasons for non-repair of valves, existing pumps, and existing compressors within 15 days as required in § 61.112(d)(2).

(7) Number of pumps and compressors for which leaks were detected during the reporting quarter as specified in §§ 61.112(a)(3) and (4).

(8) Statement signed by the owner or operator stating whether all provisions of 40 CFR Part 61 Subpart J had been fulfilled during the reporting quarter.

(c) In the first report submitted as required in § 61.117(b), the report shall include a reporting schedule stating the months that quarterly reports shall be submitted. Subsequent reports shall be submitted according to that schedule, unless a revised schedule has been submitted in a previous quarterly report.

(d) An application for approval of construction or modification, § 61.07, will not be required if—

(1) The existing source has become a new source through reconstruction;

(2) The new source complies with the standard for new sources, § 61.112; and

(3) In the next quarterly report required by § 61.117(b), the information in § 61.117(a)(4) is reported.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

BILLING CODE 6560-01-M

Figure 1

QUARTERLY REPORT FOR PROCESS UNIT
FUGITIVE EMISSION SOURCES OPERATING UNDER THE
PROVISIONS OF 40 CFR Part 61, Subpart J, §61.117(b)

EXAMPLE

Date________________

Company Name________________

Plant Location (City, State)________________

Mailing Address________________

Telephone Number________________

Reporting Period________________

This report filed________________
(Process Unit Name)

Producing________________
(Chemical Product(s))

Figure 2

SUMMARY STATISTICS FOR LEAK DETECTION
AND REPAIR REQUIREMENTS
OF 40 CFR Part 61, Subpart J, §61.117(b)

EXAMPLE

1. Process Unit Name________________ (one report required for each process unit)
2. Number of valves covered under the leak detection and repair program. ________
3. Number of valves found leaking during the reporting period. ________
4. Number of leaking valves repaired during the reporting period. ________
5. Number of leaking valves detected during the quarter which were not repaired within 15 days. ________
6. Number of pumps found leaking during the reporting period. ________
7. Number of compressors found leaking during the reporting period. ________

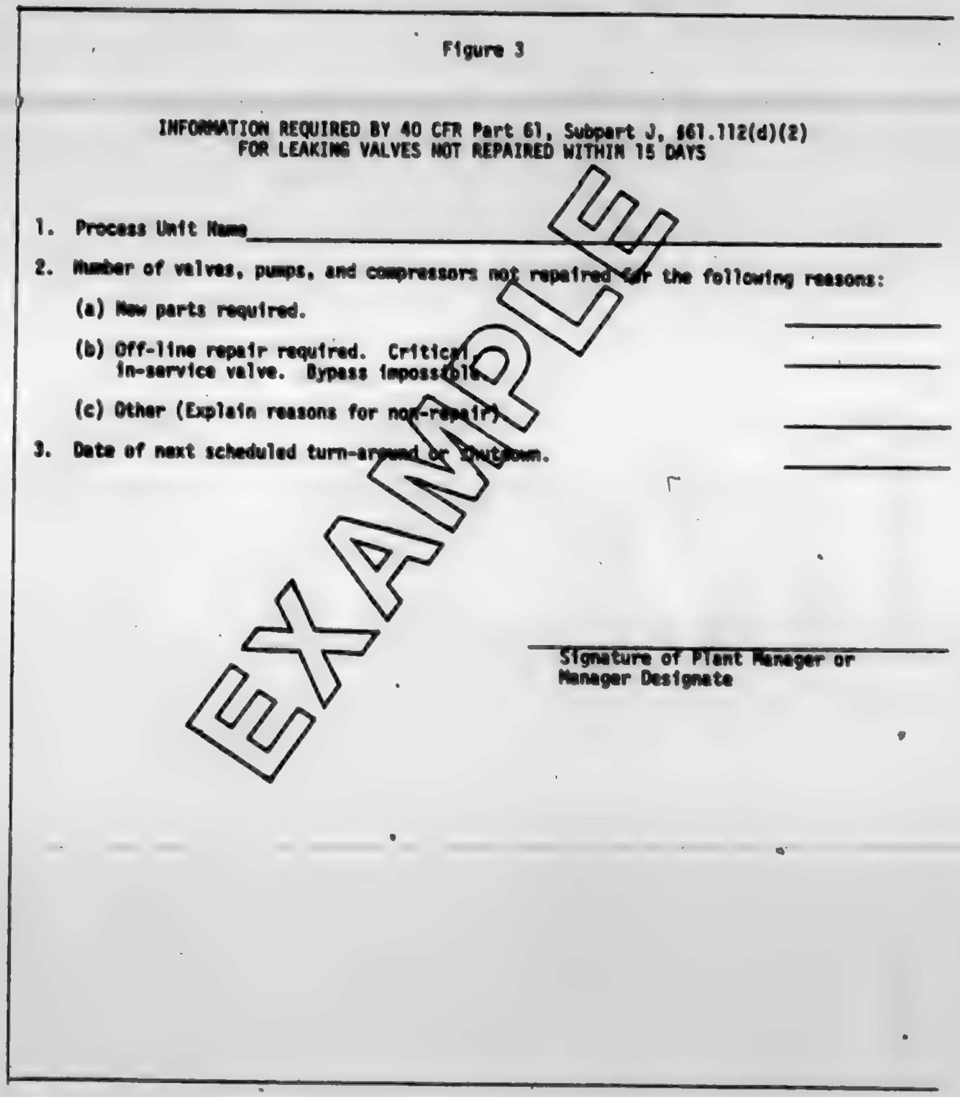

Figure 3

INFORMATION REQUIRED BY 40 CFR Part 61, Subpart J, §61.112(d)(2)
FOR LEAKING VALVES NOT REPAIRED WITHIN 15 DAYS

1. Process Unit Name__________
2. Number of valves, pumps, and compressors not repaired for the following reasons:
   (a) New parts required. ______
   (b) Off-line repair required. Critical in-service valve. Bypass impossible. ______
   (c) Other (Explain reasons for non-repair) ______
3. Date of next scheduled turn-around or shutdown. ______

____
Signature of Plant Manager or
Manager Designate

EXAMPLE

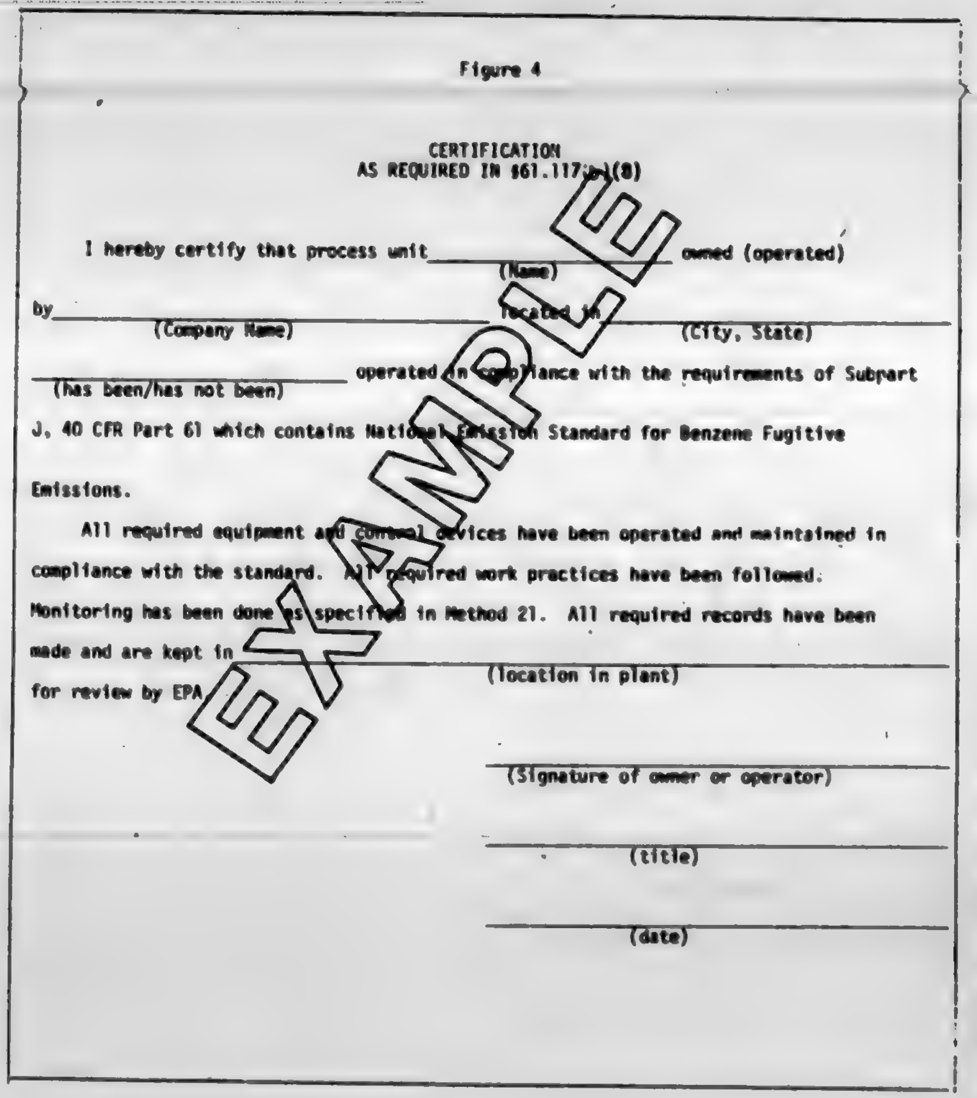

Figure 4

CERTIFICATION
AS REQUIRED IN §61.117(c)(8)

I hereby certify that process unit__________ (Name) owned (operated) by__________ (Company Name) located in__________ (City, State) __________ (has been/has not been) operated in compliance with the requirements of Subpart J, 40 CFR Part 61 which contains National Emission Standard for Benzene Fugitive Emissions.

All required equipment and control devices have been operated and maintained in compliance with the standard. All required work practices have been followed. Monitoring has been done as specified in Method 21. All required records have been made and are kept in__________ (location in plant) for review by EPA.

____
(Signature of owner or operator)

____
(title)

____
(date)

EXAMPLE

[FR Doc. 81-60 Filed 1-2-81; 8:45 am]

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Monday
January 5, 1981

Part VI

General Services Administration

Automated Data and Telecommunications Service

Government-Wide Procurement and Management of Automatic Data Processing

V 46/2 JA 5, 81 UMI

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1–4

[FPR Amendment 211]

Automatic Data Processing Contracting; Special Types and Methods of Procurement

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides a complete revision of Subpart 1–4.11 regarding procurement and contracting policies relating to the acquisition of automatic data processing (ADP) equipment, commercially available software, maintenance services, and related supplies by Federal agencies and in some situations, by Government contractors. This action is needed to change, consolidate, and clarify policy and procedures. The intended effect is to increase economy and efficiency and to reduce paperwork regarding agency ADP resources acquisition.

EFFECTIVE DATE: This regulation is effective January 15, 1981, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Federal Procurement Regulations Directorate, Office of Acquisition Policy, 703–557–8947.

SUPPLEMENTARY INFORMATION: (a) A proposed revision of Subpart 1–4.11 (and FPMR Subpart 101–35.2) was circulated to all Federal agencies and other interested parties on May 28, 1980. The closing of the comment period was November 14, 1980 (45 FR 71628, October 29, 1980). All comments received have been considered and accommodated to the extent considered appropriate.

(b) A complete revision of Subpart 1–4.11 is provided. Substantive changes from the existing coverage are as follows:

(1) A new § 1–4.1100–2 is added to explain the relationship of Subpart 1–4.11 to other procurement regulations, replacing § 1–4.1101–1.

(2) A new § 1–4.1100–3 is added to control deviations from Subpart 1–4.11.

(3) Section 1–4.1101 is revised to clarify the applicability of Subpart 1–4.11 to both Federal agencies and Government contractors.

(4) Subsection 1–4.1102–1 is revised to redefine the term "automatic data processing equipment."

(5) Subsection 1–4.1102–2 is revised to redefine the term "software" and to add definitions for related terms, including commercially available software.

(6) Subsection 1–4.1102–3 is revised to add the term "firmware"; § 1–4.1102–6 is revised to add remote terminal emulation terms.

(7) Subsection 1–4.1102–7 is revised to define the term "competitive requirement," and § 1–4.1102–8 is revised to define the term "noncompetitive (sole source) requirement," replacing §§ 1–4.1102–16 and 1–4.1102–17.

(8) Subsection 1–4.1102–9 is revised to define the term "maximum practicable competition," consistent with paragraph (c) of § 1–3.101.

(9) Subsection 1–4.1102–10 is revised to clarify the term "lowest overall cost," replacing § 1–4.1102–14.

(10) Subsection 1–4.1102–12 is revised to define the term "functional specifications," replacing § 1–4.1102–7, "data system specifications."

(11) Subsection 1–4.1102–16 is revised to define the meaning of the term "evaluated optional features," replacing § 1–4.1102–13, "desirable features."

(12) Other subsections in § 1–4.1102 are rearranged and modified.

(13) Section 1–4.1103 is added to state the general policies and procedures relating to competition, requirements analysis, urgent requirements, major system acquisition, and small business and labor surplus area concerns.

(14) Section 1–4.1104 is revised to add a provision prohibiting fragmenting requirements in order to circumvent established thresholds, replacing § 1–4.1103.

(15) Subsection 1–4.1104–1 is revised to increase agency procurement authority for ADPE under competitive solicitation procedures, replacing FPR Temp. Reg. 46 provisions.

(16) Subsection 1–4.1104–2 is revised to increase agency procurement authority for commercially available software under competitive solicitation procedures, replacing FPR Temp. Reg. 46 provisions.

(17) Subsection 1–4.1104–3 is revised to increase agency procurement authority for maintenance services under competitive solicitation procedures, replacing FPR Temp. Reg. 46 provisions.

(18) Subsection 1–4.1104–4 is added to provide agency procurement authority for related supplies.

(19) Subsection 1–4.1104–5 regarding the ADP is revised for clarity, replacing § 1–4.1103–4.

(20) Section 1–4.1105 is revised to include in the Agency Purchase Request data concerning computer security requirements, use of compatibility limited requirements, and software conversion studies, where applicable, replacing § 1–4.1104.

(21) Section 1–4.1106 is revised to clarify the 20-day automatic delegation procedure, replacing § 1–4.1105.

(22) Section 1–4.1106–1 and –2 and § 1–4.1107 are revised for clarity, replacing §§ 1–4.1105–1 and 1–4.1106.

(23) Subsection 1–4.1108 is revised to set forth responsibilities applicable to the acquisition of major ADP systems under OMB Circular A–109, replacing FPR Temp. Reg. 47.

(24) Section 1–4.1109 is added to replace § 1–4.1107 provisions.

(25) Subsection 1–4.1109–2 is added to clarify documentation provisions, replacing § 1–4.1107–2. Section 1–4.1107–20, sole source procurement documentation, is removed.

(26) Subsection 1–4.1109–3 is added to incorporate the optional use of GSA's centralized Bidders Mailing List (BLM), replacing § 1–4.1107–3 as changed by FPR Amendment 210.

(27) Subsection 1–4.1109–4 is reserved.

(28) Subsection 1–4.1109–5 regarding small purchase is added, replacing § 1–4.1107–4 appearing in FPR Temp Reg. 46.

(29) Subsection 1–4.1109–6 regarding use of GSA schedule contracts is added to clarify and amplify existing provisions, replacing § 1–4.1107–6 appearing in FPR Temp Reg. 46.

(30) Subsections 1–4.1109–7 and –8 are added, replacing §§ 1–4.1107–7 and –8 respectively.

(31) Subsection 1–4.1109–9 regarding handling of late responses is added, replacing §§ 1–4.1107–9 and 1–4.1106–1.

(32) Subsections 1–4.1109–10 and –11 regarding use of specifications are added, replacing §§ 1–4.1107–10 and –11.

(33) Subsections 1–4.1109–12, –13, –14, and –15 are added to provide extensive new provisions concerning compatibility limited requirements, requirements for software conversion studies, determination of conversion costs, and determination of selection factors. The provisions of FPMR Temp. Reg. F–492, to the extent that they are in conflict, are superseded.

(34) Subsections 1–4.1109–16 and –17 regarding software procurement and procurement of related supplies are added, replacing §§ 1–4.1107–16 and –17, respectively.

(35) Subsection 1–4.1109–18 is added to provide new provisions (identical to FPMR § 101–35.203–10 provisions) regarding furnishing ADP items and services to contractors.

(36) Subsection 1–4.1109–19 regarding purchase options for contractor acquired ADPE is added, replacing § 1–4.1107–18.

(37) Subsection 1–4.1109–20 is added to incorporate computer security requirements, replacing § 1–4.1107–21 as added by FPR Amendment 210.

(38) Subsection 1–4.1109–21 regarding the use of simulation is added, replacing § 1–4.1107–5.

(39) Subsections 1–4.1109–22 and –23 regarding use of benchmarks and remote terminal emulation are added, replacing § 1–4.1107–5 and FPR Temp. Reg. 49 provisions.

(40) Subsection 1–4.1109–24 is added to include conversion costs under evaluation factors, replacing § 1–4.1107–13.

(41) Subsection 1–4.1109–25 regarding implementation of standards is added, replacing § 1–4.1108–5 as amended by FPR Amendment 210.

(42) Section 1–4.1110 regarding standard clauses is added, replacing § 1–4.1108; and § 1–4.1110–1 replaces § 1–4.1108–2.

(43) Subsection 1–4.1110–2 regarding contractor representation is added to include a modified clause, replacing § 1–4.1108–3.

(44) Subsection 1–4.1110–3 regarding fixed price options is added, replacing § 1–4.1108–4 as changed by FPR Amendment 210. Note particularly the optional special contractual provision regarding discontinuance of rental of items during, not at the end, of a contract period.

(45) Section 1–4.1111 regarding additional clauses is added.

(46) Section 1–4.1112 regarding guidance is added, replacing § 1–4.1107–19.

(c) The changes in this regulation were developed concurrently with substantive changes to existing provisions in FPMR Subpart 101–35.2—Management, Acquisition, and Utilization of Automatic Data Processing (ADP) Resources. This Subpart 1–4.11 is intended to be used in concert with Subpart 101–35.2, particularly, of Subchapter F of the FPMR.

(d) This regulation cancels FPR Temporary Regulation 46 (43 FR 40015, Sept. 8, 1978); FPR Temp. Reg. 46, Supp. 2 (44 FR 52208, Sept. 7, 1979); FPR Temp. Reg. 46, Supp. 3 (45 FR 62906, Sept. 23, 1980); and FPR Temp. Reg. 47 (43 FR 41044, Sept. 14, 1978) which are deleted from the appendix at the end of 41 CFR Chapter 1. This regulation supersedes the provisions of FPR Temp. Reg. 49 (44 FR 22725, Apr. 17, 1979); FPR Temp. Reg. 49, Supp. 1 (45 FR 13734, Mar. 3, 1980), FPMR Temp. Reg. F–492 (44 FR 62515, Oct. 31, 1979) and FPMR Temp. Reg. F–496 (45 FR 81202, Dec. 10, 1980), to the extent that they are in conflict with the regulation.

1. The table of contents for Part 1–4 is changed by revising the title and contents of Subpart 1–4.11, as follows:

Subpart 1–4.11—Procurement and Contracting Government-Wide for Automatic Data Processing Equipment, Software, Maintenance Services, and Supplies

Sec.

1–4.1100 Scope of subpart.
1–4.1100–1 Relationship to the Federal Property Management Regulations (FPMR).
1–4.1100–2 Relationship to other procurement authority.
1–4.1100–3 Deviations.
1–4.1101 Applicability.
1–4.1102 Definitions.
1–4.1102–1 Automatic data processing equipment.
1–4.1102–2 Software terms.
1–4.1102–3 Firmware.
1–4.1102–4 Maintenance services.
1–4.1102–5 Related supplies.
1–4.1102–6 Remote terminal emulation terms.
1–4.1102–7 Competitive requirement.
1–4.1102–8 Noncompetitive (sole source) requirement.
1–4.1102–9 Maximum practicable competition.
1–4.1102–10 Lowest overall cost.
1–4.1102–11 System/item life.
1–4.1102–12 Functional specifications.
1–4.1102–13 Equipment performance specifications.
1–4.1102–14 Agency procurement request.
1–4.1102–15 Mandatory requirements.
1–4.1102–16 Evaluated optional features.
1–4.1102–17 Selection plan.
1–4.1102–18 Federal agency.
1–4.1103 General policies.
1–4.1103–1 Competition.
1–4.1103–2 Requirements analysis.
1–4.1103–3 Urgent requirements.
1–4.1103–4 Major system acquisitions.
1–4.1103–5 Small business and labor surplus area concerns.
1–4.1104 Procurement authority.
1–4.1104–1 Automatic data processing equipment.
1–4.1104–2 Software.
1–4.1104–3 Maintenance services.
1–4.1104–4 Related supplies.
1–4.1104–5 Automatic data processing fund.
1–4.1105 Request for procurement action.
1–4.1106 GSA action on procurement requests.
1–4.1106–1 Agency responsibilities when GSA procures ADP items for that agency.
1–4.1106–2 GSA responsibilities when GSA procures ADP items for another agency.
1–4.1107 Federal agency responsibility when procurement authority is delegated by GSA.
1–4.1108 Major system acquisition responsibilities.
1–4.1109 Procurement actions.
1–4.1109–1 Procurement-related directives.
1–4.1109–2 Competitive basis and documentation.
1–4.1109–3 Publicizing procurement actions.
1–4.1109–4 [Reserved]
1–4.1109–5 Small purchases.
1–4.1109–6 Use of GSA schedule contracts.
1–4.1109–7 Use of requirements contracts.
1–4.1109–8 Industry review of ADP specifications.

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1–4.1109–9 Handling of late bids, proposals, modifications, and withdrawals.
1–4.1109–10 Use of functional specifications.
1–4.1109–11 Use of other types of specifications or purchase descriptions.
1–4.1109–12 Compatibility limited requirements.
1–4.1109–13 Software conversion studies.
1–4.1109–14 Determination of conversion costs.
1–4.1109–15 Determination of selection factors.
1–4.1109–16 Software procurements.
1–4.1109–17 Procurement of related supplies.
1–4.1109–18 Furnishing ADP items and services to contractors.
1–4.1109–19 Purchase options for contractor acquired ADPE.
1–4.1109–20 Computer security requirements.
1–4.1109–21 Restrictions on the use of simulation in ADP systems procurement.
1–4.1109–22 Use of benchmarks in low dollar ADP systems procurement.
1–4.1109–23 Use of remote terminal emulation in ADP systems procurement.
1–4.1109–24 Evaluation factors.
1–4.1109–25 Implementation of standards.
1–4.1110 Standard clauses.
1–4.1110–1 Limitation of liability.
1–4.1110–2 Contractor representation.
1–4.1110–3 Fixed price options.
1–4.1111 Additional clauses.
1–4.1112 Assistance by GSA.

Authority: Section 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

2. The title and text of Subpart 1–4.11 is revised to read as follows:

Subpart 1–4.11—Procurement and Contracting Government-Wide for Automatic Data Processing Equipment, Software, Maintenance Services, and Supplies

§ 1–4.1100 Scope of subpart.

This subpart sets forth policies and procedures which are to be employed in the procurement of all automatic data processing equipment (ADPE), commercially available software, maintenance services, and related supplies by Federal agencies (see also § 1–4.1109–1) and by Government contractors as directed by agencies.

§ 1–4.1100–1 Relationship to the Federal Property Management Regulations (FPMR).

(a) Subchapter F of this title (41 CFR Chapter 101, hereafter referred to as the FPMR) provides policies, procedures, and guidelines pertaining to the management of Governmentwide automatic data processing (ADP) functions (see particularly FPMR Subpart 101–35.2). The FPMR involves such matters as (1) the security of ADP systems, (2) utilization of ADP resources, (3) reutilization of equipment and supplies, (4) assistance to Federal agencies, (5) Federal data processing centers, (6) the ADP collocation and consolidation program, (7) ADP records management, and (8) implementation of Federal information processing standards publications (FIPS PUBS) and Federal telecommunications standards (FED-STD).

(b) The provisions of FPMR Part 101-37 are applicable to telecommunications when associated with ADP.

(c) When telecommunications are involved, regardless of the authority to procure ADPE as indicated in § 1-4.1104-1, agencies are required to submit the documentation prescribed in FPMR Part 101-37.

(d) FPMR Subpart 101-17 concerns the information that must be submitted to GSA relative to space requirements for ADPE.

§ 1-4.1100-2 Relationship to other procurement authority.

(a) Under Section 111 of the Federal Property and Administrative Services Act of 1949, 79 Stat. 1127, as amended (40 U.S.C. 759), the Administrator of General Services has authority to coordinate and provide for the purchase, lease, and maintenance of ADP equipment by Federal agencies as well as other matters relating to the management, acquisition, and utilization of ADP. The exercise of this procurement authority shall be accomplished as specified in this subpart.

(b) Section 111(g) of the Property Act (40 U.S.C. 759, Pub. L. 89-306) provides that the Administrator's authority is subject to fiscal and policy control of the Office of Management and Budget (OMB). When an agency submits matters to the OMB for resolution (see FPMR § 101-36.001) and the matters relate to the procurement and contracting for ADP, copies shall be furnished to GSA as provided in FPMR § 101-36.001.

§ 1-4.1100-3 Deviations.

To maintain uniformity to the greatest extent feasible, deviations (as the term is described in § 1-1.009-1) from this subpart shall be kept to a minimum and controlled as follows:

(a) The head of each agency exercising delegated procurement authority under this subpart shall prescribe a formal agency procedure for the control of requests for deviations from this subpart. A copy of this procedure shall be provided to the General Services Administration (CPE), Washington, DC 20405.

(b) Individual deviations may be authorized only by the Administrator of General Services or the officers designated by the Administrator for this purpose. Class deviations may be authorized only by the Administrator. In each instance, the request shall disclose the nature of the deviation and the reasons therefor. Requests for deviations shall be forwarded to the General Services Administration (CPS), Washington, DC 20405.

(c) Except as otherwise authorized, when any deviation in a contract form provision is authorized, physical change may not be made in the printed form but shall be made by appropriate provision in the schedule, specifications, or continuation sheet, as provided in agency procedures.

§ 1-4.1101 Applicability.

(a) *Federal agencies.* The policies and procedures set forth in this subpart apply to the procurement of ADPE, commercially available software, maintenance services, and related supplies by Federal agencies regardless of use or application including Government-acquired ADPE, software, or related supplies provided to contractors.

(b) *Government contractors.* (1) Except as set forth in paragraph (b)(2) of this section, agencies shall require their contractors to apply the policies and procedures set forth in this subpart to the procurement of ADPE, commercially available software, maintenance services, and related supplies when the very subject matter of the contract(s) is for the performance of commercial ADP services for a Federal agency (see FPMR § 101-35.202-8 and § 1-4.1109-18) and

(i) The Government requires the contractor to purchase the ADPE or software for the account of the Government; or

(ii) The Government requires the contractor to pass title to the ADPE or software to the Government; or

(iii) The Government pays the full lease costs of the ADPE or software under a cost-reimbursement contract.

(2) When the very subject matter of a contract is for something other than the procurement of ADP items or services,[1] and commercially available ADPE is incorporated into the non-ADP system or commercial ADP services are used in contract performance, the acquisition and management of the non-ADP system shall be in accordance with other applicable regulations rather than this subpart (but see § 1-4.1109-18).

§ 1-4.1102 Definitions.

The terms used in this subpart shall have the meanings set forth in this section.

§ 1-4.1102-1 Automatic data processing equipment.

"Automatic data processing equipment" (ADPE) means[2] general purpose, commercially available, mass-produced automatic data processing devices; i.e., components and the equipment systems configurated from them together with commercially available software packages that are provided and are not priced separately, and all documentation and manuals relating thereto, regardless of use, size, capacity, or price, that are designed to be applied to the solution or processing of a variety of problems or applications and are not specially designed, as opposed to configured, for any specific application.

(a) Included are:

(1) Digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, paper tape typewriters, magnetic tape, card, or cartridge typewriters, word processing equipment, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybrid computer equipment, either cable connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines (PCAM) that can be used in conjunction with or independently of digital, analog, or hybrid computers; and

(4) Data transmission or communications equipment, including front-end processors, terminals, sensors, and other similar devices, designed primarily for use with a configuration of ADPE.

(b) Excluded are:

(1) ADPE systems and components specially designed (as opposed to configured) and produced to perform a specific set or series of computational, data manipulation, or control functions

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[1] When the subject matter of a requirement (or a severable portion thereof) is the supplying of ADP services or ADP related services to a Federal agency, see Subpart 1-4.12 (Reserved at publication date).

[2] The acquisition of Joint Committee on Printing (JCP) controlled equipment in FSC Group 70 dedicated to printing processes and utilizing computer technology, including electronic printing systems, integrated printing systems, and photocomposition equipment, continues to be subject to the provisions of title 44, U.S. Code, and the JCP Government Printing and Binding Regulations as well as to this regulation.

to permit the processing of only one problem; and

(2) Commercially available ADPE that is modified to meet Government specifications at the time of production to the extent that:

(i) It no longer has a commercial market; or

(ii) It cannot be used to process a variety of problems or applications; or

(iii) It can be used only as an integral part of a non-ADP system.

§1-4.1102-2 Software terms.

(a) "Software" means computer programs, procedures, rules, or routines specifically designed to make use of and extend the capabilities of ADPE and includes operating systems, assemblers, compilers, interpreters, data base management systems, utility programs, sort-merge programs, maintenance-diagnostic programs, and applications programs. The term encompasses operating systems software, independent subroutines, related groups of routines, sets or systems of programs, software documentation, firmware (see § 1-4.1102-3), and computer data bases whether Government-owned or commercially available.

(b) "Commercially available software" means software that is available through lease or purchase in the commercial market from a concern representing itself to have ownership and/or marketing rights in the software. Software that is furnished as part of the ADP system but that is separately priced, is included.

(c) "Application software" means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations necessary to process requirements such as payroll, inventory control, or automatic test and engineering analysis. Application software may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a specialized process or a particular user.

(d) "Computer data base" means a stored collection of data in a form capable of being processed and operated on or by a computer; i.e., the elements of stored data used by a computer in responding to a computer program.

(e) "Computer software documentation" means recorded information including computer listings and printouts that (1) documents the design or details of computer software, (2) explains the capabilities of the software, (3) provides data for testing the software, or (4) provides operating instructions.

(f) "Software conversion" means the transformation, without functional change, of computer programs or data elements to permit their use on a replacement or changed ADP equipment or teleprocessing service system.

(g) "Software redesign" means any change to software that involves a change in the functional specifications for that software.

(h) "Reprogramming" means any change to software that deviates from the design specifications for that software but preserves the functional requirements of the user.

(i) "Recoding" means a manual change to software on a line-for-line basis that preserves both the functional requirements and software design specifications.

(j) "Automated translation" means changes to software including machine-processed recoding that preserve both the functional requirements and software design specifications to the extent that no changes are apparent to the user.

§ 1-4.1102-3 Firmware.

"Firmware" means any ADP hardware-oriented programming at the basic logic level of the computer that is used for machine control, error recovery, mathematical functions, applications programs, engineering analysis programs, and the like. Included are firmware that is furnished with ADPE, commercially available proprietary firmware that is acquired separately from ADPE, and all vendor documentation and manuals relating thereto.

§ 1-4.1102-4 Maintenance services.

"Maintenance serivces" means those examination, testing, repair, or part replacement functions performed to: (a) Reduce the probability of ADPE malfunction (commonly referred to as "preventive maintenance"), (b) restore to its proper operating status a component of ADPE that is not functioning properly (commonly referred to as "remedial maintenance") or (c) modify the ADPE in a minor way (commonly referred to as "field engineering change" or "field modification").

§ 1-4.1102-5 Related supplies.

"Related supplies" means consumable items designed specifically for use with ADPE, such as computer tape, ribbons, punchcards, and tabulating paper.

§ 1-4.1102-6 Remote terminal emulation terms.

(a) "System under test" (SUT) means an ADP system or component thereof whose performance is being validated during the procurement process.

(b) "Internal emulation" means a technique used for teleprocessing performance validation in which the teleprocessing workload is introduced from software running internal to the SUT, either in the central processing unit, the communications front end, or, when the architecture supports it, some other processor configured as part of the SUT.

(c) "Remote terminal emulation" means a technique for teleprocessing performance validation in which the driver and monitor components are implemented external to and independent of the SUT.

(d) "Driver" means a remote terminal emulation component, external to the SUT, which introduces specified workload demands to the ADP system being tested.

(e) "Monitor" means a remote terminal emulation component, external to the SUT, which records data descriptive of the remote terminal emulator/SUT interaction.

(f) "Remote terminal emulator" (RTE) means a specific hardware and software implementation of a teleprocessing workload driver (a monitor may or may not be an integral part of an RTE).

§ 1-4.1102-7 Competitive requirement.

A "competitive requirement" means that the Government's requirement is set forth in the form of functional specifications, equipment performance specifications, a combination thereof, software and equipment plug-to-plug compatible functionally equivalent descriptions, or brand name or equal descriptions, that allows maximum practicable competition and is devoid of unnecessary bias toward either a specific product or a specific offeror.

§ 1-4.1102-8 Noncompetitive (sole source) requirement.

A "noncompetitive (sole source) requirement" means that the Government's requirement is set forth in the form of necessary specifications that are so restrictive that there is only one known supplier capable of satisfying the Government's requirement or the procurement is based on specific make and model specifications/purchase descriptions, notwithstanding the existence of adequate price competition as defined in § 1-3.807-1(b)(1) (or, if applicable, Defense Acquisition Regulation (DAR) 3-807.7(a)).

§ 1-4.1102-9 Maximum practicable competition.

"Maximum practicable competition" means a negotiated procurement action

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when proposals are solicited from the maximum number of qualified sources, including small business concerns, consistent with the nature of and requirements for the supplies or services to be procured, to the end that the procurement will be made to the best advantage of the Government, price and other factors considered. This requires a procurement strategy, suitable to the circumstances, in which the statement of the user's requirement is set forth in the least restrictive terms possible without compromising economy or efficiency. It is designed to elicit from responsible firms capable of satisfying the needs, a number of favorable offers commensurate with the value of the procurement. It is calculated to satisfy the user's needs at the lowest overall cost to the Government, price and other factors considered (see § 1–4.1102–10). The quantifiable cost of conducting the procurement and other administrative costs directly related to the procurement process are included.

§ 1–4.1102–10 Lowest overall cost.

"Lowest overall cost" means the least expenditure of funds over the system/item life, price and other factors considered. Lowest overall costs shall include purchase price, lease or rental cost, or services cost of the contract actions involved, other factors, and other identifiable and quantifiable costs that are directly related to the acquisition and use of the system/item; e.g., personnel, maintenance and operation, site preparation, energy consumption, installation, conversion, system start-up, contractor support, and the present value discount factor (see also FPMR § 101–35.210).

§ 1–4.1102–11 System/item life.

"System/item life" means a forecast or projection of the period of time that begins with the installation of the system/item and ends when the Government's need for that system/item has terminated. System/item life is established by the initial acquiring agency on the basis of its requirement and predicted reuse (see § 101–35.208). System/item life is not necessarily synonymous with technological life (utility before becoming obsolete), physical life (utility before physically wearing out), or application life (utility in a given function).

§ 1–4.1102–12 Functional specifications.

"Functional specifications" means the delineation of the program objectives based on mission needs in a form that the ADP system is intended to accomplish and the data processing requirements underlying that accomplishment. The latter includes a description of the data output and its intended uses, the data input, the data files and record content, the volumes of data, the processing frequencies, timing, and such other facts as may be necessary to provide for a full description of the ADP mission need to be satisfied.

§ 1–4.1102–13 Equipment performance specifications.

"Equipment performance specifications" means a statement of minimum user output requirements such as the amount of data that needs to be stored or processed within a given time, the number of lines of print that must be done over a given time, and the operation reliability, supplemented to the extent necessary with those hardware factors, devoid of as much vendor orientation as possible, such as cycle time, computing speed, tape read or write speed, printer speed, size of memory, expansibility (modularity), etc., and the related software which are a measure of the operating capability of equipment and which, when applied to the functional specifications, provide a quantitative measure of the operating time and capacity required to process the applications involved on that equipment.

§ 1–4.1102–14 Agency procurement request.

"Agency procurement request" (APR) means a request by a Federal agency for GSA to procure ADPE, commercially available software, or maintenance services or for GSA to delegate the authority to procure these items.

§ 1–4.1102–15 Mandatory requirements.

"Mandatory requirements" means those contractual conditions and technical specifications that are established by the Government as being essential to meet the Government's needs. When set forth in a solicitation, the mandatory requirements must be met for the bid (offer) to be considered responsive (acceptable).

§ 1–4.1102–16 Evaluated optional features.

"Evaluated optional features" means those technical requirements that are established by the Government but that does not have to be bid (offered) to be responsive (acceptable) to the specific solicitation. When set forth in a solicitation, all evaluated optional features must reflect the relative value of each feature to the Government. Each evaluated optional feature may be offered at the discretion of the offeror.

§ 1–4.1102–17 Selection plan.

"Selection plan" means criteria and systematic procedures established to enable the Government to measure the proposal of an offeror/bidder against the requirements of the Government as set forth in the solicitation document. These criteria shall be based on the Government's requirements and shall not be equipment- or vendor-oriented, except where a brand name or equal specification or specific make or model description is needed to express the requirement adequately.

§ 1–4.1102–18 Federal agency.

"Federal agency" means (a) any executive agency (executive department or independent establishment in the executive branch including any wholly owned Government corporation) or (b) any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the Architect's direction) (see 40 U.S.C. 472).

§ 1–4.1103 General policies.

§ 1–4.1103–1 Competition.

Full and open competition is a basic procurement objective of the Government. The maximum practicable competition among offerors who are capable of meeting the user's needs will ensure that the Government's ADP needs are satisfied at the lowest overall cost, price and other factors considered, over the system/item life. This extends to actions necessary to foster competitive conditions for subsequent procurements. To meet fully the lowest overall cost objective, it is essential that proper management and planning actions be accomplished before the acquisition becomes imminent (see FPMR § 101–35.206).

§ 1–4.1103–2 Requirements analysis.

The acquisition of an initial ADP capability or the augmentation or replacement of an existing capability shall be preceded by a comprehensive requirements analysis that is commensurate with the scope and complexity of the program objectives and mission needs. The operational and economic feasibility of all alternative solutions, including use of non-ADP resources, sharing, use of commercial ADP services, and reutilization of excess Government-owned or leased equipment, shall be considered (see FPMR § 101–35.207).

§ 1–4.1103–3 Urgent requirements.

The existence of a public exigency; i.e., the Government will suffer serious injury, financial or otherwise, if the equipment or services are not available by a specific date, shall not relieve the agency from the responsibility for obtaining maximum practicable competition (see § 1–3.202 (or, if applicable DAR 3–202)).

§ 1–4.1103–4 Major system acquisitions.

Major ADP systems to be acquired in accordance with the provisions of OMB Circular A–109 and agency implementing directives are subject to this subpart (see § 1–4.1108).

§ 1–4.1103–5 Small business and labor surplus area concerns.

ADPE, software, maintenance services, and related supplies may be set aside for award to small business or labor surplus area concerns in accordance with the provisions of Subparts 1–1.7 and 1–1.8 and implementing agency policies and procedures (or, if applicable, DAR Parts 1–7 and 1–8).

§ 1–4.1104 Procurement authority.

(a) To allow for the orderly implementation of a program for the economic and efficient procurement of ADPE, commercially available software, maintenance services, and related supplies, agencies are authorized to procure these items in accordance with the provisions of this § 1–4.1104 provided that requirements are not fragmented in order to circumvent the established blanket delegation thresholds, or when a specific delegation or procurement authority has been provided in accordance with the provisions of §§ 1–4.1105 and 1–4.1106. However, the applicable provisions of FPMR Subchapter F shall be complied with before initiating a procurement action.

(b) The exercise of procurement authority shall be accomplished as specified in § 1–4.1109.

(c) Two copies of the solicitation document (RFP or IFB, as applicable) and any subsequent amendment thereto that changes the specifications, evaluation criteria, or installation date shall be forwarded to the General Services Administration (CPS), Washington, DC 20405, as soon as available, but shall not arrive later than 5 workdays before the proposed date of issuance to industry. GSA will notify the agency of the date of receipt of the solicitation document as soon as it is received. However, if timely issuance of the solicitation is critical to agency mission accomplishment, copies of the solicitation document may be forwarded to GSA concurrently with issuance to industry, provided that the RFP is based on the GSA Solicitation Document for ADP Equipment Systems,[3] whether in the GSA or Defense Acquisition Regulation (DAR) format, or the specifications have been received by industry in accordance with § 1–4.1109–8. Amendments to all solicitations that are clearly administrative in nature or are for clarification purposes need not be forwarded to GSA until the dates the amendments are sent to industry.

(d) One copy of the contract and subsequent modifications thereto shall be forwarded to GSA when they are issued.

§ 1–4.1104–1 Automatic data processing equipment.

Except as indicated in § 1–4.1104–5 regarding potential use of the ADP Fund, FPMR Subpart 101–36.2 with respect to sharing, and FPMR Subpart 101–36.3 with respect to the use of excess ADPE, agencies may procure ADPE without prior approval of GSA, unless procurement authority has been specifically withdrawn, when either paragraph (a), (b), or (c) of this § 1–4.1104–1 applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order against a GSA schedule contract provided that the following three conditions are met:

(1) The order is within the maximum order limitation (MOL) of the applicable contract;

(2) The total purchase price of the item(s) covered by the order does not exceed $300,000; [4] and

(3) The requirements set forth in § 1–4.1109–6 on the use of GSA schedule contracts are met.

(c) The procurement is to be made by normal solicitation procedures and value [5] of the procurement does not exceed:

(1) $500,000 purchase price or [6] $12,500 basic monthly rental charges [7] for competitive procurements; or

(2) $50,000 purchase price or [6] $1,500 basic monthly rental charges [7] for either sole source or specific make and model procurements.

§ 1–4.1104–2 Software.

Except for software available through the Federal Software Exchange Center (FSEC) covered by FPMR Subpart 101–36.16, agencies may procure commercially available software without prior approval of GSA when either paragraph (a), (b), (c), or (d) of this § 1–4.1104–2 applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract (see § 1–4.1109–6).

(c) The procurement is to be made by normal solicitation procedures and total value of the procurement, excluding maintenance, for the specific software package(s) does not exceed:

(1) $100,000 for competitive procurement; or

(2) $50,000 for sole source procurements.

(d) The software is provided with and is not separately priced from the ADPE.

§ 1–4.1104–3 Maintenance services.

Agencies may procure maintenance services without prior approval of GSA when either paragraph (a) or (b) of this § 1–4.1104–3 applies.

(a) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract (see § 1–4.1109–6).

(b) The procurement is to be made by normal solicitation procedures and the value of the maintenance charges do not exceed $200,000 annually for a competitive procurement of $50,000 annually for a sole source procurement.

§ 1–4.1104–4 Related supplies.

Agencies may procure related supplies without prior approval of GSA when specific purchase programs established by GSA have been considered and determined to be inapplicable (see § 1–4.1109–17).

§ 1–4.1104–5 Automatic data processing fund.

When a lease/purchase evaluation indicates that it would be to the best interest of the Government to purchase rather than lease ADPE or commercially available software and funds are not readily available within the agency; e.g., when there is insufficient time to secure the necessary funds under normal budgetary procedures or to reprogram for the required funds, the matter shall be forwarded to GSA in the manner prescribed in FPMR § 101–36.211. When approved by GSA, the ADP fund may be used by agencies to obtain maintenance services for ADP leased from GSA through the ADP fund.

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[3] The GSA Solicitation Document for ADP Equipment Systems is available from General Services Administration (CPEP), Washington, DC 20405.

[4] Even though the item(s) are to be rented or leased, the purchase price shall be used to determine if the dollar value of the order falls within the $300,000 threshold.

[5] Values include evaluated optional features.

[6] The procurement method used determines which threshold applies.

[7] The basic monthly rental charges including attendant maintenance costs.

§ 1-4.1105 Request for procurement action.

If an agency determines that the conditions of the contemplated procurement are not covered by the provisions of § 1-4.1104, or if the conditions of the contemplated procurement change during the procurement process in such manner as to remove it from those provisions, four copies of the agency procurement request (APR) and other applicable documents shall be forwarded to the General Services Administration (CPS), Washington, DC 20405. The APR shall contain the name and telephone number of an individual within the agency who shall act as the point of contact with GSA. The APR shall include, as applicable:

(a) A copy of the proposed solicitation document, if available. If the solicitation document is not available, the functional specifications or the ADPE configuration that is to be acquired shall be included. Unless a functional specification is provided, the description should reflect the estimated number of central processing units, storage devices and controllers, terminals, other peripheral devices, and communications devices.

(b) A statement providing the estimated budgeted value of the procurement in the agency's request to OMB, whether these funds were implicitly or explicitly described, and the fiscal year of the budget request.

(c) Estimated system or item life (see § 1-4.1102-11) and estimated system life cost.

(d) Location (city and state) of the data processing facilities involved.

(e) Fiscal quarter during which the solicitation is expected to be released to industry for procurement action.

(f) Unique software, maintenance, and support requirements, if any.

(g) A statement or other evidence that indicates that a performance evaluation has been made for the currently installed ADP system(s), when applicable, to ensure that the proposed procurement represents the lowest overall cost alternative for meeting the agency's data processing need (see FPMR Subpart 101-36.14).

(h) Evidence that site construction/modification is or is not required (see FPMR § 101-17.101-5). One of the following statements shall be used for this purpose:

(1) The acquisition of this equipment will not require site construction on modification by GSA; or

(2) The acquisition of this equipment will require site (construction) (modification) by GSA which must be completed by (date) and notification and information, as applicable, (has been) (will be) submitted to GSA on (date).

(i) A statement that the need to acquire ADPE or ADP systems has been documented as required by FPMR § 101-35.207.

(j) A statement that, as FPMR Subparts 101-36.2 and 101-36.3 require, available ADP resources have been screened and no ADP resources are available to satisfy the user's requirements.

(k) A justification, if applicable, to support a contemplated noncompetitive (sole source) procurement (including use of specific make and model purchase description). Specifically, this justification must address:

(1) The intended use or application of the equipment;

(2) The critical installation schedule(s) or unique features and/or mandatory requirements, dictated by the intended use, that limit the acquisition to a single source of supply or a specific make and model. (The overriding necessity of these competition-limiting requirements shall be clearly identified.);

(3) The fact that no other known or probable source of supply exists for the required equipment, if a noncompetitive (sole source) procurement is contemplated. (The justification also shall elaborate on the steps taken which led to this conclusion.);

(4) The existence of patent, copyright, or other limitations; and

(5) The practical factors which preclude the development of specifications and/or the requirement for competition (see § 1-4.1102-7).

(l) Documentation, when telecommunications are involved (see § 1-4.1100-1(c)).

(m) One of the following statements regarding compliance with the Privacy Act of 1974:

(1) Equipment or services identified by this request will not be used to operate a system of records or individuals to accomplish an agency function.

(2) Equipment or services identified by this request will be used to operate a system of records on individuals to accomplish an agency function. All applicable provisions of the Privacy Act have been complied with, including submitting a report of new systems to Congress and OMB on (date).

(n) A brief description of the primary agency program(s) that the equipment or services will support.

(o) Computer security requirements, where applicable, as certified by the responsible agency official (see FPMR Subpart 101-35.3).

(p) Software conversion study where applicable (see § 1-4.1109-13).

(q) Findings to support the use of compatibility limited requirements where applicable (see § 1-4.1109-12).

§ 1-4.1106 GSA action on procurement requests.

(a) After review of an APR and the documentation submitted under § 1-4.1105 and subject to the right of the agency to determine its individual software, maintenance, and ADPE requirements, including the development of specifications for and the selection of the types and configurations of equipment needed, the Commissioner, Automated Data and Telecommunications Service, will:

(1) Delegate to the agency the authority to conduct the procurement; or

(2) Delegate to the agency the authority to conduct the procurement and provide for participation in the procurement with the agency to the extent considered necessary under the circumstances; or

(3) Provide for the procurement by GSA or otherwise obtain the requirement on behalf of the agency.

(b) Action will be taken by GSA within 20 workdays after receipt of full information from an agency involving a request for procurement (APR) or supplemental APR data as provided in § 1-4.1105. Upon expiration of this 20-workday period plus 5 calendar days for mail lag, the agency concerned may proceed with the procurement as if a delegation of authority had, in fact, been granted. This 20-workday period is subject to written modification by GSA in the event that, after review, it is found that the APR does not contain the full information required. To establish a common understanding of the 20-workday period, GSA will provide written verification within this period to the agency concerned that identifies the date of receipt of an APR or supplemental APR data.

(c) In the event that unusual circumstances surrounding the procurement dictate that a longer period of time is required for GSA to complete its appraisal, GSA will provide written verification within the 20-workday period. Under these circumstances the automatic delegation rule as set forth in paragraph (b) of this section shall not apply.

§ 1-4.1106-1 Agency responsibilities when GSA procures ADP items for that agency.

When GSA procures ADP items for another agency, the procurement is a joint endeavor of both the requiring agency and GSA. To preclude an overlap of functions, the responsibilities of each participant in the procurement are clearly delineated with the requiring agency's functions listed in this § 1-4.1106-1. (The functions of GSA are listed in § 1-4.1106-2.) The requiring agency shall:

(a) Submit to GSA the documentation required by § 1-4.1105. The documentation shall include the agency's requirements, the system/item life, the technical specification, if applicable, and the justification to support negotiated procurement;

(b) Prepare the technical portion of the solicitation document and define any unique requirements;

(c) Provide necessary technical personnel (and contracting personnel if the agency desires) as members of the contract negotiating team;

(d) Prepare the selection plan and submit it to the GSA contracting officer before issuing the solicitation document;

(e) Evaluate proposals from a technical point of view and arrange for offerors' oral presentations, when appropriate;

(f) Provide copies of correspondence to the GSA contracting officer when the agency is authorized to communicate directly with offerors under the provisions of § 1-4.1106-2;

(g) Determine the technical capability of the items offered to meet the requiring agency's requirements, technical specifications, and systems or items life. This responsibility shall include the identification of those proposals that are technically acceptable and those proposals that are not technically acceptable/responsive. The results shall be transmitted to the GSA contracting officer to enable the contracting officer to take appropriate action with the offerors;

(h) Select the lowest overall cost item(s) and transmit this information with the necessary supporting documentation to the GSA contracting officer. If a conclusive judgment cannot be made on the basis of lowest overall cost a findings and determination to this effect shall be prepared before any other factor is used as a basis for selection;

(i) Provide the following administrative information to the GSA contracting officer with the data required in paragraph (h) of this section:

(1) Finance data (e.g., paying office and fund citation);

(2) Contract distribution list and addresses; and

(3) Identity of assigned contracting officer within the requiring agency;

(j) Assist the GSA contracting officer in debriefing offerors when debriefings are requested by offerors;

(k) Place the delivery order, if applicable;

(l) Accomplish any other task not included above which will further the joint procurement objective or expedite completion of the procurement action at the agency's discretion and with GSA concurrence; and

(m) Administer the contract in accordance with the terms and conditions thereof.

§ 1-4.1106-2 GSA responsibilities when GSA procures ADP items for another agency.

When conducting the procurement of ADP items for another agency in conjunction with the requiring agency's responsibilities in § 1-4.1106-1, above, GSA shall:

(a) Appoint the GSA contracting officer;

(b) Form the negotiating team which will be headed by the GSA contracting officer;

(c) Prepare and issue the solicitation document and all amendments thereto after concurrence of the requiring agency (the technical material shall be supplied in final form by the requiring agency);

(d) Prepare the procurement plan (which will be coordinated with the requiring agency), the findings and determination, and any contractual material needed for the selection plan;

(e) Act as the point of contact between offerors and the Government. In this respect, the GSA contracting officer will provide the requiring agency designated point of contact with a copy of all correspondence between the offerors and the Government. Correspondence going to offerors will be coordinated with the requiring agency. When appropriate, the GSA contracting officer may authorize direct communication between the offerors and the requiring agency on purely technical matters. In these instances, the requiring agency shall provide a copy of the correspondence to the GSA contracting officer;

(f) Receive proposals from the offerors;

(g) Provide copies of all proposals received from the offerors to the requiring agency;

(h) Review all offers from a contractual point of view;

(i) Provide personnel to be present at demonstrations to determine the technical capability of the items offered;

(j) Notify the offeror(s) concerned when a proposal is determined to be unacceptable;

(k) Conduct negotiations with all offerors whose proposals are within the competitive range, price and other factors considered (see § 1-3.805-1);

(l) Notify the offerors of the date and time that negotiations are to be terminated;

(m) Provide the requiring agency designated point of contact with both a report which summarizes the results of negotiations and copies of the proposed contract negotiated with each vendor for consideration in the agency evaluation and analysis;

(n) Brief the appropriate requiring agency personnel on the results of contract negotiations when requested;

(o) Award the contract after receiving notification of the requiring agency's selection;

(p) Debrief offerors with the assistance of requiring agency representatives when debriefings are requested by offerors; and

(q) Distribute the contract and forward all pertinent documents to the successor contracting officer appointed by the requiring agency.

§ 1-4.1107 Federal agency responsibility when procurement authority is delegated by GSA.

When acting under a GSA delegation of procurement authority under either §§ 1-4.1104 or 1-4.1106, the agency conducting the procurement is responsible for compliance with applicable procurement policies, regulations, and, in particular, § 1-4.1109 and the specific terms of the delegation.

§ 1-4.1108 Major system acquisition responsibilities.

(a) *Responsibilities of requiring agency.*

Before the contracting phases of a major system acquisition under OMB Circular A-109 procedures, the requiring agency shall:

(1) Advise GSA upon approval of the mission need statement (Key Decision I) by the agency head. The advice and assistance [8] of GSA may be requested in performing the analysis, particularly in regard to contemporary experience which may be applicable to the agency mission need. Requests for assistance should be addressed to the Agency Planning Division (General Services Administration (CPS), Washington, DC 20405).

(2) Forward four copies of the major system procurement request to GSA (CPS). The request shall include

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[8] GSA is publishing a pamphlet containing a discussion of Major ADP/Telecommunications Acquisitions. A limited number of copies of this pamphlet can be obtained from General Services Administration (CPEP), Washington, DC 20405.

applicable data required in the agency procurement request (APR) as required by § 1–4.1105 or the GSA Form 2068, Request for ADP Service. In addition, the request should include:

(i) A copy of the mission need statement, approved in accordance with applicable directives (Key Decision 1—Approval of Mission Need Statement);

(ii) The name, address, and telephone number of the designated program manager together with the approved charter outlining the manager's responsibilities, authority, and accountability; and

(iii) A copy of the system acquisition strategy and plan, approved by the program manager.[9]

(b) *Responsibilities of GSA.*

(1) Before the contracting phase of a major system acquisition, GSA will:

(i) Provide advice and assistance to the requiring agency, as requested, in its mission analysis efforts to the maximum practicable extent.

(ii) Participate, in an advisory role to the agency program manager, in the development of the system acquisition strategy and plan, upon request.

(2) Based on the major system procurement request, GSA will:

(i) Delegate authority to the agency to conduct the procurement;

(ii) Delegate authority to the agency to conduct the procurement action subject to GSA participation to the extent specified in the delegation; or

(iii) Conduct the procurement on behalf of the agency.

(c) *Procurement by the requiring agency.* When the agency acts under a delegation of procurement authority, the agency shall conduct the procurement in compliance with applicable procurement policies, regulations, and, in particular, the specific terms of the delegation for the major system acquisition.

(d) *Procurement by GSA.*

(1) When GSA elects to conduct the procurement, the procurement is a joint endeavor. Agency responsibilities shall be as set forth in § 1–4.1106–1, as modified and supplemented in this § 1–4.1108(d).

(i) The necessary personnel for evaluation of the concept designs and demonstration contracts and for the selection of alternatives for further consideration shall be provided.

(ii) Copies of agency head approvals (Key Decisions) shall be provided.

(2) When conducting the procurement, GSA's responsibilities will be as set forth in § 1–4.1106–2.

§ 1–4.1109 Procurement actions.

The procurement of ADPE, commercially available software, maintenance services, and related supplies shall be accomplished in accordance with the policies and procedures set forth in this § 1–4.1109.

§ 1–4.1109–1 Procurement-related directives.

Procurement actions shall comply with the following:

(a) Direction by the President and fiscal and policy control exercised by the Office of Management and Budget;

(b) The Federal Property Management Regulations (41 CFR Chapter 101), particularly Subchapter F;

(c) Federal information processing standards (FIPS), Federal telecommunications standards (FED-STD), and joint standards (FIPS/FED-STD);

(d) Except as otherwise provided by this Subpart 1–4.11, applicable procurement regulations (e.g., the Federal Procurement Regulations (41 CFR Chapter 1), agency regulations implementing and supplementing the FPR, (or, if applicable, the Defense Acquisition Regulation)); and

(e) GSA directives and delegations.

§ 1–4.1109–2 Competitive basis and documentation.

All purchases and contracts shall be made on a competitive basis to the maximum practicable extent. If at any time during a competitive procurement only one vendor remains in the competition or if efforts to obtain competition fail, the procurement files shall be documented before contract award to reflect this condition and the reasons therefor.

§ 1–4.1109–3 Publicizing procurement actions.

To ensure that competition is obtained on ADP procurement to the maximum practicable extent, agencies shall publicize solicitations as set forth below:

(a) Synopses of proposed procurements shall be publicized in the "Commerce Business Daily" (CBD), in accordance with the provisions of Subpart 1–1.10 (or, if applicable, DAR Part 1–10) (see also § 1–4.1109–6(f)).

(b) Bids and proposals shall be solicited in accordance with applicable provisions (see §§ 1–1.302–1 and 1–2.205 (or, if applicable, DAR 1–302.1, 1–302.2, and 2–205)). However, the GSA centralized Bidders Mailing List (BML) for Federal Supply Classification (FSC) Group 70 may be used for competitive ADPE and software procurements as established in agency procedures. Agencies may obtain the GSA BML by a written request to the General Services Administration (8BRC), Building 4, Denver Federal Center, Denver, CO 80255. The request shall include the applicable class and BML code number(s).

7010–0001	ADPE System Configuration
7020–0001	ADP Central Processing Unit (CPU, Computer), Analog
7021–0001	ADP Central Processing Unit (CPU, Computer), Digital
7022–0001	ADP Central Processing Unit (CPU, Computer), Hybrid
7025–0001	Memory-Magnetic Storage
7025–0002	Magnetic Tape Subsystems
7025–0003	Magnetic Disk Subsystems
7025–0004	Printers, High Speed (ADP)
7025–0005	Paper Tape Devices
7025–0007	Interactive Display
7025–0008	Interactive Graphics
7025–0009	Interactive Hard Copy
7025–0010	Other ADP Input/Output and Storage Devices
7030–0001	Operating System
7030–0002	Application Programs
7030–0003	Data Base Management Programs
7030–0004	Other Software
7035–0001	ADP Accessorial Equipment
7040–0001	Punched Card Equipment
7045–0002	ADP Support Equipment
7050–0001	ADP Components

The GSA BML which is received may be used for subsequent procurements for items in the class(es) and BML code(s), provided the solicitation is released to industry within 90 calendar days following receipt of the BML in question.

(c) Section 1–4.1109–3(b) shall be cited as the authority for the request. For further information concerning the above classes, agencies should contact General Services Administration (CDP), Washington, DC 20405.

(d) Agencies may use the BML for Standard Industrial Group 0739, BML Code 4, for ADP maintenance services. Procedures for obtaining and using this DML are the same as those outlined in paragraph (b) of this section. Section 1–4.1109–3(d) shall be cited as the authority for requesting this BML.

§ 1–4.1109–4 [Reserved]

§ 1–4.1109–5 Small purchases.

The provisions of Subpart 1–3.6, small purchases, (or, if applicable, DAR Part 3–6) apply when the annual aggregate amount of any one procurement of ADPE, commercially available software, maintenance services, or related supplies does not exceed $10,000, except that FSC group 70 items which are available on schedule contracts may be procured from that source.

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[9] Since the acquisition strategy and plan will become the blueprint for the procurement, it should be developed in coordination with GSA. Participation by GSA may be arranged by contacting the Agency Planning Division (CPS).

§ 1-4.1109-6 Use of GSA schedule contracts.

(a) *General.* (1) Orders placed against GSA nonmandatory schedule contracts under § 1-4.1104 are subject to the provisions of this § 1-4.1109-6. When a schedule contract is used pursuant to a § 1-4.1104 blanket delegation of procurement authority, a specific delegation of procurement authority from GSA is not required even though the order is for a noncompetitive (sole source) requirement as defined in § 1-4.1102-8.

(2) The existence of nonmandatory ADP schedule contracts shall not preclude or waive the requirement for maximum practicable competition in obtaining ADPE, software, or maintenance services. In addition, the availability of those items under an ADP schedule contract shall not preclude or otherwise detract from procuring the items, including peripheral equipment or items for augmenting an existing system from a number of different sources, if this action will be in the best interest of the Government.

(3) Suitable equipment must be considered whether or not this equipment is on an ADP schedule contract. Accordingly, when an agency is procuring under the blanket delegation of procurement authority provisions of § 1-4.1104, maximum practicable competition shall be sought. When using ADP schedule contracts, the offerings of each contractor that might satisfy the agency's requirements shall be considered. Alternatively, the agency may choose to prepare a solicitation package in an effort to secure appropriate products and related services at lower overall costs to the Government. Even though the solicitation process consumes time and resources, it may be in the best interest of the Government when:

(i) The expected cost reduction will exceed the added costs of acquisition; or

(ii) There is a reasonable expectation that better offers will be received from suppliers other than the schedule contractor for suitable items; or

(iii) The agency requirements cannot be satisfied reasonably by any ADP schedule contractor; e.g., the agency's requirement calls for a customized package of equipment, training services, or other features not offered commercially.

(b) *Initial acquisition of ADPE.* Orders for the initial acquisition of ADPE, whether for purchases or rental, may be placed against the ADP schedule contracts provided that all of the following conditions are met.

(1) The order does not exceed the contract's maximum order limitation (MOL).

(2) When the purchase price of the items covered (even though the items are rented or leased) exceeds $300,000, a specific delegation of procurement authority is obtained (see §§ 1-4.1104-1(b)(2) and 1-4.1105).

(3) The intent to place an order, with an order value in excess of $50,000, against an ADP schedule contract is synopsized in the CBD at least 15 calendar days before placing the order.

(4) The procurement file is documented with the results of the synopsis action. If a written response is received from a responsible source who expresses a desire to compete on the requirement (other than from sources available and considered under the ADP schedule contract program), the procurement file also shall be documented with evidence that use of the ADP schedule contract, including the method of acquisition; e.g., lease or purchase, is the lowest overall cost alternative to the agency, price and other factors considered.

(c) *Continued rental or lease of installed ADPE and software.*

ADP schedule contracts may be used for the continued lease or rental of installed equipment and software under the provisions of the schedule contract. However, when orders are for or include the continued lease of an installed central processing unit, the orders are subject to the following:

(1) The intent to place a renewal order, with a value in excess of $50,000, is synopsized in the CBD at least 15 calendar days before placing the order; and

(2) A specific delegation of procurement authority under § 1-4.1105 is obtained before issuing the renewal rental or lease order if the schedule purchase price exceeds $300,000 and the results of the CBD synopsis indicates that the equipment is available from a source other than the schedule contract.[10]

(d) *Conversion from lease to purchase of installed ADPE.*

Orders placed against ADP schedule contracts for the conversion from lease to purchase of installed ADPE are subject to the following:

(1) The intent to place a purchase order, with a net value (purchase price after application of any lease credits or discounts) in excess of $50,000, is synopsized in the CBD at least 15 calendar days before placing the order; and

(2) A specific delegation of procurement authority is obtained before issuing an order to purchase ADPE with a net purchase order price of more than $300,000 when identical (specific make and model) or suitable substitute equipment is available from a supplier other than the schedule contractor.

(e) *Acquisition of software and maintenance services.*[11] Orders may be placed against ADP schedule contracts for software and maintenance services provided that:

(1) The value of the order does not exceed the MOL of the applicable schedule contract; and

(2) The procurement file is documented with evidence which supports use of the schedule contract as being in the best interest of the Government.

(f) *Synopsis requirements.*

(1) The requirement to synopsize the intent to place an order against ADP schedule contracts, as outlined in paragraphs (b), (c), and (d) of this section, shall be followed notwithstanding the exemption in § 1-1.1003-2(a)(5) (or, if applicable, DAR 1-1003.1(c)(v)). These synopses shall be prepared and forwarded in accordance with Subpart 1-1.10 (or, if applicable DAR Part 1-10) and shall include, as a minimum, the quantity, specific make and model of equipment, date required, place of installation, period of rental, if applicable, and a point of contact for further information. The synopsis shall indicate that no contract award will be made on the basis of offers/proposals received in response to the notice, since the synopsis of intent to place an order against a schedule contract cannot be considered a request for offers/proposals.

(2) Publication of contract award information in the CBD is not required when an order is placed against an ADP schedule contract, whether or not it follows a competitive solicitation, since the schedule contract was publicized in accordance with § 1-1.1004.

(g) *Actions after the CBD synopsis.* The schedule order synopsis technique provides agencies with both the GSA negotiated schedule prices (derived from discounting prices in the competitive commercial marketplace) and such additional product and cost information as might be submitted by potential suppliers in response to the CBD notification. Thus, the contracting officer must make a determination that ordering from the ADP nonmandatory schedule is most advantageous to the Government after consideration of the affirmative responses received in response to the CBD notice. The following actions shall be taken, based on the contracting officer's decision:

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[10] If the original requirement was evaluated and priced on a systems life basis; i.e., the price of successive renewals was considered as an evaluated cost in the original acquisition choice, then renewals of installed central processing units under an extended rental plan during the originally planned system life require neither a CBD synopsis nor a delegation of procurement authority from GSA.

[11] A CBD synopsis of the intent to place an order for software or maintenance against an ADP schedule contract is not required.

(1) When no responses are received, the procurement file shall be documented with the results of the CBD synopsis and the order placed in accordance with the terms and conditions of the applicable schedule contract.

(2) When a response(s) to the CBD notice is received from a nonschedule vendor for an item(s) that meets the user's requirement, the contracting officer shall take one of the following actions:

(i) Document the procurement file with an evaluation which indicates that the nonschedule item(s) would not meet the requirement, or that the schedule provided the lowest overall cost alternative and place the order against the schedule contract; or

(ii) When the evaluation indicates that competitive acquisition would be more advantageous to the Government, the Contracting Officer normally should issue a formal solicitation. In this event:

(A) The solicitation should contain terms and conditions substantially the same as those contained in the schedule contract in which the order was to be placed. The addressees of the solicitation shall include the schedule vendor for the purpose of ascertaining the vendor's interest in furnishing the item(s) of the schedule. This procedure will permit the schedule vendor to discount the schedule item(s) price since a discount under a separate proposal would not be a "price reduction" as provided in the schedule contracts.

(B) The contracting officer shall evaluate the offers received. It should be noted that some vendors may not agree to the solicitation terms and conditions that schedule vendors have accepted and that have been incorporated in their schedule contracts. The contracting officer shall act in a manner most advantageous to the Government by either awarding a contract based on the offers received in response to the solicitation or placing an order with a vendor under a schedule contract. The procurement file shall be documented to justify the action taken.

(h) *Orders not at lowest price.* If ADPE, software, or maintenance services are procured under an ADP schedule at other than the lowest delivered price available for identical or similar items under any ADP schedule contract, agencies shall justify the action and shall retain the justification and supporting data or submit them to GSA if a specific delegation of procurement authority is required (see § 1–4.1105(k)). The following are examples of factors that may be used in support of justifications.

(1) Special features of one item, not provided by comparable items, are required in effective program performance.

(2) An actual need exists for special characteristics to accomplish identified tasks.

(3) It is essential that the item selected be compatible with items or systems already being used.

(4) Time of delivery in terms of actual need cannot be met by a contractor offering a lower price.

(5) Greater maintenance availability, lower overall maintenance costs, or the elimination of problems anticipated with respect to machines or systems, especially at isolated use points will produce savings in the long run which are greater than the difference in purchase prices.

§ 1–4.1109–7 Use of requirements contracts.

GSA makes selected ADPE and software available to agencies through requirements-type contracts that provide for substantially lower equipment and software costs. Where ADPE and software which will satisfy the user's requirements are available from GSA requirements-type contracts, this source shall be used by all agencies as the primary source of supply in accordance with the provisions of these contracts. Copies of the contracts (not contractor's price lists) are distributed to recipients of the schedule FSC Group 70, Part I. Additional copies are available from the General Services Administration (8BR), Building 41, Denver Federal Center, Denver, CO 80225. Some of these requirements-type contracts specify that GSA is responsible for the allocation of the ADPE or software. In these cases, authorization shall be obtained from the General Services Administration (CDP), Washington, DC 20405, before placing an order against the requirements-type contract. Before acquiring ADPE or software that is functionally similar to the ADPE or software on a requirements-type contract from another source, the agency shall:

(a) Document the procurement case file, indicating why the requirements-type contract could not be used; and

(b) Obtain a delegation of procurement authority from GSA if the procurement falls outside the scope of §§ 1–4.1104–1 or 1–4.1104–2.

§ 1–4.1109–8 Industry review of ADP specifications.

Maximum advantage shall be taken of the latest technological advances in the ADP field to ensure that the Government's data processing requirements are met at the lowest possible overall cost. The ADP industry can perform a useful service during the early stages of the procurement process by ensuring that the specifications are clearly stated and readily understandable and that they will permit the Government to take full advantage of current ADP technology. Accordingly, an agency, at its discretion, may provide offerors a copy of the proposed specifications before release of the formal solicitation. All those offerors who are scheduled to receive a copy of the solicitation under the provisions of § 1–4.1109–3 should be furnished a copy of the proposed specifications. Offerors should be given a minimum of 30 calendar days in which to submit their written comments. If the procurement is complex, offerors normally should be given at least 60 calendar days for submission of their comments. The agency shall evaluate the comments received and take such action as it determines to be appropriate. The Government's action on these comments shall be final.

§ 1–4.1109–9 Handling of late bids, proposals, modifications, and withdrawals.

(a) Late bids, modifications of bids, or withdrawals of bids shall be handled as set forth in Subpart 1–2.3 (or, if applicable, DAR Part 2–3). The standard clause shall be used (see § 1–2.201(a)(31) (or, if applicable, DAR 7–2002.2)).

(b) Late proposals, modifications of proposals, and withdrawal of proposals shall be handled as set forth in § 1–3.802–1 (or, if applicable, DAR 3–506). The standard clause shall be used (see § 1–3.802–1(a) (or, if applicable, DAR 7–2002.4)). The alternate clause set forth in § 1–3.802–2(b) is available for use in those instances in which overriding mitigating circumstances clearly make use of the alternate clause in the best interest of the Government; and

(1) The head of any agency or the agency head's designated representative authorizes use of the alternate clause for the individual procurement in question; and

(2) Prior specific approval is obtained from the Commissioner, Automated Data and Telecommunications Service,

Washington, DC 20405 as required by § 1-3.802-2(a).

(c) Records provisions concerning the handling of late submissions under advertised procedures should be complied with (see § 1-2.303-8 (or, if applicable, DAR 2-303.4)). Similar records shall be maintained concerning the handling of late submissions under negotiation procedures.

§ 1-4.1109-10 Use of functional specifications.

Functional specifications are the preferred method of expressing the user's requirements in solicitation documents. The functional specification may be augmented with equipment characteristics and elements of performance when necessary to reflect the user's needs. (See FPMR § 101-35.205.)

§ 1-4.1109-11 Use of other types of specifications or purchase descriptions.

If functional specifications cannot be used to describe the user's complete requirement, other types set forth below may be used. However, to minimize limitations on competition, other types of specifications or purchase descriptions shall be used in the order of precedence as listed:

(a) Equipment performance specifications (see § 1-4.1102-13);

(b) Software and equipment plug-to-plug compatible functionally equivalent purchase descriptions;

(c) Brand name or equal purchase descriptions (see §§ 1-1.307-4 and 1-1.307-5 (or, if applicable, DAR 1-1206.2)); or

(d) Specific make and model purchase descriptions (This type of purchase description limits competition. Its use is considered to be a noncompetitive (sole source) requirement and must be justified.)

§ 1-4.1109-12 Compatibility limited requirements.

(a) A statement of requirements for an augmentation or replacement acquisition (see FPMR § 101-35.209) that is limited to ADPE and software compatible with the installed system shall be:

(1) Supported by a software conversion study (see § 1-4.1109-13);

(2) Justified on the basis of agency mission-essential data processing requirements, and economy and efficiency; and

(3) Meet the requirements of this § 1-4.1109-12.

(b) Compatibility limited requirements tend to restrict competition and therefore shall not be made a mandatory requirement solely for reasons of economy or efficiency. When conversion costs are to be evaluated, the solicitation shall provide for the submission and evaluation of acceptable noncompatible offers from responsible offerors that will meet the user's requirement at the lowest overall cost, price and other factors considered.

(c) The following factors shall be considered in determining whether the incorporation of compatibility limited requirements is justified for the replacement acquisition.

(1) The essentiality of existing software, without redesign, to meet agency critical mission needs. For example, the continuity of operations may be so critical that conversion is not a viable alternative.

(2) The additional risk associated with conversion if compatibility specifications are not used and the extent to which the Government would be injured, financially or otherwise, if the conversion to the new ADP system fails.

(3) The additional adverse impact of factors such as delay, lost economic opportunity, and less than optimum utilization of skilled professionals if compatibility specifications are not used.

(4) The steps being taken to foster competitive conditions on the augmentation or replacement acquisition (see § 1-3.101(d) (or, if applicable, DAR 3-101-(d)) and FPMR § 101-35.206).

(5) The offloading of selected applications programs to commercial data processing service facilities as an alternative to conversion.

(6) The extent of essential parallel operations, i.e., the need to continue operation of the old system in parallel with the new system until the new system can fully support the mission needs.

(d) The findings that support the use of compatibility specifications shall be submitted with each agency procurement request (see § 1-4.1105) for augmentation or replacement ADPE acquisition when the use of these specifications is contemplated.

§ 1-4.1109-13 Software conversion studies.

(a) Software conversion studies shall be performed for all procurements to ensure that the user's needs are met at the lowest overall cost, price and other factors considered, including the cost and other factors associated with conversion activities. However, a software conversion study is not required when one of the three following conditions exist:

(1) Initial acquisition where no software currently exists;

(2) Procurement for computer peripherals only; or

(3) Exercise of purchase option under a leasing agreement.

(b) Studies for procurements below the thresholds stated in paragraph (c) of this section shall be based on Government estimates determined in accordance with agency procedures. The procurement file shall be documented to record the estimates and the method of computation.

(c)(1) A comprehensive software conversion study shall be made for each augmentation or replacement ADPE acquisition when either one of the two following conditions exists:

(i) The estimated purchase price of the ADP equipment system is expected to exceed $2,500,000, excluding the maintenance and support costs; or

(ii) The cost of conversion is to be used as the primary justification for a noncompetitive (sole source) requirement when the estimated value of the procurement exceeds $300,000.

(2) An agency may elect to conduct its own comprehensive software conversion study, use contractual resources to accomplish the study, or request the GSA Federal Conversion Support Center (FCSC) to perform the study.

(3) The software conversion study shall be maintained in agency files and be available for GSA review at the time that the agency submits to GSA an agency procurement request (APR).

§ 1-4.1109-14 Determination of conversion costs.

(a) Costs directly related to the conversion from the installed ADPE, software, data bases, files, and telecommunications software to the replacement system and project management costs shall include, but are not limited to:

(1) Conversion of the following software by reprogramming, recoding, or translation:

(i) Existing software written in Federal standard or other ANSI standard higher level language; and

(ii) Application software written in assembly or other nonstandard languages that will continue to meet essential agency mission needs without redesign, provided that continued use of the nonstandard software can be justified and the file is documented with the justification prior to incorporation into the software conversion study; and

(iii) Mission-essential application software to be developed for operational use before the augmentation or replacement ADPE and operating system software is installed, (or before commercial ADP services are procured).

provided the software is written in Federal standard or other ANSI standard languages;

(2) Conversion of data bases, data base design changes, and data base management systems designed to the Conference on Data Systems Languages (CODASYL) specifications to the extent necessary to permit the continued use of existing application software;

(3) Firmware required solely to permit the continued use of application software;

(4) Site preparation and modifications to installed environmental controls;

(5) Parallel operation of the old system during the conversion process, including offsite data processing support;

(6) Travel and training expenses, including pay and fringe benefits of Government employees during attendance at formal classroom training courses; and

(7) Other general and user expenses directly related to the conversion effort; e.g., conversion planning, preparation, and management and supplies and any additional general-purpose software required to support the conversion.

(b) The useful life of application software is limited by changes in data processing requirements, operating system software, and equipment technology. Generally, the life expectancy of this software, without redesign or reprogramming, is in the range of 5 to 10 years. Accordingly, the updating of application software for these reasons must be reckoned with, regardless of whether these programs are converted from one ADP system architecture to another. The costs incurred for the redesign of application software in technology updating are not *bona fide* conversion costs, and they shall not be evaluated for the purpose of determining the lowest total overall cost offer/bid. These technology updating costs include:

(1) The conversion of existing software and data bases which are to be redesigned;

(2) Purging duplicate or obsolete software, data bases, and files;

(3) Development of documentation for existing application software; and

(4) Improvements in management and operating procedures.

(c) Standard cost factors, such as those contained in the OMB Cost Comparison Handbook (Supplement No. 1 to OMB Circular A-76), shall be used to the maximum practicable extent in preparing conversion cost studies and estimates. These cost factors may be supplemented by industry- or agency-developed cost factors, as necessary.

§ 1-4.1109-15 Determination of selection factors.

The prices offered and estimated costs of conversion that can be stated in dollars for software, including data base management systems, data base conversion, files conversion, system test, parallel operations, and other expenses directly related to the conversion from installed ADPE and software to augmentation or replacement ADPE and software, shall be included in the evaluation for determining the lowest overall cost, price and other factors considered. The following are examples of other factors to be considered:

(a) Economic benefits clearly attributable to increased agency productivity.

(b) Direct savings that would accrue to the Government from the release of rented ADPE, discontinuance of commercial ADP services, or reduction in telecommunications costs.

(c) Indirect savings derived from reductions in other than ADPE or ADP service costs, such as space and/or non-ADP personnel support expenses.

(d) Benefits from implementing new applications which otherwise would have to be deferred either indefinitely or to a significantly distant point-in-time.

(e) Economic advantages resulting from providing the capability to accommodate projected increases in workload without contracting for further augmentation or replacement of the ADPE or acquisition of commercial ADP services.

(f) Potential savings due to the availability of software already developed and available from the Federal inventory or commercial marketplace that could be used to meet additional agency requirements.

(g) Proven reliability of the equipment and operating system software in similar operating environments.

(h) The continued availability of operating system software support and maintenance services beyond the initial system/item life that would enhance the probability of reutilization of the ADPE within the Government.

(i) The potential for supporting other agencies through the ADP sharing program.

§ 1-4.1109-16 Software procurements.

When acquiring commercially available software, agencies shall strive to obtain the following objectives:

(a) Avoid restrictive clauses that limit the use of the software to a specific ADP system, installation, or organization;

(b) Incorporate a clause that will permit other Government agencies to obtain the software under the contract being negotiated;

(c) Obtain additional quantity discounts, should any other Government agency acquire the same software under the contract in question; and

(d) Ensure that the vendor is contractually obligated to support and maintain the software in subsequent years.

§ 1-4.1109-17 Procurement of related supplies.

Specific purchase programs have been established by GSA for selected ADP related supplies (including electronic data processing tape).[12] When the identical item(s) is available from multiple sources, contracts are awarded on a competitive basis. These contracts are the primary source of supply for the ADP supplies and support equipment included therein. Instructions for ordering these items are set forth in the contract (see also § 1-4.1109-7). Specific purchase programs also have been established for tabulating machine cards and marginally punched continuous forms. (See FPMR §§ 101-26.509 and 101-26.703 for instructions for ordering tabulating machine cards and marginally punched continuous forms, respectively.)

§ 1-4.1109-18 Furnishing ADP items and services to contractors.

(a) When the very subject matter of a contract is for something other than the procurement of ADP items or services and commercially available ADPE is incorporated into the non-ADP system or commercial ADP services are used in contract performance, the acquisition and management of the non-ADP system shall be in accordance with other applicable regulations, rather than this subpart (see § 1-4.1101(b)(2)).

(b) To facilitate the reutilization of ADPE, the Government contractor shall be required to identify the quantity and specific make and model of the ADPE that is delivered as a part of the non-ADP system. Nevertheless, agencies shall sever requirements for general purpose commercially available ADP items or services from the overall requirement, acquire them in accordance with these regulations, and provide them as Government-furnished property or services to the contractor when it is operationally feasible to do so and this action will promote economy, efficiency, and maximum practicable competition.

(c) In those instances when ADP items or services are severed pursuant to this subpart and procured by the

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[12] Similar programs have been established for support equipment.

Government, care must be taken to ensure that the prime contractor's ability and responsibility to perform in accordance with the contract provisions are not disturbed.

§ 1-4.1109-19 Purchase options for contractor acquired ADPE.

(a) Notwithstanding the provisions of § 1-4.1101, when leased ADPE is used on Government contract work and the total cost of leased ADPE is absorbed by the Government under a cost-reimbursement type contract, the contracting officer shall require the contractor to include a provision in the rental contract stating that the Government will have the right to exercise any purchase option and realize any other benefits earned through rental payments.

(b) When leased ADPE is used on Government contract work under a cost-reimbursement type contract and less than 100 percent of the cost of the equipment is absorbed by the Government, the contracting officer should obtain for the Government, where possible, the right to realize accrued purchase option credits, if the contractor elects not to exercise the purchase option. Accordingly, agency negotiation objectives for cost-reimbursement type contracts shall include the following when less than 100 percent of the cost of the equipment is absorbed by the Government:

(1) The encouragement of contractors to agree to the incorporation in the ADP equipment lease of a Government right to realize accrued purchase option credits;

(2) The obtaining, if possible, of a Government right of first refusal on accrued purchase credits if the contractor elects not to exercise the purchase option; and

(3) The providing of an advance notice of at least 60-days (120-days, if feasible) to the Government when the contractor proposes to terminate the ADP equipment lease if the Government has been granted rights to accrued purchase option credits.

(c) If the Government has been granted rights to purchase option credits in accordance with paragraph (b) of this section and the contractor elects not to exercise the purchase option, the ADPE shall be reported through agency or GSA reutilization channels as set forth in FPMR Subpart 101-36.3.

(d) If the Government elects to exercise an option to purchase the leased ADPE in accordance with paragraphs (a) and (b) of this section, it is in the nature of a procurement. Accordingly, the agency shall comply with the applicable provisions of this subpart relating to the acquisition of ADPE.

§ 1-4.1109-20 Computer security requirements.

(a) Specifications for the acquisition of ADPE, software, maintenance services, and supplies are required to be certified by the requiring agency as meeting the agency security needs. (See OMB Circular No. A-71, Transmittal Memorandum No. 1, dated July 27, 1978, and implementing policies, procedures, standards, and guidelines issued by GSA (see FPMR Subparts 101-35.3 and 101-36.7), Department of Commerce, and the Office of Personnel Management.) These requirements are in addition to provisions concerning protection of the privacy of individuals (see § 1-1.327 (or, if applicable, DAR 1-327 and APP.P) and FPMR Subpart 101-35.17).

(b) Solicitation specifications shall include, where applicable:

(1) Agency rules of conduct that a contractor and the contractor's employees shall be required to follow;

(2) A list of the anticipated threats and hazards that have been determined by risk analysis that the contractor must guard against;

(3) A description of the safeguards that the user agency specifically requires the contractor to provide;

(4) The standards applicable to the contractual requirement;

(5) The test methods, procedures, criteria, and inspection system (or the requirement to submit proposals therefor) necessary to verify and monitor the operation of the safeguards during contract performance and to discover and counter any new threats or hazards;

(6) The requirement for periodically assessing the security risks involved and advising potential users of the level of security provided;

(7) Proposed contractual clauses or provisions, as necessary, to provide for the foregoing; and

(8) A description of the personnel security requirements.

(c) Evaluations of offers for award, where applicable, will include:

(1) The adequacy of the proposed safeguard program;

(2) The presence in place of safeguards, including personnel security requirements; and

(3) The inclusion in the proposed contract of clauses that appropriately provide for (i) title to safeguards designed or developed under the contract, (ii) control of publication or disclosure of safeguards whether Government-furnished or contractor generated, and (iii) statement of work adjustments, as necessary, to reflect the contractor's proposal, its evaluation, and the contract negotiation.

(d) Contract administration should include, where applicable, monitorship of the verification and inspection program for continuing effectiveness of the safeguard program including compliance with applicable standards, procedures, and guidelines incorporated into the contract.

§ 1-4.1109-21 Restrictions on the use of simulation in ADP systems procurement.

(a) Data structured for simulation purposes shall not be used as the only means of describing data processing requirements in solicitation documents. Simulation data shall be accompanied by a narrative description of the ADP objectives and workload and any available application logic diagrams.

(b) Solicitation documents shall not be structured in such a way as to require offerors to use a specific computer system simulator in order to submit their offers, but when offerors submit computer simulation as part of their offers, they shall be required to describe clearly the simulation used and the make and model of the computer on which the simulation was run.

(c) Offers should not be considered nonresponsive or unacceptable solely on the basis of simulation results.

(d) Procedures for ADP simulation and computer performance evaluation services are prescribed in FPMR Subpart 101-36.14.

§ 1-4.1109-22 Use of benchmarks in low dollar ADP systems procurements.

(a) Solicitations involving low dollar value procurements generally shall not require benchmarks where performance can be validated by some other means. When the use of benchmarks is necessary, solicitations shall not require the running of "worst case" benchmark programs (e.g., programs that require extensive reprogramming or conversion) unless these programs are representative of the using agency's data processing needs.

(b) Mandatory benchmarks shall not be used, however, in solicitations for ADP systems with a purchase value of less than $300,000 unless the using agency determines that there is no other acceptable means of validation.

(c) For ADP systems with a purchase value of $300,000 or less, the following validating methods shall be considered:

(1) Validation of performance by the technical evaluation of proposed ADPE and software; or

(2) Evaluation of an operational ADP installation processing a similar workload on comparable equipment.

§ 1-4.1109-23 Use of remote terminal emulation in ADP systems procurement.

(a) Each agency shall determine whether or not to require the mandatory use of remote terminal emulation during each ADP system procurement. An agency should study the GSA Handbook, Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions,[13] before making its determination.

(b) When an agency requires the mandatory use of remote terminal emulation during an ADP system procurement, the agency:

(1) Shall follow all mandatory procedures contained in the GSA Handbook;

(2) Shall not require remote terminal emulation capabilities that are not explicitly defined in the GSA Handbook;

(3) May declare an offer unacceptable in a negotiated procurement if the offeror fails to provide the remote terminal emulation capabilities required by the solicitation; and

(4) Shall not require an offeror to conduct a benchmark test using remote terminal emulation at the agency's site.

(c) Any agency desiring to deviate from the policy defined in paragraph (b) of this section shall request authority from GSA, under § 1-4.1100-3 procedures, to deviate before the issuance of the solicitation document.

(1) To request a deviation authority, an agency shall provide to the General Services Administration (CPS), Washington, DC 20405, a detailed, technical description and justification for each specific deviation desired.

(2) When granted authority to deviate, an agency shall provide promptly to potential offerors detailed instructions specifying all mandatory remote terminal emulation capabilities not defined in the GSA Handbook and the exact manner in which each emulation benchmark test must be conducted. A notice indicating the availability of these materials shall be published in the Commerce Business Daily (CBD) at least 60 calendar days before the release of the solicitation document.

§ 1-4.1109-24 Evaluation factors.

Solicitations shall identify all factors, including conversion costs, that will be considered in the evaluation of offers (see §§ 1-3.802(c) (or, if applicable, DAR 3-501, particularly (b)(2) Sec. M(i)) and 1-4.1109-15). The evaluation factors shall be applied to the mandatory requirements and the other requirements indentified as evaluated optional features, where applicable. When evaluated optional features are included in a solicitation, relative importance (expressed in dollar values, or points, or any other reasonable indicators) shall be indicated for each feature.

§ 1-4.1109-25 Implementation of standards.

(a) The standard terminology as set forth in FPMR Subpart 101-36.13 for each Federal information processing standard publication (FIPS PUB), Federal telecommunications standard (FED-STD), or joint FIPS/FED-STD that is applicable, unless waived or excepted as prescribed by the standard, shall be included in the solicitation for procurements under this Subpart 1-4.11. FPMR Subpart 101-36.13 provides standard terminology for use in solicitations, purchase agreements, and contracts to give effect to announced standards. FIPS PUBS are issued by the National Bureau of Standards and collectively constitute the Federal Information Processing Standards Register. Standards are available as set forth in FPMR § 101-36.1302.

(b) The provisions of FPMR Subpart 101-36.13 are applicable to all Federal agencies unless the agencies are otherwise excepted. Waiver procedures and exceptions are prescribed in the applicable standards.

(c) If the requirements for compliance with a standard is changed after release of a solicitation; e.g., approval of a delayed request for a waiver, the agency responsible for the procurement action shall determine whether a substantial change in the Government's requirement has occurred. Action in accordance with § 1-3.805-1(d) (or, if applicable, DAR 3-805.4(b)) shall be taken, including resolicitation if appropriate, based on the determination.

§ 1-4.1110 Standard clauses.

The following clauses shall be used as specified in solicitations and contracts for ADP items covered by this Subpart 1-4.11.

§ 1-4.1110-1 Limitation of liability.

The following clause shall be used in all solicitations and contracts for ADPE, commercially available software, maintenance, and related supplies unless the contracting officer determines that a higher degree of protection is in the best interest of the Government.

Warranty Exclusion and Limitation of Damages

Except as expressly set forth in writing in this agreement, or except as provided in the clause entitled, "Commitments, Warranties, and Representations," if applicable, and except for the implied warranty of merchantability, there are no warranties expressed or implied. In no event will the Contractor be liable to the Government for consequential damages as defined in the Uniform Commercial Code, Section 2-715, in effect in the District of Columbia as of January 1, 1973; i.e.:

Consequential damages resulting from the seller's breach include:

(a) Any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) Injury to person or property proximately resulting from any breach of warranty.

(End of Clause)

§ 1-4.1110-2 Contractor representation.

The following clause shall be used in all solicitations and contracts for ADPE when the Government's requirement is set forth in whole or part by functional specifications and the value of the contract is expected to exceed $100,000.

Contractor Representation

Unless the Contractor expressly states otherwise in the Contractor's proposal, where functional requirements are expressly stated as part of the requirements of this solicitation, the Contractor, by responding, represents that in its opinion the system/item(s) proposed is capable of meeting those requirements. However, once the system/item(s) is accepted by the Government, Contractor responsibility under this clause ceases. In the event of any inconsisitency between the detailed specification and the functional specification contained in the solicitation, the former will control.

§ 1-4.1110-3 Fixed price options.

(a) A fixed price contract with option(s) to extend the contract period of performance and/or to acquire additional quatities may be in the best interest of the Government when:

(1) The Government has firm requirements for the use of ADPE, commercially available software, or maintenance services which extend beyond the initial fiscal year;

(2) Funds, including funds under statutes that limit the obligation of funds to the fiscal year of their appropriation, are unavailable beyond the initial fiscal year;

(3) A reasonable certainty exists that funds will be available thereafter to

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[13] The GSA Handbook, Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions, has been prepared to provide guidance to Federal agencies in designing and conducting remote terminal emulation benchmark tests. The Handbook summarizes introductory concepts and terminology of benchmarking and remote terminal emulation, describes when and how agencies should use remote terminal emulation, and specifies the remote terminal emulation capabilities that an agency may require offerors to provide for testing ADP systems during acquisition. Copies of the GSA Handbook are available upon written request to General Services Administration (CDD), Washington, DC 20405.

permit the satisfaction of the requirements; and

(4) Realistic competition for the additional periods or quantities may be impracticable once the initial contract is awarded.

(b) The evaluation of options is in the best interest of the Government at the time of initial award because it reduces the possibility of a buy-in and motivates price competition on a system/item life basis. "Buy-in" refers to the practice of attempting to obtain a contract award by knowingly offering a price less than anticipated costs with the expectation of receiving "follow-on" awards (where effective competition can be anticipated to be less) at prices at least high enough to recover any losses on the original "buy-in" contract. The long-term effects of this practice may diminish competition and may result in poor contract performance and higher long-term prices to the Government.

(c) One-time charges (startup and other nonrecurring costs), such as documentation, manuals, initial training requirements, etc., may be significant for a particular solicitation. An offeror may intend to absorb some portion of these costs or may plan to recover them (amortize over) in connection with possible "follow-on" awards. Incumbent offerors could enjoy a competitive advantage since it may not be necessary to include portions of these costs. In addition, offerors with relatively broader markets and/or stronger financial resources tend to have greater flexibility with respect to any one individual procurement action. The evaluation of system/item life prices promotes greater competition by evening out these advantages and encourages lower system/item life pricing.

(d)(1) When considering options, care should be exercised in making the distinction between (i) discontinuance charges; i.e., termination settlement compensation (the term includes prenegotiated contractual payment provisions) for discontinuance of performance during the initial contract period of performance or during an exercised option period of performance, (ii) separate charges for the Government's failure to exercise an option to extend the period of performance or to acquire additional quantities, and (iii) contracting for evaluated optional features (see § 1-4.1102-14) which is outside the scope of this § 1-4.1110-3.

(2) A provision in a contract that calls for a payment that reflects the addition of a separate charge to a contract price is illegal if the charge when added to the contract price exceeds the amount that reasonably represents the value of *bona fide* fiscal year requirements. (See 31 U.S.C. 665a, 31 U.S.C. 712a, and 41 U.S.C. 11.) To preclude the offering of these illegal charges (because of the nonexercise of options) when options are to be incorporated into a contract, separate charges in any form shall not be solicited. Solicitations shall provide that offers containing any charges for the Government's failure to exercise any option will be rejected. The solicitation/contract provision entitled "Fixed-Price Options" authorized by this § 1-4.1110-3 so provides.

(e)(1) When the fixed price options provision is used, the Government and the contractor may find it mutually advantageous to incorporate a special contractual provision containing specific notice and settlement terms to cover discontinuance of rental of equipment or software during the contract period of performance. The solicitation/contract provision entitled "Discontinuance Repricing" (see paragraph (h) of this § 1-4.1110-3) shall be used for this purpose. This provision is in addition to and takes precedence over the required standard termination for convenience clause when the contracting parties mutually agree to incorporation of the provision in the contract. In the event the provision is not incorporated, discontinuance shall be governed solely by the required standard termination for convenience clause.

(2) The special "Discontinuance Repricing" provision provides notice of discontinuance and settlement payment terms. A means is provided to determine finitely discontinuance charges within a ceiling price that ensures that the value of the discontinued requirement and the contract value of the requirement for the applicable contract period are reasonable. It provides the opportunity for a lower price offer by covering the risk of discontinuance with specified repricing provisions.

(3) Neither the incorporation of the provision in the contract nor the calculation and comparison of potential discontinuance charges shall be considered as a factor in the evaluation and selection for award.

(f)(1) The exercise of an option by the Government shall be made only if it is determined that (i) funds are available, (ii) the requirement covered by the option fulfills an existing need of the Government, and (iii) the exercise of the option is the most advantageous method of fulfilling the Government's need, price and other factors considered.

(2) The determination shall be set forth in writing and made a part of the contract file.

(g) When the circumstances discussed in paragraph (a) of this § 1-4.1110-3 are applicable, the following solicitation/contract provision, entitled "Fixed-Price Options," shall be inserted in the solicitation. The data required for the "fill-ins" should be suitably highlighted, and inapplicable bracketed portions should be deleted. When the "Fixed Price Options" provision is used, the solicitation shall also specify:

(1) The system/item life;

(2) The present value discount methodology, including payment schedule, that will be used for purposes of award evaluation; and

(3) The option periods of performance and option quantities, as appropriate.

Fixed Price Options Provision

(a) This solicitation is being conducted on the basis that the known requirements extend beyond the initial contract period [and exceed the basic quantity]* to be awarded, but due to the unavailability of funds, including statutory limitations on obligation of funds, the option(s) cannot be exercised at the time of award of the initial contract. There is a reasonable certainty that funds will be available thereafter to permit exercise of the options. Because realistic competition for the option periods [and quantity]* is impracticable once the initial contract is awarded, it is in the best interest of the Government to evaluate options in order to eliminate the possibility of a "buy-in."

(b) In order to safeguard the integrity of the Government's evaluation and because the Government is required to procure ADPE and related items on the basis of fulfilling the systems life requirement at the lowest overall cost, price and other factors considered, requirements for optional periods [and additional quantities]* as well as initial requirements will be evaluated for award on a fixed price basis. Since the systems or items to be procured under the solicitation have an expected life of** months (hereafter referred as "system life" or "item life," as appropriate), and since lowest system (item) life costs are synonymous with lowest overall costs, the contract resulting from this solicitation will contain options at fixed prices for renewals for subsequent periods based on fiscal years throughout the projected system (item) life [and options at fixed prices for all stated optional quantities of supplies or services not included in the initial requirements]*. Despite the foregoing, offerors are reminded that although the evaluation that will lead to contract award will be based on system (item) life costs, the award of the initial contract as well as the exercise of the option(s) is dependent not only on the continued existence of the requirement and the availability of funds but also on an affirmative determination that each exercise of an option is in the best interest of the Government.

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* Delete when inapplicable.

** Insert the specific number of months applicable to the solicitation.

(c) Options included in offers submitted in response to this solicitation will be evaluated as follows:

(1) *Firm Fixed Prices.* To be considered acceptable under the solicitation, offerors must offer (i) fixed prices for the initial contract period for the initial system or items being procured, (ii) fixed prices or prices which can be finitely determined for each separate option renewal period, which prices must remain in effect throughout that period, [and (iii) fixed prices or prices which can be finitely determined for all required option quantities]*.

(2) *Evaluation of Prices.* Offers will be evaluated for purposes of award by adding the total price of all optional periods [and all stated optional quantities]* to the total price for the initial contract period covering the initial system or items. These prices will be adjusted by the appropriate discount factors shown in*** of the solicitation document. Evaluation of option prices will not obligate the Government to exercise the options. Offers which do not include fixed or determinable system (item) life prices cannot be evaluated for the total systems life requirement and will be rejected. Offers which meet the mandatory requirements will be evaluated on the basis of lowest overall cost to the government, price and other factors considered.

Note.—Evaluated optional features, if any, will also be evaluated.

(3) *Separate Charges.* Separate charges, in any form, are not solicited. Offers containing any charges for failure to exercise any option will be rejected.

(d) Selection of an offer shall be made on the basis of lowest overall cost, price and other factors considered, to the Government provided that the contract price reasonably represents the value of *bona fide* fiscal year requirements, rather than representing, to any extent, a portion of any other fiscal year's requirements. This determination with respect to the contract price shall be made after consideration of such factors as commercial or catalog prices for short term leases, offeror system startup expenses, multiyear price protection, assured system life availability of equipment, software, and vendor support. If a determination is made that an offer does not meet these criteria, that offer cannot be accepted for award.

(e) Award of an initial contract will not obligate the Government to exercise any contractual option. Prior to exercising any option, the Government will make a determination that (i) funds are available, (ii) the requirement covered by the option fulfills an existing need of the Government, and (iii) the exercise of the option is the most advantageous method of fulfilling the Government's need, price and other factors considered.

(f) Failure to exercise an option(s) shall not obligate the Government to pay any charges other than the contract price including exercised options.

(g) The following provision(s) shall be included in any contract resulting from this solicitation.

Option To Extend the Term of the Contract

This contract is renewable at the prices stated elsewhere in the contract, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor by the first day of each fiscal year of the Government or within 30 days after funds for that fiscal year become available, whichever date is the later; provided that the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least**** days before this contract is to expire. Such a preliminary notice of intent to renew shall not be deemed to commit the Government to renewals. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed** months.

Option for Increased Quantity

The Government may increase the items called for herein by the quantities stated and at the unit prices specified elsewhere in this contract. The Contracting Officer may exercise this option at any time within the period specified in the contract by giving written notice to the Contractor. Delivery of items added by exercise of this option shall be in accordance with the delivery schedule set forth elsewhere in this contract.*

[End of solicitation/contract provision]

(h) The "Discontinuance Repricing" solicitation/contract provision may be inserted in the solicitation when the Government considers it appropriate to do so. (See paragraph (e) of this § 1-4.1110-3.) The contract may contain this contractual provision when the contracting parties mutually agree to its insertion. The offeror is provided an opportunity to indicate his or her position by checking the appropriate box in the solicitation/contract provision.

Discontinuance Repricing Provision

(a) By the incorporation of this solicitation/contract provision in this solicitation, the Government indicates its willingness to incorporate the contract provision entitled "Discontinuance of Rental and Repricing" into the contract resulting from this solicitation. The provision provides an alternative to standard termination for convenience procedures in appropriate circumstances.

(b) The following example illustrates the operation of the provision.

—Monthly rental price effective for the period in which the discontinuance date falls for the discontinued item as stated in the contract—$90.

—Monthly rental price for the item effective at the time of initial award of the system contract as stated in the vendor's ADP schedule contract (or the established commercial catalog price at the same time, if lower or if no ADP schedule contract effective)—$120.

—Months of rental prior to the discontinuance date during the initial or option contract period of performance in which the discontinuance date occurs—10.

—Rental charges earned during the applicable period of performance (10 × $90)—$900.

—Discontinuance charges to be added at discontinuance date (($120 − $90) × 10)—$300.

—Total rental charges plus discontinuance charges ($900 + $300)—$1,200.

—Ceiling on total of rental charges and discontinuance repricing charges (12 × $90)—$1,080.

—Total price during period for the discontinued item ($1,080 ceiling lower than total rental earned plus discontinuance charges)—$1,080.

(c) *Offeror election.* The undersigned offeror ☐ agrees, ☐ declines, the incorporation of the following contract provision in any contract which may result from this solicitation.

Discontinuance of Rental and Repricing

(a) The Government may, in lieu of a termination under the clause of this contract entitled "Termination for the Convenience of the Government," during the initial or any option period of performance of this contract, discontinue rental of any equipment or software on a date specified in a written notice provided to the Contractor not less than 30 days prior to the specified discontinuance date. The Government may discontinue the rental or shorter notice when agreed to by the Contractor.

(b) In the event of discontinuance of rental under (a) above, the Government shall pay termination repricing charges to the Contractor as computed in accordance with this paragraph (b). The charges shall be the remainder obtained by subtracting the contract monthly rental price effective at the discontinuance date for the discontinued equipment or software item from the monthly rental price for the item under the GSA/ADP schedule contract or the established commercial catalog price, whichever is less, effective at the time of award of the contract's initial period of performance, multiplied by the number of months the item was rented during the particular contract period of performance (initial or option) in which the discontinuance was effective, provided, in no event shall the total of termination repricing charges and the contract rental price for the number of months the item was rented during the period in which discontinuance was effective exceed the contract price for the item for the entire period.

(c) The provisions of this clause shall prevail when notice pursuant to this clause is made.

[End of solicitation/contract provision]

§ 1-4.1111 Additional clauses.

The GSA Solicitation Document for ADP Equipment Systems contains

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*** Insert location in the solicitation where appropriate discount factors and the contemplated payment schedule are specified.

**** Insert 30 days unless the Government determines that a longer period is appropriate.

clauses regarding special provisions (Section E) and contractor support (Section G). These clauses may be used if they meet the requirements of the user. A limited number of copies of this solicitation document is available from GSA (CPEP), Washington, DC 20405.

§ 1–4.1112 Assistance by GSA.

Assistance in any phase of the procurement process covered by this Subpart 1–4.11 may be obtained by contacting the General Services Administration (CPS), Washington, DC 20405.

Dated: December 29, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-00092 Filed 1-2-81; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Parts 101–35 and 101–36

[FPMR Amendment F–44]

Management, Acquisition, and Utilization of Automatic Data Processing (ADP) Resources

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides a complete revision of Subpart 101–35.2 regarding general policies and procedures relating to the management, acquisition, and utilization of ADP equipment (ADPE), software, maintenance, related supplies, ADP services, and ADP related services by Federal agencies. This action is needed to change, consolidate, and clarify policies and procedures. The intended effect is to reduce paperwork regarding agency ADP resources management.

EFFECTIVE DATE: This regulation is effective January 15, 1981, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Procurement Policy and Regulations Branch, Policy and Analysis Division, Office of Policy and Planning, ADTS, 202–566–0194.

SUPPLEMENTARY INFORMATION: (a) A proposed revision of Subpart 101–35.2 (and FPR Subpart 1–4.11) was circulated to all Federal agencies and other interested parties on May 28, 1980. The closing of the comment period was November 14, 1980 (45 FR 71628, Oct. 29, 1980). All comments received have been considered and accommodated to the extent considered appropriate.

(b) A complete revision of Subpart 101–35.2 is provided. Substantive changes from the existing coverage are as follows:

(1) Section 101–35.200 is added to set forth the scope of the subpart, replacing the purpose and supersession sections (101–35.201 and 101–35.202).[1]

(2) Subsection 101–35.200–1 is added to set forth the relationship of the subpart to other directives.[2]

(3) Section 101–35.201 is revised to clarify the applicability of the subpart, replacing § 101–35.204.

(4) Section 101–35.202 is revised to provide definitions, replacing §§ 101–35.205 and 101–35.209 and Appendix A.

(5) Section 101–35.203 is revised and the following subsections are added to provide restated policies, with emphasis on management of the process for determining the ADP need, replacing §§ 101–35.203, 101–35.206, and 101–35.207.

(6) Sections 101–35.204 through 101–35.210 are revised and § 101–35.211 is added to provide changed provisions regarding planning requirements, specifications and purchase descriptions, conversion management and planning, conversion procurement and management responsibilities, software conversion studies, determination of need and requirements analysis, severable ADP requirements, determination of system/item life, comparative cost analysis, evaluation of acquisition alternatives, and least cost acquisition.[3]

(7) Section 101–35.212 is added to provide for a GSA contact point for assistance, replacing § 101–35.210.

(c) Subpart 101–36.4 is removed from Subchapter F of the FPMR. Management responsibilities related to procurement have been consolidated in Subpart 101–35.2 as revised by this regulation and FPR Subpart 1–4.11 as revised by a concurrent regulation.

(d) Subpart 101–35.15 is removed from Subchapter F of the FPMR. Planning requirements are set forth in § 101–35.204 of this regulation.

(e) The changes in this regulation were developed concurrently with substantive changes to existing provisions in FPR Subpart 1–4.11—Procurement and Contracting for Government-wide Automatic Data Processing Equipment, Software, Maintenance Services, and Supplies. This Subpart 101–35.2 is intended to be used in concert with Subpart 1–4.11 of the FPR.

(f) This regulation cancels FPMR Temporary Regulation F–493 (45 FR 3271, January 17, 1980) which is deleted from the appendix at the end of Subchapter F of 41 CFR Chapter 101. This regulation cancels FPMR Subparts 101–36.4 and 101–36.15.

(g) The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101–35—ADP AND TELECOMMUNICATIONS MANAGEMENT POLICY

1. The table of contents for Part 101–35 is changed by revising one subpart, as follows:

Subpart 101–35.2—Management, Acquisition, and Utilization of Automatic Data Processing (ADP) Resources

Sec.
101–35.200 Scope of subpart.
101–35.200–1 Relationship to other directives.
101–35.201 Applicability.
101–35.202 Definitions.
101–35.202–1 Automatic data processing equipment.
101–35.202–2 Software terms.
101–35.202–3 Firmware.
101–35.202–4 Maintenance services.
101–35.202–5 Related supplies.
101–35.202–6 ADP services.
101–35.202–7 ADP related services.
101–35.202–8 Commercial ADP services.
101–35.202–9 Federal agency.
101–35.203 Policies.
101–35.203–1 Competition.
101–35.203–2 Responsibilities.
101–35.203–3 ADP plans.
101–35.203–4 Requirements analysis.
101–35.203–5 Urgent requirements.
101–35.203–6 Conversion management and planning.
101–35.203–7 Sharing and reutilization.
101–35.203–8 Privacy and security.
101–35.203–9 Standards.
101–35.203–10 Furnishing ADP items and services to contractors.
101–35.204 Planning requirements.
101–35.205 Specifications and purchase descriptions.
101–35.206 Conversion management and planning.
101–35.206–1 Procurement and management responsibilities.

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[1] This regulation supersedes the present Subpart 101–35.2, Appendix A thereto, and its processor, Federal Management Circular 74–5, dated July 30, 1974.

[2] With the cancellation of Subpart 101–36.4 by this regulation, the references to pertinent sections of the Federal Procurement Regulations (FPR) should be particularly noted. Paragraph (b) is reserved for a reference to proposed FPR Subpart 1–4.12 covering ADP services procurement.

[3] Collectively these subjects establish management requirements that replace some specific items; e.g., general systems or feasibility study thresholds, conversion and residual value provisions, and the interim upgrade concept. With reference to § 101–35.206–2, thresholds established in FPMR Temporary Regulation F–492 will be superseded by FPR §§ 1–4.1109–13 and 1–4.1206–1 (proposed). In addition, note that FPMR Temporary Regulation F–493 previously suspended the reporting provisions of Subpart 101–36.15 that is abolished by this regulation.

Sec.
101–35.206–2 Software conversion responsibilities.
101–35.207 Determination of need and requirements analysis.
101–35.207–1 Severable ADP requirements.
101–35.208 Determination of system/item life.
101–35.209 Comparative cost analysis.
101–35.210 Evaluation of acquisition alternatives.
101–35.211 Least cost acquisition.
101–35.212 Assistance by GSA.

Authority: Section 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

2. Subpart 101–35.2 is revised to read as follows:

Subpart 101–35.2—Management, Acquisition, and Utilization of Automatic Data Processing (ADP) Resources

§ 101–35.200 Scope of subpart.

(a) This subpart sets forth general policies and procedures relating to the management, acquisition, and utilization of ADP equipment (ADPE), software, maintenance, related supplies, ADP services, and ADP related services by Federal agencies.

(b) The objectives of this subpart are to promote full and open competition among suppliers who are capable of meeting the user's ADP needs and to satisfy these needs at the lowest overall cost, price and other factors considered.

§ 101–35.200–1 Relationship to other directives.

(a) Subpart 1–4.11 of the Federal Procurement Regulations (41 CFR Chapter 1, hereafter referred to as the FPR) prescribes policies and procedures governing the procurement and contracting for all ADPE, commercially available software, maintenance services, and related supplies.

(b) [Reserved]

(c) Part 101–36 provides detailed policies, procedures, and guidance pertaining to the Government-wide management of ADPE, software, and related matters including revolving fund, resources utilization, reutilization of equipment, ADP management information systems, standards, and computer performance evaluation.

(d) The acquisition, management, and utilization of ADP are subject to the fiscal and policy control of the Office of Management and Budget (OMB). In addition, OMB Circulars including A–10, A–11, A–71, A–108, and Transmittal Memoranda related thereto apply to ADP; the present value concept in A–94 also applies (see § 101–35.210). The applicability of A–76 and A–109 to agency activities is as determined and directed by OMB.

§ 101–35.201 Applicability.

(a) *Federal agencies.* The policies and procedures set forth in this Subpart 101–35.2 apply to the management, acquisition, and utilization of ADPE, software, maintenance services, related supplies, ADP services, and ADP related services (see § 101–35.202 for definitions) by Federal agencies regardless of use or application including Government-acquired ADPE, software, or related supplies provided to contractors.

(b) *Government contractors.* (1) Except as set forth in paragraph (b)(2) of this section, agencies shall require their contractors to apply the policies and procedures set forth in this Subpart to the management, acquisition, and utilization of ADPE, commercially available software, maintenance services, and related supplies when the very subject matter of the contract(s) is for the performance of commercial ADP services for a Federal agency (see §§ 101–35.202–8 and 101–35.203–10); and

(i) The Government requires the contractor to purchase the ADPE or software for the account of the Government; or

(ii) The Government requires the contractor to pass title to the ADPE or software to the Government; or

(iii) The Government pays the full lease costs of the ADPE or software under a cost-reimbursement contract.

(2) When the very subject matter of a contract is for something other than the procurement of ADP items or services, and commercially available ADPE is incorporated into the non-ADP system or commercial ADP services are used in contract performance, the acquisition and management of the non-ADP system shall be in accordance with other applicable regulations rather than this Subpart 101–35.2 (but see § 101–35.203–10).

§ 101–35.202 Definitions.

The terms used in this subpart shall have the meanings set forth in this section.

§ 101–35.202–1 Automatic data processing equipment.

"Automatic data processing equipment" (ADPE) means [1] general purpose, commercially available, mass-produced automatic data processing devices; i.e., components and the equipment systems configured from them together with commercially available software packages which are provided and are not priced separately, and all documentation and manuals relating thereto, regardless of use, size, capacity, or price, that are designed to be applied to the solution or processing of a variety of problems or applications and are not specially designed, as opposed to configured, for any specific application.

(a) Included are:

(1) Digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, paper tape typewriters, magnetic tape, card, or cartridge typewriters, word processing equipment, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybrid computer equipment, either cable connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines (PCAM) that can be used in conjunction with or independently of digital, analog, or hybrid computers;

(4) Data transmission or communications equipment, including front-end processors, terminals, sensors, and other similar devices, designed primarily for use with a configuration of ADPE.

(b) Excluded are:

(1) ADPE systems and components specially designed (as opposed to configured) and produced to perform a specific set or series of computational, data manipulation, or control functions to permit the processing of only one problem; and

(2) Commercially available ADPE that is modified to meet Government specifications at the time of production to the extent that:

(i) It no longer has a commercial market; or

(ii) It cannot be used to process a variety of problems or applications; or

(iii) It can be used only as an integral part of a non-ADP system.

§ 101–35.202–2 Software terms.

(a) "Software" means computer programs, procedures, rules, or routines specifically designed to make use of and extend the capabilities of ADPE and includes operating systems, assemblers, compilers, interpreters, data base management systems, utility programs, sort-merge programs, maintenance-diagnostic programs, and applications programs. The term encompasses operating systems software, independent subroutines, related groups of routines, sets or systems of programs, software documentation, firmware (see § 101-35.202-3), and computer data bases whether Government-owned or commercially available.

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[1] The acquisition of Joint Committee on Printing (JCP) controlled equipment in FSC Group 70 dedicated to printing processes and utilizing computer technology, including electronic printing systems, integrated printing systems, and photocomposition equipment, continues to be subject to the provisions of title 44, U.S. Code, and the JCP Government Printing and Binding Regulations as well as to this regulation.

(b) "Commercially available software" means software that is available through lease or purchase in the commercial market from a concern representing itself to have ownership and/or marketing rights in the software. Software that is furnished as part of the ADP system but that is separately priced, is included.

(c) "Application software" means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations necessary to process requirements such as payroll, inventory control, or automatic test and engineering analysis. Application software may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a specialized process or a particular user.

(d) "Computer data base" means a stored collection of data in a form capable of being processed and operated on or by a computer; i.e., the elements of stored data used by a computer in responding to a computer program.

(e) "Computer software documentation" means recorded information including computer listings and printouts that (1) documents the design or details of computer software, (2) explains the capabilities of the software, (3) provides data for testing the software, or (4) provides operating instructions.

(f) "Software conversion" means the transformation, without functional change, of computer programs or data elements to permit their use on a replacement or changed ADP equipment system or teleprocessing service.

(g) "Software redesign" means any change to software that involves a change in the functional specifications for that software.

(h) "Reprogramming" means any change to software that deviates from the design specifications for that software but preserves the functional requirements of the user.

(i) "Recoding" means a manual change to software on a line-for-line basis that preserves both the functional requirements and software design specifications.

(j) "Automated translation" means changes to software including machine-processed recoding that preserve both the functional requirements and software design specifications to the extent that no changes are apparent to the user.

§ 101-35.202-3 Firmware.

"Firmware" means any ADP hardware-oriented programming at the basic logic level of the computer that is used for machine control, error recovery, mathematical functions, applications programs, engineering analysis programs, and the like. Included are firmware that if furnished with ADPE, commercially available proprietary firmware that is acquired separately from ADPE, and all vendor documentation and manuals relating thereto.

§ 101-35.202-4 Maintenance services.

"Maintenance services" means those examination, testing, repair, or part replacement functions performed to: (a) Reduce the probability of ADPE malfunction (commonly referred to as "preventive maintenance"), (b) restore to its proper operating status a component of ADPE that is not functioning properly (commonly referred to as "remedial maintenance"), or (c) modify the ADPE in a minor way (commonly referred to as "field engineering change" or "field modification").

§ 101-35.202-5 Related supplies.

"Related supplies" means consumable items designed specifically for use with ADPE, such as computer tape, ribbons, punchcards, and tabulating paper.

§ 101-35.202-6 ADP services.

"ADP services" means the computation or manipulation of data in support of administrative, financial, communicative, scientific, or other similar Federal agency data processing applications. It includes teleprocessing (including remote batch) and local batch processing.

§ 101-35.202-7 ADP related services.

"ADP related services" means source data entry, conversion, training, studies, facilities management, systems analysis and design, programming, and equipment operation that are adjunct and essential to agency ADP activities but do not involve the actual computation or manipulation of data.

§ 101-35.202-8 Commercial ADP services.

"Commercial ADP services" means the performance of ADP services and ADP related services by private contractors on a nonpersonal services basis. For the purposes of this Subpart 101-35.2, commercial ADP services do not include: (a) Services performed by contractors under contracts where the subject matter of the contract is not the furnishing of ADP services or ADP related services to a Federal agency, (b) employment of experts and consultants pursuant to 5 U.S.C. 3109, or (c), "personal services" contracting where the contractor or the contractor employees are in effect employees of the Government.

§ 101-35.202-9 Federal agency.

"Federal agency" means (a) any executive agency (executive department or independent establishment in the executive branch including any wholly owned Government corporation) or (b) any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the Architect's direction) (see 40 U.S.C. 472).

§ 101-35.203 Policies.

§ 101-35.203-1 Competition.

Full and open competition is a basic procurement objective of the Government. The maximum practicable competition among offerors who are capable of meeting the user's needs will ensure that the Government's ADP needs are satisfied at the lowest overall cost, price and other factors considered, over the system/item. This extends to actions necessary to foster competitive conditions for subsequent procurements. To meet fully the lowest overall cost objective, it is essential that proper management and planning actions be accomplished before the acquisition becomes imminent (see § 101-35.206).

§ 101-35.203-2 Responsibilities.

Agency ADP managers and contracting officers share the responsibility for ensuring that the basic procurement objective is met (see § 101-35.203-1). This responsibility extends to fostering competitive conditions for subsequent procurements.

§ 101-35.203-3 ADP plans.

Agency ADP management officials are responsible for monitoring data processing requirements and for developing plans to meet future needs at the lowest overall cost. Plans should include initial acquisitions and augmentation or replacement of installed ADPE and software (see § 101-35.204).

§ 101-35.203-4 Requirements analysis.

The acquisition of an initial ADP capability or the augmentation or replacement of an existing capability shall be preceded by a comprehensive requirements analysis commensurate with the scope and complexity of the program objectives and mission needs. The operational and economic feasibility of all alternative solutions, including use of non-ADP resources, sharing, use of commercial ADP services, and reutilization of excess Government-owned or leased equipment shall be considered (see § 101-35.207).

§ 101-35.203-5 Urgent requirements.

The existence of a public exigency; i.e., the Government will suffer serious injury, financial or otherwise, if the equipment or services are not available by a specific date, shall not relieve the agency from the responsibility for obtaining maximum practicable competition (see FPR §§ 1-3.202 (or, if applicable, DAR 3-202) and 1-4.1102-9)).

§ 101-35.203-6 Conversion management and planning.

Agency ADP managers shall take those steps as may be feasible to minimize the risk and cost of conversion to replacement ADP systems and services (see § 101-35.206) to achieve economy and efficiency in meeting agency needs.

§ 101-35.203-7 Sharing and reutilization.

Sharing installed ADPE and software or using available excess Government-owned or leased ADPE shall be the primary source for meeting the ADP requirements of the user (see Subparts 101-36.2 and 101-36.3). Additional ADP capacity shall be acquired only if existing resources will not economically and efficiently meet the requirements.

§ 101-35.203-8 Privacy and security.

ADP managers shall establish safeguards necessary for the adequate protection of personal privacy and the physical security of an ADP installation (see Subparts 101-35.3 and 101-35.17).

§ 101-35.203-9 Standards.

Federal information processing standards publications (FIPS PUBS) and Federal telecommunications standards (FED-STD) shall be implemented when applicable. Procedures for waiver or exception shall be complied with for each applicable mandatory FIPS PUB or FED-STD that is not implemented (see Subpart 101-36.13).

§ 101-35.203-10 Furnishing ADP items and services to contractors.

(a) When the very subject matter of a contract is for something other than the procurement of ADP items or services and commercially available ADPE is incorporated into the non-ADP system or commercial ADP services are used in contract performance, the acquisition and management of the non-ADP system shall be in accordance with other applicable regulations, rather than this subpart (see § 101-35.201(b)(2)).

(b) To facilitate the reutilization of ADPE, the Government contractor shall be required to identify the quantity and specific make and model of the ADPE that is delivered as a part of the non-ADP system. Nevertheless, agencies shall sever requirements for general purpose commercially available ADP items or services from the overall requirement, acquire them in accordance with these regulations, and provide them as Government-furnished property or services to the contractor when it is operationally feasible to do so and this action will promote economy, efficiency, and maximum practicable competition.

(c) In those instances when ADP items or services are severed pursuant to this subpart and procured by the Government, care must be taken to ensure that the prime contractor's ability and responsibility to perform in accordance with the contract provisions are not disturbed.

§ 101-35.204 Planning requirements.

(a) Agencies are required to prepare and submit annual agency-wide ADP plans in accordance with OMB Circular A-11. A copy of this plan shall be provided to GSA (CPS) concurrently with each submission to OMB. The following supplemental information shall be submitted to GSA (CPS) with this plan:

(1) Trends in data processing workloads that will or may saturate existing ADP system capabilities prior to expiration of the full established initial user's system/item(s) life.

(2) Opportunities to take advantage of cost effective enhancements brought about by new ADPE technology, software improvements, and changes in the marketplace.

(3) Actions planned regarding system redesign to improve the efficiency and effectiveness of application software, the conversion of software to higher level languages, and the audit and update of documentation for consistency with the guidelines issued by the National Bureau of Standards.

(4) Approximate acquisition schedule.

(5) The proposed acquisition strategy for meeting projected ADP resource needs identified in the ADP plans submitted pursuant to OMB Circular A-11.

(b) Information in the plan will be used by GSA in compiling estimated Government-wide requirements and developing acquisition programs to assist agencies in meeting their needs in an efficient and economic manner.

§ 101-35.205 Specifications and purchase descriptions.

Specifications and purchase descriptions describing Government requirements shall be designed to promote competition to the maximum practicable extent from manufacturers, leasing companies, third-party vendors, and ADP services contractors. Functional specifications maximize competition and are the preferred method for expressing the user's requirements (see FPR §§ 1-4.1102-12 and 1-4.1109-10). Functional specifications may be augmented with equipment characteristics and performance criteria as necessary to accurately reflect the user's needs (see FPR § 1-4.1109-11). If functional specifications cannot be used, other types of specifications or purchase descriptions shall be used in the following order of precedence:

(a) Equipment performance specifications (see FPR § 1-4.1102-13);

(b) Software and equipment plug-to-plug compatible functionally equivalent purchase descriptions;

(c) Brand name or equal purchase descriptions (see FPR §§ 1-1.307-4 and 1-1.307-5 (or, if applicable, DAR 1-1206.2)); or

(d) Specific make and model descriptions. (Use of specific make and model purchase descriptions must be justified—see FPR §§ 1-4.1102-8 and 1-4.1109-11(d).)

§ 101-35.206 Conversion management and planning.

Conversion from one computer architecture and operating system software to another is a recurring and costly activity. Frequently, moving a particular ADP system workload to a noncompatible ADP system is so costly as to be a major impediment to effective competition by the noncompatible offeror. However, proper management of an agency's software inventory and planning for future conversions will reduce the risk and cost of conversion, enhance competition, and improve the efficiency of ADP operations.

§ 101-35.206-1 Procurement and management responsibilities.

(a) Federal ADP managers and contracting officers share the responsibility for assuring that data processing requirements are met at the lowest overall cost, price and other factors considered. This responsibility extends to those actions necessary to foster competition for subsequent procurements. To achieve this objective, ADP managers shall take necessary action to minimize the cost of conversion to future replacement ADP systems. Although the configuration and date of acquisition of the replacement system may not be known, several steps can and should be taken to reduce both the risk and cost of conversion.

(b) The following are examples of management and planning actions that ADP managers should take to facilitate future conversions.

(1) Purge from the active inventory all software and data bases not essential to meet agency needs.

(2) Identify relevant characteristics of all application software; e.g., programming language, number of source statements or lines of code, type, and size of records and data files, and security provisions.

(3) Use only software design and documentation techniques that minimize future software conversion to develop new application software.

(4) Use Federal standard or other ANSI standard high order languages to the maximum practicable extent in developing all new user application software. Document agency files with the justification for using nonstandard languages at the time the waiver is granted.

(5) Avoid the use, where possible, of implementor-defined features and vendor-supplied nonstandard extensions in high order languages compilers. Where it is necessary to use these features and nonstandard extensions, document agency files to support their use and retain the documentation to manage the software during its system life.

(6) Use to the maximum practicable extent data base management systems (DBMS) supported by and that will run on equipment offered by multiple manufacturers of different product lines of ADPE; i.e., other than plug-to-plug compatible equipment or designed to conform to the Conference on Data Systems Languages (CODASYL) specifications. Where it is not possible to use such a DBMS, document agency files to support this decision and retain the documentation to manage the DBMS its system life.

(7) Write application software requiring software redesign in Federal standard or other ANSI standard high order languages unless the use of assembly or other languages is clearly justified on the basis of operational requirements or demonstrable economy and efficiency. Document agency files with the justification for using nonstandard languages at the time the waiver is granted and retain the documentation to manage the application software during its system life.

(8) Rewrite application software written in assembly or other non-standard languages but not requiring redesign in Federal standard or other ANSI standard high order languages to foster competition for subsequent procurements to the maximum practicable extent.

(9) Review, revise, and update as necessary documentation for all existing applications to reduce the risk and cost of future conversions.

(10) Evaluate all feasible alternative courses of action for meeting agency data processing needs before ADPE is acquired on either a sole source, specific make and model, or compatible basis since these types of purchase descriptions limit the competitiveness of the procurement.

(c) The useful life of application software is limited by changes in data processing requirements, operating system software, and equipment technology. Generally, the life expectancy of this software, without redesign or reprogramming, is in the range of 5 to 10 years. Accordingly, the updating of application software for these reasons must be reckoned with, regardless of whether these programs are converted from one ADP system architecture to another. These technology updating activities should be identified and managed separately from conversion activities.

§ 101-35.206-2 Software conversion responsibilities.

Those specific agency actions taken to reduce the risk and cost of conversion to proposed replacements of ADP systems (equipment or services) shall be described in software conversion studies submitted with agency procurement requests (see FPR §§ 1-4.1109-13 and 1-4.1109-14).

§ 101-35.207 Determination of need and requirements analysis.

The acquisition of new or additional ADP capabilities shall be based on mission needs that flow from program requirements. These needs may be expressed in the form of deficiencies in existing capabilities, new or changed program requirements, or opportunities for increased economy and efficiency. In any event, the needs shall be supported by a comprehensive requirements analysis commensurate with the size and complexity of the need. The agency shall consider the following critical factors, as a minimum, in the requirements analysis:

(a) The probable improvement in operational efficiency in meeting program mission needs and the anticipated economies that will be realized.

(b) The present and projected workload over the system life in terms [2] of:

(1) Data entry and associated communications support;

(2) Data base(s) and data base management;

(3) Data handling or transaction processing by type and volume;

(4) Output needs and associated communications support;

(5) Expandability requirements; and

(6) Privacy and security safeguards.

(c) The ADP functions that must be performed to meet the mission need and the cost/benefits that will accrue as a result of this performance.

(d) The actions that have been or could be taken to increase the capability and productivity of the existing system, where applicable.

(e) The agency components involved, their physical location, operational constraints, and the relative priority of the specific requirement within the spectrum of total mission needs.

(f) Space management considerations; e.g., heat dissipation, air flow, temperature range, relative humidity, energy conservation, including coordination with building managers and GSA (see FPMR § 101-17.101-5).

(g) The feasibility of sharing, use of excess Government-owned or -leased ADPE, the off-loading of lower priority applications, the use of Federal data processing centers and GSA sources of supply, or the use of commercial ADP services.

§ 101-35.207-1 Severable ADP requirements.

(a) When the very subject matter of a contract is for something other than the procurement of commercially available ADP items or services but some of these items or services are to be delivered under the contract, the acquisition of the ADP items or services by the Government contractor is not subject to this subpart (see § 101-35.201). However, to ensure maximum practicable competition, ADP items or services shall be severed from the overall requirement when it is operationally feasible to do so and the action will promote economy and efficiency. To meet these basic objectives, agencies shall sever the requirement for general purpose commercially available ADPE and ADP services when it is operationally feasible to do so and this action will promote economy, efficiency, and maximum practicable competition (see § 101-35.203-10). Severable action shall be considered by an agency when:

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[2] When the need can be satisfied by augmenting the installed ADPE system, the requirements analysis should consider the factors in this paragraph (b) of § 101-35.207, where applicable.

(1) The ADPE or ADP service requirement is or can be identified as a separate line item;

(2) The value of the ADP portion exceeds $500,000;

(3) The items can be procured by the Government and delivered to the contractor as required by the production schedule;

(4) Adequate price competition can be achieved on the severed ADP portion (see FPR § 1-3.807-1(b)(1));

(5) The expected cost reduction will exceed the added costs of acquisition; and

(6) Providing the ADPE and/or ADP services will not affect the contractor's ability and responsibility to perform as required by the provisions of the contract.

(b) The decision to sever ADP requirements shall be made before soliciting offers. A Government-furnished property clause shall be included in the solicitation document for the non-ADP items or services solicitation when the ADP items or services are severed.

§ 101-35.208 Determination of system/item life.

(a) The Government system/item life shall be established by the initial acquiring agency as a part of each requirements analysis. This life shall be used in the evaluation to determine the lowest overall cost offer and whether purchase, lease to ownership, lease with option to purchase, or straight lease is the lowest cost method of acquisition for the Government. The following factors shall be considered in determining the Government system/item life:

(1) The period of time the system/item(s), plus any planned augmentation, will satisfy the needs of the initial user.[3]

(2) The rate at which technology is expected to advance.

(3) The probability that support will continue to be available beyond the period of intended use by the initial user. This support includes items such as maintenance, spare parts, software support, etc.

(4) The probability that the system/item(s) in its ultimate planned configuration will be reused by another component within the agency or another Federal agency once the equipment will no longer meet the needs of the initial user. The estimated number of months, if any, of contemplated use by a secondary user will be added to the initial user's requirement to determine the Government system/item life.

(b) If the acquiring agency cannot predict reuse, either within that agency or by another Federal agency, the initial user's system/item life shall be the Government system/item life.

§ 101-35.209 Comparative cost analysis.

A comparative cost analysis shall be performed for each requirement to determine which alternative will meet the user's needs at the lowest overall cost over the system/item life. The alternatives to be considered shall include but are not limited to the following:

(a) Use of non-ADP resources to satisfy the requirement.

(b) Use of existing ADP facilities (e.g., Federal data processing centers) and resources on a shared basis.

(c) Use of commercial ADP services.

(d) Redesign of application programs, using Federal or ANSI standard language to the maximum practicable extent.

(e) Revision of production schedule or job stream to improve throughput capability.

(f) Addition or change in working shifts to increase capacity.

(g) Augmentation of installed ADPE by adding additional components to increase data processing capacity.

(h) Upgrading selected system components, such as adding additional selector channels, memory, faster tape or disk units, etc., in order to improve throughput capability.

(i) Replacing installed ADP system with a compatible system that will handle the workload.

(j) Competitive replacement of the installed ADP system through use of functional specifications.

§ 101-35.210 Evaluation of acquisition alternatives.

(a) Comparative cost analysis shall be made to determine the method of acquisition that represents the lowest overall cost over the system/item(s) life. The alternatives that must be considered will vary, depending on the system/item being acquired and the requirement of the initial user. However, as a minimum, all of the alternatives set forth below, which will meet the user's needs, shall be considered.

(1) Alternative methods of acquisition for ADPE.

(i) Purchase.

(ii) Lease to ownership.[4]

(iii) Lease with option to purchase.

(iv) Straight lease.

(2) Alternative methods of acquisition for proprietary software.

(i) Perpetual license to use.

(ii) License to use for extended term (i.e., more than 12 months).

(iii) License to use on a monthly basis.

(3) Alternative methods of acquisition for ADPE maintenance services.

(i) On-site maintenance capability.

(ii) On-call maintenance.

(iii) Time and materials.

(4) Commercial ADP services.

(i) Short-term resources used.

(ii) Extended system life, resources used or dedicated.

(b) The present value of money factor, as set forth in OMB Circular A-94, shall be included in comparative cost analyses. The single discount rate (currently 10 percent) specified in the OMB Circular represents the approximate longrun opportunity cost of capital in the private sector. Under this methodology, payments over time are adjusted to reflect the present value of these payments as of the date of contract award. All expenses over the system/item(s) life for equipment, software, maintenance, other support, and predetermined in-house expenses for installation and operation must be adjusted.

§ 101-35.211 Least cost acquisition.

(a) The method of acquisition that represents the lowest overall system/item(s) life cost to the Government, price and other factors considered, shall be selected, subject to availability of funds. If a purchase, long-term lease, or licensing arrangement is the lowest overall cost alternative and the proper type of funds (e.g., purchase money) are not available, GSA (ADTS) shall be contacted to determine if the ADP Fund can be used for the acquisition (see GSA Bulletin FPMR F-106, Subject: Use of ADP Fund for equipment purchase).

(b) In some cases, lease may be the lowest overall cost alternative based on the system/item(s) life to the initial user; whereas, purchase or a lease to ownership plan may be the lowest overall cost based on the Government system/item(s) life. When this condition exists, ADTS shall be contacted to determine if the ADP Fund can be used to make the purchase. Equipment purchased by the ADP Fund under these conditions will be leased back to the using agency at a price not to exceed the vendor's lease cost over the initial user's system/item(s) life. ADPE retained by the using agency beyond the originally established system/item(s) life shall be subject to a new ADP Fund leasing agreement.

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[3] If augmentations other than those provided for in the initial acquisition are necessary, consideration should be given to establishing a new system/item(s) life.

[4] Funding statutes may preclude acceptance of some lease to ownership plans.

(c) In those cases where purchase funds are not available but purchase is in the best interest of the Government, the method of acquisition which is most advantageous to the Government and for which funds are available shall be selected.

§ 101-35.212 Assistance by GSA.

Assistance in any phase of the management process covered by this Subpart 101-35.2 may be obtained by contacting the General Services Administration (CPS), Washington, DC 20405.

PART 101-36—ADP MANAGEMENT

3. The table of contents for Part 101-36 is changed by deleting and reserving two subparts as follows:

Subpart 101-36.4 [Reserved]

Subpart 101-36.15 [Reserved]

4. The provisions of Subparts 101-36.4 and 101-36.15 are canceled and the subparts are deleted and reserved, as follows:

Subpart 101-36.4 [Reserved]

Subpart 101-36.15 [Reserved]

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-93 Filed 1-2-81; 8:45 am]

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federal register

Monday
January 5, 1981

Part VII

Department of Agriculture

Science Education Administration

Special Research Grants Program for Fiscal Year 1981; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Special Research Grants Program for Fiscal Year 1981, Solicitation of Applications

Notice is hereby given that under the authority of section 2(c)1 of the Act of August 4, 1965, Pub. L. 89–106, as amended by section 1414 of Pub. L. 95–113 (7 U.S.C. 450i), the Science and Education Administration (SEA) of the U.S. Department of Agriculture will award project grants for areas of research which are described in Appendix I. The total amount available for these programs during Fiscal Year 1981 is $6,740,000. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. The research to be supported is in the following areas:

Antidecertification Research	$870,000
Soybean Research	455,000
Animal Health Research	4,900,000
Aquaculture Research	485,000

Proposals submitted in response to this notice will be evaluated in competition with proposals from other institutions. Grants will be awarded for research proposals selected by SEA utilizing recommendations of Peer Panels, from funds appropriated for Fiscal Year 1981 (October 1, 1980 through September 30, 1981). Projects may be up to 5 years' duration unless a shorter duration is specified.

According to the requirements for Federal assistance program announcements under Pub. L. 95–220, The Federal Program Information Act, the following information is provided with respect to the areas of research described in this announcement for which project grants will be awarded:

(1) As outlined by OMB Circular No. A–89, the official program number and title for these grants are: 10.876, Grants for Agricultural Research, Special Research Grants.

(2) OMB Circular No. A–95, regarding State and local clearinghouse review of Federal and Federally assisted programs, does not apply.

Application Procedures

1. Eligible Institutions

Grants under section 2(c)1 of Pub. L. 89–106, as amended, may be made to Land-Grant Colleges and Universities, State Agricultural Experiment Stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research. Research foundations are not eligible to receive special research grants under section 2(c)1 of Pub. L. 89–106 unless they independently meet the definitions of eligible institutions as set out in section 1404 of Pub. L. 113.

2. Proposal Submission

A. Before submission write or call the Grants Administrative Management Office (address and telephone number below) for a copy(ies) of the Grant Application Kit.

Your submission should include an original and 19 copies of the proposal and Form SEA–661, submitted Grant Application, which is included in the Grant Application Kit. The Form SEA–661 submitted with the original proposal should have original signatures of the principal investigator(s) and the authorized organizational representative. SEA must have original signatures on file for each application.

Grants Administrative Management Office, Attention: Special Research Grants Program, Science and Education Administration, U.S. Department of Agriculture, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209, Telephone: (703) 235–2036.

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal *are* mailed in more than one package, the number of packages shoud be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgment of receipt of the proposal will contain a proposal number, title, program, and program area. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *assure* that the *proposal contains* all *pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Grant Application Kit and the format cited in Appendix II of this announcement.

B. To be considered for award, proposals must be prepared in the format prescribed in Appendix II and must be received in the SEA Grants Administrative Management Office (GAMO) by the close of business on the date specified for each program area as listed below:

Antidecertification Research—deadline is Close of Business April 17, 1981.

Soybean Research—deadline is Close of Business February 13, 1981.

Animal Health Research—deadline is Close of Business March 20, 1981.

Aquaculture Research—deadline is Close of Business March 27, 1981.

Proposals should not exceed 10 pages (single spaced) excluding the literature review, vitae appendices, and required forms from the Grant Application Kit.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the pages referenced in the above paragraph, will be evaluated.

C. Research Involving Special Consideration. A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for SEA support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (See NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions). A Memorandum of Understanding and Agreement and approval by the local Biohazards Safety Committee must be provided before a grant can be awarded.

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by SEA grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish SEA with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS)—formerly Department of Health, Education and Welfare (DHEW)—policies, as amended, regarding the use of human subjects. Form SEA–64, Protection of Human Subjects, may be used for this purpose.

3. Selection of Proposals for Funding

A. Selection Criteria. A panel of peer scientists for each area of specific inquiry will evaluate the proposals utilizing selection criteria listed in Appendices III and III–A. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposals under review. Utilizing the recommendations of peer panels, SEA will select the proposals to be funded within the amount available for each area of specific inquiry.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for a proposal or where the panel recommends that only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the list of proposals to be funded for a specific area of inquiry and another proposal selected from those recommended by the peer panel will be funded.

After the grants are awarded, one copy of unfunded proposals will be retained on file for 5 years. The remaining copies will be destroyed. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

4. Budget and Reporting Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Form SEA–55). While cost sharing is encouraged it will not be a factor in the selection process.

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed [illegible] pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objective and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted to SEA within 90 calendar days after the termination date of the grant.

E. Antidesertification Research, Aquaculture Research, Animal Health Research, and Soybean Research, Public Law 89–106, grants do not require matching or cost sharing, but cost sharing is encouraged.

It has been determined that, because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1981, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance with E.O. 12044, that it is not possible to publish this Notice in proposed form and allow 60 days for public comment.

Done at Washington, D.C., this 24th day of December.

Anson R. Bertrand,

Director, Science and Education.

Appendix I—Subject Matter Guidelines for Fiscal Year 1981, Grants Under Section 2(c)1 of Public Law 89–106, As Amended

A. The applicable specific area of inquiry (program area) should be indicated in Block 8 of Form SEA–661 provided in the Grant Application Kit. *Select one program area only.* Indicating more than one program area does not mean the proposal will be considered under more than one. It only delays processing of the proposal in GAMO. The final determination of the area and change (if any) will be made by the program staff and/or the appropriate panel. The number assigned to the program area must also be cited (i.e., 1.1, 1.2, etc.) in Block 8 of Form SEA–661. Do not use 1.0, 2.0, and 3.0.

B. Points of Contact. For information concerning program guidelines for specific areas of inquiry covered in this announcement, please contact Dr. C. I. Harris, Deputy Administrator for Plant Sciences, SEA-Cooperative Research, Washington, D.C., telephone: (202) 447–4587 (Antidesertification Research and Soybean Research); Dr. Clyde R. Richards, Acting Deputy Administrator for Animal Science, SEA-Cooperative Research, Washington, D.C., telephone: (202) 447–6050 (Animal Health Research and Acquaculture Research).

Specific Areas of Inquiry

1.0 Soybean Research. The total amount available for this area during Fiscal Year 1981 is $485,000. Grant awards will be limited to a maximum of $100,000 per grant for research in the following specific areas of inquiry:

1.1 Soybean production research to increase yields, enhance production, efficiency, and conserve natural resources. Preference will be given to strategies with broad or national implications.

1.2 Research on soybean genetic mechanisms that contribute to yield or tolerance to biotic and abiotic stress.

Specific Areas of Inquiry

2.0 Antidecertification Research. The total amount available for this area during Fiscal Year 1981 is $970,000. Grant awards will be limited to $150,000 per grant for research in the following specific areas of inquiry:

2.1 Techniques for inventorying arid and semiarid land resources and monitoring trend.

2.2 Management strategies for arid and semiarid land to conserve resources and maintain or increase productivity. The strategy may apply to reclamation of land whose biological productivity has been reduced through misuse.

Specific Areas of Inquiry

3.0 Animal Health. The total amount available for this area during Fiscal Year 1981 is $4,800,000. These funds will be awarded to research proposals seeking solutions to animal health problems of livestock, poultry and major aquaculture species. Grant awards will be limited to a maximum of $150,000 per grant.

The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfectious diseases and internal and external parasistes of livestock, poultry, and major aquaculture species. Research will be directed toward (1) clarification of infectious and noninfectious diseases and parasites or their interactive effects on animal health and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses.

Research may include clarification of complex or unknown etiologies, development or improvement of diagnostic methodology, clarification of disease pathogenesis and methods of transmission, studies of resistance mechanisms and resistance enhancing factors, and development of disease prevention, control, or eradication technology.

Categories in which projects will be funded are listed below. The approximate amount of funds listed will be awarded under numbered priorities or to eligible areas within other commodities as listed. Only proposals dealing with the following areas will be selected for funding:

3.1 Beef Cattle

(1) Respiratory disease complex. (Approximately $845,000)

(2) Reproductive disease, especiallly brucellosis and including but not limited to anestrus, leptospirosis and vibriosis. (Approximately $634,000)

(3) Enteric diseases. (Approximately $422,000)

(4) Parasites (internal and external), including but not limited to anaplasmosis, blue tongue, fever tick, flukes and scabies. Metabolic diseases, especially bloat, grass tetany and mineral imbalance. Diseases of the central nervous system, foot rot, pink eye,

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sudden death syndrome, toxic substances and weak calf syndrome. (Approximately $211,000)

3.2 Dairy Cattle

(1) Mastitis (Approximately $386,000)

(2) Reproductive diseases, especially brucellosis and including anestrus. (Approximately $331,000)

(3) Respiratory diseases. (Approximately $221,000)

(4) Digestive and enteric diseases. (Approximately $166,000)

3.3 Swine

(1) Enteric diseases, especially in young animals. (Approximately $187,000)

(2) Respiratory diseases, especially causative agents and including but not limited to atrophic rhinitis. (Approximately $187,000)

(3) Parasites (internal and external), especially trichinosis and including but not limited to mange mites and lice. (Approximately $156,000)

(4) Lameness, especially in breeding animals. (Approximately $94,000)

3.4 Poultry

(1) Respiratory diseases. (Approximately $230,000)

(2) Skeletal problems such as femoral head necroses, tenosynovitis and tibial dyschondroplasia. (Approximately $173,000)

(3) Enteric disorders including coccidiosis, salmonellosis, clostridial infections and malabsorption syndrome. (Approximately $115,000)

(4) Neoplastic diseases including Marek's disease, lymphoid leukosis and reticuloendotheliosis. (Approximately $58,000)

3.5 Sheep and Goats (Approximately $192,000)

Especially predators, but including respiratory diseases (especially chronic progressive pneumonia), enteric diseases (including parasites) and blue tongue.

3.6 Horses (Approximately $144,000)

Especially respiratory diseases, but including enteric diseases, reproductive diseases, and musculoskeletal diseases (especially laminitis and lameness).

3.7 Aquaculture (Approximately $48,000)

Infectious diseases and parasites.

Specific Areas of Inquiry

4.0 Aquaculture Research. The total amount available for this area during Fiscal Year 1981 is $485,000. Grant awards will be limited to a maximum of $80,000 per grant. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Proposals focused on local and regional programs which contribute to national objectives related to aquaculture production will be considered. Specific objectives are: (1) Improved production efficiency in diet formulation, reproduction and breeding and disease and parasite control; (2) Improved water quality requirements for production and factors affecting the quality of water discharge; and (3) Increased production of freshwater species having high production potential such as catfish, trout, bait minnows and crawfish.

Appendix II—Format for Research Proposal

The Grant Application Kit (available from the Grants Administrative Management Office) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described in Appendix I.

Additional information and/or instructions relating to the format and content of the Research Proposal follow:

1. Title of Proposal. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

2. Approval Signatures of Appropriate Officials. All proposals from a university, college, or institution must be signed by an authorized official.

3. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

4. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as: The sampling plan, experimental design, and analyses anticipated.

5. Justification. This should describe (1) the importance of the problem to the needs of the Department of Agriculture and to the States or region, being sure to include estimates of the magnitude of the problem; (2) the importnace of starting the work now; and (3) reasons for the work being performed in your particular institution.

6. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete. Literature citations should be appended to the proposal and are not included in the 10-page limit.

7. Current Research. Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions.

8. Facilities and Equipment. The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 4, Procedures, but the combination must clearly show needed and available facilities and equipment.

9. Research Timetable. Show all important research phases as a function of time.

10. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved, include (1) an estimate of the time commitments necessary and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae also can be provided as an appendix and will not be included in the 10-page limit.

Appendix III—Peer Panel Scoring Form

Proposal Identification No. ____

Institution and Project Title ____

I. Basic Requirement:

Proposal falls within guidelines? —— yes —— no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

	Score 1–10	Weight factor	Score X weight factor	Comments
1. Scientific and technical quality of the idea		8		
2. Scientific and technological quality of the approach		8		
3. Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4. Feasibility of attaining objectives during life of proposed research		6		
5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		5		
6. Adequacy of facilities, equipment, and professional and technical staffing		5		

Score ____

Summary Comments:

Appendix III–A—Evaluation of Proposals

The peer panel will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria by the peer panel.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criteria utilizing a scale of 1 to 10. A score of one is low for the selection criteria. A score of 10 is high for the selection criteria. A weighting factor is used for each criteria.

Grant Administration and Allowable Costs

The grants awarded will be administered in accordance with applicable OMB Circulars and Form SEA–638, General Provisions for Grants and Cooperative Agreements. A copy of Form SEA–638 is included in the Grant Application Kit.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions and Hospitals-OMB Circular A–21;
Nonprofit Organizations—OMB Circular A–122;
Commercial Firms—FPR 1–15.2;
State and Local Governments—FMC 74–4 (Formerly OMB Circular A–87).

[FR Doc. [illegible]-40768 Filed 12–31–80; 8:45 am]

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federal register

Monday
January 5, 1981

Part VIII

Department of Transportation

Federal Highway Administration

Design Standards for Highways; Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket Nos. 78-10 and 80-3]

Design Standards for Highways; Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of proposed rulemaking; addition of new notice of proposed rulemaking; public meeting notice.

SUMMARY: The FHWA is proposing to revise its regulations to provide a flexible approach to resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways. Geometric design procedures and criteria would be adopted in each State to ensure that proposed projects meet Federal policy objectives. Nationwide design standards would not be adopted. The FHWA's previous notice of proposed rulemaking (43 FR 37556, Aug. 23, 1978) is withdrawn. Comments on this proposal are requested. As part of the rulemaking process, a public meeting will be held in Washington, D.C., on Tuesday, February 3, 1981.

DATES: Comments must be received on or before May 5, 1981. Public meeting to be held February 3, 1981.

ADDRESSES: Submit written comments to FHWA Docket No. 80-3, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The public meeting will be held at 9:30 a.m. in the DOT Headquarters Building, Room 2230, 400 Seventh Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Alvin R. Cowan or Kenneth H. Davis, Office of Engineering, Room 3212, 202-426-0312, or Lee J. Burstyn, Office of the Chief Counsel, Room 4223, 202-426-0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This proposal is considered to be significant under the criteria established by the Department of Transportation pursuant to Executive Order 12044. A draft regulatory analysis is available for inspection in the public docket (Room 4205). Copies of the analysis and a 139-page appendix may be obtained by contacting Mr. Alvin R. Cowan or Mr. Kenneth H. Davis at the address provided above. A copy will also be available for review in each FHWA field office (49 CFR Part 7, App. D).

Background

While the FHWA has provided funding to the States to aid in the construction of the Nation's highways, it has always been the States' responsibility to maintain these highways once initial construction was completed. As highways began deteriorating at an increasing rate, Congress recognized the need to assist the States by providing funds for resurfacing, restoration, and rehabilitation work which had primarily been the States' responsibility to fund in the past.

In the Federal-Aid Highway Act of 1976, Congress amended section 101 of title 23, United States Code, by redefining the term "construction," to include "resurfacing, restoration, and rehabilitation," commonly referred to as "RRR". This allowed Federal-aid construction funds to be used for certain types of work which were previously considered to be maintenance.

This RRR work is defined as work undertaken primarily to extend the service life of an existing facility. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders or bridges, the roadside, and appurtenances to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The concept of RRR work does not include new construction or major reconstruction, such as adding continuous traffic lanes.

Currently, all Federal-aid RRR projects are being designed under the same standards which have been approved by FHWA for use on new Federal-aid construction projects. These standards are incorporated by reference in Part 625 of 23 CFR, Design Standards for Highways, and include various standards, specifications, policies, guides, references and other criteria. Part 625 provides that exceptions to these standards may be granted by FHWA on an individual project basis.

Following the 1976 Federal-Aid Highway Act, the FHWA issued an advance notice of proposed rulemaking (42 FR 42876, August 25, 1977, Docket No. 77-4), requesting suggestions and comments on the establishment of geometric design standards specifically for use on RRR projects. The standards would apply to Federal-aid RRR work on all highways other than freeways. The standards applicable to work on the Interstate System and other freeways would not be affected.

Three alternatives were offered for consideration: (1) continue to operate under the existing regulations in Part 625, (2) adopt the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets," American Association of State Highway and Transportation Officials (AASHTO), 1977, or (3) permit State highway officials and FHWA Division Administrators to develop individual State criteria using the AASHTO Guide and other materials. Because of the severe criticism of the AASHTO Guide, it was decided not to adopt it for use as a nationwide standard on Federal-aid projects. The advance notice was withdrawn (43 FR 2734, January 19, 1978), and a decision made by FHWA to draft its own RRR design standards.

A notice of proposed rulemaking (NPRM) setting forth the FHWA's proposed "Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways" was published at FR 37556 on August 23, 1978. Comments on the specific elements of the proposed standards and their effect on the Federal-aid highway program were requested. The FHWA standards for RRR work were to be more stringent than those in the AASHTO RRR Guide, but less stringent than the standards for new construction in Part 625.

Some 111 responses were received to the NPRM (FHWA Docket No. 78-10). Although the majority of the comments generally favored the proposed standards, a number of the comments raised issues more broadly related to the proper Federal role in the RRR program.

Several highway agencies and AASHTO felt that the development of a design guide should be AASHTO's responsibility with the cooperation of FHWA. One State questioned the legality of FHWA writing standards that all States would have to follow. Others thought FHWA had exceeded its authority in not allowing specific design decisions concerning local needs and variances to be made at the local level. The FHWA agrees that State and local governments and representative organizations like AASHTO have an important role to play in the standards development process. The FHWA also recognizes that it has the ultimate responsibility for assuring that all Federal-aid projects, including RRR projects, are carried out in conformance with certain basic requirements for design and construction set forth by Congress in the Federal-Aid Highway Acts. Those requirements are codified in 23 U.S.C. 109(a) and call for facilities "(1) that will adequately meet the existing and probable future traffic needs and conditions in a mannner conducive to safety, durability, and economy of maintenance, and (2) that will be desinged and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality."

Several comments addressed the question of increased tort liability, either on the part of the Federal Government or at the State and local level. While the FHWA recognizes the concerns expressed in this regard, the agency's major concern and responsibility is the promulgation of policies and procedures to assure that RRR projects meet the requirements in 23 U.S.C. 109(a).

There was concern expressed by some members of the highway safety community that the proposed standards did not follow the intent of Congress in placing enough emphasis on highway safety. The establishment of safety performance standards was suggested. The thrust of comments from the Center for Auto Safety, the Georgia State Office of Highway Safety, the Insurance Institute for Highway Safety, and the National Transportation Safety Board was that no action by FHWA might be better than action that creates a road that is not entirely safe. The FHWA agrees that the safety of the traveling public is a matter of utmost concern in the development of any highway design standards.

Task Force

The various issues raised in response to the NPRM led FHWA to a reevaluation of its proposed action. Following the close of the comment period on the NPRM in January 1979, the FHWA established an internal task force and four working groups to evaluate RRR implementation and make recommendations for further action to the Administrator.

On May 23, 1979, the FHWA published a notice (44 FR 29921) regarding the status of the RRR rulemaking action. The notice indicated that the working groups were addressing the following tasks: (1) preparation of a summary of Docket No. 78-10 comments, (2) evaluation of Docket No. 78-10 comments, including those which suggested alternative procedures to separate RRR standards and an evaluation of these procedures, (3) preparation of a regulatory analysis required by Executive Order 12044 on Improving Government Regulations, and (4) based upon comments received and impact analysis, preparation of options for the Administrator's decision.

In developing a regulatory analysis for this rulemaking action, one of the FHWA working groups prepared a technical report, "RRR Alternative Evaluations for Non-Interstate Rural Arterial and Collector Highway Systems," which evaluates three levels of geometric design standards for nonfreeway RRR work:

Case 1: Minimum tolerable conditions (MTC) are set at the level of the currently approved design standards (23 CFR Part 625) for new construction. This case places emphasis on improving lane and shoulder widths, operating speeds, and horizontal and vertical alignments whenever a RRR project is undertaken. Case 1 is a theoretical bound which exceeds present practice for RRR in that the MTC used are the current standards in Part 625 applied without exception to the roadway sections needing improvement. Case 1 represents the upper bound for RRR geometric design standards.

Case 2: The MTC are essentially the standards proposed by FHWA in the August 1978 NPRM (Docket No. 78-10). This case represents the lower bound that would be considered in this analysis as being acceptable for RRR work. Case 2 emphasizes reversing the present trend toward nonfreeway pavement surface deterioration without substantially changing the existing system relative to highway geometrics (i.e., lane and shoulder widths, operating speeds, etc.).

Mid-Case: The MTC used in the Mid-Case closely represent current State practice for Federal-aid RRR work (i.e., current design standards in Part 625 with exceptions granted by the FHWA Division Administrator on a project by project basis).

The report evaluates the application of the various RRR standards relative to both total system needs and projected funding levels. A 15-year period of examination from 1975 to 1990 is used.

The report concludes that under unlimited funding conditions the highest design standards (Case 1) would, as expected, provided the best safety and operational performance. However, given limited program funding the report indicates that RRR improvements would provide greater benefits nationally if standards that more closely parallel the Case 2 or Mid-Case conditions were used rather than those in Case 1.

The complete 139-page technical report is being made available to the public as an appendix to the draft regulatory analysis. This analysis is available for inspection in the public docket in Room 4205 at the address provided above. Copies of the analysis (with appendix) are available and may be obtained by contacting Mr. Alvin R. Cowan at the address provided above.

Based upon a review and evaluation of the technical report and the comments submitted to the public docket, various options were considered by the FHWA task force. Two basic policy alternatives were available to the agency.

Under the first alternative, the FHWA would adopt design standards for use on all nonfreeway RRR projects nationwide. The second alternative would involve adoption of a flexible approach to nonfreeway RRR projects that would encourage individual State initiative without establishing nationwide standards. The recommendations of the FHWA task force to proceed with the second alternative form the basis for the action proposed in this NPRM.

Proposed Action

The FHWA is proposing to implement the individual State approach by issuing a policy statement and establishing a framework for the adoption of nonfreeway RRR procedures and criteria in each State. The design standards applicable to work on the Interstate System and other freeways would not be affected by this proposal.

The proposed policy statement is, in part, a restatement of the statutory requirements in 23 U.S.C. 109(a) for all Federal-aid highway projects. It is also a statement of FHWA's official policy on RRR work and the overall standard by which a State's RRR process and eligible highway projects would be judged.

The proposed policy statement would be issued as a new § 625.2 in Part 625 and would read as follows:

> "(a) Plans and specifications for proposed Federal-aid highway projects shall provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; and (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.
>
> (b) The development and overall management of highway facilities must be considered as a continuing program. This process of highway management commences with planning and extends through design,

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construction, maintenance, and operation. In order to assure a continuing acceptable level of safe traffic service, it is essential to provide for adequate maintenance and periodic resurfacing, restoration, and rehabilitation (RR) throughout the life of the highway. The RRR work is defined as work undertaken primarily to extend the service life of an existing facility. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders or bridges, the roadside, and appurtenances to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The RRR work is an essential part of any highway program, and each State and local agency should provide for these types of improvements in each annual highway program.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation's highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways. Accordingly, the only constraint on the application of Federal-aid funds to RRR work is that they must be used to provide a facility that adequately meets existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance, and acceptable levels of community and environmental impact. The RRR projects should be designed and constructed in a manner that will prevent deterioration of safety and yet accomplish the foregoing objectives according to the particular needs of each State and locality."

The RRR policy would be implemented in each State by the State highway agency and the FHWA Division Administrator. The appropriate Federal-aid requirements would be met by the development of procedures and criteria under which the State would ensure that all nonfreeway RRR projects conform to the FHWA's RRR policy.

The framework for adoption of nonfreeway RRR criteria would be established under a new paragraph (a)(6) in 23 CFR 625.3 and would read as follows:

"The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community and environmental needs of the projects."

The proposed approach would allow for State and local discretion in the development and implementation of a RRR program. At the same time, it would provide for guidance and oversight by the FHWA to assure consistency with national policy objectives.

Under this proposal, the minimum goemetric design standards adopted in Part 625 for use on new projects and reconstruction projects would not necessarily apply to nonfreeway RRR projects. There would be sufficient flexibility to allow the use of the standards in Part 625, RRR standards such as those developed by AASHTO (Docket No. 77-4), safety performance standards, or other criteria, including various combinations of the above.

The procedures to be developed by each State would indicate the type of projects covered by the State's nonfreeway RRR criteria and could provide for exceptions from the criteria under appropriate circumstances. Criteria could be established to cover all projects in the State, individual projects, or projects grouped by various factors such as geographic region, type of work involved, functional classification, special project features (e.g., historic bridges), etc.

These criteria would not necessarily include specific, numerical standards. The design of any given project could be based on a variety of factors including traffic volumes, accidents, physical characteristics, functional classification, economics, and the potential impacts of various types of improvements. The State's procedures could indicate how these various factors would be considered in designing a particular project or group of projects. Where a State develops or adopts more than a single set of criteria for a group of projects, the State's procedures would indicate how a particular set of criteria would be selected for a given project. For example, a State could indicate that the choice of design criteria would depend upon the accident history of the highway section involved and the availability of funds for various types of improvements.

A State's procedures could be included in its criteria and would not have to be set out in a separate document. It is not the FHWA's intention to require the States to develop detailed procedures for processing RRR projects. These projects are currently processed and will continue to be processed under normal Federal-aid procedures.

If this proposed approach is adopted, the FHWA will monitor the RRR program in each State as part of the FHWA's ongoing oversight function to ensure that full consideration is given to both safety and highway preservation objectives and that Federal assistance is provided where needed in the development and implementation of the program.

It should be noted that, under the FHWA's proposal, the upgrading of those features that would improve highway safety will continue to be eligible for funding with safety funds, regular Federal-aid funds, or both.

The FHWA technical report, "RRR Alternative Evaluations for Non-Interstate Rural Arterial and Collector Highway Systems," supports the application of lower minimum standards for RRR work such as those represented by the Mid-Case or Case 2 range, both of which are less than current minimums for new highways. Since both of the basic policy alternatives available to the agency could result in the application of lower minimums, the FHWA's choice of the individual State approach as opposed to nationwide standards was based primarily on non-technical factors. The major advantages of this approach are summarized below:

1. Provides needed program flexibility and discretion at the State and local level.

2. Encourages the design of projects that conform to the particular needs of each locality (23 U.S.C. 109(a)(2)).

3. Maintans sufficient Federal oversight to ensure that proper consideration is given to promoting the safety of highway users and preventing continued deterioration of the Nation's highway system.

4. Reflects the intent of Congress to provide greater flexibility in the use of Federal funds for obtaining maximum use from the extensive system of existing highway facilities.*

5. Implements the President's policy to minimize burdens on State and local governments and achieve legislative goals effectively and efficiently (Executive Order 12044, 43 FR 12661, Mar. 24, 1978); the national policy on minimization of redtape in Federal highway programs as expressed by Congress in 23 U.S.C. 101(e); and the FHWA's well-established policy on the minimization of redtape (43 FR 10578, Mar. 14, 1978).

6. Avoids disproportionate impacts on urban areas and rural communities that might result from the imposition of uniform standards nationwide.

A disadvantage of the proposed approach is that in order to utilize the flexibility provided by the regulation, it would be necessary for States to develop their own procedures and criteria for RRR projects. However, the FHWA believes that sufficient resources are available to minimize the burden on State highway agencies. The States would be able to select from or expand on a variety of existing references with adequate technical support and guidance provided by FHWA. If a State was not interested in exercising its option under the proposed regulation, it could simply notify the FHWA of its intention to continue operating under the procedures and standards currently provided by Part 625.

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*H.R. Rept. No. 1567, 93d Cong., 2d sess. 3(1974); H.R. Rept. No. 109, 94d Cong., 1st sess. 5(1975); S. Rept. No. 485, 94th Cong., 1st sess. 7,8(1975); H.R. Rept. No. 716, 94th Cong., 1st sess. 5, 6(1975); H.R. Rept. No. 1017, 94th Cong., 2nd sess. 42, 43(1976).

Standards developed on a national level often provide for uniformity at the expense of local needs and preferences. This is particularly true with regard to RRR work—what works well in one part of the country, or even one area of a State, may be totally unacceptable in another. To a certain extent, standards such as those currently approved for use on the construction of new highways and reconstruction projects recognize the need for local variations by providing ranges of acceptable values, alternate standards for use under varying conditions, and a procedure for requesting exceptions on individual projects. Because of the type of work included in most nonfreeway RRR projects, it is anticipated that the number of requests for exceptions from nationwide standards would be quite large. The FHWA believes that this process would impose an unreasonable burden on grant recipients and agency field offices and could unnecessarily delay needed improvements.

Public Participation

Through this notice of proposed rulemaking, comments are invited on the FHWA's proposed approach to nonfreeway RRR projects. Comments may also address how this approach can best be implemented to assure a program that will achieve good results in preserving the Nation's highways. Comments received will be evaluated and used in preparing a final rule.

All comments should be sent to FHWA Docket No. 80-3 at the address provided above. A 120/day comment period is being provided. The previous notice of proposed rulemaking on nonfreeway RRR standards (43 FR 37556 Aug. 3, 1978) is withdrawn.

As part of the rulemaking process, a public meeting will be held on Tuesday, February 3, 1981, beginning at 9:30 a.m., in Room 2230 of the DOT Headquarters Building (Nassif Building), 400 Seventh Street, SW., Washington, D.C. For persons wishing to attend the meeting, the most convenient point of access to Room 2230 is via the building entrance near the corner of Sixth and E Streets, SW. Public parking is available nearby. Access for persons using wheelchairs is most convenient via the Seventh Street or E Street entryways into the building plaza.

All interested individuals and groups are invited to attend and participate in the meeting. The FHWA will explain the proposed course of action and review the draft regulatory analysis and technical report. Following presentations by FHWA officials, an opportunity will be provided for public comment and questions.

The individuals who can answer questions about the proposed action and the upcoming meeting are Mr. Alvin R. Cowan and Mr. Kenneth H. Davis, Office of Engineering, Room 3212, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590, Telephone 202-426-0312. Requests for copies of the draft regulatory analysis and technical report should be addressed to Mr. Cowan or Mr. Davis. A copy will also be available for review in each FHWA field office (49 CFR Part 7, App. D).

In consideration of the foregoing, and under the authority of 23 U.S.C. 101, 109, 315 and 49 CFR 1.48(b), the Federal Highway Administration proposes to revise Chapter I, Part 625 of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: December 29, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

1. The table of sections is amended by adding a new section to read:

Sec.

625.2 *Policy.*

2. Section 625.2 is added to read as follows:

§ 625.2 Policy.

(a) Plans and specifications for proposed Federal-aid highway projects shall provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; and (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The development and overall management of highway facilities must be considered as a continuing program. This process of highway management commences with planning and extends through design, construction, maintenance, and operation. In order to assure a continuing acceptable level of safe traffic service, it is essential to provide for adequate maintenance and periodic resurfacing, restoration, and rehabilitiation (RRR) throughout the life of the highway. The RRR work is defined as work undertaken primarily to extend the service life of an existing facility. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders or bridges, the roadside, and appurtenances to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The RRR work is an essential part of any highway program, and each State and local agency should provide for these types of improvements in each annual highway program.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation's highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways. Accordingly, the only constraint on the application of Federal-aid funds to RRR work is that they must be used to provide a facility that adequately meets existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance, and acceptable levels of community and environmental impact. The RRR projects should be designed and constructed in a manner that will prevent deterioration of safety and yet accomplish the foregoing objectives according to the particular needs of each State and locality.

§ 625.3 [Amended].

3. Paragraphs (a)(6) through (a)(20) of § 625.3 are redesignated (a)(7) through (a)(21), respectively.

4. A new paragraph (a)(6) of § 625.3 is added to read as follows:

(a) * * *

(6) The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all

nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community and environmental needs of the projects.

* * * * *

[FR Doc. 81-115 Filed 1-2-81; 8:45 am]

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federal register

Monday
January 5, 1981

Part IX

Community Services Administration

Grantee Program Management System for Public and Private Non-profit Agencies and Organizations

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1067

[CSA Instruction 6710-1a]

Grantee Program Management System: The Community Action Agency

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration (CSA) is filing this document as a final rule to establish a new program management system for public and private non-profit agencies and organizations which have the CSA-recognized grantee designation of community action agency (CAA) and whose financial assistance is provided in total or in part by the CSA. This rulemaking document addresses a legislatively-mandated condition for financial assistance: The adoption by the CAA of a systematic approach encompassing a planning and implementation process as set forth under Title II of the Economic Opportunity Act of 1964, as amended (the Act). Further, the final rule is the basis for a consistent approach to be employed by the CSA Regional Directors and their respective staffs in monitoring, guiding and assisting grantees to fulfill the functions of a CAA and to achieve the community action mission. For community action program (CAP) participants, including policy-making representatives of the low-income, public and private sectors of the community, as well as CAA employees, volunteers and program beneficiaries, the final rule describes the system in both functional and chronological terms, using a step-by-step approach. The three major elements of the system—planning, application and performance—are defined, as are the minimum requirements for the basic components of the system. Included are a comprehensive community planning concept, continuing involvement of the poor, relevant program development, project progress reporting, ongoing performance assessment, and evaluation of process and product effectiveness. Of unique significance is the integration of civil rights requirements with the work effort performed under the elements of the system; this results in reality-based determination and reporting of anti-discrimination and equal opportunity assurances coupled with work projections and accomplishments.

EFFECTIVE DATE: February 4, 1981, except for recordkeeping and reporting requirements contained in §§ 1067.70-4 and 1067.70-6 through 1067.70-9. See § 1067.70-10 of the regulations for further details.

FOR FURTHER INFORMATION CONTACT: Ms. Hazel A. Wilson, Community Services Administration, Office of Regional Operations, 1200 19th Street, N.W., Washington, D.C. 20506; Telephone No.: (202) 254-5670; Teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: *Classification:* The Community Services Administration considers this rule to be a "significant" regulation under its published criteria for implementing E.O. 12044.

Regulatory Analysis: Not required for this rulemaking.

Environmental Impact Statement: This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environment Policy Act of 1969.

Catalog of Federal Domestic Assistance Number: 49.002 COMMUNITY ACTION.

Regulatory History: The CSA "Grantee Program Management System: The Community Action Agency" replaces OEO Instruction 6710-1, "Applying for a CAP Grant," issued in 1968. Since publication of 6710-1, more than eleven Instructions have been issued changing various requirements of the old system. As a result of the many piecemeal changes, current planning and application procedures are inconsistent and administered differently from one regional office to another. On August 30, 1979, (44 FR 50982) the CSA published a proposed rule describing the new program management system. Then, on July 28, 1980 (45 FR 50296) the CSA republished the proposed rule which had undergone significant revision based on comments received from interested parties and extensive field testing. Now, the final rule is being published to take effect thirty (30) days from the date of publication in the **Federal Register**. Additional comments and further analysis have contributed to a compact and streamlined regulation which—

1. Requires a CAA to establish a planning process and an evaluation process that meet certain criteria and are subject to approval by the appropriate CSA Regional Director.
2. Requires a CAA to implement the approved processes in developing (a) a Four-Year Action Plan containing goals, priorities and strategies, (b) an Equal Opportunity Plan which links civil rights requirements to issues addressed in the action plan, and (c) specific structures and methods for performance assessment and impact evaluation.
3. Requires a CAA to design two-year work programs based on CSA-accepted action plans and to identify work to be performed on a project basis with objectives and activities clearly outlined. (The CSA Regional Director will approve grant applications for a two-year period, instead of annually. Grant awards will be made annually, contingent upon availability of funds.)
4. Combines grant application and project progress reporting forms and simplifies project progress reporting, while reducing reporting frequency.
5. Formally institutes a scheduled and structured on-site prereview visit by the CSA field representative and others.

Authority: The provisions of this subpart are issued under the authority of Section 602, 78 Stat. 530 (42 U.S.C. 2942).

Richard J. Rios,

Director.

45 CFR Part 1067 is amended by adding the following new subpart:

Subpart 1067.70—Grantee Program Management System: The Community Action Agency

Sec.
1067.70-1 Purpose.
1067.70-2 Applicability.
1067.70-3 Key terms used in this subpart.
1067.70-4 Planning and evaluation.
1067.70-5 Activities to be undertaken before the CAA applies for funds.
1067.70-6 The grant application.
1067.70-7 Submitting the grant application to the CSA Regional Office.
1067.70-8 Assessing performance and reporting project progress.
1067.70-9 Amending the work program.
1067.70-10 Office of Management and Budget review; delay of effectiveness for recordkeeping and reporting requirements.
Appendix A to Subpart 1067.70—CSA Forms and Instructions.
Appendix B to Subpart 1067.70—GPMS Time Line Chart.

Authority: Section 602, 78 Stat. 530 (42 U.S.C. 2942).

Subpart 1067.70—Grantee Program Management System: the Community Action Agency

§ 1067.70-1 Purpose.

This subpart describes the Grantee Program Management System (GPMS) to be used by a community action agency (CAA) and the Community Services Administration (CSA) when the CAA applies for a grant under the Economic Opportunity Act of 1964, as amended (the Act), to conduct and administer a community action program (CAP). This system prescribes a four-year planning cycle encompassing two consecutive two-year work programs, and provides for an annual release of funds. It covers planning, applying for the grant, reporting project progress, and evaluating the results of projects and strategies undertaken with the grant. The Grantee Program Management System integrates the civil rights requirements prescribed under Part 1010 of this chapter into the planning, application, and performance elements of the system. The Grantee Program Management System helps the CAA meet the condition of assistance which specifies adoption of a systematic approach encompassing a planning and implementation process, under requirements set forth in Section 221(d) of the Act.

§ 1067.70-2 Applicability.

This subpart applies to all community action agencies whose financial assistance is provided in total or in part by the Community Services Administration.

§ 1067.70-3 Key terms used in this subpart.

(a) *Activity.* Within the two-year work program, an activity is the action that will be taken to cause a project objective to be reached as scheduled. An activity can be performed only once, several times, or it can be ongoing. An activity should be specific to the level of detail necessary for the CAA and the CSA to understand how the project will accomplish its objectives.

(b) *Civil Rights Requirements.* The CSA requirements for anti-discrimination assurances and equal opportunity for program participants and in CAA employment as cited in Part 1010 of this chapter.

(c) *Equal Opportunity Plan.* (1) The CSA has one national civil rights program which is applicable to all grantees, including the CAA. The Equal Opportunity Plan is an integral part of that program; it forms the basis for determining and reporting all anti-discrimination and equal opportunity work projections and accomplishments. Every CAA shall participate in and conform to the civil rights program requirements by developing and submitting an Equal Opportunity Plan. See Part 1010 of this chapter for details.

(2) A CAA's Equal Opportunity Plan is comprised of the following materials:

(i) A written Equal Opportunity Policy Statement;

(ii) A written position description for the Equal Opportunity Officer, a written explanation of the structure and function of the Equal Opportunity Committee, and a written explanation of the roles and relationships between the Equal Opportunity Officer and the Committee and other civil rights officials;

(iii) A written Discrimination Complaint Procedure, incorporating the procedures required in Section 1010.30-3 of this chapter;

(iv) A comprehensive Civil Rights Needs Assessment; the assessment documents relevant civil rights issues and problems, and includes a comparison of the population receiving benefits to the population eligible to receive benefits on the basis of race, sex, age and national origin, and a comparison of the CAA's staffing to the eligible population on the basis of race, sex, age, and national origin [see Section 1067.70-4(a)(2)];

(v) The equal opportunity goals and strategies in the Four-Year Action Plan which address the issues identified in the assessment;

(vi) An equal opportunity project(s) including specific objectives with their related activities;

(vii) Regular project progress reports of the CAA's accomplishments toward achieving the objectives and activities; and

(viii) Data and information relating to the CAA Board, advisory groups, program participants, and workforce characteristics.

(3) The individual materials in (i) through (viii) above are submitted by the CAA to the appropriate CSA Regional Office at times specified in this subpart or by the Regional Office.

(d) *Evaluation.* A study undertaken to determine the extent to which a completed project met its four-year goal. An evaluation may determine (1) the extent to which meeting the goal achieved the purposes set forth in Title II of the Act and the CAA's Mission Statement, or (2) the extent to which implementation of the CAA's Four-Year Action Plan impacted the poverty-related problems addressed by the plan's stated goals.

(e) *Four-Year Goal.* A statement of desired results to be achieved by the end of the four-year period in terms of a resolution or reduction of the poverty-related problem. A goal should be limited to what the CAA can reasonably expect to accomplish within four years and should be stated specifically enough that the CAA can determine whether it has been met.

(f) *Impact Measure.* An indicator of effective achievement used in evaluation, an impact measure indicates the extent to which achieving the four-year goal produced the desired results. For example, an impact measure for an employment training project might be used to determine whether trainees actually acquired desired knowledge, attitudes and work skills; went on to find jobs; and whether the percentage of unemployment in the community was actually reduced, if this was the desired result.

(g) *Objective.* A specific, measurable result to be accomplished during a two-year work program period by implementing a CAA project. An objective represents a step on the road to reaching a goal and in many cases will be a statement of how much of the four-year goal will be achieved at the end of a two-year work program. Every project which the CAA proposes to undertake in its work program must have at least one objective established for it.

(h) *Performance Assessment.* An examination to determine whether progress is being made toward meeting a project's objectives, and if not why not. An assessment first attempts to uncover difference from expected or planned results and then analyzes these differences to determine their causes, their consequences, what conclusions can be drawn, and what recommendations can be made.

(i) *Performance Measure.* An indicator of efficient accomplishment used in assessment, a performance measure indicates the extent to which the planned activities of a project are on-target in meeting the stated objectives. A performance measure may indicate a unit quantity to be produced during a certain interval or a schedule of events to take place in the activities of a project. For example, a performance measure for a particular project might be the number of enrollees in a program, the number of substandard housing units rehabilitated, the date on which a certain product (a report, local or state law change, committee formed) is furnished, or a key beginning or ending date when an activity takes place (an event, episode).

(j) *Poverty-Related Problem.* An obstacle created by a cause(s) or reflecting a condition which prevents individuals or families who are poor from becoming self-sufficient.

(k) *Project.* A strategy selected for implementation. The project is the level where objectives are set, resources are applied and work is performed.

(l) *Standards of Effectiveness.* A set of standards used to determine the extent to which the program, projects and activities of the CAA are meeting the purposes of Title II of the Act. The Standards of Effectiveness are categories derived for the most part from the various funding authorities of the Act and are used to assess and evaluate the effectiveness of projects. They are set forth under Subpart 1067.4.

(m) *Strategy.* A method or way to achieve one or more of the CAA's four-year goals. A strategy selected from among other alternatives will, in most cases, be a project proposed to be undertaken by the CAA.

(n) *Work Program.* The body of approved projects of the CAA.

(o) *Work Program Period.* The 24-month span of time in which the CAA's approved work program is implemented.

§ 1067.70-4 Planning and evaluation.

(a) *Developing the Planning Process Narrative (PPN).* The CAA shall develop a narrative description of the process which it will use to produce a Four-Year Action Plan. At a minimum this document shall contain:

(1) A written policy (to serve as the CAA Mission Statement) that commits the CAA to the legislatively mandated purposes of community action which enables low-income families and individuals to become fully self-sufficient (see Title II, Section 201(a) (1-5), of the Act and Section 1063.130 of this chapter);

(2) A description of how the CAA will: assess the needs of the low-income community (this description must also include how the CAA will assess the civil rights and equal opportunity problems of the CAA and the low-income community which it serves), rank identified poverty-related problems based on severity of need, analyze and assess the utilization of the resources available to the community to combat poverty, establish goals for addressing poverty-related problems of the community, and develop and select strategies to combat those problems;

(3) A timeable for each activity to be undertaken in developing the action plan;

(4) A description of how the CAA will publicize each activity in order to encourage broad community participation in the development of the action plan;

(5) A description of how the CAA will involve the poor in the development of the action plan;

(6) A description of how the CAA will provide ample opportunity and sufficient time for public review of the action plan;

(7) A list of agencies, organizations and institutions that perform various State-level, sub-state-regional, and local planning functions which may have relevance to the needs of the poor, and with whom the CAA proposes to interact in an advocacy planning role; for example: State, county and city planning departments, school systems, United Way, councils of government, health systems agencies, employment and training program sponsors, and economic development groups; and

(8) A description of the process which the CAA will use to amend the action plan in the event that it becomes necessary to do so during the four-year period which the plan covers. This process shall provide to organizations which serve the low-income community the opportunity to petition the CAA to amend its plan.

(b) *Developing the Evaluation Process Narrative (EPN).* Evaluation in its totality will be a required project [see Section 1067.70-6(d)]. The entire community action program can be evaluated against the purposes of the Act using the Standards of Effectiveness and other goal-achievement measures set forth in the Four-Year Action Plan. At least once every four years, the CAA must evaluate the impact of at least one high priority project. The Evaluation Process Narrative will describe how the impact evaluation will be conducted. The Evaluation Process Narrative will also describe how the CAA will assess project administration including management policies, procedures and practices. Specifically included is the management of the total, ongoing planning process. The assessment of projects is described in Section 1067.70-8. The assessment of the management function must be addressed in the Evaluation Process Narrative. For both the impact evaluation of the project(s) and for the assessment of the management function(s) the CAA shall describe in the Evaluation Process Narrative:

(1) The specific structures and methods that will be used, including the role and responsibilities of the CAA Board, committees, the poor (including the elderly, women, minorities and the handicapped), program participants, CAA staff and others in the community as may be appropriate.

(2) The processes that will be used:

(i) To select the project(s);

(ii) To select the management function(s) to be assessed;

(iii) To select the measurable performance criteria that will be used; and

(iv) To carry out the evaluation or assessment.

(3) The use of the products—including how the CAA Board will review and act upon the assessment and evaluation reports, how the information in these reports will be used to improve the performance of the CAA, and how the information will be used to develop the next Four-Year Action Plan. Different structures and methods may be chosen for evaluation and assessment.

(c) *Submitting the Planning Process Narrative and the Evaluation Process Narrative to the CSA Regional Office.* (1) The CAA shall submit three copies of its Planning Process Narrative and three copies of its Evaluation Process Narrative to the Regional Office *no later than fifteen months before the beginning of the next cycle of the Four-Year Action Plan.* The presiding official [1] of the CAA shall send a cover letter along with the narratives certifying that the governing board or governing officials have approved them. If the CAA is a part of local government, the CAA shall also submit to the Regional Office the written recommendations of the Community Action Board concerning the narratives.

(2) The CSA Regional Director or his/her designee will approve the Planning Process Narrative *within thirty days of receipt* if it describes adequate procedures for all of the required elements in Paragraph (a) of this section and if it complies with the CSA's requirements for civil rights and for the participation of the poor. The CAA may not put the planning process into effect

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[1] The presiding official of the CAA is the chairperson or designee of the governing board (in the case of private, non-profit CAAs and CAAs which are separate public agencies) or the chief elected official or the elected official with the responsibility for signing documents for the CAA (in the case of governmental CAAs).

until the Regional Director has approved the narrative.

(3) The Regional Director or his/her designee will approve the Evaluation Process Narrative *within thirty days of receipt* if it contains complete and appropriate steps for all of the required elements in Paragraph (b) of this section and if it complies with the CSA's requirements for civil rights and for the participation of the poor.

(d) *The Four-Year Action Plan.* (1) The CAA shall use its approved planning process to produce a Four-Year Action Plan. In this plan, the CAA shall:

(i) Describe the significant poverty-related and civil rights problems in the community with appropriate statistical data (and sources) as derived from the assessment of needs;

(ii) Describe the cause(s) of each problem;

(iii) Rank the poverty-related problems in order of the severity of need;

(iv) Analyze the resources used in current and past efforts to solve each problem;

(v) State the goal(s) which the CAA proposes to achieve during the four-year period of the plan (for each poverty-related problem which the CAA proposes to address); and

(vi) Describe possible alternative strategies for achieving these goals (for each poverty-related problem which the CAA proposes to address).

(2) The CAA shall document the information for each poverty-related problem and each civil rights problem on a separate CSA Form 510, "Grantee Four-Year Planning Statement," and shall submit CSA Form 509, "Grantee Plan Summary Data and Certification" as a cover sheet for the plan.

(e) *Reviewing and Approving the Four-Year Action Plan.* (1) Prior to Board approval, the CAA shall provide ample opportunity and sufficient time for review of the Four-Year Action Plan by low-income residents, by relevant community organizations, and by the local officials who participated in the designation of the CAA. The CAA shall maintain on active file available to the CSA all comments, both favorable and unfavorable, of every person and organization who commented on the plan.

(2) After allowing ample opportunity and sufficient time for public review, the CAA Board [2] shall review and approve the plan at a public meeting held specifically for that purpose. In the case of a governmental CAA, the designating officials shall also review and approve the plan at a public meeting before it is submitted to the Regional Office.

(3) If the CAA Board rejects any suggested change in the plan which has received broadly organized community support during the period of review, it shall submit along with the plan a summary of the suggested changes and the Board's reasons for rejecting them.

(f) *Submitting the Four-Year Action Plan to the CSA Regional Office.*

(1) The CAA shall submit three copies of the Four-Year Action Plan Regional Office *no later than 180 days before the beginning of the next cycle of the Four-Year Action Plan.* The earliest possible submission can help ensure timely funding decisions and avoid cash flow problems.

(2) The Regional Director or his/her designee will notify the CAA of acceptance of the action plan in the Letter of Program and Funding Guidance [see Section 1067.70-5(c)(3)] unless the CAA has not followed its approved planning process in developing the plan or has not properly completed CSA Forms 509 and 510. By accepting the action plan the Regional Office does not approve the CAA's priorities, goals, and strategies. Nor does acceptance of the action plan commit the CSA to approval of a grant application based on the plan or to continued funding of the CAA.

(3) If the Regional Director or his/her designee refuses to accept the action plan, he/she will clearly state the grounds for doing so. The CAA may appeal to the Regional Director *within ten working days* for reconsideration of the rejected plan. If the Regional Director rejects the appeal and if the CAA refuses to alter the plan, this rejection shall constitute the first step in the denial of an application for refunding. See Subpart 1067.2 for details.

(g) *Submitting Amendments to the Four-Year Action Plan to the CSA Regional Office.* When it wishes to amend the Four-Year Action Plan, the CAA shall submit to the Regional Office a revised CSA Form 509 and the necessary CSA Form 510s. The Regional Director or his/her designee will accept the amendment(s) *within ten working days* if the CAA has followed its approved process for amending the action plan.

§ 1067.70-5 Activities to be undertaken before the CAA applies for funds.

(a) *Maintaining Eligibility to Receive Funds.* It is the duty of the CAA *at all times* to maintain eligibility and to comply with the provisions of the Act and with the CSA regulations and policy statements. Failure or refusal to do so is sufficient grounds for refusal to refund the CAA. See Subpart 1067.2 for details. Required eligibility documents shall be submitted with the action plan and at other times specified by the Regional Office.

(b) *On-site Visit by the CSA.* (1) The CSA Regional Office field representative will generally conduct an on-site visit *approximately 180 days before the start of each work program period.* The field representative will use this visit to:

(i) Discuss the CAA's action plan in light of its approved planning process;

(ii) Validate information contained in the CAA's project progress reports;

(iii) Verify the CAA's compliance with the provisions of the Act and CSA regulations and policy statements;

(iv) Review how the CAA proposes to provide ample opportunity and sufficient time for public review of the grant application;

(v) Eliminate possible obstacles to funding or refunding; and

(vi) In cooperation and coordination with the appropriate regional Human Rights Chief, review the CAA's compliance with CSA civil rights requirements under Part 1010 of this chapter; the Human Rights Chief has delegated authority to certify civil rights compliance.

(2) *Within five working days after completing the visit* the field representative will send a memorandum to the presiding official of the CAA setting out the issues which he/she discussed with representatives of the CAA during the visit and the actions to be taken by the CAA in response to those issues. The field representative will confer with the Human Rights Chief on civil rights issues addressed in the memorandum.

(3) If the CAA disputes the contents of this memorandum, it shall respond in writing to the Regional Director *within ten working days after its receipt.*

(c) *Letter of Program and Funding Guidance. Within twenty working days after the visit or after receipt of the Four-Year Action Plan* (whichever is later) the Regional Director will send to the CAA a formal Letter of Program and Funding Guidance. This letter does not bind the CSA to fund the CAA. It offers guidance to the CAA on what it may expect from the CSA if it continues to maintain its eligibility, if funds continue to remain available, and if the CSA's priorities do not change. The letter will:

(1) Confirm agreements made at the time of the visit and, if necessary, communicate the resolution of any dispute over the agreements;

(2) Notify the CAA of its eligibility status and any need for corrective action;

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[2] The term "CAA Board" refers throughout this subpart to the governing board in the case of private, non-profit CAAs and CAAs which are separate public agencies, and to the Community Action Board in the case of governmental CAAs.

(3) Accept the CAA's action plan (every other work program period);

(4) Highlight pending problems and needed corrective actions; and

(5) Give program guidance and expected funding levels.

§ 1067.70-6 The grant application.

(a) *Clearinghouse Notification.* As soon as the CAA receives the Letter of Program and Funding Guidance from the Regional Director, it shall notify both the State and area-wide clearinghouses of its intent to apply for funds. Notice shall be given to the clearinghouses *at least sixty days before the CAA expects to submit its grant application to the CSA (that is at least 135 days before the end of each work program period).* See Subpart 1067.10 for the procedures for notifying the clearinghouses.

(b) *Developing the Work Program.* (1) Using its Four-Year Action Plan and any guidance from the Regional Office in the Letter of Program and Funding Guidance, the CAA shall develop its work program. Note that the action plan will form the basis for two consecutive work programs:

(i) Each project which the CAA proposes to undertake shall be aimed at solving a poverty-related problem identified in the action plan.

(ii) The CAA shall establish at least one objective for each project which it proposes to undertake. The CAA shall relate each objective, project and strategy to its goal for the poverty-related problem such that the CAA will achieve the goal within four years.

(iii) The CAA shall list the activities which it proposes to undertake in order to reach its objective(s) for each project.

(iv) The CAA shall identify for each project the performance measures which will be used to determine whether the project is making progress towards its objective(s).

(v) The CAA shall identify the Standard(s) of Effectiveness against which each project can be evaluated.

(vi) The CAA shall identify the impact measures for each project; when a project is selected for evaluation the impact measures and the Standard(s) of Effectiveness will be used.

(2) The CAA shall record the information required in (i) through (vi) above on a separate CSA Form 512–A, "Grantee Work Program and Project Progress Report," for each project in which CSA funds are used. This information must also be completed in summary form on CSA Form 511, "Grantee Work Program Summary and Application Certification." The CAA need not submit a CSA Form 512–A for any project in which CSA funds are used only for administration so long as the CAA reports project progress to another agency and makes available the reports to the CSA.

(c) *Eligible Activities.* The CAA may undertake a broad range of projects using both CSA funds and funds from other sources. However, any project which the CAA undertakes, whether using CSA funds or funds from other sources, shall be of benefit to the poor and shall give promise of progress toward eliminating poverty in the community. The CAA may not, directly or through contractual arrangements, operate any project which would serve to discriminate against any individual on the basis of race, color, sex, age, handicap, or national origin. In addition, the work program as a whole must provide for an adequate range of activities, and the necessary connecting strategies between those activities, to ensure that it meets all of the purposes of Title II of the Act, as represented in the Standards of Effectiveness (see Subpart 1067.4), and to offer a reasonable prospect of making substantial progress against the poverty-related problems of the community.

(d) *Required Projects.* (1) For each work program, the CAA shall record its evaluation activities as a project on a CSA Form 512–A. Using its approved evaluation process, the CAA shall evaluate at least one high priority project in its work program; it shall also evaluate the planning process in its totality. The CAA shall establish milestones for its evaluation activities such that the results can be used to develop the next Four-Year Action Plan.

(2) For each work program, the CAA shall record the equal opportunity activities portion of its Equal Opportunity Plan as a project on a CSA Form 512–A.

(e) *Other Documents in the Grant Application.* The CAA shall submit the following documents, in addition to CSA Form 511 and the required CSA Forms 512–A, in the grant application:

(1) *Standard Form 424, "Federal Assistance."* This form serves as a cover sheet for the grant application and for all funding requests which the CAA submits to the CSA. It also serves as the clearinghouse notification form. The CAA shall attach to the Standard Form 424 all comments and recommendations received from clearinghouse reviews.

(2) *CSA Form 513, "Grantee Board (Advisory Group), Participants, and Workforce Characteristics."* This form provides information to the CSA on the race, national origin, sex and age of CAA Board members, program participants, and workforces. This information is necessary to ensure compliance with Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Section 623 of the Act, relevant administrative regulation, and government-wide civil rights reporting requirements.

(3) *CSA Form 514, "Grantee Budget Information."* This form sets out the budget for the activities which the CAA proposes to undertake with CSA funds during the work program period. The CAA shall maintain on active file available to the CSA detailed information on salaries, fringe benefits, contractual services, and supplies and equipment, which it uses in order to complete CSA Form 514, but need not submit this information as part of the grant application.

(4) *CSA Form 515, "Delegate Agency Basic Information and Funding Estimate."* The CAA shall submit this form whenever it chooses to contract with other organizations to operate projects the CAA proposes to undertake in its work program. The CAA need submit only one CSA Form 515 for each delegate agency regardless of the number of projects delegated to that organization.

(5) *Additional required documentation when the CAA proposes to use grant funds as venture capital.* When a CAA proposes to undertake an activity using Title II funds as venture capital, the venture must be reported as a project on CSA Form 512–A. If the CAA will not operate the venture itself, it shall arrange to sign a delegate agency contract with the organization which will operate the venture. See Subpart 1063.131 of this chapter for a discussion of the requirements for this type of contract. In addition, the CAA shall submit the following materials, as appropriate, in support of the proposed venture:

(i) Documentation that there will be no substantial negative impact on existing small businesses;

(ii) Appropriate feasibility studies and costs analyses;

(iii) Certified balance sheets and profit and loss statements for the immediately preceding three years, or from the commencement of its operation (which period is shorter), if funds are to be used for the acquisition, preservation, or expansion of an existing business venture;

(iv) Cash-flow projections and pro forma profit and loss statements and balance sheets estimated on a monthly basis for two years;

(v) Résumés of the management team; and

(vi) The articles of incorporation and the bylaws of the venture entity.

(f) *Reviewing and Approving the Grant Application.* (1) Prior to its Board approval, the CAA shall provide ample opportunity and sufficient time for review of the grant application by low-income residents, by relevant community organizations, and by the local political jurisdictions which participated in the designation of the CAA. The CAA shall maintain on active file available to the CSA all comments, both favorable and unfavorable, of every person and organization who commented on the grant application.

(2) After allowing ample opportunity and sufficient time for public review, the CAA Board shall review and approve the grant application at a public meeting held specifically for that purpose. In the case of a governmental CAA, the designating officials shall also review and approve the grant application at a public meeting before it is submitted to the CSA Regional Office.

(3) If the CAA board rejects any suggested change in the grant application which has received broadly organized community support during the period of review, or rejects A–95 clearinghouse recommendations, it shall submit along with the grant application a summary of the suggested changes and the Board's reasons for rejecting them.

§ 1067.70–7 Submitting the grant application to the CSA regional office.

(a) *Seventy-five days before the beginning of the work program period* the CAA shall submit to the Regional Office three copies of the grant application.

(b) *Within thirty days of receipt* the CSA Regional Director or his/her designee will approve the grant application:

(1) If the CAA has met all of the requirements of Section 1067.70–6;

(2) If the projects proposed are eligible for funding under the provisions of the Act and under applicable CSA policy statements;

(3) If the CAA has complied with the CSA's requirements for civil rights and for the participation of the poor;

(4) If the CAA maintains its eligibility to receive funds under Section 221(a) of the Act; and

(5) If the CAA provides evidence that the State and areawide A–95 clearinghouses have been notified of the grant application. (The application will not be accepted by the CSA without such evidence.)

(c) When the grant application is approved and funds are to be awarded, the Regional Office will prepare a grant package with the following documents, as required.

(1) *CSA Form 314, "Statement of CSA Grant."*

(2) *The General Conditions Governing Grants Under Titles II, IV and VII of the Act.* See Subpart 1067.5 for the General Conditions.

(3) *CSA Form 29, "Special Condition."* (If necessary.)

(4) *CSA Form 516, "Budget and Work Program Changes."* (If necessary.)

(d) The Regional Office will include in the grant package sent to the CAA the original and one copy of CSA Form 314. If the CAA accepts the grant, the presiding official of the CAA signs and dates the original, and returns it to the Regional Office with the accompanying documents. An accepted grant package is a legally binding contract whereby the CAA accepts all of the General and Special Conditions of the grant and accepts any changes to the budget or work program which the CSA has made on CSA Form 516.

(e) CSA Form 314 releases funds to the CAA for one year for implementation of budgeted and approved projects and activities. Approval of the two-year work program does not commit the CSA to fund the CAA for the second year of the two-year work program period. Funding for the second year of the work program period will be conditional upon the Congressional appropriations, the priorities of the CSA, satisfactory performance by the CAA, and the continuing eligibility of the CAA to receive funds under Section 221(a) of the Act. If the grant is approved and funds are to be awarded for second year of the work program period, the Regional Office will send the CAA another grant package as described in Paragraph (c) of this section. In accepting the grant, the presiding official of the CAA will return the signed and dated original of CSA Form 314 as described in paragraph (d) of this section.

§ 1067.70–8 Assessing performance and reporting project progress.

(a) The CAA shall develop a process for regularly assessing CSA-funded projects. This process shall provide for the participation of the poor and of the CAA Board. The CAA shall maintain on active file available to the CSA a written description of this process.

(b) The CAA shall report to the CSA at 6, 15, and 24-month intervals of the work program the results of its assessments of the progress of CSA-funded projects and activities.

(c) The CAA shall document project progress on CSA Form 512–A, and if necessary on CSA Form 512–B, "Grantee Work Program and Project Progress Report (Exception Report)." The CAA Board shall review and approve the report. *Within thirty days after the end of each reporting period* the CAA shall submit to the Regional Office three copies of each CSA Form 512–A used to report project progress, three copies of CSA Form 512–B for any projects which require an exception report, and three copies of the minutes of the meeting at which the project progress reports were approved. In addition, three copies of CSA Form 513 shall be submitted with the project progress report for the reporting period ending at the 15th month interval.

(d) For any project in which CSA funds are used only for administration, the CAA shall submit to the CSA Regional Office all project progress reports which it submits to the other agency (or agencies) which provides operating funds for the project. The Regional Office will advise the CAA of any action it will take on these progress reports.

§ 1067.70–9 Amending the work program.

(a) The CAA may reschedule the target or completion dates for activities of a project any time before the sixth month of the work program period without receiving prior approval from the CSA Regional Office. This rescheduling, however, may occur *only* before the sixth month of the work program period and *only* if the project is not meeting originally targeted performance measures.

(b) The CAA shall request approval from the Regional Office for amendments to the work program under the following conditions:

(1) When the CAA proposes to add a project to the approved work program which does not require additional CSA funds, or to delete a project from the approved work program.

(2) When the CAA proposes to make a change which it judges to be significant in the objectives and/or activities of an approved project.

(c) When the CAA proposes to add a project to the approved work program which requires additional funds from CSA, it shall submit an application for supplemental funds.

(d) When the CAA proposes to add a project to or delete a project from the approved work program, or to make a change which it judges to be significant in the objectives and/or activities of an approved project, it shall submit the proposed amendment to the State and area-wide clearinghouses. See Subpart 1067.10 for a discussion of the requirements for clearinghouse notification.

(e) *Submitting Amendments to the CSA Regional Office.* (1) When the CAA proposes to add a project to the approved work program, it shall submit to the Regional Office three copies of:

(i) Standard Form 424;

(ii) CSA Form 511;

(iii) CSA Form 512-A;

(iv) CSA Form 513 (if necessary); and

(v) CSA Form 516.

(2) When the CAA proposes to delete a project from the approved work program, it shall submit to the Regional Office three copies of:

(i) Standard Form 424;

(ii) CSA Form 513 (if necessary); and

(iii) CSA Form 516.

(3) When the CAA proposes to make a change which it judges to be significant in the objectives and/or activities of an approved project, it shall submit to the Regional Office three copies of:

(i) Standard Form 424;

(ii) CSA Form 511;

(iii) CSA Form 512-A;

(iv) CSA Form 513 (if necessary); and

(v) CSA Form 516.

(f) *Within thirty days of receipt of the amendment request* the Regional Office will review and approve or disapprove the amendment.

(1) If the CAA proposes to add a project to or delete a project from the approved work program, the Regional Office will indicate approval or disapproval on CSA Form 516.

(2) Depending on the type of amendment approved, the Regional Office will send to the CAA an amendment package containing a CSA Form 314, the General Conditions, CSA Form 29, and/or CSA Form 516.

(3) If CSA Form 314 is used, the Regional Office will send to the CAA the original and a copy. The presiding official shall sign and date the original, and return it to the Regional Office in order to show acceptance of the approved amendment and any conditions attached to it.

§ 1067.70-10 Office of Management and Budget Review.

The below listed Sections of the regulations issued under Section 602, 78 Stat. 530 (42 U.S.C. 2942) establish certain recordkeeping and reporting requirements for community action agencies which are subject to review by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act, 44 U.S.C. 3501 et seq. These recordkeeping and reporting requirements will become effective upon completion of favorable review by OMB or any changes resulting from OMB review will be published as revisions to this final rule. Upon receiving such approval, CSA will publish a notice repealing this section. At the same time, CSA will publish new forms for reporting information as stated in the following sections:

1067.70-4
  (d)(2)
  (f)(1)(2)
  (g)
1067.70-6
  (b)(2)
  (d)(1)(2)
  (e)(2-5)
1067.70-7
  (c)(4)
  (d)
1067.70-8
  (b)
  (c)
1067.70-9
  (e)(1-3)
  (f)(1-2)

[FR Doc. 81-149 Filed 1-2-81; 8:45 am]

BILLING CODE 6315-01-M

federal register

Monday
January 5, 1981

Part X

Department of Energy

Office of Conservation and Solar Energy

Listing of Consumer Products To Be Classified as Covered Products for Purpose of Developing Energy Efficiency Standards

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DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

Energy Conservation Program for Consumer Products; Listing of Consumer Products To Be Classified as Covered Products for the Purposes of Developing Energy Efficiency Standards

AGENCY: Department of Energy (DOE).

ACTION: Notice of listing of types (and classes) of covered products, other than those specifically enumerated by law, which may be subject to energy efficiency standards under section 325(a)(2) of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by section 422 of the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619).

SUMMARY: The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, requires, no later than two years after enactment of NECPA, that Department of Energy publish in the **Federal Register** a list of covered products which may be subject to energy efficiency standards. The purposes of this notice are to inform the public of DOE's determination that, at this time, no additional consumer products other than the thirteen specified in the law are listed as covered products, and to provide an opportunity for interested persons to comment thereon.

ADDRESSES: Written comments are to be submitted to: Carol A. Snipes, U.S. Department of Energy, Office of Hearings and Dockets, Consumer Products—Category 14, Docket No. CAS-RM-80-126, Mail Station 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Consumer Products Efficiency Branch, Mail Station GH-068, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-9127.

SUPPLEMENTARY INFORMATION:

The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act (hereinafter, the "Act"), established the framework for a coordinated national effort to reduce the amount of energy consumed by certain consumer products. Products specifically covered by the Act include such household appliances as room air-conditioners, central air-conditioners, refrigerators and refrigerator-freezers, freezers, kitchen ranges and ovens, water heaters, and furnaces. These products, thirteen in total, are considered "covered products" under the Act and, as such, are subject to energy efficiency standards prescribed as authorized by law.

Section 322(b) of the Act provides that the number of "covered products" may be expanded to include consumer products not specified in the Act, where necessary or appropriate to carry out the purposes of the Act, and where the average annual per household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year. Of the products in the latter category, those, which may be subject to energy efficiency standards (authorized to be prescribed under Section 325(a)(2) of the Act), must be listed and published in the **Federal Register** no later than 2 years after the date of enactment of the Act.

The purpose of this notice is to inform all interested persons that, to date, no new consumer products have been classified as "covered products" pursuant to section 322(b) of the Act. Accordingly, at this time, there is no listing of covered products which may be subject to energy efficiency standards authorized to be prescribed under section 325(a)(2) of the Act.

Should it be found necessary or appropriate for carrying out the purposes of the Act to classify additional consumer products as "covered" pursuant to section 322(b), a listing of such of those products as may be subject to standards authorized by section 325(a)(2) will be made in the **Federal Register.**

Public Comment Procedure

Interested persons are invited to participate in this proceeding by submitting, to the address indicated at the beginning of this notice, data or views with respect to the subject matter of this notice. Comments should be labeled both on the envelope and on the documents, "Consumer Products—Category 14 (Docket No. CAS-RM-80-126)." Fifteen copies are requested to be submitted, but this is not a requirement for submitting comments.

Pursuant to the provisions of 10 CFR 1004.11, any person, submitting information or data which is believed to be confidential and exempt by law from public disclosure, should submit one complete copy, and fifteen copies from which the information believed to be confidential has been deleted. Factors of interest to DOE when evaluating requests to treat as confidential information that has been submitted include: (1) a description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether any such items are customarily treated as confidential within the industry; (3) whether the information is generally known or avilable from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting persons which would result from public disclosure; and (6) an indication as to when such information might lose its confidential character due to the passage of time. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

All written comments received will be included in the docket.

Issued in Washington, D.C., December 23, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

[FR Doc. 81-252 Filed 1-2-81; 8:45 am]

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federal register

Monday
January 5, 1981

Part XI

Department of Energy

Economic Regulatory Administration

Tertiary Incentive Program Amendments

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-25]

Amendments to Tertiary Incentive Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is announcing several changes to the Tertiary Incentive Program ("incentive program") set forth at 10 CFR 212.78 of the Mandatory Petroleum Price Regulations. One change will revise the definition of "recoupable allowed expenses" to permit recovery of "in-house" expenses otherwise allowed by the regulation, so long as such expenses do not exceed the price that would have been paid in an arm's-length transaction. Another change will require producers to report "prepaid expenses." A third change will revise the filing date for annual opinions concerning the accuracy of monthly producer and project reports so that such opinions coincide with the close of a producer's or project's fiscal year. The final change will exclude the costs of fifty percent of injected hydrocarbons as an allowed expense for miscible fluid flooding projects that were self-certified after August 8, 1980.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055

Douglas Harnish (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202-E, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4288

Eugene Glass (Office of Fuels Regulation), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3453

Ira Mayfield (Resource Applications), Department of Energy, Room 3334, 12th and Pennsylvania Avenue N.W., Washington, D.C. 20461, (202) 633-8395

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments Adopted
  A. In-House Expenses
  B. Prepaid Expenses
  C. Annual CPA Opinion
  D. Injected Hydrocarbons
III. Procedural Requirements

I. Background

On August 8, 1980, we proposed several changes to the incentive program. (45 FR 54688, August 15, 1980 "August 8 Notice"). One change would revise the definition of "recoupable allowed expenses" to permit recovery of "in-house" expenses that qualify as allowed expenses under the regulation, so long as such expenses do not exceed the price that would have been paid in an arm's-length transaction. Another change would require producers to report "prepaid expenses". A third change would revise the date on which producers must submit an annual opinion by a certified public accountant ("CPA") concerning the accuracy of their monthly producer and project reports to coincide with the close of a firm's fiscal year. The final change would exclude injected hydrocarbons as an allowed expense for miscible fluid flooding projects.

We held a public hearing concerning these proposed changes on September 16, 1980 in Washington, D.C. We accepted written comments concerning these proposed changes through October 10, 1980. In all, we received comments from 27 firms.

The great majority of the comments (25) favored adoption of the change concerning "in-house" expenses. No comments opposed its adoption. Several comments suggested that the change be adopted retroactively to August 22, 1979 (the earliest date on which expenses could have been incurred and paid and qualify as recoupable allowed expenses). Other comments observed that it could be difficult to establish the fair market value of some items or services associated with an enhanced oil recovery ("EOR") project because those items or services were unique to a particular project.

Most of the comments (19) favored adoption of the change concerning the "prepaid expenses" report. A few comments (4) opposed this change on the ground that the report would be unnecessary and burdensome in light of the monthly reports already required by the incentive program and the potential reports that might be required by the Internal Revenue Service for purposes of the Windfall Profit Tax.

Most of the comments (19) also favored adoption of the change concerning the date on which annual CPA opinions must be submitted. One comment noted what it believed to be a drafting error in the proposed regulatory language concerning the identification of the first fiscal year after which a report would be due. The proposed regulatory language stated that reports would be due 120 days after the close of each fiscal year that ends after December 31, 1980. Since the fiscal year of many firms coincides with the calendar year, the proposed language would result in a substantial number of firms not filing a report until May 1982, whereas the existing regulation requires each firm to file its first annual CPA opinion by January 31, 1981.

Most of the comments (21) opposed the change concerning the exclusion of injected hydrocarbons as an allowed expense for miscible fluid flooding projects. Those firms that already are recovering these expenses under the incentive program stated that the exclusion would be unfair and possibly could result in the abandonment of their projects. Other comments noted that recovery of the cost for injected hydrocarbons would not be a windfall for producers since a producer cannot recover all of the hydrocarbons which it injects into an oil-bearing formation and that recovery of hydrocarbons often does not occur until many years after injection.

II. Amendments Adopted

A. In-House Expenses.

We agree with the comments which state that a producer should be permitted to recover the cost of an "in-house" good or service if that cost is no greater than the price that the producer would pay an outside source for the same good or service. Accordingly, we are amending the definition of recoupable allowed expenses to permit the recovery of "in-house" allowed expenses to the extent that such expenses do not exceed the price that the producer would have paid in an arm's-length transaction.[1]

We have considered those comments that urged the adoption of this revised definition retroactively to August 22, 1979, but we have decided not to adopt the definition retroactively. We do not believe such action would be an incentive to EOR activity or promote more efficient use of resources for EOR projects with respect to those expenses that already have been incurred and paid.

To ensure that this modification does not unduly complicate our auditing efforts, we also are amending the incentive program's reporting and recordkeeping requirements to require the identification of any "in-house" expenses and the maintenance of records as to what the price of the good or service associated with that expense would have been in an arm's-length transaction. The identification of an "in-house" expense requires more than the mere listing of the type of allowed expense. Since we are requesting this report in order to assist our verification of the cost of an "in-house" expense, the identification of an "in-house" expense should list the components (such as raw materials, processing and labor) which the producer had to use in order to provide itself with the allowed expense and the cost of these components. Satisfaction of the recordkeeping requirement concerning the price of an "in-house" expense if acquired in an arm's-length transaction, in most instances, will require a producer to maintain sufficient documents to show the prevailing price which non-affiliated firms are charging for a good or service. We recognize the problem that several comments raised concerning a good or service that is unique to a particular project and for which there is no comparison price available. In those instances, a producer must maintain documents prepared by an unaffiliated certified professional engineer as to what the good or service reasonably would have cost if provided by an outside firm.

B. Prepaid Expenses.

We are adopting the requirement that a producer file an annual report concerning its prepaid expenses. We recognize the concerns expressed in some comments that this report will increase the reporting burden on firms. The increase will be slight, however, since the requested information will be maintained by the firm in any event. Moreover, this information is necessary for effective enforcement of the condition subsequent to the recovery of an expense that the good or service associated with that expense must be used in connection with the EOR project.

This annual prepaid expenses report will require a producer to identify which of the allowed expenses it had reported previously in the monthly producer report were prepaid expenses. For purposes of this report, prepaid expenses will be defined as the expenses for any injectant or fuel which is used after September 30, 1981, or the expenses for any item for which federal tax deductions (including depreciation) would be properly allocable to the period after September 30, 1981. This definition of prepaid expenses is essentially the same as the definition of prepaid expenses for purposes of the Windfall Profit Tax and, thus, should reduce the administrative burden on producers that must comply with the requirements of both the incentive program and the Windfall Profit Tax. A producer also will be required to identify any good or service for which it reports a prepaid expense, the date on which it intends to use that good or service, and the date on which it actually uses that good or service. A producer will continue to file these annual reports until it has reported the actual use of all the goods or services for which it has reported prepaid expenses. In addition, the producer will be required to maintain a copy of the contract for, or documentary proof of the purchase of, any goods or services for which it has reported prepaid expenses.

C. Annual CPA Opinions.

We agree with the comments that it will be more reasonable to require the submission of opinions by certified public accountants concerning the accuracy of monthly producer and project reports within 120 days of the close of the fiscal year for the producer or project to which it relates. Accordingly, we are revising the filing date for these opinions so that they must be submitted within 120 days of a producer's or project's fiscal year that ends on or after December 31, 1980.

D. Injected Hydrocarbons

The comments concerning the exclusion of injected hydrocarbons as an allowed expense for miscible-fluid flooding projects indicate the potential benefits of such projects and the need for some form of incentive involving injected hydrocarbons. The comments also indicate that concerns over administrative burden and time would prevent most producers from seeking orders which would designate unrecoverable injected hydrocarbons as an allowed expense on a case-by-case basis. In light of these comments, we have decided not to exclude injected hydrocarbons as an allowed expense, but rather to limit the percentage of injected hydrocarbons that qualify as an allowed expense. The consensus of the comments was that in most miscible-fluid flooding projects involving injected hydrocarbons at least half of the injected hydrocarbons would be unrecoverable from the oil-bearing formation. We also recognize, however, that several producers relied on the existing rule in making their decision to undertake miscible-fluid flooding projects. We agree with their comments that in light of their reliance on the existing rule that it would be inequitable to change the rule with respect to them. Accordingly, we are amending the Appendix to section 212.78 to exclude the costs of fifty percent of the injected hydrocarbons as an allowed expense for miscible-fluid flooding projects that were self-certified on or after August 8, 1980 (the date on which we proposed this change to the existing rule).

III. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

B. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044

ERA has decided that the preparation of a regulatory analysis under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 12661,

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[1] As noted in the final rule that revised the definition of "tertiary incentive revenue", and expense must be incurred and paid before a producer can recover that expense. (45 FR 40108, June 13, 1980) This condition precedent also applies to the recovery of "in-house" expenses and cannot be satisfied merely by an accounting entry relating to the future provision of the good or service associated with the allowed expense.

March 24, 1978), is not required for this rule. A detailed explanation of the basis for this decision may be found in the August 8 Notice.

D. Section 553 of the APA

Subsection (d) of section 553 of the Administrative Procedures Act (APA) provides that the required publication of a rule be made at least 30 days before the effective date of the rule, unless it either relieves a restriction or is an interpretative rule, or the agency otherwise finds good cause to make a rule effective immediately. We have decided to make each of the amendments contained in this final rule effective immediately. There is good cause to adopt immediately the amendment concerning injected hydrocarbons since otherwise with respect to a project that had not been self-certified prior to August 8, 1980 a producer could incur and pay expenses for injected hydrocarbons within the next thirty days and be able to treat the expenses for all such injected hydrocarbons as allowed expenses. Such actions would undermine the purpose of this amendment. Moreover, at the time that we proposed this amendment, we stated that it might be adopted retroactively to August 8, 1980. The amendment concerning "in-house" expenses removes a restriction. Moreover, there is good cause to adopt immediately this amendment since it will promote more efficient use of resources for EOR projects. The amendments concerning prepaid expenses reports and annual CPA opinions are procedural rather than substantive amendments since they relate to reporting requirements. Moreover, they impose no affirmative duty on any producer prior to January 31, 1981.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., December 29, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 212.78 [Amended]

1. 10 CFR 212.78(c) is amended by revising the definition of "recoupable allowed expenses" to read as follows:

* * * * *

(c) * * *

"Recoupable allowed expenses" mean those allowed expenses that have been paid and reported pursuant to subsection (h) of this section and, with respect to a particular producer, those allowed expenses that are attributable to that producer; provided that (1) such expenses that are incurred and paid prior to December 29, 1980, are incurred in arm's-length transactions and for fair market value, or (2) such expenses that are incurred or paid on or after December 29, 1980, are incurred in arm's-length transactions or do not exceed the price that the producer would have paid in an arm's-length transaction.

2. 10 CFR 212.78(h)(1)(ii) is revised to read as follows:

* * * * *

(h)(1) * * *

(ii) *Annual CPA opinion.* Within 120 days of the close of each fiscal year that ends on or after December 31, 1980, of a particular qualified producer, that qualified producer shall submit to DOE an opinion by a certified public accountant attesting that during the course of its annual audit nothing has come to its attention that causes it to believe that the reports submitted by that producer in accordance with paragraph (h)(1)(i) of this section are inaccurate.

3. 10 CFR 212.78(h)(2)(ii) is revised to read as follows:

* * * * *

(h)(2) * * *

(ii) *Annual CPA opinion.* Within 120 days of the close of each fiscal year that ends on or after December 31, 1980, for a particular project, the qualified producers with respect to that project shall submit to DOE an opinion by a certified public accountant attesting that during the course of its annual audit nothing has come to its attention that causes it to believe that the reports with respect to that project submitted during the prior calendar year in accordance with paragraph (h)(2)(ii) of this section are inaccurate.

4. 10 CFR 212.78(h) is amended by the addition of a new subsection (5) to read as follows:

* * * * *

(h) * * *

(5)(i) *Annual prepaid expenses report.* By January 31 of each year after 1980, a qualified producer shall file with DOE a report in which the producer shall certify to DOE (A) which of the expenses that it had reported previously to DOE pursuant to paragraph (h)(1)(i) of this section were prepaid expenses; (B) the goods or services for which it incurred and paid such prepaid expenses; (C) the dates on which it intends to use such goods or services; and (D) the dates on which it actually uses such goods or services. A producer shall file an annual prepaid expenses report each year until it has reported that it has actually used all the goods and services for which it incurred and paid a prepaid expense. For purposes of this subsection, a prepaid expense is an expense for any injectant or fuel used after September 30, 1981, or an expense for any other item to the extent that IRS would allocate the deductions (including depreciation) for that item to the period after September 30, 1981.

(ii) *Recordkeeping requirements.* A qualified producer must maintain records that contain a copy of any contract for or documentary evidence of a purchase of any good or service for which the producer has reported a prepaid expense.

5. 10 CFR 212.78(h) is amended by the addition of a new subsection (6) to read:

* * * * *

(h) * * *

(6) *In-house expenses.* In complying with the reporting requirements of paragraphs (h)(1)(i) and (h)(2)(i) of this section, a qualified producer shall indicate whether an expense is incurred in an arm's-length transaction. If an expense is not incurred in an arm's-length transaction, the producer must prepare and maintain records that identify the expense and that contain information concerning what the price of the good or service associated with that expense would have been in an arm's-length transaction and the basis for that information.

6. Paragraph 4.a of the Appendix to 10 CFR 212.78 is revised to read:

4. *Miscible Fluid Flooding*

a. The costs of injected fluids and additives for use at the project site; provided that the costs of fifty percent of injected hydrocarbons may not be considered allowed expenses with respect to any project for which a self-certification was not submitted pursuant to section 212.78(d)(2) prior to August 8, 1980.

[FR Doc. 81–290 Filed 1–2–81; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

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80521 12-5-80 / Arlington National Cemetery; visitors rules

ENVIRONMENTAL PROTECTION AGENCY

80530 12-5-80 / Virginia State Implementation Plan; approval of revision

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

80500 12-5-80 / Blood products; source plasma (human); amendment of storage temperature requirements

List of Public Laws

Last Listing January 2, 1981

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 180[illegible] Pub. L. 96-602 To modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes (Dec. 28, 1980; 94 Stat. 3500) Price $1.

H.R. 4[illegible]5 / Pub. L. 96-603 To amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes (Dec. 28, 1980; 94 Stat. 3503) Price $1.25.

H.R. 71[illegible]2 / Pub. L. 96-604 State and Local Fiscal Assistance Act Amendment of 1980 (Dec. 28, 1980; 94 Stat. 3516) Price $1.

H.R. 79[illegible] / Pub. L. 96-605 Miscellaneous Revenue Act of 1980 (Dec. 28, 1980; 94 Stat. 3521) Price $1.25.

H.R. 57[illegible]7 / Pub. L. 96-606 To amend the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam (Dec. 28, 1980; 94 Stat. 3534) Price $1.

S. 2363 / Pub. L. 96-607 To provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes (Dec. 28, 1980; 94 Stat. 3539) Price $1.25.

H.R. 5973 / Pub. L. 96-608 To amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes (Dec. 28, 1980; 94 Stat. 3550) Price $1.

H.R. 5047 / Pub. L. 96-609 To provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes (Dec. 28, 1980; 94 Stat. 3555) Price $1.25.

S. 2729 / Pub. L. 96-610 National Visitor Center Emergency Repair Act of 1980 (Dec. 28, 1980; 94 Stat. 3564) Price $1.

H.R. 8406 / Pub. L. 96-611 To amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration (Dec. 28, 1980; 94 Stat. 3566) Price $1.25.

S. 2261 / Pub. L. 96-612 To provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes (Dec. 28, 1980; 94 Stat. 3575) Price $1.

H.R. 7171 / Pub. L. 96-613 To make certain miscellaneous changes in the tax laws (Dec. 28, 1980; 94 Stat. 3579) Price $1.

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federal register

Tuesday
January 6, 1981

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Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the **Reader Aids** section at the end of this issue.

1608 **Government Procurement** Executive order (Part XIII of this issue)

1253 **Fair Housing in Federal Programs** Executive order

1251 **Federal Advisory Committees** Executive order

1249 **Temporary Tariff Concessions** Presidential proclamation terminating Proclamation 4800

1552 **Child Welfare** HHS/HDSO publishes Guidelines for Development of the State Child Welfare Services Plan (Part V of this issue)

1275 **Child Welfare** HHS/Child Support Enforcement Office provides for continuation of Federal financial support to State agencies for services to non-welfare families; effective 10-1-78

1321 **Child Welfare** HHS/Child Support Enforcement Office proposes to provide authority to State agencies to use the Internal Revenue Service to collect child support for non-welfare families; comments by 3-9-81

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

1319 **Child Welfare** HHS/Child Support Enforcement Office proposes to withhold advance Federal funds to State agencies not meeting reporting requirements; comments by 3-9-81

1268 **Medicaid** HHS/HCFA permits State survey agencies to request approval of extended plans of correction for intermediate care facilities for the mentally retarded for participation in the program; effective 1-6-81, comments by 3-9-81

1355 **Grant Programs—Indians** Interior/BIA requests applications by 2-9-81, from Indian tribes and organizations for establishment and operation of Indian child and family service programs

1644 **Grant Programs—Health and Human Services** HHS proposes requirements and procedures applicable to appeals before Departmental Grant Appeals Board; comments by 3-9-81 (Part XII of this issue)

1270 **Grant Programs—Emergency Management** FEMA describes training and education assistance program to States; effective 2-1-81

1422 **Food Stamps** USDA/FNS establishes procedures to be used if benefits are reduced, suspended or cancelled; effective 1-6-81 (Part II of this issue)

1628 **Grant Programs—Agriculture** USDA/SEA announces grants for mission-oriented basic research in plant sciences and human nutrition (Part X of this issue)

1590–1604 **Motor Vehicle Pollution** EPA establishes CO and NO_x emission standards and waives effective dates for certain 1981–82 light-duty vehicles (6 documents) (Part VII of this issue)

1352 **Privacy Act Document** HUD

1393 **Sunshine Act Meetings**

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 4812 of December 31, 1980

Proclamation To Terminate Proclamation No. 4600 of September 21, 1978, Implementing Certain Temporary Tariff Concessions

By the President of the United States of America

A Proclamation

1. On July 26, 1978, the President, pursuant to his authority in section 101(a) of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2111(a)), entered into a temporary trade agreement with India. This agreement provided for temporary modifications in the rates of duty for certain products to be implemented in stages. The agreement further provided for its termination upon initial implementation of an overall agreement on tariffs pursuant to the Multilateral Trade Negotiations (MTN).

2. On September 21, 1978, the President issued Proclamation No. 4600 implementing the July 26 temporary trade agreement, which proclamation modified the Tariff Schedules of the United States (TSUS) by inserting the necessary rates of duty in the appendix thereto and provided for further staged reductions of such rates.

3. On January 1, 1980, the United States, by Proclamation No. 4707, of December 11, 1979, initially implemented its overall agreement on tariffs reached during the MTN as provided in Schedule XX to the Geneva (1979) Protocol to the General Agreement on Tariffs and Trade. Pursuant to section 125(e) of the Trade Act (19 U.S.C. 2135(e)), the tariff concessions granted in the temporary agreement have continued in force for a one-year period which will terminate at the close of December 31, 1980.

4. After complying with the requirements of section 125(f) of the Trade Act (19 U.S.C. 2135(f)), I have decided to terminate Proclamation No. 4600, pursuant to the authority of section 125(b) of the Trade Act (19 U.S.C. 2135(b)), effective January 1, 1981.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including Title I and section 604 of the Trade Act (19 U.S.C. 2483), do proclaim that:

(1) Proclamation No. 4600, identified in the second recital of this proclamation, is terminated at the close of December 31, 1980.

(2) Part 2C of the Appendix to the Tariff Schedules of the United States (TSUS) is deleted, with the result that articles presently subject to the column 1 rates of duty provided in part 2C of the Appendix to the TSUS shall be subject to the rates of duty established for such articles in schedules 1–7 of the TSUS by Proclamation No. 4707 of December 11, 1979. These rates shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1981.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of December, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

[FR Doc. 81-473
Filed 1-2-81; 3:07 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12258 of December 31, 1980

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

1–101. Each advisory committee listed below is continued until December 31, 1982.

(a) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior).

(b) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(c) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation).

(d) President's Council on Physical Fitness and Sports; Executive Order No. 11562, as amended (Department of Health and Human Services).

(e) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services).

(f) Presidential Advisory Board on Ambassadorial Appointments; Executive Order No. 11970 (Department of State).

(g) Committee on Selection of Federal Judicial Officers; Executive Order No. 11992 (Department of Justice).

(h) President's Advisory Committee for Women; Executive Order No. 12050 (Department of Labor).

(i) United States Circuit Judge Nominating Commission; Executive Order No. 12059, as amended (Department of Justice).

(j) United States Tax Court Nominating Commission; Executive Order No. 12064 (Department of Treasury).

(k) Judicial Nominating Commission for the District of Puerto Rico; Executive Order No. 12084 (Department of Justice).

(l) President's Export Council; Executive Order No. 12131 (Department of Commerce).

(m) Peace Corps Advisory Council; Executive Order No. 12137 (Peace Corps).

(n) Advisory Committee on Small and Minority Business Ownership; Executive Order No. 12190 (Small Business Administration).

(o) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12195 (Department of Labor).

(p) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor).

1–102. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Section 1–101 of this Order, except that of reporting annually to Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

1–103. The following Executive Orders, that established committees which have terminated or whose work is completed, are revoked:

(a) Executive Order No. 12022, as amended, establishing the National Commission for the Review of Antitrust Laws and Procedures.

(b) Executive Order No. 12054, as amended, establishing the President's Commission on Foreign Language and International Studies.

(c) Executive Order No. 12061, as amended, establishing the Small Business Conference Commission.

(d) Executive Order No. 12063, establishing the United States Court of Military Appeals Nominating Commission.

(e) Executive Order No. 12078, as amended, establishing the President's Commission on World Hunger.

(f) Executive Order No. 12093, as amended, establishing the President's Commission on the Holocaust.

(g) Executive Order No. 12103, as amended, establishing the President's Commission on the Coal Industry.

(h) Executive Order No. 12130, establishing the President's Commission on the Accident at Three Mile Island.

(i) Executive Order No. 12157, establishing the President's Management Improvement Council.

(j) Executive Order No. 12195, establishing the the President's Commission on United States-Liberian Relations.

1–104. Executive Order No. 12110 is superseded.

1–105. This Order shall be effective December 31, 1980.

Jimmy Carter

THE WHITE HOUSE,
December 31, 1980.

[FR Doc. 81–474
Filed 1–2–81; 3:08 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12259 of December 31, 1980

Leadership and Coordination of Fair Housing in Federal Programs

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide under the leadership of the Secretary of Housing and Urban Development, in accordance with Section 808 of the Act of April 11, 1968, as amended (sometimes referred to as the Federal Fair Housing Act or as Title VIII of the Civil Rights Act of 1968), 42 U.S.C. 3608, for the administration of all Federal programs and activities relating to housing and urban development in a manner affirmatively to further fair housing throughout the United States, it is hereby ordered as follows:

1–1. Administration of Programs and Activities Relating to Housing and Urban Development.

1–101. All programs and activities of Executive agencies, including agencies which exercise regulatory responsibility, relating to housing and urban development shall be administered in a manner affirmatively to further fair housing.

1–2. Responsibilities of Executive Agencies.

1–201. The authority and responsibility for administering the Federal Fair Housing Act is vested in the Secretary of Housing and Urban Development.

1–202. The head of each Executive agency is responsible for ensuring that its programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing as required by Section 808 of the Act of April 11, 1968, as amended (Title VIII of the Civil Rights Act of 1968), and for cooperating with the Secretary of Housing and Urban Development who shall be responsible for exercising leadership in furthering the purposes of the Act. As used in this Order, the terms "programs and activities" include programs and activities operated, administered or undertaken by the Federal government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility.

1–203. In carrying out the responsibilities in this Order the head of each Executive agency shall take appropriate steps to require that all persons or other entities who are applicants for, or participants in, or who are supervised or regulated under, agency programs and activities relating to housing and urban development comply with this Order.

1–3. Specific Responsibilities.

1–301. In implementing the responsibilities under Section 1–2 the Secretary of Housing and Urban Development shall:

(a) Develop guidelines for determining the categories of programs and activities relating to housing and urban development which are operated, administered, undertaken, controlled or regulated by Executive agencies.

(b) Promulgate regulations regarding programs and activities of Executive agencies related to housing and urban development which shall:

(1) describe an institutionalized method for analyzing the impact of housing and urban development programs and activities in promoting the goal of fair housing;

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(2) describe the responsibilities and obligations in assuring that programs and activities are administered and executed in a manner affirmatively to further fair housing; and

(3) describe the responsibilities and obligations of applicants, participants and other persons and entities involved in housing and urban development programs and activities affirmatively to further the goal of fair housing.

(c) Coordinate Executive agency implementation of the requirements of this Order and issue standards and procedures regarding the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing.

1–302. Upon publication of guidelines by the Secretary of Housing and Urban Development under Section 1–301(a), each Executive agency shall provide the Secretary with a description of all programs and activities relating to housing and urban development within its jurisdiction.

1–303. Within 180 days of the publication of final regulations by the Secretary of Housing and Urban Development under Section 1–301(a) the head of each Executive agency shall publish proposed regulations providing for the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing, consistent with the Secretary of Housing and Urban Development regulations, and with the standards and procedures issued pursuant to Section 1–301(c). As soon as practicable, each Executive agency shall issue its final regulations. All Executive agencies shall formally submit all such proposed and final regulations, and any related issuances or standards to the Secretary of Housing and Urban Development at least 30 days prior to public announcement.

1–304. The Secretary of Housing and Urban Development shall review regulations, standards and actions under Sections 1–302 and 1–303 to ensure conformity with the purposes of the Federal Fair Housing Act and consistency among the operations of the various Executive agencies and shall make any comments with respect thereto on a timely basis.

1–305. In addition to the regulations and guidelines described in Section 1–301, the Secretary of Housing and Urban Development shall implement the Secretary's authority and responsibility for administering the Federal Fair Housing Act by promulgating regulations describing the nature and scope of coverage and the conduct prohibited.

1–4. Cooperative Efforts.

1–401. The Secretary of Housing and Urban Development shall:

(a) Cooperate with, and render assistance to, the heads of all Executive agencies in the formulation of policies and procedures to implement this Order and to provide information and guidance on the affirmative administration of programs and activities relating to housing and urban development and the protection of rights accorded persons by the Federal Fair Housing Act; and

(b) initiate cooperative efforts, including the development of memoranda of understanding between Executive agencies designed to provide for consultation and the coordination of Federal efforts to further fair housing through the affirmative administration of programs and activities relating to housing and urban development.

1–402. In connection with carrying out functions under this Order the Secretary of Housing and Urban Development is authorized to request from any Executive agency such information and assistance deemed necessary. Each agency shall, to the extent permitted by law, furnish such information and assistance to the Secretary.

1–5. Administrative Enforcement.

1–501. Each Executive agency shall be responsible for enforcement of this Order and, to the extent permitted by law, shall cooperate and provide records, data and documentation in connection with any other agency's investigation of compliance with provisions of this Order.

1–502. If any Executive agency concludes that any person or entity (including any State or local public agency) applying for or participating in, or supervised or regulated under, a program or activity relating to housing and urban development has not complied with this Order or any applicable rule, regulation or procedure issued or adopted pursuant to this Order, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation and persuasion. An Executive agency need not pursue informal resolution of matters where similar efforts made by another Executive agency have been unsuccessful. In event of failure of such informal means, the Executive agency, in conformity with rules, regulations, procedures or policies issued or adopted by it pursuant to Section 1–3 hereof, shall impose such sanctions as may be authorized by law. To the extent authorized by law, such sanctions may include:

(a) cancellation or termination of agreements or contracts with such person, entity, or State or local public agency;

(b) refusal to extend any further aid under any program or activity administered by it and affected by this Order until it is satisfied that the affected person, entity, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this Order;

(c) refusal to grant supervisory or regulatory approval to such person, entity, or State or local public agency under any program or activity administered by it which is affected by this Order or revoke such approval if previously given;

(d) any other action as may be appropriate under its governing laws.

1–503. Findings of any violation under Section 1–502 shall be promptly reported to the Secretary of Housing and Urban Development. The Secretary of Housing and Urban Development shall forward this information to all other Executive agencies.

1–504. Any Executive agency shall also consider invoking appropriate sanctions against any person or entity where any other Executive department or agency has initiated action against that person or entity pursuant to Section 1–502 of this Order.

1–505. Each Executive agency shall seek the advice of the Secretary of Housing and Urban Development in this regard prior to a decision to initiate actions to invoke sanctions. Each such decision and the reasons therefor, shall be documented and shall be provided to the Secretary of Housing and Urban Development in a timely manner.

1–6. General Provisions.

1–601. Nothing in this Order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order No. 12250.

1–602. All provisions of regulations, guidelines and procedures proposed to be issued by Executive agencies pursuant to this Order which implement nondiscrimination requirements of laws covered by Executive Order No. 12250 shall be submitted to the Attorney General for review in accordance with that Executive Order. In addition, the Secretary will consult with the Attorney General regarding all regulations, guidelines and procedures proposed to be issued under Sections 1–301, 1–302 and 1–303 of this Order to assure consistency with coordinated Federal efforts to enforce nondiscrimination requirements in programs of Federal financial assistance pursuant to Executive Order No. 12250.

1–603. Nothing in this Order shall affect the authority and responsibility of the Attorney General to commence civil actions in cases involving a pattern or practice of discrimination or raising an issue of general public importance under the Federal Fair Housing Act.

1–604. (a) Part IV and Sections 501 and 503 of Executive Order No. 11063 are revoked. The activities and functions of the President's Commission on Equal Opportunity in Housing described in that Executive Order shall be performed by the Secretary of Housing and Urban Development.

(b) Sections 101 and 502(a) of Executive Order No. 11063 are revised to apply to discrimination because of "race, color, religion (creed), sex or national origin." All departments and agencies shall revise regulations, guidelines and procedures issued pursuant to Part II of Executive Order No. 11063 to reflect this amendment to coverage.

(c) Section 102 of Executive Order No. 11063 is revised by deleting the term "Housing and Home Finance Agency" and inserting in lieu thereof the term "Department of Housing and Urban Development."

1–605. Nothing in this Order shall affect any rquirement imposed under the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), the Home Mortgage Disclosure Act (12 U.S.C. 2901 *et seq.*) or the Community Reinvestment Act (12 U.S.C. 2810 *et seq.*).

1–7. Report.

1–701. The Secretary of Housing and Urban Development shall submit to the President an annual report commenting on the progress the Department of Housing and Urban Development and other Executive agencies have made in carrying out requirements and responsibilities under this Executive Order.

Jimmy Carter

THE WHITE HOUSE,
December 31, 1980.

[FR Doc. 81–475
Filed 1–2–81; 3:09 pm]
Billing code 3195–01–M

Editorial Note: The President's statement of Dec. 31, 1980, on signing Executive Order 12259, is printed in the Weekly Compilation of Presidential Documents (vol. 17, no. 1).

Rules and Regulations

Federal Register
Vol. 46, No. 3
Tuesday, January 6, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Part 2851

Increase in Fees and Charges in Destination Markets

Correction

In FR Doc. 80–39732 appearing on page 84755 in the issue of Tuesday, December 23, 1980, on page 84756, first column, second line of the footnote at the bottom, "quality" should read "quantity".

BILLING CODE 1505-01-M

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7 CFR Part 2858

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the definitions of "Whey" and "Dry Whey" in the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. This amendment will conform the definitions of "Whey" and "Dry Whey" to those set forth in the U.S. Standards for Dry Whey.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Chief, Dairy Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7473. The impacts related to the change of definitions for "Whey" and "Dry Whey" were addressed in the Final Impact Statement prepared in conjunction with the final rule for U.S. Standards for Dry Whey. A copy of this impact is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955, to implement Executive Order 12044, and has been classified as "not significant."

Background

Manufactured dairy products (butter, dry milks and milk products, and cheese) which are covered by U.S. grade standards must be manufactured in dairy plants which have been inspected and found to comply with the criteria established in 7 CFR 2858, subpart B, to be eligible for USDA grading service. Once a plan has been approved, products may be offered for official grading.

United States standards are provided to define a specific product and to delineate levels of quality for that product. On April 22, 1980, the final rule revising the United States Standards for Dry Whey was published in the **Federal Register** (45 FR 26944–26947). In part, the final rule revised the definitions for "whey" and "dry whey". This revision of the definitions created an inconsistency between two USDA documents. Therefore, the definitions of whey and dry whey in the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service must be amended to conform to those set forth in the U.S. Standards for Dry Whey.

It does not appear that any additional relevant information would be made available to the Administrator by allowing opportunity for filing of public comments in this proceeding. Therefore, preliminary notice and public rulemaking procedures are found to be impracticable and contrary to the public interest, and good cause is found for making this document effective less than 30 days after publication in the **Federal Register**.

In consideration of the foregoing, 7 CFR Part 2858, Subpart B, § 2858.805(a) and (b) is revised to read as follows:

§ 2858.805 Meaning of words.

* * * * *

(a) Whey. "Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Salt drippings (moisture removed from cheese curd as a result of salting) shall not be collected for further processing as whey.

(b) Dry Whey. "Dry Whey" is the product resulting from drying fresh whey which has been pasteurized and to which nothing has been added as a preservative. It contains all constituents, except moisture, in the same relative proportions as in the whey.

* * * * *

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624)

Done at Washington, D.C., on: December 29, 1980.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 81-227 Filed 1-2-81; 8:45 am]

BILLING CODE 3410-DM-M

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9 CFR Part 319

Definitions and Standards of Identity or Composition for "Country," "Country Style" or "Dry Cured" Hams and Pork Shoulders

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of stay of effectiveness.

SUMMARY: The Agency has been judicially enjoined from enforcing portions of a regulation concerning "Country," "Country Style," and "Dry Cured" hams and pork shoulders.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On January 18, 1977, the Department promulgated final regulations under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) establishing definitions and standards of identity for meat food products labeled as "country ham", "country style ham", or "dry cured ham", and "country pork shoulder", "country style pork shoulder", or "dry cured pork shoulder" (9 CFR 319.106). These regulations were challenged in the United States District Court for the Western District of Tennessee.

On July 21, 1980, the Court entered an Order declaring that the temperature and time period provisions contained in the regulations were not adequately supported by the record. On November 17, 1980, the Court made final its Order of July 21, 1980, and enjoined the Department from enforcing, implementing or otherwise giving effect to those portions of the regulations. *Tennessee Valley Hams Inc.* v. *Bergland,* C.A. 78-1103 (W.D. Tenn., 1980).

Therefore, the Department announces that the temperature and time period provisions of 9 CFR 319.106, paragraphs (c)(5) and (c)(6), have not been in effect since November 17, 1980, and will not be enforced pending future Agency action in the matter. However, ham and pork shoulders must continue to be prepared in compliance with all other provisions of 9 CFR 319.106 in order to be labeled "country ham," "country style ham," or "dry cured ham," and "country pork shoulder," "country style pork shoulder," or "dry cured pork shoulder."

Done at Washington, D.C., on December 29, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 81-229 Filed 1-5-81; 8:45 am]

BILLING CODE 3410-DM-M

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9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

Rate Increase for Inspection Service; Correction

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule—correction.

SUMMARY: This document corrects a final rule published on October 3, 1980, by the Food Safety and Quality Service (FSQS) increasing the rates for overtime inspection, identification, certification, and laboratory services. FSQS inadvertently failed to include the legal authority citation for the rulemaking; therefore, this document adds the authority citation.

FOR FURTHER INFORMATION CONTACT: June P. Blair, Director, Finance Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6653.

SUPPLEMENTARY INFORMATION:

Exemption From Executive Order 12044

This final rule had been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and had been determined to be exempt from those requirements. Dr. Donald L. Houston made this determination because the Executive Order does not apply to matters relating to Agency management.

Background

On October 3, 1980, the FSQS published a final rule in the **Federal Register** (45 FR 65520-65521) amending the Federal meat and poultry inspection regulations by increasing the fees relating to overtime and holiday inspection, identification, certification, or laboratory services rendered to operators of official meat or poultry establishments, importers, or exporters by the FSQS. These fees were revised to reflect increased costs associated with these programs in the upcoming fiscal year in conformity with the requirements of the Federal Pay Comparability Act of 1970.

However, the FSQS inadvertently failed to include the legal authority citation for the rule. Therefore, this document corrects that oversight.

Accordingly, the legal authority citations for the various sections are as follows:

1. Section 307.5(a) (9 CFR 307.5(a)):

(41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92)

2. Section 350.7(c) (9 CFR 350.7(c)):

(41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92)

3. Sections 351.8, 351.9(a), 354.101(b) and (c), 355.12, and 362.5(c) (9 CFR 351.8, 351.9(a), 354.101(b) and (c), 355.12, and 362.5(c)):

(60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92)

4. Section 381.38(a) (9 CFR 381.38(a)):

(71 Stat. 447, 446, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a), 2.92)

Done at Washington, D.C., on: December 29, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 81-228 Filed 1-2-81; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR 385 and 399

Expansion of Foreign Policy Control

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Interim final rule.

SUMMARY: This rule expands foreign policy controls on computers exported to government consignees in South Africa and Namibia, by removing an existing exception.

DATE: This rule is effective as of January 1, 1981, but may be further revised in light of any comments received. Comments must be received by March 9, 1981.

ADDRESS: Written comments (six copies when possible) should be sent to: Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Daniel E. Cook, Assistant to the Director, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-4159.

SUPPLEMENTARY INFORMATION: Substance of Regulatory Changes: In accordance with the authority contained in section 6 of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401, *et seq.*) the Secretary of Commerce is expanding the existing foreign policy control on the export of computers to South African and Namibian government consignees. The Secretary of Commerce in consultation with the Secretary of State has determined that this expansion of controls will further significantly the foreign policy of the United States.

Currently there are foreign policy controls on computers that exceed certain performance levels. Effective January 1, 1980, computers exported to South African or Namibian government officials will be subject to foreign policy controls regardless of their performance level.

Rulemaking Requirements

Section 13(a) of the Act exempts regulations promulgated under it from public participation in rulemaking procedures of the Administrative Procedure Act. However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, they are issued in interim form and public comments are requested. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and the International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

The period for submission of comments will close March 9, 1981. No comments received after the close of the comment period will be accepted or considered by the Department in the development of final regulations. Public comments which are accompanied by a request that part or all of the material be treated confidentially for whatever reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record. Communications from agencies of the United States government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Records in this facility pertaining to these regulations may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are amended as follows:

PART 385—SPECIAL COUNTRY POLICIES

Section 385.4(a)(9) is revised to read as follows:

§ 385.4 Country Group V.

(a) * * *

(9) A validated license is required for the export to government consignees of computers as defined in CCL entry 1565A. Applications for validated licenses will generally be considered favorably on a case by case basis for the export of computers that would not be used to support the South African policy of apartheid.

* * * * *

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

§ 399.1 Commodity control list; incorporation by reference.

* * * * *

Footnote 2 to 1565A in Supplement 1 to § 399.1 is revised to read as follows:

[2] Foreign policy export controls apply only to computer equipment destined for government consignees in the Republic of South Africa and Namibia.

(Secs. 6, and 13, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*: Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41-1, 45 FR 11862 (February 22, 1980))

Issued in Washington, D.C., on December 31, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-40851 Filed 12-31-80; 5:06 pm]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products That Require Patient Package Inserts; Cimetidine, Clofibrate, and Propoxyphene

Correction

In FR Doc. 80-36669, appearing on page 78514, in the issue of Tuesday, November 25, 1980, an incorrect telephone number was given in the paragraph "FOR FURTHER INFORMATION CONTACT:". The telephone number now reading "301-433-4893" should have read "301-443-4893".

BILLING CODE 1505-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Chewable Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Cyanamid Co., providing for safe and effective use of diethylcarbamazine chewable tablets for prevention of heartworm disease and control of ascarid infections in dogs.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, filed an NADA (120-327) providing for use of chewable tablets containing diethylcarbamazine equivalent to 60 milligrams of diethylcarbamizine citrate for dogs for preventing heartworm disease caused by *Dirofilaria immitis* and as an aid in the control of the ascarid *Toxocara canis*. The chewable tablet is similar to another tablet (nonchewable) that was reviewed by the National Academy of Sciences/National Research Council (NAS/NRC) and published in the **Federal Register** of January 8, 1969 (34 FR 275). The NAS/NRC review concluded, and the agency concurred, that the drug is effective as an aid in treating ascarid infections in dogs and cats when administered at 25 to 50 milligrams per pound of body weight as a single dose with a repeat dose given after 10 to 20 days. Another product, diethylcarbamazine premix, is the subject of an NAS/NRC review published in the **Federal Register** of June 16, 1970 (35 FR 9869). The review concluded that the drug is probably effective, and FDA concluded it is effective, as an aid in the control and treatment of large roundworm (ascarid) infections in dogs when given as directed.

American Cyanamid submitted data from published literature using other diethylcarbamazine-containing drugs and new data from a controlled natural ascarid infection, a controlled artifical heartworm infection, and a palatability study to demonstrate that the new product is safe, effective, and palatable. The claim for heartworm disease is granted based on the data and information in the published literature and the new study submitted. The agency granted a waiver from the requirements of 21 CFR 514.111(a)(5)(ii) for additional studies to provide substantial evidence of effectiveness. The claim for ascarid control is approved on the basis of the NAS/NRC reviews, the new study submitted, and the data and information in the published literature. The application is therefore approved and the regulations amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Director, Bureau of Veterinary Medicine, has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Director's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (21 CFR 25.1(f)(1)(ii)(*a*)), may be seen in the Dockets Management Branch (HFA–305), address above.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating § 520.620 as § 520.620a, and adding new §§ 520.620 and 520.620b to read as follows:

§ 520.620 Diethylcarbamazine oral dosage forms.

§ 520.620a Diethylcarbamazine.

(a) *Chemical name. N,N*-Diethyl-4-methyl-1-piperazine carboxamide.

(b) *Specifications.* Each pound of the drug contains 30 grams of diethylcarbamazine (as base).

(c) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter.

(d) *Conditions of use.* (1) It is administered to dogs to aid in the continual control of large roundworms (*Toxocara canis*) and to aid in the prevention of heartworm disease (*Dirofilaria immitis*). In those areas where roundworms are suspected or known to be a problem, it is added to the daily diet. In those areas where heartworms are endemic, it is added to the daily diet at the beginning of the mosquito activity and treatment is continued throughout the mosquito season and for approximately 1 month thereafter.

(2) It is administered daily in meal or moist feeds as follows:

Weight of animal in pounds	Recommended amount per day	Dosage in milligrams
20	¼ level teaspoonful	35
50	½ level teaspoonful	70
100	1 level teaspoonful	140

(3) Dogs with established heartworm infections should not receive diethylcarbamazine until they have been converted to a negative status.

(4) For use only by or on the order of a licensed veterinarian.

§ 520.620b Diethylcarbamazine chewable tablets.

(a) *Specifications.* Each chewable tablet contains diethylcarbamazine equivalent to 60 milligrams of diethylcarbamazine citrate adsorbed on an inert resin base.

(b) *Sponsor.* See No. 010042 in § 510.600 of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* 3 milligrams per pound of body weight daily.

(2) *Indications.* As an aid in the control of ascarid infections (*Toxocara canis*) and for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(3) *Limitations.* Do not use in dogs that may be harboring heartworms. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective January 6, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 23, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81–116 Filed 1–5–81; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Parts 510 and 520

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations to reflect a change of sponsor for a dichlorophene and toluene capsule product from Tutag Pharmaceuticals to Reid-Provident Laboratories, Inc. Tutag Pharmaceuticals filed a supplement to their new animal drug application (NADA) that provides for this change.

EFFECTIVE DATE: January 6, 1981

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Tutag Laboratories has filed a supplement to their new animal drug application for dichlorophene and toluene capsules (NADA 102–673) stating that as of April 25, 1980 all its rights in the NADA had been transferred to Reid-Provident Laboratories, Inc., 25 Fifth St. NW., Atlanta, GA 30308.

Under the Bureau of Veterinary Medicine's proposed policy regarding supplements to NADA's (December 23, 1977; 42 FR 64367) the intercorporate transfer of an NADA is a Category I change that does not require reevaluation of the safety and effectiveness data in the parent application.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1); and numerically to paragraph(c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Reid-Provident Laboratories, Inc., 25 Fifth St. NW., Atlanta, GA 30308	000063
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000063	Reid-Provident Laboratories, Inc., 25 Fifth St. NW., Atlanta, GA 30308
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.580 [Amended]

2. In Part 520, § 520.580(b)(2) is amended by deleting sponsor number "000124" and inserting in its place "000063".

Effective date. This amendment is effective January 6, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))

Dated: December 29, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 801-283 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nitrofurazone-Nifuroxime-Diperodon Hydrochloride Ear Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration amends the animal drug regulations to reflect the proper sponsor name for a new animal drug application providing for use of nitrofurazone-nifuroxime-diperodon hydrochloride ear solution for treating dogs.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 23, 1979 (44 FR 67113), the animal drug regulations were amended to reflect the change in the two sponsors, Norwich Pharmacal Co. and Eaton Labs. to Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc. Although the regulations were amended to reflect this change, the amendments failed to include a revision of 21 CFR 524.1580a(b). This document corrects that omission.

§ 524.1580a [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 524.1580a *Nitrofurazone-nifuroxime-diperodon hydrochloride ear solution* is amended in paragraph (b) by deleting the phrase "No. 000035" and inserting in its place "No. 000149".

Effective date. November 23, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 29, 1980.

Leon C. Brunk,

Deputy Associate Director for Surveillance and Compliance.

[FR Doc. 81-281 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. R-80-902]

General; List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: March 2, 1981.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Linane, Office of General Counsel, on (202) 755-7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

§ 300.11. [Amended]

1. Paragraph (c) of § 300.11 is amended by adding the following names to the current list of attorneys-in-fact:

* * * * *

(c) * * *

Name and Region

Margaret G. Hitch, Los Angeles, California
Carmen I. Huertas, Los Angeles, California
Carol King, Los Angeles, California
Floyd McCutcheon, Los Angeles, California

* * * * *

(Section 309(d) of the National Housing Act, 12 U.S.C. 1723a(d), and section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., December 22, 1980.

Ronald P. Laurent,

President, Government National Mortgage Association.

[FR Doc. 81-323 Filed 1-5-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

29 CFR Part 2520

Reporting and Disclosure Under Title I of the Employee Retirement Income Security Act of 1974; Final Regulation Relating to Certain Simplified Employee Pensions

AGENCY: U.S. Department of Labor.

ACTION: Final regulation.

SUMMARY: This document contains a final regulation that prescribes an alternative method of compliance with the reporting and disclosure requirements of ERISA for certain simplified employee pensions other than those created by use of Internal Revenue Service Form 5305-SEP.

DATES: The effective date of the final regulation is February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Charmain B. Gordon, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-9593, or Robert Doyle, Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523-8515 (these are not toll free numbers).

SUPPLEMENTARY INFORMATION: On April 15, 1980, notice was published in the **Federal Register** (45 FR 25404) that the Department was adopting as a temporary regulation, and was considering a proposal to adopt as a final regulation, 29 CFR § 2520.104–49, under section 110 of the Act. The regulation prescribed an alternative method of compliance with the reporting and disclosure requirements of Part 1 of Title I of the Act (Part 1) for SEPs other than those created by use of IRS Form 5305–SEP, except in those cases where the employer who establishes or maintains the SEP selects, recommends or substantially influences its employees to choose the IRAs into which employer contributions will be made, and those IRAs are subject to internal provisions which prohibit withdrawals of funds by participants for any period of time.[1]

Three comments were received in response to the proposal. Upon consideration of the comments, the Department has determined to adopt the regulation in the form set forth herein.

A. Background

On September 25, 1979, the Department published in the **Federal Register** a notice of proposed rulemaking which described a proposed alternative method of compliance with the reporting and disclosure requirements of Part 1 for SEPs established by use of IRS Form 5305–SEP (Model SEPs) (44 FR 55205). Many of the comments on that proposed regulation indicated that Model SEPs were of limited utility to employers and requested that the Department provide an alternative method of compliance for SEPs other than Model SEPs. In the discussion of those comments in the preamble to the final regulation concerning Model SEPs (§ 2520.104–48 (45 FR 24866, April 11, 1980)), the Department noted that it believed that an alternative method of compliance might be appropriate for SEPs other than Model SEPs.[2] The Department therefore, published a proposed and temporary regulation § 2520.104–49 (45 FR 25404, April 15, 1980) containing an alternative method of compliance for certain SEPs other than Model SEPs. The proposal was made temporarily effective as of April 14, 1980 so that the alternative method of compliance would be available to employers who had established or wished to establish non-Model SEPs for calendar year 1979. Under the tax laws, such employers were entitled to make SEP contributions at any time until April 15, 1980. Although the regulation was made effective as of April 14, 1980, comments were solicited as to whether the temporary regulation should be adopted, with or without change, in final form.

B. Discussion of Comments

Three comments were received. One of the comments did not pertain to the regulation, but simply brought to the Department's attention certain administrative problems that have allegedly been encountered in administering SEPs. The other comments raised several points, which are discussed below.

(1) First, one commenter requested that the Department clarify that the requirements of section (a)(1) of the regulation would be satisfied if the SEP agreement itself was provided to participants. Section (a)(1) requires that specific information be furnished to employees regarding the SEP. That information includes the participaton requirements for the SEP; the allocation formula for the SEP; the name of an individual designated by the employer to furnish additional information regarding the SEP; and, under certain circumstances, a clear explanation of the terms of the IRA into which SEP contributions are made. In support of the suggestion that the SEP agreement be deemed to meet the disclosure requirements of (a)(1), the commenter noted that, under regulation 104–48, an employer using a Model SEP agreement provides specific information regarding the SEP to participants by simply furnishing them a copy of the completed Model SEP agreement.

Under sections 101(a) and 102(a)(1) of the Act, the administrator of any employee benefit plan must provide each participant covered under the plan a summary plan description that is "written in a manner calculated to be understood by the average plan participant". Regulation 104–48 permits the employer or other plan administrator to furnish participants a copy of the Model SEP agreement, rather than a summary thereof, because, in the Department's opinion, the Model SEP agreement is drafted in a manner calculated to be understood by the average plan participant. If a non-Model SEP agreement were drafted in a similar manner, the Department believes the non-Model SEP agreement could be used to satisfy the requirements of paragraphs (a)(1)(i) through (iii) of regulation 104–49. Since a SEP agreement would not ordinarily contain the information required in paragraph (a)(1)(iv), which requires specific information about the IRA, the agreement could not generally be used to meet the requirements of that paragraph. To clarify the regulation with respect to these matters, a new section (b)(1) has been added. The previous section (b) and section (c) have been redesignated accordingly.

(2) A commenter noted that the requirement in section (a)(1)(iii) of the regulation—that the name or title be given of an individual who is designated by the employer to provide additional information to participants concerning the SEP—has no parallel in the previously published Model SEP regulation. Although the commenter indicated that the requirement appeared to be a salutory one, the commenter objected that there was no reason to distinguish Model SEPs from non-Model SEPs in this regard. The commenter therefore argued that the requirement should be either eliminated from the non-Model SEP regulation, or added to the Model SEP regulation.

As discussed earlier, under regulation 104–48, an employer or other plan administrator must furnish participants a copy of the completed Model SEP agreement itself. This agreement necessarily contains the name of the person who signs the agreement on behalf of the employer. If the employer wishes to designate an individual for participants to contact other than, or in addition to, the individual signing the SEP agreement, the employer would, of course, be free to do so under the regulation.

In contrast to regulation 104–48, regulation 104–49 would not otherwise require that a document be provided which necessarily contains the name of any individual whom participants could contact. As a result, the Department believes it is appropriate to require, in the regulation relating to non-Model SEPs, the designation of an individual who could provide additional information.

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[1] Non-Model SEPs which are subject to such prohibitions would, therefore, be subject to the reporting and disclosure requirements of Part 1. As the Department noted in the preamble to the proposed regulation, however, in the case of IRAs that are selected by an employer who establishes a SEP and that are subject to provisions that allow withdrawals but reduce earnings or impose other penalties, the SEP would be covered by this alternative method of compliance.

[2] Under section 110 of the Act, the Department may prescribe an alternative method for satisfying any requirement of Part 1 with respect to a pension plan or class of pension plans subject to that requirement if it determines:

(1) That the use of the alternative method is consistent with the purposes of Title I and that it provides adequate disclosure to participants and beneficiaries of the plan, and adequate reporting to the Department;

(2) That the application of that requirement would—

(A) increase the costs of the plan, or

(B) impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or type of plan involved; and

(3) That the application of Part 1 would be adverse to the interests of plan participants in the aggregate.

(3) A commenter pointed out that the information required by paragraph (a)(1)(iv) might, in some cases, duplicate information provided to participants by the financial institution in which the participant's IRA is maintained. The commenter therefore suggested that the requirements of the paragraph should be satisfied if the financial institution in question provides the information specified therein. The Department believes that this comment has merit and accordingly, a sentence has been added to the regulation in this regard.

(4) A commenter suggested that the disclosure requirements of sections (a)(1)(iv) and (a)(3) regarding the rate of return and other terms of the IRA into which SEP contributions are made should be consolidated and simplified. To achieve this, the commenter suggested that the two sections should be modified to require the employer or other plan administrator to state that "other IRAs * * * either may not be subject to such restrictions or may be subject to different restrictions or charges." Alternatively, the commenter proposed that a provision be added to the regulation indicating that paragraphs (a)(1)(iv) and (a)(3) would be satisfied if the participant were given a combined statement containing (1) the IRA's disclosure materials (which, pursuant to other federal regulations, may contain information on rates of return and restrictions on withdrawals), and (2) the sentence quoted above.

As to paragraph (a)(1)(iv) of the regulation, the Department does not believe that a general statement of the sort proposed by the commenter is an adequate substitute for the specific disclosure required by that paragraph. As to paragraph (a)(3), the commenter's proposed language fails to supply the information contained in subparagraphs (ii) and (iii) of that paragraph. The Department believes that this information is useful to participants and has therefore decided not to adopt the language proposed by the commenter.

With respect to the alternative proposal of the commenter, the Department has already noted above that the IRA's disclosure materials may, under some circumstances, be used to satisfy the requirements of paragraph (a)(iv). A general statement could, of course, be added to those materials to satisfy the requirements of paragraph (a)(3), although the statement proposed by the commenter would not be adequate for this purpose. However, it should be noted that there would be no need to add such a general statement to the IRA disclosure materials if the IRS Notice, discussed below, is supplied to participants, as the information contained in the Notice already contains this general information.

(5) Finally, one commenter requested that the regulation be clarified to state that an employer would not have to meet the disclosure requirements of paragraph (a)(1)(iv) of the regulation if the employer chose the institution in which IRA contributions were deposited (e.g. a savings and loan association), but left to the employee the choice as to which investment vehicle would be used at that institution (e.g. passbook account or certificate of deposit). As was noted above, section (a)(1)(iv) of the regulation requires specific information about the IRA to which employer contributions are made if the employer selects, recommends or substantially influences the choice of the IRA. In the Department's view, an employer would have to meet the disclosure requirements of paragraph (a)(1)(iv) of the regulation in the circumstances described by the commenter. However, as discussed above, in many cases the employer would be able to use the institution's existing disclosure materials for this purpose.

C. The IRS Notice

When regulation 104-49 was published on April 15, 1980, the Department indicated that the regulation had been developed in coordination with the IRS. The Department also noted that it anticipated publication by the IRS of a Notice containing information that would satisfy the requirements of paragraph (a)(2) of the regulation. In this regard, the information contained in the IRS Notice [3], in the Department's opinion, will meet the requirements not only of paragraph (a)(2), but also of paragraphs (a)(3), (a)(4) and (a)(5) of the alternative method of compliance.

In addition, we note that several changes have been made to paragraph (a)(6) of the regulation. Paragraph (a)(6)(ii) of the proposal, which required, in the case of a SEP that provides for integration with Social Security, that the administrator of the SEP furnish to the employee several examples of the effect integration would have on actual employer contributions under a SEP, has been modified. In place of the requirement that examples be included, the administrator of such a SEP will be required to furnish the employee in writing with a description of the effect that integration with Social Security would have on employer contributions under a SEP. In addition, paragraph (a)(6)(iii) has been added to make clear that an employee must be furnished with a copy of the integration formula itself. The Department believes that these revised disclosure requirements will be less burdensome for plan administrators than the requirements originally proposed, while providing adequate disclosure to plan participants.

It is the Department's opinion that the information contained in the Notice, which highlights the effect of integration with Social Security on employer contributions to SEPs, would satisfy the requirements of paragraph (a)(6)(ii), as modified.

D. Other Matters

The Department notes that the alternative method of compliance for non-Model SEPs relates solely to reporting and disclosure under Title I of the Act, and that nothing in the regulation relieves any person (including a fiduciary) from compliance with the fiduciary responsibility and other provisions of the Act.[4]

Pursuant to the requirements of section 110 of the Act, the Secretary makes the following determinations:

(1) that the use of the alternative method of compliance is consistent with the purposes of Title I of the Act and that it provides adequate disclosure to participants and beneficiaries in the covered SEPs, and adequate reporting to the Secretary;

(2) that the application of the requirements of Part 1 would—

(A) increase the costs to the covered SEPs, or

(B) impose unreasonable administrative burdens with respect to the operation of such plans, having regard to the particular characteristics of those plans; and

(3) that the application of Part 1 would be adverse to the interests of participants in the covered SEPs in the aggregate.

E. Statutory Authority

The final regulation set forth below is adopted pursuant to sections 110 and

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[3] Notice 81-1, I.R.B. 1981-2.

[4] If the assets of a SEP are used for the benefit of a party in interest or disqualified person with respect to that SEP (as defined in sections 3(14) of the Act and 4975(e)(2) of the Code) violations of sections 406 of the Act and 4975(c)(1) of the Code may occur. For example, if, in connection with the establishment and maintenance of a SEP, an employer directs its employees to open IRAs with a particular financial institution and in return for making SEP contributions to those IRAs the employer receives from that institution a loan or other benefits, such conduct would involve violations of sections 406(a)(1)(D) and 406(b) of the Act and 4975(c)(1) (D), (E) and (F) of the Code.

V 46 / 3 JA 6 81 UMI

505 of the Act (Pub. L. 93–406, 88 Stat. 829, 851, 894, 29 U.S.C. 1030, 1135).

Accordingly, regulation 29 CFR 2520.104–49 is revised to read as follows:

§ 2520.104–49 Alternative method of compliance for certain simplified employee pensions.

Under the authority of section 110 of the Act, the provisions of this section are prescribed as an alternative method of compliance with the reporting and disclosure requirements set forth in Part 1 of Title I of the Act for a simplified employee pension (SEP) described in section 408(k) of the Internal Revenue Code of 1954 as amended, except for (1) a SEP that is created by proper use of Internal Revenue Service Form *5305–SEP*, or (2) a SEP in connection with which the employer who establishes or maintains the SEP selects, recommends or influences its employees to choose the IRAs into which employer contributions will be made and those IRAs are subject to provisions that prohibit withdrawal of funds by participants for any period of time.

(a) At the time an employee becomes eligible to participate in the SEP (whether at the creation of the SEP or thereafter) or up to 90 days after the effective date of this regulation, whichever is later, the administrator of the SEP (generally the employer establishing or maintaining the SEP) shall furnish the employee in writing with:

(1) Specific information concerning the SEP, including:

(i) The requirements for employee participation in the SEP,

(ii) The formula to be used to allocate employer contributions made under the SEP to each participant's individual retirement account or annuity (IRA),

(iii) The name or title of the individual who is designated by the employer to provide additional information to participants concerning the SEP, and

(iv) If the employer who establishes or maintains the SEP selects, recommends or substantially influences its employees to choose the IRAs into which employer contributions under the SEP will be made, a clear explanation of the terms of those IRAs, such as the rate(s) of return and any restrictions on a participant's ability to roll over or withdraw funds from the IRAs, including restrictions that allow rollovers or withdrawals but reduce earnings of the IRAs or impose other penalties.

(2) General information concerning SEPs and IRAs, including a clear explanation of:

(i) What a SEP is and how it operates,

(ii) The statutory provisions prohibiting discrimination in favor of highly compensated employees,

(iii) A participant's right to receive contributions under a SEP and the allowable sources of contributions to a SEP-related IRA (SEP–IRA),

(iv) The statutory limits on contributions to SEP–IRAs,

(v) The consequences of excess contributions to a SEP–IRA and how to avoid excess contributions,

(vi) A participant's rights with respect to contributions made under a SEP to his or her IRA(s),

(vii) How a participant must treat contributions to a SEP–IRA for tax purposes,

(viii) The statutory provisions concerning withdrawal of funds from a SEP–IRA and the consequences of a premature withdrawal, and

(ix) A participant's ability to roll over or transfer funds from a SEP–IRA to another IRA, SEP–IRA, or retirement bond, and how such a rollover or transfer may be effected without causing adverse tax consequences.

(3) A statement to the effect that:

(i) IRAs other than the IRA(s) into which employer contributions will be made under the SEP may provide different rates of return and may have different terms concerning, among other things, transfers and withdrawals of funds from the IRA(s),

(ii) In the event a participant is entitled to make a contribution or rollover to an IRA, such contribution or rollover can be made to an IRA other than the one into which employer contributions under the SEP are to be made, and

(iii) Depending on the terms of the IRA into which employer contributions are made, a participant may be able to make rollovers or transfers of funds from that IRA to another IRA.

(4) A description of the disclosure required by the Internal Revenue Service to be made to individuals for whose benefit an IRA is established by the financial institution or other person who sponsors the IRA(s) into which contributions will be made under the SEP.

(5) A statement that, in addition to the information provided to an employee at the time he or she becomes eligible to participate in a SEP, the administrator of the SEP must furnish each participant:

(i) Within 30 days of the effective date of any amendment to the terms of the SEP, a copy of the amendment and a clear written explanation of its effects, and

(ii) No later than the later of:

(A) January 31 of the year following the year for which a contribution is made,

(B) 30 days after a contribution is made, or

(C) 30 days after the effective date of this regulation

written notification of any employer contributions made under the SEP to that participant's IRA(s).

(6) In the case of a SEP that provides for integration with Social Security

(i) A statement that Social Security taxes paid by the employer on account of a participant will be considered as an employer contribution under the SEP to a participant's SEP–IRA for purposes of determining the amount contributed to the SEP–IRA(s) of a participant by the employer pursuant to the allocation formula,

(ii) A description of the effect that integration with Social Security would have on employer contributions under a SEP, and

(iii) The integration formula, which may constitute part of the allocation formula required by paragraph (a)(1)(ii) of this section.

(b)(1) The requirements of paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii) and (a)(6)(i) of this regulation may be met by furnishing the SEP agreement to participants, provided that the SEP agreement is written in a manner reasonably calculated to be understood by the average plan participant.

(2) The requirements of paragraph (a)(1)(iv) of this regulation may be met through disclosure materials furnished by the financial institution in which the participant's IRA is maintained, provided the materials contain the information specified in such paragraph.

(c) No later than the later of:

(1) January 31 of the year following the year for which a contribution is made,

(2) 30 days after a contribution is made, or

(3) 30 days after the effective date of this regulation

the administrator of the SEP shall notify a participant in the SEP in writing of any employer contributions made under the SEP to the participant's IRA(s).

(d) Within 30 days of the effective date of any amendment to the terms of the SEP, the administrator shall furnish each participant a copy of the amendment and a clear explanation in writing of its effect.

Signed at Washington, D.C. this 31st day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-328 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-29-M

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29 CFR Part 2520

Regulation Relating to Reporting and Disclosure for Short Plan Years

AGENCY: U.S. Department of Labor.

ACTION: Adoption of final regulation.

SUMMARY: This document contains a regulation that, under certain circumstances, permits the administrator of an employee benefit plan incurring a plan year of seven or fewer months' duration to defer engaging an independent qualified public accountant and including an opinion rendered by such accountant in the annual report of the plan, as would otherwise be required under section 103 of the Employee Retirement Income Security Act of 1974 (the Act).

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: John Malagrin, Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8684, or J. Scott Galloway, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8658 (these are not toll free numbers).

SUPPLEMENTARY INFORMATION: On August 26, 1980, the Department of Labor (the Department) published in the **Federal Register** (45 FR 56843) a proposed regulation which would permit the administrator of an employee benefit plan to defer the audit requirement for the first of two consecutive plan years, one of which is a short plan year of seven or fewer months duration, and to file an audited statement for that plan year when he files the annual report for the immediately following plan year, subject to certain conditions. One person commented to the Department with respect to the proposal.

One of the conditions included in the proposal was that the annual report for the second of two consecutive plan years must include a statement by the independent accountant identifying any material differences between the unaudited information contained in the annual report for the first of the two consecutive plan years and the audited financial information relating to that plan year contained in the annual report for the immediately following plan year. The commenter suggested that providing the statement of material differences was outside the scope of the duties of the independent accountant. The responsibility for the content of financial statements is generally imposed upon the plan administrator, whose statements are audited by an independent accountant. It appears that requiring the plan administrator, rather than the independent accountant, to supply the statement of material modifications will provide sufficient information to the Department, without increasing costs to the plan. Consequently, the regulation has been revised to remove the requirement that the independent accountant provide the statement of material differences.

The commenter also indicated that there may be confusion concerning the operation of the regulation in situations where the short plan year ends with the termination of the plan. Specifically, the commenter suggested that a plan administrator might assume that a short plan year in which the plan terminates is the year with respect to which the audit requirement is deferred, and might never file audited financial statements for that short plan year. In light of the language of the regulation, however, such an assumption would be erroneous.

29 CFR 2520.104-50(b) provides that "[a] plan administrator is not required to include the report of an independent qualified public accountant in the annual report for the first of two consecutive plan years, one of which is a short plan year," provided that, among other conditions, the annual report for the second of the plan years includes an accountant's report with respect to each of the two plan years. The operation of the regulation in a situation where a plan is terminating may be illustrated by the following example. A plan which has a calendar year plan year will be terminating on May 31, 1981. Pursuant to § 2520.104-50(a)(3), the period from January 1, 1981, through May 31, 1981, constitutes a short plan year. The plan year from January 1, 1980, through December 31, 1980, is the first of two consecutive plan years, one of which is a short plan year. Under the regulation, the plan administrator is not required to provide audited financial statements in the annual report for the plan year from January 1, 1980, through December 31, 1980, provided that, among other conditions, the annual report for the short plan year, January 1, 1981, through May 31, 1981, includes an accountant's report with respect to the plan year from January 1, 1980, through December 31, 1980. The audit requirement for a short plan year ending in the termination of the plan cannot be deferred under the regulation because, if the plan terminates, the year in which it terminates cannot be the first of two consecutive plan years.

An additional change without substantive effect has been made in the regulation for purposes of clarity.

The Department has determined that this proposed regulation is a significant regulation within the meaning of the Department's guidelines for improving government regulations (44 FR 5570, January 26, 1979). This regulation is effective upon its adoption because it grants an exemption from various reporting and disclosure requirements of Part 1.

With regard to pension plans, the Department has determined that the use of the deferral of the accountant's examination and report in connection with short plan years as specified in 29 CFR 2520.104-50 is consistent with the purposes of Title I of the Act and that it provides adequate disclosure to participants and beneficiaries in such plans, and adequate reporting to the Secretary, and that application of the requirements of Title I of the Act regarding the accountant's examination and report without permitting the short plan year deferral would increase the costs to such plans, and would be adverse to the interests of plan participants in the aggregate. With regard to welfare plans, the Department finds that it would be inappropriate to apply the requirements of Title I of the Act regarding the accountant's examination and report to such plans without permitting the deferral of the accountant's examination and report in connection with short plan years, as specified in 29 CFR 2520.104-50.

Statutory Authority

The regulation set forth below is issued under the authority of sections 104, 110 and 505 of the Act [29 U.S.C. 1024, 1030, and 1135].

Regulation

In consideration of the matters discussed above, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended by adding thereto a new § 2520.104-50, reading as follows:

§ 2520.104-50 Short plan years, deferral of accountant's examination and report.

(a) *Definition of "short plan year."* For purposes of this section, a short plan year is a plan year, as defined in section 3(39) of the Act, of seven or fewer months' duration, which occurs in the event that—(1) a plan is established or commences operations; (2) a plan is merged or consolidated with another plan or plans; (3) a plan is terminated; or (4) the annual date on which the plan year begins is changed.

(b) *Deferral of accountant's report.* A plan administrator is not required to include the report of an independent qualified public accountant in the annual report for the first of two consecutive plan years, one of which is a short plan year, provided that the following conditions are satisfied:

(1) The annual report for the first of the two consecutive plan years shall include:

(i) Financial statements and accompanying schedules prepared in conformity with the requirements of section 103(b) of the Act and regulations promulgated thereunder;

(ii) An explanation why one of the two plan years is of seven or fewer months' duration; and

(iii) A statement that the annual report for the immediately following plan year will include a report of an independent qualified public accountant with respect to the financial statements and accompanying schedules for both of the two plan years.

(2) The annual report for the second of the two consecutive plan years shall include:

(i) Financial statements and accompanying schedules prepared in conformity with section 103(b) of the Act and regulations promulgated thereunder with respect to both plan years;

(ii) A report of an independent qualified public accountant with respect to the financial statements and accompanying schedules for both plan years; and

(iii) A statement identifying any material differences between the unaudited financial information relating to, and contained in the annual report for, the first of the two consecutive plan years and the audited financial information relating to that plan year contained in the annual report for the immediately following plan year.

(c) *Accountant's examination and report.* The examination by the accountant which serves as the basis for the portion of his report relating to the first of the two consecutive plan years may be conducted at the same time as the examination which serves as the basis for the portion of his report relating to the immediately following plan year. The report of the accountant shall be prepared in conformity with section 103(a)(3)(A) of the Act and regulations thereunder.

Signed at Washington, D.C., this 29th day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-40832 Filed 12-30-80; 12:25 pm]

BILLING CODE 4510-29-M

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29 CFR Part 2550

Maintenance of Indicia of Ownership of Plan Assets Outside Jurisdiction of the District Courts of the United States

AGENCY: Department of Labor.

ACTION: Adoption of Final Regulation.

SUMMARY: This document contains revisions to existing regulations under section 404(b) of the Employee Retirement Income Security Act of 1974 (ERISA), which prescribe conditions under which a fiduciary of an employee benefit plan is permitted to maintain the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States. The revisions broaden the circumstances under which the indicia of ownership of certain plan assets may be maintained by certain banks in the custody of specified foreign entities.

EFFECTIVE DATE: February 6, 1981.

FOR FURTHER INFORMATION CONTACT: J. Scott Galloway, Office of the Solicitor, U.S. Department of Labor, (202) 523–8658. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: On August 5, 1980, the Department of Labor (the Department) published in the **Federal Register** (45 FR 51840) a notice of proposed rulemaking proposing certain amendments to 29 CFR 2550.404b–1.

Under section 404(b) of ERISA, a plan fiduciary is prohibited from maintaining the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States except as authorized by regulation. On October 4, 1977, the Department published regulation 404b–1 which specifies the circumstances under which a fiduciary of an employee benefit plan may maintain the indicia of ownership of plan assets abroad. The regulation provides that the indicia of ownership of certain types of plan asets may be held abroad if, among other things, the indicia of ownership are maintained by certain banks, brokers or dealers in the custody of an entity which has been designated by the U.S. Securities and Exchange Commission (the Commission) as a "satisfactory control location" under the Securities Exchange Act of 1934 (Exchange Act). The Commission's staff, however, has taken the position that the Commission designates a "satisfactory control location" only upon application by a broker or dealer registered under the Exchange Act. As a result, banks have been limited in their ability to utilize the Department's regulation in holding plan assets abroad.

The proposed revisions to the regulation would permit banks that satisfy specified criteria intended to ensure financial responsibility to maintain the indicia of ownership of plan assets in the custody of certain foreign entities which are supervised or regulated by a government agency or regulatory authority, under conditions designed to parallel the criteria for designating satisfactory control locations.

At the time the proposed revisions were published, the Department solicited comments from interested persons. Two comments were received. The Department has reviewed the comments, and has made changes in the final revisions where appropriate, as discussed below. The Department considers the final regulation to be "significant" within the meaning of Department of Labor guidelines (44 FR 5570, January 28, 1979) implementing Executive Order 12044 (43 FR 12661, March 23, 1978).

Discussion

Under the proposed revisions, the specified U.S. banks may maintain the custody of foreign securities only in a foreign bank or a foreign securities depository. One commenter requested that the revisions be modified to make clear that the specified banks may utilize the services of certain foreign clearing agencies. The commenter noted that under Rule 15c3–3,[1] adopted under the Exchange Act, the Commission may designate (and has in fact designated) not only foreign banks and foreign securities depositories, but also foreign clearing agencies as "satisfactory control locations." See Securities Exchange Act Release No. 10429 (October 12, 1973).

In light of this comment, the Department has decided to amend the revisions to include government regulated foreign clearing agencies which act as security depositories among the entities in which banks may maintain the indicia of ownership of plan assets held abroad.

The commenter also requested that the Department eliminate the requirement in the proposed revisions that the banks identify to a plan, at the time an annual report is submitted to the plan, (1) the foreign entities that have custody of the indicia of ownership of plan assets, and (2) the regulatory authority that supervises or regulates those foreign entities. The commenter argued that this reporting requirement was burdensome for such banks, and that the requirement would be of little benefit to plans since, in the commenter's opinion, most plan sponsors do not have the capability of evaluating the security safekeeping facilities of one foreign entity over another, nor would they be in a position to evaluate a foreign country's supervisory process. The commenter suggested, as an alternative to a reporting requirement, that the bank be required to provide to plan fiduciaries, on request, information concerning the foreign custodian. After consideration of the comment, the Department has decided to eliminate a specific reporting requirement but to adopt the suggestion of the commenter that the information be provided on request.

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[1] 17 CFR 240.15c3-3.

The other commenter suggested that the revisions include a requirement that the internal controls and procedures of the foreign custodial entity be subject to examination by auditors of the U.S. bank and representatives of U.S. government agencies. Under the Department's proposed revisions, a foreign entity selected by such bank must hold the indicia of ownership of plan assets as "agent" for the U.S. bank, and the U.S. bank is liable to the plan "to the same extent it would be if it retained physical possession of the indicia of ownership of the assets within the United States." In the Department's view, this provision regarding the U.S. bank's liability ensures that the U.S. bank will have an incentive to take appropriate precautions regarding the foreign entity's internal controls and procedures and makes it unnecessary for the Department to impose any further independent safeguards.

The commenter also suggested that some "elaboration" of the requirements of the regulation was needed with respect to situations where the foreign custodial entity chose to appoint a foreign sub-custodian. In the Department's view, such an appointment by the foreign custodial entity would meet the requirement of the revisions if the foreign entity having custody of the indicia of ownership of plan assets acts as agent of the U.S. bank and the other conditions of the regulation are satisfied.

Finally, the commenter inquired whether the bonding requirements of section 412 of ERISA would apply to a foreign entity that has custody of the indicia of ownership of plan assets. Section 412 provides that "[e]very fiduciary of an employee benefit plan and every person who handles funds or other property of such a plan * * * shall be bonded * * *." Therefore, to the extent a person "handles" plan assets, that person must be bonded. Regulation 404b-1 has no effect on such bonding requirements.

Statutory Authority

The revisions set forth below are issued under the authority of section 505 of the Act (Pub L. 93-406, 88 Stat. 894, 29 U.S.C. 1135), and section 404(b) of the Act (Pub. L. 93-406, 88 Stat. 877, 29 U.S.C. 1104).

In consideration of the matters discussed above, regulation 29 CFR 2550.404b-1 is amended as follows:

(1) Revise the first clause of paragraph (a);

(2) Revise paragraph (a)(2)(ii)(B);

(3) Add a new paragraph (a)(2)(ii)(C); and

(4) Revise paragraph (c); to read as set forth below.

§ 2550.404b-1 Maintenance of the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States.

(a) No fiduciary may maintain the indicia of ownership of any assets of a plan outside the jurisdiction of the district courts of the United States, unless: * * *

(2) * * *

(ii) * * *

(B) Maintained by a broker or dealer, described in paragraph (a)(2)(ii)(A) (*2*) or (*3*) of this section, in the custody of an entity designated by the Securities and Exchange Commission as a "satisfactory control location" with respect to such broker or dealer pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934, provided that:

(*1*) Such entity holds the indicia of ownership as agent for the broker or dealer, and

(*2*) Such broker or dealer is liable to the plan to the same extent it would be if it retained the physical possession of the indicia of ownership pursuant to paragraph (a)(2)(ii)(A) of this section.

(C) Maintained by a bank described in paragraph (a)(2)(ii)(A)(*1*), in the custody of an entity that is a foreign securities depository, foreign clearing agency which acts as a securities depository, or foreign bank, which entity is supervised or regulated by a government agency or regulatory authority in the foreign jurisdiction having authority over such depositories, clearing agencies or banks, provided that:

(*1*) the foreign entity holds the indicia of ownership as agent for the bank;

(*2*) the bank is liable to the plan to the same extent it would be if it retained the physical possession of the indicia of ownership within the United States;

(*3*) the indicia of ownership are not subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity except for their safe custody or administration;

(*4*) beneficial ownership of the assets represented by the indicia of ownership is freely transferable without the payment of money or value other than for safe custody or administration; and

(*5*) upon request by the plan fiduciary who is responsible for the selection and retention of the bank, the bank identifies to such fiduciary the name, address and principal place of business of the foreign entity which acts as custodian for the plan pursuant to this paragraph (a)(2)(ii)(C), and the name and address of the governmental agency or other regulatory authority that supervises or regulates that foreign entity.

* * * * *

(c) For purposes of this regulation:

(1) the term "management and control" means the power to direct the acquisition or disposition through purchase, sale, pledging, or other means; and

(2) the term "depository" means any company, or agency or instrumentality of government, that acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates.

Signed at Washington, D.C. this 29th day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-40831 Filed 12-30-80 12:34 pm]

BILLING CODE 4510-29-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL 1718-6; Docket No. A-80-55]

Compliance With VOC Emission Limitations for Can Coating Operations

AGENCY: Environmental Protection Agency.

V 46/3 JA 6 81 UMI

ACTION: Notice of policy memorandum, correction.

SUMMARY: In FR Document 80-37986, appearing on page 80824 in the issue of Monday, December 8, 1980, the title as shown above is incorrect.

It should be corrected to read as follows:

Environmental Protection Agency

40 CFR Part 51

[AD-FRL-1694.3]

Compliance with VOC Emission Limitations for Can Coating Operations

AGENCY: Environmental Protection Agency.

ACTION: Notice of policy memorandum.

FOR FURTHER INFORMATION CONTACT: Leo Stander, U.S. Environmental Protection Agency, (919) 541-5516.

Dated: December 29, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-287 Filed 1-[illegible]-81; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 442

Medicaid Program; Plans of Correction for Intermediate Care Facilities for the Mentally Retarded

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This regulation amends 42 CFR 442.115 to authorize a State survey agency, in specified circumstances to certify an intermediate care facility for the mentally retarded for participation in the Medicaid program when the facility has not met the July 18, 1980 compliance deadline provided in 42 CFR 442.115(a). The regulation would permit plans to correct certain deficiencies by July 18, 1982 based on the length of time needed to complete the plan. It would also allow extensions beyond either the 1980 or 1982 deadline where, under limited circumstances, a delay has been caused by litigation.

We are publishing this regulation as a final rule because of the need to protect facilities from disruption of Federal funding where the criteria for an extension of the deadline are satisfied, including the assurance that the health and safety of the residents will not be jeopardized by the granting of an extension. However, we are providing a comment period and will make any further revisions we find necessary based upon comments we receive.

DATES: Effective on date of publication. To insure consideration, comments should be received by March 9, 1981.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17082, Baltimore, MD 21235.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.; or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code HSQ-80-FC. Comments will be available for public inspection, beginning approximately two weeks from today, in Room 309-G of the Department's Offices at 200 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Dr. Wayne Smith, Health Care Financing Administration, Health Standards and Quality Bureau, Second Floor, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, MD 21207, (301) 594-7851.

SUPPLEMENTARY INFORMATION:

Background

In 1972, Congress passed legislation (Pub. L. 92-223) that, for the first time, provided coverage for services in intermediate care facilities for the mentally retarded (ICFs/MR) under the Medicaid program (42 U.S.C. 1396d). Interim and final standards to implement the ICF/MR program were published on January 17, 1974 (45 CFR 249.12 and 249.13 (1974) now 42 CFR Part 442 Subpart G). The interim standards gave facilities until March 1977 to achieve full compliance with all of the final standards.

The standards promulgated in 1974 were part of an effort to upgrade the quality and scope of services provided by institutions for the mentally retarded. The regulations emphasized the fundamental principles of the "habilitation process," namely individualized active treatment in minimally restrictive settings.

In developing the regulations, the Department received the views of numerous consumer, provider, and professional associations and State governments. In addition, the Department considered various court decisions which established the right of institutionalized individuals to active treatment and which set forth the details of an acceptable treatment regimen. The adoption of active treatment principles in the 1974 regulations was intended to give mentally retarded persons the type of care and services that would enable them to attain maximum independent living capabilities and to return to the community at the earliest possible time.

The 1974 regulations provided an important new direction for the treatment of the mentally retarded. The regulations also rendered many existing buildings unsuitable for the delivery of care without substantial renovation because of new physical environment requirements (e.g., stricter fire safety standards and bedrooms housing no more than four persons rather than large open wards). Many States planned to build new, less restrictive facilities rather than upgrade old buildings. Since nearly all ICFs/MR were State owned and operated, legislative appropriations were required for renovation and new construction. Other States decided to phase out parts of their institutions and to relocate residents in other settings.

Since the Department recognized that some institutions for retarded persons could not meet the new structural requirements or relocate patients within a one year survey cycle, the deadline for full compliance with the new requirements was set for March 1977. Facilities were allowed to participate in the new program under the interim regulations published at that time (45 CFR 249.12 (1974)).

As a result of serious problems experienced by most of the States participating in the ICF/MR program in meeting the March 1977 deadline, a coalition of State government and advocacy groups requested that the Department consider an extension of the deadline. Some States that were attempting to phase out certain beds and place the residents in alternative care settings did not want to renovate buildings which were no longer going to be used, but they found that alternative care settings were not developing rapidly enough to meet phase out goals.

After extensive consultation, the Department decided to extend the March 1977 deadline for meeting Life Safety Code and physical environment provisions. 42 CFR 442.113 was issued to provide that the State survey agency could certify an ICF/MR with deficiencies even though correction of the deficiencies under the facility plan of correction would take more than 12 months to complete. (Normally, under Federal regulations, deficiencies must be corrected within a 12-month period for a long-term care facility to qualify for certification.) Section 442.115 required that the plan provide for completion of corrections in Life Safety Code, living, dining and therapy areas by July 18, 1980. However, if at the time of the first survey after July 17, 1977, the facility was unable to develop a plan for completion of corrections by July 18, 1980, the State survey agency could request that the Secretary approve a plan to complete corrections (for construction/renovation and/or phase-out of beds) by July 18, 1982, if certain additional requirements were satisfied (42 CFR 442.115(b)). At that time, most of the uncorrected deficiencies involved failure to meet the limit of four residents per bedroom and Life Safety Code deficiencies that were certified by the State to be non-threatening to the residents' health and safety (42 CFR 442.105). The extensions to 1980 and 1982 did not apply to those provisions of the Life Safety Code which, if not followed, would result in conditions threatening the health and safety of the residents.

Current Situation

The majority of States responded to the 1977 regulation by moving forward with their construction, renovation, or phase-out programs. Most States have been able to complete their plans of correction prior to July 18, 1980. A recent survey reported almost $1 billion in expended or appropriated State funds since July 1977 for capital improvement in mental retardation facilities. Thirty-nine States reported that three-fourths of their expenditures for capital improvements were devoted to correcting ICF/MR deficiencies, indicating a strong commitment by most States to meet the ICF/MR regulations. *Trends in Capital Expenditures for Mental Retardation Facilities: A State by State Survey*, National Association of State Mental Retardation Program Directors (June 1980).

At the time of the 1977 revision to the regulations, a survey of the States indicated that about 35 percent of the facilities in the ICF/MR program could not meet the 1977 deadline. Initially it was estimated that the number of facilities that would not meet the 1980 deadline was less than 10 percent of the facilities participating in the ICF/MR program i.e., approximately 80 facilities nationwide would not meet the deadline and had not requested an extension to 1982 under the provisions of § 442.115(b). However, we have since learned that some of these facilities have corrected their deficiencies. Thus approximately 36 facilities in 16 States with 11,000 beds are still affected by the passing of this deadline.

The reasons that facilities failed to meet the July 18, 1980 deadline have included construction delays due to strikes, court orders enjoining construction, absence of alternative treatment settings for patients in institutions scheduled to be phased out, and lack of adequate funds. In spite of the problems faced by the facilities that did not meet the July 18, 1980 deadline, the work remaining for many could be completed by July 18, 1982.

We believe that those facilities which have made progress toward the successful completion of their construction, renovation, or phase out programs should not be subject to termination of Federal funds. Thus, the regulations require completion of at least 25 percent of required construction or 25 percent of planned phase out. We believe that States which have failed to achieve this level of progress should not receive continued Federal participation for treatment in facilities that were found to be inappropriate in 1974.

An additional ground for approval of an extended plan of correction (which would permit continued certification) is contained in new paragraph (f). This provision permits a State survey agency to request that the Secretary authorize approval for plans of correction beyond July 18, 1980, or July 18, 1982, where a facility is unable to comply with its plan of correction by either date, as appropriate, and where the facility's inability to do so was caused by litigation. Approval for certification beyond July 18, 1980 or July 18, 1982 under this provision may be granted only if the United States, or any agency or Department thereof, was a party, an intervenor, or an *amicus curiae*, to the litigation and if the position advocated or supported by the United States caused or contributed to the delay in the completion of planned corrections. Under these circumstances, the plan of correction may be extended beyond the original deadline, but only to the extent of the delay caused by litigation, as determined by the Secretary. The Department expects that the plan of correction will also be revised where necessary to comply with the decision of the court in the litigation.

The reason for this provision is that a few facilities have been parties to litigation where the United States was involved and where the United States supported a position which had the effect of preventing the facility from going forward with its approved plan of correction. In these circumstances, the Department believes that it would be inconsistent with elemental concepts of fairness to terminate funding for a facility because of that facility's inability to comply with its plan of correction.

Provisions of the Regulation

The regulation will permit the State survey agency to request the Secretary to authorize approval of an extended plan of correction for a facility which was unable to complete all needed corrections by July 18, 1980. The facility must still meet the applicable provisions for correction plans in 42 CFR 442.115 (c) and (d). These provisions require timetables for all correction plans. For those plans which call for renovation, a showing that adequate financial resources are available must be in the plan. For plans calling for phase out, the plan must call for no new admissions to parts of facilities being closed and a description of methods to insure recipient's health and safety until the closing is completed. For corrections involving construction or renovation, it must also provide documentation from a supervising architect or contractor that the facility completed at least 25 percent of the required work covered by the plan of correction by July 18, 1980 and that construction will be completed by July 18, 1982. Moreover, if the plan of correction provides for phasing out all or part of a facility, the ICF/MR must provide documentation that the phase out program was at least 25 percent completed on July 18, 1980. The State survey agency must find that the facility can complete the phase out plan by July 18, 1982.

The facility must demonstrate that all continuing deficiencies covered by the plan of correction are directly related to the completion of construction, renovation or phasing out of beds. The provisions of 42 CFR 442.113(d), which require that the State survey agency conduct on-site surveys every six months to document the facility's progress toward meeting its correction timetables remain in force, as does 42 CFR 442.105(a) which requires an agency finding that the facility's deficiencies do not jeopardize the patient's health and safety, nor seriously limit the facility's capacity to give adequate care. The facility must be in compliance with all other certification requirements. If the facility meets these conditions, the State survey agency may certify the facility for periods not to exceed 12 months at one time.

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Waiver of Proposed Rulemaking and Delayed Effective Date

We are publishing this amendment as a final regulation, effective upon publication. In the absence of this amendment, all facilities which failed to meet the July 18, 1980 deadline would be subject to termination of their provider agreements and their State Medicaid programs would be subject to disruption of Federal financial participation for the cost of those portions of facilities still out of compliance. The amendment relieves a restriction on a limited number of facilities which have made progress toward completion of their plans of correction and which are expected to complete corrections by July 1, 1982. At the same time the amendment protects the health and safety of the residents of these facilities. These facts constitute good cause for a finding that it would be in the public interest to waive the publication of a notice of proposed rulemaking and the requirement for a thirty day delay in the effective date of the amendment.

42 CFR 442.115 is amended by revising paragraph (a) and adding new paragraphs (e) and (f) to read as follows:

§ 442.115 Correction plans.

(a) The ICF/MR's plan required by § 442.113 must provide for completion of corrections by:

(1) July 18, 1980; or

(2) July 18, 1982, if authorized by the Secretary under paragraphs (b) or (e) of this section; or

(3) By the date approved by the Secretary, if authorized by the Secretary under paragraph (f) of this section.

* * * * *

(e) If an ICF/MR is unable to complete corrections required by the plan of correction by July 18, 1980 and it did not request an extension beyond that date under paragraph (b) of this section, the survey agency may request the Secretary to authorize approval for an extension of the facility's plan of correction to July 18, 1982 if—

(1) For corrections under paragraph (c) of this section, the facility provides documentation from the renovation project's supervising architect or contractor that required construction work was at least 25 percent completed by July 18, 1980 and will be complete by July 18, 1982;

(2) For corrections under paragraph (d) of this section, the facility provides documentation that the phase out program was at least 25 percent completed on July 18, 1980 and will be completed by July 18, 1982; and

(3) The survey agency finds that all continuing deficiencies covered by the plan of correction will be resolved by completion of the construction, renovation, or phase out of beds.

(f) If an ICF/MR is unable to complete corrections required by the plan of correction by July 18, 1980 or July 18, 1982, as authorized in paragraphs (a), (b) and (e) of this section, the survey agency may request the Secretary to authorize a plan of correction for an additional period of time if the delay was caused by litigation, provided that—

(1) The United States, or any agency or Department thereof, was party to the litigation, or was an intervenor in it, or participated as an *amicus curiae*; and

(2) The United States advocated a position which caused or contributed, in whole or in part, to the delay; and

(3) The request for an additional period of time to complete corrections under this provision does not exceed the amount of the delay resulting from the litigation, as determined by the Secretary.

Secs. 1102, 1905(c), and 1905(d) of the Social Security Act (42 U.S.C. 1302, 1396d(c), 1396d(d)).

Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program.

Dated: November 25, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: December 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-400 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. 1

[Docket No. FEMA PP-360]

Implementation of State Assistance Program for Training and Education in Emergency Management

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final Rule.

SUMMARY: This rule sets forth a description of the FEMA training and education assistance program to the States. The program functions through State Cooperative Agreements and is designed to further comprehensive emergency management training including emergency preparedness planning, hazard mitigation, and disaster response and recovery. In response to State and local expressed needs, FEMA was formed to coordinate and manage all disaster planning and response in one Agency. The combined training responsibilities of predecessor agencies are now being administered by the Training and Education Office of FEMA using the State Cooperative Agreements and Regional Support Contracts as the vehicle to meet individual State training needs. This rule defines the objectives and elements of the program, the funding approach, and the State application/proposal.

EFFECTIVE DATE: February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Dave McLoughlin, Assistant Director for Training and Education, Federal Emergency Management Agency, 1725 I Street, N.W., Washington, D.C. 20472, Telephone: (202) 254-8556.

SUPPLEMENTARY INFORMATION: On September 9, 1980, the Assistant Director of Training and Education published in the **Federal Register** (Docket No. FEMA PP-360), a proposed amendment to Chapter I, Title 44 CFR by adding a new Part 360, entitled State Assistance Programs for Training and Education in Comprehensive Emergency Management. The amendment would provide for the use of State Cooperative Agreements to accomplish the following:

> the design and delivery of training to meet emergency and disaster operational requirements; the presentation and management of training programs to disseminate emergency management concepts; to further intergovernmental operational response capability; to provide management development for emergency management staffs; to motivate the general public to practice emergency self-help; and to build self-confidence among public officials as to their capability to successfully manage crises.

The State Cooperative Agreements are intended as a vehicle for each State to plan, develop and present the training and education activities to meet the needs of State.

The proposed rule was open for public comment until September 30, 1980. Sixteen responses were received by that date. Fifteen of the 16 stated their opposition to the rule because of what was termed "the requirement for 75/25 and 50/50 funding of student expenses." Though specific figures for funding future years were *not* included in the proposed rule, and thus the comments were not pertinent to the rule, some reiteration of the points and note of the concerns should be made. Communications from the Department of Defense, State of Georgia, and the Division of Disaster and Emergency Services, Commonwealth of Kentucky state that the program is essentially a "Federal program" and therefore should be supported 100%. Congress has not changed its attitude since the 1950 passage of the Civil Defense Act that civil preparedness, which includes training, was a joint responsibility. Thus training was always a shared expense program until 1977. Training monies provided by the Federal government are shared in order to provide an opportunity to improve personnel professional development, technical skills, planning and operations capability in all phases of mitigation preparedness, response and recovery in cases of attack on this country, and natural and manmade disasters.

On the same question of sharing the cost of training, the State of Missouri, Department of Public Safety, suggested encouragement of smaller community participation. It was their contention that the impact of shared costs would fall heaviest on smaller communities since employees had to take time away from their jobs for training. The State Cooperative Agreements will enable the State to bring the training to more rural communities however, which was not the case in the past.

Several others providing comments addressed policy questions not at issue in the proposed rule with respect to redivision of available funds from Regional Support Contracts to the States and on the insufficiency of Personnel and Administrative funds. Several submissions recommended reduction in the length of courses. This is a valid comment since many less than full time coordinators cannot absent themselves from their other positions for more than 1 week. Since the Career Development Courses are being rewritten, this point will be carefully considered in the development of new materials. This comment will be relayed to States for consideration in the development of their own training programs.

3. Two letters rate special comment, one of which was from the Division of Disaster Emergency Services, Texas Department of Public Safety.

a. The writer suggests that the "tone" of the proposed rule is misleading in that it suggests that State and local government had coordinated and approved the training program. The Assistant Director of Training and Education, in addition to his staff members, discussed and presented at State and local coordinators conferences, the basic concepts of the proposed rule. This opportunity for discussion lasted over 3 months. Nothing in the rule suggests that the details has been voted upon or that the drafting was completed in a partnership.

b. Radef training "has been taken away from the state program" according to the Texas letter. To the contrary; the money for Radef training has been moved from the Maintenance and Calibration to the State Cooperative Agreement.

4. Comments from the State of New York are in opposition to the provision that permanent positions may not be established on State staffs with State Cooperative Agreement funds. New York states that they now have a 100% Federally funded training and education staff member. This staff position, however is not funded by Training and Education funds from FEMA since no such positions exist in the 50 States with this office's agreement or approval. FEMA cannot therefore accommodate this recommendation.

Therefore, all local government concerns expressed with regard to this proposed rule can be accommodated within State training programs under the State Cooperative Agreement if the State so agrees. Since training is and has been considered a joint responsibility, no change in the policy to fund Training and Education staff at a State level is made. Other comments were not relevant to the proposed rule, but instead addressed a budget/program policy of T&E, FEMA.

A finding of inapplicability of section 102(2) of the National Environmental Policy Act of 1969 still pertains.

As previously stated, there is no conflict with the President's Memorandum of November 16, 1979; since nothing in the regulation would affect or be affected by the small business sector.

Accordingly, Chapter I, Title 44 CFR is amended by adding Part 360, State Assistance Programs for Training and Education in Comprehensive Emergency Management as follows:

PART 360—STATE ASSISTANCE PROGRAMS FOR TRAINING AND EDUCATION IN COMPREHENSIVE EMERGENCY MANAGEMENT

Sec.
360.1 Purpose.
360.2 Description of Program.
360.3 Eligible Applicant.
360.4 Administrative Procedures.
360.5 General Provisions for Cooperative Agreements.

Authority: Reorganization Plan No. 3 (3 CFR 1978 comp. p. 329); Executive Order 12127 (44 FR 19367); Executive Order 12148 (44 FR 43239).

§ 360.1 Purpose.

The Emergency Management Training Program is designed to enhance the States' emergency management training program to increase State capabilities and those of local governments in this field, as well as to give States the opportunity to develop new capabilities and techniques. The Program is an ongoing intergovernmental endeavor which combines financial and human resources to fill the unique training needs of local government, State emergency staffs and State agencies, as well as the general public. States will have the opportunity to develop, implement and evaluate various approaches to accomplish FEMA emergency objectives as well as goals and objectives of their own. The intended result is an enhanced capability to protect lives and property through planning, mitigation, operational skill, and rapid response in case of disaster or attack on this country.

§ 360.2 Description of program.

(a) The program is designed for all States regardless of their present level of involvement in training or their degree of expertise in originating and presenting training courses in the past. The needs of individual States, difference in numbers to be trained, and levels of sophistication in any previous training program have been recognized. It is thus believed that all States are best able to meet their own unique situations and those of local government by being given this opportunity and flexibility.

(b) Each State is asked to submit an acceptable application, to be accompanied by a Training and Education (T&E) plan for a total of three years, only the first year of which will be required to be detailed. The remaining two year program should be presented in terms of ongoing training objectives and programs. In the first year plan applicants shall delineate their objectives in training and education, including a description of the programs to be offered, and identify the audiences and numbers to be trained. Additionally, the State is asked to note the month in which the activity is to be presented, the location, and cost estimates including instructional costs and participant's travel and per diem. These specifics of date, place, and costs will be required for the first year of any three year plan. A three year plan will be submitted each year with an application. Each negotiated agreement will include a section of required training (Radiological Defense), and a section including optional courses to be conducted in response to State and local needs.

(c) FEMA support to the States in their training program for State and local officials, has been designed around three Program elements. Each activity listed in the State Training and Education (T&E) Plan will be derived from the following three elements:

(1) Government Conducted Courses: Such courses require the least capability on the part of the State. They are usually conducted through provisions in a FEMA Regional Support Contract and/or FEMA or other Federal agency staff. The State's responsibilities fall primarily into administrative areas of recruiting participants, making all arrangements for the facilities needed for presentation of the course, and the handling of the cost reimbursement to participants, though State staff may participate as instructors. These courses for example include:

(i) Career Development Courses: Phases I, II, and III,

(ii) Radiological Officer and Instructor Courses,

(iii) Technical Workshops on Disaster Recovery or Hazard Mitigation.

(2) Government and Recipient Conducted Courses: Responsibilities in these courses fall jointly upon Federal and State government as agreed in the planning for the course. Courses in this category might include:

(i) Emergency Management Workshops,

(ii) Multijurisdictional Emergency Operations Simulation Training.

In this category also, it is expected that the State will be responsible for administrative and logistical requirements, plus any instructional activity as agreed upon prior to the conduct of the course.

(3) Recipient Conducted Courses: This element requires the greatest degree of sophistication in program planning and delivery on the part of the State. Training events proposed by the State must be justified as addressing Emergency Management Training Program objectives. Additionally, they must address State or community needs and indicate the State's ability to present and carry out the Program of Instruction. Courses in this category could include:

(i) Radiological Monitoring,

(ii) Emergency Operations Simulating Training,

(iii) Shelter Management.

(d) In order that this three year comprehensive Training and Education Program planning can proceed in a timely and logical manner, each State will be provided three target appropriation figures, one for each of the three program years. States will develop their proposals, using the target figure to develop their scope of work. Adjustments in funding and the scope of work will be subject to negotiation before finalization. Both the funding and the scope of work will be reviewed each year and adjustments in the out years will reflect increased sophistication and expertise of the States as well as changing training needs within each State.

(e) FEMA funding through the State Cooperative Agreement for the training activities is to be used for travel and per diem expenses of students selected by the States for courses reflecting individually needed or required training. Additionally funds may be expended for course materials and instructor expenses. The funding provided in the State Cooperative Agreement is not for the purpose of conducting ongoing State activities or for funding staff positions to accomplish work to be performed under this Agreement. Nor is the Agreement for the purpose of purchasing equipment which may be obtained with the help of Personnel and Administrative funds. In cases where equipment has been identified as needed in the scope of work submitted with the application, and where it serves as an outreach to a new audience or methodology, equipment purchase may be approved at the time of initial application approval. During FY 81 only, allowable cost will be funded at 100%. The projected program envisions a sharing of eligible costs in the future however.

§ 360.3 Eligible applicants.

Each of the 50 States, independent commonwealths, and territories is eligible to participate in a State Cooperative Agreement with FEMA. The department, division, or agency of the State government assigned the responsibility for State training in comprehensive emergency management should file the application.

§ 360.4 Administrative procedures.

(a) *Award.*

Each State desiring to participate will negotiate the amount of financial support for the training and education program. Deciding factors will be the scope of the program, a prudent budget, the number of individuals to be trained, and variety of audiences included which are in need of training. All these factors are part of the required application as discussed in Section 360.2.

(b) *Period of Agreement.*

Agreements will be negotiated annually and will be in effect for a period of 12 months. Each agreement, however, will include a scope of work for three years as reflected in Section 360.2(b) to give continuity to the total training and education program.

(c) *Submission Procedure.*

Each State applicant shall comply with the following procedures:

(1) *Issuance of a Request for Application:* Each State emergency management agency will receive a Request for Application Package from the State's respective FEMA Regional Director.

(2) *How to Submit:* Each State shall submit the completed application package to the Regional Director of the Appropriate Region.

(3) *Application Package:* The Application Package should include:

(i) A transmittal letter signed by the State Director of the agency tasked with emergency management responsibilities for that State.

(ii) A three year projected training and education scope of work including both "required" training and "optional" courses. The first of the projected three year program is to be detailed as to list of courses, description of training to be offered, audiences to be reached and numbers to be trained. Dates and locations of training as well as costs of delivery and student travel and per diem are to be estimated. Special instructions for this portion of the submittal will be included in the Application Package.

(iii) Standard Form 270 "Request for Advance or Reimbursement" as required by OMB Circular A-102 and FEMA General Provisions for Cooperative Agreements.

(d) *Reporting Agreements.*

Recipients of State Agreement benefits will report quarterly during the Federal Fiscal year, directly to the Regional Director of their respective Regions. The report should include a narrative of the training programs conducted accompanied by rosters for each event, agenda, and a summary financial statement on the status of the Agreement funds. Any course or training activity included in the Scope of Work and not presented as scheduled should be explained in detail as to the reason for cancellation in the quarterly report. The costs allocated to this cancelled activity should be reprogrammed to another training activity approved by the Regional Director no later than the last day of the 3rd quarter, or released to the Region. An evaluation of the degree to which objectives were met, the effectiveness of the methodology, and the appropriateness of the resources and references used should also be included in the quarterly report. The report is due in the Regional Office no later than the 15th day of January, April, and July. A final report for the year is due the 15th of October.

§ 360.5 General provisions for State Cooperative Agreement.

The legal funding instrument for the State Assistance Program for Training and Education FEMA is the State Cooperative Agreement. All States will be required to comply with FEMA General Provisions for the State Cooperative Agreement. The General Provisions for the State Cooperative Agreement will be provided to the States as part of the Request for Application package. The General Provisions will become part of the Cooperative Agreement.

Dated: December 24, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 81-[illegible]21 Filed 1-5-81; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Parts 59, 60 and 64

National Flood Insurance Program

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule amends the National Flood Insurance Program regulations concerning AO zones (shallow flooding zones), and adds regulations for AH zones (also shallow flooding zones), which are currently not mentioned in the regulations. These changes are necessary due to changed flood mapping methods which permit the Federal Insurance Administration (FIA) to determine base flood elevations for shallow flooding areas characterized by "ponding" flooding.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 755-5581.

SUPPLEMENTARY INFORMATION: The proposed rule to amend the National Flood Insurance Program (NFIP) regulations concerning AO zones (shallow flooding zones) and add regulations for AH zones (also shallow flooding zones) was published on September 9, 1980 (45 FR 59346) with request for comment. No comments were received during the comment period.

In this final rule, a conforming amendment is added which inadvertently was not included in the proposed rule. Section 64.3(a)(1) is amended to include the AH zone symbol as part of the list of zone symbols. Since this amendment is conforming and does not affect the substance of the proposed rule, notice and comment are not required.

A. Explanation of Rule Change

Under the authority contained in the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), the Federal Insurance Administration (FIA) amends §§ 59.1, 60.3, and 64 of Title 44 (formerly appearing at former §§ 1909.1, 1910.3 and 1914 of Title 24).

Originally, FIA only mapped one type of shallow flooding zone—the AO zone, where the average depth of flooding is one to three feet above local grade, where a clearly defined channel does not exist, where the flooding path is unpredictable, and where velocity flow may be evident. The earlier maps had no indication of flood depths for AO zones, but on more recent maps, the flooding depth in AO zones has been specifically indicated (e.g., AO (depth 2 feet) indicates a two foot flooding depth). Additionally, there are shallow flooding zones where FIA can determine base flood elevations relative to the National Geodetic Vertical Datum of 1929. This is an easier standard for rating and regulatory purposes. To avoid confusion between the shallow flooding zones with base flood elevations and those with an average depth of flooding above local grade, FIA has established the AH zone where base flood elevations are indicated.

Since the regulatory flood plain management standard in the AO zone will be relative to the highest adjacent grade to a proposed structure, "highest adjacent grade" is defined. Previously, AO zones were regulated relative to a depth number above the crown of the nearest street. This treatment assumed that all shallow flooding areas would be relatively flat, ponding areas, where elevating relative to the crown of the nearest street would provide an adequate protection level and a convenient reference point. However, this criterion is inadequate since many of the shallow flooding zones now being mapped are on slopes, where the nearest street may be well above or below the proposed construction site. For this reason, the protection level in AO zones will be relative to "highest adjacent grade," as defined in § 59.1 of the proposed rule change. This new standard will correspond to the mapping methodology, which determines the average depth of flooding over local grade.

The current definition of "area of shallow flooding" in Section 59.1 mentions a VO zone as one type of shallow flooding zone. FIA has never designated a VO zone. This zone may be used at some time in the future, after § 60.3 is amended to specify regulatory standards for the VO zone. Whether or not a shallow flooding area will be designated as an AH or AO zone depends on the rapidity of change in the water surface elevation relative to the topographical information available for the shallow flooding area. The following types of shallow flooding areas generally indicate where AH and AO zone designations will be used.

1) Flat, ponding areas, where shallow floodwaters accumulate, and little or no velocity flow is evident and a 10-year flood elevation does not occur or cannot be estimated. This type of shallow flooding area will normally be designated an AH zone.

2) Sloping areas, where shallow floodwaters flow in a sheet, maintaining a relatively constant average depth above local grade. Normally, this type of shallow flooding area will be designated as an AO zone, unless the topographical information is detailed enough and the slopes are small enough to determine base flood elevations relative to mean sea level and adequately present their location on a map.

3) Alluvial fan areas, where floodwaters flow out of confined paths in hilly or mountainous areas and spread over large areas of a valley in an unpredictable manner. Alluvial fan areas are normally found in arid regions of the western states. They will normally be designated AO zones. Alluvial fan areas are being studied in more detail by FIA and the findings may lead to separate regulation and rating of this hazard area.

AH zones will be regulated similarly to Zones AI-30, since both types of zones have base flood elevations. A flood protection level at the depth number above highest adjacent grade will be required for AO Zones. (A two foot flood protection level will be used if no depth number is indicated for the AO zone). Aside from this different protection standard, AO zones will be regulated similarly to AH and AI-30 zones.

In summary, the AO and AH zones will be used in the following situations:

1) The AO zones (with flood depths indicated) will be used primarily for sheet flow areas where the depth of flooding is from one to three feet, where a clearly defined channel does not exist, where the flooding path is unpredictable, where velocity flow may be evident, and where it is not cost effective to determine flood elevations relative to mean sea level. The regulatory flood plain management standard will be based on a flood depth number of one to three feet above adjacent grade.

2) The AH zone will be used primarily for areas of ponded water, or sheet flow over areas of very low slope, where the depth of flooding is from one to three feet, where a clearly defined channel does not exist, where the flooding path is unpredictable, where velocity flow is minimal, where the 10-year flood does not exist or cannot be calculated,

and where it is cost effective to determine flood elevatons relative to mean sea level. The regulatory flood plain management standard will be based on the base flood elevation.

B. Procedural Information.

This proposed rule does not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file and is available for public inspection and copying at the above address.

PART 59—GENERAL PROVISIONS

1. Section 59.1 is revised to have the following definitions read as follows:

§ 59.1 [Amended]

* * * * *

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

* * * * *

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI-99, VO, or VI-30.

* * * * *

"Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AI-99, AH, VO, VI-30, M or E.

* * * * *

2. Section 59.1 is further revised by adding a new definition—"Highest adjacent grade."

* * * * *

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

* * * * *

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§ 60.3 [Amended]

3. Section 60.3(c) is revised to read as follows:

* * * * *

(c) When the Administrator has provided a notice of final flood elevations for one or more special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

* * * * *

4. Section 60.3(c)(7) is amended by inserting the words, "AH zones," between the words "unnumbered A zones" and "and AO zones."

5. Section 60.3(c)(2) and (3) are amended by inserting the words "and AH zones" between the words "Zones AI-30" and "on the community's FIRM," wherever they appear.

6. Section 60.3(c)(7) is revised to read as follows:

* * * * *

(c) * * *

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

* * * * *

7. Section 60.3(c)(8) is revised to read as follows:

* * * * *

(c) * * *

(8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in § 60.3(c)(3)(ii);

* * * * *

8. Section 60.3(c) is amended by adding a new subparagraph (11) to read as follows:

* * * * *

(c) * * *

(11) Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

* * * * *

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE

§ 64.3 [Amended]

9. Section 64.3 is amended by adding the AH zone symbol to the list of zone symbols. The AH zone symbol follows the AO zone symbol and precedes the VI-30 zone symbol. The AH zone symbol is added as follows:

(a) * * *

(1) * * *

AH—Areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

* * * * *

(42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp. 329) and Executive Order 12127 (44 FR 19367)).

(Catalog of Federal Domestic Assistance Number 83.100 National Flood Insurance Program.)

Issued: December 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 81-322 Filed 1-5-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA-5967]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flod Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or

Toll Free Line 800–424–8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community name	Date of conversion to regular program
Montana	Lincoln	Town of Troy	Dec. 16, 1980.
New Jersey	Monmouth	Borough of Interlaken	Jan. 2, 1981.
Pennsylvania	Chester	Borough of Malvern	Jan. 16, 1981.
Pennsylvania	Montgomery	Borough of Narberth	Jan. 16, 1981.
Ohio	Knox	Village of Gambier	Jan. 30, 1981.
Pennsylvania	Bucks	Township of Hilltown	Jan. 30, 1981.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Federal Insurance Administrator)

Issued: December 11, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 81-331 Filed 1-5-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5841]

National Flood Insurance Program; Final Flood Elevation Determination

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Removal of final rule.

SUMMARY: The Federal Insurance Administration has erroneously published the final flood elevation determination for the Township of Willistown, Chester County, Pennsylvania. This notice will serve to delete that publication. Following an engineering analysis and review, a revised notice of proposed flood elevation determination will be issued.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Insurance Administration has determined that the notice of final flood elevation determination for the Township of Willistown, Pennsylvania, published at 45 FR 79477, on December 1, 1980, should be removed. After a technical evaluation, a revised notice of proposed flood elevations will be issued, with a ninety-day period specified for comments and appeals.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: December 15, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 81-330 Filed 1-5-81; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 304

Federal Financial Participation; Availability and Rate of Federal Financial participation

AGENCY: Office of Child Support Enforcement (OCSE, HHS).

ACTION: Final Rule.

SUMMARY: This regulation provides for Federal financial participation (FFP) on a continuing basis for the cost of child support enforcement services provided by State IV–D agencies to individuals who are not eligible for assistance under the Aid to Families with Dependent Children program (AFDC). The regulation implements Section 301 of Public Law 96–272 which provides funding for all non-AFDC services provided on or after October 1, 1978. The statute makes no reference to a termination date, thus States will be able to receive 75 percent reimbursement for the cost of providing child support services to non-AFDC recipients on a permanent basis.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT: Justine Deegan, Room 1010, 6110 Executive Blvd., Rockville, MD 20852; (301) 443–5350.

SUPPLEMENTARY INFORMATION: Title IV–D of the Social Security Act requires each State to make child support enforcement services available to welfare receipients and those individuals not on welfare who request such services. When the Child Support Enforcement program was established in 1975, FFP for services to non-welfare recipients was provided for only one year, until June 30, 1976. Public Law 94–365 enacted in July 1976 extended FFP until June 30, 1977. Public Law 95–59, effective June 30, 1977, provided a 15 month extension until September 30, 1978.

Later, Public Law 96–178, signed by the President on January 2, 1980 provided FFP for services to non-welfare recipients for the period October 1, 1978 through March 31, 1980. Section 301 of Public Law 96–272 amends Section 455(a) of the Social Security Act retroactive to October 1, 1978. The amendment provides FFP for services to non-welfare recipients on a continuing basis.

The Department finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(B)), that there is good cause to dispense with public notice and comment with respect to this amendment. The change is a technical amendment which merely conforms the regulation to the amended statute. Further, this regulation imposes no new requirement upon the States, but rather provides FFP to the States for activities that have been and continue to be a part of the Child Support Enforcement program. Consequently, notice of proposed rulemaking would be impracticable and unnecessary. In addition, this amendment is effective immediately upon publication, retroactive to October 1, 1978, because it removes a restraint on Federal funding.

45 CFR 304.20 is amended by revising paragraph (a) as follows:

§ 304.20 Availability and rate of Federal financial participation.

(a) Federal financial participation at the 75 percent rate is available for:

(1) Necessary expenditures under the State title IV-D plan for the child support enforcement services and activities specified in this section and § 304.21 provided to individuals from whom an assignment of support rights has been obtained pursuant to § 232.11 of this title;

(2) Collection services pursuant to § 302.51(e)(1) of this chapter;

(3) Parent locator services for individuals eligible pursuant to § 302.33 of this title;

(4) Paternity and child support services under the State plan for individuals eligible pursuant to § 302.33 of this chapter.

* * * * *

(Section 1102 of the Social Security Act, (49 Stat. 647) and Section 455(a) of the Social Security Act 42 U.S.C. 655(a).) Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Note.—The Office of Child Support Enforcement has determined that this document does not require preparation of a Regulatory Analysis as prescribed by Executive Order 12044.

Dated: October 20, 1980.

William J. Driver,

Director, Office of Child Support Enforcement.

Approved: November 13, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-324 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-07-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Amdt. 37]

Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: The Commission's Rules of Practice and Procedure are amended to set out the procedures to be followed in complaint proceedings involving maritime labor agreements which provide for an assessment agreement. Initial decision in such a proceeding must be issued within eight months of filing of a complaint and a final decision of the Commission must be issued within one year of filing of a complaint. More stringent time periods for the filing of exceptions and replies are and established and provision is made that discovery procedures are to commence concurrently with the filing of a party's first pleading. These amendments are necessitated by passage of the "Maritime Labor Agreements Act of 1980" (Pub. L. 96-325).

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: The "Maritime Labor Agreements Act of 1980" (Pub. L. 96-325) amends the Shipping Act, 1916 to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission unless such agreements provide for an assessment agreement. Pub. L. 96-325 defines assessment agreements as those which provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hours basis regardless of the cargo handled or type of vessel or equipment utilized and irrespective of whether or not they are part of a collective bargaining agreement or are negotiated separately. Where a complaint is filed involving assessment agreements, the Commission must issue its final decision in the proceeding within one year of the filing of the complaint. Accordingly, it is necessary to prescribe time limitations and procedures relating to the conduct of such proceedings.

A new § 502.75 is established which provides that the initial decision in an assessment agreement proceeding will be issued within eight months of the date of filing of the complaint. Discovery will commence at the time of filing of a party's initial pleading. The time for filing of exceptions to the initial decision and replies thereto is reduced to 15 days for each filing. The time within which the Commission may review the initial decision in the absence of exceptions remains thirty days. Section 502.227 is amended to reflect these deviations from the general rules regarding the conduct of proceedings.

Therefore, pursuant to 5 U.S.C. 553 and sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 841a) Part 502 of Title 46, Code of Federal Regulations is amended in the following respects.

1. A new § 502.75 is added reading as follows:

§ 502.75 Proceedings involving assessment agreements.

(a) In complaint proceedings involving assessment agreements filed under the fifth paragraph of Section 15 of the Shipping Act, 1916, the Notice of Filing of Complaint and Assignment will specify a date before which the initial decision will be issued which date will be not more than eight months from the date the complaint was filed.

(b) Any party to a proceeding conducted under this section who desires to utilize the prehearing discovery procedures provided by Subpart L of this part shall commence doing so at the time it files its initial pleading, i.e., complaint, answer or petition for leave to intervene. Discovery matters accompanying complaints shall be filed with the Secretary of the Commission for service pursuant to § 502.113 of this part. Answers or objection to discovery requests shall be subject to the normal provisions set forth in Subpart L.

(c) Exceptions to the decision of the presiding officer, filed pursuant to § 502.227 (Rule 227) shall be filed no later than fifteen (15) days after date of service of the initial decision. Replies thereto shall be filed no later than fifteen (15) days after date of service of exceptions. In the absence of exceptions, the decision of the presiding officer shall be final within 30 days from the date of service unless within that period a determination to review is made in accordance with the procedures outlined in § 502.227 of this part.

§ 502.227 [Amended]

2. Section 502.227(a) is revised insofar as the last sentence thereof shall read as follows:

(a) * * *

The time periods for filing exceptions and replies to exceptions, prescribed by this section shall not apply to proceedings conducted under §§ 502.67 and 502.75 of this part.

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-300 Filed 1-5-81; 8:45 am]

BILLING CODE 6730-01-M

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Proposed Rules

Federal Register
Vol. 46, No. 3
Tuesday, January 6, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 715

Actions in the Interest of the Employee

AGENCY: Office of Personnel Management.

ACTION: Proposed regulation.

SUMMARY: This document proposes a revision to the regulations governing voluntary actions and other nondisciplinary actions concerning employees. The title of these regulations, now "Nondisciplinary Separations, Demotions, and Furloughs" would be changed to reflect the actions covered in the proposed revision. Several actions and requirements now found in the FPM chapter would be incorporated into the body of the regulation, to accomplish OPM's aim of having all requirements in regulation.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Send written comments to Workforce Effectiveness and Development Group, Office of Personnel Management, P.O. Box 14080, Washington, D.C. 20044, Attention: Employee Relations Branch.

FOR FURTHER INFORMATION CONTACT: Cynthia Field, 202-632-7778.

SUPPLEMENTARY INFORMATION: The current regulation, Part 715, covers only voluntary separations, despite the title. Other requirements concerning actions in the interest of the employee, e.g., voluntary retirements, or cancellation or correction of separations, suspensions, etc., are set forth in FPM chapter 715, FPM Supplement 831-1, etc. OPM believes it would be better to have these actions and provisions clearly set forth in one regulation. Certain other material which is currently found in FPM chapter 715 (for example, the fact that voluntary separations and reductions in grade and pay are by their nature actions not requiring adverse actions procedures) is more appropriate for inclusion in a revision to chapter 715, to be issued later. OPM plans to revise the chapter title and to provide guidance, information, and illustrative material, including applicable court decisions and opinions of the Merit Systems Protection Board on the question of voluntariness versus involuntariness of actions.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to revise 5 CFR Part 715 to read as follows:

PART 715—ACTIONS IN THE INTEREST OF THE EMPLOYEE

Sec.
715.101 Actions covered.
715.102 Employees covered.
715.103 Voluntary separation or reduction in grade or pay.
715.104 Cancellation or correction of separations, reductions in grade or pay, suspensions, or furloughs.

Authority: 5 U.S.C. 1302, 3301, 3302, 7301.

PART 715— ACTIONS IN THE INTEREST OF THE EMPLOYEE

§ 715.101 Actions covered.

This part applies to the following actions:

(a) Separations or reductions in grade or pay requested by employees.

(b) Cancellation or correction of separations, reductions in grade or pay, suspensions, or furloughs in the interest of employees.

§ 715.102 Employees covered.

This part applies to employees in the Executive departments and independent establishments of the Federal Government, including Government-owned or controlled corporations, and in those portions of the legislative and judicial branches of the Federal Government having positions in the competitive service.

§ 715.103 Voluntary separation or reduction in grade or pay.

(a) *General.* An employee may submit:

(1) A resignation or an application for optional retirement or disability retirement, at any time, specify the effective date of the action, and have his or her reasons for the aciton entered in the employee's official records; or

(2) A request for reduction in grade or pay at any time, specify the effective date of the action (subject to the approval of agency management), and have his or her reasons for the action entered in the employee's official records.

(b) *Withdrawal of request for voluntary separation or reduction in grade or pay.* The agency may permit an employee to withdraw a resignation, a retirement application, or a request for reduction in grade or pay at any time before it has become effective. The agency may decline a request to withdraw a resignation or application for retirement, or a request for reduction in grade or pay only when the agency has a valid reason and explains that reason in writing to the employee. Valid reasons include, but are not limited to, the hiring of or the commitment to hire a replacement. If an applicaiton for retirement has been sent to OPM, the agency shall notify OPM immediately of the employee's withdrawal of the request. Once a voluntary separation or reduction in grade or pay action has been effected, the agency may not change it except as provided by § 715.104.

§ 715.104 Cancellation or correction of separations, reductions in grade or pay, suspensions, or furloughs.

(a) *Cancellation.* Any separation, reduction in grade or pay, suspension, or furlough may be cancelled at any time before it becomes effective. After the action is effected, however, it may not be canceled unless appropriate authority as defined in § 550.803(d) of 5 CFR exists for the cancellation, including:

(1) *Unjustified or unwarranted action.* The agency shall cancel a separation, reduction in grade or pay, suspension, or furlough when an appropriate authority determines that the action was unjustified or unwarranted.

(2) *Erroneous retirement.* The agency shall cancel an erroneous retirement and return the employee to duty or to a leave status, as appropriate.

When the agency cancels an action under paragraph (a)(1) or (a)(2) of this section, it shall make its determination regarding back pay under the provisions of section 5596 of Title 5, United States Code, and Subpart H of Part 550 of this chapter.

(b) *Correction.* The agency may withdraw any separation, reduction in grade or pay, suspension, or removal at any time before it becomes effective. Once it is effected, the agency may correct such an action only when incorrectly processed initially, e.g.:

(1) *Transfer.* The agency may change a voluntary separation for the purpose of transfer or for appointment to another Federal agency to make the separation effective on the day before the transfer or appointment was actually effected.

(2) *Change in reason for action.* The agency may correct an erroneously described action by substituting a more appropriate description.

(5 U.S.C. 1302, 3301, 3302, 7301)

[FR Doc. 81-162 Filed 1-5-81; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1040

[Docket No. AO-225-A33]

Milk in the Southern Michigan Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the order provisions pertaining to supply plant pooling qualifications and the conditions under which milk may be diverted from one plant to another. Also, it recommends that handlers be allowed to subtract authorized deductions from partial payments to producers. This decision is based on industry proposals considered at a public hearing held March 25-26, 1980. The recommended changes are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

DATE: Comments are due on or before January 21, 1981.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This proposed action has been review under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not signficant." This decision constitues the Department's Draft Impact Analysis Statement for this proceeding.

Prior document in this proceeding:

Notice of Hearing: Issued February 28, 1980, published March 4, 1980 (45 FR 14047).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulatiang the handling of milk in the Southern Michigan marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decisions with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before January 21, 1981. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Flint, Michigan, on March 25-26, 1980, pursuant to notice thereof issued February 28, 1980 (45 FR 14047).

The material issues on the record of hearing relate to:

1. A second partial payment to producers.
2. Pool supply plant provisions.
3. Producer milk.
4. Payments to producers and to cooperative associations.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *A second partial payment to producers.*

The order should not be revised to provide for a second partial payment to producers.

The order now provides that handlers shall pay a partial payment to producers for milk delivered during the first 15 days of the month at not less than the Class III price for the preceding month. The payment to individual producers is made on or before the last day of the month. In the case of a cooperative association authorized to collect payments due its members, the partial payment is made to the cooperative on or before the second day prior to the end of the month.

The Michigan Milk Producers Association (MMPA) proposed that the order be revised to provide for two partial payments each month to producers and to cooperative associations. The rate of payment would be the Class III price for the preceding month (3.5 percent butterfat basis), plus 25 cents per hundredweight. For milk delivered during the first 10 days of the month, handlers would pay the first partial payment to cooperative associations by the 20th day of the month, and, as initially proposed, to individual producers by the 25th day of the month. At the hearing, proponent modified the second date to the 22nd instead of the 25th day of the month. For milk delivered during the 11th-20th days of the month, handlers would pay the second partial payment to cooperative associations by the last day of the month and, as initially proposed, to individual producers by the 5th day of the following month. At the hearing, proponent changed the 5th to the 2nd day of the following month.

Proponent's proposal was supported by Michigan Producers Dairy, a cooperative association supplying the market. Also, the President of the Michigan Farm Bureau supported the proposal in a post-hearing brief. The proposal was opposed by 11 handlers regulated by the order, and by the Independent Cooperative Milk Producers Association.

A proponent witness testified that the proposal is intended to reduce the credit extended to handlers by dairy farmers and to accelerate payment to them, thereby improving producers' cash flow. The witness also testified that with an additional partial payment farmers would probably lose less money than with only one partial payment in the event of handler insolvency. The witness testified that the interest cost to producers in extending credit to handlers may be actual interest for the money the farmer borrows to conduct his operation, or it may be an imputed interest cost for the money dairy farmers have tied up in the milk in the marketing system for which they have not yet been paid. The witness stated that over the years the money that dairy farmers have in the system, the interest cost of the money and their financial risk have increased substantially. In his view, this has tended to place an extremely high part of the cost of the milk marketing system on dairy farmers.

The witness testified further that in the Order 40 marketing area a very high

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percentage of milk is sold to consumers through stores on a cash and carry basis. He stated that most of the milk received at a handler's processing plant is in the hands of consumers and paid for by them in 10 days. His view was that a highly efficient marketing system takes a bulky, very perishable product and moves it from cow to consumer in less than two weeks, and a large part of it within one week. Yet, farmers do not receive final payment for their milk until two to six weeks after the milk has been delivered to regulated handlers.

Two MMPA producers also testified in favor of the proposal. One testified that suppliers of production inputs have changed their credit policies over the past year (prior to the hearing) so that some merchants now are on a cash basis and others have reduced credit terms from the usual 30 days to 10 days on accounts for feed, supplies, machinery and other goods. The other producer testified that adoption of the proposal would create a better cash flow for dairy farmers and would reduce producers' financial risk. The financial risk referred to is the possibility that producers would not be paid in the event of handler insolvency.

Another MMPA witness testified that the additional partial payment, which would result in producers receiving three payments a month for their milk, is workable. He explained the procedural steps necessary for the additional payment and stated that, administratively, the cooperative is capable of paying producer members close to the handler date for making payments, and could do so if handlers made payment in good funds by the due date.

Four witnesses representing 11 handlers regulated by the order, and the representative of a producer cooperative association, testified against the proposal. One of the witnesses, who represented the 9 handlers, opposed the proposal primarily on the basis that: (1) handlers would be required to pay for milk prior to the time they could collect for products sold, and (2) a cash flow problem would be created for handlers, resulting in additional costs for consumers.

In a post-hearing brief, the attorney for the 9 handlers stated that: (1) there should not be an amendment of this significance without substantial additional study and coordination with other orders, and (2) a substantial question exists as to whether the Department is authorized to prescribe more expedited payment terms.

The witness for another handler opposed the proposal primarily on the basis that: (1) producer interest expenses, which are incorporated into Federal milk support prices, do not justify payment acceleration, (2) producer financial risk would not be reduced by the adoption of the proposal and may be more effectively resolved by a variety of less costly alternatives, (3) substantial costs to handlers and consumers would result, and (4) a disproportionate share of cash flow burdens would be shifted to handlers.

In a post-hearing brief, the handler's counsel stated that the chief economist of the Department had stated that dairy farmer income is rising faster than costs of production. Also, the counsel stated that since cash flow problems to producers, as well as to handlers, are not unique to the Southern Michigan market, any affirmative agency decision on the proposal, or its equivalent consideration elsewhere, should come only after studied analysis of its national impact.

Two other handler witnesses who testified in opposition to the proposal stated that some handlers wo sell fluid milk products to institutions, such as public schools, cannot reduce the time it presently takes to collect accounts.

A witness for a producer cooperative association opposed the proposal on the basis that a cash flow "squeeze" would fall hardest on small, independent milk dealers. The witness claimed that becuase of this a second partial payment would increase, not decrease, the exposure of producers to the risk of handler insolvency.

Before discussing the issue of whether a second partial payment should be provided for Order 40, it is appropriate to describe some of the characteristics of the Order 40 market. At the time the hearing was held, there were 28 handlers operating 42 pool plants regulated by the order. Five of these handlers were cooperative associations that operated 15 of the pool plants.

For 1979, the Order 40 market was supplied by 6,365 producers who delivered a monthly averge of 350 million pounds of milk to the market. The average production per farmer was 1,824 pounds per day. For the year, producers supplied about 4 billion pounds of milk. Of this, 53 percent was used in Class I fluid milk products, 7 percent was used in Class II (chiefly as cottage cheese) and 40 percent was used in Class III (chiefly as nonfat dry milk and condensed milk). About 54 percent of the Class I milk for the market was sold in the Detroit metropolitan area. The average order blend price for Order 40 producer milk pooled in 1979 was $11.73 per hundredweight (3.5 percent butterfat basis).

A witness for proponent entered an exhibit into evidence to indicate certain changes that have occurred with respect to Michigan dairy farms between 1958 and 1978, as compiled by Michigan State University. The number of cows per farm increased from 30 to 83, while production per cow increased from 9,715 pounds to 14,232 pounds. Milk sales from such farms increased from 288,000 pounds to 1.2 million pounds a year per farm. The dollar value of milk sales per farm increased from $10,036 to $124,000 while the average price of milk increased from $3.49 to $10.41 per hundredweight. This average price corresponds closely to the uniform prices of the present Order 40 and its predecessor orders for milk of 3.5 percent butterfat.

Total farm capitalization increased from $61,395 to $492,746. Cash income, increasingly from milk sales, went from $19,952 to $156,958, while cash exepnses increased from $11,865 to $104,412. Loan repayments increased from $3,000 to $33,224.

An evaluation of the hearing evidence introduced into the record on the proposal for a second partial payment leads to the conclusion that the proposal should not be adopted. Marketing conditions in the affected area are not such that it necessary to mandate more frequent payments to producers each month.

Although the Act expressly authorizes the setting of payment dates under an order, it does not specify how frequently handlers must pay producers. This is customarily established under an order on the basis of prevailing marketing conditions, including payment practices already existing in an area or new payment practices that handlers and producers may find mutually desirable. On this basis, the Southern Michigan order now provides for one partial payment and a final payment by handlers to producers each month.

Under the proposal being considered, handlers would be required each month to make a second partial payment to producers. While the proposal is supported by a large segment of the producers on the market, a number of producers in the area do not support the proposal. Also, objections to the proposal were voiced by many of the handlers in the market. Although some of the opposing arguments are of a questionable nature, it is evident, nevertheless, that there is a substantial difference of opinion among producers and handlers in the market as to whether a different payment arrangement between these parties is desirable. This places considerably more burden on proponents to show that a second partial payment for milk is essential to the maintenance of orderly marketing in the Southern Michigan market and that the order must be changed to impose the additional payment requirement on regulated handlers. This showing was not made.

A principal argument by the proponent cooperative (MMPA) for more frequent payments was the need by producers for improving their cash flow, that is, obtaining payment for milk more quickly after producing it and delivering it to handlers. However, proponent did not establish any specific "cash flow" probelms applicalbe to a substantial number of Order 40 producers that would require an acceleration of payments to producers. In fact, the testimony ot two MMPA producers established that producers often are able to arrange payment schedules to correspond to the payment dates now provided by the order, that only some production items are bought on a cash-on-delivery basis (and then often at a discount rate), and that many items are bought on the basis of monthly payments with no cost or penalty imposed except for payment delinquency.

Furthermore, it is noted that the record established that produers are receiving increases in Class III prices which have occurred since the present partial payment provision was established for Order 40 in 1964. Such increases automatically enhance the amount of money paid out by handlers for the single partial payment. In 1974, the average Class III price was $6.80 per hundredweight. For the same year, the average uniform price was $8.13. The partial payment rate was 84 percent of the final payment rate of $8.13. In 1979, the average Class III price was $10.91 and the average uniform price was $11.73. The partial payment rate was 93 percent of the final uniform price. In this way, producers have automatically received larger partial payments to cover the cost of interest or other expenses.

Proponent claimed that there is a need for decreasing the interest cost and farm capitalization borne by Order 40 producers. However, the general data furnished by proponents do not point to specific instances of disorderly marketing conditions for such producers that necessitate changing the current payment schedule. In this connection, it is noted that contrary to proponent's claim that a higher proportion of producer cash flow goes to debt repayment than heretofore, the record evidence established that in 1978 a smaller proportion of producer cash flow went to debt repayment than in 1968. It is also noted that proponent did not establish that adoption of the proposal would have any substantial, practical effect on reducing interest costs incurred by Order 40 producers in their milk production operations. Much of the emphasis by proponent was on imputed interest costs that would be "discontinued" if the proposal were adopted. That is, if producers received payment for their milk sooner, the interest cost which they imputed to the value of the milk not paid for would no longer apply. As a practical matter, elimination of this imputed interest cost would not represent an actual savings for producers since the cost is not one that is actually being incurred.

The proponent claimed also that adoption of the proposal was needed to reduce the financial risk of producers that stems from the possibility that handler might declare bankruptcy with a large amount of money outstanding for milk delivered by producers during a month. Yet, the record reveals no major problems in this respect. While the adoption of the proposal would result in somewhat less money in the marketing system that could become involved in a possible handler default, the proposal is not the type that would guarantee producers agains financial loss resulting from handler default. There is no basis in the record for concluding that there is substantial concern on the part of producers and cooperative associations in this market about such risks in dealing with regulated handlers.

In taking all the foregoing findings into consideration, it must be concluded that the hearing record of this proceeding does not provide the basis for adopting the proposal for a second partial payment. Proponent did not demonstrate convincingly that disorderly marketing conditions prevail which imperatively require provision for a second partial payment. Accordingly, the proposal is denied.

2. *Pool supply plant provisions.* The pooling provisions for supply plants should be revised by reducing the shipping requirements for the months of October through March to 30 percent of the supply plant's, or supply plant unit's, receipts of producer milk and milk received from a cooperative association in its capacity as a bulk tank handler. Producer milk diverted from the supply plant, or unit of supply plants, to pool distributing plants also should be considered as qualifying shipments in fulfilling up to one-half of the 30 percent shipping requirement. Likewise, transfers of fluid milk products to distributing plants fully regulated under another Federal order should be considered as qualifying shipments for pooling a supply plant, or unit of supply plants, in an amount not to exceed the actual transfers of fluid milk products from the supply plant, or unit, to pool distributing plants. This latter change also should apply to the separate pooling requirements for supply plants operated by a cooperative association.

Presently, the pooling provisions for supply plants specify that during the months of October through March any supply plant, or unit of supply plants, shipping at least 40 percent of its receipts of producer milk and milk received from a cooperative association in its capacity as a bulk tank handler to pool distributing plants shall be a pool supply plant. During the remaining months of the year, the shipping percentage is 30 percent, except that a supply plant or unit that was pooled in each of the months of October through March has automatic pool plant status during the remaining months.

In addition, there are separate pooling requirements for supply plants operated by a cooperative association. These provisions allow milk delivered directly from member producers' farms to pool distributing plants by the cooperative association, or in combination with member producer milk of another cooperative association with which it has a marketing agreement, to be included as qualifying shipments to enable the cooperative's supply plant to meet the pooling requirements. These provisions pool a supply plant operated by a cooperative association if the cooperative delivers at least 50 percent of its members' producer milk, either directly from the farms or by transfer from the supply plant, to pool distributing plants. If the plant does not meet these pooling requirements during a month, it still retains its pool plant status for that month if at least one-half of its members' milk was delivered to pool distributing plants during the preceding 12 months. Further, a cooperative association that operates a plant located in the marketing area that has been a pool plant for 12 consecutive months, but which otherwise does not qualify, may qualify the plant as a pool supply plant if the cooperative has a marketing agreement with another cooperative association, and the total deliveries of milk to pool distributing plants by the two cooperatives combined, either directly from farms or by transfer from the plant, is not less than 50 percent of their combined member producer milk.

Michigan Milk Producers Association (MMPA) proposed that the shipping percentage for pooling supply plants during the months of October through March be reduced to 30 percent in the interest of reducing needless fuel consumption and avoiding excessive transportation costs. Proponent's witness testified that the 40 percent shipping requirement is not necessary to assure that reserve supplies of milk will be made available to the fluid market. He claimed that the Southern Michigan market has operated with an effective shipping requirement of 30 percent for the past 2 years and there has been an adequate supply of milk available to distributing plants.

The proposal was supported by another cooperative association whose witness testified that milk production in the market is increasing, and Class I sales are declining. This has made it increasingly more difficult for some supply plants to remain qualified as pool plants under the present provisions. He said the proposal to reduce the shipping percentage for pooling supply plants would relieve the problem while continuing to curb "pool riding" abuses.

A handler who operates two pool supply plants and a pool distributing plant also supported the proposal. The handler's witness said that in the past 6 years the Class I utilization percentage of producer milk on the market has declined from nearly 64 percent in 1974 down to 53 percent in 1979. He stated that the order should be changed to provide pooling provisions that are responsive to this change. There was no opposition to the proposal.

Lowering the shipping percentage for pooling supply plants during the months of October through March from 40 to 30 percent, along with the other modifications described later, would allow supply plants to serve the fluid milk requirements of the market in an efficient manner without causing needless shipments of milk merely for the purpose of meeting the pooling requirements. The hearing record indicates that the market was adequately supplied with milk during the preceding 2 years when the effective shipping percentage, as a result of suspension actions, was 30 percent. Further, it indicates that with such a shipping percentage supply plants would continue to make adequate supplies available to pool distributing plants for fluid use.

During the six-year period of 1974 through 1979, receipts from producers increased nearly 14 percent while producer milk utilized in Class I outlets decreased more than 5 percent. For the months of October through March, when the present order specifies a 40 percent shipping percentage for pooling supply plants, receipts of producer milk increased nearly eleven percent from the October 1974–March 1975 period to the October 1978–March 1979 period while producer milk utilized as Class I milk declined 2.5 percent. Nothing in the hearing record would indicate a reversal of these trends in the future.

The increase in producer receipts and decline in Class I sales described in the previous paragraph caused producers to request a suspension of the 40 percent shipping percentage for the months of October through March in both the 1978–79 and 1979–80 periods. These suspensions resulted in an effective shipping percentage of 30 percent. The hearing evidence shows that the suspension for the 1979–80 period allowed proponent cooperative to reduce the qualifying shipments from its supply plant unit by 16¾ million pounds. At current transportation rates it would have cost a minimum of 25 cents per hundredweight to move this milk from a supply plant to the nearest bottling plant. If it had been necessary to transport this milk to Detroit, the cost would have been 37 cents per hundredweight. Consequently, lowering the shipping percentage saved between $41,875 and $61,975 in transportation charges. Further, if it had been necessary for proponent to ship the 16¾ million pounds of milk to distributing plants in order to maintain the pooling status of the supply plants in its unit, such shipments would have displaced an equivalent amount of direct delivered milk because distributing plants already were adequately supplied. This would have forced proponent to divert the displaced direct delivered milk to manufacturing plants which would have resulted in the hauling of milk additional miles and the consumption of more fuel. Thus, lowering the shipping percentage to 30 percent during the months of October through March would permit proponent's supply plants and all other supply plants under similar circumstances to continue serving the fluid milk needs of the market without causing a needless expenditure of money for the transportation of milk solely to qualify supply plants for pooling.

The companion pooling proposal of MMPA to include transfers to distributing plants fully regulated under other Federal orders as qualifying shipments for pooling a supply plant, including the similar change in the provisions for pooling plants operated by cooperative associations, also should be adopted. The qualifying credit for transfers to such plants, however, should be limited to an amount that is equal to the quantity of milk transferred by the supply plant to pool distributing plants. Transfers to other order distributing plants on the basis of agreed upon Class II or Class III classification should not be eligible for such credit.

Proponent's witness stated that in recent years bulk sales of milk to other order distributing plants have gained significant importance in the cooperative's total marketing program. The witness claimed that the absence of the proposed provision in the order creates a barrier that prevents adding more Class I sales to the Southern Michigan pool. Also, it was claimed that absent the provision, nearby deficit markets are forced to procure supplemental milk from more distant sources at higher transportation costs.

The proposal was supported by two cooperative associations and three handlers who operate pool distributing plants. The witness for one of these handlers testified that his company also operates a distributing plant regulated under the Ohio Valley order while the witness for another handler testified that his company also operates distributing plants regulated under both the Ohio Valley and Indiana orders. These two witnesses said that milk supplies from the Southern Michigan market are received at their respective plants in Ohio and Indiana and that the amount of such milk received at these plants probably will increase in the future.

A supply plant or unit of supply plants should be given credit for shipments to distributing plants regulated under other orders. This provision would help accommodate the orderly pooling of Grade A milk that is produced in the Southern Michigan market procurement area but not needed at local fluid milk outlets. As described previously, supplies of producer milk on the market are increasing while Class I sales are decreasing. Without such a provision, a supply plant operator serving the Southern Michigan market might be reluctant to supply milk to another market because of the necessity of supplying a minimum quantity of milk to distributing plants regulated under this order. This could occur even though these other orders would provide the most lucrative outlet for the milk. Further, such a provision could encourage supply plant operators to offer "spot" shipments of milk where needed.

As testified on the record, cooperatives have the opportunity to supply milk to distributing plants regulated under different orders. Such sales not only help the cooperative improve its returns but also tend to improve the blend price payable to all producers who supply the Southern Michigan market. The availability of such milk also helps the handlers in the buying markets to obtain milk from the closest available source. During 1979 Class I utilization realized from such shipment amounted to 129 million pounds. This was substantially above the 1976 Class I sales to nonpool plants, which amounted to less than 6 million pounds. Further, the 129 million pounds in 1979 represented 5¾ percent of the total producer milk used in Class I and added 4½ cents to the producer blend price. Also, the testimony of two handlers' witnesses indicated that shipments to their distributing plants regulated under the Ohio Valley and Indiana orders from the Southern Michigan market probably will increase in the future. These handler witnesses said milk supplies in the Southern Michigan production area are located much closer to their distributing plants than are alternative supplies in Minnesota and Wisconsin.

Credit for shipments to other markets should be limited to the amount of milk delivered to distributing plants regulated under the Southern Michigan order to insure that adequate supplies of milk will be made available to distributing plants in this market. If no limit were provided on the credit for transfers to other markets, situations could arise where most of the milk associated with a supply plant being pooled on the Southern Michigan market would be moved to other markets. This could undermine the effectiveness of the Southern Michigan order in insuring an adequate supply of milk for fluid use within the market.

Only transfers to other markets that are not made on the basis of agreed upon Class II or Class III utilization should receive qualifying credit. When milk is transferred at agreed upon Class II or Class III utilization, it is surplus milk intended for use in manufacturing outlets. Such transferred milk should not receive credit as a shipment supplying a fluid market.

Several witnesses testified about the desirability of permitting the diversion of Southern Michigan producer milk direct from the producer's farm to distributing plants regulated under another order for Class I use and the dairy farmer retaining his producer status under the Southern Michigan order. These witnesses claimed that allowing such diversions would eliminate the needless hauling of producer milk to supply plants where it is received and then reloaded onto another truck for shipment to another order distributing plant.

This suggestion cannot be adopted on the basis of this hearing record because there was no proposal in the hearing notice to consider such an order amendment on the basis of this record. Furthermore, consideration of such a proposal would require a hearing that included several other Federal orders because any change would involve amendments to orders in both the shipping and receiving markets.

The proposal to allow up to one-half of the shipping requirements for pooling a supply plant to be met by the diversion of producer milk from the supply plant to pool distributing plants should be adopted. The proposal was made by a handler who operates two pool supply plants and a pool distributing plant. The handler's witness said the proposal is intended to promote economy and efficiency in the handling of milk by supply plant operators. The proposal was supported by another handler and there was no opposition to it.

Permitting supply plant operators to include as qualifying shipments producer milk diverted to pool distributing plants would promote the efficient handling of milk supplies and eliminate the hauling of producer milk to a supply plant for transfer to distributing plants solely for the purpose of helping the supply plant meet the pooling requirements. Proponent handler operates supply plants located at Pinconning and Clare, Michigan. Producer milk received at the Pinconning plant is used to supply a pool distributing plant located at Port Huron, Michigan, 130 miles southeast of Pinconning. Some of the producer milk received at the Pinconning plant is from dairy farms located in the Michigan counties of Sanilac, Huron and Tuscola. Milk from these dairy farms is delivered to a facility located at Verona, Michigan, where it is reloaded into over-the-road tankers and then delivered to the Pinconning supply plant. Verona is 98 highway miles east of Pinconning, directly across Saginaw Bay.

Presently, the hauler delivering milk from Verona to Pinconning travels 98 miles over to Pinconning and then 98 miles back. When the Verona milk is received in the Pinconning supply plant it loses its identity as producer milk. Thus, when this milk is loaded onto another truck and transported to the Port Huron distributing plant, it is considered a qualifying shipment for pooling the supply plant. The hauler at Pinconning drives 130 miles to Port Huron and 130 miles return. The total distance traveled by the 2 truckers combined is 456 miles.

Allowing diversions of producer milk to the Port Huron distributing plant to be considered as qualifying shipments from the Pinconning supply plant would reduce significantly the total miles traveled. The Verona reload facility is located 83 miles north of Port Huron. Thus, the hauler who would transport the milk from Verona to Port Huron would travel 83 miles down and 83 miles back, a round trip distance of 166 miles. This would be a reduction in total mileage of 290 miles (456 mile present minus 166 miles recommended) as compared to transporting the milk first to Pinconning. Also, the direct shipment of the milk from Verona to Port Huron would help preserve its quality by avoiding the pumping and storage of the milk at Pinconning.

The qualifying credits for diversions from a supply plant to pool distributing plants should be limited to one-half of the pooling requirements for the supply plant. This would insure that the supply plant actually is supplying the fluid needs of the Southern Michigan market. Further, it would prevent a Southern Michigan handler who operates a plant in a distant market from qualifying that plant for pooling on the Southern Michigan market based on direct delivery of producer milk by the handler to pool distributing plants without any demonstration that the distant plant has a bona-fide association with the Order 40 market.

3. *Producer milk.* (a) The order should be revised by reducing from 6 to 2 the number of days of production of a producer tht must be delivered to a pool plant each month in order to qualify the milk of that producer for diversion to a nonpool plant as producer milk. This revision was proposed by Independent Cooperative Milk Producers Associations which supplies milk to a pool distributing plant at Grand Rapids and diverts producer milk not needed for fluid use to a nonpool manufacturing plant located 80 miles north of Grand Rapids at Reed City, Michigan. Proponent's witness said that the purpose of the proposal is to reduce the transportation costs that are associated with the hauling of milk between these two cities.

The proposed change would promote the efficient handling of reserve supplies and reduce the hauling of milk to a pool solely to maintain its producer milk status. Proponent cooperative association is a regular supplier of milk to the fluid market. The cooperative has member producers whose farms are located in the Grand Rapids area and other member producers located in the general vicinity of the Reed City manufacturing plant. Normally, the milk produced by members in the Grand Rapids area is sufficient to fill the fluid requirements of the Grand Rapids distributing plant. The milk produced in the reed City area is therefore diverted to the nearby nonpool plant for manufacturing. However, sufficient milk from the Reed City area is delivered to the Grand Rapids distributing plant to qualify the producers' milk for diversion to the nonpool manufacturing plant as producer milk. Since the Reed City milk is not needed at Grand Rapids, proponent diverts some of the milk in the Grand Rapids area to Reed City to make room in the Grand Rapids Plant for the milk delivered from Reed City. As a result, the proponent must make six round trips each month to deliver milk from the Reed city area to grand Rapids and, in addition, six round trips each month to divert milk from the Grand Rapids area to Reed City. The total mileage involved in this cross movement of milk is approximately 1,920 miles per month.

Requuiring only 2 days' production of a producer's milk each month to be received at a pool plant would lower the number of miles traveled by two-thirds. As provided herein, the total mileage each month would be only 640 miles, a reduction of 1,280 miles (1, 920 miles present minus 640 miles recommended). Thus, the reduction would result in a more economic movement of milk while assuring that the producers in the Reed City area continue their association with the Souther Michigan market.

The proposal was opposed by the Michigan Milk Producers Association whose witness testified that anything less than 6 days' production of a producer's milk that is delivered to a pool plant each month would not represent an adequate association with the fluid market. The witness also stated that the delivery of 6 days' production equates to a shipping requirement of 20 percent while 2 days would represent only a 6.5 percent shipping requirement. In the witness' view this is not compatible with the shipping requirements for pooling supply plants of 40 percent or the proposed 30 percent. The proposal also was opposed by two other cooperative associations in their post-hearing briefs.

It is true that 2 days represents only about 6.5 percent of the days in a month, and that for an individual producer whose milk is diverted to a nonpool plant the remaining days of the month his deliveries to a pool plant would equate to a 6.5 percent shipping requirement. However, this is not a valid comparision because the diversion limitations set forth in the order limit the total quantity of producer milk a cooperative association or pool plant handler may divert. The total quantity of milk that may be so diverted by such handlers may not exceed 60 percent of their receipts of producer milk during the months of October through March. Thus, 40 percent of their producer receipts must be delivered to pool plants. This is higher than the 30 percent shipping requirement for pooling supply plants that is recommended herein. Also, the producer milk provisions effectively limit diversions by a cooperative association or a handler to an appropriate level without the necessity of requiring excessive deliveries of milk from individual producers to pool plants merely for qualifying the milk for diversion to nonpool plants as producer milk.

(b) the producer milk definition should be revised to recognize the diversion of producer milk from one pool plant to another. Although such diversions are provided for in those sections of the order that deal with the classification provisions, the present producer milk definition does not specifically provide for them.

A handler who operates two suply plants and a distributing plant regulated by the Southern Michigan order proposed the revision. The Handler's witness stated that this change was needed to complement the handler's proposal to include as qualifying shipments for pooling a supply plant the diversions of milk from a supply plant to a pool distributing plant. There was no opposition to the proposal.

As set forth in another issue, up to one-half of the qualifying shipments for pooling a supply plant may be met by diversions of producer milk from the supply plant to pool distributing plants. As a result of that change, it is necessary to make a corollary change in the producer milk definition to accommodate the diversion of producer milk between pool plants. In doing so, it is necessary to distinguish between diversions of producer milk between pool plants and diversions of producer milk to nonpool plants. Certain limitations are necessary on diversions to nonpool plants to assure that the diverted milk is actually associated with the Southern Michigan market and available for the fluid market. No such limitations are necessary with respect to diversions between pool plants since the diverted milk would still be received at a pool plant and would be associated with the market.

(c) The producer milk definition also should be revised to establish a specific sequence to exclude from producer milk the quantity of milk that has been diverted to nonpool plants in excess of the diversion limits when the handler does not designate the dairy farmers whose milk shall not be producer milk. The present order excludes the days of production last diverted in determining which milk shall not be producer milk. However, it does not set forth any procedure for determining which day's milk shall be excluded first.

The handler who proposed recognizing diversions between pool plants in the producer milk section also proposed this revision. There was no opposition. The handler's witness said this proposal would provide an appropriate basis for determining which milk shall not be producer milk when it is overdiverted and the diverting handler does not designate the dairy farmers whose milk was overdiverted.

It is appropriate that the order provide a procedure for determining which diversions shall not be considered producer milk when milk diverted to nonpool plants exceeds the diversion limits prescribed by the order. The provisions of the accompanying order amendments achieve this objective. The provisions prescribe a specific procedure for excluding overdiverted milk from producer milk when a diverting handler does not designate whose milk shall not be producer milk. The procedure would exclude milk diverted on the last day of the month first; then, in sequence, milk diverted on the second-to-last day and so on in daily allotments until all of the overdiverted milk is accounted for.

4. *Payments to producers and to cooperative associations.* The order should be revised to allow handlers to subtract deducations authorized in writing by producers from their partial payments to such producers. Presently, handlers may substract authorized deductions only with respect to their final payments to producers each month.

A handler who operates two pool supply plants and a pool distributing plant proposed the revision. The handler's witness testified that allowing deductions on partial payments would provide producers with more balanced payments, give producers greater flexibility in using their business judgement on financial matters, and reduce disharmony between producers, their creditors and handlers when the monthly final payment to a producer is not adequate to satisfy all assignments. There was no opposition to the proposal.

Testimony on the record indicates that the average number of assignments per producer is seven. All producers on the market have an assignment against their milk checks for hauling. Many producers also make assignments on behalf of their creditors and sometimes these assignments are larger than the amount of their final payment.

Proponent's witness testified that when the assignments against a producer's milk check are larger than the final payment, the handler does not pay all the assignments. He claimed that in such circumstances the creditor who did not get paid and the producer are upset because the handler didn't make the deduction even though the producer had requested the handler to do so. A witness representing another handler testified that with respect to assignments by a producer to the Farmers Home Administration, the handler is required to accept the assignment and has the responsibility for the payment, even if the handler fails to make the deduction from the producer's check. With respet to other assignments, this witness testified also that it creates bad feelings among creditors, producers and handlers when terms of the assignment are not followed.

Permitting handlers to substract authorized deductions when making both partial and final payments to producers would give producers greater flexibility in their business decisions and could help reduce the risk that some assignments against a producer's milk check would not be deducted because the final payment is not sufficient to cover all the assignments. Accordingly the proposal should be adopted. However, a producer's written authorization for a handler to deduct monies for payment to an assignee does not relieve the handler of his obligation to make full payment for milk received from producers by the date prescribed in the order. Thus, it is expected that the amounts deducted by handlers will be paid to assignees by the time partial payments are due individual producers. This is necessary to insure that all handlers are paying the minimum class prices for their producer milk by the dates required in the order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Southern Michigan marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1040.7, (b) (1), (2) and (3) are revised, and a new paragraph (b)(5) is added to read as follows:

§ 1040.7 Pool plant.

* * * * *

(b) * * *

(1) A supply plant from which each month not less than 30 percent of the total quantity of Grade A milk received at such plant from producers and from a handler described in § 1040.9(c), or diverted therefrom by the plant operator or a cooperative association (as described in § 1040.9(b)) pursuant to § 1040.13, less any Class I disposition of fluid milk products which are processed and packaged in consumer-type containers in the plant, is transferred to plants described in paragraph (b)(5) of this section, subject to the following conditions:

(i) Not more than one-half of the shipping percentage specified in this paragraph may be met through the diversion of producer milk from the supply plant to pool distributing plants; and

(ii) A supply plant that qualifies as a pool plant pursuant to this subparagraph in each of the months of October through March shall be a pool plant for the following months of April through September.

(2) A plant operated by a cooperative association which supplies distributing plants qualified under paragraph (a) of this section, if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:

(i) Not less than one-half of its total member producers' milk in the current month or

(ii) Not less then one-half of its total member producers' milk for the second through the 13th preceding months, if such plant was qualified under this paragraph in each of the preceding 13 months.

(3) A plant located in the marketing area operated by a cooperative association, which plant has been a pool plant for 12 consecutive months but is not otherwise qualified under this paragraph, on meeting the following conditions:

(i) The cooperative has a marketing agreement with another cooperative whose members deliver at least 50 percent of their milk during the month directly to distributing plant(s) qualified under paragraph (a) of this section; and

(ii) The aggregate monthly quantity supplied by both such cooperatives to distributing plants by transfer from the cooperative's plant to plants described in paragraph (b)(5) of this section and by direct delivery from farms to plants qualified under paragraph (a) of this section is not less than 50 percent of the combined total of their member producers' milk deliveries during the month. * * *

(5) Qualifying transfers from supply plants pursuant to this paragraph may be made to the following plants:

(i) Pool plants described in paragraph (a) of this section; and

(ii) Distributing plants fully regulated under other Federal orders except that credit for transfers to such plants shall be limited to the quantity of milk transferred from the supply plant to pool distributing plants during the month. Qualifying transfers to other order plants shall not include transfers made on the basis of agreed upon Class II or Class III utilization.

* * * * *

2. Section 1040.13 is revised to read as follows:

§ 1040.13 Producer milk.

"Producer milk" shall be the skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer excluding such milk that is diverted from another pool plant;

(b) Received by a handler described in § 1040.9(c);

(c) Diverted by the operator of a pool plant to another pool plant; and

(d) Diverted by the operator of a pool pant or by a handler described in § 1040.9(b) to a nonpool plant, other than a producer-handler, subject to the following conditions:

(1) In any month that less than 2 days' production of a producer is delivered to a pool plant, the quantity of milk of the producer diverted during the month shall not be producer milk;

(2) The total quantity of producer milk diverted by a cooperative association or by the operator of a pool plant may not exceed 60 percent during each of the months of October through March of the total quantity of producer milk for which it is the handler;

(3) Any milk diverted in excess of the limits described in paragraph (d)(2) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the total milk diverted on the last day of the month, then the second-to-the-last day, and so on in daily allotments will be excluded until all of the over-diverted milk is accounted for; and

(4) Milk which is subject to pooling under another order, shall not be producer milk.

3. Section 1040.73(d) is revised to read as follows:

§ 1040.73 Payments to producers and to cooperative associations.

* * * * *

(d) On or before the last day of each month for producer milk received during the first 15 days of the month at not less than the Class III milk price for the preceding month, less any proper deductions authorized in writing by the producer.

Signed at Washington, D.C., on December 30, 1980.

William T. Manley,

Acting Administrator.

[FR Doc. 81-313 filed 1-5-81; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

9 CFR Parts 318 and 381

Use of Fumaric Acid in Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Federal meat inspection regulations and the poultry products inspection regulations to permit and set limits for the use of fumaric acid as a cure accelerator in cured comminuted meat and poultry products. The use of fumaric acid for this purpose would result in shorter preparation times and other production efficiencies.

DATE: Comments must be received on or before April 6, 1981.

ADDRESSES: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry products inspection regulations to: Mr. Robert G. Hibbert, (202) 447-6042.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042. The Draft Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This proposed rule has been reviewed under the USDA procedures established in Secretary's Memorandum Number 1955 to implement Executive Order 12044 and has been classified "not significant."

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Coordination Division and should bear a reference to the date and page number of this issue of the Federal Register. Any person desiring opportunity for oral presentation of views concerning the proposed amendment to the poultry products inspection regulations must make such request to Mr. Hibbert so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this proposal will be made available for public inspection in the office of the Regulations Coordination Division during regular business hours.

Background

The Administrator has been requested to approve the use of furmaric acid as a cure accelerator in cured comminuted meat and poultry products on a permanent basis. The proponents claim that fumaric acid accelerates color development in such products, which allows the use of higher cooking temperatures and correspondingly shorter preparation time. The proponents further claim that fumaric acid improves peelability of cooked sausages, which make automatic peeling machines more efficient. Results of tests conducted by the Meat and Poultry Inspection Program (MPI) in 1968 confirm these claims. Furthermore, data submitted to MPI in the same year by various processors using furmaric acid also supports the proponent's position.

The Food and Drug Administration currently allows the use of fumaric acid in food in its regulations (21 CFR 172.350) at a level not in excess of the amount reasonably required to accomplish the intended effect. Tests conducted by MPI have indicated that the use of fumaric acid as a cure accelerator in cured comminuted meat and poultry products can be permitted at a level not to exceed 0.065 percent (or 1 ounce per 100 pounds) of the weight of the meat and meat byproducts or poultry and poultry byproducts before processing.[1]

Options Considered.—The Department considered two options regarding this proposal.

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[1] Copies of the test results may be obtained from the Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

1. Deny the use of fumaric acid in meat and poultry products.

2. Propose an amendment to the regulations to permit the use of fumaric acid as a cure accelerator in comminuted cured meat and poultry products.

Option 2 was selected to provide the industry with an additional cure accelerator.

Part 318—ENTRY INTO OFFICIAL ESTABLISHMENTS: REINSPECTION AND PREPARATION OF PRODUCTS

Accordingly, it is proposed to amend § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) as follows:

§ 318.7 [Amended]

* * * * *

(c) * * *

(4) * * *

In that portion of the chart dealing with the "Class of substance" identified as "Curing accelerators; must be used only in combination with curing agents, the following information is added to the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Curing accelerators; must be used only in combination with curing agents.	Fumaric acid....	To accelerate color fixing...............	Cured, comminuted meat or meat food product.	0.065 percent (or 1 oz to 100 lb) of the weight of the meat or meat byproducts, before processing.

* * * * * * *

(Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35626, 35631)

Part 381—Poultry Products Inspection Regulations

Further, it is proposed to amend section 381.147(f)(3) of the Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) to read as follows:

§ 381.147 [Amended]

(f) * * *

(3) * * *

* * * * * * *

In that portion of the chart dealing with the "Class of Substance" identified as "Curing accelerators; must be used only in combination with curing agents," the following information is added to the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Curing accelerators; must be used only in combination with curing agents.	Fumaric acid....	To accelerate color fixing...............	Cured, comminuted poultry or poultry products.	0.065 percent (or 1 oz to 100 lb) of the weight of the poultry or poultry byproducts, before processing.

(Sec. 14, 71 Stat. 447, as amended, 21 U.S.C. 463; 42 FR 35625, 35626, 35631)

Done at Washington, D.C., on December 29, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 81-230 Filed 1-5-81; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-43]

Amendments to Propose Pricing Regulations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Change in Hearing Schedule.

SUMMARY: On December 12, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a Notice of Proposed Rulemaking and Public Hearing (45 FR 84920, December 23, 1980) concerning amendments to the propane pricing regulations. The public hearing announced in that notice scheduled for January 7, 1981, is hereby changed.

DATES: Public Hearing Date: January 28, 1981. Requests to speak by January 20, 1981, 4:30 p.m.

ADDRESSES: Requests to speak should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-43, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3971.

Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Karene Walker (Hearing Procedures), Department of Energy, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3971.

William L. Webb (Public Information), Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4055.

Roger Miller (Office of Regulatory Policy), Department of Energy, Room 7121, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4297.

Issued in Washington, D.C., December 30, 1980.

F. Scott Bush,

Assistant Administrator, Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-367 Filed 1-5-81; 8:45 am]

BILLING CODE 6450-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 240

[Release Nos. 33-6277, 34-17400, 35-21851, IC-11513; File No. S7-870]

Separate Reports of Other Accountants; Amendments to Proxy Rules and Regulation S-X

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission announces the proposal of rule amendments which would eliminate requirements for inclusion of separate reports of other accountants in annual reports to security holders when part of an examination of financial statements is made by an independent accountant other than the principal accountant of the registrant or when prior period financial statements are examined by a predecessor accountant. Also, amendments to Schedule 14A are proposed which would clarify when financial statements may be incorporated by reference into proxy or information statements from the annual report to security holders and under what circumstances financial statements in proxy or information statements may be omitted.

DATE: Comments should be received by the Commission on or before March 15, 1981. In addition, the release provides for the application of the proposed rules prior to effectiveness.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comment letters should refer to File No. S7-870. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Best, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-272-2130).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is proposing amendments to rules which would eliminate the requirements to include in annual reports to security holders separate reports of other accountants when part of an examination of financial statements is made by an independent accountant other than the principal accountant of the registrant or when prior period financial statements are examined by a predecessor accountant. In addition to the amendments proposed involving the separate reports of other accountants, the Commission is proposing amendments to Schedule 14A (Information Required in Proxy Statement) which would clarify when financial statements may be incorporated by reference from the annual report to security holders into a proxy or information statement and under what circumstances financial statements in a proxy or information statement may be omitted. Adoption of the proposed amendments contained in this release would result in amendments to Regulation S-X (17 CFR 210.2-05), Rule 14a-3 [17 CFR 240.14a-3], Schedule 14A (17 CFR 240.14a-101 et seq.) and Rule 14c-3 [17 CFR 240.14c-3].

Part of Examination Made By Other Independent Accountants

For various reasons, many companies engage more than one accounting firm for the performance of audit services. One firm may be engaged as the principal accountant to audit and report on the consolidated financial statements, while one or more other firms may be engaged to audit and report on the financial statements of one or more subsidiaries, divisions, branches, components, or investments included in the consolidated statements.

When part of an examination of financial statements is made by an independent accountant other than the principal accountant of a company, the principal accountant is required by generally accepted auditing standards to decide whether to make reference in his report to the work performed by the other accountant.[1] If the principal accountant decides to assume responsibility for the work of the other accountant insofar as the work relates to the principal accountant's expression of an opinion on the financial statements taken as a whole, no reference to the other accountant's examination is to be included under generally accepted auditing standards.[2] However, if the principal accountant chooses not to assume that responsibility but rather elects to rely on the work of the other accountant, his report, under generally accepted auditing standards, is required to make reference to the other accountant's work and indicate clearly the division of responsibility between himself and the other accountant.[3] Further, if the report of the other accountant contains a qualified opinion, the principal accountant must consider the nature and significance of the qualification, and, if material in relation to the financial statements he is reporting on, must include a qualification in his report.[4]

The separate report of the other accountant is not required under generally accepted auditing standards to accompany the report of the principal accountant. Regulation S-X (Rule 2-05), however, does require the separate report of the other accountant when the principal accountant elects to place reliance on the examination of the other accountant and makes reference to the other accountant in his report. The separate report has been required in filings principally to ensure complete documentation where the stated responsibility for a particular audit is shared with one or more other accountants.

In the past, because the audited financial statements in annual reports to security holders furnished pursuant to the proxy rules were only required to be in substantial compliance with Regulation S-X, many companies chose not to include the separate report of the other accountant even though it was otherwise required in filings with the Commission. Now, with the recent revision of the proxy rules requiring the audited financial statements in the annual report to security holders to comply with Regulation S-X, companies are faced with having to change past practice and expand their annual reports to include the separate reports of other accountants.

The Commission, which believes the annual report to security holders should be maintained as a readable and informative disclosure document, recognizes the need to carefully consider all disclosure requirements which impact the annual report so as to prevent the shareholder report from becoming too detailed and congested with data which may only be of interest to a limited segment of the public. In this connection the Commission has reconsidered the implications of requiring the separate report of other accountants in the annual shareholder report and considers that, given the current reporting obligations of the principal accountant imposed by generally accepted auditing standards, the incremental benefit accruing from the inclusion of the separate report of the other accountant in the annual report may be negligible.

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[1] Section 543.03 of Codification of Statements on Auditing Standards, Numbers 1 to 26: AICPA.

[2] Id. at § 543.04.

[3] Id. at § 543.06 and .07.

[4] Id. at § 543.15.

Accordingly, the Commission is proposing an amendment to Regulation S-X which would eliminate the requirement to include such separate reports in annual reports to security holders furnished pursuant to the proxy rules. Under the proposal the separate reports of other accountants, however, would continue to be required in registration and reporting forms filed with the Commission. If a registrant elects to incorporate by reference the financial statements in its annual report for purposes of filing a Form 10-K, the separate reports of other accountants would be filed in Part II or in Part IV as financial statement schedules.

Report of Predecessor Accountant

In addition to reconsidering the implications of requiring separate reports of other accountants in annual reports to security holders when part of an examination of financial statements is made by one or more other accountants, the Commission has addressed the issue of presenting in the shareholder report the separate report of a predecessor accountant when audited financial statements of one or more prior periods are presented. Historically, when a company has experienced a change of independent accountants and comparative audited financial statements have been presented in response to reporting requirements of the Commission, separate accountant's reports from both the predecessor and successor accountants have been required covering the respective periods examined by each. Presentation of the predecessor accountant's report has been viewed as essential to a complete reporting package.

Although the requirement for inclusion of predecessor accountant reports has been widely observed in filings with the Commission, many registrants have in the past interpreted the rules as not requiring separate reports for purposes of preparing annual reports to security holders. These companies have included in their annual reports to security holders only the report of the successor accountant containing the disclosures required by generally accepted auditing standards.

Due to the confusion over the intent of the existing rules and the general need to be sensitive to the impact of disclosure requirements on the annual report to security holders, the Commission decided to reassess the importance of requiring the inclusion of separate predecessor accountant reports in other than forms filed with the Commission. Under current generally accepted auditing standards, the predecessor accountant's report need not accompany the successor's report as long as the successor accountant indicates in the scope paragraph of his report (a) that the financial statements of a prior period were examined by other accounts, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant, and (d) the substantive reasons therefor, if the opinion was other than unqualified.[5]

Disclosure required of the successor accountant under generally accepted auditing standards appears to contain the ciritical details regarding the performance and results of the audit of a prior period and the Commission believes that such disclosure should be adequate for purposes of shareholder reporting. Accordingly, the Commission is proposing amendments to the proxy rules which would specify that for purposes of preparing annual reports to security holders inclusion of the separate report of a predecessor accountant is not required as long as the report of the successor accountant contains the disclosures required by generally accepted auditing standards.

It should be noted that registrants in preparing the annual report to security holders would still be required to obtain from predecessor accountants a reissued report covering the prior period financial statements presented. In addition, the separate reports of predecessor accountants would continue to be required in registration and reporting forms filed with the Commission. If a registrant elects to incorporate by reference the financial statements in its annual report for purposes of a filing on Form 10-K, the separate report of a predecessor accountant would be filed in Part II or in Part IV as a financial statements schedule.

Proposed Amendments To Schedule 14A

In connection with the Commission's integrated disclosure program amendments to the Proxy rules were recently adopted[6] to facilitate the integration of disclosures in annual reports to security holders with disclosures required in registration and reporting forms filed with the Commission. As a consequence of certain of these revisions involving Schedule 14A of the General Rules and Regulations under the Securities Exchange Act of 1934 (17 CFR 240.14a-101), specific reference to certain reporting practices which were accepted in the past were removed. Since the time adoption of the revised rules, questions have been raised as to the Commission's continued acceptance of certain practices specifically provided for under the old rules.

Previous provisions of Item 15 of Schedule 14A specified that the proxy statement may incorporate by reference any financial statements contained in an annual report sent to security holders pursuant to § 240.14a-3 with respect to the same meeting as that to which the proxy statement relates, provided such financial statements substantially meet the requirements of the item. Under the revised rules it is not clear whether such incorporation by reference continues to be acceptable to the Commission. Accordingly, the Commission is proposing an amendment to Schedule 14A which would make clear that, as in the past, incorporation by reference of financial statements from the annual report to security holders to the proxy statement shall be accepted.

Additionally, under previous rules (Schedule 14A, Item 15) it was specified that the financial statements otherwise required in the proxy statement could be omitted if the plan as to merger, consolidation or acquisition involved only the issuer and one or more of its totally-held subsidiaries. This reference as to the ability to omit the financial statements in certain circumstances was also removed when the rules were revised. The proposed amendments would reinsert the clause as to exclusion of financial statements to make it clear that under these circumstances the Commission will accept the omission of financial statements.

Application of Proposed Rules Prior To Effectiveness

The Commission does not believe that the differential in disclosure which would result from the rule amendments proposed by this release would be significant. Therefore, the Commission will not object if registrants exclude predecessor and other accountants' reports from annual reports to security holders or follow the proposed rule amendments to Schedule 14A during the interim period between the date of this release and the effective date of final Commission action on the proposed rule amendments.

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[5] Id. at § 505.12.

[6] Securities Act Release No. 6234 (September 2, 1980) [45 FR 63682]; Securities Act Release No. 6260 (November 13, 1980) [45 FR 76974].

Text of Proposed Amendments

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. Section 210.2–05 is proposed to be revised to read as follows:

§ 210.2–05 Examination of financial statements by more than one accountant.

If, with respect to the examination of the financial statements, part of the examination is made by an independent accountant other than the principal accountant and the principal accountant elects to place reliance on the work of the other accountant and makes reference to that effect in his report, the separate report of the other accountant shall be filed. However, notwithstanding the provisions of this section, reports of other accountants which may otherwise be required in filings need not be presented in annual reports to security holders furnished pursuant to the proxy and information statement rules under the Securities Exchange Act of 1934 [§§ 240.14a–3 and 240.14c–3].

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. Section 240.14a–3 is proposed to be amended by revising paragraph (b)(1) to read as set forth below.

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than § 210.3–06(e), shall not apply and only substantial compliance with Articles 6, 7, 7A, and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

Note 1.—Information required by § 210.4–10(k)(1) through (4) of Regulation S–X, applicable to oil and gas companies, is to be included as part of the financial statements included in the report. In addition, the oil and gas information required by § 210.4–10(k)(5) through (8) of Regulation S–X, which may be reported as supplemental information accompanying the financial statements, shall be included in the report.

Note 2.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant, and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted, however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10–K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

2. Section 240.14a–101 is proposed to be amended by revising Item 15 of Schedule 14A to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 15. Financial statements and supplementary data.

(a) If action is to be taken with respect to any matter specified in Items 12, 13, or 14 above, furnish the financial statements required by Regulation S–X and the supplementary financial information requested by Item 12 of Regulation S–K. One copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's certificate.

(b) In the usual case, financial statements are deemed material to the exercise of prudent judgment where the matter to be acted upon is the authorization or issuance of a material amount of senior securities, but are not deemed material where the matter to be acted upon is the authorization or issuance of common stock otherwise than in an exchange, merger, consolidation, acquisition or similar transaction.

(c) Financial statements may be omitted with respect to a plan described in answer to Item 14(a) if the plan involves only the issuer and one or more of its totally-held subsidiaries.

(d) Notwithstanding the provisions of Regulation S–X, no schedules other than those prepared in accordance with Rules 12–15, 12–28 and 12–29 of that regulation need be furnished in the proxy statement. Parent company only financial statements are not required to be furnished unless necessary to make the financial statements not misleading.

(e) The proxy statement may incorporate by reference any financial statements contained in an annual report sent to security holder pursuant to § 240.14a–3 with respect to the same meeting as that to which the proxy statement relates, provided such financial statements substantially meet the requirements of this item.

(f) The financial statements of an acquired company not subject to the reporting provisions of the Exchange Act required to be furnished pursuant to Regulation S–X shall be certified to the extent practicable. However, if the proxy statement is to be included in a filing on Form S–14 and if any of the securities are to reoffered to the public by any person who is deemed to be an underwriter thereof, within the meaning of Rule 145(c), the financial statements of the acquired business must be certified for three years or must comply with the requirements of Securities Act Release No. 4950.

3. Section 240.14c–3 is proposed to be amended by revising paragraph (a)(1) to read as set forth below.

§ 240.14c–3 Annual report to be furnished security holders.

(a) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of each of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than § 210.3–06(e), shall not apply and only substantial compliance with Articles 6, 7, 7A and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only

for the last fiscal year. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

Note 1.—Information required by § 210.4-10(k) (1) through (4) of Regulation S–X, applicable to oil and gas companies, is to be included as part of the financial statements included in the report. In addition, the oil and gas information required by § 210.4–10(k) (5) through (8) of Regulation S–X, which may be reported as supplemental information accompanying the financial statements, shall be included in the report.

Note 2.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant, and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted, however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10–K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

* * * * *

Request for Comments

All interested persons are invited to submit their views and comments on the foregoing in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before March 15, 1981. Such communications should refer to File S7–870 and will be available for public inspection and copying.

The Commission also solicits comments as to whether the proposed amendments would have an adverse effect on competition or would impose a burden on competition. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

Authority For Proposed Amendments

These amendments are proposed pursuant to authority in Sections 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78*o*(d), 78w] of the Securities Exchange Act of 1934; and Sections 8, 30, 31(c) and 38(*a*) [15 U.S.C. 80a–8, 80a–29, 80a–30(c) and 80a–37(*a*)] of the Investment Company Act of 1940.

By the Commission.

December 24, 1980.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81–286 Filed 1–5–81; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 375

[Docket No. RM81–7]

Exemption From the Licensing Requirements of a Category of Small Hydroelectric Power Projects With an Installed Capacity of Five Megawatts or Less

Issued December 22, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking; Notice of Findings of No Significant Impact; Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to exempt from the licensing requirements of Part I of the Federal Power Act two categories of small hydroelectric power projects. One such category of these projects is characterized by a proposed installed capacity of 100 kilowatts or less and a second category of such projects is characterized by a proposed installed capacity of 5 megawatts or less and certain specified physical characteristics and environmental effects. The proposed rule constitutes a means of providing for exemption of a category of projects under section 408 of the Energy Security Act of 1980.

The proposed rule is designed to encourage the development of small hydropower facilities by providing a method of relieving them from certain regulatory requirements.

DATES: Written comments by February 13, 1981. Oral comment presentations and scoping meetings:

January 21, 1981, 10:00 a.m., Washington, D.C.
January 23, 1981, 10:00 a.m., Boston, MA.
January 27, 1981, 10:00 a.m., Denver, CO.
January 29, 1981, 10:00 a.m., San Francisco, CA.

ADDRESSES: Send comments to—Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

The hearings will be held at the following locations:

January 21, 1981, Federal Energy Regulatory Commission, 825 N. Capitol Street, Hearing Room A, Washington, D.C. 20426.
January 23, 1981, John W. McCormack Post Office and Court House, Room 208, Congress Street, Boston, MA 02109.
January 27, 1981, Holiday Inn, Cripple Creek Room, 1450 Glen Arm Place, Denver, CO 80202.
January 29, 1981, Holiday Inn/Civic Center, Gold Room A, B, and C, 50 Eight Street, San Francisco, CA 94103.

FOR FURTHER INFORMATION CONTACT:

Ronald A. Corso, Director, Division of Hydropower Licensing, Office of Electric Power Regulation, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 376–9171.
James J. Hoecker, Division of Regulatory Development, Office of the General Counsel, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357–9342.

The Federal Energy Regulatory Commission (Commission) proposes to exempt from the licensing requirements of Part I of the Federal Power Act (Act) two categories of small hydroelectric power projects that have been determined not to have a significant impact on the quality of the human environment. The proposed rule would implement in part section 408 of the Energy Security Act of 1980 (ESA).[1] Under the rule as proposed, the Commission would exempt from the licensing requirement of the Act any small hydroelectric power project that belongs in either of two categories with specified characteristics. Exemption of one category of projects would be effective on the date that the Commission receives a brief notice of exemption from licensing. Exemption of a second category would date from the effective date of the rule. This proposed rulemaking is the first exercise of the Commission's discretion under section 408(b) of the ESA to exempt "classes or categories" of projects.

I. Background

Title IV of the ESA, also known as "The Renewable Energy Resource Act of 1980," amends the Public Utility

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[1] Pub. L. 96–294, 94 Stat. 611. Section 408 of the ESA amends, *inter alia,* sections 405 and 408 of the Public Utilities Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. §§ 2705 and 2708).

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Regulatory Policies Act of 1978 (PURPA) to authorize the Commission to exempt certain small hydroelectric power projects on a case-by-case basis or by class or category of such projects, from all or part of the requirements of Part I of the Act, including any licensing requirement.

Section 408 grants the Commission discretion to provide exemption under certain specified conditions. The proposed installed capacity of a project may not exceed 5 megawatts. To be exemptible, a project must utilize the water power potential of an existing dam, unless it is a project that will utilize a so-called "natural water feature" that does not require the creation of a dam or man-made impoundment. Such a natural water feature will commonly be an elevated lake or a waterway the topographical features of which permit diversion of some waters for purposes of power generation.

Section 408 also provides that certain environmental requirements apply to those projects that the Commission exempts from licensing. Those requirements include the National Environmental Policy Act of 1969, the Endangered Species Act, and the Fish and Wildlife Coordination Act and the related consultation provisions in section 30 of the Federal Power Act that apply to exemption of small conduit hydroelectric facilities.

On November 7, 1980, the Commission issued Order No. 106,[2] which establishes procedures for exempting from all or part of Part I of the Act any small hydroelectric power project having a proposed installed capacity of 5 megawatts or less by means of case-by-case analysis and determination of the advisability of exempting any project and the environmental impact of that action. The procedures set forth in Order No. 106 rely initially on the submission of an application for exemption by any person, if only Federal lands are involved, or by a person that holds all the necessary real property interests in non-Federal lands, if any non-Federal lands are involved. If the Commission does not explicitly act on an application for exemption from licensing within a specified time, absent a suspension of the time for action, the application is deemed granted.

The rule proposed in this docket exempts from licensing two categories of small hydroelectric power projects. The exemption of the first category of such projects, described in § 4.109(a) applies to any project with a proposed installed generating capacity of more than 100 kilowatts but not more than 5 megawatts and specific other characteristics and is made effective by submittal to the Commission of a notice of exemption from licensing by the same classes of persons who may file application for exemption from licensing under the newly promulgated case-by-case regulations. Projects within the second category, described in § 4.113(a), are made exempt by operation of the rule and may not exceed 100 kilowatts in installed capacity.

This generic exemption differs from Order No. 106 in several respects. Any small hydroelectric power project with a proposed installed capacity of 5 megawatts or less is exemptible under case-by-case method; only projects with specified characteristics, which the Commission finds will not significantly affect the quality of the human environment, are generically exempted.[3] The case-specific procedures address both exemption from licensing and exemption from provisions of Part I of the Act other than licensing; the generic exemption applies only to exemption from licensing. While the case-specific procedures will apply to projects that utilize for power generation either an existing dam or natural water feature, the proposed generic exemption of both categories of projects will apply only to projects at an existing dam. Finally, under the case-specific approach, the Commission is required to consider and act on each project separately; generic exemption is accomplished under the terms of the rule alone. It is estimated that at least 20% and perhaps as much as 75% of the developable small hydroelectric power projects 5 megawatts and less fall within the categories of projects covered by this exemption rule.

II. Summary of the Proposed Rules.

The proposed rule revises parts of the existing Subpart K of Part 4 to divide the exemption regulations into the existing case-specific exemption provisions (§§ 4.103 through 4.108) and the proposed generic exemption provisions (§§ 4.109 through 4.113). The applicability section (§ 4.101) and the definitions (§ 4.102) pertain to exemption of all small hydroelectric power projects under Subpart K. The general waiver provision in § 4.103(d) is applicable only to case-specific exemptions from licensing.

Section 4.109 sets forth a set of criteria under which a project may qualify for exemption from licensing as part of a class of exempt projects. Small hydroelectric power projects that utilize a natural water feature for electric power generation are not eligible for exemption as part of either category or projects more than 100 kilowatts described in § 4.109(a) or the projects of 100 kilowatts or less because little is now know about the probable physical charactertistics or environmental impact of those kinds of projects.

Section 4.109 also provides that projects of more than 100 kilowatts are exempted effective on the date that the Commission accepts for filing (see § 4.31(e)) a notice of exemption identifying both the project and the person developing it. The filing person must certify that the project meets the qualifications in § 4.109(a) and will not affect particular aspects of the environment. The certification requirements in § 4.112 (b) and (c) operate in conjunction with the criteria for exemption in § 4.109(a).

Exemption of any project of 100 kilowatts or less would be effective as of the effective date of the regulation, according to § 4.113(b). Neither the terms and conditions in § 4.111 nor the notice of exemption requirement in § 4.112 would apply to the projects exempted under § 4.113. With respect to the capacity that must be installed or increased at any exemptible site, under the terms of the statute, the effective date of the regulation will be considered the date of a notice of exemption or application for exemption for purposes of applying the definition of a small hydroelectric power project.

Section 4.110 provides limitations on the submittal of notices of exemption for exempted projects in order to establish fixed relationships among various persons who may seek to develop a site. These provisions are similar to the provisions in § 4.110, but adapted to the generic exemption context, and are proposed for the same kind of reasons explained in Docket No. RM80-65 for case-by-case exemptions. Section 4.110(a) states that a notice of exemption may not be filed under the rule if a permit or license is outstanding or a permit or license application has been filed, unless it is the permittee or licensee who files the notice of exemption. A permit or license applicant may file a notice of exemption if the project is eligible under § 4.109(a), the applicant is qualified under § 4.109(c) to file such notice, and no competing application for that project was filed during the entire period provided for protest and intervention in the notice of application. Upon filing of a notice of exemption, any outstanding permit is cancelled and any license is deemed terminated.

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[2] 45 *Fed. Reg.* 76115, November 18, 1980. The final rule in Order No. 106 established Subpart K of Part 4 of the Commission's Regulations, which subpart would be revised and expanded by the proposed rule in this docket.

[3] The Commission will consider another rulemaking to exempt from licensing a category of small hydroelectric power projects that may have significant environmental impacts. This class of projects will be the subject of an Environmental Impact Statement. Any projects that do not qualify for generic exemption may be exemptible under the case-by-case approach.

If a project is exempt under the rule, the Commission will not accept an application for license or preliminary permit according to both §§ 4.110(b) and 4.113(d). There are exceptions to this rule, however. If the developer of an exempted project of more than 100 kilowatts fails to get Federal approval or to begin construction on a timely basis, the Commission may revoke the exemption and accept a license application under the terms and conditions of § 4.111. License applications will also be accepted for any project 5 megawatts or less, if an applicant proposes to develop the project to an installed capacity of at least 7.5 megawatts, or if the applicant is the holder of any real property interests in non-Federal lands necessary to develop and operate the project and is a qualified applicant.

Section 4.11 sets forth standard terms and conditions of generic exemption for projects of 100 kilowatts or less that are exemptible under § 4.109(a). Conditions of the generic exemption are similar to those for case-specific exemption, except that under the proposed generic rule the owner of the exempted project must comply with any measures that fish and wildlife agencies require in the future as part of a migratory fish restoration program (Article 2). In addition, if a dam is more than 33 feet in height above streambed, impounds more than 2 million cubic meters of water, or is determined to have a high hazard potential, the project must have periodic safety inspections by an independent consultant and is subject to safety inspections and remedial measures that may be required by the Commission's Regional Engineer or other authorized representative, under the Commission's project safety regulations.[4]

Section 4.112 provides that any person with all of the real property interests in any non-Federal lands necessary to develop or operate the project must file a notice of exemption in order to make effective the exemption from licensing for a project of more than 100 kilowatts. (If only Federal lands are involved, any person may file a notice of exemption.) Copies of the notice of exemption must be served on the U.S. Fish and Wildlife Service, other relevant fish and wildlife agencies, the relevant state water resource agencies or EPA, and the relevant state Historical Preservation Officer. Section 4.112(b) would require the person submitting a notice of exemption under § 4.112 to obtain agency certification about compliance with water quality standards and the absence of existing fish passage at the dam but would permit, as an option, the filing party to certify that no historical site, endangered species, or critical habitat was threatened, based on field surveys and literature surveys by approved experts. Section 4.112 also requires a specific format for the notice of exemption, including specific certifications by the filing party on compliance with the qualifying conditions. That section also contains additional requirements for basic information important to the Commission's responsibilities for national water resource analysis, licensing of other non-exempt projects, and implementation of §§ 4.104 and 4.110 of Subpart K, as it is proposed to be amended.

Section 4.113 provides for exemption from licensing of any small hydroelectric power project with an installed capacity of 100 kilowatts or less, so-called "micro-hydro" projects, by operation of the regulation.

III. Notice of Finding of No Significant Impact and Notice of Intent To Prepare an Environmental Impact Statement

The Commission has prepared an Environmental Assessment (EA) of the exemption from the licensing requirements of the Act for the proposed category of small hydroelectric power projects pursuant to section 408 of the ESA. The Commission gives notice that, on the basis of the EA, it has determined that exempting from licensing that category of projects of more than 100 kilowatts and described in § 4.109(a) is not a major Federal action significantly affecting the quality of the human environment. The EA is incorporated by reference in the Finding of No Significant Impact. Projects in the category of small hydroelectric power projects described in § 4.109(a) of the proposed rule will have a proposed installed capacity of more than 100 kilowatts but not more than 5 megawatts, utilize for power generation the water power potential of an existing dam, and:

1. Not involve any change in the prevailing regime of storage and release of water from the impoundment;
2. Not divert water from the waterway for a distance of more than 300 feet from the toe of the dam to the point of discharge back into the waterway;
3. Not involve construction of any transmission line that has a design capacity of more than 69 kilovolts or is more than one mile long and located in a new right of way;
4. Not increase the normal maximum surface elevation of the impoundment as a result of repair or reconstruction of the existing dam;
5. Not cause a violation of applicable water quality standards;
6. Not involve construction on or alteration of any historic site;
7. Not involve construction in the vicinity of any endangered or threatened species or critical habitat as listed or designated in the regulation of the Department of the Interior; and
8. Have no significant existing upstream or downstream passage of fish at the site.

The Commission also believes that, based on its own experience,[5] a categorical exemption for all so-called "micro-hydroelectric" projects with a total proposed installed capacity of 100 kilowatts or less would not be a major Federal action significantly affecting the quality of the human environment. Because the EA does not directly address the impacts likely to occur from a category of small hydroelectric power projects delineated primarily by very small generating capacity, the Commission requests comment on the environmental consequences of an exemption from licensing for any project proposed to be developed to a capacity not to exceed 100 kilowatts, provided such project is not only part of a licensed water power project and utilizes an existing dam. This category of projects is exempted under proposed § 4.113. Exemption of such projects would differ from the exemption from licensing provided for the category described in § 4.109(a) in several respects:

(1) Because information regarding projects of such size is generally not important to other licensing proceedings or regional water resource management, a notice of exemption (§ 4.112) containing rudimentary data on the project need not be filed with the Commission. the exemption would date from the effective date of the rule.

(2) Environmental impacts, such as blockage of fish migration, dewatering, or effects on historic sites or water quality, are determined to be minimal. Generally, micro-hyrdo-electric projects are located on small streams and create

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[4] This condition is written to relate to the Commission's new Regulations Governing the Safety of Water Power Projects and Project Works (Docket No. RM80-31). A final dam safety rule will be issued at about the same time as the proposed rule in this docket.

[5] For example, FERC Project Nos. 2907, 2987, 3017.

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small impoundments. Aquatic resources and the flow regime of the stream are not affected by the presence of a project with such small capacity. Small streams that have sufficient gradient to facilitate hydropower development are less likely to have water quality problems. Because of the size of the stream and impoundment, related recreational development is normally very limited.

(3) The terms and conditions of exemption in § 4.111 would not apply to such projects.

In addition, the Commission solicits comment on what the practical and environmental consequences would be if it were to exempt from licensing projects of 100 kilowatts or less which utilize for electric power generation of a natural water feature without the need for a man-made dam and impoundment.

The Commission also gives notice that it intends to prepare an Environmental Impact Statement (EIS) evaluating the effects of exempting from licensing all or part of the remainder of projects that are potentially exemptible under section 408 of the ESA, but which do not conform to all the criteria listed in § 4.109(a) and § 4.113(a). Scoping meetings for the EIS will be combined with public meetings regarding the content of this rulemaking. Those meetings are discussed below.

The EA is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and at its Regional Offices in Atlanta, Georgia, New York, New York, Chicago, Illinois, San Francisco, California, and Fort Worth, Texas.

IV. Comment Procedure

Persons interested in the proposed rule are invited to submit written views, comments, or suggestions in writing concerning all or part of the regulations proposed in this notice. Pursuant to the consultation requirements of section 408 of the ESA and section 30 of the Act, Fish and Wildlife agencies will also receive letters transmitting copies of this Notice of Proposed Rulemaking and the related Environmental Assessment. The Commission requests their comments on the proposed rule. All commenters should note the requests for comment in the notice of finding of no significant impact. The Commission will consider all comments before issuing a final rule.

An original and 14 copies of all comments must be filed with the Secretary not later than February 13, 1981, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal may be addressed. Comments should reference Docket No. RM81-7 on the outside of the envelope and on all documents submitted to the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 during regular business hours.

In addition to the written comment procedures, the Commission will hold public meetings for the purposes of receiving oral comments on the proposed rule and on the scope of the EIS to be prepared for a further category of projects that might be exempted from licensing. These meetings will also provide further opportunity for consultation with fish and wildlife agencies under the provisions of section 408 of the ESA and section 30 of the Act. The public will be afforded an opportunity to discuss the findings in the EA and to address environmental issues relating to expansion of the category of exempt facilities, the impacts of the proposed rule, and the range of topics that the EIS should cover. This time, place, and location of these public meetings are as follows:

January 21, Washington, D.C., Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, 10 a.m.

January 23, Boston, MA, John W. McCormack Post Office and Court House, Congress Street, Boston, MA 02109, 10 a.m.

January 27, Denver, CO, Holiday Inn, Cripple Creek Room, 1450 Glen Arm Place, Denver, CO 80202, 10 a.m.

January 29, San Francisco, CA, Holiday Inn/Civic Center, Gold Room A, B, and C, San Francisco, CA 94103, 10 a.m.

Agencies or members of the public wishing to participate with respect to the proposed rule or the scope of the EIS should notify the Secretary of the Commission at least 10 days prior to the date of the particular public meeting. Participants are asked to supply copies of any prepared presentations at the time of the meeting.

(Energy Security Act of 1980, Pub. L. 96-294, 94 Stat. 611; Federal Power Act, as amended, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; and the Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352; E. O. 12009, 3 C.F.R. 142 (1978))

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

1. Part 4 is amended in the Table of Contents by revising the titles of §§ 4.101, 4.103, 4.104, and 4.106 and by adding to Subpart K the following section titles (§§ 4.109-4.113) to read as follows:

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

Subpart K—Exemptions of Small Hydroelectric Power Projects of 5 Megawatts or Less.

Sec.
4.101 Applicability.

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4.103 General provisions for case-specific exemption.
4.104 Case specific exemption from licensing: relationships among applications, exemptions, permits, and licenses.

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4.106 Standard terms and conditions of case-specific exemption from licensing.

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4.109 General provisions for categorical exemption from licensing for certain projects with installed capacity of more than 100 kilowatts.
4.110 Categorical exemption from licensing for projects of more than 100 kilowatts: relationships among applications, exemptions, permits, licenses, and notices of exemption.
4.111 Standard terms and conditions of categorical exemption from licensing for projects of more then 100 kilowatts.
4.112 Notice of exemption from licensing for projects of more than 100 kilowatts.
4.113 General provisions for categorical exemption from licensing for certain projects with installed capacity of 100 kilowatts or less.

2. Subpart K of Part 4 is amended by revising § 4.101 and by revising the title and paragraphs (a) and (d) of § 4.103, to read as follows:

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less.

§ 4.101 Applicability.

(a) *General.* This subpart provides procedures for exemption on a case-specific or categorical basis from all or part of Part I of the Federal Power Act (Act), including licensing, for small hydroelectric power projects as defined in § 4.102.

(b) *Case-specific exemption.* The provisions of §§ 4.103 through 4.108 apply to:

(1) exemption of any small hydroelectric power project from

provisions of Part I of the Act other than licensing; and

(2) exemption of any small hydroelectric power project from licensing, except any project that has been exempted as part of a category of exemptible projects under §§ 4.109 through 4.112.

(c) *Categorical exemption of certain projects of more than 100 kilowatts.* The provisions of §§ 4.109 through 4.112 apply to exemption from licensing for any small hydroelectric power project which meets the criteria set forth in § 4.109(a) of this subpart. Such projects may be exempted by filing a notice of exemption from licensing.

(d) *Categorical exemption of certain projects of 100 kilowatts or less.* The provisions of § 4.113 apply to certain small hydroelectric power projects which have a proposed installed capacity of 100 kilowatts or less and which are categorically exempt from licensing by operation of this subpart.

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§ 4.103 General provisions for case-specific exemption.

(a) *Exemptible projects.* Subject to the provisions of paragraphs (b) and (c) of this section and §§ 4.104 through 4.106, the Commission may exempt on a case-specific basis any small hydroelectric power project from all or part of Part I of the Act, including licensing. Applications for exemption for specific projects shall conform to the requirements of §§ 4.107 or 4.108, as applicable.

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(d) *Waiver.* In applying for case-specific exemption from licensing, a qualified exemption applicant may petition under § 1.7 of this chapter for waiver of any specific provision of §§ 4.102 through 4.107. The Commission will grant a waiver only if consistent with section 408 of the Energy Security Act of 1980.

3. Subpart K of Part 4 is amended by adding §§ 4.109 through 4.113, to read as follow:

§ 4.109 General provisions for categorical exemption from licensing for certain projects with installed capacity of more than 100 kilowatts.

(a) *Exempted projects.* Subject to the provisions of §§ 4.110 and 4.111 and effective according to paragraph (b) of this section, the Commission exempts from the licensing requirements of Part I of the act any small hydroelectric power project which has a proposed installed capacity of more than 100 kilowatts and which:

(1) Utilizes for electric power generation only the water power potential of an existing dam;

(2) Does not entail any increase in the normal maximum surface elevation of the impoundment pursuant to repair or reconstruction of a dam;

(3) Does not entail, for the purpose of generating electric power, any change from the prevailing regime of storage and release of water from the impoundment;

(4) Does not entail diversion of water from the waterway for more than 300 feet from the toe of the dam to the point of discharge into the waterway;

(5) Does not entail construction of any primary transmission line which:

(i) Has a design capacity of more than 69 kilovolts (KV); or

(ii) Is more than one mile long and located on a new right-of-way;

(6) Utilizes only a dam at which there is no significant existing upstream or downstream passage of fish;

(7) Will not cause violation of applicable water quality standards established by the U.S. Environmental Protection Agency or any state in which the project is located;

(8) Does not entail any construction on or alteration of any site included in or eligible for inclusion in the National Register of Historic Places;

(9) Does not entail construction in the vicinity of any threatened or endangered species or critical habitat, listed or designated in the regulations of the U.S. Department of the Interior; and

(10) Is not only part of a licensed water power project.

(b) *Effective date of exemption.* Any small hydroelectric power project in the category of projects specified in paragraph (a) of this section is exempted from licensing as of the date that a notice of exemption from licensing for that project, complying with the provisions of § 4.112, is deemed accepted for filing.

(c) *Who may file a notice of exemption from licensing for Category A projects.*

(1) *Only Federal lands involved.* If only the rights to use or occupy Federal lands would be necessary to develop and operate a proposed small hydroelectric power project that meets the criteria of paragraph (a) of this section, any person may file a notice of exemption from licensing for that project under § 4.112.

(2) *Some non-Federal lands involved.* If real property interests in any non-Federal lands would be necessary to develop and operate a proposed small hydroelectric power project that meets the criteria of paragraph (a) of this section, any person who has all of the real property interests in non-Federal lands necessary to develop and operate that project, or an option to obtain those interests, may file a notice of exemption from licensing for that project under § 4.112.

§ 4.110 Categorical exemption from licensing for projects of more than 100 kilowatts: relationships among applications, exemptions, permits, licenses, and notices of exemption.

For purposes of categorical exemption from licensing under §§ 4.109 through 4.112, the Commission will treat preliminary permit and license applications, preliminary permits, license, exemptions from licensing, and applications for exemption from licensing that are related to any small hydroelectric power project described in § 4.109(a), as follows:

(a) *Limitations on submission and acceptance of notices of exemption.* (1) *Unexpired permit or license.* If there is an unexpired preliminary permit or license in effect for a project, the Commission will accept a notice of exemption from licensing for any project meeting the criteria of § 4.109(a) only if the person filing the notice is the permittee or licensee. If the notice of exemption is submitted by a permittee, the permit will be deemed cancelled. If the notice of exemption is filed by a licensee, the license will be deemed terminated.

(2) *Pending permit, license, or exemption application.*

(i) *General Rule.* Except as permitted under clause (ii), the Commission will not accept a notice of exemption from licensing for any project meeting the criteria of § 4.109(a) if a preliminary permit or license application for that project, or an application for exemption of that project from licensing, has been accepted for filing.

(ii) *Exceptions.* If an application for preliminary permit, license, or exemption from licensing has been accepted for filing for a project meeting the criteria of § 4.109(a), the Commission will accept a notice of exemption from licensing for that project, if:

(A) No competing application, whether for preliminary permit, license, or exemption from licensing, has been accepted for filing for that project;

(B) The last date for filing protests or petitions or petitions to intervene, prescribed in the public notice issued for the permit or license application under § 4.31(c)(2) of this chapter, has passed;

(C) No notice of intent to file a competing preliminary permit or license application for that project has been filed in accordance with § 4.33(b) of this chapter; and

(D) The person filing the notice of exemption is the applicant for preliminary permit, license, or exemption from licensing.

(iii) *Withdrawal of pending applications.* If a notice of exemption from licensing complying with § 4.112 is filed under clause (ii), any pending application for preliminary permit, license, or exemption from licensing will be deemed withdrawn.

(b) *Limitations on submissions and acceptance of permit or license applications.* (1) *General rule.* Except as permitted under subparagraph (2) or under § 4.111 (c) or (e), the Commission will not accept a preliminary permit or license application for any small hydroelectric power project that is exempt from licensing pursuant to § 4.109.

(2) *Exceptions.* (i) If a project is exempted from licensing pursuant to § 4.109, any qualified license applicant may submit a license application that proposes to develop at least 7.5 megawatts in any exempted project.

(ii) If a project is exempted from licensing pursuant to § 4.109 and real property interests in any non-Federal lands would be necessary to develop and operate the project, any person who is both a qualified license applicant and has any of the real property interests in such non-Federal lands may submit a license application for that project. If a license qpplication is submitted under this clause, any other qualified license applicant may submit a competing license application in accordance with § 4.33 of this part.

§ 4.111 Standard terms and conditions of categorical exemption from licensing for projects installed capacity of more than 100 kilowatts.

Any small hydroelectric power project exempted from licensing under § 4.198(a) is subject to the following standard terms and conditions:

(a) *Article 1.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a sutiable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) *Article 2.* The construction, operation, and maintenance of the exempt project must comply with any measures that any fish and wildlife agency may in the future prescribe as part of any migratory fish restoration program.

(c) *Article 3.* The Commission may accept a license application submitted by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the effective date of this exemption. If an exemption is revoked, the Commission will not accept a subsequent notice of exemption from licensing or application for exemption for the project within two years of the revocation.

(d) *Article 4.* This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) *Article 5.* This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application submitted by an qualified license applicant and revoke this exemption if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the effective date of this exemption.

(f) *Article 6.* Any exempted small hydroelectric power project that utilizes a dam that is more than 33 feet in height above streambed, as defined in 18 CFR 12.30(b)(3) of this chapter, impounds more than 2,000 acre-feet of water, or has high hazard potential, as defined in 18 CFR 12.30(b)(2), is subject to the following provisions of 18 CFR Part 12:

(1) § 12.4(b)(2)(i), (ii), (iii)(B), (iv), and (v);

(2) § 12.4(c); and

(3) Subpart D.

(g) For the purposes of applying these provisions of 18 CFR Part 12, the exempted project is deemed to be a licensed project development and the owner of the exempted project is deemed to be a licensee, under the definitions in 18 CFR 13.3.

§ 4.112 Notice of exemption from licensing for projects with installed capacity of more than 100 kilowatts.

(a) *General requirement.*

Any person meeting the requirements specified in § 4.109(c) and filing a notice of exemption from licensing for any small hodroelectric power project under § 4.109(a) must submit:

(1) The original and 14 copies of the notice of exemption described in paragraph (c) of this section; and

(2) Proof of service of a copy of the notice of exemption on:

(i) The U.S. Fish and Wildlife Service and other fish and wildlife agencies;

(ii) The state Historic Preservation Officer for each state in which the project is located; and

(iii) The state water resource agency for each state in which the project is located or, if there are no applicable state water quality standards, the U.S. Environmental Protection Agency.

(b) *Certifications or surveys.* As a basis for certifying to the nature and effects of a small hydroelectric power project under paragraph (c)(4) of this section, a person filing a notice of exemption must:

(1) Obtain certification from the state water resource agency for each state in which the project is located or, if there are no applicable state water quality standards, from the U.S. Environmental Protection Agency, that the project will not cause a violation of any applicable water quality standards.

(2) Obtain certification from the U.S. Fish and Wildlife Service or the fish and wildlife agency for each state in which the project is located that there is no significant existing upstream or downstream passage of fish at any project dam;

(3) Either obtain certification from the state Historic Preservation Officer of each state in which the project is located or obtain an independent field survey and survey of the applicable literature, conducted by an archeologist approved by each applicable state Historic Preservation Officer, with respect to whether the project will entail construction on or alteration of sites included in or eligible for inclusion in the National History Register of Historic Places;

(4) Either obtain certification from the U.S. Fish and Wildlife Service or the state fish and wildlife agency for each state in which the project is located or obtain an independent field survey and survey of the applicable literature, conducted by a biologist approved by each applicable state fish and wildlife agency, with respect to whether the project entails any construction in the vicinity of any endangered or threatened species or critical habitat listed or designated in the regulations of the U.S. Department of the Interior.

(c) *Contents.* The notice of exemption from licensing required by this section must conform to the following format:

Before The Federal Energy Regulatory Commission. Notice of Exemption of Small Hydroelectric Power Project from Licensing.

(1) [Name of filing party or parties] notifies [notify] the Federal Energy Regulatory Commission that the [name of the project], a small hydroelectric power project as defined in 18 CFR 4.102, is exempt from licensing under the terms of 18 CFR 4.109 through 4.111. [If applicable: The project is currently licensed as FERC Project No. ————].

(2) The location of the project is:

[State or territory] ————————
[County]————————
[Township or nearby town] ————————
[River or stream] ————————
[River basin]————————

(3) The exact name, business address, and telephone number of the filing party or parties are:

————————————
————————————

(4) The project includes the following features:

(i) *Dams:* [For each existing dam, identify the dam; state the date on which construction was completed and state both the dam's height above streambed and the gross storage capacity of the related impoundment as defined in 18 CFR 12.30].

(ii) *Powerplants:* [For each powerplant: identify the powerplant; state whether it is existing or proposed; state the hydraulic head; state the installed capacity in kilowatts and average annual generation in kilowatt-hours for any existing electric generating capacity; and state the proposed total installed capacity in kilowatts and the estimated average annual generation in kilowatt-hours for the proposed total installed capacity].

(iii) *Average stream flow:* The average annual streamflow is [   ] cubic feet per second.

(5) It is certified that [name of filing party or parties] has [have] complied with § 4.112(c) of the Commission's regulations and that the small hydroelectric power project conforms to the specifications set forth in § 4.109(a) of the Commission's regulations, including the following:

(i) The [each applicable state water resource agencies or U.S. Environmental Protection Agency] has [have] certified that the construction, operation, and maintenance of the project will not cause a violation of any applicable water quality standards.

(ii) The [U.S. Fish and Wildlife Service or each applicable state fish and wildlife agency] has [have] certified that there is no significant existing upstream or downstream migration of fish at any project dam.

(iii) The proposed small hydroelectric power project does not entail any construction on or alteration of any site that is included in or is eligible for inclusion in the National Register of Historic Places.

(iv) The proposed small hydroelectric power project does not entail construction in the vicinity of any threatened or endangered species or critical habitat listed or designated in the regulations of the U.S. Department of the Interior.

(6) [Signature of filing party or parties under § 1.15 of this chapter; subscription and verification under § 1.16 of this chapter].

§ 4.113 General provisions for categorical exemption from licensing for certain projects with installed capacity of 100 kilowatts or less.

(a) *Exemption.* The Commission categorically exempts from the licensing requirements of Part I of the Act, effective according to paragraph (b) of this section any small hydroelectric power project that:

(1) Utilizes for electric power generation only the water power potential of an existing dam;

(2) Has total proposed installed capacity of not more than 100 kilowatts; and

(3) Is not only part of a licensed water project.

(b) *Effective dates.* (1) *Exemption.* Any small hydroelectric power project meeting the criteria in paragraph (a) of this section is exempted from licensing as of the effective date of this section.

(2) *Proposed capacity.* For purposes of installing or increasing capacity in any project meeting the criteria in paragraph (a), under the definition of small hydroelectric power project in § 4.102(1), the effective date of this section is deemed to be the date of notice of exemption or application under this subpart.

(c) *Limitation on submissions and acceptance of permit or license applications.* For purposes of categorical exemption under this section, the Commission will treat preliminary permit and license applications, preliminary permits, licenses, and applications for exemptions from licensing that are related to a small hydroelectric power project described in § 4.113(a), as follows:

(1) *General rule.* Except as permitted under subparagraph (2), the Commission will not accept a preliminary permit or license application for any small hydroelectric power project that is exempted from licensing pursuant to § 4.113.

(2) *Exceptions.* (i) If a project is exempted from licensing pursuant to § 4.113, any qualified license applicant may submit a license application that proposes to develop at least 7.5 megawatts in any exempted project.

(ii) If a project is exempted from licensing pursuant to § 4.113 and real property interests in any non-Federal lands would be necessary to develop and operate the project, any person who is both a qualified license applicant and has any of those real property interests in non-Federal lands may submit a license application for that project. If a license application is submitted under this clause, any other qualified license applicant may submit a competing license application in accordance with § 4.33 of this part.

§ 4.102 [Amended]

4. Section 4.102(1) is amended by inserting after the words "after the date of" the words "notice of exemption or."

§ 4.104 [Amended]

5. Section 4.104 is amended by revising the title to read *"Case-specific exemption from licensing: relationships among applications, exemptions, permits and licenses."* and by deleting from the first sentence the words "this subpart" and substituting in lieu thereof the words "case-specific exemption under §§ 4.103 through 4.107".

§ 4.105 [Amended]

6. Section 4.105 is amended in the first sentence of paragraph (b)(6) by removing the words "In granting an exemption from licensing," and substituting in lieu thereof the words "In approving any application for exemption from licensing,".

7. Section 4.106 is amended by revising the title of the section, by revising the first sentence, and by revising the second sentence of paragraph (c) to read:

§ 4.106 Standard terms and conditions of case-specific exemption from licensing.

Any case-specific exemption from licensing granted for small hydroelectric power project is subject to the following standard terms and conditions:

* * * * *

(c) *Article 3.*

* * * * *

If an exemption is revoked, the Commission will not accept a subsequent application for exemption or a notice of exemption from licensing within two years of the revocation.

* * * * *

7. Section 375.308 is amended by revising paragraphs (n) and (o) to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

* * * * *

(n) Issue deficiency letters regarding electric rate schedule filings, refund reports, corporate applications for the sale of facilities with respect to interlocking directorates, exemption applications of notices of exemption filed under Subparts J or K of Part 4 of this chapter, and applications filed under Part I of the Federal Power Act.

(o) Reject a rate filing, an application filed under Part I of the Federal Power Act, an application or other filing under section 405 of the Public Utility Regulatory Policy Act of 1978, or a non-complying notice of exemption from licensing filed under §§ 4.109 through 4.112 of this chapter, unless accompanied by a request for waiver in conformity with § 1.14(a)(2) of this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations and orders.

* * * * *

[FR Doc. 81-00152 Filed 1-2-81; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CRF Part 436

[Docket No. 80N-0390]

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs: Revised Standard Response Line Concentrations

Correction

In FR Doc. 80-36665, appearing on page 78162, in the issue of Tuesday, November 25, 1980, make the following corrections:

1. On pages 78162 and 78163, in the extreme right hand column in the heading of the tables, the word "mocrograms" should have read "micrograms".

2. On page 78163, first column, transfer

§ 436.106 Microbiological turbidimetric assay.

* * * * *

(a) * * *

to the preceeding page above the table.

3. On page 78163, first column, second complete paragraph, seventh line, the date reading "November 26, 1980", should have read "January 26, 1981".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 251

Business Practices on Indian Reservations Other Than the Navajo, Hopi or Zuni Reservations

December 18, 1980.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: On April 25, 1980, the Bureau of Indian Affairs (BIA) published a notice of proposed rulemaking that would have amended the regulations governing Indian traders on most Indian reservations. 45 FR 27952. That proposal would have restricted application of the regulations to businesses located in isolated communities where there is an absence of competition. Most comments received were strongly opposed to the proposal and supportive of diligent enforcement of the trader regulations on all Indian reservations. In response to those comments the BIA is now proposing to modernize the trading regulations by adopting as its regulations the consumer protection statutes of the state where the business is located.

DATE: Comments must be received by no later than February 5, 1981.

ADDRESS: Written comments should be addressed to Eugene F. Suarez, Sr., Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Room 1342, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Eugene F. Suarez, Sr., Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Room 1342, Washington, D.C. 20245, telephone: (202) 343-5786.

SUPPLEMENTARY INFORMATION: The authority for issuing these regulations is contained in 25 U.S.C. 261, 262, and 264 and 209 DM 8.

Comments on the proposal published in April were received from tribal attorneys, tribal councils, and individual citizens as well as BIA field staff. Most commentators were opposed to the proposed rules and urged that the existing rules be enforced both because Indian reservation consumers need the protection of the federal government and because the failure of the federal government to regulate could result in permitting more state taxation of transactions involving Indians on Indian reservations.

This new proposal applies to all persons who engage in retail business on any Indian reservation other than the Navajo, Hopi or Zuni reservations. These proposed regulations make a violation of state laws governing retail businesses a violation of the Department's regulations. There are provisions exempting some reservations or parts of reservations from many requirements of the regulations when it is found that economic and social conditions in those areas make it unnecessary to impose such requirements in order to protect Indian consumers. Minimal licensing requirements are imposed in those areas to comply with federal statutes requiring the licensing of all businesses trading with Indians on an Indian reservation.

It is also proposed to repeal § 251.5 of the existing regulations governing trade by BIA employees with Indians because Congress has recently revised the law in that area. Pub. L. 96-277, 94 Stat. 544. New regulations on that subject will be promulgated separately.

This proposed rule may have a significant effect on a substantial number of "small entities" as that term is defined in Section 601 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601.

The primary author of this document is David Etheridge, Office of the Solicitor, Division of Indian Affairs, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is proposed to revise 25 CFR Part 251 to read as follows:

PART 251—BUSINESS PRACTICES ON INDIAN RESERVATIONS OTHER THAN THE NAVAJO, HOPI OR ZUNI RESERVATIONS

Subpart A—Interpretation and Construction Guides

Sec.
251.1 Purpose.
251.2 Scope.
251.3 Definitions.
251.4 Interpretation and construction.

Subpart B—Licensing Requirements and Procedures

251.5 Reservation business license required.
251.6 Approval or denial of license application.
251.7 License period for reservation businesses.
251.8 Application for license renewal.
251.9 License fees for reservation businesses.
251.10 Tribal taxes and enforcement.
251.11 Peddler's permits.
251.12 Amusement company licenses.
251.13 Bond requirement for a reservation business.

Subpart C—General Business Practices

251.14 Trade confined to premises.
251.15 Posting of license.
251.16 Credit at trader's risk.
251.17 Reservation business practices.

Subpart D—Enforcement Powers, Procedures and Remedies

251.18 Penalty and forfeiture of merchandise.
251.19 Revocation of license and lease and recovery on bond.
251.20 Cease and desist orders.
251.21 Periodic review of performance.
251.22 Price monitoring and control.
251.23 Show cause procedures.

Sec.
251.24 Procedures to cancel liability on bond.
251.25 Records, reports and obligations of reservation business owners.

Subpart E—Limited Applicability on Some Reservations

251.26 Provisions subject to exemption.
251.27 Standards for partial exemptions.
251.28 Exempted reservations.

Authority: Sec. 5, Act of August 15, 1876 c. 289, 19 Stat. 200 (25 U.S.C. 261); Sec. 1, Act of March 3, 1901, c. 832, 31 Stat. 1066; Sec. 10, Act of March 3, 1903, c. 994, 32 Stat. 1009 (25 U.S.C. 262); 230 DM2.

Subpart A—Interpretation and Construction Guides

§ 251.1 Purpose.

The purpose of the regulations of this Part is to prescribe rules for the regulation of businesses on Indian reservations for the protection of Indian consumers as required by 25 U.S.C. §§ 261, 262, 263 and 264.

§ 251.2 Scope.

The regulations of this Part apply to all persons who engage in retail business on any Indian reservation with the exception of retail business on the Navajo, Hopi, and Zuni Reservations and with exception of any person who is a member of the tribe occupying the reservation where his or her business is located. These regulations do not apply to businesses wholly owned by the tribe occupying the reservation where the business is located. Retail business conducted on the Navajo, Hopi and Zuni Reservations is regulated under the provisions of Part 252 of this Title.

§ 251.3 Definitions.

For the purposes of this Part—

(a) "Firm" means a corporation or a partnership.

(b) "Gross receipts" include the following:

(1) All cash received from the conduct and operation of the licensee's business at the premises described in the application for license.

(2) Receipts from both wholesale and retail transactions.

(3) Receipts resulting from transactions concluded off the reservation that originate from the conduct and operation of the licensee's business on the reservation.

(4) The market value of all property taken in trade on the date when received and either held by the licensee for purposes other than resale or credited on any account in payment for merchandise.

(5) Proceeds from the sale of any goods bought from Indians regardless of where the sale takes place.

(6) Finance charge received on loans, but not the return of principal.

(c) "Peddler" means a person who offers goods for sale within the exterior boundaries of a reservation, but does not do business from a fixed location or site on a reservation.

(d) "Person" includes a natural person, a corporation, trust, estate, partnership, cooperative or association.

(e) "Reservation business" means a retail business operating from a fixed location on an Indian reservation that sells goods or services to Indians, buys goods from Indians, or makes consumer credit transactions with Indians and is not a bank, saving bank, trust company, savings or building and loan association operating under the laws of the United States or of the state in which the reservation is located.

(f) "Retail business" means a business that sells goods or services (other than medical or legal services) to the ultimate consumer of those goods or services.

§ 251.4 Interpretation and construction.

(a) "Area Director" refers to the Area Director of the Bureau of Indian Affairs who has jurisdiction over the land on which a person does business or intends to do business with Indians.

(b) "Commissioner" refers to the Commissioner of Indian Affairs or a person to whom the Commissioner of Indian Affairs has delegated authority under this Part or under 25 U.S.C. 261, 262, 263, or 264.

(c) "Superintendent" refers to the Superintendent of the Bureau of Indian Affairs who has jurisdiction over the land on which a person does business or intends to do business with Indians.

(d) "Tribe" refers to the tribe that has jurisdiction over the land on which a person does business or intends to do business with Indians.

Subpart B—Licensing Requirements and Procedures

§ 251.5 Reservation business license required.

(a) No person may own or lease a reservation business without a license issued under the provisions of this subpart.

(b) The applicant shall apply in writing on a form provided by the Commissioner setting forth the following:

(1) The full name and residence of the applicant.

(2) The firm name and the name of each member of the board of directors if the applicant is a firm.

(c) If the Commissioner believes such information is needed to protect Indian consumers, the applicant shall furnish the following information:

(1) The capital invested or to be invested and, of this, the amount of capital owned and the amount borrowed or to be borrowed.

(2) The name of the lender of any borrowed capital, the date due, the rate of interest to be paid, and the names of any endorsers and security.

(3) A copy of any contract or trade agreement whether oral or written with creditors or financing individuals or institutions, including any stipulations whereby financing fees are to be paid.

(d) Information that if released might adversely affect the competitive position of the applicant shall remain confidential.

§ 251.6 Approval or denial of license application.

(a) The Commissioner shall approve or deny each license application and notify the applicant no later than thirty (30) days after receipt of a completed application.

(b) The Commissioner may not deny a license to an applicant for the purpose of limiting competition.

(c) If the application is approved the license shall be issued on a form provided by the Commissioner.

(d) If the Commissioner denies the license application the applicant may appeal under the provisions of Part 2 of this Title no later than thirty (30) days after the date on which notice of denial of the application was received.

§ 251.7 License period for reservation businesses.

A license to operate a reservation business may not be issued unless the applicant has a right to use the land on which the business is to be conducted. If the land on which the business is to be conducted is held pursuant to a lease, the license period shall correspond to the period of the lease held by the licensee. If the lease is for a term greater than twenty-five (25) years, or if the land on which the business is to be conducted is held in fee by the licensee, the license period may not exceed twenty-five (25) years.

§ 251.8 Application for license renewal.

(a) An applicant for renewal of the license to trade shall file an application on a form provided by the Commissioner with the Area Director not less than three (3) months prior to the expiration of the existing license.

(b) The Commissioner may issue a temporary permit for three (3) months pending consideration of application for license renewal.

(c) Prior to expiration of the existing license or, if issued, the temporary permit, the Commissioner shall approve or deny the application for license renewal and notify the applicant.

(d) If the Commissioner denies the application for renewal, the applicant may appeal under the provisions of Part 2 of this Title.

§ 251.9 License fees for reservation businesses.

(a) Prior to the issuance of an initial license, each licensee shall pay fifty dollars ($50).

(b) Each licensed business owner shall pay on or before January 10 of each year an annual license fee determined as follows based on the licensee's most recent annual report:

(1) If the licensee's gross receipts are less than one hundred thousand dollars ($100,000) for the year or the licensee has not yet been required to file its first annual report, the license fee is fifty dollars ($50).

(2) If the licensee's gross receipts for the year are at least one hundred thousand dollars ($100,000) but less than five hundred thousand dollars ($500,000) the fee is one hundred dollars ($100).

(3) If the licensee's gross receipts for the year are at least five hundred thousand dollars ($500,000) but less than seven hundred and fifty thousand dollars ($750,000), the fee is two hundred dollars ($200).

(4) If the licensee's gross receipts for the year are seven hundred fifty thousand dollars ($750,000) or more, the fee is three hundred dollars ($300).

(c) All fees are payable to the Area Director and shall be deposited to the credit of a subaccount of the account "Indian Monies, Proceeds of Labor" and shall be expended in the enforcement of the regulations of this Part.

§ 251.10 Tribal taxes and enforcement.

(a) The regulations in this Part do not preclude tribal governments from assessing and collecting such taxes as they may have authority to impose on reservation businesses.

(b) Nothing in the regulations of this Part may be construed to preclude tribal enforcement of tribal ordinances consistent with the regulations of this Part.

§ 251.11 Peddler's permits.

(a) No peddler may offer goods for sale within the exterior boundaries of a reservation without a peddler's permit. The permit shall state on its face the class of goods that may be offered for sale. No peddler may offer for sale any class of goods other than those listed on the face of the permit.

(b) The applicant shall apply for a permit in writing on a form provided by the Commissioner.

(c) Peddlers shall pay such fee and post such surety bond on a form provided by the Commissioner as the Commissioner requires. The surety bond required may not be more than ten thousand dollars ($10,000).

(d) Any surety on the bond of a peddler may be relieved of liability by complying with the provisions of § 251.24.

§ 251.12 Amusement company licenses.

(a) No person may operate a portable dance pavillion, mechanical amusement device such as a ferris wheel or carousel, or commercial games of skill within the exterior boundaries of a reservation without a license from the Commissioner.

(b) The licensee shall pay such fee as the Commissioner requires. The fee shall be not less than five dollars ($5) nor more than twenty-five dollars ($25) per unit.

(c) The applicant shall apply for a permit in writing on a form provided by the Commissioner.

(d) The licensee shall post a surety bond on a form provided by the Commissioner in an amount not exceeding ten thousand dollars ($10,000) and a personal injury and property damage liability bond of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) as may be required by the Commissioner.

(e) The provisions of this section do not apply to amusement companies where the contract between the tribe and the amusement company provides for the payment of a fee to the tribe and for the protection of the public against personal injury and property damage by bond in the amounts specified in paragraph (c) of this section.

(f) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 251.24.

§ 251.13 Bond requirement for a reservation business.

(a) An applicant for a license or renewal of a license to operate a reservation business shall at the time the application is submitted furnish a bond on a form provided by the Commissioner in the name of the applicant in such sum as the Commissioner may designate, with two (2) or more sureties approved by the Commissioner or with a guaranty company qualified under the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. 6–13). The bond shall be for the same period covered by the license. No licensee may trade without a bond. Except as provided in paragraph (c) of this section no surety may be released from liability until the license expires.

(b) The bond shall be in favor of the United States for the benefit of the United States and any customer of the licensee who recovers a judgment for damages resulting from violation of any law or regulation affecting or relating to reservation businesses. Any customer who recovers such a judgment may bring suit on the bond in his or her name. The bond shall be conditioned on payment by the licensee of all judgments for damages resulting from violations of the regulations of this Part.

(c) Any surety on the bond of a licensed reservation business may be relieved from liabilities by complying with the provisions of § 251.25 of this Title.

Subpart C—General Business Practices

§ 251.14 Trade confined to premises.

The licensee shall confine all trade on the reservation to the premises specified in the license.

§ 251.15 Posting of license.

The licensee of a reservation business shall display its reservation business license in a prominent place where it is legible to customers.

§ 251.16 Credit at trader's risk.

Credit given Indians will be at the licensee's own risk, as no assistance will be given by Government officials in the collection of debts against Indians.

§ 251.17 Reservation business practices.

(a) Except as provided in subsection (b) of this section, each licensee or permittee must comply with all laws governing retail businesses of the state in which the licensee is doing business. A violation of such state laws or of applicable tribal laws governing retail businesses is a violation of the regulations of this Part.

(b) This section does not require any licensee to obtain a state license, pay state fees or obtain bond required by state laws.

(c) Any violation by a licensee of any federal law governing retail businesses is also a violation of the regulations of this Part.

Subpart D—Enforcement Powers, Procedures and Remedies

§ 251.18 Penalty and forfeiture of merchandise.

Any person who either resides as a reservation business owner within the exterior boundaries of a reservation or introduces or attempts to introduce goods or to trade therein without a license or permit shall forfeit all merchandise offered for sale to the Indians or found in the person's possession and is liable to a penalty of five hundred dollars ($500). This section may be enforced by commencing an action in the appropriate United States District Court under the provisions of 28 U.S.C. § 1345.

§ 251.19 Revocation of license and lease and recovery on bond.

The reservation business owner is subject to revocation of license and tribal lease and recovery on the bond in whole or in part in the event of any violation of the regulations of the Part after a show cause proceeding according to the provisions of § 251.23.

§ 251.20 Cease and desist orders.

(a) If the Commissioner believes that violation of the regulations in this Part is occurring, the Commissioner may order the person believed to be in violation to show cause according to the provisions of § 251.23 why a cease and desist order should not be issued.

(b) If the person accused of the violations fails to show cause at the hearing why such an order should not issue, the Commissioner shall issue the order.

(c) A person subject to a cease and desist order issued under this section who violates the order is liable to revocation of license after a show cause proceeding according to the provisions of § 251.23 of this Part.

(d) The Commissioner may close any reservation business subject to the provisions of this Part that does not hold a valid license or temporary permit.

§ 251.21 Periodic review of performance.

(a) The Commissioner shall review licenses at ten (10) year intervals to determine whether or not the business is operating in accordance with these regulations and all other applicable laws and regulations.

(b) If, as a result of the review provided in paragraph (a) of this section, the Commissioner finds that the licensee has repeatedly violated these regulations, the Commissioner may order the licensee to show cause according to the provisions of § 251.23 why the licensee's license should not be revoked.

(c) If the licensee fails to show cause why the license should not be revoked, the Commissioner shall revoke the license.

§ 251.22 Price monitoring and control.

(a) A reservation business may not charge its customers unfair or unreasonable prices.

(b) To insure compliance with this section, the Commissioner shall annually perform audits as provided in § 251.25(b). In performing those audits the Commissioner may inspect all original books, records, and other evidences of the cost of doing business. In addition, at least once a year the Commissioner shall cause to be made a survey of the prices of flour, sugar, fresh eggs, lard, coffee, ground beef, bread, cheese, fresh milk, canned fruit, and such other goods as the Commissioner deems appropriate in all stores licensed under these regulations and in a representative number of similar stores located in communities immediately adjoining the reservations. The results of the survey shall be posted publicly, sent to each licensed business, and made available to the appropriate agency of the tribal government. Copies of the survey shall be available at the office of the Area Director.

(c) If the Commissioner finds that a reservation business is charging higher prices, especially for basic consumer commodities, than those charged on the average based on the studies conducted under the provisions of paragraph (b) of this section, the Commissioner may order the business owner to show cause under the provisions of § 251.23 why an order should not be issued to reduce prices. If the Commissioner determines that the prices charged by the business are not economically justified, based on all of the information, then the Commissioner may order the business to reduce its price on all items determined to be priced too high to a reasonable price as determined by the Commissioner, but in no event to a lower price than the cost of the item increased by a reasonable mark-up.

§ 251.23 Show cause procedures.

(a) When the Commissioner believes there has been a violation of this Part the Commissioner shall serve the licensee with written notice setting forth in detail the nature of the alleged violation and stating what remedial action the Commissioner proposes to take.

(b) The licensee shall have ten (10) days from the date of receipt of notice in which to show cause why the contemplated remedial action should not be ordered.

(c) If within the ten (10) day period the Commissioner determines that the violation may be corrected and the licensee agrees to take the necessary corrective measure, the licensee shall be given the opportunity to take the necessary corrective measures.

(d) If the licensee fails within a reasonable time to correct the violation or to show cause why the contemplated remedial action should not be ordered, the Commissioner shall order the appropriate remedial action.

(e) If the Commissioner orders remedial action the licensee may appeal under the provisions of Part 2 of this Title not later than thirty (30) days after the date on which the remedial action is ordered.

§ 251.24 Procedures to cancel liability on bond.

(a) Any surety who wishes to be relieved from liability arising on a bond issued under this Part shall file with the Commissioner a statement in writing setting forth the desire of the surety to be relieved of liability and the reasons therefor.

(b) The surety shall mail a copy of the statement by certified mail, return receipt requested, to the last known address of the licensee named in the bond.

(c) Twenty (20) days after the statement required in paragraph (b) of this section is mailed to the licensee and the statement required in paragraph (a) of this section is filed with the Commissioner, the surety is released from all liability thereafter arising on the bond.

(d) If the licensee does not have other bond sufficient to meet the requirements of this Part or has not executed and filed a new or substitute bond within twenty (20) days after the service of the statement, the Commissioner shall declare the license void.

(e) No surety is released from liabilify under the bond for claims which arose prior to the issuance of the Commissioner's order releasing the surety.

§ 251.25 Records, reports and obligations of reservation business owners.

(a) The Commissioner may, in consultation with interested persons and agencies, promulgate a model bookkeeping system for use in reservation businesses. Until such model bookkeeping system is promulgated, each business owner shall keep records in accordance with generally accepted accounting principles.

(b) Each reservation business owner shall file with the Area Director an annual report on or before April 15 in a form approved by the Commissioner. Reports shall be subject to a yearly audit. The reports shall contain the

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names and respective interests of all persons participating in the business.

(c) The business owner or an employee shall record all sales and purchases whether for cash or credit. The owner or an employee shall supply the customer with a copy of the sales transaction containing a description of the article purchased or sold, the date of the transaction, and the price. A cash register receipt complies with this paragraph for grocery or dry goods purchases for cash.

(d) The licensee shall keep a duplicate copy of any writing required by paragraph (c) of this section for a period of not less than three (3) years and shall provide the customer or the customer's representative one copy of those writings upon request.

Subpart E—Limited Applicability on Some Reservations

§ 251.26 Provisions subject to exemption.

Reservations or portions of reservations identified in § 251.28 of this Part are exempt from the provisions of §§ 251.5(c), 251.9(b), 251.13, 251.21, 251.22, 251.24 and 251.25.

§ 251.27 Standards for partial exemptions.

(a) The Commissioner may revise the list of partially exempted areas in § 251.28 of this Part by adding areas to the list or deleting them from the list. Additional areas will be exempted only if the Commissioner finds that Indian consumers in the areas under consideration are adequately protected without requiring compliance with the provisions listed in § 251.26 of this Part. Listed areas will be deleted form the list only if the Commissioner finds that requiring compliance with the provisions listed in § 251.26 of this Part in such areas is necessary to provide adequate protection to Indian consumers in the areas under consideration.

(b) Such findings shall be based on factors including, but not limited to, the following:

(1) The degree of competition encountered by licensees in the area under consideration form other businesses both on and off the reservation.

(2) The ability of Indian consumers to shop at other businesses that provide similar goods or services either on or off the reservation.

(3) Whether or not the businesses in the area under consideration have engaged in the past in the types of abuses that the provisions of this Part seek to prevent.

(4) The percentage of the consumers served by the businesses in the affected area who are not Indian.

§ 251.28 Exempted reservations.

The following reservations or parts of reservations are exempt from those provisions listed in § 251.26 of this Part:

(a) All reservations in Nebraska.

(b) All reservations in North Dakota.

(c) All reservations in South Dakota except the Pine Ridge reservation.

(d) All reservations in New Mexico except:

(1) Acoma Pueblo.

(2) Cochiti Pueblo.

(3) Jemez Pueblo.

(4) Santa Domingo Pueblo.

(5) San Felipe Pueblo.

(6) Zia Pueblo.

(7) Ramah Reservation.

(e) All reservations in Colorado.

(f) All reservations in Oklahoma.

(g) All reservations in Kansas.

(h) All reservations in Montana.

(i) All reservations in Florida.

(j) The Cherokee Reservation in North Carolina.

(k) All reservations in Maine.

(l) The Choctaw Reservation in Mississippi.

(m) The Metlakatla Reservation in Alaska.

(n) All reservations in Minnesota except the Red Lake Reservation.

(o) All reservations in Wisconsin.

(p) The Sac and Fox Reservation in Iowa.

(q) All reservations in Arizona except:

(1) Papago Reservation.

(2) The Supai community on the Havasupai Reservation.

(3) The Peach Springs community on the Hualapai Reservation.

(4) Cibicue community on the White Mountain Apache Reservation.

(5) The Owyhee community on the Duck Valley Reservation.

(6) The fort McDermitt community on the Fort McDermitt Reservation.

(7) The Yomba community on the Yomba Reservation.

(r) All reservations in Utah except the Ouray, Randelett and White Rock communities of the Unitah and Ouray Reservation.

(s) All reservations in Washington except the Makah Reservation.

(t) All reservations in Oregon.

(u) All reservations in Idaho.

(v) All reservations in California.

(w) The Wind River Reservation in Wyoming.

Thomas W. Fredericks,
Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 81-284 Filed 1-5-81; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 59

Guidelines on Methods of Obtaining Documentary Materials Held by Third Parties

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: As required by Title II of the Privacy Protection Act of 1980 (Pub. L. 96-440, § 201, et seq., 42 U.S.C. 2000aa-11, et seq., these guidelines will govern the methods used by all federal officers and employees to obtain documentary materials in the possession of persons who are neither suspects in an offense nor closely related to such suspects. The primary purpose of these guidelines is to limit the use of search warrants to obtain documentary materials held by third parties when less intrusive but equally effective alternative means of obtaining such materials exist.

DATE: Comments must be submitted on or before February 5, 1981.

ADDRESS: Comments may be mailed to: The Assistant Attorney General, Criminal Division, United States Department of Justice, Room 2107 Main Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Warlow, Criminal Division, United States Department of Justice, Room 2209 Main Justice, Washington, D.C. 20530, (202) 633-3645.

Accordingly, under the authority of Title II of the Privacy Protection Act of 1980, Pub. L. 96-440, § 201, et seq., 42 U.S.C. 2000aa-11, et seq., the Attorney General proposes to issue, as a new Part 59 to Title 28, Code of Federal Regulations, guidelines on methods of obtaining documentary materials held by third parties to read substantially as follows:

Dated: December 29, 1980.

Philip B. Heymann,
Assistant Attorney General, Criminal Division.

PART 59—GUIDELINES ON METHODS OF OBTAINING DOCUMENTARY MATERIALS HELD BY THIRD PARTIES

Sec.
59.1 Introduction.
59.2 Definitions.
59.3 Applicability.
59.4 Procedures.
59.5 Sanctions.

Authority: Title II of the Privacy Protection Act of 1980 (Pub. L. 96-440, § 201, et seq., 42 U.S.C. 2000aa-11, et seq.)

§ 59.1 Introduction.

(a) A search for documentary materials necessarily involves intrusions into personal privacy. First, the privacy of a person's home or office may be breached. Second, the execution of such a search may require examination of private papers within the scope of the search warrant, but not themselves subject to seizure. In addition, where such a search involves intrusions into professional, confidential relationships, the privacy interests of other persons are also implicated.

(b) It is the responsibility of federal officers and employees to recognize the importance of these personal privacy interests, and to protect agianst unnecessary intrusions. Generally, when documentary materials are held by a disinterested third party, a subpoena, administrative summons, or governmental request will be an effective alternative to the use of a search warrant and will be considerably less intrusive. The purpose of the guidelines set forth in this part is to assure that federal officers and employees do not use search and seizure to obtain documentary materials in the possession of disinterested third parties unless reliance on alternative means would substantially jeopardize their avialability (e.g., by creating a risk of destruction, etc.) or usefulness (e.g., by detrimentally delaying the investigation, destroying a chain of custody, etc.). Therefore, the guidelines in this part establish certain criteria and procedural requirements which must be met before a search warrant may be used to obtain documentary materials held by disinterested third parties. The guidelines in this part are not intended to inhibit the use of less intrusive means of obtaining documentary materials such as the use of a subpoena, summons, or formal or informal request.

§ 59.2 Definitions.

As used in this part—

(a) The term "attorney for the government" shall have the same meaning as is given that term in Rule 54(c) of the Federal Rules of Criminal Procedure;

(b) The term "designee" of the Attorney General means any official of the Department of Justice at the level of Deputy Assistant Attorney General or above, who has been specifically designated by the Attorney General to approve search warrant applications governed by subsection 3(b) of this part.

(c) The term "disinterested third party" means a person or organization not reasonably believed to be—

(1) A suspect in the criminal offense to which the materials sought under these guidelines relate; or

(2) Related by blood or marriage to such a suspect;

(d) The term "documentary materials" means any materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, films or negatives, audio or video tapes, or materials upon which information is electronically or magnetically recorded, *but does not include* materials which constitute contraband, the fruits or instrumentalities of a crime, or things otherwise criminally possessed; and

(e) The term "law enforcement officer" shall have the same meaning as the term "federal law enforcement officer" as defined in Rule 41(h) of the Federal Rules of Criminal Procedure.

§ 59.3 Applicability.

(a) The guidelines set forth in this part apply, pursuant to Title II of the Privacy Protection Act of 1980 (Pub. L. 96–440, § 201, et seq., 42 U.S.C. 2000aa–11, et seq.), to the procedures used by any federal officer or employee, in connection with the investigation or prosecution of a criminal offense, to obtain documentary materials in the private possession of a disinterested third party.

(b) The guidelines set forth in this part do not apply to: (1) Audits, examinations, or regulatory or compliance inspections pursuant to federal statute or the terms of a federal contract;

(2) Governmental access to documentary materials for which valid consent has been obtained; or

(3) Methods of obtaining documentary materials whose location is known but which have been abandoned or which cannot be obtained through subpoena or request because they are in the possession of a person whose identity is unknown and cannot with reasonable effort be ascertained.

(c) The use of search and seizure to obtain documentary materials which are believed to be possessed for the purpose of disseminating to the public a book, newspaper, broadcast, or other form of public communication is subject, in addition to any limitations or requirements imposed by the guidelines, in this part to the limitations set out in Title I of the Privacy Protection Act of 1980 (Pub. L. 96–440, § 101, et seq., 42 U.S.C. 2000aa, et seq.).

§ 59.4 Procedures.

(a) *Provisions governing the use of search warrants generally.* (1) A search warrant should not be used to obtain documentary materials believed to be in the private possession of a disinterested third party unless it appears that the use of a subpoena, summons, request, or other less intrusive alternative means of obtaining the materials would substantially joepardize the availability or usefulness of the materials sought, and the application for the warrant has been authorized as provided in paragraph (2) below.

(2) No federal officer or employee shall apply for a warrant to search for and seize documentary materials believed to be in the private possession of a disinterested third party unless the application for the warrant has been authorized by an attorney for the government. Provided, however, that in an emergency situation in which the immediacy of the need to seize the materials does not permit an opportunity to secure the authorization of an attorney for the government, the application may be authorized by a supervisory law enforcement officer in the applicant's department or agency, if the appropriate United States Attorney is notified of the authorization and the basis for justifying such authorization under this part within 24 hours of the authorization.

(b) *Provisions governing the use of search warrants which may intrude upon professional, confidential relationships.* (1) A search warrant should not be used to obtain documentary materials believed to be in the private possession of a disinterested third party physician, lawyer, psychiatrist, or clergyman, under circumstances in which the materials sought, or other materials likely to be reviewed during the execution of the warrant, contain confidential information on patients or clients which was furnished for the purposes of professional counseling or treatment, unless—

(i) It appears that the use of a subpoena, summons, request, or other less intrusive alternative means of obtaining the materials would substantially jeopardize the availability or usefulness of the materials sought;

(ii) Access to the documentary materials appears to be of substantial importance to the investigation or prosecution for which they are sought; and

(iii) The application for the warrant has been approved as provided in paragraph (2) below.

(2) No federal officer or employee shall apply for a warrant to search for and seize documentary materials believed to be in the private possession of a disinterested third party physician, lawyer, psychiatrist, or clergyman under

the circumstances described in paragraph (1) above, unless, upon the recommendation of the United States Attorney, the Attorney General or his designee has authorized the application for the warrant. Provided, however, that in an emergency situation in which the immediacy of the need to seize the materials does not permit an opportunity to secure the authorization of the Attorney General or his designee, the application may be authorized by the United States Attorney if the Attorney General or his designee is notified of the authorization and the basis for justifying such authorization under this part within 72 hours of the authorization.

(3) Whenever possible, a request for authorization by the Attorney General or his designee of a search warrant application pursuant to paragraph (2) above shall be made in writing and shall include:

(i) The application for the warrant; and

(ii) A brief description of the facts and circumstances advanced as the basis for recommending authorization of the application under this part.

If a request for authorization of the application is made orally or if, in an emergency situation, the application is authorized by the United States Attorney as provided in paragraph (2) above, a written record of the request including the materials specified in subparagraphs (i) and (ii) shall be transmitted to the Attorney General or his designee within 7 days. The Attorney General or his designee shall keep a record of the disposition of all requests for authorizations of search warrant applications made under this subsection (b).

(4) A search warrant authorized under paragraph (2) above shall be executed in such a manner as to minimize to the greatest extent practicable scrutiny of confidential materials.

(5) Although it is impossible to define the full range of additional doctor-like therapeutic or counseling relationships which involve the divulging of private information, the United States Attorney should determine whether a search for documentary materials held by other disinterested third party professionals involved in such relationships (e.g., psychologists or psychiatric social workers) would implicate the special privacy concerns which are addressed in this subsection. If the United States Attorney determines that such a search would require review of extremely confidential information furnished or retained for the purposes of professional counseling or treatment, the provisions of this subsection should be applied. Otherwise at a minimum, the requirements of subsection (a) must be met.

(c) *Considerations bearing on choice of methods.* In determining whether, as an alternative to the use of a search warrant, the use of a subpoena or other less intrusive means of obtaining documentary materials would substantially jeopardize the availability or usefulness of the materials sought, the following factors, among others, should be considered:

(1) Whether it appears that the use of a subpoena or other alternative which gives advance notice of the government's interest in obtaining the materials would be likely to result in the destruction, alteration, concealment, or transfer of the materials sought; considerations bearing on this issue may include:

(i) Whether a suspect has access to the materials sought;

(ii) Whether there is a close relationship of friendship, loyalty, or sympathy between the possessor of the materials and a suspect;

(iii) Whether the possessor of the materials is under the domination or control of a suspect;

(iv) Whether the possessor of the materials has an interest in preventing the disclosure of the materials to the government;

(v) Whether the possessor's willingness to comply with a subpoena or request by the government would be likely to subject him to intimidation or threats of reprisal;

(vi) Whether the possessor has previously acted to obstruct a criminal investigation or judicial proceeding or refused to comply with or acted in defiance of court orders; or

(vii) Whether the possessor has expressed an intent to destroy, conceal, alter, or transfer the materials;

(2) The immediacy of the government's need to obtain the materials; considerations bearing on this issue may include:

(i) Whether the immediate seizure of the materials is necessary to prevent injury to persons or property;

(ii) Whether the prompt seizure of the materials is necessary to preserve their evidentiary value; or

(iii) Whether delay in obtaining the materials would significantly jeopardize an ongoing investigation or prosecution.

The fact that the disinterested third party possessing the materials may have grounds to challenge a subpoena or other legal process is not in itself a legitimate basis for the use of a search warrant.

§ 59.5 Sanctions.

(a) Any federal officer or employee violating the guidelines set forth in this part shall be subject to appropriate administrative disciplinary action by the agency or department by which he is employed.

(b) Pursuant to section 202 of the Privacy Protection Act of 1980 (Pub. L. 96–440, § 202, 42 U.S.C. 2000aa–12), an issue relating to the compliance, or the failure to comply, with the guidelines set forth in this may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence.

[FR Doc. 81–314 Filed 1–5–81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2520

Summary Annual Report Furnished Participants and Beneficiaries of Employee Benefit Plans, Amendments and Corrections

AGENCY: Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Department of Labor regulation governing the summary annual report (SAR) furnished participants and beneficiaries of certain employee benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA). These amendments are necessary in order to accommodate the summary annual report requirements to the triennial filing system recently implemented for certain small employee benefit plans filing the annual report. The amendments will require small plans filing Form 5500–R to furnish a copy of that form to participants and beneficiaries in lieu of furnishing the summary annual report in those years for which the Form 5500–R is filed. The SAR requirements remain generally unchanged for plans filing Form 5500 and for small plans in those years for which the Form 5500–C or the Form 5500–K is filed. The document also contains several minor corrections to the regulation and the attached appendix.

DATES: The amendments, if adopted, would be effective 30 days after publication in the **Federal Register**; comments on these proposals must be submitted on or before March 9, 1981.

ADDRESSES: Written comments (preferably three copies) should be submitted to the Division of Reporting and disclosure, Pension and Welfare Benefit Programs, Room N-4508, Frances Perkins Department of Labor Building, Washington, D.C. 20216, Attention: Summary Annual Report Amendments. All comments should be clearly referenced to the section of the regulation to which they apply. All written comments will be available for public inspection at the Public Disclosure Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Joseph L. Roberts III, Office of Reporting and Plan Standards, Division of Reporting and Disclosure, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523-8685. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: Section 104(b)(3) of ERISA and regulation section 2520.104b-10 require (except as provided in subsection (f) of the regulation) the administrator of an employee benefit plan to furnish annually to each participant of such plan and to each beneficiary receiving benefits under an employee pension benefit plan a summary annual report (SAR) which summarizes the information included in the annual report and which conforms to the requirements of the regulation as to form, style and content. The Department has recently implemented a new triennial reporting system beginning with the 1980 plan year under which small plans are required to file a detailed financial report (Forms 5500-C or 5500-K) only every third year, and a brief registration statement (Form 5500-R) in the two intervening years (45 FR 51446, August 1, 1980).

A number of persons who submitted comments on the proposal to adopt a triennial reporting system raised the question of the status of the SAR under such a system. It was suggested that the current required SAR forms would be incompatible with the information filed under the new system on Form 5500-R. The Department agrees that the present SAR requirements should be changed to accommodate the new Form 5500-R. The information that is to be included in the present SAR forms prescribed in section 2520.104b-10 is for the most part not contained on the 5500-R. Therefore, it would be inconsistent with objectives of the triennial system and burdensome to require small plans to prepare such information in those years in which they file the 5500-R

Accordingly, the proposed revisions would require the annual disclosure of such plan information as is consistent with the information reported that year to the Department on Form 5500-C, 5500-K or 5500-R. The proposed revisions would require administrators of small plans to distribute to participants and beneficiaries copies of the Form 5500-R itself in lieu of the present SAR form for those years for which form 5500-R is filed as an annual return. The revisions should make compliance with the SAR requirements convenient for small plans filing under the triennial reporting system, and also provide annual disclosure to plan participants and beneficiaries, as contemplated in the statute.

The Department has determined that these proposed amendments are "significant" within the meaning of Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 24, 1978).

This regulation is proposed under the authority in sections 104, 109, 110 and 505 of ERISA (Pub. L. 93-406, 88 Stat. 847, 851, 894 (29 U.S.C. 1024, 1029, 1030, 1135)).

For the reasons set out in the preamble, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

1. Paragraph (a), the introductory text of paragraphs (b), paragraph (d)(1) and (2), the first sentence of paragraph (e), paragraph (f)(3), and the Appendix are all revised; paragraph (c) (3) and (4) are amended.

§ 2520.104b-10 Summary Annual Report.

(a) *Oligation to furnish.* (1) Except as otherwise provided in this paragraph (a) and in paragraph (f) of this section, the administrator of any empoloyee benefit plan shall furnish annually to each participant of such plan and to each beneficiary receiving benefits under such plan a summary annual report conforming to the requirements of this section. Such furnishing of the summary annual report shall take place in accordance with the requirements of § 2520.104b-1 of this part.

(2) The administrator of any employee benefit plan filing Form 5500-R under § 2520.104-41 shall furnish to each participant of such plan and to each beneficiary receving benefits under such plan a copy of the Form 5500-R filed with the Department in place of the summary annual report referred to in subparagraph (a)(1). Such furnishing of the Form 5500-R shall take place in accordance with the requirements of § 2520.104b-1 of this part.

(3) Any Form 5500-R furnished in accordance with subparagraph (a)(2) shall be attached to a completed copy of the following notice:

Disclosure of Plan Information under ERISA

Attached is a copy of the Registration Statement (Form 5500-R) for (name of plan) for (period covered by this Registration Statement). The Registration Statement contains information about the plan and has been filed with the Internal Revenue Service under the Employee Retirement Income Security Act of 1974 (ERISA). Department of Labor regulations require a copy of the Form 5500-R to be furnished to you for the plan years for which the Form 5500-R is filed.

You also have the right to receive from the plan administrator (see item 2 on 5500-R), on request, a copy of Schedule A (Insurance Information) and Schedule B (Actuarial Information), which were filed with the attached Form 550-R. The charge to cover copying costs will be [$] for Schedules A and B, or [$] per page for any part thereof.

You also have the legally protected right to examine these documents at the main office of the plan (address, if different from 5500-R, item 2a), (at any other location where these documents are available for examination), and at the U.S. Department of Labor in Washington, D.C., or to obtain a copy from the U.S. Department of Labor upon payment of copying costs. Requests to the Department should be addressed to: Public Disclosure Room, N-4677, Pension and Welfare Benefit Programs, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

[Note.—Inapplicable portions of this notice may be omitted.]

(b) *When to furnish.* Except as otherwise provided in this paragraph (b), the summary annual report required by subparagraph (a)(1) of this section, or the Form 5500-R and attached Notice required under subparagraphs (a)(2) and (a)3) of this section, shall be furnished to participants and beneficiaries within nine months after the close of the plan year.

(1) * * *

(2) * * *

(c) *Contents, Style and Format.* * * *

(3) *Form for Summary Annual Report Relating to Pension Plans.*

Your Rights to Additional Information

* * * * *

3. Fiduciary information, including transactions between the plan and parties-in-

interest (that is, persons who have certain relationships with the plan);

* * * * *

(4) *Form for Summary Annual Report Relating to Welfare Plans.*

* * * * *

Insurance Information

* * * * *

The total premiums paid for the plan year ending (date) were ($).

* * * * *

Your Rights to Additional Information

3. Fiduciary information, including transactions between the plan and parties-in-interest (that is, persons who have certain relationships with the plan);

* * * * *

(d) *Foreign languages.* In the case of either—

(1) A plan which covers fewer than 100 participants at the beginning of a plan year in which 25 percent or more of all plan participants are literate only in the same non-English language, or

(2) A plan which covers 100 or more participants in which 500 or more participants or 10 percent or more of all plan participants, whichever is less, are literate only in the same non-English language. The plan administrator for such plan shall provide these participants with an English-language summary annual report (or, if appropriate, copy of Form 5500–R) which prominently displays (or, to which has been attached) a notice, in the non-English language common to these participants, offering them assistance. The assistance provided need not involve written materials, but shall be given in the non-English language common to these participants. The notice offering assistance shall clearly set forth any procedures participants must follow to obtain such assistance.

(e) *Furnishing of additional documents to participants and beneficiaries.* A plan administrator shall promptly comply with any request by a participant or beneficiary for additional documents made in accordance with the procedures or rights described in subparagraph (a)(3) and paragraph (c) of this section. * * *

(f) *Exemptions.* * * *

(3) An apprenticeship or other training plan which meets the requirements of 29 CFR 2520.104–22; * * *

Signed at Washington, D.C., this 29th day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor Management Services Administration.

Appendix.—*The Summary Annual Report (SAR) Under ERISA*

[A cross-reference to the annual report]

A. Pension Plans

SAR item	Form 5500 line items	Form 5500–C line items	Form 5500–K line items
1. Funding arrangement	11	11	11.
2. Total plan expenses	14(l)	16(k)	13(d).
3. Administrative expenses	14(j) column b	16(i)	15(c)(i).
4. Benefits paid	14(h)	16(g)	13(e).
5. Other expenses	14(i) plus 14(k)	16(h) plus 16(j)	NA.
6. Total participants	7(f)	7(a)(ii)	7(b)(iii).
7. Value of plan assets (net):			
a. End of plan year	13(m) column b	15(l) column b	13(g).
b. Beginning of plan year	13(m) column a	15(l) column a	13(a).
8. Change in net assets	14(o)	16(n)	13(g) minus 13(a).
9. Total income	14(g)	16(f)	13(b) plus 13(c).
a. Employer contributions	14(a)(i)	16(a)(i)	13(b).
b. Employee contributions	14(a)(ii)	16(a)(ii)	13(b).
c. Change in sales of assets	14(e)(ii) column b	16(d) column b	NA.
d. Earnings from investments	14(d)(iv) column b	16(c) column b	NA.
10. Total insurance premiums	14(h)(ii) or Sched. A, Part II, item 5(b).	16(g)(ii) or Sched. A, Pt. II, 5(b).	Sched. A, Pt. II, item 5(b).
11. Fund deficiency:			
a. Defined benefit plans	Sched. B, item 8(d)	Sched. B, 8(d)	Sched. B, 8(d).
b. Defined contribution plans	21(b)(iii)	14(b)(iii)	19(b)(iii).

N.B. Plans filing form 5500–R distribute form 5500–R in lieu of the SAR.

B. Welfare Plans

SAR item	Form 5500 line items	Form 5500–C line items
1. Name of insurance carrier	Sched. A, Pt. 1, 2(a)	Sched. A, Pt. I, 2(a).
2. Total insurance premiums	Sched. A, Pt. III, Total of 8(c).	Sched. A, Pt. III, Total of 8(c).
3. Experienced-rated premiums	Sched. A, Pt. III, 9(a)(iv)	Sched. A, Pt. III, 9(a)(iv).
4. Experienced-rated claims	Sched. A, Pt. III, 9(b)(iv)	Sched. A, Pt. III, 9(b)(iv).
5. Value of plan assets (net):		
a. End of plan year	13(m), column b	15(l), column b.
b. Beginning of plan year	13(m), column a	15(l), column a.
6. Change in net assets	14(o)	16(n).
7. Total income	14(g)	16(f).
a. Employer contributions	14(a)(i)	16(a)(i).
b. Employee contributions	14(a)(ii)	16(a)(ii).
c. Change in sales of assets	14(e)(ii) column b	16(d) column b.
d. Earnings from investments	14(d)(iv) column b	16(c) column b.
8. Total plan expenses	14(l)	16(k).
9. Administrative expenses	14(j) column b	16(i).
10. Benefits paid	14(h)	16(g), column b.
11. Other expenses	14(i) plus 14(k)	16(h) plus 16(j).

N.B. Plans filing form 5500–R distribute form 5500–R in lieu of the SAR.

[FR Doc. 80–40637 Filed 12–30–80; 3:30 pm]

BILLING CODE 4510–29–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Surface Coal Mining and Reclamation and Enforcement Under Federal Program for Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of intent to prepare Federal Program, Suspension of Alabama schedule for State program resubmission, and Notice of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) was advised by the State of Alabama of the existence of an injunction issued on November 12, 1980 by the Circuit Court of Walder County, Alabama, in Equity, enjoining the State from submitting or resubmitting a State program to the Department of the Interior. Accordingly, the Secretary of the Interior is temporarily suspending the Alabama schedule for resubmission and is initiating action to prepare a Federal program for the regulation of surface coal exploration, mining and reclamation on non-Federal and non-Indian lands in Alabama. The Federal program will not be implemented before December 15, 1981, unless the injunction

ends or is no longer determined effective under Section 503(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

In any event, Alabama will be given the opportunity to resubmit a state program before a Federal program is implemented. If Alabama does resubmit, the program will be reviewed in accordance with the Secretary's regulations. A Federal program will be implemented only if the State fails to resubmit, or if the resubmitted program is disapproved. Public comment is also being sought on the preparation of a Federal program for Alabama and on Alabama's actions under the interim program.

DATE: Public comments must be received by OSM by 5:00 p.m., February 5, 1081.

ADDRESS: Information and comments should be sent to: Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, OSM, State and Federal Programs 1951 Constitution Avenue, N.W., U.S. Department of the Interior, Washington, D.C. 202040, (202) 343–4225.

SUPPLEMENTARY INFORMATION: Under the Surface Mining control and Reclamation Act of 1077, A state which seeks to regulate surface coal mining and reclamation operations within its border may apply to the Secretary of the Interior for approval of a State program. In order for a program to be approved, a State must develop a program that contains laws and regulations which are consistent with the Act and the regulations of the Secretary of the Interior. The Act says that once a State makes a program submission, the Secretary of the Interior has six months in which to consider the State's application. At the end of that six-month period, the Secretary has to decide whether to approve, conditionally approve, approve in part and disapprove in part, or completely disapprove the State program submission. If the Secretary only partially or completely disapproves the State program submission, the State, under normal conditions, has sixty days to revise and resubmit its program. The statute then gives the Secretary sixty days to consider the resubmitted program and to make a final decision. If, after the end of this ten month period, the Secretary is unable to approve or conditionally approve the State program, he is required to promulgate a Federal program.

As announced in the October 16, 1980, Federal Register notice, 45 FR 68665, the Secretary of the Interior reviewed the State of Alabama's initial program submission and disapproved that program. Alabama had until December 15, 1980, to resubmit a revised program.

In a letter dated November 14, 1980, Ronald J. F. Reeves, Assistant Attorney General for the State of Alabama, Surface Mining Reclamation Commission, informed the Office of Surface Mining that the Alabama Surface Mining Reclamation Commission was enjoined on November 12, 1980, by the Circuit Court of Walker county, Alabama. In Equity, from submitting or resubmitting to the Office of Surface Mining a State program for the regulation of surface coal mining and reclamation operations. Alabama did not resubmit a program by the December 15, 1980, deadline.

Section 503(d) of the Surface Mining Control and Reclamation Act provides:

> * * * [T]he inability of State to take any action, the purpose of which is to prepare, submit or enforce a state program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result * * * in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to an injunction shall be conducted by the State pursuant to Section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of Sections 503 and 504 shall again by fully applicable.

The Secretary has completed all the actions in the review of the Alabama State program that can be done without further participation by the State of Alabama. Because the Secretary of the Interior has received notification that the State of Alabama is enjoined from taking further formal action, the Secretary is temporarily suspending the State program approval process for Alabama as of November 12, 1980 (the date of the injunction), which was the 27th day of the 60 days that Alabama had for resubmission.

The effect of this action is that federal enforcement of the interim program requirements, e.g., two federal inspections per year of each mine or regulated facility, will continue until the injunction is lifted, expires, or is determined not to invoke the operation of Section 503(d). Since the Act allows the state access to its reserved portion of the Abandoned Mine Land Fund only after it has achieved regulatory primacy, Alabama's access to the Fund must be delayed. The amount currently reserved for Alabama is $7,478,293.65.

The Secretary has considered various options in rescheduling Alabama's state program approval process. First, because the 60 day resubmission period expired on December 15, 1980, and because the injunction gives Alabama more time than the 60 days normally allowed, Alabama could be required to resubmit its state program on the day the injunction is lifted. However, an immediate deadline for resubmission after the injunction is lifted appears abrupt and would ignore the fact that Alabama still had 33 days remaining in its 60-day resubmittal period when the injunction was issued. Second, Alabama could be given 60 days after the lifting of the injunction to resubmit its state program. However, 60 additional days appears excessive, because (1) Alabama has already had 27 days to develop its resubmission, (2) it would be unfair to other states which only had 60 days to resubmit and (3) the operation of the injunction has already given Alabama considerably more time than the normal 60 days to develop an acceptable program. Third, Alabama could be given the amount of time it had remaining to resubmit its program, 33 days. This would take into account the time Alabama already had for resubmission, would be fair to other states involved in the process, and would be a reasonable deadline for the state to meet.

The Secretary has chosen the third option. Beginning on November 12, 1981, or, if the injunction is lifted or determined to be ineffective before that date, then on the date when the injunction is lifted or determined ineffective, Alabama will have 33 days to resubmit an acceptable program. In any event, the deadline for Alabama's resubmission will not be later than December 15, 1981. The Secretary will make every effort to notify Alabama by letter prior to that date for resubmission in order to assist Alabama in meeting the deadline.

The legislative history of Section 503(d) indicates that its purpose is to avoid penalizing states which make good faith efforts to comply with the Act, but are prevented by court action from achieving full compliance. Where, however, attendant circumstances lead the Secretary to determine that an injunction does not invoke the operation of Section 503(d), or that the State has failed to make a good faith effort to comply with the Act, the Secretary will not suspend the statutory timetable for state programs beyond the date of such determination. The Secretary has not yet determined, at this time, whether Section 503(d) is applicable in Alabama. The Secretary is reviewing the circumstances under which the injunction was entered and the jurisdictional competence of the state court to hear the matter. The Secretary believes that the delay and relief available under Section 503(d) is limited to those States which are seeking in good faith to prepare and adopt a permanent surface coal mining and reclamation program. Section 503 is not meant to be used as an artifice or device to avoid the requirements of the Surface Mining Act. Section 503(d) does not provide general authority to extend the statutory timetable established under that Act. Accordingly, the Secretary requests public comment on the issues bearing upon the applicability of Section 503(d) in Alabama. If, after review, the Secretary determines that Section 503(d) is inapplicable to Alabama under the circumstances, Alabama will have 33 days from the date of such determination within which to resubmit an acceptable state program. If it fails to do so, the Secretary will implement a Federal program for Alabama in accordance with Section 504 of the Act. Until a determination is made, the Secretary will presume that Section 503(d) applies, and thus will suspend the running of the resubmission period provided by Section 503(c). However, the Secretary expressly reserves the right to take appropriate action if he concludes that the circumstances surrounding the entry of the injunction warrant doing so.

Section 503(d) also requires a State which is subject to an injunction prohibiting resubmission of a state program to regulate surface coal mining and reclamation operations pursuant to Section 502 of the Act (the interim program) until such time as the injunction terminates or until one year after the injunction is entered, whichever comes first. The Secretary construes Section 503(d) of the Act to authorize implementation of a Federal program if a State fails to implement Section 502 during the term of an injunction. Thus, while the Secretary fully endorses the intent of Congress to have the State assume regulatory primacy under the Act, he also is required to implement a Federal program in cases where that becomes necessary because of a State's failure to carry out its responsibilities under Section 502.

Consequently, the Secretary is also examining the compliance by the State of Alabama with Section 502 of the Surface Mining Control and Reclamation Act and the interim program regulations issued by the Department of the Interior related to Section 502 (42 FR 62639, December 13, 1977). Within the next three months and after receipt of public comments and completion of this preliminary analysis, the Secretary will decide what further steps are necessary and should be taken. At that time, he may conclude that there is no basis for further examination because the State of Alabama is adequately enforcing the requirements of Section 502 of the Act; alternatively, he may decide that there is the need for a public hearing or additional public comment. If the Secretary ultimately determines there is a lack of compliance, he will recommence the State program review process after appropriate notice of Alabama.

One additional effect of the injunction, if it runs a full year, is to delay the permanent program in Alabama for a period of approximately eight to twelve months beyond that applicable to most other States in the country. In addition, if Alabama is ultimately unsuccessful in obtaining approval of its program, the Secretary will then have to adopt a Federal program for that State. This could cause an additional delay of six months or more if the process for adoption of the Federal program were delayed until after the injunction is lifted.

To reduce the potential delay in the application of the permanent surface coal mining reclamation program in Alabama if a federal program becomes necessary, the Secretary has decided to begin preparation of a Federal program for Alabama within the next three months. This action is considered necessary both to reduce the time during which the environmental objectives established by Congress are not fully achieved because a permanent program has not been implemented and to reduce the potential for competitive economic disadvantages among states because implementation of permanent programs in the different states are unlikely to be concurrent. The Secretary will not actually implement this program until Alabama either fails to meet the 33 day deadline to resubmit its program or resubmits but fails to obtain approval of its program.

In the meantime, the Secretary has instructed the Director of the Office of Surface Mining to make every effort during the period of the injunctions to accomplish the following: (1) work with the State toward correcting the remaining deficiencies in its proposed program to the extent the State can participate in such an effort, given the existence of the injunction; (2) ensure that the Federal enforcement program under Section 502 is diligently pursued in order to obtain compliance with the provisions of the Act and the interim program regulations; and (3) determine whether Alabama is adequately carrying out its responsibilities under Section 502 of the Act.

A major purpose of this notice is to seek public comment on preparing a Federal program in Alabama and to receive specific suggestions for how the Secretary of the Interior ought to adopt or modify the permanent program regulations to meet the local conditions in the State of Alabama. Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the topography, soils, climate and biological, chemical, geological, hydrological, agronomic and other physical conditions of the State involved. For important information, the reader is referred to "General Background on the Permanent Program" and "Criteria for Promulgating Federal programs" previously published in the **Federal Register** on May 16, 1980 (45 FR 32328). That notice explains how the Secretary will consider unique conditions in a State, how existing State laws will be considered, and what standards will be used in adopting regulations. The reader should also refer to the Secretary's decision concerning the Alabama program published in the **Federal Register** on October 16, 1980. (45 FR 68665 *et seq.*)

This action of proposing the preparation of a contingent Federal program for Alabama is not significant under the criteria of Executive Order 12044 and 43 CFR Part 14 and does not require preparation of regulatory analysis, nor is this action a major Federal action significantly effecting the environment under the National Environmental Policy Act.

Public Comment Period: The comment period announced in this notice will extend until [insert: 30 days after publication of this notice]. All written comments must be received at the address given above by 5:00 p.m. on the date.

Comments on the preparation of a Federal program received after that hour will not be considered in drafting the proposed Federal program; they will be considered to the extent applicable in subsequent actions under that program.

Dated: December 24, 1980.

Joseph W. Gorrell,

Acting Assistant Secretary, Energy and Minerals.

[FR Doc. 81-340 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 914

Enforcement Evaluation and Development of Federal Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Department of the Interior.

ACTION: Extension of public comment period.

SUMMARY: OSM is extending the period for review and comment on the preparation of a Federal program for the regulation of surface coal mining and reclamation in the State of Indiana and on Indiana's performance under the interim regulatory program.

DATE: Written comments, data or other relevant information relating to Indiana's performance under the interim regulatory program must be received on or before 5:00 p.m., February 9, 1981, to be considered. comments concerning the preparation of a Federal program for the regulation of surface coal mining in Indiana must also be received on or before 5:00 p.m., February 9, 1981, in order to receive consideration.

ADDRESSES: Comments on Indiana's performance under the interim program and comments on the preparation of a Federal program for Indiana should be sent or hand-delivered to the Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, or to Edgar A. Imnoff, Regional Director, Office of Surface Mining, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 520, Indianapolis, Indiana 42604.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, (202) 343-4225, or J.M. Furman, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 520, Indianapolis, Indiana 46204, (317) 269-2629.

SUPPLEMENTARY INFORMATION: On November 25, 1980, at 45 FR 78499-78500, the Assistant Secretary for Energy and Minerals, U.S. Department of the Interior, published notice of intent to initiate action to prepare a Federal program for the regulation of surface coal exploration, mining and reclamation on non-Federal and non-indian lands in Indiana and announced a public comment period which was to close at 5:00 p.m. on December 26, 1980. The notice solicited public comment on the preparation of a Federal program for Indiana and Indiana's actions in implementing the interim regulatory program. Since this publication, OSM has received several requests that the comment period be extended. In order to allow sufficient time for the public to comment on both the preparation of a Federal program and on Indiana's performance to date under the interim regulatory program, OSM is extending the comment period until 5:00 p.m. on February 9, 1981. Public comment focusing specifically on Indiana's actions under the interim program is particularly requested.

As indicated in the original notice soliciting public comment on Indiana's performance, OSM is considering the possibility of holding a hearing on the adequacy of Indiana's enforcement efforts. Any such hearing would be in addition to consideration of the written comments submitted in response to this notice.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: December 30, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

[FR Doc. 81-395 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 942

Surface Coal Mining and Reclamation and Enforcement Under Federal Program for Tennessee

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of intent to prepare Federal Program, Suspension of Tennessee schedule for State program resubmission, and Notice of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) was advised by the State of Tennessee of the existence of an injunction issued on December 5, 1980, by the Chancery Court for Davidson County, Tennessee, enjoining the State from submitting or resubmitting a State program to the Department of the Interior. Accordingly, the Secretary of the Interior is temporarily suspending the Tennessee schedule for resubmission and is initiating action to prepare a Federal program for the regulation of surface coal exploration, mining and reclamation on non-Federal and non-Indian lands in Tennessee. The Federal program will not be implemented before December 9, 1981, unless the injunction ends or is no longer determined effective under Section 503(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* In any event, Tennessee will be given the opportunity to resubmit a state program before a Federal program is implemented. If Tennessee does resubmit, the program will be reviewed in accordance with the Secretary's regulations. A Federal program will be implemented only if the State fails to resubmit, or if the resubmitted program is disapproved. Public comment is also being sought on the preparation of a Federal program for Tennessee and on Tennessee's actions under the interim program.

DATE: Public comments must be received by OSM by 5:00 p.m., February 4, 1981.

ADDRESSES: Information and comments should be sent to: Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, OSM, State and Federal Programs, 1951 Constitution Avenue, N.W., U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-4225.

SUPPLEMENTARY INFORMATION: Under the Surface Mining Control and Reclamation Act of 1977, a State which seeks to regulate surface coal mining and reclamation operations within its border may apply to the Secretary of the Interior for approval of a State program. In order for a program to be approved, a State must develop a program that contains laws and regulations which are consistent with the Act and the regulations of the Secretary of the Interior. The Act says that once a State makes a program submission, the Secretary of the Interior has six months in which to consider the State's application. At the end of that six-month period, the Secretary has to decide whether to approve, conditionally approve, approve in part and disapprove in part, or completely disapprove the State program submission. If the Secretary only partially or completely disapproves the State program submission, the State, under normal conditions, has sixty days to revise and resubmit its program. The statute then gives the Secretary sixty days to consider the resubmitted program and to make a final decision. If, after the end of this ten month period, the Secretary is unable to approve or conditionally approve the State program, he is required to promulgate a Federal program.

As announced in the October 10, 1980, **Federal Register** notice 45 FR 67372, the

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Secretary of the Interior reviewed the State of Tennessee's initial program submission and partially approved and partially disapproved that program. Tennessee has until December 9, 1980, to resubmit a revised program.

By telephone call on December 9, 1980, Terry Hill, of the Tennessee Division of Surface Mining, informed the Office of Surface Mining that the Tennessee Department of Conservation was enjoined on December 5, 1980, by the Chancery Court of Davidson County, Tennessee, from submitting to the Secretary of the Interior a State program for the regulation of surface coal mining and reclamation operations. The injunction by the Chancery Court allows the Tennessee Department of Conservation to request the Court to lift the injunction before March 4, 1981, if Tennessee is in a position to make a submission to the Secretary. It further allows any party to request lifting the injunction after March 4, 1981. Tennessee did not resubmit a program by the December 9, 1980, deadline.

Section 503(d) of the Surface Mining Control and Reclamation Act provides:

> * * * [T]he inability of State to take any action, the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result * * * in the imposition of a Federal program. Regulations of the surface coal mining and reclamation operations covered or to be covered by the State program subject to an injunction shall be conducted by the State pursuant to Section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of Section 503 and 504 shall again be fully applicable.

The Secretary has completed all the actions in the review of the Tennessee State program that can be done without further participation by the State of Tennessee. Because the Secretary of the Interior has received notification that the State of Tennessee is enjoined from taking further formal action, the Secretary is temporarily suspending the State program approval process for Tennessee as of December 5, 1980, (the date of the injunction), which was the 56th day of the 60 days that Tennessee had for resubmission.

The effect of this action is that federal enforcement of the interim program requirements, e.g., two federal inspections per year of each mine or regulated facility, will continue until the injunction is lifted, expires, or is determined not to invoke the operation of Section 503(d). Since the Act allows the state access to its reserved portion of the Abandoned Mine Land Fund only after it has achieved regulatory primacy, Tennessee's access to the Fund must be delayed. The amount currently reserved for Tennessee is $3,054,085.91.

The Secretary has considered various options in rescheduling Tennessee's state program approval process. First, because the 60 day resubmission period expired on December 9, 1980, and because the injunction gives Tennessee more time than the 60 days normally allowed, Tennessee could be required to resubmit its state program on the day the injunction is lifted. However, an immediate deadline for resubmission after the injunction is lifted appears abrupt and would ignore the fact that Tennessee still had 4 days remaining in its 60-day resubmittal period when the injunction was issued. Second, Tennessee could be given 60 days after the lifting of the injunction to resubmit its state program. However, 60 additional days appears excessive, because (1) Tennessee has already had 56 days to develop its resubmission, (2) it would be unfair to other states which only had 60 days to resubmit and (3) the operation of the injunction has already given Tennessee considerably more time than the normal 60 days to develop an acceptable program. Third, Tennessee could be given the amount of time it had remaining to resubmit its program, 4 days. This would take into account the time Tennessee already had for resubmission, would be fair to other states involved in the process, and would be a reasonable deadline for the state to meet.

The Secretary has chosen the third option. Beginning on December 5, 1981, or, if the injunction is lifted or determined to be ineffective before that date, then on the date when the injunction is lifted or determined ineffective, Tennessee will have 4 days to resubmit an acceptable program. In any event, the deadline for Tennessee's resubmission will not be later than December 9, 1981. The Secretary will make every effort to notify Tennessee by letter prior to that date for resubmission in order to assist Tennessee in meeting the deadline.

The legislative history of Section 503(d) indicates that its purpose is to avoid penalizing states which make good faith efforts to comply with the Act but are prevented by court action from achieving full compliance. Where, however, attendant circumstances lead the Secretary to determine that an injunction does not invoke the operation of Section 503(d), or that the State has failed to make a good faith effort to comply with the Act, the Secretary will not suspend the statutory timetable for state programs beyond the date of such determination. The Secretary has not yet determined, at this time, whether Section 503(d) is applicable in Tennessee. The Secretary is reviewing the circumstances under which the injunction was entered and the jurisdictional competence of the state court to hear the matter. The Secretary believes that the delay and relief available under Section 503(d) is limited to those States which are seeking in good faith to prepare and adopt a permanent surface coal mining and reclamation program. Section 503 is not meant to be used as an artifice or device to avoid the requirements of the Surface Mining Act. Section 503(d) does not provide general authority to extend the statutory timetable established under that Act. Accordingly, the Secretary requests public comment on the issues bearing upon the applicability of Section 503(d) in Tennessee. If, after review, the Secretary determines that Section 503(d) is inapplicable to Tennessee under the circumstances, Tennessee will have 4 days from the date of such determination within which to resubmit an acceptable state program. If it fails to do so, the Secretary will implement a Federal program for Tennessee in accordance with Section 504 of the Act. Until a determination is made, the Secretary will presume that Section 503(d) applies, and thus will suspend the running of the resubmission period provided by Section 503(c). However, the Secretary expressly reserves the right to take appropriate action if he concludes that the circumstances surrounding the entry of the injunction warrant doing so.

Section 503(b) also requires a State which is subject to an injunction prohibiting resubmission of a state program to regulate surface coal mining and reclamation operations pursuant to Section 502 of the Act (the interim program) until such time as the injunction terminates or until one year after the injunction is entered, whichever comes first. The Secretary construes Section 503(d) of the Act to authorize implementation of a Federal program if a State fails to implement section 502 during the term of an injunction. Thus, while the Secretary fully endorses the intent of Congress to have the State assume regulatory primacy under the Act, he also is required to implement a Federal program in cases where that becomes necessary because of a State's failure to carry out its responsibilities under Section 502.

Consequently, the Secretary is also examining the compliance by the State of Tennessee with Section 502 of the Surface Mining Control and Reclamation Act and the interim program regulations issued by the Department of the Interior related to Section 502 (42 FR 62639, December 13, 1977). Within the next three months and after receipt of public comments and completion of this preliminary analysis, the Secretary will decide what further steps are necessary and should be taken. At that time, he may conclude that there is no basis for further examination because the State of Tennessee is adequately enforcing the requirements of Section 502 of the Act; alternatively, he may decide that there is the need for a public hearing or additional public comment. If the Secretary ultimately determines there is a lack of compliance, he will recommence the State program review process after appropriate notice to Tennessee.

One additional effect of the injunction, if it runs a full year, is to delay the permanent program in Tennessee for a period of approximately eight to twelve months beyond that applicable to most other States in the country. In addition, if Tennessee is ultimately unsuccessful in obtaining approval of its program, the Secretary will then have to adopt a Federal program for that State. This could cause an additional delay of six months or more if the process for adoption of the Federal program were delayed until after the injunction is lifted.

To reduce the potential delay in the application of the permanent surface coal mining reclamation program in Tennessee if a federal program becomes necessary, the Secretary has decided to begin preparation of a Federal program for Tennessee within the next three months. This action is considered necessary both to reduce the time during which the environmental objectives established by Congress are not fully achieved because a permanent program has not been implemented and to reduce the potential for competitive economic disadvantages among states because implementation of permanent programs in the different states are unlikely to be concurrent. The Secretary will not actually implement this program until Tennessee either fails to meet the 4 day deadline to resubmit its program or resubmits but fails to obtain approval of its program.

In the meantime, the Secretary has instructed the Director of the Office of Surface Mining to make every effort during the period of the injunctions to accomplish the following: (1) work with the State toward correcting the remaining deficiencies in its proposed program to the extent the State can participate in such an effort, given the existence of the injunction; (2) ensure that the Federal enforcement program under Section 502 is diligently pursued in order to obtain compliance with the provisions of the Act and the interim program regulations; and (3) determine whether Tennessee is adequately carrying out its responsibilities under Section 502 of the Act.

A major purpose of this notice is to seek public comment on preparing a Federal program in Tennessee and to receive specific suggestions for how the Secretary of the Interior ought to adopt or modify the permanent program regulations to meet the local conditions in the State of Tennessee. Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the topography, soils, climate and biological, chemical, geological, hydrological, agronomic and other physical conditions of the State involved. For important information, the reader is referred to "General Background on the Permanent Program" and "Criteria for Promulgating Federal programs" previously published in the **Federal Register** on May 16, 1980 (45 FR 32328). That notice explains how the secretary will consider unique conditions in a State, how existing State laws will be considered, and what standards will be used in adopting regulations. The reader should also refer to the secretary's decision concerning the Tennessee program published in the **Federal Register** on October 10, 1980 (45 FR 67372 *et seq.*).

This action of proposing the preparation of a contingent Federal program for Alabama is not significant under the criteria of Executive Order 12044 and 43 CFR Part 14 and does not require preparation of regulatory analysis, nor is this action a major Federal action significantly effecting the environment under the National Environmental Policy Act.

Public Comment Period: The comment period announced in this notice will extend until February 5, 1981. All written comments must be received at the address given above by 5 p.m. on the date.

Comments on the preparation of a Federal program received after that hour will not be considered in drafting the proposed Federal program; they will be considered to the extent applicable in subsequent actions under that program.

Dated: December 29, 1980.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 81-347 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 948

Surface Coal Mining and Reclamation and Enforcement in West Virginia: Review of State Program Submission

AGENCY: Office of Surface Mining, Interior.

ACTION: Extension of public comment period.

SUMMARY: OSM is extending the period for review and comment on the submission by West Virginia of a program for the regulation of surface coal mining and reclamation in the State.

DATES: Written comments, data or other relevant information relating to West Virginia's program submission must be received on or before 4:00 p.m., January 9, 1981, to be considered.

ADDRESSES: Comments on West Virginia's program submission should be sent or hand-delivered to the Office of Surface Mining, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Leonard, Public Affairs Officer, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, (304) 342-8125.

SUPPLEMENTARY INFORMATION: On December 19, 1980, at 45 FR 83544, the Regional Director, Office of Surface Mining, U.S. Department of the Interior, published notice of the public hearing and the public comment period on the resubmitted West Virginia program. The comment period was slated to close at 4:00 p.m. on January 6, 1981. Since that publication, OSM has received requests from the West Virginia Coal Association and other members of the public to extend the comment period. In order to allow sufficient time for the public to comment on the resubmission of the West Virginia program, OSM is extending the comment period until 4:00 p.m. on January 9, 1981. This extension period is intended to compensate for the holidays that occurred during the original comment period.

As indicated in the original notice soliciting comments on the resubmission of West Virginia's program, the public hearing time and place will remain the same: that is, the public hearing will be held at 5:30 p.m. on January 5, 1981, at the Capitol Complex Conference Center,

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Rooms A and B, 1900 Washington Street, East, Charleston, West Virginia.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: December 31, 1980.

Walter N. Heine,
Director Office of Surface Mining.

[FR Doc. 81-373 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-05-M

National Park Service

36 CFR Part 7

Bighorn Canyon National Recreation Area, Montana-Wyoming; Snowmobile Regulations

AGENCY: National Park Service.

ACTION: Proposed rule.

SUMMARY: The proposed regulations are necessary to ensure the public the opportunity for motorized access to areas of the Recreation Area in winter that are accessible by wheeled vehicle in summer. These regulations are meant to provide for the preservation and enjoyment of Bighorn Canyon National Recreation Area in a way that is consistent with the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior. In addition, these regulations have been designed to protect the resource and to provide for enhanced safety to the visiting public, while also providing opportunities for the public to enjoy ice fishing, by granting snowmobile access.

This will be accomplished by: (1) Restricting the use of snowmobiles to some unplowed roads in the South District of the Recreation Area that are open to motorized vehicles in the summer; (2) Describing in the regulations those routes which are open to snowmobiles; (3) Prescribing periods of snowmobile use which are consistent with the protection of natural resources and public safety; and (4) Providing for certain exceptions for emergency purposes or administrative uses.

DATES: Written comments, suggestions or objections will be accepted until March 9, 1981.

ADDRESS: Comments should be directed to: Superintendent, Bighorn Canyon National Recreation Area, P.O. Box 458, Fort Smith, Montana 59035.

FOR FURTHER INFORMATION CONTACT: Richard L. Lake, Chief Park Ranger, Bighorn Canyon National Recreation Area, Telephone: (406) 666-2412.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat and not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive promulgated the regulations found at 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

A Notice was published in the **Federal Register** of February 14, 1975 (40 FR 6797) designating a portion of the frozen surface of Bighorn Lake as a snowmobile area. The designated area was described as in the vicinity of Horseshoe Bend from the so-called "Narrows" on the south to the "Narrows" on the north as delineated by signs posted on the ice.

Although this area has remained as the designated snowmobile route, it has not been used since the winter of 1976–1977, due to unsafe ice conditions. These proposed rules will close the entire lake surface to snowmobile use for safety reasons.

The National Park Service Snowmobile Policy was published in the **Federal Register** of August 13, 1979 (44 FR 47412). The policy limits snowmobile use to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. The policy requires that designated snowmobile routes be promulgated as special regulations in the Code of Federal Regulations, Title 36, Part 1, Section 7. This proposal meets the criteria of the National Park Service Snowmobile Policy.

In the fall of 1979 an environmental assessment was prepared on alternatives for snowmobiles use in Bighorn Canyon NRA. Public response to the proposed snowmobile routes was invited by press release from the Superintendent. The response period was from October 1, 1979, through November 15, 1979. Written responses totaled 143 and were almost exclusively from individuals from the Cody, Wyoming, area, many affiliated with a snowmobile club in that community. Response was generally favorable to the proposed routes on existing roads along the lakeshore but in opposition to deletion of the old snowmobile route on the frozen lake surface at Horseshoe Bend. On February 7, 1980, a public meeting was held at the Recreation Area Visitor Center in Lovell, Wyoming, with a field trip conducted afterward at Horseshoe Bend. The meeting was attended by interested local persons, representatives of the Cody snowbobile organization and U.S. Senator Malcolm Wallop's Cody office manager, and the press. After the field trip to Horseshoe Bend where all interested parties were taken on the ice to view firsthand the extremely hazardous conditions, the consensus of the group was in full support of the proposal.

Review of Alternatives

An environmental assessment of alternatives was prepared for designation of snowmobile routes, and was approved by the Regional Director, Rocky Mountain Region, on September 19, 1979. Alternative A was identified as the preferred alternative. Limited numbers of these documents and maps showing the proposed routes are available by writing the Superintendent at the address previously noted. The alternatives developed in the Environmental Assessment are summarized below:

Alternative A: Designate routes for snowmobile access to Lakeshore fishing areas. Close former snowmobile route on iced over lake surface.

This alternative would designate approximately 6½ miles of unpaved, unplowed roads along the west shore of Bighorn Lake south of Horseshoe Bend, and approximately 3½ miles of similar road on the east shore. Such action would provide access to traditional ice fishing locations when show depth is such as to preclude wheeled vehicle travel. This alternative would further close old routes on the frozen lake surface in the Horseshoe Bend area because of the high hazard to visitor safety posed by open holes and pockets of thin ice cause by air bubbles from the lake bottom. Because all routes are over existing roads, disturbance to wildlife would be minimal and noise disturbance to other visitors would be negligible.

Alternative B: No Action. This alternative would effectively deny access to popular and traditional ice fishing areas during periods of deep snow. Distances are too great from the nearest plowed road for fishermen to carry paraphenalia necessary to ice fish. There would be no impacts.

Alternative A, which was identified as the preferred alternative, has been selected and a Finding of No Significant Impacts from Alternative A was made on August 12, 1980. The designation of the snowmobile routes identified in Alternative A is the purpose of this proposed rulemaking.

Drafting Information

The following persons participated in the writing of these regulations: Richard W. Hougham, South District Ranger, Bighorn Canyon National Recreation Area, Richard L. Lake, Chief Park Ranger, Bighorn Canyon National Recreation Area.

Impact Analyis

The National Park Service has made a determination that the proposed regulations contained in this rulemaking are not significant, as that term is defined under Executive Order No. 12044 and 43 CFR, Part 14, nor do they require the preparation of a regulatory analysis pursuant to the provisions of those authorities.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478, as amended).

F. R. Holland, Jr.,

Acting Associate Director, Management and Operations.

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36, Chapter I of the Code of Federal Regulations by adding paragraph (b) to § 7.92 to read as follows:

§ 7.92 Bighorn Canyon National Recreation Area.

* * * * *

(b) *Snowmobiles.* (1) Designated routes to be open to snowmobile use: On the west side of Bighorn Lake, beginning immediately east of the Wyoming Game and Fish Department Residence on the Pond 5 road northeast to the Kane Cemetery, North along the main traveled road past Mormon Point, Jim Creek, along the Big Fork Canal, crossing said canal and terminating on the south shore of Horseshoe Bend, and the marked lakeshore access roads leading off this main route to Mormon Point, north and south mouth of Jim Creek, South Narrows, and the lakeshore road between Mormon Point and the south mouth of Jim Creek. On the east side of Bighorn Lake beginning at the junction of U.S. Highway 14A and the John Blue road, northerly on the John Blue road to the first road to the left, on said road in a westerly direction to its terminus at the shoreline of Bighorn Lake. All frozen lake surfaces are closed to snowmobile use.

(2) On roads designated for snowmobile use only that portion of the road or parking area intended for other motor vehicle use may be used by snowmobiles. Such roadway is available for snowmobile use only when the designated road or parking area is closed by snow depth to all other motor vehicle use by the public. These routes will be marked by signs, snow poles or other appropriate means.

The Superintendent shall determine the opening and closing dates for use of designated snowmobile routes each year. Routes will be open to snowmobile travel when they are considered to be safe for travel but not necessarily free of safety hazards. Snowmobiles may travel in these areas with the permission of the Superintendent, but at their own risk.

(3) Snowmobile use outside designated routes is prohibited. The prohibition shall not apply to (i) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, or (ii) emergency administrative travel by employees of the National Park Service or its contractors on concessioners.

[FR Doc. 81-280 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 7

Delaware Water Gap National Recreation Area; New Jersey and Pennsylvania; Snowmobile Route Designations

AGENCY: National Park Service.

ACTION: Proposed Rule.

SUMMARY: The proposed regulation set forth below is necessary to redesignate the snowmobiling route in Delaware Water Gap National Recreation Area (referred to hereafter as DWGNRA).

Present NPS management policy permits snowmobile trails only on properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Snowmobiling at DWGNRA has been restricted by special regulation to one designated trail which follows old woods roads and farming access roads that are maintained by the park as emergency access roadways. These roadways are not open to the public during non-snow periods. In a few places the trail crosses open agricultural fields linking these emergency roads together. Since this route has been affected by the revised NPS snowmobile policy, an environmental assessment of alternatives of snowmobile management policies, regulations and routes at DWGNRA has been completed and is available for public review.

DATES: Written comments, suggestions or objections will be accepted until February 5, 1981.

ADDRESSES: Comments should be directed to: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324.

FOR FURTHER INFORMATION CONTACT: James D. Arnott, Chief Park Ranger, Delaware Water Gap National Recreation Area, Telephone: (717) 588-6637.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1977 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. The snowmobiles must be consistent with the Park's natural, cultural, scenic and aesthetic values; safety considerations; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the *Code of Federal Regulations.*

Snowmobile use began at Delaware Water Gap National Recreation Area in January 1971. The present snowmobile trail was designated by publication in the **Federal Register** on March 31, 1975 (40 FR 14313). The trail is described in 36 CFR 7.71(b). The trail met the requirements of Executive Order 11644 and the National Park Service general snowmobile regulations in 36 CFR 2.34. Since the trail was designated in 1975, it has been rerouted slightly to eliminate some steep sections and to make a road crossing safer. This change is reflected in this proposed special regulation.

On August 13, 1979, the National Park Service revised its snowmobile policy as noted above. This policy revision necessitated an environmental assessment of management alternatives to continue the snowmobile activity at DWGNRA.

The situation at DWGNRA is considerably different from other National Park Service areas. The roads at many other National Park Service areas primarily provide access for visitors into the park and can remain unplowed during the winter. The roads at DWGNRA that might be used for snowmobiling also provide access to residents and cannot be closed.

The National Park Service does not have jurisdiction over a sufficient number of roads in DWGNRA that would allow compliance with the current NPS policy. Additional lands would have to be acquired, and leases on houses and cabins would have to be terminated in order to have additional miles of snowmobile trail.

Before snowmobiling at DWGNRA can comply with NPS snowmobile policy, the state, counties and townships would have to abandon additional miles of road in the recreation area so that the National Park Service would be in a position to decide which roads will be used for snowmobiling. Therefore, it would be several years before snowmobiling at DWGNRA can comply with NPS policy.

The National Park Service has selected Alternative "B" of the Environmental Assessment approved by the Mid-Atlantic Regional Director on October 29, 1980, as a preferred alternative for snowmobile activity at DWGNRA.

This alternative supports the continuance of the snowmobile activity on a trail system that meets the intent and purpose of NPS policy but must be excepted due to circumstances unique to this recreation area.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Impact Analysis

The National Park Service has made a determination that the proposed regulation contained in this rulemaking is not significant, as that term is defined in 43 CFR Part 14, nor does it require the preparation of a regulatory analysis pursuant to the provisions of this authority. An environmental assessment has been prepared and is available at the address noted at the beginning of this rulemaking.

Drafting Information

The following individuals participated in the writing of this proposed regulation: Karl J. Theune and James D. Arnott, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania, John Karish, Pennsylvania State University, and Arvell Washington, Mid-Atlantic Regional Office, National Park Service.

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. § 3); 245 DM 1 (44 FR 23384); and National Park Service Order 77 (38 FR 7478), as amended.

F. R. Holland, Jr.,
Acting Associate Director,
Managemnet and Operations.

In consideration of the foregoing, it is proposed to amend § 7.71 of Title 36, *Code of Federal Regulations,* by revising paragraph (b)(1) as follows:

§ 7.71 Delaware Water Gap National Recreation Area

* * * * *

(b) Designated Snowmobile Routes.

(1) A route in Middle Smithfield Township, Monroe County, Pennsylvania, bounded by the Delaware River on the east and Hidden Lake on the west. The route begins at the Smithfield Beach parking area and is in two loops. Loop One is a small trail approximately 3 miles long and follows the west bank of the Delaware River and closely parallels the east side of L.R. 45012 (commonly known as the River Road). Loop Two is approximately 6 miles long and begins at the northwest end of Loop One; it goes northeasterly between the Delaware River and River Road for about one mile until it crosses River Road; then southwesterly along the ridge which is south of Hidden Lake to a point opposite the west end of Hidden Lake, and then goes southeasterly until it returns to Loop One near River Road. Maps of the route are available at Smithfield Beach and at the office of the Superintendent. Both loops are marked by appropriate signs.

[FR Doc. 81-279 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1720-4]

Approval and Promulgation of Implementation Plans; Kentucky: Public Notification and Participation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Pursuant to Section 127 of the Clean Air Act, Kentucky has submitted a revision to the State Implementation Plan (SIP) concerning provisions for public notification and awareness. EPA has reviewed this submittal and is today proposing approval of this revision.

DATE: To be considered, comments must be received on or before February 5, 1981.

ADDRESS: Written comments should be addressed to Denise W. Pack of EPA, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE, Atlanta, Georgia 30308

Commonwealth of Kentucky, Department of Natural Resources and Environmental Protection, Office of the Secretary, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Denise W. Pack of EPA Region IV, Air Program Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: Section 127 of the Clean Air Act, as amended in 1977, requires States to submit a plan which will notify the public on a regular basis when National Primary Ambient Air Quality Standards are exceeded, and to encourage or provide opportunities for the public to participate in regulatory and other efforts to improve air quality. In addition, Section 127 requires the plan to include provisions for the enhancement of public awareness of air pollution preventive measures (40 CFR 51.286). The Commonwealth of Kentucky responded by preparing and formally submitting a revision to their State Implementation Plan. The plan includes provisions for public participation which encompasses informal meetings, responding to public inquires and utilization of public hearings. The plan revision also allows for public notification and enhancement of public awareness through methods of tape recorded messages, newspaper articles and press releases. Documents on criteria pollutants published by EPA will be used to inform the public on the health effects associated with air quality level above primary standards. This revision also provides for the daily and annual public notification of ambient primary pollutant standard exceedances by using the modified form of Pollutant Standard Index (PSI). Those exceedances not covered by the PSI will be reported annually to the public in the "Annual SLAMS Air Quality Information Report" which is sent to EPA on a yearly basis.

Proposed Action: After thorough review of this submittal, EPA has determined that Chapters 12.7 and 12.8 of the revised Kentucky SIP are consistent with the requirements of Section 127 of the Clean Air Act. EPA is therefore today proposing approval of the Kentucky submittal.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Section 110 and 127 of the Clean Air Act (42 U.S.C. 7410 and 7427))

Dated: December 5, 1980.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal concerns efforts by one state to improve public participation in Clean Air Act activities. It will impose no significant economic impacts.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-335 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL, 1716-7]

State of Maryland; Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted a proposed variance from the Maryland State Implementation Plan in the form of a Secretarial Order for the General Refractories Company of Baltimore County, Maryland.

The company has tried various means of complying with the no visable emission regulations and to date none has been found to be totally effective. This variance is being proposed to allow the company additional time to investigate new methods of bringing the facility into compliance with these regulations.

The variance would be effective for three (3) years from September 2, 1980 and applies to the regulation prohibiting visible emissions. During the three-year period visible emissions may not exceed 20% opacity.

DATE: Comments must be submitted on or before February 5, 1981.

ADDRESSES: Copies of the proposed SIP variance and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Ben Mykijewycz.

Air Quality Programs, State of Maryland, O'Conor Office Building, 201 West Preston Street, Baltimore, MD 21203, ATTN: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to: Mr. Ray Cunningham, Air Programs Branch (3AH10), Air, Toxics & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: AH028MD.

FOR FURTHER INFORMATION CONTACT: Ben Mykijewycz (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8181.

SUPPLEMENTARY INFORMATION: On September 10, 1980, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III, a proposed variance from the Maryland State Implementation Plan. The proposed variance consists of a Secretarial Order for the General Refractories Company of Baltimore County, Maryland. In his letter, the Administrator of Maryland Air Quality Programs certified that the Order was adopted in accordance with the public hearing and notice requirements of 40 CFR Part 51.4 and all relevant State procedural requirements and asked that EPA consider the Secretarial Order as a revision of the State Implementation Plan. The order consists of a variance for a period of three (3) years starting September 2, 1980, from the State regulations which prohibit visible emissions (COMAR 10.18.04.02A). During this period, visible emissions may not exceed 20% opacity.

Also during this three-year period, the company will continue to research further product and process changes in order to reduce or eliminate the visible emissions, and submit annual reports of the findings to Maryland. Then, if necessary, determinations will be made whether to extend the variance once the three-year period expires.

Since particulate emissions meet all applicable air quality regulations, and will not increase as a result of this revision, there is no need to revise those regulations.

A review of the submittal indicates that this variance will not result in a violation of either the ambient air quality standards or the PSD increments.

Therefore, it is the tentative decision of the Administrator to approve the proposed revision of the Maryland State Implementation Plan.

The public is invited to submit to the address stated above, comments on whether the General Refractories Company Secretarial Order should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination

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whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the subject of this proposal only affects one entity.

(42 U.S.C. §§ 7401-642)

Dated: December 11, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81-340 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1719-8]

Approval and Promulgation of Implementation Plans, Mississippi: Air Quality Surveillance Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the State of Mississippi on November 7, 1979. The revision updates Mississippi's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes commitment to: (1) update the monitoring network and to operate all State and Local Air Monitoring Stations (SLAMS) in accordance with the criteria established by Subpart B of 40 CFR Part 58; (2) site all SLAMS in accordance with the siting criteria contained in Appendix E to 40 CFR Part 58; (3) utilize reference or equivalent methods as defined by EPA in Section 50.1 of 40 CFR Part 50; (4) utilize the quality assurance procedures set forth in Appendix A to 40 CFR Part 58.

The State's Plan revision meets all EPA requirements including episode monitoring procedures and a provision for submitting annual reports to EPA. EPA therefore proposes to approve the plan revision.

The public is invited to submit written comments on this proposed action.

DATES: To be considered comments must be submitted on or before February 5, 1981.

ADDRESSES: Written comments should be addressed to Denise Pack of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the material submitted by Mississippi may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Mississippi Department of Natural Resources, Bureau of Pollution Control, Southport Mall, 2380 Highway 80 West, Jackson, Mississippi 39209

Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

For further information contact Denise Pack at the EPA Region IV address above or call 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50. The State of Mississippi has responded by submitting to EPA on November 7, 1979 a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network and that such monitors will be properly sited and the data quality assured, the network will be reviewed annually for needed modifications, and the SLAMS network descriptions will be available for public inspection and will contain information such as location, operating schedule, and sampling and analysis method.

EPA is proposing to approve the air quality surveillance plan submitted by Mississippi. Written comments on EPA's proposal should be sent to EPA Region IV (address above).

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal relates only to air quality surveillance to be carried out by one state and will not cause any significant economic impacts.

(Section 110 of the Clean Air Act (42 U.S.C. 7407)

Dated: November 24, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-341 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1720-2]

Approval and Promulgation of Implementation Plans; Alabama: Proposed Plan Revision for VOC Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: After a public hearing on June 3, 1980, the Alabama Air Pollution Control Commission adopted alternative schedules of compliance under Parts 6.14 and 6.15 of the Commission's *Rules and Regulations* on June 24, 1980. The revision was formally submitted to EPA on July 3, 1980. Upon review of these schedules for volatile organic compounds (VOC) compliance, EPA today is proposing to approve the revision. The public is invited to submit written comments on this proposed action.

DATE: Comments must be submitted to EPA, Region IV on or before February 5, 1981.

ADDRESSES: The Alabama submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Library, Enviromental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

In addition, the Alabama revision may be examined at the offices of the Alabama Air Pollution Control

Commission, Division of Air Pollution Control, 645 South McDonough Street, Montgomery, Alabama 36130. Comments should be addressed to Mr. Jerry Preston, EPA Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR MORE INFORAMTION CONTACT: Jerry Preston, EPA, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404-881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: After a public hearing, the Alabama Air Pollution Control Commission adopted regulations on April 3, 1979 pertaining to control of volatile organic compounds (VOC) which apply statewide. After reviewing the submitted regulations, EPA on July 19, 1979, proposed conditional approval of the regulations and control strategies in the **Federal Register** (44 FR 41489). EPA proposed to conditionally approve two regulations concerning VOC control, contingent upon submittal of a revision by the State specifying source reporting requirements and compliance testing procedures. The State responded by submitting the appropriate information in order for EPA to approve Alabama's statewide VOC control plan.

On November 26, 1979, EPA fully approved Alabama's VOC strategies and regulations (44 FR 67376). It was EPA's interpretation of the Clean Air Act and relevant regulations that if alternative control strategies (i.e., compliance schedules) were allowed which were not part of the SIP approval process, then these individual alternative compliance schedules must undergo the full SIP revision process.

EPA received alternative compliance schedules from the Alabama Air Pollution Control Commission on July 3, 1980 for nine companies: 3–M Corporation, Guin, Alabama; Reynolds Metals, Listerhill, Alabama; Hunt Oil Company, Tuscaloosa, Alabama; Murphy Oil Company, Mobile, Alabama; Steel-Case, Athens, Alabama; Plantation Patterns, Texaco, Cities Service Company and Chevron, Birmingham, Alabama. For each of the above companies, except Reynolds Metals and 3–M Corporation, the State of Alabama approved alternative compliance schedules pursuant to Section 6.15.4 of their approved regulations. The companies given alternative compliance schedules pursuant to Section 6.15.4 will be in compliance with the Alabama VOC regulations by December 31, 1982.

The rules and regulations adopted by the Alabama Air Pollution Control Commission also contains a Section 6.15.6 which allows a source to apply for an alternative compliance schedule extending beyond December 31, 1982, if they are proposing to install innovative technology in controlling their emissions. Section 6.15.6 of the Alabama regulations provides for these exceptions to the categorical compliance schedule when certain criteria are met. These criteria are:

a. The source is located in an attainment or unclassifiable area,

b. The source is proposing to use innovative technologies, and

c. The extension will not interfere with further reasonable progress in attaining the National Ambient Air Quality Standard.

Reynolds Metal and 3–M Corporation have met the criteria set forth in 6.15.6 of the Alabama air pollution regulations. These sources have also demonstrated conservation of energy and cost implementation with their innovative technology proposal. These extended schedules, which show compliance by August 1985 (3–M) and December 1985 (Reynolds), have been thoroughly discussed and evaluated and do not prevent attainment of the ambient air quality standard by December 31, 1982.

Proposed Action: Based on the previous information, EPA is today proposing to approve the alternative compliance schedules for VOC emitting sources.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the federal action proposed only approves state actions and imposes no requirements on any entity.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: December 3, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-342 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 60

[1579-1]

Standards of Performance for New Stationary Sources; Graphic Arts Industry: Publication Rotogravure Printing

Correction

In FR Doc. 80-33550 appearing on page 71538 in the issue of Tuesday, October 28, 1980, make the following changes:

Page	Column/¶/line	Item
71538	Col. 2, last ¶, line 3	"cpture" should be "capture".
71539	Col. 2, ¶ 2, line 3	"3 percent" should be "13 percent".
71541	Col. 1, ¶ 2, 2nd to last line	"of" should be "or".
	Col. 2, ¶ 3, line 18	"must" should be "much".
71543	Col. 3, ¶ 1, line 14	"Section III" should be "Section 111".
	Col. 3, last ¶, line 2	"form" should be "from".
	Col. 3, last ¶, line 7	"coal/fired" should be "coal-fired".
	Col. 3, last ¶, 2nd to last line	"MSPS" should be "NSPS".
71544	Col. 1, ¶ 1, line 10	"ov" should be "of".
	Col. 1, ¶ 2, line 9	"1.900 ppm" should be "1,900 ppm".
	Col. 3, last line	"studies" should be "studied".
71546	Col. 1, ¶ 1, line 7	"Compliance Provisions" should be all caps.
	Col. 1, ¶ 4, line 19	"a" should be "an".
	Col. 3, line 47	"tests" should be "test".
71548	Col. 2, ¶ 2, line 13	Insert the following after "test": "would be based on the same format and procedures as for the performance tests * * *".
	Col. 3, line 4	"costings" should be "coatings".
	Col. 3, ¶ 2, line 2	"seperated" should be "separate"
71550	Col. 3, 5th line from bottom	"Addresses" should be all caps.
71551	Col. 1, line 3	"Addresses" should be all caps.
	Col. 1, ¶ 3, line 3	"of" should not be there.
	Regulation	
71551	Col. 3, § 60.431	There should be an "s" on "Definition".
71552	Col. 1, § 60.430(b)	"October 28, 1980" should be inserted in "[date of publication * * *]".
	Col. 2, § 60.430(b), B_a, line 2	"or" should be "of".
	Col. 3, § 60.430(b), V_a, line 2	"such" should be "each".
71554	Col. 2, § 60.434 ¶ (c)(2), line 4	Insert: "control" after "pollution".
	Col. 3, § 60.434, ¶ (a)(5), line 1	"an" should be "An".

Page	Column/¶/line	Item
Regulation—Continued		
71555	Col. 3, § 60.436(a), line 2	"60,432" should be "60.432".
71556	Col. 1, § 60.437, ¶ (c), line 2	"water borne" should be one word.
	Col. 2, ¶ 1.2, line 4	"BOC" should be "VOC".
	Col. 3, ¶ 2.2, line 5	"D," should be "D,".
	Col. 3, ¶ 2.3, line 5	"D," should be "D,".
	Col. 3, ¶ 3.1, line 5	"W," should be "W,".

BILLING CODE 1505-01-M

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40 CFR Part 61

[AD-FRL 1718-7]

National Emission Standards for Hazardous Air Pollutants; Test Methods; Revised Methods 106 and 107; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Corrections.

SUMMARY: The following corrections should be made to the National Emission Standards for Hazardous Air Pollutants in the **Federal Register** of 45 FR 76346, Tuesday, November 18, 1980.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Roger Shigehara, Emission Measurement Branch (MD-19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: The following are the corrections: Page 76346.

1. First column: Change the date comments must be received by, to February 19, 1981.

2. First column: Delete the last paragraph, because this notice is a proposed rule.

3. Second column: Change the preamble to Appendix B to state: "It is proposed to amend 40 CFR 61 by revising Methods 106 and 107 of Appendix B as follows:"

Dated: December 29, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-286 Filed 1-2-81; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health; Redesignation of Contract Health Service Delivery Area

AGENCY: Public Health Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: This amendment would provide for the redesignation of the geographic boundaries of the Contract Health Service Delivery Area (CHSDA) for the Penobscot Reservation in Maine. The Penobscot CHSDA currently comprises the Penobscot Reservation and Penobscot County. The redesignated CHSDA would comprise the current CHSDA as well as 12 additional counties in the State of Maine. The governing body of the Penobscot Nation has by resolution requested the Secretary to implement this redesignation in order to provide increased access to health care for greater numbers of Penobscot Indian people.

DATES: Written comments on the proposed rule must be received on or before February 5, 1981.

ADDRESS: Address written comments to: Mr. Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857. Any comments received will be available for public inspection at this address from 8:30 a.m. to 5:00 p.m. beginning approximately 2 weeks after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443-1116.

SUPPLEMENTARY INFORMATION: The IHS conducts program activities to discharge the Secretary's responsibilities for special Federal health service for American Indians and Alaska Natives. These activities are carried out with funds appropriated to IHS for the provision of health services to federally recognized Indians who live on or near a Federal Indian reservation.

On December 23, 1975, the United States Court of Appeals affirmed the decision in *Passamaquoddy* v. *Morton* (528 F.2d 370) and no petition for certiori was filed. The Court of Appeals held that the United States had a trust responsibility to the Passamaquoddy Tribe and the Penobscot Tribe of Maine.

Thus, it was felt that the Department had the responsibility to initiate action necessary to provide for the health care needs of these two tribes concomitant with similar actions of the Department of the Interior to provide human services to the tribes. Supplemental funding was requested for fiscal year 1977 and funds were subsequently approved by Congress to initiate health care delivery systems for the Penobscot and the Passamaquoddy tribes. The funding request for the Penobscot Nation was based on an estimated service population (using adjusted U.S. Census data) of 882 persons residing within the Penobscot Reservation, Penobscot County and Aroostook County.

Final regulations for IHS Contract Health Services were published in the **Federal Register** on August 4, 1978 43 FR 34650). The effect of the regulation at 42 CFR 36.22(a)(6) is to exclude Arrostook County from the CHSDA of the Penobscot Tribe. This is inconsistent with the congressional intent expressed by their approval of funding.

Moreover, the tribe has requested by Resolution Number 3-19-79 to expand their CHSDA to include the following counties in the State of Maine: Androscoggin, Aroostook, Cumberland, Hancock, Kennesbec, Lincoln, Oxford, Penobscot, Piscataquis, Somerset, Waldo, Washington, and York. The tribe has identified 1102 tribal members in the proposed 13 county CHSDA. Of these, an estimated 882 are currently within the funded scope of the IHS program. An estimated 418 reside on the reservation and 684 off-reservation. This represents an increase of 220 persons.

The regulations at 42 CFR 36.22(b) provide that redesignation of an area or community as appropriate for inclusion or exclusion in a CHSDA may be made by the Secretary, Department of Health and Human Services, but only after consultation with the tribal governing body or bodies of those reservations included within the CHSDA. The only reservation included within the current CHSDA, i.e., Penobscot County, is that of the Penobscot Tribe. The regulations also stipulate certain criteria which must be considered before any redesignation will be made. This criteria is as follows:

1. The number of Indians residing in the area proposed to be so included or excluded;

2. Whether the tribal governing body has determined that Indians residing in the area near the reservations are

socially and economically affiliated with the tribe;

3. The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

4. The level of funding which would be available for the provision of contract health services.

Additionally, 42 CFR 36.22(c) stipulates that any redesignation of a CHSDA must conform with the procedures of the Administrative Procedure Act (5 U.S.C. 553).

The additional counties proposed for inclusion in the CHSDA are contiguous with one another, and include the present CHSDA prescribed by the regulations. The proposed CHSDA represents the geographic land area held by the Penobscot Tribe to be their traditional tribal area.

The Tribe has determined that the additional population identified are socially and economically affiliated with the Tribe.

The level of funding currently available to provide eligible Indians contract health services is anticipated to be adequate to provide the same level of services to the eligible population in the redesignated CHSDA. Experience has shown a larger than expected percentage of the eligible Penobscot Indian population to have health insurance and other alternate resources.

Accordingly, after considering the Tribe's request in light of the criteria specified in the regulations, the Secretary has decided to propose the following redesignation of the CHSDA of the Penobscot Tribe.

Dated: October 30, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: December 22, 1980.

Patricia Roberts Harris,

Secretary.

Subpart C—Contract Health Services

1. Paragraph (a)(6) is redesignated as paragraph (b) and a new paragraph (a)(6) is added as follows:

§ 36.22 Establishment of contract health service delivery areas.

(a) * * *

(6) The Contract Health Service Delivery Area for the reservation of the Penobscot Tribe of Maine shall comprise Androscoggin, Aroostook, Cumberland, Hancock, Kennesbec, Lincoln, Oxford, Penobscot, Piscataquis, Somerset, Waldo, Washington, and York Counties in the State of Maine.

* * * * *

2. Paragraph (b) is redesignated paragraph (c).

3. Paragraph 9c) is redesignated paragraph (d).

[FR Doc. 81-327 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5841]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Pennsylvania; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Towanda, Bradford County, Pennsylvania, previously published at 45 FR 42714 on June 25, 1980.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Mangement Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Towanda, Bradford County, Pennsylvania, previously published at 45 FR 42714 on June 25, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

As a result of an editorial review it has been determined that the elevation for the location of Downstream Corporate Limits, under the Source of Flooding of Sugar Creek, was incorrectly listed as 762 feet (National Geodetic Vertical Datum). It should be amended to read 764 feet in elevation. The corresponding Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: December 11, 1980.

Gloria M. Jimenez,

Federal Insurance Adminstrator.

[FR Doc. 81-329 Filed 1-5-81; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 301

Child Support Enforcement Program; Withholding of Advance Funds for Not Reporting

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 407 of Pub. L. 96–265, the Social Security Disability Amendments of 1980, prohibits advance payment of the Federal share of State child support enforcement expenses for a calendar quarter unless the State submits an expenditure report and a report of the amount of child support collected and disbursed for all calendar quarters, except the prior two. This proposed regulation implements this provision.

DATE: Consideration will be given to written comments and suggestions received by March 9, 1981.

ADDRESS: Address comments to: Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Blvd., Rockville, Maryland 20852, ATTN: Policy Branch. Agencies and organizations are requested to submit comments in duplicate. The comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, Policy Branch, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Background

Child support enforcement regulations at 45 CFR 301.15 describe the procedures for making grants to IV–D agencies. Under these procedures, IV–D agencies estimate the funds they will need for the ensuing quarter to operate the program. Office of Child Support Enforcement (OCSE) regional and central offices review the State's estimate and the

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central office computes the grant award after making any necessary adjustments to the estimate. The grant award computation form is transmitted to the IV–D agency and provides notification to the agency that it may draw the amount of the grant award as needed. In this way, IV–D agencies are able to obtain advances on the Federal share of IV–D expenditures for each quarter. The States use these advances for operating their IV–D programs during the period before their actual claims are submitted and processed for payment by OCSE.

Statutory Requirement

Section 407 of Pub. L. 96–265, enacted on June 9, 1980, prohibits the Department from paying a IV–D agency an advance for a quarter unless, for all quarters but the previous two, the agency has submitted full and complete expenditure reports and reports on the amount of child support collected and disbursed.

Reporting of Expenditures

45 CFR 301.15 requires IV–D agencies to file with OCSE a statement of quarterly expenditures and any necessary supporting schedules within 30 days of the end of each quarter. The form used for this purpose is the SRS–OA–41. Instructions for completing this form were issued in OCSE–AT–77–11, dated October 14, 1977, and updated in OCSE–AT–78–2, dated January 25, 1978. This statement is both a claim for expenditures incurred and an accounting of the disposition of the Federal funds granted for past periods. It also shows the Federal share of any recoupments of expenditures claimed in prior periods and of expenditures not properly subject to Federal financial participation (FFP).

Reporting of Collections and Distributions

45 CFR 302.15 includes requirements that IV–D agencies maintain records on amounts of child support collections and distributions, and make reports as required by the Secretary of the Department of Health and Human Services. The form used to report child support collections and distributions is the OCSE–4134. Instructions for completing this form were issued in OCSE–AT–78–21, dated November 8, 1978. This Action Transmittal requires IV–D agencies to report child support collections and disbursements on Form OCSE–4134 within 30 days of the end of each quarter.

Regulatory Requirement

To implement Section 407 of Pub. L. 96–265, we have added to the regulations a new 45 CFR 301.16, Withholding of advance funds for not reporting. This regulation provides that a State agency which fails to submit expenditure and collection reports for any quarter except the two most recent quarters cannot receive an advance of Federal funds for subsequent quarters. It does not, however, alter the existing requirements that such reports be submitted to OCSE within 30 days of the close of the reporting quarter. Rather, this new statutory provision and regulation imposes a penalty when failure to report persists for more than five months beyond this 30 day deadline.

Definition of Complete Report

Section 407 of Pub. L. 96–265 specifies that IV–D agency reports must be full and complete in order for the agency to receive advance FFP. It also specifies that the report shall be "in such form and manner and containing such information as the Secretary shall prescribe or require." We believe the statute leaves little to interpretation, however, and we have defined "complete" report for purposes of these regulations as a report in which all applicable line items of information are reported in accordance with OCSE instructions. These instructions are contained in OCSE–AT–77–11 and OCSE–AT–78–2 for the SRS–OA–41, Statement of Expenditures, and in OCSE–AT–78–21 for the OSCE–4134, Statement of Total AFDC and non-AFDC Child Support Collections. Under this definition, only line items that do not apply to a particular State may be left out of a report. If any applicable line items are not completed, the regional office will judge the entire report incomplete and disapprove it. If at the end of the second quarter following the quarter for which the report is due the State has not submitted a satisfactory report, the regional office will recommend to the central office that no funds be advanced to the State for the subsequent quarter.

Effective Date

Section 407(d) of Pub. L. 96–265 specifies that the provisions of Section 407 "shall be effective in the case of calendar quarters commencing on or after January 1, 1981." We believe this effective date clearly refers to the first quarter for which an advance might be withheld. Thus, to avoid having its advance funds withheld for the January through March 1981 quarter, each State must have submitted its collection and expenditure reports for all quarters through the quarter ending June 30, 1980. OCSE has issued interim instructions to the States to implement the provisions of Section 407 on this schedule. The standard for judging completeness of State collection and expenditure reports in the interim period is simply that the reports be submitted to OCSE. A more stringent standard, such as we propose at § 301.16(b), will not take effect until States have had an opportunity to comment on this notice and these regulations are published in final form. We propose, however, that after the standard is adopted, it would apply retroactively to the reporting quarter ending June 30, 1980, in order to meet the statutory effective date. OCSE is particularly interested in receiving comments on this proposed implementation schedule.

OMB Review

The Department is required to submit to the Office of Management and Budget for review and approval the proposed new 45 CFR 301.16, which deals with reporting requirements. The Department will submit this section to OMB.

45 CFR Part 301 is amended to read as follows:

1. In 45 CFR Part 301, the table of contents is revised to read as follows:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

Sec.
301.0 Scope and applicability of this part.
301.1 General definitions.
301.10 State plan.
301.11 State plan; format.
301.12 Submittal of State plan for Governor's review.
301.13 Approval of State plans and amendments.
301.14 Administrative review of certain administrative decisions.
301.15 Grants.
301.16 Withholding of advance funds for not reporting.

Authority: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

2. In 45 CFR Part 301, § 301.16 is added to read as follows:

§ 301.16 Withholding of advance funds for not reporting.

(a) No advance for any quarter will be made unless complete reports on expenditures and collections, as required by §§ 301.15 and 302.15 of this chapter, respectively, have been submitted to the Office by the IV–D agency for all quarters with the exception of the two quarters immediately preceding the quarter for which the advance is made.

(b) For purposes of this section, a complete statement or complete report means one in which all line items of information are reported in accordance with OCSE instructions.

Note.—The Office of Child Support Enforcement has determined this document does not require preparation of a Regulatory Analysis as described by Executive Order 12044.

(Section 1102 of the Social Security Act, 42 U.S.C. 1302 and Section 452(a) of the Social Security Act, 42 U.S.C. 652(a))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: October 3, 1980.

William J. Driver,

Director, Office of Child Support Enforcement.

Approved: December 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-320 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-07-M

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45 CFR Parts 302 and 303

Child Support Enforcement Program; Requests for Collection by the Secretary of the Treasury

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would implement section 402 of Pub. L. 96–2[illegible], the Social Security Disability Amendments of 1980. Section 402 provides authority to State child support agencies to use the Internal Revenue Service (IRS) to collect child support for families not receiving Aid to Families with Dependent Children (AFDC). In addition to making the change required by the statute, we are proposing minor modifications to streamline the process of IRS collection and are reorganizing and rewriting the regulations to make them clearer and easier to understand.

DATE: Consideration will be given to comments received by March 9, 1981.

ADDRESSES: Address comments to: Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Blvd., Rockville, Maryland 20852. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's office at the address above.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks—(301) 443–5350.

SUPPLEMENTARY INFORMATION: Current regulations at 45 CFR 302.71 specify the requirements that IV–D agencies must meet in requesting OCSE to refer a case to the Secretary of the Treasury for collection of child support. Under these regulations, the IRS may be used only for collecting assigned support payments on behalf of families receiving AFDC.

This document would delete 45 CFR 302.71 and add a new 45 CFR 303.71 to implement section 402 of P.L. 96–265, which authorizes the use of the IRS collection mechanism for families not receiving AFDC, subject to the same requirements applicable to families receiving AFDC. We propose to take this opportunity to make other changes to the regulations to improve the IRS collection process and to remove the State plan requirement. These changes are discussed below.

Prior Collection Action by the Client or Client's Representative

45 CFR 302.71 requires that a case meet certain criteria before it may be referred to the Secretary of the Treasury for collection of support. One of the criteria is that the IV–D agency must have attempted collection through the State's own collection mechanisms. In the case of AFDC families, normally only the IV–D agency would have attempted collection. In the case of non-AFDC families, the client or client's representative may have tried to secure support before requesting the IV–D agency to take action.

To avoid duplication of effort in cases in which the client or client's representative has already attempted collection, the revised regulations at 45 CFR 303.71(c)(4) specify that the IV–D agency shall compare the prior actions taken with the State's own collection mechanisms. If the agency finds the prior actions to be comparable, the agency need not repeat them. The agency must assure, however, that reasonable efforts have been made by the agency itself, the client, or the client's representative to collect the support via the State's collection mechanisms. In describing the collection actions taken and their outcomes as required in the revised 45 CFR 303.71(e)(4), the agency must indicate that the appropriate collection mechanisms have been used.

Minimum Dollar Limit on Cases Referred to IRS

When these regulations were adopted on June 26, 1975, we could not anticipate the volume of requests for IRS collection or the average amounts of support owed. Because of our lack of data, we set the extremely low figure of $75 as the minimum amount to be referred to IRS for collection. It has since become apparent through discussions with IRS that the current minimum of $75 is unreasonably low, given the time and effort required of the IRS to take collection action on a child support claim. Our analysis of available data shows that, as of March 1979, 87 percent of the cases active with IRS are for child support debts of over $2,000, 8 percent are for amounts between $1,000 and $2,000, and 5 percent are for amounts under $1,000. More recent data confirm that these figures have changed little, if at all, during recent months. Based on these figures, we have decided, in conjunction with the IRS, to propose raising to $2,000 the minimum debt that may be referred to IRS for collection. (See revised 45 CFR 303.71(c)(2).) We believe this figure to be a reasonable amount that will not disadvantage beneficiaries of services, or pose an unrealistic burden for the IRS. We are particularly interested in receiving comments on this, however, since the proposed change in amount is relatively large.

Verification of Child Support Debtor's Address and Last Place of Employment

The IRS has expressed concern that the child support debtor's last known address and place of employment be as current as possible.

The IRS begins its investigation by referring a case to a local IRS office based on these addresses. Out of date information can result in a loss of several weeks time while addresses are verified in an attempt to locate an individual. To assure up to date addresses, we propose that requests for IRS collection contain the source of this information and the date it was last verified. The revised regulations at 45 CFR 303.71(e)(1) also specify that the IV–D agency shall obtain a recent address from the Federal Parent Locator Service, if necessary, before sending forward a request for IRS collection. This procedure should result in faster processing of requests once they are received by the IRS.

Social Security Number Requirement

Current regulations at 45 CFR 302.71(a)(6)(i) require that requests for IRS collection contain the debtor's social security number if known. Since these regulations were published, we have learned from IRS that it is extremely difficult for them to locate an individual's records in their master files unless the social security number is available. Not only does this result in slow processing and inefficient use of IRS resources, but it creates problems with accurate case identification for persons with similar or the same names. Therefore, in 45 CFR 303.71(e)(1)(ii), we propose to require that all requests for IRS collection contain the debtor's social security number. In cases in which the social security number is not known, it can be obtained from the Federal Parent Locator Service.

Intrastate Request For IRS Collection

In most cases, a State's collection mechanisms should be effective in collecting child support within the State. Unusual circumstances, such as a very large court backlog or an absent parent having assets in States other than the State residence, may prevent collection within the State through a State's own mechanisms. In 45 CFR 303.71(e)(4)(iii), we propose to require that, in these rare cases in which an intrastate collection is requested, the request must contain a description of the circumstances that prevented effective use of the State's own collection mechanisms.

Removal of State Plan Requirment

In addition to the above modifications to the regulations, we are proposing to remove the State plan requirement pertaining to requests for collection by the Secretary of the Treasury. We are proposing this as part of an overall strategy to remove unnecessary State plan requirements from our regulations. Under the proposed regulations, failure to comply would result in denial of the request for IRS collection.

OMB Review

The Department is required to submit to the Office of Management and Budget for review and approval the proposed new 45 CFR 303.71, which deals with reporting and recordkeeping requirements. The Department will submit this section to OMB.

§ 302.71 [Removed]

45 CFR 302.71 is removed and a new 45 CFR 303.71 is added to read as follows:

§ 303.71 Requests for collection by the Secretary of the Treasury.

(a) *Definition.* "State collection mechanisms" means a comprehensive set of written procedures developed to maximize effective collection action within the State.

(b) *Families eligible.* Subject to the criteria and procedures in this section, the IV-D agency may request the Secretary to certify the amount of a child support obligation to the Secretary of the Treasury for collection under section 6305 of the Internal Revenue Code of 1954. Requests may be made on behalf of families receiving AFDC who have made assignments under 45 CFR 232.11, and on behalf of families not receiving AFDC who apply under § 302.33.

(c) *Cases eligible.* For a case to be eligible for certification to the Secretary of the Treasury:

(1) There shall be a court order for support;

(2) The amount to be collected under the court order for support shall be at least $2,000;

(3) At least six months shall have elapsed since the last request for referral of the case to the Secretary of the Treasury; and

(4) The IV-D agency, the client, or the client's representative, shall have made reasonable efforts to collect the support through the State's own collection mechanisms. The agency need not repeat actions taken by the client or client's representative that the agency judges to be comparable to the State's collection mechanisms.

(d) *Procedures for submitting requests.* (1) The IV-D agency shall submit requests to the regional office using any forms the Office may require.

(2) The Director of the IV-D agency (or designee) shall sign requests for collection by the Secretary of the Treasury.

(e) *Criteria for acceptable requests.* The IV-D agency shall ensure that each request contains:

(1) Sufficient information to identify the child support debtor, including:

(i) The individual's name;

(ii) The individual's social security number;

(iii) The individual's last known address and place of employment, including the source of this information and the date it was last verified; if necessary, the IV-D agency shall obtain a recent address from the Federal Parent Locator Service.

(2) A copy of all court orders for support;

(3)(i) The amount owed under the court orders for support;

(ii) A statement of whether the amount is in lieu of, or in addition to, amounts previously referred to IRS for collection;

(4)(i) A statement that the agency, the client, or the client's representative, has made reasonable efforts to collect the amount owed using the State's own collection mechanisms;

(ii) A description of the actions taken, why they failed, and why further State action would be unproductive;

(iii) For requests for intrastate collection of support, a description of circumstances preventing use of the State collection mechanisms;

(5) The dates of any previous requests for referral of the case to the Secretary of the Treasury;

(6) A statement that the agency agrees to reimburse the United States for the costs of collection; and

(7)(i) A statement that the agency has reason to believe that the child support debtor has assets that the Secretary of the Treasury might levy to collect the support; and

(ii) A statement of the nature and location of the assets, if known.

(f) *Review of the request by the regional representative.* (1) The regional representative will review each request to determine whether it meets the requirements of paragraphs (b) through (e) of this section.

(2) If a request meets all requirements, the regional representative will promptly certify and transmit the request with a copy of all supporting documentation to the Secretary of the Treasury. At the same time, the regional representative will notify the IV-D agency of the transmittal.

(3)(i) If a request does not meet all requirements, the regional representative will attempt to correct the request in consultation with the agency.

(ii) If the request cannot be corrected through consultation, the regional representative will return it to the agency with an explanation of why the case was not certified.

(g) *Reporting changes in case status.* (1) If the Secretary of the Treasury is attempting to make a collection on a case, the IV-D agency shall report to the regional representative any change in the amount due, the nature or location of assets, or the address of the child support debtor.

(2) The regional representative will transmit the reported information to the Secretary of the Treasury.

Note.—The Office of Child Support Enforcement has determined that this document does not require preparation of a regulatory analysis as described by Executive Order 12044.

(Section 1102 of the Social Security Act (42 U.S.C. 1302) and Section 452(b) of the Social Security Act (42 U.S.C. 652(b).)

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program.)

Dated: October 20, 1980.

William J. Driver,

Director, Office of Child Support Enforcement.

Approved: December 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-323 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-07-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201, 1206, 1207, 1208, 1209, and 1210

[Docket No. 37465]

Business Entertainment Expenses

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is instituting a rulemaking proceeding to implement Section 33 of the Motor Carrier Act of 1980 and Section 215 of the Rail Act of 1980. This legislation makes it lawful for regulated carriers to engage in entertainment practices in obtaining new business to the extent that such practices are lawful in unregulated business. This proceeding establishes guidelines to distinguish between traditionally acceptable expenses and those which in the past would have constituted illegal rebates or discrimination but are now permitted under the provisions of these Acts. Comments are sought on a proper standard for unlawfulness under the revised Act.

DATES: Comments should be received on or before February 20, 1981.

ADDRESSES: Send comments with 10 copies, if possible, to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION: On July 1, 1980, the Motor Carrier Act of 1980 became law and on October 14, 1980, the Rail Act of 1980 became law. This legislation allows regulated carriers to engage in previously prohibited entertainment of customers or potential customers to the extent that such practices are lawful in unregulated industries. Prior to the enactment of this legislation certain business entertainment expenses would have constituted violations of the anti-rebating and anti-discrimination provisions of chapters 107, and 199 of title of 49 of the United States Code. Both of these Acts require the Commission to establish guidelines to distinguish between (1) sales-related expenses that have always been permissible and (2) those expenses that would have constituted illegal rebates or discrimination but are now permitted under the provisions of these Acts. The importance of this distinction is that only the former category of expenses can be included in the carriers' cost of service or the rate base.

While the new legislation will allow carriers to incur additional forms of business entertainment expenses, it is not the intent of this legislation that these expenses be passed on to the consumer. Section 10751 provides that these additional expenses shall not be taken into account in determining the cost of service or the rate base. Only those business entertainment expenses that previously were legal expenses under the Interstate Commerce Act are to be included in the cost of service or the rate base.

In implementating the provisions of the new legislation, we find it helpful to distinguish between those expenses that directly promote business and those that are more directly related to the convenience or comfort of the customer(s) than to the direct transaction of business. Direct promotion of a carrier emphasizes its ability to provide efficient, timely and competitive service. Such promotional activity involves: salespersons' salaries and travel expenses; advertising; promotional and educational materials; to conduct of symposia, shipper conferences and meetings; traffic-related functions; direct mail directories; incidental promotional materials such as road atlases, calendars, pens, scratchpads, pencils, and other materials of nominal value; business oriented lunches and dinners; public affairs programming and conferences; customer service calls; and sales promotion functions involving a number of shippers or customers. These have been and will continue to be included in operating expenses as part of the cost of service. Consequently, these expenses are recoverable through rates.

In contrast, ancillary entertainment expenses are not tied to promotion of a carrier's ability to provide good service. Rather, entertainment is geared to providing a pleasant setting in which to discuss business or to provide hospitality. It tends to be selective and preferential. Where particular entertainment outlays have been significant in amount, the Commission has successfully challenged the lawfulness of the practice under the discrimination and rebate provisions of the Act. See *Key Line* v. *United States*, 570 F.2d 97 (6th Cir., 1978).

Business entertainment expenses that were considered illegal rebates or discrimination prior to the adoption of these Acts include outlays for hunting and fishing trips; tickets to athletic contests, the theater, dances, or other entertainment or social events; intercity or recreational travel (whether provided through independent commercial sources or furnished by the carrier directly, including the use of carrier owned or leased vehicles, pleasure boats and airplanes); holiday parties and other social occasions; overnight accommodations and lodging; and gifts of substantial value. Though such business entertainment expenses are no longer to be viewed as prohibited rebates or discrimination, Congress has declared that the dollar amount of such expenses is not to be recovered in the rates charged customers.

The exemption applies only where the expense "would not be unlawful if incurred by a person or corporation not subject to the Commission's jurisdiction." Although Congress clearly intended a relaxation of the standard to be applied here, shaping a new standard is a difficult problem with regard to which we seek the comments of the interested parties.

One possible interpretation is that Congress intended for us to gauge the lawfulness of business entertainment, not with reference to existing precedent relating to the Interstate Commerce Act and the Elkins Act, but under criminal statutes of general applicability. Several states make commercial bribery a criminal offense.[1] See for example N.Y. Penn. Laws § 439. Typically under such laws, it is an offense for a supplier to give, and a purchasing agent to receive, either directly of indirectly, a commission, discount, gift, gratuity, or bonus. We could view carrier practices in states having commercial bribery statutes as still subject to the rebate and discrimination provisions of the transportation laws. One advantage of this standard is that the carriers are already subject to these commercial bribery laws to the extent that they do business in the various jurisdictions, so that compliance should not be an added burden. A serious disadvantage of this approach is that it would require us to apply different standards in different states. Under these circumstances it would be difficult for us to develop a coherent Federal transportation policy for enforcement concerning rebates and discrimination.

A second possible approach is for the Commission, using relevant state criminal and civil law as a guide, to craft its own uniform standard as to what practices are prohibited under the transportation laws.

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[1] For a lising of state "commercial bribery" statutes, see 108 U. Pa. L. Reve. 848 (1960).

A third approach would be to adopt specific regulations or guidelines developed by the Internal Revenue Service or the Federal Trade Commission. This standard has the advantage of being uniform and specific. In implementing these new statutory provisions we believe it is important to set out as specifically as possible what is allowed and what is forbidden under the revised Act.

The IRS has published regulations [2] concerning what kinds of entertainment and similar expenses are deductible for Federal income tax purposes. But these regulations were not drafted to identify unlawful practices; they were merely intended to identify business expenses which are not deductible. For this reason, these regulations do not appear to be an appropriate standard.

The FTC has considered commercial bribery to be "an unfair method of competition" in violation of the Federal Trade Commission Act.[3] (FTC enforces this provision by the use of cease and desist orders, not by criminal sanctions.)

We are issuing proposed accounting instructions to serve as guidelines for entertainment expenses. The public and the affected carriers are requested to study the proposed instructions concerning entertainment expenses and to submit their views and comments. We also request comments on what standard we should use to identify unlawful practices under the revised Act. After the comments are reviewed, the Commission will publish a final rule which will contain the final business entertainment expense guidelines in this matter. In their comments, the parties are encouraged to offer alternative approaches, and to augment or refine further the examples contained in the proposed accounting instruction.

This proposal does not significantly affect the quality of the human environment or energy consumption.

This proposal is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: December 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

James H. Bayne,

Acting Secretary.

Part 1201—RAILROAD COMPANIES, GENERAL INSTRUCTIONS 1-16 BUSINESS, ENTERTAINMENT EXPENSES [AMENDED]

Part 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS, INSTRUCTION 2-37 BUSINESS ENTERTAINMENT EXPENSES [AMENDED]

Part 1207—COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY, INSTRUCTION 36 BUSINESS ENTERTAINMENT EXPENSES [AMENDED]

Part 1208—MARIMIME CARRIERS, INSTRUCTION Q BUSINESS ENTERTAINMENT EXPENSES [AMENDED]

Part 1209—INLAND AND COASTAL WATERWAYS CARRIERS, INSTRUCTION 17 BUSINESS ENTERTAINMENT EXPENSES [AMENDED]

Part 1210—FREIGHT FORWARDERS, INSTRUCTION 12 BUSINESS ENTERTAINMENT EXPENSES [AMENDED]

We propose to amend 49 CFR Parts 1201, 1206, 1207, 1208, 1209, and 1210 by adding to each part the new instruction set forth below.

Expenses incurred in normal sales-related activities shall be accounted for as operating expenses even though customer entertainment may incidentally result from such activities. Sales-related activities are those that emphasize a carrier's ability to provide efficient, timely and competitive service. Such sales-related activities include outlays designed to promote new business as well as expenses incurred in maintaining existing business. This type of expense is to be included in the appropriate operating expense account as a part of the cost of providing transportation service. Examples of activities giving rise to this type of expense include the following:

(1) Salespersons' salaries and travel expenses, advertising, promotional and educational material;

(2) The conduct of shipper symposiums, conferences, meetings and traffic related functions;

(3) The use of direct mail solicitations, the publication and distribution of routing guides and service directories;

(4) Incidental promotional materials such as road atlases, calendars, pens, scratchpads, and other materials of nominal value;

(5) The conduct of business oriented lunches and dinners, public affairs programming, conferences and customer service calls;

(6) Sponsoring sales promotion functions involving a number of customers or potential customers.

Entertainment expenses that are not geared to the direct promotion of business and, as such, are not sales related, are not to be included in the cost of service but are to be accounted for as non-operating expenses. Examples of items to be treated as non-operating expenses would be:

(1) Recreational or resort entertainment, including, but not limited to, fishing, hunting, tennis, golfing, skiing or other sporting or recreational trips or outings;

(2) Expense paid transportation in any carrier owned, leased or furnished vehicles, planes, helicopters, boats, yachts, or other methods;

(3) Expense paid lodging in any carrier owned, leased or furnished motels, hotels, apartments, condominums, lodges, rooms and other places of overnight accommodation;

(4) Paid admission to any sporting, cultural, educational, recreational, or entertaining occurrence or event;

(5) Gifts such as athletic equipment, food, or liquor, beverages of all types, smoking materials, clothing and personal accessories;

(6) The furnishing of lunches, dinners, appetizers or beverages where there is no true business purpose;

(7) Social occasions such as holiday parties.

Note.—The examples listed above are intended as a guide to give carriers an indication of what will or will not be permitted to be recovered through the rate structure.

[FR Doc. 81-356 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1300, 1301, 1303, and 1305

[Docket No. 37517]

Reduction of the Notice Period for Filing Railroad Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rules.

SUMMARY: The Interstate Commerce Act, as amended by the "Staggers Rail Act of 1980," permits rail carriers to file increased rates or new rates on 20 days' notice and to file reduced rates on 10 days' notice. The Commission is revising its tariff filing regulations to reflect the new statutory time periods. These regulations presently require that a tariff containing new or changed rates, charges, classifications, rules, practices

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[2] Internal Revenue Code, Section 274, and Treasury Regulations, § 1.2745.

[3] If the lawfulness of business entertainment within industry generally were to be measured by federal agency standards, the Federal Trade Commission's continued listing (16 CFR 13.135) of commercial bribery as an unlawful trade practice would furnish a rationale for sharply limiting the scope of the 1980 exemption for entertainment outlays of regulated carriers.

or other provisions be filed with the commission at least 30 days prior to its effective date.

DATES: Comments are due January 26, 1981. Unless otherwise modified by the Commission, these rules will become effective upon publication in the **Federal Register.**

ADDRESS: Send Comments to Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 2[illegible]423.

FOR FURTHER INFORMATION CONTACT: William P. Ceisenkotter; Phone: 202–275–7[illegible]39.

SUPPLEMENTARY INFORMATION: Secton 216 of the "Staggers Rail Act of 1980" amended Section 10762 of Title 49, United States Code, concerning the notice period for filing rail tariff publications. As amended, Section 10762(c)(3) allows rail carriers to file new or increased rates on 20 days' notice and to file reduced rates on 10 days' notice.

The Commission's tariff publishing regulations applicable to rail carriers are shown at 49 CFR 1300, 1301, 1303 and 1305.

These regulations presently require that a tariff containing new or changed rates, charges, classifications, rules, practices or other provisions be filed with the Commission at least 30 days prior to its effective date.

This document amends the Commission's tariff publishing regulations to the extent necessary to conform to these changes. It also contains changes of a technical nature required to resolve potential ambiguities. For example, the Staggers Act mentions only rates. The Interstate Commerce Act and the tariff regulations also embrace charges, rules, classifications, practices and any other matter required to be published and filed in tariff format. The term "rates" as used in the Staggers Act will be construed to include the other factors mentioned above.

Changes resulting in neither increases nor reductions in rates or value of service are published in tariffs frequently. Such changes are required to be filled on not less than 30 days' notice and has been treated no differently than increases or reductions in the past. Now however, increases may be filed on 20 days' notice and reductions may be filed on 10 days' notice. Although the Staggers Act does not specifically address this issue, we feel no useful purpose is served by requiring the equivalent of editorial changes to be filed on longer notice than is required for increases and reductions. Such changes, which by definition do not change the rate or the level of service to the shipper, should be allowed to become effective on the shortest notice period permitted by the Act. For this reason the regulations are amended to provide specifically that changes in rail tariffs resulting in neither increases nor reductions may be filed on 10 days' notice.

In the past when tariff publications were filed on less than 30 days' notice, a notation citing the special permission or special tariff authority was required to be placed on the title page of the publication. Although the Staggers Act reduces the statutory filing period for rail publications, there may be instances where a still shorter notice period is desired or required. In such cases carriers may request special permission to file tariff publication on short notice. The standards upon which special permission applications are decided remain unchanged. Where the Commission finds cause exists for rates to be filed on short notice, we will continue to require the special permission or special tariff authority notation on all publications filed on less than statutory notice.

Additionally, to assist rail tariff users in identifying publications containing rates or provisions filed on less than 20 days' notice, the title page on such publications shall carry a notation stating that fact.

The Staggers Act requires "new" rates to be filed on 20 days' notice. However in the more than 100 years the railroads have operated, an extensive rate structure has evolved. Presently, there is almost always some rate published and in effect which would be applicable to a given shipment. Thus, a question raised by the Staggers Act is what constitutes a "new" rate? For example, if a carrier maintained a class rate applicable to a particular shipment and desired to publish a lower commodity rate to apply in its place, would the commodity rate be a reduction permitted to be filed on 10 days' notice or a "new" rate required to be filed on 20 days' notice?

To resolve this question we referred to Congress' statement of policy regarding regulation of the railroad industry found in Section 101 of the Staggers Act. It is stated that effective competition among railroads and with other modes, and the demand for service should be allowed, to the maximum extent possible, to establish reasonable rates for transportation by rail. To respond to the marketplace and competitive demands, Section 216 authorized carriers to raise or lower their rates on a shorter notice period than was previously required. In the example above, it seems that the carrier's downward adjustment of its rates is a response to those demands in an attempt to attract or retain the traffic. We believe this adjustment should be considered a reduction rather than a new rate and thus permitted to be filed on 10 days' notice. The term "new" rates should be reserved to apply in instances including but not limited to publication of a rate where, in connection with a particular shipment, the carrier had no rate applicable previously or where a charge is published to cover a service or privilege not offered previously by the carrier. We believe this interpretation conforms with Congress' intentions that shippers be able to benefit from lower charges on 10 days' notice.

We propose to rescind Rule 54 of our tariff publishing regulations. This rule requires that all tariff publications, once filed with the Commission, must be allowed to go into effect and requires that no change may be made in an effective tariff provision until it has been in effect for at least 30 days. It also requires that when a tariff provision is published subject to an expiration date, that date must be at least 30 days subsequent to the effective date of the provision. Rescission of this rule will allow matter which has been filed but has not become effective to be withdrawn without Commission approval. It will also allow a tariff provision to expire before it has been in effect for the statutory notice period. As long as the carrier gives the required notice of its proposed change, we believe it has complied with Section 10762 of the Act, as amended by the Staggers Act. Moreover, continuance of this regulation would lessen the carriers' ability to respond quickly to pricing demands of the marketplace, one of the goals the Staggers Act sought to achieve.

Various sections throughout Parts 1300, 1301, and 1303 refer to the "30-day notice" requirement. Where possible, this term has been changed to "statutory notice," thus maintaining the 30 day period for other carriers filing tariff under these parts. The remainder of the changes made in the regulations are not substantive in nature and merely update pertinent regulations by striking references to sections of the former Interstate Commerce Act and substituting references to the appropriate section of Subtitle IV of Title 49 of the U.S. Code, and by eliminating references to Tariff Circular No. 20, which has been replaced by 49 CFR 1300.

Accordingly, Chapter X of Title 49 of the Code of Federal Regulations would be amended as follows:

PART 1300—FREIGHT TARIFFS; RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

1. By revising § 1300.3(h) to read as follows:

§ 1300.3 Contents of title page.

* * * * *

(h) On every tariff or supplement in which all the rates, rules or regulations are made effective on less than statutory notice under authority of the Commission, notation that it is issued on —— days notice under the authority of ———— (here show the authority.) The title page of rail tariff publication filed on less than 20 days' notice shall carry a notation stating substantially as follows:

"This publication filed on less than 20 days' notice under authority of Section 10762 of the Interstate Commerce Act."

2. By revising § 1300.9(d)(3), (e)(11), and (h) as follows:

§ 1300.9 Amendments and supplements.

* * * * *

(d) * * *

(3) Matter brought forward without change from one supplement to another, must be designated "reissued" in distinctive type and, except as authorized in 1300.10(i), must show the original effective date and the number of the supplement or tariff from which it is reissued; or must be uniformly indicated by the letter T in a square when reissued from another tariff or from a supplement to another tariff and by numerals commencing with 1 in squares when reissued from a prior supplement to the same tariff, printed in distinctive type and shown in a conspicuous manner, and the explanation thereof must be made in the tariff or supplement in which the symbols are used.

Examples: "Reissued from ICC No. ——, or (Supplement No. —— to ICC No. ——), effective (date upon which item became effective in former tariff or supplement to another tariff ——, 19——"; "1 Reissued from Supplement No. 1, effective ——, 19——," and so on numerically the figures of the symbols always representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later publications by showing a letter suffix or other symbol in later publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter t or the numerals in squares as authorized in this paragraph. When the reissued item became effective in a supplement to another tariff, the ICC number of that tariff must also be given.

(e) * * *

(11) Changes must be indicated as required by 1300.2(a).

(h) *Supplement to tariff filed not yet effective.* After a tariff is filed on statutory notice canceling another tariff a supplement to the tariff to be so canceled may be issued effective before the general effective date of the new tariff. In such a case, and confined to additions or to changes in rates or provisions which were brought forward in the new tariff without change, a supplement making the same changes in or additions to both tariffs shall be issued as supplements both to the tariff in effect and to the tariff which will effect the cancellation, and be given both ICC numbers. In other words, the issue must be a supplement both to the old and the new tariffs and copies must be posted and filed accordingly. Only one supplement may be in effect at any time.

3. By substituting "statutory" for "30 days' " in the last sentence of § 1300.10(d)(1) and substituting "49 CFR 1300.10(i)" for "rule 10(i) of Tariff Circular No. 20" in the first sentence of § 1300.10(i)(2).

4. By substituting the word "statutory" for the phrase "30 days'" in the first sentence of § 1300.14(f) and by revising § 1300.14(a) to read as follows:

§ 1300.14 Statutory notice; additional procedure in filing tariffs.

(a) Except as otherwise authorized by the Commission, and except with regard to railroad contract rates filed under Section 10713 of the act (1300.300 of this part), the notice period for tariff publications shall be:

(1) 30 days' for tariffs issued by non-rail carriers;

(2) 20 days' for rates or provisions published in connection with new service or changes resulting in increased rates or decreased value of service; and

(3) 10 days' for changes resulting in decreased rates or increased value of service, or changes resulting in neither increases nor reductions.

§ 1300.54 [Removed]

5. By removing § 1300.54.

§ 1300.58 [Amended]

6. By making the following substitutions, additions and deletions in § 1300.58:

(a) Substitute "10762" for "6" in the title of § 1300.58 and in the first sentence of § 1300.58(a);

(b) Substitute the phrase "less than statutory notice" for the phrase "a notice of less than 30 days" in the third sentence of § 1300.58(a);

(c) Remove the phrase "Tariff Circular 20" in the second sentence of § 1300.58(b);

(d) Remove the phrase "sixth section" from the second sentence of § 1300.58(c) and substitute the word "statutory" for the phrase "30 days'" in the second sentence of § 1300.58(c);

(e) Remove the phrase "the sixth" from the last sentence of § 1300.58(c) and add "10762" after "section" in the same sentence;

(f) Remove the word "sixth" in the third sentence of § 1300.58(d) and add "10762" between "section" and "application" in the same sentence.

(g) Remove the phrase "Tariff Circular 20" in the second sentence of § 1300.58(e) and substitute "10762" for "6" in the first sentence under "Form of Application" in § 1300.58(e).

7. By substituting the word "statutory" for the phrase "30 days'" and substituting "10762" for "6" in the second sentence of § 1301.65(b).

PART 1303—PASSENGER SERVICE SCHEDULES: RAIL AND WATER CARRIERS

8. By reserving § 1303.11(g) and revising § 1303.11(f)(1) to read as follows:

§ 1303.11 Filing tariffs; rejections.

* * * * *

(f) *Period of Notice*

(1) Except as otherwise authorized by the Commission, and except with regard to contract rates filed under Section 10713 of the Act); the notice period for tariff publications shall be:

(i) 30 days' for tariffs issued by non-rail carriers;

(ii) 20 days' for rates or provisions published in connection with new service or changes resulting in increased rates or decreased value of service; and

(iii) 10 days' for changes resulting in decreased rates or increased value of service, or changes resulting in neither increased nor reductions.

(g) [Reserved]

PART 1305—POSTING TARIFFS AT STATIONS

Part 1305—Posting Tariffs at Stations

9. By revising § 1305.5 to read as follows:

§ 1305.5 Time of posting.

Except as otherwise provided, each tariff shall be posted at least 30 days prior to its effective date. When the act authorizes or the Commission permits a different notice period for filing, the tariff publication shall be posted at least that number of days before the effective date.

These proposed rules are promulgated under authority contained in Section 553 of the Administrative Procedure Act (5 U.S.C. 553) and Section 10762 of the Interstate Commerce Act (49 U.S.C. 10762).

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Dated: December 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, [illegible]antum, Alexis, and Gilliam.

Agatha [illegible] Mergenovich,

Secretary.

[FR Doc. 81–256 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 3
Tuesday, January 6, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Wolverine Electric Cooperative, Inc., Big Rapids, Michigan; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $5,000,000 to Wolverine Electric Cooperative, Inc., (Wolverine) of Big Rapids, Michigan. This loan guarantee will provide financing for the purchase of a 0.63 pecent undivided ownership interest in the existing Campbell Unit No. 3, a coal-fired 770 MW generation unit, and a 7.22 percent undivided ownership interest in 10 miles of 345 kV transmission line constructed by Consumers Power Company.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John N. Keen, Manager, Wolverine Electric Cooperative, Inc., P.O. Box 1133, Big Rapids, Michigan 49307.

In order to be considered, proposals must be submitted on or before February 5, 1981 to Mr. Keen. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Wolverine Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 29th day of December, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 81–270 Filed 1–5–81; 8:45 am]

BILLING CODE 3410–15–M

KBR Rural Public Power District; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact which concludes that there is not need for REA to prepare an environmental impact statement in connection with a proposed loan by REA for KBR Rural Public Power Disrict (KBR) of Ainsworth, Nebraska. The proposed loan will assist KBR in constructing approximately 72 km (45 miles) of 69 kV transmission line and two associated 69–7.2/12.5 kV distribution substations.

The 69 kV transmission line will tap into the existing Nebraska Public Power District (NPPD) Ainsworth-O'Neil 69 kV line at the junction of State Highway 183 and U.S. Highway 20 in Brown County, Nebraska, and extend north into the existing distribution substation at Springview, Keya Paha County, Nebraska, which will be rebuilt. The line will then extend east into the proposed distribution substation, to be called Mills Substation, in Keya Paha County, Nebraska. KBR has prepared a Borrower's Environmental Report (BER) concerning the proposed project. REA has reviewed the BER and determined that it represents an accurate assessment of the environmental impact of the project. REA has prepared an Environmental Assessment concerning the proposed project and its impacts.

Threatened and endangered species, important farmland, archaeological and historic sites, wetlands, flood plains and potential impacts of the project are adequately considered in the BER. REA's independent evaluation of the proposed project leads it to conclude that its proposed financial assistance for this project does not represent a major Federal action that will significantly affect the quality of the human environment. Based on this independent evaluation and a review of KBR's BER, a Finding of No Significant Impact was reached in accordance with Section IV.B and IV.D.1 of REA Bulletin 20–21:320–21, Part 1.

Various alternatives to the proposed transmission line and substation were reviewed by KBR and REA. The alternatives included no action, energy conservation, upgrading of existing facilities, routes, and an underground line. After reviewing these alternatives, REA determined that the proposed 69 kV transmission line and associated substations is the best alternative for providing power to existing and future KBR within the area.

Copies of REA's Finding of No Significant Impact and KBR's BER may be reviewed in the office of the Director, Distribution Systems Division, Room 3306, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250 and at the office of the cooperative, KBR Rural Public Power District, P.O. Box 187, Ainsworth, Nebraska 69210.

This program is listed in the catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C. this 18th day of December 1980.

Robert W. Feragen,

Administrator.

[FR Doc. 81–150 Filed 1–5–81; 8:45 am]

BILLING CODE 3410–15–M

Office of the Secretary

1980 Wheat and Barley Crops: Determinations Regarding Proclamation of National Program Acreages

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Revision of National Program Acreages for 1980 Crops of Wheat and Barley.

SUMMARY: This notice is to announce revised national program acreages for

the 1980 crops of wheat and barley which were published on August 21, 1979, (44 FR 48999) for wheat and on January 8, 1980, (45 FR 1648) for barley. The national program acreages as orginally announced for the 1980 crops of wheat and barley were 70.0 and 7.9 million acres, respectively. This action is taken in accordance with applicable provisions of the Agricultural Act of 1949, as amended, which authorizes the Secretary of Agriculture to revise the national program acreages if he determines it necessary based upon the latest information.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Program Specialist, Production Adjustment Division, ASCS-USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013, telephone (202) 447-6688. The Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This Notice of Determination has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

The title and number of the federal assistance programs that this notice applies to are: Title—Wheat Production Stabilization, Number 10.058, and Title—Feed Grains Production Stabilization, Number 10.056, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A-95, was not used to assure that units of local government are informed of this action. The need for this notice is to revise the 1980-crop wheat and barley national program acreages, first proclaimed on August 15, 1979, and January 7, 1980, for the purpose of determining the national allocation factors for such commodities as authorized in Sections 105A(d)(1) and 107A(d)(1) of the Agricultural Act of 1949, as amended. These provisions authorize the Secretary to revise the national program acreages which he initially proclaimed for any crop year for the commodity for the purpose of determining the allocation factor if he determines that such revision is necessary based upon the latest available information. The Secretary has determined that the national program acreages for the 1980 crop of wheat and barley shall be revised based on the latest available information. It is essential that this decision be made effective as soon as possible since the revised national program acreages is required by Sections 105A(d)(1) and 107A(d)(1) of the Agricultural Act of 1949, as amended, to be proclaimed as soon as such decision is made. Therefore, it is impracticable and contrary to the public interest to comply with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044. This notice of determination shall become effective January 5, 1981. Accordingly, the revised national program acreages for the 1980 crops of wheat and barley are determined to be the following:

Determinations

1. *Revised National Program Acreage for 1980-Crop Wheat.* It is hereby proclaimed that the revised national program acreage for the 1980 crop of wheat shall be 75.0 million acres. The revised national program acreage is based on the following data:

(a) Estimated Domestic use, 1980-81 (million bushels)	835
(b) Plus estimated exports, 1980-81 (million bushels)	1,525
(c) Minus estimated imports, 1980-81 (million bushels)	−2
(d) Plus adjustment for carryover (million bushels)[1]	170
(e) Divided by national weighted average farm program yield (bushels/acre)	33.7
(f) Equals: 1980 National Program Acreage (million acres) /	75.0

[1] An appropriate carryover level of U.S. wheat stocks has been determined to be equal to 6.6 percent of world consumption of wheat. Such consumption during the 1979-80 marketing year is estimated to be 442.4 million metric tons (MMT) (442.4 × .66 = 29.2 MMT × 36.74 (bushel conversion factor) = 1,073 million bushels (maximum level of U.S. carryover wheat stocks)). 1980-81 carryin wheat stocks were 903 million bushels resulting in a 170 million bushels stock adjustment.

2. *Revised National Program Acreage for 1980-Crop Barley.* It is hereby proclaimed that the final national program acreage for the 1980 crop of barley shall be 8.3 million acres. The revised national program acreage is based on the following data:

(a) Estimated domestic use 1980-81 (million bushels)	357
(b) Plus estimated exports, 1980-81 (million bushels)	75
(c) Minus estimated imports, 1980-81 (million bushels)	−10
(d) Minus adjustment for carryover (million bushels)[2]	−12
(e) Divided by national weighted average farm program yield (bushel/acre)	49.3
(f) Equals: 1980 National Program Acreage (million acres)	8.3

[2] An appropriate carryover level of U.S. feed grain stocks has been determined to be equal to 6.7 percent of world consumption of coarse grains. Such consumption during the 1979-80 marketing year is estimated to be *727.2* million metric tons (MMT) (*727.2* × 0.067 = 48.7 MMT (maximum level of U.S. feed grain carryover stocks)). The barley component of the feed grain total has been determined to be 180 million bushels (8.9 MMT × 45.93 (bushel conversion factor). 1980-81 carryin barley stocks were 192 million resulting in 12 million stock adjustment.

Signed at Washington, D.C. on December 22, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 81-118 Filed 1-5-81; 8:45 am]

BILLING CODE 3410-05-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board, Special Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) the Science and Education Administration announces the following meeting:

Name: Special Committee of the National Agricultural Research and Extension Users Advisory Board.
Date: January 16, 1981.
Time: 10:00 a.m.—2:00 p.m.
Place: Room 3056, South Agriculture Building, USDA, Washington, D.C.
Type of Meeting: Open to the public.

Comments: The public may file written comments before or after the meeting with the contract person below.

Purpose: Representatives of the Board will be reviewing and discussing extension programs and policy with representatives of the Extension Committee on Organization and Policy.

Contact Person for Agenda and More Information: Dr. James M. Meyers, Executive Secretary of the Users Advisory Board; Science and Education Administration; U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202-447-3684.

Done at Washington, D.C. this 19th day of December 1980.

James M. Meyers,

Acting Executive Director, National Agricultural Research and Extension Users' Advisory Board

[FR Doc. 81-271 Filed 1-5-81; 8:45 am]

BILLING CODE 3410-03-M

Soil Conservation Service

Authorization of Federal Assistance in the Installation of Works of Improvement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of authorization of Federal assistance in the installation of works of improvement.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Federal Building, Room 544, Raleigh, North Carolina 27611, telephone number (919) 755–4165.

NOTICE: Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1008) has been authorized for the Muddy Creek Watershed and the Limestone Creek Watershed, North Carolina.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: December 2, 1980.

David G. Unger,

Associate Chief.

[FR Doc. 81–297 Filed 1–5–81; 8:45 am]

BILLING CODE 3410–16–M

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

Closed Board Meeting

The Chrysler Corporation Loan Guarantee Board will hold a meeting closed to the public on January 6, 1981 at 11:00 a.m., in Room 4426, Main Treasury Building, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C.

The Board expects to continue its discussion of Chrysler Corporation's new Operating and Financing Plans and related documents and its need for additional guarantees. The Board also expects to meet with representatives of Chrysler and its advisers and to receive the separate reactions of the United Auto Workers and Chrysler's lenders to the proposed cost reductions and other actions contemplated by Chrysler's new Operating and Financing Plans and related documents. The Board does not, however, expect to take any formal action at its January 6 meeting on Chrysler's December 23 application for an additional $400 million of guarantees.

Discussions of the above matters are closed to the public pursuant to applicable exemptions under the Government in the Sunshine Act. The discussions at the meeting will involve significant amounts of non-public financial and commercial information received from Chrysler Corporation, relating to anticipated profitability, market positions, capital expenditures and cost reduction actions.

An open meeting is likely to disclose (1) confidential commercial and financial information, which is exempt under 5 U.S.C. § 552b(c)(4); and (2) information the premature disclosure of which would be likely to significantly frustrate implementation of Board action, which is exempt under 5 U.S.C. 552b(c)(9)(B).

The meeting was closed pursuant to a unanimous vote of the Board taken on December 17, 1980 to close all Board meetings held during the thirty days after the Board's December 18, 1980 meeting at which the same subject matters are discussed.

Those persons expected to attend the meeting, or portions thereof, include the Board members, the Executive Director, General Counsel, and Secretary of the Board, and members of the respective staffs of each Board member. In addition, representatives of the UAW, Chrysler's lenders, and Chrysler and its advisers will attend portions of the meeting.

Those persons desiring further information should contact Bruce D. Bolander, Secretary of the Board, at (202) 566–2278.

This notice is given as a result of a court order. The position of the Board is that it is not subject to the Government in the Sunshine Act.

Dated: January 2, 1981.

Bruce D. Bolander,

Secretary of the Board.

[FR Doc. 81–530 Filed 1–5–81; 11:34 am]

BILLING CODE 4810–27–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 170]

Resolution and Order Approving the Application of the Jacksonville Port Authority for a Foreign-Trade Zone in Jacksonville, Florida

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Jacksonville Port Authority, Jacksonville, Florida, filed with the Foreign-Trade Zones Board (the Board) on May 29, 1980, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Jacksonville, within the Jacksonville Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Jacksonville, Florida

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Jacksonville Port Authority, a Florida public corporation, (the Grantee) has made application (filed May 29, 1980) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone in Jacksonville, within the Jacksonville Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 64 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 29th day of December 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Philip M. Klutznick,

Chairman and Executive Officer.

[FR Doc. 81-337 filed 1-5-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton Textile Products From Republic of Singapore

December 30, 1980

AGENCY: Committee for the Implementation fo Textile Agreements.

ACTION: (1) Increasing the consultation level for cotton twill and sateen in Category 317, produced or manufactured in the Republic of Singapore and exported during the agreement year which began on January 1, 1980 and extends through December 31, 1980 to 14,740,272 square yards.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (FR 53506).)

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore, the consultation level established for cotton textile products in Category 317 is being increased to 14,740,272 square yards for the agreement year which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 20, 1979, there was published in the **Federal Register** (44 FR 75440) a letter dated December 14, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the twelve-month level previously established for Category 317 to the designated amount.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

December 30, 1980

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: On December 14, 1979, the Chairman of the Committee for the Implementation of Textile Agreements directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980 of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, in certain specified categories, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 9, 1981 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 317, produced or manufactured in Singapore, in excess of 14,740,272 square yards.[2]

The actions taken with respect to the Government of Republic of Singapore and with respect to imports of cotton textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-247 Filed 1-5-81; 8:45 am]

BILLING CODE 3510-25-M

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits and sublimits may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance; Changes in Per Diem Rates; Corection

In FR Doc. 80-38413 appearing at page 81644 in the issue of Thursday December 11, 1980, make the following corrections:

On page 81644, in the second column, in the Locality Chart under Puerto Rico "Ponce [3]" should have read "Ponce [4]".

In column 3, "Wake Island [1] should have read "Wake Island [2]".

BILLING CODE 3810-70-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following commitee meeting:

Name of Committee: Armed Forces Epidemiological Board.
Date of Meeting: 5 and 6 February 1981.
Time: 0900-1630 5 February, 0830-1400 6 February.
Place: Board of Regents Room, Third Floor, Building C of the Uniformed Services University of the Health Sciences, National Naval Medical Center, Bethesda, MD.

Proposed Agenda: Agenda items for the meeting include AFEB Task Force report on epidemiological method in clinical health delivery systems, reports on the preventive medicine activities of the Army, Navy and Air Force, present status of a vaccine for *N. gonorrhoea*, update on Navy asbestos program, and reports from AFEB subcommittees.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, DC 20310.

Dated: December 18, 1980.

Charles W. Halverson,

Capt., MSC, USN. Executive Secretary.

[FR Doc. 81-298 Filed 1-5-81; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Rock River; Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft Environmental Impact Statement (EIS).

SUMMARY: Proposed action is provision of measures to reduce flooding and associated problems along the lower 14 miles of the Rock River from Green Rock, Illinois, to the confluence of the Rock and Mississippi Rivers.

A variety of structural and nonstructural protection measures were investigated during early planning phases for 37 designated study areas. Evaluation of these measures on environmental, economic, and technical criteria resulted in identification of several alternatives which will be studied further. The tentative Stage 3 alternatives are as follows:

a. A single levee, or a combination of levee segments, to protect the most densely developed portion of the project area.

b. Clearing a section of the Illinois and Mississippi Canal to pass high flows on the Rock River.

c. Floodproofing, raising access roads, constructing adjacent street as a levee, improved preparedness plans, no Federal action.

d. A combination of the above measures.

This study has been conducted as part of the Quad-Cities Urban Study for which a major public involvement effort has been made. The Bi-State Metropolitan Planning Commission is serving as the local coordinating agency for the study and is assisting the Corps of Engineers in the management of the study.

Policy, technical, and citizens committees have been formed to monitor the progress of the Urban Study. Subgroups composed of officials and residents representing the lower Rock River area have met to provide input to the study. A public meeting was held in August 1977 to discuss the problems and needs of the study area. A public workshop was held in May 1979 to discuss alternative solutions to flood problems. A public workshop and meeting was held in December 1979 to present the results of the preliminary studies.

Significant issues to be discussed in the draft EIS are the impacts associated with each of the plans, including floodplain development, effects on fish and wildlife habitat, effects on wetlands, and socio/economic effects.

It is anticipated that the draft EIS will be distributed for review and comment in July 1981.

For additional information concerning the proposed project and the draft EIS, please direct your correspondence to: District Engineer, U.S. Army Engineer District, Rock Island, ATTN: Planning Branch, Clock Tower Building, Rock Island, Illinois 61201.

Joseph F. Manzi, Jr.,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 80-388 Filed 1-5-81; 8:45 am]

BILLING CODE 3710-HV-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 80-CERT-039A]

Florida Power & Light Co.; An Amendment to a Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 18, 1980, Florida Power & Light Company (Florida Power), P.O. Box 529100, Miami, Florida 33152, filed an application with the Administrator of the Economic Regulatory Administration (ERA) for amendment to a recertification of an eligible use of natural gas (80-CERT-039, 45 FR 80868, December 8, 1980) to displace fuel oil at six of its power plants in Florida, pursuant to 10 CFR Part 595. Florida Power requested that its recertified volume of 75,000 Mcf per day be amended to state the volume on an annual basis of 27,375,000 Mcf per year (75,000 × 365), thereby removing the daily maximum volume restriction of 75,000 Mcf per day. The additional daily volumes of natural gas over 75,000 Mcf are to be used for oil displacement and the facilities for the transportation of the increased daily volumes will be available to Florida Power only during a limited period of time in the near future. The applicant requests that the amendment removing its daily maximum restrictions be authorized as soon as possible because every day of delay will reduce the amount of oil it can displace under its certificate. Furthermore, Florida Power requested that it be issued the amendment to the recertification prior to the 10-day public comment period required by 10 CFR Part 595.

By letter dated December 16, 1980, Florida Power requested Transcontinental Gas Pipeline Company, 2700 South Post Oak Road, P.O. Box 1396, Houston, Texas 77001;

and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Tenneco Building, P.O. Box 2511, Houston, Texas 77001, be added as additional transporters for this recertification, as amended.

The ERA has reviewed Florida Power's application for amendment in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979) and has determined that Florida Power's application satisfies the criteria enumerated in 10 CFR Part 595. We are therefore granting the amendment to the recertification and transmitting that amendment to the Federal Energy Regulatory Commission.

This amendment to a recertification is being issued without a 10-day public comment period prior to its authorization and is being made effective upon the date of issuance. The amendment to the recertification involves the displacement of volumes of predominantly imported fuel oil, and it is in the public interest to maximize the displacement of imported fuel oil. The application also states that Florida Power and the eligible seller are in a position to begin an immediate increase in the daily volumes of natural gas used to displace fuel oil and that pipeline capacity to accommodate the additional daily volumes is immediately available. Given the limited availability of the additional pipeline capacity, it is not in the public interest to lose permanently this limited opportunity to displace fuel oil while public comments are being solicited. Public comments will still be accepted by ERA on or before January 16, 1981. The Administrator can terminate a certification for good cause pursuant to 10 CFR 595.08.

More detailed information is contained in the application on file with the ERA and is available for public inspection at the Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before January 16, 1981.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Florida Power and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on December 30, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration

[FR Doc. 81–398 Filed 1–5–81; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Commonwealth of Australia Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of a contract to accept approximately 660 kilograms of D_2O (heavy water) for upgrading, and replacement in kind. The D_2O is of United States origin. The replacement material is to be utilized by the Australian Atomic Energy Commission Research Establishment as moderator in a research reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 31, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81–399 Filed 1–5–81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SA–FRL 1720–8]

Science Advisory Board, Research Outlook Review Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Research Outlook Review Subcommittee of the Science Advisory Board will be held on January 22, 1981, beginning at 9:00 a.m. in the Hall of States A, Skyline Inn, South Capitol and I Streets, S.W., Washington, D.C.

This is the second meeting of this Research Outlook Review Subcommittee. The Environmental Research, Development and Demonstration Authorization Act of 1978 requires the Science Advisory Board to review and comment on the Agency's five-year plan for environmental research, development, and demonstration. The agenda includes an up-date on the status of the plan and consideration of the revised draft, *Research Outlook 1981.*

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than January 16, 1981, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Science Advisory Board, or Ms. Anita Najera, 202–472–9444.

J. Frances Allen,

Acting Staff Director, Science Advisory Board.

December 29, 1980.

[FR Doc. 81–315 Filed 1–5–81; 8:45 am]

BILLING CODE 6560-34-M

[OPTS–51140A; TSH–FRL 1720–3]

Voluntary Suspension of the Review Period for Certain Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. During that 90-day period EPA evaluates the potential health and environmental effects of the PMN chemical. This notice announces four voluntary suspensions of review periods by the submitters of PMN's P80-172, P80-182, P80-238 and P80-256 in response to the Agency's identification of significant concerns regarding the PMN chemicals.

FOR FURTHER INFORMATION CONTACT: Cynthia Work, Chemical Control Division (TS-794), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, (202-426-3936).

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-447, 401 M Street, S.W. Washington, D.C. 20460, (202-755-8050).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA EPA is allowed 90 days (with extensions for "good cause" under section 5(c) for up to an additional 90 days) to evaluate the potential health and environmental effects of a PMN chemical. Several submitters of TSCA premanufacture notices have voluntarily suspended the tolling of their review periods when EPA's initial evaluation of the possible risks associated with their PMN chemical raised concerns which would best be examined outside of the rigid time limits imposed by the law. Absent a suspension, the Agency might have to proceed with issuance of an order for additional data under section 5(e), or control of the chemical under section 5(f) of TSCA since there would be insufficient time to review additional data or arguments regarding potential risks.

Section 5(e) of TSCA allows EPA to regulate a PMN chemical pending development of information by the submitter where the Agency determines that available information is insufficient to permit a reasoned evaluation of the chemical's health and environmental effects, and (1) the chemical may present an unreasonable risk, or (2) the chemical will be produced in substantial quantities with substantial environmental or substantial or significant human exposure. Alternatively, if the Agency determines that a chemical currently presents or will present an unreasonable risk to human health or the environment, it may move under section 5(f) to protect against such risk.

To date certain submitters have voluntarily suspended notice review periods because the company may volunteer either to investigate the Agency's concerns and provide appropriate testing or other data before the expiration of the review period, or the company may be willing to become subject to legally binding controls under section 5(e) or section 5(f). This notice announces four voluntary suspensions and, within the constraints of the TSCA confidential business information provisions of section 14, provides pertinent information regarding the individual notices.

P80-172

Manufacturer identity: Claimed confidential business information.

Chemical identity (generic): Polyisobutenyl succinic anhydride, reaction products with substituted phenol.

Notice received: July 16, 1980.

Date suspended: November 7, 1980.

EPA concerns: EPA is concerned about potential risks that the substance may pose to humans. Certain uses of the PMN substance can be expected to produce a highly toxic chemical. The carcinogenic and toxic properties of the substance expected to be generated are well established,

P80-182

Manufacturer identity: Claimed confidential business information.

Chemical identity (generic): Alkanedioic acids mixed alkanomines salt.

Notice received: July 23, 1980.

Date suspended: October 30, 1980.

EPA concerns: EPA is concerned about potential hazards that the substance may pose to human health. The expected use of the substance can be expected to generate a chemical known to be a carcinogen.

P80-238

Manufacturer identity: Claimed confidential business information.

Chemical identity (generic): Glycerine, 1-alkanoate, 3-substituted alkanoate.

Notice received: September 3, 1980.

Date suspended: November 7, 1980.

EPA concerns: EPA is concerned about worker safety during manufacture, processing and use.

P80-256

Manufacturer identity: Claimed confidential business information.

Chemical identity (generic) Methylaziridinylcarbonylimio oleyl triimido diisophorone poly (propylene glycol).

Notice received: September 18, 1980.

Date suspended: November 7, 1980.

EPA concerns: EPA is concerned about the potential for skin irritation and skin sensitization. The substance has also been identified as a possible carcinogen.

Dated: December 24, 1980.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-320 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-31-M

[A-9-FRL 1720-6]

Nevada Power Co.; Issuance of PSD Permit

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Nevada Power Company, Las Vegas, Nevada, EPA project number NV 80-01.

SUPPLEMENTARY INFORMATION: Notice is heregy given that on September 11, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct the following equipment: gas/oil-fired 73.4 MW combustion turbine generator (Unit No. 8) at Nevada Power's Clark Generating Station located in East Las Vegas, Nevada.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 241 pounds/hour (1054 tons/year) sulfur dioxide and 304 pounds/hour (1331 tons/year) nitrogen oxides.

Best Available Control Technology (BACT) requirements include: for sulfur dioxide emissions, 0.25% sulfur No. 2 fuel oil; and for nitrogen oxides emissions, water injection, 0.340 lb/10^6 BTU.

Emission units	Pollutant	Averaging time	Increment consumed (ug/m³)
Units 5, 6, 7, 8	SO_2	Annual	6.7
		24-hour	65.7
		3-hour	109.0

Air Quality Impact Modeling is required for NO_x and SO_2. Post construction ambient air monitoring will also be required for these pollutants. The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: December 29, 1980.

Carl C. Kohmert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 81-317 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1720-6]

Nevada Power Co.; Issuance of PSD Permit

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Nevada Power Company, Las Vegas, Nevada. EPA project number NV 79-03.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 3, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct one (1) 250 MW coal-fired steam turbine generator (Unit #4) and support facilities at the Reid Gardner Station near Moapa, Nevada.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR § 52.21) regulations and is subject to certain conditions including allowable emissions of: 0.29 pounds/10^6 BTU SO_2, 0.5 pounds/10^6 BTU subbituminous coal NO_x; 0.6 pounds/10^6 BTU bituminous coal NO_x and 0.03 pounds/10^6 BTU particulate.

Best Available Control Technology (BACT) requirements include: for SO_2, wet scrubber, 85% efficiency; for NO_x, boiler design and operation; and for particulate, baghouse, 99.6% efficiency.

Impact of Proposed Reid Gardner Unit No. 4 on Maximum Allowable Increments (µg/m.)

Pollutant	Averaging time	Maximum concentration	Maximum allowable increment
Sulfur dioxide	3-hour	114	512
	24-hour	66	91
	Annual	5	20
Particulate matter	24-hour	7	37
	Annual	1	19

Air Quality Impact Modeling is required for NO^x, SO^2 and TSP, and continuous monitoring of in-stack emissions is required for SO^2. The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: December 29, 1980.

Carl C. Kohmert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 81-318 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1720-7]

Sunland Refining Corp.; Issuance of PSD Permit

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Sunland Refining Corporation, 1017 N. La Cienega Blvd., Los Angeles, California. EPA project number SJ 79-22.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on September 22, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval of a two phase modification of an existing refinery located at 1850 Coffee Road, Bakersfield, CA.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR § 52.21) regulations and is subject to certain conditions including allowable emissions of: 58.6 tons/year NO_x.

Best Available Control Technology (BACT) requirements include: Prior to completion of Phase I, installation of low NO_x burners on existing heater B; prior to completion of Phase II, installation of non-catalytic ammonia injection on heater B; new heater A will have low NO_x burners and non-catalytic ammonia injection prior to completion of Phase II.

The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: December 29, 1980.

Carl C. Kohmert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 81-316 Filed 1-5-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 48]

Common Carrier Public Mobile Services Information

By the Chief, Common Carrier Bureau.

Applications Accepted for Filing

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of the applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period, (309)(c) of the Communications Act.

In order for an application filed under Part 22 of the Commission's Rules to be considered mutually exculsive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of public notice listing the first prior filed application, (with which the subsequent application is in conflict), as having been accepted for filing.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Domestic Public Land Mobile Radio Service:

20587-CD-P-81 Southern Message Service, Inc. (New) C.P. for a new two-way facility to operate on 152.03 MHz located 3 miles NE of Natchitoches on highway 6, Natchitoches, LA.

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20588–CD–P–81 Radio Communications, Inc., (KWB404) C.P. for additional facilities to operate on 158.61 MHz located 3350 Mountain View Drive, Anchorage, AK.

20589–CD–P–81 Port City Communications, Inc., (KUD204) C.P. to change antenna system, replace transmitter and relocate facilities to operate on 152.24 MHz located WSAQ(FM) Tower—32nd Street at LaPeer Avenue, Port Huron, MI.

20590–CD–P–81 Kelley's Radio Telephone, Inc., (KLF604) C.P. for additional facilities to operate on 454.100 MHz located 7228—156th S.E. Snohomish, WA.

20592–CD–P–81 Illinois Consolidated Telephone Company, (KKB532) C.P. for additional facilities to operate on 158.10 MHz located 120 West Water Street, Hillsboro, Illinois. (One-way)

20192–CD–P–81 C–W Tele-Communications, Inc., (WXR929) C.P. for additional facilities to operate on 454.175 MHz located at 955 Progress Road, Chambersburg, PA.

20586–CD–P–81 Empire Paging Corporation, (KAA209) C.P. for additional facilities to operate on 152.24 MHz located Corner of Westview and Beechwood Drives, Danbury, CT. (one-way)

20189–CD–P–81 Industrial Communications of Pecos, Inc., (KKJ454) C.P. to change antenna system and for additional facilities to operate on 2179.0 MHz (control) located 2203 West 3rd Street, Pecos, TX.

20593–CD–P–81 Total Availability Services, Inc., (KIY508) C.P. to change antenna system and replace transmitter to operate on 72.94 MHz located at Pan American Bank Building, 250 North Orange Avenue, Orlando, FL.

20593–CD–P–81 Radio Communications, Inc., (New) C.P. for a new facility to operate on 152.24 MHz located at Hump Road, Hagerstown, MD. (one-way)

20595–CD–P–81 William G. Bowles, Jr. d/b/a Mid-Missouri Mobilfone, (WSI723) C.P. for additional facilities to operate on 158.700 MHz located 2 miles N. of Hwy. 60 & 25 Jct. and .4 mile W on gravel road, Dester, MO.

20596–CD–P–3–81 Tri-Com Services, Inc., (New) C.P. for a new facility to operate on 454.175 MHz (Base) at Sunlight Peak, 8 mi West of Carbondale, CO. (and for additional facilities to operate on 454.300 MHz. (Repeater) and 459.300 MHz (Control) at Carbondale, CO.

20597–CD–P–2–81 Airsignal International, Inc., (New) C.P. for a new facility to operate on 454.075 and 454.225 MHz located at 2625 S. Atlantic Avenue, Daytona Beach Shores, FL.

20303–CD–P–81 Able Communications, Inc., (New) C.P. for a new facility to operate on 152.06 MHz located 0.3 mile east of Timmonsville City Center, Timmonsville, S.C.

20598–CD–P–2–81 Tri-Com Services, Inc., (New) C.P. for a new facility to operate on 454.225 MHz (Base) Located at Red Mountain, 2.7 miles North of Aspen, CO., and 459.025 MHz (Control) at 295 Neal Street, #52, Aspen, CO.

Informative

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ExPart Presentations by reasons of potential electrical interference.

Texas 152.24 MHz

Mobile Phone of Texas, Inc. (New) 22126–CD–P–80.

Danny Ray Boyer d/b/a Central Mobilfone (New) 22597–CD–P–80.

Corrections:

20412–CD–P–01–81. Correct to add facilities 454.350 MHz. All other particulars to remain as reported on PN #46 dated 12–17–80.

[FR Doc. 81–272 Filed 1–5–81; 8:45 am]

BILLING CODE 6712–01–M

[PR Doc. Nos. 80–762 and 80–763]

Harold C. Graham; Applications for Renewal of Amateur Radio Station License WD8SEM and for General Class Operators Licenses and for Citizens Band Radio Station License, Designation Order

Adopted: December 15, 1980.

Released: December 31, 1980.

1. The Chief, Private Radio Bureau, has under consideration the applications of Harold C. Graham, 666 Virginia Avenue, Franklin, Ohio 45005, for renewal of license of station WD8SEM in the Amateur Radio Service and for a General Class Amateur Radio Operator's License. Also under consideration is Graham's application for a Citizens Band license.[1]

2. Information before the Commission indicates that on August 10, 1979, Graham made radio transmissions on the frequencies 27.485 MHz and 27.505 MHz. those frequencies were both assigned for use by the Industrial Radio Services. Graham did not possess a license authorizing the use of those frequencies.[2] Thus, the operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended. Moreover, if the apparent operation of August 10, 1979, was under the color of authority of Graham's Amateur station license WD8SEM, the operation was in violation of the following Amateur Radio Service Rules: 97.7(e) (limitations of Novice Class license); 79.61(a) (authorized frequencies); 97.89(a)(3) (communication with unauthorized station); 97.121 (transmission of unassigned call sign); and 97.123 (transmission of unidentified radio signals).[3] The conduct described above calls into question Graham's qualifications to have his Amateur station license renewed, to receive a higher class Amateur Radio Service Operator's license, or to be granted a Citizens Band radio station license.

3. Section 309(e) of the Communications Act of 1934, as amended, provides that the Commission shall designate for hearing applications when it cannot find that the public interest would be served by a grant of the application. Accordingly, IT IS ORDERED, pursuant to Section 309(e) of the Communications Act and Sections 1.973(b) and 0.331 of the Commission's Rules, that Graham's application for renewal of the Amateur station license, his application for upgrade to Amateur General Class, and his application for a Citizens Band radio station license ARE DESIGNATED FOR HEARING on the issues specified below.

4. IT IS FURTHER ORDERED, That if Graham wants a hearing on the application matters, he must file a written request for a hearing within 20 days.[4] If a hearing is requested, the time, place, and Presiding Judge will be specified by a subsequent Order.

5. IT IS FURTHER ORDERED, That the matters at issue in this proceeding will be resolved upon the following issues:

(a) To determine whether there were transmissions on August 10, 1979, in violation of Section 301 of the Communications Act of 1934, as amended or Sections 97.7(e), 97.61(a), 97.89(a)(3), 97.121, and/or 97.123 of the Commission's Amateur Rules.

(b) To determine whether grant of the application for Amateur station license renewal, Amateur Operator's license upgrade, and/or Citizens Band radio station license would serve the public interest, convenience and necessity.

6. IT IS FURTHER ORDERED, That pursuant to Section 1.227 of the Rules, the application proceedings on the Amateur and Citizens Band application are consolidated for hearing.

7. IT IS FURTHER ORDERED, That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee, Harold C. Graham, at his address of record as shown in the caption.

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[1] Graham's application for Novice Class renewal is superseded by his General Class applications and is hereby dismissed. However, inasmuch as Graham filed for renewal of his Novice Class license before its expiration, he has continuing operating authority.

[2] On the date in question, Graham was the licensee of Amateur radio station WD8SEM. Graham also held an Amateur Novice Class Operator's license.

[3] The August 10, 1979 operation was the subject of an Official Notice of Violation for the Amateur Radio Service mailed to Graham on December 31, 1979.

[4] The attached form should be used to request or waive hearing. It should be mailed to the FTC, Washington, D.C. 20554.

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Chief, Compliance Division.

[FR Doc. 81-274 Filed 1-5-81; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 75; "MPS—Automatic Coordinate Conversion Systems"; Notice of 8th Meeting; Wednesday, January 21, 1981—9:00 a.m.; Conference Room 7426, Nassif (DOT) Building, 400 Seventh Street, S.W., at D Street, Washington, D.C.

Agenda

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Discussion of draft of Minimum Performance Specifications.

Mortimer Rogoff, Chairman, SC-75, 4201 Cathedral Avenue, N.W., Apartment 91W, Washington, DC 20016, Phone: (202) 362-5462.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-273 Filed 1-5-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2076]

Expert Forwarding, Inc.; Order of Revocation

On November 24, 1980, Expert Forwarding, Inc., 17 Court Place, Naperville, IL 60540, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2076.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2076 issued to Expert Forwarding, Inc., be revoked effective November 24, 1980, without prejudice to reapplication for a license in the future.

It is further ordered that Independent Ocean Freight Forwarder License No. 2076 issued to Expert Forwarding, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Expert Forwarding, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-304 Filed 1-5-81; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-85]

Waipuna Trading Company, Inc. v. Matson Navigation Company, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Waipuna Trading Company, Inc. v. Matson Navigation Company, Inc. was served December 19, 1980. The complaint alleges that respondent has subjected it to payment of unreasonable and excessive freight charges in violation of section 18(a) of the Shipping Act, 1916 by virtue of assessing charges found by the Commission to be unreasonable in Docket 76-43, *Matson Navigation Company—Proposed Rate Increase in the United States Pacific/Hawaii Trade.*

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 81-303 Filed 1-5-81; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-86]

Newark Truck International v. Prudential Lines, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Newark Truck International against Prudential Lines Inc. was served December 19, 1980. Complainant alleges that it has been subjected to payment of rates for transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 81-302 Filed 1-5-81; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-3929]

Lease Agreement Between Board of Commissioners of the Port of New Orleans and Coordinated Caribbean Transport, Inc.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on this agreement will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*, and that preparation of an environmental impact statement is not required. For a description of this agreement, please refer to 45 FR 74995 (November 13, 1980).

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 457.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal

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Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81-306 Filed 1-5-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0324]

Adoption of Fee Schedules and Pricing Principles for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Adoption of Fee Schedules and Pricing Principles.

SUMMARY: The Monetary Control Act of 1980 (Title I of Public Law 96-221) requires that fees be set for Federal Reserve Bank services. The Board has adopted a set of pricing principles for Federal Reserve Bank services and has established implementation dates on which fees for each of the services will become effective. A schedule of fees has been adopted for wire transfer of funds, net settlement, and automated clearing house services. Fee schedules for the remaining services will be announced in advance of their implementation dates.

EFFECTIVE DATE: December 31, 1980. On that date, all depository institutions will be eligible to deposit local checks in Federal Reserve Regional Check Processing Centers ("RCPC's"). On January 29, 1981, the fee schedule for the initial Federal Reserve Bank services to be priced—wire transfer of funds and net settlement—will become effective.

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Assistant Director for Federal Reserve Bank Operations (202/452-2738); Earl G. Hamilton, Senior Operations Analyst (202/452-3878); David B. Humphrey, Section Chief (202/452-2556); Myron L. Kwast, Economist (202/452-2886); Paul P. Burik, Economist (202/452-2556); Gilbert T. Schwartz, Assistant General Counsel (202/452-3625); Lee S. Adams, Senior Attorney (202/452-3623); Daniel L. Rhoads, Attorney (202/452-3711).

SUPPLEMENTARY INFORMATION:

I. Introduction

The Monetary Control Act of 1980 ("Act") (Title I of Public Law 96-221) requires that fees be set for Federal Reserve Bank services according to a set of pricing principles established by the Board. The Act provides that the Board shall begin putting into effect a schedule of fees not later than September 1, 1981. Services covered by the fee schedules are to be made available to all depository institutions. The Board, in accordance with the requirements of the Act, published proposed pricing principles and a schedule of fees for comment on August 28, 1980 (45 FR 58689). The period for public comment expired on October 31, 1980. After considering the more than 230 comments received from the public (primarily from depository institutions and financial institution trade groups), the Board has adopted revised pricing principles, set a series of implementation dates on which fee schedules for each of the services will become effective, and approved fee schedules for several of these services. In preparing the pricing principles and fee schedules, the Board has taken into account the objectives of fostering competition, improving the efficiency of the payments mechanism, and lowering costs of these services to society at large. At the same time, the Board is cognizant of, and concerned with, the continuing Federal Reserve responsibility and necessity for maintaining the integrity and reliability of the payments mechanism and providing an adequate level of service nationwide.

II. Background

The Act specifies that fees are to be set for the following Federal Reserve Bank services in accordance with the pricing principles adopted by the Board:

(1) currency and coin transportation and coin wrapping;
(2) check clearing and collection;
(3) wire transfer of funds;
(4) automated clearing house (ACH);
(5) net settlement;
(6) securities services;
(7) noncash collection;
(8) Federal Reserve float; and
(9) any new services the Federal Reserve System offers.

The legislative history of the Act indicates that Congress had two objectives in establishing a requirement that the Federal Reserve price the services it provides. First, Congress sought to encourage competition in order to assure provision of these services at the lowest cost to society. While intending to stimulate competition, Congress did not wish to precipitate the reemergence of undesirable banking practices—such as non-par banking or circuitous routing of checks—which the Federal Reserve System was designated to eliminate. Also, Congress was concerned with ensuring an adequate level of services nationwide. Consequently, it charged the Board with adopting pricing principles that "give due regard to competitive factors and the provision of an adequate level of such services nationwide". This objective is clearly established in the pricing principles established by the Act.

Second, Congress was concerned with the amount of revenue lost to the Treasury due to the reduction in the level of aggregate required reserves resulting from the implementation of the reserve requirement provisions of the Act. Pricing for Federal Reserve Bank services will generate revenue that will partially offset the revenue loss associated with reduced required reserves.

III. Pricing Principles

In its August proposal, the Board proposed eight principles as a framework for establishing fees for Federal Reserve Bank Services. Principles one through four were required by the Act while proposed principles five through eight were added by the Board to amplify its policies with respect to the establishment of fees for, and the provision of, System services. These four additional principles [1] evoked substantial comment. Many commentators expressed concern that those principles suggested that the Federal Reserve System might engage in unfair competition. The Board believes the concerns expressed by commentators represent a misunderstanding of Federal Reserve intentions, and has accordingly modified the additional nonstatutory principles to address those concerns. As a result, proposed Principles 5, 7, and 8 have been restated, and proposed Principle 6 has been eliminated.

Public comments expressed concern with Principle 5 because it suggested that the Federal Reserve might subsidize some services for long periods and/or systematically cross-subsidize one service from the revenue of another, to the possible detriment of private competitors offering the same service. In proposing that principle the Board intended simply to recognize that pricing of Federal Reserve services could result in significant volume losses for some services. In the short run, this would imply large changes in unit costs since many services have a high proportion of fixed costs. If prices were immediately adjusted upward, further volume losses would result simply because insufficient time had elapsed for Reserve Banks to have adjusted their fixed costs. Thus, the Board believed it desirable for Reserve Banks to have the flexibility to maintain prices long enough to adjust fixed costs.[2] The Board has restated Principle 5 to clarify these intentions. The principle also specifies that the Board will announce any decision to set fees for a service below cost if such fees are established in the interest of providing an adequate level of services nationwide. In light of the restatement of Principle 5, the Board deleted proposed Principle 6 because it was no longer necessary.

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[1] The four nonstatutory principles proposed by the Board in August were:

Principle:

5. The fee schedule shall, over the long run, be set to recover total costs for all priced services.

6. Fees shall be structured so as to avoid undesirable disruptions in service and to facilitate an orderly transition to a pricing environment.

7. The fee schedule, as well as service levels, shall be administered flexibly in response to changing market conditions and user demands.

8. Fee and service level incentives may be established to improve the efficiency and capacity of the present payments system and to induce desirable longer run changes in the payments mechanism.

With respect to proposed Principle 7, some commentators expressed concern that the word "flexibly", as used in the principle, implied that the Federal Reserve might price in a predatory fashion in order to maintain or increase its market share. In fact, this principle was proposed by the Board only to indicate that the Reserve Banks should be sensitive to the changing needs for services in particular markets. Consequently, the Board has revised this principle, now renumbered as Principle 6. This principle also states that advance notice will be provided where a Reserve Bank makes fee changes or significant service level changes in accordance with it.

Comments on proposed Principle 8 focused on concerns that the Federal Reserve might use what was termed "incentive pricing" either to undermine the competitive position of private sector providers of services or to create additional barriers to entry. In addition, commentators suggested that it was inappropriate for the Federal Reserve unilaterally to determine what long-run changes in the payments system are in the public interest.

The Board proposed Principle 8 for two reasons. First, the Board wished to recognize the desirability of inducing more efficient utilization of Federal Reserve services. For example, pricing to induce off-peak use of Federal Reserve payment services may be one way to accomplish this goal. Second, this principle was proposed to indicate that certain services, such as ACH, might be supported for a period of time to foster development of efficient new technologies that would benefit the public in the long run. Public comment will be sought when a fee below cost is proposed in order to induce desirable longer-run changes in the payments system, as already has been done with the proposed ACH fee schedules. Accordingly, the Board has revised this principle, now renumbered as Principle 7, in order to clarify its intention.

Thus, the Board has adopted the following pricing principles, which incorporate both the specific statutory requirements of the Monetary Control Act and provisions intended to fulfill its legislative intent:

1. All Federal Reserve Bank services covered by the fee schedule shall be priced explicitly.

2. All Federal Reserve Bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

3. Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.

4. Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

5. The Board intends that fees be set so that revenues for major service categories match costs (inclusive of a private sector mark-up). During the initial start-up period, however, new operational requirements and variations in volume may temporarily change unit costs for some service categories. It is the System's intention to match revenues and costs as soon as possible and the Board will monitor the System's progress in meeting this goal by reviewing regular reports submitted by the Reserve Banks. If, in the interest of providing an adequate level of services nationwide, the Board determines to authorize a fee schedule for a service below cost, it will announce its decision.

6. Service arrangements and related fee schedules shall be responsive to the changing needs for services in particular markets. Advance notice will be given for changes in fees and significant changes in service arrangements to permit orderly adjustments by users and providers of similar services.

7. The structure of fees and service arrangements may be designed both to improve the efficient utilization of Federal Reserve services and to reflect desirable longer-run improvements in the nation's payments system. Public comment will be requested when changes in fees and service arrangements are proposed that would have significant longer-run effects on the nation's payments system.

IV. Price Determination

The Monetary Control Act of 1980 requires that "over the long run fees shall be established on the basis of all direct and indirect costs actually incurred in providing Federal Reserve services priced." The Federal Reserve's cost accounting system provides the basis for calculating the total cost of major services (e.g., checks, wire transfer).

A. Private Sector Adjustment Factor

The Monetary Control Act requires that Federal Reserve fees take into account imputed taxes and financing costs that would have been incurred had System services been provided by a private firm. The proposed fees that were published for comment in August, 1980 included a private sector mark-up of 12 percent. This mark-up reflected a middle course between alternative models based on a sample of twelve large banking organizations—one model using the average cost of all bank funds and the other using the average cost of banks' long-term debt and equity only. When considering this issue, the majority of the comments received stated that the 12 percent mark-up was too low. The Board recognizes that no definitive mark-up can be calculated for the Federal Reserve for at least two reasons. The first is that there are various private competitors, including large correspondent banks and independent bank service corporations, that now offer or would offer payments function services that resemble those supplied by the System, and the costs of these competitors differ. Second, once the type of competitor is selected, the appropriate tax rate, interest rates on debt, and rate of return on equity must be ascertained. Such information may not be explicitly provided in the available financial statements prepared by firms representative of the selected type of competitor and must be inferred in order to calculate a mark-up. Despite the inherent limitations on the precision with which a definitive mark-up can be calculated for the Federal Reserve, the Board believes that the methodology that was developed and modified in response to public comments is consistent with the requirements of the Act.

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[2] Of course, as specified by the Act, the Board will require that Reserve Banks reduce their budgets to reflect long-run reductions in service volumes.

Comments on the Board's August proposals cited five major reasons for the alleged under-estimation of the private sector adjustment factor, focusing on the private sector's tax and financing costs. First, the 12% private sector adjustment factor (PSAF) did not reflect the cost of funds to banks during 1980. Second, it was claimed that the procedure used to estimate the short-term cost of funds improperly accounted for deposit liabilities and therefore had a downward bias. Third, the use of a tax rate which included the tax benefits arising from holdings of State and local securities was challenged. Fourth, the assumed capital structure did not correspond to that of actual private sector suppliers. Fifth, it was alleged that a mark-up based on firms other than large banking organizations may be more appropriate. These concerns are considered in more detail in Appendix I.

The Board believes many of the views expressed in these comments have merit. Therefore, by employing a matched capital structure, updating the financing costs to third quarter 1980, revising the procedures used to compute the average interest rate on short-term funds, and increasing the effective tax rate, a mark-up of 15.4 percent was generated. The procedure involved in the computation of the markup is presented in Table 2 of Appendix I. Recognizing the imprecision inherent in any attempt to impute the financing costs incurred and taxes paid by private sector suppliers, and in order to give further consideration to private sector concerns, on this occasion, the Board elected to adopt 16 percent as the PSAF. The Board intends to review the PSAF annually and will adjust it as appropriate.

B. System Costs and 1981 Fee Schedule

A number of commentators expressed concern that the fees published by the System were not based on the actual full costs of providing services. Other commentators expressed the view that use of 1979 costs as a basis for prices to be imposed in 1981 was inappropriate. The fees published by the Board in August were based on estimates of 1980 full costs of providing services and a 12 percent private sector adjustment factor.[3] The derivation of full costs was based on the Federal Reserve's Planning and Control System (PACS), which establishes accounting standards for the System. That system provides for the allocation of all Reserve Bank expenses to the so-called "output" services performed by the Banks. The cost accounting principles and procedures used in PACS are described in detail in manuals that are available to the public. The proposed pricing procedures discused by the Board in August indicated that fees would be reviewed at least annually in light of estimated costs of services for the ensuing year, including a possible revision in the private sector adjustment factor. Consistent with this procedure, the fee schedules for wire transfer and net settlement have been adjusted to reflect estimated 1981 costs and a PSAF of 16 percent. These two services will be priced and made available to nonmembers in January, 1981. No adjusted fee schedules have been adopted for any of the other services except ACH. It is the Board's intention to publish the revised fee schedules for the remaining services well in advance of their implementation dates.

C. Development Costs

The fees for wire transfer and net settlement include a provision for the costs of developing a new communications system (FRCS-80). In using the PACS full cost as the basis for setting Federal Reserve fees, an issue has been raised regarding the appropriate treatment for pricing purposes of software development and associated outlays. While PACS accounting principles require that these costs be treated as current expenses, the Board believes, for the reasons enumerated below, that fees should be set to recover these costs over future periods.

The spreading of development costs would serve several objectives:

1. Wide short-term fluctuations in fees due only to the timing and scope of development efforts would be avoided. These fluctuations might result in destabilizing shifts in volume, depending on demand elasticities. Even without immediate shifts, a volatile pattern of fee changes is undesirable, as it impairs the ability of users of System services to project their costs.

2. Spreading development costs would provide a more equitable matching of those customers bearing the costs with those realizing the benefits of development efforts.

3. Development efforts, viewed from a managerial standpoint, are investments to improve future levels of service and operational efficiency. Requiring that the entire cost of such efforts be recovered in the year in which they are incurred would create a substantial barrier to future development efforts.

4. While in the private sector, product development costs are expensed as they are incurred for financial reporting purposes economic factors rather than accounting conventions determine the price-setting process.

To establish a policy for spreading development costs, the Board has decided that (a) its use be limited to cases in which development costs would have a material impact on unit costs; (b) when used, conservative time periods should be set for full cost recovery; (c) a financing factor, to be based on the marginal cost of long term capital, should be applied to the deferred portion of development costs; and (d) the System should announce the use of this technique when it is applied. In developing the wire transfer fee schedule, the Board has used this technique to incorporate FRCS-80 development costs.

D. Pricing to Improve Service Efficiency (Incentive Pricing)

The Board's August proposal contained references to additional pricing concepts being developed to use surcharges or discounts to affect customer behavior, and thus encourage more efficient utilization of resources in payment services. Such pricing concepts could result in smoothing check and wire transfer processing workloads and reductions in check and ACH return items. The Board plans to complete development of a detailed proposal for this type of pricing by spring of 1981 and, if adopted by the Board, may incorporate such concepts in 1982 fee schedules.

E. Billing Procudures

The August pricing proposal contained no details about the procedures for billing by Reserve Banks. Commentators, however, were of the view that billing procedures should be uniform across Federal Reserve offices. A recent survey indicated that Reserve Bank billing procedures being developed in accordance with current System guidelines were not as uniform as desired by commentators.

The Board expressed its desire for greater uniformity and requested the System's Conference of First Vice Presidents to develop a uniform billing cycle, a standard interval between presentation of the bill and debiting the charges to the account of a depository institution, and a minimum standard for information that will be provided to depository institutions to describe the charges made. The Board plans to announce the details of the System's billing procedures by February 16, 1981. After that announcement, each Reserve Bank will begin as soon thereafter as operationally feasible to develop and test its billing procedures with member banks using check services and with nonmember institutions with a clearing or reserve account using RCPC services. Such testing should continue for at least two billling cycles prior to the actual levying of fees.[4]

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[3] However, an exception was provided for ACH fees and a ceiling was imposed on fees for remote endpoint cash shipments.

F. Clearing Balances

The Monetary Control Act imposes Federal reserve requirements on all depository institutions with transaction accounts or non-personal time deposits. Nevertheless, a number of member and nonmember depository institutions will maintain zero or negligible required reserve balances with the Federal Reserve because of the lower reserve ratios established by the Act or because of the phase-in provisions. These institutions may want direct access to some or all Federal Reserve services. However, their reserve balances held at Federal Reserve Banks may be considered inadequate for clearing purposes. Consequently, the Board will provide two alternative methods whereby depository institutions maintaining zero or negligible required reserve balances with Federal Reserve Banks will be able to receive Federal Reserve Bank services directly, in accordance with the access provisions of the Act.

The first method is for a depository institution to arrange with a correspondent institution or with its reserve pass-through correspondent to post all of its Federal Reserve credits and charges arising from its use of System services to the correspondent institution's or pass-through correspondent's Federal Reserve account. Such arrangements must comply with the requirements of the Federal Reserve Bank involved. The second method is for the depository institution, regardless of whether or not its reserves are held through a pass-through correspondent, to establish a clearing balance with its Reserve Bank to which Federal Reserve credits and charges may be posted. If the depository institution chooses the clearing balance method, the following procedures would apply.

The need for as well as the size of the clearing balance will depend upon the need for balances to avoid frequent or large daylight and overnight overdrafts. This evaluation will be made on a case by case basis in accordance with national guidelines. The size of the clearing balance may be revised monthly to reflect changes in the level and timing of an institution's transactions and the incidence of daylight and/or overnight overdrafts.

The Board's August proposal suggested that required clearing balances receive earnings credits equal to the 91 day Treasury bill rate. Many commentators suggested that the earnings credit rate should be the Federal funds rate, noting that the Act required that float be priced at the Federal funds rate. They also pointed out that a Federal funds earnings rate would provide a greater incentive for institutions to maintain clearing balances at required levels.

For these reasons, the Board has determined that earnings credits will be granted on the lesser of the actual or required clearing balance at a rate equal to the weekly average Federal funds rate. These earnings credits are not transferable between depository institutions and can only be used to offset charges incurred by the use of System services. However, if during a particular billing period a depository institution receives earnings credits in excess of the charges it has incurred for System services, it may carry over the credits and apply them to System service charges incurred at any time in the subsequent 12 months. Any excess credits remaining at the conclusion of the 12 month period are forfeited.

For monetary control purposes, the required clearing balance level will be fixed in advance of the period during which the balance must be maintained and must be met on average during a statement week. Each depository institution with a required clearing balance will have to maintain a required weekly average total balance—required clearing balances plus, if applicable, required reserve balances. At the end of each maintenance period any balances held with a Federal Reserve office will first be allocated to the clearing balance requirement and the remainder will apply to the required reserve balance. Thus, if a depository institution holds an average total balance with a Federal Reserve office during the maintenance period that is less than the required balance—required clearing balances plus required reserve balances—the depository institution will be considered to be deficient in reserves. If the deficiency in average total balances is greater than required reserves, the remaining shortfall will be considered deficient clearing balances. If the maintained total balance exceeds the required balance, the institution will be considered to be holding excess reserves. However, in the case where a depository institution elects to pass through its required reserves and in addition maintains a required clearing balance directly with a Federal Reserve Office, the required clearing balance will be administered separately from the required reserve balance.

Required clearing balances will be subject to a 2 percent carry over provision (which also applies to required reserve balances), but deficiencies in excess of this carryover will be subject to a penalty rate. Clearing balance deficiencies from zero to twenty percent (after the application of carryover) will be penalized at a 2 percent annual rate while deficiencies in excess of 20 percent (after carryover) will be penalized at a 4 percent annual rate. The maintenance period for required clearing balances will correspond to the maintenance period for required reserve balances. Depository institutions are expected to meet their clearing and reserve balance requirements on a continuing basis. Federal Reserve Banks will meet with depository institutions that demonstrate an inability to maintain required balances or that incur repeated penalties to discuss how better to manage required total balances. Procedures regarding clearing balances will apply to all depository institutions as well as Federal Home Loan Banks.

G. Pricing Administration

The pricing proposals published for comment divided fees into those that would be administered locally and those that would be administered nationally. National fee schedules would be uniform throughout the System and are associated with services that are generally capital intensive and have similar long-run costs across Districts. National fee schedules were proposed for wire transfer, net settlement, ACH, and on-line securities transfer services. Fee schedules that vary by Federal Reserve District or office were proposed for services where there are significant cost differences across District (or across separate offices within the District) and/or where the market for that service is local in scope. District fees were proposed for coin wrapping, securities and noncash collection services, while office fees were proposed for currency and coin shipping services. The Board proposed that Reserve Banks be given the option to set fees for check services on either a District or office basis.

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[4] All nonmember depository institutions will have RCPC check services available to them beginning December 31, 1980. Nonmembers with a reserve or clearing account would obtain test bills for RCPC services during the test billing period.

It is contemplated that national price changes will be reviewed by the Conference of First Vice Presidents and local prices could be changed by each Reserve Bank. Any change in fees would be done in accordance with the pricing principles adopted by the Board. However, during the initial phases of pricing, it is anticipated that issues of service and pricing policy will arise that could have significance for the long-term role of the Federal Reserve in the payments mechanism. To deal with these issues during the implementation period, a Pricing Policy Committee, consisting of representatives from the Board and the Reserve Banks, has been established to review all major changes in fees and service levels.

V. Specific Services

A. Wire Transfer/Net Settlement

The proposed fee schedules published in August were based on 1979 actual costs adjusted for anticipated 1980 cost increases and a 12 percent private sector adjustment factor. These cost estimates have now been revised to reflect estimates of 1981 costs and volume as well as the recommended 16 percent private sector adjustment factor. In addition, the revised fee schedules include FRCS-80 development costs attributable to the wire transfer function, which have been allocated over the 10 year estimated useful life of this system. Off-line originator and telephone advice fees have been adjusted to reflect the increases in personnel and communications costs.

These adjustments result in a schedule for wire transfer fees as follows:

Fee Schedule—Wire Transfer

[Effective Jan. 29, 1981]

	Telephone advice	
	No	Yes
Originator on-line	$0.80	$2.60
Orginator off-line	3.50	5.30
Receiver off-line		[1] 1.80

[1] Fees for advices requested by originators will become effective Mar. 26, 1981.

In the August proposal, telephone advices provided to off-line receivers were to be charged to the requesting party. Some commentators suggested that since the telephone advice primarily benefits the receiver, that party should bear the cost regardless of who requests the advice. The Board believes that the party requesting the service should bear the cost because that party is the one contracting with the Federal Reserve for the telephone advice.

Under present procedures the originator of a wire transfer may not know if the receiver is on-line or off-line. Consequently, the originator nay not know if a telephone advice is necessary. The Reserve Banks have prepared a directory for on-line originators that contains information to enable originators to select the appropriate message type code and thereby ascertain the cost associated with each transfer. In order to provide originators with time to modify their operations to be able to take account of such encoding, the Board determined that the fee for telephone advice requested by the originator will be delayed until March 26, 1981.

In some cases, originators of wire transfers do not request that telephone advices be made to the off-line receivers. Because the receivers are never certain when a wire transfer may be arriving, they may place a standing order with their Reserve Bank for telephone advice of all wire transfers that are not requested by the originator. In order to service such receivers of wire transfers, all Reserve Banks will offer standing order telephone advice service if sufficient demand should develop for this service. In these cases, the receiving institution will be charged for this service. Fees for the standing order telephone advice will go into effect on January 29, 1981.

The fees for net settlement services, in which a third party typically requests the Reserve Banks to post entries to reserve accounts as a result of clearing arrangements outside of the Federal Reserve, were proposed to be the same as the fees for wire transfer. Accordingly, the net settlement prices were adjusted in the same manner as wire transfer prices.

Fee Schedule—Net Settlement

[Effective Jan. 29, 1981]

Basic settlement charge per entry	$0.80
Surcharges:	
Settlement Originated Off-Line	2.70
Telephone advice requested	[1] 1.80

[1] Fees for advices requested by originators will become effective Mar. 26, 1981.

B. Check Clearing and Collection

Many commentators indicated that the introduction of pricing and open access, together with float reduction efforts, will significantly affect the evolution of the nation's payment systems, the pattern of customer relationships, and the role of Reserve Banks as providers of financial services. These commentators urged the Board to adopt a more deliberate schedule for instructing these charges in order to allow the private sector an opportunity to identify and evaluate service alternatives, to redefine pricing and marketing strategies, and to adjust to Reserve Bank billing arrangements.

In response to these comments, the Board has decided to delay pricing and full nonmember access to check clearing and collection services until August 1, 1981. However, in view of the December 31, 1980 effective date for NOW accounts for all depository institutions and in order to limit the impact of delaying nonmember access to check collection services, the Board has decided to authorize access to current RCPC arrangements without charge to all nonmember depository institutions. It should be noted that nonmember commercial banks currently are permitted to deposit local items in RCPC's.

Because they must be manually processed, return items contribute disproportionately to the System's total check clearing and collection costs—approximately one percent of all checks deposited for collection with the Federal Reserve are returned and account for eight percent of check clearing expenses. However, a separate charge for return items was not included in the original Board proposal because it was believed that such fees would probably not be sufficiently high to have a significant impact on the behavior of the paying institution or its customers. In addition, a separate fee for return items would add a further complication to the fee schedule and administration. Many commentators have argued that the failure to charge separately for return items, under a price schedule intended to recover all Federal Reserve costs, unfairly increases the fee for all non-returned checks. Thus, though a separate charge might not change the behavior of participants in the collection system, it would more equitably place the cost on the parties responsible for return items.

The Board has endorsed the concept of separate pricing for return items and will publish a proposal for comment during 1981, with the intent of implementing separate fees for return items in the 1982 pricing structure. In March 1981, the Board will publish a final fee schedule for check clearing and collection services to reflect estimated 1981 costs and a 16 percent private sector adjustment factor. The check fee schedule for 1981 will be set to fully recover all costs, including return item processing costs. When return items are separately priced in 1982, other fees in the check schedule will be reduced.

C. ACH

Commercial ACH service fees published in August were based on mature volume costs, rather than on current costs. Commentators generally supported this decision as necessary to encourage the development of electronic funds transfer, provided that the Federal Reserve disclose the total costs associated with providing ACH services, define a mature volume environment, and set a specific deadline for pricing to recover full costs. Concern was expressed by some commentators that pricing at less than full cost could act as a barrier to possible new private sector ACH operations.

The Act provides that over the long run, fees should be based on total costs. proposed ACH prices are based on staff estimates of costs at an annual volume of approximately two billion items, which it is believed can be achieved in approximately five years. Maintaining prices at or near their current levels as volume increases and unit costs decline should result in a declining level of Federal Reserve support for each ACH item processed. Continuing this procedure in the future would enable the System to recover some or all of its development costs. The Board will review the fee schedule for ACH services on an annual basis to determine the appropriateness of continuing its ACH pricing policy.

The Board has considered the impact its ACH pricing policy may have on the development of private sector alternatives to the existing ACH network. It concluded that its pricing policy is in the public interest, will result in a more efficient payments mechanism in the long run and is consistent with the objectives of the Act. Most private commentators agreed with this position.

The August proposal stated that charges for all services will be levied against the party originating the transaction or requesting the service. There is general agreement that Federal reserve charges should be levied on the *originator* of an ACH *debit*. However, several commentators requested the Board to levy charges on the receiver of an ACH credit. The receiver is the party that, if the transaction were made by check rather than ACH, would incur the expense of sending the check for collection. To charge the originator of an ACH credit could discharge financial institutions from marketing ACH credit transactions. Since a depository institution is under no obligation to participate in an ACH arrangement, it can choose to avoid this cost by informing its depositors that the institution will not handle such transactions. Accordingly, the Board has determined that the charge for the processing of an ACH *credit* be imposed on the receiver. (No charge would be levied on the receiver of a U.S. government direct deposit credit; these items are handled by the Federal Reserve as part of its fiscal agency function.)

The Board's proposal provided that members of an ACH association could have charges for ACH services made either through the association or directly at the member's option. Comments from some ACH associations, including the National Automated Clearing House Association, requested the System to levy all ACH charges for association members through the association and not provide the opportunity for direct billing. These commentators noted a parallel in net settlement services where it was proposed that all charges would be made to the clearinghouse for its members. Associations also felt their own billing procedures would be simplified. The Board is of the view that the relationship between the System and the ACH association does not parallel the relationship established for net settlement services, since in the latter instance the service does not result in the processing of individual transactions. The Board believes that the issue of requiring ACH association members to receive charges for ACH services through the association should be resolved through private agreements. It would be inappropriate for the System to become involved in the enforcement of such private arrangements. Thus, charges for ACH services will be imposed through the ACH association if the association so requests, unless an individual member requests direct billing from the Reserve Bank.

In its comment, the New York Clearing House, which sponsors the New York Automated Clearing House Association (NYACH), stated that the proposed inter-ACH price did not give sufficient recognition of the processing performed by NYACH. Accordingly, NYACH requested that the Federal Reserve reimburse it for the reduction in Federal Reserve costs for items NYACH processes. The Board believes that the original pricing structure is still appropriate because users of the ACH are not being charged at full cost. The Board finds insufficient justification to reimburse NYACH at the present time because the revenues from ACH services will not cover Federal Reserve costs.

Access to, and pricing of, ACH services will commence on the same date as check collection services (August 1, 1981) using the following fee schedule published in the August proposal.

Fee Schedule—Automated Clearing House Services

[Effective Aug. 1, 1981]

Federal Reserve District	Intra-ACH debits originated and credits received (cents per item)	Inter-ACH debits originated and credits received (cents per item)
Boston	1.0	1.5
New York	0.3	1.2
Philadelphia	1.0	1.5
Cleveland	1.0	1.5
Richmond	1.0	1.5
Atlanta	1.0	1.5
Chicago	1.0	1.5
St. Louis	1.0	1.5
Minneapolis	1.0	1.5
Kansas City	1.0	1.5
Dallas	1.0	1.5
San Francisco	1.0	1.5

D. Cash Transportation and Coin Wrapping

The Board's proposed fee schedules for currency and coin services were the subject of substantial comment. Commentators expressed concern over the disparity of prices for services across and within districts. Concern was also expressed over the methodology used in establishing the various zones used to determine prices for delivery of coin and currency; in the opinion of some commentators, the zones appeared to be arbitrary. Questions were also raised concerning the proposed service levels. Commentators also expressed the opinion that the proposed prices and service levels could cause a deterioration in the quality of currency. Several commentators also were concerned that full cost recovery for these services would result in significant increases in charges for rural and remote endpoint deliveries as urban institutions drop the services.

The Board believes that the commentators have raised significant concerns with respect to the currency and coin fee schedules proposed in August. Therefore, the pricing of currency and coin delivery services will be reviewed. In order to provide an opportunity for public comment on a revised schedule, the pricing of coin and currency delivery and coin wrapping services will be delayed until January, 1982.

E. Purchase, Sale, Safekeeping, and Transfer of Securities

Only a few public comments were received on the Board's proposed fee schedule for securities services. Of those commenting, several suggested that the Treasury Department and various Federal agencies should absorb all or a portion of the costs of book-entry and secondary market transfer services offered by the Reserve Banks for Treasury and Federal agency securities.

The Treasury and various Federal agencies, which derive direct and indirect benefits from the Federal Reserve's book-entry and securities transfer services, reimburse the Reserve Banks for the expenses associated with issuing and paying book-entry securities. The aspects of these services that would be priced relate to secondary market activities—transactions between two private parties. Before the Federal Reserve offered book-entry arrangements, these transactions were handled by, and at the expense of, the parties involved. Thus, the direct benefits of the lower cost and more effective and secure services offered by the Federal Reserve for the safekeeping and transfer of these securities accrue to the users of the service. In this respect, the pricing structure provides a reasonable balance in the sharing of costs and benefits of the services between the public and private sectors.

The Board has adopted the proposed October, 1981 pricing for, and nonmember access to, securities services. A revised fee schedule will be developed, based on estimates of 1981 costs and a 16 percent private sector adjustment factor. These revised fees will be published in the first quarter of 1981.

The New York Federal Reserve Bank has for some time imposed a schedule of surcharges on securities transfers initiated by wire during peak hours. This procedure was implemented in an attempt to remedy computer capacity limitations at that Bank. The Board has authorized the New York Federal Reserve Bank to continue to apply a surcharge schedule, pending Board review of the general questions of incentive pricing in the Spring of 1981.

F. Noncash Collection Service

The proposed fee schedule for noncash collection published in August received no significant comment. The Board adopted the proposed October, 1981 pricing for and nonmember access to, this service. As in the case of securities, fees for noncash collection services prices will be based on 1981 cost estimates and a 16 percent private sector adjustment factor.

G. Float

The Federal Reserve's August pricing proposal suggested a three phase effort to reduce and/or price Federal Reserve float. Phase I would reduce float through operational improvements which would speed up the collection process and, thus, debit payor banks more promptly. Phase II would adjust availability schedules for depositing banks to reflect actual collection time more closely. Phase III would price any remaining float and incorporate this charge into the price of the service creating the float.

Commentators generally endorsed Phase I because payor banks and their customers will bear the greater burden of the cost of the loss of float while collecting banks will bear the lesser expense for operational improvements. A number of commentators requested the opportunity to comment on one proposed Phase I improvement, electronic check collection.

The main concern about the remainder of the Federal Reserve's float proposal centered on using fractional availability to adjust credit availability schedules to depositors. Most commentators opposed the use of fractional availability as being too complex and costly and inconsistent with general banking practice. A number of commentators also noted that Phases II and III, unlike Phase I, transfer the cost of float reduction and pricing to depositing banks.

As a result of these comments, further analysis is underway. This analysis will consider fractional availability and other float pricing alternatives such as charging the payor bank for float, expanding Phase I further to eliminate the need for Phase II, and the elimination of interterritory transportation float by the so-called "immediate advice of credit" approach. This analysis will also address the operational impact of various alternatives on the users of Federal Reserve services. Recommendations will be presented to the Board in 1981.

VI. Cost and Competitive Concerns of Member Banks

Almost all member bank commentators expressed their concern that the Board's proposed schedule for pricing might place them at a competitive disadvantage. They observe that they continue to bear a higher reserve burden than nonmember institutions for eight years, yet by the Fall of 1981 they would be on an equal basis with nonmembers with regard to access and charges for System services.[5] Many of these commentators noted that the Act does not require that pricing begin until September, 1981.

Table I shows Board staff estimates of the temporal pattern of member bank gains and losses resulting from the combination of reserve requirement reductions and pricing of Federal Reserve services under the Monetary Control Act. Line 1 indicates the likely increase in costs due to the pricing of Federal Reserve services and the reduction or pricing of Federal Reserve float. The extent to which service fee costs might be passed on to bank customers is not known and is not allowed for in the table. However, float reductions obtained through operational improvements—debiting accounts more promptly—are *not* included as a direct cost to member banks. These costs, about 50 percent of total float, will likely be absorbed by account holders at member banks who will find their accounts debited more promptly than before when cash letter presentment is expedited. Line 2 of the table indicates the gain to member banks from the reserve requirement reductions scheduled in the Act.

The net impact of these extra costs and revenues is shown in line 3. In the aggregate, member banks will experience positive net revenues under the Monetary Control Act. These aggregate figures, however, may mask possible negative net revenues for some member banks in some years. It is estimated that negative impacts, which appear to primarily affect medium size correspondent banks, would be substantially eliminated if member banks pass through only 50 percent of the direct cost of Federal Reserve priced services.

Table I.—*Projected Member Bank Costs and Revenues*[1]

[In millions of dollars]

	1981	1982	1983	1984	Total
1. Member bank cost of services and float	$199	$895	$996	$1,107	$3,197
2. Member bank revenues from reserve requirement reductions	590	1,112	1,736	2,275	5,713
3. Net impact (2–1)	391	217	740	1,168	2,516

[1] Uses 1980 deposit structure, 13% opportunity cost of reserves and float; 10% cost inflation rate for priced services (net of productivity improvements); 10% growth in float; 8% deposit growth rate (including NOW accounts); 1981 estimated service costs; a 16% mark-up; *new* pricing/access schedules; published float reduction goals; and current phase-down schedules for reserve requirements.

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[5] In addition, access to System services by nonmembers may reduce member bank revenues from correspondent business. Pricing of Federal Reserve services, however, may improve a correspondent's competitive position, offset this effect, and increase correspondent revenues.

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In evaluating the concerns of member banks, it was noted that Congress did not intend the Monetary Control Act to increase the burden on member banks.[5a] However, any significant delay in the pricing schedule either because of equity concerns or for any other reason, would increase the cost of the Act to the Treasury in 1981 beyond those estimates provided to the Congress. It would also delay nonmember bank access to important payment services. The same increased Treasury costs results would result if temporary price discounts or earnings credits on reserves were given to member banks to reduce their cost of services during a transition period.

The Board also noted that the delays in the implementation schedule, while adopted for operational reasons, will have the effect or reducing significantly the cost burdens on member banks in 1981. When considering the advisability of taking additional steps to reduce the relative burden of members, the following factors were evaluated: (1) the difficulty of identifying those specific member institutions liable to incur serious initial adverse impacts; (2) the operational complexity inherent in any remedy designed to ameliorate the actual incidence of these impacts; (3) the possibility that members initially adversely affected could offset these impacts by passing through to their customers the costs of Federal Reserve services; and (4) the consequent increases in Treasury costs. The Board concluded that the adoption of an additional delay in service access and pricing, a price discount policy for members, or earnings credits on member bank reserve balances is unwarranted at this time.

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

Appendix I—The Private Sector Adjustment Factor (PSAF)

In accordance with the Monetary Control Act of 1980 the Federal Reserve is required to price its services to reflect its actual costs plus the financing and tax costs that a private sector supplier would incur. Since the System's cost accounting information does not include these private sector costs, it is necessary to derive an adjustment factor or mark-up to apply to the System's cost accounting data.

The first step in deriving the private sector adjustment factor requires a determination of the value (at historical cost) of the System's assets employed in the production of priced services. The value of assets used by the System to execute its central bank functions, supervisory and regulatory responsibilities, and duties as the Treasury's fiscal agent have been excluded. The composition of the asset base for priced services is shown in Table 1 and totals $284.9 million.

The capital structure is assumed to approximate that of large correspondent banks' payments function service operations. It is comprised of 45% debt (21% short-term and 24% long-term) and 55% equity. When the average tax and interest rates and the average rate of return on equity of the sample of large banking organizations are applied to this capital structure, a 15.4% private sector adjustment factor is derived.[6] Although the Board accepted the methodology used to derive the 15.4% mark-up, it adopted a 16.0% private sector adjustment factor. The Board decided that a rounding up of the PSAF was appropriate in this instance, after giving consideration to the inherently limited precision of the procedures used to derive the PSAF.

As indicated above, the Board proposed a 12% PSAF in August. Commentators asserted that a 12% PSAF substantially underestimated the tax and financing costs borne by the System's private sector competitors. The under-estimate was attributed to five major sources: (1) the failure to reflect 1980 cost of funds data, (2) the improper treatment of interest on deposits subject to Regulation Q, (3) the use of tax rate reflecting tax benefits not necessarily available to correspondent operations, (4) the use of a capital structure which did not coincide with that observed for private sector suppliers, and (5) the use of an alternative model for the computation of the PSAF (bank service corporations). These concerns are discussed below.

Use of 1980 Cost of Funds. The earlier 12 percent mark-up was based upon information published in the annual reports of 12 large banking organizations for year-end 1979.[7] These data were updated using financial reports for the third quarter of 1980. The average interest rates on all types of debt rose between year-end 1979 and the third quarter 1980, with the increase in the average interest rate on short-term bank funds being relatively large.[8] Using updated cost information, the proposed mark-up increased 0.8 of a percentage point to 12.8 percent.[9]

Low Cost of Short-term Bank Debt. A number of commentators felt that the average interest rate for short-term debt used in the August proposal (6.91 percent) was too low. They attributed this to a failure to recognize the effective, as opposed to the contractual, rate of interest paid on deposits subject to Regulation Q. They contended that deposits arising from payments function operations would typically earn an implicit rate of interest (in the form of services provided to depositors). In addition, the non-deposit components of short-term debt did not include interest paid on several categories of discount liabilities, such as acceptances, since such information cannot be identified on banks' financial reports. The interest rate paid on these liabilities is at a market rate. To the extent that banks' payments function operations require short-term financing from non-deposit sources, such financing would therefore be obtained at market rates.

[5a] For example, Senator Proxmire, during Senate consideration of the Monetary Control Act, said that:

> It is not the intent of the legislation to provide access to Fed services immediately or without charge. To do so would put members at a competitive disadvantage since they are now holding reserves that are interest free, and those reserves will be gradually reduced over four years. Nonmember reserves will be phased-in over eight years, so the combination of that long phase-in period and the fee schedule will have to be taken into consideration. After the eight year period there will be no differences in reserves, nor should there be differences in access to Fed services, but until then it is likely that there will be differences. The final judgment on just what those differences will be is left to the Federal Reserve Board. 126 Cong. Rec. S 3107 (March 27, 1980).

[6] This PSAF is based upon a cost of capital of 18.6% as described in footnote 3 to Table 2.

[7] The financial reports of BankAmerica, Citicorp, Chase Manhattan, Manufacturers Hanover, J. P. Morgan, Chemical, Continental Illinois, Bankers Trust, First Chicago, Western Bancorporation, Security Pacific and Wells Fargo were used.

[8] Numerous commentators urged the adoption of mark-up based on the marginal tax rate, interest rates on debt, and rate of return on equity rather than the average rates. The Board believes that it would be inappropriate to use marginal costs because the mark-up is intended to impute the financing costs that the Federal Reserve itself would be incurring on its existing capital equipment as if it were a private business firm.

[9] Using data for the first three quarters of 1980, the average intererst rates were 8.17% for short-term debt and 8.66% for long-term debt. The pre-tax average rate of return on equity was 20.3%.

In light of these arguments, the Board adopted a revised procedure for the calculation of the average interest rate on short-term debt. By deleting domestic demand deposits from the calculation of the average short-term interest rate, the revised procedure (in addition to updating to 1980) increase the average interest rate on short-term funds to 10.44 percent and raised the mark-up by an additional 0.7 of a percentage point to 13.5 percent.

Changing the Tax Rate. The tax rate used in the August proposal was 28 percent, the value-weighted average of the effective tax rates applicable to all of the operations of the 12 large banking organizations.

First, some confusion arose because the procedure employed to calculate the tax rate is not that typically used by accountants. Several different measures of tax rates have been developed. Accountants compute a firm's tax rate in any given year by dividing its tax *liability* by gross income. This procedure can be misleading from an economic standpoint. The tax liability associated with the gross income recognized in any year can be dichotomized into taxed paid (due) in that year and taxes which will not be remitted until another year. The latter component is known as deferred taxes. Deferred taxes should not be treated as a cost in the year they are declared. The 28 percent tax rate used in the August proposal was an average of *effective* tax rates, each computed by dividing taxes paid by gross income.

A second criticism of the 28 percent tax rate was that it exaggerated the tax benefits associated with correspondent operations. Commentators concentrated on the inclusion of tax benefits that banks derive from their portfolios of tax-exempt State and local government securities and other tax preferenced assets, such as leases. The commentators argued that tax exempts are not held in conjunction with, or as a result of their payments function service operations and the relevant tax rate is therefore substantially closer to 46 percent (the statutory Federal rate).

The Board accepted the concept that each function of a bank should be assumed to pay taxes at a rate that would be associated with the income and tax rate applicable to a particular bank operation. Publicly available financial reports provide little specific information on this matter. As a result of the uncertainty surrounding the effective tax rate appropriate to payments function operations, the Board's August proposal used an average effective tax rate reflecting the average effective tax rates of all operations undertaken by banks.

While the Board found merit with the commentators' concern that the average effective tax rate associated with payments function operations is higher than that of the bank as an integrated entity, the Board did not adopt an average rate for several reasons. First, the plant and equipment employed in these operations would yield two forms of tax benefits. To the extent that a faster depreciation schedule is used for tax purposes than for financial reporting, deferred taxes would arise. In addition, newly acquired plant and equipment may have qualified for investment credits. Not only would it be inappropriate to ignore these benefits, but it should be recognized that correspondent payment services are relatively capital intensive and would therefore provide a greater relative tax benefit to these organizations than to the bank as an integrated entity.

Other factors are related to the treatment of a particular function's earnings. If earnings from payments function services are reinvested in another function, but all revenues, costs, and tax benefits are passed back to the payments function operation, that operation can exploit the full range of tax benefits (including those from State and local securities, loan loss provisions, and leasing activities) available to the bank as an integrated entity. Economic theory provides some support for this position. To the extent that a bank achieves cost economies by integrating different operations, the costs (including taxes) of the individual operations are not additive. That is, the sum of the costs that each operation would independently incur is greater than the bank actually incurs because of its ability to exploit economies of offering diverse services. Where there are customer tie-ins between services, the cost of offering a package of services can be less than the cost of providing the same combination of services separately.

Cognizant of these factors and the difficulties involved with their accurate measurement, the Board decided to increase the effective tax rate to 34%. This estimate of the effective tax rate applicable to payments function operations was obtained by calculating the average effective tax rate on tax-equivalent income for the sample of twelve large banking organizations. The higher effective tax rate caused the pre-tax rate of return on equity to increase to 22.7 percent (based on the updated 1980 costs) and thereby caused the mark-up to increase by an additional 1.1 percentage points to 14.6 percent.

Underlying Capital Structure. The 12 percent mark-up was based on a capital structure midway between those underlying the two alternative mark-ups presented to the Board in August. The capital structure underlying both markups exhibited characteristics of the capital structure of twelve large banking organizations. The capital structure consistent with the lower mark-up replicated the average capital structure of the sample. Therefore, it was characterized by a very high proportion of short-term debt (assumed to include deposits) relative to the proportion of long-term debt and equity. The capital structure used to derive the higher mark-up was composed only of long term debt and equity. While not necessarily inappropriate, it was not obvious that the compromise capital structure would change in a systematic fashion as the composition of System assets devoted to the provision of priced services changed.

The Board adopted an alternative approach assuming that the System has a "matched" capital structure. With such a structure all of the System's "long-lived" assets are assumed to be financed with long-term debt and equity and all of the System's "short-lived" assets are assumed to be financed with short-term liabilities. Under this approach, the assumed Federal Reserve capital structure is dependent upon the composition of the System's assets devoted to the provision of services.[10] Compared to the capital structure assumed in the August proposal, the "matched" capital structure has a lower proportion of short-term debt and a higher proportion of long-term debt and equity. By employing a "matched" capital structure, updating the financing costs to third quarter 1980, revising the procedure used to compute the average interest rate on short-term funds, and increasing the effective tax rate, a markup of 15.4 percent was generated. The procedure involved in the computation of the mark-up is presented in Table 2. Recognizing the imprecision inherent in any attempt to impute the financing costs incurred and taxes paid by private sector suppliers, the Board rounded the private sector adjustment factor up to 16 percent.[11]

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[10] Federal Reserve buildings, furniture, equipment and other real estate were classified as "long-lived" and assumed to be financed by 30 percent long-term debt and 70 percent equity. These percentages were based upon 12 large banking organizations' composition of long-term debt or equity as a percent of long-term debt plus equity. Short-lived assets (difference and suspense accounts, net, and deferred charges) were assumed to be totally financed by short-term debt. With this approach, the assumed Federal Reserve capital structure becomes 21 percent short-term debt, 24 percent long-term debt, and 55 percent equity. Table 1 provides more detailed information regarding the System's assets devoted to the provision of priced services.

Table 1.—*Assets Employed in the Production of Priced Services*[1]

[Dollars in millions, 1979]

"Short-lived" assets:	
Difference and suspense act., Net[2]	$134.3
Deferred charges[3]	3.4
Total[4]	137.7
"Long-lived" assets:	
Bank premises, net	409.3
Furniture and equipment, net	85.1
Other real estate	27.4
Total	521.8
Total assets	659.5
Assets of priced services[5]: $659.5 (.432)	284.9
"Short-lived" assets	59.5
"Long-lived" assets	225.4

[1] Source: Board of Governors of the Federal Reserve System, *Annual Report*, 1979.

[2] The Difference and Suspense Account, Net figure in Table 1 is not equal to the net figure that can be computed from data presented on pp. 306–9 ($161.9 million) of the *Annual Report* for two reasons. First, the *Annual Report* figures refers only to year-end 1979. Since this value fluctuates month to month over the year, an average of the 12 month-end figures over 1979 (giving $292.0 million) was used. Second, the figure reported in Table 1 incorporates the estimated impact of an important accounting change made in 1980. This accounting change transferred some 54% of the net Difference and Suspense Account value to check float, where it more properly belongs. This 54% figure is based upon the average of check suspense items (net) to total suspense items (net) for the first three months of 1980 at all Reserve Banks. Thus, the Difference and Suspense Account, net figure shown in the Table was computed as $134.3 million = (1 − .54) $292.0 million.

[3] Deferred Charges are not separately reported in the *Annual Report*, but are included in the "All Other" figure on p. 306.

[4] A preliminary fee schedule for check and ACH services was forwarded to Congress in November 1978. At that time "Overdrafts" were included among the System assets to be financed. They are no longer treated in that manner because an institution incurring an overdraft can be required to maintain excess balances equal to the amount of the overdraft in the subsequent period in addition to being penalized at a rate of ten percent. Therefore such overdrafts are, in effect, "self-financing".

[5] Those assets which could be explicitly identified as supporting a nonpriced service are not included in Table 1. Other assets which supported both priced and nonpriced services required different treatment. The cost of priced services (less shipping expenses) represented 43.2% of total System costs (less note issue and shipping expenses). This ratio is applied to the total asset base of $659.5 million (which supports both priced and nonpriced services) to determine the value of assets allocable to the priced services alone. Shipping and note issue expenses represent "passed through" private sector or U.S. Treasury costs and are excluded from the ratio since little or no Federal Reserve assets are involved in their production.

Table 2.—*The Calculation of the Private Sector Adjustment Factor*

[Dollars in millions]

	Percent	
Capital structure:[1]		
Short-term debt	21	$59.5
Long-term debt	24	67.4
Equity	55	158.0
Asset base	100	284.9
Financing costs:[2]		
Short-term debt (at 10.44 percent)		6.2
Long-term debt (at 8.66 percent)		5.8
Equity (at 22.7 percent, before taxes)		35.9
Total assumed financing and tax expenses		47.9
Cost of system services to be marked up		310.7
Private sector adjustment factor (percent)[3]		15.4

[1] Using the "matched" capital structure, it is assumed that all "short-lived" assets (valued at $59.5 million in Table 1) are financed exclusively with short-term debt and that all "long-lived" assets (valued at $225.4 million in Table 1) are financed with a combination of long-term debt and equity. The particular combination used, 30% long-term debt and 70% equity, was the average ratio of long-term debt to long-term debt plus equity for 1979 as well as the five year period from 1975 through 1979 for 12 large banking organizations.

[2] During the first 9 months of 1980 the 12 large banking organizations sampled paid an estimated average effective short-term interest rate of 10.44% and an average long-term interest rate of 8.6%. Their average after-tax rate of return on equity was 15.0%. The 34% effective tax rate was derived using year-end 1979 data due to the absence of an allocation of the tax liability into current and deferred categories and the absence of a report of the tax benefits derived from holdings of State and local securities in the financial reports for the third quarter of 1980. Using the 34% effective tax rate, an average pre-tax rate of return on equity of 22.7% was computed.

[3] The PSAF = (47.9/310.7) x 100. The average pre-tax cost of capital is .21(10.44%) + .24(8.66%) + .55(22.7%) = 16.8%.

Appendix II—Service Descriptions

A. Wire Transfer of Reserve Account Balances Service

Wire transfer services provide for the immediate movement of funds between any two depository institutions which maintain accounts with the Federal Reserve.

Five levels of services are available: (1) on-line origination of a transfer without telephone advice (notification) to the receiver, (2) on-line origination of a transfer with telephone advice to the receiver, (3) off-line origination without telephone advice to the receiver, (4) off-line origination with telephone advice to the receiver and (5) off-line receiver requesting telephone advice where none has been requested by the originator.

The most common wire transfer transaction is originated from an on-line terminal or computer at a depository institution and processed through the Federal Reserve's automated communication facilities with immediate settlement and transmission of an advice to the receiving depository institution's on-line terminal or computer. Off-line origination of a transfer allows depository institutions without on-line facilities to initiate wire transfers by telephone request to a Federal Reserve office. Except for initiation by telephone, off-line wire transfers are processed in the same manner as on-line transactions. Telephone notification to an off-line receiver provides information concerning funds credited to their accounts earlier than would otherwise occur.

The originator will be charged for the wire transfer services including a fee for telephone advice to an off-line receiver if requested by the originator. If the receiver has instructed the Reserve Bank office to provide telephone advice when none has been requested by the originator, the off-line receiver will be charged for the telephone advice. If the originator requests that telephone advice be provided to a receiver and the receiver has a standing order, the originator will be charged not the receiver.

B. Net Settlement Service

The net settlement service is the posting of debit and credit advices generated by a third party to accounts held on the books of the Federal Reserve.[12] The third party is typically a provider of financial services to depository institutions (e.g., a private sector clearing house, credit card associations, funds transfer system, etc.) who normally processes a large number of transactions among its member institutions. In addition to sorting, delivering or communicating data, the third-party maintains records of these transactions. At the end of a business day, the third party sums all transactions for each institution and delivers or transmits to the Federal Reserve the entries to effect settlement among the participating institutions. Charges for the net settlement service will be calculated based on the number of entries in each settlement and will be levied against either the third party ordering the settlement or each institution participating in the settlement.

C. Automated Clearing House Services

The ACH service is the clearing, settling and delivery of electronic payments. Fees for automated clearing house (ACH) service reflect costs based on an expected mature volume and are applicable at all Federal Reserve operated clearing and settlement facilities. These fees include receiving sorting, reconciling, settling and delivery of both debit and credit ACH transactions. The fee for the Federal Reserve Bank of New York reflects the local ACH processing done by the private sector with only settlement and transportation provided by the Federal Reserve.

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[11] The Board rejected a mark-up of 20 percent that was based on bank service corporations' average cost of capital. Although several commentators advocated the adoption of such a model, data were available only for relatively small firms and these did not offer a mix of services comparable to that offered either by the Federal Reserve or large correspondent banks. A disproportionately large share of the processing performed by the firms in the sample involved local checks and the preparation of accounting statements as opposed to a wide range of payments services of a local and nonlocal nature.

[12] Gross settlement, that is, the posting of debits and credits associated with the direct use of other Federal Reserve services, is not charged for separately since its cost is of necessity included in the fee for each service.

1. *Intra-ACH transactions*

Intra-ACH transactions are processed by only one Federal Reserve Bank ACH facility.

2. *Inter-ACH transactions*

Inter-ACH transactions are processed by at least two facilities.

[FR Doc. 81-278 Filed 1-5-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 24, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before January 26, 1981, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Maritime Commission

FMC requests a clearance of a revision of the existing Commission General Order 13 (46 CFR 536), "Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States." Part 536 sets forth standards concerning the construction and manner of filing tariffs in the U.S. foreign commerce by waterborne common carriers. The revision request includes a requirement that common carriers notify the Commission in writing when a change occurs in operations, control or ownership which results in a majority portion of the interest being owned or controlled by a government under whose registry the vessels of the carrier are operated (46 CFR 536.14(c)). Also, controlled carriers are required to file a tariff supplement upon receipt of a tariff matter suspension order (46 CFR 536.11(g)(2)). It is estimated that compliance with the above revisions of General Order 13 will impose an annual industry burden of approximately 8 manhours for approximately 7 respondents.

FMC requests clearance of a revision of General Order 20 (46 CFR 540), Security for the Protection of the Public. The rules provide procedures whereby persons in the United States who arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports shall establish their financial responsibility or, in lieu thereof, file a bond or other security to meet liabilities for nonperformance of voyage, or for injury or death of passengers or other persons on voyages to or from U.S. ports. The Commission has amended section 540.9(j) of the General Order to raise the maximum amount of financial responsibility required of vessel owners, charterers or operators from $5,000,000 to $10,000,000. By raising the limits, the Commission anticipates that an increased percentage of certificants will qualify and maintain their performance certificates based upon their actual unearned passenger revenue (advance collections of fares) experience rather than submitting the $10,000,000 maximum. This, in turn, will require the reporting of such revenue to the Commission since unearned passenger revenue is the basis for determining the amount of coverage required. FMC estimates the incremental burden increase of this amendment to be eight certificants filing two reports per year at 4 manhours each.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 81-370 Filed 1-5-81; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

National Archives Advisory Council; Renewal

Renewal of Advisory Committee. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and advises of the renewal of the National Archives Advisory Council. The Administrator of General Services has determined that renewal of this advisory committee is in the public interest to ensure that the archival program is responsive to public needs and interests.

Designation. National Archives Advisory Council.

Purpose. The committee advises the Archivist of the United States on policies, procedures, programs, objectives, and other matters relating to the effectiveness of the National Archives and Records Service program.

Issued in Washington, D.C. on December 30, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-397 Filed 1-5-81; 8:45 am]

BILLING CODE 6820-26-M

Qualifications Review Panel; Renewal of Committee

Renewal of Advisory Committee. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and advises of the renewal of the Qualifications Review Panel for the Position of Director, Gerald R. Ford Library. The Administrator of General Services has determined that renewal of this ad hoc advisory committee is in the public interest.

Designation. Qualifications Review Panel for the Position of Director, Gerald R. Ford Library.

Purpose. The committee reviews the Personal Qualifications Statement (SF-171) of candidates for the position of Director of the Gerald R. Ford Library and recommends to the GSA Merit Selection Panel those applicants considered to be best qualified for referral to the Archivist of the United States for final selection.

Dated: December 30, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-396 Filed 1-5-81; 8:45 am]

BILLING CODE 6820-26

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-225-81-2000]

Fresh and Fresh Frozen Shellfish; Memorandum of Understanding With the Ministry of Agriculture and Fisheries, Government of New Zealand

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration has executed a memorandum of understanding with the New Zealand Ministry of Agriculture and Fisheries (MAF). The purpose of the understanding is to recognize the New Zealand MAF as the certifying authority for shellfish imported to the United States to assure that the shellfish are safe, wholesome, and meet the provisions of the National Shellfish Sanitation Program (NSSP) and requirements of the Federal Food, Drug, and Cosmetic Act.

DATE: The memorandum of understanding became effective October 30, 1980

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the **Federal Register** of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding agreements between FDA and others would be published in the **Federal Register** (see § 20.108(c) (21 CFR 20.108(c))), the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the Food and Drug Administration, Department of Health and Human Services, United States of America and the Ministry of Agriculture and Fisheries, Government of New Zealand

I. Purpose

The purpose of this MOU is to officially recognize the New Zealand Ministry of Agriculture and Fisheries (MAF) as the certifying authority for New Zealand shellfish shippers of fresh and fresh frozen shellfish imports destined for the U.S. market. This document also defines terms and describes the responsibilities of the MAF and FDA in the operation and management of the terms of this MOU in accordance with operational guidelines of the National Shellfish Sanitation Program (NSSP).

The New Zealand Ministry of Agriculture and Fisheries (MAF) and the Food and Drug Administration (FDA) of the Department of Health and Human Services of the United States of America affirm by this document their intention to cooperate in assuring that fresh and fresh frozen molluscan bivalves exported to the United States are safe, wholesome, and have been harvested, transported, processed and labeled in accordance with the provisions of the National Shellfish Sanitation Program (NSSP) and requirements of the Federal Food, Drug, and Cosmetic Act.

II. Background

Early in the last decade, the New Zealand Department of Marine initiated a shellfish culture program to augment natural production of two commercial species of shellfish, *Perna canaliculus* (greenlipped mussel) and *Crassostrea glomerata* (rock oyster).

Responsibilities for fishery development in New Zealand were transferred from the Department of Marine to the MAF in 1973. The MAF, in conjunction with the Department of Health and other agencies, has continued to develop a shellfish control program which could meet or exceed the recommendations of the NSSP. The New Zealand shellfish industry's interest in U.S. shellfish markets resulted in an MAF request for a shellfish evaluation mission in July 1979.

In response to this request, an evaluation of the New Zealand shellfish control program was conducted by a two-person FDA mission in November, 1979. The mission concluded that the New Zealand shellfish control program conforms, in general, to the guidelines of the NSSP and the Federal Food, Drug, and Cosmetic Act. In its final report to the MAF, the mission recommended that the FDA accept the New Zealand program through an MOU with the MAF.

III. Substance of Agreement

A. Terms

For purposes of this Memorandum, both parties agree to the following definitions:

1. *Lot.* A collection of primary containers or units of the same size, type, and style, produced under conditions as nearly uniform as possible, designated by a common container code or marking, and in any event, no more than a day's production.

2. *Central File.* The single location where shellfish control program information, data, and reports are stored and maintained.

3. *Bait Shellfish.* Shucked shellfish labeled and intended for bait use only; not for human consumption.

4. *Shellfish.* All edible species of molluscan bivalves except scallop species from the family Pectinidae. Only molluscan bivalves that are offered for entry into the United States as fresh or fresh frozen products are intended for coverage under this Memorandum of Understanding.

5. *Marine Biotoxins.* Natural toxins produced by marine dinoflagellates such as *Gonyaulax catenella, Gonyaulax tamarensis,* and *Gymnodinium breve* and concentrated by shellfish during the feeding process.

B. Information Exchange

Both parties agree to provide information concerning proposed changes in the following:

1. Methods and procedures for sampling.
2. Methods of analysis.
3. Methods of confirmation.
4. Administrative guidelines, tolerances, specification standards, and nomenclature.
5. Reference standards.
6. Inspectional procedures.
7. Proposed modification of existing Federal or local regulations.
8. Proposed new Federal regulations.
9. Proposed new legislation.
10. Proposed modifications to the National Shellfish Sanitation Program.

C. MAF Responsibilities

1. The MAF agrees to classify its shellfish harvesting waters in accordance with the procedures and standards set forth in the NSSP Manual of Operations. The MAF will assure that only fresh and fresh frozen shellfish harvested from areas which meet NSSP approved water quality and marine biotoxin standards and processed according to NSSP guidelines will be exported to the United States.

2. The MAF agrees to inspect harvesting, transporting, and processing operations of fresh and fresh frozen shellfish at sufficient frequency to assure compliance with NSSP sanitary control practices.

3. The MAF agrees to issue certifications only to those fresh and fresh frozen shellfish shipping firms that comply with NSSP recommended practices and to notify FDA of the name, location, and certification number of those firms on Form FD-3038b "Shellfish Certification." To cancel a firm's certification, the MAF will send to FDA a completed Form FD-3038c "Certification Cancellation."

4. The MAF agrees to require all containers of all lots of fresh and fresh frozen shellfish exported to the United States to be identified by lot number and certification number, together with all other information required by the Federal Food, Drug, and Cosmetic Act and Fair Packaging and Labeling Act.

5. The MAF agrees to facilitate joint FDA-MAF inspections of New Zealand's certified fresh and fresh frozen shellfish processing firms, approved growing waters and related harvesting and

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handling practices. Such inspections will be made on an annual basis or at a frequency deemed appropriate to determine that the MAF shellfish sanitation control program is equivalent to NSSP recommended practices and that only safe and wholesome fresh and fresh frozen shellfish are exported to the United States.

6. MAF agrees to make travel arrangements for, and pay transportation expenses of, the FDA inspection team while the team is conducting inspections within New Zealand.

7. The MAF agrees to participate to the maximum extent possible in FDA's laboratory quality assurance programs. These may include:

a. Participation in the analysis of split samples of:

(i) Seawater or shellfish meats for indicator bacteria or pathogens.

(ii) Shellfish meats for heavy metals or other chemical or radionuclide contaminants as may be necessary.

b. The evaluation of new methods and procedures including reagents, media, or other materials and instruments, and equipment performance.

8. The MAF agrees to the establishment of a central office within New Zealand to collate and maintain a central file of laboratory results, including routine monitoring data and data from quality assurance programs. Standard formats for collecting and reporting data will be used.

9. MAF agrees to assure that if lots of shellfish are imported into the United States for use as bait, each container will be labeled, "Not for human use", and the contents will be decharacterized by use of a permanent colored dye.

10. MAF agrees that the delegation of responsibilities for shellfish control in New Zealand is as given below:

a. Promulgation and enforcement of regulations governing the growing, harvesting, processing, and shipment of fresh or fresh frozen shellfish produced by New Zealand for export to the United States is the sole responsibility of the MAF.

b. The principal government agency in the New Zealand shellfish program is the Ministry of Agriculture and Fisheries, with two divisions of this Ministry being directly involved: the Fisheries Management Division and the Meat Division. The responsibilities of the two divisions are set out in a Cooperative Agreement. Meat Division has the overall responsibility for coordination and administration of the New Zealand program.

c. The Public Health Division of the New Zealand Department of Health has direct involvement in the program. Its functions are the classification and continual monitoring of shellfish growing waters as stated in the Memorandum of Understanding between the Ministry of Agriculture and Fisheries and the Department of Health.

d. Laboratory analysis is carried out by Public Health Laboratories of the Department of Health and the Chemistry Division of the Department of Scientific and Industrial Research (DSIR).

e. Research related to the shellfish industry is conducted by Fisheries, the DSIR Fish Processing Unit and Massey University Fish Research Unit.

f. Liaison is maintained with the Fishing Industry Board and the Regional Water Boards.

D. FDA Responsibilities

1. FDA agrees to publish the names, locations and certification numbers of certified firms submitted by the MAF. These firms will appear in the monthly Interstate Certified Shellfish Shippers List.

2. Upon request FDA will provide limited training to technical personnel in laboratory procedures, classification of shellfish growing areas, plant inspection and administrative procedures subject to availability of funds for such purposes.

3. Whenever New Zealand shellfish are detained by FDA due to noncompliance with NSSP agreed upon practices or applicable laws or regulations, FDA will inform MAF of the reason or reasons for the detention. This information will include:

a. Commodity lot and certification number.

b. Name and address of the shipper.

c. Reason for the detention.

d. Sampling procedure.

e. Methods of analysis and confirmation.

f. Administrative guidelines.

4. FDA agrees to make travel arrangeemnts for, and pay round trip transportation expenses of, its inspection team between the United States and New Zealand. FDA will also pay all per diem of the inspection team.

E. National Shellfish Sanitation Program

Upon signing this agreement, the MAF becomes an active participating member of the NSSP. As a full member of the NSSP, the MAF may participate in national workshops, cooperative research programs, seminars, training courses, and other activities designed for the timely exchange of technical information, and provide assistance in the joint resolution of problems confronting the NSSP. The MAF may also:

1. Participate in a joint evaluation of the United States program as it pertains to shellfish exports to New Zealand.

2. Make recommendations for changes and improvements in NSSP guidelines, methods, and standards.

3. Be advised by FDA in the event a State or local food control official questions the certification, safety, or wholesomeness of New Zealand's imported shellfish. FDA will, if so informed, seek to determine the reason for the problem and inform the MAF of any action taken relative to State and local laws or regulations governing such shellfish imports.

References

1. U.S. Department of Health and Human Services, Public Health Service (PHS), National Shellfish Sanitation Program, Manual of Operations: Part I *Sanitation of Shellfish Growing Areas,* 1965 Revision; Part II *Sanitation of the Harvesting and Processing of Shellfish,* 1965 Revision; Part III *Public Health Service Appraisal of State Shellfish Sanitation Programs,* 1965 Revision, PHS Publication No. 33.

2. *Official Methods of Analysis,* 12th ed., Association of Official Analytical Chemists (AOAC), Box 540, Benjamin Franklin Station, Washington, DC 20044, 1975.

3. Food and Drug Administration, "Interstate Certified Shellfish Shippers List," published monthly and distributed to food control officials and other interested persons by FDA, Bureau of Foods, Fishery Technology Branch (HFF-217), 200 C St. SW., Washington, DC 20204.

4. Federal Food, Drug, and Cosmetic Act, United States Code, Title 21.

5. Fair Packaging and Labeling Act, Pub. L. 89-755, approved November 3, 1966.

6. American Public Health Association, "Recommended Procedures for the Examination of Seawater and Shellfish," 4th ed., 1970, APHA, Inc., 1015 18th St. NW., Washington, DC 20036.

7. Food and Drug Administration, "Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding Human Food" regulations, 21 CFR Part 110.

8. Food and Drug Administration, Definitions and Standards for Food, "Fish and Shellfish" regulations 21 CFR Part 161.

9. Cooperative Agreement between the Meat Division and Fisheries Management Division of the Ministry of Agriculture and Fisheries relative to the sanitary control of the shellfish industry.

10. Memorandum of Understanding between Ministry of Agriculture and Fisheries and Department of Health relative to the certification of export shellfish to the United States of America.

IV. Name and Address of Participating Agency

Ministry of Agriculture and Fisheries,
P.O. Box 2298, Wellington, New
Zealand.

V. Liaison Officers

The liaison officer for each party will be responsible for facilitating exchanges of information and expeditiously informing other interested parties within their respective countries on shellfish control problems requiring prompt attention. Each party agrees to provide notification of any changes in liaison officer appointments. Such notification shall constitute an amendment to, and not require a revision of, this agreement.

A. Liaison Officer for MAF: Mr. Peter Withers, Second Secretary, New Zealand Embassy, 37 Observatory Circle, NW., Washington, DC 20008.

B. Liaison Officer for FDA: Mr. Daniel A. Hunt, Assistant Chief, Fishery Technology Branch, Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

IV. Period of Agreement

This agreement when accepted by both parties, will have an effective period of performance from date of signature until terminated by either party. This agreement may be modified by mutual consent of both parties or may be terminated by either party upon a thirty day advance written notice to the other.

Approved and accepted for the Ministry of Agriculture and Fisheries:

M. L. Cameron,

Director-General of Agriculture & Fisheries, New Zealand.

Dated: October 30, 1980.

Approved and accepted for the Food and Drug Administration:

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs, United States of America.

Dated: October 14, 1980.

EFFECTIVE DATE: This memorandum of understanding became effective October 30, 1980.

Dated: December 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-00226 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

National Library of Medicine; Meeting of the Board of Regents and the Extramural Programs and Lister Hill Center; National Medical Audiovisual Center Subcommittees

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on January 29-30, 1981, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meetings of the Extramural Programs Subcommittee of the Board of Regents and the Lister Hill Center and National Medical Audiovisual Center Subcommittee on the preceding day, January 28, 1981, from 2:00 to 5:00 p.m., in the 5th floor Conference Room of the Lister Hill Center Building, and from 2:00 to 5:00 p.m., in the 7th floor Conference Room of the Lister Hill Center Building, respectively.

The meeting of the Board will be open to the public from 9:00 a.m. to 4:00 p.m. on January 29 and from 9:00 a.m. to 2:00 p.m. on January 30 for administrative reports and program discussions. The entire meeting of the Lister Hill Center and National Medical Audiovisual Center Subcommittee will be open to the public for the review of the Computers-In-Medicine Training Grant Program assessment. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on January 28 will be closed to the public, and the regular Board meeting on January 30 will be closed from 2:00 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 81-294 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-08-M

Meeting of National Advisory Dental Research Council, National Institute of Dental Research

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 29-30, 1981, in Conference Room 8, Building 31-C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on January 30 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on January 29 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Dorothy Costinett, Committee Management Assistant, National Institute of Dental Research, National Institutes of Health, Building 31-C, Room 2C36, Bethesda, Maryland 20205, (phone 301-496-2883) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.842—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.878—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health.)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 29, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 81-296 Filed 1-5-81; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1051]

Privacy Act; Proposed New System of Records, Amendments to Existing Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed establishment of a new system of records, amendment to existing systems of records.

SUMMARY: The Department is giving notice that it intends to establish a new system of records which is subject to the Privacy Act of 1974, and that it intends to amend two existing systems of records subject to the Act.

EFFECTIVE DATE: This notice shall become effective on February 5, 1981, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The published notice describing HUD/DEPT-37, Personnel Travel System is written to cover records of official HUD employee travel, government driver permits, and parking applications in Headquarters and Field Offices. The published notice describing HUD/DEPT-54, Parking Permit Application Files is written to cover parking permits in Headquarters. The new system and the amendments to HUD/DEPT-37 and HUD/DEPT-54 will accomplish the following: Delete Government driver permits and parking applications from HUD/DEPT-37; establish a new sytem to cover HUD employees who have applied for or been issued Government driver permits; and alter HUD/DEPT-54 to cover parking permits both at Headquarters and Field Offices. The purpose of this proposal is to more accurately describe the character of the records by clarifying the fact that the records are maintained as three separate systems.

HUD/DEPT-37 is amended by deleting the words "applications for Federal vehicles driver permits, U.S. Government driver's licenses, driver's physical fitness forms, motor pool records, monthly motor vehicle use records, GSA vehicle mileage reports, applications for parking space" from Categories of Records in the System, and by deleting the words "driver's license information transmitted to Department of Transporation for verificaiton with National Driver Register" from Routine Uses of Records Maintained in the Sytem. HUD/DEPT-54 is amended by adding the words "and Field Offices" to System Location, by substituting the words "HUD and other employees who made application to park in HUD controlled parking" instead of the words "Headquarters and other Federal employees who made application to park at Headquarters location" in Categories of Individuals Covered by the System, and by conforming language in Notification Procedure, Record Access Procedure, and Contesting Record Procedure to the fact that the system exists in Headquarters and Field Offices. A report of intention to alter two Privacy Act Systems of records and establish one new system was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on November 10, 1980.

The prefatory statement containing General Routine Uses applicable to most of the Department's systems of records was published at 45 FR 67608 (October 10, 1980). Appendix A, which lists the addresses fo HUD's offices was published at 45 FR 67626 (October 10, 1980). A description of HUD/DEPT-37, Personnel Travel System was published at 45 FR 67616 (October 10, 1980). A description of HUD/Dept-54, Parking Permit Application Files was published at 45 FR 67619 (October 10, 1980). The new system (HUD/DEPT-68) and the amended systems are published below in their entirety.

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. December 12, 1980.

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

HUD/DEPT-37

SYSTEM NAME:

Personnel Travel System.

SYSTEM LOCATION:

All Department offices maintain employee travel records. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

All travel records, including vouchers, requests, advances, receipts for requests, orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, P.L. 89-174; Budget and Accounting Act of 1950, 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USERS:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Almost always retrievably by name, occasionally by Social Security number.

SAFEGUARDS:

Lockable desks or file cabinets; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of record, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual and supervisors.

HUD/DEPT-54

SYSTEM NAME:

Parking Permit Application Files.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees and other individuals who made application to park in HUD-controlled space.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms that contain information about the vehicles owned by and addresses of the principal applicant and carpool members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Procedures Act of 1949 (P.L. 81-152, Sec. 201), 41 U.S.C. 231.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other Routine Uses: To parking management company—for billing purposes.

STORAGE:

8 inch by 5 inch card file.

RETRIEVABILITY:

Name and permit number.

SAFEGUARDS:

Lockable file cabinets.

RETENTION AND DISPOSAL:

(1) For individuals issued permits, as long as permits are valid; (2) for individuals on the waiting list, approximately 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Office of Administrative Services, AS, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Parking Permit Applicants.

HUD/DEPT-68

SYSTEM NAME:

HUD Government Motor Vehicle Operators Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees who are authorized to operate Government Motor Vehicles on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Form 47, Physical Fitness Inquiry for Motor Vehicle Operators and HUD Form 87, Drivers Past Performance Record. These forms include name, Social Security Number, physical fitness data, and driving performance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, 41 U.S.C. 231, Public Law 81-152, Sec. 201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To Department of Transportation for verification with National Driver Register.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked file cabinets.

RETRIEVABILITY:

Name, Social Security Number.

SAFEGUARDS:

Locked files; limited access by authorized individuals.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2282.2.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Facilities Operations Division, ASB, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORDS ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed regarding contesting record contents, contact the Privacy Act Office at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals, contact the HUD Departmental Privacy Appeals Officer, Officer of General Counsel, Department of Housing and Urban

Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

[FR Doc. 81-275 Filed 1-5-81; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-39]

Intended Environmental Impact Statement; New York

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Unsafe Building Demolition and Seal-up Project, New York, New York. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., December 30, 1980.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

EIS on Unsafe Building Demolition and Seal-up Project, New York, New York

The City of New York intends to prepare an EIS before requesting the Department of Housing and Urban Development to release Federal funds under Title I of the Housing and Community Development Act of 1974, to be used for the Unsafe Building Demolition and Seal-up Project in New York City. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state and federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description. The Unsafe Building Demolition and Seal-up Project in New York City will provide approximately $19.7 million for the demolition or seal-up of buildings certified as unsafe, dangerous to life and health, or constituting a public nuisance in 59 community districts. After consultation with community planning boards, the City reviews each case to determine whether the building should be demolished or sealed. The work is performed by outside contractors on a bid basis. Approximately 2,195 buildings will be demolished and 1,150 buildings will be sealed-up. The proposed sites of the project are located througout the five boroughs of New York City. The completion date of the project is August 31, 1982.

The draft EIS will be published and distributed in the early part of 1981. It will analyze and describe, among other things, the project's location, its size and scope, and other pertinent features, its environmental and other impacts, and possible alternatives thereto. The draft EIS will also discuss mitigating measures that may be employed to minimize any adverse impacts.

Probable significant environmental impacts of the project are in the following areas: housing, community development and neighborhood integrity, public health and safety, and aesthetics. Minimal environmental impacts are expected on water quality, air quality, noise, demography, employment, land use, historical quality and energy.

Need. It has been determined that the request referred to above for the release of Federal funds will constitute an action significantly affecting the quality of the human environment. Therefore, the City of New York has determined to prepare a draft Environmental Impact Statement ("EIS"), in accordance with the National Environmental Policy Act of 1969 and applicable regulations.

Alternatives. The following alternatives to the project, as perceived at this point, will be considered: no action, an increased level of demolition, an increased level of seal-up, rehabilitation as an alternative, the City takeover of unsafe buildings, and changes in the Unsafe Building program procedures. The alternatives will be analyzed so as to enable the reader to evaluate the costs and benefits on a comparative basis. Institutional and financial constraints for the various alternatives will be delineated.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the EIS. Any responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Comments. Comments should be sent within 21 days following publication of this Notice in the **Federal Register** to Peter Taras, Director of Environmental Services, Room 9216C, City of New York, Department of Housing Preservation and Development, 100 Gold Street, New York, New York 10038. The telephone number is (212) 566-0348.

[FR Doc. 81-276 Filed 1-5-81; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. NI-38]

Intended Environmental Impact Statements; New Mexico and Hawaii

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Eagle Ranch, Bernalillo County, New Mexico; and Mililani Town Expansion, Waipo, Oahu, Hawaii. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., December 16, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Eagle Ranch, Bernalillo County, New Mexico

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement for a proposed subdivision to be known as Eagle Ranch, located in Bernalillo County, New Mexico. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, State and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description: The Dale Ballamah Land Company, Incorporated, Managing Partner of Eagle Ranch, a joint venture, has filed an application with the Albuquerque Service Office for the Department of Housing and Urban Development to accept a subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. The proposed subdivision consists of 611 acres of land to be developed into approximately 2,000 single family residential lots and will be known as Eagle Ranch Subdivision. When fully developed, the proposed subdivision will provide housing for approximately 6,400 persons. In addition to the residential area, the proposed development will include thirty acres for neighborhood commercial activity and a six acre park site. The Eagle Ranch Subdivision will be located east of the Paradise Hills Country Club. Bernalillo County has planning platting jurisdiction over the entire acreage. The City of Albuquerque shares jurisdiction with the County for the areas which are situated within three miles of its incorporated boundaries. The developer has requested an early start approval of 166 lots.

Need: Due to the size and scope of the total proposed project the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to Public Law 91–190, the National Environmental Policy Act of 1969.

Alternatives: The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping: No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the Environmental Impact Statement. Any responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Contact: Comments should be sent within 21 days following publication of this Notice in the **Federal Register** to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214–767–8347 and the FTS number is 729–8347.

EIS on Mililani Town Expansion, Waipio, Oahu, Hawaii

The Honolulu Area Office, Honolulu, Hawaii, intends to prepare an Environmental Impact Statement for a portion of Mililani Town, Waipio, Oahu, Hawaii, a proposed development more fully described below. Interested individuals, governmental agencies, and private organizations are invited to submit information and comments which should be addressed in the EIS.

Description: Mililani Town, Inc., a subsidiary of Oceanic Properties Inc. proposes to develop a 476-acre project at Mililani Town, Oahu, Hawaii. The proposed project will provide approximately 2900 housing units at densities of 5 to 20 units per acre on approximately 289 acres of land. Approximately 46 acres is proposed for business/commercial; 6 acres for school; and 135 acres is proposed for open space and recreational uses. The proposed action is part of the planned development of Mililani Town which is master planned for a 3500-acre development with an estimated total population of 60,000. The current population is estimated at 22,000. Construction is underway on streets and utilities for the project that is scheduled for completion in 1985. The developer proposes to utilize HUD-assisted housing programs for multifamily projects and make available FHA mortgage insurance for individual home purchasers.

Need: It has been determined by the Honolulu Area Office that the proposed action is a major housing action and will have a significant impact on the human environment in accordance with 24 CFR Part 50. Major environmental issues currently perceived include the project's impact upon the Pearl Harbor Aquifer, loss of agricultural land; change in water quality resulting from increased runoff, erosion/sedimentation and urban runoff; change in air quality; increased traffic volume and higher ambient noise levels at the project's site.

Alternatives: Various alternatives that will be addressed include alternative land uses, alternative sites, alternative site designs and no project.

Scoping: No formal scoping meeting is anticipated for the proposed development. It is the intent that this notice be a part of the process for scoping the EIS and that it assist HUD to (1) determine significant environmental issues; (2) identify data which the EIS should address; and (3) identify cooperating agencies.

Contact: Comments should be forwarded within 21 days following publication in the **Federal Register** to Frank L. Johnson, HUD, Honolulu Area Office, Box 50007, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

[FR Doc. 81–277 Filed 1–5–81; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Child Welfare Act; Grant Fund Distribution Formula

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Title II of the Indian Child Welfare Act of 1978 authorizes the Secretary of the Interior to make grants to Indian tribes and Indian organizations for establishment and operation of Indian child and family service programs.

In order to ensure insofar as possible that all applicants preliminarily approved in a competitive process, under the provisions of 25 CFR Part 23 application and selection criteria established by the Bureau of Indian Affairs, and thereafter approved for funding, receive a proportionate share of available grant funds, the distribution of these funds will be accomplished in accordance with the following formula: Each grant award not to exceed (a) a base amount of $25,000; and (b) an additional amount equal to the product resulting when the estimated unduplicated clientele percentage of the total unduplicated Indian client population to be served by the grant applicant is multiplied by the total amount of grant funds remaining after (a) above is accomplished for all grant applicants approved for funding. In this computation, the total unduplicated Indian client population figure will be based upon the best information available from all grant applications submitted to the Bureau of Indian Affairs and approved for funding, and other identifiable statistical resources when an applicant's client population is questioned.

The maximum allowable grant award to an individual applicant cannot exceed $250,000.

The maximum allowable grant award to a consortium cannot exceed $500,000. A consortium is eligible for an amount equal to the amount which the individual members of the consortium could receive if they applied individually, as long as that amount does not exceed the maximum allowable grant award to a consortium listed above.

If the grant applicant has requested less grant funds than would be provided under the above formula, the applicant approved for funding will be funded at the level specifically requested in the application.

Indian Child Welfare Act: Title II Grant Applications

The period for submitting grant applications is effective this date and will end February 9, 1981. In this regard, it is necessary that specific timeframes be established for submission of applications so that all applicants approved for funding under the provisions of 25 CFR Part 23 in a competitive review and ranking process can receive a proportionate share of available grant funds.

Application materials and related information may be obtained from Bureau of Indian Affairs offices nearest the applicant. Applications for this application period will be accepted in anticipation of appropriated funds for Title II purposes. All grant application approvals will be subject to availability of funds.

Applications must be received in the appropriate Bureau of Indian Affairs, Social Services Office, on or before 4:15 p.m. on the closing date of the application period, or sent by registered or certified mail not later than the closing date as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service.

Thomas W. Fredericks,

Deputy Assistant Secretary, Indian Affairs.

December 10, 1980.

[FR Doc. 81–301 Filed 1–5–81; 8:45 am]

BILLING CODE 4310–02–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before December 26, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by January 21, 1981.

Carol Shull,

Acting Chief, Registration Branch.

MASSACHUSETTS

Suffolk County

Boston, *Dorchester Heights,* Thomas Park

VERMONT

Lamoille County

Jeffersonville, *Cambridge Meetinghouse, Church St.*

[FR Doc. 81-186 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Appalachian Power Co.; Intent on Extension of Scoping Period on Environmental Impact Statement

On December 15, 1980, the National Park Service published in the **Federal Register (Federal Register,** Vol. 45, No. 242, pp. 82366, 82367) its intent to prepare an environmental impact statement for Appalachian Power Company's application for a right-of-way permit to cross the Blue Ridge Parkway in Virginia with a 765-kV transmission line. A period of twenty-one days was proposed to allow interested parties to submit suggestions on the scope of the environmental impact statement.

Notice is hereby given that the scoping period will be extended an additional fifteen (15) days. Comments on the scope of the environmental impact statement should be forwarded to the Regional Director, Southeast Region, National Parks Service, 75 Prince Street, S.W., Atlanta, Georgia, 30303, no later than January 20, 1981.

Dated: December 30, 1980.

Russell E. Dickenson,

Director.

[FR Doc. 81-308 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

General Management Plan; Golden Gate National Recreation Area; California

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the National Park Service has prepared a general management plan for Golden Gate National Recreation Area, California. After consideration of the alternatives and recommended actions presented in an environmental assessment, a Finding of No Significant Impact was determined and an environmental impact statement will not be prepared.

Copies of the plan and Finding of No Significant Impact are available at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102.

Golden Gate National Recreation Area, Building 201, Fort Mason, CA 94123.

Dated: December 22, 1980.

Bruce M. Kilgore,

Associate Regional Director, Resource Management and Planning.

Dated: December 23, 1980.

Howard H. Chapman,

Regional Director, Western Regional Office.

[FR Doc. 81-311 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

Mineral King Comprehensive Management Plan; Sequoia and Kings Canyon National Park; California

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the National Park Service has prepared a comprehensive management plan for the Mineral King area of Sequoia and Kings Canyon National Parks, California. After consideration of the alternatives and recommended actions presented in an environmental assessment, a Finding of No Significant Impact was determined and an environmental impact statement will not be prepared.

Copies of the plan and Finding of No Significant Impact are available at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102.

Sequoia and Kings Canyon National Parks, Three Rivers, CA 93271.

The Finding of No Significant Impact follows this notice.

Dated: December 22, 1980.

Bruce M. Kilgore,

Associate Regional Director, Resource Management and Planning.

Dated: December 23, 1980.

Howard H. Chapman,

Regional Director, Western Regional Office.

Mineral King Comprehensive Management Plan Sequoia National Park, California

Finding of No Significant Impact

In accordance with the provisions of the National Environmental Policy Act of 1969, and regulations of the Council of Environmental Quality 40 CFR 1508.9, an Environmental Assessment on the Comprehensive Management Plan for the Mineral King addition to Sequoia National Park was prepared. The Environmental Assessment analyzed four alternative strategies including a preferred alternative for the management, visitor use and attendant general development of Mineral King.

The alternatives were generated from a series of public workshops held in April, 1979 and by extensive consultation with agencies and individuals interested in Mineral King. The alternatives analyzed included: No Action; retaining the present character and traditional use patterns of the area; returning the Mineral King Valley to pristine conditions; and expanding use opportunities by developing the area as a major, year round attraction. The majority of the comments received on the four alternatives indicated a desire for little or no change to the existing environment. The preferred alternative reflects that attitude by directing only modest change to existing conditions.

The preferred alternative would provide park visitors an experience contrasting with more highly developed areas, by retaining the present character and patterns of use at Mineral King. A major feature is the eventual disposition of permittee cabins and private properties which will be governed by the enabling legislation (Pub. L. 95-625). The preferred alternative, therefore, directs long range actions for the use of these properties. The general intent of the long range action plan is to relocate those facilities inappropriately sited with respect to both sensitive resources and esthetic quality when sufficient land is available.

The Environmental Assessment was published in July of 1980 and received extensive public and agency review. Consultations were conducted with the U.S. Fish and Wildlife Service and the State Historic Preservation Officer. The consultations indicated that the preferred alternative presented no jeopardy to either endangered species or to cultural resources. Comments from the public and other agencies were generally favorable. One comment received from the California Department of Fish and Game concerned the impact on the Mineral King deer herd. A current monitoring program should provide further recommendations to mitigate any impact on the deer herd. Two responses received from Congressman Pashayan and the Far West Ski Association concerned the potential for

Nordique skiing. Due to significant avalanche activity and the concern for human safety, it was not considered appropriate to encourage additional winter use. Finally, the Mineral King Task Force of the Sierra Club desired an immediate removal of those developments in the subalpine environment of the Valley. This action will be undertaken as part of the long-range action plan but could not be accommodated in the short run due to the lack of suitable terrain.

Based on the analysis in the Environmental Assessment and the review, the project does not appear to be a major Federal action significantly affecting the human environment. Therefore, an Environmental Impact Statement will not be prepared for the Mineral King Comprehensive Management Plan.

Dated: October 17, 1980.

Approved:

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 81-312 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

General Management Plan for Capitol Reef National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The National Park Service is beginning the process of preparing a general management plan to guide visitor use and development in Capitol Reef National Park through the next 20 years. The plan will consider issues related to improving circulation, providing recreational facilities, relocating some existing facilities out of the flood plain, and expansion of the visitor center. It will also address the need for boundary changes, an interpretive program, and protection of the Fruita Historic District including management of the historical orchards. An option of not preparing the plans was considered, but was found to be unacceptable because of the need for direction in managing public use and development in the park. The planning process was begun in September 1980, with public workshops in the park and local area, and planning meetings with Government Agencies and private interest groups. The determination to prepare an environmental impact statement was a result of the scoping process, and on the basis that the area is a large national park, the original master plan for the area is rather outdated (1967), the need to address potential boundary modifications, and reevaluation of roadless areas which was not included in the 1974 Wilderness Recommendation. Additional comments on the scope of the plan and requests for information will be received for 30 days following publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Derek O. Hambly, Superintendent, Capitol Reef National Park, Torrey, Utah 84775.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 81-300 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

Mormon Pioneer National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Mormon Pioneer National Historic Trail Advisory Council will be held beginning at 1 p.m., January 19, 1981, at the Hotel Utah, South Temple and Main Streets, Salt Lake City, Utah. The Advisory Council was established by Pub. L. 90-543 section 5 (d) as amended by Pub. L. 95-625, to consult with the Secretary of the Interior through the National Park Service on matters concerning the Trail, including selection of rights-of-way, markers and administration.

The members of the Council are:

C. Booth Wallentine, Chairman, Salt Lake City, Utah
Max Lieurance, Cheyenne, Wyoming
Jeff Sirmon, Ogden, Utah
Sherry Fisher, West Des Moines, Iowa
Joe Hart, Omaha, Nebraska
Emeric Huber, Casper, Wyoming
Glen M. Leonard, Salt Lake City, Utah
Melvin Smith, Salt Lake City, Utah
Stanley Kimball, Edwardsville, Illinois
Gene Bertagnoli, Salt Lake City, Utah
Gordon Wilson, Cheyenne, Wyoming
Norma Green, Casper, Wyoming
J. Leroy Kimball, Nauvoo, Illinois
Veronica Tiller, Salt Lake City, Utah
Ronald Coleman, Salt Lake City, Utah
John J. Nielson, Salt Lake City, Utah
Don Nelson, Cheyenne, Wyoming
F. T. Graham, Libertyville, Illinois

The matters to be discussed at this meeting include:

1. Role, organization and function of the Advisory Council
2. Purpose, overview and planning procedure for the Mormon Pioneer National Historic Trail
3. tandards for erection maintenance of trail markers
4. Trail rights-of-way selection
5. Administration of the trail

The meeting will be open to the public. However, facilities and space to accommdate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this matter, or who wish to submit written statements, may contact Karen Green, Council Manager, Rocky Mountain Region, National Park Service, P.O. Box 25287, Denver, Colorado 80225, area code 303, 234-5762.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Rocky Mountain Regional Office.

Dated: December 29, 1980.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 81-299 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: January 23, 1981, 7:00 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreation River, Drawer C, Narrowsburg, N.Y. 12764, (914/252-3947).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704 (f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include (1) implementation of section 704 of Pub. L. 95-625, and (2) new business.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreation River, Drawer C, Narrowsburg, N.Y. 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River at the above address.

Dated: December 22, 1980.

James W. Coleman Jr.,
Regional Director. Mid-Atlantic Region.

[FR Doc. 81-298 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 88F)]

Burlington Northern Inc; Abandonment Near Irene and Yankton in Yankton County, SD; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided December 24, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment of a line of railroad known as the Irene to Yankton line extending from railroad milepost 187.07 near Irene, SD, to railroad milepost 208.8 near Yankton, SD, a distance of 21.73 miles, in Yankton County, SD. The operation of the Irene to Yankton line includes the use of trackage rights by BN over approximately 3.83 miles of track owned by the Chicago, Milwaukee, St. Paul & Pacific Railroad Company. These trackage rights were obtained by BN in 1976. At that time, BN abandoned 4.1 miles of track on the Irene to Yankton line (milepost 203.57 to milepost 207.67), and connected with a parallel stretch of Milwaukee line going into Yankton, SD. BN constructed connecting lines of 1,015 and 400 feet which provided it with access to the portion of Milwaukee line. Consequently, BN now will seek to abandon that portion of its own track still in operation from Irene to Yankton, including connecting lines with the Milwaukee, and to discontinue its trackage rights over a portion of Milwaukee line near Yankton, SD. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern Inc. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-309 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 95F)]

Chicago and North Western Transportation Co.; Abandonment Between Lake Mills and Luverne, Ia; Findings

Notice is hereby given that pursuant to 49 U.S.C. 10903, an administratively final decision was issued by the Commission, Review Board Number 5 on December, 1980, stating that the public convenience and necessity permit the Chicago and North Western Transportation Company to abandon 47.3 miles of railroad between Lake Mills and Luverne, IA. The abandonment is subject to employee protective conditions in *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

A certificate of abandonment will be issued to the Chicago and North Western Transportation Company on February 5, 1981, unless on or before January 21, 1981, the Commission further finds that:

(1) a financially responsible person, including a government entity, has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than January 16, 1981; and

(2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues attributable to the rail line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) cover the acquisition cost of all or any portion of the rail line.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request made for the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. When the Commission is notified that an assistance or acquisition and operating agreement is executed, it shall postpone the issuance of a certificate for the period of time the agreement (including any extensions or modifications) is in effect. Information and procedures about financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained in the statute as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-308 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 1)]

Southern Railway Exemption for Contract Tariff ICC-SOU-C-0001

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Subject to the prior written acceptance by Southern Railway Company of certain conditions, it is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and may file Southern Railway Contract Tariff ICC-SOU-C-0001 with an advanced effective date of January 1, 1981 on one day's notice. This

exemption may be revoked if protests are filed on or before January 21, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275–7693 or Richard Schiefelbein (202) 275–0826.

SUPPLEMENTARY INFORMATION: A petition was filed by the Southern Railway Company (Southern) to exempt Southern Railway Contract Tariff ICC–SOU–C–0001 from the statutory requirement of 49 U.S.C. 10713(e) that contracts shall be effective on not less than 30 nor more than 60 days notice. Southern requests this exemption under 49 U.S.C. 10505 in order to advance the effective date of its contract and tariff to January 1, 1981 on one day's notice. The tariff provides for special equipment mileage allowances and charges on multi-level flat cars. It is meant to compensate the shipper for benefits in reducing empty mileage.

Southern claims that no protests are expected. Moreover, a mileage allowance in consideration of a reduction of empty miles in assigned cars should not impair Southern's common carrier obligation to provide service to other shippers and should enhance service by encouraging conservation of carrier resources. Finally, a January 1, 1981 effective date would simplify the annual and monthly accounting under the tariff. The petition for exemption shall be granted in part. Southern shall be given a provisional exemption, provided that it files with the Commission, prior to or simultaneously with the filing of its contract, its written acceptance of, and agreement to be bound by, the following condition:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review this contract and to disapprove the contract during the periods specified in 49 U.S.C. 10713. Thus subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Furthermore, we shall consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before January 21, 1981.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: December 23, 1980.

By the Commission, Division 2, Commissioners Trantum, Gresham, and Gaskins.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–310 Filed 1–5–81; 8:45 am]

BILLING CODE 7035–01–M

Alaska Railroad Freight Rates Study—1980

AGENCY: Interstate Commerce Commission.

ACTION: Notice of study of Alaska rail rates conducted pursuant to Section 709 of Staggers Rail Act of 1980 and House Conference Report No. 96–1400.

SUMMARY: This is a study to determine whether Alaska Railroad Water/rail rates would, if such rates had been entered into after the effective date of the Staggers Act, have violated section 10701a(c)(1) as amended.

DATES: Documents to be filed and served according to the following schedule:

(1) Alaska Railroad to file statements and information within 45-days after publication of this notice;

(2) Any comments within 30-days thereafter;

(3) Alaska Railroad's reply within 10-days thereafter.

ADDRESS: Send an original and fifteen copies, of any comments to: Bureau of Accounts, Rm. 6133, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275–7354.

SUPPLEMENTARY INFORMATION:

The Staggers Rail Act of 1980, section 709, and House Conference Report No. 96–1400 orders that this study be conducted. To meet the statutory six-month deadline, extensions of time cannot be granted, barring extraordinary circumstances. The deadline for completion of this study is April 1, 1981.

Any comments submitted should focus on the statutory standards provided in section 10701a(c)(1) as amended by the Staggers Act, including: whether and how Alaska Railroad's rates are "below a reasonable minimum" and "contribute to going concern value."

Parties are encouraged to consult the outstanding notice in Ex Parte No. 355, *Cost Standards for Railroad rates,* where preliminary views are expressed concerning the standards for determining when pricing is predatory.

The Alaska Railroad shall provide information according to the guidelines appended in this notice within the 45-days set out in the schedule.

Additionally, Alaska Railroad should make its working papers available for public inspection upon reasonable request. Copies of comments will be made available for public inspection at the Office of the Interstate Commerce Commission, 12th Street and Constitution Avenue, Washington, D.C., during regular business hours.

A copy of this notice shall be served on the Commission's Office of Special Counsel, the Governor of Alaska, Sealand Corporation, and Totem Ocean Trailer Express, Inc.

Decided: December 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

APPENDIX A—Guidelines for Developing Cost and Revenues

1. Respondent shall provide the direct and indirect variable costs-of-service (including cost of capital) for the subject traffic.

2. Direct variable costs are defined as those costs which vary directly with traffic volume.

3. Indirect variable costs are defined as those costs which vary indirectly with traffic volume.

4. Cost of capital is defined as the embedded rate of debt (the rate) times net investment. The rate should be computed separately for road property and equipment. The road property rate should be based on the total interest payments on road property debt, plus apportionment of interest payments not directly assignable to road property or equipment, divided by total outstanding road property debt, plus an apportionment of outstanding debt not directly assignable to road property or equipment. The equipment rate should be computed in a like manner using interest on equipment debt, equipment debt and an apportionment of interest and related debt not directly assignable to road property or equipment. Net investment is defined as the original cost of land and rights, road property, and equipment, including an allowance for working capital, material and supplies, less book depreciation and total depreciable property and book amortization on road property.

5. Respondent shall provide specific distribution keys (e.g. tons, ton-miles, direct) and rationale for the selection of such keys for

(a) The distribution of system expenses to cost centers, if applicable; and,

(b) the distribution of cost expenses to subject traffic; or

(c) the distribution of system expenses to subject traffic.

Note.—The traffic data (tons, ton-miles, etc.) should be shown for subject traffic and system.

6. Respondent shall provide supporting rationale for the estimation of variability factors.

7. Variability factors are defined as the ratio of variable expenses to total expenses. Such factors can represent a single account or a group of accounts.

8. If respondent develops unit costs, such costs should be applied to a representative movement or movements of the subject traffic.

9. If the tariff revenue is subject to a revenue division, the revenue divisions accruing to the ARR must be shown.

10. A comparison of the revenue and variable cost of the subject traffic must be shown at three levels:

(a) Revenue vs. Direct Variable Cost; and,

(b) Revenue vs. Direct plus Indirect Variable Cost

(c) Revenue vs. Direct plus Indirect Variable Cost plus Cost of Capital.

11. Cost and revenue data must represent the most recent 12 month period available (referred to as base year).

12. Base year data must be updated to the most current economic level.

[FR Doc. 81-307 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the services which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendment will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 387

Decided: Dec. 9, 1980.

By the Commission, Review Board Number 2. Chandler not participating.

MC 60014 (Sub-113F), filed March 29, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (2) *lumber products*, and (3) *plywood building materials*, from Galveston, TX, to those points in the U.S. in and east of MT, WY, CO, and NM.

Volume No. 390

Decided: Dec. 17, 1980.

By the Commission. Review Board Number 1, Members Carleton, Joyce and Jones.

MC 26825 (Sub-37F), filed May 14, 1979. Applicant: ANDREWS VAN LINES, INC., P. O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P. O. Box 82028, Lincoln, NE 68501. Transporting (1) *fiberglass and plastic products* (except in bulk) from Lincoln, NE, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), in the reverse direction, restricted to traffic originating at or destined to the facilities of Snyder Industries, Inc.

Agatha L. Mergenovich

Secretary.

[FR Doc. 81-380 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may be modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before February 20, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.— All applications are for authority to operate as a motor common carrier in interstate and foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3-115

Decided: Dec. 14, 1980.

By the Commission, Review Board Number 3, Members, Parker, Fortier and Hill. Member Fortier not participating.

MC 135185 (Sub-53F), filed December 4, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, South Bend, IN 46624. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 145904 (Sub-2F), filed October 17, 1980. Applicant: EQUIPMENT SUPPLIERS, INC., 7736 W. 62nd Place, Summit, IL 60501. Representative: Stephen H. Loeb, 33 North LaSalle St., Suite 2027, Chicago, IL 60602. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 153005F, filed December 5, 1980. Applicant: MILES LANE, d.b.a. MILES LANE TRUCKING, 4822 S. Shenandoah Way, Aurora, CO 80015. Representative: Miles Lane (same address as applicant). Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, *agricultural limestone, and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S. (Member Fortier not participating).

Volume No. OP3-118

Decided: Dec. 12, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 153015F, filed December 1, 1980. Applicant: GATEWAY AIR CARGO, INC., Foot of Broad Street, Stratford, CT 06497. Representative: Bruce H. Rabinovitz, 1700 Pennsylvania Ave, N.W., Washington, DC 20006. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP3-120

Decided: Dec. 17, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not participating.

MC 123415 (Sub-20F), filed November 25, 1980. Applicant: JAMES STUFFO, INC., Cinnaminson Industrial Park, 2301 Garry Rd. (P.O. Box 45), Cinnaminson, NJ 08077. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

Volume No. OP3–122

Decided: Dec. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 152285 Sub-1F, filed December 10, 1980. Applicant: Applicant: PACKERLAND TRANSPORT INC., 2580 University Avenue, P.O. Box 1184, Green Bay, WI 54305. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 153144F, filed December 9, 1980. Applicant: INTERAMERICAN TRANSPORT SYSTEMS, INC., 22203 Dunwin Drive, Mississauga, Ontario, Canada LSL1X2. Representative: David A. Sutherlund, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036. As a *broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP3–126

Decided: December 23, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 3114 (Sub-41F), filed December 16, 1980. Applicant: T. H. COMPTON, INC., R. F. D. #1, Berkeley Springs, WV 25411. Representative: Herbert Alan Dubin, 818 Connecticut Ave., N.W., Washington, DC 20006. Transporting *general commodities* except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 127834 (Sub-128F), filed December 15, 1980. Applicant: CHEROKEE HAULING & RIGGING, INC., Highway 85, East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L" Madisonville, KY 42431. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between (a) Lanara, Hub, and Mentone, CA, (b) Sorrento, FL, (c) Roseville and Youngstown, IL, (d) Commerce, OK, (e) DeSoto and Nashville, NE, (f) Jordan, KY, and Spelter and Farnum, WV, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitue motor carrier for abandoned rail service.

MC 139615 (Sub-36F), filed December 16, 1980. Applicant: DRS TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 141084 (Sub-21F), filed December 16, 1980. Applicant: NATIONAL FREIGHT LINES, INC., 13023 Arroyo St., P. O. Box 1031, San Fernando, CA 91341. Representative: Bill D. Gardner, (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U. S. Government, between points in the U.S.

MC 141175 (Sub-4F), filed December 16, 1980. Applicant: GARLEPIED TRANSFER, INC., 319 Butterworth St., Jefferson, LA 70181. Representative: G. H. Knapp, Jr. (same address as applicant). Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 141175 (Sub-5F), filed December 16, 1980. Applicant: GARLEPIED TRANSFER, INC., 319 Butterworth St., Jefferson, LA 70181. Representative: G. H. Knapp, Jr. (same address as applicant). As a broker in arranging for the transportation of *general commodities* (except household goods), between points in the U. S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-392 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or juridictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed by February 20, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3–114

Decided: December 12, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 2095 (Sub-34F), filed December 1, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *iron and steel articles* (except oil field commodities as described in *T.E. Mercer and G.E. Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459 and earth drilling commodities as described in *Roy L. Jones, Inc. Extension-Earth Drilling*

Equipment, 103 M.C.C. 623), from points in Clinton and Lycoming Counties, PA, to points in WI, TN, MS, AR, MO, IA, NE, FL, KS, OK, TX, CO, and CA.

MC 12945 (Sub-2), filed December 4, 1980. Applicant: THE TOLEDO AUTOMOBILE CLUB, a corporation, 2271 Ashland Ave., Toledo, OH 43620. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613. *Broker*, at Toledo, Defiance, and Bowling Green, OH, in arranging for the transportation of *passengers and their baggage* in charter operations, between points in OH, on the one hand, and, on the other, points in the U.S., including AK and HI.

MC 24784 (Sub-41F), filed December 4, 1980. Applicant: BARY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *building, construction and roofing materials*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in Jackson County, MO, on the one hand, and, on the other, points in the U.S.

MC 52574 (Sub-63F), filed November 12, 1980. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th St., Irvington, NJ 07111. Representative: Edward F. Bowes, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S. (except AK and HI), under continuing contract(s) with S. B. Thomas, Inc., of Totowa, NJ.

MC 60014 (Sub-203F), filed December 2, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *stone*, between points in Darlington County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 77424 (Sub-53F), filed October 22, 1980, previously published in **Federal Register** of November 14, 1980. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, OH 44104. Representative: James Johnson (same address as applicant). Transporting *automobile parts*, from Centralia, IL to points in MI and OH.

Note.—This republication clarifies the commodity description.

MC 105045 (Sub-157F), filed December 5, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania St., Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *transformers* and *electric switchgear*, (2) *parts* for the transformers and electric switchgear, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Waukesha County, WI, on the one hand, and, on the other, points in the U.S.

MC 106674 (Sub-514F), filed December 5, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *air conditioning equipment*, and *furnaces* and (2) *parts and accessories* for the commodities named in (1) above, and (3) *materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities in (1) and (2) above, between Warren, Rutherford and Davidson Counties, TN, and Onondaga County, NY, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 106674 (Sub-516F), filed December 5, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *zinc, and zinc slabs, non-ferrous metals, ores, chemicals, scraps and containers*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Madison and St. Clair Counties, IL, Iron County, MO, Branch County, MI, Cuyahoga County, OH, Lee County, IA, Plaquemines County, LA, Allegany and Washington Counties, PA, Middlesex and Essex Counties, NY and Orangeburg, County, SC, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 107445 (Sub-39F), filed December 2, 1980. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Ave., Indianapolis, IN 46203. Representative: K. Clay Smith, P.O. Box 33051, Indianapolis, IN 46203. Transporting (1) *machinery and supplies* for machinery, (2) *metal products*, and (3) *commodities* requiring the use of special equipment, between points in the U.S., under continuing contract(s) with Underwood Transfer Company, Inc., of Indianapolis, IN.

MC 107515 (Sub-1399F), filed December 1, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E. 5th Floor, Atlanta, GA 30326. Transporting *malt beverages*, and *materials, equipment and supplies* used in the production and distribution of malt beverages, between the facilities of the Stroh Brewery Company, at or near Detroit, MI and Perrysburg, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 107515 (Sub-1400), filed December 2, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *cosmetics and toiletries*, between points in Middlesex and Union Counties, NJ and Maricopa County, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107515 (Sub-1401F), filed December 2, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting (1) *automotive and industrial batteries*, and (2) *materials, equipment and supplies* used in the production and distribution of the commodities in (1) above, between the facilities of ESB, Inc., a division of Exide Corporation, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 119315 (Sub-34F), filed December 4, 1980. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *containers and container-ends*, between points in DuPage County, IL, on the one hand, and, on the other, points in Lucas County, OH.

MC 125335 (Sub-109F), filed December 3, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery stores and food business houses, between points in Franklin, Cumberland, Dauphin, York, and Adams Counties, PA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IA, IN, KS, KM, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, and WI.

MC 126714 (Sub-4F), filed December 3, 1980. Applicant: SOUTHWEST DELIVERY COMPANY, INC., P.O. Box 451, Vancouver, WA 98666. Representative: Earle V. White, 2400

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S.W. Fourth Ave., Portland, OR 97201. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between points in Benton, Clackamas, Clatsop, Columbia, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill Counties, OR, on the one hand, and, on the other, those points in WA in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, WA (except points in Clallam and Jefferson Counties, WA), and (b) between points in Cowlitz County, WA, on the one hand, and, on the other, those points in WA in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, WA (except points in Clallam and Jefferson Counties, WA).

MC 129994 (Sub-50F), filed December 4, 1980. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Ave., Salt Lake City, UT 84107. Representative: Marilyn McNeil (same address as applicant). Transporting *iron and steel articles*, from the facilities of Nucor Steel Plant, at or near Plymouth, UT, to points in UT, AZ, CA, CO, ID, MT, NV, NM, OR, WA, and WY.

MC 133194 (Sub-22F), filed November 28, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Rd., P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, SR. (same address as applicant). Transporting *dry goods, wearing apparel*, and *equipment* used in the manufacture of clothes, (1) between the facilities of Garan, Inc., at (a) Ozark, AR, and (b) Clinton, KY, (2) between the facilities of Garan, Inc., at (a) Clinton, KY, and (b) Ozark, AR, and (3) between the facilities of Garan, Inc., at Clinton, KY, and Memphis, TN.

MC 135154 (Sub-9F), filed November 29, 1980. Applicant: BADGER LINES, INC., 3109 W. Lisbon Avenue, Milwaukee, WI 53208. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of glass containers and closures, between the facilities of Thatcher Glass Manufacturing Co., a division of Dart & Kraft, Inc., in Elmira, NY, on the one hand, and on the other, points in the U.S. (except AK and HI); and (2) *plastic and cellulose articles*, between points in Muscatine County, IA and Fayette County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 136635 (Sub-44F), filed December 3, 1980. Applicant: WHITEFORD TRUCK LINE, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *iron and steel articles* and *aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Greenfield and Kingsbury, IN, on the one hand, and, on the other, points in MI, OH, PA, WV, NY, IL, and MO.

MC 140744 (Sub-18F), filed December 4, 1980. Applicant: ARTIC AIR TRANSPORT, INC., 853 West Main St., Mondovi, WI 54755. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). between points in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, Juneau, LaCrosse, Lincoln, Marathon, Monroe, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Taylor, Trempeleau, Vernon, Washburn and Wood Counties, WI; Anoka Carver, Chisago, Dakota, Dodge, Fillmore, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, Mille Lacs, Mower, Olmsted, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona and Wright Counties, MN; and LaCrosse, WI, and Minneapolis MN.

MC 141175 (Sub-3F), filed December 2, 1980. Applicant: GARLEPIED TRANSFER, INC., 319 Butterworth St., Jefferson, LA 70181. Representative: G. H. Knapp, Jr. (same address as applicant). Transporting (1) *textile mill products*, (2) *apparel, or other finished textile products or knit apparel*, and (3) *lumber or wood products*, except furniture, as described in Items 22, 23, and 24, respectively, of the Standard Transportation Commodity Code Tariff (STCCT), (4) *pulp, paper, or allied products*, as described in Item 26 of STCCT, (5) *chemicals or allied products*, (6) *petroleum or coal products*, and (7) *rubber or miscellaneous plastic products*, as described in Items 28, 29, and 30, respectively, of STCCT, (8) *clay, concrete, glass or stone products*, and (9) *primary metal products*, including galvanized; except coating or other allied processing, and (10) *fabricated metal products*, except ordnance, as described in Item 32, 33, and 34, respectively, of STCCT, (11) *machinery, except* electrical, (12) *electrical machinery or equipment*, or supplies, and (13) *transportation equipment*, as described in Items 35, 36, and 37, respectively, of STCCT, (14) *miscellaneous products of manufacturing*, as described in Item 39 of STCCT, (15) *freight forwarder traffic*, as described in Item 44 of STCCT, and (16) *commodities having a* prior or subsequent movement by water, rail, or air, between points in TX, OK, AR, IA, MS, AL, FL, and GA.

MC 141464 (Sub-4F), filed December 2, 1980. Applicant: TOM SMITH TRUCKING COMPANY, A Corporation, 2277 N Locust Street, Canby, OR 97013. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201.Transporting (1) *paper, and paper products*, (2) *ink*, and (3) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) and (2), between points in the U.S. (except AK and HI), under continuing contract(s) with Western Kraft Paper Group, Williamette Industries, Inc., Beaverton, OR.

MC 146015 (Sub-11F), filed December 28, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Transporting *prepared foods*, between points in the U.S. under continuing contract(s) with Nissin Foods (USA) Co., Inc., of Fort Lee, NJ.

MC 147415 (Sub-5F), filed November 20, 1980. Applicant: SKY CORPORATION, P.O. Box 838, Bismarck, ND 58502. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. Transporting (1) *lumber and lumber products*, (2) *wood products*, (3) *forest products*, and (4) *lumber.mill products*, (a) from points in CA, WA, OR, ID, MT, UT, CO, WY, and SD, to points in ND, SD, MN, MI, MO, WI, IA, NE, KS, and IL, and (b) from points in MN, IA, MI, WI, and SD, to points in CA, WA, OR, ID, MT, UT, CO, WY, SD, ND, and MN.

Note.—Issuance of this Certificate is subject to prior or coincidental cancellation, at applicant's written request of Permits No. MC-144378F, and MC-144378 Sub 4F, part (1).

MC 148235 (Sub-2F), filed December 2, 1980. Applicant: TAYLOR AND SONS TRUCKING, 101–48th St., S.E., Kentwood, MI 49508. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *new furniture and fixtures* and (2) *materials, equipment, and supplies* used in the manfacture and distribution of the commodities in (1), between points n the U.S. (except AK and HI), under continuing contract(s) with Union City Mirror & Table Co., of Union City, NJ.

MC 150694 (Sub-1F), filed December 3, 1980. Applicant: RONALD R. CLARK, 226 Filbert, Wray, CO 80758. Representative: Ronald R. Clark (same address as applicant). Transporting *dry potash compounds, boron compounds,* and *liquid fertilizers,* in bulk, between points in the U.S. under continuing contract(s) with Consumers Coop, Inc., Bojac, Inc., and Pure Grow, Inc., all of Wray, CO.

MC 151985 (Sub-1F), filed December 2, 1980. Applicant: BRAVE TRANSPORT, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: John C. Bach, 1400 Candler Bldg., Atlanta, GA 30043. Transporting (1) *steel coil and steel sheet,* (2) *aluminum coil and aluminum sheet,* and (3) *steel articles and aluminum articles,* between points in Cobb County, GA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 152975F, filed December 2, 1980. Applicant: LEWIS LEASING COMPANY, A Corporation, P.O. Box 838, Pottstown, PA 19464. Representative: Theodore B. DeWalt (same address as applicant). Transporting *structural steel,* between points in the U.S., under continuing contract(s) with F. M. Weaver, Inc., Lansdale, PA.

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Decided: Dec. 11, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 2934 (Sub-97F), filed November 17, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Indianapolis, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *furniture* and *furniture parts,* from points in AL, GA, MS, NC, IN, and VA, to points in IL, IN, MI, MN, MO, NY, OH, PA, and WI.

MC 1445 (Sub-1F), filed December 4, 1980. Applicant: RAMON R. BIONE d.b.a BIONE TRUCK SERVICE, P.O. Box 96, Christopher, IL 62822. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *playground and exercise equipment,* (2) *outdoor grills and bar stools,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2), between points in Jackson, Perry and Williamson Counties, IL, on the one hand, and, on the other, points in AR, IA, LA, OK, MN, MO, and TX.

MC 15975 (Sub-41F), filed December 1, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting (1) *animal and poultry feeds,* and (2) *materials, supplies, and ingredients* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between Webb City, MO, and Portland, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 16334 (Sub-1F), filed December 8, 1980. Applicant: DEBRICK TRUCK LINE COMPANY, R.R. No. 2, Paola, KS 66071. Representative: D. L. DeBrick (same address as applicant). Transporting *clay pipe, tile, and flue linings,* between Pittsburg, KS, on the one hand, and, on the other, points in AR, IL, IA, NE, and TX.

MC 36255 (Sub-4F), filed November 15, 1980. Applicant: K & R DELIVERY, INC., 255 West Oakton St., Des Plaines, IL 60018. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in WI, IN, and MI, within 100 miles of Chicago; IL, including Chicago, IL and Madison, WI.

Note.—(A) Applicant intends to tack this authority with the requested authority to be acquired in MC–F–14403, which authorizes the transportation of general commodities, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points within 50 miles of Palatine, IL, and (2) between points within 50 miles of Palatine, IL, on the one hand, and, on the other, points in IL. (B) Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate MC 36255.

MC 89684 (Sub-115F), filed December 1, 1980. Applicant: WYCOFF COMPANY, INC., P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). Transporting *such commodities as are dealt in or used by mail order houses and retail stores* (except commodities in bulk), between Denver, CO, on the one hand, and, on the other, points in WY, ID, and UT, restricted to traffic originating at or destined to the facilities used by Montgomery Ward and Company, Inc.

MC 106074 (Sub-451F), filed December 8, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221, S. Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *textiles* and *textile products,* from Bryson City, NC, to points in CO, FL, IL, IN, IA, KS, MN, MO, NE, OK, SC, TX, and WI.

MC 106674 (Sub-515F), filed December 8, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *refractories,* and (2) *materials and supplies* used in the manufacture, distribution and installation of refractories, between the facilities of General Refractories Company, U.S. Refractories Division, located at or near Curtis Bay, MD, on the one hand, and, on the other, points in AL, DE, GA, IL, IN, KY, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, VA, WI, and WV; (3) *board, wall or insulating materials,* and (4) *materials and supplies* used in the manufacture, distribution and installation of the commodities in (3) above, between the facilities of General Refractories Company, Grefco, Inc., a wholly-owned subsidiary, located at or near Jamesburg, NJ, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MS, NH, NJ, NY, NC, OH, PA, SC, TN, VA, VT, WI, WV, and DC.

MC 106674 (Sub-517F), filed December 8, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *adhesives, cement compounds, caulking compounds, cleaning and polishing compounds, and solutions, emulsions, latex solutions, mastic material, sealing primer and solvents,* and (2) *materials, equipment, and supplies* used in the application of the commodities in (1), between Trenton, NJ, Conyers, GA, Rosemont and Elk Grove Village, IL, and Montebello, CA, on the one hand, and, on the other, points in the U.S.

MC 108375 (Sub-45F), filed December 4, 1980. Applicant: LEROY L. WADE & SON, INC., 10550 "I" St., Omaha, NE 68127. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting (1) *commodities,* the transportation of which, because of size or weight, requires the use of special equipment, and (2) *parts, materials, and supplies* incidental to the transportation of the commodities in (1) above, from points in IA, KS, and SD, to points in NE.

MC 114015 (Sub-33F), filed December 8, 1980. Applicant: HUSS, INC., Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *steel articles, and materials, supplies and equipment* used in the manufacture, installation and distribution of steel articles, between points in the U.S., under continuing contract(s) with Guille Steel Products Company, Inc., of Virginia Beach, VA.

MC 115975 (Sub-44F), filed December 5, 1980. Applicant: C.B.W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62095. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *petroleum or coal products,* and *chemicals or allied products,* as described in Items (29) and (28) respectively of the Standard Transportation Commodity Code, between points in the U.S., under continuing contract(s) with Shell Oil Company, Texaco, Inc., Mobil Oil Corporation, Exxon Corporation, and Motor Oils Refining Company.

MC 117384 (Sub-10F), filed December 8, 1980. Applicant: DAVIDSON BROTHERS, R.D. No. 3, Bellefonte, PA 16823. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *ferro alloys, desulphurizer compounds, and iron and steel purifiers,* between points in Lawrence County, PA, on the one hand, and, on the other, points in IL, IN, MI, and OH.

MC 119894 (Sub–21F), filed December 4, 1980. Applicant: BOWARD TRUCK LINE, INC., 100 Roesler Rd., Suite 200, Glen Burnie, MD 21061. Representative: M. Bruce Morgan (same address an applicant). Transporting (1) *paper, paper products, and paperboard products,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of paper, paperboard products and paper products, between the facilities of Sonoco Products Company, at or near Hartsville, SC, on the one hand, and, on the other, points in NC, VA, TN, and GA.

MC 120635 (Sub-1F), filed December 3, 1980. Applicant: BRUCE G. Heady, d.b.a. COVELO TRANSPORTATION, 112 Orr Springs Rd., Ukiah, CA 94582. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Alameda, Colusa, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, Sacramento, San Francisco, San Joaquin, Santa Clara, Santa Cruz, Shasta, Solano, Stanislaus, Sonoma, and Trinity Counties, CA.

MC 121654 (Sub-42F), filed December 3, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7436, Savannah, GA 31408. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities* as are dealt in or used by manufacturers of pollution control equipment, between points in Clayton and Fulton Counties, GA, and Duval County, FL, on the one hand, and, on the other, points in the U.S.

MC 123065 (Sub-12F), filed December 4, 1980. Applicant: STX INC, d.b.a. SPOTSWOOD TRAIL EXPRESS, Redbone Rd., Chester Springs, PA 19425. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *new furniture,* from points in Alexander, Burke, Caldwell, Catawba, Cumberland, Davidson, Graham, Guilford, Iredell, Lee, Orange, Randolph, Rutherford, and Surry Counties, NC, to points in CT, DE, MA, MD, MI, NJ, NY, OH, PA, RI, and DC.

Note.—Applicant relies on traffic studies rather than supporting shippers.

MC 127625 (Sub-40F), filed December 5, 1980. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, SC 29059. Representative: Frank B. Hand, Jr., 521 South Cameron St., Winchester, VA 22601. Transporting *fly ash,* from points in Russell County, VA, to points in SC.

MC 134574 (Sub-45F), filed December 10, 1980. Applicant: FIGOL DISTRIBUTORS LIMITED, P.O. Box 6298, Station "C," Edmonton, Alberta, Canada T5B 4K6. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *thermal carbon black,* from ports of entry on the international boundary line between the U.S. and Canada, to points in the U.S. (except AK and HI).

MC 138635 (Sub-122F), filed November 20, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between New Orleans, LA, and points in Jefferson Parish, LA, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities used by New Orleans Cold Storage & Warehouse Co., Ltd.

MC 145104 (Sub-3F), filed December 9, 1980. Applicant: MIL-CO TRUCKING, INC., 319 S. Main St., West Unity, OH 43750. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Williams, Fulton, Paulding, Definance, Henry, Lucas, Wood, Sandusky, Erie, Huron, Lorain, and Cuyahoga Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 145505 (Sub-3F), filed December 5, 1980. Applicant: IRISH TRANSPORTATION, INC., 8007 South Meridian St., Indianapolis, IN 46227. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *motor vehicles,* over ¾ ton gross weight (except automobiles, truck-mounted and self-propelled mine, well and quarry-drilling equipment), in driveaway or truckaway movements, between points in Jefferson County, KY, Richland County, SC, and Denton County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146885(Sub-5F), filed December 2, 1980. Applicant: BEN CAPOBIANCO TRUCKING, INC., 5275 Talawanda Dr., Hamilton, OH 45014. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215.Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, on the one hand, and, on the other, points in AZ, CA, CO, FL, ID, MT, NV, OR, TX, UT, OH, and WA.

MC 147454 (Sub-3F), filed December 4, 1980. Applicant: JAMES CONDOSTA, 807 Exeter Ave., W. Pittston, PA 18643. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517. Transporting *scrap iron and steel,* between points in NY, CT, RI, MA, NJ, PA, DE, VA, NC, SC, NH, KY, IN, IL, IA, OH, MI, WI, TN, MD, WV, TX, and DC.

MC 147805 (Sub-11F), filed December 5, 1980.Applicant: TERESI TRUCKING, INC., 900½ Victor Rd., P.O. Box 819, Lodi, CA 95240. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AZ, CA, ID, NV, NM, OR, UT, and WA.

MC 149155 (Sub-8F), filed December 8, 1980. Applicant: JOHN PEPPER, d.b.a. MIDWEST CARTAGE COMPANY, P.O. Box 318, Atchison, KS 66002. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141.Transporting *non-exempt food or kindred products* as described in Items (20) of the Standard Transportation Commodity Code, between points in Buchanan County, MO, and York County, ME.

MC 150235 (Sub-2F), filed December 8, 1980. Applicant: POWELL TRUCKING COMPANY, INC., Route 3, Box 13, Sumrall, MS 39482. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *prestressing strand,* and *iron and steel articles,* between points in Cuyahoga County, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, TN, and TX.

MC 150425 (Sub-3F), filed December 5, 1980. Applicant: TRANS-CONTINENTAL EXPRESS, INC., P.O. Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *cleaning compounds, textile softeners, foodstuffs, and toilet preparations,* between the facilities of Lever Brothers Co., at or near St. Louis, MO, on the one hand, and, on the other, points in TX, LA, MS, GA, TN, AR, NC, NY, NJ, MI, OH, and CA.

MC 150844 (Sub-1F), filed November 28, 1980. Applicant: WILLIAM J. KLEIN, P.O. Box 334, U.S. Hwy 422, Douglassville, PA 19518. Representative: Nicholas E. Chimicles, 1719 Packard Bldg., Philadelphia, PA 19102. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in the townships of Amity, Colebrookdale, Caernarvon, Robeson, Exeter, Douglass, Earl, Union, Oley, East Coventry, North Coventry, South Coventry, Warwick, West Pottsgrove, Upper Pottsgrove, Lower Pottsgrove, and East Nantmeal, and the boroughs of Birdsboro, Elverson, and Pottstown, PA, and extending to points in the U.S. (except AK and HI).

MC 151605 (Sub-1F), filed November 26, 1980. Applicant: DONALD E. RODMAN, d.b.a. RODMAN TRUCK SERVICE, 1923 Southwest 15th St., Oklahoma City, OK 73148. Representative: R. H. Lawson, 2753 Northwest 22nd St., Oklahoma City, OK 73107. Transporting (1) *construction materials,* and (2) *clay brick,* between points in the U.S., under continuing contract(s) with Willard Wholesale Roofing Company, of Oklahoma City, OK, and Acme Brick Company, of Fort Worth, TX, and their subsidiaries, suppliers, and customers.

MC 151944 (Sub-1F), filed December 8, 1980. Applicant: JAMES H. POPPINGA (no street address), Chancellor, SD 57015. Representative: Claude Stewart, S.D. Transport Services, Inc., P.O. Box 460, Sioux Falls, SD 57101. Transporting *fertilizer,* from points in IA, MN, and NE to points in SD.

MC 152674 (Sub-1F), filed December 4, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter, (same address as applicant). Transporting (1) *mops, brooms, and yarn,* and (2) *materials* used in the manufacture of the commodities in (1) above, between points in OK, NY, PA, CA, OH, IL, and TX, on the one hand, and, on the other, points in MA, KY, NC, SC, GA, AL, and MS.

MC 152674 (Sub-2F), filed December 4, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter (same address as applicant). Transporting (1) *lawn mowers, garden tractors, and chain saws,* and (2) *parts and accessories* for the commodities in (1) above, between points in OK, on the one hand, and, on the other, points in AR, CO, CT, GA, IL, KY, OR, TN, and TX.

MC 153064F, filed December 8, 1980. Applicant: HAAS CARRIAGE, INC., 625 W. Utica St., Sellersburg, IN 47172. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *cabinets* and *materials, equipment, and supplies* used in the manufacture and distribution of cabinets, between points in the U.S., under continuing contract(s) with Haas Cabinet Co., Inc.

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Decided: December 12, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 6744 (Sub-16F), filed December 4, 1980. Applicant: CONSOLIDATED MOTOR EXPRESS, INC., 909 Grant St., Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) (1) between points in Cabell and Wayne Counties, WV, and Kermit, WV, from points in Cabell and Wayne Counties over Interstate Hwy 64 to junction U.S. Hwy 52, and then over U.S. Hwy 52 to Kermit, and return over the same route, (2) between points in Cabell and Wayne Counties, WV, and Logan, WV, over WV Hwy 10, and (3) between points in Cabell and Wayne Counties, WV, and Madison, WV, from points in Cabell and Wayne Counties over WV Hwy 10 to junction WV Hwy 3, then over WV Hwy 3 to junction U.S. Hwy 119, and then over U.S. 119 to Madison, and return over the same route, serving in connection with routes (1), (2), and (3), all intermediate points and all off-route points in Lincoln and Putnam Counties, WV, Boyd and Lawrence Counties, KY, and Lawrence County, OH.

MC 111485 (Sub-30F), filed December 8,1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except household goods and classes A and B explosives), between points in St. Charles County, MO, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 115865 (Sub-6F), filed December 9, 1980. Applicant: QUIMBY TRUCKING, INC., P.O. Box 807, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *fertilizer and urea,* between points in OR and WA, on the one hand, and, on the other, points in WA, OR, ID, MT, UT, and NV.

MC 140665 (Sub-124F), filed December 4, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *batteries and parts for batteries,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by ESB, Incorporated.

MC 151034 (Sub-1F), filed October 21, 1980. Applicant: HENRY MONTGOMERY TRUCKING, 6401 East Broadway, Tampa, FL 33619. Representative: John W. McWhirter, Jr., P.O. Box 1364, Tampa, FL 33601. Transporting (1) *fruit juices, citrus products* and *citrus byproducts,* and (2) *non-alcoholic beverages* and *beverage preparations,* between points in the U.S., under continuing contract(s) with Tropicana Products, Inc., of Bradenton, FL.

MC 152544 (Sub-2F), filed December 9, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *general commodities* (except household

goods as defined by the Commission, classes A and B explosives, liquid and petroleum products and liquid chemicals, in bulk), between points in FL, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities used by C & C Bulk Liquid Transfer, Inc.

MC 152544 (Sub-3F), filed December 9, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *plastic articles and steel articles*, from Crawfordsville, IN, and Alliance, OH, to Jacksonville, FL.

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Decided: Dec. 17, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Hill not participating.

MC 111485 (Sub-31F), filed December 8, 1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting (1) *electrical fuses, fuse plugs, cutouts, fuse holders*, and (2) *materials* used in the manufacture and distribution of the commodities in (1), between the facilities of Buseman Manufacturing Company, at or near St. Louis, MO, on the one hand, and, on the other, Elizabethtown, KY, Bristol, CT, Detroit, MI, and Cleveland, OH.

MC 112184 (Sub-73F), filed December 8, 1980. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury, OH 44065. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *liquid sugars* and *blends* of liquid sugars, between points in the U.S., under contract(s) with Cargill, Incorporated, at Dayton, OH.

MC 114045 (Sub-577F), filed December 8, 1980. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *food and kindred products*, from the facilities of Geo. A. Hormel & Co., in Rock County, WI, to points in NM, OK and TX.

MC 114274 (Sub-72F), filed December 8, 1980. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *confectionery*, from the facilities of M & M Mars, Inc., Division of Mars, Inc., at (a) Elizabethtown, PA, (b) Hackettstown, NJ and (c) Chicago, IL, to points in IL, IA, MN, MO, NE and KS.

MC 116915 (Sub-129F), filed December 8, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. #1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron and steel articles*, between the facilities of Jones & Laughlin Steel Corporation, at Pittsburgh and Aliquippa, PA, and Youngstown, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, MO, NC, OH, SC, TN, TX, WV, and WI.

MC 119894 (Sub-22F), filed December 8, 1980. Applicant: BOWARD TRUCK LINE, INC., 100 Roesler Rd., Suite 200, Glen Burnie, MD 21061. Representative: M. Bruce Morgan (same address as applicant). Transporting (1) *paper, paper products, paperboard products, pulpboard, and activated carbon*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in GA, NC, SC, TN, VA, MD, and DC.

MC 120875 (Sub-2F), filed November 25, 1980. Applicant: OVERPECK TRUCKING COMPANY a corporation, 2520 Summit Ave., P.O. Box 14, Overpeck, OH 45055. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting *commodities in bulk*, between points in Butler County, OH, on the one hand, and, on the other, points in OH, IN, KY and MI. Condition: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request of Certificate of Registration No. MC 120875 Sub 1.

MC 121424 (Sub-5F), filed December 8, 1980. Applicant: DAL-HAR DISTRIBUTION COMPANY, INC., 400 West Main Street, Dallas, TX 75208. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting (1) *primary metal products*, and *fabricated metal products*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in TX, LA, AR, OK, NM, KS, and MO. Condition: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration MC 121424 Sub 3.

MC 121664 (Sub-138F), filed December 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 46460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Transporting *building materials, equipment, and supplies*, between points in GA, on the one hand, and, on the other, points in KY, TN, AR, AL, and MS.

MC 123405 (Sub-82F), filed December 8, 1980. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *paper and paper products* (except commodities in bulk), from the facilities of Scott Paper Company, at or near Mobile, AL, to points in FL, VA, MD, DE, NJ, PA, NY, CT, and DC.

MC 127115 (Sub-22F), filed December 8, 1980. Applicant: MILLERS TRANSPORT, INC., 510 West 4th North, Hyrum, UT 84319. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Transporting *equipment, materials and supplies* used in the manufacture and distribution of furniture, between points in the U.S., under continuing contract(s) with Van Waters & Rogers a Division of Univar, of Salt Lake City, UT.

MC 136774 (Sub-15F), filed December 8, 1980. Applicant: MC–MOR–HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. Transporting *liquid corn sirup and blends* of liquid corn sirup, between points in Lee County, IA, and Cook County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 136774 (Sub-16F), filed December 8, 1980. Applicant: MC–MOR–HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. Transporting (1) *foodstuffs* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), between points in Champaign County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138635 (Sub-123F), filed December 8, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting *such commodities* as are dealt in or used by food business houses, between points in OH and SC, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, ID, KY, LA, MA, MD, ME, MS, MT, NC, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WY, and DC, restricted to traffic originating at or destined to the facilities of Stouffer Foods Corporation.

MC 139244 (Sub-11F), filed December 8, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *aluminum and plastic pipe and fittings,* between points in the U.S., under continuing contract(s) with Kroy Industries, Inc.

MC 144115 (Sub-5F), filed December 8, 1980. Applicant: DIVERSIFIED CARRIERS, INC., 903 Sixth Street NW., Rochester, MN 5501. Representative: Charles E. Dye, P.O. Box 971, West Bend, WI 53095. Transporting *nonexempt foodstuffs and kindred products,* and *materials equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Kane-Miller Corp.

MC 144595 (Sub-5F), filed December 8, 1980. Applicant: ROBERT D. ANTHOLZ, d.b.a. PAWNEE GRAIN COMPANY, Route 3, Box 42, Pawnee City, NE 68420. Representative: Jack L. Schultz, P.O. Box 8208, Lincoln, NE 68501. Transporting *lumber, lumber mill products, and wooden products,* between points in the U.S. (except AK and HI), under continuing contracts(s) with Braun, Ray Bros. & Finley Co., of Omaha, NE. Condition: Issuance of a certficate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate No. MC 144595 Subs 1 and 2.

MC 148275 (Sub-3F), filed December 8, 1980. Applicant: J. L. McCOY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 3930 Putnam Ave., Hurricane, WV 25526. Transporting *fabricated metal products,* except ordnance as described in Item (34) of the Standard Transportation Commodity Code, between points in New Castle County, DE, Cook and Madison Counties, IL, Cuyahoga County, OH, and Jefferson County, AL, on the one hand, and, on the other, those points in the U.S. in and east of WI, IA, MO, AR, and LA.

MC 150484 (Sub-1F), filed December 2, 1980. Applicant: PATIO FREIGHT LINES, INC., 1251 E. Mission, Pomona, CA 91766. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Diamond International, Inc.

MC 152254 (Sub-1F), filed December 8, 1980. Applicant: J & P TRUCKING CO., INC., P.O. Box 457, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. Transporting (1)*fiberglass, fiberglass products, and fiberglass materials,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.

MC 153084F, filed December 8, 1980. Applicant: CROWN EXPRESS, INC. (a Missouri Corporation), 1222 West 12th St., Kansas City, MO 64101. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO and Topeka, Lawrence, and Leavenworth, KS.

MC 153094F, filed December 8, 1980. Applicant: RONNEY L. ROGERS, d.b.a. ROGERS TRUCKING, Rt. L, B 1724, Clatskanie, OR 97016. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *bananas,* between Port Hueneme and Long Beach, CA, on the one hand, and, on the other, points in Pierce County, WA.

MC 153115F, filed December 8, 1980. Applicant: TRIPLE R TRUCKING CO., INC., Route 1, Register, GA 30452. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *fertilizer,* from the facilities of Gold Kist Inc. in Effingham County, GA, to points in FL, NC, and SC.

Volume No. OP3–121

Decided: December 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 10345 (Sub-103F), filed December 10, 1980. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 W. St. Joseph St., Lansing, MI 48901. Representative: Joseph Gracia, Suite 211—3221 W. Big Beaver Rd., Troy, MI 48084. Transporting *motor vehicles,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by General Motors Corporation.

MC 59264 (Sub-74F), filed December 11, 1980. Applicant: SMITH & SOLOMON TRUCKING COMPANY, a corporation, How Lane, P.O.Box 2015, New Brunswick, NJ 08903. Representative: Zoe Ann Pace, Suite 2373, One World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in by chain grocers and food business houses (except commodities in bulk), from New York, and Hicksville, NY, Philadelphia, PA, Baltimore, MD, Bordentown, NJ, and Richmond, VA, to the Wakefern Food Corporation Distribution Center, at or near Wallkill (Orange County), NY.

MC 124774 (Sub-134F), filed December 10, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Road, Omaha, NE 68114. Transporting *such commodities* as are dealt in by chain grocery stores, from Chicago, IL and Kansas City, MO, to points in Douglas County, NE.

MC 125335 (Sub-110F), filed December 11, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), from points in Caster County, PA, to points in Fl, AL, GA, IA, IL, IN, KS, KY, MI, MN, MO, MS, NC, NE, OH, SC, SD, TN, and WI.

MC 134105 (Sub-551F), filed December 10, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). Transporting *foodstuffs,* from the facilities used by Globe Products Company, Inc., at or near Clifton, NJ, to points in the U.S. (except AK and HI).

MC 146055 (Sub-11F), filed December 11, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. Transporting *meats, and packinghouse products,* between points in Douglas County, NE and points in MI, OH, FL, WI, LI, MN, IA, MO, KS, TX, WA, OR, and CA.

MC 147474 (Sub-6F), filed December 10, 1980. Applicant: SOUTHWIRE COMPANY TRANSPORTATION DIVISION, 126 Fertilia St., Carrollton, GA 30119. Representative: Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, GA 30303. Transporting *general commodities* (except those of unsual value, commodities in bulk, classes A and B explosives and household goods as defined by the Commission), from points in AL, AR, CT, DE, FL, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, MN, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI to points in AL, FL (on and west of U.S. Hwy 319 and 98), GA, SC and TN.

MC 149234 (Sub-3F), filed December 12, 1980. Applicant: RIVER VALLEY OIL

CO., INC., Box 526, Spring Green, WI 53588. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *glass, glass units,* and *parts and accessories* for glass and glass units, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between Spring Green, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151154 (Sub-1F), filed December 9, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 55104. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. Transporting *automotive parts and automotive accessories,* between points in the U.S., under a continuing contract(s) with Midwest Wholesale Tire of Mendota, MN.

MC 151324 (Sub-2F), filed December 11, 1980. Applicant: ALAN H. KRAMER, 2525 N.E. Stephens, Apt. 4, Roseburg, OR 97470. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *paper and paper articles,* between points in Douglas County, OR, on the one hand, and, on the other, points in ID and WA, and (2) *recycleable materials,* between points in CA, ID, and WA, on the one hand, and, on the other, points in OR.

MC 152404 (Sub-1F), filed December 10, 1980. Applicant: CHARLES DEL SORDO, dba, DEL SORDO TRUCKING, 7 Summer Street, Fairhaven, MA 02719. Representative: William F. Poole, 41 Bea Drive, North Kingstown, RI 02852. Transporting (1) *carpets, carpet pads, floor coverings,* and (2) *accessories* for the commodities in (1), between points in GA, NC, and SC, on the one hand, and, on the other, points in CT, MA, ME, NH, RI, and VT.

MC 153085F, filed December 10, 1980. Applicant: DUSTY BULLOCK, INC., Route 1, Box 207, Caryville, TN 37714. Representative: Peter A. Greene, 1920 N Street, N.W., Suite 700, Washington, DC 20036. Transporting *meats, meat products,* and *meat byproducts,* between points in Campbell County, TN, on the one hand, and, on the other, points in OH and IN.

Volume No. OP3–123

Decided: December 17, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not participating.

MC 2934 (Sub-96F), filed December 10, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting (1) *home furnishings* and (2) *parts* for home furnishings, from Athens, TN, to those points in the U.S. in and east of IA, KS, MN, NE, OK, and TX.

MC 52574 (Sub-64F), filed December 11, 1980. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th St., Irvington, NJ 07111. Representative: Edward F. Bowes, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting *new furniture* and *materials, equipment and supplies* used in the manufacture and distribution of new furniture, between points in the U.S., under continuing contract(s) with Harris Hub Company, Inc., of Harvey, IL, and Simmons Co., of Elizabeth, NJ.

MC 60014 (Sub-204F), filed December 9, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *metal articles, pipe and machinery,* between the facilities of Interpace Corp., at Columbia, SC, Hillsborough, NJ, Kansas City, KS, Lacoochee, FL, Perryman, MD, Romeo, MI, Solon, OH, South Beloit, IL, Wharton, NJ, Hudson, NY and Cape Charles, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 73165 (Sub-536F), filed December 8, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *paper and wood products,* between points in Bibb County, GA, on the one hand, and, on the other, points in VA, NC, SC, GA, FL, AL, MS, LA, and TN.

MC 94635 (Sub-11F), filed December 11, 1980. Applicant: INTERSTATE SAND & GRAVEL TRANSPORTATION, INC., 717 Elmer Street, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033, K Street, N.W., Washington, DC 20006. Transporting *commodities* in bulk, between points in the U.S. under continuing contract(s) with Glenshaw Glass Company, Inc., of Glenshaw, PA.

MC 107515 (Sub-1397F), filed November 20, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE, 5th Flood-Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities* as are dealt in or used by retail department, variety or discount stores (except commodities in bulk and those requiring special equipment), between points in the U.S. restricted to traffic originating at or destined to the facilities of Richway, a division of Federated Department Stores, Inc.

MC 107515 (Sub-1402F), filed December 10, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *general commodities* (except classes A and B explosives), between points in Fulton County, GA and Cabarrus and Mecklenburg Counties, NC, on the one hand, and, on the other, points in the U.S.

MC 114604 (Sub-119F), filed December 9, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market No. 33, Forest Park, GA 30050. Representative: Jean E. Kesinger (same address as applicant). Transporting *such merchandise* as is dealt in or used by food business houses, between points in the U.S. (except AK and HI).

MC 115724 (Sub-11F), filed December 9, 1980. Applicant: J. W. PHILLIPS, INC., 4500 North Sewell, Suite 5, Oklahome City, OK 73154. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with the Oklahoma Gas and Electric Company, of Oklahoma City, OK.

MC 120264 (Sub-2F), filed December 8, 1980. Applicant: L. R. TRUCKING, INC., 59 Norfolk Ave., Boston, MA 02119. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in MA, and (2) *foodstuffs,* between points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA. Condition: Issuance of this Certificate is subject to prior or coincidental cancellation, at applicant's written request of Certificate of Registration No. MC 120264 (Sub-1).

MC 125764 (Sub-10F), filed December 9, 1980. Applicant: LILAC CITY EXPRESS, INC., P.O. Box 13133, Dishman, WA 99213. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201. Transporting *garnet sand,* between Fernwood, ID, on the one hand, and, on the other, points in the U.S.

MC 126574 (Sub-9F), filed December 8, 1980. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., P.O. Box 7362, Greensboro, NC 27407. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *hospital and medical supplies,* between points in Wake County, on the one hand, and, on the other, points in Bedford, Campbell, Floyd, Franklin, Halifax, Henry, Mecklenburg, Montgomery, Patrick, Pittsylvania, and Roanoke Counties, VA.

MC 126574 (Sub-10F), filed December 8, 1980. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., P.O. Box 7362, Greensboro, NC 27407. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *containers, container ends and closures,* (2) *such commodities* as are dealt in or used by manufacturers and distributors of containers, and (3) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) and (2), between points in Pittsylvania County, VA, on the one hand, and, on the other, points in GA, KY, NC, SC, and TN.

MC 129645 (Sub-85F), filed December 10, 1980. Applicant: SMEESTER BROS, INC., 1330 South Jackson Street, Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *fabricated metal products,* except ordnance and (2) *machinery and supplies* as described in items 34 and 35 of the Standard Transportation Commodity Code, between points in AR, [illegible], NY, OH, and WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 140665 (Sub-125F), filed December 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *non-exempt foods or kindred products,* as described in Item 20 of the Standard Transportion Commodity Code, between points in the U.S.

MC 143065 (Sub-1F), filed December 10, 1980. Applicant: WEATHERFORD TRANSIT, 1019 East Lake Drive, Hartsville, SC 29550. Representative: John M. Ballenger, Suite 400, Overland Bldg., 6121 Lincolnia Road, Alexandria, VA. As a *broker,* at Hartsville, SC, in arranging for the transportation of *passengers and their baggage,* beginning and ending at points in Chesterfield, Darlington, Dillon, Florence, Kershaw, Lancaster, Lee, Marion, Marlboro, Richmond, and Sumter Counties, SC, and extending to points in the U.S. (including AK and HI).

MC 145914 (Sub-14F), filed December 9, 1980. Applicant: COASTAL TRUCK LINE, INC., How Lane, P.O. Box 600, New Brunswick, NJ 08903. Representative: Zoe Ann Pace, Suite 2373, One World Trade Center, New York, NY 10048.Transporting (1) *bakery goods* (except frozen), *ice cream cones, dishes, sandwich spreads, cheese spreads, peanuts, meal or bread crumbs,* and *snack foods,* and (2) *materials, equipment and supplies* used in the manufacture, distribution and sale of the commodities in (1), between points in the U.S., under continuing contract(s) with Nabisco, Inc., of East Hanover, NJ.

MC 147055 (Sub-3F), filed December 11, 1980. Applicant: CURTIS DENNIS EQUIPMENT, INC., dba C.D.E. EXPRESS, P.O. Box 2057, Heath, OH 43055. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. Transporting *printed matter,* and *materials* used in the production of printed paper, between points in the U.S., under continuing contract(s) with Xerox Education Center of Columbus, OH, and W. C. National Mailing Corporation, of Groveport, OH.

MC 149235 (Sub-2F), filed December 9, 1980. Applicant: C. MAXWELL TRUCKING CO., INC., 9106 Reeds Dr., Overland Park, KS 66207. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Transporting (1) *lubricating oils, greases, carbon, gum and sludge removing compounds, automotive filters, valves and valve parts, fender covers, brake fluids, compressor oils* and *antifreeze engine coolants,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1), between points in the U.S. (except AK and HI).

Volume No. OP3-124

Decided: December 18, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2934 (Sub-95F), filed December 10, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *micro-foam* and *materials and supplies* used in the manufacture and distribution of *micro-foam,* from Wurtland, KY, to points in AL, AR, FL, GA, IA, KS, LA, MN, MS, MO, NC, OK, SC, TN, TX, VA, and DC.

MC 113434 (Sub-158F), filed December 11, 1980. Applicant: GRA-BELL TRUCK LINE, INC., A5253—144th Ave., Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, OH, PA, TN, VA, WV, WI, and DC. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of certificate in MC 113434 and related subs.

MC 125535 (Sub-23F), filed December 11, 1980. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, P.O Box 1746, Maryland Heights, MO 63043. Representative: Donald S. Helm (same address as applicant). Transporting (1) *tile, clay, earthenware, and china fixtures,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), under continuing contract(s) with American Lean Tile Compnay of Lansdale, PA.

MC 130784 (Sub-1F), filed December 11, 1980. Applicant: COSMOPOLITAN TRAVEL SERVICE, INC., 2224 W. Main St., P.O. Box 489, Waynesboro, VA 22980. Representative: Warren M. Evans (same address as applicant). As a *broker* at Waynesboro and Staunton, VA, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, between points in the U.S.

MC 134105 (Sub-552F), filed December 10, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). Transporting *foodstuffs* (except commodities in bulk, in tank vehicles) from the facilities used by Adams Packing Association, Inc., at or near Memphis, TN, to points in the U.S. (except AK and HI).

MC 141084 (Sub-20F), filed December 11, 1980. Applicant: NATIONAL FREIGHT LINES, INC., 13023 Arroyo St., P.O. Box 1031, San Fernando, CA 91341. Representative: Bill D. Gardner (same address as applicant). Transporting *general commodities* (except classes A and B explosives, used household goods, commodities in bulk, and those requiring special equipment), between points in the U.S.

Note.—Issuance of this certificate is subject to coincidental cancellation of permits in MC 141084 (Subs 5, 10F, and 15F).

MC 153124F, filed December 11, 1980. Applicant: COMPANIES TRANSPORT, INC., P.O. Box 186, Lincoln Park, NJ 07035. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202. Transporting (1) *drugs, medical, surgical, and hospital supplies,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in

(1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Becton-Dickinson and Company, of Rutherford, NJ.

MC 146725 (Sub-12F), filed November 20, 1980. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 27327, Salt Lake City, UT 84125. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-383 Filed 1-5-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-104-M]

Tenneco Oil; Petition for Modification of Application of Mandatory Safety Standard

Tenneco Oil, P.O. Box 1167, Green River, Wyoming 82935, has filed a petition to modify the application of 30 CFR 57.21-46 (crosscut intervals) to its Soda Ash Project located in Sweetwater County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows

1. Petitioner is presently sinking two shafts approximately 1,600 feet in depth.
2. Access to the ore body for mining purposes is estimated to occur about April 1, 1981. At that time mining will begin in a development stage which will allow the petitioner to connect the two shafts together to perform shaft station work.
3. As an alternate method to placing crosscuts not in excess of 100 feet between entries and between rooms, petitioner proposes to place crosscuts at intervals of up to 450 feet while driving two decline entries from the Westvaco #1 level (Bed #17) to the Duval #2 level (Bed #12). These declines will be on a 15% grade and will provide permanent access to the lower level. There will be approximately 120 feet between these levels when completed. Declines will be approximately 900 feet in length.
4. In support of this alternate method, petitioner proposes the following:

a. The declines will be driven with a drum type miner equipped with a constant methane monitoring system and only the operator will advance to the last permanent support while cutting;

b. The top will be supported by resin bolts placed on 4 foot centers and of sufficient length determined to adequately support the top;

c. An exhaust type auxiliary fan will be used to ventilate the declines and will provide a minimum 4,000 cubic feet per minute at the working face while machine is operating;

d. A minimum of 10,000 cubic feet per minute of air will be provided at the last open break utilized for this system and a fan will be placed to prevent recirculation of air. The location of the fan will be changed when necessary to maintain proper ventilation control;

e. This operation will be under the constant supervision of a certified person who will monitor the face for methane at hourly intervals. This person will also monitor the fan exhaust for methane content on an hourly basis while the machine is operating and record results of the findings in a log book located near the fan.

5. Petitioner states the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 5, 1981. Copies of the petition are available for inspection at that address.

Dated December 22, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-376 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-1; Exemption Application No. D-1809]

Exemption From the Prohibitions for Certain Transactions Involving the Keebler Retirement Plan for Salaried and Certain Hourly Paid Employees of Keebler Co., Elmhurst, Illinois

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits: (1) the contribution of two improved parcels of real property (the Properties) to the Keebler Retirement Plan for Salaried and Certain Hourly Paid Employees (the Plan) by the Keebler Company (the Employer), a party in interest with respect to the Plan; (2) the lease of the Properties by the Plan to the Employer; and (3) a guarantee by the Employer to the Plan with respect to the future disposition of the Properties by the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 14, 1980, notice was published in the **Federal Register** (45 FR 75362) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested person to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to all interested persons as set forth in the notice of pendency. One public comment was received which was in favor of the exemption as proposed by the Department. No requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the applications of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the contribution of the Properties by the Employer to the Plan provided that the federal income tax deductions taken by the Employer pursuant to the contributions do not exceed the fair market value of the Properties at the time of contribution; (2) the lease of the Properties by the Plan to the Employer provided that the terms of each lease are not less favorable to the plan than those obtainable in an arm's-length transaction with an unrelated party; and (3) a guarantee by the Employer to the Plan with respect to the future disposition of the Properties by the Plan.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-319 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to the requirements of Pub. L. 95–602, the Consumer Price Index for All Urban Consumers rose by 12.6 percent between October 1979 and October 1980 from a level of 225.4 in October 1979 to a level of 253.9 in October 1980.

Signed at Washington, D.C., on the 30th day of December 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 81-375 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-23-M

[TA-W-11,340 and 11,341]

Anaconda Copper Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, investigations were initiated on October 14, 1980 in response to worker petitions received on October 6 and 8, 1980 which were filed by the Anaconda Metal Trades and the Carpenters Local Union, respectively, on behalf of workers and former workers of Anaconda Copper Company, Anaconda, Montana and Great Falls, Montana. The workers at both plants produce refined copper.

On October 7, 1980 petitions were filed on behalf of the same groups of workers (TA-W-11,275 and 11,276).

Since the identical groups of workers are the subject of ongoing investigations TA-W-11,275 and 11,276, new investigations would serve no purpose. Consequently, the investigations have been terminated.

Signed at Washington, D.C. this 24th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-377 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

Barker Engineering Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 16, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 16, 1981.

The petitions filed in this case aare available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Barker Engineering Corp. (UAW)	Kenilworth, NJ	12-11-80	12-4-80	TA-W-11,945	Optical hardward.
Blackmer Pump (workers)	Grand Rapids, MI	12-15-80	12-8-80	TA-W-11,946	Pumps.
Bob Chandler Ford Sales, Inc. (company)	DeQueen, AR	12-9-80	12-4-80	TA-W-11,947	Car dealership.
Engelking Patterns, Inc. (workers)	Columbus, IN	12-15-80	12-5-80	TA-W-11,948	Pattern equipment.
Federated Metals Corp. (workers)	Trenton, NJ	12-15-80	12-10-80	TA-W-11,949	Metallic zinc dust.
Ford Tractor Operations, General Office (company).	Troy, MI	12-11-80	12-8-80	TA-W-11,950	Tractors.
Ford Tractor Operations, Northwestern District Sales Office (company).	Bloomington, MN	12-11-80	12-8-80	TA-W-11,951	Tractors.
Gastrans, Inc. (workers)	Stamford, CT	12-12-80	12-10-80	TA-W-11,952	Inspection of vessels.
Peninsular Steel Co. (workers)	Tonawanda, NY	12-12-80	12-9-80	TA-W-11,953	Cutting, burning, and grinding of steel.
Pivot Manufacturing (workers)	Detroit, MI	12-15-80	12-8-80	TA-W-11,954	Small auto parts
The Hanna Furnace Corp. (USWA)	Buffalo, NY	12-15-80	12-11-80	TA-W-11,955	Merchant pig iron.
Walker Manufacturing, Division of Tenneco (workers).	Hebron, OH	12-15-80	12-10-80	TA-W-11,956	Converters, Y pipes, mufflers, complete exhaust systems.
Advance Glove Manufacturing Co. (ACTWU)	Detroit, MI	12-16-80	12-12-80	TA-W-11,957	Gloves.
Deem International, Inc., Bertsch & Co., Inc.	Cambridge City, IN	12-16-80	10-20-80	TA-W-11,958	Manufacturing bending rolls.
E. I. du Pont de Nemours & Co., Inc. (workers)	Chattanooga, TN	12-16-80	12-9-80	TA-W-11,959	Nylon textile products.
Interco-International Shoe Co. (ACTWU)	Batesville, AR	12-16-80	12-12-80	TA-W-11,960	Men's shoes.
M. G. Knitting Mills (company)	Miami, FL	12-17-80	12-8-80	TA-W-11,961	Velour and terry fabrics.
Melville Corp.—Metro Pants (workers)	New York, NY	12-17-80	12-10-80	TA-W-11,962	Men's pants.
Midland Ross Corp.—Bay City Foundry Division (workers).	Bay City, MI	12-16-80	12-11-80	TA-W-11,963	Manufacturing steel castings.
National Welding of Michigan (workers)	Lansing, MI	12-16-80	12-8-80	TA-W-11,964	Rebuild industrial press equipment.
R. Fox, Ltd. (company)	Belleville, IL	12-17-80	12-11-80	TA-W-11,965	Men's suits.
SKF Industries—Tyson Bearing Co. (USWA)	Massillon, OH	12-15-80	12-9-80	TA-W-11,966	Tapered roller bearings.
E. I. du Pont de Nemours & Co. (Old Hickory Union).	Old Hickory, TN	12-16-80	8-18-80	TA-W-11,967	Polyester fiber-dacron yarn and staple.
Hawley Coal Mining Corp., No. 10 Deep Mine Bradshaw (USWA).	McDowell County, WV	12-16-80	12-11-80	TA-W-11,968	Metallurgical coal.
Henmur Cut, Make & Trim, Inc. (ACTWU)	New York, NY	12-18-80	12-15-80	TA-W-11,969	Men's suits.
Kaye Coat Co. (workers)	Passaic, NJ	12-18-80	12-16-80	TA-W-11,970	Manufacturing ladies & girls coats.
Melville Corp., Metro Pants—Distribution Center (workers).	Bridgewater, VA	12-17-80	12-10-80	TA-W-11,971	Men's pants.
Melville Corp., Metro Pants—Bridgewater Plant (workers).	Bridgewater, VA	12-17-80	12-10-80	TA-W-11,972	Men's pants.
Melville Corp., Metro Pants—Harrisonburg Plant (workers).	Harrisonburg, VA	12-17-80	12-10-80	TA-W-11,973	Men's pants.
Nickoletta Fashions, Inc. (company)	Jersey City, NJ	12-16-80	12-10-80	TA-W-11,974	Ladies' coats.
Society Lingerie (ILGWU)	Michigan City, IN	12-17-80	12-11-80	TA-W-11,975	Ladies' sleepwear.
United States Steel, Cuyahoga Works (workers).	Cuyahoga Heights, OH	12-16-80	12-10-80	TA-W-11,976	Rods, wire, and cold.
W. E. Stephens Manufacturing Co., Inc. (workers)	Watertown, TN	12-18-80	12-11-80	TA-W-11,977	Ladies' and men's jeans.
Blue Ridge Shoe Co. (workers)	Aulander, NC	12-18-80	12-15-80	TA-W-11,978	Women's shoes.
Cornerstone Knitting Corp. (workers)	New York, NY	12-17-80	12-14-80	TA-W-11,979	Knitting suit accessories.
Lawrence Maid Footwear, Inc. (company)	Lawrence, MA	12-18-80	12-15-80	TA-W-11,980	Women's shoes.
Lincoln Fashions (ILGWU)	Orange, NJ	12-18-80	12-15-80	TA-W-11,981	Rainwear.
Nationwide Uniform Corp. (Teamsters)	Hodgenville, Ky	12-19-80	12-14-80	TA-W-11,982	Men's and ladies' uniforms.

[FR Doc. 81-378 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

Budd Co., Wheel and Brake Products Group, et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period December 22–24, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a signigficant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-8818 & 10,015; The Budd Company, Wheel and Brake Products Group, Ashland, OH and Clinton, MI.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,409; Rockwell International, Tupelo, MS.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stationary wood power tools are negligible.

TA-W-8336; Flag Pattern and Model Co., Troy, MI.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8202; Mallory Timers Co., Camden, TN.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8434; Hoeganaes Corp., Riverton, NJ.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8421; Boykins Narrow Fabrics Co., Boykins, VA.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8341; Rite Industrial Models, Inc., Berkley, MI.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8626A, 8626C, 8626D, and 11,748; Olsonite Corp., Royal Molded Products, Newnan, GA, Plumbers Wood Works, Algoma, WI, American Plastics Products, Walled Lake, MI, and Olsonite Corp., Troy, MI.

Investigation revealed that criterion (3) has not been met. Surveyed customers did not increase import purchases while reducing purchases from the subject firm.

TA-W-10,563; Milwaukee Spring Co., Milwaukee, WI.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8784; AMF Voit, Inc., Santa Ana, CA.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,712; Monarch Textile Co., New York, NY.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

Affirmative Determinations

TA-W-8626; Olsonite Corp., Detroit, MI.

A certification was issued applicable to workers producing steering wheels who became separated from employment on or after May 5, 1979.

With respect to workers producing molded plastic parts and toilet seats, investigation revealed that criterion (3) has not been met. Surveyed customers did not increase import purchases while reducing purchases from the subject firm.

TA-W-8281 & 8282; Manufacturers Products Co., Troy, MI and Ferndale, MI.

A certification was issued covering workers producing gas tank straps and muffler shields who became totally or partially separated from employment on or after September 2, 1979.

With respect to workers producing shift assemblies and accelerator pedals, a survey of customers revealed that no customer imports of such products.

TA-W-8061; Park-Ohio Industries, Inc., Cleveland, OH.

A certification was issued covering all workers of the firm separated on or after September 1, 1979.

TA-W-8199; Bendix Corp., Green Island, NY.

A certification was issued covering all workers of the firm separated on or after April 29, 1979.

I hereby certify that the aforementioned determinations were issued during the period December 22–24, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: December 29, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-379 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8565]

General Motors Corp., New Departure-Hyatt Bearings Division, Bristol, Connecticut; Negative Determination Regarding Application for Reconsideration

By letters of November 11 and 17, 1980, the union for the workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of that company. The determination was published in the **Federal Register** on October 31, 1980, (45 FR 72362).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that a substantial part of the Bristol, Connecticut plant's output of automotive bearing products is used in General Motors' vehicles which have been import-impacted. The union further claims that the Department made effort to create an appropriate subdivision within the plant for workers producing automotive parts for GM import-impacted vehicles.

The Department's review showed that the petition for workers at Bristol did not meet the "contributed importantly" test of the Trade Act of 1974. Average employment, as well as the value of production, adjusted for inflation, at Bristol increased in model year (MY) 1979 compared to MY 1978. The Department also found that the Bristol plant was not substantially integrated into the production of import-impacted

GM vehicles during the first 10 months of MY 1980, the period in which there were significant layoffs at the plant. Bristol's output consisted predominantly of bearings where a major portion are sold to customers unaffiliated with General Motors. The value of these outside sales, adjusted for inflation, increased in MY 1979 compared to MY 1978 and in the first three quarters of MY 1980 compared to the same period in MY 1979.

Upon further review and granting the union's claim that a substantial share of Bristol's total output in MY 1980 consisted of automotive bearings, the Department found that these products were not substantially integrated into the production of import-impacted GM vehicles since a major portion were sold to outside customers or used in the production of GM car lines which have not been import-impacted, i.e., subcompacts and front-wheel-drive mid-size types.

The Department was unable to create an appropriate subdivision by product within the plant since, among other things, the Bristol workers are not separately identifiable by product.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of December 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-381 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,194]

Hawthorne Metal Products; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 6, 1980 in response to a worker petition received on September 29, 1980 which was filed on behalf of workers and former workers of Hawthorne Metal Products, Royal Oak, Michigan. The workers produce metal auto parts.

On June 16, 1980, an investigation (TA-W-8766) was initiated on behalf of the same group of workers as TA-W-11,194.

Since the identical group of workers is the subject of the ongoing investigation TA-W-8766, a new investigation would serve no purpose. Consequently, the investigation (TA-W-11,194) has been terminated.

Signed at Washington, D.C. this 24th day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-382 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8738]

Hoover Universal, Inc., Metal Seating Division; Negative Determination Regarding Application for Reconsideration

By letter postmarked October 31, 1980, the union for the workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at the Vincennes, Indiana plant of Hoover Universal, Inc.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that its workers at Hoover Universal's plant in Vincennes, Indiana should have been found eligible for trade adjustment assistance since workers at its sister plant in Cadiz, Kentucky, TA-W-8765 were found eligible by the Department.

The Department's review showed that the petition for workers at Hoover's Vincennes plant did not meet the "contributed importantly" test of the Trade Act. Customers surveyed by the Department reported that metal seat frames for pickup trucks and vans were purchased exclusively from domestic sources during the MY 1978–MY 1980 period. These customers which accounted for virtually all of the decline in sales at the Vincennes plant in MY 1979 to MY 1980 indicated that they had reduced purchases of metal seat frames of this type from the Vincennes plant while increasing purchases from other domestic suppliers of the same products.

The Department found that the Vincennes plant lost the contract for seat frames from one of its original equipment manufacturers (OEM) of pickup trucks. Although this OEM customer had increased purchases of imported metal seat frames for its automobiles and was a customer of the Cadiz plant also, it did not import metal seat frames for its pickup trucks. Virtually the entire decline in sales of metal seat frames in MY 1980 at Vincennes was the result of the loss of this contract. Production of metal seat frames and steel seating support wires for automobiles at the Vincennes plant increased in FY 1980 compared to FY 1979.

The Department found that workers at Hoover Universal in Cadiz met all the statutory criteria for group certification under the Trade Act. Customers of the Cadiz plant reported a significant increase of imported metal seat frames like or directly competitive with those produced at Cadiz whereas this was not the case at the vincennes plant.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of December 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-384 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8061]

Park-Ohio Industries, Inc., Ohio Crankshaft Division; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on May 19, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at the Ohio Crankshaft Division of Park-Ohio

Industries, Incorporated, Cleveland, Ohio. The workers produce crankshafts and camshafts.

Preliminary data indicate that U.S. imports of crankshafts and camshafts increased in 1979 from 1978 and in the first five months of 1980 compared to the same period of 1979.

A survey conducted by the Department revealed that major surveyed customers which decreased purchases from the Ohio Crankshaft Division of Park-Ohio Industries, Incorporated in 1979 and the first five months of 1980 increased purchases of imported crankshafts and camshafts during the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with crankshafts and camshafts produced by the Ohio Crankshaft Division of Park-Ohio Industries, Incorporated, Cleveland, Ohio contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

> All workers of the Ohio Crankshaft Division of Park-Ohio Industries, Incorporated, Cleveland, Ohio who became totally or partially separated from employment on or after September 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of December 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-385 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-754]

A. O. Smith Corp. Automotive Division; Negative Determination Regarding Application for Reconsideration

By letter of November 7, 1980, the union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of that company. The determination was published in the **Federal Register** on October 10, 1980 (45 FR 67482).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union identified several customers of the A. O. Smith Corporation which it alleges have imported frames with at least one customer still importing frames.

The Department's review showed that the petition for workers at A. O. Smith's Milwaukee plant did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's customer survey showed that customers purchasing frames from the Milwaukee plant did not purchase imported auto frames in 1978, 1979 or 1980. Surveyed truck frame customers which decreased their purchases of truck frames from the Milwaukee plant indicated that they also decreased their purchases of imported truck frames during the period under investigation. All other major customers of truck frames did not purchase imported truck frames.

The Department's files further showed that its customer survey represented a major portion of A. O. Smith's sales in 1979 and 1980. The Department's notice was in error in stating that auto frame customers did not import competitive articles. In fact, the Department has learned that two of the original equipment manufacturers (OEM) in the auto industry imported frames. However, their purchases of imports decreased. The remaining OEM firm did not import and showed a decreased in-house production of frames in 1979 and in the first four months of 1980 compared to the same period in 1979. Of the two remaining firms which the union identified as frame purchasers, one accounted for less than two percent of A. O. Smith's 1979 and 1980 sales and only purchased from domestic sources, while the other did not purchase frames but only control arms. Control arms represented less than five percent of the Milwaukee plant's 1979 and 1980 sales.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 22nd day of December 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 81-386 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,264]

Uniroyal, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on August 1, 1980 which was filed on behalf of workers and former workers producing synthetic rubber and rubber chemicals at the Geismar, Louisiana plant of Uniroyal, Incorporated.

In a letter dated November 26, 1980, the petitioner requested that the petition be withdrawn. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-387 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9646]

Gene Bell Chevrolet, Inc.; Detroit, Michigan; Negative Determination Regarding Application for Reconsideration

By letter of October 13, 1980, the former workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers of Gene Bell Chevrolet, Inc., Detroit, Michigan. The determination was published in the **Federal Register** on September 9, 1980, (45 FR 59452).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The former workers claim that General Motors is the "workers' firm" since it held a majority of the stock of Gene Bell Chevrolet when Gene Bell Chevrolet went out of business. The former workers also state that they are aware of two other General Motors dealerships in the area whose workers are receiving TRA benefits.

The Department's review showed that Gene Bell Chevrolet is engaged in selling and servicing General Motors Corporation cars in Detroit, Michigan and, as such, does not produce an article within the meaning of Section 222(3) of the Trade Act.

The Department notes from the case file that General Motors owned only a small percentage of the stock in Gene Bell Chevrolet at the time the dealership closed. It has been at least five years since General Motors owned a majority of the stock in the dealership. Since workers at Gene Bell Chevrolet do not produce an article, they may be certified only if General Motors Corporation is the "workers' firm" within the meaning of Section 222 of the Trade Act. General Motors may be determined to be the "workers' firm" if General Motors and Gene Bell Chevrolet are related by ownership or by a substantial degree of proprietary control, or if the workers are *de facto* employees of General Motors. General Motors is not the "workers' firm" under either test. In the period of potential coverage there was only an insignificant element of ownership or control between the firms. The workers also are not *de facto* employees of General Motors since all payroll transactions, personnel actions and employee benefits are under the control of Gene Bell Chevrolet. The mere fact that General Motors held a small percentage of Gene Bell Chevrolet's stock at the time the dealership closed and the fact that GMAC, a GM loan company, held all certificates of origin and titles of unsold cars and trucks is not sufficient in itself to support a determination that General Motors is the "workers' firm".

Concerning the certification of workers at Patmon Oldsmobile, TA-W-7269 and at Nate Myers Oldsmobile, TA-W-7797, the Department determined that General Motors was the "workers' firm" since General Motors held a majority of the stock of each dealership in the period of time when workers could have been covered by a certification, i.e. within one year prior to the date of their petition.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 22nd day of December 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-00128 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-28-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting:

Name: Minimum Wage Study Committee.
Date: Jan. 6, 7, 12, 13, 14, 15, and 16, 1981.
Time: 10:30 a.m. on Jan. 6 and 12; all other days at 9 a.m.
Place: Jan. 6 and 7, Room 2261 Rayburn House Office Building, Jan. 12-16 at 1430 K St. NW, Suite 700, Washington, D.C.

Original notification of this meeting appeared in the **Federal Regiser** of December 2, 1980.

Proposed agenda

1. Income Distribution: Drs. Behrman and Taubman contractors; Drs. Mason and Barth discussants
2. Noncompliance: in-house report from Stephen Welch and Brigitte Sellekaerts
3. Inflation: Drs. Nadiri and Wolff contractors; Drs. Van Adams and Sheldon discussants
4. Employment/Unemployment: progress report from Dr. Heckman
5. Inflation: Drs. Cox and Oaxaca contractors; Dr. E. Stromsdorfer contractor
6. Employment/Unemployment: Drs. Abowd and Killingsworth contractors; Drs. Barth and Johnson discussants
7. Youth Differential: in-house report from Dr. Charles Brown
8. Employment/Unemployment: Dr. Madden contractor; Drs. Vickery and Piore discussants
9. Conglomerate: in-house report from Brigitte Sellekaerts (final approval)
10. Demographics: in-house report from Dr. Curtis Gilroy (final approval)
11. Retail Trade Exemptions: in-house report from Dr. Conrad Fritsch (up-date)
12. Evolution of the FLSA: in-house report from Dr. Conrad Fritsch (final approval)
13. Overtime: Dr. Ehrenberg contractor; Dr. Siskind discussant
14. Employment/Unemployment: Drs. Lazear and Miller contractors; Drs. Perloff and Levitan discussants
15. Inflation: Dr. Farber contractor; Drs. Teper, Perna, Gordon and Gramlich discussants
16. Inflation/Indexation: Dr. Grossman contractor: Drs. Gramlich, Gordon, Blanchard, Bosworth, Azariadis and Lampman discussants
17. Employment/Unemployment: progress report from Dr. Monroe Berkowitz
18. Income Distribution: Drs. Loury and Datcher contractors: S. Ruttenberg and C. Cain discussants
19. Student Certification/Youth Differential: Drs. Freeman and Wise contractors; Drs. Fisher and Rosen discussants
20. Inflation: Dr. Pettengill contractor
21. Indexation: in-houe report from Brigitte Sellekaerts
22. Agricultural Exemptions: progress report from Dr. Holt contractor.

Next meeting of the Commission is scheduled for Monday and Tuesday, Februry 16 and 17, 1981

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Suite 500, Washington, DC 20005, telephone (202) 376-2450.

Louis E. McConnell,

Executive Director.

December 31, 1980.

[FR Doc. 81-374 Filed 1-5-81; 8:45 am]

BILLING CODE 4510-35-M

NORTHERN MARIANA ISLANDS COMMISSION ON FEDERAL LAWS

Meeting

The Northern Mariana Islands Commission on Federal Laws, established pursuant to section 504 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241, 48 U.S.C. 1681 note), will meet on Monday, January 12, 1981, at 9:00 a.m., in Room 5160 of the main building of the U.S. Department of the Interior, 18th and C streets, N.W., Washington, D.C.

The purpose of the Commission is "to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable an to what extent and in what manner."

The intended agenda for this meeting is (1) a review of the Commission's work to date, and (2) the establishment of priorities for the Commissions subsequent work.

A limited number of seats will be available to the public on first-come, first-serve basis. For further information about this meeting contact Daniel H. MacMeekin, Executive Director, Northern Mariana Islands Commission on Federal Laws, Washington, D.C. 20240, (202) 343-5617.

Dated: December 17, 1980.

James A. Joseph,

Chair, Northern Mariana Islands Commission on Federal Laws.

[FR Doc. 81-287 Filed 1-5-81; 8:45 am]

BILLING CODE 4310-93-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Electrical Power Systems; Meeting

The ACRS Subcommittee on the Electric Power Systems will hold a meeting at 8:30 a.m. on January 23, 1981 in Room 1046, 1717 H Street, N.W., Washington, DC to discuss matters relating to instrument and control system failures which could initiate or exacerbate reactor accidents.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, January 23, 1981
8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 30, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-290 Filed 1-5-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on AC/DC Power Systems Reliability; Meeting

The ACRS Subcommittee on the AC-DC Power Systems Reliability will hold a meeting at 8:30 a.m. on January 22, 1981 in Room 1046, 1717 H Street, N.W., Washington, DC to discuss the expected NRC report on DC power systems reliability and the NRC plans for future work.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that approptiate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, January 22, 1981
8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 30, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-291 Filed 1-5-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on January 14 and 15, 1981, in Albuquerque, NM. The Subcommittee will meet at 8:30 a.m. at the Albuquerque Inn (Phone: 505-247-3344), 2nd at Marquette Street, N.W., Albuquerque, NM. The Subcommittee will discuss the LOCA/ECCS advanced code development and experimental programs, and the experimental program at Sandia on Steam Explosions.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday and Thursday, January 14 and 15, 1981
8:30 a.m. until the conclusion of business each day.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 30, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-292 Filed 1-5-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on the Advanced Reactors will hold a meeting at 8:30 a.m. on January 20 and 21, 1981 in Chicago, IL. The Subcommittee will discuss matters relating to the development of LMFBR safety design criteria. Location of meeting room and lodging will be announced later.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday and Wednesday, January 20 and 21, 1981

8:30 a.m. until the conclusion of business each day.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 30, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-293 Filed 1-5-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Internal Control Circular; Proposed for Comment

AGENCY: Office of Management and Budget.

ACTION: Comment—Proposed OMB Circular, "Internal Control Systems."

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed OMB Circular concerning internal control policies of Federal agencies.

The proposed Circular is the product of an interagency task force composed of representatives of major Federal agencies, under the leadership of the Office of Management and Budget. The Circular is intended to provide policy guidance to Federal agencies on the development, implementation, and review of internal controls against theft, fraud, waste, and misuse of resources.

The Office of Management and Budget has, as yet, made no decisions with respect to the provisions of the proposed Circular. All interested parties are encouraged to make their views known.

Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, 6002 New Executive Office Building, Washington, D.C. 20503. All comments should be received within 45 days following publication of this notice. The proposed OMB Circular is set forth below in its entirety.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Gribble, Financial Management Branch, telephone 202/395-4773.

TO OBTAIN A COPY OF THE PROPOSED CIRCULAR, CONTACT: Document Distribution Center, Office of Administration, G-236 New Executive Office Building, Washington, D.C. 20503, telephone 202/395-7332.

John J. Lordan,

Chief, Financial Management Branch.

Circular No. A—To the Heads of Executive Departments and Establishments

Subject: Internal Control Systems.

1. *Purpose.* This Circular prescribes policies and standards to be followed by executive agencies in adopting and maintaining internal control systems.

2. *Background.* Despite the efforts Federal agencies have made, there continue to be reports of numerous cases of theft, fraud, waste, and misuse of Government resources. Review of these cases consistently points to weaknesses in internal controls or to breakdowns in compliance with internal control systems. These systems need improvement to properly assist managers from the first line supervisor to the agency head in meeting their proper responsibility to safeguard resources—while efficiently and effectively conducting programs.

3. *Definitions.* For the purposes of this Circular, the following terms are defined:

a. *Agency*—Any department or independent establishment of the executive branch of the Federal Government.

b. *Agency Component*—A major organizational subdivision of the agency having a separate system of internal control.

c. *Internal Control*—The plan of organization, and all coordinate measures, adopted by an organization to safeguard resources, facilitate effective and efficient program management, assure compliance with law and policy guidance, and assure accurate, reliable and timely reports.

d. *Internal Control Directive*—A statement issued by an agency head to prescribe agency policies on internal control and to assign responsibilities. This document will guide the development, maintenance, and review of internal control systems.

e. *Internal Control System*—The overall plan of organization, procedures, and records of an organization prepared in compliance with agency's internal control directive.

f. *Internal Control Regulations*—Procedures, organization charts, instructions, manuals, etc., documenting the internal control system.

g. *Vulnerability Assessment and Risk Analysis*—A vulnerability assessment is a review of an agency component resulting in an estimate of susceptibility to theft, fraud, waste, or misuse of resources. A risk analysis is a more detailed evaluation intended to identify and measure the types of errors or problems that might affect a program or function. Its purpose is to determine the specific internal controls that are needed.

4. *Responsibility.* Each agency head will issue an internal control directive and submit it to OMB for approval no later than 180 days following the effective date of this Circular. In cases where an agency head requires the issuance of internal control regulations for components of the agency, the head of the agency shall ensure that such regulations are consistent with the agency directive.

Further, the agency head will ensure that vulnerability assessments and risk analyses are made for each agency component on a 5 year or shorter cycle.

Inspectors General or other audit officials will review internal control directives, systems, regulations, and compliance and provide advice to the agency head.

5. *Objectives of Internal Control.* The objectives of a system of internal control are to:

a. Safeguard resources against theft, fraud, waste, or misuse.

b. Facilitate accomplishment of Federal program objectives.

c. Assure compliance with laws, regulations, executive orders, and other legal requirements.

d. Assure compliance with policy and budget guidance from the President, the Congress, and agency management.

e. Assure the propriety of accounting records and the accuracy, timeliness, and usefulness of financial reports by

—preventing unauthorized financial transactions or access to resources,

—properly recording all financial transactions.

providing means for the timely detection of losses and accounting errors.

6. *Requirements for Agency Internal Control Directive.* The agency internal control directive will place specific internal control responsibilities on managers and prescribe requirements for the comprehensive internal control systems that managers will use to carry out their responsibilities. The agency directive will provide for the following as a minimum:

a. Establish an internal control committee or other appropriate means to oversee development, maintenance, review, and improvement of the agency's internal controls. This group must provide for coordination between program managers and financial systems staffs so that financial systems serve managers' needs for decisionmaking, control, and review—while providing for adequate internal control.

b. Assign responsibility for internal control to officials in each major operating component of the agency.

c. Provide that internal control responsibility and standards of performance be incorporated in each appropriate official's performance appraisal.

d. Provide a plan for vulnerability assessments and coordinated risk analyses on a recurring cycle of not more than 5 years. These reviews should identify agency programs and functions where internal control systems need either to be strengthened or streamlined in response to changes in the nature of the program, the magnitude of the resources involved, or recent experience with theft, fraud, waste, and misuse of resources. These reviews should draw on audit reports and other sources. A vulnerability assessment and risk analysis should also be made for each planned and newly authorized agency program.

e. Provide that the agency's regulations provide for each of the elements of internal control described in paragraph 7.

f. Establish administrative mechanisms to enforce internal control requirements. These mechnisms should include reports to the agency head on all significant internal control violations, and appropriate disciplinary actions for responsible individuals.

g. Provide for periodic internal audit to determine effectiveness of control systems.

h. Establish response mechanisms to address internal control system weaknesses disclosed by audit, discovered loss, or other means.

7. *Common Elements of Internal Control.* Six generally accepted elements of internal control must be included in any system dealing with acquisition, use, or accountability of Federal resources. Such systems include, as a minimum, agency planning, budgeting, accounting, revenue, expenditure, property, inventory, cash management, debt management and related ADP systems. The design of each system should consider the entire transaction cycle. Where transactions cross organizational or functional lines or when more than one system is involved, integrated controls must be established.

a. *Documentation.* Internal control procedures, policies, authorities and responsibilities must be clearly and adequately documented. Once documented they must be available to personnel involved in their execution. Documentation usually takes the form of operations manuals and organization charts which describe and depict the roles and responsibilities of all individuals involved in the control system. Proper documentation provides assurances that methods and responsibilities are clearly communicated, and is often a valuable tool in training new employees.

Documentation must also be provided for all financial transactions and for the custody of all resources.

b. *Separation of Duties.* No individual or small group of individuals should be in a position to control all aspects of a financial transaction. Responsibilities must be separated and tasks structured to preclude an individual from performing more than one "key" processing function or activity—such as authorizing, approving, certifying, accounting, disbursing, or keeping custody of resources.

c. *Supervision.* Qualified and continuous supervision is necessary to assure agency management that approved procedures are followed both to facilitate effective, efficient program management and to safeguard the resources of the agency.

d. *Security of Property and Records.* Physical security must be provided for accounting records, negotiable instruments or securities, and other resources of the agency. Procedures should be employed to ensure that appropriate recordkeeping and archive procedures exist and are followed.

e. *Internal Audit.* An internal audit or review function must continuously monitor policies, procedures, and practices related to financial transactions and custody of resources. Where appropriate, reviews should include examining and testing of transactions. Also, procedures should exist to assure followup of audit findings and recommendations, and to assure timely corrective action by management.

f. *Competency of Personnel.* Personnel should be competent, by education, training and experience, to execute the control responsibility to which they are assigned.

8. *Special Internal Control Guidelines.* In addition to providing for the basic elements of internal control in the body of this Circular, guidelines on various special aspects of internal control will be issued separately by OMB. (See Attachment for list of guidelines.) Agency Regulations should be revised on a cycle basis to incorporate the substance of each guideline as appropriate.

9. *Reporting.* Agencies will be required to include specific in formation on the progress of internal control systems reviews as part of their annual report to OMB on financial management improvement.

10. *Effective Date.* This Circular is effective on publication.

11. *Inquiries.* All questions or inquiries should be addressed to Financial Management Branch, Office of Management and Budget, telephone number 202/395-4773.

James T. McIntyre

Director

Attachment—Circular No. A-

List of Guidelines

A. Fund Control
B. Cash Management and Handling
C. Debt Collection
D. Certifying and Disbursing
E. Automated Data Processing
F. Procurement
G. Grants.

[FR Doc. 81-339 Filed 1-5-81; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11519, File No. 812-4790]

American Birthright Trust Management, Inc., et al.; Filing of Application and Order of Temporary Exemption Pending Determination

December 30, 1980.

In the matter of American Birthright Trust Management, Inc., Richard J. Sluggett, Richard S. Freedman, File No. 812-4790.

Notice is hereby given that American Birthright Trust Management, Inc. ("ABTM"), Richard J. Sluggett ("Sluggett") and Richard S. Freedman ("Freedman"), collectively referred to herein as "Applicants," have filed as application pursuant to Section 9(c) of the Investment Company Act of 1940, 15 U.S.C § 80a-1, *et seq.*, as amended (the "Act"), for an order granting them an exemption from the provisions of Section 9(a) of the Act, and a temporary exemption from Section 9(a) pending the Commission's determination of the application for a permanent exemption.

All interested persons are referred to the application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below.

On December 30, 1980, Applicants were named, with others, as defendants in Civil Action No. 80-*3306*, brought by the Commission in the United States District Court for the District of Columbia (the "action"). The Commission's Complaint alleged that ABTM, Sluggett and Freedman violated Section 17(a)(2) of the Securities Act of 1933 and Sections 15(c) and 20(a) of the Act, and that ABTM also violated Sections 36 (a) and (b) of the Act, in connection with the operation of two registered investment companies, American Birthright Trust and Tax-Managed Fund for Utility Shares (collectively, the "Funds"). Without admitting or denying any allegations of violations, Applicants, on the same date the Complaint was filed, consented to the entry of a final judgment (the "Judgment") by the court. The judgment enjoins Applicants from engaging in acts or practices that would constitute violations of the statutory provisions cited above, and provides other remedial relief consented to by Applicants.

Section 9(a) of the Act, insofar as is pertinent here, disqualifies any person, or any company with which such person is affiliated, from acting in the capacity of employee, officer, director, member of any advisory board, investment adviser, or depositor for any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security. Applicants do not concede that the Judgment would disqualify them under Section 9(a) of the Act.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of Section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants have submitted an application pursuant to Section 9(c) of the Act stating, *inter alia*, that:

(1) The prohibitions of Section 9(a) of the Act would be unduly and disproportionately severe as applied to them and that their conduct has not been such as to make it against the public interest or protection of investors to grant the requested exemption.

(2) The Commission's action presented complex and novel issues of law and fact related to the determination of investment advisory fees and other matters.

(3) Applicants acted in good faith in a manner they believed to be in the interests of the funds without challenge from the Commission prior to the commencement of the investigation which preceded the civil action referred to above.

(4) Prior to the judgment referred to above, no findings or judgment relating to violations of federal or state securities laws have ever been entered by any court against the Applicants.

(5) The prohibitions of Section 9(a) would unfairly deprive ABTM of its ability to act as investment adviser to and principal underwriter for the Funds and other investment companies (a line of business which ABTM has been successfully engaged in for the preceding 13 years), would unfairly deprive Sluggett of his ability to act as an officer and director of ABTM and the Funds (positions he has held since the inception of the Funds and through which he has managed the growth and development of the Funds) and of any other investment companies which may be advised by ABTM, and would unfairly deprive Freedman of his ability to act as an officer of ABTM (in which he holds a key position of responsibility for the Fund's operations), and as an officer or director of any investment companies which may be advised by ABTM.

(6) If the requested relief from Section 9(a) of the Act is not granted, the Funds and their shareholders, which have, throughout the Funds' existence, relied upon ABTM to provide investment advice and distribution, would be deprived of ABTM's services. The prohibitions of Section 9(a) could thus operate significantly to the detriment of the financial interests of the Funds and their shareholders who were not involved in the events that gave rise to the action.

(7) Applicants have never before applied for an exemption from the provisions of Section 9(a) of the Act.

(8) In consenting to a settlement of the Commission's action, Applicants have relied on an agreement by the staff of the Commission not to oppose an application for a permanent exemption from the provisions of Section 9(a) of the Act, based solely on the Judgment or the allegations in the Commission's Complaint, and on the Commission's agreement immediately to issue an order of temporary exemption from the provisions of Section 9(a) of the Act.

The Commission has considered the matter and without agreeing with all of the representations of the Applicants and in light of the relief granted by the court in the action described above, finds that:

(1) The prohibitions of Section 9(a) may be unduly or disproportionately severe as applied to Applicants and any investment companies for which ABTM may be an investment adviser; and

(2) In order to maintain the uninterrupted services provided by ABTM to the Funds, it is necessary and appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, that a temporary order be issued forthwith.

Accordingly, it is ordered that, pursuant to Section 9(c) of the Act, ABTM and its directors, officers and employees, including Richard J. Sluggett and Richard S. Freedman, as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of Section 9(a) of the Act with respect to their affiliation with the Funds and any other investment companies for which ABTM may be an investment adviser, pending final determination by the Commission of the application for an order granting them an exemption from such prohibitions.

Notice is further given that any interested party may, not later than January 28, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Allan S. Mostoff, 888 17th Street, N.W., Washington, D.C. 20006. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of futher developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81–289 Filed 1–5–81; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 24, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Gulf Canada Ltd., Common Stock, No Par Value (File No. 7–5797)
Aeron[illegible] Inc., Common Stock, $1 Par Value (File No. 7–5798)
Allen Group (The), Common Stock, $1 Par Value (File No. 7–5799)
Blue B[illegible], Inc., Common Stock, $3.33 ⅓ Par Value (File No. 7–5800)
Canadian Occidental Petroleum Ltd., Common Stock, $1 Par Value (File No. 7–5801)
Downey Saving & Loan Association, Guarantee Stock, $.25 Par Value (File No. 7–580[illegible])
Handelman Co., Common Stock, $1 Par Value (File No. 7–5803)
Hartfield-Zodys, Inc., Common Stock, $1 Par Value (File No. 7–5804)
Hawaiian Electric Co., Inc., Common Stock, $6 ⅔ Par Value (File No. 7–5805)
Hershey Oil Corp., Common Stock, $.10 Par Value (File No. 7–5806)
Horn & Hardart Co. (The), Common Stock, $1 Par Value (File No. 7–5807)
Hudson Bay Oil & Gas Co. Ltd., Common Stock, $2.50 Par Value (File No. 7–5808)
Interlake Inc., Common Stock, $1 Par Value (File No. 7–5809)
MCO Resources, Common Stock, $.01 Par Value (File No. 7–5810)
Mobile Home Industries, Inc., Common Stock, $1 Par Value (File No. 7–5811)
Morrison-Knudsen Co., Inc., Common Stock, $10 Par Value (File No. 7–5812)
Norris Industries Inc., Common Stock, $.50 Par Value (File No. 7–5813)
Rolm Corp., Common Stock, $.04 ½ Par Value (File No. 7–5814)
SPS Technologies Inc., Common Stock, $1 Par Value (File No. 7–5815)
United Park City Mines Co., Common Stock, $1 Par Value (File No. 7–5816)
Bow Valley Industries Ltd., Common Stock, No Par Value (File No. 7–5817)
Genrad, Inc., Common Stock, $1 Par Value (File No. 7–5818)
John Hancock Income Securities Corp., Capital Stock, $1 Par Value (File No. 7–5819)
John Hancock Investors, Inc., Common Stock, $1 Par Value (File No. 7–5820)
NVF Company, Common Stock, $1 Par Value (File No. 7–5821)

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 19, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81–280 Filed 1–5–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21858, 70–6474]

Columbia Gas System, Inc., et al., Proposal To Engage in Purification and Sale of Natural Gas Byproduct

December 29, 1980.

In the matter of the Columbia Gas System, Inc., Columbia Hydrocarbon Corporation, 20 Montchanin Road, Wilmington, Delaware and Columbia Gas Transmission Corporation, 1700 Mac Corkle Avenue, S.E., Charleston, West Virginia 25314 (70–6474).

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and two of its wholly-owned subsidiary companies, Columbia Hydrocarbon Corporation ("Hydrocarbon") and Columbia Gas Transmission Corporation ("Transmission") have filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9 and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposal transaction.

Hydrocarbon was formed in 1957 pursuant to an Order and Findings and Opinion of the Commission dated Novermber 27, 1957 (HCAR No. 13610) for the purpose of fractionating, storing and selling the heavier hydrocarbons which had to be extracted from the System's Appalachian natural gas streams in order for that natural gas to be marketable. The fractionation process also produced marketable hydrocarbon by-products of the natural gas stream. The order of November 27, 1957 permitted the marketing of such by-products. Hydrocarbon now proposes to purify and market carbon dioxide ("CO_2"), another by-product of the System's natural gas streams. Hydrocarbon proposes to produce and sell food grade CO_2 as well as sell unpurified CO_2.

Transmission is engaged primarily in the long-distance transmission of natural gas from the production sources to various affiliated and nonaffiliated distribution companies. Trasmission also engages in gas production activities in Appalachia. Included among Transmission's Appalachina projects is a project to obtain natural gas from the Tuscarora (Clinton) formation in the Indian Creek Field in Kanawha County, West Virginia. The natural gas from the Indian Creek Field is 35% methane and 65% CO_2. The CO_2 must be separated from the methane before the methane can be sold. It is proposed the the CO_2 be sold to Hydrcarbon. The purchase price for the CO_2 will be based on the price which Columbia LNG Corporation, another Columbia subsidiary, received for the naturally occurring CO_2 by-product of its Green Springs reforming plant, reduced to reflect the fact that the Green Springs gas is purified CO_2, while the CO_2 to be sold by Transmission to Hydrocarbon is unpurified. It is stated that the Columbia LNG Corporation contract was negotiated with a non-affiliated third party in an arm's length transaction and is therefore representative of fair market value of purified CO_2. It is further stated that there is no source of unpurified CO_2 in the area upon which to base a price.

Hydrocarbon proposes to market the CO_2 in a three-part program. First, approximately 60% of the CO_2 Hydrocarbon receives from Transmission will be purified and sold as "food grade" quality CO_2. Five potential customers for the purified CO_2 have been identified to date. Hydrocarbon will construct an 8-mile pipeline from the Indian Creek Field separation plant to a proposed CO_2 purification plant to be located in Marmet, West Virginia. Storage facitlites will also be constructed. The total estimated cost of the pipleine, purification plant and storage facilities is approximately $13 million. By an order dated May 28, 1980 (HCAR No. 21593) the Commission authorized Hydrocarbon to issue to Columbia $3,450,000 in debt and $650,000 in common stock related to the financing of the CO_2 plant. Amounts related to the project for the 1981 year will be included in the Columbia System's 1981 intrasystem financing program. Second, it is planned that the portion of the CO_2 which will not be purified will be liquefied and sold for use in enhanced oil recovery. Due to higher incentive prices for tertiary oil, a potential market for unpurified CO_2 for use in enhanced oil recovery is developing. The unpurified CO_2 would be liquefied and trucked to the oil fields. Third, purified CO_2 vapor may be sold to a nearby industrial plant. That sale also would be at the tailgate of the purification facility so that no additional cost would be incurred by Hydrocarbon.

It is stated that the product-handling and marketing techniques for the CO_2 by-product are essentially the same as those for the by-products presently processed by Hydrocarbon. The fractionation and purification of the CO_2 is similar to that involved in preparing heavier hydrocarbons for sale. Also, CO_2 is marketed by tank truck and tank car just as heavier hydrocarbons are marketed.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $5,800. It is stated that, in the opinion of counsel for the applicants, no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 22, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 therof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-348 Filed 1-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21859; 70-6099]

General Public Utilities Corp.; Proposal To Extend Time Period During Which Short-Term Borrowings May be Made

December 29, 1980.

In the matter of General Public Utilities Corporation, 100 Interpace Parkway, Parsippany, New Jersey 07054 (70-6099).

Notice is hereby given that General Public Utilities, Inc. ("GPU"), a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 31 (HCAR No. 21375), the Commission granted GPU authority to issue or renew, from time to time until December 31, 1980, its unsecured promissory notes maturing not more than nine months after the date of issue, evidencing short-term bank borrowings, provided that the aggregate principal amount of such unsecured promissory notes outstanding at any one time, when added to GPU's borrowings outstanding under the GPU System Revolving Credit Agreement, shall not exceed $150,000,000.

By order dated June 19, 1979 (HCAR No. 21107) the Commission authorized GPU to issue, sell and renew from time to time through October 1, 1981, its promissory notes (having a maturity of not more than six months from the date of issue) pursuant to the GPU System Revolving Credit Agreement dated as of June 15, 1979, with a syndicate of commercial banks. The Commission's order, among other things, authorizes GPU to incur indebtedness under the Agreement up to an amount which, when added to its other outstanding short-term borrowings would not in the aggregate exceed $150,000,000. Borrowings under the Agreement are secured by the guarantee of GPU, by the common stock of GPU's subsidiaries, and in the cases of Jersey Central Power & Light and Metropolitan Edison by certain other collateral.

GPU now requests that the period during which it may issue, sell and renew its unsecured promissory notes be extended to October 1, 1981. In all other respects the transactions as heretofore authorized by the Commission would remain unchanged. GPU states that this extension of its existing authority is necessary so that it may have the flexibility to borrow under both unsecured credit lines and the GPU System Revolving Credit Agreement since from time to time it may be less costly and more expeditious to borrow pursuant to unsecured credit lines.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 22, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from suchs rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-349 Filed 1-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21860; 70-6098]

Jersey Central Power and Light Co.; Proposal To Extend Time Period During Which Short-Term Borrowings May Be Made

December 29, 1980.

In the matter of Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960 (70-6098).

Notice is hereby given that Jersey Central Power & Light Company ("JCP&L"), an electric utility subsidiary of General Public Utilities Inc. ("GPU"), a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the public utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated June 2, 1980 (HCAR No. 21604), the Commission granted JCP&L authority to issue or renew, from time to time until December 31, 1980, its unsecured promissory notes maturing not more than nine months after the date of issue, evidencing short-term bank borrowings, provided that the aggregate principal amount of such unsecured promissory notes outstanding under the GPU System Revolving Credit Agreement, shall not exceed the lesser of (a) $160,000,000 or (b) the amount permitted by JCP&L's Charter.

By orders dated June 19, 1979 (HCAR No. 21107) and August 18, 1980 (HCAR No. 21681) the Commission authorized JCP&L to issue, sell and renew from time to time through October 1, 1981, its promissory notes (having a maturity of not more than six months from date of issue) pursuant to the GPU System Revolving Credit Agreement dated as of June 15, 1979, as amended, with a syndicate of commercial banks. The Commission's orders, among other things, authorize JCP&L to incur indebtedness under the Agreement up to an amount which, when added to its other outstanding short-term borrowings, would not in the aggregate exceed the lesser of (a) $160,000,000 or (b) the amount permitted by JCP&L's Charter. Borrowings under the Agreement are secured by the guarantee of GPU, by the common stock of GPU's subsidiaries, and in the cases of Jersey Central Power & Light and Metropolitan Edison by certain other collateral.

JCP&L now requests that the period during which it may issue, sell and renew its unsecured promissory notes be extended to October 1, 1981. In all other respects the transactions as heretofore authorized by the Commission would remain unchanged. JCP&L states that this extension of its exisiting authority is necessary so that it may continue to have the flexibility to borrow under both unsecured credit lines and the GPU System Revolving Credit Agreement since from time to time it may be less costly and more expeditious to borrow pursuant to unsecured credit lines.

A statement of the fees, commissions and expenses to be incurred in connection with proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 22, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-351 Filed 1-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21858; 70-6283]

Metropolitan Edison Co., Proposal To Extend Time Period During Which Short-Term Borrowings May Be Made

December 29, 1980.

In the matter of Metropolitan Edison Company, 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605 (70-6283).

Notice is hereby given that Metropolitan Edison Company ("Met-Ed"), an electric utility subsidiary of General Public Utilities Inc. ("GPU"), a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 28, 1979 (HCAR No. 21368), the Commission granted Met-Ed authority to issue or renew, from time to time until December 31, 1980, its unsecured promissory notes maturing not more than nine months after the date of issue, evidencing short-term bank borrowings, provided that the aggregate principal amount of such unsecured promissory notes outstanding at any one time, when added to Met-Ed's borrowings outstanding under the GPU System Revolving Credit Agreement, shall not exceed the lesser of (a) $125,000,000 or (b) the amount permitted by Met-Ed's Articles of Incorporation.

By orders dated June 19, 1979 (HCAR No. 21107) and October 30, 1979 (HCAR No. 22276) the Commission authorized Met-Ed to issue, sell and renew from time to time through October 1, 1981, its promissory notes (having a maturity of not more than six months from the date of issue) pursuant to the GPU System Revolving Credit Agreement dated as of June 15, 1979, with syndicate of commercial banks. The Commission's orders, among other things, authorized Met-Ed to incur indebtedness under the Agreement up to an amount which, when added to its other outstanding short-term borrowings would not in the aggregate exceed the lesser of (a) $125,000,000 or (b) the amount permitted by Met-Ed's Articles of Incorporation. Borrowings under the Agreement are secured by the guarantee of GPU, by the common stock of GPU's subsidiaries, and in the cases of Jersey Central Power

& Light and Metropolitan Edison by certain other collateral.

Met-Ed now requests that the period during which it may issue, sell and renew its unsecured promissory notes be extended to October 1, 1981. In all other respects the transactions as heretofore authorized by the Commission would remain unchanged. Met-Ed states that this extension of its existing authority is necessary so that it may continue to have the flexibility to borrow under both unsecured credit lines and the GPU System Revolving Credit Agreement since from time to time it may be less costly and more expeditious to borrow pursuant to unsecured credit lines.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 22, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-380 Filed 1-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21861; 70-5987]

Pennsylvania Electric Co.; Proposal To Extend Time Period During Which Short-Term Borrowings May Be Made

December 29, 1980.

In the matter of Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907 (70-5987).

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), an electric utility subsidiary of General Public Utilities Inc. ("GPU"), a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated May 4, 1979 (HCAR No. 21032), the Commission granted Penelec authority to issue or renew, from time to time until December 31, 1979, its unsecured promissory notes maturing not more than nine months after the date of issue, evidencing short-term bank borrowings, provided that the aggregate principal amount of such unsecured promissory notes outstanding at any one time, shall not exceed the lesser of (a) $116,000,000 or (b) the amount permitted by Penelec's Articles of Incorporation.

By orders dated June 19, 1979 (HCAR No. 21107) the Commission authorized Penelec to issue, sell and renew from time to time through October 1, 1981, its promissory notes (having a maturity of not more than six months from the date of issue) pursuant to the GPU System Revolving Credit Agreement dated as of June 15, 1979, with a syndicate of commercial banks. The Commission's order, among other things, authorizes Penelec to incur indebtedness under the Agreement up to an amount which, when added to its borrowings outstanding hereunder, would not in the aggregate exceed the lesser of (a) $116,000,000 or (b) the amount permitted by Penelec's Articles of Incorporation. Borrowings under the Agreement are secured by the guarantee of GPU, by common stock of GPU's subsidiaries, and in the cases of Jersey Central Power & Light and Metropolitan Edison by certain other collateral.

Penelec now requests that the period during which it may issue, sell and renew its unsecured promissory notes be extended from the effective date of the Commission's supplemental order requested by this post-effective amendment to October 1, 1981. In all other respects the transactions as heretofore authorized by the Commission would remain unchanged. Penelec states that this extension of its existing authority is necessary so that it may have the flexibility to borrow under both unsecured credit lines and the GPU System Revolving Credit Agreement since from time to time it may be less costly and more expeditious to borrow pursuant to unsecured credit lines.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 22, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-384 Filed 1-3-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17408; SR-MCC-2]

Midwest Clearing Corporation ("MCC"); Order Approving Proposed Rule Change

December 29, 1980.

On November 10, 1980, MCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, a proposed rule change which would empower MCC as part of its stock loan program, to establish prioritized classes of participants to use in determining the order in which MCC will borrow securities made available to the MCC system by participants.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17310, November 17, 1980) and by publication in the **Federal Register** (45 FR 77216, November 21, 1980). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change by approved.

For [illegible] Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley [illegible]. Hollis,

Assistant Secretary.

[FR Doc. [illegible]-383 Filed 1-6-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17403; SR-Phlx-80-27]

Philadelphia Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 29, 1980.

In the matter of Philadelphia Stock Exchange, Inc., 17th Street & Stock Exchange Place, Philadelphia, PA 19103 (SR–Phlx–80–27).

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act"), notice is hereby given that on December 4, 1980, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Commission copies of a proposed rule change to modify the Phlx's Board of Governors ("Board") and the Phlx's election procedures. The Board's number of Public Governors[1] would be increased from one to three and its number of Broker Governors would be reduced from 24 to 21.[2] Every year seven Broker Governors and one Public Governor would be elected to three year terms, resulting by the year 1983 in 21 Broker Governors and three Public Governors.[3] The present requirement limiting to 10 the number of non-members of the Phlx who may serve at any one time on the Board would be rescinded,[4] and the present requirement that Public Governors must rotate off the Board at the end of six consecutive years of service would also be rescinded.[5]

The Phlx's Chairman of the Board would be directly elected, by the membership, to a two year term, instead of the present one year term;[6] and after two such consecutive terms he would be ineligible to succeed himself.[7] However, any immediate past Chairman of the Board would automatically become an *ex officio* Board member for one year following his departure from office.[8]

The two Vice Chairmen of the Board would each continue to serve one year terms,[9] but one Vice Chairman would be required to conduct a business primarily involving public securities customers, and the other Vice Chairman would be required to spend the major portion of his time on the Phlx trading floors or be affiliated with an organization that conducts a substantial portion of its business on the Phlx trading floors.[10]

The Phlx's Nominating Committee would be required to hold open meetings for nominations in January of each year and to submit nominations for the Board positions of Chairman, Vice Chairman, Broker Governor, and Public Governor to the Secretary of the Exchange[11] who also could receive nominations from the membership-at-large.[12] The Nominating Committee could not nominate to the Board anyone (except for the Chairman) if the election of any such nominee would cause more than one Board member to be affiliated with the same member organization. The elections themselves would be conducted by the Phlx's Elections Committee.[13]

All appointments to the Nominating Committee and the Elections Committee would be made by the Chairman of the Board, subject to Board approval, in December of each year.[14] No person would be eligible for appointment to any standing committee, including the Nominating Committee and the Elections Committee, if such person's appointment would cause more than one person from the same member organization to be a member of that committee.[15]

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–80–27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regualtions thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the Phlx's By-Laws (both present and proposed) require that nominations for Board positions be submitted to the Nominating Committee in January of each year for the Exchange's annual election in March.

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[1] The Phlx By-Laws, Section 4–1, state that a "Public Governor shall be a representative of the public unaffiliated with the [Phlx] or any broker or dealer in securities."

[2] Proposed Phlx By-Laws, Sections 3–2, 4–1, and 4–3. Presently there are 24 Broker Governors, eight of whom are elected each year, and one Public Governor who is elected every third year.

[3] *Id.*, Section 4–1. These totals would be in addition to the Chairman of the Board, two Vice Chairmen of the Board, and the President of the Exchange.

[4] *Id.*, Section 4–1.

[5] *Id.*, Section 4–3.

[6] *Id.*, Section 3–2.

[7] *Id.*, Section 4–2.

[8] *Id.*, Section 4–1.

[9] *Id.*, Section 3–2.

[10] *Id.*, Section 4–2.

[11] *Id.*, Section 3–6.

[12] *Id.*, Section 3–7(a).

[13] *Id.*, Section 10–10. Presently the Elections Committee is authorized by Section 10–9 of the By-Laws to submit its own nominations if none are made by the membership-at-large, but the Phlx states that this "procedure has proved cumbersome" and proposes to rescind it.

[14] *Id.*, Section 10–1(c).

[15] *Id.*, Section 10–1(d).

Unless the Commission were to provide accelerated treatment for this filing, it is doubtful that the new rules would be in effect in time for the nomination stage of the Phlx's 1981 election.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 81-352 Filed 1-5-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09-5279]

Asian American Capital Corporation; Application for License To Operate as a Small Business Investment Company.

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Asian American Capital Corporation (Applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

David F. Der, M.D., 3587 Oakes Drive, Hayward, California 94542. Chairman of the Board, Chief Executive Officer, 15.3 percent Stockholder.
George S. Wong, M.D., 676 Blair Avenue, Piedmont, California 94611. President, Director, 10.5 percent Stockholder.
John F. Louie, 4481 Lamont Way, Sacramento, California 95823. Vice President, Assistant Secretary, Director, General Manager.
Thomas Y. Fung, M.D., 3467 LaMesa Drive, Hayward, California 94542. Secretary, Director, 4.9 percent Stockholder.
Bing H. Young, M.D., 2922 Bayview Drive, Alameda, California 94501. Treasurer, Chief Financial Officer, Director, 5.6 percent Stockholder.
Seven other Stockholders owning less than 10 percent each. 63.7 percent.

The Applicant, a California corporation, with its principal place of business at 1911 West Tennyson Road, Suite No. 3, Hayward, California 94546, will begin operations with $500,000 of paid-in capital and paid-in surplus from the sale of 5,100 shares of common stock.

The Applicant will conduct its activities principally in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than January 21, 1981, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Hayward, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 29, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-361 Filed 1-5-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0119]

Housing Capital Corporation; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Housing Capital Corporation (HCC), 1133 Fifteenth Street, N.W., Washington, D.C. 20005, a Federal licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1980)), for approval of a conflict of interest transaction.

HCC proposes to form a limited partnership in which HCC will be the limited partner and Harkins Associates, Inc. (Harkins), 8720 Georgia Avenue, Silver Spring, Maryland 20901, will be the General Partner. Harkins is deemed an Associate of HCC due to its involvement in joint ventures with the National Corporation for Housing Partnerships (NCHP), the parent of HCC, and NCHP Development Corporation (NCHP-DC), another Associate of HCC. Harkins and NCHP-DC are presently joint venturers in a joint venture formed under the name of Olde Towne West Associates. The joint venture was formed to rehabilitate or construct, and sell 77 townhouses in a DIP Urban Renewal Project. The joint venture will assign at cost, all contracts and obligations to the limited partnership, which will then acquire the land and construct and sell 77 townhouses. The joint venture will be dissolved. HCC will invest $50,000 and Harkins will invest $150,000. Because Harkins is deemed an Associate and because a portion of the invested capital will be used to repay NCHP-DC its portion of the joint venture, the transaction falls under §§ 107.1004(b)(1) and 107.1004(b)(4) of the SBA Regulations and requires a written exemption granted by SBA.

Notice is hereby given that any person may, not later than January 21, 1981 submit written comments on the proposed transaction. Any such comments should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of the Notice shall be published in a newspaper of general circulation in the Washington, D.C. area.

(Catalog of Federal Domestic Assistance Programs No. 59.011), Small Business Investment Companies.)

Dated: December 29, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-362 Filed 1-5-81; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-19]

Associated Tobacco Manufacturers; Termination of Investigation

The United States Trade Representative, in accordance with the provisions of 15 CFR 2006.6, is terminating the investigation under section 301 of the Trade Act of 1974 (19

U.S.C. 2411) concerning restrictions imposed on imports of pipe tobacco by Japan Tobacco and Salt Public Corporation (JTS). The petition, filed by the Associated Tobacco Manufacturers on October 22, 1979, alleged that JTS, an instrumentality of the Government of Japan which controls all sales of tobacco products in Japan, sets unreasonable prices for imported pipe tobacco, restricts distribution of imported pipe tobacco, and severely restricts advertising of imported pipe tobacco. A **Federal Register** notice including the text of the petition was published on November 8, 1979 (44 FR 64938).

Because the practices complained of were similar to those involved in Docket No. 301–17, concerning cigars, the two investigations were consolidated. In November of 1979, the United States requested that the Council of the General Agreement on Tariffs and Trade (GATT) appointed a panel to consider whether the JTS restrictions were inconsistent with the obligations of Japan under the GATT. Following additional negotiations between Japan and the U.S., during which no resolution was reached, a GATT panel was formed. Briefs were submitted and oral presentations made to the GATT panel in March of this year.

Bilateral discussions continued while the panel was reviewing the information submitted to it in preparation for making its report. These discussions have resulted in an agreement reducing the tariff on imported pipe tobacco and liberalizing other restrictions on importation and distribution of pipe tobacco.

Because of this agreement and because the petitioner has submitted to this office a letter requesting withdrawal of its complaint under section 301, the United States Trade Representative, with the advice of the Section 301 Committee, has determined that action under section 301 is no longer necessary. The investigation of the complaint filed by the Associated Tobacco Manufacturers is terminated.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 81-371 Filed 1-5-81; 8:45 am]

BILLING CODE 3190-01-M

[Docket No. 301-17]

Cigar Association of America, Inc.; Termination of Investigation

The United States Trade Representative, in accordance with the provisions of 15 CFR 2006.6, is terminating the investigation under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) concerning the imposition of internal taxes on imports, in excess of those placed on domestic products, and the restrictions placed upon marketing, advertising and distribution of imported cigars by the Japan Tobacco and Salt Public Corporation (JTS), an instrumentality of the Government of Japan. The petition, filed by the Cigar Association of America, Inc. on March 14, 1979, alleged that the internal taxes and other restrictions were unreasonable and were inconsistent with Japan's international obligations under the GATT. A **Federal Register** notice including the text of the petition was published on March 30, 1979 (44 FR 19083).

Consultation, on an informal basis, were instituted with Japan on the issues raised. Formal bilateral consultations were conducted in August of 1979. During these consultations, the United States sought to obtain agreement from Japan to measures which would guarantee fair market access and equal competitive opportunity for U.S. products in the Japanese market. No agreement was obtained.

The United States requested that the Council of the General Agreement on Tariffs and Trade (GATT) appoint a panel to consider whether the internal taxes and restrictions applied to imports of cigars and pipe tobacco were inconsistent with Japan's obligations under the GATT. Because of the similar issues involved, Docket No. 301–19, Associated Tobacco Manufacturers, was combined with this case. Following unsuccessful, bilateral consultations concerning pipe tobacco, a GATT panel was formed.

Negotiations continued while the panel was reviewing the briefs and information which the parties presented in March of this year. An agreement was reached, prior to the panel's report, which would reduce tariffs applied to imported cigars and would liberalize the restrictions on marketing, advertising and distribution of imported cigars.

Because of the agreement reached with Japan on the issues in this case and because the petitioner has submitted a letter requesting withdrawal of its complaint under section 301, the United States Trade Representative, with the advice of the Section 301 Committee, has determined that action under section 301 is no longer necessary. The petitioner has been advised of this determination. The investigation of the complaint filed by the Cigar Association of America, Inc. is terminated.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 81-372 Filed 1-5-81; 8:45 am]

BILLING CODE 3190-01-M

Amendment of the Tariff Schedules of the United States with Respect to Color Television Receivers From the Republic of Korea

Proclamation No. 4769 of June, 30, 1980, extended the temporary quantitative limitations on color television receivers and certain subassemblies thereof, the products of the Republic of Korea and Taiwan. The proclamation was issued pursuant to the President's decision to extend orderly marketing agreements covering such products.

Pursuant to Proclamation No. 4769, in which the President authorized the United States Trade Representative to make any changes to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) which might be necessary to carry out the agreements, the changes in the Annex are being made and shall be effective on and after the eighth day following the publication of this notice in the **Federal Register.**

Reubin O'D. Askew,

United States Trade Representative.

Annex

Subpart A, part 2 of the Appendix to the TSUS is amended—

(1) By deleting "923.72" wherever that item number is cited in headnote 5 and substituting "923.77" in lieu thereof;

(2) By deleting paragraphs (d) and (e) of headnote 5 and substituting the following new paragraphs (d) and (e) in lieu thereof:

* * * * *

(d) *Carryover.*—If the restraint level for color television receivers has not been filled for the restraint periods ending June 30, 1980, and June 30, 1981, for such products from Taiwan or the restraint periods ending June 30, 1980, December 31, 1980, June 30, 1981, or December 31, 1981, for such products from the Republic of Korea, upon appropriate request of the Coordinating Council for North American Affairs (CCNAA) or the Government of the Republic of Korea, the shortfall may be entered during the following restraint period provided that the amount of shortfall so entered does not exceed 11 percent of the restraint level for the restraint period during which the shortfall occurred.

(e) *Exceeding restraint levels.*—Upon appropriate request of the CCNAA or of the Government of the Republic of Korea, the restraint level for item 923.66 or 923.73 may be exceeded by not more than 10 percent and the restraint level for item 923.71 may be exceeded by not more than 38,500 receivers. If the restraint level is exceeded, the United States Trade Representative shall make a downward adjustment of the restraint level for the subsequent restraint period (item 923.66, 923.73 or 923.75), in the absolute amount the restraint level for item 923.66, 923.71, or 923.73, respectively, was exceeded.

(3) By deleting items 923.70 and 923.71 and substituting the following new items 923.70 through 923.75 in lieu thereof (with respect to the Republic of Korea):

Item	Articles	Quota quantity (in units)
923.70	If exported during the period from July 1, 1980, through December 31, 1980, inclusive.	185,000
923.71	If exported during the period from January 1, 1981, through June 30, 1981, inclusive.	200,000
923.73	If exported during the period from July 1, 1981, through December 31, 1981, inclusive.	275,000
923.75	If exported during the period from January 1, 1982, through June 30, 1982, inclusive.	300,000

(4) By redesignating item 923.72 as item 923.77; and

(5) By deleting the reference to "headnote 6" in the superior heading to items 925.11 through 925.13 and substituting "headnote 7" in lieu thereof.

December 19, 1980.

Mr. William T. Archey,
Acting Commissioner,
U.S. Customs Service,
Washington, D.C. 20229

Dear Mr. Archey: A request has been received from the Coordinating Council for North American Affairs (CCNAA) concerning the carryover provision in paragraph 5(a) of the orderly marketing agreement on color television receivers.

Exports from Taiwan of color television receivers classified in TSUS item 923.76 fell short of the 373,000 units alloted for the second restraint period. The Coordinating Council for North American Affairs has requested that 22,688 sets be carried over into the third period.

Accordingly, pursuant to paragraph 5(d) of the Annex to Proclamation 4769 of June 30, 1980, and provisions of the Orderly Marketing Agreement, you are hereby requested to increase the third restraint period level applicable to imports of color television receivers entering under TSUS Item No. 923.66 by 22,688 sets. The adjusted restraint level for the third period, therefore, will be 422,688 sets.

This letter will be published in the **Federal Register.**

Sincerely,

Reubin O'D Askew.

[FR Doc. 81-336 Filed 1-5-81; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 15]

First State Insurance Co., New England Reinsurance Corporation; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificates of Authority issued by the Treasury to First State Insurance Company, Boston, Massachusetts, and New England Reinsurance Corporation, Boston, Massachusetts, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as acceptable sureties on federal bonds are hereby terminated effective this date.

The companies were last listed as acceptable sureties on federal bonds at 45 FR 44505 and 45 FR 44509, respectively, July 1, 1980.

With respect to any bonds currently in force with First State Insurance Company and New England Reinsurance Corporation, bond approving officers of the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the companies.

Questions concerning this notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone (202) 634-5010.

Dated: December 18, 1980.

William E. Douglas

Commissioner

[FR Doc. 81-398 Filed 1-5-81; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). The list is the same as the prior quarterly list published in the **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Arab Republic
Yemen, Peoples Democratic Republic of

Donald C. Lubick,

Assistant Secretary (Tax Policy).

January 2, 1981.

[FR Doc. 81-408 Filed 1-2-81; 4:32 pm]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

National Cemetery, Florida; Intent To Prepare an Environmental Impact Statement

AGENCY: Veterans Administration.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: To fulfill the requirements of section 102(2)(C) of the National Environmental Policy Act, the Veterans Administration (VA) has identified a need to prepare an Environmental Impact Statement (EIS) and therefore issues this Notice of Intent under Title 40, Code of Federal Regulations, § 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC, 20420 (202) 389-2526.

SUPPLEMENTARY INFORMATION:

1. Description of Proposed Action

On October 21, 1980, the Administrator of Veterans Affairs announced the President's approval of a new Veterans Administration National Cemetery in Florida. It is the desire of the Veterans Administration that the national cemetery be located at a site in central Florida readily accessible to concentrations of the state veteran population. The Veterans Administration has determined that a site of approximately 600 acres, depending upon specific conditions, is required to meet the burial needs of central Florida's veteran service area. The proposed development will include space for approximately 300,000 gravesites (thru the year 2025) and the

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construction administrative and service facilities.

2. Alternatives

The Veterans Administration presently considers a portion of the Withlacoochee State Forest in Sumter County to be a potential national cemetery site to be analyzed in the EIS. In addition, the Veterans Administration will consider in the EIS other sites determined to be available to the agency and suitable for national cemetery development. The final alternative to be discussed in the EIS will be the NO ACTION alternative.

3. Public and Private Participation in EIS Process

The issues and concerns identified during the scoping process will help determine the nature and extent of the impact analysis in the EIS. The Veterans Administration invites full participation by individuals, public and private organizations and local, State and Federal agencies. Persons wishing to participate in the scoping process should contact the Veterans Administration Office of Environmental Affairs at the above address.

4. Scoping

The Veterans Administration will initiate the scoping process and conduct a public meeting(s) (date and location unscheduled at this time) for the purpose of identifying issues for consideration in the preparation of the EIS.

5. Timing

Tentative time limits have been set for completion of the environmental review at the following milestones:

Availability of draft EIS—September 1981

Availability of final EIS—January 1982

Completion of the Record of Decision—February 1982

6. Request for Copies of Draft EIS

For a copy of the Draft Environmental Impact Statement, placement on the mailing list, or for other NEPA related information, please submit your name and address to the Office of Environmental Affairs at the above address.

Dated: December 24, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 81-355 Filed 1-5-81; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Medical Center, 60-Bed Nursing Home Care Unit in Spokane, Wash.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a 60-Bed Nursing Home Care Unit of the Veterans Administration Medical Center (VAMC) Spokane, Washington.

The proposed project action involves development of a one story nursing home consisting of 60-Beds plus a limited amount of additional parking (approximately 25 spaces), and small access road, estimated construction costs are approximately 5.2 million dollars.

Four alternative building locations were considered, with three of those analyzed as viable options. Site locations 1 and 2 are located directly south of the main medical center building and site location 4 located in the southeast corner of the VAMC property. Site location 3, located in the northwest area of the property, was considered too distant and not compatible with future development.

The proposed development has been selected to occur at site location 1 (Scheme II) due to its limited impact on the environment and its functional relationship with the existing facilities based on programmatic criteria.

Minimal impact is anticipated on both the human and natural environment. Open space and existing lawn area topography will be altered. Additionally temporary construction related impacts of noise, dust, and soil erosion will occur.

Mitigation of the project impacts include: Implementation of erosion and sedimentation controls; on site noise abatement; and construction air quality controls. All mitigation actions will be implemented utilizing VA Specification Section EP—Environmental Protection, as it applies to the specific project impacts identified.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment, and, therefore, does not require preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Office (003A), Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: December 24, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 81-356 Filed 1-5-81; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Medical Center, Purchase of Keiper Building in Battle Creek, Mich.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impact that may occur as a result of the purchase of the Keiper Building, located at 5600 Dickman Road, Battle Creek, Michigan. The building will be used for Supply Service Warehouse and a new laundry facility. The Veterans Administration is currently leasing the Keiper Building for a Supply Service Warehouse.

Development of the project will create an increased demand on water supply and electricity.

Findings conclude that the proposed action will not cause a significant adverse effect on the physical and human environment, and therefore, does not require preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in the assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Office (003A), Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: December 24, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 81-357 filed 1-5-81; 8:45 am]

BILLING CODE 8320-01-M

V46/3 JA 6 81

Sunshine Act Meetings

Federal Register
Vol. 46, No. 3
Tuesday, January 6, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Item
Consumer Product Safety Commission	1
Federal Energy Regulatory Commission	2
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1

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission Meeting, Wednesday, January 7, 1981, 9:30 a.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: *Urea-Formaldehyde Foam Insulation: Regulatory Options.*

The Commission will consider regulatory action to address hazards that may be associated with urea-formaldhyde foam insulation. The staff briefed the Commission on this matter at the November 24, 1980, meeting, and the Commission met December 5 with representatives of the Formaldehyde Institute. This meeting was originally scheduled for December 22, 1980.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 300, 1111–18th St., NW., Washington, DC 20207, Telephone (202)634–7700.

[S-2369-81 Filed 1-2-81; 10:36 am]

BILLING CODE 6355-01-M

2

December 31, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: January 7, 1981, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Power Agenda—475th Meeting, January 7, 1981, Regular Meeting (10 a.m.)

CAP–1. Project No. 2153—California, United Water Conservation District.
CAP–2. Project No. 199, South Carolina Public Service Authority.
CAP–3. Docket No. EL78–43, city of Bountiful, Utah, Utah Power & Light Co., city of Santa Clara, Calif. and Pacific Gas and Electic Co. Project No. 1744, Utah Power & Light Co.
CAP–4. Docket No. 2004, Holyoke Water Power Co.
CAP–5. Docket No. ER79–341, Detroit Edison Co., Consumers Power Co. and Indiana & Michigan Electric Co.
CAP–6. Docket No. ER81–165–000, Northeast Utilities.
CAP–7. Docket No. ER80–447, Public Service Co. of Colorado.
CAP–8. Docket No. ER80–454, Ohio Edison Co.
CAP–9. Docket Nos. ER80–66 et al., New England Power Co.
CAP–10. Docket Nos. E9002 and ER76–122, Commonwealth Edison Co.
CAP–11. Docket No. ER80–568, Kanawha Valley Power Co.
CAP–12. Docket Nos. ER77–325 and ER77–426 (remand), Appalachian Power Co.
CAP–13. Docket Nos. ER80–313 and ER80–376, Public Service Co. of New Mexico.

Miscellaneous Agenda—475th Meeting, January 7, 1981, Regular Meeting

CAM–1. Docket No. RM80–65, exemption from all or part of Part I of the Federal Power Act of small hydroelectric power projects with an installed capacity of 5 megawatts or less.
CAM–2. Docket No. RM80–69, revision of annual report of gas supply for certain natural gas pipelines; Form No. 15.
CAM–3. Docket No. RM80–50, High-Cost Natural Gas: Production enhancement procedures.
CAM–4. Docket No. RA80–52, Buchanan Shell, Inc.
CAM–5. Docket Nos. RA79–5 and RA80–50 (consolidated), Sabre Refining, Inc.

Gas Agenda—475th Meeting, January 7, 1981, Regular Meeting

CAG–1. Docket No. RP80–72, Algonquin Gas Transmission Co.
CAG–2. Docket No. RP80–61, Consolidated Gas Supply Corp.
CAG–3. Docket No. RP80–66–002, Northern Natural Gas Co.
CAG–4. Docket No. CI80–485, Pan Eastern Exploration Co., Docket No. CI80–516, Samedan Oil Corp., Docket No. CI77–518–002, Exxon Corp., Docket No. CI80–522, Arco Oil & Gas Co.
CAG–5. Docket No. CP79–401, Montana Power Co.
CAG–6. Docket Nos. CP66–111, et al., Great Lakes Gas Transmission Co.
CAG–7. Docket No. CP80–211, Florida Gas Transmission Co. and Southern Natural Gas Co.
CAG–8. Docket No. CP80–394, Tennessee Gas Pipeline Co.
CAG–9. Docket No. CP80–442, Consolidated Gas Supply Corp.
CAG–10. Docket No. CP80–450, El Paso Natural Gas Co., Docket No. CI80–463, Warren Petroleum Co.
CAG–11. Docket No. CP80–488, United Gas Pipe Line Co.
CAG–12. Docket No. CP80–505–000, Midwestern Gas Transmission Co., Docket No. CP81–38–000, Michigan Wisconsin Pipe Line Co.

Power Agenda—475th Meeting, January 7, 1981, Regular Meeting

I. Licensed Project Matters

P–1. Reserved.

II. Electric Rate Matters

ER–1. Docket No. ER81–121–000, Virginia Electric & Power Co.
ER–2. Docket No. ER81–105–000, Indiana & Michigan Electric Co.
ER–3. Docket Nos. ER81–130–000 and ER81–139–000, Appalachian Power Co.
ER–4. Docket No. ER80–752, Middle South Services, Inc.
ER–5. Docket No. ER77–277, Pennsylvania Power Co., price squeeze (phase II)
ER–6. Docket Nos. E–8586 and E–8567 (remand)—Public Service Co., of Indiana, Inc.

Miscellaneous Agenda—475th Meeting, January 7, 1981, Regular Meeting

M–1. Docket No. RM79–52, Implementation of section 208 of the Public Utility Regulatory Policies Act of 1978, continuance of service.
M–2. Reserved.
M–3. Reserved.
M–4. Reserved.
M–5. Docket No. RM80–60, ex parte and separation of functions rules.
M–6. Docket No. RM79–76, (Colorado–1), high-cost gas produced from tight formations.

M-7. Docket No. RM80-33, final rules for part 270, subpart B, sections 270.201, 270.202 and 270.204.
M-8. Docket No. GP81—U.S. Geological Survey—New Mexico, Jerome P. McHugh, Price No. 1 Well, JD79-8397.

Gas Agenda—475th Meeting, January 7, 1981, Regular Meeting

I. Pipeline Rate Matters

RP-1(A). Docket Nos. RP79-22 and RP78-52 (storage accounting), Consolidated Gas Supply Corp.
RP-1(B). Docket No. RP79-68, North Penn Gas Co.
RP-2. Docket No. RP78-20, Columbia Gas Transmission Corp.

II. Producer Matters

CI-1. Reserved.

III. Pipeline Certificate Matters

CP-1(A). Docket No. CP80-502, Natural Gas Pipeline Co. of America.
CP-1(B). Docket No. CP80-520, Natural Gas Pipleline Co. of America.
CP-1(C). Docket No. CP81-43, Energy Gathering, Inc.
CP-2. Docket No. CI81-22-000, Southern Union Gathering Co.
CP-3. Docket No. RP75-79 (phase II), Lehigh Portland Cement Company v. Florida Gas Transmission Company. Docket No. CP77-44, Abitibi Corporation v. Florida Gas Transmission Company.
CP-4. Discussion of Jurisdictional Consequences of NGPA Section 311 Transportation.

Kenneth F. Plumb,
Secretary.

[S-2382-81 Filed 1-2-81; 10:32 am]

BILLING CODE 6450-85-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., Thursday, January 8, 1981.

PLACE: 1700 G. Street, NW., Board Room, 6th Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Extension of Time—Western Federal Savings and Loan Association of Denver, Denver, Colorado.

Service Corporation Activity Affiliated Mortgage and Development Company Albuquerque Federal Savings and Loan Association, Albuquerque, New Mexico.

Branch Office Application—Fidelity Federal Savings and Loan Association, Glendale, California.

[S2384-81 Filed 1-2-81; 11:52 am]

BILLING CODE 6720-01-M

4

NUCLEAR REGULATORY COMMISSION.

DATE: Tuesday, January 6, and Wednesday, January 7, 1981.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, January 6; 10 a.m.

1. *Discussion of Amendments to Part 140—Changes in Nuclear Energy Liability Insurance Policy* (Approximately 1 hour—public meeting)

Wednesday, January 7; 10 a.m.

1. *Discussion and Vote on Final Rule—10 CFR 60—Disposal of HL Radioactive Waste in Geologic Repositories—Licensing Procedures* (Approximately 1½ hours—public meeting)

Wednesday, January 7; 2:30 p.m.

1. *Affirmation/Discussion Session* (Approximately 1 hour—public meeting)

(a) *Affirmation—*

1. Revisions in Draft Bailly Show Cause Order
2. Final Rule on Protection of Transient Shipments
3. General Licensing of Carriers of Irradiated Fuel
4. Redraft of Indian Point Order (Proceeding)
5. Petition re Dresden Nuclear Power Station
6. 12/19 OGC Memo, Waste Conf. Proceeding

(b) *Discussion and Vote of Above Affirmation Items, if required*

ADDITIONAL INFORMATION: By a vote of 3-0 (Commissioner Gilinsky not present) on December 22, 1980, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that affirmation of Order in the Matter of Pacific Gas & Electric Co., held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Automatic telephone answering service for schedule update: (202) 634-1498; those planning to attend a meeting should reverify the status on the day of the meeting.

December 30, 1980.

Walter Magee,
Office of the Secretary.

[S-2385-81 Filed 1-2-81; 12:33 pm]

BILLING CODE 7590-01-M

5

FOREIGN CLAIMS SETTLEMENT COMMISSION.

[F.C.S.C. Meeting Notice No. 12-80]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME

Wednesday, Jan. 7, 14, 21 and 28, 1981 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China; Claims for Vietnam Prisoner of War Compensation.

Oral Hearings

Thursday, Jan. 22, 1981 at 10:00 a.m.—CN-2-027—Charles K. Ho
Thursday, Jan. 22, 1981 at 10:00 a.m.—CN-2-032—Wallace Han-Jen Chang
Thursday, Jan. 22, 1981 at 10:00 a.m.—CN-2-033—Frank Tse-Jui Chang
Thursday, Jan. 22, 1981 at 10:00 a.m.—CN-2-034—Molly Lien Dee King Chang
Thursday, Jan. 22, 1981 at 10:00 a.m.—CN-2-060—Roger Y. K. Hsu
Thursday, Jan. 22, 1981 at 2:00 p.m.—CN-2-015—Welthy Kiang Chen
Thursday, Jan. 22, 1981 at 2:00 p.m.—CN-2-037—Glennis Sheu-Lau Gokson
Thursday, Jan. 22, 1981 at 2:00 p.m.—CN-2-055—Ben L. Pond
Thursday, Jan. 22, 1981 at 2:00 p.m.—CN-2-063—Grace M. Wong
Tuesday, Jan. 27, 1981 at 10:00 a.m.—CN-2-028—Barbara K. Applegater
Tuesday, Jan. 27, 1981 at 10:00 a.m.—CN-2-058—Lilla Miller Byrum
Tuesday, Jan. 27, 1981 at 2:00 p.m.—CN-2-005—Adele Dina Murphy
Tuesday, Jan. 27, 1981 at 2:00 p.m.—CN-2-019—Lawrence C. Cheng
Tuesday, Jan. 27, 1981 at 2:00 p.m.—CN-2-023—Lawrence and Pauline Cheng
Tuesday, Jan. 27, 1981 at 2:00 p.m.—CN-2-022—Vera Cheng
Tuesday, Jan. 27, 1981 at 2:00 p.m.—CN-2-036—William A. Hsi
Thursday, Jan. 29, 1981 at 10:00 a.m.—CN-2-040—Gail G. Casson
Thursday, Jan. 29, 1981 at 10:00 a.m.—CN-2-043—Anna Sakin
Thursday, Jan. 29, 1981 at 2:00 p.m.—CN-2-009—Leib Merkin
Thursday, Jan. 29, 1981 at 2:00 p.m.—CN-2-010—Helen Hart Reynolds, Carolyn Hart Crawford
Thursday, Jan. 29, 1981 at 2:00 p.m.—CN-2-061—Albert Wong

Subject matter listed above not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. Request for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. 20579. Telephone (202) 653-6155

Dated at Washington, D.C., on December 30, 1980.

Judith H. Lock,
Administrative Officer.

[FR Doc. S-7-81 Filed 1-5-81; 9:48 am]

BILLING CODE 4410-01-M

6

CHRYSLER CORPORATION LOAN GUARANTEE BOARD.

TIME AND DATE: January 6, 1981 at 11:00 a.m.

PLACE: Room 4426, Main Treasury Building, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C.

STATUS: Closed to the public.

MATTERS TO BE DISCUSSED: The Board will continue its discussion of Chrysler's new Operating and Financing Plans and related documents and its need for additional guarantees. The Board also expects to meet with representatives of Chrysler and tis advisers and to receive the separate reactions of the United Auto Workers and Chrysler's lenders to the proposed cost reductions and other actions contemplated by Chrysler's new Operating and Financing Plans and related documents. The Board does not, however, expect to take any formal action at its Janurary 6 meeting on Chrylser's December 23 application for an additional $400 million of guarantees.

CONTACT PERSON FOR MORE INFORMATION: Bruce D. Bolander, Secretary of the Board (202) 566-2276.

This notice is given as a result of a court order. The position of the Board is that is not subject to the Government in the Sunshine Act.

Dated: January 2, 1981

Bruce D. Bolander,
Secretary of the Board.

[S-11-81 Filed 1-5-81; 11:32 am]

BILLING CODE 4810-27-M

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federal register

Tuesday
January 6, 1981

Part II

Department of Agriculture

Food and Nutrition Service

Procedures for Reducing, Suspending, or Cancelling Food Stamp Benefits; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[Amdt. No. 146]

7 CFR Parts 271, 272, 273 and 274

Procedures for Reducing, Suspending or Cancelling Food Stamp Benefits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking amends and finalizes emergency final Food Stamp Program rules in the April 2, 1980 **Federal Register** (45 FR 21998) which established procedures to be used in the event that food stamp benefits were to be reduced, suspended or cancelled.

Under the Food Stamp Act of 1977, the Secretary of Agriculture may not spend more money for food stamp allotments than is appropriated by Congress. If the Secretary determines that there is not enough money available to provide full benefits to all certified households, the Department is required to reduce the value of the benefits issued to those households. These rules establish the procedures to be used if such an action is necessary.

EFFECTIVE DATES: These rules are effective upon publication and must be implemented no later than March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy/Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202–447–9075. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Larry Carnes at the above address.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant".

Section 18 of the Food Stamp Act of 1977, as amended (Public Law 95–113, 91 Stat. 979, Sept. 29, 1977), sets limits on the amounts of money that can be appropriated each year for the Food Stamp Program. It also requires that the Secretary not spend more for food stamp benefits than the amount appropriated by Congress. To ensure that appropriations are not exceeded, Congress required the Secretary to direct State agencies to reduce the value of allotments that are issued to certified households if he determined it was necessary to do so to keep spending under the level of appropriations.

Because there was a danger that the funding for Program operations for FY 1979 was going to run out, the Department issued emergency rules on June 12, 1979 (44 FR 33762) establishing allotment reduction procedures. Those rules, based on legal opinions from the Department's General Counsel and the Comptroller General of the United States, required that if a reduction was ordered it be accomplished on a *pro rata* basis, i.e., all households would have their food stamp allotments reduced by the same percentage amount. While *pro rata* reductions result in all households having their allotments reduced by the same percentage, they also result in households with lower incomes having more food stamps taken away from them than are taken away from higher income households.

To correct this situation and ensure that the most needy participant households do not bear a disproportionate share of any ordered reduction, Congress included a provision in the 1979 Amendments to the Food Stamp Act (Pub. L. 96–58) amending Section 18 of the Food Stamp Act by adding new sections (c) and (d) which give the Secretary the authority to establish a benefit reduction procedure that would result in benefits being reduced on other than a *pro rata* basis. (See, Senate Rept., No. 96–236, 96th Cong., 1st Sess., p. 19.) Specifically, Section 1(4) of the 1979 Amendments, states, in part, that: "In prescribing the manner in which allotments will be reduced * * * the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of [the Food Stamp Act], to the income standards of eligibility for households of equal size. . . ." Although this amendment provides for reducing benefits on other than a *pro rata* basis, neither the amendments nor the legislative history prescribe a specific method under which benefits should be reduced.

On November 9, 1979, the Department issued a Notice of Intent to Propose Rules in the **Federal Register** seeking public input into the development of a new allotment reduction procedure. The Department had intended to issue proposed rules based on the comments received on the Notice and then issue final rules. However, because of the possibility of having to reduce benefits as early as June 1980, emergency final rules were issued instead of proposed rules. These emergency final rules, issued in the April 2, 1980 **Federal Register** (45 FR 21998–22002) established a reduction procedure, in compliance with the amendment to Section 18 of the Food Stamp Act, that called for reductions on other than a *pro rata* basis.

The Department announced in the April 2 rulemaking that public comments were being solicited and that final rules would be issued based on the responses. Only four comment letters were received. This was, in all likelihood, due in part to the activity that was taking place during the comment period to prepare for a suspension of the June 1980 food stamp allotments. It may also reflect a lack of serious objection to the April 2 rulemaking, which was based on careful consideration of comments received in response to the Notice of Intent, with special attention given to administrative issues raised. While only a few comment letters were received, many suggestions and questions were received in conjunction with the suspension contingency planning. The Department decided to consider the suggestions and questions received along with the four comment letters. This final rulemaking, then, is based both on input from the commenters and information received during the contingency planning.

Reduction Method

The April 2 rulemaking specified that if a reduction was ordered, the Thrifty Food Plan amounts that are used to calculate benefit levels would be reduced. By using this method to reduce benefits, higher income participants would lose a greater proportion of their benefits than lower income participants. For example, in November 1980, a 4-person household with a net food stamp income of $300 would have received $119 in food stamps. If the Thrifty Food Plan were reduced by 50%, this household would receive $15 in food stamps or about 13% of its normal allotment. A 4-person household with a net food stamp income of $100 would normally receive $179 in food stamps. If the Thrifty Food Plan were reduced by 50%, this household would receive $75 in food stamps or about 42% of its normal allotment.

Essentially, this reduction method requires the same action by State agencies as the action taken annually to update the allotment tables. Thus, the use of this method would not require extensive computer changes nor would it require that extensive changes be made in issuance systems. An added advantage is the relatively short lead time this method requires. This would allow the Department more time to estimate the percentage redction needed and would increase the accuracy of this estimate.

The Department decided, in issuing the April 2 rulemaking, to adopt this approach because of these advantages. The relatively quick reaction time it allows, coupled with the ability of all State agencies to implement it were significant factors leading to the decision. A number of State agencies indicated that other approaches to benefit reductions would not be administratively feasible for them. The Department paid particular concern to these administrative issues, especially since the failure of just one State agency to implement any ordered benefit reduction could result in the Department exceeding the spending limits set by Congress and violating the Food Stamp Act.

In addition, this method was viewed as the most equitable method for participants. Under this method, the percentage of reduction would be lowest for zero net income households and greatest for the highest net income households. Therefore, the poorer a food stamp family is, the lower the percentage reduction in its allotment will be. Higher income families will have their benefits reduced by larger percentages. This method ensures that the most needy participant households do not bear a disproportionate share of benefit reductions.

Comments received on the April 2 rulemaking, as well as the Department's experience in working with State agencies to plan for possible benefit reductions last year, do not indicate any significant problems with the Department's original decision and do not raise new issues pertaining to the decision. This provision of the April 2 rules is retained unchanged.

Provisions for Elderly/Disabled Households and Minimum Benefit Levels

Most of the commenters who responded to this issue when addressing the November 9, 1979 Notice strongly opposed any special provisions. The majority were opposed due to the administrative difficulties inherent in such a provision. Most pointed out that any special provision would have to be based on the ability of State agencies to identify those households with elderly and disabled members and to issue benefits to such households on one basis while issuing benefits to the remainder of their caseload on another. Most State agencies cannot do this easily. To identify the households with elderly and disabled members would require a manual case by case search that would be very time consuming. To issue benefits to two segments of the caseload using different sets of rules would require extensive computer reprogramming. This again would be time consuming and very costly, and would not be compatible with the expeditious action needed to implement a benefit reduction.

The commenters' responses to the idea of establishing a minimum benefit level, however, were favorable. Some commenters noted that without a minimum benefit many households would receive few or no benefits during a reduction. Perhaps most important, though, were the comments noting that a minimum benefit level would serve as a cushion to elderly and disabled households, lessening the impact on them. Since many elderly and disabled households currently participate at or near the $10 minimum benefit level, maintaining this minimum benefit level during a reduction would help protect the elderly and disabled from especially severe cutbacks.

As a result of these comments and the need to construct a benefit reduction system that is administratively feasible, the April 2, 1980 emergency rules did not contain any special provisions applicable to households with elderly or handicapped members, but did afford some protection to the elderly and disabled by establishing a minimum benefit level of $10 for all households during a reduction. This minimum benefit level is guaranteed to all households whenever a benefit reduction of less than 90% of the projected issuance in a month is in effect. It is not guaranteed when a cancellation or suspension of all benefits is involved or when a reduction of 90% or more of the projected issuance in a month is ordered. (The minimum benefit level cannot be guaranteed when large reductions are ordered since there may not be enough money available to do so. For example, total issuance for August 1980 was approximately $760 million. If a 90% reduction was ordered, $76 million would have been available. However, in that same month, nearly 7.9 million households participated. To provide $10 to each household, the Department would have needed $79 million, $3 million more than would have been available. Therefore, to ensure that the appropriations limit is not exceeded, the minimum benefit level was not made applicable when large reductions or suspensions or cancellations are ordered.)

Comments received on the April 2 rules as well as experience in contingency planning for benefit reductions last year do not indicate significant problems or new issues arising from these decisions. These decisions, which reflect the extensive comments received on the Notice of Intent and accord with administrative necessity, are retained in these final rules.

Other Issues

This final rulemaking is not significantly different than the emergency rules issued on April 2, 1980. The changes that were made are aimed primarily at clarifying provisions that gave rise to questions during the contingency planning for the June 1980 suspension of benefits.

One such change is the inclusion of a provision requiring that State agencies resume issuing benefits as soon as practicable following the end of a suspension. The Department expects that the resumption of benefits would occur very rapidly. Last spring, during contingency planning for a possible suspension of benefits in June, all State agencies indicated they could resume benefits within four days after the suspension was lifted.

This provision was added after the Department received several inquiries regarding when State agencies were to begin issuing June 1980 benefits, assuming those benefits were going to be suspended. The April 2, 1980 rules did not address the issue. The provision in the final rule lets State agencies know that they can and must move immediately to resume issuance when a suspension ends.

Another issue that arose was whether the provision requiring the issuance of full retroactive benefits during reductions, suspensions and cancellations should be retained. The emergency final regulations issued on April 2, 1980 required that retroactive benefits scheduled for issuance during a month in which a reduction, suspension or cancellation was in effect be unaffected by the reduction, suspension or cancellation. It was the Department's belief that a reduction action should be applied to all benefits issued for the current month. Since retroactive benefits issued in a month in which a reduction, suspension or cancellation is in effect actually represent an entitlement for a previous month, they should be unaffected.

Several comments were received requesting that the Department allow the postponing of the issuance of retroactive benefits scheduled for issuance during reductions, suspensions and cancellations. It was felt that proceeding with the issuance might result in problems in that it could confuse participants who would not understand why they received the benefit level they received, it could cause complications in issuance at a time when things would be complicated enough, and it could cause resentment among households who do not receive such benefits (especially during suspensions and cancellations). The comments suggested that these problems could be avoided by preserving households' entitlements to retroactive benefits but postponing the issuance of such benefits.

The Department carefully considered this issue but decided not to change its position. While postponing the issuance of retroactive benefits to people might ease some administrative burdens, such burdens will not be great in the first place. More importantly, retroactive benefits, though perhaps small in volume, will become important issuances to households during reductions and especially during suspensions and cancellations. Therefore, the former policy is retained.

A change was made in the requirements pertaining to record keeping during reductions, suspensions and cancellations. The April 2, 1980 rules required State agencies to be able to produce a record of the amount of benefits each household received during a reduction and the amount each household was supposed to receive had a reduction not been in effect. This latter requirement pertained to cancellations also. The rules explained that these records whould be used in the event restored benefits were to be provided.

Some commenters objected to this provision, pointing out that restored benefits could be provided without the production of the records. It was suggested, therefore, that the rule be changed to require the ability to provide restored benefits as opposed to requiring the production of issuance records. The Department agrees and has changed the rule. State agencies are no longer required to produce issuance records. They are required to be able to determine who was eligible to participate in months affected by reductions and cancellations, what each household's benefit level was supposed to have been and what each household received. This information would be used to provide restored benefits.

Another issue that arose during the contingency planning for the possible suspension of June 1980 benefits was whether State agencies should be required to process eligible cases on an expedited basis during suspensions and cancellations of benefits. Since issuance occurs in months in which benefits are reduced, the question did not arise with respect to reductions.

The emergency final regulations issued on April 2, 1980 did not address this issue. Thus, the expedited processing rules which apply during normal issuance months currently apply during suspensions and cancellations. Those commenters who raised this issue were of the opinion that since no issuance would be taking place during suspensions and cancellations, and since State agency personnel would be preoccupied with other tasks brought on by the suspension or cancellation, it would be prudent to waive the expedited processing rules during such months.

In considering the issue, the Department was concerned with minimizing the administrative burden placed on State agencies by suspension and cancellation actions while ensuring that eligible households that are in immediate need receive benefits as soon as possible. Three alternatives were examined with this concern in mind: 1) retaining the two-day processing standard, 2) waiving the two-day processing standard, and 3) retaining the two-day processing standard in suspensions while establishing a two-to-thirty day standard in cancellations.

The third alternative was adopted. This requires that State agencies follow the two day processing rule in § 273.2(i) during suspensions. Thus, immediate need households would have their cases processed quickly and, if eligible, would receive their benefits as soon as the suspension was lifted. Suspensions, by their very nature, are likely to be temporary interruptions in benefits that do not last an entire month. A suspension could last for only a few days. These final rules do, however, call for a two-to-thirty day standard to be used during cancellations. Immediate need households applying during cancellations would have their cases processed by the end of the cancellation month or within two days, whichever is later. It is hoped that during this time the application process will be completed and that benefits for the month following the cancellation month will be made available. In most cases this gives State agencies more time to process expedited cases during cancellations, thus alleviating some of the administrative burden inherent in such processing. It also gives State agencies a better opportunity to fully process cases before the next month's issuance. This will hopefully eliminate the need for immediate need households to return to the certification office before the beginning of the second month to ensure their continued participation in the Program.

The section of the April 2 rules relating to fair hearings is revised by these final rules. In the April 2 rules, the Department advised participants and State agencies that fair hearings could be requested if a household disagreed with a reduction, suspension or cancellation. However, participants' rights to continued benefits in such situations were withdrawn. This, as explained in the rule, was necessary to ensure that the money the reduction, suspension or cancellation was intended to save was, indeed, saved.

The final rules go beyond the April 2 provision in that they allow State agencies to dismiss those requests for fair hearings that contest the occurrence of a reduction, suspension or cancellation rather than the manner in which such action was applied in a specific case. Several State agencies had pointed out that it would be burdensome to hold fair hearings for those households who merely objected to the imposition of a reduction, suspension or cancellation since State agencies could do nothing about the households' grievances. With this in mind, the Department agreed that a limit on fair hearings was appropriate. However, requests for fair hearings for any other reasons, such as a disagreement with the way a reduction was imposed on a household, i.e., the household's benefits were reduced too much, must be honored. As with the April 2 rules, though, continued benefits are not to be provided to such households.

A new section that did not appear in the April 2 emergency rules has been added to these final rules. This section pertains to the requirements for the location and hours of operation of issuance services contained in § 272.5 of the regulations. Those rules assume that normal issuance takes place at the beginning of each month. Therefore, State agencies are required to comply with standards that are geared to ensuring that issuance services are available at the beginning of each month. Since in a month when there is a suspension or cancellation, issuance will not occur on the assumed schedule, the requirements for the provision of issuance services become meaningless. Therefore, the new section added to the rules waives the locations and hours requirements for issuance services for months in which suspensions and cancellations take place. In their place, State agencies are required to establish issuance services so that the issuance needs of the caseload are met. In months in which suspensions occur this will mean arranging for issuance services to be open when issuance resumes. In months in which cancellations occur it may mean reducing issuance services.

The last change made in the rules concerns the requirements for staggered issuance. Current rules allow State agencies to stagger the mailing of ATP cards and the over-the-counter issuance of coupons through the 15th day of each month. The rules also require that the direct mailing of coupons be staggered through the 10th day of each month and allow staggering through the 15th day. The April 2 rules waived these requirements for months in which suspensions were ordered. The question arose, however, as to whether there should be substitute rules for use following the end of a suspension.

In determining whether there should be alternate staggering rules, the Department needed to balance the administrative needs of reducing exposure to theft and controlling lines at issuance offices with the need to provide households with their suspended benefits as soon after the end of a suspension as possible. The result is a rule that allows State agencies to stagger the mailing of ATP's and the issuance of over-the-counter coupons over a five day period or over the time remaining in the State agency's normal staggering cycle. Thus, State agencies will always have at least 5 days in which to stagger. The rule specifies a similar staggering schedule for the direct mailing of coupons. However, State agencies are required to stagger the mailing of coupons over a five day period or over the time remaining in the State agency's normal staggering cycle, whichever is longer. This provision ensures that people will not need to wait an inordinate amount of time to receive their suspended benefits yet gives State agencies some control over the volume of people at issuance sites and reduces the exposure to mail theft.

Implementation

These final rules are effective upon their publication. State agencies are required to have the rules in place so that they can be used to reduce, suspend or cancel food stamp allotments within 60 days of publication. Since there are relatively few changes for State agencies to implement, this timeframe should not prove to be burdensome.

For the reasons set out in the preamble, Parts 271, 272, 273 and 274 of 7 CFR are amended as set forth below.

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.7, paragraphs (a), (b), (c), (d), and (e) are revised; paragraph (f) is revised and redesignated as paragraph (h), and new paragraphs (f) and (g) are added. The changes read as follows.

§ 271.7 Allotment reduction procedures.

(a) *General purpose.* This section sets forth the procedures to be followed if the monthly food stamp allotments determined in accordance with the provisions of § 273.10 must be reduced, suspended, or cancelled to comply with Section 18 of the Food Stamp Act of 1977, as amended. The best available data pertaining to the number of people participating in the program and the amounts of benefits being issued shall be used in deciding whether such action is necessary.

(b) *Nature of reduction action.* Action to comply with Section 18 of the Food Stamp Act of 1977, as amended, may be a suspension or cancellation of allotments for one or more months, a reduction in allotment levels for one or more months or a combination of these three actions. If a reduction in allotments is deemed necessary, allotments shall be reduced by reducing Thrifty Food Plan amounts for each household size by the same percentage. This results in all households of a given size having their benefits reduced by the same dollar amount. The dollar reduction would be smallest for one-person households and greatest for the largest households. Since the dollar amount would be the same for all households of the same size, the rate of reduction would be lowest for zero net income houeholds and greatest for the highest net income households. All households affected by a reduction action shall be guaranteed a minimum benefit of $10 unless the action is a cancellation of benefits, a suspension of benefits, or a reduction of benefits of 90 per cent or more of the total amount of benefits projected to be issued in the affected month.

(c) *Reduction method.* If a reduction in allotments is deemed necessary, the Thrifty Food Plan amounts for all household sizes shall be reduced by a percentage specified by FNS. For example, if it is determined that a 25 per cent reduction in the Thrifty Food Plan amount is to be made, the reduction for all four-person households would be calculated as follows: The Thrifty Food Plan amount for a four-person household ($209 in November 1980) would be reduced by 25% to $157. Then 30 percent of the household's net food stamp income would be deducted from the reduced Thrifty Food Plan Amount. For example, 30 per cent of a net food stamp income of $200, $60, would be deducted from the reduced Thrifty Food Plan Amount ($157), resulting in a reduced allotment of $97.

(d) *Implementation of allotment reductions.* (1) *Reductions.* (i) If a decision is made to reduce monthly food stamp allotments, FNS shall notify State agencies of the date the reduction is to take effect and by what percentage Thrifty Food Plan amounts are to be reduced.

(ii) Upon receiving notification that a reduction is to be made in an upcoming month's allotments, State agencies shall act immediately to implement the reduction. Such action would differ from State to State depending on the nature of the issuance system in use. Where there are computerized issuance systems, the program used for calculating allotments shall be altered to reflect the appropriate percentage reduction in the Thrifty Food Plan for each household size and the computer program shall be adjusted to allow for a minimum benefit of $10. FNS will provide State agencies with revised issuance tables reflecting the percentage reductions to be made in Thrifty Food Plan amounts and reduced Thrifty Food Plan levels. In States where manual issuance is used, State agencies shall reproduce the issuance tables provided by FNS and distribute them to issuance personnel. State agencies shall ensure that the revised issuance tables are distributed to issuance agents and personnel in time to allow benefit reductions during the month ordered by FNS. In an HIR card system State agencies have the option of enacting the reduction in benefits either by changing all HIR cards before issuance activity for the affected month begins or by adjusting allotments at the point of issuance as each household appears at the issuance office.

(2) *Suspensions and cancellations.* (i) If a decision is made to suspend or cancel the distribution of food stamp benefits in a given month, FNS shall notify State agencies of the date the suspension or cancellation is to take effect. In the event of a suspension or cancellation of benefits, the provision for a $10 minimum benefit level shall be disregarded and all households shall have their benefits suspended or cancelled. Upon receiving notification that an upcoming month's issuance is to be suspended or cancelled, State agencies shall take immediate action to effect the suspension or cancellation. This action would involve making

necessary computer adjustments, and notifying issuance agents and personnel.

(ii) Upon being notified by FNS that a suspension of benefits is over, State agencies shall act immediately to resume issuing benefits to certified households and shall resume benefit issuance as soon as practicable.

(3) *Affected allotments.* Whenever a reduction of allotments is ordered for a particular month, reduced benefits shall be calculated for all households for the designated month. However, any household whose reduced benefits would be less than $10 shall receive a minimum benefit of $10 except as provided in § 273.10(e)(2). Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended or cancelled, even though they are issued during an affected month.

(4) *Notification of eligible households.* Reductions, suspensions and cancellations of allotments shall be considered to be Federal adjustments to allotments. As such, State agencies shall notify households of reductions, suspensions and cancellations of allotments in accordance with the notice provisions of § 273.12(e)(1), except that State agencies shall not provide notices of adverse action to households affected by reductions, suspensions or cancellations of allotments.

(5) *Restoration of benefits.* Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not *entitled* to the restoration of the lost benefits at a future date. However, if there is a surplus of funds as a result of the reduction or cancellation, FNS shall direct State agencies to provide affected households with restored benefits unless the Secretary determines that the amount of surplus funds is too small to make this practicable. The procedures implemented by State agencies for reducing and cancelling benefits shall be designed so that in the event FNS directs the restoration of benefits, such benefits are issued promptly.

(e) *Effects of reductions, suspensions and cancellations on the certification of eligible households.* (1) Except as provided in paragraph (e)(2) below, determinations of the eligibility of applicant households shall not be affected by reductions, suspensions or cancellations of allotments. State agencies shall accept and process applications during a month(s) in which a reduction, suspension or cancellation is in effect in accordance with the requirements of Part 273. Determinations of eligibility shall also be made according to the provisions of Part 273. If an applicant is found to be eligible for benefits and a reduction is in effect, the amount of benefits shall be calculated by reducing the Thrifty Food Plan amount by the appropriate percentage for the applicant's household size and then deducting 30 percent of the household's net food stamp income from the reduced Thrifty Food Plan amount. If an applicant is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the applicant until issuance is again authorized by FNS.

(2) *Expedited service.* (i) Households eligible to receive expedited processing who apply for program benefits during months in which reductions or suspensions are in effect, shall have their cases processed in accordance with the expedited processing provisions of § 273.2(i).

(A) Those households that receive expedited service in months in which reductions are in effect and that are determined to be eligible shall be issued allotments that are reduced in accordance with the reduction in effect. These reduced allotments shall be made available to the households within the benefit delivery timeframe specified in § 273.2(i).

(B) Those households that receive expedited service in months in which suspensions are in effect and that are determined to be eligible shall have benefits issued to them within the timeframe specified in § 273.2(i). However, if the suspension is still in effect at the time issuance is to be made, the issuance shall be suspended until the suspension is ended.

(ii) Households eligible to receive expedited processing who apply for Program benefits during months in which cancellations are in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be two days or the end of the month of application, whichever date is later. All other rules pertaining to expedited service, contained in § 273.2(i), shall be applicable to these cases.

(3) The reduction, suspension or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which allotments have been reduced, suspended or cancelled shall be recertified according to the provisions of § 273.14. Households found eligible to participate during a month in which allotments have been reduced, suspended or cancelled shall have certification periods assigned in accordance with the provisions of § 273.10.

(f) *Fair hearings.* Any household that has its allotment reduced, suspended or cancelled as a result of an order issued by FNS in accordance with these rules may request a fair hearing if it disagrees with the action, subject to the following conditions. State agencies shall not be required to hold fair hearings unless the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied or misinterpreted. State agencies shall be allowed to deny fair hearings to those households who are merely disputing the fact that a reduction, suspension or cancellation was ordered. Furthermore, since the reduction, suspension or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to a continuation of benefits pending the fair hearing. A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the State agency was directed to reduce benefits.

(g) *Locations and hours of operation of certification and issuance services.* The requirements in § 272.5 (b) and (c) pertaining to the location and hours of operation of issuance services shall not be applied in months in which the issuance of benefits has been suspended or cancelled. In such months, State agencies shall determine what types of issuance services to make available, where they should be located and when they should be available. State agencies' determinations should be based on the schedule and volume of issuance in the affected month and on the variables affecting the provision of issuance services that are detailed in § 272.5. State agencies must have issuance services available to serve households receiving restored or retroactive benefits for a prior, unaffected month.

(h) *Penalties.* Notwithstanding any other provision of this subchapter, FNS may take one or more of the following actions against a State agency that fails to comply with a directive to reduce, suspend or cancel allotments in a particular month.

(1) If FNS ascertains that a State agency does not plan to comply with a directive to reduce, suspend or cancel allotments for a particular month, a warning will be issued advising the State agency that if it does not comply, FNS may cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month(s). If, after receiving such a

warning, a State agency does not comply with a directive to reduce, suspend or cancel allotments, FNS may cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month(s).

(2) If FNS ascertains after warning a State agency as provided in (1) above, that the State agency does not plan to comply with a directive to reduce, suspend or cancel allotments, a court injunction may be sought to compel compliance.

(3) If a State agency fails to reduce, suspend or cancel allotments as directed, FNS will bill the State agency for all over issuances that result. If a State agency fails to remit the billed amount to FNS within a prescribed period of time the funds will be recovered through offsets against the Federal share of the State agency's administrative costs, or any other means available under law.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1 Paragraph (g)(3) is revised and reads as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation.* * *

(3) *Amendment 146.* The procedures contained in Amendment No. 146 shall be implemented by State agencies in time to be able to issue reduced food stamp allotments or to suspend or cancel allotments within 60 days after the date of publication of this amendment in the **Federal Register**.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.2, paragraph (i)(3) is amended by adding language after the title of paragraph (i)(3) and before paragraph (i)(3)(i). The revision reads as follows:

§ 273.2 Application processing.

* * * * *

(i) Expedited service. * * *

(3) Processing standards. All households receiving expedited service, except those receiving it during months in which allotments are suspended or cancelled, shall have their cases processed in accordance with the following provisions. Those households receiving expedited service during suspensions or cancellations shall have their cases processed in accordance with the provisions of § 271.7(e)(2).* * *

* * * * *

4. In § 273.10, paragraph (e)(2)(ii) is amended by adding the words "Except as provided in paragraph (iii) below," at the beginning. In addition, paragraph (e)(2)(iii) is revised to read as follows:

§ 273.10 Determining household eligibility and benefit levels. * * *

(e) Calculating net income and benefit levels. * * *

(2) Eligibility and benefits. * * *

(ii) Except as provided in paragraph (iii) below, * * *

(iii) During a month when a reduction, suspension or cancellation of allotments has been ordered pursuant to the provisions of § 271.7, eligible housholds shall have their benefits calculated as follows:

(A) If a benefit reduction is ordered, State agencies shall reduce the Thrifty Food Plan amounts for each household size by the percentage ordered in the Department's notice on benefit reductions. State agencies shall multiply the Thrifty Food Plan amounts by the percentage specified in the FNS Notice; round the result to the nearest dollar amount; i.e., round it down if it ends in 1 through 49 cents and round it up if it ends in 50 to 99 cents; and subtract the result from the normal Thrifty Food Plan amount. In calculating benefit levels for eligible households, State agencies would follow the procedures detailed in subparagraph (ii) above and substitute the reduced Thrifty Food Plan amounts for the normal Thrifty Food Plan amounts.

(B) Except as provided in (C) below, if the amount of benefits obtained by the calculation in paragraph (A) is less than $10, the household shall be provided a minimum benefit of $10.

(C) In the event that the national reduction in benefits is 90 percent or more of the benefits projected to be issued for the affected month, the provision for a minimum benefit may be disregarded and all households may have their benefits lowered by reducing Thrifty Food Plan amounts by the percentage specified by the Department. The benefit reduction notice issued by the Department to effectuate a benefit reduction will specify whether minimum benefits are to be provided to households.

(D) If the action in effect is a suspension or cancellation, eligible housholds shall have their allotment levels calculated according to the procedures in paragraph (ii) above. However, the allotments shall not be issued for the month the suspension or cancellation is in effect. The provision for a $10 minimum benefit shall be disregarded and all housholds shall have their benefits suspended or cancelled for the designated month.

(E) In the event of a suspension or cancellation, or a reduction exceeding 90 percent of the affected month's projected issuance, all households, including one and two-person households, shall have their benefits suspended, cancelled or reduced by the percentage specified by FNS.

* * * * *

5. In § 273.15, paragraph (a) is revised and reads as follows:

§ 273.15 Fair hearings.

(a) *Availability of hearings.* Except as provided in § 271.7(f), each State agency shall provide a fair hearing to any household aggrieved by any action of the State agency which affects the participation of the houshold in the Program.

* * * * *

PART 274—ISSUANCE AND USE OF FOOD COUPONS

6. In § 274.2, paragraphs (e)(2) and (f)(6) are revised and read as follows:

§ 274.2 Issuance systems.

* * * * *

(e) *ATP issuance.* * * *

(2) In months when issuance has not been affected by a suspension of allotments, State agencies may stagger the issuance of ATP's to certified households through the 15th day of the month provided that each household's cycle shall be established so that it receives its ATP at the same time every month and it has an opportunity to obtain its coupons prior to the end of the month. In months in which benefits have been suspended under the provisions of § 271.7, State agencies may stagger the issuance of ATP's to certified households following the end of the suspension. In such situations, State agencies may, at their option, stagger the issuance of ATP's from the date issuance resumes through the 15th of the month (if the 15th of the month has not already passed), or over a five day period following the resumption of issuance. In some circumstances, this may result in ATP's being issued after the end of the month in which the suspension occurred.

* * * * *

(f) *HIR card issuance system.* * * *

(6) In months when issuance has not been affected by a suspension of allotments, State agencies may stagger the issuance of coupons to certified households through the 15th of the month. In months in which benefits have been suspended under the provisions of § 271.7, State agencies may stagger the issuance of coupons to households following the end of the suspension. In

such cases, State agencies may, at their option, stagger the issuance of coupons from the date issuance resumes to the 15th of the month (if the 15th of the month has not already passed), or over a five day period following the resumption of issuance. In some circumstances, this may result in coupons being issued to certified households after the end of the month in which the suspension occurred.

* * * * *

6. In § 274.3, paragraph (b)(6) is revised, paragraph (b)(7) is redesignated as (b)(8), and a new paragraph (b)(7) is added. The revision and addition read as follows:

§ 274.3 Issuance of coupons through the mail.

* * * * *

(b) Mail issuance controls and records. * * *

(6) In months in which issuance has not been affected by a suspension of allotments, direct mail issuance shall be staggered through the 10th day of the month and may be staggered through the 15th day provided that each household will likely receive its coupons on the same date every month. The State agency shall ensure that coupons are not mailed to concentrations of households with the same ZIP code on the same day. FNS may provide waivers to State agencies that present adequate documentation to indicate that theft from the mail will not represent a significant problem.

(7) In months in which issuance has been suspended under the provisions of § 271.7, direct mail issuance shall be staggered either from the date issuance resumes following the end of the suspension to the last day left in the State agency's normal staggering schedule, or over a five day period beginning the day issuance resumes, whichever is a longer period of time. This requirement shall not apply to State agencies that have received waivers from the requirements of paragraph (b)(6) of this section.

(8) * * *

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027)

(Catalog of Federal Domestic Assistance Program No. 10551, Food Stamps)

Dated: December 19, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-40663 Filed 12-29-80; 10:37 am]

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Tuesday
January 6, 1981

Part III

Environmental Protection Agency

Pulp, Paper, and Paperboard Industry Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 430 and 431

[WH-FRL 1650-6]

Pulp, Paper, and Paperboard Builders' Paper and Board Mills Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes regulations to limit the discharge of effluents and the introduction of pollutants into publicly owned treatment works from facilities that produce pulp, paper, and paperboard. The purpose of this regulation is to provide effluent limitations guidelines for "best practicable technology," "best available technology," and "best conventional technology" and to establish new source performance standards and pretreatment standards under sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act. The intended effect of this action is to reduce the discharge of conventional and toxic pollutants discharged by the pulp, paper, and paperboard industry.

DATES: A period of sixty days from the date of publication in the **Federal Register** will be allowed for submission of comments on this proposal. Comments must be received by February 4, 1981.

ADDRESS: Send comments in triplicate to: Mr. Robert W. Dellinger, Effluent Guidelines Division, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, ATTENTION: EGD Docket Clerk, Pulp, Paper, and Paperboard Industry, (WH-552). A copy of the supporting information and all public comments submitted in response to proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library), 401 M St. S.W., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. Robert W. Dellinger, at the address listed above, or call (202) 426-2554. Information concerning the economic analysis and copies of the economic analysis documents may be obtained from Mr. Robert C. Ellis, Office of Analysis and Evaluation (WH-586), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, or call (202) 426-2617.

SUPPLEMENTARY INFORMATION:

Overview

The SUPPLEMENTARY INFORMATION section of this preamble describes the legal authority and background, technical and economic bases, and other aspects of the proposed regulations. It also presents a summary of comments on the draft technical development document, which was circulated in June of 1979, and solicits comments on specific areas of interest.

Many abbreviations and acronyms are used throughout this notice to avoid excessive narrative; a list of these and their definitions is set forth in Appendix A. Definitions of various terms, possibly unfamiliar to some readers, are also provided in that appendix.

Support for these proposed regulations is in four major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* and in *Procedures for Analysis of Pulp, Paper, and Paperboard Effluents for Toxic and Nonconventional Pollutants*. EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pulp, Paper, and Paperboard and the Builders' Paper and Board Mills Point Source Categories*. The Agency's economic analysis is found in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pulp, Paper, and Paperboard Point Source Category*.

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I. Legal Authority

The regulations described in this notice are proposed under authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217 (the "Act")). These regulations are also proposed in compliance with the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified 12 ERC 1833 (D.D.C. 1979).

II. Background

A. *The Clean Water Act.* The Federal Water Pollution control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," (Section 101(a)). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" (BPT, (Section 301(b)(1)(A)). By July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable (BAT which will result in reasonable further progress toward the national goal of eliminating the discharge of pollutants," (Section 301(b)(2)(A)). New industrial direct dischargers were required to comply with section 306, new source performance standards (NSPS), based on best available demonstrated technology. New and existing dischargers to publicly owned treatment works (POTWs) were subject to pretreatment standards under sections 307(b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis in the absence of regulations, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, section 307(a) of the act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The Agency was unable to promulgate many of these toxic pollutant regulations and guidelines within the time periods stated in the Act. In 1976, EPA was sued by several environmental groups and, in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement," which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating, for 21 major industries, BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 toxic pollutants and classes of pollutants (see *Natural Resources Defense Council, Inc.*, v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified 12 ERC 1833 (D.D.C. 1979)).

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of many of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "toxic" pollutants and classes of pollutants which Congress declared "toxic" under section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added a new section 304(e) to the Act, authorizing the Administrator to prescribe what have been termed "best management practices (BMPs)" to prevent the release of toxic or hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revised the control program for non-toxic pollutants. Instead of BAT for "conventional' pollutants identified under section 304(a) (4) (including biochemical oxygen demand, suspended solids, fecal coliform, and pH), the new section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT). The factors considered in assessing BCT include the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction for an industrial discharge with the cost and level of reduction of similar parameters for a typical POTW (Section 304(b)(4)(B)). For non-"toxic", non-"conventional" pollutants, sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment, or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these regulations is to provide effluent limitations guidelines for BPT, BAT, and BCT and to establish NSPS and pretreatment standards for existing and new sources (PSES, PSNS) under sections 301, 304, 306, and 307 of the Clean Water Act.

B. *Prior EPA Regulations.* EPA promulgated BPT, BAT, NSPS, and PSNS for the builders' paper and roofing felt subcategory of the Builders' Paper and Board Mills Point Source Category on May 9, 1974 (39 FR 16578; 40 CFR Part 431, Subpart A). EPA promulgated BPT, BAT, NSPS, and PSNS for the unbleached kraft, sodium-based neutral sulfite semi-chemical, ammonia-based neutral sulfite semi-chemical, unbleached kraft-neutral sulfite semi-chemical (cross recovery), and paperboard from wastepaper subcategories of the Pulp, Paper and Paperboard Point Source Category on May 29, 1974 (39 FR 18742; 40 CFR Part 430, Subchapter N, Subparts A–E). EPA promulgated BPT for the dissolving kraft, market bleached kraft, BCT (board, coarse, and tissue) bleached kraft, fine bleached kraft, papergrade sulfite (blow pit wash), dissolving sulfite pulp, groundwood-chemi-mechanical, groundwood-thermo-mechanical, groundwood-CMN papers, groundwood-fine papers, soda, deink, nonintegrated-fine papers, nonintegrated-tissue papers, tissue from wastepaper, and papergrade sulfite (drum wash) subcategories of the Pulp, Paper, and Paperboard Point Source Category on January 6, 1977 (42 FR 1398; 40 CFR Part 430, Subchapter N, Subparts F–U).

Several industry members challenged the regulations promulgated on May 29, 1974, and on January 6, 1977. These challenges were heard in the District of Columbia Circuit of the United States Court of Appeals. The promulgated regulations were upheld in their entirety with one exception. The Agency was ordered to reconsider the BPT BOD5 limitation for acetate grade pulp production in the dissolving sulfite pulp subcategory (*Weyerhaeuser Company, et al.* v. *Costle*, 590 F. 2nd 1011; D.C. Circuit 1978). In response to this remand, the Agency proposed BPT regulations for acetate grade pulp production in the dissolving sulfite pulp subcategory on March 12, 1980 (45 FR 15952; 40 CFR Part 430, Subchapter N, Subpart K).

The regulations proposed in this notice include BPT, BCT, and revised BAT regulations and supersede prior NSPS, PSNS, and PSES regulations for the Builders' Paper and Board Mills and the Pulp, Paper, and Paperboard Point Source Categories, henceforth referred to as the pulp, paper, and paperboard industry.

C. *Overview of the Industry.* The pulp, paper, and paperboard industry is included within the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classifications (SIC)

2611, 2621, 2631, and 2661. It is comprised of facilities where wood pulp, non-wood pulp, paper, and paperboard are produced and can be divided into three major segments: integrated, secondary fiber, and nonintegrated mills. A wide variety of products, including pulp, newsprint, coated printing papers, unbleached and bleached linerboard, tissue papers, glassine and greaseproof papers, cotton fiber papers, special industrial papers, and bleached and unbleached kraft papers are manufactured through the application of various process techniques. Mills where pulp alone or pulp and paper or paperboard are manufactured on-site are referred to as integrated mills. Those mills where paper or paperboard are manufactured but pulp is not manufactured on-site are referred to as nonintegrated mills. Mills where wastepaper is used as the primary raw material to produce paper or paperboard are commonly referred to as secondary fiber mills.

The four major steps in the production of wood pulp are wood preparation, pulping, washing and screening, and bleaching (if desired). The end result is a brown or white pulp that can be used in the manufacture of paper and paperboard products.

The initial step in the production of wood pulp is raw material preparation. A common sequence of operations employed during preparation of whole logs is slashing, debarking, washing, chipping, and storage. This may vary depending on the form in which the raw materials arrive at the mill.

After preparation, the wood is reduced to a usable form of fiber. This operation is called "pulping" and is accomplished by several possible combinations of mechanical and/or chemical "cooking" processes. The most common types of pulping processes employed are: 1) mechanical pulping (i.e., groundwood and thermo-mechanical) and 2) chemical pulping (i.e., alkaline (kraft and soda), sulfite, or semi-chemical processes).

After pulping, the brown stock (pulp fibers) is washed and screened. The screened rejects are then either repulped or discarded. Where a white or lightly colored pulp is required, an optional stage, bleaching, is employed.

In the bleaching process, the brown stock is decolored (brightened or whitened) through the use of chemicals such as chlorine, chlorine dioxide, sodium hypochlorite, zinc hydrosulfite, or sodium hydrosulfite. The mechanism of decoloring results from the removal or brightening of lignins and resins. After the brown stock is washed and screened, or bleached, it is stored for use in making paper or paperboard.

At secondary fiber mills, wastepaper is prepared to produce a stock to be used in the manufacture of paper or board products. Fibers suitable for papermaking result after wastepaper is cooked in a pulper, where it is repeatedly exposed to rotating impeller blades. Depending on the end product usage, heavily-printed wastepaper may be deinked. Ink and other nondesirable components are removed by flotation and washing using detergents, dispersants, fixing and softening agents, and other chemicals, If desired, these fibers can be bleached using chlorine, sodium hypochlorite, or chlorine dioxide; if wastepaper is high in groundwood content, peroxides or hydrosulfites are used. After washing and screening, the stock is stored prior to papermaking.

At all mills (integrated, secondary fiber, or nonintegrated) where paper or paperboard are produced, purchased pulp or pulp produced on-site is resuspended in water and blended with other components. The stock is then mechanically processed in beaters or continuous refiners to ensure that the necessary matting characteristics are provided to obtain the desired strength in the paper or paperboard. Another aspect of stock preparation is the addition of chemical additives. The most common chemical additives are alum and rosin (for sizing), fillers (clays, calcium carbonate, and titanium dioxide for opacity, smoothness, and brightness), resins (to improve wet strength), dyes, and starches (for improved strength, erasability, and abrasion resistance).

After the stock has been prepared to the specifications required to make the product, the sheet (paper) or plies (paperboard) are made. There are two principal methods to make paper or board: on a Fourdrinier or a cylinder machine. Both methods are similar with the major significant differences occurring in the "wet-end" formation process. On the Fourdrinier machine, the slurry (diluted pulp) flows from the headbox onto an endless moving wire screen where the sheet is formed and through which water drains by gravity and suction. On a cylinder machine, a revolving wire-mesh cylinder rotates in a vat of diluted pulp and picks up a layer of fibers which are deposited onto a moving felt. The cylinder machine has the capacity to make multi-layered sheets, which accounts for its principal use in the manufacture of paperboard.

Both types of machines are equipped with press and dryer sections. The sheet is transferred from the wire or felt to the press section where additional water is removed through mechanical means prior to drying. In the dryer section, the sheet or board is carried through a series of heated hollow steel or iron cylinder. Sizing or coatings can be applied at the dry end or on separate machines. Following the drying section, the sheet can be calendered for a smoooth finish and packaged for shipment.

The pulp, paper, and paperboard industry is a high water use industry. Major uses of water are similar industry wide although the amount used varies from segment to segment. The two methods of wastewater discharge include direct discharge to navigable waters and indirect discharge to a publicly owned treatment works (POTW). At some mills, recycle systems or evaporation techniques are used so that no wastewater is discharged. It has been estimated that wastewater discharges total 16.0 million cubic meters (4.2 billion gallons) per day. The largest contributor of wastewater is the intergrated segment, where discharges total about 14.0 million cubic meters (3.6 billion gallons) per day. Of the 218 operating mills in the intergrated segment for which technical survey responses were received, there are 183 direct dischargers, 28 indirect dischargers, 7 indirect/direct dischargers, and 2 mills where no wastewater is discharged. Of the 271 operating mills in the secondary fiber segment for which technical survey responses were received, there are 77 direct dischargers, 148 indirect dischargers, 2 indirect/direct dischargers, and 44 mills no wastewater is discharged. Total wastewater discharge from this industry segment is 0.95 million cubic meters (0.26 billion gallons) per day. Of the 143 operating mills in the nonintergrated segment for which technical survey responses were received, there are 76 direct dischargers, 57 indirect dischargers, 5 indirect/direct dischargers, and 5 mills where no wastewater is discharged. Total wastewater discharge from this industry segment is about 1.2 million cubic meters (0.32 billion gallons) per day.

The most important pollutants associated with the production of pulp, paper, or paperboard are: 1) toxic pollutants (chloroform, zinc, trichlorophenol, and pentachlorophenol, 2) conventional pollutants (BOD5, TSS, and pH), and 3) nonconventional pollutants (ammonia, color, resin acids, and bleach plant derivatives).

Wastewater characteristics differ from subcategory to subcategory due to the varying nature of processes employed and/or products manufactured. In general the wastes are complex mixtures of natural and synthetic organic materials and inorganic chemicals. the wastes are high in BOD5 and TTS, with typical raw waste concentrations ranging from 150 to 900 mg/1 for BOD5 and from 250 to 2,000 mg/1 for TTS.

EPA estimates that there are 706 operating pulp, paper, and paperboard mills in the United States. Detailed technical information is available for 632 of these mills. These facilities range from large integrated kraft mills producing over 1,800 kkg/day (2,000 tons/day) to small nonintergrated mills where less than 1 kkg/day (1.1 tons/day) of product are made.

Pulp, paper, and paperboard mills are located throughout the United States. Historically, the industry has spread from the Northeastern U.S. to the North Central states and later to the Pacific Northwest. In the late 1930s, significant industry growth occurred in the Southern states.

During the past ten years, except during the recession of 1975, sales of paper and paperboard products have risen at a steady pace from $20.6 billion in 1969 to $55.4 billion in 1979. This represents a compound annual growth rate in sales of 10.4 percent. The industry after-tax return on sales during the period averaged 5.0 percent, slightly higher than the average for all manufacturing industries. After-tax returns on net worth have averaged 11.2 percent, or slightly below the average for all manufacturing industries. Capital investment expenditures increased from a low of $1.25 billion in 1971 to a high of $4.9 billion in 1979.

Several changes are projected for the industry. Though overall sales for paper and paperboard products are expected to rise, the demand for some product types may rise or fall disproportionately to that trend. For example, domestic newsprint production capacity is expected to increase dramatically. This will increase domestic sales and reduce the Nation's reliance on imports of newsprint which now total over half of the Nation's newsprint consumption. The paper and paperboard market share for non-deinked secondary fiber mills, on the other hand, is expected to decline. These smaller, less efficient mills have a competitive disadvantage due to their higher unit costs of production relative to the larger virgin fiber mills.

The Agency expects that closures will occur in the industry without the imposition of additional pollution controls. These closures are expected to occur in all three major segments of the industry due to two major factors. First, demand is declining in some product sectors causing marginal mills to close. Second, the industry is concentrating its operations in fewer and larger mills and closing the smaller, older, high cost mills. The production capacity lost through these closures will be replaced through utilization of excess or idle capacity at existing mills. In many product sectors, this idle capacity accounts for over 20 percent of the total capacity.

Though rising demand indicates the need to expand the industry's production capacity, the Agency expects most additions to industry capacity to be made through expansion of existing mills.

Several factors lead the Agency to believe that few new "green field" mills will be constructed. Most existing mills are built in such a way that on-site expansion is possible. They are also built with excess capacity included in part of the production line. Thus, capacity expansion can be accomplished simply by expanding the capacity of the remainder of the production line. This expansion option is less risky and less expensive than the construction of a new mill.

The construction of a new mill requires that a site be found that is suitable for the operation, has access to sufficient water, is close to raw material supplies, and is large enough to accommodate the mill operation. Finding such a site at a reasonable cost can be difficult.

III. Scope of this Rulemaking and Summary of Methodology

These proposed regulations expand the water pollution control requirements for the pulp, paper, and paperboard industry. In EPA's initial (May 1974 and January 1977) rulemaking, emphasis was placed on the achievement of BPT, BAT, and NSPS based on the control of familiar, primarily conventional, pollutants. In 1977, EPA proposed PSES based on compliance with general prohibitive waste provisions (42 FR 6476; 40 CFR Part 128 (now, Part 403)). By contrast, in this round of rulemaking, EPA's efforts are directed toward instituting BCT and BAT effluent limitations, new source performance standards, and pretreatment standards for existing and new sources that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants.

In general, BCT represents the best control technology for conventional pollutants that is reasonable in cost and effluent reduction benefits. It replaces BAT for conventional pollutants. BAT represents, at a minimum, the best economically-achievable performance in any industrial category or subcategory and, as a result of the Clean Water Act of 1977, emphasis has shifted from control of familiar, primarily conventional, pollutants to control of a lengthy list of toxic substances. New source performance standards represent the best available demonstrated technology for control of all pollutants, and pretreatment standards for existing and new sources represent the best economically-achievable performance for control of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs, including management of sludge.

In the 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared 65 pollutants and classes of pollutants "toxic" under section 307(a) of the Act. Those engaged in wastewater sampling and control had little experience dealing with these pollutants. In addition, these pollutants often appear and have toxic effects at concentrations which severely taxed available analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances. Thus, with the passage of the 1977 legislation, the focus of the Nation's water pollution control program was directed toward the control of pollutants for which there was relatively little knowledge or experience.

EPA's implementation of the Act required a complex development program, described in this section and subsequent sections of this notice. Initially, because in many cases no public or private agency had done so, EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under SAMPLING AND ANALYTICAL PROGRAM. EPA then gathered technical and finaicial data about the industry which are summarized under DATA-GATHERING EFFORTS. With these data, the Agency proceeded to develop these proposed regulations.

First, EPA studied the pulp, paper, and paperboard industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of manufacturing facilities, water use, wastewater constituents, or other factors required the development of separate effluent limitations and standards of performance for different segments of the industry. This study required the identification of raw waste and treated effluent characteristics, including: 1) the sources and volume of water used, the manufacturing processes employed, and the sources of pollutants and wastewaters within the plant, and 2) the constitutents of wastewaters, including toxic pollutants. (See INDUSTRY SUBCATEGORIZATION.) EPA then identified the constitutents of wastewaters which should be considered for effluent limitations guidelines and standards of performance, and statistically analyzed raw waste constituents, as discussed in detail in Section V of the Development Document.

Next, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or capable of being used to control or treat pulp, paper, and paperboard industry wastewater. The Agency compiled and analyzed historical and newly generated data on the effluent quality resulting from the application of these technologies. The long-term performance, operational limitations, and reliability of each of the treatment and control technologies were also identified. In addition, EPA considered the non-water quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, and energy requirements.

The Agency then estimated the costs of each control and treatment technology for the various industry subcategories from unit cost curves developed by standard engineering analysis as applied to the specific pulp, paper, and paperboard wastewater characteristics. EPA derived unit process costs from model plant characteristics (production and flow) applied to each treatment process unit cost curve (i.e., activated sludge, chemically-assisted clarification/sedimentation, granular activated carbon adsorption, mixed media filtration). These unit process costs were combined to yield total cost at each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates to treatment system costs supplied by the industry, the Agency evaluated the economic impacts of these costs. Costs and economic impacts are discussed in detail under the various technology options, and in the section of this notice entitled COSTS, EFFLUENT REDUCTION BENEFITS, AND ECONOMIC IMPACTS.

Upon consideration of these factors, as more fully described below, EPA identified various control and treatment technologies as BPT, BCT, BAT, NSPS, PSES, and PSNS. The proposed regulations, however, do not require the installation of any particular technology. Rather, they require achievement of effluent limitations representative of the proper application of these technologies or equivalent technologies. A mill's existing controls should be fully evaluated, and existing treatment systems fully optimized, before commitment to any new or additional end-of-pipe treatment technology.

The effluent limitations for BPT, BCT, BAT, and NSPS are expressed as mass limitations (kg/kkg or lbs/1000 lbs of finished product) and are calculated one of three ways: (1) by multiplying (a) maximum anticipated effluent concentrations determined from analysis of control technology performance data and (b) typical wastewater flow for each subcategory, (2) by multiplying (a) long-term average effluent loadings determined from analysis of control technology performance data and (b) a process or treatment variability factor, or (3) by multiplying (a) long-term average effluent concentrations determined from analysis of control technology performance data, (b) typical wastewater flow for each subcategory, and (c) a process or treatment variability factor. These basic calculations were performed for each regulated pollutant or pollutant parameter for each subcategory of the industry. Effluent limitations for PSES and PSNS are expressed as allowable concentrations in milligrams per liter (mg/l). Mass limitations are also provided as guidance for POTWs if mass limitations are imposed along with, or instead of, the concentration limitations.

IV. Data-Gathering Efforts

The data-gathering efforts involved several distinct, detailed activities which are summarized here. All aspects of the program are described in detail in Section II of the Development Document and Section I of the Economic Impact Analysis.

In general, data-gathering efforts were conducted by four principal means: 1) a review of the administrative record for the proposal and promulgation of prior EPA regulations; 2) surveys of the industry; 3) contact with representatives of State regulatory agencies, EPA regional offices, and EPA and private research facilities; and 4) a review of pertinent literature.

The administrative records relating to previous EPA regulations included the original Development Documents (EPA-440/1-74-026a, May 1974; EPA-440/1-74-025a, May 1974; and EPA-440/1-76/047-b, December 1976) and their appendices. These records were very useful in obtaining general information on the pulp, paper, and paperboard industry. They were reviewed for information on the use of chemical additives, the use or suspected presence of toxic and nonconventional pollutants, applicable production process controls, and available effluent treatment techniques. The administrative record also included economic information contained in the original economic impact analysis documents (EPA-230/1-73-023, September 1973, and EPA-230/2-76-045, January 1976).

A. *Data-Gathering—Specifics of Technical Study.* An industry survey program was developed to collect technical information on the manufacture of pulp, paper, and paperboard. This information was collected under authority of section 308 of the Act. With considerable input from and review by industry representatives, two questionnaires were developed for (1) integrated and secondary fiber facilities, and (2) nonintegrated facilities. Through the survey program, the agency sought information on age and size of facilities, raw material usage, production processes employed, wastewater characteristics, and methods of wastewater control and treatment. It was felt by industry representatives that, to ensure a sound data base for establishment of regulatons, it was necessary to survey the entire industry. Therefore, questionnaires were sent to representatives of all known operating mills. Of the 678 known operating mills to be sent the questionnaires, 632 responses (over 93 percent) were received. It has since been determined that there are about 706 operating mills; some of the mills not included in the technical survey are old mills that are now operating but were shut down at the time of the survey or are new mills that have begun operation after submittal of the questionnaires in the fall of 1977.

The technical contractor contacted representatives of State regulatory agencies, EPA regional offices, and EPA and private research facilities for available pertinent data and for information on unpublished research activities.

An extensive literature review was performed with the purpose of: 1) obtaining pertinent general information on the pulp, paper, and paperboard industry, 2) preparing a background information file on the presence of the 129 toxic pollutants that may be discharged from pulp, paper, and paperboard mills, 3) obtaining information on the presence of other pollutants (nonconventional pollutants) that may be discharged from pulp, paper, and paperboard mills, and 4) obtaining information on production process controls and effluent treatment technology employed in the industry for control of toxic, conventional, and nonconventional pollutants. Four automated literature document searches were employed in addition to reviewing the publications of the Pulp and Paper Research Institute of Canada and of EPA's Office of Research and Development. Through these sources, over one million articles/papers and 3,500 environmental data files were searched. Those which appeared relevant were obtained, reviewed, and, if appropriate, incorporated into the data base. After completing the literature review, 14 additional nonconventional polutants (xylene, 4 resin acids, 3 fatty acids, and 6 bleach plant derivatives) were added to the list of 129 specific toxic pollutants to be investigated during the sampling and analytical program.

B. *Data-Gathering—Specifics of Economic Study.* Data for the economic analysis of the industry were obtained from a financial survey program under the authority of section 308 of the Clean Water Act. Questionnaires seeking mill capacity, production volume, production costs, balance sheet and income information, costs for existing treatment facilitites, and projected capital expenditures were sent to representatives of 706 mills. Of these, responses to the initial request for information were received for 546 mills. Responses indicated that 48 of these mills were either closed or that pulp, paper, or paperboard products were no longer manufactured. Thus, a total of 594 responses were received in the initial mailing. A follow-up letter was sent to representatives of the 112 non-responding mills that yielded 88 additional responses; therefore, responses were received for a total of 682 mills, a 97 percent response rate. The financial survey data was supplemented by data from government publications, industry members, trade associations, publicly-available financial studies, and visits to mills.

Because of the desire of several mill owners to safeguard the confidential financial information requested in the financial survey by means beyond those provided by EPA, an agreement was reached between the mill owners and EPA allowing mill owners the choice to send their financial survey responses to an impartial third party or directly to EPA. This agreement, known as the Third Party Data Aggregation Procedure Agreement, was implemented to allow the mill owners to have added protection of their confidential information above that provided by EPA, if they so desired, while still allowing the Agency to perform an analysis using actual mill data. The financial data received on all survey responses was stored as one computer data base held by the third party.

As part of this procedure EPA agreed to include several limitations on uses of the data base in conducting our study of the pulp, paper, and paperboard industry. Among them were limitations on the Agency's access to the data base and on the output of computer programs performed using the data base. The Agency could not remove data on individual mills from the premises of the third party nor could the name and location of a mill be seen with its financial information. The only outputs which could be seen were those generated using data from two or more mills. Because of these limitations on access to and uses of the data base, the Agency was constrained from performing some detailed analyses. However, these were not in any area of major concern and the quality of the analysis performed is quite high when compared to analyses performed without data collected in financial surveys. The results of the analysis are presented in Section XVI of this notice.

V. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. In the field of wastewater treatment, little attention was paid to the control of specific organic compounds until a few years ago. Only on rare occasions has EPA regulated, or has industry monitored or even developed methods to monitor for these pollutants. As a result, analytical methods for many of the toxic pollutants have not yet been promulgated under section 304(h) of the Act. Moreover, state-of-the-art techniques involve the use of expensive, sophisticated equipment, with costs ranging as high as $200,000 per unit.

When faced with these problems, EPA scientists, including staff of the Environmental Research Laboratory in Athens, Georgia and staff of the Environmental Monitoring and Support Laboratory in Cincinnati, Ohio, conducted a literature search and initiated a laboratory program to develop analytical and sampling protocols. The result was the establishment of a comprehensive set of procedures entitled, *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants,* (EPA, Cincinnati, Ohio, April 1977).

Because section 304(h) methods were available for most toxic metals, pesticides, total cyanide, and total phenolics, the analytical effort focused on developing methods for sampling and analyzing specific organic toxic pollutants. The three basic analytical approaches considered were infrared spectroscopy, gas chromatography (GC) with multiple detectors, and gas chromatography/mass spectrometry (GC/MS). In selecting among these alternatives, EPA considered sensitivity, laboratory availability, costs, applicability to diverse waste streams from numerous industries, and capability for implementation within the statutory and court-ordered time constraints of EPA's program.

The Agency concluded that infrared spectroscopy was not sufficiently sensitive or specific for application in wastewater analyses, and that GC with multiple detectors without mass spectrometry would require multiple runs incompatible with time constraints and would possibly result in failure to detect certain toxic pollutants. EPA chose GC/MS because it could identify a wide variety of pollutants in many different matrices and do so in the presence of interfering compounds and within the time constraints of the program. In EPA's judgment, GC/MS and the other analytical methods for toxics used in this rulemaking represent the best state-of-the-art methods for toxic pollutant analyses available at the time of this study.

As the state-of-the-art matures, EPA intends to refine the sampling and analytical protocols to keep pace with technological advancements. However, limited resources prevent EPA from reworking completed sampling and analyses to keep up with the evolution of analytical methods. As a result, the analytical techniques used in some rulemakings may differ slightly from those used in others. In each case, however, the analytical methods used represent the best state-of-the-art available for a given industry study. One of the goals of EPA's analytical program is the proposal and promulgation of additional section 304(h) analytical methods for toxic pollutants, scheduled for calendar years

1979 and 1980. On December 3, 1979, EPA proposed rules establishing test procedures for the analysis of 113 organic toxic pollutants (44 FR 69464; 40 CFR 136).

Before proceeding to analyze industrial wastewaters, EPA concluded that it had to define specific toxic pollutants for analyses. The list of 65 toxic pollutants and classes of toxic pollutants potentially includes thousands of specific pollutants; the expenditure of resources in government and private laboratories would be overwhelming if analyses were attempted for all of these pollutants. Therefore, in order to make the task more manageable, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for selection of these 129 pollutants included frequency of occurrence in water, chemical stability and structure, amount of the chemical produced, availability of chemical standards for measurement, and other factors. In addition to the 129 specific toxic pollutants, EPA decided to investigate the presence of an additional 14 nonconventional organic pollutants known to be present in pulp, paper, and paperboard effluents.

EPA ascertained the presence and magnitude of the 129 specific toxic and the additional 14 nonconventional pollutants in pulp, paper, and paperboard wastewaters in a two-phase sampling and analysis program: screening and verification. The purpose of the screening program was the identification of those of the 129 specific toxic and the 14 nonconventional pollutants that are present in pulp, paper, and paperboard effluents. The procedures used to analyze wastewater samples during screening, described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (EPA, Cincinnati, Ohio, April, 1977) and *Procedures for Screening of Pulp, Paper, and Paperboard Effluents for Fourteen Nonconventional Pollutants* (EPA, Washington, D.C., December, 1980), also allow for calculation of the approximate quantity of those specific toxic and additional 14 nonconventional pollutants present. The purpose of the verification program was to verify the presence of the toxic and additional nonconventional pollutants identified during screening and to determine the quantity of specific toxic and nonconventional pollutants present in pulp, paper, and paperboard wastewaters prior to treatment and after the application of various control and treatment technologies employed in the industry.

Ideally, the Agency would complete all aspects of the screening program prior to commencement of the verification program. However, a complication arose in the process of completing these investigations that forced the Agency to depart from this preferred approach.

In the screening phase, 15 mill groupings were established that were representative of the pulp, paper, and paperboard industry. One mill from each of 11 of the 15 groups was selected for sampling. A selection was not initially possible for the remaining four groups because insufficient information was available to allow such a selection. Mill sampling proceeded and each of the 11 selected mills were sampled by an Agency contractor. After completion of the 11 sampling visits, funding for the project was depleted due to delays in receipt of supplemental appropriations from Congress. Monies allocated for completion of the technical study became available only after a delay of seven months. Keeping in mind the court-imposed deadlines, the Agency determined that any further delay in initiation of the verification sampling program was intolerable. During the period of delay, a methodology was developed that would allow initiation of the verification program immediately upon availability of funding and would also provide for development of the same high quality of data that would be obtained if the screening program had been completed.

Specific toxic pollutants to be analyzed during the verification program were selected on the basis of the best information available to the Agency. This necessitated a heavy reliance on analytical data gathered during the abbreviated screening program. All specific toxic pollutants identified as present in discharges from the 11 sampled mills were analyzed during verification sampling. In addition, it was decided that both screening and verification studies would be conducted simultaneously at all verification mills where processes were employed that were representative of the four mill groupings not previously a part of the screening program.

EPA Regional field teams had conducted and were continuing to conduct sampling studies at 47 pulp, paper, and paperboard mills. Sample collection and analysis adhered to the procedures specified in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (EPA, Cincinnati, Ohio, April, 1977); therefore, the results of these EPA Regional investigations are equivalent to the screening data obtained during contractor screening studies at the 11 mills. Unfortunately, at the time of commencement of the verification program, no complete data were available for any of the total of 47 sampling visits conducted by EPA Regional sampling teams. Therefore, the Agency decided to continue to use GC/MS procedures during the verification program because this would allow storage of all verification data on computer tapes.

Analysis of verification parameters began as soon as samples were collected and shipped to the analytical laboratory. Computer tapes including data on all specific toxic pollutants were prepared. This enabled a review of the data tapes upon the determination that other specific toxic pollutants were present in pulp, paper, and paperboard effluents that were not identified at the 11 screening mills. This storage of data ensured that the verification program would yield comparable results to that which would have been obtained had screening results been available from mills representative of all 15 mill groupings.

The Agency later determined that further analysis of the data tapes would be unnecessary after completion of a thorough review of screening data. These data were gathered during screening studies conducted by EPA Regional field teams and during contractor verification sampling at those 17 mills where processes were employed that were characteristic of the four mill groupings that were not a part of the initial contractor screening program. All additional compounds that were identified and were not analyzed during verification sampling were present in amounts too small to be effectively reduced by technologies known to the Administrator.

The procedures used to analyze samples collected during verification sampling provided for additional quality control and quality assurance over those procedures used during the screening phase. These verification procedures are the same as Methods 624 and 625 proposed under authority of sections 304(h) and 501(a) of the Act (see 40 CFR Part 136; 44 FR 69464 (December 3, 1979)). The Agency chose the option of including additional quality control and quality assurance procedures described in *Procedures for Analysis of Pulp, Paper, and Paperboard Effluents for Toxic and Nonconventional Pollutants* (EPA, Washington, D.C., December, 1980). These quality control and quality assurance procedures allow for interpretation of data to account for the percent recovery of specific toxic and nonconventional pollutants and for a determination of whether the analytical results are valid. This is accomplished through the addition of external standards characteristic of groups of the specific toxic and nonconventional pollutants under investigation: phenolics, phthalates, polynuclear aromatic hydrocarbons, and resin and fatty acids. During the verification program 60 facilities were sampled; at least one and as many as six mills were sampled that were characteristic of each of the subcategories of the pulp, paper, and paperboard industry.

The primary objective of the field sampling programs (both screening and verification) was to produce composite samples of wastewater from which determinations could be made of the amount (concentration) of toxic pollutants present. Sampling was conducted during three consecutive days of plant operation. Raw wastewater samples were taken either before treatment or after minimal preliminary treatment (i.e., screening, primary sedimentation), depending upon accessibility to the wastewater stream. Treated effluent samples were taken either following pretreatment (usually indirect dischargers) or after biological and/or physical/chemical treatment (direct dischargers). EPA also sampled the raw water source (e.g., intake water) to determine the presence of toxic pollutants prior to contamination by the manufacturing process.

Prior to both screening and verification plant visits, sample containers were carefully washed and prepared using appropriate procedures specified in *Sampling and Analysis Procedures for Screening of Industrial Pollutants for Priority Pollutants* (EPA, Cincinnati, Ohio, April, 1977). EPA took a number of other precautions to minimize potential contamination from sampler components. Samples were kept on ice prior to and during express shipment in insulated containers. At raw waste or pretreatment and at final effluent sampling points, automatic samplers were used to prepare composite samples from individual aliquots collected at 30-minute intervals.

The analyses for the 129 toxic pollutants were performed according to groups of chemicals and associated analytical schemes. Organic toxic pollutants include 32 volatile (purgeable) and 82 nonvolatile pollutants. The nonvolatile pollutants include 2 base extractables, 45 neutral extractables, 11 acid extractables, and 24 pesticides. Inorganic toxic pollutants include 13 heavy metals, cyanide, and asbestos. One pollutant, 2,3,7,8-tetrachloro-dibenzo-a-dioxin (TCDD), was not analyzed. TCDD was omitted because of its extreme toxicity and the health hazards involved in preparing standard solutions. The 14 additional nonconventional organics include xylene, a volatile organic, and 13 acid-extractable organics (3 fatty acids, 4 resin acids, and 6 bleach plant derivatives).

The primary analytical method used in screening was the identification of volatile organics and base-neutral and acid-extractable organics through the use of gas chromatography (GC) with confirmation and quantification on all samples by mass spectrometry (MS). A similar approach was used during verification except that a single acid-neutral extraction was employed in the analysis of extractable organics. GC was employed for analysis of pesticides with presence confirmed by MS. The Agency analyzed the toxic heavy metals by atomic adsorption spectrophotometry (AAS), with flame or graphite furnace atomization following appropriate digestion of the sample, and by the inductively-coupled argon plasma (ICAP) excitation technique. Total cyanide and total phenols were measured by conventional wet chemistry techniques as outlined in "Standard Methods for the Examination of Water and Wastewater, 14th Edition." Analyses for asbestos were accomplished by microscopy and fiber presence reported as chrysotile fiber count. Analyses for other nonconventional pollutants (color, ammonia, and COD) were accomplished using "Methods for Chemical Analysis of Water and Wastes," (EPA 625/6–74–003) and amendments thereto. A detailed discussion of the analytical procedures employed for all determinations is provided in Appendix A of the Development Document.

During screening, 72-hour composite samples were collected for analysis of specific toxic pollutants (acid and base-neutral extractable organics, pesticides, and metals except mercury), 13 of the 14 additional nonconventional organic pollutants, and asbestos. Grab samples were taken for volatile (purgeable) priority organics, xylene, total phenolics, total cyanide, and mercury.

During the verification program, 24-hour composite samples were collected for three consecutive days for analysis of specific toxic pollutants (acid-neutral extractable organics, pesticides, and metals except mercury), 13 of the 14 additional nonconventional pollutants under investigation, COD, color, and ammonia. Grab samples were taken for volatile (purgeable) priority organics, xylene, mercury, and total cyanide.

VI. Industry Subcategorization

In developing these regulations, it was necessary to determine whether different effluent limitations and standards of performance were appropriate for different groups of mills (subcategories) within the industry. The factors considered in identifying these subcategories included: raw materials used, products manufactured, production processes employed, mill size and age, and treatment costs. The original (Phase I and Phase II) rulemaking efforts resulted in a total of 22 different subcategories.

As part of the BAT review program, an updated and more complete data base has been collected for 632 operating mills in the pulp, paper, and paperboard industry. A review of the existing subcategorization scheme was undertaken in order to determine its adequacy in representing current industry practices.

In the integrated mills segment of the industry, this review has resulted in a number of revisions. A single semi-chemical subcategory has been established that includes all mills where paperboard is made from semi-chemical pulp produced on-site. Mills previously within the sodium-based neutral sulfite semi-chemical (NSSC) and the ammonia-based NSSC subcategories are now included in the semi-chemical subcategory. Another new subcategory, unbleached kraft and semi-chemical, has been established that includes all mills where pulp is produced without bleaching using two pulping processes, unbleached kraft and semi-chemical, wherein the spent semi-chemical cooking liquor is burned within the kraft chemical recovery system. Mills previously within the unbleached kraft-neutral sulfite semi-chemical (cross recovery) subcategory are included in the unbleached kraft and semi-chemical subcategory.

In the secondary fiber segment, a new subcategory, the wastepaper-molded products subcategory, has been established to reflect distinct process and wastewater differences associated with the production of molded products from wastepaper.

In the nonintegrated segment of the industry, three new subcategories have been established to represent differences in the manufacture of specific products. The new subcategories are nonintegrated-lightweight, nonintegrated-filter and nonwoven, and nonintegrated-paperboard.

Detailed information on the basis for these revisions is presented in Section IV of the Development Document. The subcategories of the pulp, paper, and paperboard industry for which regulations are proposed in this rulemaking are defined as follows:

Dissolving Kraft. This subcategory includes mills where a highly bleached pulp is produced using a "full cook" process employing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. Included in the manufacturing process is a "pre-cook" operation termed pre-hydrolysis. The principal product is a highly bleached and purified dissolving pulp used principally for the manufacture of rayon and other products requiring the virtual absence of lignin and a very high alpha cellulose content.

Market Bleached Kraft. This subcategory includes mills where a bleached pulp is produced using a "full cook" process employing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. Papergrade market pulp is produced at mills representative of this subcategory.

Board, Coarse, and Tissue (BCT) Bleached Kraft. This subcategory includes the integrated production of bleached kraft pulp and board, coarse, and tissue papers. Bleached kraft pulp is produced on-site using a "full cook" process employing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. The principal products include paperboard (B), coarse papers (C), tissue papers (T), and market pulp.

Fine Bleached Kraft. This subcategory includes the integrated production of bleached kraft pulp and fine papers. Bleached kraft pulp is produced on-site using a "full cook" process employing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. The principal products are fine papers, which include business, writing, and printing papers, and market pulp.

Soda. This subcategory includes the integrated production of bleached soda pulp and fine papers. The bleached soda pulp is produced on-site using a "full cook" process employing a highly alkaline sodium hydroxide cooking liquor. The principal products are fine papers, which include printing, writing, and business papers, and market pulp.

Unbleached Kraft. This subcategory includes mills where pulp is produced without bleaching using a "full cook" process employing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. The pulp is used on-site to produce linerboard, the smooth facing in corrugated boxes, and bag papers.

Semi-Chemical. This subcategory includes mills where pulp is produced using a process that involves the cooking of wood chips under pressure using a variety of cooking liquors including neutral sulfite and combinations of soda ash and caustic soda. The cooked chips are usually refined before beging converted on-site into board or similar products. The principal products include corrugating medium, insulating board, partition board, chip board, tube stock, and specialty boards.

Unbleached Kraft and Semi-Chemical. This subcategory includes mills where pulp is produced without bleaching using two pulping processes: unbleached kraft and semi-chemical. Spent semi-chemical cooking liquor is burned within the kraft chemical recovery system. The pulps are used on-site to produce both linerboard and corrugating medium used in the production of corrugated boxes.

Dissolving Sulfite Pulp. This subcategory includes mills where a highly bleached and purified pulp is produced using a "full cook" process employing strong solutions of sulfites of calcium, magnesium, ammonia, or sodium. The pulps produced by this process are viscose, nitration, cellophane, or acetate grades and are used principally for the manufacture of rayon and other products that require the virtual absence of lignin.

Papergrade Sulfite (Blow Pit Wash). This subcategory includes integrated production of sulfite pulp and paper. The sulfite pulp is produced on-site using a "full cook" process employing an acidic cooking liquor of sulfites of calcium, magnesium, ammonia, or sodium. Following the cooking operations, the spent cooking liquor is washed from the pulp in blow pits. The principal products include tissue papers, newsprint, fine papers, and market pulp.

Papergrade Sulfite (Drum Wash). This subcategory includes the integrated production of sulfite pulp and paper. The sulfite pulp is produced on-site employing a "full cook" process using an acidic cooking liquor of sulfites of calcium, magnesium, ammonia, or sodium. Following the cooking operations, the spent cooking liquor is washed from the pulp on vacuum or pressure drums. Also included are mills using belt extraction systems for pulp washing. Principal products made include tissue papers, fine papers, newsprint, and market pulp.

Groundwood—Thermo-Mechanical. This subcategory includes the production of thermo-mechanical groundwood pulp and paper. The thermo-mechanical groundwood pulp is produced on-site using a "brief cook" process employing steam (with or without the addition of cooking chemicals such as sodium sulfite) followed by mechanical defibration in refiners, resulting in yields of approximately 95% or greater. The pulp may be brightened using hydrosulfite or peroxide bleaching chemicals. The principal products include market pulp, fine papers, newsprint, and tissue papers.

Groundwood-Coarse, Molded, News (CMN) Papers. This subcategory includes the integrated production of groundwood pulp and paper. The groundwood pulp is produced, with or without brightening, utilizing only mechanical defibration using either stone grinders or refiners. The principal products made by this process include coarse papers (C), molded fiber products (M), and Newsprint (N).

Groundwood-Fine Papers. This subcategory includes the integrated production of groundwood pulp and paper. The groundwood pulp is produced, with or without brightening, utilizing only mechanical defibration by either stone grinders or refiners. The principal products made by this process are fine papers which include business, writing, and printing papers.

Deink. This subcategory includes the integrated production of deinked pulp and paper from wastepapers using an alkaline process to remove contaminants such as ink and coating pigments. The deinked pulp is usually brightened or bleached. Principal products include printing, writing and business papers, tissue papers, and newsprint.

Tissue From Wastepaper. This subcategory includes the production of tissue papers from wastepapers without deinking. The principal products made include facial and toilet papers, glassine, paper diapers, and paper towels.

Paperboard from Wastepaper. This subcategory includes mills where paperboard products are manufactured from a wide variety of wastepapers such as corrugated boxes, box board, and newspapers; no bleaching is done on-site. Mills where paperboard products are manufactured principally or exclusively from virgin fiber are not included within this subcategory, which includes only those mills where wastepaper comprises at least 80 percent of the raw material fibers. The principal products include a wide variety of items used in commercial packaging, such as bottle cartons.

Wastepaper-Molded Products. This subcategory includes mills where molded products are produced from wastepapers without deinking. Products include molded items such as fruit and vegetable packs and similar throwaway containers and display items.

Builders' Paper and Roofing Felt. This subcategory includes mills where heavy papers used in the construction industry are produced from cellulosic fibers derived from wastepaper, wood flour and sawdust, wood chips, and rags. Neither bleaching nor chemical pulping processes are employed on-site.

Nonintegrated-Fine Papers. This subcategory includes nonintegrated mills where fine papers are produced from purchased pulp. The principal products of this process are printing, writing, business, and technical papers.

Nonintegrated-Tissue Papers. This subcategory includes nonintegrated mills where tissue papers are produced from wood pulp or deinked pulp prepared at another site. The principal products made at these mills include facial and toilet papers, glassine, paper diapers, and paper towels.

Nonintegrated-Lightweight Papers. This subcategory includes nonintegrated mills where lightweight or thin papers are produced from wood pulp or secondary fibers prepared at another site and from nonwood fibers and additives. The principal products made at these mills include uncoated thin papers, such as carbonizing papers and cigarette papers, and some special grades of tissue such as capacitor, pattern, and interleaf.

Nonintergrated-Filter and Nonwoven Papers. This subcategory includes nonintegrated mills where filter papers and nonwoven items are produced from a furnish of wood pulp, secondary fibers, and nonwood fibers prepared at another site. The principal products made at these mills include filter and blotting papers, nonwoven packaging and specialties, insultation, technical papers, and gaskets.

Nonintegrated-Paperboard. This subcategory includes nonintegrated mills where paperboard is produced from wood pulp or secondary fibers prepared at another site. The principal products made at these mills include linerboard, folding boxboard, milk cartons, food board, chip board, pressboard, and other specialty boards. Mills where electrical grades of board and matrix board are produced are not included in this subcategory.

The subcategories described above do not reflect the industry segments used to evaluate the economic impacts of the proposed regulations. As can be determined from the descriptions above, at mills in certain subcategories a variety of end products can be manufactured. Also, each end product can be made at mills in various subcategories. For example, tissue papers are made at mills in the BCT bleached kraft, both papergrade sulfite, deink, tissue from wastepaper, and nonintegrated-tissue subcategories. At mills in some of these subcategories, several other products can also be made. The economic impacts are presented from both the mill types and the product types which are described below (see Section XVI, COSTS, EFFLUENT REDUCTION BENEFITS, AND ECONOMIC IMPACTS).

VII. Available Wastewater Control and Treatment Technology

A. *Status of In-Place Technology.* The control and treatment technologies that are employed to reduce pollutant discharge from pulp, paper, and paperboard manufacturing facilities include a broad range of in-plant and process changes and end-of-pipe treatment techniques. The in-plant control measures range from the application of minor water conservation measures, such as liquid level control, to extensive recycling of wastewater. The end-of-pipe treatment technologies range from no treatment to complete containment of wastewater. At most mills, programs have been implemented that combine elements of both in-plant control and wastewater treatment.

In-plant control measures employed at mills in the pulp, paper, and paperboard industry include water reduction and reuse techniques, chemical substitution, and process changes. Techniques to reduce water use include the use of high pressure showers for wire and felt cleaning on the paper machine and the elimination of water use where applicable (i.e., for housekeeping, for barking of whole logs).

Extensive reuse of water is practiced in the pulp, paper, and paperboard industry. A recent study prepared by the EPA Office of Research and Development indicates that all intake water is used almost three and one-half times before it is discharged. Recirculation techniques include reuse of paper machine whitewater as pump seal water, as pulp dilution water, and on paper machine showers and the use of jump-stage or countercurrent washing of pulp.

Chemical subtitution involves the replacement of process chemicals having high pollutant strength or toxic properties with others that are less polluting or more amenable to treatment. Historically, mercury compounds were contained in biocide and slimicide formulations used in the pulp, paper, and paperboard industry. Process chemicals containing mercury are no longer used in this industry. Similarly, biocide and slimicide formulations containing chlorophenolics have been replaced with formulations that do not contain these toxic pollutants. Zinc hydrosulfite was commonly used in the bleaching of groundwood pulps; this bleaching chemical has been replaced through the use of sodium hydrosulfite, thus minimizing zinc discharge from the pulp, paper, and paperboard industry.

Process changes include various measures that reduce water use, wastewater discharge, and/or wastewater loadings while improving processing efficiency. Replacement of barometric condensers with surface condensers, evaporation of process streams for by-product recovery, the addition of spill control systems to enable reprocessing of chemical cooking liquors, and addition or enlargement of existing pulp washers are examples of process changes that have been successfully employed in the pulp, paper, and paperboard industry to reduce pollutant loadings while improving process efficiencies.

The end-of-pipe treatment technologies employed by the industry include: no treatment, preliminary treatment (neutralization, equalization, primary clarification, and/or various flotation techniques), biological or equivalent treatment (aerated stabilization basins with and without settling basins, oxidation ponds, and activated sludge systems), and physical/chemical treatment (filtration and chemically-assisted clarification).

At approximately five percent of the direct discharging mills, no treatment is provided. At another 20 percent, only preliminary treatment is provided. It is anticipated that some of these mills will be connected to POTWs currently in the construction or design stages. At the remaining 75 percent of the direct discharging mills, biological or equivalent treatment is provided, with aerated stabilization basins the predominant type of treatment system employed. Biologically-treated effluents are further treated at three mills using chemically-assisted clarification.

At approximately 84 percent of the indirect discharging mills surveyed, no treatment is provided. To date, discharge from these facilities to POTWs has been allowed with no specific control requirements. It is anticipated that this may change as industrial waste contributions to POTWs are evaluated and user charges assessed in accordance with EPA guidelines. At the remaining indirect discharging mills, only preliminary treatment, usually primary clarification or dissolved air flotation, is employed.

There are 51 pulp, paper, and paperboard mills from which no wastewater is discharged to navigable waters. Ninety percent of these mills are secondary fiber mills; at over 70 percent, wastepaper board or builders' paper and roofing felt are produced.

B. *Control Technologies Considered.* An extensive review of the control and treatment alternatives available for application in the pulp, paper, and paperboard industry has resulted in identification of various methods for control of toxic, conventional, and nonconventional pollutants. In general, toxic pollutnats are effectively controlled through the application of the best practicable control technology currently available. However, it has been determined that pentachlorophenol and trichlorophenol, constituents of biocides and slimicides used in this industry, are not effectively treated and pass through existing treatment systems. These pollutants and the toxic metal zinc, once commonly used in the bleaching of mechanical pulps, can be controlled through the substitution of process chemicals. This process control technology forms the basis of technology options considered in establishing BAT, NSPS, PSES, and PSNS.

Technologies identified for control of conventional pollutants include: (1) BPT technology plus the implementation of additional production process controls to reduce raw waste loads, ensuring additional removal of BOD and TSS; (2) BPT technology plus the addition of chemically-assisted clarification for those subcategories where BPT was based on biological treatment, or BPT technology plus the addition of biological treatment for those subcategories where BPT was based on primary treatment only; (3) Option 1 plus the addition of chemically-assisted clarification for those subcategories where BPT was based on biological treatment, or Option 1 plus the addition of biological treatment for those subcategories where BPT was based on primary treatment only; and (4) upgrade of existing BPT to attain effluent levels characteristic of best performing mills. These technology options were considered in establishing BCT effluent limitations. It was determined that NSPS for conventional pollutants would be based on the application of production process controls to reduce wastewater discharge and raw waste loadings and end-of-pipe treatment in the form of biological treatment for all subcategories except nonintegrated-tissue papers, nonintegrated-filter and nonwoven papers, nonintegrated-lightweight papers, and nonintegrated-paperboard, where end-of-pipe treatment is in the form of primary clarification.

Several technologies were identified for control of nonconventional pollutants in pulp, paper, and paperboard wastewaters, including (1) control of ammonia discharges at mills where ammonia is used as a chemical cooking base through (a) substitution to a different base chemical or (b) through the application of biological treatment in a mode to allow conversion of ammonia to nitrate, and (2) control of color in those subcategories where highly colored effluents are discharged through the application of chemically-assisted clarification. Detailed information on technologies available for control of ammonia and color are contained in Sections VII, VIII, and IX of the Development Document. It has been determined that effluent limitations and standards will not be established for ammonia and color. Color will be controlled on a case-by-case basis as dictated by water quality considerations. The Agency is seeking public comment on ammonia discharges from integrated mills where ammonia-based cooking chemicals are used; limited information is currently available on the discharge of this nonconventional pollutant.

VIII. Best Practicable Control Technology (BPT) Effluent Limitations

Effluent limitations reflecting the best practicable control technology currently available (BPT) are generally based on the average of the best existing performance of plants of various sizes, ages, and unit processes within an industry or subcategory. Where existing performance is uniformly inadequate, BPT may be treansferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits (see *Tanners' Council of America* v. *Train*, 540 F. 2d 1188 (4th Cir. 1976)). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such changes or controls are common industry practice.

BPT considers the total cost of the application of technololgy in relation to the effluent reduction benefits to be achieved from the technologies. The cost/benefit inquiry for BPT is a limited balancing, which does not require the Agency to quantify benefits in monetary terms (see, e.g., *American Iron and Steel Institute* v. *EPA*, 526 F. 2d 1027 (3rd Cir. 1975)). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies (see *Weyerhaeuser Company* v. *Costle*, 11 ERC 2149 (D.C. Cir. 1978)).

The Clean Water Act requires the establishment of BCT limitations for industry subcategories that discharge conventional pollutants. In order to develop BCT limitations for four new subcategories of the pulp, paper, and paperboard industry (wastepaper-molded products, nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard), a base level BPT determination is desirable because the "cost-reasonableness test", required as part of the BCT determination, rest on the incremental cost of removal of BOD5 and TSS form BPT to BCT.

As stated above, the Act establishes the requirements for development of BPT limitations, which are basically the average of the best existing performance. The best practicable control technology currently available for the wastepaper-molded products subcategory has been identified as biological treatment, which is also the technology on which BPT limitations are based for all other subcategories of the secondary fibers segment of the pulp, paper, and paperboard industry.

It has been determined that wastewater discharges from the nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard subcategories are similar in nature to discharges from the nonintegrated-tissue papers subcategory. For these subcategories, the best practicable control technology currently available has been identified as primary clarification, which is the technology on which BPT limitations are based for the nonintegrated-tissue papers subcategory.

The economic analysis indicates that implementation of BPT would require four direct discharging mills in the wastepaper-molded products subcategory to invest a total of $6.17 million and incur annual costs (including operation, maintenance, interest, and depreciation) of $1.85 million. The remainder of the direct discharging mills in the wastepaper-molded products, nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard subcategories already have treatment in-place that is at least equivalent to that which forms the basis of BPT effluent limitations. The only product sector affected by these regulations will be the molded pulp product sector. Production costs are expected to increase by about 6.9 percent. No supply and demand analysis can be done for this product sector, but any price increases will be limited to the cost increase. If only half of the cost increase is passed through to users of molded pulp products, there will be no closures as a result of implementation of these proposed rules.

IX. Best Available Technology (BAT) Effluent Limitations

The factors considered in establishing the best available technology economically achievable (BAT) level of control include environmental considerations such as air pollution, energy consumption, and solid waste generation, the costs of applying the control technology, the age of process equipment and facilities, the process employed, process changes, and the engineering aspects of applying various types of control techniques (Section 30[illegible](b)(2)(B)). In general, the BAT technology level represents, at a maximum, the best existing economically-achievable performance of plants of shared characteristics. Where existing performance is uniformly inadequate, BAT technology may be transferred from a different subcategory of industrial category. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT considers costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle,* 11 ERC 2149 (D.C. Cir. 1978)). In assessing the proposed BAT, the Agency has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this consideration of costs, the primary determinant of BAT is effluent reduction capability using economically-achievable technology. As a result of the Clean Water Act of 1977, the achievement of BAT has become the national means of controlling the discharge of toxic pollutants. Four different toxic pollutants of concern are discharged from mills in the pulp, paper, and paperboard industry. These pollutants are chloroform, trichlorophenol, pentachlorophenol, and zinc. EPA has selected two available BAT technology options for consideration that will significantly reduce their discharge. Explanation and analysis of these options follow. For a more detailed discussion, see Sections VIII and X of the Development Document.

OPTION 1—Base effluent limitations on the proper application and operation of the technologies that formed the basis of BPT effluent limitations. The technologies on which existing BPT regulations are based include: screening, primary clarification, and biological treatment for all subcategories except nonintegrated-tissue, nonintegrated-lightweight, nonintegrated-filter and nonwoven, and nonintegrated-paperboard, where regulations are based or assumed to be based on screening and primary clarification. Effluent limitations were also established to control the discharge of zinc from the groundwood-fine, groundwood-CMN, and groundwood-thermo-mechanical subcategories. Zinc was regulated under BPT on the basis of precipitation using lime. EPA has determined that the technology actually employed at mills in these subcategories to comply with BPT effluent limitations was the substitution of sodium hydrosulfite, a bleaching chemical, for zinc hydrosulfite.

Regulated pollutants (chloroform and zinc) would be discharged at levels found in mill effluents where BPT limitations are attained. There would be no incremental cost associated with this option.

(B) OPTION 2—Base effluent limitations for control of toxic pollutants on chemical substitution. Slimicides and biocides containing trichlorophenol and pentachlorophenol can be replaced with formulations that do not contain these toxic pollutants.

Pentachlorophenol and trichlorophenol would be reduced to trace amounts. There would be negligible incremental cost associated with this option.

(C) BAT SELECTION AND DECISION CRITERIA—EPA has selected both Options 1 and 2 as the bases for proposed BAT effluent limitations. Option 1 has been selected to ensure control of the discharge of chloroform and zinc from the pulp, paper, and paperboard industry. In those nine subcategories where pulp is bleached with chlorine or chlorine-containing compounds, the resulting high levels of chloroform were found to be substantially reduced through the application of biological treatment. Existing BPT effluent limitations for zinc, which have been incorporated in the BAT regulations, ensure that only low levels of this toxic metal will be discharged from the pulp, paper, and paperboard industry.

Option 2, chemical substitution, was selected for control of trichlorphenol and pentachlorophenol, as it assures control of these toxic pollutants to trace levels without expensive end-of-pipe treatment. EPA has determined, after analysis of data obtained as a result of the verification program, that these pollutants are not effectively removed through the application of primary or biological treatment, the technology bases of BPT effluent limitations for all subcategories. EPA projects that alternative chemicals are currently being used at approximately 60 percent of the mills in the pulp, paper, and paperboard industry, supporting the Agency's decision to select this option.

X. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added section 301(b)(2)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in section 304(a)(4)—BOD, TSS, fecal coliform, and pH—and any additional pollutants defined by the Administrator as "conventional" (oil and grease).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a "cost-reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works (POTWs) to the cost and level of reduction of such pollutants from a class or category of industrial sources. As part of its review of BAT for certain "secondary" industries, the Agency promulgated the methodology for this cost test (see 44 FR 50732 (August 29, 1979)). This methodology compares subcategory removal costs (dollars per pound of pollutant, measuring from BPT to BCT) with costs experienced at POTWs.

EPA applied this methodology to the costs for removal of conventional pollutants beyond BPT levels from pulp, paper, and paperboard effluents.

Four technology options (which are described in greater detail in Section

VIII and XI of the Development Document) were considered, including:

(A) OPTION 1—Base effluent limitations on the technology on which BPT is based for each subcategory plus additional in-plant production process controls. No additional end-of-pipe technology beyond BPT is contemplated in this option. Effluent limitations are proposed for each subcategory of the industry and are based on specific controls that include segregation of non-contact cooling water, use of dry barking operations, collection of spills and leaks for reprocessing, increased efficiency of pulp washing, collection and reuse of paper machine spills, improvement in save-all operation, and effluent recycle/reuse. These controls primarily achieve reductions in water use, wastewater discharge, and BOD5 raw waste loading. Implementation of process controls will improve performance of existing primary and secondary biological treatment systems due to the reductions of raw waste loadings. Evaluation of Option 1 by the BCT cost-reasonableness test shows that the nonintegrated-paperboard subcategory fails the test. For this subcategory, BCT, for this option, is equal to BPT.

The total mass of pollutants removed through application of this technology option would be 47 million kg/yr (103 million lbs/yr) of BOD5 and 66 million kg/yr (145 million lbs/yr) of TSS, a 27 percent reduction of BOD5 and a 24 percent reduction of TSS.

The economic analysis indicates that compliance with this option would require that direct dischargers in all segments of the industry invest a total of $654 million and incur annual costs (including operation, maintenance, interest, and depreciation) of $186 million at the projected 1982 industry capacity. Price effects as a result of these costs are expected to range from a decrease of 0.17 percent of semi-chemical corrugating medium to an increase of 3.7 percent for dissolving pulp. Decreases in prices result from decreasing demand for products and a large amount of excess capacity in the product sectors. Price decreases cause a rise in demand, which enables producers to utilize some of their excess capacity. The effects of these costs on the contribution to capital (profitability) in the affected product sectors range from a decrease of 4.1 percent to an increase of 1.28 percent. In product sectors that lose profitability, four mills in the affected subcategories may close rather than invest in pollution control equipment. However, the Agency also projects that three mills that would otherwise close would remain open due to their improved competitive standing under this regulatory option. A net gain in industry capacity of approximately 0.3 percent over the base case is expected due to this option.

(B) OPTION 2—Base effluent limitations on the addition of chemically-assisted clarification of BPT final effluents for all integrated and secondary fiber subcategories and for the nonintegrated-fine subcategory (for these subcategories BPT is based on biological treatment). It is contemplated that additional solids-contact clarifier(s) will be added using alum as a coagulant and polymer as a flocculant aid. For the remaining nonintegrated subcategories, for which primary treatment was the basis of BPT, effluent limitations are based on the addition of biological treatment. Evaluation of Option 2 by the BCT cost-reasonableness test shows that the paperboard from wastepaper, tissue from wastepaper, wastepaper-molded products, builders' paper and roofing felt, nonintegrated-tissue papers, nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard subcategories fail this test. For those subcategories where Option 2 fails the BCT cost-reasonableness test, the less-stringent Option 1 forms the basis for BCT if it passes the test.

The total mass of pollutants removed through application of this technology option would be 95 million kg/yr (208 million lbs/yr) of BOD5 and 203 million kg/yr (446 million lbs/yr) of TSS, a 55 percent reduction of BOD5 and a 73 percent reduction of TSS.

The economic analysis indicates that compliance with this option would require that direct dischargers in all segments of the industry invest a total of $1.56 billion and incur annual costs (including operation, maintenance, interest, and depreciation) of $605 million at the projected 1982 industry capacity. Price effects as a result of these costs are expected to range from a decrease of 0.52 percent for recycled linerboard to an increase of 5.28 percent for dissolving pulp. Price decreases result from decreasing demand for products and a large amount of excess capacity in the product sectors. The price decreases cause a rise in demand, which enables producers to utilize some of their excess capacity. The effects of these costs on the contribution to capital (profitability) in the affected product sectors range from a decrease of 9.57 percent to an increase of 4.30 percent. The losses in profitability in some product sectors may lead five mills in the affected subcategories to close rather than invest in pollution control equipment. However, the Agency also projects that one mill that would otherwise have closed will remain open due to its improved competitive standing under this regulatory option. These closures would represent a net 0.3 percent loss in industry capacity.

(C) OPTIONS 3—Base effluent limitations on BCT Option 1 plus the addition of chemically-assisted clarification for all integrated and secondary fiber subcategories and for the nonintegrated-fine papers subcategory (for these subcategories BPT is based on biological treatment). It is comtemplated that additional solids-contact clarifier(s) will be added using alum as a coagulant and polymer as a flocculant aid. For the remaining nonintegrated subcategories, for which primary treatment was the basis of BPT, effluent limitations are based on the application of Option 1 plus the addition of biological treatment. Evaluation of Option 3 by the BCT cost-reasonableness test shows that the tissue from wastepaper, wastepaper-molded products, builders' paper and roofing felt, nonintegrated-tissue papers, nonintegrated-lightweight, papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard subcategories fail this test. For the subcategories where Option 3 fails the BCT cost-reasonableness test, the less-stringent Options 1 or 2 form the basis for BCT if they pass the test.

The total mass of pollutants removed through application of this technology option would be 108 million kg/yr (238 million lbs/yr) of BOD5 and 216 million kg/yr (476 million lbs/yr) of TSS, a 64 percent reduction of BOD5 and a 78 percent reduction of TSS.

The economic analysis indicates that compliance with this option would require that direct dischargers in all segments of the industry invest a total of $2.11 billion and incur annual costs (including operation, maintenance, interest, and depreciation) of $860 million at the projected 1982 industry capacity. Price effects as a result of these costs are expected to range from a decrease of 0.80 percent for recycled linerboard to an increase of 8.96 percent for dissolving pulp. The effects of these costs on the contribution to capital (profitability) at the affected mills range from a decrease of 12.59 percent to an increase of 38.4 percent. The losses in profitability in some product sectors may lead six mills in the affected subcategories to choose to close rather than invest in pollution control equipment. However, the Agency also projects that two mills that would otherwise have closed will remain open due to their improved competitive standing under this regulatory option. These closures would represent a net 0.5 percent loss in industry capacity.

(D) OPTION 4—Base effluent limitations on the levels attained by best performing mills in the respective subcategories. Best mill performance for a subcategory is generally the average performance at all mills where BPT effluent limitations are attained. The technologies for achieving Option 4 effluent limitations vary depending on the type of treatment systems that are employed at mills in each subcategory. Treatment systems commonly employed at mills in the integrated segment, nonintegrated-fine papers, and deink subcategories in which BPT was based on biological treatment include aerated stabiliazation basins, activated sludge systems, and oxidation ponds.

It is contemplated that aerated stabilization basin treatment systems will be upgraded through the addition of spill prevention and control systems, by increasing aeration capacity, and by providing additional settling cpacity. For the nonintegrated-fine papers subcategory, it is contemplated that equalization will also be provided. Conversion to the extended aeration activated sludge process was considered to be the probable method of upgrading the performance of aerated stabilization basins located in colder climates.

It is contemplated that activated sludge systems will be upgraded through the addition of spill prevention and control systems, by providing equalization, by increasing the capacity of aeration basins and by providing for operation in the contact stabilization mode, and by increasing the size of clarification and sludge-handling equipment.

It is contemplated that oxidation ponds will be upgraded through the addition of rapid sand filtration to remove algae that can contribute to the discharge of large levels of suspended solids.

At mills in the nonintegrated subcategories in which BPT is based or assumed to be based on primary treatment, it is contemplated that existing primary treatment systems will be upgraded by reducing clarifier overflow rates to provide for better settling, by adding chemical coagulants, and by increasing sludge-handling capability.

At best performing mills in the remaining subcategories (paperboard from wastepaper, tissue from wastepaper, wastepaper-molded products, and builders' paper and roofing felt), extensive use is made of production process controls to reduce wastewater discharge. Therefore, Option 4 for these subcategories is based on the application of the same technology as discussed in BCT Option 1: the technology on which BPT is based plus the application of additional production process controls.

Evaluation of Option 4 by the BCT cost-reasonableness test shows that the nonintegrated-tissue, nonintegrated-lightweight, nonintegrated-filter and nonwoven, and nonintegrated-paperboard subcategories fail this test. For those subcategories where Option 4 fails the BCT cost-reasonableness test, the less-stringent Option 1 forms the basis for BCT if it passes the test.

The total mass of pollutants removed by this technology option would be 62 million kg/yr (137 million lbs/yr) of BOD5 and 117 million kg/yr (258 million lbs/yr) of TSS, a 37 percent reduction of BOD5 and a 42 percent reduction of TSS.

The economic analysis indicates that compliance with this option would require that direct dischargers in all segments of the industry invest a total of $1.28 billion and incur annual costs (including operation, maintenance, interest, and depreciation) of $398 million at the projected 1982 industry capacity. Price increases as a result of these costs are expected to range from zero percent for uncoated groundwood and construction paper and board to 3.57 percent for bleached kraft foldingboard. The effects of these costs on the contribution to capital (profitability) at the affected mills range from a decrease of 5.86 percent to an increase of 7.68 percent. The Agency projects that nine mills will close as a result of these costs. The Agency also projects that three mills that would close without pollution controls in place will remain open. These mills are now high cost, marginal producers whose competitive standing would be improved as a result of the imposition of controls on some lower cost producers and the resultant price increases. A small net loss in industry capacity from the base case is expected due to this option.

(E) BCT SELECTION AND DECISION CRITERIA—EPA has selected Option 4 as the basis for proposed effluent limitations for all subcategories for which the BCT cost-reasonableness test passes. EPA has determined that costs at POTWs are $1.27 per pound of BOD5 and TSS removed (1978 dollars); if removal costs for a subcategory are less than that cost, they are considered reasonable (44 FR 50732 (August 29, 1979)). In those subcategories where the cost-reasonableness test fails, the less stringent Option 1 forms the basis of BCT if it passes the cost-reasonableness test. The only exceptions are the dissolving sulfite pulp and the builders' paper and roofing felt subcategories for which BCT is established at the BPT level because of the projected severe economic impact. The removal costs for each subcategory for the selected BCT option are shown in Table 1.

Table 1—*BCT Analysis—Proposed Regulation*

	Subcategory average costs (dollars per pound)	Selected BCT option
Dissolving Kraft	0.31	4
Market Bleached Kraft	0.48	4
BCT Bleached Kraft	0.44	4
Alkaline-Fine*	0.46	4
Unbleached Kraft	0.67	4
Semi-Chemical	1.02	4
Unbleached Kraft and Semi-Chemical	0.96	4
Dissolving Sulfite Pulp	(**)	BPT
Papergrade Sulfite	0.42	4
Groundwood-TMP	0.62	4
Groundwood-CMN Papers	0.65	4
Groundwood-Fine Papers	0.75	4
Deink	0.66	4
Tissue from Wastepaper	0.47	4
Paperboard from Wastepaper	0.10	4
Wastepaper-Molded Products	0.64	4
Builders' Paper and Roofing Felt	(**)	BPT
Nonintegrated-Fine Papers	0.23	4
Nonintegrated-Tissue Papers	0.44	1
Nonintegrated-Lightweight Papers	0.75	1
Nonintegrated-Filter and Nonwoven Papers	0.78	1
Nonintegrated-Paperboard	(***)	BPT

*Includes Fine Bleached Kraft and Soda Subcategories.
**BCT equals BPT due to severe economic impact.
***BCT equals BPT as no regulatory option passes the BCT cost test.

There are several factors that weighed heavily in the Agency's decision to select Option 4 as the primary basis of proposed BCT limitations. This option yields significant removals of BOD5 and TSS at significantly lower costs to the industry than Options 2 and 3 and has been proven through full-scale operation throughout the entire range of process types found in the pulp, paper, and paperboard industry. Option 4 effluent limitations are being attained at 21, 20, and 29 of the direct discharging mills in the integrated, secondary fiber, and nonintegrated segments, respectively. Reliance on Option 2 would mean that effluent limitations would not be attained at only 5, 15, and 22 mills in the integrated, secondary fiber, and nonintegrated segments, respectively. Option 3 effluent limitations are now being attained at only 3, 6, and 20 mills in the integrated, secondary fiber, and nonintegrated segments, respectively. While chemically-assisted clarification is a proven and available technology, uncertainties exist as to the chemical dosage rate required to effect optimum treatment plant performance. Chemical dosage rate has a direct bearing on costs. Because of the heavy reliance on the determination of BCT based on a cost-reasonableness test, these uncertainties of dosage rate could have a significant impact on a final determination of BCT. At present, the Agency feels more confident establishing BCT effluent limitations that are currently being attained at a significant number of mills through the application of readily available technology, biological treatment (all subcategories except those where BPT is based or assumed to be based on primary treatment) or primary treatment (nonintegrated-tissue papers, nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard subcategories). The proposed limitations will allow considerable flexibility to the industry in their approach to achieving BCT. Combinations of internal controls, treatment system modifications, and even additional end-of-pipe treatment in the form of chemically-assisted clarification can be employed to attain the proposed limitations in the most cost effective manner.

XI. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under section 306 of the Act is the best available demonstrated technology. At new plants, the opportunity exists to design the best and most efficient pulp and papermaking processes and wastewater treatment facilities, so Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible. It is encouraged that at new sources, reductions in the use of and/or discharge of both water and toxic pollutants be attained through the application of in-plant control measures, but it is expected that the toxic pollutants present in the discharges from the industry today will also present in the discharges from new sources. To control these and the conventional pollutants, EPA considered two options for selection of NSPS. For detailed discussions of these technology options, see Sections VIII and XII of the Development Document.

(A) OPTION 1—Base effluent limitations for control of toxic and conventional pollutants on the application of production process controls to reduce wastewater discharge and raw waste loadings and end-of-pipe treatment in the form of biological treatment for all subcategories except nonintegrated-tissue papers, nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard, where end-or-pipe treatment is in the form of primary clarification. This option includes both production process controls that form the basis of BPT and BCT Option 1 in combination with end-of-pipe treatment with a design basis identical to BCT Option 4.

This option ensures substantial reductions in the discharge of the toxic pollutant chloroform from those subcategories where pulp is bleached with chlorine or chlorine-containing compounds. The conventional pollutants BPD5 and TSS will be controlled at levels equal to or more stringent than BCT Option 4 for all subcategories. The implementation of this technology option will mean that significant quantities of the toxic pollutants zinc, trichlorophenol, and pentachlorophenol may be discharged from direct discharging new source mills.

Economic analysis indicates that selection of this option would not change the rate of entry into the industry or slow the rate of industry growth.

(B) OPTION 2—Base effluent limitations for control of toxic pollutants on chemical substitution. Sodium hydrosulfite can be substituted for zinc hydrosulfite used in the bleaching of mechanical pulps. This substitution ensures the discharge of low levels of zinc from the pulp, paper, and paperboard industry. Slimicides and biocides containing trichlorophenol and pentachlorophenol can be replaced with formulations that do not contain these toxic compounds. The discharges of pentachlorophenol and trichlorophenol would be reduced to trace amounts.

Economic analysis indicates that selection of this option would not change the rate of entry into the industry or slow the rate of industry growth.

(C) NSPS SELECTION AND DECISION CRITERIA—EPA has selected both Options 1 and 2 as the bases for proposed NSPS. Option 1 has been selected to ensure control of the discharge of BOD5,TSS, and chloroform from the pulp, paper, and paperboard industry. In those nine integrated subcategories where pulp is bleached with chlorine or chlorine-containing compounds, the resulting high levels of chloroform will be substantially reduced. Application of this control option will also result in significant reductions in the discharge of BOD5 and TSS. Option 2 was selected for control of trichlorophenol, pentachlorophenol, and zinc. Application of this technology option ensures that only low levels of zinc and virtually no trichlorophenol or pentachlorophenol will be discharged from new sources in the pulp, paper, and paperboard industry.

XII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. The Clean Water Act of 1977 adds a new dimension by requiring pretreatment for pollutants, such as heavy metals, that pass through POTWs in amounts that would violate direct discharge effluent limitations or limit POTWs' sludge management alternatives, including the beneficial use of sludges on agricultural lands. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations (40 CFR Part 403), which served as the framework for these proposed pretreatment regulations for the pulp, paper, and paperboard industry, can be found at 43 FR 27736 (June 26, 1978). Based on these requirements, EPA considered one option for selection of PSES. For detailed discussions of this option, see Sections VIII and XIII of the Development Document.

EPA has been conducting an extensive study of POTWs and on the basis of this study has determined that many of the metals present in industrial discharges pass through POTWs and may limit sludge disposal alternatives. One of these metals is zinc, a component of one chemical used in the bleaching of mechanical pulps.

(A) OPTION 1—Base effluent limitations for control of toxic pollutants on chemical substitution. Sodium hydrosulfite can be substituted for zinc hydrosulfite in the bleaching of mechanical pulps. This substitution ensures the discharge of only low levels of zinc to POTWs from indirect discharging pulp, paper, and paperboard mills. Slimicides and biocides containing trichlorophenol and pentachlorophenol can be replaced with formulations that do not contain these toxic compounds. The discharge of pentachlorophenol and trichlorophenol, toxic pollutants likely to pass through POTWs, would be reduced to trace amounts. Chloroform is effectively controlled through the application of biological treatment, the type of treatment most commonly used at POTWs. Therefore, this option does not include specific control technology for the removal of chloroform.

The total masses of regulated pollutants removed through the application of this PSES technology option are estimated to be:

10,000 kg/yr (22,000 lbs/yr) of trichlorophenol
3,600 kg/yr (8,000 lbs/yr) of pentachlorophenol, and
20,000 kg/yr (44,000 lbs/yr) of zinc.

There would be negligible incremental costs associated with the substitution to formulations not containing pentachlorophenol or trichlorophenol. Chemical substitution to minimize zinc discharges will cost about $23,300 per year at the one indirect discharging mill where zinc hydrosulfite is now being used.

(B) SELECTION OF PRETREATMENT TECHNOLOGY AND DECISION CRITERIA—EPA has selected Option 1 as the basis for proposed PSES. The implementation of Option 1 control technology ensures minimal discharge of the toxic metal zinc, from new source indirect discharging mills, minimizing sludge disposal problems and pass through, and virtually eliminates the discharge of the toxic organics trichlorophenol and pentachlorophenol, pollutants likely to pass through POTWs. The toxic pollutant chloroform has been found to be effectively removed through the application of biological treatment and will be controlled at POTWs.

XIII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant control measures, and end-of-pipe treatment, and to use plant site selection to ensure adequate treatment system installation. The pretreatment option considered for new dischargers to POTWs is essentially the same as for PSES, and includes:

OPTION ONE—Base limitations for control of toxic pollutants on chemical substitution. Sodium hydrosulfite can be substituted for zinc hydrosulfite in the bleaching of mechanical pulps. This substitution ensures the discharge of only low levels of zinc to POTWs from new source indirect discharging pulp, paper, and paperboard mills. Slimicides and brocides containing trichlorophenol and pentachlorophenol can be replaced with formulations that do not contain these toxic compounds. The discharge of pentachlorophenol and trichlorophenol, toxic pollutants likely to pass through POTWs, would be reduced to trace amounts. Chloroform is effectively controlled through the application of biological treatment, the type of treatment most commonly used at POTWs. Therefore, this option does not include specific control technology for the removal of chloroform.

Economic analysis indicates that this option would not change the rate of entry into the industry or slow the rate of industry growth.

(B) SELECTION OF PRETREATMENT TECHNOLOGY AND DECISION CRITERIA—EPA has selected Option 1 as the basis for proposed PSNS. The implementation of Option 1 control technology ensures minimal discharge of the toxic metal zinc from new source indirect discharging mills, minimizing sludge disposal problems and pass through of this pollutant. This option also virtually eliminates the discharge, from new source indirect discharging mills, of the toxic organics trichlorophenol and pentachlorophenol, pollutants likely to pass through POTWs. The toxic pollutant chloroform has been found to be effectively removed through the application of biological treatment and will be controlled at POTWs.

XIV. Regulated Pollutants

The basis for selection of pollutants controlled by these regulations is set out in Section VI of the Development Document. Summary information is provided about their general nature, common industrial use, use in the pulp, paper, and paperboard industry, detection frequency and concentration levels. Some of these pollutants are designated toxic under section 307(a) of the Act.

A. BCT—The pollutants controlled by this regulation include the statutory conventional pollutants BOD5, TSS, and pH. These pollutants are subject to numerical limitations expressed in kilograms per thousand kilograms (pounds per 1000 pounds) of product, except pH for which an allowable discharge range is established.

B. BAT—The toxic pollutants controlled for direct dischargers by this regulation are trichlorophenol, pentachlorophenol, chloroform, and zinc. These pollutants are subject to numerical limitations expressed in kilograms per thousand kilograms (pounds per 1000 pounds) of product.

C. NSPS—

1. Conventional pollutants—The pollutants controlled by this regulation include the statutory conventional pollutants BOD5, TSS, and pH.

2. Toxic pollutants—The toxic pollutants controlled by this regulation are trichlorophenol, pentachlorophenol, chloroform, and zinc.

These pollutants are subject to numerical limitations expressed in kilograms per thousand kilograms (pounds per 1000 pounds) of product, except pH for which an allowable discharge range is established.

D. PSES AND PSNS—The pollutants specified for control by proposed PSES and PSNS include trichlorophenol, pentachlorophenol, and zinc. The toxic pollutant chloroform has been found to be effectively controlled through the application of biological treatment, the type of treatment most commonly used at POTWs. Therefore, chloroform is not regulated under PSES or PSNS.

The PSES and PSNS effluent limitations are expressed as allowable maximum daily concentrations (milligrams per liter). Mass limitations (kg/kkg or lb/1000 lb of product) are provided as guidance in cases where it is necessary to impose mass limitations for control of pollutants discharged from pulp, paper, and paperboard mills contributing to POTWs.

XV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been re-written in a Revised Settlement Agreement that was approved by the United States District Court for the District of Columbia on March 9, 1979.

A. *Pollutants Excluded.* Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and, therefore, excluded from regulation are listed in APPENDIX B to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants that are present in amounts too small to be effectively reduced by technologies known to the Administrator. APPENDIX C lists the toxic pollutants that were detected in amounts too small to be effectively reduced by available technologies, and which, therefore, are excluded from regulation.

It has also been determined that no nonconventional pollutants associated with the production of pulp, paper, and paperboard will be regulated through establishment of BAT, NSPS, PSES, or PSNS. Color will be controlled on a case-by-case basis as dictated by water quality considerations. The Agency is seeking public comment on ammonia discharges from integrated mills where ammonia-based cooking chemicals are used; limited information is currently available on the discharge of this nonconventional pollutant. Limited information exists on the levels of resin acids and their derivatives present in wastewater discharges from the pulp, paper, and paperboard industry. This sparcity of data makes it impossible at this time to establish uniform national standards limiting the discharge of these compounds.

B. *Subcategories Excluded.* The limitations in this regulation have been developed to cover the general case for this industry category. In specific cases, it may be necessary for the NPDES permitting authority to establish permit limits on toxic pollutants that are not subject to limitation in this regulation (see RELATIONSHIP TO NPDES PERMITS).

While the Settlement Agreement requires EPA to regulate portions of the pulp, paper, and paperboard industry listed under the U.S. Department of Commerce, Bureau of the Census, Standard Industrial Classification (SIC) code numbers 2600 and 2700, Paragraph 8(a)(iv) of the Revised Settlement Agreement authorizes EPA to exclude portions of the industry from regulation. Pulp Mills (SIC 2611), Paper Mills, except Building Paper Mills (SIC 2621), Paperboard Mills (SIC) 2631), and Building Paper and Building Board Mills (SIC 2661) are covered by this regulation. One exception is the groundwood-chemi-mechanical subcategory for which BPT effluent limitations have been established; however, BAT, BCT, NSPS, PSES, and PSNS regulations are not proposed at this time. There are only 3 mills in this subcategory and insufficient data are available at this time to determine the effect of the degree of chemical usage in the pulping process on raw waste generation. Toxic pollutants that were detected in discharges from mills in this subcategory were detected in amounts too small to be effectively reduced by technologies known to the Administrator. Mills in this subcategory will be assigned permit limitations on a case-by-case basis.

Available information on the remaining subgroups, known as the converted paper industry (SIC 2641, SIC 2642, SIC 2643, SIC 2645, SIC 2646, SIC 2647, SIC 2648, SIC 2649, SIC 2651, SIC 2652, SIC 2653, SIC 2654, SIC 2655, and SIC 2682), was reviewed and the Agency has concluded that facilities listed in these Standard Industrial Classifications should be excluded from regulation under Paragraph 8(a)(iv). Process wastewater flow rates from these facilities are generally low, with the median rate estimated at zero. The process wastewater that is discharged is usually measured in tens of gallons per day and is limited to clean-ups in printing, gluing, and coating operations. While potential exists for discharge of heavy metals and other priority pollutants in operations using inks and coating materials, total amounts of toxic pollutants discharged are expected to be insignificant because flows are characteristically low. One reason that the converted paper industry was included in the Settlement Agreement was because of the presumed potential for PCB discharge. However, PCBs have not been used in the converted paper industry since 1972. PCBs entering the paper cycle today are found only in repulping operations which are regulated under the secondary fiber subcategories of the pulp, paper, and paperboard industry.

XVI. Monitoring Requirements

The Agency intends to establish a regulation requiring permittees to conduct additional monitoring when they violate their permit limitations. The provisions of such monitoring requirements will be specified for each permittee and may include analysis for some or all of the toxic pollutants or the use of biomonitoring techniques. The additional monitoring is designed to determine the cause of the violation, necessary corrective measures, and the identity and quantity of toxic pollutants not specifically limited in the permit which are discharged during the violation. Each violation will be evaluated on a case-by-case basis by the permitting authority to determine whether or not the additional monitoring contained in the permit is necessary. A more lengthy discussion of this requirement appears at 44 FR 34407, June 14, 1979. The Agency intends to amend 40 CFR Part 403, General Pretreatment Regulations. The Part 403 amendment will require that parameters limited by the pretreatment standards be monitored at indirect discharging plants.

XVII. Costs, Effluent Reduction Benefits, and Economic Impacts

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analyses of certain regulations. (See 43 FR 12661 (March 23, 1978)). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annualized compliance costs of more than $100 million or meeting other specified criteria. (See 43 FR 29891 (July 11, 1978)). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of alternatives such as: (1) alternative types of regulations, (2) alternative stringency levels, (3) alternative timing, and (4) alternative methods of ensuring compliance.

The proposed regulations for the pulp, paper, and paperboard industry meet the proposed criteria for a formal Regulatory Analysis. This proposed rulemaking satisfies the formal regulatory analysis requirements. While the Clean Water Act does not permit consideration of alternative timing or alternative methods of ensuring compliance, EPA has considered alternative stringency levels and alternative types of regulations, as discussed above. Moreover, the Agency has performed a detailed analysis of the economic impact of these proposed regulations.

EPA's economic assessment is set forth in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Pulp, Paper, and Paperboard Mills Point Source Category,* November 1980. This report details the investment and annualized costs for the industry as a whole and for each subcategory for each option, including the proposed option. The report also explains, in detail, the methodology used to derive the impacts as well as the impacts themselves. The data underlying the analysis were obtained from the Development Document, publicly available financial publications and surveys, and the results of EPA's financial survey program described under DATA-GATHERING EFFORTS. The report assesses the impact of those costs in terms of price and production changes, mill profitability effects, mill closures, employment impacts, community effects, and effects on the balance of trade.

A. *Economic Impact Methodology.* The methodology used in the economic analysis is applied microeconomics where a supply and demand analysis is performed to determine the price, production, capacity utilization, and profitability of mills in the industry before and after the imposition of water pollution controls. Standard capital budgeting techniques are used to project the impact on mill profitability, number of closures, and the lost capacity from those closures that could result from the costs of pollution control necessary to meet proposed effluent limitations.

Using information on production costs contained in the responses to the financial survey, supply curves were generated for each of several generic pulp, paper, and paperboard product sectors. As outlined in Section VI, several technical subcategories contribute to the total production in any product sector. Price, production, and profitability impacts are based on the projected supply and demand characteristics of product sectors and are presented as such. The closure and capacity loss impacts result from changes in prices and production, but have been calculated on a mill-by-mill basis. Thus, they can be presented by generic mill type.

The impact of the regulation on employment as a result of projected closures cannot be presented on a specific basis. This is the result of the limitations on the output and use of the data outlined under DATA-GATHERING EFFORTS. The Agency may, however, present general information on the total employment impacts and the total capacity of the affected mills.

Employment data was not requested in the financial survey since it had already been requested in the technical survey. Because of limitations in the third party agreement, this information could not be directly included in the data base. As a result, employment figures were used as part of analytical computer programs to associate employment with mill information held in the data base. The employment impacts are presented using the aggregates of the total employment associated with all mills projected to close. These estimates are presented for each generic mill type.

Since any output showing data from a single mill could not be shown, the sites of mills projected to close, either with or without establishment of the proposed regulations, could not be included in the analysis or seen by the Agency. As can be seen below, however, the aggregate volume of daily production capacity lost along with the number of mills projected to close can give a good approximation of the size range of the plants affected by the regulations.

The effects of mill closings on communities also cannot be determined accurately. The determination of community impacts is based on a knowledge of the number of employees affected and their location, information again not available to the Agency due to the limitations contained in the third party agreement. The possible impacts of closures on regions of the country have been estimated based on income loss. Income loss is estimated based on the revenues of mills projected to close. Revenue figures are reported in the financial survey.

The impacts of the regulation on the balance of trade are quantitatively and qualitatively determined. These impacts are based on the past behavior of the product sectors in international markets and on the projected prices of domestic production relative to foreign production. The prices of each product type are input to an international paper trade econometric model. Domestic prices are quantitatively determined in the analysis. However, insufficient information is available for the Agency to evaluate the future business environment of foreign producers with great certainty. Thus, a qualitative study of probable changes in the foreign sector environment is made and the conclusions are studied with the results of the econometric model. A judgment of the ability of domestic producers to compete in foreign markets is then made.

The decision criteria for determining projected mill closures were based on standard cash flow and net present value (NPV) analyses. The cash flows of the mills are calculated based on the expected mill revenues resulting from the prices found in the supply and demand analysis and the mills' costs of production as found in the financial survey responses. These are projected over the life of the pollution control investment and discounted at the industry's cost of capital. If the NPV of the total cash flow of a mill over the life of the investment is less than the salvage value of the mill (working capital plus a portion of the mill's book value), then the mill is projected to close.

B. *Economic Impacts for Mill Types.*

Integrated Mills. The Agency projects 150 of the 187 direct discharging mills in this segment for which the Agency has economic information will incur costs to comply with the proposed BCT regulations. The Agency expects that the remaining direct discharging mills will not require additional controls or costs to comply with the proposed regulations because they are already meeting the proposed guidelines. The mill capacity requiring expenditures for BCT is assumed to include existing mill capacity and the added capacity the Agency expects to be operable before the end of 1982. EPA estimates that the industry will invest $1.1 billion and have annual costs of compliance including depreciation, interest, operating, and maintenance costs of $338 million per year at the projected 1982 industry capacity.

EPA expects that six of the 218 mills in this segment for which the Agency has economic information will close due to factors unrelated to the proposed regulations. The Agency also projects that one mill in this segment will close as a result of the regulations. However, the Agency expects that one mill will remain open that would close if no regulations were implemented. This is due to its improved competitive standing after imposition of pollution controls.

Achievement of the proposed BCT limitations by the integrated mills segment of the industry will reduce conventional pollutant discharge (BOD_5 and TSS) to the Nation's waterways by 155 million kg (342 million pounds) per year. The Agency finds that these effluent reduction benefits are achieved at costs between $0.68 and $2.24 per kg ($0.31 and $1.02 per pound) of BOD_5 and TSS removal. These costs are reasonable as defined under the Agency's BCT cost-reasonableness determination methodology (see 44 FR 50732; August 29, 1979).

Secondary Fiber Mills. The Agency projects that 60 of the 84 direct discharging mills in this segment for which the Agency has economic information will incur costs to comply with the proposed regulations. The Agency expects that the remaining direct discharging mills will not require any additional controls or costs to comply with the regulations because they are already meeting the proposed guidelines. The mill capacity requiring expenditures for BCT is assumed to include existing mill capacity and the added capacity the Agency expects to be operable before the end of 1982. EPA estimates that the industry will invest $57 million and have annual costs of compliance including depreciation, interest, and operating and maintenance costs of $21 million per year at the projected 1982 industry capacity.

EPA expects that 25 of the 273 mills in this segment for which the Agency has economic information will close due to factors unrelated to the proposed regulations. The Agency also projects that five mills in this segment will close as a result of these regulations. However, the Agency expects that two mills will remain open that would close if no regulations were implemented. This is due to their improved competitive standing after imposition of pollution controls.

Achievement of the proposed BCT limitations by the secondary fiber mills segment of the industry will reduce conventional pollutant discharges (BOD5 and TSS) to the Nation's waterways by 6.73 million kg (14.8 million pounds) per year. The Agency finds that these effluent reduction benefits are achieved at costs of between $0.22 and $1.50 per kg ($0.10 and $0.68 per pound) of BOD5 and TSS removal. These costs are reasonable as defined under the Agency's BCT cost-reasonableness determination methodology (see 44 FR 50732, August 29, 1979).

Nonintegrated Mills. The Agency projects that 47 of the 80 direct discharging mills in this segment for which the Agency has economic information will incur costs to comply with the proposed regulations. The Agency expects that the remaining direct discharging mills will not require additional controls or costs to comply with the proposed regulations because they are already meeting the proposed guidelines. The mill capacity requiring expenditures is assumed to include existing mill capacity and the added capacity the Agency expects to be operable before the end of 1982. EPA estimates that the industry will invest $29 million and have annual costs including depreciation, interest, and operating and maintenance costs of $8.0 million per year at the projected 1982 industry capacity.

EPA expects that 28 of the 143 mills in this segment for which the Agency has economic information will close due to factors unrelated to the proposed regulations. The Agency also projects that one mill in this segment will close rather than invest in pollution control equipment. However, the Agency expects that one mill will remain open that would close if no regulations were implemented. This is due to its improved competitive standing after imposition of pollution controls. These effects serve to provide a small net gain in capacity for this segment.

Achievement of the proposed BCT limitations by the nonintegrated mills segment of the industry will reduce conventional pollutant discharges (BOD5 and TSS) to the Nation's waterways by 6.18 million kg (13.6 million pounds) per year. The Agency finds that these effluent reduction benefits are achieved at costs of between $0.51 and $1.72 per kg ($0.23 and $0.78 per pound) of BOD5 and TSS removal. These costs are reasonable as defined under the Agency's BCT cost-reasonableness determination methodology (see 44 FR 50732, August 29, 1979).

C. *Economic Impacts for Product Sectors.* As noted above, the technical subcategories or segments do not reflect the market for final pulp, paper, or paperboard products. Mills in several technical subcategories contribute to the total production of any single product sector. Presented below are the impacts on prices, production costs, production volume, and the contribution to capital (profitability) in each product sector expected due to the proposed regulations.

Market Pulp. Market pulp is pulp sold to pulp consumers such as nonintegrated paper mills. The production considered in this product sector does not include pulp transferred between two company owned mills in this country, but does include pulp transferred to affiliated mills outside this country. By definition, the product sector does not include dissolving pulp, which is discussed below. The domestic capacity to produce pulp is approximately 45 million kkg (50 million tons) per year. Almost all of this pulp is used on-site to produce final pulp, paper, and paperboard products. At those mills where more pulp is produced than necessary to sustain their own operations or those where pulp only is produced, pulp is sold for use at other mills where pulp is either not manufactured (nonintegrated mills) or not enough is manufactured on-site to supply their own needs. The amount of pulp sold in this way was 5.8 million kkg (6.4 million tons) in 1978, or about 12.8 percent of the total domestic pulp production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 4.5 to 7.0 percent at the affected mills. The effects of the proposed regulations on prices, production, and the product sector's contribution to capital cannot be determined.

Dissolving Pulp. Dissolving pulp is highly refined chemical cellulose which is converted by chemical processes into rayon, cellophane, acetate, and cellulose derivatives. The domestic capacity to produce dissolving pulp is approximately 1.4 million kkg (1.5 million tons) per year, or 1.75 percent of the total domestic capacity for pulp, paper, and paperborad production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of approximately 0.6 percent. A price increase of 2.85 percent and a production decrease of 2.09 percent are also expected The combined effect of these two impacts will be to add 4.0 percent to the product sector's contribution to capital (profitability).

Unbleached Kraft Paper. Unbleached kraft paper is paper produced with over 50 percent virgin wood fibers. The paper is used for wrapping paper, shipping sacks, bags, and other papers. The domestic capacity to produce unbleached kraft paper is approximately 4.1 million kkg (4.5 million tons) per year, or 5.1 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.7 to 2.5 percent. A price increase of 0.69 percent and a production decrease of 0.75 percent are also expected. The combined effect of these two impacts will be to subtract 1.3 percent from the product sector's contribution to capital (profitability).

Bleached Kraft Paper. Bleached kraft paper contains over 50 percent virgin wood fibers bleached to a specific brightness. The paper is used as delicatessen paper, butcher's paper, bags, shipping sacks, wrapping paper, and other bleached papers. The domestic capacity to produce bleached kraft paper is approximately 1.1 million kkg (1.2 million tons) per year, or 1.24 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.7 to 3.5 percent. A price increase of 0.83 percent and a production decrease of 2.28 percent are also expected. The combined effect of these impacts will be to subtract 5.9 percent from the product sector's contribution to capital (profitability).

Glassine and Grease Proof Papers. Glassine and grease proof papers are papers made for converting to products such as waxed paper, parchment paper, glassine, waxing, and greaseproof papers. These papers include glassine, greaseproof, vegetable parchment, and some bleached or unbleached sulfite papers. The domestic capacity to produce glassine and greaseproof papers is approximately 0.21 million kkg (0.23 million tons) per year, or 0.26 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.0 percent. A price increase of 1.83 percent and a production decrease of 5.94 percent are also expected. The combined effect of these impacts will be to add 7.7 percent to the product sector's contribution to capital (profitability).

Special Industrial Paper. Special industrial papers are papers of all types design for specialized end uses. Products considered to be special industrial papers include abrasive papers, electrical (transformer) board, vulcanizing paper, pipe wrap insulation, impregnating paper, gasket stock, electrical insulation paper, and absorbent papers. The domestic capacity to produce special industrial papers is approximately 0.91 million kkg (1.0 million tons) per year, or 1.13 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.2 to 2.2 percent. A price increase of 0.61 percent and a production decrease of 0.48 percent are also expected. The combined effects of these impacts will be to add 0.9 percent to the product sector's contribution to capital (profitability).

Newsprint. Newsprint is paper made largely from groundwood pulp and used chiefly in the printing of newspapers. The domestic capacity to produce newsprint is approximately 5.3 million kkg (5.8 million tons) per year or 6.64 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 2.5 to 4.8 percent. A price increase of 3.2 percent and a production decrease of 0.87 percent are also expected. The combined effect of these two impacts will be to add 3.8 percent to the product sector's contribution to capital (profitability).

Coated Printing Paper. Coated printing paper is bleached paper coated on one or both sides with a substance which is at least 50 percent pigment. Printing papers coated on one side are almost always used for labels and wraps, especially in the processed food industries. The highest grades of printing paper coated on both sides are used for high quality media and advertising paper while lower grades are used for the printing of magazines. The domestic capacity to produce coated printing paper is approximately 5.0 million kkg (5.5 million tons) per year, or 6.28 percent of total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.8 to 2.0 percent. A price increase of 0.49 percent and a production decrease of 0.20 percent are also expected. The combined effect of these two impacts will be to subtract 1.0 percent from the product sector's contribution to capital (profitability).

Uncoated Freesheet. Uncoated freesheet is bleached, uncoated printing and writing paper containing no more than 25 percent groundwood pulp fibers. Uncoated freesheet is used as offset, tablet, text book, envelope, and business papers such as bond, ledger, mimeo, and duplicator papers. The domestic capacity to produce uncoated freesheet paper is approximately 8.2 million kkg (9.0 million tons) per year, or 10.25 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.3 to 2.6 percent. A price increase of 0.80 percent and a production decrease of 0.19 percent are also expected. The combined effect of these impacts will be to subtract 0.5 percent from the product sector's contribution to capital (profitability).

Uncoated Groundwood Paper. Uncoated groundwood paper is paper containing more than 25 percent groundwood pulp fibers, excluding newsprint. Uncoated groundwood paper is used as a coating base stock, groundwood paper for converting to other products, and as printing paper. The domestic capacity to produce uncoated groundwood paper is approximately 1.6 million kkg (1.8 million tons) per year, or 2.04 percent of total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.6 to 2.1 percent. No price increases or production decreases are expected. However, the added cost of the proposed regulations will subtract 2.6 percent from the product sector's contribution to capital (profitability).

Thin Papers. Thin papers are thin specialty papers used for such products as tracing paper, onionskin, one-time carbonizing paper, Bible paper, translucents, condenser paper, and cigarette paper. The domestic capacity to produce thin papers is approximately 0.36 million kkg (0.4 million tons) per year, or 0.51 percent of total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.7 percent. A price increase of 0.20 percent and a production decrease of 0.08 percent are also expected. The combined effect of these impacts will be to subtract 1.7 percent from the product sector's contribution to capital (profitability).

Solid Bleached Bristols. Solid bleached bristols are either coated or uncoated heavyweight papers. Solid bleached bristols are used for products such as tag stock, file folder stock, index, uncoated printing paper, coated bristols, tabulating index board, postcards, manila paper, manila board, and illustration board. The domestic capacity to produce solid bleached bristols is approximately 1.0 million kkg (1.1 million tons) per year, or 1.28 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.7 to 3.0 percent. A price increase of 0.67 percent and a production decrease of 0.24 percent are expected. The combined effect of these impacts will be to subtract 0.8 percent from the product sector's contribution to capital (profitability).

Cotton Fiber Paper. Cotton fiber paper is paper with 25 percent or more of its fiber content from cotton, cotton rags, cotton linters, flax, or similar fibers. Products such as ledger paper, currency paper, linen paper, and fine writing papers are examples of cotton fiber papers. The domestic capacity to produce cotton fiber paper is approximately 0.12 million kkg (0.13 million tons per year, or 0.15 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.6 percent. A price increase of 0.08 percent and a production decrease of 0.15 percent are also expected. The combined effect of these impacts will be to subtract 0.2 percent from the product sector's contribution to capital (profitability).

Tissue. Tissue papers are sanitary papers found in both industrial and consumer grades. Industrial tissue is used for products such as cellulose wadding, industrial wipes, and napkin stock. Consumer tissue products are those made for retail sale such as napkins, towels, wipes, sanitary napkins, toilet tissue, facial tissue, and diaper liners. The domestic capacity to produce tissue papers is approximately 4.9 million kkg (5.4 million tons) per year, or 6.20 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.5 to 3.2 percent. A price increase of 0.23 percent and a production decrease of 0.01 percent are projected. The combined effect of these impacts will be to subtract 0.3 percent from the product sector's contribution to capital (profitability).

Unbleached Kraft Linerboard. Unbleached kraft linerboard is paperboard containing at least 80 percent virgin wood fibers and is produced by the kraft process. It is used as the facing material on corrugated or solid fiber boxes. The domestic capacity to produce unbleached kraft linerboard is approximately 14.6 million kkg (16.1 million tons) per year, or 18.29 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 2.3 to 2.5 percent. A price increase of 1.86 percent and a production decrease of 0.94 percent are also expected. The combined effect of these impacts will be to subtract 0.9 percent from the product sector's contribution to capital (profitability).

Bleached Kraft Linerboard. Bleached kraft linerboard is paperboard containing at least 80 percent virgin wood fiber and is produced through the kraft process. Bleached kraft linerboard is used for such products as retail store display stands, advertising paper, and is converted into cigarette and similar boxes. The domestic capacity to produce bleached kraft linerboard is approxiamtely 0.13 million kkg (0.14 million tons) per year or 0.16 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 2.9 percent. A price increase of 2.63 percent and a production decrease of 0.99 percent are also expected. The combined effect of these impacts will be to subtract 1.5 percent from the product sector's contribution to capital (profitability).

Bleached Kraft Foldingboard. Bleached kraft foldingboard is paperboard made from at least 80 percent virgin wood fibers and is produced using the kraft process. Examples of bleached kraft foldingboard products are containers for ice cream, butter, oleomargarine, frozen foods, cosmetics, and drugs found at retail stores. The domestic capacity to produce bleached foldingboard is approximately 2.1 million kkg (2.3 million tons) per year, or 2.58 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 2.6 percent. A price increase of 3.57 percent and a production decrease of 2.52 percent are also expected. The combined effect of these impacts will be to subtract 3.7 percent from the product sector's contribution to capital (profitability).

Semi-Chemical Corrugating Medium. Semi-chemical corrugating medium is paperboard made from at least 75 percent virgin wood fibers that are processed using the semi-chemical process. It is used as the inner layer or layers of a corrugated box and faced with linerboard for conversion into corrugated boxes. The domestic capacity to produce semi-chemical corrugating medium is approximately 5.0 million kkg (5.5 million tons) per year, or 6.28 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 3.1 to 3.6 percent. A price increase of 2.48 percent and a production decrease of 1.76 percent are also expected. The combined effect of these impacts will be to add 1.6 percent from the product sector's contribution to capital (profitability).

Recycled Linerboard. Recycled linerboard is paperboard made from recycled paper of various grades and contains less than 80 percent virgin wood fibers. It is used as the facing of corrugated boxes. The domestic capacity to produce recycled linerboard is approximately 0.36 million kkg (0.4 million tons) per year, or 0.47 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 2.5 percent. A price increase of 0.18 percent and a production increase of 0.01 percent are also expected. This production increase is the result of a shift in demand away from the higher-priced kraft linerboards to recycled linerboard. The combined effect of these impacts will be to add 0.6 percent to the product sector's contribution to capital (profitability).

Recycled Corrugating Medium. Recycled corrugating medium is paperboard produced having less than 75 percent virgin wood fibers and is predominately made from recycled paper of varying grades. It is used as the inner layer or layers of corrugated boxes. This product sector also includes container chip and filler board. The domestic capacity to produce recycled corrugating medium is approximately 1.7 million kkg (1.9 million tons) per year, or 2.16 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.7 percent. A price increase of 1.41 percent and a production increase of 1.90 percent are also expected. This projected increase in production is the result of a shift in the demand for corrugating medium away from the higher priced semi-chemical type to the recycled type. The combined effect of these two impacts will be to add 1.94 percent to the product sector's contribution to capital (profitability).

Recycled Foldingboard. Recycled foldingboard is paperboard made from recycled fibers from various paper grades. It is converted into folding cartions or into rigid or set-up boxes, depending on the bending quality of the board. The domestic capacity for producting recycled foldingboard is approximately 2.9 million kkg (3.2 million tons) per year, or 3.63 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.7 to 2.8 percent. A price increase of 0.07 percent and a production decrease of 0.08 percent are also expected. The combined effect of these impacts will be to subtract 0.5 percent from the product sector's contribution to capital (profitability).

Solid Bleached Board. Solid bleached board is paperboard made from at least 80 percent virgin fibers and bleached to a specified brightness. Solid bleached board products include milk cartons, packaging for moist or oily foods, and paper cups. The domestic capacity to produce solid bleached bristols is approximately 2.0 million kkg (2.2 million tons) per year, or 2.46 percent of the total domestic capacity for pulp, paper, and paperboard production.

The agency projects that the costs of the proposed regulations will result in an increase in production costs of 1.9 to 3.7 percent. A price increase of 0.72 percent and a production decrease of 0.64 percent are also expected. The combined effect of these impacts will be to subtract 0.4 percent from the product sector's contribution to capital (profitability).

Molded Pulp Products. Molded pulp products are pressed and molded goods made from either virgin fiber pulp or wastepaper pulp. These products include egg cartons, paper plates, food trays, and paper mache articles. The domestic capacity to produce molded pulp products is approximately 0.27 million kkg (0.3 million tons) per year, or 0.31 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the proposed BPT regulations will cause a 6.9 percent increase in production costs. The Agency also projects that the costs of the proposed BCT regulations will result in an increase in production costs of 0.6 percent over those for BPT. Price increases, production impacts and effects on contribution to capital (profitability) cannot be estimated for this product sector though price increases are limited to the cost increase.

All Other Board. All other board products include products made from either virgin fiber or wastepaper pulps. Examples of these are tube board, tag board, ticket stock, gypsum wall board facings, and match stem board. The domestic capacity produce all other board is approximately 4.1 million kkg (4.5 million tons) tons per year, or 5.10 percent of the total domestic capacity for pulp, paper and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 3.7 percent. A price increase of 0.14 percent and a production decrease of 0.07 percent are also expected. The combined effect of these impacts will be to subtract 3.7 percent from the product sector's contribution to capital (profitability).

Contruction Paper and Board. Construction paper and board are paper and board products predominately made from recycled fibers for use in converting to other products not typically connected to the pulp, paper, and paperboard industry. The products for which construction paper and board forms the base include asphalted paper and board, sheathing, insulating building paper and board, wallboard, roofing (prepared and shingles), panelboard, millboard, wallpaper, pressboard, accoustical board and title, asbestos paper and board, felt fiberboard, and hardboard. The domestic capacity to produce construction paper and board is approximately 6.7 million kkg (7.4 million tons) per year, or 8.38 percent of the total domestic capacity for pulp, paper, and paperboard production.

The Agency projects that the costs of the proposed regulations will result in an increase in production costs of 0.2 to 1.2 percent. No price increases or production decreases are expected. However, the effect of the costs of the proposed regulations will be to subtract 0.3 percent from the product sector's contribution to capital (profitability).

XVIII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption. While it is difficult to balance pollution problems against each other and against energy use, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts associated with the proposed regulations:

A. Air Pollution—Implementation of BAT, BCT, NSPS, PSES, and PSNS are not anticipated to result in any incremental increase in air pollution from the pulp, paper, and paperboard industry.

B. Solid Waste—EPA estimates that the total solid waste generated as a result of attainment of BAT, BCT, and PSES will increase by about 1.3 percent of the present industry total. Information on which these estimates are based is contained in Sections IX, X, XI, XII, XIII, and XIV of the Development Document.

The solid wastes generated through wastewater treatment at pulp, paper, and paperboard mills have not been listed as hazardous in regulations recently promulgated by the Agency under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (see 45 FR 33066 (May 19, 1980)). A recent study by EPA's Office of Solid Waste indicates that most leachates from this industry are non-hazardous under RCRA testing protocols (see *disposal Practices for Selected Industrial Solid Wastes,* EPA, Washington, D.C. (May 1980)). Accordingly, it does not appear likely that the industry will be subject to the comprehensive RCRA program establishing requirements for persons handling, transporting, treating, storing, and disposing of hazardous waste.

C. Energy Requirements—EPA estimates that the attainment of proposed BAT, BCT, and PSES will increase energy consumption by about 0.9 percent over present industry use. Proposed PSNS will result in no increase in energy usage. Information on which these estimates are based is contained in Sections IX, X, XI, XII, XIII, and XIV of the Development Document.

XIX. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe what have been termed "best management practices (BMPs)" described under AUTHORITY and BACKGROUND. In the future, EPA intends to develop BMPs which are: (1) Generic in nature and applicable to all industrial sites; (2) specfic in nature and applicable to a specified industrial category; and (3) guidance to permit authorities in establishing BMPs required by unique circumstances at a given plant.

XX. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. An upset provision is necessary, it has been argued, because such upsets will inevitably occur due to limitations in control technology. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. (Compare *Marathon Oil Co.* v. *EPA,* 564 F2d 1253 (9th cir. 1977) with *Weyerhaeuser* v *Costle,* 590 F.2d 1011 (D.C. Cir. 1978), and see *American Petroleum Institute* v. *EPA, 540 F.2d 1023 (10th Cir. 1976); CPC International, Inc.* v. *Train,* 540 F.2d 973 (4th Cir. 1976).)

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits, and has recently promulgated NPDES regulations which include upset and bypass permit provisions. ((See 45 FR 33290, 33448; 40 CFR 122.60(G)(H))(May 19, 1980)). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The pypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the pulp, paper, and paperboard industry will be entitled to upset and bypass provisions in NPDES permits, these proposed regulations do not specifically address these issues.

XXI. Variances and Modifications

Upon the promulgation of these regulations, the numerical effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits issued to pulp, paper, and paperboard direct dischargers. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

For the BCT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. (See *E. I. duPont de Nemours and Co.* v. *Train,* 430 U.S. 112 (1977)). This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it is included in the NPDES regulations and not the specific pulp, paper, and paperboard industry regulations. (See the NPDES regulations at 40 CFR Part 125 Subpart D; 44 FR 32854, 32893 (June 7, 1979) for the text and explanation of the "fundamentally different factors" variance.)

The BAT limitations in these regulations also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for non-toxic pollutants are subject to modifications under sections 301(c) and 301(g) of the Act. Under section 301(l) of the Act, these statutory modifications are not applicable to "toxic" pollutants.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs (See 40 CFR 403.7 and 403.13; 43 CFR 27736 (June 26, 1978)). Pretreatment standards for new sources are subject only to the credit provision (See 40 CFR 403.7; 43 FR 27736 (June 26, 1978) and proposed amendments 44 FR 62260 (October 29, 1979)). New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications (see *duPont* v. *Train, supra).*

XXII. Relationship to NPDES Permits

The BAT, BCT, and NSPS limitations in these regulations will be applied to individual pulp, paper, and paperboard mills through NPDES permits issued by EPA or approved State agencies, under section 402 of the Act. The preceding section of this preamble discussed the binding effect of these regulations on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of these regulations and NPDES permits.

First, one matter that has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, States and EPA Regions issuing NPDES permits prior to promulgation of these regulations must include a "reopener clause," providing for permits to be modified to incorporate BAT regulations when they are promulgated (see 40 CFR 122.62(c); 45 FR 33290, 33449 (May 19, 1980)). Permits issued after June 30, 1981 must meet the requirements of section 301(b)(2) of the Clean Water Act whether or not applicable effluent limitations guidelines have been promulgated (see 40 CFR 122.62(c); 45 FR 33290, 33339 (May 19, 1980)). At one time, EPA had a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. While the Agency continues to encourage EPA and State permit writers to issue short-term permits to primary industry dischargers until June 30, 1981, EPA has changed its policy to allow more flexibility (see 45 FR 33340 (May 19, 1980)). EPA permit writers may issue long-term permits to primary industries even if guidelines have not yet been promulgated provided that the permits require BAT and BCT and contain reopener clauses. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis on consideration of the statutory factors (see *U.S. Steel Corp.* v. *Train,* 556 F.2d 822, 844, 854 (7th Cir. 1977)). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings (see 44 FR 32854 (June 7, 1979)).

Another noteworthy topic is the effect of these regulations on the powers of NPDES permit-issuing authorities. The limitations in this regulation have been developed to cover the general case of this industry category. For specific cases, it may be necessary for the NPDES authority to establish limits on pollutants which are not subject to limitation in these regulations. The promulgation of these regulations does not restrict the power of any permit-issuing authority to act on these or any other EPA regulations, guidelines, or policy, in any manner consistent with law. For example, the fact that these regulations do not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of state or Federal law require limitations (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing these regulations. The Agency wishes to emphasize that, although the Cleam Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

XXIII. Small Business Administration Financial Assistance

There are two SBA programs that may be important sources of funding for the Pulp, Paper, and Paperboard and the Builders' Paper and Board Mills Point Source Categories. They are the SBA's Economic Injury Loan Program and Pollution Control Financing Guarantees.

Section 8 of the FWPCA amended section 7 of the Small Business Act, 5 U.S.S. § 636, to authorize the SBA through its Economic Injury Loan Program, to make loans to assist small business concerns in effecting additions to or alterations in equipment, facilities, or methods of operation in order to meet water pollution control requirements under the Federal Water Pollution Control Act if the concern is likely to suffer a substantial economic injury without such assistance. This program is open to small business firms as defined by the Small Business Administration (see 44 FR 57914 (October 9, 1979)). Loans can be made either directly by SBA or through a bank using an SBA guarantee. The interest on direct loans depends on the cost of money to the Federal Government and is currently set at 8¼ percent. Loan repayment periods may extend up to thirty years depending on the ability of the firm to repay the loan and the useful life of the equipment.

Firms in the Pulp, Paper, and Paperboard and Builders' Paper and Board Mills Point Source Categories may be eligible for direct or indirect SBA loans. For further details on this Federal loan program write or telephone any of the following individuals at EPA Headquarters or in the ten EPA Regional offices:

Headquarters—Ms. Frances Desselle, Office of Analysis and Evaluation (WH-586), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (2[illegible]2) 426-7874

Region I—Mr. Ted Landry, Enforcement Division, Environmental Protection Agency, J. F. Kennedy Federal Building, Boston, MA 02203, Telephone: (617) 223-5061

Region II—Mr. Gerald DeGartano, Enforcement Division, Room 432, Environmental Protection Agency, 26 Federal Plaza, New York, NY 10007, Telephone: (212) 264-4711

Region III—Mr. Bob Gunter, Environmental Protection Agency, Curtis Building, 3IR20, 6th and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597-2564

Region IV—Mr. John Hurlebaus, Grants Administrative Support Section, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, GA 30308, Telephone: (404) 881-4491

Region V—Mr. Arnold Leder, Water and Hazardous Material, Enforcement Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, IL 60605, Telephone: (312) 353-2114

Region VI—Ms. Jan Horn, Enforcement Division, Environmental Protection Agency, 1st International Building, 1201 Elm Street, Dallas, TX 75270, Telephone: (214) 729-2760

Region VII—Mr. Paul Walker, Water Division, Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, MO 64108, Telephone: (816) 374-2725

Region VIII—Mr. Gerald Burke, Office of Grants, Water Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, CO 80203, Telephone: (303) 327-4579

Region IX—Ms. Linda Powell, Permits Branch, Enforcement Division (E-4), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 556-3450

Region X—Mr. Danforth Bodien, Enforcement Division, Environmental Protection Agency, 1200 6th Avenue, Seattle, WA 98101, Telephone: (206) 442-1352

Interested persons may also contact the Assistant Regional Administrators for Financial Assistance in the Small Business Administration Regional offices for more details on Federal loan assistance programs. For further information, write or telephone any of the following individuals:

Region I—Mr. George H. Allen, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 60 Batterymarch, 10th Floor, Boston, MA 02110, Telephone: (617) 223-3891

Region II—Mr. John Axiotakis, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 26 Federal Plaza, New York, NY 10007, Telephone: (212) 264-1452

Region III—Mr. David Malone, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 231 St. Asaphs Road, West Lobby, Suite 646, Bala Cynwyd, PA 19004, Telephone: (215) 596-5908

Region IV—Mr. Merritt Scoggins, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1375 Peachtree Street, N.E., Atlanta, GA 30367, Telephone: (404) 881-2009

Region V—Mr. Howard Bondruska, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 219 South Dearborn Street, Chicago, IL 60604, Telephone: (312) 353-4534

Region VI—Mr. Till Phillips, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1720 Regal Row, Suite 230, Dallas, TX 75202, Telephone: (214) 767-7873

Region VII—Mr. Richard Whitley, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 911 Walnut Street, 23rd Floor, Kansas City, MO 64016, Telephone: (816) 374-3210

Region VIII—Mr. James Chuculate, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1405 Curtis Street, Executive Tower Building, 22nd Floor, Denver, CO 80202, Telephone: (303) 837-3686

Region IX—Mr. Larry J. Wodarski, Deputy Assistant Regional Administrator for Financial Assistance, Small Business Administration, 450 Golden Gate Avenue, San Francisco, CA 94102, Telephone: (415) 556-7782

Region X—Mr. Jack Welles, Regional Administrator, Small Business Administration, 710 2nd Avenue, Dextor Horton Bldg., 5th Floor, Seattle, WA 98104, Telephone: (206) 442-1455.

In addition to the Economic Injury Loan Program, the Small Business Investment Act, as amended by P.L. 94-305, authorizes SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution facilities when the financing is provided through tax-exempt revenue or pollution control bonds. This program is open to all eligible small businesses as defined by the Small Business Administration (see 44 FR 57914 (October 9, 1979)). Bond financing with SBA's guarantee of the payments makes available long-term (20-30 years), low interest (7 percent) financing to small businesses. For further details on this program write to the SBA, Pollution Control Financing Division, Office of Special Guarantees, 1815 North Lynn Street, Magazine Bldg., Rosslyn, VA 22209, (703) 235-2900.

XXIV. Summary of Public Participation

In mid-July of 1979, the Agency circulated a contractor's draft technical report entitled "Preliminary Data Base for Review of BATEA Effluent Limitations Guidelines, NSPS, and Pretreatment Standards for the Pulp, Paper, and Paperboard Point Source Category" to a number of interested parties, including the American Paper Institute (API), the National Council of the Paper Industry for Air and Stream Improvement, Inc. (NCASI), the Natural Resources Defense Council, Inc. (NRDC), EPA Regional personnel, and personnel representing all State agencies with permitting authority. The NCASI distributed copies of the report to its member companies. The contractor's draft report did not contain recommendations for effluent limitations guidelines, new source performance standards, or pretreatment standards. Rather, the report presented a summary of the technical information on which the Agency intended to base the currently proposed regulations. The Agency accepted written comments on the draft report until September 21, 1979. Additional written comments were received after that date. A summary of all of the major comments received prior to September 21, 1979, and, to the extent possible, of all major comments received to date is presented here.

1. Comment: The contractor's report deals extensively with toxicity of untreated effluents and ignores a large body of evidence, submitted with the comments, that generally indicates that treated effluents from the pulp, paper, and paperboard industry are not acutely toxic and present no toxicity problems in receiving streams.

Response: The purpose of the contractor's draft report was to present a summary of the information on which effluent limitations guidelines, new source performance standards, and pretreatment standards would be established. The Clean Water Act of 1977 specifies (1) that effluent limitations and new source performance standards are to be established on a technology basis and (2) that pretreatment standards are to be established to ensure that pollutants do not interfere with, pass through, or otherwise be incompatible with publicly owned treatment works. Paragraph 8 of the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified 12 ERC 1833 (D.D.C. 1979), provides guidance to the Agency on exclusions of specific pollutants, categories, or subcategories from regulations under the effluent limitations guidelines, standards of performance, and/or pretreatment standards. Paragraphs 8(a)(iii) and 8(a)(iv) allow exclusion of specific pollutants if "the pollutant is present only in trace amounts and is neither causing or likely to cause toxic effects," and if for "a category or subcategory, the amount and the toxicity of each pollutant in the discharge does not justify developing national regulations." Paragraph 8(b)(ii) allows exclusion of all point sources within a point source category or point source subcategory from regulation under the pretreatment standards "if the toxicity and amount of the incompatible pollutants (taken together) introduced by such point source into treatment works . . . . that are publicly owned is so insignificant as not to justify developing a pretreatment regulation." Specific references to toxicity are summarized in the Development Document as necessary to support exclusion of pollutants, subcategories, or categories from regulations under the effluent limitations guidelines, standards of performance, or pretreatment standards based on the guidance provided in Paragraph 8 of the Settlement Agreement. All available references relating to toxicity, including those submitted with the comments, are included in the record supporting these proposed rules.

2. Comment: The contractor's draft report fails to provide information on the removal of toxic or nonconventional pollutants that can be attained through the application of the various technology options presented.

Response: At the time of distribution of the contractor's draft report, analysis of information on the removal of toxic and nonconventional pollutants through the application of existing and available treatment techniques had not been completed. The results of the verification sampling program which were presented in the report form the basis of these analyses which are now complete. The treatability of toxic and nonconventional pollutants present in pulp, paper, and paperboard wastewater discharges is discussed in the development document supporting these proposed rules.

3. Comment: Several commentators objected to the method used to establish base level raw waste loads and to the raw waste loads presented as characteristic of loadings resulting from the application of available production process controls. Many felt that the method resulted in the double counting of the pollutant reduction benefits of available production process controls that were in place at certain mills used in the establishment of base level raw waste loadings.

Response: The base level raw waste loads were presented in the contractor's draft report for the purpose of providing a starting point from which to determine pollutant reductions that are attainable after the application of additional production process controls that were not generally applied within a given subcategory. It was recognized that certain of the controls were in place at some individual facilities; however, for a specific production process control to be considered applicable at mills in any subcategory, the control was not in use at the majority of mills in the subcategory.

The Agency recognizes that BPT is the starting point for determination of effluent reduction benefits and incremental costs of BCT and BAT regulations. Therefore, the methodology used to calculate raw waste loads achievable through implementation of additional production process controls has been modified from that presented in the contractor's draft report. This revised methodology and the resulting anticipated raw waste loadings are presented in detail in the development document accompanying these proposed rules. The revised methodology generally involves the establishment of attainable raw waste loads based on the average of the raw waste loads that are demonstrated in each subcategory that are lower than those that formed the basis of development of BPT effluent limitations. Additional production process controls identified as capable of reducing pollutant loadings are those available technologies not being widely practiced in the subcategory. The Agency recognizes that the approach used at individual mills to reduce raw waste loadings will vary. However, this modified approach leads to determinations of raw waste loadings that are achievable and demonstrated.

4. Comment: The use of a "pure" mill approach in establishing guidelines is unnecessary and confusing. The methodology for deriving "pure" mill raw waste loads from actual mill data is unclear, inconsistent, and not statistically valid.

Response: In the contractor's draft report, an attempt was made to account for the diversity that exists within certain subcategories due to such factors as different percentages of pulp produced on-site to manufacture a given product. "Pure" mills, hypothetical mills where distinct unit operations are employed to produce particular products, were defined to be used in establishment of guidelines in an effort to account for these factors. This generally involved predicting raw waste characteristics at pure mills based on actual mill data. For many subcategories, the small number of mills or lack of available data make such predictions extremely difficult and can lead to inaccurate assessements of the capability of the various technology options considered as the basis of proposed regulations. Because of the inability to check the accuracy of such predictions, the Agency has chosen to base effluent limitations and standards on a model mill approach, similar to that used to establish BPT. Where appropriate, provisions have been made in the regulations to account for the impact of significant factors on the determination of attainable effluent limitations and standards.

5. Comment: The benefits of production process controls are overstated and the estimates of the costs of implementation of this level of technology are understated.

Response: The Agency has reviewed its methodology of determining reductions in raw waste loadings resulting from the implementation of available production process controls and revised this methodology as explained above. Data available to the Agency substantiate the attainability of these raw waste loadings.

EPA intends that the costs of attainment of effluent limitations based on the application of BPT technology plus the addition of applicable production process controls be accurately estimated. EPA does not intend to estimate the costs of implementation of specific production process controls at each mill in the industry. The proposed regulations do not require that specific technology be implemented, only that effluent limitations be met. Previous cost estimates were reviewed and new cost estimates developed based on application of this technology option. Cost estimates that were received in industry comments that were widely devergent from the Agency contractor's initial estimates involved extensive building modification or the construction of additional chemical recovery capacity that was not contemplated in the preparation of previous and current cost estimates. It is the Agency's opinion that at individual mills where extensive modification and construction would be required to implement a specific production process control, lower cost technology options exist that would allow attainment of the effluent limitations. It is the Agency's position that our current estimates are representative of the costs to attain the effluent limitations based on the implementation of this technology option.

6. Comment: The capability of BPT technology (biological treatment) is overstated in the contractor's draft report. The assumption that biological treatment systems can achieve specified concentrations irrespective of raw waste load is not supported in the contractor's draft report or in the BPT record. Where data exists, the Agency should use that data to determine the capability of biological treatment systems. If data do not exist, the plots of influent versus effluent BOD previously developed by the Agency (see prior Development Document; EPA-440/1-76/047-b, December 1976) could be used to predict the capability of biological treatment systems in removing BOD.

Response: The effluent concentrations presented in the contractor's draft report to predict attainable effluent pollutant levels were based on a preliminary assessment of the capability of biological treatment systems in use in the industry. The Agency has adopted the commenter's recommended approach and has relied on all available data to assess the capability of biological treatment. In fact, the relationships for influent versus effluent BOD mentioned by the commenter have been used in the calculation of effluent BOD from biological treatment systems after the application of production process controls to reduce raw waste loadings (BCT Option 1).

7. Comment: The data base for performance of chemically-assisted clarification is insufficient. Chemical dosage rates assumed in the contractor's draft report are too low and the removal capabilities at the assumed dosage rates are overstated.

Response: Data were submitted to the Agency by industry during the comment period that have served to expand the data base available for evaluation of this technology. Subsequent to the comment period, the Agency has obtained pilot and full-scale data for the application of chemically-assisted clarification to treat the effluent from a mill where bleached kraft fine papers are produced. In addition, several commenters provided information on bench-scale investigations into the proper chemical dosage required to effectively coagulate biologically-treated effluent discharged from facilities representative of several subcategories of the pulp, paper, and paperboard industry. Based on all data available to the Agency in January of 1980, the Agency determined chemical dosage rates representative of that required to effectively coagulate biologically-treated effluents from each of the appropriate subcategories of the pulp, paper, and paperboard point source category.

8. Comment: The application of activated carbon adsorption technology has not been demonstrated for treatment of pulp, paper, and paperboard industry wastewaters. Removal capabilities are overstated and system reliability is questionable.

Response: Information on activated carbon adsorption was presented in the contractor's draft report because it is an available technology for removal of many organic compounds. Many of the 129 specific toxic compounds and the 14 nonconventional pollutants under investigation in this industry are organic compounds, amenable to treatment by the application of activated carbon treatment technology. Therefore, treatment of pulp, paper, and paperboard effluents through application of activated carbon technology was considered to be a viable technology option for removel of toxic and nonconventional organic pollutants. The Agency had not yet completed its assessment of toxic and nonconventional pollutant data at the time of publication of the contractor's draft report. Since that time, the Agency has completed its assessment of the removal capability of existing treatment systems that are attaining BPT effluent limitations. The Agency has determined that little additional toxic or nonconventional pollutant reduction benefit would result from application of this technology in further treating pulp, paper, and paperboard effluents conforming to BPT effluent limitations. As a consequence, the application of granular activated carbon is no longer under consideration as a BAT control and treatment technology option.

9. Comment: Biological pretreatment prior to discharge to a POTW is contrary to Congress' intended support of joint industrial/municipal treatment. Such a requirement could place a significant financial burden on communities with jointly financed municipal-industrial facilities should management of industrial facilities decide to withdraw from POTWs.

Response: Because biological treatment is a proven technology capable of removing many of the toxic pollutants, it was being considered as a pretreatment technology option. This option is no longer being considered by the Agency because a less expensive option is available that ensures that pass through of toxic pollutants or upset of POTWs receiving pulp, paper, and peperboard wastewaters does not occur. Our analysis of available data indicates that the sources of toxic pollutants (cholorphenolics) that are likely to pass through POTWs are certain slimicide and biocide formulation used at some mills in the industry. Therefore, the most effective technique for removal of these toxic pollutants is the substitution of slimicide and biocide formations that contain toxic pollutants with formulations that do not.

XXV. Solicitation of Comments

EPA invited and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be pointed to, with specificity and requires that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information in connection with the following: (1) An alternative methodology for establishing BCT effluent limitations for the pulp, paper, and paperboard industry was submitted by the American Paper Institute (API) about eight months after the end of the formal comment period provided for review of the contractor's draft report. The API proposal involves establishing a set of "best variability performers" (i.e., mills where effluent levels of BOD and TSS within ±50 percent of BPT are attained and where effluent variability is less than that used in the establishment of BTP). Variability factors for this set of mills have been calculated, averaged, and applied to the annual average BOD and TSS effluent levels that formed the basis of BPT. This resulted in a determination of maximum 30-day and maximum daily BOD and TSS effluent limitations. API states that BCT effluent limitations established by application of this alternative methodology can be achieved through spill containment and equilization. The basic design of existing biological treatment systems would remain unchanged.

API estimates that attainment of BCT limitations based on this methodology would mean reductions of BOD and TSS on the order of 18 to 28 percent when compared to BPT. API has estimated the capital cost of compliance to be between $0.40 to $0.55 billion, substantially less than that anticipated through attanimænt of proposed BCT effluent limitations.

The Agency has completed a review of this alternative approach and has several reservations concerning the methodology: (a) The API methodology arbitrarily establishes a set of "best variability performers" without indicating whether the technologies used at this set of mills are consistent with the technology basis used to estimate the costs of compliance (i.e., spill control and equalization). If the technologies on which effluent limitations are based cannot be related to the set of "best variability performers," a serious deficiency exists in the methodology. Effluent limitations based on such a methodology would likely be found to be arbitrary and capricious; and (b) An assumption is made that no improvement in annual average treatment plant performance will occur through application of spill control and equalization. Contrary to this assumption, it is likely that these technologies will result in improved treatment plant performance. If slug loadings and abrupt pH changes that are known to inhibit the performance of biological treatment systems are eliminated, improvement in overall treatment system performance will result, thus lowering annual average BOD and TSS discharges.

As a part of this rulemaking, EPA requests comments on the appropriateness of API's alternative approach.

(2) In order to provide a more extensive data base for this rulemaking, EPA requests that representatives of pulp, paper, and paperboard mills voluntarily sample and analyze for the toxic pollutants proposed for regulation. Samples should be taken, at a minimum, from intake water, raw wastewater, and pretreated or final effluent where treatment is in place. Voluntary sampling and analyses must be conducted by the same methods used by EPA and, therefore, individuals who intend to participate in this effort should contact Robert W. Dellinger (see ADDRESS at beginning of preamble) for further assistance. Sampling and analysis procedures and a list of laboratories capable of performing the analyses will be made available to those wishing to participate in this program.

(3) EPA requests that mill representatives review all data submitted to the Agency, including data on flow and production, to insure their accuracy.

(4) Characterization of the nature of sludges generated at pulp, paper, and paperboard mills due to wastewater treatment and the costs of sludge handling and disposal are important to these regulations and regulations being developed by EPA's Office of Solid Waste, under authority of the Resource Conservation and Recovery Act (RCRA). The Agency solicits additional data concerning the quantities, pollutant content, and handling and disposal costs for all solid wastes.

(5) Possible underestimation of production process control technology and end-of-pipe treatment costs were issues raised during public comment. In order to perform a meaningful comparison of EPA cost data and industry cost data, EPA requests detailed information on salient design and operating characteristics, estimates of installed cost for each unit or piece of equipment, the date of installation and the amount of installation labor required, and the cost for operation and maintenance broken down into units of usage and cost for energy (kilowatt hours or equivalent), chemicals, and labor (work-years or equivalent). Industry submittals to date have been lacking in sufficient detailed information to enable direct comparision to EPA cost estimates. In many instances, a closer look at industry estimates has indicated that no direct comparison can be made because of significant differences in the assumptions made in estimating costs. Sufficient detail must be provided in comments to provide a thorough understanding of the assumptions used in estimating costs and of the exact system or units for which cost estimates have been provided.

(6) The Agency is seeking additional information on the chemical dosage rates necessary to effect efficient clarification of biologically treated effluents in each of the industry subcategories. Sufficient detailed information must be provided in the comments to enable a determination by the Agency of the optimum dosage rate required to obtain a highly clarified effluent. Submittals to date have been lacking in information such as pH of the wastewater before and after chemical addition, consideration of whether the addition of sulfuric acid and alum will reduce chemical requirements, and methods used in the calculation of solids generation.

(7) The Agency is seeking additional information on ammonia discharges from integrated mills where ammonia-based cooking chemicals are used. Information is sought on raw waste and final effluent levels of ammonia, available end-of-pipe technologies and their capability to remove ammonia, the feasibility of change to a different chemical base, and the costs associated with the application of end-of-pipe or production process control technologies.

(8) The Council on Wage and Price Stability (CWPS) recently submitted to the Agency a detailed study suggesting a different methodology to determine the POTW comparison figure used in the BCT cost-reasonableness test. Copies of the CWPS study are available by contacting Mr. Robert C. Ellis (see FOR FURTHER INFORMATION CONTACT at beginning of preamble).

The CWPS study implies a POTW comparison figure of about 17 cents per pound of BOD and TSS removed, a level that would result in very little control beyond BPT. The Agency is currently reviewing the CWPS study in detail. Any change in the cost-reasonableness test could affect the BCT regulations proposed herein. As part of this rulemaking, EPA requests comments on the appropriateness of the CWPS methodology and analysis.

Dated: December 11, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act
Agency—The U.S. Environmental Protection Agency
BAT—The best available technology economically achievable, under section 301(b)(2)(A) of the Act
BCT—The best conventional pollutant control technology, under section 301(b)(2)(E) of the Act
BMP—Best management practices, under section 304(3) of the Act
BPT—The best practicable control technology currently available, under section 301(b)(1)(A) of the Act
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Public Law 95–217)
Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States
Indirect discharger—A facility which discharges or may discharge

pollutants into a publicly owned treatment works

NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act

NSPS—New source performance standards under section 306 of the Act

POTWs—Publicly owned treatment works

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the Act

PSNS—Pretreatment standards for new sources of indirect discharges, under section 307(c) of the Act

RCRA—Resource Conservation and Recovery Act (PL 94-580) of 1976, Amendments to Solid Waste Disposal Act

Appendix B—Toxic Pollutants Not Detected in Treated Effluents

acenaphthene, acrolein, 1,2,4-trichlorobenzene, hexachlorobenzene, hexachloroethane, chloroethane, bis(2-chloroethyl) ether, 2-chloroethyl vinyl ether, para-chloro-meta-cresol, 1,[illegible]-dichlorobenzene, 1,4-dichlorobenzene, 3,3'-dichlorobenzidine, 1,2-dichloropropane, 1,2-diphenylhydrazine, 4-chlorophenyl phenyl ether, 4-bromophenyl phenyl ether, bis(2-chloroisopropyl) ether, bis(2-chloroethoxy) methane, methylene chloride (dichloromethane), methyl chloride (chloromethane), methyl bromide (bromomethane), dichlorodifluoromethane, hexachlorobutadiene, hexachlorocyclopentadiene, 2-nitrophenol, 2,4-dinitrophenol, 4,6-dinitro-o-cresol, *n*-nitrosodimethylamine, *n*-nitroso-di-*n*-propylamine, bis(2-ethylhexyl)phthalate, 1,2-benzanthracene (benzo(a)anthracene), 3,4-benzopyrene (benzo(a)pyrene), 3,4-benzofluoranthene, 11,12-benzofluoranthene (benzo(k)fluoranthene), 1,12-benzoperylene(benzo(ghi)perylene), phenanthrene, dibenzo(a,h)anthracene(1,2,5,6-dibenzanthracene), vinyl chloride (chloroethylene), aldrin, dieldrin, chlordane, 4,4'-DDT, 4,4'-DDE (p,p'-DDX), 4,4'-DDD (p,p'-TDE), a-endosulfan-Alpha, b-endosulfan-Beta, endosulfan sulfate, endrin, endrin aldehyde, heptachlor, heptachlor epoxide, a-BHC-Alpha, b-BHC-Beta, r-BHC (lindane)-Gamma, g/BHC-Delta, toxaphene, asbestos

Appendix C—Toxic Pollutants Detected in Treated Effluents at Amounts Too Small To Be Effectively Reduced by Technologies Known to the Administrator

acrylonitrile, benzene, benzidine, carbon tetrachloride (tetrachloromethane), chlorobenzene, 1,2-dichloroethane, 1,1,1-trichloroethane, 1,1-dichloroethane, 1,1,2-trichloroethane, 1,1,2,2-tetrachloroethane, bis (chloromethyl) ether, 2-chloronaphthalene, 2-chlorophenol, 1,2-dichlorobenzene, 1,1-dichloroethylene, 1,2-trans-dichloroethylene, 2,4-dichlorophenol, 1,2-dichloropropylene (1,3-dichloropropene), 2,4-dimethylphenol, 2,4-dinitrotoluene, 2,6-dinitrotoluene, ethylbenzene, fluoranthene, bromoform (tribromomethane), dichlorobromomethane, trichlorofluoromethane, chlorodibromomethane, isophorone, naphthalene, nitrobenzene, 4-nitrophenol, N-nitrosodiphenylamine, phenol, butyl benzyl phthalate, di-n-butyl phthalate, di-n-octyl phthalate, diethyl phthalate, dimethyl phthalate, chrysene, acenaphthylene, anthracene, fluorene, indeno (1,2,3-cd)pyrene (2,3-o-phenylenepyrene), pyrene, tetrachloroethylene, toluene, trichloroethylene, PCB-1242 (Arochlor 1242),* PCB-1254 (Arochlor 1254),* PCB-1221 (Arochlor 1221),* PCB-1232 (Arochlor 1232),* PCB-1248 (Arochlor 1248),* PCB-1260 (Arochlor 1260),* PCB-1016 (Arochlor 1016),* Antimony (Total), Arsenic (Total), Beryllium (Total), Cadmium (Total), Chromium (Total), Copper (Total), Cyanide (Total), Lead (Total), Mercury (Total), Nickel (Total), Selenium (Total), Silver (Total), Thallium (Total)

It is proposed to amend Title 40 by revising Part 430 to read as follows:

PART 430—THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

Subpart A—Unbleached Kraft Subcategory

Sec.
430.10 Applicability; description of the unbleached kraft subcategory.
430.11 Specialized definitions.
430.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.15 New source performance standards (NSPS).
430.16 Pretreatment standards for existing sources (PSES).
430.17 Pretreatment standards for new sources (PSNS).

Subpart B—Sodium-Based Neutral Sulfite Semi-Chemical Subcategory

430.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]
430.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved]
430.25 New source performance standards (NSPS) [Reserved]
430.26 Pretreatment standards for existing sources (PSES) [Reserved]
430.27 Pretreatment standards for new sources (PSNS) [Reserved]

Subpart C—Ammonia-Based Neutral Sulfite Semi-Chemical Subcategory

430.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]
430.34 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved]
430.35 New source performance standards (NSPS) [Reserved]
430.36 Pretreatment standards for existing sources (PSES) [Reserved]
430.37 Pretreatment standards for new sources (PSNS) [Reserved]

Subpart D—Unbleached Kraft-Neutral Sulfite Semi-Chemical (Cross Recovery) Subcategory

430.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]
430.44 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved]
430.45 New source performance standards (NSPS) [Reserved]
430.46 Pretreatment standards for existing sources (PSES) [Reserved]
430.47 Pretreatment standards for new sources (PSNS) [Reserved]

Subpart E—Paperboard From Wastepaper Subcategory

430.50 Applicability; description of the paperboard from wastepaper subcategory.
430.51 Specialized definitions.

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*PCBs have been found at part per billion levels at mills where wastepaper is used as a raw material. Under Paragraph 12 of the Settlement Agreement, the Administrator may establish more stringent effluent limitations, guidelines, standards, or other necessary controls upon a determination that the discharge of PCBs would interfere with the attainment or maintenance of water quality in a specific portion of the navigable waters.

Sec.

430.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.54 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.55 New source performance standards (NSPS).

430.56 Pretreatment standards for existing sources (PSES).

430.57 Pretreatment standards for new sources (PSNS).

Subpart F—Dissolving Kraft Subcategory

430.60 Applicability; description of the dissolving kraft subcategory.

430.61 Specialized definitions.

430.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.64 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.65 New source performance standards (NSPS).

430.66 Pretreatment standards for existing sources (PSES).

430.67 Pretreatment standards for new sources (PSNS).

Subpart G—Market Bleached Kraft Subcategory

430.70 Applicability; description of the market bleached kraft subcategory.

430.71 Specialized definitions.

430.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.74 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.75 New source performance standards (NSPS).

430.76 Pretreatment standards for existing sources (PSES).

430.77 Pretreatment standards for new sources (PSNS).

Subpart H—BCT Bleached Kraft Subcategory

430.80 Applicability; description of the BCT bleached kraft subcategory.

430.81 Specialized definitions.

430.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.84 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.85 New source performance standards (NSPS).

430.86 Pretreatment standards for existing sources (PSES).

430.87 Pretreatment standards for new sources (PSNS).

Subpart I—Fine Bleached Kraft Subcategory

Sec.

430.90 Applicability; description of the fine bleached kraft subcategory.

430.91 Specialized definitions.

430.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.94 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.95 New source performance standards (NSPS).

430.96 Pretreatment standards for existing sources (PSES).

430.97 Pretreatment standards for new sources (PSNS).

Subpart J—Papergrade Sulfite (Blow Pit Wash) Subcategory

430.100 Applicability; description of the papergrade sulfite (blow pit wash) subcategory.

430.101 Specialized definitions.

430.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.104 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.105 New source performance standards (NSPS).

430.106 Pretreatment standards for existing sources (PSES).

430.107 Pretreatment standards for new sources (PSNS).

Subpart K—Dissolving Sulfite Pulp Subcategory

430.110 Applicability; description of the dissolving sulfite pulp subcategory.

430.111 Specialized definitions.

430.113 Effluent limitations represeting the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.114 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.115 New source performance standards (NSPS).

430.116 Pretreatment standards for existing sources (PSES).

430.117 Pretreatment standards for new sources (PSNS).

Subpart L—Groundwood-Chemi-Mechanical Subcategory

430.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology BCT) [Reserved].

430.124 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved].

Sec.

430.125 New source performance standards (NSPS) [Reserved].

430.126 Pretreatment standards for existing sources (PSES) [Reserved].

430.127 Pretreatment standards for new sources (PSNS) [Reserved].

Subpart M—Groundwood-Thermo-Mechanical Subcategory

430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.

430.131 Specialized definitions.

430.133 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology BCT).

430.134 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable BAT).

430.135 New source performance standards (NSPS).

430.136 Pretreatment standards for existing sources (PSES).

430.137 Pretreatment standards for new sources (PSNS).

Subpart N—Groundwood-CMN Papers Subcategory

430.140 Applicability; description of the groundwood-CMN papers subcategory.

430.141 Specialized definitions.

430.143 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.144 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology econmically achievable (BAT).

430.145 New source performance standards (NSPS).

430.146 Pretreatment standards for existing sources (PSES).

430.147 Pretreatment standards for new sources (PSNS).

Subpart O—Groundwood-Fine Papers Subcategory

430.150 Applicability; description of the groundwood-fine papers subcategory.

430.151 Specialized definitions.

430.153 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

430.154 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.155 New source performance standards (NSPS).

430.156 Pretreatment standards for existing sources (PSES).

430.157 Pretreatment standards for new sources (PSNS).

Subpart P—Soda Subcategory

430.160 Applicability; description of the soda subcategory.

430.161 Specialized definitions.

430.163 Effluent limitations representing the degree of effluent reduction attainable by

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the application of the best conventional pollutant control technology (BCT).
430.164 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.165 New source performance standards (NSPS).
430.166 Pretreatment standards for existing sources (PSES).
430.167 Pretreatment standards for new sources (PSNS).

Subpart Q—Deink Subcategory

430.170 Applicability; description of the deink subcategory.
430.171 Specialized definitions.
430.173 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.174 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.175 New source performance standards (NSPS).
430.176 Pretreatment standards for existing sources (PSES).
430.177 Pretreatment standards for new sources (PSNS).

Subpart R—Nonintegrated-Fine Papers Subcategory

430.180 Applicability; description of the nonintegrated-fine papers subcategory.
430.181 Specialized definitions.
430.183 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.184 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.185 New source performance standards (NSPS).
430.186 Pretreatment standards for existing sources (PSES).
430.187 Pretreatment standards for new sources (PSNS).

Subpart S—Nonintegrated-Tissue Papers Subcategory

430.190 Applicability; description of the nonintegrated-tissue papers subcategory.
430.191 Specialized definitions.
430.193 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.194 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.195 New source performance standards (NSPS).
430.196 Pretreatment standards for existing sources (PSES).
430.197 Pretreatment standards for new sources (PSNS).

Subpart T—Tissue From Wastepaper Subcategory

430.200 Applicability; description of the

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tissue from wastepaper subcategory.
430.201 Specialized definitions.
430.203 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.204 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.205 New source performance standards (NSPS).
430.206 Pretreatment standards for existing sources (PSES).
430.207 Pretreatment standards for new sources (PSNS).

Subpart U—Papergrade Sulfite (Drum Wash) Subcategory

430.210 Applicability; description of the papergrade sulfite (drum wash) subcategory.
430.211 Specialized definitions.
430.213 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.214 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.215 New source performance standards (NSPS).
430.216 Pretreatment standards for existing sources (PSES).
430.217 Pretreatment standards for new sources (PSNS).

Subpart V—Unbleached Kraft and Semi-Chemical Subcategory

430.220 Applicability; description of the unbleached kraft and semi-chemical subcategory.
430.221 Specialized definitions.
430.223 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.224 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.225 New source performance standards (NSPS).
430.226 Pretreatment standards for existing sources (PSES).
430.227 Pretreatment standards for new sources (PSNS).

Subpart W—Semi-Chemical Subcategory

430.230 Applicability; description of the semi-chemical subcategory.
430.231 Specialized definitions.
430.233 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.234 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.235 New source performance standards (NSPS).
430.236 Pretreatment standards for existing sources (PSES).

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430.237 Pretreatment standards for new sources (PSNS).

Subpart X—Wastepaper—Molded Products Subcategory

430.240 Applicability; description of the wastepaper—molded products subcategory.
430.241 Specialized definitions.
430.242 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
430.243 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.244 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.245 New source performance standards (NSPS).
430.246 Pretreatment standards for existing sources (PSES).
430.247 Pretreatment standards for new sources (PSNS).

Subpart Y—Nonintegrated-Lightweight Papers Subcategory

430.250 Applicability; description of the nonintegrated-lightweight papers subcategory.
430.251 Specialized definitions.
430.252 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
430.253 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.254 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.255 New source performance standards (NSPS).
430.256 Pretreatment standards for existing sources (PSES).
430.257 Pretreatment standards for new sources (PSNS).

Subpart Z—Nonintegrated-Filter and Nonwoven Papers Subcategory

430.260 Applicability; description of the nonintegrated-filter and nonwoven papers subcategory.
430.261 Specialized definitions.
430.262 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
430.263 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.264 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

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430.265 New source performance standards (NSPS).
430.266 Pretreatment standards for existing sources (PSES).
430.267 Pretreatment standards for new sources (PSNS).

Subpart AA—Nonintegrated-Paperboard Subcategory

430.270 Applicability; description of the nonintegrated-paperboard subcategory.
430.271 Specialized definitions.
430.272 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
430.273 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.274 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.275 New source performance standards (NSPS).
430.276 Pretreatment standards for existing sources (PSES).
430.277 Pretreatment standards for new sources (PSNS).

Authority: Secs. 301, 304, 306, 308, and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by Clean Water Act of 1977, Pub. L. 95–217).

Subpart A—Unbleached Kraft Subcategory

§ 430.10 Applicability; description of the unbleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at unbleached kraft mills.

§ 430.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous discharges shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control techology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR Sections 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart A

[Facilities where linerboard is produced]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	3.5	2.0
TSS	6.2	3.7

pH—Within the range of 5.0 to 9.0 at all times.

Subpart A

[Facilities where bag paper and other mixed products are produced]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	4.5	2.7
TSS	7.2	4.4

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations.

Concentration limitations are only applicable to non-continuous dischargers.

Subpart A

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0013	0.025
Trichlorophenol	.0016	.030

§ 430.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart A

[Facilities where linerboard is produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	2.1	1.2
TSS	3.7	2.2
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.00078	0.025
Trichlorophenol	.00094	.030

Subpart A

[Facilities where bag paper and other mixed products are produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	3.8	2.1
TSS	5.8	3.5
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0011	0.025
Trichlorophenol	.0013	.030

§ 430.16 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source-subject to this subpart that introduces pollutants into a publicly owned treatment works (POTWs) must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart A

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart A

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0013
Trichlorophenol	0.0016

§ 430.17 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart A

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart A

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/100 lb) of product)
Pentachlorophenol	0.0013
Trichlorophenol	.0016

Subpart B—Sodium-Based Neutral Sulfite Semi-Chemical Subcategory

§ 430.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]

§ 430.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved]

§ 430.25 New source performance standards (NSPS) [Reserved]

§ 430.26 Pretreatment standards for existing sources (PSES) [Reserved]

§ 430.27 Pretreatment standards for new sources (PSNS) [Reserved]

Subpart C—Ammonia-Based Neutral Sulfite Semi-Chemical Subcategory

§ 430.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]

§ 430.34 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved]

§ 430.35 New source performance standards (NSPS) [Reserved]

§ 430.36 Pretreatment standards for existing sources (PSES) [Reserved]

§ 430.37 Pretreatment standards for new sources (PSNS) [Reserved]

Subpart D—Unbleached Kraft-Neutral Sulfite Semi-Chemical (Cross Recovery) Subcategory

§ 430.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]

§ 430.44 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) [Reserved]

§ 430.45 New source performance standards (NSPS) [Reserved]

§ 430.46 Pretreatment standards foe existing sources (PSES) [Reserved]

§ 430.47 Pretreatment standards for new sources (PSNS) [Reserved]

Subpart E—Paperboard From Wastepaper Subcategory

§ 430.50 Applicability; description of the paperboard from wastepaper subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of paperboard from wastepaper.

§ 430.51 Specialized definitions.

For the purpose of this subpart: (a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart E

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	1.2	0.74
TSS	1.5	.89
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.54 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 125.32, and existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best attainable by the application of the best available technology economically achievable (BAT), except that non-continous discharges shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart E

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.00032	0.025
Trichlorophenol	0.00039	.030

§ 430.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart E

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
Bod5	1.20	0.74
TSS	1.50	0.69
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.00032	0.025
Trichlorophenol	.00039	.030

§ 430.56 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart E

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart E

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.00075
Trichlorophenol	.00090

§ 430.57 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart E

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart E

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.00075
Trichlorophenol	.00090

Subpart F—Dissolving Kraft Subcategory

§ 430.60 Applicability; description of the dissolving kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of dissolving pulp at kraft mills.

§ 430.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production in air-dry-tons (10% moisture) divided by the number of operating days during that year. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart F

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	12.2	7.2
TSS	18.6	11.3
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.64 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR Sections 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart F

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.055	0.24
Pentachlorophenol	.0057	.025
Trichlorophenol	.0069	.030

§ 430.65 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart F

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	11.2	6.6

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
TSS	17.1	10.4
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	milligrams per liter
Chloroform	0.051	0.240
Pentachlorophenol	.0053	.025
Trichlorophenol	.0063	.030

§ 430.66 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart F

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart F

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0057
Trichlorophenol	.0069

§ 430.67 Pretreatment standards for new sources (PSNS)

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart F

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart F

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0057
Trichlorophenol	.0070

Subpart G—Market Bleached Kraft Subcategory

§ 430.70 Applicability; description of the market bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of market pulp at bleached kraft mills.

§ 430.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production in air-dry-tons (10% moisture) divided by the number of operating days during that year. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average efffluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	10.5	6.2
TSS	13.2	8.0
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.74 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart G

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.042	0.240
Pentachlorophenol	.0043	.025
Trichlorophenol	.0052	.030

§ 430.75 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart G

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	8.2	4.8
TSS	10.2	6.2
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.032	0.240
Pentachlorophenol	.0034	.025
Trichlorophenol	.0040	.030

§ 430.76 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart G

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart G

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0043
Trichlorophenol	.0052

§ 430.77 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart G

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart G

Pollutant or pollutant property	PSNS effluent limitations (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0043
Trichlorophenol	.0052

Subpart H—BCT Bleached Kraft Subcategory

§ 430.80 Applicability; description of the BCT bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of paperboard, coarse paper, and tissue paper at bleached kraft mills.

§ 430.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper and paperboard production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

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§ 430.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	7.5	4.5
TSS	10.8	6.6
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.84 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart H

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.035	0.240
Pentachlorophenol	.0037	.025
Trichlorophenol	.0044	.030

§ 430.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart H

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.8	3.5
TSS	8.4	5.1
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.028	0.240
Pentachlorophenol	.0029	.025
Trichlorophenol	.0034	.030

§ 430.86 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart H

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart H

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0037
Trichlorophenol	.0044

§ 430.87 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

Subpart H

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart H

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0037
Trichlorophenol	.0044

Subpart I—Fine Bleached Kraft Subcategory

§ 430.90 Applicability; description of the fine bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and fine papers at bleached kraft mills.

§ 430.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.93 Effient limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the applicant of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.9	3.5
TSS	9.2	5.8
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.94 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any exising point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart I

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.031	0.240
Pentachlorophenol	.0032	.025
Trichlorophenol	.0039	.030

§ 430.95 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart I

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	3.8	2.3
TSS	6.0	3.6
pH—Within the range of 5.0 to 9.0 at all times.		

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.020	0.240
Pentachlorophenol	.0021	.025
Trichlorophenol	.0025	.030

§ 430.96 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart I

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart I

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0032
Trichlorophenol	.0038

§ 430.97 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart I

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart I

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day) (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0032
Trichlorophenol	.0039

Subpart J—Papergrade Sulfite (Blow Pit Wash) Subcategory

§ 430.100 Applicability; description of the papergrade sulfite (blow pit wash) subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at papergrade sulfite mills, where blow pit pulp washing techniques are used.

§ 430.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

(e) Sulfite cooking liquor shall be defined as bisulfite cooking liquor when the pH of the liquor is between 3.0 and 6.0 and as acid sulfite cooking liquor when the pH is less than 3.0.

§ 430.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consective days
	Kg/kkg or (or pounds per 1,000 lb) of product	
BOD7	$0.0033 x^2-0.176 x+11.1$	$0.0020 x^2-0.104 x+6.61$
TSS	$0.0055 x^2-0.291 x+18.4$	$0.0033 x^2-0.177 x+11.2$
pH	Within the range of 5.0 to 9.0 at all times.	

x=Percent sulfite pulp in final product

§ 430.104 Effluent limitations representing the degree of effleuent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart J

Pollutant or pollutant property	BAT effluent limitations (maximum for any one day)	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Chloroform	$(0.00912 x^2-0.485 x+30.72)/1,000$	0.240
Pentachlorophenol	$(0.000950 x^2-0.0506 x+3.2)/1,000$	0.025
Trichlorohenol	$(0.00114 x^2-0.067 x+30.84)/1,000$	0.030

x=Percent sulfite pulp in final product.

§ 430.105 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.62. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart J

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD*5*	$0.0025x^2-0.134x+8.46$	$0.0015x^2-0.079x+5.02$
TSS	$0.0042x^2-0.221x+14.0$	$0.0025x^2-0.134x+8.50$
pH	Within the range of 5.0 to 9.0 at all times.	

Pollutant or pollutant property	Maximum for any one day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Chloroform	$(0.00693x^2-0.369x+23.4)/1{,}000$	0.240
Pentachlorophenol	$(0.000722x^2-0.0384x+2.43)/1{,}000$	0.025
Trichlorophenol	$(0.000866x^2-0.0461x+2.92)/1{,}000$	0.030

x = Percent sulfite pulp in final product.

§ 430.106 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart J

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart J

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), Kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	$(0.000950x^2-0.0506x+3.2)/1{,}000$.
Trichlorophenol	$(0.00114x^2-0.0607x+3.84)/1{,}000$

x = percent sulfite pulp in final product.

§ 430.107 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart J

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) Milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart J

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) Kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	$(0.000950x^2-0.0506x+3.2)/1{,}000$.
Trichlorophenol	$(0.00114x^2-0.0607x+3.84)/1{,}000$.

x = percent sulfite pulp in final product.

Subpart K—Dissolving Sulfite Pulp Subcategory

§ 430.110 Applicability; description of the dissolving sulfite pulp subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp at dissolving sulfite mills.

§ 430.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production in air-dry-tons (10% moisture) divided by the number of operating days during that year. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantitites of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for noncontinuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.113 Effluent limitations representing the degree of effluent reduction attainable by the applicaton of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart K

[Facilities where nitration grade pulp is produced]

Pollutant or pollutant property	BCT effluent limitations Maximum for any 1 day	BCT effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	41.4	21.5
TSS	70.6	38.0
pH—Within the range of 5.0 to 9.0 at all times.		

Subpart K

[Facilities where viscose grade pulp is produced]

Pollutant or pollutant property	BCT effluent limitations Maximum for any 1 day	BCT effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	44.3	23.1
TSS	70.6	38.0
pH—Within the range of 5.0 to 9.0 at all times.		

Subpart K

[Facilities where cellophane grade pulp is produced]

Pollutant or pollutant property	BCT effluent limitations Maximum for any 1 day	BCT effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	48.1	25.0
TSS	70.6	38.0
pH—Within the range of 5.0 to 9.0 at all times.		

Subpart K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	BCT effluent limitations Maximum for any 1 day	BCT effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	52.0	27.1
TSS	70.6	38.0
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.114 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in Kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart K

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day) Kg/kkg (lb/1,000 lb) of product	BAT effluent limitations (maximum for any 1 day) Milligrams per liter
Chloroform	0.066	0.240
Pentachlorophenol	.0069	.025
Trichlorophenol	.0083	.030

§ 430.115 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous deschargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart K

[Facilities where nitration grade pulp is produced]

Pollutant or pollutant property	NSPS effluent limitations Maximum for any 1 day	NSPS effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	20.3	12.3
TSS	38.5	23.4
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day Kg/kkg (lb/1,000 lb) of product	Maximum for any 1 day Milligrams per liter
Chloroform	0.059	0.240
Pentachlorophenol	.0062	.025
Trichlorophenol	.0074	.030

Subpart K

[Facilities where viscose grade pulp is produced]

Pollutant or pollutant property	NSPS effluent limitations Maximum for any 1 day	NSPS effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	21.6	12.8
TSS	38.5	23.4
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day Kg/kkg (lb/1,000 lb) of product	Maximum for any 1 day Milligrams per liter
Chloroform	0.059	0.240
Pentachlorophenol	.0062	.025
Trichlorophenol	.0074	.030

Subpart K

[Facilities where cellophane grade pulp is produced]

Pollutant or pollutant property	NSPS effluent limitations Maximum for any 1 day	NSPS effluent limitations Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	23.5	13.9
TSS	38.5	23.4
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.059	0.240
Pentachlorophenol	.0062	.025
Trichlorophenol	.0074	.030

Subpart K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	25.4	15.0
TSS	38.5	23.4
pH—within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.059	0.240
Pentachlorophenol	.0062	.025
Trichlorophenol	.0074	.030

§ 430.116 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart K

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart K

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0069
Trichlorophenol	.0063

§ 430.117 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart K

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart K

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0069
Trichlorophenol	.0063

Subpart L—Grounded-Chemi-Mechancial Subcategory

§ 430.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.124 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.125 New source performance standards (NSPS). [Reserved]

§ 430.126 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.127 Pretreatment standards for new sources (PSNS). [Reserved]

Subpart M—Groundwood-Thermo-Mechanical Subcategory

§ 430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at groundwood mills through the application of the thermo-mechanical process.

§ 430.131 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.133 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82.

Subpart M

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	3.9	2.3
TSS	6.2	3.7
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.134 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart M

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (lb/ 1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0022	0.025
Trichlorophenol	.0026	.030
Zinc	.26	3.0

§ 430.135 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart M

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	1.5	0.89
TSS	2.3	1.4
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/ 1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.00083	0.025
Trichlorophenol	.0010	.030
Zinc	.10	3.0

§ 430.136 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart M

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030
Zinc	3.0

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart M

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day) kg/kkg (or lb/ 1,000 lb) of product
Pentachlorophenol	0.0022
Trichlorophenol	0.0026
Zinc	0.26

§ 430.137 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart M

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030
Zinc	3.0

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart M

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) kg/kkg (or lb/ 1,000 lb) of product
Pentachlorophenol	0.0022
Trichlorophenol	0.0026
Zinc	0.26

Subpart N—Groundwood-CMN Papers Subcategory

§ 430.140 Applicability; description of the groundwood-CMN papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and coarse paper, molded pulp products, and newsprint at groundwood mills.

§ 430.141 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.143 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart N

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	4.5	2.7
TSS	6.2	3.8

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.144 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart N

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0025	0.025
Trichlorophenol	.0030	.030
Zinc	.30	3.0

§ 430.145 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart N

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	3.2	1.9
TSS	4.4	2.7

pH—Within the range of 5.0 to 9.0 at all times.

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per/liter
Pentachlorophenol	0.0020	0.025
Trichlorophenol	.0024	.030
Zinc	.24	3.0

§ 430.146 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart N

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030
Zinc	3.0

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart N

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0025
Trichlorophenol	.0030
Zinc	.30

§ 430.147 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart N

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030
Zinc	3.0

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart N

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0025
Trichlorophenol	.0030
Zinc	.30

Subpart O—Groundwood-Fine Papers Subcategory

§ 430.150 Applicability; description of the groundwood-fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and fine paper at groundwood mills.

§ 430.151 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations, such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.153 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart O

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	4.1	2.4
TSS	5.9	3.5
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.154 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart O

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0023	0.025
Trichlorophenol	.0027	.030
Zinc	.27	3.0

§ 430.155 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart O

Pollutant or pollutant property	NSPS effluent limitations: Maximum for any 1 day	NSPS effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	2.6	1.5
TSS	3.7	2.2
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day: Kg/kkg (lb/1,000 lb) of product	Maximum for any 1 day: Milligrams per liter
Pentachlorophenol	0.0014	0.025
Trichlorophenol	.0017	.030
Zinc	.17	3.0

§ 430.156 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart O

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030
Zinc	3.0

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart O

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0023
Trichlorophenol	.0027
Zinc	.27

§ 430.157 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart O

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030
Zinc	3.0

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart O

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0023
Trichlorophenol	.0027
Zinc	.27

Subpart P—Soda Subcategory

§ 430.160 Applicability; description of the soda subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at soda mills.

§ 430.161 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.163 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continous discharges shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.62.

Subpart P

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.0	3.5
TSS	9.2	5.6
pH—Within the range of 5.0 to 9.0 at all times.		

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§ 430.164 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart P

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.031	0.240
Pentachlorophenol	.0032	.025
Trichlorphenol	.0039	.030

§ 430.165 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart P

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	*Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	3.8	2.3
TSS	6.0	[illegible]
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Chloroform	0.020	0.240
Pentachlorophenol	.0021	.025
Trichlorophenol	.0025	.030

§ 430.166 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart P

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart P

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0032
Trichlorophenol	.0039

§ 430.167 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart P

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart P

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0032
Trichlorophenol	.0039

Subpart Q—Deink Subcategory

§ 430.170 Applicability; description of the deink subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at deink mills.

§ 430.171 Specialized definitions.

For the purpose of this subpart: (a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for noncontinuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for noncontinuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.173 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart Q

[Facilities where fine paper is produced]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	8.9	5.3
TSS	12.5	7.6

pH—Within the range of 5.0 to 9.0 at all times.

Subpart Q

[Facilities where tissue paper is produced]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	9.0	5.8
TSS	15.0	9.1

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.174 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations.

Concentration limitations are only applicable to non-continuous dischargers.

Subpart Q

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.024	0.240
Pentachlorophenol	.0025	.025
Trichlorophenol	.0031	.030

§ 430.175 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart Q

[Facilities where fine paper is produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 20 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	4.8	2.5
TSS	6.3	3.6

pH—Within the range of 5.0 to 9.0 at all times.

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Chloroform	0.012	0.240
Pentachlorophenol	.0012	.025
Trichlorophenol	.0015	.030

Subpart Q

[Facilities where tissue paper is produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	6.0	3.6
TSS	9.2	5.6

pH—Within the range of 5.0 to 9.0 at all times.

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Chloroform	0.015	0.240
Pentachlorophenol	.0016	.025
Trichlorophenol	.0019	.030

Subpart Q

[Facilities where newprint is produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.1	3.1
TSS	9.9	6.0

pH—Within the range of 50.to 9.0 at all time

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Chloroform	0.018	0.240
Pentachlorophenol	.0017	.025
Trichlorophenol	.0020	.030

§ 430.176 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

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Subpart Q

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart Q

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.025
Trichlorophenol	.0031

§ 430.177 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart Q

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart Q

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.025
Trichlorophenol	.0031

Subpart R—Nonintegrated-Fine Papers Subcategory

§ 430.180 Applicability; description of the nonintegrated-fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of fine paper at nonintegrated mills.

§ 430.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuouse dishcarger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.183 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart R

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for 1 day	Average of daily consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	3.9	2.3
TSS	4.1	2.5
pH—wWithin the range of 5.0 to 9.0 at all times.		

§ 430.184 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart R

Pollutant or pollutant property	BAT effluent limitations (maximum for one 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/per liter
Pentachlorophenol	0.0016	0.025
Trichlorophenol	.0019	.030

§ 430.185 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performances standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart R

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	2.5	1.5
TSS	2.6	1.6
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/per liter
Pentachlorophenol	0.0010	0.025
Trichlorophenol	.0012	.030

§ 430.186 Pretreatment of existing sources (PSES)

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart R

Pollutant or pollutant property	PSES effluent limitations (maximum fo rany 1 day) milligrams per liter (mg/l)
Pentachlolorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart R

Pollutant or pollutant property	PSES Effluent limitations (maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0016
Trichlorophenol	.0019

§ 430.187 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart R

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day) milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart R

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0016
Trichlorophenol	.0019

Subpart S—Nonintegrated-Tissue Papers Subcategory

§ 430.190 Applicability; description of the nonintegrated-tissue papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue papers at nonintegrated mills.

§ 430.191 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.193 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.79 and TSS by 1.76.

Subpart S

BCT Effluent Limitations	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	9.4	5.2
TSS	8.5	4.1
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.194 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart S

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0020	0.025
Trichlorophenol	.0024	.030

§ 430.195 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.79 and TSS by 1.76. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart S

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	6.1	3.4
TSS	5.3	2.6
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentacholorophenol	0.0020	0.025
Trichlorophenol	0.0024	0.030

§ 430.196 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart S

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart S

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0024
Trichlorophenol	0.0029

§ 430.197 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart S

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart S

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0024
Trichlorophenol	0.0029

Subpart T—Tissue From Wastepaper Subcategory

§ 430.200 Applicability; description of the tissue from wastepaper subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue paper from wastepaper without de-inking at secondary fiber mills.

§ 430.201 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.203 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82.

Subpart T

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	6.6	3.9
TSS	7.8	4.7
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.204 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart T

Pollutant or pollutant property	BAT effluent limitations, maximum for any 1 day	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0017	0.025
Trichlorophenol	0.0020	0.030

§ 430.205 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.79 and TSS by 1.76. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart T

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	6.6	3.9
TSS	7.8	4.7
pH—Within the range of 5.0 to 9.0 at all times		

	Maximum for any 1 day	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0017	0.025
Trichlorophenol	0.0020	0.030

§ 430.206 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart T

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart T

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0026
Trichlorophenol	.0032

§ 430.207 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart T

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart T

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0026
Trichlorophenol	.0032

Subpart U—Papergrade Sulfite (Drum Wash) Subcategory

§ 430.210 Applicability; description of the papergrade sulfite (drum wash) subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at papergrade sulfite mills, where vacuum or pressure drums are used to wash pulp.

§ 430.211 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10 percent moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for noncontinuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for noncontinuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

(e) Sulfite cooking liquor shall be defined as bisulfite cooking liquor when the pH of the liquor is between 3.0 and 6.0 and as acid sulfite cooking liquor when the pH is less than 3.0.

§ 430.213 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart U

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD*5*	$0.0033x^2 - 0178x + 11.1$	$0.0020x^2 - 0.104x + 6.61$
TSS	$0.0055x^2 - 0.291x + 18.4$	$0.0033x^2 - 0.177x + 11.2$
pH	Within the range of 5.0 to 9.0 at all times.	

x = Percent sulfite pulp in final product.

§ 430.214 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart U

Pollutant or pollutant property	BAT effluent limitations (maximum for any one day)	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Chloroform	$(0.00912x^2 - 0.485x + 30.72)/1{,}000$	0.240
Pentachlorophenol	$(0.000950x^2 - 0.506x + 3.2)/1{,}000$	0.025
Trichlorophenol	$(0.00114x^2 - 0.0607x + 3.34)/1{,}000$	0.030

x = Percent sulfite pulp in final product.

§ 430.215 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart U

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD*5*	$0.0025x^2 - 0.134x + 8.46$	$0.0015x^2 - 0.079x + 5.02$
TSS	$0.0042x^2 - 0.221x + 14.0$	$0.0025x^2 - 0.134x + 8.50$
pH	Within the range of 5.0 to 9.0 at all times.	
	Maximum for any one day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Chloroform	$(0.00693x^2 - 0.369x + 23.4)/1{,}000$	0.240
Pentachlorophenol	$(0.000722x^2 - 0.0384x + 2.43)/1{,}000$	0.025
Trichlorophenol	$(0.000866x^2 - 0.0461x + 2.92)/1{,}000$	0.030

x = Percent sulfite pulp in final product.

§ 430.216 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pullutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart U

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart U

Pollutant or pollutant property	PSES effluent limitations—maximum for any 1 day (kg/kkg (or lb/1,000lb) of product)
Pentachlorophenol	$(0.000950\ x^2-0.0506\ x+3.2)/1{,}000$
Trichlorophenol	$(0.00114\ x^2-0.0607\ x+3.84)/1{,}000$

x = percent sulfite pulp in final product

§ 430.217 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart U

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart U

Pollutant or pollutant property	PSNS effluent limitations—maximum for any 1 day kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	$(0.000950\ x^2-0.0506\ x+3.2)/1{,}000$
Trichlorophenol	$(0.00114\ x^2-0.0607\ x+3.84)/1{,}000$

x = percent sulfite pulp in final product.

Subpart V—Unbleached Kraft and Semi-Chemical Subcategory

§ 430.220 Applicability; description of the unbleached kraft and semi-chemical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at combined unbleached kraft and semi-chemical mills, wherein the spent semi-chemical cooking liquor is burned within the unbleached kraft chemical recovery system.

§ 430.221 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.223 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart V

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.3	3.1
TSS	8.7	5.3
pH—Within the range of 6.0 to 9.0 at all times.		

§ 430.224 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart V

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0015	0.025
Trichlorophenol	.0018	.030

§ 430.225 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart V

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD4	3.4	2.0
TSS	5.7	3.4

pH—Within the range of 5.0 to 9.0 at all times.

	Maximum for any 1 day	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.00095	0.025
Tricholorophenol	0.0011	0.030

§ 430.226 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart V

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart V

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0015
Trichlorophenol	0.0018

§ 430.227 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart V

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart V

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0015
Trichlorophenol	0.0018

Subpart W—Semi-Chemical Subcategory

§ 430.230 Applicability; description of the semi-chemical subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at semi-chemical mills.

§ 430.231 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.233 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart W

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.3	3.1
TSS	7.2	4.4

pH—Within the range of 6.0 to 9.0 at all times.

§ 430.234 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart W

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0011	0.025
Trichlorophenol	0.0013	0.030

§ 430.235 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart W

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	3.3	1.9
TSS	4.5	2.7
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0 00067	0.025
Trichlorophenol	0.00080	0.030

§ 430.236 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart W

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart W

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0011
Trichlorophenol	0.0013

§ 430.237 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart W

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart W

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0011
Trichlorophenol	0.0013

Subpart X—Wastepaper—Molded Products Subcategory

§ 430.240 Applicability; description of the wastepaper-molded products subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of molded products from wastepaper without deinking at secondary fiber mills.

§ 430.241 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.242 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart X

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	4.4	2.3
TSS	10.8	5.8
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.243 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82

Subpart X

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	1.8	1.1
TSS	3.5	2.1
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.244 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart X

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.00059	0.025
Trichlorophenol	0.00071	0.030

§ 430.245 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart X

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg or (lb/1,000 lb) of product	
BOD5	1.8	1.1
TSS	3.4	2.1
pH—Within the range of 5.0 to 9.0 at all times		

Pollutant or pollutant property	Maximum for any 1 day	
	kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.00059	0.025
Trichlorophenol	0.00071	0.030

§ 430.246 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart X

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart X

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0017
Trichlorophenol	0.0021

§ 430.247 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart X

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.0025
Trichlorophenol	0.0030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart X

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0017
Trichlorophenol	0.0021

Subpart Y—Nonintegrated-Lightweight Paper Subcategory

§ 430.250 Applicability; description of the nonintegrated-lightweight papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lightweight paper at nonintegrated mills.

§ 430.251 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous dicharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.252 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.79 and TSS by 1.76.

Subpart Y

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	23.9	13.2
TSS	21.6	10.6

pH—Within the range of 5.0 to 9.0 at all times.

Subpart Y

(Facilities where electrical grade papers are produced)

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	37.8	20.8
TSS	34.0	16.7

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.253 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.79 and TSS by 1.76.

Subpart Y

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	18.9	10.4
TSS	16.9	9.3

pH—Within the range of 5.0 to 9.0 at all times.

Subpart Y

(Facilities where electrical grade papers are produced)

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	32.8	18.1
TSS	29.5	14.4

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.254 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart Y

Pollutant or pollutant property	BAT effluent limitations—maximum for any 1 day	
	Kg/kkg(lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0040	0.025
Trichlorophenol	.0048	.030

Subpart Y

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	BAT effluent limitations—maximum for any 1 day	
	Kg/kkg(lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0070	0.025
Trichlorophenol	.0084	.030

§ 430.255 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD_5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD_5 by 1.79 and TSS by 1.76. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart Y

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1,000 lb) of product	
BOD^5	12.1	6.7
TSS	10.4	5.1
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg(lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0040	0.025
Trichlorophenol	.0048	.030

Subpart Y

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD^5	21.3	11.7
TSS	18.3	8.9
pH—Within the range of 5.0 to 9.0 at all times.		

	Maximum for any 1 day	
	Kg/kkg(1b/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0070	0.025
Trichlorophenol	.0084	.030

§ 430.256 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart Y

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day) (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart Y

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day) kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0051
Trichlorophenol	.0061

Subpart Y

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day) Kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0085
Trichlorophenol	.0096

§ 430.257 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart Y

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) Milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart Y

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) Kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0051
Trichlorophenol	0.0061

Subpart Y

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day) Kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0080
Trichlorophenol	0.0096

Subpart Z—Nonintegrated-Filter and Nonwoven Subcategory

§ 430.260 Applicability; description of the nonintegrated-filter and nonwoven subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of filter and nonwoven papers at nonintegrated mills.

§ 430.261 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.262 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the averge of 30 consecutive days limitations for BOD*5* by 1.79 and TSS by 1.76.

Subpart Z

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	29.4	16.2
TSS	26.6	13.0

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.263 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations for BOD5 *by 1.79 and TS by 1.76.*

Subpart Z

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	23.4	12.8
TSS5	21.1	10.3

pH—Within the range of 5.0 to 9.0 at all times.

§ 430.264 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart Z

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kkg (lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0050	0.025
Trichlorophenol	0.0059	0.030

§ 430.265 New source performance standards (NSPS)

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.79 and TSS by 1.76. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart Z

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	15.1	8.3
TSS	13.0	6.4

pH—Within the range of 5.0 to 9.0 at all times.

	Maximum for any 1 day	
	Kg/kkg (lb/1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0050	0.025
Trichlorophenol	0.0059	0.030

§ 430.266 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart Z

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart Z

Pollutant or pollutant property	PSES effluent limitations (maximum for any 1 day), kg/kkg (or lb/1,000 lb) or product
Pentachlorophenol	0.0062
Trichlorophenol	0.0075

§ 430.267 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart Z

Pollutant or pollutant property	PSNS effluent limitations (maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	0.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart Z

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0062
Trichlorophenol	.0075

Subpart AA—Nonintegrated-Paperboard

§ 430.270 Applicability; description of the nonintegrated-paperboard subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of paperboard at nonintegrated mills. The production of electrical grades of board and matrix board is not included in this subpart.

§ 430.271 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is probibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.272 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations of BOD*5* by 1.79 and TSS by 1.76.

Subpart AA

Pollutant or pollutant property	BPT effluent limitation	
	Maximum for one 1 day	Average of daily values of 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	6.3	3.5
TSS	5.8	2.8
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.273 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.79 and TSS by 1.76.

Subpart AA

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for one 1 day	Average of daily values of 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	6.3	3.5
TSS	5.8	2.8
pH—Within the range of 5.0 to 9.0 at all times.		

§ 430.274 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart AA

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0013	0.025
Trichlorophenol	.0016	.030

§ 430.275 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD*5* and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD*5* by 1.79 and TSS by 1.76. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart AA

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD*5*	3.5	1.9
TSS	3.1	1.5
pH—Within the range of 5.0 to 9.0 at all times.		

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0012	0.025
Trichlorophenol	.0014	.030

§ 430.276 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart AA

Pollutant or pollutant property	PSES effluent limitations (Maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart AA

Pollutant or pollutant property	PSES effluent limitations (Maximum for any one day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0013
Trichlorophenol	.0016

§ 430.277 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart AA

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day), milligrams per liter (mg/l)
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart AA

Pollutant or pollutant property	PSNS effluent limitations (Maximum for any 1 day), kg/kkg (or lb/1,000 lb) of product
Pentachlorophenol	0.0013
Trichlorophenol	.0016

It is proposed to amend Title 40 by revising Part 431 to read as follows:

PART 431—THE BUILDERS' PAPER AND BOARD MILLS POINT SOURCE CATEGORY

Subpart A—Builders' Paper and Roofing Felt Subcategory

Sec.
431.10 Applicability; description of the builders' paper and roofing felt subcategory.
431.11 Specialized definitions.
431.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
431.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
431.15 New source performance standards (NSPS).
431.16 Pretreatment standards for existing sources (PSES).
431.17 Pretreatment standards for new sources (PSNS).

Authority: Secs. 301, 304, 306, 308, and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by Clean Water Act of 1977, Pub. L. 95–217).

Subpart A—Buidlers' Paper and Roofing Felt Subcategory

§ 431.210 Applicability; description of the builders' paper and roofing felt subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of builders' paper and roofing felt from wastepaper.

§ 431.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of application of best practicable control technology currently available or best conventional pollutant control technology in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 431.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

Subpart A

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	5.0	3.0
TSS	5.0	3.0
pH—Within the range of 5.0 to 9.0 at all times.		

§ 431.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lbs/1,000 lbs), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers.

Subpart A

Pollutant or pollutant property	BAT effluent limitations (Maximum for any 1 day)	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.0015	0.025
Trichlorophenol	.0018	.030

§ 431.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers.

Subpart A

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or lb/1,000 lb) of product	
BOD5	1.5	0.87
TSS	2.2	1.3
pH—Within the range of 5.0 to 9.0 at all times.		

	(Maximum for any 1 day)	
	Kg/kkg (or lb/1,000 lb) of product	Milligrams per liter
Pentachlorophenol	0.00027	0.025
Trichlorophenol	.00033	.030

§ 431.16 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Subpart A

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart A

Pollutant or pollutant property	PSES effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0015
Trichlorophenol	.0018

§ 431.17 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Subpart A

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (milligrams per liter (mg/l))
Pentachlorophenol	0.025
Trichlorophenol	.030

In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart A

Pollutant or pollutant property	PSNS effluent limitations—Maximum for any 1 day (kg/kkg (or lb/1,000 lb) of product)
Pentachlorophenol	0.0015
Trichlorophenol	.0018

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Part IV

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Modifications and Supersedeas Decisions

V 46/3 JA 6 81 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama—AL80–1060, March 28, 1980
Arkansas—AR80–4020, March 14, 1980
Colorado—CO80–5138, October 24, 1980
Florida—FL78–1072, September 1, 1978; FL79–1111, July 20, 1979; FL80–1118, November 7, 1980; FL80–1119, November 7, 1980; FL77–1060, May 20, 1977; FL80–1040, January 4, 1980
Georgia—GA77–1103, August 26, 1977; GA77–1104, August 26, 1977; GA77–1111, August 26, 1977; GA77–1139, November 11, 1977; GA77–1031, March 25, 1977; GA77–1068, May 20, 1977; GA78–1066, August 11, 1978; GA78–1096, November 24, 1978; GA79–1012, January 5, 1979; GA79–1054, March 30, 1979; GA80–1056, February 15, 1980; GA79–1058, March 30, 1979; GA79–1059, March 30, 1979; GA79–1156, December 7, 1979; GA79–1083, May 11, 1979
Kansas—KS78–4050, May 12, 1978
Kentucky—KY79–1162, December 14, 1979; KY79–1168, December 14, 1979; KY79–1167, December 14, 1979
Louisiana—LA80–4084, November 7, 1980; LA80–4089, November 7, 1980
New Mexico—NM79–4061, April 13, 1979
Oklahoma—OK79–4019, January 5, 1979; OK80–4008, January 5, 1980; OK80–4065, July 25, 1980; OK80–4061, July 18, 1980; OK80–4060, July 18, 1980; OK80–4063, July 18, 1980; OK80–4064, July 18, 1980; OK80–4068, August 1, 1980; OK78–4093, September 15, 1978
South Carolina—SC78–1085, September 29, 1978; SC79–1016, February 2, 1979; SC79–1020, February 2, 1979; SC79–1037, March 9, 1979; SC79–1038, February 23, 1979; SC79–1045, March 9, 1979; SC79–1047, March 16, 1979;

SC79-1048, March 16, 1979; SC79-1082, April 6, 1979; SC79-1102, June 29, 1979; SC79-1128, September 14, 1979; SC79-1130, September 28, 1979; SC80-1057, February 29, 1980; SC79-1132, September 28, 1979; SC80-1049, February 8, 1980; SC80-1047, January [illegible] 1980

Tennessee—TN80-1064, February 8, 1980; TN79-1005, January 5, 1979; TN79-1053, March 23, 1979; TN77-1120, September 30, 1977

Texas—TX78-4065, June 16, 1978; TX80-[illegible]18, March 14, 1980; TX80-4076, October 10, 1980; TX80-4077, October [illegible], 1980; TX80-4078, October 10, 1980; TX80-4085, November 7, 1980; TX80-4086, November 7, 1980; TX80-4087, November 7, 1980; TX80-4088, November 7, 1980; TX80-4097, December 5, 1980; TX80-4098, December 5, 1980; TX80-4099, December 5, 1980

Virginia—VA79-3049, November 9, 1979; VA80-3005, April 4, 1980; VA79-3050, November 9, 1979; VA78-3062, September 22, 1978; VA80-3053, September 5, 1980

Wyoming—WY80-5129, September 19, 1980

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publications in the Federal Register are listed with each State. Supersedeas decisions numbers are in parentheses following the numbers of the decisions being superseded.

Florida—FL80-1037 (FL81-1166), January 4, 1980; FL80-1036 (FL81-1167), January 4, 1980; FL80-1035 (FL81-1168), January 4, 1980; FL80-1045 (FL81-1169), January 18, 1980

Louisiana—LA80-4072 (LA81-4002), October 3, 1980

Mississippi—MS79-1084 (MS81-1136), May 18, 1979; MS79-1123 (MS81-1153), September 7, 1979; MS79-1060 (MS79-1154), April 13, 1979; MS79-1112 (MS81-1155), July 20, 1979; MS79-1136 (MS81-1156), October 19, 1979; MS80-1013 (MS81-1157), January 4, 1980; MS80-1104 (MS81-1158), September 19, 1980; MS79-1077 (MS81-1159), April 27, 1979; MS79-1115 (MS81-1160), August 3, 1979; MS80-1010 (MS81-1161), January 4, 1980; MS79-1092 (MS81-1162), June 1, 1979; MS80-1009 (MS81-1163), January 4, 1980; MS80-1008 (MS81-1164), January 4, 1980; MS80-1007 (MS81-1165), January 4, 1980

Tennessee—TN80-1044 (TN81-1170), January 11, 1980

Texas—TX80-4017 (TX81-4001), March 14, 1980; TX78-4069 (TX81-4003), September 15, 1978; TX79-4013 (TX81-4004), January 5, 1979; TX80-4032 (TX81-4005), June 6, 1980; TX80-4034 (TX81-4006), June 6, 1980; TX80-4036 (TX81-4007), June 20, 1980; TX80-4043 (TX81-4008), September 28, 1979; TX 79-4041 (TX81-4009), September 28, 1979

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 24th day of December 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

DECISION NO. AL-80-1060-Mod. #1
(45 FR 20649-March 28,1980)
States of Alabama,Arkansas, Florida,(west of Aucilla River),Kentucky,Louisiana, Mississippi,Missouri, Tennessee & Texas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Hydraulic Dredging:					
Cook Helper-Mess Boy	$3.35				
Dredges Under 16":					
Deckhand	3.35				

DECISION #AR80-4020-Mod.#1
45FR7442 - March 14, 1980
Statewide, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Laborers	$3.35				

DECISION NO. CO80-5138 - Mod. #4
(45 FR 70682 - Oct. 24, 1980)
El Paso County, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$ 13.49	.75	1.52		.05
Bricklayers; Stonemasons	12.25	.85	.95		.04
Plumbers; pipefitters	12.90	.85	1.15	1.60	.10
Terrazzo workers	11.79	.85	.70		

MODIFICATIONS P. 2

DECISION NO. FL78-1072 - MOD. #2
(43 FR 39249 - September 1, 1978)
Bay, Escambia, Okaloosa, Santa Rosa and Walton Counties, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers	$3.35				
Truck Drivers	3.35				
Power Equipment Operators:					
Roller	3.35				

DECISION NO. FL79-1111 - MOD. #4
(44 FR 42858 - July 20, 1979)
Bay County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Laborers	3.35				
Power Equipment Operators:					
Bulldozers	3.35				
Forklift	3.35				

DECISION NO. FL80-1118 - MOD. #1
(45 FR 74312 - November 7, 1980)
Dixie, Hamilton, Lafayette, Madison, Suwannee, & Taylor Counties, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers	3.35				

DECISION NO. FL80-1119 - MOD. #1
(45 FR 74312 - November 7, 1980)
Alachua, Baker, Bradford, Columbia, Gilchrist, Levy, Marion, & Union Counties, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Laborers	3.35				

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. FL77-1060 - Mod. #5 (42 FR 26093 - May 20, 1977) Polk County, Florida					
Change:					
Truck Drivers	3.35				
DECISION NO. FL80-1040 - Mod. #1 (45 FR 1342 - January 4, 1980) Lake, Orange, Osceola and Seminole					
Change:					
Laborers, Unskilled	3.35				
Truck Drivers	3.35				

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. GA77-1103 - MOD. #3 (42 FR 43322 - August 26, 1977) Chatham County, Georgia					
CHANGE:					
Laborers:					
Laborers	$3.35				
DECISION NO. GA77-1104 - MOD. #4 (42 FR 43322 - August 26, 1977) Banks, Barrow, Bartow, Catoosa, Chattooga, Cherokee, Cobb, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, & Whitfield Counties, Georgia					
CHANGE:					
Laborers:					
Air Tool, Chain Saw & Power Saw Operators	3.35				
Unskilled	3.35				
Truck Drivers	3.35				

DECISION NO. GA77-1111 - MOD. #4
(42 FR 43323 - August 26, 1977)
Appling, Atkinson, Bacon, Baker, Baldwin, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Charlton, Chattahoochee, Clarke, Clay, Clayton, Clinch, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Fayette, Glascock, Glynn, Grady, Greene, Hancock, Harris, Heard, Henry, Houston, Irwin, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pierce, Pike, Pulaski, Putnam, Quitman, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Troup, Turner, Twiggs, Upson, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, Wilcox, Wilkes, Wilkinson, & Worth Counties, Georgia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Form Setters	$3.35				
Laborers:					
Pipelayers	3.35				
Sign Erectors, Guardrail Post Driving Operators, Auger-boom Operators, Striping Machine Operators	3.35				
Unskilled	3.35				
Truck Drivers	3.35				
Power Equipment Operators:					
Oiler-greaser	3.35				
Tractor (farm type)	3.35				

DECISION NO. GA77-1139 - MOD. #2
(42 FR 58926 - November 11, 1977)
DeKalb & Fulton Counties, Georgia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Laborers:					
Unskilled	$3.35				
Truck Drivers	3.35				

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA77-1031 - Mod. #2 (42 FR 16355 - March 25, 1977) Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, & Terrell Counties, Georgia					
CHANGE:					
Laborers:					
Laborers	$ 3.35				
Pipelayers	3.35				
Truck drivers	3.35				
DECISION #GA77-1068 - Mod. #1 (42 FR 26136 - May 20, 1977) Hall County, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Mason tenders	3.35				
Roofers	3.35				
Truck drivers	3.35				
DECISION #GA78-1066 - Mod. #2 (43 FR 35809 - August 11, 1978) Appling, Bacon, Candler, Dodge, Emanuel, Jeff Davis, Johnson, Laurens, Montgomery, Tattnall, Telfair, Toombs, Treutlen, & Wheeler Counties, Georgia					
CHANGE:					
Laborers	$ 3.35				

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA78-1096 - Mod. #5 (43 FR 55142 - November 24, 1978) Chattahoochee County, & Columbus, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Mason tenders	3.35				
Mortar mixers	3.35				
Truck drivers	3.35				
DECISION #GA79-1012 - Mod. #2 (44 FR 1631 - January 5, 1979) Ware County, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Plasterers tenders	3.35				
Mortar mixers	3.35				
Power Equipment Operators:					
Backhoe	3.35				
Motor grader	3.35				
Pump	3.35				
Scraper	3.35				
DECISION #GA79-1054 - Mod. #2 (44 FR 19110 - March 30, 1979) Barrow, Clarke, Elbert, Greene, Hart, Jackson, Madison, Morgan, Newton, Oconee, Oglethorpe, & Walton Counties, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				

MODIFICAITONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA80-1056 - Mod. #1 (45 FR 10579 - February 15, 1980) Baldwin, Bibb, Bleckley, Butts, Crawford, Houston, Jasper, Jones, Lamar, Monroe, Peach, Pike, Putnam, Twiggs, Upson, & Wilkinson Counties, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Luteman	3.35				
DECISION #GA79-1058 - Mod. #2 (44 FR 19110 - March 30, 1979) Camden, Glynn, & McIntosh Counties, Georgia					
CHANGE:					
Laborers - unskilled	$ 3.35				
DECISION #GA79-1059 - Mod. #2 (44 FR 19111 - March 30, 1979) Atkinson, Berrien, Brantley, Brooks, Charlton, Clinch, Colquitt, Cook, Echols, Lanier, Lowndes, Pierce, Thomas, Ware, & Wayne Counties, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Mason tenders	3.35				

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA79-1156 - Mod. #2 (44 FR 70629 - December 7, 1979) Banks, Dawson, Forsyth, Franklin, Habersham, Hall, Lumpkin, Rabun, Stephens, Towns, Union, & White Counties, Georgia					
CHANGE:					
Laborers - unskilled	$ 3.35				
Truck drivers	3.35				
DECISION #GA79-1083 - Mod. #1 (44 FR 27856 - May 11, 1979) Chattahoochee, Harris, Macon, Marion, Meriwether, Muscogee, Schley, Stewart, Sumter, Talbot, Taylor, Troup, & Webster Counties, Georgia					
CHANGE:					
Laborers - unskilled	$ 3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS78-4050, MOD. #1 (43 FR 20658, May 12, 1978) Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greely, Hamilton, Haskell, Hodgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Ness, Norton, Osborn, Pawnee, Phillips, Pratt, Rawlings, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace, and Wichita Counties, KANSAS					
CHANGE:					
Asphalt raker	$3.35				
Laborer (construction & general)	3.35				
Scaleman	3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. KY79-1162 - MOD. #1 (44 FR 72795 - December 14, 1979) Adair, Clinton, Cumberland, Green, Metcalfe, Monroe, & Taylor Counties, Kentucky					
Change:					
Laborers	$3.35				
Truck Drivers	3.35				
DECISION NO. KY79-1168 - MOD. #1 (44 FR 72798 - December 14, 1979) Bath, Menifee, Montgomery, Powell, & Wolfe Counties, Kentucky					
Change:					
Laborers:					
Unskilled	3.35				
Mason Tenders	3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION No. KY79-1167 - Mod #1 (44FR 72797 - December 14, 1979) Bracken, Mason, Nicholas, & Robertson					
Laborers, Unskilled	3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA80-4084 - MOD. #2 (45 FR 74347 - November 7, 1980) Statewide Louisiana					
CHANGE:					
Carpenters:					
Zone 7:					
Carpenters & soft floor layers	$11.60				
Millwrights	12.35				
Piledrivermen	12.10				
Zone 9:					
Carpenters & soft floor layers:	11.60				
Millwrights	12.35				
Piledrivermen	12.10				
Glaziers - Zone 2	10.25				.01
Line Construction:					
Zone 6:					
Linemen, equipment ops.	12.75	.85	3%		1/2%
Cable splicers	13.25	.85	3%		1/2%
Groundman	3.93	.85	3%		1/2%
Marble, tile & terrazzo workers & finishers:					
Zone 1:					
Marble, tile & terrazzo finishers	8.65	.40		.30	
Zone 2:					
Tile setters	9.60	.48	.67		.02
Zone 6:					
Marble, tile & terrazzo finishers	8.65	.40		.30	
Zone 7:					
Tile finishers	8.65	.40		.30	
Painters:					
Zone 1 - Group 1	13.245		.30		
Group 2	13.445		.30		
Group 3	13.59		.30		
Group 4	15.035		.30		
Zone 5 - Group 1	10.35				
Group 2	10.85				
Group 3	11.35				
Zone 6 - Painters, tape & float, vinyl & paperhangers	10.95	.40	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA80-4084 (Cont'd)					
Roofers:					
Zone 3:					
Roofers	$10.13	.50	.75		.04
Roofer helpers does not use the tools of the trade in removing & disposing of old roofing, stocking & unloading material, hauling materials to the journeyman & sweeping	6.34	.60	.75		.04
Zone 4:					
Roofers	10.00		.30		
Kettlemen	8.60		.30		
Zone 5:					
Roofers	11.89		.20		.04
Kettlemen	8.23		.20		.04
ADD:					
Elevator constructors:					
Zone 1:					
Helpers (Prob.)	50%JR				
Zone 2:					
Helpers (Prob.)	50%JR				
DECISION NO. LA80-4089 - MOD. #2 (45 FR 74361 - November 7, 1980) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Painters:					
Bossier & Caddo Pars.:					
Painters, tape & float, vinyl & paperhangers	10.95	.40	.30		.05
Calcasieu Parish:					
Group 1	13.245		.30		
Group 2	13.445		.30		
Group 3	13.59		.30		

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA80-4089 (Cont'd):					
Roofers:					
Bossier & Caddo Pars.:					
Roofers	$11.89		.20		.04
Kettlemen	8.23		.20		.04
Tile setters:					
Calcasieu Parish	9.60	.48	.67		.02
ADD:					
Elevator constructors:					
Bossier & Caddo Pars.:					
Helpers (Prob.)	50%JR				
Calcasieu Par.:					
Helpers (Prob.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NM79-4061 - Mod. #2 44 FR 22311-April 13, 1979 Dona Ana County, New Mexico					
CHANGE:					
LABORERS:					
Laborers	$3.35				
Mason tenders	3.35				
Mortar mixers	3.35				
Plasterers tenders	3.35				

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #OK79-4019. #3 44 FR 1665-January 5, 1979 Oklahoma, Cleveland and Canadian Counties, Oklahoma					
CHANGE:					
LABORERS:					
Laborers	$3.35				
Mason tenders	3.35				
POWER EQUIPMENT OPERATORS:					
Bulldozers	3.35				
TILE SETTERS' FINISHERS	3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK80-4008 - Mod. #1 45 FR 1375-January 5, 1980 Comanche County, Oklahoma					
CHANGE:					
LABORERS:					
Laborers	$3.35				
Truck drivers	3.35				

MODIFICATIONS P. 17

DECISION #OK80-4065-Mod. #2
45 FR 49832-July 25, 1980
Wagoner County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$12.70	1.275	1.00		.03
GLAZIERS	11.44	.70	.30		.01
LINE CONSTRUCTION					
Linemen	12.50		3%		½%
Cable splicers	13.25		3%		½%
Hole digger operator	11.33		3%		½%
Heavy equipment operator (or pole cat equivalent)	11.33		3%		½%
Line truck driver (winch operator)	10.27		3%		½%
Jackhammerman	9.35		3%		½%
Powderman	11.33		3%		½%
Groundman	8.34		3%		½%
Truck driver (flat bed, ton and half and under)	8.91		3%		½%
ROOFERS	11.40		3%		½%
SHEET METAL WORKERS	13.50	.50	.72		.10
UNDER, ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS ZONE I-A thirty (30) mile radius from the Post Office in Muskogee					
OMIT:					
PAINTERS:					
Brush and roller	10.55		.40	.20	.10
Highwork and stage	11.15		.40	.20	.10
Sandblasting & spray	11.40		.40	.20	.10
Hot or bituminous	12.05		.40	.20	.10
ADD:					
ELEVATOR CONSTRUCTORS	12.44	1.195	.82	a+b	.035
ELEVATOR CONSTRUCTORS' HELPER	70%JR	1.195	.82	a+b	.035
PAINTERS:					
Southeastern half of Wagoner					
Brush and roller	11.05		.40	.20	.10
Highwork and stage	11.65		.40	.20	.10
Sandblasting & spray	11.90		.40	.20	.10
Hot or bituminous	12.55		.40	.20	.10

MODIFICATIONS P. 18

DECISION #OK80-4065-Mod. #2 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: (Cont'd)					
PAINTERS:					
Northwestern half of Wagoner County					
Brush and roller	$12.25		.40		.10
Highwork or stage	12.65		.40		.10
Sandblasting or spray	12.90		.40		.10
Hot or bituminous	13.55		.40		.10
Sheetrock hand tools	12.25		.40		.10
Sheetrock power tools	12.65		.40		.10
SOFT FLOOR LAYERS	11.46	.70	.70		.03

ADD-UNDER FOOTNOTED FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 mos. - none; 6 mos. to 5 years 6%; over 5 years 8% of basic hourly rate. Plus 2½% of hourly rate.

b - PAID HOLIDAYS A through G

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving; g-Christmas Day

MODIFICATIONS P. 19

DECISION #OK80-4061-Mod. #2
45 FR 48449-July 18, 1980
Muskogee, Adair, Cherokee &
Okmulgee, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$12.70	1.275	1.00		.03
ELEVATOR CONSTRUCTORS	12.44	1.195	.82	a+b	.035
ELEVATOR CONSTRUCTORS' HELPER	70%JR	1.195	.82	a+b	.035
GLAZIERS	11.44	.70	.30		.01
LINE CONSTRUCTION					
Lineman	12.50		3%		½%
Cable splicers	13.25		3%		½%
Hole digger operator	11.33		3%		½%
Heavy equipment operator (pole or cat equivalent)	11.33		3%		½%
Jackhammerman	9.35		3%		½%
Line truck (winch operator)	10.27		3%		½%
Powderman	11.33		3%		½%
Groundman	8.34		3%		½%
Truck driver (flat bed ton and half and under)	8.91		3%		½%
PAINTERS (Okmulgee):					
Brush	12.25		.40		.10
Highwork and stage	12.65		.40		.10
Spray and sandblasting	12.90		.40		.10
Hot or bituminous	13.55		.40		.10
Sheetrock hand tools	12.25		.40		.10
Sheetrock power tools	12.65		.40		.10
PAINTERS (Adair, Muskogee & Cherokee Counties):					
Brush painting & roller	11.05		.40	.20	.10
Highwork & Stage	11.65		.40	.20	.10
Sandblasting & Spray	11.90		.40	.20	.10
Hot or Bituminous	12.55		.40	.20	.10
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.50	.50	.72		.10
ADD:					
SOFT FLOOR LAYERS	11.46	.70	.70	8%	.03

MODIFICATIONS P. 20

DECISION #OK80-4060-Mod. #3
45 FR 48439-July 18, 1980
Pittsburg County, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$12.70	1.275	1.00		.03
CARPENTERS:					
Carpenters	9.80	.55	.85		.05
Millwrights-Piledrivermen	11.15	.55	.85		.05
GLAZIERS	11.44	.70	.30		.01
LINE CONSTRUCTION					
Linemen	12.50		3%		½%
Cable splicers	13.25		3%		½%
Hole digger operator (or pole cat equivalent)	11.33		3%		½%
Line truck driver (winch oper.)	10.27		3%		½%
Jackhammerman	9.35		3%		½%
Powderman	11.33		3%		½%
Truck driver (flat bed, ton and half and under)	8.91		3%		½%
PAINTERS:					
Brush and roller	11.05		.40	.20	.07
Highwork and stage	11.65		.40	.20	.07
Sandblasting and spray painting	11.90		.40	.20	.07
Hot or bituminous	12.55		.40	.20	.07
Sheet rock power tools	11.65		.40	.20	.07
POWER EQUIPMENT OPERATORS:					
GROUP I	13.20	.70	.75		.12
GROUP II	12.70	.70	.75		.12
GROUP III	12.20	.70	.75		.12
GROUP IV	11.95	.70	.75		.12
GROUP V	11.70	.70	.75		.12
GROUP VI	11.45	.70	.75		.12
GROUP VII	11.20	.70	.75		.12
GROUP VIII	10.20	.70	.75		.12
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.50	.50	.72		.10
SOFT FLOOR LAYERS	11.46	.70	.70	8%	.03

MODIFICATIONS P. 21

DECISION #OK80-4063-Mod. #2
45 FR 48441-July 18, 1980
Garfield County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$12.70	1.275	1.00		.03
BRICKLAYERS-STONEMASONS	12.65				
ELECTRICIANS:					
ZONE I	13.35	.70	8%+.10		1%
ZONE II	13.60	.70	8%+.10		1%
ZONE III	13.85	.70	8%+.10		1%
CABLE SPLICERS:					
ZONE I	13.60	.70	8%+.10		1%
ZONE II	13.85	.70	8%+.10		1%
ZONE III	14.10	.70	8%+.10		1%
ELEVATOR CONSTRUCTORS	12.29	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	a+b	.035
GLAZIERS	11.10		.30		
LINE CONSTRUCTION:					
Linemen	12.50		3%		½%
Cable splicers	13.25		3%		½%
Hole digger operator	11.33		3%		½%
Heavy equipment operators(or pole cat equivalent)	11.33		3%		½%
Line truck driver (winch oper.)	10.27		3%		½%
Jackhammermen	9.35		3%		½%
Powdermen	11.33		3%		½%
Groundman	8.34		3%		½%
Truck driver (flat bed, ton and half and under)	8.91		3%		½%
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.56	.78	1.38		.10
OMIT:					
TERRAZZO WORKERS FINISHERS	7.33				
TERRAZZO WORKERS FLOOR MACHINE OPERATOR	7.43				
TERRAZZO WORKERS BASE MACHINE OPERATOR	7.68				
TILE & MARBLE FINISHERS	7.00				

MODIFICATIONS P. 22

DECISION #OK80-4064-Mod. #2
45 FR 48444-July 18, 1980
Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Lincoln, Logan, McKlain, Grady, Seminole and Pottawatomie Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$12.70	1.275	1.00		.03
BRICKLAYERS-STONEMASONS:					
Oklahoma, Cleveland, Canadian, Logan and McClain Counties	13.15	.62	.75		.03
Lincoln, Pottawatomie and Seminole Counties	12.20	.62	.75		.10
Kingfisher County	12.65				
Caddo and Grady Cmunties	11.67	.62	1.00		.10
ELECTRICIANS:					
Zone I	13.35	.70	8%+.10		1%
Zone II	13.60	.70	8%+.10		1%
Zone III	13.80	.70	8%+.10		1%
CABLE SPLICERS:					
Zone I	13.60	.70	8%+.10		1%
Zone II	13.85	.70	8%+.10		1%
Zone III	14.10	.70	8%+.10		1%
ELEVATOR CONSTRUCTORS	12.29	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	a+b	.035
GLAZIERS	11.10		.30		
LINE CONSTRUCTION:					
Linemen	12.50		3%		½%
Cable splicers	13.25		3%		½%
Hole digger operator	11.33		3%		½%
Heavy equipment operator(or pole cat equivalent)	11.33		3%		½%
Line truck driver (winch oper.)	10.27		3%		½%
Jackhammerman	9.35		3%		½%
Powderman	11.33		3%		½%
Groundman	8.34		3%		½%
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.56	.78	1.38		.10
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	11.10	.60		.65	.03
OMIT:					
TERRAZZO WORKERS FINISHER	7.33				
TERRAZZO BASE MACHINE MAN	7.68				
TERRAZZO FLOOR MACHINE MAN	7.43				
TILE & MARBLE FINISHERS	7.00				

DECISION #OK80-4068-Mod. #2
45 FR 51422-August 1, 1980
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$12.70	1.275	1.00		.03
CARPENTERS:					
Carpenters	10.35	.55	.50		.04
Millwrights-Piledrivermen	10.85	.55	.50		.04
Power saw operator	10.475	.55	.50		.04
ELECTRICIANS	11.95	.60	3%		½%
ELEVATOR CONSTRUCTORS	12.29	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	a+b	.035
GLAZIERS	11.10		.30		
IRONWORKERS	12.10	.75	.85		.12
LINE CONSTRUCTION:					
Linemen	12.50		3%		½%
Cable splicers	13.25		3%		½%
Hole digger operator	11.33		3%		½%
Heavy equipment operators (or pole cat equivalent)	11.33		3%		½%
Line truck driver (winch oper.)	10.27		3%		½%
Jackhammerman	9.35		3%		½%
Powdermen	11.33		3%		½%
Groundmen	8.34		3%		½%
Truck driver (flat bed, ton and half under)	8.91		3%		½%
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.56	.78	1.38		.10
OMIT:					
Terrazzo workers' finishers	7.33				
Terrazzo workers' floor machine operators	7.43				
Terrazzo base machine operator	7.68				
TILE & MARBLE FINISHERS	7.00				

DECISION #OK78-4093 - Mod. #3
43 FR 41363-September 15, 1978
Atoka, Bryan, Choctaw, Haskill, Latimer, McCurtain, Pittsburg & Pushmataha Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Rollers, motor graders, scrapers & tractors	$3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC78-1085 - Mod. #3 (43 FR 45164 - September 29, 1978) Statewide, South Carolina					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Power Equipment Operators:					
Roller operators	3.35				
Truck drivers	3.35				
DECISION #SC79-1016 - Mod. #3 (44 FR 6888 - February 2, 1979) Beaufort, Colleton, Hampton, & Jasper Counties, South Carolina					
CHANGE:					
Laborers	$ 3.35				
Truck drivers	3.35				
DECISION #SC79-1020 - Mod. #3 (44 FR 6888 - February 2, 1979) Chester, Chesterfield, Fairfield, Kershaw, & Lancaster Counties, South Carolina					
CHANGE:					
Laborers	$ 3.35				
Truck drivers	3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC79-1037 - Mod. #4 (44 FR 13230 - March 9, 1979) Sumter County, South Carolina					
CHANGE:					
Laborers	$ 3.35				
Truck drivers	3.35				
DECISION #SC79-1038 - Mod. #3 (44 FR10934 - February 23, 1979) Cherokee, Union, & York Counties, South Carolina					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Asphalt rakers	3.35				
Truck drivers	3.35				
DECISION #SC79-1045 - Mod. #2 (44 FR 13232 - March 9, 1979) Abbeville, Edgefield, Greenwood, Laurens, McCormick, Newberry, & Saluda Counties, South Carolina					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Mortar mixers	3.35				
Pipe layers	3.35				

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC79-1047 - Mod. #4 (44 FR 16322 - March 16, 1979) Greenville County, South Carolina					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Mason tenders	3.35				
DECISION #SC79-1048 - Mod. #3 (44 FR 16295 - March 16, 1979) Spartanburg County, South Carolina					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Power Equipment Operators:					
Rollers	3.35				
DECISION #SC79-1062 - Mod. #3 (44 FR 20937 - April 6, 1979) Georgetown & Horry Counties, South Carolina					
CHANGE:					
Laborers	$ 3.35				
Truck drivers	3.35				

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC79-1102 - Mod. #2 (44 FR 38105 - June 29, 1979) Abbeville, Greenwood, Laurens, McCormick, Newberry, & Saluda Counties, South Carolina					
CHANGE:					
Laborers	$ 3.35				
Truck drivers	3.35				
DECISION #SC79-1128 - Mod. #3 (44 FR 53661 - September 14, 1979) Lexington & Richland Counties, South Carolina					
CHANGE:					
Laborers:					
Unskilled	$ 3.35				
Mason tenders	3.35				
DECISION #SC79-1130 - Mod. #2 (44 FR 56107 - September 28, 1979) Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, & Jasper Counties, South Carolina					
CHANGE:					
Laborers - unskilled	$ 3.35				

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC80-1057 - Mod. #1 (45 FR 13604 - February 29, 1980) Chester, Chesterfield, Fairfield, Kershaw, Lancaster, & York Counties, South Carolina					
CHANGE:					
Laborers - unskilled	$ 3.35				

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NUMBER SC79-1132 Mod #1 (44 FR 56107 dated September 28, 1979) Anderson, Cherokee, Greenville, Oconee, Pickens, Spartanburg, and Union Counties, South Carolina					
CHANGE:					
LABORERS:					
laborers	$ 3.35				
DECISION NUMBER SC80-1049 Mod #1 (45 FR 8866 dated February 8, 1980) Darlington, Dillon, Florence, Lee, Marion, and Marlboro Counties in South Carolina					
CHANGE:					
LABORERS	$ 3.35				
TRUCK DRIVERS	3.35				
DECISION NUMBER SC80-1047 Mod #2 (45 FR 6310 dated January 25, 1980) STATEWIDE, SOUTH CAROLINA					
CHANGE:					
ASPHALT RAKER	$ 3.35				
ASPHALT LAYDOWN MAN	3.35				
IRONWORKER: Reinforcing & Structural	3.35				
LABORERS: Common	3.35				

MODIFICATIONS P. 31

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NUMBER SC80-1047 Mod #2 (Cont.)					
OILER	$ 3.35				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	3.35				
Asphalt Plant Helper	3.35				
Power Tool Operator	3.35				
Roller Operator	3.35				
Stone Spreader	3.35				
Sweeper	3.35				
Tractor Crawler	3.35				
Tractor-Utility	3.35				
Truck Driver- Light	3.35				
Weighman Scales (Truck)	3.35				

MODIFICATIONS P. 32

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TN80-1054 Mod.#1 (45 FR 8867 February 8,1980) Anderson, Grainger, Hamblen, Jefferson, Knox & Roane Cos. Tennessee					
CHANGE:					
LABORERS:					
Unskilled	$3.35				
DECISION #TN79-1005 Mod.#2 (44 FR 1667 January 5,1979) Dyer, Gibson, Lake, Lauderdale, Obion & Weakley Cos. Tennessee					
CHANGE:					
LABORERS:					
Unskilled	$3.35				
Mason Tender	3.35				
TRUCK DRIVER	3.35				
DECISION #TN79-1053 Mod.#2 (44 FR 17883 March 23,1979) Campbell, Claiborne, Cumberland, Fentress, Hancock, Morgan, Pickett, Scott, & Union Cos., Tennessee					
CHANGE:					
LABORERS:					
Unskilled	$3.35				

MODIFICATIONS P. 33

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TN77-1120 Mod.#1 (42 FR 52880 September 30, 1977) Coffee Co., Tennessee (Excluding Arnold Air Force Base & Arnold Engineering Development Site)					
LABORERS	$3.35				
ROOFERS	3.35				

MODIFICATIONS P. 34

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX78-4065 - MOD. #1 (43 FR 26271 -June 16,1978) Collin, Dallas, Denton, Ellis, Hunt, Kaufman & Rockwall Cos., Texas					
CHANGE:					
Laborers:					
Laborers	$ 3.35				
DECISION NO. TX80-4018 - MOD. #5 (45 FR 16828-March 14, 1980) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
CHANGE:					
Asbestos workers	13.39	.55	1.00		
Laborers:					
Common laborers	3.35				
Air tool operators	3.35				
Mason tenders	3.35				
Mortar mixers	3.35				
Plasterers' tenders	3.35				
Truck drivers	3.35				
DECISION NO. TX80-4076 - MOD. #3 (45 FR 67535 - October 10, 1980) Wichita County, Texas					
CHANGE:					
Plumbers & pipefitters:					
Zone 1	12.65	.50	1.00		.05
Zone 2	13.15	.50	1.00		.05
Sheet metal workers	12.84				.09
ADD:					
Elevator constructors:					
Helpers (Prob.)	50%JR				
OMIT:					
Truck drivers	3.10				

MODIFICATIONS P. 35

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4077 - MOD. #3 (45 FR 67538 - October 10, 1980) Galveston & Harris Cos., Texas					
CHANGE:					
Line construction:					
Zone 1:					
Lineman & cable splicer	$14.95	.60	3%		1/2%
Groundman	8.67	.60	3%		1/2%
Zone 2:					
Lineman & cable splicer	14.55	.60	3%		1/2%
Groundman	8.44	.60	3%		1/2%
Painters:					
Remainder of Harris Co.:					
Group 1	13.095	.765	.60	.40	.05
Group 2	13.47	.765	.60	.40	.05
Group 3	13.22	.765	.60	.40	.05
Group 4	13.72	.765	.60	.40	.05
Soft floor layers	12.92	.60	.55		.14
ADD:					
Elevator constructors:					
Helpers (Prob.)	50%JR				
DECISION NO. TX80-4078 - MOD. #4 (45 FR 67537 - October 10, 1980) Travis County, Texas					
CHANGE:					
Marble, tile & terrazzo finishers:					
Marble, tile & terrazzo finisher	7.67				
Terrazzo floor machine ops.	7.87				
Terrazzo base machine ops.	8.02				
Soft floor layers	12.92	.60	.55		.14
ADD:					
Elevator constructors:					
Helpers (Prob.)	50%JR				

MODIFICATIONS P. 36

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4085 - MOD. #2 (45 FR 74365 - November 7, 1980) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
OMIT:					
Truck drivers:					
1/2 ton to 3 tons; Ready mix concrete to 3 yds.	$ 3.10				
3 to 5 tons; Ready mix concrete over 3 yds.	3.13				
5 tons & over	3.38				
CHANGE:					
Asbestos workers	12.50	.80	1.35		.02
Lathers	13.65				.01
Plumbers & pipefitters	12.65	.50	.65	1.06	
Power equipment operators:					
Group 1	12.40	.65	.50		.15
Group 2	11.90	.65	.50		.15
Group 3	9.95	.65	.50		.15
DECISION NO. TX80-4086 - MOD. #2 (45 FR 74368 - November 7, 1980) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE:					
Marble & tile finishers:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	8.99				

MODIFICATIONS P. 37

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4086 (CONT'D):					
CHANGE:					
Sheet metal workers-Zone2	$12.84				.09
ADD:					
Elevator constructors:					
Helpers (Prob.)	50%JR				
DECISION NO. TX80-4087 MOD. #1 (45 FR 74365 - November 7, 1980) Gregg County, Texas					
CHANGE:					
Bricklayers	12.60		.45		.05
Carpenters: Carpenters	11.20				.015
Millwrights	14.00				.015
Piledrivermen	11.70				.015
DECISION NO. TX80-4088 - MOD. #1 (45 FR 74364 - November 7, 1980) Harrison County, Texas					
CHANGE:					
Laborers:					
Laborers	3.35				
DECISION NO. TX80-4097 - MOD. #1 (45 FR 80644-December 5, 1980) Lubbock County, Texas					
CHANGE:					
Asbestos workers	12.50	.80	1.35		.02
Carpenters	11.30	.48	.60		.01
OMIT:					
Truck drivers	3.10				

MODIFICATIONS P. 38

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4098-MOD. #1 (45 FR 80643 - December 5, 1980) Bowie County, Texas					
CHANGE:					
Carpenters: Carpenters	$11.25				.05
Millwrights	13.95				.05
Piledrivermen	12.25				.05
ADD:					
Elevator constructors:					
Helpers (Prob.)	50%JR				
DECISION NO. TX80-4099 - MOD. #1 (45 FR 80640 - December 5, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
ADD:					
Elevator constructors:					
Helpers (Prob.)	50%JR				
CHANGE:					
Building Construction:					
Bricklayers	12.15	.70	.55		.03
Carpenters:					
Zone 1 - Carpenters	11.00				
Millwrights	11.25				
Laborers:					
Unskilled	3.35				
Truck drivers	3.35				
Incidental Paving & Utilities:					
Air Tool Man	3.75				
Asphalt Heaterman	4.25				
Asphalt Raker	5.50				
Asphalt Shoveler	4.25				
Batching Plant Scaleman	5.50				
Carpenter	5.75				

MODIFICATIONS P. 39

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4099 (CONT'D)					
Incidental Paving & Utilities (Cont'd):					
Carpenter Helper	$ 4.00				
Concrete Finisher(Paving)	6.45				
Concrete Finisher Helper (Paving)	4.75				
Concrete Finisher(Structures)	5.30				
Concrete Finisher Helper (Structures)	4.50				
Concrete Rubber	4.00				
Electrician	8.85				
Electrician Helper	4.00				
Form Builder (Structures)	5.00				
Form Builder Helper (Structures)	3.75				
Form Setter (Paving & Curb)	5.00				
Form Setter Helper (Paving & Curb)	3.75				
Form Setter (Structures)	5.65				
Form Setter Helper (Structures)	4.15				
Laborer, Common	3.75				
Laborer, Utility Man	4.00				
Mechanic	5.50				
Mechanic Helper	4.10				
Oiler	4.85				
Serviceman	4.50				
Pipelayer:					
Bosque, Falls, Hill & McLennan Cos.	5.00				
Pipelayer (Concrete & Clay):					
Bell & Coryell Cos.	5.00				
Pipelayer Helper:					
Bosque, Falls, Hill & McLennan Cos.	4.25				
Pipelayer Helper (Concrete & Clay):					
Bell & Coryell Cos.	4.25				

MODIFICATIONS P. 40

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4099 (CONT'D):					
Incidental Paving & Utilities (Cont'd):					
Plumbers (Bell & Coryell Cos.):					
Zone 1 - 35 miles from Waco including towns of Temple & Belton	$10.88	.30	.55		.04
Zone 2 - all area not included in Zone 1	11.28	.30	.55		.04
Powderman	5.50				
Reinforcing Steel Setter (Structures)	4.90				
Reinforcing Steel Setter Helper	4.25				
Sign Erector	4.65				
Sign Erector Helper	3.35				
Spreader Box Man	4.55				
Swamper	4.55				
Power Equipment Operators:					
Asphalt Distributor	5.00				
Asphalt Paving Machine	5.10				
Broom or Sweeper Operator	4.00				
Bulldozer, 150 HP & Less	4.80				
Bulldozer, over 150 HP	5.75				
Concrete Paving Curing Machine	5.00				
Concrete Paving Saw	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	5.10				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	6.25				
Crusher or Screening Plant Operator	4.60				
Foundation Drill Op. (Truck Mounted)	7.75				
Foundation Drill Op. Helper	4.25				
Front End Loader (2½ CY and Less)	4.75				
Front End Loader (over 2½ CY)	5.65				

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4099 (CONT'D)					
Incidental Paving & Utilities (Cont'd):					
Power Equipment Ops. (Cont'd):					
Motor Grader Op., Fine Grade	$7.00				
Motor Grader Operator	5.30				
Roller, Steel Wheel (Plant-Mix Pavements)	4.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.00				
Roller, Pneumatic (Self-Propelled)	3.95				
Scrapers (17 CY & Less)	4.40				
Scrapers (Over 17 CY)	5.20				
Tractor (Crawler Type) 150 HP and Less	3.35				
Tractor (Crawler Type) over 150 HP	4.60				
Tractor (Pneumatic) 80 HP and Less	4.50				
Tractor (Pneumatic) over 80 HP	5.10				
Traveling Mixer	4.10				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.45				
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.00				
Truck Drivers:					
Single Axle, Light	4.00				
Single Axle, Heavy	4.25				
Tandem Axle or Semitrailer	5.00				
Lowboy-Flact	4.80				
Welder	5.00				
Welder Helper	3.60				

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA-79-3049-Mod. #3 (44 FR 65313-November 9,1979 Counties of Accomack,Greensville,Isle of Wight,James City,Northampton,Southampton,Surry,Sussex,York and the cities of Emporia,Ffanklin,Suffolk, and Williamsburg VA					
CHANGE:					
Laborers, Unskilled	$3.35				
Pipelayers	3.35				
Truck Drivers:					
Single Rear Axle	3.35				
DECISION NO. VA-80-3005-Mod. #2 (45 FR 23282-April 4,1980) Alleghany,Augusta,Bath, Clarke,Frederick,Highland, Page,Rockbridge,Rockingham, Shenandoah & Warren Ctys VA					
CHANGE:					
Laborers, Unskilled	3.35				
DECISION NO. VA-79-3050-Mod #2 (44 FR 63614-November 9, 1979) Amherst,Appomattox,Buckingham,Campbell,Charlotte, Cumberland,Halifax,Nelson, Pittsylvania,Prince Edward, & the cities of Danville, Lynchburg, & South Boston VA					

MODIFICATIONS P. 43

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
VA-79-3050 (Con't)					
CHANGE:					
Fence Erector/Guard Rail	$3.35				
Fireman	3.35				
Laborer, Unskilled	3.35				
Truck Driver-Single Rear Axle	3.35				
DECISION NO. VA-78-3062-Mod #2 (43 FR 43244-September 22, 1978) Bland, Buchanan, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, & Wythe Counties, VA					
CHANGE:					
Ironworker, Structural Helper	3.35				
Laborer, Unskilled	3.35				
Transit Mix Truck Operator	3.35				
DECISION NO. VA-80-3053-Mod #1 (45 FR 59109-September 5, 1980) Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski & Roanoke Counties & the cities of Bedford, Galax, Martinsville, Radford, Roanoke, & Salem					
CHANGE:					
Truck Driver, Heavy Duty (7 C.Y. & Under)	3.35				

MODIFICATIONS P. 44

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WY80-5129 - Mod #4 (45 FR 62689 - September 19, 1980) Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming					
CHANGE:					
PLUMBERS: Steamfitters:					
Area 1:					
Zone 1	$ 11.19	.90	.90	1.50	.18
Zone 2	12.04	.90	.90	1.50	.18
Zone 3	12.90	.90	.90	1.50	.18
Zone 4	14.18	.90	.90	1.50	.18
Zone 5: (Footnote "b"):					
General contracts $2,500,000.00 or less	11.19	.90	.90	1.50	.18
Sheet metal workers:					
Area 1	13.39	.53	1.22		.09

SUPERSEDEAS DECISION

STATE: Florida COUNTIES: See below
DECISION NUMBER: FL81-1166 DATE: Date of Publication
Supersedes Decision No. FL80-1037 dated January 4, 1980 in 45 FR 1342
DESCRIPTION OF WORK: Highway Construction Projects (does not include airport runways and taxiways; tunnels; bridges designed to accomadate navigation; rest areas which include building structures; and railroad construction

Alachua, Bradford, Calhoun, Citrus, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lake, Lafayette,Leon, Levy, Liberty, Madison, Marion, Pasco, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla and Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	3.93				
Cement Finishers	3.42				
Electricians	5.95				
Laborers	3.35				
Truck Drivers	3.35				
Welders- Rate for craft					
POWER EQUIPMENT OPERATORS					
Asphalt Mixers	3.50				
Asphalt Screeds	3.41				
Concrete Batching Plants	3.50				
Concrete Paving Machines	3.65				
Cranes, Derricks, and Drag-Lines	3.92				
Gradall	3.59				
Mechanics	3.53				
Motor Graders	3.49				
Piledriver-Leadsmen	5.00				
Widening Spreader Machines	3.68				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

SUPERSEDEAS DECISION

STATE: Florida COUNTIES: See below
DECISION NUMBER FL81-1167 DATE: Date of Publication
Supercedes Decision No. FL80-1036 dated January 4, 1980 in 45FR 1343
DESCRIPTION OF WORK: Highway Construction Projects (does not include airport runways and taxiways; tunnels; bridges designed to accomodate navigation; rest areas which include building structures; and railroad construction

Bay, Escambia, Gulf, Okaloosa Santa Rosa, and Walton

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	4.16				
Concrete Finishers	3.48				
Ironworkers, Reinforcing	4.07				
Laborers	3.35				
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Cranes, Derricks, Draglines	3.75				
Mechanics	4.39				
Motor Graders	3.50				
Piledriver - Leadsmen	3.70				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

SUPERSEDEAS DECISION

STATE: Florida [illegible] below
DECISION NO. FL81-1168 DATE: Date of Publication
Supersedes Decision No. FL80-1035 dated January 4, 1980 in 45 FR 1343
DESCRIPTION OF WORK: Highway Construction Projects (does not include airport runways & taxiways; tunnels; bridges designed to accomadate navigation; rest areas which include building structures; and railroad construction)

Baker, Clay, Duval, Flagler, Nassau, and St. Johns	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	4.51				
Concrete Finishers	3.89				
Electricians	7.70	.30	1%	.42	1%
Ironworkers, Reinforcing	4.87				
Laborers:					
Common	3.35				
Air Tool Operators	3.50				
Pipelayers	3.53				
Painters:					
Structural Steel	5.73				
Piledrivermen	5.00				
Truck Driver	3.35				
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Asphalt Distributors	3.45				
Asphalt Paving Machines	3.80				
Asphalt Plant	3.45				
Asphalt Finisher	3.46				
Backhoe	3.68				
Cranes, Derricks, Draglines	4.48				
Front End Loader	3.50				
Mechanics	4.18				
Motor Grader	4.37				
Scrapers	4.15				
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))					

SUPERSEDEAS DECISION

STATE: Florida COUNTIES: See below
DECISION NUMBER: FL81-1169 DATE: Date of Publication
Supersedes Decision No. FL80-1045 dated January 18, 1980 in 45 FR 3862
DESCRIPTION OF WORK: Highway Construction Projects (does not include airport runways and taxiways; tunnels; bridges designed to accomadate navigation; rest areas which include building structures; and railroad construction)

Brevard and Volusia (excluding Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site), Hillsborough, Indian River, Manatee, Martin, Orange, Osceola, Pinellas, Polk, St. Lucie, Sarasota, and Seminole Counties, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	4.00				
Carpenters	5.00				
Concrete Finishers	5.00				
Form Setters	3.79				
Ironworkers					
Reinforcing	5.32				
Laborers					
Unskilled	3.35				
Asphalt Rakers	4.27				
Lutemen	4.00				
Pipelayers	4.33				
Painters, Spray	9.75				
Piledrivers, Leadmen	5.25				
Traffic Signal Mechanic	4.59				
POWER EQUIPMENT OPERATORS					
Asphalt Distributors	3.99				
Asphalt Mixers	3.95				
Asphalt Paving Machines	4.36				
Backhoes	5.00				
Boom Augers	3.90				
Bulldozers	4.30				
Cranes	5.34				
Earth Moving Machines	4.10				
Gradalls	4.75				
Grader Machines	5.25				
Guard Rail Erectors	3.97				
Loaders	3.49				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Louisiana

PARISHES: Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles

DECISION NO.: LA81-4002

DATE: Date of Publication

Supersedes Decision No. LA80-4072, dated October 3, 1980, in 45 FR 65886.

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects & airports in Bossier, Caddo, Calcasieu, Jefferson & Orleans Parishes).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS & STONEMASONS					
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes	$13.50	.63	.85		.05
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	12.70	.75	.485		.10
ZONE 3 - Bossier & Caddo Parishes	11.30	.55	.65		
CARPENTERS & PILEDRIVERMEN					
ZONE 1 - Bossier & Caddo Parishes	11.07	.55	.50		.04
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	12.05	.70	.70		.06
ZONE 3 - Calcasieu Parish	11.73	.80	.33		.07
ZONE 4 - Cameron & Jefferson Davis Parishes	9.40	.80	.33		.07
ZONE 5 - Allen & Beauregard Parishes	8.90	.80	.33		.07
CEMENT MASONS					
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	11.12	.79	.50		.09
ZONE 2 - Bossier & Caddo Parishes	11.05	.45			
ZONE 3 - Calcasieu Parish	11.85				
ZONE 4 - Cameron & Jefferson Davis Parishes	10.60				
ZONE 5 - Allen & Beauregard Parishes	10.10				

DECISION NO. LA81-4002

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes:					
Electricians	$14.75	.55	3%+.40		1/10%
Cable Splicers	15.00	.55	3%+.40		1/10%
ZONE 2 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
Electricians	13.65	.45	3%+.40		.05
Cable Splicers	13.65	.45	3%+.40		.05
ZONE 3 - Bossier & Caddo Parishes:					
Electricians	13.25	1.75	3%		1%
Cable Splicers	13.75	1.75	3%		1%
IRONWORKERS					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes	12.01	.93	.65		.08
ZONE 2 - Calcasieu Parish	11.95	.60	.65		.05
ZONE 3 - Bossier & Caddo Parishes	10.65	.60	1.45		.06
ZONE 4 - Cameron & Jefferson Davis Parishes	9.30	.60	.65		.05
ZONE 5 - Allen & Beauregard Parishes	8.80	.60	.65		.05
LABORERS					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
GROUP 1	8.13	.30	.27		.05
GROUP 2	8.23	.30	.27		.05
GROUP 3	8.68	.30	.27		.05
GROUP 4	9.93	.30	.27		.05
ZONE 2 - Bossier & Caddo Parishes					
GROUP 1	7.18	.25	.27		.05
GROUP 2	7.28	.25	.27		.05
GROUP 3	7.73	.25	.27		.05
GROUP 4	7.98	.25	.27		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - Calcasieu Parish:					
GROUP 1	$ 8.18	.25	.27		.05
GROUP 2	8.28	.25	.27		.05
GROUP 3	8.73	.25	.27		.05
GROUP 4	8.98	.25	.27		.05
ZONE 4 - Cameron & Jefferson Davis Parishes:					
GROUP 1	6.68	.25	.27		.05
GROUP 2	6.78	.25	.27		.05
GROUP 3	7.23	.25	.27		.05
GROUP 4	7.43	.25	.27		.05
ZONE 5 - Allen & Beauregard Parishes:					
GROUP 1	6.48	.25	.27		.05
GROUP 2	6.58	.25	.27		.05
GROUP 3	7.03	.25	.27		.05
GROUP 4	7.23	.25	.27		.05

LABORERS CLASSIFICATIONS DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman; foundation driller & demolishing & dismantling man

GROUP 2 - Raker, concrete spreader,carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer operator, jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tender, stoker, asphalt raker, concrete shovelers, power tool operator & motorized buggy operator

GROUP 3 - Formsetter, head or master-high type pavement

GROUP 4 - Powderman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes					
GROUP 1 - Lineman	$13.65	.45	3%+.40		.05
GROUP 2 - Operator hole digging equipment; operator tractor with winch & derrick operator; operator line truck with winch & derrick working hot lines	75% JR	.45	3%+.40		.05
GROUP 3 - Operator using hole truck & trailer or pole hauling & setting truck (not in energized lines)	65% JR	.45	3%+.40		.05
GROUP 4 - Operator using truck without winch	45% JR	.45	3%+.40		.05
GROUP 5 - Groundmen	50% JR	.45	3%+.40		.05
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes:					
GROUP 1 - Linemen, equipment operators	14.75	.55	3%+.40		1/10%
GROUP 2 - Cable Splicers	15.00	.55	3%+.40		1/10%
GROUP 3 - Groundmen	12.75	.55	3%+.40		1/10%
ZONE 3 - Bossier & Caddo Parishes:					
GROUP 1 - Linemen; operators	13.25	1.75	3%		1%
GROUP 2 - Cable Splicers	13.75	1.75	3%		1%
GROUP 3 - Groundmen	11.25	1.75	3%		1%
PAINTERS					
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes:					
GROUP 1 - Brush	13.245		.30		
GROUP 2 - Spray, sandblasting, hydroblasting, spider operator, rubberizing & pyroflexing, steam jennies	13.59		.30		

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Fringe Benefits Payments: Pensions	Fringe Benefits Payments: Vacation	Fringe Benefits Payments: Education and/or Appr. Tr.
GROUP 3 - Bridge work	$15.035		.30		
ZONE 2 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
GROUP 1 - Painters	9.845	.625	.60		.08
GROUP 2 - Spray, Swing stage	10.22	.625	.60		.08
GROUP 3 - Industrial	11.095	.625	.60		.08
ZONE 3 - Allen (northeastern most corner, north of Rt. 10) Parish					
GROUP 1 Painters	10.35				
GROUP 2 Spray, stage, steeple work	10.85				
GROUP 3 - All Industrial work including sandblasting or power tools of any kind	11.35				
ZONE 4 - Bossier & Caddo Parishes	10.95	.40	.30		.05
PLUMBERS & PIPEFITTERS					
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	13.10	.75	1.00		.10
ZONE 2 - Bossier & Caddo Parishes	11.87	.70	1.10	1.00	.09
ZONE 3 - Allen, Beauregard Calcasieu, Cameron & Jefferson Davis Parishes	14.01	.67	.72		.08
POWER EQUIPMENT OPERATORS					
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes					
GROUP 1	11.91	.65	1.10		.10
GROUP 2	12.16	.65	1.10		.10
GROUP 3	11.66	.65	1.10		.10
GROUP 4	10.25	.65	1.10		.10
GROUP 5	9.85	.65	1.10		.10
GROUP 6	8.71	.65	1.10		.10
GROUP 7	7.84	.65	1.10		.10
GROUP 8	9.90	.65	1.10		.10
GROUP 9	10.15	.65	1.10		.10
GROUP 10	8.09	.65	1.10		.10

DECISION NO. LA81-4002

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Fringe Benefits Payments: Pensions	Fringe Benefits Payments: Vacation	Fringe Benefits Payments: Education and/or Appr. Tr.
ZONE 2 - Bossier & Caddo Parishes					
GROUP 1	$11.03	.65	1.10		.10
GROUP 2	11.28	.65	1.10		.10
GROUP 3	10.78	.65	1.10		.10
GROUP 4	9.61	.65	1.10		.10
GROUP 5	8.98	.65	1.10		.10
GROUP 6	7.83	.65	1.10		.10
GROUP 7	7.23	.65	1.10		.10
GROUP 8	9.27	.65	1.10		.10
GROUP 9	9.52	.65	1.10		.10
GROUP 10	7.48	.65	1.10		.10
ZONE 3 - Calcasieu Parish					
GROUP 1	11.56	.65	1.10		.10
GROUP 2	11.81	.65	1.10		.10
GROUP 3	11.31	.65	1.10		.10
GROUP 4	9.93	.65	1.10		.10
GROUP 5	9.27	.65	1.10		.10
GROUP 6	8.13	.65	1.10		.10
GROUP 7	7.23	.65	1.10		.10
GROUP 8	9.58	.65	1.10		.10
GROUP 9	9.83	.65	1.10		.10
GROUP 10	7.48	.65	1.10		.10
ZONE 4 - Cameron & Jefferson Davis Parishes					
GROUP 1	8.85	.65	1.10		.10
GROUP 2	9.10	.65	1.10		.10
GROUP 3	8.60	.65	1.10		.10
GROUP 4	7.54	.65	1.10		.10
GROUP 5	7.00	.65	1.10		.10
GROUP 6	5.97	.65	1.10		.10
GROUP 7	5.67	.65	1.10		.10
GROUP 8	7.27	.65	1.10		.10
GROUP 9	7.52	.65	1.10		.10
GROUP 10	5.92	.65	1.10		.10
ZONE 5 - Allen & Beauregard Parishes					
GROUP 1	8.35	.65	1.10		.10
GROUP 2	8.60	.65	1.10		.10
GROUP 3	8.10	.65	1.10		.10
GROUP 4	7.04	.65	1.10		.10
GROUP 5	6.50	.65	1.10		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (ZONE 5 CONT'D)					
GROUP 6	$ 5.47	.65	1.10		.10
GROUP 7	5.17	.65	1.10		.10
GROUP 8	6.77	.65	1.10		.10
GROUP 9	7.02	.65	1.10		.10
GROUP 10	5.42	.65	1.10		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over; crane with ft. boom

GROUP 2 - Crane with ft. boom

GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types, & equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring license ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines

GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd. A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats

GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd., spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type rubber tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats

GROUP 6 - Batch plant operator

GROUP 7 - Oiler

GROUP 8 - Firemen

GROUP 9 - Fireman operating steam valve

GROUP 10 - Oiler on crane using air to drive piles

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1 - Calcasieu Parish	$13.50	.58	.60		.18
ZONE 2 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes	12.25	3%+.65	1.11		.16
ZONE 3 - Allen, Beauregard, Cameron & Jefferson Davis Parishes	13.57	.55	.80		.16
ZONE 4 - Bossier & Caddo Parishes	12.09	3%+.69	.50		.19
TRUCK DRIVERS					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
GROUP 1	8.23	.70			
GROUP 2	8.36	.70			
GROUP 3	8.42	.70			
GROUP 4	8.50	.70			
GROUP 5	8.69	.70			
ZONE 2 - Bossier & Caddo Parishes:					
GROUP 1	8.36				
GROUP 2	8.46				
GROUP 3	8.69				
GROUP 4	8.90				
GROUP 5	9.32				
ZONE 3 - Calcasieu Parish:					
GROUP 1	8.39	.70			
GROUP 2	8.52	.70			
GROUP 3	8.58	.70			
GROUP 4	8.65	.70			
GROUP 5	8.84	.70			
ZONE 4 - Allen & Beauregard Parishes					
GROUP 1	6.47	.70			
GROUP 2	6.60	.70			
GROUP 3	6.66	.70			
GROUP 4	6.73	.70			
GROUP 5	6.93	.70			

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TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 - Cameron & Jefferson Davis Parishes:					
GROUP 1	$ 6.57	.70			
GROUP 2	6.70	.70			
GROUP 3	6.76	.70			
GROUP 4	6.83	.70			
GROUP 5	7.02	.70			

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP 1 - 1 ton & under: warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

STATE: MISSISSIPPI

COUNTIES: George, Hancock, Harrison, Jackson, Pearl River and Stone

DECISION NUMBER: MS81-1136

DATE: Date of Publication

Supersedes Decision NO.: MS79-1084, May 18, 1979, 44 FR 29249

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$5.12				
Bricklayers	8.00				
Carpenters	6.02				
Cement Masons	5.71				
Drywall finishers	7.00				
Drywall hangers	6.00				
Electricians	7.60				
Ironworkers	7.50				
Laborers:					
unskilled	3.35				
pipelayers	4.58				
Painters	7.92				
Plumbers & Pipefitters	6.19				
Power Equipment Operators:					
backhoe	5.71				
dozer	5.54				
roller	5.39				
tractor	5.25				
Roofers	5.00				
Sheet Metal workers	4.75				
Soft floor layers	4.50				
Tile setters	7.75				
Truck drivers	4.50				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Adams, Amite, Franklin, Jefferson, Lawrence, Lincoln, Pike, Walthall, and Wilkinson

DECISION NUMBER: MS81-1153

DATE: Date of publication

Supersedes Decision No.: MS79-1123, September 7, 1979, 44 FR 52531

DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$5.50				
Bricklayers	6.50				
Carpenters	5.17				
Cement masons	5.37				
Drywall hangers	5.50				
Electricians	5.14				
Ironworkers:					
reinforcing	4.82				
structural & ornamental	4.50				
Laborers:					
mason tenders	3.35				
mortar mixers	3.56				
pipelayers	3.50				
unskilled	3.35				
Painters:					
brush	4.26				
Plumbers & Pipefitters	6.95				
Power Equipment Operators:					
backhoe	4.00				
bulldozer	4.00				
roller	3.75				
Roofers(shingles)	4.00				
Sheet metal workers	4.94				
Truck drivers	3.35				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Attala, Chickasaw, Choctaw, Clay, Lowndes, Monroe, Noxubee, Oktibbeha, Webster, and Winston

DECISION NUMBER: MS81-1154

DATE: Date of publication

Supersedes Decision No.: MS79-1060, April 13, 1979, 44 FR 22298

DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$5.15				
Bricklayers	6.50				
Carpenters	5.75				
Cement masons	4.47				
Drywall finishers	5.00				
Drywall hangers	5.00				
Electricians	5.00				
Ironworkers:					
reinforcing	4.50				
Insulators	5.83				
Laborers	3.35				
Painters:					
brush	5.00				
Plumbers & Pipefitters	5.45				
Power Equipment Operators:					
backhoe	4.00				
bulldozer	3.50				
motor grader	4.88				
tractor	3.35				
Roofers	4.14				
Sheet metal workers	4.00				
Soft floor layers	6.00				
Tile setters	6.00				
Truck drivers	3.35				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Alcorn, Itawamba, Lee Pontotoc, Prentiss, Tippah, Tishomingo, and Union

DECISION NUMBER: MS81-1155

DATE: Date of publication

Supersedes Decision No.: MS79-1112, July 20, 1979, 44 FR 42845

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$3.90				
Bricklayers	7.23				
Carpenters	4.98				
Cement masons	4.98				
Electricians	4.60				
Ironworkers:					
structural & ornamental	5.00				
Laborers:					
asphalt rakers	3.35				
mason tenders	4.00				
mortar mixers	4.00				
pipelayers	3.35				
unskilled	3.35				
Painters:					
brush	3.90				
Plumbers & Pipefitters	7.50				
Power Equipment Operators:					
backhoe	4.68				
bulldozer	4.13				
form setter	3.92				
front end loader	4.38				
motor grader	4.68				
oiler - greaser	3.75				
roller	3.40				
tractor	3.35				
Roofers	4.50				
Sheet metal workers	4.13				
Soft floor layers	5.59				
Truck drivers	3.69				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Benton, DeSoto, Marshall, Tate, and Tunica

DECISION NUMBER: MS81-1156

DATE: Date of publication

Supersedes Decision No.: MS79-1136, October 19, 1979, 44 FR 60505

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$5.50				
Bricklayers	5.43				
Carpenters	4.50				
Cement masons	4.25				
Drywall finishers	4.55				
Drywall hangers	4.33				
Electricians	4.25				
Form setters	4.25				
Ironworkers:					
structural & ornamental	4.25				
Laborers:					
asphalt rakers	4.00				
unskilled	3.35				
Painters:					
brush	5.00				
Plumbers & Pipefitters	6.00				
Power Equipment Operators:					
backhoe	4.63				
bulldozer	6.00				
scraper	4.80				
roller	5.83				
Roofers	5.00				
Sheet metal workers	4.51				
Soft floor layers	5.75				
Truck drivers	4.25				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

[illegible]: MISSISSIPPI

COUNTIES: Bolivar, Coahoma, Humphreys, Quitman, Sunflower, and Washington

DECISION NUMBER: MS81-1157

DATE: Date of publication

Supersedes Decision No.: MS80-1013, January 4, 1980, 45 FR 1345

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$4.50				
Bricklayers	5.50				
Carpenters	4.50				
Cement masons	4.16				
Drywall hangers	4.01				
Electricians	4.75				
Fence erectors	4.00				
Insulators	3.35				
Ironworkers:					
ornamental	4.00				
reinforcing	3.75				
Laborers	3.35				
Painters	4.50				
Plumbers	6.00				
Power Equipment Operators:					
asphalt spreader	3.67				
backhoe	3.35				
mechanic	4.13				
Roofers	4.00				
Sheet metal workers	4.25				
Soft floor layers	4.00				
Truck drivers	3.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Clairborne, Copiah, Hinds, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren, and Yazoo

DECISION NUMBER: MS81-1158

DATE: Date of publication

Supersedes Decision No.: MS80-1104, September 19, 1980, 45 FR 62666

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$5.00				
Bricklayers	7.90				
Carpenters	4.92				
Carpet layers	5.75				
Drywall finishers	7.50				
Drywall hangers	5.43				
Cement masons	6.10				
Electricians	7.25				
Insulators	4.00				
Ironworkers:					
reinforcing	4.59				
Laborers:					
mason tenders	3.75				
mortar mixers	4.13				
unskilled	3.35				
Painters:					
brush	6.01				
roller	7.50				
Plumbers & Pipefitters	7.85				
Power Equipment Operators:					
backhoe	5.43				
bulldozer	4.69				
loader	6.12				
pump operator	5.26				
roller	4.00				
trenching machine	5.20				
Roofers	5.00				
Tile setters	6.38				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI
COUNTIES: Clarke, Jasper, Kemper, Lauderdale, Neshoba, and Newton

DECISION NUMBER: MS81-1159
DATE: Date of publication
Supersedes Decision No.: MS79-1077, April 27, 1979, 44 FR 25115
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$6.25				
Bricklayers	7.50				
Carpenters	6.04				
Cement masons	6.00				
Drywall finishers	4.92				
Drywall hangers	5.53				
Electricians	9.45	.32	.88	.12	
Glaziers	4.90				
Ironworkers:					
reinforcing	4.96				
Laborers:					
mason tenders	3.35				
mortar mixers	3.50				
unskilled	3.35				
Painters:					
brush	5.00				
Plumbers & Pipefitters	7.25				
Power Equipment Operators:					
backhoe	3.50				
bulldozer	3.88				
Roofers	5.75				
Sheet metal workers	5.00				
Soft floor layers	5.00				
Tile setters	6.50				
Truck drivers	3.35				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI
COUNTIES: Calhoun, Carroll, Grenada, Holmes, Lafayette, LeFlore, Montgomery, Panola, Tallahatchie, and Yalobusha

DECISION NUMBER: MS81-1160
DATE: Date of publication
Supersedes Decision No.: MS79-1115, August 3, 1979, 44 FR 45547
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$4.78				
Cement masons	3.35				
Drywall finishers	4.00				
Drywall hangers	5.00				
Electricians	4.00				
Ironworkers:					
reinforcing	4.25				
Laborers	3.35				
Painters:					
brush	3.60				
Plumbers & Pipefitters	6.00				
Power Equipment Operators:					
bulldozer	5.50				
trenching machine	4.75				
Sheet metal workers	3.50				
Soft floor layers	4.00				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: [illegible] COUNTIES: George, Hancock, Harrison, Jackson, Pearl River, and Stone

DECISION NUMBER: MS81-1161 DATE: Date of publication

Supersedes Decision No.: MS80-1010, January 4, 1980, 45 FR 1349

DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$7.00				
Carpenters	5.66				
Cement masons	5.06				
Cement finishers	5.06				
Electricians	6.00				
Ironworkers:					
reinforcing	8.50				
Laborers:					
asphalt rakers	3.35				
air tool operators	4.18				
concrete saw operators	5.00				
grade checkers	4.00				
mason tenders	4.50				
pipelayers	3.35				
unskilled	3.35				
Painters:					
structural steel	5.43				
Piledrivermen	5.52				
Power Equipment Operators:					
A-frame truck (winch)	4.50				
aggregate spreader	3.50				
air compressor	3.35				
asphalt distributor	4.00				
asphalt plant	4.00				
backhoe	4.74				
bulldozer	5.33				
concrete batch plant	5.30				
concrete finishing machine	6.50				
curing machine	3.35				
concrete paving machine	3.55				
concrete spreader machine	3.35				
crane and dragline	6.00				
guard rail post driver	3.50				
earth auger	4.00				
firemen	3.35				
joint filler	3.35				
loader (all types)	4.50				
mechanic	6.13				
mixer (all types)	3.35				
motor patrol	5.42				
mulcher	3.35				
oiler - greaser	4.50				

DECISION NUMBER: MS81-1161 page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:(con't					
piledriver	6.25				
roller (self-propelled)	3.35				
scales (all types)	3.40				
scraper	5.00				
shovel	4.74				
spreader	4.00				
striping machine	4.00				
tractor (track type)	5.00				
tractor (wheel type)	3.35				
trenching machine	4.00				
sub grade machine	3.60				
crusher feeder	3.35				
Truck drivers	3.35				
Tugboat operators	5.50				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson-Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, Wilkinson

DECISION NUMBER: MS81-1162 DATE: Date of publication
Supersedes Decision No.: MS79-1092, June 1, 1979, 44 FR 31854
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$5.00				
Carpenters	5.00				
Cement masons	5.03				
Cement finishers	5.03				
Electricians	9.70				
Ironworkers:					
reinforcing	5.05				
structural	6.00				
Laborers:					
air tool operators	3.50				
asphalt rakers	3.68				
concrete saw operators	4.25				
grader checkers	3.75				
mason tenders	4.00				
unskilled	3.35				
Painters:					
structural steel	4.00				
Piledrivermen	4.25				
Power Equipment Operators:					
A frame truck (winch)	3.75				
aggregate spreader	3.50				
air compressor	4.88				
asphalt distributor	3.82				
asphalt plant	4.88				
backhoe	4.93				
bulldozer	4.68				
concrete batch plant	4.50				
concrete finishing machine	3.75				
concrete paving machine	3.35				
concrete spreader machine	3.35				
crane and dragline	6.00				
guard rail post driver	3.35				
earth auger	3.35				
fireman	3.35				
joint filler	3.35				
joint setter	3.75				
loader (all types)	4.05				
mechanic	5.09				
mixer (all types)	3.50				
motor patrol	4.50				
mulcher	3.35				

DECISION NUMBER: MS81-1162 page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:(con't)					
oiler - greaser	3.64				
piledriver	4.75				
roller (self-propelled)	3.35				
scales (all types)	3.38				
scraper	4.00				
shovel	4.93				
spreader	3.82				
striping machine	4.00				
tractor (track type)	3.75				
tractor (wheel type)	3.35				
trenching machine	3.75				
crusher feeder	3.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston

DECISION NUMBER: MS81-1163

DATE: Date of publication

Supersedes Decision No.: MS80-1009, January 4, 1980, 45 FR 1348

DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$5.50				
Carpenters	4.50				
Cement masons	4.25				
Cement finishers	4.25				
Electricians	7.00				
Ironworkers:					
reinforcing	4.50				
Laborers:					
air tool operators	3.35				
asphalt rakers	3.65				
concrete saw operators	4.00				
grade checkers	4.10				
mason tenders	3.88				
pipelayers	3.35				
unskilled	3.35				
Painters:					
structural steel	6.00				
Power Equipment Operators:					
A frame truck (winch)	3.75				
aggregate spreader	3.35				
air compressor	3.65				
asphalt distributor	4.19				
asphalt plant	3.88				
backhoe	4.75				
bulldozer	4.30				
concrete batch plant	3.35				
concrete finishing machine	4.50				
concrete paving machine	3.50				
concrete spreader machine	3.35				
crane and dragline	5.50				
crusher feeder	3.50				
curing machine	3.35				
earth auger	3.35				
firemen	3.35				
guard rail post driver	3.35				
joint setter	3.35				
loader (all types)	4.29				
mechanic	5.04				
mixer (all types)	4.00				
motor patrol	4.00				
mulcher	3.35				

DECISION NUMBER: MS81-1163

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:(con't)					
oiler-greaser	3.35				
piledriver	4.25				
roller (self-propelled)	3.50				
scales (all types)	3.35				
scraper	4.75				
shovel	4.75				
spreader	4.19				
striping machine	4.25				
tractor (track type)	3.35				
tractor (wheel type)	3.35				
trenching	4.35				
Truck drivers	3.35				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Clairborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren, and Yazoo

DECISION NUMBER: MS81-1164 DATE: Date of publication

Supersedes Decision No.: MS80-1008, January 4, 1980, 45 FR 1347

DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$5.00				
Carpenters	4.89				
Cement masons	4.96				
Cement finishers	4.96				
Electricians	10.65				
Ironworkers:					
reinforcing	4.72				
Laborers:					
asphalt rakers	3.35				
grade checkers	3.75				
mason tenders	4.07				
pipelayers	4.50				
unskilled	3.35				
Painters:					
structural steel	5.00				
Power Equipment Operators:					
A frame truck (winch)	5.00				
aggregate spreader	3.50				
air compressor	3.35				
asphalt distributor	3.50				
asphalt plant	4.00				
backhoe	5.02				
bull dozer	5.00				
concrete batch plant	4.25				
concrete breaker	3.35				
concrete finishing machine	5.25				
concrete paving machine	3.80				
concrete spreader	4.25				
crane and dragline	6.00				
crusher feeder	3.35				
curing machine	3.35				
earth auger	5.00				
fireman	3.60				
guard rail post driver	3.50				
hydro-hammer	3.35				
joint filler	3.35				
joint setter	3.95				
loader (all types)	5.10				
mechanic	4.50				

DECISION NUMBER: MS81-1164 page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:(con't)					
mixer (all types)	3.60				
motor patrol	5.70				
mulcher	3.35				
oiler-greaser	3.35				
piledriver	3.70				
roller (self-propelled)	3.71				
scales (all types)	4.00				
scraper	5.73				
shovel	5.02				
spreader	3.50				
striping machine	4.00				
tractor (track type)	4.00				
tractor (wheel type)	3.35				
trenching machine	3.35				
Truck drivers	3.50				
Welder-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: Bolivar, Carroll, Coahoma, DeSoto, Grenada, LeFlore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, and Yalobusha

DECISION NUMBER: MS81-1165

DATE: Date of publication

Supersedes Decision No.: MS80-1007, January 4, 1980, 45 FR 1346

DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$7.00				
Carpenters	5.00				
Cement masons	5.00				
Cement finishers	5.00				
Electricians	6.00				
Ironworkers:					
reinforcing	4.75				
structural	4.75				
Laborers:					
air tool operators	3.35				
asphalt rakers	3.35				
concrete saw operators	4.25				
grade checkers	3.66				
mason tenders	3.67				
pipelayers	3.50				
unskilled	3.35				
Painters:					
structural steel	4.50				
Power Equipment Operators:					
aggregate spreader	3.35				
air compressor	3.35				
asphalt distributor	3.35				
asphalt plant	3.35				
backhoe	4.68				
bulldozer	5.00				
concrete batch plant	4.00				
concrete breaker	3.35				
concrete finishing machine	3.50				
concrete paving machine	3.50				
concrete spreader machine	3.35				
crane and dragline	6.00				
crusher feeder	3.35				
curing machine	3.35				
earth auger	3.35				
guard rail post driver	3.50				
fireman	3.35				
hydo-hammer	3.35				
joint filler	3.35				
loader (all types)	4.44				
mechanic	4.10				
mixer (all types)					

DECISION NUMBER: MS81-1165

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:(con't)					
motor patrol	5.00				
mulcher	3.35				
oiler-greaser	4.00				
piledriver	5.50				
roller (self-propelled)	3.35				
scales (all types)	4.00				
scraper	5.00				
shovel	4.68				
spreader	3.35				
striping machine	5.00				
subgrade machine	4.00				
tractor (track type)	3.35				
tractor (wheel type)	3.35				
trenching machine	4.00				
Truck drivers	3.35				
Welders-receive rate prescribed for craft to which it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTIES: STATEWIDE
DECISION NUMBER: TN81-1170 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN80-1044, dated January 11, 1980, in 45 FR 2495
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (except Hamilton County), and HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR TOOL OPERATOR	$ 5.30				
ASPHALT PAVER OPERATOR	6.42				
ASPHALT RAKER	5.44				
BACKHOE OPERATOR	7.18				
BITUMINOUS DISTRIBUTOR MACHINE OPERATOR	5.59				
BRICKLAYERS	7.94				
BORING MACHINE OPERATOR (Horizonal)	5.40				
BULLDOZER or PUSH DOZER OPERATOR	6.95				
CARPENTER	6.95				
CENTRAL MIXING PLANT OPERATOR	6.23				
CHAIN SAW OPERATOR	5.14				
CONCRETE FINISHER	6.57				
CONCRETE FINISHING MACHINE	6.76				
CONCETE MIXER OPERATOR-Less than 1 yard	5.12				
CONCRETE PAVER OPERATOR	6.58				
CONCRETE RUBBER	5.61				
CONCRETE SAW OPERATOR	5.56				
CRANE OPERATOR	7.22				
CURB MACHINE OPERATOR (Manual)	6.20				
CURB MACHINE OPERATOR (Automatic)	6.24				
DITCH PAVER MACHINE OPERATOR	4.93				
DOZER or LOADER - Stock Pile Only	6.12				
DRILL OPERATOR (Cassion)	10.71				
DRILL OPERATOR PILING	5.76				
ROCK DRILL OPERATOR	5.76				
FRONT END LOADER	7.09				
ELECTRICIANS:					
Shelby County Only	13.73	.95	3% + .50		½ of 1%
Remaining Counties	11.56				
FENCE ERECTOR	6.43				
FLAGPERSON	4.89				
FORM SETTER - Steel Road	6.20				
GUARD RAIL ERECTOR	5.60				
IRON WORKERS:					
Reinforcing	6.63				
Structural	7.14				
LABORER	4.72				
MECHANIC - Class I (Heavy Duty)	7.25				
MECHANIC - Class II (Light Duty)	6.94				
MECHANIC'S HELPER (Tire Changer and/or Greaser)	$ 5.20				
MORTAR MIXER	5.14				
MOTAR PATROL OPERATOR - Finish	7.00				
MOTAR PATROL (Rough)	6.99				
MULCHER or SEEDER OPERATOR	5.51				
NOZZLEMAN or GUNOPERATOR (Gunite)	6.16				
OILER	5.96				
PAINTER or SANDBLASTER	6.70				
PILE DRIVER OPERATOR	7.21				
PIPELAYER	5.40				
POWDER PERSON	6.56				
ROLLER - Asphalt	6.02				
ROLLER - Compaction (Self-Propelled)	5.76				
SCALE OPERATOR	6.33				
SCRAPER OPERATOR	6.75				
SHOVEL OPERATOR	6.71				
SIGN ERECTOR	6.30				
SOIL STABLIZATION MACHINE OPERATOR	5.94				
SPREADER OPERATOR - Self Propelled	6.75				
TRACTOR OPERATOR - Boom and Hoist	5.96				
TRACK DRILL OPERATOR	5.56				
TRACTOR OPERATOR - Crawler or Utility	6.95				
TRACTOR OPERATOR - Farm	5.27				
TRENCHING MACHINE OPERATOR	6.65				
TRUCK DRIVER (2 & 3 Axles)	5.13				
TRUCK DRIVERS (4 & 5 Axles or more or Heavy-Duty)	5.51				
WELDERS - Rate for Craft					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Te[illegible]
COUNTIES: Statewide
DECISION NO.: TX81-4001
DATE: Date of Publication
Supersedes Ddcision No. TX80-4017, dated March 14, 1980, in 44 FR 16818.
DESCRIPTION OF WORK: See "Area Covered by Various Zones"

Decision Number TX81-4001

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	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ -	$ -	$ 3.75	$ -	$ 3.50
Asphalt Heaterman	5.60	4.85	4.00	4.30	4.00
Asphalt Raker	4.65	4.50	5.00	4.25	4.35
Asphalt Shoveler	-	3.95	3.75	3.50	3.50
Batching Plant Scaleman	5.85	5.30	6.00	5.25	4.25
Batterboard Setter	-	4.20	-	-	4.30
Carpenter	5.50	5.70	5.25	5.50	5.20
Carpenter Helper	4.65	4.75	4.05	4.00	4.25
Concrete Finisher (Paving)	6.65	6.50	5.35	5.30	5.35
Concrete Finisher Helper (Paving)	4.50	5.00	4.25	3.75	3.50
Concrete Finisher (Structures)	6.00	5.50	5.25	4.95	5.15
Concrete Finisher Helper (structures)	5.60	5.05	4.35	4.00	4.00
Concrete Rubber	-	-	4.60	3.50	4.05
Electrician	8.20	8.10	8.50	9.45	9.00
Electrician Helper	-	-	-	5.85	4.75
Fireman	-	-	-	-	-
Form Builder (Structures)	5.30	5.45	5.65	4.55	5.70
Form Builder Helper (Structures)	4.50	4.20	4.50	4.15	4.10
Form Liner (Paving and Curb)	6.50	5.60	-	4.75	4.45
Form Setter (Paving and Curb)	6.00	5.00	5.35	4.45	5.30
Form Setter Helper (Paving and Curb)	-	4.00	3.75	3.50	4.25
Form Setter (Structures)	6.00	6.25	5.75	4.95	4.95
Form Setter Helper (Structures)	4.50	5.25	4.25	4.10	4.00
Laborer, Common	3.75	3.95	3.75	3.50	3.50
Laborer, Utility Man	4.70	4.70	4.45	4.00	3.50
Manhole Builder, Brick	5.20	4.50	-	-	4.45
Mechanic	6.25	7.00	5.25	6.05	5.85
Mechanic Helper	5.00	4.25	4.40	4.00	4.50
Oiler	5.00	4.50	5.00	4.00	4.50
Serviceman	5.50	4.95	4.65	4.45	4.00
Painter (Structures)	4.60	-	6.00	5.50	4.90
Painter Helper (Structures)	-	-	3.75	4.35	-

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Piledrivermen	$ —	$ —	$ —	$ 4.25	$4.35
Pipelayer	5.60	4.00	4.45	4.25	4.45
Pipelayer Helper	4.00	3.95	3.75	3.70	3.75
Pneumatic Mortarman	—	—	—	—	—
Powderman	6.15	5.50	5.00	5.00	5.50
Powderman Helper	—	—	3.75	3.50	4.25
Reinforcing Steel Setter (Paving)	—	5.50	5.50	—	4.75
Reinforcing Steel Setter (Structures)	6.50	5.45	5.00	4.70	5.65
Reinforcing Steel Setter Helper	4.00	—	4.20	3.90	4.00
Steel Worker (Structural)	—	—	—	4.15	4.80
Steel Worker Helper (Structural)	—	—	—	—	4.30
Sign Erector	—	—	—	5.85	5.30
Sign Erector Helper	—	—	—	—	—
Spreader Box Man	4.60	5.00	4.70	5.20	4.00
Swamper	4.35	4.55	4.25	4.00	4.00
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	5.75	5.00	5.25	4.20	4.50
Asphalt Paving Machine	6.30	5.20	5.20	4.50	5.20
Broom or Sweeper Operator	4.35	4.00	4.60	4.15	4.00
Bulldozer, 150 HP and less	5.30	5.00	4.70	4.50	4.65
Bulldozer, over 150 HP	6.00	5.70	5.25	5.50	5.35
Concrete Paving Curing Machine	5.25	—	—	4.25	4.70
Concrete Paving Finishing Machine	6.25	5.30	—	4.65	—
Concrete Paving Form Grader	5.25	—	—	—	—
Concrete Paving Gang Vibrator	—	—	—	—	4.60
Concrete Paving Grinder	—	—	—	—	5.50
Concrete Paving Joint Machine	—	—	—	—	—
Concrete Paving Joint Sealer	—	—	—	—	—
Concrete Paving Longitudinal Float	—	—	—	—	—
Concrete Paving Mixer	5.00	7.00	—	—	4.10
Concrete Paving Saw	5.50	—	4.50	4.50	—

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	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
POWER EQUIPMENT OPERATORS: (Cont'd)					
Concrete Paving Spreader	$ —	$ —	$ —	$ —	$4.35
Paving Sub Grader	—	5.25	4.25	—	5.50
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	5.75	5.00	5.15	5.10	5.10
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and over)	6.30	6.95	6.00	5.95	5.75
Crusher or Screening Plant Operator	5.80	4.95	4.70	5.25	4.25
Elevating Grader	6.00	—	4.60	5.35	4.00
Form Loader	—	—	—	5.75	—
Foundation Drill Operator (Crawler Mounted)	5.60	5.85	8.00	—	7.70
Foundation Drill Operator (Truck Mounted)	7.10	7.00	5.50	5.50	6.25
Foundation Drill Operator Helper	4.50	5.50	3.95	—	3.75
Front End Loader (2½ CY and less)	5.00	4.95	4.65	4.40	4.00
Front End Loader (Over 2½ CY)	5.90	5.70	5.65	5.45	5.35
Mixer (Over 16 CF)	—	—	—	—	4.50
Mixer (16 CF and less)	—	—	—	—	—
Motor Grader Operator, Fine Grade	6.30	7.00	6.50	6.30	6.55
Motor Grader Operator	6.00	5.75	5.40	5.35	5.30
Pump Crete	—	—	—	—	—
Roller, Steel Wheel (Plant-Mix Pavements)	5.00	4.50	4.55	3.95	4.35
Roller, Steel Wheel (Other Flat Wheel or Tamping)	4.75	4.35	4.10	3.90	3.80
Roller, Pneumatic (Self-Propelled)	4.55	4.30	4.05	3.85	3.85
Scrapers (17 CY and less)	4.95	5.00	4.50	4.50	4.50
Scrapers (Over 17 CY)	5.60	5.60	5.20	5.00	5.00
Self-Propelled Hammer	—	—	—	—	—
Side Boom	—	4.00	—	—	4.20

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	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
POWER EQUIPMENT OPERATORS: (CONT'D)					
Tractor (Crawler type) 150 HP and less	$ 4.70	$ 4.25	$ 4.50	$ 4.00	$ 4.10
Tractor (Crawler type) over 150 HP	5.15	4.75	4.70	4.65	5.30
Tractor (Pneumatic) 80 HP and less	4.30	4.25	4.10	4.00	4.00
Tractor (Pneumatic) over 80 HP	4.90	5.00	4.65	4.75	5.00
Traveling Mixer	4.80	—	4.00	4.15	3.50
Trenching Machine, Light	5.45	—	5.25	4.25	4.30
Trenching Machine, Heavy	5.45	—	5.75	4.75	5.00
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.90	4.50	4.50	4.50	4.25
TRUCK DRIVERS:					
Single Axle, Light	4.75	4.35	4.10	4.00	4.05
Single Axle, Heavy	4.75	4.50	4.10	4.35	4.05
Tandem Axle or Semitrailer	—	—	4.20	—	4.30
Lowboy-Float	5.50	5.00	5.00	4.85	4.25
Transit-Mix	—	—	—	—	—
Winch	—	—	4.25	—	4.15
Vibrator Man (Hand type)	3.90	—	—	3.50	—
Welder	6.30	6.00	5.65	5.40	5.40
Welder Helper	—	4.50	4.35	4.60	4.50

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	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic H. Rates	Basic Hourly Rates
Air Tool Man	$ 3.50	$ 3.50	$ 3.35	$ 3.75	$ -
Asphalt Heaterman	4.00	4.50	3.60	4.25	4.05
Asphalt Raker	3.90	3.50	4.75	5.50	5.95
Asphalt Shoveler	4.10	4.20	-	4.25	4.35
Batching Plant Scaleman	4.00	5.75	4.75	5.50	6.00
Batterboard Setter	-	5.40	-	-	6.00
Carpenter	4.65	5.50	5.50	5.75	6.00
Carpenter Helper	3.75	4.35	4.95	4.00	4.70
Concrete Finisher (Paving)	5.00	4.50	5.00	6.45	6.50
Concrete Finisher Helper (Paving)	3.50	3.50	4.55	4.75	5.00
Concrete Finisher (Structures)	4.30	5.35	5.50	5.30	5.95
Concrete Finisher Helper (Structures)	3.60	4.00	4.00	4.50	4.85
Concrete Rubber	3.50	3.50	5.25	4.00	4.00
Electrician	7.50	9.25	7.75	8.85	7.50
Electrician Helper	-	5.50	6.25	4.00	5.00
Fireman	-	-	-	-	-
Form Builder (Structures)	5.25	5.55	5.50	5.00	6.00
Form Builder Helper (Structures)	3.50	4.90	4.50	3.75	4.50
Form Liner (Paving and Curb)	3.70	4.75	-	-	6.00
Form Setter (Paving and Curb)	3.85	5.30	4.25	5.00	5.00
Form Setter Helper (Paving and Curb)	3.50	4.00	4.05	3.75	4.85
Form Setter (Structures)	4.70	5.35	5.55	5.65	6.00
Form Setter Helper (Structures)	3.95	4.50	4.50	4.15	5.20
Laborer, Common	3.50	3.50	3.35	3.75	4.00
Laborer, Utility Man	4.15	4.30	4.10	4.00	4.50
Manhole Builder, Brick	4.35	4.75	-	-	-
Mechanic	4.35	6.00	6.20	5.50	6.35
Mechanic Helper	3.95	4.25	4.50	4.10	5.00
Oiler	4.00	4.70	4.50	4.85	5.25
Serviceman	4.25	4.80	4.50	4.50	4.90
Painters (Structures)	5.95	5.00	7.00	-	-
Painter Helper (Structures)	-	3.50	-	-	-
Piledrivermen	6.60	6.75	5.25	-	7.00

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	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Pipelayer	$ 3.75	$ 4.45	$ 4.85	$ 5.00	$ 5.55
Pipelayer Helper	3.50	4.00	3.75	4.25	4.25
Pneumatic Mortarman	-	-	-	-	-
Powderman	5.00	6.00	6.00	5.50	5.60
Powderman Helper	-	4.25	-	-	-
Reinforcing Steel Setter (Paving)	-	-	-	-	4.75
Reinforcing Steel Setter (Structures)	4.60	5.00	5.15	4.90	5.85
Reinforcing Steel Setter Helper	3.50	4.25	4.15	4.25	4.25
Steel Worker (Structural)	-	5.75	4.50	-	4.75
Steel Worker Helper (Structural)	-	-	3.70	-	4.10
Sign Erector	-	-	4.75	4.65	5.75
Sign Erector Helper	-	-	4.00	3.35	5.25
Spreader Box Man	4.55	4.75	4.75	4.55	5.00
Swamper	-	-	4.25	4.55	4.40
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	4.50	5.10	5.00	5.00	6.00
Asphalt Paving Machine	5.45	6.25	5.00	5.10	6.20
Broom or Sweeper Operator	3.65	4.00	4.00	4.00	-
Bulldozer, 150 HP and less	4.25	4.50	4.70	4.80	5.00
Bulldozer, over 150 HP	4.90	5.95	5.95	5.75	6.15
Concrete Paving Curing Machine	-	-	-	5.00	5.85
Concrete Paving Finishing Machine	4.25	-	-	-	6.30
Concrete Paving Form Grader	-	-	-	-	-
Concrete Paving Gang Vibrator	-	-	-	-	-
Concrete Paving Grinder	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	5.50	-	-	-	-
Concrete Paving Mixer	-	-	-	-	7.00
Concrete Paving Saw	-	-	-	4.75	4.50
Concrete Paving Spreader	-	-	-	-	5.00

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POWER EQUIPMENT OPERATORS: (CONT'D)	ZONE 6 Basic Hourly Rates	ZONE 7 Basic Hourly Rates	ZONE 8 Basic Hourly Rates	ZONE 9 Basic Hourly Rates	ZONE 10 Basic Hourly Rates
Paving Sub Grader	$ -	$ -	$ -	$ -	$ 5.25
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.65	5.95	5.25	5.10	6.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and over)	6.25	6.85	7.05	6.25	7.00
Crusher or Screening Plant Operator	-	4.25	4.75	4.60	-
Elevating Grader	-	4.00	5.00	-	-
Form Loader	-	-	-	-	-
Foundation Drill Operator (Crawler Mounted)	7.75	-	5.75	-	-
Foundation Drill Operator (Truck Mounted)	7.75	-	8.00	7.75	7.00
Foundation Drill Operator Helper	4.25	-	5.35	4.25	4.85
Front End Loader (2½ CY and less)	4.00	5.00	4.60	4.75	5.40
Front End Loader (Over 2½ CY)	4.75	5.50	5.65	5.65	6.55
Mixer (Over 16 CF)	-	4.50	-	-	7.00
Mixer (16 CF and less)	-	-	-	-	5.00
Motor Grader Operator, Fine Grade	5.70	6.75	7.00	7.00	7.00
Motor Grader Operator	5.25	5.50	6.00	5.30	6.00
Pump Crete	-	-	-	-	-
Roller, Steel Wheel (Plant-Mix Pavements)	4.50	4.90	4.00	4.50	5.85
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.90	3.90	4.60	4.00	5.15
Roller, Pneumatic (Self-Propelled)	4.15	4.35	4.10	3.95	4.80
Scrapers (17 CY and less)	4.25	4.50	5.00	4.40	5.00
Scrapers (over 17 CY)	4.75	5.70	6.00	5.20	6.00
Self-Propelled Hammer	-	-	-	-	5.50
Side Boom	-	-	-	-	4.00
Tractor (Crawler type) 150 HP and less	3.75	3.80	3.75	3.35	5.75

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POWER EQUIPMENT OPERATORS: (Cont'd)	ZONE 6 Basic Hourly Rates	ZONE 7 Basic Hourly Rates	ZONE 8 Basic Hourly Rates	ZONE 9 Basic Hourly Rates	ZONE 10 Basic Hourly Rates
Tractor (Crawler type) over 150 HP	$ 4.95	$ 5.10	$ 4.00	$ 4.60	$ 6.20
Tractor (Pneumatic) 80 HP and less	3.80	4.00	4.00	4.50	4.75
Tractor (Pneumatic) over 80 HP	4.25	4.45	4.90	5.10	5.75
Traveling Mixer	3.90	4.00	-	4.10	5.25
Trenching Machine, Light	3.75	5.10	4.90	4.00	5.00
Trenching Machine, Heavy	-	5.50	6.50	4.45	6.50
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.75	4.30	4.75	4.00	5.10
TRUCK DRIVERS:					
Single Axle, Light	3.50	3.50	4.20	4.00	4.75
Single Axle, Heavy	-	4.00	4.30	4.25	4.90
Tandem Axle or Semitrailer	3.50	4.25	-	5.00	5.00
Lowboy-Float	4.35	4.50	-	4.80	5.90
Transit-Mix	-	-	-	-	5.00
Winch	3.50	4.50	-	-	5.75
Vibrator Man (hand type)	3.50	3.50	-	-	-
Welder	5.45	5.85	6.50	5.00	6.00
Welder Helper	4.20	3.75	-	3.60	-

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	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ 4.00	$ -	3.80	$ 3.50	$ 4.60
Asphalt Heaterman	4.75	4.75	4.00	-	4.35
Asphalt Raker	6.00	5.10	5.45	4.10	5.50
Asphalt Shoveler	4.00	3.50	4.75	-	4.00
Batching Plant Scaleman	5.75	5.00	6.00	4.00	4.75
Batterboard Setter	4.00	-	-	-	5.75
Carpenter	6.25	5.65	6.05	6.05	7.15
Carpenter Helper	4.45	4.60	4.55	4.55	5.05
Concrete Finisher (Paving)	6.30	6.00	5.50	6.00	6.80
Concrete Finisher Helper (Paving)	5.10	4.85	4.00	5.50	5.10
Concrete Finisher (Structures)	6.00	6.00	5.65	6.00	6.80
Concrete Finisher Helper (Structures)	4.85	4.65	4.25	5.00	5.00
Concrete Rubber	4.00	5.00	4.50	-	5.00
Electrician	8.70	9.00	5.00	8.50	9.70
Electrician Helper	6.30	-	-	6.10	7.85
Fireman	4.50	-	3.70	-	-
Form Builder (Structures)	5.80	5.50	5.55	6.00	6.15
Form Builder Helper (Structures)	4.60	5.00	4.00	4.75	5.50
Form Liner (Paving and Curb)	5.40	6.00	6.25	-	6.00
Form Setter (Paving and Curb)	5.90	6.05	5.00	5.00	6.25
Form Setter Helper (Paving and Curb)	4.00	4.05	4.00	4.00	4.00
Form Setter (Structures)	5.85	6.00	6.05	6.75	6.20
Form Setter Helper (Structures)	4.55	4.00	4.75	5.00	4.70
Laborer, Common	4.00	3.50	3.50	3.50	4.00
Laborer, Utility Man	4.10	4.00	4.00	4.55	4.80
Manhole Builder, Brick	5.50	-	6.50	-	6.10
Mechanic	6.40	6.25	6.00	5.50	7.15
Mechanic Helper	4.55	4.50	5.50	5.10	5.85
Oiler	5.45	4.50	5.40	4.75	5.95
Serviceman	5.20	5.50	4.90	4.00	5.90
Painter (Structures)	5.50	5.25	-	-	7.00
Painter Helper (Structures)	4.00	-	-	-	5.40
Piledrivermen	-	5.25	7.35	5.00	6.00

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	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Pipelayer	$ 5.25	$ 4.75	$ 4.80	$ 4.60	$ 5.60
Pipelayer Helper	4.75	4.00	-	4.00	4.75
Pneumatic Mortarman	-	-	-	-	-
Powderman	5.00	4.25	-	-	-
Powderman Helper	-	-	-	-	-
Reinforcing Steel Setter (Paving)	4.50	4.80	-	-	5.40
Reinforcing Steel Setter (Structures)	5.55	4.75	6.00	6.00	6.25
Reinforcing Steel Setter Helper	4.00	4.00	4.00	-	4.00
Steel Worker (Structural)	4.50	5.35	-	-	7.00
Steel Worker Helper (Structural)	4.00	-	-	-	4.75
Sign Erector	6.00	-	-	-	5.00
Sign Erector Helper	5.00	-	-	-	-
Spreader Box Man	5.00	5.00	5.00	4.40	5.90
Swamper	4.00	-	-	-	-
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	5.75	5.00	5.75	4.65	5.65
Asphalt Paving Machine	6.45	5.45	6.00	4.85	6.35
Broom or Sweeper Operator	4.00	4.70	4.00	4.25	4.20
Bulldozer, 150 HP & less	5.35	5.00	5.50	4.75	6.00
Bulldozer, over 150 HP	6.20	5.90	6.00	5.50	7.00
Concrete Paving Curing Machine	6.00	5.00	6.00	-	6.20
Concrete Paving Finishing Machine	5.95	5.25	-	-	6.00
Concrete Paving Form Grader	6.35	6.00	-	-	4.25
Concrete Paving Gang Vibrator	-	5.25	-	-	-
Concrete Paving Grinder	6.00	-	-	-	-
Concrete Paving Joint Machine	-	4.50	-	-	6.00
Concrete Paving Joint Sealer	5.75	4.75	-	-	5.50
Concrete Paving Longitudinal Float	6.00	-	-	-	6.00
Concrete Paving Mixer	6.00	4.50	-	-	6.75
Concrete Paving Saw	5.10	4.50	-	-	6.00
Concrete Paving Spreader	5.10	4.00	-	-	6.00
Paving Sub Grader	5.75	4.00	-	-	5.75

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POWER EQUIPMENT OPERATORS: (CONT'D)	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	$ 5.70	$ 5.70	$ 5.55	$ 5.85	$ 6.50
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and over)	6.65	6.00	7.25	7.00	7.50
Crusher or Screening Plant Operator	4.50	4.50	-	5.25	5.00
Elevating Grader	-	4.25	-	-	-
Form Loader	5.75	3.75	-	-	-
Foundation Drill Operator (Crawler Mounted)	6.50	-	-	-	8.50
Foundation Drill Operator (Truck Mounted)	6.40	7.50	7.25	-	5.95
Foundation Drill Operator Helper	4.75	6.45	-	-	-
Front End Loader (2½ CY and less)	5.25	5.05	4.80	5.00	5.60
Front End Loader (over 2½ CY)	6.25	6.00	6.00	5.75	6.55
Mixer (Over 16 CF)	5.85	-	-	4.50	5.00
Mixer (16 CF and less)	-	-	-	4.50	4.60
Motor Grader Operator, Fine Grade	7.00	7.00	7.00	7.00	8.00
Motor Grader Operator	6.00	5.50	6.00	5.35	7.00
Pump Crete	-	-	-	-	5.00
Roller, Steel Wheel (Plant-Mix Pavements)	5.50	4.70	5.00	4.50	5.35
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	5.15	4.55	4.75	4.25	4.95
Roller, Pneumatic (Self-propelled)	5.15	4.55	5.40	4.00	4.75
Scraper (17 CY and less)	5.00	5.00	5.50	4.70	5.40
Scrapers (over 17 CY)	6.00	5.65	6.15	6.00	6.00
Self-Propelled Hammer	-	-	-	-	-
Side Boom	-	4.00	5.00	-	-
Tractor (Crawler type) 150 HP and less	4.75	4.50	4.00	-	5.15
Tractor (Crawler type) over 150 HP	5.60	4.90	5.75	4.00	6.00

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POWER EQUIPMENT OPERATORS: (CONT'D)	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Tractor (Pneumatic) 80 HP and less	$ 4.50	$ 4.25	$ 4.50	$ 3.65	$ 4.50
Tractor (Pneumatic) over 80 HP	5.65	4.50	5.25	4.70	5.00
Traveling Mixer	5.05	4.00	4.55	4.50	5.75
Trenching Machine, Light	4.60	-	-	-	5.60
Trenching Machine, Heavy	5.25	5.00	-	-	6.50
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.50	6.50	-	3.75	5.25
TRUCK DRIVERS:					
Single Axle, Light	4.75	4.00	5.00	5.00	5.15
Single Axle, Heavy	5.15	5.25	-	-	5.50
Tandem Axle or Semitrailer	-	-	5.00	-	-
Lowboy-Float	5.70	-	5.75	-	6.50
Transit-Mix	-	-	-	-	5.50
Winch	-	-	-	-	-
Vibrator Man (hand type)	4.00	4.50	-	-	-
Welder	6.00	6.25	4.50	4.75	6.00
Welder Helper	4.00	-	-	4.35	5.00

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	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ -				
Asphalt Heaterman	5.00				
Asphalt Raker	5.00				
Asphalt Shoveler	-				
Batching Plant Scaleman	-				
Batterboard Setter	-				
Carpenter	7.00				
Carpenter Helper	5.45				
Concrete Finisher (Paving)	7.25				
Concrete Finisher Helper (Paving)	5.50				
Concrete Finisher (Structures)	7.00				
Concrete Finisher Helper (Structures)	5.80				
Concrete Rubber	-				
Electrician	10.00				
Electrician Helper	5.25				
Fireman	-				
Form Builder (Structures)	5.75				
Form Builder Helper (Structures)	5.35				
Form Liner (Paving and Curb)	-				
Form Setter (Paving and Curb)	6.00				
Form Setter Helper (Paving and Curb)	-				
Form Setter (Structures)	5.50				
Form Setter Helper (Structures)	-				
Laborer, Common	4.95				
Laborer, Utility Man	5.85				
Manhole Builder, Brick	-				
Mechanic	8.00				
Mechanic Helper	4.95				
Oiler	6.00				
Serviceman	4.95				
Painter (Structures)	8.00				
Painter Helper (Structures)	5.00				

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	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Piledrivermen	$ 6.00				
Pipelayer	5.85				
Pipelayer Helper	5.50				
Pneumatic Mortarman	-				
Powderman	-				
Powderman Helper	-				
Reinforcing Steel Setter (Paving)	6.00				
Reinforcing Steel Setter (Structures)	6.00				
Reinforcing Steel Setter Helper	-				
Steel Worker (Structural)	-				
Steel Worker Helper (Structural)	-				
Sign Erector	-				
Sign Erector Helper	-				
Spreader Box Man	5.00				
Swamper	4.95				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	6.00				
Asphalt Paving Machine	5.50				
Broom or Sweeper Operator	4.95				
Bulldozer, 150 HP and less	7.00				
Bulldozer, over 150 HP	7.50				
Concrete Paving Curing Machine	-				
Concrete Paving Finishing Machine	7.50				
Concrete Paving Form Grader	-				
Concrete Paving Gang Vibrator	-				
Concrete Paving Grinder	-				
Concrete Paving Joint Machine	-				
Concrete Paving Joint Sealer	-				
Concrete Paving Longitudinal Float	-				
Concrete Paving Mixer	-				
Concrete Paving Saw	6.05				

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	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
POWER EQUIPMENT OPERATORS: (Cont'd)					
Concrete Paving Spreader	$ -				
Paving Sub Grader	-				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	7.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and over)	8.00				
Crusher or Screening Plant Operator	–				
Elevating Grader	–				
Form Loader	–				
Foundation Drill Operator (Crawler Mounted)	–				
Foundation Drill Operator (Truck Mounted)	–				
Foundation Drill Operator Helper	–				
Front End Loader (2½ CY and less)	6.80				
Front End Loader (Over 2½ CY)	7.00				
Mixer (Over 16 CF)	5.50				
Mixer (16 CF and less)	–				
Motor Grader Operator, Fine Grade	7.50				
Motor Grader Operator	7.00				
Pump Crete	–				
Roller, Steel Wheel (Plant Mix Pavements)	6.00				
Roller, Steel Wheel (Other Flat Wheel or Tamping)	5.25				
Roller, Pneumatic (Self-Propelled)	5.50				
Scrapers (17 CY and less)	5.50				
Scrapers (Over 17 CY)	6.00				
Self-Propelled Hammer	–				
Side Boom	–				

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	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
POWER EQUIPMENT OPERATORS: (CONT'D)					
Tractor (Crawler type) 150 HP and less	$ 5.25				
Tractor (Crawler type) over 150 HP	6.00				
Tractor (Pneumatic) 80 HP and less	–				
Tractor (Pneumatic) over 80 HP	–				
Traveling Mixer	6.50				
Trenching Machine, Light	–				
Trenching Machine, Heavy	–				
Wagon Drill, Boring Machine or Post Hole Driller Operator	–				
TRUCK DRIVERS:					
Single Axle, Light	5.50				
Single Axle, Heavy	–				
Tandem Axle or Semi-trailer	5.75				
Lowboy-Float	8.35				
Transit-Mix	7.10				
Winch	–				
Vibrator Man (hand type)	–				
Welder	7.30				
Welder Helper	–				

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AREA COVERED BY VARIOUS ZONES

ZONE 1 - Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 2 - Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 4 - Brewster, Culberson, El Paso*, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams), Water & Sewer Lines and Highway Projects (does not include building structures in rest area projects)

*Not to be used for Heavy Projects in El Paso County

ZONE 5 - Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

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ZONE 6 - Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work.

ZONE 7 - Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 9 - Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Sommervell, Tarrant* & Wise Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams), Water & Sewer Lines and Highway Projects (does not include building structures in rest area projects)

*Not to be used for Heavy Projects in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & Rockwall Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway Projects (does not include building structures in rest area projects)

ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood Counties

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DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Cos.

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

ZONE 14 - Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington Cos.

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 15 - Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects)

ZONE 16 - Chambers, Hardin, Jefferson*, Liberty & Orange* Counties

DESCRIPTION OF WORK: Heavy Projects (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

*Not to be used for Heavy Projects & Incidental Shore Work in Jefferson & Orange Cos.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Bee, Kleberg, Nueces & San Patricio
DECISION NO.: TX81-4003
DATE: Date of Publication
Supersedes Decision No. TX78-4089, dated September 15, 1978, in 43 FR 41363.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 3.50				
BRICKLAYERS	5.00				
CARPENTERS	5.14				
CEMENT MASONS	6.25				
ELECTRICIANS	12.53	.60	3%		3/4%
LABORERS:					
Laborers	3.35				
Pipelayers	3.59				
PAINTERS, BRUSH	6.00				
PLUMBERS	6.00				
ROOFERS	5.00				
SHEET METAL WORKERS	6.22				
SOFT FLOOR LAYERS	4.25				
TRUCK DRIVERS	3.35				
POWER EQUIPMENT OPERATORS:					
Backhoes	3.50				
Bulldozers	3.35				
Loaders	3.66				
Motor graders	4.09				
Scrapers	3.66				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX81-4004 DATE: Date of Publication
Supersedes Decision No. TX79-4013, dated January 5, 1979, in 44 FR 1685.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING INSTALLERS	$ 3.50				
BRICKLAYERS	7.27	.30	.30		.05
CARPENTERS	4.89				
CEMENT MASONS	4.00				
DUCT INSTALLERS	4.60				
ELECTRICIANS:					
Single or multiple family dwellings or apartments up to & including 8 units not exceeding 2 stories	6.35	.30	1%		1/2%
Over 8 units or over 2 stories	9.23	.30	1%		1/2%
FORM SETTERS	4.50				
GLAZIERS	5.60				
INSULATION INSTALLERS	4.50				
LABORERS	3.35				
LATHERS	7.955				
PAINTERS	4.63				
PLASTERERS	6.65				
PLUMBERS & PIPEFITTERS	7.70				
ROOFERS	4.53				
SHEETROCK INSTALLERS	5.00				
SOFT FLOOR LAYERS	5.00				
TAPERS	4.00				
TILE SETTERS	4.73				
TRUCK DRIVERS	3.35				
POWER EQUIPMENT OPERATORS:					
Foundation drill operator (crawler mounted)	3.35				
Front end loader	3.60				
Tractor	3.75				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX81-4005 DATE: Date of Publication
Supersedeas Decision No.: TX80-4032, dated June 6, 1980, in 45 FR 38254.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.70	.70	.90		.08
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	12.08	.57	.30	.25	.05
CARPENTERS:					
Carpenters	11.19	.48	.60	.40	.05
Millwrights	11.49	.48	.60	.40	.05
CEMENT MASONS	10.25	.45		.65	.02
ELECTRICIANS:					
Electricians	12.99	.60	5%		1%
Cable splicers	13.24	.60	5%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	12.30	1.195	.95	a+b	.035
Helpers	70%JR	1.195	.95	a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS	6.80				
IRONWORKERS	10.75	.55	1.30	.50	.12
LABORERS:					
GROUP 1 - General laborers	7.12	.57	.50		.05
GROUP 2 - All power tools & equipment operators; cutting torch man; power buggy op.; wagon drill op.; well driller; drilling rig tender; cement finisher tender; handling creosoted materials; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe laying; plasterer tender; brick tender; lather tender	7.37	.57	.50		.05
GROUP 3 - Mortar mixer man; grout machines; pumpcrete machines; gunnite mixing machines; running sand dryer & loading; operating sand blaster; bell hole man; blaster, powderman; gunnite nozzleman	7.62	.57	.50		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman	$ 14.63	.60	3%		½%
Cable splicer	14.88	.60	3%		½%
Groundman	8.05	.60	3%		½%
MARBLE SETTERS	10.52	.57	.03	.25	
MARBLE SETTERS' FINISHERS	7.67				
PAINTERS:					
Brush; paperhanger; taper & floater; hand roller	10.25		.40		.05
Brush on all structural steel; spray on any other surface other than steel	10.50		.40		.05
PLUMBERS & PIPEFITTERS	14.80	.60	.55		.10
ROOFERS:					
Roofers; deckman	8.21	.50			
Kettlemen	7.27	.50			
Waterproofers	7.72	.50			
SHEET METAL WORKERS	13.67	3%+.45	1.20		.09
SOFT FLOOR LAYERS	6.35				
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	10.52	.57	.30	.25	
TERRAZZO WORKERS' FINISHERS:					
Terrazzo finishers	7.67				
Floor machine operators	7.87				
Base machine operators	8.02				
TILE SETTERS	10.52	.57	.30	.25	
TILE SETTERS' FINISHERS	7.67				
TRUCK DRIVERS	3.64				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 years. - 6%; over 5 yrs. - 8% of basic hourly rate
b - Paid Holidays A thru G

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$11.37	.75	1.00		
GROUP 2	10.14	.75	1.00		
GROUP 3	8.56	.75	1.00		
GROUP 4	8.22	.75	1.00		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; all rollers (5 tons or over); backfiller; backhoe; blade graders (self-propelled); bull clam; bulldozers; cableway; clamshell operator; crane (power operated, all types); derricks (power operated, all types); draglines; DW-10 caterpillar and similar tractors; elevating graders (self-propelled); euclid; fork lift used on construction; gasoline or diesel-driven welding machines (7 to 12); gradall; heavy duty mechanic; high lifts; hoist (two drums or more); locomotives; mixer (14 cu. ft. or over); mixmobile; paving mixers (all sizes); piledriver; pumpcrete machine operator; rock crusher operator on job; scoopmobile; scrapers; shovel (power operated); turnapulls; trenching machines (all sizes); winch truck

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); blade graders (towed); building elevator used on construction; flex planes; form graders; hoist (single drum); mixer (less than 14 cu. ft.); pneumatic roller; pulsometers; pump (2½ or larger shall require a light equipment operator); three to six welding machines or any three pieces or equipment of equal or similar nature

GROUP 3 - Fireman

GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Brazos
DECISION NO.: TX81-4006 DATE: Date of Publication
Supersedes Decision No. TX80-4034 dated June 6, 1980, in 45 FR 38255.
DESCRIPTION OF WORK: Building Projects (does not include single

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SUPERSEDEAS DECISION

STATE: Texas COUNTY: Brazos
DECISION NO.: TX81-4006 DATE: Date of Publication
Supersedes Decision No. TX80-4034 dated June 6, 1980, in 45 FR 38255.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.12	1.00	1.08		.05
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	13.60	.89	.90		.06
CARPENTERS	11.80				
CEMENT MASONS	12.90	.68	.97		.08
ELECTRICIANS	12.825	1.00	12%		.08
ELEVATOR CONSTRUCTORS:					
Mechanics	12.56	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
Helpers	50%JR				
GLAZIERS	13.39	.67	.875		.03
IRONWORKERS	13.26	.55	1.70		.10
LABORERS:					
GROUP 1	6.29	.47	.41		.02
GROUP 2	6.39	.47	.41		.02
GROUP 3	6.49	.47	.41		.02
GROUP 4	6.44	.47	.41		.02
GROUP 5	6.54	.47	.41		.02
GROUP 6	6.69	.47	.41		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler & wheeler (stock pile), asphalt ironer & raker, pipe layer (non-metallic), pump crete pipe (handling & laying) & all building construction labor excepting that hereinafter classified; carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); dumper & spotter

GROUP 2 - Air tool operator

GROUP 3 - Well driller

GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling from first stock pile; concrete pipe (handling & laying); sand blaster; power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender

GROUP 5 - Tool room tender; mortar mixer (hoe or otherwise); blaster, powder man; gunnite worker

GROUP 6 - Gunnite nozzleman

LINE CONSTRUCTION:					
Lineman & cable splicer	13.40	.60	3%		½%
Groundman	7.77	.60	3%		½%

DECISION NO. TX81-4006 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS	$12.42	.89	.30		.06
PAINTERS:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	13.095	.765	.60	.40	.05
GROUP 2 - All spray painting, sandblasting, waterblasting	13.47	.765	.60	.40	.05
GROUP 3 - Tape, float & dry wall	13.22	.765	.60	.40	.05
GROUP 4 - Steeple jack work hot materials	13.72	.765	.60	.40	.05
PIPEFITTERS	13.70	.70	.80		.06
PLASTERERS	13.50	.92	.45		.02
PLUMBERS	15.12	.75	.80		.10
SHEET METAL WORKERS	12.86	3%+.45	.74	.42	.10
SOFT FLOOR LAYERS	12.92	.60	.55		.14
TERRAZZO WORKERS	12.42	.89	.30		.06
TILE SETTERS	12.42	.89	.30		.06
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 6% over 5 years - 8% of basic hourly rate
b - Paid Holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

DECISION NO. TX81-4006 Page 3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.34	.75	1.25		.07
GROUP 2	11.48	.75	1.25		.07
GROUP 3	10.85	.75	1.25		.07
GROUP 4	10.64	.75	1.25		.07

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick-power operated (all types); clam shell; draglines; push cat operator; bull dozer & all types cat tractors; cable-way; backhoe; shovel; power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cubic feet or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cubic yards; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine operator; turnapulls; DW-10 Caterpillar, S-18 euclid and similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant operator; pneumatic rollers, self-propelled;

GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cubic feet; pumps; pulsometer; truck crane driver; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cubic yards or less; wagon drill operator; conveyor; generator, gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors

GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Ector & Midland
DECISION NO.: TX81-4007
DATE: Date of Publication
Supersedes Decision No. TX80-4036, dated June 20, 1980, in 45 FR 1980.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.50	.80	1.35		.02
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	10.70	.57	.30		.03
CARPENTERS	11.48				.07
CEMENT MASONS	6.00				
ELECTRICIANS:					
ZONE 1 - shall include that area covered by the city limits of Midland & Odessa & extend out 20 miles therefrom	12.00	.60	3%		1/10%
ZONE 2 - shall include that area extending from the outer limits of Zone 1 out to & including 50 miles from the city limits of Midland & Odessa	12.70	.60	3%		1/10%
ZONE 3 - shall include that area extending from the outer limits of Zone 2 & shall extend to the outside limits of the Union jurisdiction	13.00	.60	3%		1/10%
GLAZIERS	5.48				
IRONWORKERS:					
Structural, ornamental & reinforcing	11.00	.55	1.70		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	11.125	.55	1.70		.10
LABORERS	3.94				
LATHERS	9.45				
PAINTERS:					
Brush	8.35		.35		
Spray	9.225		.35		
PLASTERERS	8.20				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall be 15 miles or less from the Courthouse of either Odessa or Midland	11.25	.45	.55		.02

DECISION NO. TX81-4007 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS (CONT'D):					
ZONE 2 - shall be more than 15 miles but less than 30 miles	$11.35	.45	.55		.02
ZONE 3 - shall be more than 30 miles but less than 45 miles	11.45	.45	.55		.02
ZONE 4 - shall be more than 45 miles	11.75	.45	.55		.02
ROOFERS	5.65				
SHEET METAL WORKERS	6.32				
TILE SETTERS	5.25				
TRUCK DRIVERS	3.94				
POWER EQUIPMENT OPERATORS:					
Asphalt paving machines	4.25				
Asphalt rakers	4.00				
Backhoes	4.90				
Bulldozers	4.50				
Cranes, derricks, draglines	5.59				
Foundation drills	4.12				
Front end loaders	4.00				
Motor graders	5.25				
Scrapers	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Taylor
DECISION NO.: TX81-4009 DATE: [illegible]
Supersedes Decision No. TX79-4041, dated September 28, 1979, in 44 FR 56108.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.00				
ASBESTOS WORKERS	12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS	7.20				
CARPENTERS	6.00	.25	.30		
CEMENT MASONS	5.41				
ELECTRICIANS:					
Electricians	11.75	.60	3%		1/4%
Cable splicers	12.00	.60	3%		1/4%
GLAZIERS	4.50				
IRONWORKERS	6.65	.55	.50		.10
LABORERS:					
Laborers	3.35				
Mason tenders	3.80				
LINE CONSTRUCTION:					
Lineman	11.75	.60	3%		1/4%
Cable splicers	12.00	.60	3%		1/4%
Groundman	8.81	.60	3%		1/4%
Equipment operator	9.64	.60	3%		1/4%
Flat bed truck driver	7.29	.60	3%		1/4%
PAINTERS:					
Brush, tape & bedding, paperhanger	8.35		.35		
Spray	9.225		.35		
PLASTERERS	6.60				
PLUMBERS & PIPEFITTERS	10.68	.50	.70		.05
POWER EQUIPMENT OPERATORS:					
Backhoes	4.75				
Cranes, derricks, dragline	5.575				
Drilling	5.575				
Oilers	4.65				
ROOFERS	3.94				
SHEET METAL WORKERS	6.26				
SOFT FLOOR LAYERS	3.75				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.35				

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Smith
DECISION NO. TX81-4008 DATE: Date of Publication
Supersedes Decision No. TX79-4043, dated September 28, 1979, in 44 FR 56109.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.63				
BRICKLAYERS	7.75				
CARPENTERS	9.72				
CEMENT MASONS	5.92				
ELECTRICIANS:					
Electricians	10.65	.60	3%		1/4%
Cable splicers	11.05	.60	3%		1/4%
GLAZIERS	5.25				
IRONWORKERS	8.50	.30	.35		.04
LABORERS:					
Laborers	3.35				
Mason tenders	4.00				
Mortar mixers	4.10				
Plasterers' tenders	4.40				
LATHERS	7.15	.30	.10		.01
PAINTERS	4.50				
PLASTERERS	11.325				
PLUMBERS:					
On projects $200,000 or more	7.59				.03
On projects less than $200,000	6.76				.03
ROOFERS	4.50				
SHEET METAL WORKERS	7.78	.62	.50		.03
SOUND INSTALLERS	6.00	.40	1%		
SPRINKLER FITTERS	13.71	.85	1.20		.08
TRUCK DRIVERS	3.35				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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Tuesday
January 6, 1981

Part V

Department of Health and Human Services

Office of Human Development Services

Guidelines for Development of State Child Welfare Services Plans; Final Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Guidelines for Development of State Child Welfare Services Plans

AGENCY: Office of Human Development Services, Department of Health and Human Services.

ACTION: Final Guidelines for Development of State Child Welfare Services Plans.

SUMMARY: This Notice contains the final amended Guidelines for Development of the State Child Welfare Services Plan, under the authority of Sections 420–425 of the Social Security Act (title IV–B).

The Guidelines describe the elements of the State Plan and the revised process by which the Children's Bureau of the Administration for Children, Youth and Families and each State agency will jointly develop the Plan. The required elements of the State Plan are revised in part in response to comments on the proposed guidelines and to the provisions of Pub. L. 96–272 which amended title IV–B.

There are three major sections: (1) the final guidelines for development of the State Child Welfare Services Plan; (2) a list of the regulations comprising the Assurances which specify the basic requirements the State must meet in providing child welfare services under title IV–B of the Social Security Act and the regulations; and (3) the interpretations of the Assurances which discuss and clarify the meaning and intent of the regulation but do not change the content of the regulation which is controlling.

In summary, the Basic Plan now in effect is changed from a single descriptive document with attachments to a four part document: a preprinted commitment to meet the regulatory requirements (Assurances); a Long Range Strategy; an Annual Operating Plan, all of which emphasize the joint State-Federal planning process; and an Annual Budget Request which simplifies the paperwork and emiminates delays in making payments of title IV–B funds.

These Guidelines were first published in proposed form in the **Federal Register** on February 22, 1980 [45 FR. 12050]. The Notice recognized that the then proposed Adoption Assistance and Child Welfare Amendments of 1980 [H.R. 3434] were pending and that the title IV–B regulations would have to be revised if the Amendments became law. The Adoption Assistance and Child Welfare Services Act of 1980, Pub. L. 96–272, was enacted on June 17, 1980. New regulations are being developed which will make some changes in title IV–B State Plan requirements. However, the joint planning requirement, the elements of the State Plan and the basic nature of the title IV–B plan remain the same. The Guidelines are being published in final form to allow States to implement the FY 1981 State Child Welfare Services Plans and to support title IV–B activities until the new regulations are developed.

In those few instances where the amended Act is in conflict with the current regulations, the corresponding provision has been deleted from the Assurances.

EFFECTIVE DATE: New State Plans were developed during 1980, to be effective October 1, 1980 for FY 1981. The first year plans will be effective for approximately one year or until they are superseded by FY 1982 plans developed under new regulations based on Pub. L. 96–272.

Discussion of Major Comments and Changes

The following is a summary and discussion of the major comments received concerning the State Child Welfare Services Plan (CWSP) Guidelines. This summary is subdivided to correlate with the sections in the proposed guidelines published on February 22, 1980.

Relationship of CWSP to Other Planning Process

Proposed Guideline

The Department proposed that the CWSP must include all child welfare services in a State without regard to their funding sources.

Comment

Most commenters supported the need for integrated planning for all child welfare services. Some States opposed the concept, believing that the planning process should not include child welfare services wholly funded with title XX dollars.

Discussion

The final Guideline is published as proposed.

The Department believes that integrated planning for child welfare services is essential to induce coherent, effective and lasting improvements in the provision of child welfare services. Neither the existing title IV–B State plans nor the title XX Comprehensive Annual Services Plan [CASPs] are designed to promote the quantifiable, operational goals and objectives necessary for integrated child welfare services planning.

CWSP Plan Submittal

Proposed Guidelines

The Department proposed that the CWSP be a clear, free standing document that must be submitted apart from the CASP. We also proposed a schedule of submission that was correlated with the CASP date of submission.

Comments

Most comments favored the concept of a separate and identifiable plan for all child welfare services. However, some commenters believe that the CWSP should be a part of the CASP. A few comments suggested the plan should not be a unified plan of child welfare services, that the current CASP adequately provides the information required in the CWSP. Some commenters requested simplification of the submittal procedures as they relate to the CASP.

Discussion

The Department accepts the recommendation that the CWSP may be contained in the CASP, if it is a separate, identifiable section that can be extracted as a unit from the CASP.

However, the Department cannot accept the recommendations that the CASP with minor changes can suffice as the CWSP. The structure and format of the CASP varies from that proposed for the CWSP. The amount and reliability of available data differs among States. The goals and objectives contained in the CASP often are not time-limited, measurable, or easily adaptable to specific outcomes. Consequently, the intent and content of the current CASP is not easily adaptable or sufficient for carrying out the purposes of the CWSP.

Reliable and relevant data contained in the CASP may, of course, be transposed to the CWSP.

In response to requests for simplification of submittal procedures, the guidelines now require submittal 30 days before the effective date of the CWSP but in no event later than thirty [30] days preceding the State or Federal fiscal year whichever is selected by the State.

Assurances

Proposed Guidelines

The Department proposed a simplified procedure for State certification of adherence to CWSP requirements drawn from the Social Security Act and the current regulations. The procedures include certifying a preprint of the

Assurances, maintaining documentation supporting compliance with the Assurances, and developing a plan for correcting deficiencies in the State's compliance with the Assurances.

Comment

There were no comments regarding the process of certifying a preprint of the requirements. Most comments related to the Assurances in general, that they were too detailed, and that many States would not be in compliance with the Assurances. Some comments related to specific Guidelines for the Assurances which are discussed later in this section.

Discussion

The process of certifying a preprint of the Assurances remains unchanged, except that there was no certification of a Preprint required for FY 1981. The content of the Assurances, is based in the law and regulation and the Department believes that they are appropriate minimum benchmarks in the provision of child welfare services. In those few instances where the amended Act is in conflict with the current regulations, the corresponding provision has been deleted from the Assurances.

The Department has reviewed the interpretation of the single organizational unit requirement and determined that its extension to title XX is not supportable under the law. The provision has been revised to apply only to title IV–B.

Section 1392.5, Use of Professional Staff has been deleted from the listing of the regulations comprising the Assurances. Pub. L. 96–272 requires only a description of the staff development and training plans, therefore, the requirement is no longer applicable under title IV–B as amended. However, in the interpretations to the Guidelines, discussion of this provision has been retained in order to provide guidance to the States in developing staff development and training plans. Since successful execution of the case plan and the services provisions of the child welfare program will require skilled staff, the Department strongly urges State application of these standards.

Section 205.70, Availability of Agency Program Manuals, is retained although it is not specified in the provisions of Pub. L. 96–272. The availability of program manuals and other agency program issuances seems necessary to assure recipients knowledgeable participation in the program and informed exercise of their fair hearing rights.

The reference to 1968 workload standards in § 1392.5 of the Assurances is no longer applicable.

The section of the Assurances regarding services to runaway youth has been dropped from the Act. However, services to runaway youth are still allowable costs under title IV–B.

Long Range Strategy

Proposed Guidelines

This section defined the structure and content of the planning process. It proposed a process which includes a needs analysis, specification of unmet services needs of children, youth and families based on the needs analysis, and development of long range goals and objectives.

Comment

Most commenters supported the concept of the planning process. Those critical noted the following concerns: The process is too detailed and costly; justification, barrier, and resource statements for each goal are unnecessary; States with county administered programs may have problems gathering information; the statement of the process requires clarification.

Discussion

The Department agrees that the barriers statement should be deleted. However, the justification and resource statements are essential to understanding the rationale for goal selection and the resources required to achieve the State goal. This information is important to State and Federal planners and others interested in the Plan.

The Department has edited the Long Range Strategy in an attempt to clarify the process. The revisions do not alter the content of the Long Range Strategy.

Annual Operating Plan

Proposed Guidelines

The Department proposed that the State submit an annual update of the CWSP. The annual update would include a status report on the goals and objectives and a summary of the child welfare services.

Comment

Most commenters did not reference the Annual Operating Plan. Those who did comment on the Annual Summary, fell into three categories: Those that supported the need for the information as essential to a productive planning process; those that supported the need but suggested that some data may not be available; those that opposed the summary suggesting that either much of the data was unavailable in the requested form or too costly to obtain.

Discussion

The seven columns requesting information on various types of State, local and donated funds have been reduced to one column. The Services/Activities column has been changed to reflect the requirements of Pub. L. 96–272. The Glossary has been incorporated into the Instructions for Preparation of the Form.

The Department recognizes that the information requested may not be available in the manner suggested in the instructions. In that case, the State may give its estimates for the coming year according to its own definitions and using its own planning and budgeting terminology.

If adequate data are not available on which to base such projections, the State and the Department may jointly decide to develop a plan for gathering the appropriate information.

Governor's Review

Proposed Guidelines

This section proposed a procedure for the States' compliance with the A–95 process.

Comment

Comments indicated that the A–95 review process was incorrectly stated.

Discussion

The final Guidelines were corrected.

The Fiscal Year 1981 Plan

Proposed Guidelines

The Department proposed an abbreviated format for the FY 1981 plan which eliminated the Annual Status Report and slightly modified the Long Range Strategy. However, the State was required to certify in the FY 1981 Plan that it meets the Assurances.

Comments

Some States proposed that the Guidelines not be implemented in FY 1981 because either the time available for preparation of the CWSP was insufficient or the impending enactment of H.R. 3434 warranted postponing the CWSP implementation.

Discussion

The Department believes that the FY 1981 CWSP planning process was valuable for States and the Department. It aided and supported the Federal-State partnership in the joint planning process to improve their performances in FY 1982 and to be aware of program needs in preparing for Pub. L. 96–272. The Department cannot ignore the widespread concern among the Congress, advocacy groups and the

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States for immediately improving child welfare services. Further, the FY 1981 planning process will provide for the first time national data to guide the federal priority-setting for training and technical assistance to the States for FY 1982.

However, the Department recognized the need to promote a realistic effort in the critical first year of this process. Consequently, the "best effort" of each State was accepted and no fiscal sanctions were applied based on adherence to the Plan and program requirements in the FY 1981 Plan. The Department believes that this first year will define program difficulties and provide opportunities for the State and federal staff to constructively make necessary modifications to assure that the process is efficient and effective.

Guidelines to the Assurances

Proposed Guidelines

The phrase "Guidelines to the Assurances" was used to describe the section of the Guidelines which clarified and discussed the intent of the Assurances.

Comment

There were no comments regarding the phrase "Guidelines to the Assurances."

Discussion

The Department has determined that the phrase was potentially confusing since it referred to "guidelines" within the Guidelines. The phrase has been changed to "Interpretations of the Assurances."

Section 1392.3 Full Time Staff for Services

This guideline discusses the staffing needed to establish an effective system for delivery of child welfare services.

Comments:

Some commenters suggested that there be more guidance on the determination of staff needs and workload size. Numerous letters were received in support of recommended minimum personnel qualifications for child welfare service workers of a Bachelors Degree in Social Work at the entry level and a Masters Degree in Social Work at the first line Supervisory level. Some commenters believed such qualifications would be unnecessarily restrictive.

Discussions:

The Department believes that the recommended personnel qualifications are important to improve the quality of child welfare services. The Department believes that formal training in social work is most desirable. The ability of State agencies to ensure delivery of appropriate, effective services to children will depend greatly on the ability of staff to correctly analyze the services needs of children and their families and to determine the appropriate intervention. Further, Pub. L. 96-272 specifies services requirements for permanency planning and pre-placement prevenitve services which are very unlikely to be met in many agencies, under current staffing pattern.

Advisory Committee

Proposed Interpretation

The proposed guideline explains the purposes, nature of involvement, and composition of the advisory committee.

Comments

Commenters supporting the proposal emphasized the important role of advisory committees in representing the constituencies receiving child welfare services. Issues raised included the statutory base for the Assurance, the need to avoid any duplication in advisory structures day care and child welfare services, the necessity for the detailed requirements for the composition of the committees, and the potential need for additional funds to support such a committee.

Discussion

The role of the advisory committee in the joint planning process is supportive of the established Department commitment to citizen particiaption in the planning process. Consistent with this commitment and the regulatory base contained in 45 CFR 1392.4, we are retaining the requirement including the provision that the advisory committee be involved in the important phases of the joint planning process. We have deleted the Advisory Committee requirement in regard to day care to reflect the statutory change which applies title XX requirements with respect to day care services.

Section 1392.10 Staff Development

Proposed Interpretation

A section of this requirement states that there will be increases each year in the number of educational leaves for professional training to assure an adequate number of professional staff for child welfare services.

Comment

Some commenters found this section unrealistic and unworkable.

Discussion

The proposed Interpretation did not discuss this specific section. The final Interpretation indicates that States should show annual progress in increasing the number of educational leaves until there are sufficient numbers of staff adequately prepared to carry out child welfare services functions in the context of § 1392.3 and consistent with maintaining sound caseload practice ratios.

Section 1392.40(b)(2) Services to Children in Their Own Homes

Proposed Interpretation

This Interpretation discusses the need for the State agency to develop supportive and supplementary services where an assessment of the circumstances of the child and family indicate that the family could remain intact through the provision of such services.

Comment

Some commenters stated there was not enough specificity in the guidelines to be useful in developing such home-based services.

Discussion

The final guideline is more specific on what the State agency should do to provide supportive and supplementary home-based services.

Supplementary Information

A. Introduction

The Administration for Children, Youth and Families, Children's Bureau (ACYF/CB) undertook two major activities during 1980 in the title IV-B (Child Welfare Services States Grant) Program: (1) Under the authority of the regulation at 45 CFR 1392.71 instructions on the form and subject matter of the State Plan were revised; and (2) States were required to jointly develop new State Plans with ACYF/CB to be effective October 1, 1980.

B. Background

The purpose of State grants for child welfare services under title IV-B is to assist State agencies:

(1) To develop a greater capability to provide child welfare services;

(2) To foster development of comprehensive and coordinated services;

(3) To better serve those children and their families in need of these services by:

(a) Extending the scope and resources of the services;

(b) Improving the quality of the services through qualified staff and innovative methods; and

(c) Extending community planning and participation in the provisions of services.

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. The Program is conducted under title IV–B (Sections 420–425) of the Act (42 U.S.C. 620–625). Historically, the program has provided Federal grants to establish, extend and strengthen child welfare services in the States. Grants are made to State agencies on the basis of a plan developed jointly by the Children's Bureau and the State agency. A partnership was firmly established between the Federal and State governments for the provision of child welfare services by the State.

Under title IV–B, formula grants are allocated to the States for providing and improving child welfare services to children and their families in need of services without regard to income.

In most States, the primary use of the funds in recent years has been for foster care. Other services provided with title IV–B funds include adoption, day care and protective services to abused and neglected children.

State Plans currently in force are those which were developed in 1969. Since that time States have submitted some amendments (the last in 1975) and an annual budget, which has been the basis for awarding the grants.

For the purpose of describing them, the State Plans now in effect are referred to in this notice as "existing State Plans", while the State Plans to be developed under these Guidelines are referred to as "new State Plans."

Wide recognition of the problems in the child welfare services system led the Administration and the Congress to propose amendments to title IV–B (and to the closely related areas of AFDC-Foster Care Maintenance and Adoption Subsidies). These Amendments, Pub. L. 96–272, strengthen the title IV–B program. The regulations and guidelines for title IV–B will be fully revised concurrent with the development of regulations for the new law. Meanwhile substantial progress in strengthening families and improving children's lives may be made through joint state-federal development of new child welfare service plans, with a clear analysis of the services needs of children and families, and measurable goals and objectives for meeting these needs.

C. Fiscal Yeal 1981 State Plans

The Guidelines served as the basis for the development of new State Plans to be effective October 1, 1980 for a period of approximately one year. The State may have the Plan begin either July 1 or October 1, 1980 and end June 30 or September 30, 1981. This first Plan will not, of course, include a status report of last year's activities. The Long Range Strategy for this Plan may cover two or three years, or it may be limited to one year at State option.

The more limited duration of this first Plan allowed Plans to be developed for FY 1981 through the joint planning process. It also will allow the requirements of Pub. L. 96–272 to be incorporated readily and quickly into subsequent State Plans when new regulations are developed.

The Department recognizes that the implications of implementing these guidelines will vary from State to State according to the current status of each State's child welfare services. It was the intent of the Department to encourage States to use the first year to focus on the planning process and practice issues in an effort to establish a sound planning base from which to improve child welfare services in future years and to prepare for integrating the changes resulting from Pub. L. 96–272. To ensure that this constructive purpose is not diluted through concerns over issues of compliance, the Department was prepared to accept each State's best effort in preparing the FY 81 plan and in meeting the Assurances. If a State chose not to submit a FY 81 plan, the Department accepted as satisfactory the submission of a Budget Request as its "best effort." The spirit of the joint planning effort is to define the current status of child welfare services within each State, and to plan for improving on that base. States and the Department learned from this first year and are better prepared to channel common commitments to improving child welfare services toward constructive and realizable expectations in FY 82.

In an attempt to reinforce the construtive purpose of the joint planning process, the States were not required to certify adherence to the Assuances in the FY 81 plan. The intent of this moratorium for the first year was to remove the threat of sanctions as applied to the Assurances, and to utilize the Assurances, as benchmarks in the provision of child welfare services. States unable to meet the Assurances were required to develop a plan for doing so in this first year, but faced no penalty for existing deficiencies. The Assurances, including those required by Pub. L. 96–272, will be certified by the State beginning in FY 82.

D. Changes in the Format of State Plans

The existing State plan consists of two parts, the Basic Plan and the Annual Budget. The existing Basic Plans are detailed, narrative descriptions of how the State agency meets each of the requirements of 45 CFR, Part 1392. Most of these descriptive Plans have not been updated for several years. They do not provide a view of the child welfare services system within the State. Thus, the existing Basic Plans are not effective vehicles for improving the child welfare services system.

The Annual Budget is primarily a mechanism for awarding funds to States. It provides minimal information about service provision. It is generally completed by a fiscal official and is rarely reviewed by a program official. It is frequently not linked to planning for the improvement of child welfare services.

The existing State Plan format also requires State agencies to complete a request for funds each quarter. Thus, States completed five fiscal documents, none of which were aids to improved plans for the next year.

In order to make the State Plan and the planning process more useful for improving services, Plans will be developed under new instructions which encourage a more rational manageable and measurable plan. The regulation provides clear authority for these changes under paragraphs (a), (b) and (d) of 45 CFR 1392.71. The new format requires the State agency to make changes necessary to meet the ongoing specific requirements stated in the regulation. It also requires development of goal-oriented plans for future years that specify how the goals will be reached.

The regulations, at 45 CFR 1392.7(b), make clear that the Plan will include "the total State program of child welfare services." Thus, the State Plan will include all child welfare services in the State under the administration or supervision of the State agency designated to carry out the State's responsibilities. This will include the child welfare services reimbused under title XX of the Social Security Act as well as under title IV–B.

The title IV–B legislation, regulations, and State Plan Guidelines are directed toward development of a plan to improve all child welfare services, not only those supported by one funding source. However, where the provisions of the Assurances are in conflict with title XX or title IV–A requirements, the title XX or IV–A regulations control if no title IV–B funds are involved. Where the State and ACYF/CB are unable to jointly develop a Plan or where the State fails to adhere to the Plan, ACYF sanctions would affect only title IV–B funds.

States will have the latitude to coordinate their planning processes for title IV–B and title XX to avoid unnecessary duplication of effort. These processes may include development and submission of the Plans at the same time and use of information for determining needs for child welfare services for both programs.

Under the new State Plan Guidelines, the CWSP will include: (1) the Assurances; (2) the Long Range Strategy; (3) the Annual Operating Plan; and (4) the Annual Budget Request.

(1) *The Assurances:* The Assurances do not alter the substantive requirements that States must meet. They continue to be based on the Act and Regulations. ACYF has however, simplified the format. In FY 1982 and subsequent years, the State Administrator will sign a preprinted form to assure the State agency's commitment to meeting the Assurances. However, in FY 1981, the States were not required to certify adherence to the Preprint of the Assurance in the FY 1981 plan, but instead signed the entire plan. Supporting documentation must be available for monitoring compliance with the Assurances but does not need to be submitted with the State plan.

Explanation of the Assurances has also been developed to clarify meaning and to provide the basis for a common understanding.

(2) *The Long Range Strategy:* The Long Range Strategy expresses the State agency's goals for establishing, strengthening, extending and otherwise improving child welfare services over the two or three year period of the CWSP. The State agency jointly develops the Strategy with the ACYF/CB. The process should include participation of the Advisory Committee. The Long Range Strategy consists of three sections; the need analysis, selection of unmet needs to be addressed in the Long Range Strategy; and long range goals and objectives.

(3) *The Annual Operating Plan:* The Annual Operating Plan provides a status report on the goals of the Long Range Strategy, and includes an Annual Summary of Child Welfare Services.

The status report reviews the State's activities and progress in meeting the goals and objectives during the previous year. It includes accomplishments and identification of problems and efforts to resolve them. This report must include any changes or amendments to the Long Range Strategy.

The Annual Summary of Child Welfare Services provides an overview of the State child welfare services program for the coming year. It gives estimates of State child welfare services expenditures and clients to be served during the next State planning year, by source of funds and by service. It should describe the participation of the Advisory Committee (1392.4).

(4) *The Annual Budget Request:* The Annual Budget Request is a request for title IV–B funds. It replaces the four Quarterly Requests for Funds (CWS–10) and Annual Budget (CWS–2) with a single, simplified form.

E. Applicability of Guidelines to Under Secretary's Demonstration States

Those States which have included title IV–B in the Undersecretary's Consolidated State Plan Demonstration Project are exempted from meeting the format requirements of the new IV–B guidelines.

The demonstration States, however, must comply with the requirement for joint planning and their plan must provide information of the type requested by the Administration for Children, Youth and Families. The same exemption will apply to States which participate in the Plan Simplification Project sponsored by the Office of Human Development Services.

Dated: December 12, 1980.

John A. Calhoun,

Commissioner for Children, Youth and Families.

Approved: December 23, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

Guidelines for Development of the State Child Welfare Services Plan

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Introduction

Title IV–B of the Social Security Act (Sec. 421) requires that a State submit a Child Welfare Services Plan (CWSP) jointly developed by the State agency and the Administration for Children, Youth and Families (ACYF) in order to receive its allotted share of Federal funds for child welfare services.

Joint planning for child welfare services is the process of State-Federal review and analysis of the State child welfare program in relation to the service needs of children and their families, the selection of unmet needs to be addressed in a plan for program improvement, and the development of measurable goals and objectives to assure the State's ability to meet these needs.

The CWSP describes the State agency's total child welfare services program—the basic services, program deficiencies and plans for improvement, and resource allocation by type of service. The CWSP must include all child welfare services provided by the State agency without regard to their funding sources.

The CWSP contains the following components:

I. *Assurances:* The Assurances constitute the State agency's commitment to meet the basic requirements of the law and the regulations. The preprinted form is submitted only once, unless otherwise required by the Commissioner of ACYF.

II. *Long Range Strategy:* The Long Range Strategy incorporates the needs analysis, selection of unmet needs to be addressed, and the goals and objectives developed through the joint planning process. These become the State's focus for program improvement. The Strategy will be in effect for two or three years at the discretion of the State Agency.

III. *Annual Operating Plan:* The Operating Plan provides a status report updating and reporting on progress in the Long Range Strategy, and an Annual Summary of Child Welfare Services. It is submitted annually.

IV. *Annual Budget Request:* The Budget Request will be the basis for disbursing title IV–B funds. It is submitted annually, replacing existing quarterly budget requests.

Relationships of the CWSP to Other Planning Processes

Since the CWSP must include all child welfare services provided by the State Agency without regard to their funding source, the CWSP requirements are sufficiently flexible to permit the State Agency to coordinate all its planning activities for child welfare services. Thus, a State may, if it chooses, develop the plan for Child Welfare Services while developing the title XX Comprehensive Annual Services Plan (CASP). Concurrent development of plans may enable a State to coordinate needs analyses, community participation, program evaluations and analyses, and planning cycles for the two plans. Whatever planning procedures the State chooses, the CWSP must provide accurate and reliable information and should not be considered a general statement of intention. The State also has the option with the CWSP, as with the CASP, of determining whether its planning year will coincide with the Federal fiscal year or the State fiscal year.

CWSP Plan Submittal

Two copies of the Child Welfare Services Plan must be submitted to the ACYF Regional Office no less than 30 days before its proposed effective date. The Plan may be submitted as a separate document or may be contained in the CASP if the Plan is presented as a separate, identifiable section that can be extracted as a unit from the CASP. After the first plan is accepted, only the Annual Operating Plan (Part III) and the Annual Budget Request (Part IV) will be submitted annually.

The Long Range Strategy (Part II) will be submitted in two or three year cycles; and the Assurances (Part I) will be submitted only once, unless otherwise required by the Commissioner of ACYF. The Plan must be certified by the Administrator of the State agency and submitted to the ACYF Regional Office for review and concurrence before a grant can be awarded. The ACYF Regional Program Director must review the material to determine that the CWSP requirements are met and that the document accurately represents the agreements reached through the joint planning process.

I. Assurances

The Assurances specify the basic child welfare services requirements which the State must meet under the Act. The Assurances are drawn from the Social Security Act, the program regulations, and policy interpretations. These requirements concern the organization and administration of the child welfare services system within the State and the provision of basic services. The Assurances also contain commitments related to the structure and procedures for State operation of the child welfare services program.

The Preprint

The Assurances are contained in the first section of the Child Welfare Services Plan in a preprinted format for ease of certification. The preprint is to be signed by the Administrator of the designated State Agency, committing that Agency to adhere to the specified requirements. This preprint will be submitted only once, with the submission of the first State Plan, and will not be resubmitted unless otherwise deemed necessary by the Commissioner of ACYF. It will remain in effect until revoked, amended, or superceded by other requirements.

Documentation

The State Agency must maintain documentation of the arrangements and services required in the Assurances. The documentation supporting the State's commitments made in the Assurances will be subject to Federal review to assure that the State is meeting the requirements as specified. Federal staff will also conduct reviews at the service level to assure that the services in the State's plan are actually provided to children and families in need of services and are provided in the manner and using the criteria prescribed by the State.

Program Deficiencies

If the State is not meeting all of the requirements specified in the Assurances or if its services are not sufficient to meet the needs of families and children throughout the State, the State must develop goals in its Long Range Strategy for correcting these deficiencies.

II. Long Range Strategy

In the Long Range Strategy, the State develops the goals for establishing, strengthening, extending, and otherwise improving its child welfare services program over a period of two or three years. The Strategy section of the CWSP must be jointly developed by the State agency and the Children's Bureau. It must be submitted by the State agency to the ACYF Regional Office every two or three years as appropriate.

The Long Range Strategy consists of three discrete processes: analysis of the services needs of children, youth and families, selection of unmet program needs to be addressed in the State plan, and the long range goals and objectives. These three processes are interdependent. In most States, the needs analysis will reveal significant program deficiencies in the nature, scope and quality of services. Determination of which of these unmet needs will be goals for long-range program improvement are critical decisions in the joint planning process.

Needs Analysis

The needs analysis process is the base from which the State develps the Long Range Strategy for improving delivery of effective, appropriate services. It is an analysis of the deficiencies in existing services and of discrepancies between the services needed and the services provided in the State. The purpose is to analyze available information on the need for services in the State in relation to information on what services are available and proposed under the State's child welfare services program. The process involves identifying the services needs of children, youth and their families; developing an accurate profile of current services, particularly those required under the regulation; identifying gaps and deficiencies between needs and current services and determining which deficiencies will be the focus of program improvement activities during the next two or three years; and involving citizens in this process.

This needs analysis process should utilize current information and studies related to unmet needs, gaps in the service delivery system, the quality and quantity of available services, and problems and deficiencies in the provision and managment of child welfare services throughout the State. A significant absence of such information about the State's program may itself be the basis for including as a goal the conduct of an assessment of the services needs of children and families in the State and the adequacy of the services being provided. Information gathered in the course of a self-assessment using the *State Child Welfare Program Self-Assessment Manual** is an example of the kind of data that could be valuable in the needs analysis.

Selection of Unmet Needs To Be Addressed in the Long Range Strategy

After completing the needs analysis, States must select the unmet needs that will be addressed in plans for program improvement. These unmet needs must be included in the goals and objectives of the Long Range Strategy. State and federal staff developing the Long Range Strategy must discuss the needs analysis findings and jointly determine which unmet needs will be addressed. The following factors should be considered in making these decisions:

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*Copies of this Manual, published by the Children's Bureau, have been made available to each State Social Service Agency. Additional copies may be obtained from the Children's Bureau.

The State's capacity to meet the program requirements identified in the Assurances

Significant deficiencies in basic child welfare services such as foster care and services to children in their own homes

Lack of basic child welfare services throughout the State

Deficiencies in program management and administration which interfere with the quality and effectiveness of services.

States must explain the reason why certain unmet service needs identified in the needs analysis were not addressed in the long range strategy. A brief statement of the rationale for these decisions must be submitted as part of the Long Range Strategy. The participation of the Advisory Committee should be defined.

Long Range Goals and Objectives

The long range goals express the expected results of efforts to improve child welfare services within the State. Meeting the major unmet needs should be a fundamental consideration in establishing the State's long range goals. The goals should reflect specific priorities for action evolving from the needs analysis and the selection of unmet needs and an analysis of current and potentially available resources. Each goal should generate objectives, to be accomplished within the duration of the Plan.

Goals

Each goal must include a brief justification and approach, indicating why the goal has been established and how meeting the objectives will achieve the goal. The goal section must also include a resource statement which estimates the total cost of accomplishing the goal and indicates what dollar portion of the goal will be supported by IV–B funds (Federal, State and local).

Objectives

Objectives are necessary to document what is involved in goal attainment and to provide a framework for assessing progress in achieving the goal. Objectives must reflect those specific initiatives necessary to achieve the goal. They may, as circumstances require, cover a period of several months, or a year or more. An objective consists of an objective statement and a brief narrative.

The objective statement indicates in measurable terms a major focus of the State child welfare services activities for a specified period of time. It should relate to a single issue, specify a time for completion and be quantifiable.

The narrative is a brief description of how the objectives will be achieved and what criteria will be used to determine whether it has been achieved.

III. Annual Operating Plan

The Annual Operating Plan is the yearly update of the State Child Welfare Services Plan. It will report the current status of the long range goals and objectives, indicate changes and new initiatives, and present an Annual Summary of Child Welfare Services.

Status Report

The status report in the Annual Operating Plan summaries and reviews the goals and objectives of the previous year, including accomplishments and descriptions of slippage or problems and efforts to resolve them. It must briefly indicate the progress toward achievement of objectives scheduled for completion at a later date. Anticipated problems and their proposed solutions should be identified. The report must also identify changes or amendments to the Long Range Strategy of the State Child Welfare Services Plan. Changes may be new goals, objectives or strategies related to funding, legislative mandates, court orders or changes in State or national policy.

Annual Summary of State Child Welfare Services

The Annual Summary of State Child Welfare Services (Annual Summary) estimates the State Child Welfare Services expenditures for the State planning year according to funding sources and the anticipated number of clients to be served. This form replaces the current Annual Budget the Child Welfare Services (CWS–2). (The form appears at Appendix A.)

IV. Annual Budget Request

The Annual Budget Request replaces the Quarterly Estimate of Expenditures and Request for Grant Award Form (CWS–10) and the Annual Budget for Child Welfare Services (CWS–2) with a simplified form. The Budget Request will be prepared by the State agency and signed by the Administrator of the State agency and the Director of the designated Single Organizational Unit. It must be submitted with the Annual Operating Plan to the designated ACYF/CB Regional Representative. (The Budget Request Form appears at Appendix B.)

Quarterly disbursement of funds will be based on requests made and approved on the form. These requests may be modified by the State through submission of a revised form with a brief explanation for the requested change at least thirty (30) days before the beginning of the affected quarter. Quarterly payments will be made without submission of additional forms.

Governor's Review

Each year the State Agency must submit with its State plan a signed document certifying that the Plan being submitted has been sent to the Governor's office or his designated agency for review in accordance with the Office of Management and Budget Circular A–95. The document must indicate either that the comments or approval are attached, or that no comments were received during the 45-day (some States may have less) comment period.

If a State plan is sent to ACYF prior to or simultaneously with its submittal to the Governor's office or his designated agency for clearance, the Plan will be reviewed, but will not be officially acted upon until the document certifying adherence to the review procedures or the results of the review are received. It will be assumed that the intent of the A–95 process was met if the Governor signs the State plan submittal.

The Fiscal Year 1981 Plan

The differences between the FY 81 Plan and the standard format are discussed in Appendix C.

BILLING CODE 4110-92-M

Appendix A—Form and Instructions for Preparation of Annual Summary

Form Approved
O.M.B. No. 085-R0367

ANNUAL SUMMARY OF CHILD WELFARE SERVICES

Page 1 of 2

State of __________ for Fiscal Year __________ 19__ to __________ 19__

SERVICES/ACTIVITIES	ESTIMATED EXPENDITURES BY PROGRAM ($ THOUSANDS)					ESTIMATED NUMBER OF CLIENTS TO BE SERVED
	FEDERAL FUNDS				STATE, LOCAL & DONATED	
	IV-B	XX	IV-E/IV-A	OTHER*		
1) Preventive/Supportive Services						
2) Foster Care Maintenanc Payments a) Foster Family Care b) Group/Institutiona Care						
3) Foster Care Services a) Reunification b) Other						

* OTHER FEDERAL PROGRAMS __________

ANNUAL SUMMARY OF CHILD WELFARE SERVICES

Page 2 of 2

State of ____________ for Fiscal Year __________ 19___ to __________ 19___

SERVICES/ACTIVITIES	ESTIMATED EXPENDITURES BY PROGRAM ($ THOUSANDS)					ESTIMATED NUMBER OF CLIENTS TO BE SERVED
	FEDERAL FUNDS				STATE, LOCAL & DONATED	
	IV-B	XX	IV-E/IV-A	OTHER*		
4) Adoption a) Assistance Payments b) Medical Services for Adoption Assistance c) Other Adoption Services						
5) Training & Staff Development						
6) Administration and Management						
7) Other Child Welfare Service Activities						
8) Day Care Related to Employment or Training for Employment						

* OTHER FEDERAL PROGRAMS ____________

BILLING CODE 4110-92-C

Instructions for Preparation of the Annual Summary of Child Welfare Services

General: This form summarizes the State agency's child welfare services program for the next year by service, by source of funds, and by number of clients to be served. The form is an integral part of the State Child Welfare Services Plan and must be a part of joint planning by Children's Bureau and State agency representatives. It is a document of major significance since it presents an overview of the State agency's planned program for the next year.

Specific: *Services or Activities.*—For each of the services or activities listed, include the type of information specified:

1. *Preventive or Supportive Services (Home Based Services):* Services to strengthen and support intact families and to prevent family disruption and unnecessary removal of children from their homes. These may include but are not limited to casework or counseling, day care and respite care, child protective services, homemaker services with a parent education component, family planning, legal services, services to unmarried parents, transportation, emergency shelter for families and access to emergency funds.

2. *Foster Care Maintenance Payments:* Payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

3. *Foster Care Services:* Include services to the child, to the natural families and to the foster parents, including case plan development and periodic review of the placement.

Reunification services are those designed to help children, where appropriate, return to their families.

4. *Adoption:*

(a) Adoption Assistance Payments are the funds provided to adoptive parents on a recurring and periodic basis to assist in the support of special needs children.

(b) Medical Services for Adoption Assistance are provided to children who are adopted or are in the process of being adopted.

(c) Adoption services include the range of services provided for the purpose of obtaining and maintaining a permanent family for a child who is, or is expected to be, legally free for adoption.

5. *Training and Staff Development:* Activities designed to improve or enhance the capability of child welfare agency personnel and volunteers to provide or arrange for the administration, management and delivery of services. This includes orientation of new staff, a program of continuing in-service training opportunities, conferences, institutes and educational leave.

6. *Administration and Management:* Includes costs of supervisors and staff whose activities support child welfare services and which cannot be allocated under other services or activities.

7. *Other Child Welfare Services Activities:* Include other activities which are not included above, such as planning and evaluation, licensing, information systems, recruitment and training of foster parents and adoptive parents, etc.

8. *Day Care Related to Employment or Training for Employment:* This refers to day care purchased for the purpose of employment of one or both of the parents.

Estimated Expenditures for Child Welfare Services by Program Federal Funds: Indicate for each service or activity the amount to be expended from the Federal program indicated. Do not include the State or local match. If other Federal funds will be used by the State agency, specify the other Federal programs in the space at the bottom of the page.

State, Local and Donated: List all State, local and donated funds, whether or not they are used to match Federal funds.

Estimated Number of Clients to be Served: Estimate as accurately as possible the number of clients to be served during the next year with these funds. Indicate whether clients are individuals or families.

BILLING CODE 4110-92-M

ANNUAL BUDGET REQUEST FOR TITLE IV-B FUNDS

Form Approved
O.M.B. No. 085-R0367

Fiscal Year 19____

State of________ October 1, 19____ through September 30, 19____ Revision #______

COMPUTATION OF FEDERAL GRANT AWARD

A) Total estimated title IV-B expenditures: ________

B) Enter Federal Share (75% of A up to maximum listed in Action Transmittal): ________

II. REQUEST FOR GRANT AWARD

Indicate the total request for the year and the request for each of the four quarters. (Funds totaling more than the State's share of the $141 million allotment will not be released to the State until there has been verification that the State meets the conditions of P.L. 96-272 for those funds.)

Total (from line I.B)	1st Q (Oct.-Dec.)	2nd Q (Jan.-Mar.)	3rd Q (Apr.-Jun.)	4th Q (Jul.-Sept.)
________	________	________	________	________

CERTIFICATION BY STATE AGENCY

The State Agency submits the above estimate and request of grant award under title IV-B of the Social Security Act, as amended, and agrees that the estimated expenditures will be made in accordance with the Child Welfare Services Plan, agreed to by the Agency and the Administration for Children, Youth and Families, for the fiscal year ending _______, 19______.

(Signature) Administrator, Social Services Agency Date

(Title--please type)

(Signature) Director, Single Organizational Unit Date

(Title--please type)

DO NOT WRITE IN THIS SPACE

Regional Office Approval

Regional Program Director

Date

— — — — — — — — — — — — — — — —

Other State Official (OPTIONAL)

Signature Title Date

BILLING CODE 4110-92-C

Appendix B—Annual Budget Request of Title IV-B Funds

Instructions for Completion of Form———, Annual Budget Request for Title IV-B Funds

I. *Computation of Federal Grant Award.* Each State should base its request on its share of funds appropriated under title IV-B up to $141 million allotment until it has been certified as meeting the criteria establishing its eligibility to receive its share of funds beyond the $141 million level (Section 427 of the Act).

A. This is the total the State expects to spend during the year based upon its current eligibility.

B. This figure is 75% of the amount in A, but is limited by the State's allotment as specified in the appropriate Action Transmittal.

II. Funds will be awarded to each State based on the amount requested for each quarter. No quarterly submissions are required except to amend the original request.

III. The signatures of both the Administrator of the Single State Agency and the Director of the State Single Organizational Unit are required.

Note.—This budget request is subject to the A—95 approval process.

Appendix C—Procedures for Development of FY 1981 State Child Welfare Services Plans

The Fiscal Year 1981 State Child Welfare Services Plan

The FY 81 plan differs from the standard format described in the guidelines in the following areas:

- States had the option of developing goals for a 9–12 month period or for the standard 2–3 year period.
- The status report was not required to be included.
- States were not required to certify adherence to the Assurances in the FY 81 plan.

I. Assurances

In the FY 81 plan, the preprint for the Assurances did not need to be signed.

II. Long Range Strategy

This section differs from the FY 82 format for the Long Range Strategy only in that goals may be developed either for a period of 9–12 months (the period of coverage for the FY 81 Plan) or for the 2–3 year cycle required in the standard format. Whichever period of time is chosen, goals should extend over the period necessary to achieve the State's priorities. Objectives under this Plan may encompass only one year.

The FY 81 Long Range Strategy must contain the following elements:

A. *Needs Analysis:* The needs analysis is an analysis of information currently available within the State to determine the services needs of children and families, geographic areas in which service needs are greatest, areas in which services are deficient and areas with greatest need for expanded and strengthened State child welfare services.

B. *Selection of Unmet Needs to be Addressed in the Long Range Strategy:* Unmet services needs identified in the needs analysis were jointly discussed by the State and federal planners to determine which of these unmet needs would be incorporated in the goals for program improvement in FY 81 or in the FY 82 plan if the State chose. The rationale for not developing goals in response to an unmet need must be explained in a brief statement to be submitted in the Long Range Strategy.

C. *Goals and Objectives:* The content and process for developing goals and objectives are the same as in the FY 82 format. Goals by their nature tend to be long range; therefore, for the FY 81 plan, goals should extend over the period necessary to achieve the stated priorities, even though they may extend for more than one year. On the other hand, the objectives under the FY 81 plan may be limited to the life of this plan (about one year) or they may extend beyond FY 1981, if the extension provides a clearer, more complete explanation of how the goal will be met.

III. The Annual Operating Plan

The status report reviewing the previous year's goals, objectives and achievements is not included in the FY 81 plan. It will be incorporated into all Plans thereafter.

The Annual Summary of State Child Welfare Services is included in the FY 81 Plan.

IV. The Annual Budget Request

The Budget Request is included in the FY 81 Plan, using the same procedures required for FY 82.

Governor's Review: The procedures required for the FY 82 Plan are required for the FY 81 Plan.

Assurances

The Assurances specify the basic requirements which the State must meet in providing child welfare services under title IV-B of the Social Security Act and the regulations. They are a preprinted form in the State Child Welfare Services Plan (CWSP) through which the State agency Administrator submits a commitment that the State will meet the requirements of the regulations and the Act. They remain in effect until there is a need for revision or amendment because of changes in legislation, regulations, policies or program operations.

The Assurances are directed toward the improvement of all child welfare services delivered under the CWSP regardless of funding source. However, when the provisions of the Assurances are in conflict with title XX or title IV-A requirements, the title XX or title IV-A statute and regulations control. No funds other than title IV-B funds would be at issue where the State and ACYF/CB are unable to jointly develop a plan or where the State fails to adhere to the Plan. Nonetheless, in the opinion of ACYF the Assurances represent fundamentally sound, universally recognized elements of good social work practice and therefore, States are urged to apply the provisions of the Assurances to all child welfare services delivered in the State.

The Assurances concern the provision of basic services. They also provide a number of commitments related to the structure, procedures and administration of the child welfare program. Assurances which the State agency does not meet must be addressed in the Long Range Strategy of the CWSP.

The State agency must maintain documentation of the arrangements and services required in the Assurances. The documentation will not be submitted with the State plan. However, all documentation must be available for review to assure that the State has made arrangements to provide the services certified in the Assurances, and that the arrangements conform with the requirements in the regulations and the Act. Federal staff will also conduct reviews at the service level to assure that the services are actually provided to children and families in need and in the manner and using the criteria prescribed by the State.

Relevant sections of the Social Security Act, regulations, and Federal policy govern the State agency's administration of child welfare services.

Following the listing of the regulations comprising the Assurances are the Interpretations of the Assurances which discuss and clarify the meaning and intent of the regulations but do not change the content of the regulations.

The Assurances

List of Regulations Comprising the Assurances

45 CFR Section and Title

1392.1—General Provisions
1392.2—Single Organizational Unit
1392.3—Full Time Staff for Services

Sec.
1392.4—Advisory Committees on Child Welfare Services
1392.6—Use of Para-professional Personnel
1392.7—Use of Volunteers
1392.8—Relationship and Use of Other Agencies
1392.9—Delivery and Utilization of Services
1392.10—Staff Development
1392.11—Appeals, Fair Hearing and Grievances
1392.40(a)—Child Welfare Services Statewide
1392.40(b)(1)—Needs Assessment
1392.40(b)(2)—Services to Children in Own Homes and Foster Care
1392.40(b)(3)—Case Plans and Case Reviews
1392.40(b)(4)—Availability of Child Welfare Services
1392.40(b)(5)—Child Welfare Services not Limited to AFDC Cases
1392.45—Community Planning
1392.46—Reports and Evaluations
1392.47—Implementation: Local Agencies and Service Contractors
1392.49—Other Plan Requirements
1392.56—Day Care Services
1392.71(d)—Amendments to State Plan
1392.92—Child Abuse and Neglect
205.70—Availability of Agency Program Manuals
Part 16—DHHS Grant Appeals Process
Part 46—Protection of Human Subjects
Part 74—Administration of Grants
Part 80—Civil Rights
Part 81—Practice and Procedures for Hearings under Part 80
Part 84—Non-discrimination on the Basis of Handicap
Section 205.50—Safeguarding Information

Effective Date and State Officials Signature

I hereby certify that, with the exception(s) indicated below, the State complies with the requirements of law and regulation listed above in the Assurances.

The State agency is including in this Plan goals and objectives which will enable it to meet those Assurances which, as indicated below, are not being met.

(List by number and title those Assurances with which the State agency is not in compliance.)

Dated: ______

Certified by: ______
Administrator, Social Service Agency

Dated: ______

Reviewed by: ______
ACYF/CB Representative

Interpretations of the Assurances Governing Child Welfare Services

Title IV–B of the Social Security Act

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Introduction

This document contains interpretations of the Assurances in the State Child Welfare Services Plan (CWSP), under title IV–B of the Social Security Act. These interpretations do not change the content of the regulations which it is controlling. Rather, they are intended to assure a common understanding by Federal, State, and local agencies of the purpose, scope and meaning of the regulations; the specific expectations placed on the States and the options that are available to States. These interpretations are intended to assist States in planning their child welfare services programs and in determining their conformity to the requirements in the Assurances.

The Children's Bureau of ACYF in some instances has made good practice recommendations based on exemplary practices in existing programs and demonstrations and research projects. These recommendations, along with publications of the Children's Bureau, other Federal agencies and national standard setting agencies should be utilized in extending and improving the child welfare services provided under the State Child Welfare Services Plan.

The interpretations have been developed to correspond with sections of the regulations and efforts have been made to avoid repetition of the language of the Assurances and the regulations. Therefore, these interpretations must be read with reference to the related section of the Assurances and regulations. Where the Assurances seem self-explanatory, no guidelines are provided.

Section 1392.1 General Provisions

(a) The requirements in this section establish the framework for implementation of the mandatory provisions of Subpart A of Part 1392. In this section, States assume responsibility for each of the requirements specified in the provisions. Within this framework each State must determine the scope of its services program for children, youth and families and plan the actions necessary to broaden the scope and improve the effectiveness of services.

(b) In this section, States will also agree to submit implementation and progress reports necessary to document adherence to the requirements.

(c) The State agency must have clearly stated and promulgated policy, standards, practices and procedures for all requirements, and methods to monitor and assure adherence to the requirements.

Section 1392.2 State Organizational Unit

(a) *State Organizational Unit:*

(1) At the State level there must be a unit which is responsible for the development of policy pertaining to child welfare services for children, youth and families. It is not intended that the unit head be necessarily responsible for making final policy decisions. Rather, the Chief executive officer or agency administrator should look to the unit head for advice, counsel and recommendations on policy, planning and program development for State's programs for serving children, youth and families.

(2) There should be, at a minimum, one full-time person responsible for planning, policy and program development, implementation and review, and standards development.

(3) The unit should be responsible for development of the Child Welfare Services State Plan and for assuring collaboration with title XX planning, coordination and program development. In most States, these functions will require a unit with specialized staff.

(4) The unit should be responsible for the universally accepted child welfare services which supplement or substitute for parental care and supervision, such as protective services, placement and after care services. Other related activities such as supportive services to families, day care, regulatory services, respite care and homemaker services may be lodged in another unit of the agency. There should be arrangements, however, through which the single organizational unit maintains responsibility for policy formulation and implementation regarding these services to children, youth and families.

(5) The organizational structure of the State agency should facilitate and assure effective communication and cooperation between the unit administering child welfare services to children, youth and families, the executive decision-making unit of the agency, and all units providing related and supporting services.

(b) *Local Organizational Unit:*

(1) Single organizational units should also be established at the local level. These units should be responsible for development, supervision and provision of child welfare services. The unit may be located in a county, city, district, or regional agency.

(2) There should be at least one-full time person with responsibility for planning, policy and program development and implementation of child welfare services in locally administered agencies. In some States these functions will require a large unit with specialized staff. In counties with a small population where full-time assignment for child welfare services delivery is not feasible, a multicounty or district plan for a full-time services worker may be needed.

(3) Some States may need to reassess or re-design methods of supervision of locally administered programs to assure uniformity of policy and program implementation. There should be sufficient support staff in the State level unit to provide sustained program assistance to local agencies whether they are locally or State administered.

(4) Single organizational units may arrange for provision of services through purchases of service arrangements or other methods such as agreements with other public or voluntary agencies. However, the unit must retain responsibility for policy setting and implementation.

(5) Where appropriate, State or local agencies and Indian tribes and organizations should make agreements regarding provision of services to Indian children and their families to assure availability and provision of services and to avoid jurisdictional disputes which can prevent children and families from receiving needed services.

(6) The State agency should have clearly articulated policy (standards, practices and procedures) that spell out how it meets its responsibility under this requirement.

Section 1392.3 Advisory Committees on Child Welfare Services

(a) This requirement calls for establishment of:

(1) A State-wide advisory committee on all phases of CWS programs; and

(2) Committees in local administrative jurisdictions where the program is locally administered.

Such committees may be combined or be part of a larger State or local advisory committee on the total public welfare program.

(b) Well-organized advisory committees can serve a number of purposes including:

(1) Increasing policy and administrative officials' awareness of problems in programs, and the opportunities for improvement;

(2) Increasing the client's sense of participation in development and operation of the program;

(3) Increasing the public's understanding and support of programs; and

(4) Increasing understanding and cooperation among groups within a community or State.

(c) Advisory committees should have adequate opportunity for meaningful participation in both policy and program development including:

(1) Recommendations on priorities for the use of funds and changes in levels of funding;

(2) Recommendations for candidates to senior level positions and the opportunity to express views on the qualifications of candidates considered for such positions, (within the limits of merit system regulations);

(3) Participation in development of administrative policies relating to provision and scope of services, and priority areas to be served.

(4) Review of the operation of the agency personnel system and suggestions for modifications;

(5) Participation in evaluations of program operations and the effects of policy; and

(6) Review of the effectiveness of grievances and appeals systems.

(d) To function effectively committee members should be adequately trained, have access to information on a wide array of areas including services delivery, the mission and policies of the agency, and the availability of resources, and be able to seek alternative views and judgments.

Section 1392.4 Full-time Staff for Services

(a) This requirement recognizes that an effective system for delivery of social services for children and their families, including program planning, supervision, and case management, requires staff assigned full-time to these functions at both State and local levels. At each level of responsibility, there should be:

(1) A staffing plan which identifies and describes the staff to be used in the delivery of each type of service;

(2) Position descriptions describing the work to be performed by each staff member with respect to activities, responsibilities, and standards of performance;

(3) Standards defining the education and experience required for each position; and

(4) Standards defining the workload size and level of supervision for each type of client service operation. In determining staff needs and workload size, the following factors should be considered:

(i) the potential number of children, youth and their families in need of child welfare services;

(ii) the kinds and intensity of needs presented by families and children;

(iii) the amount of time required to comply with mandated agency policies and procedures;

(iv) the results of experiments and special studies which measure the time required to work successfully with various kinds of client problems;

(v) the kind of case management and service delivery structure which the agency has established;

(vi) the results of studies which define the activities which constitute a particular social service.

(vii) the kinds and range of services which the agency expects its workers to provide. For example, if the agency uses a generalist approach to service delivery and expects direct service workers to provide all of the services a family may need, the worker may be able to handle fewer cases than one might expect if specialized staff such as intake/assessment workers, parent educators, and home finders, are employed;

(viii) the environment in which services are to be provided. For example, in sparsely populated rural areas, travel time may be considerable and reduce the number of hours available to provide services.

(b) The State agency should establish personnel policies and procedures to implement this requirement which are consistent with standards of good practice as defined by the Child Welfare League of America, or the American Public Welfare Association or for service delivery criteria developed by the Children's Bureau in its *Detailed Design for a System of Social Services for Children and their Families.*

Section 1392.5 Use of Professional Staff

Use of professional staff has been deleted from the assurances to reflect the amended statute. This discussion, as contained in the February 22, 1980 **Federal Register**, is retained as advisory to State agencies.

(a) This requirement emphasizes the need for adequate numbers of suitably qualified personnel drawn from social work and other appropriate disciplines to plan, develop, supervise and provide specialized services to children, youth and families. Decisions affecting the future of children and their families should be made by persons with training which prepares them to recognize and effectively respond to the complexities of the problems often encountered in delivering child welfare services.

(b) Generally, three types of personnel are required for effecitve delivery of child welfare services to clients:

(1) *Caseworker.*—The primary responsibility of the child and family caseworker is to ensure the care and protection of the child, whether the client is defined as an individual child or a family, and to improve family functioning. The caseworker must provide a variety of services directly to the client or on his behalf, but this person is especially critical for the primary function of developing a supportive and therapeutic relationship with the child or family to effect changes in problem behaviors or to help them accept and utilize other service elements to their benefits.

The caseworker's role is a comprehensive one requiring a variety of responsibilities and skills. Caseworker's must have the skills to:

(i) devleop a supportive and therapeutic relationship with the child or family;

(ii) study and assess the family's situation, and develop a case plan;

(iii) select and employ appropriate treatment approaches to different types of client problems;

(iv) implement a variety of therapeutic techniques such as role modeling and counselling to individuals or groups;

(v) coordinate the delivery of services to ensure services continuity and integration; and

(vi) engage in advocacy, for example, intervening on a client's behalf during threatened eviction or ensuring the protection of his/her rights in consumer or legal disputes.

The Bachelors degree in social work (BSW) is the recommended minimum acceptable level of training for caseworkers.

(2) *Supervisor.*—Supervisors should be highly skilled and accessible to support and direct the activities of workers who, in turn, must be able to respond to serious human problems and make high risk decisions. The worker's ability to handle the stress of participating in a client's often urgent and upsetting problems, and to help the client make difficult and appropriate decisions can be strengthened by the supervisor-caseworker relationship. Supervisors should supervise a maximum of 5 caseworkers.

Supervisors should have sufficient knowledge and skills about child welfare services to:

(i) perform the dual role of teacher and administrator;

(ii) be sensitive to each worker's capabilities and level of skill; and

(iii) be able to develop basic casework capability in less skilled workers and enhance the abilities of more skilled workers.

Supervisors should have a Masters of Social Work (MSW) degree and training in supervision and management or administration.

(3) *Specialist.*—Specialists are staff who serve a particular function or a specific type of client need. They may function as consultants or be part of the Agency staff.

Specialist staff support agency functions through:

(i) assisting caseworkers and supervisors in decisions on difficult cases;

(ii) providing specialized training to improve and expand service delivery skills;

(iii) providing policy and programmatic direction to the service delivery process; and

(iv) introducing improved techniques and knowledge to the service delivery process.

The types and numbers of specialists required to support agency needs will vary in terms of the volume and nature of client problems. Currently, the following types of specialized consultation are necessary and appropriate to client service needs:

(i) home-based services, to avoid separation of child from family;

(ii) protective services, to assess the risk and assist in treatment of parents who have abused and neglected their children;

(iii) substitute care, to determine the most suitable type of placement for a particular child;

(iv) permanent planning, to move children into permanent care arrangements; and

(v) psychiatric or clinical social work, to assist in the diagnosis and treatment of child, parental, marital, or family anomalies.

Specialized staff to perform these functions should have MSW degrees and specialized training and experience.

Consultative services of physicians, psychiatrists, lawyers, psychologists and other such specialists should be available to assist staff where their services are appropriate.

Section 1392.6 Use of Paraprofessional Personnel

(a) This provision requires agencies to utilize paraprofessionals. Paraprofessionals include all of those persons performing work related to professional activities, such as day care aides, parent aides, homemakers, health aides, and social service outreach workers. Clerical and janitorial positions or other positions of this type are not included.

(b) One of the most beneficial and effective uses of paraprofessional staff is in the capacity of homemakers and emergency caretakers. Emergency caretakers are staff carefully selected and trained to provide short term adult care and supervision for children in their homes during a crisis precipitated by the absence, desertion or incapacity of parents.

Homemakers perform emergency caretaker functions but also do role modeling, assist the parent(s) with household chores, and assist the parent(s) in better performance of parental roles. Generally, homemakers are part of an overall plan to assist children and families; therefore, the homemaker's work may not be limited to a specific crisis.

Agencies which do not utilize paraprofessionals in this manner should consider developing units of homemakers to be staffed by paraprofessionals.

(c) This requirement recognizes that persons with less than professional education have knowledge and skills to complement (but not substitute for) the skills of professional staff.

Other activities paraprofessionals may perform as part of a team or with other professional supervision include:

(1) Specialized or individualized interpretation of service programs to ethnic or cultural groups and to help such groups or individuals express their needs;

(2) Helping to overcome language barriers, case-finding in the community, and encouraging eligible persons to use available services;

(3) Acting as liaison between an agency and a defined group or organization in the community;

(4) Assisting individuals or groups with day-to-day problems such as job-finding, locating sources of assistance, or organizing community group to work on specific problems; and

(5) Transporting children to clinics and hospitals.

Section 1392.7 Use of volunteers

(a) Interested citizens can make a major, distinctive contribution in providing services to children, youth and families and in advisor capacities to State and local agencies. Volunteers should be recruited from all income levels and from all parts of the community including clients. Where expenses, such as transportation or baby-sitting costs, limit the availability of volunteers, the State agency should assist with these costs.

(b) Volunteers have been effective in providing services such as parent-aides and homemakers, aides in day care facilities and institutions, care for children at agency intake, and promoting community support for special service projects or interagency coordination. Volunteers with special skills may also be useful in carrying out surveys and studies and in assembling information for advisory committees.

(c) The State agency should have a plan for the use of volunteers, and a designated coordinator for volunteer activities to assure effective leadership and planning and selection, training and supervision of volunteers.

The plan should include:

(1) A recruitment program to secure volunteers in all areas where they can assist the agency's services.

(2) Orientation to agency policies and procedures.

(3) Provision of office space, equipment and materials necessary to complete assigned tasks.

(4) Reimbursement of costs incurred by volunteers.

(5) Guide materials relating to requirements and descriptions of tasks.

Section 1392.8 Relationship and Use of Other Agencies

(a) The requirement emphasizes the importance of maximum coordination with other public and voluntary agencies to provide effective and comprehensive services to all children, youth, and families in need. States are expected to develop agreements with public and voluntary agencies and to provide guides and supervision to local departments regarding responsibilities for similar arrangements.

(b) The purpose of inter-agency coordination is to develop a services network which ensures availability of necessary services and maximum utilization of each agency's resources. The roles of each agency must be clear and relationships must be established which avoid duplication, fragmentation and gaps in services.

(c) Effective State level arrangements for ensuring coordination of child welfare programs with other agencies and programs that serve children and their families include:

(1) A unit or designated person responsible for coordination of child welfare services.

(2) Established arrangements for information exchange among agencies providing child welfare services and those providing other social services, e.g., AFDC, and Medicaid.

(3) Established polices and procedures for sharing information, where legally possible, on clients and families among referring agencies. Such policies must assure appropriate arrangments to assure confidentiality of information and safeguards for privacy as required under § 205.50.

(4) Written agreements regarding services responsibilities with State agencies serving children and their families, e.g., mental health, public health, juvenile justice.

(5) Assistance to local public social services agencies in developing cooperative agreements including written guidelines to assure:

(i) Provisions for inter-agency referrals.

(ii) Reports to referring agencies to confirm client contracts.

(iii) Annual review of agreements.

(iv) Joint funding of projects and joint staff development where appropriate

(6) Assistance to local agencies in developing and implementing agreements.

Section 1392.10 Staff Development

(a) The State agency should have a plan for ensuring that State and local child welfare personnel are trained to the maximum extent feasible. The plan should describe the State's staff development and training activities including orientation, in-service training and educational leave. States should make efforts to increase the number of staff provided educational leave for professional training and other activities to improve the level of staff capability until they can assure there are sufficient numbers of staff adequately prepared to carry out child welfare services functions and to maintain sound caseload practice ratios.

(b) State child welfare administrators and staff development specialists are ultimately responsible for development of programs that address the sepcific skills and knowledge needed by administrators, supervisors, case managers, specialists, direct service workers, volunteers and paraprofessional staff.

Effective statewide staff development programs require:

(1) Methods of identification of local agencies staff development and training needs.

(2) A person or unit responsible for coordination and provision of identified staff development needs.

(3) Utilization of title XX funds for training child welfare staff.

(4) Specialized management training programs for child welfare staff.

(5) Training for personnel in provider agencies.

(6) Assistance to local area colleges and universities in developing curricula for child welfare training programs.

(7) Educational leave and funding for workshops, seminars, special courses, professional conferences and meetings.

(8) Training programs for staff sensitivity to special clients and community cultural, ethnic and language considerations.

(9) Provision for purchase of professional journals and other related material for staff use.

(10) Assessment of staff development and training programs including:

(i) availability of training programs

(ii) number of staff attending

(iii) evaluation of staff satisfaction and program relevance, and impact on quality and outcome of service.

(c) Personnel management policies shall be designed and implemented to ensure effective and appropriate services to children and their families and shall include the following provisions:

(1) Allocation and deployment of personnel resources capable of rendering an immediate, full-time (twenty-four hour) response to time-critical needs of children and their families.

(2) Recruitment policies to provide ethnic, cultural and racial diversity appropriate to the nature of the client population, at all staff levels.

(3) Standards and systems to evaluate staff performance and ensure accountability for achieving service goals.

(4) Educational opportunities through structured agency programs to enable professional advancement for staff along the entire career ladder.

(5) Recruitment, selection and promotion policies in accordance with ojective criteria and established systems.

(6) Skilled and accessible supervision to support and direct activities of workers and to provide consultation upon their request, at a rate of one supervisor to five social workers.

(7) Long-range planning strategies to support program development and to determine staffing requirements based on assessment of target population needs and community resources.

(8) Opportunities for all staff to participate through established channels in development of procedures and in program planning in order to build a common purpose and common goals.

(9) Opportunities for professional staff to attend and participate in national and community meetings related to child welfare, and encouragement of communication and contacts with

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counterparts in the private child care sector.

(10) Empirical workload standards for all aspects of service for better workload management and staff projection.

(11) Employment of paraprofessionals and utilization of community volunteers under appropriate agency supervision.

(d) Long-range planning is necessary to determine staff development needs. Some significant factors to be analyzed in personnel projections are:

(1) Periodic and systematic needs assessment based on current and projected target population service needs, and current and projected resources.

(2) Service goals and priorities; service delivery standards.

(3) New knowledge, methods and theories associated with meeting the special needs of children, with implications for agency practice.

(4) Program development required to implement new legislation or new policy.

(5) Workload measurements and standards for each function or service.

(6) Professional qualifications of staff to meet standards proposed by the social work profession.

(7) Purchase of service availability.

(8) Agency setting (rural or urban).

Section 1392.11 Appeals, Fair Hearings and Grievances

(a) This requirement is intended to protect the rights of individuals to request a fair hearing to appeal:

(1) denial of or exclusion from the services to which they are entitled under the State plan;

(2) actions that negate the individual's rights of choice with respect to specific service programs; and

(3) actions to force involuntary participation in a service program.

(b) Agencies must have procedures for handling grievances on any matter raised by an individual or individuals and must make the procedures readily accessible to individuals.

(c) Agencies must assure staff and client understanding of distinctions between agency out-reach efforts to offer services and coercion of acceptance of services.

(d) The results of appeals hearings should be available to the State Advisory Committee so that the Committee is aware of the nature and frequency of recipient grievances and can advise and assist the agency when grievances about policies and procedures indicate the need for review and possible changes. This requirement to make the results appeals available to the Advisory Committee is limited to reports and results and does not include provision of actual case records, recipients names, or other confidential information.

Section 1392.40(a) Child Welfare Services Statewide

(a) As the foundation of a comprehensive plan of public child welfare services, every county or other political subdivision should have available a full range of services for children, youth and their families whose home conditions or individual needs require special attention. This requirement reinforces the purpose of the law to assist the States in establishing, extending and strengthening public child welfare services. Thus, the purpose of title IV–B can be realized through progressive, continuing and consistent expansion until the State is able to adequately meet the needs of children, youth and their families for child welfare services.

(b) Conformity with this requirement should lead to systematic development of all essential child welfare services throughout the State. These services should include:

(1) preventive or supportive services to strengthen intact families and when necessary to avoid the need for foster care;

(2) protective and rehabilitative services;

(3) foster care services, reunification and after care services and adoption services, including adoption subsidies.

These services should be coordinated and provided through a mix of public and voluntary agencies.

(c) This requirement calls for extending and strengthening child welfare services in one or more of the following three dimensions:

(1) reaching additional children in need of services,

(2) expanding the range of services provided, and

(3) improving the quality of services through additional trained child welfare personnel.

Section 1392.40(b)(1) Needs Assessment

(a) The State agency should develop a plan for periodic identification and assessment of needs, problems and resources relating to its provision of child welfare services. Needs assessment should be directed toward the total services program, not just to specific problems or special services.

(b) There should be a uniform assessment system throughout the State for defining needs and services to minimize program gaps and to avoid duplication of services. Needs assessment should produce clear definitions of populations at risk who are not receiving services as well as assess the adequacy of current services.

(c) Inability to meet currently identified needs should not deter the process of continuously assessing services needs.

(d) States' arrangements for identification and assessment of the need for child welfare services should meet the following criteria:

(1) Written procedures for assessment of the need for child welfare services;

(2) An individual or unit responsible for needs assessment;

(3) Criteria and procedures for a variety of methodologies to identify and assess needs for services, e.g., citizens survey, client services data, special studies and surveys;

(4) Schedule for periodic needs assessment;

(5) Arrangements to compare data among counties and regions;

(6) Methods for involving relevant community groups, e.g., services clients, advocate groups; and

(7) Arrangements to coordinate needs assessment studies with activities of other agencies and organizations.

Section 1392.40(b)(2) Services to Children in Their Own Homes and Foster Care

(a) *Services to Children in Their Own Homes:* The State agency should develop procedures and criteria to assure that the circumstances of children referred for child welfare services are assessed in order to develop an appropriate plan to strengthen, support and improve family functioning. Home-based supportive and supplementary services should be provided where the assessment indicates that the family could remain intact through the provision of such services. The specific supportive and supplementary services to be provided should be described in the individual case plan. The requirement for child welfare services to children in their own homes is intended to reinforce the conviction that the family is the first and best resource for the child. It emphasizes a major goal of child welfare services which is to preserve, strengthen and support family life and prevent family disruption and unnecessary removal of children from their homes. When the State or local agency provides home-based services directly or by purchase, it should:

(1) Assure that there are policies, practices and procedures that reflect the agency's commitment to providing services to strengthen and preserve the family and the child in the home.

(2) Assure that services are complete, comprehensive and intensive. They should include: casework or counseling; day care and respite care; homemaker services with a parent education component; family planning; legal services; services to unmarried parents; transportation; emergency shelter and funds. Services should be available in the amount and for the length of time needed.

(3) Assure that there are written guidelines defining the target population, determining when a child should remain at home, specifying the information needed to formulate a case plan, determining what services can and should be provided, and making agreements with other agencies for the provision of specified services.

(4) Assure that staff is sufficiently trained to assess when families can remain intact with the provision of services, be able to develop a case plan based on that assessment, and have the skills necessary to work with dysfunctional families.

(5) Assure that community support systems are developed such as ties with relatives, neighbors, community organizations, self-help groups and volunteers.

(6) Assure that there is a case managment system for coordination of services and for monitoring provision of services and client progress.

(b) *Provision of Foster Care:* (1) The requirement regarding foster care is intended to assure appropriate placement and adequate agency supervision and emphasizes the important of efforts to return children to their own homes or to develop an alternative permanent plan as early as possible. It emphasizes timely decision making as well as services in thr foster care process.

(2) When the State or local agency provides foster care directly or by purchase, it should:

(i) Assure that the foster family home group home or child care institution in which the child is placed is licensed by the State or has been verified by the State licensing staff as meeting the State standards for such licensing;

(ii) Assure that the placement is appropriate to the needs of the child, using criteria specified by the State which are based on standards recommended by the American Public Welfare Association (APWA) or the Child Welfare League of America (CWLA);

(iii) Assure that the child receives proper care in the placement using criteria specified by the State which are based on standards recommended by the APWA or CWLS;

(iv) Assure that the child and family will receive services to improve the conditions in the home from which the child was removed so that the child may be reunited with the family;

(v) Assure that where reunification services are inappropriate, the agency will place the child in the home of a relative, in an adoptive home, or, if necessary in planned long-term foster family care; and

(vi) Describe in the case plan how it plans to meet or is meeting the requirements of this section.

(3) When the State provides foster care services through purchase of service agreements, there should be written clarification of the responsibilities of agencies from which the State or local agency purchases services for foster care placement, including case supervision and case review specification of the responsibilities retained by the State or local agency. The State should assure that the responsibilities described in the agreement are met.

Section 1392.40(b)(3) Case Plans and Case Reviews

(a) *Case Plans:*

(1) The development of a case plan for a child and his family is an essential part of the process of child welfare service delivery. Without a plan, goals are difficult to define, and unplanned services may provide only a transient remedy to chronic problems. A case plan, developed jointly by the family and the agency, with decision making at critical points and periodic review, will provide the structure for achievement of short and long range goals, and an opportunity to assess the appropriateness of services and quality of care.

(2) The State agency should have clearly stated and promulgated policy (standards, practices and procedures) that all children receiving child welfare services must have a written plan that is developed in cooperation with the family. The State agency should have a method to monitor and assure compliance with this policy.

(3) A structured plan should be developed for each child who is to receive services within thirty days following the agency's decision to provide services. It should contain sufficient information to guide the delivery and monitoring of services, and to assess services outcomes. The case plan should summarize the conditions of the home, and analyze the behaviors and needs of the family and the child(ren), and specify the services required to rectify or resolve major problems.

(4) The following are considered essential components of a case plan in a goal-oriented child welfare program:

(i) A written plan developed in cooperation with the family, for each child and family provided child welfare services;

(ii) An assessment of the circumstances which necessitate the provision of child welfare services;

(iii) The actions to be taken to resolve the identified problems within a specified period of time;

(iv) The services outcomes to be achieved; and

(v) A specific permanent goal for the child.

(5) The agency should develop and implement policies and procedures to ensure that the planned services are provided to achieve the goals established for the child and his or her family and to ensure that all possibilities for arranging a suitable permanent plan, when appropriate, are explored and acted upon expeditiously.

(b) *Case Plan Review:*

(1) The case plan should be reviewed at least semiannually to assure its continued appropriateness, to review the delivery of the services specified in the case plan, and to revise when necessary, according to its continuing relevance to the needs of the child. If the child is in foster care, the review should access the continued necessity of placement outside the home and the appropriateness of the particular placement, using criteria specified by the State based on standards such as those developed by the Children's Bureau/American Public Welfare Association (APWA), the Child Welfare League of America (CWLA), or other recognized standard setting agencies.

(2) The review should include participation by State or local agency staff not directly delivering services to the child and family. This may include the first level supervisor or other reviewer(s) designated by the State or local agency.

(3) Another method of case review is the use of a team of agency personnel with direct responsibility for case action, other administrative staff, and consultants to the agency who are knowledgeable in the practice of child welfare. Other methods of review may involve the courts and citizen advocates. If information on the placements of children in foster care is to be shared with citizen or court review groups, the State's intention to use such a review group should be described in the State Plan and appropriate measures instituted to ensure safeguarding of confidential information.

(4) Case reviews serve as a casework support and an administrative control on all major decisions and actions in a case, ensuring that a client's needs are met appropriately and in an manner consistent with agency policies and standards. They can also be a valuable teaching device, used to develop and improve the skills of all service delivery personnel. Through family involvement in the planning process, case reviews also provide a vehicle for exercising the rights and responsibilities of all parties to participate in the planning and achievement of mutual goals.

Section 1392.40(b)(4) The Availability of Child Welfare Services

(a) The only test of eligibility for child welfare services is the need of the child and his family for these services. Thus, child welfare services are to be available to all children without regard to financial need, legal residence, social status, race, religion or national origin.

Children in intact families, as well as those in disrupted families, may have a range of needs requiring the services of child welfare agencies. Physical, mental and emotional handicaps, neglect and abuse, dysfunctioning family relationships, poor school adjustment, alcohol and drug abuse and unmarried adolescent parents are major problems which transcend financial and social status, legal residence, race or religion.

(b) Provision of services to all groups in need of them may require the development of new types and combinations of services, such as outreach activities, comprehensive child welfare services in a single location, neighborhood centers, agency or multi-agency teams, client self-help groups, and staff training for services to special or target groups.

Section 1392.47 Implementation; Local Agencies and Service Contractors

(a) The State agency has continuing responsibility to assure that local agencies and service contractors are meeting service responsibilities appropriately and effectively and in accordance with the State Plan. Assisting and monitoring local agencies is not a new responsibility to State agencies, but the scope and nature of the services and accountability for results under the regulation requires careful assessment of the adequacy of current methods and staffing for this activity.

(b) State agencies should assist and monitor local agencies through:

(1) Promulgation and dissemination of standards, guidelines and licensing criteria for child welfare programs.

(2) Staff development and training for local agencies and offices providing child welfare services.

(3) Establishment of appropriate personnel policies and procedures for child welfare staff.

(4) Utilization of data from management information systems, monitoring and evaluation studies to assist in correction of deficiencies and improving child welfare programs.

(5) Determination of compliance with criteria for using licensed contractors.

Section 1392.56 Day Care Services

(a) This provision pertains to all day care services supported by title IV–B funding and must meet the requirements described in the Assurances. Specific Federal regulations and guidance pertaining to provision of day care can be found in 45 CFR, Part 71.

(b) Day Care refers to a wide variety of organized care and supervision that supplements parental care and guidance for a part of the day, in or outside the home. Responsibility for such supplementary care is delegated by parents and generally provided in their absence. The home and family remain the central focus of the child's life, and the parent(s) retain(s) primary responsibility for rearing their child(ren).

(c) Day Care is an integral part of a system of supportive and supplemental child welfare services to children and families and, as such, should receive increased emphasis in planning. Day Care services should be available as a respite for the child(ren) of parents experiencing extreme stress: a resource for care of the child(ren) while the parent(s) is relieved temporarily of their care. Such child care services are clearly supplemental in nature and generally should be one component of a more complete service network to support and strengthen families especially during times of crisis.

(d) Day Care, like homemaker services, should be viewed as one of the service options available to prevent out-of-home placement of children. Before decisions are made to remove children from their homes, consideration should be given to day care as an alternative supportive service.

Section 1392.92 Child Abuse and Neglect

(a) Child protective services are vital social services for children who are neglected, abused or exploited and whose conditions are such that community intervention is necessary.

(b) Extensive technical assistance, publications, training and other forms of assistance are available on this subject from the Child Abuse and Neglect Resource Centers, as well as from the regional and central office staff of ACYF. Detailed guidance is available in the draft *Federal Standards for Child Abuse and Neglect Prevention and Treatment Programs and Projects* and the User Manual Series. However, of the many significant issues of concern in delivering child protective services, the following six areas have been identified as especially critical:

(1) There should be clear designation of roles and responsibilities for receipt of reports, investigation and assessment, and service delivery in child abuse and neglect cases.

(2) Prompt investigation is crucial to protect the health and welfare of the abused or negected child. The National Center on Child Abuse and Neglect (NCCAN) recommends immediate investigation of crisis or emergency situations and investigation within 24 hours of all reports.

(3) Following resolution of any emergency situation, the worker should engage in a more detailed and comprehensive assessment of the family's needs and strengths. During this process the worker, with family members and relevant service providers (e.g., schools, hospitals, mental health agencies) should identify the elements of a case treatment plan for the family which describes the changes required to alleviate the family's problem(s).

(4) Effective child protective services require close coordination with courts, law enforcement, health and medical systems, schools, mental health agencies and other service providers, for identification, and follow-up in cases of child abuse and neglect.

(5) The need for more staff development and training opportunities for child welfare staff has been repeatedly emphasized. This need for basic child welfare skills is particularly important for child protective service workers, who also need skills in investigation, case assessment and court presentation.

(6) Policies and procedures which will assure that protective service staff will coordinate their efforts with those of placement and licensing staff, when abuse is alleged to have occurred in licensed facilities.

Section 205.70 Availability of Agency Program Manuals

There should be public involvement in planning child welfare services in the States. State and local agencies should maintain and make available program manuals and other policy issuances, including the State Plan. To make child welfare services as effective as possible, the State should seek comments and recommendations for individuals and groups, from the general public and from affected target populations. The State agency will gain more public involvement and support for its programs through making materials available. The availability of program manuals and policy issuances is a minimum requirement for informing the public about the State's child welfare program.

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Part VI

Department of Commerce

Office of the Secretary

Federal Interaction With Voluntary Standards Bodies; Procedures

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 19

Federal Interaction With Voluntary Standards Bodies; Procedures

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation, Commerce Department.

ACTION: Final procedures.

SUMMARY: Under the provisions of Circular A–119 issued by the Office of Management and Budget on January 17, 1980, entitled, "Federal Participation in the Development and Use of Voluntary Standards," the Department on June 2, 1980, proposed procedures required by the Circular to implement its policy relating to Federal agency participation in and support of voluntary standards organizations. The Secretary requested comments on the proposed procedures for listing and delisting voluntary standards bodies and their standards-developing groups and on the proposed procedures for a voluntary dispute resolution service for the rapid handling of procedural complaints by interested parties against voluntary standards bodies listed by the Department.

Some 165 comments were received and considered by the Department. After carefully analyzing these comments, and after further consideration of the proposed procedures, the Department has made changes in the proposed procedures and herein publishes the final procedures under Part 19 of the Code of Federal Regulations.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–3221; or Mr. Donald R. Mackay, Office of Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4562.

SUPPLEMENTARY INFORMATION: In the matter of Implementation of Federal Voluntary Standards Policy; Procedures for Listing Voluntary Standards Bodies Eligible for Federal Agency Support and Participation; Procedures for a Department Sponsored Voluntary Dispute Resolution Service for Procedural Complaints Against Listed Voluntary Standards Bodies.

Policy

The OMB Circular emphasizes Federal policy of relying on voluntary standards with respect to Federal procurement whenever feasible and consistent with law and regulation. The OMB Circular establishes a policy encouraging the participation of Federal agencies and their representatives in voluntary standards bodies which conduct their standards activities in accordance with specified due process and other criteria, and which are listed by the Department of Commerce after certifying that they comply with all of the due process and other criteria established in the Circular. The Circular also facilitates the coordination of Federal agency participation in voluntary standards activities so that the most effective use can be made of Federal resources.

The Department's final procedures in Subpart A of this Part 19 emphasize the basic philosophy expressed in the Circular that voluntary standards bodies desiring Federal support and participation will self-certify that they conform to the requirements established herein. These final procedures also have been modified to provide the maximum amount of flexibility for individual voluntary standards bodies to meet the requirements for due process and other criteria established in the Circular. The Department has been careful not to establish any requirements that were not authorized by the provisions of Circular A–119.

Further, it is not the intent of the Department to initiate any investigations as to the applicants' compliance with the requirements for listing. Consistent with the Department's intention to rely entirely on the self-certification provisions of the listing requirements whereby applicants will be required to certify publicly that they have met the requirements, the Department ordinarily will not question the veracity of any such self-certification statement.

The Department wishes to emphasize the fact that these procedures apply only to voluntary standards bodies that wish to obtain Federal agency support and participation in their voluntary standards activities. Voluntary standards organizations, having no interest in or involvement with Federal agencies in their development of voluntary standards, are not required to follow the procedural requirements for listing. Further, these procedures do not have to be followed by voluntary standards organizations in order to have their standards considered for use by Federal agencies.

Background

The Department of Commerce, in response to the directives contained in OMB Circular A–119, "Federal Participation in the Development and Use of Voluntary Standards," January 17, 1980, published proposed procedures for (1) the listing and delisting of voluntary standards bodies eligible for Federal agency support and participation (Subpart A of Part 19), and (2) a Department-sponsored voluntary dispute resolution service for procedural complaints against listed voluntary standards bodies (Subpart B of Part 19). These proposed procedures were published in the **Federal Register** (Vol. 45, 107, pp. 37374–37383) on June 2, 1980.

The Department originally provided a 60-day period for public comment. However, in response to several requests, the Department on July 10, 1980 extended the comment period from August 1, 1980 until September 2, 1980. Additionally, the Department in response to several requests held a public hearing on August 27, 1980, to allow interested parties to present oral arguments concernig the published procedures. The Department provided a 30-day period following the close of comments on September 2, 1980, for interested parties to review the comments filed and to submit statements of rebuttal. The closing date for receipt of rebuttal statements was October 2, 1980.

The Department received 107 written statements in response to the publication of the proposed procedures. Thirteen additional written statements were filed, as required, prior to the August 27, 1980, public hearing held by the Department, and thirteen oral presentations were made at that hearing. In addition, the Department has considered letters transmitted to the Department by Senators and Representatives on behalf of their constituents concerning the proposed procedures the same as if they were prepared statements. Thirty-three such letters have been included in the review and analysis of the comments, as well as two letters received directly from Congressional offices. The vast majority of the comments filed addressed the proposed procedures for listing and delisting voluntary standards bodies.

The written comments are part of the public record which is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The comments filed in response to the publication of the proposed procedures (15 CFR Part 19) in the **Federal Register** on June 2, 1980, have been carefully reviewed and evaluated. A "Summary and Analysis of Comments" has been prepared by the Department and is also available for inspection and copying at the Department's Central Reference and Record Inspection Facility mentioned above.

Pending formal revision of Department Organization Order 10-1, which delegates various authorities of the Secretary of Commerce to the Assistant Secretary for Productivity, Technology and Innovation, the Secretary on December 22, 1980, approved an interim delegation of authority to the Assistant Secretary as follows:

> Exercise the function of the Secretary of Commerce concerning Federal participation in the Development and Use of Voluntary Standards under Circular A-119 of the Office of Management and Budget (45 FR 4326-4329, Jan. 21, 1980) except for the function of submitting the annual report required by section 8 of the Circular.

Principal Concerns Expressed in Comments on Subpart A of Proposed Part 19 and the Responses of the Department to Those Concerns

1. Increased Costs

The single most common reason stated in comments opposing the implementation of the procedures proposed by the Department concerned the increased costs of developing voluntary standards under the due process and other basic criteria established by the OMB Circular. Many of the comments suggested that strict compliance with the requirements for adequate public notice of all standards meetings and other standards actions and adequate public notice of all standards actions would be very expensive. Some statements addressed the increased costs associated with the requirement for ensuring the opportunity for all interested parties to attend the meetings associated with standards development activities.

The Department has carefully considered each of these expressed concerns and has addressed them not only in the "Summary and Analysis of Comments" (referenced in the "Background Information" section above) but has provided a discussion of these concerns below under items numbered 16, 17 and 18. The Department believes that the additional costs of meeting the due process requirements established in these procedures will not significantly increase the costs of developing voluntary standards, as evidenced by the fact that the major voluntary standards bodies presently conform to most of the procedural requirements. Further, the Department firmly believes that the potential additional costs to other organizations developing voluntary standards will be outweighed by the public benefits to be derived from the standards development process as it may be modified by the implementation of these procedures.

2. Potential Antitrust Implications

Several statements expressed concerns about the potential antitrust implications of the procedures if the implementation of the procedures significantly reduced the number of organizations developing voluntary standards. Some statements suggested that the Department's procedures would force many of the smaller organizations out of the standards business, allowing the few larger organizations to become even larger.

The Department recognizes that there exists a possibility that some small organizations, and particularly trade associations, may transfer their standards-development activities to nationally recognized standards organizations rather than attempt to comply with requirements established in the procedures. The Department believes that the potential for antitrust problems arising from voluntary standards which are developed (i.e., restraint of trade, anti-competitive effects, discrimination against small manufacturers, etc.), will decrease rather than increase as a result of the implementation of the procedural requirements. This antitrust advantage is believed to outweigh any disadvantages which might result from any impact of the due process and other criteria upon the total number of voluntary standards organizations.

3. Potential Product Liability Problems

Several statements expressed the concern that the imposition of a requirement that the standards-development process be open to all interested parties would likely result in product liability problems due to the establishment of inferior standards and thus, inferior and perhaps hazardous products. These statements generally came from trade associations representing manufacturers of specific types of products.

The Department is not convinced and has seen no evidence to date to support the premise that opening the standards development process to interested persons will result in the development of inferior standards and inferior products. on the contrary, the experiences of several large consensus organizations in developing voluntary standards for consumer products have not supported this theory.

4. Preservation of the Canvass Method

Numerous statements expressed serious concern about the possible inability of standards organizations to utilize the so-called "canvass method" of the American National Standards Institute (ANSI) under the provisions of the procedures. Much of this concern was expressed about the provision in the Department's proposed procedures which was interpreted to require voluntary standards bodies to conduct meetings. This was a significant issue because many organizations develop standards through the canvass method without conducting formal meetings. Additional concern was expressed about the need to conduct "open" meetings.

The Department recognizes its error in translating the provision of the OMB Circular "that meetings are open" into the proposed requirement that voluntary standards bodies "shall conduct open standards meetings." The Department has deleted from these final procedures any requirement to hold meetings. (This matter is discussed in further detail under item number 18). The Department had no intent, and has no intent, of discriminating against the canvass method or any other standards development procedure that meets the due process criteria established in the OMB Circular.

5. Need for Future Public Hearing

One statement was made during the public hearing conducted by the Department on August 27, 1980 which recommended that the Department hold another public hearing within a year or two after the promulgation of the procedures implementing the OMB Circular to evaluate the operation of the program and the problems that may be introduced by the final procedures.

The Department agrees with this recommendation and hereby declares its intent to hold a public hearing on the implementation of these procedures within two years of their effective date.

6. Special Exceptions

Several statements expressed serious concern about the need to include in the procedures a provision which would allow the Secretary of Commerce to grant special exceptions to Federal agencies to allow them to support and participate in specific standards-development activities with unlisted voluntary standards bodies or with unlisted standards-developing groups. These statements expressed the concern that it might be in the public interest to authorize such special exceptions.

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The Department acknowledges the possibility that it may be in the public interest to grant, in special cases, exceptions to the general policy, but notes that the Circular provides no authority to the Secretary to grant such exceptions.

7. Acceptability of Voluntary Standards

Several statements expressed a concern that the proposed procedures did not point out that, for Federal procurement purposes, voluntary standards could be utilized by Federal agencies regardless of the fact that they were developed by organizations that were not listed by the Department, or regardless of the fact that they were developed outside of the due process requirements established by the Circular.

The Department acknowledges this concern and has included statements in §§ 19.1 and 19.2 of Subpart A of these final procedures to clearly express the policy established within the Circular that Federal agencies are to rely on voluntary standards regardless of the procedures utilized in developing those standards.

8. Inclusion of Activities Related to International Standards

Many statements expressed concern about the Department's proposal to subject to the provisions of the procedures the activities of technical advisory groups (TAGs) established for the purpose of developing national positions relating to international standards activities. This proposal, in § 19.3, also explained that the procedures did not apply to "direct participation in multinational organizations, including regional and international organizations, which develop and issue international standards, in accordance with Section 6 of Circular A–119."

The Department, upon legal review, agrees that the above-cited exception for Federal agency participation in multinational organizations should also apply to the activities relating to preparation for participation in international standards activities. Therefore, the Department has revised § 19.3 of Subpart A to delete any reference to participation of Federal agencies in the development of U.S. positions relating to international standards activities. Nevertheless, the Department encourages the private sector to apply the due process criteria to the extent feasible to the development of U.S. positions regarding international standards.

9. Exclusion of Certain "Building Code Organizations"

Many comments expressed concerns about the provision in § 19.3, "Coverage", that excluded building code organizations from the requirments of the procedures if they met one of two specific conditions. The first condition required the voting membership of such private organization to be composed entirely of government officials. The second condition related to the referencing or adoption of voluntary standards by such organizations rather than to the development of such standards.

The Department has concluded that it inadvertently established, in this provision, an exclusion for "non-governmental" organizations. The provisions contained in the OMB Circular clearly were established to pertain to non-governmental bodies, (regardless of the membership criteria) when these bodies develop, establish or coordinate voluntary standards. Therefore, the Department, upon reconsideration of this issue, has deleted from § 19.3, of Subpart A, the parenthetical exclusion for certain building code organizations.

10. Format

One statement suggested that the format of the final procedures could be improved by rearranging and consolidating the requirements for listing and the requirements for the application for listing.

The Department has decided to rearrange the contents of these final procedures to provide a format which will be easier to follow and which will be more convenient to use. The revised format establishes: (1) the procedures for listing voluntary standards bodies and their standards-developing groups in Subpart A; (2) the procedures for delisting voluntary-standards bodies and their standards-developing groups in Subpart B; (3) the due process and other basic criteria in Subpart C; (4) the categories for listing voluntary standards bodies and their standards-developing groups in Subpart D; (5) the definitions in Subpart E; and (6) the procedures for a voluntary dispute resolution service in Subpart F (formerly Subpart B of proposed Part 19).

11. Definition of "Standards Developing Groups"

Several statements expressed concerns about the Department's intent in applying the term "standards-developing groups" in subsection 19.4(e) to the various organizational levels and units (i.e., subcommittees, task groups, ad-hoc task forces, etc.) of a voluntary standards body.

The Department's intent in the proposed procedures was to apply the Circular's due process requirements only to the voluntary standards bodies and their standards-developing groups, defined in the Circular as the principal subdivisions of the bodies. The Department interprets the term "principal subdivisions" as those organizational units immediately below the parent body. The Department did not intend to require conformance to the procedural criteria by all of a body's organizational units (subgroups, task forces, etc.).

However, the requirements established in the OMB Circular are applicable to the standards development *activities* of voluntary standards bodies rather than to specific organizational levels. Nevertheless, as a practical matter the Department believes that the procedural requirements for listing voluntary standards bodies would have to apply to organizational units at specific levels of a voluntary standards body rather than to standards-development activities, *per se*. Deeming it impractical to subject all of a voluntary standards body's organizational levels to all of the due process requirements, the Department instead has applied those requirements only to the voluntary standards body, to the standards-developing groups of that body, and to the organizational units one level below the standards-developing groups. These are the significant decisional levels within most voluntary standards bodies and the application of the due process criteria to these levels will assure that significant decisions are made at those levels. The Department has implemented this decision in the revision of § 19.6(b)(1), (2), (3), (4), (5), (7) and (11), as contained in § 19.24(a)(1), (2), (3), (4), (5), (7) and (11) of Subpart C of these final procedures.

12. Time to Meet Requirements

Several comments expressed serious concern that insufficient time was provided between the publication of the final procedures and the date that Federal participation in voluntary standards activities would be restricted to those organizations that are listed by the Department under these procedures. Concerns were expressed that more time was required by voluntary standards bodies to modify their procedures to conform to the due process requirements. Several comments suggested different approaches to achieving compliance with these requirements, including "provisional listings" and "temporary listings" (discussed below).

The Department had provided in the proposed procedures an eight-month period between the publication of the final procedures and the imposition of the restriction on Federal participation with voluntary standards bodies. This was expressed in terms of a 90-day period following the publication of the first notice of listed standards bodies which was planned to occur within five months after publication of these final procedures. Upon reconsideration, the Department recognizes the possible need to provide more time to allow voluntary standards bodies to modify (as may be necessary) their existing procedures and therefore has extended, in § 19.5 of Subpart A, the 90-day period to six months. This extension of time will effectively delay the imposition of the listing as a prerequisite to Federal participation in voluntary standards activities until eleven months after the publication of these final procedures.

In addition, the Department has simplified the requirements for applying for listing by accepting statements, which will be available publicly, from voluntary standards bodies certifying that they conduct their standards activities entirely in accordance with the applicable due process and other basic criteria set forth in Section 6c of the OMB Circular as interpreted in Subpart C below.

13. Provisional Listings

Several statements recommended the use of "provisional listings" or "temporary listings" of voluntary standards bodies to allow the participation of Federal agencies in voluntary standards activities before the listing requirements were fully implemented.

The Department recognizes that the OMB Circular does not provide any authority for granting either "temporary listings" or "provisional listings." The Department believes that the extension of the time period (discussed above in item 12) for imposing the restrictions on Federal participation to listed voluntary standards bodies will address many of the concerns expressed about the need for "temporary listings" and "provisional listings."

14. Categories A and B

Several statements expressed concern about the two categories proposed by the Department for voluntary standards bodies seeking Federal participation and support. A "Category A Listing" had been proposed for voluntary standards bodies having all of their standards-developing groups in conformance with the requirements of the due process criteria. A "Category B Listing" had been proposed for voluntary standards bodies that had some, but not all, of their standards-developing groups in conformance with the due process requirements. It was the Department's intent to restrict Federal participation in standards activities, in the case of voluntary standards bodies which did not qualify for a "Category A Listing", to those standards-developing groups of such bodies that fully complied with the listing requirements.

The Department recognizes the problems that some organizations (particularly trade associations and some technical societies and professional organizations) will have in making the changes necessary so that those bodies which wish to do so could fully comply with the listing requirements. The Department realizes that without a "Category B Listing" all standards organizations would have to subject all of their standards-developing groups to the listing requirements, even those not interested in Federal support and participation.

The Department believes that the spirit and intent of the Circular call for full conformance by all standards-developing groups with all of the listing requirements of the Circular, but is of the view that standards-developing organizations wishing to have all of their standards groups listed should be given a reasonable opportunity to make the changes necessary to their procedures which will make those groups eligible for listing. Accordingly, there has been provided in § 19.34(a)(2) of Subpart D of the final procedures, a three year period for the use of "Category B Listings." At the end of that period, Category B listings will be dropped, and voluntary standards developing bodies/groups in Category B will no longer be listed by the Department unless they qualify for a Category A listing. Additionally the procedures have been revised to state clearly that Federal agencies may provide support to and participate in the non-standards related activities of such bodies, including activities of their Boards of Directors (or other similar governing or advisory units).

15. Category C Listing

Several statements supported the need for a third category to include voluntary standard bodies that function as "coordinators", rather than as "developers" of voluntary standards.

In view of the provision in the Circular that voluntary standards bodies which coordinate the development of voluntary standards are eligible for Federal support and participation, the Department agrees with the need to establish a third type of listing for voluntary standards bodies that do not develop standards but function as coordinators of voluntary standards. Thus, the final procedures, in § 19.34 of Subpart D, contain such a provision in a "Category C Listing." This new type of listing does not preclude any voluntary standards body from applying for listing as both a standards developer (under a Category A or B listing) and a standards coordinator (under a Category C listing).

16. Notice of Meetings

Many comments were received which expressed concern about the proposed requirements in § 19.6(b)(1) pertaining to public notice of standards meetings and other standards activities. Numerous comments expressed concern that such notice requirements would be burdensome and prohibitively costly. Some of the comments seemed to have been based on very stringent interpretations of the requirements for "adequate notice." Several comments questioned the organizational level within a standards body to which the meeting notice applied.

The Department, in attempting to provide maximum flexibility to voluntary standards bodies in conforming with the due process requirements, had chosen not to provide unduly restrictive language regarding compliance with those requirements. However, the question concerning the applicability of the notice requirement is one that the Department believes needs clarification. In an effort to establish a reasonable requirement, the Department has provided in § 19.24(a)(1) of Subpart C that the notice requirement will apply to meetings of voluntary standards bodies, to meetings of standards-developing groups (i.e., organizational units immediately below the parent body) and to meetings of organizational units one level below the standards-developing groups.

The Department received several suggestions concerning the development of a system for periodically publishing a list of all standards meetings requiring notice, in a manner which will comply with the requirements for adequate notice in an appropriate and timely fashion through media selected to reach persons reasonably expected to have an interest in the subject of the meetings. One of these suggestions involved the commercial publication of a list of all standards meetings and standards activities at a cost to voluntary standards bodies which appears to be reasonable. The Department wishes to encourage such a commercial venture as being in the public interest in helping to meet a requirement of the Circular at minimal expense to the participants.

17. Notice of Standards Actions

Many comments were provided expressing concern about the proposed public notice requirements in § 19.6(b)(2) pertaining to standards actions, including the initiation, final review, adoption or approval of all new and revised voluntary standards and the proposed withdrawal of voluntary standards. These comments reflected special concern about applying the notice requirements to the initiation of voluntary standards. This concern is of particular importance because such actions are frequently taken by suborganizational units of a voluntary standards body without the knowledge or the approval of the body.

The Department recognizes the problems associated with meeting the due notice requirements pertaining to standards initiation actions, and therefore has included in § 19.42(a)(12) of Subpart E a definition for the "formal initiation of a voluntary standard" which pertains to decisions of a voluntary standards body, a standards-developing group, and organizational units one level below the standards-developing group, to initiate the development of voluntary standards. The Department believes that the incorporation of this requirement is reasonable and will not be unduly burdensome to voluntary standards bodies. Subsection 19.24(a)(2) of Subpart C has been revised to include the reference to "formal initiation."

18. Meetings of Voluntary Standards Bodies

Many comments expressed serious concern about the provisions the Department proposed in § 19.6(b)(3) pertaining to meetings of voluntary standards bodies and the requirements for "open" meetings. Numerous comments supported the canvass method of developing voluntary consensus standards used by the American National Standards Institute (ANSI) which does not generally require the holding of meetings. Several comments expressed opposition to the provision that all meetings of voluntary standards bodies be open and several comments questioned whether the open meeting requirement pertained to all levels of standards-development organizations.

The Department, in interpreting subsection 6c(3) of the OMB Circular ("that meetings are open"), inaccurately proposed that "voluntary standards bodies shall conduct open meetings." The Department's language has been interpreted by many commentators as requiring voluntary standards bodies to conduct meetings, even those organizations utilizing the ANSI canvass method of standards development and which may not have a need or desire to hold meetings. The Department recognizes this problem and has revised the wording of proposed § 19.6(b)(3) in § 19.24(a)(3) of Subpart C to indicate that meetings are not, *per se*, required to be held.

The Department also recognizes that it would be extremely burdensome to many voluntary standards bodies, particularly trade associations and other organizations involving specific interest membership, which are not primarily voluntary standards development organizations, to meet the requirements for open meetings and to insure the opportunity for attendance at these meetings to interested parties. Therefore, the Department has provided in § 19.24(a)(3) of Subpart C that if meetings requiring notice under the provisions of § 19.24(a)(1) of Subpart C are held, they will be open, and opportunities will be provided for interested parties to attend such meetings. This provision thus requires that meetings relating to standards development activities held by voluntary standards bodies, standards-developing groups, and organizational units that are one level below standards-developing groups, to be open meetings.

19. Records

Many comments were received which expressed concern about the requirements proposed by the Department pertaining to records and record-keeping. Many of these concerns were directed to the provisions proposed for accessibility of these records to all interested persons.

The Department recognizes the potential burden that the proposed record-keeping provisions might place on voluntary standards bodies and has therefore revised § 19.6(b)(7) to include in § 19.24(a)(7) of Subpart C provisions for accessibility of records that are similar to those provisions applying to Federal records under the Freedom of Information Act.

20. Periodic Review of Procedures

Numerous comments expressed opposition to the provision in the Department's proposed procedures that would have subjected the standards development procedures of voluntary standards bodies to a periodic review similar to that required by the OMB Circular for the review of voluntary standards.

The Department admittedly exceeded the provisions of the Circular and therefore has revised § 19.6(b)(10) in § 19.24(a)(10) of Subpart C to delete the requirement for periodic review of the standards development procedures of voluntary standards bodies.

Principal Concern Expressed in the Comments on Subpart B of Proposed Part 19 and the Response of the Department

Processing of Complaints Under the Voluntary Dispute Resolution Service

Several comments expressed concern about the Department's reference in § 19.27(c) to the submission of complaints having potential legal implications to the Federal Trade Commission and the Department of Justice. One comment objected specifically to the implication that the Department would "police" the activities of voluntary standards bodies.

The Department, in proposing the procedures, had no intent whatsoever to "police" the activities of voluntary standards bodies or to enlist the services of the Federal Trade Commission or the Department of Justice in any such activities. The Department has therefore deleted from § 19.27(c) (now § 19.57(c) of Subpart F) the reference to both the Federal Trade Commission and the Department of Justice.

Other Information

The Department has also made numerous other changes in the proposed procedures to accommodate meritorious suggestions and recommendations contained in the statements filed with the Department following the publication of the proposed procedures on June 2, 1980. The Department has also made editorial and other changes in these final procedures during the internal deliberations that preceded the publication of these final procedures.

Changes have been made in the following sections and subsections of the proposed Part 19–:

19.1(b), 19.2, 19.3, 19.4(b), 19.4(c), 19.4(d), 19.4(h), 19.4(i), 19.5, 19.6(a), 19.6(a)(1), 19.6(a)(2), 19.6(a)(3), 19.6(b)(1), 19.6(b)(2), 19.6(b)(3), 19.6(b)(4), 19.6(b)(5), 19.6(b)(6), 19.6(b)(7), 19.6(b)(10), 19.6(c), 19.6(e), 19.7(a), 19.7(b)(1), 19.7(b)(2), 19.7(b)(3), 19.7(b)(4), 19.7(b)(5), 19.7(c), 19.7(e), 19.8(a), 19.8(c), 19.8(d), 19.8(e), 19.8(f), 19.8(i), 19.9, 19.10, 19.21(b), 19.23(e), 19.23(f), 19.23(m), 19.26(a), 19.27(a), 19.27(c), 19.30(d), 19.30(f), and 19.30(g). Section 19.32 has been deleted.

Note.—For convenience in comparing the contents of the final procedures with the contents of the proposed procedures, a "Derivation Table" has been provided at the end of this notice.

Effective Date: February 5, 1981.

Issued: December 31, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

Title 15, Subtitle A, of the Code of Federal Regulations is amended by adding a new Part 19 to read as follows:

PART 19—FEDERAL INTERACTION WITH VOLUNTARY STANDARDS BODIES

Subpart A—Procedures for Listing Voluntary Standards Bodies and Their Standards-Developing Groups

Sec.
19.1 Purpose.
19.2 Goal of procedures.
19.3 Coverage.
19.4 Definitions.
19.5 Effective date.
19.6 Listing requirements.
19.7 Voluntary termination of listing.
19.8 Reapplication.
19.9–19.10 [Reserved]

Subpart B—Procedures for Delisting Voluntary Standards Bodies and Their Standards-Developing Groups

19.11 Purpose.
19.12 Coverage and effective date.
19.13 Definitions.
19.14 Delisting process.
19.15–19.20 [Reserved]

Subpart C—Due Process and Other Basic Criteria

19.21 Purpose.
19.22 Coverage and effective date.
19.23 Definitions.
19.24 Due process and other basic criteria.
19.25–19.30 [Reserved]

Subpart D—Categories for the Listing of Voluntary Standards Bodies and Their Standards-Developing Groups

19.31 Purpose.
19.32 Coverage and effective date.
19.33 Definitions.
19.34 Categories for being listed.
19.35–19.40 [Reserved]

Subpart E—Definitions

19.41 Scope.
19.42 Definitions.
19.43–19.50 [Reserved]

Subpart F—Procedures for a Voluntary Dispute Resolution Service for the Rapid Handling of Procedural Complaints by Interested Parties Against Voluntary Standards Bodies Listed by the Department of Commerce

19.51 Purpose.
19.52 Objective of procedures.
19.53 Definitions.
19.54 Precondition to submitting complaint.
19.55 Limitation.
19.56 Submitting a complaint.
19.57 Action upon receipt of complaint.
Sec.
19.58 Responsibilities of complainant and respondent if a complaint is accepted by the Department.
19.59 Investigation/Conciliation.
19.60 Mediation.
19.61 Publication and records.
19.62–19.70 [Reserved]

Authority: Section 7 of the Office of Management and Budget Circular A-119, issued pursuant to Section 6 of Pub. L. 93-400 (41 U.S.C. 405).

Subpart A—Procedures for Listing Voluntary Standards Bodies and Their Standards-Developing Groups

§ 19.1 Purpose.

(a) The purpose of this subpart is to develop and implement the procedures for listing voluntary standards bodies and their standards-developing groups as required by Section 7a of the Office of Management and Budget Circular A-119 of January 17, 1980, entitled, "Federal Participation in the Development and Use of Voluntary Standards" (45 FR 4326, January 21, 1980). To be listed, voluntary standards bodies must certify adherence to certain due process and other basic criteria. These criteria are set forth in Section 6c of Circular A-119, and are interpreted in Subpart C below.

(b) It is not a purpose of this subpart to restrict agencies, in any way, from adopting and using voluntary standards from any source, whether or not that source is listed by the Secretary of Commerce under the procedures of this subpart.

(c) Nothing in these procedures shall be used or interpreted to provide any party with an opportunity to unreasonably delay, inhibit, or otherwise interfere with the normal and lawful process of voluntary standardization, or any action available under the law with respect to any matter involving the establishment or use of voluntary standards.

§ 19.2 Goal of procedures.

In accordance with OMB Circular A-119, the goal of these procedures is to promote the development of voluntary standards that are responsive to National needs as well as to the needs of the several Federal agencies thereby providing opportunities for reducing government costs and increasing government efficiency through the adoption and use of those standards by the Federal government. (The OMB Circular requires Federal agencies to give preference to voluntary standards in Federal procurement that will serve the agencies' purposes and are consistent with applicable laws and regulations, regardless of whether such standards were developed in accordance with the due process criteria described in Section 6c of the Circular.)

§ 19.3 Coverage.

As specified in Section 3 of Circular A-119, the procedures of this subpart apply to all executive agency participation in U.S. domestic voluntary standards activities. The procedures do not apply to participation in multinational organizations, including regional and international organizations, which develop and issue international standards, in accordance with Section 6 of Circular A-119.

§ 19.4 Definitions.

The terms used in this subpart are defined in Subpart E below.

§ 19.5 Effective date.

This subpart shall become effective thirty (30) days after the date of publication of the final procedures in the **Federal Register.** The Secretary will publish the first **Federal Register** notice of listed bodies and their listed groups within approximately four months after the effective date of this subpart. Federal agencies will not participate in or otherwise support (as defined in § 19.42(a)(8) of Subpart E below) the standards activities of any voluntary standards body or standards-developing group which is not listed (unless such participation is otherwise specifically mandated by law), beginning one hundred and eighty (180) days after the Secretary publishes the first **Federal Register** notice which identifies listed voluntary standards bodies and their listed standards-developing groups, and as prescribed by Section 7b(2)(a) of Circular A-119. A voluntary standards body which submits its request for certification within ninety (90) days immediately following the effective date of these procedures will be included in the first list which will be issued by the Secretary, approximately four months after the effective date.

§ 19.6 Listing requirements.

(a) Any voluntary standards body which wishes to be listed must certify in writing to the Secretary that it complies with all of the due process and other basic criteria identified in Section 6c of OMB Circular A-119, as interpreted in Subpart C below, and that it meets the definition of "voluntary standards bodies" as set forth in § 19.42(a)(4) of Subpart E below. This certification must contain a statement, in any form that is legally binding upon the voluntary standards body, that the standards body conducts the standards activities of the body and of the standards-developing groups included in the request for listing entirely in accordance with the applicable due process and other basic criteria identified in Section 6c of the Circular as interpreted by Subpart C below. The voluntary standards body must make that statement publicly available on a reasonable basis. A voluntary standards body which wishes to be listed must, in its request for listing, specify the category(ies) established in Subpart D below in which it wishes to be listed. If a voluntary standards body certifies that it conforms to the criteria set forth in Section 6c of the Circular as interpreted in Subpart C, the Secretary will list it. Requests to be listed, and accompanying certifications, shall be signed by a person who, in the normal course of the requestor's business, has the authority to make binding statements on the requestor's behalf. Requests shall be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230.

(b) Each voluntary standards body listed by the Secretary under subsection 19.6(a) above will be notified that it has been listed within two weeks of the date of such listing. Simultaneously, the Secretary will send a notice to all members of the Interagency Committe on Standards Policy for transmittal to the heads of their agencies identifying the names of the listed voluntary standards bodies and their listed standards-developing groups. The Secretary will also transmit such information to any other agencies which indicate a desire to be informed.

(c) The Secretary, within approximately four months after the effective date of these Procedures, will publish in the **Federal Register** an informational notice which identifies the listed voluntary standards bodies and their listed standards-developing groups. Subsequent listings will be published on a quarterly basis for approximately two years, and semiannually thereafter. Such notices will identify a specific location in the Department where interested persons may inspect the self-certification statements, and any information or materials submitted in connection with the applications for listing.

(d) Voluntary standards bodies and their standards-developing groups which are listed by the Secretary of Commerce will be eligible for the types of Federal support defined in § 19.42(a)(8) of Subpart E below.

(e) The Secretary wil provide, upon request or when he otherwise determines it to be necessary and appropriate, guidance as to whether specific procedural requirements of voluntary standards bodies or their standards-developing groups will meet the due process and other cirteria established in Section 6c of the Circular as interpreted in Subpart C below. Such guidance will be puslished through notices in the **Federal Register**, either in full, or in summary form. If published in summary form, the notice will specify the manner in which persons may obtain copies of the full guidance provided.

§ 19.7 Voluntary termination of listing.

A voluntary standards body may have its name removed from the list without prejudice upon its request in writing to the Secretary. Removal of the name of the voluntary standards body shall result automatically in removal of all standards-developing groups of that body from the list. In the event that a voluntary standards body desires to have removed from the list any of its standards-developing groups, it may have such groups removed upon written notification to the Secretary. The **Federal Register** notice of such delisting actions and the Department's notice of such actions to Federal agencies will state that the delisting action resulted from a voluntary termination of listing status, and that such removals from the list were without prejudice of any kind.

§ 19.8 Reapplication.

If the Department delists a voluntary standards body or group thereof, or if the name of a voluntary standards body or any standards-developing group is removed from the Department's list as a result of a request for voluntary termination of such listing, that body may reapply for listing at any time, with the provision that such reapplications shall not be accepted or acted upon by the Department more than once in a period of twelve (12) consecutive months, unless waived by the Secretary. Such reapplication must conform to the relevant requirements and, if appropriate, be responsive to the corrective actions identified pursuant to a delisting decision under Subpart B, below.

§ 19.9–19.10 [Reserved]

Subpart B—Procedures for Delisting Voluntary Standards Bodies and Their Standards-Developing Groups

§ 19.11 Purpose.

The purpose of this subpart is to develop and implement procedures for delisting voluntary standards bodies and their standards-developing groups as required by Section 7a of OMB Circular A-119 (identified fully in § 19.1(a) of Subpart A). Subsections 19.1(b) and (c) of Subpart A also apply to this subpart.

§ 19.12 Coverage and effective date.

The coverage and effective date of this subpart are the same, respectively, as are specified for Subpart A by §§ 19.3 and 19.5 of that subpart.

§ 19.13 Definitions.

The terms used in this subpart are defined in Subpart E below.

§ 19.14 Delisting process.

(a) Any interested party may petition the Secretary to remove a voluntary standards body or one or more of its listed standards-developing groups from the list. Such a petition shall be in writing and shall cite the specific provision(s) in Subpart C which the petitioner believes have not been met by the body or groups. As a precondition for a petition to delist, the petitioner shall have exhausted all remedies available within the voluntary standards body regarding the subject matter of the petition. All available supporting documentation and other relevant information shall be provided in support of the petition. To the extent possible, the petition should also provide the names, employment addresses, and employment telephone numbers of all parties materially involved. Such petitions must be based on actions or inactions that occurred after the date that the voluntary standards body (or a group thereof) was listed by the Secretary. Any such petition should be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. Within ten (10) working days after receiving any such petition, the Secretary shall send notice of it to the affected standards body. In addition, the Secretary may initiate investigations, on the basis of information received either from Federal agencies or from other sources, which subsequently may lead to delisting actions pursuant to the procedures of this subpart. The Secretary may find it appropriate to advise the petitioner of the existence of the Department's dispute resolution service described in Subpart F of this Part 19.

(b) The Secretary will evaluate and act as expeditiously as possible on all petitions for delisting. The Secretary may request additional information in evaluating such petitions, and will notify the petitioner in writing of the decision reached, after due consideration whether to process the petition, and the reasons therefor. The Secretary may, upon finding it appropriate to do so, request all records from a voluntary standards body that are pertinent to the review of a petition for delisting.

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(c) If the Secretary determines that the petition warrants investigation, the Secretary will, within seven (7) days after the date of that determination, arrange for an investigation and notify the voluntary standards body of its scope. If the Secretary determines that the petition warrants no further action, the Secretary will so inform the petitioner and the voluntary standards body in writing, and the reasons therefor. That determination shall constitute the final review by the Department, unless the petitioner elects within thirty (30) days after receipt of the Secretary's notification to request the Department's reconsideration of that decision by writing to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. Within seven (7) days of receiving any such request for reconsideration, the Secretary shall send notice of it to the affected standards body. The decision of the Secretary on this request shall constitute the final administrative review of the executive branch of the Federal Government. This decision would not prohibit other Federal agencies from taking separate legal actions under their statutory authorities.

(d) If the investigation pursuant to subsection (a) or (c) of this section indicates non-compliance with any of the provisions identified in Subpart C, the Secretary will provide the voluntary standards body concerned with (1) a statement indicating the precise nature of the alleged non-compliance, and (2) a copy of the petition and the identity and location of all documents, materials, and other related information submitted with the petition or received or developed thereafter.

(e) Following receipt of the information provided by the Secretary in accordance with subsection (d) of this section, the standards body concerned shall have sixty (60) days in which to respond to the statement of alleged non-compliance. Upon receipt of a written request from the voluntary standards body accompanied by a reasonable showing of need for additional time, the Secretary may extend the time in which to respond to the statement of alleged non-compliance; however, no extension or extensions may exceed, in total, ninety (90) days beyond the original period of sixty (60) days. If the standards body fails to respond in the sixty (60) day period, or any extension of it which the Secretary has granted, or if the Secretary determines that the response received is not persuasive, the Secretary will issue, in writing, to that body and concurrently to the petitioner, a Preliminary Finding of Non-Compliance with the specified due process and other basic criteria identified in Subpart C. This Preliminary Finding of Non-Compliance will include a description of the corrective action(s) that must be taken by the body or standards-developing group concerned in order to have the Secretary withdraw the Preliminary Finding of Non-Compliance.

(f) If, within sixty (60) days following receipt of the notification of Preliminary Finding of Non-Compliance (or such extension(s) of that time period, not to exceed an additional ninety (90) days that the Secretary may grant in response to a written request from the voluntary standards body showing reasonable need for additional time), the voluntary standards body concerned does not provide adequate evidence that the prescribed corrective action identified in the Preliminary Finding of Non-Compliance has been taken by that body, or if the Secretary deems that the corrective action taken is insufficient, the Secretary will issue a Final Finding of Non-Compliance to the body concerned, and concurrently to the petitioner, unless a hearing has been requested under subsection (g) of this section. The notification of Final Finding of Non-Compliance shall constitute notification of the Department's decision to delist the body or standards-developing groups(s) thereof. Removal of a standards-developing group of a voluntary standards body will not in itself constitute cause for the removal from the list of any other groups of that body or of the body itself.

(g) The Secretary will refrain from issuing a Final Finding of Non-Compliance if the organization concerned requests a hearing under the provisions of 5 U.S.C. 556 within thirty (30) days following receipt of the notification of Preliminary Finding of Non-Compliance. A request for a hearing should be addressed to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. In the event of such a request, an Administrative Law Judge will be designated by the Secretary to conduct a proceeding under 5 U.S.C. 556 and to recommend a decision. At that point in time, the petitioner will be provided with copies of all papers filed subsequent to the receipt of the petition for delisting for the purpose of participating in the hearing at the invitation of the Administrative Law Judge. Further action on the Preliminary Finding of Non-Compliance shall be stayed pending the outcome of that proceeding. The decision of the Secretary following the proceeding will be in writing, will be sent to the organization concerned and to the petitioner, and will constitute the final administrative action of the executive branch of the Federal Government.

(h) The Secretary will publish in the **Federal Register**, within thirty (30) days of the decision to issue a Final Finding of Non-Compliance and delisting notification, a notice of such a finding and shall, within one week of such delisting action, similarly notify in writing the members of the Interagency Committee on Standards Policy for transmittal to the heads of their agencies, and any other Federal agencies which indicate a desire to be notified, as well as the standards body and the petitioner. The delisting action resulting from the Final Finding of Non-Compliance will become effective thirty (30) days after the publication of the notice in the **Federal Register**. Such **Federal Register** notice and notification to Federal agencies will include a statement to the effect that all Federal executive agencies and their representatives shall cease, as of the effective date of the delisting action, any and all participation in, or the furnishing of any other form of support to, the voluntary standards activities of the delisted body or group thereof, unless such participation is otherwise required by law.

(i) The delisting of a voluntary standards body or a standards-developing group because of the issuance of a Final Finding of Non-Compliance against it under subsection (f) of this section will lead to termination of all Federal agency support for voluntary standards activities of that voluntary standards body or group. If the body itself is delisted, such termination will include cessation of all participation of Federal agencies in the standards and standards-related activities of all boards, councils and standards development committees and groups of that body.

(j) In order to facilitate termination of existing Federal agency contracts and grants with, or the provision of other support by the Federal agencies to, delisted voluntary standards bodies and groups, Federal agencies should ensure that future contracts, grants or other arrangements involving standards and standards-related matters bearing upon relations between the agencies and voluntary standards bodies, contain a provision which clearly entitles the Federal agency to terminate "for cause" (in contrast to termination "for the convenience of the government") any contract, grant, or other arrangement with a voluntary standards body or group which, during the life of the contract, grant, or arrangement becomes and remains delisted by the Department.

§§ 19.15–19.20 [Reserved]

Subpart C—Due Process and Other Basic Criteria

§ 19.21 Purpose.

The due process and other basic criteria which voluntary standards bodies and their standards-developing groups must adhere to in order to be eligible for Federal agency participation and support in their standards activities are set forth in Section 6c of OMB Circular A-119. The purpose of this Subpart is to describe the Department's interpretation of each of the eleven due process and other basic criteria set forth in Section 6c of the Circular.

§ 19.22 Coverage and effective date.

The coverage and effective date for this subpart are the same, respectively, as are specified for Subpart A by §§ 19.3 and 19.5 of that subpart.

§ 19.23 Definitions.

The terms in this subpart are defined in Subpart E below.

§ 19.24 Due process and other basic criteria.

(a) The following provisions are the Department's interpretations of the due process and other basic criteria to which listed voluntary standards bodies and the listed standards-developing groups must adhere: (1) Voluntary standards bodies shall provide adequate public notice of standards meetings and other standards activities (e.g. regional conferences) sponsored or conducted by the bodies, their listed standards-developing groups, or any organizational units one level below those groups. Such notices shall be provided in an appropriate and timely fashion and should include a clear and meaningful description of the purpose of the meeting or activity. The media used for those notices shall be selected or devised to reach persons reasonably expected to have an interest in the subject including, for example: consumers; small business representatives; manufacturers; labor; suppliers; distributors; testing laboratories; industrial, institutional, and other users; environmental and conservation groups; Federal agency officials; and State and local regulatory, procurement and code officials. The notices shall also identify the name, address, and telephone number of a contact person or office in the voluntary standards body, group or organizational unit who/which will be able to provide, upon request, further information on the meeting or activity.

(2) Voluntary standards bodies shall provide adequate public notice in an appropriate and timely fashion of the formal initiation (§ 19.42 (a)(12) of Subpart E), final review, adoption or approval of all new and revised voluntary standards, and of the proposed withdrawal of voluntary standards as provided in paragraph (a)(1) of this section. Such notice must describe clearly the purpose and scope of the relevant standards. The same media, publications and format should be used for notices having the same or similar scope or impact.

(3) Voluntary standards bodies shall ensure that, if standards development or other standards-related meetings requiring notice under paragraph (a)(1) of this section are to be held, they will be open, and that the opportunity for attendance at such meetings and participation in standards development or related activities is available to interested parties. Voluntary standards bodies shall provide, at a minimum, an opportunity to all interested parties to participate in standards activities through the submission of written comments relating to the initiation, development, approval, review, revision, or withdrawal of standards. All such written comments received by a voluntary standards body should be acknowledged and transmitted to the appropriate standards-developing group for due consideration. Unreasonable restrictions on membership in standards-developing groups by means of requirements for professional or technical qualifications, or of trade requirements, or of unreasonable fees, or of other such restrictions must be avoided.

(4) Voluntary standards bodies shall assure that decisions reached in their standards activities represent substantial agreement, after a concerted effort to resolve objections, and that such agreements are reached by the body, the standards-developing group, and any relevant organizational unit one level below the group in accordance with the published procedures of the voluntary standards body and the judgment of the appropriate official(s) duly appointed by that body. Such agreements shall be reached by more than a simple majority, although they do not necessarily require unanimity.

(5) Voluntary standards bodies shall provide consideration of the views and concerns expressed in writing by all interested parties to the voluntary standards body, standards-developing group or organizational unit one level below such group, including proposals for new or revised standards, within a reasonable period of time, depending on the frequency of meetings scheduled by the particular standards-developing group or the appropriate standards committee, or other relevant circumstances.

(6) Voluntary standards bodies shall provide or otherwise make available for use by interested parties one or more adequate and impartial mechanisms for handling substantive and procedural complaints and appeals which are documented with sufficient evidence to support a legitimate issue of dispute. As an alternative, this requirement will be satisfied by a provision for ready access to such complaint/appeal mechanisms operated by an organization other than the one against which the complaint or appeal is lodged, provided that such mechanisms meet the requirements of this paragraph (a)(6).

(7) Voluntary standards bodies, their listed standards-developing groups and all organizational units one level below such groups, shall assure that appropriate records, in sufficient detail to enable one subsequently to review and understand what transpired, are made and maintained in the case of: formal discussions; decisions; standards and drafts of standards; technical or other rationale for critical requirements of standards (including test methods); complaints/appeals and their resolution; meeting minutes and balloting results. All such records must be retained in accordance with published procedures and be readily accessible to all interested parties on a timely and reasonable basis in response to written requests for specific documents or information. The requesting party may be held responsible for the reasonable costs of file search, reproduction and mailing. Retention of records for at least five (5) years after a standard is approved, reviewed, revised, or withdrawn, normally would be considered reasonable. The "rationale" referred to above should be prepared during the standards development process to document the decisions relating to (i) the need for the standard, (ii) the scope of the standard (including any limits or exclusions), (iii) the critical requirements established in the standard, and (iv) the test methods selected to determine conformance or non-conformance.

(8) Voluntary standards bodies shall publish a disclaimer clearly indicating that participation in any of their activities by Federal agency representatives does not constitute the endorsement by the Federal Government or any of its agencies of the

bodies or the standards which they develop. The disclaimer shall either: (i) be in the form of an official policy declaration by the standards bodies prominently set forth in their published official procedures; or (ii) be in the form of an official policy declaration by the standards bodies in any standards literature which they publish that mentions involvement or participation of Federal agency personnel in standards development, approval, or review activities. A voluntary standard which includes a list of its developers and identifies Federal agency representation must include this disclaimer.

(9) Voluntary standards bodies shall publish their official procedures regarding their standards activities, and make those procedures available to interested parties on a reasonable basis.

(10) Voluntary standards bodies shall ensure that their voluntary standards are periodically reviewed and revised, as necessary, and that participation in the review process is available to all interested parties in accordance with the other relevant due process and other criteria contained in this section. A review of each standard by the committee having jurisdiction or other appropriate committee or unit of the standards body should be initiated at least once ever five years. If a voluntary standards body provides for the withdrawal of a standard under procedures that cause the automatic termination of standards and are not either revised or reaffirmed, the standards body shall provide adequate public notice of the imminent termination in accordance with the requirements in paragraph (2) of this section.

(11) Voluntary standards bodies, their standards-developing groups and organizational units one level below such groups, shall give preference to the use of performance criteria, measurable by examination or testing, in standards development when such criteria may reasonably be used in lieu of design, materials, or construction criteria. For purposes of demonstrating compliance with this requirement, as a minimum, the published operating procedures of the voluntary standards body should contain a statement to the effect that "preference will be given to the use of performance criteria, measurable by examination or testing, in standards development when such criteria may reasonably be used in lieu of design, materials, or construction criteria."

(b) [Reserved].

§§ 19.25–19.30 [Reserved]

Subpart D—Categories for the Listing of Voluntary Standards Bodies and Their Standards-Developing Groups

§ 19.31 Purpose.

The purpose of this subpart is to specify the various categories under which voluntary standards bodies and their standards-developing groups may be listed by the Secretary of Commerce under Subpart A above.

§ 19.32 Coverage and effective date.

The coverage and effective date of this subpart are the same, respectively, as are specified for Subpart A by §§ 19.3 and 19.5 of that subpart.

§ 19.33 Definitions.

The terms used in this subpart are defined in Subpart E below.

§ 19.34 Categories for being listed.

(a) In any application to be listed under this Part, the applicant voluntary standards body must identify the category under which it is applying to be listed from among the following:

(1) *Category A. Listing.* For this category, all of the voluntary standards-developing groups of a voluntary standards body must meet the due process and other basic criteria identified in Section 6c of the OMB Circular as interpreted in Subpart C above. In applying for Category A listing, the voluntary standards body must, if it has standards-developing groups, state that all of those groups comply with such criteria, and must provide a list of all such groups. New standards-developing groups formed after the initial listing (under Category A) of a voluntary standards body by the Department must be reported to the Department by the standards body concerned as complying with the criteria in Section 6c of the Circular as interpreted in Subpart C. In a Category A listing, the voluntary standards body and all of its standards-developing groups (if any) will be separately listed. Voluntary standards bodies listed in Category A will be eligible for the types of Federal support described in § 19.42(a)(8) of Subpart E. Federal agency representatives will be able to participate in the activities of the committees, boards and councils of those voluntary standards bodies listed in Category A as well as in the activities of the standards-developing groups of those bodies.

(2) *Category B. Listing.* This category, which shall be available for use for a period of three years following the effective date of these procedures, allows for situations in which a voluntary standards body wishes to have only some of its voluntary standards-developing groups listed. Since not all of the groups are listed, the voluntary standards body itself cannot be listed except in conjunction with a particular standards-developing group thereof. In a Category B listing, the name of the voluntary standards body and the name of the standards-developing groups to be listed are identified together. for example, if the "Acme Standards-developing Body" has five standards-developing groups, but wishes that only the groups on "widgets" and "gidgets" should be listed, that body would apply for listing as follows:

(i) Acme Standards Body/Standards-Developing Group on "Widgets"

(ii) Acme Standards Body/Standards-Developing Group on "Gidgets"

An effect of this type of listing is that while Federal agencies may participate in and otherwise render support to the two listed groups (on "widgets" and "gidgets"), they may only participate in and render support to the standards activities of Acme Standards Body itself insofar as that participation and support relate to the standards activities of the two groups. Accordingly, Federal agencies may not participate, for example, in standards discussions of the Board of Directors (or similar governing or advisory unit) of the Acme Voluntary Standards Body itself, since some of its standards-developing groups are not listed. In such cases, Federal agencies should endeavor to provide financial and other support directly to the listed groups. If for procedural or administrative reasons this is not possible, Federal agencies should only provide support to the standards body with the understanding that such contributions are to be expended directly on matters related to these two listed groups. When the period for use of this category expires, organizations still listed solely in it will automatically be delisted. Federal agencies may provide support or participate in any of the non-standards related activities of the Acme Standards body including activities of the Board of Directors (or other similar governing or advisory units).

(3) *Category C. Listing.* This category is for voluntary standards bodies which coordinate voluntary standards (including the establishment of a voluntary standard following coordination). Such a body may coordinate through activities such as: reviewing a voluntary standard developed by another organization; accepting, approving, reorganizing, or otherwise establishing the status of voluntary standards other than by

originally developing them; and performing appeals functions for any of the organizations for which it coordinates voluntary standards. Voluntary standards organizations which coordinate standards are expected to conform in their own activities to all of the due process and other basic criteria of Section 6c of the OMB Circular as interpreted in subpart C above, with the exception of paragraphs (a)(10) and (a)(11), in as much as these pertain specifically to the development of standards and not to the coordination of standards.

(b) [Reserved]

§§ 19.35—10.40 [Reserved]

Subpart E—Definitions

§ 19.41 Scope.

This subpart defines terms used in this part.

§ 19.42 Definitions.

(a) As used in this part:

(1) *Executive agency* (hereinafter referred to as "agency" or "Federal agency") means an executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the Federal Government, including a regulatory commission or board, and also the municipal government of the District of Columbia. It does not include the legislative or judicial branches of the Federal Government.

(2) *Standard* means a prescribed set of rules, conditions, or requirements concerned with: the definition of terms; classification of components; delineation of procedures; specification of dimensions, materials, performance, design, or operations; descriptions of fit and measurement of size; or measurement of quality and quantity in describing materials, products, systems, services, or practices.

(3) *Voluntary standards* are established generally by private sector bodies and are available for use by any person or organization, private or governmental. The term includes what are commonly referred to as "industry standards" as well as "consensus standards" but does not include professional standards of personal conduct, institutional codes of ethics, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

(4) *Voluntary standards bodies* are nongovernmental bodies which are broadly based, multi-membered organizations including, for example, nonprofit organizations, industry associations, and professional and/or technical societies which develop, establish, or coordinate voluntary standards.

(5) *Standards-developing groups* are committees, boards, or any other principal subdivisions of voluntary standards bodies, established by such bodies for the purpose of developing, revising, or reviewing standards and which are bound by the procedures of those bodies. (In the case of a voluntary standards organization that is completely autonomous, operates under its own procedures, and accepts responsibility for enforcing compliance with its procedural requirements as well as the responsibility for assuring the technical adequacy of its standards, such an organization will be considered as both a voluntary standards body and a standards-developing group, at the request of the organization. For the purpose of these procedures, such organizations will meet all of the due process and other criteria established herein.)

(6) *Department* means the Department of Commerce.

(7) *Secretary* means the Secretary of Commerce or the Secretary's designee.

(8) *Federal agency participation in listed voluntary standards bodies* means the direct and formal involvement in the standards development process or the provision for support to that process in terms of: (i) direct financial support such as grants, sustaining memberships, and contracts; (ii) administrative support such as travel costs, hosting of meetings, and secretarial functions; (iii) technical support such as cooperative testing for standards evaluation and participation of agency personnel in the activities of standards-developing groups; and (iv) cooperative planning with voluntary standards bodies to facilitate a coordinated effort in resolving priority standardization problems.

(9) *Consumer* means an individual consumer of the products or services for which a standard is developed, who purchases and uses products generally found in and around the home.

(10) *Person* means associations, companies, corporations, institutions, partnerships, societies, firms, government agencies at the Federal, State, and local level, and individuals.

(11) *Interested party* and *party* each mean a person having a reasonable basis for participation in a standards activity, including a business, professional, governmental, investment, employment, associational, or other significant interest in the outcome of that activity. When the activity is a proceeding under Subpart F (Voluntary Dispute Resolution Service), the terms refer to such a person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, to such a proceeding due to interest in allegations of procedural error(s) having been committed.

(12) *Formal initiation of a voluntary standard* means (i) a decision by a duly authorized officer or other designee of a voluntary standards body, standards development group, or an organizational unit one level below the standards-development group, to develop a voluntary standard, either through staff, or with persons other than staff of the body, group or organizational unit, or (ii) the formal approval by the body, group or organizational unit of the development of a voluntary standard, whichever occurs first. ("Staff" includes all persons in the temporary or full time permanent employment of the body, group or organizational unit.)

(13) *Complainant* means an interested party as defined in paragraph (a)(11) of this section who has submitted a complaint to the Secretary under Subpart F of these procedures.

(14) *Procedural complaint* refers to a complaint which relates to the procedural aspects of the standards development and/or review and/or approval process. It excludes complaints relating to substantive aspects of a standard such as, for example, the level of performance selected by the standards developing group for a particular component. Accordingly, a procedural complaint means a complaint that alleges denial of any of the due process and other basic criteria of Section 6c of the Circular or of Subpart C above in the development, review, or approval of standards or refusal to develop new or revised standards as well as a complaint that alleges denial of any other standards development and/or review and/or approval procedure established by the voluntary standards body or group concerned.

(15) *Circular* means OMB Circular A-119 entitled "Federal Participation in the Development and Use of Voluntary Standards," dated January 17, 1980 and effective on that date.

(16) *List or listed* means a compilation of voluntary standards bodies and standards-developing groups thereof which have been accepted by the Secretary as complying with the due process and other basic criteria cited in Section 6c of the Circular, and described in Subpart C above.

(17) *Sole and final administrative review by the executive branch* means that once a complaint has been processed under Subpart F, no Federal

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Executive branch agency shall have any obligation to give any further administrative review to that complaint, except as otherwise may be provided by law. The term should not be interpreted to affect any subsequent judicial or quasi-judicial review of the complaint or review for law enforcement purposes as, for example, by a court of law, or by the Federal Trade Commission or the Department of Justice. Additionally, this term should not be interpreted as preventing the Department from considering a petition for delisting under Subpart B. Nor should this term be interpreted as obligating any party to implement any recommendations made by the representative of the Secretary (pursuant to the conciliation process) or the mediator, if any, under Subpart F of these procedures.

(18) *Due process and other basic criteria* has reference to requirements described in Section 6c of the Circular, as interpreted in Subpart C above.

(19) *Final action* with respect to the development of voluntary standards means the concluding step in the development and approval of such standards by the voluntary standards body in accordance with the published procedures of that body. Final action with respect to the approval or disapproval of a request for a new or revised standard means the final decision by the voluntary standards body on such a request.

(20) [Reserved.]

§§ 19.43–19.50 [Reserved]

Subpart F—Procedures for a Voluntary Dispute Resolution Service for the Rapid Handling of Procedural Complaints by Interested Parties Against Voluntary Standards Bodies Listed by the Department of Commerce

§ 19.51 Purpose.

(a) The purpose of this subpart is to establish procedures for the operation of a Department of Commerce-sponsored voluntary dispute resolution service regarding procedural complaints by interested parties against listed voluntary standards bodies, as specified in Section 7a(6) of OMB Circular A-119 which requires the Secretary of Commerce to:

> "establish a program which shall make available a department-sponsored voluntary dispute resolution service for the rapid handling of procedural complaints by interested parties against listed voluntary standards bodies. As a precondition to invoking that service, a complainant must seek relief from, and have exhausted all available sources of remedy within, the affected voluntary standards body. Such a service shall have, among its requirements, the agreement of both complainant and respondent to use the service and their consent to accept the determinations of the service as the sole and final administrative review by the executive branch."

(b) Nothing in these procedures shall be used or interpreted to provide any party with an opportunity to unreasonably delay, inhibit, or otherwise interfere with the normal and lawful process of voluntary standardization, or any action available under the law with regard to any matter involving the establishment or use of the voluntary standards.

(c) These procedures will not be used to resolve any complaints which are based upon the provisions in Section 441 of the Trade Agreements Act of 1979 (P. L. 96-39).

§ 19.52 Objective of procedures.

(a) The objective of these dispute resolution service procedures is to facilitate the timely resolution of complaints pertaining to procedural errors allegedly committed by listed voluntary standards bodies.

§ 19.53 Definitions.

The terms used in this subpart are defined in Subpart E above.

§ 19.54 Precondition to submitting complaint.

Prior to submitting a complaint under these procedures, the complainant must have sought relief from and have exhausted all remedies available within the concerned voluntary standards body.

§ 19.55 Limitation.

The Department will not process any complaint where the final action on the provisions in question was taken by the voluntary standards body concerned before the effective date of these procedures.

§ 19.56 Submitting a complaint.

(a) Any interested party may request the Department to process a procedural complaint under this subpart. Such a request must be written and sent to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230. All requests shall:

(1) Identify the standard(s), proposed standard(s), and the procedures of the voluntary standards body involved;

(2) Describe fully the nature of the complaint including, to the extent known, the positions of any other parties who are or may become, directly or indirectly, affected by the matter which is the subject of the complaint. In such cases the complainant shall, where possible, provide the name, employment address, standards group affiliation, and employment telephone number of each such party;

(3) Describe fully all previous attempts made to resolve the complaint, including appeals within the voluntary standards body, and the results of those attempts;

(4) Describe in as specific terms as possible the consequences to the complainant or other interested party of the non-resolution of the complaint to complainant's satisfaction;

(5) Indicate agreement to accept the determination by the dispute resolution service as the sole and final administrative review of the complaint by the executive branch; and

(6) Provide any other available and pertinent supporting information.

(b) In addition to taking action under § 19.57, the Secretary will determine whether the complaint warrants investigation under the provisions for delisting in paragraph (a) § 19.14 of Subpart B.

§19.57 Action upon receipt of complaint.

(a) The Secretary will evaluate the complaint together with the supporting information received. The Secretary will seek information regarding the complaint from the voluntary standards body involved and will solicit the agreement of that body, as well as the complainant, to use this dispute resolution service and to accept the determination by that service as the sole and final administrative review of the complaint by the executive branch. If either party does not agree to utilize the dispute resolution service, there shall be no further action taken by the Department under Subpart F of this Part 19.

(b) The Secretary may request additional information, if needed, from the involved parties.

(c) When in the opinion of the Secretary the complainant's submission of information required by § 19.56 is complete, the Secretary may: (1) determine that the complaint merits processing under these procedures, or (2) decline to accept the complaint, in which case the Secretary shall indicate in writing to the complainant the reasons for so declining. Such declinations may be expected to occur in cases, for example: where, in the judgment of the Secretary based on the information submitted and obtained, it is unlikely that processing under these procedures will make a significant contribution to the successful resolution of the complaint; where the complaint is not "procedural" within the scope of this service; where the voluntary standards body concerned refuses to agree to use the service or to consent to accept the determinations by the service as the sole and final administrative review by the executive branch. In the event of a declination by the Secretary to accept a complaint, the complainant may make a written request for reconsideration by the Department to the Secretary of Commerce, U.S. Department of Commerce, Washington, D.C. 20230, within 30 (thirty) days of receipt of the declination. The decision of the Secretary on such a request shall be final.

(d) A complainant whose complaint was not accepted by the Department may resubmit the complaint for processing by the Department whenever the complainant has new information or evidence of a significant nature. In resubmitting the complaint, the complainant must clearly identify the nature of the new information or evidence and how it relates to the reasons previously given for not accepting the complaint.

(e) If the Department accepts a complaint for processing under these procedures, the Secretary will so inform the complainant and the respondent voluntary standards body in writing. The Secretary may request copies of any relevant records, including the appeal record, from the voluntary standards body concerned. The Secretary's letters to the complainant and respondent standards body concerned will indicate that the dispute resolution service involves a two-step procedure. The first step consists of an informal investigation/conciliation process as set forth in § 19.59 of these procedures. If this investigation/conciliation process is unsuccessful, and if both the complainant and voluntary standards body agree, a mediator or mediation panel may be appointed in accordance with § 19.60 of these procedures, as the second and final step of this procedure.

§ 19.58 Responsibilities of complainant and respondent if a complaint is accepted by the Department.

If the Department accepts a complaint for processing under these procedures, the complainant and the respondent voluntary standards body shall:

(1) Cooperate fully and in good faith with the Department, the mediator (if any), and other parties involved to reach a mutually acceptable resolution of the complaint in a timely fashion;

(2) Provide, upon request by the Secretary, additional and available pertinent data or other information, except that there shall be no requirement to furnish proprietary information;

(3) Promptly inform the Department or mediator, as appropriate, regarding pertinent events or actions taken by the complainant or the voluntary standards body concerned which occur during the processing under the dispute resolution service but which occur without the Department's direct involvement or knowledge; and

(4) Inform the Department, upon request, of any action taken pursuant to recommendations, if any, of the Secretary made under this service.

§ 19.59 Investigation/conciliation.

(a) If the Department accepts a complaint under these procedures, the Secretary will designate a qualified representative who shall perform investigation and conciliation functions, including consultations with the complainant, the respondent voluntary standards body, and any other parties involved in an effort to clarify the areas of disagreement, and attempt to effect a mutually acceptable resolution of such areas within a two-month period following the representative's appointment. The Secretary's representative may seek assistance from any appropriate source. Such assistance, if any, may be provided on a reimbursable basis.

(b) At any appropriate point in the investigation/conciliation process the Secretary's representative may make recommendations to the party(ies) which appear to reflect a reasonable resolution of any or all of the areas of disagreement. The parties involved should consider those recommendations in good faith.

(c) If the parties reach a mutually acceptable agreement during the conciliation process, the Secretary's representative will record the specific nature of that agreement and will transmit copies of that record to the parties involved. If no agreement is reached, or if a partial conciliation is reached, the representative will record such results, including any issues which remain in disagreement, and will transmit a copy of that record to the parties. Copies of all documents prepared in these proceedings will, without unreasonable delay, be filed with the Secretary.

(d) In the event that the investigation/conciliation effort does not resolve all areas of disagreement, the representative, in transmitting the copy of the investigation/conciliation record to the parties, will inform the parties of their prerogative of requesting a mediator or mediation panel under these procedures.

§ 19.60 Mediation.

(a) If pursuant to subsection (d) of § 19.59, both parties indicate to the Secretary in writing that they desire a mediator or mediation panel, and if the Secretary believes that mediation may resolve the areas of disagreement, the Secretary may appoint a mediator or mediation panel in a further attempt to resolve the complaint. Selection of a mediator or mediation panel may be accomplished in consultation with the Federal Mediation and Conciliation Service. The mediator(s) so appointed may be one or more employees of the Federal Mediation and Conciliation Service, another Federal agency, individuals from the private sector, or other source, but shall not be employees of the Department of Commerce. The services of the mediator(s) may be subject to contract, which may include provisions for necessary clerical and other support costs. An effort will be made by the Secretary to secure one or more mediators who will be acceptable to the parties involved and who will avoid the appearance of a "conflict of interest" situation with respect to the subject matter and the parties involved in the dispute.

(b) The Secretary will provide the mediator(s) with the record of the investigation/conciliation process which shall identify all remaining areas of disagreement, including the positions of the parties on each such remaining area, and will transmit or otherwise make available to the mediator(s) all other available information pertinent to the resolution of the identified areas of disagreement. The Secretary's letter of appointment will also specify a target date for the completion of mediation. Such date generally will be not more than three months from the date of the appointment of the mediator(s).

(c) At the start of the mediation process, the mediator(s) will encourage the parties to agree in advance to be bound by the agreements reached during the mediation process. If such agreement from the parties is forthcoming, the mediator(s) will record such agreement and shall inform the secretary accordingly.

(d) The mediator(s) will endeavor forthwith and within the designated time frame to facilitate a mutually acceptable resolution of the remaining areas of disagreement identified by the Secretary. In so doing, the mediator(s) may hold meetings, may communicate with each party on an individual or group basis, and may utilize any other reasonable lawful means, including professional assistance in the interpretation of procedural requirements, to resolve the areas of disagreement. Such professional assistance may be provided on a reimbursable basis.

(e) The Secretary may, for good and sufficient reasons, grant one extension of time for completion of mediation pursuant to the written request by the mediator(s). Such a request shall specify the reasons for the requested extension. Any extension generally shall be limited to a maximum of two months.

(f) If, during the mediation process, the parties reach agreement on all the areas of disagreement identified by the Secretary, the mediator(s) shall ensure that the nature of the agreement for each area is recorded, that each party signs and dates the agreement, and that copies of that record are transmitted to the Secretary and to the parties.

(g) If the time period (including any extension provided) for mediation expires with one or more areas of disagreement still remaining, the mediator(s) will terminate the mediation process and will record the areas of agreement (if any). With regard to each of the remaining areas of disagreement, the mediator(s) will record the specific nature of such disagreement and make a factual report of the mediation process. The report will be transmitted by the mediator(s) to the Secretary and to the parties involved. The report will not contain any information which was submitted to the mediator in confidence.

(h) Upon receipt of the report from the mediator(s), the Secretary, in appropriate cases, may develop and transmit to the involved parties recommendations to resolve the areas of disagreement. Such recommendations may include the submission of the unresolved issues on areas of disagreement to arbitration.

§ 19.61 Publication and records.

(a) The Secretary will cause to be published in the **Federal Register**, at least annually, a summary of each of the cases processed under these procedures, including any recommendations made by the Secretary to resolve any remaining issues, unless the parties in any case agree in writing that the dispute has been amicably resolved to their mutual satisfaction, and that agreement is filed with the Secretary.

(b) The Secretary will keep a record of each complaint received, including the action taken, if any, by the parties as a result of this dispute resolution service.

§§ 19.62–19.70 [Reserved].

Derivation Table

Final procedures		Proposed procedures	
Section and paragraph	Subpart	Section and paragraph	Subpart
19.1(a)	A	19.1(a)	A
(b) (*new*)	A		
(c)	A	(b)	A
19.2	A	19.2	A
19.3	A	19.3	A
19.4	A	19.4	A
19.5	A	19.5	A
19.6(a)	A	19.6(a)	A
		19.6(c)	A
		19.7(a)	A
19.6(b)	A	19.7(c)	A
(c)	A	19.6(e)	A
		19.7(d)	A
(d)	A	19.7(e)	A
19.7	A	19.9	A
19.8	A	19.10	A
19.9 (Reserved)	A		
19.10 [Reserved]	A		
19.11 (*New*)	B		
19.12 (*New*)	B		
19.13 (*New*)	B		
19.14(a)	B	19.8(a)	A
(b)	B	(b)	A
(c)		(c)	A
(d)		(d)	A
(e)		(e)	A
(f)		(f)	A
(g)		(g)	A
(h)		(h)	A
(i)		(i)	A
(j)		(j)	A
19.15 (Reserved)	B		
19.20	B		
19.21 (*New*)	C		
19.22 (*New*)	C		
19.23 (*New*)	C		
19.24(a)(1)	C	19.6(b)(1)	A
(2)	C	(2)	A
(3)	C	(3)	A
(4)	C	(4)	A
(5)	C	(5)	A
(6)	C	(6)	A
(7)	C	(7)	A
(8)	C	(8)	A
(9)	C	(9)	A
(10)	C	(10)	A
(11)		(11)	A
19.25, 19.30 [Reserved].			
19.31 (*New*)	D		
19.32 (*New*)	D		
19.33 (*New*)	D		
19.34(a)(1)	D	19.6(a)(1)	A
(2)	D	(2)	A
(3) (*New*)	D		
19.35, 19.40 [Reserved].	D		
19.41 (*New*)	E		
19.42(a)(1)	E	19.4(a)	A
(2)	E	(b)	
(3)	E	(c)	
(4)	E	(d)	
(5)	E	(e)	
(6)	E	(f)	
(7)	E	(g)	
(8)	E	(h)	
(9)	E	(i)	
(10)	E	(j)	
(11)	E	19.23(c)	B
(12) (*New*)	E		
(13)	E	19.23(d)	
(14)	E	(i)	
(15)	E	(j)	
(16)	E	(k)	
(17)	E	(l)	
(18)	E	(m)	
(19)	E	(n)	
19.43, 19.50 [Reserved].	E		
19.51(a)	F	19.21(a)	B
(b)	F	(b)	B
(c)	F	(c)	B
19.52(a)	F	19.22(a)	B
19.53	F	19.23	B
19.54	F	19.24	B
19.55	F	19.25	B
19.56(a)	F	19.26(a)	B
(b)	F	(b)	
19.57(a)	F	19.27(a)	B
(b)	F	(b)	B
(c)	F	(c)	B
(d)	F	(d)	B
(e)	F	(e)	B
19.58	F	19.28	B
19.59(a)	F	19.29(a)	B
(b)	F	(b)	
(c)	F	(c)	
(d)	F	(d)	
19.60(a)	F	19.30(a)	B
(b)	F	(b)	B
(c)	F	(c)	B
(d)	F	(d)	B
(e)	F	(e)	B
(f)	F	(f)	B
(g)	F	(g)	B
(h)	F	(h)	B
19.61(a)	F	19.31(a)	B
(b)	F	(b)	B
19.62, 19.70 [Reserved].	F	19.32 (Deleted)	B

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federal register

Tuesday
January 6, 1981

Part VII

Environmental Protection Agency

Carbon Monoxide and Oxides of Nitrogen; Motor Vehicle Emission Standards—Revisions and Decisions on Applications for Waiver

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[EN-FRL 1719-4]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1982 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes CO emission standards for several 1982 model year light-duty vehicles belonging to engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. 7521(b)(5).

EFFECTIVE DATE: February 5, 1981.

ADDRESSES: Information relevant to this rule is contained in Public Docket EN-80-16 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, S.W., Washington, D.C. 20460, and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Varela, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (gpm).

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. Ford Motor Company (Ford), General Motors Corporation (GM), Chrysler Corporation (Chrysler), and American Motors Company (AMC) each submitted applications for certain light-duty vehicle models for the 1982 model year. The statutory criteria, my determinations regarding the criteria with respect to the vehicle models covered by the waiver applications, and my decisions to grant the waiver applications appear in the decision along with this rule and are published elsewhere in this issue of the **Federal Register**. In that decision, I granted a waiver covering the following vehicle models (engine families for purposes of that decision) for the 1982 model year only:

Manufacturer	Engine family
American Motors Company	151 CID
Chrysler Corporation	1.6L
	2.2L
	2.6L
	5.2L/2V
Ford Motor Company	1.6L
General Motors Corporation	1.8/2.0L

Once I have decided to grant the waiver applications for these 1982 model year vehicle models, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from 1982 model year vehicles of these models to exceed 7.0 gpm. Moreover, the Act further requires that I promulgate regulations establishing these standards no later than 60 days after I receive the waiver applications in question. The public has been afforded an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the decision which requires the promulgation of this amended rule.

For these reasons, I find that providing notice and an opportunity to comment before final promulgation of any of the amendments contained in this rulemaking is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Orders 11821 and 12044 and OMB Circular A-107.

In addition, because the decision accompanying this rulemaking already is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking as well.

Dated: December 23, 1980.

Douglas M. Costle,
Administrator.

40 CFR 86.082-8(a)(1)(ii) is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 light-duty vehicles.

(a)(1) * * *

(ii) Carbon monoxide—3.4 grams per vehicles mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1982 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer	Engine family
American Motors Corp	151 CID.
	258 CID.
BL Cars, Ltd	215 CID.
	326 CID.
Chrysler Corp	1.6 liter.
	1.7 liter.
	2.2 liter.
	2.6 liter.
	3.7 liter.
	5.2 liter/2V.
	5.2 liter/4V.
Ford Motor Co	1.6 liter.
General Motors Corp	1.8/2.0 liter.
	2.8 liter/173 CID-2V.
	3.8 liter/231 CID-2V.
Toyota Motor Co, Ltd	88.6 CID.

* * * * *

(Sec. 202 and 301(a), Clean Air Act, as amended, 42 U.S.C. 7521 and 7501(a))

[FR Doc. 81-261 Filed 1-5-81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EN-FRL 1719-4a]

Applications for Waiver of Effective Date of the 1982 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Eleventh Decision of the Administrator

I. Introduction

This is the eleventh decision I have issued under Section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (gpm) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As the introductions to the previous consolidated decisions explain, section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later model year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, however, included a new provision allowing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 and 1982 model years.[3] However, these amendments require the Administrator to promulgate interim standards in such cases which do not permit CO emissions over 7.0 gpm.[4]

From September 12 through October 10, 1980, EPA received CO waiver applications from General Motors Corporation (GM), Ford Motor Company (Ford), American Motors Corporation (AMC), and Chrysler Corporation (Chrysler). EPA held public hearings on these applications on October 10 and October 24, 1980.

In response to waiver applications received prior to those under consideration, EPA held seven sets of public hearings and issued ten decisions pursuant to section 202(b)(5)(A).[5] In those decisions, I denied waivers for certain engine families either because I determined that effective control technology[7] was available contrary to the requirement of section 202(b)(5)(C)(iii) of the Act or because the applicants failed to provide sufficient information to establish that effective control technology was not available. Furthermore, the applicants failed to establish that considerations of costs, driveability, or fuel economy gave me a basis for reaching a different conclusion. I granted the waiver applications covering the remaining engine families after determining for each of those families that the requisite technology was not available, considering costs, driveability, and fuel economy, and that each application met all of the remaining statutory criteria for receiving a waiver.

The transcript of the hearings on the waiver applications under consideration here, the materials submitted by the applicants in their waiver requests, and all other information upon which I have based my decision on these waiver requests are included in EPA Public Docket EN-80-16.[8]

This decision will address the waiver requests from these manufacturers on the basis of information from these manufacturers and from other sources.[9]

II. Summary

I am granting these waiver requests from Ford, GM, AMC and Chrysler for the 1982 model year for each of the seven engine families in question in these proceedings. I am therefore prescribing an interim CO emission standard of 7.0 gpm for the 1982 model year for these engine families.

I have determined that the public interest benefits from granting waiver requests for the six particularly fuel efficient models from manufacturers with severe economic problems under, the circumstances I have identified here, outweigh the potential environmental benefits from denying these waivers. I have made these decisions because each of the applicants has established that it is essential to provide these manufacturers with sufficient production flexibility to improve the competitiveness of these six models under current market conditions by waiving the 3.4 gpm statutory CO standard for the 1982 model year.

In addition, I am granting a waiver request from Chrysler for its 5.2L/2V engine family because Chrysler established that technology would be unavailable to enable this engine family to meet the 3.4 gpm CO standard in the 1982 model year, considering cost, driveability, and fuel economy. I reached this decision primarily because of the continuing risk that, given Chrysler's current economic circumstances, Chrysler and the public could face severe adverse economic repercussions if, in light of the driveability characteristic of the 5.2L/2V engine family, I were to make an incorrect projection regarding the availability of effective emissions control technology.

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[1] The preceding decisions were published as follows: 44 FR 53376 (Sept. 13, 1979); 44 FR 69417 (Dec. 3, 197[illegible]; 45 FR 7122 (Jan. 31, 1980); 45 FR 17914 (Mar. 19, 1[illegible]); 45 FR 37360 (June 2, 1980); 45 FR 40030 (June [illegible]2, 1980); 45 FR 49676 (July 25, 1980); 45 FR 53400 (Aug. 11, 1980); 45 FR 59396 (Sept. 9, 1980); 45 FR 6775[illegible] (Oct. 14, 1980).

[2] Regulations were promulgated on Aug. 24, 1978, setting a CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.801-8(a)(1)(ii). This standard represents at least a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(C) of the Act provides, in part: The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) all good faith efforts have been made to meet the standards established by this subsection;

(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

[4] As noted in previous decisions, Section 202(b)(5) of the Act requires that I make a separate assessment for each vehicle model covered by a waiver request. See, e.g., 44 FR 53376 (Sept. 13, 1979); 44 FR 69416 (Dec. 3, 1979); 45 FR 7122 (Jan. 31, 1980). Thus, my consolidated waiver decisions generally have included separate decisions for individual engine families. I have distinguished among engine families primarily on the basis of engine displacement. See note 17, second consolidated decision, 44 FR 69416, 69416 (Dec. 3, 1979).

[5] EPA has included testimony received at these seven hearings, as well as all other information considered in deciding these seven groups of waiver applications, in EPA Public Dockets EN-79-4, EN-79-17, EN-79-19, EN-80-1, EN-80-9, EN-80-13, and EN-80-14. Those dockets have been incorporated by reference into EPA Public Docket EN-80-16 for this decision.

[7] As was the case in the earlier consolidated decisions, I am using the term "technology" in this decision to encompass the statutory language "technology, processes, operation methods, or other alternatives" included as part of section 202(b)(5)(C)(iii) of the Act.

[8] This decision uses the following abbreviation:

Ford App.—Ford Application for Waiver of 1982 Carbon Monoxide Emission Standard dated October, 1980, for its 1.6 liter engine family.

GM App.—General Motors Application for Waiver of 1982 Carbon Monoxide Emission Standard dated September 12, 1980, for its 1.8/2.0 liter engine family.

AMC App.—American Motors Application for Waiver of 1982 Carbon Monoxide Emission Standard dated October 3, 1980, for its 151 CID engine family.

C. App.—Chrysler Application for Waiver of 1982 Carbon Monoxide Emission Standard dated October 10, 1980, for its 1.6L, 2. 2L, 2.6L, and 5.2L/2V engine families.

EPA Public Docket EN-80-16 can be found in EPA's Central Docket Section, Gallery I, 401 M St., S.W., Washington, D.C. 20460. Copies of materials in the docket may be obtained by writing to this address at Mail Code (A-130).

[9] See the discussion on my considerations of other sources of information in the previous waiver decisions, e.g., section III(B)(C), 44 FR 69416, 69422 (Dec. 3, 1979). I had decided to deny the GM waiver request at issue here, but after GM submitted some new contentions I announced that I would reconsider GM's request after giving the public an opportunity to comment on those contentions. 45 FR 79116 (Nov. 28, 1980). In response to this notice, EPA received comments from GM and Volkswagen of America. I will address the requests for reconsideration of earlier waiver denials included in GM's comments and VW's comments in future decisions. These comments are included in Public Docket EN-80-16.

III. Discussion

A. Available Technology and the Public Interest

The decisions I have made here on whether to grant or deny the requested waiver turn primarily on public interest considerations involved in marketing these engine families and what technology most likely would be available to enable the engine families in question to meet the 3.4 gpm CO standard for the 1982 model year. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into account costs, driveability, and fuel economy.

As was the case in the previous CO waiver decisions, this decision relies on information contained in the waiver application and other information found in the public record.[10] I conclude on the basis of this information that the applicants have adequately established that the risks that could rise were I to deny these waiver request at issue are significant enough that I must conclude that the requisite technology, considering costs, driveability, and fuel economy, is not available for the engine families in question, the GM 1.8/2.0L, Chrysler 1.6L, 2.2L, 2.6L, and 5.2L/2V, Ford 1.6L, and AMC 151 cubic inch displacement (CID) families.

As section 202(b)(5)(C)(iv) of the Act requires, I have considered the results of NAS studies and investigations conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. The findings of the available NAS studies do not contradict my assessment regarding the availability of technology for these engine families.[11]

1. *Applicants' Positions Summarized*

a. *Ford*

Ford applied for a waiver for its 1982 model year 1.6L engine family, which includes its "Sporty Coupe" models (LN7 and EXP) scheduled to begin production on February 1, 1981, and to be introduced in the early spring of 1981, and its Escort/Lynx models scheduled to begin production in August 1981, for the usual 1982 model year introduction in the fall of 1981.[12]

In support of its waiver request, Ford contends that current emission control technology will not enable its Sporty Coupe models to meet a 3.4 gpm CO standard for the 1982 model year, and that because of these models' early introduction date, Ford has sufficient lead time to develop alternative emissions control systems or components capable of achieving the 3.4 gpm CO standard.[13] With regard to its Escort/Lynx models, Ford states that it is unsure whether it can successfully incorporate ("pull ahead") aspects of its alternative high confidence 1983 system in time for its full 1982 production to achieve 3.4 gpm.[14] More important, however, Ford argues that even if it were able to achieve 3.4 gpm, it would be forced to calibrate its vehicles in a manner likely to result in unacceptable driveability for the vehicles equipped with automatic transaxles (ATX) and substantially degraded driveability for the vehicles equipped with manual transaxles (MTX).[15] Finally, for both models Ford contends that a waiver denial would substantially harm Ford's ability to compete with imported as well as other domestic models, resulting in economic hard to Ford and harm to the public interest.[16]

b. *Chrysler*

Chrysler contended it faced uncertain production risks and did not have sufficient lead time to develop and employ technology incapable of meeting the 3.4 gpm CO standard in a new 1.6L engine family it has recently arranged to purchase from Peugeot for use in 1982 model year vehicles. In addition, Chrysler asserted that the 2.2L, 2.6L, and 5.2L/2V models for which I granted waivers for model year 1981[17] are still capable of meeting the 3.4 gpm CO emission standard with a significant safety margin in production and with needed improvements in fuel economy and driveability in the 1982 model year. Finally, Chrysler stated that these engine families might experience difficulty in complying with the EPA high altitude regulations.[18]

c. *AMC*

AMC contended that its 151 CID engine family is incapable of meeting the 3.4 gpm CO standard with acceptable margins of safety and with acceptable driveability in the 1982 model year despite AMC's good faith efforts to improve the emissions control capabilities of this engine family. AMC further contended that, without a waiver, this family will not be capable of meeting EPA high altitude regulations, and AMC would then be unable to market this model.[19]

d. *GM*

In support of its waiver request, GM stated that, on the basis of available emission and fuel economy results, it was unable to guarantee that its 1.8/2.0L engine family could comply with the statutory emissions standard without suffering competitively disadvantageous fuel economy, driveability, and cost penalties.[20] GM contended that my granting waivers to some of GM's competitors while denying waivers to similar GM engine families resulted in an inequitable penalty for GM's good faith development of what is characterized as high technology emissions control systems (relative to other manufacturers).[21] Finally, GM asserted that the "substantial economic risk of erroneous denial" of its waiver request outweighed the risk of "insignificant impact on air quality" of an erroneous grant.[22]

2. *Waiver Applications Granted For Fuel Efficient Models: GM 1.8/2.0L, Chrysler 1.6L, 2.2L, and 2.6L, Ford 1.6L, and AMC 151 CID*

After due consideration of these arguments and the information submitted in support of them, I have concluded that each of the applicants has established that the applications covering the six small-displacement four-cylinder fuel-efficient engine families in question meet the necessary statutory requirements for receiving a waiver of the 3.4 gpm statutory CO emission standard for the 1982 model year. I have reached my determination primarily on the basis of my conclusion that it is essential to the public interest to grant waivers to allow these manufacturers, which are experiencing significant economic difficulties, additional flexibility to improve the competitiveness of the four-cylinder small-displacement fuel-efficient models under consideration here,[23] even though in some of these cases marketable technology may be available even considering costs, driveability, and fuel economy. My decision to grant these waivers also stems from the risk that waiver denials may turn out to be partially erroneous;[24] that is, waiver denials might result in reducing the competitive market position these fuel-efficient models (which are vital to these manufacturers' future viability at a time when these manufacturers are attempting to recover from their recent economic problems) could attain if these applicants were able to take advantage of the added flexibility a waiver might provide.

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[10] See note 6, supra.

[11] Report of the Committee on Motor Vehicle Emissions by the National Research Council of the National Academy of Sciences, dated June 30, 1980. See also discussions of the applicability of earlier NAS studies in previous CO waiver decisions: e.g., 44 FR 53376, 53386 (Sept. 13, 1979) and 44 FR 69416, 69423, 69428 (Dec. 3, 1979). For further discussion of how the NAS findings are consistent with my determinations relating to section 202(b)(5)(C)(iii) of the Act, see, e.g., 45 FR 67753, 67756 (Oct. 14, 1980).

[12] Ford App., p. III B-1. Oct. 10, 1980 Transcript, pp. 169, 193. Letter from R. M. Gulau, Ford, to Robert E. Maxwell, EPA, Exhibit II, p. 3, dated Nov. 6, 1980 (hereinafter, "letter to Maxwell").

[13] Ford App., p. III B-1. Oct. 10, 1980 Transcript, pp. 169, 225. Oct. 17, 1980 supp. submission, p. 9.

[14] Ford App., p. III A-12, III B3. Oct. 10, 1980 Transcript, pp. 185, 203-204.

[15] Ford App., p. III A-10; Tr. p. 196, 225-228; Oct. 17, 1980 supplemental submission, 4, 5, 6, 14; Nov. 3, 1980 supp. submission p. 1-2; Letter to Maxwell, Exhibit II, pp. 2-3.

[16] Ford App. pp. II 1-2; Tr. p. 170, Oct. 17 supplemental submission, pp. I 1, II 1-3.

[17] 45 FR 17914 (Mar. 19, 1980).

[18] C. App., Sections I, II, III. Oct. 24, 1980 Transcript, pp. 9-16.

[19] AMC App., pp. 4-12 Oct. 10, 1980 Transcript, pp. 74, 75.

[20] Oct. 10, 1980 Transcript, p. 16.

[21] GM App., p. 13.

[22] Id., p. 11. GM supp. submission (letter Ancker-Johnson to Costle) dated Nov. 21, 1980. Letter, Thomas M. Fisher, GM, to EPA Administrator Costle, dated Dec. 8, 1980.

The applicants have provided information which indicates that these comparatively small-displacement four-cylinder engine families under consideration here are used in relatively fuel-efficient vehicles. For example, the applicants have demonstrated that the GM 1.8/2.0L, AMC 151 CID, Chrysler 1.6L 2.2L, and 2.6L, and Ford 1.6L engine families are all projected to achieve 1982 fuel economy ratings equal to or better than the 1982 Corporate Average Fuel Economy (CAFE) standards.[25] None of these engine families has been previously marketed under the 3.4 gpm statutory CO emission standard, either because they are new models for 1982 or because they were marketed under a waived CO standard of 7.0 gpm in the 1981 model year.[26] For this reason, these manufacturers have not had the opportunity to improve the competitive features (specifically, cost, driveability, and fuel economy) of any of the subject engine families produced in compliance with the 3.4 gpm standard, and introduce appropriate improvements. Hence, without waivers they may have insufficient lead time or flexibility to optimize competitive features of these engine families for the 1982 model year.[27]

The flexibility which temporarily relaxing the 3.4 gpm CO standard would afford manufacturers of these fuel-efficient engine families does not by itself necessarily justify granting these waivers, particularly in those cases in which it appears that technology is available to permit a manufacturer to market an engine family with marginally acceptable cost, driveability, and fuel economy.[28] With the waiver applications at hand, however, all of these small-displacement fuel-efficient four-cylinder engine families at issue are aimed at the future market paced by fuel economy demands and thus are extraordinarily important to the overall marketing plans of the respective manufacturers and essential to their economic recovery.[29] The manufacturers before me have provided information that indicates that each manufacturer is suffering severe economic problems at the present time.[30] Each of these manufacturers has experienced significant sales losses during the 1979 model year and extraordinary financial losses for the 1979 fiscal year.[31] These problems have resulted in significant adverse social and economic repercussions for the country, including extensive layoffs, increasing trade deficits and effects on suppliers and related industries.[32]

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[23] Chrysler 1.6L, 2.2L, 2.6L; Ford 1.6L; AMC 151 CID; GM 1.8/2.0L.

[24] See, e.g., *International Harvester* v. *Ruckelshaus*, 478 F. 2d 615, 641, (D.C. Cir., 1973). See also, 45 FR 53400 (Aug. 11, 1980).

[25] The Corporate Average Fuel Economy standard is 24 mpg for the 1982 model year. 49 CFR 531.5; § 502, 503, Energy Policy and Conservation Act (EPCA), Pub. L. No. 94-63, 89 Stat. 871 (1975). The individual CAFE fuel economy figures for each model is an average which is weighted 55 percent urban cycle and 45 percent highway cycle. EPCA § 503(d)(1)[illegible]

Information in the record indicates that these engine families will achieve the 24 mpg 1982 CAFE standard. See, e.g., the 1981 EPA Gas Mileage Guide (September 1980 edition), which lists fuel economy figures (for the urban cycle) for the following models (these figures should indicate the potential urban component of the CAFE value for that model): Ford 1.6; AMC 151 CID; Chrysler 2.2L, 2.6L, and 1.7L (the 1.6L engine family considered here will be used in the same vehicle models as the 1.7L engine family and should be expected to achieve similar fuel economy characteristics—see, e.g., Chrysler App., p. II-3; Oct. 24, 1980 Transcript, pp. 16, 26, 101, 103, 105, 106). GM projected 1982 combined fuel economy mileage figures of 27-30 mpg for its 1.8/2.0L engine family. Oct. 10 1980 Transcript, pp. 16, 16A, 44. Each of the applicants projects its respective models to achieve 1982 highway fuel economy substantially better that the urban figures and a composite fuel economy figure above the CAFE standard. See, e.g., Chrysler Application for waiver of the 1981-1982 Model Year Carbon Monoxide Standard, July 3, 1979, Vol. III B, section C, data on cars J-01, 02, 03, 05, 06; 1981 Model Year EPA Certification Test Log, vehicles D00-101B, D00-103B, D04-15B, D04-29B, D04-76B, D04-77B, D032R, D033, D181, at 13:18:43, 13:36:38, Nov. 21, 1980; Chrysler Petition for Reconsideration, Oct. 16, 1979, pp. A-11, 17, D-Z; Chrysler supp. submission, July 20, 1979, response to question 9; Nov. 3, 1979 Transcript of Proceedings—In the matter of Applications for Waiver of 1981 Model Year Carbon Monoxide Emissions Standards, pp. 191, 192; Oct. 10, 1980 Transcript pp. 18, 44, 64, 98, 139, and 170; AMC supp. submission Oct. 24, 1980 pp. 5-13; 24, 1980 Transcript, p. 14.

[26] The Chrysler 2.2L engine family is employed in Chrysler's new "K-car" model introduced in model year 1981. The 1.6L engine family is a new engine family Chrysler has purchased from Peugeot which Chrysler will be using in model year 1982 in addition to its presently marketed 1.7L engine. C. App., Section I, II. Chrysler has previously received waivers for its 2.2L and 2.0L engine families for the 1981 model year. 45 FR 17914 (Mar. 19, 1980). GM intends to use its 1.8/2.0L engine family in its new "J-car" model it will introduce early in 1981 for the 1982 model year. GM App., Section I. Ford plans to use its 1.6L family in its new 1982 model year "sporty coupe" model it will introduce in the spring of 1981 and in its Escort/Lynx model scheduled for normal 1982 model year introduction. Ford App., Section III. Oct. 10, 1980 Transcript, pp. 172-174. Ford received a waiver for the 1981 model year for this engine family. 45 FR 53400 (Aug. 11, 1980). AMC received a waiver for the 1981 model year for its 151 CID engine family. 45 FR 7122 (January 31, 1980).

[27] See letter from Thomas M. Fisher of GM, to EPA Administrator Costle, dated Dec. 8, 1980, at 3-4 (hereinafter Fisher-Costle letter). Manufacturers that have successfully certified and marketed vehicle models under the statutory 3.4 gpm CO standard have the flexibility to "carry over" 1981 certification results for the 1982 model year and avoid incurring the engineering expense and effort necessary for a certification program. In addition, those manufacturers could apply their engineering efforts toward improving competitive features of these vehicles meeting the 3.4 gpm standard using the production and marketing experience.

[28] For example, available information fails to indicate that marketable technology is unlikely to be available to permit GM's 1.8L/2.0L engine family to meet the 3.4 gpm CO standard, even considering cost, driveability and fuel economy. See my earlier decision on this engine family, dated Nov. 20, 1980.

[29] For App., Section II. Letter, Ancker-Johnson (GM) to Costle, dated Nov. 20, 1980. Fisher-Costle letter, dated Dec. 8, 1980 at 4. Oct. 10, 1980 Transcript, pp. 13, 70, 104, 105, 170. Oct. 24, 1980 Transcript, p. 14. Automotive News, Nov. 17, 1980, "Escort/Lynx" and K-Car in a Difficult New-Car Market", Joseph Bohn, pp. 1, 45.

These engine families (for which these manufacturers have applied significant resources in research, development, and retooling) make up a large and increasing proportion of the total sales of each of these manufacturers. See, e.g., Automotive News, Nov. 3, 1980, "1980 V-8 Output Cut in Half," Joseph Bohn, pp. 1, 54; GM App., pp. 12-13; Ford supp. submission, Oct. 17, 1980, exhibits I, III-G; C. App., pp. II-3, III-1, Oct. 10, 1980 Transcript, pp. 13, 14, 104-106, 169, 170; Oct. 24, 1980 Transcript, pp. 13, 14, 103, 105, 106. See also, generally, U.S. International Trade Commission Decision on Certain Motor Vehicles, Publication 1110, December 1980.

[30] AMC supp. submission, 1980 Quarterly Reports. Chrysler Nov. 4, 1980 supp. submission. Ford App., Section II. GM supp. submission, p. 15. Oct. 10, 1980 Transcript, p. 70. Oct. 24, 1980 Transcript, pp. 117-120.

[31] GM sales declined 22 percent compared to the same 12-month period last year, Wall St. Journal, Dec. 5, 1980, p. 29, while GM reported record losses of $824 million for the last four quarters. New York Times, Oct. 28, 1980, "Record Loss Listed by GM", Steve Lohr, p. 1. GM further reported that 1981 fourth quarter sales have been substantially lower than expected. Fisher-Costle letter, dated Dec. 8, 1980, at 4. AMC sales worldwide are down 14.9 percent and AMC has reported twelve month losses of $155.7 million, and layoff of 5,900 of 23,400 employees (AMC supp. submission, Oct. 24, 1980, p. 24). Chrysler's production is down 37 percent over last year (Wall St. Journal, Dec. 5, 1980, p. 29) and Chrysler lost $1.1 billion in 1979 and $1.5 billion in the first three quarters of 1980. Chrysler Nov. 4, 1980 supp. submission. Ford's production declined 29 percent over last year (Wall St. Journal Dec. 5, 1980, p. 29) and Ford also reported record losses of $1.51 billion for the last 12 months. Ford App., section II. Oct. 17, 1980 supp. submission, section I.

Granting waiver requests for the engine families at issue could allow these manufacturers the flexibility to improve the competitive marketability of some features [33] of these important engine families at a time when these financially troubled manufacturers are depending upon successful marketing of these particular engine families in order to achieve economic recovery. Each of these manufacturers has already expended a considerable amount of cost and effort in attempting to meet the 3.4 gpm CO emission standard [34] and to retool for these more efficient models, thereby further limiting the resources they have available to otherwise improve the competitiveness of these models.[35] In light of these circumstances, I have determined that it is in the public interest to grant all of these waiver requests for these fuel-efficient engine families because of the risk that denial of these waivers could limit the manufacturers' flexibility to improve the competitiveness of these important engine families and ultimately interfere with the future of these automobile manufacturers.[36]

In *International Harvester Co.* v. *Ruckelshaus*,[37] the United States Court of Appeals for the District of Columbia Circuit reviewed the Administrator's decision to deny manufacturers' requests for a one-year suspension (from 1975 to 1976) of the effective date of the statutory hydrocarbon (HC) and CO standards mandated by the 1970 version of the Act. The Court stated, among other things, that the Administrator should have considered the risks associated with the possibility of erroneously granting or denying those requests. The Court indicated that the Administrator should balance the economic costs (in terms of jobs lost and misallocated resources) possibly associated with an erroneous or only partially accurate denial versus the possible environmental benefits lost through an erroneous grant.

Under the current section 202(b)(5) of the Act, the gravity of the economic and other risks which both a waiver applicant and the public face from the possibility of an erroneous denial depends on the following two factors: (1) The likelihood that the denial, in fact, will turn out to be either erroneous or only partially accurate and (2) the severity of the adverse economic consequences which could occur as the result of an erroneous or partially accurate denial.[38]

In this case, I find that there is a significant likelihood that a decision denying any one of these waiver requests could turn out to be only partially accurate.[39] At a time when these manufacturers need to be as competitive as possible to effect an economic recovery, a partially accurate denial would risk diminishing their ability to adequately compete in this fuel economy oriented market of the future [40] thereby delaying planned recovery, continuing unemployment problems increasing economic stagnation, and potentially limiting the increase in the number of these fuel efficient vehicles in use.

Alternatively, the environmental benefits from denying waiver requests for any one or all of these engine families would be insignificant.[41] Vehicles using these engine families are projected to account for only about 15% of total 1982 model year domestic sales.[42] Adding the number of engine families which already have waivers for the 1982 model year increases this total to only 27% of projected 1982 model year U.S. sales. This is consistent with my previous findings that the CO waiver proceedings to date have generally shown that the 3.4 gpm CO emission standard is generally achievable with marketable cost, driveability and fuel economy, and that waivers are appropriate only in extenuating circumstances, such as those identified here. In addition, manufacturers have generally made significant efforts to reduce emissions even from those engine families under consideration here which have received waivers for the 1981 model year while preserving the ability of those families to maintain strong competitive positions in the domestic market. For example, the engine families considered here which already had waivers to the alternative 7.0 gpm CO emission standard generally exhibited CO emissions in production which were close to or marginally below 3.4 gpm.[43]

In addition, the air quality effect of granting waivers to other engine families, if any, which may share similar public interest considerations and incur similar adverse risks comparable to these fuel efficient engine families is also quite likely to be insignificant.[44] Finally, these engine families will continue to have to meet other regulatory requirements designed to control emissions of in-use vehicles and for which Congress provided no such flexibility to discriminately relax requirements.[45]

While Congress might not have envisioned the waiver process as a mechanism which could permit applicants to attain highly competitive technology (as opposed to reasonably marketable technology considering cost, driveability and fuel economy characteristics) when it prescribed the criteria under which I may grant a waiver request, the current economic circumstances and business realities for many automobile manufacturers are significantly different from what they were when Congress adopted the CO waiver provision.[46] Under these circumstances, I find it unlikely that Congress intended me to deny applications where the benefits to the public of a waiver grant would outweigh the benefits of a waiver denial.[47] I believe the language of section 202(b)(5)(A) gives me the flexibility to provide the relief granted here.

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[32] See e.g., Wall St. Journal, October 30, 1980, p. 1, "Chrysler Posts [illegible] Period Loss of $489.7 million," Leonard M. Apcar; Oct. 29, 1980, "Ford Reports a Loss of $595 million, Record for any U.S. Auto Concern, p. 1. New York Times, Oct. 30, 1980, "$490 Million Loss Listed by Chrysler"; November 3, 1980, "Ford Suffers Biggest Loss Ever . . . $567 Million Loss at GM Next Biggest and Chrysler Drops $490 Million" Edward Lapham, pp. 1, 54. United States International Trade Commission Decision on Certain Motor Vehicles, Publication 1110, December 1980, pp. A27–76. Oct. 17, 1980 Ford supp. submission, p. 2.

[33] A waiver to 7.0 gpm may allow a manufacturer flexibility to calibrate an engine family to achieve better fuel economy, driveability or costs, e.g., a waiver will allow Ford and AMC to optimize driveability. Oct. 17, 1980 Ford supp. submission, pp. 4, 7, Exhibits I–L. November 3, 1980, Ford supp. submission, Exhibit A. Oct. 10, 1980 Transcript, pp. 100, 128, 169, 222–228.

[34] See also section IIIC. All of these engines are already achieving emission levels close to or under the 3.4 gpm standard. See note 43, supra.

[35] See e.g. GM's contention regarding competitive disadvantage. GM App., p. 13. See also *International Harvester*, 478 F. 2d 615, 637–638 (D.C. Cir., 1973).

[36] See generally, *International Harvester*, 478 F. 2d 615, 633, 641 (D.C. Cir., 1973); 45 FR 53401, 53403 (Aug. 11, 1980).

[37] 478 F.2d 615 (D.C. Cir., 1973).

[38] *Cf. Ethyl Corp.* v. *Environmental Protection Agency*, 541 F.2d 1, 18 (D.C. Cir. 1976) (stating that the Administrator's finding under section 211 of the Act that lead particulates "will endanger the public health and welfare" is composed of reciprocal elements of probability and severity).

[39] *Cf., International Harvester, supra*, 478 F. 2d at 641: "[A] partially accurate decision would allow companies to produce but at a significantly reduced level of output." Here, companies are already producing at a lower output due to market conditions, and a waiver denial at this time likely could limit the flexibility these companies need to improve marketability (by improving driveability for example) and sales.

[40] See, e.g., Fisher-Costle letter, dated Dec. 8, 1980, at 3.

[41] See also section 111–B.

[42] See, e.g., October 24, 1980 Transcript, p. 14. Oct. 10, 1980 Transcript, pp. 16, 144. Automotive News, Nov. 17, 1980, "Escort/Lynx and K-Car Star in a Difficult New-Car Market," Joseph Bohn, pp 1, 45. This projection assumes 1982 model year domestic sales of about ten million vehicles.

[43] Average CO emission results for production vehicles receiving waivers to a 7.0 gpm CO emission standard (from samples of various sizes which were tested by these manufacturers):

AMC: 151 CID—3.2 gpm.

Ford: 1.6L—1.61–4.14 gpm (range for four pre-production vehicles).

Chrysler: 2.2L–3.5 gpm; 2.6L–2.6 gpm; and 5.2L–3.3 gpm.

See, e.g., AMC App., p. 14; C. App., p. II–11, 12; October 17, 1980, Ford supp. submission, Exhibits E–L (confidential); Oct. 10, 1980 Transcript, p. 109.

[44] *Cf.*, discussion of a similar concern in my eight CO waiver decision. 45 FR 53401, 53404 (Aug. 11, 1980).

[45] See, e.g., Oct. 10, 1980 Transcript, p. 176. However, these engine familes will receive a waiver of the high altitude standard consistent with the waivers granted here. 45 FR 66984 (Oct. 8, 1980).

2. *Other Waiver Applications Granted: Chrysler's 5.2L/2V Engine Family.*

In my fourth CO waiver decision published on March 19, 1980,[48] I granted Chrysler a waiver for its 5.2L/2V engine family for the 1981 model year. I granted the waiver because newly-available information indicated that Chrysler and the public risked incurring severe adverse economic repercussions if I were to make an incorrect projection regarding availability of technology to enable this Chrysler engine family to meet the 3.4 gpm CO standard. I concluded that these risks were the type which the *International Harvester* decision directed EPA's Administrator to consider in ruling on requests for statutorily-authorized delays in implementing emission standards.

Specifically, the new information indicated that because of Chrysler's relatively instable financial situation, incorrectly denying a waiver for this Chrysler engine family was likely to cause severe adverse economic repercussions to Chrysler and the public generally.

Moreover, the new information further indicated that this engine family faced potential driveability problems which Chrysler might have been unable to resolve in time for the 1981 model year. Given Chrysler's limited flexibility in applying alternative technology, driveability problems might have prevented Chrysler from producing these engine families under a 3.4 gpm CO standard in the 1981 model year in a manner that would be acceptable to consumers.

Thus, I further concluded there was then some potential that a determination that effective control technology, considering costs, driveability, and fuel economy, would be available to any of these three engine families for the 1981 model year might prove to be incorrect.

I determined at that time that the risks arising from the possibility of incorrect denial for the 1982 model year would diminish considerably because Chrysler would have additional time to deal with driveability problems it would be facing in the 1981 model year. I therefore denied Chrysler's request for a waiver for this engine family for the 1982 model year, on the basis that Chrysler had not adequately established that effective control technology, considering costs, driveability, and fuel economy, would not be available for this engine family for the 1982 model year.

Chrysler now argues that the possibility of an erroneous denial that existed when I issued my last Chrysler waiver decision in March, 1980, still exists today.[49] Chrysler states that its emissions control capabilities for model year 1982 are generally no greater than they were in 1981.[50] Specifically, for its 5.2L/2V engine family, Chrysler is utilizing the same emissions control system that it used on model year 1981 except for three minor improvements, two of which are primarily intended for better cold driveability.[51]

Chrysler contends that with this technology there is a risk that the 5.2L/2V engine family will not be able to meet a 3.4 gpm standard when driveability and fuel economy are considered.[52] Chrysler cites its 1981 model year first quarter "Federal Emissions Surveillance Data" and reports that for this engine family the deteriorated CO value averaged over 29 tests is 3.29 gpm.[53] Chrysler contends that this value is so close to the 3.4 gpm CO standard that this engine family does not have "adequate margins" of safety relative to a 3.4 gpm standard if, in fact, that were the standard this engine family were required to meet.[54]

a. *Likelihood of Erroneously Determining That Effective Control Technology Is Available*

As I stated earlier,[55] the *International Harvester* decision indicated that the costs of an erroneous denial which the Administrator should consider should include the costs from a denial which is only partially accurate. There is a small potential that my decision would be partially erroneous were I to deny Chrysler's waiver request for this engine family based on a determination that technology is available for it to achieve a 3.4 gpm standard considering costs, driveability, and fuel economy.

The risks that Chrysler faces in marketing this engine family in model year 1982 have diminished somewhat from March, 1980, when I last considered a waiver request for this engine family. Despite the fact that I had granted this engine family a waiver to 7.0 gpm CO, its 1981 model year certification vehicles achieved levels below the statutory standard with technology substantially similar to that which Chrysler plans to use on these vehicles for model year 1982.[56] The three certification emission data vehicles exhibit CO emissions that averaged 1.9 gpm (taking into account likely deterioration in emissions performance over extended mileage), with a range of 1.4 to 2.9 gpm.[57]

These test results indicate that effective control technology most likely is available to enable this engine family to certify to the 3.4 gpm CO standard. Moreover, Chrysler has not reaised any new facts or evidence establishing that, strictly on the basis of emission control capabilities, this engine family will not be able to comply with other emission-related requirements should I deny it a waiver for the 1982 model year.[58]

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[46] The Court in *International Harvester* adopted a similar approach in interpreting Congress' intent:

The Court must seek to discern and reconstruct what the legislature that enacted the statute would have contemplated for the court's action if it could have been able to foresee the precise situation. It is in this perspective that we have not flinched from our discussion of the economic and ecological risks inherent in a "wrong decision" by the Administrator.

478 F. 2d 615, 648, citing *Montana Power Co. v. FPC*, 445 F. 2d 739, 746 (enbanc, 1970), cert. denied, 400 U.S. 1013 (1971).

[47] The flexibility which Congress explicitly afforded me through the waiver provision (which is similar to its legislative predecessor, the suspension provision) in implementing the 3.4 gpm CO standard, gives me a unique opportunity to accommodate these concerns which waiver applicants have raised here. See, e.g. the legislative history for the suspension provision in the 1970 act: 116 Cong. Rec. 33120, (Senator Baker); 33081 (Senator Griffin); 32905 (Senator Muskie) (1970).

[48] 45 FR 17914.

[49] Oct. 24, 1980 Transcript, p. 10. C. Nov. 4, 1980 supp. submission, p. 1.

[50] Oct. 24, 1980 Transcript, p. 11.

[51] Oct. 24, 1980 Transcript, pp. 29, 44, 69, 72. Chrysler stated it will use improved electronics for greater spark and fuel control, and a different location for its oxygen sensor to improve cold driveability for this engine family. This engine family will also be equipped with catalyst seals for better CO emissions control. Chrysler did not submit any driveability data for vehicles equipped with these improvements.

[52] Chrysler App., p. II–7.

[53] C. Oct. 17, 1980 supp. submission, Attachment B.

[54] Oct. 24, 1980 Transcript, p. 18, 109.

[55] See discussion accompanying footnote 37 of this decision, supra

[56] Oct. 24, 1980 Transcript, p. 67. Chrysler plans to apply for "carryover" certification for this engine family in 1982. Oct. 24, 1980 Transcript, p. 69.

[57] C. Oct. 17, 1980 supp. submission, Attachment A. Oct. 24, 1980 Transcript, p. 110. Certification emission data vehicles are tested at low mileage to determine compliance with emission requirements. See 40 CFR § 86.079–26 (1979).

[58] Assembly-line emission test results which Chrysler submitted as representative of its 5.2L/2V vehicles manufactured during the first production quarter of the 1981 model year exhibited a 17% (5 of 29) failure rate with respect to the statuory CO emission standard. See Chrysler's Federal Passenger Individual Vehicle C.V.S. Test Data Audit Report. On the basis of this failure rate, the

Footnotes continued on next page

Section 202(b)(5)(C)(iii) of the Act, however, requires that I also consider costs, driveability, and fuel economy before reaching my ultimate determination on availability of effective control technology to meet a 3.4 gpm CO standard.

In my decision granting Chrysler's waiver request for this and other engine families for model year 1981, I determined that some potential existed that Chrysler would not be able to produce vehicles in these engine families with both acceptable eminssions and marketable driveability.[59] I also determined that waiving the 3.4 gpm CO standard would permit Chrysler to develop calibrations for these engine families resulting in better driveability.[60] The driveability risks that were present during my consideration of that waiver request are no longer as significant with respect to this engine family for the 1982 model year, but the potential for driveability difficulties continues to exist.

Chrysler contends that because of the risk of driveability difficulties it needs a waiver for this engine family to maintain driveability at a competitive level.[61] Chrysler explains that its driveability targets for both cold and warm modes for this engine family is 7.0, on a scale of 10,[62] and that its 1981 certification data vehicles and 1981 first quarter production vehicles had driveability ratings of 6.4 for the cold mode and 7.1 for the warm mode.[63]

Chrysler states that when the driveability ratings of its development vehicles average 6.0, the actual ratings in production can range from 4 to 8.[64] While admitting that this much variance is unusual, Chrysler indicated that a one number range in driveability ratings on either side of the average driveability value was more representative of actual production experience.[65] Thus, this engine family, with an average cold driveability rating of 6.4, could experience actual production ratings as low as 5.4, which Chrysler describes as "marginal" and could result in decreased sales due to customer dissatisfaction.

To improve cold driveability, Chrysler has employed several relatively minor changes in hardware and calibration which Chrysler states will slightly increase CO emission.[66] Given the fact that Chrysler's 1981 first quarter surveillance data indicate that average CO emissions for this engine family is 3.29 gpm, Chrysler may not be able to implement its driveability improvement changes while remaining in compliance with a 3.4 gpm standard. Chrysler states that a CO waiver would provide it with the flexibility it needs to optimize driveability by implementing these and other possible changes.[67]

Chrysler also states that improving driveability by taking advantage of a CO waiver would enable it to save the costs associated with warranty claims arising from "carburetion/driveability" difficulties.[68] Information submitted by Chrysler comparing "Projected Lifetime Carburetion/Driveability Expense Per Unit Sold" for its 5.2L/2V engine family indicated that the 5.2L/2V family had expenses approximately one third as high as a larger engine family which exhibited lower driveability ratings.[69] Thus, a waiver would enable Chrysler to reduce its warranty costs associated with driveability difficulties.

Driveability considerations, therefore, although diminished from the time of my last waiver consideration for this engine family, still present some potential for an erroneous decision, were I to determine that effective control technology exists for this engine family to meet a 3.4 gpm CO standard.

With regard to costs of the technology needed to meet the 3.4 gpm CO standard, Chrysler stated generally that waivers would allow it to use its resources to, among other things, keep the cost of its products at a competitive level.[70] Chrysler did not provide information indicating that cost savings, if any, resulting from my decision to grant a waiver would be significant.[71]

With regard to fuel economy, Chrysler states that it expects a fuel economy benefit of approximately 2% when comparing vehicles receiving waivers to 7.0 gpm with those not receiving waivers.[72] Chrysler admitted, however, that this was simply a judgment applicable to several engine families in the aggregate, rather than specifically to its 5.2L/2V engine family.[73]

b. *Potential Adverse Economic Consequences of Erroneously Determining That Effective Control Technology Is Available*

While this potential for an erroneous decision alone would normally not give rise to sufficient concern to serve as a basis for concluding that effective control technology is not available, I must assess this risk in light of the severity of the adverse consequences which could occur if the decision indeed turned out to be erroneous. Thus, I have considered information provided by Chrysler and other information in the public record in determining possible risks to Chrysler and the public in denying a waiver for the 5.2L/2V engine family.

The general economic difficulties of the automobile industry, and Chrysler's unique position in the decline are well documented.[74] While the other automobile manufacturers are also experiencing economic difficulties, Chrysler remains the only corporation to have received a federal aid package including $1.5 billion in loan guarantees. Even with this aid, Chrysler describes its economic outlook as still highly uncertain.[75]

Specifically, although recent projections indicated Chrysler might have a profitable fourth quarter, Chrysler now projects that it will experience a fourth quarter loss.[76] One reason for this reversal is that sales of

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Footnotes continued from last page

probability of production vehicles failing a Selective Enforcement Audit (SEA) is quite limited. See 41 FR 31474 (July 28, 1976).

Chrysler argues that it is unable to achieve compliance simultaneously with a 3.4 gpm CO standard and the high altitude regulations, applicable in the 1982 model Year. Chrysler App., 1–3 and Oct. 24, 1980 Transcript, p. 88. Chrysler indicated, however, that the data on hand supporting this position was limited, that it was unsure of exactly how much difficulty high altitude regulations would present, and that the available data did not include test results of vehicles with improved electronic memory devices that Chrysler hopes will improve high altitude CO emissions control. See Oct. 24, 1980 Transcript, pp. 89–91.

[59] 45 FR 17919 (Mar. 19, 1980). I pointed out explicitly that this risk alone was not significant enough for me to grant those waivers, but that I could grant those waivers for model year 1981 only because Chrysler established both that severe adverse economic consequences could result if those driveability concerns indeed turned out to preclude the engine families in question from being able to meet the 3.4 gpm CO standards.

[60] Id.

[61] Chrysler App. p. II–12.

[62] Oct. 24, 1980 Transcript, p. 25. Chrysler also states that when a vehicle rates below 5.5, on a development or individual evaluation basis, it reviews the circumstances surrounding the vehicles in question to determine whether to continue production.

[63] Nov. 4, 1980 supp. submission, p. 12: Oct. 24, 1980 Transcript, p. 67.

[64] Oct. 24, 1980 transcript, p. 50.

[65] Id.

[66] Oct. 24, 1980 Transcript, p. 13.

[67] Oct. 24, 1980 Transcript, pp. 13–14, 18.

[68] Oct. 24, 1980 Transcript, p. 51.

[69] The projected expenses for the 5.2L/2V engine family were $5.53, while the expenses for the larger engine family were $14.44. C. Nov. 4, 1980 supp. submission, p. 3.

[70] Oct. 24, 1980 Transcript, p. 16.

[71] Chrysler stated that it was not running parallel 3.4 gpm and 7.0 gpm programs with different emission control designs and different costs. Oct. 24, 1980 Transcript, pp. 46, 48, 49, 72.

[72] Oct. 24, 1980 Transcript, p. 58.

[73] Id. Chrysler did not submit data substantiating its 2% figure.

[74] See e.g., my discussion of Chrysler's economic position in my Mar. 19, 1980 waiver decision, 45 FR 17917, and my discussion accompanying footnotes 30–32 of this decision.

[75] C. Nov. 4, 1980 supp. submission, p. 4. New York Times, Dec. 18, 1980, "Chrysler Expects $1.7 Billion Loss; Seeks Another $400 Million in Aid," Section A, p. 1.

[76] Id.

Chrysler's K-cars, upon which it publicly hinged its economic well being, have stalled recently, forcing Chrysler to stop production of its K-cars 7 working days earlier than its scheduled annual holiday close down and forcing the layoff of 10,000 workers.[77]

Moreover, the slump has caused a cash flow crisis which has forced Chrysler to adopt severe emergency measures. Chrysler will reportedly request $400 million in additional loan guarantees from the Federal Government, after having already drawn $800 million in authorized guarantees.[78] Chrysler has also requested its suppliers to freeze their prices, and has informed certain of its buyers that it will postpone paying its bills to ease its cash flow crisis.[79] Finally, Chrysler has asked the United Auto Workers to freeze its wage and fringe benefits package in order to realize a savings of $1.5 billion.[80]

Chrysler states that it cannot afford to lose the sales of an entire engine family.[81] Furthermore, Chrysler is already capacity limited with respect to its 5.[illegible]L/EFM engine family. Thus, the only available substitute were Chrysler unable to market this engine due to waiver denial is the 5.2L/4V, an engine family that Chrysler states has lower fuel economy and driveability ratings than the 5.2L/2V.[82]

I have determined that the lost sales and other economic consequences that may result from a partially inaccurate decision regarding availability of technology would only exacerbate Chrysler's serious economic situation. An incorrect waiver denial could set in motion a series of events which might affect Chrysler's viability as a manufacturer. If Chrysler's viability is ultimately threatened, even greater adverse impacts on employment, Chrysler's suppliers, and the national economy could result.

c. *Balancing the Risks of Erroneous or Partially Accurate Denial Against the Benefits of a Correct Denial*

The *International Harvester* decision requires that I balance the risk of adverse consequences posed by an erroneous waiver denial against the potential benefits lost by an erroneous grant

The adverse effect on air quality from granting a waiver for Chrylser's 5.2L/2V engine family model is insignificant. Chrysler's projected 1982 sales for this model account for less than one percent of total 1982 U.S. automobile sales. In addition, the air quality effect of granting waivers to other engine families, if any, which may incur adverse risks and potential benefits comparable to those of the Chrysler 5.2L/2V engine family from a waiver denial also are quite likely to be insignificant.[83]

The driveability concerns expressed by Chrysler present the possibility that Chrysler would not be able to produce this engine family with both acceptable emissions and marketable driveability. This possibility alone does not provide a basis of my determining that Chrysler has established that effective control technology is not available, considering costs, driveability and fuel economy. Available information also indicates, however, that severe economic costs could arise as a result of an erroneous determination for Chrysler's 5.2L/2V engine family on the availability of technology criterion. The presence of both of these factors relative to the limited environmental benefits which a waiver denial under these circumstances would achieve compels me to determine that Chrysler has met its burden in establishing that effective technology is not adequately available for its 5.2L/2V engine family for the 1982 model year, considering costs, driveability, and fuel economy.

B. Protection of Public Health

Section 202(b)(5)(C) of the Act requires that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine family receiving the waiver. I have already examined this issue with respect to the relative consequences and risks involved in granting or denying the waiver requests for fuel efficient engine families and for the Chrysler 5.2L/2V engine family at issue here.

I have found as a result of this examination that any adverse health effects resulting from waiving the 3.4 gpm standard for the 1982 model year engine families discussed in this consolidated decision would be insignificant. The same statement is true regarding the combined health effects resulting from emissions from engine families receiving waivers under the previous consolidated CO waiver decisions. As a result, protection of the public health does not require attainment of the 3.4 gpm CO standard by the engine families here, for which I have determined that effective control technology is not available for the 1981 model year.[84]

While waiving the 1982 statutory CO standards for these engine families arguably would not significantly affect public health,[85] noticeable increases in ambient CO levels could result from granting waivers industrywide. In light of the fact that industrywide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry consisting of engine families for when I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available and which I have determined are essential to the public interest (presuming these families also meet the remaining statutory criteria).[86]

The National Automobile Dealers Association (NADA) submitted comments to the public docket claiming that EPA should grant all pending and future 1982 waiver requests on a manufacturer-by-manufacturer basis from the 3.4 gpm CO standard and cited as support for that position the June 30, 1980 National Academy of Sciences Report.[87] That NAS report concludes that the technology exists to meet the Congressionally-mandated 3.4 gpm CO standard. However, the study also recommended that the need for the 3.4 gpm standard be re-evaluated.[88]

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[77] Wall Street Journal, Dec. 10, 1980, "Chrysler To Cut K-car Production Due to Poor Sales."

[78] See footnote 75, supra.

[79] Wall Street Journal, Dec. 8, 1980 "Chrysler Delays Paying Some Of Its Bills As Car Sales Slump Threatens Recovery."

[80] New York Times, Dec. 5, 1980, "Chrysler Drops '80 Profit Hope."

[81] Oct. 24, 1980 Transcript, p. 14.

[82] Oct. 24, 1980 Transcript, p. 107.

[83] I need not determine at this time whether continuing to grant waivers covering any further engine families which have a comparable balance between adverse risks and potential benefits associated with them would or would not eventually result in a significant impact on air quality. Granting a waiver for this Chrysler model would increase the coverage of waivers granted to approximately 30% of all scheduled 1982 U.S. automobile sales.

[84] See, e.g., my discussion of ambient air quality effects in my first consolidated CO waiver decision. App. B. 44 FR 53376, 53402, 53407 (September 13, 1979) and 44 FR 69416, 69146, 69458–69462 (Dec. 3, 1979). The engine families receiving waivers under my previous CO waiver decisions constitute less than 13% of the total projected 1982 model year light duty vehicle sales in the United States. 44 FR 69416, 69424, note 58 (Dec. 3, 1980). These manufacturer projected sales of about 1.4 million units of these models in the 1982 model year. See note 42, *supra*.

[85] For further discussion concerning this issue see the first decision. 44 FR 53376, 53381 and Appendix B at 44 FR 53402–53407 (Sept. 13, 1979).

[86] I discussed the ambient air quality effect of granting CO waivers in each Appendix B in two previous decisions. 44 FR 53376, 53402–53407 (Sept. 13, 1979) and 44 FR 69416, 69456–69462 (Dec. 3, 1979).

[87] National Automobile Dealers Association Comments on Motor Vehicle Pollution Control Waiver of Carbon Monoxide Standards, Public Docket EN-80-10, Oct. 24, 1980, p. 2. See also my statement regarding similar comments by NADA in my tenth CO waiver decision, 45 FR 67753, 67756 (Oct. 14, 1980).

NADA claims that a 7.0 gpm CO standard is adequate to protect public health, and it relies on the NAS June 30, 1980 recommendation to re-evaluate the statutory 3.4 gpm CO standard as support for this contention.[89] GM also contends that the 3.4 gpm CO emission standard is unnecessary to protect air quality and public health, and that this standard is not cost-effective compared to the cost benefits of other pollution control strategies.[90]

I have discussed in previous decisions the results of the air quality analysis which indicate that noticeable increases in ambient CO levels could result from a two-year, industry-wide waiver.[91] In further response to NADA's assertion that an industry-wide waiver would not adversely affect public health, I refer to Congress' intent in including the waiver provision in the Act. Congress specifically substituted the requirement that the Administrator make individual waiver determinations for each vehicle model at issue for the authority previously delegated in the 1970 version of the Act to consider suspension of CO emission standards on a manufacturer-by-manufacturer basis. In so doing, Congress made clear that it wanted the Administrator to relax the statutory 90 percent reduction requirement for CO only when appropriate and as narrowly and precisely as possible.

Indeed, discussions in Congress concerning the Act's current CO waiver provision include the explicit statement that "[t]he waiver is not a general waiver for all manufacturers, nor is it a general waiver for all models of vehicles produced by a single manufacturer." [92] Instead, the wavier provision is to be available for a manufacturer's particular model line which cannot meet the 3.4 gpm standard in the 1981 or 1982 model years.[93] Granting an industry-wide waiver, or a waiver covering all future waiver requests on a manufacturer-by-manufacturer basis as suggested by NADA, would conflict with this clear evidence of Congressional intent with respect to the application of the waiver provision.

Section 202(b)(1)(A) of the Act mandates that the CO emissions standards for light-duty vehicles manufactured during or after the 1981 model year be at least a 90 percent reduction from emissions of CO allowable in the 1970 model year; namely, 3.4 grams per mile. Congress established that standard (in conjunction with the other statutory emission standards and statutory requirements) at the level which it determined would best address public health concerns, given the number of regions which need to reduce ambient CO to levels which are protective of public health. Congress did not intend that I relax the requirement for attaining the statutory emission levels it prescribed if these levels were reasonably achievable. Congress established this comprehensive legislative scheme to achieve nationwide air quality goals, realizing that some air pollution control methods might be more cost-effective than others, but acting on the conclusion that comprehensive employment of all of the statutory control methods which it specified was necessary to meet these air quality goals.[94]

C. Good Faith

In order for me to grant a waiver to any applicant, section 202(b)(5)(C)(ii) of the Act requires that I determine that the applicant in question has made all good faith efforts to meet the established emission standards. As a result, I have examined information regarding these applicants' previous and projected efforts toward meeting a 3.4 gpm CO emission standard for the engine families in question.

Each of the applicants has provided engineering, financial and technical information to support the contention that it has acted in good faith in trying to meet the 3.4 gpm CO standard. In general, information in the record provides support for determining that each has made good faith efforts in developing emission control technology to meet the 3.4 gpm CO standard.

As I mentioned earlier, these applicants generally have already made significant progress in developing the technological capabilities ot these engine families to meet the 3.4 gpm CO emission standard.[95] Evidence of such improved CO emissions control capabilities [96] substantiate these applicant's claims that they have exercised good faith efforts toward meeting the statutory standard and are therefore not benefiting from a potentially inequitable competitive advantage they might achieve by avoiding the good faith effort requirement of the Act and being unjustifiably granted a waiver.[97]

In the absence of any evidence supporting a contrary conclusion, I am unable to determine other than that these applicants have met the good faith criterion with respect to the engine families under consideration in this decision.

IV. Conclusion and Interim Standards

Each of the seven engine families which were the subject of this decision are covered by waiver applications which meet the requirements for receiving a waiver under section 202(b)(5)(C) of the Act. As a result, I am granting a waiver of the effective date of the statutory CO emission standard for the Ford 1.6L, GM 1.8/2.0L, AMC 151 CID, and Chrysler 1.6L, 2.2L, 2.6L, and 5.2L/2V engine families for the 1982 model year.

As required by section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations prescribing an interim CO emission standard for 1982 model year vehicles of 7.0 gpm for the engine families receiving a waiver. For these engine families, this action continues in effect for the 1982 model year the CO emission standard applicable to all 1980 model year light-duty vehicles.

Dated: December 23, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 81-282 Filed 1-5-81; 8:45 am]

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[88] Report by the Committee on Motor Vehicle Emissions by the National Research Council of the National Academy of Sciences, June 30, 1980, pp. 15–16.

[89] Id.

[90] GM also contended that the cost of technology designed to meet the 3.4 gpm CO emission standard was unreasonable because it was not cost-effective when compared to other pollution control strategies. Oct 10, 1980 Transcript, pp. 10–11. GM's contentions regarding cost effectiveness do not support the position that the costs associated with technology needed to meet the 3.4 gpm CO standard are so great, by themselves, as to preclude all manufacturers from competitively marketing their engine families under a 3.4 gpm CO standard. I rejected a similar cost effectiveness claim by GM in my first consolidated decision. 44 FR 53376, 53385 (Sept. 13, 1979).

[91] 45 FR 67753 (Oct. 14, 1980).

[92] 123 Cong. Rec. S13703 (daily ed. Aug. 4, 1977) (remarks by Sen. Muskie).

[93] Id. at S13702–13703.

[94] See my first consolidated CO waiver decision at 44 FR 53387 (Sept. 13, 1979) (also addressing how the Act directs me to consider the issue of potential added costs relative to air quality benefits from waiver denial). See also, e.g., Comm. on Public Works, National Air Quality Standards Act of 1970, S. Rep. No. 1196, 91st Cong., 2nd Sess. 23, 24, 101 (1970); 116 Cong. Rec. 32904 (1970) (Sen. Muskie).

[95] See section IIIB(1).

[96] See e.g., note 43, *supra*.

[97] *International Harvester, supra*, 478 F. 2d 615, 637, 638 (D.C. Cir., 1973).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[illegible]-FRL 1719-6]

Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 and 1982 Model Year Light-Duty Diesel Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes oxides of nitrogen (NO_x) emission standards for 1981 and 1982 model year light-duty vehicles belonging to the diesel engine family for which I have granted a waiver from the standard otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(B).

EFFECTIVE DATE: February 5, 1981.

ADDRESSES: Information relevant to this rule is contained in Public Docket EN-80-15 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street SW., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for copying services.

FOR FURTHER INFORMATION CONTACT: Larry Schwartz, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7521(b)(1)(B), requires that regulations applicable to NO_x emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which provide that such emissions from vehicles or engines shall not exceed 1.0 gram per vehicle mile. Regulations implementing this requirement have established this NO_x standard.

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any light-duty diesel engine family for which the Administrator can make the required statutory findings. I must promulgate interim NO_x standards applicable to the subject light-duty diesel engine families for those model years for which I have granted waivers.

Nissan Motor Company, Ltd. has submitted an application for a waiver for one of its diesel engine families. The statutory criteria, my determinations with respect to the vehicle model covered by the waiver application, and my decision to grant or deny the waiver application appear in the decision published along with this notice. In that decision, I granted waivers covering the following engine families for 1981 and 1982 model years only:

Manufacturer, engine family and Model year
Nissan: 2.9 Liter—1981, 1982

Having decided to grant the waiver application for this diesel engine family, I am simultaneously promulgating regulations adopting emission standards not permitting NO_x emissions from 1981 and 1982 model year vehicles of this engine family to exceed 1.5 gpm. The public has received an opportunity to comment on the waiver application at issue, and I have considered those comments in making the decision which requires the promulgation of this rule. Also, the 1981 model year certification process is underway. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this action does not constitute a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

In addition, because the decision accompanying this rulemaking is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

Dated: December 23, 1980.

Douglas M. Costle,
Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines

1. 40 CFR 86.081-8(a)(1)(iii) is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 model year light-duty vehicles.

(a) * * *
(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) oxides of nitrogen emissions from 1981 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	NO_x (gpm)
General Motors Corp	5.7 liter (L)	1.5
Daimler-Benz AG	2.4L	1.5
	3.0L naturally aspirated (NA).	1.5
	3.0L turbocharged (TC).	1.5
AB Volvo	2.4L NA	1.5
Peugeot	2.3L-TC-XD2S	1.5
Volkswagen AG	1.6L-NA-2250 pounds inertia weight (I.W.).	1.3
	1.6L-NA-2500 I.W.	1.4
	2.0L-NA-3000 I.W.	1.6
Nissan Motor Co	2.8L	1.5

* * * * *

2. 40 CFR 86.082-8(a)(1)(iii) is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 model year light-duty vehicles.

(a) * * *
(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	NO_x (gpm)
General Motors Corp	5.7 liter (L)	1.5
Daimler-Benz AG	2.4L	1.25
	3.0L naturally aspirated (NA).	1.6
	3.0L turbocharged (TC).	1.5
AB Volvo	2.4L NA	1.5
Peugeot	2.3L-TC-XD2S	1.6
Volkswagen AG	1.6L-NA-2250 pounds inertia weight (I.W.).	1.3
	2.0L-NA-3000 I.W.	1.5
	1.6L-TC-2250 I.W.	1.3
	1.6L-TC-2500 I.W.	1.4
	2.0L-TC-3000 I.W.	1.5
Nissan Motor Co	2.8L	1.5

* * * * *

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7601(a) (Supp. I 1977))

[FR Doc. 81-203 Filed 1-5-81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EN-FRL 1719-5a]

Application for Waiver of the 1981-1982 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Fourth Decision of the Administrator

1. Introduction

This is the fourth decision I have issued under section 202(b)(6)(B) of the Clean Air Act, as amended (Act)[1] regarding applications from automobile manufacturers for waiver of the 1.0 gram per mile (gpm) oxides of nitrogen (NO_x) emission standard scheduled to apply to 1981 and subsequent model year light-duty diesel vehicles and engines.[2]

As the introductions to the first three diesel NO_x waiver decisions explain, section 202(b)(1)(B) of the Act establishes the standards applicable to NO_x emissions from light-duty vehicles and engines manufactured during and after model year 1977.[3] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 gpm for model years 1977 through 1980, and may not exceed 1.0 gpm for 1981 and later model years.

Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 gpm NO_x standard to a level not to exceed 1.5 gpm, for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that the waiver is necessary to permit use of diesel engine technology in the class or category of vehicles or engines for which it has requested a waiver. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health,

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the energy Policy and Conservation Act (EPCA), and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver.[4]

On August 29, 1980, I received an application from Nissan Motor Company, Ltd. (Nissan) for waiver of the 1981 and 1982 1.0 gpm NO_x standard for its 2.8 liter (L) diesel engine family. EPA held a public hearing to consider this application on September 19, 1980. The transcript of this hearing, the materials submitted by the applicant in its waiver request, and all other information upon which I have based my decision on this waiver request, including the technical appendix cited below, are included in EPA Public Docket EN-80-15.[5]

II. Summary of Decision

A. Waiver Application Granted

The application which I have decided to grant covers the following engine family for the model years specified:

Waiver Applications Granted

Manufacturer	Model year	Engine family
Nissan	1981, 1982	2.8L

As discussed more fully below, I have concluded that Nissan's application covering this engine family meets each of the statutory criteria for receiving a waiver for the years noted. I am prescribing an interim NO_x standard of 1.5 gpm for Nissan's 2.8L engine family for model years 1981 and 1982.

III. Discussion

A. Assessing Need for Waivers

Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue I must address under this criterion is whether the applicant has shown that unless I grant the waiver, the engine family which the waiver request covers will not be able to meet applicable emission standards, even with the addition of any device, equipment or aspect of diesel engine technology presently available or expected to become available during the period covered by the waiver request.[6]

1. *Decision Methodology*

The methodology this decision employs to assess an engine family's need for a waiver is the same as the methodology I used in my first three diesel NO_x waiver decisions.[7] This methodology includes an evaluation of the effect of NO_x emission controls on emissions of particulate matter. This evaluation relies on information supplied by Nissan in this proceeding, and by parties commenting in the diesel particulate rulemaking proceedings,[8] as well as on other information contained in the record for this decision.

2. *Nissan's Application*

Nissan has reached a stage in its development of NO_x emission controls at which it has narrowed the range of strategies it contemplates employing to meet the applicable emission standards[9] to, at most, a few alternative systems. To support its contention that a waiver is necessary to permit the use of diesel technology for its 2.8L engine family, Nissan has provided descriptions of the systems it has been considering in efforts to meet 1981 and later model year emission standards.

Nissan has concentrated its development efforts on the following two NO_x emission control techniques: engine modification, and exhaust gas recirculation (EGR). Nissan asserted that engine modifications resulted in a tradeoff between NO_x and HC that made simultaneous attainment of the statutory HC and NO_x standards impossible.[10] Nissan also stated that this tradeoff is most pronounced when NO_x is lowered to 1.5 gpm and below; thus, Nissan asserted it was impossible to meet even a 1.5 gpm NO_x standard while meeting other applicable standards with engine modifications.[11] Nissan also noted that certain engine modifications adversely affected vehicle operation characteristics, such as increased smoke emissions and cold startability difficulties.[12]

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[1] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977).

[2] The first consolidated decision was published at 44 FR 5480 (Jan. 23, 1980) (hereinafter "Orig. decision"). The second consolidated decision was published at 45 FR 3[illegible]718 (May 22, 1980) (hereinafter "Second decision"). The third decision was published at 45 FR 6[illegible]590 (Oct. 2, 1980) (hereinafter "Third decision").

[3] 42 U.S.C. 7521(b)(1)(B) (Supp. 1 1977). See the first diesel NO_x waiver decision for a discussion of the statutory history leading to this provision. Orig. decision at 5480, n.l.

[4] For a discussion of the Congressional purpose behind this provision, see the discussion accompanying notes 2 and 3 of my original decision at 5480. EPA published guidelines for the submission of applications under this waiver provision at 43 FR 30341 (July 14, 1978) (hereinafter "Guidelines").

[5] EPA Public Docket EN-80-15 can be found in EPA's Central Docket Section, Gallery I, 401 M St., S.W., Washington, D.C. 20460. Copies of materials in the docket, including the technical appendix, may be obtained by writing to this address at Mail Code (A-130).

[6] Guidelines, at 30342. Beginning with the 1981 model year, applicable statutory standards are 0.41 gpm hydrocarbons (HC), 3.4 gpm carbon monoxide (CO), and 1.0 gpm NO_x. Beginning in the 1982 model year, the light-duty diesel vehicle particulate standard of 0.6 gpm takes effect. That standard becomes 0.2 gpm as of the 1985 model year. 45 FR 14496 (March 5, 1980).

[7] For a more complete discussion of the methodology employed, see Orig. decision at 5484-5485.

[8] EPA Public Docket No. OMSAPC-78-3.

[9] See footnote 6.

[10] Nissan Motor Co., Ltd. Application for Waiver of the 1981 and 1982 NO_x Emission Standard for Light-Duty Diesel Engines, dated August 29, 1980 (hereinafter "Nissan App.") 1-2; transcript of September 19, 1980 Public Hearing on Waiver of 1981 NO_x Emission Standards (hereinafter "Tr") 12. Engine modifications that Nissan has researched include changes in prechamber configuration, combustion chamber insulation and changes in fuel injection systems specifications. Nissan App. II-2.

As a result of the difficulties Nissan perceived in utilizing engine modifications as its primary method of NO_x control, Nissan stated that it has shifted the emphasis of its efforts to developing EGR systems, which it now considers its primary NO_x control strategy.[13]

Specifically, Nissan began its EGR; system development program with a mechanically controlled intake throttle system.[14] Nissan stated, however, that it encountered the following problems with this system: accelerator pedal that is difficult for the operator to depress, variability in EGR amounts, smoke, engine part wear, engine oil deterioration, and throttle valve deposits resulting from soot.[15] Nissan also asserted that this system was incapable of achieving its design targets for HC, CO and particulates. As a result of these concerns Nissan began development work on an electopneumatic EGR system. This system exhibits advanced electronic sensing capabilities, thereby enabling more precise control of the amount of EGR and engine operation modes where EGR is activated.[16]

Nissan asserts, however, that despite their development efforts, this "prime" EGR system is still encountering the following problems:

(1) NO_x reduction to levels that Nissan considers necessary to certify to a 1.0 gpm standard results in a significant increase in HC and particulate emissions, as well as visible smoke.

(2) the deterioration factors for HC and particulate emissions also increase significantly as NO_x emissions approach 1.0 gpm.

(3) An increase in EGR rate yields unacceptable engine wear. Specifically, when Nissan increases the EGR rate, more soot is produced with mixes with the engine oil, decreasing its lubricating capabilities.[17]

Nissan believes that the only way to avoid these engine durability problems is to employ a lower EGR rate than it is presently using on its development vehicles.[18] With a lower EGR rate, however, Nissan states that it will only be capable of achieving a 1.5 gpm NO_x level, thereby necessitating a waiver to that interim standard.[19]

My technical analysis of the data Nissan submitted shows the 2.8L engine family to be incapable of meeting both the 1.0 NO_x and 0.41 HC standards simultaneously in 1981, even employing Nissan's more advanced electropneumatic EGR system.[20]

Specifically, the Monte Carlo statistical simulation for a 2.8L prototype vehicle equipped with an advanced electropneumatic EGR system predicts that the vehicle will easily meet the 1.0 NO_x and 3.4 CO standards, but will fail the 0.41 HC standard.[21] Information in the record does not indicate that any other technological options are available that would be likely to enable this engine family to reduce HC emissions to the statutory level while still maintaining compliance with the statutory NO_x standard.[22] Granting Nissan a waiver, however, would also permit it to reduce HC emissions, smoke emissions, and engine wear using techniques that would be likely to have the effect of increasing NO_x.[23] Thus, I have determined that Nissan needs the waiver it has requested in order to use this diesel engine family in the 1981 model year.

With regard to the 1982 model year, Nissan has indicated that it does not expect to have solved all the problems with its EGR system so that it would be able to meet applicable standards.[24] There may be a number of approaches Nissan could use to reduce HC without failing to meet the NO_x and CO standards.[25] Nonetheless, if a waiver for model year 1982 is granted, Nissan will have the opportunity to further develop its emission control systems and to gain experience that will help it meet the emission standards in 1983.[26]

The data which Nissan has sumitted to support its position do not necessarily show that without a waiver to the maximum permissible NO_x standard of 1.5 gpm this engine family will not be able to meet in interim NO_x standard between 1.0 gpm and the maximum permissible 1.5 gpm in production. Nevertheless, a significant risk does exist that, were I to set an interim standard greater than 1.0 gpm but less than 1.5 gpm, Nissan may conclude that it needs to further reduce NO_x levels by using higher rates of EGR, thus potentially increasing particulate emissions.[27] As the public health discussion in this decision points out, I have concluded that increased particulate emission pose potentially greater health risks than increased NO_x emissions. As a result, I am setting an interim NO_x standard of 1.5 gpm because available information shows a significant risk that Nissan needs the waiver in order to keep down the rate of EGR it will use to meet the NO_x standard.

B. Endangerment to Public Health

In order to grant a waiver request, section 202(b)(6)(B)(i) requires me to determine that a waiver of the statutory NO_x standard of 1.0 gpm would not endanger public health. Congress intended my assessment of this criterion to include consideration of the potential health effects of unregulated pollutants from diesel engines as well as the health effects associated with increased NO_x emissions.[28]

1. Oxides of Nitrogen (NO_x)

In my first two decisions, I concluded that the potential impact on ambient NO_x levels resulting from NO_x waivers which I granted would not be significant.[29] Granting waivers for the vehicle classes listed above will not alter this conclusion. The potential impact on NO_x levels resulting from granting these additional waivers, even when combined with the impact from the waivers I granted earlier, will not be significant.

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[11] Nissan App., p. I-2, II-18; Tr. 9.

[12] Nissan App., p. II-3, II-4, II-18, II-19; Tr. 10.

[13] Nissan App., p. II-80; Tr. 21.

[14] Nissan App., II-41.

[15] Nissan App., II-44 to II-46.

[16] Nissan App., II-66 to II-67.

[17] Nissan App. II-60; Tr. 26-29.

[18] Tr. 10, 35.

[19] Tr. 11.

[20] Summary of Nissan's Technological Capability, (hereinafter Appendix A) § V.

[21] Appendix A, § V.

[22] Nissan described attempts to reduce HC emissions in its prime electropneumatic EGR system but stated that no improvement has proven successful at achieving all emission standards simultaneously. Nissan App. at II-85. However, the EPA technical staff identified potential engine modifications that might be used by Nissan to reduce HC and particulates without having significantly adverse effects on NO_x. The technical staff could not fully evaluate these modifications since Nissan did not submit test data regarding these items that could be used to develop quantifiable projections of vehicle emissions. Appendix A § IV.

[23] Nissan App. at II-81.

[24] Tr. 23.

[25] See note 23, *supra.*

[26] Tr. 12-13. The waiver in 1982 will give Nissan an opportunity to phase-in its new NO_x control technology in that it will be able to use lower rates of EGR until it has eliminated problems associated with use of its electropneumatic EGR system at lower NO_x levels.

[27] Appendix A § IV.

[28] See, e.g., H.R. Rep. No. 294, 95th Cong., 1st Sess. 19, 237, 250-51 (1977); S. Rep. No. 127, 95th Cong., 1st Sess. 70 (1977).

[29] Orig. decision at 5486-89; second decision at 34722.

2. *Particulates*

My main health concern in these proceedings relating to emissions from diesel engines is over potential increased emissions of diesel particulates and focuses on the potential for an increase in the incidence of respiratory ailments, and the potential that organic components of the diesel particulates are carcinogenic.[30] These concerns warrant action, where appropriate, that would minimize particulate emissions from light-duty diesels. It is undisputed that the projected increase in diesel light-duty vehicle production will increase ambient total suspended particulates and consequently human exposure to respirable particulates.[31] This fact underscores my concern for action minimizing particulate emissions from light-duty diesels.

In my first two consolidated decisions, I noted that to the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would gasoline-powered vehicles. However, my assessment of the risk posed by these emissions must be made in light of the potentially greater risk posed by the particulate emission levels that might result from waiver denial.[32] If I deny a waiver, an applicant may attempt to manufacture the diesels and successfully certify them in compliance with the 1.0 gpm NO_x standard. As part of an all-out effort to market vehicles complying with a 1.0 gpm NO_x standard, a manufacturer might decide to incorporate technology that places upward pressure on particulate emissions.[33]

Nissan indicated that without a waiver, it would not be able to market these diesel models in model years 1981 and 1982.[34] Upon further questioning, however, Nissan stated that because this engine family occupies a significant place in Nissan's marketing and sales plans, Nissan would continue its development efforts and attempt to market a diesel meeting the unwaived NO_x standard.[35]

Nissan indicated that it plans to use an EGR system to meet either a 1.0 gpm NO_x standard if the waiver is granted or a 1.5 gpm NO_x standard if the waiver is denied.[36]

Moreover, Nissan stated that at this point in its production schedule, the only modification it could make to bring NO_x emissions from its 1.5 gpm system down to 1.0 gpm is to increase the EGR rate.[37]

Nissan stated that vehicles in this engine family equipped with NO_x control systems employing a higher rate of EGR, emit more particulates than vehicles employing lower EGR rates.[38] EPA's technical analysis of the data submitted by Nissan confirms that for most of the vehicles in this engine family there is indeed an increase in particulate emissions when the EGR rate is increased.[39]

By granting a waiver and establishing a 1.5 gpm interim NO_x standard that Nissan will be able to meet without using increased EGR rate for its 2.8L engine family, I can avoid giving rise to the risk that Nissan will produce this engine family using the EGR system calibrated to a 1.0 gpm NO_x standard with higher particulate emissions. A waiver denial therefore could result in total particulate emissions being greater than if the waiver were granted. Because increased particulates pose potentially greater health risks than increased NO_x, I conclude that granting waivers for Nissan's 2.8L engine family, thereby precluding any need for Nissan to use increased EGR systems that exhibit higher particulate emissions, is more protective of the public health than waiver denial.[40]

C. *Fuel Economy and Long Term Air Quality Benefit*

Fuel economy and long term air quality considerations are contained in second and third criteria of section 202(b)(6)(B).[41] I conclude that Nissan's 2.8L diesel engine family will be capable of meeting or bettering Federal fuel economy standards both in the short and long term.[42] I also conclude that Nissan's engine family has the capability for long term air quality benefit.[43]

D. *Final Decision and Amended Rule*

Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 gpm NO_x and to prescribe interim standards which provide that NO_x emissions may not exceed 1.5 gpm for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983, and/or 1984 which meet the statutory waiver criteria. Based upon the foregoing discussion I am granting the requested waiver of the 1.0 gpm NO_x standard for Nissan's 2.8L engine family, for model years 1981 and 1982, and simultaneously promulgating an interim standard of 1.5 gpm for this engine family for model years 1981 and 1982.

Dated: December 23, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 81-264 Filed 1-5-81; 8:45 am]

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[30] Orig. decision at 5489; second decision at 34722. Although there is no current definitive epidemiologic evidence establishing cancer risk from exposure to diesel particulates, the uncertainty surrounding the potential health risk posed by diesel particulates warrants a cautious approach in regulating the vehicles which produce them.

[31] Diesel-powered vehicles emit particulates at a far greater rate than catalyst-equipped gasoline-powered vehicles. Orig. decision at 5489–5490; second decision at 34722.

[32] Orig. decision at 5489; second decision at 34722.

[33] Since the 0.6 gpm particulate standard does not take effect until 1982 (see footnote 6), a manufacturer could arguably increase the EGR rate in its 1981 model year diesel vehicles, thereby lowering the NO_x emissions from those vehicles below the 1.0 gpm standard, without concerning itself with violating any particulate standard. Moreover, the particulate standard I promulgated for the 1982 model year is a technology-based standard that reflects the greatest degree of particulate emission reduction achievable through the application of technology which I have determined will be available for a given model year, considering lead time and other constraints. 42 U.S.C. 7521(a)(3)(A)(iii). An upward pressure on particulate emissions from increasing the EGR rate still could present a risk to the public health, even though the increase in particulate emissions would not cause a manufacturer to be in violation of a particulate standard.

[34] Tr. 12, 16.

[35] Tr. 12, 15, 18, 23.

[36] Tr. 21, 23.

[37] Nissan App. I–7, 23.

[38] Nissan App. I–2, I–7; Tr–12, 13, 15, 16.

[39] Appendix A, § VI.

[40] I used the same reasoning in my Original decision at 5490–5492 and second consolidated decision at 34723 when granting waivers for Peugeot's and VW's engine families.

[41] Clean Air Act, as amended, § 202(b)(6)(B)(ii) and (iii), 42 U.S.C. 7521(b)(6)(B)(ii) and (iii) (Supp. I 1977). For a discussion of the methods by which I make the statutory determinations which these criteria require, see sections III(C) and III(D) of my original decision at 5493–5494.

[42] Appendix A, § IV, VI; Nissan App. 1–5, IV–1; and Tr. 13.

[43] Appendix A, § II. Nissan stated that with the aid of microprocessors that should be available by model year 1983, it believes it will be able to meet all applicable emission standards, including the 0.6 gpm standard EPA promulgated for particulates. Nissan App. I–7, Tr. 23, 36.

ENVIRONMENTAL PROTECTION AGENCY

[EN-FRL 1719-6]

40 CFR Part 86

Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981-1982 Model Year Light-Duty Diesel Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes oxides of nitrogen (NO_x) emission standards for 1981–1982 model year light-duty vehicles belonging to certain diesel vehicle classes for which I have granted waivers from the standard otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(B).

EFFECTIVE DATE: February 5, 1981.

ADDRESS: Information relevant to this rule is contained in Public Docket EN-80-21 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for copying services.

FOR FURTHER INFORMATION CONTACT: Mike Randall, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7521(b)(1)(B), requires that regulations applicable to NO_x emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which provide that such emissions from vehicles or engines shall not exceed 1.0 gram per vehicle mile. Regulations implementing this requirement have established this NO_x standard.

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any class or category of light-duty diesel vehicles or engines for which the Administrator can make the required statutory findings. I must promulgate interim NO_x standards applicable to the subject light-duty diesel classes for those model years for which I have granted waivers.

Both Isuzu Motors Limited (Isuzu) and General Motors Corporation (GM) have also submitted requests for a waiver for one engine family each. The statutory criteria, my determinations with respect to the vehicle models covered by the waiver applications, and my decision to grant the waiver applications appear in the consolidated decision published along with this notice. In that decision, I granted waivers covering the following engine family for the 1981 and 1982 model years:

Manufacturer and engine family
Isuzu—1.8L
GM—1.8L

Having decided to grant waiver applications for these diesel vehicle classes, I am simultaneously promulgating regulations adopting emission standards not permitting NO_x emissions from 1981 and 1982 model year vehicles of these vehicle classes to exceed the prescribed levels. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the decision which requires the promulgation of this rule. For this reason, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this action does not constitute a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

In addition, because the decision accompanying this rulemaking is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

Dated: December 23, 1980.

Douglas M. Costle,
Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines

1. 40 CFR 86.081-8(a)(1)(iii) is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Standard (gpm)
General Motors Corp	5.7 liter (L)	1.5
	1.8L	1.5
Daimler-Benz AG	2.4L	1.5
	3.0L naturally aspirated (NA).	1.5
	3.0L turbocharged (TC).	1.5
AB Volvo	2.4L NA	1.5
Peugeot	2.3L-TC-XD2S	1.5
Volkswagen AG	1.6L-NA-2250 pounds inertia weight (I.W.).	1.3
	1.6L-NA-2500 I.W.	1.4
	2.0L-NA-3000 I.W.	1.5
Nissan Motor Co.	2.8L	1.5
Isuzu Motors, Ltd	1.8L	1.5

* * * * *

2. 40 CFR 86.082-8(a)(1)(iii) is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Standard (gpm)
General Motors Corp	5.7 liter (L)	1.5
	1.8L	1.5
Daimler-Benz AG	2.4L	1.25
	3.0L naturally aspirated (NA).	1.5
	3.0L turbocharged (TC).	1.5
AB Volvo	2.4L NA	1.5
Peugeot	2.3L-TC-XD2S	1.5
Volkswagen AG	1.6L-NA-2250 pounds inertia weight (I.W.).	1.3
	2.0L-NA-3000 I.W.	1.5
	1.6L-TC-2250 I.W.	1.3
	1.6L-TC-2500 I.W.	1.4
	2.0-TC-3000 I.W.	1.5
Nissan Motor Co	2.8L	1.5
Isuzu Motors, Ltd	1.8L	1.5

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7601(a)(Supp. I 1977))

[FR Doc. 81-205 Filed 1-5-81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[NEW-FRL 1719-6a]

Applications for Waiver of the 1981-82 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Fifth Decision of the Administrator

I. Introduction

This is the fifth decision I have issued under section 202(b)(6)(B) of the Clean Air Act, as amended (Act)[1] regarding applications from automobile manufacturers for waiver of the 1.0 gram per mile (gpm) oxides of nitrogen (NO_x) emission standard scheduled to apply to 1981 and subsequent model year light-duty diesel vehicles and engines.

As the introduction to the first diesel NO_x waiver decisions explains, section 202(b)(1)(B) of the Act establishes the standards applicable to NO_x emissions from light-duty vehicles and engines manufacturered during and after model year 1977.[2] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 gpm for model years 1977 through 1980, and may not exceed 1.0 gpm for 1981 and later model years.

Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 gpm NO_x standard to a level not to exceed 1.5 gpm for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that the waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which it has requested a waiver. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health,

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act ("EPCA"), and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver.[3]

On April 8, 1980, I received an application from Isuzu Motors Limited (Isuzu) for waiver of the 1981 and 1982 1.0 gpm NO_x standard for its 1.8 liter (L) diesel engine family. EPA held a public hearing on Isuzu's application on May 8, 1980. Based upon the transcript of that hearing and other information contained in the record on Isuzu's waiver request, I denied Isuzu's application because I concluded Isuzu had failed to establish that the waiver requested was necessary to permit the use of diesel engine technology for its 1.8L engine family. On October 24, 1980, I received from Isuzu a petition for reconsideration of my decision denying its waiver application.

On October 30, 1980, General Motors Corporation (GM) also applied for a waiver covering 1981 and 1982 model year vehicles using the same 1.8L diesel engine, which GM plans to purchase from Isuzu. GM intends to use this diesel engine in some of its 1981 and 1982 model year Chevettes. Both manufacturers' waiver requests included additional emission data on the 1.8L diesel engine family. EPA held public hearings on these waiver requests on November 17, 1980. The transcripts of these hearings, the materials submitted by the applicants in their original and follow-up waiver requests, and all other information upon which I have based my decision on this set of waiver requests are included in EPA Public Docket EN-80-21. The materials included in the dockets for all prior diesel NO_x waiver proceedings are incorporated by reference into this public docket.

II. Summary of Decision

A. Waiver Applications Granted

The applications which I have decided to grant cover the following engine families for the 1981 and 1982 model years:

Waiver Applications Granted

Manufacturer	Engine family
Isuzu	1.8L
GM	1.8L

As discussed more fully below, I have concluded that applications covering this engine family meet each of the statutory criteria for receiving a waiver for the years noted. I am prescribing an interim NO_x standard of 1.5 gpm for Isuzu and GM for these model years.

III. Discussion

A. Assessing Need for Waivers

Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue I must address under this criterion is whether the applicant has shown that unless I grant the waiver, the engine family which the waiver request covers will not be able to meet applicable emission standards, even with the addition of any device, equipment or aspect of diesel engine technology presently available or expected to become available during the period covered by the waiver request.

1. *Decison Methodology*

The methodology this decision employs to assess an engine family's need for a waiver is the same as the methodolgy I used in my first two consolidated diesel NO_x waiver decisions.[4] This methodology includes an evaluation of the effect of NO_x emission controls on emissions of particulate matter. This evaluation relies on information supplied by applicants in this proceeding, and by parties commenting in the diesel particulate rulemaking proceedings, as well as on other information contained in the record for this decision.[5]

2. *Individual Applications*

a. *Isuzu Application*

Based upon technical analysis of the information in Isuzu's original waiver application, I denied Isuzu's waiver request because the analysis indicated that its 1.8L diesel engine without EGR NO_x control systems could still certify at a 1.0 gpm NO_x standard by incorporating the available technological improvement of advanced injection timing.[6] However, Isuzu has submitted information in its petition for reconsideration to show that this engine family will not be able to meet the 1.0 gpm NO_x standard. Isuzu's new information indicates that advancing injection timing on the 1.8L engine will not result in a NO_x reduction.[7] Moreover, the data suggest that advancing injection timing can result in lower fuel economy and higher HC and particulate emissions.[8] Thus, I now have concluded that simply advancing injection timing will not enable this engine family meet a 1.0 gpm NO_x standard in model year 1981.

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[1] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977).

[2] The first consolidated decision was published at 44 FR 5480 (January 23, 1980) (hereinafter "Orig. decision"). The second consolidated decision was published at 45 FR 347[illegible]8 (May 22, 1980) (hereinafter "Second decision"). The third decision was published at 45 FR [illegible] (October 2, 1980). The fourth decision was signed on December 23, 1980.

[3] For a discussion of the Congressional purpose behind this provision, see the discussion accompanying notes 2 and 3 of my original decision at 5480. EPA published guidelines for the submission of applications under this waiver provision at 43 FR 30341 (July 14, 1978) (hereinafter "Guidelines").

[4] For a more complete discussion of the methodology employed, see Orig. decision at 5484-5485.

[5] EPA Public Docket EN-80-21 (EPA Public Docket OMSAPC-78-3 contains the record for the diesel particulate rulemaking).

[6] 45 FR 65491 (Oct. 2, 1980).

Without using a factor for advanced injection timing, a Monte Carlo statistical analysis of available extended-mileage emission data on prototype vehicles equipped with Isuzu's 1.8L engine projects that this engine family cannot certify for the 1981 model year at a 1.0 gpm NO_x standard.[9] In addition, Isuzu's prototype vehicle tested specifically for certification purposes for 50,000 miles failed to meet the 1.0 gpm NO_x standard.[10]

Some information in Isuzu's waiver application indicated that increasing this engine family's combustion chamber area ratio (i.e., the surface area of the combustion chamber compared to its volume) to 1.2 and advancing injection timing might help reduce NO_x emissions.[11] Isuzu explained, however, that increasing the combustion chamber area ratio to 1.2 and advancing injection timing in order to meet the 1981 NO_x standard will leave Isuzu's 1.8L engine unmarketable due to unacceptable levels of noise, smoke, and acceleration.[12] Moreover, my analysis of the record does not identify any other potentially available engine modifications that would be likely to enable this engine family to meet the 1981 model year statutory NO_x standard.

Isuzu has stated that its EGR NO_x control systems are very effective in meeting the 1.0 gpm NO_x standard, but they create engine durability difficulties and a 50% increase in particulates.[13] Although Isuzu believes its EGR technology will be sufficiently advanced by 1983 to meet the 1983 1.0 gpm NO_x and 0.6 gpm particulate standards, it stated it has no prospect of perfecting its EGR system for use on its 1.8L engine during the period covered by Isuzu's waiver request.[14] Since necessity for waivers is present when the only available emissions control technology capable of achieving necessary emissions reductions has the potential to cause unacceptable engine wear, I conclude that, despite the NO_x reduction capabilities of Isuzu's 1981 model year EGR system, a waiver is necessary for this Isuzu engine family for the 1981 model year.

For the 1981 model year, EPA's analysis projects that vehicles in this engine family could certify at a 1.2 gpm NO_x standard without incorporating any available EGR NO_x control system.[15] Isuzu, however, asserted that this engine family needs a waiver of the NO_x standard to 1.5 gpm in order for Isuzu to have adequate confidence that production vehicles of this engine family would meet applicable NO_x emission requirements.[16]

The data which Isuzu has submitted to support its position do not necessarily show that without a waiver up to 1.5 gpm this engine family will not be able to meet applicable NO_x emission requirements in production. Nevertheless, because of Isuzu's expressed position, a significant risk does exist that, were I to set an interim standard less than 1.5 gpm, Isuzu could conclude that it needs to further reduce NO_x levels by using EGR technology, thus tending to place an upward pressure on particulate emissions. As the public health discussion in this waiver decision points out, I have concluded that increased particulate emissions pose potentially greater health risks than increased NO_x emissions. As a result, I am setting an interim NO_x standard of 1.5 gpm because available information shows that a significant risk exists that Isuzu needs the waiver to minimize the likelihood that it will use EGR to meet any lower NO_x standard.[17]

With regard to the 1982 model year, Isuzu has indicated its intent to use California as a proving ground for technology designed to achieve NO_x emission levels below 1.0 gpm. Isuzu would then extend the technology of its 1982 California light-duty diesel vehicles to its 49-state models in the 1983 model year. I find that this phase-in period is necessary for Isuzu to identify and correct quality control problems that may arise with the application of the new control technology.[18]

b. *GM's Application*

GM intends to purchase Isuzu's 1.8L engine for use in its 1981 and 1982 model year Chevettes pursuant to a contractual agreement between GM and Isuzu.[19] Under this agreement, GM has no control over the design or development of the engine, and it may not make any substantial design changes to the engines after they have been purchased.[20] Isuzu develops and applies all calibrations on the engine.[21] Moreover, GM has indicated that due to design and tooling differences, EGR technology available for controlling NO_x on GM's V–8 diesel engines is inapplicable to the Isuzu 1.8L engine family.[22] Consequently, given the limited amount of lead time available to GM to explore other technological options for improving NO_x emission levels from the vehicles for which it plans to use diesel technology, the same analysis I used to assess Isuzu's waiver application applies to GM's application, and I conclude that a waiver of the 1981 and 1982 NO_x standard to 1.5 gpm is necessary to permit this engine family to comply with applicable NO_x emission requirements.

B. Endangerment to Public Health

In order to grant a waiver request, section 202(b)(6)(B)(i) requires me to determine that a waiver of the statutory standard of 1.0 gpm NO_x would not endanger public health. Congress intended my assessment of this criterion to include consideration of the potential health effects of unregulated pollutants from diesel engines as well as the health effects associated with increased NO_x emissions.[23]

1. *Oxides of Nitrogen (NO_x)*

In my first two decisions, I concluded that the potential impact on ambient NO_x levels resulting from NO_x waivers which I granted would not be significant.[24] Granting waivers for the engine families listed above will not alter this conclusion. The potential impact on NO_x levels resulting from granting these additional waivers, even when combined with the impact from the waivers I granted earlier, will not be significant.

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[7] The before and after emission tests results which Isuzu obtained on a vehicle from this engine family with and without the advanced injection timing support this conclusion. Transcript of Nov. 19, 1980 Public Hearing on the Reconsideration of Waiver Application of 1981 and 1982 Model Year Light Duty Diesel NO_x standards (hereinafter "Tr.") 112; Isuzu's Petition for Reconsideration p. 7.

[8] Tr. 59; Isuzu's Petition for Reconsideration p. 9.

[9] See unpublished Technical Appendix (Tech App.) to my third NO_x decision, p.3, EPA Public Docket EN–80–6.

[10] Isuzu's Petition for Reconsideration, p. 42.

[11] Isuzu Motors Application for Waiver of the NO_x Emission Standards for Light Duty Diesel Engines, April 1, 1980, Appendix B–15.

[12] Tr. 42. Isuzu also stated that insufficient lead time was available to permit it to change the area ratio for this engine family in time for its scheduled start of 1981 model year production. Tr. 13.

[13] Tr. 13, 59.

[14] Tr. 13.

[15] For a more complete discussion of the methodology employed, see Orig. decision at 5484–5485.

[16] Tr. 58, 59.

[17] Cf. Second decision at 34721.

[18] The California phase-in is necessary for Isuzu to mitigate the risks of national production, such as a recall of the national fleet, should it turn out that diesel vehicles with previously untried technology experience problems in complying with applicable emission standards in use. See discussion of the need for California phase-in in my original decision at 5485–5486, and my second decision at 34721.

[19] 45 FR 65401.

[20] Tr. 104.

[21] Tr. 52, 104.

[22] Tr. 120, 121.

[23] See, e.g., H.R. Rep. No. 294, 95th Cong. 1st Sess., 19, 237, 250–51 (1977); S. Rep. No. 127, 95th Cong., 1st Sess. 70 (1977).

[24] Orig. decision at 5488–89; second decision at 34722.

2. Particulates

My main health concern in these proceedings relating to emissions from diesel engines is over potential increased emissions of diesel particulates and focuses on the potential that organic components of the diesel particulates are carcinogenic.[25] These concerns warrant action, where appropriate, that would minimize particulate emissions from light-duty diesels.

It is also undisputed that the projected increase in diesel light-duty vehicle production will increase ambient total suspended particulates and consequently human exposure to respirable particulates.[26] This fact underscores my concern for action minimizing particulate emissions from light-duty diesels.

In my first two consolidated decisions, I noted that to the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would gasoline-powered vehicles. However, my assessment of the risk posed by these emissions must be made in light of the potentially greater risk posed by the particulate emission levels that might result from waiver denial.[27] If I deny a waiver, an applicant may attempt to manufacture the diesels and successfully certify them in compliance with the 1.0 gpm NO_x standard. As part of an all-out effort to market vehicles complying with a 1.0 gpm NO_x standard, a manufacturer might decide to incorporate technology that places upward pressure on particulate emissions.[28] This is the type of health risk I sought to avoid in my first two decisions.[29]

Isuzu has indicated that it and its dealers have made a substantial financial commitment to produce and promote this engine family for the domestic automobile market,[30] thereby creating a strong incentive for Isuzu to attempt to certify and market its 1.8L engine without a waiver. GM has stated that it has made a significant financial investment in tooling, engineering, and preparation costs to produce and market the 1.8L engine purchased from Isuzu, in the United States. Citing its quarterly financial statements, GM has also indicated that it is critical that it market a small fuel-efficient diesel engine at this time.[31] In order to remain on an equal footing with its competitors in this engine displacement class, GM has a strong incentive to attempt to certify and market the 1.8L engine even if a waiver is denied.

Isuzu has indicated that the technology it most likely would attempt to apply if I did not grant the waivers requested would involve adding currently available EGR NO_x control technology to the 1.8L engine Isuzu and GM intend to use for the U.S. market. Use of this technology would tend to place an upward pressure on particulate emission.[32]

By establishing a NO_x standard that Isuzu and GM will be able to meet without employing diesel technology using EGR for this diesel engine family, I can avoid giving rise to the risk that Isuzu and GM will market this diesel engine family or one like it under a 1.0 gpm NO_x standard with higher particulate emissions. Because increased particulates pose potentially greater health risks than increased NO_x, I conclude that granting waivers for Isuzu and GM, thereby precluding any need for the use of EGR systems that put upward pressure on particulates, is more protective of the public health than waiver denial.

C. Fuel Economy and Long Term Air Quality Benefit

Consideration of fuel economy and long term air quality benefit are required by the second and third criteria of section 202(b)(6)(B).[33] I conclude that the 1.8L engine families covered by the applications of Isuzu and GM are capable of meeting or bettering the fuel economy standards both in the short and long term.[34] Moreover, both Isuzu and GM have indicated that each 1.8L engine family covered by their respective applications has the potential to meet applicable standards at the expiration of the waiver period.[35] Therefore, I conclude that the 1.8L engine family covered by these applications has the capability for long term air quality benefit.

D. Final Decision

Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 gpm NO_x and to prescribe interim standards which provide that NO_x emissions may not exceed 1.5 gpm for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983, and/or 1984 which meet the statutory waiver criteria. Based upon the foregoing discussion I am granting the requested waiver of the 1.0 gpm NO_x standard for Isuzu's 1.8L engine family, and GM's 1.8L engine family for model years 1981 and 1982.

Dated: December 23, 1980.

Douglas M. Costle,

Administrator.

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[25] Orig. decision at 5489; second decision at 34722. Although there is no current definitive epidemiologic evidence establishing cancer risk from exposure to diesel particulates, the uncertainty surrounding the potential health risk posed by diesel particulates warrants a cautious approach in regulating the vehicles which produce them. See discussion in Orig. decision at 5490.

[26] Diesel-powered vehicles emit particulates at a far greater rate than catalyst equipped gasoline-powered vehicles. Original decision at 5489–5490; second decision at 34722.

[27] Orig. decision at 5490; second decision at 34722.

[28] Since the 0.6 gpm particulate standard does not take effect until 1982 (see footnote 6) a manufacturer could arguably increase the EGR rate in its 1981 model year diesel vehicles, thereby lowering the NO_x emissions from those vehicles below the 1.0 gpm standard, without concerning itself with violating any particulate standard. Moreover, the particulate standard I promulgated for the 1982 model year is a technology-based standard that reflects the greatest degree of particulate emission reduction achievable through the application of technology which I have determined will be available for a given model year, considering lead time and other constraints. 42 U.S.C. 7521(a)(3)(A)(iii). An upward pressure on particulate emissions from increasing the EGR rate still could present a risk to the public health, even though the increase in particulate emissions would not cause a manufacturer to be in violation of a particulate standard.

[29] For fuller discussion of this point, see pages 5490, 5492 of my original decision.

[30] Tr. 17.

[31] Tr. 107, 108.

[32] See text accompanying note 8, *supra*. Note also that if I were to deny this waiver request, GM might decide to procure diesel technology from another supplier of diesel engines which emit particulates at higher rates. Indeed, the particulate emissions data Isuzu supplied for its 1.8L engine family without EGR indicated that this engine family emits particulates at a very low rate compared to diesel engine families which other manufacturers plan to market. Isuzu's Petition for Reconsideration, p. 42.

[33] * * *

[34] See Tech. App. to my third NO_x decision, p. 21. EPA Public Docket EN-80-6.

[35] Tr. 54, 61–62, 135.

federal register

Tuesday
January 6, 1981

Part VIII

ACTION
Peace Corps

Volunteer Discrimination Complaint Procedure; Final Regulations

ACTION

PEACE CORPS

45 CFR Part 1225

Volunteer Discrimination Complaint Procedure

AGENCY: ACTION and Peace Corps.

ACTION: Final regulation.

SUMMARY: This regulation establishes a procedure for the handling of allegations of discrimination based on race, color, natural origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time Volunteers in Peace Corps and ACTION.

EFFECTIVE DATE: This regulation shall take effect on February 20, 1981.

FOR FURTHER INFORMATION CONTACT: Bart Crivella, Director, Division of Equal Opportunity, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525 (202) 254-5940.

SUPPLEMENTARY INFORMATION: Section 12 of the Domestic Volunteer Service Act Amendments of 1979 (Pub. L. 96-143) extended to applicants for enrollment and Volunteers serving under both the Peace Corps Act (22 U.S.C. 2501 et seq.) and the Domestic Volunteer Service Act (42 U.S.C. 4951 et seq.) the nondiscrimination policies and authorities set forth in Section 717 of the Civil Rights Act of 1964, Title V of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. That section further directed that any remedies available to individuals under such laws, other than the right to appeal to the Civil Service Commission authorized by Section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or Volunteers.

This amendment was necessary to ensure that such Volunteers were within the scope of the nondiscrimination provisions of the three cited Acts, since those Acts apply to either employees or recipients of Federal financial assistance. Under Section 5(a) of the Peace Corps Act and Section 415 of the Domestic Volunteer Service Act, Volunteers are not deemed Federal employees except for certain stated purposes. Furthermore, such Volunteers are not treated as recipients of Federal financial assistance.

However, aware of the unique status of domestic and international Volunteers, Congress, in extending the protection of the cited Acts to the Volunteers, did not require the *per se* adoption of the rules, regulations, and procedures extant under such Acts, but rather required that the Director, after consultation with certain designated entities, prescribe regulations specifically tailored to the circumstances of such Volunteers.

As required by statute in prescribing these regulations, ACTION and Peace Corps have consulted with the following entities: (1) The Equal Employment Opportunity Commission (EEOC) with regard to the application of the policies set forth in Section 717 of the Civil Rights Act of 1964; (2) the Interagency Coordinating Council and the Interagency Committee on Handicapped Employees with regard to the application of the policies set forth in Title V of the Rehabilitation Act of 1973; and (3) the Secretary of Health and Human Services, with regard to the application of the policies set forth in the Age Discrimination Act of 1975. This consultation process has been completed.

The proposed rule was published in the **Federal Register** for comment on September 19, 1980 (45 FR 62512). The Agency has considered the public comments received and has determined to adopt the proposed regulation with certain modifications. Discussed below are the provisions of the final regulation and the major public comments received in response to the proposed rule. While this regulation has been developed with consideration of comments from the public, as a matter involving Volunteers, it is exempt from the requirements of Executive Order 12044, "Improving Government Regulations."

I. Complaint Procedure

These regulations apply to the recruitment, selection, placement, service, or termination of Peace Corps or ACTION applicants, trainees, and Volunteers for full-time service in either a domestic or international program. They require that an aggrieved party who believes that he or she has been discriminated against must first meet with a Counselor to attempt an informal resolution of the matter. If this fails, a formal complaint may be filed with the Director of the Equal Opportunity Division of the Office of Compliance ACTION (EO Director). When the complaint is accepted, an investigation into the matter will be performed and submitted to both the EO Director and the complainant. The EO Director shall review the complaint file, including any additional statements provided by the complainant, and shall offer an adjustment of the complaint if it is warranted. If this adjustment is not acceptable to the complainant, or if the EO Director determines that such an offer is not warranted by the circumstances of the complaint, the file, including the EO Director's recommendation, will be forwarded to the appropriate agency Director for decision. The complainant will be notified of this action and of his or her right to appeal the recommendation. Upon receipt and review of the complaint file and any additional matter submitted by the complainant, the Director shall issue a final agency decision in writing to the complainant. If the complainant is dissatisfied with the final agency decision, the complainant may file in a timely manner a civil action alleging discrimination in the appropriate U.S. District Court.

II. Discussion of Comments Received

The Agency received a total of four (4) written comments—from one of the consultative agencies, from agency officials, and from a member of the public. The majority of such comments were of a technical nature and were incorporated into the final regulations. However, four (4) substantive issues dealt with in the proposed regulations were reviewed due to public comment.

Procedure for allegations of reprisal. The Interagency Coordinating Council in its role as a consultative agency recommended that the regulations should include a section that provides a procedure for persons alleging reprisal or retaliatory actions. The proposed regulation in § 1225.6 merely states that such persons will be free from restraint, coercion, discrimination, or reprisal at any stage of the complaint and pre-complaint procedure. Accordingly, § 1225.7 has been added which provides a procedure whereby such complaints will be handled.

Provision of Attorney Fees. A comment was received that suggested that the presently proposed section involving the provision of attorney fees (§ 1225.5) be expanded to authorize payment to representatives other than attorneys. After consideration, and discussion with the equal Employment Opportunity Commission, it was determined that the provision of fees should remain limited to attorneys. This is in accordance with the EEOC guidelines in this area (interim revised regulations published April 9, 1980; 45 FR 24130-33) issued to comply with several court decisions extending the statutory provision for attorney fees in a civil action to that work done during the administrative processing of a complaint. Therefore, this final regulation has retained the authorization for attorney fees in accordance with the interim regulations of the EEOC, and in accordance with the courts' interpretation of Sections 706(k) and 717 of Title VII of the Civil Rights Act of 1964, as amended. (42 U.S.C. 2000e–16).

Time Limitations. A comment was received from the public that suggested that a fixed time limit should be imposed for the instigation and completion of investigations to insure even and prompt agency enforcement. The Agency does not believe a fixed time limit is necessary in this circumstance for two reasons. First, the aggrieved party has the option to file a civil action in the appropriate U.S. District Court after one hundred eighty (180) calendar days from the date of filing a complaint if there has been no final agency action (§ 1225.21). Second, given the diverse circumstances under which discrimination may be alleged due to the wide geographic area in which Peace Corps and domestic Volunteers serve, the Agency believes a fixed time limit would be impractical and that the commitment presently given in the regulations to investigate and promptly process complaints is a sufficient safeguard.

Corrective Action. As proposed, the section (§ 1225.10) states that although the agency is committed to placing the aggrieved Volunteer in the same position held prior to his or her early termination, several programmatic considerations such as the continued availability of the position or program, and acceptance by the host country to the placement may preclude such placement. The final regulation states that if the same position is deemed no longer available, the agency will attempt to place the aggrieved party in as similar a position as possible to the original position. However, this could result in an aggrieved party being required to undergo additional training and to make a new full-term commitment to another volunteer position. In order to lessen the inconvenience that may result from such an extension of an aggrieved party's volunteer commitment, the final regulation will allow the Volunteer to exercise the option to resign for reasons beyond his or her control. This option will qualify the Volunteer, if in service for at least a year, for a certificate of satisfactory service, which entitles him or her to the benefits of non-competitive eligibility.

Accordingly, Part 1225 is added, as follows, to Title 45 of the Code of Federal Regulations:

PART 1225—VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Subpart A—General Provisions

Sec.

1225.1 Purpose.
1225.2 Policy.
1225.3 Definitions.
1225.4 Coverage.
1225.5 Representation.
1225.6 Freedom from reprisal.
1225.7 Review of allegations of reprisal.

Subpart B—Processing Individual Complaints of Discrimination

1225.8 Precomplaint procedure.
1225.9 Complaint procedure.
1225.10 Corrective action.
1225.11 Amount of attorney fees.

Subpart C—Processing Class Complaints of Discrimination

1225.12 Precomplaint procedure.
1225.13 Acceptance, rejection, or cancellation of complaint.
1225.14 Consolidation of complaints.
1225.15 Notification and opting out.
1225.16 Investigation and adjustment of complaint.
1225.17 Agency decision.
1225.18 Notification of class members of decision.
1225.19 Corrective action.
1225.20 Claim appeals.
1225.21 Statutory rights.

Authority: Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979.

Subpart A—General Provisions

§ 1225.1 Purpose.

The purpose of this part is to establish a procedure for the filing, investigation, and administrative determination of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, which arise in connection with the recruitment, selection, placement, service, or termination of Peace Corps and ACTION applicants, trainees, and Volunteers for full-time service.

§ 1225.2 Policy.

It is the policy of Peace Corps and ACTION to provide equal opportunity in all its programs for all persons and to prohibit discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, in the recruitment, selection, placement, service, and termination of Peace Corps and ACTION Volunteers. It is the policy of Peace Corps and ACTION upon determining that such prohibited discrimination has occurred, to take all necessary corrective action to remedy the discrimination, and to prevent its recurrence.

§ 1225.3 Definitions.

Unless the context requires otherwise, in this Part:

(a) "Director" means the Director of Peace Corps for all Peace Corps applicant, trainee, or Volunteer complaints processed under this Part, or the Director of ACTION for all domestic applicant, trainee, or Volunteer complaints processed under this Part. The term shall also refer to any designee of the respective Director.

(b) "EO Director" means the Director of the Equal Opportunity Division of the Office of Compliance, ACTION. The term shall also refer to any designee of the EO Director.

(c) "Illegal discrimination" means discrimination on the basis of race, color, national origin, religion, age, sex, handicap or political affiliation as defined in Section 5(a) of the Peace Corps Act (22 U.S.C. 2504); Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000–16); Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791, et seq.); and the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.). Further clarification of the scope of matters covered by this definition may be obtained by referring to the following regulations: Sex Discrimination: 29 CFR Part 1604; Religious Discrimination: 29 CFR Part 1605; National Origin Discrimination: 29 CFR Part 1606; Age Discrimination: 45 CFR Part 90; Handicap Discrimination: 29 CFR 1613.701–707.

(d) "Applicant" means a person who has submitted to the appropriate agency personnel a completed application required for consideration of eligibility for Peace Corps or ACTION volunteer service. "Applicant" may also mean a person who alleges that the actions of agency personnel precluded him or her from submitting such an application or any other information reasonably required by the appropriate personnel as necessary for a determination of the individual's eligibility for volunteer service.

(e) "Trainee" means a person who has accepted an invitation issued by Peace Corps or ACTION and has registered for Peace Corps or ACTION training.

(f) "Volunteer" means a person who has completed successfully all necessary training; met all clearance standards; has taken, if required, the oath prescribed in either Section 5(j) of the Peace Corps Act (22 U.S.C. 2504), or Section 104(c) of the Volunteer Service Act of 1973, as amended (42 U.S.C. 104(c)) and has been enrolled as a full-time Volunteer by the appropriate agency.

(g) "Complaint" means a written statement signed by the complainant and submitted to the EO Director. A complaint shall set forth specifically and in detail:

(1) A description of the Peace Corps or ACTION management policy or practice, if any, giving rise to the complaint;

(2) A detailed description including names and dates, if possible, of the actions of the Peace Corps or ACTION officials which resulted in the alleged illegal discrimination;

(3) The manner in which the Peace Corps or ACTION action directly affected the complainant; and

(4) The relief sought.

A complaint shall be deemed filed on the date it is received by the appropriate agency official. When a complaint does not conform with the above definition, it shall nevertheless be accepted. The complainant shall be notified of the steps necessary to correct the deficiencies of the complaint. The complainant shall have 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint.

(h) "Counselor" means an official designated by the EO Director to perform the functions of conciliation as detailed in this part.

(i) "Agent" means a class member who acts for the class during the processing of a class complaint. In order to be accepted as the agent for a class complaint, in addition to those requirements of a complaint found in § 1225.3(g) of this part, the complaint must meet the requirements for a class complaint as found in Subpart C of these regulations.

§ 1225.4 Coverage.

(a) These procedures apply to all Peace Corps or ACTION applicants, trainees, and Volunteers throughout their term of service with the Peace Corps or ACTION. When an applicant, trainee, or Volunteer makes a complaint which contains an allegation of illegal discrimination in connection with an action that would otherwise be processed under a grievance, early termination, or other administrative system of the agency, the allegation of illegal discrimination shall be processed under this Part. At the discretion of the appropriate Director, any other issues raised may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not so consolidated shall continue to be processed under those procedures in which they were originally raised.

(b) The submission of class complaints alleging illegal discrimination as defined above will be handled in accordance with the procedure outlined in Subpart C.

§ 1225.5 Representation.

Any aggrieved party may be represented and assisted in all stages of these procedures by an attorney or representative of his or her own choosing. An aggrieved party must immediately inform the agency if counsel is retained. Attorney fees or other appropriate relief may be awarded in the following circumstances:

(a) Informal adjustment of a complaint. An informal adjustment of a complaint may include an award of attorney fees or other relief deemed appropriate by the EO Director. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney fees or costs should be awarded, or on their amount, this issue may be appealed to the appropriate Director to be determined in the manner detailed in § 1225.11 of this Part.

(b) Final Agency Decision. When discrimination is found, the appropriate Director shall advise the complainant that any request for attorney fees or costs must be documented and submitted for review within 20 calendar days after his or her receipt of the final agency decision. The amount of such awards shall be determined under § 1225.11. In the unusual situation in which it is determined not to award attorney fees or other costs to a prevailing complainant, the appropriate Director in his or her final decision shall set forth the specific reasons thereof.

§ 1225.6 Freedom from reprisal.

Aggrieved parties, their representatives, and witnesses will be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage described in § 1225.8 of this part, or any time thereafter.

§ 1225.7 Review of allegations of reprisal.

An aggrieved party, his or her representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint under this part, may, if covered by this part, request in writing that the allegation be reviewed as an individual complaint of discrimination subject to the procedures described in Subpart B or that the allegation be considered as an issue in the complaint at hand.

Subpart B—Processing Individual Complaints of Discrimination

§ 1225.8 Precomplaint procedure.

(a) An aggrieved person who believes that he or she has been subject to illegal dicrimination shall bring such allegations to the attention of the appropriate Counselor within 30 days of the alleged discrimination to attempt to resolve them. The process for notifying the appropriate Counselor is the following:

(1) Aggrieved applicants, trainees or Volunteers who have not departed for overseas assignments, or who have returned to Washington for any administrative reason shall direct their allegations to the EO Director for assignment to an appropriate Counselor.

(2) Aggrieved trainees or Volunteers overseas shall direct their allegations to the designated Counselor for that post.

(3) Aggrieved applicants, trainees, and Volunteers applying for, or enrolled in ACTION domestic programs shall direct their allegations to the designated Counselor for that Region.

(b) Upon receipt of the allegation, the Counselor or designee shall make whatever inquiry is deemed necessary into the facts alleged by the aggrieved party and shall counsel the aggrieved party for the purpose of attempting an informal resolution agreeable to all parties. The Counselor will keep a written record of his or her activities which will be submitted to the EO Director if a formal complaint concerning the matter is filed.

(c) If after such inquiry and counseling an informal resolution to the allegation is not reached, the Counselor shall notify the aggrieved party in writing of the right to file a complaint of discrimination with the EO Director within 15 calendar days of the aggrieved party's receipt of the notice.

(d) The Counselor shall not reveal the identity of the aggrieved party who has come to him or her for consultation, except when authorized to do so by the aggrieved party. However, the identity of the aggrieved party may be revealed once the agency has accepted a complaint of discrimination from the aggrieved party.

§ 1225.9 Complaint procedure.

(a) *EO Director.* (1) The EO Director must accept a complaint if the process set forth above has followed, and the complaint states a charge of illegal discrimination. The agency will extend the time limits set herein (a) when the complainant shows that he or she was not notified of the time limits and was not otherwise aware of them, or (b) the complainant shows that he or she was prevented by circumstances beyond his or her control from submitting the matter in a timely fashion, or (c) for other reasons considered sufficiently by the agency. At any time during the complaint procedure, the EO Director may cancel a complaint because of failure of the aggrieved party to prosecute the complaint. If the complaint is rejected for failure to meet one or more of the requirements set out in the procedure outlined in § 1225.8 or is cancelled, the EO Director shall inform the aggrieved party in writing of this Final Agency Decision; that the Peace Corps or ACTION will take no further action; and of the right, to file a civil action as described in § 1225.21 of this part.

(2) Upon acceptance of the complaint and receipt of the Counselor's report, the EO Director shall provide for the prompt investigation of the complaint. Whenever possible, the person assigned to investigate the complaint shall occupy a position in the agency which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, and any other circumstances which may constitute, or appear to constitute discrimination against the complainant. The investigator shall compile an investigative file, which includes a summary of the investigation, recommended findings of fact and a recommended resolution of the complaint. The investigator shall forward the investigative file to the EO Director and shall provide the complainant with a copy.

(3) The EO Director shall review the complaint file including any additional statements provided by the complainant, make findings of fact, and shall offer an adjustment of the complaint if the facts support the complaint. If the proposed adjustment is agreeable to all parties, the terms of the adjustment shall be reduced to writing, signed by both parties, and made part of the complaint file. A copy of the terms of the adjustment shall be provided the complainant. If the proposed adjustment of the complaint is not acceptable to the complainant, or the EO Director determines that such an offer is inappropriate, the EO Director shall forward the complaint file with a written notification of the findings of facts, and his or her recommendation of the proposed disposition of the complaint to the appropriate Director. The aggrieved party shall receive a copy of the notification and recommendation and shall be advised of the right to appeal the recommended disposition to the appropriate Director. Within ten (10) calendar days of receipt of such notice, the complainant may submit his or her appeal of the recommended disposition to the appropriate Director.

(b) *Appeal to Director.* If no timely notice of appeal is received from the aggrieved party, the appropriate Director or designee may adopt the proposed disposition as the Final Agency Decision. If the aggrieved party appeals, the appropriate Director or designee, after review of the total complaint file, shall issue a decision to the aggrieved party. The decision of the appropriate Director shall be in writing, state the reasons underlying the decision, shall be the Final Agency Decision, shall inform the aggrieved party of the right to file a civil action as described in § 1225.21 of this part, and, if appropriate, designate the procedure to be followed for the award of attorney fees or costs.

§ 1225.10 Corrective action.

When it has been determined by Final Agency Decision that the aggrieved party has been subjected to illegal discrimination, the following corrective actions may be taken:

(a) Selection as a Trainee for aggrieved parties found to have been denied selection based on prohibited discrimination.

(b) Reappointment to Volunteer service for aggrieved parties found to have been early-terminated as a result of prohibited discrimination. To the extent possible, a Volunteer will be placed in the same position previously held. However, reassignment to the specific country of prior service, or to the specific position previously held, is contingent on several programmatic considerations such as the continued availability of the position, or program in that country, and acceptance by the host country of such placement. If the same position is deemed to be no longer available, the aggrieved party will be offered a reassignment to a position in as similar circumstances to the position previously held, or to resign from service for reasons beyond his or her control. Such a reassignment may require both additional training and an additional two year commitment to volunteer service.

(c) Provision for reasonable attorney fees and other costs incurred by the aggrieved party.

(d) Such other relief as may be deemed appropriate by the Director of Peace Corps or ACTION.

§ 1225.11 Amount of Attorney fees.

(a) When a decision of the agency provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services. Both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the appropriate Director. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the appropriate Director shall issue a decision determining the amount of attorney fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(b) The amount of attorney's fees shall be made in accordance with the following standards: the time and labor required, the novelty and difficulty of the questions, the skills requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitation imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

Subpart C—Processing Class Complaints of Discrimination

§ 1225.12 Precomplaint procedure.

An applicant, trainee or Volunteer who believes that he or she is among a group of present or former Peace Corps or ACTION Volunteers, trainees, or applicants for volunteer service who have been illegally discriminated against and who wants to be an agent for the class shall follow those precomplaint procedures outlined in § 1225.8 of this part.

§ 1225.13 Acceptance, rejection or cancellation of complaint.

(a) Upon receipt of a class complaint, the Counselor's report, and any other information pertaining to timeliness or other relevant circumstances related to the complaint, the EO Director shall review the file to determine whether to accept or reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation which is identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) It is not within the purview of this subpart;

(4) The agent failed to consult a Counselor in a timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the following prerequisites.

(i) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(ii) There are questions of fact common to the class;

(iii) The claims of the agent of the class are representative of the claims of the class;

(iv) The agent of the class, or his or her representative will fairly and adequately protect the interest of the class.

(b) If an allegation is not included in the Counselor's report, the EO Director shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he or she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the EO Director may decide to reject the allegation. If the explanation is satisfactory, the EO Director may require further counseling of the agent.

(c) If an allegation lacks specificity and detail, or if it was not submitted in writing or not signed by the agent, the EO Director shall afford the agent 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint. The EO Director may decide that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the EO Director must advise the agent how to proceed on an individual or class basis concerning these allegations.

(d) The EO Director may extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his or her representative, shows that he or she was not notified of the prescribed time limits and was not otherwise aware of them or that he or she was prevented by circumstances beyond his or her control from acting within the time limit.

(e) When appropriate, the EO Director may determine that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(f) The EO Director may cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after:

(1) The EO Director has provided the agent a written request, including notice of proposed cancellation, that he or she provide certain information or otherwise proceed with the complaint; and

(2) within 30 days of his or her receipt of the request.

(g) An agent must be informed by the EO Director in a request under paragraphs (b) or (c) of this section that his or her complaint may be rejected if the information is not provided.

§ 1225.14 Consolidation of complaints.

The EO Director may consolidate the complaint if it involves the same or sufficiently similar allegations as those contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency.

§ 1225.15 Notification and opting out.

(a) Upon acceptance of a class complaint, the agency, within 30 calendar days, shall use reasonable means, such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.

(b) A notice shall contain: (1) The name of the agency or organizational segment thereof, its location and the date of acceptance of the complaint; (2) a description of the issues accepted as part of the class complaint; (3) an explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and (4) an explanation of the binding nature of the final decision or resolution of the complaint.

§ 1225.16 Investigation and adjustment of complaint.

The complaint shall be processed promptly after it has been accepted. Once a class complaint has been accepted, the procedure outlined in § 1225.9 of this part shall apply.

§ 1225.17 Agency decision.

(a) If an adjustment of the complaint cannot be made the procedures outlined in § 1225.9 shall be followed by the EO Director except that any notice required to be sent to the aggrieved party shall be sent to the agent of the class or his or her representative.

(b) The Final Agency Decision on a class complaint shall be binding on all members of the class.

§ 1225.18 Notification of class members of decision.

Class members shall be notified by the agency of the final agency decision and corrective action, if any, using at the minimum, the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief and of the procedures to be followed. Notice shall be given by the agency within ten (10) calendar days of the transmittal of its decision to the agent.

§ 1225.19 Corrective action.

(a) When discrimination is found, Peace Corps or ACTION must take appropriate action to eliminate or modify the policy or practice out of which such discrimination arose, and provide individual corrective action to the agent and other class members in accordance with § 1225.10 of this part.

(b) When discrimination is found and a class member believes that but for that discrimination he or she would have been accepted as a Volunteer or received some other volunteer service benefit, the class member may file a written claim with the EO Director within thirty (30) calendar days of notification by the agency of its decision.

(c) The claim must include a specific, detailed statement showing that the claimant is a class member who was affected by an action or matter resulting from the discriminatory policy or practice which arose not more than 30 days preceding the filing of the class complaint.

(d) The agency shall attempt to resolve the claim within sixty (60) calendar days after the date the claim was postmarked, or, in the absence of a postmark, within sixty (60) calendar days after the date it was received by the EO Director.

§ 1225.20 Claim appeals.

(a) If the EO Director and claimant do not agree that the claimant is a member of the class, or upon the relief to which the claimant is entitled, the EO Director shall refer the claim, with recommendations concerning it to the appropriate Director for Final Agency Decision and shall so notify the claimant. The class member may submit written evidence to the appropriate Director concerning his or her status as a member of the class. Such evidence must be submitted no later than ten (10) calendar days after receipt of referral.

(b) The appropriate Director shall decide the issue within thirty (30) days of the date of referral by the EO Director. The claimant shall be informed in writing of the decision and its basis and that it will be the Final Agency Decision on the issue.

§ 1225.2[illegible] Statutory rights.

(a) A volunteer, trainee, or applicant is authorized to file a civil action in an appropriate U.S. District Court:

(1) Within thirty (30) calendar days of his or her receipt of notice of final action taken by the agency.

(2) After one hundred eighty (180) calendar days from the date of filing a complaint with the agency if there has been no final agency action.

(b) For those complaints alleging discrimination that occur outside the United States, the U.S. District Court for the District of Columbia shall be deemed the appropriate forum.

Signed at Washington, D.C., this 19th day of December 1980.

Sam Brown,

Director of ACTION.

Richard F. Celeste,

Director of Peace Corps.

[FR Doc. 81-231 Filed 1-5-81; 8:45 am]

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PEACE CORPS

22 CFR Part 306

Volunteer Discrimination Complaint Procedure

AGENCY: Peace Corps.

ACTION: Final regulation.

SUMMARY: This regulation establishes a procedure for the handling of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time Volunteers in both Peace Corps and ACTION programs.

EFFECTIVE DATE: This part shall take effect on February 20, 1981.

FOR FURTHER INFORMATION CONTACT: Bart Crivella, Director, Division of Equal Opportunity, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525 (202) 254-5940.

SUPPLEMENTARY INFORMATION: In a document published elsewhere in this part of today's **Federal Register**, ACTION issues a final regulation establishing a procedure for handling allegations of discrimination by volunteers. That regulation is codified at 45 CFR Part 1225. The proposed rule was published in the **Federal Register** for comment on September 19, 1980 (45 FR 62512). As detailed in the ACTION document today, the Agency has considered comments in the formulation of its final rule.

In this document, the Peace Corps adds a new part to its regulations in 22 CFR which indicates that the ACTION regulation in 45 CFR Part 1225 is applicable to Peace Corps volunteers.

Signed at Washington, D.C., this 19th day of December, 1980.

Richard F. Celeste,

Peace Corps Director.

Accordingly, a new Part 306 is added to 22 CFR Chapter III to read as follows:

PART 306—VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Cross Reference: ACTION regulations concerning the volunteer discrimination complaint procedure, appearing in 45 CFR Part 1225, are applicable to Peace Corps volunteers.

(Secs. 417, 402(14), 420, Pub. L. 93-113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87-293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

[FR Doc. 81-345 Filed 1-5-81; 8:45 am]

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federal register

Tuesday
January 6, 1981

Part IX

Department of Energy

Residential Conservation Service Program

DEPARTMENT OF ENERGY

10 CFR Part 456

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program

AGENCY: Department of Energy.

ACTION: Final amendments to Residential Conservation Service (RCS) Program Rule.

SUMMARY: The following notice amends the Final Rule which implemented the Residential Conservation Service Program and was issued as CAS-RM-79-101 in the Wednesday, November 7, 1979, issue of the **Federal Register**, Vol. 44, No. 217, Part II, pp. 64602-64727. This notice is issued to correct clerical, grammatical and typographical errors in the Final Rule which do not reflect policy changes of the Department as well as a small number of changes which reflect substantive changes to the Final Rule.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT:

James R. Tanck, Director, Residential Conservation Service Program, Office of Conservation and Solar Energy, Department of Energy, Room GH-066, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9161.

Laura Rockwood, Office of General Counsel, Department of Energy, Room 6B128, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9519.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Discussion of Amendments.
III. Regulatory Analysis and Urban Impact Assessment.
IV. Environmental Impact Statement.
V. Consultation with Other Federal Agencies.
VI. Contractor Contributions.
VII. Amendments.

I. Introduction.

On November 7, 1979, the Department of Energy (DOE) published a Final Rule (44 FR 64602) to establish the Residential Conservation Service (RCS) Program to encourage and facilitate the installation of energy conservation measures and renewable resource measures. DOE also published on September 24, 1980, and September 25, 1980, as part of the Final Rule, material and installation standards. DOE was made aware of a number of amendments to the Final Rule which needed to be made to clarify DOE's position on several matters and to correct clerical errors. These amendments are incorporated here. Of the changes incorporated below, most are either typographical or grammatical. A number of non-clerical amendments are also included which affect no substantive change in the rule, but consist of clarifications or equivalents. Also included, however, are a small number of changes which substantively affect some portions of the Final Rule or a significant number of people.

In total, 35 comments were submitted. For most of the changes, no comments were submitted. A summary of the comments along with DOE's determination with respect to each applicable amendment follows below. For those amendments which are self-evident and which elicited no comment, no accompanying explanation is provided. Some comments were submitted which discussed issues not related to proposed amendments. These are outside the scope of this rulemaking and are not addressed here.

II. Discussion of Amendments.

Amendment 4: This amendment proposed adding a statement to the preamble regarding fire testing of organic cellular rigid board materials. The statement read "Only core materials, however, need be tested." This statement was added to the preamble to clarify our original intent as to how rigid board materials should be tested. Clarification of these testing procedures will permit the use of composite roofing materials with a foam plastic core. Because roofing materials are not installed adjacent to the living area of a house, fire safety requirements need not be as stringent. However, the foam plastic core in roofing material must meet the same fire safety requirements as foam plastic materials installed in other applications under the RCS program.

The one commenter who addressed this amendment also supported its adoption. This amendment is therefore incorporated into the preamble to the Final Rule.

Amendment 8: This amendment proposed adding a clarifying statement to the definition for ceiling insulation which read, "The term ceiling insulation also includes such material installed on the exterior of the roof." DOE never intended to exclude standard residential roof insulation from those applications where it is the most appropriate option. Installation standards were incorporated into § 456.907(m) for that purpose.

Many commenters addressed this amendment in the context of mobile home roofing insulation. However, since this amendment does not apply specifically to mobile homes, the treatment of mobile home roofing insulation is discussed under Amendment 16. Two commenters requested that the amendment be worded in such a way as to limit roofing insulation to mobile homes only. This is not DOE's intent. There are a few instances where exterior roof insulation is the only ceiling insulation option in buildings other than mobile homes and therefore this amendment is appropriate. DOE believes this change will cause little additional auditing burden. This amendment is added to the Final Rule.

Amendment 9: This amendment proposed correcting a typographical error by changing the recommended thermostat setting from 68°F in winter to 65°F.

Eleven utilities objected to this change because:

- 65°F is too low for the health and safety of many people including infants, the elderly, and the infirm;
- It would reduce the potential savings for all other *permanent* measures;
- It is unlikely that homeowners will comply and therefore the recommendation will result in a loss of credibility for the program;
- 65°F is outside the ASHRAE comfort zone;
- This is a major policy change and should therefore receive adequate notice and hearing; and
- This change will affect existing audit procedures and require changes in consumer publications.

DOE realizes that utilities have relied on the 68°F temperature setting printed in the November 7, 1979, Final Rule in developing their audits and, therefore, correction of this error would result in a substantive change to the RCS program. Also, 65°F is a recommended thermostat setting for commercial (not residential) buildings where occupancy is less than full-time and these buildings are clearly distinguishable from buildings subject to the RCS program. DOE also agrees with the utilities who commented that 65°F is not a practical recommendation on a national level. The recommendation for winter thermostat settings of 68°F will therefore be retained.

Amendment 10: This amendment proposed changing the term "Window Heat Gain Retardant" in § 456.105(v)(4)(iv) to "Window Heat Gain and/or Loss Retardants."

Two comments were submitted. One commenter pointed out that the amendment as proposed was grammatically incorrect. DOE proposed that the phrase "or wintertime heat loss" be inserted in § 456.105(v)(4)(iv) after the word "through." This was an error—the amendment should have said "following the word 'gain', insert the phrase "or wintertime heat loss."

One utility commented that reflective films were not applicable in their service area where they were only interested in reducing summer heat gain. Window films are not affected by this proposal since they are separately treated as part of the measure "Heat Reflective and Heat Absorbing Window or Door Materials." If a negative cost-effectiveness of any measure can be substantiated under specified conditions, the State or nonregulated utility may propose in its plan to limit the applicability for that measure. (10 CFR 456.307(b)(2))

DOE will incorporate the corrected Amendment 10 in the Final Rule. DOE referenced the full range of benefits associated with window heat gain or loss retardants in the audit portion of the rule, and intended to be consistent when defining the term since both types of retardants (depending upon location and season) can be cost effective.

Amendment 12: This amendment addressed the treatment of requests for information submitted to DOE under the RCS program. The procedures proposed are consistent with DOE's Freedom of Information Act (FOIA) regulations, 10 CFR Part 1004 (44 FR 1908, January 8, 1979), and address the procedures by which an individual may make a claim of confidentiality.

One utility commented on this amendment by saying they wanted to maintain the confidentiality of their customers' billing information without fear of compromise. It is unlikely that utilities would need to request confidential treatment of information submitted to DOE in the context of the RCS program. However, should this be necessary, procedures in the DOE FOIA regulations accommodate this concern to the extent possible. The amendment will be incorporated in the Final Rule as proposed.

Amendment 13: DOE received a number of comments expressing concern that allowing the Secretary for "good cause" to waive submission requirements for plan amendments would prevent the public from providing adequate input to significant State plan amendments. It was requested that DOE either clarify what is meant by "good cause" or establish specific "good cause" criteria. DOE chooses not to itemize those circumstances in which the Secretary might waive some of the submission requirements because of the infinite hypothetical situations which can not be anticipated. However, DOE is concerned that the amendment reflect DOP's intention that submission requirements be waived only where the proposed amendment would not significantly affect the public. Therefore, DOE amends § 456.205(e)(2) with wording which is consistent with the DOE Organization Act notice and hearing provisions, 42 U.S.C. 7191(c)(1). Several commenters were concerned that DOE would waive notice and hearing requirements for submission of plan amendments that establish procedures for supply and installation of measures by utilities through independent subcontractors pursuant to section 216(c) of NECPA.

DOE does not intend to waive notice and hearing requirements for such plan amendments. This issue will also be addressed in the Final Rule concerning changes to the RCS regulations as a result of the passage of the Energy Security Act (ESA) (Pub. L. 96–294, 94 Stat. 611 *et seq.).*

Amendments 14, 28, 30, 38, 39, 42, 43, and 45: These proposed amendments are impacted by passage of the Energy Security Act (ESA). We are not finalizing them until the Proposed Rule implementing the ESA amendments (45 FR 66960, October 8, 1980) is finalized.

Amendment 16: This amendment proposed adding ceiling insulation for mobile homes as a program measure.

Eighteen utilities addressed this amendment. Most recommended deleting this amendment because:

- It would give a single manufacturer a price advantage since there does not appear to be a competitive market;
- No one has completed an objective, comprehensive cost-benefit analysis;
- There are no material or installation standards;
- Safety and effectiveness of the product has not been demonstrated in areas of very high temperatures, humidity, and winds;
- The product is not available in all areas of the country;
- Utilities have not had the opportunity to evaluate the product themselves; and
- Auditors will not be able to determine the presence of existing insulation in mobile homes to evaluate its cost effectiveness.

Several utilities recommended that if the amendment is adopted, that it should only apply to mobile homes without existing insulation. One utility recommended that the measure be applicable only to mobile homes built before 1976. Two utilities and two manufacturers submitted the results of a payback analysis which showed ceiling insulation in mobile homes to be a viable option when no existing insulation is present.

DOE still maintains that all energy conserving measures which reduce energy costs of low-income mobile home occupants are important. However, in light of the comments received, DOE will postpone any action on mobile home ceiling insulation until a comprehensive cost benefit analysis is completed, applicability criteria established, and standards developed. DOE agrees with the majority of the commenters who suggested that it may be premature to require mobile home ceiling insulation on a national basis without more analysis. In the meantime, DOE encourages States to consider incorporating this measure as a State measure.

Amendment 17: This amendment changes the applicability criteria for determining when an auditor must provide cost and savings estimates for a wind energy device in the customer's home. Several of the commenters responding to the proposed revision of the applicability criteria recommended retention of the criteria in the original form. These commenters stated that the original criteria was reasonable and provided at least indirect assurances of public safety, public access, and adequate room to properly install and maintain a wind system. In addition, some commenters believed that the original provisions would reduce potential noise complaints and avoid conflict with local codes and ordinances.

A significant number of the comments received suggested use of the proposed criteria with some revision. Several of these commenters requested the addition of set-back provisions ranging from a 50 foot set-back to one tower height plus one rotor radius. Others requested provisions for set-back from overhead utility lines.

The majority of the comments received requested provisions for conformance with local codes and ordinances, expressing concern for auditor liability and the cost of performing wind audits where local codes and ordinances would prevent the installation of a wind energy device.

Commenters, most extensively the State of Wisconsin, questioned the use of average annual wind speed as a criterion, stating their belief that use of the DOE sponsored wind resource data base would not yield credible estimates specific to individual site anomalies. DOE wishes to note several observations regarding these comments. First, the use of such data in support of a screening tool as to the general applicability of these devices on a broad scale appears reasonable to DOE. Second, the use of such data in support of the estimates generated through the audit process can be reasonable provided that the audit does not yield a positive purchase recommendation for this measure but rather an indication to the homeowner as to the merit of pursuing further investigations including actions such as acquisition of extended site specific resource data or consultation with listed vendors prior to purchase. Finally, for States, such as Wisconsin, who wish to propose some method, believed to be analytically sound, specific to their jurisdiction, DOE is willing to review such proposals on a case specific basis provided that small energy wind conversion systems coverage under RCS is not adversely impacted.

One commenter suggested the addition of a space requirement criterion in order to assure that audits are performed only when there is sufficient room on the customer's property to properly install and maintain a wind energy device. One commenter suggested that there was insufficient time and data for DOE to properly evaluate the impacts of the propose change. The latter requested that no change be made until more is known about the effects of the proposed criteria, however, presented no data which conflicted with that utilized by DOE in making the proposal nor substantially refuted DOE's logic expressed the preamble to the proposed rule.

In response to the suggestions for revision of the proposed applicability criteria, substantial and constructive comments were received and considered. DOE believes, however, that the issues of safety operation and installation of a wind system, setback provisions for public access or overhead utility line clearance, and noise or electromagnetic interference, are dealt with to a reasonable degree in the Final Standard for Wind Energy Devices (§ 456.705(f)) published in the **Federal Register**, Vol. 45, No. 187, Wednesday, September 24, 1980. As stated in the preamble to that rulemaking, DOE believes that improvements upon that standard will be forthcoming from the consensus standards process, and intends to review such consensus standards at such time as they become available.

With regard to the comment requesting a minimum lot size to accommodate installation and maintenance of a wind system, DOE believes that this criterion is appropriate to the audit procedure and has included such a provision in the DOE model audit.

Promulgation of a criterion for a standard minimum space necessary to install and maintain a wind energy device is not possible without discrimination against either smaller wind systems or larger residential-sized wind systems. Therefore, DOE has not included this as an applicability criterion.

With respect to comments requesting an applicability criterion requiring compliance with local codes and ordinances, DOE wishes to note that § 456.307(b)(2)(ii) of the Final Rule addresses this issue as it relates to applicability criteria for all measures. The intent of DOE in promulgating this provision is that State and local laws that are more stringent than the RCS rules take precedence over the RCS rules. Local codes and ordinances which include a provision for exception or variance are not intended to be covered by this provision. However, DOE recommends that the RCS auditor advise the customer at the time of the audit if the installation of any RCS measure will require the customer to obtain a variance. DOE does not believe that the need for such a variance or exception procedure is grounds to exclude any program measure from the RCS audit. With increasing frequency, variances to local codes and ordinances have been obtained for residential wind energy devices in many States, including Oregon and Colorado, as well as the Virgin Islands.

With regard to comments regarding the availability of a credible wind data base, DOE believes that the final provisions of § 456.307(c)(10)(iii) provide sufficient technical criteria for data used to determine the wind resources criterion. DOE agrees, however, with commenters who requested some flexibility in the height at which the wind measurement is taken and has revised this provision to allow for the use of data adjusted to 10 meters as well as data collected at 10 meters. In order to insure uniform and credible data, DOE has prescribed the procedure for such adjustments to be consistent with § 456.505(d) (4) of the wind standards.

With respect to the commenter who requested a program measure exemption from performing wind audits due to the lack of qualified measuring stations recording 10 miles per hour (mph) average wind speed, DOE believes that such a request is appropriate to be made through the DOE State Plan review process and is not an issue pertinent to the proposed rule amendment. However, as expressed in the preamble to the Proposed Rule, there will be many occasions where installation of these devices in areas having lower than a 10 mph annual average wind speed can be economically justified depending upon local fuel or electricity prices, specific wind profiles contributing to the average value, and local product prices. Accordingly, lead agencies may elect to propose a resource criterion less than 10 mph in such circumstances. Further, as the body of resource data continues to expand, many areas (within general areas having less than the 10 mph average) will be established as having a wind resource in excess of the required minimum due to localized terrain features.

Amendment 21: This amendment was proposed to clarify that a State did not necessarily have to receive DOE audit validation *prior* to State plan approval. A State would, however, have to have requested DOE audit validation in a State Plan if a State elected not to validate its own audit.

One comment was submitted suggesting that the amendment implied that States no longer needed approval from DOE on audit procedures. This is not DOE's intent. We simply did not want to suspend plan approval until the audit procedure had been validated. The proposed amendment will be incorporated into the Final Rule.

Amendment 23: This amendment delineates the criteria for determining the average yearly wind speed as used in the applicability criteria for wind energy devices and defines a qualified measuring station for such determination. DOE received a number of substantive and useful comments regarding the proposed qualifications for a wind measuring station. The majority of the commenters supported the development of criteria which would qualify wind data for use in RCS. These commenters noted that credible data was necessary for a proper determination of the feasibility of a wind energy device.

A number of commenters pointed out that the criteria as proposed would exclude National Weather Service (NWS) measurement stations in their area. It was not the intent of DOE to promulgate criteria for qualification which would eliminate such credible wind data sources. In response to these comments, DOE has revised the criteria to establish what it considers the absolute minimum technical assurances for credible data collection. This revision includes lowering the required minimum anemometer height from 10 meters to 6 meters. DOE believes that data from recordings below this height are not routinely credible for the purpose of deciding whether an RCS audit for wind energy devices should be conducted. This change is accompanied by a revision of the applicability in § 456.307(b)(2)(iv) to allow for the use of data adjusted upwards or downwards to 10 meters through the procedure described in 10 CFR 456.705(e)(4).

These two revisions will allow for the use of NWS data, as well as any other additional meaningful data sources identified by lead agencies. Finally, DOE and a number of States are considering establishment of anemometer loan programs which should yield additional data which is adequate for these criteria. Several utilities noted that there are areas within their service territory that are not close to a wind measuring station. These comments were received regarding the proposed applicability criteria, § 456.307(b)(2)(iv). DOE believes that the *Wind Energy Resource Atlases*, Volume 1 (GPO 061–000–00446–7) through 12 (NTIS–PNL3194–WERA–1 through 12), currently being prepared for publication by Battelle Memorial Institute, will provide a credible data source for such areas, and has allowed in the final rule the use of these atlases as an acceptable alternative data source in the audit procedure.

One commenter suggested that proof of certification of instrumentation at the time of purchase § 456.307(c)(1)(iii)(c), might not be sufficient to ensure accuracy of the instrument. This commenter suggested that the most current certification of calibration would be more useful since much of the instrumentation in use has been in place for many years. DOE agrees that the proposed amendment would be of questionable value for instruments more than one or two years old and has revised this provision to require that certification of the most current calibration be recorded and kept on file at the measurement station.

The revisions to the qualified measurement station definition and the addition of the *Wind Energy Resources Atlases*, Volume 1 (GPO 061–000–00446–7) through 12 (NTIS–PNL3194–WERA–1 through 12) are consistent with the DOE intent to insure that credible wind data sources are used in the RCS audit process. DOE encourages any State wishing to augment these sources through additional procedures to submit such procedures for DOE review as part of their State plan.

Amendment 27: This amendment proposed that a covered utility or home heating supplier not arrange financing for the purchase and installation of vent dampers, IID's, load management devices and wind energy devices by an eligible customer unless that customer is qualified under § 456.314 to conduct the installation.

Five comments were submitted. Two utilities supported the amendment. Two utilities said the provision placed an unnecessary burden on them to determine which customers are qualified. One utility requested that loan management devices not be included in the amendment because such devices as simple time clocks, which are easily installed, are probably the most widely installed means of loan management today and may be installed safely by a homeowner.

DOE maintains that the potential for safety problems is sufficient enough that vent dampers, IID's, and wind energy devices should only be installed by a qualified installer. Utilities should assume that eligible customers, unless they are on the master list, are not qualified to install these devices, and utilities should therefore not offer to arrange financing for the installation of these devices until they are assured that the homeowner has met the qualifications in § 456.314. Prohibiting unqualified installations is consistent with DOE policy. It would be irresponsible not to ensure that every possible step was being taken to prevent potentially hazardous equipment from being installed by those who are unqualified or inexperienced.

DOE has therefore incorporated Amendment 27 into the Final Rule except that loan management devices are no longer specifically excluded from financing arrangements when homeowner-installed. DOE determined that because load management devices cover such a broad spectrum of equipment, improper installation may not be potentially as dangerous as was originally believed by DOE. It is, therefore, difficult to generalize and prohibit all homeowner installations of such devices. In addition, DOE has chosen not to single out load management devices (as we did with vent dampers, IID's, and wind energy devices) for specific installer requirements. (See § 456.314) DOE encourages utilities to actively discourage homeowner installations of those load management devices which require more sophisticated experience, but recognizes that many homeowners are capable of installing some of the more basic types of load management devices. In the meantime, DOE will consider the value of differentiating between various kinds of load management devices and establishing installer qualification criteria for them.

Because DOE does not prohibit homeowner installations of load management devices, a minor change must also be made to § 456.307(c)(2). Load management devices will be deleted from the provision which lists those measures for which the audit cannot provide do-it-yourself costs. (See Section III, Number 22.)

Amendment 29: DOE received one comment on § 456.311(a)(1) which, although it did not address the specific change proposed, pointed out some ambiguity in the section. The commenter was concerned that the section as written implied that all charges for RCS services (including those charged to all ratepayers) were to be listed separately on the utility bill. DOE intention in including § 456.311(a)(1) was to require, in accordance with section 215(c)(2)(B) of NECPA, that a residential customer who receives an audit, an arranging service, or a supply, installation, or financing service (including loan repayment through utility bills), and who is to be charged individually for that service, must be provided with a bill which itemizes separately the charges for such services. Neither congressional nor DOE intent was to require that all ratepayers of a covered utility receive bills which itemize separately the costs of the utility RCS program which are charged to all ratepayers.

Because this does not change the RCS rule, but merely clarifies DOE's position consistently with NECPA, DOE is issuing this amendment in final form.

Amendments 32 and 34: DOE received one comment expressing concern that, by amending the listing requirement for "a binding surety contact," DOE would reduce consumer protection in RCS without providing commensurate benefits. DOE never intended to specify the type or amount of bond to be required of the contractor. The words DOE chose in the November 7, 1979, rule were incorrectly interpreted to mean liability insurance for negligence while DOE intended the word "liability" to refer to liability for failure to perform the contract.

DOE does recognize the need for increased consumer protection in those instances where there is substantial risk of serious injury or damage as a result of improper installation of measures. Therefore, DOE believes it is appropriate to impose the burden of obtaining liability insurance, in addition to a performance bond, on installers of vent dampers, intermittent ignition devices, wind energy systems, urea-formaldehyde insulation. We stated in the preamble to the Proposed Rule that this requirement would apply to installers of urea-formaldehyde insulation if a standard for it was issued. Since an interim final standard for urea-formaldehyde insulation was issued on September 25, 1980.

Amendment 34, as finalized, applies also to installers of such insulation.

Amendment 37: This amendment describes a State's responsibility for training. It prevents States from shifting the ultimate responsibility for the qualification of auditors, installers and inspectors to other entities.

Eleven utilities and one State energy office commented on this amendment. Most felt very strongly that a utility must retain the authority and responsibility to train its own auditors, installers and/or inspectors. Many commenters expressed confusion over the intent of the provision.

DOE intended that the State establish standards and qualification criteria for training and certification and accept responsibility for the results. DOE did not intend that States must actually develop or conduct training and certification programs. These activities may be conducted by whomever the State deems acceptable. Because DOE believes that ultimate responsibility for all program elements must remain with the State, Amendment 37 will be incorporated into the Final Rule as proposed.

Amendment 49: This amendment corrects a reference originally shown as "HH–I–0215B" to "HH–I–1252B."

One commenter incorrectly suggested that the reference should read "HH–I–01252B." The amendment is incorporated as proposed by DOE.

Amendment 52: This amendment was proposed to clarify labeling requirements for loose-fill insulation. Manufacturers of cellulosic insulation are required to include on their bag labels the settled density for various R-values installed in both ceilings and walls. Manufacturers of other types of loose-fill are required to include their recommended installed density for various R-values on the bag label for both ceiling and wall applications. These clarifications are made in the Final Rule.

Amendment 61 and 62: These provisions proposed a change in label requirements to differentiate between the fire safety requirements for indoor and outdoor rigid board insulation applications. Products intended for interior applications must be installed with an appropriate fire barrier and away from heat producing devices. It was, therefore, proposed that products installed on the exterior need not be covered with a fire barrier, but must be labelled "intended for exterior application only." This proposed change was intended to clarify DOE's original intention in § 456.809. Comments submitted on this amendment, however, demonstrated that the proposed change failed to clarify our intent and, therefore, we are not finalizing the proposed changes.

Two comments were submitted on these amendments. Both suggested deleting the proposed labeling provision and substituting their own version. Both commenters supported interior installations of rigid board insulation without a fire barrier if "diversified tests" had been passed or if permitted by local codes. DOE considered and rejected both these options in earlier rulemakings. (See **Federal Register** March 19, 1979 and November 7, 1979.) Since there were no new comments or data on the issue, DOE maintains its position that the end point criteria and specific test procedures within category of "diversified tests" are too ill-defined to merit DOE support or endorsement.

Both commenters recommended not finalizing the proposed amendment but instead made recommendations that are a major departure from the proposed amendments. Therefore, DOE will retain the original provisions in § 456.808(b)(4)(iii) and 456.809(b)(3)(ii) as published on November 7, 1979.

Amendment 65: This amendment proposed a correction to the infiltration requirement for storm windows in § 456.813(b)(6) to correct a typographical error.

Two comments were submitted. The National Bureau of Standards (NBS) noted that our corrected amendment did not address the unit of time and that the proper notation should be either 0.00075m^3/s or 2.7m^3/h. Another commenter suggested .04645m^3/min. In order to keep the units consistent with the other window provision, DOE has elected to retain seconds as the unit of time and will finalize this amendment as corrected by NBS.

Amendments 74, 76, 77, 78, 79, and 80: These amendments were proposed to substitute language which would be more easily understood into the installation standard for rigid board insulation, § 456.907. The proposed language would have changed the requirement for a fire barrier from "a finish rating of not less than 15 minutes when tested in accordance with ASTM E–119–73" to "a cover of gypsum board ½ inch thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

Two comments addressed the substance of these amendments. One commenter supported the amendment. The National Bureau of Standards (NBS) opposed them because:

- The new language is too prescriptive, essentially limiting fire barriers to gypsum materials;
- All gypsum board does not necessarily meet the 15 minute fire rated finish.

Although DOE agrees with NBS, we maintain that a provision which addresses a 15-minute rating is not meaningful or helpful to end users. In addition, because ASTM E–119–73 tests the finish rating of a complete wall system, a contractor would have no way of determining or predicting how a particular product added to the existing wall structure would respond in a test set-up. In the Final Rule, DOE has therefore retained the original language requiring a 15-minute finish rating, but has also added a clarifying sentence to aid installers in interpreting the requirement. Section 456.907(c)(2) now reads: "For interior applications of rigid board insulation on walls and ceilings, install on all exposed faces and edges of the insulation material, a cover having a finish rating of not less than 15 minutes when tested according to ASTM E–119–76. For purposes of this standard, 12.5mm (0.5 inch) or thicker plaster board, installed according to the manufacturer's instuctions, is deemed to meet this requirement."

With this change, there is no longer a need to correct all subsequent provisions relating to the 15-minute finish rating. Amendments 76–80 are therefore deleted.

Amendment 75: This amendment addressed the water vapor permeability requirement of rigid board insulation when installed around the foundation perimeter. DOE originally permitted only the use of Type 3 polystyrene boards. Because "Type 3" lost its significance in the context of this regulation, DOE proposed, at industry suggestion, that the requirement for Type 3 boards be replaced with a specific remedial action. That action entailed covering the insulation board on all sides with 6-mil polyethelene or equivalent.

Three comments were submitted. One commenter suggested lmiting the moisture absorption rate on boards used to insulate foundation perimeter to .3 percent when tested in accordance with ASTM C–272–53. This, they claimed, would be compatible with a proposed Federal Specification (HH–I–524C) to be issued by the GSA. Another commenter recommended that a maximum moisture absorption of 4.0 percent be acceptable. The National Bureau of Standards (NBS) recommended that we limit moisture absorption to .1 percent when tested in accordance with ASTM C–272–53 and limit water vapor permeability to 2.0 perm/inch when tested in accordance with ASTM C–355–64.

DOE recognizes the importance of providing water absorption and water vapor permeability rates to maintain thermal performance in below grade insulation applications. The Government Services Administration (GSA) confirmed that they are preparing to issue a revision to HH–I–524B. Because this specification also addresses the characteristics that DOE is addressing in the proposed amendment, it is important that they be compatible. DOE believes that a maximum moisture absorption rate of 4 percent, as suggested by one commenter, is too great a departure from the original provision. A moisture absorption of .1 percent, however, is a requirement more stringent than any specified in the forthcoming GSA standard. DOE will therefore incorporate in the Final Rule the following provision in § 456.907(d)(1) which will be compatible with the new GSA specification: "Only insulation boards which have a moisture absorption rate no greater than .3 percent when tested in accordance with ASTM C–272–33 and a water vapor transmission rate no greater than 2.0 perm/inch when tested in accordance with ASTM C–355–64 may be used for this application."

Amendment 84: This amendment was proposed to substitute the DOE Installation Standards for Storm Windows, Thermal Windows, Multi-Glazing units, Storm Doors, and Thermal Doors (§ 456.911) with ASTM E–737–80, "Standard Practice for the Installation of Storm Windows, Replacement Windows, Multi-Glazing, Storm Doors and Replacement Doors." The two standards are essentially identical except for the use of the term "Thermal Window." What DOE has termed "thermal window", ASTM calls a "replacement window".

Two commenters supported adoption of this amendment. DOE will therefore finalize the amendment as proposed.

Amendments 82, 83, 85, 86, 87, 88, 89, 90, 91, 92, and 93: These amendments proposed renumbering the figures throughout the installation standards to make them consecutive.

Amendments 82 and 83 will be finalized as proposed. Amendments 85, 86, 87, 88, 89, 90, 91, 92, and 93 will be changed to reflect the deletion of §486.911 (including deletion of references to figures 1, 2, 3). Figures referenced in Amendments 85–93 will extend from figure 5 through figure 9.

Amendment 95: This amendment was intended to correct an error in the equation in Appendix A to determine burner efficiency.

One comment was submitted by the National Bureau of Standards (NBS) who correctly pointed out the original equation in the Final Rule was correct. DOE will therefore retain Appendix A as published in the November 7, 1979 **Federal Register.**

Amendment 102: This amendment is made to acknowledge the concerns of the American Society of Heating, Refrigeration, Air Conditioning Engineers (ASHRAE) on the way DOE referenced the condensation zone Map in Figure 1 of Subpart I in the November 7, 1979, **Federal Register,** and Figure 1 of § 456.909 of the September 25, 1980 **Federal Register.** The map in these figures is not identical to that published in the *ASHRAE Handbook and Product Directory—1977 Fundamentals,* as referenced by DOE. The map used by DOE was only an adaptation of ASHRAE's map and certain qualifications were not noted. Although this amendment was not in the Proposed Rule, DOE is issuing it in final as it has no substantive affect on the Final RCS Rule.

III. Regulatory Analysis and Urban Impact Assessment

The President, by Executive Order 12044, has directed agencies of the Executive Branch to conduct a Regulatory Analysis of regulations that they prepare that are likely to have a major economic impact. In accordance with OMB Circular A–116, an Urban and Community Impact Assessment should be prepared when the rule is a major policy and program initiative. This assessment should be incorporated into the Regulatory Analysis.

DOE determined that the Residential Conservation Service Program, authorized under Title II, Part 1 of the National Energy Conservation Policy Act, was a major action and required preparation of a Regulatory Analysis and an Urban and Community Impact Assessment. Consequently, the Department prepared the two analyses in draft in conjunction with the publication of the Proposed Rule for the RCS Program on March 19, 1979 (44 FR 16546). These analyses were finalized for publication in conjunction with the Final Rule which was published November 7, 1979 (44 FR 64602). This rule does not constitute a major action since it does not significantly impact the November 7, 1979, regulation. DOE has analyzed the potential impact of the applicability criteria for wind energy devices and concluded that it would not have a substantial effect on the RCS program. See discussion in the Proposed Rulemaking, August 11, 1980.

IV. Environmental Impact Statement

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.,* DOE prepared an Environmental Impact Statement for the entire Residential Conservation Service Program. The subject matter of this rulemaking was evaluated in the programmatic Environmental Impact Statement. A notice of availability of the Final Environmental Impact Statement was published in the **Federal Register** on November 7, 1979 (44 FR 64602). A copy of the final Environmental Impact Statement may be obtained by writing: Mr. James R. Tanck, Director, Residential Conservation Service Program, Office of the Assistant Secretary for Conservation and Solar Energy, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

V. Consultation with Other Federal Agencies

Consultation with other Federal agencies was done through the normal comment process. The National Bureau of Standards (NBS) was the only Federal agency to submit comments.

VI. Contractor Contributions

No contractors contributed to this rulemaking.

In consideration of the foregoing, the Department of Energy is amending Chapter II, Title 10 of Part 456 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., December 23, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

Amendments

1. On page 64626, third column, fourth full paragraph, delete the word "lender" and insert in lieu thereof the word "biller".

2. On page 64631, first column, at the end of the third full paragraph, add the following sentences:

"DOE's intent in including this section was to insure an adequate procedure by which a customer may have recourse against a contractor. DOE believes that new legislation would not be necessary in most jurisdictions where an injured party may rely on pre-existing negligence or contract laws. This section was not intended to require initiation of new laws affecting States' sovereign immunity."

3. On page 64636, third column, amend the sixth full paragraph to read as follows:

"Federal Specification HH–I–1030A is referenced for its requirement and test for corrosiveness. Federal Specification HH–I–515D is referenced for its requirements and tests for odor emission and fungi resistance. As with mineral fiber loose fill, requirements for moisture adsorption were deleted from the final rule."

4. On page 64639, amend the last paragraph, second sentence, by adding a period after the word "requirements". Delete the remainder of that sentence and insert a new sentence which reads as follows: "Only core materials, however, need be tested."

5. On page 64641, first full paragraph, amend the second sentence to read as follows: "The purpose of exterior storm windows is primarily to provide an insulating air space and not to reduce infiltration."

§ 456.105 [Amended]

6. On page 64662, third column, § 456.105(f)(3)(iii), insert following the words "Modification" and "modification" the phrases "[Vent Damper]" and "[vent damper]", respectively.

7. On page 64662, third column, § 456.105(f)(3)(iv), delete the phrases "Electrical or Mechanical Ignition System" and "electrical or mechanical ignition system" and insert in lieu thereof the phrases "Intermittent Pilot Ignition Device (IID)" and "intermittent pilot ignition device (IID)".

8. On page 64663, first column § 456.105(f)(5), add the following sentence at the end thereof: "The term 'ceiling insulation' also includes such material installed on the exterior of the roof."

9. [Deleted]

10. On page 64664, third column, § 456.105(v)(4)(iv), delete the phrase "South-facing (+ or 45° of True South)" and wherever the phrase "window heat gain retardant" appears insert the phrase "and/or loss" after the phrase "window heat gain". Following the word "gain" insert the phrase "or wintertime heat loss".

§ 456.106 [Amended]

11. On page 64665, first column, § 456.106, line 4, change the phrase "and eligible customer" to read "an eligible customer".

12. On page 64665, first column, insert a new § 456.107 as follows:

§ 456.107 Request for confidential treatment.

(a) Request. If you wish to file a document with DOE claiming some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552, or is otherwise exempt by law from public disclosure, and if you wish to request that DOE not disclose information, you must comply with the DOE FOIA regulations set forth in 10 CFR 1004 (44 FR 1908, Jan. 8, 1979).

(b) Disposition of request. DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by DOE to deny such claim, in whole or in part, and an opportunity to respond thereto, will be given to the person claiming confidentiality of the information no less than seven days prior to the public disclosure of such information.

(c) Document by document identification. Each request for confidential treatment must be made with respect to each separately identified document and must be made at the time that document is first submitted to DOE.

§ 456.205 [Amended]

13. On page 64666, first column, § 456.205(e)(2), add the following sentence at the end: "Exception: The Assistant Secretary may waive any of the submission requirements for proposed amendments if the Assistant Secretary finds that no substantial issue of law or fact exists and that the amendment is unlikely to have a substantial impact on large numbers of individuals or businesses.

14. [Deleted]

§ 456.306 [Amended]

15. On page 64668, first column, § 456.306(a)(10), delete the phrase "finances the sale or installation of such measures" and insert in lieu thereof the phrase "is a lender listed in accordance with § 456.312(b)(3)".

16. [Deleted]

§ 456.307 [Amended]

17. On page 64669, first column, § 456.307(b)(2)(iv), delete the existing subsection (iv) and insert in lieu thereof the following paragraph:

* * * * *

(b)(2) * * *

(iv) With respect to wind energy devices: (A) the estimated average annual wind resource in the vicinity of the site is 10 miles per hour, or greater, adjusted to 10 meters (33 feet) above ground level using the formula provided in § 456.705(d)(4); and (B) there are no major wind obstructions over 55 feet high, greater than 30 feet wide, within 100 feet of a potential location for the wind energy device.

18. On page 64669, first column, § 456.307(b)(2)(xii), delete the word "part" and insert in lieu thereof the word "pool".

19. On page 64669, first column, delete § 456.307(b)(2)(xvii).

20. On page 64669, second column, § 456.307(b)(6)(i), delete the phrase "has been" and insert in lieu thereof the phrase "will be".

21. On page 64669, second column, § 456.307(b)(6)(iii), delete the phrase "and received".

22. On page 64669, third column, § 456.307(c)(2), following the word "insulation" insert the phrase "and active solar space heating systems and combined active solar space heating and solar domestic hot water systems". Also, after the phrase "furnace efficiency modifications," delete "device associated with load management techniques."

23. On page 64670, second column, § 456.307(c)(10)(iii), delete the existing paragraph (iii) and insert in lieu thereof the following paragraph (iii):

* * * * *

(c)(10) * * *

(iii)(A) The average yearly wind speed as indicated by the appropriate Wind Energy Resource Atlas, Volume 1 (GPO 061–000–00446–7) through 12 (NTIS–PNL 194–WERA–1 thru 12) for the region, and the relationship between that data and the likely wind speeds at the residence; or

(B) The average yearly wind speed at the nearest qualified measuring station and the relationship between that data and the likely wind speeds at the residence. A qualified measuring station is one which meets the following minimum requirements:

(*1*) The anemometer is located no less than 6 meters (19.8 feet) above ground level;

(*2*) Data used to determine the annual average wind speed has been collected for one year or more; and

(*3*) A record is on file at the measurement station certifying the most current calibration of the data collection and recording instrumentation; and

24. On page 64670, third column, § 456.307(e)(2), second sentence, delete the phrase "supplies, installs or finances and sale or installation of program or State measures" and insert in lieu thereof the phrase "is a supplier, installer or lender listed in accordance with § 456.312(b),".

§ 456.308 [Amended]

25. On page 64671, second column, § 456.308(d), second sentence, delete the phrase "supply or install program measures" and insert in lieu thereof the

phrase "are listed in accordance with § 456.312(b) (1) or (2)".

§ 456.309 [Amended]

26. On page 64671, third column, § 456.309(d), second sentence, delete the phrase "finance program measures" and insert in lieu thereof the phrase "are listed in accordance with § 456.312(b)(3)".

27. On page 64671, third column, § 456.309, insert a new paragraph (h) as follows:

* * * * *

(h) Prohibit each covered utility and participating home heating supplier from arranging financing for the purchase or installation of furnace efficiency modifications and wind energy devices for installation by the eligible customer unless such customer is qualified to perform such installation pursuant to § 456.314.

28. [Deleted]

29. On page 64672, second column, § 456.311(a)(1), delete the existing phrase and insert in lieu thereof the following:

§ 456.311 [Amended]

(a)(1) Every charge by a covered utility or a participating home heating supplier to a customer for any portion of the costs of carrying out any activity pursuant to the State Plan which is charged to the residential customer for whom such activity is performed (including repayment of a loan) and included on a billing for utility service submitted by the utility or home heating supplier to such residential customer shall be stated separately on such billing from the cost of providing utility or fuel service and the customer shall be permitted to include such payment in such customer's payment for utility or fuel service; and * * *

30. [Deleted]

§ 456.312 [Amended]

31. On page 64673, third column, § 456.312(b)(1)(iv), delete the existing paragraph (iv) and insert in lieu thereof the following paragraph:

* * * * *

(b)(1) * * *

(iv) Comply with any applicable qualification requirements set forth in the State Plan pursuant to § 456.314.

32. On page 64673, third column, § 456.312(b)(1)(vii), delete the entire sentence and insert in lieu thereof the following sentence: "Have a performance bond sufficient in the judgment of the lead agency to aid in protecting eligible customers."

33. On page 64673, third column, § 456.312(b)(2)(ii), following the word "applicable" insert the word "material".

34. On page 64674, first column, renumber existing § 456.312(b)(4) as § 456.312(b)(5) and insert a new § 456.312(b)(4) as follows:

* * * * *

(b) * * *

(4) The State Plan shall require that all installers of vent dampers and IID's included in the Master Record have liability insurance sufficient in the judgment of the Governor to indemnify themselves against possible liability arising from installation when installing such measures under the circumstances described in the State Plan pursuant to § 456.305.

§ 456.313 [Amended]

35. On page 64674, third column, § 456.313(b)(1)(i), insert at the end thereof: "(F) Combined active solar space heating and solar domestic hot water systems."

§ 456.314 [Amended]

36. On page 64675, first column, § 456.314(a)(6), delete the phrase "steady state" and insert in lieu thereof the word "seasonal".

37. On page 64675, second column, § 456.314(f), insert the following sentences after the first sentence:

* * * * *

(f) * * * This description shall identify the State entity(ies) responsible for conducting training, testing or any other qualification methods. The State entity(ies) may assign duties to another person for the purpose of aiding in the performance of such duties, but the lead agency or another State entity and no other persons, shall be ultimately responsible for developing the qualification methods and for designating individuals as qualified.

38. [Deleted]

39. [Deleted]

§ 456.505 [Amended]

40. On page 64679, third column, § 456.505(a)(1), delete the word "covered" and insert in lieu thereof the word "regulated".

41. On page 64679, third column, § 456.505(b), amend the reference to "paragraph (a)(2)(i)" to read "paragraph (a)(2)(ii)".

42. [Deleted]

43. [Deleted]

44. On page 64680, first column, §456.507(b), delete the first sentence and insert in lieu thereof the following sentence:

§ 456.507 [Amended]

* * * * *

(b) In addition to any other requirement that may be applicable, any utility making an application or petition under this section shall give direct notice to the Governor, State Energy Office, and State Regulatory Authority of any State in which such exemption or waiver would be applicable, informing them that they have ten days from the date the application or petition is filed with the Assistant Secretary to submit comments to the Assistant Secretary on the application or petition. * * *

45. [Deleted]

§ 456.602 [Amended]

46. On page 64680, second column § 456.602(a), amend the reference to "§ 456.206" to read "§ 456.205".

§ 456.802 [Amended]

47. On page 64681, third column § 456.802(a)(1), delete the phrase "marked, 'Conforms to DOE Standards,' " and insert in lieu thereof the phrase "identified as conforming to DOE standards."

48. On page 64682, first column, § 456.802(b)(6), amend the reference to "ASTM 576-76" to read "ASTM E 576-76".

49. On page 64682, second column, § 456.802(b)(25), amend the references to "HH-I-0125B" to read "HH-I-1252B".

50. On page 64682, second column, § 456.802(b)(29), correct the word "preassemebled" to read "preassembled".

Tables I and II [Amended]

51. On page 64683, second and third columns, amend the Table I title to read as follows "Coverage Chart for Cellulosic Loose Fill Insulation", and amend Table II title to read "Coverage Chart for Loose-Fill Insulation (other than Cellulosic)".

52. On page 64683, second and third columns in Table I, after the word "Sidewalls", delete the asterisk (*). After the phrase "To obtain thermal resistance (R-value) of" insert an asterisk (*). Delete the sentence at the bottom of Table I following the asterisk and insert in lieu thereof: "The thermal resistance of loose fill cellulose thermal insulation shall be measured at the manufacturer's settled density." In Table II, after the word "Sidewalls," delete the asterisk (*) and after the phrase "To obtain thermal resistance (R-value) of," insert an asterisk (*).

§ 456.804 [Amended]

53. On page 64683, first column, § 456.804(b)(6), delete the phrase ", and shall include the following information:" and insert in lieu thereof the following:

* * * * *

(b)(6) * * * If a product is tested and meets the requirements of ASTM E-136 and is labeled as such, it need not be labeled with the specific requirements of CPSC Part 1404 relating to vents and chimneys. Each bag shall also be marked with the following information:

. . . .

54. On page 64683, first column, § 456.804(b)(6)(iv), insert the following sentence after the word "different": "Products not intended for sidewall applications shall be labeled with a statement to that effect and need not carry the sidewall portion of the coverage chart."

55. On page 64683, second column, § 456.804(b)(6)(v), insert the phrase "or a CPSC approved label" following the word "statements".

§ 456.805 [Amended]

56. On page 64683, second column, § 456.805(b)(1)(i), delete the phrase "(known as Type I)".

57. On page 64683, third column, § 456.805(b)(1)(i), delete the phrase "(known as Type III)".

58. On page 64684, first column, § 456.805(b)(7), delete the phrase ", and shall include the following information:" and insert in lieu thereof the following:

*   *   *   *   *

(b)(7) * * * If a product is tested and meets the requirements of ASTM E-136 and is labeled or marked as such, it need not be labeled with the specific requirements of CPSC Part 1404 relating to vents and chimneys. Each bag shall also be marked with the following information: * * *.

59. On page 64684, first column, § 456.805(b)(7)(ii), insert the phrase "or a CPSC approved label" following the word "statements".

§ 456.806 [Amended]

60. On page 64684, second column, § 456.806 (b)(5)(v), amend the fifth line to read "of application if the coverage is".

61. [Deleted]

62. [Deleted]

§ 456.811 [Amended]

63. On page 64684, third column, § 456.811(a), insert the word "foil" following the word "aluminum".

§ 456.812 [Amended]

64. On page 64685, first column, § 456.812(a), delete the word "of" and insert in lieu thereof the word "or".

§ 456.813 [Amended]

65. On page 64685, third column, § 456.813(b)(6), delete the notation "/c" following the number "0.00075m^3" and insert in lieu thereof the notation "/s".

66. On page 64685, third column, § 456.813(b), insert the following new subsection (8):

*   *   *   *   *

(b) * * *

(8) As an alternative to meeting provisions (b)(1) through (b)(7), HUD Use of Materials Bulletin #39 may be substituted for use with aluminum windows, and HUD Use of Materials Bulletin #59 may be substituted for use with wood windows.

§ 456.814 [Amended]

67. On page 64686, first column, § 456.814(e), amend the reference to "UL 599" to read "UL 559".

68. On page 64686, first column, § 456.814(g)(1)(ii), amend the reference to "ANSI XZ 21.67–1978" to read "ANSI Z21.67–1978".

§ 456.903 [Amended]

69. On page 64687, third column, § 456.903(b)(26), Note 1, amend the word "draft" to read "kraft".

70. On page 64687, third column, § 456.903(b)(28), amend the phrase "frame spread" to "flame spread".

§ 456.905 [Amended]

71. On page 64688, third column, § 456.905(c)(3)(A), amend the reference to "1 ft 2" to read "1 ft^2".

72. On page 64689, first column, § 456.905(c)(3)(B), amend the references to "1 ft 2 " and "300 ft" to read "1 ft^2" and "300 ft^2", respectively.

§ 456.906 [Amended]

73. On page 64690, third column, § 456.906(c)(2)(i)(C), amend the reference to "(90^2 mm)" to read "(900 mm)".

§ 456.907 [Amended]

74. On page 64692, first column, § 456.907(c)(2), add the following sentence at the end: "For purposes of this standard, 12.5mm (0.5 inch) or thicker plaster board, installed according to the manufacturer's instructions is deemed to meet this requirement.

75. On page 64692, second column, § 456.907(d)(1), delete the last sentence and insert in lieu therof the following sentence: "Only insulation boards which have a moisture absorption rate no greater than 0.3 percent when tested in accordance with ASTM C–272–33 and a water vapor transmission rate no greater than 2.0 perm/inch when tested in accordance with ASTM C–355–64 may be used for this application."

76. [Deleted]

77. [Deleted]

78. [Deleted]

79. [Deleted]

80. [Deleted]

§ 456.908 [Amended]

81. On page 64696, third column, § 456.908(b)(1)(iii), Note 2, delete the word "approximate" and insert in lieu thereof the word "appropriate ".

§ 456.910 [Amended]

82. On page 64697, third column, § 456.910(a), amend the reference to "Figure 1 " to read "Figure 4".

83. On page 64698, the sample "Certification of Insulation" is "Figure 4", not "Figure 1".

84. On page 64699, § 456.911, delete the entire existing section, including the figures on page 64700. Replace with the following:

§ 456.911 Standard practice for the installation of storm windows, thermal windows, multi-glazing units and storm doors and thermal doors.

The installation of storm windows, thermal windows, multi-glazing units, and storm doors and thermal doors shall be done in accordance with ASTM E–737–80 "Standard Practice for the Installation of Storm Windows, Replacement Windows, Multi-glazing, Storm Doors, and Replacement Doors." For purposes of this installation practice thermal windows and doors shall meet the definition contained in § 456.105(f)(11) and be treated as replacement windows and doors.

§ 456.912 [Amended]

85. On page 64703, third column, § 456.912(b)(2), amend the reference to "Figure 7" to read "Figure 5 ".

86. On page 64703, third column, § 456.912(b)(3)(ii), amend the reference to "Figure 8 " to read "Figure 6".

87. On page 64703, third column, § 456.912(b)(3)(iii), amend the reference to "Figure 8" to read "Figure 6".

88. On page 64703, third column, § 456.912(b)(4)(i), amend the reference to "Figure 9" to read "Figure 7".

89. On page 64704, amend the references to "Figures 7", "8", and "9" to read "5", "6", and "7" respectively.

90. On page 64705, first column, § 456.912(b)(4)(ii), amend the reference to "Figure 9" to read "Figure 7".

§ 456.913 [Amended]

91. On page 64705, third column, § 456.913(b)(1)(xviii), amend the reference to "Figures 10 or 11" to read "Figures 8 or 9".

92. On page 64706, amend the reference to "Figure 10" to read "Figure 8".

93. On page 64707, amend the reference to "Figure 11" to read "Figure 9".

94. On page 64708, first column, § 456.913(d)(1), amend the word "handkbook" to read "handbook".

95. [Deleted]

Appendix A to Subpart I

96. On page 64709, second column, § 456.914, Appendix A to Subpart I, amend the first sentence to read as follows:

The steady state efficiency of the furnace may be determined directly from Figure 8 for furnaces using No. 1 fuel oil or from Figure 9 for furnaces using No. 2 fuel oil.

Appendix I to Part 456

97. On page 64710, first column, Appendix I, section (d), following the word "displayed" insert the phrase "by inclusion of an 'X'."

98. On pages 64711 to 64725, Appendix I, move all numbers listed next to the "X" in all columns labeled "Solar Domestic Hot Water Systems" to the columns labeled "Active Solar Space Heating Systems".

99. On page 64720, Appendix I, after the first row, which begins "New York (continued)", insert a new row (the same notation as for "South Carolina 2" on page 64722) as follows:

"North Carolina	2	Electricity	22	X		X	X	X"
		Gas	19	X				
		Oil	19	X			X	
		Electric Heat Pump	19	X				

100. On page 64720, Appendix I, after the fifth row, which begins "North Dakota", insert a new row for Ohio (indicating the same program measures as for "Oregon 5" on page 64721) as follows:

"Ohio	5	Electricity	30	X	19	X	X	"
		Gas	30	X	11	X		
		Oil	30	X	11	X		
		Electric Heat Pump	30	X	11	X		

101. On page 64726, second column, amend the address of BOCA to read as follows: "17926 S. Halsted Street, Homewood, Illinois 60430".

102. On page 64689 of the November 7, 1979 Final Rule and page 63804 of the September 24, 1980 Final Rule on material and installation standards delete the title "ASHRAE Handbook and Product Directory—1977 Fundamentals, Page 20.9".

[FR Doc. 81-334 Filed 1-5-81; 8:45 am]

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Tuesday
January 6, 1981

Part X

Department of Agriculture

Science and Education Administration

Plant Biology and Human Nutrition; Competitive Research Grants Program for Basic Research for Fiscal Year 1981; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Plant Biology and Human Nutrition; Competitive Research Grants Program for Basic Research for Fiscal Year 1981; Solicitation of Applications

Notice is hereby given that under the authority contained in section 2(b) of the Act of August 4, 1965, Pub. L. 89-106, as amended by section 1414 of Pub. L. 95-113 (7 U.S.C. 450i(b)), the Science and Education Administration (SEA) through its Competitive Research Grants Office (CRGO) will award competitive grants for mission-oriented basic research in four areas of plant sciences (biological nitrogen fixation, biological stress on plants, photosynthesis, and genetic mechanisms for crop improvement) and human nutrition (nutrient requirements). Proposals may be submitted through their parent organizations by scientists associated with State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals.

The total amounts available for such grants during Fiscal Year 1981 are $12,610,000 for plant sciences research and $2,910,000 for human nutrition research.

The Guide to Proposal Preparation for these competitive grants consists of three parts:

I. Types of Research to be Supported in FY 1981:
II. Proposal Submission;
III. Proposal Review and Evaluation.

A Grant Application Kit has been developed which provides the forms, instructions, and other relevant information needed to apply for research grants under the programs described herein. To obtain a copy(ies) of the Grant Application Kit, write or call the Grants Administrative Management Office (Address and telephone number below):

Grants Administrative Management Office, Attention: Proposal Services Unit, Science and Education Administration, USDA, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209. Telephone: (703) 235-2638.

Additional instructions relating to proposal preparation are included in Part II of the Guide to Proposal Preparation.

Proposals will be selected for funding after review of all proposals by a scientist serving as a CRGO Program Manager, by *ad hoc* reviewers, and by an assembled panel of scientists who constitute a spectrum of expertise for the program to which each proposal is assigned (See Part III of the Proposal Preparation Guide).

This Notice incorporates suggestions from various agencies of the U.S. Department of Agriculture (USDA), from liason representatives of other Federal agencies and prospective performing organizations, and from *ad hoc* groups on plant sciences and on human nutrition.

According to the requirements for Federal assistance program announcements under Pub. L. 95-220, The Federal Program Information Act, the following information is provided with respect to the areas of research described in this announcement for which project grants will be awarded:

(1) As outlined by OMB Circular No. A-89, the official program number and title for these grants are: 10.884, Grants for Agricultural Research, Competitive Research Grants.

(2) OMB Circular No. A-95, regarding State and local clearinghouse review of Federal and Federally assisted programs, does not apply.

The grants awarded under this Program will be administered in accordance with applicable OMB Circulars and Form SEA-638, General Provisions for Grants and Cooperative Agreements. A copy of Form SEA-638 is included in the Grant Application Kit.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions and Hospitals—OMB Circular A-21;

Nonprofit Organizations—OMB Circular A-122;

Commercial Firms—FPR 1-15.2;

State and Local Governments—FMC 74-4 (Formerly OMB Circular A-87).

Most of the grants awarded in Fiscal Year 1981 will be for a duration of one to three years. The total amount awarded for each of these grants will be from Fiscal Year 1981 funds. A number of continuation grants will be made for three to five years where longer term studies are required. The continuation grants will be funded in increments covering a one-year period. The initial increment will be funded from Fiscal Year 1981 appropriations.

When an original grant award includes a provision for more than one budget period within the project period, SEA presumes that continuation grants for the subsequent budget periods will be awarded subject to availability of funds, if the grantee:

(1) Has demonstrated satisfactory performance during all previous budget periods; and

(2) Submits no later than 90 days prior to the end of the budget period a continuation application which includes a detailed progress report; a financial statement for the current budget period, including an estimate of the amount of unspent, uncommitted funds which will be carried over beyond the term of the prior grant; a budget for the new budget period; an updated work plan revised to account for actual progress accomplished during the current budget period; and any other reports as may be required by the grant agreement.

Review of continuation applications will be conducted expeditiously. Generally, no extramural review will be required.

Neither the approval of a project nor the award of any grant shall commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover cost overruns, with respect to any approved project or portion thereof.

Section 2(b) of Pub. L. 89-106, as amended by Section 1414 of Pub. L. 95-113, states that these competitive grants shall be awarded without regard to matching funds by the recipient(s) of such grants.

It has been determined that, because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1981, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance wth E.O. 12044, that it is not possible to publish this Notice in proposed form and allow 60 day for public comment.

Done at Washington, D.C., this 30th day, of December, 1980.

Anson R. Bertrand,

Director, Science and Education.

Guide to Proposal Preparation

I. Types of Research to be Supported in Fiscal Year 1981

The Science and Education Administration will award both standard research grants and a small number of continuation grants for periods not to exceed five years, on a competitive basis, to support basic research underlying the mission of the USDA. Basic research grants will be considered in selected areas of plant science and human nutrition, which have been considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important food and nutrition problems. This grants program results from the recognition that new, innovative approaches and enhanced levels of funding are needed as we seek ways to increase food production and improve human nutrition.

Consideration will be given to research proposals which address fundamental questions in the areas noted below and which are consistent with the long-range missions of USDA. While a basic guideline is provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential investigators. Accordingly, it is hoped that innovative projects in the so-called "high-risk" category as well as those which may have a higher payoff potential will be submitted.

The following guidelines are thus provided as a base from which proposals may be developed:

A. Plant Science. 1. Biological Stress on Plants. Plants are exposed to many stresses that may adversely affect their productivity and usefulness to man. This grants program will support research on stresses on plants arising from their interactions with other plants or with other biological agents such as weeds, insects, nematodes, fungi, bacteria, viruses, and mycoplasma-like organisms. The ultimate goal of the research supported in this area is to reduce losses in plant productivity from damage caused by biologically generated stresses. The program area will emphasize studies that enhance our understanding of (a) how stressful interactions are established between plants and other biological agents, (b) how such interactions are influenced by environmental and other factors inherent to the interacting organisms, (c) how these interactions reduce plant productivity and usefulness to man, (d) how plants react to stresses generated by such interactions, and (e) how damage from such interactions may be reduced or eliminated. The interactions may be studied at any number of levels; i.e., population, organismal, cellular and molecular; and by various approaches including genetics, molecular biology, and biochemistry. These may include studies on plants separated from stress-causing organisms or on stress-causing organisms separated from their target plants. However, such studies should provide information that will be relevant to the understanding of the causes, consequences, and avoidance of biologically generated stresses on plants. The research supported in this program area will focus on the identification of new approaches to reduction of plant stress caused by biological agents, approaches that will be both effective and compatible with social and environmental concerns.

2. Genetic Mechanisms for Crop Improvement. The major aim of this program area is to encourage innovative or unique genetic approaches directed to the development of genetically superior varieties of agricultural crops. The approaches should be aimed at obtaining novel genetic combinations or gene modifications difficult or impossible to achieve using conventional plant breeding techniques. This research area thus will emphasize the following: (a) Cell culture studies including the regeneration of plants from single cells, cell/protoplast fusion, mutagenesis, and incorporation of foreign DNA, chromosome, or organelle; (b) development of effective celular and molecular methods for identification of plant characteristics or genes which are significant targets for genetic manipulation; (c) development of methods for producing, selecting, and transferring desired genetic traits including both qualitative and quantitative traits; (d) acquisition of basic information on nuclear and organelle plant gene expression and diversity at the molecular, cellular, or developmental level to facilitate application to plant improvement; and (e) basic genetic studies on maintenance, alteration, and utilization of unadapted and wild germplasm. Proposals to conduct well-defined basic plant genetic studies in support of plant breeding programs and designed to improve understanding of basic genetic mechanisms of the crop are encouraged. These guidelines are not meant to exclude other new or unusual approaches to crop improvement.

3. Biological Nitrogen Fixation. The most common limiting nutrient for plant growth is nitrogen. The presence of soil nitrogen is due to past accretions in nature, biological nitrogen fixation or the application of nitrogenous fertilizer. The latter represents a significant energy input in cropping and ultimately increases food costs. Thus, the enhancement of biological nitrogen fixation capacity in plant-soil microbial associations is of major importance. Research aimed at understanding nitrogen fixing mechanisms and related nitrogen metabolsim in both symbiotic and free living organisms as well as the fate of fixed nitrogen is of high priority.

In general, the objectives in this program area include building a foundation of basic information concerning nitrogen fixation as it relates to enhancing the process in currently known systems and in providing a base for developing new nitrogen fixing association, by genetic transfer or other means, for crop species not now possessing such capability. Moreover, the process of nitrification (the oxidation of ammonia to nitrate), the assimulation and utilization of ammonia and nitrate, and denitrification (the reduction of nitrate to volatile forms of nitrogen which are lost from the soil) all play important roles in plant growth. Soil nitrogen, whether supplied by biological nitrogen fixation or as chemical fertilizer serves to increase food production only when it is present in an available form which is not lost from the plant-soil ecosystem.

Examples of research encompassed in this program area include: (a) Structure and mechanism of action of nitrogenase; the regulation of nitrogenase activity and synthesis; the relationship between nitrogenase and hydrogenase activities in nitrogen fixing organisms; (b) energetics of the nitrogen fixation process including competitive processes within the plant; (c) infection by *Rhizobium* and conditions for effective nodulation; basis of the recognition process between symbiotic organisms; factors controlling symbiont specificity; competition in the soil; (d) identification of additional organisms capable of nitrogen fixation and quantitation of their contribution; (e) relation between the fixation process and the processes of assimilation, nitrification and denitrification; (f) the development of methods for the *in situ* measurement of nitrification and denitrification, and determination of the actual extent of these processes in nature; (g) an analysis of the distribution of denitrifying bacteria and elucidation of control mechanisms operative on nitrogen transformations in the major species; (h) studies of the transfer and utilization of fixed nitrogen including the enzymes involved in the assimilation and dissimilation of fixed nitrogen in bacteria and crop plants; and (i) the efficiency of nitrogen utilization by crop plants in the production of food proteins.

Emphasis in program priorities will be on innovative approaches which may contribute to a thorough understanding of nitrogen cycling encompassing biochemistry, cellular and developmental biology, genetics and genetic manipulation, and other relevant

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life science disciplines. An understanding of these processes is essential to the development of strategies which maximize nitrogen fixation, minimize inputs of nitrogenous fertilizers and optimize their utilization in agriculture.

4. Photosynthesis. There are many indications that productivity of crop plants may be increased by increasing their photosynthetic efficiency. Basic research aimed toward providing an increased understanding of photosynthesis and associated carbon metabolism is an essential part in achieving that objective. Expansion of research is needed, but not exclusively, in three major sub-areas: (a) The identification of aspects of photosynthesis which limit the conversion of solar energy into stable chemical products which include such areas as the mechanisms of energy capture and conversion, structure, synthesis, and turnover of the photosynthetic apparatus, CO_2 fixation, photo-respiration and dark respiration; (b) the relation of plant development to photosynthesis including the development of photosynthetic competence, translocation and partition of photosynthetic productivity; and (c) the design of new methods of genetic and cellular manipulation to improve photosynthetic efficiency in plants to include studies of the chloroplast genome, of nuclear genes regulating photosynthesis, and analysis of regulatory steps controlling both nuclear and cytoplasmic genome expression and their interactions. Other research designed to generate new information in areas that relate to photosynthesis and its accompanying processes in the context of the objectives of the program area may also be considered a part of this area.

B. Human Nutrition. Proposals are invited in the following program area. Support will not be provided for clinical research nor-for demonstration and action projects.

Human Requirements for Nutrients.—Research in this program area is intended to contribute to the improvement of human nutritional status by increasing our understanding of requirements for nutrients. The objective is to support basic, creative research that will help to fill gaps in the knowledge about nutrient requirements, bioavailability, the interrelationships of nutrients, and the nutritional value of foods that are consumed in the U.S. as these relate to requirements. Special attention will be given to requirements for trace constituents. Innovative approaches designed to improve methods of research and investigation that will increase the reliability and validity of research results will be given special consideration.

Proposals dealing with processing techniques should be clearly oriented towards determination of human nutrient requirements. Proposals which concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements. It is especially important that proposals emphasize innovative (creative) fundamental (basic) research.

II. Proposal Submission

A. Proposal Purpose. The purpose of a proposal is to persuade the reviewing peer scientists and the CRGO staff that the proposed project is feasible and sufficiently meritorious to warrant support under the criteria enumerated in Part III B. It should be clear, concise, technically correct, and relevant to the competitive grants program. The qualifications for the investigator, the institution facilities, and the level of funding to be devoted to the proposed project should be clearly delineated.

B. Who May Submit Proposals. Proposals for support under the competitive research grants program may be submitted by qualified scientists associated with the State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals. Proposals from scientists at non-United States organizations will not be considered for support. Only in special situations, where it can be demonstrated that a proposed project will contribute directly to breakthroughs in the food and agricultural sciences, will proposals from unaffiliated scientists be given favorable consideration.

C. Where and When to Submit Research Proposals. Twenty copies of each research proposal must be submitted by the time limits set below to: Grants Administrative Management Office (GAMO), Attention: Competitive Research Grants Program, Science and Education Administration, USDA, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

Proposals will be reviewed by peer panels (as described in Part III) which will assemble on specific dates. In order to be considered for funding during Fiscal Year 1981, the proposals must be postmarked by the following dates:

February 13, 1981 for Biological Nitrogen Fixation;
February 20, 1981 for Genetic Mechanisms for Crop Improvement;
February 20, 1981 for Photosynthesis;
February 27, 1981 for Biological Stress on Plants;
February 27, 1981 for Human Nutrient Requirements.

D. What to Submit. Your submission should include an original and 19 copies of the proposal and Form SEA-661, Grant Application, which is included in the Grant Application Kit. The Form SEA-661 submitted with the original proposal should have original signatures of the Principal Investigator(s) and the Authorized Organizational Representative. SEA must have original signatures on file for each application.

The applicable specific area of inquiry (program area) should be indicated in Block 8 of Form SEA-661 provided in the Grant Application Kit. *Select one program area only.* Indicating more than one program area does not mean the proposal will be considered under more than one. It only delays processing of the proposal in GAMO. The final determination of the area and change (if any) will be made by the program staff and/or the appropriate panel. The number assigned to the program area (see below) must also be cited in Block 8 of Form SEA-661.

Number and Program Area

1—Biological Stress on Plants
2—Genetic Mechanisms for Crop Improvement
3—Biological Nitrogen Fixation
4 Photosynthesis
5—Human Requirements for Nutrients

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal *are* mailed in more than one package, the number of packages should be marked on the outside of each. It is mportant that *all packages be mailed at the same time.* The acknoledgement of receipt of the proposal will contain a proposal number, title, program, and program area. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *assure* that the *proposal contains* all *pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Grant Application Kit and instructions in Part II E, Format for Research Proposal, which follow.

E. Format for Research Proposal. The Grant Application Kit (available from GAMO) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described in

Part II. Types of Research to be Supported in FY 1981.

Additional information and/or instructions relating to the format and content of the research proposal follow:

1. Title of Proposal.—The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

2. Approval Signatures of Appropriate Officials.—All proposals from a university, college, or institution must be signed by an authorized official.

3. Research Involving Special Considerations.—A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for SEA support have a high probability of involving either recombinant DNA or human subjects, special instructions follow:

Recombinant DNA.—Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (See NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions). A Memorandum of Understanding and Agreement and approval by the local Biohazards Safety Committee, must be provided before a grant can be awarded.

Human Subjects.—Safeguarding the rights and welfare of human subjects used in research supported by SEA grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish SEA with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization, and that the grantee is in compliance with Department of Health and Human Services (DHHS)—formerly Department of Health, Education and Welfare (DHEW)—policies, as amended, regarding the use of human subjects. Form SEA–84, Protection of Human Subjects, may be used for this purpose.

4. Project Summary. The Research Proposal should include a one-page Project Summary to focus on: overall objectives and project goals; relevance and significance of the project; and experimental methods and approaches.

The Project Summary is not intended for the general reader so should be couched in language which will be meaningful to others in the field of science.

5. Project Description (15-page maximum). a. Introduction—State overall objective(s) and long-term goal(s) of the proposed research. Review the most significant previous work, including your own, and describe the current status of research in this field. Document with references.

b. Rationale and Significance—Present concisely the rationale behind the proposed research and list specific objectives for the total period of requested support. Show how these objectives relate to potential long-range improvements in food production or human nutrition. What is the potential importance of the proposed research? Discuss any novel ideas or contributions which the project offers.

c. Experimental Plan—State clearly your hypotheses or the questions you will ask and give details of the research plan. Include a description of the experiments or other work proposed; the methods and techniques to be employed and their feasibility; the kinds of results expected; and the means by which the data will be analyzed or interpreted. Include, if appropriate, a discussion of pitfalls that might be encountered, and limitations of the procedures proposed. Insofar as possible, describe the principal experiments or observations in the sequence in which it is planned to carry them out, and indicate, if possible, a tentative schedule of the main steps of the investigations within the project period requested.

d. Facilities and Equipment—Describe the facilities available for this project, including laboratories. Point out any procedures, situations, or materials that may be hazardous to personnel and the precautions to be exercised. List major items of instrumentation and those major items of nonexpendable equipment needed to complete the work.

e. Collaborative Arrangements—If the proposed project requires collaboration with other research organizations, describe the collaboration and provide evidence to assure the reviewers that the organizations involved agree. If separate written assurances are to be included, they should be placed after the References to the Project Description. Indicate specifically whether or not such collaborative arrangements might have the potential for any conflict of interest. Projects involving collaboration should indicate which organization is to receive the grant since only one submitting organization can be the recipient of a grant for each proposal. Subcontract arrangements of research work should be indicated under Item I of the Proposal Budget, Form SEA–55.

6. References to Project Description. These references should follow an accepted journal format.

7. Vitae and Publications List(s) of Principal Investigator(s). Vitae of the principal investigator, senior associates, and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. Provide for each person a chronological list of the most representative publications during the preceding 5 years including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as these usually appear in journals.

8. Additions to Project Description. Each project description is expected by the members of review committees and the staff to be complete in itself. Distribution of additional material, other than for the records, is limited to the principal reviewers. In those instances where additional material is necessary (as for example: photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 6 copies or sets, identified by title of the research project and name of the Principal Investigator, should accompany the proposal.

III. Proposal Review and Evaluation

A. Proposal Review.—Research proposals received by CRGO will be acknowledged and assigned to the appropriate program for scientific evaluation.

All proposals will be carefully reviewed by a scientist serving as a CRGO Program Manager and by additional scientists who are experts in the particular field represented by the proposal. Program Managers will also conduct discussions and obtain comments from assembled peer panels of scientists before recommending proposals for funding.

B. Criteria for Selection of Projects.—The following criteria or factors are considered in the evaluation of research proposals:

1. The scientific merit of the proposal, including the suitability and feasibility of the approaches and methodology.

2. The probability that the research will contribute to important discoveries or significant breakthroughs in food production or human nutrition in relation to the mission of this program.

3. The qualifications of the Principal Investigator and other senior personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem, and performance record and/or potential for future accomplishment.

4. The probable adequacy of available or obtainable facilities, equipment, instrumentation, and technical support.

C. Revisions to Proposals During Review Process.—Prior to recommending whether or not SEA should support a particular project, the Program Manager may engage in discussions with the proposing Principal Investigator. Should such discussions result in proposed changes which exceed 10 percent of the proposed grant amount or $10,000, whichever is less, a revised proposal budget, signed by both the proposing Principal Investigator and by the Authorized Organizational Representative, must be submitted on Form SEA-55 in an original and two copies to the cognizant CRGO Program Manager for incorporation into the proposal file.

Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, an appropriate proposal modification, signed and endorsed as above, must be submitted to the CRGO Program Manager.

D. Grant Awards.—The applicants submitting proposals judged most meritorious under the criteria in III B above will be awarded grants for periods not to exceed five years, within the limitations of available funds.

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Part XI

Department of the Interior

Bureau of Land Management

Exchange Procedures for Public Lands

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2091, 2200, 2210, 2220, 2230, 2240, 2250, 2260 and 2270

[Circular No. 2482]

Exchange Procedures for the Public Lands

AGENCY: Bureau of Land Management, Interior

ACTION: Final rulemaking.

SUMMARY: The Federal Land Policy and Management Act of 1976 repealed a major part of the law that gave the Secretary of the Interior exchange authority and replaced it with more comprehensive authority. This final rulemaking sets forth the procedures that will be used by the Secretary in carrying out the exchange authority granted by section 206 of the Federal Land Policy and Management Act.

EFFECTIVE DATE: February 5, 1981.

ADDRESS: Any suggestions or recommendations should be sent to: Director (321), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David C. Hemstreet, (202) 343-8731, or Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published in the Federal Register on June 20, 1980. Comments were invited for 60 days ending on August 19, 1980. Comments were received from 32 different sources, 17 from various Federal agencies, 13 from business interests, 1 from a State government and 1 from a local government. The discussion of the comments will be in two parts, general comments and specific comments. The latter will discuss each of the sections of the proposed rulemaking that received comments.

General Comments

Nearly all of the comments were favorable to the proposed rulemaking. Several of the comments commended the Bureau of Land Management for its efforts to develop a rulemaking that carried out the intent of section 206 of the Federal Land Policy and Management Act in an orderly and efficient manner.

One comment made the observation that the term "lands and interests in lands" is used in several places in the rulemaking and the term "lands or interests in lands" is used in other places. The comment expressed the view that only one or other of the terms should be used for consistency. Since the term "lands and interests in lands" is used in the Federal Land Policy and Management Act, the final rulemaking uses that term except where it is inappropriate.

Another comment suggested that the rulemaking should provide a procedure for review by the next higher decisionmaking level of decisions by the authorized officer on an exchange. The reason given for the suggestion was a concern that exchanges involving two or more Bureau of Land Management districts or benefitting an agency other than the Bureau of Land Management would never be given serious consideration. Employees of the Bureau of Land Management have the ability to make a determination that an exchange is in the public interest and to handle it accordingly. Further, if there is a difference of opinion between two districts regarding an exchange, the decision will be made by the State Director. No change has been made in the final rulemaking as it applies to this comment.

A comment correctly stated that the provisions of part 2200 will apply to parts 2210, 2240, 2250 and 2270. The comment suggested that language be included in the final rulemaking stating that part 2200 applies to all exchanges covered by the regulations in group 2200 of Title 43 of the Code of Federal Regulations unless it is specifically provided otherwise. This suggested language is not needed because language stating that exchanges made under parts 2210, 2240, 2250 and 2270 are to be handled in a manner consistent with the provisions of part 2200 already appears in parts 2210, 2240, 2250 and 2270.

A comment raised questions about the applicability of this rulemaking to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road lands. Section 705(a) of the Federal Land Policy and Management Act repealed the special exchange provisions of the Act of July 31, 1939 (53 Stat. 1144) and provided the more comprehensive authority of section 206 as a replacement for that authority. As a result of the changes made by the Federal Land Policy and Management Act, part 2260 is deleted from the Code of Federal Regulations by this rulemaking. The repeal of the Act of July 31, 1939, removed the authority of the Secretary of the Interior to treat lands exchanged under that authority as lands having the special character of revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road lands. This rulemaking cannot grant the Secretary authority that is not granted by law. If a change needs to be made to protect the special nature of the involved lands, it will have to be done by legislation.

One comment suggested that the final rulemaking include a provision for cost reimbursement when an exchange is processed for an agency other than the Bureau of Land Management. This comment was not adopted at this time, but will be considered for possible future amendment.

One comment raised questions about the applicability of this rulemaking to exchanges authorized by the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) and requested that language be included in this rulemaking regarding actions to be taken in the procedure leading to a determination of whether to make an exchange or not. A change has been made in the scope section to identify more precisely the section of the Coal Management regulations that is the basis for a determination of whether an exchange qualifies. Otherwise, no change has been made in this final rulemaking as it relates to exchanges under the Coal Management regulations in part 3400. Once the determination is made that an exchange qualifies and should be made, the exchange will be made pursuant to the procedures established by this rulemaking. Changes in the process of determining the eligibility of an exchange under the Surface Mining Control and Reclamation Act will be made when the Coal Management regulations are amended.

One final general comment questioned the use of the "Uniform Appraisal Standards for Federal Land Acquisition" as the basis of appraisals for exchanges made under this rulemaking, especially appraisals of mineral interests. The comment was of the view that the standards set in that publication were too limited and wanted the rulemaking to be changed to include other standards for appraisal. The rulemaking has not been changed to include other standards because the standard is considered to be adequate.

Specific Comments

Objective—The one comment on this section requested further elaboration on the process used to determine that the values and uses of the lands under Federal ownership are not greater than those of the lands under non-Federal ownership which will be received as a result of the exchange. This suggested change has not been adopted because the entire thrust of the rulemaking is to establish a procedure for determining whether an exchange meets the requirements set out in the Federal Land Policy and Management Act and should be made.

Authority—One comment suggested that a reference to section 204 of the Federal Land Policy and Management Act should be included in this section. This suggestion was based on the fact the rulemaking provides for a 2-year segregation period from the date of issuance of the notice of realty action. No reference to section 204 has been made in the final rulemaking because it is not the basis for the segregation provided in the rulemaking. The basis for the segregation in this rulemaking is the general regulatory authority given by law to the Secretary of the Interior to allow for the orderly administration of the public land laws.

A comment suggested that the authority section be clarified with reference to its applicability to exchange proposals filed prior to October 21, 1976. The rulemaking clearly states that it applies to those exchange proposals filed after October 21, 1976. With the exception of State exchanges, all proposals filed prior to October 21, 1976, were terminated upon the passage of the Federal Land Policy and Management Act. Non-Federal proponents were given the opportunity to have their proposals processed under the procedures for exchanges established by the Federal Land Policy and Management Act. Proposals for State exchanges filed prior to October 21, 1976, will be processed in accordance with the regulations in effect on October 20, 1976.

A comment on the handling of exchange proposals pending at the time this rulemaking becomes effective wanted language included in the rulemaking that would require pending proposals to be processed in accordance with the administrative guidelines published after the passage of the Federal Land Policy and Management Act and not under this rulemaking. The comment expressed concern that pending proposals might have to start at the beginning of the exchange process if some language were not included that would permit them to continue. No change has been made in the section, but those proposals pending on the date of the issuance of this rulemaking will continue to be handled in accordance with the previously established procedures and administrative guidelines and this rulemaking. The administrative guidelines were issued pursuant to the Federal Land Policy and Management Act to allow orderly land management activity to continue while regulations were being promulgated. The issuance of this final rulemaking will not cause a duplication of effort on any pending exchange.

Definitions—A comment suggested that the term "conveyance" be defined in the final rulemaking. The suggestion was based on the fact that the term was used throughout the rulemaking and its meaning was not clear. The suggestion has not been adopted. The term has a clearly understood meaning, one that is accepted for land transactions. The comment appeared to be concerned about the type of conveyance document that would be issued by the United States rather than a lack of understanding of what "conveyance" means. At the time an exchange is consummated, the United States will issue either a patent if the land has never been in non-Federal ownership or another document of conveyance if the lands have previously been in non-Federal ownership. The type of conveyance document will be discussed prior to issuance.

Another comment on the definition section recommended that the term "person" be broadened to include an Indian tribe so that a tribe could participate in land exchanges. This comment has not been adopted because the term "person" is broad enough to include an Indian Tribe that is authorized by law to exchange land as expressed in 25 CFR 120a.2(b).

A couple of comments made recommendations for changes in the definition of the term "exchange." One of the comments wanted the words "private owner" changed to "person" so that the term would be consistent with other definitions. A second comment requested that the words "of lands and interests therein" be included in the definition to make clear what was being conveyed by the exchange. These two suggestions were adopted and the definition of the term "exchange" has been rewritten and clarified in the final rulemaking.

A couple of comments were concerned that someone below the District Manager might be delegated to act as the authorized officer and wanted the definition of the term "authorized officer" amended to limit the delegation to the District Manager level. The term "authorized officer" has not been changed. The Bureau of Land Management will delegate exchange authority to the District Manager and there are no plans to delegate decision authority below that level.

A final comment on the definition section suggested the addition of the term "segregation," because the term appears several times in the rulemaking and its definition would clarify the rulemaking. The term "segregation" has been defined in the final rulemaking.

Policy—A comment on this section correctly pointed out that paragraph (a) of section 2200.0-6 is procedural and should not be included in the policy section. As a result of the comment, paragraph (a) has been deleted from the policy section and now appears as section 2201.2 in the final rulemaking.

Another comment on the policy section expressed the view that the regulations should set out certain responsibilities of the Bureau of Land Management under existing Executive Orders. This suggestion has not been adopted. There are a number of Executive Orders that place responsibilities on the Bureau of Land Management in its role as manager of the public lands. Those responsibilities will be reflected in the manual sections on this subject rather than in this rulemaking.

Scope—A comment on the scope section raised questions about the status of lands that will be acquired under the authority of section 206 of the Federal Land Policy and Management Act. As the comment noted, prior to the passage of the Federal Land Policy and Management Act, lands that were acquired by exchange assumed the same character as the lands that passed into non-Federal ownership through the exchange. Public domain lands were exchanged for lands that became public domain lands and acquired lands were exchanged for lands that became acquired lands. Under section 206, all lands acquired by exchange assume the nature of public lands as that term is defined in the Federal Land Policy and Management Act. As a result, there is no need to refer in the rulemaking to the special nature of lands acquired under the procedure established in the rulemaking.

One comment suggested that the scope section be rewritten to specifically include the authorities covered by subparts 2212, 2271 and 2272, and parts 2240 and 2250 and to delete those parts and subparts from title 43. This suggestion has not been adopted because each of the mentioned parts and subparts has unique provisions that are a result of their specific legislative mandate and that authority is not provided by the Federal Land Policy and Management Act, the basis of this rulemaking.

In response to a comment asking for clarification on the point, a new paragraph has been added to the scope section of the final rulemaking which makes it clear that interests in the surface and subsurface estate may be exchanged independently of one another if such exchange is found to be in the public interest.

Lands Subject to Disposal by Exchange—Several comments made the observation that it is impossible to specifically address exchanges with any degree of accuracy in the normal planning process except to identify lands that the United States wishes to dispose of or acquire under the provisions of the Federal Land Policy and Management Act. In recognition of this fact, the final rulemaking has been amended to make it clear that lands found suitable for disposal under the planning system may be exchanged under the procedure established by this rulemaking. The amendment process of the planning system does permit a specific finding that lands are suitable for disposal by exchange. In most instances, the normal planning process will be used and a management decision will be made to use lands identified as suitable for disposal as lands for an exchange.

A sizable number of comments pointed out the erroneous numbering of subsection (6) in § 2200.1 of the proposed rulemaking. This has been corrected. Some of those same comments also wanted subsection (c)(6) amended to provide a specific comment period. While this suggestion has not been adopted, § 2201.1(e), which does provide for a specific comment period, has been amended to increase the period for comments to 45 days.

One comment on this section wanted clarification of the assumption that the notice of realty action would not be published until the completion of a decision document under the provisions of the National Environmental Policy Act. An environmental analysis document in the form of either an environmental assessment or environmental impact statement will be completed on an exchange before the publication of the notice of realty action. This will be done in one of several ways. An environmental assessment or environmental impact statement is completed for each planning unit as part of the planning process provided for by subpart 1601 of this title. If the lands covered by the proposed exchange have been addressed in a current land use plan and found suitable for disposal, a determination will be made as to whether further environmental assessment is required when the lands are offered for exchange. If the lands are not covered in a current land use plan, an environmental assessment document will be completed during the process of amending the land use plan to accommodate the exchange. Therefore, an environmental assessment document will always be prepared prior to the publication of a notice of realty action covering an exchange, even though the environmental assessment may not be prepared immediately prior to publication of the notice.

Another comment on this section recommended the deletion of subsection (c)(4) of § 2200.1 from the proposed rulemaking. The reason given for this recommendation was that section 208 of the Federal Land Policy and Management Act excepts exchanges from the requirement to impose restrictions or covenants. Section 208 does exclude exchanges from its mandatory provisions. However, the public interest criteria of section 206 contains sufficient authority for the imposition of reservations, covenants or other restrictions that may be necessary to protect valid existing rights, the environment and the public health and safety.

A comment on this section suggested that the phrase "an offer to exchange lands" be substituted for the phrase "notice of realty action" because the notice of realty action is used in connection with other land disposal actions and notification of a pending exchange should be more specific. This suggestion has not been adopted and the notice of realty action continues as the instrument that will be used to notify the public of exchanges and other disposal actions by the Bureau of Land Management. Each notice of realty action will contain the information needed to enable the public to adequately assess the proposed action.

A final comment on this section recommended that paragraph (d) be deleted from the final rulemaking, or at the very least, that consideration of the unsuitability criteria of fee coal for disposal through exchange be discretionary rather than mandatory. This paragraph is just a reference to existing regulations in section 3437 of this title which prohibit the disposal of Federal coal in areas found to be unsuitable for mining. This rulemaking cannot be used to change existing requirements. If, in the future, section 3437 is changed, this paragraph will reflect those changes because the wording of the section has been amended to make it clear that the requirements of section 3437 will be applied.

Lands Subject to Acquisition by Exchange—Several comments were dissatisfied with the requirement of the rulemaking that exchange should be limited to the same state. This limitation is imposed by section 206 of the Federal Land Policy and Management Act and cannot be changed by rulemaking.

It was suggested by a comment that language be added to this section requiring that lands to be acquired by the United States through an exchange be determined suitable for acquisition under the land use planning provisions contained in subpart 1601 of this title. This suggestion has been adopted and the final rulemaking amended accordingly.

One comment asked how an appraiser would identify the acreage to be acquired for the purpose of established fair market value when an exchange is for unsurveyed school sections. Ordinarily, such acreage will be identified through reference to approved protraction diagrams.

Lands Acquired by Exchange—A number of comments on this section suggested that publication of the notice of realty action in the **Federal Register** should be discretionary with the authorized officer. Other comments suggested that the notice should be published only in the **Federal Register** or not at all. The Secretary of the Interior is required to give the public adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands. Publication in the **Federal Register** is constructive public notice of a pending disposal of public lands. The publication of the notice in the local papers will give the public in the area of the action a better opportunity to be aware of and participate in the action. No change has been made in the publication requirements of the final rulemaking.

Notice of Realty Action—A number of comments made the point that the section did not provide specific instructions as to which office would consider the public comments received in response to the notice of realty action. The section has been amended to provide a 45 day comment period and specific language as to where the comments should be sent and how they would be handled during the review process.

A few comments complained about length of time required for the publication of the notice of realty action in the **Federal Register** and local newspapers because a week would be lost in the process. This comment has been resolved by the addition of a requirement for a 45 day comment period. This will resolve all questions about the length of the comment period.

Several comments suggested including a provision allowing for an extension of the two-year segregation period if the exchange has not been completed within the initial two-year segregation period. This suggestion was not adopted because the two-year period provided in the rulemaking should be adequate to complete the processing of an exchange. The notice of realty action should not be issued in connection with an exchange until sufficient action has been completed to determine if the exchange is in the public interest and can go forward. At this point, the remaining work on processing an exchange should be completed within the two-year period covered by the segregation.

One comment suggested that the rulemaking should provide discretion for the consideration of more than one proposal for an exchange of the same lands. The comment referred to an application for exchange, which is inappropriate in this rulemaking because there is no provision for an application for exchange. Further, the Secretary of the Interior has the discretion to determine which, if any, proposal for exchange should be accepted and processed. The suggested change has not been adopted.

A comment suggested that Federal interests such as mineral interests in the non-Federal lands that are subject to an exchange be segregated by the notice of realty action. The language in the proposed rulemaking is broad enough to allow for this type of situation. However, the section has been amended by the addition of a sentence to make it clear that such a segregation can be made.

It was suggested by a comment that language stating that the segregative effect terminates "upon issuance of patent or other document of conveyance to such lands," be added to those items in paragraph (b) of section 2201.1 that cause the termination of the segregative effect of lands covered by a notice of realty action. This result would follow as a matter of law as to those lands or interests, the title to which was conveyed by the United States. However, for the sake of clarity, this suggestion has been adopted and the recommended language has been added to the final rulemaking.

Several comments inquired as to whether it would be necessary or appropriate to segregate the mineral and other interests in the lands covered by an exchange if the minerals or other interests are to be reserved to the United States or their use would not interfere with the exchange. After considering the issue raised by the inquiry, paragraph (b) of section 2201.1 of the final rulemaking has been amended to make the segregation action discretionary rather than mandatory and to make it clear that applications would be returned only if they involve uses covered by the segregation.

One comment wanted to know if, following the termination of the segregative effect, an opening order is necessary to open the lands to the public land laws. The answer is that publication of an opening order at the end of the two year period is necessary to open the public lands covered by a segregation to entry and to allow notation of the public land records. The publication of the opening order will give all members of the public an equal opportunity to enter the public lands in question.

The comments suggested that paragraph (c) of § 2201.1 is inconsistent with the requirements of section 402(g) of the Federal Land Policy and Management Act. Section 402(g) has been interpreted as requiring that notice be given in those instances when the permit or lease is cancelled in its entirety. In most instances, the notice of realty action, which will be constructive notice to a grazing permittee or lessee, will be published about two years prior to completion of action on an exchange. In every instance, the authorized officer will attempt to notify all users, including grazing users, of a proposed exchange at the earliest possible time in the process. In this same vein, a comment wanted to know what might constitute an "emergency." The word "emergency" is taken from section 402(g) of the Act and would be a situation where the national interest is involved and the lands are needed for the national interest on a short term basis, such as the building of a defense installation in time of war or national danger.

Two new paragraphs have been added to the section on notice of realty action as a result of questions raised in several comments about the adequacy of the notice. New paragraph (d) includes new information that must be included in the notice to give the public information needed to adequately comment on the proposed exchange. The information required by the paragraph reflects needs identified in the comments. New paragraph (e) is a rewritten version of the section called Notification in the proposed rulemaking. It requires that the notice be sent to individuals who have a specific interest in the lands subject to the exchange. This paragraph provides for personal service to those individuals and enhances their opportunity to comment on the proposed exchange. The provisions in both of these paragraphs should increase the public participation in the exchange process and result in better decisions.

Notification—Several comments suggested that this section be amended to add additional parties that must be notified about a proposed exchange. After studying the comments, it was determined that the requirements contained in the section were more properly a part of the notice of realty action section and, as stated earlier, the requirements contained in the section have been amended and added to the notice of realty action section of the final rulemaking.

The number for the section on notification, section 2201.2, is used in the final rulemaking for a new section on proposals. As discussed earlier, the procedural language of the policy section of the proposed rulemaking has been amended and moved to this new section. The new proposal section provides a complete procedure for consideration of exchange proposals, including a protest to the State Director by a proponent whose proposal has been found non-acceptable. Included in the review of an exchange proposal will be consideration of the availability of personnel and funds to carry out the exchange. As a policy, exchanges are a valuable component of Bureau land activity, however, they are extraordinary actions, and decisions concerning exchanges may be affected by personnel and budget limitations.

Appraisals—A comment on this section wanted the rulemaking to set a definite date when the valuation of the property subject to the exchange would be set and recommended the date of the publication of the notice of realty action. This recommendation has not been adopted because the valuation of the property must be equal, or equalized by the payment of the difference in valuation, at the date the exchange is made. The rulemaking provides for equalization on the date of the exchange and no change has been made.

Legal Description of Property—The comments on this section of the proposed rulemaking expressed concern about the limits placed on the legal description of Federal lands that can be used for the purposes of this rulemaking. The comments pointed out that the section did not appear to consider special survey situations on the public lands. There has been no change in the requirements as they relate to Federal lands since public lands cannot be transferred out of Federal ownership until they have been surveyed, unless there is specific authority to do so, such as is provided in the Alaska Native Claims Settlement Act for transfer of lands to the Alaska Natives.

In response to comments about the requirements for the legal description of non-Federal lands considered for an exchange, the rulemaking has been amended to give additional latitude in the description that may be submitted, especially as it relates to lands that may have been transferred from Federal ownership under special authority without having been surveyed.

Final Requirements—One of the comments on this section objected to requirement that the non-Federal party to an exchange furnish acceptable evidence of title evidence before the Federal Government issues a document of conveyance. The comment suggested that the rulemaking provide a mechanism, such as a third party escrow, that would allow for simultaneous exchange of title evidence or the furnishing of an unexecuted deed for examination. This suggestion was not adopted. The concern raised by the comment is met by the provision in § 2201.7(b) which covers the question of what happens if the exchange is not consummated.

It was pointed out in one of the comments that some corporations do not have corporate seals because the State law in the State where they are located does not require them to have a seal. In recognition of this fact, the final rulemaking has been amended to cover the situation where a corporation has no seal.

A few comments expressed concern about the requirements in the rulemaking for acceptable title and requested some flexibility beyond that provided in the "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States." The rulemaking contains sufficient flexibility to meet the concerns of those commenting on this subject and no change has been made. A related comment suggested that the rulemaking be amended to include a guide as to the preparation of conveyance documents submitted to the United States. In response to this comment, the final rulemaking has been amended to provide such guidance.

A couple of comments wanted to include other entities in the provision that allows States that are exchanging lands that have never been in private ownership special rights as to the title evidence they are required to furnish. This special right is in recognition of the close cooperative relationship between the States and the Department of the Interior and is not extended to other entities by the final rulemaking.

A comment suggested that language be added to the rulemaking that provides for relinquishment of a State's inchoate rights to unsurveyed school sections when those sections are used by a State in an exchange. This suggestion has been adopted and language added in the final rulemaking.

A final comment on the section on final requirements pointed out that there is authority other than the Federal Land Policy and Management Act for making exchanges and the rulemaking does not provide a way for that to be shown. This comment was well taken and the section has been amended by the addition of language in several places requiring the statement of the authority for the exchange.

Exchange Agreement—Several of the comments on this section pointed out that a binding agreement cannot be entered into until rather late in the exchange process and questioned its value. It is clear that no party would enter into an agreement if there were several unknown factors. For this reason, if an agreement is made it will be at the time final appraisals have been approved and the exchange is otherwise in order. Entering into an agreement is not mandatory. The value of the agreement is that it binds all parties once all conditions have been determined. No change has been made in the final rulemaking as a result of these comments.

One comment suggested the addition of the words "no physical" to the last sentence in this section to make it clear that the loss or damage being considered was physical loss or damage. This comment was not adopted because the last sentence in section 2201.6 of the proposed rulemaking has been deleted since its requirements can be provided for in the exchange agreement itself.

A comment questioned the enforceability of the exchange agreement. The agreement can be enforced by either party through the courts.

Acceptance of Conveyance and Removal of Improvements—The one comment on this section wondered if the United States would want to have private improvements that were part of the basis of the valuation remain on the property after the exchange. If the improvements are part of the realty and were included in the valuation, they will be retained on the exchanged lands. Other improvements will be removed, since they would not have been part of the valuation.

Language has been added to this section to assure that the Governor and heads of affected local governments are notified when a conveyance of public lands is made as part of an exchange.

Title Evidence—The comments suggested that the language of this section does not relate to title evidence and should be placed under the exchange agreement provisions of the rulemaking. This suggestion was not adopted because the language of the section relates to a disclaimer of any right attaching to the United States' title to the public lands in an exchange prior to the issuance of the patent or other deed of conveyance.

One comment suggested eliminating the provision for return of title evidence and issuance of a quit-claim deed to a non-Federal party to an exchange where the deed has been recorded, because the action of the United States in accepting and recording the deed limits its authority to terminate the exchange. This suggestion has not been adopted because it is clear the United States can terminate the exchange for good cause even as late as the time of acceptance and recording of the deed. Editorial changes and corrections have been made as necessary.

The principal author of this rulemaking is David C. Hemstreet, Division of Land Resources and Realty, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

(Sections 205, 206 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1740), Group 2200, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below)

Guy R. Martin,

Assistant Secretary of the Interior.

December 31, 1980.

1. Part 2200 is revised to read as follows:

PART 2200—EXCHANGES—GENERAL PROCEDURES

Subpart 2200—Exchanges—General

Sec.
2200.0-1 Purpose.
2200.0-2 Objective.
2200.0-3 Authority
2200.0-4 Responsibilities.
2200.0-5 Definitions.
2200.0-6 Policies.
2200.0-7 Scope.
2200.1 Lands subject to disposal by exchange.
2200.2 Lands subject to acquisition by exchange.
2200.3 Lands acquired by exchange.

Subpart 2201—Exchanges—Specific Procedures

2201.1 Notice of realty action.
2201.2 Proposals.
2201.3 Appraisals.

2201.4 Legal description of properties.
2201.5 Final requirements.
2201.6 Exchange agreement.
2201.7 Acceptance of conveyance and removal of improvements.
2201.8 Title evidence.

Subpart 2202—Exchanges—National Forest Exchange

2202.1 Applicable Regulations.

Authority: Secs. 205, 206, 302 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732 and 1740)

Subpart 2200—Exchanges—General

§ 2200.0-1 Purpose.

This part 2200 sets forth procedures for the exchange of public lands or interests therein for non-Federal lands and interests therein.

§ 2200.0-2 Objective.

The objective is the acquisition and disposal of lands and interests therein for the benefit of the public interest as provided in Part 1601 of this title, through use of the exchange authority granted by the Federal Land Policy and Management Act of 1976. When considering public interest, full consideration will be given to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals and fish and wildlife. There must also be a finding that the values and objectives which Federal lands and interests to be conveyed may serve if retained in Federal ownership are not more than the value of the non-Federal lands and interests and the public objectives they could serve if acquired.

§ 2200.0-3 Authority.

These regulations are issued under the authority of sections 205, 206, 302(b) and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732 and 1740), and apply to any proposed exchange filed after October 21, 1976.

§ 2200.0-4 Responsibility.

The Bureau of Land Management shall carry out the responsibilities of the Secretary of the Interior under these regulations.

§ 2200.0-5 Definitions.

As used in this part, the term:

(a) "Secretary" means Secretary of the Interior.

(b) "Person" means any person or entity legally capable of conveying and holding land and interests therein, under the laws of the State within which the land or interests therein are located. A person shall be a citizen of the United States, or in the case of a corporation, shall be subject to the laws of any State or of the United States.

(c) "Public lands" means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts and Eskimos.

(d) "Lands" means any land and interests therein.

(e) "Notice of realty action" means publication of a determination as set out in § 2201.1 of this title, that certain lands are suitable for disposal by exchange under specified laws.

(f) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(g) "Exchange" means a conveyance of lands and interests therein from the United States to a person at the same time there is a conveyance of lands and interests therein from the person to the United States.

(h) "Equal value exchange" means an exchange of lands, or interests therein, where fair market value appraisals show that the interests being exchanged are of equal value.

(i) "Money equalization" means balancing the differences in the fair market value of the properties by a money payment made by either party.

(j) "Segregation" means the removal for a limited period, subject to valid existing rights, of a specified area of the public lands from the operation of the public land laws, including the mining laws, pursuant to the exercise by the Secretary of the Interior of regulatory authority as conferred by law to allow for the orderly administration of the public lands.

§ 2200.0-6 Policy.

(a) Exchange proposals shall meet policy objectives of the Federal Land Policy and Management Act and shall comply with all applicable Federal statutes, regulations and executive orders.

(b) Exchanges of interests in lands shall be considered on a case-by-case basis.

§ 2200.0-7 Scope.

(a) These regulations apply to all exchanges involving public lands and interests therein administered by the Secretary, through the Bureau of Land Management, except where an exchange is specifically authorized by Subparts 2212, Part 2240, Part 2250, and Subparts 2271, 2272, 2273 and 2274, noted in the regulations of Group 2200 of this title.

(b) Qualified requests for fee coal exchanges made under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(b)(5)) and as provided in subpart 3437 of this title shall be processed in accordance with this part, except as otherwise provided in subpart 3437 of this title.

(c) These regulations apply to the exchange of interests, such as mineral estate interests, separate and apart from the surface estate in either Federal or non-Federal lands.

§ 2200.1 Lands subject to disposal by exchange.

(a) Public lands may be disposed of by exchange under this part only if their disposal is in conformance with the land use planning provisions contained in subpart 1601 of this title.

(b) The public lands to be exchanged shall be located in the same State as the non-Federal lands or interests to be acquired.

(c) A determination that lands have been found suitable for disposal by exchange shall be evidenced by the issuance of a notice of realty action. The notice of realty action shall contain: (1) A description of both the Federal and non-Federal lands proposed to be exchanged; (2) the identity of the party(s) with whom the exchange will occur; (3) the terms and conditions of the exchange; (4) any reservations, terms, covenants and conditions necessary to insure proper land use and protection of the public interest; (5) the intended time of the exchange; and (6) an opportunity for public comment.

(d) As part of the consideration of whether public interest would be served by disposal of fee coal through exchange, the applicability of unsuitability qualifications of Subpart 3461 of this title to the Federal lands are relevant and will be applied.

§ 2200.2 Lands subject to acquisition by exchange.

(a) Non-Federal lands and interests therein may be acquired only when their acquisition is consistent with the mission of the Department of the Interior. Both the non-Federal and public lands and interests therein shall be located in the same State.

(b) Acquisition of lands by exchange under this part may be made only if their acquisition is in conformance with land use planning provisions under subpart 1601 of this title.

(c) Unsurveyed school sections are considered as "non-Federal" lands and may be used by the State in an exchange. However, minerals shall not be reserved by the State when unsurveyed sections are used in an exchange. As a condition of the exchange, the State shall have waived all rights to unsurveyed sections used in the exchange.

§ 2200.3 Lands acquired by exchange.

(a) Lands and interests in lands acquired by exchange shall, upon acceptance of title by the authorized officer, become public lands. Such public lands are not available for location under the mining laws of application for sale, entry or mineral leasing. A notice of their availability shall be published in the **Federal Register**. The notice shall state the date and time of their availability and the forms of authorization. Such availability shall be noted on the public land records.

(b) Lands and interests in lands acquired by exchange within a grazing district established under section 1 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315), shall become a part of that district.

(c) Lands and interests in lands acquired within the National Forest System may be transferred to the Secretary of Agriculture by the Secretary and thereby become National Forest System lands subject to all laws and regulations applicable to other National Forest System lands.

(d) Lands and interests in lands acquired under provisions of section 206 of the Federal Land Policy and Management Act and located within the National Park, Wildlife Refuge, Wild and Scenic Rivers, Trails or any other Federal land System established by an Act of Congress may be transferred by the Secretary to the appropriate agency for administration in accordance with the laws, rules and regulations applicable to that system.

(e) The acquisition procedures for non-Federal lands and interests therein to be acquired by exchange shall be in strict adherence with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

Subpart 2201—Exchanges—Specific Requirements

§ 2201.1 Notice of realty action.

(a) A notice of realty action offering to exchange certain lands which have, through the public land use planning process of the Bureau of Land Management, been determined suitable for acquisition and disposal by exchange, shall be published in the **Federal Register** and shall be published once a week for 3 weeks thereafter in a newspaper of general circulation in the area of the lands to be acquired and the lands to be disposed of by a proposed exchange. The notice shall provide 45 days after the date of issuance for comments by the public and interested parties. Comments on the notice of realty action shall be sent to the office issuing the notice.

(b) The publication of the notice of realty action on an exchange proposal in the **Federal Register** may segregate the public lands covered by the notice of realty action to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant, if the notice segregates the lands from the use applied for in the application. The segregative effect of the notice of realty action on the public lands shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation or 2 years from the date of its publication, whichever occurs first. Any prior reserved Federal interests in the non-Federal lands may be segregated by the notice of realty action to the same extent the public lands are segregated.

(c) When the exchange of a tract of public lands requires the cancellation of a grazing permit or lease in its entirety notice shall be given the permittee or lessee 2 years prior to disposal except in cases of emergency. A permittee or lessee may unconditionally waive the 2-year notice (see 43 CFR 4110.4–2(b)). The publication of a notice of realty action shall constitute notice to the grazing permittee or lessee if notice has not been previously given. No public lands in a grazing lease or permit may be conveyed until the provisions of Part 4100 of this title concerning compensation for any authorized improvements have been met.

(d) The notice of realty action shall list all reservations to be included in the conveyance to and from the United States, including, where the Federal lands are encumbered by a mineral lease or permit, a reservation to the United States for the duration of the mineral lease or permit of the mineral or minerals covered by the lease or permit.

(e) The notice of realty action shall be sent to the Governor of the State within which the public lands are located, the head of the governing body of any political subdivision having zoning or other land use regulatory responsibilities in the geographic area within which the public lands are located and the head of any political subdivision having administrative or public services responsibility in the geographic area within which the public lands are located not less than 60 days prior to the exchange of titles. The notice shall be sent to other known interested parties of record including, but not limited to, adjoining landowners and current or past land users.

§ 2201.2 Proposals.

(a) Exchange proposals may be submitted by a person who owns lands or interests in lands, by non-Federal entities, by Federal departments or agencies or by the Bureau of Land Management. When an exchange proposal is made to the Bureau of Land Management, it shall be made in writing to the District Manager for the district in which the Federal lands are located. The authorized officer shall publish a notice of initiation or receipt of an exchange proposal within 10 days of initiation or receipt of such proposal.

(b) An exchange proposal may, if found by the authorized officer to be in accordance with Bureau of Land Management policies, programs and the regulations in this part, be the basis of publication of a notice of realty action as provided in § 2201.1 of this title.

(c) Where an exchange proposal is not accepted by the authorized officer and made the basis of a notice of realty action, the proponent shall be so advised in writing with a statement of the reason(s) for the non-acceptance and advised of the availability of a protest to the State Director.

(d) If requested in writing by the proponent within 30 days of the mailing of the notification of non-acceptance, the decision of non-acceptance of the authorized officer shall be reviewed by the State Director to determine if it is in accordance with the Bureau of Land Management policies, programs and the regulations in this part. Such review shall be completed by the State Director and the proponent notified in writing of the action taken within 60 days of receipt of the written request by the State Director.

§ 2201.3 Appraisals.

Appraisals to determine current fair market value of lands and interests in lands to be exchanged shall be in accordance with the principles in the Interagency Department of Justice publication entitled "Uniform Appraisal

Standards for Federal Land Acquisition." Final determination of the value of lands and interests in lands proposed for exchange by either party rests with the Secretary.

§ 2201.4 Legal description of property.

The public lands and interests in public lands proposed for exchange shall be properly described and locatable under the survey laws and standards of the United States. The non-Federal lands may be described as part of a surveyed section or by a metes and bounds survey, tied to a township, range, meridian, and State, or may be described by the description contained in an approved protraction diagram of the Bureau of Land Management.

§ 2201.5 Final requirements.

At the end of the period provided in the notice of realty action and upon a determination by the authorized officer that a particular exchange is acceptable, the owner or holder of the non-Federal land and interest shall provide the following:

(a) *Evidence of title acceptable to the authorized officer.* (1) For private land owners, any one of the documents set forth in the "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States" (Department of Justice, 1970 ed.) that is acceptable to the authorized officer.

(2) For States, if the property was ever held in private ownership, a certificate of title as prescribed in § 2201.5(a)(1). If lands and interests in lands have not been in private ownership, either of the following shall be acceptable evidence of title: (i) A certification by the appropriate State officer that the property has not been sold or otherwise encumbered and a certification under the official seal of the recorder of deeds or other appropriate State officer that no instrument has been recorded or filed that would encumber title to the property or (ii) a certification by an abstractor or abstract company that no instrument has been recorded or filed that conveyed or would encumber title to the property.

(b) *Conveyance Documents.* All deeds to the United States shall be prepared in accordance with "A Procedural Guide for the Acquisition of Real Property by Governmental Agencies" (Department of Justice, 1968 ed.). (1) Private property owners shall submit a warranty deed or other document of conveyance which meets Department of Justice title standards for property acquired by the United States conveying the privately-owned property to the United States, and stating that the deed is made "for and in consideration of the exchange of certain land and interests as authorized by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)." If the exchange is being made pursuant to other authority, the deed to the United States shall state the authority under which the exchange is authorized in lieu of the Federal Land Policy and Management Act of 1976. Deeds shall be executed, acknowledged and recorded in accordance with the laws of the State in which the lands are located.

(i) Any revenue stamps required by State law shall be affixed to the deed and cancelled.

(ii) A deed executed by an individual grantor shall disclose the marital status of the grantor. A married grantor shall join with the spouse to execute a deed to bar any right of courtesy, dower, community interest or any other claim to the property conveyed unless written evidence is submitted that shows that under the laws of the State where the conveyed property is located the grantor's spouse has no present or prospective interest in the lands.

(iii) Any deed executed by a partnership, association or other entity other than a corporation shall corrborate that the deed is executed pursuant to the articles of association or partnership or other similar document creating the entity. If there are none or if signing authority is not provided for in the document, the deed shall be signed by each member of the entity and each signor shall furnish a statement that he/she is a member. The deed shall state that it is made "for and in consideration of the exchange of certain land and interests as authorized by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)." If the exchange is being made pursuant to other authority, the deed to the United States shall state the authority under which the exchange is authorized in lieu of the Federal Land Policy and Management Act of 1976.

(iv) Any deed executed by a corporation shall corroborate that the deed is executed pursuant to its bylaws or a resolution or order by the corporation's board of directors or other governing body. A copy of the bylaws, resolution or order shall accompany the deed and shall, unless not required by State law, bear the corporate seal. Where State law does not require such seal evidence, a citation of applicable State law shall be provided. The deed shall state that it is made "for and in consideration of the exchange of certain land and interests as authorized by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)." If the exchange is being made pursuant to other authority, the deed to the United States shall state the authority under which the exchange is authorized in lieu of the Federal Land Policy and Management Act of 1976.

(2) States shall submit a deed of conveyance that includes a statement that the deed is made "for and in consideration of the exchange of certain land and interests as authorized by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)." If the exchange is being made pursuant to other authority, the deed to the United States shall state the authority under which the exchange is authorized in lieu of the Federal Land Policy and Management Act of 1976. The deed shall be executed, acknowledged and recorded in accordance with the laws of the State. A certification that the State officer executing the conveyance is authorized to do so under State law shall accompany the deed. When unsurveyed sections are used as exchange lands by a State, the exchange shall constitute a relinquishment of the State's right to the unsurveyed sections used in the exchange.

(c) *Taxes and equalizing money.* (1) Where taxes constitute a lien on the non-Federal property, the owner of the non-Federal land or interest shall furnish a bond with a qualified surety or other security acceptable to the authorized officer for an amount at least 20 percent in excess of taxes paid on the property for the previous year or assure payment of taxes by making a money deposit to the authorized officer in like amount. When evidence of payment of taxes acceptable to the authorized officer is furnished, the bond shall be released or the cash returned to the owner of the non-Federal lands and interests.

(2) A money payment for equalization of value shall not exceed 25 percent of the value of the public lands and interests being conveyed, but the amount of the money payment shall be reduced to as small an amount as possible.

§ 2201.6 Exchange agreement.

An exchange agreement may be entered into between the Bureau of Land Management, as represented by the authorized officer, and exchange party. The agreement shall identify the lands or the estate to be exchanged, all reservations and outstanding interests, any necessary cash equalization and all other terms, conditions, covenants and reservations.

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§ 2201.7 Acceptance of conveyance and removal of improvements.

(a) *Acceptance of conveyance.* If the title and other evidence required of the owner of the non-Federal lands and interests in lands are in conformity with the law and regulations, the authorized officer may accept title to the non-Federal property conveyed to the United States. A patent or other document of conveyance for the property exchanged shall be issued and a notice of the issuance of said conveyance documents shall be published in the **Federal Register.** The Governor and the head of local governments shall be immediately notified of the issuance of conveyance documents for public lands located within their respective jurisdictions. A money payment, if required to equalize values, shall be made by the appropriate party prior to or at the date of conveyance.

(b) *Removal of improvements.* If any buildings, fencing or other movable improvements owned or erected by a party to an exchange on the non-Federal lands conveyed are not a part of the exchange proposal, the party may remove such improvements from the lands upon receipt of notice that the exchange has been approved: *Provided,* That such removal is accomplished with in the period specified in the notice or any reasonable extension that may be granted by the authorized officer.

(c) *Other improvements.* Where public lands to be conveyed under this part contain authorized improvements, other than those identified in § 2201.1(c) or those subject to patent reservation, the owner of such improvements shall be given an opportunity to remove them if such owner is not the exchange party, or the exchange party may compensate the owner of such authorized improvements and submit proof of compensation to the authorized officer.

§ 2201.8 Title evidence.

(a) If no exchange agreement is entered into, no action taken prior to issuance of patent or other document of conveyance shall establish any contractual or other rights against the United States, or create any contractual or other obligation of the United States.

(b) If a party to a prospective exchange has submitted title evidence in connection with an exchange and processing of the proposal is terminated and the exchange will not be proposed again in the near future, the title evidence shall be returned to the exchange party. Where the deed has been recorded, a quitclaim deed for the land conveyed to the United States shall be issued under section 6 of the Act of April 28, 1930 (43 U.S.C. 872).

Subpart 2202—Exchanges—National Forest Exchange

§ 2202.1 Applicable regulations.

(a) All proposals for exchange for the consolidation or extension of national forests, under the authority and provisions of the Act of March 20, 1922 (42 Stat. 465), as amended (16 U.S.C. 485) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be filed with the appropriate officer of the Forest Service, U.S. Department of Agriculture, in compliance with the regulations in 36 CFR Part 254.

(b) The filing of a notice of an offer for forest exchange with the authorized officer and the notation of such proposed exchange on the public land records shall segregate the National Forest System lands included in the proposed exchange from appropriation, location or entry under the general mining laws but not from the applicability of those public land laws governing the use of the National Forest System under leases license or permit, or governing the disposal of mineral or vegetative resources, other than under the general mining laws. The segregative effect of the offer notation on the public land records shall terminate upon issuance of patent or other document of conveyance to such lands, upon rejection or denial of the exchange offer or 2 years from the date of the notation whichever occurs first.

PART 2091—SPECIAL LAWS AND RULES

§ 2091.2-3 [Removed]; §§ 2091.2-4 and 2091.2-5 [Renumbered as §§ 2091.2-3 and 2091.2-4]

2. Subpart 2091 is amended by the removal of §§ 2091.2-3 and the renumbering of §§ 2091.2-4 and 2091.2-5 and §§ 2091.2-3 and 2091.2-4 respectively.

PART 2210—STATE EXCHANGES

§§ 2211.0-3—2011.2 (Subpart 2211) [Removed]

3. Part 2210 is amended to remove Subpart 2211 in its entirety.

§ 2212.1 [Amended]

PART 2240—NATIONAL PARK SYSTEM EXCHANGES

§ 2240.1 [Amended]

PART 2250—WILDLIFE REFUGE EXCHANGES

§ 2250.1 [Amended]

PART 2270—MISCELLANEOUS EXCHANGES

§ 2273.0-3 [Amended]

4. Sections 2212.1 in Subpart 2212, § 2240.1 in Part 2240, § 2250.1 in Part 2250 and § 2273.0-3(b)(3) in Subpart 2273 are amended by removing the words "in § 2200.0-8" and adding the words "in Part 2200" after the words "with the regulations" in the last sentence.

PART 2220—PRIVATE EXCHANGES UNDER TAYLOR GRAZING ACT [REMOVED]

PART 2230—NATIONAL FOREST EXCHANGES [REMOVED]

PART 2260—O & C EXCHANGES [REMOVED]

5. Parts 2220, 2230 and 2260 are removed in their entirety.

PART 2270—MISCELLANEOUS EXCHANGES

§ 2271.1 [Amended]

6. Section 2271.1 in Subpart 2271 is amended to make the last sentence of this section read as follows: "Any such transactions shall be handled in a manner consistent with the applicable statutes and with the general regulations in Part 2200."

[FR Doc. 81-360 Filed 1-5-81; 8:45 am]

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federal register

Tuesday
January 6, 1981

Part XII

Department of Health and Human Services

Office of the Secretary

Requirements and Procedures Applicable to Appeals Before the Departmental Grant Appeals Board

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 16 and 74

Requirements and Procedures Applicable to Appeals Before the Departmental Grant Appeals Board

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) proposes to delete the material currently set forth in 45 CFR Part 16, and substitute new requirements and procedures applicable to disputes arising under certain HHS grants and other programs. HHS also proposes to add certain related provisions to 45 CFR Part 74, which contains general requirements applicable to all HHS grants and cooperative agreements. These proposed provisions are intended to improve the Department's capability to provide a fair, quick and flexible process for appeal from final written decisions.

DATE: Comments received by March 9, 1981 will be considered in developing the final requirements and procedures. The Advisory Commission on Intergovernmental Relations (ACIR) will sponsor meetings in San Francisco and Chicago, at which this proposal, among other matters related to dispute resolution, will be discussed. In addition, the Department will hold a public meeting in Washington, D.C., during the comment period, and you may find out details by contacting one of the persons identified below.

ADDRESS: Send your comments to: Judy Ballard, Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. Copies of comments may be examined at this address.

FOR FURTHER INFORMATION CONTACT: John Settle, Chair, Departmental Grant Apeals Board, Room 2004, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. Telephone: (202) 245-0222.

SUPPLEMENTARY INFORMATION:

I. Background

HHS was the first federal grantor agency to offer a structured process of adminisrative disputes resolution for its grantees on a large scale, when it established the Departmental Grant Appeals Board seven years ago. Since then, other agencies (among them the Department of Energy and the Environmental Protection Agency) have also developed such processes. The Office of Management and Budget (OMB) has recently developed a proposed circular which, when finally published, will set forth general principles to guide agencies in developing dispute resolution processes. Based on HHS' extensive experience, the experience of other agencies, and the material developed by OMB, HHS has developed new procedures designed to reflect what we have learned, to be easy to uderstand, and to be quick, fair and flexible. In developing this proposal, HHS circulated a draft widely among interested persons and organizations in and out of the federal government, and we believe it reflects the concerns of a broad cross-section of interests.

II. Design Considerations

A good process of adminsitrative dispute resolution has at least the following attributes:

—It generally produces a "final" decision faster than a court or regular bureaucratic process.

—It usually is conducted by people who have developed expertise about the program under which the dispute arises.

—It is less costly and less demanding of participants' time than other methods.

—It is more concerned with equity than with collateral procedural formalities.

—It reduces litigation, and if litigation occurs anyway, it will have produced a record which gives a court a better basis for review.

—It reduces the pressures of political intervention.

—It provides a fresh look within the agency at polarized problems, and thus enhances grantor/grantee relationships and avoids the embarrassment that might arise if flaws are exposed in a different forum.

An administrative dispute resolution process can only have these attributes if it is fair, quick, and flexible. Fairness is enhanced by procedures which the parties can understand and use easily. The proposed provisions below were designed with these considerations in mind.

III. Overview of the Procedures.

These are the principal parts of the process, and some of the underlying bases:

(a) The first step is a well developed and documented "final" decision (i.e., a written decision of an HHS component which is final unless appealed). The procedures (primarily the additions to 45 CFR Part 74, at the end of the materials) would require of Departmental components a greater degree of discipline than in the past in developing the "final" decision. The objective is to assure that the agency clearly identifies a matter in dispute, does what it can to resolve it, and, when it is clear that the agency and the grantee have reached an impasse, issues a written document containing a complete and concise factual and legal basis for the agency's action. The Board has found sometimes that the ostensibly final decision appealed from was issued prior to any attempt to resolve or clarify issues, or that the agency did not explain the basis of its decision very well. The proposed procedures hopefully will produce better final decisions and thus eliminate some appeals, make others easier to resolve, and better inform grantees in all cases.

(b) After the final decision, when an appeal is filed, the procedures require the parties to submit documents in an "appeal file." While in the past the accumulation of documents submitted to the Board over time effectively became an appeal file, the procedures now would make it clear that there is a responsibility early in the process for both parties to properly organize and submit relevant documents, and that the appeal file is the documentary heart of the record reviewed by the Board. The procedure is designed to reduce the need for the Board to later request extensive additional data, and so expedite review and encourage the parties to develop their respective positions better at an earlier point. Of course, the Board will **not** unfairly preclude a party from submitting necessary documents at some later point.

(c) The procedures would provide three basic ways for the Board to handle disputes, and would also provide for special expedited procedures. The first—anticipated to be applicable to most cases—would be a review of the appeal file and the statements (arguments) of the parties. The second would supplement the appeal file review with an informal conference designed primarily for the Board members to elicit information to clarify the written record. The third is an evidentiary hearing, available in limited circumstances. Finally, there are expedited procedures for cases of $25,000 or less. These procedures are self-explanatory (see §§ 16.7 through 16.12). All procedures are designed to be simple enough that a grantee need not feel it must have an attorney, although we do not want to lull grantees into thinking they may always dispense with the services of counsel, since many appeals involve complex facts and issues of law.

IV. Board Jurisdiction

Proposed Appendix A contains a description of the programs and types of disputes to which Board procedures and requirements apply. The Appendix basically is a shortened and simplified version of the Board's earlier jurisdiction statement, updated to reflect those disputes which agencies have chosen to submit to the Board. The Public Health Service (PHS) proposes to use Board procedures for resolution of disputes over disallowances in PHS formula grant programs. This would be consistent with Board review of disallowances under the public assistance titles of the Social Security Act. The question of whether the Board should review disallowanses under Titles III and VI of the Older American Act (42 U.S.C. 3021-3030(g) and 3057 et. seq.) is currently under review by the Office of the General Counsel. The final regulation will reflect a decision on this matter.

The proposed Appendix also covers certain disputes arising under federal/state agreements in the Supplemental Security Income Program. The disputes clauses of some of these agreements already refer to Board review. The proposed provisions would clarify what Board procedures and requirements apply to these disputes.

The proposed Appendix also contains a provision designed to speed up determination whether the Board has jursidiction in ambiguous cases.

V. Other Provisions to Note

(a) Comment is specifically invited concerning possible elimination of a right of appeal to the Board in very small cases, such as those under $5,000. This limitation might be restricted to circumstances where the HHS component offered a review process for these small cases. The Public Health Service has suggested such an approach.

(b) Proposed § 16.5(d) provides that Board personnel who have "recent, close business or professional affiliation" with a party or representative will not participate on a case. Some have suggested that we need to define what "recent" and "close" mean, perhaps with specific times and organizational details. Others feel the general description is enough to provide the Chair with guidance to exercise judgment in case assignments. Your comments are invited.

(c) The proposal also contains a provision under which the Board could provide mediation services at the request of an HHS agency (see § 16.18). Mediation involves group process skills and negotiation techniques, and if the section is retained in the final version, the Board will train several of its personnel in these skills. The purpose of the provision is to promote more informal dispute resolution, and thus further reduce the time and resource commitment involved in using the Board. Mediation is particularly useful in situations involving communication problems, personal antipathies, confused facts, or matters that can be compromised. Mediation generally is not useful when the dispute is over an issue of law.

(d) Section 16.22 contains proposed time goals for Board resolution of appeals. This new emphasis on avoiding unnecessary delay is consistent with the Department's efforts elsewhere to make audit resolution faster and more efficient. Meeting the goals will require the cooperation of both appellants and HHS representatives.

Accordingly, the Department proposes to amend 45 CFR as follows:

1. By revising Part 16 as follows:

PART 16—PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

Sec.
16.1 What this part does.
16.2 Definitions.
16.3 When these procedures become available.
16.4 Summary of procedures below.
16.5 How the Board operates.
16.6 Who represents the parties.
16.7 The first steps in the appeal process: the notice of appeal and the Board's; response.
16.8 The next step in the appeal process: preparation of an appeal file and written argument.
16.9 How the Board will promote development of the record.
16.10 Using a conference.
16.11 Full hearing.
16.12 The expedited process.
16.13 Powers and responsibilities.
16.14 How Board review is limited.
16.15 Failure to meet deadlines and other requirements.
16.16 Parties to the appeal.
16.17 Ex parte communications (communications outside the record).
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16.20 How to submit material to the Board.
16.21 Record and decisions.
16.22 The effect of an appeal.
16.23 How long an appeal takes.
Appendix A—What Disputes the Board Reviews.

Authority: 5 U.S.C. 301 and sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and authorities cited in the Appendix.

§ 16.1 What this part does.

This part contains requirements and procedures applicable to certain disputes arising under the HHS programs described in Appendix A. This part is designed to provide a fair, impartial, quick and flexible process for appeal from written final decisions. This part supplements the provisions in Part 74 of this title.

§ 16.2 Definitions.

(a) "Board" means the Departmental Grant Appeals Board of the Department of Health and Human Services. Reference below to an action of "the Board" means an action of the Chair, another Board member, or Board staff acting at the direction of a Board member. In certain instances, the provisions restrict action to particular Board personnel, such as the Chair or a Board member assigned to a case.

(b) Other terms shall have the meaning set forth in Part 74 of this title, unless the context below otherwise requires.

§ 16.3 When these procedures become available.

Before the Board will take an appeal, three circumstances must be present:

(a) The dispute must arise under a program which uses the Board for dispute resolution, and must meet any special conditions established for that program. An explanation is contained in Appendix A.

(b) The appellant must have received a final written decision, and must appeal that decision within 30 days after recieving it. Details of how final decisions are developed and issued, and what must be in them, are contained in 45 CFR 74.304.

(c) The appellant must have exhausted any interim review or appeal processes required by regulation. For example, see 42 CFR Part 50 (Subpart D) for Public Health Service programs and Part 75 of this title for rate determinations and cost allocation plans. In such cases, the "final written decision" required for the Board's review is the decision resulting from the interim review or appeal process. Appendix A contains further details.

§ 16.4 Summary of procedures below.

The Board's basic process is review of a written record (which both parties are given ample opportunity to develop), consisting of relevant documents and statements submitted by both parties (see § 16.8). In addition, the Board may hold an informal conference (see § 16.10). The informal conference primarily involves questioning of the participants by a presiding Board member. Conferences may be conducted by telephone conference call. The written record review also may be supplemented by a formal hearing involving an opportunity for examining evidence and witnesses, cross-examination, and oral argument (see § 16.11). A hearing is more expensive and time-consuming than a determination on the written record alone or with an informal conference. Generally, therefore, the Board will schedule a hearing only if the Board determines that there are complex issues or material facts in dispute, or that the Board's review would otherwise be significantly enhanced by a hearing. Where the amount in dispute is under $25,000, there are special expedited procedures (see § 16.12 of this part). In all cases, the Board has the flexibility to modify procedures to ensure fairness, to avoid delay, and to accommodate the peculiar needs of a given case. The Board makes maximum feasible use of preliminary informal steps to refine issues and to encourage resolution by the parties. The Board also has the capability to provide mediation services (see § 16.18).

§ 16.5 How the Board operates.

(a) The Board's professional staff consists of a Chair (who is also a Board member) and full- and part-time Board members, all appointed by the Secretary; an Executive Secretary; and a staff of employees and consultants who are attorneys or persons from other relevant disciplines, such as accounting.

(b) The Chair will assign a Board member to have lead responsibility for each case (the "presiding Board member"). The presiding Board member will conduct the conference or hearing, if one is held. Each decision of the Board is issued by the presiding Board member and two other Board members.

(c) The Executive Secretary and Board staff assist the presiding Board member, and may request information from the parties; conduct telephone conference calls to request information, to clarify issues, or to schedule events; and assist in developing decisions and other documents in a case.

(d) No Board or staff member previously associated with a case directly or by reason of recent, close professional or business affiliation with a party or representative in the case will participate in that case.

(e) The Board's powers and responsibilities are set forth in § 16.13.

§ 16.6 Who represents the parties.

The appellant's notice of appeal, or the first subsequent submission to the Board, should specify the name, address and telephone number of the appellant's representative. In its first submission to the Board and the appellant, the respondent (i.e., the federal party to the appeal) should specify the name, address and telephone number of the respondent's representative.

§ 16.7 The first steps in the appeal process: the notice of appeal and the Board's response.

(a) As explained in 45 CFR 74.304, a prospective appellant must submit a notice of appeal to the Board within 30 days after receiving the final decision. The notice of appeal must include a copy of the final decision, a statement of the amount in dispute in the appeal, and a brief statement of why the decision is wrong.

(b) Within ten days after receiving the notice of appeal, the Board will send an acknowledgment, enclose a copy of these procedures, advise the appellant of the next steps, and give the name and address of the respondent's representative. The Board will also send a copy of the notice of appeal, its attachments, and the Board's acknowledgment to the respondent. If the Board Chair has determined that the appeal does not meet the conditions of § 16.3 or if further information is needed to make this determination, the Board will notify the parties at this point.

16.8 The next step in the appeal process: preparation of an appeal file and written argument.

Except in expedited cases (generally those of $25,000 or less; see § 16.12 for details), the appellant and the respondent each participate in developing an appeal file for the Board to review. Each also submits written argument in support of its position. The responsibilities of each are as follows:

(a) *The appellant's responsibility.* Within 30 days after receiving the acknowledgment of the appeal, the appellant shall submit the following to the Board (with a copy to the respondent):

(1) An appeal file containing the documents supporting the claim, tabbed and organized chronologically and accompanied by an indexed list identifying each document. The appellant should include only those documents which are important to the Board's decision on the issues in the case.

(2) A written statement of the appellant's argument concerning why the respondent's final decision is wrong (appellant's brief).

(b) *The respondent's responsibility.* Within 30 days after receiving the appellant's submission under paragraph (a), of this section, the respondent shall submit the following to the Board (with a copy to the appellant):

(1) A supplement to the appeal file containing any additional documents supporting the respondent's position, organized and indexed as indicated under paragraph (a) of this section. The respondent should avoid submitting duplicates of documents submitted by the appellant.

(2) A written statement (respondent's brief) responding to the appellant's brief.

(c) *The appellant's reply.* Within 15 days after receiving the respondent's submission, the appellant may submit a short reply. The appellant should avoid repeating arguments already made.

(d) *Cooperative efforts.* Whenever possible, the parties should try to develop a joint appeal file, agree to preparation of the file by one of them, agree to facts to eliminate the need for some documents, or agree that one party will submit documents identified by the other.

(e) *Voluminous documentation.* Where submission of all relevant documents would lead to a voluminous appeal file (for example where review of a disputed audit finding of inadequate documentation might involve thousands of receipts), the Board will consult with the parties about using techniques to reduce the size of the file.

§ 16.9 How the Board will promote development of the record.

The Board may, at the time it acknowledges an appeal or at any appropriate later point, request specific additional documents or information; request briefing on legal issues in the case; issue orders to show cause why a proposed finding or decision of the Board should not become final; hold preliminary conferences (generally by telephone) to establish schedules and refine issues; and take such other steps as the Board determines appropriate to develop a prompt, sound decision.

§ 16.10 Using a conference.

(a) Once the Board has reviewed the appeal file, the Board may, on its own or in response to a party's request, schedule an informal conference. The conference will be conducted by the presiding Board member. The basic purpose of the conference is to give the Board an opportunity to clarify issues and question both parties about matters which the Board may not yet fully understand from the record.

(b) If the Board has decided to hold a conference, the Board will arrange a telephone discussion with the parties to schedule the conference, identify issues, and discuss procedures. Based on consultation with the parties, the Board will identify the persons who will be allowed to participate, along with the parties' representative, in the conference. Although this normally will occur during the telephone discussion, the parties can submit with their briefs under § 16.8 a list of persons who might participate with them, indicating how each person is involved in the matter. If the parties wish, they may also suggest questions or areas of inquiry which the Board may wish to pursue with each participant.

(c) Unless the parties and the Board otherwise agree, the following procedures apply:

(1) Conferences will be recorded at Board expense. On request, a party will be sent one copy of the transcript. The presiding Board member will insure an orderly transcript by controlling the sequence and identification of speakers.

(2) Only in exceptional circumstances will documents be received at a conference. Inquiry will focus on material in the appeal file. If a party finds that further documents should be in the record for the conference, the party should supplement the appeal file, submitting a supplementary index and copies of the documents to the Board and the other party not less than ten days prior to the conference.

(3) Generally, the only oral communications of the participants will consist of statements requested by the Board or responses to the Board's questions. The Board will allow reply comment, and may allow short closing statements. On request, the Board may allow the participants to question each other.

(4) There will be no post-conference submissions, unless the Board determines they would be helpful to resolve the case. The Board may require or allow the parties to submit proposed findings and conclusions.

§ 16.11 Full hearing.

(a) *Electing a hearing.* If the appellant believes a full hearing is appropriate, the appellant should specifically request one at the earliest possible time (in the notice of appeal or with the appeal file). The Board will approve a request if it finds there are complex issues of fact or law in dispute the resolution of which would be materially aided by a hearing, or if the Board determines from its review of the record that its decision-making otherwise would be enhanced by oral presentations and arguments in an adversary, evidentiary hearing.

(b) *Preliminary conference before the hearing.* The Board generally will hold a prehearing conference (which may be conducted by telephone conference call) to consider any of the following: the possibility of settlement; simplifying and clarifying issues; stipulations and admissions; limitations on evidence and witnesses that will be presented at the hearing; scheduling the hearing; and any other matter that may aid in resolving the appeal. Normally, this conference will be conducted informally and off the record; however, the Board, after consulting with the parties, may reduce results of the conference to writing in a document which will be made part of the record, or may transcribe proceedings and make the transcript part of the record.

(c) *Where hearings are held.* Hearings generally are held in Washington, D.C. In exceptional circumstances, the Board may hold the hearing at an HHS Regional Office or other convenient facility near the appellant.

(d) *Conduct of the hearing.* (1) The presiding Board member will conduct the hearing. Hearings will be as informal as reasonably possible, keeping in mind the need to establish an orderly record. The presiding Board member generally will admit evidence unless it is determined to be clearly irrelevant, immaterial or unduly repetitious, so the parties should avoid frequent objections to questions and documents. Both sides may make opening and closing statements, may present witnesses as agreed upon in the pre-hearing conference, and may cross-examine. Since the parties have ample opportunity to develop a complete appeal file, a party may introduce an exhibit at the hearing only after explaining to the satisfaction of the presiding Board member why the exhibit was not submitted earlier (for example, because the information was not available).

(2) The Board may request the parties to submit written statements of witnesses to the Board and each other prior to the hearing so that the hearing will primarily be concerned with cross-examination and rebuttal.

(3) False statements of a witness may be the basis for criminal prosecution under sections 287 and 1001 of Title 18 of the United States Code.

(4) The hearing will be recorded at Board expense.

(e) *Procedures after the hearing.* The Board will send one copy of the transcript to each party as soon as it is received by the Board. At the discretion of the Board, the parties may be required or allowed to submit post hearing briefs or proposed findings and conclusions (the parties will be informed at the hearing). A party should note any major prejudicial transcript errors in an addendum to its post-hearing brief (or if no brief will be submitted, in a letter submitted within a time limit set by the Board).

§ 16.12 The expedited process.

(a) *Applicability.* Where the amount in dispute is $25,000 or less, the Board will use these expedited procedures, unless the Board Chair determines otherwise under paragraph (b) of this section. If the Board and the parties agree, the Board may use these procedures in cases of more than $25,000.

(b) *Exceptions.* If there are unique or unusually complex issues involved, or other exceptional circumstances, the Board may use additional procedures.

(c) *Regular expedited procedures.* (1) Within 30 days after receiving the Board's acknowledgment of the appeal (see § 16.7), each party shall submit to the Board and the other party any relevant background documents (organized as required under § 16.8), with a cover letter (generally not to exceed ten pages) containing any arguments the party wishes to make.

(2) Promptly after receiving the parties' submissions, the presiding Board member will arrange a telephone conference call to receive the parties' oral comments in response to each other's submissions. After notice to the parties, the Board will record the call. The Board member will advise the parties whether any opportunities for further brefing, submissions or oral presentations will be established. Cooperative efforts will be encouraged (see § 16.6(d)).

(3) The Board may require the parties to submit proposed findings and conclusions.

(d) *Special expedited procedures where there has already been review.* Some HHS components (for example, the Public Health Service) use a board or other relatively independent reviewing authority to conduct a formal preliminary review process which results in a written decision based on a record including documents or statements presented after reasonable notice and opportunity to present such material. In such cases, the following rules apply to appeals of $25,000 or less instead of those under paragraph (c) of this section:

(1) Generally, the Board's review will be restricted to whether the decision of the preliminary review authority was clearly erroneous. But if the Board determines that the record is inadequate, or that the procedures under which the record was developed in a given instance were unfair, the Board will not be restricted this way.

(2) Within 30 days after receiving the Board's acknowledgment of appeal (see § 16.7), the parties shall submit the following:

(i) The appellant shall submit to the Board and the respondent a statement why the decision was clearly erroneous. Unless allowed by the Board after consultation with the respondent, the appellant shall not submit further documents.

(ii) The respondent shall submit to the Board the record in the case. If the respondent has reason to believe that all materials in the record already are in the possession of the appellant, the respondent need only send the appellant a list of the materials submitted to the Board.

(iii) The respondent may, if it wishes, submit a statement why the decision was not clearly erroneous.

(3) The Board, in its discretion, may allow or require the parties to present further arguments or information.

§ 16.13 Powers and responsibilities.

In addition to powers specified elsewhere in these procedures, Board members have the power to issue orders (including "show cause" orders); to examine witnesses; to take all steps necessary for the conduct of an orderly hearing; to rule on requests and motions, including motions to dismiss; to grant extensions of time for good reasons; to dismiss for failure to meet deadlines and other requirements; to close or suspend cases which are not ready for review; to order or assist the parties to submit relevant information; to remand a case for further action by the respondent; to waive or modify these procedures in a specific case with notice to the parties; to reconsider a Board decision where a party promptly alleges a clear error of fact or law; and to take any other action necessary to resolve disputes in accordance with the objectives of these procedures.

§ 16.14 How Board review is limited.

The Board shall be bound by all applicable laws and regulations.

§ 16.15 Failure to meet deadlines and other requirements.

(a) Since one of the objectives of administrative dispute resolution is to provide a final decision as fast as possible consistent with fairness, the Board will not allow parties to delay the process unduly. Extensions of time may be granted, but only if the party gives a good reason for the delay.

(b) If the appellant fails to meet any filing or procedural deadlines, appeal file or brief submission requirements, or other requirements established by the Board, the Board may dismiss the appeal, may issue an order requiring the party to show cause why the appeal should not be dismissed, or may take other action the Board considers appropriate.

(c) If the respondent fails to meet any such requirements, the Board may issue a decision based on the record submitted to that point or take such other measures as the Board considers appropriate.

§ 16.16 Parties to the appeal.

(a) The only parties to the appeal are the appellant and the respondent. If the Board determines that a third person is a real party in interest (for example, where the major impact of an audit disallowance would be on the grantee's contractor, not on the grantee), the Board may allow the third person to present the case on appeal for the appellant or to appear with a party in the case, after consultation with the parties and if the appellant does not object.

(b) The Board may also allow other participation, in the manner and by the deadlines established by the Board, where the Board decides that the intervenor has a clearly identifiable and substantial interest in the outcome of the dispute, that participation would sharpen issues or otherwise be helpful in resolution of the dispute, and that participation would not result in substantial delay.

§ 16.17 Ex parte communications (communications outside the record).

(a) Written or oral communications with a Board or staff member by one party without notice to the other about matters involved in an appeal are prohibited. If a prohibited communication occurs, the Board will disclose it to the other party and make it part of the record after the other party has an opportunity to comment. Board members and staff shall not consider any information outside the record (see § 16.21 for what the record consists of) about matters involved in an appeal.

(b) The above does not apply to the following: communications among Board members and staff; communications concerning the Board's administrative functions or procedures; requests from the Board to a party for a document (although the material submitted in response also must be given to the other party); and material which the Board includes in the record after notice and an opportunity to comment.

§ 16.18 Mediation.

(a) *In cases pending before the Board.* If the Board decides that mediation would be useful to resolve a dispute, the Board, in consultation with the parties, may suggest use of mediation techniques and will provide or assist in selecting a mediator. The mediator may take any steps agreed upon by the parties to resolve the dispute or clarify issues. The results of mediation are not binding on the parties unless the parties so agree in writing. The Board will internally insulate the mediator from any Board or staff members assigned to handle the appeal.

(b) *In other cases.* In any other grants dispute, the Board may, within the limitations of its resources, offer persons trained in mediation skills to aid in resolving the dispute. Mediation services will only be offered at the request, or with the concurrence, of a responsible federal program official in the program under which the dispute arises. The Board will insulate the mediator if any appeal subsequently arises from the dispute.

§ 16.19 How to calculate deadlines.

If a due date would fall on a Saturday, Sunday or federal holiday, then the due date is the next federal working day.

§ 16.20 How to submit material to the Board.

(a) All submissions should be addressed as follows: Executive Secretary, Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

(b) All submissions after the notice of appeal should identify the appellant and the Board's docket number (the Board's acknowledgement under § 16.7 will specify the docket number).

(c) Unless the Board otherwise specifies, parties shall submit an original and one copy of all materials. One copy of all materials submitted to the Board, other than the notice of appeal, must also be sent to the other party.

(d) Unless hand delivered, all materials should be sent to the Board and the other party by certified or registered mail, return receipt requested.

(e) The Board considers material to be submitted on the date when it is postmarked or hand delivered to the Board.

§ 16.21 Record and decisions.

(a) Each decision is issued by three Board members (see § 16.5(b)), who base their decision on a record consisting of the appeal file; other submissions of the parties; transcripts or other records of any meetings, conferences or hearings conducted by the Board; written statements resulting from conferences; evidence submitted at hearings; and orders and other documents issued by the Board. In addition, the Board may include other documents (such as evidence submitted in another appeal) after the parties are given notice and an opportunity to comment.

(b) The Board will promptly notify the parties in writing of any disposition of a case and the basis for the disposition.

(c) The Secretary may review a decision of the Board and revise it in whole or in part. A copy of each Board decision will be delivered to the Secretary on the date the Board issues it. Within 30 days thereafter, the Secretary may determine to review the case further. If so, the Secretary will promptly notify the Board and the parties. If the Secretary affirms the decision, or does not within 30 days announce a determination to review the case, the Board's decision becomes the final decision of the Department.

§ 16.22 The effect of an appeal.

(a) *General.* Until the Board disposes of an appeal, the respondent shall take no action to implement the final decision appealed.

(b) *Exceptions.* The respondent may—

(1) Suspend funding (see § 74.114 of this title);

(2) Defer or disallow further payments questioned for reasons disputed in a pending appeal;

(3) Recover funds advanced solely on the basis of estimated rather than actual expenditures; or

(4) Take other action to recover, withhold, or offset funds if specifically authorized by statute or regulation.

§ 16.23 How long an appeal takes.

The Board has established general goals for its consideration of cases, as follows (measured from the point when the Board receives the appellant's submission under § 16.8(a)):

—for regular review based on a written record under § 16.8, 6 months. When a conference under § 16.10 is held, the goal remains at 6 months, unless a requirement for post-conference briefing in a particular case renders the goal unrealistic.

—for cases involving a hearing under § 16.11, 9 months.

—for the expedited process under § 16.12, 3 months.

These are goals, not rigid requirements. The paramount concern of the Board is to take the time needed to review a record fairly and adequately in order to produce a sound decision. Furthermore, many factors are beyond the Board's direct control, such as unforeseen delays due to the parties's negotiations or requests for extensions, how many cases are filed, and Board resources. On the other hand, the parties may agree to steps which may shorten review by the Board; for example, by waiving the right to submit a brief, by agreeing to shorten submission schedules, or by electing the expedited process.

Appendix A—What Disputes the Board Reviews

A. What this Appendix covers.

This Appendix describes programs which use the Board for dispute resolution, the types of disputes covered, and any conditions for Board review of final written decisions resulting from those disputes. Disputes under program not specified in this Appendix may be covered in a program regulation or in a memorandum of understanding between the Board and the head of the approprate HHS operating component or other agency responsible for administering the program. If in doubt, call the Board's Executive Secretary. Even though a dispute may be covered here, the Board still may not be able to review it if the limits in paragraph F apply.

B. Mandatory grant programs.

(a) The Board reviews the following types of final written decisions in disputes arising in HHS programs authorizing the award of mandatory grants,

(1) Disallowances under Titles I, IV, VI, X, XIV, XVI(AABD), XIX, and XX of the Social Security Act, including penalty disallowances such as those under sections 403(g) and 1903(g) of the Act and fiscal disallowances based on quality control samples.

(2) Disallowances in mandatory grant programs administered by the Public Health Service, including Title V of the Social Security Act.

(3) Disallowances in the programs under sections 113 and 132 of the Developmental Disabilities Act.

(b) In some of these disputes, there is an option for review by the head of the granting agency prior to appeal to the Board. Where an appellant has requested review by the agency head first, the "final written decision" required by § 16.3 for purposes of Board review will generally be the agency head's decision affirming the disallowance. If the agency head declines to review the disallowance or if the appellant withdraws its request for review by the agency head, the original disallowance decision is the "final written decision." In the latter cases, the 30-day period for submitting a notice of appeal begin with the date of receipt of the notice declining review or with the date of the withdrawal letter.

C. Direct, discretionary project programs.

(a) The Board reviews the following types of final written decisions in disputes arising in any HHS program authorizing the award of direct, discretionary project grants or cooperative agreements:

(1) A disallowance or other determination denying payment of an amount claimed under an award, or requiring return or set-off of funds already received. This does not apply to discretionary agency determinations of award amount or agency selection in the assistance award document of an option for disposition of program-related income.

(2) A termination for failure to comply with the terms of an award.

(3) A denial of a continuation award under the project period system of funding where the denial is for failure to comply with the terms of an award.

(4) A voiding (a decision that an award is invalid because it was not authorized by statute or regulation or because it was fraudulently obtained).

(b) Where an HHS component uses a preliminary appeal process (for example, the Public Health Service), the "final written decision" for purposes of Board review is the decision issued as a result of that process.

D. Cost allocation and rate disputes.

The Board reviews final written decisions in disputes which may affect a number of HHS programs because they involve cost allocation plans or rate determinations. These include decisions related to cost allocation plans negotiated with State or local governments and negotiated rates such as indirect cost rates, fringe benefit rates, computer rates, research patient care rates, and other special rates. The "final written decision" for purposes of Board review of these disputes is the decision issued as a result of the preliminary appeal process at Part 75 of this title.

E. SSI agreement disputes.

The Board reviews disputes in the Supplemental Security Income (SSI) program arising under agreements for Federal administration of State supplementary payments under section 1616 of the Social Security Act or mandatory minimum supplements under section 212 of Pub. L. 93-66. In these cases, the Board provides an opportunity to be heard and offer evidence at the Secretarial level of review as set out in the applicable agreements. Thus, the "final written decision" for purposes of Board review is that determination appealable to the Secretary under the agreement.

F. Where Board review is not available.

The Board will not review a decision if a hearing under 5 U.S.C. 554 is required by statute, if the basis of the decision is a violation of applicable civil rights or nondiscrimination laws or regulations (for example, Title VI of the Civil Rights Act), or if some other hearing process is established pursuant to statute.

G. How the Board determines whether it will review a case.

Under § 16.7, the Board Chair determines whether an appeal meets the requirements of this Appendix. If the Chair finds that there is some question about this, the Board will request the written opinion of the HHS component which issued the decision. Unless the Chair determines that the opinion is clearly erroneous, the Board will be bound by the opinion. If the HHS component does not respond within a time set by the Chair, or cannot determine whether the Board clearly does or does not have jurisdiction, the Board will take the appeal.

PART 74—ADMINISTRATION OF GRANTS

2. Part 74 of Title 45 of the CFR is amended as set forth below:

a. Subparts R and S are reserved as follows:

Subpart R—[Reserved]

Subpart S—[Reserved]

b. The table of contents is revised by adding entries for a new Subpart T, as follows:

* * * * *

Subpart T—Miscellaneous

Sec.
74.250–74.303 [Reserved]
74.304 Final decisions in disputes.

Subpart T—Miscellaneous

§§ 74.250–74.303 [Reserved]

§ 74.304 Final decisions in disputes.

(a) Granting agencies and other Departmental components attempt to promptly issue final decisions in disputes and in other matters affecting the interests of grantees. However, they do not issue a final decision adverse to the grantee until it is clear that the matter cannot be resolved informally through further exchange of information and views.

(b) Under various HHS statutes or regulations, grantees have the right to appeal from, or to have a hearing on, certain final decisions by Departmental components. (See, for example, Subpart D of 42 CFR Part 50 and 45 CFR Parts 16 and 75.) Paragraphs (c) and (d) of this section set forth the standards the Department expects its components to meet in stating a final decision covered by any of the statutes or regulations.

(c) The decision is brief but contains—

(1) A complete statement of the background and basis of the component's decision, including reference to the pertinent statutes, regulations, or other governing documents; and

(2) Enough information to enable the grantee and any reviewer to understand the issues and the position of the HHS component.

(d) The following or similar language (consistent with the terminology of the applicable statutes or regulations) appears at the end of the decision: "This is the final decision of the [title of grants officer or other official responsible for the decision]. It shall be the final decision of the Department unless, within 30 days after receiving this decision, you deliver or mail (you should use registered or certified mail to establish the date) a written notice of appeal to [name and address of appropriate contact; e.g., the Departmental Grant Appeals Board, Department of Health and Human Services, Washington, D.C. 20201]. You shall attach to the notice a copy of this decision, note that you intend an appeal, state the amount in dispute, and briefly state why you think that this decision is wrong. You will be notified of further procedures."

(e) If a decision does not contain the statement, information, and language described in paragraphs (c) and (d) of this section, the decision is not necessarily the granting agency's final decision in the matter. The grantee should notify the granting agency that it wishes a formal final decision following any further exchange of views or information that might help resolve the matter informally.

Dated: December 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81–359 Filed 1–5–81; 8:45 am]

BILLING CODE 4110–12–M

federal register

Tuesday
January 6, 1981

Part XIII

The President—Office of the United States Trade Representative

Executive Order 12260—Agreement on Government Procurement

V 46/3 JA 6 81

Presidential Documents

Executive Order 12260 of December 31, 1980

Agreement on Government Procurement

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511–2518), and Section 301 of Title 3 of the United States Code, and in order to implement the Agreement on Government Procurement, as defined in 19 U.S.C. 2518(1), it is hereby ordered as follows:

1–1 *Responsibilities.*

1–101. The obligations of the Agreement on Government Procurement (Agreement on Government Procurement, General Agreement on Tariffs and Trade, 12 April 1979, Geneva (GATT 1979)) apply to any procurement of eligible products by the Executive agencies listed in the Annex to this Order (eligible products are defined in Section 308 of the Trade Agreements Act of 1979; 19 U.S.C. 2518(4)). Such procurement shall be in accord with the policies and procedures of the Office of Federal Procurement Policy (41 U.S.C. 401 *et seq.*).

1–102. The United States Trade Representative, hereinafter referred to as the Trade Representative, shall be responsible for interpretation of the Agreement. The Trade Representative shall seek the advice of the interagency organization established under Section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) and consult with affected Executive agencies, including the Office of Federal Procurement Policy.

1–103. The interpretation of Article VIII:1 of the Agreement shall be subject to the concurrence of the Secretary of Defense.

1–104. The Trade Representative shall determine, from time to time, the dollar equivalent of 150,000 Special Drawing Right units and shall publish that determination in the **Federal Register.** Procurement of less than 150,000 Special Drawing Right units is not subject to the Agreement or this Order (Article I:1(b) of the Agreement).

1–105. In order to ensure coordination of international trade policy with regard to the implementation of the Agreement, agencies shall consult in advance with the Trade Representative about negotiations with foreign governments or instrumentalities which concern government procurement.

1–2. *Delegations and Authorization.*

1–201. The functions vested in the President by Sections 301, 302, 304, 305(c) and 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2511, 2512, 2514, 2515(c) and 2516) are delegated to the Trade Representative.

1–202. Notwithstanding the delegation in Section 1–201, the Secretary of Defense is authorized, in accord with Section 302(b)(3) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(b)(3)), to waive the prohibitions specified therein.

Jimmy Carter

THE WHITE HOUSE,
December 31, 1980.

Billing Code 3195-01-M

V46/3 JA 6 81 UMI

ANNEX

1. ACTION
2. Administrative Conference of the United States
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4. Board for International Broadcasting
5. Civil Aeronautics Board
6. Commission on Civil Rights
7. Commodity Futures Trading Commission
8. Community Services Administration
9. Consumer Product Safety Commission
10. Department of Agriculture (The Agreement on Government Procurement does not apply to procurement of agricultural products made in furtherance of agricultural support programs or human feeding programs)
11. Department of Commerce
12. Department of Defense (Excludes Corps of Engineers)
13. Department of Education
14. Department of Health and Human Services
15. Department of Housing and Urban Development
16. Department of the Interior (Excludes the Bureau of Reclamation)
17. Department of Justice
18. Department of Labor
19. Department of State
20. Department of the Treasury
21. Environmental Protection Agency
22. Equal Employment Opportunity Commission
23. Executive Office of the President
24. Export-Import Bank of the United States
25. Farm Credit Administration
26. Federal Communications Commission
27. Federal Deposit Insurance Corporation
28. Federal Home Loan Bank Board

29. Federal Maritime Commission

30. Federal Mediation and Conciliation Service

31. Federal Trade Commission

32. General Services Administration (Purchases by the National Tool Center, and the Region 9 Office in San Francisco, California are not included)

33. Interstate Commerce Commission

34. Merit Systems Protection Board

35. National Aeronautics and Space Administration

36. National Credit Union Administration

37. National Labor Relations Board

38. National Mediation Board

39. National Science Foundation

40. National Transportation Safety Board

41. Nuclear Regulatory Commission

42. Office of Personnel Management

43. Overseas Private Investment Corporation

44. Panama Canal Commission

45. Railroad Retirement Board

46. Securities and Exchange Commission

47. Selective Service System

48. Smithsonian Institution

49. United States Arms Control and Disarmament Agency

50. United States International Communication Agency

51. United States International Development Cooperation Agency

52. United States International Trade Commission

53. Veterans Administration

[FR Doc. 81-476
Filed 1-2-81; 3:10 pm]
Billing code 3195-01-C

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Application of Agreement on Government Procurement and Waiver of Discriminatory Purchasing Requirements

Section 1–103 of Executive Order 12188 delegates the functions of the President under Section 2(b) of the Trade Agreements Act of 1979 ("the Act") (19 U.S.C. 2503) to the United States Trade Representative ("Trade Representative"), who shall exercise such authority with the advice of the Trade Policy Committee. Section 1–201 of Executive Order 12260 delegates the functions of the President under Sections 301 and 302 of the Act (19 U.S.C. 2511, 2512) to the Trade Representative. Executive Order 12260 also provides in section 1–104 that the Trade Representative shall determine, from time to time, the dollar equivalent of 150,000 Special Drawing Right units.

Now, therefore, I, Robert D. Hormats, Acting United States Trade Representative, in conformity with the provisions of Section 2 of the Act, Sections 301 and 302 of the Act, and Executive Orders 12188 and 12260, do hereby determine, effective on the date of signature of this notice, that, with respect to the Agreement on Government Procurement ("the Agreement"):

1. The countries or instrumentalities listed in Annex 1 have become parties to the Agreement, and will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with Section 301(b)(1) of the Act, each of these countries is designated for purposes of Section 301(a) of the Act.

2. The countries listed in Annex 2 are least developed countries, as defined in Section 308 of the Act (19 U.S.C. 2518). In accordance with Section 301(b)(4) of the Act, each of these countries is designated for purposes of Section 301(a) of the Act.

3. With respect to eligible products (as defined in Section 308(4) of the Act) of the countries or instrumentalities designated above for purposes of Section 301(a) of the Act, and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded—

(A) to United States products and suppliers of such products; or

(B) to eligible products of another foreign country or instrumentality which is a party to the Agreement and suppliers of such products, shall be waived.

This waiver shall be applied by all Executive agencies listed in Annex A of Executive Order 12260 in consultation with, and when deemed necessary at the direction of, the Trade Representative.

4. The designations in paragraphs 1 and 2 above and the waiver in paragraph 3 above are subject to modification or withdrawal by the Trade Representative.

5. (a) Pursuant to Section 302 of the Act, Executive agencies are prohibited after January 1, 1981, from procuring any products (A) which are products of a foreign country or instrumentality which is not designated under Section 301(b) of the Act, and (B) which would otherwise be eligible products. This prohibition will last until such foreign country or instrumentality is designated under Section 301(b) of the Act.

(b) The above prohibition shall be deferred for a two-year period beginning January 1, 1981, except for products of major industrial countries. Major industrial countries include the member countries of the European Communities, Canada, and Japan.

(c) The above two-year delay may be terminated at any time (causing the prohibition to come into effect) for any or all countries.

6. The dollar equivalent of 150,000 Special Drawing Right units is $196,000. This determination may be modified from time to time as appropriate.

Dated: January 1, 1981.

Robert D. Hormats,

Acting United States Trade Representative.

Annex 1

Austria
Belgium
Canada
Denmark
Federal Republic of Germany
Finland
France
Hong Kong
Ireland
Italy
Japan
Luxembourg
Netherlands
Norway
Singapore
Sweden
Switzerland
United Kingdom

Annex 2

Bangladesh
Benin
Bhutan
Botswana
Burundi
Cape Verde
Central African Republic
Chad
Comoros
Gambia
Guinea
Haiti
Lesotho
Malawi
Maldives
Mali
Nepal
Niger
Rwanda
Somalia
Western Samoa
Sudan
Tanzania U.R.
Uganda
Upper Volta
Yemen AR

[FR Doc. 81–477 Filed 1–2–81; 3:32 pm]

BILLING CODE 3190-01-M

Statement Concerning Executive Order 12260 on Agreement on Government Procurement

On December 31, 1980, the President signed Executive Order 12260 ("the Order") implementing the Agreement on Government Procurement (the "Agreement") and Title III of the Trade Agreements Act of 1979 (the "Act") (19 U.S.C. 2511–2518), effective January 1, 1981.

The Agreement is one of the trade agreements concluded during the Tokyo Round of Multilateral Trade Negotiations. The Agreement was approved by the Congress by Section 2 of the Act (19 U.S.C. 2503). The United States Trade Representative ("Trade Representative"), acting under Section 2(b) of the Act and Section 1–103(b) of Executive Order 12188, accepted the Agreement on behalf of the United States without reservation on December 30, 1980. The Agreement enters into force with respect to the United States on January 1, 1981.

The purpose of the Order is to delineate agency responsibilities for implementing the Agreement and to delegate certain authority for implementing the Agreement. Specifically,

Section 1–101 of the Order requires all agencies listed in the Annex thereto to observe the obligations of the Agreement in their purchases of "eligible products". The definition of "eligible products" is that contained in section 308(4) of the Act (19 U.S.C. 2518(4)). To qualify as an eligible product, a product must satisfy three criteria. The product must be:

1. From a country or instrumentality that is a party to the Agreement;

2. Procured for an Executive agency which is specified in the Order as being subject to the Agreement;

3. Procured in large enough quantities that the contract price exceeds 150,000 Special Drawing Right units.

Section 1–102 gives the Trade Representative the responsibility to interpret the Agreement. This responsibility follows the Trade Representative's broader authority granted in section 1(b)(3) of Reorganization Plan No. 3 of 1979 (44 FR 69173, 93 Stat. 1381), to "issue policy guidance to departments and agencies on basic issues of policy and interpretation * * *" relating to, *inter alia,* the implementation of international trade agreements.

Section 1–103 provides that interpretation of Article VIII:1 of the

Agreement, relating to national defense, shall be subject to the concurrence of the Secretary of Defense.

Section 1–104 gives the Trade Representative the responsibility to make a determination of the dollar equivalent of the 150,000 Special Drawing Right units threshold for coverage of procurement contracts. The Special Drawing Right is the unit of account of the international monetary fund, and is a weighted average of the values of a group of currencies including the U.S. dollar. This determination will be published annually in the **Federal Register**, or more often if appropriate.

Section 1–105 provides that agencies shall consult in advance with the Trade Representative about negotiations with foreign governments or instrumentalities which concern government procurement. The provision was included to ensure the coordination of international trade policy as it relates to the implementation, including negotiations relating to additional coverage, of the Agreement.

Section 1–201 delegates the functions of the President under Title III of the Act to the Trade Representative with the exception of the functions of the President under Section 303 of the Act (19 U.S.C. 2513), which were previously delegated to the Trade Representative in Section 1–103(b) of Executive Order 12188. These functions include:

—Waiver of discriminatory purchasing requirements under Section 301(a) of the Act (19 U.S.C. 2511(a));
—Designation of eligible countries and instrumentalities under Section 301(b) of the Act (19 U.S.C. 2511(b));
—Prohibiting procurement from non-designated countries or instrumentalities under Section 302 of the Act (19 U.S.C. 2512), as well as implementing the two-year delay and case-by-case waiver of purchases under the same Section;
—Reporting and consultation requirements under Sections 302(c), 302(d), 304, 305 and 306 of the Act (19 U.S.C. 2512(c), 2512(d), 2514–2516); and
—Other functions of the President enumerated in Title III of the Act.

Section 1–202 implements the provisions of Section 302(b)(3) of the Act (19 U.S.C. 2512(b)(3)), authorizing the Secretary of Defense to waive the purchasing prohibition of Section 302(a)(1) in the context of reciprocal procurement agreements.

For agencies not included in the Annex to the Order, no change in present procurement practices will be required. Furthermore, to the extent procurement by agencies listed in the Annex is outside the Agreement, the Order will not apply. Procurement not covered by the Agreement includes:

—Contracts of a value not over 150,000 SDR's;
—Procurement by agencies not in the Order, even if done through agencies listed in the Order.
—Contracts where the value of services exceeds 50% of the contract price.

Also, service contracts *per se*, including construction contracts, research and development and transportation or cargo preference schemes, will not be affected by the Agreement.

Under the terms of the Agreement, procurements involving eligible products may be set aside for small business concerns; however, procurements involving eligible products may not be set aside for labor surplus area concerns unless the set-aside is also for small business concerns. The priority of Sections 15(e) and (f) of the Small Business Act, as amended by section 117 of Pub. L. 96–302 (94 Stat. 839), shall prevail.

The provisions of the Act and this Order do not relieve agencies of their obligations to implement the requirements of Pub. L. 95–507 (92 Stat. 1757, 15 U.S.C. 683).

Robert C. Cassidy,
General Counsel.

[FR Doc. 81–478 Filed 1–2–81; 3:32 pm]
BILLING CODE 3190–01–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

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80827 12-8-80 / Nevada; Transfer of jurisdiction: Modification of Public Land Order No. 2555

80828 12-8-80 / Oregon; Partial revocation of Executive Order of November 24, 1903 in regards to 66.60 acres of land withdrawn as rock quarry sites for use by the U.S. Army Corps of Engineers

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing January 5, 1981

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

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Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

1681 **Income Tax** Treasury/IRS publishes regulations regarding allowance of deductions for interest expense to foreign corporations doing business in the United States

1687 **Income Tax** Treasury/IRS publishes final regulations relating to limitations on benefits and contributions under qualified pension plans

2020 **Traffic Control** DOT/FHwA gives advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices; comments by 7-15-81 (Part VI of this issue)

1719 **Income Tax** Treasury/IRS publishes regulations relating to voluntary employees' beneficiary associations

1744 **Investment Companies** Treasury/IRS proposes regulations concerning limitations on reorganization treatment for certain investment companies; comments by 3-9-81

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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1858 **Clean Water** EPA proposes to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing steel; comments by 3-9-81 (Part II of this issue)

1758 **Forest** USDA/FS proposes amendments to regulations for National Forest System lands relating to prohibited acts, rewards and impoundments; comments by 3-9-81

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1910 **Air Pollution** EPA proposes regulations establishing a standard for the emission of particulate matter from heavy-duty diesel engines (Part III of this issue)

1676 **Income Tax** Treasury/IRS publishes regulations relating to the first-in-first-out rule (FIFO) and other ordering rules for the investment credit

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2008 **Pesticides** EPA establishes final rules for registration of pesticides by the State to meet special local needs (Part V of this issue)

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Section 22 Import Quotas; Certain Dairy Products

AGENCY: Foreign Agricultural Service.

ACTION: Final rule.

SUMMARY: This rule amends Import Regulation 1, which governs the administration of an import licensing system for certain dairy products subject to quota under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. The amendments in this final rule are designed to: (1) assure that licensees holding a historical license for Italian-type cheese in original loaves (TSUS Appendix Item 950.10) from the European Community (EC) will receive their full basic annual allocation (BAA); (2) make the necessary changes as required by Presidential Proclamation 4811, and (3) make several changes which are necessary for consistency and clarity of the regulation and ease of operation of the licensing program.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service, Room 6616, South Building, Department of Agriculture, Washington, D.C. 20250, (202) 447-5270. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been received under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant". Thomas Hughes, Administrator, Foreign Agricultural Service (FAS), has determined that good cause exists for not postponing the effective date of these final rules until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Immediate implementation of these amendments is required in order to issue certain licenses for 1981 in accordance with the changes specified in the regulation.

The proposed rule amending Import Regulation 1 was published in the **Federal Register** (45 FR 70873) on October 27, 1980. The 30-day public comment period ended on November 28, 1980. Written comments were received from only a few entities.

Discussion Of Comments

Italian-type cheese from Argentina

One comment dealt with the shift of 91 tons of TSUS Appendix Item 950.10 (Italian-type cheese in original loaves) for Argentina from Appendix 2 [Group IV(a)] to Appendix 1 [Group IV(a)]. The commentator concurred with the shift which will assure that all historical licensees for that cheese will receive their full basic annual allocation.

Other Cheese-NSPF-Other Countries

Two comments dealt with the addition of 71 metric tons of TSUS Appendix Item 950.10D (Other Cheese-NSPF) for Other Countries under Group V(c) of Appendix 2. One objected to the addition of this amount to the allocated quota for this article, citing the heavy domestic surplus of dairy products and attendant government expenditures for Commodity Credit Corporation purchases under the Dairy Price Support Programs. Another comment supported the increase but seemed to object to the proposal to limit eligibility for the new historical part of the quota to those importers who have no other historical licenses, excluding some current licensees who might have brought in Other Cheese from Other Countries. Presidential Proclamation 4811 of December 30, 1980 provides for the additional quota of 71 tons. This additional amount will not cause imports to exceed the 111,000 metric tons permitted under the Trade Agreements Act of 1979 (Pub. L. 96-39; hereinafter called "the Act"). The limitation on eligibility is necessary to fulfill the intent of the increased quota, i.e., to assure that those importers of "Other Cheese" from "Other Countries" completely shut out of their traditional cheese trade at the time the Act was implemented, receive reasonable quantities of new historical licenses.

An application period for both new historical and supplementary licenses for this quota is set forth in this final rule to begin on January 22, 1981. However, applications for new historical license for this item sent in anytime prior to February 11, 1981 which are deemed sufficient by the Department for license eligibility need not be resubmitted. Those importers whose applications for 1981 supplementary license are complete may apply by letter (without further documentation) dated no earlier than January 22, 1981 and no later than February 11, 1981.

Penalties for Less Than 85 Percent Utilization of Reallocation Quota Shares

Two comments were received with regard to the penalties proposed for nonuse of reallocated quota shares. One objected to the entire idea. The other approved of the principle of penalties but felt that the level of utilization required to avoid a penalty as well as the penalty itself were too restrictive given the relatively short time an importer has to use the reallocated share received. The Licensing Authority has taken these views into consideration, but has retained the proposed penalty in the final rule in an attempt to keep penalties as uniform and as simple as possible and to ensure maximum utilization of the quota. Comments were also received with regard to treating the reallocated shares allocated to all licenses—historical, non-historical and supplementary—in a like manner. This was the intent of the Licensing Authority as can be seen in the Draft Impact Analysis Statement and has thus been incorporated into the final rule in § 6.25, paragraph (d)(3).

Other

Presidential Proclamation 4811 has also resulted in a shift in Appendix 2 of 400 metric tons from TSUS Appendix Item 950.10D [Group V(c)] from Switzerland to TSUS Appendix Item 950.10C [Group V(b)] from the same country. New historical licenses will be adjusted and all importers holding such licenses have been so advised.

This final rule differs from the proposed rule and the regulations in several places where changes were made for stylistic and editorial purposes. These changes are not substantive in nature and include for the most part reorganizing sentences within a section for improved readability and deleting obsolete material.

Accordingly 7 CFR, Part 6—Subpart Section 22 Import Quotas, § 6.21, § 6.25, § 6.26, § 6.29, and Appendices 1 and 2 are amended as follows:

1. Appendix 1 [Amended]		
Group IV(a) is amended by changing the line for Argentina to read:		
Argentina	3,191,000	7,034,878
2. Appendix 2 [Amended]		
Group IV(a) is amended by changing the line for Argentina to read:		
Argentina	659,000	1,452,832
Group V(b) is amended by changing the line for Switzerland to read:		
Switzerland	837,000	1,845,238
Group V(c) is amended as follows:		
1. Change the line for Switzerland to read:		
Switzerland	1,122,000	2,473,544
2. Add the line:		
Other Countries	71,000	156,526

3. Section 6.21, paragraph (m) and (s) are revised to read as follow:

§ 6.21 Definitions

* * * * *

(m) "EC" means the ten European Community countries, viz., Belgium, Denmark, the Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, which for the purposes of this regulation shall be deemed as one country of origin.

* * * * *

(s) "Licensing Authority" means the Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture, or in his or her absence the Import Quota Specialist, or any other officer or employee of the Department designated in writing as the Acting Head.

* * * * *

4. Section 6.25, paragraphs (a)(2), (c)(2), and (d)(3) are revised to read as follows:

§ 6.25 Eligibility.

(a) * * *

(2) Historical eligibility for licenses to enter quota shares of articles under Group V of Appendix 2, which prior to January 1, 1980 were not subject to quota, will be established upon submission by the importer of copies of broker's copies of official consumption entry or warehouse withdrawal for consumption records, Customs forms 7501 and 7505, showing the applicant as the importer of record or importer of account for entries made during the period July 1, 1978 through June 30, 1979 of cheese, cheese product or substitutes for cheese falling under TSUS Nos. 117.6035 (Swiss or Emmenthaler), 117.6055, 117.7550, 117.8550 (Gruyere-Process), 117.7560, 117.8560 except soft-ripened cheese (Other cheese, NSPF, except soft-ripened cheese), and 117.7570 and 117.8570 (Other cheese, Lowfat). Copies of other than the broker's copy will only be accepted if it is established that, for reasons satisfactory to the Licensing Authority, the broker's copy is not available. The Licensing Authority may also require a copy of the invoice or other documentation showing that the importer was the owner of the article at the time entry was made and substantiating the type or variety of cheese entered. Such invoices should accompany an application for Appendix 2 historical licenses for TSUS items 117.7560 and 117.8560. Further, eligibility for articles in Group V(c) from "Other Countries" in Appendix 2 may be established only by importers who hold no other historical license for any article under Appendix 1 or Appendix 2 as of January 7, 1981. Applications for historical license for TSUS Appendix Item 950.10D from "Other Countries" in Appendix 2 must be postmarked no later than February 11, 1981.

* * * * *

(c) * * *

(2) Notwithstanding paragraph (b)(4) of this section, certification required to establish supplementary eligibility for license for TSUS Appendix item 950.10D from "Other Countries" for 1981 must be postmarked no earlier than January 22, 1981 and no later than February 11, 1981. Importers who have already submitted supplementary license certification during the application period which ended November 1, 1980, may simply request license for this article by submitting a letter without further documentation postmarked as required in this paragraph.

(d) * * *

(3) Any licensee who fails to enter at least 85 percent of a particular nonhistorical or supplementary quota share for any article for a given year will be ineligible to have such nonhistorical or supplementary quota share renewed for the next quota year, unless such licensee notifies the Licensing Authority in a letter postmarked no later than October 1 of the quota year for which his license is valid, of his intentions to enter less than 85 percent of his quota share and surrenders to the Licensing Authority that portion of the quota share which he or she does not intend to use. If, after surrendering a portion of a nonhistorical or supplementary quota share of an article, a licensee fails to import 85 percent or more of the unsurrendered portion of the quota share, such licensee will be ineligible to receive a license to import a quota share of such article in the next quota year, unless the licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority. Furthermore, failure to enter more than 85 percent of the total of a particular nonhistorical or supplementary quota share combined with any reallocated portions added to such original share (despite more than 85 percent utilization of the original share) will result in the licensee being ineligible for a reallocated portion for that item in the following year.

* * * * *

5. Section 6.26 is amended by revising paragraph (c)(2)(i), adding a new paragraph (c)(4) and revising paragraphs (d)(1) and (e)(2)(ii) to read as follows:

§ 6.26 Allocation of annual quota and issuance of licenses.

* * * * *

(c) * * *

(2) A supplementary quota share for an article in Appendix 2 from the EC will be determined on the following basis:

(i) Subject to paragraph (c)(1) of this section, the size of supplementary quota share issued to an eligible applicant for a specific article in Appendix 2 shall not exceed (A) for applicants who have historical quota shares in Appendix 2 from the EC for such article: an amount equal to the amount of the applicant's Appendix 2 historical quota share, or the amount of each supplementary quota share for such article allocated to applicants who have no Appendix 2 historical quota share for such article, whichever is larger; (B) for applicants who have no such historical quota shares: 110,000 pounds.

* * * * *

(4) Supplementary quota shares for an article may not be smaller than the applicable minimum quantity set forth in paragraph (c)(2)(ii) unless requested in writing by the applicant, but in no case shall the quota share be greater than the quantity requested by the applicant.

(d) *Temporary reduction of historical quota share.* (1) Subject to provisions of paragraph (e) of this section, the historical quota share for any article in Appendix 1 or Appendix 2 which is not entered by its holder at the rate of 85 percent or more during a calendar year will be reduced in the following quota year, unless such licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority. Such reduced historical quota share will be equal to the amount imported during the preceding quota year. If a historical license is not used by its holder in a given year, then the amount allocated to the holder for the following quota year shall be one-quarter of the basic annual allocation of that license. *Provided,* that, once such reduced quota share has been established, the quota share of the licensee in the following quota year will be restored to its full basic annual allocation if the licensee enters 85 percent or more of the reduced quota share during the quota year when it was established. This paragraph applies to a licensee who receives any extra quota share from other reduced licenses or reallocated portions. If less than 85 percent of the combined total of the license amount and the reallocated amount is used, then the licensee will be ineligible for reallocated portions and in some cases for extra quota shares from other reduced licenses the following quota year whether or not the quota share in the following year is below the basic annual allocation for that license.

* * * * *

(e) * * *

(2) * * *

(ii) If, after a surrendered quota share is reallocated among licensees who hold a nonreduced license for such quota and apply for a portion of the reallocation, unallocated quantities of the quota still remain, such quantities may be allocated to other non-affiliated and non-associated applicants who have historical, nonhistorical or supplementary eligibility for any quota under the regulation for the remainder of the quota year in question. Quota shares allocated to such other applicants under this provision will be made in equal amounts of not less than 2,500 pounds each; except in the case of quota items the quota amounts for which are less than 10,000 pounds, which quota items will be allocated in equal shares of not less than 250 pounds each; except that no applicant will receive more than the amount requested in his or her application.

* * * * *

6. Section 6.29, paragraph (b)(3) is revised to read as follows:

§ 6.29 Suspension or revocation of eligibility.

* * * * *

(b) * * *

(3) *Revocation of license eligibility.* The Licensing Authority, upon reasonable cause to believe—after records are reviewed and a preliminary investigation is made by the Department—that a licensee has violated the provisions of the regulation or has furnished false or incomplete information in connection with the application for or use of licenses issued hereunder, may, after notice to the licensee, revoke said licensee's eligibility (a permanent revocation of historical eligibility) and may bar such person from receiving any supplementary or nonhistorical licenses for a period of not more than three years. Any person whose eligibility has been revoked pursuant to provisions of this section will have the opportunity to appeal the determination to the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service (FAS), or his or her designee within 30 days from the date of notification. The request for reconsideration will be presented in writing specifically stating any reason as to why such determination should not stand. The Director, Dairy, Livestock and Poultry Division, FAS will provide such person with an opportunity for a hearing on such matter. A further appeal may be made to the Administrator, FAS within five working days of the notification of the decision of the Director, Dairy, Livestock and Poultry Division, FAS.

(Sec. 3, Pub. L. 80-897, 62 Stat. 1248, as amended (7 U.S.C. 624); secs. 701, 703, Pub. L. 96-39, 93 Stat. 268, 272 (19 U.S.C. 1202 note). Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202))

Signed, this 2nd of January 1981.

Thomas R. Hughes,

Administrator, Foreign Agricultural Service.

[FR Doc. 81-479 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-10-M

Animal and Plant Health Inspection Service

7 CFR Part 354

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Plant Protections and Quarantine performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, U.S. Department of Agriculture, Hyattsville, MD 20782 (301-436-8247).

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. These amendments merely reflect such changes and serve to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, January 5, September 28, December 10, 1979, March 21, July 11, and October 10, 1980, (44 FR 1364, 55791, 74791, 45 FR 18367, 46785, and 67288) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

Commuted Traveltime Allowances

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Add:			
* * *	* *		
Mexico:			
Camargo	Roma, TX		1
Cuidad Acuna	Del Rio, TX		1
Cuidad Juarez	El Paso, TX		1
Matamoros	Brownsville, TX		1
Mier	Roma, TX		1
Nuevo Cd. Guerrero	Roma, TX		1
Nuevo Laredo	Laredo, TX		1
Nuevo Progreso	Progreso, TX		1
Ojinaga	Presidio, TX		1
Piedras Negras	Eagle Pass, TX		1
Reynosa	Hidalgo, TX		1
* * *	* *		

(64 Stat. 561: (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Done at Washington, D.C., this 31st day of December 1980.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 81-449 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines, Pears, Plums, and Peaches Grown in California; Increases in Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rules.

SUMMARY: This action authorizes increases in expenses of the Nectarine Administrative Committee and Peach Commodity Committee to support marketing order activities for the 1980–81 fiscal year. These committees are established under Federal Marketing Order Nos. 916 and 917, respectively.

DATES: March 1, 1980, through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this action is available upon request from Mr. McGaha.

SUPPLEMENTARY INFORMATION: This amendment to final rules has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This amendment is issued under Marketing Order Nos. 916 and 917 (7 CFR Parts 916 and 917), respectively, regulating the handling of nectarines grown in California (M.O. 916), and fresh pears, plums, and peaches grown in California (M.O. 917). These programs are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the respective committees, established under these marketing orders, and upon other information. It is found that the amendment to the expenses of the committees, as hereinafter provided, will tend to effectuate the declared policy of the act.

The committees report that an unanticipated increase in Federal-State inspection costs and market research and development costs resulted in the need to increase the level of authorized expenses.

These actions were recommended at public meetings at which all present could state their views. There is insufficient time between the date when information became available upon which this final action is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register**.

(5 U.S.C. 553)

Accordingly, it is found that the provisions of paragraph (a) of §§ 916.219 and 917.228 (45 FR 53450) are amended to read as follows:

§ 916.219 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,870,000.

* * * * *

§ 917.228 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Peach Commodity Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,440,000.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 31, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-451 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; FC-0051]

Truth in Lending; Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction of Official Staff Interpretation FC–0051.

SUMMARY: This document corrects the headnote to Official Staff Interpretation FC–0051 in FR Doc 77–7943 appearing at page 14859 in the issue of Thursday, March 17, 1977, 2nd column.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3667).

EFFECTIVE DATE: December 31, 1980.

In FR Doc 77–7943 appearing at page 14859 in the issue of Thursday, March 17, 1977, 2nd column, headnotes of FC–0051 should read:

§§ 226.7(a) and (b), 226.8(b). Method of computing the APR is not a required disclosure.

§§ 226.7(a), 226.8(b)(4) and (6). Accruing finance charges on a loan where a daily rate is applied to the actual balance for the number of days the balance is outstanding does not involve prepayment penalty or late payment penalty if the payment is not made on the anticipated due date.

§§ 226.7(a) and (b). Stating that finance charges will be computed on the outstanding balance at the applicable APR for the actual time the balance remains unpaid is, in this situation, a permissible method of disclosing the method of computing the balance upon which finance charges will be computed for open end credit accounts.

* * * * *

Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-453 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The International Banking Act of 1978 requires a foreign bank to enter into agreement with the Board that a U.S. branch outside of the foreign bank's home State would receive only such deposits at the place of operation of such [a] branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board. The Board has delegated its authority to enter into such an agreement to the Federal Reserve Banks.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Jr., Senior Counsel (202/452-3269), or James S. Keller, Senior Attorney (202/452-3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 5(a) of the International Banking Act of 1978 (12 U.S.C. § 3103) prohibits a foreign bank from establishing or operating a Federal or State branch outside of its home State unless the foreign bank has entered into an agreement or undertaking with the Board of Governors to receive only such deposits at that branch as would be permissible for an Edge Corporation under rules and regulations administered by the Board. The Board of Governors has delegated its authority to enter into such an agreement or undertaking with a foreign bank to the Federal Reserve Banks.

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. § 3101 *et seq.*), the Board amends its Rules Regarding Delegation of Authority by adding § 265.2(f)(49) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to the Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving applications or registration statements; as to its offices under subparagraph (23) of this paragraph; and as to its own facilities under subparagraph (26) of this paragraph:

* * * * *

(49) Under the provisions of section 5 of the International Banking Act of 1978 (12 U.S.C. § 3103), to enter into an agreement or undertaking with a foreign bank that such bank shall receive only such deposits at its out-of-home State branch as would be permissible for an Edge Corporation.

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-454 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to fulfill its responsibility under the International Banking Act of 1978 with regard to the examination of branches, agencies, banks and commercial lending company subsidiaries of foreign banks, the Board of Governors has delegated the authority for selecting and approving the appointment of examiners of such institutions to the Director of the Board's Division of Banking Supervision and Regulation.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Reddy, Analyst (202-452-2603), Division of Banking Supervision and Regulation; James S. Keller, Senior Attorney (202-452-3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. § 3105(b)(1)) authorizes the Board of Governors to "make examinations of each branch or agency of a foreign bank, and of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank. . . ." The Board of Governors must appoint examiners to carry out these examinations and has delegated the selection of such examiners and the approval of their appointments to the Director of the Board's Division of Banking Supervision and Regulation.

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. § 3101 *et seq.*), the Federal Reserve Act (12 U.S.C. § 226 *et seq.*, and 248(k)), and the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 *et seq.*), the board amends its Rules Regarding Delegation of Authority by revising § 265.2(c)(1) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the director's absence, the Acting Director) is authorized:

(1) Under the provisions of sections 9 and 25(a) of the Federal Reserve Act (12 U.S.C. §§ 325, 338 and 625), section 5(c) of the Bank Holding Company Act (12 U.S.C. § 1844(c)), and section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. § 3105(b)(1)), to select or to approve the appointment of Federal Reserve Examiners, assistant examiners and special examiners for the purpose of making examinations for or by the direction of the Board.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-455 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 203

[Regulation ER-1207; Amendment No. 2; Docket: 38783]

Removal of Certificate Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Interim final rule.

SUMMARY: The CAB is amending its restriction removal program. The rules for this program establish procedures for the gradual elimination of operating restrictions in air carrier certificates for domestic scheduled service. This amendment states that after January 1, 1981 unrestricted authority will be given only to certificated carriers that have been found fit, willing, and able to operate under the Federal Aviation Act. The rule is at the CAB's own initiative.

DATES: Adopted: December 31, 1980; Effective: December 31, 1980; Comments by: February 6, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: January 22, 1981.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38783, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board; 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5330.

SUPPLEMENTARY INFORMATION: By ER-1139, (44 FR 49188, August 21, 1979), the Board set up a four-phased program in 14 CFR Part 203 to eliminate intermediate stop restrictions in the certificates of air carriers for domestic scheduled service, except for intra-Alaska and intra-Hawaii markets. These restrictions were first lifted in small markets in August 1979, and were removed at regular intervals after that date in progressively larger markets, until all restrictions in all markets will have been eliminated on December 31, 1980. The Board proposed to clarify its rules for this program in EDR-409 (45 FR 66743, October 7, 1980) by stating explicitly that after December 31, 1980, when all remaining stop restrictions will be removed, carriers receiving new authority to a point will automatically have authority to all other points on their certificates.

Part 203 applies to all air carrier certificates issued under section 401 of the Federal Aviation Act. It makes no distinction concerning the type of certificate the carrier has been issued. Carriers issued authority under section 401(d)(1) must be found fit, willing, and able to operate by the Board. However, a finding of initial fitness is not required by this statute for carriers gaining certificates only under section 401(d)(5) (unused authority). Under the first three phases of the restriction removal program, carriers having authority only by means of claiming the dormant authority of another carrier under section 401(d)(5) have been treated the same as carriers certificated under section 401(d)(1). The operating restrictions on their certificates are being removed, thus giving them new, expanded authority without their having been found fit, willing, and able to operate. The same will occur on December 31, 1980, in Phase IV of the program.

In the absence of the restriction removal program, carriers wanting authority beyond that granted through dormant authority would have to file an application with the Board. The route aspect of the application would be handled through show cause procedures. The fitness issue would be handled in a separate proceeding. The added authority would not be granted unless the carrier were found fit. The restriction removal program is not intended to be a by-pass of the fitness requirement of the Act. The seven dormant authority carriers that have not been found fit and that already have received authority under the first three phases of the restriction removal program are undergoing fitness determinations on an expedited basis. Most of them have been found fit and reliable to perform essential air service at one or more specific communities. None of them is operating large jet aircraft.

A serious problem, however, could arise after December 31 of this year, when all restrictions on a carrier's certificate are removed, thus giving it unrestricted authority to all other points on the certificate. For example, new carriers (including new subsidiaries of existing carriers) that have not operated before could use dormant authority to establish significant route systems without being found fit. A carrier could gain a number of routes through dormant authority applications, particularly considering the abundance of new authority given existing carriers by the restriction removal program that will probably not be used. Once the dormant authority is perfected by the new carrier, the restriction removal program would apply, with the result that the carrier would have unrestricted authority between all points on its dormant authority certificate. A carrier therefore, could construct a substantial route system involving large jet aircraft operations without ever having been found fit. This was not the intent of Congress in creating the dormant authority provision in the Act, or the intent of the Board in creating the restriction removal program. Part 203 is therefore being amended to apply only to those carriers that have been found fit, willing, and able by the Board.

In order not to disrupt the ongoing program so close to the effective date of Phase IV, and in view of the urgent need to notify the public and the carriers of this change, the Board finds that there is good cause to make the rule effective immediately. The Board, however, would like to have comment on the amendment, and is therefore allowing 30 days for persons to submit their views on the rule. After the comments, if any, have been reviewed, the Board will either adopt an amendment to the rule or will issue a notice making it final.

The authority citation for Part 203 is being changed to conform with new **Federal Register** format.

Accordingly, the Board amends 14 CFR Part 203, *Removal of Certificate Restrictions*, as follows:

1. The authority for Part 203 is revised to read:

Authority: Secs. 102, 204, 401, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754; 49 U.S.C. 1302, 1324, 1371.

2. Paragraph (f) of § 203.3 is amended to read:

§ 203.3 Timetable of automatic removal of restrictions.

* * * * *

(f) After December 31, 1980, any route authority granted by the Board to a carrier that has been found fit, willing, and able to provide scheduled passenger air transportation will include nonstop authority to all existing points on the carrier's route system.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-509 Filed 1-6-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 373, 376, 378, 385 and 399

Extension of Foreign Policy Export Controls

AGENCY: International Trade Administration, Office of Export Administration, Commerce.

ACTION: Extension of effectiveness of final rules.

SUMMARY: As authorized in section 6 of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401, *et seq.*) (hereinafter "the Act") the Secretary of Commerce determined on December 31, 1980, that all export controls maintained for foreign policy purposes should continue beyond December 31, 1980. In addition, there has been one expansion which will be announced in a separate notice.

DATE: This rule is effective as of January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Daniel E. Cook, Assistant to the Director, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–4159.

SUPPLEMENTARY INFORMATION: In a proposed rule published in the Federal Register (45 FR 58562, September 4, 1980) the Department sought comments on how controls imposed or extended effective January 1, 1980 and those subsequently imposed had affected exporters and the general public. We received numerous comments, all of which were considered in preparing the final rule.

All current controls are extended beyond December 31, 1980. These include the foreign policy controls imposed or extended effective January 1, 1980 covering international terrorism, regional stability, South Africa and Namibia, human rights, embargoes of communist countries and oil and gas equipment for the Soviet Union. At the same time, the Department announced that nuclear nonproliferation controls continued in effect pursuant to section 17(c) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978. For details on these controls, see 45 FR 1595, January 8, 1980, or Export Administration Bulletin (EAB) No. 201 of January 25, 1980. Subsequently, foreign policy controls were imposed on agricultural products to the USSR (45 FR 1883, January 9, 1980 and 45 FR 8289, February 7, 1980, or EAB No. 201, January 25, 1980 and EAB No. 203, February 15, 1980); phosphates to the USSR (45 FR 8293, February 7, 1980, and 45 FR 24458, April 10, 1980 or EAB No. 203, February 15, 1980 and EAB No. 205, June 9, 1980); transactions related to the 1980 Summer Olympics (45 FR 21612, April 2, 1980, or EAB No. 204, April 16, 1980); and truck engine assembly lines for the Soviet Kama River Truck Complex (45 FR 30617, May 9, 1980, or EAB No. 205, June 9, 1980). Controls to combat international terrorism have been expanded (45 FR 33955, May 21, 1980, or EAB No. 205, June 9, 1980), and controls on shipments to the USSR of agricultural products, phosphates, and oil and gas equipment were expanded to encompass Afghanistan (45 FR 37415, June 3, 1980, or EAB No. 205, June 9, 1980).

Foreign policy controls on computers destined for South African and Namibian government consignees are being expanded to apply foreign policy controls to all computers. This expansion is being announced by a separate notice filed concurrently with this notice.

Although certain of the above controls would not normally expire on December 31, 1980, the Department is extending them effective January 1, 1981. A uniform renewal date for all foreign policy controls will increase consistency and assure maximum public interest and participation in the review process.

The public record concerning these comments is maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. The records may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records within the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the foreign policy controls are extended as indicated above.

(Secs. 6, and 13, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10–3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41–1, 45 FR 11862 (February 22, 1980)).

Issued in Washington, D.C. on December 31, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-40862 Filed 12-31-80; 8:47 pm]

BILLING CODE 3510-25-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249b

[Release No. 34–17410]

Regulation of Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Amendment of rule and form.

SUMMARY: The Commission is amending its transfer agent registration rule and form. The amendments eliminate the requirement that transfer agents registered with the Commission file annual amendments to Item 7 (which includes Schedule B) of their registration form, Form TA–1. The requirement to file annual amendments is being eliminated in anticipation of a comprehensive revision of Form TA–1, which is expected to be published for comment during 1981.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Pierron R. Leef, Jr., Branch Chief (202) 272–2913, Stuart J. Kaswell, Staff Attorney (202) 272–2904, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today adopted amendments to Rule 17Ac2–1 (17 CFR § 240.17Ac2–1) and related Form TA–1 with attached Schedules A and B (17 CFR § 249b.100) under the Securities Exchange Act of 1934 (the Act) to eliminate the requirement that transfer agents registered with the Commission file annual amendments to Item 7 (which includes Schedule B) of their registration form, Form TA–1.

Background

Rule 17Ac2–1 [1] requires a transfer agent for which the Commission is the appropriate regulatory agency to apply for registration with the Commission on, and in accordance with the instructions contained in, Form TA-1.[2] Among other things, Rule 17Ac2-1 requires that Item 7 (which includes Schedule B) [3] of Form TA-1 must be updated within thirty days following the close of any calendar year during which the information has become inaccurate, misleading or incomplete.[4]

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[1] The adoption of Rule 17Ac2–1 and Form TA–1 was announced in Securities Exchange Act Release No. 11759 (October 22, 1975), 40 FR 51181 (November 4, 1975). Subsequently the Commission adopted certain non-substantive amendments to Form TA–1. Securities Exchange Act Release No. 14301 (December 21, 1977), 42 FR 65572 (December 30, 1977).

In reviewing Form TA-1, the Commission determined that a number of the questions on the form may be outdated. In addition, the Commission believes that the cost to transfer agents of collecting the information required by Schedule B and the cost to the Commission in processing that information currently outweigh that information's regulatory benefits. As a result, the staffs of the Commission and the Federal bank regulators have been working on a revision of Form TA-1. Among other things, that revision is expected to replace the detailed information required by Schedule B with questions asking only for aggregate statistical information.

The Commission has determined that it would be inappropriate to require registrants to file updates to Schedule B at the same time that the Commission is considering replacing that schedule with questions calling only for aggregate information. As a result, the Commission has determined to amend paragraph (c) of Rule 17Ac2-1 and Instruction 15 to Form TA-1 to eliminate the requirement that registered transfer agents annually amend Item 7 (which includes Schedule B) of Form TA-1. Transfer agents registered with the Commission should note, however, that the requirement in Rule 17Ac2-1 that they must amend Items 1-6 of Form TA-1 within twenty-one calendar days following the date on which such information becomes inaccurate, misleading or incomplete remains in effect.

Coordination with the Federal Bank Regulators

The Commission has conferred with the Federal bank regulators who are adopting, or are considering adopting, similar revisions for transfer agents registered with those agencies.

Statutory Basis, Competitive Considerations and Effective Date

The Commission, acting pursuant to Sections 2, 17, 17A, and 23(a) of the Act, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a), hereby adopts amendments to paragraph (c) of Rule 17Ac2-1 (17 CFR § 240.17Ac2-1(c)) and Instruction 15 to Form TA-1 (17 CFR § 249b.100).

In doing so, the Commission finds that eliminating the requirement that transfer agents file annual amendments to Item 7 (which includes Schedule B) of Form TA-1 reduces the reporting burden on transfer agents registered with the Commission. Moreover, unless these amendments become effective immediately, they would become effective after the date by which transfer agents must file annual amendments to Form TA-1. Accordingly, the Commission finds that pursuant to Section 553(b)(B) of the Administrative Procedure Act [5 U.S.C. 553(b)(B)] notice and public procedure are impracticable, unnecessary, and contrary to the public interest in this situation and that in accordance with Section 553(d) of the Administrative Procedure Act [5 U.S.C. 553(d)] good cause exists for making these amendments effective immediately upon publication in the **Federal Register**.

It also appears to the Commission that no burden will be imposed on competition by the adoption of the proposed amendments.

Accordingly, the Commission hereby revises paragraph (c) of § 240.17Ac2-1 of Part 240 and Instruction 15 of § 249b.100 of Part 249 of Title 17 of the Code of Federal Regulations to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.17Ac2-1 Application for registration of transfer agents.

* * * * *

(c) Within twenty-one calendar days following the date on which any information reported at items 1-6 of Form TA-1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA-1 correcting the inaccurate, misleading or incomplete information.

* * * * *

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249b.100 Form TA-1, uniform form for registration as a transfer agent pursuant to section 17A of the Securities Exchange Act of 1934.

* * * * *

III—Instructions Relating to Filing Form TA-1 as an Amendment to a Registration Form

15. Within twenty-one calendar days following the date on which information reported at items 1-6 of Form TA-1 becomes inaccurate, incomplete or misleading, the registrant shall file an amendment on Form TA-1 correcting the inaccurate, incomplete or misleading information. The information reported at items 7-12 of Form TA-1 need not be amended after registration has become effective.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

December 30, 1980.

[FR Doc. 81-462 Filed 1-6-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM81-1; Order No. 120]

Incremental Pricing; Natural Gas Users in Rhode Island

Issued: December 30, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule adopts revised alternative fuel price ceilings applicable to incrementally priced natural gas users in Rhode Island for the months of May through September 1980. The ceilings are revised to correct an error in data submitted to the Energy Information Administration by oil suppliers in Rhode Island. These corrected prices were first published in an interim rule issued in this docket on October 3, 1980 (45 FR 68389, October 15, 1980). Section 282.404(a) of the Commission's regulations is amended to provide corrected alternative fuel price ceilings for Rhode Island for the months of May through September 1980 in place of the alternative fuel price ceilings previously published by the Energy Information Administration of the Department of Energy.

EFFECTIVE DATE: January 29, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Christin, 202-357-8033, or

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[2] The Federal bank regulators (*i.e.*, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System) have adopted a similar registration rule and an identical registration form for transfer agents required to register with those agencies.

[3] Registrants are rquired to list on Schedule B certain securities for which they perform transfer agent functions, the capacities in which they act for those securities as well as other information.

[4] Rule 17Ac2-1 also requires Items 1-6 of Form TA-1 to be amended twenty-one calendar days following the date on which the information contained in those items becomes inaccurate, misleading or incomplete. Items 1-6 of Form TA-1 request information regarding the registrant's identity and the nature of its transfer agent activities.

Leslie Lawner, 202-357-8299

SUPPLEMENTARY INFORMATION: In the matter of rule adopting revised alternative fuel price ceilings for the State of Rhode Island; Final rule.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is adopting, as a final rule, an interim rule that corrected the alternative fuel price ceilings applicable to incrementally priced natural gas users in the State of Rhode Island for the months of May through September 1980. The interim rule (issued October 3, 1980, 45 FR 68389, October 15, 1980) amended § 282.404(a) to provide that the alternative fuel price ceilings for Rhode Island for the months of May through September 1980 are the ceilings set forth in § 282.404(a)(2), rather that the ceilings previously published by the Energy Information Administration (EIA) of the Department of Energy.

II. Background and Discussion

Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432) requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as industrial boiler fuel. Section 204(e) of the NGPA directs the Commission to establish ceilings on prices charged to incrementally priced users, based on the cost of alternative fuel oils in each region designated by the Commission.

Under the Commission's incremental pricing regulations, ceiling prices for each month are based on the observed price of high-sulfur No. 6 fuel oil in each of the 48 contiguous states. These ceiling prices are published in the **Federal Register** on, or before, the twentieth day of the month preceding their effective date. The collection of data, the calculation of the price ceilings, and the publication of these ceilings are performed by the EIA, in accordance with its statutory responsibilities. (Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Department of Energy Delegation Order No. 0204-3, October 1, 1977.)

For the months of May through September 1980, the alternative fuel price ceilings were calculated erroneously, due to an error in the data submitted to the EIA by an oil supplier in the State of Rhode Island. Upon learning of the error, the Commission asked the EIA to recompute the alternative fuel price ceilings for all states for May through September 1980, using the corrected data. The recalculated figures indicated, that with respect to the 47 contiguous states other than Rhode Island, there was either no difference between the revised ceilings and the published ceilings, or the revised ceilings were only slightly higher than the published ceilings. However, the revised ceilings for Rhode Island were significantly lower than the published ceilings.

On the basis of this information, the Commission issued the interim rule on October 3, 1980, amending § 282.404 of the Commission's regulations to provide that the revised alternative fuel price ceilings for Rhode Island, for May through September 1980, supersede the ceilings that were previously published by the EIA. In view of the small or non-existent difference between the published and the revised ceilings for the other 47 contiguous states, the Commission did not revise the ceiling prices for those states, finding that any benefits would be outweighed by the administrative burden such revisions would impose upon pipelines, distribution companies, and end-users.

The interim rule did not provide for the refund of surcharges in Rhode Island, because no surcharges had been collected from the affected end-users. The Providence Gas Company, which serves all the non-exempt customers in the State, had notified its customers of these surcharges, but had not collected them prior to issuance of the interim rule. Therefore, Providence Gas had only to recalculate and submit revised bills to its customers.

In the interim rule, the Commission found good cause, in accordance with 5 U.S.C. 553(b) and (d), to waive the normal notice and comment procedures as well as the thirty day publication requirement. Accordingly, the rule was effective upon issuance. However, the Commission requested written comments and afforded the opportunity for a public hearing on the interim rule. No person submitted comments or requested that a hearing be held.

For the reasons discussed in the interim rule and summarized above, the Commission is adopting the interim rule as a final rule.

II. Effective Date

The final rule set forth below is effective on January 29, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

In consideration of the foregoing, the Commission amends Part 282, Subchapter I, Chapter I, Title 18 of the *Code of Federal Regulations* as set forth below, effective January 29, 1981.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 282.404 paragraph (a) is amended to read as follows:

§ 282.404 Alternative fuel price ceilings.

(a) *General rule.* On or before the twentieth day of each month, in accordance with the provisions of § 282.402 and paragraph (b) of this section, alternative fuel price ceilings shall be published for each incremental pricing region as set forth in paragraph (c) of this section. Such ceilings shall be effective for purposes of this part for the month following the month of publication, *provided that:*

(1) for the month of April 1980, the following ceilings shall be effective and shall supersede those ceilings published on March 20, 1980: * * *

(2) for the months of May through September 1980, the following ceilings shall be effective for the State of Rhode Island and shall supersede those ceilings previously published:

Month	Dollars per million Btu's
May	3.08
June	2.65
July	2.72
August	2.84
September	3.09

* * * * *

[FR Doc. 81-544 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

Anhydrous Sodium Metasilicate From France; Antidumping Duty Order

AGENCY: U.S Commerce Department, International Trade Administration.

ACTION: Antidumping duty order.

SUMMARY: In separate investigations the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that anhydrous sodium metasilicate from France is being sold at less than fair value and that these sales threaten to materially injure a U.S. industry. Therefore, all entries or warehouse withdrawals for consumption of this merchandise that are made on and after January 2, 1981, the date on which the International Trade Commission published its final determination of threat of injury in the

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Federal Register, will be liable for the possible assessment of special dumping duties. Cash deposits of estimated antidumping duties shall be required of all entries and withdrawals from warehouse for consumption made on and after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Telepnone: (202-377-1756).

SUPPLEMENTARY INFORMATION: In accordance with section 733 of the Tariff Act of 1930, as amended (The Act) (19 U.S.C. 1673b), on September 5, 1980, the Department preliminarily determined that anhydrous sodium metasilicate from France is being sold at less than fair value (45 Fed. Reg. 58929). On November 24, 1980, the Department reached the same decision in a final determination (45 Fed. Reg. 77498-9).

Similarly, in accordance with section 735(b) of The Act (19 U.S.C. 1673d(b)), the U.S. International Trade Commission determined, and notified the Department, that such importations are threatening a U.S. industry with material injury.

Therefore, in accordance with section 736 of The Act (19 U.S.C. 1673e), U.S. Customs officers are directed to assess antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price of the merchandise. These antidumping duties will be assessed on all of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 2, 1981, the date on which the ITC published its final determination of threat of material injury in the **Federal Register**.

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers deposit their estimated normal Customs duties on the merchandise, an additional deposit of estimated antidumping duties equal to 60 percent *ad valorem* of the F.O.B. value of the merchandise.

These estimated antidumping duties will remain on deposit pending final liquidation of the entries. Liquidation of these entries will remain suspended pending further instructions from the Department.

In accordance with section 736(b)(2) of The Act (19 U.S.C. 1673e(b)(2)), the Customs Services is directed to release any bond or other security and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before January 2, 1981. The suspension of liquidation of that merchandise entered, or withdrawn from warehouse, for consumption before January 2, 1981 is rescinded.

I hereby make public these determinations, which constitute an antidumping duty order with respect to anhydrous sodium metasilicate from France.

For the purpose of this notice, the term "anhydrous sodium metasilicate" is a crystalline silicate ($NA_2 SiO_3$) currently classifiable in item 421.3400, Tariff Schedules of the United States, Annotated.

Annex 1 [Amended]

Accordingly, Annex 1, Part 353 of the Commerce Regulations (19 CFR Part 353, 45 FR 8208) is being amended by adding the following to the list of antidumping duty orders currently in effect:

Merchandise	Country	Treasury decision
Anhydrous sodium metasilicate.	France	(45 FR).

This notice is published in accordance with section 736 of The Act (19 U.S.C. 1673e) and Section 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

December 31, 1980.

[FR Doc. 81-448 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 52

Tribes Organized Under Section 16 of the Indian Reorganization Act and Other Organized Tribes; Procedures for Reorganizing, Amending, or Revoking Constitutions and for Ratifying Charters of Incorporation

December 29, 1980.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau revises Part 52 to Subchapter G, Chapter 1 of Title 25 of the Code of Federal Regulations. The purpose of the revision is to establish regulations to: (a) extend to tribes in Oklahoma and to Alaska Native entities published procedures for reorganizing under Federal Statute previously available only to reservation based tribes under the Indian Reorganization Act; (b) revoke a constitution adopted under Federal Statute; and (c) correct demonstrated weaknesses and clarify what has proven confusing language in existing regulations. A single set of regulations in this area will facilitate the conducting of Secretarial elections by Bureau employees who previously had to be familiar not only with the regulations in this part, but with differing, unpublished regulations that have governed Secretarial elections in Oklahoma and Alaska.

EFFECTIVE DATE: February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Farring, Division of Tribal Government Services, Branch of Tribal Relations, Bureau of Indian Affairs, 18th and C Streets, NW., Washington, D.C. 20245, (202) 343-2511.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

A proposed revision of 25 CFR Part 52 was published in the **Federal Register** on pages 40345 through 40349 on July 10, 1979, and comments were invited. Many were received from a representative number of Indian tribes and groups tribal attorneys, and other interested parties throughout the United States. Commentators universally agreed that the regulations be expanded to include Alaska and Oklahoma. Many constructive suggestions to clarify the intent of the regulations have been incorporated in the final rule.

The revision establishes regulations which: (a) extend to tribes in Oklahoma and to Alaska Native entities procedures for their reorganization. These procedures were previously available only to reservation-based tribes under the Indian Reorganization Act.

(b) provide procedures to revoke a constitution adopted under Federal Statute.

(c) provide for clearly worded language (demonstrated weaknesses were corrected and confusing language was clarified).

(d) provide for ratification of corporate charters issued to an Indian tribe.

A single set of regulations in this area will facilitate the conducting of

Secretarial elections by Bureau employees who previously had to be familiar not only with the regulations in this part but with differing, unpublished regulations that have governed Secretarial elections in Oklahoma and Alaska.

These regulations, in part, provide procedures for the reorganization of tribes and the amendment of the constitutions of recognized tribes in accordance with three Federal Statutes. Each statute relates to a different geographical area: Oklahoma, Alaska, and the remainder of the United States. Where, due to the general nature of the regulations, a discrepancy might appear to exist between the regulations and a specific requirement of the statute governing the reorganization of a tribe, the regulations shall be interpreted to conform with the statute.

The regulations are applicable to tribes that have not voted to reject the Indian Reorganization Act. As a result, some of those commenting expressed the concern that certain tribes, particularly those in Alaska and Oklahoma, would be ineligible for reorganization under these regulations. However, the tribes in Oklahoma and Alaska were not provided an opportunity to reject the Indian Reorganization Act, and the statutory period for voting to reject the Indian Reorganization Act has long since expired. Accordingly, no impediment exists to the Secretary applying these regulations to those tribes which, prior to the end of the statutory period, did not reject the Indian Reorganization Act and who may wish to reorganize pursuant to a Federal Statute.

The Alaska Native Claims Settlement Act of 1971 has no direct impact upon the statutory provisions governing the reorganization of the Indian tribes in Alaska. Its definitions of a Native village and membership requirements for purposes of its provisions should neither be read to supersede those in the statutes that provide specifically for reorganization nor as modifying any of the provisions in the latter statutes upon which the reorganization of Alaska villages must be based.

The classification of an "Unorganized Tribe" has been dropped from the final rule. We agree with the widely held view that continued use of the classification could be misunderstood and act to the detriment of certain tribes. The final rule speaks only in terms of "reorganization" for those entities that now may be organized outside of a Federal Statute.

It was not the intent of the proposed regulations to grant a unilateral power to the Secretary to authorize elections in a manner other than as provided in a tribe's constitution or charter. The final rule has been modified to clarify this point. The Secretary can call an election other than as provided for in a tribal constitution only in those rare instances where the passage of time has made the amendment provisions of the constitution or charter of a reorganized tribe inoperative and the tribal government has initiated the request.

Lack of familiarity with the requirement to register in order to vote in Secretarial elections elicited some Alaskan comment that it should be dropped as unduly burdensome. Similar concern was expressed by parties in the contiguous forty-eight states when the need for registration was initially introduced into the regulations in 1967. The practice has proven its value and is now widely accepted. We believe that the Alaska Natives and Bureau of Indian Affairs staff will with time also realize the advantages of registration.

Since voter registration was first included in Part 52 during the 1960's, the regulations in Part 53 have provided that the registration list would remain effective for a three-year period. This was intended for use in any further Secretarial elections scheduled for that period. The list was also for the purpose of determining whether the required percentage of voters had signed a petition under Part 53 requesting the Secretary to take certain actions. Because information concerning eligible voters is now generally available from computerized sources, and since there has been confusion surrounding the use of such a list following its initial purpose, the three-year period has been eliminated from the final rule. Henceforth, the voter registration list will be effective only for the Secretarial election for which it was assembled, and the sufficiency of a petition will be based on the number of persons who are eligible to register for voting in a Secretarial election.

A major consideration of the proposed regulations was that of the opportunity for individual tribal members to petition the Secretary regarding reorganization. Existing regulations allow for petitioning. Upon receipt of a petition signed by at least one-third of the adult members of a tribe the Secretary will authorize an election. Aware that virtually all of the Indian entities recognized today by the Secretary that might wish to reorganize have a tribal government, it was proposed to abandon the petitioning process and provide that the Secretary honor only requests for reorganization from tribal governments.

Comments on this proposal were extensive. Support for the new concept was mixed. In an effort to insure that the petitioning process not become a means to harass established tribal governments—a concern advanced to terminate the practice—at least 60 percent rather than one-third of the adult members must sign any petition requesting reorganization of a tribe if the petition is to be considered valid. It is likely that should 60 percent of a tribe's adult members support reorganization, the existing tribal leadership would be hard pressed to oppose it. If a tribal government is aware that such a strong current runs through the tribe, it will likely initiate reorganization before the adult members will consider implementing the petitioning process. If not, the Secretary would be on firm ground to act upon a request from at least 60 percent of the tribe's adult members. The right of individuals to control collectively their destiny can not be ignored in the light of congressional intent to enable tribal reorganization. We strongly believe the fairest and most practical approach is that taken in the regulations. Accordingly, a limited right to petition has been continued.

To remove the concern of those Indians seeking Federal acknowledgment as an Indian tribe, any entity that might in the future become recognized as eligible for Federal benefits would at that time also become eligible to be listed in the **Federal Register** pursuant to 25 CFR 54.6 (b). Such a tribe could initiate without delay its reorganization pursuant to Federal Statute; provided, that if it is located outside of either Alaska or Oklahoma, a reservation has been established for it.

An additional 30 days is allowed Alaska villages to give notice of Secretarial elections because of the communication and transportation delays common in the remote regions of Alaska.

Requests were made that the Secretary be limited in the time taken to review proposed constitutional actions and to authorize elections. This request was carefully considered. The Secretary, however, because of staffing problems and shifting priorities, can not agree to rigid deadlines in these matters. However, the Secretary will attempt to expedite constitutional review and responses to election requests.

Finally, due to the likelihood that a more meaningful ballot would be cast, the rule now allows interpreters to accompany voters into the voting booth when the voter so requests.

The definitions are an integral part of the regulations and should be carefully read as such.

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The principal author of this document is Leslie N. Gay, Jr., of the Division of Tribal Government Services, Bureau of Indian Affairs.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Part 52 of Subchapter G of Chapter 1 of Title 25 of the Code of Federal Regulations is revised to read as follows:

PART 52—TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Sec.

52.1 Definitions.
52.2 Purpose and scope.
52.3 Group eligibility.
52.4 Assistance from the Department of the Interior.
52.5 Request to call election.
52.6 Entitlement to vote.
52.7 Adoption, ratification or revocation by majority vote.
52.8 Election Board.
52.9 Voting Districts.
52.10 District Election Boards.
52.11 Registration.
52.12 Voting list.
52.13 Eligibility disputes.
52.14 Election notices.
52.15 Opening and closing of polls.
52.16 Interpreters.
52.17 Electioneering.
52.18 Manner of voting.
52.19 Absentee Voting.
52.20 Ballots.
52.21 Counting of ballots.
52.22 Contesting of election results.
52.23 Posting and certifying election results.
52.24 Approval, disapproval or rejection action.

Authority: 25 U.S.C. 473a, 476, 477, and 503.

§ 52.1 Definitions.

As used in this part: (a) "Adult Indian" means any Indian as defined in paragraph (i) of this section who has attained the age of 18 years.

(b) "Amendment" means any modification, change, or total revision of a constitution or charter.

(c) "Authorizing Officer" means the Bureau of Indian Affairs official having authority to authorize the calling of a Secretarial election.

(d) "Cast ballot" means an official ballot that is cast in the proper manner at the proper time by a duly registered voter. A ballot is cast by duly placing it in the ballot box or, in the case of absentee voting, when the ballot is duly received through the mail by the election board.

(e) "Charter" means the charter of incorporation the Secretary may issue to a reorganized tribe pursuant to Federal Statute.

(f) "Commissioner" means the Commissioner of Indian Affairs or his/her authorized representative.

(g) "Constitution" or "Constitution and Bylaws" means the written organizational framework of any tribe reorganized pursuant to a Federal Statute for the exercise of governmental powers.

(h) "Federal Statute" means one of the following: (1) the Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act); (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act); or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(i) "Indian" means: (1) all persons who are members of those tribes listed or eligible to be listed in the **Federal Register** pursuant to 25 CFR 54.6(b) as recognized by and receiving services from the Bureau of Indian Affairs; provided, that the tribes have not voted to exclude themselves from the Act of June 18, 1934, 43 Stat. 984, as amended; and (2) any person not a member of one of the listed or eligible to be listed tribes who possesses at least one-half degree of Indian blood.

(j) "Invalid ballot" means an official cast ballot discovered at the time the votes are counted which does not comply with the requirements for voting or is not an official ballot. An invalid ballot is not to be counted for determining the number of cast ballots.

(k) "Member" means any Indian who is duly enrolled in a tribe who meets a tribe's written criteria for membership or who is recognized as belonging to a tribe by the local Indians comprising the tribe.

(l) "Mutilated ballot" means an official ballot that has been damaged to the extent that it is not possible to determine the choice the voter intended to make. There are two kinds of mutilated official ballots: (1) A ballot that is mutilated and not cast. In this case, the mutilated ballot may be exchanged for a new one. If the need arises to exchange a mutilated absentee ballot, no additional time will be provided for the new ballot to be received by the election board.

(2) A ballot that is mutilated and cast. A mutilated cast ballot is to be counted in the same manner as a spoiled cast ballot.

(m) "Officer in Charge" means the Superintendent, Administrative Officer, or other official of the local unit of the Bureau of Indian Affairs (or a Bureau employee that such person might designate) having administrative jurisdiction over a tribe.

(n) "Official ballot" means a ballot prepared by the Bureau of Indian Affairs for use in an election pursuant to this part. It is possible that an official ballot may be found to be either spoiled or mutilated at the time the votes are counted.

(o) "Registration" means the act whereby persons, who are eligible to vote, become entitled or qualified to cast ballots by having their names placed on the list of persons who will be permitted to vote.

(p) "Reorganized tribe" means a tribe whose members have adopted a constitution pursuant to a Federal Statute.

(q) "Reservation" means any area established by treaty, Congressional Act, Executive Order, or otherwise for the use or occupancy of Indians.

(r) "Revocation" means that act whereby the adult members of a tribe vote to abandon their constitutional form of government as opposed to their voting to amend or totally revise it.

(s) "Secretarial election" means an election held within a tribe pursuant to regulations prescribed by the Secretary as authorized by Federal Statute (as distinguished from *tribal* elections which are conducted under tribal authority. (See *Cheyenne River Sioux Tribe* v. *Andrus*, 566 F. 2d 1085 (8th Cir., 1977), *cert. denied* 439 U.S. 820 (1978)).

(t) "Secretary" means the Secretary of the Interior or his/her authorized representative.

(u) "Spoiled ballot" means an official ballot that has been marked in such a way that it is not possible to determine the intent of the voter, a ballot that has not been marked at all, or one that has been marked so as to violate the secrecy of the ballot. There are two kinds of spoiled official ballots: (1) A ballot that is spoiled and not cast. In this case, the spoiled ballot may be exchanged for a new one. If the need arises to exchange a spoiled absentee ballot, no additional time will be provided for the new ballot to be received by the election board.

(2) A ballot that is spoiled and cast. A spoiled cast ballot is to be counted in tabulating the total votes cast in conjunction with determining whether the required percentage of the qualified voters has participated in the election.

(v) "Tribal government" means that entity established pursuant to a tribal constitution as empowered to speak for the tribe or in the absence thereof any group or individual that is recognized by the tribal members as empowered to speak for the tribe.

(w) "Tribe" means: (1) any Indian entity that has not voted to exclude itself from the Indian Reorganization Act and is included, or is eligible to be included, among those tribes, bands, pueblos, groups, communities, or Alaska

Native entities listed in the **Federal Register** pursuant to § 54.6(b) of this chapter as recognized and receiving services from the Bureau of Indian Affairs; and (2) any group of Indians whose members each have at least one-half degree of Indian blood for whom a reservation is established and who each reside on that reservation. Such tribes may consist of any consolidation of one or more tribes or parts of tribes.

(x) "Voting district" means a geographical area established to facilitate a tribal election process.

§ 52.2 Purpose and scope.

(a) The purpose of this part is to provide uniformity and order in: (1) Holding Secretarial elections for voting on proposed constitutions when tribes wish to reorganize,

(2) Adopting constitutional amendments,

(3) Ratifying and amending charters,

(4) Revoking constitutions, and

(5) Facilitating the calling of such elections by the Secretary under provisions of a Federal Statute.

(b) This part may also be used as a guideline by tribes wishing to hold constitutional elections that are not held pursuant to a Federal Statute.

(c) Where a discrepancy might appear to exist between these regulations and a specific requirement of the statute governing the reorganization of a tribe or ratification and amendment of charters, the regulations shall be interpreted to conform with the statute.

(d) As much as possible, Secretarial elections shall be scheduled so as to avoid their being held at the same time as *tribal* elections in order to avoid the confusion that results from different requirements for each kind of election.

§ 52.3 Group eligibility.

(a) No tribe which has voted to exclude itself from the provisions of the Indian Reorganization Act, or is otherwise precluded by law, may be reorganized under a Federal Statute. Tribes wishing to reorganize or a reorganized tribe seeking to amend its constitution and bylaws or wishing to vote to revoke such document shall do so under the regulations in this part.

(b) Charters issued to reorganized tribes shall be ratified or amended under the regulations in this part.

52.4 Assistance from the Department of the Interior.

Representatives of the Department of the Interior will cooperate with and offer advice and assistance (including the proposing of amendments), to any tribe in drafting a constitution and bylaws, an amendment, a charter or charter amendment, or in revocation of constitutions. Any payments that might be necessary to non-Bureau staff assisting in the conduct of the election shall be made from tribal funds.

§ 52.5 Request to call election.

(a) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws or to revoke a constitution and bylaws, upon a request from the tribal government.

(b) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws pursuant to a Federal Statute upon receipt of a petition bearing the signatures of at least 60 percent of the tribe's adult members.

(c) The Secretary shall authorize the calling of an election to ratify a charter at the time the charter is issued, but he/she may issue a charter to a reservation-based tribe only upon petition by at least one-third of the adult members of the tribe. No ratification, however, shall be valid unless the tribe has a constitution adopted and approved pursuant to the relevant Federal Statute.

(d) The Secretary shall authorize the calling of an election on the adoption of amendments to a constitution and bylaws or a charter when requested pursuant to the amendment article of those documents. The election shall be conducted as prescribed in this part unless the amendment article of the constitution and bylaws or the charter provides otherwise, in which case the provisions of those documents shall rule where applicable.

(e) If the amendment provisions of a tribal constitution or charter have become outdated and amendment can not be effected pursuant to them, the Secretary may authorize an election under this part to amend the documents when the recognized tribal government so requests.

(f) Any authorization not acted upon within 90 days (tribes in Alaska shall be granted 120 days) from the date of issuance will be considered void. Notification of the election date as provided for in § 52.14 shall constitute the action envisioned in this section. Extension of an authorization may be granted upon a valid and reasonable request from the election board. Copies of authorizations shall be furnished the requesting tribe or petitioners.

(g) In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals. Other proposals shall be considered in order of their receipt; provided, they are resubmitted following final action on the initial submission. This procedure shall also apply in those instances where new or revised constitutions are at issue.

§ 52.6 Entitlement to vote.

(a) If the group is a tribe, or tribes, of a reservation and is acting to effect reorganization under a Federal Statute for the first time: (1) Any duly registered adult member regardless of residence shall be entitled to vote on the adoption of a constitution and bylaws.

(2) Duly registered adult nonresident members and ill or physically disabled registered adult resident members may vote by absentee ballot (see § 52.19).

(b) If the group is composed of the adult Indian residents of a reservation: (1) Any adult duly registered member physically residing on the reservation shall be entitled to vote.

(2) Absentee voting shall be permitted only for duly registered residents temporarily absent from the reservation, ill, or physically disabled.

(c) If the group is a tribe, or tribes, without a reservation as defined in this part, any duly registered member shall be entitled to vote on the adoption of a constitution and bylaws by either arriving at a polling place or by requesting, properly completing, and timely casting an absentee ballot as determined by the election board pursuant to the relevant Federal Statute; provided, that outside of Alaska and Oklahoma, a reservation shall be established for the tribe before it becomes entitled to vote on the adoption of a constitution.

(d) For a reorganized tribe to amend its constitution and bylaws, only members who have duly registered shall be entitled to vote; provided, that registration is open to the same class of voters that was entitled to vote in the Secretarial election that effected its reorganization, unless the amendment article of the existing constitution provides otherwise.

(e) For a reorganized tribe to revoke its constitution and bylaws, only members who have duly registered shall be entitled to vote; provided, that registration is open to the same class of voters as was entitled to vote in the Secretarial election that effected its reorganization, unless the amendment article of the existing constitution provides otherwise.

(f) For a reorganized tribe to ratify a charter or to adopt a charter amendment, any adult member who has duly registered shall be entitled to vote, provided that if the tribe is of a reservation, only duly registered

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members physically residing on the reservation shall be entitled to vote.

§ 52.7 Adoption, ratification, or revocation by majority vote.

Except as it may be further limited by this part, a constitution and bylaws, amendments thereto, or charter and charter amendments shall be considered adopted, ratified, or revoked if a majority of those actually voting are in favor of adoption, ratification, or revocation. The total vote cast, however, must be at least 30 percent of those entitled to vote, unless, with regard to amendments, the constitution provides otherwise. The names of persons appearing on the registration list who have not reached eighteen years of age by the date of the election, shall be removed from the list of registered voters when determining whether the required percentage of participation has been achieved. Unless the existing constitution or charter provides otherwise, none of the actions cited in this section shall become effective until they are approved by the Secretary. The validity of any charter ratification shall be dependent upon the tribe first having reorganized. Duly ratified charters shall be revoked or surrendered only by Act of Congress.

§ 52.8 Election Board.

(a) There shall be an election board consisting of the officer in charge acting as chairman and at least two representatives of the tribal governing body or an authorized representative committee. Where such persons may be unwilling or unable to serve, the chairman shall select at least two adult members of the tribe to serve. In addition, the officer in charge may appoint an interpreter and as many clerks and poll watchers as he/she deems necessary, but they shall not be members of the board.

(b) It shall be the duty of the board to conduct elections in compliance with the procedures described in this part and in particular: (1) to see that the name of each person offering to vote is on the official list of registered voters; (2) to keep the ballot boxes locked at all times except when ballots are being counted; (3) to see that ballots are cast only by registered voters and that the voting list is checked to indicate this; (4) to begin to count the regularly cast ballots immediately after the close of the polls and then the absentee ballots, pursuant to § 52.21; (5) to post and certify the election returns; (6) to return the following to the officer in charge: (i) the ballots (in marked and locked boxes); (ii) all unused ballots; and (iii) the completed Certificate of Results of Election. The officer in charge shall retain the ballots and other material among official records for at least one year. At the end of one year, the officer in charge shall forward the contents of the boxes and other related material to the appropriate Federal Records Center.

§ 52.9 Voting districts.

If: (a) voting districts have not already been designated for tribal elections in the tribal constitution or by tribal election ordinance or resolution; and (b) in the election board's judgment voting districts are needed, the board shall establish them and designate a polling place for each district. Where a reservation exists, no voting district may be established beyond its boundaries.

§ 52.10 District Election Boards.

(a) Where voting districts have been established by the tribal constitution, ordinance, resolution, or by the election board, the election board shall appoint district election boards for each district, which shall have the duties prescribed above for the election board except that they shall return to the election board: (1) the ballots (in marked and locked boxes), (2) all unused ballots, and (3) their certifications of the district election results on the certification forms prescribed by the election board.

(b) The board will compile the election results for the entire reservation and transmit them together with the aforementioned ballots and ballot boxes to the officer in charge.

§ 52.11 Registration.

(a) Only registered voters will be entitled to vote, and all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters. The election board, upon receipt of authorization to conduct an election, shall notify by regular mail all adult members of the tribe, who to its knowledge are eligible to vote pursuant to § 52.6, of the need to register if they intend to vote. Any tribal member who, to the election board's knowledge, will become 18 years of age within 150 days (180 days for Alaska tribes) from the date of authorization and who is otherwise eligible to vote shall also be notified and shall be eligible to register; provided that such a person shall not be entitled to vote if election day falls before the individual's 18th birthday. This notice shall be sent to an individual's last known address as it appears on the records of the local unit of the Bureau of Indian Affairs having jurisdiction. Each notice addressed to a tribal member not residing on the reservation shall be accompanied by a preaddressed registration form which provides space for at least: (1) the name and address of the person desiring to register; and (2) a statement attesting that the individual is a tribal member and is 18 years of age or over, or will be within 150 days (180 days for Alaska tribes) from the date of authorization. Members who qualify as absentee voters and wish to cast an absentee ballot must complete and return the registration form before or in conjunction with requesting an absentee ballot in sufficient time to permit compliance with § 52.12.

(b) The following records shall be kept for all notices: (1) names and addresses of persons to whom notices are mailed; (2) date of mailing; and (3) a copy of each return registration request (including from whom received and date and time of receipt). Tribal members living on the reservation who desire to vote must register with the election board in the manner it determines in time to permit compliance with § 52.12. Registration procedures for such Indians shall be included in the notice of the need to register to resident members.

§ 52.12 Voting list.

The election board shall compile in alphabetical order an official list of registered voters arranged by voting districts, if any. This list shall designate, where applicable, those who have requested an absentee ballot and the members of the tribe who are or will have attained the age of 18 years within 150 days (180 days for Alaska tribes) from the date an election is authorized and who have duly registered to vote. A copy of this list shall be supplied to any district election board and shall be posted at the headquarters of the local administrative unit of the Bureau of Indian Affairs, the tribal headquarters, and at various other public places designated by the election board at least 20 days prior to the election.

§ 52.13 Eligibility disputes.

The election board shall determine the eligibility of any written claim to vote presented to it by one whose name does not appear on the official list of registered voters as well as any written challenge of the right to vote of anyone whose name is on the list. Its decision shall be final. It shall rule on all claims no later than ten days before the election. Any claim not presented at least ten days before the election shall be disallowed. Nonresident claimants successfully appealing omission from the list shall immediately be furnished an absentee ballot. Omission of names from the voters list due to late registration, if notification (pursuant to

§ 52.14) has been timely mailed, shall not be considered grounds for challenge.

§ 52.14 Election notices.

Not less than 30 nor more than 60 days notice shall be given of the date of the election. Such notice shall include the location of where the results will be posted. The notice shall also advise that persons must register if they intend to vote. The election board shall determine whether the notice will be given by television, radio, newspaper, poster, or mail, or by more than one of these methods and whether in an Indian language in addition to English. A copy of any written election notice may be mailed to each registered voter and shall be posted at the local administrative unit of the Bureau of Indian Affairs and elsewhere as directed by the election board. At any time after receiving Secretarial authorization to hold the election, the board shall make available to the adult members of the tribe the text of any amendment or proposed constitution and bylaws, amendment thereto, charter, or charter amendment. The election board may determine the manner and timing of the distribution. However, the text shall be posted at least within the local administrative unit of the Bureau and the tribal headquarters within two days following the giving of notice of the election date by the election board.

§ 52.15 Opening and closing of polls.

If polling places are established, the polls shall remain open from 8 a.m. to 7 p.m., local time, unless different hours are set by the election board and the voters are informed of this in the election notice.

§ 52.16 Interpreters.

Interpreters, where needed, may be provided to explain the manner of voting to any voter who asks for instructions; provided, that all reasonable precautions are taken to ensure that the interpreter does not influence the voter in casting the ballot. The interpreter may accompany the voter into the booth upon the latter's request.

§ 52.17 Electioneering.

There shall be no electioneering during voting hours within 50 feet of any voting place. Sample ballots will be permitted in the voting booth.

§ 52.18 Manner of voting.

(a) Registered voters may vote by arriving at the appropriate polling place within the prescribed voting hours telling officials their names and addresses, signing their signature or mark on the voting list, and by marking and placing in the ballot box the ballots which will be handed to them. Voting shall be by secret ballot.

(b) Voting may take place at the same time regarding the adoption of a constitution, the ratification of a charter, or the amendment of such documents; provided, that entitlement to vote for the proposal is consistent with § 52.6 of this part and, provided further, that no charter shall be considered ratified if the proposed constitution is not adopted and approved.

(c) The election board may choose not to use polling places and provide for the issuance and receipt of ballots entirely through the the United States Postal Service. In that event, the election board shall use the appropriate procedures set forth in this part relating to absentee balloting.

§ 52.19 Absentee voting.

(a) Nonresident members who have registered may vote by absentee ballot except as prohibited by § 52.6. Also, whenever, due to temporary absence from the reservation, illness, or physical disability, a registered and otherwise eligible voter is not able to vote at the polls and notifies the election board, the voter shall be entitled to vote by absentee ballot. Upon his or her request, the election board shall give or mail absentee ballots to registered voters who may be entitled to receive them pursuant to § 52.6. At the same time, such voters will also be provided a copy of the proposal to be voted upon when the full text does not appear on the ballot. Appropriate records shall be kept of those from whom requests are received and the date they were received. The election board shall allow an absentee voter no less than ten days from the mailing out of an absentee ballot to receive and return the ballot. This period shall not be afforded absentee voters desiring to exchange a mutilated or spoiled ballot less than ten days before the election date. While requests for absentee ballots received less than ten days before an election will be promptly honored, no absentee ballot will be counted if received later than either the close of the polls or after some other deadline established by the election board. The election board shall furnish election officials the names of individuals who have been given or had mailed to them an absentee ballot.

(b) Accompanying the absentee ballot shall be: (1) an inner envelope bearing on the outside, the words "Absentee Ballot," (2) instructions for completion of the absentee ballot, (3) a copy of the proposed amendment, and (4) a preaddressed outer envelope, imprinted on the back with a certificate as follows:

I, (name of voter), hereby certify that I am a qualified voter of the (name) Tribe of Indians; that I will be 18 years of age or over at the election date and am entitled to vote in the election to be held on (date of election); and that I cannot appear at the polling place on the reservation on the date of the election because (indicate one of the following reasons): I am a non resident voter ☐; or I expect to be temporarily absent from the reservation ☐; or because of illness ☐; or physical disability ☐; or because no polling place has been established ☐. I further certify that I marked the enclosed ballot in secret.

Signed: (voter's signature).

(c) The absentee voter shall mark the ballot and the ballot shall then be folded so as to conceal the marking and be placed in the envelope marked "Absentee Ballot" and the envelope sealed. The voter shall then place the sealed envelope marked "Absentee Ballot" in the outer envelope, seal it and complete the certificate and mail it. The preaddressed outer envelope shall be directed to the election board at the reservation. Absentee ballots must be received by the election board not later than the close of the polls or as otherwise directed by the election board.

(d) The election board shall make and keep a record of ballots mailed, to whom mailed, the date of mailing, the address on the envelope, the date of the return of the ballot, and from whom received. After duly recording the receipt date of absentee ballots received on time, representatives of the election board shall open the outer envelopes, secure them and place the unmarked inner envelopes containing the ballots in a separate box reserved for that purpose. After all other ballots have been counted, the absentee ballots shall be counted immediately and included in the results of the election.

§ 52.20 Ballots.

(a) Ballots are to be prepared clearly and simply so that it is easy for the voters to indicate a choice between no more than two alternatives. For example, if a tribal council or the petitioners propose to reduce the one-half degree blood quantum required to qualify for membership but want the voters to decide whether it should be one-fourth or one-eight, it would not be appropriate to put those two alternatives on the ballot. Doing so, would deny the voters an opportunity to vote for keeping the one-half degree blood quantum. Neither would it be appropriate to include all three blood quantum alternatives. Rather, those proposing the change should decide which blood quantum is to be submitted to the voters. The ballot in the Secretarial election would then give the electors the choice of marking either "yes" or "no." A vote against the proposed change would be in favor of keeping the one-half degree blood quantum in the example.

(b) In preparing ballots for proposed amendments, care should be taken to ensure that: (1) Each proposed amendment addresses only a single question.

(2) If a proposed amendment conflicts with other provisions of the document being amended, the ballot shall be prepared so that the question includes all changes in those other directly related provisions in order to avoid contradictions within the document.

(3) When more than one amendment is being submitted to the voters at a given election, the proposals shall be identified with alphabetical designations rather than numerical. The first of the several proposals would be labeled "Proposed Amendment A," the next would be "Proposed Amendment B," etc. Those amendments that are adopted and approved would then be assigned consecutive numbers to follow those assigned any earlier amendments that may have been make to that governing document. A statement similar to the following shall appear on each of the proposed amendments and shall be completed following the election:

Having been duly adopted and approved, Proposed Amendment (A,B,C, etc.) is hereby designated as Amendment No. — to the (Constitution, Charter, etc.) of the (name of tribe) Tribe.

(c) The election board will supply all ballots. Each ballot shall be stamped in red ink on its face in the same place:

OFFICIAL BALLOT

(Facsimile Signature)

CHAIRMAN, ELECTION BOARD

(d) Should any voter spoil or mutilate a ballot in the course of voting at a poll, the voter shall destroy it in the presence of the election officials and the election officials shall then make note of the destroyed ballot and furnish the voter with another ballot.

(e) Any spoiled or mutilated absentee ballot may be exchanged for a new one by returning it to the election board with a request for another. The board shall honor the request promptly and note the dates of related actions. No extension of time will be granted for receipt of exchanged ballots that might not be cast on time.

§ 52.21 Counting of ballots.

All duly cast ballots are to be counted. Even though it will not be possible to determine the intent of the voter regarding spoiled and mutilated ballots, they are to be counted for purposes of determining whether the required percentage of voters have cast their ballots in the election. Invalid ballots shall not be counted for purposes of determining the required percentage of votes cast.

§ 52.22 Contesting of election results.

Any qualified voter, within three days following the posting of the results of an election, may challenge the election results by filing with the Secretary through the officer in charge the grounds for the challenge, *together with substantiating evidence*. If in the opinion of the Secretary, the objections are valid and warrant a recount or new election, the Secretary shall order a recount or a new election. The results of the recount or new election shall be final.

§ 52.23 Posting and certifying election results.

(a) The results of the election shall be posted in the local Bureau of Indian Affairs office, tribal headquarters, and at other appropriate public places determined by the election board.

(b) The election board shall certify the results of the election on the following form and transmit them to the local unit of the Bureau of Indian Affairs:

Certificate of Results of Election

Pursuant to a Secretarial election authorized by the (title of authorizing officer) on (date), the attached Constitution and Bylaws (Amendment, Charter or Charter Amendment) of the (name of tribe) was submitted to the qualified voters of the tribe and on (date), was duly (adopted) (ratified) (rejected) or (revoked) by a vote of (number) for and (number) against and (number) cast ballots found spoiled or mutilated in an election in which at least 30 percent (or such "percentages" as may be required to amend according to the constitution) of the (number) members entitled to vote, cast their ballot in accordance with (appropriate Federal statute). Signed: (By the chairman of the election board and board members.) Date: ———

§ 52.24 Approval, disapproval or rejection action.

(a) Action to approve or disapprove constitutional actions will be taken promptly by the authorizing officer following receipt of the original text of the material voted upon and the original of the Certificate of Results of Election from the officer in charge.

(1) When required and granted, the authorizing officer shall furnish a tribe with written approval of constitutional actions. In the absence of an election challenge, the approval shall be issued promptly following the expiration of the contest period. Copies of his/her written approval, the Certificate of Results of Election, and the text of the material voted upon shall be transmitted to the Commissioner of Indian Affairs, 18th and C Streets, NW., Washington, D.C. 20245.

(2) When a proposed constitution or charter action is rejected by the voters, the authorizing officer shall indicate in writing to the tribe his/her awareness of the election results and send to the Commissioner of Indian Affairs in Washington, D.C., copies of the communication, the Certificate of Results of Election and the text of the material voted upon.

(3) When the authorizing officer disapproves a constitutional action, he/she shall in writing promptly notify the tribe of the determination and furnish the Commissioner of Indian Affairs in Washington, D.C., a copy of the communication along with the Certificate of Results of Election and the text of the material voted upon.

(b) Where Secretarial approval of proposed constitutional and charter actions is required in conjunction with authorization of an election, copies of the formal approval shall immediately be furnished the Commissioner of Indian Affairs in Washington, D.C., by the authorizing officer and be followed in accordance with paragraph (a)(1) of this section by copies of the Certificate of the Results of Election and the text of the material voted upon as soon as it is available.

William E. Hallett,

Commissioner of Indian Affairs.

[FR Doc. 81–528 Filed 1–6–81; 8:45 am]

BILLING CODE 4310-02-M

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25 CFR Part 53

Tribes Organized Under Section 16 of the Indian Reorganization Act and Other Organized Tribes; Procedures for Petitioning To Effect Secretarial Actions

December 29, 1980.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau amends Part 53 to Subchapter G, Chapter I of Title 25 of the Code of Federal Regulations. The purpose of these amendments is: (a) to

clarify what has proven confusing language in existing regulations as to who can sign petitions; and (b) to extend existing procedures, previously limited to requests for constitutional actions, to cover petitioning the Secretary to issue a charter to a reorganized tribe and any other action a tribal constitution or charter may authorize the Secretary to take upon receipt of a petition.

EFFECTIVE DATE: February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Farring, Division of Tribal Government Services, Branch of Tribal Relations, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20245, (202) 343–2511.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Proposed amendments to 25 CFR Part 53 were published in the **Federal Register** on pages 40349 through 40351 on July 10, 1979, and comments were invited. No significant substantive comments were received, and the final rule reflects the amendments proposed. The purpose of the amendments is:

(a) to clarify what has proven to be confusing language in existing regulations as to who may sign petitions, and

(b) to extend existing procedures, previously limited to requests for constitutional actions, to cover petitioning the Secretary to issue a charter to a reorganized tribe or to take any other action a tribal constitution or charter may authorize the Secretary to take upon receipt of a petition.

The definitions are an integral part of the regulations and should be carefully read as such.

The principal author of this document is Leslie N. Gay, Jr., of the Division of Tribal Government Services, Bureau of Indian Affairs.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Part 53 of Subchapter G of Chapter 1 of Title 25 of the Code of Federal Regulations is amended to read as follows:

PART 53—PETITIONING PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES

Sec.

53.1 Definitions.
53.2 Purpose and scope.
53.3 Applicability to tribal groups.
53.4 Entitlement to petition.
53.5 Sufficiency of a petition.
53.6 Petition format.
53.7 Notarization of petition signatures.
53.8 Filing of petitions.
53.9 Challenges.
53.10 Action on the petition.
53.11 Duration of petition.

Authority: 5 U.S.C. 301, and 25 U.S.C. 2, 9, 473a, 476, 477 and 503.

§ 53.1 Definitions.

As used in this part:

(a) "Area Director" means the Director of the Bureau Area Office having administrative jurisdiction over the petitioners' tribe.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Charter" means a charter of incorporation the Secretary may issue to a recognized tribe pursuant to a Federal Statute.

(d) "Commissioner" means the Commissioner of Indian Affairs or his/her authorized representative.

(e) "Constitution" or "Constitution and Bylaws" means the written organizational framework of any tribe for the exercise of governmental powers.

(f) "Eligible, entitled, or qualified voter" means the status achieved by a tribal member who meets the requirement of a tribal constitution or election ordinance to vote in a tribal election; provided, that where a tribe has reorganized pursuant to a Federal Statute, to be an entitled or a qualified voter for purposes of this part, the tribal member must be at least 18 years of age and be eligible to register for voting in a Secretarial election (see Part 52 of this chapter).

(g) "Federal Statute" means one of the following: (1) the Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act), (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act), or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(h) "Local Bureau Official" means the Superintendent, Field Representative, or other line officer of the Bureau of Indian Affairs who has local administrative jurisdiction over the tribe concerned.

(i) "Local Bureau unit" means the Bureau office having local administrative jurisdiction over the tribe concerned.

(j) "Member" means any person who is duly enrolled in a tribe, who meets a tribe's written criteria for membership, or is recognized as belonging to a tribe by the local Indians comprising that tribe.

(k) "Organized tribe" means any tribe that has adopted a constitution outside of a Federal Statute.

(l) "Reorganized tribe" means any tribe that has adopted a constitution pursuant to a Federal Statute.

(m) "Secretarial election" means an election held within a tribe pursuant to regulations prescribed by the Secretary (as distinguished from *tribal* elections which are conducted under tribal authority (See *Cheyenne River Sioux Tribe* v. *Andrus*, 566 F.2d 1085 (8th Cir., 1977), *cert. denied* 439 U.S. 820 (1978)).

(n) "Secretary" means the Secretary of the Interior or his/her authorized representative.

(o) "Spokesman for the petitioners" means the authorized voter of a tribe initiating a petition or designated by the initiators of a petition to speak on their behalf.

(p) "Tribe" means any Indian entity that is listed or is eligible to be listed in the **Federal Register** pursuant to § 54.6(b) of this chapter as recognized and receiving services from the Bureau that has adopted a constitution approved by the Secretary or the Commissioner.

§ 53.2 Purpose and scope.

The purpose of this part is to provide uniformity and order in the formulation and submission of petitions requesting the Secretary or the Commissioner to call elections to amend tribal constitutions, to issue charters pursuant to a Federal Statute, and for such other purposes where constitutions and charters provide for petitioning to effect action by the Secretary or Commissioner.

§ 53.3 Applicability to tribal groups.

The regulations in this part apply: (1) to any tribe which provides in its constitution for petitioning the Secretary or the Commissioner to call elections to amend the tribal constitution; (2) to any tribe whose constitution or charter provides for petitioning to effect any other action by the Secretary or Commissioner; and (3) to those tribal members at least 18 years of age who, pursuant to a Federal Statute, may wish to petition the Secretary to issue a charter to their tribe.

§ 53.4 Entitlement to petition.

All members eligible to vote in elections conducted by a tribe shall be entitled to sign petitions to effect actions

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by the Secretary or Commissioner within the scope of § 53.2; provided, that where a tribe is reorganized pursuant to a Federal Statute, only persons eligible to register for Secretarial elections may petition.

§ 53.5 Sufficiency of a petition.

(a) The numerical sufficiency of any petition submitted pursuant to this part shall be based upon a number determined by the local Bureau official: (1) by consultation with the tribal governing body regarding the current number of tribal voters; or (2) for reorganized tribes, the number of members considered eligible to register for a Secretarial election and who are at least 18 years of age.

(b) The number shall be made available to the spokesman for the petitioners upon request along with a cut-off date when, for purposes of the petition, no further names will be added.

§ 53.6 Petition format.

Petitions may consist of as many pages as are necessary to accommodate the signatures of the petitioners. However, each sheet of a petition must set forth at least a summary of the objectives of the petitioners and must show the date upon which the petition was signed by each individual as well as the current mailing address of each signer.

§ 53.7 Notarization of petition signatures.

(a) Signatures to a petition must be authenticated in one of the following ways: (1) through having each signer subscribe or acknowledge his/her signature before a notary public; (2) through having the collector of signatures appear before a notary and sign, in his/her presence, on each sheet of the petition, a statement attesting that the signatures were affixed on the dates shown and by the individuals whose names appear thereon, and that to the best of his/her knowledge the signatories are eligible, entitled, or qualified voters.

(b) Only an eligible, entitled, or qualified tribal voter shall be recognized as a valid collector of petition signatures.

§ 53.8 Filing of petitions.

All petitions submitted pursuant to this part must be filed with the local Bureau official having administrative jurisdiction over the tribe. No petitions will be accepted until a spokesman for the petitioners declares that he/she wishes to make an official filing. Once a declaration of the official filing is made and the petition is given to the local Bureau official, that official shall immediately enter on the petition the date of receipt (this date becomes the date of official filing) and shall inform the spokesman for the petitioners that no additional signatures may be added and that no withdrawal of signatures will be permitted. The local Bureau official shall also acknowledge, in writing, receipt of the petition, indicating the exact number of signatures which are attached and the official filing date. Upon this written acknowledgment of the petition, the local Bureau official shall publicly post at the local Bureau unit serving the tribe a statement of the matter proposed in the petition. This statement shall remain posted for a period of 30 days from the official filing date.

§ 53.9 Challenges.

(a) Once an official filing has been made, the local Bureau official shall immediately have copies made of the petition and its signatures. The local Bureau official shall keep these copies at the Agency or field office for 15 days following the date of official filing, during which time they shall be available for examination by authorized voters of the tribe upon request. During this 15–day period, challenges of signatures may be filed with the local Bureau official.

(b) Challenges will be considered on the following grounds: (1) forgery of signatures; and (2) lack of proper qualifications of a signer. No challenge will be considered which is not accompanied by supporting evidence in writing. In the event that an individual's name appears on a petition more than once, all but one of the names shall be stricken.

§ 53.10 Action on the petition.

(a) Within 30 days after the official filing date, the local Bureau official shall forward to the Area Director, or when the Area Director is the local Bureau official, directly to the Commissioner, the original of the petition and its accompanying signatures, together with recommendations concerning challenges and conclusions concerning: (1) the validity of the signatures; (2) the adequacy of the number of signatures; and (3) the propriety of the petitioning procedure.

(b) The Area Director or the Commissioner, as the case may be, shall within 45 days after the official filing date decide upon each challenge and the sufficiency of the petition and announce whether the petition shall be acted upon. If a decision is reached that the petitioning action is for any reason insufficient, the spokesman for the petitioners and the governing body of the tribe will be so informed and given the reasons for the decision. If a petitioning action warrants action by the Secretary or Commissioner, the spokesman for the petitioners and the governing body of the tribe concerned will be so informed. The decision in such matters shall be final. The procedures for implementing any action initiated by the acceptance of a petition will be determined in accordance with pertinent directives and regulations.

§ 53.11 Duration of petition.

Any petition submitted under this part, shall be considered only for the purpose stated therein. Once a petition has been acted upon, it shall not be used again.

William E. Hallett,

Commissioner of Indian Affairs.

[FR Doc. 81-629 Filed 1-6-81; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7751]

Income Tax; Taxable Years Beginning After December 31, 1953; FIFO and Other Ordering Rules for Investment Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the first-in-first-out rule (FIFO) and other ordering rules for the investment credit. The final regulations also contain special rules for determining the amount of the energy credit. Changes in the applicable tax law were made by the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Revenue Act of 1978, and the Energy Tax Act of 1978.

DATES: In general, the amendments are effective for taxable years beginning after December 31, 1975. However, amendments under some of the acts have later effective dates. For example, the amendments under the Energy Tax Act of 1978 are effective for the period beginning October 1, 1978, and ending on December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part I) under section 46 of the Internal Revenue Code of 1954, relating to ordering rules for the investment credit (45 FR 134). The proposed amendments published on July 10, 1980, were corrected by a correction notice published in the **Federal Register** for July 31, 1980 (45 FR 149). These amendments were proposed to conform the regulations to reflect certain changes made by the Tax Reduction Act of 1975 (89 Stat. 36), the Tax Reform Act of 1976 (90 Stat. 1580 and 1759), the Revenue Act of 1978 (92 Stat. 2824), and the Energy Tax Act of 1978 (92 Stat. 3194). None of these amendments reflected any changes made by the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96–223).

Since a public hearing was not requested, none was held. After consideration of all written comments regarding the proposed amendments, these amendments are adopted as revised by this Treasury decision.

Ordering of Credits

All comments suggest clarification of the order of application of the regular and ESOP credits. Proposed § 1.46–1(j) (relating to the definition of tax liability for the regular and ESOP credit) cross-references to § 1.46–8(c)(9)(ii) and proposed § 1.46–1(m) for the ordering of the regular and ESOP credits. Under § 1.46–8(c)(9)(ii), in general, regular credits from a taxable year are allowed before ESOP credits from that year, but ESOP carryovers are applied before regular credit earned and ESOP credit earned is applied before regular carrybacks. The ordering of the regular and ESOP credits under § 1.46–8(c)(9)(ii) is inconsistent with proposed § 1.46–1(m), which requires application of regular carryovers, regular credit earned, and regular carrybacks before any ESOP credit.

In accordance with the vast majority of comments, the final regulations revise § 1.46–1(m) to be consistent with § 1.46–8(c)(9)(ii).

Suggestions not Adopted

One comment suggested adoption of the ordering rule as set forth in proposed § 1.46–1(m). This suggestion was not adopted because proposed § 1.46–1(m) would result in "bumping" of ESOP credit by regular credit carrybacks. Since the ESOP credit requires an irrevocable election and, within 30 days, a contribution of cash or stock equal to the value of the ESOP credit to the plan ("TRASOP"), "bumping" may create burdensome administrative problems for TRASOP's. In addition, regular credit earned would be utilized before older ESOP credit carried over to the current year.

Several other comments suggested applying all carryovers, including nonrefundable energy credit carryover, before credit earned and applying all credit earned, including nonrefundable energy credit earned, before any carrybacks. This comment was not adopted. Nonrefundable energy credits should be applied last because, in general, they have a 100 percent tax liability limitation and, thus, can be utilized more readily.

Drafting Information

The principal author of this regulation is Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Drafting Information

Paragraph 1. Section 1.46–1 is amended as follows: 1. Paragraphs (a), (b), (c), and (d) are revised.

2. Paragraph (e) is redesignated as paragraph (o) and is changed by revising the first sentence.

3. Paragraph (f) is redesignated as paragraph (p) and is changed as follows: a. Subparagraph (1) is changed by revising the first sentence.

b. Subparagraph (2) is changed by deleting the 7th sentence in subdivision (i), and by deleting "section 46 (a)(2)" in subdivision (iii) and inserting in lieu thereof "section 46(a)(3)".

c. Subparagraph (4) is changed by revising the second sentence.

d. Examples (1) and (2) of subparagraph (5) are revised by changing "1970" wherever it appears to "1976", by changing "1971" wherever it appears to "1977", by changing "liability for tax" wherever it appears to "tax liability", and by changing "limitation based on amount of tax" wherever it appears to "tax liability limitation".

4. New paragraphs (e) through (n) are added. These new and revised provisions read as follows:

§ 1.46–1 Determination of amount.

(a) *Effective dates*—(1) *In general.* This section is effective for taxable years beginning after December 31, 1975. However, transitional rules under paragraph (g) of this section are effective for certain earlier taxable years.

(2) *Acts covered.* This section reflects changes made by the following Acts of Congress:

Act and Section

Tax Reduction Act of 1975, section 301.
Tax Reform Act of 1976, section 802, 1701, 1703.
Revenue Act of 1978, section 311, 312.
Energy Tax Act of 1978, section 301.

(3) *Prior regulations.* For taxable years beginning before January 1, 1976, see 26 CFR § 1.46–1 (Rev. as of April 1, 1979). Those regulatons do not reflect changes made by Pub. L. 89–384, Pub. L. 89–389, and Pub. L. 91–172.

(b) *General rule.* The amount of investment credit (credit) allowed by section 38 for the taxable year is the portion of credit available under section 46(a)(1) that does not exceed the limitation based on tax under section 46(a)(3).

(c) *Credit available.* The credit available for the taxable year is the sum of—

(1) Unused credit carried over from prior taxable years under section 46(b) (carryovers).

(2) Amount of credit determined under section 46(a)(2) for the taxable year (credit earned), and

(3) Unused credit carried back from succeeding taxable years under section 46(b) (carrybacks).

(d) *Credit earned.* The credit earned for the taxable year is the sum of the following percentages of qualified investment (as determined under section 46 (c) and (d))—

(1) The regular percentage (as determined under section 46(a)(2)(B)).

(2) For energy property, the energy percentage (as determined under section 46(a)(2)(C)), and

(3) The ESOP percentage (as determined under section 46(a)(2)(E)).

(e) *Designation of credits.* The credit available for the taxable year is designated as follows:

(1) The credit attributable to the regular percentage is the "regular credit".

(2) The credit attributable to the ESOP percentage is the "ESOP credit".

(3) The credit attributable to the energy percentage for energy property other than solar or wind is the "nonrefundable energy credit".

(4) The credit attributable to the energy percentage for solar or wind energy property is the "refundable energy credit".

(f) *Special rules for certain energy property.* Energy property is defined in section 48(l). Under section 46(a)(2)(D), energy property that is section 38 property solely by reason of section 48(l)(1) qualifies only for the energy credit. Other energy property qualifies for both the regular credit (and, if applicable, the ESOP credit) and the energy credit. For limitation on the energy percentage for property financed by industrial development bonds, see section 48(l)(11).

(g) *Transitional rule for regular and ESOP credit*—(1) *In general.* Although section 46(a)(2) was amended by section 301(a)(1) of the Energy Tax Act of 1977 to eliminate the transitional rules under section 46(a)(2)(D), those rules still apply in certain instances. Section 46(a)(2)(D) was added by section 301(a) of the Tax Reduction Act of 1975 and amended by section 802(a) of the Tax Reform Act of 1976.

(2) *Regular credit.* Under section 46(a)(2)(D), the regular credit is 10 percent and applies for the following property: (i) Property to which section 46 (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of basis attributable to construction, reconstruction, or erection after that date.

(ii) Property to which section 46(d) does not apply, acquired by the taxpayer after January 21, 1975.

(iii) Qualified progress expenditures (as defined in section 46(d)) made after January 21, 1975.

(3) *ESOP credit.* See section 48(m) for transitional rules limiting the period for which the ESOP percentage under section 46(a)(2)(E) applies. For prior statutes, see section 46(a)(2) (B) and (D), as added by section 301 of the Tax Reduction Act of 1975 and amended by section 802 of the Tax Reform Act of 1976.

(4) *Cross reference.* (i) The principles of § 1.46–2 (b) and (c) apply in determining the portion of basis attributable to construction, reconstruction, or erection after January 21, 1975, and in determining the time when property is acquired.

(ii) Section 311 of the Revenue Act of 1978 made the 10 percent regular credit permanent.

(5) *Seven percent credit.* To the extent that, under paragraph (g)(1) of this section, the 10 percent does not apply, the regular credit, in general, is 7 percent. For a special limitation on qualified investment for public utility property (other than energy property), see section 46(c)(3)(A).

(h) *Tax liability limitation*—(1) *In general.* Section 46(a)(3) provides a tax liability limitation on the amount of credit allowed by section 38 (other than the refundable energy credit) for any taxable year. See section 46(a)(10)(C)(i). Tax liability is defined in paragraph (j) of this section. The excess of available credit over the applicable tax liability limitation for the year is an unused credit which may be carried forward or carried back under section 46(b).

(2) *Regular and ESOP tax liability limitation.* In general, the tax liability limitation for the regular and ESOP credits is the portion of tax liability that does not exceed $25,000 plus a percentage of the excess, as determined under section 46(a)(3)(B).

(3) *Nonrefundable energy credit tax liability limitation.* (i) For nonrefundable energy credit carrybacks to a taxable year ending before October 1, 1978, the tax liability limitation is the portion of tax liability that does not exceed $25,000 plus a percentage of the excess, as determined under section 46(a)(3)(B).

(ii) For a taxable year ending after September 30, 1978, the tax liability limitation for available nonrefundable energy credit is 100 percent of the year's tax liability.

(4) *Alternative limitations.* Alternative limitations apply for certain utilities, railroads, and airlines in determining the regular tax liability limitation and, for nonrefundable energy credit carrybacks to taxable years ending before October 1, 1978, the nonrefundable energy credit tax liability limitation. These alternative limitations do not apply in determining the energy tax liability limitation for a taxable year ending after October 1, 1978. The provisions listed below set forth the alternative limitations:

Code section, type, and years applicable

46(a)(6),[1] Utilities, Taxable years ending in 1975–1978.

46(a)(7),[2] Utilities, Taxable year ending in 1979.

46(a)(8), Railroads and Airlines, Taxable year ending in 1979 or 1980.

46(a)(8),[3] Railroads, Taxable years ending in 1977 or 1978.

46(a)(9),[3] Airlines, Taxable years ending in 1977 or 1978.

(i) [Reserved]

(j) *Tax liability*—(1) *In general.* "Tax liability" for purposes of the regular and ESOP credit and carrybacks of nonrefundable energy credit to a taxable year ending before October 1, 1978, means the liability for tax as defined in section 46(a)(4). For ordering of regular, ESOP, and nonrefundable energy credits, see paragraph (m) of this section. In addition to taxes excluded under section 46(a)(4), tax liability does not include tax resulting from recapture of credit under section 47 and the alternative minimum tax imposed by section 55. See sections 47(c) and 55(c)(1).

(2) *Certain nonrefundable energy credit.* For a taxable year ending after September 30, 1978, "tax liability" for purposes of the nonrefundable energy credit is liability for tax, as defined in section 46(a)(4) and paragraph (j)(1) of this section, reduced by the regular and ESOP credit allowed for the taxable year. Thus, carrybacks of regular or ESOP credit to a taxable year may displace nonrefundable energy carryovers or credit earned taken into account in that year. However, carrybacks of regular, ESOP, or nonrefundable energy credit do not affect refundable energy credit which is treated as an overpayment of tax under section 6401(b). See paragraph (k) of this section.

(k) *Special rule for refundable energy credit.* The amount of the refundable energy credit is determined under the rules of section 46 (other than section 46(a)(3)). However, to permit the refund, the refundable energy credit for purposes of the Internal Revenue Code (other than section 38, part IVB, and chapter 63 of the Code) is treated as allowed by section 39 and not by section 38. The refundable credit is not applied against tax liability for purposes of determining the tax liability limitation for other investment credits. Rather, it is treated as an overpayment of tax under section 6401(b).

(l) *FIFO rule.* If the credit available for a taxable year is not allowed in full because of the tax liability limitation, special rules determine the order in which credits are applied. Under the first-in-first-out rule of section 46(a)(1) (FIFO), carryovers are applied against the tax liability limitation first. To the extent the tax liability limitation exceeds carryovers, credit earned, and carrybacks are then applied.

(m) *Special ordering rule*—(1) *In general.* Under section 46(a)(10)(A), the FIFO rule applies separately—

(i) First, with respect to regular and ESOP credits, and

(ii) Second, with respect to nonrefundable energy credit.

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[1] Section 46(a)(6) was added by section 301(b)(2) of the Tax Reduction Act of 1975 and redesignated as section 46(a)(7) by section 302(a)(1) of the Tax Reform Act of 1976.

[2] Section 46(a)(7) was amended by section 312(b)(1) of the Revenue Act of 1978.

[3] These provisions were repealed by section 312(b)(2) of the Revenue Act of 1978.

(2) *Regular and ESOP credit.* Under § 1.46–8(c)(9)(ii), regular and ESOP credits available are applied in the following order:

(i) Regular carryovers;
(ii) ESOP carryovers;
(iii) Regular credit earned;
(iv) ESOP credit earned;
(v) Regular carrybacks; and
(vi) ESOP carrybacks.

(3) *Example.* For an example of the order of application of regular and ESOP credits, see § 1.46–8(c)(9)(iii).

(n) *Examples.* The following examples illustrate paragraphs (a) through (m) of this section.

Example (1). (a) Corporation M's regular credit available for its taxable year ending December 31, 1979 is as follows:

Regular carryovers	$5,000
Regular credit earned	10,000
Regular carrybacks	15,000
Credit available	30,000

(b) M's "tax liability" for 1979 is $30,000. M's tax liability limitation for 1979 for the regular credit is $28,000, consisting of $25,000 plus 60 percent of the $5,000 of "tax liability" in excess of $25,000.

(c) The regular carryovers and credit earned are allowed in full. However, only $13,000 of the regular carryback is allowed for 1979. The remaining $2,000 must be carried to the next year to which it may be carried under section 46(b).

Example (2). (a) For its taxable year ending December 31, 1980, corporation N has $30,000 regular credit earned and $9,000 nonrefundable energy credit earned. N has no carryovers to 1980 and no "tax liability" for pre-1980 years.

(b) N's "tax liability" for 1980 for the regular credit is $35,000. N's tax liability limitation for 1980 for the regular credit is $32,000, consisting of $25,000 plus 70 percent of the $10,000 of "tax liability" in excess of $25,000.

(c) The entire regular credit is allowed in 1980.

(d) N's "tax liability" for 1980 for the nonrefundable energy credit is $5,000, consisting of $35,000 less $30,000 regular credit allowed for 1980. N's tax liability limitation for 1980 for the nonrefundable energy credit is 100 percent of $5,000.

(e) $5,000 of the nonrefundable energy credit is allowed for 1980. The remaining $4,000 energy credit is an unused nonrefundable energy credit which must be carried to the next year to which it may be carried under section 46(b).

Example (3). (a) Assume the same facts as in example (2) except that in its taxable year ended December 31, 1981, N earns a regular credit of which it may carry back $2,000 to 1980.

(b) The $30,000 regular credit earned and $2,000 of the regular carryback is allowed for 1980. N's "tax liability" for 1980 for the nonrefundable energy credit is reduced to $3,000, consisting of $35,000 less $32,000 regular credit allowed for 1980. The nonrefundable energy credit allowed for 1980 is reduced to $3,000. The remaining $6,000 is an unused nonrefundable energy credit which must be carried to the next year to which it may be carried under section 46(b).

Example (4). (a) For its taxable year ending December 31, 1980, corporation P's regular credit earned is $20,000. P also has a $9,000 refundable energy credit for 1980. There are no carryovers or carrybacks to 1980.

(b) P's "tax liability" for 1980 for the regular credit is $25,000 which is also the tax liability limitation for the regular credit.

(c) The entire $20,000 regular credit is allowed for 1980. The entire $9,000 refundable energy credit is treated as an overpayment of tax under section 6401(b), even though "tax liability" remains.

Example (5). Assume the same facts as in example (4), except that in the following year P earns a regular credit, $5,000 of which it may carry back to 1980. The $5,000 carryback is allowed in full in 1980.

(o) *Married individuals.* If a separate return is filed by a husband or wife, the tax liability limitation is computed by substituting a $12,500 amount for the $25,000 amount that applies under section 46(a)(3). * * *

(p) *Apportionment of $25,000 amount among component members of a controlled group*—(1) *In general.* In determining the tax liability limitation under section 46(a)(3) for corporations that are component members of a controlled group on a December 31, only one $25,000 amount is available to those component members for their taxable years that include that December 31. * * *

* * * * *

(4) *Members of a controlled group filing a consolidated return.* * * * In that case, the tax liability limitation for the group filing the consolidated return is computed by substituting for the $25,000 amount under section 46(a)(3) the total amount apportioned to each component member that joins in filing the consolidated return. * * *

Par. 2. Section 1.46–2 is amended to read as follows:

§ 1.46–2 Carryback and carryover of unused credit.

(a) *Effective date.* This section is effective for taxable years beginning after December 31, 1975. For taxable years beginning before January 1, 1976, see 26 CFR 1.46–2 (Rev. as of April 1, 1979).

(b) *In general.* Under section 46(b)(1), unused credit may be carried back and carried over. Carrybacks and carryovers of unused credit are taken into account in determining the amount of credit available and the credit allowed for the taxable years to which they may be carried. In general, the application of the rules of this section to regular and ESOP credits are separate from their application to nonrefundable energy credits. For example, the limitations on carrybacks and carryovers of unused nonrefundable energy credit under section 46(b) (2) and (3), respectively, differ in amount from the limitations on the regular and ESOP credits because the tax liability limitations for those credits differ. See § 1.46–1(h). For a further example, see the special ordering rule in § 1.46–1(m). Section 46(b) does not apply to the refundable energy credit.

(c) *Unused credit.* If carryovers and credit earned (as defined in § 1.46–1(c)(1)) exceed the applicable tax liability limitation, the excess attributable to credit earned is an unused credit. The taxable year in which an unused credit arises is referred to as the "unused credit year".

(d) *Taxable years to which unused credit may be carried.* An unused credit is a carryback to each of the 3 taxable years preceding the unused credit year and a carryover to each of the 7 taxable years succeeding the unused credit year. An unused credit must be carried first to the earliest of those 10 taxable years. An unused credit then must be carried to each of the other 9 taxable years (in order of time) to the extent that the unused credit was not absorbed during a prior taxable year because of the limitations under section 46(b) (2) and (3).

(e) *Special rule for pre-1971 years*—(1) *In general.* For unused credit years ending before January 1, 1971, unused credit is allowed a 10-year carryover rather than the 7-year carryover. The principles of paragraph (d) of this section apply to this 10-year carryover.

(2) *Cross reference.* For limitations on the taxable years to which unused credit from pre-1971 credit years may be carried, see paragraph (g) of this section.

(f) *Limitations on carrybacks.* Under the FIFO rule to section 46(a)(1), carryovers and credit earned are applied against the tax liability limitation before carrybacks. Thus, carrybacks to a taxable year may not exceed the amount by which the applicable tax liability limitation for that year exceeds the sum of carryovers to and credit earned for that year. Carrybacks from an unused credit year are applied against tax liability before carrybacks from a later unused credit year. To the extent an unused credit cannot be carried back to a particular preceding taxable year, the unused credit must be carried to the next succeeding taxable year to which it may be carried.

(g) *Limitations on carryovers*—(1) *General rule.* Carryovers to a taxable year may not exceed the applicable tax liability limitation for that year. Carryovers from an unused credit year are applied before carryovers from a later unused credit year.

(2) *Exception.* A 10-year carryover from a pre-1971 unused credit year may, under certain circumstances, be postponed to prevent a later-earned 7-year carryover from expiring. This exception does not extend the 10-year carryover period for pre-1971 unused credit. See section 46(b)(1)(D).

(h) *Examples.* The following examples illustrate paragraphs (a) through (g) of this section.

Example (1). (a) Corporation M is organized on January 1, 1977 and files its income tax return on a calendar year basis. Assume the facts set forth in columns (1) and (2) of the following table. The determination of the regular credit allowed for each of the taxable years indicated is set forth in the remaining portions of the table.

	(1) Credit available	(2) Tax liability	(3) Percent	(4) Tax liability limitation* (remaining from col. (6) on preceding line)	(5) Credit allowed (lower of (1) or (4))	(6) Remaining tax liability limitation ((4)−(5))	(7) Unused credit ((1)−(5)) or (amount absorbed)
1977:							
A. Credit earned	$20,000	$45,000	50	$35,000	$20,000	$15,000	0
B. Carryback from 1978	*15,000			[15,000]	15,000		
1978:							
A. Credit earned	60,000	55,000	50	40,000	40,000	0	$20,000
Carryback to 1977							(*15,000)
Carryover to 1979							(*5,000)
1979:							
A. Carryover from 1978	*5,000	50,000	60	40,000	5,000	35,000	
B. Credit earned	50,000			[35,000]	35,000	0	15,000
Carryover to 1980							(*15,000)
1980:							
A. Carryover from 1979	*15,000	55,000	70	46,000	15,000	31,000	
B. Credit earned	25,000			[31,000]	25,000	6,000	0

*For line "A" each year: Lesser of (1) tax liability or (2) $25,000 + (percentage in col. (3) × [col. (2) − $25,000]). See, § 1.46-1(h). For other lines: Amount in col. (6) on preceding line.

Example (2). (a) Assume the same facts as in example (1) except for 1979 M earns a $35,000 nonrefundable energy credit. The following table shows the determinations for each year.

	(1) Credit available	(2) Tax liability: (a) Regular	(2) Tax liability: (b) Energy ((2)(a)−(5)R)	(3) Percent	(4) Tax liability limitation* (remaining from col. (6) on preceding line)	(5) Credit allowed (lower of (1) or (4))	(6) Remaining tax liability limitation ((4)−(5))	(7) Unused credit ((1)−(5)) or (amount absorbed)
1977:								
Regular:								
A. Credit earned	$20,000	$45,000		50	$35,000	$20,000R	$15,000	0
B. Carryback from 1978	*15,000				[15,000]	15,000R	0	
1978:								
Regular:								
A. Credit earned	60,000	55,000		50	40,000	40,000R	0	$20,000
Carryback to 1977								(*15,000)
Carryover to 1979								(*5,000)
Energy:								
A. Carryback from 1979	*15,000		$15,000	100	15,000	15,000E	0	
1979:								
Regular:								
A. Carryover from 1978	*5,000	50,000		60	40,000	5,000R	35,000	
B. Credit earned	50,000				[35,000]	35,000R	0	15,000
Carryover to 1980								(*15,000)
Energy:								
A. Credit earned	35,000		10,000	100	10,000	10,000E	0	25,000
Carryback to 1978								(*15,000)
Carryover to 1980								(*10,000)
1980:								
Regular:								
A. Carryover from 1979	*15,000	55,000		70	46,000	15,000R	31,000	
B. Credit earned	25,000				[31,000]	25,000R	6,000	0
Energy:								
A. Carryover from 1979	*10,000		15,000	100	15,000	10,000E	5,000	

*See footnote to the chart in example (1).

(b) Although, in general, a nonrefundable energy credit may be carried back to taxable years ending before October 1, 1978, in this example the unused nonrefundable energy credit from 1979 may not be absorbed in 1977. The 1977 tax liability limitation for the nonrefundable energy credit is the same as it is for the regular credit, reduced by regular credit previously allowed for 1977. See §§ 1.46–1(h)(3) and 1.46–1(m).

Example (*3*). (a) Assume the same facts as in example (2) except M has regular credit of $37,000 for 1981 and M's tax liability for 1981 is $32,500. The determinations for 1980 and 1981 are set forth in the following table.

	(1)	(2)		(3)	(4)	(5)	(6)	(7)
	Credit available	Tax liability		Percent	Tax liability limitation* (remaining from col. (6) on preceding line)	Credit allowed (lower of (1) or (4))	Remaining tax liability limitation ((4)–(5))	Unused credit ((1)–(5)) or (amount absorbed)
		(a) Regular	(b) Energy ((2)(a)–(5)(R))					
1979 (restated):								
Energy:								
A. To be carried over								$10,000
Carryover to 1980								(*9,000)
Carryover to 1981								(*1,000)
1980 (restated):								
Regular:								
A. Carryover from 1979	$15,000	$55,000		70	$46,000	$15,000R	$31,000	
B. Credit earned	*25,000				[31,000]	25,000R	6,000	0
C. Carryback from 1981	*6,000				[6,000]	6,000R	0	
Energy:								
A. Carryover from 1979	*9,000		$9,000	100	9,000	9,000E		
1981:								
Regular:								
A. Credit earned	37,000	32,500		80	31,000	31,000R	0	6,000
Carryback to 1980								(*6,000)
Energy:								
A. Carryover from 1979	*1,000		1,500	100	1,500	1,000E	500	0

*See footnote to chart under example (1).

(b) Allowance of the regular carryback in 1980 from 1981 requires that the computations for 1980 be restated. The energy tax liability limitation for 1980 is reduced from $15,000 (as determined in example (2)) to $9,000. Thus, $1,000 of the $10,000 energy credit allowed for 1980 is displaced by the regular carryback. That amount may not be carried back because there is no remaining energy tax liability limitation for the prior 3 years (see table in example (2)). It may be carried over to 1981 and allowed in full in that year.

(i) [Reserved]

(j) *Electing small business corporation.* A shareholder of an electing small business corporation (as defined in section 1371(b)) may not take into account unused credit of the corporation attributable to unused credit years for which the corporation was not an electing small business corporation. However, a taxable year for which the corporation is an electing small business corporation is counted as a taxable year for determining the taxable years to which that unused credit may be carried.

(k) *Periods of less than 12 months.* A fractional part of a year that is considered a taxable year under sections 441(b) and 7701(a)(23) is treated as a preceding or succeeding taxable year for determining under section 46(b) the taxable years to which an unused credit may be carried.

(l) *Corporate acquisitions.* For carryover of unused credits in the case of certain corporate acquisitions, see section 381(c)(23).

This Treasury decision is issued under the authority contained in Code sections 7805 (68A Stat. 917, 26 U.S.C. 7805) and 38(b) (76 Stat. 962, 26 U.S.C. 38).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 29, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

[FR Doc. 80-40836 Filed 12-30-80; 4:00 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[T.D. 7749]

Income Tax; Taxable Years Beginning After December 31, 1953; Allowance of Deductions to Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the allowance of deductions for interest expense to foreign corporations doing business in the United States. Prior to the issuance of these regulations, the rules found in § 1.861–8 for the allocation and apportionment of deductible expenses applied to the allowance of all deductions to these foreign corporations. Under these final regulations, the rules of § 1.861–8 will continue to apply to foreign corporations except with respect to the deduction for interest expense. Separate rules are provided under new § 1.882–5 for the determination of the interest expense deduction.

EFFECTIVE DATE: The regulations are effective for periods after February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after the last taxable year ending before February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after 1976.

FOR FURTHER INFORMATION CONTACT: Herman B. Bouma of the Legislation & Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-86-79), 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 1980, the **Federal Register** published proposed

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amendments to the Income Tax Regulations (26 CFR Part 1) under sections 861 and 882 of the Internal Revenue Code of 1954 (45 FR 12844). The amendments pertained to the allowance of interest expense deductions to foreign corporations doing business in the United States. A public hearing was held on June 4, 1980. After consideration of all comments regarding the proposed amendments, the amendments as set forth in this Treasury Decision are adopted.

General Explanation of Provisions

Under section 882(a)(1), a foreign corporation engaged in a trade or business within the United States is taxed on its taxable income effectively connected with the conduct of a trade or business in the United States. In determining the amount of its effectively connected U.S. taxable income, the foreign corporation is allowed deductions from its effectively connected U.S. gross income, but only if and to the extent that the deductions relate to that U.S. gross income. Prior to the issuance of these regulations, a foreign corporation followed the rules set forth in § 1.861–8 to determine the deductions allowed it under section 882(c). See § 1.861–8(f)(1)(iv). Section 1.882–4(c)(1) of these final regulations provides that the rules in § 1.861–8 continue to apply to foreign corporations except with respect to the allowance of the interest expense deduction. New § 1.882–5 presents rules for determining the interest expense deduction allowed to a foreign corporation.

Paragraph (b) of § 1.882–5 provides a three-step process for a foreign corporation to determine the amount of its allowable interest expense deduction. Paragraph (a) of § 1.882–5 states rules that apply in using the three-step process.

Steps 1 and 2 of the three-step process result in the determination of an amount of "U.S.-connected liabilities". This amount of U.S.-connected liabilities bears the same ratio to the amount of assets that generate effectively connected U.S. gross income as the amount of corporate worldwide liabilities bears to the amount of corporate worldwide assets.

Under Step 3 of the three-step process, a foreign corporation elects to use either the branch book/dollar pool method or the separate currency pools method. Under the branch book/dollar pool method, if the amount of U.S.-connected liabilities does not exceed the amount of U.S. branch book liabilities, the interest expense deduction is equal to the amount of U.S.-connected liabilities multiplied by the average U.S.-connected interest rate. If the U.S.-connected liabilities exceed the U.S. branch book liabilities, the interest expense deduction is equal to the sum of the following two amounts. The first amount is the total interest expense shown on the branch's books. The second amount is the difference between the U.S.-connected liabilities and U.S. branch book liabilities, multiplied by the average interest rate on non-U.S.-connected dollar liabilities.

Under the separate currency pools method, the interest expense deduction is equal to the sum of separate interest expense deductions for each currency in which the U.S. branch has incurred liabilities. Each separate deduction is determined by first multiplying the ratio of U.S.-connected liabilities to total U.S. book liabilities by the amount of U.S. book liabilities in the currency for which the deduction is being computed. That product is in turn multiplied by the worldwide interest rate for the particular currency. This interest rate is equal to the total amount of interest expense incurred by the corporation on worldwide borrowings in the particular currency divided by the amount of worldwide borrowings in that currency. The result obtained by multiplying the first product by the worldwide interest rate is the interest deduction for the particular currency. The computation must be made separately with respect to each separate currency in which the U.S. branch has borrowed.

Paragraphs (e)(2)(i) and (f)(1)(iv) of § 1.861–8 are amended by this Treasury Decision to provide cross-references to new § 1.882–5. In addition, this Treasury Decision deletes language in paragraph (f)(1)(iv) of § 1.861–8 which stated that in certain cases the provisions of an income tax treaty between the United States and a foreign country may apply in determining the taxable income of a nonresident alien individual or a foreign corporation.

A number of changes were made to the proposed regulations, both substantive and stylistic. The more important substantive changes are discussed below.

Records in a Foreign Language

Under the proposed regulations, if the Director of International Operations or a district director requested records from a foreign corporation and those records were in a foreign language, the foreign corporation would be required to provide a certified translation along with the records. A number of comments objected to this requirement on the grounds that in many cases it would be extremely expensive and time-consuming. The final regulations state that translations must be provided only if and to the extent required by the Director of International Operations or the district director.

Valuation of Assets

Several comments stated that the same method for valuing assets should be used for both Steps 1 and 2. The final regulations adopt this proposal but require that either U.S. tax book value or fair market value be used.

Fixed or Actual Ratio

Under the proposed regulations, a foreign corporation could use a fixed ratio under Step 2 only if it could not determine its actual ratio of worldwide liabilities to worldwide assets. A number of comments suggested that a foreign corporation should be allowed to use the fixed ratio even if it could determine its actual ratio. This suggestion has been adopted in the final regulations. In addition, the amount of U.S.-connected liabilities will not be limited to the amount of U.S. book liabilities if the fixed ratio has been used.

Increase of Fixed Ratio

Several comments indicated that the fixed ratio for banking businesses should be increased in order to more appropriately reflect their actual ratios. The final regulations provide a fixed ratio of 95 percent rather than 90 percent as previously proposed.

Choice of Methods Under Step 3

Several comments suggested that a foreign corporation should be allowed to change from the branch book/dollar pool method to the separate currency pools method (or vice versa) without obtaining the consent of the Commissioner. The final regulations retain the rule that one method must be used consistently from year to year but provide one exception. For a foreign corporation's first taxable year beginning after 1980, it may change its method without obtaining the consent of the Commissioner.

Branch Book/Dollar Pool Method

Under the branch book/dollar pool method, the interest expense deduction is equal to the sum of the following two amounts if the amount of U.S.-connected liabilities exceeds the U.S. branch book liabilities. The first amount is the total interest expense shown on the branch's books. The second amount is the difference between the U.S.-connected liabilities and U.S. branch book liabilities, multiplied by the average interest rate on non-U.S.-connected liabilities. The final regulations state that if the non-U.S. offices of the foreign corporation have only a *de minimis* amount of dollar liabilities, then the average U.S.-connected interest rate is applied to the total amount of U.S.-connected liabilities.

Separate Currency Pools Method

A number of comments suggested that a foreign corporation should not be required to determine its worldwide interest rate for a particular currency if the amount of U.S. branch borrowings in that currency is small compared to the total amount of U.S. branch borrowings. The final regulations have adopted this suggestion. If the amount of U.S. branch borrowings in a currency other than the currency of the country where the head office is located is less than 3 percent of the amount of all liabilities of the U.S. branch, then the corporation's worldwide interest rate for dollars may be used in lieu of its worldwide interest rate for the particular currency.

Effective Date

A number of comments objected to the fact that the regulations would apply to *periods* after the date that is 30 days after publication of the regulations as a Treasury Decision, rather than to taxable years beginning after that date. These comments stated that it would be very difficult to make a split-year computation. The final regulations allow a foreign corporation two separate options for applying the new rules to taxable years beginning before February 6, 1981.

Regulatory Analysis

A final regulatory analysis has been prepared with respect to these final regulations and is available for public inspection and copying at the Internal Revenue Service, CC:LR:T, Room 4219, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202-566-3935, not a toll-free call). The final regulatory analysis is substantially identical to the draft regulatory analysis prepared with respect to the proposed regulations. The final regulatory analysis discusses both the approach followed in the final regulations and an alternative regulatory approach. The alternative approach could have reflected in the foreign corporation's effectively connected taxable income an appropriate portion of the foreign corporation's exchange rate gains and losses attributable to foreign-currency borrowings, which are not effectively connected under present law.

Drafting Information

The principal author of these final regulations is Herman B. Bouma of the Legislation & Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

After consideration of all comments presented by interested persons regarding the proposed amendments to the regulations under sections 861 and 882, the following amendments are hereby adopted:

Paragraph 1. Paragraphs (e)(2)(i) and (f)(1)(iv) of § 1.861-8 are amended to read as follows:

§ 1.861-8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(e) *Allocation and apportionment of certain deductions.* * * *

(2) *Interest*— (i) *In general.* The method of allocation and apportionment for interest set forth in this paragraph (e)(2) is based on the approach that money is fungible and that interest expense is attributable to all activities and property regardless of any specific purpose for incurring an obligation on which interest is paid. This approach recognizes that all activities and property require funds and that management has a great deal of flexibility as to the source and use of funds. Normally, creditors of a taxpayer subject the money advanced to the taxpayer to the risk of the taxpayer's entire activities and look to the general credit of the taxpayer for payment of the debt. When money is borrowed for a specific purpose, such borrowing will generally free other funds for other purposes and it is reasonable under this approach to attribute part of the cost of borrowing to such other purposes. For the method of determining the interest deduction allowed to foreign corporations under section 882(c), see § 1.882-5.

* * * * *

(f) *Miscellaneous matters*—(1) *Operative sections.* * * *

(iv) *Effectively connected taxable income.* Nonresident alien individuals and foreign corporations engaged in trade or business within the United States are taxed, as provided under sections 871(b)(1) and 882(a)(1), on taxable income which is effectively connected with the conduct of a trade or business within the United States. Such taxable income is determined in most instances by initially determining, under section 864(c), the amount of gross income which is effectively connected with the conduct of a trade or business within the United States. Pursuant to sections 873 and 882(c), this section is applicable for purposes of determining the deductions from such gross income (other than the deduction for interest expense allowed to foreign corporations (see § 1.882-5)) which are to be taken into account in determining taxable income. See example (21) of paragraph (g) of this section.

* * * * *

Par. 2. Section 1.882-4 is amended by adding a new paragraph (c) to read as follows:

§ 1.882-4 Allowance of deductions to foreign corporations.

* * * * *

(c) *Allowed deductions*—(1) *In general.* Except for charitable contributions and gifts (see section 882(c)(1)(B)), deductions are allowed to a foreign corporation only to the extent they are connected with gross income which is effectively connected with the conduct of a trade or business in the United States. Deductible expenses (other than interest expense) are properly allocated and apportioned to effectively connected gross income in accordance with the rules of § 1.861-8. for the method of determining the interest deduction allowed to a foreign corporation, see § 1.882-5.

(2) *Verification.* At the request of the Director of International Operations or any district director, a foreign corporation claiming deductions from gross income which is effectively connected with the conduct of a trade or business in the United States must furnish at the place designated pursuant to § 301.7605-1(a) information sufficient to establish that the corporation is entitled to the deductions in the amounts claimed. All information must be furnished in a form suitable to permit verification of claimed deductions. The Director of International Operations or district director may require, as appropriate, that an English translation be provided with any information in a foreign language. If a foreign corporation fails to furnish sufficient information, the Director of International Operations or district director may in his discretion disallow any claimed deductions in full or in part.

Par. 3. A new § 1.882-5 is added immediately after § 1.882-4 to read as follows:

§ 1.882-5 Determination of interest deduction.

(a) *In general.* The interest deduction allowed a foreign corporation under section 882(c) is determined by the three-step process set forth in paragraph (b) of this section. For purposes of this process, the following rules apply:

(1) *Classification of items.* The classification of items as assets or liabilities must be on a consistent basis from year to year and substantially in accordance with U.S. tax principles.

(2) *Asset valuation.* All assets must be valued on the basis of either U.S. tax book value (adjusted basis for determining gain or loss from sale or other disposition (see section 1011)) or fair market value. The same method must be used for both Step 1 and Step 2 of the three-step process. Once a method is used for a taxable year, that method must be used for all taxable years, unless the Commissioner or his delegate consents to a change. Any reasonable approach for determining fair market value may be used and, as appropriate, different approaches may be used for different types of assets if the same approaches are used consistently from year to year.

(3) *Currency translations.* A particular asset value or liability amount that is denominated in one currency is translated into another currency at the exchange rate for the date the value or amount is determined for purposes of this section. An interest expense amount shown on the books is translated at the exchange rate for the date the amount is paid or accrued. Qualified sources of exchange rates must be determined under the rules of § 1.964-1(d)(5).

(4) *Average total values or amounts.* An average total value of assets, or an average total amount of liabilities, is determined by taking the average of the totals computed at the most frequent, regular intervals (such as daily, weekly, monthly, or quarterly) for which data for all assets, or liabilities, are reasonably available.

(5) *Inter-branch loans.* Assets, liabilities, and interest expense amounts resulting from loan or credit transactions of any type between the separate offices or branches of the same foreign corporation are disregarded.

(6) *Adjustments to reflect substance.* If the substance of a loan or other transaction differs from its form, the Commissioner or his delegate may make appropriate adjustments to reflect the transaction in accordance with its substance. The operation of this rule is illustrated by the following example:

Example. Bank A's head office is located in country X. A also maintains branch banking offices in London and in New York. In 1981, A's London branch takes an unsecured loan of $100x from bank B located in country Y. The loan agreement identifies the borrower as "Bank A (London branch)". The London branch in form loans $100x to the New York branch on the same terms and conditions as the loan from bank B, except that the interest rate is 1/16 percent above the bank B loan rate. The pertinent facts demonstrate that in this case the 1/16 percent additional interest represents a fee paid to the London branch by the New York branch in consideration of the London branch's services in obtaining the loan from bank B. Based on all the pertinent facts and circumstances, the substance of the transaction is that the London branch has acted as agent or broker for the New York branch; accordingly, the New York branch could be treated by the Commissioner or his delegate as having obtained the loan directly from bank B. (The rules of § 1.861.8 would apply in determining the deductibility of expenses incurred by bank A, including expenses incurred by the London branch, in obtaining the loan from bank B.)

(b) *Three-step process.* The three-step process for the determination of the interest deduction allowed to a foreign corporation with respect to its effectively connected gross income is as follows:

(1) *Step 1—Asset determination.* The average total value of all assets of the corporation that generate, have generated, or could reasonably have been or be expected to generate income, gain, or loss effectively connected with the conduct of a trade or business in the United States must be determined for the taxable year (or applicable portion thereof). This average total value must be stated in U.S. dollars.

(2) *Step 2—Liability determination.* The amount of liabilities of the corporation connected with the conduct of a trade or business in the United States must be determined for the taxable year (or portion thereof). This amount of U.S.-connected liabilities is determined by multiplying the asset value determined under Step 1 by one of the following two ratios:

(i) *Fixed ratio.* In the case of a U.S. banking, financing, or similar business (as defined in § 1.864-4(c)(5)(i)), ninety-five percent; in the case of any other U.S. business, fifty percent, or

(ii) *Actual ratio.* The ratio of the average total amount of corporate worldwide liabilities (including those of the U.S. trade or business) for the year (or portion thereof) to the average total value of coporate worldwide assets (including those of the U.S. trade or business) for the year (or portion thereof). For purposes of computing this ratio, all liability amounts and asset values must be consistently stated from year to year either in U.S. dollars or in the currency of the country in which the head office of the corporation is located. On the corporation's return for the first taxable year (or portion thereof) to which this section applies, the corporation must elect to use either the ratio in (i) or the ratio in (ii). The elected ratio must be used in later taxable years unless the Commissioner or his delegate consents to a change.

(3) *Step 3—Interest deduction allowed.* On the corporation's return for the first taxable year (or portion thereof) to which this section applies, the corporation must elect to use, for determining the amount of its allowed interest deduction, either the branch book/dollar pool method set forth in paragraph (b)(3)(i) of this section or the separate currency pools method set forth in paragraph (b)(3)(ii) of this section. Once made, the election may not be changed for later taxable years (except as provided in this paragraph (b)(3)) without the consent of the Commissioner or his delegate. For its first taxable year beginning after 1980, a corporation may change methods without obtaining the consent of the Commissioner or his delegate.

(i) *Branch book/dollar pool method.* (A) If the amount of U.S.-connected liabilities, determined under Step 2, does not exceed the average total amount of liabilities (in all currencies) shown on the books of the U.S. trade or business (stated in U.S. dollars), the interest expense allowed to the foreign corporation as effectively connected with the conduct of a trade or business in the United States is determined by multiplying the average total amount of U.S.-connected liabilities for the year by the average U.S.-connected interest rate. The average U.S.-connected interest rate is equal to the ratio of the total amount of interest expense shown on the books of the U.S. trade or business for the year (or portion thereof) to the average total amount of liabilities shown on the books of the U.S. trade or business for the year (or portion thereof). Both the numerator and denominator of this ratio must be stated in U.S. dollars.

(B) If the amount of U.S.-connected liabilities exceeds the average total amount of liabilities shown on the books of the U.S. trade or business (stated in U.S. dollars), the allowed interest deduction is equal to the sum of *(1)* the total amount of interest expense for the taxable year (or portion thereof) shown on the books of the U.S. trade or business, and *(2)* the amount of the excess of U.S.-connected liabilities multiplied by the average interest rate on U.S. dollar liabilities for the taxable year (or portion thereof) shown on the books of the offices or branches of the foreign corporation outside the United States. If information providing the actual average non-U.S.-connected interest rate cannot reasonably be obtained, then such interest rate may be determined under any method that reasonably approximates the actual rate and that is consistently applied by the corporation from year to year. For example, reference to quoted London inter-bank offered rates (LIBOR) for time deposits with 30 days to maturity may be appropriate. If a corporation has no more than a *de minimis* amount of U.S. dollar liabilities shown on the books of its non-U.S. offices or branches, then the average U.S.-connected interest rate is applied to the total amount of U.S.-connected liabilities.

(ii) *Separate currency pools method.* Under this method, the total allowed interest deduction is the sum of the separate allowed interest deductions for each currency in which the U.S. trade or business has borrowed. In the case of each such currency, the allowed interest deduction is equal to the product of the following three amounts:

(A) The ratio of the amount of U.S.-connected liabilities for the taxable year (or portion thereof), as determined under Step 2, to the average total amount of liabilities (in all currencies) shown on the books of the U.S. trade or business for the year (or portion thereof). The numerator of this ratio is stated in U.S. dollars (see Steps 1 and 2). The denominator of this ratio is to be stated either in U.S. dollars or in the currency of the country in which the head office of the foreign corporation is located.

(B) The average total amount of liabilities shown on the books of the U.S. trade or business for the year (or portion thereof) denominated in the particular currency. This amount is to be stated in the same currency in which the denominator of the ratio described in (A) above is stated.

(C) The corporation's average worldwide interest rate for that particular currency. This interest rate is equal to the ratio of the total amount of interest expense for the taxable year (or portion thereof) incurred by the corporation (including the U.S. trade or business) with respect to liabilities denominated in the particular currency to the average total amount of liabilities of the corporation (including the U.S. trade or business) for the year (or portion thereof) denominated in that currency. The interest expense and liabilities are to be stated in the particular currency.

A corporation may elect to use the average worldwide interest rate determined in (C) above for U.S. dollars as the average worldwide interest rate for *all* currencies (other than the currency of the country in which the head office of the corporation is located) that meet the following 3-percent rule: for the taxable year (or portion thereof) the average total amount of liabilities shown on the books of the U.S. trade or business denominated in the currency (but stated in the currency in which the denominator of the ratio described in (A) above is stated) is less than 3 percent of the average total amount of all liabilities shown on the books of the U.S. trade or business (stated in the currency in which the denominator of the ratio described in (A) above is stated). Once made, the election may not be changed for later taxable years without the consent of the Commissioner or his delegate.

(c) *Examples.* The rules of this section are illustrated by the following examples:

Example (1). X, a foreign corporation engaged in the banking business, has a U.S. branch, X–U.S., and is a calendar year taxpayer. For 1982 X determines the amount of interest expense it may deduct from its U.S. effectively connected gross income as follows (foreign currency amounts have been translated into U.S. dollars):

(i) *Step 1—Asset determination.* X determines that for 1982 the average total value of all of its assets that generate, have generated, or could reasonably have been or be expected to generate income, gain, or loss effectively connected with the conduct of a U.S. trade or business is $150.

(ii) *Step 2—Liability determination.* X has elected to use its average worldwide liabilities-to-assets ratio (paragraph (b)(2)(ii)). For 1982 the average total amount of its worldwide liabilities is $1,250 and the average total value of its worldwide assets is $1,300. X's average worldwide liabilities-to-assets ratio is equal to:

$$\frac{\text{X's average total amount of liabilities}}{\text{X's average total amount of assets}} = \frac{\$1,250}{\$1,300} = 96.15\%$$

Thus, the amount of X's U.S.-connected liabilities is equal to:

$150 × 96.15% = $144.22

(iii) *Step 3—Interest deduction allowed.* X has elected to use the branch book/dollar pool method (paragraph (b)(3)(i)). For 1982 the average total amount of liabilities shown on the books of X–U.S. (excluding liabilities to the head office or other branches of X) is $100. Because X's U.S.-connected liabilities are greater than the average total amount of X–U.S.'s book liabilities, X must use paragraph (b)(3)(i)(B) to determine its interest deduction. For 1982 the interest expense shown on the books of X–U.S. is $9.50 and the average interest rate incurred by X's non-U.S. branches on U.S. dollars is 9.97%.

Interest expense shown on books of X-U.S	$9.50
Interest expense on excess of X's U.S.-connected liabilities:	
Excess = $144.22—$100 = $44.22	
Average interest rate = 9.97%	
Interest expense = $44.22 X 9.97%	4.41
Interest deduction	13.91

Example (2). The facts are the same as in Example (1) except that for Step 3 X has elected to use the separate currency pools method (paragraph (b)(3)(ii)). The facts with respect to the liabilities of X and U.S. branch X-U.S. are as follows:

Type of Liabilities Incurred by X-U.S.	Amount of X-U.S. Liabilities	Foreign Corporation X Amount of Worldwide Liabilities	Interest Paid Worldwide	Average Rate of Interest
U.S. dollar-denominated liabilities	$75	$250	$24.38	9.75%
Foreign currency A-denominated liabilities	$15	A50	A3	6%
Foreign currency B-denominated liabilities	$10	B600	B84	14%

The total interest deduction, equal to the sum of the separate deductions for each currency, is determined as follows:

$$\text{U.S. dollar deduction} = \frac{\$144.22}{\$100.00} \times \$75 \times 9.75\% = \$10.55$$

$$\text{Foreign currency A deduction} = \frac{\$144.22}{\$100.00} \times \$15 \times 6\% = 1.30$$

$$\text{Foreign currency B deduction} = \frac{\$144.22}{\$100.00} \times \$10 \times 14\% = \underline{2.02}$$

$$\text{Total interest deduction} = \$13.87$$

(d) *Effective date.* This section applies to periods after February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after the last taxable year ending before February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after 1976.

This Treasury decision is issued under the authority contained in sections 882(c) and 7805 of the Internal Revenue Code of 1954 (80 Stat. 1556; 26 U.S.C. 882(c) and 68A Stat. 917; 26 U.S.C. 7805).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 23, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-40838 Filed 12-30-80; 4:00 p.m.]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 7748]

Income Tax; Taxable Years Beginning After December 31, 1953; Limitations on Benefits and Contributions Under Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to limitations on benefits and contributions under qualified pension plans, etc. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974, the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations will provide the public with the guidance needed to comply with those Acts and will affect all qualified plans.

DATES: Except as otherwise indicated, the regulations are effective for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975.

FOR FURTHER INFORMATION CONTACT: Richard J. Wickersham of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3250) (not a toll-free number).

SUPPLEMENTARY INFORMATION

Background

On January 24, 1980, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 401(a)(16), 403(b)(2) and 415 of the Internal Revenue Code of 1954 were published in the **Federal Register** (45 FR 5754). The amendments were proposed to conform the regulations to section 2004 (a) and (c)(4) of the Employee Retirement Income Security Act of 1974 ("ERISA") (88 Stat. 979 and 986), to sections 803(f)(1), 1501(b)(3), 1502(a)(1) and 1511 of the Tax Reform Act of 1976 (90 Stat. 1589, 1735, 1737 and 1741) and to section 153(a) of the Revenue Act of 1978 (92 Stat. 2800).

Additionally, on January 24, 1980, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(f) of the Internal Revenue Code of 1954 were published in the **Federal Register** (45 FR 5754). The amendment was proposed to conform the regulations to section 1505(b) of the Tax Reform Act of 1976 (90 Stat. 1738).

After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Treatment of Contract as Qualified Trust

In accordance with the amendment to section 401(*f*) by the Tax Reform Act of 1976, the proposed regulations provided that a contract (other than a life, health or accident, property, casualty or liability insurance contract) issued by an insurance company qualified to do business in a State will be treated as a qualified trust provided that the contract would, except for the fact that it is not a trust, constitute a qualified trust under section 401. No comments were received with respect to this proposed amendment. Accordingly, it is unchanged in the final regulations.

General Application of Section 415

The limitations on benefits and contributions under section 415 apply to all qualified pension, profit-sharing, annuity, bond purchase and stock bonus plans, including "H.R. 10" plans, as well as so-called "tax sheltered annuities" described in section 403(b) and individual retirement plans described in sections 408 and 409. The limitations of section 415 also apply to simplified employee pensions described in section 408(k).

General Rules With Respect To Limitations on Benefits and Contributions Under Qualified Plans (§ 1.415–1)

a. *Plan Provisions.* The final regulations do not change the rule set forth in the proposed regulations that precludes employer discretion in connection with the use of provisions by a pension plan which automatically freeze or reduce the rate of benefit accrual to a level necessary to prevent the section 415 limitations from being exceeded. Additionally, the final regulations provide that a profit-sharing or stock bonus plan may contain a provision which automatically freezes or reduces the amount of annual additions, so long as the definite predetermined allocation formula requirement set forth in § 1.401–1(b)(1)(ii) and (iii) of the regulations is not violated.

b. *Special rules for plans maintained by more than one employer.* In accordance with the view of several commentators, the final regulations provide that in applying the limitations of section 415 with respect to a participant of a multiple employer plan described in section 413(b) or section 413(c), the total compensation received by that participant from all of the employers maintaining the plan may be taken into account.

The regulations also make it clear that the limitations of section 415 may be applied to a participant of a section 414(f) multiemployer plan by taking into account all of the benefits or contributions attributable to the participant from all of the employers maintaining the plan (*i.e.*, the rules which apply to multiple employer plans).

Finally, one commentator expressed concern that the section 415 rules relating to multiple employer plans seemingly require the aggregation of benefits provided outside of the multiple employer plan by an employer participating in such plan with the multiple and single plan benefits provided by an unrelated employer participating in the multiple employer plan. However, this concern is unfounded because, in this context, the regulations only require the aggregation of the multiple employer plan benefits with the single plan benefits provided by an employer maintaining the multiple employer plan.

c. *Effective date.* Many commentators were critical of the general effective date set forth in the proposed regulations. The final regulations do not change the general effective date. However, the final regulations provide that for all plan years and limitation years through the plan year beginning before January 7, 1981, a reasonable interpretation of the rules set forth in section 415 of the Code and in Rev. Rul. 75–481, 1975–2 C.B. 188, may be relied upon. The effect of these regulations on employers with existing plans will be addressed by the Service in the near future.

With respect to the special effective date for the rules relating to a change in the limitation year, the final regulations provide that these rules are required to be applied for changes in limitation years which occur after January 7, 1981. This is a change from the proposed regulations. Furthermore, as suggested by several commentators, the final regulations make it clear that these rules may be used for all prior changes in limitation years.

Definitions and Special Rules (Section 1.415–2)

a. *Limitation year.* Many commentators expressed concern that a literal reading of the proposed regulations regarding the method of electing a limitation year other than the calendar year or to change the limitation year seemingly required a separate resolution by the employer in order for the election to be effective. Accordingly, the final regulations make it clear that these elections may be made in connection with the adoption, by the employer of the plan or any amendments to such plan. However, plan administrators should be aware of the possibility of an inadvertent violation of the section 415 limitations where more than one plan and one limitation year are involved. (See Rev. Rul. 79–5, 1979–1 C.B. 165.) The final regulations also provide that this clarification applies in connection with the election to determine compensation under an accrual basis.

b. *Compensation.* Except for some clarifying and technical changes, the final regulations define compensation in substantially the same manner as the proposed regulations. Although many commentators criticized the proposed regulations' definition of compensation, the definition contained in the regulations provides the outer limits of what can be included as compensation for section 415 purposes. Thus, for example, for reasons of administrative ease, a plan may define compensation for section 415 purposes in a more restrictive manner than the regulations. If this is done and if the section 415 limitations are satisfied under the more restrictive definition of compensation, those limitations will always be satisfied under the more expansive definition of compensation set forth in the regulations. Moreover, the final regulations contain a safe harbor rule which provides that if the plan defines compensation in accordance with the short form formula set forth under the rule, the plan will automatically be considered to be using a definition of compensation which satisfies section 415(c)(3) and the regulations.

The changes made in the final regulations with respect to the definition of compensation primarily relate to the rules regarding contributions to a plan of deferred compensation. Under the final regulations, contributions made by the employer to a plan of deferred compensation are considered as compensation for section 415 purposes if the contributions are includable in the gross income of the employee in the taxable year in which contributed. This illustrates to some extent the general rule regarding the definition of section 415 compensation. That is, any item that is currently includable in the gross income of the employee may be considered as compensation for section 415 purposes in the year of inclusion. Conversely, any item that is not currently includable in gross income is considered to receive a "tax benefit" in the form of the tax deferral and, therefore, may not be considered as compensation for purposes of section 415 for any year, even if it is includable in gross income in a later year.

The final regulations, however, do provide that amounts received by an employee pursuant to an unfunded non-qualified plan may be considered as section 415 compensation in the year such amounts are includable in the gross income of the employee.

As requested by several commentators, the final regulations also provide a special compensation rule where a section 403(b) annuity contract is aggregated with a qualified plan of a controlled employer.

Limitation for Defined Benefit Plans (Section 1.415–3)

a. *General rules.* A considerable number of commentators expressed confusion over the use and definition of the term projected annual benefit in the proposed regulations. To eliminate this confusion, the term has been deleted in the final regulations for purposes of applying the limitations of section 415(b). Accordingly, in applying these limitations, the final regulations look to the annual benefit to which a participant is entitled at any time under a defined benefit plan. In this context, the final regulations make it clear that, in order to satisfy the limitations on annual benefits under section 415(b), the plan provisions must preclude the possibility that an annual benefit exceeding these limitations will be payable at any time. Thus, it is possible that a plan may fail to satisfy the limitation on annual benefits under section 415(b), even though no participant has actually accrued a benefit in the current limitation year in excess of the applicable limitations.

One commentator questioned the appropriate section 415 treatment to be given a pension plan which provides that, on attaining normal retirement age, the accrued benefit of a participant who works past normal retirement age is physically segregated. The participant is then typically given the right to direct the investment of this segregated account, and will be paid the balance of that account at actual retirement. The commentator suggested that this type of plan involves a defined benefit plan that converts (at least for the individual working past normal retirement age) into a defined contribution plan after normal retirement age for purposes of applying the section 415 limitations.

However, under the regulations, this type of plan is governed by the limitations of section 415(b) at all times, and is not converted into a defined contribution plan after normal retirement age merely because a participant's accrued benefit is physically segregated. Moreover, it should be noted that the final regulations make it clear that, for purposes of the limitations of section 415(b), an individual who works past the plan's normal retirement age may not receive a benefit in excess of those limitations, even though the benefit is the actuarial equivalent of an amount (which is within the limitations of section 415) the individual was entitled to receive at normal retirement age.

Finally, in determining a participant's compensation for the high 3 years of service, the final regulations provide a special rule where the participant is employed for less than 3 consecutive years with the employer and make it clear that a plan may use any 12 month period instead of the calendar year provided that it is uniformly and consistently applied.

(b) *Special rules for benefits to which no adjustment is required.* The final regulations do not change the special rules contained in the proposed regulations regarding joint and survivor annuities. Thus, in the case of a joint and survivor annuity with a sum certain feature, the final regulations provide that the joint and survivor feature of the benefit is considered as the add-on amount for purposes of applying the limitations of section 415(b). Although several commentators were critical of this position, it is unchanged in the final regulations because such position avoids the anomalous situation where a benefit which otherwise exceeds the section 415 limits can be changed to satisfy such limits merely by including a joint and survivor feature.

Furthermore, by example, the final regulations provide that the special rule under which no section 415 adjustment is required for a benefit payable in the form of a qualified joint and survivor annuity is only available if the benefit is, in fact, payable in that form. Hence, under the final regulations, for purposes of applying the limitations of section 415(b), any other forms of optional benefits, such as a lump sum distribution, must be adjusted to the value of a straight life annuity. Although several commentators were also critical of this rule, it is unchanged in the final regulations because, based on the statute and the legislative history, it is clear that Congress only intended to encourage qualified joint and survivor annuities provided that the benefit was payable in that form and not other forms which are the actuarial equivalent of a qualified joint and survivor annuity.

c. *Total annual benefits not in excess of $10,000.* Several commentators stated that even though few multiemployer plans provide annual benefits in excess of $10,000, the de minimis exception of section 415(b)(4) will generally not be available for participants in a multiemployer plan if its application is made to depend on whether that participant is entitled to benefits under any other defined benefit plan of the employer and whether that participant ever participated in a defined contribution plan of that employer. Accordingly, in recognition of the administrative difficulty that would exist for multiemployer plans in trying to satisfy the various conditions of the $10,000 de minimis exception, the final regulations provide that such exception is generally applicable to a multiemployer plan participant without regard to whether that participant ever participated in one or more plans maintained by an employer who also maintains the multiemployer plan.

Transitional Rule for Defined Benefit Plans (Section 1.415–4)

Cost of living adjustments. Several commentators stated that the proposed regulations were unclear concerning the issue of whether someone taking advantage of the transitional rule may switch over and use the normal section 415 limitations when the dollar limitation of section 415(b)(1)(A), due to cost-of-living adjustments, becomes greater than the amount allowed under the transitional rule. The final regulations make it clear that this type of switchover is permissible.

Cost of Living Adjustments for Defined Benefit Plans (Section 1.415–5)

a. *Application of adjusted dollar limitation.* In response to the questions of several commentators, the final regulations make it clear that the annual benefit payable to a terminated participant, which is otherwise limited by the dollar limitation of section 415(b)(1)(A), may only be increased in accordance with cost-of-living adjustments of the dollar limitation if the plan specifically provides for such post-retirement adjustments.

b. *Adjustment of average compensation for high 3 years of service limitation.* As is the case with respect to terminated participants who are subject to the dollar limitation, the final regulations provide that the annual benefit payable to a terminated participant, which is otherwise limited by the compensation limitation, may only be increased in accordance with cost-of-living adjustments of the compensation limitation if the plan specifically provides for such post-retirement adjustments.

Moreover, the final regulations provide that in the case of a participant who has separated from service prior to the first limitation year to which section 415 applies, the cost-of-living adjustment of the compensation limitation for all limitation years prior to the effective date of section 415 is to be determined as provided by the Commissioner.

c. *Automatic cost-of-living adjustments of dollar limitation.* Many commentators were critical of the scheduled annual increase restriction contained in the proposed regulations in connection with the rule allowing a plan provision which provides for an annual automatic cost-of-living adjustment of the dollar limitation. Serious consideration was given to this criticism. However, it was decided that the limitations of section 415 are an appropriate context in which to preclude the making of deductible contributions based on anticipated increases of the dollar limitation, which is the effect of such restriction.

Limitation for Defined Contribution Plans (Section 1.415–6)

a. *Annual additions—Employer contributions.* Several commentators were concerned with the uncertainty caused by the provision in the proposed regulations which gave discretion to the Commissioner to treat transactions or allocations under certain facts and circumstances as giving rise to annual additions. This provision is not changed in the final regulations. However, in order to provide some guidance, revenue rulings will be issued in the future to illustrate the type of situation that will give rise to an annual addition under these facts and circumstances provision as well as the facts and circumstances provision set forth in connection with employee contributions.

Additionally, in response to the suggestion of several commentators, the final regulations make it clear that if an amount is contributed to correct an erroneous forfeiture or erroneous failure to allocate amounts in a prior limitation year, the portion of the total amount contributed which reimburses the participant for the loss of investment gains is not considered an annual addition for any limitation year.

b. *Annual additions—Employee contributions.* Several commentators suggested that the final regulations specifically provide that the transfer of employee contributions from one qualified plan to another is not considered an annual addition. The final regulations reflect this suggestion.

c. *Annual additions—Excess annual additions.* Several commentators suggested that the rules governing excess annual additions be expanded so as to apply to situations other than just forfeitures or reasonable errors in estimating compensation. Accordingly, the final regulations provide that in addition to these two situations, the rules will also apply under other limited facts and circumstances which the Commissioner finds justify their availability.

Furthermore, numerous commentators pointed out that the rules set forth in the proposed regulations do not allow for the return of employee contributions. Thus, the final regulations specifically state that, under the circumstances described in the regulations, a plan may provide for the return of employee contributions to the extent that the return would reduce the excess amounts in the participant's account.

Finally, the final regulations make it clear that to the extent interest and investment gains or other income, or investment losses, are allocated to a suspense account created in accordance with these rules, the entire amount allocated to participants from the suspense account, including any gains or less any losses, is considered as the annual addition.

It should be noted that some confusion and uncertainty has arisen in connection with the applicability of the rules regarding excess annual additions. In general, the rules provided in the final regulations are only concerned with excess additions which arise under the limited circumstances set forth in the regulations. In these cases, excess additions can be held in a suspense account or employee contributions can be returned without being counted as an annual addition. Other excess additions which arise under circumstances not described in the regulations must be precluded by a plan's section 415 provisions, because these amounts cannot be put in a suspense account (or, have employee contributions returned on account of such excess).

A defined contribution plan may preclude excess additions arising under circumstances for which the rules contained in the final regulations are not available under two general approaches. Under the first approach, the plan must restrict both contributions and allocations so as to preclude the potential of such excess additions which cannot be allocated to a participant's account because of the limitations of section 415. Alternatively, if the plan's section 415 provisions provide for the allocation and reallocation to other participants if an allocation to a particular participant cannot be made because of section 415, the plan must restrict both contributions and allocations so as to preclude the potential of such excess additions which cannot be allocated to any of the participants in the plan because the maximum allowable under section 415 has been allocated to all participants. Accordingly, if a defined contribution plan does not contain provisions which so restrict both contributions and allocations, the plan does not preclude the possibility that the limitations of section 415 will be exceeded and, therefore, is not considered a qualified plan.

d. *Annual additions—Time when annual additions credited.* Many commentators stated that the rule requiring employee contributions to be made to the plan within a limitation year in order to be considered as an annual addition for that limitation year will cause substantial administrative difficulty for many plans. In view of this, the final regulations liberalize this rule so as to allow employee contributions to be within 30 days after the close of the limitation year.

Moreover, because of the special rules governing employee contributions to a TRASOP, the final regulations contain a special rule for this situation. This rule provides that such contributions shall be deemed credited to a participant's account in the limitation year for which the contribution is allocated under the terms of the plan, provided that the contributions, or pledges to make the contributions, are actually made no later than the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends.

e. *Time and method of making special election for certain section 403(b) annuity contracts.* In accordance with the suggestion of several commentators, the final regulations make it clear that an individual is only considered to have made a special election for a taxable year when the use of one of the alternative limitations is necessary to support the exclusion from gross income reflected in the individual's income tax return for that taxable year. Similarly, it is clear that an excess contribution to a section 403(b) annuity which occurs due to a mistake will not automatically have the effect of a binding election.

In addition, in order to make the rules governing the making of a special election easier to comply with, the final regulations provide that, for those individuals who took advantage of an alternative limitation under the temporary regulations for prior taxable years, the election must be made in the individual's income tax return for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register.** This is a liberalization from the proposed regulations which required the election be made in the taxable year in which the regulations are published. Finally, the final regulations contain a special rule for those individuals who are not participating in a section 403(b) annuity program in the taxable year in which the election is required to be made.

f. *Employee stock ownership plans—Cash contributions treated as contributions of employer securities.* Several commentators stated that the condition set forth in the proposed regulations which required the employer securities to be purchased no later than 30 days after the end of the section 404(a)(6) period was inconsistent with the TRASOP regulations. Accordingly, to correct this inconsistency, the final regulations provide that cash contributions will be treated as a contribution of employer securities if the securities are purchased no later than 60 days after the end of the period described in section 404(a)(6). Additionally, the final regulations also provide that, in order for this rule to apply, the employer must contribute the cash to the plan no later than 30 days after the end of the section 404(a)(6) period.

Limitation in Case of Defined Benefit and Defined Contribution Plan for Same Employee (Section 1.415–7)

a. *Defined benefit plan fraction—Projected annual benefit.* Although the term projected annual benefit has been eliminated in the final regulations for purposes of applying the limitations of section 415(b), it is still applicable in connection with calculating the defined benefit plan fraction under section 415(e). This is consistent with the statutory language under section 415(e).

The projected annual benefit used for purposes of calculating the defined benefit plan fraction is determined based on the use of several assumptions. One of these assumptions is that the participant will earn the same rate of compensation until normal retirement age, or current age, if that is later. Under some funding methods used to determine costs for purposes of deductions and minimum funding requirements, a projected benefit at normal retirement is also computed. For this purpose, it is usually assumed that a participant's compensation will increase in future years, and current costs will be determined to fund toward the higher benefit based on that higher amount of compensation. The projected annual benefit determined under section 415(e) is not intended to change or restrict any calculations used in determining funding costs. Rather, the section 415 projected annual benefit is only used for testing whether the limitation of section 415(e) has been satisfied.

b. *Special rules for section 403(b) annuity contracts.* One commentator stated that the reference in several examples of the proposed regulations to an employee's control or lack of control, within the meaning of section 414 (b) or (c), of a section 501(c)(3) organization was confusing and potentially misleading, since an individual can never be in "control" of such an organization within the meaning of section 414 (b) or (c). Accordingly, the final regulations clarify those examples which contain this reference.

The final regulations also modify the rule requiring contributions to a section 403(b) annuity contract for any limitation year in which an employer is deemed to maintain the annuity as a defined contribution plan to be taken into account even when the employer is no longer considered to maintain the annuity. Under the modification, the rule only applies if the employer is deemed to maintain the annuity because of the individual's election to have the provisions of section 415(c)(4)(C) apply for the taxable year. Thus, the rule does not apply if the employer is considered to maintain the annuity contract as a defined contribution plan because the participant is in control of that employer.

Combining and Aggregating Plans (Section 1.415–8)

One commentator suggested that the final regulations should provide that the limitations of section 415 only apply to benefits accrued in years beginning after December 31, 1975. However, in discussing the effective date of the limitations of section 415, the legislative history states that "contributions or accruals which occur before the effective date must, of course, be taken into account." Report of the Conference Committee, H.R. Rep. No. 93–1280, 93d Cong., 2d Sess. 348 (1974).

Therefore, in view of this clear language and because there is no indication anywhere in section 415 that the limitations are to apply only to post-1975 accruals, the final regulations do not reflect the suggestion of the commentator.

Disqualification of Plans and Trusts (Section 1.415–9)

Except for some minor clarifying changes, the rules set forth in this section are unchanged from the proposed regulations.

Special Aggregation Rules (Section 1.415–10)

The final regulations provide that the rules contained in this section apply where two or more existing plans, which previously were unaggregated, are aggregated during a limitation year on or after the effective date of section 415, thereby causing the limitations of section 415 to be exceeded for that limitation year. The proposed regulations had provided that these rules only apply where two or more previously unaggregated plans are aggregated after the effective date of section 415.

Drafting Information

The principal author of this regulation is Norman J. Misher of the Employee Plans and Exempt Organizations Division of the Office of Chief counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are hereby adopted subject to the changes set forth below:

Paragraph 1. Section 1.415–1, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Revising paragraph (d)(2);
2. Adding a new sentence at the end of paragraph (e)(1), redesignating paragraph (e)(2)(ii) as (e)(2)(iii), and adding a new paragraph (e)(2)(ii); and
3. Adding a new sentence at the end of paragraph (f)(1) and revising paragraph (f)(7).

These revised and added provisions read as follows:

§ *1.415–1 General rules with respect to limitations on benefits and contributions under qualified plans.*

* * * * *

(d) *Plan provisions.* * * *

(2) *Special rule for profit-sharing and stock bonus plans.* The use of a plan provision by a profit-sharing or stock bonus plan which automatically freezes or reduces the amount of annual additions to insure that the limitations of section 415 will not be exceeded must comply with the requirement set forth in § 1.401–1(b)(1) (ii) and (iii) that such plans provide a definite predetermined formula for allocating the contributions made to the plan among the participants. Thus, if the operation of this provision involves discretionary action on the part of the employer, the definite predetermined allocation formula requirement will be violated. For example, if two defined contribution plans of one employer otherwise provide for aggregate contributions which may exceed the limits of section 415(c), the plan provisions must specify (without involving employer discretion) which plan will reduce contributions and allocations to prevent an excess annual addition and how the reduction will occur.

(e) *Rules for plans maintained by more than one employer*—(1) *Plans described in section 413(b) or section 413(c).* * * * Furthermore, in applying the limitations of section 415 with respect to such a participant, the total compensation received by the participant from all of the employers maintaining the plan may be taken into account.

(2) *Plans described in section 414(f).* * * *

(ii) As an alternative to applying the limitations of section 415 with respect to a participant of an employer maintaining the multiemployer plan in the manner described in subdivision (i) of this subparagraph, the rules described in subparagraph (1) of this paragraph may be used for purposes of applying the section 415 limitations in connection with that participant.

* * * * *

(f) *Rules relating to the effective date of section 415*—(1) *In general.* * * * However, for all such plan years and limitation years through the plan years beginning before [January 7, 1981], a reasonable interpretation of the rules set forth in section 415 of the Code and in Rev. Rul. 75–481, 1975–2 C.B. 188, may be relied upon.

* * * * *

(7) *Special effective date for rules relating to change of limitation year.* Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–2(b)(4) (relating to the effect of a change of the limitation year) are required to be applied only for changes in limitation years which occur after [January 7, 1981]. These provisions may also be used for all prior changes in limitation years. However, if the provisions of § 1.415–2(b)(4) are not used for changes in limitation years which occur prior to [January 7, 1981], the requirements of section 2.01(4) of Rev. Rul. 75–481, 1975–2 C.B. 188, shall be applicable with respect to such changes.

* * * * *

Par. 2. Section 1.415–2, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Adding a new sentence at the end of paragraph (b)(2)(i) and at the end of paragraph (b)(3); and
2. Revising paragraphs (d)(1)(i) and (d)(2)(i), adding a new sentence immediately preceding the last sentence of paragraph (d)(4), and adding new paragraphs (d)(7) and (d)(8) immediately following paragraph (d)(6).

These revised and added provisions read as follows:

§ *1.415–2 Definitions and special rules.*

* * * * *

(b) *Limitation year.* * * *

(2) *Method of election to use a limitation year other than the calendar year or to change limitation year.* (i) * * * This requirement is satisfied if the election is made in connection with the adoption, by the employer, of the plan or any amendments to such plan.

* * * * *

(3) *Election of multiple limitation years.* * * * The rule described in this subparagraph also applies to a controlled group of employers (within the meaning of section 414 (b) or (c), as modified by section 415(h)).

* * * * *

(d) *Compensation*—(1) *Items includable as compensation.* * * *

(i) The participant's wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with the employer maintaining the plan (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses).

* * * * *

(2) *Items not includable as compensation.* * * *

(i) Contributions made by the employer to a plan of deferred compensation to the extent that, before the application of the section 415 limitations to that plan, the contributions are not includable in the gross income of the employee for the taxable year in which contributed. In addition, employer contributions made on behalf of an employee to a simplified employee pension described in section 408(k) are not considered as compensation for the taxable year in which contributed to the extent such contributions are deductible by the employee under section 219(b)(7). Additionally, any distributions from a plan of deferred compensation are not considered as compensation for section 415 purposes, regardless of whether such amounts are includable in the gross income of the employee when distributed. However, any amounts received by an employee pursuant to an unfunded non-qualified plan may be considered as compensation for section 415 purposes in the year such amounts are includable in the gross income of the employee.

* * * * *

(4) *Election to use compensation accrued during limitation year.* * * * The written resolution requirement described in the preceding sentence is satisfied if the election is made in connection with the adoption, by the employer or employers, of the plan or any amendments to such plan. * * *

* * * * *

(7) *Special rule when section 403(b) annuity is aggregated with qualified plan of controlled employer.* If a section 403(b) annuity contract is combined or aggregated with a qualified plan of a controlled employer in accordance with either § 1.415–7(h)(2)(i) or § 1.415–8(d)(2), the following rules apply:

(i) In applying separately the limitations of section 415 (b) or (c) to the qualified plan and the limitations of section 415(c) and the exclusion allowance of section 403(b)(2)(A) to the section 403(b) annuity, compensation from the controlled employer may not be aggregated with compensation from the

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employer purchasing the section 403(b) annuity.

(ii) However, in applying the limitations of section 415(c) in connection with the combining of the section 403(b) annuity with a qualified defined contribution plan or section 415(e) in connection with the aggregating of the section 403(b) annuity with a qualified defined benefit plan, the total compensation from both employers may be taken into account.

(8) *Safe harbor rule with respect to plan's definition of compensation.* If a plan defines compensation for purposes of applying the limitations of section 415 to include only those items specified in subparagraph (1)(i) of this paragraph and to exclude all those items listed in subparagraph (2) of this paragraph, if applicable, the plan will automatically be considered to be using a definition of compensation which satisfies section 415(c)(3) and these regulations.

Par. 3. Section 1.415–3, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Revising paragraphs (a)(1) and (a)(3);
2. Adding two sentences at the end of paragraph (b)(1)(i), redesignating paragraph (b)(3) as paragraph (b)(2) and deleting paragraph (b)(2);
3. Revising the last sentence of paragraph (c)(1)(i) and the first sentence of subdivision (iii) of Example (1) of paragraph (c)(3);
4. Revising the second sentence of paragraph (d)(1) and removing the word "projected" in the third and fifth sentence of the example under paragraph (d)(3);
5. Revising the last sentence of paragraph (e); and
6. Removing the word "projected" in paragraph (f)(1), redesignating paragraphs (f)(2), (f)(3) and (f)(4) as (f)(3), (4) and (5), adding a new paragraph (f)(2) and removing the word "projected" in the second sentence of Example (2) of paragraph (f)(5) (as redesignated).

These revised and added provisions read as follows:

§ *1.415–3 Limitation for defined benefit plans.*

(a) *General rules*—(1) *Maximum limitations.* Under section 415(b) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual benefit (as defined in paragraph (b)(1)(i) of this section) to which a participant is entitled at any time under a defined benefit plan may not, during the limitation year, exceed the lesser of—

(i) $75,000, or

(ii) 100 percent of the participant's average compensation for his high 3 years of service. As required in § 1.415–1(d), in order to satisfy the limitations on benefits of this section, the plan provisions must preclude the possibility that any annual benefit exceeding these limitations will be payable at any time. Thus, a plan may fail to satisfy the limitations of this section even though no participant has actually accrued a benefit in excess of these limitations.

* * * * *

(3) *Average compensation for high 3 years of service.* For purposes of applying the limitation on benefits described in this section, a participant's high 3 years of service is the period of 3 consecutive calendar years (or, the actual number of consecutive years of employment for those employees who are employed for less than 3 consecutive years with the employer) during which the employee had the greatest aggregate compensation (as defined in § 1.415–2(d)) from the employer. For purposes of this subparagraph, in determining a participant's high 3 years, the plan may use any 12 month period instead of the calendar year provided that it is uniformly and consistently applied.

(b) *Definition of terms*—(1) *Annual benefit.* (i) * * * Additionally, in applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of a participant, it is immaterial if the participant works beyond the normal retirement age as determined under the terms of the plan. Thus, for example, if an individual, who is subject to the dollar limitation of section 415(b)(1)(A) ($110,625 for 1980), retires in 1980 after working past the plan's normal retirement age of 65, the plan may only provide such individual with an annual benefit of $110,625 in 1980 and not the actuarial equivalent of the amount the individual would have been entitled to receive at age 65 in order to comply with the section 415(b) limitations.

* * * * *

(c) *Adjustment where form of benefit is other than straight life annuity*—(1) *In general.* (i) * * * This adjustment is for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of the participant.

* * * * *

(3) *Examples.* * * *

Example (1). * * *

(iii) Although 16% of the excess benefit attributable to the annuity provided by this plan may, consequently, be ignored (because this represents the value added to the 10 year certain and life annuity benefit by the joint and survivor feature), 10% of such excess benefit (the value added to the straight life annuity benefit by the 10 year certain feature) must be taken into account for purposes of adjusting the benefit under the plan to an actuarially equivalent straight life annuity. * * *

* * * * *

(d) *Employee contributions*—(1) *Mandatory contributions.* * * * The annual benefit attributable to mandatory contributions is determined by using the factors described in section 411(c)(2)(B) and the regulations thereunder, regardless of whether section 411 applies to that plan. * * *

* * * * *

(e) *Adjustment where benefit begins before age 55.* * * * This adjustment is only for purposes of applying the dollar limitation described in section 415(b)(1)(A) to the annual benefit of the participant.

(f) *Total annual benefits not in excess of $10,000.* * * *

(2) *Special rule with respect to participants in multiemployer plans.* The special $10,000 exception set forth in subparagraph (1) of this paragraph is applicable to a participant in a multiemployer plan described in section 414(f) without regard to whether that participant ever participated in one or more other plans maintained by an employer who also maintains the multiemployer plan, provided that none of such other plans were maintained as a result of collective bargaining involving the same employee representative as the multiemployer plan.

* * * * *

Par. 4. Section 1.415–4, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Removing the second sentence of paragraph (a);
2. Removing the terms "or projected annual benefit (whichever is applicable)" in the last sentence of paragraph (a) and in paragraph (b) (1) and (2); and
3. Revising paragraph (c)(2)(ii).

The revised provision reads as follows:

§ *1.415–4 Transitional rule for defined benefit plans.*

* * * * *

(c) *Special rules.* * * *

(2) *Cost-of-living adjustments.* * * *

(ii) Any cost-of-living increase in the dollar limitation described in section 415(b)(1)(A) under section 415(d) and § 1.415–5(a) may be taken advantage of by an individual who is otherwise using the transitional rule set forth in this section. Thus, for example, if, due to cost-of-living increases under section 415(d) and § 1.415–5(a), the dollar limitation for 1981 is greater than $110,625, to the extent allowed under section 415(b), a plan may provide that an individual who is otherwise receiving a benefit of $110,625 per year under the transitional rule of this section, may receive the greater amount in 1981.

Par. 5. Section 1.415–5, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Adding a sentence at the end of paragraph (a)(3);
2. Adding two sentences at the end of paragraph (b)(1); and
3. Revising the last sentence of the example under paragraph (c)(2).

The added and revised provisions read as follows:

§ *1.415–5 Cost of living adjustments for defined benefit plans.*

(a) *Dollar limitation.* * * *

(3) *Application of adjusted figure.* * * * However, for purposes of this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the dollar limitation, may only be increased in accordance with cost-of-living adjustments of

the dollar limitation if the plan specifically provides for such post-retirement adjustments.

(b) *Average compensation for high 3 years of service limitation*—(1) *In general.* * * * In the case of a participant who has separated from service prior to the first limitation year to which section 415 applies, the cost-of-living adjustment of the compensation limitation under this paragraph for all limitation years prior to the effective date of section 415 is to be determined as provided by the Commissioner. For purposes of the adjustment described in this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the compensation limitation, may only be increased in accordance with cost-of-living adjustments of the compensation limitation if the plan specifically provides for such post-retirement adjustments.

* * * * *

(c) *Automatic cost-of-living adjustments of dollar limitation.* * * *

(2) *Example.* * * *

Example. * * * The amendment providing for an automatic cost-of-living adjustment of the dollar limitation of Plan A is an example of a provision which satisfies the requirements of subparagraph (1) of this paragraph.

Par. 6. Section 1.415–6, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by:

1. Revising the next to last sentence of paragraph (b)(2)(ii) and adding "for the limitation year when the contribution was otherwise required to have been made" at the end of the last sentence of paragraph (b)(2)(v);
2. Replacing the period at the end of subdivision (iii) of paragraph (b)(3) with a comma and adding a new subdivision (iv) immediately following that subdivision;
3. Revising paragraph (b)(5);
4. Revising so much of paragraph (b)(6) as precedes subdivision (i), adding a new subdivision (iv) immediately following subdivision (iii) of paragraph (b)(6) and adding a sentence immediately preceding the last sentence of paragraph (b)(6);
5. Revising paragraph (b)(7)(iii);
6. Revising the third to last sentence of Example (6) of paragraph (c);
7. Adding a sentence at the end of paragraph (e)(6)(i), revising the second sentence and the last sentence of paragraph (e)(6)(ii) and adding a new subdivision (iii) immediately following subdivision (ii) of paragraph (e)(6);
8. Revising the second sentence of Example (1) of paragraph (e)(7); and
9. Revising the second sentence of paragraph (g)(4)(i) and adding two sentences at the end of paragraph (g)(4)(i).

These revised and added provisions read as follows:

§ 1.415–6 Limitation for defined contribution plans.

* * * * *

(b) *Annual additions.* * * *

(2) *Employer contributions.* * * *

(ii) * * * For purposes of this subdivision, if the amount so contributed in the particular limitation year takes into account actual investment gains attributable to the period subsequent to the year to which the contribution relates, the portion of the total contribution which consists of such gains is not considered as an annual addition for any limitation year. * * *

* * * * *

(3) *Employee contributions.* * * *

(iv) The direct transfer of employee contributions from one qualified plan to another.

* * * * *

(5) *Forfeitures.* With respect to a particular limitation year, forfeitures (as well as any income attributable to the forfeiture) will be considered to be an annual addition to the plan if such forfeitures are allocated to the account of the participant as of any date within that limitation year.

(6) *Excess annual additions.* If as a result of the allocation of forfeitures, a reasonable error in estimating a participant's annual compensation, or under other limited facts and circumstances which the Commissioner finds justify the availability of the rules set forth in this subparagraph, the annual additions under the terms of a plan for a particular participant would cause the limitations of section 415 applicable to that participant for the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year if they are treated in accordance with any one of the following subdivisions:

* * * * *

(iv) Notwithstanding subdivision (i), (ii) or (iii) of this subparagraph, the plan may provide for the return of employee contributions (whether voluntary or mandatory), to the extent that the return would reduce the excess amounts in the participant's account. However, the return of mandatory employee contributions may result in discrimination in favor of employees who are officers, shareholders or highly compensated. If the plan does not provide for the return of gains attributable to the returned employee contributions, such earnings will be considered as an employee contribution for the limitation year in which the returned contribution was made.
* * * To the extent that investment gains or other income or investment losses are allocated to the suspense account, the entire amount allocated to participants from the suspense account, including any such gains or other income or less any losses, is considered as the annual addition. * * *

(7) *Time when annual additions credited.* * * *

(iii) For purposes of this subparagraph, employee contributions, whether voluntary or mandatory, shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. However, in the case of employee contributions to an employee stock ownership plan which meets the requirements of either section 301 (d) of the Tax Reduction Act of 1975 (89 Stat. 38, 1.46–7) and the regulations thereunder (§ 1.46–8) or section 409A and the regulations thereunder, such contributions shall be deemed credited to a participant's account in the limitation year for which the contribution is allocated to that account under the terms of the plan, provided that the contributions, or pledges to make the contributions, are actually made no later than the period described in section 404 (a) (6) applicable to the taxable year with or within which the particular limitation year ends.

* * * * *

(c) *Examples.* * * *

Example (6). * * * However, under the rule set forth in paragraph (b) (7) (iii) of this section, employee contributions will not be considered credited to a participant's account for a particular limitation year for section 415 purposes unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. * * *

* * * * *

(e) *Special election for section 403(b) contracts purchased by educational organizations, hospitals and home health service agencies.* * * *

(6) *Time and method of making election.* (i) * * * However, an individual is only considered to have made an election for a taxable year when the use of one of the alternative limitations is necessary to support the exclusion from gross income reflected in the individual's income tax return for that taxable year.

(ii) * * * The first condition is that the election must be made (in the manner described in subdivision (i) of this subparagraph) in the individual's income tax return for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register.** * * * See paragraph (e) (2) (v) of this section for rules relating to an individual who had taken advantage of an alternative limitation in prior taxable years under § 11.415 (c) (4)–1 (b) but does not elect any of the alternative limitations for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register.**

(iii) This subdivision provides a special rule for those individuals who, in accordance with § 11.415 (c) (4)–1 (b), took advantage of one of the alternative limitations for prior taxable years, but who are not participating in a section 403 (b) annuity program in the taxable year following the taxable year in which final regulations under section 415 are published in the **Federal Register.** In such a situation, the election described in this paragraph to take advantage of an alternative limitation (or, alternatively, not to elect any of the alternative limitations) is made by the individual by attaching a statement to the income tax return for the taxable year following the taxable year in which final section 415 regulations are published in the

Federal Register. The statement must include the individual's name, address, Social Security number, the name of the section 403 (b) annuity program in which the individual participated and a statement indicating the election being made. See paragraph (e) (2) (v) of this section for rules relating to the situation where the individual described in this subdivision chooses not to elect any of the alternative limitations.

(7) *Examples:* * * *

Example (1). * * * M is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415 (h).

* * *

* * * * *

(g) *Special rules for employee stock ownership plans.* * * *

(4) *Cash contributions treated as contributions of employer securities.* * * *

(i) * * * However, this subdivision is not applicable unless the following two conditions are satisfied. The first condition is that the employer must contribute the cash to the plan no later than 30 days after the end of the period described in section 404 (a) (6) applicable to the taxable year with or within which the particular limitation year ends. The second condition is that the employer securities must be purchased no later than 60 days after the end of the period described in the preceding sentence.

* * * * *

Par. 7. Section 1.415–7, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Removing the term "§ 1.415–3(b)(2)" in the parenthesis in paragraphs (b)(1)(i) and (b)(1)(ii) and inserting in lieu thereof "subparagraph (3) of this paragraph" and by adding paragraph (b)(3) immediately following paragraph (b)(2);

2. Revising paragraph (c)(2)(ii);

3. Adding a sentence at the end of paragraph (d)(1);

4. Removing the term "1.415–3(b)(2)" in the parenthesis in the first sentence of Example (1)(ii) and in the second sentence of Example (3)(ii) of paragraph (e) and inserting in lieu thereof "paragraph (b)(3) of this section", and adding Example (4) immediately following Example (3) of paragraph (e);

5. Revising the first sentence of paragraph (f)(2)(i); and

6. Removing the term "at least" in the last sentence of paragraph (h)(2)(iii) and inserting in lieu thereof "more than", revising subdivision (ii) of paragraph (h)(4), revising the last three sentences of Example (1) of paragraph (h)(5) and revising Example (4) of such paragraph.

These revised and added provisions read as follows:

§ 1.415–7 Limitation in Case of Defined Benefit and Defined Contribution Plan for Same Employee

* * * * *

(b) *Defined benefit plan fraction.* * * *

(3) *Projected annual benefit.* For purposes of this section, a participant's "projected annual benefit" is equal to the annual benefit (as defined in § 1.415–3(b)(1)(i)) to which a participant in a defined benefit plan would be entitled under the terms of the plan based upon the following assumptions: (i) The participant will continue employment until reaching normal retirement age as determined under the terms of the plan (or current age, if that is later).

(ii) The participant's compensation for the limitation year under consideration will remain the same until the date the participant attains the age described in subdivision (i) of this subparagraph.

(iii) All other relevant factors used to determine benefits under the plan for the limitation year under consideration will remain constant for all future limitation years.

(c) *Defined contribution plan fraction.*

* * *

(2) *Special rules for certain annuity contracts and individual retirement plans.*

* * *

(ii) This subdivision provides a rule for computing the defined contribution plan fraction with respect to an individual on whose behalf a section 403(b) annuity has been purchased prior to commencing employment with an employer which the individual controls (within the meaning of section 414 (b) or (c), as modified by section 415(h)) and which maintains a defined benefit plan. In this situation, the controlled employer is considered to be maintaining the section 403(b) annuity contract as a defined contribution plan under the rules of paragraph (h)(2)(i) of this section. However, for all years prior to commencing employment with the controlled employer, the individual does not have any years of service (within the meaning of subparagraph (1)(ii) of this paragraph) with that employer. Thus, for each limitation year in which such individual did not have a year of service with the controlled employer, the denominator of the defined contribution plan fraction applicable to the individual is deemed to equal the numerator of that fraction.

* * * * *

(d) *Special transitional rules for defined contribution plan fraction.* * * *

(1) * * * Thus, for example, if the aggregate amount of actual annual additions to the plan for all such limitation years is $500,000, while the aggregate amount in the denominator is $250,000, under the rule set forth in this subparagraph, the defined contribution plan fraction is $250,000 divided by $250,000, or 100 percent.

* * * * *

(e) *Examples.* * * *

Examples (4). (i) J is an employee of M Corporation and is the only participant in the defined contribution plan maintained by the corporation. M uses the calendar year as the limitation year for the plan. The current limitation year is 1980. For all limitation years prior to 1980, the maximum allowable contribution was made to the plan. Thus, J's defined contribution plan fraction as of the end of 1979 is 1.0 or 100 percent. In 1980, before any contributions had been made to the defined contribution plan, the defined contribution plan is converted into a defined benefit plan. The defined benefit plan provides a benefit in the form of a straight life annuity to 50% of a participant's compensation for the high 3 years of service, but not less than the amount purchasable by J's account balance. J's average compensation for the high 3 years is $50,000.

(ii) As a result of the conversion of the defined contribution plan into the defined benefit plan, J becomes subject to the 1.4 limitation of section 415(e) and this section because he has at one time participated in a defined contribution plan and has at one time participated in a defined benefit plan maintained by M. Although the defined contribution plan is no longer in existence, J must still take the defined contribution plan fraction into account. A defined contribution plan fraction must continue to be taken into account regardless of whether the plan has been converted into another plan or whether the plan is terminated and distributions are made to participants.

(iii) Even though J is subject to the limitations of section 415(e) and this section, in computing the defined benefit plan fraction, the special rule set forth in § 1.415–3(b)(1)(iv) is applicable based on the facts of this example. That rule provides that when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. (For purposes of section 415, a conversion of a defined contribution plan into a defined benefit plan is considered such a transfer.) Assume that one-half of J's annual benefit under the defined benefit plan is attributable to the assets transferred from the defined contribution plan. This means that by applying the special rule set forth in § 1.415–3(b)(1)(iv), only one-half of J's projected annual benefit must be taken into account in computing J's defined benefit plan fraction. Accordingly, because J's defined benefit plan fraction is only 25 percent (½ of 50% of high 3 years of compensation ($12,500) divided by 100% of high 3 years of compensation ($50,000)) and not 50 percent which would have been the case absent the special rule of § 1.415–3(b)(1)(iv), the 140 percent limitation of section 415(e) and this section is not violated.

(f) *Special rules where records are not available for past periods.* * * *.

(2) *Defined contribution plan fraction for first limitation year to which section 415 applies to a plan.* * * *

(i) The numerator of the fraction is the sum of the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, plus any additions to the participant's account made subsequent to that valuation date and through the end of the first limitation year to which section 415 applies to the plan. * * *

* * * * *

(h) *Special rules for section 403(b) annuity contracts.* * * *

(4) *Special rules relating to the aggregation of the annuity contract with a qualified plan.* * * *

(ii) Any contributions made to a section 403(b) annuity contract for a participant in any limitation year in which the rules of paragraph (h)(2)(ii) of this section are applicable shall be taken into account in subsequent limitation years even though the rules of such paragraph are no longer applicable.

* * * * *

(5) *Examples.* * * *

Example (1). * * * Also, A is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). For purposes of section 415, under subparagraph (1) of this paragraph, A is considered to have exclusive control of the annuity contract. Therefore, because A (and not the hospital) is treated as maintaining the annuity contract and because the hospital does not maintain any defined contribution plan, the limitations of section 415(e) and this section are not applicable to A for either the annuity contract or the hospital's defined benefit plan for the current limitation year.

* * * * *

Example (4). J is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on J's behalf for the current limitation year. The hospital does not maintain any qualified plans during that limitation year. However, for the limitation year, J is in control (within the meaning of section 414 (b) or (c), as modified by section 415(h)) of employer M. M maintains a qualified defined benefit plan during that limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by M (the controlled employer) as well as a defined contribution plan maintained by J. Therefore, because M is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to J for the annuity contract and the defined benefit plan maintained by M in the current limitation year.

* * * * *

Par. 8. Section 1.415–8, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Revising paragraph (b);

2. Removing the term "at least" in the next to last sentence of paragraph (d)(2) and inserting in lieu thereof "more than";

3. Revising paragraph (f); and

4. Removing the word "projected" in the last sentence of Example (1) of paragraph (h).

These revised provisions read as follows:

§ *1.415–8 Combining and Aggregating Plans*

* * * * *

(b) *Annual compensation taken into account where employer maintains more than one defined benefit plan.* If more than one qualified defined benefit plan is being aggregated under paragraph (a) of this section for a particular limitation year, in applying the defined benefit compensation limitation (as described in section 415(b)(1)(B)) to the annual benefit of a participant under each plan, the participant's high 3 years of compensation is determined in accordance with § 1.415–3(a)(3).

* * * * *

(f) *Special rules for combining certain plans, etc.* If a plan, annuity contract or arrangement is subject to a special limitation in addition to, or instead of, the regular limitations described in section 415 (b) or (c), and is combined under this section with a plan which is subject only to the regular section 415 (b) or (c) limitations, the following rules shall apply: (1) Each plan, annuity contract or arrangement which is subject to a special limitation must meet its own applicable limitation and each plan subject to the regular limitations of section 415 must meet its applicable limitation.

(2) The combined limitations shall be the larger of the applicable limitations.

* * * * *

Par. 9. Section 1.415–9, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Revising paragraph (a)(2);

2. Revising the first sentence of paragraph (b)(2); and

3. Revising the third sentence of Example (1) of paragraph (c)(4).

These revised provisions read as follows:

§ *1.415–9 Disqualification of plans and trusts*

(a) *In general.* * * *

(2) The annual benefit (as defined in § 1.415–3(b)(1)) of a participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(b) and § 1.415–3.

* * * * *

(b) *Rules for disqualification of plans and trusts.* * * *

(2) *Single plan.* In the case of a single qualified defined benefit plan maintained by the employer that provides an annual benefit (as defined in § 1.415–3(b)(1)) in excess of the limitations of section 415(b) and § 1.415–3 for any particular limitation year, such plan is disqualified in that limitation year. * * *

* * * * *

(c) *Special rules concerning section 403(b) annuity contracts.* * * *

(4) *Examples.* * * *

Example (1). * * * Solely for the purpose of illustrating the rules set forth in this paragraph, assume that N is in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). * * *

* * * * *

Par. 10. Section 1.415–10, as set forth in paragraph 9 of the notice of proposed rulemaking, is amended by: 1. Revising the first sentence of paragraph (a)(1); and

2. Revising paragraph (a)(3)(ii).

These revised provisions read as follows:

§ *1.415–10 Special Aggregation Rules*

(a) *General rules relating to aggregation of plans during limitation year*—(1) *Scope of aggregation rules.* This section provides rules for those situations in which two or more existing plans, which previously were unaggregated, are aggregated during a particular limitation year on or after the effective date of section 415 and these regulations, and as a result, the limitations of section 415 (b), (c) or (e) are exceeded for that limitation year. * * *

* * * * *

(3) *Aggregation of additions of benefits.* * * *

(ii) The annual benefit or projected annual benefit (whichever is applicable) of a participant under a defined benefit plan prior to the aggregation of such plan shall be taken into account for purposes of applying the limitations of section 415(b) or section 415(e) to the aggregated plans.

* * * * *

This Treasury decision is issued under the authority contained in sections 415(j) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 985, 68A Stat. 917; 26 U.S.C. 415(j) and 7805).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 23, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

Paragraph 1. Paragraph (a)(1) of § 1.401–2 is amended by adding a sentence at the end thereof. The new sentence reads as follows:

§ 1.401–2 Impossibility of diversion under the trust instrument.

(a) *In general.* (1) * * * For rules permitting reversion to the employer of amounts held in a section 415 suspense account, see § 1.401(a)–2(b).

* * * * *

§ 1.401–8 [Redesignated as § 1.401(f)–1]

§ 1.401–8A [Redesignated as § 1.401–8 and amended]

Par. 2. Present § 1.401–8 is redesignated as § 1.401(f)–1. Section 1.401–8A is redesignated as new § 1.401–8 and is amended by deleting the reference to "§ 1.401–8" in paragraph (a) and inserting in lieu thereof, "§ 1.401(f)–1".

Par. 3. The following new sections are added immediately before § 1.401(a)–11:

§ 1.401(a)–1 Post-ERISA qualified plans and qualified trusts; in general.

(a) *Introduction*—(1) *In general.* This section and the following regulation sections under section 401 reflect the provisions of section 401 after amendment by the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406) ("ERISA").

(2) [Reserved]

(b) *Requirements for pension plans*—(1) *Definitely determinable benefits.* (i) In order for a pension plan to be a qualified plan under section 401(a), the plan must be established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to its employees over a period of years, usually for life, after retirement.

(ii) Section 1.401–1(b)(1)(i), a pre-ERISA regulation, provides rules applicable to this requirement, and that regulation is applicable except as otherwise provided.

(iii) The use of the type of plan provision described in § 1.415–1(d)(1) which automatically freezes or reduces the rate of benefit accrual or the annual addition to insure that the limitations of section 415 will not be exceeded, will not be considered to violate the requirements of this subparagraph provided that the operation of such provision precludes discretion by the employer.

(2) [Reserved]

§ 1.401(a)–2 Impossibility of diversion under qualified plan or trust.

(a) *General rule.* Section 401(a)(2) requires that in order for a trust to be qualified, it must be impossible under the trust instrument (in the taxable year and at any time thereafter before the satisfaction of all liabilities to employees or their beneficiaries covered by the trust) for any part of the trust corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of those employees or their beneficiaries. Section 1.401–2, a pre-ERISA regulation, provides rules under section 401(a)(2) and that regulation is applicable except as otherwise provided.

(b) *Section 415 suspense account.* Paragraph (a) of this section does not apply to amounts properly allocated to a suspense account pursuant to § 1.415–6(b)(6). The plan, or the trust forming part of the plan, may provide for the reversion to the employer, upon termination of the plan, of amounts held in the suspense account.

Par. 4. The following new section is added immediately after § 1.401(a)–15:

§ 1.401(a)–16 Limitations on benefits and contributions under qualified plans.

A trust will not be a qualified trust and a plan will not be a qualified plan if the plan provides for benefits or contributions which exceed the limitations of section 415. Section 415 and the regulations thereunder provide rules concerning these limitations on benefits and contributions.

Par. 5. Section 1.401(f)–1 as redesignated in paragraph 2 is amended by (1) deleting the reference to "§ 1.401–8A" in paragraph (a) and inserting in lieu thereof "§ 1.401–8" and (2) redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e). New paragraph (e) reads as follows:

§ 1.401(f)–1 Certain custodial accounts and annuity contracts.

* * * * *

(e) *Other contracts.* For purposes of this section, other than the non-transferability restriction of paragraph (d)(2), a contract issued by an insurance company qualified to do business in a state shall be treated as an annuity contract. For purposes of the preceding sentence, the contract does not include a life, health or accident, property, casualty or liability insurance contract. For purposes of this paragraph, a contract which is issued by an insurance company will not be considered a life insurance contract merely because the contract provides incidental life insurance protection. The provisions of this paragraph are effective for taxable years beginning after December 31, 1975.

(f) *Cross reference.* * * *

Par. 6. Paragraph (b)(3) of 1.403(b)–1 is amended by (1) revising the fourth sentence of subdivision (i), (2) redesignating subdivision (ii) and subdivision (iii) and revising so much thereof as precedes the example, and (3) adding a new subdivision (ii) following subdivision (i). These revised and added provisions read as follows:

§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501(c)(3) organization or public school.

* * * * *

(b) *Amounts paid by employer during taxable years beginning after December 31, 1957.* * * *

(3) *Agreement to take a reduction in salary or to forego an increase in salary.* (i) * * * Except as provided in subdivision (ii) of this subparagraph, the employee must not be permitted to make more than one agreement with the same employer during any taxable year of such employee beginning after December 31, 1963; the exclusion provided by this paragraph shall not apply to any amounts which are contributed under any further agreement made by such employee during the same taxable year beginning after such date. * * *

(ii) An individual who is employed by an organization described in section 415(c)(4) may make a salary reduction agreement for his taxable year beginning in 1976 or 1977 at any time before the end of the 1976 or 1977 taxable year, respectively, without the agreement's being considered a new agreement within the meaning of this subparagraph. The agreement for 1976 may be made on or before June 15, 1977, and the agreement for 1977 may be made on or before April 17, 1978. This special rule only applies if the individual makes a statement of intention in accordance with § 11.415(c)(4)–1(b) electing, or determines his income tax liability for the taxable year in a way which is consistent with, one of the alternative limitations under section 415(c)(4) for 1976 or 1977 (as the case may be). The salary reduction agreement for 1976 may be made effective with respect to any amount earned during the taxpayer's most recent one-year period of service (as defined in paragraph (f) of this section) ending not later than the end of the 1976 taxable year, notwithstanding subdivision (i) of this subparagraph. Similarly, the salary reduction agreement for 1977 may be made effective with respect to such period of service ending not later than the end of the 1977 taxable year. If the salary reduction agreement for 1976 is entered into at any time after December 31, 1976, or if the salary reduction agreement for 1977 is entered into at any time after December 31, 1977, an amended Form W–2 must be filed on behalf of the individual.

(iii) The rules of subdivision (i) of this subparagraph may be illustrated by the following example:

* * * * *

Par. 7. Paragraph (d) of § 1.403(b)–1 is amended by (1) deleting the period at the end of subparagraph (3)(iv)(*c*) and inserting in lieu thereof "; or"; (2) adding a new subdivision (v) following subdivision (iv) of subparagraph (3); and (3) adding a new subparagraph (5) at the end thereof. The added provisions read as follows:

§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501(c)(3) organization or public school.

* * * * *

(d) *Exclusion allowance.* * * *

(3) *Amounts previously contributed by the employer which were excludable from the employee's gross income.* * * *

(v) Which were contributions to a section 403(b) annuity contract for a prior taxable year and which exceeded the limitations of section 415(c)(1) applicable to the employee. See § 1.415–6(e)(1)(ii) for a more detailed discussion of this rule. See also § 1.415–9(c) for rules relating to the treatment of certain contributions to a section 403(b) annuity contract which are excess contributions because of the aggregation of the annuity contract with a qualified plan.

* * * * *

(5) *Election to have allowance determined under section 415 rules.* Under section 415(c)(4)(D), an employee may elect to have the provisions of

section 415(c)(4)(C) (relating to special limitations for annuity contracts purchased by educational organizations, hospitals and home health service agencies) apply for a taxable year. If the employee so elects, his exclusion allowance is the maximum amount under section 415 that could be contributed by the employer for the benefit of the employee if the annuity contract for the benefit of the employee were treated as a defined contribution plan maintained by the employer. Thus, the exclusion allowance for the taxable year of an employee who makes the election may not exceed the limitation on contributions and other additions (as described in § 1.415–6) applicable to the employee for that taxable year. See § 1.415–7 for provisions applicable in the event an employer maintains a defined benefit plan and a defined contribution plan for the same employee. See § 1.415–8 for provisions applicable in the event an employer maintains more than one defined contribution plan covering the same employee.

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§ 1.405–1(b)(1) [Amended]

Par. 8. Section 1.405–1(b)(1) is amended by deleting "and (8)" in the third sentence and inserting in lieu thereof "(8), (16), and (19)".

Par. 9. The following new §§ 1.415–1 through 1.415–10 are added at the appropriate place:

§ 1.415–1 General rules with respect to limitations on benefits and contributions under qualified plans.

(a) *Trusts.* Under sections 415 and 401(a)(16), a trust which forms part of a pension, profit-sharing or stock bonus plan will not be qualified under section 401(a) if any one of the following conditions exists:

(1) The annual benefits under a defined benefit plan with respect to any participant for any limitation year exceed the limitations of section 415(b) and § 1.415–3.

(2) The contributions and other additions credited under a defined contribution plan with respect to any participant for any limitation year exceed the limitations of section 415(c) and § 1.415–6.

(3) Where an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, the trust has been disqualifed under section 415(g) and § 1.415–9.

(b) *Certain annuities and accounts*—(1) *In general.* Except as provided in paragraph (c) of this section, an annuity, account, etc., listed in section 415(a)(2) will not be considered to be described in the otherwise applicable section unless—

(i) It satisfies the requirements of § 1.415–3 (relating to limitations on benefits), § 1.415–6 (relating to limitations on contributions and other additions) or § 1.415–7 (relating to limitations where an individual has at any time participated in a defined contribution plan and also has at any time participated in a defined benefit plan maintained by the same employer), whichever is applicable, and

(ii) It has not been disqualifed under § 1.415–9 (relating to disqualification of plans and trusts).

(2) *Special rule for section 403(b) annuity contracts.* (i) With respect to an annuity contract described in section 403(b), the provisions of subparagraph (1) of this paragraph apply only to that portion of the contract which exceeds the limitations of § 1.415–3, § 1.415–6 and § 1.415–7, whichever is applicable.

(ii) In addition, where the amount of the contribution under the section 403(b) annuity contract exceeds the applicable limitation, the exclusion allowance described in section 403(b)(2)(A) is reduced in the manner described in § 1.415–6(e)(1)(ii).

(3) *Cross references to additional rules for section 403(b) annuity contracts.* For additional rules relating to section 403(b) annuity contracts, see—

(i) Section 1.415–1(f)(2) (relating to the plan year for such annuity contracts),

(ii) Section 1.415–2(b)(7) (relating to the limitation year for such annuity contracts),

(iii) Section 1.415–6(e) (relating to the applicability of the alternative limitations described in section 415(c)(4) to such annuity contracts),

(iv) Sections 1.415–7(c)(2) and 1.415–7(h) (relating to rules for such annuity contracts for purposes of computing the defined contribution plan fraction),

(v) Section 1.415–8(d) (relating to rules for such annuity contracts for purposes of combining plans), and

(vi) Section 1.415–9(c) (relating to rules for such annuity contracts for purposes of determining the amount of a disqualified contribution to the annuity contract).

(c) *Certain accounts, annuities and bonds established for non-employed spouse.* Paragraph (b) of this section is not applicable to an account, annuity or bond as described in section 408(a), 408(b) or 409, respectively established for the benefit of the spouse of the individual who contributes to it for any year for which a deduction is allowable for the individual under section 220. For a special effective date with respect to this paragraph, see paragraph (f)(3) of this section.

(d) *Plan provisions*—(1) *In general.* Although no specific plan provision is required under section 415 in order for a plan to establish or maintain its qualification, the plan provisions must preclude the possibility that the limitations imposed by section 415 will be exceeded. For example, a plan may include provisions which automatically freeze or reduce the rate of benefit accrual (in the case of a defined benefit plan) or the annual addition (in the case of a defined contribution plan) to a level necessary to prevent the limitations from being exceeded with respect to any participant. For rules relating to this type of plan provision and the definitely determinable benefit requirement for pension plans, see § 1.401(a)–1(b)(1).

(2) *Special rule for profit-sharing and stock bonus plans.* The use of a plan provision by a profit-sharing or stock bonus plan which automatically freezes or reduces the amount of annual additions to insure that the limitations of section 415 will not be exceeded must comply with the requirement set forth in § 1.401–1(b)(1) (ii) and (iii) that such plans provide a definite predetermined formula for allocating the contributions made to the plan among the participants. Thus, if the operation of this provision involves discretionary action on the part of the employer, the definite predetermined allocation formula requirement will be violated. For example, if two defined contribution plans of one employer otherwise provide for aggregate contributions which may exceed the limits of section 415(c), the plan provisions must specify (without involving employer discretion) which plan will reduce contributions and allocations to prevent an excess annual addition and how the reduction will occur.

(e) *Rules for plans maintained by more than one employer*—(1) *Plans described in section 413(b) or section 413(c).* This subparagraph provides for participants of a plan described in section 413(c) or section 413(b) (other than a plan described in section 414(f)). For purposes of applying the limitations of section 415 with respect to a participant of an employer maintaining the plan, benefits or contributions attributable to such participant from all of the employers maintaining the plan must be taken into account. Furthermore, in applying the limitations of section 415 with respect to such a participant, the total compensation received by the participant from all of the employers maintaining the plan may be taken into account.

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(2) *Plans described in section 414(f).* (i) This subparagraph provides rules for participants of a multiemployer plan described in section 414(f). For purposes of applying the limitations of section 415 with respect to a participant of an employer maintaining the plan, only the benefits or contributions provided by the employer of such participant shall be taken into account. The benefits provided by an employer under such a plan shall equal the excess of the plan benefit over the plan benefit computed as if the participant had no covered service with that employer.

(ii) As an alternative to applying the limitations of section 415 with respect to a participant of an employer maintaining the multiemployer plan in the manner described in subdivision (i) of this subparagraph, the rules described in subparagraph (1) of this paragraph may be used for purposes of applying the section 415 limitations in connection with that participant.

(iii) For rules relating to the limitation year for a multiemployer plan, see § 1.415–2(b)(6). See also § 1.415–8(e) for a special rule relating to the aggregation of multiemployer plans.

(f) *Rules relating to the effective date of section 415*—(1) *In general.* Except as otherwise provided in this paragraph, §§ 1.415–1 through 1.415–10 are applicable for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975. However, for all such plan years and limitation years through the plan year beginning before January 7, 1981, a reasonable interpretation of the rules set forth in section 415 of the Code and in Rev. Rul. 75–481, 1975–2 C.B. 188, may be relied upon.

(2) *Plan year for certain annuity contracts and individual retirement plans.* For purposes of section 415 and §§ 1.415–1 through 1.415–10—

(i) An annuity contract described in section 403(b) shall be considered to have a plan year coinciding with the taxable year of the individual on whose behalf the contract has been purchased, and

(ii) An individual retirement plan (as described in section 7701(a)(37)) shall be considered to have a plan year coinciding with the taxable year of the individual on whose behalf the plan is maintained,

unless the individual demonstrates to the satisfaction of the Commissioner that a different 12 month period should be considered to be the plan year.

(3) *Special effective date for certain accounts, annuities and bonds established for non-employed spouse.* Nothwithstanding subparagraph (1) of this paragraph, the provisions of section 415(a)(3) and paragraph (c) of this section are not applicable until taxable years beginning after December 31, 1976.

(4) *Special rules for certain defined contribution plans with respect to the first limitation year to which section 415 applies.* In the case of a defined contribution plan whose plan year does not coincide with the limitation year, the rules of this subparagraph shall be effective with respect to applying the limitations described in section 415(c) and § 1.415–6 for the first limitation year to which section 415 and §§ 1.415–1 through 1.415–10 apply.

(i) Annual additions (as defined in section 415(c)(2) and § 1.415–6(b)) which are allocated under the plan prior to the first day of the first plan year to which section 415 and §§ 1.415–1 through 1.415–10 are effective do not have to be taken into account.

(ii) The amount of compensation (as defined in § 1.415–2(d)) taken into account in applying the limitations may include compensation for the entire limitation year.

(5) *Special effective date for special benefit limitation with respect to certain collectively bargained plans.* Notwithstanding subparagraph (1) of this paragraph, section 415(b)(7) is not applicable until limitation years beginning after December 31, 1978.

(6) *Special effective date for excess contributions to section 403(b) annuity contracts.* (i) Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–6(e)(1)(ii) (relating to the manner in which contributions to a section 403(b) annuity contract which exceed the limitations of section 415(c)(1) are treated) are only applicable to taxable years beginning after January 24, 1980.

(ii) For all prior taxable years for which the limitations of section 415 are applicable to section 403(b) annuity contracts, any contribution to the account of an individual under a section 403(b) annuity contract for a taxable year which exceeds the limitations of section 415(c)(1), instead of being treated in the manner described in § 1.415–6(e)(1)(ii), shall reduce the exclusion allowance under section 403(b)(2) for such taxable year to the extent of the excess.

(7) *Special effective date for rules relating to change of limitation year.* Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–2(b)(4) (relating to the effect of a change of the limitation year) are required to be applied only for changes in limitation years which occur after January 7, 1981. These provisions may also be used for all prior changes in limitation years. However, if the provisions of § 1.415–2(b)(4) are not used for changes in limitation years which occur prior to January 7, 1981, the requirements of § 2.01(4) of Rev. Rul. 75–481, 1975–2 C.B. 188, shall be applicable with respect to such changes.

(8) *Special effective date for TRASOP's.* The limitations of section 415 apply to an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975 ("TRASOP"). The earliest date on which the first plan year of a TRASOP may begin is January 22, 1974. Therefore, notwithstanding subparagraph (1) of this paragraph, the limitations of section 415 are applicable for TRASOP plan years beginning before 1975 and for limitation years ending with or within plan years beginning before 1975. However, the aggregation rules of § 1.415–8 do not apply to a limitation year of a TRASOP ending with or within a plan year beginning before 1975.

(9) *Transitional rules.* For special transitional rules, see—

(i) Section 1.415–4 (relating to a transitional rule for defined benefit plans),

(ii) Section 1.415–7(b)(2) (relating to the defined benefit plan fraction applicable to certain participants),

(iii) Section 1.415–7(d) (relating to transitional rules for the defined contribution plan fraction), and

(iv) Section 1.415–7(g) (relating to a special rule for certain plans in effect on September 2, 1974).

(g) *Supersession.* Section 11.415(c)(4)–1 (relating to special elections for section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies) of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by this section and §§ 1.415–2 through 1.415–10.

§ 1.415–2 Definitions and special rules.

(a) *General application.* Unless otherwise provided in the appropriate section, for purposes of §§ 1.415–1 through 1.415–10, the following definitions and special rules shall apply.

(b) *Limitation year*—(1) *In general.* (i) Unless the election described in subdivision (ii) of this subparagraph is made, the limitation year, with respect to any qualified plan maintained by the employer, is the calendar year.

(ii) Instead of using the calendar year, an employer may elect to use any other consecutive twelve month period as the limitation year. This includes a fiscal year with an annual period varying from 52 to 53 weeks, so long as the fiscal year satisfies the requirements of section

441(f). If the case of a group of employers which constitute either a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or trades or businesses (whether or not incorporated) which are under common control (within the meaning of section 414(c) as modified by section 45(h)), the election to use a consecutive twelve month period other than the calendar year as the limitation year must be made by all members of the group that maintain a qualified plan.

(2) *Method of election to use a limitation year other than the calendar year or to change limitation year.* (i) The election described in subparagraph (1)(ii) of this paragraph shall be made by the adoption of a written resolution by the employer. This requirement is satisfied if the election is made in connection with the adoption, by the employer, of the plan or any amendments to such plan.

(ii) This resolution will not be considered a change of the limitation year, if it is adopted or modified on or before the later of the adoption date of the first amendment conforming an existing plan to the Employee Retirement Income Security Act of 1974, or December 31, 1976.

(3) *Election of multiple limitation years.* Any employer that maintains more than one qualified plan may elect to use different limitation years for each such plan in accordance with rules determined by the Commissioner. The rule described in this subparagraph also applies to a controlled group of employers (within the meaning of section 414 (b) or (c), as modified by section 415(h)).

(4) *Effect of change of limitation year.* (i) Once established, the limitation year may be changed only by making the election in the manner described in subparagraph (2) of this paragraph.

(ii) Any change in the limitation year must be a change to a twelve-month period commencing with any day within the current limitation year.

(iii) For purposes of this paragraph, the limitations of section 415 are to be applied in the normal manner to the new limitation year. Moreover, the limitations of section 415 are to be separately applied to a "limitation period" which begins with the first day of the current limitation year and which ends on the day before the first day of the first limitation year for which the change is effective. The dollar limitation with respect to this limitation period is determined by multiplying (A) the applicable dollar limitation for the calendar year in which the limitation period ends by (B) a fraction, the numerator of which is the number of months (including any fractional parts of a month) in the limitation period, and the denominator of which is 12. This adjustment of the dollar limitation only applies to a defined contribution plan.

(iv) For a special effective date with respect to this paragraph, see § 1.415-1(f)(7).

(v) The provisions of this subparagraph may be illustrated by the following example:

Example. In 1981, an employer with a qualified defined contribution plan using the calendar year as the limitation year elects to change the limitation year to a period beginning July 1 and ending June 30. Because of this change, the plan must satisfy the limitations of section 415(c) for the limitation period beginning January 1, 1981 and ending June 30 of that year. In applying the limitations of section 415(c) to this limitation period, the amount of compensation taken into account may only include compensation for this period. Furthermore, the dollar limitation for this period is the otherwise applicable dollar limitation for calendar year 1981, multiplied by $6/12$.

(5) *Limitation year for years prior to effective date.* The limitation year for all years prior to the effective date of section 415 is the consecutive twelve-month period which corresponds to the first limitation year of a plan after the effective date of section 415. (See paragraph (b)(1) of this section for rules relating to the determination of a plan's limitation year.)

(6) *Limitation year for multiemployer plans.* In the case of a multiemployer plan (as defined in section 414(f)), the limitation year is the calendar year unless the plan administrator elects otherwise under paragraph (b)(2) of this section.

(7) *Limitation year for individuals on whose behalf section 403(b) annuity contracts have been purchased.* (i) The limitation year of an individual on whose behalf a section 403(b) annuity contract has been purchased by an employer is determined in the following manner.

(ii) If the individual is not in control (within the meaning of section 414 (b) or (c) as modified by section 415(h)) of any employer. the limitation year is the calendar year. However, the individual may elect to change the limitation year to another twelve-month period. To do this, the individual must attach a statement to his income tax return filed for the taxable year in which the change is made. Any change in the limitation year must comply with the rules set forth in paragraph (b)(4) of this section.

(iii) If the individual is in control (within the meaning of section 414 (b) or (c) as modified by section 415(h)) of an employer, the limitation year is to be the limitation year of that employer.

(8) *Limitation year for individuals on whose behalf individual retirement plans are maintained.* The limitation year of an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained shall be determined in the manner described in paragraph (b)(7) of this section.

(c) *Defined benefit and defined contribution plan*—(1) *Defined benefit plan.* A "defined benefit plan" means a plan described in section 414(j).

(2) *Defined contribution plan.* A "defined contribution plan" means a plan described in section 414(i). It includes a money purchase pension plan (as described in § 1.401-1(b)(1)(i)), such as a target benefit plan (as described in § 1.410(a)-4(a)(1)). A hybrid plan (as defined in section 414(k)) is to be treated as a defined contribution plan to the extent that benefits payable under the plan are based upon the individual account of the participant.

(d) *Compensation*—(1) *Items includable as compensation.* For purposes of applying the limitations of section 415, the term "compensation" includes—

(i) The participant's wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with an employer maintaining the plan (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses).

(ii) In the case of a participant who is an employee within the meaning of section 401(c)(1) and the regulations thereunder, the participant's earned income (as described in section 401(c)(2) and the regulations thereunder).

(iii) For purposes of subdivisions (i) and (ii) of this subparagraph, earned income from sources outside the United States (as defined in section 911(b)), whether or not excludable from gross income under section 911 or deductible under section 913.

(iv) Amounts described in sections 104(a)(3), 105(a) and 105(h), but only to the extent that these amounts are includable in the gross income of the employee.

(v) Amounts described in section 105(d), whether or not these amounts are excludable from the gross income of the employee under that section.

(vi) Amounts paid or reimbursed by the employer for moving expenses incurred by an employee, but only to the extent that these amounts are not deductible by the employee under section 217.

(vii) The value of a non-qualified stock option granted to an employee by the employer, but only to the extent that the value of the option is includable in the gross income of the employee for the taxable year in which granted.

(viii) The amount includable in the gross income of an employee upon making the election described in section 83(b).

(2) *Items not includable as compensation.* The term "compensation" does not include items such as—

(i) Contributions made by the employer to a plan of deferred compensation to the extent that, before the application of the section 415 limitations to that plan, the contributions are not includable in the gross income of the employee for the taxable year in which contributed. In addition, employer contributions made on behalf of an employee to a simplified employee pension described in section 408(k) are not considered as compensation for the taxable year in which contributed to the extent such contributions are deductible by the employee under section 219(b)(7). Additionally, any distributions from a plan of deferred compensation are not considered as compensation for section 415 purposes, regardless of whether such amounts are includable in the gross income of the employee when distributed. However, any amounts received by an employee pursuant to an unfunded non-qualified plan may be considered as compensation for section 415 purposes in the year such amounts are includable in the gross income of the employee.

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture (see section 83 and the regulations thereunder).

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option.

(iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includable in the gross income of the employee), or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) (whether or not the contributions are excludable from the gross income of the employee).

(3) *Compensation in limitation year.* The compensation (as defined in subparagraph (1) of this paragraph) actually paid or made available to a participant within the limitation year is the compensation used for purposes of applying the limitations of section 415.

(4) *Election to use compensation accrued during limitation year.* Instead of using the compensation actually paid or made available to a participant during the limitation year, an employer may elect to use the compensation accrued for an entire limitation year for purposes of applying the limitations of section 415. In the case of a group of employers which constitute either a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or trades or businesses (whether or not incorporated) which are under common control (within the meaning of section 414(c) as modified by section 415(h)), the election to use accrued compensation must be made by all members of the group that maintain a qualified plan. Once an election is made, it remains in effect until it is revoked by the employer or group of employers. The election is made or revoked by the adoption of a written resolution by the employer or group of employers. The written resolution requirement described in the preceding sentence is satisified if the election is made in connection with the adoption, by the employer, or employers, of the plan or any amendments to such plan. The rule described in this subparagraph does not apply to a section 403(b) annuity contract or to an individual retirement plan (as described in section 7701(a)(37)).

(5) *Effect of change in method of determining compensation.* If, in a particular limitation year, a previously effective election to use accrued compensation is revoked or an election to use accrued compensation is made, any amounts taken into account for compensation purposes for any preceding limitation year may not be counted again in determining compensation for the particular limitation year.

(6) *Special rule for employees of controlled group of corporations or trades or businesses under common control.* In the case of an employee of two or more corporations which are members of a controlled group of corporations (as defined in section 414(b) as modified by section 415(h)), the term "compensation" for such employee includes compensation from all employers which are members of the group, regardless of whether the employee's particular employer has a qualified plan. This special rule is also applicable to an employee of two or more trades or businesses (whether or not incorporated) which are under common control (as defined in section 414(c) as modified by section 415(h)).

(7) *Special rule when section 403(b) annuity is aggregated with qualified plan of controlled employer.* If a section 403(b) annuity contract is combined or aggregated with a qualified plan of a controlled employer in accordance with either § 1.415–7(h)(2)(i) or § 1.415–8(d)(2), the following rules apply:

(i) In applying separately the limitations of section 415 (b) or (c) to the qualified plan and the limitations of section 415(c) and the exclusion allowance of section 403(b)(2)(A) to the section 403(b) annuity, compensation from the controlled employer may not be aggregated with compensation from the employer purchasing the section 403(b) annuity.

(ii) However, in applying the limitations of section 415(c) in connection with the combining of the section 403(b) annuity with a qualified defined contribution plan or section 415(e) in connection with the aggregating of the section 403(b) annuity with a qualified defined benefit plan, the total compensation from both employers may be taken into account.

(8) *Safe harbor rule with respect to plan's definition of compensation.* If a plan defines compensation for purposes of applying the limitations of section 415 to include only those items specified in subparagraph (1)(i) of this paragraph and to exclude all those items listed in subparagraph (2) of this paragraph, if applicable, the plan will automatically be considered to be using a definition of compensation which satisfies section 415(c)(3) and these regulations.

§ 1.415–3 Limitations for defined benefit plans.

(a) *General rules.*—(1) *Maximum limitations.* Under section 415(b) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual benefit (as defined in paragraph (b)(1)(i) of this section) to which a participant is entitled at any time under a defined benefit plan may not, during the limitation year, exceed the lesser of—

(i) $75,000, or

(ii) 100 percent of the participant's average compensation for his high 3 years of service.

As required in § 1.415–1(d), in order to satisfy the limitations on benefits of this section, the plan provisions must preclude the possibility that any annual benefit exceeding these limitations will be payable at any time. Thus, a plan may fail to satisfy the limitations of this section even though no participant has actually accrued a benefit in excess of these limitations.

(2) *Adjustment to dollar limitation.* The dollar limitation described in section 415(b)(1)(A) and paragraph (a)(1)(i) of this section is adjusted for cost of living increases under section 415(d) and § 1.415–5(a). The adjusted figure is effective as of January 1 of each calendar year and is applicable to limitation years that end during that calendar year.

(3) *Average compensation for high 3 years of service.* For purposes of applying the limitation on benefits described in this section, a participant's high 3 years of service is the period of 3 consecutive calendar years (or, the actual number of consecutive years of employment for those employees who are employed for less than 3 consecutive years with the employer) during which the employee had the greatest aggregate compensation (as defined in § 1.415–2(d)) from the employer. For purposes of this subparagraph, in determining a participant's high 3 years, the plan may use any 12 month period instead of the calendar year provided that it is uniformly and consistently applied.

(b) *Definitions of terms*—(1) *Annual benefit.* (i) The term "annual benefit" means a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit does not include any benefits attributable to either employee contributions or rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C)). Additionally, in applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of a participant, it is immaterial if the participant works beyond the normal retirement age as determined under the terms of the plan. Thus, for example, if an individual, who is subject to the dollar limitation of section 415(b)(1)(A) ($110,625 for 1980), retires in 1980 after working past the plan's normal retirement age of 65, the plan may only provide such individual with an annual benefit of $110,625 in 1980 and not the actuarial equivalent of the amount the individual would have been entitled to receive at age 65 in order to comply with the section 415(b) limitations.

(ii) If the plan provides for a benefit which is not payable in the form of a straight life annuity, the benefit is adjusted in accordance with paragraph (c) of this section for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section.

(iii) If rollover contributions are made to the plan, the annual benefit attributable to these contributions is determined on the basis of reasonable actuarial assumptions. See paragraph (d) of this section for rules relating to employee contributions.

(iv) For purposes of this paragraph, when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. The annual benefit payable on account of the transfer for any individual that is attributable to the assets transferred will be equal to the annual benefit transferred on behalf of such individual multiple by a fraction, the numerator of which is the total assets transferred and the denominator of which is the total liabilities transferred.

(2) *Retirement benefit.* For purposes of this section, the term "retirement benefit" means a benefit provided under the terms of a defined benefit plan which is subject to the limitations of section 415(b) and this section.

(c) *Adjustment where form of benefit is other than straight life annuity*—(1) *In general.* (i) Where a defined benefit plan provides a retirement benefit in any form other than a straight life annuity, the plan benefit is adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit in accordance with rules determined by the Commissioner. This adjustment is for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section to the annual benefit of the participant.

(ii) Examples of benefits that are not in the form of a straight life annuity are an annuity which includes a post-retirement death benefit and an annuity providing for a guaranteed number of payments.

(2) *Certain beneifts to which no adjustment is required.* For purposes of the adjustment described in subparagraph (1) of this paragraph, the following values are not taken into account:

(i) The value of a qualified joint and survivor annuity (as defined in section 401(a)(11)(G)(iii) and the regulations thereunder) provided by the plan to the extent that such value exceeds the sum of (A) the value of a straight life annuity beginning on the same date and (B) the value of any post-retirement death benefits which would be payable even if the annuity was not in the form of a joint and survivor annuity.

(ii) The value of benefits that are not directly related to retirement benefits (such as pre-retirement disability and death benefits and post-retirement medical benefits).

(iii) The value of benefits provided by the plan which reflect post-retirement cost of living increases to the extent that such increases are in accordance with section 415(d) and § 1.415–5.

(3) *Examples.* The provisions of subparagraph (2)(i) of this paragraph may be illustrated by the following examples:

Example (1). (i) Corporation ABC maintains a defined benefit plan that provides a benefit in the form of a joint and 100% suvivor annuity with a 10 year certain feature. The value of this benefit is equal to 126% of the value of the same amount payable as a straight life annuity beginning on the same date. If the benefit were payable in the form of a joint and 100% survivor annuity, without a 10 year certain feature, its value would be equal to only 123% of the value of the same amount payable as a straight life annuity beginning on the same date. If the benefit were payable with a 10 year certain feature, but without the joint and 100% survivor aspect, its value would equal 110% of the value of the same amount payable as a straight life annuity beginning on the same date. Thus, the value of the postretirement death benefits which would be payable even if the annuity were not in the form of a joint and survivor annuity is 10%.

(ii) Under subparagraph (2)(i) of this paragraph, the values which may be excluded for purposes of the adjustment required by subparagraph (1) of this paragraph are as follows: The value of the joint and survivor annuity provided by the plan (126%) to the extent that such value exceeds the sum of, the value of the straight life annuity beginning on the same date (100%) and the value of the post-retirement death benefits (10%). Therefore, the value of the joint and survivor annuity provided by the plan exceeds the value of the straight life annuity with the 10 year certain feature by 16% (126%–110%).

(iii) Although 16% of the excess benefit attributable to the annity provided by this plan may, consequently, be ignored (because this represents the value added to the 10 year certain and life annuity benefit by the joint survivor feature), 10% of such excess benefit (the value added to the straight life annuity benefit by the 10 year certain feature) must be taken into account for purposes of adjusting the benefit under the plan to an actuarially equivalent straight life annuity. Thus, for example, if ABC Corporation were to provide a benefit equal to 95% of a participant's compensation for the high three years of service, the limitation of section 415(b)(1)(B) would be exceeded because the benefit under the plan would be the actuarial equivalent of a straight life annuity equal to 105% of a participant's compensation for the high three years.

Example (2). Corporation XYZ maintains a nondiscriminatory defined benefit plan that

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provides a benefit which is equal to 100% of a participant's compensation for his high 3 years of service. For married participants, the benefit is payable in the form of a joint and 100% survivor annuity. While for participants who are not married, the benefit is payable in the form of a straight life annuity. The plan also provides that married participants can elect to receive their benefits in the form of a lump sum distribution which is the actuarial equivalent of a joint and 100% survivor annuity. The special rule set forth in subparagraph (2)(i) of this paragraph only applies, however, if the benefit is payable in the form of a qualified joint and survivor annuity. Any other forms of optional benefits must be adjusted to a straight life annuity in accordance with subparagraph (1) of this paragraph. Accordingly, because the benefit payable under the plan in the form of a lump sum distribution is the actuarial equivalent of a straight life annuity which is greater than 100% of a participant's compensation for his high 3 years, the limitation of section 415(b)(1)(B) has been exceeded.

(d) *Employee contributions*—(1) *Mandatory contributions.* Where a defined benefit plan provides for mandatory employee contributions (as defined in section 411(c)(2)(C)), the annual benefit attributable to such contributions is not taken into account for purposes of applying the limitations on benefits described in paragraph (a) of this section. The annual benefit attributable to mandatory contributions is determined by using the factors described in section 411(c)(2)(B) and the regulations thereunder, regardless of whether section 411 applies to that plan.

However, the mandatory employee contributions are considered a separate defined contribution plan maintained by the employer that is subject to the limitations on contributions and other additions described in § 1.415–6. (See § 1.415–7 for provisions relating to the limitations applicable where an employer maintains a defined benefit and defined contribution plan for the same employee.)

(2) *Voluntary contributions.* Where a defined benefit plan provides for voluntary employee contributions, these contributions are considered a separate defined contribution plan maintained by the employer which is subject to the limitations on contributions and other additions described in § 1.415–6. (See § 1.415–7 for provisions relating to the limitations applicable where an employer maintains a defined benefit and defined contribution plan for the same employee.)

(3) *Example:* The provisions of this paragraph may be illustrated by the following example:

Example. A is a participant in a defined benefit plan maintained by his employer. Under the terms of the plan A must make contributions to the plan in a stated amount to accrue benefits derived from employer contributions. These contributions are mandatory employee contributions within the meaning of section 411(c)(2)(C) and, thus, the annual benefit attributable to these contributions does not have to be taken into account for purposes of testing the annual benefit derived from employer contributions against the applicable limitation on benefits. However, these contributions are considered a separate defined contribution plan maintained by A's employer. Accordingly, with respect to the current limitation year: (1) the limitation on benefits (as described in paragraph (a)(1) of this section) is applicable to the annual benefit attributable to employer contributions to the defined benefit plan; (2) the limitation on contributions and other additions (as described in § 1.415–6) is applicable to the defined contribution plan consisting of A's mandatory contributions; and (3) the provisions of § 1.415–7 (relating to the limitations where the employer maintains a defined benefit and defined contribution plan for the same employee) are applicable to the defined benefit and defined contribution plan in which A participates. These same limitations would also apply. If, instead of providing for mandatory employee contributions the plan permitted voluntary employee contributions, since both voluntary and mandatory employee contributions are treated as separate defined contribution plans maintained by the employer.

(e) *Adjustment where benefit begins before age 55.* Where a defined benefit plan provides a retirement benefit beginning before age 55, the plan benefit is adjusted to the actuarial equivalent of a benefit beginning at age 55 in accordance with rules determined by the Commissioner. This adjustment is only for purposes of applying the dollar limitation described in section 415(b)(1)(A) to the annual benefit of the participant.

(f) *Total annual benefits not in excess of $10,000*—(1) *In general.* The annual benefit (without regard to the age at which benefits commence) payable with respect to a participant under any defined benefit plan is not considered to exceed the limitations on benefits described in section 415(b)(1) and in paragraph (a)(1) of this section if—

(i) The retirement benefits derived from employer contributions payable with respect to the participant under the plan and all other defined benefit plans of the employer do not in the aggregate exceed $10,000 for the limitation year, or for any prior limitation year, and

(ii) The employer has not at any time, either before or after the effective date of section 415, maintained a defined contribution plan in which the participant participated.

(2) *Special rule with respect to participants in multiemployer plans.* The special $10,000 exception set forth in subparagraph (1) of this paragraph is applicable to a participant in a multiemployer plan described in section 414(f) without regard to whether that participant ever participated in one or more other plans maintained by an employer who also maintains the multiemployer plan, provided that none of such other plans were maintained as a result of collective bargaining involving the same employee representative as the multiemployer plan.

(3) *Special rule with respect to employee contributions.* For purposes of subparagraph (1)(ii) of this paragraph, if a defined benefit plan provides for employee contributions, whether voluntary or mandatory, these contributions will not be considered a separate defined contribution plan maintained by the employer. Thus, a contributory defined benefit plan may utilize the special dollar limitation provided for in this paragraph.

(4) *Computation of $10,000 amount.* For purposes of subparagraph (1)(i) of this paragraph, the value of the retirement benefit payable under the plan is not adjusted upward for early retirement provisions and benefits which are not in the form of a straight life annuity (whether or not directly related to retirement benefits).

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). B is a participant in a defined benefit plan maintained by this employer, X Corporation, which provides for a benefit payable in the form of a straight life annuity beginning at age 65. B's compensation for his high 3 years of service is $8,000. The plan does not provide for employee contributions and at no time has B been a participant in a defined contribution plan maintained by X. With respect to the current limitation year, B's retirement benefit under the plan is $9,500. Because B's retirement benefit does not exceed $10,000 and because B has at no time participated in a defined contribution plan maintained by X, the benefits payable under the plan are not considered to exceed the limitation on benefits otherwise applicable to B ($8,000). This result would remain the same, even if, under the terms of the plan, B's normal retirement age were age 50 or if the plan provided for employee contributions.

Example (2). Assume the same facts as in example (1), except that the plan provides for a benefit payable in the form of a life annuity with a 10 year certain feature. Assume that after the adjustment described in paragraph (c) of this section, B's annual benefit under the plan for the current limitation year is $10,500. However, for purposes of applying the special rule provided in this paragraph for total benefits not in excess of $10,000, there is no adjustment required if the retirement benefit payable under the plan is not in the form of a straight life annuity. Therefore, because B's retirement benefit does not exceed $10,000, B may receive the full $9,500 benefit without the otherwise applicable benefit limitations of this section being exceeded.

(g) *Special rule for service of less than 10 years*—(1) *In general.* Where a participant has less than 10 years of service with the employer at the time the participant begins to receive retirement benefits under the plan, the benefit limitations described in section 415(b) (1) and (4) and paragraphs (a)(1) and (f)(1) of this section are to be reduced by multiplying the otherwise applicable limitation by a fraction—

(i) The numerator of which is the number of years of service with the employer as of, and including, the current limitation year, and

(ii) The denominator of which is 10. For purposes of this subparagraph, the term "year of service" is to be determined on a reasonable and consistent basis.

(2) *Examples.* The provision of this paragraph may be illustrated by the following examples:

Example (1). C begins employment with Acme Corporation on January 1, 1977, at the age of 58. Acme maintains only a noncontributory defined benefit plan which provides for a straight life annuity beginning at age 65 and uses the calendar year for the limitation and plan year. Acme has never maintained a defined contribution plan. C becomes a participant in Acme's plan on January 1, 1978 and works through December 31, 1983, when he is age 65. C begins to receive benefits under the plan in 1984. C's average compensation for his high 3 years of service is $20,000. Furthermore, under the terms of Acme's plan, for purposes of computing C's nonforfeitable percentage in his accrued benefit derived from employer contributions, C has only 7 years of service with Acme (1977–1983). Therefore, because C has less than 10 years of service with Acme at the time he begins to receive benefits under the plan, the maximum permissible annual benefit payable with respect to C is only $14,000 ($20,000×7/10).

Example (2). Assume the same facts as in example (1), except that C's average compensation for his high 3 years is $8,000. Because C has less than 10 years of service with Acme at the time he begins to receive benefits, the maximum benefit payable with respect to C would be reduced to $5,600 ($8,000 x 7/10). However, the special rule for total benefits not in excess of $10,000, provided in paragraph (f) of this section, is applicable in this case. Accordingly, C may receive an annual benefit of $7,000 ($10,000 x 7/10) without the benefit limitations of this section being exceeded.

Example (3). ABC corporation maintains a defined benefit plan. Instead of adjusting the benefit limitations in accordance with the method described in subparagraph (1) of this paragraph, the plan provides that the plan administrator may make the necessary adjustment by multiplying the otherwise applicable limitation by a fraction—(1) the numerator of which is the number of completed months of service with the employer, and (2) the denominator of which is 120. The plan further provides that a completed month of service with the employer is any calendar month in which the employee is credited with at least 83 hours of service. Provided that an hour of service is determined in a manner that is reasonable and consistent, the plan may use this alternative rule for making the adjustment required when a participant has less than 10 years of service with the employer at the time he begins to receive benefits under the plan.

(h) *Benefits under certain collectively bargained plans.* For a special rule affecting the compensation limitation described in section 415(b)(1)(B) and paragraph (a)(1)(ii) of this section, see section 415(b)(7). For a special effective date with respect to this rule, see § 1.415–1(f)(5).

§ 1.415–4 Transitional rule for defined benefit plans.

(a) *In general.* If all of the conditions described in paragraph (b) of this section are satisfied, the annual benefit payable to an individual who was a participant in a defined benefit plan at any time before October 3, 1973, will not be considered to exceed the limitations of section 415(b) and § 1.415–3(a). In the case of an individual who was a participant in more than one defined benefit plan at any time before October 3, 1973, the annual benefit payable to that individual from each plan will be deemed not to exceed the limitations of section 415(b) and § 1.415–3(a) if the benefit from each plan satisfies all of the conditions described in paragraph (b) of this section.

(b) *Conditions for application of transitional rule.* The conditions are—

(1) The annual benefit payable to the participant does not exceed 100 percent of that participant's annual rate of compensation (as defined in paragraph (c) of this section) on October 2, 1973, or, if earlier, as of the date the participant separated from the service of the employer.

(2) The annual benefit payable to the participant does not exceed the annual benefit which would have been payable to the participant at any time if—

(i) All the terms and conditions of the plan which were actually in effect on October 2, 1973 (or if earlier, on the date the participant separated from the service of the employer) had remained in effect, and

(ii) The participant's compensation taken into account for determining benefits under the plan for any period after October 2, 1973, did not exceed his annual rate of compensation (as defined in paragraph (c) of this section) on that date.

(3) The annual benefit payable to a participant who separated from the service of the employer before October 2, 1973, does not exceed the participant's nonforfeitable accrued benefit under the plan as of the date he separated from service.

(c) *Special rules*—(1) *Annual rate of compensation.* For purposes of this section, a participant's annual rate of compensation for a particular calendar year shall be the greater of—

(i) The participant's compensation for that calendar year as determined in accordance with the rules provided in § 1.415–2(d), or

(ii) The compensation which would be used to determine benefits under the plan if the employee separated from the service of the employer on October 2, 1973, or, if earlier, the employee's actual date of separation from the service of the employer.

(2) *Cost-of-living adjustments.* (i) If the plan, as in existence on October 2, 1973, provided for a post-retirement cost of living adjustment to benefits, the adjustment may be taken into account in determining the participant's allowable benefit under paragraph (b) of this section. However, under paragraph (b)(2) of this section, if a plan is amended after October 2, 1973 to provide for cost-of-living benefit increases for retired participants, the transitional rule of this section will not apply to any increased benefit attributable to the amendment.

(ii) Any cost-of-living increase in the dollar limitation described in section 415(b)(1)(A) under section 415(d) and § 1.415–5(a) may be taken advantage of by an individual who is otherwise using the transitional rule set forth in this section. Thus, for example, if, due to cost-of-living increases under section 415(d) and § 1.415–5(a), the dollar limitation for 1981 is greater than $110,625, to the extent allowed under section 415(b), a plan may provide that an individual who is otherwise receiving a benefit of $110,625 per year under the transitional rule of this section, may receive the greater amount in 1981.

(3) *Retirement benefit beginning before age 55.* If a defined benefit plan provides a retirement benefit beginning before age 55, no actuarial adjustment of the benefit which can be provided under the transitional rule of this section is required to be made.

(4) *Retirement benefit payable in a form other than a straight life annuity.* If a defined benefit plan, as in existence on October 2, 1973, provided a retirement benefit in a form other than a straight life annuity, no actuarial adjustment (as otherwise required under § 1.415–3(c)) of the benefit which can be

provided under the transitional rule of this section is required to be made. However, if the plan is amended after October 2, 1973, to provide a benefit of greater value than the benefit provided under the plan as of October 2, 1973, the transitional rule of this section will not apply to the increase in the value of the benefit attributable to the amendment. (See paragraph (b)(2)(i) of this section.)

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). N, a participant in a noncontributory defined benefit plan maintained by his employer, retired on February 17, 1969, and became eligible to receive benefits under the plan. At that time, N had attained age 65, the normal retirement age under the plan. N's annual rate of compensation on February 17, 1969, was $90,000. Under the terms of the plan, as in effect on February 17, 1969, N was entitled to an annual benefit of $86,000, which was N's accrued nonforfeitable benefit as of that date. Because the annual benefit payable with respect to N (i) does not exceed 100 percent of N's compensation on February 17, 1969, (ii) does not exceed the annual benefit to which N was entitled on retirement, and (iii) did not exceed N's nonforfeitable accrued benefit on retirement, the plan may provide an annual benefit of $86,000 with respect to N for limitation years to which section 415 applies without violating the limitations imposed by section 415(b) and § 1.415-3.

Example (2). Assume the same facts as in example (1) except that on February 17, 1969, when N retired and became eligible to receive benefits under the plan, N had not attained the age of 55. Because the adjustment required under section 415(b)(2)(C) for retirement benefits beginning before age 55 is only applicable to the dollar limitation described in section 415(b)(1)(A), under paragraph (c)(3) of this section, no actuarial adjustment of the annual benefit of $86,000 payable with respect to N is required to be made. Therefore, the plan may pay annual benefits of $86,000 to N, even though N retires and is eligible to receive benefits before age 55.

§ 1.415-5 Cost of living adjustments for defined benefit plans.

(a) *Dollar limitation*—(1) *In general.* Under section 415(d)(1)(A), the dollar limitation described in section 415(b)(1)(A) applicable to defined benefit plans for limitation years to which section 415 applies is adjusted annually to take into account increases in the cost of living. The adjustment of the dollar limitation is made by multiplying an annual adjustment factor by $75,000. For purposes of this paragraph, the annual adjustment factor is to be determined by the Commissioner.

(2) *Effective date of adjustment.* The adjusted dollar limitation applicable to defined benefit plans is effective as of January 1 of each calendar year and applies with respect to limitation years ending with or within that calendar year.

(3) *Application of adjusted figure.* The adjusted dollar limitation is applicable to employees who are participants in a defined benefit plan and to employees who have retired or otherwise terminated their service under the plan with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive such benefits. However, for purposes of this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the dollar limitation, may only be increased in accordance with cost-of-living adjustments of the dollar limitation if the plan specifically provides for such post-retirement adjustments.

(b) *Average compensation for high 3 years of service limitation*—(1) *In general.* Under section 415(d)(1)(C), with regard to participants who have separated from service with a nonforfeitable right to an accrued benefit, the compensation limitation described in section 415(b)(1)(B) applicable to limitation years to which section 415 applies may be adjusted annually to take into account increases in the cost of living. For any limitation year beginning after the separation occurs, the adjustment of the compensation limitation is made by multiplying the annual adjustment factor (as defined in paragraph (b)(2) of this section) by the compensation limitation applicable to the participant in the limitation year he separated from the service of the employer. In the case of a participant who has separated from service prior to the first limitation year to which section 415 applies, the cost-of-living adjustment of the compensation limitation under this paragraph for all limitation years prior to the effective date of section 415 is to be determined as provided by the Commissioner. For purposes of the adjustment described in this subparagraph, the annual benefit payable to a terminated participant, which is otherwise limited by the compensation limitation, may only be increased in accordance with cost-of-living adjustments of the compensation limitation if the plan specifically provides for such post-retirement adjustments.

(2) *Annual adjustment factor for compensation limitation.* For any limitation year beginning after the separation occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the participant separated from service. In determining the adjusted dollar limitation for purposes of computing the annual adjustment factor under this subparagraph, the rule provided in paragraph (a)(2) of this section (relating to the effective date of the adjusted dollar limitation) shall be applicable.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. X is a participant in a qualified defined benefit plan maintained by his employer. The plan has a calendar year limitation year. Under the terms of the plan, X is entitled to a benefit consisting of a straight life annuity equal to 100 percent of X's compensation for his high 3 years of service. X's average compensation for his high 3 years is $20,000. X separates from the service of his employer on October 3, 1980, with a nonforfeitable right to his accrued benefit, and begins to receive benefit payments on November 1, 1980. Assume that the adjusted dollar limitation for 1980 is $100,000 and that the adjusted dollar limitation for 1981 is $110,000. For the limitation year beginning January 1, 1981 (the first limitation year beginning after X separates from service), the compensation limitation applicable to X may be adjusted for cost of living increases by multiplying the annual adjustment factor by $20,000. The annual adjustment factor for this limitation year is a fraction, the numerator of which is $110,000 (the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted) and the denominator of which is $100,000 (the adjusted dollar limitation for the limitation year in which X separates from service). Thus, for the limitation year beginning January 1, 1981, if the plan provides for post-retirement cost of living adjustments, X's maximum annual benefit could be increased to $22,000 ($110,000/$100,000 × $20,000).

(c) *Automatic cost of living adjustments of dollar limitation*—(1) *General rule.* A defined benefit plan may include a provision which provides for an annual automatic cost-of-living adjustment of the dollar limitation described in section 415(b)(1)(A) in accordance with paragraph (a) of this section. However, the provision may only provide for scheduled annual increases in the dollar limitation which become effective no sooner than the date determined in accordance with paragraph (a)(2) of this section.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Plan A is a defined benefit plan. Effective January 1, 1976, the plan was amended to limit all participants' annual plan benefits, determined on a straight life annuity basis, to $75,000. The amendment also provides that, "as of January 1 of each calendar year, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective as the Maximum Permissible Dollar Amount of the plan for that calendar year. The Maximum Permissible Dollar Amount for a calendar year applies to limitation years ending with or within that calendar year." The amendment providing for an automatic cost-of-living adjustment of the dollar limitation of Plan A is an example of a provision which satisfies the requirements of subparagraph (1) of this paragraph.

§ 1.415-6 Limitation for defined contribution plans.

(a) *General rules*—(1) *Maximum limitations.* Under section 415(c) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual additions (as defined in paragraph (b) of this section credited to the account of a participant in a defined contribution plan (as defined in section 414(i))) for the limitation year may not exceed the lesser of—

(i) $25,000, or

(ii) 25 percent of the participant's compensation (as defined in subparagraph (3) of this paragraph) for the limitation year.

(2) *Adjustment to dollar limitation.* The dollar limitation described in section 415(c)(1)(A) and subparagraph (1)(i) of this paragraph is adjusted for cost of living increases under section 415(d) and paragraph (d) of this section. The adjusted figure is effective as of January 1 of each calendar year and applies to limitation years that end during that calendar year.

(3) *Participant's compensation.* For purposes of this section, the term "participant's compensation" for any limitation year has the same meaning as set forth in § 1.415-2(d). The term "participant's compensation" includes all compensation actually paid or made available to the individual for the entire limitation year even though the individual may not have been a participant for the entire limitation year.

(4) *Section 403(b) annuity contracts.* For special rules with respect to section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies, see paragrpah (e) of this section.

(b) *Annual additions*—(1) *In general.* For purposes of this section, the term "annual additions" means the sum, credited to a participant's account for any limitation year, of—

(i) Employer contributions,

(ii) The lesser of the amount of employee contributions in excess of 6% of his compensation (as defined in paragraph (a)(3) of this section) for the limitation year, or one half of the employee contributions for that year, and

(iii) Forfeitures.

(2) *Employer contributions.* (i) For purposes of paragraph (b)(1)(i) of this section, the term "annual additions" includes employer contributions which are made under the plan. Furthermore, the Commissioner may in an appropriate case, considering all of the facts and circumstances treat transactions between the plan and the employer or certain allocations to participants' accounts as giving rise to annual additions.

(ii) If, in a particular limitation year, an employer contributes an amount to a participant's account because of an erroneous forfeiture in a prior limitation year, or because of an erroneous failure to allocate amounts in a prior limitation year, the contribution will not be considered an annual addition with respect to the participant for that particular limitation year, but will be considered an annual addition for the limitation year to which it relates. An example of a situation in which an employer contribution might occur under the circumstances described in the preceding sentence is a retroactive crediting of service for an employee under 29 CFR 2530.200(b)-2(a)(3) (regulations promulgated by the Department of Labor) in accordance with an award of back pay. For purposes of this subdivision, if the amount so contributed in the particular limitation year takes into account actual investment gains attributable to the period subsequent to the year to which the contribution relates, the portion of the total contribution which consists of such gains is not considered as an annual addition for any limitation year. The rule described in this subdivision is only applicable for purposes of applying the limitations of section 415.

(iii) The restoration of an employee's accrued benefits by the employer in accordance with section 411(a)(3)(D) or section 411(a)(7)(C) will not be considered an annual addition for the limitation year in which the restoration occurs. (See § 1.411(a)-7(d)(6)(iii)(B).)

(iv) The transfer of funds from one qualified plan to another will not be considered an annual addition for the limitation year in which the transfer occurs.

(v) In the case of a defined contribution plan (such as a money purchase pension plan) to which an employer makes a contribution in order to reduce an accumulated funding deficiency (as defined in section 412(a)), the contribution will be considered an annual addition for the limitation year when the contribution was otherwise required to have been made. The special rule provided in the preceding sentence is available however, only if the contribution is allocated to those participants who would have received an addition if the contribution had been timely made. For purposes of determining the amount of the annual addition under this subdivision, any reasonable amount of interest paid by the employer is disregarded. However, any interest paid by the employer that is in excess of a reasonable amount, as determined by the Commissioner, is taken into account as an annual addition for the limitation year when the contribution was otherwise required to have been made.

(vi) In the case of a defined contribution plan (such as a money purchase pension plan) for which there has been a waiver of the minimum funding standard in a prior limitation year in accordance with section 412(d), that portion of an employer contribution in a subsequent limitation year which, if not for the waiver, would have otherwise been required in the prior limitation year under section 412(a) will be considered an annual addition for the prior limitation year. For purposes of determining the amount of such annual addition for the prior limitation year, any reasonable amount of interest paid by the employer in addition to the actual make-up contribution is disregarded. However, any interest paid by the employer that is in excess of a reasonable amount, as determined by the Commissioner, is taken into account as an annual addition for the prior limitation year.

(3) *Employee contributions.* For purposes of paragraph (b)(1)(ii) of this section, the term "annual additions" includes, to the extent employee contributions would otherwise be taken into account under this section as an annual addition, mandatory employee contributions (as defined in section 411(c)(2)(C) and the regulations thereunder) as well as voluntary employee contributions. The term "annual additions" does not include—

(i) Rollover contributions (as defined in section 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C)),

(ii) Repayments of loans made to a participant from the plan,

(iii) Repayments of amounts described in section 411(a)(7)(B) (in accordance with section 411(a)(7)(C)) and section 411(a)(3)(D) (see § 1.411(a)-7(d)(6)(iii)(B)),

The direct transfer of employee contributions from one qualified plan to another.

However, the Commissioner may in an appropriate case, considering all of the facts and circumstances, treat transactions between the plan and the employee or certain allocations to participants' accounts as giving rise to annual additions.

(4) *Contributions other than cash.* For purposes of this paragraph, a contribution by the employer or employee of property other than cash will be considered to be a contribution in an amount equal to the fair market value (as defined in § 20.2031-1 of the Estate Tax Regulations) of the property on the date the contribution is made. The contribution described in this subparagraph may, however, constitute a prohibited transaction within the meaning of section 4975(c)(1).

(5) *Forfeitures.* With respect to a particular limitation year, forfeitures (as well as any income attributable to the forfeiture) will be considered to be an annual addition to the plan if such forfeitures are allocated to the account of the participant as of any day within that limitation year.

(6) *Excess annual additions.* If as a result of the allocation of forfeitures, a reasonable error in estimating a participant's annual compensation, or under other limited facts and circumstances which the Commissioner finds justify the availability of rules set forth in this subparagraph, the annual additions under the terms of a plan for a particular participant would cause the limitations of section 415 applicable to that participant for the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year if they are treated in accordance with any one of the following subdivisions:

(i) The excess amounts in the participant's account must be allocated and reallocated to other participants in the plan. However, if the allocation or reallocation of the excess amounts pursuant to the provisions of the plan causes the limitations of section 415 to be exceeded with respect to each plan participant for the limitation year, then these amounts must be held unallocated in a suspense account. If a suspense account is in existence at any time during a particular limitation year, other than the limitation year described in the preceding sentence, all amounts in the suspense account must be allocated and reallocated to participants' accounts (subject to the limitations of section 415) before any employer contributions and employee contributions which would constitute annual additions may be made to the plan for that limitation year.

(ii) The excess amounts in the paticipant's account must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for that participant if that participant is covered by the plan of the employer as of the end of the limitation year. However, if that participant is not covered by the plan of the employer as of the end of the limitation year, then the excess amounts must be held unallocated in a suspense account for the limitation year and allocated and reallocated in the next limitation year to all of the remaining participants in the plan in accordance with the rules set forth in paragraph (b)(6)(i) of this section. Furthermore, the excess amounts must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for all of the remaining participants in the plan. For purposes of this subdivision, excess amounts may not be distributed to participants or former participants.

(iii) The excess amounts in the participant's account must be held unallocated in a suspense account for the limitation year and allocated and reallocated in the next limitation year to all of the participants in the plan in accordance with the rules provided in paragraph (b)(6)(i) of this section. The excess amounts must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for all of the participants in the plan. For purposes of this subdivision, excess amounts may not be distributed to participants or former participants.

(iv) Notwithstanding subdivisions (i), (ii) or (iii) of this subparagraph, the plan may provide for the return of employee contributions (whether voluntary or mandatory), to the extent that the return would reduce the excess amounts in the participant's account. However, the return of mandatory employee contributions may result in discrimination in favor of employees who are officers, shareholders or highly compensated. If the plan does not provide for the return of gains attributable to the returned employee contributions, such earnings will be considered as an employee contribution for the limitation year in which the returned contribution was made. If a suspense account is in existence at any time during the limitation year in accordance with this subparagraph, investment gains and losses and other income may, but need not, be allocated to the suspense account. To the extent that investment gains or other income or investment losses are allocated to the suspense account, the entire amount allocated to participants from the suspense account, including any such gains or other income or less any losses, is considered as the annual addition. See § 1.401(a)-2(b) for provisions relating to the disposition of a suspense account in existence upon termination of a plan.

(7) *Time when annual additions credited.* (i) For purposes of this paragraph, an annual addition is credited to the account of a participant for a particular limitation year if it is allocated to the participant's account under the terms of the plan as of any date within that limitation year. However, an amount is not deemed allocated as of any date within a limitation year if such allocation is dependent upon participation in the plan as of any date subsequent to such date.

(ii) For purposes of this subparagraph, employer contributions shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends. If, however, contributions are made by an employer exempt from Federal income tax under section 501(a), the contributions must be made to the plan no later than the 15th day of the sixth calendar month following the close of the taxable year (or fiscal year, if no taxable year) with or within which the particular limitation year ends.

(iii) For purposes of this subparagraph, employee contributions, whether voluntary or mandatory, shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. However, in the case of employee contributions to an employee stock ownership plan which meets the requirements of either section 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38, § 1.46-7) and the regulations thereunder (§ 1.46-8) or section 409A and the regulations thereunder, such contributions shall be deemed credited to a participant's account in the limitation year for which the contribution is allocated to that account under the terms of the plan, provided that the contributions, or pledges to make the contributions, are actually made no later than the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends.

(iv) For purposes of this paragraph, amounts contributed to an individual retirement plan (as described in section

7701(a)(37)) are treated as allocated to the individual's account as of the last day of the limitation year ending with or within the taxable year for which the contribution is made.

(c) *Examples.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). P is a participant in a qualified profit-sharing plan maintained by his employer, ABC Corporation. The limitation year for the plan is the calendar year. P's compensation (as defined in paragraph (a)(3) of this section) for the current limitation year is $20,000 consisting exclusively of salary. Because the compensation limitation described in section 415(c)(1)(B) applicable to P for the current limitation year is lower than the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost of living increases), the maximum annual addition which can be allocated to P's account for the current limitation year is $5,000 (25 percent of $20,000).

Example (2). Assume the same facts as in Example (1), except that P's compensation for the current limitation year is $140,000. The maximum amount of annual additions that may be allocated to P's account in the current limitation year may not exceed the lesser of $35,000 (25 percent of $140,000) or the dollar limitation as in effect as of January 1 of the calendar year in which the current limitation year ends.

Example (3). Assume the same facts as in Example (1), except that P's compensation for the current limitation year consists of $20,000 salary and a bonus which is paid to P after the end of the current limitation year. Because the bonus was not actually paid or made available to P within the current limitation year, P's compensation for that year, for purposes of computing the compensation limitation described in section 415(c)(1)(B), may not include the bonus. However, if ABC Corporation had elected under § 1.415–2(d)(4) to use the compensation accrued for the current limitation year, then the amount of the bonus which accrued within the current limitation year could have been taken into account.

Example (4). Employer N maintains a qualified profit-sharing plan which uses the calendar year as its plan year and its limitation year. N's taxable year is a fiscal year beginning June 1 and ending May 31. Under the terms of the profit-sharing plan maintained by N, employer contributions are made to the plan two months after the close of N's taxable year and are allocated as of the last day of the plan year ending within the taxable year. Thus, employer contributions for the 1977 calendar year limitation year are made on July 31, 1978 (the date that is two months after the close of N's taxable year ending May 31, 1978) and are allocated as of December 31, 1977. Because the employer contributions are actually made to the plan no later than 30 days after the end of the period described in section 404(a)(6) with respect to N's taxable year ending May 31, 1978, the contributions will be considered annual additions for the 1977 calendar year limitation year.

Example (5). Assume the same facts as in example (4), except that the plan year for the profit-sharing plan maintained by N is the 12-month period beginning on March 1 and ending on February 28. Under the terms of the plan, an employer contribution which is made to the plan on July 31, 1978, is allocated to participants' accounts as of February 28, 1978. Because the last day of the plan year is in the 1978 calendar year limitation year, and because, under the terms of the plan, employer contributions are allocated to participants' accounts as of the last day of the plan year, the contributions are considered annual additions for the 1978 calendar year limitation year.

Example (6). XYZ Corporation maintains a profit-sharing plan to which a participant may make voluntary employee contributions for any year not to exceed 10 percent of the participant's compensation for the year. The plan permits a participant to make retroactive make-up contributions for any year for which he contributed less than 10 percent of compensation. XYZ uses the calendar year as the plan year and the limitation year. Under the terms of the plan, voluntary employee contributions are credited to a participant's account for a particular limitation year if such contributions are allocated to the participant's account as of any date within that limitation year. Participant A's compensation is as follows:

Limitation year and compensation

1976	$10,000
1977	$12,000
1978	$14,000
1979	$16,000

Participant A makes no voluntary employee contributions during limitation years 1976, 1977 and 1978. On October 1, 1979, participant A makes a voluntary employee contribution of $5,200 (10 percent of A's aggregate compensation for limitation years 1976, 1977, 1978 and 1979 of $52,000). Under the terms of the plan, $1,000 of this 1979 contribution is allocated to A's account as of limitation year 1976; $1,200 is allocated to A's account of limitation year 1977; $1,400 is allocated to A's account as of limitation year 1978, and $1,600 is allocated to A's account as of limitation year 1979. However, under the rule set forth in paragraph (b)(7)(iii) of this section, employee contributions will not be considered credited to a participant's account for a particular limitation year for section 415 purposes unless the contributions are actually made to the plan no later than 30 days after the close of that limitation year. Thus, A's voluntary employee contribution of $5,200 made on October 1, 1979 would be considered as credited to A's account only for the 1979 calendar year limitation year, notwithstanding the plan provisions. (See section 415(c)(2)(B) and paragraph (b)(1)(ii) of this section for provisions relating to the amount of A's contribution that would be considered an annual addition to A's account for the 1979 calendar year limitation year.)

(d) *Cost-of-living adjustment for defined contribution plans*—(1) *In general.* Under section 415(d)(1)(B), the dollar limitation described in section 415(c)(1)(A) applicable to limitation years to which section 415 applies is adjusted annually to take into account increases in the cost of living. See § 1.415–5(a) for the procedure for making this adjustment and the effective date of the adjusted dollar limitation.

(2) *Automatic adjustments with respect to dollar limitation.* A defined contribution plan may include a provision which provides for an annual automatic cost of living adjustment of the dollar limitation described in section 415(c)(1)(A).

(e) *Special election for section 403(b) contracts purchased by educational organizations, hospitals and home health service agencies*—(1) *In general.* (i) An annuity contract described in section 403(b) is treated as a defined contribution plan for purposes of the limitations on contributions imposed by section 415. Thus, section 403(b) annuity contracts are subject to the rules regarding the amount of annual additions which may be made to a participant's account for any limitation year under section 415(C)(1) and paragraph (a)(1) of this section. Section 403(b) annuity contracts are also subject to the limitations imposed by section 403(b)(2)(A) with respect to the amount of employer contributions for the purchase of an annuity contract that may be excluded from the gross income of the employee on whose behalf the annuity contract is purchased. Therefore, unless a special election has been made as described in section 415(c)(4) and subparagraph (2) of this paragraph, the excludable amount of a contribution toward the purchase of a section 403(b) annuity contract for a particular taxable year is the lesser of the exclusion allowance computed under section 403(b)(2)(A) for that taxable year or the limitation imposed by section 415(c)(1) for the limitation year ending with or within that taxable year.

(ii) If the amount of contributions for an individual under a section 403(b) annuity contract for a taxable year exceeds the limitation of section 415(c)(1), then for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years, the excess contribution is considered as an amount contributed by the employer for an annuity contract which was excludable from the employee's gross income for a prior taxable year under section 403(b)(2)(A)(ii). Thus, for future taxable years the exclusion allowance under section 403(b)(2)(A) is reduced by the amount of the excess contribution even though that amount was not excludable from the employee's gross income in the taxable year when it was made. For a special effective date for the rule provided in this subdivision, see § 1.415–1(f)(6).

(iii) For purposes of the limitation imposed by section 415(c)(1), the amount contributed toward the purchase of a section 403(b) annuity contact is treated as allocated to the employee's account as of the last day of the limitation year ending with or within the taxable year during which the contribution is made.

(iv) For rules relating to the limitation year applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased, see § 1.415–2(b)(7).

(2) *Alternative limitations.* (i) Under section 415(c)(4) and this paragraph, a special election is permitted with respect to section 403(b) annuity contracts (including custodial accounts treated as section 403(b) annuity contracts) purchased by educational organizations (as described in section 170(b)(1)(A)(ii)), home health service agencies (as described in paragraph (e)(2)(vi) of this section) and hospitals. Instead of the compensation limitation described in section 415(c)(1)(B) otherwise applicable to the amount of annual additions that may be made to the account of a participant in a defined contribution plan in any limitation year, an individual on whose behalf a section 403(b) annuity contract has been purchased may elect to have substituted for such limitation the amounts described in subparagraph (3) ("(A) election limitation") or (4) ("(B) election limitation") of this paragraph. Instead of the exclusion allowance determined under section 403(b)(2)(A) otherwise applicable for the taxable year with or within which the limitation year ends to an individual on whose behalf a section 403(b) annuity contract has been purchased, an individual may elect to have substituted for such exclusion allowance the amount described in paragraph (e)(5) ("(C) election limitation") of this section. The election shall be made at the time and in the manner prescribed in subparagraph (6) of this paragraph.

(ii) With respect to any limitation or taxable year, an election by an individual to have any one of the alternative limitations described in paragraph (e) (3), (4) or (5) of this section apply to contributions made on his behalf by the employer with respect to any section 403(b) annuity contract precludes an election to have any other of the alternative limitations apply for any future limitation or taxable year with respect to any section 403(b) annuity contract purchased by any employer of such individual.

(iii) With respect to any limitation year, an election by an individual to have paragraph (e)(3) of this section ("(A) election limitation") apply to contributions made on his behalf by the employer with respect to any section 403(b) annuity contract precludes an election to have any of the alternative limitations apply for any future limitation or taxable year with respect to any section 403(b) annuity contract purchased by any employer of such individual.

(iv) Any election made under this paragraph is irrevocable.

(v) The election made by the individual under this paragraph shall be controlling for all prior taxable years in which, in accordance with § 11.415(c)(4)–1(b), the individual had taken advantage of an alternative limitation, even if inconsistent with the alternative limitation used in determining income tax liability for those taxable years under that section. An individual, who took advantage of an alternative limitation under § 11.415(c)(4)–1(b) which is inconsistent with the one finally elected, may correct this inconsistency for each prior open taxable year in either of two ways. The individual may redetermine income tax liability as though none of the alternative limitations applied for that taxable year. Alternatively, the individual may recompute income tax liability for the particular taxable year in a manner consistent with the alternative limitation elected by the individual under this paragraph rather than the limitation originally used in accordance with § 11.415(c)(4)–1(b). Furthermore, if an individual, who had taken advantage of an alternative limitation in prior taxable years under § 11.415(c)(4)–1(b), elects under this paragraph not to have any of the alternative limitations apply, the individual, will, nevertheless, be considered to have elected the alternative limitation used under § 11.415(c)(4)–1(b). However, the rule described in the preceding sentence is not applicable if the individual recomputes income tax liability for all prior open taxable years in which an alternate limitation was taken advantage of under § 11.415(c)(4)–1(b) as though none of the alternative limitations applied for those taxable years. For purposes of section 6654 (relating to the failure of an individual to pay estimated tax), a difference in tax for such years resulting from a difference in these limitations is not treated as an underpayment. This rule only applies to the extent the difference in tax is due to the election of one of the alternative limitations or to a final election not to use one of the alternative limitations.

(vi) For purposes of this paragraph, a home health service agency is an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and which has been determined by the Secretary of Health, Education and Welfare to be a home health service agency under section 1395x(o) of Title 42 of the United States Code.

(3) "*(A) election limitation.*" For the limitation year that ends with or within the taxable year in which an individual eligible to make a special election separates from the service of his employer (and only for that limitation year), the "(A) election limitation" is the exclusion allowance computed under section 403(b)(2)(A) for the individual's taxable year in which the separation occurs (without regard to section 415). However, in determining this limitation, there may only be taken into account the individual's years of service for the employer (as defined in section 403(b)(4) and the regulations thereunder) and contributions made by the employer (as described in section 403(b)(2)(A)(ii) and regulations thereunder) during the period of years (not exceeding 10) ending on the date of separation. For purposes of this subparagraph, all service for the employer performed within the period beginning ten years before the date of separation and ending on the separation date must be taken into account. However, the "(A) election limitation" may not exceed the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section) applicable to the individual for the limitation year.

(4) "*(B) election limitation.*" For any limitation year with respect to an individual eligible to make a special election, the "(B) election limitation" is equal to the least of the following amounts—

(i) $4,000, plus 25 percent of the participant's includible compensation (as defined in section 403(b)(3) and the regulations thereunder) for the taxable year with or within which the limitation year ends.

(ii) The amount of the exclusion allowance determined under section 403(b)(2)(A) and the regulations thereunder for the taxable year with or within which the limitation year ends.

(iii) $15,000.

(5) "*(C) election limitation.*" For any taxable year with respect to an

individual eligible to make a special election, the "(C) election limitation" is the lesser of the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section) or the compensation limitation described in section 415(c)(1)(B) applicable to the individual for the limitation year ending with or within that taxable year. For purposes of determining the compensation limitation under this subparagraph for a particular limitation year, the term "compensation" has the same meaning as set forth in § 1.415–2(d).

(6) *Time and method of making election.* (i) With respect to any taxable year, an election by an individual to take advantage of any of the alternative limitations described in subparagraphs (3), (4) or (5) of this paragraph is made by determining income tax liability for that taxable year in a way which is consistent with one of the alternative limitations. However, an individual is only considered to have made an election for a taxable year when the use of one of the alternative limitations is necessary to support the exclusion from gross income reflected in the individual's income tax return for that taxable year.

(ii) In the case of an individual who, in accordance with § 11.415(c)(4)–1(b), took advantage of one of the alternative limitations for prior taxable years, the election described in this paragraph to take advantage of an alternative limitation will be effective only if the following two conditions are satisfied. The first condition is that the election must be made (in the manner described in subdivision (i) of this subparagraph) in the individual's income tax return for the taxable year immediately following the taxable year in which final regulations under section 415 are published in the **Federal Register**. The second condition is that if the individual's election is different from the limitation used under § 11.415(c)(4)–1(b) in determining income tax liability for prior taxable years, the individual must correct this inconsistency by recomputing income tax liability for all such prior open taxable years in accordance with paragraph (e)(2)(v) of this section. See paragraph (e)(2)(v) of this section for rules relating to an individual who had taken advantage of an alternative limitation in prior taxable years under § 11.415(c)(4)–1(b) but does not elect any of the alternative limitations for the taxable year immediately following the taxable yar in which final regulations under section 415 are published in the **Federal Register**.

(iii) This subdivision provides a special rule for those individuals who, in accordance with § 11.415(c)(4)–1(b), took advantage of one of the alternative limitations for prior taxable years, but who are not participating in a section 403(b) annuity program in the taxable year following the taxable year in which final regulations under section 415 are published in the **Federal Register**. In such a situation, the election described in this paragraph to take advantage of an alternative limitation (or, alternatively, not to elect any of the alternative limitations) is made by the individual by attaching a statement to the income tax return for the taxable year following the taxable year in which final section 415 regulations are published in the **Federal Register**. The statement must include the individual's name, address, Social Security number, the name of the section 403(b) annuity program in which the individual participated and a statement indicating the election being made. See paragraph (e)(2)(v) of this section for rules relating to the situation where the individual described in this subdivision chooses not to elect any of the alternative limitations.

(7) *Examples:* The provisions of this paragraph may be illustrated by the following examples:

Example (i). Doctor M is an employee of H Hospital (an organization described in section 501(c)(3) and exempt from taxation under section 501(a)) for the entire 1976 calendar year. M is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). M uses the calendar year as the taxable year and limitation year. M has includable compensation (as defined in section 403(b)(3) and the regulations thereunder) and compensation (as defined in paragraph (a)(3) of this section) for taxable year 1976 of $30,000, and M has 4 years of service (as defined in § 1.403(b)–1(f)) with H as of December 31, 1976. During M's prior service with H, H had contributed a total of $12,000 on M's behalf for annuity contracts described in section 403(b), which amount was excludable from M's gross income for such prior years. Thus, for the limitation year ending with or within taxable year 1976, M's exclusion allowance determined under section 403(b)(2)(A) is $12,000 ((.20 × $30,000 4) — $12,000). The limitation imposed by section 415(c)(1) that is applicable to M for limitation year 1976 is the lesser of $26,825 (the amount described in section 415(c)(1)(A) adjusted under section 415(d)(1)(b) for limitation year 1976) or $7,500 (the amount described in section 415(c)(1)(B)). Absent the special elections provided in section 415(c)(4) and this paragraph, $7,500 would be the maximum contribution H could make for annuity contracts described in section 403(b) on M's behalf for limitation year 1976 without increasing M's gross income for taxable year 1976. However, because H is an organization described in section 415(c)(4), M may make a special election with respect to amounts contributed by H on M's behalf for section 403(b) annuity contracts for 1976. Assume that M does not separate from the service of H during 1976 and that, therefore, the "(A) election limitation" described in section 415(c)(4)(A) and subparagraph (3) of this paragraph is not available to M. If M elects the "(B) election limitation" for 1976, H could contribute $11,500 on M's behalf for annuity contracts described in section 403(b) for that year (the least of $11,500 (the amount described in section 415(c)(4)(B)(i)); $12,000 (the amount described in section 415(c)(4)(B)(ii)); and $15,000 (the amount described in section 415(c)(4)(B)(iii)). If M elects the "(C) election limitation" for 1976, H could only contribute up to $7,500 (the lower of the amounts described in section 415(c)(1) (A) or (B)) for section 403(b) annuity contracts on M's behalf for 1976 without increasing M's gross income for that year.

Example (2). Assume the same facts as in example (1) except that H had contributed a total of $18,000 on M's behalf for annuity contracts in prior years, which amount was excludable from M's gross income for such prior years. Accordingly, for 1976, M's exclusion allowance determined under section 403(b)(2)(A) is $6,000 ((.20 × $30,000 × 4)—$18,000). The limitation imposed by section 415(c)(1) applicable to M for 1976 is $7,500 (the lesser of the amount described in section 415(c)(1) (A) or (B)). Absent the special elections provided in section 415(c)(4) and this paragraph, $6,000 would be the maximum amount H could contribute for annuity contracts described in section 403(b) on M's behalf for 1976 without increasing M's gross income for that year. However, if M elects the "(c) election limitations" for 1976, H may contribute up to $7,500 without increasing M's gross income for that year.

Example (3). G, a teacher, is an employee of E, an educational organization described in section 170(b)(1)(A)(ii). G uses the calendar year as the taxable year and G uses the 12-month consecutive period beginning July 1 as the limitation year. G has includible compensation (as defined in section 403(b)(3) and the regulations thereunder) for taxable year 1976 of $12,000 and G has compensation (as defined in paragraph (a)(3) of this section) for the limitation year ending with or within taxable year 1976 of $12,000. G has 20 years of service (as defined in § 1.403(b)–1(f)) as of May 30, 1976, the date G separates from the service of E. During G's service with E before taxable year 1976, E had contributed $34,000 toward the purchase of a section 403(b) annuity contract on G's behalf, which amount was excludable from G's gross income for such prior years. Of this amount, $19,000 was so contributed and excluded during the 10 year period ending on May 30, 1976. For the taxable year 1976, G's exclusion allowance determined under section 403(b)(2)(A) is $14,000 ((.20 × $12,000 × 20) — $34,000). Absent the special elections described in section 415(c)(4) and this paragraph, $3,000 (the lesser of G's exclusion allowance for taxable year 1976 or the section 415(c)(1) limitation applicable to G for the limitation year ending with or within such taxable year) would be the maximum excludable contribution E could make for section 403(b) annuity contracts on G's behalf for the limitation year ending with or within taxable year 1976. However, because E is an organization described in section 415(c)(4), G may make a special election with respect to amounts contributed on G's behalf by E for section 403(b) annuity contracts for the limitation year ending with or within taxable year 1976.

Because G has separated from the service of E during such taxable year, G may elect the "(A) election limitation" as well as the "(B) election limitation" or the "(C) election limitation." If G elects the "(A) election limitation" for the limitation year ending with or within taxable year 1976, E could contribute up to $5,000 ((.20 × $12,000 × 10) − $19,000) on G's behalf for section 403(b) annuity contracts for such limitation year without increasing G's gross income for the taxable year with or within which such limtation year ends. If G elects the "(B) election limitation" for such limitation year, E could contribute $7,000 (the least of $7,000 (the amount described in section 415(c)(4)(B)(i)); $14,000 (the amount described in section 415(c)(4)(B)(ii)); and $15,000 (the amount described in section 415(c)(4)(B)(iii)). If G elects the "(C) election limitation" for taxable year 1976, E could contribute $3,000 (the lesser of the amounts described in section 415(c)(1) (A) or (B)).

(f) *Special rules with respect to the application of section 415(c)(1)(B) with section 404(e)(4).* For special rules relating to the application of the compensation limitation described in section 415(c)(1)(B) with the minimum allowable deduction described in section 404(e)(4) in the case of a plan which provides contributions for employees, some or all of whom are employees within the meaning of section 401(c)(1), see the regulations under section 404(e).

(g) *Special rules for employee stock ownership plans*—(1) *General definitions.* For purposes of this paragraph—(i) An employee stock ownership plan is a plan which meets the requirements of either section 4975(e)(7) and the regulations thereunder, or whichever of the following is applicable: section 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38, 26 CFR 1.46–7) and the regulations thereunder (26 CFR 1.46–8) or section 409A and the regulations thereunder.

(ii) The term "employer securities" means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7) and the regulations thereunder, qualifying employer securities within the meaning of section 4975(e)(8), that are also described in section 301(d)(9)(A) of the Tax Reduction Act of 1975 and the regulations thereunder or section 409A(l) and the regulations thereunder, whichever is applicable. In the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reductions Act of 1975 or section 409A, whichever is applicable, such term means employer securities within the meaning of section 301(d)(9)(A) of that Act and the regulations thereunder or section 409A(l) and the regulations thereunder, which ever is applicable.

(iii) An individual is considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, the individual owns (after application of section 1563(e), relating to constructive ownership of stock) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.

(2) *Special dollar limitation.* In the case of an employee stock ownership plan which meets the requirements of paragraph (g)(3) of this section, the applicable dollar limitation for a limitation year equals the sum of—

(i) The dollar amount described in section 415(c)(1)(A) (as so adjusted for that limitation year), and

(ii) The lesser of the amount determined under paragraph (g)(2)(i) of this section or the amount of employer securities within the meaning of paragraph (g)(1)(ii) of this section contributed to the employee stock ownership plan.

(3) *Employee stock ownership plans to which the special dollar limitation applies.* For purposes of this paragraph, the special dollar limitation is only applicable to an employee stock ownership plan for a particular limitation year for which no more than one-third of the employer contributions for the limitation year are allocated to employees who are officers, shareholders owning more than 10 percent of the employer's stock (as determined under subparagraph (1)(iii) of this paragraph), or whose compensation for the limitation year exceeds twice the dollar amount described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section).

(4) *Cash contributions treated as contributions of employer securities.* For purposes of the special dollar limitation—

(i) In the case of an employee stock ownership plan in which the employer makes cash contributions which are used in a direct acquisition of employer securities, the cash contributions are treated as a contribution of employer securities for the limitation year, provided that the securities are employer securities within the meaning of paragraph (g)(1)(ii) of this section and are allocated to participants under the terms of the plan as of any date within that limitation year. However, this subdivision is not applicable unless the following two conditions are satisfied. The first condition is that the employer must contribute the cash to the plan no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends. The second condition is that the employer securities must be purchased no later than 60 days after the end of the period described in the preceding sentence.

(ii) In the case of an employee stock ownership plan to which an exempt loan as described in § 54.4975–7(b) has been made, the employer's contribution of both principal and interest used to repay the exempt loan for the limitation year will be treated as a contribution of employer securities for that limitation year, provided that the securities allocated to participants are employer securities within the meaning of paragraph (g)(1)(ii) of this section.

(5) *Amounts considered as annual additions.* For purposes of applying the limitations of section 415(c)(1) and this section and for the special dollar limitation, in the case of an employee stock ownership plan to which an exempt loan as described in § 54.4975–7(b) has been made, the amount of employer contributions which is considered an annual addition for the limitation year is calculated with respect to employer contributions of both principal and interest used to repay the exempt loan for that limitation year.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Employee N is a participant in an employee stock ownership plan maintained by his employer, M Corporation, which meets the requirements of section 4975(e)(7) and the regulations thereunder. The plan also meets the requirements set forth in subparagraph (3) of this paragraph. M does not maintain any other qualified plan. The limitation year for the plan is the calendar year. For 1977, N has compensation (as defined in paragraph (a)(3) of this section) of $160,000. Without the special dollar limitation described in subparagraph (2) of this paragraph, under section 415(c)(1), N could only have annual additions of $28,175 (the lesser of the dollar limitation described in section 415(c)(1)(A) as adjusted for cost of living increases ($28,175) or the compensation limitation described in section 415(c)(1)(B) (25% of $160,000=$40,000)) made to his account for the 1977 limitation year. Under the special dollar limitation, N would be able

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to have annual additions of $56,350 ($28,175 × 2) made to his account for the 1977 limitation year, provided that amounts contributed in excess of $28,175 consist solely of employer securities. However, N is also subject to the compensation limitation described in section 415(c)(1)(B). Therefore, even under the special dollar limitation, N may only have annual additions of $40,000 made to his account for the 1977 limitation year: *Provided,* That amounts contributed in excess of $28,175 consist solely of employer securities within the meaning of paragraph (g)(1)(ii) of this section.

Example (2). Assume the same facts as in example (1), except that N's compensation for 1977 is $300,000. Because the compensation limitation (25% of $300,000 = $75,000) is greater than the special dollar limitation of $56,350, N can have annual additions of $56,350 made to his account for the 1977 limitation year, provided that amounts contributed in excess of $28,175 consist solely of employer securities.

(h) *Special rules for level premium annuity contracts under plans benefiting owner-employees*—(1) *In general.* The compensation limitation described in section 415(c)(1)(B) will not be less than the contribution described in section 401(e) which is made for the benefit of an owner-employee (within the meaning of section 401(c)(3)) for a limitation year provided that—

(i) The annual additions with respect to such owner-employee for the limitation year consist solely of the contributions described in this paragraph, and

(ii) The owner-employee is not a participant at any time during the limitation year in a defined benefit plan maintained by the employer.

(2) *Application of the non-discrimination rules.* In the case of a plan which provides contributions for employees who are not owner-employees, that plan will not be treated as failing to satisfy the non-discrimination rules of section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the compensation limitation described in section 415(c)(1)(B).

(3) *Additional rules.* For additional rules concerning contributions described in section 401(e), see § 1.401(e)–4.

§ 1.415–7 Limitation in case of defined benefit and defined contribution plan for same employee.

(a) *Overall limitation*—(1) *In general.* Under section 415(e) and this section, in any case in which an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, to satisfy the provisions of section 415(a), the sum of the defined benefit plan fraction (as defined in paragraph (b) of this section) and the defined contribution plan fraction (as defined in paragraph (c) of this section) with respect to that participant for any limitation year may not exceed 1.4.

(2) *Application of overall limitation to employee stock ownership plan.* An employee stock ownership plan which qualifies for, and takes advantage of, the special dollar limitation provided in section 415(c)(6) and § 1.415–6(g) is still subject to the 1.4 limitation of paragraph (a)(1) of this section.

(b) *Defined benefit plan fraction*—(1) *In general.* For purposes of paragraph (a) of this section, the defined benefit plan fraction applicable to a participant for any limitation year is a fraction—

(i) The numerator of which is the projected annual benefit (as defined in subparagraph (3) of this paragraph) of the participant under the plan (determined as of the close of the limitation year), and

(ii) The denominator of which is the projected annual benefit (as defined in subparagraph (3) of this paragraph) of the participant under the plan (determined as of the close of the limitation year) if the plan provided such participant the maximum benefit allowable under § 1.415–3.

In the event a participant has participated in more than one defined benefit plan maintained by the employer, the numerator of the defined benefit plan fraction is the sum of the projected annual benefits under all of the defined benefit plans.

(2) *Participants described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974.* For purposes of this paragraph, in the case of a participant described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 987), the defined benefit plan fraction applicable to such participant is deemed not to exceed 1.0 for any limitation year to which section 415 and this section apply.

(3) *Projected annual benefit.* For purposes of this section, a participant's "projected annual benefit" is equal to the annual benefit (as defined in § 1.415–3(b)(1)(i)) to which a participant in a defined benefit plan would be entitled under the terms of the plan based upon the following assumptions:

(i) The participant will continue employment until reaching normal retirement age as determined under the terms of the plan (or current age, if that is later).

(ii) The participant's compensation for the limitation year under consideration will remain the same until the date the participant attains the age described in subdivision (i) of this subparagraph.

(iii) All other relevant factors used to determine benefits under the plan for the limitation year under consideration will remain constant for all future limitation years.

(c) *Defined contribution plan fraction*—(1) *In general.* For purposes of paragraph (a) of this section, the defined contribution plan fraction applicable to a participant for any limitation year is a fraction—

(i) The numerator of which is the sum of the annual additions to the participant's account as of the close of the limitation year and for all prior limitation years, and

(ii) The denominator of which is the sum of the maximum amount of annual additions which could have been made under section 415(c) § 1.1415–6(a) (determined without regard to the special dollar limitation provided for employee stock ownership plans under section 415(c)(6) and § 1.415–6(g)) for the limitation year and for each prior limitation year of the participant's service with the employer (regardless of whether a plan was in existence during those years).

For purposes of this paragraph, the term "annual additions" has the same meaning as set forth in § 1.415–6(b).

(2) *Special rules for certain annuity contracts and individual retirement plans.* (i) Except as provided in subdivision (ii) of this subparagraph, in computing the defined contribution plan fraction applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased, the amount which is included in the denominator of such fraction for a particular limitation year is the maximum amount which could have been contributed under the limitations of section 415(c) and § 1.415–6(a) applicable to the individual for the particular limitation year. However, if the individual elects an alternative limitation described in either section 415(c)(4)(A) or section 415(c)(4)(B) for a particular limitation year, the denominator of the fraction for such limitation year is the maximum amount which could have been contributed under the applicable limitations of section 415(c) and § 1.415–6(a), as modified by the alternative limitation elected.

(ii) This subdivision provides a rule for computing the defined contribution plan fraction with respect to an individual on whose behalf a section 403(b) annuity has been purchased prior to commencing employment with an employer which the individual controls (within the meaning of section 414 (b) or

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(c), as modified by section 415(h)) and which maintains a defined benefit plan. In this situation, the controlled employer is considered to be maintaining the section 403(b) annuity contract as a defined contribution plan under the rules of paragraph(b)(2)(i) of this section. However, for all years prior to commencing employment with the controlled employer, the individual does not have any years of service (within the meaning of subparagraph (1)(ii) of this paragraph) with that employer. Thus, for each limitation year in which such individual did not have a year of service with the controlled employer, the denominator of the defined contribution plan fraction applicable to the individual is deemed to equal the numerator of that fraction.

(iii) The rules described in this paragraph also apply to an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) has been maintained.

(iv) See paragraph (h)(4) of this section for special rules relating to the aggregation of a section 403(b) annuity contract and a qualified plan.

(d) *Special transitional rules for defined contribution plan fraction.* For purposes of determining the defined contribution plan fraction under paragraph (c) of this section for any limitation year beginning after December 31, 1975, the following rules shall apply with respect to limitation years before the first limitation year to which section 415 and this section apply.

(1) The aggregate amount taken into account under paragraph (c)(1)(i) of this section in determining the numerator of the defined contribution plan fraction is deemed not to exceed the aggregate amount taken into account under paragraph (c)(1)(ii) of this section in determining the denominator of the fraction. Thus, for example, if the aggregate amount of actual annual additions to the plan for all such limitation years is $500,000, while the aggregate amount in the denominator is $250,000, under the rule set forth in this subparagraph, the defined contribution plan fraction is $250,000 divided by $250,000, or 100 percent.

(2) The amount taken into account under section 415(c)(2)(B)(i) for each such limitation year is an amount equal to—

(i) The amount by which the aggregate amount of employee contributions (whether voluntary or mandatory) for all limitation years beginning before January 1, 1976, during which the employee was a participant in the plan exceeds 10 percent of the employee's aggregate compensation from the employer for all such limitation years, divided by

(ii) The number of full limitation years (counting any part of a limitation year as a full limitation year) beginning before January 1, 1976, during which the employee was a participant in the plan. Therefore, for purposes of computing the numerator of a participant's defined contribution plan fraction for limitation years beginning after December 31, 1975, no employee contributions made to the plan before the first limitation year to which section 415 and this section apply are taken into account as annual additions if the aggregate amount of the contributions does not exceed 10 percent of the employee's aggregate compensation from the employer for all limitation years prior to the first such limitation year.

(3) The special transitional rule concerning employee contributions provided for in paragraph (d)(2) of this section does not apply to any employee contributions (whether voluntary or mandatory) made on or after October 2, 1973, to the extent that these contributions exceed the maximum amount of employee contributions permitted under the plan as in effect on October 2, 1973. For purposes of the preceding sentence, plan amendments approved by the Internal Revenue Service before October 2, 1973, and actually put into effect before January 1, 1974, are considered in effect on October 2, 1973. Therefore, for purposes of computing the numerator of the defined contribution plan fraction for limitation years beginning after December 31, 1975, employee contributions made between October 2, 1973 and prior to the first limitation year to which section 415 and this section apply which exceed the maximum amount the employee was permitted to contribute under the provisions of the plan as in effect on October 2, 1973, are taken into account as annual additions (within the meaning of § 1.415-6(b)(1)(ii)).

(4) For purposes of this paragraph, the participant's aggregate compensation for all years (whichever are applicable under either paragraph (d)(1) or (2) of this section) with the employer before the first limitation year to which section 415 applies equals the product of the participant's compensation during the first limitation year to which section 415 applies times the number of such applicable years. However, this special rule is available only if records necessary for the determination of the participant's aggregate compensation for all such applicable years with the employer before the first limitation year to which section 415 applies are not available.

(e) *Examples.* The provisions of paragraphs (a) through (d) of this section may be illustrated by the following examples:

Example (1). (i) S is an employee of T Corporation and is a participant in both the noncontributory defined benefit plan and noncontributory defined contribution plan maintained by the corporation. S became an employee of T on July 1, 1966. S became a participant in the defined benefit plan maintained by T on January 1, 1968 and he became a participant in the defined contribution plan maintained by T on January 1, 1970. T uses the calendar year as the limitation year for both plans. The current limitation year is 1978. S's compensation (as defined in § 1.415-2(d)) from T is as follows:

Limitation year	Compensation
1966	$3,000
1967	[illegible],000
1968	[illegible],000
[illegible]	[illegible],000
1970	[illegible],000
1971	[illegible],000
1972	[illegible],000
1973	10,000
1974	10,000
1975	11,000
1976	11,000
1977	12,000
1978	12,000

(ii) S's projected annual benefit (as defined in paragraph (b)(3) of this section) as of the close of the current limitation year under the terms of the plan is $9,000. S's compensation for the current limitation year is $12,000. Therefore, the defined benefit plan fraction applicable to S for the current limitation year is .75 or 75 percent (9,000 ÷ 12,000). S's defined contribution compensation limitation (as described in section 415(c)(1)(B)) for the current limitation year is $3,000 (25 percent of $12,000). For all limitation years beginning before January 1, 1978, the maximum aggregate amount of annual additions which could have been allocated to S's account under the defined contribution plan is $25,500 (aggregate compensation of $102,000 for all years of service with T Corporation × 25 percent). Assume that annual additions totaling $11,400 have been allocated to S's account as of the end of the current limitation year. Therefore, S's defined contribution plan fraction as of the end of the current limitation year equals

$$\frac{\$11,400}{\$25,500 + \$3,000} = \frac{\$11,400}{\$28,500} = .40 \text{ or } 40 \text{ percent}$$

Because the sum (115 percent) of the defined benefit plan fraction (75 percent) and the defined contribution plan fraction (40 percent) applicable to S for the current limitation year does not exceed 140 percent, the limitations of section 415(e) and this section are not exceeded.

Example (2). Assume the same facts as in example (1) except that the defined contribution plan maintained by T Corporation provides for mandatory employee contributions of 6% of compensation and voluntary employee contributions of 10% of compensation. Assume further that S made the maximum allowable employee contributions under the plan for each limitation year (including the current limitation year) during which he was a participant. For limitation years beginning before January 1, 1976, S made total employee contributions of $8.960. However, because of the special transitional rule applicable to the defined contribution plan fraction with respect to employee contributions for limitation years beginning before January 1, 1976 (as described in paragraph (d)(2) of this section), only $560 of the total employee contributions of $8.960 made by S will be considered an annual addition for each of those limitation years in which S was a participant in the plan total employee contributions for limitation years in which S participated in the plan beginning before January 1, 1976 of $8.960 minus $5.600 (10 percent of total compensation of $56.000 for such years) divided by 6 (the number of such years in which S was a participant in the plan). Thus, in determining the numerator of the defined contribution plan fraction applicable to S, because S was a participant in the plan for 6 limitation years beginning before January 1, 1976, the total amount of employee contributions that must be taken into account as annual additions for such limitation years is $3,360 ($560 × 6). For limitation years beginning after January 1, 1976, S made contributions of $1,760 (for limitation year 1976), $1,920 (for limitation year 1977) and $1,920 (for limitation year 1978, the current limitation year). The amount of annual additions attributable to such contributions under section 415(c)(2)(B) is $880 (for limitation year 1976), $960 (for limitation year 1977) and $960 (for the current limitation year), for a total of $2.800. Thus, the defined contribution plan fraction applicable to S for the current limitation year is

$$\frac{\$3.360 + \$2\,800 + \$11\,400}{\$28.500} = \frac{\$17,560}{\$28.500} = .62 \text{ or } 62 \text{ percent}$$

Because the sum (137 percent) of the defined benefit plan fraction (75 percent) and the defined contribution plan fraction (62 percent) applicable to S for the current limitation year does not exceed 140 percent, the limitations of section 415(e) and this section are not exceeded.

Example (3). (i) A is an employee of M Corporation and is a participant in both the noncontributory defined benefit plan and noncontributory defined contribution plan maintained by the corporation. A became an employee of M on January 1, 1969 and immediately became a participant in both plans. M uses the calendar year as the limitation year for both plans. The current limitation year is 1978. A's compensation (as defined in § 1.415-2(d)) from M is as follows:

Limitation year	Compensation
1969	$100,000
1970	120,000
1971	130,000
1972	160,000
1973	200,000
1974	240,000
1975	280,000
1976	[illegible]
1977	400,000
1978	460,000

(ii) A is a participant described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974. A's projected annual benefit (as defined in paragraph (b)(3) of this section) as of the close of the current limitation year under the terms of the defined benefit plan is $100,000. The defined benefit dollar limitation (as described in section 415(b)(1)(A)) applicable to A for the current limitation year is $90,150. Absent the provisions of paragraph (b)(2) of this section, the defined benefit plan fraction applicable to A for the current limitation year would be 1.11 or 111 percent. However, under the provisions of paragraph (b)(2) of this section, for purposes of computing the overall 1.4 limitation imposed by section 415(e) and this section applicable to A for the current limitation year and all future limitation years, A's defined benefit plan fraction is considered to equal 1.0 or 100 percent.

(iii) A's defined contribution dollar limitation (as described in section 415(c)(1)(A)) for the current limitation year is $30,050. For the 9 limitation years ending before January 1, 1978, the maximum amount of annual additions which could have been allocated to A's account under the defined contribution plan is $230,000 ($25,000 × 7, plus $26,825 (adjusted figure for 1976) and $28,175 (adjusted figure for 1977)). Assume that annual additions totaling $60,000 ($10,000 of this amount being attributable to the current limitation year) have been allocated to A's account as of the close of the current limitation year. A's defined contribution plan fraction computed as of the end of the current limitation year is .23 or 23 percent

$$\frac{\$60\,000}{\$230,000 + \$30\,050} = .23 \text{ or } 23 \text{ percent}$$

Because the sum (123 percent) of the defined benefit plan fraction (1.0 or 100 percent) and the defined contribution plan fraction (.23 or 23 percent) for the current limitation year does not exceed 1.4 or 140 percent, the limitations of section 415(e) and this section are not violated.

Example (4). (i) J is an employee of M Corporation and is the only participant in the defined contribution plan maintained by the corporation. M uses the calendar year as the limitation year for the plan. The current limitation year is 1980. For all limitation years prior to 1980, the maximum allowable contribution was made to the plan. Thus, J's defined contribution plan fraction as of the end of 1979 is 1.0 or 100 percent. In 1980, before any contributions had been made to the defined contribution plan, the defined contribution plan is converted into a defined benefit plan. The defined benefit plan provides a benefit in the form of a straight life annuity equal to 50% of a participant's compensation for the high 3 years of service, but not less than the amount purchasable by J's account balance. J's average compensation for the high 3 years is $50,000.

(ii) As a result of the conversion of the defined contribution plan into the defined benefit plan, J becomes subject to the 1.4 limitation of section 415(e) and this section because he has at one time participated in a defined contribution plan and has at one time participated in a defined benefit plan maintained by M. Although the defined contribution plan is no longer in existence, J must still take the defined contribution plan fraction into account. A defined contribution plan fraction must continue to be taken into account regardless of whether the plan has been converted into another plan or whether the plan is terminated and distributions are made to participants.

(iii) Even though J is subject to the limitations of section 415(e) and this section, in computing the defined benefit plan fraction, the special rule set forth in § 1.415-3(b)(1)(iv) is applicable based on the facts of this example. That rule provides that when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. (For purposes of section 415, a conversion of a defined contribution plan into a defined benefit plan is considered such a transfer.) Assume that one-half of J's annual benefit under the defined benefit plan is attributable to the assets transferred from the defined contribution plan. This means that by applying the special rule set forth in § 1.415-3(b)(1)(iv), only one-half of J's projected annual benefit must be taken into account in computing J's defined benefit plan fraction.

Accordingly, because J's defined benefit plan fraction is only 25 percent (½ of 50% of high 3 years of compensation ($12,500) divided by 100% of high 3 years of compensation ($50,000)) and not 50 percent (which would have been the case absent the special rule of § 1.415-3(b)(1)(iv), the 140 percent limitation of section 415(e) and this section is not violated.

(f) *Special rules where records are not available for past periods*—(1) *In general.* The rules described in paragraph (f) (2) and (3) of this section apply only if the plan is unable to compute the defined contribution plan fraction because of the unavailability of records with respect to limitation years ending before the first limitation year to which section 415 applies to the plan.

(2) *Defined contribution plan fraction for first limitation year to which section 415 applies to a plan.* For purposes of paragraph (c) of this section, the defined contribution plan fraction for the first limitation year to which section 415 and this section apply to a plan equals the following fraction:

(i) The numerator of the fraction is the sum of the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, plus any additions to the participant's account made subsequent to that valuation date and through the end of the first limitation year to which section 415 applies to the plan. In determining the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, for purposes of this subdivision, one-half of all employee contributions (whether voluntary or mandatory) are not taken into account.

(ii) The denominator of the fraction is the sum of the maximum allowable annual additions under section 415(c) and § 1.415-6 for each limitation year, including the first limitation year to which section 415 applies to the plan, in which the participant had a year of service with the employer (see § 1.415-3(g)(1) for rules relating to the determination of a year of service). In determining the maximum allowable annual additions for purposes of this subdivision, the compensation limitation (as described in section 415(c)(1)(B)) taken into account for all of such limitation years is the applicable compensation limitation for the first limitation year to which section 415 applies to the plan and the dollar limitation taken into account for each such limitation year is the dollar limitation described in section 415(c)(1)(A), as adjusted for cost-of-living increases under section 415(d)(1)(B).

(3) *Defined contribution plan fraction for future limitation years.* For purposes of paragraph (c) of this section, with respect to all limitation years after the first limitation year to which section 415 applies to the plan, the defined contribution plan fraction for the current limitation year equals a fraction. The numerator of the fraction is the amount determined under paragraph (g)(2)(i) of this section, plus any subsequent annual additions made to the participant's account through the end of the current limitation year. The denominator of the fraction equals the sum of—

(i) The amount determined under subparagraph (2)(ii) of this paragraph, plus

(ii) The sum of the maximum allowable annual additions under section 415(c) and § 1.415-6 for the current limitation year and all prior limitation years beginning after the end of the first limitation year to which section 415 applies to the plan.

(g) *Special rule for certain plans in effect on date of enactment.* In the case of an individual who, on September 2, 1974, was a participant in a defined benefit and defined contribution plan maintained by the same employer and with respect to whom the sum of the defined benefit plan fraction and the defined contribution plan fraction for the limitation year during which such date falls (determined as of the close of that limitation year) exceeded 140 percent, the sum of such fractions may continue to exceed 140 percent for any particular future limitation year, but only if the conditions set forth in paragraph (g) (1) and (2) of this section are satisfied:

(1) The defined benefit plan fraction of the participant computed as of the close of the particular limitation year does not exceed such fraction computed as of the close of the limitation year during which September 2, 1974, falls.

(2) After September 2, 1974,

(i) No employer contributions are allocated to the participant's account under any defined contribution plan,

(ii) No forfeitures arising under any defined contribution plan are allocated to the participant's account,

(iii) No voluntary employee contributions are made by the participant under any defined contribution or defined benefit plan, and

(iv) No mandatory employee contributions are made by the participant under any defined contribution plan.

(h) *Special rules for section 403(b) annuity contracts*—(1) *In general.* For purposes of section 415, the following rules shall apply:

(i) In the case of an annuity contract described in section 403(b), the participant, on whose behalf the annuity contract is purchased, is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

(ii) Any contributions by the employer for an annuity contract described in this subparagraph are not taken into account in computing the defined contribution plan fraction applicable to the participant for the limitation year.

(2) *Special rules under which the employer is deemed to maintain the annuity contract.* (i) The provisions of this paragraph and not paragraph (h)(1) of this section apply for a particular limitation year with respect to a participant on whose behalf a section 403(b) annuity contract is purchased, if that participant is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). Under these circumstances, the section 403(b) annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year.

(ii) The provisions of this paragraph also apply for a particular limitation year if a participant on whose behalf a section 403(b) annuity contract is purchased has elected, under section 415(c)(4)(D) and § 1.415-6(e)(6), to have the provisions of section 415(c)(4)(C) and § 1.415-6(e)(5) apply for the taxable year with or within which such limitation year ends. In such a case, the exclusion allowance determined under section 403(b)(2)(A) is not applicable to the annuity contract for the particular limitation year, and the annuity contract is treated as a defined contribution plan maintained by both the employer and the participant for that limitation year.

(iii) For purposes of the limitations of section 415(e) and this section, where a section 403(b) annuity contract is treated as a defined contribution plan maintained by the employer under this subparagraph, any contributions made for the annuity contract for a participant are taken into account in computing the defined contribution plan fraction applicable to that participant for the limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annuity contract and also maintains a private practice as a shareholder owning more than 50 percent of a professional corporation, any qualified defined benefit plan of the professional corporation must be aggregated with the section 403(b) annuity contract for purposes of applying the limitations of section 415(e) and this section.

(3) *Special rule with respect to salary reduction agreements.* The rules provided in this paragraph are applicable whether or not the section 403(b) annuity contract is purchased in connection with a salary reduction agreement between the employer and participant.

(4) *Special rules relating to the aggregation of the annuity contract with a qualified plan.* (i) Where a section 403(b) annuity contract is aggregated with a qualified defined benefit plan in a limitation year because of the application of the rules of paragraph (h)(2) of this section, all contributions made to the annuity contract for a participant in prior limitation years shall be taken into account in computing the participant's defined contribution plan fraction. However, the rule described in the preceding sentence is not applicable if the aggregation is solely attributable to the participant's election to have the provisions of section 415(c)(4)(C) apply. Accordingly, in any case in which aggregation is required as a result of the application of paragraph (h)(2)(ii) of this section, all contributions made to the annuity contract for a participant in prior limitation years in which paragraph (h)(1) of this section was applicable do not have to be taken into account in computing the defined contribution plan fraction applicable to the participant.

(ii) Any contributions made to a section 403(b) annuity contract for a participant in any limitation year in which the rules of paragraph (h)(2)(ii) of this section are applicable shall be taken into account in subsequent limitation years even though the rules of such paragraph are no longer applicable.

(iii) See paragraph (c)(2) of this section for special rules relating to the defined contribution plan fraction for a participant on whose behalf a section 403(b) annuity contract has been purchased.

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on A's behalf for the current limitation year. The hospital also maintains a qualified defined benefit plan during the current limitation year in which A is a participant, but it does not maintain a qualified defined contribution plan during that limitation year. With respect to the annuity contract, A does not elect to have the provisions of section 415(c)(4)(C) apply for the current limitation year. Also, A is not in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). For purposes of section 415, under subparagraph (1) of this paragraph, A is considered to have exclusive control of the annuity contract. Therefore, because A (and not the hospital) is treated as maintaining the annuity contract and because the hospital does not maintain any defined contribution plan, the limitations of section 415(e) and this section are not applicable to A for either the annuity contract or the hospital's defined benefit plan for the current limitation year.

Example (2). Assume the same facts as in example (1), except that the hospital also maintains a qualified defined contribution plan during the limitation year in which A is a participant. Because the hospital is not considered to be maintaining the section 403(b) annuity contract, contributions made to the annuity contract on behalf of A during the current limitation year by the hospital are not taken into account in computing the defined contribution plan fraction applicable to A for the plans maintained by the hospital for that limitation year.

Example (3). Assume the same facts as in example (1), except that A has elected to have the provisions of section 415(c)(4)(C) apply to the annuity contract for the current limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by the hospital as well as a defined contribution plan maintained by A. Accordingly, because the hospital is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to A for the annuity contract and the defined benefit plan maintained by the hospital in the current limitation year.

Example (4). J is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on J's behalf for the current limitation year. The hospital does not maintain any qualified plans during that limitation year. However, for the limitation year, J is in control (within the meaning of section 414 (b) or (c), as modified by section 415(h)) of employer M. M maintains a qualified defined benefit plan during that limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by M (the controlled employer) as well as a defined contribution plan maintained by J. Therefore, because M is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to J for the annuity contract and the defined benefit plan maintained by M in the current limitation year.

(i) *Special rules for individual retirement plans.* For purposes of section 415, an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained is considered to have exclusive control of such plan. Therefore, the individual is treated as maintaining such plan. However, if that individual is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h), the individual retirement plan for the benefit of such individual is treated as a defined contribution plan maintained by both the controlled employer and such individual.

§ 1.415-8 Combining and aggregating plans.

(a) *In general.* Under section 415(f) and this section, for purposes of applying the limitations of section 415 (b), (c), and (e) applicable to a participant for a particular limitation year—

(1) All qualified defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined benefit plan, and

(2) All qualified defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined contribution plan.

(b) *Annual compensation taken into account where employer maintains more than one defined benefit plan.* If more than one qualified defined benefit plan is being aggregated under paragraph (a) of this section for a particular limitation year, in applying the defined benefit compensation limitation (as described in section 415(b)(1)(B)) to the annual benefit of a participant under each plan, the participant's high 3 years of compensation is determined in accordance with § 1.415-3(a)(3).

(c) *Affiliated employers.* Any qualified defined benefit plan or qualified defined contribution plan maintained by any member of a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or by any trade or business (whether or not incorporated) under common control (within the meaning of section 414(c) as modified by section 415(h)) is deemed maintained by all such members or such trades or businesses.

(d) *Section 403(b) annuity contracts*—(1) *In general.* In the case of an annuity contract described in section 403(b), except as provided in subparagraph (2) of this paragraph, the participant on whose behalf the annuity contract is purchased is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

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(2) *Special rules under which the employer is deemed to maintain the annuity contract.* If a participant on whose behalf a section 403(b) annuity contract is purchased has elected to have the provisions of section 415(c)(4)(C) and § 1.415–6(e)(5) apply for a taxable year, the annuity contract is treated as a defined contribution plan maintained by both the employer that purchased the annuity contract and the participant on whose behalf it was purchased for the limitation year which ends during such taxable year. Even if the election under section 415(c)(4)(C) is not made, where a participant, on whose behalf a section 403(b) annuity contract is purchased, is in control of any employer within the meaning of section 414 (b) or (c) as modified by section 415(h) for a limitation year, the annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annuity contract and also maintains a private practice as a shareholder owning more than 50 percent of a professional corporation, any qualified defined contribution plan of the professional corporation must be combined with the section 403(b) annuity contract for purposes of applying the limitations of section 415(c) and § 1.415–6. For purposes of this paragraph, it is immaterial whether the section 403(b) annuity contract is purchased as a result of a salary reduction agreement between the employer and the participant.

(e) *Multiemployer plans.* Multiemployer plans, as defined in section 414(f), shall not be aggregated with other multiemployer plans. However, where an employer maintains both a plan which is not a multiemployer plan and a multiemployer plan, the plan which is not a multiemployer plan shall be aggregated (based on its limitation year) with the multiemployer plan to the extent that benefits provided under the multiemployer plan are provided by such employer with respect to a common participant. See § 1.415–1(e)(2) for a rule relating to the computation of the benefits provided by an employer under a section 414(f) multiemployer plan.

(f) *Special rules for combining certain plans, etc.* If a plan, annuity contract or arrangement is subject to a special limitation in addition to, or instead of, the regular limitations described in section 415 (b) or (c), and is combined under this section with a plan which is subject only to the regular section 415 (b) or (c) limitations, the following rules shall apply:

(1) Each plan, annuity contract or arrangement which is subject to a special limitation must meet its own applicable limitation and each plan subject to the regular limitations of section 415 must meet its applicable limitation.

(2) The combined limitations shall be the larger of the applicable limitations.

(g) *Special priority rule for TRASOP's.* For a special rule concerning allocations to a participant's account under an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975, see § 1.46–6(d)(6)(v).

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). M is an employee of ABC Corporation and XYZ Corporation. ABC maintains a qualified noncontributory defined benefit plan in which M participates and XYZ maintains a qualified defined contribution plan in which M participates. ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h). Because ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h), M is treated as being employed by a single employer. Thus, M's annual benefit under the defined benefit plan maintained by ABC may not exceed the limitations of section 415(b) and § 1.415–3; the annual additions to M's account under the defined contribution plan maintained by XYZ may not exceed the limitations of section 415(c) and § 1.415–6; and, in addition, the two plans may not exceed the limitations of section 415(e) and § 1.415–7.

Example (2). Assume the same facts as in example (1), except that the qualified defined benefit plan maintained by ABC Corporation provides for employee contributions (whether mandatory or voluntary). Under § 1.415–3(d), ABC Corporation will be considered to be maintaining a defined contribution plan consisting of M's contributions to the defined benefit plan. For purposes of applying the limitations of section 415(e) and § 1.415–7, the qualified defined benefit plan maintained by ABC must be combined with the defined contribution plan which ABC is considered to maintain. In addition, because corporations ABC and XYZ are members of a controlled group of corporations (within the meaning of section 414(b), as modified by section 415(h)), for purposes of applying the limitations of section 415(c) and § 1.415–6, the qualified defined contribution plan maintained by XYZ must be combined with the define contribution plan which ABC is considered to be maintaining and the defined contribution plans (as combined) must be aggregated with the qualified defined benefit plan maintained by ABC for purposes of the limitations imposed by section 415(e) and § 1.415–7.

§ 1.415–9 Disqualification of plans and trusts.

(a) *In general.* Under section 415(g) and this section, with respect to a particular limitation year, a plan (and the trust forming part of the plan) is disqualified in accordance with the rules provided in paragraph (b) of this section, if any of the following conditions exist:

(1) Annual additions (as defined in § 1.415–6(b)) with respect to the account of any participant in a qualified defined contribution plan maintained by the employer exceed the limitations of section 415(c) and § 1.415–6.

(2) The annual benefit (as defined in § 1.415–3(b)(1)) of a participant in a qualifed defined benefit plan maintained by the employer exceeds the limitations of section 415(b) and § 1.415–3.

(3) The combination of annual additions with respect to the account of any participant in a qualified defined contribution plan and the projected annual benefit payable with respect to such participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(e) and § 1.415–7.

For purposes of this paragraph, the determination of whether a plan or a combination of plans exceeds the limitations imposed by section 415 for a particular limitation year is, except as otherwise provided, made by taking into account the aggregation of plan rules provided in sections 415(f) and 414 (b) and (c) (as modified by section 415(h)).

(b) *Rules for disqualification of plans and trusts*—(1) *In general.* Any plan (including a trust which forms part of such plan) that is disqualified in a particular limitation year under the rules set forth in this paragraph, shall be disqualified as of the first day of the first plan year containing any portion of the particular limitation year.

(2) *Single plan.* In the case of a single qualified defined benefit plan maintained by the employer that provides an annual benefit (as defined in § 1.415–3(b)(1)) in excess of the limitations of section 415(b) and § 1.415–3 for any particular limitation year, such plan is disqualifed in that limitation year. Similarly, if the employer only maintains a single defined contribution plan under which annual additions (as defined in § 1.415–6(b)) allocated to the account of any participant exceed the limitations of section 415(c) and § 1.415–6 for any particular limitation year, such plan is also disqualifed in that limitation year.

(3) *More than one plan.* In the event that the limitations of section 415(b) and

§ 1.415–3, or section 415(c) and § 1.415–6 are exceeded for a particular limitation year with respect to any participant because of the application of the aggregation rules of section 415(f)(1) or section 414 (b) or (c), as modified by section 415(h), one or more of the plans shall be disqualifed in accordance with the rules set forth in this subparagraph. Similarly, if the limitations of section 415(e) and § 1.415–7 are exceeded for a particular limitation year with respect to any participant because of the application of such aggregation rules (although if an individual participates in a defined contribution and defined benefit plan maintained by the same employer, these limitations may be exceeded even without the application of such aggregation rules), one or more of the plans shall be disqualified in accordance with the following rules:

(i) If there are two plans and one of the plans has been terminated at any time including the last day of the particular limitation year, the plan which has not been so terminated (whether or not that plan is a multiemployer plan described in section 414(f)) is disqualified in that limitation year.

(ii) If there are two plans and neither plan has been terminated at any time including the last day of the particular limitation year, and if one of the plans is a multiemployer plan described in section 414(f), the plan which is not a multiemployer plan is disqualified in that limitation year. For purposes of the preceding sentence, the determination of whether a plan is a multiemployer plan described in section 414(f) is made as of the last day of the particular limitation year.

(iii) If there are two plans of an employer and neither plan has either been terminated at any time including the last day of the particular limitation year or determined to be a multiemployer plan described in section 414(f) as of such day, the employer may elect, in a manner determined by the Commissioner, the plan that is disqualified. If the two plans described in this subdivision are involved because of the application of section 414 (b) or (c), as modified by section 415(h), the employers of the controlled group may elect, in a manner determined by the Commissioner, the plan that is disqualified. However, the election described in the preceding sentence is not effective unless made by all of the employers within the controlled group. For purposes of this subdivision, the elected plan is disqualified in the particular limitation year.

(iv) If the election described in subdivision (b)(3)(iii) of this paragraph is not made with respect to the two plans described in such subdivision, the Commissioner, taking into account all of the facts and circumstances, shall have the discretion to determine the plan that is disqualified in the particular limitation year. In making this determination, some of the factors that will be taken into account include, but are not limited to, the number of participants in each plan and the amount of benefits provided on an overall basis by each plan.

(v) If more than two plans are involved, a plan or plans shall be disqualified in the particular limitation year in accordance with the principles contained in this subparagraph.

(4) *Special rules for simplified employee pension.* If there are two or more plans and if one of the plans is a simplified employee pension (as defined in section 408(k)), the simplified employee pension shall not be disqualified until all of the other plans have been disqualified. However, if one of the plans has been terminated, the simplified employee pension shall be disqualified before the terminated plan. For purposes of this subparagraph, the disqualification of a simplified employee pension means that the simplified employee pension is no longer described under section 408(k).

(c) *Special rules concerning section 403(b) annuity contracts*—(1) *In general.* If aggregating or combining a section 403(b) annuity contract and a qualified plan causes the applicable limitations of section 415 to be exceeded, the exclusion allowance under section 403(b)(2) shall be adjusted first to the extent necessary to satisfy such limitations.

(2) *Aggregating section 403(b) annuity contract and qualified defined benefit plan.* In the event that aggregating a section 403(b) annuity contract and a qualified defined benefit plan causes the limitations of section 415(e) and § 1.415–7 to be exceeded with respect to a participant for a particular limitation year, the amount of the contribution to the annuity contract in excess of such limitations is treated as a disqualified contribution and therefore includable in the gross income of the participant for the taxable year with or within which that limitation year ends. Furthermore, for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years with respect to such participant, the disqualified contribution is treated as an amount contributed by the employer for an annuity contract which was excludable from the participant's gross income under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made. See § 1.415–7(c)(2) for special rules relating to the defined contribution plan fraction applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased.

(3) *Combining section 403(b) annuity contract and qualified defined contribution plan.* In the event that combining a section 403(b) annuity contract and a qualified defined contribution plan under the provisions of section 415(f)(1)(B) causes the limitations of section 415(c) and § 1.415–6 applicable to a participant under the defined contribution plan to be exceeded for a particular limitation year, the excess of the contributions to the annuity contract plus the annual additions to the plan over such limitations is treated as a disqualified contribution to the annuity contract and therefore includable in the gross income of the participant for the taxable year with or within which that limitation year ends. Furthermore, for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years with respect to such participant, the disqualified contribution is treated as an amount contributed by the employer for an annuity contract which was excludable from the participant's gross income under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). N is employed by a hospital which purchases an annuity contract described in section 403(b) on N's behalf for the current limitation year. The current limitation year is N's first year of service with the hospital. Solely for the purpose of illustrating the rules set forth in this paragraph, assume that N is in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). Therefore, under section 415(e)(5), the section 403(b) annuity contract is treated as a defined contribution plan maintained by the hospital and N. The hospital also maintains a qualified defined contribution plan during the current limitation year in which N participates, but it does not maintain any other qualified plan. N's compensation (within the meaning of § 1.415–2(d)) from the hospital for the current limitation year is $20.000. N does not elect any of the alternative limitations provided in section

415(c)(4) for the section 403(b) annuity contract. For the current limitation year, the hospital contributes $3.000 for the section 403(b) annuity contract on N's behalf, which is within the limitations applicable to N under the annuity contract (i.e., the lesser of the exclusion allowance under section 403(b)(2)(A) ($4,000) or the limitations of section 415(c)(1) ($5,000)). The hospital also contributes $3,000 to the qualified plan on N's behalf for the current limitation year (which represents the only annual additions allocated to N's account under the plan for such year), which is within the $5,000 limitation of section 415(c)(1) applicable to N under the plan. However, under section 415(f)(1)(B), for purposes of applying the limitations of section 415(c) and § 1.415–6, the hospital is considered to maintain only one defined contribution plan and thus, all contributions to the annuity contract and to the regular plan must be combined. Because the total combined contributions ($6,000) exceed the section 415(c) limitation applicable to N under the plan ($5,000), under the special rules contained in this paragraph, $1,000 of the $3,000 contributed to the section 403(b) annuity contract is considered a disqualified contribution and therefore currently includable in N's gross income. Furthermore, in computing N's exclusion allowance for the section 403(b) annuity contract for future taxable years, besides the $3,000 contributed to the qualified plan, the $3,000 contributed for the section 403(b) annuity contract is also considered an amount contributed by the employer and excludable from N's gross income for purposes of section 403(b)(2)(A)(ii), even though only $2,000 of this amount was excludable from N's gross income.

Example (2). Assume the same facts as in example (1), except that instead of the defined contribution plan the hospital maintains a qualified defined benefit plan during the current limitation year in which N participates. Because the hospital is considered to be maintaining a defined contribution plan (in the form of a section 403(b) annuity contract) in addition to its defined benefit plan, the limitations of section 415(e) and § 1.415–7 are applicable to N for the current limitation year. If N's defined benefit plan fraction for the current limitation year is 1.0, then to satisfy the limitations of section 415(e) and § 1.415–7, N's defined contribution plan fraction may not exceed .4 for the current limitation year. This means that only $2,000 (i.e. 40% of $5,000—the applicable limitation to N for the annuity contract under the special rule set forth in § 1.415–7(c)(2)(i)) could have been contributed to the annuity contract on N's behalf for the current limitation year without violating the 1.4 limitation of section 415(e) and § 1.415–7. However, because the hospital contributed $3,000 to the section 403(b) annuity contract on N's behalf, under the special rules contained in this paragraph, $1,000 of this amount is considered a disqualified contribution and therefore currently includable in N's gross income. Furthermore, in computing N's exclusion allowance for the section 403(b) annuity contract for future taxable years, the $3,000 contributed to the annuity contract is considered the amount contributed by the employer and excludable from N's gross income for purposes of section 403(b)(2)(A)(ii), even through only $2.000 of this amount was excludable from N's gross income.

§ 1.415–10 Special aggregation rules.

(a) *General rules relating to aggregation of plans during limitation year*—(1) *Scope of aggregation rules.* This section provides rules for those situations in which two or more existing plans, which previously were unaggregated, are aggregated during a particular limitation year on or after the effective date of section 415 and these regulations, and as a result, the limitations of section 415 (b), (c) or (e) are exceeded for that limitation year. The rules described in this section are also applicable with respect to the aggregation of benefits under a multiemployer plan described in section 414(f) that previously were not required to be aggregated.

(2) *Controlling date of aggregation.* For purposes of this section, plans which are not aggregated as of the first day of a limitation year will not be considered aggregated for that limitation year. Notwithstanding the preceding sentence, if a section 403(b) annuity contract is aggregated with a qualified plan because of the election by the individual on whose behalf the annuity contract is purchased to have the provisions of section 415(c)(4)(C) apply for the taxable year, the annuity contract and the plan are deemed to be aggregated as of the first day of the limitation year ending with or within such taxable year.

(3) *Aggregation of additions and benefits.* If plans are aggregated under this section, the following rules shall apply:

(i) All annual additions credited to a participant's account under a defined contribution plan prior to the aggregation of such plan shall be taken into account in computing the participant's defined contribution plan fraction for purposes of applying the limitations of section 415(e) to the aggregated plans.

(ii) The annual benefit or projected annual benefit (whichever is applicable) of a participant under a defined benefit plan prior to the aggregation of such plan shall be taken into account for purposes of applying the limitations of section 415(b) or section 415(e) to the aggregated plans.

(iii) For a special rule relating to the aggregation of contributions to a section 403(b) annuity contract upon the aggregation of the annuity contract with a qualified plan, see § 1.415–7(h)(4)(i).

(b) *Aggregation of defined benefit plans.* In the case of an individual who is a participant in two or more defined benefit plans and with respect to whom the limitations of section 415(b) and § 1.415–3 are exceeded for a particular limitation year because of the aggregation of the plans for that limitation year, the limitations of section 415(b) and § 1.415–3 may be exceeded for that limitation year and for future limitation years provided that there is no increase in the participant's accrued benefit derived from employer contributions during the period within which these limitations are being exceeded.

(c) *Aggregation of defined benefit and defined contribution plan.* In the case of an individual who has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan and with respect to whom the limitations of section 415(e) and § 1.415–7 are exceeded for a particular limitation year because of the aggregation of the plans for that limitation year, the limitations of section 415(e) and § 1.415–7 may be exceeded for that limitation year and for future limitation years provided that the following conditions are complied with during that period:

(1) The participant's accrued benefit derived from employer contributions in the defined benefit plan is not increased.

(2) No employer contributions are allocated to the participant's account under any defined contribution plan.

(3) No forfeitures arising under any defined contribution plan are allocated to the participant's account.

(4) No voluntary employee contributions are made by the participant under any defined benefit or defined contribution plan.

(5) No mandatory employee contributions are made by the participant under any defined contribution plan.

(d) *Limitation year for aggregated plans.* If the plans which are aggregated under this section have different limitation years, subparagraph (1) or (2) of this paragraph must be complied with.

(1) The relevant employer or employers must elect the limitation year that is to be controlling. This election shall be made by the adoption of a written resolution by the employer or employers. See § 1.415–2(b)(4) for rules relating to a change in the limitation year.

(2) The employer or employers may continue to use different limitation years for each plan in accordance with rules determined by the Commissioner.

If, in accordance with paragraph (d)(1) of this section, one limitation year is elected, and if the plans which are aggregated covered at least one common participant prior to being aggregated, that limitation year shall be applicable for past years for purposes of computing the defined contribution fraction for those years. For special rules relating to the computation of the defined contribution plan fraction where records are not available for past periods, see § 1.415–7(f).

(e) The provisions of this section may be illustrated by the following examples:

Example (1). J is an employee of two unrelated corporations, N and M. Each corporation has a qualified defined benefit plan in which J participates. Each plan provides a benefit which is equal to 75 percent of a participant's average compensation for his high 3 years of service and is payable in the form of a straight life annuity beginning at age 65. J's average compensation (within the meaning of § 1.415-2(d)) for his high three years of service from each corporation is $80,000. Each plan uses the calendar year for the limitation and plan year. In July, 1978, N Corporation becomes a wholly owned subsidiary of M Corporation, and as a result, J is treated as being employed by a single employer under section 414(b). Therefore, because section 415(f)(1)(A) requires that all defined benefit plans of an employer be treated as one defined benefit plan, the two plans must be aggregated for purposes of applying the limitations of section 415. (Although, under paragraph (a)(2) of this section, since the plans were not aggregated as of the first day of the 1978 limitation year (January 1, 1978), they will not be considered aggregated until the limitation year beginning January 1, 1979.) As a result of such aggregation, J becomes entitled to a combined benefit which is equal to $120,000, which is in excess of the section 415(b) dollar limitation for 1979 of $98,100. However, under paragraph (b) of this section, the limitations of section 415(b) and § 1.415–3 applicable to J may be exceeded in this situation without plan disqualification, so long as J's accrued benefit derived from employer contributions is not increased during the period within which the limitations are being exceeded.

Example (2). A, age 30, owns all of the stock of X Corporation and also owns 10 percent of the stock of Z Corporation. F, A's father, directly owns 75 percent of the stock of Z corporation. Both corporations have qualified defined contribution plans in which A participates and both plans use the calendar year for the limitation and plan year. A's compensation (within the meaning of § 1.415–6(a)(3)) for 1976 is $40,000 from Z Corporation and $150,000 from X Corporation. During 1976, annual additions of $10,000 are credited to A's account under the plan of Z Corporation, while annual additions of $26,825 are credited to A's account under the plan of X Corporation. In both instances, the amount of annual additions represent the maximum allowable under section 415(c) and § 1.415–6. On July 15, 1976, F dies, and A inherits all of F's stock in Z in 1976. Because under section 414(b), A is considered to be in control of X and Z Corporations, the two plans must be aggregated for purposes of applying the limitations of section 415. However, even though A's total annual additions for 1976 are $36,825, the limitations of section 415(c) and § 1.415–6 are not violated for 1976, because, under paragraph (a)(2) of this section, the two plans are considered separate plans for that year since they were not aggregated as of the first day of that year.

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26 CFR Part 1

[T.D. 7750]

Income Tax; Taxable Years Beginning After December 31, 1954; Voluntary Employees' Beneficiary Associations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to voluntary employees' beneficiary associations. The regulations provide guidance needed to determine whether an organization is a voluntary employees' beneficiary association under the Internal Revenue Code of 1954, as amended, and therefore exempt from federal income tax.

DATE: The regulations are, with certain exceptions effective for taxable years beginning after December 31, 1954.

FOR FURTHER INFORMATION CONTACT: Kimley R. Johnson of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6212, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 501(c)(9) of the Internal Revenue Code of 1954 (45 FR 47871), as amended by section 121 of the Tax Reform Act of 1969 (83 Stat. 541), concerning voluntary employees' beneficiary associations. Approximately 240 comments were received; a public hearing was held on October 14, 1980. After consideration of all comments regarding the proposed regulations those regulations are adopted as revised by this Treasury decision.

Control by Employees

Almost all comments requested deletion or modification of the provision of the proposed regulations which required that an association be controlled by its membership, or by independent trustee(s), or by trustees or other fiduciaries at least some of whom are designated by, or on behalf of, the membership. In response to these comments, many of which pointed out that section 501(c)(9) organizations are generally subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), the proposed regulations have been amended to provide that employee welfare benefit plans within the scope of section 3(1) of ERISA and subject to Parts 1 and 4 of Title I of ERISA will be considered to be controlled by independent trustees. The reporting and disclosure requirements of Part 1 of Title I of ERISA are so designed as to ensure that employees are informed of the status of the association's benefit plan. The fiduciary standards set out in Part 4 of Title I of ERISA protect the interests of participants by establishing standards of conduct for plan fiduciaries.

The proposed regulations also are revised to indicate more clearly that where the designation of the trustee(s) of a collectively bargained plan is the result of the collective bargaining process, the plan is deemed to meet the control requirement of the regulations. Where a plan is negotiated through collective bargaining, but the employees' bargaining agent has not bargained for the right to participate in selection of the trustee and the trustee therefore is designated by the employer, the control requirement also will be considered satisfied. In addition, a financial intermediary such as a bank, acting in a fiduciary capacity, generally will be considered to be an independent trustee.

Disproportionate Benefits

A number of comments suggested that the rule against discrimination in the provision of benefits has no basis in the statutory language of or legislative history to section 501(c)(9) and requested deletion or modification of that rule. However, substantially the same provision appeared in the 1969 version of the proposed regulations, published in the **Federal Register** on January 23, 1969. That provision, when proposed in 1969, attracted little adverse comment from the public. In addition, the Tax Reform Act of 1969, enacted nearly one year after the 1969 notice was published, amended section 501(c)(9) and related provisions in several respects. Despite these revisions to section 501(c)(9), Congress, in the Tax Reform Act of 1969, neither changed nor commented on this aspect of the proposed regulations.

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The antidiscrimination provision is retained but clarified. First, the regulations recognize that, in determining whether a plan discriminates in eligibility for membership (or for a particular benefit), the failure to cover employees represented by a collective bargaining agent who in the collective bargaining process has eschewed membership (or a particular benefit) need not be taken into account. In addition, the regulations indicate that while an employer-funded organization may not restrict membership or eligibility for benefits to officers, shareholders, or highly compensated employees of the employer, section 501(c)(9) organizations need not comply with antidiscrimination rules as stringent as those that apply to qualified pension trusts described in section 401 of the Code. The final regulations provide, however, that section 501(c)(9) organizations that are employer-funded may not provide disproportionate benefits to officers, shareholders, or highly compensated employees of the funding employer. This rule is the same as that contained in the 1969 proposed regulations. On the other hand, these final regulations indicate a variety of circumstances under which benefits will not be considered disproportionate. In particular, they indicate that for certain kinds of benefits, such as life insurance or disability benefits, the provision of benefits in amounts that are a uniform percentage of compensation of covered employees will not be considered disproportionate.

In response to several comments, the final regulations have been revised to indicate that, where a plan does not discriminate in eligibility for benefits, the fortuitous payment during any year of disproportionate benefits to officers, shareholders, or highly compensated employees, because, for example, such individuals as a group suffered more adverse experience during the year, will not be considered disproportionate.

Membership

Several comments requested deletion of the provision that restricts membership in voluntary employees' beneficiary associations in the multiple employer context (so-called "multi-employer trusts") to those engaged in the same line of business in the same geographic locale. This provision is retained. First, section 501(c)(9) provides for the exemption of associations of employees who enjoy some employment related bond. Allowing section 501(c)(9) to be used as a tax-exempt vehicle for offering insurance products to unrelated individuals scattered throughout the country would undermine those provisions of the Internal Revenue Code that prescribe the income tax treatment of insurance companies. Second, it is the position of the Internal Revenue Service that where an organization such as a national trade association or business league exempt from taxation under section 501(c)(6) operates a group insurance program for its members, the organization is engaged in an unrelated trade or business. *See* Rev. Rul. 66–151, 1966–1 C.B. 152; Rev. Rul. 73–386, 1973–2 C.B. 191; Rev. Rul. 78–52, 1978–1 C.B. 166. To allow trade associations to provide insurance benefits through a trust exempt under section 501(c)(9) would simply facilitate circumvention of the unrelated trade or business income tax otherwise applicable to such organizations.

A number of comments suggested that the regulations as proposed would prohibit the qualification of plans that cover only retired employees. The regulations as adopted are clarified to indicate that retired members are considered to be employees if the retired member was at one time an active employee.

Life, Sick, Accident, or Other Benefits

The regulations are clarified to provide that the definition of a dependent for purposes of the provision of benefits under section 501(c)(9) is not necessarily identical to the definition of a dependent under section 152(a). Qualified benefits may be provided to a minor or student child of a member or member's spouse, or to any other minor child residing with the member, even if the support test of section 152(a) is not met.

Because of uncertainty on the point, it is specifically noted that the regulations as proposed and as adopted by this Treasury decision permit a section 501(c)(9) organization that receives employer funding to use insurance policies involving cash values only where the policies are part of a plan of so-called "group-permanent" life insurance subject to section 79 and the regulations thereunder. In addition, the revised regulations indicate that collectively bargained trusts may provide, by reason of section 302(c)(5) of the Labor Management Relations Act of 1947, legal service benefits and scholarships to dependents. Such trusts may not, although permitted to do so by section 302(c)(5), provide any benefit that is similar to a pension or other retirement income benefit except as specifically permitted by the final regulations.

Several comments requested that a provision be added to state that death benefits paid by a self-funded plan are eligible for exclusion from the gross income of the beneficiary under section 101(a) of the Code. This issue is not addressed in these regulations, which are intended to clarify the provisions of section 501(c)(9) and not to resolve income tax or other issues that may arise under other sections of the Code.

Finally, several comments suggested that the regulations should be revised to allow the proceeds of life insurance policies provided through a section 501(c)(9) organization to be settled in the form of an annuity to the beneficiary, even where the beneficiary does not have the option to take the policy proceeds in a lump sum. The regulations are revised to permit settlement of a life insurance policy in the form of an annuity where the treatment of the annuity is the same as if the annuity had been taken in lieu of a lump sum, that is, where the interest element in the periodic annuity payment is includable in the recipient's gross income.

Effective Dates

Several comments requested a delay in the effective date of final regulations, particularly because of difficulties in meeting the "employee control" and "discrimination" tests discussed above. The "employee control" test, however, has been modified in the fashion requested by most commenters. The discrimination rules have been revised to reflect the concept of "disproportionate benefits" contained in the 1969 proposed regulations and the concept of "disproportionate" itself has been clarified in a way requested by many commenters. Consequently, the effective date of the final regulations has not been changed.

Drafting Information

The principal author of this regulation is Kimley R. Johnson of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended by adding the following new sections immediately after § 1.501(c)(8)–1:

§ 1.501(c)(9)-1 Voluntary employees' beneficiary associations, in general.

To be described in section 501(c)(9) an organization must meet all of the following requirements:

(a) The organization is an employees' association,

(b) Membership in the association is voluntary,

(c) The organization provides for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, and substantially all of its operations are in furtherance of providing such benefits, and

(d) No part of the net earnings of the organization inures, other than by payment of the benefits referred to in paragraph (c) of this section, to the benefit of any private shareholder or individual.

§ 1.501(c)(9)-2 Membership in a voluntary employees' beneficiary association; employees; voluntary association of employees.

(a) *Membership*—(1) *In general.* The membership of an organization described in section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is definnd by reference to objective standards that constitute an employment-related common bond among such individuals. Typically, those eligible for membership in an organization described in section 501(c)(9) are defined by reference to a common employer (or affiliated employers), to coverage under one or more collective bargaining agreements (with respect to benefits provided by reason of such agreement(s)), to membership in a labor union, or to membership in one or more locals of a national or international labor union. For example, membership in an association might be open to all employees of a particular employer, or to employees in specified job classifications working for certain employers at specified locations and who are entitled to benefits by reason of one or more collective bargaining agreements. In addition, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to share an employment-related bond for purposes of an organization through which their employers provide benefits. Employees of a labor union also will be considered to share an employment-related common bond with members of the union, and employees of an association will be considered to share an employment-related common bond with members of the association. Whether a group of individuals is defined by reference to a permissible standard or standards is a question to be determined with regard to all the facts and circumstances, taking into account the guidelines set forth in this paragraph. Exemption will not be denied merely because the membership of an association includes some individuals who are not employees (within the meaning of paragraph (b) of this section), provided that such individuals share an employment-related bond with the employee-members. Such individuals may include, for example, the proprietor of a business whose employees are members of the association. For purposes of the preceding two sentences, an association will be considered to be composed of employees if 90 percent of the total membership of the association on one day of each quarter of the association's taxable year consists of employees (within the meaning of paragraph (b) of this section).

(2) *Restrictions*—(i) *In general.* Eligibility for membership may be restricted by geographic proximity, or by objective conditions or limitations reasonably related to employment, such as a limitation to a reasonable classification of workers, a limitation based on a reasonable minimum period of service, a limitation based on maximum compensation, or a requirement that a member be employed on a full-time basis. Similarly, eligibility for benefits may be restricted by objective conditions relating to the type or amount of benefits offered. Any objective criteria used to restrict eligibility for membership or benefits may not, however, be selected or administered in a manner that limits membership or benefits to officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association. Similarly, eligibility for benefits may not be subject to conditions or limitations that have the effect of entitling officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association to benefits that are disproportionate in relation to benefits to which other members of the association are entitled. See § 1.501(c)(9)-4(b). Whether the selection or administration of objective conditions has the effect of providing disproportionate benefits to officers, shareholders, or highly compensated employees generally is to be determined on the basis of all the facts and circumstances.

(ii) *Generally permissible restrictions or conditions.* In general the following restrictions will not be considered to be inconsistent with § 1.501(c)(9)-2(a)(2)(i) or § 1.501(c)(9)-4(b):

(A) In the case of an employer-funded organization, a provision that excludes or has the effect of excluding from membership in the organization or participation in a particular benefit plan employees who are members of another organization or covered by a different plan, funded or contributed to by the employer, to the extent that such other organization or plan offers similar benefits on comparable terms to the excluded employees.

(B) In the case of an employer funded-organization, a provision that excludes from membership, or limits the type or amount of benefits provided to, individuals who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that the benefit or benefits provided by the organization were the subject of good faith bargaining between such employee representatives and such employer or employers.

(C) Restrictions or conditions on eligibility for membership or benefits that are determined through collective bargaining, by trustees designated pursuant to a collective bargaining agreement, or by the collective bargaining agents of the members of an association or trustees named by such agent or agents.

(D) The allowance of benefits only on condition that a member or recipient contribute to the cost of such benefits, or the allowance of different benefits based solely on differences in contributions, provided that those making equal contributions are entitled to comparable benefits.

(E) A requirement that a member (or a member's dependents) meet a reasonable health standard related to eligibility for a particular benefit.

(F) The provision of life benefits in amounts that are a uniform percentage of the compensation received by the individual whose life is covered.

(G) The provision of benefits in the nature of wage replacement in the event of disability in amounts that are a uniform percentage of the compensation of the covered individuals (either before or after taking into account any disability benefits provided through social security or any similar plan providing for wage replacement in the event of disability).

(3) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Pursuant to a collective bargaining agreement entered into by X Corporation and W, a labor union which represents all of X Corporation's hourly-paid employees, the X Corporation Union Benefit Plan is established to provide life insurance benefits to employees of X represented by W. The Plan is funded by contributions from X, and is jointly administered by X and W. In order to provide its non-unionized employees with comparable life insurance benefits, X also establishes and funds the X Corporation Life Insurance Trust. The Trust will not be ineligible for exemption as an organization described in section 501(c)(9) solely because membership is restricted to those employees of X who are not members of W.

Example (2). The facts are the same as in Example (1) except that the life insurance benefit provided to the non-unionized employees of X differs from the life insurance benefit provided to the unionized employees of X pursuant to the collective bargaining agreement. The trust will not be ineligible for exemption as an organization described in section 501(c)(9) solely because the life insurance benefit provided to X's nonunionized employees is not same as the life insurance benefit provided to X's unionized employees.

Example (3). S corporation established a plan to provide health benefits to all its employees. In accordance with the provisions of the plan each employee may secure insurance coverage by making an election under which the employee agrees to contribute periodically to the plan an amount which is determined solely by whether the employee elects a high option coverage or a low option coverage and on whether the employee is unmarried or has a family. As an alternative, the employee may elect high or low options, self only or self and family, coverage through a local prepaid group medical plan. The contributions required of those electing the prepaid group medical plan also vary with the type of coverage selected, and differ from those required of employees electing insurance. The difference between the amount contributed by employees electing the various coverages and the actual cost of purchasing the coverage is made up through contributions by S to the plan, and under the plan, S provides approximately the same proportion of the cost for each coverage. To fund the plan, S established an arrangement in the nature of a trust under applicable local law and contributes all employee contributions, and all amounts which by the terms of the plan it is required to contribute, to the trust. The terms of the plan do not provide for disproportionate benefits to the employees of S and will not be considered inconsistent with § 1.501(c)(9)–2(a)(2)(i).

Example (4). The facts are the same as in Example (3) except that, for those employees or former employees covered by Medicare, the plan provides a distinct coverage which supplements Medicare benefits. Eligibility for Medicare is an objective condition relating to a type of benefit offered, and the provision of separate coverage for those eligible for Medicare will not be considered inconsistent with § 1.501(c)(9)–2(a)(2)(i).

(b) *Meaning of "employee".* Whether an individual is an "employee" is determined by reference to the legal and bona fide relationship of employer and employee. The term "employee" includes the following:

(1) An individual who is considered an employee:

(i) For employment tax purposes under Subtitle C of the Internal Revenue Code and the regulations thereunder, or

(ii) For purposes of a collective bargaining agreement,

whether or not the individual could qualify as an employee under applicable common law rules. This would include any person who is considered an employee for purposes of the Labor Management Relations Act of 1947, 61 Stat. 136, *as amended,* 29 U.S.C. 141 (1979).

(2) An individual who became entitled to membership in the association by reason of being or having been an employee. Thus, an individual who would otherwise qualify under this paragraph will continue to qualify as an employee even though such individual is on leave of absence, works temporarily for another employer or as an independent contractor, or has been terminated by reason of retirement, disability or layoff. For example, an individual who in the normal course of employment is employed intermittently by more than one employer in an industry characterized by short-term employment by several different employers will not, by reason of temporary unemployment, cease to be an employee within the meaning of this paragraph.

(3) The surviving spouse and dependents of an employee (if, for purposes of the 90-percent test of § 1.501(c)(9)–2(a)(1) they are considered to be members of the association).

(c) *Description of voluntary association of employees*—(1) *Association.* To be described in section 501(c)(9) and this section there must be an entity, such as a corporation or trust established under applicable local law, having an existence independent of the member-employees or their employer.

(2) *Voluntary.* Generally, membership in an association is voluntary if an affirmative act is required on the part of an employee to become a member rather than the designation as a member due to employee status. However, an association shall be considered voluntary although membership is required of all employees, provided that the employees do not incur a detriment (for example, in the form of deductions from pay) as the result of membership in the association. An employer is not deemed to have imposed involuntary membership on the employee if membership is required as the result of a collective bargaining agreement or as an incident of membership in a labor organization.

(3) *Of employees.* To be described in this section, an organization must be controlled—

(i) By its membership,

(ii) By independent trustee(s) (such as a bank), or

(iii) By trustees or other fiduciaries at least some of whom are designated by, or on behalf of, the membership.

Whether control by or on behalf of the membership exists is a question to be determined with regard to all of the facts and circumstances, but generally such control will be deemed to be present when the membership (either directly or through its representative) elects, appoints or otherwise designates a person or persons to serve as chief operating officer(s), administrator(s), or trustee(s) of the organization. For purposes of this paragraph an organization will be considered to be controlled by independent trustees if it is an "employee welfare benefit plan", as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (ERISA), and, as such, is subject to the requirements of Parts 1 and 4 of Subtitle B, Title I of ERISA. Similarly, a plan will be considered to be controlled by its membership if it is controlled by one or more trustees designated pursuant to a collective bargaining agreement (whether or not the bargaining agent of the represented employees bargained for and obtained the right to participate in selecting the trustees).

(4) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X, a labor union, represents all the hourly-paid employees of Y Corporation. A health insurance benefit plan was established by X and Y as the result of a collective bargaining agreement entered into by them. The plan established the terms and conditions of membership in, and the benefits to be provided by, the plan. In accordance with the terms of the agreement, Y Corporation is obligated to establish a trust fund and make contributions thereto at specified rates. The trustees, some of whom are designated by X and some by Y, are authorized to hold and invest the assets of the trust and to make payments on instructions issued by Y Corporation in accordance with the conditions contained in the plan. The interdependent benefit plan agreement and trust indenture together create a voluntary employees' beneficiary association over which the employees posses the requisite control through the trustees designated by their representative, X.

Example (2). Z Corporation unilaterally established an educational benefit plan for its employees. The purpose of the plan is to provide payments for job-related educational or training courses, such as apprenticeship training programs, for Z Corporation employees, according to objective criteria set forth in the plan. Z establishes a separate bank account which it uses to fund payments to the plan. Contributions to the account are to be made at the discretion of and solely by Z Corporation, which also administers the plan and retains control over the assets in the fund. Z Corporation's educational benefit plan and the related account do not constitute an association having an existence independent of Z Corporation and therefore do not constitute a voluntary employees' beneficiary association.

Example (3). A, an individual, is the incorporator and chief operating officer of Lawyers' Beneficiary Association (LBA). LBA is engaged in the business of providing medical benefits to members of the Association and their families. Membership is open only to practicing lawyers located in a particular metropolitan area who are neither self-employed nor partners in a law firm. Membership in LBA is solicited by insurance agents under the control of X Corporation (owned by A) which, by contract with LBA, is the exclusive sales agent. Medical benefits are paid from a trust account containing periodic "contributions" paid by the members, together with proceeds from the investment of those contributions. Contribution and benefit levels are set by LBA. The "members" of LBA do not hold meetings, have no right to elect officers or directors of the Association, and no right to replace trustees. Collectively, the subscribers for medical benefits from LBA cannot be said to control the association and membership is neither more than nor different from the purchase of an insurance policy from a stock insurance company. LBA is not a voluntary employees' beneficiary association.

Example (4). U corporation unilaterally established a plan to provide benefits to its employees. In accordance with the provisions of the plan, each employee may secure insurance or benefit coverage by making an election under which the employee agrees to contribute to the plan an amount which is determined solely by whether the employee elects a high option coverage or a low option coverage and on whether the employee elects self only or self and family coverage. The difference between the amount contributed by employees electing the various coverages and the actual cost of the coverage is made up through contributions by U to the plan. To fund the plan, U established an arrangement in the nature of a trust under applicable local law and contributed all employee contributions, and all amounts which by the term of the plan it was required to provide to the plan, to the trust. The trust constitutes an "employee welfare benefit plan" within the meaning of, and subject to relevant requirements of, ERISA. It will be considered to meet the requirements of § 1.501(c)(9)-2(c)(3).

§ 1.501(c)(9)-3 Voluntary employees' beneficiary associations; life, sick, accident, or other benefits.

(a) *In general.* The life, sick, accident, or other benefits provided by a voluntary employees' beneficiary association must be payable to its members, their dependents, or their designated beneficiaries. For purposes of section 501(c)(9), "dependent" means the member's spouse; any child of the member or the member's spouse who is a minor or a student (within the meaning of section 151(e)(4)); any other minor child residing with the member; and any other individual who an association, relying on information furnished to it by a member, in good faith believes is a person described in section 152(a). Life, sick, accident, or other benefits may take the form of cash or noncash benefits. A voluntary employees' beneficiary association is not operated for the purpose of providing life, sick, accident, or other benefits unless substantially all of its operations are in furtherance of the provision of such benefits. Further, an organization is not described in this section if it systematically and knowingly provides benefits (of more than a *de minimis* amount) that are not permitted by paragraphs (b), (c), (d), or (e) of this section.

(b) *Life benefits.* The term "life benefits" means a benefit (including a burial benefit or a wreath) payable by reason of the death of a member or dependent. A "life benefit" may be provided directly or through insurance. It generally must consist of current protection, but also may include a right to convert to individual coverage on termination of eligibility for coverage through the association, or a permanent benefit as defined in, and subject to the conditions in, the regulations under section 79. A "life benefit" also includes the benefit provided under any life insurance contract purchased directly from an employee-funded association by a member or provided by such an association to a member. The term "life benefit" does not include a pension, annuity or similar benefit, except that a benefit payable by reason of the death of an insured may be settled in the form of an annuity to the beneficiary in lieu of a lump-sum death benefit (whether or not the contract provides for settlement in a lump sum).

(c) *Sick and accident benefits.* The term "sick and accident benefits" means amounts furnished to or on behalf of a member or a member's dependents in the event of illness or personal injury to a member or dependent. Such benefits may be provided through reimbursement to a member or a member's dependents for amounts expended because of illness or personal injury, or through the payment of premiums to a medical benefit or health insurance program. Similarly, a sick and accident benefit includes an amount paid to a member in lieu of income during a period in which the member is unable to work due to sickness or injury. Sick benefits also include benefits designed to safeguard or improve the health of members and their dependents. Sick and accident benefits may be provided directly by an association to or on behalf of members and their dependents, or may be provided indirectly by an association through the payment of premiums or fees to an insurance company, medical clinic, or other program under which members and their dependents are entitled to medical services or to other sick and accident benefits. Sick and accident benefits may also be furnished in noncash form, such as, for example, benefits in the nature of clinical care services by visiting nurses, and transportation furnished for medical care.

(d) *Other benefits.* The term "other benefits" includes only benefits that are similar to life, sick, or accident benefits. A benefit is similar to a life, sick, or accident benefit if—

(1) It is intended to safeguard or improve the health of a member or a member's dependents, or

(2) It protects against a contingency that interrupts or impairs a member's earning power.

(e) *Examples of "other benefits".* Paying vacation benefits, providing vacation facilities, reimbursing vacation expenses, and subsidizing recreational activities such as athletic leagues are considered "other benefits". The provision of child-care facilities for preschool and school-age dependents are also considered "other benefits". The provision of job readjustment allowances, income maintenance payments in the event of economic dislocation, temporary living expense loans and grants at times of disaster (such as fire or flood), supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D)(i) of the Code), severance benefits (under a severance pay plan within the meaning of 29 CFR § 2510.3-2(b)) and education or training benefits or courses (such as apprentice training programs) for members, are considered "other benefits" because they protect against a contingency that interrupts earning power. Personal legal service benefits which consist of payments or credits to one or more organizations or trusts described in section 501(c)(20) are considered "other benefits". Except to the extent otherwise provided in these regulations, as amended from time to time, "other benefits" also include any benefit provided in the manner permitted by paragraphs (5) *et seq.* of section 302(c) of the Labor Management Relations Act of 1947, 61 Stat. 136, *as amended,* 29 U.S.C. 186(c) (1979).

(f) *Examples of nonqualifying benefits.* Benefits that are not described in paragraphs (d) or (e) of this section are not "other benefits". Thus, "other benefits" do not include the payment of commuting expenses, such as bridge tolls or train fares, the provision of accident or homeowner's insurance benefits for damage to property, the provision of malpractice insurance, or the provision of loans to members except in times of distress (as permitted by § 1.501(c)(9)–3(e)). "Other benefits" also do not include the provision of savings facilities for members. The term "other benefits" does not include any benefit that is similar to a pension or annuity payable at the time of mandatory or voluntary retirement, or a benefit that is similar to the benefit provided under a stock bonus or profit-sharing plan. For purposes of section 501(c)(9) and these regulations, a benefit will be considered similar to that provided under a pension, annuity, stock bonus or profit-sharing plan if it provides for deferred compensation that becomes payable by reason of the passage of time, rather than as the result of an unanticipated event. Thus, for example, supplemental unemployment benefits, which generally become payable by reason of unanticipated layoff, are not, for purposes of these regulations, considered similar to the benefit provided under a pension, annuity, stock bonus or profit-sharing plan.

(g) *Examples.* The provisions of this section may be further illustrated by the following examples:

Example (1). V was organized in connection with a vacation plan created pursuant to a collective bargaining agreement between M, a labor union, which represents certain hourly paid employees of T corporation, and T. The agreement calls for the payment by T to V of a specified sum per hour worked by T employees who are covered by the collective bargaining agreement. T includes the amounts in the covered employees' wages and withholds income and FICA taxes. The amounts are paid by T to V to provide vacation benefits provided under the collective bargaining agreement. Generally, each covered employee receives a check in payment of his or her vacation benefit during the year following the year in which contributions were made by T to V. The amount of the vacation benefit is determined by reference to the contributions during the prior year to V by T on behalf of each employee, and is distributed in cash to each such employee. If the earnings on investments by V during the year preceding distribution are sufficient after deducting the expenses of administering the plan, each recipient of a vacation benefit is paid an amount, in addition to the contributions on his or her behalf, equal to his/her ratable share of the net earnings of V during such year. The plan provides a vacation benefit that constitutes an eligible "other benefit" described in section 501(c)(9) and § 1.501(c)(9)–3(e).

Example (2). The facts are the same as in Example 1, except that each covered employee of T is entitled, at his or her discretion, to contribute up to an additional $1,000 each year to V, which agrees in respect of such sum to pay interest at a stated rate from the time of contribution until the time at which the contributing employee's vacation benefit is distributed. In addition, each employee may elect to leave all or a portion of his/her distributable benefit on deposit past the time of distribution, in which case interest will continue to accrue. Because the plan more closely resembles a savings arrangement than a vacation plan, the benefit payable to the covered employees of T is not a "vacation benefit" and is not an eligible "other benefit" described in section 501(c)(9) and § 1.501(c)(9)–3 (d) or (e).

§ 1.501(c)(9)–4 Voluntary employees' beneficiary associations; inurement.

(a) *General rule.* No part of the net earnings of an employees' association may inure to the benefit of any private shareholder or individual other than through the payment of benefits permitted by § 1.501(c)(9)–3. The disposition of property to, or the performance of services for, a person for less than the greater of fair market value or cost (including indirect costs) to the association, other than as a life, sick, accident or other permissible benefit, constitutes prohibited inurement. Generally, the payment of unreasonable compensation to the trustees or employees of the association, or the purchase of insurance or services for amounts in excess of their fair market value from a company in which one or more of the association's trustees, officers or fiduciaries has an interest, will constitute prohibited inurement. Whether prohibited inurement has occurred is a question to be determined with regard to all of the facts and circumstances, taking into account the guidelines set forth in this section. The guidelines and examples contained in this section are not an exhaustive list of the activities that may constitute prohibited inurement, or the persons to whom the association's earnings could impermissibly inure. See § 1.501(a)–1(c).

(b) *Disproportionate benefits.* For purposes of subsection (a), the payment to any member of disproportionate benefits, where such payment is not pursuant to objective and nondiscriminatory standards, will not be considered a benefit within the meaning of § 1.501(c)(9)–3 even though the benefit otherwise is one of the type permitted by that section. For example, the payment to highly compensated personnel of benefits that are disproportionate in relation to benefits received by other members of the association will constitute prohibited inurement. Also, the payment to similarly situated employees of benefits that differ in kind or amount will constitute prohibited inurement unless the difference can be justified on the basis of objective and reasonable standards adopted by the association or on the basis of standards adopted pursuant to the terms of a collective bargaining agreement. In general, benefits paid pursuant to standards or subject to conditions that do not provide for disproportionate benefits to officers, shareholders, or highly compensated employees will not be considered disproportionate. See § 1.501(c)(9)–2(a) (2) and (3).

(c) *Rebates.* The rebate of excess insurance premiums, based on the mortality or morbidity experience of the insurer to which the premiums were paid, to the person or persons whose contributions were applied to such premiums, does not constitute prohibited inurement. A voluntary employees' beneficiary association may also make administrative adjustments strictly incidental to the provision of benefits to its members.

(d) *Termination of plan or dissolution of association.* It will not constitute prohibited inurement if, on termination of a plan established by an employer and funded through an association described in section 501(c)(9), any assets remaining in the association, after satisfaction of all liabilities to existing beneficiaries of the plan, are applied to provide, either directly or through the purchase of insurance, life, sick, accident or other benefits within the meaning of § 1.501(c)(9)–3 pursuant to criteria that do not provide for disproportionate benefits to officers, shareholders, or highly compensated employees of the employer. See § 1.501(c)(9)–2(a)(2). Similarly, a distribution to members upon the dissolution of the association will not constitute prohibited inurement if the amount distributed to members are determined pursuant to to the terms of a collective bargaining agreement or on the basis of objective and reasonable standards which do not result in either unequal payments to similarly situated members or in disproportionate payments to officers, shareholders, or highly compensated employees of an employer contributing to or otherwise funding the employees' association. Except as otherwise provided in the first sentence of this paragraph, if the association's corporate charter, articles of association, trust instrument, or other written instrument by which the association was created, as amended from time to time, provides that on dissolution its assets will be distributed to its members' contributing employers, or if in the absence of such provision the law of the state in which the association was created provides for such distribution to the contributing employers, the association is not described in section 501(c)(9).

(e) *Example.* The provisions of this section may be illustrated by the following example:

Example. Employees A, B and C, members of the X voluntary employees' beneficiary association, are unemployed. They receive unemployment benefits from X. Those to A include an amount in addition to those provided to B and C, to provide for A's retraining. B has been found pursuant to objective and reasonable standards not to qualify for the retraining program. C, although eligible for retraining benefits has declined. X's additional payment to A for retraining does not constitute prohibited inurement.

§ 1.501(c)(9)–5 Voluntary employees' beneficiary associations; recordkeeping requirements.

(a) *Records.* In addition to such other records which may be required (for example, by section 512(a)(3) and the regulations thereunder), every organization described in section 501(c)(9) must maintain records indicating the amount contributed by each member and contributing employer, and the amount and type of benefits paid by the organization to or on behalf of each member.

(b) *Cross reference.* For provisions relating to annual information returns with respect to payments, see section 6041 and the regulations thereunder.

§ 1.501(c)(9)–6 Voluntary employees' beneficiary associations; benefits includible in gross income.

(a) *In general.* Cash and noncash benefits realized by a person on account of the activities of an organization described in section 501(c)(9) shall be included in gross income to the extent provided in the Internal Revenue Code of 1954, including, but not limited to, sections 61, 72, 101, 104 and 105 of the Code and regulations thereunder.

(b) *Availability of statutory exclusions from gross income.* The availability of any statutory exclusion from gross income with respect to contributions to, or the payment of benefits from, an organization described in section 501(c)(9) is determined by the statutory provision conferring the exclusion, and the regulations and rulings thereunder, not by whether an individual is eligible for membership in the organization or by the permissibility of the benefit paid. Thus, for example, if a benefit is paid by an employer-funded organization described in section 501(c)(9) to a member who is not an "employee", a statutory exclusion from gross income that is available only for "employees" would be unavailable in the case of a benefit paid to such individual. Similarly, the fact that, for example, under some circumstances educational benefits constitute "other benefits" does not of itself mean that such benefits are eligible for the exclusion of either section 117 or section 127 of the Code.

§ 1.501(c)(9)–7 Voluntary employees' beneficiary associations; section 3(4) of ERISA.

The term "voluntary employees' beneficiary association" in section 501(c)(9) of the Internal Revenue Code is not necessarily coextensive with the term "employees' beneficiary association" as used in section 3(4) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(4), and the requirements which an organization must meet to be an "employees' beneficiary association" within the meaning of section 3(4) of ERISA are not necessarily identical to the requirements that an organization must meet in order to be a "voluntary employees' beneficiary association" within the meaning of section 501(c)(9) of the Code.

§ 1.501(c)(9)–8 Voluntary employees' beneficiary associations; effective date.

(a) *General rule.* Except as otherwise provided in this section, the provisions of §§ 1.501(c)(9)–1 through 7 shall apply with respect to taxable years beginning after December 31, 1954.

(b) *Pre-1970 taxable years.* For taxable years beginning before January 1, 1970, section 501(c)(9)(B) (relating to the requirement that 85 percent or more of the association's income consist of amounts collected from members and contributed by employers), as in effect for such years, shall apply.

(c) *Existing associations.* Except as otherwise provided in paragraph (d), the provisions of §§ 1.501(c)(9)–2(a)(1) and (c)(3) shall apply with respect to taxable years beginning after December 31, 1980.

(d) *Collectively-bargained plans.* In the case of a voluntary employees' beneficiary association which receives contributions from one or more employers pursuant to one or more collective bargaining agreements in effect on December 31, 1980, the provisions of §§ 1.501(c)(9)–1 through 5 shall apply with respect to taxable years beginning after the date on which the agreement terminates (determined without regard to any extension thereof agreed to after December 31, 1980).

(e) Notwithstanding paragraphs (c) and (d) of this section, an organization may choose to be subject to all or a portion of one or more of the provisions of these regulations for any taxable year beginning after December 31, 1954.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 30, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

[FR Doc. 80–40835 Filed 12–30–80; 4:00 pm]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF-76; Re: Notice No. 335]

Standards of Fill for Wine

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is (1) adopting a 50 milliliter standard of fill for wine; (2) deleting the bottles per case requirement for wine; and (3) making conforming changes throughout Part 4 to accommodate the conversion of wine to the metric standards of fill on January 1, 1979. These amendments are made in response to an industry request to add a 50 ml size to the standards of fill, and to update the regulations.

DATE: These regulations are effective on February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Telephone: 202–566–7626.

SUPPLEMENTARY INFORMATION:

Petition for 50 Milliliter Wine Size

On March 17, 1980, ATF published in the **Federal Register** a notice of proposed rulemaking to add a 50 milliliter size to the standards of fill for wine [Notice No. 335, 45 FR 17025]. The proposal would amend § 4.73 to add 50 milliliters to the sizes in which wine may be bottled or imported.

The proposed 50 ml size (1.7 fluid ounces) resulted from a petition submitted by the National Association of Beverage Importers (NABI), a trade association representing importers of alcoholic beverages. their petition requested a 50 ml size to replace the 2 fluid ounce size formerly used for bottling individual servings of wine. Although any type of wine could be bottled in the 2 fl. oz. size, NABI noted that its primary use was in bottling single-person servings of sherry or port wine for use on aircraft or railroads. Furthermore, NABI pointed out that the 2.0 fluid ounce size was not replaced when the metric standards of fill were adopted, and that the closest metric size of 100 ml (3.4 fl. oz.) is 70% larger. In addition, many airlines stated their beverage carts would not accommodate 100 ml bottles. Therefore, NABI requested addition of the 50 ml to the metric standards of fill. ATF received letters from several airlines supporting NABI's petition.

Summary of Public Comments

ATF received 19 written comments in response to the proposal for the 50 ml standard of fill. Ten comments were from consumers, with most favoring the adoption of a small size for wine. Several consumers noted that the proposed 50 ml size would allow the sale of port or sherry wines on aircraft and railroads, and would give the traveling public a wine alternative to the purchase of distilled spirits products.

Several industry members and their associations also commented; all but one favored the adoption of the 50 ml size. NABI noted that the miniature market for sherry and port wines had continued to grow in the United States and that the market for these products in 1979 was expected to be approximately 38,000 cases, a substantial increase from 22,000 cases in 1975. They further stated that the European Economic Community (EEC) authorizes a 50 ml standard of fill for wines, and that this size is used worldwide for the bottling of single-serving sizes of sherry and port wines. American importers especially favored the authorization of the 50 ml size in order for them to continue supplying their customers with single-serving wine bottles.

A few consumers were opposed to reducing the size of the miniature bottle from 2.0 fl. oz. formerly used to 50 ml (1.7 fl. oz.). These consumers felt that 50 ml represents a very small serving of wine, and that the price of this bottle would not be less to consumers than the 2.0 fl. oz. size, even though 50 ml is 15% smaller.

ATF notes that although any wine could be bottled in the proposed 50 ml size, it is expected that only dessert wines such as sherry or port would be bottled in this size. We expect that single servings of table wines would continue to be bottled in other larger, more appropriate sizes such as 187 ml (6.3 fl. oz.).

ATF also notes that it cannot regulate price decisions made by industry members since the FAA Act does not grant the Government that authority. Any price change accompanying the introduction of a new wine size would, therefore, be a marketing decision by the companies involved. ATF has, however, informed the Council on Wage and Price Stability of this proposed change.

The Wine Institute, a trade association representing many California wineries and wine growers, opposed the proposal. They contended that the presently-authorized 100 ml satisfies the need for a single-serving portion of wine, and that the 50 ml would unnecessarily increase the number of wine sizes. Wine Institute further noted that the 50 ml size would primarily benefit foreign bottlers of port and sherry wine.

Authorization of 50 ml Standard of Fill

On the basis of all comments, ATF is adding a 50 ml size to the standards of fill for wine. This will make available to consumers a wine package serving a well-established market. Authorization of a 50 ml size will also allow the United States to use the same bottle as used within the EEC for individual servings of certain wines; as a result, producers will not need to make special bottlings of wine in other sizes to accommodate the United States market.

ATF is, therefore, amending § 4.73 to add 50 ml to the metric standards of fill. In addition, § 4.37(b) is being amended to include the optional statement of equivalent fluid ounces (1.7 fl. ounces).

Bottles Per Case Requirement

ATF is deleting the bottles per case requirement for wine, § 4.74. This section currently requires that metric wine bottles be packed with a standard number of bottles in each case.

The requirement to pack wine in standard cases was adopted with metric standards of fill in 1975. Standard cases were expected to facilitate taxpayment of metric cases, and to simplify the warehousing and inventorying of wine cases.

Since then, ATF amended § 4.74 by allowing a bottler or importer to receive an exemption when good cause could be shown. These variations from the case requirements are granted when bottles are too large or heavy to be packed in standard cases, or when State law requires other case sizes.

Since the authorization of exemptions, ATF has received many requests for variances due to unusual bottle shapes or to bottles which are too heavy to pack in standard cases. ATF is now receiving requests by industry members who wish, for marketing reasons, to package wine in cases of other sizes. For example, some retailers are reluctant to take full cases of new or slow-moving products. In other instances, bottlers wish the additional flexibility to market cases containing fewer bottles than required. The number of these variances has created a hardship both for industry and for Government. In instances now when bottlers wish to ship half cases to wholesalers, ATF Ruling 78-5 requires them to strap two half cases together in order to satisfy this requirement. ATF feels the bottles per case requirement creates a hardship on industry members and is unnecessary. Accordingly, § 4.74 is being deleted, and the reference to § 4.74 is deleted in §§ 4.46 and 4.70.

A similar requirement for packing a standard number of bottles per case for distilled spirits was deleted by Treasury Decision ATF-62, effective January 1, 1980. Thus, this change in Part 4 merely conforms the bottles per case requirement to that now applying to distilled spirits in Part 5. This change is liberalizing, does not impose any requirements on winery proprietors or importers, and does not affect the rights of any winery proprietors or importers.

Conforming Changes to the Mandatory Metric Standards of Fill

Metric standards of fill for wine became mandatory on January 1, 1979. On that date, all wine was required to be bottled in the standard metric sizes prescribed in § 4.73. ATF is, therefore, making conforming changes throughout Part 4. The reference to the mandatory bottling date of January 1, 1979, is being deleted wherever it appears. Also, the effective date of the metric standards of fill, § 4.73(e) is being deleted as is § 4.73(d), Completeness of conversion.

Drafting Information

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

These regulations are issued under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

In view of the above, the Director is amending 27 CFR Part 4 as follows:

Paragraph 1. By amending the table of sections by removing § 4.74, and by revising the title of § 4.46 to read "Certificate of nonstandard of fill." As amended, the table of sections reads as follows:

PART 4—LABELING AND ADVERTISING OF WINE

* * * * *

Subpart E—Requirements for Withdrawal of Wine From Customs Custody

* * * * *

Sec.
4.46 Certificate of nonstandard fill.

* * * * *

Subpart H—Standards of Fill for Wine

* * * * *

§ 4.74 [Reserved]

Paragraph 2. By amending § 4.37 by (1) adding 50 milliliters (1.7 fl. oz.) to the list of standard metric sizes in paragraph (b)(1); by (2) deleting in paragraphs (a), (a)(2), and (b) the references to wine bottled according to the U.S. standards of fill under § 4.72 and deleting the references to the mandatory bottling date; and by (3) removing paragraph (c) as obsolete and redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively. As amended, § 4.37 reads as follows:

§ 4.37 Net contents.

(a) *Statement of net contents.* The net contents of wine for which a standard of fill is prescribed in § 4.73 shall be stated in the same manner and form as set forth in the standard of fill. The net content of wine for which no standard of fill is prescribed in § 4.73 shall be stated in the metric system of measure as follows:

(1) * * *

(2) If less than one liter, net contents shall be stated in milliliters (ml).

(b) *Statement of U.S. equivalent net contents.* When net contents of wine are stated in metric measure, the equivalent volume in U.S. measure may also be shown. If shown, the U.S. equivalent volume will be shown as follows:

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

* * * * *

(c) *Net contents market in bottle.* * * *

(d) *Tolerances.* * * *

(e) *Unreasonable shortages.* * * *

Paragraph 3. By amending § 4.46 by (1) removing existing paragraph (b) which refers to standard metric cases; (2) redesignating the remaining paragraphs; and (3) revising the section title. As revised, § 4.46 reads as follows:

§ 4.46 Certificate of nonstandard fill.

A person may import wine in containers not conforming to the metric standards of fill prescribed at § 4.73 if the wine is—

(a) Accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed before January 1, 1979;

(b) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(c) Exempt from the standard of fill requirements as provided by § 4.70(b)(1) or (2).

Paragraph 4. By amending § 4.70 by removing the reference to 4.74 where it appears in paragraphs (b) and (c). The amended portions of § 4.70 read as follows:

§ 4.70 Application.

* * * * *

(b) Sections 4.70–4.73 do not apply to—

* * * * *

(c) Section 4.73 does not apply to wine domestically bottled or packed, either in or out of customs custody, before January 1, 1979, if the wine was bottled or packed according to the standards of fill prescribed by § 4.72.

Paragraph 5. By amending § 4.72 by revising paragraph (c) to state that the section does not apply after December 31, 1978. As amended, § 4.72 reads as follows:

§ 4.72 Standards of fill.

* * * * *

(c) This section does not apply after December 31, 1978.

Paragraph 6. By amending § 4.73 by adding 50 milliliters to the standards of fill in paragraph (a), and by removing paragraphs (d) and (e). As amended, § 4.73 reads as follows:

§ 4.73 Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

3 liters
1.5 liters
1 liter
750 milliliters
375 milliliters
187 milliliters
100 milliliters
50 milliliters

(b) *Sizes larger than 3 liters.* * * *

(c) *Tolerances.* * * *

§ 4.74 [Removed]

Paragraph 7. By removing § 4.74. Bottles per shipping case.

Signed: November 14, 1980.

G. R. Dickerson,
Director.

Approved: December 15, 1980.

Richard J. Davis,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-406 Filed 1-6-81; 8:45 am]
BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123 (Subpart F)

[SW-4-FRL 1716-6]

Mississippi's Application for Phase I Interim Authorization of a State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of Final Determination.

SUMMARY: The purpose of this notice is to announce the final determination that has been made in regard to an application for Phase I Interim Authorization submitted by the State of Mississippi.

The Environmental Protection Agency has reviewed Mississippi's Application for Interim Authorization and has determined that Mississippi's Hazardous Waste Program is substantially equivalent to the Federal program as defined by regulations promulgated under the Resource Conservation and Recovery Act of 1976 (RCRA). The State of Mississippi is hereby granted interim authorization to operate the State program in lieu of Subtitle C hazardous waste management program (Phase I) in accordance with Section 3006(c) of RCRA and implementing regulations found in 40 CFR Subpart F.

EFFECTIVE DATE: Interim Authorization, Phase I, for Mississippi shall become effective on January 7, 1981.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Residuals Management Branch, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-3936.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976

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(RCRA), to protect human health and the environment from the improper management of hazardous wastes. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program will be implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Mississippi submitted its draft application for Phase I Interim Authorization on August 12, 1980. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration. The State subsequently made revisions to its Application for Phase I Interim Authorization in order to clarify those aspects of its program which had been questioned during the EPA review.

On September 26, 1980, Mississippi submitted to EPA a Final Application for Phase I Interim Authorization under RCRA. An EPA review team consisting of both Headquarters and Regional Office personnel made a detailed analysis of Mississippi's hazardous waste management program. The following issues were raised by the review team:

(a) The Attorney General must demonstrate that State law provides authority for officers to enter hazardous waste storage facilities or transporters.

(b) The Attorney General needs to expand remarks explaining its authority to immediately restrain, by Administrative Order or by suit in State court, any person from engaging in activity which is endangering or causing damage to public health or the environment.

(c) The State of Mississippi must show authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement.

(d) The Attorney General's Statement must clearly explain State program provisions for public participation in State administrative or court enforcement actions.

To resolve these issues the State made revisions mainly in the Attorney General's Statement and also minor changes in the MOA and Program Description.

(a) The Attorney General cited authority granting the Board of Health power to make regulations for entry and inspection substantially equivalent to Federal entry and inspection authority.

(b) The Attorney General's Statement was amended to include further citations of State statutes, regulations and court decisions authorizing orders to immediately restrain certain activities.

(c) The Attorney General cited further State statutes supporting the State's ability to sue in courts. Some of the arguments regarding immediate restraint authority were also applicable to this authority. The State has also shown through its Authorization Plan, a firm commitment to seek clear statutory authority to seek injunctions within six months.

(d) The State amended the Program Description, MOA, and Attorney General's Statement to provide for public participation as required in 40 CFR 123.128.

Responsiveness Summary: As noticed in the **Federal Register** on October 3, 1980 (45 FR 65632), EPA gave the public until November 11, 1980, to comment on the State's application. EPA also held a public hearing in Jackson, Mississippi, on November 5, 1980. The oral comments received at the public hearing and written comments submitted directly to EPA are summarized below along with EPA's responses.

Five individuals spoke at the public hearing and three written comments were received. Their comments and EPA's responses are presented below:

Comment: Three speakers and two letters supported Mississippi's application.

Response: No EPA response is required.

Comment: At the November 5 hearing, a Mississippi State senator stated his willingness to introduce whatever legislation is necessary and required to see that this program is properly staffed and funded.

Response: No EPA response is required.

Comment: A speaker felt that using an EPA waste code and a DOT waste description was an undue Federal burden on generators who must manifest their waste.

Response: EPA does not require a specific manifest form but does require certain information on the manifest. This requirement at 40 CFR 262.21 does include the DOT description of wastes but does not require the EPA waste code. Each State may require a manifest form as they deem necessary for their program.

Comment: One commenter complained that the application was voluminous and expensive to copy.

Response: A large part of the State's application is the State's laws and regulations. Copies of regulations should be available for distribution. The program description, if read alone, should give the reader a good understanding of how the State plans to run its hazardous waste management program.

Comment: One speaker argued that EPA's response to Mississippi's application should have been available for public comment.

Response: The comments EPA sent to the State are not part of the State's application and were not required to be available at the public hearing. The State normally responds to these comments by amending its application. This response should be available to the public.

Comment: One commenter had several problems with the State enforcement program. One complaint was the lack of citizen participation in violation hearings. Another complaint was the perceived lack of authority over out-of-state waste.

Response: Mississippi has agreed to give public notice on any proposed settlement of a State enforcement action. The State also lists citizen participation as an area where future legislation is planned. The State does have authority over out-of-state wastes as soon as they enter the State. No State can enforce any regulations beyond its State boundary.

Comments: Two commenters brought up the fact that State law requires State regulations be "equivalent to" the Federal regulations. One speaker thought State regulations must be "as stringent as" Federal regulations according to State Law. Another speaker argued that the State was not allowed enough freedom in tailoring their regulations to suit the particular needs of the State.

Response: The Interim Authorization package contains amendments to the State Law that are in effect and require regulations "be equivalent to" Federal regulations. Mississippi law directs the Board of Health to pass regulations so that the State can obtain Interim Authorization as requested by the Governor. Although the State may obtain Interim Authorization by having a program "substantially equivalent," the State program must be "equivalent" before the State may receive final Authorization.

EPA must require a certain amount of consistency to ensure that hazardous waste will be properly managed in all States (Section 3006, RCRA). The definition and listings of wastes must be consistent among States so that interstate shipments will be regulated from cradle to grave. Even with nearly identical regulations, the State will have considerable freedom to tailor their program to meet the needs of the State.

Comments: A commenter was concerned about possible plans to convert a class A landfill to a hazardous waste disposal site and also concerned about the possible move of the Solid Waste Management Division to the Department of Natural Resources.

Response: The State would have to treat any landfill conversion just as they would any disposal site. If the conversion is made after November 19, 1980, the facility will not qualify for Interim Status to operate prior to receiving a RCRA permit. The State will not be authorized to issue a RCRA permit until the State receives Phase II Interim or Final Authorization.

If the State decides to move the Division of Solid Waste Management, during Interim Authorization, a new MOA would have to be signed with EPA. At that time, EPA will decide whether the State program continues to be substantially equivalent. If the program is no longer substantially equivalent, EPA would withdraw the program.

Comment: A commenter felt the State had no power other than court injunction to restrain illegal activities.

Response: The State Board of Health may restrain illegal activities through administrative orders. (Mississippi regulation 402.11-1(h))

Comment: One commenter felt that the frequency of inspections by the State was not enough and that the State required 90 days notice before inspection.

Response: The State meets EPA's requirements for inspection frequency and inspections may occur at any time and especially in response to complaints.

Comment: One commenter responded to three issues EPA had raised after reviewing the Mississipppi application. The commenter argued that the three points had been addressed sufficiently by the Mississippi Attorney General. The three issues are: entry and inspection authority; authority to sue to enjoin any threatened or continuing program violations; and ability to immediately restrain.

Response: On November 7, 1980, the Mississippi Assistant Attorney General responded to the three issues raised by EPA. The response included additional evidence to support previous determinations in the Attorney General's Statement.

Comment: A commenter felt that EPA should expedite authorization of the State program since "it is a simple fact that EPA does not have the finances nor the resources to administer or enforce this program in the various States by November 19th or during a subsequent interim period of any length of time at all."

Response: EPA will decide whether to give Mississippi Interim Authorization solely on the merits of the State's application. On November 19, 1980, EPA will run the hazardous waste program in any State that has not received Interim Authorization. The goal of Interim Authorization is to avoid duplication of Federal and State requirements by allowing qualified State programs to operate in lieu of the Federal program.

Comment: One commenter questioned whether the State's application is sufficient to safeguard residents near proposed disposal sites.

Response: The State has adopted regulations substantially equivalent to the Federal Interim Status regulations (40 CFR 265) for disposal sites. These regulations and the final regulations (40 CFR 264) are designed to ensure the safety of residents near disposal sites.

Comment: One commenter questioned the future enforcement performance of the State based on its past record.

Response: The State passed regulations which became effective November 19, 1980, and until that date, there has been no record of the State enforcing hazardous waste regulations. The State could have enforced under the imminent hazard provisions of its law but neither the State nor EPA has determined that an imminent hazard existed in Mississippi.

Comment: A speaker felt that counties were not given sufficient voice in siting or operation of facilities. One commenter noted the "maximum involvement of all interested parties" in the development of the State program.

Response: Besides the guarantees of public participation in permitting, where State law permits, counties may affect siting through local zoning ordinances. The State will not issue full RCRA permits to existing facilities or permit new facilities under Phase I Interim Authorization.

Comment: A commenter felt that the State should extend the period of post-closure care for sites beyond the 30 year required period.

Response: The State regulations, as do the Federal, allow anyone to request an extension of post-closure care beyond the required 30 years. These petitions will be considered at the time the post-closure plan is submitted and at five year intervals after the completion of closure. (Mississippi Regulations 402.7-117(d))

Comment: A commenter was concerned about the statewide and local enforcement of transportation standards.

Response: The State has included in its application a Memorandum of Understanding with the United States Department of Transportation and the Mississippi Public Service Commission. These two MOU's explain how the State plans to accomplish an equitable statewide enforcement of hazardous waste transportation regulations. The State's laws, regulations, and enforcement program must be judged substantially equivalent before the State is granted Interim Authorization. If, during Interim Authorization, the program is not enforced, EPA may withdraw Interim Authorization or withhold Final Authorization. Local governments with authority to inspect transporters can inspect transporters and, if violations are discovered, they may submit complaints to the State for enforcement.

Comment: Concern was voiced over whether the State could help companies locate disposal sites while judging their applications in an unbiased manner.

Response: Siting of hazardous waste management facilities is one of the most difficult program elements for any State. The more involvement the State has in siting of new facilities, the more likely the facility will be designed to suit the particular needs of the State. A major part of the State's responsibility in permitting will be to make sure a facility application sufficiently describes a site and its operation.

Comment: A commenter states that a MOU should be negotiated with the Mississippi Emergency Management Agency.

Response: The State has furnished a 24-hour telephone number for State emergency response in the Memorandum of Agreement with the EPA. The State will be responsible for seeing that local agencies are informed and involved in emergency responses as required by State law. In the case of facilities, the contingency plan should contain local emergency response unit telephone numbers. In the case of interstate transportation, the transporter may have to rely on a national response number. Intrastate transporters will be assured of having the proper State response number.

Comment: One commenter questioned whether Mississippi is legally entitled to Interim Authorization based on the criteria that a State has to have an effective State hazardous waste program in existence as of August 17, 1980.

Response: EPA interprets the word "program" as used above to mean enabling legislation only. (See **Federal Register** dated May 19, 1980, page 33387.) In addition, all aspects of the State program must be "substantially equivalent" to the Federal program by the time Interim Authorization is actually granted. Mississippi is in compliance with these requirements in that it had enacted enabling legislation before August 17, 1980, and its program will be substantially equivalent to the Federal program on November 19, 1980, when its regulations become effective.

Comment: One commenter expressed concern over the regulations governing the transportation of hazardous wastes. In particular, he was concerned that the EPA, U.S. Department of Transportation, and State regulations be uniform so as to minimize the difficulties that interstate transporters would face. The commenter requested that States which receive Interim Authorization be required to comply with a general provision which would allow that a carrier who was in compliance with the Federal requirements would be deemed to be in compliance with State requirements as well.

Finally, with regard to any subsequent change in the rules affecting rail carriers, the commenter requested that the State be required to amend its regulations accordingly.

Response: EPA shares the commenter's concerns regarding the interstate movement of hazardous wastes. Mississippi's regulations require transporters in any mode to comply with standards identical to the Federal standards.

Because the State program is expected to operate "in lieu of" the Federal program, EPA cannot require the State to set aside its rules without due process. However, the State is required to modify its regulations within one year of the date of promulgation (see 40 CFR § 123.13(e)), unless a statutory change is required. Two years will be allowed for making statutory changes.

Because the Federal regulations allow States to have more stringent standards than Federal standards for transporters, compliance with Federal standards cannot necessarily assure compliance with those State standards which are more stringent. However, a State's transportation requirements must not place an undue burden so as to interfere with interstate commerce.

Dated: December 30, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 81-453 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 14-2

Protests Against Awards

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: The Interior Procurement Regulations are hereby revised to transfer the responsibility for handling bid protests filed in the General Accounting Office. The responsible office is hereby changed from the Office of Acquisition and Property Management to the Office of the Solicitor. This action is taken pursuant to recommendations following a departmental review of legal activities within the Office of the Secretary and its Bureaus and Offices.

DATE: Effective date of the revision shall be January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Peter Kolls, Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, (202) 343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule is Peter Kolls, Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240, telephone (202) 343-6431.

Waiver: It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments contained herein are entirely administrative in nature and public participation would serve no useful purpose. Therefore, the public rulemaking process is waived in accordance with 5 U.S.C. 553.

Impact: The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Chapter 14.

Accordingly, 41 CFR Chapter 14 is amended as stated below, pursuant to the authority of the Secretary of the Interior contained in Section 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 5 U.S.C. 301.

Dated: December 24, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

PART 14-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 14-2.4—Opening of Bids and Award of Contract

§ 14-2.407-8 is amended by deleting paragraphs (b) through (h) and inserting the following:

§ 14-2.407-8 Protests against award.

* * * * *

(b) *Responsibility.* The Office of the Solicitor shall be responsible for handling bid protests filed in the General Accounting Office. All communications relative to protests at the GAO shall be coordinated with the Assistant Solicitor for Procurement.

(c) *Notice of Protest.* Upon being advised by the GAO of the receipt of a protest, the Office of the Solicitor will inform the appropriate procuring activity which will immediately notify the contracting officer. The contracting officer shall then promptly notify all interested parties by telephone that a protest has been filed with the GAO. A written record of such telephonic notices shall be placed in the procurement file. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of the Solicitor will promptly furnish the same to the procuring activity which shall in turn promptly transmit copies to the contracting officer and request a written report. The contracting officer shall promptly transmit by letter a copy of the protest to all interested parties. Copies of such cover letters shall be sent concurrently to the Assistant Solicitor for Procurement. Cover letters should contain the advice contained in § 1-2.407-8(a)(3) of this title, including instructions that any comments submitted to GAO should also be submitted to the contracting officer and the Assistant Solicitor for Procurement.

(d) *Submission of report.* (1) All personnel shall handle protests on a priority basis. Within 25 working days after receipt by the Office of the Solicitor of the GAO's request for an administrative report, such report or a statement setting forth the reasons for delay and the expected date of submission shall be submitted to the GAO. The procuring activity will have no more than 20 working days from receipt of the request for an administrative report from the Solicitor's Office to deliver such report, to the Assistant Solicitor for Procurement. (2) The administrative report responsive to the protest, shall be appropriately titled and dated, shall cite the GAO file number, shall include the documents and statements required by § 1–2.407–8(a)(2) of this title and shall be signed by the contracting officer or his representative. Reports shall be prepared with the assistance of the local legal counsel of the Department. If appropriate, the report shall contain a statement regarding any urgency for the procurement and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The procuring activity shall submit an original and four complete copies of the contracting officer's report to the Assistant Solicitor for Procurement plus one complete copy for each interested party. Contracting officers must assure that no trade secrets or commercial or financial information which is privileged or confidential is disclosed to those not authorized to have access thereto. Transmittal letters forwarding the report to the GAO and to interested parties will be prepared by the Office of the Solicitor. All reports to GAO will be reviewed and surnamed by the Chief, Division of Acquisition and Grants prior to submittal to GAO. The review will be completed within three workings days of receipt from the Solicitor's Office.

(e) *Determination to Make Award.* (1) If a written protest before award has been lodged with the procuring activity only, the procedures of § 1–2.407–8(b) of this title shall be followed. Prior to making an award of a contract under the circumstances set forth in § 1–2.407–8(b)(4) of this title, the contracting officer shall obtain the advice of the appropriate office of the Solicitor. (2) If a protest before award has been lodged directly with the GAO and the contracting officer determines in writing that it is necessary to make an award under § 1–2.407–8(b)(4) of this title, such determination must be approved by the head of the procuring activity concerned and by the Director, Office of Acquisition and Property Management who shall consult with the Assistant Solicitor for Procurement, before proceeding with the award.

(f) *Protests After Award.* Protests received after award of a contract are subject to the same procedures for processing as set forth in this § 14–2.407–8(c) of this title. Reports on protests after award shall include a statement of the status of performance under the contract and the date anticipated for contract completion.

(g) *Report of Corrective Action.* If a GAO decision contains a recommendation for corrective action and directs the agency's attention to section 236 of the Legislative Reorganization Act (31 U.S.C. 1176), the GAO will transmit a copy of the decision to the Congressional committees named in section 232 of the Act (31 U.S.C. 1172). The Department is required by section 236 of the Act to submit to the House and Senate Committees on Appropriations and Government Operations a written statement of the corrective action taken. The required statement shall be prepared and submitted by the head of the procuring activity concerned to the Director, Office of Acquisition and Property Management within fifty calendar days after the date of the GAO decision. After reviewing the statement with the Assistant Solicitor for Procurement, the Director, Office of Acquisition and Property Management will transmit the statement to the appropriate committees. Action on other GAO decisions recommending corrective action will be the responsibility of the Director, Office of Acquisition and Property Management.

[FR Doc. 81–466 Filed 1–6–81; 8:45 am]

BILLING CODE 4310–10–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A–17]

Federal Property Management Regulations, Temporary; Use of Contract Airline Service Between Selected City-Pairs

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: GSA, on behalf of Federal agencies, including the Department of Defense, has entered into contracts of 6-months duration with certificated air carriers to provide transportation at reduced fares for official travel between selected cities (city-pairs). This regulation prescribes policies, procedures, and requirements that apply to Federal agencies when contract airline passenger transportation is provided.

DATES: Effective date: January 1, 1981; Expiration date: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: John Millington, Ed Hochard or Sean Allan, Transportation Management Division, Transportation and Public Utilities Service (202–275–6144 or 275–1049).

SUPPLEMENTARY INFORMATION: In supplement 10, FPMR Temporary Regulation A–11, users should change all FPMR A–15 references to FPMR A–17. The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR 101, the following temporary regulation is added to the appendix at the end of subchapter A to read as follows:

December 31, 1980.

To: Heads of Federal Agencies.

Subject: Use of contract airline service between selected city-pairs.

1. *Purpose.* This regulation prescribes policies, procedures, and requirements applicable to Federal agencies when scheduled airline passenger transportation service is needed for official travel between selected cities (city-pairs).

2. *Effective date.* This regulation is effective on January 1, 1981.

3. *Expiration date.* This regulation expires on January 1, 1982, unless superseded or canceled.

4. *Background.*

a. The General Services Administration, Transportation and Public Utilities Service (TPUS), has increased the number of city-pairs and has expanded the scope of airline contracts with certificated air carriers to furnish air passenger transportation for official Government travel at reduced fares.

b. Except for the travel conditions indicated in paragraph 10b, the Government has agreed to place all of its official air travel with the contractor air carriers providing scheduled service between the city-pairs listed in the attachment A.

5. *Scope.*

A. This regulation applies to executive and other Federal agencies to the extent specified in the Federal Property and Administrative Services Act of 1949, as amended, and 5 U.S.C. 5701 et seq.

b. The Department of Defense (DOD) shall follow the procedures established in the Military Traffic Management

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Regulation (AR 55–355/NAVSUP 4600.70/MCO P4600.14A/DLAR 4500.3).

c. Uniformed members of the Public Health Service; the National Oceanic and Atmospheric Administration; the U.S. Coast Guard; employees of the Judicial Branch of the Government; the U.S. Postal Service; Foreign Service Officers; cost reimbursable contractors working for the Government; and employees of any agency having independent statutory authority to prescribe travel allowances and who are not subject to 5 U.S.C 5701–5709 are exempt from the mandatory use of this contract. However, all exempt personnel are authorized and encouraged to obtain contract services when acceptable to the contract airline.

6. *Applicability.* The provisions of this regulation are mandatory for all official travel by air between the city-pairs listed in attachment A.

7. *Carrier requirements.* The contractor shall not be required to furnish services if, at the time of the request for services, the scheduled aircraft is fully booked, nor shall the contractor be required to furnish any additional aircraft to satisfy the transportation requirement. However, the contractor will provide the official Government traveler with the same services, including meals, as provided to its commerical passengers in scheduled jet coach service or better, subject to the rules and procedures published in the air carrier's tariffs on file with the Civil Aeronautics Board. The carrier will make reservations for Government travelers on the same basis as for regular coach service travelers and shall not discriminate in favor of the commerical traveler.

8. *Procedures for obtaining service.*

a. Contract air service shall be ordered by the issuance of Standard Form 1169, U.S. Government Transportation Request (GTR). If cash is used in the absence of a GTR under the provisions of FPMR 101–41.203–2, participating airline carriers may furnish contract fares at their option. If the contract carriers do not provide contract fares with the use of cash, the required service may be procured at the noncontract fare.

b. Agencies may obtain airline schedules and reservations for each specified city-pair through the use of the individual airline telephone number(s) listed in attachment A. When requesting reservations, the trip shall be identified as official Government business and the carrier's ticket agent shall be instructed to apply the appropriate contract fare. Agencies using teletype ticketing equipment should examine airline tickets to determine whether the correct contract fare has been applied. Improperly rated or fared tickets shall be canceled and new tickets shall be requested. Tickets picked up at airline ticket offices should be verified to ensure that the proper contract-air-class-of-service symbol is shown on the ticket.

c. When the contract carrier offers a fare to the general public between the city-pairs listed in attachment A which is lower than the contract fare, the ordering agency may elect to use such lower fare instead of the contract fare. These lower fares may be used provided they do not alter the position of the contractors with respect to their use in progressive order as specified in paragraph 8e.

d. Contract fares apply only between the cities named and are not applicable to or from intermediate points; however, the Government may use the contract fare in conjunction with other published fares, including other contract fares. Under this provision, carriers will provide through ticketing and service.

e. Agencies shall request reservations from the contract airline offering the lowest contract fare for the appropriate city-pair, as shown in attachment A. If that carrier cannot provide the required service, the carrier(s) offering the next lower fare in progressive order shall be used. For example, carriers A and B offer service at $65 and $70 respectively. If carrier A cannot provide transportation service at $65, carrier B will be requested to furnish service at $70.

f. The use of connecting flights is encouraged where contract carriers do not provide through service and this connection produces lower transportation costs than direct flights using noncontract carriers. However, agencies are cautioned that lower transportation costs may be offset by increased travel costs, such as per diem, subsistence, allowable overtime, or lost productive time due to layovers. For example, if direct service from San Francisco, California, to Washington, DC, is not available from a contract carrier, a noncontract carrier may be used to the closest connecting city offering service (i.e., Salt Lake City, Utah; Denver, Colorado; or Los Angeles, California); then, a contract carrier may be used to Washington, DC. In these cases, when making reservations with a noncontract carrier, the ticket agent should be advised of the portion(s) of the trip that will be taken at the reduced contract fare.

g. If service by contract carriers is provided at different airports but still between the same city-pair listed in attachment A, the lowest overall cost, including the contract fare, lost productive time, and ground transportation will determine which carrier will be used.

9. *Class of service identification.* The contract air class of service designated by each contract carrier as shown in attachment A shall be shown on all Standard Forms 1169, U.S. Government Transportation Request, and airline tickets.

10. *Airline service using noncontract carriers instead of contract carriers.*

a. Heads of agencies may delegate authority to authorize or approve the use of noncontract air carriers when justified under the conditions listed in paragraph b, below. This authority shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances of the travel assignment and to ensure complicance with this regulation.

b. Justification for the use of air carriers other than those shown in attachment A is limited to the following conditions, which shall be certified on individual travel orders or vouchers by the authorizing official:

(1) Airline seating capacity on any scheduled flight of the contract carrier is not available in sufficient time to accomplish the purpose of the travel, or the use of the carrier's flight would require additional overnight lodging;

(2) The scheduled flight of the contract carrier is not compatible with the agency policies and practices regarding travel during regularly scheduled workhours. (For further information, see the Federal Personnel Manual, Supplement 990–2);

(3) On the basis of a comparison of total costs for each individual trip, the use of a standard class jet coach (Y class) airline fare in existence on October 15, 1980, is less costly to the Government, considering such factors as actual transportation cost, subsistence, allowable overtime, or lost productive time; or

(4) Exigency or other requirements of the mission necessitate the use of another airline carrier or mode of transportation.

11. *Collective agreements.* This regulation shall not be interpreted to nullify any valid, negotiated agreement between management and a union covering any provision of employee travel in effect on the effective date of this regulation. Upon the expiration of agreements exempted, the provisions of this regulation shall apply.

12. *Comments.* Comments and recommendations concerning the use of this regulation and its provisions may be submitted to the General Services

Administration, Office of Transportation and Travel Management (TT), Washington, DC 20406.

13. *Cancellation.* FPMR Temporary Regulation A-15, dated June 30, 1980, is canceled December 31, 1980.

14. *Effect and other directives.* In supplement 10, FPMR Temporary Regulation A-11, all references to A-15 shall be changed to A-17.

Ray Kline,

Acting Administrator of General Services.

Attachment A

	Lowest standard Y class jet coach fare (as of Oct. 15, 1980)	Contract fare and airline (See note:)
City-Pairs (between) Washington, DC; and:		
Chicago, IL	$126	$70—ML 100—NW
Dallas-Ft. Worth, TX	206	125—TI 158—BN
Houston, TX	205	113—BN 125—TI
Kansas City, MO	179	131—ML
Memphis, TN	151	140—BN
Miami, FL	171	119—OH 125—PA
New Orleans, LA	182	128—TI
New York, NY	58	29—NS 40—NW 42—BN
Oklahoma City, OK	228	171—TI 200—BN
Orlando, FL	156	115—PA
Phoenix, AZ	312	272—BN
Salt Lake City, UT	297	229—BN
San Antonio, TX	237	145—TI 156—BN
St. Louis, MO	149	114—ML 120—OZ
Tucson, AZ	310	279—BN
City-Pairs (between) Chicago, IL; and:		
Cleveland, OH	83	53—ML
Detroit, MI	73	44—ML
Kansas City, MO	113	68—ML 88—BN
Oklahoma City, OK	160	137—BN
St. Louis, MO	70	46—ML
Dallas/Ft. Worth, TX; and:		
Albuquerque, NM	139	52—TI
Atlanta, GA	151	127—BN
El Paso, TX	140	52—TI
Houston, TX	71	23—OH 24—BN
Little Rock, AR	86	59—TI
New Orleans, LA	104	52—TI 53—BN
Oklahoma City, OK	52	34—BN 35—TI
Denver, CO/Salt Lake City, UT	86	40—BN 59—TI
Kansas City, MO/St. Louis, MO	66	55—OZ
Las Vegas, NV/Reno, NV	53	36—BN
Miami, FL/Ft. Myers, FL	53	40—OH
New York, NY/Norfolk, VA	78	48—PA
City-Pairs (between) San Antonio, TX; and:		
Dallas-Ft. Worth, TX	75	35—TI 36—BN
Detroit, MI	215	194—BN
Los Angeles, CA	213	141—BN
New York, NY	264	226—BN
Philadelphia, PA	254	227—BN
St. Louis, MO	156	104—TI
San Francisco/Oakland, CA; and:		
Los Angeles, CA	53	39—WO
Seattle-Tacoma, WA	131	73—AS
Seattle/Tacoma, WA; and:		
Anchorage, AK	104	108—AS
Los Angeles, CA	175	99—NW
Portland, OR	48	25—BN 30—NW
Spokane, WA	66	48—NW
Tucson, AZ/Phoenix, AZ	45	27—BN

Note: Service shall be requested first from the carrier offering the lowest fare; then, the carrier offering the next lowest fare, etc.

Because of economic conditions, the Standard Industry Fare Level (SIFL), as provided by the Civil Aeronautics Board, may be increased or decreased during the period of this contract. The contract fare, which reflects the SIFL, will be adjusted to reflect the percentage change.

Contract Airline Codes, Names, Reservation Telephone Numbers, and Class of Service Codes

AS Alaska Airlines, Inc: Class of service code—YDG

Toll Free

Continental U.S.—(800) 426-0333
State of Alaska—(800) 426-7464
State of Washington—(800) 552-0670

Commercial

Anchorage, AK—(907) 243-3300
San Francisco/Oakland, CA—(415) 931-8888
Seattle-Tacoma, WA—(206) 433-3100

BN Braniff Airways, Inc.: Class of service code—YDG

Toll Free

Continental U.S., except State of Texas—(800) 527-2600
State of Texas, except Dallas/Ft. Worth, TX—(800) 492-2950

Commercial

Dallas, TX— (214) 357-5421
Ft. Worth, TX—(817) 335-5818

ML Midway Airlines, Inc.: Class of service code—YDG

Toll Free

Continental U.S., except Illinois—(800) 621-5700
State of Illinois, except Chicago, IL—(800) 572-5688

Commercial

Chicago, IL—(312) 471-4710

NS New York Air: Class of service code—G

Toll Free

Continental U.S., except New York State—(800) 221-9300
State of New York, except New York City—(800) 522-5555

Commercial

New York City—(212) 476-5666

NW Northwest Airlines, Inc.: Class of service code—Y2

Toll Free

Continental U.S., except Minneapolis, MN—(800) 328-7120

Commercial

Minneapolis, MN—(612) 726-1234

OZ Ozark Airlines, Inc.: Class of service code—Y37

Commercial

Kansas City, MO—(816) 471-7383
St. Louis, MO—(314) 739-1111
Washington, DC—(202) 347-4744

PA Pan American World Airways: Class of service code—YDG

Commercial

Miami, FL—(305) 874-5000
New York, NY—(212) 973-4000
Norfolk, VA—(804) 622-1301
Orlando, FL—(305) 422-0701
Washington, DC—(202) 833-1000

QH Air Florida, Inc.: Class of service code—YDG

Toll Free Continental U.S., except Florida—(800) 327-2971

State of Florida—(800) 432-4538

Commercial

Dallas/Ft. Worth, TX—(214) 988-0981
Houston, TX—(713) 621-3700
Miami, FL—(305) 592-8010
Washington, DC—(202) 783-3590

TI Texas International Airlines, Inc.: Class of service code—Y37

Toll Free

Continental U.S., except Texas—(800) 231-0666
State of Texas—(800) 392-6838

Commercial

Albuquerque, NM—(505) 842-5810
Denver, CO—(303) 892-1900
Dallas/Ft. Worth, TX—(214) 258-2300
El Paso, TX—(915) 533-7011
Houston, TX—(713) 821-2100
Little Rock, AR—(501) 376-3333
New Orleans, LA—(504) 581-2965
Oklahoma City, OK—(405) 236-5058
Salt Lake City, UT—(801) 364-4363
San Antonio, TX—(512) 225-5805
St. Louis, MO—(314) 241-7205
Washington, DC—(202) 347-4777

WO World Airways, Inc.: Class of service code—YDG

Toll Free

Continental U.S., except California—(800) 227-2297
State of California—(800) 772-2643

Commercial

Los Angeles, CA—(213) 646-9404
San Francisco/Oakland, CA—(314) 577-2500

[FR Doc. 81-363 Filed 1-02-81; 10:03 am]

BILLING CODE 6820-AW-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5800

[OR-19340]

Oregon; Revocation of Public Land Order No. 702

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew 60 acres of lands as a scenic and recreational area for use by the Bureau of Land Management. The lands remain segregated from operation of the public land laws generally, including the mining laws, by another existing recreational withdrawal.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 702 of March 5, 1951, which withdrew the following described lands for use by the Bureau of Land Management as a scenic and recreational area is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 12 S., R. 3 E.,
Sec. 3, N½NE¼SE¼ and NW¼SE¼.

The area described contains 60 acres in Linn County.

2. The lands remain segregated from operation of the public land laws generally, including the United States mining laws, by Public Land Order No. 3869 of November 14, 1965. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,
Assistant Secretary of the Interior.
December 29, 1980.

[FR Doc. 81-471 Filed 1-6-81; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 5801

[A-6965]

Arizona; Withdrawal of Forest Lands for Research Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 460 acres of land in the Coronado National Forest from operation of the mining laws for a research natural area for a period of 20 years.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), and are reserved for a research natural area:

Gila and Salt River Meridian

Coronado National Forest

Pole Bridge Canyon Research Natural Area

Beginning at a point which is located S. 19°55′ E., and 2,075.00 feet from the corner common to secs. 13 and 24, T. 18 S., R. 29 E., and secs. 13 and 24, T. 18 S., R. 29½ E., thence S. 34°38′ E., 1,446.25 feet; thence S. 26°30′ W., 2,317.80 feet; thence S. 8°0′ E., 1,338.27 feet; thence S. 34°50′ E., 1,246.83 feet; thence S. 37°15′ W., 1,232.10 feet; thence S. 80°23′ W., 642.33 feet; thence N. 40°14′ W., 1,251.48 feet; thence N. 63°45′ W., 842.30 feet; thence S. 88°33′ W., 643.18 feet; thence N. 22°5′ W., 1,407.86 feet; thence N. 4°0′ W., 858.05 feet; thence N. 21°54′ W., 553.11 feet; thence N. 19°45′ E., 2,000.81 feet; thence N. 82°5′ E., 1,112.70 feet; thence N. 53°24′ E., 1,673.60 feet; thence S. 86°42′ E., 656.26 feet; to the point of beginning.

A portion of the tract is surveyed in T. 18 S., R. 29 E., and is situated in the SE¼NE¼, E½ SW¼, SE¼ sec. 24 and the NE¼, NE¼NW¼, NE¼SE¼ sec. 25. A portion of the tract is unsurveyed in T. 18 S., R. 29½ E., and when surveyed will probably be located in the W½ sec. 24 and W½ sec. 25

The area as described contains approximately 460.94 acres in Cochise County, Arizona.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,
Assistant Secretary of the Interior.
December 29, 1980.

[FR Doc. 81-470 Filed 1-6-81; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 5803

[A-7486]

Arizona; Powersite Restoration No. 620; Partial Revocation of Powersite Reserve No. 182; Powersite Restoration No. 723; Partial Revocation of Water Power Designation No. 8 (AR-5)

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Powersite Reserve No. 182 and Water Power Designation No. 8 (AR-5) embracing approximately 218,000 acres situated within the White Mountain Apache and the San Carlos Indian Reservations and the Apache National Forest. It has been determined that these lands will not be developed for power purposes. The national forest lands, not otherwise withdrawn, will be opened to such forms of disposition as may by law be made of such lands. The lands situated within the Indian Reservations remain withdrawn for those purposes.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-155-Arizona, it is ordered as follows:

1. The Departmental Order of April 15, 1911, creating Powersite Reserve No. 182, and Departmental Order of February 9, 1917, as amended, creating Water Power Designation No. 8, (AR-5), are hereby revoked as to the following described lands:

Gila and Salt River Meridian; Powersite Reserve No. 182

Every smallest legal subdivision included in the Fort Apache Indian Reservation, any portion of which will, when surveyed, lie within 1 mile of the Salt River, Arizona, extending from the boundary between the Apache National Forest and the Fort Apache Indian Reservation at a point located approximately in unsurveyed T. 3 N., R. 26 E., to the boundary between the Fort Apache Indian Reservation and the Tonto National Forest at a point located approximately within unsurveyed T. 4 N., R. 16 E., and;

Every smallest legal subdivision included in the San Carlos Indian Reservation, any portion of which will, when surveyed, lie within 1 mile of the Salt River, Arizona, extending from the boundary between the Apache National Forest and the San Carlos Indian Reservation at a point located approximately in unsurveyed T. 3 N., R. 26 E., to the boundary between the San Carlos Indian Reservation and the Crook National Forest, presently known as the Tonto National Forest, at a point located approximately in unsurveyed T. 5 N., R. 17 E., so far as they effect the following unsurveyed townships:

T. 3 N., R. 21 E.
T. 2 N., R. 22 E.
T. 3 N., R. 22 E.
T. 4 N., R. 22 E.
T. 2 N., R. 23 E.
T. 3 N., R. 23 E.
T. 1 N., R. 24 E.
T. 2 N., R. 24 E.
T. 3 N., R. 24 E.
T. 1 N., R. 25 E.
T. 2 N., R. 25 E.
T. 3 N., R. 25 E.
T. 2 N., R. 26 E.
T. 3 N., R. 26 E.
T. 3 N., R. 27 E.
T. 4 N., R. 27 E.
T. 4 N., R. 27½ E.

Waterpower Designation No. 8 (AR-5)

T. 3 N., R. 22 E., unsurveyed.
T. 4 N., R. 22 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 4½ N., R. 22 E.,
  Sec. 13, Lot 4;
  Sec. 14, Lots 1, 2, 3, 4, 5, 6, 7, 8, and SW¼SE¼;
  Sec. 15, S½SE¼;
  Sec. 19, E½SE¼ and SW¼SE¼;
  Sec. 20, SW¼ and S½SE¼;
  Sec. 21, S½NE¼, NE¼SW¼, S½SW¼, and SE¼;
  Sec. 22, N½ and N½SW¼;
  Sec. 23, Lots 2, 3, and 4;
  Sec. 28, N½N½;
  Sec. 29, N½;
  Sec. 30, Lots 2, 3, NE¼, E½NW¼, NE¼SW¼ and NW¼SE¼.
T. 5 N., R. 22 E.,
  Sec. 13, Lots 1, 2, 3, 4, 5, 6, 7, 8, S½NE¼, NW¼SW¼, and S½SE¼;
  Sec. 14, Lots 1 and 2;
  Sec. 23, Lots 1, 8, 9, 10, SE¼NE¼ and SW¼SE¼;
  Sec. 24, Lots 3, 4, 5, 6, NW¼NE¼, NW¼ and S½SW¼;
  Sec. 25, NW¼NW¼ and S½;
  Sec. 26, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, S½NE¼, NW¼NW¼, SE¼SW¼ and SE¼;
  Sec. 27, E½SE¼;
  Sec. 33, Lot 8, SE¼NE¼ and E½SE¼;
  Sec. 34, Lots 1, 2, 3, 4, 5, 6, NW¼NE¼ and W½;
  Sec. 35, Lots 1, 2, N½NE¼, NE¼NW¼, S½NW¼ and NW¼SW¼;
  Sec. 36, N½N½.
T. 2 N., R. 23 E., unsurveyed.
T. 3 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 5 N., R. 23 E.,
  Sec. 6, Lots 3, 4, 5, 6, 7, SE¼NW¼ and E½SW¼;
  Sec. 7, Lots 1, 2, 3, 4, E½W½;
  Sec. 13, S½NE¼, SE¼NW¼ and S½;
  Sec. 14, SE¼SW¼ and SE¼;
  Sec. 18, Lots 3, 4, 5, 6, 12, NE¼NW¼ and NE¼SW¼;
  Sec. 21, SE¼SW¼ and SE¼;
  Sec. 22, NE¼, S½NW¼, SW¼, N½SE¼, and SW¼SE¼;
  Sec. 23, N½N½, SW¼NE¼, S½NW¼ and NW¼SW¼;
  Sec. 27, NW¼NW¼;
  Sec. 28, N½NE¼, SW¼NE¼, NW¼ and N½SW¼;
  Sec. 29, E½NE¼, SW¼NE¼ and S½;
  Sec. 30, Lots 7, 8, 9, 10, 11, 12, E½SW¼ and E½SE¼;
  Sec. 31, Lots 1, 2, 3, and NE¼NE¼;
  Sec. 32, N½NW¼.
T. 6 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of the North Fork of White River.

T. 7 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of the North Fork of White River and Diamond Creek.

T. 8 N., R. 23 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of the North Fork of White River.

T. 2 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 3 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River and Bonito Creek.

T. 4 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 5 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a quarter of a mile of East Fork of White River.

T. 6 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of North and East Forks of White River.

T. 7 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within a quarter of a mile of Diamond Creek.

T. 8 N., R. 24 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Diamond Creek.

T. 2 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 3 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 4 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek and any additional part of the N½ of the township of the east and south side of Bonito Creek.

T. 5 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 6 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of East Fork of White River.

T. 7 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Diamond Creek.

T. 8 N., R. 25 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of North Fork of White River.

T. 2 N., R. 26 E., unsurveyed.
T. 3 N., R. 26 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 4 N., R. 26 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile and north and west of Bonito Creek and any part of the N½ of the township on the east and south side of Bonito Creek.

T. 5 N., R. 26 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Bonito Creek.

T. 3 N., R. 27 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 4 N., R. 27 E., N½ of township, unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within half a mile of Black River.

T. 5 N., R. 27 E., (partially surveyed)
  Sec. 1. Lots 3, 4, SW¼NE¼, S½NW¼, and S½;
  Sec. 2. Lots 1, 2, and SE¼NE¼;
  Sec. 12. NE¼ and NE¼NW¼.
T. 6 N., R. 27 E. (partially surveyed)
  Sec. 25, all;
  Sec. 26, all;
  Sec. 27, E½ and E½SW¼;
  Sec. 34, NE¼NE¼;
  Sec. 35, E½, E½W½, and W½NW¼;
  Sec. 36, N½N½ and SW¼SW¼.
T. 4 N., R. 27½ E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within one mile of Black River or Reservation Creek, north of Black River.

T. 3½ N., R. 28 E., unsurveyed.

All land of the United States which, when surveyed, will be included within legal subdivisions situated in whole or in part within one mile west or north of Black River.

T. 4 N., R. 28 E.,
  Sec. 1, Lots 1, 2, S½NE¼, SE¼NW¼,
E½SW¼, SW¼SW¼, and SE¼;
  Sec. 2, SW¼SW¼;
  Sec. 3, SW¼NW¼ and S½;
  Sec. 4, Lots 1, 2, 3, S½NE¼, SE¼NW¼, N½SE¼ and SE¼SE¼;
  Sec. 10, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
  Sec. 11, all;
  Sec. 12, N½NE¼, SW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
  Sec. 13, SW¼SW¼;
  Sec. 14, all;
  Sec. 19, Lot 4, and SE¼SW¼;
  Sec. 21, E½NE¼, SW¼NE¼, SE¼SW¼, and SE¼;
  Sec. 22, NE¼, NW¼NW¼, S½NW¼, and S½;
  Sec. 23, all;
  Sec. 24, NW¼, N½SW¼, and SW¼SW¼;
  Sec. 26, NW¼NW¼;
  Sec. 27, N½N½, SW¼NE¼, and S½NW¼;
  Sec. 28, N½ and N½SW¼;
  Sec. 29, N½, N½S½, and S½SE¼;
  Sec. 30, Lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 5 N., R. 28 E.,
  Sec. 6, Lots 17 and 18;
  Sec. 7, Lots 5 to 12, inclusive, NW¼NE¼, S½NE¼, E½W½, and SE¼;
  Sec. 17, NW¼NW¼, S½NW¼, and SW¼;
  Sec. 18, E½ and E½W½;
  Sec. 19, E½ and E½W½;
  Sec. 20, W½;
  Sec. 29, W½W½, E½SW¼ and SW¼SE¼;
  Sec. 30, E½ and E½NW¼;
  Sec. 31, NE¼NE¼;
  Sec. 32, Lots 3, 4, W½NE¼, SE¼NE¼, NW¼, NE¼SW¼, and N½SE¼;
  Sec. 33, Lot 1 and NW¼SW¼;
  Sec. 35, Lot 9 and NE¼SE¼;
  Sec. 36, Lot 4, NW¼NE¼, E½NW¼, SW¼NW¼, and N½SW¼.

The areas described aggregate approximately 218, 278 acres in Apache, Graham, Greenlee, Gila and Navajo Counties.

2. The majority of the above-described lands were withdrawn by the Executive Order of November 9, 1871, and Executive Order Nos. 1475, 1477 and 1479 of February 17, 1912, for the White Mountain Apache Indian Reservation and the San Carlos Indian Reservation. The balance of the lands in T. 4 N., R. 27½ E., Tps. 5 and 6 N., R. 27 E., Tps. 3½, 4, and 5 N., R. 28 E., are situated in the Apache Nastional Forest established by Executive Order No. 876 of July 1, 1908. Some of the lands in Tps. 4 and 5 N., R. 28 E., remain withdrawn by Public Land Order No. 3263 of October 29, 1963, as national forest administrative and campsites.

3. The State of Arizona has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818 as to the national forest lands.

4. At 10:00 a.m. on February 3, 1981, the national forest lands, shall be open to such forms of disposition as may by law be made of national forest lands, subject to valid rights, the provisions of existing withdrawals, and the requirements of applicable laws.

The national forest lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws, subject to provisions of the Act of August 11, 1955 (69 Stat. 681; 30 U.S.C. 621).

Guy R. Martin,
Assistant Secretary of the Interior.

[FR Doc. 81–460 Filed 1–6–81; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5968]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program; Georgia, et al.

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESS: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the addres of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4 (presently appearing at its former Section 24 CFR 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insuarance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former Section 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former Section 24 CFR Part 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Georgia	Thomas	City of Thomasville	*Time Enterprise*, Oct. 24 and Oct. 31, 1980.	Honorable Jack Bracey, Mayor, City of Thomasville, 144 E. Jackson Street, Thomasville, Georgia 31792.	Oct. 31, 1980	130170, 0005C.
Maryland	Carroll	City of Westminster	*The Carroll County Times*, Oct 3 and Oct. 10, 1980.	Honorable Leroy Conaway, City of Westminster, City Hall, Westminster, Maryland 21157.	Oct. 10, 1980	240018, 0002C, 0003C.
Massachusetts	Norfolk	Town of Randolph	*The Randolph Herald*, Sept. 25 and Oct. 2, 1980	Mr. Thomas Sullivan, Chairman, Board of Selectmen's Office, Town Hall, Town of Randolph, Randolph, Massachusetts 02368.	Oct. 3, 1980	250251, [illegible], 0003B, [illegible]
Minnesota	Nicollet	City of North Mankato	*The Free Press*, June 24 and July 1, 1980.	Mr Bob Ringhofer, City Administrator, City of North Mankato, 1001 Belgrade Avenue, North Mankato, Minnesota 56001.	Oct. 24, 1980	275245, 0001F
Nebraska	Douglas	City of Omaha	*The Omaha World-Herald, Feb. 19 and Feb. 20, 1980.*	Honorable Albert Veys, Mayor, City of Omaha, Omaha/Douglas Civic Center, 1819 Farnam Street, Omaha, Nebraska 68183.	Oct. 7, 1980	315274, 0005C, 0010C, 0015C, 0020C, 0025C, 0030C, 0035C, 0040C, 0045C, 0050C.
New York	Monroe	Town of Greece.	*The Greece Post*, Oct. 16 and Oct 23, 1980.	Mr. Donald J. Riley, Town Supervisor, Town of Greece, 2505 West Ridge Road, Rochester, New York 14626.	Oct. 24, 1980	360417, 0003D
Texas	McLennan	City of Mart	*Mart Herald*, Oct. 9 and Oct 16, 1980.	Honorable E. Babe Aycock, Mayor, City of Mart, P.O. Box 360, Mart, Texas 76664.	Oct. 14, 1980	[illegible], 0005B
Wisconsin	Trempealeau	Village of Strum	*The Tri-County News*, Oct 9 and Oct. 16, 1980.	Mr. Marshall Robbe, Village President, 202 Fifth Avenue, Strum, Wisconsin 54770.	Oct 17, 1980	555583, 0001B
Florida	Volusia	City of New Smyrna Beach	*New Smyrna News and Observer*, Oct. 22 and Oct. 29, 1980	Honorable George E. Musson, Mayor, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32067.	Oct 17, 1980	[illegible]
New York	Winchester	City of Rye	*Rye Chronicle*, Oct 30 and Nov. 6, 1980.	Honorable John Carey, Mayor, City of Rye, City Hall, Rye, New York 10580.	Oct 23, 1980	360913, 66B
Texas	Montgomery	City of Conroe	*Montgomery County Daily Courier*, Nov. 5 and Nov. 6, 1980.	Honorable Carl Borton, Jr., Mayor, City of Conroe, 501 West Davies, P.O. Box 386, Conroe, Texas 77301.	Oct. 17, 1980	[illegible]
Texas	Tarrant	City of Bedford	*Mid-Cities Daily News*, May 30 and June 1, 1980.	Honorable L. Don Dodson, Mayor, City of Bedford, 2000 Forest Ridge Drive, P.O. Box 157, Bedford, Texas 76021.	Oct 17, 1980	[illegible]
Texas	Tarrant	City of Benbrook	*Ford Worth Star-Telegram*, Apr. 29 and Apr. 30, 1980.	Honorable Jerry Dunn, Mayor, City of Benbrook, 911 Winscott Road, Benbrook, Texas 76126.	Oct. 17, 1980	[illegible]

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 40014128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: December 15, 1980.

Gloria M. Jimenez,

Federal Insurqnce Administrator.

[FR Doc. 81-333 Filed 1-6-81; 8:45 am]

BILLING CODE 6718-03-M

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order 1491]

Louisiana & Arkansas Railway Co. Authorized To Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Co.

Service date: December 30, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Decision—Service Order No. 1491 extension.

SUMMARY: Service Order No. 1491 authorized the Louisiana & Arkansas Railway Company (L&A) to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in Dallas, Texas.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,*" (emphasis added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

The Commission finds that L&A's application has filed to support the criteria in 49 U.S.C 11123(a), and the application is denied.

EFFECTIVE DATE: This decision is effective on December 30, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

Decided: December 19, 1980.

On December 1, 1980, the Railroad Service Board issued Service Order No. 1491, under 49 U.S.C. 11123(a), authorizing the Louisiana and Arkansas Railway Company (L&A) to operate over tracks of The Atchison, Topeka, and Santa Fe Railway Company (ATSF) in Dallas, Texas, in order to continue the use of the Chicago, Rock Island and Pacific Railroad Company's Cadiz Yard. In effect, this issuance restated the provisions of an earlier order (Service Order No. 1267) which was required to expire on its own terms on November 30, 1980, pursuant to the Commission's Policy Statement, Ex Parte No. 396 (served October 28, 1980). Service Order No. 1491 was issued under Section 226 of the Staggers Rail Act of 1980, Pub. L. 96–448 which amends 49 U.S.C. 11123(a), by prescribing specific standards of magnitude for the issuance of emergency car service orders. Essentially, the Commission may issue an order only when it finds that a failure in traffic movement exists which creates an emergency situation of such magnitude as to have a substantial adverse effect on the rail service in the United States or substantial region of the United States. These orders are limited to an initial 30-day period and can only be extended by the full Commission after a hearing.

Inasmuch as there was insufficient time, based on the October 28, 1980, issuance of its policy statement (Ex Parte No. 396), to notify the public of the interruption in service associated with the November 30, 1980, expiration of Service Order No. 1267; Service Order No. 1491 was issued based solely on the representations of the L&A.

The service order contained a notice that statements providing information and argument relating to the necessity and appropriateness of extending the order beyond its initial 30-day period be filed (original and five copies) in affidavit form with the Railroad Service Board under modified hearing procedures.

In its filing L&A has failed to address impact on the region, as required by the statute, in any manner other than by reference. Further, the L&A did not, during the effective period of Service Order No. 1267, make an appropriate filing for permanent authority nor has it used the initial term of this order to make such a filing.

The L&A's application for extension to Service Order No. 1491, therefore, is denied.

It is ordered:

1. The application of L&A for extension of Service Order No. 1491 is denied.

2. This decision is effective on its date of service.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general pubic by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–426 Filed 1–6–81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final rule.

SUMMARY: Foreign Fishing quotas and joint venture processing amounts arising under preliminary fishery management plans (PMP) for red hake, silver hake, river herring, other Atlantic finfish, Pacific billfish, oceanic sharks, wahoo, mahi mahi, and snails are finalized for 1981 and beyond, until amended.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For river herring, red hake, silver hake, and other finfish (Atlantic): Mr. Allen E. Peterson, Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, Telephone: (617) 281–3600.

For Pacific snails: Mr. Robert McVey, Regional Director, National Marine Fisheries Service, Juneau, Alaska, Telephone: (907) 586–7221.

For Pacific billfish, oceanic sharks, wahoo, and mahi mahi: Mr. Alan W. Ford, Regional Director, National Marine Fisheries Service, Terminal Island, California, Telephone: (213) 548–2575.

SUPPLEMENTARY INFORMATION: This notice amends regulations implementing several PMPs. These amendments establish quotas for joint ventures (over-the-side-sales) and specify the total allowable level of foreign fishing for 1981 and beyond.

Proposed regulations were published on the following dates:

(1) Snail fishery of the eastern Bering Sea on December 11, 1980 (45 FR 81633);

(2) Foreign fishing for billfish, oceanic sharks, wahoo and mahi mahi on December 11, 1980 (45 FR 81633);

(3) Hake fisheries of the northwestern Atlantic on December 15, 1980 (45 FR 82297);

(4) Foreign trawl fisheries of the northwest Atlantic on December 6, 1980 (45 FR 80845).

The comment periods on these proposed rules expired on December 29, 1980. No substantive comments were received. Since the actions for all of these PMPs are identical (e.g.: insertion of appropriate language and amending the Appendix I of 50 CFR 611.20), the PMPs are amended by a single notice.

The preamble to the proposed regulations explains how the quotas were derived. The Assistant Administrator has determined that these amendments to the preliminary fishery management plans are necessary and appropriate to the conservation and management of Pacific billfish, oceanic sharks, wahoo, mahi mahi, snails, red and silver hake, river herring, and "other Atlantic finfish". The amendments are consistent with the provisions of the Fishery Conservation and Management Act of 1976 and other applicable laws. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, and that the regulations are not significant ones requiring the preparation of a regulatory analysis under Executive Order 12044.

Signed in Washington, D.C., this 31st day of December, 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

50 CFR Part 611 as amended as follows:

A. Paragraph 611.81(b)(4) is amended by revising the title of paragraph (b)(4) and adding (b)(4)(iii) as follows:

§ 611.81 Pacific billfish, oceanic sharks, wahoo, and mahi mahi fishery.

* * * * *

(b) * * *

(4) *Total allowable level of foreign fishing (TALFF), joint venture processing (JVP), national allocations, and reserves.* * * *

(iii) Joint venture processing. The amounts of JVP are stated in Appendix I of § 611.20.

B. Revise paragraph 611.94(b)(2) to read as follows:

§ 611.94 Snail fishery.

* * * * *

(b) * * *

(2) TALFF, DAH, DAP, JVP, Reserve. The annual total allowable level of foreign fishing (TALFF), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and reserve for snails are listed in Appendix 1 to Section 611.20. These specifications are valid for each calendar year, unless amended.

* * * * *

C. Add new section 611.53 as follows:

§ 611.53 Hake fishery.

(a) *Definitions.* For purposes of this section, joint venture processing (JVP) means U.S. harvested hake transferred at sea to foreign processing vessels.

(b) *New estimates of DAP.* Upon receipt of an application for a permit for a foreign processing vessel to receive U.S. harvested hake, the Regional Director shall make new estimates of DAP based on the most recent information available. If the initial DAH plus the reserve (if any) is greater than the new estimate of DAP, the excess is available for joint venture processing. If the new estimate of DAP is greater than the initial DAH plus the reserve (if any), no excess is available for joint venture processing.

(c) *Respecification of JVP.* The Regional Director shall publish in the **Federal Register** the new estimate of DAP and the respecification of the amount available for joint venture processing.

D. Revise section 611.50(b)(2) to read as follows:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(b) * * *

(2) *Fishing permitted.* Vessels subject to this section which fish with trawl gear may fish only during the seasons and with the methods specified in Table I of this section. Vessels subject to this section which fish with any other gear need not comply with the limitations specified in Table I.

* * * * *

E. 50 CFR Part 611.20, Appendix I, is amended to revise sections 1, 3.B, and 4.D as follows:

§ 611.20 Total allowable level of foreign fishing.

* * * * *

Appendix 1. Optimum yield (OY), domestic allowable harvest (DAH), domestic allowable processing (DAP), joint venture processing (JVP), domestic non-processed fish (DNP), reserve, and total allowable level of foreign fishing (TALFF), all in metric tons.

	Species and species code	Areas	OY	DAH	DAP	JVP = (DAH-DAP)	DNP	Reserve	TALFF
1 Northwest Atlantic Ocean fisheries:									
A. Hake fishery	Hake, silver—104	1 to 4 ¹¹	[illegible]	[illegible]	[illegible]	0	—	[illegible]	[illegible]
		5 ¹¹	25,000	[illegible]	[illegible]	0	—	[illegible]	[illegible]
	Hake, red—105	1 to 4 ¹¹	16,000	13,000	13,000	0	—	0	[illegible]
		5 ¹¹	6,000	[illegible]	500	0	—	3,000	2,500
B. Mackerel fishery	Mackerel, Atlantic—204		[illegible]	[illegible]	—	(¹²)	(¹²)	0	10,000
C. Trawl fishery	Herring, river—399		[illegible]	7,900	[illegible]	0	—	0	100
	Other finfish—499		247,000	200,200	160,000	[illegible]	—	0	46,800
D. Squid fishery	Squid, long-finned—502		44,000	7,000	—	0	—	0	37,000
	Squid, short-finned—504		30,000	5,000	—	[illegible]	—	0	25,000
E. Butterfish fishery	Butterfish—212		11,000	7,000	—	[illegible]	—	0	4,000
*	*	*	*	*					*
3 Western Pacific Ocean fisheries:									
*	*	*	*	*					*
B. Pacific Billfish and Sharks Fishery	Swordfish—264	West Coast	318.4	350.2	0	[illegible]	—	[illegible]	[illegible]
		Hawaii and Midway	93.6	5.9	0	0	—	[illegible]	[illegible]
		Guam and North Marianas	4.1	0.2	0	0	—	0.4	3.5
		American Samoa	2.4	0	0	[illegible]	—	0	2.4
		U.S. possessions	28.1	[illegible]	0	0	—	[illegible]	[illegible]
	Blue Marlin—260	West Coast	—	—	—	—	—	—	—
		Hawaii and Midway	612.0	[illegible]	0	0	—	[illegible]	78.9
		Guam and North Marianas	26.9	3.0	0	0	—	23.9	0
		American Samoa	37.2	2.3	0	0	—	0	34.9
		U.S. possessions	76.3	[illegible]	0	0	—	0	76.3

	Species and species code	Areas	OY	DAH	DAP	JVP = (DAH-DAP)	DNP	Reserve	TALFF
	Black Marlin—253	West Coast	—	—	—	—	—	—	—
		Hawaii and Midway	97.7	104.7	0	0	—	0	0
		Guam and North Marianas	0.6	0	0	0	—	0.1	0.5
		American Samoa	5.3	0	0	0	—	0	[illegible]
		U.S. possessions	6.2	0	0	0	—	0	6.2
	Striped Marlin—261	West Coast	43.2	47.5	0	0	—	0	0
		Hawaii and Midway	223.2	[illegible]	0	0	—	15.5	139.8
		Guam and North Marianas	5.0	0.3	0	0	—	[illegible]	4.2
		American Samoa	7.8	0	0	0	—	0	7.8
		U.S. possessions	[illegible]	0	0	0	—	0	[illegible]
	Sailfish; spearfish—252, 262.	West Coast	—	—	—	—	—	—	—
		Hawaii and Midway	42.7	23.4	0	0	—	0.9	17.4
		Guam and North Marianas	4.8	[illegible]	0	0	—	0.5	4.1
		American Samoa	3.5	1.3	0	0	—	0	2.2
		U.S. possessions	14.3	0	0	0	—	0	14.3
	Sharks—263, 265, 266, 267, 469.	West Coast	27.6	[illegible]	0	0	—	0	0
		Hawaii and Midway	1,111.6	0	0	0	—	111.1	1,000.5
		Guam and North Marianas	31.9	0	0	0	—	0	31.9
		American Samoa	101.6	0	0	0	—	0	101.6
		U.S. possessions	651.4	0	0	0	—	0	651.4
	Wahoo—255	West Coast	—	—	—	—	—	—	—
		Hawaii and Midway	288.9	317.8	0	0	—	0	0
		Guam and North Marianas	25.1	27.6	0	0	—	0	0
		American Samoa	4.8	2.8	0	0	—	0	2.0
		U.S. possessions	0	0	0	0	—	0	0
	Mahi mahi—237, 238	West Coast	—	—	—	—	—	—	—
		Hawaii and Midway	105.0	115.5	0	0	—	0	0
		Guam and North Marianas	18.9	[illegible]	0	0	—	0	0
		American Samoa	6.4	4.4	0	0	—	0	2.0
		U.S. possessions	0	0	0	0	—	0	0
4. Alaska fisheries									

* * * * *

	Species and species code	Areas	OY	DAH	DAP	JVP = (DAH-DAP)	DNP	Reserve	TALFF
D. Snail fishery	Snails (meats)—673		3,000	0	0	0	—	0	3,000

* * * * *

Footnotes

[1,2] See § 611 52(b)

* * * * *

11. OY, DAH, DAP, JVP, DNP, and Reserve are for Southern New England/Mid-Atlantic management area, which includes foreign fishing areas 1–4, and for Georges Bank area, which includes foreign fishing area 5. See § 611.9, Appendix II, Figure 1 for a description of the foreign fishing areas.

[FR Doc. 80–40830 Filed 12–31–80; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of area closure to surf clam and ocean quahog fishing.

SUMMARY: Notice is given of the closure of an area of the fishery conservation zone offshore of Atlantic City, New Jersey, to fishing for surf clams and ocean quahogs because of the predominance of small (length less than 4½ inches) surf clams. The area is approximately 120 square miles, and lies between three and nine and a half nautical miles offshore of Atlantic City, New Jersey, between Great Egg Harbor Inlet and Little Egg Inlet.

This action is based upon reports of commercial fishermen and scientific researchers which indicate that 60 percent or more of the surf clams in this area are under 4½ inches, and less than 15 percent are over 5½ inches. The area thus meets the criteria governing closure.

EFFECTIVE DATE: December 21, 1980.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930, (617) 281–3600.

SUPPLEMENTARY INFORMATION: Regulations implementing the fishery management plan for the Atlantic surf clam and ocean quahog fisheries contain provisions for the closure of areas which contain beds of small surf clams. Section 652.23(b) of 50 CFR (45 FR 793) allows the Regional Director to close an area to fishing if he determines (based on logbook entries, processors' reports, survey cruises, or other information) that the area contains surf clams of which (1) 60 percent or more are smaller than 4½ inches in size and (2) not more than 15 percent are larger than 5½ inches in size.

A 35 square mile area off Atlantic City, New Jersey, was closed in September of 1978 because these criteria were met. Recently, it became apparent that the abundance of small clams extends in all directions from the original closure. In response to concern on the part of the industry that an additional area be closed to fishing to protect these small clams, a series of surveys were conducted in June, July, and August of 1980. Clam size distributions were surveyed over an area roughly four times as large as and including the 1978 closure. An area with unusually high populations of young clams was described and recommended for closure by the scientific advisor to the Mid-Atlantic Fishery Management Council (Council). The Council forwarded this recommendation to the Regional Director for action.

On September 26, 1980, the Regional Director held a public hearing in Dover, Delaware, to determine the social and economic effects of the proposed closure. All those in attendance requested that the closure area be expanded to include adjacent beds of small clams. During the public comment period, which lasted through October 6, 1980, seven written comments were received concerning the action as clarified at the public hearing. Four of the comments strongly supported closure of the entire area, while three were opposed. The comments in opposition were submitted by individuals who were harvesting clams in the area and contended they would suffer hardship if closure occurred. These claims were considered thoroughly. From survey information and discussions with vessel operators familiar with the area, there is evidence that there are alternative beds outside of the proposed closure area. Short term hardship for area harvesters should be offset through increased yields from the area once the clams have reached their optimal size.

On November 13, 1980, the Council recommended closure of the expanded area. To allow for full public review of the proposal, the comment period was reopened from November 21 through December 6, 1980 (45 FR 79126). Two comments were received, both supporting the expanded closure.

Based on the Council's recommendation, public comment, and the survey information showing that 69 percent of the clams in this area are less than 4½ inches in length while less than 15 percent exceed 5½ inches, a determination to close the area has been reached. The area which will be closed is approximately 120 square miles, and includes the area closed in 1978 within its bounds. It is located between three and nine and a half nautical miles offshore of Atlantic City, New Jersey and is defined as follows: beginning at a point 39°15.5′N. latitude and 74°30′W. longitude, which is exactly three nautical miles offshore from the nearest point of the baseline from which the territorial sea is measured; thence northeasterly along a line drawn so that each point on it is three nautical miles from the territorial sea to 39°28.5′N. latitude and 74°14.2′W. longitude; thence southeasterly in a straight line to 39°27.2′N. latitude and 74°5.7′W. longitude; thence southwesterly in a straight line to 39°17.6′N. latitude and 74°14.3′W. longitude; thence southwesterly in a straight line to 39°11.6′N. latitude and 74°23.5′W. longitude; thence northwesterly in a straight line to 39°15.5′N. latitude and 74°30′W. longitude, the point of beginning.

The corners of the area are approximated by Loran "C" bearings. The bearings, on commonly used rates 9960 x and y, are, respectively, 27011–42960; 26938–43100; 26880–43087, 26915–42984; 26961–42917. Fishermen are cautioned that these Loran "C" bearings are provided for convenience only. The legally closed area which will be enforced is that area described by the above latitude and longitude coordinates.

Surveys of the closed area will be conducted to monitor the growth of the clams. The Regional Director will determine when the area may be reopened to fishing based on those surveys. It is expected that the area will remain closed for a period of about one year.

Signed at Washington, D.C., on behalf of the Regional Director, this 30th day of December, 1980.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

[FR Doc. 81-466 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 4
Wednesday, January 7, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, California; Proposed Amendment of Administrative Rules

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on amendment of § 987.162 of the administrative rules. This section deals with handlers reporting certain information required by the California Date Administrative Committee (CDAC) for more effective administration of this program.

DATES: Comments must be received by January 15, 1981.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours.

FOR FURTHER INFORMATION CONTACT: J.S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

The Final Impact Statement on this proposed rule is available on request from J.S. Miller.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA procedures estabished in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant". The proposal is being published with less than a 60-day comment period because the crop year began October 1, 1980, and handlers are acquiring dates from the 1980 crop. The CDAC needs this additional information as soon as possible in order to enable it to more effectively administer the marketing agreement and order.

This amendment was unanimously recommended by the CDAC and is in accordance with the provisions of the marketing agreement, as amended, and Order No. 987, as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed amendment of § 987.162 of Subpart—Administrative Rules (7 CFR 987.101-987.172) would provide CDAC with more current information regarding handlers' sources of date supplies, and the producers from whom they acquire dates. Section 987.38 of the order authorizes CDAC to obtain this information but it is reported only once annually and does not provide current information for the CDAC to effectively carry out its duties, in this case primarily compliance with the order's requirements. This additional information would be included on CDAC Form No. 6, which is submitted each month pursuant to § 987.162, and is each handler's report of acquisitions and disposition of dates. Requiring handlers to include this additional information on a report currently required is designed to minimize any additional reporting burden on handlers. Therefore the proposal is to revise § 987.162 of Subpart—Administrative Rules (7 CFR 987.101-987.172) to read as follows:

§ 987.162 Handler acquisition and disposition.

Handlers shall file CDAC Form No. 6 with the Committee by the 10th of each month, reporting at least the following for the preceding month: (1) Their acquisitions of field run dates; (2) their shipments of marketable dates in each outlet category; (3) their shipments of free dates and disposition of restricted dates, whenever applicable, and (4) their purchase from other handlers of DAC, Export, Product, Graded and field run dates. In addition this report shall include the names and addresses of any producers not previously identified pursuant to § 987.38, the quantity of dates acquired from each producer, the location of such producer's date garden, the acreage of that garden, and the estimated current season's production from that garden.

Dated: December 31, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 81-450 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on Proposed Rules

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Quarterly Report.

SUMMARY: The Nuclear Regulatory Commission has issued the November 30, 1980, Quarterly Report on Proposed Rules. The report, which is a quarterly summary of proposed rules that are pending final action, is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESSES: A copy of this report, designated NRC Status of Proposed Rules—November 30, 1980, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Requests for single copies of the report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301-492-7086.

Dated at Bethesda, Maryland this 30th day of December, 1980.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records. Office of Administration.

[FR Doc. 81-456 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM81-3]

Proposed Rulemaking To Eliminate Requirement of Federal Entities To File Reports Pursuant to § 141.1

Issued December 30, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to eliminate the entire requirement for Federal entities to file the "Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)," FPC Form No. 1 and its modified versions, which are prescribed by 18 CFR 141.1.

The information collected in Federal filings of Form No. 1 and its modified versions includes summary financial data, balance sheet supporting data, income statement supporting data and electric plant, sales, operating and statistical data.

These data have been collected in conjunction with the Commission's headwater benefits program and Federal rate cases. Some of this information, however, supplements and duplicates data submitted for assessment of headwater benefits. The information is also used to supplement Federal rate filings, but is of very limited use in its present format. The Commission, therefore, finds that the data currently filed by Federal entities pursuant to § 141.1 are not useful for the performance of its regulatory reponsibilities and can be elimited in their entirely.

Revisions to consolidate and standardize the headwater benefits and Federal rate filing requirements are expected in the next year, and may include data similar to that proposed for deletion herein. In the meantime, the Commission will continue to use current Federal rate and and headwater benefits submissions, and specific data requests to obtain information needed for review in these areas.

DATES: Comments are due by January 29, 1981.

ADDRESS: Comments on this Notice should be addressed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM81-3.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Office of Program Managements, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3317, Washington, D.C. 20426, (202) 357-8182.

The Federal Energy Regulatory Commission (Commission) is engaged in an ongoing effort to eliminate unnecessary reporting burdens and to more clearly define its reporting requirements. This rulemaking to entirely eliminate the filing by Federal entities of information pursuant to 18 C.F.R. § 141.1, "Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)", is part of that effort, and reflects a new evaluation of the data required by the Commission for regulatory purposes.

There is also currently pending at the Commission a rulemaking proceeding to revise Form No. 1—the major annual report filed with the Commission by *non*-Federal (*i.e.*, investor-owned) Class A and Class B electric utilities, licensees and other entities. (*See* Notice of Proposed Rulemaking, issued July 10, 1980, Docket No. RM80-55, 45 FR 47704, July 16, 1980.) That proceeding is, however, separate and distinct from the instant rulemaking, which solely addresses the versions of Form No. 1 filed by *Federal* entities that generate and sell electricity.

I. Background

The Commission is authorized to require information in § 141.1 pursuant to sections 304 and 311 of the Federal Power Act (16 U.S.C. §§ 792-828(c)). Section 141.1 requires annual collection of information from Class A and Class B electric utilities, licensees and other entities, including Federal entities engaged in the generation, transmission, distribution or sale of electric energy.[1] The prescribed filing primarily includes summary financial data; balance sheet supporting data; income statement supporting data; and electric plant, sales, operating and statistical data.

The reports submitted by Federal entities pursuant to § 141.1 are all modified versions of Form No. 1. The modified Form No. 1 reports are filed by a variety of Federal entities, including Power Marketing Administrations within the Department of Energy, and the Water and Power Resources Service and Bureau of Indian Affairs within the Department of Interior. Among these Federal versions of Form No. 1 is "Form No. 1002", an unofficial version of the Form No. 1 which is filed by several projects within the Army Corps of Engineers. All of these Federal reports are currently required to be filed on or before December 31 of each year, and are based on data from the immediately preceding fiscal year (October 1 through September 30).[2]

II. Use of the Data

The information collected from filings by Federal agencies of Form No. 1[3] has been used in the Commission's headwater benefits program (*see* 18 CFR 11.25—11.31, 13.1) and in Federal rate cases (*see* Delegation Order No. 0204-33, December 21, 1978, 43 FR 60636, December 28, 1978). Both of these areas are currently under review by the Commission.

Some of this information in the Form No. 1 Federal filings has been found to supplement and duplicate data submitted for assessment of headwater benefits. The information is also used to supplement Federal rate filings, but is of very limited use in its present format. The Commission, therefore, finds that the data currently filed by Federal entities pursuant to § 141.1 are not useful for the performance of its regulatory responsibilities and can be eliminated in their entirety.

Revisions to consolidate and standardize the headwater benefits and Federal rate filing requirements are expected in the next year, and may include data similar to that proposed for deletion herein. In the meantime, the Commission will continue to use current Federal rate and headwater benefits submissions, and specific data requests to obtain information needed for review in these areas.

The Energy Information Administration (EIA) may require the continued collection of the data herein proposed for deletion for itself or for some other sponsors within the Department of Energy. Another Federal agency could also require this data. If EIA or another agency should make such a determination during this rulemaking proceeding, the Commission would issue a Final Rule in this docket with a delayed effective date. This would provide the agencies a period of time in which to justify the need for the data and receive approval for the collection of this information under their own authority.

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[1] A Class A electric utility, licensee or other entity is one having annual electric operating revenues of $2,500,000 or more. A Class B electric utility, licensee or other entity is one having annual electric operating revenues of $1,000,000 or more but less than $2,500,000.

[2] In anticipation of this Notice of Proposed Rulemaking, the Commission issued on November 5, 1980 an Interim Rule to suspend, until further notice, the 1980 filing and future filings prescribed for Federal authorities by 18 CFR 141.1 (45 FR 74715, November 12, 1980).

[3] All references to the Federal filings of Form No. 1 in this Notice of Proposed Rulemaking include Form No. 1002.

III. Requested Comments

The Commission invites interested persons to submit written comments on this proposal. The Commission specifically requests that the comments address the following questions:

1. Does the proposed elimination of data affect any Commission regulatory functions?
2. Is there any reason for continued collection of this data by another Federal agency? Suggestions for the continued collection of data which have been proposed for elimination should identify the proper agency and the purpose for the proposed collection of the data.

IV. Comment Procedures

Interested persons wishing to comment on this proposal should submit copies of their comments to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM 81-3. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EST, January 29, 1981 will be considered by the Commission prior to promulgation of the Final Rule. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(Federal Power Act, as amended, 16 U.S.C. §§ 792-828(c); Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352; E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission proposes to eliminate the requirement for Federal entities to file the "Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)," including all modified versions of such Form No. 1, in accordance with 18 CFR 141.1., and to revise Part 141 of Chapter I, Title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

Section 141.1 is amended in paragraphs (b) and (c) to read as follows:

§ 141.1 FPC Form No. 1, Annual Report for Electric Utilities, Licensees, and Others (Class A and Class B).

* * * * *

(b)(1) Each Class A electric utility, licensee, and other entity, *i.e.*, each corporation, person, or licensee as defined in section 3 of the Federal Power Act (16 U.S.C. 792, *et seq.*), including any agency, authority or other legal entity or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, * * *

(2) This report form is not prescribed for any agency, authority or instrumentality of the United States, nor is it prescribed for municipalities as defined in section 3 of the Federal Power Act; *i.e.*, a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

(c)(1) Each Class B electric utility, licensee, and other entity; *i.e.*, each corporation, person, or licensee as defined in section 3 of the Federal Power Act, inlcluding any agency, authority or other legal entity or instrumentality engaged in generation, transmission, distribution or sale of electric energy, * * *

(2) This report form is not prescribed for any agency, authority or instrumentality of the United States, nor is it prescribed for municipalities as defined in section 3 of the Federal Power Act; *i.e.*, a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

* * * * *

[FR Doc. 81-483 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 260

[Docket No. RM 80-69]

Revision of Annual Report of Gas Supply for Certain Natural Gas Pipelines: Form No. 15, Cancellation of Public Meeting, and Reopening of Comment Period

Issued: December 24, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Cancellation of Public Meeting, and Reopening of Comment Period.

SUMMARY: On December 3, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Agenda Change in Pubic Meetings for discussion of revisions to the Form No. 15, "Annual Report of Gas Supply for Certain Natural Gas Pipelines" (45 FR 81062, December 9, 1980). In that Notice, the Commission indicated that a series of public meetings would be held to discuss proposed revisions to Form No. 15. Meetings were conducted on December 2, 9, and 16, 1980). A final meeting was scheduled for January 16, 1981, to discuss data automation of the form.

Pursuant to discussions at the December 16th meeting it has been decided that the January 16th meeting (for which a discussion of data automation of the form was scheduled) is not necessary. Therefore, the meeting of January 16, 1981 is cancelled. Comments concerning data automation of Form No. 15 can be submitted in writing in response to the second Notice of Proposed Rulemaking in this docket (Notice), which is expected to be issued early in 1981.

Written comments will be expected to be issued early in 1981.

DATE: Comment Period on RM80-69 is reopened through and including January 16, 1981.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 8100K, Washington, D.C. 20426 (202) 357-8526.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-482 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-135-76]

Limitations on Reorganization Treatment for Investment Companies; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations concerning limitations on reorganization treatment for certain investment companies. Changes in the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 9, 1981. The amendments are proposed to be effective for acquisitions occuring after February 17, 1976, in taxable years ending after that date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, attn: CC:LR:T (LR-135-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, attn: CC:LR:T, 202-566-3458 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 368 of the Internal Revenue Code of 1954. These proposed amendments add a new § 1.368-6 which sets forth the limitations under section 368(a)(2)(F) on reorganization treatment for certain investment companies. Section 368(a)(2)(F) of the Code was added by section 2131(a) of the Tax Reform Act of 1976 (90 Stat. 1525) and amended by section 701 of the Revenue Act of 1978 (92 Stat. 2767).

Section 368(a)(2)(F)(i) denies reorganization treatment to undiversified investment companies and their stock and security holders, but only if the transaction involves two or more investment companies. This general rule applies to a corporation that is an undiversified investment company immediately before the transaction, whether or not any surviving corporation is diversified after the transaction. Assets acquired for the purpose of diversifying or avoiding investment company status are excluded in applying these rules. The general rule does not apply to reorganizations of commonly-owned corporations.

Definition of Investment Company

Under section 368(a)(2)(F)(iii), a corporation is an investment company if 50 percent or more of the value of its total assets are stock and securities and 80 percent or more of the value of its total assets are held for investment.

Securities under section 368(a)(2)(F) include items that are securities under the Investment Company Act of 1940. Interpretations of that act indicate a corporation's interest in a partnership will be a security if the corporation expects profits solely from the efforts of other partners. *See,* S.E.C. Op. No. 78-813-CC; *see generally, S.E.C.* v. *W. J. Howey Co.,* 328 U.S. 293 (1946).

Paragraph (d) of the proposed regulations provides rules for determining if an asset is "held for investment". In general, an asset is held for investment if held for gain from appreciation in value or for production or collection of passive income. Assets held primarily for sale to customers in the ordinary course of business are not considered held for investment. If the taxpayer occupies a portion of real property for its business and rents out the remaining portion, each portion is treated as a separate asset.

Under section 368(a)(2)(F)(iii), regulated investment companies (RIC's) and real estate investment trusts (REIT's) are considered investment companies. However, a REIT or RIC which terminates its election of RIC or REIT status may continue to be characterized as an investment company if the 50 percent and 80 percent tests are met.

The definition of an investment company under section 351(d) is revised prospectively to include certain corporations defined as investment companies under section 368(a)(2)(F)(iii). The new definition would continue to allow noncorporate transferors to organize a bank or insurance company under section 351(a).

"Look-Through" Rule

Section 368(a)(2)(F)(iii) requires a "look-through" rule in determining if a corporation is an investment company. The legislative history indicates that a similar "look-through" rule applies in determining under section 368(a)(2)(F)(ii) if an investment company is diversified. *See, S. Rep. No.* 94-938, 94th Cong., 2d Sess. 51, n.16 (1976). Paragraph (a) of the proposed regulations accordingly adopts the "look-through" rule for determining if an investment company is diversified.

Under the "look-through" rule stock in a subsidiary is disregarded in determining whether the parent is an investment company, and if so, whether it is diversified or undiversified. The assets of the subsidiary are considered owned by the parent.

For the "look-through" rule, a corporation is a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of the subsidiary's voting stock or 50 percent or more of the total value of all of the subsidiary's outstanding stock. The proposed regulations state that indirect as well as direct ownership of stock is considered in determining if a corporation is a subsidiary.

The proposed regulations also contain "look-through" rules for corporations owning a partnership interest that is considered a security, paralleling the rule for coporate subsidiaries. If a partnership interest held by a corporation is not a security, the corporation is considered owning a ratable share of each partnership asset.

Assets Excluded

Under section 368(a)(2)(F)(iv), cash, cash items, and Government securities are excluded in determining whether a corporation is an investment company and, if so, whether it is diversified or undiversified. In general, the Commissioner also must exclude assets acquired for the purpose of ceasing to be an investment company or qualifying an investment company as diversified. However, a corporation may not cease to be an investment company as the result of the exclusion of assets acquired.

Paragraph (j)(3) of the proposed regulations establishes a presumption that assets acquired by a corporation that is an investment company at any time during the 365 days immediately prior to a transaction are acquired for an impermissible purpose. The proposed regulations describe the evidence necessary to overcome the presumption and set forth two "safe harbors". A special rule applies under paragraph (j)(8) of the proposed regulation to handle an obvious planning device.

Certain Collateral Effects

Paragraph (l) of the proposed regulations provides guidance as to certain significant collateral effects of denial of reorganization treatment under section 368(a)(2)(F). This paragraph is not intended to describe all collateral tax consequences or alter prior law or Internal Revenue Service positions as to such consequences.

If under section 368(a)(2)(F) a transaction is not a reorganization with respect to an investment company and its shareholders, nonrecognition treatment under sections 361 and 354 is not available. The statute does not state expressly whether other nonrecognition provisions, such as section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations), apply. The committee reports indicate that Congress deliberately refrained from expressing an opinion regarding the applicability of section 337. *See,* S. Rep. No. 94-938, 94th Cong., 2d Sess. 49, n. 11 (1976). Under paragraph (l)(1)(ii) of the proposed regulations, section 337 may apply if reorganization treatment is denied and if the other requirements of section 337 are met.

Under the proposed regulations, section 351 may apply to the transaction. However, the proposed regulations under section 351(d) make clear that section 351 may not be used to circumvent the limitations under section 368(a)(2)(F).

Reverse Acquisition Rule

Under section 368(a)(2)(F)(vi), an undiversified investment company that acquires assets of another corporation may recognize gain on the transaction by reason of the "reverse acquisition" rule. For a company denied reorganization treatment under the reverse acquisition rule, the transaction is considered a liquidation, unless section 351 applies. If the transaction is treated as a liquidation, earnings and profits and other tax items of the acquiring company are eliminated unless section 334(b)(1) would apply to the constructive acquisition. However, to the extent gain is not recognized by the acquiring company under section 337, the basis and holding period of its assets are unchanged.

Triangular Transactions

Paragraph (o) of the proposed regulations contains special rules for triangular transactions such as those described in section 368(a)(2)(D). For convenience, in transactions described in section 368(a)(2)(D), the target corporation is designated T, the corporation whose stock is distributed in the transaction is designated P, and P's subsidiary, which acquires T's assets, is designated S. A special rule applies for reverse triangular mergers described in section 368(a)(2)(E) and drop-downs described in section 368(a)(2)(C).

A key factor in applying section 368(a)(2)(F) to triangular transactions is whether P is an investment company and, thus, whether T shareholders become shareholders in an investment company. In determining the number of parties to the transaction, P and S are treated as a single party, and T is a single party. Thus, if T is not an investment company, section 368(a)(2)(F) does not apply to the transaction, whether or not P, S, or both are investment companies. In applying the general rule and the reverse acquisition rule, however, P and S are treated as separate parties.

If P is an operating company and T is an undiversified investment company, T and its shareholders will be allowed reorganization treatment because T's shareholders become shareholders of an operating company. If S is an undiversified investment company, however, S is denied reorganization treatment under the reverse acquisition rule because the transaction may result in diversification of its assets.

If P is a diversified investment company and T is an undiversified investment company, T would be denied reorganization treatment under the general rule because T's shareholders would become shareholders of an investment company. S is not denied reorganization treatment whether or not S is a diversified investment company because even if S were an undiversified investment company P and S together would hold a diversified portfolio before the transaction.

For purposes of section 368(a)(2)(F), a reverse triangular merger is treated the same as a forward triangular merger under section 368(a)(2)(D). The treatment of the transaction is the same whether S is newly organized or existing because the critical factor is that T's shareholders receive P stock and not that S transfers operating assets. A transaction described in section 368(a)(2)(C) is treated as a two-party acquisition of T by P.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is to be held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

Paragraph 1. Paragraph (c) of § 1.351–1 is amended as follows:

1. Subparagraphs (1)(ii) and (4) are revised.

2. Subparagraph (5) is redesignated as subparagraph (5)(i) and a new subdivision (ii) is added.

3. Subparagraph (6) is amended by adding new examples (3) and (4).

These new and revised provisions read as follows:

§ 1.351–1 Transfer to corporation controlled by transferor.

* * * * *

(c)(1) * * *

(ii) The transferee is (*a*) a regulated investment company, (*b*) a real estate investment trust, (*c*) a corporation more than 80 percent of the value of whose assets (excluding cash and nonconvertible debt obligations) are held for investment and are readily marketable stocks or securities, or interests in regulated investment companies or real estate investment trusts, or (*d*) for transfers made after February 17, 1976, any other corporation that is an investment company as defined in section 368(a)(2)(F)(iii), if one or more of the transferors also is such an investment company.

* * * * *

(4) In making the determination required under subparagraphs (1)(ii)(*c*) and (5)(ii) of this paragraph, stock and securities in subsidiary corporations shall be disregarded and the parent corporation shall be deemed to own its ratable share of its subsidiaries' assets. A corporation shall be considered a subsidiary if the parent owns directly, or indirectly through another subsidiary, 50 percent or more of (i) the combined voting power of all classes of stock entitled to vote or (ii) the total value of shares of all classes of stock outstanding. A corporation's indirect ownership of a lower-tier subsidiary is determined by multiplying the percentages of stock owned by each corporation in the chain of ownership. For examples of similar "look-through" rules, see § 1.368–4(g)(4).

(5) * * *

(ii) For transfers made after February 17, 1976, if there is any one transferor (or two or more transferors of identical assets) to a corporation that is not newly organized, the transfer will be treated as resulting in diversification unless the transferee's assets are identical to the assets transferred.

(6) * * *

Example (3). Corporations W and X are investment companies (as defined in § 1.368–6(c)(2)). W's only asset is stock in corporation Y, listed on the New York Stock Exchange. X's only asset is stock in corporation Z, also listed on the New York Stock Exchange. In 1977, W issues voting stock constituting 80 percent of W's outstanding stock in exchange for transfer by the X shareholders of all X voting stock. Since X's assets were not identical to W's, there is diversification and nonrecognition treatment is denied under section 351(d). Section 1032 will apply to W but X's shareholders must recognize gain or loss. For treatment under section 368(a)(2)(F), see § 1.368–4(m)(3).

Example (4). Assume the same facts as in example (3), except X's only asset is stock in corporation Y. There is no diversification, and hence X's shareholders do not recognize gain or loss.

Par. 2. A new § 1.368–4 is added to read as follows:

§ 1.368–4 Transactions involving investment companies.

(a) *Effective date.* (1) *In general.* Section 368(a)(2)(F) applies to acquisitions occurring after February 17, 1976. It does not apply, however, to acquisitions occurring after that date if a ruling was issued by the Internal Revenue Service before February 18, 1976, stating that the particular transaction will qualify as a reorganization under section 368(a)(1).

(2) *Date of acquisition.* (i) For an asset acquisition, the date of acquisition is the date of transfer. To determine the date of transfer, see § 1.381(b)–1(b).

(ii) For a stock acquisition, the date of acquisition is the date the exchange of stock occurs. If all stock is not exchanged on the same date, the date of exchange is the date the exchange of all stock under the plan of reorganization is complete.

(b) *In general*—(1) *Scope.* Section 368(a)(2)(F)(i) applies to a transaction described in section 3689(a)(1) (other than section 368(a)(1)(E)) if two or more investment companies are parties to the transaction.

(2) *General rule.* If immediately prior to a transaction to which Section 368(a)(2)(F)(i) applies, an undiversified investment company is a party to the transaction, the transaction is not a reorganization for that company or its stock and security holders. The general rule applies even if the undiversified investment company or the surviving company remains undiversified after the transaction.

The general rule does not apply, however, with respect to a corporation that immediately before the transaction is a diversified investment company or is not an investment company. Further, the general rule does not apply if the common ownership exception (described in paragraph (k) of this section) is satisfied.

(3) *Cross references.* (i) For rules relating to assets acquired for the purpose of diversifying or ceasing to be an investment company, see paragraphs (h) and (j) of this section.

(ii) For a "reverse acquisition" rule requiring that an undiversified investment company (and its stock and security holders) recognize gain or loss even if it is the acquiring corporation, see paragraph (m) of this section.

(iii) Certain significant effects of denial of reorganization treatment are discussed in paragraphs (l) and (n) of this section.

(iv) Section 368(a)(2)(F)(viii) contains a special rule for treatment of certain losses sustained after September 26, 1977, in a transaction involving two or more investment companies.

(v) For special rules for triangular transactions, see paragraph (o) of this section.

(c) *Definitions.* The following definitions apply under section 368(a)(2)(F):

(1) *Party to the transaction.* A corporation is a party to the transaction if, but for the application of section 368(a)(2)(F), it would be a party to a reorganization under section 368(b).

(2) *Investment company.* A corporation is an investment company if it is—

(i) A corporation 50 percent or more of the fair market value of whose total assets are stock and securities (whether or not held for investment) and 80 percent or more of the fair market value of whose total assets are held for investment,

(ii) A regulated investment company (as defined in section 851), or

(iii) A real estate investment trust (as defined in section 856).

(3) *Diversified investment company.* A corporation is a diversified investment company if it is a regulated investment company or a real estate investment trust, or if it meets the requirements of section 368(a)(2)(F)(ii). In determining under the 25 and 50 percent tests of section 368(a)(2)(F)(ii) if a company is diversified, "stock and securities" include only stock and securities held for investment. The stock and securities of all members of a controlled group of corporations (as defined in section 1563(a)) are considered stock and securities of a single company.

(4) *Undiversified investment company.* An undiversified investment company is an investment company that is not a diversified investment company.

(5) *Securities.* (i) In applying section 368(a)(2)(F)(ii) and (iii), securities include State and local government obligations, commodity futures contracts, and shares of regulated investment companies and real estate investment trusts. Securities also include items that are securities within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a–2 (36)). Thus, securities also include any note, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, pre-organization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral right, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. Although treasury stock also is a security within the meaning of the Investment Company Act of 1940, it is not considered a security under this paragraph (c)(5). Securities include partnership interests that are considered investment contracts under the Investment Company Act of 1940. Thus, the interest of a passive general partner or of a limited partner, in general, will be a security.

(ii) For transfers made before September 27, 1977, the authority for this paragraph (c)(5) is section 7805 of the Code. For transfers made after September 26, 1977, the authority for this paragraph (c)(5) is section 368(a)(2)(F)(vii).

(6) *Cross references.* (i) For "look-through" rules for determining whether a corporation is an investment company and, if so, whether it is diversified, see paragraph (g) of this section.

(ii) Rules for excluding certain assets in making those determinations are contained in paragraphs (h) and (j) of this section.

(iii) Rules for determining the parties to a triangular transaction are set forth in paragraph (o) of this section.

(d) *Assets held for investment*—(1) *General rule.* Assets are held for investment under the 80 percent test of section 368(a)(2)(F)(iii) and stock and securities are held for investment under the 25 and 50 percent tests of section 368(a)(2)(F)(ii) if—

(i) They are held primarily for (A) gain from appreciation in value, (B) production of passive income, or (C) both of these, and

(ii) They are not held primarily for sale to customers in the ordinary course of a trade or business (within the meaning of section 1221(1)).

(2) *Passive income.* Passive income includes royalties, rents, dividends, interest, and annuities, as those terms are defined in § 1.1372–4(b)(5)(v) through (ix) (relating to certain electing small business corporations).

(3) *Multiple use property.* If the taxpayer uses part of real property in its active business and holds the remaining portion for another purpose, such as rental, each part is treated as a separate asset in determining if the taxpayer is an investment company. The determination of the portion of property used for a particular purpose is based on fair market value.

(4) *Cross references.* Special rules for interests in trusts and partnerships are

set forth in paragraphs (e) and (f) of this section, respectively.

(5) *Examples*. The following examples illustrate this paragraph (d).

Example (1). Corporation L owns stock in several corporations. L has less than a 50 percent interest in each of those corporations. Although L is not a dealer, some of the stock is held for short-term speculation and the rest for long-term gain and for dividends. All the stock is held for investment.

Example (2). Corporation M, a bank that is a dealer is securities, holds local government bonds for a resale to bona fide purchasers. M also owns a portfolio of stock and securities that it purchased for appreciation in value and dividends. If M is allowed capital gain treatment under section 1236 on sales from the portfolio, the stock and securities held by M for appreciation and dividends will be considered assets held for investment. However, since the bonds are held primarily for sale to customers in the ordinary course of the bank's business (within the meaning of section 1221(1)), they are not held for investment.

Example (3). Corporation N owns a building it occupies entirely for its active business. The building is not held for investment.

Example (4). Corporation O owns an office building it leases to unrelated tenants. It does not render significant services to the tenants. The building is held for investment.

Example (5). Corporation P owns a yacht that is held for charter. P performs significant services in connection with rental of the yacht. The income received from the charter operation is not passive income and the yacht is not held for investment.

Example (6). Corporation Q owns unimproved land that it does not hold primarily for sale to customers in the ordinary course of a trade or business (within the meaning of section 1221(1)). Q hopes that it can sell the property in 10 years at a substantial gain. To offset real estate taxes, Q uses the land as a parking lot. Although the income received from parking automobiles is not passive income, the property is held for investment because it is held primarily for appreciation in value.

Example (7). Corporation R owns unimproved real estate held primarily for sale to developers in the ordinary course of its real estate business. Until the time of sale, R allows various organizations to use the property at a nominal rent. Although the rent is passive income, the property is not held for investment.

Example (8). Corporation S uses in its active business a portion of a building it owns. That portion represents one-third of the fair market value of the entire building. S leases the other portion of the building to unrelated tenants. Each portion is considered a separate asset in determining if the leased portion is held for investment.

(e) *Interests in trusts.* Assets held by a trust to which subchapter J applies (other than a grantor trust) are considered owned by its beneficiaries in proportion to their actuarial interest in the trust. The factors and methods set forth in § 20.2031–10 of this chapter (Estate Tax Regulations) for use in ascertaining the value of an interest in property for estate tax purposes are used to determine a beneficiary's actuarial interest in a trust.

(f) *Partnership interests—In general.* If the partner's interest in the partnership is not a security under paragraph (c)(5) of this section, a partner is considered owning a ratable share of each asset held by the partnership. The ratable share is a percentage of the fair market value of each asset. If the partner has the same interest in capital, profits, and losses, the percentage is its interest in the partnership. In all other cases the percentage is determined on the basis of all facts and circumstances.

(g) *"Look through" rule*—(1) *Stock or securities in subsidiaries.* A "look-through" rule applies in determining if a corporation is an investment company and if an investment company is diversified. Under this rule, a corporation's ownership of stock or securities in a subsidiary (as defined in paragraph (g)(2) of this section) is disregarded, and the corporation is considered owning a ratable share of each asset of the subsidiary equal to the percentage of the fair market value of the subsidiary's outstanding stock owned by the parent.

(2) *Subsidiary.* For purposes of this paragraph (g), a corporation is a subsidiary of any corporation owning directly, or indirectly through another subsidiary, 50 percent or more of (i) the total combined voting power of all classes of the corporation's voting stock or (ii) the total fair market value of all of its outstanding shares.

(3) *Percentage of stock owned in lower tier subsidiaries.* A corporation's indirect ownership of a lower-tier subsidiary is determined by multiplying the percentages of stock owned in each corporation in the chain of ownership.

(4) *Examples.* The following examples illustrate this paragraph (g). Assume in each example that no corporation is a regulated investment company or real estate investment trust.

Example (1). Corporations L and M each have only one class of stock. Corporation K owns 80 percent of L's stock and L owns 80 percent of M's stock. L is a subsidiary of K. K's ownership of L stock is disregarded and K is considered owning a ratable share of L's assets including the M stock. M is a subsidiary of L. M is also a subsidiary of K because K owns indirectly 80 percent of L's 80 percent interest in M which is 64 percent of M's stock. K's indirect ownership of M stock is disregarded and K is considered owning a ratable share of M's assets.

Example (2). The facts are the same as in example (1) except M owns 70 percent of corporation N's stock. N is a subsidiary of L and M but is not a subsidiary of K. L owns indirectly 80 percent of M's 70 percent interest in N which is 56 percent of N's stock. K owns indirectly 80 percent of L's 56 percent indirect interest in N which is only 44.8 percent of N's stock.

Example (3). (a) Corporation O owns 100 percent of corporation P's nonvoting stock which has a fair market value of $50,000. Corporation Q owns 100 percent of P's voting stock which has a fair market value of $50,000.

(b) P is a subsidiary of both O and Q because O owns 50 percent of the fair market value of all classes of P's stock and Q owns 50 percent of P's voting stock. The ownership of P stock by O and Q is disregarded. O and Q are each considered owning 50 percent of the fair market value of each of P's assets.

Example (4). (a) Corporation R owns land and stock held for investment in the following proportions and amounts.

	Percentage R owns		
	Shares of voting stock (percent)	Total fair market value of outstanding stock (percent)	Fair market value of assets R owns
Corporation S	40	40	$40,000
Corporation T	30	30	40,000
Corporation U	40	70	15,000
Land			10,000
Total			105,000

(b) U is the only subsidiary of R. R's ownership of the U stock is disregarded and 70 percent of the fair market value of each of U's assets is considered owned by R. Assume U's assets (other than cash) are manufacturing equipment with a fair market value of $100,000.

(c) R's total assets are worth $160,000, determined as follows:

S stock	$40,000	
T stock	40,000	
Total stock		80,000
Other assets held for investment (land)		10,000
Total assets held for investment		90,000
Ratable portion of U's assets considered owned by R (70% of $100,000)		70,000
Total assets		160,000

(d) R is not an investment company because even though 50 percent of the fair market value of its total assets are stock or securities, less than 80 percent of the value of its total assets are held for investment. These 50 and 80 percent determinations are made as follows.

$80,000 (stock) divided by $160,000 (total assets) equals 50%

$90,000 (assets held for investment) divided by $160,000 (total assets) equals 56%

Example (5). (a) Assume the same facts as in example (4) except R owns less than 50 percent of the fair market value of U's stock. R is an investment company determined as follows:

$95,000 (stock in S, T, and U) ÷ $105,000 (total assets owned) = 90%

$105,000 (assets held for investment directly) ÷ $105,000 (total assets owned) = 100%

(b) R is also an undiversified investment company for two reasons. First, at least 25 percent of the fair market value of R's total assets are invested in the stock of one issuer (in this case both S and T). Second, at least 50 percent of the fair market value of R's total assets are invested in the stock of 5 or fewer issuers (S, T, and U). These 25 and 50 percent determinations are made as follows:

$40,000 (S stock or T stock) ÷ $105,000 (total assets owned directly) = 38%

$95,000 (stock in S, T, and U) ÷ $105,000 (total assets owned directly) = 90%

Example (6). (a) The facts are the same as in example (4) except that U's assets consist of $20,000 of corporation V stock held primarily for sale to customers in the ordinary course of U's business, $30,000 of stock in corporation W that is held for investment, and $50,000 of land held for investment. Assume that neither V nor W is considered a subsidiary of U under this paragraph (g). R is considered owning 70 percent of each of those assets which is $14,000 of V stock, $21,000 of W stock, and $35,000 of land.

(b) R's total assets are worth $160,000 determined as follows:

S stock	$40,000	
T stock	40,000	
Ratable share of W stock	21,000	
Total stock held for investment		$101,000
Other assets held for investment directly (land)	10,000	
Share of other assets held for investment by U (land)	35,000	
Total other assets held for investment		45,000
Total assets held for investment		146,000
Stock held primarily for sale (ratable share of V stock)		14,000
Total assets		160,000

(c) R is an investment company because at least 50 percent of its assets are stock or securities and at least 80 percent of the fair market value of its total assets are held for investment. These 50 and 80 percent determinations are made as follows:

$115,000 (stock in S, T, V, and W) ÷ $160,000 (total assets) = 72%

$146,000 (assets held for investment) ÷ $160,000 (total assets) = 91%

(d) R is an undiversified investment company. Not more than 25 percent of the fair market value of its total assets is invested in the stock of any one corporation. However, at least 50 percent of the fair market value of its total assets is invested in the stock of 5 or fewer issuers. These 25 and 50 percent determinations are made as follows:

$40,000 (S or T stock) ÷ $160,000 (total assets) = 25%

$101,000 (S, T, and W stock) ÷ $160,000 (total assets) = 63%

(5) *Interest in controlled partnership.* If a corporation's interest in a controlled partnership is a security under paragraph (c)(5) of this section, the corporation's ownership of that interest is disregarded, and the corporation is considered owning a ratable share of each partnership asset. The ratable share is a percentage of the fair market value of each asset. If the corporation has the same interest in the capital, profits, and losses of the partnership, the percentage is its interest in the partnership. In all other cases, the percentage is determined on the basis of all facts and circumstances.

(6) *Controlled partnership.* A partnership is controlled by a corporate partner if the corporate partner owns directly, or indirectly through another controlled partnership, a 50 percent or more interest in either the partnership income or capital. A lower-tier partnership is a controlled partnership only if the interest in every partnership in the chain of ownership is considered a security under paragraph (c)(5) of this section. A corporation's indirect ownership of a lower-tier partnership is determined in a manner similar to the manner for determining the percentage of stock owned in a lower-tier subsidiary under paragraph (g)(3) of this section.

(h) *Assets excluded*—(1) *In general.* Under section 368(a)(2)(F)(iv), cash, cash items, and United States Government securities are excluded from the numerator and denominator in applying the percentage tests under section section 368(a)(2)(F) (ii) and (iii). In addition, the Commissioner shall exclude certain other assets described in paragraph (j) of this section.

(2) *Cash items.* Cash items under section 368(a)(2)(F)(iv) include receivables and cash equivalents other than securities (as defined in paragraph (c)(5) of this section). The term "cash equivalents" has the same meaning given the term "cash and its equivalents" under § 1.334–1(c)(4)(v)(*b*) (relating to adjustments to basis in stock for transactions described in section 334(b)(2)).

(i) [Reserved]

(j) *Assets acquired for avoidance purposes*—(1) *General rule.* (i) For purposes of determining whether a corporation is an investment company and, if so, whether it is diversified, the Commissioner shall exclude under section 368(a)(2)(F)(iv) those assets acquired (with borrowed funds or otherwise) after February 17, 1976, for an impermissible purpose. Assets shall be excluded if an impermissible purpose is a major purpose of the acquisition. The impermissible purpose need not be the sole purpose. Assets shall not be excluded for purposes of determining whether a corporation is an investment company if as a result of the exclusion the corporation would cease to be an investment company.

(ii) For "safe harbors", see paragraph (j) (4) and (5) of this section. For limitations on the "safe harbors", see paragraph (j)(7) of this section.

(2) *Impermissible purposes.* The impermissible purposes are (i) terminating a corporation's status as an investment company and (ii) qualifying a corporation as a diversified investment company.

(3) *Evidentiary presumption.* (i) The Commissioner may presume that assets are acquired for an impermissible purpose if they are acquired by a corporation that is an undiversified investment company at any time during the 365-day period ending on the day before the date the assets are acquired. This presumption may be overcome by clear and convincing evidence, such as evidence the corporation acquired assets in the ordinary course of business as replacements for similar assets that would not have been disregarded under this paragraph (j).

(4) *Newly-formed corporations.* Assets of a corporation are not excluded if they were acquired by the corporation during the 365-day period beginning with the date the corporation comes into existence (within the meaning of section 6012 and § 1.6012–2(a)). For purposes of this paragraph (j), the first 365-day period of a corporation's existence is referred to as its "initial period of incorporation".

(5) *30-day grace period.* (i) If a corporation loses a qualifying status at any time after the initial period of incorporation, assets acquired within 30 days of the loss of status shall not be excluded ("30-day grace period"). However, the 30-day grace period does not apply more than once in every two taxable years.

(6) *Qualifying status.* For purposes of this paragraph (j), a corporation has a qualifying status if without applying this paragraph (j) it would be a diversified investment company or would not be an investment company.

(7) *Limitation on "safe harbors".* Neither the newly-formed corporation rule nor the 30–day grace period apply if within the 10-year period before the transaction that (without applying section 368(a)(2)(F)) would be a reorganization the corporation was a party to a reorganization qualifying under section 368.

(8) *Special rules for transactions under common ownership exception.* If—

(i) The assets of a corporation are acquired by a second corporation in a common ownership reorganization

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(described in paragraph (k) of this section),

(ii) Immediately before the common ownership reorganization the first corporation is an undiversified investment company and the second corporation has a qualifying status, and

(iii) The common ownership reorganization is part of a plan to have a qualifying status for the corporation holding the undiversified investment company's assets,

then the assets held by the second corporation immediately before the common ownership reorganization are excluded in determining the status of the surviving corporation for a subsequent reorganization.

(9) *Examples.* The following examples illustrate this paragraph (j).

Example (1). Corporation L, a calendar year taxpayer, comes into existence (within the meaning of section 6012) on January 1, 1979. From January 1, 1979, through January 1, 1983, L (without regard to its initial period of incorporation) would be a diversified investment company. L was not a party to a reorganization at any time during its corporate existence prior to January 1, 1983. On January 1, 1983, L merges into corporation M. None of the assets L acquired during L's initial period of incorporation are excluded. No assets acquired by L between January 1, 1980, and January 1, 1983, are excluded because L was a diversified investment company for that period.

Example (2). The facts are the same as in example (1) except on January 15, 1982, L becomes an undiversified investment company. The fair market value of stock it owns in corporation N has increased so that the N stock represents 30 percent of the total fair market value of L's assets on January 15, 1982. On January 30, 1982, L uses cash to purchase additional assets. Assume that after the acquisition, N stock represents only 20 percent of the total fair market value of L's assets. Under the 30-day grace period, the assets purchased on January 30, 1982, are not excluded for purposes of determining L's status on January 1, 1983.

Example (3). Corporation O comes into existence (within the meaning of section 6012) in 1975. It operates an undiversified investment company from 1975 until January 1, 1977. On that date it acquires stock in 9 corporations for purposes of qualifying as a diversified investment company. On January 1, 1980, O merges into corporation P, a diversified investment company. The assets O acquired on January 1, 1977, are presumed acquired for an impermissible purpose. On these facts, there is no clear and convincing evidence to the contrary. Thus, the assets acquired on January 1, 1977, are excluded in determining if, immediately before the merger, O is an undiversified investment company.

Example (4). (a) Corporation Q is an undiversified investment company. Q's only asset is $80,000 of corporation R stock. On January 1, 1977, Q acquires $20,000 of real estate as the first step of an overall plan to cease being an investment company. However, Q does not cease to be an investment company by reason of that acquisition. On January 1, 1978, as the second step of the plan, Q disposes of $1,000 of R stock and, thus, ceases being an investment company. On January 1, 1981, Q merges with R.

(b) The real estate is presumed acquired for an impermissible purpose. On these facts, the real estate is excluded and Q is treated as an undiversified investment company immediately prior to the merger.

Example (5). (a) Corporation S has been a diversified investment company for its entire corporate existence prior to 1982 (without regard to its initial period of incorporation). On January 15, 1982, S sells stock in two corporations in the ordinary course of conducting its activities of buying and selling in response to trends in the stock market. Assume the stock of those two corporations would not have been disregarded under this paragraph (j) at the time it was originally acquired because S was a diversified investment company at the time it acquired that stock. As a result of the sale, S becomes an undiversified investment company. On March 1, 1982, in the ordinary course of its investment activities S replaces the stock sold in January with stock in two different corporations. If the stock acquired on March 1, 1982, is not excluded, S again would be a diversified investment company. On January 1, 1984, S merges into corporation T.

(b) The 30-day grace period does not apply and the stock acquired on March 1, 1982, is presumed acquired for an impermissible purpose. However, the fact S acquired the stock as a replacement for similar assets that would not have been disregarded is clear and convincing evidence sufficient to overcome the presumption. In such a case, the stock acquired on March 1, 1982, would not be excluded in determining if S is a diversified investment company on January 1, 1984.

Example (6). Corporation U is an indiversified investment company and corporation W is a diversified investment company. On January 1, 1980, U sells its portfolio of investments for cash. On March 1, 1980, U purchases a diversified portfolio of investments for purposes of qualifying as a diversified investment company. U merges into W on January 1, 1981. The stock acquired on March 1, 1980, is excluded in determining if U is a diversified investment company. However, the stock acquired on that date is not excluded in determining if U is an investment company because U would cease to be an investment company as a result of the exclusion. U is considered an undiversified investment company because it is an investment company (taking into account the stock acquired on March 1, 1980) that is not a diversified investment company. See paragraph (c)(4) of this section.

Example (7). (a) Corporation X is an undiversified investment company that intends eventually to merge into a diversified investment company. In 1980, as part of a plan to attain a qualifying status for X, its sole shareholder A organizes corporation Y using cash. Y acquires a diversified portfolio of investments in its initial period of incorporation. In 1981, X merges into Y under the common ownership exception. After the merger, Y is still a diversified investment company (without applying paragraph (j) of this section). In 1982, Y merges into Z, a diversified investment company.

(b) The newly-formed corporation rule does not apply to Y because within the 10-year period preceding the 1982 merger into Z, Y was a party to a reorganization qualifying under section 368. Thus, assets acquired by Y during its initial period of incorporation to attain a qualifying status are presumed acquired for an impermissible purpose and on these facts those assets would be excluded. Since only X's assets remain, Y is an undiversified investment company in 1982.

Example (8). (a) The facts are the same as in example (7) except that instead of organizing new corporation Y, A acquires the stock of corporation Y, a diversified investment company, which has been in existence since 1950.

(b) X is treated as if it acquired Y's assets in the 1981 merger. Accordingly, Y's assets are excluded because they are considered to be acquired as part of a plan to attain a qualifying status for X. Y is an undiversified investment company in 1982.

(k) *Common ownership exception*—(1) *In general.* Under section 368(a)(2)(F)(v), section 368(a)(2)(F)(i) does not apply to a transaction involving two or more investment companies if the same persons own substantially all of the stock of each investment company in the same proportions.

(2) *Limitation.* In determining if the common ownership exception applies, stock acquired for the purpose of meeting the requirements of the exception is disregarded.

(3) *Examples.* The following examples illustrate this paragraph (k). Assume in each example that X and Y are investment companies and that Y acquires X's assets in a transaction described in section 368(a)(1)(C).

Example (1). A and B each own 50 percent of the fair market value of X's stock. A owns 52 percent and B owns 48 percent of the fair market value of Y's stock. The common ownership exception applies.

Example (2). A and B each own 50 percent of the fair market value of X's stock. A owns 60 percent and B owns 40 percent of the fair market value of Y's stock. The common ownership exception does not apply.

Example (3). A and B each own 48 percent of the fair market value of the stock of X and Y. C owns the remaining 4 percent of X, and D owns the remaining 4 percent of Y. The common ownership exception applies.

Example (4). A and B each own 40 percent of the fair market value of the stock of X and Y. C owns the remaining 20 percent of X's outstanding stock and D owns the remaining 20 percent of Y's outstanding stock. The common ownership exception does not apply.

Example (5). A owns 100 percent of the fair market value of X's stock and B owns 100 percent of the fair market value of Y's stock. With a view to merging X and Y, A acquires 50 percent of the fair market value of Y's stock from B and B acquires 50 percent of the fair market value of X's stock from A. The common ownership exception does not apply because A acquired the 50 percent interest in Y and B acquired the 50 percent interest in X for the purpose of meeting that exception, and accordingly each acquired 50 percent interest is disregarded.

(l) *Certain collateral effects of denial of reorganization treatment.* (1) *In general.* This paragraph (*l*) and paragraph (n) of this section describe certain significant collateral effects of denial of reorganization treatment under section 368(a)(2)(F). These descriptions are not intended to be all-inclusive or definitive.

(2) *Certain effects at corporate level in asset acquisitions.* (i) An acquired company denied reorganization treatment under section 368(a)(2)(F)(i) for an asset acquisition is treated as having sold or exchanged its assets. The acquired company will recognize gain or loss under section 1001(c), except that either section 351 or 337 may apply. Unless section 362(a) applies, the acquiring company will have a cost basis for assets it acquires and its holding period in those assets will begin on the date of the transaction. Section 381 will not apply.

(ii) Section 337 will apply to the acquired company's sale or exchange of its property if the conditions of that section are met. If the acquired company is liquidated pursuant to a plan of reorganization, that plan will be considered a plan of liquidation for purposes of section 337.

(iii) For treatment under section 351, see § 1.351–1(c).

(3) *Certain effects on stock and security holders in asset acquisitions.* (i) In general, in the case of a liquidation of an acquired company that is denied reorganization treatment under section 368(a)(2)(F)(i) for an asset acquisition, the corporation's shareholders must treat the transaction as a distribution in liquidation under section 331 or 332. See, however, § 1.301–1(l) (relating to distributions that come within the terms of section 301 although they occur at the same time as another transaction). The shareholder's basis in the assets distributed is determined under section 334. The shareholders' holding period for assets distributed begins on the date of distribution unless section 1223 applies.

(ii) If such an acquired company's security holders receive property as a result of the transaction, the transaction will be treated as taxable by the security holders under sections 1001(c) and 1232(a). Basis and holding period in the property received by the acquired corporation's security holders are determined in accordance with this treatment.

(iii) If the acquired company does not distribute property, its stock and security holders recognize neither gain nor loss. The basis and holding period in their stock or securities is not affected.

(3) *Certain effects at corporate level in stock acquisition.* If an acquired company's shareholders are denied reorganization treatment under section 368(a)(2)(F)(i) for a stock acquisition, then—

(i) Unless section 362(a) applies, the acquiring company must treat the transaction as a purchase of stock for which it takes a cost basis and for which its holding period begins on the date of the transaction.

(ii) The acquired company does not recognize gain or loss on the transaction, and

(iii) The basis and holding period of the acquired corporation in its assets are not affected.

(4) *Certain effects at shareholders level in stock acquisition.* Shareholders denied reorganization treatment under section 368(a)(2)(F)(i) for a stock acquisition must treat the transaction as a sale or exchange. Unless section 351 applies, gain or loss must be recognized under section 1001(c).

(5) *Example.* The following example illustrates this paragraph (l).

Example. (a) On January 1, 1980, M, a diversified investment company, and N, an undiversified investment company, adopt a plan to combine in a statutory consolidation described in section 368(a)(1)(A). M and N are not commonly owned. Both M and N have outstanding debt. The consolidation occurs on June 1, 1980, and the new corporation is O.

(b) The general rule of section 368(a)(2)(F)(i) does not apply to M and its stock and security holders and they are entitled to reorganization treatment.

(c) Under the general rule of section 368(a)(2)(F)(i), N and its stock and security holders are denied reorganization treatment for the transaction. Assume section 351(d) applies to the transaction so that section 351(a) does not apply. Section 337 will apply to the transfer of assets by N if its conditions are met. N may recognize gain, however, under certain provisions such as sections 1245 and 1250. Section 331 will apply to the distribution of the O stock to the N shareholders. The N shareholders may have ordinary income under certain provisions such as section 1248. The N shareholders will determine their basis in the O stock under section 334. A distribution to the N security holders will be taxable under sections 1001(c) and 1232(a).

(d) Reorganization treatment for M requires that O take a carryover basis in M's assets under section 362(b) and carry over other tax attributes of M under section 381. O's holding period for M's assets includes M's holding period. Denial of reorganization treatment to N requires that O treat N's assets as if acquired in a sale or exchange. O takes a cost basis in N's assets and does not carry over any of N's items under section 381. O's holding period for N's assets begin on June 1, 1980.

(m) *Reverse acquisition rule*—(1) *Designation of parties.* For purposes of this paragraph (m) and paragraphs (n) and (o) of this section, the acquiring corporation is referred to as P, the subsidiary of the acquiring corporation that participates in the transaction is referred to as S, and the acquired corporation is referred to as T. For a special rule for transactions described in section 368(a)(2) (C) and (E), see paragraph (o)(4) of this section.

(2) *Asset acquisitions.* If an undiversified investment company acquired assets of another investment company, section 368(a)(2)(F)(vi) applies in the following way:

(i) For purposes of section 368(a)(2)(F), the transaction is treated as an acquisition of P's assets by T ("constructive acquisition") in exchange for T stock ("constructive exchange").

(ii) If section 368(a)(2)(F)(i) applies to this constructive acquisition and exchange, the general rule denies reorganization treatment to P and its stock and security holders for these constructive transactions. If T is an undiversified investment company, it and, it it makes distributions, its stock and security holders are denied reorganization treatment under the general rule of section 368(a)(2)(F)(i) (without applying this paragraph (m)).

(iii) The amount considered realized under section 1001 by P on the constructive acquisition of the assets it held immediately before the transaction is the fair market value of those assets immediately after the constructive acquisition. The amount considered realized under section 1001 by the P stock and security holders on the constructive exchange of the stock or securities they held in P immediately before the exchange is the fair market value of those stocks or securities immediately after the exchange.

(3) *Stock acquisitions.* If an undiversified investment company acquires the stock of another investment company in a transaction described in section 368(a)(1)(B), section 368(a)(2)(F)(vi) applies in the following way:

(i) For purposes of section 368(a)(2)(F), the transaction is treated as if the P shareholders had exchanged all their P stock for T stock ("constructive exchange").

(ii) If section 368(a)(2)(F)(i) applies to this constructive exchange, the general rule denies reorganization treatment to the P shareholders for this constuctive exchange. If T is an undiversified investment company, the T shareholders are denied reorganization treatment under section 368(a)(2)(F)(i).

(iii) The amount considered realized under section 1001 by the P shareholders on the constructive exchange of the P stock they held immediately before the exchange is the fair market value of that stock immediately after the exchange.

(4) *Examples*. The following examples illustrate this paragraph (m).

Example (1). (a) P and T are undiversified investment companies. P acquires all of T's assets in a statutory merger described in section 368(a)(1)(A). Neither P nor T has any debt outstanding. Pursuant to the merger, former shareholders of T become shareholdes of P. Immediately after the merger, the fair market value of the P stock held by P shareholders, as a result of their ownership of that stock before the merger, is $100,000.

(b) Under the general rule of section 368(a)(2)(F)(i), reorganization treatment is denied to T and its shareholders because T is an undiversified investment company.

(c) Under section 368(a)(2)(F)(vi), the transaction is treated as a constructive acquisition of P's assets by T. The general rule of section 368(a)(2)(F)(i) denies reorganization treatment to P and its shareholders because P is an undiversified investment company. P realizes $100,000 on the contructive acquisition of its assets, and P's shareholders realize $100,000 on the constructive exchange of their stock.

Example (2). (a) P, an undiversified investment company, acquires all the stock of the T, a diversified investment company, in a transaction described in section 368(a)(1)(B). A was the sole shareholder of P prior to P's acquisittion of T. Immediately after the constructive exchange, the fair market value of A's P stock is $100,000.

(b) For T's shareholders, the transaction is treated as a reoganization.

(c) For A, the transaction is treated under section 368(a)(2)(F)(vi) as a constructive exchange of all of A's P stock for T stock. Section 368(a)(2)(F)(i) applies to this constructive exchange and the general rule denies reorganization treatment to A. The amount realized by A is $100,000.

(n) *Certain collateral effects of reverse acquisition rule*. Certain significant collateral effects of deniål of reorganization treatment under the reverse acquisition rule include the following:

(1) *Asset acquisition*. If reorganization treatment is denied for a constructive acquisition of assets under the reverse acquisition rule, the consequences of the transaction for P and its stock and security holders include the following—

(i) Unless section 351(a) would apply to the constructive acquisition, P is treated as having sold or exchanged its assets as part of a liqiudation to which section 337 may apply if the conditions of that section would be met if P's assets actually had been acquired. For this purpose, the date of adoption of the plan of reorganization will be treated as the date of adoption of the plan of liquidation. P's new basis in its assets will be the basis the assets would have in the hands of its shareholders under section 334 if the assets were distributed in a complete liquidation ("deemed liquidation"). P begins a new holding period in its assets on the date of the transaction, unless section 1223 applies. The deemed liquidation eliminates P's tax attributes described in section 381, unless section 334(b)(1) would apply to the deemed liquidation.

(ii) P's shareholders are treated as receiving a distribution of T stock in a complete liquidation of P. The new basis and holding period in their P stock will be the basis and holding period the T stock would have if the T stock were distributed to the P shareholders in complete liquidation of P.

(iii) P's security holders will be treated as receiving T securities in an exchange taxable under sections 1001(c) and 1232(a). The new basis and holding period in their securities are determined in accordance with that treatment.

(2) *Stock acquisitions*. If reorganization treatment is denied for a constructive exchange of stock under the reverse acquisition rule, the consequence of the transaction for P and its shareholders include the following:

(i) P does not have gain or loss and the basis and holding period in its assets remain unchanged.

(ii) Unless section 351 would apply to the constructive exchange, the P shareholders must recognize gain or loss under section 1001(c). The P shareholder's new basis in their P stock is the fair market value of that stock on the date of the constructive exchange, and the P stock will have a new holding period beginning on that date.

(3) and (4) [Reserved]

(5) *Examples*. The following examples illustrate this paragraph (n).

Example (1). (a) On January 1, 1979, P, an undiversified investment company, and T, a diversified investment company, adopt a plan to merge T into P in a transaction described in section 368(a)(1)(A). All P stock is held by individual A and all T stock is held by individual B. Individual C holds all of P's outstanding debt which has a fair market value of $25,000. P acquires T's assets on June 1, 1979. Under section 368(a)(2)(F)(vi), the transaction is treated as an acquisition of P's assets by T.

(b) Denial of reorganization treatment to P requires that P treat the transaction as a sale of its assets. If its requirements would be satisfied, section 337 applies to the sale. P's new basis for its assets (other than those acquired from T) is their fair market value. P begins a new holding period for those assets on the date of the constructive exchange. The transaction eliminates P's tax attributes under section 381.

(c) A is treated as receiving a liquidating distribution under section 331 on the date of the constructive exchange. The character of any gain is determined as if P actually had liquidated. C is treated as receiving $25,000 of T securities in a taxable exchange to which sections 1001(c) and 1232(a) applies.

(d) Since T is allowed reorganization treatment, T's attributes under section 381 carry over to P. P's basis in T's assets is determined under section 362(b). P's holding period for the T assets includes T's holding period for those assets.

Example (2). (a) P, an undiversified investment company, acquires the stock of T, a diversified investment company, in a transaction described in section 368(a)(1)(B). For P's shareholders, the transaction is treated under section 368(a)(2)(F)(vi) as a constructive exchange of P stock for T stock.

(b) Unless section 351 would apply, P's shareholders recognize gain or loss under section 1001(c) on the constructive exchange. The character of any gain is determined as if P actually had liquidated. Unless section 358 would apply, the basis in their P stock is adjusted to its fair market value and their P stock has a new holding period beginning on the date of the transaction.

(c) Neither T nor its shareholders recognize gain or loss because for them the transaction is treated as a reorganization.

(o) *Triangular transactions*—(1) *Parties to the transaction*. In determining whether two or more parties to the transaction are investment companies with respect to transactions otherwise described in section 368(a)(1) (B) or (C) or section 368(a)(2) (D) or (E) ("triangular transactions"), P and S will be considered a single party to the transaction if both of them are investment companies and under section 368(b) P and S (without applying section 368(a)(2)(F)) each would be a party to a reorganization. Thus, if T is not an investment company in a transaction involving only P, S, and T, section 368(a)(2)(F)(i) does not apply to the transaction because only one investment company is a party to the transaction. For a special rule for transactions described in section 368(a)(2) (C) and (E), see paragraph (o)(4) of this section.

(2) *Application of general rule*. Section 368(a)(2)(F)(i) and the general rule of paragraph (b)(2) of this section may apply with respect to T in a triangular transaction involving only P, S, and T, but only if P is an investment company. Section 368(a)(2)(F)(i) will not apply to T or its shareholders if P is an operating company because T's shareholders become shareholders in an operating company.

(3) *Application of reverse acquisition rule*. For purposes of applying section 368(a)(2)(F)(vi) to a triangular transaction involving two or more parties (as determined under paragraph

(o)(1) of this section) that are investment companies—

(i) If P is an investment company (whether or not S is an investment company), P will be considered as acquiring T's assets, or

(ii) If P is not an investment company, S will be considered as acquiring T's assets.

(4) *Special rules for drop-downs and reverse triangular mergers.* (i) For purposes of this paragraph (o), a transaction described in section 368(a)(2)(E) (reverse triangular merger) is treated in the same manner as a transaction described in section 368(a)(2)(D). Thus, the surviving corporation is designated T, the merged corporation is designated S, and the parent of the merged corporation is designated P.

(ii) For purposes of this section, a transaction described in section 368(a)(2)(C) is not considered a triangular transaction. P is considered the acquiring party to which section 368(a)(2)(F)(vi) applies and T is considered the acquired party to which section 368(a)(2)(F)(i) applies.

(5) *Examples.* The following examples illustrate this paragraph (o).

Example (1). P and its wholly owned subsidiary S are undiversified investment companies. On January 1, 1980, S acquires the assets of T, which is not an investment company, in a transaction described in section 368(a)(2)(D). P and S are considered a single party for purposes of determining if two or more parties to the transaction are investment companies. The transaction is not within the scope of section 368(a)(2)(F) because there is only one investment company that is a party to the transaction.

Example (2). In 1978, P, an undiversified investment company, organizes S as a wholly-owned subsidiary using a small amount of cash. Thus, S is not an investment company. In that same year, S acquires substantially all of the assets of T, an undiversified investment company, in exchange for P stock in a transaction described in section 368(a)(2)(D). The transaction is within the scope of section 368(a)(2)(F) because two parties to the transaction (*i.e.*, P and T) are investment companies. P is considered the acquiring company to which section 368(a)(2)(F)(vi) applies and T is considered the acquired party to which section 368(a)(2)(F)(i) applies.

Example (3). The facts are the same as in example (2) except both P and S are undiversified investment companies. The results are the same as in example (2).

Example (4). P is engaged in manufacturing and is not an investment company. P's wholly owned subsidiary S has been an undiversified investment company for several years. On January 1, 1980, S acquires the assets of T, which is an undiversified investment company, in a transaction described in section 368(a)(2)(D). The transaction is within the scope of section 368(a)(2)(F) because two parties to the transaction (*i.e.*, S and T) are investment companies. S and not P is considered the acquiring party for purposes of section 368(a)(2)(F)(vi). Even though two or more parties to the transaction are investment companies, section 368(a)(2)(F)(i) does not apply with respect to T. However, by virtue of section 368(a)(2)(F)(vi), section 368(a)(2)(F)(i) applies to S.

Example (5). The facts are the same as in example (4), except S merges into T in a transaction described in section 368(a)(2)(E). The results are the same as in example (4).

Example (6). P and T are undiversified investment companies and S is a diversified investment company. T acquires all of the assets of S in a transaction described in section 368(a)(2)(E). The transaction is within the scope of section 368(a)(2)(F) because at least two parties to the transaction are investment companies. T and its stock and security holders are denied reorganization treatment under the general rule of section 368(a)(2)(F)(i). P is treated as the acquiring party and is denied reorganization treatment under section 368(a)(2)(F)(v).

Example (7). The facts are the same as in example (6) except S is an undiversified investment company. The results are the same as in example (6).

William E. Williams,

Acting Commissioner.

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26 CFR Part 1

Energy Property; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to authority of the Secretary of the Treasury to add items to the category of specially defined energy property. Changes to the applicable tax law were made by the Energy Tax Act of 1978 and the Crude Oil Windfall Profit Tax Act of 1980.

DATES: Written comments and request for a public hearing must be delivered or mailed by March 9, 1981. This amendment is proposed to be effective on the date on which the regulations proposed by this notice of proposed rulemaking are published in the **Federal Register** as a Treasury decision.

ADDRESS: Send comments and request for a public to: Commissioner of Internal Revenue, Attn: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attn: CC:LR:T) (202-566-3458).

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 48 of the Internal Revenue Code of 1954. This amendment is proposed to conform the regulations to changes made by section 301(b) of the Energy Tax Act of 1978 (Pub. L. 95-618, 92 Stat. 3197) and by section 222(d) of the Crude Oil Windfall Profit Tax Act of 1980. (Pub. L. 92-223, 94 Stat. 262). The proposed amendment is made to the notice of proposed rulemaking in the **Federal Register** for September 19, 1980 (45 FR 184). The proposed regulations are to be issued under the authority contained in Code sections 7805 (68A Stat. 917, 26 U.S.C. 7805), 38(b) (76 Stat. 962, 26 U.S.C. 38), and 48(l)(5) (94 Stat. 262, 26 U.S.C. 48).

Explanation of Provisions

The Crude Oil Windfall Profit Tax Act retains the Secretary's discretionary authority given under the Energy Tax Act of 1978 to add items to the category of specially defined energy property, but establishes criteria for the exercise of the authority in evaluating whether items should be added to the list of qualified equipment. The proposed regulations set forth the procedure for taxpayers to request addition of an item, criteria for the Secretary to apply in exercising discretion, and the procedure for publishing the list of items.

Under section 48(l)(5)(M), additions to the list of specially defined energy property must meet the requirements of section 44C(c)(9) (relating to the residential energy credit). Therefore, the proposed regulations, in general, would adopt by cross-reference the procedure and criteria in the proposed residential energy credit regulations. *See* proposed § 1.44C-6 as published in the **Federal Register** for October 15, 1980 (45 FR 6839901).

Proposed § 1.44C-6(a) outlines the procedure to be followed by a manufacturer of an item seeking approval for addition to the list. The manufacturer is to send its application to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Technical) T:C:E, Washington, D.C. 20224.

Subparagraph (b) of proposed § 1.44C-6 contains information required to be furnished by the manufacturer in its application. Information to be furnished includes such items as the following:

Technical specification of the item; estimate of additional units that would be sold industry-wide as a result of the addition of the item; capacity of industry to increase production to meet increases in demand; test data and experience data to substantiate for each recommended use the energy savings in Btu's that are claimed will be achieved by a unit during a period of one year; and data to show that the item will result in a significant reduction of oil or natural gas consumption. Additional requirements for the manufacturer's application in the case of specially defined energy property are that the item be designed for use in an existing industrial or commercial process and that the amount of energy consumed in that process will be reduced.

Proposed § 1.44C–6(d) sets forth the list of criteria to be followed by the Secretary when determining additions to the list of specially defined energy property under section 48(l)(5)(M). In addition, proposed § 1.48–9 requires for specially defined energy property that the item be similar in function to the items listed in section 48(l)(5) and that the principal purpose of the item is reduction in the amount of energy consumed or heat wasted in any existing industrial or commercial process.

If an item is added to the list under 48(l)(5)(M), it must meet the requirements of § 1.48–9(f)(2).

Therefore, even if an item is added to the list, it must still be used in an existing commercial or industrial facility as part of its process before it will receive an energy credit.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of this proposed regulations is Mary Frances Pearson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendment to the Regulations.

The proposed amendment to 26 CFR Part 1 is as follows:

Proposed § 1.48–9, as set forth in the Notice of Proposed Rulemaking in the **Federal Register** for September 19, 1980 (45 FR 62496), is amended by revising paragraph (f)(15). These revised and added provisions read as follows:

§ 1.48–9 Definition of energy property

* * * * *

(f) *Specially defined energy property* * * *

(15) *Other property added by the Secretary.* (i) This subparagraph (15) sets forth the criteria and procedure under section 48(l)(5) for the Secretary to use when adding items to the list of items that may qualify as specially defined energy property and for setting forth information required in a manufacturer's request. For purposes of this subparagraph (15), the purchaser of the item will be deemed to be the manufacturer if an item is specially designed (within the meaning of section 46(a)(2)(C)(iii)(II) without reference to any other terms therein). The criteria and procedure for this list are the criteria and procedure for energy-conserving components or renewable energy sources set forth in § 1.44C–6 (a), (b), and (d), applied in the manner prescribed in this subparagraph (15).

(ii) All references to renewable energy sources and energy-conserving components, set forth in § 1.44C–6 (a), (b), and (d) are to be disregarded. Instead, the provisions are to be read only with reference to specially defined energy property.

(iii) In applying § 1.44C–6(a)(2), the reference to consultation with the Secretary of Housing and Urban Development does not apply.

(iv) Instead of the material required by § 1.44C–6(b) (12) and (13), the application to the Commissioner shall include the following information:

(A) Whether the item is designed for use in an existing industrial or commercial process, and

(B) Test data which establishes that the use of the item will reduce the amount of energy consumed in any existing industrial or commercial process.

(v) The following additional criteria are added at the end of § 1.44C–6(d)(1), in determining additions to the list of specially defined energy property under section 48(l)(5)(M):

(A) The item is similar in function to the items specifically listed in section 48(l)(5), and

(B) The principal purpose of the item is the reduction in the amount of energy consumed or heat wasted in any existing industrial or commercial process.

(vi) In applying § 1.44C–6(e), the reference to performance and quality standards provided under § 1.44C–4 does not apply.

(vii) An item added to the list under this subparagraph (15) does not qualify as specially defined energy property unless it meets the requirements set forth in § 1.48–9(f)(2).

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80–40840 Filed 12–30–80; 4:00 pm]

BILLING CODE 4830–01–M

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26 CFR Part 51

[LR–64–80]

Net Income Limitation on Windfall Profit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the net income limitation on windfall profit under the Crude Oil Windfall Profit Tax Act of 1980. The regulations would provide the public with the guidance needed to comply with that Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 9, 1981. The regulations are proposed to be effective for periods after February 29, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–64–80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald W. Stevenson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LT:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the proposed Excise Tax Regulations (26 CFR Part 51) under section 4988(b) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 101(a) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230) and are to be issued under the authority contained in sections 4997(b) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 250 and 68A Stat. 917; 26 U.S.C. 4997(b) and 7805).

Explanation of Provisions

The windfall profit tax is imposed upon the windfall profit from domestically produced taxable crude oil removed from the premises during each taxable period. The windfall profit on any barrel of taxable crude oil is the excess of the removal price over the adjusted base price plus a severance tax adjustment. However, the windfall profit on any barrel is limited to 90 percent of the net income attributable to that barrel. Net income attributable to each barrel of taxable crude oil is computed by dividing the taxable income attributable to taxable crude oil by the number of barrels of taxable crude oil from the property taken into account for the taxable year.

For purposes of determining the net income limitation, taxable income is computed in a manner similar to that used for computing percentage depletion under section 613(a) of the Code except that no deduction is allowed for depletion, windfall profit tax, section 263(c) costs, or qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies. Taxable income is reduced by the cost depletion deduction which would have been allowable for the taxable year if all section 263(c) costs and qualified tertiary injectant expenses, to which an election under secton 4988(b)(3)(E) of the Code applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and if cost depletion had been used by the taxpayer with respect to the property for all taxable years.

The proposed notice requires, pursuant to section 4988(b)(1), that the net income limitation be applied to the windfall profit on each barrel of taxable crude oil. This barrel-by-barrel application complicates the administration of the tax in many cases (*e.g.*, where a property produces several tiers of oil and the windfall profit varies often during the year because of changes in the adjusted base prices and removal prices).

Section 51.4988–2(b)(1) (i) and (ii) of the proposed notice requires generally that income and expenses attributable to a barrel of taxable crude oil be taken into account for the taxable year in which the barrel is removed from the premises. Thus, where the oil is removed from the premises in one taxable year and income or expenses arise with respect to that oil in the preceding or following taxable year, the proposed notice would take the income or expenses into acount for net income limitation purposes, for the year of removal (unless they arise more than 2 months after the close of the taxable year of removal).

The reference in section 4988(b)(3)(C)(ii) to "all taxable periods" is given the meaning of "all taxable years" in the proposed notice. Hence, the proposed notice allows the taxpayer to take into account in computing the cost depletion deduction section 263(c) costs attributable to taxable crude oil incurred since the taxable year the taxpayer acquired the interest in the property rather than merely from March 1, 1980.

In the case of a transfer of an interest in any proven oil or gas property (within the meaning of section 613A(c)(9)(A) after 1978 the transferee, in computing the hypothetical cost depletion deduction with respect to the transferred interest for net income limitation purposes, may take into account only amounts which would have been allowable with respect to the transferor and costs incurred by the transferee during periods after the transfer.

Section 4988(b)(3) provides special rules for computing taxable income from the property. For this purpose, intangible drilling and development costs that relate to nonproductive oil wells are treated as entirely deductible currently while such expenses that relate to a productive taxable crude oil well are deductible only through the cost depletion allowance. Proposed § 51.4988–2(b)(4)(iii) provides that where at year-end it cannot be determined whether the well being drilled will be a gas or oil well or whether it will be a productive or nonproductive well, the taxpayer must treat the well as a gas well or a productive well. If the well later proves to be an oil instead of a gas well, or nonproductive rather than productive, the taxpayer may amend his return or file a claim for refund.

For purposes of determining the net income limitation, if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from that portion is included in the gross income from the property of both the person holding the production payment and the person holding the interest from which the production payment was created.

Comments and Requests for a Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Donald W. Stevenson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

The burdens that would be imposed by the proposed regulations flow directly from the statute. The approach chosen in the proposed regulation is consistent with accepted income tax principles. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 51 are as follows:

Paragraph 1. Section 51.4988–1 is amended by revising the portion of paragraph (a) that follows subparagraph (2) to read as follows:

§ 51.4988–1 Windfall profit; removal price.

(a) *Windfall profit.* * * *

(2) * * *

However, the amount of windfall profit is subject to the net income limitation set forth in § 51.4988–2.

* * * * *

Par. 2. There is inserted immediately after § 51.4988–1 the following new § 51.4988–2.

§ 51.4988–2 Net income limitation on windfall profit.

(a) *In general.* The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to that barrel.

(b) *Calculation of net income limitation*—(1) *In general.* The net income limitation with respect to a barrel shall be computed in the following manner.

(i) Determine the taxpayer's gross income from the property (from which the barrel was produced), pursuant to paragraph (b)(2) of this section, that is attributable to taxable crude oil

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removed from the premises during the taxable year (or during a previous taxable year, if the gross income therefrom was received or accrued during the current taxable year more than 2 months after the close of the taxable year of removal):

(ii) Determine the taxpayer's taxable income from the property for the taxable year by reducing the gross income from the property determined under subdivision (i) by all amounts—

(A) That would be subtracted in determining taxable income from the property under section 613(a) (except depletion, windfall profit tax, section 263(c) costs, and qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies),

(B) That are paid or incurred before the end of the period ending 2 months after the close of the taxable year, and

(C) That are attributable to the production of taxable crude oil removed from the premises during the taxable year (or during a previous taxable year, if the amounts were paid or incurred during the current taxable year more than 2 months after the close of the taxable year of removal),

and by the cost depletion deduction (described in paragraph (b)(4)) allowable for the taxable year.

(iii) Determine the taxpayer's net income attributable to each barrel of taxable crude oil removed during the taxable year by dividing the taxable income from the property determined under subdivision (ii) by the number of barrels in the taxpayer's share of taxable crude oil removed from the premises of that property during the taxable year.

(iv) Determine the net income limitation per barrel by multiplying the net income attributable to a barrel by 90 percent and rounding to the nearest cent.

(2) *Gross income from the property.* For purposes of this section, gross income from the property for any taxable year includes the income received or accrued before the end of the period ending 2 months after the close of the taxable year from all barrels of taxable crude oil described in paragraph (b)(1)(i). Gross income from the property shall not include income attributable to gas or exempt oil production. If the taxpayer has multiple depletable properties under section 614 of the Code in a single property as defined by the energy regulations, the taxpayer must compute the gross income (and net income limitation) separately for each depletable property.

(3) *Attribution of expenses to gas or exempt oil.* In the case where both taxable crude oil and gas or exempt oil is produced from the property, the amount of the expenditures attributable to the production of gas or exempt oil is computed by multiplying the aggregate expenses incurred with respect to the property (as determined under paragraph (b)(1)(ii)) by a fraction the numerator of which is the amount of the gross income from the property that is attributable to gas or exempt oil and the denominator of which is the total gross income from the property.

(4) *Taxable income from the property reduced by cost depletion.* (i) Taxable income from the property shall be reduced by the cost depletion deduction that would have been allowable for the taxable year with respect to the property if for all taxable years—

(A) All—

(*1*) Section 263(c) costs, and

(*2*) Qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

(B) Cost depletion had been used by the taxpayer with respect to the property.

(ii) The cost depletion deduction that would be allowable for the taxable year is computed by first determining the depletable basis of the oil property as of the date the taxpayer acquired an economic interest in the property. With regard to transfers of oil properties before 1979, the taxpayer's original basis in the property is determined under section 1012. The basis of proven oil or gas properties transferred after 1978 is determined under paragraph (c) of this section. A unit cost per barrel is then found by dividing the depletable basis by the estimated recoverable reserves determined for the year of acquisition for income tax purposes (whether or not the estimate later proves to be inaccurate). Adjustments to basis are then made for expenditures properly chargeable to capital account, section 263(c) costs, and qualified tertiary injectant expenses, to which an election under section 4988(b)(3)(E) applies, incurred during the year.

A cost depletion allowance is determined for the taxable crude oil removed during that year and is subtracted from the depletable basis. The depletable basis minus the cost depletion allowance for that year is carried over to the next taxable year and the same computation is performed for each succeding year until the current year.

(iii) For purposes of computing the net income limitation, intangible drilling and development costs with respect to a nonproductive well shall be deducted from gross income from the property in the taxable year these costs are paid or incurred. However, section 263(c) costs with respect to a productive well may be deducted only as a part of the cost depletion deduction. If the taxpayer is unable to determine with reasonable certainty by the later of the end of the taxable year or the time the return is filed whether a well will be productive or nonproductive, the taxpayer shall treat the well as a productive well. Similarly, if the taxpayer is unable to determine with reasonable certainty by the later of the end of the taxable year or the time the return is filed whether a well will be an oil well or gas well, the taxpayer shall treat the well as gas well. If the well later proves to be an oil well (or a nonproductive well), the taxpayer may file an amended return or a claim for credit or refund.

(iv) The taxpayer must substantiate each element of the cost depletion computation by adequate records or other documentary evidence corroborating the taxpayer's own statements. However, where the taxpayer establishes that the failure to produce adequate records is not due to the taxpayer's negligent or willful action or omission, an element of a cost depletion deduction shall be deemed substantiated if the best evidence available clearly supports it.

(5) The following examples illustrate the principles set forth in this paragraph:

Example (1). In 1978 a, the owner of Blackacre, leased the oil and gas rights in Blackacre to B who operates the oil lease. In 1981 B receives $1,280,000 as payment for taxable crude oil removed form Blackacre. Of this amount $500,000 was received in January and February 1981 for oil removed from the premises during November and December 1980. B also received an additional $420,000 in January 1982 as payment for oil removed during 1981. The gross income from the property for 1981 for net income limitation purposes (before allocation to the economic interest holders) is $1,200,000 ($1,280,000 − $500,000 + $420,000).

Example (2). Assume the same facts as in example (1). Assume further that the production costs incurred with respect to the taxable crude oil removed during 1981 totalled $400,000, including $80,000 which was paid in January and February 1982; that A retained a ⅛ royalty interest in Blackacre; that after acquiring the lease B granted C a ⅐ overriding royalty interest in his remaining ⅞ revenue interest and D a 50 percent operating interest and 50 percent of the remaining ⁶⁄₈ revenue interest; and that 40,000 barrels of taxable crude oil are removed from the property during 1981. The number of barrels produced during the year, gross income, and production expenses are allocated among the economic interest holders in the following manner:

Interest holder	Barrels of taxable crude oil allocated to interest holder	Gross income	Production expenses
A	5,000	$150,000	
B	15,000	450,000	$200,000
C	5,000	150,000	
D	15,000	450,000	200,000
Total	40,000	1,200,000	400,000

Example (3). Assume the same facts as in example (2). Further assume that the cost of B's remaining 50 percent working interest in Blackacre in 1978 was $200,000 and that production began in January 1979. B's hypothetical cost depletion deduction for 1981 or net income limitation purposes is $80,000, determined as follows:

B's allocated share	1979	1980	1981
Estimated recoverable reserves at beginning of tax year	100,000	90,000	80,000
Barrels removed during taxable year	10,000	10,000	15,000
Depletable basis, beginning of period	$200,000	$225,000	$240,000
+ IDC incurred during taxable year	$50,000	$15,000	$50,000
+ Tertiary injectant expenses incurred during taxable year	0	$30,000	$30,000
Adjusted depletable basis	$250,000	$270,000	$320,000
− Depletion for taxable year	25,000	30,000	80,000
Depletable basis end of period	$225,000	$240,000	

Example (4). Assume the same facts as in example (3). B computes the net income limitation (NIL) for 1981 in the following manner.

Gross income from property	$450,000
Production expenses	−$200,000
Cost depletion deduction	−$80,000
Taxable income from property	$190,000
Barrels of taxable crude oil	15,000
Net income attributable to a barrel	$12.6667
Net income limitation per barrel (rounded to the nearest cent)	$11.40

Example (5). Assume the same facts as in example (4). The following table illustrates the refund to which B is entitled at the end of the year, based on further assumptions concerning tax tier and rates, windfall profit, and withholding.

Tier and barrels removed	Windfall profit per barrel without net income limitation	Tax rate	Tax withheld per barrel	Windfall profit per barrel with net income limitation	Actual tax per barrel	Refund due per barrel
1—1,000	$23.00	$0.7	$16.10	$11.40	$7.98	$8.12
1—2,000	(5.00)	.7	0	(5.00)	0	0
1—1,000	2.00	.7	1.40	2.00	1.40	0
2—3,000	20.00	.6	12.00	11.40	6.84	5.16
3—6,000	18.00	.3	5.40	11.40	3.42	1.98
3—2,000	19.00	.3	5.70	11.40	3.42	2.28

B is due a refund of $40,040 (1,000 barrels × $8.12 + 3,000 barrels × $5.16 + 6,000 barrels × $1.98 + 2,000 barrels × $2.28).

(c) *Special Rules*—(1) *Applying the cost depletion deduction to transfers of proven oil or gas properties.* In the case of a transfer of an interest in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)) after 1978 which (but for section 4988(b)(4)(A)) would result in an increase in the amount determined under section 4988(b)(3)(C), the latter section shall be applied with respect to the transferee by taking into account only amounts which would have been allowable with respect to the transferor under that section and costs incurred by the transferee during periods after the transfer. For purposes of this paragraph, the term "transfer" means any change in legal or equitable ownership by sale, exchange, gift, bequest, devise, lease, sublease, assignment, contract, or other disposition (including creation of a production payment that gives the transferee an economic interest in the property, a distribution by an estate, and any contribution to or any distribution by a corporation, partnership, or trust).

Example. E acquires F's 50 percent working interest in a producing oil lease on Blackacre for $400,000 on January 1, 1982. F's depletable basis in the property as of the end of 1981 (after taking the hypothetical cost depletion) was $260,000. E's basis in his interest in the oil property, for purposes of the determination of cost depletion under section 4988(b)(3)(C), is $260,000. E may add to his basis any section 263(c) costs and qualified tertiary injectant expenses E incurs with respect to the lease after its acquisition.

(2) *Rule applicable to production payments.* For purposes of determining the net income limitation, if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from the portion shall be included in the gross income from the property of both the person holding the production payment and the person holding the interest from which the production payment was created.

(3) *Rule applicable to partnerships.* In the case of a partnership, the net income limitation shall be computed separately for each partner.

(4) *Computation of the net income limitation for the taxable year that includes March 1, 1980.* To determine the net income limitation for the period beginning March 1, 1980, and ending at the end of the taxpayer's taxable year that includes that date, the taxpayer shall take into account only barrels of taxable crude oil removed from the premises during this period and the income from and production costs incurred with respect to those barrels.

(5) *Election to capitalize qualified tertiary injectant expenses*—(i) *General.* With respect to any property, any taxpayer may elect to capitalize qualified tertiary injectant expenses for purposes of the determination of taxable income from the property under paragraph (b)(1)(ii) of this section. The election is irrevocable and shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made for the taxable year for which the election is made and for all subsequent taxable years. If the taxpayer elects not to capitalize these expenses, the taxpayer may deduct these expenses from gross income but may not take these expenses into account in determining the cost depletion deduction.

(ii) *Time and manner of making election.* An election to capitalize qualified tertiary injectant expenses shall be made by a statement to that effect on the producer's return of windfall profit tax, or claim for credit or refund of overpayment of windfall profit tax, for the first taxable year for which the election is to be effective.

(d) *Definitions.*—(1) Except where otherwise indicated in paragraph (b)(2), the term "property" when used in this section has the same meaning as that term is given in section 614 of the Code and regulations thereunder. Any election made by the taxpayer under section 614 and regulations thereunder for depletion purposes is binding in determining the definition of property for purposes of the net income limitation.

(2) The term "section 263(c) costs" means intangible drilling and development costs incurred by the

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taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of the Internal Revenue Code of 1954 (other than section 4988 (b)(3)). Such term shall not include costs incurred in drilling a nonproductive well.

(3) The term "qualified tertiary injectant expenses" means any expenses that are deductible under section 193 of the Code.

William E. Williams,
Acting Commissioner of Internal Revenue.

[FR Doc. 80-40839 Filed 12-30-80; 4:00 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 261, 262

Prohibitions and Rewards and Impoundments

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes amendments to regulations for National Forest System lands relating to prohibited acts, rewards and impoundments. The amendments are intended to clarify and strenghten the existing regulations. The need for the changes was determined in a review generated by the EO 12044 requirement that regulations be periodically reviewed for clarity and currency.

DATE: Comments must be received on or before March 9, 1981.

ADDRESSES: R. Max Peterson, Chief (6500), USDA Forest Service, 701 RP-E, P.O. Box 2417, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT: Ernie Andersen, Fiscal and Accounting Management Staff, USDA Forest Service, P.O. Box 2417, Washington, D.C. 20013, (703) 235-8484.

All written submissions made pursuant to this notice will be available for public inspection in Room 701, Rosslyn Plaza-E, 1621 North Kent Street, Arlington, Virginia 22209, during normal business hours between 9 a.m. and 4 p.m. Monday through Friday (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION: The authority to issue regulations affecting National Forest lands is contained in the Organic Administration Act of 1897. Under the provisions of this law, the Secretary of Agriculture is authorized to make rules and regulations to preserve the National Forests and to regulate their occupancy and use.

The existing regulations in Parts 261 and 262 were published in 1977 and have been amended only slightly since that time. In 1978, the Regional law enforcement officers met to propose changes to these regulations. These proposal were submitted to Regional Foresters, Area Directors, and subject-staff specialists. The following proposed rule is a result of the effort of these officials.

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified as not significant. For the reasons set out in the preamble, it is proposed to amend Chapter II of Title 36 as follows:

PART 22—PROHIBITIONS

1. The authority citation for Part 261 is revised to read as follows:

Authority: 30 Stat. 35 as amended (16 USC 551); Sec. 1, 33 Stat. 628 (16 USC 472); 50 Stat. 526 as amended (7 USC 1011(f)); 82 Stat. 916 (16 USC 1281(d)); 82 Stat. 922 (16 USC 1246(i)), unless otherwise noted.

Subpart A—General Prohibitions

2. In § 261.1, paragraph (b) is revised and (c) is added to read as follows:

§ 261.1 Scope.

* * * * *

(b) Nothing in this part shall preclude action in Wilderness or Primitive Areas as authorized in § 252.15 or Part 293.

(c) Nothing in the part shall preclude action within the National Forest System as authorized in Part 252.

3. By amending § 261.2 by revising and adding various definitions to read as follows:

§ 261.2 Definitions.

The following definitions apply to this part:

"Animal" means any dog, cat, horse, cow, bird, fish or any animate being which is endowed with the power of voluntary motion, not being human. Any of a kingdom of living beings excluding man and plants.

"Archaeological resource" means any material remains of past human life or activities which are of archaeological interest and are at least 100 years of age and the physical site, location, or context in which they are found.

"Campfire" * * *

"Camping" * * *

"Camping Equipment" means the personal property used in or suitable for camping, and includes any vehicle used for transportation and all equipment in possession of a person camping.

"Damaging" means to injure, multilate, deface, destroy, cut, chop, girdle, dig, excavate, kill or in any way harm or disturb.

"Developed recreation site" * * *

"Forest development road" * * *

"Forest officer" * * *

"Motorized equipment" means any machine activated by a nonliving power source except small battery-powered, handcarried devices such as flashlights, shavers, Geiger counters, and cameras.

"Mechanical transport" means any device which travels over ground, snow or water, on wheels, tracks, skids, or by flotation and which is propelled by a nonliving power supply contained or carried on or within the device.

"Motor vehicle" means any vehicle which is self-propelled or any vehicle which is propelled by electric power obtained from batteries, but not operated on rails.

"National Forest System" means all National Forest lands and waters reserved or withdrawn from the public domain of the United States, National Forest lands and waters acquired through purchase, exchange, donation, or other means, National Grasslands and land utilization projects and waters administered under Title III of the Bankhead-Jones Tenant Act (50 Stat. 525, 7 USC 1010–1012), and other lands, waters, or interest therein acquired under the Wild and Scenic River Act (16 USC 1271–1287) or National Trails System Act (16 USC 1241–1249), and other lands and waters over which the Forest Service has administrative responsibility.

"National Forest Wilderness" * * *

"Person" * * *

"Permission" * * *

"Permit" * * *

"Primitive areas" * * *

"Publicly nude" * * *

"State" * * *

"State law" * * *

"Stove fire" * * *

"Unauthorized livestock" * * *

"Vehicle" means any device in, upon, or by which any person or property is or may be transported, including any frame, chassis, or body of any motor vehicle, except devices used exclusively upon stationary rails or tracks.

"Wild free-roaming horses and burros" * * *

4. By revising the heading of § 261.3, designating the existing paragraph as (a) and adding a paragraph (b) to read as follows:

§ 261.3 Interfering with or giving false report to a forest officer.

The following are prohibited:

(a) * * *

(b) The giving of any false or fictitious report or other information to any forest officer engaged in the investigation of a violation of law or regulation.

5. By revising § 261.4(c) to read as follows:

§ 261.4 Disorderly conduct.

The following are prohibited:

* * * * *

(c) Causing public inconvenience, annoyance or alarm by making unreasonable noise, offensively coarse utterance, gesture, or abusive language to any person.

6. In § 261.5, by revising paragraph (a) to read as follows:

§ 261.5 Fire.

The following are prohibited:

(a) Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.

* * * * *

7. In § 261.6, by revising paragraph (a) and by adding paragraph (h) to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

(a) Cutting or otherwise damaging any timber, tree or other forest product, except as authorized by permit, timber sale contract, Federal law or regulation.

* * * * *

(h) Removing any timber, tree, or other forest product, except as authorized by permit, timber sale contract, Federal law or regulation.

8. By revising the first paragraph of § 261.8 to read as follows:

§ 261.8 Fish and wildlife.

The following are prohibited to the extent Federal or State law is violated:

9. By revising § 261.9 to read as follows:

§ 261.9 Property.

The following are prohibited:

(a) Damaging any natural feature or other property of the United States.

(b) Removing any natural feature or other property of the United States.

(c) Damaging any plant that is classified as a threatened, endangered, sensitive, rare, or unique species.

(d) Removing any plant that is classified as a threatened, endangered, sensitive, rare, or unique species.

(e) Entering any building, structure, or enclosed area owned or controlled by the United States when such building, structure, or enclosed area is not open to the public.

(f) Using any herbicide, pesticide or fungicide except for personal use for medical purposes or as an insect repellant or with permission for other minor uses.

(g) Digging in, excavating, disturbing, injuring or destroying any archaeological resource.

(h) Removing any archaeological resource.

10. In § 261.10 by revising paragraphs (c), (d), and (e) to read as follows:

§ 261.10 Occupancy and use.

The following are prohibited:

* * * * *

(c) Selling or offering for sale any merchandise, conducting any kind of work activity or service unless authorized by Federal law, regulation, or permit.

(d) Discharging a firearm or any other implement capable of taking human life, causing injury, or damaging property, in a manner or place whereby any person or property is exposed to injury or damage as a result of such discharge.

(e) Abandoning a vehicle, motor vehicle, mechanical transport, animal or other personal property.

* * * * *

11. In § 261.11 by revising paragraphs (a) and (e) to read as follows:

§ 261.11 Sanitation.

The following are prohibited:

(a) Depositing in any toilet, toilet vault, or plumbing fixture any substance which could damage or interfere with the operation or maintenance of the fixture.

* * * * *

(e) Dumping of any refuse, debris, trash or litter brought as such from private property or from land occupied under permit, except, where a container, dump or similar facility has been provided and is signed as such, to receive trash generated from private lands or lands occupied under permit.

12. In § 261.14, by revising paragraphs (c), (l), and (m) to read as follows:

§ 261.14 Developed recreation sites.

The following are prohibited:

* * * * *

(c) Cleaning or washing any personal property, fish, animal, or food; bathing or performing personal toiletries at a hydrant or water faucet not provided for that purpose.

* * * * *

(l) Bringing in or possessing a saddle, pack, or draft animal except as authorized by posted instructions.

(m) Operating or parking a motor vehicle or trailer except in places developed or designated for this purpose.

* * * * *

13. By revising § 261.15 to read as follows:

§ 261.15 Admission, recreation use and special recreation permit fees.

Failing to pay any fee established for admission or entrance to or use of a site, facility, equipment, or service furnished by the United States is prohibited. Maximum fine shall not exceed $100. (Sec. 2, 78 Stat. 89/, as amended: 16 USC 460l–6(e)).

14. In § 261.16, by revising paragraph (b) to read as follows:

§ 261.16 National Forest Wilderness.

The following are prohibited in a National Forest Wilderness:

* * * * *

(b) Possessing or using a hang glider, bicycle, wagon, cart or

* * * * *

15. By revising § 261.21 to read as follows:

§ 261.21 Wild free-roaming horses and burros.

The following are prohibited:

(a) Removing or attempting to remove a wild free-roaming horse or burro from the National Forest System unless authorized by law or regulation.

(b) Causing or allowing the inhumane treatment or harassment of a wild free-roaming horse or burro.

(c) Removing or attempting to remove, alter or destroy any official mark used to identify a wild horse or burro or its remains unless authorized or permitted by law or regulation.

(d) Violating any terms or conditions specified in a care and maintenance agreement or permit.

Subpart B—Prohibitions in Areas Designated by Order

16. By amending § 261.50(e) by adding paragraph (6) to read as follows:

§ 261.50 Orders.

* * * * *

(e) * * *

(6) Any other person meeting exemption requirements specified in the order.

* * * * *

17. In § 261.52, by revising paragraph (j) to read as follows:

§ 261.52 Fire.

When provided by an order, the following are prohibited:

* * * * *

(j) Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either: (1) Department of Agriculture, Forest Service Standard 5100–1a; or (2) appropriate Society of Automotive

V 46/4 JA 7 81 UMI

Engineers (SAE) recommended practice J335(b) and J350(a).

* * * * *

18. By amending § 261.54 by adding paragraph (f) to read as follows:

§ 261.54 Forest developed roads.

When provided by an order, the following are prohibited:

* * * * *

(f) Operating a vehicle carelessly, recklessly, or without regard for the rights or safety of other persons or in a manner or at a speed that would endanger or be likely to endanger any person or property.

19. In § 261.58, by revising paragraph (g) and adding paragraph (aa) to read as follows:

§ 261.58 Occupancy and use.

When provided by an order, the following are prohibited:

* * * * *

(g) Parking or leaving a vehicle in violation of posted instructions.

* * * * *

(aa) Riding, hitching, tethering or hobbling a horse or other saddle or pack animal in violation of posted instructions.

Subpart C—Prohibitions in Regions

20. By amending § 261.70(a) by adding paragraph (10) to read as follows:

§ 261.70 Issuance of regulation.

(a) * * *

(10) Possessing a beverage which is defined as an alcoholic beverage by State law.

* * * * *

PART 262—REWARDS AND IMPOUNDMENTS

21. The authority citation for Part 262 is revised to read as follows:

Authority: 30 Stat. 35, as amended (16 USC 551); sec. 1, 33 Stat. 628 (16 USC 472); 60 Stat. 526, as amended (7 USC 1011(f)); 58 Stat. 736 (16 USC 559(a)), unless otherwise noted.

22. In § 262.2, by revising paragraphs (a)(1), (a)(2), and (a)(3) to read as follows:

§ 262.1 Rewards in connection with fire or property prosecutions.

(a) * * *

(1) Not exceeding $5,000 for information leading to the arrest and conviction of any person on the charge of willfully or maliciously setting on fire, or causing to be set on fire, any timber, underbrush, or grass upon the lands of the United States within the National Forest System or nearby;

(2) Not exceeding $1,000 for information leading to the arrest and conviction of any person on the charge of having kindled or caused to be kindled a fire on lands of the United States within the National Forest System nearby, and leaving said fire which escapes before the same has been totally extinguished;

(3) Not exceeding $5,000 for information leading to the arrest and conviction of any person charged with destroying or stealing any property of the United States; and

* * * * *

23. By amending § 262.2 by adding paragraph (e) to read as follows:

§ 262.4 Impounding of personal property.

* * * * *

(e) The provisions of this section shall not apply to the impoundment or disposal of beached logs in Alaska if deemed abandoned under State law.

Dated: January 2, 1981.

Bob Bergland,

Secretary.

[FR Doc. 81-543 Filed 1-6-81; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRC 1721-3]

Alabama: Air Quality Surveillance Plan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the State of Alabama on January 9, 1980, including the air monitoring site descriptions that were submitted May 15, 1980. The revision updates Alabama's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes a commitment to update their monitoring network and to utilize all required quality assurance methods to ensure data accuracy. The revision also includes provisions for Emergency Episode Monitoring. Since the revision meets all EPA requirements, EPA proposes to approve the revision. The public is invited to submit written comments on this proposed action.

DATE: To be considered comments must be submitted on or before February 6, 1981.

ADDRESSES: Written comments should be addressed to Jerry Preston of EPA Region IV's Air Program's Branch (See EPA Region IV address below). Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460
Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130
EPA Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, Georgia 30365

FOR FURTHER INFORMATION CONTACT: Jerry Preston, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110 (a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The State of Alabama has responded by submitting to EPA a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network such that the monitors will be properly sited and the data quality assured. The network will be reviewed annually for needed modifications and descriptions containing information such as location, operating schedule, and sampling and analysis method.

EPA is proposing to approve the air quality surveillance plan submitted by Alabama. Written comments on EPA's proposal should be sent to EPA Region IV (address above).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Pursuant to the provisions of the 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal relates only to air quality surveillance to be carried out by one state and will not cause any significant economic impacts.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: December 3, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-446 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1718-6]

Kentucky: Proposed Air Quality Surveillance Plan; Ambient Air Quality Surveillance

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the Commonwealth of Kentucky on November 15, 1979. The revision updates Kentucky's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes a commitment to update their monitoring network and to utilize all required quality assurance methods to ensure data accuracy. The revision also includes provisions for Emergency Episode Monitoring. Since the revision meets all EPA requirements, EPA proposes to approve the revision.

The public is invited to submit written comments on this proposed action.

DATES: To be considered comments must be submitted on or before February 6, 1981.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Division of Air Pollution Control, Kentucky Dept. for Natural Resources and Environmental Protection, W. Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Environmental Protection Agency, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION: On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The Commonwealth of Kentucky has responded by submitting to EPA on November 15, 1979, a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network and that such monitors will be properly sited and the data quality assured, the network will be reviewed annually for needed modifications, and the SLAMS network descriptions will be available for public inspection and will contain information such as location, operating schedule, and sampling and analysis method.

EPA is proposing to approve the air quality surveillance plan submitted by Kentucky. Written comments on EPA's proposal should be sent to EPA Region IV (address above).

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal relates only to air quality surveillance to be carried out by one state and will not cause any significant economic impacts.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: December 23, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-447 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Regulations Governing the Taking and Importing of Marine Mammals; Taking of Marine Mammals Incidental to Commercial Fishing Operations—Permits, etc.

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed Amendments to Regulations.

SUMMARY: On October 31, 1980, NOAA published its final decision and final rule (45 FR 72178-72196) concerning the taking of porpoises incidental to commercial tuna purse seine fishing in the eastern tropical Pacific Ocean (ETP). The regulations contained in that publication became effective on January 1, 1981, and provide in § 216.24(d)(2)(i)(D) that the Assistant Administrator may, upon receipt of new information which in his opinion is sufficient to require modification of the general permit or regulations, propose to modify such after consultation with the Marine Mammal Commission. Proposed amendments to §216.24(d)(2)(i)(A)(3) are hereby announced which would modify the apportionment to individual porpoise stocks of the total allowable annual mortality limit for U.S. vessels of 20,500 animals for the years 1981-1985 and beyond. The finding that 20,500 porpoise mortalities incidental to commercial fishing in the ETP will not be to the disadvantage of the porpoise stocks is not affected by the proposed regulatory amendments, nor is any other aspect of the regulations published at 45 FR 72187-72196. The Marine Mammal Protection Act of 1972, as amended (MMPA), requires that NOAA assure itself that contemplated incidental takings will not disadvantage the affected porpoise stocks over the period of the takings. Therefore, this notice supplies information concerning the expected impact of takings under the proposed regulatory amendments.

DATES: Comments on the proposed regulatory amendments may be submitted on or before March 9, 1981.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and

Endangered Species, NMFS, NOAA, Department of Commerce, Washington, D.C. 20235, Telephone (202) 634–7461.

SUPPLEMENTARY INFORMATION: On October 21, 1980, the Administrator of NOAA announced his proposed final decision in the formal rulemaking process to establish regulations to govern the taking of porpoises incidental to commercial tuna purse seine fishing in the ETP. That decision along with proposed regulations and a notice of availability of a Final Environmental Impact Statement (FEIS) were published on October 31, 1980 (45 FR 72178–72196 and 45 FR 72285, respectively, corrected at 45 FR 73486 and 45 FR 74040, respectively). The decision and proposed regulations became final on December 1, 1980, and effective on January 1, 1981.

During the period made available for public comment concerning the FEIS, comments were received from the American Tunaboat Association (ATA) which question the appropriateness of the individual stock quotas established by the Administrator's Final Decision. In particular, the matter of allowing flexibility between individual stock quotas within an aggregate limit, which was raised in the ATA's application for a general permit, was suggested as an alternative approach in the light of the possibility of mid-season closures under the newly promulgated quotas for the southern offshore, southern whitebelly spinner, and northern tropical common stocks.

The Administrator's decision found that an annual total mortality limit of 20,500 available to the U.S. fleet is economically and technologically feasible and that the stock apportionments proposed therein would not be to the disadvantage of any of the affected stocks. Assuming no change to the total mortality limit of 20,500 and the disadvantage finding, the MMPA authorizes adjustments to individual stock quotas which allow the U.S. fleet to fish in a more productive and economic manner. An approach to apportioning the 20,500 annual quota that limits mortalities from any given target stock to a maximum of 50 percent the current [1979] estimated maximum replacement yield of that stock would allow U.S. fishermen to tailor their fishing strategies to variations in the availability and location of yellowfin tuna without surrendering unfair advantage to the foreign fleet which is not subject to the existing stock quotas. This approach is followed in the present proposal. The individual stock quotas proposed herein will not be to the disadvantage of the affected stocks and would amend only the table appearing in § 216.24(d)(2)(i)(A)(3). The frequency with which mixed schools of southern offshore spotted and southern whitebelly spinner porpoise occur is reflected in this table. For example, coincidental mortalities of southern offshore spotted dolphins and southern whitebelly spinner dolphins would be expected to occur according to the known frequency of mixed schools involving these stocks.

This proposal is a mid-course correction under 50 CFR 216.24(d)(2)(i)(D). The MMPA requires that certain information on the stocks and the impact of contemplated takings on the optimum sustainable population (OSP) on each affected stock be published and made available to the public (16 U.S.C. 1373(d)). These procedural requirements are herein complied with by the table provided below. In addition to the analysis set forth herein, the other evidence or studies supporting this proposal are the comments submitted by the American Tunaboat Association on the Final Environmental Impact Statement supporting the Administrator's October 21, 1980 Final Decision. These comments are available for review in the Office of Marine Mammals, NMFS, NOAA, at the above noted address.

Impact of Quotas for 1981–85 on the Status of Porpoise Stocks

Species/stock management unit	Estimated current population in 1979	Current status of population[1]	Expected status of population at close of 1985[2]
Spotted dolphin (northern offshore)	3,182,000	0.63	0.70
Spotted dolphin (southern offshore)	638,700	.95	.94
Spotted dolphin (coastal)	193,200	.42	.53
Spinner dolphin (eastern)[3]	418,700	.27	.34
Spinner dolphin (northern whitebelly)	485,600	.78	.82
Spinner dolphin (southern whitebelly)	264,900	.90	.91
Common dolphin (northern tropical)[4]	216,900	.97	.93
Common dolphin (central tropical)	845,400	.89	.90
Common dolphin (southern tropical)	477,100	1.00	.98
Striped dolphin (northern tropical)	50,600	1.00	.96
Striped dolphin (central tropical)	213,300	.99	.95
Striped dolphin (southern tropical)	483,000	1.00	.97

[1] Proportion of pre-exploited stock size.

[2] Includes assessments for non-U.S. porpoise mortality.

[3] Includes non-target Costa Rican stock.

[4] Includes Baja neritic.

Within 15 days of publication of this proposal, by January 22, 1981, any party may direct a request to the Assistant Administrator for Fisheries of NOAA that an informal or formal public hearing be held. The Assistant Administator, upon the receipt of any requests, will determine whether a hearing is consistent with and necessary to carry out the purposes of the MMPA and within 10 days, decide whether or not to hold a hearing. If a request for a formal hearing is denied, the denial may be appealed to the Administrator. These procedures are set forth in 50 CFR 216.24(d)(2)(i)(D).

It has been determined that the proposal does not have a significant environmental effect. This determination is reflected in an Environmental Assessment that is available on request from the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235. Further, it has been determined that the proposal is not a significant regulation within the context of Executive Order 12044.

(Marine Mammal Protection Act of 1972, as amended, 86 Stat. 1027; 16 U.S.C. 1361–1407; Pub. L. No. 92–522)

Dated: December 30, 1980.

Terry L. Leitzell,

Assistant Administrator for Fisheries National Marine Fisheries Service.

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

The proposed amendments to 50 CFR Part 216 are as follows:

§ 216.24 [Amended]

Quotas for Each Calendar Year, 1981–85

Species/stock management unit	Take	Encirclement	Mortality[1]
Spotted dolphin (northern offshore)[2]	16,570,000	10,338,000	20,500
Spotted dolphin (southern offshore)	4,605,000	2,873,000	5,697
Spinner dolphin (northern whitebelly)	1,205,000	699,000	5,321
Spinner dolphin (southern whitebelly)[3]	566,000	329,000	2,506
Common dolphin (northern tropical)[4]	723,000	450,000	1,800
Common dolphin (central tropical)	2,819,000	845,000	6,112
Common dolphin (southern tropical)	1,308,000	421,000	4,045
Striped dolphin (northern tropical)	28,000	21,000	429
Striped dolphin (central tropical)	118,000	88,000	1,822
Striped dolphin (southern tropical)	265,000	199,000	4,095

[1] The U.S. allowable mortality in any of the years 1981–85 shall not exceed 20,500.

[2] Fifty percent of replacement yield for the northern offshore spotted dolphin is 42,898; however, the maximum allowable mortality in any year is 20,500.

[3] Includes allowance for mixed species take.

[4] Includes Baja neritic dolphin stock.

[FR Doc. 81–445 Filed 1–6–81; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 4
Wednesday, January 7, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; Annual Publication of Systems of Records

The Privacy Act of 1974 [5 U.S.C. 552a(e)(4)] requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The Central Intelligence Agency last published the full text of its systems of records at 42 FR 48050, September 22, 1977. It was further amended at 45 FR 6820, January 30, 1980. No further changes have occurred; therefore, the systems of records remain in effect as published.

The full text of the Central Intelligence Agency systems of records also appears in Privacy Act Issuances, 1979 Compilation, Volume III, page 2518. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The price of this volume is $9.50.

Don I. Wortman,

Deputy Director for Administration.

[FR Doc. 81-365 Filed 1-6-81; 8:45 am]

BILLING CODE 6310-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the office of export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: January 22, 1981, at 9:30 a.m. The meeting will take place at the Federal Building, Room 15064, 450 Golden Gate Avenue, San Francisco, California.

Agenda

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Committee planning discussion for 1981:

a. Committee objectives.

b. 1981 schedule:

1. Completion of Committee report.

2. Addition of Test Equipment Subcommittee.

3. New members and Subcommittee assignments.

Executive Session

(4) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: January 2, 1981.

Saul Padwo,

Director of Licensing.

[FR Doc. 81-436 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Designation of Recipients of SES Bonus Awards

The following Senior Executives of the Maritime Administration, U.S. Department of Commerce, are scheduled to receive bonus payments on January 26, 1981:

Mr. Wallace T. Sansone, Assistant Administrator for Maritime Aids, Washington, D.C., $8,519.

Mr. Thomas J. Patterson, Director, Western Region, San Francisco, CA, $5,512.I15Mr. Reginald A. Bourdon, Director, Office of International Activities, Washington, D.C. $5,512.

Mr. Ronald K. Kiss, Director, Office of Ship Construction, Office of the Assistant Administrator for Shipbuilding and Ship Operations, Washington, D.C., $5,512.

Dated: December 30, 1980.

Robert J. Patton, Jr.,

Secretary, Maritime Administration.

[FR Doc. 81-419 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Modification of Permits

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 34 issued to the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801 on July 19, 1974 (39 FR 27932) as modified on December 4, 1975 (40 FR 56701), March 19, 1976 (41 FR 11594), March 21, 1978 (43 FR 11730), and January 25, 1980 (45 FR 6135); Permit No. 124 issued on January 23, 1976 (41FR 4843 as modified on March 21, 1978 (43 FR 11730), and January 25, 1980 (45 FR 6135); Permit No. 194 issued on July 26, 1977 (42 FR 40961) as modified on March 21, 1980 (45 FR 18420); are further modified in the following manner:

1. Permit No. 34

Section B–5 has been changed to read, "This Permit is valid with respect to the taking authorized herein, until December 31, 1981."

2. Permit No. 124

Section B–3 has been changed to read, "This Permit is valid with respect to the taking authorized hereunder, until December 31, 1981."

3. Permit No. 194

Section B-7 has been changed to read, "This Permit is valid, with respect to the taking authorized herein, until December 31, 1981."

These modifications are effective on December 30, 1980. The Permits as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: December 30, 1980.

Terry Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 81-420 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permits

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the Regulations Governing Endangered Species (50 CFR Part 222), Permit No. E5 issued to the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington 98112 on March 3, 1976 (41 FR 10248) as amended February 22, 1979; Permit No. 113 issued on August 21, 1975 (40 FR 38179); Permit No. E9 issued on January 23, 1976 (41 FR 5413) as amended on September 9, 1976; Permit No. 116 issued on October 31, 1975 (40 FR 51489) as modified on September 9, 1976 (41 FR 41736); and Permit No. 128 issued on March 12, 1976 (41 FR 11593) as modified on September 7, 1976 (41 FR 41736), are further modified as follows:

1. Permit No. E5

Section B–6 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

2. Permit No. 113

Section B–4 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

3. Permit No. E9

Section B–9 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

Section B–7 is modified by deleting "June 30, 1981" and substituting therefor the following: "June 30, 1986."

4. Permit No. 116

Section B–9 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

5. Permit No. 128

Section B–9 is modified by deleting "December 31, 1980" and substituting therefor the following: "December 31, 1985."

These modifications are effective on December 31, 1980.

The Permits as modified, and documentation pertaining to the modifications are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, Northwest, Washington, D.C.;

Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: December 31, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 81-421 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of Energy, Assist. Gen. Couns. for Patents, Washington, DC 20545

Patent application 6,029,962: Apparatus for Solar Coal Gasification, filed April 13, 1979.

Patent application 6,042,163: Method for Producing Rapid pH Changes, filed May 24, 1979.

Patent application 6,061,149: Caliper and Contour Tool, filed July 26, 1979.

Patent application 6,061,166: Method for Introduction of Gases into Microspheres, filed July 26, 1979.

Patent application 6,067,856: Induction Logging Device, filed August 20, 1979.

Patent application 6,068,358: Method for Cleaning Bomb-Reduced Uranium Derbies, filed August 21, 1979.

Patent application 6,070,365: Device for Fracturing Silicon-Carbide Coatings on Nuclear-Fuel Particles, filed August 28, 1979.

Patent application 6,071,603: Device and Method for Electron Beam Heating of a High Density Plasma, filed August 31, 1979.

V 46 / 4 JA 7 81 UMI

Patent application 6,098,451: Ionization Chamber, filed November 29, 1979.

Patent 4,162,230: Method for the Recovery of Actinide Elements from Nuclear Reactor Waste, filed December 28, 1977, Patented July 24, 1979, not available NTIS.

Patent 4,162,231: Method for Recovering Palladium and Technetium Values from Nuclear Fuel Reprocessing Waste Solutions, filed December 28, 1977, patented July 24, 1979, not available NTIS.

Patent 4,162,298: Method of Immobilizing Carbon Dioxide from Gas Streams, filed August 9, 1978, patented July 24, 1979, not available NTIS.

Patent 4,163,689: Vented Nuclear Fuel Element, filed December 3, 1965, patented August 7, 1979, not available NTIS.

Patent 4,164,479: Method for Calcining Nuclear Waste Solutions Containing Zirconium and Halides, filed January 12, 1978, patented August 14, 1979, not available NTIS.

Patent 4,174,293: Process for Disposal of Aqueous Solutions Containing Radioactive Isotopes, filed October 12, 1977, patented November 13, 1979, not available NTIS.

Patent 4,189,398: Nuclear Fuel Composition, filed April 15, 1965, patented February 19, 1980, not available NTIS.

Patent 4,183,671: Interferometer for the Measurement of Plasma Density, filed March 14, 1979, patented January 15, 1980, Not available NTIS

Patent 4,184,665: Thermally Actuated Wedge Block, filed December 8, 1978, patented January 22, 1980, Not available NTIS

Patent 4,186,657: Apparatus for Shearing Spent Nuclear Fuel Assemblies, filed December 7, 1978, patented February 5, 1980, Not available NTIS

Patent 4,188,118: Manipulator for Rotating and Examining Small Spheres, filed May 17, 1978, patented February 12, 1980, Not available NTIS

Patent 4,189,650: Isolated Trigger Pulse Generator, filed October 24, 1978, patented February 19, 1980, Not available NTIS

Patent 4,189,652: Beam Splitter Coupled CdSe Optical Parametric Oscillator, filed August 22, 1977, patented February 19, 1980, Not available NTIS

Patent 4,189,827: Treatment of Electrochemical Cell Components with Lithium Tetrachloroaluminate (LiAlCl/sub 47) to Promote Electrolyte Wetting, filed November 3, 1978, patented February 26, 1980, Not available NTIS

Patent 4,190,016: Cryogenic Target Formation Using Cold Gas Jets, filed March 13, 1979, patented February 26, 1980, Not available NTIS

Patent 4,190,950: Dye-Sensitized Solar Cells, filed March 24, 1978, patented March 4, 1980, Not available NTIS

Patent 4,194,813: Vacuum Aperture Isolator for Retroreflection from Laser-Irradiated Target, filed October 13, 1978, patented March 25, 1980, Not available NTIS

Patent 4,196,183: Process for Purifying Geothermal Steam, filed January 24, 1979, patented April 1, 1980, Not available NTIS

Patent 4,200,815: MHD Generating System, filed September 19, 1978, patented April 29, 1980, Not available NTIS

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20580

Patent application 6,108,192: Recovery of Chromium from Scrap, filed December 27, 1979.

Patent application 6,134,601: Process for Directly Producing Anhydrous Aluminum Sulfate from Aluminum Sulfate Solution, filed March 27, 1980.

Patent application 6,156,131: Chromium Recovery from Superalloy Scrap by Selective Chlorine Leaching, filed June 3, 1980.

Patent application 6,164,759: Electrowinning of Lead from H2SiF6 Solution, filed June 30, 1980.

Patent 4,173,140: Trigger Device for Explosion Barrier, filed February 3, 1978, patented November 6, 1979, Not available NTIS

Patent 4,192,737: Froth Flotation of Insoluble Slimes from Sylvinite Ores, filed September 15, 1978, patented March 11, 1980, Not available NTIS

Patent 4,192,738: Process for Scavenging Iron from Tailings Produced by Flotation Beneficiation and for Increasing Iron Ore Recovery, filed October 23, 1978, patented March 11, 1980, Not available NTIS

Patent 4,200,036: Ventilation System for Automated Mining Machines, filed November 7, 1978, patented April 29, 1980, Not available NTIS

Patent 4,203,640: Electrical Cable Coupler With Rotatable Protective Covers, filed January 24, 1979, patented May 20, 1980, Not available NTIS

Patent 4,208,378: Desorption of Gold from Activated Carbon, filed April 11, 1977, patented June 17, 1980, Not available NTIS

Patent 4,208,379: Recovery of Metals from Atlantic Sea Nodules, filed April 4, 1979, patented June 17, 1980, Not available NTIS

Patent 4,209,739: Portable Calibrator for D.C. Circuit Breakers, filed June 27, 1978, patented June 24, 1980, Not available NTIS

Patent 4,209,741: Apparatus for the Continuous Monitoring of Ground Bed Resistance, filed March 8, 1978, patented June 24, 1980, Not available NTIS

U.S. Dept. of Health & Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent 4,154,759: Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid, filed August 10, 1978, patented May 15, 1979, Not available NTIS

Patent 4,178,306: Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid, filed August 10, 1978, patented December 11, 1979, Not available NTIS

Patent 4,179,464: Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid, filed August 10, 1978, patented December 18, 1979, Not available NTIS

Patent 4,215,070: N-(Phosphonoacetyl)-L-Aspartic Acid Compounds and Methods for Their Preparation, filed October 25, 1978, patented July 29, 1980, Not available NTIS

Patent 4,220,552: Method of Producing Delayed Release of Sodium Fluoride, filed June 5, 1978, patented September 2, 1980, Not available NTIS

U.S. Department of the Navy, Director, Navy Patent Program/Patent Council for the Navy, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6,162,702: Slow-Wave Wideband Cyclotron Amplifier, filed June 24, 1980.

Patent application 6,165,817: Control System for Solar-Assisted Heat Pump System, filed July 3, 1980.

Patent 4,192,245: Guiding Means for Self-Propelled Torpedoes, filed May 14, 1958, patented March 11, 1980. Not available NTIS.

Patent 4,213,073: Rod Pinch Diode, filed September 20, 1978, patented July 15 1980. Not available NTIS.

Patent 4,213,670: Planar Fiber Optic Star and Access Coupler, filed Oct. 6, 1977, patented July 22, 1980. Not available NTIS.

Nat. Aeronautics and Space Admin., Assist. Gen. Couns. for Pat. Matters, NASA Code GP-2, Washington, DC 20546

Patent application 6,171,927: Superconducting Gyrocon for High Power High Efficiency Microwave Generator/Amplifier Application, filed July 16, 1980.

Patent application 6,173,519: Automotive Absorption Air Conditioner Utilizing Solar and Motor Waste Heat, filed July 30, 1980.

Patent application 6,173,520: Method for Milling and Drilling Glass, filed June 30, 1980.

Patent application 6,173,521: Castable High Temperature Refractory Materials, filed July 30, 1980.

Patent application 6,173,524: Low Intensity X-Ray and gamma-Ray Imaging Spectrometer, filed July 30, 1980.

Patent 4,090,213: Induced Junction Solar Cell and Method of Fabrication, filed June 15, 1976, patented May 16, 1978. Not available NTIS.

Patent 4,191,893: Natural Turbulence Electrical Power Generator, filed March 3, 1978, patented March 4, 1980. Not available NTIS.

[FR Doc. 81-441 Filed 1-6-81; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF EDUCATION

Advisory Panel on Financing Elementary and Secondary Education

AGENCY: Advisory Panel on Financing Elementary and Secondary Education.

ACTION: Notice of Hearing and Meeting.

SUMMARY: This notice is to inform the general public of its opporutnity to attend and participate in the forthcoming hearing and meeting of the Advisory Panel on Financing Elementary and Secondary Education. The notice sets forth the schedule and proposed agenda for the hearing and meeting and describes the functions of the Advisory Panel. Notice of the hearing and meeting is required under the Federal Advisory Committee Act, Section 10(a)(2).

DATE: 9:00 a.m.–5:00 p.m., February 19 and 20, 1981; 9:00 a.m.–3:00 p.m., February 21, 1981.

ADDRESS: Hall of Fame Inn, 2222 North Westshore Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Will S. Myers, Executive Director, Advisory Panel on Financing Elementary and Secondary Education, 1325 G Street, N.W., Suite 710, Washington, D.C. 20005, (202) 724-0875.

SUPPLEMENTARY INFORMATION: The Advisory Panel on Financing Elementary and Secondary Education was established by Section 1203, Title XII of the Education Amendments of 1978 (Pub. L. 95-561). The Panel provides the Secretary and the Congress with advice and counsel concerning public policies on raising and distributing revenues to support elementary and secondary education. The Advisory Panel also provides advice to the Secretary concerning the conduct of studies authorized by Section 1203. The Advisory Panel will make interim reports to the President and the Congress in 1981 and 1982. The Advisory Panel will also provide recommendations for legislation or other appropriate action to Congress.

AGENDA: The proposed agenda includes:

HEARING: Testimony by invited witnesses and other persons from the State, local, academic, and nonpublic school communities on the issue of finance and governance problems that stem from Federal school aid programs and proposals to improve Federal, State, and local fiscal arrangements for public and nonpublic schools.

MEETING: Report by the Chairman and Executive Director, Presentation of staff paper on Federal grant programs, Discussions of issues raised by staff paper and testimony, Development and adoption of preliminary policy recommendations, Discussion of agenda for the next Panel meeting and hearing.

Persons are invited to submit written testimony for the hearing record. Those interested in presenting oral testimony should contact the Executive Director no later than February 2, 1981. The Advisory Panel asks that testimony, either oral or written, be directed to the topic of the hearing. Both the hearing and meeting of the Advisory Panel are open to the public.

Records are kept of all Advisory Panel proceedings and are available for public inspection at the office of the Advisory Panel on Financing Elementary and Secondary Education located at 1325 G Street, N.W., Suite 710, Washington, D.C. 20005.

Signed at Washington, D.C. on January 2, 1981.

Will S. Myers,

Executive Director, Advisory Panel on Financing Elementary and Secondary Education.

[FR Doc. 81-406 Filed 1-6-81; 8:45 am]

BILLING CODE 4000-01-M

Education Appeal Board; Proceedings

AGENCY: Department of Education.

ACTION: Notice of Education Appeal Board Proceedings scheduled for January 1981.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled a prehearing conference in the *Appeal of the State of Hawaii,* Docket No. 3-(39)-78, for January 15, 1981, and in the *Appeal of the State of Hawaii,* Docket No. 4-(50)-79, for January 16, 1981. This notice also advises readers that interested third parties may apply to intervene in the appeal proceedings.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB-6), Washington, D.C. 20202. Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on April 3, 1980 (45 FR 22634).

Prehearing Conferences

The Education Appeal Board has scheduled prehearing conferences in two audit appeals for the month of January 1981:

(1) *Appeal of the State of Hawaii,* Docket No. 3-(39)-78. The prehearing conference is scheduled for January 15, 1981, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In its appeal, Hawaii is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary for Elementary and Secondary Education). The Deputy Commissioner found that during fiscal years 1973 through 1976, the Windward and Leeward local educational agencies used funds under Title I of the Elementary and Secondary Education Act of 1965 for modified curriculum projects which should have been funded with State and local funds. The Windward local educational agency also used Title I funds for language arts classes which should have been funded with State and local funds. The Deputy Commissioner requested a refund of $398,495.00 from Hawaii.

(2) *Appeal of the State of Hawaii,* Docket No. 4-(50)-79. The prehearing conference is scheduled for January 16, 1981, in Room 3000, 400 Maryland Avenue, S.W., Washington, D.C. The conference will begin at 10:30 a.m.

In this appeal, Hawaii is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary). The Deputy Commissioner found that during fiscal years 1974 through 1977, the Hawaii, Honolulu, and Leeward local educational agencies did not provide State and locally-funded services to schools receiving funds under Title I of the Elementary and Secondary Education Act of 1965 that were comparable to the services provided to schools not receiving Title I funds. The Deputy Commissioner requested a refund of $1,711,123.00 from Hawaii.

Intervention

Section 78.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the two appeals listed above.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB-6), Washington, D.C. 20202, telephone (202) 245-7835.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance Number not applicable)

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Dated: December 24, 1980.

David S. Pollen,

Chairman, Education Appeal Board.

[FR Doc. 81-439 Filed 1-6-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-80-013; OFC Case No. 55041-0731-01-12]

Powerplant and Industrial Fuel Use Act of 1978; Brunswick Pulp and Paper Co.; Granting of Exemption

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On March 13, 1980, Brunswick Pulp and Paper Company (Brunswick) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking permanent exemptions for a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). The Act prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Brunswick filed its petition for exemptions under ERA's interim rule implementing FUA. The interim rule was subsequently superseded by a final rule published on June 6, 1980 (45 FR 38276 and 45 FR 38320), which became effective August 5, 1980.

Brunswick requested (1) a permanent fuel mixture exemption to use a fuel mixture of hydrogen gas and not more than 25 percent petroleum (No. 6 oil) under § 505.28, (2) an emergency purposes exemption under § 505.29 and (3) a scheduled equipment outage exemption under § 505.31 of the interim rule. On August 5, 1980, §§ 505.28, 505.29, and 505.31 of the interim rule were superseded by §§ 503.38, 503.39, and 503.43 of the final rule, respectively.

Pursuant to Section 212(d) of the Act, and subject to specified terms and conditions stated therein, ERA hereby issues this order granting a permanent fuel mixtures exemption to Brunswick to permit the use of hydrogen in a mixture with No. 6 oil. As specified in the terms and conditions, the amount of No. 6 oil used in the exempted unit shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

This order also denies Brunswick's petition requesting permanent exemptions on the basis of (1) emergency purposes and (2) scheduled equipment outages. by petitioning for a fuel mixtures exemption, Brunswick has demonstrated that the use of a mixture is economically and technically feasible in the proposed new unit. Brunswick cannot, therefore, meet the evidentiary requirement for either an emergency purposes or a scheduled equipment outages exemption, each of which requires that a petitioner demonstrate that the use of a mixture is not economically or technically feasible (§§ 503.39(c)(2) and 503.43(b)(4), respectively).

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128J, Washington, D.C. 20461, Phone (202) 653-4226.

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128K, Washington, D.C. 20461, Phone (202) 653-4226.

James Renjilian, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967.

The public file containing a copy of all documents and supporting materials in this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m.-4:30 p.m.

SUPPLEMENTARY INFORMATION: Brunswick's petition for a permanent fuel mixtures exemption is for an MFBI, a package boiler, to be constructed at its Brunswick, Georgia plant facilities in order to use a mixture of hydrogen (an alternate fuel) and an amount of No. 6 oil not to exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. The package boiler will have a heat input rate design capability of 198 million Btu's per hour and a steam generating capacity of 150,000 pounds per hour. Brunswick certified in its petition that the amount of No. 6 oil that is proposed to be used in the package boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. However, Brunswick also stated that the temporary higher capacity usage of the package boiler (about 12 days of planned outages and about 14 days of unplanned outages annually) would necessitate the use of a higher proportion of No. 6 fuel oil to hydrogen.

In accordance with the procedural requirements of FUA and ERA's then applicable interim rules, ERA accepted Brunswick's petition on May 24, 1980, and published a Notice of Acceptance in the **Federal Register** on June 4, 1980 (45 FR 37722). The Notice of Acceptance provided a 45-day comment period during which interested persons could submit written comments on the petition for exemption and could request a public hearing. This period expired on July 21, 1980. No comments were received. A public hearing was not requested.

ERA's staff reviewed the information contained in the record of this proceeding and based on that review made a Tentative Staff Analysis on October 16, 1980, which recommended that an order be issued to grant a permanent fuel mixtures exemption to Brunswick permitting the use of a No. 6 oil and hydrogen mixture in the package boiler, provided that the amount of No. 6 oil used in the unit does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit. ERA's staff has determined that a mixture not to exceed 25 percent of No. 6 oil to hydrogen, on an annual basis, will permit the unit to operate at required levels of steam production, not only during periods of normal operation, but when the unit is required to be used for both planned and unplanned outages. The Tentative Staff Analysis also recommended that Brunswick's request for permanent exemptions on the basis of (1) emergency purposes and (2) scheduled equipment outages be denied. Notice of the availability of the Tentative Staff Analysis on Brunswick's petition was published in the **Federal Register** on October 29, 1980 at 45 FR 71648. In that notice a 14-day period was provided for interested persons to submit written comments on the Tentative Staff Analysis or to request a public hearing. No comments were received nor was a public hearing requested.

As required by Sections 701(f) and (g) of the Act, ERA provided a copy of Brunswick's petition to the Environmental Protection Agency and the Federal Trade Commission for their comment. No comments have been received from either of these agencies.

Decision and Order

Based upon review of the entire record of this proceeding, ERA has determined that Brunswick does not qualify for the requested emergency purposes exemption and the scheduled equipment outage exemptions as, pursuant to §§ 503.39(c)(2) and 503.43(b)(4), it is unable to demonstrate that the use of a fuel mixture in the package boiler is not economically or technically feasible. Therefore, Brunswick's request for the above cited exemptions is denied. ERA has also determined that Brunswick has satisfied the requirements of § 503.38(c). Accordingly, pursuant to Section 212(d) of FUA, and subject to the terms and conditions stated below, ERA hereby grants Brunswick a permanent fuel mixtures exemption to permit, in a mixture with hydrogen, the use of No. 6 fuel oil in the package boiler in an amount not to exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. ERA has determined that the conclusions reached in the Tentative Staff Analysis are consistent with the provisions of the final rule with the exception of the recommended terms and conditions. Consequently, the terms and conditions of this order incorporate the specific terms and conditions required by 10 CFR 503.38(e). Accordingly, this order is granted subject to the following terms and conditions:

1. The amount of No. 6 oil used in the package boiler shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.
2. The quality of any petroleum to be burned in the package boiler will be the lowest grade available, which is technically feasible and capable of being burned consistent with applicable environmental requirements.

Reporting Requirement

In accordance with the reporting requirement in § 503.38(g), Brunswick will certify to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, the date the package boiler is first operated and, each year on the anniversary of that date, that the amount of No. 6 oil used in the package boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit. The certification must be executed by a duly authorized representative of Brunswick. The OFC Case Number assigned this proceeding, 55041-0731-01-12, shall be cited on the annual reports.

On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the DOE's Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Effectiveness of Order

The exemption granted by this order shall not become effective earlier than the 60th calendar day after the date of publication of this order in the **Federal Register.**

Judicial Review

Pursuant to Section 702(c) of the Act, any person aggrieved by this order may at any time before March 9, 1981, petition for judicial review in accordance with the procedures outlined in 10 CFR 501.69.

Issued in Washington, D.C., on December 31, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-407 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52970-9039-01, 02, 03, 04-82]

Tucson Electric Power Co., Tucson, Arizona; Notice and Issuance of Proposed Prohibition Orders Pursuant To Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice pursuant to section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), of the issuance of proposed prohibition orders which would prohibit the powerplants named below from burning natural gas or petroleum in a mixture with an alternate fuel in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency. The exact proportions of the fuel mixture will be proposed in a Tentative Staff Analysis, and established upon issuance of the final prohibition order.

Proposed Prohibition Orders

Pursuant to section 301(c) of FUA, ERA issues these proposed prohibition orders to the following powerplants (Irvington Station Units 1, 2, 3 and 4) owned by the Tucson Electric Power Company (Utility).

ERA case No.	Generating station	Plant No.	Megawatt capacity	Location
52970-9039-01-82	Irvington Station	1	80	Tucson, Arizona.
52970-9039-02-82	do	2	80	
52970-9039-03-82	do	3	105	
52970-9039-04-82	do	4		

Statement of Basis and Rationale for Proposed Prohibition Orders

ERA has issued regulations applicable to existing facilities, 10 CFR Part 504 (Regulations), to implement the prohibitions contained in section 301(c) of FUA. 10 CFR 504.7 of the Regulations sets forth the basis upon which ERA will propose to prohibit, by order, the amount of natural gas or petroleum that may be used by a powerplant, where ERA finds that it is technically and financially feasible for the powerplant to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source. These proposed orders further describe the criteria which ERA proposes to use for making the findings required by section 301(c) of FUA prior to the issuance of final prohibition orders.

The Utility reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ended December 31, 1979, that Irvington Station Units 1, 2, 3 and 4 burned a total of 921,300 barrels of oil and 14,384,000 Mcf of natural gas. This total consumption is equivalent to approximately 3.4 million barrels of oil. Based upon data supplied by the Utility, the potential oil equivalent displacement which would result from the conversion of the four powerplants and their operation using mixtures of oil or natural gas and coal has been estimated to be 1.9 million barrels annually.

For purposes of making the findings required by section 301(c) of FUA prior to issuance of a final prohibition order, ERA proposes that the following criteria be used for determining technical and financial feasibility:

Technical feasibility. ERA will assess "technical feasibility" on a case-by-case basis. A primary consideration will be the ability of the unit, from the point of fuel intake, to physically sustain combustion with the proposed fuels, and to maintain heat transfer. The finding will be based on the unit's capability to burn the specified fuels, notwithstanding the facts that adjustments must be made to the unit beforehand or that pollution control equipment may be required to meet air quality requirements.

A further consideration will be the burning of the proposed "mixture" in such manner so as to limit the amounts of pertroleum or natural gas to the minimum necessary to maintain reliability of operation, consistent with reasonable fuel efficiency.

In considering reliability of operation, ERA will assess, among other things seasonal system peak load reserve margin requirements, so that the reserve margin will not be less than 15 percent of such seasonal peak load requirements during any period of the year. ERA will also consider whether conversion of the units from petroleum or natural gas to a mixture of petroleum or natural gas and an alternate fuel will result in a substantial reduction in rated capacity. ERA will regard a derating of the unit of 25 percent or more as substantial. In computing the applicable derating percentage, derating will be considered on an annual basis.

ERA, in making the required technical feasibility finding, will consider whether physical modification to the unit would be substantial. ERA may consider physical modifications to be substantial where warranted by the magnitude and complexity of the engineering tasks, or where the modification would impact severely upon operations at the site. ERA will not, however, assess technical feasibility on the basis of cost of required physical modifications to the unit or the installation of pollution control or fuel handling equipment. This assessment will be completed in connection with the required financial feasibility finding.

Financial feasibility. ERA will presume that it is financially feasible for a unit to use a mixture of oil or natural gas and an alternate fuel as its primary energy source if the cost of using the mixture substantially exceeds the cost of using imported petroleum as calculated using the general cost calculation described in 10 CFR 504.12, issued by ERA on December 19, 1980.

The Utility may seek to rebut the presumption in the paragraph above with evidence that, despite good faith efforts, it is unable to raise the capital that would be necessary for the conversion, or that for some other economic or financial reason, conversion is not financially feasible. The standard for assessing capital availability will be that specified in 10 CFR 503.35(a)(2).

In making this finding, ERA will consider the financial impact of the conversion, including other conversions, which are or may be imposed upon the utility system by the Act.

Preliminary Finding of Technical Feasibility

In accordance with section 301(c) of FUA, the proposed orders are based on preliminary findings by ERA that it is technically feasible for Irvington Station Units 1, 2, 3 and 4 to use a mixture of petroleum or natural gas and coal (alternately burned) as a primary energy source. This finding is based on data furnished to ERA by the Utility, consisting of the following three reports: (1) "Conversion To Coal Firing Tucson Gas Electric Power Co. Irvington Station Unit No. 4", prepared by Foster Wheeler Energy Corporation, dated October 7, 1980, (2) "Engineering Report Coal Conversion, Tucson Electric Power Company, Irvington Units No. 1, No. 2 and No. 3", prepared by Combustion Engineering Incorporated, dated October 1980, and (3) "Irvington Station Coal Conversion Study, Phase I Report," prepared by Sterns-Roger Engineering Corp., dated October 1980.

The reports indicate the ability of the units, from the point of fuel intake, to physically sustain coal combustion and maintain heat transfer. This finding recognizes that Irvington Station Units 1, 2, 3 and 4 is capable of burning a mixture of petroleum or natural gas and an alternate fuel (coal), notwithstanding the fact that adjustments must be made to the units beforehand or that additional pollution control equipment may be necessary to meet air quality requirements.

Proposed Prohibition Orders Under Title III of FUA

Subject to any other findings that ERA may make, ERA hereby proposed to prohibit Irvington Station Units 1, 2, 3 and 4 from burning petroleum or natural gas in a mixture with alternate fuel (coal) in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency. The exact proportions of the fuel mixture will be proposed in a tentative staff analysis, which will be issued following the public comment periods, and established upon issuance of the final prohibition order.

Description of Prohibition Order Proceedings

Pursuant to section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, 10 CFR § 501.5. Consistent with these regulations, ERA is adopting the following procedure for the processing of these proposed orders:

(1) A decision has been made to issue proposed prohibition orders to the Utility for Irvington Station Units 1, 2, 3 and 4. ERA is hereby publishing its preliminary technical feasibility finding and proposed prohibition orders in the **Federal Register**, as required by section 701(b) FUA.

(2) In accordance with 10 CFR 501.51(b)(3), a public comment period of at least three months is to commence after publication of a proposed prohibition order, during which period the Utility will be given an opportunity to respond to ERA's initial finding of technical feasibility contained in the proposed prohibition order. During this three-month comment period, the Utility is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings which it is required to make prior to issuance of a final prohibition order. The Utility will also be required during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the powerplant may qualify.

(3) Subsequent to the end of the initial comment period of at least three months, ERA will issue a notice of whether it intends to proceed with the proposed prohibition order. Within three months of the issuance of the notice of intention to proceed with the proposed prohibition order, the Utility may demonstrate that the powerplant would qualify for an exemption if the proposed prohibition order had been established by rule.

(4) Subsequent to the end of the second comment period, ERA will, if it intends to issue the final prohibition order, prepare and publish a Notice of Availability of a Tentative Staff Analysis.

(5) Under the provisions of section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order. Pursuant to 10 CFR 501.51(b)(6), interested persons wishing a hearing must make their request in writing no later than 45 days after publication of the Notice of Availability of a Tentative Staff Analysis. If a hearing is requested, ERA shall provide interested person with an

opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(6) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed prohibition order and Tentative Staff Analysis, the Utility's showing on any exemptions and rebuttal of ERA's proposed prohibition order, and ERA's rebuttal to any showing of potential qualification for exemption.

(7) After the hearing, if any, or at the end of the second three-month comment period, ERA shall determine whether the final prohibition order will be issued, based upon ERA's review of the entire administrative record. The final prohibition order, if issued, together with a summary of the basis therefor, will be published in the **Federal Register.** Such order shall not take effect earlier than sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity for interested persons to submit written comments, views and arguments regarding these proposed prohibition orders, including the proposed criteria to be used in making the required findings under section 301(c) of FUA. Comments need not be limited to ERA's technical feasibility finding, but may include a discussion of the financial and other factors requisite to findings necessary for issuance of a final order.

The initial comment period shall remain open for a period of three months after publication of these proposed orders in the **Federal Register,** unless reduced at the request of the Utility pursuant to 10 CFR 501.51(b)(8). Notice of any such change during the time for public comment will be published in the **Federal Register.** Comments should make reference to the case numbers set forth in this notice and the proposed prohibition orders. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition orders believed to be relevant.

Written comments on the proposed prohibition orders should be directed to Public Hearing Management (Case No. 52970–9039–01, 02, 03, 04–82), U.S. Department of Energy, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, and should be received before 4:30 p.m. on April 7, 1981.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed prohibition orders. The request must include a description of the person's interest in the proposed prohibition orders, an outline of the anticipated content of the presentation to be made at where the person requesting the public hearing may be reached. The request also should, to the extent possible, identify any witnesses that may be presented at the hearing, and summarize their anticipated testimony and the purpose of the testimony.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for Irvington Station Units 1, 2, 3 and 4." Fifteen copies should be submitted.

All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 501.7(g). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, 202–653–4055

James W. Workman, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3112, Washington, D.C. 20461, 202–653–4288

Marilyn L. Ross, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B–178, Washington, D.C. 20585, 202–252–2967

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.;* E.O. 12009 (42 FR 46267))

Issued in Washington D.C., December 31, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81–807 Filed 1–6–81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory

[Docket No. ER80–204]

CP National Corp.; Order Vacating Summary Disposition and Accepting Rates

Issued: December 31, 1980.

On August 7, 1980, the Commission accepted a rate schedule under which CP National is providing transmitting power and energy purchased from Utah Power and Light Company to the City of St. George, Utah. In this Order, the Commission disposed summarily of a portion of the rate tendered by CP National.

CP National sought rehearing of this summary disposition an a stay of this provision of the Commission's Order on September 5, 1980. Subseqently, the Commission granted rehearing for the limited purposes of further consideration, and the requested stay.

CP National's original filing proposed a rate of $21.67 per kW year. In response to an inquiry from the Commission's Office of Electric Power Regulation, CP National indicated that the rate would have been $1383 per kW/year but for the recovery from St. George of its share of a substantial deficiency created by the rate specified in a contract between CP National and the Western Area Power Administration (WAPA) for transmission service to, among others, the City of St. George. CP National in its response to the Commission's inquiry further stated that there was no material difference between the WAPA, transmission services and the Utah Power and Light St. George transmission service. Consequently, the Commission ordered CP National to refile its rates for the proposed new service on the ground that recovery of the deficiency created by the low WAPA contract rate (under which power was transmitted to, among others, St. George) by a surcharge on rates for other transmision to St. George deprived St. George of the benefits of the WAPA contract without the legally necessary showing that the WAPA rate was so low as to be inconsistent with the public interest.[1]

In its petition for rehearing, CP National advances a significantly different rationale in support of the $21.67 per kW/year rate. The new rationale notes that WAPA delivers power to CP National for transmission to ST. George at a point where only CP National's 138 kv transmission system need be utilized to deliever the electricity to St. Georgia; whereas electricity from Utah Power and Light enters CP National's system at a point where both the 230 kv transmission lines and the 138 kv transmission lines are likely to be utilized to deliver the electricity to St. George. Under this analysis, CP National argues, the WAPA rate of $4.20 per kW/year is roughly adequate to cover the cost of the 138 kv lines used to transmit WAPA electricity to St. George; and the $21.67 per kW/year rate for the transmission of Utah Power and Light electricity is substantially cost-supported on the basis of the cost of both the 230 kv and the 138 kv lines.

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[1] *FPC v. Sierra Pacific Power Co.* 350 U.S. 348 (1956); *United Gas Pipeline Company v. Mobile Gas Service Corporation et. al.* 350 U.S. 332 (1956)

CP National's alternative rationale advanced in its petition for rehearing thus does not seek to justify a rate for the services at issue here based upon a perceived deficiency created by the WAPA contract rate. This alternative rationale, then, avoids substantial questions (resolved in the Commission's August 7 Order) arising out of the Supreme Court's opinions in *Sierra* and *Mobile*. In light of this fact and the fact that St. George has agreed to the rate as originally filed, the Commission will accept the rate of $21.67 per kW/year.

The Commission orders:

(A) Ordering paragraphs B, C and D of the Commission's August 7, 1980, order are hereby vacated.

(B) The originally propose rate of $21.67 per kW/year for transmission service to St. George is accepted as filed, effective as of June 25, 1979.

(C) This Docket is hereby terminated.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-404 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-19-000]

Gulf States Utilities Co.; Application

December 30, 1980.

Take notice that on December 17, 1980, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to enter into negotiations in connection with the issuance of up to 2,000,000 Shares of Preferred Stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-405 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-20-000]

Gulf States Utilities Co.; Application

December 30, 1980.

Take notice that on December 17, 1980, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to enter into negotiations in connection with the issuance of up to $100,000,000 of First Mortgage Bonds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to beocme parties to a proceeding or to participate as a party in any hearing therein must file petitions to interevene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-406 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-18-000]

High Island Offshore System; Order Accepting Proposed Tariff Sheets for Filing, and Establishing Hearing Procedures

Issued: December 31, 1980.

On December 1, 1980, High Island Offshore System (HIOS) filed Fourth Revised Sheet No. 4, First Revised Sheet No. 7 and Second Revised Sheet No. 8 to Original Volume No. 1, proposing an annual increase in revenues from jurisdictional transportation services of $11.6 million based on actual costs for the 12 month period ending August 31, 1980, as adjusted. HIOS requests that the proposed increase become effective on January 1, 1981.

HIOS claims that the proposed revenue increase is necessary because of increased levels of operation and maintenance expenses, changes in the method of computing depreciation, a reduction in the charge applicable to separation facilities,[1] and a need for an overall rate of return of 10.96% which yields a 17% return on common equity which common equity comprises 24.7% of total capitalization.

HIOS requests that the Commission consider the proposed filing as a compliance filing pursuant to the December 6, 1977, order in High Island Offshore System, Docket Nos. CP75-104, *et al.*, and as a rate increase filing pursuant to Section 4 of the Natural Gas Act. For the reasons set forth below, we shall treat this filing as a filing in compliance with the December 6, 1980 order.

In the December 6, 1977 order in Docket Nos. CP75-104, *et al.*, the Commission approved the use by HIOS of an interim transportation rate for the period commencing with the first day of operations until January 1, 1979. The Commission further directed that:

> HIOS shall submit a cost of service study every two years to justify its then existing rates or provide a basis for a rate change. The first such study shall be submitted on or

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[1] By order issued December 22, 1978 in *High Island Offshore System*, Docket Nos. CP75-104 *et al.*, the Commission required HIOS to provide for recovery of costs associated with the handling of liquids and liquefiables through a separate charge. HIOS established the charges applicable to the separation function in a filing of June 12, 1979, in compliance with Commission orders. The allocation method was based upon the ratio of separation facilities to total facilities at Grand Chenier and Cameron Meadows, Louisana, with operation and maintenance assigned on a functional basis. HIOS allocated $5,100,000 of the total facilities costs of $9,970,000 to the separation function to be charged to the Shippers for separation of liquids. In the present filing HIOS shows no allocation of costs to separation services and as a result reflects a charge of $0 for separation services. This matter should be addressed in the hearing established in this order.

before March 31, 1981. Any changes found to be necessary shall become effective the first day of the year in which the cost study is submitted."

Since the time period covered by the instant rate filing, with a proposed effective date of January 1, 1981, would be the same time period covered by the required biennial cost study, it is appropriate to accept the proposed tariff sheets for filing as being in compliance with the Commission's December 6, 1977, order in Docket Nos. CP75–104, *et al.*, and permit them to become effective as of January 1, 1981, as provided below.

Based upon a review of HIOS' filing, the Commission finds that the proposed tariff sheets have not been shown to be justified. Accordingly, the Commission shall accept HIOS' filing to be effective January 1, 1981, *provided; however;* that pursuant to the certificate condition in the December 6, 1977, order set forth above, any change found to be necessary in the rates shall become effective as of January 1, 1981. Should any refunds be necessary, the amount refunded shall include interest at the rate prescribed in § 154.67 of the Regulations.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the lawfulness of the changed rates proposed by HIOS.

(B) Pending hearing and decision, HIOS' proposed tariff sheets are accepted for filing to become effective as of January 1, 1981, *provided; however;* that pursuant to the certificate condition set forth in the December 6, 1977, order in Docket Nos. CP75–104 *et al.*, any changes found to be necessary shall become effective as of January 1, 1981. Should any refunds be necessary, the amount to be refunded shall include interest at the rate prescribed in Section 154.67 of the Regulations.

(C) The Commission Staff shall prepare and serve top sheets on all parties on or before April 1, 1981.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the Rules of Practice and Procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–489 Filed 1–6–81; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–492]

Idaho Power Co.; Order Granting Waiver and Motion To Collect Interim Rates in Lieu of Filed Rates

Issued: December 30, 1980.

On November 18, 1980, Idaho Power Company (Idaho) filed a motion requesting authorization to collect proposed interim rates[1] for service to one of its wholesale customers, CP National Corporation (CP National), in two service areas. Idaho requested that the interim rates for service to CP National in eastern Oregon be made effective as of December 1, 1980. An effective date of January 1, 1981, was requested with respect to the rates for service to CP National in Elko, Nevada. Idaho stated that the interim rates would be collected subject to refund pending final disposition of this case. Idaho further stated that it anticipated filing a settlement agreement in this docket incorporating the interim rates and predicated in part on the interim rates becoming effective on the dates requested. Such an agreement was, in fact, submitted to the Commission on December 2, 1980.

By order issued August 29, 1980, Idaho's originally proposed rates were suspended for five months and permitted to become effective on February 1, 1981, subject to refund. Idaho has requested waiver of §§ 35.3 (notice) and 35.17(b) (changes in suspended rate schedules) of the Commission's regulations in order to put the interim rates into effect. In its November 18 motion, Idaho stated that CP National and the other intervenors, the Oregon Public Utility Commissioner and the Idaho Public Utilities Commission, had expressed their agreement with respect to the interim rate proposal. This concurrence was subsequently evidenced by the intervenors' execution of the proposed settlement agreement.

The settlement rates reflect a reduction in test year revenues as compared to the rates originally filed by Idaho. Under the original filing, the proposed rate changes would increase CP National's rates for eastern Oregon operations by $5,228,218 (92%) and the rates for Elko, Nevada operations by $678,917 (72%). In contrast, the proposed interim rates reflect annual increases in revenues of $4,500,000 and $555, 000 for the Oregon and Elko operations, respectively.

Discussion

Upon review, the Commission finds that Idaho's interim rate proposal is in the public interest. In effect, Idaho is requesting that the suspension period originally imposed in this proceeding be reduced from five months to three months and four months, respectively, for CP National's Oregon and Nevada operations. In view of the rate reduction and the consent of the sole customer, as well as the two intervening state commissions, we shall grant the requested waivers of the Commission's regulations and shall allow Idaho to collect the proposed interim rates, subject to refund as conditioned below, in lieu of the originally filed and suspended rates pending consideration of the offer of settlement.[2] This order, however, shall be without prejudice to our subsequent determinations on the merits of the settlement proposal. If we should disapprove the settlement, Idaho may collect the originally filed rates, subject to refund, prospectively only from February 1, 1980, the effective date established in our original suspension order.[3] This order is further conditioned on Idaho's agreement to refund the entire interim rate with interest in the event that the settlement is disapproved.

The Commission orders

(A) We find good cause under Section 35.1(e) of our regulations, to hereby grant Idaho's motion to collect proposed interim rates as conditioned by this order. Idaho's proposed interim rates shall become effective, subject to refund, on December 1, 1980 (Oregon), and January 1, 1981 (Elko).

(B) In the event that the settlement agreement submitted on December 2, 1980, is disapproved, Idaho's originally filed rates shall be collected, subject to refund, prospectively only from February 1, 1980. Collection of the interim rate is conditioned on Idaho's agreement to refund the entire amount of the interim rate collected prior to February 1, 1980, with interest, in the event that the settlement is disapproved.

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[1] *See* Attachment A for rate schedule designations.

[2] *See, Missouri Public Service Company,* Docket No. ER80–106, Order issued August 22, 1980.

[3] We find that Idaho's motion is more properly treated as a request under § 35.1(e) to collect a rate other than the filed rate rather than a request to file a new rate under § 35.17(b), and we shall so treat it.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,
Secretary.

Idaho Power Company—Docket No. ER80-492

Rate Schedule Designations

Designations and Other Party:

(1) Supplement No. 6 to Rate Schedule FPC No. 57 (Supersedes Supplement No. 5 to Rate Schedule FPC No. 57)—CP National—Oregon.

(2) Supplement No. 5 to Supplement No. 1 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 4 to Supplement No. 1 to Rate Schedule FPC No. 30)—CP National—Nevada.

[FR Doc. 81-490 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-17-000]

Midwestern Gas Transmission Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Subject to Conditions, and Establishing Procedures

Issued: December 31, 1980.

On December 1, 1980, Midwestern Gas Transmission Company (Midwestern) filed revised tariff sheets [1] reflecting a general rate increase under Section 4(e) of the Natural Gas Act designed to increase jurisdictional revenues by approximately $3,775,530 annually. The increased rates, with a proposed effective date of January 1, 1981, are based on actual costs for the twelve months ending August 31, 1980, as adjusted for known and measurable changes in costs which are expected to be incurred by the end of the test period, May 31, 1981.

Midwestern proposes an overall rate of return of 13.38%, including a return on common equity capital of 14.75%, and states that the increased rates are necessary to recover increased operation and maintenance expenses and because of a projected decrease in sales volumes.

Midwestern's pipeline is geographically divided into two systems, a northern and a southern system. A separate cost of service is computed for each system and Midwestern files separate tariff sheets for each. The revised rates will increase Midwestern's revenues from its Southern System by $4,870,087, and decrease revenue from its Northern System by $1,094,557.

Based upon a review of Midwestern's filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we will accept the revised tariff sheets for filing and suspend their effectiveness subject to refund and to the conditions set forth below.

In a numnber of suspension orders [2] the Commission has addressed the considerations underlying its policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where the preliminary study leads the Commission to believe that the filing may be unjust or unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here with respect to the tariff sheets for the southern system.[3] Accordingly, we shall suspend the southern system's tariff sheets for a period of five months permitting such rates to become effective, subject to refund thereafter, on June 1, 1981.

Insofar as the tariff sheets pertaining to the northern system are concerned,[4] the Commission finds that circumstances warranting a shorter suspension than the maximum statutory period are present. More specifically, Midwestern has filed for an overall revenue decrease of $1,094,557 for its northern system. The Commission concludes that the northern system customers should presently benefit from this decrease rather than be denied such benefits by suspending these rates for the full five months. Therefore, the Commission will suspend these tariff sheets to become effective on January 1, 1981. Waiver of the Commission's notice requirements is granted in order to allow the rates to go into effect January 1, 1981.

The Commission notes that Midwestern's filing for its entire system contains costs associated with certain uncertificated facilities. Inclusion of costs associated with uncertificated facilities is inconsistent with § 154.63(e)(2)(ii) of the Commission's Regulations. Accordingly, acceptance for filing would require waiver of that rule. We find that good cause exists to accept Midwestern's filing, with the condition that on or before July 1, 1981, Midwestern file revised tariff sheets to reflect elimination of facilities not in service on or before the end of the test period, June 1, 1981.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the rates proposed by Midwestern.

(B) Pending hearing and decision, Midwestern's proposed Fifteenth Revised Tariff Sheet No. 5A to Third Revised Volume No. 1 and Fourth Revised Sheet No. 37 to Original Volume No. 2 are accepted for filing and suspended until January 1, 1981, when they may become effective. Waiver of the notice requirements is granted to allow the January 1, 1981 effective date.

(C) Pending hearing and decision, Midwestern's proposed Twenth-Ninth Revised Sheet No. 5 to Third Revised Volume No. 1 and First Revised Sheet Nos. 64F and 64G to Original Volume No. 2 are accepted for filing and suspended until June 1, 1981, when they may become effective, subject to refund.

(D) Waiver of § 154.63(e)(2)(ii) is granted with respect to the tariff sheets accepted in Ordering Paragraphs (B) and (C) upon the condition that Midwestern file substitute revised tariff sheets on or before June 1, 1981, to reflect removal of costs associated with facilities not certificated and in service at the end of the test period, June 1, 1981, provided that Midwestern shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before April 1, 1981.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

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[1] Twenty-Ninth Revised Sheet No. 5, Fifteenth Revised Sheet No. 37, First Revised Sheet Nos. 64F and 64G to Original Volume No. 2 of Midwestern's FERC Gas Tariff.

[2] *E.g., Valley Gas Transmission, Inc.*, Docket No. RP80-98 (August 22, 1980) (one day suspension); *Great Lakes Gas Transmission Company*, Docket No. RP80-134 (September 24, 1980) (five month suspension).

[3] Twenty-Ninth Revised Sheet No. 5 to Third Revised Volume No. 1 and First Revised Sheet Nos. 64F and 64G to Original Volume No. 2.

[4] Fifteenth Revised Sheet No. 5A to Third Revised Volume No. 1 and Fourth Revised Sheet No. 37 to Original Volume No. 2.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-491 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-74-000]

Northwest Pipeline Corp., Petition for a Declaratory Order

December 30, 1980.

Take notice on November 26, 1980 Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP81-74-000 a petition for a declaratory order pursuant to Section 1.7(e) of Commission's Rules of Practice and Procedure (18 CFR 1.7 (c)) determining prudence of proposed facilities, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner requests a Commission determination of the prudence of proposed construction of facilities in Wyoming for carbon dioxide and hydrogen sulfide removal in a standard acid gas removal system coupled with sulphur recovery, and a cryogenic rejection of nitrogen, helium, and trace components to yield a high Btu gas product. The planned gas processing facility is projected by Petitioner to recover approximately 80,000 Mcf per day of pipeline quality gas from 400,000 Mcf per day of raw gas feed extrated from reserves in the LaBarge Anticline below 12,000 feet, located in the Tip Top Field in southwest Wyoming. Petitioner's present estimated captial cost of the proposed facilities is $340,000,000 with operational completion scheduled for 1984.

Petitioner contends that its costs associated with processing natural gas to pipeline quality, as define in the Commission's Regulations, Section 271.1104 (c) (4) (i), promulgated by Order No. 94 (Docket No. RM80-47) should be deemed prudent under the Natural Gas Act and the Natural Gas Policy Act of 1978. Petitioner requests an order declaring such costs prudent so as to permit Petitioner to include such costs in its rates. Petitioner contends that without prior assurance of rate coverage for construction and operational costs of the proposed facilities, the risk of inability to recover such costs is unreasonable.

Petitioner maintains that the proposed project provides a means to enhance United States' energy supplies by converting a large reserve of undeveloped low quality natural gas into a valuable energy product. Further, Petitioner states that the project would also provide a carbon dioxide resource which may be employed for enhanced oil recovery in western oil fields and that the result can be accomplished through the application of proven processes now available commercially. It is asserted that in comparison to other substitute sources of natural gas, the upgrading of this low Btu gas resource warrants development.

Any person desiring to be heard, or to make any protest with reference to said petition should, on or before January 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in hearing therin must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-492 Filed 1-6-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51122; FRL 1603-4]

Certain Chemicals; Toxic Substances Premanufacture Notices

Correction

In FR Doc. 80-28010 appearing on page 60003 in the issue of Thursday, September 11, 1980, on page 60006, second column, the third line from the botton, above the table, should read as set forth below.

"Solubility— > 10 g/1 in water 60°>."

BILLING CODE 1505-01-M

[RD-FRL 1722-2; Docket No. ECAO-CD-79-1]

Air Quality Criteria for Particulate Matter and Sulfur Oxides; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: In the **Federal Register** of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides (PM/SO$_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the fifth in that series of meetings.

SUBJECT: The meeting will concern both Chapter 14 (Epidemiological Studies of the Effects of Atmospheric Concentrations of Sulfur Dioxide and Particulate Matter on Human Health), and an additional section which will serve to integrate the four chapters (11-14) dealing with health effects, to be included in Chapter 1 (Executive Summary).

DATES: The fifth meeting is scheduled to be held on January 12, 13, and 14, 1981, beginning at 9:00 a.m.

LOCATION: The meeting of January 12, 13, and 14, 1981 will be held at the Holiday Inn, 15-501 By-pass, Chapel Hill, North Carolina 27514. Reservations can be made by calling 800/238-8000.

FOR FURTHER INFORMATION CONTACT: Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office, (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919/541-4172.

Dated: December 31, 1980.

Richard M. Dowd, Ph.D.,

Acting Assistant Administrator for Research and Development.

[FR Doc. 81-408 Filed 1-6-81; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 27, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operators to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: LM-65. Filing Party: C. P. Lambos, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004. Summary: Agreement No. LM-65 is the collectively-bargained Job Security Program Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts and the International Longshoremen' Association, AFL-CIO, covering the period October 1, 1980, through September 30, 1983.

Agreement No.: LM-66. Filing Party: C. P. Lambos, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004. Summary: Agreement No. LM-66 is the collectively-bargained Tonnage Assessment Agreement between New York Shipping Association and the International Longshoremen' Association, AFL-CIO, covering the period October 1, 1980, through September 30, 1983.

Agreement No.: T-3938. Filing Party: David V. Ainsworth, Senior Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612. Summary: Agreement No. T-3938 between the City of Los Angeles (City) and American President Lines, Ltd. (APL), consists of Permit No. 441 granted by City to APL. Under the permit APL will continue to use the marine terminal facilities it uses under Permit No. 168 (FMC Agreement No. 8325) while the City improves and constructs a new marine facility at Berths 87 to 93 C. The term of the agreement is 20 years. Compensation paid to City is based upon the sharing of City terminal tariff revenues for dockage, wharfage, demurrage, storage, etc. APL guarantees a minimum sum equaling wharfage revenue applicable under City's terminal tariff on a stated number of tons. Sharing of revenue changes to 75 percent to APL and 25 percent to City once APL's thoughput in any year exceeds a stated "revenue tonnage breakpoint." APL's minimum guarantee and the revenue tonnage breakpoint increases each five years, based upon a projected 6 percent per annum increase in APL's tonnage throughput. In computing minimum guaranteed throughput and revenue tonnage breakpoint in any year following commencement of the new terminal, the first 600,000 tons attributable to APL's customers are excluded. The agreement also provides that APL will compensate City for the use of four terminal cranes at the annual rate of 13.5 percent of the total cost of such cranes. The agreement will supersede Permit No. 168 FMC Agreement No. 8325.

Agreement No.: 9721-6. Filing Party: David Strain, Lillick, McHose & Charles, Tow Embarcadero Center, San Francisco, California 94111. Summary: Agreement No. 9721-6, between Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui-O.S.K. Lines, Ltd., Japan Line (U.S.A.) Ltd., Kerr Steamship Co., Inc., Williams-Dimond Roundtree Agencies, Inc., Williams, Dimond & Co., and Lilly Shipping Agencies, amends the proponents' basic agreement providing for the establishment of two corporations, Los Angeles Container Terminal, Inc., and the Oakland Container Terminal, Inc., to carry on terminal services as set forth in the basic agreement. The purpose of the modification is to change the name of Japan Line (New York) Ltd. to Japan Line (U.S.A.) Ltd. The reason for the change is that Japan Line (U.S.A.) Ltd., is in the process of dissolution, and its assets and participation as a member of the agreement will be assumed by its sole shareholder, Japan Line (New York) Ltd., a New York Corporation. This New York corporation will change its name to the subsidary's former name, that is, Japan Line (U.S.A.) Ltd. The amendment results in no change in beneficial ownership.

By Order of the Federal Maritime Commission.

Dated: December 31, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 81-506 Filed 1-6-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Cokato Bancshares, Inc.; Formation of Bank Holding Company

Cokato Bancshares, Inc., Cokato, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 per cent or more of the voting shares of State Bank of Cokato, Cokato, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 29, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 30, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-494 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Commerce Southwest Inc.; Acquisition of Bank

Commerce Southwest Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Farmers and Merchants National Bank of Kaufman, Kaufman, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 30, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-497 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Georgia Bancshares, Inc.; Acquisition of Bank

Georgia Bancshares, Inc., Macon, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The Farmers National Bank of Monticello, Monticello, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 30, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-496 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Steel City Bancorporation; Formation of Bank Holding Company

Steel City Bancorporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Steel City National Bank of Chicago, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 30, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-498 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4 (c) (8) of the Bank Holding Company Act (12 U.S.C. § 1843(c) (8)) and section 225.4(b) (1) of the Board's Regulation Y (12 CFR 225.4(b) (1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo),* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 29, 1981.

A. *Federal Reserve Bank of Boston,* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106:

1. Industrial National Corporation, Providence, Rhode Island (mortgage banking activities; Utah): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgage and servicing of residential mortgage loans. These activities would be conducted from a new office in Murray, Utah, servicing the following Utah counties: Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Toole, and Weber.

2. Industrial National Corporation, Providence, Rhode Island (mortgage banking activities; Arizona): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages and servicing of residential mortgage loans. These activities would be conducted from a new office in Lake Havasu City, Arizona, servicing Mohave County, Arizona.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (commercial leasing and financing activities; North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee and Virginia): to engage, through its subsidiary Manufacturers Hanover Leasing Corporation in leasing real property on a full payout basis, acting as agent, broker or adviser in leasing such property, making or acquiring for its own account or for the account of others loans and other extensions of credit with respect to real property, and servicing such leases, loans and other extensions of credit, as permitted under Sections 225.4(a) (1), (3), and (6) of the Board's Regulation Y. These activities are proposed to be conducted from the existing office of Manufacturers Hanover Leasing Corporation located in Atlanta, Georgia, and serving the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee and Virginia.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, December 31, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-[illegible] Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Rules of Organization

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendments.

SUMMARY: The Secretary of the Board has approved technical amendments to the Board's Rules of Organization to reflect organizational changes. The amendments will bring up to date descriptions of the functions of various offices and divisions of the Board.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3257).

SUPPLEMENTARY INFORMATION: Effective December 31, 1980, section 3 of Rules of Organization is revised as follows:

Section 3—Central Organization

The Board's central organization consists of the members of the Board and the following Offices, Divisions, and Officials:

(a) *Office of Board Members* consists of the members of the Board, Assistants, and Special Assistants to the Board assigned to public affairs and Congressional liaison.

(b) *Office of Staff Director for Monetary and Financial Policy* is responsible for preparation of position papers and other documents on monetary policy issues, including issues relating to open market, discount, and reserve requirement policy; performance of Secretariat functions for the Federal Open Market Committee, coordination of regulatory and statistical issues closely related to monetary policy; liaison with the trading desk at the Federal Reserve Bank of New York in connection with open market operations; liaison with Treasury or other agencies in the domestic financial area; coordination with the System Account Manager and with the Treasury on foreign exchange market operations; Eurodollar and international banking policy issues; coordination of analysis and development of options for Board consideration with regard to foreign exchange policies and the international payments mechanism; and appropriate staff coordination with other agencies in these areas.

The Office also reviews and coordinates statistical and regulatory reports required by the Board of banks and bank holding companies; and performs Secretariat functions for the Depository Institutions Deregulation Committee.

(c) *Office of Staff Director for Federal Reserve Bank Activities* is responsible for overseeing the Division of Federal Reserve Bank Operations, assisting the Board's Committee on Federal Reserve Bank Activities, and coordinating the functions of other Board Divisions that relate to Federal Reserve Bank matters. The responsibilities of this office also include all Reserve Bank director matters, coordination of the annual evaluation program for Federal Reserve Banks, the Federal Reserve System's program for emergency preparedness, and representing the Board in activities pertaining to Bank operational matters in meetings with foreign central banks and other United States Government agencies.

(d) *Office of Staff Director for Management* is responsible for the planning and coordination of staff operations and organization and for resource management, and supervision of the following functions: Board building administration and operations, Board budget and accounting activities, data processing, personnel-related activities, Equal Employment Opportunity, and contingency planning operations.

(e) *Office of the Secretary,* headed by the Board's Secretary, coordinates and handles items requiring Board action, including actions under delegated authority; prepares agenda for Board meetings; implements actions taken at Board meetings; prepares, circulates and indexes minutes of the Board; has responsibility for the Board's Regulatory Improvement Project; provides liaison at the staff level with the Federal Advisory Council and ad hoc groups of the Reserve Banks; makes arrangements for individuals and groups visiting the Board; maintains custody of and provides reference service to official records of the Board; handles correspondence and public information requests; secures passports and visas for official foreign travel of System personnel; and provides relief secretarial and stenographic services.

(f) *Legal Division,* headed by the Board's General Counsel, advises the Board in carrying out its statutory and regulatory responsibilities by the preparation of Board decisions, regulations, rules, instructions and legal interpretations of statutes and regulations administered by the Board, represents the Board in civil litigation and administrative proceedings, assists other Divisions in fulfilling their responsibilities in such areas as contracting, fiscal agency activities, Federal Reserve Bank matters, labor law, personnel, supervisory enforcement matters, and prepares testimony or comments on proposed legislation.

(g) *Division of Research and Statistics.* * * *

(h) *Division of International Finance.* * * *

(i) *Division of Federal Reserve Bank Operations,* headed by a Director, advises and assists the Board with respect to matters concerning the planning and programs for operations of the Federal Reserve Banks. It provides an appraisal of Reserve Bank building programs; provides analysis and recommendations for Board policy in the payments mechanism area; provides an appraisal of Reserve Bank communication and automation plans and proposals; and maintains liaison with various interested parties on payments mechanism matters.

The Division is responsible for financial examinations and operation reviews of Federal Reserve Bank functions including: protection, fiscal agency, open market, check processing, data processing, communications, coin and currency, audit, and various staff functions. The Division administers an expense control and budgeting system for collection and analysis of budget and expense data; prescribes accounting principles, standards and related requirements to be followed by the Reserve Banks; and provides certain centralized financial accounting services. The Division also maintains liaison with the Treasury and other Government agencies and with various interested parties on matters related to Reserve Bank operation within its area of responsibility. The Division also coordinates the printing and distribution of Federal Reserve notes and is jointly responsible with the Bureau of the Mint for the production and distribution of coin.

j. *Division of Banking Supervision and Regulation,* headed by a Director, coordinates the bank supervisory functions of the System and evaluates the examination procedures of the Reserve Banks; exercises general supervision of the commercial and fiduciary activities of State member banks; administers the supervisory features of laws and regulations relating to affiliates and bank holding companies, supervises various foreign banking activities of member banks and foreign banking and financing corporations; administers the public disclosure provisions of the Securities Exchange Act of 1934, as amended, in their application to State member banks, and the provisions of the Act giving responsibility to the Board for regulating security credit transactions; administers the pertinent provisions of the Financial Institutions Act of 1966, and amendments contained in the Financial Institutions Regulatory and Interest Rate Control Act of 1978 in their application to State member banks, bank holding companies, nonbank subsidiaries, Edge Act Corporations, foreign banks with domestic operations and persons related to such institutions; monitors the Currency and Foreign Transactions Reporting Act, in its application to State member banks; processes and presents to the Board applications filed pursuant to the Bank Holding Company Act of 1956, as amended, and the Bank Merger Act and various other applications submitted under the provisions of the Federal Reserve Act or related statutes; and advises the Board regarding developments in banking and bank supervisory policies and procedures.

(k) *Division of Consumer and Community Affairs,* headed by a Director, implements consumer affairs legislation for which the Board has responsibility. Its functions include drafting regulations and interpretations pursuant to the Truth in Lending Act (as amended), The Federal Trade Commission Improvements Act, the Equal Credit Opportunity Act (as amended), the Home Mortgage Disclosure Act, the Fair Credit Billing Act, the Consumer Leasing Act and the Electronic Funds Transfer Act, for financial institutions and other firms engaged in consumer credit and leasing activities. The division also administers, the Board's consumer complaint handling system, and monitors enforcement activities with regard to State member banks. The legislation enforced includes the acts already mentioned above as well as the Community Reinvestment, Fair Credit Reporting, Fair Debt Collection Practices, Fair Housing, Flood Disaster Protection, and Real Estate Settlement Procedures Acts and Regulation Q, Interest on Deposits.

(l) *Division of Personnel,* headed by a Director, is responsible for the development and implementation of Board personnel policies and programs, and advises and assists the Board and the Reserve Banks on personnel matters pertaining to the Federal Reserve Banks.

(m) *Division of Support Services,* headed by a Director, is responsible for duplication and distribution of Board publications, press releases, speeches and testimony; space management; printing, contracting, and supply services; communications; food service management; operation and maintenance of electric and mechanical systems; building and grounds maintenance; personnel and building security.

(n) *Office of the Controller,* headed by the Board's Controller, is responsible for maintaining an effective internal financial management system, including budgeting, accounting, receiving and disbursing Board funds, financial reporting, and internal auditing and operations reviews.

(o) *Division of Data Processing.* * * *

(p) *Other personnel.* * * *

Board of Governors of the Federal Reserve System, December 31, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-512 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Guardian Banks Financial Corp.; Formation of Bank Holding Company

Guardian Banks Financial Corporation, Seminole, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Guardian Bank, Seminole, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1980.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-584 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of November 18, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held November 18, 1980.[1]

The information reviewed at this meeting suggests that real GNP is recovering further in the fourth quarter from the sharp contraction in the second quarter, while prices on the average continue to rise rapidly. In October, industrial production and nonfarm payroll employment expanded substantially for the third consecutive month, and the unemployment rate remained around 7½ percent. The value of retail sales changed little, following four months of recovery. The rise in the index of average hourly earnings over the first ten months of 1980 was somewhat more rapid than in 1979.

The weighted average value of the dollar in exchange markets on balance has risen further over the past month. The U.S. trade deficit was essentially unchanged in September, and the rate in the third quarter was sharply lower than that in the first half.

Growth in M-1A and M-1B moderated further in October but was still relatively rapid; growth in M-2 accelerated slightly, reflecting a pickup in expansion of its non-transactions component. From the fourth quarter of 1979 to October, growth of M-1A was in the upper part of the range set by the Committee for growth over the year ending in the fourth quarter of 1980, while growth of M-1B and M-2 was somewhat above the upper limits of their ranges. Expansion in commercial bank credit was rapid in October, although not so rapid as in August and September. Market interest rates have risen sharply in recent weeks; average rates on new home mortgage commitments have continued upward. On November 14, the Board of Governors announced an increase in Federal Reserve discount rates from 11 to 12 percent and a surcharge of 2 percentage points on frequent borrowing of large member banks from Federal Reserve banks.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, encourage economic recovery, and contribute to a sustainable pattern of international transactions. At its meeting in July, the Committee agreed that these objectives would be furthered by growth of M-1A, M-1B, M-2, and M-3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6 percent, 4 to 6½ percent, 6 to 9 percent, and 6½ to 9½ percent, respectively. The associated range for bank credit was 6 to 9 percent. For the period from the fourth quarter of 1980 to the fourth quarter of 1981, the Committee looked toward a reduction in the ranges for growth of M-1A, M-1B, and M-2 on the order of ½ percentage point from the ranges adopted for 1980, abstracting from institutional influences affecting the behavior of the aggregates. These ranges will be reconsidered as conditions warrant.

In the short run, the Committee seeks behavior of reserve aggregates consistent with growth of M-1A, M-1B, and M-2 over the period from September to December at annual rates of about 2½ percent, 5 percent, and 7¾ percent, respectively, or somewhat less, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 13 to 17 percent.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

Note.—On November 26, the Committee modified the domestic policy directive adopted at its meeting on November 18, 1980, to raise the upper limit of the range for the federal funds rate to 18 percent.

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[1] The record of Policy Actions of the Committee for the meeting of November 18, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

On December 5, the Committee modified the domestic policy directive adopted at its meeting on November 18, 1980, and subsequently modified on November 26, to take account of the action of the board of Governors on December 4 to raise discount rates by providing leeway for pursuit of the Committee's short-run objectives for the behavior of reserve aggregates without operations being precisely constrained in the current statement week by the 18 percent upper limit of the intermeeting range for the federal funds rate.

On December 12, the Committee modified the domestic policy directive issued on November 18, 1980, and subsequently modified on November 26 and December 5, to extend through the period before the next regular meeting leeway for pursuit of the Committee's short-run objectives for the behavior of reserve aggregates without operations being precisely constrained by the 18 percent upper limit of the intermeeting range for the Federal funds rate.

By Order of the Federal Open Market Committee, December 22, 1980.

Murray Altman,

Secretary.

[FR Doc. 81-565 Filed 1-6-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on Altered System Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of altered system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to alter a system of records that is maintained by GSA. The system of records, Ridesharing System GSA/REGADM-6, will be altered by increasing the number of individuals covered by the system. Altered system reports were filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 3 and December 1, 1980.

DATES: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before February 6, 1981. The amendment shall become effective as proposed without further notice on February 6, 1981, unless comments are received that would result in a contrary determination.

ADDRESSES: Address comments to General Services Administration (HRAR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, Records Management Branch, Information Management Division, (202) 566-0673.

BACKGROUND: The Regional Administrator's system of records, Council of Governments Carpool System is being altered by increasing the number of individuals covered by the system. The present system covers Federal employees in the Washington, D.C. metropolitan area who volunatarily participate in the system. The individuals to be added are employees in ten other regions who voluntarily participate in the system. The system of records notice GSA/REGADM-6, Council of Governments Carpool System, was last published in the **Federal Register** on August 29, 1980, 45 FR 57878.

The amended system of records notice GSA/REGADM-6 will read as follows:

GSA/REGADM-6 (23-00-0102)

SYSTEM NAME:

Ridesharing system.

SYSTEM LOCATION:

The system is located in the following regional offices:

GSA National Capital Region: Public Buildings Service (WP), GSA Regional Office Building, 7th and D Sts. SW., Washington, D.C. 20407.

GSA Region 1: Transportation and Public Utilities Service, Motor Equipment Division (1TM), John W. McCormack Post Office and Courthouse, Boston, MA 02109.

GSA Region 2: Transportation and Public Utilities Service, Transportation and Travel Management Division (2TT), 26 Federal Plaza, New York, NY 10007.

GSA Region 3: Federal Supply Service, Office of Personal Property, Motor Equipment Division (3FM), Ninth and Market Streets, Philadelphia, PA 19107.

GSA Region 4: Transportation and Public Utilities Service, Motor Equipment Division (4TM), Richard B. Russell Federal Bulding, 75 Spring St. SW., Atlanta, GA 30303.

GSA Region 5: Transportation and Public Utilities Service, Motor Equipment Division (5TM), Federal Building, 230 S. Dearborn Street, Chicago, IL 60604.

GSA Region 6: Administrative Services Division (6BR), GSA Regional Office Building, 1500 East Bannister Road, Kansas City, MO 64131.

GSA Region 7: Transportation and Public Utilities Service, Motor Equipment Division (7TM), 819 Taylor Street, Fort Worth, TX 76102.

GSA Region 8: Administrative Services Division (8BR), GSA Regional Office Building, Building 41, Denver Federal Center, Denver, CO 80225.

GSA Region 9: Transportation and Public Utilities Service, Transportation and Travel Management Division (9TT), 525 Market Street, San Francisco, CA 94105.

GSA Region 10: Transportation and Public Utilities Service (10T), GSA Center, Auburn, Washington 98002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who voluntarily participate in the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

As used in this system notice, the term "ridesharing" includes carpool and vanpool. The system contains ridesharing applications which may include the applicants name, home address, and business address and telephone number; individual lists which may include names and business information; and master lists which may incude all of the information solicited.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended and Air Pollution Prevention and Control Act, 42 U.S.C., Chap. 15B.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. *Ridesharing (except for vanpools).* GSA receives ridesharing applications from GSA employees or from another Federal agency for non-GSA employees. GSA, with one exception, transfers the applications without processing to the local Council of Government (COG) activity. COG processes the applications through their computer. The exception, Region 6, completes both the initial processing and the computer processing in-house. Computerized individual lists and master lists are prepared showing compatible ridesharing applicants. The individual lists are sent from COG, through GSA, to employer agencies for distribution to the participating employees or mailed by COG directly to the applicant. Master lists are retained by GSA and/or COG.

b. *Vanpool.* The GSA regional offices provide the main coordinators for the vanpooling program. Vanpool applications are collected by a coordinator for each agency located on or near the GSA regional activity. Each coordinator sends the applications to GSA. GSA manually processes these applications and returns a list of compatible vanpoolers to the agency coordinator, who keeps a master listing for their agency and sends the listing on to the applicant. GSA maintains a master listing of all agencies' applicants.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Ridesharing applications are on paper forms. Individual and master ridesharing lists are in the form of computer printouts and/or typed pages.

RETRIEVABILITY:

Individual printouts and applications are filed by name or zip code. Master lists are organized alphabetically by name and by location of home address or by zip code.

SAFEGUARDS:

Applications and master lists are filed in lockable files.

RETENTION AND DISPOSAL:

Except for vanpool applications, ridesharing applications are transferred upon receipt to COG, where applicable, and destroyed upon transcription to machine storage. Master lists are destroyed upon receipt of updated lists. Individual vanpool applications are retained until applicant has joined a vanpool or until applicant indicates no further interest in vanpooling. At this time, the application is destroyed. Master lists are constantly being purged.

SYSTEM MANAGER(S) AND ADDRESS:

The following officials are responsible for the applicable regional system:

GSA National Capital Region: Assistant Regional Administrator, Public Buildings Service (WP), GSA Regional Office Building, 7th and D Sts. SW., Washington, DC 20407.

GSA Region 1: Energy Transportation Coordinator, Motor Equipment Division, Transportation and Public Utilities Service (1TM), John W. McCormack Post Office and Courthouse, Boston, MA 02109.

GSA Region 2: Director, Transportation and Travel Management Division, Transportation and Public Utilities Service (2TT), 26 Federal Plaza, New York, NY 10007.

GSA Region 3: Director, Motor Equipment Division, Office of Personal Property (3FM), Ninth and Market Streets, Philadelphia, PA 19107.

GSA Region 4: Chief, Management Services Branch, Motor Equipment Division, Transportation and Public Utilities Service (4TMM), Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA 30303.

GSA Region 5: Chief, Management Services Branch, Motor Equipment Division, Transportation and Public Utilities Service (5TMM), Federal Building, 230 S. Dearborn Street, Chicago, IL 60604.

GSA Region 6: Chief, Office Services Branch, Administrative Services Division, Office of Administration (6BRO), GSA Regional Office Building, 1500 East Bannister Road, Kansas City, MO 64131.

GSA Region 7: Director, Motor Equipment Division, Transportation and Public Utilities Service (7TM), 819 Taylor Street, Fort Worth, TX 76102.

GSA Region 8: Chief, Office Services Branch, Administrative Services Division, Office of Administration (8BRO), GSA Regional Office Building, Building 41, Denver Federal Center, Denver, CO 80225.

GSA Region 9: Energy Transportation Coordinator, Transportation and Travel Management Division, Transportation and Public Utilities Service (9TT), 525 Market Street, San Francisco, CA 94105.

GSA Region 10: Assistant Regional Administrator, Transportation and Public Utilities Service (10T), GSA Center, Auburn, Washington 98002.

NOTIFICATION PROCEDURES:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include full name and address.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR 105-64, published in the Federal Register.

RECORD SOURCE CATEGORIES:

Federal employees who desire to avail themselves of the benefits of the ridesharing program.

Dated: December 23, 1980.

Ben Schiffman,

Director of Administrative Services.

[FR Doc. 81-384 Filed 1-6-81; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Wyoming and Montana; Intent To Hold Public Hearing on Federal Coal Leasing Target for Powder River Coal Production Region

AGENCY: Bureau of Land Management.

ACTION: Rescheduling of public hearing.

SUMMARY: This notice amends the notice of the December 3, 1980, **Federal Register** Vol. 45, No. 234, Page 80190.

The public hearing scheduled for December 18, 1980, in Billings, Montana, at the Northern Hotel is being rescheduled. The public hearing will be held January 27, 1981, in the Northern Hotel at 7 p.m.

Oral and written comments on the federal coal leasing target for the Powder River Coal Production Region will be accepted at the public hearing. Written comments should be addressed to the Bureau of Land Management, Wyoming State Director, at the address below.

DATE: Written comments will be accepted until the close of business January 17, 1981. Public hearing will be held in Billings, Montana, at the Northern Hotel, starting at 7 p.m. on January 27, 1981.

ADDRESS: Written comments on the proposed lease target should be addressed to Bureau of Land Management, Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming, 82001.

For further information contact: Stan McKee, Project Manager, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming, 82001, (307) 778-2220.

Michael J. Penfold,

State Director.

[FR Doc. 81-443 Filed 1-6-81; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Outer Continental Shelf Advisory Board: Annual Meeting, Policy Committee, Scientific Committee and Regional Technical Working Groups; Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-463, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

There will be an annual meeting of the Department of the Interior's OCS Advisory Board in Charleston, South Carolina, February 11, 12 and 13, 1981, Mills House Hotel (803/577-2400), Meeting and Queen Streets. The purpose of the Board is to provide advice to the Secretary of the Interior and other officers of the Department on the discretionary functions of the Outer Continental Shelf Lands Act, as amended, including all aspects of leasing, exploration, development and

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protection of the resources of the Outer Continental Shelf.

The OCS Advisory Board has three components: (1) OCS Policy Committee; (2) Scientific Committee; and (3) Six Regional Technical Working Groups. Each of the above groups will be holding individual meetings and the entire Board will meet in plenary session on February 12th.

A calendar for the meeting follows:

February 11

OCS Policy Committee Meeting (for agenda see #1 below) 8:00 a.m.–5:30 p.m.
Scientific Committee (for agenda see #2 below) 8:30 a.m.–5:30 p.m.

February 12

Plenary Session: OCS Advisory Board (for agenda see #3 below) 8:00 a.m.–12:00 p.m.
Scientific Committee (for agenda see #2 below) 1:30 p.m.–5:30 p.m.
Regional Technical Working Groups (all) (for agendas see #4–#9 below) 1:30 p.m.–5:30 p.m.

February 13

Scientific Committee (for agenda see #2 below) 8:30 a.m.–12:30 p.m.
Regional Technical Working Groups (all) (for agenda see #4–#9 below) 8:30 a.m.–12:30 p.m.

The principal subjects to be covered by the Board and the various Committees are as follows:

(1) OCS Policy Committee (Feb. 11)
A. 5-Year Program Subcommittee Report
B. Relationships Between RTWG's and Policy Committee
C. OCS Safety Study
D. Review of CEIP National Strategy Report
E. Delays created by OCSLAA
[For information contact Alan Powers 202/343–9314]
(2) Scientific Committee (Feb. 11, 12, 13)
A. Disciplinary Subgroup's Reports
B. Peer Review Discussions
C. BLM Contracting Procedures Review
D. Role of Environmental Studies in the OCS Leasing Program
[For information contact Piet deWitt 202/343–7744
(3) OCS Advisory Board [Plenary Session] (Feb. 12)
A. Committee Reports
B. Discussion of Committee Roles & Relationships
C. Arctic Technology
D. 5-Year OCS Oil & Gas Leasing Program
[For information contact Alan Powers 202/343–9314]
(4) Gulf Technical Working Group (Feb. 12)
A. Update on Gulf Sales
B. Regional Transportation Management Plan
C. 1981 Activities
[For information contact Sydney Verinder 504–589–8541]
(5) South Atlantic Technical Working Group (Feb. 12)
A. Update on South Atlantic Sales
B. Regional Transportation Management Plan
C. 1981 Activities
* Joint Gulf-South Atlantic Meeting (Feb. 13)
A. Status of National & Regional Studies Plans
B. Transportation Planning Methodologies Comparison
C. Coast Guard Port Access Study
D. CZM Consistency Certification Procedures
[For more information contact Sydney Verinder 504/589–8541]
(6) Mid-Atlantic Technical Working Group (Feb 13)
A. Draft Hudson Canyon Transportation Management Plan
[For information contact Richard Barnett 212/264–2960]
(7) North Atlantic Technical Working Group (Feb. 13)
A. Recommendations for Long-Term Monitoring on Georges Bank
* Joint Mid Atlantic-North Atlantic Meeting (Feb. 12)
A. Ongoing BLM Funded Studies
[For information contact Richard Barnett 212/264–2960]
(8) Alaska Technical Working Group
A. Phase I Status Report on Sale 55
B. Review FY 82 Technical Development Proposals
[For information contact Gordy Euler 907–276–2955]
(9) Pacific Technical Working Group
A. Transportation Planning Subcommittee Report
B. Call for Nominations for Sale 73
C. Status, Sales 53, 68
D. Regional Environmental Studies Plans for FY 82, 83
[For information contact Ellen Aronson 213/688–7234]

The meeting is open to the public. Those persons who are interested may make oral or written statements to a Committee. Such requests should be made to the contact listed for each particular committee. Requests should be made no later than January 29, 1981.

Minutes for the OCS Policy Committee and the OCS advisory Board Plenary Session will be available for public inspection and copying at the Office of OCS Program Coordination, Room 5150, Department of the Interior, Washington, D.C.

Minutes for the Scientific Committee and the Regional Technical Working Groups will be available for public inspection and copying in Room 5640, Bureau of Land Management, Department of the Interior, Washington, D.C. or the appropriate Bureau of Land Management OCS Field Offices. Availability of the minutes will be eight weeks after the meeting.

Dated: December 31, 1980.

Alan D. Powers,

Director, Office of OCS Program Coordination.

[FR Doc. 81–508 Filed 1–6–81; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[ICC Order No. 73–A Under Service Order No. 1344]

Consolidated Rail Corp.; Rerouting Traffic

Upon further consideration of I.C.C. Order No. 73, and good cause appearing therefor:

It is ordered, I.C.C. Order No. 73 is vacated.

This order shall become effective December 17, 1980, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 17, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 81–431 Filed 1–6–81; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: December 23, 1980.

In our decisions of December 9, 16, 1980, a 14-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We order that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 14.8-percent. Accordingly, we are authorizing that the surcharge for this traffic is increased to 14.5-percent. All owner-operators are to receive compensation at this level.

No change is authorized on the 2.5-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor the 1.5-percent surcharge for United Parcel Service. However, the bus carrier surcharge is increased to 5.5-percent.

There will be no decision next week. The next decision will be issued the week of January 4, 1981.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m. December 26, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioners Clapp and Alexis absent and not participating.

James H. Bayne,

Acting Secretary.

Appendix.—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 .... 63.5¢

Date of current price measurement and price per gallon (including tax)

December 22, 1980 .... 119.2¢

	Transportation performed by—			
	Owner operator[1]	Other[2]	Bus carriers	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	14.8	2.5	5.5	[3]2.3
Percent surcharge allowed	14.5	2.5	5.5	[4]1.5

[1] Apply to all truckload rated traffic.

[2] Including less-than-truckload traffic.

[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-428 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

January 2, 1981.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 22, 1981.

No. 43889, Contract Marine Containers, Inc. (No. 2), for rail carriers parties to Tariff ICC CMCU 301, FMC No. 9, to establish rail-water intermodal rates on commodities in containers from rail terminals in California to European ports, by way of Charleston, SC and Richmond, VA, effective January 30, 1981. Grounds for relief-water competition.

No. 43890, Southwestern Freight Bureau, Agent, (No. B-107), increased rates on Sodium Chloride (common salt), from Louisiana and Texas origins to Stations in Official Territory. Rates are published in Supplement No. 89 to ICC SWFB 4620, and are scheduled to become effective January 29, 1981. Grounds for relief-additional revenue.

No. 43891, Southwestern Freight Bureau, Agent (No. B-109), new provisions resulting in reduced rates on Grounds Barite Blended with Iron Ore (Hematite), from, to, and between stations in Southwestern Territory. Provisions are published in Item 205, Supplement 27 to ICC SWFB 4318-A, to become effective January 21, 1981. Grounds for relief-market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-430 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29549]

Louisiana & Arkansas Railway Co.-Exemption; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts Louisiana & Arkansas Railway Company (L&A) from the requirement that it receive approval under 49 U.S.C. 10901(a) and 49 U.S.C. 11343(a) prior to performing operations over a segment of the Atchison, Topeka and Sante Fe Railway Company (Santa Fe) track in Dallas, TX.

DATES: The exemption is effective on December 31, 1980, and remains effective for 60 days thereafter, or, if an application for permanent authority is filed within this 60-day period, the exemption shall remain effective until the Commission issues its decision on the application. Petitions for reconsideration of this decision must be filed no later than January 27, 1981.

ADDRESSES: Send petitions for reconsideration to: (1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th Street & Constitution Ave., NW, Washington, DC 20423.

(2) Petitioner's representative: Robert K. Dreiling, Attorney for Louisiana & Arkansas Railway Company, 114 West 11th Street, Kansas City, MO 64105.

Pleadings should refer to Finance Docket No. 29549.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Background

The Louisiana & Arkansas Railway Company (L&A), a subsidiary of the Kansas City Southern Lines, extends from Dallas, TX, through Shreveport, LA, to the Gulf Port of New Orleans, LA. Since June 6, 1977, L&A has been using the Chicago, Rock Island and Pacific Railroad Company (Rock Island) track and terminal facilities in its Cadiz Yard at Dallas, TX, in providing rail service to, from, and through the Dallas terminal.

To reach the Rock Island yard, which is situated beyond the Santa Fe yard, it is necessary that L&A operate over a portion of Sante Fe track, between mile post 53 plus 1802.2 feet and mile post 50 plus 4,100 feet, in Dallas. Santa Fe granted L&A use of such track by an agreement dated May 12, 1977. L&A began operating over the Santa Fe track under authority from this Commission in Service Order No. 1267, *Louisiana & Arkansas Railway Company Authorized to Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Company,* which became effective on May 19, 1977. This Service Order was issued on May 19, 1977, and extended through 6 amendments. The last amendment extended Service Order No. 1267 until November 30, 1980. In response to an urgent request by L&A for continuation of Service Order No. 1267, the Commission, on December 1, 1980, issued Service Order No. 1491, *Louisiana & Arkansas Railway Company Authorized to Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Company.* Service Order No. 1491 became effective on December 1, 1980, and is scheduled to expire at 11:59 p.m., December 30, 1980.

On December 9, 1980, L&A filed a statement requesting a continuance of Service Order No. 1491 beyond the December 30, 1980, expiration date. In 1979, L&A moved 20,077 carloads of freight from, to, or through the Dallas terminal. Expiration of authority provided under Service Order No. 1491 will eliminate L&A's ability to handle this traffic.

L&A has entered into agreements with both Rock Island and Santa Fe for permanent authority to use the involved facilities and trackage. L&A is in the process of preparing, and will file wih the Commission, applications for approval of those agreements and for permanent authority to operate over the Santa Fe line.[1] L&A requested that it be

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[1] The acquisition, operation, and construction of a line of railroad requires the approval of the Commission under 49 U.S.C. § 10901. To obtain such approval, an application must be filed in compliance

Footnotes continued on next page

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allowed to continue operating over the Santa Fe track until such applications can be filed and acted upon by the Commission.

The Staggers Rail Act of 1980 (Pub. Law No. 96–448) substantially limits the Commission's authority to issue service orders under 49 U.S.C. 11123(a) to emergency situations of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States. In a separate decision we have denied L&A's requested extension of Service Order No. 1491 because it fails to meet the new criteria established by the Staggers Act. Consequently, Service Order No. 1491 will expire as scheduled on December 30, 1980.

Discussion and Conclusions

A rail carrier can operate over the line of another railroad only if it has a service order to do so or has been granted a certificate under 49 U.S.C. 10901. Moreover, acquisition by a rail carrier of trackage rights over a rail line owned or operated by another rail carrier can be carried out only with the approval and authorization of the Commission under 49 U.S.C. 11343. We have already determined that L&A has not made a sufficient showing under amended section 11123(a) for issuance of a service order. Although L&A plans to file appropriate applications for permanent authority to operate over the Santa Fe track, it will be some time before such applications can be filed and acted upon. Therefore, we cannot order or affirmatively authorize L&A to perform uninterrupted operations over the Santa Fe track.

However, Congress has given us authority under 49 U.S.C. 10505 to exempt certain rail matters as a means of eliminating burdensome regulation of rail carriers. That section provides that the Commission "shall" exempt a transaction from the application of any provision of the Interstate Commerce Act when it finds that (1) continued regulation is not necessary to carry out the Rail Transportation Authority Policy in 49 U.S.C. 10101a; and (2) either (A) the transaction is of limited scope, or (B) regulation is not necessary to protect shippers from the abuse of market power.[2] Moreover, we can issue the exemption on our own initiative. 49 U.S.C. 10505(b).

We believe the instant operation satisfies the criteria of Section 10505. Exempting L&A from the filing requirement of 49 U.S.C. 10901 for a short time period will merely maintain the status quo until L&A can file and the Commission can consider appropriate applications for permanent authority to provide such service. The Commission's prior approval of L&A's operation over the small segment of Santa Fe's track is not necessary to carry out any of the 15 factors listed in the rail transportation policy of section 10101a.

The transaction is of limited scope because (1) it involves only a very short segment of track, (2) it is of limited duration, and (3) it should have no impact on any railroad employees or the operations of any other rail carrier.

Having concluded that the transaction is of limited scope, we need not determine whether prior approval of rail operations is necessary to protect shippers from the abuse of market power. We note, however, that since the temporary exemption granted here will merely allow a continuation of operations which have been in effect for over 3 years, it is unlikely that it would have any impact whatsoever on shippers. On the other hand, our failure to grant the exemption would result in a forced cessation of rail service upon which shippers have come to rely and could be detrimental to their business operations.

In light of these findings we are able to exempt this transaction. Our exemption authority provides us with the power to limit the duration of our exemptions. 49 U.S.C. 10505(c). Accordingly, this exemption is effective for 2 months only, subject to extension if and when L&A files applications for permanent authority.

To avoid any disruption in service, this exemption will become effective on December 31, 1980. Section 10505 enables us to revoke an exemption if we find the exempted provision necessary to carry out the rail transportation policy. We have found otherwise on the facts currently available to us. However, we will permit interested parties to file petitions for reconsideration alleging that grant of the exemption harms our ability to carry out the rail transportation policy. Petitions for reconsideration must be filed on or before January 27, 1981.

Labor protection. In granting this exemption we may not relieve a carrier of its obligation to protect the interests of employees. Amended section 10901(e) indicates that the imposition of labor protective conditions is discretionary when authority is sought, as here, to operate a line. However, approval of a trackage rights agreement under § 11343 must include the employee protective conditions set forth in *Norfolk and Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980). These conditions are here imposed as a condition to L&A's exercise of this exemption.

We find

(1) Application of the requirement of 49 U.S.C. 10901 and 49 U.S.C. 11343(a) that L&A receive prior authority to operate over the Santa Fe rail line between milepost 50 plus 4,100 feet and milepost 53 plus 1802.2 feet is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) This transaction is of limited scope.

(3) This decision will not operate to relieve L&A from an obligation either (a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707, or (b) to protect the interest of its employees; and does not authorize intermodal ownership that is otherwise prohibited.

(4) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered

(1) Pursuant to 49 U.S.C. 10505 we exempt the operation by L&A over the Santa Fe rail line from 49 U.S.C. 10901(a) and 49 U.S.C. 11343(a), subject to the employee protective conditions imposed in *Norfolk & Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980).

(2) Notice of our action shall be given to the general public by delivery of the copy of this decision to the Director, Office of the Federal Register, for publication.

(3) This exemption will continue in effect for 2 months, unless revoked, or extended by further action of the Commission.

(4) This decision shall be effective at 12:01 a.m., December 31, 1980.

Footnotes continued from last page

with the procedures established in the Commission's regulations outlined in *Construction Extension, Acquisition, or Operation of Railroad Lines*, 49 CFR Part 1120 (1979). The acquisition by a rail carrier of trackage rights over another rail line requires the prior approval of the Commission under 49 U.S.C. § 11343 in accordance with regulations established in *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR 1111 (1979) (*Consolidation Procedures*). See also *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980).

[2] The Section creates two additional limitations on our broad exemption power. We may not exercise this exemption authority "(1) to authorize intermodal authority that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle". 49 U.S.C. 10505(g).

(5) Petitions to reopen this proceeding for reconsideration must be filed no later than January 27, 1981.

Decided: December 30, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam. Commissioners Alexis and Gilliam were absent and did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-427 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before February 6, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: December 19, 1980.

By the Commission, Review Board No. 5, members Krock, Taylor and Williams. (Board member Krock not participating).

MC-F-14340F, filed March 12, 1980. COOK-ILLINOIS CORP. (Cook) (13939 S. Cicero Ave., Crestwood, IL 60445)—CONTROL—KICKERT BUS LINES, INC. (Kickert Bus) (17800 Clyde Avenue, Lansing, IL 60438). Representative: John M. Wojcik, 2222 East Michigan Blvd., Michigan City, IN 46360. Cook, a non-carrier, seeks authority to acquire control of Kickert Bus through the purchase by Cook of all the issued and outstanding capital stock of Kickert Bus. John Benish and Lee A. Stahl, III, are the majority stockholders of Cook and will be required to join in the application as a condition to approval. Messrs. Benish and Stahl also control through stock ownership, Illinois School Bus Co., Inc., a motor common carrier pursuant to authority issued in MC-43194, which authorizes the transportation of *passengers and their baggage*, restricted to traffic originating at the point and in the territory indicated, in charter operations, from Chicago, IL, and points in IL within 25 miles of Chicago, to points in IL, IN, MI, and WI, and return. Kickert Bus holds motor common carrier authority in MC-723, which authorizes the transportation of *passengers and their baggage*, in charter operations, restricted to traffic originating in the territory indicated, from Chicago, IL, and points within 30 miles of Chicago, to points in IL, MO, IA, WI, IN, MI, OH, MN, KY, SD, ND, TN, WV, NC, AR, AL, MS, OK, VA, PA, NY, SC, LA, GA, KS, MD, MA, and DC, and return. Condition: So far as can be ascertained from the evidence of record in this proceeding, Cook-Illinois Corp. is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of this transaction, Cook-Illinois Corp. will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will, therefore, be subject to the applicable provisions of 49 U.S.C. Subtitle IV, Subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. Condition: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by John Benish and Lee A. Stahl, III, stating that they are persons in control of Cook-Illinois Corp. through stock ownership, and that they join in this application. Condition: The Commission's records in MC-43194 reflect the name of the carrier as Illinois School Bus Co. Applicants refer to that carrier as Cook Charter Bus Company.

Applicants are advised to file a name change with the Commission in order to update all records. Impediment: Duplications exist between the operating rights in MC-43194 and the rights sought to be controlled by Cook in MC-723. Commission regulations at 49 CFR 1134.51 require that, where approval of an application of common control would result in the holding of duplicating operating rights, (1) one or more of the carriers holding duplicating authority must request cancellation of the duplicating authority, (2) the applicant must submit a plan and timetable for elimination of the duplications at the earliest practicable date, or (3) applicant must supply cogent or acceptable reasons why duplicate operating rights under common control should be permitted to exist. Applicants must submit within 30 days from date of publication such information as is necessary to comply with the regulations.

Note.—Applicants filed a securities application in FD-29442 for the issuance of notes. Due to the new monetary exemption limits of the Motor Carrier Act of 1980, this application is being dismissed.

Note.—Application for temporary authority has been filed.

MC-F-14331F, filed March 4, 1980. K.M.A. LEASING, INC. d/b/a WM. H. P., INC. (K.M.A.) (1342 N. Howard Street, Philadelphia, PA 19122)—PURCHASE—BURGMEYER BROS., INC.—DEBTOR IN POSSESSION, (Burgmeyer) (4059 Blanch Road, Cronwells Heights, PA 19020). Representatives: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006 and Nathan B. Feinstein, 12 S 12th Street, 22nd Floor, Savings Fund Bldg, Philadelphia, PA 19107. K.M.A. seeks to purchase the operating rights of Burgmeyer. William H. Pflaumer who controls K.M.A. through ownership of all capitol stock, seeks to acquire control of said rights through this transaction. The interstate operating rights to be acquired by K.M.A. are contained in Burgmeyer's certificates in MC-29684 and (Sub-Nos. 3, 4, 5, 6, and 7), which authorizes the transportation of (a) *general commodities*, usual exceptions, over regular and irregular routes in the states of CT, DE, MA, NJ, NY, RI, and PA, and (b) *specified commodities* in CT. WM. H.P., INC., a motor carrier with authority in MC-38921 and sub-numbers thereunder, was merged into K.M.A. Leasing, Inc., pursuant to MC-FC-77599, and the motor carrier operation has continued under the name of K.M.A. Leasing, Inc., d/b/a WM. H.P., Inc.

Notes.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved.

(2) Temporary authority was granted by order entered March 12, 1980. (Hearing site: Philadelphia, PA)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-433 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Transfer Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before January 27, 1981. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before January 27, 1981, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5.

No. MC-FC-77835. By decision of October 6, 1980 issued under 49 U.S.C. 10922, appellate Division 1 approved the elimination of the gateways resulting from the transfer to Harold Williams DBA, Williams Moving Co., of Dexter, MO, of certificate No. MC-19240 issued November 4, 1969 to Courtney Van Lines, Inc. authorizing the transportation of *Household goods*, between points in Arkansas, Missouri, Tennessee, Kentucky, and Illinois, on the one hand, and, on the other, points in Missouri, Kentucky, Indiana, Iowa, Ohio, West Virginia, Pennsylvania, New Mexico, Texas, Kansas, Wisconsin, Oklahoma, Tennessee, Michigan, Nebraska, Colorado, Alabama, Arkansas, Illinois, and the District of Columbia. (The gateways eliminated are located in the counties of Alexander, Pulaski, Massac, Union, and Jackson, Illinois. Applicant's representative is: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-436 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29499]

Youngstown Sheet and Tube Co.—Merger—Jones & Laughlin Steel Co.—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Youngstown Sheet and Tube Company (Youngstown), which owns all the stock of Chicago Short Line Railroad (Short Line), seeks to merge with Jones & Laughlin Steel Co. (J&L Steel). A petition was filed on October 10, 1980, seeking exemption from 49 U.S.C. 11343-11347, which requires the Commission's prior approval of the transaction. We are granting the exemption.

DATES: Exemption effective February 6, 1981.

ADDRESSES: Send pleadings to: Interstate Commerce Commission, Section of Finance, Room 5414, 12th and Constitution Ave., NW, Washington, DC 20423. Petitioners' representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., NW, Washington, DC 20036. [All pleadings should refer to the docket No.—Finance Docket No. 29499].

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly (202) 275-7564.

SUPPLEMENTARY INFORMATION: Youngstown and J&L Steel filed a petition under 49 U.S.C. 10505 requesting that the proposed merger between the two companies and the resulting change in the form of control of Short Line be exempted from the provisions of 49 U.S.C. 11343-11347.

Section 10505 (amended by the Staggers Rail Act of 1980, Pub. L. No. 96–448) allows the Commission to exempt a transaction if it finds that (1) regulation is not necessary to carry out the transportation policy of 49 U.S.C. § 10101a; and (2) either the transaction is limited in scope, or regulation is not needed to protect shippers from the abuse of market power.

Youngstown is a non-carrier in control of a railroad. J&L Steel is a carrier for limited purposes under the Interstate Commerce Act.

Proposed Transaction

J&L Steel owns all the capital stock of Aliquippa and Southern Railroad (Aliquippa), the Cuyahoga Valley Railway Co. (Cuyahoga), and the Monongahela Connecting Railroad Co. (Monongahela). These three small railroad companies are subject to regulation by the Commission. J&L Steel also owns 49 percent of the capital stock of Youngstown, which in turn owns all the stock of the Short Line, a common carrier by railroad. Jones and Laughlin Industries, Inc. (J&L Industries), owns all the stock of J&L Steel and the remaining 51 percent of the stock of Youngstown. J&L Industries in turn, is a wholly-owned subsidiary of the LTV Corp. (LTV).

Youngstown seeks to merge with J&L Steel, and after that merger, Short Line would become a direct, instead of indirect, subsidiary of J&L Steel. Control of Short Line by J&L Industries and LTV would be modified to the extent that one corporation, (Youngstown) would be eliminated from the corporate chain.

Discussion and Conclusion

We recently adopted new regulations for railroad consolidations. See *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980). We listed six classes of transactions which satisfy the criteria of section 10505. Although section 10505 has been amended by the Staggers Rail Act, we believe that those six types of transactions continue to meet the new criteria. Included in the six is the type involved here: Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Rail Transportation Policy

There are 15 objectives of the United States in regulating the railroad industry. See 49 U.S.C. 10101a. If the proposed exemption does not contravene or interfere with these listed objectives, then regulation of the transaction is not necessary to carry out the objectives of 49 U.S.C. 10101a.

Regulation of the proposed transaction by Youngstown and J&L Steel is not necessary to carry out the goals of the transportation policy of section 10101a. Here our concern is with the affect of a merger upon the operations and stability of the railroads owned by these corporate parents. So far as the railroads are concerned, there will be no change in the railroads' operations and, consequently, no effect on the policies of section 10101a. A merger between the parent companies could substantially aid the railroads since the transaction would result in a financially stronger surviving corporation, while the change in the form of control of Short Line would have no impact on rail transportation policy. Such aid to the subsidiary railroads is indeed consistent with section 10101a.

Limited Scope

The proposed merger of Youngstown with J&L Steel and resulting change in control of Short Line is a transaction of limited scope. There will be little direct impact on the Short Line, Aliquippa, Cuyahoga, and Monogahela as a result of this merger between corporate parents. These railroads will continue to provide the same services. Nor will there be any change in the competitive balance with carriers outside the corporate family.

Since it will be subject to employee protection, the proposed change of control will have a limited effect on the employees of the railroads. None of the railroad subsidiaries will cease or limit operations since the same services will be provided as before. Youngstown's merger with J&L Steel would simply make Short Line a direct subsidiary of J&L Steel.

There will be no adverse effect on energy consumption or on the environment. No new capitalization, securities, or other financing is involved as far as the railroad subsidiaries are concerned.

The transaction proposed by Youngstown and J&L Steel is of limited scope both operationally and competitively. It is clearly the type of transaction which is within a corporate family, does not result in adverse changes in service levels, has no significant operational changes, and does not change the competitive balance with carriers outside the corporate family.

Regulation is unnecessary when minor refinements in corporate structure must be made. So far as the railroad subsidiaries themselves are concerned, this is a minor refinement in corporate structure, a transaction involving businesses within a corporate family which will have no effect on the carriers. The refinement should be in the best interest of Youngstown and J&L Steel in that the merged company would be financially stronger and have better access to long-term debt markets. A financially stronger parent will be advantageous and beneficial to the subsidiary railroads.

Since the proposed transaction is of limited scope, it is not necessary to consider whether our regulation is needed to protect shippers from the abuse of market power.

Labor Protection. In granting an exemption under section 10505, the Commission may not relieve a carrier of its obligation to protect the interests of employees as otherwise required by 49 U.S.C., subtitle IV. See 49 U.S.C. 10505(g)(2). We have determined that the employee protective provisions developed in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for protection of employees involved in merger transactions under 49 U.S.C. 11343. Accordingly, these protective provisions which are normally imposed in merger transactions will be imposed here.

The exemption granted here will become effective February 6, 1981. Any party may file a petition to reopen this proceeding for reconsideration in accordance with Rule 98(d) of the Commission's Rules of Practice (49 CFR 1100.98(d)). the petition must be filed no later than 20 days following the date of publication. The filing of a petition will not automatically stay the effect of this action, except that the Commission may, on its own motion or on petition, stay the effective date. A petition to stay must be filed no later than 10 days following the date of publication.

We find: (1) The application of the requirements of 49 U.S.C. 11343–11347 to the merger by Youngstown with J&L Steel and the resulting change in control of Short Line is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) The proposed transaction is of limited scope.

(3) This decision will not relieve any rail carier from an obligation either (a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707 or (b) to protect the interest of employees as required by 49 U.S.C. 11347; and (c) does not authorize intermodal ownership that is otherwise prohibited.

(4) This action wil not significantly affect either energy consumption or the quality of the human environment.

It is ordered: (1) The proposed merger of Youngstown with J&L Steel and the resulting change in control of Short Line is exempted under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343–11347, subject to the conditions for the protection of railroad employees imposed in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

(2) If the control of Short Line is altered as proposed in this proceeding, petitioners shall have 60 days after the transaction is completed to submit three copies of a sworn statement showing all journal entries, if any, required to record the transaction.

(3) Notice of our action shall be given to the general public by delivery of a copy of this to the Director, Office of the Federal Register for publication.

(4) This exemption will continue in effect for one year from the effective date of this decision. Applicants must consummate this transaction during that time in order to take advantage of the exemption which we have granted.

(5) This decision shall be effective February 6, 1981.

(6) Petitions to stay the effective date of this decision must be filed no later than January 19, 1981.

(7) Petitions to reopen the proceeding must be filed no later than January 27, 1981.

Dated: December 22, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-429 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-10792]

Petition for Declaratory Order; Livestock and Poultry Feed Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of declaratory order proceeding.

SUMMARY: By petitions filed September 16 and September 24, 1980, Boaz Produce Company and Anheuser-Busch Companies, Inc., seek a ruling that the transportation of feed ingredients is exempt under 49 U.S.C. 10526(a)(6) (E) as amended by section 7(a)(4) of the Motor Carrier Act of 1980.

DATES: Comments are due on or before February 6, 1981.

ADDRESS: Send an original and, if possible, 15 copies of comments to:

MC-C-10792, Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423

Send one copy of comments to each of petitioners' representatives:

R. B. Fredrickson, Transportation Planning, Anheuser-Busch Companies, Inc., 721 Pestalozzi Street, St. Louis, MO 63118

Eugene D. Anderson, 910 Seventeenth St., N.W., Suite 428, Washington, D.C. 20006

FOR FURTHER INFORMATION CONTACT: Jasneth C. Metz, (202) 275-7974 or Edward E. Guthrie, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Section 7(a)(4) of the Motor Carrier Act of 1980, (Pub. L. 96-296, 94 Stat. 797) amended Section 10526(a)(6) of Title 49, Subtitle IV, U.S. Code, by adding subparagraph (e), which exempts motor vehicle transportation of:

> Livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.

Petitioners ship feed ingredients primarily to feed manufacturers and, in the case of Anheuser-Busch, directly to farms on occasin.[1] Assuming that certain livestock feed *ingredients* moving to a feed mixing mill fell within the exemption, Boaz Trucking Company hauled a load in interstate transportation without holding operating authority to do so. The company was fined by the Georgia Public Service Commission for operating without the appropriate ICC authority.

Petitioner Boaz contends that the legislative history of the statute makes it clear that Congress intended "feed ingredients" to be included within the exemption for "feed." To support its position, petitioner cites statements on the issue made by Rep. Howard, the floor leader of the bill, on the floor of the House of Representatives during debate on the legislation.

The Commission has ruled that the term "animal and poultry feed" does not include feed ingredients. See *Ace Freight Line, Inc., Extention—Florida*, 86 M.C.C. 689, 693 (1961), *Dahlsten Extention—Soybean Meal*, 99 M.C.C. 553, 555 (1965). Based upon this fact, the statute might be construed to exempt only feed and those ingredients which are themselves feed and can be fed directly to animals or poultry but would not extend to other feed ingredients. However, the legislative history of the new exemption seems to suggest that Congress intended the Commission to apply a broader interpretation to the term "livestock and poultry feed." In response to a request to clarify the scope of that commodity description, Rep. Howard stated, "* * * as written by the committee, the terms 'livestock and poultry feed' include both the prepared feed and the oilseed meal and grain product feed ingredients which are shipped in conformance with all other conditions of this act."[2] The courts have held that statements made by a committee member in charge of a bill in the course of its passage may be regarded as an exposition of legislative intent. See *Gold Kist, Inc.* v. *United States*, 339 F. Supp. 1249, 1254 (N.D. Ga. 1971).

In order to comply with the legislative intent of the statute the Commission proposes to interpret the exemption to include feed ingredients as well as the commodities listed in Appendix A. All prior Commission decisions and rulings treating these items as regulated commodities would, consequently, be overruled. It is not clear whether Congress intended to exempt *all* feed ingredients. Rep. Howard's comments quoted above refers only to feed ingredients derived from agricultural products. There is no discussion of manufactured chemical substances used in feed mixes. However, we are inclined to think that the latter substances would also be exempt as long as they "have only one end-use that is, animal feed." The purpose of the new statute is to recognize "the economic and energy logic of allowing truckers who bring in unregulated grains to feed processing facilities to leave with a load of the prepared feeds destined to the farm."[3] Under these circumstances, logic, common sense, and the spirit of the law seem to dictate that if these facilities also manufacture chemically-based feed ingredients, they too would be exempt.

As to whether or not pet food is covered by the exemption (as Boaz suggested) is a more difficult question. In Commission vernacular "livestock" is divided into two categories, "ordinary" and "other than ordinary." "Ordinary livestock" defines cattle, swine, sheep, goats, horses, and mules. "Other than ordinary livestock" defines that more valuable animals such as racehorses, high-breed cattle, show, rodeo, and laboratory animals, and zoo animals and birds.[4] Neither category includes pets. There is no clear indication from the statute or the legislative history as to whether Congress intended to make the exemption that broad. Rep. Howard's comments on this issue during debate on the legislation were noncommital, at best.[5]

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[1] Boaz Produce Company filed a formal petition which also refers to an entity identified as Boaz Trucking Company. The pleading of Anheuser-Busch Companies is in the form of a letter requesting an interpretation of the exemption's scope.

[2] 126 Cong. Rec. H5402 (daily ed. June 19, 1980).

[3] Cong. Rec., *supra*.

Petitioner Boaz believes that the transportation of feed ingredients and pet food is exempt under 49 U.S.C. 10526(a)(6)(E) and requests a formal ruling to that effect. Petitioner Anheuser-Busch requests a ruling as to whether the residual commodities from its brewing and corn refining operations are exempt both when moving to a feed manufacturer and directly to a farm.

No oral hearing is contemplated. Any person (including petitioners) desiring to participate in this proceeding shall file with the Commission an original and 15 copies of written representations, views, or arguments. A copy of each representation also must be filed on petitioners' representatives.

This action does not appear to affect significantly either the quality of the human environment or conservation of energy resources.

It is ordered

Pursuant to 5 U.S.C. 554(e) and in the sound exercise of our discretion, a declaratory proceeding is instituted.

Decided: December 30, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A

Possible items which could be included within the expanded agricultural exemption are as follows:

Alfalfa cubes and wafers (prepared by a steam process)
Alfalfa pellets
Bird gravel
Bran shorts
Corn gluten
Cottonseed cake
Distilled corn grain residues, with or without solubles added
Hominy feed
Meals—Alfalfa, Corn Gluten, Copra, Cottonseed, Fish, Flaxseed, Linseed, Peanut, Soybean, Sunflower, Wheat millfeed
Middlings
Rice hulls (anhydrous ammonia added)
Rice mill feed pellets
Soybean meal
Sugar beet pulp pellets
Wheat bran

[FR Doc. 81-425 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29486F]

Delaware and Hudson Railway Company; Acquisition and Operation of a Line of Railroad in Broome County, NY, and Susquehanna, Wyoming, and Lackawanna Counties, PA

Delaware and Hudson Railway Company (D&H) represented by George H. Kleinberger, General Attorney, Delaware and Hudson Railway Company, 40 Beaver Street, Albany, NY 12207, hereby gives notice that on the 22nd day of September, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to purchase and operate a line of railroad owned by the Consolidated Rail Corporation located in Broome County, NY, and Susquehanna, Wyoming, and Lackawanna Counties, PA, extending from a point in the City of Binghamton, Broome County, NY, for a distance of 60.34 miles through Broome County, NY, and Susquehanna, Wyoming, and Lackawanna Counties, PA, to a point in the City of Scranton, Lackawanna County, PA.

Applicant proposes to acquire and operate a line of railroad presently owned by Conrail. Applicant and Conrail have entered into an Agreement of Sale providing for Conrail's sale of the subject railroad to Applicant. The total number of miles of track proposed to be acquired and operated, in addition to East Binghamton Yard and Taylor Yard, is 60.34 miles, all of which is main line.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29486F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than February 23, 1981. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-434 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29483 (Sub-1)]

Norfolk and Western Railway Company; Trackage Rights Over the Baltimore and Ohio Railroad Company

Norfolk and Western Railway Company (NW), 8 North Jefferson Street, Roanoke, VA, 24042, represented by John S. Shannon, Senior Vice President-Law, 8 North Jefferson Street, Roanoke, VA 24042, hereby gives notice that on the 5th day of December, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to acquire trackage rights over the tracks of The Baltimore and Ohio Railroad Company (B&O) extending between milepost 6.7 at Winston Place in Cincinnati, OH to milepost 26.5 at Old River Junction in Hamilton, OH, a distance of approximately 19.9 miles. The trackage rights will be bridge rights only.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See

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[4] See MC-107180 (Sub-No. 1), *O. J. Gray Extension—Specified Commodities* (not printed in full), decided April 28, 1950.

[5] Cong. Rec., *supra,* at H5353.

Implementation—Nat'l Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29463 (Sub-No. 1) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than February 23, 1981. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-435 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Washington; Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

December 30, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 22, 1981.

No. 43888, Sea-Land Service, Inc. (No. 112), for rail carriers parties to Tariff ICC SEAU 350, FMC No. 203, to establish rail-water commodity rates on general commodities from Ports in the Far East to rail carrier's terminals in the interior United States, via the West Coast Ports of Long Beach and Oakland, CA and Seattle, WA, effective January 15, 1981. Grounds for relief—water competiton.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-437 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitile IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume Number OP1-103

Decided: December 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 2860 (Sub-215F), filed December 4, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Gerald s. Duzinski (same address as applicant). Transporting *food, food products, groceries, and footwear,* between Philadelphia, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at or destined to the facilites of Food Fair Manufacture Co., and Footwear Services, Inc.

MC 5881 (Sub-3F), filed December 11, 1980. Applicant: UNDERFANGER MOVING & STORAGE, INC., 3601 West Mayflower Blvd., Springfield, IL 62707. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Transporting *household goods,* (1) between points in IL, MO, IN, IA, WI, and KY, and (2) between points in IL, MO, IN, IA, WI, and KY, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, TN, KY, IN, MI, OH, WV, VA, NC, SD, GA, FL, MA, RI, CT, NY, NJ, PA, DE, MD, and DC.

MC 22311 (Sub-28F), filed December 8, 1980. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow, P.O. Box 765, Hammond, IN 46325. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of molded plastic products, between points in St. Joseph County, IN, on the one hand, and, on the other, points in the U.S.

MC 29510 (Sub-12F), filed December 8, 1980. Applicant: EVANS TRANSPORTATION CO., a corporation, 7800 Route No. 13, Levittown, PA 19057. Representative: Peter R. Gilbert, 1000 Potomac St., N.W., Washington, DC 20007. Transporting *metal products,* and *materials, equipment, and supplies* used in the manufacture of metal products, between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 47171 (Sub-193F), filed December 9, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by American Cyanamid Company and its subsidiaries.

MC 47171 (Sub-194F), filed December 11, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *plastic articles, pulpboard* (except corrugated), *and containers,* from the facilities of Container Corporation of America, at or near Stone Mountain, Atlanta, and Lithonia, GA, to points in AL.

MC 52460 (Sub-300F), filed December 10, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *non-alcoholic mixes and juices* (except in bulk), from the facilities of Master of Mixes, Inc., at (a) Corona, CA, and (b) Byhalia, MS, to points in AL, AR, CO, FL, GA, IA, IL, KS, LA, MO, NC, NE, NM, OK, SC, TN, and TX.

MC 60470 (Sub-24F), filed December 10, 1980. Applicant: MOTORCAR TRANSPORT COMPANY, 1280 Joslyn Ave., Pontiac, MI 48055. Representative: Joseph Gracia, Suite 211, 3221 W. Big Beaver Rd., Troy, MI 48084. Transporting *motor vehicles,* between points in the U.S.

MC 65781 (Sub-7F), filed December 10, 1980. Applicant: BARRETT MOVING & STORAGE, INC., 710 Washington Avenue South, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *waterbeds,* and *parts and accessories* for waterbeds, between points in Salt Lake and Davis Counties, UT, on the one hand, and, on the other, points in ND, SD, MN, WI, IA, and IL.

MC 75840 (Sub-145F), filed December 8, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton, 3400 Third Ave. S., Birmingham, AL 35222. Transporting *chemicals or allied products* as described in Item 28 of the Standard Transportation Commodity Code Tariff, between points in Cortland County, NY, on the one hand, and, on the other, points in AR, FL, LA, and TX.

MC 97251 (Sub-16F), filed December 9, 1980. Applicant: TURNER TRUCKING CO., INC., 1215 West Main St., Lebanon, IN 46052. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL and Lafayette, IN, over Interstate Hwy 65, serving no intermediate points.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 113041 (Sub-16F), filed December 8, 1980. Applicant: AC–BERWICK TRANSPORTERS, INC., 155 Smith Street, Keasbey, NJ 08832. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *petroleum, petroleum products, coal, coal products, and building materials,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in CT, RI, MA, ME, VT, NJ, NY, PA, OH, DE, MD, VA, WV, NC, SC, NH, MS, TN, KY, IN, IL, MI, AL, GA, FL, and DC.

MC 114211 (Sub-466F), filed December 10, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting (1) *building materials and equipment,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Beltrami County, MN, on the one hand, and, on the other, points in the U.S.

MC 114211 (Sub-467F), filed December 10, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of clay products, between points in Rusk County, TX, on the one hand, and, on the other, points in IA, IL, KS, MN, MO, ND, NE, SD, and WI.

MC 115841 (Sub-778F), filed December 8, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Richard L. Hollow, (same address as applicant). Transporting (1)(a) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and (b) *foodstuffs,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 116300 (Sub-64F), filed December 20, 1980, and previously noticed in **Federal Register** issue of November 17, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1) *malt beverages,* and (2) *materials and supplies* used in the manufacture and distribution of malt beverages, between points in AL, AR, FL, GA, LA, MS, MO, NC, TN, and TX.

Note.—This republication includes the state of MS in the territorial description.

MC 118811 (Sub-18F), filed: December 8, 1980. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Winchester, KY 40391. Representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting *iron and steel articles, alumium articles, and road construction materials, equipment, and supplies* except commodities requiring special equipment), between Kansas City, MO, points in AL, FL, GL, GA, IL, IN, KY, MS, NC, OH, SC, TN, TX, VA, WV, and those in Pulaski County, AR, Sedgwick County, KS, Genesee County, MI, and Linn County, MO.

MC 121450 (Sub-14F), filed: December 8, 1980. Applicant: McCOMAS TRUCK LINES, INC., P.O. Box 969, Chickasha, OK 73018. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) between Ringgold and Houston, TX: from Ringgold over U.S. Hwy 81 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 45, then over Interstate Hwy 45 to Houston, and return over the same route, serving all intermediate points; and (2) between Jacksboro and Dallas, TX: from Jacksboro over TX Hwy 199 to junction Interstate Hwy 20, then over U.S. Hwy 20 to Dallas, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 128680 (Sub-20F), filed: December 9, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *malt* *beverages and malt beverage dispensing equipment,* between points in the U.S., under continuing contract(s) with Van Munching & Co., Inc., of New York, NY.

MC 135321 (Sub-5F), filed: December 1, 1980. Applicant: P & C TRUCKING, INC., P.O. Box 117, Pinckneyville, IL 62274. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with United States Gypsum Company, L & W Supply Corporation, Columbia Building Materials Corp., C–S–W Drywall Supply Company, Gypsum Services Corporation, Stocking Specialists Inc., United States Gypsum Export Company, and United States Gypsum Insulation Company, all of Chicago, IL, Canadian Gypsum Company, Limited, C.N.G. Distribution, Limited, Fundy Gypsum Company, Limited, Little Narrows Gypsum Company, Limited, and Peeters Carpets, Ltd., all of Toronto, Ontario, Canada, Durabond Products Company, and Permalastics Products, Incorporated, both of Rosemont, IL, A. P. Green Refractories Company, of Mexico, MO, The E. J. Bartells Company, of Renton, WA, Bigelow-Liptak of Canada, Limited, of Mississauga, Ontaria, Canada, Bigelow-Liptak Corporation, of Southfield, MI, Bigelow-Liptak Export Corporation, of Houston, TX, A. P. Green Refractories (Canada), Ltd., of Weston, Ontario, Canada, A. Lynn Thomas Company, Incorporated, of Richmond, VA, Fundy Gypsum Company, Limited, of Windsor, Nova Scotia, Canada, Kinkead Industries, Incorporated, of Downers Grove, IL, North Bay Building Materials Co., Inc., of Napa Junction, Vallejo, CA, Sequoyah Carpet Corporation, of Anadarko, OK, Hollytex Carpet Mills, Inc., of City of Industry, CA, and Wiss, Janey, Elstner and Associations, Incorporated, of Northbrook, IL.

MC 135861 (Sub-89F), filed December 8, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *frozen foodstuffs,* and *materials, equipment, and supplies* used in the manufacture and distribution of frozen foodstuffs, between points in the U.S., under continuing contract(s) with Mrs. Smith's Frozen Foods Co., of Pottstown, PA.

MC 135861 (Sub-90F), filed December 9, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *foodstuffs,* between points in the U.S., under continuing contract(s) with Life Savers, Inc., of New York, NY, Imperial Frozen Foods Co., of Great Neck, NY, and U & J Lenson Corp., of Brooklyn, NY.

MC 139760 (Sub-7F), filed December 10, 1980. Applicant: WILLIAM ULBRICH TRUCKING CO., INC., 128 Vreeland Ave., Leonia, NJ 07605. Representative: William Ulbrich, Jr. (same address as applicant). Transporting *scrap metal, metal products, and chemicals,* between points in the U.S., under continuing contract(s) with Vulcan Materials Co., of Birmingham, AL.

MC 141643 (Sub-4F), filed December 8, 1980. Applicant: BOND TRANSPORTATION, INC., 155 Smith St., Keasbey, NJ 08832. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting (1) *petroleum, petroleum products, coal, coal products, and building materials,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC.

MC 142140 (Sub-6F), filed December 8, 1980. Applicant: CITY TRANSFER AND STORAGE OF CONRAD, INC., 111 N. Delaware, P.O. Box 1432, Conrad, MT 59425. Representative: Eugene D. Riewer (same address as applicant). *In foreign commerce only,* transporting *dry fertilizer,* in bulk, between the port of entry on the international boundary line between the U.S. and Canada at Sweetgrass, MT, on the one hand, and, on the other, Power and Fairfield, MT.

MC 143291 (Sub-5F), filed December 8, 1980. Applicant: RAYLS BROTHERS TRANSFER, INC., Box 342, North Dixie Hwy., Hoopeston, IL 60942. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *foodstuffs and canned goods,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in Iroquois County, IL, on the one hand, and, on the other, points in IN, IA, KY, MO, MI, OH, TN, and WI.

MC 143621 (Sub-53F), filed October 20, 1980, and previously noticed in the **Federal Register** issue of November 17, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 219 Whitsett Avenue, P.O. Box 100991, Nashville, TN 37210. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *primary metal products* (except coating or other allied processing), *fabricated metal products* (except ordance), and *machinery* (except electrical) as described in Items 33, 34, and 35, respectively, of the Standard Transportation Commodity Code Tariff, between points in Davidson County, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, MS, MI, MN, MO, OH, PA, TN, TX, and WI.

Note.—The purpose of this republication is to reflect the correct commodity description.

MC 143921 (Sub-5F), filed December 5, 1980. Applicant: BAMA EXPRESS, INC., P.O. Box 222, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *such commodities* as are dealt in by distributors of construction and home improvement materials, between points in AL, AR, FL, GA, IN, KY, LA, MS, NC, SC, TN, and VA.

MC 145230 (Sub-6F), filed December 11, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting *building materials and supplies* between points in the U.S., under continuing contract(s) with Woodstock, Inc., of Terry, MS.

MC 145371 (Sub-6F), filed December 8, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *foodstuffs,* and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in the U.S., restricted to traffic originating at or destined to the facilities of Del Monte Corporation.

MC 145441 (Sub-131F), filed December 8, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), between the facilities of Century & Associates, Inc., at Cerritos, CA, on the one hand, and, on the other, points in the U.S.

MC 146290 (Sub-9F), filed December 4, 1980. Applicant: DON THREDE, d.b.a. DON THREDE TRUCKING COMPANY, 1777 Arnold Industrial Highway, Concord, CA 94520. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Varco-Pruden Metal Building Systems, of Turlock, CA.

MC 148710 (Sub-10F), filed December 9, 1980. Applicant: SEABOARD EXPRESS, INC., 6327 Burnt Poplar Road., Greensboro, NC 27409. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting *such commodities* as are dealt in by automotive service centers (except commodities in bulk), between points in the U.S., under continuing contract(s) with Corn Brothers, Inc., of Smyrna, GA.

MC 148710 (Sub-11F), filed December 10, 1980. Applicant: SEABOARD EXPRESS, INC., 6327 Burnt Poplar Rd., Greensboro, NC 27409. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *printed matter,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between points in the U.S., under continuing contract(s) with W. R. Bean & Son, Inc., of Atlanta, GA.

MC 149170 (Sub-21F), filed December 8, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st St., Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *small arms ammunition, parts* for small arms ammunition, *electrical switchboxes, conduit outlet boxes, junction box covers, and electrical equipment and products,* (except electrical appliances), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between Anoka, MN, on the one hand, and, on the other, points in the U.S.

MC 150211 (Sub-6F), filed December 8, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery and food business houses, between Jackson, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, LA, MO, MS, NC, OH, SC, TN, and TX.

MC 150801 (Sub-1F), filed December 3, 1980. Applicant: ZIPP–EXPRESS, INC., 718 N. Senate Ave., Indianapolis, IN 46202. Representative: Alki E. Scopelitis, 1303 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *motion picture film,* and (2) *materials, equipment, and supplies* used in the operation and maintenance of theatrical productions exhibitions, (a) between points in IN, and (b) between points in IN, on the one hand, and, on the other, points in Jefferson County, KY.

MC 152790 (Sub-1F), filed December 5, 1980. Applicant: D. J. TRANSFER COMPANY, INC., 8213 West 58th St., Merriam, KS 66202. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between Kansas City, MO, on the one hand, and, on the other, points in AR, IA, KS, MO, NE, and OK, restricted to traffic having a prior or subsequent movement by rail.

MC 153097F, filed December 8, 1980. Applicant: SCHULTZ TRUCKING, INC., 7695 Aumsville Hwy. SE., Salem, OR 97301. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *foodstuffs,* between points in OR, on the one hand, and, on the other, points in WA.

MC 153101F, filed December 10, 1980. Applicant: STEVE CROFTER, 210 Elliot St., Brattleboro, VT 95301. Representative: Steve Crofter (same address as applicant). Transporting *household goods,* between points in VT, Cheshire County, NH, and Franklin County, MA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, and NY.

Volume No. OPI–105

Decided: December 16, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill dissenting.

MC 531 (Sub-457F), filed November 25, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *Chemicals, ores, vegetable oils, and vegetable oil products,* in bulk, between points in NJ and TX.

MC 48221 (Sub-30F), filed November 21, 1980. Applicant: W.N. MOREHOUSE TRUCK LINE INC., 4010 Dahlman Ave., Omaha, NE 68107. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *malt beverages and drink mixes,* between Cincinnati, OH, Chicago, IL, and points in WI and MN, on the one hand, and, on the other, points in NE.

MC 114211 (Sub-480F), filed November 13, 1980. Applicant: WARREN TRANSPORT, INC., 210 Beck Ave., P.O. Box 420, Walterloo, IA 50704. Representative: Kurt E. Vragel. Jr. (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the U.S. Condition: Prior to issuance of a certificate in this proceeding, applicant must request cancellation of those certificates which duplicate the above authority.

MC 120641 (Sub-2F), filed November 19, 1980. Applicant: DEE TRANSPORTATION, INC., 217 South Ashburnham Road, Westminster, MA 01473. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Transporting (1) *foodstuffs and paper and paper products,* from points in Worcester County, MA, to points in CT, ME, MA, NH, NJ, PA, RI, and VT, (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, to points in Worcester County, MA, and (3) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in MA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant s written request, of its Certificate of Registration in MC–120641.

Note.—The purpose of this application is to convert applicant's Certificate of Registration in MC–120641 to a Certificate of Public Convenience and Necessity in part (3) and to extend its authority in parts (1) and (2).

MC 134721 (Sub-7F), filed November 26, 1980. Applicant: GEORGE M. DZIAK, d.b.a. SUPER SERVICE TRANSPORT, P.O. Box 3494 TA, Spokane, WA 99220. Representative: Richard H. Streeter, 1729 H. St., NW., Washington, DC 20006. Transporting (1) *iron and steel articles,* from Seattle, WA and Portland, OR to Spokane, WA, (2) *iron and steel articles, scrap and waste materials,* from points in WA, OR, CA, ID, UT, CO, MT, and WY to points in WY, ID, and MT, and (3) *hides,* from Great Falls, MT and Portland, OR to Seattle, WA.

MC 142941 (Sub-73F), filed November 21, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). Transporting *alcoholic beverages* (except commodities in bulk), between points in AZ, CA, NV, on the one hand, and, on the other, points in IL, IN, KY, MD, MI, MO, NJ, NY, OH, OK, PA, and TN. Condition: Upon assistance of a certificate in this proceeding, the certificate in MC 142941 Sub-55F, will be cancelled.

MC 146140 (Sub-5F), filed November 25, 1980. Applicant: MELVIN SALES COMPANY, 901 North Vermillion St., Streator, IL 61364. Representative: Paul J. Maton, 10 S. LaSalle St., Rm. 1620, Chicago, IL 60603. Transporting (1) *such* *commodities* as are dealt in or used by manufacturers and distributors of glass containers and closures, between points in the U.S., restricted to traffic originating at or destined to the facilities of Thatcher Glass Mfg. Co., and (2) *alcoholic beverages*, between Plainfield, IL, and points in AR, MO, IL, IN, IA, WI, KY, MI, OH, TN, NE, CO, KS, OK, MN, SD, ND, UT, NV, CA, WY, AZ, NM, TX, LA, WV, GA, FL, and AL.

MC 149070 (Sub-2F), filed November 21, 1980. Applicant: LESCO TRUCKING COMPANY, INC., 7540 LBJ Freeway, Suite 224, Dallas, TX 75251. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *earth drilling machinery, equipment, materials, supplies, and pipe incidental to,* used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in AK, AL, AR, CO, FL, GA, ID, IN, KA, KY, LA, MI, MS, MO, MT, NM, OH, OK, TN, TX, UT, WV and (B) between points in AZ, CA, CT, DE, IL, IA, ME, MD, MA, MN, NE, NV, NH, NJ, NY, NC, ND, OR, PA, RI, SC, SD, VT, VA, WA, and WI, on the one hand, and, on the other, points in the U.S.

MC 152661F, filed November 12, 1980. Applicant: STEWART'S WELDING & HOT SHOT SERVICE, P.O. Box 293, Powell, WY 82435. Representative: Joe Gerbase, Suite 100, Transwestern Bldg., 404 North 31st St., Billings, MT 59101. Transporting (1) *machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and pickup thereof, between points in WY, CO, MT, ND and ID.

MC 152841 (Sub-1F), filed November 24, 1980. Applicant: FREEWAY EXPRESS, INC., 2930 Putnam Ave., Hurricane, WV 25526. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *lumber or wood products;* except furniture—see Major Industry Group 25, *chemicals or allied products, clay, concrete, glass or stone products, primary metal products; inc. galvanized;* except coating or other allied processing—see Major Industry Group 34, *fabricated metal products;* except Ordnance—see Major Industry Group 19, Machinery, 35, 36, or 37—Transportation Equipment, *machinery;* except Electrical—see Major Industry Group 36, and *containers, shipping, returned empty; aao. carriers or devices,* as described in Items (24), (28), (33), (34), (35), and (42) respectively, of the Standard Transportation Commodity Code Tariff, between those points in the U.S., in and east of MN, IA, MO, AK and TX.

Volume No. OP1-107

Decided: December 19, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 730 (Sub-519F), filed December 1, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94596. Representative: J. E. Gallegos, 215 Lincoln Ave., P.O. Box 2228, Santa Fe, NM 87501. Transporting *commodities in bulk,* between points in AZ, CA, CO, ID, KA, LA, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA and WY. Condition: Prior to the issuance of a certificate in this proceeding applicant must request in writing, cancellation of those certificates which duplicate the above authority.

MC 28951 (Sub-24F), filed December 11, 1980. Applicant: ROSS TRANSFER, INC., P.O. Box 271, Chadron, NE 69337. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chadron and Alliance, NE, over U.S. Hwy 385, serving all intermediate points and serving Hemingford, NE, as an off-route point.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 29910 (Sub-310F), filed December 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Niagara, Erie, Orleans, Genesee, Monroe, Ontario, Wayne, Seneca, Cayuga, Onondaga, Oneida, Madison, Oswego, Jefferson, Lewis, St. Lawrence, and Franklin Counties, NY, as intermediate or off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 29910 (Sub-311F), filed December 12, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Enka, NC, and Siloam Springs, AR, on the one hand, and, on the other, points in the U.S.

MC 29910 (Sub-312F), filed December 12, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting (1) *fabricated metal products (except ordnance),* (2) *Machinery and materials,* and (3) *equipment and supplies* used in the manufacture, distribution, and assembly of the commodities in (1) and (2) above, between Kerrville, Center Point, Houston, San Antonio, and Tyler, TX, on the one hand, and, on the other, points in the U.S.

MC 60080 (Sub-1F), filed November 24, 1980. Applicant: CAMPO'S EXPRESS, INC., 130 Jonslea Lane, Moscow, PA 18444. Representative: James Campo (same address as applicant). Transporting (1) *such commodities* as are dealt in by grocery stores and food distributors, (2) *such commodities* as are dealt in by drug stores and discount department stores, (3) *electrical equipment, materials, and supplies,* (4) *paper, paper mill products, and printed matter,* and (5) *such commodities* as are dealt in by distributors, wholesalers, and retailers of office supplies, office equipment, office furniture, and business machines, between points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, NH, NJ, NY, NC, OH, PA, RI, SC, VA, VT, WV, and DC.

MC 69281 (Sub-57F), filed December 1, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., 698 Fairmont Ave., Baltimore, MD 21204.

Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. Transporting (1) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value and those requiring special equipment), and (2) *empty containers or trailer chassis,* between Boston, MA, Baltimore, MD, New York, NY, Norfolk, VA, Philadelphia, PA, Charleston, SC, Wilmington, NC, Savannah, GA, Jacksonville, and Miami, FL, restricted to traffic having an immediate prior or subsequent movement by water.

MC 75840 (Sub-147F), filed December 9, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton (same address as applicant). Transporting (1) *paper and paper products,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Hanover County, VA, on the one hand, and, on the other, points in AL, DE, FL, KY, MD, NJ, NY, OH, PA, WV, and DC.

MC 78400 (Sub-96F), filed December 8, 1980. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *such commodities* as are dealt in by stationery and office supply stores, from Parsippany, NJ, and Garden City, NY, to Union, MO.

MC 85970 (Sub-45F), filed December 12, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Larry Kilzer (same address as applicant). Tranporting *plastic articles, chemicals, and rubber compounds,* between points in TN, on the one hand, and, on the other, points in GA, IL, and WV, restricted to the transportation of shipments originating at or destined to the facilities of Benco Industries, or their customers or suppliers.

MC 106451 (Sub-20F), filed November 20, 1980. Applicant: COOK MOTOR LINES, INC., P.O. Box 370, Akron, OH 44309. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), (1) between Pittsburgh, PA, and Wheeling, WV, from Pittsburgh over U.S. Hwys 22 and 30 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Wheeling, and return over the same route, (2) Washington, PA, and Martinsburg, WV, from Washington over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction U.S. Hwy 48, at or near Fairmont, WV, then over U.S. Hwy 48 to junction U.S. Hwy 40, at or near Cumberland, MD, then over U.S. Hwy 40 to junction Interstate Hwy 70, at or near Hancock, MD, then over Interstate Hwy 70 to junction Interstate Hwy 81, at or near Halfway, MD, then over Interstate Hwy 81 to Martinsburg, and return over the same route, (3) between Hancock, MD, and Martinsburg, WV, from Hancock over U.S. Hwy 522 to junction WV Hwy 9, at or near Berkeley Springs, WV, then over WV Hwy 9 to Martinsburg, and return over the same route, and (4) between Pittsburgh, PA, and Hancock, MD, from Pittsburgh over Interstate Hwy 376 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 70, then over Interstate 70 to Hancock, MD, and return over the same route, serving all intermediate points on routes (1)–(4) above, and points in Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Vernango, Washington, Westmoreland, Somerset Counties, PA, Allegany and Garrett Counties, MD, Morgan, Berkeley, and Jefferson Counties, WV, and Boyd County, KY, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 113440 (Sub-5F), filed November 28, 1980. Applicant: HOWE TRANSPORTATION CO., 7830 Southern Blvd., Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (A) *institutional and business furniture, equipment, fixtures, supplies, acccessories and parts,* (B) *data processing equipment cabinets, frames, accessories and parts thereof,* (C) *printed forms and advertising matter,* and (D) *plastic articles* (except commodities in bulk), between the facilities of The GF Business Equipment, Inc., at (1)(a) Sturgis, MI, (b) Forest City, NC, (c) Gallatin, TN, (d) City of Commerce, CA, and (e) Rochester, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) Youngstown, OH, on the one hand, and, on the other, points in the U.S. (except AK, HI, IL, IN, KY, MD, NJ, NY, PA, TN, VA, WV, and DC).

MC 119700 (Sub-75F), filed December 9, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Ave., Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, Mo 64105. Transporting *iron and steel articles,* from points in Oklahoma County, OK, to points in AR, CO, IA, KS, MO, NE, NM, SD, TX, WI, WY, and LA.

MC 121470 (Sub-72F), filed December 9, 1980. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *primary metal products,* (2) *fabricated metal products,* and (3) *commodities,* which because of size or weight, require the use of special equipment, between points in TN, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a Certificate in this proceeding is subject to cancellation at applicants written request, of any duplicative authority.

MC 124868 (Sub-1F), filed December 15, 1980. Applicant: RALPH W. SOUTHERS, dba, SOUTHERS WRECKING & REPAIR, P.O. Box 968, Staunton, VA 24401. Representative: Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Transporting *motor vehicles,* between points in the U.S., under continuing contract(s) with Mack Trucks, Inc., of Allentown, PA, Smith's Transfer Corporation of Staunton, VA, and with Erb Transportation Co., Inc., and Mortons Frozen Foods, Division of ITT Continental Baking Company both of Crozet, VA.

MC 134771 (Sub-4F), filed November 24, 1980. Applicant: AUSTIN TUPLER TRUCKING, INC., 6570 SW 47th Court, Ft. Lauderdale, FL 33314. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166. Transporting (1) *scrap metal and junk,* between points in FL, and (2) *coal,* between those points in FL on and south of FL Hwy 50. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificates of Registration in MC 134771, Subs 1 and 3.

Note.—The purpose of this application is to convert applicant's Certificates of Registration in MC 134771, Subs 1 and 3, to Certificates of Public Convenience and Necessity.

MC 136220 (Sub-90F), filed December 9, 1980. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036. Transporting *such commodities* as are ordinarily transported in dump vehicles, between points in AL, AZ, AR, CA, CO, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NJ, NM, NY, NC, ND, OH,

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OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, and WY. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its certificates in MC 136220 and Subs 2, 4, 6, 11, 12, 14, 15, 18, 21, 22, 25, 28, 30, 40, 62, 63, 64, 70, 71, 83, 84, and 87, which duplicate in whole or in part of the authority sought.

MC 141740 (Sub-17F), filed December 9, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Essex Group, Inc., of Fort Wayne, IN.

MC 144630 (Sub-1F), filed December —, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *frozen foods* and (2) *materials, equipment and supplies* used in the manufacture and distribution of frozen foods, between the facilities of Stouffer Foods Corporation at Cuyahoga County, OH, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 144961 (Sub-2F), filed November 19, 1980, and previously noticed in FR issue of December 2, 1980. Applicant: REED TRANSPORTATION, a corporation, 2290 West Renvana Mills, WY 82644. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY.

Note.—This republication clarifies the territorial description.

MC 145441 (Sub-132F), filed December 10, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting (1) *paper, paper products, and plastic products* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution thereof, (except commodities in bulk), from the facilities of Crown Zellerbach Corporation at (a) Greensburg, IN, (b) Orange, TX, (c) Florence, KY, and (d) St. Louis and Hazelwood, MO, to points in the U.S.

MC 145950 (Sub-86F), filed October 23, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76706. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. Transporting (1) *titanium and titanium materials,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Neuces County, TX, on the one hand, and, on the other, points in the U.S.

MC 146621 (Sub-4F), filed December 8, 1980. Applicant: EUGENE GEORGE TRUCKING SERVICE, Route No. 1, Box 14A, Oswego, KS 67356. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *Steel tanks* and (2) *machinery, equipment, materials, and supplies* used in the manufacture, construction, erection and installation of steel tanks, between points in Labette County, KS, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KY, LA, GA, MO, MS, MN, NE, NM, OK, SD, TN, TX, AL, and WI.

MC 148730 (Sub-3F), filed December 10, 1980. Applicant: THE CANDY EXPRESS, INC., 1600 E. Gregory, North Little Rock, AR 72114. Representative: Harry E. McDermott, Jr., 700 Union Life Bldg., Little Rock, AR 72201. Transporting *general commodities* (except classes A and B explosives), between points in Pulaski County, AR, on the one hand, and, on the other, points in AR, TN, MO, MS, LA, and TX.

MC 151251 (Sub-2F), filed December 5, 1980. Applicant: NATIONWIDE CARTAGE SERVICE, INC., 5434 S. Parkside Ave., Chicago, IL 60638. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. Transporting *hospital supplies, medicines, and foodstuffs,* between the facilities of the Veteran's Administration Supply Depot, at or near Broadview, IL, on the one hand, and, on the other, points in the U.S.

MC 151341 (Sub-1F), filed November 24, 1980. Applicant: ALDERSHOT CARRY-ALL SERVICE, LTD., 14 Plains Road West, Burlington, Ontario, Canada L7R 3X8. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. In foreign commerce only, transporting (1) *contractor's materials, equipment, and supplies,* (2) *commodities,* the transportation of which because of size or weight require the use of special equipment, and (3) *self-propelled articles* each weighing 15,000 pounds or more, between ports of entry along the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S.

MC 153171F, filed December 15, 1980. Applicant: TWENTY FIRST CENTURY BUS SERVICE CORP., d.b.a. TWENTY FIRST CENTURY TOURS, 3 Railroad Place Maspeth, NY 11378. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10017. As a *broker,* at Maspeth, NY, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in the U.S.

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Decided: December 16, 1980.

By the Commission, Review Board Number 3, Fortier and Hill. Member Hill not participating.

MC 2153 (Sub-51F), filed December 1, 1980. Applicant: MIDWEST MOTOR EXPRESS, INC., 5015 E. Main St., Bismarck, ND 58501. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ND. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation, at applicant's written request, of authority held by it in MC 2153 and Subs thereunder which duplicate, in whole or in part, the authority sought herein.

Note.—Applicant intends to tack this authority with other authority held by it.

MC 2962 (Sub-75F), filed December 8, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana St., Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B, explosives, commodities in bulk: those of unusual value, and those requiring special equipment), serving points in St. Charles County, MO, as off-route points in connection with carrier's otherwise authorized regular routes.

Note.—Applicant intends to tack with authority in MC 2962, issued June 17, 1954.

MC 4483 (Sub-30F), filed December 3, 1980. Applicant: MONSON TRUCKING, INC., R.R. No. 1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Transporting *construction and contractors' materials, equipment, and supplies,* from points in ND, SD, NE, KS, MN, IA, MO, WI, IL, MI, IN, OH, KY, TX, PA, CO, and AR to points in ND, SD, MN, IA, WI, IL, and the Upper Peninsula of MI.

MC 20992 (Sub-64F), filed December 8, 1980. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building materials, food processing equipment, pumps, tanks, and fabricated metal products, between points in Columbia and Dodge Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 56623 (Sub-2F), filed December 1, 1980. Applicant: SHANNON YOUNG TRUCKING COMPANY, d.b.a. OIL FIELD TRUCKING SERVICE, P.O. Box 5707, Abilene, TX 79605. Representative: JAMES W. HIGHTOWER, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237 (214/339–1406). Transporting (1) *primary metal products* (including galvanized; except coating and other allied processing); (2) *fabricated metal products* (except ordinance); (3) *machinery* (except electrical); and (4) *transportation equipment* in items 33, 34, 35, and 37, respectively, as described in the Standard Transportation Commodity Code, Tariff between points in TX. Condition: Issuance of a certificate is subject to prior or condental cancellation at applicant's written request, of the outstanding certificate in MC 56623 Sub-1, granted October 21, 1975.

Note.—The purpose of this application is to convert a Certificate of Registration presently held by Applicant under MC 56623 (Sub-1), to a Certificate of Public Convenience and Necessity.

MC 58923 (Sub-61F), filed November 19, 1980. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Rd., SE, Atlanta, GA 30315. Representative: Firtz R. Kahn, 1660 L St., NW, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between points in SC, and (2) between points in SC, on the one hand, and, on the other, points in NC and those in GA within 100 miles of Greensville, SC.

Note.—(1) Applicant intends to tack the authority sought to its existing regular routes in SC to provide through service to points in NC, and (2) Applicant states the purpose of this application is to eliminate the Greenville gateway and to enable through service under unified rights, rather than through interchange at Greenville by affiliates.

MC 63562 (Sub-77F), filed December 8, 1980. Applicant: BN TRANSPORT, INC., P.O. Box 22694, Wellshire Station, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. Transporting *rubber hose and couplings* for rubber hoses, between Galesburg, IL, and Iola, KS.

MC 64932 (Sub-616F), filed December 3, 1980. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Ave., Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *bulk commodities,* in tank vehicles, between points in the U.S.

MC 70832 (Sub-32F), filed December 9, 1980. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: Jeremy Kahn, Suite 733, Investment Bldg., Washington, DC 20005. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Pittsburgh and Harrisburg, PA, from Pittsburgh over U.S. Hwy 30 to junction U.S. Hwy 15, then over U.S. Hwy 15 to Harrisburg, and return over the same route, serving all intermediate points, and, serving those points in PA, on, south and west of a line beginning at the intersection of Interstate Hwy 80 and the PA–OH State line, then east along Interstate Hwy 80 to junction U.S. Hwy 15 near Milton, PA, then south along U.S. Hwy 15 to its intersection with the PA–MD State line, as off-route points.

Note.—Applicants intends to tack this authority at Harrisburgh, PA and Milton, PA with its existing authority and to interline at Pittsburgh, PA.

MC 105463 (Sub-11F), filed December 5, 1980. Applicant: C. E. HORNBACK, INC., 2nd and Siegel, Tama, IA 52339. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the U.S., under continuing contract(s) with Packaging Corporation of America, of Evanston, IL.

MC 107012 (Sub-624F), filed December 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *carpet cushion and automotive felt,* from Norfolk, VA, to points in IA, KS, and MN.

MC 107012 (Sub-625F), filed December 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *insulated copper wire, flexible steel conduit, and wrought steel pipe,* from Hicksville and Maspeth, NY, to points in the U.S.

MC 107012 (Sub-626F), filed December 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *general commodities,* from Cary and Harvard, IL, to points in the U.S., restricted to traffic originating at the facilities of General Power & Equipment Division, General Paint & Chemical Division, and Wheeler Manufacturing Division, of Cotter & Company. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 118803 (Sub-23F) (correction), filed October 27, 1980, published in the **Federal Register**, issue of November 18, 1980, and republish, as corrected, this issue. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of plastic articles (except in bulk) between points in the U.S., under a continuing contract(s) with Mobil Chemical Company, Plastics Division and Film Division, of Macedon, NY. The purpose of this republication is to include the Film Division, as a part of the contract name of the shipper.

MC 124692 (Sub-351F), filed December 8, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). Transporting *construction materials (except commodities in bulk)* from Fremont, CA to points in OR, WA, ID, MT, NY and UT.

MC 124692 (Sub-352F), filed December 9, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55401. Transporting (1) *heating units, cooling units, ventilating units, and air conditioning units,* and (2) *parts and attachments* for the commodities in (1) above, from points in Steele and Waseca Counties, MN, to points in the U.S.

MC 125433 (Sub-449F), filed December 3, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South

Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *oilfield commodities* (except commodities in bulk), between points in the U.S.

MC 125433 (Sub-452F), filed December 4, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *malt beverages,* in containers, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, between points in Los Angeles County, CA, Hillsborough County, FL, Forsyth County, NC, Gregg County, TX, Shelby County, TN, and Milwaukee County, WI, on the one hand, and, on the other, points in the U.S.

MC 125433 (Sub-455F), filed December 12, 1980. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *glass* and (2) *materials, equipment, and supplies* used in the manufacture of glass, between points in Navarro County, TX, on the one hand, and, on the other, points in the U.S.

MC 129702 (Sub-9F), filed December 8, 1980. Applicant: CARPET TRANSPORT, INC., Rte. 5, Lovers Lane Road, Calhoun, GA 30701. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *textiles and textile products and floor coverings,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA.

MC 138882 (Sub-377F), filed December 4, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *railroad/headway grade crossings, precast reinforced concrete crossing slabs, and pre-stressed concrete articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Szarka Enterprises, Inc.

MC 140193 (Sub-12F), filed December 1, 1980. Applicant: RICH GRANT, INC., 910 West 24th St., Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City UT 84111. Transporting *paper and paper products,* between points in WI and MN, on the one hand, and, on the other, points in UT, ID, CO and WY.

MC 143032 (Sub-33F), filed December 5, 1980. Applicant: THOMAS J. WALCZYNSKI d.b.a. WALCO TRANSPORT, 3112 Truck Center Dr., Duluth, MN 55806. Representative: Thomas J. Walczynski (same address as applicant). Transporting *lime and salt* (1) from points in Douglas County, WI, to points in IA, Upper Peninsula of MI, MN, ND and SD, and (2) from points in St. Louis County, MN, to points in IA, the Upper Peninsula of MI, ND, SD and WI.

MC 146703 (Sub-21F), filed December 9, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St. NW, Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

MC 146753 (Sub-15F), filed December 5, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 666 Eleventh St., NW No. 805, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound recordings, (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 146753 (Sub-16F), filed December 5, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by food business houses and chain grocery stores, between points in Lee County, IL and Tippecanoe County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Purity Mills, a Division of Stokely-Van Camp, Inc.

MC 150432 (Sub-11F), filed December 2, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, NW, Suite 1111, Washington, DC 20036. Transporting *such commodities* as are dealt in or used by wholesale, retail, and discount stores (except the U.S.) under a continuing contract(s) with Ross Laboratories, Inc., of Columbus, OH.

MC 150693 (Sub-1F), filed December 8, 1980. Applicant: GENERAL MOTOR LINES, INC., P.O. Box 9583, Baltimore, MD 21237. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, Md 21740. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of automotive products, between points in the U.S., under continuing contract(s) with STP Corporation, of Ft. Lauderdale, FL.

MC 150783 (Sub-3F), filed December 1, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). Transporting *malt beverages,* between points in CO, GA, MO, and NE, on the one hand, and, on the other points in AR and KS.

MC 150943 (Sub-1F), filed December 10, 1980. Applicant: F. H. SMITH TRANSPORT CO., INC., Rt. A, Box 83, Yellville, AR 72687. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting (1)(a) *porch seings and lawn furniture,* and (b) *fixtures* for porch swings and lawn furniture, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Marion County, AR, and Chilton County, AL, on the one hand, and, on the other, points in the U.S.

MC 151652 (Sub-1F), filed December 3, 1980. Applicant: JOHN C. MEACHAM AND QUENTIN HAROLD MAPLES d.b.a. M & M OILFIELD TRUCKING, 3737 Gilmore Ave., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *such commodities* as are used in the establishment, maintenance, or dismantling of well drilling, pipelines, refineries, and cracking or casinghead plants, between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

MC 151653 (Sub-2F), filed December 21, 1980. Applicant: GLOSSON ENTERPRISES, INC., Route 15, Box 55, Lexington, NC 27292. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting (1) *petroleum lubricants, empty petroleum lubricant containers, and pumps and pump parts,* between points in PA and MD, on the one hand, and, on the other, points in NC, SC, and VA; and (2) *beverages* between Richmond, VA, on the one hand, and, on the other, points in NC and SC.

MC 151723 (Sub-1F), filed December 9, 1980. Applicant: G.A. SIMMS, d.b.a. SIMMCO CARRIERS, 8704 S. Olie, Oklahoma City, OK 73139. Representative: G.A. Simms (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 151792 (Sub-1F), filed December 8, 1980. Applicant: COLES EXPRESS, 444 Perry Rd., Bangor, ME 04401. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. Transporting *general commodities* (except household goods as defined by the Commission and commodities of unusual value), between points in the U.S., under continuing contract(s) with The Jackson Laboratory, of Bar Harbor, ME. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 151873 (Sub-1F), filed December 5, 1980. Applicant: PRIDE CARGO CARRIERS, INC., 1920 West First St., Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of power tools and labor saving devices, between points in the U.S., under continuing contract(s) with Black & Decker (U.S.), Inc., of Towson, MD. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 152952 (Sub-1F), filed December 9, 1980. Applicant: WAYNE SMITH, d.b.a. WAYNE SMITH TRUCKING COMPANY, Route 2, Box 462, Jacksonville, AL 36265. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *lumber, lumber products, and forest products,* between points in Calhoun, Etowah, and Talladega Counties, AL, on the one hand, and, on the other, points in AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NY, OH, PA, TN, and WI.

MC 153043 (Sub-1F), filed December 9, 1980. Applicant: WEST SHORES LEASING CORPORATION, 7931 N.E. Halsey St., Suite 201, Portland, OR 97213. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at New York, NY, San Francisco, Los Angeles, San Diego, Sacramento, Bakersfield, Santa Barbara, Carmel and Palm Springs, CA, Miami, FL, Phoenix and Scottsdale, AZ, and Las Vegas, and Reno, NV, and extending to points in the U.S. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 153052F, filed December 5, 1980. Applicant: HILL'S VAN SERVICE, INC., P.O. Box 188, Ocala, FL 32670. Representative: Gregory E. Tucci, 18 North West 3rd Avenue, Ocala, FL 32670. Transporting *household goods* as defined by the Commission between points in FL, GA, AL, SC, NC, MD, VA, and DC.

MC 153063F, filed December 8, 1980. Applicant: KOHORST BEVERAGE COMPANY, INC., W. Sinclair Lewis Ave., Sauk Centre, MN 46378. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *malt beverages,* from Milwaukee, WI, and Peoria, IL, to points in MN.

MC 153093F, filed December 10, 1980. Applicant: ASSOCIATED MOVING & STORAGE, INC., P.O. Box 23053, New Orleans, LA 70183. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036. Transporting *household goods,* as defined by the Commission, between points in LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN, and TX.

Volume No. OP2–136

Decided: December 18, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2202 (Sub-645F), filed December 1, 1980. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving points in St. Charles County, MO, as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 2202 (Sub-646F), filed December 12, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between Newnan and Raymond, GA: from Newnan over GA Hwy 34 to junction GA Hwy 74, then over GA Hwy 74 to junction GA Hwy 85, then over GA Hwy 85 to junction GA Hwy 16, then over GA Hwy 16 to Raymond, and return over the same route, serving all intermediate points.

MC 115352 (Sub-7F), filed December 5, 1980. Applicant: R.H. REDIKER TRANSPORT, LTD., P.O. Box 30, Beebe, Quebec, Canada JOB 1 E O. Representative: John P. Monte, P.O. Box 568, Barre, VT 05641. Transporting *stone working abrasives,* between Buffalo and Niagara Falls, NY, on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and Canada at or near Buffalo and Niagara Falls, NY.

MC 124692 (Sub-353F), filed December 12, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *paper lumber wrap,* from Chicago, IL, to points in CA, ID, OR, WA, UT, MT, SD, and ND.

MC 129903 (Sub-17F), filed October 27, 1980. Applicant: EMPORIA MOTOR FREIGHT, INC., Rte 5, Box 1103, Emporia, KS 66801. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 6100 Poplar Avenue, Memphis, TN 38137. Regular route transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives). (1) Between Kansas City, MO and Wichita, KS, over Interstate Hwy 35; (2) from Kansas City, MO over Interstate Hwy 70 to Topeka, KS, then over Interstate Hwy 35 to Wichita, KS, and return over the same route, serving points in Lyon County, KS and Council Grove, KS, as off-route points.

Note.—Applicant indicates intention to interline at Kansas City, MO and Wichita, KS.

MC 142672 (Sub-159F), filed December 9, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 1065, Fayetteville, AR 72701. Transporting: *alcoholic liquors* and *materials, equipment and supplies* used in the manufacture and distribution of alcoholic liquors (except in bulk, in tank vehicles) between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151982 (Sub-1F), filed December 12, 1980. Applicant: AMERICAN EAGLE

LINE, INC., 3000 Mulford SE, Grand Rapids, MI 49506. Representative: Mark V. Palazzolo, P.O. Box 9177, Wyoming, MI 49509. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under a continuing contract(s) with National Box Corporation, of Grand Rapids, MI. Condition: Issuance of any certificate will be withheld until submission of applicant's financial statement.

MC 153122F, filed December 9, 1980. Applicant: WESTERN WHOLESALE TRANSPORT DIVISION, INC., Rt. 9, Box 107, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *building materials,* (a) between points in OH, on the one hand, and, on the other, points in WY, UT, ID, and CA, and (b) between points in CA, on the one hand, and, on the other, points in ID, UT, and WY.

MC 153152F, filed December 11, 1980. Applicant: NELSON TRANSPORT, INC., 3201 DeAnza Place, San Ramon, CA 94583. Representative: John G. Lyons, 220 Bush Street, Suite 1418, San Francisco, CA 94104. Transporting *such commodities* as are dealt in or used by a building supply distributor, between points in the U.S., under continuing contract(s) with Nelson Supply Company, Inc., of Hayward, CA.

Volume No. OP4-177

Decided: December 23, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 74176 (Sub-3F), filed December 15, 1980. Applicant: WILES TRANSPORT, INC., 16901 Van Dam Rd., South Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. Transporting (1) *such commodities* as are dealt in by food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Chicago, IL, to points in PA, NY, MD, NJ, MA, CT, NC, MS, AL, GA, and OH.

MC 117786 (Sub-218F), filed December 16, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: Baldo J. Lutich, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), between the facilities used by the Drackett Products Company, on the one hand, and, on the other, points in the U.S.

MC 127306 (Sub-15F), filed December 16, 1980. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *meat,* between the facilities of Portion-Trol Foods, Inc., at Mansfield, TX, on the one hand, and, on the other, points in CA.

MC 135306 (Sub-6F), filed December 16, 1980. Applicant: DAN'S TRANSIT, INC., 1254 Medina Rd., Medina, OH 44256. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *Brick and masonry products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in PA, OH, NY, NJ, NE, NC, SC, GA, MD, and CT, on the one hand, and, on the other, points in MA, NH, VT, ME, and RI.

MC 135866 (Sub-4F), filed December 16, 1980. Applicant: JACK L. MASSENDER, d.b.a. ZILLAH HAULING SERVICE, 6052 N. Pittsburg St., Spokane, WA 99270. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting (1) *iron and steel articles, and aluminum articles,* and (2) *construction materials and supplies,* between points in the U.S., under continuing contract(s) with Artistic Ironworks, Inc., and Savage Wholesale Building Materials, Inc., both of Spokane, WA.

MC 139926 (Sub-5F), filed December 15, 1980. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer "D", Stroud, OK 74079. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with The Kroger Company, of Cincinnati, OH.

MC 143956 (Sub-26F), filed December 16, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Box Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, GA 30305. Transporting *pet foods and canned foodstuffs,* between Terminal Island, CA, on the one hand, and, on the other, points in the U.S.

MC 146646 (Sub-136F), filed December 16, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *canned goods,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of canned goods, between Lindale, TX, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, VA, and WV.

MC 150436 (Sub-2F), filed December 16, 1980. Applicant: CHEM-HAULERS, INC., 118 E. Mobil Plaza, Florence, AL 35631. Representative: Hampton M. Mills (same address as applicant). Transporting *paper and paper products, chemicals, and wood and wood products* and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with Champion International Corporation of Hamilton, OH.

MC 151696 (Sub-1F), filed December 15, 1980. Applicant: JENKO TRANSPORTATION, INC., R.R. No. 5, Box 117, Winchester, KY 40391. Representative: George M. Catlett, Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and, those requiring special equipment, between points in Clark County, KY, on the one hand, and, on the other, points in IL, IN, MI, NC, OH, TN, and WI.

MC 153176, filed December 12, 1980. Applicant: SPECIAL COMMODITIES, INC., RFD 8, George Washington Hwy, Smithfield, RI 02917. Representative: A. Josheph Mega, 175 Forbes St., Riverside, RI 02915. Transporting *(1) buildings, knocked down, iron and steel articles, and wood products, and (2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Deck House, Inc., of Action, MA.

Volume No. OP4-178

Decided: December 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 121066 (Sub-13F), filed December 10, 1980. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE 69361. (A) Over regular routes, transporting *general commodities* except classes A and B explosives and household goods as defined by the Commission), (1) between Omaha, NE and Scottsbluff, NE, (a) from Omaha over Interstate Hwy 80 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same routes, and (b) from Omaha over Interstate Hwy 80 to junction NE Hwy 61, then over NE Hwy 61 to Ogallala, NE, then over U.S. Hwy 26 to Scottsbluff, and return over the same route, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, (2) between Omaha, NE and Chadron, NE, from Omaha over Interstate Hwy 80 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Grand Island, NE, then over NE Hwy 2 to Alliance, NE, then over U.S. Hwy 385 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Chadron, and return over the same route, (3) between Denver, CO and Scottsbluff, NE, (a) from Denver over U.S. Hwy 85 to Cheyenne, WY, then over Interstate Hwy 80 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same route, and (b) from Denver over Interstate Hwy 76 to junction CO Hwy 52, then over CO Hwy 52 to junction CO Hwy 14, then over CO Hwy 14 to junction CO Hwy 71, then over CO Hwy 71 to junction NE Hwy 71, then over NE Hwy 71 to Scottsbluff, and return over the same route, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, (4) between Denver, CO and Sidney, NE, from Denver over Interstate Hwy 76 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Sterling, CO then over U.S. Hwy 138 to junction CO Hwy 113, then over U.S. Hwy 113 to NE Hwy 19, then over NE Hwy 19 to Sidney, and return over the same route, and (5) serving in connection with routes (A)(1) through (4) points in NE, those in Douglas, Elbert, Park, Jefferson, Arapahoe, Adams, Boulder, Weld, Morgan, Washington, Logan, Larimer, Sedgwick, Phillips, and Yuma Counties, CO, and those in Albany, Laramie, Platte, Goshen, Niobrara, Converse, and Natrona Counties, WY, as intermediate and off-route points; and (B) Over irregular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in NE, those in Albany, Laramie, Platte, Goshen, Niobrara, Converse, and Natrona Counties, WY, and those in Adams, Arapahoe, Boulder, Denver, Douglas, Elbert, Gilpin, Larimer, Logan, Morgan, Park, Phillips, Sedgwick, Washington, Weld, and Yuma Counties, CO. CONDITION: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's request, of certificate issued under MC-121066 and subs thereto, and MC-110483 and subs thereto, which duplication in full, or in part the authority herein.

MC 135556 (Sub-10F), filed December 16, 1980. Applicant: CARPENTER BROTHERS TRUCKING, INC., 3282 S. R. 98, Bucyrus, OH 44820. Representative: Gerald P. Wadkowski, 85 E. Gay St., Columbus, OH 43215. Transporting (1) *plastic and rubber products* and (2) *clay*, between points in the U.S., under continuing contract(s) with The Swan Hose Division, Amerace Corporation of Bucyrus, OH.

MC 142686 (Sub-52F), filed December 15, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). Transporting (1) *insecticides* and (2) *pet supplies*, in containers, between points in the U.S., under continuing contract(s) with Zoecon Industries of Dallas, TX.

MC 148766 (Sub-4F), filed December 12, 1980. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Villa, Oklahoma City, OK 73159. Representative: Alfred Smith (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Oklahoma City, OK and Liberal, KS: From Oklahoma City over Interstate Hwy 40 to the junction of OK Hwy 8, then over OK Hwy 8 to Watonga, OK, then over OK Hwy 3 to the junction of U.S. Hwy 83, then over U.S. Hwy 83 to Liberal, and return over the same route, serving all intermediate points, (2)(a) Between Watonga and Woodward, OK: From Watonga over OK Hwy 51A to Fairview, OK, then over OK Hwy 15 to Woodward, and (b) From Watonga over OK Hwy 3 to the junction of OK Hwy 58, then over OK Hwys 58 and 58A to the junction of U.S. Hwy 60, then over U.S. Hwy 60 to the junction of U.S. Hwy 281, then over U.S. Hwy 281 to the junction of OK Hwy 3, then over OK Hwy 3 to Woodward, and return over the same routes serving all intermediate points, (3) between Seiling and Chester, OK, over U.S. Hwy 281, serving all intermediate points, (4) Between Seiling, OK and Perryton, TX: From Seiling over U.S. Hwy 60 to the junction of U.S. Hwy 283, then over U.S. Hwy 283 to the junction of OK Hwy 15, then over OK Hwy 15 to TX Hwy 15, then over TX Hwy 15 to Perryton, and return over the same route, serving all intermediate points, (5) Between Vici and Buffalo, OK: From Vici over OK Hwy 34 to Woodward, OK, then over U.S. Hwy 183 to Buffalo, and return over the same route, serving all intermediate points, (6) between Woodward and Shattuck, OK over OK Hwy 15, serving all intermediate points, (7) between Arnette and May, OK, over OK Hwy 46, serving all intermediate points, (8) Between Booker, TX and Forgan, OK: From Booker over TX Hwy 23, to OK Hwy 23, then over OK Hwy 23 to the junction of U.S. Hwy 64, then over U.S. Hwy 64 to Forgan, and return over the same route, serving all intermediate points, and (9) Between Woodward, OK and Liberal, KS: From Woodward over OK Hwy 34 to the junction of U.S. Hwy 64, then over U.S. Hwy 64 to the junction of U.S. Hwy 83, then over U.S. Hwy 83 to Liberal, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-173 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC

Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–83

The following applications were filed in region I. Sent protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, room 501, Boston, MA 02114.

MC 153168 (Sub-1–1TA), filed December 15, 1980. Applicant: ROCKINGHAM CARRIAGE SERVICE, INC., Rt. #1 Bypass—P.O. Box 1349, Portsmouth, NH 03801. Representative: Robert G. Parks, 20 Walnut Street—Suite 101, Wellesley Hills, MA 02181. *New and used vehicles, wrecked or disabled motor vehicles, and trailers (except mobile homes), by wrecker or towing equipment, by vehicle carrying equipment and in driveaway service,* between points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, PA, VA and DC. Supporting shipper(s): There are six statements of support which may be examined at the I.C.C. Regional Office at Boston, MA.

MC 147242 (Sub-1–3TA), filed December 15, 1980. Applicant: 12–90 PLAZA CORP., T/A PLAZA FREIGHT TRANSPORT, 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10116. *Contract carrier:* irregular routes: *(1) Chemicals, toilet preparations, soaps (2) such commodities as are dealt in by department stores, supermarkets, hardware stores and drug stores and (3) equipment, materials and supplies used in the manufacture, sale and distribution of (1) and (2), except commodities in bulk,* (a) between Clifton and Mays Landing, NJ; W. Springfield, MA; and Memphis, TN on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MA, MI, MN, MO, NE, NJ, OH, TN, WV, WI, NV, UT, CO, CA, OR and WA, and (b) between Sparks, NV, on the one hand, and, on the other CA, CO, OR, WA and UT, Supporting shipper: American Cyanamid Company, Berden Avenue, Wayne, NJ 07470.

MC 128541 (Sub-1–1TA), filed December 15, 1980. Applicant: WESLEY W. MACOMBER d.b.a. W. W. MACOMBER TRUCKING, Route No. 1A, Gardiner, ME 04345. Representative: Wesley W. Macomber, Route No. 1A, Gardiner, ME 04345. *Contract carrier:* Irregular routes: *Paperboard* from Yorktowne Paper Mills, Inc., Gardiner, ME to all points in MA and RI under a continuing contract with Yorktowne Paper Mills of Maine, Inc., Gardiner, ME. Supporting shipper: Yorktown Paper Mills of Maine, Inc., Water Street, Gardiner, ME 04345.

MC 153166 (Sub-1–1TA), filed December 15, 1980. Applicant: J. H. MAXYMILLIAN, INC., 86 South Main Street, Lanesboro, MA 01237. Representative: James H. Maxymillian, 86 South Main Street, Lanesboro, MA 01237. *Hazardous and non-hazardous waste and material* between all points in all states east of the Mississippi River. Supporting shippers: General Electric Company, 100 Woodlawn Ave., Pittsfield, MA 01201; SCA Chemical Waste Services, Inc., 1550 Balmer Road, Model City, NY 14107.

MC 153167 (Sub-1–1TA), filed December 15, 1980. Applicant: ANGELICA ENTERPRISES, INC., Park Circle, Angelica, NY 14709. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier:* irregular routes: *Fabricated steel articles, and materials, supplies, and equipment used in the manufacture, production, sale, and distribution of such articles, between Belfast and Belmont,* NY on the one hand, and, on the other, points in CT, DE, GA, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI, SC, VT, VA, and WV, under continuing contract(s) with Bulk-Tainer Corp. and Genesee Steel and Tank Incorporated. Supporting shippers: Bulk-Tainer Corp., 20 Erie Street, Belmont, NY 14813; Genesee Steel and Tank Incorporated, P.O. Box 367, Belfast, NY 14713.

MC 153161 (Sub-1–1TA), filed December 15, 1980. Applicant: WAYNE SOLVENTS, INC., 120 Grace Ave., Newark, NY 14513. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Contract carrier:* irregular routes: *Chemicals, petroleum products and solvents* between all points in the US under continuing contracts(s) with Wayne Solvents, Inc., Chemical & Metallurgical Enterprises, Inc., Arcadia Chemical Industrises, Inc. Supporting shippers: Wayne Solvents, Inc., 120 Grace Ave., Newark, NY 14513; Chemical & Metallurgical Enterprises, Inc., 512 East Ave., Newark, NY 14513; Arcadia Chemical Industries, Inc., 512 East Ave., Newark, NY 14513.

MC 118848 (Sub-1–1TA), filed December 15, 1980. Applicant: DOMENICO BUS SERVICE, INC., 71 New Hook Acess Road, Bayonne, NJ 07002. Representative: Larsh B. Mewhinney, Esq., Moore Berson Lifflander & Mewhinney, 555 Madison Ave., New York, NY 10022. *Contract Carrier:* irregular routes: *Passengers and their baggage,* between New York, NY, and Atlantic City, NJ, under contract with Harrah's Marina Hotel Casino. Supporting shipper: Harrah's Marina Hotel Casino, 1725 Brigantine Boulevard, Atlantic City, NJ 08401.

MC 59570 (Sub-1–5TA), filed December 15, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: James B. Callanan, 2075 Lakewood Road, Toms River, NJ 08753. *Iron and steel articles, and materials, equipment, and supplies used in the manufacture and distribution of iron and steel articles,* between points in the New York Commercial Zone on the one hand, and, on the other, in and east of IL, MS, TN, WI. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ, 08753.

MC 381 (Sub-1–3TA), filed December 16, 1980. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs, and materials, equipment, and supplies used in the manufacture and sale of foodstuffs (except commodities in bulk in tank vehicles),* between the facilities of J. H. Filbert, Inc., located at or near Baltimore, MD and Atlanta, GA, on the one hand, and, on the other, points in VA, DE, NY, NJ, PA, CT, MA, FL, NC, SC, TN, and WV. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229.

MC 59264 (Sub-1–4TA), filed December 15, 1980. Applicant: SMITH & SOLOMON TRUCKING CO., How Lane—P.O. Box 2015, New Brunswick, NJ 08903. Representative: Zoe Ann Pace, Esq., Zelby, Burstein, Hartman & Burstein, Suite 2373, One World Trade Center, New York, NY 10048. *Sanitary pads and napkins, pads or padding, NOIBN, toilet preparations, NOIBN,* between the facilities of Personal Products Co. at or near Milltown, NJ on the one hand, and, on the other hand, the counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Wicomico, Worcester, Somerset, Charles, St. Mary's, Calvert, Anne Arundel in MD; The counties of Accomac, Caroline, Charles City, Chesterfield, Dinwiddie, Essex, Gloucester, Greensville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, Nansemond, New Kent, Spotsylvania, Stafford, Suffolk, Sussex, Surry, Westmoreland, York and all independent cities on and East of Route I–95, VA, excepting these points presently authorized to serve under

Docket MC 59264 (Sub-61); The counties of Kent, New Castle and Sussex, DE, excepting points in such counties presently authorized to serve under Docket MC 59264 and Sub-59. Supporting shipper: Personal Products Co., Van Liew Ave., Milltown, NJ 08850.

MC 125403 (Sub-1-4TA), filed December 15, 1980. Applicant: S.T.L. TRANSPORT, INC., P.O. Box 369, Newark, NY 14513. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Malt beverages (in containers) and materials, equipment and supplies used in the manufacture, sale and distribution thereof (except in bulk)* between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT and DC (restricted to traffic originating at or destined to the facilities of Wayne Beer Distributors of Newark, NY). Supporting shipper: Wayne Beer Distributors, Welcher Road, Newark, NY 14513.

MC 151941 (Sub-1-2 TA), filed December 11, 1980. Applicant: DELMONT E. HARTT, P.O. Box 26, Etna, ME 04435. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission, liquid commodities in bulk, explosives, and commodities of unusual value)* between points in ME, on the one hand, and, on the other, points in the U.S. on the International Boundary Line between the U.S. and Canada pursuant to a bilateral contract with Northern Products Log Homes, Inc. Supporting shipper: Northern Products Log Homes, Inc., Bomarck Road, Bangor, ME.

MC 148025 (Sub-1-1 TA), filed December 9, 1980. Applicant: TRENOAK TRUCKING COMPANY, INC., 735 Commercial Avenue, Carlstadt, NJ 07072. Representative: Susan C. Lee, 2633 Trenton Avenue, Philadelphia, PA 19125. *Contract carrier:* irregular notes: *Alcoholic and non-alcoholic beverages in cases and bottles and related promotional materials* between points in NY and NJ. Supporting shippers: Gotam Beer Co., Inc., 735 Commercial Ave., Carlstadt, NJ 07072; Jacquin-New York, Inc., 735 Commercial Ave., Carlstadt, NJ 07072.

MC 148198 (Sub-1-3 TA), filed December 12, 1980. Applicant: A. MATTEO TRUCKING, INC., 1465 Crown Point Road, Verga, NJ 08093. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Cat litter, in bags,* from Pennsauken, NJ, to New York, NY, and its Commercial Zone, Nassau, Suffolk and Westchester Counties, NY, and Landover, MD. Supporting shipper: Superior Pet Co., 470 Atlantic Ave., Boston, MA 02210.

MC 128343 (Sub-1-23 TA), filed December 11, 1980. Applicant: C-LINE, INC., 303 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract Carrier:* Irregular Routes: *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between all points in the U.S., under continuing contracts with L.I.G. of England, Ltd., and/or its divisions. Supporting shippers: L.I.G. of England, Ltd., and/or its Divisions, 50 Sims Avenue, Providence, RI 02909.

MC 59570 (Sub-1-4 TA), filed December 9, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: James B. Callanan, 2075 Lakewood Road, Toms River, NJ 08753. *Iron and steel articles, and materials, equipment, and supplies used in the manufacture and distribution of iron and steel articles,* between points in Wilmington, DE on the one hand and on the other NJ, PA, NY, CT, RI, MA, NH, ME. Supporting shipper: Forbes Steel Corp., P.O. Box 329, Canonsburg, PA 15317.

MC 152789 (Sub-1-1TA), filed December 10, 1980. Applicant: S. R. MEROLA d.b.a. MEROLA ENTERPRISES, 51 Bay Harbor Boulevard, Bricktown, NJ 08723. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. *Contract carrier:* irregular routes: *Hazardous Waste Materials* from points in MA, RI, CT, NY, NJ and PA to East Brunswick, NJ; Glen Burnie, MD; Emelle, AL; and Livingston, LA. Supporting shipper: Browning-Ferris Industries, Inc., 714 Division Street, P.O. Box 539, Elizabeth, NJ 07207.

MC 150238 (Sub-1-2TA), filed December 11, 1980. Applicant: ARTHUR MOODY d.b.a. SWD TRANSPORTATION, Box 731, Southwest Harbor, ME 04679. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *General Commodities,* between points in the U.S. under continuing contracts with Maine Equipment Company, Inc. and A. L. Stewart & Sons. Supporting shippers: Maine Equipment Company, Inc., Box 47, Herman, Maine 04401; and A. L. Stewart & Sons, Cherryfield, Maine 04622.

MC 153090, (Sub-1-1TA), filed December 9, 1980. Applicant: R&J TRANSPORTATION SERVICES, INC., 644 Whitehead Rd., Trenton, NJ 08648. Representative: William A Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Metal products and materials, supplies and equipment used or useful in the manufacture, sale or distribution of metal products,* between the facilities of Metal Litho Corporation, Metal Litho International, Inc. and Metal Litho (West Virginia) Corporation at or near Elizabeth and Trenton, NJ and Weirton, WV, on the one hand, and, on the other, points in the U.S., under a continuing contract with Metal Litho Corporation of Elizabeth, NJ, Metal Litho International, Inc. of Trenton, NJ, and Metal Litho (West Virginia) Corporation of Weirton, WV. Supporting shippers: Metal Litho Corporation, Metal Litho International, Inc., Metal Litho (West Virginia) Corporation, 582-612 Progress St., Elizabeth, NJ 07201.

MC 3328 (Sub-1-1TA), filed December 11, 1980. Applicant: A. D. McMullen, Inc., 640 State Rd., N. Dartmouth, MA 02747. Representative: Francis J. McGuirk, 72 N. Water Street, New Bedford, MA 02740. *Household Goods,* between points in MN, IA, MO, AR, TX, LA, AL, IN, IL, IN, WI, OH, KY, WV, GA, SC, FL, MS, ME, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, MI, NH, and Washington, DC. Supporting shipper: Acushnet Co., P.O. Box E-916, New Bedford, MA 02742.

MC 151457 (Sub-1-2TA), filed December 11, 1980. Applicant: BOMBARDO CORPORATION. d.b.a. FAIRFIELD FREIGHT LINES, 48 Mopus Bridge Road, Ridgefield, CT 06877. Representative: Alexander J. Holland, Esq., c/o Duel and Holland, 283-283 Greenwich Ave., Greenwich, CT 06830. *Cotton piece goods and general textile commodities,* from, to or between the following points or described areas: Los Angeles, Englewood and Carson, CA; (city or) Oregon, IL; Robesonia, PA; Champlain, NY; Clifton, NJ; Norwich, CT; Pawtucket, RI, and Dalton, GA. Supporting shipper: Michael Bayer, Inc., 4 Grand Park, Scarsdale, NY 10583.

MC 61502 (Sub-1-2TA), filed December 11, 1980. Applicant: WM. McCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Hwy. No. 1, Elizabeth, NJ 07201. Representative: Ronald I. Shapps, Esq., 450 Seventh Ave., New York, NY 10123. *Borax and boric acid,* between the New York, NY, commercial zone and Horseheads, NY. Supporting shipper: T. C. Container Co., 32 Broadway, New York, NY 10123.

MC 58062 (Sub-1-2TA), filed December 10, 1980. Applicant: DAVIS & RANDALL, INC., 52 E. Main Street, Fredonia, NY 14063. Representative:

Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. *Paper and paper products, and materials, equipment and supplies used in the manufacture of paper and paper products (except commodities in bulk and those which because of size or weight require the use of special equipment)* between the facilities of Hammermill Paper Co, at or near Erie, PA; Lock Haven, PA; and Oswego, NY, on the one hand, and on the other, points in the U.S. in and east of MN, IA, MO, OK, AR, and LA. Supporting shipper: Hammermill Paper Co., P.O. Box 1440, 1540 East Lake Road, Erie, PA 16533.

MC 149030 (Sub-1-1TA), filed December 10, 1980. Applicant: COUSINS LEASING CORPORATION, Arnold Drive, Huntington, NY 11743. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main St., P.O. Box Z, Huntington, NY 11743. *Contract Carrier:* Irregular Routes: *Paper, bags, plastic film and plastic products, and such commodities as are dealt in by retail and chain grocery houses, and materials, equipment and supplies used in the manufacture, sale and distribution of such products,* between points in the U.S., under continuing contracts with Samson Paper Bag Co., Inc. of Huntington, NY; Samson Midamerica, Inc. of Indianapolis, IN; Samson Midatlantic, Inc. of Savage, MD; Equitable Bag Co., Inc. of Long Island City, NY; Trio Packaging Corp. of Huntington, NY, and Western Kraft Paper group, Willamette Industries, Inc. of Langhorne, PA. Supporting shippers: Western Kraft Paper Group, Willamette Industries Inc., 1050 Wheeler Way, Langhorne, PA 19047; Samson Midatlantic Inc., Savage, MD 20863; Samson Midamerica Inc., 8111 Zionville Rd., Indianapolis, IN 46268; Samson Paper Bag Co., Inc., Arnold Drive, Huntington, NY 11743; Equitable Bag Co., Inc., 45-50 Van Dam Street, Long Island City, NY 11101; Trio Packaging Corp., Arnold Dr., Huntington, NY 11743.

MC 135684 (Sub-1-2TA), filed December 9, 1980. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Ave., NW., Washington, D.C. 20006. *Such commodities as are dealt in by grocery, supermarket and chain stores and food business houses* from the facilities of W & F Manufacturing Co., Inc. at Buffalo, NY, to all points in the U.S. Supporting shipper: W & F Manufacturing Co., Inc., 251 Seneca Street, P.O. Box 128, Buffalo, NY 14240.

Republication

MC 121342 (Sub-1-1TA), filed November 3, 1980. Applicant: GALLO CONSTRUCTION CO., 845 Sandwich Road, Sagamore, MA 02561. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Salt, in bulk,* from Boston and Taunton, MA, to points in ME, NH, VT, MA, CT, and RI. Supporting shipper: Cargill, Inc., P.O. Box 150, Watkins Glen, NY 14891.

MC 142126 (Sub-1-1TA), filed December 17, 1980. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale Street, Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: *plastic articles and equipment, materials, and supplies used in the manufacture, sale, and distribution of plastic articles (except in bulk),* from Leola, PA to Waxahachie, TX and Horse Cave, KY, under a continuing contract with Dart Container Corporation of Pennsylvania. Supporting shipper: Dart Container Corporation of Pennsylvania, 60 East Main Street, Leola, PA 17540.

MC 15859 (Sub-1-1TA), filed December 17, 1980. Applicant: THE HINE LINE, 247 Emmet Street, Newark, NJ 07114. Representative: Michael D. McCormick, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *(a) Iron and steel articles* and *(b) materials, equipment, and supplies used in the manufacture thereof,* between Middlesex County, NJ, on the one hand, and, on the other, points in and east of MN, IA, MO, OK, and TX. Restricted to traffic originating at or destined to the facilities of Raritan River Steel Company located at or near Perth Amboy, NJ. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 08882.

MC 143563 (Sub-1-2TA), filed December 18, 1980. Applicant: R. C. MOORE, INC., P.O. Box 436, Waldoboro, ME 04572. Representative: John C. Lightbody, Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *General commodities (except household goods as defined by the Commission, explosives and commodities of unusual value)* between points in ME, MA and GA on the one hand, and, on the other hand, points in the U.S. (except AK and HI). Supporting shippers: There are ten statements in support of this application which may be examined at the I.C.C. Regional Office, Boston, MA.

MC 151639 (Sub-1-6TA), filed December 17, 1980. Applicant: COMMAND TRANSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Alcoholic and non-alcoholic beverages (except in bulk),* between Boston, MA, on the one hand, and, on the other, points in MD, NJ, NY, PA, and IL. Supporting shipper: Federal Distillers, Inc., 15 Monsignor O'Brien Highway, Cambridge, MA 02141.

MC 8973 (Sub-1-7TA), filed December 17, 1980. Applicant: METROPOLITAN TRUCKING, INC., 75 Broad Ave., Fairview, NJ 07022. Representative: Dean N. Wolfe, Esq., Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Chemicals (except in bulk),* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Hercules, Inc. Supporting shippers: Hercules, Inc., 910 Market St., Wilmington, DE 19899.

MC 145624 (Sub-1-1TA), filed December 18, 1980. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974. Representative: Michael R. Werner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Hazardous waste materials,* between points in and east of ND, SD, NE, KS, OH and TX. Supporting shippers: A-Line Environmental Services, Inc., P.O. Box 6396, Bridgewater, NJ 08087, and Mid Atlantic Refineries, Inc., 1100 Pennsylvania Avenue, Deptford, NJ 08096.

MC 145108 (Sub-1-14TA), filed December 15, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract Carrier:* irregular routes: *Construction materials,* from Aurora, IL, to Birmingham, AL, Baltimore, MD, Denver, CO, and Mesa, AZ. Supporting shipper: Dur-O-Wall, Inc., 601 North Point Road, Baltimore, MD 21237.

MC 152831 (Sub-1-1TA), filed December 16, 1980. Applicant: K. B. S. LEASING, INC., P.O. Box 244, Lumberton, NJ 08048. Representative: Walter A. Rambo, 72 Lexington Avenue, Mount Holly, NJ 08060 *Hazardous and non-hazardous chemical waste, Blue Plain Sludge,* between points of origin east of the Mississippi River as determined by SCA Chemical Service to their federally approved dump sites located in Model City, NY; Chicago, IL; Memphis, TN; Pinewood, SC; Charlotte, NC; Newark, NJ; and Deptford, NJ. Supporting shipper: SCA Chemical Waste Service, 100 Lister Avenue, Newark, NJ 07100.

MC 134806 (Sub-1-10TA), filed December 16, 1980. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. *Contract carrier:* irregular routes: *(1) dry goods, notions, and holiday decorations, and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above, except commodities in bulk* from West Warren, MA to Sparks, NV. Supporting shipper: Wm. E. Wright Co., West Warren, MA 01092.

MC 15936 (Sub-1–1TA), filed December 16, 1980, Applicant: SHEANS FREIGHT LINES, INC., 75 Locust St., Medford, MA 02155. Representative: Joseph M. Klements, 84 State Street, Boston, MA 02109. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between points in CT. Applicant intends to tack to its existing authority and to interline. Supporting shipper(s): There are six statements in support of this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 153174 (Sub-11–TA), filed December 16, 1980. Applicant: AFFILIATED TRANSPORT SERVICES, INC., P.O. Box 158, Folcroft, PA 19032. Representative: Piken & Piken, Esqs., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. *Contract carrier:* irregular routes: *Household appliances,* between points in the US, under continuing contract(s) with White-Westinghouse Appliance, Inc. Supporting shipper: White-Westinghouse Appliance, Inc., 16 Cabot Blvd., Langhorne, PA 19047.

MC 126313 (Sub-11–TA), filed December 16, 1980. Applicant: CHO–BO, INC., P.O. Box 38, Route Kennedy, St. Georges (Beauce County), Quebec, CD G5Y 5CO. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *(1) Sulphite and wood pulp,* from ports of entry on the US/CD boundary line located at points in ME, to points in MA, CT, RI, NY, NJ, and PA; *(2) paper,* from ports of entry on the US/CD boundary line located at points in ME, to points in ME, NH, VT, MA, CT, RI, NY, NJ, and PA; and *(3) lumber,* from points in ME, NH, and VT, to ports of entry on the US/CD boundary line located at points in ME. Supporting shippers: Donahue, Inc. and Donahue St. Felicien, Inc., 500 Grande Allee, Est, Quebec, CD G1R 2J7; Beauceville Flooring, Inc., Beauceville, Beauce County, Quebec, CD; and Valco, Inc., St. Georges, Beauce County, Quebec, CD.

MC 123381 (Sub-11–TA), filed December 16, 1980. Applicant: D. J. CRONIN, 909 Wampanoag Trail, East Providence, RI 02914. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. *(1) Petroleum products, in bulk in tank vehicles,* from points in RI to points in CT, MA and RI, and *(2) asphalt and bituminous materials,* (a) from points in NJ and PA to points in CT, MA, ME, NH, NY, RI, and VT, and (b) from points in RI to points in NY. Supporting shipper(s): Armco Inc., P.O. Box 152, Palmer, MA 01069; Fortifiber Corp., 55 Sharkey Avenue, Attleboro, MA 02703; Cronin Asphalt Corp, P.O. Box 4257, East Providence, RI 02914; C. H. Sprague & Son, 375 Alles Ave., Providence, RI; Koppers Co., 850 Koppers Bldg, Pittsburgh, PA 15219.

MC 153169 (Sub-11–TA), filed December 16, 1980. Applicant: BROWNETTE BROS. TRUCKING, INC., 7 Ridge Road, Rumson, NJ 07760. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Cable and electrical products; and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between points in the states of CT, DE, FL, GA, LA, ME, MD, MA, MS, NH, NJ, NY, NC, PA, SC, VT, and VA. Supporting shipper(s): Pirelli Cable Corporation, 800 Rahway Ave., Union, NJ 07083.

MC 152753 (Sub-11–TA), filed December 16, 1980. Applicant: ACF FREIGHT HAULERS COMPANY INC., 321 Sherman Ave., P.O. Box 4206, Newark, NJ 07112. Representative: Vincent Cofone, P.O. Box 4206, Newark, NJ 07112. *General commodities, having a prior or subsequent movement by water (except commodities in bulk, and Classes A and B explosives)* between points in the States of CT, FL, IL, DE, GA, IN, KY, MD, NJ, NC, NY, OH, SC, PA, VA, WV. Supporting shipper: Mcgregor Swire Air Services (America) Inc., 111 Kimball Avenue, South San Francisco, CA 94080.

MC 152919 (Sub-1–1 TA), Filed December 16, 1980. Applicant: ROBERT J. EDELMAN, d.b.a. R. & L. Edelman, Rts. 22 & 23, Hillsdale, NY 12529. Representative: Hugh M. Joseloff, P.O. Box 3258, Hartford, CT 06103. *Contract carrier:* Irregular routes: *Plastics, plastic bottles and appendages thereto, corrugated boxes, and equipment, materials, and supplies used in the manufacturer, production and sale of the foregoing items,* between Philmont, NY, on the one hand, and, on the other, all points in the US under continuing contract(s) with Charter Supply Co., Philmont, NY. Supporting shipper: Charter Supply Co., P.O. Box C, Philmont, NY 12565.

MC 153161 (Sub-1–1 TA), Filed December 16, 1980. Applicant: REILLY BROTHERS, INC., 159 Centre Street, Nutley, NJ 07110. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Wearing apparel; and (2) materials, equipment, and supplies used in the manfacturer an sale of wearing apparel,* between Secaucus, NJ, on the one hand, and, on the other, all points in FL, GA, IL, MI, NC, OH, and SC. Supporting shipper(s): The Miller-Wohl Co., Inc., 915 Secaucus Road, Secaucus, NJ 07094.

MC 152947 (Sub-1–1 TA), (Republication), filed December 1, 1980. Applicant: IDEAL TRANSPORTATION CO., INC., 2 Dooling Circle, Peabody, MA 01960. Representative: Mary E. Kelley, Esq., 22 Stearns Avenue, Medford, MA 02155. *General commodities (except classes A & B explosives and household goods as defined by the Commission)* (1) between points in MA, RI, CT, NY and NJ; and (2) between points in MA, RI, CT, NY and NH, on the one hand, and, on the other, points in ME, NH, and VT. Applicant intends to interline in NY and NJ on traffic to points south and west. Supporting shipper(s): Essex Office Associates, Inc., 10 Boston St., Salem, MA 01970; Martignetti Grocery & Liquor Co., 12 Mooney St., Cambridge, MA 02138; U.S. Polmers, Inc., 56 Gardner Parkway, Peabody, MA 01960; A & M Custom Brokers, Inc., 126 State, Boston, MA. Republication is to include NJ omitted from **Federal Register** of December 15, 1980, Page 82371.

The following applications were filed in Region 2. Send protest to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 150432 (Sub-II–9TA), filed December 5, 1980. Applicant: H & M TRANSPORTATION INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, NW, Suite 1111, Washington, DC 20036. Contract, irregular—*Such merchandise as is dealt in by wholesale, retail and discount stores (except commodities in bulk)* from Columbus, OH to points in TX, OK, AR, CA, UT, NV, and CO, under a continuing contract with Ross Laboratories, Inc., An underlying ETA seeks 120 days authority. Supporting shipper(s): Ross Laboratories, Inc., 625 Cleveland Ave., Columbus, OH.

MC 107006 (Sub-II–5TA), filed December 5, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1406, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *General* *commodities, except commodities in bulk,* between the facilities of Hobart Brothers Co., at or near Troy, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Hobart Brothers Co., 600 W. Main St., Troy, OH 45373.

MC 152874 (Sub-II–1TA), filed November 25, 1980. Applicant: L.G. TRUCK, INC., P.O. Box 359, Lebanon, PA 17042. Representative: David A. Sutherlund, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave., N.W., Washington, D.C. 20036. *Metal products and machinery and machinery parts,* between CT, DE, MD, MA, NJ, NY, OH, PA, VA, WV and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. There are twenty supporting shippers' statements attached to this application which may be examined at the Philadelphia Regional office.

MC 151142 (Sub-II–2TA), filed December 5, 1980. Applicant: H & H TRANSPORTATION, INC., 1425 East Main St., Newark, OH 43055. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Chemicals (except commodities in bulk), and equipment, materials and supplies used in the manufacture and distribution of the above (except commodities in bulk),* between points in and east of MN, IA, MO, AR and LA. Supporting shipper: Maroon Chemical Group, Inc., 14700 Detroit Ave., Lakewood, OH 44107.

MC 151142 (Sub-II–3TA), filed December 5, 1980. Applicant: H & H TRANSPORTATION, INC., 1425 East Main St., Newark, OH 43055. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Containers and container ends and equipment, materials and supplies used in the manufacture and distribution of the above (except commodities in bulk),* between points in and east of MN, IA, MO, AR and LA. Supporting shipper: Maroon Chemical Group, Inc., 14700 Detroit Ave., Lakewood, OH 44107.

MC 38921 (Sub-II–3TA), filed December 10, 1980. Applicant: K.M.A. LEASING, INC., d.b.a. WM. H.P., 1342 N. Howard St., Philadelphia, PA 19122. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. *Malt beverages and supplies used in the production of malt beverages, including the return of empty malt beverage containers, (except commodities in bulk),* between the facilities of C. Schmidt & Sons, Inc., at Cleveland, OH and Philadelphia, PA on the one hand, and, on the other, points in AL, IL, IN, KY, LA, MS, TN, WI, for 180 days. An underlining ETA seeks 90 days authority. Supporting shippers: C. Schmidt & Sons, Inc., 127 Edward St., Philadelphia, PA 19123.

MC 153049 (Sub-II–1TA), filed December 8, 1980. Applicant: JO ANN'S TRUCKING 412 Bardwell Rd., Castalia, OH 44824. Representative Jo Ann Williams (same address as applicant). Contract, irregular—*scrap wiring and refurbished cable sets,* between Norwalk, OH, on the one hand, and, on the other, Pittsburgh, PA; Plymouth and Detroit, MI. Supporting shipper(s): Automatic Equipment Development Corp., 50 Newton St., Norwalk, OH 44857.

MC 125335 (Sub-22TA), filed December 11, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such merchandise as is dealt in by food business houses and materials, ingredients and supplies, used in their manufacture and distribution,* Between points in the States of OH and SC, on the one hand, and, on the other, points in the States of CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, restricted to traffic originating at or destined to the facilities of Stouffer Foods, Corp., Division of Stouffer Corporation. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 148265 (Sub-II–1TA), filed December 10, 1980. Applicant: L & F LEASING, INC., 3050 Gale Ave., Hubbard, OH 44425. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Iron and steel articles, and machinery* between points in Mercer County, PA, and points in OH, on and east of Ohio Highway 14, on the one hand and, on the other, points in MI, IN, OH, WV, MD, DE, PA (except McKean, Potter, Elk, Warren, Cameron, forest, Venengo, Clearfiled, and Clinton Counties, PA), NY (except Olean, NY), NJ, CT, RI, MA, VT, NH and ME. *Aluminum extrusions* between points in Mercer County, PA, and points in OH, on and east of Ohio Highway 14, on the one hand, and, on the other, points in MI, IN, OH, WV (except Fairmont, WV), MD, DE, PA, NY (except Oswego, NY), NJ, CT, RI, MA, VT, NH and ME. Supporting shippers: Steel City Corp., 190 North Meridian, Youngstown, OH 44509, Parker Steel Company, 4239 Monroe St., Toledo, OH 43606.

MC 150432 (Sub-II–11TA), filed December 9, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. *Contract*—irregular: *Boiler parts, boiler tubes, and structural steel,* from Erie, PA, to points in AL, AR, AZ, CA, FL, GA, KS, KY, LA, MS, NC, OH, OK, SC, TN, TX, VA and WV, under a continuing contract with Zurn Industries, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Zurn Industries, 1422 East Avenue, Erie, PA 16503.

MC 150432 (Sub-II–11TA), filed December 9, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. *General commodities (except household goods as defined by the Commission, commodities in bulk, those requiring special equipment, classes A & B explosives, and articles of unusual value),* between points in Franklin, Pickway, Madison, Licking and Delaware Counties, OH and Erie County, PA, on the one hand, and, on the other, points in AL, AR, AZ, CA, FL, GA, KS, LA, MS, NC, OH, OK, SC, TN, TX, VA, WV. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 23 supporting shippers' statements attached to this application which may be examined at the Philadelphia Regional office.

MC 65475 (Sub-II–9TA), filed December 15, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Nonferrous scrap metal,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to facilities of Metal Exchange Corp. or its suppliers and its customers for 180 days. An underlying ETA seeks 90 days' authority. Supporting shipper: Metal Exchange Corp., 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

MC 123387 (Sub-II–3TA), filed December 15, 1980. Applicant: E. E. HENRY, INC., 1128 S. Military Hwy., Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Dinnerware, Crystal, Glassware, and Cookware,* from points in NY, NJ, PA, MD, WV, OH, VA, and TX to Royal Oaks, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Wells Freight & Cargo Co., 126 East Hudson St., Royal Oak, MI 48067.

MC 115391 (Sub-II–1TA), filed December 15, 1980. Applicant: GENSIMORE TRUCKING, INC., P.O. Box L, Pleasant Gap, Centre County, PA

16823. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Contract,* irregular—*Chemicals or allied products* as described in item 28 of the Standard Transportation Commodity Code between points in the US under a continuing contract with Foote Mineral Company, Exton, PA for 270 days. Supporting shipper: Foote Mineral Co., Route 100, Exton, PA 19341.

MC 150939 (Sub-II-10TA), filed December 11, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Steel office furniture and materials used or useful in the manufacture, sale or distribution of steel office furniture,* between New Kensington and Verona, PA, on the one hand, and, on the other, points in the U.S. for 270 days under a continuing contract(s) with Haskell of Pittsburgh, Inc. of Verona, PA. An underlying ETA seeks authority for 120 days. Supporting shipper: Haskell of Pittsburgh, Inc., 231 Haskell Lane, Verona, PA 15147.

MC 94265 (Sub-II-26TA), filed December 15, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Rte. 460 W., Windsor, VA 23487. Representative: Clyde W. Carber, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs* (except in bulk) *and materials, equipment and supplies used in the manufacture of foodstuffs,* from points in MI to points in AL, AR, DC, DE, FL, GA, KS, KY, LA, MD, IL, IN, IA, MO, MS, OH, OK, NC, PA, SC, TN, TX, VA, WI, and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707.

MC 153164 (Sub-II-1TA), filed December 15, 1980. Applicant: CONCARCO, INC., 698 Fairmount Ave., Baltimore, MD 21204. Representative: Robert C. Schuhmann, 698 Fairmount Ave., Baltimore, MD 21204. *Contract* irregular, *Automobile Parts and Accessories* between Baltimore, MD on the one hand, and, on the other, pts. in the continental US for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R.P.S. Products, Inc., 1700 S. Caton Ave., Baltimore, MD.

MC 119631 (Sub-II-2TA), filed December 15, 1980. Applicant: DEIOMA TRUCKING CO., Chestnut St., P.O. Box 335, East Sparta, OH 44626. Representative: Richard C. Deioma (same as applicant). *Lift trucks,* between Baltimore, MD and pts. in OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Williams Super Service, 9462 Main St., East Sparta, OH 44626.

MC 152239 (Sub-II-3TA), filed December 15, 1980. Applicant: C–B BROKERS, INC., P.O. Box 10, Hanover, VA 23069. Representative: J. D. Brown (same as applicant). *Paper, paper products, pulp board, wood pulp, particle board, equipment, materials and supplies used in the manufacture of same,* between pts. in VA and pts. in the US for 270 days. Supporting shipper: Chesapeake Corp. of VA, West Point, VA.

MC 153198 (Sub-II-1TA), filed December 15, 1980. Applicant: CORN ENTERPRISES, INC., 1 Mackie Court, Harrison, OH 45030. Representative: Rex A. Corn (same as applicant). *Contract,* irregular: *General commodities (except Class A & B explosives, Household Goods as defined by the Commission, commodities in bulk or commodities in tank vehicles),* between pts. in the US under continuing contract with Dorcy Ashflash Inc. and Central Ohio Shippers Coordinated Corp., Columbus, OH, for 270 days. Supporting shippers: Central OH Shippers Coordinated Corp., Columbus, OH, Dorcy Ashflash, Inc., Columbus, OH.

MC 151459 (Sub-II-1TA), filed December 15, 1980. Applicant: WILLARD VAUGHN, Rt. No. 1, Box 84, Fries, Virginia 24330. Representative: Wayne M. Harrell, P.O. Box 1124, Mt. Airy, N.C. 27030. *Contract carrier:* irregular: *Portable utility buildings,* from Mt. Airy, N.C. to various sales lots in the following states: North Carolina, South Carolina, Virginia, Georgia, Kentucky, Tennessee, West Virginia, for 270 days. Supporting shipper: Leonard Aluminum Utility Buildings, Inc., P.O. Box 1124, Mt. Airy, N.C. 27030.

MC 108452 (Sub-II-2TA), filed December 12, 1980. Applicant: ATWOOD'S TRANSPORT LINES, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle as passengers, in charter operations,* beginning and ending at points in the Baltimore, MD commercial zone and extending to points in CT, ME, MA, NH, NJ, NY, PA, VT, VA, and WV, restricted to transportation arranged by licensed passenger brokers, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Eastern Ski Tours, Inc., 1E. Redwood Street, Baltimore, MD 21202.

MC 2368 (Sub-II-9TA), filed December 15, 1980. Applicant: BRALLEY–WILLETT TANK LINES, INC., P.O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn (same address as applicant). *Hazardous Waste in bulk, in tank vehicles,* from points in NC and VA to points in the United States (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Browning Ferris Ind., P.O. Box 970, Chester, VA 23831. Allied Chemical Corp., P.O. Box 761, Hopewell, VA 23860.

MC 138395 (Sub-II-2TA), filed December 12, 1980. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. (1) *Treated and untreated forest products;* (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of (1) above, between points in FL, GA, SC, NC, VA, MD, PA, NJ, NY, DE, CT, RI, MA, NH, and ME. Restricted to traffic originating at or destined to the facilities of or utilized by Atlantic Wood Industries, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Atlantic Wood Industries, P.O. Box 358, Fords, NJ 08863.

MC 119632 (Sub-II-16TA), filed December 11, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Definance, OH 43512. Representative: Wayne C. Pence (same address as applicant). *(1) Such commodities as are dealt in by food business houses (except frozen or in bulk) and (2) materials, equipment and supplies used in the manufacture, sales and distribution of commodities in (1) above (except in bulk),* between Chicago, IL Commercial Zone and points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper(s): Fearn International, Inc., 9353 Belmont Ave., Franklin Park, IL. Mullins Food Products, 2759 S. 25th Ave., Broadview, IL.

MC 150567 (Sub-II-T-9), filed December 15, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. *Contract; irregular: (1) Items distributed in retail grocery, drug and department stores and (2) materials and supplies incidental to the manufacture and distribution thereof,* between Chicago, IL and St. Louis, MO on the one hand, and, on the other, points in AR, CO, GA, LA, MI, MN, OK, PA, and TX for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to interline to points in TX within scope of operations of Alamo Express, Inc. Supporting shipper: Purex Corp., 6901 McKissock Ave., St. Louis, MO 63147.

MC 119632 (Sub-II-T-19), filed December 15, 1980. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). (1) *Such items as are dealt in by construction and home improvement centers (except in bulk and articles requiring the use of special equipment)* and (2) *materials, equipment and supplies used in the manufacture and distribution of (1) above,* between the facilities used by Thermo-Tru Div. of LST Corp., and points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper: LST Corporation, 2808 N. Reynolds Rd., Toledo, OH.

MC 61825 (Sub-II-T-12), filed December 15, 1980. Applicant: ROY STONE TRANSFER CORP., V. C. DR, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). *Iron and steel articles and plastic articles,* from Columbus, OH to Birmingham, AL; Hialeah (Miami), Jacksonville, Orlando and Tampa, FL; Albany and Atlanta, GA; Louisville, KY; Lawrence, MA; Minneapolis, MN; St. Louis and Springfield, MO; Charlotte and Greensboro, NC; Tulsa, OK; Charleston, Columbia and Greenville, SC; Knoxville, Memphis and Nashville, TN; Dallas and Houston, TX; Norfolk, Richmond and Roanoke, VA and Barboursville, WV, restricted to the facilitites of Samuel Strapping Systems, Inc. at Columbus, OH for 270 days. Supporting shipper: Samuel Strapping Systems, Inc., 3900 Groves Rd., Columbus, OH 43227.

MC 151458 (Sub-II-T-1), filed December 15, 1980. Applicant: TED SNOW, Rt. No. 1, Fancy Gap, VA 24038. Representative: Wayne M. Harrell, P.O. Box 1124, Mt. Airy, NC 27030. *Contract;* irregular: *Portable utility buildings* from Mt. Airy, NC to various sales lots in the following states NC, SC, VA, GA, KY, TN, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Leonard Aluminum Utility Buildings, Inc., P.O. Box 1124, Mt. Airy, NC 27030.

MC 153141 (Sub-II-T-1), filed December 12, 1980. Applicant: RALPH W. SOUTHERS, d.b.a. SOUTHERS WRECKING & REPAIR, P.O. Box 988, Staunton, VA 24401. Representative: Harry J. Jordan, Macdonald & McInerny, Suite 502, Solar Bldg., 1000 16th St., NW, Washington, DC 20036. *Contract;* irregular: *Motor vehicles* between points in the U.S. under continuing contracts with Smith's Transfer Corp, Erb Transportation Co., Inc., Mortons Frozen Foods, Div. of ITT Continental Baking Co., and Mack Trucks, Inc. for 270 days. Supporting shipper(s): Smith's Transfer Corp., Box 1000, Staunton, VA 24401. Erb Transportation Co., Inc., P.O. Box 65, Crozet, VA 22932. Mortons Frozen Foods, Div. of ITT Continental Baking Co., P.O. Box 97, Crozet, VA 22932. Mack Trucks, Inc., Box M, 2100 Mack Blvd., Allentown, PA 18105.

MC 151703 (Sub-II-T-1), filed December 15, 1980. Applicant: NORSUB, INC., R.D. No. 1, Box 317, Evans City, PA 16033. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract;* irregular: *Iron and steel and iron and steel articles, and materials, equipment, and supplies used or useful in the manufacture and distribution of iron and steel and iron and steel articles,* between the facilities of Jones & Laughlin Steel Corporation located in Aliquippa and Pittsburgh, PA and Youngstown, OH on the one hand, and, on the other, points in AR, CA, CO, IL, IN, IA, MN, OK, TX, UT, WA, and WY for 270 days under a continuing contract with Jones & Laughlin Steel Corp., Pittsburgh, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Jones & Laughlin Steel Corp., Room 121—1600 W. Carson St., Pittsburgh, PA 15236.

MC 149412 (Sub-II-T-1TA), filed December 15, 1980. Applicant: MILK TANK LINES, INC., P.O. Box 788, Frazer, PA 19355. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Sugar, syrups, fructose, molasses, blends of sugar, syrups, fructose and molasses, and citrus juices,* in bulk, between points in and east of MN, IA, KS, OK, and TX, for 270 days. Supporting shipper: Six certifications of support are attached to the application.

MC 107012 (Sub-II-T-118), filed December 15, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities,* from Seattle, WA to points in and east of MN, SD, NE, CO, OK and TX (except FL, ME, MA, NH and VT) for 270 days. Supporting shipper: Bostrum Warren, Inc., 24 S. Idaho Street, P.O. Box 68617, Seattle, WA 98168.

Note.—Common control may be involved.

MC 152840 (Sub-II-T-1TA), filed December 16, 1980. Applicant: PATRICIA and JAMES KEELER d.b.a., P & J TRANSPORTATION CO., Route 295, Berkey, OH 43504. Representative: Donald G. Hichman, R.D. No. 1, Box 7, Union Springs, NY 13160. *(a) Foodstuffs and (b) materials used in the manufacture, distribution and processing of foodstuffs* (except commodities in bulk) between Archbold and Napoleon, OH, on one hand, and, on the other, points in CT, DC, DE, IL, IN, MD, MI, NJ, NY, PA, VA and WV for 270 days. Supporting shipper(s): La Choy Food Products, 901 Stryker St., Archbold, OH 43502. Campbell Soup Co., E. Maumee St., Napoleon, OH 43545.

MC 153172 (Sub-II-T-1), filed December 16, 1980. Applicant: M & M TRANSFER CO., Box 176, Clintwood, VA 24228. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Household Goods, as defined by the Commission,* between points in Buchanan, Dickenson, Lee, Russell, and Wise Counties, VA, on the one hand, and, on the other, points in AL, GA, DE, FL, KY, IL, IN, MD, MI, NC, NJ, OH, PA, SC, TN, WV, and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are six supporting shipper statements which may be examined at the Phila. Regional Office.

MC 107012 (Sub-II-T-119), filed December 16, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Medical disposable clothing and surgical sponges,* from North Hollywood, CA to points in AZ, CO, CT, FL, IL, MI, MN, MO, NC, OH, OR, TN, TX, VA and WV for 270 days. An underlying ETA is seeking authority for 120 days. Supporting shipper: Surgilite International, Inc., 7005 Tujunga Ave., North Hollywood, CA 91605.

Note.—Common control may be involved.

MC 140889 (Sub-II-T-9), filed December 15, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. *Contract;* irregular; *Foodstuffs, bakery products, and materials, supplies and equipment used in the manufacturer of above* between shipper's plantsite in Summit County (Twinsburg), OH to points in CA and Maricopa County, AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: BROWNBERRY OVENS, INC., P.V. Div., 1 Meadow Rd., Oconomowoc, WI 53066.

MC 139083 (Sub-II-1TA), filed December 15, 1980. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington, Courthouse, OH 43160. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. *Iron and steel* *articles, and materials, equipment and supplies used in the manfacture, distribution, and sale of iron and steel articles,* between points in Jessamine County, KY, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shipper: Armco, Inc., 703 Curtis St., Middletown, OH 45043.

MC 146807 (Sub-II–12TA), filed December 18, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Paul Seleski (same as applicant). *Plastic pellets, scrap plastic, PCU rubber, bags, doors or boxes of rubber, beads or flakes,* from Houston, TX and Borger, TX, Baton Rouge, LA & Parkersburg, WV to points in NJ and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Koenig Plastics Co., P.O. Box 1810, Trenton, NJ 08607.

MC 107654 (Sub-II–5TA), filed December 19, 1980. Applicant: SPECIAL SERVICE TRANSPORTATION, INC., 1100 W. Smith, Medina, OH 44256. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Contract carrier,* Irregular route: (1) *Sand, except in bulk,* from Aurora, IL and its commercial zone, to points in OH, PA, and WV, (2) *Materials and supplies used in the production and distribution of foundry cores and molds (except commodities in bulk),* from points in IL, IA, and MI to Wadsworth, OH and its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Shell's, Inc., 350 State St., Wadsworth, OH 44281.

MC 153270 (Sub-II–1TA), filed December 19, 1980. Applicant: THE SORG PAPER COMPANY, 901 Manchester Ave., Middletown, OH 45042. Representative: William D. Smith, (same as applicant). *Contract* Irregular: *Waste paper,* from Chicago IL to Middletown, OH for 270 days. Supporting shipper(s): Middletown Paperboard Co., 427 Vanderveer St., Middletown, OH 45042.

MC 134029 (Sub-II–1TA), filed December 19, 1980. Applicant: SIGEL'S HAULING, INCORPORATED, P.O. Box 286, Cadiz, OH 43907. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Quarry equipment* between points in Boyd, Carter and Greenup Counties, KY, Adams, Ashtabula, Columbiana, Cuyahoga, Jackson, Jefferson, Lawrence, Mahoning, Medina, Ottawa, Pike, Portage, Scioto, Stark, Summit, Trumbull Counties, OH, Allegheny, Beaver and Cambria Counties, PA and Hancock County, WV, on the one hand, and, on the other, Erie County, NY. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Standard Slag Company, 1200 Stambaugh Building, Youngstown, OH 44501.

MC 40326 (Sub-II–1TA), filed December 18, 1980. Applicant: CINTI TRUCKING, INC., 2174 Seymour Ave., Cincinnati, OH 45212. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of cleaning compounds, chelates, chemicals, drugs, medicines, toilet preparations, deodorants, disinfectants, herbicides, insecticides, plastics, rosins, paints, photographic paper and film,* except in bulk, between the facilities of Ciba-Geigy at or near Cincinnati, OH, on the one hand, and, on the other, points in IN, IL, KY, OH, MI, PA, TN, WV and VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): CIBA-GEIGY CORP., 444 Saw Mill River Rd., Ardsley, NY 10502.

MC 121420 (Sub-II–5TA), filed December 18, 1980. Applicant: DART TRUCKING CO., INC., 61 Railroad St., Canfield, OH 44406. Representative: David J. Best, 61 Railroad St., Canfield, OH 44406. *Coal,* in bulk, from Rockcastle Cty. Ky. to Montgomery Cty. OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Johnson Energy, Third National Bldg., 32 N. Main St., Suite 609, Dayton, OH 45402.

MC 117565 (Sub-II–10TA), filed December 18, 1980. Applicant: MOTOR SERVICE COMPANY INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Plumbingware, Fixtures, Plastic Products, Accessories and Supplies and (2) Accessories and Supplies used in the manufacture, distribution, installation, and maintenance of (1) above,* Between Tupelo, MS, Newburg, NY, and Wilson, NC, on the one hand, and on the other, points in the United States, for 270 days. Supporting shipper: Eljer Plumbingware, Division, Wallace Murray Corp., Three Gateway Center, Pittsburg, PA 15222.

MC 107403 (Sub-II–39TA), filed December 18, 1980. Applicant: MATLACK, INC., 10W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Cutting Fluids, in bulk, in tank vehicles,* between Huntsville, TX, on the one hand, and, on the other, points in the states of GA, FL, AL, MS, TN, LA, AR, OK, KS, NM, CO, WY, MT, WA, OR, ID, CA, NV, UT, and AZ for 270 days. Supporting shipper: Master Chemical Corporation, 501 West Boundary, Perrysburg, OH 43551.

MC 107012 (Sub-II–121TA), filed December 17, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). (1) *Conduits and ducts* and (2) *parts and accessories for the commodities named in (1) above,* from the facilities of GI Industries, Inc. at or near Los Angeles, CA to all points in the United States for 270 days. Supporting shipper: GI Industries, Inc., 2045 S. State College Blvd., Anaheim, CA 90806.

Note.—Common control maybe involved.

MC 149412 (Sub-II–2TA), filed December 15, 1980. Applicant: MILK TANK LINES, INC., P.O. Box 788, Frazer, PA 19355. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Vegetable oils, vegetable oil products, and foodstuffs,* in bulk, between Columbus, OH, West New York, NJ, Bayonne, NJ, and Kearny, NJ, on the one hand, and, on the other, points in CO, and those in and east of MN, IA, MO, AR, and TX, for 270 days. Supporting shipper: Capitol City Products Co., Div. of Stokely-Van Camp, Inc., P.O. Box 569, Columbus, OH 43216.

MC 151707 (Sub-II–6TA), filed December 17, 1980. Applicant: PIONEER TRUCKING, INC., 1105 N. Market Street, 15th Floor, Wilmington, DE 19801. Representative: Dennis Kupchi (same as applicant). *Coal in bulk* between PA, on the one hand, and on the other, points in DE, MD, NJ, NY, and PA, under contract/contracts with DeNaples Sanitary Land Fill. for 270 days. Supporting shipper: DeNaples Sanitary Land Fill, 118 Bush St., Dunmore, PA 18510.

MC 112595 (Sub-II–2TA), filed December 15, 1980. Applicant: FORD BROTHERS, INC., Box 727, Ironton, OH 45638. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Transporting liquid petroleum pitch,* from Lima, OH, to Evanston, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Standard Oil of Ohio, 1507 Rockefeller Building, 614 Superior Ave., Cleveland, OH 44113.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 153081 (Sub-3–1TA), filed December 17, 1980. Applicant: RAY MILLER, d.b.a. DIXIE AUTO TRANSIT, Rt. 1, Willingham Dr., Box 335, Kathleen, GA 31047. Representative: Ray Miller (same address as applicant). *New and Used Cars* between points in GA, AL, FL, MS, LA, TN, SC, NC, VA, MD, PA, KY, WY, NJ. Supporting shipper: Shealy Motor Co., 102 N. Davis Dr., Warner Robins, GA 31093, Robins Toyota Inc., 616 N. Davis Dr., Warner Robins, GA 31093, Jim's Used Cars, 207 Watson Blvd., Warner Robins, GA 31093.

MC 18535, (Sub-3-1TA), filed December 17, 1980. Applicant: HICKLIN MOTOR LINE, INC., P.O. Box 377, St. Matthews, SC 29135. Representative: Robert H. Hicklin (same as above). *General Commodities (except those of unusual value, Class A and B explosives and household goods as defined by the commission),* between Jacksonville, FL, Savannah, GA, Wilmington, NC, Charleston, SC, and Norfolk, VA, on the one hand, and, on the other, points and places in FL, GA, NC, SC, TN, and VA. Supporting shippers: International Tire Marketers, Inc., P.O. Box 1386, Myrtle Beach, SC 29577, and A. P. Moller-Maersk Line, P.O. Box 1001, Charleston, SC 29402.

MC 146623 (Sub-3-1TA), filed December 12, 1980. Applicant: STAMEY ENTERPRISES, INC., 7350 102d Place, South Boynton Beach, FL 33435. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. (A) *Foodstuffs* and (B) *merchandise, equipment, materials and supplies sold in or used in the maintenance and operation of chain supermarkets (except articles in bulk)* (1) between points in CT, DE, GA, IL, MD, MA, NJ, NY, NC, PA, SC and VA on the one hand, and, on the other, points in FL and (2) between points in FL. Supporting shipper is Pantry Pride Supermarkets, a division of Food Fair, Inc., 7000 NW 32d Ave., Miami, FL 33147.

MC 147494 (Sub-3-1TA), filed December 17, 1980. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. Representative: Mr. Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Non-exempt food or kindred products* from Power County, ID; Umatilla County, OR; Benton, Franklin, Grant, and Walla Walla Counties, WA to AL, AR, FL, GA, LA, MS, TN and TX. Supporting shipper: Lamb-Weston, 6600 S.W. Hampton St., Portland, OR 97223.

MC 152593 (Sub-3-1TA), filed December 17, 1980. Applicant: MARTY'S AUTO SERVICE, 314 S.E. 10th St., Miami, FL 33004. Representative: Richard B. Austin, 320 Rochester Building, 8390 N.W. 53rd St., Miami, FL 33166. *Used motor vehicles, in truckaway or car carrier,* between points in AL, CT, DE, DC, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC and VA. Supporting shipper: There are ten statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 153216 (Sub-3-1TA), filed December 17, 1980. Applicant: CAROLINA WASTE SYSTEMS, INC., P.O. Box 832, Hwy. No. 74 East Hamlet, NC 28345. Representative: Jerry E. Whitley (same address as applicant). *Contract* carrier: irregular: *Hazardous Waste Materials, in bulk* between points in Union County, NC, and Sumter County, SC. Supporting shipper: Teledyne All Vac, P.O. Box 759, Monroe, NC.

MC 153211 (Sub-3-1TA), filed December 18, 1980. Applicant: DUSTY BULLOCK, INC., Route 1, Box 207, Caryville, TN 37714. Representative: Peter A. Greene, Thompson, Hine and Flory, 1920 N Street, N.W., Suite 700, Washington, DC 20036. *Meats, meat products, and meat byproducts* between points in Campbell County, TN, on the one hand, and, on the other, points in OH and IN. Supporting shipper: Powell Valley Foods, Inc., Elkins Road, P.O. Box 55, Caryville, TN.

MC 110878, (Sub-3-8TA), filed December 17, 1980. Applicant: ARGO TRUCKING COMPANY, INC., P.O. Box 955, Elberton, GA 30635. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Granite,* from Elberton, GA to Harrison, NJ. Supporting shipper: Coggins Granite Inc., d.b.a. The Georgia Granite Company, P.O. Box 250, Elberton, GA 30635.

MC 106644 (Sub-3-7TA), filed December 18, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same as applicant). *Wood products* from Cottonwood, CA and points on the international boundary at or near Douglas, AZ to points in the U.S. in and east of TX, OK, MO, NE, IA and WI. Supporting shipper: Rocklin Forest Products, Inc., P.O. Box 400, Roseville, CA 95678.

MC 75840 (Sub-3-27TA), filed December 16, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are distributed or utilized by a manufacturer of paint and paint products (except in bulk),* between the facilities of Dutch Boy, Consumer Division of Sherwin-Williams Co., at or near Baltimore, MD, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, KY, LA, MD, MA, MS, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, and DC. Supporting shipper: Dutch Boy, Consumer Division of Sherwin-Williams Co., 2325 Hollins Ferry Road, Baltimore, MD 21230.

MC 128117 (Sub-3-6TA), filed December 17, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 898, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *(a) New furniture and furniture parts and (b) furniture parts, supplies, packaging and items used in the manufacture and transportation of new furniture and furniture parts* (a) from Arcadia, LA to points in the states of AL, AZ, AR, CA, CO, FL, GA, KY, KS, MS, MO, NE, NV, NM, NC, OK, SC, TN, TX, VA, and UT, and (b) from points in Caldwell, Rutherford, Alexander, and Catawba Counties, NC, and from points in Washington County, VA and Lynchburg, VA (an independent city) to Arcadia, LA. Supporting shipper: Broyhill Industries, Broyhill Park, Lenoir, NC 28633.

MC 153214 (Sub-3-1TA), filed December 17, 1980. Applicant: WILLIAMSON DISTRIBUTORS, INC., Corner Thorne & Ralston Streets, P.O. Box 3489, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. *Iron, steel, and aluminum articles* between Roseboro, NC, on the one hand, and on the other, points in the United States in and east of LA, AR, MO, IA, MN and the ports of entry on the International Boundary Line between the United States and Canada at Buffalo and Champlain, NY. Supporting shipper: Dubose Steel Inc., P.O. Box 1098, Roseboro, NC 28382.

MC 153212 (Sub-3-1TA), filed December 17, 1980. Applicant: JANE WINGER d.b.a. SUN STATE TRUCKING, Highway 27 South, Haines City, FL 33844. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. *Food or kindred products as defined in Item #20 of the Standard Transportation Commodity Code and items used in the manufacture, processing, and distribution thereof* between points in US excluding AK & HI under a continuing contract with Orchard-Hill Farms, Inc. Supporting shipper: Orchard Hill Farms, Inc., 66 S. Broadway Road, Red Hook, NY 12571.

MC 148410 (Sub-3-4TA), filed December 17, 1980. Applicant: BRAVO TRANSPORT, INC., 6440 Hillandale Road, Suite 263, Lithonia, GA 30058. Representative: Charles E. Puckett (same address as applicant). *Commodities of, Rail Anchors, Anti-Creepers, Stays, Socket Terminals, Rail Bonds, Rail Clips, Rail Filler Blocks,* *Railway Car Parts, including Railway Car Castings, Forgings, or Stampings. Railway Switch Machines, Rail Road Wheels, Axel Parts, Equipment and Supplies used in the manufacture repair and sales of Railroad Equipment. Cranes or Derricks, Locomotive traveling, Floor Type, Self Propelled or not self propelled. Dragline Excavators or Power Shovels, mounted or not mounted and parts. Equipment and supplies used in the manufacture sales and distribution of Cranes and Derricks and Railroad Equipment,* between Pittsburgh, PA, Milwaukee, WI, New Orleans, LA, Houston, TX, Chicago, IL, Birmingham, AL, St. Louis, MO, Chattanooga, TN, Atlanta, GA, on the one hand, and, on the other, all points in AL, GA, FL, MS, LA, TX, TN, MO, AR, IL, IN, OH, WI, OK, MI, PA, KY. Supporting Shipper, Church-Dailing Co., Inc., 1401 South Rendon St., New Orleans, LA 70125.

MC 153228 (Sub-3-1TA), filed December 17, 1980. Applicant: Z TRUCKING & FORWARDERS, INC., 5440 West 5th Street, Jacksonville, FL 32205. Representative: O.C. Beakes, 836 Riverside Ave., Jacksonville, FL 32204. *General commodities (except household goods, articles of unusual value in courier service, explosives, articles in bulk in tank trucks and articles which because of their size, weight or bulk require the use of specialized equipment),* between all points in FL east of the area delineated by Interstate Highway 75 from the GA-FL line to its intersection with FL Highway 52 and between all points south of FL Highway 52 from its intersection with Interstate Highway 75 to the Gulf of Mexico; and between Jacksonville, FL and points in GA within a radius of 160 miles of Jacksonville, FL.Supporting shippers: There are 12 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to interline with other carriers at Tampa and Orlando, FL.

MC 153214 (Sub-3-2TA), filed December 17, 1980. Applicant: WILLIAMSON DISTRIBUTORS, INC., Corner Thorne & Ralston Streets, P.O. Box 3489, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. (1) *Paper, paper products and wood pulp;* (2) *Lumber and wood products;* and (3) *Equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) and (2) above,* between Plymouth, NC, on the one hand, and, on the other, points in the United States in and east of LA, AR, MO, IA, MN, and the ports of entry on the International Boundary Line between the United States and Canada at Buffalo and Champlain, NY. Supporting shippers: Plymouth Wood Treating Co., Inc., P.O. Box 1005, Plymouth, NC 27962; and Timber Products of Askewville, P.O. Box 1005, Plymouth, NC 27962.

MC 143276 (Sub-3-6TA), filed December 16, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: Jack Weaver (same address as applicant). *Veneer, plywood, lumber and lumber products,* Between all points in GA, on the one hand, and on the other, points in AL, FL, KY, MS, NC, SC and TN. Supporting shipper: Pharris Lumber Company, P.O. Box 90848, East Point, GA 30364.

MC 153217 (Sub-3-1TA), filed December 16, 1980. Applicant: JACK THOMAS d.b.a. JACK THOMAS TRUCKING, P.O. Box 337, Tellico Plains, TN 37385. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Paper, paper products and woodpulp (except in bulk), and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities above (except in bulk),* between the facilities of Bowater Southern Paper Corporation, at or near Calhoun, TN, on the one hand, and, on the other, points in the states of AR, AZ, CA, IA, KS, MO, NE, NM, OK and TX. Supporting shipper: Bowater Southern Paper Corporation, Calhoun, TN 37309.

MC 147942 (Sub-3-3TA), filed December 17, 1980. Applicant: M & L TRUCK LINE INC., P.O. Box 358, Memphis, TN 38101, Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103. (1) *Grain, flour, seasoning compounds, or spices, dry or liquid sweeteners, and food curing or flavoring ingredients* from Claymont, DE; Smyrna, GA; Lawrence, KS; St. Louis, MO; Springfield, MO; and Kansas City, MO; to the facilities of Flavorite Laboratories, Inc. at Horn Lake, MS; (2) *Fibreboard drums* from Chicago, IL, St. Louis, MO, and Van Wert, OH, to the facilities of Flavorite Laboratories, Inc. at Horn Lake, MS. Supporting shipper: Flavorite Laboratories, Inc., Horn Lake, MS.

MC 146646 (Sub-3-37TA), filed December 16, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355-A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* from Chicago, IL, New York, NY, and Philadelphia, PA and points in their Commercial Zones, to points in CA, WA, OR, AZ, CO, IL, FL, GA, MN, MO, TX, UT, DE, AL, MA, NJ, NY, PA, and RI. Supporting shipper: West Coast Shippers Association, 2000 South 71st Street, Philadelphia, PA 19142.

MC 75840 (Sub-3-26TA), filed December 17, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of paper and paper products (except in bulk),* between the facilities of James River Corporation located at or near Fitchburg, Adams, East Pepperell, and Holyoke, MA; Milford, Warren Glen, Regalsville, and Hughesville, NJ; Newark, DE; and Richmond, VA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, OH, PA, NY, NJ, RI, CT, MA, DC, DE, MD, WV. Supporting shipper: James River Corporation, P.O. Box 2218, Richmond, VA 2317.

MC 134064 (Sub-3-11TA), filed December 17, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainsville, GA 30505. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *(1) Foodstuffs (except in bulk) and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in item (1) above, (except in bulk),* between Gainesville, GA and points in its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Dutch Quality House, Inc., P.O. Box 2397, Gainesville, GA 30503.

MC 75840 (Sub-3-25TA), filed December 17, 1980. Applicant: MALONE FREIGHT OFFICE BOX 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a manufacturer or distributor of medicine, drugs, toilet preparations, health care items and pharmaceutical chemicals (except in bulk),* between the facilities of or utilized by William H. Rorer, Inc., at or near Ft. Washington and Philadelphia, PA; Lewes, DE; Hammond, IN; and Tucker, GA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, IN, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper:

William H. Rorer, Inc., 500 Virginia Drive, Ft. Washington, PA 19034.

MC 120910 (Sub-3-8TA), filed December 17, 1980. Applicant: SERVICE EXPRESS, INC., Post Office Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., Esq., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Roofing paper, building paper, roofing cement, asphaltum, roofing asphalt, prepared roofing, prepared shingles, filter felt, and materials and supplies used in the installation thereof (except liquid in bulk, in tank vehicles)* between Tuscaloosa County, AL, on the one hand, and, on the other, all points in the United States in and east of ND, SD, NE, OK, and TX; (2) *materials and supplies used in the manufacture of items in (1) above (except liquid in bulk, in tank vehicles)* between all points in the United States in and east of ND, SD, NE, OK and TX to Tuscaloosa County, AL. Supporting shippers: Elk Corporation of Alabama, Old Sanders Ferry Road, P.O. Drawer 2450 Tuscaloosa, AL, Tamko Asphalt Products, Inc., 220 West 4th Street, Joplin, MO 64801.

MC 147484 (Sub-3-1TA), filed December 17, 1980. Applicant: MYERS TRANSFER, INC., P.O. Box 11033, 1241 Haines Street, Jacksonville, FL 32211. Representative: Donald L. Myers, P.O. Box 11033, Jacksonville, FL 32211. *General Commodities in containers and/or trailers and Empty containers, trailers, and/or chassis (Except Class A & B explosives). Restricted to traffic having prior or subsequent movement by water.* Between Charleston, SC on the one hand and on the other hand all points in the States of AL, NC, SC, and TN, with rights to tack. There are eight supporting shippers and their statements may be examined at the Regional Office in Atlanta, GA.

MC 103051 (Sub-3-7-TA), filed December 17, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Hazardous, non-hazardous and recyclable waste, in bulk,* between points in U.S. Supporting shipper: Systech Liquid Treatment, Corp., 1640 Antioch Pike, Nashville, TN 37013 and Resource recycling Tech. Inc. 2003 Gallatin Road, Madison, TN 37115.

MC 75840 (Sub-3-36TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Scrap aluminum,* between points in AL, AR, CT, DE, FL, GA, KY, LA, MD, MA, MS, NY, NJ, NC, OH, PA, RI, SC, TN, TX, VA, WV, and DC. Supporting shipper: Stanley Metal Corporation, 575 Lexington Avenue, New York, NY 10022.

MC 75840 (Sub-3-33TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of railroad car wheels, steel rings, and iron and steel articles (except in bulk),* between the facilities of Edgewater Steel Company located at or near York, SC, and Oakmont, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Edgewater Steel Company, College & Allegeheny Avenues, Oakmont, PA 15139.

MC 129702 (Sub-3-1TA), filed December 23, 1980. Applicant: CARPET TRANSPORT, INC., Route 5, Lovers Lane Road, Calhoun, GA 30701. Representatives: Archie B. Culbreth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Carpet, carpet padding and other floor covering;* and (2) *materials, equipment and supplies used in the manufacture and distribution of carpet, carpet padding and other floor covering,* between points in AL, FL, GA, MS, NC, SC, TN and VA. Supporting shippers: There are 7 supporting shipper certifications to this application, which may be reviewed at the Regional Complaint/Authority Center, Interstate Commerce Commission, 1776 Peachtree Street, Atlanta, GA 30309.

MC 147886 (Sub-3-8TA), filed December 23, 1980. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Castings* from Biscoe, NC; Statesboro, GA; West Points, GA; Bessemer, AL; and Jacksonville, FL to Palestine and Houston, TX. Supporting shipper: Cal-Tex Metals, P.O. Box 19250, Houston, TX 77024.

MC 107515 (Sub-3-88TA), filed December 23, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Meats, meat products, meat by-products and articles distributed by meat packinghouses* from St. Paul, MN and its commercial zone to points in AR, CT, DC, DE, IA, IL, IN, KY, LA, MA, MD, ME, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WI and WV. Supporting Shipper: Champion's Wholesale Meat, 1324 W. 7th Street, St. Paul, MN 55102.

MC 140484 (Sub-3-16TA), filed December 23, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day, (same address as applicant). *Non-alcoholic beverages (except in bulk)* from Columbus, GA, to points in Charlotte, Collier and Lee Counties, FL. *Materials and supplies and equipment (except articles which because of size and weight requiring specialized equipment) used in the manufacture and distribution of non-alcoholic beverages* from points in Charlotte, Collier, Hillsborough, Lee, Orange, Pinellas, and Polk Counties, FL, to points in AL and GA. Supporting Shipper: Pepsi Cola Bottlers of S.W. Florida, Inc., 3585 Anderson Avenue, Fort Myers, FL 33901.

MC 153295 (Sub-3-1TA), filed December 23, 1980. Applicant: BRONCO, INC., P.O. Box 11885, Lexington, KY 40578. Representative: Francis W. McInerny, Esq., 1000 16th St., NW., No. 502, Washington, DC 20036. *General commodities (except classes A & B explosives and household goods as defined by the Commission)* between points in the U.S. in and east of TX, OK, CO, NE, SD, and ND. There are 22 supporting shippers. Their statements may be examined at the ICC Regional Office in Atlanta, GA.

MC 75840 (Sub-3-34), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a manufacturer of glass containers (except in bulk)* between the facilities of Chattanooga Glass Company, at or near Mt. Vernon, Columbus and Baltimore, OH; Corsicana and Dallas, TX; Keyser, WV; Chattanooga, TN; and Mineral Wells and Gulfport, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Chattanooga Glass Company, 400 West 45th Street, Chattanooga, TN 37410.

MC 138157 (Sub-3-39TA), filed December 23, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, (same as above). *Hospital equipment, materials, and supplies* from Johnson City, TN to the Portland, OR; Seattle, WA; and Salt

Lake City, UT commercial zones. Restricted to traffic originating at the facilities of American Pharmaseal Division of American Hospital Supply Corp. Supporting Shipper: American Pharmaseal Division of American Hospital Supply Corp., 1015 Grand View Avenue, Glendale, CA, 91201.

MC 153302 (Sub-3–1TA), filed December 23, 1980. Applicant: M. E. HALL, d.b.a. HALL TRUCKING COMPANY, 88 West Middle St., Montevallo, AL 35115. Representative: D. H. Markstein, Jr., 512 Massey Bldg., Birmingham, AL 35203. *General commodities except household goods, explosives, commodities in bulk in tank vehicles, dangerous commodities and those of unusual value* between points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, MO, NC, OH, TN and TX. There are 10 statements in support to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 141339 (Sub-3–1TA), filed December 23, 1980. Applicant: DAVIS, INC., Route 3, Box 651, Starke, FL 32091. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Cleaning compounds and related articles and materials and supplies used in the manufacture, production and distribution of cleaning compounds and related articles,* between points in Middlesex County, NJ, on the one hand, and, on the other, points in NC, SC, GA and FL. Supporting shipper: Economics Laboratory, Inc., 370 Wabasha, Osborn Building, St. Paul, MN 55102.

MC 75840 (Sub-3–35TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of traffic control products (except in bulk),* between the facilities of Cataphote Division—Ferro Corporation, located at or near Jackson, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Cataphote Division—Ferro Corporation, 1001 Underwood Drive, Jackson, MS 39205.

MC 153202 (Sub-3–1TA), filed December 23, 1980. Applicant: SEA TRANSPORT, INC., 2455 SW 12th St., Miami, FL 33235. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *Trailers and containers, with or without wheels, loaded or empty,* between all points in FL in, east and south of the western boundary of Jefferson County, FL, *restricted* to traffic having an immediately prior or subsequent movement by water in interstate or foreign commerce. There are approximately 12 statements of shipper support to this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 106074 (Sub-3–17TA), filed December 23, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S., Forest City, NC 28045. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Such commodities as are used or dealt in by wholesale, retail and chain grocery houses, foodstuffs and materials, ingredients and supplies used in the manufacture and distribution of foodstuffs* between points in Ohio on the one hand and on the other, points in the states of AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NC, ND, NE, NM, NV, OH, OK, OR, SC, SD, TN, TX, VT, VA, WA, WI, WV and WY. Restricted to traffic originating at or destined to the facilities utilized by the Stouffer Corporation. Supporting shipper: Stouffer Foods Corp., 5750 Harper Rd., Solon, OH.

MC 144442 (Sub-3–4TA), filed December 22, 1980. Applicant: ESSEX EXPRESS, INCORPORATED, 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: D. A. Allen, 2550 M Street, N.W., Washington, D.C. 20037. *Contract carrier;* Irregular: *General commodities (except those of unusual value, Class A & B explosives, household goods and commodities in bulk) when moving on a bill of lading issued by West Coast Shippers' Association, Philadelphia, PA between points in the U.S. (except AK and HI) under a continuing contract with West Coast Shippers' Association, Philadelphia, PA.* Supporting shipper: West Coast Shippers' Association, 2000 South 71st Street, Philadelphia, PA 19142.

MC 151549 (Sub-3–1TA), filed December 22, 1980. Applicant: J. W. RAWLEY, 431 Gravely Street, Mt. Airy, NC 27030. Representative: Wayne M. Harrell, P.O. Box 1124, Mt. Airy, NC 27030. *Contract carrier,* irregular routes; *Portable utility buildings,* from Mt. Airy, NC to various sales lots in the following states: NC, SC, VA, GA, KY, TN, WV. Supporting shipper: Leonard Aluminum Utility Buildings, Inc., P. O. Box 1124, Mt. Airy, NC 27030.

MC 144740 (Sub-3–5TA), filed December 22, 1980. Applicant: L. G. DEWITT, INC., P. O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same address as applicant). *Contract carrier,* irregular routes, *floor covering products and accessories and tires,* From: Lancaster and Conshohocken, PA, Buffalo, NY, and Huntsville, AL, To: Carson, CA, under a continuing contract with J. N. Ceazan Co. Supporting shipper: J. N. Ceazan Co., 1113 East 230th Street, Carson, CA 90745.

MC 56679 (Sub-3–26TA), filed December 22, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *General Commodities (except classes A & B explosives and household goods as defined by the Commission) having a prior or subsequent movement by water or rail* between Norfolk, Newport News, and Portsmouth, VA and points within their commercial zones, on the on hand, and, on the other, points in VA, WV, and KY. Supporting shippers: There are 6 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA. Applicant intends to tack to its present authority.

MC 52704 (Sub-3–13TA), filed December 22, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Containers and container parts* and (2) *materials, equipment and supplies used in the manufacture or distribution of containers and container parts* between points in Lincoln and Union Parishes, LA; Vance County, NC; and Greenville and Laurens Counties, SC, on the one hand, and, on the other, points in IL, IN, MI, and OH. Supporting shipper: Laurens Glass Company, P. O. Box 9, Laurens, SC 29360.

MC 75840 (Sub-3–32), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr. Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of canned or frozen foodstuffs (except in bulk),* between the facilities of Hanover Brands, Inc., located at or near Hanover, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, FL, GA, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting Shipper: Hanover Brands, Inc., Post Office Box 334, R.D. No. 8, Hanover, PA 17331.

MC 45656 (Sub-3–3TA), filed December 22, 1980. Applicant: ANDERSON TRUCK LINE, INC., P.O. Box 1196, Lenoir, NC 28645. Representative: Dan E. Anderson (same address as above). *Furniture, furniture parts and materials used in the manufacture and distribution of furniture (except commodities in bulk)* between points in MD, VA, DC, NC, SC, GA, AL, and TN. Supporting shippers: there are twenty (20) supporting statements attached to this application which may be examined at the Atlanta, GA regional office.

Note.—Applicant intends to interline with other carriers.

MC 56679 (Sub-3–25TA), filed December 22, 1980. Applicant: BROWN TRANSPORT CORP., 325 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *Foodstuffs (except commodities in bulk)* from Morgan County, AL to points in LA and TX. Supporting shipper: Conagra, Inc., 2050 Market Street, Decatur, AL 35601.

MC 124117 (Sub-3–5TA), filed December 22, 1980. Applicant: EARL FREEMAN AND MARIE FREEMAN d.b.a. MID–TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Motor vehicles and commercial oils, greases, coolants and lubricants (except in bulk)* from Chicago, IL, Montgomery, AL, New Orleans, LA, St. Louis, MO, and Woods River, IL (and the commercial zone of each) to Franklin, TN (and its commercial zone). Supporting shipper: Cameron Oil Co., Inc., P.O. Box 446, Franklin, TN 37064.

MC 144225 (Sub-3–4TA), filed December 22, 1980. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Road, Tamarac, FL 33321. Representative: Raymond P. Keigher, Esquire, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract; Irregular: lumber, lumber products* and *building materials (except commodities in bulk)*, from points in AL, CA, FL, GA, ID, MA, ME, MT, NC, NH, NY, OR, SC, VA, VT, and WA, to those points in the United States in or east of AR, IA, LA, MN, and MO, under continuing contract(s) with Competitive Building Materials, Inc. Supporting Shipper: Competitive Building Materials, Inc., 107 E. Country Road, Ardmore, PA 19003.

MC 75840 (Sub-3–30TA), filed December 19, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of paints and adhesives (except in bulk)*, between the facilities of Farboil Company, at or near Baltimore, MD, on the one hand, and, on the other, points in OH and NJ. Supporting shipper: Farboil Company, 8200 Fischer Road, Baltimore, MD 21222.

MC 75840 (Sub-3–31TA), filed December 19, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of canned goods (except in bulk)*, between the facilities of National Fruit Product Co., Inc., at or near Martinsburg, WV; Winchester and Timberville, VA; and Lincolnton, NC, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, Fl, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: National Fruit Product Co., Inc., Post Office Box 2040, Winchester, VA 22601.

MC 75840 (Sub-3–29TA), filed December 22, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of chemicals and chemical products, (except in bulk)*, between the facilities of MonCo Products, Inc., at or near Monongahela, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: MonCo Products, Inc., 731 East Main Street, Monongahela, PA 15063.

MC 150403 (Sub-3–2TA), filed December 18, 1980. Applicant: CROWN EXPRESS, INC., P.O. Box 21396, Columbia, SC 29221. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Carpet, carpeting, padding, and floor covering material*, from the facilities utiltized by Commerical Affiliates, Inc., at or near Greenville, SC, Dalton, GA and Rome, GA to points in the U.S. (except AK and HI). Supporting shipper: Commercial Affiliates, Inc., Box 4137, Park Place, Greenville, SC 29608.

MC 144442 (Sub-3–3TA), filed December 18, 1980. Applicant: ESSEX EXPRESS, INCORPORATED, 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: D. A. Allen, 2550 M Street, NW., Washington, D.C. 20037. *Contract carrier:* Irregular. *Such merchandise as is dealt in by retail department stores (except commodities in bulk)* between points in the U.S. (except AK and HI) on a continuing contract with Allied Stores Marketing Corporation, New York, NY. Supporting shipper: Allied Stores Marketing Corporation, 1114 Avenue of the Americas, New York, NY 10036.

MC 75840 (Sub-3–28TA), filed December 18, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in by a manufacturer of cleaning, scouring, washing and buffing compounds (except in bulk)*, between the facilities of Rockester Midland Corp., at or near Rochester, NY, on the one hand, and, on the other, points in GA, NC, SC, VA, DE, MD, PA and NJ. Supporting shipper: Rochester Midland Corp., Post Office Box 1515, Rockester, NY 14603.

MC 106651 (Sub-3–7TA), filed December 18, 1980. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). *Aluminum and aluminum articles*, between Elizabethton, TN, and Rochester, NY. Supporting shipper: Jarl Extrusions, Inc., Elizabethton, TN 37643.

MC 56679 (Sub-3–27TA), filed December 22, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same as applicant). *Common,* regular, *general commodities, with the usual exceptions,* (1) between Cincinnati, OH and Minneapolis, MN, from Cincinnati over US Hwy 27 to jct US Hwy 35, then over US Hwy 35 to jct US Hwy 31, then over US Hwy 31 to jct US Hwy 30, then over US Hwy 30 to jct US Hwy 41, then over US Hwy 41 to jct US Hwy 12, then over US Hwy 12 to Minneapolis, MN and return over the same route serving all intermediate points; (2) between Cincinnati, OH and Indianapolis, IN over I–74 serving all intermediate points in OH; (3) between Indianapolis, IN and Richmond, IN over US Hwy 40, serving all intermediate points; (4) between Indianapolis, IN and Minneapolis, MN, from Indianapolis over I–65 to jct I–90, then over I–90 to jct I–94, then over I–94 to Minneapolis, MN and return over the same route, serving all intermediate points in IL, WI and MN; (5) between Peru, IN and Muncie, IN, from Peru, over IN Hwy 21 to jct IN Hwy 18, then over IN Hwy 18 to jct IN Hwy 9, then over IN Hwy 9 to jct IN Hwy 32, then over IN Hwy 32 to Muncie, IN and return over the same route serving all intermediate points; (6) Between West College Corner, IN and jct US Hwy 35 and IN Hwy 22, from West College Corner, IN over US Hwy 27 to jct Hwy IN 1, then over IN Hwy 1 to jct IN Hwy 38, then IN Hwy 38 to jct IN Hwy 3, then over IN Hwy 3 to jct In Hwy 26, then over IN Hwy 26 to jct IN Hwy 22, then over IN Hwy 22 to jct US Hwy 35, and return over the same route, serving all intermediate points; (7) between Anderson, IN and Indianapolis, IN, from Anderson, IN over IN Hwy 32 to jct IN Hwy 37, then over IN Hwy 37 to Indianapolis, IN and return over the same route, serving all intermediate points; (8) between Union City, IN and Muncie, IN over IN Hwy 32, serving all intermediate points; (9) between Chicago, IL and Madison, WI, from Chicago, over US Hwy 20 to jct IL Hwy 72, then over IL Hwy 72 to jct US Hwy 51, then over US Hwy 51 to jct US Hwy 14, then over US Hwy 14 to Madison, WI and return over the same routes, serving all intermediate points and serving all points within 25 miles of Chicago, IL as off-route points; (10) between Chicago, IL and Madison, WI over I–94 serving all intermediate points; (11) between Chicago, IL and Omaha, NE over US Hwy 6 serving all intermediate points; (12) between Chicago, IL and Omaha, NE over I–80 serving all intermediate points; (13) between Chicago, IL and Chippewa Falls, WI, from Chicago, IL over US Hwy 34 to jct IL Hwy 92, then over IL Hwy 92 to jct US Hwy 67, then over US Hwy 67 to jct US Hwy 52, then over US Hwy 52 to jct US Hwy 61, then over US Hwy 61 to jct US Hwy 53, then over US Hwy 5 to Chippewa Falls, WI and return over the same routes, serving all intermediate points; (14) between Rockford, IL and Peoria, IL, from Rockford, IL over US Hwy 51 to jct IL Hwy 29, then over IL Hwy 29, to Peoria, IL and return over the same routes, serving all intermediate points; (15) between Rockford, IL and Moline, IL over IL Hwy 2, serving all intermediate points; (16) between Sioux City, IA and Keokuk, IA, from Sioux City, over US Hwy 20 to jct US Hwy 69, then over US Hwy 69 to jct IA Hwy 92, then over IA Hwy 92 to jct IA Hwy 137, then over IA Hwy 137 to jct IA Hwy 23, then over IA Hwy 23 to jct US Hwy 34, then over US Hwy 34 to jct US Hwy 61, then over US Hwy 61 to Keokuk and return over the same routes serving all intermediate points; (17) between jct US Hwy 20 and US Hwy 69 and Dubuque, IA over US Hwy 20, serving all intermediate points; (18) between Ames, IA and Iowa City, IA, from Ames over US Hwy 30 to jct I–380, then over I–380 to Iowa City and return over the same route, serving all intermediate points; (19) between Cedar Falls, IA and Cedar Rapids, IA over US Hwy 218, serving all intermediate points; (20) between Council Bluffs, IA and Sioux City, IA over I–29, serving all intermediate points; (21) between Davenport, IA and Burlington, IA over US Hwy 61, serving all intermediate points; (22) between Minneapolis, MN and jct US Hwy 65 and US Hwy 20 over US Hwy 65 serving all intermediate points; (23) between Minneapolis, MN and Des Moines, IA over I–35, serving all intermediate points; (24) between St. Cloud, MN and Minneapolis, MN over US Hwy 10, serving all intermediate points; (25) between Minneapolis, MN and Mankato, MN over US Hwy 169, serving all intermediate points; (26) between Milwaukee, WI and Green Bay, WI over US Hwy 141, serving all intermediate points; (27) between Milwaukee, WI and Green Bay, WI over US Hwy 41, serving all intermediate points; (28) between Peoria, IL and jct I–74 and I–80 over I–80, serving all intermediate points; (29) between Fond du Lac, WI and Cedar Rapids, IA over US Hwy 151, serving all intermediate points; (30) between Dayton, OH and Richmond, IN over US Hwy 35, serving all intermediate points. Serving Pembina, ND and all points in IA, MN and WI as off-route points in connection with the above regular routes. Also, serving all points in the commercial zones of authorized points in routes 1 thru 30. Interline is requested at points in Cincinnati, OH; Indianapolis, Muncie, IN; Chicago, Peoria, IL; Sioux City, Davenport, Des Moines, Council Bluffs, IA; Rock Island, IL; Milwaukee, WI; Minneapolis/St. Paul, MN; Pembina, ND; Omaha, NE. Carrier is requesting to tack this authority with existing authority. There are 36 supporting shippers' statements whose statements may be reviewed at the Regional Office of the ICC in Atlanta, GA.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 119654 (Sub-4–7TA), filed December 16, 1980. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Electrical equipment and parts thereto, televisions, radios, stereos, tape recorders, computers, video recorders, cabinet speakers, stereo speakers, security systems, and materials, equipment and supplies* used in the manufacture thereof, between points in IL, IN, KY, MI, MO, OH, PA, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Zenith Radio Corporation, 1900 North Austin, Chicago, IL 60639.

MC 107295 (Sub-4–25TA), filed December 16, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Iron and steel articles and materials, supplies and equipment used in the manufacture, processing, sale and distribution thereof* between the facility of Armco, Inc. in Jessamine County, KY, on the one hand, and, on the other, points in the U.S. Supporting shipper: Armco, Inc. 703 Curtis St., Middletown, OH 45043.

MC 108859 (Sub-4–9TA), filed December 12, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *General commodities (except household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment),* between the facilities of MTD Products, Inc., and its divisions or subsidiaries located at Shelby (Richland County), Willard (Huron County), and Wooster, (Wayne County), OH, on the one hand, and on the other, points presently served by applicant in interestate operations An underlying ETA seeks 120 days authority. Supporting shipper: MTD Products, Inc., 979 South Conwell Avenue, Willard, OH 44890. Applicant intends to tack the authority here applied for to other authority held by it. Applicant intends to interline with other carriers.

MC 148119 (Sub-4–1TA), filed December 12, 1980. Applicant: T. B. & P. EXPRESS, INC., P.O. Box 71, Daleville, IN 74334. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular: Materials, supplies or products used in the manufacture and distribution of home entertainment products* between pts in IN, OH and PA for the account of RCA Corporation. Restricted to traffic originating at or destined to the facilities of RCA Corporation. Supporting shipper: RCA Corporation, Route 38, Cherry Hill, NJ 08358.

MC 142888 (Sub-4–4), filed December 12, 1980. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, IL 61530. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Corrogated and uncorrogated cardboard cartons,* from Crawfordsville, IN to Streator, IL. Supporting shipper: Thatcher Glass Company, P.O. Box 265, Elmira, NY 14902

MC 153148 (Sub-4–1), filed December 15, 1980. Applicant: MERLE HOUGH, P.O. Box 2, Detroit Lakes, MN 56501. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Building board with decorative rock face* from Detroit Lakes, MN, to points in the U.S. (except AK and HI). Supporting shipper: Picture Rock Corporation, Star Route, Detroit Lakes, MN.

MC 148428 (Sub-4-4), filed December 15, 1980. Applicant: BEST LINE, INC., 10161 Crosstown Circle, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Waterbeds and parts and accessories for waterbeds;* from Los Angeles, CA to Boulder, CO, Des Moines, IA, St. Cloud, MN and Seattle, WA. Supporting shipper: Midwest Waterbeds Distribution, Inc., 220 7th Avenue South, St. Cloud, MN 56301.

MC 153075 (Sub-4-1), filed December 15, 1980. Applicant: SHERMAN HANSON d.b.a. HANSON TRUCKING, 402 Center St., Box 256, Boyceville, WI 54725. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract* irregular: *Iron castings and materials and supplies used and distributed by foundries,* between points in the U.S., under continuing contracts with: (1) Badger Iron Works, Inc., Route 2, Parkway Road, Menomonie, WI 54751, and (2) Scott-Atwater Foundry Co., 2200 1st Street N., Minneapolis, MN 55411.

MC 145394 (Sub-4-13), filed December 12, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract* irregular; *Lawn equipment, gym apparatus, vacuum cleaners, saw benches, tool boxes, hand tools, and materials and equipment used in the manufacture of those commodities* between Polo, IL, and points in the U.S. (except IN, IA, MI, MN, and WI). Restriction: Restricted to transportation performed under a continuing contract(s) with Central Quality Industries, Inc., An underlying ETA seeks 120 days authority. Supporting shipper: Central Quality Industries, Inc., 900 S. Division St., Polo, IL 61064.

MC 8515 (Sub-4-6TA), filed December 12, 1980. Applicant: TOBLER TRANSFER, INC., Junction IL 80 and IL 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 S. La Salle St., Chicago, IL 60603. *General commodities (except commodities in bulk),* between Rockford, IL on the one hand, and, on the other, points in WI within 25 miles of Janesville, WI, including Janesville, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Caterpillar Tractor Co., 100 N.E. Adams St., Peoria, IL 61629.

MC 153149 (Sub-4-1TA), filed December 16, 1980. Applicant: M. L. SMIT TRUCKING, INC., 17315 Thornwood Court, South Holland, IL 60473. Representative: Raymond D. Stegenga (same as applicant). *Contract:* Irregular; *Furniture, cleaning products, materials, equipment and supplies,* used in the manufacture and distribution thereof, between Cook County, IL, and points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shippers: Sovereign Furniture Manufacturing, 401 N. Williams St., Thornton, IL 60476. Unichem Corporation, 15475 S. La Salle St., S. Holland, IL 60473.

MC 146965 (Sub-4-5), filed December 15, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Grotrian & Boxberger, Attorneys at Law, Suite 200—Metro Building, Fort Wayne, IN 46802. *Contract* irregular: (1) *Drugs, medicines, and chemicals and* (2) *materials, equipment, and supplies used in the manufacture and distribution of the items named in (1) above.* Between Elkhart, IN and points in MI, FL, GA, MD, NJ, NY, VA, NC, SC, and PA. Restriction: Restricted to service to be performed under contracts with The Upjohn Company. Supporting shipper: The Upjohn Company, 701 East Milham Road, Portage, MI 49081.

MC 146965 (Sub-4-4), filed December 15, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Grotrian & Boxberger, Attorneys at Law, Suite 200—Metro Building, Fort Wayne, IN 46802. *Contract* irregular: (1) *Air conditioners, generators, industrial floor, carpet, and cleaning machines, refrigerators and all other appliances and parts, not specifically named herein, for recreational vehicles, and* (2) *materials, equipment, and supplies in the manufacture and distribution of the items named in (1) above.* Between Elkhart, IN and Pendleton, OR; Omaha, NE; Rialto, CA; Hancock, MD; Longview, TX; Williamsport, MD; Edgerton, OH; San Bernardino, CA; La Grande, OR; Waco, TX; Winchester, VA; Benton Harbor, MI; Jackson Center, OH; Olmey, TX; Grapevine, TX; Ardmore, OK; Forest City, IA; Riverside, CA; and Paxinos, PA. Restriction: Restricted to service to be preformed under continuing contracts with Dometic Sales Corporation. Supporting shipper: Dometic Sales Corporation, 2320 Industrial Parkway, Elkhart, IN 46515.

MC 146438 (Sub-4-3TA), filed December 15, 1980. Applicant: ETV, INC., 3066 3 Mile Road, NW., Grand Rapids, MI 49504. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Materials and supplies used in the sales and production of infants' and children's wear* from all points in NC and TN to the facilities of H. H. Cutler Co. MI, NC and TN. Supporting shipper: H. H. Cutler Co., 120 Ionia, SW., Grand Rapids, MI 49501.

MC 136635 (Sub-4-14TA), filed December 16, 1980. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper and paper products* and *materials, equipment and supplies used in the manufacture of paper and paper products,* between Marion County, IN, on the one hand, and, on the other, points in AL, GA, IL, IA, KY, LA, MI, MS, OH, TN, and WI. Supporting shipper: Central Corrugated, Inc., West 82nd St., Indianapolis, IN 46240.

MC 136635 (Sub-4-15TA), filed December 16, 1980. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper, paper products, scrap or waste paper, plastic articles, materials and supplies used in the manufacture and distribution of paper, paper products and plastic articles* between points in CT, GA, DE, IL, IN, KS, KY, MD, MA, MI, MN, MS, NE, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI. Supporting shipper: Stone Container Corporation, 360 N. Michigan Ave., Chicago, IL 60601.

MC 119654 (Sub-4-7TA), filed December 16, 1980. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Electrical equipment and parts thereto, televisions, radios, stereos, tape recorders, computers, video recorders, cabinet speakers, stereo speakers, security systems, and materials, equipment and supplies* used in the manufacture thereof, between points in IL, IN, KY, MI, MO, OH, PA, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Zenith Radio Corporation, 1900 N. Austin, Chicago, IL 60639.

MC 153220 (Sub-4-1TA), filed December 18, 1980. Applicant:

RECOVERY SPECIALISTS, INC., P.O. Box 255, Saline, MI 48176. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Hazardous waste materials, in bulk or in containers,* between points in MI and points and places in the U.S. except AK and HI. An underlying ETA seeks 120 days authority. Supporting shippers: Consumers Power Company, 211 W. Michigan Ave., Jackson, MI 49201; Detroit Edison Company, 2000 Second Ave., Detroit, MI 48226; Transformer Inspection—Retro Fill Corp., 2704 Normondy Road, Royal Oak, MI 48073.

MC 58954 (Sub-4-2TA), filed December 19, 1980. Applicant: MCNAMARA MOTOR EXPRESS, INC., P.O. Box 2062, Kalamazoo, MI 49003. Representative: Carol A. Brigance (same as applicant). *General commodities (except commodities transported in bulk) from, to, or between the following points or described area;* between points within the States of MI, IL and IN to and serving Toledo, OH, Cleveland, OH, Eria, PA and Buffalo NY as off route points in conjunction with carriers regular route authority. Supporter shipper: Josam Manufacturing Company, Michigan City, IN 46360.

MC 111375 (Sub-4-3TA), filed December 19, 1980. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: James A. Matras (same address as applicant). *Toilet preparations, cleaning compounds, and chemicals (except in bulk)* from Barrington, IL, to Great Falls, MI, and from Fond du Lac, WI, to Oakland, CA, and Portland, OR. An underlying ETA seeks 120 days authority. Supporting shippers: Park Corporation, 511 Lake Zurich Rd., Barrington, IL 60010; and Tobiason Central, 680 E. Fond du Lac St., P.O. Box 67, Ripon, WI 54971.

MC 134518 (Sub-4-1TA), filed December 15, 1980. Applicant: CHEESE HAULING, INC., P.O. Box 1973, Bismarck, ND 58501. Representative: Carl E. Munson, 469 Fisher Building, Dubuque, IA 52001. *Such commodities as are dealt in by retail gift and curio shops;* from the facilities of Swiss Colony, Inc., and Swiss Colony Stores, Inc., at Madison and Monroe, WI, to Worthington, MN, Bismarck, Dickinson and Minot, ND, and Watertown, SD. Supporting shippers: Swiss Colony, Inc., and Swiss Colony Stores, Inc., 1112 7th Avenue, Monroe, WI 53566.

MC 120618 (Sub-4-4), filed December 17, 1980. Applicant: SCHALLER TRUCKING CORPORATION, 5700 W. Minnesota St., Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. *Aluminum castings, scrap aluminum, and empty containers* between Athens, AL, on the one hand and, on the other, Bedford, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Central Foundry, Division of General Motors Corporation, 77 W. Center St., Saginaw, MI 48605.

MC 148543 (Sub-4-1TA), filed December 17, 1980. Applicant: K.T. TRANSPORT, INC., 2320 Coyle Drive, New Albany, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Plastic laminated sheets,* from Chicago, IL, to Indianapolis and Evansville, IN, Louisville, KY, Cincinnati, and Columbus, OH. Supporting shipper: Wilsonart, Division of Dart Industries, 1100 Chase Ave., Elk Grove Village, IL.

MC 120924 (Sub-4-1TA), filed December 17, 1980. Applicant: B & W CARTAGE CO., INC., 2932 W. 79th St. Chicago, IL 60652. Representative: Carl. L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *General Commodities, auto parts or parts used in the manufacture of automobiles* between points in the states of PA and DE on trailer-load movements having a prior or subsequent movement by rail. Supporting shipper: Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288.

MC 133566 (Sub-4-13TA), filed December 17, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Blanshan & Summerfield, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *(1) Foodstuffs (except commodities in bulk) and (2) materials, equipment and supplies used in the manufacture, packaging and distribution of foodstffs (except commodities in bulk),* between the facilities of William Underwood Company at Portland, ME and Hannibal, MO, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Wm. Underwood Co., One Red Devil Lane, Westwood, MA 02090.

MC 153196 (Sub-4-1TA), filed December 17, 1980. Applicant: PRINCL FREIGHTLINES, INC., 1641 Carole Lane, Green Bay, WI 54303. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. *Contract; Irregular; Cheese, cheese products, and butter, when moving in mixed shipments with cheese and cheese products.* From Lena, WI to all points in KY, WV, VA, TN, NC, SC, LA, MS, AL, GA and FL, under continuing contract(s) with Frigo Cheese Corp., of Lena, WI. A corresponding ETA seeks 120 days authority. Supporting shipper: Frigo Cheese Corporation, P.O. Box 158, Lena, 54139.

MC 136848 (Sub-4-1), filed December 18, 1980. Applicant: JAMES BRUCE LEE & STANLEY LEE, d.b.a LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, Attorney, 837 East 162nd Street, South Holland, IL 60473. *Contract;* Irregular; *General commodities* except class A & B explosives and household goods as defined by the Commission, between points in the U.S., under continuing contract with Pontiac Furniture Industries, Inc., Pontiac, IL 61764.

Mc 152198 (Sub-4-1TA), filed December 4, 1980. Applicant: LYNN LAKE TRANSPORTATION, LTD., 842 Convent Avenue, St. Norbert, Manitoba R3V 1G8. Representative: David C. Britton, 1425 Cottonwood Street, Grand Forks, ND 58201. *Cat litter, produced from clay,* from Mounds, IL to ports of entry on the U.S.-Canadian border located at Noyes, MN, Detroit and Port Huron, MI, and Champlain, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Absorbent Clay Products, Inc., 200 North Main, Anna, IL 62906.

MC 126159 (Sub-4-1TA), filed December 16, 1980. Applicant: APACHE EXPRESS, LTD., P.O. Box 341, Lannon, WI 53046. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Salt and salt products,* from Chicago, IL, Clinton and Dubuque, IA, Manistee, MI, Duluth, MN, St. Louis, MO, Cincinnati, OH, and Green Bay, La Crosse, Marinette, Milwaukee, Prairie du Chien, and Superior, WI, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Domtar Industries, Inc., 4825 North Scott St., Schiller Park, IL.

MC 10761 (Sub-4-1TA), filed December 1, 1980. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 2843 E. Paris Rd., Grand Rapids, MI 49508. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW, Washington, DC 20036. *Regular Common, General Commodities (except household goods, Class A and B explosives, commodities requiring the use of special equipment, commodities of unusual value, and commodities in bulk),* serving Milan, and Romeo, MI, and Berrien, Van Buren, and Allegan Counties, MI, Baltimore, MD, Norfolk, VA, points in their respective commercial zones, and points in NJ, NY, OH and PA as off-route points in connection with carrier's existing regular-route authority. Applicant intends to tack this authority with its existing regular and irregular route authority. Supporting shippers: There are six (6) supporting statements.

MC 14277 (Sub-4–1TA), filed December 17, 1980. Applicant: CHICAGO-AURORA MOTOR SERVICE, INC., P.O. Box 31, Aurora Ave. Lane, Aurora, IL 60507. Representative: Paul J. Maton, 10 S. La Salle St., Suite 1620, Chicago, IL 60603. *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between points in MN, IA, MO, MI, WI, IL, IN, OH, and KY. Supporting shipper: There are 14 supporting shippers.

MC 153191 (Sub-4–1TA), filed December 15, 1980. Applicant: SANTERRE SERVICE, INC., P.O. Box 6174, Duluth, MN 55807. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Malt beverages* from Milwaukee, WI to the facilities of Ribbon Distributing Company and Rolhfing Distributing Company at Duluth, MN, Starkovich Distributing Company at Virginia, MN, and Mahnich Distributing Company at Eveleth, MN. There are four supporting shippers.

MC 152412 (Sub-4–2TA), filed December 15, 1980. Applicant: VAN EERDEN TRUCKING COMPANY, INC., 1150 Freeman, S.W., Grand Rapids, MI 49503. Representative: J. Michael Smith, 465 Old Kent Building, Grand Rapids, MI 49503. *Apple juice, apple cider, vinegar and apple products* between points in the U.S., under the continuing contract with Indian Summer, Inc., Belding and Coloma, MI. Supporting shipper: Indian Summer, Inc., Belding & Coloma, MI.

MC 145359 (Sub-4–3TA), filed December 16, 1980. Applicant: THEROMO TRANSPORT, INC. P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Drugs, medicines, toilet preparations and chemicals* from the facilities of Miles Laboratories, Inc. at Elkhart, IN, and Dayton, OH, to Los Angeles, and San Francisco, CA, Portland, OR, Seattle, Spokane, and Yakima, WA. Supporting shipper: Miles Laboratories, Inc., Elkhart, IN 46514. An underlying ETA seeks 120 days authority.

MC 134979 (Sub-4–2TA), filed December 16, 1980. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract;* irregular: *Nonexempt food or kindred products,* from points in CA, OR and WA, to the facilities of Gentle Sky Cooperative Foods at Minneapolis, MN. Under contract(s) with Gentle Sky Cooperative Foods. Supporting shipper: Gentle Sky Cooperative Foods, 510 Kasota Avenue, Minneapolis, MN 55414. An underlying ETA seeks 120 days authority.

MC 153194 (Sub-4–1TA), filed December 17, 1980. Applicant: BETTER-BRITE TRUCKING, INC., 511 Lande Street, DePere, WI 54115. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract; irregular; general commodities* between points and places in the U.S. except AK and HI under contract to Better-Brite Plating, Inc. and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Better-Brite Plating, Inc., 511 Lande Street, DePere, WI 54115.

MC 142305 (Sub-4–2TA), filed December 16, 1980. Applicant: WISCONSIN EXPRESS LINES, INC., Route 2, Green Bay, WI 54301. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract, irregular: Foodstuffs,* between the facilities of Detroit City, Dairy, Inc., on the one hand, and, on the other, points in IL, IA, MN, MO, NJ, NY, PA, and WI, under continuing contracts with Detroit City Dairy, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Detroit City Dairy, Inc., 15004 Third Avenue, Highland Park, MI 48203.

MC 123194 (Sub-4–4TA), filed December 16, 1980. Applicant: ENTERPRISE TRUCK LINES, INC., 1336 W. 15th Ave., Gary, IN 46406. Representative: Anthony E. Young, 29 S. La Salle St., Chicago, IL 60603. *Such commodities as are used or dealt in by wholesale, retail and chain grocery and food business houses* between points in IL, IN and MI. An underlying ETA seeks 120 days authority. There are seven (7) supporting shippers.

MC 153190 (Sub-4–1TA), filed December 17, 1980. Applicant: C. & O. TRANSFER, INC., 2120 Prairieton Road, Terre Haute, IN 47802. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. (1) *Glass containers,* from Vigo County, IN; Houston County, GA; Okmulge County, OK; Monmouth County, NJ; and Scott County, MN. to all points in the U.S.; and (2) *Materials, equipment and supplies* used in the manufacture, sale and distribution of glass containers, in the reverse direction. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721.

MC 153192 (Sub-4–1), filed December 17, 1980. Applicant: ORVIN HELGESON d.b.a. HELGESON TRUCKING, 814 19th Street South, Fargo, ND 58103. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Contract,* irregular: *Chemicals, (except in bulk),* between points in the United States for the account of Stein Chemical Company, Interstate Seed Corp., and Thermo-Pak Manufacturing, Inc., An underlying ETA seeks 120 days authority. Supporting shipper(s): Stein Chemical Company, 3001 17th Street South, Moorhead, MN 56560; Thermo-Pak Manfacturing, Inc., 5900 7th Ave. North, Box 1496, Fargo, ND 58107; and Interstate Seed Corp., 417 Main, Box 470, Fargo, ND 58107.

MC 135052 (Sub-10TA), filed December 15, 1980. Applicant: ASHCRAFT TRUCKING INC., 875 Webster Street, Shelbyville, 46176. Representative: Warren C. Moberly 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204 *Expanded plastic articles, and materials and supplies used in the manufacture and distribution of same,* except commodities in bulk, and *(2) Furniture parts (more specifically, metal bed springs),* [1] commodities in (1) above between points in Johnson County, IN; Franklin County, OH; and New Castle County, DE, on the one hand, and, on the other, points in and east of TX, OK, KS, NE, SD and ND. [2] Commidities in (2) above between points in Grayson and Scott Counties, KY, on the one hand, and, on the other, points in and east of TX, OK, KS, NE, SD and ND.

MC 142310 (Sub-4–6TA), filed December 15, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 *Foundry products, and (2) materials, equipment, and supplies uses in the manufacture and distribution of foundry products* between Marinette and Waupaca, WI, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Waupaca Foundry, Inc., subsidiary of the Budd Co. Tower Rd., P.O. Box 249, Waupaca, WI 54981

MC 145437 (Sub-4–11TA), filed December 15, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 *Ready made garments and wearing apparel* between Chicago, IL and its commercial zone, OTOH, and, OTO, to points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shippers: Carson, Pirie, Scott & Company, 1 S. State St., Chicago, IL 60603; Chas. A. Stevens & Co., 7001

Commonwealth Dr., LaGrange, IL 60525; Marshall Field & Company, 4000 W. Diversey St., Chicago, IL 60639; and Evans, Inc., 4180 W. Madison St., Hillside, IL 60162.

MC 152981 (Sub-4-1TA), filed December 15, 1980. Applicant: ERIC LOMEN, d.b.a. LOMEN AUTO TRANSPORT R.R. 1, Zumbrota, MN 55992. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Used motor vehicles,* between points in IL, MN, WI, IN, ND, SD, IA and NE. Supporting shippers: Kuehn Motor Co., 1210 6th Street, NW., Rochester, MN 55901; L. B. Sales, Inc., 4000 Highway 61, White Bear Lake, MN 55110.

MC 151507 (Sub-4-4 TA), filed December 15, 1980. Applicant: J. LAKES TRUCKING, INC., 2957 S. E. St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Textiles and cotton goods and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk)* between Hamilton, Cincinnati, and St. Marys, OH, on the one hand, and, on the other, pts. in AL, GA, NC, and SC. Supporting shipper: Leshner Corp., 1010 Eaton Avenue, Hamilton, OH 45013.

MC 126111 (Sub-4-4 TA), filed December 15, 1980. Applicant: SCHAETZEL TRUCKING COMPANY, INC., 520 Sullivan Dr., Fond du Lac, WI 54935. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract, irregular: Such commodities as are dealt in or used by a manufacturer or distributor of dairy products between points in the United States (except AK and HI).* An underlying ETA seeks 120 days authority. Supporting shipper: Galloway-West Company, a Division of Borden Company, Inc., P.O. Box 987, Fond du Lac, WI. 54935.

MC 109465 (Sub-4-1 TA), filed November 25, 1980. Applicant: GREAT LAKES TERMINAL & TRANSPORT CORPORATION, 1750 N. Kingsbury St., Chicago, IL 60614. Representative: William M. Popadich (same as applicant). *Contract, irregular: Equipment, materials and supplies used or useful in the manufacture, sale or distribution of plastic and/or reinforced plastic materials. Such commodities as are manufactured or distributed by manufactureres and distributors of plastic and/or reinforced plastic materials* between South Bend, IN and points in the U.S. Restricted to traffic moving under continuing contract with Interplastics Corporations; Molding Products Division. Supporting shipper: Molding Products Division, 1545 S. Olive, South Bend, IN 46619. An underlying ETA seeks 120 days authority.

MC 147243 (Sub-4-1 TA), filed November 28, 1980. Applicant: SEYMOUR & SOUTHERN INC., Route 2, Box 267, Seymour, WI 54165. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract,* irregular; *Cheese and cheese products and materials, equipment and supplies* used in the manufacture and distribution of such comodities between Merrill, WI, and points in CT, IL, NJ and NY. Restriction: Restricted to transportation performed under a continuing contract(s) with InoFood Corp. An underlying ETA seeks 120 days authority. Supporting shipper: InoFood Corp., Route 5, Merrill, WI 54452.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 2392 (Sub-5-8TA), filed November 17, 1980. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248 West Omaha Station, Omaha, NE 68124 Representative: Keith D. Wheeler, P.O. Box 14248 West Omaha Station, Omaha, NE 68124. *Phosphatic fertilizer solution (Phos Acid) liquid, in bulk,* in tank vehicles. Between IL (Chicago Heights) IA (Sioux City), NE (Optic). Supporting shipper: Nutra Flo Chemical Company, 1919 Grand Avenue, Sioux City, IA 51107.

MC 29910 (Sub-5-66TA), filed November 17, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Enka, NC and Siloam Springs, AR, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Brand-Rex Company, P.O. Box 2000, Enka, NC 28728.

MC 30059 (Sub-5-2TA), filed November 17, 1980. Applicant: PRENTICE TRUCK LINE, INC., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common regular; *general Commodities, with the usual exceptions,* (1) between Ft. Smith, AR and Jackson, MS, serving all intermediate points in Louisiana, from Ft. Smith over U.S. Hwy 71 to Shreveport, LA, then over Int. Hwy 20 (also U.S. Hwy 80) to Jackson and return over the same route; (2) between Ft. Smith, AR and Houston, TX, serving all intermediate points in Texas, from Ft. Smith over U.S. Hwy 59 to Houston and return over the same route; (3) between Houston, TX and New Orleans, LA, serving all intermediate points, from Houston over Int. Hwy 10 to New Orleans and return over the same route; (4) between Shreveport and Baton Rouge, LA, serving all intermediate points, from Shreveport over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge and return over the same route; and, (5) between Ft. Smith, AR and Dallas, TX, serving all intermediate points in Texas, from Ft. Smith over U.S. Hwy 71 to junction Int. Hwy 30, then over Int. Hwy 30 to Dallas and return over the same route; (6) between Shreveport, LA and Dallas, TX, serving all intermediate points, from Shreveport over Int. Hwy 20 to Dallas and return over the same route; and (7) between Shreveport, LA and Lake Charles, LA, serving all intermediate points, from Shreveport over U.S. Hwy 171 to Lake Charles and return over the same route; RESTRICTED in Routes (1) through (7) against providing service on traffic moving between points in Texas. Applicant intends to tack this authority with existing authority and interline with other carriers. Supporting shippers: 25.

MC 30844 (Sub-5-38TA), filed November 17, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Kitchen cabinets, vanities, shelf units and materials, equipment and supplies used in the production of described commodities;* between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Triangle Pacific Corp. Supporting shipper: Triangle Pacific Corp., 16803 Dallas Parkway, Dallas, TX 75248.

MC 30844 (Sub-5-39TA), filed November 17, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. *Food additives or flavoring compounds* between Winsted, CT, on the one hand, and, on the other, all points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Stange Co.-Keratene Div. Supporting shipper: Stange Co.-Keratene Div., Fruit St., Winsted, CT 06098.

MC 107496 (Sub-5-39TA), filed November 17, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Isopropyl alcohol,* between Chicago, IL and Waunakee, WI. Supporting shipper: Scientific Protein Labs, Inc., 700 E. Main St., Waunakee, WI 53597.

MC 113362 (Sub-5-18TA), filed November 17, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Meats and meat products (except hides and in bulk),* from Palestine, TX to points in the United States in and east of ND, SD, NE, KS, OK, and LA. Supporting shipper: Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801.

MC 117765 (Sub 5-19), filed November 17, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan, (same as applicant). *Particle board,* from Evanston (Spencer County), IN to AR and OK. Supporting shipper: Cobb Wood Products, 1815 Progress Way, Clarksville, IN 47130.

MC 117815 (Sub-5-6TA), filed November 17, 1980. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Cleaning compounds, laundry products and cleaning utensils,* from the facilities of the Drackett Products Company located at (1) Franklin, KY and Urbana, OH and points in their commercial zones to Chicago, IL, Dallas, TX, Memphis, TN, Kansas City, KS, Minneapolis, MN, Peoria, IL and St. Louis, MO and points in their commercial zones; (2) Franklin, KY and points in its commercial zone to Urbana, OH and points in its commercial zone; and (3) Chicago, IL and points in its commercial zone to Dallas, TX, Memphis, TN and Urbana, OH and points in their commercial zones. Supporing shipper: The Drackett Products Co., Cincinnati, OH.

MC 119399 (Sub-5-33), filed November 17, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Unfinished copper rod, copper cathode, and copper bars* from Pinal County, AZ to points in TX. Supporting shipper: Magma Copper Company, subsidiary of Newmont Mining Corporation, San Manuel and Superior, AZ.

MC 119399 (Sub-5-34), filed November 17, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). (1) *Plastic insulated copper wire, NOI* from the facilities of Brand-Rex Company located in Buncombe County, NC to points in the U.S., (2) *Materials, supplies and equipment used in the production, manufacture and distribution of commodities named in (1) above* from points in the U.S. to the facilities of Brand-Rex Company located in Buncombe County, NC and Benton County, AR. Supporting shipper: Brand-Rex Company, Enka, NC.

MC 119741 (Sub-5-25), filed November 17, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Automotive or agricultural implement parts and home improvement items,* between Des Moines, IA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Emco Industries, Inc., P.O. Box 853, Des Moines, IA 50304.

MC 119741 (Sub-5-26), filed November 17, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Canned goods and frozen foodstuffs,* from Lyndonville and Brockport, NY to points in IL, IN, KY, MI, MO, OK, and WI. Supporting shippers: Lyndonville Canning Company, 151 West Avenue, Lyndonville, NY and Brockport Cold Storage Co., Inc., 98 Spring St., P.O. Box C, Brockport, NY 14420.

MC 119908(Sub-5-1TA), filed November 17, 1980. Applicant: WESTERN LINES, INC., 3523 N. McCarty—P.O. Box 1145, Houston, TX 77001. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459. *Iron and steel articles; pipe and allied products; machinery and supplies* between Orleans Parish, LA, Jefferson Parish, LA, Jefferson County, AL, and Mobile County, AL, on the one hand, and, on the other, all points in the states of AL, AR, FL, GA, LA, MS, TN and TX. Supporting shippers: R & T Steel Company, 3148 Cobblestone Drive, Birmingham, AL 35215. Quast & Co., Inc., 300 Poydras Street, New Orleans, LA 70130. Avondale Steel, 4000 Peters Road, Harvey, LA 70059.

MC 124988, (Sub-5-1TA), filed November 17, 1980. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract;* irregular: (1) *Paint* and *paint products, in vehicles equipped with mechanical refrigeration,* from Delaware, OH and Oak Creek, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY; and (2) *Chemicals (except in bulk),* from Lake Charles, LA; Akron, Barberton, Cleveland, and Delaware, OH, La Porte, TX, and Natrium, WV, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, under continuing contract(s) with PPG Industries, Inc. of Pittsburgh, PA. Supporting shipper: PPG Industries, Inc., Pittsburgh, PA 15222.

MC 126118 (Sub-5-38TA), filed November 17, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in and used by manufacturers and distributors of electronics equipment,* between Greeneville and Jefferson City, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Magnavox Consumer Electronics Co., R. H. Coyne, Field Traffic Manager, P.O. Box 479, Greeneville, TN 37743.

MC 128544 (Sub-5-1), filed November 17, 1980. Applicant: IOWA STEEL EXPRESS, INC., 1600 Avenue N.W., P.O. Box 1304, Cedar Rapids, IA 52406. Representative: Richard P. Moore, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, IA 52406. *Iron and steel articles* from Chicago, IL and points within its commercial zone to points in CO. Supporting shippers: Servaloy, Inc., 7290 Samual Drive, Denver, CO 80221; Warrington Company, 2700 Youngfield, Suite 102, Lakewood, CO 80215; Midwest Steel & Iron Works Co., Box 5384, Denver, CO 80217; and Explosives Fabricators, Inc., 1301 Courtesy Road, Louisville, CO 80027.

MC 129908 (Sub-5-37TA), filed November 17, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73146. *Furniture and fixtures* between GA and NC on the one hand, and on the other Oklahoma City, OK. Supporting shipper: Mathis Bros. Furniture, Inc., 3434 W. Reno, Oklahoma City, OK 73108.

MC 133591 (Sub-5-6TA), filed November 17, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. *Foodstuffs not requiring refrigeration and materials, equipment and supplies used in manufacture, distribution and sale thereof (except commodities in bulk)* between points in the commercial zones of Springfield, MO and Cincinnati, OH. Supporting shipper: Keebler Company, One Hollow Tree Lane, Elmhurst, IL 60128.

MC 134783 (Sub-5–2TA), filed November 17, 1980. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs (except in bulk)* from the facilities of Skyland Food Corporation at or near Delta, CO to points in NM, OK, and TX. Supporting shipper: Skyland Food Corporation, 9th & Dodge Streets, Delta, CO 81416.

MC 136786 (Sub-5–39TA), filed November 17, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Foodstuffs,* between Lee County, IL on the one hand, and, on the other, Mobile County, AL; Maricopa County, AZ; Denver County, CO; Hinds County, MS; Bernalillo County, NM; and points in IA, KS, MD, MA, MO, NJ, NY, and PA. Supporting shipper: Purity Mills, Division of Stokely-Van Camp, Inc., P.O. Box 1083, Indianapolis, IN 46206.

MC 136786 (Sub-5–40TA), filed November 17, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Polyethylene bags, film products, plastic granules, and materials, equipment and supplies used in the manufacture thereof,* between Hennepin County, MN, and Denver County, CO, on the one hand, and, on the other, points in the U.S.. Supporting shipper: Poly-Tech Company, a division of U.S. Industries, 1401 W. 94th Street, Minneapolis, MN 55440.

MC 136786 (Sub-5–41TA), filed November 17, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Newsprint,* between Clatsop County, OR, and Clallam County, WA, on the one hand, and, on the other, Denver County, CO. Supporting shipper: Crown Zellerbach Corporation, 1500 SW First Avenue, Portland, OR, 97201.

MC 138627 (Sub-5–7TA), filed November 17, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Masonry products,* from points in OH to points in IA. Supporting shipper: Sioux City Brick and Tile Company, P.O. Box 807, 222 Commerce Building, Sioux City, IA 51106.

MC 143701 (Sub-5–6TA), filed November 17, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Foodstuffs* between points and places in the U.S., restricted to traffic originating at or destined to points of suppliers and/or shippers that are customers of Consolidated Marketing, Inc. Supporting shipper: Consolidated Marketing, Inc., 340 Interstate N. Suite 430, Atlanta, GA 30339.

MC 143701 (Sub-5–7TA), filed November 17, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. (1) *Foodstuffs and supplies and materials used in the manufacture thereof; and* (2) *Supplies and materials necessary in the manufacture and distribution thereof,* (1) From the facilities of Rodriguez Festive Foods, Fort Worth, TX, to all points in the U.S.; and (2) From all points in the U.S. to the facilities of Rodriguez Festive Foods, Fort Worth, TX. Supporting shipper(s): Rodriguez Festive Foods, 500 East Central, Fort Worth, TX 76106.

MC 150809 (Sub-5–2TA), filed November 17, 1980. Applicant: CENTURY CONCRETE CO., Highway 38 North, Monticello, IA 52310. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract,* Irregular, *cement, dry, in bulk,* from Rock Island, IL, and Buffalo, IA, to Galena, Stockton and Warren, IL, Dubuque and Epworth, IA, under contracts with Flynn Ready Mix Inc., Epworth, IA, and Flynn Ready Mix Concrete Co., Dubuque, IA. Supporting shippers: Flynn Ready Mix Inc., Epworth, IA 52045. Flynn Ready Mix Concrete Co., Dubuque, IA 52001.

MC 151383 (Sub-5–2TA), filed November 17, 1980. Applicant: NICKELL TRUCKING CO., 4901 West 51st St., Tulsa, Oklahoma 74107. Representative: Fred Rahal, Jr., Rahal & Anderson, a professional corporation, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, Oklahoma 74103. *Contract;* Irregular; *(A) Light poles, traffic signals, electrical substations, and iron and steel articles; (2) materials, equipment and supplies used in the production and distribution of the commodities named in part (1) above* between the facilities of Jem Engineering and Manufacturing Company, Inc. at Tulsa, OK, on the one hand, and, on the other, points in IN, PA, IL, OH, TX, KS, NB, WY, MO, GA, TN, AR, LA, NM, CO, ND, SD, KY, AL, and MS, under continuing contract(s) with Jem Engineering and Manufacturing Company, Inc. *(B) Machinery, pipe, iron and steel articles; (2) materials, equipment and supplies used in the production and distribution of the commodities named in part (1) above* between the facilities of Phennix & Scisson, Inc. at Tulsa, OK, on the one hand, and, on the other, points in CA, AZ, NM, TX, OK, MO, IN, IL, PA, OH, NC, SC, and LA, under continuing contract(s) with Phennix & Scisson, Inc. *(C) Overhead cranes and commodities the transportation of which by reason of size or weight, requires the use of special equipment; (2) materials, equipment and supplies used in the production and distribution of the commodities named in part (1) above* between the facilities of Gaffey, Inc. at Tulsa, OK and Conroe (Houston area) TX, on the one hand, and, on the other, points in MI, OK, TX, LA, MD, WV, PA, OH, IL, IN, and MO, under continuing contract(s) with Gaffey, Inc. Jem Engineering and Manufacturing Company, P.O. Box 9160, 908 W. 41st Street, Tulsa, OK 74102; Phennix & Scisson, Inc., 1401 S. Boulder, Tulsa, OK 74119; Gaffey, Inc., 6951 E. 12th, Tulsa, OK 74112.

MC 152151 (Sub-5–2TA), filed November 17, 1980. Applicant: UNITED PETROLEUM TRANSPORTS, INC., 4312 S. Georgia Place, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248, Classen Terrace bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Petroleum and Petroleum Products,* between points in OK, on the one hand, and, on the other, points in KS. Supporting shipper: A La Carte Petroleum Brokers, Inc., 5513 S. Lewis, Tulsa, OK 74105.

MC 152437 (Sub-5–1TA), filed November 17, 1980. Applicant: JAMES F. CHESHIER d.b.a. J & S TRANSFER, 8121 Lydia, Kansas City, MO 64131. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Contract;* Irregular; *Apparel, or other finished textile products or knit apparel, as specified in STCC #23; leather or leather products, as specified in STCC #31, such materials and supplies used in the* *manufacture, sale and distribution of such products* between points in AR, IA, OK, KS, MO and NE. Supporting shipper: Mode O'Day Company, 3827 Topping, Kansas City, Missouri 64129.

MC 152151 (Sub-5-2TA), filed November 17, 1980. Applicant: UNITED PETROLEUM TRANSPORTS, INC., 4312 S. Georgia Place, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Petroleum and Petroleum Products,* between points in OK, on the one hand, and, on the other, points in KS. Supporting shipper: A La Carte Petroleum Brokers, Inc., 5513 S. Lewis, Tulsa, OK 74105.

MC 152444 (Sub-5-2TA), filed November 11, 1980. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy. No. 36 and 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Anhydrous ammonia, liquid fertilizer and dry fertilizer* from Union County, IA to all points in MO. Supporting shipper: Sur-Gro Plant Food Co., Inc., Plattsburg, MO 64477.

MC 152444 (Sub-5-3TA), filed November 17, 1980. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy. No. 36 and 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Anhydrous ammonia, liquid fertilizer and dry fertilizer* from Douglas County, KS to points in AR, IA, MO and NE. Supporting shipper: MFA Incorporated, 201 South Seventh Street, Columbia, MO 65201.

MC 152453 (Sub-5-1TA), filed November 17, 1980. Applicant: VERNON A. RAINSBURG d.b.a. BELL SERVICES, INC., 5812 Colorado, Kansas City, MO 64130. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Electrical machinery or equipment and the materials, equipment (rail STCC 36) and supplies used in the installation or removal thereof* between points in Kansas City, MO commercial zone, and points in Andrew, Atchison, Bates, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Jackson, Johnson, Lafayette, Linn, Livingston, Mercer, Nodaway, Pettis, Platte, Ray, Saline, Worth, counties in MO and Johnson, Leavenworth, Douglas, and Shawnee, counties in KS. Supporting shipper: Western Electric Company, Inc., 1111 Woods Mill Rd., Ballwin, MO 63011.

MC 152674 (Sub-5-1TA), filed November 11, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter, (same address as applicant). *Lawn mowers, garden tractors, chain saws, and parts and accessories for the above,* between the State of OK, on the one hand, and on the other, points in the States of: AR, CO, CT, GA, IL, KS, OR, TN, and TX. Supporting shipper: Rasor-West Distributing Co., Inc., P.O. Box 790, Miami, OK 74354.

MC 152675 (Sub-5-1TA), filed November 17, 1980. Applicant: TOM WINGERT, d.b.a. WINGERT ENTERPRISES, Route 2, Box 151, Golden City, MO 64748. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Paper, Paper Products, and Materials and Supplies Utilized in the Manufacture and Distribution of Paper and Paper Products (except in bulk),* between the facilities of International Paper Company at or near Pittsburg, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: International Paper Company, 220 East 42nd Street, New York, NY 10017.

MC 152676 (Sub-5-1TA), filed November 17, 1980. Applicant: BILLY O. HONEYCUTT, d.b.a. HONEYCUTT MOVING & STORAGE, 404 Neal Street, Jacksonville, AR 72076. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Used household goods for the account of the United States Government pursuant to a pack-and-crate service on behalf of the Department of Defense,* between points in Pulaski, Lonoke, Perry, Saline, Garland, Hot Springs, Grant, Jefferson, Arkansas, Prairie, White, Faulkner, Conway, Clebourne, Van Buren, Independence, Stone, Izard, Sharp, Fulton, Baxter, Marion, and Searcy Counties, AR, having a prior or subsequent movement in interstate commerce. Supporting shipper: USAF, Little Rock Air Force Base, Headquarters 314 Tactical Airlift Wing (MAC), Jacksonville, Little Rock Air Force Base, AR 72076.

MC 105566 (Sub-5-17TA), filed December 15, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Textiles and textile products, and materials, equipment and supplies used in the manufacture and distribution of such products,* between points in the U.S., restricted to the transportation of traffic moving from or to facilities of Union Underwear Company, Inc. of Bowling Green, KY. Supporting shipper: Union Underwear Company, Inc., P.O. Box 780, Bowling Green, KY 42101.

MC 107496 (Sub-5-45TA), filed December 15, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Ink and ink ingredients, in bulk,* between Hickory, NC and Lynchburg, VA. Supporting shipper: Meredith Corporation, 1716 Locust Street, Des Moines, IA.

MC 112713 (Sub-5-24TA), filed December 15, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. Common; Regular. *General commodites (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment),* serving Hopkinsville, KY, as an off-route point in connection with applicant's otherwise authorized operations. Applicant intends to tack and interline. Supporting shipper: Faultless Division, Bliss & Laughlin Industries, Evansville, IN 47711; Ebonite Corp., Hopkinsville, KY 42204; Thomas Industries, Inc., 1700 Gilbert St., Hopkinsville, KY 42240; Pellon Kentucky Corp., P.O. Box 953, Hopkinsville, KY 42240.

MC 113908 (Sub-5-27TA), filed December 15, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant) *(Pet food flavorings or enhancers), non-exempt farm products; non-exempt food or kindred products; chemicals or allied products; general commodities (except household goods as defined by the commission and classes A & B explosives)* Between (Waldron), Scott County, AR, on the one hand, and, on the other, (Muscatine), Muscatine County, IA. Supporting shipper: Bioproducts, Inc., P.O. Box 807, Waldron, AR 72958.

MC 114274 (Sub-5-8TA), filed December 15, 1980. Applicant: VITALIS TRUCK LINES, INC., P.O. Box 1703, 137 N.E. 48th St. Pl., Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Suite 3520, Chicago, 60601, Phone 312-332-5106. *Carbonated and Noncarbonated Beverages and Packaging Materials.* From the facilities used by Mid-Continet Bottlers, Inc. at Cedar Rapids and Des Moines, IA., Flint, MI., Kansas City and St. Louis, MO., and Omaha, NE. to points in IA and SD. Supporting shipper: Mid-Continet Bottlers, Inc., 1679 N.E. 51st Ave., Des Moines, IA 50304.

MC 118142 (Sub-5-6TA), filed December 15, 1980. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, 67202. *Foodstuffs and such commodities as are dealt in by wholesale and retail food chain and grocery business houses,* between all points in the U.S. Supporting shipper(s): Seabrook Foods, Incorporated, 4974 East Clinton Way, Fresno, CA 93727.

MC 119741 (Sub-5-27TA), filed December 15, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant). *Mobile home interior furnishings,* from Grand Prairie, TX; Pine Bluff, AR; and Memphis, TN to Newton, KS. Supporting shipper: Spencer Industries, Inc., Southwest Industrial Park, Newton, KS 67114.

MC 119741 (Sub-5-28TA), filed December 15, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant). *Pretzels* from Reading, PA to Terre Haute, IN. Supporting shipper: The Snacktime Company, Chesty Division, P.O. Box 177, Terre Haute, IN 47808.

MC 124109 (Sub-5-2TA), filed-December 15, 1980. Applicant: B.F.C. TRANSPORTATION, INC., P.O. Box 985, Cedar Rapids, IA 52406. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Materials, equipment and supplies used by processors of grain products and popcorn,* between Wall Lake and Cedar Rapids, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under contract with National Oats Company, Inc. Supporting shipper: National Oats Company, Inc., 1515 H Avenue, N.E., Cedar Rapids, IA 52402.

MC 128822 (Sub-5-39TA), filed December 15, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Building materials and supplies* between Tarrant County, TX on the one hand, and points in the U.S. on the other, restricted to the transportation of shipments to, from, or between the facilities of Overhead Door Company. Supporting shipper: Overhead Door Company, Flush Door Division, 3131 West Bolt Street, Fort Worth, TX 76110.

MC 129908 (Sub-5-39TA), filed December 15, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73147. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. *Primary metal products and fabricated metal products* between Payne County, OK on the one hand and on the other points in the states of AL, GA, IL, IN, KY, MI, MS, NC, OH, PA, SC, TN, VA, WI, and WV. Supporting shipper: National Standard Company, Shipping Manager, Stillwater, OK.

MC 134286 (Sub-5-16TA), filed December 15, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Kenneth L. Ackerman (same address as above). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk).* Between points in the U.S. (except AK and HI). Restricted to (1) transportation originating at or destined to the facilities utilized by either the Northeastern Pennsylvania Shipper's Co-Op Association, Inc., or of its members; (2) to shipments moving on shipper's association bills of lading. Supporting shipper: Northeastern Pennsylvania Shipper's Co-Op Associations, Inc., Nelson Building, W. Eighth Street, West Wyoming, PA 18644.

MC 134755 (Sub-5-14TA), filed December 15, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *General Commodities (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment),* between the facilities of Co-Operative Shippers, Inc. and it's members in Philadelphia County, Pa., on the one hand, and points in the U.S. Supporting shipper: Co-Operative Shippers, Inc., 4219 Richmond Street, Philadelphia, PA 19137.

MC 134755 (Sub-5-15TA), filed December 15, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *(20) Nonexempt food or kindred products,* between HO, on the one hand, and points in the U.S. on the other. Supporting shipper: Beatrice Frozen Specialties, P.O. Box 180, Archbold, OH 43502.

MC 135283 (Sub-5-8TA), filed December 15, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Malt beverages (except in bulk)* from Peoria Heights, IL; Milwaukee, WI and St. Paul, MN, and points in their respective commercial zones, to Norfolk and Wayne, NE, and points in their repective commercial zones. Supporting shippers: Wayne Distribution, Inc., Box 494, Wayne, NE 68787 and Jim Pile & Sons Beer Distribution, P.O. Box 1243, Norfolk, NE 68701.

MC 140665 (Sub-5-51TA), filed December 15, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *Foodstuffs, and such commodities as are dealt in by the manufacturers and distributors of foodstuffs,* between Evansville, IN; Mt. Vernon, IN; and Springfield, MO; on the one hand, and, on the other, points in CA, CO, FL, GA, IL, IA, MA, MI, MN, MS, MO, NJ, NY, NC, OR, PA, TN, TX, WA and WI. Supporting shipper: Mid America Dairymen, Inc., P.O. Box 1837-SSS, Springfield, MO 65805.

MC 140665 (Sub-5-52), filed December 15, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *General Commodities (except articles of unusual value, Classes A and B Explosives, Household Goods as defined by the Commission, commodities in bulk, and articles requiring special equipment,* between the facilities of Gateway Shippers Association, Inc. and/or its members at or near Dallas, Tyler, Ft. Worth and Houston, TX, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Gateway Shippers Association, Inc., 2300 Canton Street, P.O. Box 57087, Dallas, TX 75207.

MC 147388 (Sub-5-6), filed December 15, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., R.R.1, P.O. Box 49, St. Libory, NE 68872. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Housewares (except in bulk); and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities listed in (1) above (except in bulk),* between the facilities of The Deshler Broom Factory, Inc., at or near Deshler, NE, on the one hand, and, on the other, points in the U.S. Supporting shipper: The Deshler Broom Factory, Inc., P.O. Box 220, Deshler, NE 68340.

MC 147969 (Sub-5-4TA), filed December 15, 1980. Applicant: JOE S. BOWEN, INC., Highway 264 East, P.O. Box 272, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Articles dealt in or used by discount stores or grocery stores,* from all points and places in the United States (except AK and HI) to facilities of Wal-Mart. Supporting shipper: Wal-Mart, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 149026 (Sub-5-16TA), filed December 15, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Fiberglas products; plastic; insulation and products thereof, and materials, equipment and supplies used in the manufacture, assembly and distribution of items named above,* between San Antonio, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shippers: Pamrod, Inc., P.O. Box 335, McQueeney, TX 78123; Standard Industries, P.O. Box 27500, San Antonio, TX 78227.

MC 149026 (Sub-5-17TA), filed December 15, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Such commodities as are dealt in or used by wholesale, retail or chain department stores (except in bulk),* (1) between points in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN, and TX, and (2) between points in the United States (except AK and HI) on the one hand, and, on the other, points in (1) above. Supporting shipper: Wal-Mart Stores, Inc., 706 S.W. 8th Street, Bentonville, AR 72712.

MC 149026 (Sub-5-18TA), filed December 15, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *(1) Foodstuffs (except in bulk), (2) such commodities as are dealt in by wholesale, retail and chain grocery and food business houses; and (3) equipment, materials and supplies used in the manufacture and distribution of commodities named in (1) and (2) above (except in bulk),* between San Antonio, Dallas, Laredo, and Houston, TX; Chicago and Dixon, IL; Cincinnati, OH and St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shippers: Liberto Specialty Co., 830 So. Presa, San Antonio, TX 72810; Picante, Inc., P.O. Box 12636, San Antonio, TX 78212.

MC 149306 (Sub-5-1TA), filed December 15, 1980. Applicant: JOSEPH C. KOCHANSKI, d.b.a. MIKE'S TRANSFER, 9229 Saddlebrook, St. Louis, MO 63126. Representative: Joseph C. Kochanski, 9229 Saddlebrook, St. Louis, MO 63126. Contract: Irregular. *Hardware and related items,* between a hardware cooperative central warehouse in St. Louis, MO, on the one hand, and, on the other, its dealer-members located in the states of MO, IL, IN, TN, KS, KY, OK, AR, and IA. Supporting shipper: General Mercantile and Hardware, Inc., 3965 Park Ave., St. Louis, MO 63110.

MC 150800 (Sub-5-2TA), filed December 15, 1980. Applicant: BAY'S TEXACO SERVICE & SUPPLY, INC., 116 E. Osage Street, Pacific, MO 63069. Representative: Same as applicant. *Hardboard, Particleboard, and materials and supplies used in manufacturing of Hardboard.* From: All Points in MO. To all Points in: AL, OH, PA, NC, TX, OK, IN, WV, SC, WI, KS, NE, and GA. (Materials and Supplies used in the manufacturing and distribution of one of the above on the return trip.) Supporting shipper: Japco Manufacturing Company, 11534 Adie Road, Maryland Heights, MO 63143.

MC 151116 (Sub-5-7TA), filed December 15, 1980. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. (1) *Gas cooking appliances and equipment, and steel cylinders for storage of air, gas or liquid under pressure, and parts, accessories and fittings therefor;* and (2) *equipment, materials and supplies used in the manufacture, sale assembly and distribution of commodities described in (1) above (except commodities in bulk and those requiring special equipment),* between the facilities of Arkla Industries, Inc., Paragould, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Arkla Industries, Inc., Paragould, AR 72450.

MC 152674 (Sub-5-3TA), filed December 15, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter (same address as applicant). *Automobile parts and accessories, new and used; scrap iron and steel; and machinery,* between the states of OH and OK, on the one hand, and, on the other, points in the U.S. (except AK, OH, OK and HI). Supporting shipper: SAJAC Company, Inc., Route 2, Box 176-1, Miami, OK 74354.

MC 152665 (Sub-5-1TA), filed December 15, 1980. Applicant: SHOW-ME AGRI COMMODITIES, INC., Washington & Ohio Sts., Clinton, MO 64735. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Fertilizer, feed, feed ingredients, seed and such commodities as are dealt in by companies manufacturing and distributing animal feed,* between points in the states of MO, AR, OK, KY, TN, TX, KS, NE, IA, and IL. Supporting shippers: L&N Feed Mill, Green Forest, AR 72638; Quinton Feeds, Rt. 1, Prairie Grove, AR 72753; and Sloan Seed Co., P.O. Box 12, Windsor, MO.

MC 153163 (Sub-5-1TA), filed December 15, 1980. Applicant: HOWARD DAVID SCROGGINS, Rt. 4, Box 158-A, Joplin, MO 64801. Representative: Same as applicant. *Passengers and their baggage in special and charter operations in round trip pleasure tours,* beginning and ending at points in Jasper County, MO; Ottawa, Rogers, Wagoner, Tulsa, Creek, Osage, and Garfield Counties in OK. Supporting shippers: There are 24.

MC 200 (Sub-5-74TA), filed December 17, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *General commodities (except household goods as defined by the Commission, and classes A and B explosives),* between Sangamon County, IL on the one hand, and, on the other, points in the U.S. Supporting shipper: Borden Chemical Division of Borden, Inc., 180 E. Broad St., Columbus, OH 43215.

MC 106398 (Sub-5-52TA), filed December 16, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Wood and wood products, Metal and metal products, Plastic and plastic products, Stone and stone products, Glass and glass products.* Between points in Iredell County, NC and Sussex County, VA, on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Kewaunee Scientific Equipment Corporation, P.O. Box 5400, Statesville, NC 28677.

MC 106398 (Sub-5-53TA), filed December 16, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, Director of Traffic (same address as applicant). *Lumber and Lumber Mill Products.* Between points in OK, AR, MS, AL, GA, SC, SD, MN, IA, MO, WI, IL, MI, OH, KY, IN, PA, MD, NJ and MA. Supporting shipper: Schlaberg Lumber Company, 1830 North Grant River, Lansing, MI 48901.

MC 107678 (Sub-5-3TA), filed December 16, 1980. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown, P.O. Box 9698, Houston, TX 77015. (1) *Glass*, from the facilities of Guardian Industries Corp. at or near Corsicana, TX to points in the U.S., including AK and HI and (2) *Sand, used in the manufacture of commodities in (1) above,* from points in the U.S. including AK but excluding HI to the facilities of Guardian Industries Corp. at or near Corsicana, TX. Supporting shipper: Guardian Industries Corp., P.O. Box 10001, Corsicana, TX.

MC 111231 (Sub-5-18), filed December 17, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same address as applicant). *Iron and Steel Articles and material, equipment and supplies used in connection with the manufacture and distribution of Iron and Steel Articles.* Between Hempstead County, AR on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting shipper: Tex Ark Joist Co., Hope, AR.

MC 111401 (Sub-5-25TA), filed December 17, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same address as applicant). *Vegetable oils,* in bulk, in tank vehicles, from Oklahoma City, OK to Houston, TX, in foreign commerce only. Supporting shipper: Alimenta, USA, Inc., P.O. Box 88967, Atlanta, GA 30338.

MC 118224 (Sub-5-1TA), filed December 15, 1980. Applicant: STANDARD FRUIT AND VEGETABLE, INC., 2111 Taylor St., Dallas, TX 75201. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Corrugated sheeting and wax,* from Lake Charles, W. Monroe, and Lafayette, LA, to McAllen, TX. Supporting shipper: Fox Supply, Inc., P.O. Box 2288, McAllen, TX 78501.

MC 119789 (Sub-5-39TA), filed December 16, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). (1) *Medicines, Toilet Preparations and Cosmetics, and (2) Materials, Equipment and supplies used in the manufacture and distribution of Medicines, Toilet preparations and Cosmetics,* between Dallas, TX; Lawton, OK; and their respective Commercial Zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Sasco Cosmetics, Inc.; 8700 Stemmons Freeway, Suite 425, Dallas, TX 75247.

MC 134755 (Sub-5-16TA), filed December 17, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *Nonexempt food and kindred products,* from Solano County, CA, to the states of CO, NM, OK, and TX, including, but not limited to Denver and Grand Junction, CO; Albuquerque and Las Cruces, NM; Tulsa and Oklahoma City, OK; Dallas, Houston, Lubbock, and San Antonio, TX. Supporting shipper: American Home Foods Division, American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 141914 (Sub-5-16TA), filed December 16, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *General commodities (except articles of unusual value, Class A & B explosives, Household goods as defined by the commission, commodities in bulk and those requiring special equipment* between Evansville, IN; Springfield, MO; Mt. Vernon, IN, on the one hand, and, on the other, points in the US (Except AK & HI) restricted to traffic originating at or destined to the facilities of Mead Johnson Corporation. Supporting shipper: Mead Johnson, 2404 Pennsylvania Avenue, Evansville, IN 47721.

MC 147536 (Sub-5-8TA), filed December 16, 1980. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, P.O. Box 1567, Joplin, MO 64801 (same address as applicant). *Foodstuffs, Materials, Equipment and Supplies used in the manufacture and distribution of foodstuffs,* between Jasper County, MO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Mid-America Farms, Inc., P.O. Box 1837—SSS, Springfield, MO 65805.

MC 149026 (Sub-5-19TA), filed December 17, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *Building materials, lumber, wood products and materials, equipment and supplies,* between San Antonio and Austin, TX, and Lebanon, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Steves Sash and Door Company, P.O. Drawer S, San Antonio, TX; Howard Systems Corporation, P.O. Box 6308, Austin, TX 78762.

MC 150783 (Sub-5-25TA), filed December 16, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as above). *Foodstuffs and kindred products (except in bulk).* From Sulphur Springs, TX to points in AR, CO, KS, LA, MO, MS, MN, OK, and TN. Supporting shipper: Ocean Spray Cranberry, Water Street, Plymouth, MA 02360.

MC 150783 (Sub-5-26TA), filed December 16, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as above). *1. Fully baked frozen bread, 2. Fully baked refrigerated bread, and 3. Supplies used in a bakery.* Between the facilities of Iversen Baking Co., Rogers, AR, on the one hand, and, on the other, points in the United States. Restricted to the traffic of Iversen Baking Co. Supporting shipper: Iversen Baking Company, 1510 W. Easy, Rogers, AR 72756.

MC 150812 (Sub-5-4TA), filed December 16, 1980. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Contract;* irregular; *pulpboard and corrugated boxes,* from Springhill and Shreveport, LA, to AR, MS, TX and AL. Supporting shipper: International Paper Co., P.O. Box 160707, Mobile, AL 36616.

MC 152959 (Sub-5-3TA), filed December 16, 1980. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, 6000 Gum Springs Road, Longview, TX 75607. Representative: Robert Nieman (same address as applicant). *Contract;* irregular. *Modular homes, recreational vehicles, mobile homes, park model mobile homes and all related component parts thereof,* between the facilities of Hairgrove Industries, Inc., SunVilla Homes Division, on the one hand, and all points in the continental U.S., on the other hand. Supporting shipper: Hairgrove Industries, Inc., SunVilla Homes Division, 1609 Industrial Avenue, Henderson, TX 75652.

MC 153138 (Sub-5-1TA), filed December 16, 1980. Applicant: EASLEY TRUCKING, P.O. Box 103, Ben Wheeler, TX 75754. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Cast iron and plastic pipe, fittings and neophrene gaskets;* between Tyler

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Pipe Industries, Inc., located at or near Swan, TX, to points in the states of CA and NV. Supporting shipper: Tyler Pipe Industries, Inc., P.O. Box 2027, Tyler, TX 75510.

MC 200 (Sub-5-71TA), filed December 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *General commodities (except household goods as defined by the Commission, and classes A & B explosives),* between Chicago, IL, on the one hand, and, on the other, points in the U.S. Restricted to traffic originating at or destined to facilities used by Tootsie Roll Industries, Inc., its affiliates, suppliers, or vendors. Supporting shipper: Tootsie Roll Industries, Inc., 7401 S. Cicero Ave., Chicago, IL 60629.

MC 200 (Sub-5-72TA), filed December 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *(1) Battery Cases or Containers, batteries, & (2) Materials, Supplies, and equipment used in the manufacture, sale, or distribution of commodities in (1) above,* between Texarkana, AR, and St. Joseph, MO. Supporting shipper: Globe Battery Division Johnson Controls, 4722 Pear St., St. Joseph, MO 64503.

MC 200 (Sub-5-73TA), filed December 15, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *Common,* regular. *General commodities (except household goods as defined by the Commission, and classes A & B explosives),* serving Washington, MO as an off route point in connection with applicants otherwise authorized operations. Applicant intends to tack. Supporting shipper: Hazel, Inc., 1200 S. Stafford, Washington, MO. 63090.

MC 29910 (Sub-5-71TA), filed December 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those in unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving Magnolia, AR as an off-route point in connection with applicant's otherwise authorized regular route operations at El Dorado, AR. Supporting shippers: There are 6 supporting shippers. Applicant intends to tack and interline.

MC 29910 (Sub-5-72TA), filed December 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Macon, MS as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting shipper: California Manufacturing Company, 2270 Weldon Parkway, St. Louis, MO 63141. Applicant intends to tack and interline.

MC 29910 (Sub-5-73TA), filed December 15, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving Haynesville, LA as an off-route point in connection with applicant's otherwise authorized regular route operations at El Dorado, AR. Supporting shippers: Edmont, Division of Becton Dickinson & Co., Rt. 1, Box E-W, Haynesville, LA 71038; Taylor Brothers Inc., Haynesville, LA; W. E. Browning & Sons, 128 E. Main Street, Haynesville, LA. Applicant intends to tack and interline.

MC 29910 (Sub-5-74TA), filed December 19, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving Canon City, CO as an off-route point in connection with applicant's existing authorized regular route operations at Pueblo, CO. Applicant intends to tack and interline. Supporting shippers: Sentry Siren, P.O. Box 386, Canon City, CO 81212; Surplus Sales & Ace Hardware, 150 Greydene Avenue, Canon City, CO 81212; DFC Ceramics, Inc., P.O. Box 110, Canon City, CO 81212; Canon City Rainbow Stone Co., P.O. Box 806, Canon City, CO 81212.

MC 107496 (Sub-5-46TA), filed December 18, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Animal fat, in bulk,* between points in ND, SD, MT, ID, WA, UT, MN, IA, NE, IL, WI, and WY. Supporting shipper: Agri Trading Corporation, P.O. Box 457, Hutchinson, MN 55350.

MC 119789 (Sub-5-40TA), filed December 18, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Valves* from Fairfield, CT to Houston, TX. Supporting shipper: Jenkins Valve Company, 510 Main Street, Bridgeport, CT.

MC 121805 (Sub-5-2TA), filed December 19, 1980. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Avenue, North Little Rock, AR 72114. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. *General commodities, except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment:* (1) Between Strong, AR and Texarkana, TX, serving no intermediate points, and serving Texarkana, TX as a point of interline and interchange only: From Strong over US Hwy 82 to Texarkana and return over the same route; (2) Between Gum Springs, AR and Texarkana, TX, serving no intermediate points and serving Texarkana, TX as a point of interline and interchange only; from Gum Springs over US Hwy 67 and I-30 to Texarkana and return over the same route. Supporting shippers: Fifteen. Applicant intends to tack and interline.

MC 124236 (Sub-5-13TA), filed December 18, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 N. Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as applicant). *Cement* from Comal and Harris Counties, TX, to Ports of Entry on the International Boundary Line between the U.S. and the Republic of Mexico at or near Hidalgo, TX. Supporting shipper: General Portland Inc., P.O. Box 324, Dallas, TX 75221.

MC 126045 (Sub-5-5TA), filed December 18, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, 1010 South Farragut Street, (P.O. Box 3122), Davenport, IA 52808. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Cast iron products, and materials, equipment and supplies* *used in the manufacture of cast iron products,* between Pottawattomie County, IA, on the one hand, and, on the other, IL, IN, KS, KY, MI, MN, MO, NE, ND, SD, and WI. Supporting shipper: Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521.

MC 128822 (Sub-5–40TA), filed December 18, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Foodstuffs* between points in the U.S., restricted to the transportation of shipments from, to, between or in behalf of Mercantum Corporation. Supporting shipper: Mercantum Corporation, 225 Broadway, New York, NY 10007.

MC 128822 (Sub-5–41TA), filed December 19, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Foodstuffs* from points in CA to points in the U.S., restricted to shipments from, to, or between the facilities of Cal Growers Corporation. Supporting shipper: Cal Growers Corporation, P.O. Box 7084, Stockton, CA 95207.

MC 135762 (Sub-5–6TA), filed December 18, 1980. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. *Contract;* irregular. *Commodities dealt in by manufacturers of steel wire products* (except commodities in bulk), between points in the U.S. (except AK and HI) under a continuing contract with Bekaert Steel Wire Corp. Supporting shipper: Bekaert Steel Wire Corporation, P.O. Box G, Rome, GA 30161.

MC 135797 (Sub-5–91TA), filed December 19, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (same address as applicant). *Plastic articles,* between the facilities of Union Carbide Corporation on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: Union Carbide Corporation, 270 Park Avenue, New York, NY 10017.

MC 139457 (Sub-5–4TA), filed December 18, 1980. Applicant: G. L. SKIDMORE d.b.a. JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Contract; Irregular. *Canned Foodstuffs,* from the facilities of Owatonna Canning Company at or near Owatonna, MN, to points in OK. Supporting shipper: Owatonna Canning Company, P.O. Box 447, Owatonna, MN 55060.

MC 142508 (Sub-5–44TA), filed December 18, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat, meat and sausage products, by-products, and materials, equipment, and supplies used in the manufacture, sale, and distribution thereof* between the facilities of Midland Meat Processors, Inc., at Holton, KS and Lees Summit, MO and points in the U.S. (except AK and HI). Supporting shipper: Midland Meat Processors, Inc., 622 West 3rd, Lees Summit, MO 64063.

MC 145150 (Sub-5–7TA), filed December 19, 1980. Applicant: HAYNES TRANSPORT CO. INC., P.O. Box 9, R.R. 2, Salina, KS. 67401.Representative: Clyde N Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. *Fertilizer;* From Moore County, TX to point in UT. Supporting shipper: Phillips Petroleum Co., 7B–4 Adams Bldg., Bartlesville, OK 74004.

MC 147196 (Sub-5–17TA), filed December 19, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA. 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA. 70150. Contract: Irregular. *General Commodities,* between Orleans Parish, LA., on the one hand and, on the other, the 48 States, under a continuing contract or contracts with The Irwin Brown Company, New Orleans, LA. Supporting shipper: The Irwin Brown Company, 212 Chartres Street, New Orleans, Louisiana 70130.

MC 148510 (Sub-5–1TA), filed December 19, 1980. Applicant: THOMPSON TRUCK SERVICE, INC., 4714 Primm Street, St. Louis, MO 63116. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Contract,* irregular. *Such Commodities as are dealt in by retail department stores,* between Vandalia, IL on the one hand, to points and places in IN and KY on the other. Supporting shipper: P. N. Hirsch & Co. Stores, Inc., 2001 Walton Road, St. Louis, MO 63114.

MC 149144 (Sub-5–1TA), filed December 19, 1980. Applicant: SCHIERDING TRUCKING CO., 3690 W. Clay, St. Charles, MO 63301. Representative: James E. Schierding, (same address as applicant). *Malt beverages, in containers,* from Minneapolis, MN and LaCrosse, WI, to St. Charles, MO. Supporting shipper: Griesedieck Beverage Co., 3003 Highway 94 North, St. Charles, MO 63301.

MC 151657 (Sub-5–7TA), filed December 18, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Box 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Avenue, Sioux Falls, SD 57101. *Contract;* irregular. *General Commodities (except in bulk, household goods, Classes A and B explosives, and iron and steel articles),* From Chicago, IL, and its commercial zones, on the one hand, and on the other, points in TX, OK, WA, OR, CA, AZ, FL, GA, TN, CO, MS, LA, NC and UT under contract with International Nu-Way Shippers, Inc. of Chicago, IL. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 153235 (Sub-5–1TA), filed December 18, 1980. Applicant: SNOWLINE, LaVerne W. Snowden and William M. Snowden d.b.a., 8107 Greenhollow Lane, Dallas, TX 75240. Representative: LaVerne W. Snowden (same address as applicant). *Drugs, toilet preps, cleaning compounds, milk foods, deodorants, disinfectants, brooms, mops, and electrical appliances,* between Dallas, TX on the one hand, and, on the other, Shreveport, LA, Monroe, LA, Alexandria, LA, New Orleans, LA, Baton Rouge, LA, Broussard, LA, Church Point, LA, and other LA points. Supporting shipper: Bristol Myers Company, Regional Transportation Supervisor, 345 Park Avenue, New York, NY 10022.

MC 153259 (Sub-5–1TA), filed December 19, 1980. Applicant: INLAND MOLASSES COMPANY, American Trust Building, Dubuque, IA 52001. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Molasses, molasses blends, and liquid feed,* from Dubuque, IA, to points in IL, MN, and WI. Supporting shipper: Pacific Molasses Company, One California Street, San Francisco, CA.

MC 153260 (Sub-5–1TA), filed December 19, 1980. Applicant: W. E. TOMLINSON, d.b.a. TOMLINSON OIL, Route 2, Comanche, OK 73529. Representative: G. Timothy Armstong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Contract; irregular; pumping units, weights and related accessories,* between Duncan, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Cook Machine Company, 3920 S. 13th, Duncan, OK 73533.

MC 134820 (Sub-6–2TA), filed December 15, 1980. Applicant: R. S. ALBRIGHT, INC., 6640 Ellis Ave. S., Seattle, WA 98055. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. *Contract carrier,* irregular routes: *Newsprint, pulp and paper products,* between points on the International Boundary Line between Canada and the U.S. in WA and WA and points in AZ, CA, CO, MN, NV and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Powell River-Alberni Sales Corporation, 1505 Peoples National Bank Building, Seattle, WA 98171.

MC 152671 (Sub-6-3TA), filed December 12, 1980. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O. Box 6699, Boise, ID 83707. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Contract carrier,* irregular routes: *frozen potato and vegetable products and frozen fruits* between points in the U.S., except AK and HI, under continuing contract(s) with Idaho Frozen Foods Corporation, for 270 days. Supporting shipper: Idaho Frozen Foods Corporation, P.O. Box 128, Twin Falls, ID 83301.

MC 152485 (Sub-6-1TA), filed December 9, 1980. Applicant: REINVESTMENT, INC. d.b.a. ARIZONA STORAGE RENTAL, INC., P.O. Box 11962, Phoenix, AZ 85031. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Commodities dealt in or used by retail department stores,* from the facilities of Diamonds Division of Dayton Hudson Corp. in Phoenix, AZ to the department store of Diamonds in Las Vegas, NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Diamonds Division of Dayton Hudson Corp., 1616 S. Priest, Tempe, AZ 85281.

MC 153147 (Sub-6-1TA), filed December 12, 1980. Applicant: BAYSIDE WASTE HAULING & TRANSFER CO., INC., 7201 West Marginal Way SW., Seattle, WA 98106. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Scrap Battery Casing Material* from King County, WA to Gilliam County, OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Quemetco, Inc., a Division of RSR Corporation, 2700 16th Avenue SW, Seattle, WA 98134. E.P.A. Number WAD041333576.

MC 135680 (Sub-6-2TA), filed December 11, 1980. Applicant: BEVERAGE DISTRIBUTORS, INC., P.O. Box 1180, Yakima, WA 98907. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *Contract carrier,* irregular routes: *Malt beverages* from Fairfield, Los Angeles and San Francisco, CA to Yakima, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R&R Beverage Co., 2809 Fruitvale Blvd., Yakima, WA.

MC 147385 (Sub-6-4TA), filed December 10, 1980. Applicant: D & B TRUCKING, INC., 5315 E. Belmont, Fresno, CA 93727. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Auto freight bodies and parts, automobile parts, steel water containers, tool boxes, hand wagons or carts* from Merced, CA to points in AZ, CO, NV, OR, UT and WA for 270 days. Supporting shipper: Stahl Division, 1130 Stuart Dr., Merced, CA 95340.

MC 124679 (Sub-6-37TA), filed December 11, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as applicant). *Furniture* from Statesville, NC, Temple, TX, Adrian, MI, and St. Paul, MN to points in the U.S. for 270 days. Supporting shipper: Prima Corporation, 2152 Melody Ann Way, Salt Lake City, UT.

Note.—Applicant holds motor contract carrier authority in number MC 128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA was granted, restricted to traffic for Prima, on 12-5-80.

MC 99946 (Sub-6-1TA), filed December 12, 1980. Applicant: FOOTHILLS EXPRESS, INC., 2510 Evergreen Avenue, West Sacramento, CA 95691. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *General commodities* (except items of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between points in Shasta, Butte, Plumas, Glenn, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Eldorado, Amador, Calaveras, Alpine, Tuloumne, Merced, Stanislaus, San Joaquin, Sacramento, Yolo, Napa, Tehama, San Mateo, Solano, Marin, Contra Costa, Alameda, San Francisco, and Santa Clara Counties, CA, on the one hand, and on the other, points in Washoe, Douglas, Storey and Carson City Counties, NV, and Sierra, Eldorado, Placer and Nevada Counties, CA, for 270 days. Restricted to traffic moving in interstate or foreign commerce. Supporting shipper(s): There are 17 shippers. Their statements may be examined at the Regional Office listed.

Note.—Applicant requests that the authority granted may be joined with other authorities held by other carriers.

MC 263 (Sub-6-4TA), filed December 15, 1980. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green (same address as applicant). *Contract carrier,* irregular routes: *General commodities,* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under a continuing contract or contracts with the Port of Seattle, for 270 days. Supporting shipper: Port of Seattle, P.O. Box 1209, Seattle, WA 98111.

MC 1515 (Sub-6-10TA), filed December 12, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier,* (1) regular route, *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, (a) Between Pensacola, FL and Panama City, FL: from Pensacola, FL over U.S. Hwy 98 to Panama City, FL and return over the same route serving all intermediate points, (b) Between junction of U.S. Hwy 231 and FL Hwy 20 and Tallahassee, FL: from the junction of U.S. Hwy 231 and FL Hwy 20 over FL Hwy 20 to Tallahassee, FL and return over the same route, serving all intermediate points; (2) irregular route, *passengers and their baggage,* in the same vehicle with passengers in Charter operations; from all points and places described in (1) above to all points in the U.S., for 180 days. An underlying ETA seeks 90 days authority has been filed. Supporting shipper: There are 28 shippers. Their statements may be examined at the Regional Office listed. Applicant intends to tack with existing authority.

MC 150756 (Sub-6-3TA), filed December 11, 1980. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 208 (30700 Dyer Street), Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Empty metal cans and can ends, and return movement of pallets, skid sheets, frames and related articles.* From Carson and Vernon, CA to the international border near Calexico, CA for beyond movement into Mexicali, Mexico, for 270 days. Supporting shipper: Gencan, Inc., 2141 E. 21st St., Los Angeles, CA 90058.

MC 106194 (Sub-6-2TA), filed December 12, 1980. Applicant: HORN TRANSPORTATION, INC., P.O. Box 1172, Pueblo, CO 81002. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Scrap metal; crushed cars,* between points in CO, KS, NE, MN, OK, SD, TX and WY, for 270 days. An underlying ETA seeks 120 days. Supporting shipper:

Century Enterprises, 123 Cook, Denver, CO 80206.

MC 106194 (Sub-6-3TA), filed December 12, 1980. Applicant: HORN TRANSPORTATION, INC., P.O. Box 1172, Pueblo, CO 81002. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. (1) *Insulation and roofing materials*, and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above*, between Jackson County, MO, on the one hand, and, on the other, points in the U.S. in and west of MN, IA, MO, AR and LA, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Derbigum America Corporation, 4821 Chelsea, Kansas City, MO 64130.

MC 148077 (Sub-6-2TA), filed December 10, 1980. Applicant: JAMES L. KAMPSTRA d.b.a. KAMPSTRA TRUCKING, 1720 Ferry St., Albany, OR 97321. Representative: James L. Kampstra (same as above). *Common carrier;* Regular routes: *General Commodities*, except household goods as defined by the Commission, Class A & B explosives, commodities in bulk and those requiring special equipment, between Portland OR and Eugene, OR and their Commercial Zones via Interstate Hwy 5, for 270 days. Applicant intends to tack authority here applied for to authority held in MC 148077; Applicant proposes to interline at Portland and Eugene, OR. Supporting shipper(s): There are 9 supporting shippers: Their statements may be examined at the Regional office listed.

MC 139356 (Sub-6-1TA), filed December 10, 1980. Applicant: MIDLAND TRANSPORTATION, INC., 145 N. Main St., East Wenatchee, WA 98801. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *General Commodities (except household goods and Classes A and B explosives)*, between points in WA in and east of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties, WA on the one hand, and, on the other, Portland, OR and Seattle, WA, restricted to traffic having a prior or subsequent movement by water, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Agri-Tainer Corp., P.O. Box 2004, Wenatchee, WA 98801; Columbia Feeders, Inc., 1012 Walla Walla St., Box 2004, Wenatchee, WA 98801; Hanna Mining Co., P.O. Box 361, Wenatchee, WA 98801.

MC 128861 (Sub-6-1TA), filed December 12, 1980. Applicant: OK DELIVERY SYSTEM INC., P.O.B. 4325, Portland, OR 97208. Representative: John A. Anderson, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204. *General commodities* (except commodities in bulk, household goods as defined by the Commission, and classes A and B explosives), (1) between points in Multnomah, Washington and Clackamas Counties, OR, and (2) between points in Multnomah, Washington and Clackamas Counties, OR, on the one hand, and, on the other, points in OR in and west of Hood River, Clackamas, Marion, Linn, Lane, Douglas and Jackson Counties, OR, for 270 days. Authority to tack to applicant's authority in MC-128861 and to interline with other carriers at Portland, OR and its commercial zone, is requested. Supporting shipper: There are 18 shippers. Their statements may be examined at the regional office listed.

MC 140035 (Sub-6-1TA), filed December 8, 1980. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 SW Edy Rd., Sherwood, OR 97140. Representative: John A. Anderson, Suite 1600, One Main Pl., Portland, OR 97204. *Paperboard cartons*, from the facilities of Manville Forest Products Corporation in Bakersfield, CA, to points in AZ, NV, WA, MT and OR, for 270 days. Supporting shipper: Manville Forest Products Corporation, POB 488, West Monroe, LA 71291.

MC 127922 (Sub-6-4TA), filed December 11, 1980. Applicant: NELLO PISTORESI & SON, INC., P.O.B. 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Meat and packing house products* as defined by the Commission, from points in OR to points in Yakima, WA, for 270 days. Supporting shipper: Worrell Meat Co., Inc., 501 S. 5th Ave., Yakima, WA 98902.

MC 149078 (Sub-6-7TA), filed December 12, 1980. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Commercial refrigerated wall and floor display cases and refrigeration units* from Huntsville, AL; Louisville, KY; Carlstadt, NJ; and Parsons, TN to points in Los Angeles, Orange, Riverside, San Bernardino and San Diego Counties, CA and Clark County, NV for 270 days. Supporting shipper: Market Engineers, Inc., 12028 E. Florence Ave., Santa Fe Springs, CA 90670.

MC 149078 (Sub-6-8TA), filed December 12, 1980. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Candy and confectionery, other than hollow mold*, and *edible nuts, in packages and in bulk in barrels* from points in Los Angeles County, CA to points in GA, OH and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Betty Zane Corporation, 600 West Terrace Drive, San Dimas, CA 91773.

MC 148812 (Sub-6-1TA), filed December 12, 1980. Applicant: George Rominger d.b.a. GEORGE ROMINGER TRUCKING, 1331 Cascade Way, Ellensburg, WA 98926. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Contract carrier*, irregular routes: *Meat and Meat By-Products as defined by the Commission* from Seattle, Tacoma and Ellensburg, WA to points in CA, for 270 days. Carrier has underlying ETA for 120 days. (GTO Nov. 23). Supporting shipper: Superior Packing Company, P.O. Box 277, Ellensburg, WA 98926.

MC 124692 (Sub-6-28TA), filed December 11, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 40248, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper lumber wrap*, from Chicago, IL to points in CA, ID, OR, and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Laminated Papers Division, The Cromwell Paper Company, East Wacker Dr., Chicago, IL.

MC 142941 (Sub-6-18TA), filed December 15, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: D. W. Sinclair (same address as applicant). *Household appliances and electronic devices* between Los Angeles, CA (and its commercial zone) and Phoenix, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Edwards Distributing, Inc., 310 South 29th Street, Phoenix, AZ.

MC 138875 (Sub-6-34TA), filed December 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant). *Materals and supplies used in the manufacture and distribution of moble homes, campers and recreational vehicles* (except commodities in bulk), from the facilities of Weiser Products at Weiser, ID to Lindsay and Dinuba, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Weiser Products, Division of Champion Home Builders, P.O. Box 551, Weiser, ID 83672.

MC 138875 (Sub-6-35TA), filed December 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant). *Bakery products, foodstuffs and pet foods* (except commodities in bulk). from Naperville, Bridge View and Chicago, IL to points in MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nabisco, Inc., East Hanover, NJ 07936.

MC 138875 (Sub-6-36TA), filed December 12, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant). *(1) Alcoholic beverages; and (2) empty containers for (1) when returning to point of origin,* between points in CA, on the one hand, and, on the other, points in ID south of the southern boundary of Idaho County, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Stein Distributing Co., 601 N. Phillippi, Boise, ID 83706.

MC 125561 (Sub-6-3TA), filed December 15, 1980. Applicant: SUNNYSIDE TRANSFER, INC., P.O. Box 526, Sunnyside, WA 98944. Representative: James M. Peterson, 520 Franklin, Richland, WA 99352. *General Commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the commission, commodities in bulk, and commodities, which because of size or weight require special equipment); between Kennewick, WA; and Morrow County, OR, and Umatilla County, OR, for 270 days. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the Regional office listed.

MC 147213 (Sub-6-1TA), filed December 12, 1980. Applicant: T & T TRUCKING, INC., 11603 8th S., Seattle, WA 98163. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Machinery and fabricated and non-fabricated iron and steel and aluminum articles,* between the facilities of Leckenby Co., at Seattle, WA, on the one hand, and points in ID, OR, MT, UT, WY, NV, AZ and CA, on the other hand, for 270 days. Supporting shipper: Leckenby Co., 2745 11th Ave. S.W., Seattle, WA 98134.

MC 146075 (Sub-6-3TA), filed December 11, 1980. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th. Place, Wheatridge, CO 80214. Representative: Delbert Ewing (same as applicant). *Foodstuffs (except in bulk, in tank vehicles)* between points in AR, CO, ID, LA, NM, OK, TX, UT, and WY, for 270 days. Restricted to shipments origination or destined to the facilities of J. A. Sharoff and Company. Supporting shipper: J. A. Sharoff and Company, 3825 Lafayette St., Denver, CO 80205.

MC 115092 (Sub-6-3TA), filed December 10, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. *Flat glass* from Tulsa, OK to Salt Lake City, UT and *glass racks* on return, for 270 days. Supporting shipper: AMSCO, 1880 S. 1045 West, Salt Lake City, UT 84125.

MC 126327 (Sub-6-5TA), filed December 12, 1980. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same as applicant). *Plumbing fixtures,* from San Bernardino County, CA, to points in AZ, ID, NV, OR, UT, and WA, for 270 days. Supporting shipper: Colton-Wartsila, Box 887, Colton, CA 92324.

MC 126327 (Sub-6-6TA), filed December 11, 1980. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same as applicant). *Fertilizers, insecticides, farm and garden supplies,* from Salt Lake County, UT, to points in AZ, CA, ID, NV, NM, OR, TX and WA, for 270 days. Supporting shipper: The Pax Co., 580 W. 1300 S., Salt Lake City, UT 84115.

MC 15382 (Sub-6-1TA), filed December 10, 1980. Applicant: TRANS CONTINENTAL TRANSPORT, INC., P.O. Box 7583, Boise, ID 83707. Representative: Paul R. Blomberg (same as applicant). *Recyclable and waste materials,* from points in ID in and south of Idaho County to points in CA, OR and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western Recycling & Wastepaper Co., Inc., 1900 S. Cole Rd., Boise, ID 83709.

MC 147885 (Sub-6-2TA), filed December 11, 1980. Applicant: MANUEL & AMY VEGA d.b.a. VEGA CONSTRUCTION AND TRUCKING, P.O. Box 1630, Elko, NV 89701. Representative: John R. Ross II, P.O. Box 635, Carson City, NV 89701. *Barite, sand, gravel, ore, aggregates, mining equipment, materials and supplies,* between points in Eklo, Eureka and Lander Counties, NV, for 270 days. Supporting shipper: Chromalloy American Corp., P.O. Box 1003, Elko NV 89801.

MC 139960 (Sub-6-3TA), filed December 11, 1980. Applicant: WPX FREIGHT SYSTEM, INC., 526 Mission Street, San Francisco, CA 94105. Representative: Stephen T. Rudman (same as applicant). *General commodities* (except used household goods and Class A and B explosives) between points in the States of WA, OR, CA, AZ, NV, NM, UT, CO, MT, ID, WY, and TX; restricted to traffic having a prior or subsequent move by rail, for 270 days. Supporting shipper: There are 19 supporting shippers: The statements may be examined at the regional office listed.

MC 152963 (Sub-6-1TA), filed December 2, 1980. Applicant: RAY YOTTY, 1119 128th St. S.W., Everett, WA 98204. Representative: Ray Yotty (same as applicant). (1) *Lumber, shingles, plasterboard and brick,* from Ports of Entry on the International boundary Line between the U.S. and Canada located in WA to all points in WA. (2) *Lumber,* from all points in WA to Ports of Entry on the U.S. Canada International Boundary Line in WA. (3) *Lumber, Plywood, shingles, and plastic pipe,* between all points in WA and all points in OR, MT, and ID for 270 days. Supporting shipper: There are six supporting shippers. Their statements may be examined at the regional office listed.

MC 138875 (Sub-6-37TA), filed December 16, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Frozen foods and potato products* other than frozen (except commodities in bulk), from points in Ada, Canyon, Cassia, and Payette Counties, ID and Malheur County, OR to points in AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, Idaho 83707.

MC 153215 (Sub-6-1TA), filed December 17, 1980. Applicant: DON'S REFRIGERATED EXPRESS, LTD., 1168-168th St. R.R. No. 7, White Rock, B.C., Canada V4B 5A8. Representative: Michael D. Duppenthaler, 211 S. Washington, St., Seattle, WA 98104. *Contract carrier,* irregular routes: *Malt beverages and materials, equipment and supplies used in the manufacture and production of malt beverages,* between ports of entry on the international boundary line between the U.S. and Canada located in WA, ID and MT on the one hand, and, on the other, points in WA, OR, AZ, and CA, for the account of Arthur J. Fritz & Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Arthur J. Fritz & Co., P.O. Drawer G, Blaine, WA 98230.

MC 144756 (Sub-6-2TA), filed December 16, 1980. Applicant: DEDICATED TRUCKING CORP., P.O.

Box 1383, Chehalis, WA 98532. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract Carrier,* irregular routes: *Such commodities as are dealt in or used by a manufacturer of rubber and rubber products,* between Chehalis, WA, on the one hand, and, on the other, Arlington, TX and points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, under continuing contract(s) with Northwest Rubber Compounders Inc., for 270 days. Supporting shipper: Northwest Rubber Compounders Inc., P.O. Box 746, Chehalis, WA 98532.

MC 153209 (Sub-6–1TA), filed December 16, 1980. Applicant: LEOPOLDO DIAZ VILLANUEVA d.b.a. DIAZ TRUCKING, 1011 Beyer Way, Space 108, San Diego, CA 92154. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* irregular routes: *commodities* dealt in or utilized by manufacturers of articles for fishing, shipbuilding, and steel fabrication industries, between Chula Vista, CA, on the one hand, and, on the other, Mobile, AL, Miami, FL, Eugene, OR, Port Arthur, TX, Seattle and Tacoma, WA, and Sturgeon Bay, WI, for the account of Morris Whaley, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morris Whaley, Inc., 2805 Faivre, Chula Vista, CA 92011.

MC 146585 (Sub-6–2TA), filed December 19, 1980. Applicant: DOUBLE DD TRUCK LINE, INC., P.O. Box 230, Canby, OR 97013. Representative: Jerry R. Woods, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204. *Building materials,* from points in OR and WA to points in CA, AZ, NM, NV, ID, MT, UT, WY, ND, SD, NE, OK, TX, CO, AR, KS, MO, IA, MN, WI, IL, MI and KY, restricted to the transportation of traffic originating at the facilities of or used by Plywood Components, Inc., for 270 days. Supporting shipper: Plywood Components, Inc., 6523 NE Old Salem Road, Albany, OR 97321.

MC 152782 (Sub-6–2TA), filed December 16, 1980. Applicant: EDWARDS FAMILY ENTERPRISES, 1821 E. Diana Ave., Anaheim, CA 92805. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Contract carrier,* irregular routes: (1) *meats, meat products and meat byproducts and articles distributed by meat packinghouses,* and (2) *materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above* between points in CA, on the one hand, and, on the other, points in CO, IA, KS and NE, for 270 days. Supporting shipper: Packers Bar M Meat Company, 4215 Exchange Ave., Los Angeles, CA 90058.

MC 116457 (Sub-6–4TA), filed December 19, 1980. Applicant: GENERAL TRANSPORTATION INCORPORATED, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby (same as applicant). *Lumber, plywood, wood products and insulation board,* from Polk, Walker, Angelina, Nacogdoches, Hardin and Harris Counties, TX, to AZ and NM for 270 days. Supporting shipper: Sequoia Supply, 1838 N. 23rd Ave., Phoenix, AZ, and Champion International Corporation, Knightsbridge Dr., Hamilton, OH 45020.

MC 151799 (Sub-6–2TA), filed December 18, 1980. Applicant: GLENNMAR, INC., 5500 S.W. 315th, Federal Way, WA 98003. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Iron and Steel Articles and Machinery and Equipment used in the processing and manufacture of iron and steel articles,* between Seattle, WA on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, WA and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Millsteel Co., 60 S. Hudson, Seattle, WA 98124.

MC 152843 (Sub-6–1TA), filed December 8, 1980. Applicant: GREEN ARROW, INC., Route 7, Box 668, Caldwell, ID 83605. Representative: Mr. Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Contract carrier,* irregular routes: *Fertilizer,* between points in ID, OR, and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Seed Company, P.O. Box 339, Nampa, ID 83651.

MC 146580 (Sub-6–1TA), filed December 18, 1980. Applicant: FREIGHT SYSTEMS, INC., 2300 James St., Suite 1E, Bellingham, WA 98225. Representative: Alan P. Sherbrooke, 30th Floor, The Bank of California Center, Seattle, WA 98164. *Contract carrier,* irregular routes: *General commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in (1) King, Benton, and Franklin Counties, WA, (2) OR, and (3) ID, for 270 days. Supporting shipper: Amway Corporation, 7520 South 228th Street, Kent, WA 98031.

MC 146580 (Sub-6–2TA), filed December 18, 1980. Applicant: FREIGHT SYSTEMS, INC., 2300 James St., Suite 1E, Bellingham, WA 98225. Representative: Alan P. Sherbrooke, 30th Floor, The Bank of California Center, Seattle, WA 98164. *Contract carrier,* irregular routes: *General commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in (1) Benton, King, and Franklin Counties, WA, (2) Umatilla County, OR, and (3) ID, for 270 days. Supporting shipper: Northwestern Drug Co., 801 C N.W., Auburn, WA 98002.

MC 139906 (Sub-6–49TA), filed December 18, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O.B. 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O.B. 81849, Lincoln, NE 68501. *Wearing apparel,* from points in AL, NY, MA, MD, PA, VA, NC, SC, FL, GA and TN, to the facilities if K-Mart Apparel Corp., at or near North Bergen, NJ; Alsip, IL; Forest Park, GA, and Carson, CA for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: K-Mart Apparel Corp., 7373 Westside Ave., North Bergen, NJ 07047.

MC 153230 (Sub-6–1TA), filed December 17, 1980. Applicant: HARRY MARVEL TRUCKING, 525 N. E. Halsey, Troutdale, OR 97060. Representative: Harry Marvel (same as applicant). *Contract Carrier,* Irregular routes: *Lumber and Lumber Products* between points in CA, WA and OR, for the account of Bridal Veil Lumber Co., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bridal Veil Lumber Co., Inc., P.O. Box 99, Bridal Veil, OR 97010.

MC 133979 (Sub-6–2TA), filed December 15, 1980. Applicant: MONTANA BRANDS PRODUCE, INC., 1507 Beck Street, Salt Lake City, UT 84116. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier,* irregular routes, *flour,* from Great Falls, MT to points in CA and ID for 270 days, under a continuing contract with ConAgra, Inc. of Great Falls, MT. Supporting shipper: ConAgra, Inc., P.O. Box 2548, Great Falls, MT 59403.

MC 34227 (Sub-6–2TA), filed December 15, 1980. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 E. Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Paper products,* from the facilities of Universal Paper Goods Company at Los Angeles, CA to points in CO, NM, and UT, restricted to a transportation service to be performed under continuing contract(s) with Universal Paper Goods Company, for 270 days. Supporting shipper: Universal Paper Goods Company, 7171 Telegraph Rd., Los Angeles, CA 90040.

MC 134201 (Sub-6–3TA), filed December 16, 1980. Applicant: JIM

PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Composition board and accessories and supplies used in the installation thereof* from Newark, OH to points in CO, MN, MT, ND, SD, UT, WI and WY under a continuing contract(s) with Tectum, Inc., for 270 days. Supporting shipper: Tectum, Inc., 105 S. 6th St., Newark, OH 43055.

MC 142122 (Sub-6-2TA), filed December 18, 1980. Applicant: PASCUZZO AND HONEYMAN TRUCKING, INC., 5127 Maywood Ave., Maywood, CA 90270. Representative: Peter Sowa (same address as applicant). *Contract carrier,* irregular routes: *Such commodities as are dealt in or used by grocery and food business houses (except commodities, in bulk),* from points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY to points and places in CA, for 270 days. Supporting shipper: Vons Grocery Co., 10150 Lower Azusa Rd., El Monte, CA.

MC 152821 (Sub-6-1TA), filed December 19, 1980. Applicant: PATHFINDER LINES, INC., P.O.B. 4022, South Edmonton, Canada T6E-4S8. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. *Machinery, equipment materials, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products,* between points on the International Border between Canada and the U.S., on the one hand, and, on the other, points in the U.S. located in and west of ND, SD, NE, KS, OK, and TX for 270 days. Supporting shipper: There are seven shippers. Their statements may be examined at the Regional office listed.

MC 148944 (Sub-6-1TA), filed December 19, 1980. Applicant: REDDING LUMBER TRANSPORT, INC., 4161 Eastside Rd., Redding, CA 96001. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. *Contract carrier,* irregular: *Lumber and Wood Products* from Anderson, CA, to OR, WA, NV, UT, and CO; from points in WA, UT, and CO to Anderson, CA, for the account of Nikkel Moulding, for 270 days. Supporting shipper: Nikkel Moulding, Route 1, Box 1275, Anderson, CA 96007.

MC 142941 (Sub-6-19TA), filed December 12, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). *Alcoholic beverages* (except in bulk) between Detroit, MI, Lawrenceburg, IN, and Louisville, KY, and points in UT, for 270 days. Supporting shipper: Joseph E. Seagram & Sons, Inc., 800 Third Avenue, New York, NY 10022.

MC 148737 (Sub-6-9TA), filed December 16, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27043, Salt Lake City, UT 84125. Representative: Carl I. Sundeaus (same address as applicant). *Chemicals* (except in bulk) from CT, MA, NJ, NY, PA and VA to AZ, CA, IL, IN, OR, TN, TX and WA, for 270 days. Supporting shipper: Brown's Feed and Chemicals, 404 So. 5th, Carmi, IL 62821.

MC 136818 (Sub-6-24TA), filed December 16, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Rd., Phoenix, AZ 85041. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), from the facilities of LAWI-CSA Consolidators, Inc., Los Angeles, CA, to points in AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: LAWI-CSA Consolidators, Inc., 5610 S. Soto St., Huntington Park, CA 90255.

MC 146075 (Sub-6-4TA), filed December 11, 1980. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Pl., Wheatridge, CO 80214. Representative: Delbert Ewing, 6161 West 29th Pl., Wheatridge, CO 80214. *Sewage treatment systems, and parts and accessories used in sewage treatment systems [except in bulk, in tank vehicles].* Between points in CO and TX, for 270 days. Supporting shipper: England Systems of Denver, 5611 Kendall Ct., Arvada, CO 80002.

MC 138299 (Sub-6-5TA), filed December 16, 1980. Applicant: TRAILS TRUCKING INC., 1825 De La Cruz Blvd., Suite 11, Santa Clara, CA 95050. Representative: Laura M. Robinson (same address as applicant). *Contract carrier,* irregular routes; *Air conditioning duct,* from Bakersfield, CA, to points in ID, NV, OR and WA, under continuing contract(s) with Owens-Corning Fiberglas Corporation, of Toledo, OH, for 270 days. Supporting shipper: Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659.

MC 58035 (Sub-6-5TA), filed December 19, 1980. Applicant: TRANS-WESTERN EXPRESS, LTD., 5231 Monroe St., Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring the use of special equipment); between the facilities of Consolidated Freightways at or near Cheyenne, WY, on the one hand, and, on the other, points in Adams, Larimer and Weld Counties, CO, with the right to join such authority with other authority held by applicant or any other carrier; for 270 days. Supporting shipper: There are five supporting shippers. Their statements may be examined at the regional office listed. An underlying ETA seeks 120 days authority.

MC 111434 (Sub-6-4TA), filed December 12, 1980. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Steven E. Napper, 718 17th St., Suite 1700, Denver, CO 80202. (1) *Liquid concrete admixtures,* in bulk, from points in Seattle, WA to points in CA, OR, NV, ID, UT, WY and MT, for 270 days. Supporting shipper: Master Builders, Division of Martin Marietta Corp., 23700 Chagrin Blvd., Cleveland, OH 44122.

MC 151611 (Sub-6-5 TA), filed December 16, 1980. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Wy., Port Hueneme, CA 93041. Representative: Ronald C. Chauvel, 100 Pine St., No. 2550, San Francisco, CA 94111. *Contract carrier;* Irregular routes: *Foundry Supplies,* between Wedrum, IL, and Cleveland, OH, on the one hand, and, on the other, Carson, CA, under continuing contract(s) with C. E. Cast Industrial Products, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: C. E. Cast Industrial Products, 2040 E. 220th, Long Beach, CA 90810.

MC 152550 (Sub-6-1 TA), filed December 18, 1980. Applicant: WICK'S AIR FREIGHT, INC., 17609 11th Avenue SE, Arlington, WA 98223. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *General commodities* (except Classes A&B explosives, commodities in bulk, articles of unusual value and household goods), between the international airports at Portland, OR, and Seattle-Tacoma, WA, and ports of entry on the international boundary line between the United States and Canada at or near Blaine and Sumas, WA, for shipments moving to or from the international airport at Vancouver, BC, Canada, and restricted to traffic having a prior or subsequent movement by air for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 7 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 71652 (Sub-6-5 TA), filed December 22, 1980. Applicant: BYRNE TRUCKING, INC., P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart (same address as applicant). *Aluminum ingots, billets, and pig* from The Dalles, OR, to points in CA for 270 days. Supporting shipper: Elixir Industries, 17809 S. Broadway, Gardena, CA 90248.

MC 150707 (Sub-6-2 TA), filed December 22, 1980. Applicant: CASPER MOBILE HOME SALES, INC., 3591 Florida Dr., Loveland, CO 80537. Representative: Richard J. Bara, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. (1) *Factory built housing sections,* mounted on wheeled undercarriages or readily adaptable to being mounted on wheeled undercarriages, and (2) *Undercarriages* for factory built housing sections, Between the facilities of Mid Plains Housing, Inc., at North Platte, NE; Heritage Homes, Inc., at Wayne, NE; Guerdon Industries, Inc., at Gering, NE; Stylhomes, Inc., at Riverton, WY; and Mitchell & Sons, Inc., at Commerce City, CO, on the one hand, and, on the other, points in CO, NE and WY, for 270 days. Restricted to traffic originating at or destined to the named facilities. Supporting shipper: Cloverdale Custom Homes, 1137 South Huron, Denver, CO 80223.

MC 115523 (Sub-6-9 TA), filed December 22, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Magnesium Chloride Brine,* from Kaiser Chemical Plant near Wendover, UT, to the Holly Sugar Corp. plant at Hereford, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Holly Sugar Co., Colorado Springs, CO 80901.

MC 136605 (Sub-6-23TA), filed December 22, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8129, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Cast iron pressure pipe, fittings, valves and accessories,* from Union City, CA, to points in the states of ND, SD, MT, CO, for 270 days. Supporting shipper: U.S. Pipe & Foundry Company, 1295 Whipple Rd., Union City, CA.

MC 149364 (Sub-6-7TA), filed December 22, 1980. Applicant: DOUDELL TRUCKING CO., 555 E. Capital Ave., San Jose, CA 95106. Representative: Ronald C. Chauvel, 100 Pine St., No. 2550, San Francisco, CA 94111. *Contract carrier;* irregular routes: *[illegible]tilizer, bagged and palletized,* [illegible]ween Phoenix, AZ, and Las Vegas, NV, under continuing contracts with Lawn & Garden Supply Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lawn and Garden Supply Co., 2222 No. 27th Ave., Phoenix, AZ 85009.

MC 153282 (Sub-6-1TA), filed December 22, 1980. Applicant: FINLEY TANK TRUCKING, INC., Route 1, Parma, ID 83660. Representative: Jack Finley (same address as applicant). *Feed ingredients, salts, brines, and fertilizers,* in bulk, between points in ID, WA, OR, NV, UT, and MT. Restricted to: Traffic originating at or destined to, the facilities of the Amalgamated Sugar Company at Nyssa, OR, Nampa, Twin Falls, and Paul, ID, or Union Oil Company of California, d.b.a. Union Chemical, Feed Service, and Northwest PMS. With plant facilities in: Caldwell, Bruneau, Roberts, ID, Moses Lake, WA, Umatilla, Nyssa, Lakeview, OR, Winnemucca, NV, Garland, UT, and Choteau, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Oil Company of California, Union Chemical Division, d.b.a. Union Chemical Feed Service, and Northwest PMS, P.O. Box 482, Caldwell, ID 83605; Ph. 208-459-4601.

MC 125952 (Sub-6-9TA), filed December 22, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St., S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Canned and preserved foodstuffs,* from Markham, WA, Aberdeen, WA, and Portland, OR, to the facilities of Heinz, U.S.A. at or near Tracy, CA, and Stockton, CA; from the facilities of Heinz, U.S.A. at or near Tracy, CA, and Stockton, CA, to points in AZ, CO, ID, MT, NV, TX, UT and WY, and in each case restricted to traffic originating at the named origins, for 270 days. Supporting shipper: Heinz, U.S.A., Division of H. J. Heinz Company, P.O.B. 57, Pittsburgh, PA 15230.

MC 152994 (Sub-6-1TA), filed December 17, 1980. Applicant: D. JORGENSEN TRUCKING, INC., P.O.B. C—Hwy 730, Irrigon, OR 97844. Representative: Dave Benson, P.O.B. 2308, Tri-Cities, WA 99302. *Contract carrier,* irregular routes; *Frozen food products,* between Jefferson-Morrow and Umatilla Counties or/and Walla Walla, WA on the one hand, and, on the other, points in WA and CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: U and I Incorporated, P.O.B. 2308, Tri-Cities, WA 99302.

MC 148731 (Sub-6-2TA), filed December 22, 1980. Applicant: MINKEVITCH TRUCKING & HAULING INC., P.O. Box 21525, Salt Lake City, UT 84121. Representative: Fred J. Minkevitch Jr., 6290 So. Holladay Blvd., Salt Lake City, UT 84121. *Contract carrier,* irregular routes, (1) *Salt* and *salt products,* and (2) *materials* and *supplies* used in (agricultural), (water treatment), (food processing), (wholesale grocery), and (institutional supply industries) when shipped in mixed loads with commodities named in (1) above. Between the facilities of Lake Crystal Salt Co. at or near Saline and Ogden, UT on the one hand, and, on the other, points in IA and TX under continuing contract with Lake Crystal Salt Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lake Crystal Salt Co., POB 459, Hutchinson, KS 67501.

MC 730 (Sub-6-13TA), filed December 22, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). *Common carrier: Regular routes: General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* (1) Between New Orleans, LA and Jacksonville, FL over U.S. Hwy 90, (2) Between Jackson, MS and Melbourne, FL over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction FL Hwy 40, then over FL Hwy 40 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 192, and then over U.S. Hwy 192 to Melbourne, (3) Between Vicksburg, MS and Miami, FL over U.S. Hwy 80 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 41, and then over U.S. Hwy 41 to Miami, (4) Between Nashville, TN and St. Petersburg, FL over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 275, and then over Interstate Hwy 275 to St. Petersburg, (5) Between Binghamton, NY and New Orleans, LA over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction

Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction Interstate Hwy 10, and then over Interstate Hwy 10 to New Orleans, (6) Between Scranton, PA and Key West, FL over Interstate Hwy 380 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction PA Hwy 33, then over PA Hwy 33 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Hwy 611, then over PA Hwy 611, then over PA Hwy 611 to junction U.S. Hwy 202, then over U.S. Hwy 202 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction U.S. Hwy 301 at Petersburg, VA, then over U.S. Hwy 301 to junction Interstate Hwy 95 at or near Emporia, VA, then over Interstate Hwy 95 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Key West, (7) Between Lake City, FL and Miami, FL over FL Hwy 100 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Miami, (8) Between Jacksonville, FL and Punta Gorda, FL over U.S. Hwy 17, (9) Between Tampa, FL and Vero Beach, FL over FL Hwy 60, (10) Between Fort Myers, FL and West Palm Beach, FL over FL Hwy 80 to junction U.S. Hwy 441, then over U.S. Hwy 441 to West Palm Beach, (11) Between Louisville, KY and Mobile, AL over Interstate Hwy 65 to junction U.S. Hwy 31 at Kimberly, AL, then over U.S. Hwy 31 to junction Interstate Hwy 65 at Siluria, AL, and then over Interstate Hwy 65 to Mobile, (12) Between Panama City, FL and Trenton, NJ over U.S. Hwy 231 to junction U.S. Hwy 431, then over U.S. Hwy 431 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction Alternate Hwy 27, then over Alternate Hwy 27 to junction GA Hwy 85, then over GA Hwy 85 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction U.S. Hwy 29, at or near Lexington, NC, then over U.S. Hwy 29 to junction Interstate Hwy 85 at Greensboro, NC, then over Interstate Hwy 85 to junction U.S. Hwy 58, then over U.S. Hwy 58 to junction U.S. Hwy 13, then over U.S. Hwy 13 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Trenton, (13) Between Toledo, OH and Charleston, SC over U.S. Hwy 23 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction U.S. Hwy 21, at Charlotte, NC, then over U.S. Hwy 21 to junction Interstate Hwy 26, and then over Interstate Hwy 26 to Charleston, (14) Between Kansas City, MO and Savannah, GA over U.S. Hwy 50 to junction U.S. Hwy 65, and then over U.S. Hwy 65 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction U.S. Hwy 78, then over U.S. Hwy 78 to junction U.S. Hwy 280, then over U.S. Hwy 280 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction Interstate Hwy 16, and then over Interstate Hwy 16 to Savannah, (15) Between Hammond, IN and Mobile, AL over U.S. Hwy 41 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 431, then over U.S. Hwy 431 to junction U.S. Hwy 43, and then over U.S. Hwy 43 to Mobile, (16) Between Toledo, OH and Florence, SC over Interstate Hwy 75 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 276, then over U.S. Hwy 276 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 20, and then over Interstate Hwy 20 to Florence, (17) Between Canton, OH and Norfolk, VA over Interstate Hwy 77 to junction U.S. Hwy 60, and then over U.S. Hwy 60 to Norfolk, (18) Between Dallas, TX and Brunswick, GA over Interstate Hwy 30 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 280, then over U.S. Hwy 280 to GA Hwy 55, then over GA Hwy 55 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 84, and then over U.S. Hwy 84 to Brunswick, (19) Between St. Louis, MO and Jacksonville, FL over Interstate Hwy 64 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction U.S. Hwy 25, then over U.S. Hwy 25 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Jacksonville, (20) Between Memphis, TN and Williamston, NC over U.S. Hwy 64, (21) Between Willow Springs, MO and Lexington, KY over U.S. Hwy 60 to junction U.S. Hwy 62, at or near Paducah, KY, then over U.S. Hwy 62 to junction U.S. Hwy 60, at or near Versailles, KY, and then over U.S. Hwy 60 to Lexington, (22) Between Memphis, TN and Bristol, TN over Interstate Hwy 40 to junction U.S. Hwy 11W, and then over U.S. Hwy 11W to Bristol, (23) Between St. Louis, MO and Odessa, DE over U.S. Hwy 50 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction DE Hwy 299, and then over DE Hwy 299 to Odessa, (24) Between Birmingham, AL and St. George, SC over U.S. Hwy 78 to junction U.S. Hwy 278, at or near Atlanta, GA, then over U.S. Hwy 278 to junction U.S. Hwy 78, at or near White Pond, SC, and then over U.S. Hwy 78 to St. George, (25) Between Chicago, IL and New Orleans, LA over Interstate Hwy 57 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction U.S. Hwy 51, at or near Pochatoula, LA, then over U.S. Hwy 51 to junction Interstate Hwy 10, and then over Interstate Hwy 10 to New Orleans, (26) Between St. Louis, MO and Philadelphia, PA over Interstate Hwy 70 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 83, then over Interstate Hwy 83 to junction U.S. Hwy 322, then over U.S. Hwy 322 to junction U.S. Hwy 422, and then over U.S. Hwy 422 to Philadelphia, (27) Between Phillipsburg, NJ and Greensboro, NC over U.S. Hwy 22 to junction PA Hwy 9, then over PA Hwy 9 to junction U.S. Hwy 222, then over U.S. Hwy 222 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction U.S. Hwy 29, and then over U.S. Hwy 29 to Greensboro, (28) Between St. Louis, MO and Mobile, AL over Interstate Hwy 55 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction U.S. Hwy 45E, then over U.S. Hwy 45E to junction U.S. Hwy 45, and then over U.S. Hwy 45 to Mobile, (29) Between Memphis, TN and New Orleans, LA over U.S. Hwy 61, (30) Between Natchez, MS and Waycross, GA over U.S. Hwy 84, (31) Between Hopkinsville, KY and Bowling Green, KY over U.S. Hwy 68, (32) Between Newport News, VA and Ridgeland, SC over U.S. Hwy 17, (33) Between Wilmington, NC and Atlanta, GA over U.S. Hwy 74 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 19, and then over U.S. Hwy 19 to Atlanta, (34) Between Augusta, GA and Petersburg, VA over U.S. Hwy 1 to Petersburg, (35) Between Montgomery, AL and Dothan, AL over U.S. Hwy 231, (36) Between Bainbridge, GA and Tallahassee, FL over U.S. Hwy 27, (37) Between Opp, AL and Santa Rosa Beach, FL over U.S. Hwy 331 to junction U.S. Hwy 98, and then over U.S. Hwy 98 to Santa Rosa Beach, (38) Between Atlanta, GA and Montgomery, AL over Interstate Hwy 85; serving all intermediate points on Route Nos. (1) through (38) and serving all other points in AL, FL, GA, LA, MS, NC, SC, and TN as off-route points in connection with carrier's regular-route operations, for 270 days. There are 45 supporting shippers. Their statements may be examined at the Regional Office listed.

Note.—Applicant proposes to serve the commercial zones of the above named points, and it also intends to tack and interline. Common control may be involved.

MC 148874 (Sub-6-2TA), filed December 22, 1980. Applicant: PROFICIENT FOOD CO., 17872 Cartwright Rd., Irvine, CA 92705. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract carrier,* irregular routes: *Non-exempt food products*—fresh frozen and canned; *meat and meat products*—fresh, frozen and canned; between Renton, WA and points and places in CA for 270 days. Supporting shipper: George A. Hormel & Co., P.O. Box 800, Austin, MN 55912.

MC 149078 (Sub-6-9TA), filed December 22, 1980. Applicant: ROAD WEST, INC., P.O. Box 3637, Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Frozen foods and prepared meats and foods requiring temperature control* in straight or mixed shipments with or without *prepared fish and fish foods* between facilities of Van de Kamp's, and, cold storage warehouses from which Van de Kamp's frozen foods, fish and fish products are shipped, on the one hand, and, on the other, points in the U.S., except AK and HI and except points in Los Angeles County, CA, Allegheny and Erie Counties, PA, on the one hand, and, on the other, points in CA, CO, IL, KS, LA, MI, NM, OK, OR, PA; TX and WA for 270 days. Supporting shipper: Van de Kamps Frozen Foods, 13100 Artic Circle Drive, Santa Fe Springs, CA 90670.

MC 153280 (Sub-6-1TA), filed December 22, 1980. Applicant: ROYAL FOODS INC., a Utah corporation, P.O. Box 385, Salt Lake City, UT 84110. Representative: Kathryn Denholm, 660 South 200 East No. 100, Salt Lake City, UT 84111. *Cheese, cottage cheese, cream cheese, butter, buttermilk, ice cream, yogurt, potatoes (powdered, sliced, shredded, frozen), meat and other foodstuffs* between points in UT, NV, CA and ID for 270 days. An underlying ETA seeks authority for 120 days. Supporting shippers: Western General Dairies, 700 Vine Street, Murray, UT 84107. Kent & Associates, 222 South 500 East, Salt Lake City, UT 84106. AIM, 225 West 1309 South, Salt Lake City, UT 84105.

MC 152518 (Sub-6-1TA), filed December 17, 1980. Applicant: SEVEN SEAS TRANSPORTATION COMPANY, INC., 515 Kietzke Lane, Reno, NV 89502. Representative: Alan J. Crosswhite (same as applicant). *Passengers and their baggage* in 20 passenger vehicles or less in regular service between points in Washoe County, NV and points in Placer and El Dorado Counties, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are 24 supporting shippers. Their statements may be examined at the regional office listed.

MC 139998 (Sub-6-1TA), filed December 19, 1980. Applicant: JOHN S. SHAFER, JR., P.O. Box 160, Baldwin Park, CA 91706. Representative: John S. Shafer, Jr. (same as applicant). *Contract carrier,* irregular routes: *Ore, ore concentrates and precipitates* from Mineral Park, AZ to McGill, NV under continuing contract with Kennecott Minerals Co., for 270 days. An underlying ETA has been approved for 120 days authority. Supporting shipper(s): Kennecott Minerals Co., McGill, NV 89318.

MC 138875 (Sub-6-38TA), filed December 22, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Such commodities as are dealt in by food business houses, and materials, ingredients and supplies used in their manufacture and distribution,* between points in Cuyahoga County, OH, on the one hand, and, on the other, points in Maricopa and Pima Counties, AZ; Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Bernardino, San Francisco, San Mateo and Santa Clara Counties, CA; Denver and Mesa Counties, CO; Ada and Bonneville Counties, ID; Cascade, Lewis and Clark, Missoula, Silver Bow and Yellowstone Counties, MT; Carson City, Clark and Washoe Counties, NV; Bernalillo and Santa Fe Counties, NM; Cuyahoga, Franklin and Hamilton Counties, OH; Clackamas and Multnomah and Lane Counties, OR; Davis, Salt Lake, Utah and Weber Counties, UT; King, Pierce and Spokane Counties, WA; and Albany, Laramie and Natrona Counties, WY, for 270 days. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 135904 (Sub-6-3TA), filed December 22, 1980. Applicant: TNT CANADA, INC., 4878 Manor St., Burnaby, BC, Can. U5G 1B3. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. *General commodities* (except household goods and commodities in bulk between points in CA on the one hand, and, on the other, points on the international boundary line between the U.S. and Canada located in WA for 270 days. Supporting shippers: There are 29 shippers. Their statements may be examined at the regional office listed.

MC 153274 (Sub-6-1TA), filed December 17, 1980. Applicant: TRANS COAST ENTERPRISES, INC., 15217 Valley Blvd., Fontana, CA 92335. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, GA 90650. *Contract Carrier,* Irregular routes: *Rock, stone, clay, ore and ore concentrates,* between points in CA, AZ, NV, OR, WA, NM, UT, ID, CO, MT, and WY, for the account of American International Minerals, for 270 days. Supporting shipper: American International Minerals, Post Office Box 226, Kingman, AZ.

MC 150485 (Sub-6-6TA), filed December 22, 1980. Applicant: WESTSPAN HAULING, INC., 9122 South Tacoma Way, Tacoma, WA 98499. Representative: Henry C. Winters, 525 Evergreen B, Renton, WA 98055. *Contract Carrier,* Irregular routes: *Mobile homes and portable buildings, and equipment, materials and supplies used in the distribution and installation of mobile homes and portable buildings,* (1) from points in the commercial zones of Boise, ID, McMinnville, OR, Pendleton, OR, and Woodburn, OR, to points in the commercial zone of Everett WA, under continuing contract(s) with Karr Bros. Homes, Inc., of Everett, WA; (2) from points in the commercial zones of Boise, ID, Nampa, ID, Albany, OR, and Bend, OR, to points in the commercial zone of Tacoma, WA, under continuing contract(s) with Westlin Homes, Inc., of Tacoma, WA; (3) from points in the commercial zones of Caldwell, ID, Albany, OR, Aumsville, OR, and McMinnville, OR, to points in the commercial zone of Spanaway, WA, under continuing contract(s) with Romans Mobile Homes, of Spanaway, WA; and (4) from points in the commercial zones of Caldwell, ID, and Woodburn, OR, to points in the commercial zone of Centralia, WA, under continuing contract(s) with Brookbank, Inc., of Centralia, WA, for 270 days. An underlying ETA seeks 90 days authority. Supporting shippers: Karr Bros. Homes, Inc., 9701 Evergreen Way, Everett, WA; Westlin Homes, Inc., 9122 So. Tacoma Way, Tacoma, WA 98499; Romans Mobile Homes, 16615 Pacific Ave., Spanaway, WA 98387; and Brookbank, Inc., 5410 222nd Ave., S.W., Centralia, WA 98531.

MC 153263 (Sub-6-1TA), filed December 19, 1980. Applicant: ANGELYNES, INC., P.O. Box 472, Berthoud, CO 80513. Representative: Robert D. Brown, 1500 Dover Ave., Loveland, CO 80537. *Contract* carrier: *irregular* routes: *Fiberglass, mineral wool, building insulation and related building materials (i.e. polyethylene vapor barriers, preformed ceiling grids (steel), sheetrock, and styrofoam insulation sheeting)* ; between Kansas City, MO; Kansas City, KS; Waxahachie.

TX and construction sites or storage facilities in the states of KS, CO and WY under continuing contract with Metropolitan, Ideal & Sutton, Inc., P.O. Box 1675, Englewood, CO 80150, for 270 days. Supporting Shipper: Metropolitan, Ideal & Sutton, Inc., P.O. Box 1675, Englewood, CO 80150.

MC 115931 (Sub-6-3TA), filed December 16, 1980. Applicant: BEE LINE TRANSPORATION, INC., P.O.B. 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O.B. 2471, Fargo, ND 58108. *Industrial radiators,* from facilities of Inland Engine Accessories, Inc., at or near Somers, WI to Peoria, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Inland Engine Accessories, Inc., 10424 38th St., Kenosha, WI 53140.

MC 153256 (Sub-6-1TA), filed December 18, 1980. Applicant: JACK BENTLEY, an individual, d.b.a. JACK BENTLEY TRUCKING, 36505 Wilson River Highway, Tillamook, OR 97141. Representative: Lex F. Page, One Southwest Columbia, Suite 800, Portland, OR 97258. *Cheese and Butter* from the facilities of Tillamook County Creamery Association, Tillamook, OR to points in CA and WA., for 270 days. Supporting Shipper: Tillamook County Creamery Association, P.O. Box 313, Tillamook, OR.

MC 134387 (Sub-6-6TA), filed December 17, 1980. Applicant: BLACKBURN TRUCK LINES INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schregg, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Mineral fiber, mineral fiber products and insulating materials* from the United States Gypsum Company facilities in Pierce County, WA to CA, ID, UT and MT for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: United States Gypsum Company, 101 South Wacker Dr., Chicago, IL 60606.

MC 42487 (Sub-6-47TA), filed December 17, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, Corporation of Delaware, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities, (except those of unusual value, Classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving the facilities of Goulds Pumps, Inc.,—Goyne Pump Division at or near Ashland, PA, Gold Mills, Inc., and Penn Dye and Finishing Co., Inc., at or near Pine Grove, PA, Wright's Knitwear at or near Auburn, PA and Reading Anthracite Company at or near Locust Summit, PA, as off-route points in connection with carrier's otherwise authorized regular route operations, for 270 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future, to permit service to and from points throughout the United States. Supporting shipper(s): Goulds Pumps, Inc.—Goyne Pump Division, East Center Street, Ashland, PA 17921. Gold Mills, Inc., and Penn Dye and Finishing Co., Inc., Penn Dye Street, Pine Grove, PA 17963. Wright's Knitwear, 800 W. Market Street, Auburn, PA 17922. Reading Anthracite Company, 200 Mahantongo Street, Pottsville, PA 17901.

MC 42487 (Sub-6-48TA), filed December 18, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, Corporation of Delaware, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O.B. 3062, Portland, OR 97208. *Common carrier,* regular routes: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving Randolph, VT as an off-route point and points in Windsor County, VT, as intermediate or off-route points, in connection with carrier's existing regular route operations, for 270 days. Supporting shipper(s): Vermont Castings, Inc., P.O.B. 40, Prince Street, Randolph, VT 05060.

Note.—Applicant intends to tack its existing authority to permit service to and from points throughout the United States.

Note.—Applicant proposes to interline traffic with its present connecting carriers.

MC 136605 (Sub-6-22TA), filed December 8, 1980. Applicant: DAVIS TRANSPORT, INC., P.O.B. 8129, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Plastic pipe and fittings and such articles required for its installation,* from Madison, WI, to points in MT, ND, SD, NE, for 270 days. Supporting shipper: Hurlbut Plastic Pipe Corporation, 206 E. Olin Ave, Madison, WI 53701.

MC 26396 (Sub-6-55TA), filed December 22, 1980. Applicant: THE WAGGONERS TRUCKING, P.O.B. 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O.B. 82028, Lincoln, NE 68501. (1) *Building materials, roofing materials, insulating materials, plastic products, diatomaceous earth, and pipe,* from Denison, TX; Waukengan, IL; and points in CA and OH to ports of entry on the International Boundary line between the U.S. and Canada located in WA, ID, MT, ND and MN; and (2) *Building materials,* from ports of entry on the International Boundary line between the U.S. and Canada located at Portal, ND and Sweetgrass, MT to points in AZ, CA, LA, NV, OK, and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Johns-Manville Canada Inc., 295 The West Mall, Etobicoke, Ontario M9C 4Z7.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-174 Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Notice.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-84

The following applications were filed in Region I.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 144709 (Sub-1-4TA), filed December 22, 1980. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. *Contract carrier:* irregular routes: *Water treatment chemicals and equipment, activated carbon, spent carbon and materials and supplies used or useful in the manufacture thereof* between points in the US on traffic originating at or destined to the facilities and subsidiaries of Calgon Corporation. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230.

MC 153140 (Sub-1-2TA), filed December 22, 1980. Applicant: PIONEER FREIGHT SYSTEMS, INC., 144 Parsippany Rd., P.O. Box 5, Whippany, NJ 07981. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *(1) Drugs, medicines, toilet preparations, personal care products, soap, chemicals and pet products (2) plastic and glass bottles and caps; (3) advertising paraphernalia; and (4) material, equipment and supplies used in the manufacture, sale and distribution of the commodities in 1, 2 and 3 above,* between all points in the US under a continuing contract with Carter Wallace, Inc., of Cranbury, NJ, and The Mennen Company of Morristown, NJ. Supporting shipper(s): Carter Wallace, Inc., Half Acre Road, Cranbury, NJ 08512; The Mennen Company, Hanover Ave., Morristown, NJ 07960.

MC 35906 (Sub-1-1TA), filed December 22, 1980. Applicant: JOHN LESTICIAN TRUCKING, INC., 500 Breunig Ave., Trenton, NJ 08638. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *(1) Mattresses, box spring mattresses, sofa-beds, lounges, frames, bed-ends, and parts, supplies and accessaries pertinent thereto; (2) boxes, cartons, bags, pads, wadding and other packing materials used for protection and insulation of commodities* from Somerset and Middlesex Counties, NJ to Philadelphia, PA and the Philadelphia, PA Commercial Zone. Supporting shippers: The Stearns & Foster Co., Cincinnati, OH 45215; Jiffy Packaging Corp., Clyde Rd., Somerset, NJ 08873.

MC 59720 (Sub-1-3TA), filed December 22, 1980. Applicant: KENMORE TRANSPORTATION COMPANY, 22 Eskow Road, Worcester, MA 01604. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. *Chemicals,* between Worcester, MA and points in the US east of the Mississippi River. Supporting shipper: Chemical Sales & Service Company, Inc., 61 Frement Street, Worcester, MA.

MC 145115 (Sub-1-4TA), filed December 23, 1980. Applicant: NY., NJ., CONN., FRIEGHT & MESSENGER CORP., 351 West 38th Street, New York, NY 10018. Representative: Ronald Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Wearing apparel and related articles, handing and/or in cartons,* from Forest Park, GA, to Carson, CA, under a continuing contract or contracts with K Mart Apparel Corp. Supporting shipper: K Mart Apparel Corp., 7373 West Side Avenue, North Bergen, NJ.

MC 140768 (Sub-1-13TA), filed December 23, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Disposable diapers,* from East Camden, AR to Dallas and McAllen, TX; Liverpool, NY; Memphis, TN; Flint and Grand Rapids, MI; Irwin, McKees Rocks and Pittsburgh, PA; and New York, NY, Philadelphia, PA, and Houston, TX, and points in the commercial zones thereof. Supporting shipper(s): Chicopee, P.O. Box 1151, New Brunswick, NJ 08903.

MC 153292 (Sub-1-1TA), filed December 23, 1980. Applicant: PREMIUM PLASTICS, INC., 250 Forrest Street, Metuchen, NJ 08840. Representative: Harold L. Reckson, 33-28 Halsey Road, Fair Lawn, NJ 07410. *Contract carrier:* irregular routes: *Plastic materials,* between Franklin County, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, NJ, OH, PA, TN and WI, under continuing contract(s) with Hercules, Incorporated. Supporting shipper: Hercules Corp., 814 Commerce Drive, Oak Brook, IL 60521.

MC 143127 (Sub-1-31TA), filed December 19, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, 6070 Collett Road, Victor, NY 14564. *Such commodities as are dealt in by the construction and home improvement industry and related materials,* between Colorado Springs, CO, Toledo, OH, and Van Buren, AR, on the one hand, and, on the other, points in the US. Supporting shipper: LST Corp., 4747 Holland-Sylvania Rd., Sylvania, OH 43560.

MC 153277 (Sub-1-1TA), filed December 19, 1980. Applicant: TRINITY TRUCKING CO., INC., 105 Clubhouse Drive, Town Bank, NJ 08204. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *Contract carrier:* irregular route: *Building materials, and supplies, materials and equipment used in the manufacture, sale and distribution thereof,* between Philadelphia, PA on the one hand, and, on the other, points in CT, DE, DC, MA, MD, NJ, NY, NC, OH, PA, VA and WV. Supporting shipper: The Celotex Corporation, 1500 North Dale Mabry, Tampa, FL 33607.

MC 153291 (Sub-1-1TA), filed December 22, 1980. Applicant: MIDCOAST TRUCKING, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. *Such commodities as are dealt with by wholesale, retail, chain grocery and food business houses* between points in NJ, on the one hand, and, on the other, points in Rockland, Suffolk, Ulster and Westchester Counties, NY Commercial Zone. Supporting shipper: General Foods Corporation, 250 North Street, White Plains, NY 10625.

MC 87451 (Sub-1-4TA), filed December 22, 1980. Applicant: CARGO TRANSPORT, INC., 100 Garfield Avenue, P.O. Box 268, Sommerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02143. *Steel Scaffolding KDF; forms or molds NOI; concrete construction, iron, wood, or iron and wood combined KD or nested in panels; aluminum structural forms NOI, SU; and equipment, materials, and supplies used in the manufacture, distribution, erection and sale thereof,* between the facilities of Patent Scaffolding at or near Medfor, MA; Providence, RI; and Hartford, CT; on the one hand, and, on the other, points and places in the US (excluding AK and HI). Supporting shipper: Patent Scaffolding, Inc., Division of Harsco Corp., 2125 Center Ave., Fort Lee, NJ 07024.

MC 126253 (Sub-1-1TA), filed December 22, 1980. Applicant: WESTERN MASS. BUS LINES, INC., 59 Service Center, Northampton, MA 01060. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Passengers and their baggage, in special operations,* beginning and ending at

Northampton, Easthampton, Amherst, Williamsburg, and Hadley, MA, and extending to points in ME, NH, VT, CT, RI, NY, NJ, DE, PA, MD, VA, FL and DC. Supporting shipper(s): There are fourteen statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 134535 (Sub-1-1TA), filed December 23, 1980. Applicant: CASALE CONTRACT CARRIERS, INC., P.O. Box 1393, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Paper and paper products, and materials, supplies and equipment used in the manufacture and distribution thereof,* between New Brunswick, NJ, on the one hand, and, on the other, points in Pennsylvania, under contract(s) with Container Corporation of America, Philadelphia, PA. Supporting shipper(s): Container Corporation of America, 5000 Flat Rock Road, Philadelphia, PA 19127.

MC 93147 (Sub-1-8TA), filed December 23, 1980. Applicant: DELTA TRANSPORT CORPORATION, 840 Union Street, P.O. Box 546, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *General commodities, (except commodities in bulk, in tank vehicles, used house hold furniture, commodities the transportation of which, because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the report descriptions in motor carrier certificates, 61 MCC 209 and 766, and explosives),* between points in the U.S. except AK and HI, restricted to traffic originating or destined to the facilites used by International Paper Co. Supporting shipper: International Paper Co., 220 East 42nd Street, NY, NY 10017

MC 145695 (Sub-1-1TA), filed December 23, 1980. Applicant: MAZCO SYSTEMS, INC., 140 Grand Street, Carlstadt, NJ 07072. Representative: Roy A. Jacobs, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier:* irregular routes: *Pipe fittings, connections and joints,* and materials, supplies and equipment used in the manufacture of said commodities between points in the U.S. (except AK and HI), under continuing contract(s) with Elkhart Products Corporation of Elkhart, IN. Supporting shipper: Elkhart Products Corporation, 1255 Oak Street, Elkhart, IN.

MC 124069 (Sub-1-1TA), filed December 22, 1980. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Representative: William J. Hirsch P.C., Attorney at Law, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Special Type 2 Cement, in bulk and in bags,* from Rochester, NY, to the Commerical Zone of the City of Saginaw, MI. Supporting shipper: Rochester Portland Cement Corp., P.O. Box 4749, Charlotte Station, Rochester, NY 14612

MC 150987 (Sub-1-5TA), filed December 22, 1980. Applicant: DOWN EAST TRUCKING, INC., MRC 156, Bangor, ME 04401. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Coal,* from PA and WV to CT, MA, RI, NH, ME, and VT. Supporting shipper: b.f. Emery Co. Div. of Wadleigh's Inc., 52 Summer St., Kennebunk, ME 04043.

MC 153279 (Sub-1-1TA), filed December 22, 1980. Applicant: BONWAY SERVICE TRANSPORT, INC., 54 Fulton Street, Buffalo, NY 14204. Representative: Robert D. Gunderman, Suite 710, Statler Bldg., Buffalo, NY 14202. *Contract carrier:* Irregular routes: *Sugar,* between Buffalo, NY on the one hand, and, on the other, points in CA, CO, CT, DE, DC, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, and WI, under a continuing contract or contracts with U.S. Sugar Company, Inc. Supporting shipper: U.S. Sugar Company, Inc., P.O. Box 1997, Buffalo, NY 14219.

MC 100318 (Sub-1-1TA), filed December 18, 1980. Applicant: JAMES F. MOLLENHAUER d.b.a. CITY TRANSPORT COMPANY, P.O. Box 1331, Cherry Hill, NJ 08034. Representative: Ronald Ervais, 1315 Walnut Street, Suite 1329, Philadelphia, PA 19107. *General commodities* between points in PA, DE, MD, NJ, NY, DC, and VA. Supporting shipper(s): There are seven statements in support of this application that may be reviewed at the Regional Office of the I.C.C. in Boston, MA.

MC 119552 (Sub-1-10TA), filed December 19, 1980. Applicant: J.T.L., Inc., 49 Rosedale Street, Providence, RI 02903. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract Carrier:* Irregular Routes: *General Commodities (except household goods as defined by the Commission and Classes A and B explosives)* between all points in the U.S., under continuing contracts with Denton Sales Company, Inc. Supporting shipper: Denton Sales Company, Inc., 11210 Zodiac Lane, P.O. Box 29749, Dallas, TX 75229.

MC 15859 (Sub-1-1TA), filed December 17, 1980. Applicant: THE HINE LINE, 247 Emmet Street, Newark, NJ 07114. Representative: Michael D. McCormick, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *(a) Iron and steel articles* and *(b) materials, equipment and supplies used in the manufacture thereof,* between Middlesex County, NJ, on the one hand, and, on the other, points in and east of MN, IA, MO, OK, and TX. Restricted to traffic originating at or destined to the facilities of Raritan River Steel Company located at or near Perth Amboy, NJ. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 06882.

MC 142126 (Sub-1-1TA), filed; December 17, 1980. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale Street, Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: *Plastic articles and equipment, materials, and supplies used in the manufacture, sale, and distribution of plastic articles (except in bulk),* from Leola, PA to Waxahachie, TX, and Horse Cave, KY, under a continuing contract with Dart Container Corporation of Pennsylvania. Supporting Shipper: Dart Container Corporation of Pennsylvania, 60 East Main Street, Leola, PA 17540.

MC 3252 (Sub-1-3TA), filed December 19, 1980. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04104. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Cement, in bulk* from Thomaston, ME to points in NH. Supporting shipper: Persons Concrete, Inc., Box 157, Winnisquam, NH 03289.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 141514 (Sub-4-1TA), filed December 19, 1980. Applicant: WILLIAM H. BURGENER, d.b.a. BURGENER CONTRACT CARRIERS, Route 3, Box 485, Merrill, WI 54452. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract,* Irregular; (1) *Footwear, leather or leather products and equipment materials and supplies used in the manufacture, sale and distribution thereof* between points in Langley, Lincoln and Wood Counties in WI, on the one hand, and, on the other, points in the U.S. under contract to Weinbrenner Shoe Company, Merrill, WI and (2) *Fabricated metal products* *and equipment, supplies and materials used in the manufacture, sale and distribution thereof* between points in Lincoln County, WI on the one hand, and, on the other, points in the U.S. under contract to Northern Wire Corporation, Merrill, WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: (1) Weinbrenner Shoe Company, 108 S. Polk Street, Merrill, WI 54452 and (2) Northern Wire Corporation, 1100 Taylor Street, Merrill, WI 54452

MC 148125 (Sub-4–1TA), filed December 19, 1980. Applicant: JAMES N. SKRZYPCHAK, d.b.a. SUN DOG TRUCKING, 9709 Highway 29 West, Wausau, WI 54401. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* Irregular; *(a) Rough and plained or finished boards; and (b) building materials* between points in IN, IL, and MN, on the one hand, and, on the other, points in Clark and Marathon Counties, WI. Restriction: Restricted to transportation performed under a continuing contract(s) with Kolbe Bros. Lumber and Lato Corporation. An underlying ETA seeks 120 days authority. Supporting shippers: Kolbe Bros. Lumber Company, 9509 Hwy 29 West, Wausau, WI 54401; and Lato Corporation, Route 3, Thorp, WI 54471.

MC 151934 (Sub-4–4TA), filed December 19, 1980. Applicant: KING'S EXPRESS, INC., Rural Route 2, St. Joseph, MN 56374. Representative: Stanley C. Olsen, Jr., GUSTAFSON & ADAMS, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in Motor Carrier Certificates, 61 M.C.C. 209 and 766, between St. Cloud, MN, on the one hand, and, on the other, points in the U.S. Supporting shipper: ST. CLOUD MEAT AND PROVISIONS, INC., 7232 Fourth Street South, St. Cloud, MN 56301.

MC 145437 (Sub-4–12TA), filed December 22, 1980. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Common; irregular. Ready made garments and wearing apparel* between points in the U.S. (except AK and HI), on the one hand, and, on the other, Detroit, MI and points in the Detroit, MI commercial zone. Underlying ETA seeks 120 days authority. Supporting shippers: Hughes & Hatcher, 1661 Porter Street, Detroit, MI, 48211; J. L. Hudson Company, 14225 West Warren, Dearborn, MI 48126; and Winkelman's Department Store, 25 Parsons, Detroit, MI 48201.

MC 151665 (Sub-4–2TA), filed December 22, 1980. Applicant: MAGNUM, LTD., P.O. Box 775, Hillsboro, ND 58045. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract,* irregular: *Industrial limerock* from Duluth, MN, to the facilities of American Crystal Sugar at or near Moorhead, East Grand Forks and Crookston, MN, and Drayton and Hillsboro, ND, under continuing contract(s) with American Crystal Sugar Company. An underlying ETA seeks 120 days authority. Supporting shipper: American Crystal Sugar Company, 101 North 3rd Street, Moorhead, MN 56560.

MC 153273 (Sub-4–1), filed December 22, 1980. Applicant: SCHREIBER TRANSIT, INC., 425 Pine Street, Green Bay, WI 54305. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract,* irregular: *General Commodities* except Class A & B Explosives, between points in the U.S. under contract with Schreiber Cheese Company, Inc. and its subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Schreiber Cheese Company, Inc., 425 Pine Street, Green Bay, WI 54305.

MC 142920 (Sub-4–8TA), filed December 22, 1980. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract,* irregular: *General commodities* (except Classes A and B explosives and household goods as defined by the Commission) from points in CT, MA, NY, NJ, and PA to points in IL and IN under contract(s) with Payless Cashways, Inc. of Kansas City, MO. Supporting shipper: Payless Cashways Inc., 3100 Broadway, Suite 1000, Kansas City, MO 64111.

MC 135410 (Sub-4–18TA), filed December 22, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th St. Rd., Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Foodstuffs (except commodities in bulk),* (1) between the facilities of General Mills, Inc. at or near Cedar Rapids, IA, Galesburg, IL, Buffalo, NY and Toledo, OH and (2) between the facilities of General Mills, Inc. at or near Galesburg, IL, on the one hand, and, on the other, points in AR, AZ, CA, IA, IN, KS, KY, MI, MN, MO, NE, OH, TN, and WI. Supporting shipper: General Mills, Inc., 9200 Wayzata Blvd., Minneapolis, MN 55426.

MC 143280 (Sub-4–2), filed December 22, 1980. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Ave. So., Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs,* from the facilities of the Creamette Company in Hennepin County, MN to points in AZ, AL, CA, CO, GA, IN, KY, MI, MT, NM, NV, OH, OR, OK, PA, TN, TX, UT, and WA. An underlying ETA seeks 120 days. Supporting shipper: The Creamette Company, 428 North First Street, Minneapolis, MN 55401.

MC 123272 (Sub-4–7TA), filed December 22, 1980. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Ave., Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Paper and paper products,* from Cincinnati, OH, to points in IN, IL, WI, and those points in MO and IA on the Mississippi River and points in KY on the Ohio River, and points in TX, LA, MS, AL, GA, FL, NY, NJ, WV and MN. An underlying ETA seeks 120 days authority. Supporting shipper: C. W. Zumbiel Company, 2339 Harris Ave., Cincinnati, OH 45212.

MC 152100 (Sub-4–2TA), filed December 22, 1980. Applicant: W & H TRUCK SYSTEMS, INC., 7601 West 59th Street, Summit, IL 60501. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *(a) Foodstuffs, other than in bulk, and other than refrigerated; and (b) Materials, equipment and supplies used or useful in the manufacture, sale and distribution of commodities named in (a) above;* between the facilities of D'Amico Foods Co. at Steger and Park Forest South, IL, on the one hand, and, on the other, points in the States of MN, IA, MO, AR, LA and east thereof. Supporting shipper: D'Amico Foods Co., 2601 Bond St., Park Forest South, IL 60444.

MC 29886 (Sub-4–7TA), filed December 17, 1980. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314—39th Avenue, Kenosha, WI 53142. Representative: Carl G. Van Dyke (same address as applicant). *Non Ferrous Metals,* from Indianapolis and Muncie, IN, to Murfreesboro, TN. An underlying ETA seeks 90 days authority. Supporting shipper: Bergsoe-Boliden, P.O. Box 2466, Muncie, IN 47032.

MC 40978 (Sub-4–11TA), filed December 22, 1980. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *New furniture,* from Wilson, MI, to points in IA, IL, IN, MN, MO, OH, WI, and the Lower Peninsula of MI. An underlying ETA seeks 120 days authority. Supporting shipper: Robinson Furniture Mfg. Company, Route 1, Wilson, MI, 49896.

MC 143776 (Sub-4-16TA), filed December 19, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Residential and commercial insulation* from Fontana, CA, Pueblo, CO, Belton, TX, Cameron, MO and Alexandria, IN and their respective commercial zones to various points in the U.S. Supporting shipper: Rockwool Industries, Inc., 7400 South Alton Court, Englewood, CO 80112.

MC 144578 (Sub-4-1), filed December 22, 1980. Applicant: LIME, INC., 3969 Wyoming Ave., Dearborn, MI 48126. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Lime, limestone and limestone products,* in bulk, between Kimballton, VA and points in GA, IN, KY, OH, NC, SC, TN and WV. Supporting shipper: Gold Bond Building Products, a Division of National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211.

MC 153258 (Sub-4-1), filed December 18, 1980. Applicant: DENNIS R. HILKER TRUCKING, INC., 712 W. Millard Street, New London, WI 54961. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract: irregular; general commodities* with usual exceptions between points and places in the U.S. (except AK and HI) under contract to Hillshire Farms Company and subsidiaries. An underlying ETA seeks 120 days authority. Supporting shipper: Hillshire Farms Company, P.O. Box 227, New London, WI 54961.

MC 150786 (Sub-4-3), filed December 18, 1980. Applicant: BOBBY BARNES & CHARLES FITZPATRICK, d.b.a. B & F TRUCKING, 3250 Sangamon Street, Steger, IL 60415. Representative: Philip A. Lee, 120 West Madison Street, Chicago, IL 60602. (A) *Foodstuffs,* and (B) *Materials, equipment and supplies used or useful in the manufacture, sale and distribution of foodstuffs,* between Park Forest South and Steger, IL and IN, MI, WI, IA, MS, MO, KY, TN, OH, PA, GA, AL, TX, AR, CA, FL, LA, OK, NE, NJ, KS, NM, NY, NC, SC, VA, WV, DE, MD, CO, ND, and SD. Supporting shipper: D'Amico Foods Company, 3601 Chicago Rd., Steger, IL 60475.

MC 153306 (Sub-4-1TA), filed December 24, 1980. Applicant: JAMES A PATON, d.b.a. GENERAL FREIGHT SYSTEMS, 4303 Kennedy, East Chicago, IN 46312. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract,* Irregular: *Iron and steel articles* between points in IL, IN and WI under continuing contracts with Robinson Steel Company, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Robinson Steel Company, Inc., 222 South Riverside Plaza, Chicago, IL 60606.

MC 41406 (Sub-4-3), filed December 23, 1980. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Drive, Merrillville, IN 46410. Representative: Ralph D. Artim, President, 8400 Westlake Drive, Merrillville, IN 46410. *Iron and steel articles, and materials, equipment and supplies,* used in the manufacture and production of iron and steel articles, between points in Chicago, IL and Tulsa, OK, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Sauk Steel Co., Inc., South Chicago Heights, IL.

MC 144546 (Sub-4-1TA), filed December 24, 1980. Applicant: LAWYER TRUCKING, INC., Old State Road 67 South, P.O. Box 186, Mooresville, IN 46158. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. *Contract:* Irregular: *Insulation products,* and materials, equipment and supplies used in the manufacture thereof, between the facilities of Cellulose Manufacturing, Inc., located at or near Mooresville, IN, on the one hand, and, on the other, points in KY, IL, MI, MO, IA, OH and PA, under contract with Cellulose Manufacturing, Inc., Mooresville, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Cellulose Mfg., Inc., 1155 Old State Rd., Mooresville, IN.

MC 152748 (Sub-4-2), filed December 22, 1980. Applicant: EZEKIEL MORRIS TRANSPORTATION, INC., 8042 South Champlain, Chicago, IL 60619. Representative: Stephen D. Froikin, One IBM Plaza, Suite 4750, Chicago, IL 60611. *Printed matter, office and printing machinery and paper products* between points in IL and points in IN, IA, KY, MI, MN, MO, NH, NJ, NY, OH, PA, TN and WI. Supporting shippers: Stuart-Hooper Company, 8757 S. Greenwood Ave., Chicago, IL 60619; The D. B. Hess Company, 1150 McConnell Rd., Woodstock, IL 60098.

MC 152936 (Sub-4-2TA), filed December 24, 1980. Applicant: ADIA CORPORATION, 13101 South Torrence Ave., Chicago, IL 60633. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Motor vehicles,* between points in IL, IN, MI, MO, OH and WI, on the one hand, and, on the other, points in CA. An underlying ETA seeks 120 days authority. Supporting shipper: Subaru Mid-America, Inc., 2374 Estes, Elk Grove Village, IL 60007.

MC 128651 (Sub-4-1), filed December 23, 1980. Applicant: CONTINENTAL AIR TRANSPORT CO., INC., 300 North Des Plaines St., Chicago, IL 60606. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. *Passengers and their baggage and express and newspapers in the same vehicle with passengers* between Chicago, IL and Milwaukee, WI serving as intermediate points junction Interstate Hwy 94 and IL 22; Great Lakes Naval Training Center, IL; junction Interstate Hwy 94, U.S. 41 and WI 50 approximately 4 miles west of Kenosha, WI; and junction Interstate 94, U.S. 41, and WI 20 approximately 6 miles from Racine, WI: From Chicago over Interstate Hwy 90 to Interstate Hwy 294, then over Interstate Hwy 294 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction IL Hwy 137, then over IL Hwy 137 to Great Lakes Naval Training Center, then over IL 137 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction Interstate Hwy 94, then over Interstate 94 to Milwaukee, WI and return over same route (also from Chicago, IL over Interstate Hwy 90 to junction Interstate Hwy 294, then over Interstate Hwy 294 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Milwaukee, WI and return over the same route. Supporting shippers: There are 130 statements of support attached.

MC 119641 (Sub-4-4TA), filed December 23, 1980. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Such commodities as are dealt in or used by manufacturers and dealers of agricultural equipment and industrial equipment, and lawn care and leisure products* (except commodities in bulk), from the facilities of Deere & Company at Gulfport, MS, to points in CO, IL, IA, KS, MI, MN, MO, MT, NE, ND, OK, SD, WI and WY. Supporting shipper: Deere & Company, John Deere Road, Moline, IL 61265.

MC 153297 (Sub-4-1TA), filed December 23, 1980. Applicant: ART OELKE d.b.a. ART OELKE TRUCKING, 1406 South Ramsey, Blue Earth, MN 56013. Representative: Michael D. Johnson, Frundt, Frundt & Johnson, 117 West Fifth Street, Blue Earth, MN 56013.

Contract; Irregular, *Home building materials consisting of but not limited to lumber, insulation, shingles, and hardware,* from Blue Earth, MN to points in MN, IA, ND, SD, NE, WI, MO, and IL under a contract(s) with North Country Homes, Inc. Supporting shipper: North Country Homes, Inc., Highway 16 West, Blue Earth, MN 56013.

MC 151080 (Sub-4-3TA), filed December 22, 1980. Applicant: SENATE CARTAGE COMPANY, INC., 1010 Jorie Blvd., Oak Brook, IL 60521. Representative: Lawrence T. Sansone (same address as applicant). *General commodities (except in bulk, Class A and B explosives, and Household Goods),* between the facilities of Capitol Freight System, on the one hand, and, on the other points in the Continental U.S. Supporting Shipper: Capitol Freight System, P.O. Box 6546, Chicago, IL 60680.

MC 151899 (Sub-4-5TA), filed December 23, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main Street, Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. *Contract;* Irregular; *Foodstuffs,* between Jefferson County, WI, on the one hand, and, on the other, points in the U.S. Under a continuing contract or contracts with Redi-Serve Food, Inc., Jones Dairy Farm, Moores Food Products, Inc., and Jefferson Meat Company. An underlying ETA seeks authority for 120 days. Supporting Shippers: Redi-Serve Food, Inc., 1200 Industrial Drive, Fort Atkinson, WI: Jones Dairy Farm, P.O. Box 28, Fort Atkinson, WI; Moores Food Products, Inc., 801 Rockwell, Fort Atkinson, WI; and Jefferson Meat Company, 154 West Linden Drive, Jefferson, WI.

MC 144645 (Sub-4-5TA), filed December 23, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract irregular; (1) Fruit juices, fruit drinks, and bottled drinking water; and (2) materials, equipment and supplies used in the manufacture or distribution of the commodities in part (1),* between points in the U.S. under continuing contracts with Ohio Pure Foods, Inc., of Akron, OH. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Ohio Pure Foods, Inc., 1680 East Market, Akron, OH 44305.

MC 117165 (Sub-4-2TA), filed December 22, 1980. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Building materials and landscaping timbers* from the facilities of AJD Forest Products, Inc at or near Grayling, MI to points in the U.S. in and east of MN, IA, MO, AR and LA. Supporting shipper: AJD Forest Products, Inc., P.O. Box 629, Grayling, MI 49738.

MC 145394 (Sub-4-14TA), filed December 23, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract; Irregular; Lawn and garden machines and equipment, and materials, equipment, and supplies used in the manufacture and distribution of such commodities* between points in the U.S. Restriction: Restricted to transportation performed under a continuing contract(s) with Falls Products, Inc. And underlying ETA seeks 120 days authority. Supporting shipper: Falls Products, Inc., 415 Railroad Ave., Genoa, IL 60135.

MC 146145 (Sub-4-1TA), filed December 23, 1980. Applicant: TOWER TRANSPORT, INC., 528 S. Cumberland Ave., Park Ridge, IL 60068. Representative: Edward G. Bazelon, 39 S. La Salle St., Chicago, IL 60603. (1) *Such commodities as are dealt in by manufacturers and distributors of foods, food products and malt beverages,* and *(2) materials, equipment, supplies and ingredients used by manufacturers and distributors of foods, products and malt beverages;* restricted in (1) and (2) against the transportation of commodities in bulk: between Chicago and Huntley, IL, and points in their respective commercial zones, on the one hand, and, on the other, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD and WI. Supporting shipper: Dean Foods Co., 12007 Smith Drive, Huntley, IL 60142.

MC 116073 (Sub-4-1TA), filed December 22, 1980. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, MN 56560. Representative: Paul D. Borghesani, Suite 300, Communicana Building, 421 So. Second Street, Elkhart, IN 46516. *Automobiles,* in secondary movements, in truckaway service, from points in the U.S. to Battle Creek, MI. Supporting shipper: The Model A and Model T Reproduction Corporation, Suite 1460, Tower 100, Renaissance Center, Detroit, MI 48243.

MC 145437 (Sub-4-13TA), filed December 23, 1980. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Such merchandise as is dealt in by retail department stores and materials, equipment and supplies used or useful in the manufacture, sale or distribution of the involved commodities* between Minneapolis, MN and points in the Minneapolis, MN commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Braun's Fashions, Inc., 7630 Excelsior Boulevard, Minneapolis, MN 55426.

MC 145653 (Sub-4-2TA), filed December 22, 1980. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 West Carroll Avenue, Chicago, IL 60612. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract;* Irregular: *(a) Such commodities as are dealt in by the food, grocery and drug industries;* between points in the continental U.S. Under contract with Procter & Gamble Distributing. Supporting shipper: The Procter & Gamble Distributing Co., Cincinnati, OH 45201.

MC 152353 (Sub-4-2TA), filed December 22, 1980. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Route 1, Eden, WI 53019. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Coils of steel wire* from Saukville, WI, to points in MI. Supporting shipper: Charter Rolling, a Division of Charter Manufacturing Company, Inc., 1658 Cold Spring Drive, Saukville, WI 53080.

MC 76993 (Sub-4-3TA), filed December 22, 1980. Applicant: EXPRESS FREIGHT LINES, INC., 4924 South 13th Street, Milwaukee, WI 53221. Representative: Michael J. Wyngard, 150 East Gilman Street, Madison, WI 53703. *Common; regular: General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (1) Between Milwaukee, WI and Grand Rapids, MI, serving no intermediate points. From Milwaukee, WI over I-94 to its jct. with I-196 at or near Benton Harbor, MI, then over I-196 to Grand Rapids, MI and return over the same route. (2) Between Milwaukee, WI and Grand Rapids, MI, serving the intermediate point of Kalamazoo, MI. From Milwaukee, WI over I-94 to its jct. with U.S. Hwy. 131 at or near Kalamazoo, MI, then over U.S. Hwy. 131 to Grand Rapids, MI and return over the same route. Applicant proposes to tack the requested routes with all existing authority and to interline with other existing carriers.

Underlying ETA seeks 120 days authority. 15 supporting shippers.

MC 151899 (Sub-4-4TA), filed December 22, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main Street, Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract;* Irregular: *foodstuffs and such commodities used in the manufacture and distribution of foodstuffs* between Worcester and Southboro, MA on the one hand, and, on the other, points in the U.S. Under a contract or continuing contracts with Idlewilde Farms, Inc., a Division of Idlewilde Foods, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Idlewilde Farms, Inc., a Division of Idlewilde Foods, Inc., Searles Road, Pomfret Center, CT 06259.

MC 135152 (Sub-4-18TA), filed December 22, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030. *Electrical appliances and audio equipment* between facilities operated by General Electric Housewares and Audio Business Division, on the one hand, and, on the other, points in the U.S. (except AL and HI). Supporting shipper: General Electric Company, 1285 Boston Avenue, Bridgeport, CT 06612.

MC 124078 (Sub-4-50TA), filed December 23, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Magnetite,* from the facilities of Gauley Industries Inc. at or near Gauley Mills, WV to the facilities of the Tennessee Valley Authority at or near Drakesboro, KY. An underlying ETA seeks 120 days authority. Supporting shipper: Gauley Industries Inc., Box 86, Camden-on-Gauley, WV 26208.

MC 153296 (Sub-4-1), field December 23, 1980. Applicant: TIGER TOWING, INC., 652 West Lake St., Elmhurst, IL 60126. Representative: Martin J. Kennedy, 120 West Madison St., Suite 718, Chicago, IL 60602. *Buses, tractors, trailers and trucks by tow truck* between points in IL, IN, IA, KY, MI, MO, OH and WI. An ETA seeks 120 days authority. There are 6 supporting shippers.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5-75TA), field December 22, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *General Commodities (except household goods as defined by the Commission, and classes A. & B explosives),* between points in Hudson County, NJ, on the one hand, and, on the other, points in Milwaukee County, WI. Supporting shipper: J.C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 200 (Sub-5-76TA), field December 22, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Primary metal products,—fabricated metal products, and Materials, supplies, and equipment used in the manufacture, sale, and distribution thereof,* between points in Marion County, WV, on the one hand, and, on the other, points in AR, OK, and TX. Supporting shipper: Alcan Aluminum Corporation, 100 Erieview Plaza, Cleveland, OH 44114.

MC 52460 (Sub-5-22TA), filed December 22, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same as applicant). *Meat, Meat Products and Meat By-Products, and Articles distributed by Meat Packing Houses as described in Sections A and C of Appendix "I" to the report in descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 (except hides and commodities),* From the facilities of Thies Packing, Inc. at or near Great Bend, Topeka, Wichita, KS to points in AL, AR, CA, CO, FL, GA, IL, IA, KY, LA, MS, MO, NE, NM, NC, OK, SC, TN, and TX. Supporting shipper: Thies Packing, Inc., P.O. Box 1658, Topeka, KS 66601.

MC 52460 (Sub-5-23TA), filed December 22, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizings, P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. *Meat, Meat Products and Meat By-Products, and Articles distributed by Meat Packing Houses as described in Sections A and C of Appendix "I" to the report in descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 (except hides and commodities in bulk),* From the facilities of Dubuque Packing, Inc. at or near Mankato, KS, and Wichita, KS to points in AL, AR, CA, CO, FL, GA, IL, IA, KY, LA, MS, MO, NE, NM, NC, OK, SC, TN, and TX. Supporting shipper: Dubuque Packing, Inc., Box 283, Mankato, KS 66956 and Dubuque Packing, Inc. P.O. Box 4225, Wichita, KS 67204.

MC 82841 (Sub-5-4TA), filed December 22, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: William E. Christensen, 10770 I Street, Omaha, NE 68127. (1) *iron or steel articles and* (2) *material and equipment used in the manufacture and distribution thereof* between points in and east of TX, OK, KS, NE, IA, and MN. Supporting shipper: Raritan River Steel Company, P.O. Box 309, Perth Amboy, NJ 08862.

MC 107496 (Sub-5-47TA), filed December 22, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Sand, in bulk, in tank vehicles,* from Kansas City, KS to Ozark, MO. Supporting shipper: Ozark Concrete Company, 1948-C South Glenstone, Springfield, MO 65804.

MC 109397 (Sub-5-25TA), filed December 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *(1) Electric substations; (2) primary metal products; (3) bead, hose, brush, wire and systems, parts, attachments and accessories for the Tire Industry; (4) equipment, materials and supplies used in the manufacture and distribution of items in (1), (2) and (3) above,* between Shelby, St. Clair and Jefferson Counties, AL, on the one hand, and, on the other, points in the U.S. Supporting shipper: Kidd Fab, Inc., P.O. Box 431, Bessemer, AL 35021; Dietrich Industries, Inc., P.O. Box 400, Asheville, AL 35953; National-Standard Co., P.O. Box 1208, Columbiana, AL 35051.

MC 109397 (Sub-5-26TA), filed December 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *Self-propelled material handling equjipment,* between points in the U.S.—restricted to traffic originating at or destined to the facilities of K-D Manufacturing Company. Supporting shipper: K-D Manufacturing Company, P.O. Box 4547, Waco, TX 76705.

MC 109397 (Sub-5-27TA), filed December 22, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *Urethane foam insulating panels, and insulation* and *insulated siding,* from the facilities of RMAX, Inc. in Dallas, TX and Greer, SC, to points in the U.S. Supporting shipper: RMAX, Inc., 13524 Welch Rd., Dallas, TX 75234.

MC 111401 (Sub-5-26TA), filed December 22, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Asphalt, in bulk, in tank vehicles,* from Stroud, OK to Elkhart, IN; Ocala, FL; and Hershey, PA. Supporting shipper: Chemical Product Development, Inc., 5001 S. McArthur Blvd., Oklahoma City, OK 73119.

MC 115724 (Sub-5-2TA), filed December 22, 1980. Applicant: J. W. PHILLIPS, INC., 4500 North Sewell; Suite No. 5, Oklahoma City, OK 73154. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Contract; irregular. *Lumber and wood products* from WA, CA, and OR to points in OK, TX, and AR. Supporting shipper: Rogue Forest Products; P.O. Box 1803, Medford, OR 97501.

MC 117119 (Sub-5-47TA), filed December 22, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Printed matter* from the facilities of Dayton Press, Inc. located at Dayton, OH to points in the U.S. (except AK and HI). Supporting shipper: Dayton Press, Inc., P.O. Box 700, Dayton, OH 45401.

MC 118468 (Sub-5-22TA), filed December 22, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: Wiliam L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Lumber, lumber products and wood products,* between points in IL, IN, IA, MI, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI) under contract with R. D. Johnson, Inc. Supporting shipper: R. D. Johnson Lumber, Inc., Box 184 N, Northfield, IL 60093.

MC 119399 (Sub-5-38TA), filed December 22, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *Tires, pneumatic, noi, inner tubes, flaps and liners* from Columbus, OH to points in AZ, CO, NM, TX, MI and IN. Supporting shipper: Discount Tire Co., Inc., Phoenix, AR 85032.

MC 119988 (Sub-5-29TA), filed December 22, 1930. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood (same as applicant). *Lumber, lumber products, lumber mill products, forest products and wood products,* between points in OR, WA and CA. Supporting shipper(s): Oregon-California Forest Products, Inc., 1145 Chambers Street, Eugene, OR 97402.

MC 124174 (Sub-5-34TA), filed December 22, 1980. Applicant: MOMSEN TRUCKING CO., 13811 L Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 L Street, Omaha, NE 68137. *General commodities (except A and B explosives) under protective service,* between Houston, TX and New Orleans, LA, on the one hand, and points in IL, NE, KS, MO, and KY on the other. Restricted to traffic having a subsequent or prior movement by water. Supporting shipper(s): Sea-Land Service, Inc., P.O. Box 900, Edison, NJ 08817.

MC 126118 (Sub-5-41TA), filed December 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Such commodities as are dealt in by manufacturers and distributors of lawn care products,* between Marysville, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: O. M. Scott & Sons, Thomas L. McCarty, Traffic Manager, 333 North Maple, Marysville, OH 43041.

MC 126118 (Sub-5-42TA), filed December 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Such commodities as are dealt in and used by wholesale grocery and general merchandise stores,* between points in AR, CO, FL, GA, IL, IN, IA, KS, LA, MI, MO, NE, NM, NC, OH, OK, TN, TX, WV, and WI, on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: Shurfine-Central Corporation, Nello DiDomenico, Asst. Director of Distribution and General Traffic Manager, 2100 North Mannheim Road, Northlake, IL 60164.

MC 126118 (Sub-5-43TA), filed December 22, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Clay products, equipment, and supplies,* between pts in FL and KY, on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: Sikes Corporation (formerly Florida Tile Industries, Inc.), Charles I. Edwards, Corporate Traffic and Transportation Manager, U.S. Highway 127 and State Road 512, Lawrenceburg, KY 40342.

MC 129908 (Sub-5-40TA), filed December 22, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th, Oklahoma City, OK 73147. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147. *Foodstuffs and kindred items* between points in IA and WI on the one hand, and, on the other, points in TX, TN, KS, MO, IN, and IL. Supporting shipper: Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036.

MC 133805 (Sub-5-35TA), filed December 22, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1 Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Chemicals (except in bulk)*—Between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MI, MO, MS, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WI and WV—Restricted to the transportation of traffic of Moreland-McKesson Chemical Company. Supporting shipper: Moreland-McKesson Chemical Co., Post Office Drawer 2169, Spartanburg, SC 29304.

MC 134134 (Sub-5-7TA), filed December 22, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* from the facilities of Dubuque Packing Co. at Denison and Dubuque, IA to points in and and east of MI, OH, VA, and WV. Supporting shipper: Dubuque Packing Co., P.O. Box 610, Denison, IA 51442.

MC 134229 (Sub-5-1TA), filed December 22, 1980. Applicant: RICHMOND TRANSFER, INC., Route 4, Box 1000, Richmond, MO 64084. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *General commodities, except Classes A and B explosives and household goods,* between Ray and Lafayette Counties, MO, on the one hand, and on the other, AR, IA, IL, IN, KS, KY, NE, OH, OK, TN and TX. Applicant intends to tack and interline. Supporting shippers: Price Candy Co., Richmond, MO 64085; Lawson Feed & Supply, Inc., Lawson, MO 64062; American Milgon Plastics, Inc., Orrick, MO 64077.

MC 136008 (Sub-5-10TA), filed December 22, 1980. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John E. Tipsword, Joe Brown Company, Inc., 5501 S. I-35 (P.O. Box 6210), Moore, OK 73153. *Muriate of Potash,* from Carlsbad, NM to points in

AR, LA and MO. Supporting shipper: United States Fertilizer Company, Inc., Little Rock, AR 72201.

MC 136786 (Sub-5-45TA), filed December 22, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., GUSTAFSON & ADAMS, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Cleaning compounds,* between Kansas City, KS, on the one hand, and, on the other, points in CA and NV. Supporting shipper: Star-Brite Sales, Inc., P.O. Box 4622, Overland Park, KS 66204.

MC 139382 (Sub-5-1TA), filed December 22, 1980. Applicant: DWIGHT PARKER TRUCKING CO., INC., P.O. Box 149, Hugo, OK 74743. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763-9555. *Gravel, rip rap, crushed rock and road building materials* between points in OK and TX. Supporting shipper: Two States Crusher, Inc., P.O. Box 67, Hugo, OK 74743.

MC 139642 (Sub-5-3TA), filed December 22, 1980. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract; Irregular; *Ceramic tile, and equipment, materials and supplies used in the manufacture of ceramic tile* between all points in the United States, under a continuing contract with International American Ceramics, Inc. located in Tulsa, OK.

MC 140635 (Sub-5-8TA), filed December 22, 1980. Applicant: ADAMS LINES, INC., 2619 N Street, Omaha, NE 68107. Representative: John L. Hornung, President, 2619 N Street, Omaha, NE 68107. *Boots and shoes, and boot and shoe factory materials, supplies and equipment (except commodities in bulk).* (1) From Boston, MA and pts in its Commercial Zone, to Cape Girardeau and Jefferson City, MO; and (2) From Chicago, IL and in its Commercial Zone, to Jefferson City, MO.

MC 140665 (Sub-5-53TA), filed December 22, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *General Commodities (except articles of unusual value, Classes A and B Explosives, Household Goods as defined by the Commission, commodities in bulk, and articles requiring special equipment)* between points in CA, on the one hand, and on the other, points in and east of MN, IA, NE, KS, OK, and TX, restricted to traffic originating at the facilities of Intermodal Transport Company (ITCO), their customers and affiliates. Supporting shipper: Intermodal Transport Company, 2211 Wood Street, Oakland, CA 94607.

MC 141396 (Sub-5-2TA), filed December 22, 1980. Applicant: DELP, INC., Highway 71 South, P.O. Box 369, Springdale, AR 72764. Representative: Stanley W. Ludwig, P.O. Box 285, 529 S. Holcomb Street, Springdale, AR 72764. *Frozen Corn and Flour Tortillas (in boxes), and products used and sold by Mexican Original Products, Inc.* between the facilities of Mexican Original Products, Inc. at or near Fayetteville, AR on the one hand, and, on the other, points in the United States (except AK and HI).

MC 142508 (Sub-5-45TA), filed December 22, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Food products and by-products and equipment, materials, and supplies used in the manufacture, sale, and distribution thereof* between all points in the U.S. restricted to traffic originating at or destined to the facilities of the Kellogg Company. Supporting shipper: Kellogg Company, 235 Porter Street, Battle Creek, MI 49016.

MC 142508 (Sub-5-46TA), filed December 22, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Frozen bakery products and equipment, materials, and supplies used in the manufacture thereof* between the facilities of Table Talk, Inc., at points in MA and RI and points in the U.S. Supporting shipper: Table Talk, Inc., 153 Green Street, Worcester, MA 01608.

MC 143179 (Sub-5-6TA), filed December 22, 1980. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). *Contract;* irregular. *New furniture and new furniture parts,* from Kansas City, MO to points in KS and NE. Supporting shipper: Mittleman Furniture Company, 316 Oak Street, Kansas City, MO 64106.

MC 143389 (Sub-5-4TA), filed December 22, 1980. Applicant: MERCHANTS DUTCH EXPRESS, INC., 700 Pine St., Monroe, LA 71207. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S., 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Contract; irregular; *Such commodities as are dealt in or used by manufacturers of paper and paper products (except in bulk),* between Monroe and West Monroe, LA, on the one hand, and, on the other, points in AL, AR, MS and TX. Supporting shipper: Bancroft Bag, Inc., P.O. Box 307, West Monroe, LA.

MC 143483 (Sub-5-1TA), filed December 22, 1980. Applicant: QUIK-HAUL, INC., P.O. Box 699, League City, TX 77573. Representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, TX 76102. *Machinery, equipment, materials and supplies used in, or n connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products,* between Harris, Galveston and Brazoria Counties, TX on the one hand, and, on the other, points in LA. Supporting shipper: 5.

MC 144603 (Sub-5-33TA), filed December 22, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights. MO 63043. Representative: Laura C. Berry (same address as applicant). *Boots, shoes and related articles* between St. Louis, MO, and points in its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Footwear Unlimited Incorporated, 99 Larkin Williams Court, Fenton, MO 63026.

MC 145384 (Sub-5-10TA), filed December 22, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles,* from Ft. Wayne, IN to points in CA. Supporting shipper:(s) Joslyn Manufacturing and Supply Company, 9200 West Fullerton, Franklin Park, IL 60131.

MC 146055 (Sub-5-9TA), filed December 22, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* from the facilities of Sioux-Preme Packing Co., Sioux Center, IA, to points in NY and OH, and to points in and west of MT, WY, CO, and NM. Supporting shipper: Sioux-Preme Packing Co., Highway 75 South, Sioux Center, IA 51250.

MC 146800 (Sub-5-1TA), filed December 22, 1980. Applicant: VERMILLION BROTHERS, INC., Main Street Road, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Castings, rough,* from Keokuk, IA to Sparks, NV and Oakland, CA. Supporting shipper:

Keokuk Steel Castings, 600 Morgan Street, Keokuk, IA 52632.

MC 148422 (Sub-5-1TA), filed December 22, 1980. Applicant: TWOWAY SUPPLY, INC., P.O. Box 347, Pond Creek, OK 73766. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Steel pipe and casing,* from Longview, TX to Enid, OK and Great Bend, KS. Supporting shipper: MISCO United Supply, Inc., 200 Misco Bldg., Wichita, KS 67202.

MC 151788 (Sub-5-2TA), filed December 22, 1980. Applicant: MEL JARVIS CONSTRUCTION COMPANY, INC., 2934 Arnold Avenue, Salina, KS 67401. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Beer,* from Milwaukee, WI; Peoria, IL; Belleville, IL; Ft. Worth, TX; Memphis, TN; St. Louis, MO; and Omaha, NE, to Great Bend, Salina, Manhattan, Topeka and Hays, KS. Supporting shippers: B & S Distributing, 1115 Amherst, Hays, KS 67601; Vidricksen Distributing Co., Inc., 2231 Centennial, Salina, KS 67401; F & W Distributing Company, 225 North 3rd, Salina, KS 67401; and B & B Distributing Incorporated, R.R. 1, Manhattan, KS 66502.

MC 152021 (Sub-5-11TA), filed December 22, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin (same as applicant). Contract: irregular *(A) Power pumps, NOI, or parts thereof, and (B) Malt beverages and Motor oil,* between all points in the continental U.S. under contract with (A) Bingham-Willamette Company, Shreveport, LA, and (B) Carlisle Distributing Co., Inc., North Little Rock, AR. Shippers: (A) Bingham-Willamette Company, 7303 Westpark Road, Shreveport, LA 71129 and (B) Carlisle Distributing Co., Inc., 200 N. Cedar, North Little Rock, AR 72114.

MC 152021 (Sub-5-12TA), filed December 22, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin (same as applicant). Contract: Irregular. *Iron and Steel Articles, NOI,* from the facilities of CoMet Steel Inc. at Dallas, TX, to all points in the U.S. Supporting shipper: CoMet Steel Inc., 4846 Singleton Blvd., Dallas, TX 75212.

MC 152068 (Sub-5-2TA), filed December 22, 1980. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Air conditioning and refrigeration units and components; components, equipment, materials supplies necessary and useful in the rebuilding and repair of air conditioning and refrigeration units and components.* Part (1) Between points in Sedgwick County, KS and Points in OK and AR. Part (2) From points in IN to points in Sedgwick County, KS. Supporting shipper: Copeland Corp. Products Service, 3200 May, Wichita, KS 67213.

MC 152959 (Sub-5-4TA), filed December 22, 1980. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, 6000 Gum Springs Road, Longview, TX 75607. Representative: Robert Nieman (same as applicant). Contract; Irregular *Air conditioners, furnances, fans, mobile homes, modular homes and any and all related component parts thereof,* between the facilities of Eubank Manufacturing Enterprises, Inc., on the one hand, and all points in the continental U.S., on the other hand. Supporting shipper: Eubank Manufacturing Enterprises, Inc., P.O. Box 7576, Longview, TX 75602, 214-643-2261.

MC 153084 (Sub-5-1TA), filed December 22, 1980. CROWN EXPRESS, INC. (a Missouri corporation), 1222 West 12th Street, Kansas City, MO 64101. Representative: Donald J. Quinn, Attorney at law, Suite 900, 1012 Baltimore, Kansas City, MO 64105. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Kansas City, MO on the one hand and Topeka, KS on the other hand, serving all intermediate points. Supporting shippers: 26.*

MC 153275 (Sub-5-1TA), filed December 22, 1980. Applicant: RICK BROWN, d.b.a. BROWN BROS., Rippey, IA 50235. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Feed and feed ingredients,* (1) from Omaha, NE, to Des Moines, IA and Peoria, IL; (2) from Des Moines, IA, to Peoria, IL; and (3) between Des Moines, IA, on the one hand, and, on the other, Rock Island, Wheeling, and Quincy, IL; Union Center and Madison, WI; Nebraska City, Norfolk, and Hastings, NE; Lawrence and Kansas City, KS; Kansas City, MO; Minneapolis, MN; Van Burean, AR, and Sioux Falls, SD. Supporting shippers: Miller Chemical, 9100 F Street, Omaha, NE 68127; Feed Specialties Co., 1877 N.E. 58th Ave., Des Moines, IA 50313.

MC 153276 (Sub-5-1TA), filed December 22, 1980. Applicant: LTL CONSOLIDATORS & DISTRIBUTORS, INC., 700 Woodswehter Road, Kansas City, MO 64105. Representative: Charles J. Fain, Fain & Fain, 333 Madison Street, Jefferson City, MO 65101. *General commodities* between all points in MO, KS, and NE. Supporting shippers: These are 10.

MC 153281 (Sub-5-1TA), filed December 22, 1980. Applicant: DUTTON TRUCKING, INC., Route 2, Box 15, Cambridge, NE 69022. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular: *Cheese, materials, supplies and equipment utilized in the manufacture and sale of cheese,* between points in the US, under a continuing contract with Oxford Cheese Corp. Supporting shipper: Oxford Cheese Corp., P.O. Box 68, Oxford, NE 68967.

MC 1283 (Sub-5-2TA), filed December 23, 1980. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, MO 64683. Representative: James M. McCarty (same as above). Common, regular, *general commodities (except household goods as defined by the Commission and Classes A and B explosives),* (1) between St. Joseph, MO and Kirksville, MO serving all intermediate points and serving Buchanan, Adair, Andrew, Caldwell, Clinton, Daviess, De Kalb, Grundy, Harrison, Linn, Livingston, Mercer, Platte, Putnam, Schuyler and Sullivan Counties, MO and Doniphan County, KS as off-route points: (a) from St. Joseph over U.S. Hwy 36 to the junction of U.S. Hwy 36 and U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route, (b) from St. Joseph over U.S. Hwy 36 to the junction of U.S. Hwy 36 and Interstate Hwy 35, then over Interstate Hwy 35 to the junction of Interstate Hwy 35 and MO Hwy 9, then over MO Hwy 6 to Kirksville, and return over the same route; (2) between St. Louis, MO and Kirksville, MO serving all intermediate points and serving St. Louis, Adair, Andrew, Caldwell, Clinton, Daviess, De Kalb, Grundy, Harrision, Linn, Livingston, Mercer, Platte, Putnam, Schuyler and Sullivan Counties, MO and St. Clair and Madison Counties, IL as off-route points: from St. Louis over Interstate Hwy 70 to the junction of Interstate Hwy 70 and U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route; (3) between Kansas City, MO and Kirksville, MO serving all intermediate points and serving Jackson, Clay, Platte, Cass, Adair, Andrew, Caldwell, Clinton, Daviess, DeKalb, Grundy, Harrison, Linn, Livingston, Mercer, Putnam, Schuyler and Sullivan Counties, MO and Johnson, Wyandotte and Leavenworth Counties, KS as off-route points: (a) from Kansas City over Interstate Hwy 35 to the junction of Interstate Hwy 35 and U.S. Hwy 36, then over U.S. Hwy 36 to the junction of U.S. Hwy 36 and U.S. Hwy 63, then over U.S. Hwy 63 to Kirksville, and return over the same route, (b) from Kansas City over Interstate Hwy 35 to the junction of Interstate Hwy 35 and MO Hwy 6, then over MO Hwy 6 to Kirksville, and return over the same route. Applicant seeks to interline and to tack. Supporting shipper: There are 102 supporting shippers.

MC 126118 (Sub-5-44TA), filed December 24, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same as applicant). *Such commodities as are dealt in and used by manufacturers and distributors of paint and paint sundries,* between points in NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: D. C. May Ma-Crepe Corp., Elton Satterfield, President, P.O. Box 1926, Durham, NC 27002.

MC 135797 (Sub-5-92TA), filed December 24, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (address same as applicant). *General commodities,* between Springfield, MA on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Aquamaid Products, One Allen Street, Springfield, MA 01101.

MC 136786 (Sub-5-46TA), filed December 24, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411; Edina, MN 55435. *Foodstuffs,* between pts in Adair County, OK, on the one hand, and, on the other, pts in the U.S. in and east of IA, KS, MN, OK and TX. Supporting shipper: Stilwell Foods, Inc., P.O. Box 432, Stilwell, OK 74960.

MC 141175 (Sub-5-1TA), filed December 24, 1980. Applicant: GARLEPIED TRANSFER, INC., 319 Butterworth Street, Jefferson, LA 70181. Representative: G. H. Knapp, Jr., ICC Practitioner, 319 Butterworth Street, Jefferson, LA 70181. *Contaminated Atrazine, bags, boxes, and plastic wrappers* from the plant site of Ciba-Geigy Corporation at St. Gabriel, LA, to the plant site of Ciba-Geigy Corporation at McIntosh, AL, and return. Supporting shipper: J. R. McKeithen, Traffic Manager, Ciba-Geigy.

MC 141646 (Sub-5-2TA), filed December 24, 1980. Applicant: E. L. POWELL & SONS TRUCKING CO., INC., P.O. Box 356, Tulsa, OK 74101. Representative: T. M. Brown, P.O. Box 1540; Edmond, OK 73034. Contract irreg. *Residual fuel oil,* from Sugar Creek, MO to Port of Catoosa, OK under continuing contrast with National Petroleum Sales, Inc. Supporting shipper: National Petroleum Sales, Inc., 3105 E. Skelly Dr., Tulsa, OK 74105.

MC 144622 (Sub-5-63TA), filed December 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Electrical appliances, electrical equipment, and parts for electrical appliances and electrical equipment,* from Peru, IN to Dallas, TX. Supporting shipper: Square D Company, 8300 Burlington Pike, Florence, KY 41042.

MC 144622 (Sub-5-64TA), filed December 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Such commodities as are dealt in or sold by wholesale, retail, and discount stores and materials, equipment, and supplies used in the manufacture and distribution thereof* between the facilities of Lancaster Colony Corporation and its subsidiaries located in Jeannettee and Erie, PA; Hyannis Port, MA; and Sebring, OH, on the one hand, and, on the other, points in the United States. Supporting shipper: Lancaster Colony Corporation, 37 West Broad Street, Columbus, OH 43215.

MC 144622 (Sub-5-65TA), filed December 24, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *(1) Chemicals, toilet preparations, soaps; (2) Such commodities as are dealt in and sold by department stores, supermarkets, hardware stores and drug stores; (3) Equipment, materials, and supplies used in the manufacture, sale, and distribution of (1) and (2),* (A) Between Clifton and Mays Landing, NJ; West Springfield, MA; and Memphis, TN, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MA, MI, MN, MO, NC, NJ, OH, TN, WV, WI, NV, UT, CO, CA, WA, and OR; and (B) Between Sparks, NV, on the one hand, and, on the other, points in CA, CO, OR, WA, and UT. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 146021 (Sub-5-1TA), filed December 24, 1980. Applicant: RALPH OWENS TRUCKING CO., INC., 311 Park Avenue, P.O. Box 711, Hereford, TX 79045.. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763-9555. *Such commodities as are dealt in or used by meat packing houses* between points in TX and LA. Supporting shipper: Swanson Meat Company, Inc., P.O. Box 3303, Houston, TX 77001.

MC 153133 (Sub-5-2TA), filed December 24, 1980. Applicant: TRANS AMERICAN TRANSPORTATION SYSTEM, INC., Highway 59 South, Box 422, Stafford, TX 77477. Representative: Patricia L. Altman, 2523 Avenue H, Rosenburg, TX 77471. *Kiln Dust in Bag, Bayrite in bag,* and *Sand Blasting Sand in Bag,* between TX, on the one hand and, on the other, OK, AR, MN, and AZ. Supporting shipper: A.L.V. Enterprises Inc., 854 Robinwood, Stafford, TX 77477; C K Fabricators Inc, Route 3, Box 97, Mineral Wells, TX, 76067; Southern Clay Products, P.O. Box 44, Gonzales, TX, 78269; Kytex Ind., P.O. Box 17250, Dallas TX 75217.

MC 153292 (Sub-5-1TA), filed December 24, 1980. Applicant: J. E. BUCKNER TRUCKING, a division of J. E. BUCKNER TRUCKS, INC., 1017 Savage Lane, Corpus Christi, TX 78407. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Citrus By-Products, in bulk, from Weslaco, TX to Brownsville, TX. Restricted to shipments having subsequent interstate movement by water or rail. Supporting shipper: Texsun Corporation, P.O. Box 327, Weslaco, TX 78596.*

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-424- Filed 1-6-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-69]

Certain Airtight Cast-Iron Stoves; Termination of Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Termination of Crane Industries as party respondent.

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed on May 23, 1979, the Commission on July 12, 1979, published a notice of institution of the present investigation in the Federal Register (44 FR 40732). That notice stated that the investigation was being undertaken to determine whether respondents' stoves were infringing Jotul's common law trademarks, infringing Jotul's registered U.S. trademarks, being passed off as Jotul's products, or being deceptively advertised and marketed.

On November 24, 1980, the complainants and the Commission investigative attorney moved to terminate respondent Crane Industries because it was no longer doing business. The motion to terminate Crane was unopposed by the other parties to the investigation.

Copies of the Commission's Action and Order, and any other public documents in this investigation are available for inspection by the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523-0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neeley, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

By Order of the Commission.

Issued: December 30, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-499 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-92]

Certain Airtight Wood Stoves; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: December 29, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-503 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-77]

Certain Computer Forms Feeding Tractors and Components Thereof; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation based on settlement agreement.

SUMMARY: Having reviewed the record in this investigation, including the presiding officer's recommendation, the Commission has voted to grant the parties' joint motion to terminate (motion docket no. 77-7) and is ordering the termination of investigation No. 337-TA-77, Certain Computer Forms Feeding Tractors and Components Thereof. The motion was joined by all parties to the investigation.

PETITIONS FOR RECONSIDERATION: Any party wishing to petition for reconsideration of the Commission's action must do so within 14 days of service of the Commission order. Such petitions must be in accord with Commission Rule 210.56 (19 CFR 210.56).

SUPPLEMENTARY INFORMATION: On January 10, 1980 the Commission instituted an investigation, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain computer forms feeding tractors and components thereof. The Commission published notice of the institution of its investigation in the **Federal Register** on January 30, 1980 (45 FR 6867). On August 19, 1980, complainant Precision Handling Devices, Inc., respondents Shinshu Seiki Co., Ltd. and Epson America, Inc., and the Commission investigative attorney jointly moved to terminate the investigation on the basis of a settlement agreement entered into by complainant and respondents. The presiding officer recommended that the Commission grant the motion.

The Commission published notice of the proposed settlement agreement in the **Federal Register** on December 6, 1980, and requested comments from the public. No comments adverse to termination were received.

Copies of the Commission's Action and Order, and any other public documents in this investigation are available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0161. The settlement agreement entered into by the parties contains confidential business information subject to a protective order and is not available for public examination.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0143.

By order of the Commission.

Issued: December 30, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-500 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-85]

Certain Slide Fastener Stringers and Machines and Components Thereof for Producing Such Slide Fastener Stringer; Commission Request for Comments Concerning Motion To Terminate

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on motion to terminate.

SUMMARY: This notice requests public comment on the motion to terminate within thirty (30) days.

DATES: Comments will be considered if received within thirty (30) days of this notice. Comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation or sale of certain slide fastener stringers and machines and components thereof for producing such slide fastener stringers in the United States, respondents Yoshida Kogyo K.K., YKK Export (USA) Inc., and YKK Export (USA) Inc., (hereafter "YKK"), and the complainant Talon Division of Textron Inc., jointly requested the Commission on December 5, 1980, to terminate the investigation. The Commission investigative attorney joined in the request to terminate. The motion to terminate notes that the patents in issue, U.S. Letters Patent 3,123,103 and U.S. Letters Patent 3,143,779 will expire on March 3, 1981 and August 11, 1981, respectively. The motion further notes that the deadline for completion of this investigation is June 13, 1981. In view of the 60-day period for Presidential review of any Commission determination of violation, the parties argue that effective relief with respect to these patents is impossible, and therefore, that the public interest would not be served by a continuation of this investigation. Copies of the motion to terminate are available for inspection by interested persons in the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

WRITTEN COMMENTS REQUESTED: In light of the Commission's duty to consider the public interest, the Commission requests written comments from interested persons and agencies concerning the effect of the termination of this investigation upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. Notice of this investigation was published in the **Federal Register** of June 13, 1980 (45 FR 40242).

ADDITIONAL INFORMATION: The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0480.

By order of the Commission.

Issued: December 31, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-505 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-93]

Certain Universal Joint Kits, Components Thereof, and Trunnion Seals Used Therewith; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: December 31, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-502 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-68 (Final)]

Leather Wearing Apparel From Uruguay

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from Uruguay of leather wearing apparel, provided for in item 791.76 of the Tariff Schedules of the United States (TSUS).

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Eninger, Office of Investigations, (202) 523-0312.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1980, a petition was filed with the U.S. International Trade Commisson and the U.S. Department of Commerce on behalf of domestic producers of leather wearing apparel alleging that a bounty or grant is being bestowed on leather wearing apparel imported from Uruguay. On November 26, 1980, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 701-TA-68 (Preliminary), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Uruguay of leather wearing apparel, provided for in item 791.76 of the TSUS, which are allegedly being subsidized by the Government of Uruguay. As a result of the Commission's determination, the Department of Commerce (the administering authority) continued its investigation into the question of subsidized sales.

On December 12, 1980, the Department of Commerce made a preliminary determination under section 703(b) of the Tariff Act of 1930 that there is a reasonable basis to believe or suspect that the Government of Uruguay grants to manufacturers, producers, or exporters of certain leather wearing apparel benefits which constitute a subsidy within the meaning of the countervailing duty law. The merchandise covered by the Department of Commerce's investigation is leather wearing apparel currently provided for in TSUS item 791.76. Accordingly, effective December 12, 1980, the Commission instituted investigation No. 701-TA-68 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materialy retarded, by reason of imports of such merchandise. This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457). The final determination by the Department of Commerce of whether subsidies are being provided by the Government of Uruguay will be made not later than February 25, 1981, unless the investigation is extended.

Staff report

A staff report containing preliminary findings of fact will be available to all interested parties on February 27, 1981.

Written submissions

Any person may submit to the Commission on or before March 16, 1981, a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Public hearing

The Commission will hold a public hearing in connection with this investigation on March 18, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), March 4, 1981. All persons desiring to appear at the hearing and make oral presentatins must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on March 5, 1981, in Room 117 at the U.S. International Trade Commission Building. Prehearing statements must be filed on or before March 16, 1981. For further information concerning the conduct of the investigation, hearing procedures, and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part

207, Subarts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

The Commission has waived Commission rule 201.12(d) as amended, "Submission of prepared statements," in connection with this investigation. This rule stated that Copies of witnesses' prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with §§ 201.6 and 201.8 of this subpart." It is, nevertheless, the Commission's request that parties submit copies of witnesses' prepared testimony as early as practicable before the hearing in order to permit Commission review.

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: December 31, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-501 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

[332-121]

Monthly Reports Providing Information on the U.S. Auto Industry

AGENCY: United States International Trade Commission.

ACTION: At the request of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, and in accordance with the provisions of section 332(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(b)), the Commission has instituted investigation No. 332-121, for the purposes of providing monthly data on the U.S. automobile industry covering November and December 1980, and the first 6 months of 1981. The fact sheet will include data on automobile production, imports, exports, inventories, retail sales, price adjustments, and employment.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James McElroy or Ms. Barbara Dudeck, Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202-523-0258, 202-523-0131, respectively).

By order of the Commission:

Issued: December 30, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-504 Filed 1-6-81; 8:45 am]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

Alabama Power Co.; Issuance of Amendment to Facility License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility License No. NPF-8 issued to Alabama Power Company (the license), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment grants relief from diesel generator surveillance requirements 4.8.1.1.2.C.7 and part of 4.8.1.2 from initial fuel loading to initial criticality.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commissions rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 18, 1980, (2) Amendment No. 1 to License No. NPF-8, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of December 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81-410 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-413]

Catawba Nuclear Station, Unit 1; Negative Declaration Supporting Amendment No. 1 to CPPR-116 Relating to Change in Ownership Interests

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the request for amendment to Construction Permit CPPR-116 relating to changes in ownership interests in the Catawba Nuclear Station, Unit 1 located in York County, South Carolina. The construction permit was issued to Duke Power Company on August 7, 1975. The amendment would add North Carolina Electric Membership Corporation and Saluda River Electric Cooperative, Inc. as co-owners of Catawba Nuclear Station, Unit 1 with the present owner.

In accordance with 10 CFR Part 51, the Commission's Division of Licensing has prepared an environmental impact appraisal (EIA) for the amendment. The Commission has concluded that an environmental impact statement for this action is not warranted, because there will be no adverse environmental impacts affecting the quality of the human enviroment attributable to the proposed action that would be in addition to those impacts evaluated in the Commission's Final Environmental Statement related to construction of Catawba Nuclear Station, Unit 1, issued in December 1973. A negative declaration is, therefore, appropriate.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room located at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina. A copy of the EIA may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 23rd day of December, 1980.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-411 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Availability of Draft Environmental Statement Related to Steam Generator Repair at Turkey Point Plant, Unit Nos. 3 and 4

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0743) prepared by the Commission's Office of Nuclear Reactor Regulation related to steam generator repair at Turkey Point Plant, Unit Nos. 3 and 4, located in Dade County, Florida, is being made available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida. The Draft Statement is also being made available at the State Planning and Development Clearinghouse, Office of Intergovernmental Coordinator, Executive Office of the Governor, The Capitol, Tallahassee, Florida, and at the Metropolitan Dade County Planning Department, Suite 900, 909 S.E. First Avenue, Miami, Florida. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by February 23, 1981. Comments by Federal, State, and local officials, or by other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Environmental and Urban Affairs Library, Florida International University, Miami, Florida. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register**.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of December, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-412 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D10, "Fuel Handling and Storage Systems in Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. F. Krainer of the Federal Republic of Germany; Mr. S. Rolandson of Sweden; and Mr. R. I. Facer of the United Kingdom of Great Britain and Northern Ireland, developed the initial draft of this Safety Guide from an IAEA collation during a meeting on January 8-19, 1979. The Working Group draft was modified by the IAEA Technical Review Committee in a meeting on April 21-25, 1980, and we are soliciting comments on this modified draft. Comments on this draft received by February 6, 1981, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 22nd day of December 1980.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 81-415 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-548-CP]

Omaha Public Power District (Fort Calhoun Station, Unit 2—Application for Construction Permit); Order

December 22, 1980

Upon consideration of Applicant's December 13, 1980, "Request for Withdrawal of Application" and of NRC Staff's response filed on December 3, 1980, it is this 22nd day of December, 1980,

Ordered

That the proceeding before this Licensing Board noticed in the Commission's "Hearing on Application for Construction Permit" published in the **Federal Register** on February 19, 1976 (41 FR 7595-97) be *dismissed*.

Dated at Bethesda, Maryland, this 22nd day of December, 1980.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Administrative Judge.

[FR Doc. 81-409 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits in licenses.

Regulatory Guide 1.84, Revision 17, "Design and Fabrication Code Case Acceptability—ASME Section III Division 1," and Regulatory Guide 1.85, Revision 17, "Materials Code Case Acceptability—ASME Section III Division 1," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases and to include the results of additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 23rd day of December 1980.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 81-416 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-582-CP; 50-583-CP]

San Diego Gas & Electric Co. (Sundesert Nuclear Plant, Units 1 and 2—Application for Construction Permits); Order

December 22, 1980.

Upon consideration of Applicant's September 11, 1980, "Motion for Termination of Proceeding" and of NRC Staff's response filed on October 15, 1980, it is this 22nd day of December, 1980.

Ordered

That the proceeding before this Licensing Board noticed in the Commission's "Hearing on Application for Construction Permits" published in the **Federal Register** on May 9, 1977 (42 FR 23569-71) be *dismissed.*

Dated at Bethesda, Maryland, this 22nd day of December, 1980.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Administrative Judge.

[FR Doc. 81-414 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-518, STN 50-519, STN 50-520, STN-521]

Tennessee Valley Authority; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 4 to Construction Permit Nos. CPPR-150, CPPR-151, CPPR-152, and CPPR-153 issued to the Tennessee Valley Authority for construction of the Hartsville Nuclear Plants, Units A1, A2, B1, and B2, located at the permittee's site in Trousdale and Smith Counties, Tennessee. The amendments reflect deletion of construction monitoring requirements relating to water quality and aquatic biota. The amendments are effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments is a ministerial action required as a matter of law and that an environmental impact assessment need not be prepared.

For further details with respect to this action see (1) the application for amendments dated October 31, 1980, (2) Amendment No. 4 to Construction Permit CPPR-150, (3) Amendment No. 4 to Construction Permit CPPR-151, (4) Amendment No. 4 to Construction Permit CPPR-152, and (5) Amendment No. 4 to Construction Permit CPPR-153. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Local Public Document Room located at the Tennessee State Library and Archives, 403 Seventh Avenue, North, Nashville, Tennessee.

A copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81-413 Filed 1-6-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No.: 81-643]

PepsiCo Capital Resources, Inc.; Application and Opportunity for Hearing

December 29, 1980.

Notice is hereby given that PepsiCo Capital Resources, Inc. (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from the periodic reporting requirements under Sections 13 and 15(d) of the 1934 Act.

The application states in part:

In the absence of an exemption, Applicant would be required to file periodic reports required by Sections 13 and 15(d) of the 1934 Act.

Applicant believes that the exemptive order it requires is appropriate in view of the fact that it is a wholly-owned subsidiary of PepsiCo, Inc., ("PepsiCo"). The Applicants' sole business purpose is to provide financing for PepsiCo. PepsiCo has and will unconditionally guarantee the payment of the principal and interest of the debt securities issued by Applicant; The debt securities offered by Applicant will be offered based upon the business and financial condition of PepsiCo, which is a reporting company under the 1934 Act.

For a more detailed statement of the information presented all persons are referred to said application which is on file in the Office of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than January 23, 1981, may submit to the Commission in writing his views on any substantial

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facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed; Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the commission's own motion.

For the Commission, by the division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-460 Filed 1-6-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/358]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 2 p.m. on Monday, January 26, 1981 in Room 1207 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairman. As access to the Department of State is controlled, persons wishing to attend the January 29 meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 1207.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Tuesday, January 27, 1981 at the Watergate Office Building, 2600 Virginia Avenue, NW., in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c)1 and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policy regarding Antarctic resources, particularly Antarctic mineral resources. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to R. Tucker Scully or Robert A. Monks of OES/OPA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

Ann Hollick,

Executive Secretary.

December 15, 1980.

[FR Doc. 81-440 Filed 1-6-81; 8:45 am]

BILLING CODE 4710-01-M

[CM-8/357]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on January 15, 1981, Room 8238 at 1:30 p.m. at the Department of Transportation, 400 7th St., SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the 23rd Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London, May 11, 1981. In particular, the working group will discuss the following topics:

Survival craft radio equipment.
Operational requirements for future EPIRBs.
Operational standards for shipboard radio equipment.
Maritime distress system.

For further information contact Lt. R. F. Carlson, USCG, (G-OTM-3/32), Washington, D.C. 20593. Telephone (202) 426-1345.

Dated: December 9, 1980.

James A. Treichel,

Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 81-422 Filed 1-6-81; 8:45 am]

BILLING CODE 4701-07-M

DEPARTMENT OF THE TREASURY

[Public Debt Series No. 45-80]

Treasury Bonds of 2001

December 23, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,500,000,000 of United States securities, designated Treasury Bonds of 2001 (CUSIP No. 912810 CT 3). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated January 12, 1981, and will bear interest from that date, payable on a semiannual basis on August 15, 1981, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 2001, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3.1 Sale Procedures

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, January 6, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, January 5, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions of instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of the tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, January 12, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, January 9, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

[FR Doc. 81-584 Filed 1-6-81; 8:45 am]
BILLING CODE 4310-10-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 4
Wednesday, January 7, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, January 16, 1981.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-12-81 Filed 1-5-81; 11:42 am]

BILLING CODE 6351-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Commission Meeting

TIME AND DATE: 9:30 a.m., Thursday, Janua[illegible] 1981.

LOCATION: Third floor hearing room, 1111 1[illegible] Street NW., Washington, D.C.

STATUS: Part open, part closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. *Benzene: Regulatory Options*
   In May, 1978, the Commission proposed a ban of consumer products containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or more. The Commission must publish a final ban or withdraw the proposal by January 15, 1981.
2. *Briefing on Garage Door Openers: Emerging Hazard*
   The staff will brief the Commission on its recommendation that the Commission either commence a proceeding to issue a safety standard for automatic garage door operators, or encourage and participate in efforts to upgrade the existing UL voluntary standard.

Closed to the public:

3. *Commission Representation*
   The Commission will discuss matters relating to a personnel policy. Closed under exemption 2: internal personnel procedures.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207; telephone: (202) 634-7700.

[S-8-81 Filed 1-5-81; 10:06 am]

BILLING CODE 6355-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Friday, December 19, 1980.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2328-80.

CHANGE IN THE MEETING: The following item, previously announced as being on the open portion of the agenda was moved to the portion closed to the public:

OFCCP, Department of Labor Regulations Pertaining to Executive Order 11246

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

CORRECTION IN PREVIOUS ANNOUNCEMENT: In favor of change:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Armando M. Rodriguez, Commissioner.

Abstaining:

J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued December 16, 1980.

[S-14-81 Filed 1-5-81; 3:53 pm]

BILLING CODE 6570-06-M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

December 31, 1980.

TIME AND DATE: 9:30 a.m. (eastern time), Friday, January 9, 1981.

PLACE: Commission Conference Room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Contract with United Sioux Tribes of South Dakota Development Corp. as a TERO (this is simply a name change).
2. Proposed Procedural Regulations pursuant to the Age Discrimination in Employment Act (29 CFR Part 1626).
3. Proposed Revision of Interpretations of the Equal Pay Act (29 CFR Part 1620).
4. Section 717 Multi-Year Affirmative Action Programs.
5. Section 501 Transition Year Accomplishment Reports.
6. Report on Commission Operations by the Executive Director:

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued: December 31, 1980.

[S-15-81 Filed 1-5-81; 3:54 pm]

BILLING CODE 6570-05-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 5:40 p.m. on Wednesday, December 31, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in East Gadsden Bank, Gadsden, Alabama, which was closed December 31, 1980; (2) accept the bid for the transaction submitted by Central Bank of Alabama, National Association, Decatur, Alabama; (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (4) appoint a liquidator for such of the assets of the closed bank as were not purchased by Central Bank of Alabama, National Association.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptoller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 2, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-5-81 Filed 1-2-81; 4:44 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 12, 1981, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Amendments to Part 326 of the Corporation's rules and regulations, entitled "Minimum Security Devices and Procedures for Insured Nonmember Banks," to eliminate the requirement for submission of certain reports on security devices.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers:

The State National Bank of New Iberia, New Iberia, Louisiana, and Sugarland State Bank, Jeanerette, Louisiana.

First National Bank of Holmes County, Lexington, Mississippi, and Merchants & Planters Bank, Tchula, Mississippi.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-9-81 Filed 1-5-81; 11:06 am]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 12, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure prusuant to the provisions of subsections (c)(6), (c)(8), (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-10-81 Filed 1-5-81; 11:06 am]

BILLING CODE 6714-01-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

December 31, 1980.

TIME AND DATE: 10 a.m., Wednesday, January 7, 1981.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Lone Star Industries, Docket No. VA 80-67-M. (petition for Discretionary Review; issues include interpretation and application of 30 CFR § 56.9-41)
2. Carolina Stalite Company, Docket Nos. BARB 79-319-PM, etc. (Petition for Discretionary Review; issues include whether operation is a mine subject to the 1977 Mine Act, and whether Fourth Amendment warrant provision applies to inspections under the 1977 Mine Act.)
3. United States Steel Corporation, Docket No. HOPE 75-708, IBMA 77-40. (Issues include whether there was a "complete" inspection prior to issuance of an order under section 104(c)(2) of the 1969 Coal Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-13-81 Filed 1-5-81; 2:32 pm]

BILLING CODE 6820-12-M

9

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, January 12, 1981.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: January 2, 1981.

James Macafee,

Assistant Secretary.

[S-6-81 Filed 1-2-81; 5:07 pm]

BILLING CODE 6210-01-M

federal register

Wednesday
January 7, 1981

Part II

Environmental Protection Agency

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 420

[WH-FRL 1697-4]

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing steel. The Clean Water Act and a consent decree require EPA to issue this regulation.

The purpose of this proposal is to provide effluent limitations for "best practicable technology," "best available technology," "best conventional technology," and to establish new source performance standards and pretreatment standards. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted on or before March 9, 1981.

ADDRESS: Send comments to: Mr. Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, ATTENTION: EGD Docket Clerk, PROPOSED IRON AND STEELMAKING RULES (WH-552).

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. Ernst P. Hall, at 426-2726 at the address listed above. The economic analysis may be obtained from the Office of Planning and Evaluation (PM 220), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

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II. Background
  A. The Clean Water Act
  B. Prior EPA Regulations
  C. Overview of the Industry
III. Scope of this Rulemaking and Summary of Methodology
IV. Data Gathering Efforts
V. Sampling and Analytical Program
VI. Industry Subcategorization
VII. Available Wastewater Control and Treatment Technology
  A. Status of In-Place Technology
  B. Control Technologies Considered
VIII. Best Practicable Technology (BPT) Effluent Limitations
IX. Best Available Technology (BAT) Effluent Limitations
X. New Source Performance Standards (NSPS)
XI. Pretreatment Standards for Existing Sources (PSES)
XII. Pretreatment Standards for New Sources (PSNS)
XIII. Best Conventional Technology (BCT) Effluent Limitations
XIV. Regulated Pollutants
XV. Pollutants and Subcategories Not Regulated
XVI. Monitoring Recommendations and Requirements
XVII. Costs, Effluent Reduction Benefits, and Economic Impacts
XVIII. Nonwater Quality Aspects of Pollution Control
XIX. Best Management Practices (BMPs)
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XXI. Variances and Modifications
XXII. Relationships to NPDES Permits
XXIII. Summary of Public Participation
XXIV. Solicitation of Comments
XXV. Appendices:
  A. Abbreviations, Acronyms, and Terms Used in This Notice
  B. Development of Regulated Pollutant List
  C. Pollutants Considered for Specific Limitation by Subcategory

I. Legal Authority

The regulation described in this notice is proposed under authority of Sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC §§ 1251 *et seq.*, as amended by the Clean Water Act of 1977, P.L. 92-517) (the "Act"). This regulation is also proposed in compliance with the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C 1976), modified, 12 ERC 1833 (D.D.C. 1979).

II. Background

The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based upon best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTWs") were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based upon regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the dates specified in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement," which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule to promulgate, for 21 major industries, BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. *See Natural*

Resources Defense Council, Inc. v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979).

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is the incorporation into the Act of several basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 301(b) of the Act. Likewise, the EPA programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added Section 304(e) to the Act, authorizing the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for nontoxic pollutants. Instead of BAT for "conventional" pollutants identified under Section 304(a)(4) (including total suspended solids, biological oxygen demand, oil and grease and, fecal coliform, and pH), the new Section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge of publicly owned treatment works [Section 304(b)(4)(B)]. For nontoxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to provide effluent limitations for BPT, BAT, and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

Prior EPA Regulations

On June 28, 1974, EPA promulgated effluent limitations guidelines for BPT and BAT, NSPS, and PSNS for the basic steelmaking operations (Phase I) within the integrated steel industry. 39 FR 24114–24133, 40 CFR Part 420, Subparts A-L. that regulation covered 12 subcategories of the industry: By-Product Cokemaking, Beehive Cokemaking, Sintering, Blast Furnace (Iron), Blast Furnace (Ferromanganese), Basic Oxygen Furnace (Semi-Wet Air Pollution Control Methods), Basic Oxygen Furnace (Wet Air Pollution Control Methods), Open Hearth Furnace, Electric Arc Furnace (Semi-Wet Air Pollution Control Methods), Vacuum Degassing, and Continuous Casting.

In response to several petitions for review, the United States Court of Appeals for the Third Circuit remanded that regulation to the Agency on November 7, 1975. *American Iron and Steel Institute, et al.* v. *EPA*, 526 F.2d 1027 (3rd Cir. 1975) ("AISI I"), While the Court rejected all technical challenges to the BPT limitations, it held that the BAT effluent limitations and NSPS for certain subcategories were "not demonstrated." In addition, the court questioned all of the regulation on the grounds that EPA had failed to consider adequately the impact of plant age on the cost or feasibility of retrofitting pollution control equipment, to assess the impact of the regulations on water scarcity in arid and semi-arid regions of the country, and to make adequate "net/gross' provisions for pollutants found in intake water supplies.[1]

On March 29, 1976, EPA promulgated BPT effluent limitations guidelines and proposed BAT limitations, NSPS and PSNS for steel forming and finishing operations (Phase II) within the iron and steel industry. 39 FR 12990–13030, 40 CFR Part 420, Subparts M–Z. That regulation covered 14 subcategories of the industry: Hot Forming—Primary; Hot Forming—Section; Hot Forming—Flat; Hot Forming—Pipe & Tube; Pickling—Sulfuric Acid—Batch and Continuous; Pickling—Hydrochloric Acid—Batch and Continuous; Cold Rolling; Hot Coatings—Galvanizing; Hot Coatings—Terne; Miscellaneous Runoffs—Storage Piles, Casting, and Slagging; Combination Acid Pickling—Batch and Continuous; Scale Removal—Kolene and Hydride; Wire Pickling and Coating; and Continuous Alkaline Cleaning.

In response to several petitions for review, the U.S. Court of Appeals for the Third Circuit remanded the regulation to the Agency on September 14, 1977, *American Iron and Steel Institute, et al.* v. *EPA*, 568 F2d 284 (3d Cir. 1977). While the court again rejected all technical challenges to the BPT limitations, it again questioned the regulation in regard to the age/retrofit and water scarcity issues. In addition, the court invalidated the regulation as applied to the specialty steel industry for lack of proper notice. Finally, the Court directed EPA to reevaluate its estimates of the cost of compliance with the regulation in light of certain "site-specific" factors and to reexamine its economic impact analysis.[2]

On June 26, 1978 the Agency promulgated General Pretreatment Regulations applicable to existing and new indirect dischargers within the steel industry and other major industries, 43 FR 27936–2773 (40 CFR Part 403). Those regulations are currently in effect.

Overview of the Industry

The steel industry is included within the United States Department of Commerce, Bureau of the Census Standard Industrial classification (SIC) Major Group 33—Primary Metal Industries. Those parts of the industry covered by this regulation are the subgroup SIC Nos. 3312, (except coil coatings) 3315, 3316, and 3317. These include all processes, subprocesses, and alternate processes involved in the manufacture of intermediate or finished products in the above categories.

The manufacture of steel involves many processes which require large quantities of raw material and other resources. Steel facilities range from comparatively small plants engaging in one or more production processes to extremely large integrated complexes engaging in several or all production processes. Even the smallest steel facility, however, represents a fairly large industrial complex. Because of the wide variety of products and processes in this industry, operations vary from plant to plant.

The 1978 revenues of the United States steel industry were about 46 billion dollars. The industry ranks third in the nation behind the automotive and petroleum industries in the values of its total shipments and, with about 500,000 employees, is second only to the automotive industry in the number of employees.

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[1] The court also held that the "form" of the regulations was improper, because they did not provide "ranges" of limitations to be selected by permit issuers. This holding, however, was recalled in *American Iron and Steel Institute, et al.* v. *EPA*, 560 F.2d 589 (3d Cir. 1977).

[2] The court also held that EPA had no statutory authority to exempt plants in the Mahoning Valley region of Eastern Ohio from compliance with the BPT regulations.

Fifteen steel corporations provided approximately 87% of the total annual U.S. steel ingot production. U.S. steel production represents about 15% of world production.

The steel industry can be segregated into two major components: raw steelmaking; and forming and finishing operations. The Agency estimates that there are about 680 plant locations containing over two thousand individual steelmaking and forming and finishing operations. A listing of these plants is contained in the Appendix B to Volume I of the technical Development Document.

In the first major process, coal is converted to coke which is then combined with iron ore and limestone in a blast furnace to produce iron. The iron is then purified into steel in either open hearth, basic oxygen, or electric arc furnaces. Finally, the steel can be further refined by vacuum degassing.

Following the steelmaking processes are the hot forming (including continuous casting) and cold finishing operations. These operations are so varied that a simple classification and description is difficult. In general, hot forming primary mills reduce steel ingots to slabs or blooms and secondary hot forming mills reduce slabs or blooms to billets, plates, shapes, strip, and various other products. Steel finishing operations involve a number of other processes that do little to alter the dimensions of the hot rolled product, but which impart desirable surface or mechanical properties.

Water is essential to the industry and is used in appreciable quantities in virtually all process operations. An average of 40,000 gallons of water is used in the production of every ton of finished steel, making the industry one of the highest water users of any manufacturing industry.

The following wastewater pollutants have historically been regulated in the steel industry: suspended solids, ammonia-N, fluoride, cyanide, phenols, oil and grease, iron, total and hexavalent chromium, tin, lead, and zinc. The discharge of these pollutants is limited by this regulation. Other pollutants, such as chloride, are found in the industry's wastewaters. However, the Agency is not proposing limitations for those pollutants in this regulation because the technology for their removal is presently considered to be beyond the scope of best practicable or best available technology for this industry.

In addition to the pollutants known to be present in steel industry wastewaters, many other pollutants became subject to consideration as a result of the NRDC/EPA Settlement Agreement noted earlier. The original list of 65 pollutant classes was defined more specifically by selecting definite compounds within each class to facilitate analytical qualification and quantification and to serve as indicators for other members of the classes. The list of 129 specific toxic pollutants was therefore developed.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation expands the water pollution control requirements for the steel industry. In EPA's prior regulations, emphasis was placed on the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (i.e., "classical") pollutants.

In contrast, EPA's efforts are now directed toward insuring the achievement by July 1, 1984, of the best available technology economically achievable, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. At a minimum, this technology level represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of toxic substances.

EPA's implementation of the Act required a complex investigation, described in this section and succeeding sections of this notice. EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under Sampling and analytical Program. EPA then gathered technical and financial data about the industry, which are summarized under Data Gathering Efforts.

EPA studied the steel industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments of the industry. This study included the identification of raw waste and treated effluent characteristics, including: (1) the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant, and (2) the constituents of wastewaters, including toxic pollutants (See Industry Subcategorization for further discussion). EPA identified the pollutants which are being considered for effluent limitations and standards of performance, and statistically analyzed raw waste constituents, as discussed in detail in Section V of the Development Documents for the various subcategories.

EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or are capable of being used in the steel industry. The Agency compiled and analyzed historical data and newly generated effluent quality data resulting from the application of these technologies. The long-term performance, operational limitations, and reliability of each of the treatment and control technologies were also identified. In addition, EPA considered the nonwater quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency estimated the cost of each control and treatment technology by using standard engineering analysis as applied to the applicable wastewater characteristics. EPA derived unit process costs from model plant characteristics (production and flow) applied to each treatment process (i.e., primary coagulation-sedimentation, activated sludge, multi-media filtration). These unit process costs were added to yield the total costs for each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates to actual treatment system costs reported by the industry, the Agency evaluated the economic impacts of these costs. (Costs are reviewed in each subcategory report of the Development Document. Economic impacts are reviewed in the section of this notice entitled Costs, Effluent Reduction Benefits, and Economic Impacts.)

Upon consideration of these factors, as more fully described below, EPA identified various control and treatment technologies including the BPT, BCT, BAT, PSES, PSNS, and NSPS model treatment systems. The proposed regulation, however, does not require the installation of any particular technology. Rather, it requires the achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

The proposed effluent limitations for BPT, BCT, BAT, PSES, and PSNS, and NSPS are expressed as mass limitations (lbs/1000 lbs) of product and are calculated by multiplying four figures: (1) effluent concentrations determined from analysis of control technology performance data, (2) wastewater discharge flow for each subcategory, (3) any relevant process or treatment variability factor (e.g., maximum month vs. maximum day), and (4) the appropriate conversion factor. This basic calculation was performed for each regulated pollutant in each subcategory of the industry.

In reevaluting the previously promulgated BPT limitations in light of the Third Circuit's decisions, EPA found that in most instances those limitations are well demonstrated and, in some instances, are less stringent than could be currently justified.

IV. Data Gathering Efforts

Before initiating this study, EPA reviewed the original Development Documents and appendices.[3] The Agency concluded that additional data were required to respond to the Third Circuit's ruling in *AISI I* and *AISI II* and to develop regulations in accordance with both the Clean Water Act and the *NRDC* v *Train* Settlement Agreement.

The Agency sent Data Collection Portfolios (DCPs) to *all* basic steelmaking operations and to approximately 85% of the steel forming and finishing operations in the United States. The DCPs requested information concerning production processes, production capacity and rates, process water usage, wastewater generation rates, wastewater treatment and disposal methods, treatment costs, location, age of production and treatment facilities, as well as general analytical information. The Agency received responses from 393 steelmaking operations and from 1631 steel forming and finishing operations.

The Agency also sent Detailed Data Collection Portfolios (D–DCPs), under the authority of Section 308 of the Act, to 50 steelmaking facilities and 128 forming and finishing facilities. The D–DCPs requested detailed information concerning the cost of installing pollution control equipment including capital, annual and retrofit costs. The D–DCPs also requested long-term analytical data and data regarding specific production operations.

The Agency determined the presence and magnitude of the 129 specific toxic pollutants in steel industry wastewaters in a two-part sampling and analysis program involving 31 steelmaking facilities and 83 forming and finishing facilities.

The Agency obtained data not only from previous studies, questionnaire responses, and sampling visits, but also from NPDES permit files, contacts with pollutant control equipment suppliers, treatability studies, and literature searches. The data gathering program solicited all known sources of data. All available information was used in developing the proposed regulation.

V. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, conventional and nonconventional pollutants were also studied. Although it was expected that, except for cokemaking, toxic pollutants in the steel industry would be inorganic rather than organic, the wasteswaters from this industry were sampled and analyzed for the presence of toxic organic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under Section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464, December 3, 1979; 44 FR 75028, December 18, 1979). Additional information on the development of sampling and analytical methods for toxic organic pollutants is contained in the preamble to the proposed regulation for the Leather Tanning Point Source Category, 40 CFR Part 425, 44 FR 38749, dated July 2, 1979.

Before analyzing steel industry wastewaters EPA concluded that it had to specify specific toxic pollutants for analysis. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; analyses for all of them would overwhelm private and government laboratory resources. In order to make the task more manageable, EPA selected pollutants for study in this and other industry rulemakings. The criteria for choosing these pollutants included the frequency of their occurrence in water, their chemical stability and structure, the amount of the chemical produced, and the availability of chemical standards for measurement.

EPA checked for the presence and magnitude of the 129 pollutants in steel industry wastewaters in a two-phase sampling and analysis program. The Agency selected plants for sampling which it believed were representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. During the first phase of the program EPA sampled ten steelmaking facilities and eleven forming and finishing facilities. During the second phase of the program, EPA sampled 21 steelmaking facilities and 72 forming and finishing facilities.

The primary objective of the field sampling program was to obtain composite samples of wastewater from which to determine the concentrations of toxic pollutants. Sampling visits were made during two to three consecutive days of plant operation, with raw wastewater samples taken either before treatment or after minimal preliminary treatment. Treated effluent samples were taken following application of in-place treatment technologies. EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by steelmaking processes.

During the first phase of the sampling program the Agency detected and quantified wastewater constituents included on the list of 129 toxic pollutants. Wherever possible, each sample of an individual raw waste stream, a combined waste stream, or a treated effluent was collected by an automatic, time series sample compositor over 2 to 3 consecutive 24 hour sampling periods. Where automatic compositing was not possible, grab samples were taken and composited manually. The purpose of the second phase of the sampling program was to confirm the presence and further quantify the concentrations and waste loadings of the toxic pollutants found during the first phase of the program.

EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April, 1977. Very similar methods are found among those proposed on December 3, 1979. EPA did not find significant quantities of toxic organic pollutants in most steelmaking wastewaters. The exceptions are cokemaking and cold rolling wastewaters.

Metals analyses for the Phase I operations were by inductively coupled plasma optical emission spectrometry except that the standard flameless atomic adsorption method was used for mercury analyses. Metals analyses for the Phase II operations were by a combination of flame and flameless atomic adsorption methods.

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[3] See *EPA* 440/1–74–024a; Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Steelmaking Segment of the Iron and Steel Manufacturing Point Source Category, June, 1974; and EPA 440/1–76/048–d; Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Forming, Finishing, and Specialty Steel Segments of the Iron and Steel Manufacturing Point Source Category, March, 1976.

Analyses for cyanide and cyanide amendable to chlorination were also performed using 304(h) methods.

Analysis for asbestos fibers included transmission electron microscopy with selected area defraction; results were reported as chrysotile fiber count.

Analyses for conventional pollutants (BOD*5*, TSS, pH, and oil and grease) and nonconventional pollutants (total residual chlorine, iron, ammonia, fluoride, and COD) were performed using 304(h) methods.

VI. Industry Subcategorization

In developing this proposed regulation, the Agency determined that different effluent limitations and standards should be developed for distinct segments or subcategories of the steel industry. The Agency's consideration of industry subcategorization included an examination of the same factors and rationale described in its previous studies and the issues raised by the court in *AISI I* and *AISI II*. These factors are:

1. Manufacturing processes and equipment
2. Raw materials
3. Final products
4. Wastewater characteristics
5. Wastewater treatability
6. Size and age of facilities
7. Geographic location
8. Process water usage and discharge rates
9. Costs and economic impacts
10. Non-water quality environmental impacts

Based upon these factors, the Agency has decided to retain the same approach to subcategorization as outlined in previous regulations which is based primarily upon the various manufacturing processes in the steel industry. The Agency found that manufacturing process is the most significant factor and divided the industry into 12 main process subcategories on this basis. Section IV of Volume I of the Development Document contains a detailed discussion of the factors considered and the rationale for selecting the subcategories. The Agency determined that process based subcategorization is warranted in many cases because the wastewaters of the various processes contain different pollutants, requiring treatment by different control systems (e.g., phenol by biological systems in cokemaking and metals by precipitation in steelmaking). However, in some cases, the wastewaters of different processes were found to contain similar characteristics. In those instances, the Agency determined that subcategorization was appropriate because the process water usage and discharge flow rates varied so widely. A more detailed discussion of this issue is presented in Volume I of the development document.

The subcategories of the steel industry are as follows:

(1) Subpart A—Cokemaking Subcategory

Cokemaking operations involve the production of coke in by-product or beehive ovens. The production of metallurgical coke is an essential part of the steel industry, since coke is one of the basic raw materials necessary for the operation of ironmaking blast furnaces.

(2) Subpart B—Sintering Subcategory

Sintering operations involve the production of an agglomerate which is then used as a raw material in iron and steelmaking processes. This agglomerate (or "sinter") is made up of large quantites of waste particulate matter (fines, mill scale, and flue dust) which have been generated by blast furnaces, open hearth furnaces, basic oxygen furnaces, and recovered from hot forming operations.

(3) Subpart C—Ironmaking Subcategory

Ironmaking operations involve the conversion of iron bearing materials, limestone, and coke into molten iron in a reducing atmosphere in tall cylindrical (blast) furnaces.

(4) Subpart D—Steelmaking Subcategory

Steelmaking operations involve the production of steel in basic oxygen, open hearth, and electric arc furnaces from molten iron and steel scrap materials.

(5) Subpart E—Vacuum Degassing Subcategory

This operation involves the removal of gaseous material (deoxidation) from molten steel by applying a vacuum to the molten steel.

(6) Subpart F—Continuous Casting Subcategory

This operation involves the continuous formation of a primary steel shape (i.e., slab, billet, or bloom) from molten steel by casting the molten steel through a water-cooled mold.

(7) Subpart G—Hot Forming Subcategory

Hot forming is the steel forming process in which hot steel, in solid ingot form, is reduced in size during a series of forming steps into finished and semi-finished steel products.

(8) Subpart H—Scale Removal Subcategory

Scale removal from specialty steels is accomplished by immersing the steel in molten salt baths of kolene or hydride compounds.

(9) Subpart I—Acid Pickling Subcategory

Acid pickling is the process of chemically removing oxides and scale from the surface of steel using dilute inorganic acids.

(10) Subpart J—Cold Forming Subcategory

In cold forming operations, steel products are formed or reduced in thickness or size, or acted upon to produce a smooth surface or to control the mechanical properties of the metal. Rolling solutions are used in cold forming to cool and lubricate the product during the reduction operation.

(11) Subpart K—Alkaline Cleaning Subcategory

This operation involves the removal of rolling oil or other materials from the surface of steel products prior to further processing. The removal can be enhanced by the electrolysis of the steel in an alkaline solution.

(12) Subpart L—Hot Coating Subcategory

In the hot coating process, clean steel products are immersed in baths of various molten metals to deposit a thin layer of the metal on the product surface.

VII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

There are many different treatment technologies currently employed in the steel industry. Generally, primary wastewater treatment systems rely upon physical/chemical methods of treatment, including neutralization, sedimentation, flocculation and filtration. Treatment for toxic pollutants require adviced technologies such as biological treatment, carbon adsorption, ion exchange, reverse osmosis, and more sophisticated chemical techniques.

Within the cokemaking segment of the steel industry, organic pollutant removal is accomplished by biological treatment in bio-oxidation lagoons and activated sludge plants, and, physical/chemical treatment in ammonia stills, dephenolizers and activated carbon systems. Sedimentation and filtration techniques are employed as well in this subcategory.

Treatment facilities at plants in the sintering, ironmaking and steelmaking subcategories rely heavily upon sedimentation and flocculation techniques. Clarifiers and thickeners are principally used in connection with polymers and coagulants such as lime, alum, and ferric sulfate.

Wastewater from nearly all hot forming operations are treated in scale pits followed by lagoons, clarifiers, filters, or combinations thereof. Polymers and coagulants such as lime, alum, and ferric sulfate are normally used in conjunction with clarifiers. Filters are usually either gravity or pressure types with sand or other media.

Cold finishing treatment techniques include equalization prior to further treatment; neutralization with lime, caustic or acid; flocculation with polymer; and, sedimentation. Central or combined treatment systems are common for these operations.

Another important treatment method commonly practiced in the steel industry is recycle of treated wastewaters. Recycle can be effectively used to significantly reduce wastewater flows and the amount of pollutants discharged to receiving streams. Systems employing high rates of recycle are demonstrated in several subcategories of the steel industry.

B. Advanced Technologies Considered

The Agency considered advanced treatment systems to control the level of toxic and non-conventional pollutants at the BAT, NSPS, PSES, and PSNS levels of treatment. Some of these include inplant control, however, most include the installation of additional end-of-pipe treatment components.

Inplant control is demonstrated in several subcategories and has been incorporated, where appropriated, into the model BAT, BCT, NSPS, PSES, and PSNS treatment systems. In pickling operations, cascade rinse systems reduce the volume of rinse flow discharged by up to 95%, and are included into the model BAT, BCT, NSPS, PSES and PSNS treatment systems.

The Agency also considered other inplant control measures such as reducing wastewater generation rates and process modifications. These control measures are highly subcategory specific and are discussed in detail in the respective subcategory reports.

Add-on technology to BPT was considered for the BAT, NSPS, PSES, and PSNS levels of treatment in most of the subcategories. Some of these control measures for the toxic pollutants include two-stage (i.e. extended) biological treatment (cokemaking); granular activated carbon; powdered carbon addition; pressure filtration; pressure filtration accompanied with sulfide addition; and, multi-stage evaporation/condensation systems. Details on these advanced systems are presented in Section VI of volume I of the Development Document.

VIII. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of application of technology in relation to the effluent reduction benefits from such application, the age of equipment and facilities involved, the process employed, nonwater quality environmental impacts (including energy requirements) and other factors the Administrator considers appropriate. In general, the BPT technology level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or industry. Limitations based upon transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train*, 540 F2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where the process changes are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g., *AISI I, supra*. In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impact of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle*, 590 F 2d 1011 (D.C. Cir. 1978).

A detailed discussion of the bases for selecting the proposed BPT effluent limitations is set forth in Section IX of each subcategory report of the Development Document. The components of the BPT model treatment systems are presented in Appendix D.

IX. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater quality environmental impacts (including energy requirements) and the costs of application of such technology (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different industry or subcategory. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT limitations, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impact of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution. The steel industry discharges over forty different toxic pollutants. EPA considered two to five alternative BAT treatment systems for each subcategory which can reduce the discharge of toxic pollutants by over 90% from BPT levels. A detailed discussion of the bases for selecting the proposed BAT effluent limitations is set forth in Section X of each subcategory report of the Development Document. The components of the BAT model treatment systems are presented in Appendix D.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. Industry has the opportunity to design the best and most efficient steelmaking processes and wastewater treatment technologies for new plants. Congress therefore directed EPA to consider the best demonstrated process changes, in- plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible. EPA considered two to four alternative treatment systems for each subcategory in selecting proposed NSPS.

A detailed discussion of the bases for selecting the proposed new source performance standards is set forth in Seciton XII of each subcategory report of the Development Document. The components of the NSPS model treatment systems are presented in Appendix D.

XI. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of Publicly Owned Treatment Works (POTWs). The Clean Water Act of 1977 adds a new dimension by requiring pretreatment for pollutants, such as toxic metals, that pass through POTWs in amounts that would exceed direct discharge effluent limitations or limit POTW sludge management alternatives, including the beneficial use of sludges on agricultural lands. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations (40 CFR Part 403), which served as the framework for the proposed pretreatment standards for the steel industry, can be found at 43 FR 27736 (June 26, 1978).

EPA has determined that many of the metals present in the steel industry's raw wastewaters pass through POTWs, may limit POTW sludge disposal alternatives and can interfere with biological treatment in the POTW. These metals include: antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc.

Accordingly, EPA is proposing pretreatment standards for metals and other toxic and non-conventional pollutants in this proposed regulation. In addition to the factors discussed above, EPA considered the following factors in developing the proposed pretreatment standards:

1. The manufacturing processes employed by the industry;
2. The age and size of the equipment and facilities involved;
3. The location of manufacturing facilities;
4. Process changes;
5. The engineering aspects of the application of pretreatment technology and its relationship to the POTW;
6. The cost of application of technology in relation to the effluent reduction and other benefits achieved from such application; and,
7. Nonwater quality environmental impact (including energy requirements).

The methodology used to develop the effluent limitations is the same as that used to develop the direct discharger limitations. A detailed discussion of the bases for selecting the proposed pretreatment standards for existing sources is set forth in Section XIII of each subcategory report of the Development Document. The components of the PSES model treatment systems are presented in Appendix D.

XII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation. The Agency is proposing PSNS based on the same considerations discussed in Section XI relating PSES.

A detailed discussion of the bases for selecting the proposed pretratment standards for new sources is set forth in Section XIII of each subcategory report of the Development Document. The components of the PSNS model treatment systems are presented in Appendix D.

XIII. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added Section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(b)(4)—BOD, TSS, fecal coliform, and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1979, the Agency added oil and grease as a conventional pollutant (44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources. In its review of BAT for "secondary" industries, the Agency established BCT levels based upon a methodology described at 44 FR 50732 (Aug. 29, 1979). This methodology compares removal costs (dollars per pound of pollutant, measuring from BPT to BCT) with costs for an average POTW. The removal costs of an average POTW has been established by EPA as $1.34 per pound in July, 1978 dollars.

Where the removal costs of industry are less than the removal costs of an average POTW, the Agency has found the costs to be reasonable and is proposing limitations based upon BCT. In other subcategories where conventional pollutant removal costs exceeded this cost, the Agency is proposing BCT limitations which are equal to the proposed BPT limitations for conventional pollutants. A detailed discussion of the bases for selecting the best conventional technology effluent limitations is set forth in Section XI of each subcategory report of the Development Document. The components of the BCT model treatment systems are presented in Appendix D.

XIV. Regulated Pollutants

The basis for selecting the regulated pollutants, as well as the general nature and environmental effects of these pollutants, is discussed in detail in Section V of Volume I of the Development Document. Some of these pollutants are designated as toxic under Section 307(a) of the Act.

A. BPT—The pollutants controlled by this regulation include, for the most part, the same pollutants controlled by the prior BPT limitations. Some pollutants were deleted for various subcategories (e.g., chromium for hydride scale removal operations) because studies undertaken subsequent to the promulgation of the previous limitations indicate that these pollutants are not found in great quantities in steel industry wastewaters.

The BPT effluent limitations are expressed in terms of maximum monthly average and maximum daily mass effluent limitations in kilograms of pollutant per 1000 kilograms (lbs/1000 lbs) of product. The limitations are calculated by multiplying the demonstrated pollutant concentrations, the BPT model discharge flow for each subcategory, and an appropriate conversion factor. For maximum daily limitations, the industry average limitation is multiplied by the appropriate variability factor.

B. BCT—The pollutants controlled by the BCT limitations include the statutory conventional pollutants, TSS, pH, and oil and grease. The Agency is not proposing BCT limitations for BOD. It is proposing BCT limitations in all twelve steel industry subcategories. Where the BCT model treatment system failed the BCT cost test, the Agency is proposing BCT limitations which are the same as the proposed BPT limitations.

C. BAT and NSPS—1. Non-toxic, Non-conventional Pollutants—The non-toxic, non-conventional pollutants limited by BAT and NSPS include ammonia-N and fluoride. These pollutants are subject to numerical limitations expressed in kilograms per 1000 kilograms (lbs/1000 lbs) of product. Total residual chlorine is also limited in two subcategories where chlorine is used in the treatment process.

2. Toxic Pollutants—Forty-eight toxic pollutants were found at concentrations above treatability levels in steel industry wastewaters. (Section V of Volume I contains a list of these pollutants.) Thirty toxic pollutants were found in cokemaking wastewaters. The Agency is proposing effluent limitations in one or more subcategories for the following toxic pollutants: phenols, cyanide, benzene, naphthalene, benzo(a)pyrene, 1,1,1-trichloroethane, 2-nitrophenol, anthracene, tetrachloroethylene, cadmium, chromium, copper, lead, nickel, and zinc. These pollutants are subject to numerical limitations expressed in kilograms per 1000 kilograms (lbs/1000 lbs) of product. The remaining toxic pollutants found in steel industry wastewaters, which are not specifically limited in the proposed regulation, will be controlled by limitations proposed for "indicator" pollutants as discussed below.

3. Indicator Pollutants—The difficulty and cost of analyses for the many toxic pollutants found in steel industry wastewaters has prompted EPA to propose an alternative method of regulating certain toxic pollutants. Instead of proposing specific effluent limitations for each of the forty-eight toxic pollutants found in the industry's wastewaters above treatability levels, the Agency is proposing effluent limitations for certain "indicator" pollutants. These include chromium, lead, zinc, phenols (4AAP) and several of the toxic organic compounds. The data available to EPA show generally that the control of the selected "indicator" pollutants will result in comparable control of other toxic pollutants found in the wastewaters but not specifically limited. By establishing specific limitations on only the "indicator" pollutants, the Agency will reduce the difficulty, high cost, and delays of pollutant monitoring and analyses that would result if pollutant limitations were established for each toxic pollutant. EPA estimates that industry will save about $10 million annually in monitoring and analysis costs. Section V in Volume I of the Development Document discusses in detail the pollutants found in steel industry wastewaters and those for which the Agency is proposing limitations at the BAT and NSPS levels of treatment. Section X of each subcategory report discusses the bases for the selection of "indicator" pollutants for each subcategory.

D. PSES and PSNS—The Agency is proposing PSES and PSNS for the same toxic pollutants which are limited at BAT and NSPS. The Agency is proposing those standards to insure against POTW upsets, to prevent contamination of POTW sludges and to guard against a pass-through of toxic pollutants. The PSES and PSNS are expressed as maximum monthly average and maximum daily mass limitations in kilograms per 1000 kilograms (lbs/1000 lbs) of product. As a general rule, the Agency establishes pretreatment standards on the basis of concentration. However, for the steel industry, the Agency believes the standards should be based upon mass limitations (kg/kkg) to insure that effective toxic pollutant control is provided and to minimize the hydraulic impact of large volume steel industry discharges on POTWs.

XV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed in APPENDIX B to this proposed regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent in only trace quantities and not likely to cause toxic effects. APPENDIX B lists the toxic pollutants in each subcategory which were detected in the effluent in trace amounts (at or below the nominal limit of analytical quantification), which are not likely to cause toxic effects and which are excluded from the proposed regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent from a small number of sources and uniquely related to those sources. APPENDIX B contains a column labeled "Unique Occurrence" which lists those pollutants detected in the effluents of only one plant and uniquely related to that plant, which have been excluded from the proposed regulation. Appendix C contains the list of pollutants, by subcategory, for which limitations are being proposed.

XVI. Monitoring Recommendations

When required to carry out the objectives of the Act, EPA is authorized by Section 308 to require the owner or operator of a pollutant discharge source to establish and maintain records; make reports; install and use monitoring equipment or methods; sample effluents; and, provide such other information as the Administrator may reasonably require. The authority under Section 308 has been frequently used by permit issuers to set monitoring requirements to "determine whether any person is in violation" of the requirements of a permit or other requirement of the Act [Section 308(a)(2)]. Additionally, EPA has frequently sought information under Section 308 to aid in developing regulations for many industries.

In this and other "toxics" regulations, EPA has developed typical monitoring programs for direct and indirect dischargers for the purpose of estimating monitoring costs as part of the economic impact analysis of the proposed regulation. These monitoring programs are not intended to supercede or duplicate existing compliance monitoring requirements set by NPDES permit authorities but may be used as a guide in establishing minimum NPDES monitoring requirements. A minimum monitoring and analysis program is feasible at this time because only a small number of toxic pollutants will be limited, the cost of toxic pollutant analyses has decreased, and laboratory availability and efficiency have dramatically increased since the initiation of this study.

The monitoring and analysis program considered by the Agency includes continuous flow monitoring, grab sampling for pH (3 grabs per day, once a week), and oil and grease (3 grabs/day, once a week), and the collection of 24-hour composite samples once per week for all limited pollutants except noted below. More intensive monitoring is suggested for the period of time necessary to determine compliance with the proposed limitations. Accordingly, as of July 1, 1984, (the required compliance date for BCT and BAT), or as of the date of attainment of operational level of treatment facilities if such facilities are completed prior to July 1, 1984, monitoring and analysis of the limited pollutants should be carried out on a schedule of five daily composite samples per week (once per week for GC/MS pollutants). When the appropriate regulatory authority determines that compliance has been demonstrated monitoring can then be undertaken in accordance with the long term schedule discussed above. It should be noted that EPA may, on a case-by-case basis request collection of additional samples of raw wastewater or wastewater at points of intermediate treatment to determine treatment efficiencies.

XVII. Costs, Effluent Reduction Benefits, and Economic Impacts

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analyses of certain regulations, 43 FR 12661 (March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annualized compliance costs of $100 million or meeting other specified criteria, 43 FR 29891 (July 11, 1978). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives. The proposed regulation for the steel industry meets the criteria for a formal Regulatory Analysis.

The capital and annual costs of this regulation are summarized below.

Cost of Regulation—*Steel Industry*

[Millions of 1978 dollars]

[Based upon estimated facilities in place 6/30/80]

	Capital costs		
	Facilities in-place	Facilities required	Total
BPT	1,826.0	417.8	2,243.8
BAT (BCT)	[1] 188.6	444.1	632.7
NSPS	.0	159.5	159.5
Total	2,014.6	1,021.4	3,036.0

[1] Includes $49.5 million of committed BAT expenditures.

Annual Costs

	Incremental		Total	
	1984	1990	1984	1990
BPT	96.6	92.7	444.3	420.7
BAT (BCT)	150.3	93.6	193.2	133.8
NSPS	16.7	39.9	16.7	39.9
Total	263.6	226.2	654.2	594.4

EPA estimates that the total additional investment costs for the proposed regulation are about $1.02 billion. The associated annualized costs (including interest, depreciation, operating and maintenance) will be about $264 million in 1984, and drop to $226 million in 1990.

BPT–EPA estimates that, as of July 1, 1980, the steel industry must invest an additional $418 million to comply with the proposed BPT limitations. EPA estimates that the industry will incur annualized costs (including interest, depreciation, operating and maintenance) of $96.6 million of 1984. These costs decrease to $92.7 million by 1990.

BAT–EPA estimates that the steel industry must invest an additional $444.1 million to comply with the proposed BAT limitations. The incremental annual costs necessary to achieve the proposed BAT limitations are about $150.3 million in 1984. These costs decrease to $93.6 million in 1990. The costs to comply with the proposed BAT limitations includes the cost to comply with the proposed BCT limitations as the BAT model technology includes the BCT model technology in nearly every instance.

Compliance with the proposed BAT and BCT limitations will result in the removal of about 1,900 tons per year of toxic organic pollutants, 2,500 tons per year of toxic metals and 130,000 tons per year of other pollutants. As discussed in detail each subcategory report of the Development Document, the Agency has concluded that the effluent reduction benefits associated the industry's compliance with the proposed limitations and standards justify the costs. The Agency, between proposal and promulgation, will continue to evaluate alternative BAT levels that are either more or less stringent than those proposed herein.

EPA's economic impact assessment is set forth in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Iron and Steel Manufacturing Point Source Category.*

This report, focuses on the production, pollution control, and financial characteristics of the steel industry. In analyzing these industry characteristics, the Agency employed a policy testing model of the steel industry which combines a methodology for calculating economic effects with the cost impact methodology employed by the American Iron and Steel Institute (AISI) in its investigation of pollution control costs for the industry. This combination permits and integrated analysis of the costs and financial effects of environmental regulations.

The Agency assessed the economic impact of this regulation under three scenarios. The first scenario was based on a continuation, over the 1981–90 period, of the economic environment and government economic policy the steel industry faced over the past decade. The second scenario was based on an average 3.0 percent growth in steel shipments, higher profitability, and changes in government policy that included more rapid recovery of capital investments, a return to "fair value" steel import prices in the domestic market, and the latitude for the steel industry to increase prices constrained only by supply and demand forces. The third scenario was designed to reflect changes in the economic environment due to government economic policies that would affect the steel industry's performance throughout the 1980s. The third scenario examines the impact of this regulation by evaluating the effect of common elements of the economic recovery policies various groups within government are currently considering. Specific changes include an increase in real economic growth due to tax incentives, a reinstatement of trigger prices, and approximately a 40 percent increase in depreciation cash flows. Continuation of past policies include, until at least the mid-1980s, a 10.1 percent limit on nominal steel price increases set by the current "Anti-Inflation" program. The results of these three analyses are summarized in Tables 1 and 2.

Table 1.—*Short-Run Economic Impact of Proposed Water Pollution Control Regulations, 1984*

	Domestic shipments [millions of net tons]	Employment [thousands of employees]	Market share [percent]
Industry Status in 1979	100.3	342.0	84.8
Scenario 1:			
Baseline	101.2	334.5	82.0
Additional Water Pollution Control Costs:			
Zero Pass-Through	101.3	335.8	82.0
Full Pass-Through	101.3	335.8	82.0
Scenario 2:			
Baseline	106.7	356.0	82.0
Additional Water Pollution Control Costs	106.7	357.3	82.0
Scenario 3:			
Baseline	106.6	364.8	[1]85.0
Additional Water Pollution Control Costs	106.6	366.1	85.0

[1] Reflects the new surge provisions of the recently reinstituted Trigger Price Mechanism.

Table 2.—*Long-run Economic Impact of Proposed Water Pollution Control Regulations, 1990*

	Domestic shipments [millions of net tons]	Employment [thousands of employees]	Market share [percent]
Industry Status in 1979	100.3	342.0	84.8
Scenario 1:			
Baseline	92.4	271.1	71.5
Additional Water Pollution Control Costs:			
Zero Pass-Through	86.1	254.6	66.6
Full Pass-Through	88.1	262.9	68.9
Scenario 2:			
Baseline	126.0	336.4	82.0
Additional Water Pollution Control costs	126.0	338.3	82.0
Scenario 3:			
Baseline	117.8	341.5	[1]85.0
Additional Water Pollution Control Costs	115.3	336.0	[1]83.2

[1] Represents a recovery from a baseline market share of 77.8 percent in 1986 and from a market share after additional water pollution control costs of 73.4 percent also in 1986.

First Scenario

In the first scenario, the effects of two cost pass-through assumptions were examined—zero pass-through of annual costs and full pass-through of annual costs. The analysis indicated that in either case the industry will be unable to finance the capital necessary to maintain existing production facilities, while at the same time maintaining bond ratings high enough to ensure ready access to debt capital markets. The capital requirements of this regulation will further reduce capital to maintain existing facilities. Because of the poor profit projections, the Agency does not think the industry can issue common stock without diluting stockholders' equity. Therefore, the industry will have to rely on debt as the principal source of funds for financing its investments.

Market Share—Zero Pass-Through of Annual Costs

Large debt issues could push debt to capitalization ratios to levels incompatible with bond ratings necessary to ensure ready access to debt funds and interest coverage ratios necessary to avoid undue risk of failure to meet financial obligations. Consequently, the Agency expects the industry to forego some reworks expenditures. In this event, the Agency predicts that the steel industry's share of the domestic market for steel will decline by about 2.2 percent (to 69.3 percent) below the estimated 1990 baseline share (71.5 percent) after complying with the BPT limitations, and by an additional 2.7 percent (to 66.6 percent) after complying with BAT limitations, or a combined loss of 4.9 percentage points.

The industry will face excess capacity as it attempts to recover from the current recession and will face continued competition from foreign steel. Throughout the 1980s, both factors will prevent the industry from raising prices to levels that would enable them to recover the annual cost of this regulation.

Market Share—Full Pass-Through of Annual Costs

Although unlikely, if full pass-through of costs were assumed, the market share would only fall to 70.5 percent after compliance with the BPT limitations and to 68.9 percent after compliance with the BAT limitations, or a combined incremental loss of 2.6 percentage points.

Employment—Zero Pass-Through of Annual Costs

Assuming zero pass-through of annual costs, the decline in production capacity due to this regulation on the steel industry is expected to cause a loss of about 17,900 jobs below a projected baseline employment of 271,100, or about 6.6 percent of baseline employment. However, additional expenditures for water pollution control will increase industry employment by about 1,400. Thus, under the first scenario, the net effect of this proposed regulation will be a decline of about 16,500 jobs from the projected baseline employment, or 6.1 percent of baseline.

Employment—Full Pass-Through of Annual Costs

Assuming that all costs are passed through, capacity reductions would decrease steel industry employment by about 9,600 jobs from a projected baseline employment of 271,100. With additional jobs of 1,400, the net decline would be 8,200, or 3.0 percent of the baseline.

Second Scenario

Based on the analysis of these regulations under the second scenario, the long-run (1985–90) adverse impact of this regulation will be greatly reduced. The industry should be able to finance a full reworks program as well as all pollution control requirements during the 1981–90 period without a loss in current market share.

The analysis of this scenario indicates that the industry will face some financial strain during the 1981–84 period similar to that under the first scenario. It is during this period that the industry will have to make all the capital expenditures necessary to comply with the BPT and BAT regulations. These requirements will necessitate significant increases in debt financing because profitability will not begin to increase to levels that would permit additional common stock issues until about 1986. Thus, during the 1981–84 period, if industry attempts to prevent a deterioration in its bond ratings and tries to ensure ready access to capital markets, some reworks expenditures will be foregone.

Market Share

In contrast to the first scenario, this reduced capital expenditure program will be sporadic, spread over the entire industry, and not sustained. By 1984, profitability will begin to increase significantly, and by 1986 the industry should be able to begin issuing additional common stock. Thus, in the later part of the decade, the industry should be able to maintain its debt to capitalization and interest coverage ratios at levels that would ensure ready access to debt markets and avoid undue risks of default while at the same time financing all its capital requirements. Moreover, the industry can probably more than make up the reworks foregone in the first half of the decade thereby forestalling any loss in market share.

Employment

Under the second scenario, the effects of the regulation on employment should be positive. With no long-run reductions in productive capacity, there should be no decline in employment. However, additional expenditures on water pollution control equipment should increase employment by about 1,915 workers above a baseline employment of 336,400. Some minor reductions in employment would occur due to a slightly reduced shipments volume resulting from price increases to cover water pollution control costs.

Third Scenario

The economic analysis under the third scenario reveals an overall impact that varies, depending on the time period, between the first and the second scenarios. The financial conditions of the steel industry depicted in the first scenario will persist until about 1987 or 1988, and then the industry will move towards the conditions depicted in the second scenario during the late 1980s and early 1990s.

Market Share

During the 1981-86 period, the industry will be under severe financial strain. Therefore, to meet the capital requirements of this regulation and to maintain ready access to capital markets, the industry will again forego reworks of existing facilities. Consequently, by 1988 the industry's share of the domestic steel market is expected to decline from a baseline level of 77.8 percent to 73.4 percent, or 4.4 percentage points, as a result of this proposed regulation. However, by 1986, profitability should begin to increase signficantly to levels that will enable the industry to reinstate a reworks program in addition to significant capacity replacement and expansion. Thus, by 1990, the industry's improved economic conditions will increase this market share to 83.2 percent compared to a baseline level of 85.0 percent.

Employment

The maximum impact of additional water requirements on employment would occur in 1987 and 1988. In these years, additional water pollution control requirements would lead to a decline in production labor of 16,190 jobs below the projected baseline. The decrease would be partically offset by the 1,650 jobs needed to operate the additional water pollution control equipment. Thus, the net effect of this water pollution control regulation on steel industry employment would be a *temporary* reduction of 14,540 jobs below the projected baseline employment by the late 1980s. After 1988, employment should begin to rebound. By 1990, employment will be reduced by 5,500 workers below a baseline of 341,500. However, some minor reductions in employment would also occur as a result of slight reductions in steel shipments due to price increases necessary to recover the water pollution control costs.

Conclusions

Based on the findings under these three scenarios, the industry's ability to finance required production capital over the 1981–90 period while complying with this regulation will depend on changes in broad government economic policies toward the industry. Policy changes could provide the industry with additional cash flows and could increase the demand for steel and steel industry profits as industry in general increases its expenditures on steel intensive capital equipment. In the presence of such changes, the steel industry's financial performance could begin to approach that described in the second scenario by the late 1980s or early 1990s. In the absence of such changes, the industry's performance throughout the 1980s could be best described by the first scenario. The Agency, in anticipation of some change in government policy towards industry, believes the assumptions embodied in the third scenario could well reflect the actual environment in which the steel industry will be operating in the 1980s. However, the Agency requests public comments on which of these three scenarios is the most appropriate for assessing the economic impact of this proposed regulation.

XVIII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA considered the effect of this regulation on air pollution, solid waste generation, water consumption, and energy consumption. This proposed regulation was circulated to and reviewed by EPA personnel responsible for nonwater quality programs. While it is difficult to balance pollution problems against each other and against energy use, EPA is proposing a regulation which it believes best serves often competing national goals.

A detailed discussion of these impacts is contained in Section VIII of each subcategory report of the Development Document. Following is a summary of the non-water quality environmental impacts (including energy requirements) associated with the proposed regulation:

A. Air Pollution—Industry compliance with the proposed BPT, BAT, BCT, NSPS, PSES, and PSNS limitations and standards will not create any substantial air pollution problems. However, in several subcategories, slight air impacts can be expected. First, minimal amounts of volatile organic compounds may be released to the atmosphere by aeration of cokemaking wastewaters in biological treatment. Second, small emissions of air pollution may result when ironmaking wastewaters are used to quench the hot slag generated in the process. Third, water vapor containing some particulate matter will be released from the cooling tower systems used in several of the subcategories. The Agency does not consider any of these impacts to be significant.

B. Solid Waste—The Agency has determined that 37.3 million tons per year of solid waste (at 30% solids) have and will be generated by the steel industry in complying with the proposed regulation. Of this amount, almost all (37.0 million tons) is already generating by the steel industry in complying with the proposed BPT limitations. This solid waste is comprised almost entirely of treatment plant sludges. EPA recognizes that significant quantities of other solid wastes, such as electric furnace dust and blast furnace slag, are generated by the steel industry. However, those solid wastes are generated by the manufacturing processes and are not associated with this proposed water pollution control regulation. For this reason, process solid wastes are not included in this impact analysis.

The data gathered for this study demonstrate that the industry collects and disposes of most sludges currently generated in existing treatment systems. Hence, the industry is presently incurring sludge disposal costs and finding the necessary disposal sites. The Agency believes that the industry will continue to be able to do so. (EPA is unable to estimate accurately the number of disposal sites that are secure, well maintained operations). The average sludge disposal cost used in this analysis is $5.00 per ton. These costs have been included in the Agency's estimate for costs of compliance with the proposed regulation and the Agency expects the solid waste impacts associated with the proposed regulation to be small.

C. Consumptive Water Loss—Water loss is a remand issue of the 1974 and 1976 regulations. As discussed in detail in Section III of the development document, the Agency concludes that the benefits derived from compliance with the limitations justify the negative impacts associated with the consumption of water. The Agency has reached this conclusion after considering this issue on both an industry-wide basis and on a water-scarce regional basis.

D. Energy Requirements—EPA estimates that compliance with the proposed regulation will result in a net increase of electrical energy consumption at the BPT and BAT/BCT levels of treatment as shown below:

Treatment level	Net energy consumption (kw-hr) (billion)
BPT	1.20
BAT/BCT	0.87
Total	2.07

The electric power requirements associated with the proposed BPT, BCT, and BAT limitations amount to 3.6 percent of the 57 billion kw-hrs of electrical energy consumed by the steel industry in 1978. This amounts to only 0.6 of the total energy (electric and nonelectric) consumed by the industry. The Agency concludes that the impacts of the energy consumed due to compliance with the proposed regulations is justified by the benefits derived from compliance with the proposed limitations and standards.

XIX. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"). EPA intends to develop BMPs which are: (1) applicable to all industrial sites; (2) applicable to a designated industrial category; and (3) provide guidance to permit authorities in establishing BMPs required by unique circumstances at a given plant.

EPA is not proposing BMPs specific to the steel industry in this regulation.

XX. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent guidelines is necessary because such upsets will inevitably occur in even properly operated control equipment. Because technology-based limitations are based upon what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir 1977) with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, 594 F2d 1223 (8th Cir. 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented. Bypass provisions covering emergency situations have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and they are included in the NPDES regulations, 40 CFR § 122.60, 45 FR 33298; May 19, 1980. The upset provisions establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Because this issue is resolved in the NPDES permit regulations, this proposed regulation does not address these issues.

XXI. Variances and Modifications

Upon the promulgation of the final regulation, the numerical effluent limitations for the appropriate subcategory must be included in all federal and state NPDES permits thereafter issued to steel industry direct dischargers. In addition, the pretreatment standards are directly applicable to indirect dischargers upon promulgation.

For the BPT and BCT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1974–1976 steel industry regulations, it is now included in the NPDES regulations and will not be included in the steel or other industry regulations. See the final NPDES regulations, Act 45 FR 33290 (May 19, 1980), for the text and explanation of the "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for non-toxic and non-conventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 40 CFR Part 125 Part D. Under Section 301(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants. Likewise, limitations on nonconventional pollutants used as "indicators" for toxic pollutants are not subject to Section 301(c) or Section 301(g) modifications, unless the discharger demonstrates that a waste stream does not contain any of the toxic pollutants for which the "indicator" was designed to demonstrate removal.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs. See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont* v. *Train, supra*.

XXII. Relationship to NPDES Permits

The BPT, BAT, BCT, and NSPS limitations and standards in this regulation will be applied to individual steel plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of this regulation and NPDES permits.

One matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations, guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of this regulation and before June 30, 1981 must include a "reopener clause," providing for permits to be modified to incorporate "toxics" regulations when they are

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promulgated. Permits issued after June 30, 1981 must meet the requirements of Sections 301(b)(2) of the Clean Water Act whether or not applicable effluent limitation guidelines have been promulgated. See 40 CFR § 122.62(c), 45 FR 33290, 33339 (May 19, 1980). At one time EPA had adopted a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. While EPA continues to encourage EPA and State permit writers to issue short-term permits to primary industry dischargers until June 30, 1981, EPA has changed its policy to allow more flexibility. See 45 FR 33340 (May 19, 1980). EPA permit writers may issue long-term permits to primary industries even if guidelines have not yet been promulgated provided that the permits require compliance with BAT and BCT limitations and contain reopener clauses. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis on consideration of the statutory factors. See *U.S. Steel Corp.* v. *Train*, 556 F.2d 822 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings.

With respect to the steel industry, however, the EPA has decided not to issue (and to encourage state NPDES permit issuing authorities not to issue) case-by-case NPDES permits until the final limitations are promulgated; assuming these final limitations will be promulgated no later than July 1, 1981. In event the promulgation of the final limitations is delayed beyond July 1, 1981, EPA (or the appropriate state NPDES permitting authority) would issue permits on a case-by-case basis.

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit issuing authorities. The promulgation of this regulation does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

EPA is evaluating the use of the water bubble concept for the steel industry. The water bubble concept is a method of developing effluent limitations that would allow dischargers to discharge greater amounts of effluent at outfalls where treatment costs are high in exchange for an equivalent decrease in effluent discharged at outfalls in the same plant where abatement is less expensive. Thus, the same amount of reduction in pollutant loadings can be obtained at less cost.

Using the water bubble concept, a discharger could discharge no more total pounds of pollutants than it could without a bubble. However, with the bubble concept the discharger would have the flexibility to allocate that discharge among its various outfalls in the least costly manner. For example, a discharger could trade an increase (above that prescribed by the effluent guidelines) of 10 pounds of pollutant X in outfall A for a decrease of 10 pounds of the same pollutant in outfall B.

In evaluating the water bubble concept for the steel industry, EPA wants to ensure that use of the concept will be equivalent in enforceability and environmental impact to control without a bubble. To ensure this equivalence, EPA is considering applying several conditions on the use of the water bubble concept:

a. *Dischargers must meet water quality standards.*

A change in the distribution of pollutant loadings among outfalls may adversely affect water quality even if total loadings do not increase. A permit writer would not approve the use of the water bubble concept if its application results in a violation of water quality standards.

b. *Trades would involve only the same pollutant.*

EPA would allow dischargers to trade a pollutant in one waste stream only against the same pollutant in another wastestream. For example, zinc would be traded for zinc, but not for chromium or lead.

c. *Each outfall must have a specific discharge limit.*

EPA would not approve applications of the water bubble concept that do not have specific enforceable limitations set for each outfall. The water bubble concept would not allow limitations to be set on a plant-wide "floating" basis.

d. *Dischargers would initiate, at their own expense, water bubble proposals during the normal permit reissuance process.*

The discharger would be responsible for developing its own water bubble proposal. EPA would allow dischargers to make proposals only during the normal permit reissuance process. In no case would EPA allow the water bubble proposal to delay compliance with pollution control requirements.

e. *Non-complying dischargers would not be allowed to use the water bubble concept.*

Only facilities in compliance with permit conditions, on an EPA approved compliance schedule, or on a court-ordered schedule for compliance with applicable effluent limitations and current water quality standards would be eligible to use the water bubble concept.

f. *All waste streams would be required to meet applicable BPT requirements.*

Dischargers would not be allowed to meet less than BPT limits for any outfall. Thus, a plant could not decrease control of a pollutant below the outfall specific BPT limitation, even if it were able to obtain sufficient reductions of the same pollutant at another outfall.

g. *Trading between some waste streams from different subcategories would be prohibited.*

This condition would restrict potential trades of pollutants to certain subcategory wastestreams. Currently, EPA is considering prohibiting any trades with cokemaking, ironmaking, and sintering subcategories because their pollutant characteristics are of a different nature than those from other iron and steel subcategories.

Between proposal and promulgation of the steel effluent guidelines, EPA will decide whether to include specific water bubble provisions as part of the final regulation. In making this decision, EPA will evaluate any comments received on the water bubble. For specific questions about this policy, please call Richard Raines, Economic Analysis Division, (202) 755-7733.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources so as to maximize their availability for actions against those who fail to make good faith efforts to comply with the Act.

XXIII. Summary of Public Participation

Between November 1979 and April 1980, EPA circulated nine individual volumes, which together comprise the EPA contractor's draft technical report on the bases of this proposed regulation, including available treatment alternatives and costs. The draft technical report was distributed to a number of interested parties, including the American Iron and Steel Institute and several member firms, the Natural Resources Defense Council (NRDC), and affected state and municipal authorities. This document did not include recommendations for proposed effluent limitations and standards, but rather presented the EPA Contractor's draft technical report on treatment alternatives available, costs, and other information relating to this proposed regulation. A meeting was held in Washington, D.C. on May 19, 1980 for public discussion of comments on this document.

The following general issues raised by the industry are addressed below. Special issues and technical considerations are addressed elsewhere (see Section XXIV).

1. *Regulation of the Steel Industry at the BAT Level*

The AISI and some of its member companies have requested that the steel industry not be regulated at the BAT level, citing the significant removal of toxic and conventional pollutant loads from raw waste loads to the proposed BPT level.

The Agency agrees that the proposed BPT level of treatment for the steel industry provides for a significant reduction in the discharges of toxic, nonconventional, and conventional pollutants. This is not surprising since those familiar with the industry are aware of the quantity of raw materials and products moved through this industry, the vast quantities of water contaminated by its operations (over six billion gallons per day), and the tremendous size and pollution potential of its processes. Hence, any significant level of pollution control is bound to demonstrate a large percentage removal of pollutants from raw waste loads.

The Agency is more concerned with the toxic, nonconventional, and conventional pollutants discharged into the environment at the proposed BPT level rather than with the percentage reduction of pollutants from raw waste loads. For the steel industry those loadings are among the highest, if not the highest, of major American industries, amounting to over 2150 tons/year of toxic organic pollutants (including cyanide), 2740 tons/year of toxic metal pollutants, and 140,000 ton/year of nonconventional and conventional pollutants. There is more than a ninety percent reduction in the discharge of pollutants cited above from the proposed BPT limitations to the proposed BAT and BCT limitations. EPA estimates, however, that even when the steel industry complies with the proposed BAT and BCT limitations, 247 tons of toxic organic pollutants, 222 tons of toxic metal pollutants, and 10,300 tons of non-conventional and conventional pollutants will be discharged annually into the environment. These amounts are higher than the annual discharge of most other industries at their respective BPT levels of treatment.

Based upon the above considerations, the Agency believes that regulation of the steel industry at the proposed BAT level is appropriate.

2. *Central Treatment*

The Agency has received numerous requests from AISI and its members to create a subcategory within the proposed regulation allowing for central or combined treatment of wastewaters from various subcategories. There are two major issues associated with central treatment:

(1) The compatibility of effluent limitations for subcategories that can be effectively cotreated; and

(2) The historical inclusion of cooling water, surface runoff, roof runoff, and other nonprocess waters in existing central treatment systems.

With respect to the first issue, the Agency recognizes that central treatment of compatible wastewaters is an effective means to achieve compliance with the proposed regulation at a cost less than would be required for separate treatment systems. Accordingly, the Agency has taken direct, positive action to facilitate central treatment where it believes central treatment is effective. The prior 1974 and 1976 regulations contained BPT effluent limitations for the various subcategories that often were not compatible from the standpoint of co-treating similar wastewaters. These limitations are, by and large, identical to the proposed BPT limitations. The Agency did not revise these limitations for purposes of facilitating central treatment at the BPT level because it believes that co-treatment at that level of treatment is inappropriate due to the high discharge flow rates incorporated in certain BPT model treatment systems and the number of unregulated toxic pollutants.

However, at the BAT and NSPS levels, this proposed regulation directly addresses the central treatment problem by providing limitations for the same pollutants for subcategories that can be effectively co-treated. Hence, this issue will be resolved for all levels of treatment upon promulgation of the proposed BAT and BCT limitations and NSPS. The Agency has concluded that, with adequate pretreatment where necessary, wastewaters from the following groups of subcategories can be treated together to achieve the proposed limitations:

Group and Subcategory

1. Cokemaking
2. Sintering, Iron Making
3. Steelmaking, Vacuum Degassing, Continuous Casting, Hot Forming, Pickling, Cold Rolling, Alkaline Cleaning, Hot Coatings

The Agency considered the nature of coke plant wastewaters and the biological treatment currently used to treat those wastewaters in developing the proposed BAT limitations and believes that coke plant wastewaters must be treated separately to insure the effective removal of toxic and non-conventional pollutants. Based upon the nature of toxic and non-conventional pollutants found in sintering and ironmaking wastewaters, and the treatment systems considering in developing the proposed BAT effluent limitations, the Agency believes that these wastewaters can be effectively co-treated at the BAT level. The Agency is proposing limitations for the same pollutants in these categories to facilitate co-treatment. However, the Agency concludes that treatment of cokemaking, sintering, and ironmaking wastewaters with wastewaters from other subcategories allows for the dilution of non-conventional and toxic pollutants not found in wastewaters from the other subcategories (i.e., Ammonia-N, Cyanide, Phenolic compounds, and other organic compounds found in cokemaking wastewaters) which reduces the treatability of those pollutants, and, therefore that such co-treatment is not appropriate.

The proposed BCT and BAT limitations for the subcategories listed in Group 3 above are compatible and facilitate the implementation of extensive central treatment. Where necessary, pretreatment for the following subcategories may be required: pickling; cold rolling; and hot coatings.

The Agency has decided not to oppose the establishment a central treatment subcategory in the proposed regulation. There are numerous combinations of wastewater treatment systems that can be and are being employed ranging from individual recycle systems followed by central treatment of blowdowns and once-through flows, to total plant-wide recycle systems with treatment of the blowdown. These combinations are so numerous, that it is not possible for the Agency to regulate effectively the discharge of toxic pollutants at the BAT level with a central treatment subcategory. The only feasible means of limiting discharges from those treatment systems is to establish limitations based on pollutant concentrations. However, the use of concentration limitations alone cannot provide for effective limitation of toxic pollutant discharges since those limitations do not regulate discharge flow. The reduction in discharge flow provides most of the toxic pollutant loading removal to be achieved by industry's compliance with the proposed BAT and BCT limitations.

In all cases, the limitations applicable to a central treatment facility should be the sum of the applicable effluent loading limitations for the individual subcategory processes tributary to the central treatment facility.

Based upon the above considerations, the Agency believes that the development of a central treatment subcategory which provides for effective regulation of toxic pollutants is not possible or necessary. However, the Agency has made central treatment possible under the proposed BAT, BCT, and NSPS limitations and standards by carefully selecting the toxic pollutants to be limited for those subcategories that have compatible wastes.

As noted above, the second major issue pertaining to central treatment is the historical inclusion of cooling water, surface runoff and roof runoff in central treatment systems. While separation of these non-process waters has been accomplished at many steel plants and even at many older steel plants, it may be inordinately expensive to do so at a small number of plants.

The Agency believes its model treatment system cost estimates, which are based upon the more costly separate treatment systems for each subcategory, are sufficiently generous to cover all site-specific and retrofit costs associated with upgrading most existing central treatment systems to the point where the proposed BAT limitations can be achieved. However, there may be instances where, because of unique site-specific factors, the proposed BAT limitations may not be achievable without the expenditure of amounts significantly higher than those estimated by the Agency. In such instances, the Agency believes that the plants should receive alternative BAT limitations.

In establishing alternative BAT limitations for a particular plant the Agency would evaluate the existing central treatment system on a site-specific basis by the following three steps.

(1) Computing the applicable BAT effluent limitations by summing the allowable effluent loadings for each subcategory process tributary to the central treatment facility.

(2) Requiring separation of those non-process flows that can reasonably be accomplished.

(3) Adjusting recycle rates for the remaining flows and requiring appropriate blowdown treatment to achieve the applicable effluent limitations.

Where surface and roof runoff have not been separated from process wastewaters, surge capacity can be provided prior to recycle to maintain low blowdown rates. In extreme cases it may be necessary to provide for additional flow allowances during rainfall events.

There are two stages at which the Agency can evaluate whether a particular plant or central treatment facility should be subject to effluent limitations less stringent than the generally applicable BAT limitations. The Agency could, where feasible, identify certain plants in the final regulation for which alternative limitations are appropriate, and establish limitations for those facilities. If the Agency finds that it can, from a practical standpoint, resolve this issue in the regulation, it will do so. Alternatively, the Agency could resolve this issue at the permit writing stage. The discharges could apply for a "fundamentally different factor" variance under 40 CFR § 125.31(b)(3). For example, if the cost of segregating the non-process waters and installing the BAT model technologies, or otherwise achieving compliance with the appropriate BAT limitations, would be "wholly out of proportion" to the Agency's estimated cost, the discharger may obtain relief from the generally applicable limitations. Under the variance procedure, the permit writer would evaluate the existing central treatment system and alternative treatment approaches, and propose alternative limitations for that facility on a case-by-case basis.

As stated previously, the Agency would like to resolve this issue under the first approach. The Agency met with representatives of AISI and its member companies regarding those plants which they believed were entitled to alternative effluent limitations or inclusion in a central treatment subcategory. At those meetings, the industry representatives presented data for more than thirty plants. Based upon those data and its independent analysis of the problem, the Agency has identified seven plants which it believes may be entitled to relief from the generally applicable limitations. They are as follows:

Plant	Locations	Central treat facility
1. Armco Steel	Ashland, KY	Total plant.
2. Bethlehem Steel	Sparrows Point, MD	Humphrey's Creek.
3. Bethlehem Steel	Burns Harbor	Total plant.
4. National Steel	Granite City, IL	Total plant.
5. Republic Steel	Gadsden, AL	Total plant.
6. U.S. Steel	Loran, OH	Pipe mill lagoon.
7. U.S. Steel	Provo, UT	Total plant.

The Agency is continuing to analyze whether these or any other plants should have alternative limitations, and if so, what those limitations should be. If it determines that alternative limitations are appropriate, it will give notice of those proposed alternative limitations and provide an opportunity for comment.

The Agency is soliciting comments regarding whether these plants, or any other plants should have alternative limitations. The commenter should provide the following information for each plant:

(1) A schematic diagram of the existing wastewater treatment facility showing each major treatment component;

(2) Flow rates;

(3) A scale map of the area of the plant served by the wastewater treatment facility, including the treatment facility and water supply and discharge points;

(4) An estimate of the capital investment required to meet the proposed BAT limitations for the facility; and

(5) The effluent limitations which could be achieved if the discharger were to spend an amount equal to the Agency's model treatment system cost estimate for the facility and the treatment facilities which would be used to meet those limitations.

3. *Consumptive use of Water.*

a. One commenter suggested that EPA had failed to consider adequately, the impact of the proposed limitations on water consumption. The commenter contends that EPA has failed to estimate accurately the water consumption associated with industry's compliance with the proposed limitations, failed to consider the adverse impact which this water consumption would have on users of water downstream from the commenter, and failed to account generally for the water scarity problems of the arid and semi-arid western states.

In response to the court's remand on this issue, EPA undertook an extensive analysis of the water consumption impact of this proposed regulation. The manner in which the Agency examined this issue, and the bases for its conclusions, are presented in detail in Section III of Volume 1 of the Development Document. The Agency estimated the water that will be consumed by the various water pollution control systems available for use in the steel industry. Based on the assumption that the industry will use evaporative cooling devices, the Agency estimates the water loss to be only 0.07% of the daily flow of steel industry process waters at the BPT level and 0.25% of daily flow at the BAT level. On the other hand, by proposing the limitations at their present level, the process water intake flow of steel industry will decrease by 40%, thus precluding approximately 3 billion gallons per day from becoming contaminated by steel industry processes.

Moreover, the Agency surveyed the following four steel plants which it considers to be the only major plants located in arid or semi-arid regions of the country.

0196A CF&I Steel Corporation, Pueblo, Colorado
0443A Kaiser Steel Corporation Fontana, California
0492A Lone Star Steel Company Lone Star, Texas
0864A United States Steel Corporation Provo, Utah.

Based upon information provided by these companies, the Agency found that nearly all of the recycle and evaporative cooling systems included in the model treatment systems used to develop the proposed limitations and standards have been installed at these plants. Consequently, the incremental water consumption associated with compliance with the proposed limitations and standards is either minimal or non-existent for plants located in arid or semi-arid regions.

Although the commenter noted above suggested the Agency failed to account for water consumption associated with "drift" (as opposed to evaporation) from wet cooling towers, that loss of water was accounted for in the Agency's estimate of water consumption. (0.1% of flow).

The commenter also suggested that the increased water consumption which will result from compliance with the proposed regulation will adversely effect downstream users of water including agricultural and industrial users. Beyond the Agency's determination that the adverse impacts associated with the estimated increase in water consumption is justified by the benefit of reducing the pollutant load discharged to meet the proposed limitations, EPA is not able to consider properly the site specific factors cited by the commenter. Such site specific non-water quality environmental factors may be considered in a request for a variance by an NPDES permit applicant (See 40 CFR 125, Subpart D). The Agency notes that the commenter is located in a state which has been delegated the authority to administer the NPDES program. The permitting authority which will issue the permit and consider any requests for a variance is uniquely suited to account for the regional and state concerns cited by the commenter.

b. The commenter also suggests that the Agency is ignoring Section 101(g) of the CWA by proposing limitations which will result in increased water consumption. The commenter suggests that Section 101(g) recognizes the primacy of state water laws and allocation systems over the CWA.

EPA does not agree with the commenter's conclusion regarding the primacy of state water laws over the CWA. The court, in *AISI II*, noted the primacy of the CWA over state water laws based upon the Supremacy Clause of the U.S. Constitution. That conclusion is equally applicable now and the existence of state water laws does not prohibit EPA from establishing limitations which incidentally involve the consumptive use of water. The Agency does, however, understand that Congress intended that EPA not unnecessarily interfere with those rights. It is noteworthy that EPA is preparing a report to Congress under Section 102(D) of the CWA regarding measures to coordinate water quality and water quantity issues and policies. This report demonstrates the Agency's continued sensitivity to this issue and its efforts to accommodate both goals.

XXIV. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

A. General Issues

1. Whether the proposed limitations and standards for each of the subcategories are appropriate. Specifically, the Agency solicits comments on whether the proposed BPT limitations for the following operations, which are less stringent than those contained in prior regulations, are appropriate: (a) cokemaking—by-product; (b) sintering; (c) open hearth—wet

2. Whether the Agency has accurately estimated the cost of compliance with the proposed limitations and standards including site-specific costs, retrofit costs, and any other costs of compliance with the regulation.

3. Whether the pollutants proposed for limitation in each subcategory are appropriate. Specifically, the Agency solicits comments regarding the use of indicator pollutants and whether the indicator pollutants selected are appropriate.

4. In establishing limitations for the pickling, scale removal, alkaline cleaning, cold rolling, and hot coating operations, the Agency used production tonnage as a normalizing basis. The Agency does not have sufficient data available to develop effluent limitations on the basis of product surface area. While the Agency understands that product surface area data are not universally available throughout the industry, the Agency solicits comments on whether establishing limitations on that basis is appropriate, how those limitations could be established, and the data with which they could be established.

5. EPA is evaluating the use of the water bubble policy for the steel industry. Section XXII contains a discussion of how the policy might work and possible conditions for its application. EPA solicits comments on all aspects of the use of the water bubble policy in the steel industry. In particular, EPA solicits comments on the following issues:

a. Will the steel industry benefit from use of the water bubble concept? Comments are solicited on the amounts which specific plants may save using the water bubble concept.

b. What conditions for applying the water bubble concept are needed to ensure that it is equivalent in enforceability and water quality impact to control without a bubble? Comments are solicited on the possible conditions for its application which are described in Section XXII.

c. Can the water bubble concept be implemented without excessive administrative burden on the EPA or state permit issuing authorities?

6. Whether the definitions of steel industry processes and products contained in the proposed regulation are sufficiently specific to identify their applicability.

B. Subcategory Specific Issues

1. *Cokemaking.*

a. Whether separate BAT limitations for existing full-scale physical-chemical treatment systems incorporating granular activated carbon adsorption are warranted; or whether BAT limitations based upon biological treatment should be universally applicable.

b. The Agency has recently obtained data which indicate that the proposed BAT limitations for cokemaking may be achieved with single-stage biological treatment systems similar to those contained in the model BPT treatment systems. The Agency expects that the costs for such systems will be substantially less than those for the model BAT treatment systems. The Agency solicits comments regarding: (i) whether or not single stage biological treatment similar to that used in the BPT model treatment systems can be used with post filtration to attain the proposed BAT limitations; and (ii) if such systems cannot achieve the proposed BAT limitations, what BAT limitations would be appropriate for these systems.

2. *Ironmaking.*

a. Whether the proposed BCT, BAT, NSPS, PSES, and PSNS limitations are appropriate for both ferromanganese and ironmaking blast furnaces.

b. The Agency is soliciting comments on whether it would be appropriate to promulgate a new source performance standard and a pretreatment standard for new sources of zero discharge based upon evaporation of blast furnace blowdown on slag.

3. *Vacuum Degassing.*—The Agency found a vacuum degassing plant that achieves zero discharge using the treatment system components identified by the Agency as the model BPT system. Accordingly, the Agency solicits comments on whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES, and PSNS for the vacuum degassing subcategory based upon the demonstrated performance of this plant. No costs beyond those required for compliance with the proposed BPT limitations would be necessary to achieve zero discharge for vacuum degassing operations.

4. *Continuous Casting.*—The Agency found that about twenty-five percent of the continuous casting plants achieve zero discharge using the treatment system components identified by the Agency as the model BPT system. Accordingly, the Agency solicits comments on whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES, and PSNS for the continuous casting subcategory based upon the demonstrated performance of these plants. No costs beyond those required for compliance with the proposed BPT limitations would be necessary to achieve zero discharge for continuous casting operations.

5. *Hot Forming.*

a. The Agency found that the following number of hot forming mills achieve zero discharge using the treatment system components identified by the Agency as BPT, BAT, and BCT model treatment systems:

Subdivision and Number of Mills

Primary—3
Section—9
Flat—1
Pipe and Tube—1

Accordingly, the Agency solicits comments on whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES and PSNS for any or all of the hot forming subdivisions. No costs beyond those required to achieve compliance with the proposed BPT, BAT, and BCT limitations would be necessary to achieve zero discharge for hot forming operations.

b. The Agency is proposing BAT, NSPS, PSES, and PSNS limitations and standards for toxic metal pollutants for the hot forming subcategory. Several commenters have suggested that hot forming operations for carbon steel products do not contribute any toxic metal pollutants to its wastewaters. They therefore contend that the proposed BAT, NSPS, PSES, and PSNS limitations and standards are not appropriate for those operations. The Agency believes that its data clearly indicate that both carbon and specialty steel hot forming operations contribute toxic metal pollutants to its process wastewaters above treatability levels. These data indicate the hot forming operations can contribute about 1,670 tons/year of toxic metal pollutants at the proposed BPT level and that these discharges can be reduced to about 90 tons/year at the proposed BAT Level. The Agency solicits comments on the following issues:

(1) Whether hot forming operations should be subdivided between carbon steel and specialty steel operations to a greater degree than is currently contemplated in this proposed regulation.

(2) Whether, and to what extent, carbon and specialty steel operations contribute toxic metal pollutants to process wastewaters.

The Agency is interested in any relevant data which bears on these issues. To the extent that any commenter would like to conduct sampling activities and submit data prior to the close of the comment period, the Agency will provide direction regarding the appropriation sampling points for particular facilities.

6. *Cold Rolling.*

a. The Agency has received comments indicating that product quality requirements may be limiting factors in achieving the discharge flows which may be required to achieve the proposed limitations. However, the Agency has insufficient documentation or data to support this claim. Hence, the Agency solicits data and documentation on this issue.

b. Based upon available data, the Agency believes that the toxic organic pollutant contamination of selected cold rolling operation wastewaters is attributable to the type of rolling and coating solutions applied to the various steel products. However, the agency has found that some cold rolling operation wastewaters are not contaminated by those pollutants. The Agency is continuing to investigate this issue. The Agency solicits data and documentation on whether toxic organic pollutant-free rolling solutions can be used in most or all cold rolling operations.

7. *Hot Coatings.*—The Agency found several hot coating operations without fume scrubbers in the following subdivisions which achieve zero discharge using the treatment system components identified by the Agency as the BPT model system:

Subdivision and Product Type

Galvanizing—Strip, sheet, and miscellaneous products, wire products and fasteners
Other coatings—Strip, sheet, and miscellaneous products

Accordingly, the Agency solicits comments on whether the hot coatings subcategory should be further subdivided and whether zero discharge limitations and standards should be promulgated as BAT, BCT, NSPS, PSES, and PSNS for those segments of the hot coatings subcategory where zero discharge has been demonstrated. No costs beyond those required for compliance with the proposed BPT limitations would be necessary to achieve zero discharge for those hot coatings operations.

In addition, the Agency has prepared a compilation of responses to comments received on the October 1979 draft technical report. This compilation is available from Ernst P. Hall, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, Washington, D.C. 20460 (Phone: 202–426–[illegible]586). The Agency is also soliciting additional comments on each of the specific issues raised in these comments and the three general issues raised in Section XXIII.

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice

ACT—The Clean Water Act.
AGENCY—The U.S. Environmental Protection Agency.
BAT—The best available technology economically achievable under Section 304(b)(2)[illegible] of the Act.
BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.
BMP—Best management practices under Section [illegible](e) of the Act.
BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.
Clean Water Act—The Federal Water pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*) as amended by the Clean Water Act of 1977 (Public Law 95–217).
Direct Discharger—A facility which discharges or may discharge pollutants directly into waters of the United States.
Indirect Discharger—A facility which introduces or may introduce pollutants into a publicly owned treatment works.
NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.
NSPS—New source performance standards under Section 306 of the Act.
POTW—Publicly owned treatment works.
PSES—Pretreatment standards for existing sources of indirect discharges under Section [illegible]07(b) of the Act.
PSNS—Pretreatment standards for new sources of direct discharges under Section 307(b) and (c) of the Act.
RCRA—Resource Conservation and Recovery Act (PL 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B.—*Development of Regulated Pollutant List Iron and Steel Industry*

No.	Pollutant	Not detected	Unique occurrence	Not treatable	Regulation considered
001	Acenaphthene	–	–	X	–
002	Acrolein	X	–	–	–
003	Acrylonitrile	–	–	–	X
004	Benzene	–	–	–	X
005	Benzidine	X	–	–	–
006	Carbon Tetrachloride	–	–	X	–
007	Chlorobenzene	X	–	–	–
008	1,2,4-Trichlorobenzene	X	–	–	–
009	Hexachlorobenzene	–	–	–	X
010	1,2-Dichloroethane	–	–	X	–
011	1,1,1,-Trichloroethane	–	–	–	X
012	Hexachloroethane	X	–	–	–
013	1,1-Dichloroethane	–	–	X	–
014	1,1,2-Trichloroethane	–	X	–	–
015	1,1,2,2-Tetrachloroethane	–	–	X	–
016	Chloroethane	X	–	–	–
017	Bis(chloromethyl) ether	X	–	–	–
018	Bis(2-chloroethyl) ether	X	–	–	–
019	2-Chloroethyl vinyl ether	X	–	–	–
020	2-Chloronaphthalene	–	–	X	–
021	2,4,6-Trichlorophenol	–	–	X	–
022	Parachlorometacresol	–	–	–	X
023	Chloroform	–	–	–	X
024	2-Chlorophenol	–	–	–	X
025	1,2-Dichlorobenzene	–	–	X	–
026	1,3-Dichlorobenzene	X	–	–	–
027	1,4-Dichlorobenzene	–	–	X	–
028	3,3'-Dichlorobenzidine	X	–	–	–
029	1,1-Dichloroethylene	–	X	–	–
030	1,2-Transdichloroethylene	–	–	X	–
031	2,4-Dichlorophenol	–	–	X	–
032	1,2-Dichloropropene	X	–	–	–
033	1,2-Dichloropropylene	X	–	–	–
034	2,4-Dimethylphenol	–	–	–	X
035	2,4-Dinitrotoluene	–	–	–	X
036	2,6-Dinitrotoluene	–	–	–	X
037	1,2-Diphenylhydrazine	–	–	X	–
038	Ethylbenzene	–	–	–	X
039	Fluoranthene	–	–	–	X
040	4-Chlorophenyl-phenyl ether	X	–	–	–
041	4-Bromophenyl-phenyl ether	X	–	–	–
042	Bis(2-chloroisopropyl) ether	X	–	–	–
043	Bis(2-chloroethoxy) methane	X	–	–	–
044	Methylenechloride	–	–	X	–
045	Methyl chloride	X	–	–	–
046	Methyl bromide	X	–	–	–
047	Bromoform	X	–	–	–
048	Dichlorobromomethane	–	–	X	–
049	Trichlorofluoromethane	X	–	–	–
050	Dichlorodifluoromethane	X	–	–	–
051	Chlorodibromomethane	X	–	–	–
052	Hexachlorobutadiene	X	–	–	–
053	Hexachlorocyclopentadiene	X	–	–	–
054	Isophorone	–	–	–	X
055	Naphthalene	–	–	–	X
056	Nitrobenzene	–	–	X	–
057	2-Nitrophenol	–	–	–	X
058	4-Nitrophenol	–	–	X	–
059	2,4-Dinitrophenol	–	–	X	–
060	4,6-Dinitro-o-cresol	–	–	–	X
061	N-Nitrosodimethylamine	X	–	–	–
062	N-Nitrosodiphenylamine	X	–	–	–
063	N-Nitrosodi-n-propylamine	X	–	–	–
064	Pentachlorophenol	–	–	–	X
065	Phenol	–	–	–	X
066	Bis(2-ethylhexyl) phthalate	–	–	–	X
067	Butyl benzylphthalate	–	–	–	X
068	Di-n-butylphthalate	–	–	–	X
069	Di-n-octylphthalate	–	–	–	X
070	Diethylphthalate	–	–	–	X
071	Dimethylphthalate	–	–	–	X
072	Benzo(a)anthracene	–	–	–	X
073	Benzo(a)pyrene	–	–	–	X
074	3,4-Benzofluoranthene	–	X	–	–
075	Benzo(k)fluoranthene	–	X	–	–
076	Chrysene	–	–	–	X
077	Acenaphthylene	–	–	–	X
078	Anthracene	–	–	–	X
079	Benzo(ghi)perylene	–	X	–	–
080	Fluorene	–	–	–	X
081	Phenathrene	–	–	–	X
082	Dibenzo(a,h)anthracene	–	X	–	–
083	Indeno(1,2,3,cd)pyrene	–	X	–	–
084	Pyrene	–	–	–	X
085	Tetrachloroethylene	–	–	–	X
086	Toluene	–	–	–	X
087	Trichloroethylene	–	–	X	–
088	Vinyl chloride	–	X	–	–
089	Aldrin	–	X	–	–
090	Dieldrin	–	X	–	–
091	Chlordane	–	X	–	–
092	4,4'-DDT	–	X	–	–
093	4,4'-DDE	–	X	–	–
094	4,4'-DDD	–	X	–	–
095	a-endosulfan-Alpha	–	X	–	–
096	b-endosulfan-Beta	–	X	–	–
097	Endosulfansulfate	–	X	–	–
098	Endrin	–	X	–	–
099	Endrin aldehyde	–	X	–	–
100	Heptachlor	–	X	–	–
101	Heptachlor epoxide	–	X	–	–
102	a-BHC-Alpha	–	X	–	–
103	b-BHC-Beta	–	X	–	–
104	R-BHC-Gamma	–	X	–	–
105	g-BHC-Delta	–	X	–	–
106	PCB-1242	–	X	–	–
107	PCB-1254	–	X	–	–
108	PCB-1221	–	X	–	–
109	PCB-1232	–	X	–	–
110	PCB-1248	–	X	–	–
111	PCB-1260	–	X	–	–
112	PCB-1016	–	X	–	–
113	Toxaphene	–	X	–	–
114	Antimony	–	–	–	X
115	Arsenic	–	–	–	X
116	Asbestos	X	–	–	–
117	Beryllium	–	–	X	–
118	Cadmium	–	–	–	X
119	Chromium	–	–	–	X
120	Copper	–	–	–	X
121	Cyanide	–	–	–	X
122	Lead	–	–	–	X
123	Mercury	–	–	X	–
124	Nickel	–	–	–	X
125	Selenium	–	–	–	X
126	Silver	–	–	–	X
127	Thallium	–	–	–	X
128	Zinc	–	–	–	X
129	2,3,7,8-Tetrachlorodibenzo-p-dioxin	X	–	–	–
130	Xylene	–	–	–	X
	Aluminum	–	–	–	X
	Ammonia	–	–	–	X
	Dissolved Iron	–	–	–	X
	Fluoride	–	–	–	X
	Hexavalent Chromium	–	–	–	X
	Manganese	–	X	–	–
	Oil and Grease	–	–	–	X
	pH	–	–	–	X
	Phenolic Compounds	–	–	–	X
	Sulfide	–	–	–	X
	Total Suspended Solids	–	–	–	X

Key:
X Indicates heading which applies to pollutant.

-Indicates heading which does not apply to pollutant.

Not Detected: Not detected in ay raw waste samples analyzed.

Unique Occurrence: Found at one or two plants at low levels.

Not Treatable: Detected at levels below practical treatability levels.

Req. Considered: Found in average concentrations of greater than 10ppb in at least one iron and steel subcategory.

Appendix C.—*Regulated Pollutant List, Iron and Steel Industry*

A. Cokemaking
Total Suspended Solids
Oil & Grease
Ammonia
Cyanide
Phenols (4AAP)
Benzene
Naphthalene
Benzo(a)pyrene
pH

B. Sintering
Total Suspended Solids
Oil & Grease
Ammonia
Cyanide
Phenols (4AAP)
Total Residual Chlorine
Lead
Zinc
pH

C. Ironmaking
Total Suspended Solids
Oil & Grease
Ammonia
Cyanide
Phenols (4AAP)
Total Residual Chlorine
Lead
Zinc
pH

D. Steelmaking
1. Basic Oxygen Furnace
Total Suspended Solids
Chromium
Lead
Zinc
pH

2. Open Hearth Furnace
Total Suspended Solids
Chromium
Lead
Zinc
pH

3. Electric Arc Furnace
Total Suspended Solids
Chromium
Lead
Zinc
pH

E. Vacuum Degassing
Total Suspended Solids
Chromium
Lead
Zinc
pH

F. Continuous Casting
Total Suspended Solids
Oil & Grease
Chromium
Lead
Zinc
pH

Hot Forming
Total Suspended Solids
Oil & Grease
Chromium
Lead
Zinc
pH

H. Scale Removal
1. Kolene
Total Suspended Solids
Chromium
pH

2. Hydride
Total Suspended Solids
Cyanide
Chromium
Lead
pH

I. Sulfuric Acid Pickling
Total Suspended Solids
Chromium
Lead
Zinc
pH

J. Hydrochloric Acid Pickling
Total Suspended Solids
Chromium
Lead
Zinc
pH

K. Combination Acid Pickling
Total Suspended Solids
Fluoride
Chromium
Copper
Nickel
pH

L. Cold Rolling
1. Recirculation and Combination
Total Suspended Solids
Oil & Grease
Chromium
Lead
Zinc
1,1,1-Trichlorophenol
2-Nitrophenol
Anthracene
Tetrachlororethylene
pH

2. Direct Application
Total Suspended Solids
Oil & Grease
Chromium
Zinc
pH

M. Alkaline Cleaning
Total Suspended Solids
Dissolved Iron
pH

N. Hot Coating
Total Suspended Solids
Oil & Grease
Cadmium
Chromium
Lead
Zinc
pH

Appendix D.—*Iron and Steel Model Treatment Summary*

Subcategory	Levels of treatment					
	BPT	BAT	BCT	NSPS	PSNS	PSES
A. Cokemaking:						
1. By-product	Fixed still, recycle final cooler, settling basin, acid neturalization, single stage bio-oxidation, clarifier, vacuum filter.	Extended bio-oxidation recycle of barometric condenser, clarifier, filter.	(3)	(1)	(4)	(1).
2. Beehive	Settling basin, 100% recycle.	(3)	(2)	(3)	(1)	(1).
B. Sintering	Polymer, thickener, vacuum filter, 93% recycle, acid neutralization.	95% recycle, lime addition, alkaline chlorination, clarifier, acid neutralization (from BPT (system), filter, dechlorination.	95% recycle, filter	(1)	(1)	(1).
C. Ironmaking	Polymer, thickener, vacuum filter, cooling tower, 96% recycle.	98% recycle, lime addition, alkaline chlorination, clarifier, acid neutralization filter, dechlorination.[7]	98% recycle clarifier.	(1)	(1)	(1).
D. Steelmaking:						
All semi-wet operations	Lime neutralization (open hearth operations only) polymer, clarifier/thickener, vacuum filter, 100% recycle.	(1)	(2)	(2)—for BOF, EAF, (1)—for OH	(3)	(2).
Basic Oxygen Furnace (Wet).	Polymer, clarifier/thickener, vacuum filter, 95% recycle, acid neutralization.	Lime neutralization, inclined plate separator, filter, acid neutralization (from BPT system).	Filter	(1)	(1)	(1).
Open Hearth Furnace (Wet).	Lime neutralization and polymer addition, clarifier/thickener, vacuum filter, 94% recycle.	Lime addition, inclined plate separator, filter.	Filter	(1)	(1)	(1).

Appendix D.—*Iron and Steel Model Treatment Summary*—Continued

Subcategory	Levels of treatment					
	BPT	BAT	BCT	NSPS	PSNS	PSES
Electric Arc Furnace (Wet).	Polymer, clarifier/thickener, vacuum filter, 96% recycle.	Lime addition, inclined plate separator, filter.				
E. Vacuum Degassing	Scale pit, cooling tower, 96% recycle.	Filter	(2)	(4)	(5)	(6).
F. Continuous Cooling	Scale pit, 96% recycle, flat bed filter, cooling tower.	99% recycle, Filter	(2)	Scale pit, 99% recycle, flat bed filter, cooling tower.	(5)	(6).
G. Hot Forming:						
Model 1	Scale pit, 50% recycle, clarifier, vacuum filter, filter.	Cooling tower, 96% recycle	(2)	Scale pit, recycle, roughing clarifier, vacuum filter, cooling tower, recycle filter blowdown.	(5)	(6).
Model 2	Scale pit, clarifier, vacuum filter, filter.	Cooling tower, 96% recycle	(2)	Scale pit, recycle, roughing clarifier, vacuum filter, cooling tower, recycle filter blowdown.	(5)	(6).
Model 3	Scale pit, 50% recycle, settling lagoon.	Cooling tower, 96% recycle, filter.	(2)	Scale pit, recycle, roughing clarifier, vacuum filter, cooling tower, recycle filter blowdown.	(5)	(6).
H. Scale Removal:						
1. Kolene	Oil skimming, acid addition, chromium, reduction, lime, polymer, thickener, vacuum filter.	Filter	(2)	(4) (except settling basin in place of thickener).	(5)	(6).
2. Hydride	Cyanide oxidation, acid and polymer addition, thickener, vacuum filter.	Filter	(2)	(4) (except settling basin in place of thickener).	(5)	(6).
I. Acid Pickling:						
1. Sulfuric:						
a. Neutralization	Spent pickle liquor storage tank, FHS recycle, equalization of SPL, rinse water and fume hood scrubber blowdown, lime, and polymer addition, aeration, settling basin.	Cascade Rinse	(2)	Acid recovery system (acid discharge)	(5)	(4) (except clarifier and vacuum filter in place of settling basin).
b. Acid Recovery	Spent acid storage system, cascade rinse, FHS recycle, acid recovery system (zero discharge).	(2)	(2)	(2)	(5)	(6).
2. Hydrochloric:						
a. Neutralization	Spent pickle liquor storage tank, FHS recycle, equalization of SPL, rinse water and fume hood scrubber blowdown, lime and polymer addition, aeration, thickener, vacuum filter.	Cascade Rinse	Batch—(2) Continuous—(2) plus a filter.	(4) (except clarifier in place of thickener).	(5)	(6).
b. Acid regeneration	Spent acid storage tank, acid regeneration systems, FHS recycle, equalization tank, lime and polymer addition, aeration, thickener, vacuum filter.	Cascade Rinse, AVS recycle	(2) plus a filter	(4) (except clarifier in place of thickener).	(5)	(6).
3. Combination	Spent pickle liquor storage tank, FHS recycle, equalization of SPL, rinse water and fume hood scrubber blowdown, oil skimmer, lime and polymer, clarifier, vacuum filter.	Cascade Rinse	(2)	(4)	(5)	(4) (except no oil skimmer is provided).
J. Cold Forming:						
1. Cold Rolling	Alum, acid (for emulsion breaking), lime and polymer, air flotation, settling basin.	Filter	Recirculation: (2) Direct application and combination (3).	(4) and the requirement all new mills will be of the recirculation type.	(5)	(6).
2. Pipe and Tube:						
a. Water	Scale pit, oil skimmer, 100% recycle.	(1)	(2)	(2)	(5)	(6).
b. Oil	Scale pit, oil skimmer, recycle waste oil storage tank (contractor removal as required).	(2)	(2)	(2)	(5)	(6).
K. Alkaline Cleaning	Equalization tank with oil skimmer, acid and polymer, thickener, vacuum filter.	(1)	(2)	Equalization tank with oil skimmer, acid, polymer, aeration, settling basin, vacuum filter, filter.	(5)	(6).
L. Hot Casting	Lime and polymer, thickener, vacuum filter.	FHS recycle, Cascade Rinse	Same as BAT plus a filter (8). Same as BPT (9). Same as BAT (10).	(4)	(5)	(6).

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[1] No standards/limitations are presently proposed; therefore, no treatment model considered. [2] Same as BPT. [3] Same as BAT. [4] Same as BPT plus BAT. [5] Same as NSPS. [6] Only general pretreatment standards as proposed. [7] Approximately 60% of the iron making plants are expected to install 96% recycle and slag evaporation in place of BAT. [8] Applies to all galvanizing operations with and without scrubber, terne and other metals for sheet and strip operations with scrubbers. [9] Applies to all other metal coating operations without scrubbers. [10] Applies to terne sheet and strip operations without scrubbers, other metal coating operations, wire products and fasteners with scrubbers.

SPL: Spent Pickle Liquor. AVS: Absorber Vent Scrubber. FHS: Fume Hood Scrubber.

EPA proposes to amend Part 420 of CFR to read as follows:

PART 420—IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.
420.01 Applicability.
420.02 General Definitions.

Subpart A—Cokemaking Subcategory

420.10 Applicability; description of the cokemaking subcategory.
420.11 Specialized definitions.
420.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.14 New source performance standards (NSPS).
420.15 Pretreatment standards for existing sources (PSES).
420.16 Pretreatment standards for new sources (PSNS).
420.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart B—Sintering Subcategory

420.20 Applicability; description of the sintering subcategory.
420.21 Specialized defintions.
420.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.24 New source performance standards (NSPS).
420.25 Pretreatment standards for existing sources (PSES).
420.26 Pretreatment standards for new sources (PSNS).
420.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart C—Ironmaking Subcategory

420.30 Applicability; description of the ironmaking subcategory.
420.31 Specialized definitions.
420.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.34 New source performance standards (NSPS).
420.35 Pretreatment standards for existing sources (PSES).
420.36 Pretreatment standards for new sources (PSNS).
420.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart D—Steelmaking Subcategory

420.40 Applicability; description of the steelmaking subcategory.
420.41 Specialized definitions.
420.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.44 New source performance standards (NSP).
420.45 Pretreatment standards for existing sources (PSES).
420.46 Pretreatment standards for new sources (PSNS).
420.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart E—Vacuum Degassing Subcategory

420.50 Applicability; description of the vacuum degassing subcategory.
420.51 Specialized definitions.
420.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.54 New source performance standards (NSPS).
420.55 Pretreatment standards for existing sources (PSES).
420.56 Pretreatment standards for new sources (PSNS).
420.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart F—Continuous Casting Subcategory

420.60 Applicability; description of the continuous casting subcategory.
420.61 Special definitions.
420.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.64 New source performance standards (NSPS).
420.65 Pretreatment standards for existing sources (PSES).
420.66 Pretreatment standards for new sources (PSNS).
420.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart G—Hot Forming Subcategory

420.70 Applicability; description of the hot forming subcategory.
420.71 Specialized definitions.
420.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.74 New source performance standards (NSPS).
420.75 Pretreatment standards for existing sources (PSES).
420.76 Pretreatment Standards for new sources (PSNS).
420.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart H—Scale Removal Subcategory

420.80 Applicability; description of the scale removal subcategory.
420.81 Specialized definitions.
420.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.84 New source performance standards (NSPS).
420.85 Pretreatment standards for existing sources (PSES).
420.86 Pretreatment standards for new sources (PSNS).
420.87 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart I—Acid Pickling Subcategory

420.90 Applicablity; description of the acid pickling subcategory.
420.91 Specialized definitions.
420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available

technology economically achievable (BAT).
420.94 New source performance standards (NSPS).
420.95 Pretreatment standards for existing sources (PSES).
420.96 Pretreatment standards for new sources (PSNS).
420.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart J—Cold Forming Subcategory

420.100 Applicability; description of the cold forming subcategory.
420.101 Specialized definitions.
420.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.104 New source performance standards (NSPS).
420.105 Pretreatment standards for existing sources (PSES).
420.106 Pretreatment standards for new sources (PSNS).
420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart K—Alkaline Cleaning Subcategory

420.110 Applicability; description of the alkaline cleaning subcategory.
420.111 Specialized definitions.
420.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.114 New source performance standards (NSPS).
420.115 Pretreatment standards for existing sources (PSES).
420.116 Pretreatment standards for new sources (PSNS).
420.117 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart L—Hot Coating Subcategory

420.120 Applicability; description of the hot coating—galvanizing subcategory.
420.121 Specialized definitions.
420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.124 New source performance standards (NSPS).
420.125 Pretreatment standards for existing sources (PSES).
420.126 Pretreatment standards for new sources (PSNS).
420.127 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sec. 301; 304(b), (c), (e), and (g); 306(b) and (c); 307; 308 and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 USC 1311; 1314(b), (c), (e), and (g); 1316(b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567; Pub. L. 95–217.

General Provisions

§ 420.01 Applicability.

The provisions of this part apply to discharges and to the introduction of pollutants into a publicly owned treatment works resulting from production operations in the Iron and Steel Point Source Category.

§ 420.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "TSS" (or total suspended solids, or total suspended residue) means the value obtained by the method specified in 40 CFR § 136.3.

(b) The term "oil and grease" (or O&G) means the value obtained by the method specified in 40 CFR § 136.3

(c) The term "ammonia-N" (or ammonia-nitrogen) means the value obtained by the manual distillation (at pH 9.5) followed by nesslerization method specified in 40 CFR § 136.3.

(d) The term "cyanide" means total cyanide and is determined by the method specified in 40 CFR § 136.3.

(e) The term "phenols 4AAP" (or phenolic compounds) means the value obtained by the method specified in 40 CFR § 136.3

(f) The term "TRC" (or total residual chlorine) means the value obtained by the iodometric titration with an amperometric endpoint method specified in 40 CFR § 136.3

(g) The term "fluoride" means the value obtained by the method specified in 40 CFR § 136.3.

(h) The term "cadmium" means total cadmium and is determined by the method specified in 40 CFR § 136.3.

(i) The term "chromium" means total chromium and is determined by the method specified in 40 CFR § 136.3.

(j) The term "hexavalent chromium" (or chromium VI) means the value obtained by the method specified in 40 CFR § 136.3.

(k) The term "copper" means total copper and is determined by the method specified in 40 CFR § 136.3.

(l) The term "iron, dissolved" means the value obtained by the method specified in 40 CFR § 136.3.

(m) The term "lead" means total lead and is determined by the method specified in 40 CFR § 136.3.

(n) The term "nickel" means total nickel and is determined by the method specified in 40 CFR § 136.3.

(o) The term "zinc" means total zinc and is determined by the method specified in 40 CFR § 136.3.

(p) The term "benzene" (or priority pollutant No. 4) means the value obtained by the standard method Number 602 specified in 44 FR 69464, 69570 (December 3, 1979).

(q) The term "benzo (a) pyrene" (or priority pollutant No. 73 means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69570 (December 3, 1979).

(r) The term "naphthalene" (or priority pollutant No. 55) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69571 (December 3, 1979).

(s) The term "1,1,1-trichloroethane" (or priority pollutant No. 11) means the value obtained by the standard method specified in 44 FR 69464, 69572 (December 3, 1979).

(t) The term "2-nitrophenol" (or priority pollutant No. 57) means the value obtained by the standard method Number 604 specified in 44 FR 69464, 69571 (December 3, 1979).

(u) The term "anthracene" (or priority pollutant No. 78) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69570 (December 3, 1979).

(v) The term "tetrachloroethylene" (or priority pollutant No. 85) means the value obtained by the standard method Number 601 specified in 44 FR 69464, 69572 (December 3, 1979).

(w) The term "pH" means the value obtained by the standard method specified in 40 CFR § 136.3.

Subpart A—Cokemaking Subcategory

§ 420.10 Applicability; description of the cokemaking subcategory.

The provisions of this subpart are applicable to discharges and introduction of pollutants into publicly owned treatment works resulting from by-product and beehive cokemaking operations.

§ 420.11 Specialized definitions.

(a) The term "beehive cokemaking" means those operations in which coal is heated with the admission of air in controlled amounts for the purpose of producing coke. There are no by-product recovery operations associated with beehive cokemaking operations.

(b) The term "By-Product" cokemaking means those cokemaking operations in which coal is heated in the absence of air to produce coke. In this process, by-products are recovered from the gases and liquids driven from the coal during cokemaking.

(c) The term "wet desulfurization system" means those systems which remove sulfur compounds from coke oven gases and produce a contaminated process wastewater.

(d) The term "indirect ammonia recovery system" means those systems which recover ammonium hydroxide as a by-product from coke oven gases and waste ammonia liquors.

(e) The term "physical chemcial treatment system" means those full scale coke plant wastewater treatment systems incorporating full scale granular activated carbon adsorption units which were in operation prior to the date of proposal of this regulation.

§ 420.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *By-Product cokemaking.*

Subpart A

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.2250	0.0750
O&G	.0327	.0109
Ammonia-N	.2736	.0912
Cyanide	.0657	.0219
Phenols (4AAP)	.0045	.0015
pH—Within the range of 6.0 to 9.0.		

(1) Increased loadings, not to exceed 15 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 30 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent that such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

§ 420.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *By-Product Cokemaking.*

Subpart A

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Ammonia-N	0.05110	0.00957
Cyanide	.00320	.00160
Phenols (4AAP)	.0000640	.0000160
Benzene	.0000638	.0000319
Naphthalene	.0000128	.0000064
Benzo(a)pyrene	.0000256	.0000128

(1) Increased loadings, not to exceed 16 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following BAT effluent limitations apply to by-product coke plants with physical chemical treatment systems:

Subpart A

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Ammonia-N	0.05160	0.02580
Phenols (4AAP)	.0000860	.0000215
Benzene	.0000430	.0000215
Naphthalene	.0000086	.0000043
Benzo(a)pyrene	.0000172	.0000086

Increased loadings, not to exceed 25 percent of the above limitations, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

§ 420.14 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *By-Product cokemaking.*

Subpart A

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.34418	0.01280
Oil & grease	.00638	
Ammonia-N	.05110	.00957
Cyanide	.00320	.00160
Phenols (4AAP)	.0000640	.0000160
Benzene	.0000638	.0000319
Naphthalene	.0000128	.0000064
Benzo(a)pyrene	.0000256	.0000128
ph—within the range of 6.0 to 9.0.		

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet disulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

§420.15 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *By-Product cokemaking.*

Subpart A

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Ammonia-N	0.05110	0.00957
Cyanide	.00320	.00160
Phenols(4AAP)	.0000640	.0000160
Benzene	.0000638	.0000319
Naphthalene	.0000128	.0000064
Benzo(a)pyrene	.0000256	.0000128

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet disulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following pretreatment standards for existing sources apply to by-product coke plants with physical chemical treatment systems:

Subpart A

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Ammonia-N	0.05160	0.02580
Phenols(4AAP)	.0000660	.0000215
Benzene	.0000430	.0000215
Naphthalene	.0000086	.0000043
Benzo(a)pyrene	.0000172	.0000086

Increased loadings, not to exceed 25 percent of the above standards, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* [Reserved]

§ 420.16 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *By-Product cokemaking.*

Subpart A

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Ammonia-N	0.05110	0.00957
Cyanide	.00320	.00160
Phenols(4AAP)	.0000640	.0000160
Benzene	.0000638	.0000319
Naphthalene	.0000128	.0000064
Benzo(a)pyrene	.0000256	.0000128

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *Beehive cokemaking.* [Reserved]

§ 420.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollution control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology:

(a) *By-Product cokemaking.*

Subpart A

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03418	0.01280
O&G	.00638	
pH—Within the range of 6.0 to 9.0.		

(1) Increased loadings, not to exceed 16 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 33 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following BCT effluent limitations apply to by-product coke plants with physical chemical treatment systems:

Subpart A

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02294	0.00859
O&G	.00430	
pH—Within the range of 6.0 to 9.0.		

Increased loadings, not to exceed 25 percent of the above limitations, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(b) Beehive Cokemaking.

No discharge of process wastewater pollutant to navigable waters.

Subpart B—Sintering Subcategory

§ 420.20 Applicability; description of the sintering subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from sintering operations conducted by the heating of iron bearing wastes (mill scale and dust from blast furnaces and steelmaking furnaces) together with fine iron ore, limestone, and coke fines in an ignition furnace and traveling grate to produce an agglomerate for charging to the blast furnace.

§ 420.21 Specialized definitions [Reserved]

§ 420.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0624	0.0206
O&G	.0126	.0042
pH—Within the range of 6.0 to 9.0.		

§ 420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 124.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Subpart B

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Ammonia-N	0.0006260	0.0003130
Cyanide	.0001564	.0000782
Phenols(4AAP)	.0000626	.0000313
TRC	.0001560	
Lead	.0000626	.0000313
Zinc	.0000626	.0000313

§ 402.24 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

Subpart B

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01252	0.00469
O&G	.00313	
Ammonia-N	.0006260	.0003130
Cyanide	.0001564	.0000782
Phenols(4AAP)	.0000626	.0000313
TRC	.0001560	
Lead	.0000626	.0000313
Zinc	.0000626	.0000313
pH—Within the range of 6.0 to 9.0.		

§ 420.25 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

Subpart B

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Ammonia-N	0.0006260	0.0003130
Cyanide	.0001564	.0000782
Phenols(4AAP)	.0000626	.0000313
TRC	.0001560	
Lead	.0000626	.0000313
Zinc	.0000626	.0000313

§ 420.26 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

Subpart B

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Ammonia-N	0.0006260	0.0003130
Cyanide	.0001564	.0000782
Phenols (4AAP)	.0000626	.0000313
TRC	.0001560	
Lead	.0000626	.0000313
Zinc	.0000626	.0000313

§ 420.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Subpart B

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01252	0.00469
O&G	.00313	
pH—Within the range of 6.0 to 9.0.		

Subpart C—Ironmaking Subcategory

§ 420.30 Applicability; description of the ironmaking subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from ironmaking operations in which iron ore is reduced to molten iron in a blast furnace.

§ 420.31 Specialized definitions.

(a) The term "ferromanganese blast furnace" means those blast furnaces which produce molten iron containing more than fifty percent manganese.

(b) The term "iron blast furnace" means all blast furnaces except ferromanganese blast furnaces.

§ 420.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Iron Blast Furnace.*

Subpart C

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0780	0.0260
Ammonia-N	.1605	.0535
Cyanide	.0234	.0078
Phenols (4AAP)	.0063	.0021
pH—Within the range of 6.0 to 9.0.		

Ferromanganese Blast Furnace.

Subpart C

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.3129	0.1043
Ammonia-N	1.2901	.4297
Cyanide	.4689	.1563
Phenols (4AAP)	.0624	.0208
pH—Within the range of 6.0 to 9.0.		

§ 420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Iron Blast Furnace.*

Subpart C

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Ammonia-N	0.000584	0.000292
Cyanide	.000584	.000292
Phenols (4AAP)	.000584	.0000292
TRC	.000146	
Lead	.0002190	.0000730
Zinc	.0002628	.0000876

(b) *Ferromanganese Blast Furnace.* [Reserved]

§ 420.34 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Iron Blast Furnace.*

Subpart C

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01169	0.00436
O&G	.00292	
Ammonia-N	.000584	.000292
Cyanide	.000584	.000292
Phenols (4AAP)	.0000584	.0000292
TRC	.000146	
Lead	.0002190	.0000730
Zinc	.0002628	.0000876
pH—Within the range of 6.0 to 9.0.		

(b) *Ferromanganese Blast Furnace.* [Reserved]

§ 420.35 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Iron Blast Furnace.*

Subpart C

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Ammonia-N	0.000584	0.000292
Cyanide	.000584	.000292
Phenols (4AAP)	.0000584	.0000292
TRC	.000146	
Lead	.0002190	.0000730
Zinc	.0002628	.0000876

(b) *Ferromanganese Blast Furnace.* [Reserved]

§ 420.36 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Iron Blast Furnace.*

Subpart C

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Ammonia-N	0.000584	0.000292
Cyanide	.000584	.000292
Phenols (4AAP)	.0000584	.0000292
TRC	.000146	
Lead	.0002190	.0000730
Zinc	.0002628	.0000876

(b) *Ferromanganese Blast Furnace.* [Reserved]

§ 420.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available conventional control technology:

(a) *Iron Blast Furnace.*

Subpart C

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.01169	0.00436
O&G	.00292	
pH—Within the range of 6.0 to 9.0.		

(b) *Ferromanganese Blast Furnace.* [Reserved]

Subpart D—Steelmaking Subcategory

§ 420.40 Applicability; description of the steelmaking subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from steelmaking operations conducted in basic oxygen, open hearth, and electric arc furnaces.

§ 420.41 Specialized definitions.

(a) The term "basic oxygen furnace steelmaking" means the production of steel from molten iron, steel scrap, fluxes, and various combinations thereof, in refractory lined furnaces by adding oxygen.

(b) The term "open hearth furnace steelmaking" means the production of steel from molten iron, steel scrap, fluxes, and various combinations thereof, in refractory lined fuel-fired furnaces equipped with regenerative chambers to recover heat from the flue and combustion gases.

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(c) The term "electric arc furnace steelmaking" means the production of steel principally from steel scrap and fluxes in refractory lined furnaces by passing an electric current through the scrap or steel bath.

(d) The term "wet" means those steelmaking air cleaning systems that primarily use water for furnace gas cleaning.

(e) The term "semi-wet" means those steelmaking air cleaning systems that use water to condition the temperature and humidity of furnace gases such that the gases may be cleaned in dry air pollution control systems.

(f) The term "open combustion" means those basic oxygen furnace steelmaking wet air cleaning systems which are designed to allow excess air to enter the air pollution control system for the purpose of combusting the carbon monoxide in furnance gases.

(g) The term "suppressed combustion" means those basic oxygen furnace steelmaking wet air cleaning systems which designed to limit or suppress the combustion of carbon monoxide in furnace gases by restricting the amount of excess air entering the air pollution control system.

§ 420.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

Subpart D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.0312	0.0104
pH—Within the range of 6.0 to 9.0.		

(3) *Wet-open combustion.*

Subpart D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.0312	0.0104
pH—Within the range of 6.0 to 9.0.		

(b) *Open hearth furnace steelmaking*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 1b) of product	
TSS	0.0687	0.0229
pH—Within the range of 6.0 to 9.0.		

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.*

No discharge of process wastewater polutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0312	0.0104
pH—Within the range of 6.0 to 9.0.		

§ 420.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Basic oxygen furnace steelmaking.*—

(1) *Semi-wet.*—No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

Subpart D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000624	0.0000208
Lead	.000188	.0000626
Zinc	.000188	.0000626

(3) *Wet-open combustion*

Subpart D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cromium	0.0002034	0.0000678
Lead	.0002034	.0000678
Zinc	.0002439	.0000813

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.*

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one-day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001377	0.0000459
Lead	.0002064	.0000688
Zinc	.000414	.000138

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one-day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000939	0.0000313
Lead	.0001878	.0000626
Zinc	.0002190	.0000730

§ 420.[illegible] New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

Subpart D

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.008357	0.003130
Chromium	.0000624	.0000208
Lead	.000188	.0000626
Zinc	.000188	.0000626
pH—Within the range of 6.0 to 9.0.		

(3) *Wet-open combustion.*

Subpart D

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01067	0.00407
Chromium	.0002034	.0000678
Lead	.0002034	.0000678
Zinc	.0002439	.0000813
pH—Within the range of 6.0 to 9.0.		

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* [Reserved]

(2) *Wet.* [Reserved]

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.008357	0.003130
Chromium	.0000939	.0000313
Lead	.0001878	.0000626
Zinc	.0002190	.0000730
pH—Within the range of 6.0 to 9.0.		

§ 420.45 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Basic oxygen furnace steelmaking.* (1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

Subpart D

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000624	0.0000208
Lead	.000188	.0000626
Zinc	.000188	.0000626

(3) *Wet-open combustion.*

Subpart D

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002034	0.0000678
Lead	.0002034	.0000678
Zinc	.0002439	.0000813

(b) *Open hearth furnace steelmaking.* (1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001377	0.0000459
Lead	.0002064	.0000688
Zinc	.000414	.000138

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000939	0.0000313
Lead	.0001878	.0000626
Zinc	.0002190	.0000730

§ 420.46 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet-suppressed combustion.*

Subpart D

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000624	0.0000208
Lead	.000188	.0000626
Zinc	.000188	.0000626

(3) Wet-open combustion.

Subpart D

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002034	0.0000678
Lead	.0002034	.0000678
Zinc	.0002439	.0000813

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* [Reserved]

(2) *Wet.* [Reserved]

(c) *Electric arc furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000939	0.0000313
Lead	.0001878	.0000626
Zinc	.0002190	.0000730

§420.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Basic oxygen furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet-suppressed combustion.*

Subpart D

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.008357	0.00313
pH—Within the range of 6.0 to 9.0.		

(3) *Wet-open combustion.*

Subpart D

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01087	0.00407
pH—Within the range of 6.0 to 9.0.		

(b) *Open hearth furnace steelmaking.*—(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01837	0.00688
pH—Within the range of 6.0 to 9.0.		

(c) Electric arc furnace steelmaking.

(1) *Semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(2) *Wet.*

Subpart D

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.0312	0.0104
pH—Within the range of 6.0 to 9.0.		

Subpart E—Vacuum Degassing Subcategory

§ 420.50 Applicability; description of the vacuum degassing subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from vacuum degassing operations conducted by applying a vacuum to molten steel.

§ 420.51 Specialized definitions [Reserved]

§ 420.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.01563	0.00521
pH—Within the range of 6.0 to 9.0.		

§ 420.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Subpart E

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104

§ 420.54 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the values set forth below.

Subpart E

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of Daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.00417	0.00156
Chromium	.0000312	.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104
pH—Within the range of 6.0 to 9.0.		

§ 420.55 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

Subpart E

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104

§ 420.56 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

Subpart E

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104

§ 420.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Subpart E

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01563	0.00521
pH—Within the range of 6.0 to 9.0.		

Subpart F—Continuous Casting Subcategory

§ 420.60 Applicability; description of the continuous casting subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the continuous casting of molten steel into intermediate or semi-finished steel products through water cooled molds.

§ 420.61 Specialized definitions. [Reserved]

§ 420.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0780	0.0260
Oil and Grease	.0234	.0078
pH—Within the range of 6.0 to 9.0.		

§ 420.63 Effluent limitations representing the degree of effluent reduction attainable by the appliation of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Subpart F

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104

§ 420.64 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

Subpart F

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TTS	0.00417	0.00156
O&G	.00104	
Chromium	.0000312	.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104
pH—Within the range of 6.0 to 9.0.		

§ 420.65 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

Subpart F

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104

§ 420.66 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

Subpart F

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104

Subpart F—Continued

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
Zinc	.0000312	.0000104

§ 420.67 Effluent limitations representing the degree of effluent reduction achievable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Subpart F

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.00417	0.00156
Oil & Grease	.00104	
pH—Within the range of 6.0 to 9.0.		

Subpart G—Hot Forming Subcategory

§ 420.70 Applicability; description of the hot forming subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from hot forming operations conducted in primary, section, flat, and pipe and tube mills.

§ 420.71 Specialized definitions.

(a) The term "hot forming" means those steel operations in which solidified, heated steel is shaped by rolls.

(b) The term "primary mill" means those steel hot forming operations that reduce ingots to blooms or slabs by passing the ingots between rotating steel rolls. The "primary mill" performs the first steel hot forming operation on solidified steel after its is removed from the ingot molds.

(c) The term "section mill" means those steel hot forming operations that produce a variety of finished and semi-finished steel products other than the products of those mills specified below in subsections (d), (e), (f), (g) and (h).

(d) The term "flat mill" means those steel hot forming operations that reduce heated slabs to plates, strip and sheet, or skelp.

(e) The term "pipe and tube mill" means those steel hot forming operations that produce butt welded or seamless tubular steel products.

(f) The term "scarfing" means those steel surface conditioning operations in which flames generated by oxygen and fuel are used to remove surface metal imperfections from slabs, billets, or blooms.

(g) The term "plate mill" means those steel hot forming operations that produce flat hot-rolled products which are (1) betwen 8 and 48 inches wide and over 0.23 inches thick; or (2) greater than 48 inches wide and over 0.18 inches thick.

(h) The term "hot strip and sheet mill" means those steel hot forming operations that produce flat hot-rolled products other than plates.

(i) The term "specialty steel" means those steel products which contain: (1) any of the following elements at levels above the specified percentages, by weight: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

(2) any of the following elements when added to enhance the properties of the steel product: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, vanadium or zirconium.

(j) The term "carbon steel" means those steel products other than specialty steel products.

(k) The term "carbon hot forming operation" (or "carbon") means those hot forming operations which produce a majority, on a tonnage basis, of carbon steel products.

(1) The term "specialty hot forming operations" (or "specialty") applies to all hot forming operations other than "carbon hot forming operations."

§ 420.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best particable control technology currently available.

(a) *Primary mills.* (1) *Carbon, without scarfing.*

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TTS	0.1113	0.0371
O&G	.0864	.0288
ph—Within the range of 6.0 to 9.0.		

(2) *Carbon with scarfing.*

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TTS	0.1359	0.0453
O&G	.1056	.0352
ph—Within the range of 6.0 to 9.0.		

(3) *Specialty.*

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1962	0.0654
O&G	.1524	.0508
pH—Within the range of 6.0 to 9.0.		

(b) Section mills.

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0726	0.242
O&G	.330	.110
pH—Within the range of 6.0 to 9.0.		

(c) *Flat mills.*

(1) Hot strip and sheet mills.

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.993	0.331
O&G	.522	.174
pH—Within the range of 6.0 to 9.0.		

(2) Carbon plate mills.

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.501	0.167
O&G	.501	.167
pH—Within the range of 6.0 to 9.0.		

(3) *Specialty plate mills.*

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
TSS	1.128	0.376
O&G	1.128	.376
pH—Within the range of 6.0 to 9.0.		

(d) Pipe and tube mills.

Subpart G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.426	0.142
O&G	.126	.042
pH—Within the range of 6.0 to 9.0.		

§ 420.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Primary mills.*

(1) Without scarfing.

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001125	0.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375

(2) With scarfing.

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive day
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001752	0.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584

(b) *Section mills.*

(1) Carbon

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002502	0.0000834
Lead	.0002502	.0000834
Zinc	.0002502	.0000834

(2) Specialty

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001626	0.0000542
Lead	.0001626	.0000542
Zinc	.0001626	.0000542

(c) *Flat mills.*

(1) Hot strip and sheet mills

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000324	0.000108
Lead	.000324	.000108
Zinc	.000324	.000108

(2) Carbon plate mills

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001752	0.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584

(3) Specialty plate mills

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000750	0.0000250
Lead	.0000750	.0000250
Zinc	.0000750	.0000250

(d) Pipe and tube mills

Subpart G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002751	0.0000917
Lead	.0002751	.0000917
Zinc	.0002751	.0000917

§ 420.74 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Primary mills

(1) Without scarfing

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01503	0.00563
O&G	.00373	
Chromium	.0001125	.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375
pH—Within the range of 6.0 to 9.0.		

(2) With scarfing

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02339	0.00876
O&G	.00584	
Chromium	.0001752	.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584
pH—Within the range of 6.0 to 9.0.		

(b) Section mills.
(1) Carbon

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03338	0.01250
O&G	.00834	
Chromium	.0002502	.0000834
Lead	.0002502	.0000834
Zinc	.0002502	.0000834
pH—Within the range of 6.0 to 9.0.		

(2) Specialty

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02171	0.00813
O&G	.00542	
Chromium	.0001626	.0000542
Lead	.0001626	.0000542
Zinc	.0001626	.0000542
pH—Within the range of 6.0 to 9.0.		

(c) Flat mills.
(1) Hot strip and sheet mills

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.04352	0.01630
O&G	.01090	
Chromium	.000324	.0000108
Lead	.000324	.0000108
Zinc	.000324	.0000108
pH—Within the range of 6.0 to 9.0.		

(2) Carbon plate mills

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02339	0.00876
O&G	.00584	
Chromium	.0001752	.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584
pH—Within the range of 6.0 to 9.0.		

(3) Specialty plate mills

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.01001	0.00375
O&G	.00250	
Chromium	.0000750	.0000250
Lead	.0000750	.0000250
Zinc	.0000750	.0000250
pH—Within the range of 6.0 to 9.0.		

(d) *Pipe and tube mills.*

Subpart G

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.03685	0.01380
O&G	.00917	
Chromium	.0002751	.0000917
Lead	.0002751	.0000917
Zinc	.0002751	.0000917
pH—Within the range of 6.0 to 9.0.		

§ 420.75 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Primary mills.*
(1) Without scarfing

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0001125	0.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375

(2) With scarfing

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0001752	0.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584

(b) *Section mills.*
(1) Carbon

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0002502	0.0000834
Lead	.0002502	.0000834
Zinc	.0002502	.0000834

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(2) Specialty

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001626	0.0000542
Lead	.0001626	.0000542
Zinc	.0001626	.0000542

(c) *Flat mills.*

(1) Hot strip and sheet mills.

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000324	0.0000108
Lead	.000324	.0000108
Zinc	.000324	.0000108

(2) Carbon plate mills.

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001752	0.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584

(3) Specialty plate mills.

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000750	0.0000250
Lead	.0000750	.0000250
Zinc	.0000750	.0000250

(d) *Pipe and tube mills.*

Subpart G

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002751	0.0000917
Lead	.0002751	.0000917
Zinc	.0002751	.0000917

§ 420.76 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Primary mills.*

(1) Without scarfing.

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001125	0.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375

(2) With scarfing

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001752	0.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584

(b) *Section mills.*

(1) Carbon

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002502	0.0000834
Lead	.0002502	.0000834
Zinc	.0002502	.0000834

(2) Specialty

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001626	0.0000542
Lead	.0001626	.0000542
Zinc	.0001626	.0000542

(c) *Flat mills.*

(1) Hot strip and sheet mills

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000324	0.000108
Lead	.000324	.000108
Zinc	.000324	.000108

(2) Carbon plate mills

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001752	0.0000584
Lead	.0001752	.0000584
Zinc	.0001752	.0000584

(3) Specialty plate mills

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000750	0.0000250

Subpart G—Continued

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
Lead	.0000750	.0000250
Zinc	.0000750	.0000250

(d) *Pipe and tube mills.*

Subpart G

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002751	0.0000917
Lead	.0002751	.0000917
Zinc	.0002751	.0000917

§ 420.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Primary mills.*

(1) Without scarfing

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01503	0.00563
O&G	.00373	
pH—Within the range of 6.0 to 9.0.		

(2) With scarfing

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02339	0.00876
O&G	.00584	
pH—Within the range of 6.0 to 9.0.		

(b) *Section mills.*

(1) Carbon

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03336	0.01250
O&G	.00834	
pH—Within the range of 6.0 to 9.0		

(2) Specialty

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02171	0.00813
O&G	.00542	
pH—Within the range of 6.0 to 9.0.		

(c) *Flat mills.*

(1) Hot strip and sheet mills.

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.04352	0.01630
O&G	.01090	
pH—Within the range of 6.0 to 9.0.		

(2) Carbon plate mills.

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02339	0.00876
O&G	.00584	
pH—Within the range of 6.0 to 9.0.		

(3) Specialty plate mills.

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01001	0.00375
O&G	.00250	
pH—Within the range of 6.0 to 9.0.		

(d) *Pipe and tube mills.*

Subpart G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03685	0.01380
O&G	.00917	
pH—Within the range of 6.0 to 9.0.		

Subpart H—Scale Removal Subcategory

§ 420.80 Applicability; description of the scale removal subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from kolene and hydride scale removal operations.

§ 420.81 Specialized definitions.

(a) The term "kolene scale removal" means the removal of scale from semi-finished steel products by the action of molten salts baths other than those containing sodium hydride.

(b) The term "hydride scale removal" means the removal of scale from semi-finished steel products by the action of molten salt baths containing sodium hydride.

§ 420.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Kolene Scale Removal.*

Subpart H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1563	0.0521
Chromium	.0030	.0010
Chromium (hexavalent)	.00030	.00010
Iron (dissolved)	.0063	.0021
pH—Within the range of 6.0 to 9.0.		

(b) *Hydride Scale Removal.*

Subpart H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.375	0.125
Cyanide	.00375	.00125
Chromium	.00750	.00250
Chromium (hexavalent)	.00090	.00030
Iron (dissolved)	.0150	.0050
pH—Within the range of 6.0 to 9.0.		

§ 420.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR § 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Kolene Scale Removal.*

Subpart H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000390	0.000130

(b) *Hydride Scale Removal.*

Subpart H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cyanide	0.000312	0.000104
Chromium	.000126	.000042

Subpart H—Continued

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
Lead	.000126	.000042

§ 420.84 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Kolene Scale Removal.*

Subpart H

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03471	0.0130
Chromium	.000252	.000084
pH—Within the range of 6.0 to 9.0.		

(b) *Hydride Scale Removal.*

Subpart H

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.006277	0.00210
Cyanide	.000156	.000052
Chromium	.000063	.000021
Lead	.000063	.000021
pH—Within the range of 6.0 to 9.0.		

§ 420.85 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Kolene Scale Removal.*

Subpart H

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.000390	0.000130

(b) *Hydride Scale Removal.*

Subpart H

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Cyanide	0.000312	0.000104
Chromium	.000126	.000042
Lead	.000126	.000042

§ 420.86 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Kolene Scale Removal.*

Subpart H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of Product	
Chromium	0.0000252	0.0000084

(b) *Hydride Scale Removal.*

Subpart H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of Product	
Cyanide	0.000156	0.000052
Chromium	.000063	.000021
Lead	.000063	.000021

§ 420.87 Effluent limitations representing the degree of effluent reduction attainable by the application the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Kolene Scale Removal.*

Subpart H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of Product	
TSS	0.1563	0.0521
pH—Within the range of 6.0 to 9.0.		

(b) *Hydride Scale Removal.*

Subpart H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of Product	
TSS	0.01655	0.00620
pH—Within the range of 6.0 to 9.0.		

Subpart I—Acid Pickling Subcategory

§ 420.90 Applicability; description of the acid pickling subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from sulfuric acid, hydrochloric acid, or combination acid pickling operations.

§ 420.91 Specialized definitions.

(a) The term "sulfuric acid pickling" means those operations in which steel products are immersed in sulfuric acid solutions to chemically remove scale and oxides and those rinsing steps associated with such immersion.

(b) The term "hydrochloric acid pickling" means those operations in which steel products are immersed in hydrochloric acid solutions to chemically remove oxides and scale, and those rinsing operations associated with such immersion.

(c) The term "combination acid pickling" means those operations in which steel products are immersed in solutions of more than one acid to chemically remove oxides and scale, and those rinsing operations associated with such immersion.

(d) The term "fume scrubber" means those pollution control devices used to remove and clean fumes originating in pickling operation.

(e) The term "batch" means those pickling operations which process steel products such as coiled wire, rods, and tubes in discrete batches or bundles.

(f) The term "continuous" means those pickling operations which process steel products other than in discrete batches or bundles.

(g) The term "acid recovery" means those sulfuric acid pickling operations that include processes for recovering the unreacted acid from spent pickling acid solutions

(h) The term "acid regeneration" means those hydrochloric acid pickling operations that include processes for regenerating acid from spent pickling acid solutions.

(i) The term "neutralization" means those acid pickling operations that do not include acid recovery or acid regeneration processes.

(j) The term "spent acid solution" (or spent pickle liquor) means those solutions of steel pickling acids which have been used in the pickling process and are discharged or removed therefrom.

§ 420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Sulfuric acid pickling.* (1) Batch neutralization.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.2252	0.07506
O&G*	.04503	.01501
Iron (dissolved)	.00450	.00150
pH—Within the range of 6.0 to 9.0		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters

(2) Batch; acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(3) Continuous neutralization without spent acid solutions.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1407	0.0469
O&G*	.0281	.00938
Iron (dissolved)	.00281	.000938
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous neutralization with spent acid solutions.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1563	0.0521
O&G*	.0312	.0104
Iron (dissolved)	.00312	.00104
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(5) Continuous acid recovery. No discharge of process wastewater pollutants to navigable waters.

(b) *Hydrochloric acid pickling.* (1) Batch neutralization without fume scrubbers.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1440	0.0480
O&G*	.02880	.00960
Iron (dissolved)	.002880	.000960
pH—Within the range of 6.0 to 9.0		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters

(2) Batch neutralization with fume scrubbers.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1752	0.0584
O&G*	.0351	.0117
Iron (dissolved)	.00351	.0117
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous neutralization without fume scrubbers

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1440	0.0480
O&G*	.02880	.00960
Iron (dissolved)	.002880	.000960
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous neutralization with fume scrubbers.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1752	0.0584
O&G*	.0351	.0117
Iron (dissolved)	.00351	.00117
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(5) Continuous acid regeneration without fume scrubbers.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.2502	0.0834
O&G*	.0498	.0166
Iron (dissolved)	.00498	.00166
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(6) Continuous acid regeneration with fume scrubbers.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.2814	0.0938
O&G*	.0561	.0187
Iron (dissolved)	.00561	.00187
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(c) *Combination acid pickling.* (1) Batch pipe and tube products.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.2190	0.0730
O&G*	.0876	.0292
Chromium	.00483	.00146
Iron (dissolved)	.00876	.00292
Nickel	.00219	.000730
Fluoride**	.1314	.0438
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(2) Batch—other products.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0627	0.0209
O&G*	.0249	.00830
Chromium	.00125	.000417
Iron (dissolved)	.00249	.000830
Nickel	.000627	.000209
Fluoride**	.0375	.0125
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(3) Continuous.

Subpart I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.3120	0.104
O&G*	.1251	.0417
Chromium	.00627	.00209
Iron (dissolved)	.01251	.00417
Nickel	.003120	.00104
Fluoride**	.1878	.0626
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

§ 420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Sulfuric acid pickling.* (1) Batch neutralization.

Subpart I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000876	0.0000292
Lead	.0000876	.0000292
Zinc	.0000876	.0000292

(2) Batch acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(3) Continuous neutralization.

Subpart I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000690	0.0000230
Lead	.0000690	.0000230
Zinc	.0000690	.0000230

(4) Continuous acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(b) Hydrochloric acid pickling.

(1) Batch neutralization.

Subpart I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001125	0.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375

(2) Continuous neutralization.

Subpart I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000687	0.0000229
Lead	.0000687	.0000229
Zinc	.0000687	.0000229

(3) Continuous acid regeneration.

Subpart I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000876	0.0000292
Lead	.0000876	.0000292
Zinc	.0000876	.0000292

(c) *Combination acid pickling.*
(1) Batch.

Subpart I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001314	0.0000438
Copper	.0001314	.0000438
Nickel	.0001971	.0000876
Fluoride [1]	.01971	.00657

[1] The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(2) Continuous.

Subpart I

Pollutant or pollutant property	BAT Effluent limitation	
	Maximum for any one day	Average of daily values for 30 consecutive days.
	Kg/kkg (lb/1,000 lb) of products	
Chromium	0.000432	0.000144
Copper	.000432	.000144
Nickel	.000648	.000288
Fluoride*	.0648	.0216

*The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

§ 420.94 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Sulfuric acid pickling.* No discharge of process wastewater pollutants to navigable waters.

(b) *Hydrochloric acid pickling.*

(1) Batch neutralization

Subpart I

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days.
	Kg/kkg (lb/1,000 lb) of products	
TSS	0.02260	0.01130
O&G*	.00750	.00375
Chromium	.0001125	.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375
ph—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Continuous neutralization

Subpart I

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days.
	Kg/kkg (lb/1,000 lb) of products	
TSS	0.01376	0.00688
O&G*	.00458	.00229
Chromium	.0000678	.0000229
Lead	.0000678	.0000229
Zinc	.0000678	.0000229
ph—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous acid regeneration

Subpart I

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days.
	Kg/kkg (lb/1,000 lb) of products	
TSS	0.01752	0.00876
O&G*	.00584	.00292
Chromium	.0000876	.0000292
Lead	.0000876	.0000292
Zinc	.0000876	.0000292
ph—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(c) *Combination acid pickling.*
(1) Batch

Subpart I

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01126	0.00563
O&G*	.00376	.00188
Chromium	.0000564	.0000188
Copper	.0000564	.0000188
Nickel	.0000844	.0000375
Fluoride**	.00844	.00281
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

(2) Continuous

Subpart I

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02260	0.01130
O&G*	.00750	.00375
Chromium	.0001125	.0000375
Copper	.0001125	.0000325
Nickel	.0001690	.0000751
Fluoride**	.0169	.00563
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

**The limitations for fluoride apply only when hydrofluoric acid pickling solutions are used.

§ 420.[illegible] Pretreatment standards for existing sources.

Except as provided in 40 FR §§ 403.7 and 4[illegible]3.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Sulfuric acid recovery.*

(1) Batch neutralization

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000876	0.0000292
Lead	.0000876	.0000292
Zinc	.0000876	.0000292

(2) *Batch acid recovery.* No discharge of process wastewater pollutants to publicly owned treatment works.

(3) Continuous neutralization

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000686	0.0000230
Lead	.0000686	.0000230
Zinc	.0000688	.0000230

(4) *Continuous acid recovery.*

No discharge of process wastewater pollutants to publicly owned treatment works.

(b) *Hydrochloric acid pickling.*

(1) Batch neutralization

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001125	0.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375

(2) Continuous neutralization

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000687	0.0000229
Lead	.0000687	.0000229
Zinc	.0000687	.0000229

(3) Continuous acid regeneration

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000876	0.0000292
Lead	.0000876	.0000292
Zinc	.0000876	.0000292

(c) *Combination acid pickling.*

(1) Batch

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001314	0.0000438
Copper	.0001314	.0000438
Nickel	.0001971	.0000876

(2) Continuous

Subpart I

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000432	0.0000144
Copper	.0000432	.0000144
Nickel	.0000648	.0000288

§ 420.96 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Sulfuric acid pickling.* No discharge of process wastewater pollutants to publicly owned treatment works.

(b) *Hydrocholoric acid pickling.*

(1) Batch neutralization

Subpart I

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0001125	0.0000375
Lead	.0001125	.0000375
Zinc	.0001125	.0000375

(2) Continuous neutralization

Subpart I

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0000687	0.0000229
Lead	.0000687	.0000229
Zinc	.0000687	.0000229

(3) Continuous acid regeneration

Subpart I

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
Chromium	0.0000876	0.0000292
Lead	.0000876	.0000292
Zinc	.0000867	.0000292

(c) *Combination acid pickling.*

(1) Batch

Subpart I

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000563	0.0000188
Copper	.0000563	.0000188
Nickel	.0000844	.0000375

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(2) Continuous

Subpart I

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001125	0.0000375
Copper	.0001125	.0000375
Nickel	.0001690	.0000751

§ 420.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Sulfuric acid pickling.*

(1) Batch neutralization

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.2252	0.07506
O&G*	.04503	.01501
pH—Within the range of 6.0 to 9.0.		

* The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters

(2) *Batch acid recovery.* No discharge of process wastewater pollutants to navigable waters.

(3) Continuous neutralization without spent acid solutions

Subpart I

Pollutant or pollutant property	BCT Effluent Limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1407	0.0469
O&G*	.02814	.00938
pH—Within the range of 6.0 to 9.0.		

* The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters

(4) Continuous neutralization with spent acid solutions

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1563	0.0521
O&G*	0.0312	0.0104
pH—Within the range of 6.0 to 9.0.		

* The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(5) Continuous acid recovery.

No discharge of process wastewater pollutants to navigable waters.

(b) *Hydrochloric acid pickling.*

(1) Batch neutralization without fume scrubbers.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1440	0.0480
O&G*	.0288	.00960
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Batch neutralization with fume scrubbers.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1752	0.0584
O&G*	.0351	.0117
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous neutralization.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.00918	0.00344
O&G*	.00229	
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(4) Continuous acid regeneration.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.01169	0.00438
O&G*	.00292	
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(c) *Combination acid pickling.*

(1) Batch pipe and tube products.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.2190	0.0730
O&G*	.0876	.0292
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(2) Batch—other products.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0627	0.0209
O&G*	.0249	.0083
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

(3) Continuous.

Subpart I

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.3120	0.1040
O&G*	.1251	.0417
pH—Within the range of 6.0 to 9.0.		

*The limitations for oil and grease apply only when acid pickling wastewaters are treated with cold rolling wastewaters.

Subpart J—Cold Forming Subcategory

§ 420.100 Applicability; description of the cold forming subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works from cold rolling and cold working pipe and tube operations in which unheated steel is passed through rolls or otherwise processed to reduce its thickness, to produce a smooth surface, or to develop controlled mechanical properties in the steel.

§ 420.101 Specialized definitions.

(a) The term "recirculation mill" means those cold rolling operations which include recirculation of rolling solutions at all mill stands.

(b) The term "combination mill" means those cold rolling operations which include recirculation of rolling solutions at one or more mill stands, and once-through use of rolling solutions at the remaining stand or stands.

(c) The term "direct application mill" means those cold rolling operations which include once-through use of rolling solutions at all mill stands.

(d) The term "cold worked pipe and tube mill" means those cold forming operations that process unheated pipe and tube products using either water or oil solutions for cooling and lubrication.

§ 420.101 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Cold rolling mills.* (1) Recirculation mills.

Subpart J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.00783	0.00261
O&G	.00312	.00104
Iron (dissolved)*	.000312	.000104
pH—Within the range of 6.0 to 9.0.		

*The limitations for dissolved iron apply only when cold rolling wastewaters are treated with acid picking rinse wastewaters.

(2) Combination mills.

Subpart J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1251	0.0417
O&G	.0501	.0167
Iron (dissolved)*	.00501	.00167
pH—Within the range of 6.0 to 9.0.		

*The limitations for dissolved iron apply only when cold rolling wastewaters are treated with acid pickling rinse wastewaters.

(3) Direct application mills.

Subpart J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.3120	0.1040
O&G	.1251	.0417
Iron (dissolved)*	.01251	.00417
pH—Within the range of 6.0 to 9.0.		

*The limitations for dissolved iron apply only when cold rolling wastewaters are treated with acid pickling rinse wastewaters.

(b) *Cold worked pipe and tube mills.* (1) Using water. No discharge of process wastewater pollutants to navigable waters.

(2) Using oil solutions. No dischage of process wastewater pollutants to navigable waters.

§ 420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Cold rolling.* (1) Recirculation mills.

Subpart J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104
1,1,1-trichloroethane	.0000312	.0000104
2-Nitrophenol	.00000783	.00000261
Anthracene	.00000312	.00000104
Tetrachloroethylene	.00001563	.00000521

(2) Combination mills.

Subpart J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000312	0.000104
Lead	.000312	.000104
Zinc	.000312	.000104
1,1,1-trichloroethane	.000012	.000104
2-Nitrophenol	.0000783	.0000261
Anthracene	.0000312	.0000104
Tetrachloroethylene	.0001563	.0000521

(3) Direct application mills.

Subpart J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000501	0.000167
Lead	.000501	.000167
Zinc	.000501	.000167

(b) *Cold worked pipe and tube mills.* (1) Using water. No discharge of process wastewater pollutants to navigable waters.

(2) Using oil solutions. No discharge of process wastewater pollutants to navigable waters.

§ 420.104 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Cold rolling mills.

Subpart J

Pollutant or pollutant property	New Source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.001671	0.000626
Oil and grease	.000417	
Chromium	.00001251	.00000417
Lead	.00001251	.00000417
Zinc	.00001251	.00000417
1,1,1-trichloroethene	.00001251	.00000417
2-Nitrophenol	.00000312	.00000104
Anthracene	.000001251	.000000417
Tetrachloroethylene	.00000627	.00000209
pH—Within the range of 6.0 to 9.0.		

(b) *Cold worked pipe and tube mills.* (1) Using water. No discharge of process wastewater pollutants to navigable waters.

(2) Using oil solutions. No discharge of process wastewater pollutants to navigable waters.

§ 420.105 Pretreatment standards for existing sources.

Except as provided in 40 CFR §§ 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Cold rolling.*

(1) Recirculation mills.

Subpart J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
O&G	0.00104	
Chromium	.0000312	0.0000104
Lead	.0000312	.0000104
Zinc	.0000312	.0000104
1,1,1trichloroethane	.0000312	.0000104
2-Nitrophenol	.00000783	.00000261
Anthracene	.00000312	.00000104
Tetrachloroethylene	.00001563	.00000521

(2) Combination mills.

Subpart J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
O&G	0.0104	
Chromium	.000312	0.000104
Lead	.000312	.000104
Zinc	.000312	.000104
1,1,1-trichloroethane	.000312	.000104
2-Nitrophenol	.0000783	.0000261
Anthracene	.0000312	.0000104
Tetrachloroethylene	.0001563	.0000521

(3) Direct application mills.

Subpart J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
O&G	0.0167	
Chromium	.000501	0.000167
Lead	.000501	.000167
Zinc	.000501	.000167

(b) *Cold worked pipe and tube mills.*—(1) *Using water.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to publicly owned treatment works.

§ 420.106 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) Cold rolling mills.

Subpart J

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
O&G	0.000417	
Chromium	.00001251	0.00000417
Lead	.00001251	.00000417
Zinc	.00001251	.00000417
1,1,1-trichloroethane	.00001251	.00000417
2-Nitrophenol	.00000312	.00000104
Anthracene	.000001251	.00000417
Tetrachloroethylene	.00000627	.00000209
pH—Within the range of 6.0 to 9.0.		

(b) *Cold worked pipe and tube mills.*—(1) *Using water.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to publicly owned treatment works.

§ 420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Cold rolling.*

(1) Recirculation mills.

Subpart J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.00783	0.00261
O&G	.00312	.00104
pH—Within the range of 6.0 to 9.0.		

(2) Combination mills.

Subpart J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0417	0.0156
O&G	0.0104	
pH—Within the range of 6.0 to 9.0.		

(3) Direct application mills.

Subpart J

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0668	0.0250
O&G	0.0167	
pH—Within the range of 6.0 to 9.0.		

(b) Cold worked pipe and tube mills.—(1) *Using water. No discharge of process wastewater pollutants to navigable waters.*

(2) *Using oil solutions. No discharge of process wastewater pollutants to navigable waters.*

Subpart K—Alkaline Cleaning Subcategory

§ 420.110 Applicability; description of the alkaline cleaning subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from operations in which steel and steel products are immersed in alkaline cleaning baths to remove mineral and animal fats or oils from the steel, and those rinsing operations which follow such immersion.

§ 420.111 Specialized definitions.

(a) The term "batch" means those alkaline cleaning operations which process steel products such as coiled wire, rods, and tubes in discrete batches or bundles.

(b) The term "continuous" means those alkaline cleaning operations which process steel products other than in discrete batches or bundles.

§ 420.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart K

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0156	0.0052
pH—Within the range of 6.0 to 9.0.		

§ 420.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. [Reserved]

§ 420.114 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

Subpart K

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.00626	0.00310
O&G	.00210	
pH—Within the range of 6.0 to 9.0.		

§ 420.115 Pretreatment standards for existing sources.

Any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 420.116 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 420.117 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR §§ 125.30–.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Subpart K

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0156	0.0052
pH—Within the range of 6.0 to 9.0.		

Subpart L—Hot Coating Subcategory

§ 420.120 Applicability; description of the hot coating subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the operations in which steel is coated with zinc, terne metal, or other metals by the hot dip process, and those rinsing operations associated with that process.

§ 420.121 Specialized definitions.

(a) The term "galvanizing" means coating steel products with zinc by the hot dip process including the immersion of the steel product in a molten bath of zinc metal, and the related operations preceding and subsequent to the immersion phase.

(b) The term "terne coating" means coating steel products with terne metal by the hot dip process including the immersion of the steel products in a molten bath of lead and tin metals, and the related operations preceding and subsequent to the immersion phase.

(c) The term "other coatings" means coating steel products with metals other than zinc or terne metal by the hot dip process including the immersion of the steel products in a molten bath of metal, and the related operations preceding and subsequent to the immersion phase.

(d) The term "fume scrubber" means wet air pollution control devices used to remove and clean fumes originating in hot coating operations.

(e) The term "strip, sheet and miscellaneous products" means steel products other than wire products and fasteners.

(f) The term "wire products and fasteners" means steel wire, products manufactured from steel wire, and steel fasteners manufactured of steel wire or other steel shapes.

§ 420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Galvanizing.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days.
	Kg/kkg (lb/1,000 lb) of products	
TSS	0.375	0.125
O&G	.1125	.0375
Chromium	.0225	.0075
Chromium (Hexavalent)	.00015	.00005
Zinc	.0375	.0125
pH—Within the range of 6.0 to 9.0.		

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.750	0.250
O&G	.225	.075
Chromium	.0450	.0150
Chromium (Hexavalent)	.00030	.00010
Zinc	.0750	.0250
pH—Within the range of 6.0 to 9.0.		

(3) Wire products and fasteners without fume scrubbers

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	1.500	0.500
O&G	.450	.150
Chromium	.030	.010
Chromium (Hexavalent)	.00060	.00020
Zinc	.150	.050
pH—Within the range of 6.0 to 9.0.		

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	2.4375	0.8125
O&G	.7313	.2438
Chromium	.04875	.01625
Chromium (Hexavalent)	.000975	.000325
Zinc	.2438	.0813
pH—Within the range of 6.0 to 9.0.		

(b) *Terne coating.* (1) Without fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.375	0.125
O&G	.1125	.0375
Lead	.00375	.00125
Tin	.0375	.0125
pH—Within the range of 6.0 to 9.0.		

(2) With fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.750	0.250
O&G	.225	.0750
Lead	.00750	.00250
Tin	.0750	.0250
pH—Within the range of 6.0 to 9.0.		

(c) *Other coatings.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.375	0.125
O&G	.1125	.0375
Cadmium*	.00375	.00125
Chromium	.00150	.00050
Lead	.00375	.00125
Zinc	.0225	.00750
pH—Within the range of 6.0 to 9.0.		

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.750	0.250
O&G	.225	.075
Cadmium*	.00750	.00250
Chromium	.00300	.00100
Lead	.00750	.00250
Zinc	.0450	.0150
pH—Within the range of 6.0 to 9.0		

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	1.50	0.500
O&G	.450	.150
Cadmium*	.0150	.0050
Chromium	.0150	.0050
Lead	.0150	.0050
Zinc	.090	.030
pH—Within the range of 6.0 to 9.0.		

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	2.438	0.813
O&G	.731	.244
Cadmium*	.02438	.00813
Chromium	.02438	.00813
Lead	.02438	.00813
Zinc	.1463	.0488
pH—Withing the range of 6.0 to 9.0.		

*The limitations for cadmium apply only to cadmium coating operations.

§ 420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Galvanizing.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001878	0.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002504	0.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0007512	0.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000939	0.000313
Lead	.000939	.000313
Zinc	.000939	.000313

(b) *Terne coating.*

(1) Without fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001878	0.000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

(2) With fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002504	0.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

(c) *Other coatings.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.0001878	0.0000626
Chromium	.0001878	.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.0002504	0.0000835
Chromium	.0002504	.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.0007512	0.0002504
Chromium	.0007512	.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.000939	0.000313
Chromium	.000939	.000313
Lead	.000939	.000313
Zinc	.000939	.000313

*The limitations for cadmium apply only to cadmium coating operations.

§ 420.124 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Galvanizing.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02504	0.00938
O&G	.00626	
Chromium	.0001878	.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626
pH—Within the range of 6.0 to 9.0.		

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03339	0.0125
O&G	.00835	
Chromium	.0002504	.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835
pH—Within the range of 6.0 to 9.0.		

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (1b/1,000 1b) of product	
TSS	0.1002	0.03752
O&G	.02504	
Chromium	.0007512	.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504
pH—Within the range of 6.0 to 9.0.		

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (1b/1,000 1b) of product	
TSS	0.1252	0.0469
O&G	.0313	
Chromium	.000939	.000313
Lead	.000939	.000313
Zinc	.000939	.000313
pH—Within the range of 6.0 to 9.0.		

(b) Terne coating.

(1) Without fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (1b/1,000 1b) of product	
TSS	0.02504	0.00938
O&G	.00626	
Chromium	.0001878	.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626
pH—Within the range of 6.0 to 9.0.		

(2) With fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (1b/1,000 1b) of product	
TSS	0.03339	0.0125
O&G	.00835	
Chromium	.0002504	.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835
pH—Within the range of 6.0 to 9.0.		

(c) Other coatings.

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02504	0.00938
O&G	.00626	
Cadmium*	.0001878	.0000626
Chromium	.0001878	.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626
pH—Within the range of 6.0 to 9.0.		

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03339	0.0125
O&G	.00835	
Cadmium*	.0002504	.0000835
Chromium	.0002504	.0000835
Lead	.0002504	.0000835
Zinc	.0002504	0000835
pH—Within the range of 6.0 to 9.0		

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1002	0.03752
O&G	.02504	
Cadmium*	.0007512	.0002504
Chromium	.0007512	.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504
pH—Within the range of 6.0 to 9 0		

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	New source performance standards	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1252	0.0469
O&G	.0313	
Cadmium*	.000939	.000313
Chromium	.000939	.000313
Lead	.000939	.000313
Zinc	.000939	.000313
pH—Within the range of 6.0 to 9.0.		

*The limitations for cadmium apply only to cadmium coating operations.

§ 420.125 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Galvanizing.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001878	0.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002504	0.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0007512	0.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000939	0.000313
Lead	.000939	.000313
Zinc	.000939	.000313

(b) *Terne coating.* (1) Without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001878	0.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

(2) With fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002504	0.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

(c) *Other coasting.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.0001878	0.0000626
Chromium	.0001878	.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

*The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.0002504	0.0000835
Chromium	.0002504	.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

*The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.0007512	0.0002504
Chromium	.0007512	.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504

*The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium*	0.000939	0.000313
Chromium	.000939	.000313
Lead	.000939	.000313
Zinc	.000939	.000313

*The limitations for cadmium apply only to cadmium coating operations.

§ 420.126 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Galvanizing.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001878	0.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002504	0.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0007512	0.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.000939	0.000313
Lead	.000939	.000313
Zinc	.000939	.000313

(b) *Terne coating.* (1) Without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0001878	0.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

(2) With fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Chromium	0.0002504	0.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

(c) *Other coatings.* (1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium[1]	0.0001878	0.0000626
Chromium	.0001878	.0000626
Lead	.0001878	.0000626
Zinc	.0001878	.0000626

[1] The limitations for cadmium apply only to cadmium coating operations.

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium[1]	0.0002504	0.0000835
Chromium	.0002504	.0000835
Lead	.0002504	.0000835
Zinc	.0002504	.0000835

[1] The limitations for cadmium apply only to cadmium coating operations.

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium[1]	0.0007512	0.0002504
Chromium	.0007512	.0002504
Lead	.0007512	.0002504
Zinc	.0007512	.0002504

[1] The limitations for cadmium apply only to cadmium coating operations.

(4) Wire products and fasteners with fume scrubbers

Subpart L

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
Cadmium[1]	0.000939	0.000313
Chromium	.000939	.000313
Lead	.000939	.000313
Zinc	.000939	.000313

[1] The limitations for cadmium apply only to cadmium coating operations.

§ 420.127 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Galvanizing.* (1) Strip, sheet, and miscellaneous products without fume scrubbers

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.02504	0.00938
O&G	.00626	
pH—Within the range of 6.0 to 9.0		

(2) Strip, sheet, and miscellaneous products with fume scrubbers

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03339	0.01251
O&G	.00835	
pH—Within the range of 6.0 to 9.0.		

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1002	0.03752
O&G	.0250	
pH—Within the range of 6.0 to 9.0.		

(4) Wire products and fasteners without fume scrubbers.

Subpart K

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.1252	0.0469
O&G	.0313	
pH—Within the range of 6.0 to 9.0.		

(b) *Terne coating.*

(1) Without fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.3750	0.1250
O&G	.1125	.0375
pH—Within the range of 6.0 to 9.0.		

(2) With fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.03339	0.01251
O&G	.00835	
pH—Within the range of 6.0 to 9.0.		

(c) *Other coatings.*

(1) Strip, sheet, and miscellaneous products without fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1,000 lb) of product	
TSS	0.0376	0.0188
O&G	.00626	
pH—Within the range of 6.0 to 9.0.		

(2) Strip, sheet, and miscellaneous products with fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.03339	0.01251
O&G	.00835	
pH—Within the range of 6.0 to 9.0.		

(3) Wire products and fasteners without fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	0.1504	0.0752
O&G	0.02504	
pH—Within the range of 6.0 to 9.0.		

(4) Wire products and fasteners with fume scrubbers.

Subpart L

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days
	Kg/kkg (lb/1000 lb) of product	
TSS	2.438	0.8125
O&G	0.731	0.2438
pH—Within the range of 6.0 to 9.0.		

[FR Doc. 81-96 Filed 1-6-81; 8:45 am]

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Part III

Environmental Protection Agency

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Particulate Regulation for Heavy-Duty Diesel Engines

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[Docket No. A-80-18; AMS-FRL-1628-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Particulate Regulation for Heavy-Duty Diesel Engines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The proposed regulation would establish a standard for the emission of particulate matter from heavy-duty diesel engines.[1] Beginning with the 1986 model year, this standard would be 0.25 gram per brake horsepower-hour (g/BHP-hr) (0.093 gram per megajoule (g/MJ)). Although this standard represents about a two-thirds reduction in particulate emissions from uncontrolled levels, it is judged feasible without increasing emissions of nitrogen oxides (NOx). The proposed regulation would also amend the emission testing regulations at 40 CFR Part 86 to establish procedures for the measurement of particulate emissions from new heavy-duty diesel engines to determine compliance with the particulate emission standard. In addition, this regulation would incorporate compliance testing of production heavy-duty engines for particulate emissions under the Selective Enforcement Auditing (SEA) program beginning with the 1986 model year.

In a related rulemaking action, EPA will soon propose a revised NOx emission standard for these same heavy-duty diesels, along with revised NOx emission standards for light-duty trucks and heavy-duty gasoline engines for 1986 and later model years. In order to ensure that these two proposals are mutually compatible, EPA will restrict the degree of NOx emission reduction required from heavy-duty diesels to that which is attainable with the proposed particulate standard in effect. This relationship between the two rulemaking actions affecting heavy-duty diesels is outlined in greater detail later in the section entitled *Technology*.

DATES: *Public Hearing:* There will be a public hearing on the provisions of this proposed regulation approximately 45 days after publication of this document. The exact time and place will be announced at a later date in a subsequent **Federal Register** notice.

EPA will consider all written comments received on or before the 30th day following the public hearing. EPA requests that, to the extent possible, comments be submitted prior to the hearing.

ADDRESSES: Interested persons may submit written comments to the: Central Docket Section A-130, West Tower Lobby Gallery 1, U.S. Environmental Protection Agency, Attn: Docket No. A-80-18, 401 M Street SW, Washington, D.C. 20460. Also, EPA requests that commenters forward five copies to U.S. Environmental Protection Agency, Attn: Director, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

Copies of materials relevant to this rulemaking action are contained in Public Docket No. A-80-18 at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The Central Docket Section is open to visitors Monday through Friday from 8:00 a.m. to 4:00 p.m. (As provided in 40 CFR Part 2 the Agency may charge a reasonable fee for copying services.)

FOR FURTHER INFORMATION CONTACT: Richard A. Rykowski, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4339 (FTS) 374-8339.

SUPPLEMENTARY INFORMATION:

Comments and the Public Docket: During final rulemaking EPA will consider all written comments received on or before the 30th day following the public hearing. EPA requests that, to the extent possible, comments be submitted prior to the hearing. EPA will keep the record of the public hearing open for submission of rebuttal and other information following the close of the hearing until the above mentioned date.

It is EPA's intention to assure all interested parties an opportunity to study all information which may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any material which cannot be made publicly available. Parties who wish to submit information in response to this Notice of Proposed Rulemaking are cautioned that EPA will not consider, but will return to the commenter, any comments which are claimed, in whole or in part, to be confidential.

Authority: Statutory authority and mandate for this action are provided under Sections 202, 206 and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525 and 7601). Section 202(a)(3)(A)(iii) of the Act provides that, "The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of particulate matter from classes or categories of vehicles manufactured during and after model year 1981 (or during any earlier model year, if practicable)." Section 206(a)(1) provides, in part, that "the Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle . . . to determine whether such vehicle . . . conforms with the regulations prescribed under Section 202 of this Act." Section 301(a) provides, in part, that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

Background: Despite significant gains made in the control of total suspended particulate (TSP) emissions from stationary sources, there are still many air quality regions which are not able to meet the primary National Ambient Air Quality Standard (NAAQS) for TSP of 75 micrograms per cubic meter. As diesel engines continue over time to power an even greater portion of the nation's heavy-duty vehicles (on-the-road trucks and buses whose gross vehicle weight rating exceeds 8,500 pounds), their contribution to ambient levels of total suspended particulate (TSP) will increase over levels that are already significant. Current heavy-duty diesels emit more than twice the particulate per mile emitted by heavy-duty gasoline engines operated on leaded gasoline. Beginning with the 1984 model year, heavy-duty gasoline engines will for the most part be equipped with catalysts in order to comply with stringent standards for hydrocarbons and carbon monoxide. These engines will then be operating on cleaner burning unleaded gasoline and their particulate emissions will decrease by 95-98 percent. Thus, without regulation, heavy-duty diesels will emit 40-100 times the particulate emitted by these 1984 and later model year gasoline engines. Also, due to the extremely low levels of particulate emissions expected from future heavy-duty gasoline engines, EPA does not plan to propose a particulate emission standard for these engines. Table 1 lists particulate emission levels from some heavy-duty diesels currently being used.

If current trends continue, EPA expects the use of diesel engines in heavy-duty vehicles to increase dramatically over the next 15 years. While diesel engines currently power about one-third of all new heavy-duty vehicles sold in the U.S., EPA expects this percentage to increase to 57-69 percent by 1995. This move toward more diesels will increase nationwide particulate emissions from heavy-duty diesels to an estimated 218,000-266,000 metric tons per year by 1995. Urban areas would be the most heavily affected by these emissions. Ambient particulate levels from heavy-duty diesels alone would reach 2–7 micrograms per cubic meter (annual geometric mean) in cities such as Chicago, Los Angeles, New York, and Dallas. Somewhat lower levels of 2–5 micrograms per cubic meter (annual geometric mean) would occur in smaller cities such as St. Louis, Denver, and Phoenix. These levels would occur over large-scale areas within these cities. Additional particulate levels of 5–6 micrograms per cubic meter (annual geometric mean) would be expected in localized areas within 90 meters of very busy roadways.

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[1] A heavy-duty diesel engine is any diesel engine used to power a heavy-duty vehicle, which is an on-the-road vehicle whose gross vehicle weight rating exceeds 8500 pounds or whose frontal area exceeds 45 square feet.

Table 1

Engine*	Particulate emissions (g/BHP-hr)	Number of tests
1978 Caterpillar 3208	0.79	7
1979 Caterpillar 3406 (Family 10)	.37	2
1979 Caterpillar 3406 (Family 16)	.52	2
1976 Cummins NTC-350	.60	4
1979 Cummins NTC-350 "Big Cam"	.40	2
1979 Cummins NTCC-350	.39	2
1979 Cummins NTC-290	.50	2
1979 Cummins VTB-903*		
No, 1 Fuel	.31	2
No. 2 Fuel	.37	2
1978 DDA 6V-92T	.54	2
1978 DDA 6V-71N*		
No. 1 Fuel	.69	2
No. 2 Fuel	.79	2
1979 DDA 6V-71TA	.36	2
1979 DDA 6V-92TA*6g		
No. 1 Fuel	.48	2
No. 2 Fuel	.55	2
1979 DDA 6V-92TA 10g	.54	2
1979 IHC DTI-466B	.36	2
1979 IHC DT-466	.53	2
1979 Mack ETAZ(B)673A	.58	2
1980 Mack ETSX-676	.63	2

*Engines operated on No. 2 fuel except where noted.

A description of the standard being proposed follows together with a description of the technological, environmental and economic impacts of this regulation. Following these topics are discussions of 1) the alternatives examined by EPA, 2) the major areas of the current Federal Test Procedure that would be changed by the proposed particulate test procedures, 3) the alternative particulate measurement techniques considered for the Federal Test Procedure, and 4) the major differences between the proposed test procedure and that contained in EPA's Draft Recommended Practice of April 1979.

Proposed Standard: The proposed particulate standard for heavy-duty diesel engines is 0.25 gram per brake horsepower-hour (g/BHP/hr) (0.093 gram per megajoule (g/MJ)) beginning with the 1986 model year. Heavy-duty diesel engines must also continue to meet the appropriate gaseous emission standards for hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NO^x) and smoke standards.

The proposal does not affect the current certification or selective enforcement audit (SEA) processes. It does, however, modify test procedures to provide for particulate measurement. As manufacturers of heavy-duty diesels must currently follow these procedures to demonstrate compliance with gaseous emission and smoke standards, the same will hold true for this particulate standard. The use of a full useful-life deterioration factor, the use of a 10 percent acceptable quality level for SEA and the certification engine selection criteria will all apply to this particulate standard as they will for the HC, CO, NO_x, and smoke standards. However, because the proposed test procedure will provide both particulate and gaseous emission values simultaneously, EPA does not expect this proposed particulate standard to increase the number of engines requiring testing for either certification or SEA.

Technology: The Clean Air Act as amended in August 1977 requires heavy-duty diesel particulate emission control based upon control technology which the Administrator determines will be available for the model year to which such standards apply. Due consideration must also be given to cost, noise, energy, and safety. The 0.25 g/BHP-hr (0.093 g/MJ) standard being proposed today fulfills these requirements.

EPA has, in the course of developing this proposal, tested heavy-duty diesel engines from each of the 5 major manufacturers in order to determine their particulate emission levels; the transient test procedure as described in the "Draft Recommended Practice for Measurement of Gaseous and Particulate Emissions from Heavy-Duty Diesel Engines Under Transient Conditions," April 1979, was used. Together, the engines produced by these five manufacturers account for approximately 97 percent of the heavy-duty diesel engines sold in this country. The particular engines tested by EPA represent the complete range of engine sizes and applications found in today's fleet and account for roughly 70 percent of U.S. sales. To date, this test program is approximately 80 percent complete. EPA does not believe that delaying this proposal to allow for the completion of this testing is necessary since 1) testing has already been completed on 3 of the 5 major manufacturers' engines, 2) given the representativeness of the tested engines of the other 2 manufacturers and the methodology used to determine the technologically feasible engine-out particulate level (discussed below), it is unlikely that the level of the proposed standard would be significantly affected by the remaining few engines, and 3) the test program will be completed before promulgation of the final standard. If changes to the standard are warranted based on this new data, the comment period will be reopened.

EPA based the level of this proposed standard on:

1. An engine-out particulate emission level of 0.41 g/BHP-hr (0.153 g/MJ);
2. A 60 percent reduction in engine-out particulate emissions from the application of trap-oxidizers;
3. Over the full useful life, an increase in particulate emissions of up to 20 percent due to engine and trap-oxidizer deterioration; and
4. A 24 percent allowance based on 12 percent variability in the particulate emissions of production engines and a 10 percent acceptable quality limit for a Selective Enforcement Audit. These four points are discussed below.

1. Engine-Out Emission Level

The 0.41 g/BHP-hr engine-out emission level represents the level of particulate emissions which EPA has determined to be technologically feasible by 1986 without the use of aftertreatment devices (i.e., trap-oxidizers) and without taking into consideration in-use deterioration or production variability. This level represents the average of the set of engines made up of each manufacturer's lowest particulate emitting model tested by EPA on No. 2 diesel fuel (see Table 1). This approach was chosen from among several alternatives because it best satisfies the Clean Air Act requirements that the standard "reflect the greatest degree of emission reduction achievable . . . giving appropriate consideration to the cost . . . and to noise, energy, and safety factors . . . ."

EPA considered three other approaches in determining the technologically achievable level of engine-out particulate emissions. They were: (1) the worst baseline engine (highest particulate emission level), (2) the lowest particulate emission level among the tested engines, and (3) the highest single emission level among each manufacturer's best engines.

The first option would set the feasible level of engine-out particulate emissions at 0.79 g/BHP-hr (0.29 g/MJ) (See Table 1). Using the engine-out particulate emissions of the "worst" baseline engine or vehicle as the starting point for setting the particulate standard may be an appropriate approach when vehicle parameters, such as engine size or vehicle weight, are a significant factor in the resulting level of emissions. This approach was followed to some extent in setting the particulate emission standards for light-duty vehicles and light-duty trucks (45 FR 14496, March 5, 1980). Particulate emissions from light-duty vehicles and trucks are directly affected by such parameters as vehicle weight and engine size. EPA found that the differences in particulate emissions of baseline light-duty vehicles were not so much the result of different design features leading to lower particulate levels that could be readily incorporated into other vehicles, but rather the fact that generally heavier vehicles tend to emit greater levels of particulate emissions. In order to avoid setting standards (based on the level achievable by the "best" or smallest vehicles) that would have prevented all light-duty diesels from meeting the standards except subcompacts and small pick-ups with small engines, the Agency based the standards on the lowest particulate level achievable by the "worst" (or largest) diesel-powered baseline vehicle.

However, using the engine-out particulate emissions of the "worst" heavy-duty engine as the starting point for setting the heavy-duty particulate standard would be inappropriate because EPA could find no significant correlation between emissions and such parameters as engine size or type. In fact, EPA found a baseline engine with much lower emissions that was comparable in terms of horsepower and in-use application to the baseline engine which had the highest particulate emissions. The results of EPA's investigation suggest that at least to some extent some engine design features leading to lower particulate emissions (from the worst baseline engine) are available.

Given these findings, EPA could not determine that 0.79 g/BHP-hr represented the "greatest reduction achievable . . ." and Option 1 had to be rejected. To do otherwise would have ignored the reduction potential already demonstrated by every other engine tested to date.

Option 2 would require all engines to reach an engine-out particulate level demonstrated by the best of the baseline engines tested. This level is 0.31 g/BHP-hr (0.12 g/MJ); refer to Table 1. Implicit in the choice of this option would be the judgment that (1) there are no engine design features that have an effect on particulate emissions which cannot be readily incorporated on all other heavy-duty diesels, regardless of their size, application (truck or bus), or manufacturer, and (2) the features would produce exactly the same low particulate emission level on all engines. EPA has examined the relationship between particulate emissions and engine size or application and has found no significant correlation. Differences were found in the emissions of engines produced by various manufacturers, but no evidence was found to indicate that the designs used to obtain low emissions on some engines were not available to all manufacturers. However, EPA could not find evidence that these design features would have exactly the same effect on every manufacturer's engines, unless each manufacturer would produce an exact replica of the lowest-emitting baseline engine. For example, the primary cause of the low particulate emissions produced by the best baseline engine may have been an improved fuel injection technique which is available to all manufacturers. However, because the fuel injection system is an integral part of the engine and its efficiency could depend on many other engine parameters (whose effect on particulate emissions are not at this time fully understood), the only way to determine the effect of a modification on a given engine would be to test it on that engine. While EPA could have theoretically performed enough tests on a sufficiently large sample of engines in an attempt to demonstrate that all engines could achieve the emissions of the best baseline engine, the cost of such a program would be enormous and the implementation of this particulate standard would have been postponed by at least 1–2 years. This delay would be unacceptable given the mandate of the Clean Air Act. Given the available data, a standard based on Option 2 might well require the major redesign of virtually all engine families for compliance to be assured. EPA has no basis for supporting the contention that such a major redesign effort would even be possible.

Thus, if EPA chose this approach, it would be possible that a large number of engines might not be able to meet the particulate standard in 1986. In this case, the affected manufacturers could only introduce these engines into commerce if they elected to pay a nonconformance penalty on each engine. While EPA believes that nonconformance penalties have a definite role to play in the regulation of heavy-duty vehicles, we do not believe that Congress intended for nonconformance penalties to be paid in order for most engines to be sold. Yet this situation could arise under Option 2.

Option 3 would use as the starting point for setting the standard the highest single engine-out particulate level from the set of engines made up of each of the five major manufacturer's lowest emitting engine. In other words, Option 3 would set the engine-out particulate level at 0.58 g/BHP-hr (0.22 g/MJ) (see Table 1). An examination of Table 1 shows that a full two-thirds of the engines tested are already emitting less particulate than this level. Thus, this option involves the same problem as discussed above with Option 1; it does not give adequate consideration to the control technology already demonstrated by a substantial majority of the engines being produced today. Thus, while this option might appear to solve the problem of Option 2, that of completely ignoring manufacturer-to-manufacturer differences, it raises the same problem associated with Option 1 and EPA had to reject it from further consideration.

The option chosen by EPA, which bases the feasible level of engine-out particulate emissions on the average of the emission levels of the lowest-emitting engine from each of the five major manufacturers, addresses the problems presented by each of the previous three options and best fulfills the congressional mandate to develop a particulate standard which reflects "the greatest degree of emission reduction achievable . . . giving appropriate consideration to the cost . . . and to noise, energy, and safety factors . . ." It takes into consideration, for example, the ability of several manufacturers to build engines which emit relatively low levels of particulate (see Table 1). Failure to give adequate consideration to such accomplishments (as is the case with options 1 and 3) would be contrary to the above stated requirements of the Clean Air Act. Since 4 of the 5 major manufacturers have already demonstrated their ability to build engines below the 0.41 g/BHP-hr engine-out level (these engines represent approximately 20 percent of domestic sales), the cost or feasibility of extending these techniques to other engine families should not be prohibitive and the widespread use of non-conformance penalties should not be necessary—unlike the scenario presented by Option 2. The fifth manufacturer should also be able to comply since (1) its demonstrated ability to build low-NO_x-emitting engines should lessen its possible reliance on NO_x control techniques which increase particulate emissions (relevant discussions of this point can be found in other portions of this document) and (2) the leadtime available should be sufficient to allow it to incorporate design features of other manufacturers' engines which have already been demonstrated to lower particulate emissions.

By averaging the particulate emission levels of the best engines, the chosen approach recognizes basic manufacturer-to-manufacturer design differences and reflects a more representative range of performance capabilities than other options based on the performance of single engines. The level of 0.41 g/BHP-hr (0.15 g/MJ) is thus a stringent level to use as a starting point, requiring the higher-polluting engines to incorporate, to a great degree, the demonstrated technology of the best engines of a given manufacturer. Yet at the same time it takes into consideration the uncertainties that would be involved in forcing a manufacturer to adopt almost completely the designs employed by its competitors.

While it is possible that a more stringent engine-out level could be identified that would be technologically feasible, EPA does not have sufficient data at this point to support the utilization of such a level. Further study would be required before a more stringent level could be identified and adequately supported. This would only serve to further delay implementation of the standard. Therefore, EPA believes that it is more appropriate to utilize the engine-out level that is supported by the available data. EPA will continue its research in this area and if it becomes evident that a more stringent engine-out level is technologically feasible, EPA will commence a rulemaking to revise the standard accordingly.

Up until this point, we have restricted the discussion of engine-related technology to that already present on existing engines and avoided discussing additional engine modifications which could also reduce particulate emissions. One promising long-term technique in this latter category is to modify the engine to burn methanol. Methanol is an attractive alternative fuel since it (1) can be readily producible from plentiful domestic sources such as coal and biomass, (2) can possibly be produced by more thermally efficient and evironmentally acceptable processes than processes which yield synthetic crudes, (3) can be produced with readily available, commercially proven technology which appears to require less capital investment than syncrude production processes, and (4) appears to have the potential for very low particulate, hydrocarbon and biologically active organic emissions. The potential for reduced particulate emissions makes methanol a promising alternative fuel with regard to this proposed particulate standard. While the proposed particulate standard is achievable without using methanol, its availability and use would simplify the task immensely.

Also of interest is methanol's inherent ability to lower oxides of nitrogen (NO$_x$) emissions from diesel engines, compared to those same engines operating on diesel fuel. This result is primarily due to the lower combustion temperature of methanol-fueled diesel engines. Since Congress has required that NO$_x$ emissions be significantly reduced from this class of vehicles (this topic is discussed below), use of methanol could aid in achieving this goal.

In order to evaluate the emissions-related characteristics of diesel engines operating on methanol, EPA is conducting tests on a dual-fueled Volvo heavy-duty diesel engine. Combustion is initiated in this engine when a relatively small quantity of diesel fuel is injected into the heated combustion chamber; the second fuel, methanol in this case, is then injected and ignited by the burning diesel fuel and serves as the primary source of energy for the engine. Completely separate injection systems accommodate the different fuels in this system. Tests of other methanol-burning engines are planned for the future.

Since methanol has the potential to help lessen the nation's dependence on foreign oil as well as provide a means of attaining cleaner air, EPA invites comments on its use in diesel engines.

In addition to the use of methanol fuel, there are other techniques available which also can reduce engine-out particulate emissions from heavy-duty diesel engines. However, some of these techniques also tend to increase emissions of nitrogren oxides (NO$_x$).[2] This could be problem, since in addition to mandating particulate control Congress also mandated that NO$_x$ emissions from heavy-duty diesels be reduced significantly in 1985. Specifically, NO$_x$ emissions are to be reduced by 75 percent from uncontrolled gasoline engine levels, which translates to about a 1.7 g/BHP-hr standard. The information available to EPA to date has not shown this NO$_x$ level to be feasible for diesels except by using techniques such as retarded timing which increase fuel consumption and increase particulate emissions markedly. Thus, diesels will need every bit of NO$_x$ control that can be found to reach this level. Particulate controls that actually increase NO$_x$ emissions would only aggravate this situation. Thus, EPA will not factor the particulate reductions available from these techniques into its determination of the greatest particulate reduction achievable from heavy-duty diesels.

However, there are some techniques available which can reduce engine-out particulate emissions with increasing NO$_x$ emissions. Data available to EPA has shown that modifications made to a Cummins engine and different modifications made to a Caterpillar engine both resulted in lower particulate emissions and lower NO$_x$ emissions. In addition, the latter engine was already a relatively low particulate emitter. These results, plus the general fact that particulate emissions have yet to be directly controlled and consequently, have yet to be factored into design decision, support the conclusion that engine-out particulate emissions could be reduced below the 0.41 g/BHP-hr level without increasing NO$_x$ emissions.

Before applying these reductions to the 0.41 g/BHP-hr particulate level, however, the Congressional mandate to reduce NO$_x$ emissions must be considered once again. This mandate is very specific, requiring reductions to a specified level. The Congressional mandate to reduce particulate emissions is somewhat less specific, calling only for the greatest reduction achievable without specifying a level. It appears that if diesels are to meet or even approach a NO$_x$ level of 1.7 g/BHP-hr, some increase in particulate emissions may have to result. If the particulate reductions mentioned above were left to offset increases in particulate emissions due to NO$_x$ controls, a lower NO$_x$ level could be achieved. This would increase the likelihood of achieving the Congressional mandate to reduce NO$_x$ emissions. As will be described in the next section, significant reductions in particulate emissions are available from aftertreatment techniques, such as trap-oxidizers. Therefore given (1) that there are other technologies which provide significant particulate reduction and (2) the specificity of the NO$_x$ mandate, EPA has decided that the two Congressional mandates would best be met by reserving the engine-out particulate reductions achievable below 0.41 g/BHP-hr to offset the effects of NO$_x$ control. In this way, the degree of NO$_x$ reduction available to diesels will be enhanced, while significant particulate reductions can still occur via use of trap-oxidizers. Thus, 0.41 g/BHP-hr will be used as the lowest engine-out particulate level achievable by all heavy-duty diesels.

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[2] See Chapter IV of the Regulatory Analysis for details.

While this decision enhances the feasibility of the 1.7 g/BHP-hr NO_x standard it does not insure that net increases in particulate emissions will still not occur due to the implementation of NO_x controls. Any such increases could make the 0.41 g/BHP-hr engine-out particulate level infeasible. To prevent this from occurring, EPA, in its proposals of the NO_x standard will restrict the required NO_x reduction from diesels to that achievable with a 0.41 g/BHP-hr engine-out particulate emission level. In this way, the feasibility of the NO_x standard can be enhanced without affecting the feasibility of the particulate standard being proposed today.

2. Trap-Oxidizers

In addition to reducing particulate emissions formed in the combustion process, additional reductions are available from the application of after-treatment devices, particularly trap-oxidizers. A trap-oxidizer basically consists of a high-temperature trapping material housed in a stainless steel shell. Placed in the exhaust, it collects particulate and periodically (or continually) incinerates (oxidizes) it. The incineration process usually requires an initial minimum exhaust temperature of 450–500° C. Because such temperatures may not normally occur in heavy-duty diesel exhaust, exhaust temperatures may need to be artifically raised to the necessary level to permit regeneration (i.e., incineration).

The particulate collection efficiencies of many trap materials have already been demonstrated. Many materials, such as alumina coated wire mesh and metal wool, have shown efficiencies of up to 65 percent. Slightly modified ceramic monolithic substrates (similar to those used in automotive catalysts) have shown collection efficiencies of up to 84 percent. In determining the technologically achievable level of particulate emissions with aftertreatment, EPA has used a 60 percent initial collection efficiency.[3] This is the same efficiency which EPA used to determine the technologically feasible level for the light-duty diesel particulate standard (45 FR 14496).

Several trap-oxidizer regeneration approaches have been investigated. The simplest solution would be to continuously (or near-continuously) oxidize the particulate, in which case the trap-oxidizer would function much like a diesel catalytic converter. The problem with diesel converters is simply in maintaining the high-temperature conditions that ensure continual oxidation. Much effort is being expended on producing converters which would function on diesels, and designs have been tested by EPA that are close to what is needed. An alternative is to oxidize the particulate only occasionally, when enough organic material has been collected by the trap to aid the process and when the exhaust temperature is high enough to initiate oxidation. Many approaches have been suggested to initiate the oxidation process. The most promising is the addition of an inlet air throttle, which would limit the intake air into the combustion chambers and raise the temperature of the exhaust. The throttling would be periodic, and could be actuated by a combination of the odometer reading and rack position, or might have to be linked to a controller unit coordinating several parameters such as rack position, back-pressure, exhaust gas recirculation, etc. In a study using light-duty diesels, GM reported that over a 1000-mile series of load-up and regeneration tests, utilizing throttling to initiate oxidation, the trap collection efficiency actually increased slightly. There appear to be no technical problems with utilizing throttling to initiate oxidation, and there is evidence that throttling may possibly reduce engine-out particulate and NO_x emissions slightly.

Collection efficiencies and regeneration techniques have progressed to the point where the most critical issue is whether the efficiency and regeneration mechanism can be maintained over the useful life of the vehicle. At this time, EPA has only limited trap-oxidizer durability data, as researchers have been reluctant to fund durability testing until other more basic questions such as burn-off control were solved. The problems of durability are problems which lend themselves to engineering solutions; no major new technology is required. Under controlled conditions, existing traps have already been shown to retain their trapping capability over many burn-off cycles. The trapping media and engine controls already appear to exist for a full useful life trap. The major problem remaining is one of characterizing the in-use operating conditions of the engine, so that regeneration may be controlled to always insure that the burn-off temperature stays below that which could damage the trap. As this is primarily a matter of optimizing the trap position in the exhaust and the logic used by the burn-off control device, we are confident that the durability questions will be resolved in the near future.

One aspect of heavy-duty diesel operaton which might appear to cause a durability problem is a longer useful life (in terms of miles) relative to light-duty diesels. Indeed, the average useful life of a heavy-duty diesel is currently 475,000 miles, while that of a light-duty diesel is only 100,000 miles. In terms of years, however, the average heavy-duty diesel is used only nine years, as opposed to ten years for light-duty diesels. This provides some indication of the difference in the types of driving characteristic of the two types of vehicles. Heavy-duty diesels may accumulate large amounts of mileage, but they also do it in a short period of time under relatively steady conditions. This type of driving should be much less damaging to a trap than the shorter trip driving of a light-duty vehicle, where the temperature transients, which can structurally stress the trap, should be much greater. Thus, the useful lives in terms of time, rather than mileage, should be the better indicator of durability requirements of the trap. As heavy-duty diesel engines capture more of the lighter truck market now dominated by gasoline engines, their operation will begin to approach that of light-duty vehicles in at least some aspects. However, EPA expects the useful life of these former gasoline-fueled vehicles to remain the same after dieselization as before. This useful life is only 114,000 miles, which is very close to that of light-duty diesels. Thus, EPA expects that heavy-duty diesels will experience no greater trap durability problems than light-duty diesels.

EPA recognizes that trap-oxidizers are not currently available to permit compliance with the proposed 1986 heavy-duty diesel standard, but given sufficient good faith effort by the manufacturers, 60 percent efficient trap-oxidizers should be available in time to be incorporated on the 1986 model year fleet. As discussed above, the basic concept of the trap-oxidizer is well understood. The improvements that are necessary are engineering problems, such as trap placement and the optimization of the regeneration control. The solution to these problems is more a function of the resources allocated to the problem than any scientific or technical breakthrough, which would be the case if an entirely new trapping media were required.

The recently promulgated light-duty diesel particulate standards (45 FR 14496) call for a final level of control in 1985 based on trap-oxidizer technology. Information gained from the study of trap-oxidizers on light-duty diesels to date has centered on areas such as 1) development of a durable, efficient trapping material, 2) understanding the burn-off process, and 3) development of engine control techniques to ensure proper burn-off. Knowledge gained in these areas should be especially applicable to heavy-duty diesels. However, heavy-duty diesels can often operate under different conditions than their light-duty counterparts. For example, they are at times left to idle for periods of several hours (due to inherent cold-start difficulties and to prevent starter wear). This operating characteristic is important to trap-oxidizer regeneration since exhaust temperatures are very cool at idle; high exhaust temperatures are needed to incinerate collected particulate. Thus, means must be devised to allow for trap-oxidizer regeneration while engines are in this mode. While this problem and others do not appear to be insurmountable they do indicate that some additional design effort will be necessary to incorporate trap-oxidizers onto heavy-duty diesels. To facilitate the application and optimization of these devices onto heavy-duty diesels, an additional year is being provided in this proposal beyond the 1985 date of trap-oxidizer introduction for light-duty diesels.

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[3] For further details see the Regulatory Analysis.

As mentioned earlier, 1986 is also the year that the forthcoming NO_x proposal will apply for these same engines. Many engine design and operational features of heavy-duty diesels affect both these pollutants (see the Regulatory Analysis for further details). As mentioned earlier, some can cause decreased emissions of one pollutant while causing emission levels of the other to increase. As manufacturers will have to design their engines for particulate control while considering the impact on NO_x emissions (and vice versa) it would be most reasonable to have the two standards apply in the same year, allowing design to occur in parallel. Thus, 1986 appears to be a reasonble date to implement the 0.25 g/BHP-hr particulate standard in light of the design and engineering efforts necessary and because of the close relationship between particulate and NO_x emissions.

Left to the marketplace, it is extremely unlikely that sufficient pressure would be brought to bear on the industry to aggressively pursue trap-oxidizer development. Experience has shown the greatest emission control development work to have taken place when direct regulatory incentives were in place. Since final trap-oxidizer designs are not now available to successfully comply with the proposed 1986 standard, to the extent that the standard motivates the industry to aggressively pursue research and development it is a "technology-forcing" standard. The term "technology-forcing" often implies that the sought-after technology is completely unknown or unforeseeable, but such is not the case here. The basic concept of the trap-oxidizer is very well understood, and, as explained above, much development has already occurred. Thus, this rulemaking is technology forcing only in the respect that it will encourage a feasible control strategy that might otherwise be ignored.

3. Deterioration of Engine and Trap-Oxidizer

Data indicating the degree of deterioration of heavy-duty diesel engines, with regard to particulate emission, over their useful lives are not available since 1) particulate emissions from heavy-duty diesels have not been regulated before and 2) an adequate test procedure has only recently become available; manufacturers will be required to certify using the transient test procedure beginning with the 1985 model year. However, EPA tests of in-use light-duty diesels having accumulated an average 48,000 miles (77,250 kilometers) indicate that little if any increase in engine-out particulate emissions occurs. With the stability of heavy-duty diesel emissions of other pollutants, the use of similar fuel systems, and the similarity of the general emissions stability of light- and heavy-duty diesels, it is reasonable to project that the engine-out particulate emissions of heavy-duty diesels will deteriorate very little. Heavy-duty diesels were not included in this in-use survey since 1) no zero-mile certification data are available because heavy-duty diesel particulate is not currently regulated and 2) the only available test site has been occupied with the baseline emissions program.

Information on the deterioration of trap-oxidizer efficiency is even more scarce, as none are currently commercially available and durability tests of available prototypes have been waiting until after collection and burn-off techniques were perfected. EPA therefore solicits comments in the areas of anticipated engine and particularly trap-oxidizer deterioration as they relate to particulate emissions. For the purposes of this proposed rulemaking EPA has estimated that the combined engine and trap-oxidizer deterioration will be no more than 20 percent.

4. Selective Enforcement Auditing and Production-Line Variability

In addition to complying with EPA's certification process for new engines, heavy-duty diesel manufacturers are also subject to a Selective Enforcement Audit (SEA) of their production engines, the fourth point mentioned above. As is the case for other regulated pollutants, at least 90 percent of a manufacturer's production engines must meet the proposed particulate standard to keep the probability of failing an SEA below 5 percent. This means that manufacturers must achieve excellent quality control or else design their emission control systems to reach levels below the standard on the average. Otherwise, if the control system were designed to just meet the standard, only about half the engines would pass.

To determine how far a manufacturer would have to design below the standard, two factors must be taken into account: 1) the variability of the particulate emissions of the production engines of a given engine family, and 2) the small number of prototypes upon which the design decision is made. The 10 percent acceptable quality level (AQL) could lead manufacturers to design their engines (on the average) to meet a particulate level 1.28 times the existing standard deviation lower than the standard (assuming a normal distribution of emissions) or manufacturers could improve quality control to reduce variability, which would allow them to design closer to the standard.[4] While EPA believes that the production variability of particulate emissions could be reduced from existing levels, the lack of data on the existing variability of production engines, plus the lack of data on the ability to reduce variability, prevents a reliable judgment to be made concerning this ability. The absence of available test facilities also prevents any effort by EPA to obtain such data on its own. Since EPA cannot determine in the case of this regulation that reductions in variability will be sufficient to deal with the effect of a 10 percent AQL, it is reasonable to allow for a reduction in the design target for the average vehicle to account for the presence of a 10 percent AQL. As indicated above, this allowance should be 1.28 times the standard deviation of particulate emissions from production engines. While no actual data on the particulate emission variability of production engines are available, EPA assumed that this variability would be similar to that for gaseous emissions, or 12 percent of mean emissions.[5] Given this, the effect of the 10 percent AQL would be to increase the technologically feasible level by 15.4 percent, or a factor of 1.154. Including the effect of basing design decisions on only a small number of prototype engines (assumed to be three in this case) raises this factor to 1.24.

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[4] For further details see the Regulatory Analysis.

EPA requests data on the actual production line variability of particulate emissions, the degree to which production line variability can be reduced, and also on the methodology used by manufacturers to determine their design targets.

Derivation of Standard: All the above mentioned factors were combined to yield the proposed 0.25 g/BHP-hr standard. First, there is the engine-out particulate level of 0.41 g/BHP-hr which is reduced by 60 percent via trap-oxidizer technology to 0.164 g/BHP-hr. Then, taking into account the effect of emission variability and the 10 percent AQL increases this value by a factor of 1.24 to 0.203 g/BHP-hr. Finally, the deterioration factor is 1.2 increases the technologically feasible level to just under 0.25 g/BHP-hr, which is the level being proposed.

Environmental Impact: The proposed standard will reduce particulate emissions from heavy-duty diesels by 64 percent in 1995 with respect to what would be expected without regulation. Nationwide particulate emissions in 1995 from heavy-duty diesels will be reduced from approximately 218,000-266,000 metric tons per year to 78,000-95,000 metric tons per year. Urban particulate emissions from these vehicles will also decrease 64 percent in 1995 from 79,000-97,000 metric tons per year to 28,000-35,000 metric tons per year. This emission reduction will reduce ambient heavy-duty diesel particulate levels in large cities (e.g., New York, Chicago, Los Angeles) from 1.7–7.2 to 0.6–2.6 micrograms per cubic meter (annual means). Heavy-duty diesel particulate levels in smaller cities (e.g., St. Louis, Pittsburgh, Phoenix) will also decrease from 1.6–4.9 to 0.6–1.8 micrograms per cubic meter (annual means). Localized levels which occur over and above these larger-scale impacts will also decrease from 4.6–5.6 micrograms per cubic meter to 1.6–2.0 micrograms per cubic meter (annual means). These latter impacts could occur as far as 90 meters from very busy roadways.[6]

The above impacts clearly show the significant reductions in ambient particulate emission levels expected from these regulations. It should be noted, however, that not all types of particulate matter have the same level of impact on human health. Small particles, which are much more likely to be deposited in the alveolar region and which require much longer periods of time to be cleared from the respiratory tract, are believed to be much more deleterious to human health on an equal mass basis than larger particles. Thus, control of diesel particulate (100 percent is less than 15 micrometers in diameter and approximately 97 percent is less than 2.5 micrometers in diameter) is especially important with respect to human health. There is also particular concern over the chemical composition of diesel particulate emissions, as the extractable organic fraction of diesel particulate has been shown to be mutagenic in short-term bioassays. EPA is currently performing a health assessment to determine the carcinogenic risk (if any) to human milk. However, EPA has not based the level of the proposed standard on any presumption of a carcinogenic effect being associated with diesel particulate. Should future results from the diesel health effects studies indicate that further action is necessary to control diesel particulate emissions, EPA will exercise its authority under Title II of the Clean Air Act to do so.

Economic Impact (All Costs are In Terms of 1980 Dollars): EPA expects the retail price of heavy-duty diesel vehicles to increase by approximately $527–650 in 1986 due to the engine and vehicle modifications necessitated by this regulation. The retail price increase of a new vehicle mentioned above is about 0.5–3.0 percent of the total cost of a new heavy-duty diesel vehicle. The range of costs is due to possible differences in trap-oxidizer systems which may be used on different models. The trap-oxidizer system is also expected to require maintenance costing about $30 when it is five years old. However, the vehicle modifications involved in adding the trap-oxidizer will eliminate the need to replace the exhaust pipe and muffler throughout the vehicle's life. This will save about $409 in maintenance costs (undiscounted) during the vehicle's life. In all, vehicle maintenance costs should decrease by $178 due to the 1986 standard (discounted to year of vehicle purchase). Overall, then, this regulation will cost $349–472 per vehicle. All of these estimates include profit at both the manufacturer and dealer level. Overall, the increased cost of owning and operating a heavy-duty diesel due to this regulation will be less than 0.3 percent.

Due to past and future increases in the price of gasoline-fueled vehicles due to emission controls and the negligible impact of this regulation on the cost of transporting goods via heavy-duty diesels, EPA expects no decrease in diesel sales relative to the sales of gasoline-fueled vehicles due to aggregate environmental regulation. The aggregate cost of this proposed particulate standard over five years (1986–1990) will be $249–413 million (present value in 1980) or $442–731 million (present value in 1986). Two present value reference points are given because two different conventions have been used in the past; the present (1980) and the year the standard is to be implemented (1986).

Taking all of the above findings into account, the costs of applying the technology necessary to meet the proposed standard appear reasonable. EPA has also examined the impact of this proposal on urban areas and selected communities and no adverse consequences are expected.

Cost Effectiveness: Section 202(a)(3)(A)(iii) of the Clean Air Act does not require EPA to conduct a cost benefit analysis. Nevertheless, EPA has examined the cost effectiveness of the proposed particulate standard. In doing this, EPA examined the traditional methodology used to measure cost effectiveness and modified it slightly. The proposed standard appears consistent with recent EPA actions to control stationary and mobile source particulate emissions which in themselves were cost effective.

The traditional measure of cost effectiveness (dollars per metric ton of particulate controlled) can be made more relevant to health improvements by considering only the inhalable (less than or equal to 15 micrometers in diameter) or fine (less than or equal to 2.5 micrometers in diameter) particulate that is controlled. It is the inhalable and, especially, the fine fractions of suspended particulate which appear to have the greatest potential for adverse health impact. When this is done, the marginal cost-effectiveness ratio for the 1986 heavy-duty diesel particulate standard (effect of trap-oxidizers alone) is $1070–1410 per metric ton of inhalable particulate and $1070–1550 per metric ton of fine particulate (1980 dollars). When any of these bases are used, modified or unmodified, the cost effectiveness of heavy-duty diesel control is found to be consistent with the cost effectiveness of particulate control strategies implemented in the past.

It is important to emphasize that in some respects the mobile and stationary source strategies for particulate control have certain differences in their primary purposes. Therefore, selection of a measure of effectiveness for comparison purposes has inherent limitations. In spite of these, however, the comparison may still be useful to the degree that it focuses on one of these common purposes, protection of public health and welfare.

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[5] For further details see the Regulatory Analysis.

[6] Consult the Regulatory Analysis for the methodology followed in determining the air quality impact of heavy-duty diesel particulate emissions.

There is another step which can be taken to improve the measure of cost effectiveness and that is to relate effectiveness to reductions in ambient pollutant concentrations instead of emission reductions. People's exposure to pollutants is directly related to the ambient pollutant concentration of the air they breathe, but only indirectly related to the emissions from various sources. However, the data necessary to perform such calculations are very difficult to obtain and generally not available. Still, to indicate the potential differences between the air quality impacts of different sources, a rudimentary air quality analysis was performed.[7] Using indicators of a source's impact on air quality relative to its emissions, EPA found that both heavy- and light-duty diesels produce between 45 and 188 times the ambient particulate concentration as the largest power plants (2,920 megawatt heat input) based on equivalent emission rates. Similarly, both heavy- and light-duty diesels produce between 1.1 and 4.7 times the ambient pollutant concentration as smaller power plants (73 megawatt heat input) based on equivalent emission rates. No localized impacts from either source were examined, only large-scale impacts. If localized impacts had been examined, the results might have been different. The results from other stationary sources could also be quite different.

Just considering differences in the relationship between emissions and air quality, the results of any comparison of cost effectiveness could be changed drastically. Indeed, there are many other factors which should also be considered. As mentioned earlier, the above ratios are only an extremely rough estimate of the relative air quality impacts of diesels and power plants. Many simplifications were necessary in order to make this comparison at all. Overall, however, the results also indicate clearly that control of diesel particulate is not less cost effective than other cost-effective control measures adopted by EPA using the measures of effectiveness discussed above.

Alternative Actions: Control of particulate emissions from heavy-duty diesel vehicles is required by the Clean Air Act. Thus, EPA does not have the discretion to forego control of heavy-duty diesel particulate emissions in favor of other control strategies. However, alternative individual engine standards and/or implementation dates for this heavy-duty diesel particulate standard were examined.

The Clean Air requires this particulate standard to "reflect the greatest degree of emission control achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply." EPA must also give due consideration to cost, energy, and safety. The main goal of our analysis of alternative levels and dates, then, was to determine the level(s) and timing of the standard which best complied with the requirements of the Act.

First, EPA considered implementing a one-step versus a two-step standard. A one-step standard set at the final level of technology (trap-oxidizers) would be available in the same year (1986) as the revised NO_x standards for heavy-duty diesels. As alluded to earlier, manufacturers will be required to certify their engines using the transient test procedure beginning in 1985. This essentially precludes an interim standard earlier than 1985 since it would have to use the 13-mode test procedure, which would not be as representative of in-use particulate emissions as the transient cycle. An interim standard for 1985 would apply for only 1 model year and provide only modest reductions in particulate emissions at a time when no significant increases would be expected, since the NO_x standard would not come into effect until 1986. A standard in 1985 would also divert valuable Agency and industry resources from implementing and meeting the 1986 standards (NO_x and particulate) and shifting them toward a less effective interim particulate standard. In 1986, with the coming of the revised NO_x standard, a particulate standard will be needed to prevent potential increases in particulate emissions. However, by then a standard based on trap-oxidizers could be implemented.

EPA specifically considered a two-step standard with the first standard taking effect in 1986. Under this scenario, the 1986 standard would be based on improved engine design, while the later standard (in this case, 1988) would be based on the use of trap-oxidizers. This alternative would have the advantage of allowing manufacturers more time to develop trap-oxidizers and also separate this work from that related to engine development. Its disadvantages were the added cost of recertifying all engines in 1988 and delaying the primary air quality benefit of the regulation for two more years. EPA also examined the effect of delay on capital and trap-oxidizer costs, but found no substantial advantage resulting from this approach. In all, EPA found that the leadtime advantages of postponing the final level of control did not outweigh the delay of the air quality benefits of a standard which could be implemented in 1986 based on technology and leadtime considerations. This was particularly true given that there appeared to be no great cost benefit involved with delay. For these reasons, EPA chose a one-step standard in 1986. However, EPA would reconsider a two-step standard approach if additional data warranted such action.

Second, EPA considered the possible choices for the level of this standard. These alternative levels have already been discussed in the section on technology and will not be repeated here. In summary, EPA examined the various levels in light of the Clean Air Act requirement that the standard reflect the greatest reduction potential achievable considering the leadtime available and other specified factors and concluded that the standard which is being proposed was appropriate. The issue of cost has already been discussed previously, so no further mention of it will be made here. Since the proposed standard will not affect the fuel economy of heavy-duty diesels, it is reasonable with respect to energy impacts. Based on numerous successful regenerations of prototype trap-oxidizers, EPA also expects that the application of trap-oxidizer technology can and will be made in such a way as to ensure the safe operation of the vehicle.[8] Thus, in consideration of all these factors, we chose the level of 0.25 gram per brake horsepower-hour in 1986 proposed today.

The use of an averaging approach upon which to base the actual particulate standard is not planned for this rulemaking. However, EPA is actively exploring the feasibility of emissions averaging and will be proposing an averaging scheme for controlling NO_x emissions from light- and heavy-duty trucks. The results of this analysis of averaging will in part determine if EPA will consider emissions averaging for this heavy-duty diesel particulate standard and other existing mobile source emissions standards through future rulemaking actions.

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[7] Consult the Regulatory Analysis for further details.

[8] Consult the Regulatory Analysis for further details.

Major Revisions to the Existing Heavy-Duty Test Procedure: The recently promulgated gaseous emissions regulations for 1984 and later model year heavy-duty engines (45 FR 4136) included a new test procedure for determining gaseous exhaust emissions from heavy-duty engines. The test procedure specified for diesel engines was very similar to that specified for gasoline engines and applied to the same gaseous pollutants (HC, CO, NO_x). With the mandate to regulate particulate emissions, EPA has proposed additions to the heavy-duty diesel test procedure to include the measurement of particulate emissions from diesel engines. These additions will not affect the basic heavy-duty test procedure nor the stringency of the test with respect to gaseous emissions, but merely specify the additional equipment and steps necessary for the measurement of diesel particulate.

Because EPA just recently revamped the heavy-duty engine test procedures and foresaw at that time the need to propose these modifications, we took steps then to ensure that no unnecessary equipment expenses would be incurred by manufacturers and others interested in testing diesel engines. The test procedure modifications being proposed today do require certain pieces of equipment to be use which are not required for gaseous emission testing (e.g., the dilution tunnel). To prevent the need for replacing equipment for measuring gaseous emissions which had been used for only a short period of time (e.g., the dilution tunnel replacing the baffle box) with new equipment to allow measurement of particulate emissions, EPA originally designed the gaseous emission test procedure to allow for the addition of equipment associated with particulate testing without making obsolete any of the equipment used for measuring gaseous emissions. In this way, manufacturers could design their transient test cells to allow for future particulate testing, even though the particulate standards had not yet been proposed, and none of their effort would have been wasted.

Additions and changes to the current Federal Test Procedure (FTP) for diesels that would be brought about by the incorporation of particulate testing are discussed below:

(1) The particulate measurement procedure would require a dilution tunnel and a constant mass sampler (i.e., a heated exchanger must precede the critical flow venturi or the positive displacement pump). The dilution tunnel would have to be sufficiently long to assure thorough mixing at the sampling probes. The use of a mixing box with extensive baffling was rejected because of suspected particulate loss on its surfaces. A constant mass sampler, as opposed to a constant volume sampler, is necessary for particulate testing to insure that the particulate sample taken is proportional to the entire emissions of particulate from the engine at any given time.

(2) The total mass of particulate emissions would be measured simultaneously with regulated gaseous emissions over the transient cycle. The particulate matter, after dilution and mixing with ambient air in a dilution tunnel, would be collected on filter media (fluorocarbon or fluorocarbon-coated glass fiber) over both the cold and hot start portions of the test. The temperature of the diluted exhaust at the location of particulate sampling would have to be kept below 125° F (51.7° C) at all times. This could be accomplished by either of two methods, single or double dilution. With single dilution, the constant mass sampler would have to be of sufficient capacity to maintain the temperature of the entire diluted exhaust below 125° F (51.7° C) at the particulate probe tip. With double dilution, the temperature of the diluted exhaust in the primary tunnel would be allowed to be well above 125° F (51.7° C), but a second dilution of a fraction of the exhaust flow in the primary tunnel would have to maintain the temperature of this smaller sample below 125° F (51.7° C) at all times during the test.

This 125° F (51.7° C) temperature restriction is necessary to insure that heavy hydrocarbons and other organic compounds, which would become associated with the particles upon ambient dilution in real life, are also measured by EPA's test procedure. This temperature requirement also causes some of these heavy organics to be measured twice, once as particulate and once as hydrocarbons. Before the level of exhaust hydrocarbons is measured under EPA's test procedure, the sample is heated to 375° F (191° C) to drive some of these hydrocarbons off of the particulate. These hydrocarbons on the particulate at 125° F (51.7° C) and in the gaseous phase at 375° F (191° C) may participate in oxidant-forming reactions and therefore should be measured as hydrocarbons. These same hydrocarbons may also remain on the particulate and be inhaled as such and therefore should also be measured as particulate.

As can be seen from an examination of the test procedure amendments being proposed today, EPA has republished the entire Subpart N, which contains the transient test procedure for heavy-duty vehicles, gasoline-fueled and diesel, for the 1980 model year. We did this for a number of reasons. One, we hoped that this would provide the user with a single, comprehensive document containing the heavy-duty test procedure for both gaseous and particulate emissions. This would avoid the need to piece this proposal together with past publications in order to obtain a complete test procedure. Two, while the number of substantive changes to the test procedure is limited, the large amount of internal referencing done in Subpart N for descriptive purposes (e.g., see 86.1310–84) requires many sections to be revised because the references will change (to "–86"). Thus, the majority of the sections in Subpart N would have needed to be revised regardless.

While the republication of Subpart N for the 1986 model year makes it easier to use the test procedure in practice, it also makes it more difficult to identify the revisions being proposed today. To aid those interested in finding these revisions, EPA has listed below the sections of Subpart N which contain proposed substantive revisions. Any revisions contained in other sections should only be revised references or the addition of "particulate" to descriptive sentences which currently describe the test procedure as applying only to the measurement of gaseous emissions.

Sections in Subpart N containing proposed substantive revisions are:

§ 86.1306–86
§ 86.1310–86
§ 86.1312–86
§ 86.1320–86
§ 86.1327–86
§ 86.1337–86
§ 86.1339–86
§ 86.1342–86
§ 86.1344–86

Test Procedure Alternatives: EPA considered and rejected two alternative techniques for estimating on-the-road particulate emissions. The first was smoke measurement. EPA rejected this technique because 1) smoke does not correlate well with particulate emissions across engine lines and 2) smoke measurements are very inaccurate at the levels encountered over most of the transient cycle.

In spite of this, the presence of the smoke standard has helped to prevent particulate emissions from increasing while no particulate standards were in effect. There is some correlation between smoke and particulate and a worst case test always has some effect on other-than-worst-case conditions. However, a smoke standard is not a viable long-term alternative to a particulate emission standard.

The existing smoke test and standard are being retained along with the addition of particulate testing. The smoke test measures smoke under worst case conditions which are not often encountered over the transient cycle. Therefore, it is unlikely that the particulate standard alone would insure continued compliance with the existing smoke standards. Also, the current smoke standard exists primarily for aesthetic reasons which do not disappear with the addition of particulate testing.

The second technique EPA considered was opti-acoustical measurement. This technique uses a laser beam to heat the particles in the exhaust and measures the resulting pressure waves with a spectrophone. EPA also rejected this technique because (1) it is as yet unproven and (2) it appears to have many of the same correlation problems as smoke measurement, primarily that the acoustical response varies with the chemical composition of the particulate.

Changes from Previous Draft Test Procedure: EPA published the "Draft Recommended Practice for Measurement of Gaseous and Particulate Emissions from Heavy-Duty Diesel Engines Under Transient Conditions" in April 1979 and distributed it on May 8, 1979. Two manufacturers—Caterpillar Tractor Company and Cummins Engine Company—responded to the request for comments on the Draft Recommended Practice. One of the more significant responses was Cummins' comment that substantial errors in the instantaneous proportionality of the sample taken from the primary tunnel (up to 25 percent) might result with the double-dilution sampling technique due to the two second residence time in the secondary tunnel. The effect of such an error on particulate measurements would depend on the particle concentrations at the times the sampling errors occurred. However, these instantaneous concentrations cannot be measured at this time.

In its studies of the two systems to date, EPA has found no evidence that any such sampling error actually affects the mass of particulate collected. Rather, the evidence indicated that the two systems produced very comparable results. However, EPA made one modification to the draft recommended practice which should substantially reduce any instantaneous sampling errors and further ensure that no such errors would affect the mass of particulate collected. EPA has reduced the required residence time of the diluted exhaust in the secondary tunnel from 2 to 0.25 seconds. The latter residence time was derived from confirmable light-duty diesel testing using the single dilution technique. It represents the total time necessary after dilution to ensure that the gaseous and particulate phases come to equilibrium before the particulate is collected.

The remainder of the comments from both manufacturers related to very detailed aspects of the test procedure. EPA has incorporated these comments, where possible, into the test procedure being proposed today. Some suggested revisions were not made, however, due to the fact that no data were presented to support the viability of the revision. A detailed analysis of the comments is contained in the docket and can also be obtained by calling or writing the contact person for this regulation (shown above).

Selective Enforcement Auditing (SEA): SEA will be performed on production heavy-duty diesel engines beginning in the 1984 model year to determine whether they conform to the regulations under which their respective certificates of conformity were issued. Subpart K of Part 86, SEA of New Gasoline-Fueled and Diesel Heavy-Duty Engines (45 FR 4136, Jan. 21, 1980), describes the program for the testing of these engines. Paragraph § 86.1008–84(a) of Subpart K provides that these engines will be tested in accordance with Subpart N. With the establishment of a new particulate emission standard and the addition of particulate testing procedures to Subpart N, EPA would require SEA testing of heavy-duty diesel engines for compliance with this standard beginning in the 1986 model year.

Nonconformance Penalties: Section 206(g) of the Clean Air Act provides for nonconformance penalties (NCPs) ". . . in the case of any class or category of heavy-duty vehicles or engines to which a standard promulgated under section 202(a) of this Act applies. . . ." As discussed elsewhere in this preamble, EPA believes that all heavy-duty diesel engines will be capable of complying with the proposed standard. However, whenever a manufacturer must do substantial development work and/or make substantial modifications of existing emission control techniques in order to both certify and produce heavy-duty diesel engines capable of complying with all regulatory requirements, there is some risk that unforeseen circumstances could result in "technological laggards," i.e., manufacturers whose heavy-duty diesel engines are incapable of complying with the regulation. Therefore, the heavy-duty diesel engines affected by this regulation may be subject to NCPs.

The proposed particulate emission standard for heavy-duty diesel engines is partially based on the application of trap-oxidizer exhaust treatment devices. As discussed in the "Technology" section, the basic trap-oxidizer concept is well understood. However, these devices are not currently available to permit compliance with the proposed standard; various engineering improvements still have to be made. Therefore, trap-oxidizers represent a basically new emission control technique for which substantial development work for heavy-duty diesel engines usage is still required. Manufacturers may experience unforeseen problems in the development and application of successful trap-oxidizers, and it is for this reason that EPA intends to make NCPs available for heavy-duty diesel particulate emissions.

The Agency is not proposing the specific penalty rate or the "upper limit" on allowable particulate emissions in this NPRM. These will be proposed at a later date thorugh separate rulemaking, with full opportunity for public comment. EPA's intention to offer NCPs does not affect leadtime considerations for meeting the proposed particulate standard. The availability of NCPs should not be viewed as a mechanism allowing manufacturers to design to a higher emission standard, but rather as a "safety valve" for those who have made good faith efforts, but are experiencing unforeseen problems in compliance. EPA intends to structure the NCPs, as required by the Act, to remove any competitive disadvantage to manufacturers complying with the standard. The penalty will also increase periodically to provide a further incentive to bring nonconforming engines into compliance or to develop new replacement engines as expeditiously as possible.

Evaluation Plan: EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no more than five years after initial implementation of the final regulation. In particular, EPA will solicit comments from affected parties with regard to cost and other burdens associated with compliance and will also review data on the particulate emissions from heavy-duty diesel vehicles built before and after promulgation of the regulation to determine how effective this measure has been.

Reporting and Recordkeeping Requirements: This regulation does not require any new significant reporting or recordkeeping burden. However, it does add particulate matter to the list of exhaust pollutants which are currently regulated from heavy-duty diesels. As such it will have some impact on the current load of reporting and recordkeeping requirements. Specifically, it will require: 1) submission of the design of all new emission control systems added solely for the purpose of particulate control as part of the manufacturer's application for certification; and 2) inclusion of the rate of particulate emission from affected vehicles along with other test results. Both of these additions are quite minor when compared to the current reporting requirements. Detailed designs of the diesel engine are already required and the only device likely to come under 1) above is the trap-oxidizer. Similarly, results from gaseous emission tests are already required and this regulation will only require the addition of a few numbers to whole pages of values.

Given that the reporting requirements of this regulation only involve minor additions to existing requirements, EPA does not find it reasonable to automatically delete these requirements if affirmative action is not taken within five years. Rather, EPA believes that it is in the public's best interest to perform a review of the reporting requirements of this regulation along with the review of all of the reporting requirements of mobile source air pollution regulation. This review of reporting requirements will be part of an overall review of the regulations themselves which will take place within the next five years.

Note.—The Administrator has determined that this action is a "Significant" regulation. We have prepared a document entitled "Heavy-Duty Diesel Particulate Regulations: Regulatory Analysis" detailing the Regulatory Analysis and other analyses required by Executive Order 12044 and the Economic Impact Assessment required by Section 317 of the amended Clean Air Act. Anyone may review and reproduce this document in the EPA Central Docket Section. Copies are also available upon request.

Dated: December 23, 1980.

Douglas M. Costle,

Administrator.

EPA proposes to amend Subparts A and N of 40 CFR Part 86 as set forth below:

1. Section 86.086-11 is revised to read as follows:

§ 86.086-11 Emission standards for 1986 and later model year diesel heavy-duty engines.

(a)(1) Exhaust emissions from new 1986 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower hour as measured under transient operating conditions (Subpart N).

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(iv) *Particulate matter.* 0.25 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emissions generated over operating schedules as set forth in Subpart N and measured and calculated in accordance with those procedures.

(b)(1) The opacity of smoke emissions from new 1986 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1986 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to turbocharged engines.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b) and (c) of this section.

2. A new § 86.086-28 is proposed to read as follows:

§ 86.086-28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, exhaust NOx, and exhaust particulate (diesel vehicles only) for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer (gasoline-fueled vehicles only).

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(*1*) All valid exhaust emission data from the tests required under § 86.086-26(a)(4) except the zero-mile tests. This shall include the official test results, as determined in § 86.084-29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.086-24(c) (including all vehicles elected to be operated by the manufacturer under § 86.086-24(c)(1)(ii)).

(*2*) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.086-25.

(*3*) All exhaust emission data from tests required by maintenance approved under § 86.086-25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the low-altitude standards provided in § 86.085-8 or § 86.085-9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor=Exhaust emissions interpolated to 50,000 miles divided by exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29-67.

(C) An evaporative emissions deterioration factor (gasoline-fueled vehicles only) shall be determined from the testing conducted as described in § 86.086-21(g)(4)(i), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor=Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust-emission test results for each emission-data vehicle at the 4,000-mile test point shall be multiplied by the appropriate deterioration factor: *Provided:* That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results (gasoline-fueled vehicles only) for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided:* That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraphs (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29-67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (a)(4)(iii) of this section before any vehicle in that family may be certified.

(b)(1) Paragraph (b) of this section applies to light-duty trucks and heavy-duty engines.

(2) The exhaust and fuel evaporative emission standards of § 86.085-9, § 86.086-10, and § 86.086-11, as appropriate, apply to the emissions of vehicles or engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle or engine, deterioration factors will be used in combination with emission-data test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle or engine with exhaust emission standards, based on preliminary deterioration factors supplied by the manufacturer. The procedure described here shall be used for the first model year for which the manufacturer applies for a certificate of conformity with the applicable emission standards for an engine family-control system combination, and for the second model year as well if the criteria of §§ 86.086-26 (b)(3) and (c)(3) are met.

(ii) Separate preliminary exhaust emission deterioration factors, determined from tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established for transient HC, CO, and NOx, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel heavy-duty engines only). For heavy-duty diesel engines, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C").

(iii)(A) For transient HC, CO, and NO_x, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel heavy-duty engines only), the official exhaust emission results for each emission-data vehicle at the 4,000-mile test point, or for each emission-data engine at the 125 hours test point, shall be adjusted by multiplication by the appropriate deterioration factors. However, if the deterioration factors supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the 125-hour test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29-67 for each emission-data vehicle or engine.

(5)(i) Paragraph (b)(5) of this section describes the procedure for determining compliance of a new vehicle or engine with exhaust emission standards, based upon partial or full results of in-use mileage accumulation.

(ii) Separate emission deterioration factors shall be determined from the emission results collected to date from the durability-data vehicles or engines in each engine-system combinations. Separate factors shall be established for transient HC, CO, and NOx, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel heavy-duty engines only). For heavy-duty diesel engines, separate factors for smoke shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C").

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) The results of the emission tests conducted on light-duty trucks durability-data vehicles after accumulating 4,000-mile according to the Durability Driving Schedule, or on heavy-duty durability-data engine after accumulating 125 hours manufacturer's dynamometer service accumulation schedule. The mileage point for these results shall be taken to be 4,000 miles for the purpose of this section.

(*2*) The results of all emission tests conducted on durability-date vehicles and engines during in-use mileage accumulation, as required or permitted by § 86.086-26(b)(5)(v) (light-duty trucks) or § 86.086-26(c)(5)(v) (heavy-duty engines), except those excluded under § 86.086-25(b)(1)(xi) or § 86.086-26(b)(5)(vii) for light-duty trucks, or § 86.086-25(b)(1)(xi) or § 86.086-26(c)(5)(vii) for heavy-duty engines. The mileage points for heavy-duty engine results shall be adjusted by the addition of 4,000 miles at the time of deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of accumulated in-use mileage. Separate plots shall be made for each durability data vehicle or engine. All least squares regression lines plus high mileage values and low mileage values resulting from the procedures of paragraph (b)(5) shall be shown on these plots.

(C)(*1*) Deterioration factors for each vehicle or engine for transient HC, CO, and NOx, for idle CO (gasoline-fueled vehicles and engines only), and exhaust particulate (light-duty diesel trucks and heavy-duty diesel engines only) shall be calculated by dividing the high mileage value of paragraph (b)(5)(ii)(E) by the low mileage value of paragraph (b)(5)(ii)(D). A factor less than one shall be set equal to one.

(*2*) Deterioration factors for each heavy-duty diesel engine for acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), shall be calculated by subtracting the low mileage value of paragraph (b)(5)(ii)(D) from the high mileage value of paragraph (b)(5)(ii)(E). A negative factor shall be set equal to zero.

(D) The low mileage value shall be based upon all applicable data for mileage prior to the actual change point for any external aftertreatment device (e.g., catalyst or particulate trap-oxidizers). The best fit straight line shall be fitted to this data by the method of least squares. The low mileage values shall be the value of this line interpolated to the 4,000-mile point.

(E) The high mileage value shall be calculated as follows:

(*1*) Prior to the actual change for any external aftertreatment device, the high mileage value shall be the larger of the values resulting from the following two methods.

(*i*) The best fit straight line fitted by the method of least squares to the applicable data and extrapolated (or interpolated if the in-use mileage accumulation is complete) to the high mileage point. The high mileage point shall be either the useful life or a mileage which represents a point 50 percent of the useful life past the current mileage, whichever is smaller.

(*ii*) The highest of any data points (or average of results if the manufacturer conducted multiple tests at each point) which exceed two standard errors of the estimate from the best fit straight line fitted by the method of least squares to the applicable data.

(*2*) After the actual change of any external aftertreatment device, in the case where only one applicable mileage test point exists after the change, the value (or average of values) shall be compared to the value of the best fit straight line of paragraph (b)(5)(ii)(D) extrapolated to that mileage. If the value (or average of values) falls below the line it shall not be used in the calculations, and the high mileage value shall be as determined in subparagraph (*1*) above. If the value (or average of values) falls on or above the line, the data for the test point after the change of the external aftertreatment device shall be added to the data used in subparagraph (*1*) above and the high mileage value recomputed by the procedure of subparagraph (*1*). In this case, the low mileage value of paragraph (b)(5)(ii)(D) shall also be recalculated based upon inclusion of the additional data.

(*3*) After the actual change of any external aftertreatment device, in the case where two or more applicable data shall be divided into two sets. The first set shall include all data for mileage points prior to the change point. The second set shall include all data for mileage points after the change point. The procedure of subsection (*1*) above shall be performed separately for each set of data. The actual high mileage value shall be that from whichever data set yields the higher value.

(F) The single in-use deterioration factor for each engine family-control system combination for each of transient HC, CO, and NO_x, idle CO (gasoline vehicles and engines only), exhaust particulates (diesel light-duty trucks and diesel heavy-duty engines only) and the acceleration, lugging, and peak capacity smoke modes (heavy-duty diesel engines), shall be the arithmetic mean of the corresponding factors for each engine as determined in paragraph (b)(5)(ii)(C) of this section.

(iii)(A) For transient HC, CO, and NO_x, idle CO (gasoline vehicles and engines only), and exhaust particulate (diesel light-duty trucks and diesel Heavy-duty engines only), the official exhaust emission results for each emission-data vehicle or engine at the 4,000-mile or 125 hour test point shall be adjusted by multiplication by the appropriate deterioration factor.

(B) For acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the 125-hour test point shall be adjusted by the addition of the appropriate deterioriation factor.

(iv) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data vehicle or engine.

(6)(i) Paragraph (b)(6) of this section describes the procedure for determining compliance of a new light-duty truck with fuel evaporative emission standards. The procedure described here shall be used for all vehicles in all model years.

(ii) The manufacturer shall determine, based on testing described in § 86.086–21(b)(4)(ii), and supply an evaporative emission deterioration factor for each evaporative emission family-evaporative emission control system combination. The factor shall be calculated by subtracting the emission level at 4,000 miles from the emission level at the useful life point.

(iii) The official evaporative emission test results for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission value to compare with the standards shall be the adjusted emission value of paragraph (b)(6)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each evaporative emission-data vehicle.

(7) Every test vehicle or engine of an engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iv) or (b)(5)(iv) and paragraph (b)(6) of this section, before any vehicle or engine in that family will be certified.

(C) [Reserved]

(2)–(6) [Reserved]

3. The following sections are added to the table of contents under Subpart N.

Subpart N—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous and Particulate (Diesels Only) Exhaust Test Procedures

* * * * *

Sec.

86.1301–86 Scope; applicability.
86.1302–86 Definitions.
86.1303–86 Abbreviations.
86.1304–86 Section numbering; construction.
86.1305–86 Introduction; structure of subpart.
86.1306–86 Equipment required and specifications; overview.
86.1307–86 [Reserved]
86.1308–86 Dynamometer and engine equipment specifications.
86.1309–86 Exhaust gas sampling system; gasoline-fueled engines.
86.1310–86 Exhaust gas sampling and analytical system; diesel engines.
86.1311–86 Exhaust gas analytical system; CVS bag sample.
86.1312–86 Weighing chamber (or room) and microgram balance specifications.
86.1313–86 Fuel specifications.
86.1314–86 Analytical gases.
86.1315–86 [Reserved]
86.1316–86 Calibrations; frequency and overview.
86.1317–86 [Reserved]

86.1318–86 Engine dynamometer calibrations.
86.1319–86 CVS calibration.
86.1320–86 Gas meter or flow instrumentation calibration, particulate measurement.
86.1321–86 Hydrocarbon analyzer calibration.
86.1322–86 Carbon monoxide analyzer calibration.
86.1323–86 Oxides of nitrogen analyzer calibration.
86.1324–86 Carbon dioxide analyzer calibration.
86.1325–86 [Reserved]
86.1326–86 Calibration of other equipment.
86.1327–86 Engine dynamometer test procedures; overview.
86.1328–86 [Reserved]
86.1329–86 [Reserved]
86.1330–86 Test sequence; general requirements.
86.1331–86 [Reserved]
86.1332–86 Engine map procedures.
86.1333–86 Transient test cycle generation.
86.1334–86 Pre-test engine and dynamometer preparation.
86.1335–86 Optional forced engine cool-down procedure.
86.1336–86 Engine starting and restarting.
86.1337–86 Engine dynamometer test run.
86.1338–86 Emission measurement accuracy.
86.1339–86 Diesel particulate filter handling and weighing.
86.1340–86 Exhaust sample analysis.
86.1341–86 Test cycle validation criteria.
86.1342–86 Calculations; exhaust emissions.
86.1343–86 [Reserved]
86.1344–86 Information required.

Subpart N—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous and Particulate (Diesels Only) Exhaust Test Procedures

4. A new § 86.1301–86 is added and reads as follows:

§ 86.1301–86 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled and the gaseous and particulate emission test procedure for heavy-duty diesel engines. It applies to 1986 and late model years.

5. A new § 86.1302–86 is added and reads as follows:

§ 86.1302–86 Definitions.

The definitions in § 86.084–2 apply to this subpart.

6. A new § 86.1303–86 is added and reads as follows:

§ 86.1303–86 Abbreviations.

The abbreviations in § 86.084–3 apply to this subpart.

7. A new § 86.1304–86 is added and reads as follows:

§ 86.1304–86 Section numbering; construction.

(a) The model year of initial applicablity is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example: Section § 86.1311–86 applies to the 1986 and subsequent model years until superseded. If a section § 86.1311–88 is promulgated it would take effect beginning with the 1988 model year; § 86.1311–86 would apply to model years 1986 through 1987.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated, all provisions in this subpart apply to both gasoline-fueled and diesel heavy-duty engines.

8. A new § 86.1305–86 is added and reads as follows:

§ 8.1305–86 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust emission tests on gasoline-fueled and diesel heavy-duty engines. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.1306–86 through 86.1315–86 set forth specifications and equipment requirements; §§ 86.1316–86 through 86.1326–86 discuss calibration methods and frequency; test procedures are listed in §§ 86.1327–86 through 86.1341–86; calculation formulas are found in § 86.1342–86; data requirements are found in § 86.1344–86.

9. A new § 86.1306–86 is added and reads as follows:

§ 86.1306–86 Equipment required and specifications; overview.

This subpart contains procedures for exhaust emissions tests on diesel or gasoline-fueled heavy-duty engines. Equipment required and specifications are as follows:

(a) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Diesel and gasoline-fueled engines are tested identically with the exception of hydrocarbon measurements; diesel engines require a heated hydrocarbon detector, § 86.1310–86. Necessary equipment and specifications appear in sections 86.1308–86 through 86.1311–86.

(b) *Fuel, analytical gas, and engine cycle specifications.* Fuel specifications for exhaust emission testing are specified in § 86.1313–86. Analytical gases are specified in § 86.3414–86. The EPA heavy-duty transient engines cycles for use in exhaust testing are described in § 86.1333–86 and specified in Appendix I.

10. A new § 86.1307–86 is added and reserved as follows:

§ 86.1307–86 [Reserved]

11. A new § 86.1308–86 is added and reads as follows:

§ 86.1308–86 Dynamometer and engine equipment specifications.

(a) *Engine dynamometer.* The engine dynamometer system must be capable of controlling engine torque and rpm simultaneously over transient cycles. The transient torque and rpm schedules described in § 86.1333–86 and specified Appendix I (f and g) must be followed within the accuracy requirements specified in § 86.1341–86. In addition to these general requirements, the dynamometer read out and read out signals for speed and torque shall meet the following accuracy specifications:

(1) Engine speed shall be accurate to within 2 percent of point at all speeds.

(2) Engine torque at the flywheel shall be accurate to within 3 percent of point at all torque settings above 10 percent of full-scale of the torque measuring device. Below 10 percent of full-scale, the torque measuring device shall have an accuracy of:

(1) ±2.5 ft.-lbs., if the full scale value is 550 ft.-lbs. or less.

(ii) ±5 ft.-lbs., if the full scale value is 1050 ft.-lbs. or less.

(iii) ±10 ft.-lbs., if the full scale value is greater than 1050 ft.-lbs.

(3) *Option:* Internal dynamomter signals (i.e., armature current, etc.) may be used for torque measurement provided that it can be shown that the true engine flywheel torque during the test cycle conforms to the test cycle values as specified in § 86.1333–86, and if the technique is approved in advance by the Administrator. The minimum requirement for the Administrator's approval would include compensation for increased or decreased flywheel torque due to the armature inertia during accelerations and decelerations in the test cycle. Engineering data and comparison test results may be required.

(b) *Cycle verification equipment.* In order to verify that the test engine has followed the test cycle correctly, the dynamometer read out signals for speed and torque must be collected in a manner that allows a statistical correlation between the actual engine performance and the test cycle (See § 86.1341–86). Normally this collection process would involve conversion of analog dynamometer signals into digital values for storage in a computer. The conversion of dynamometer read out values into values (computer or other) that are used to evaluate the validity of engine performance in relation to the test cycle shall be performed in a manner such that:

(1) Speed values used for cycle evaluation are accurate to within 2 percent of the dynamometer speed read out value.

(2) Engine flywheel torque values used for cycle evaluation are accurate to within 3 percent of the dynamometer torque read out value.

(c) *Option:* For some systems it may be more convenient to combine the tolerances in paragraphs (a) and (b). This is permitted if the root mean square method (RMS) is used. The RMS values would then refer to accuracy in relationship to true value.

(1) Speed values used for cycle evaluation shall be accurate to within 2.8 percent of true value.

(2) Engine flywheel torque value used for cycle evaluation shall be accurate to within 4.2 percent of true value.

(d) *Speed calibration equipment.* A 60-tooth (or greater) wheel in combination with a common mode rejection frequency counter is considered an absolute standard for engine or dynamometer speed.

(e) *Torque calibration equipment.* Two techniques are allowed for torque calibration. Alternate techniques may be used if shown to be equivalent, and if prior approval is obtained from the Administrator.

(1) The lever-arm dead-weight technique involves the placement of known weights a known distance from the center of rotation of the torque measuring device. The equipment required is:

(i) *Calibration weights.* A minimum of 6 calibration weights for each range of torque measuring device used are required. The weights must be approximately equally spaced and each must be accurate to 0.5 percent of National Bureau of Standard weights. Laboratories located in foreign countries may certify calibration weights to local government bureau standards. Certification of weight accuracy by state government Bureau of Weights and Measures is acceptable. Effects of changes in gravitational constant at the test site may be accounted for if desired.

(ii) A lever arm with a minimum length of 24 inches. The distance from the center of the engine torque measurement device to the point of weight application shall be accurate to within 0.010 inches. The arm must be balanced or the hanging torque of the arm must be known within ±0.1 ft.-lbs.

(2) The transfer technique involves the use of a master load cell with a method of loading (usually hydraulic) the torque measuring device, or master unit that applies a known force to the torque measuring device based on piston area and pressure. The equipment required is:

(i) A master load cell or force application unit that must be calibrated at each test weight specified in paragraph (e)(1)(i) of this section with known weights traceable to within 0.1 percent of NBS weights. The provision on traceability in (e)(1)(i) apply to this section. The overall accuracy of the calibration curve of torque applied to the engine torque sensor as determined by the master units shall be within 0.5 percent of true value. Below 10 percent of full scale of the master unit the calibration curve of torque applied to the engine torque sensor shall be accurate to:

(A) ±0.5 ft.-lbs. of true value if full scale value is 550 ft.-lbs. or less.

(B) ±1.0 ft.-lbs. of true value if full scale value is 1050 ft.-lbs. or less.

(C) ±2.0 ft.-lbs. of true value if full scale value is greater than 1050 ft.-lbs.

(ii) A lever arm with a minimum length of 24 inches. The distance from the center of the engine torque measuring device to the point of force measurement or application shall be accurate to within 0.010 inches. The arm must be balanced or the hanging torque of the arm must be known within ±0.1 ft.-lbs.

(iii) Transfer of calibration or span from a dynamometer "case" torque value to the engine flywheel torque measuring device is permitted only under static or steady state conditions.

(3) Other techniques may be used if shown to be equivalent and if approved by the Administrator.

12. A new § 86.1309–86 is added and reads as follows:

§ 86.1309–86 Exhaust gas sampling system; gasoline-fueled engines.

(a)(1) *General.* The exhaust gas sampling system is designed to measure the true mass emissions of engine exhaust. In the CVS concept of measuring mass emissions, two conditions must be satisfied: the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned sample of volume must be collected for analysis. Mass emissions are determined from the sample concentration and total flow over the test period. The sampling and continuous analysis system specified in § 86.1310–86 for diesel engines may be used for testing gasoline-fueled engines if the systems meet all of the requirements for such systems as specified in this Subpart.

(2) *Positive displacement pump.* The positive displacement pump—constant volume sampler (PDP—CVS), Figure N86–1, satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional sample is achieved by sampling at a constant flow rate.

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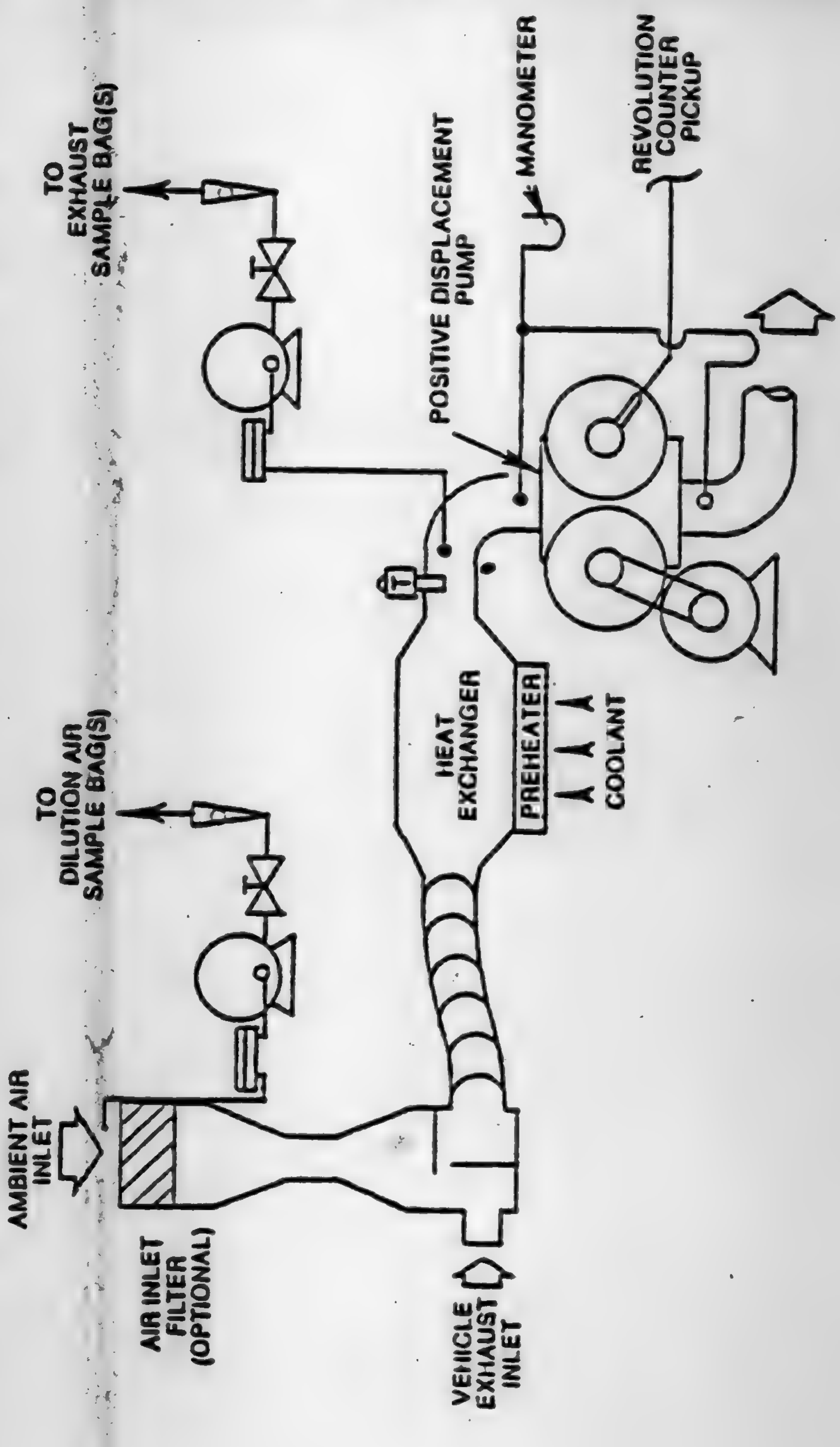
TO
EXHAUST
SAMPLE BAG(S)
MANOMETER
REVOLUTION
COUNTER
PICKUP
POSITIVE DISPLACEMENT
PUMP
TO
DILUTION AIR
SAMPLE BAG(S)
T
HEAT
EXCHANGER
PREHEATER
COOLANT
AMBIENT AIR
INLET
AIR INLET
FILTER
(OPTIONAL)
VEHICLE
EXHAUST
INLET

(SEE FIG. N86-7 FOR SYMBOL LEGEND)

FIGURE N86-1 — EXHAUST GAS SAMPLING SYSTEM PDP-CVS

FOR GASOLINE FUELED ENGINES

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(3) *Critical flow venturi.* The operation of the critical flow venturi—constant volume sampler (CFV–CVS), Figure N86–2, is based upon the principles of fluid dynamics associated with critical flow. The CVF system is commonly called a constant volume system (CVS) even though the flow varies. It would be more proper to call the critical flow venturi (CFV) system a constant proportion sampling system since proportional sampling throughout temperature excursions is maintained by use of a small CFV in the sample line. The variable mixture flow rate is maintained at sonic velocity, which is inversely proportional to the square root of the gas temperature, and is computed continuously. Since the pressure and temperature are the same at both venturi inlets, the sample volume is proportional to the total volume.

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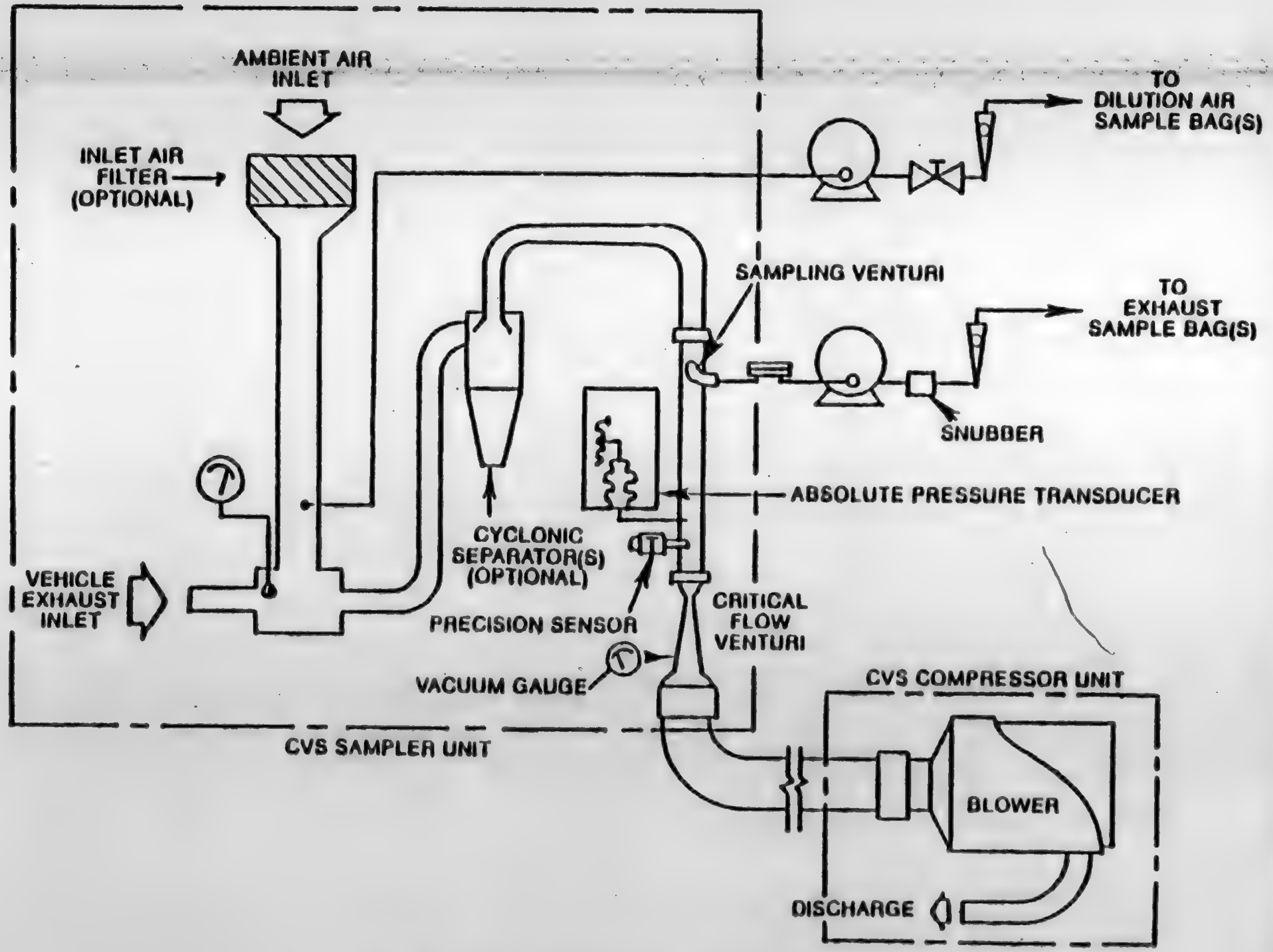
AMBIENT AIR INLET
INLET AIR FILTER (OPTIONAL)
VEHICLE EXHAUST INLET
CYCLONIC SEPARATOR(S) (OPTIONAL)
PRECISION SENSOR
VACUUM GAUGE
CVS SAMPLER UNIT
SAMPLING VENTURI
ABSOLUTE PRESSURE TRANSDUCER
CRITICAL FLOW VENTURI
SNUBBER
TO DILUTION AIR SAMPLE BAG(S)
TO EXHAUST SAMPLE BAG(S)
CVS COMPRESSOR UNIT
BLOWER
DISCHARGE

(SEE FIG. N86-7 FOR SYMBOL LEGEND)

FIGURE N86-2 — EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)
FOR GASOLINE FUELED ENGINES

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(4) *Other systems.* Other sampling and/or analytical systems including the systems described in § 86.1310–86 for diesel engines may be used if shown to yield equivalent results, and if approved in advance by the Administrator.

(b) *Component description, PDP–CVS.* The PDP–CVS, Figure N86–1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling system, and associated valves, pressure and temperature sensors. The PDP–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the engine shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer engine cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within ±10°F (5.6° C) of the designed operating temperature at the start of the test. The designed operating temperature may be estimated from the average operating temperature from similar tests. The gas mixture temperature variation (after the heat exchanger) during the entire test shall be limited to ±10°F (5.6° C) from its value at the start of the test. The temperature measuring system shall have an accuracy and precision of ±2° F (1.1°C).

(3) The pressure gauges shall have an accuracy and precision of ±3mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be sufficient size so as not to impede sample flow.

(c) *Component description, CFV–CVS.* The CFV–CVS, Figure N86–2 consists of a dilution air filter (optional) and mixing assembly, optional cyclonic particulate separator(s), sampling venturi, critical flow venturi, sampling system, and assorted valves, pressure and temperature sensors.

The CFV–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer engine cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C) and a response time of 0.100 seconds to 62.5 percent of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ±3mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to prevent water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

13. A new § 86.1310–86 is added and reads as follows:

§ 86.1310–86 Exhaust gas sampling and analytical system; diesel engines.

(a) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of both gaseous and particulate emissions in the exhaust of heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309–86) of measuring mass emissions of NO_x, CO, CO_2, and particulate. A continuously integrated system is required for HC measurement, and is allowed for NO_x, CO, and CO_2. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. The mass of particulate emissions is determined from a proportional mass sample collected on a filter and from the total flow over the test period. General requirements are as follows:

(1) This sampling system requires the use of a PDP–CVS, or a CFV–CVS with heat exchanger or with electronic flow compensation. Figure N86–3 is a schematic drawing of the PDP system. Figure N86–4 is a schematic drawing of the CFV system.

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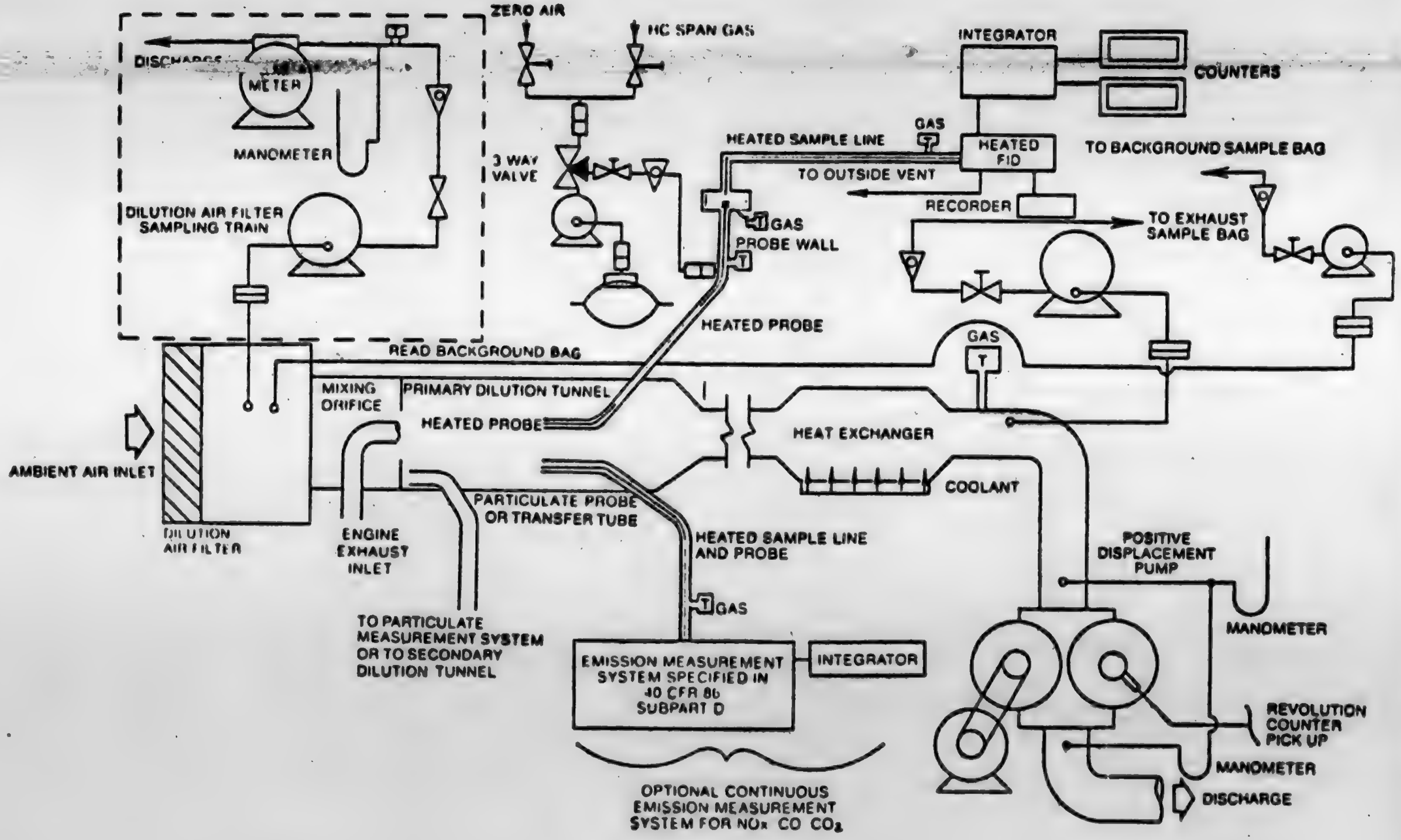
ZERO AIR
HC SPAN GAS
INTEGRATOR
COUNTERS
DISCHARGE
METER
MANOMETER
3 WAY VALVE
HEATED SAMPLE LINE
GAS
HEATED FID
TO BACKGROUND SAMPLE BAG
TO OUTSIDE VENT
RECORDER
DILUTION AIR FILTER SAMPLING TRAIN
GAS
PROBE WALL
TO EXHAUST SAMPLE BAG
HEATED PROBE
READ BACKGROUND BAG
GAS
MIXING ORIFICE
PRIMARY DILUTION TUNNEL
HEATED PROBE
HEAT EXCHANGER
AMBIENT AIR INLET
COOLANT
PARTICULATE PROBE OR TRANSFER TUBE
DILUTION AIR FILTER
ENGINE EXHAUST INLET
HEATED SAMPLE LINE AND PROBE
POSITIVE DISPLACEMENT PUMP
GAS
MANOMETER
TO PARTICULATE MEASUREMENT SYSTEM OR TO SECONDARY DILUTION TUNNEL
EMISSION MEASUREMENT SYSTEM SPECIFIED IN 40 CFR 86 SUBPART D
INTEGRATOR
REVOLUTION COUNTER PICK UP
MANOMETER
DISCHARGE
OPTIONAL CONTINUOUS EMISSION MEASUREMENT SYSTEM FOR NOx CO CO2

FIGURE N86-3
GASEOUS AND PARTICULATE EMISSIONS SAMPLING SYSTEM (PDP-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

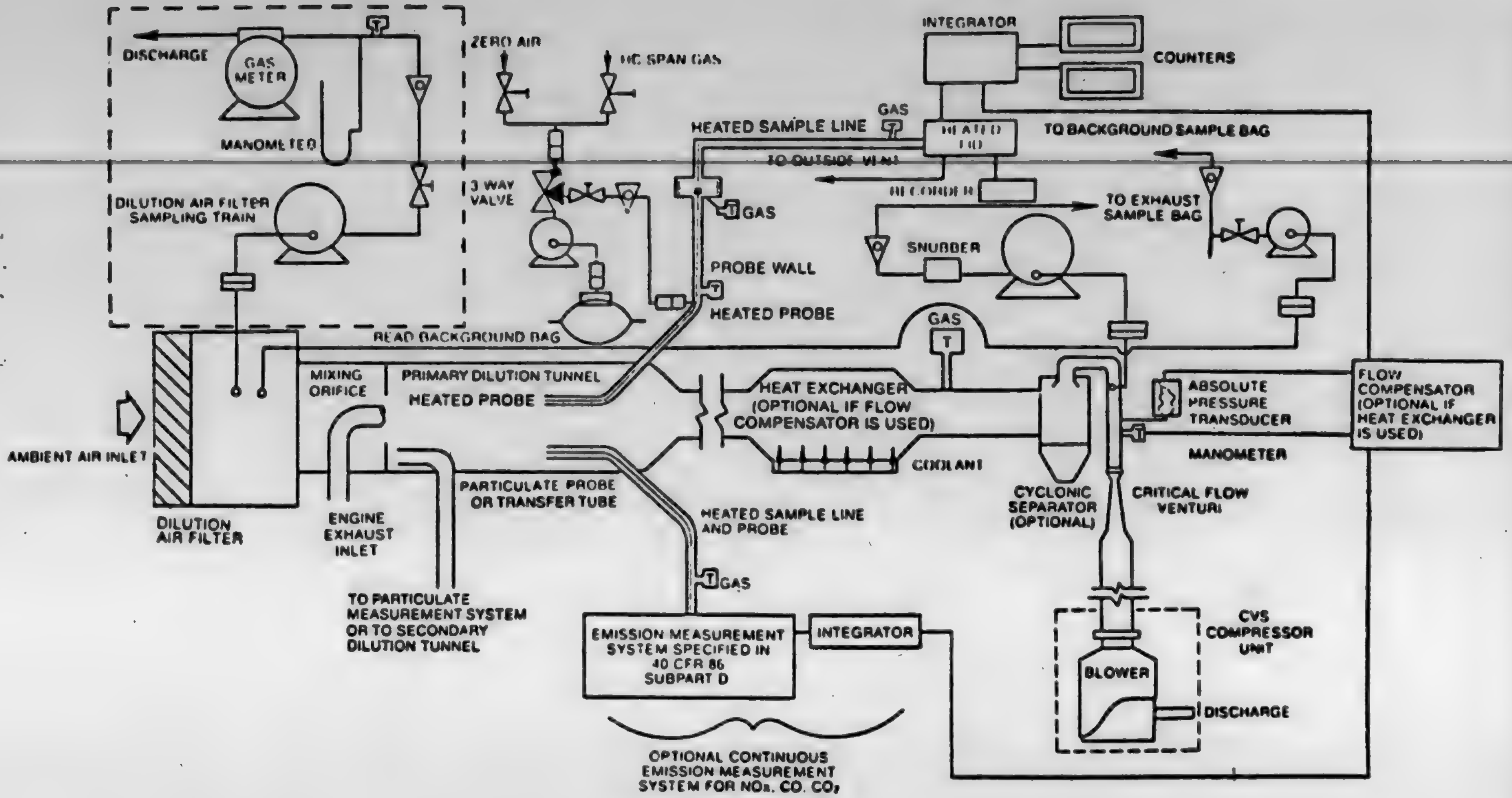
DISCHARGE
GAS METER
MANOMETER
DILUTION AIR FILTER SAMPLING TRAIN
ZERO AIR
HC SPAN GAS
3 WAY VALVE
READ BACKGROUND BAG
INTEGRATOR
COUNTERS
GAS
HEATED SAMPLE LINE
HEATED FID
TO BACKGROUND SAMPLE BAG
TO OUTSIDE VENT
RECORDER
GAS
TO EXHAUST SAMPLE BAG
SNUBBER
PROBE WALL
HEATED PROBE
GAS
T
AMBIENT AIR INLET
MIXING ORIFICE
PRIMARY DILUTION TUNNEL
HEATED PROBE
HEAT EXCHANGER (OPTIONAL IF FLOW COMPENSATOR IS USED)
COOLANT
ABSOLUTE PRESSURE TRANSDUCER
FLOW COMPENSATOR (OPTIONAL IF HEAT EXCHANGER IS USED)
MANOMETER
DILUTION AIR FILTER
ENGINE EXHAUST INLET
PARTICULATE PROBE OR TRANSFER TUBE
HEATED SAMPLE LINE AND PROBE
CYCLONIC SEPARATOR (OPTIONAL)
CRITICAL FLOW VENTURI
TO PARTICULATE MEASUREMENT SYSTEM OR TO SECONDARY DILUTION TUNNEL
GAS
EMISSION MEASUREMENT SYSTEM SPECIFIED IN 40 CFR 86 SUBPART D
INTEGRATOR
CVS COMPRESSOR UNIT
BLOWER
DISCHARGE
OPTIONAL CONTINUOUS EMISSION MEASUREMENT SYSTEM FOR NOx, CO, CO2

FIGURE N86-4
GASEOUS AND PARTICULATE EMISSIONS SAMPLING SYSTEM (CFV-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

BILLING CODE 6560-26-C

(2) The HC analytical system for diesel engines requires a heated flame ionization detector (HFID) and heated sample system.

(i) The HFID sample must be taken directly from the diluted exhaust stream through a heated probe and integrated continuously over the test cycle. Unless compensation for varying flow is made, the HFID must be used with a constant flow system to insure a representative sample.

(ii) The heated probe shall be located downstream of a mixing chamber that provides a uniform sample distribution across the CVS duct.

(iii) The dillution tunnel similar to those used for diesel particulate sampling may be used as a mixing chamber for gaseous emissions also.

(3) *Option:* Continously integrated measurement of diluted NO_x, CO, and CO_2 is permitted; however, prior approval of the Administrator is required. Test results will be required as well as engineering data and detailed system specifications to gain this approval. Minimum requirements and technical specifications are given in (b)(5) of this section.

(4) Bag sampling (§ 86.1309–86) and analytical (§ 86.1311–86) capabilities as shown in N86–3 (or Figure N86–4) are required, to provide both gaseous and particulate emissions sampling capabilities from a single system if NO_x, CO or CO_2 are not measured continuously.

(5) Since various configurations can produce equivalent results, exact conformance with these drawings is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(6) Other sampling and/or analytical systems may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(b) *Component description.* The components necessary for diesel exhaust sampling shall meet the following requirements:

(1) The PDP–CVS, shall conform to all of the requirements listed for the exhaust gas PDP–CVS (§ 86.1309–86(b)). The CFV–CVS shall conform to all of he requirements listed for the exhaust gas CFV-CVS (§ 86.1309–86(c)). In addition, the CVS must conform to the following requirements:

(i) The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at a temperature that will satisfactorily measure particulate and/or hydrocarbon measurements. This may be achieved by either of the following methods:

(A) *Single-dilution method.* A CVS of sufficient flow capacity to maintain a temperature of 125° F (51.7° C) or less at the sampling zone may be used with the primary-dilution tunnel. Direct sampling of the particulate material may then take place (Figure N86–5).

BILLING CODE 6560-26-M

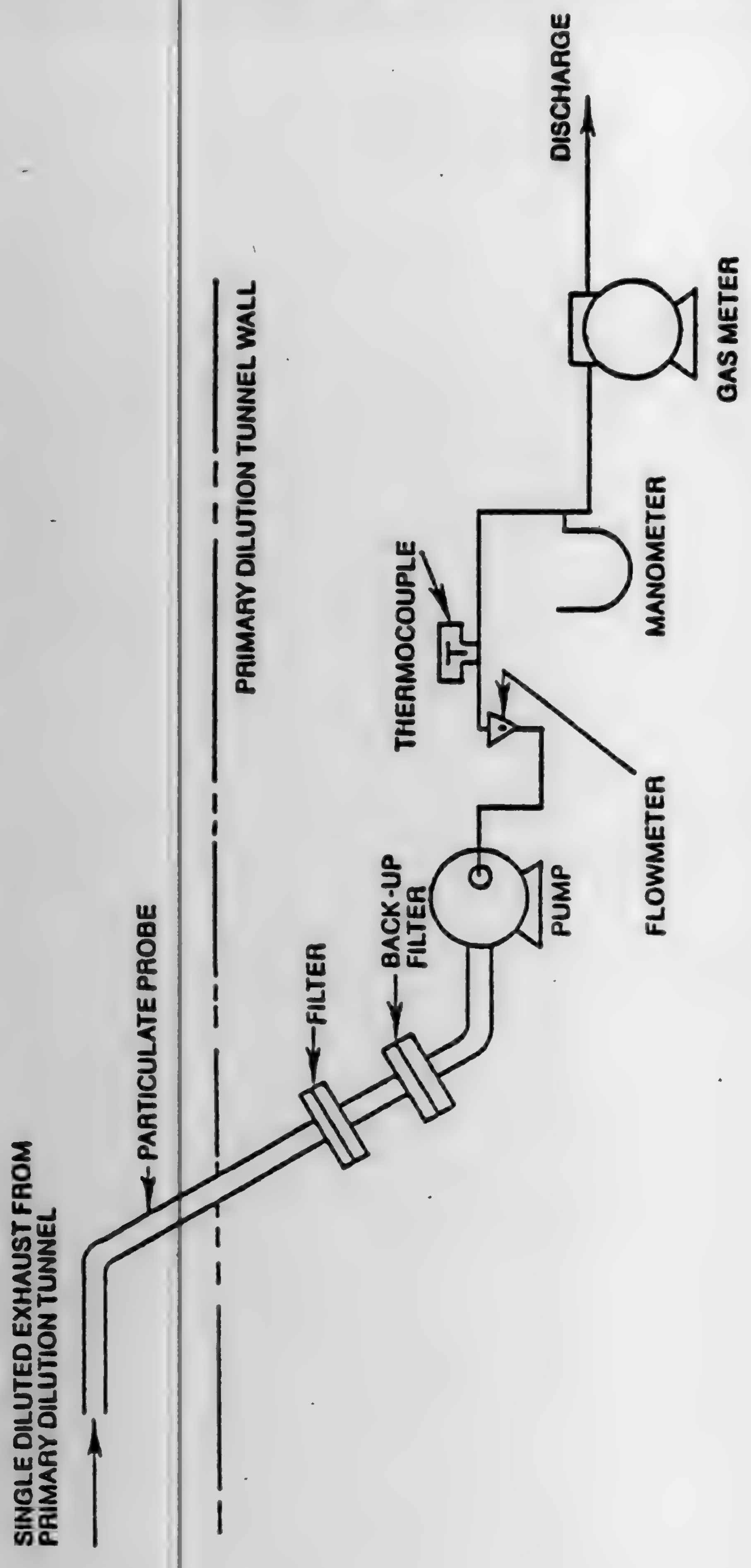
SINGLE DILUTED EXHAUST FROM PRIMARY DILUTION TUNNEL
PARTICULATE PROBE
PRIMARY DILUTION TUNNEL WALL
FILTER
BACK-UP FILTER
PUMP
FLOWMETER
THERMOCOUPLE
MANOMETER
GAS METER
DISCHARGE

FIGURE N86-5
SINGLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

BILLING CODE 6560-26-C

(B) *Double-dilution method.* A smaller size CVS may be used with a smaller primary-dilution tunnel (i.e., smaller than the dilution tunnel or CVS described in § 86.1310–86(b)(1)(A)), and a secondary-dilution tunnel system (Figure N86–6). The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream in the primary-dilution tunnel at a temperature of 375° F (191° C) or less at the sampling zone. The secondary dilution tunnel system must be designed to provide sufficient secondary dilution air to maintain the double diluted exhaust stream at a temperature of 125° F (51.7° C) or less immediately before the particulate filter.

BILLING CODE 6560-26-M

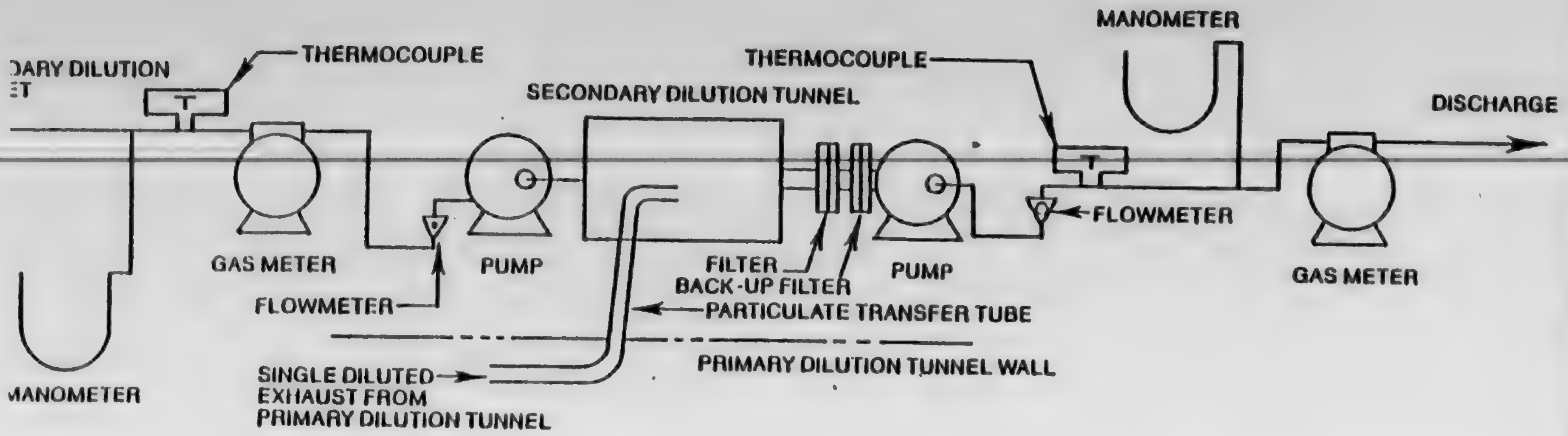
DARY DILUTION
ET
THERMOCOUPLE
MANOMETER
GAS METER
FLOWMETER
PUMP
SECONDARY DILUTION TUNNEL
SINGLE DILUTED
EXHAUST FROM
PRIMARY DILUTION TUNNEL
FILTER
BACK-UP FILTER
PARTICULATE TRANSFER TUBE
PRIMARY DILUTION TUNNEL WALL
PUMP
THERMOCOUPLE
MANOMETER
FLOWMETER
GAS METER
DISCHARGE

FIGURE N86-6
DOUBLE DILUTION PARTICULATE MEASUREMENT SYSTEM
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N86-7 FOR SYMBOL LEGEND)

BILLING CODE 6560-26-C

(ii) for the CFV–CVS, a heat exchanger or electronic flow compensation (which includes the particulate sample flows) is required (see Figure 86–4).

(iii) For the CFV-CVS, the gas mixture temperature, measured at a point immediately ahead of the critical flow venturi, shall be within ±20° F (11° C) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to ±20° F (11° C) during the entire test. The temperature measuring system shall have an accuracy and precision of ±2° F (1° C).

(2) The transfer of heat from the engine exhaust gas shall be minimized between the point where it leaves the chassis exhaust system and the point where it enters the primary-dilution tunnel airstream. To accomplish this, a short length (not more than 12 feet (3.66 m) if uninsulated, or not more than 20 feet (6.1 m), if insulated) of smooth stainless steel tubing rom the muffler to the primary-dilution tunnel is required. This tubing shall have a maximum inside diameter of 6.0 inches (15.2 cm). Short sections (altogether not to exceed 20 percent of the entire tube length) of flexible tubing at connection points are allowed. If insulated, the radial thickness of the insulation must be at least R inches, where,

R=16(k)−2(r), where
k=Thermal conductivity of the insulating material (Btu/hr-ft-° F), and
r=Outer radius of uninsulated tubing (inches).

(3) The engine exhaust shall be directed downstream at the point where it is introduced into the primary-dilution tunnel.

(4) the primary-dilution air shall be: (i) a temperature of 77±9° F (25±5° C).

(ii) Filtered at the dilution air inlet.

(5) The primary-dilution tunnel shall be:

(i) Sized to permit development of turbulent flow (Reynolds No. >4000) and complete mixing of the exhaust and dilution air between the mixing orifice; and

(ii) At least 18 inches (43 cm) in diameter with a single-dilution system or at least 8 inches (36 cm) in diameter with a double dilution system;

(iii) Constructed of electrically conductive material which does not react with the exhaust components.

(6) The temperature of the diluted exhaust stream inside of the primary-dilution tunnel shall be sufficient to prevent water condensation.

(7) The particulate collection system must be configured in either of two basic ways, and depends upon the dilution method used. The *single-dilution* method utilizes a system that removes a single-diluted proportional sample from the primary tunnel, and then passes this sample through the collection filter (Figure N86–5).

The *double-dilution* method utilizes a collection system that transfers a single-diluted proportional sample from the primary tunnel to a secondary-dilution tunnel where the sample is further diluted, and then passes the complete double-diluted sample through the collection filter (Figure N86–6). In this system proportional sampling is achieved by: (1) introducing the secondary dilution air at a constant mass flow rate, and (2) removing the double-diluted sample at a constant mass flow rate. The requirements for these two systems follow:

(i) *Single-dilution method.* (A) The particulate sample probe shall be:

(*1*) Installed facing upstream at a point where the dilution air and exhaust air are will mixed (i.e., on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary dilution tunnel).

(*2*) Sufficiently distant (radially) from other sampling probes so as to be free from the influence of any wakes or eddies produced by the other probes.

(*3*) 1.27 cm (0.5 in.) minimum inside diameter.

(*4*) The distance from the sampling tip to the filter holder shall be at least 5 probe diameters (for filters located inside of the primary dilution tunnel), but not more than 40 inches (102 cm) for filters located outside of the primary-dilution tunnel.

(*5*) Designed to minimize the deposition of particulate in the probe (e.g., bends should be as gradual as possible, protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(B) The particulate sample pump(s) shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained at a constant temperature (±5.4° F (3° C)).

(C) The gas meters or flow instrumentation shall be located sufficiently distant from the tunnel so that the inlet gas temperature remains constant(±5° F (2.8° C)).

(ii) *Double-dilution method.* (A) The particulate sample transfer tube shall be configured and installed so that:

(*1*) The inlet faces upstream in the primary-dilution tunnel at a point where the primary-dilution air and exhaust are well mixed (i.e., on the primary tunnel centerline, approximately 10 tunnel diameters downstream of the point where the exhaust enters the primary-dilution tunnel).

(*2*) The exit faces downstream in the secondary-dilution tunnel.

(*3*) The single-diluted sample exists on the centerline of the secondary tunnel.

(B) The particulate sample transfer tube shall be:

(*1*) Sufficiently distant (radially) from other sampling probes (in the primary-dilution tunnel) so as to be free from the influence of any wakes or eddies produced by the other probes.

(*2*) 0.5 inches (1.27 cm) minimum inside diameter.

(*3*) No longer than 35 inches (91.4 cm) from inlet plane to exit plane.

(*4*) Designed to minimize the deposition of particulate during transfer (e.g., bends should be as gradual as possible protrusions (due to sensors, etc.) should be smooth and not sudden, etc.).

(*5*) Constructed of electrically conductive material which does not react with the exhaust components.

(C) The secondary dilution air shall be at a temperature of 77 ±9° F (25 ±5° C).

(D) The secondary-dilution tunnel shall be:

(*1*) 3.0 inches (7.62 cm) minimum inside diameter.

(*2*) Of sufficient length so as to provide a residence time of at least 0.25 seconds for the double-diluted sample.

(*3*) Constructed of electrically conductive material which does not react with the exhaust components.

(E) Additional dilution air must be provided so as to maintain temperature of 125° F (51.7° C) immediately before the sample filter. This dilution air must be introduced at a constant mass flow rate in order to maintain proportional sampling. Determination of the mass of air entering the secondary dilution tunnel is required. Introduction and measurement can be achieved by either of the following methods:

(*1*) A PDP-type pump flowing filtered dilution air at a constant temperature (77 ±9° F (25 ±5° C)) and pressure (atmospheric is acceptable) along with a gas meter or flow instrumentation for mass determination. (See § 86.1320–86 for calibration specifics.) The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains constant (77 ±9° F (25 ±5° C)).

(*2*) A choked critical flow orifice flowing filtered dilution air. For mass determination a gas meter or other surface flow instrumentation is acceptable. (See § 86.1320–86 for calibration specifics.) The gas meter or flow instrumentation shall be located so that the inlet gas temperature remains constant (77 ±9° F (25 ±5° C)).

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(F) The primary filter holder shall be located within 12.0 inches (7.5 cm) of the exit of the secondary-dilution tunnel.

(G) The particulate sample pump shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained constant (±5° F (2.8° C)).

(H) The gas meter or flow instrumentation (if double-dilution this means the downstream device) shall be located sufficiently distant from the tunnel (either primary or secondary) so that the inlet gas temperature remains constant (±5° F (±2.8° C)).

(8) *Continuous HC measurement system. (i) The continuous HC sample system (as shown in Figure N86–3 or N86–4) shall be an "overflow calibration (or span) gas" type system. In this type of system, excess span or calibration gas spills out of the probe during calibration of the analyzer.*

(ii) No other analyzers may draw a sample from the continuous HC sample probe, line or system.

(iii) The span, calibration, or background sample flow rates into the sample line shall be between 190 and 210 percent of the HFID analyzer flow rate.

(iv) The span, calibration or background gases shall enter the heated sample line no farther than 4 inches from the CVS duct or dilution tunnel outside surface.

(v) The continuous hydrocarbon probe shall be:

(A) Installed in the primary dilution tunnel facing upstream at a point where the dilution air and exhaust are well mixed (i.e., approximately 10 tunnel diameters downstream of the point where the exhaust enters the dilution tunnel).

(B) Sufficiently distant (radially) from other probes so as to be free from the influence of any wakes or eddies produced by the other probes.

(C) Heated and insulated over the entire length to maintain a 375° ±20° F (191° ±11° C) wall temperature. The radial thickness of the insulation must be at least R inches, where

R = 16(k) − 2(r), where
k = Thermal conductivity of insulating material (Btu/hr-ft-° F), and
r = Outer radius of uninsulated probe (inches).

(D) 0.5 in. (1.27 cm) minimum inside diameter.

(vi) It is intended that the total hydrocarbon probe be free from cold spots (i.e., free from spots where the probe *wall* temperature is less than 355° F (180° C)).

(vii) The dilute exhaust *gas* flowing in the total hydroicarbon sample system shall be:

(A) At 375° ±10° F (191° ±6° C) immediately before the heated filter. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor shall have an accuracy and precision of ± 2° F(1.1° C).

(B) at 375° ±10° F (191° ±6° C) immediately before HFID. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor shall have an accuracy and precions of ±2° F (1.1° C).

(viii) It is intended that the dilute exhaust gas flowing in the total hydrocarbon sample system be between 365° F and 385° F (185° C and 197° C) *gas* temperature.

(ix) The response time of the continuous measurement system shall be:

(A) 1.5 seconds from an instantaneous step change at the probe entrance to the analyzer to within 95 percent of the step change.

(B) 5.5 seconds from an instantaneous step change at the entrance to the sample probe or overflow span gas port to within 95 percent of the step change.

(C) For the purpose of verification of response times, the step change shall be at least 60 percent of fullscale chart deflection.

(9) Optional continuously integrated NO_x, CO, and CO_2 measurement system.

(i) The sample probe shall:

(A) Be in the same plane as the continuous HC probe, but shall be sufficiently distant (radially) from other probes so as to be free from the influences of any wakes or eddies produced by other probes.

(B) Shall face upstream.

(C) Heated and insulated over the entire length to prevent water condensation, minimum temperature is 55°C (131°F). Sample *gas* temperature immediately before the first filter in the system shall be at least 55°C (131°F).

(ii) The continuous NO_x, CO, or CO_2 sampling and analysis system shall conform to the specifications of 40 CFR 86, Subpart D with the following exceptions and revisions:

(A) The system components required to be heated by Subpart D need only be heated to prevent water condensation, the minimum temperature allowed is 55°C (131°F).

(B) The system response defined in § 86.329–79 shall be no greater than 5.5 seconds. Longer response time may be allowed if analysis system response time is coordinated with CVS flow fluctuations, is shown to be equivalent to the 5.5 second system, and if prior approval is granted by the Administrator.

(C) Alternative NO_x measurement techniques outlined in § 86.346–79 are not permitted for NO_x measurement in this Subpart.

(D) All analytical gases shall conform to the specifications of § 86.1314–86.

(E) Any range on a linear analyzer below 155 ppm shall have and use a calibration curve conforming to § 86.330–79.

(F) The measurement accuracy requirements specified in § 86.338–79 are superseded by those specified in § 86.1338–86.

(iii) The chart deflections of analyzers with non-linear calibration curves shall be converted to concentration values by the calibration curve(s) specified in Subpart D (86.330–79) before flow correction (if used) and subsequent integration takes place.

(c) *Filters, particulate sampling.*—(1) *Filter acceptance criteria.* Valid diesel particulate net filter weights shall be accepted according to the following criteria:

(i) During the cold start phase of the heavy-duty transient cycle and again during the hot start phase of the heavy-duty transient cycle dilute exhaust will be simultaneously sampled by paired primary test and back-up test filters.

(ii) The back-up filter holder shall be located 3 to 4 inches downstream of the primary filter holder.

(iii) The net weight of particulate material collected on each primary test filter and each back-up test filter shall be determined by the procedure outlined in § 86.1339–85.

(iv) A ratio of net weights will be determined by the following formula:

$$\text{Ratio of net weights} = \frac{(\text{Mass Particulate})_{\text{Test filter}}}{(\text{Mass Particulate})_{\text{Test filter}} + (\text{Mass Particulate})_{\text{Back-up filter}}}$$

(v) If the ratio is greater than 0.95, then particulate emissions calculations are based on the net weight of the primary filter only.

(vi) If the ratio is less than 0.95, then particulate emissions calculations are based on the combined net weights of the back-up filter and the primary test filter.

(2) The particulate filter must have a minimum 70 mm diameter (60 mm stain area). Larger diameter filters are also acceptable. (Larger diameter filters may be desirable in order to reduce the pressure drop across the filter when testing vehicles which produce large amounts of particulate.)

(3) The recommended minimum loading on the 70 mm filter is 5.3 milligrams. Equivalent loadings (ie., mass/stain area) are recommended for larger filters. For equivalency calculations assume the 70 mm loading has a 60 mm stain diameter.

(4) Fluorocarbon coated glass fiber filters or fluorocarbon based (membrane) filters are required for particulate collection.

14. A new § 86.1311-86 is added and reads:

§ 86.1311-86 Exhaust gas analytical system. CVS bag sample.

(a) *Schematic drawings.* Figure N86-7 is a schematic drawing of the exhaust gas analytical system used for analyzing CVS bag samples from either gasoline-fueled or diesel engines. The schematic of the hydrocarbon analysis train for diesel engines is shown as part of Figure N86-3 or N86-4. Since various configurations can produce accurate results, exact conformance with the drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

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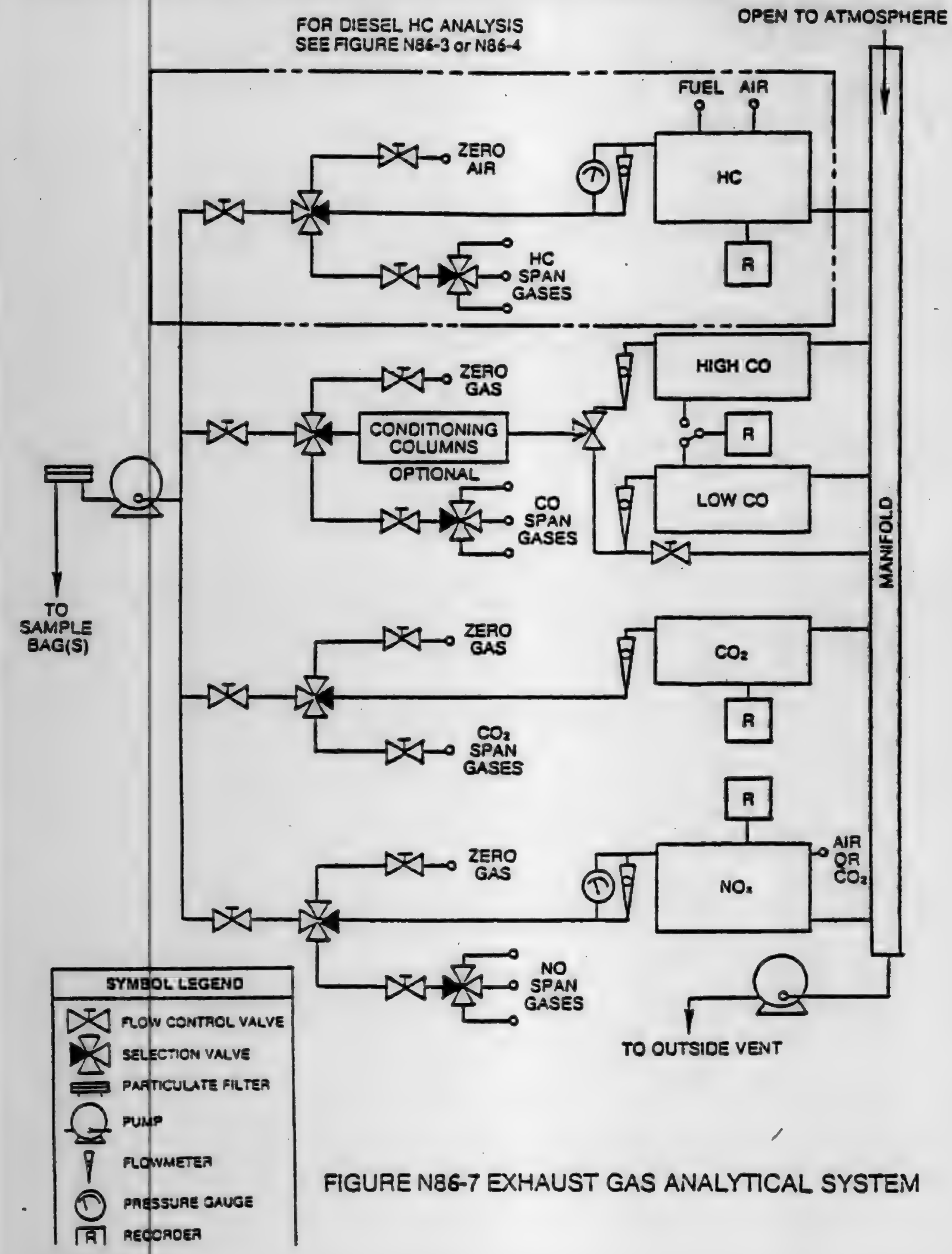
FOR DIESEL HC ANALYSIS
SEE FIGURE N86-3 or N86-4
OPEN TO ATMOSPHERE
FUEL
AIR
ZERO AIR
HC
R
HC SPAN GASES
ZERO GAS
HIGH CO
CONDITIONING COLUMNS
OPTIONAL
R
LOW CO
CO SPAN GASES
MANIFOLD
TO SAMPLE BAG(S)
ZERO GAS
CO₂
R
CO₂ SPAN GASES
R
ZERO GAS
NOₓ
AIR OR CO₂
NO SPAN GASES
TO OUTSIDE VENT
SYMBOL LEGEND
FLOW CONTROL VALVE
SELECTION VALVE
PARTICULATE FILTER
PUMP
FLOWMETER
PRESSURE GAUGE
RECORDER

FIGURE N86-7 EXHAUST GAS ANALYTICAL SYSTEM

BILLING CODE 6560-26-C

(b) *Major component description.* The analytical system, Figure N86–7, consists of a flame ionization detector (FID) for the determination of hydrocarbons, nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. A heated flame ionization detector (HFID) is used for the continuous determination of hydrocarbons from diesel engines, Figure N86–3 or N86–4.

The exhaust gas analytical system shall conform to the following requirements:

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CASO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments are used which are essentially free of CO_2 and water vapor interference, the use of the conditioning column may be deleted. (See § 86.1322–86 and § 86.1342–86.)

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale. (See § 86.1322–86.)

(c) *Alternate analytical systems.* Analysis systems meeting the specifications of 40 CFR 86, Subpart D may be used for testing this Subpart (N) with the exception of §§ 86.346–86 and 86.347–86, provided that the Subpart D systems meet the specifications of this Subpart. Heated analyzers may be used in their heated configuration.

(d) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

15. A new § 86.1312–86 is added and reads as follows:

§ 86.1312–86 Weighing chamber (or room) and micorgram balance specifications.

(a) *Ambient conditions.*—(1) *Temperature.* The temperature of the chamber in which the particulate filters are conditioned and weighed shall be maintained to within ±10° F (6° C) of a set point between 68° F (20° C) and 86° F (30° C) during all filter conditioning and filter weighing.

(2) *Humidity.* The relative humidity of the chamber in which the particulate filters are conditioned and weighed shall be maintained to within ±10 percent of a set point between 30 and 70 percent during all filter conditioning and filter weighing.

(3) The environment shall be free from any ambient contaminates (such as dust) that would settle on the particulate filters during their stabilization. It is required that two reference filters remain in the weighing room at all times, and that these filters be weighed at the beginning and end of each conditioning period. If the weight of either or both of these two reference filters changes by more than ±1.0 percent of the nominal filter loading (a minimum of 5.3 milligrams, if possible) during the conditioning period, then all filters in the process of being stabilized should be discarded, and any tests repeated. The reference filters shall be changed at least once per month.

(b) *Microgram balance specifications.* The microgram balance used to determine the weights of all filters shall have an accuracy and a readability of one microgram.

16. A new § 86.1313–86 is added and reads as follows:

§ 86.1313–86 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust testing, except that the lead and octane specifications do not apply.

Item	ASTM	Leaded	Unleaded
Octane, research, minimum.	D2699	98	93
Pb. (organic), gm/U.S. gallon.		[1] 1.4	0.00–0.05
Distillation range:			
IBP, °F	D86	75–95	75–95
10 percent point, °F.	D86	120–135	120–135
50 percent point, °F.	D86	200–230	200–230
90 percent point, °F.	D86	300–325	300–325
EP, °F (maximum).	D86	415	415
Sulphur, weight percent, (max).	D1266	0.10	0.10
Phosphorus, gm/U.S. gallon (max).		0.01	0.005
RVP, psi	D323	8.7–9.2	8.7–9.2
Hydrocarbon composition:			
Olefins, percent, (max).	D1319	10	10
Aromatics, percent (max).	D1319	35	35
Saturates	D1319	[2]	[2]

[1] Minimum.
[2] Remainder.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be not higher than 1.0 Research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a)(2) of this section shall be reported in accordance wih § 86.084–21(b)(3).

(b) *Diesel fuel.* (1) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of diesel fuel recommended by the engine manufacturer commercially designated as "Type 1–D" or "Type 2–D" grade diesel fuel shall be used.

Item	ASTM	Type 1–D	Type 2–D
Cetane	D613	48–54	42–50
Distillation range:			
IBP °F	D86	330–390	340–400
10 percent point, °F.	D86	370–430	400–460
50 percent point, °F.	D86	410–480	470–540

Item	ASTM	Type 1–D	Type 2–D
90 percent point, °F.	D86	460–520	550–610
EP, °F.	D86	500–560	580–660
Gravity, °API	D287	40–44	33–37
Total Sulfur, percent.	D129 or D2622	0.05–0.20	0.2–0.5
Hydrocarbon composition:			
Aromatics, percent.	D1319	[1]8	[1]27
Paraffins, Naphthenes, Olefins.	D1319	(2)	(2)
Flashpoint, °F (minimum).	D93	120	130
Viscosity, Centistokes.	D445	1.6–2.0	2.0–3.2

[1] Minimum.
[2] Remainder.

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of diesel fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D" grade diesel fuel shall be used.

Item	ASTM	Type 1–D	Type 2–D
Cetane (minimum)	D613	42–56	30–58
Distillation range: 90 percent point, °F.	D86	440–530	540–630
Gravity °APM	D287	39–45	30–42
Total sulfur, percent (minimum).	D129 or D2622.	[1]0.05	0.2
Flashpoint, °F (minimum).	D93	120	130
Viscosity, centistokes	D455	1.2–2.2	1.5–4.5

[1] Minimum.

(4) Other petroleum distillate fuels may be used for testing and service accumulation provided they are:

(i) Commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service;

(iii) Use of a fuel listed under paragraphs(b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability;

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.084–21(b)(3).

17. A new § 86.1314–86 is added and reads as follows:

§ 86.1314–86 Analytical gases.

(a) Gases for the CO and CO_2 analyzers shall be singl blends of CO and CO_2 respectively using nitrogen as the diluent.

(b) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(c) Gases for the NO_x analyzer shall be single blends of NO named as NO_x with a maximum NO_2 concentration of 5 percent of the nominal value using nitrogen as the diluent.

(d) Fuel for the FID shall be a blend of 40±2 percent hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval of the Administrator.

(e) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(f)(1) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(2) Calibration gases shall be traceable to within 1 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(3) Span gases shall be accurate to within 2 percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

(g) The use of proportioning and precision blending devices to obtain the required gas concentrations is allowable provided their use has been approved in advance by the Administrator.

18. A new 86.1315–86 is added and reserved as follows:

§ 86.1315–86 [Reserved]

19. A new § 86.1316–86 is added and reads as follows:

§ 86.1316–86 Calibrations; frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.1318–86 through 86.1326–86.

(b) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer, carbon dioxide analyzer, cargon monoxide analyzer, and oxides of nitrogen analyzer.

(2) Calibrate the engine dynamometer flywheel torque and speed measurement transducers.

(3) Calibrate the engine flywheel torque and speed feedback signals.

(c) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and;

(2) Perform a CVS system verification.

(d) The CVS positive displacement pump or critical flow venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.1319–86).

(e) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

20. A new § 86.1317–86 is added and reserved as follows:

§ 86.1317–86 [Reserved]

21. A new § 86.1318–86 is added and reads as follows:

§ 86.1318–86 Engine dynamometer system calibration.

(a) The engine flywheel torque and engine speed measurement transducers shall be calibrated at least once each month with the calibration equipment described in § 86.1308–86.

(b) The engine flywheel torque and speed feedback signal shall be calibrated at least once each month.

(c) Other engine dynamometer system calibrations shall be performed as dictated by good engineering practice and manufacturer's recommendations.

(d) When calibrating the engine flywheel torque transducer, any lever arm used to convert a weight or a force through a distance into a torque shall be used in a horizontal position (±5 degrees).

(e) Calibrated resistors may not be used for engine flywheel torque transducer calibration, but may be used to span the transducer prior to engine testing.

22. A new § 86.1319–86 is added and reads as follows:

§ 86.1319–86 CVS calibration.

(a) The CVS is calibrated using an accurate flowmeter and restrictor valve. The calibrated accuracy of the flowmeter shall be traceable to the National Bureau of Standards to within 1 percent of the true flow value. (Note: In no case should an upstream screen or other restriction which can effect the flow be used ahead of the flowmeter unless calibrated throughout the flow range with such a device.) The CVS calibration procedures are designed for use of a "metering venturi" type flowmeter. Properly calibrated large radius or ASME flow nozzels are considered equivalent if traceable to

NBS measurements. Other measurement systems may be used if shown to be equivalent under the test conditions in this action and if approved by the Administrator. Measurements of the various flowmeter parameters are recorded and related to flow through the CVS. Procedures used by EPA for both PDP– and CFV–CVS's are outlined below. Other procedures yielding equivalent results may be used if approved in advance by the Administrator.

(b) After the calibration curve has been obtained, verification of the entire system may be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accurancy of the system, e.g. analyzer calibration or HC hangup. A verification procedure is found in paragraph (e) of this section.

(c) *PDP calibration.* (1) The following calibration procedure outlines the equipment, the test configuration, and the various parameters which must be measured to establish the flow rate of the CVS pump.

(i) All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump.

(ii) The calculated flow rate ft^3/min., (at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value of a specific combination of pump parameters.

(iii) The linear equation which relates the pumpflow and the correlation function is then determined.

(iv) In the event that a CVS has a multiple speed drive, a calibration for each range used must be performed.

(2) This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve:

(i) The pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. (Pressure taps that are mounted at the top center and botton center of the pump drive headplate are exposed to the actual pump cavity pressure, and therefore reflect the absolute pressure differentials.)

(ii) The temperature stability must be maintained during calibration. (Flowmeters are sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes in temperature are acceptable as long as they occur over a period of several minutes.)

(iii) All connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

(3) During an exhaust emission test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

(4) Connect a system as shown in Figure N86–6. Although particular types of equipment are shown, other configurations that yield equivalent results may be used if approved in advance by the Administrator. For the system indicated, the following data with given accuracy are required:

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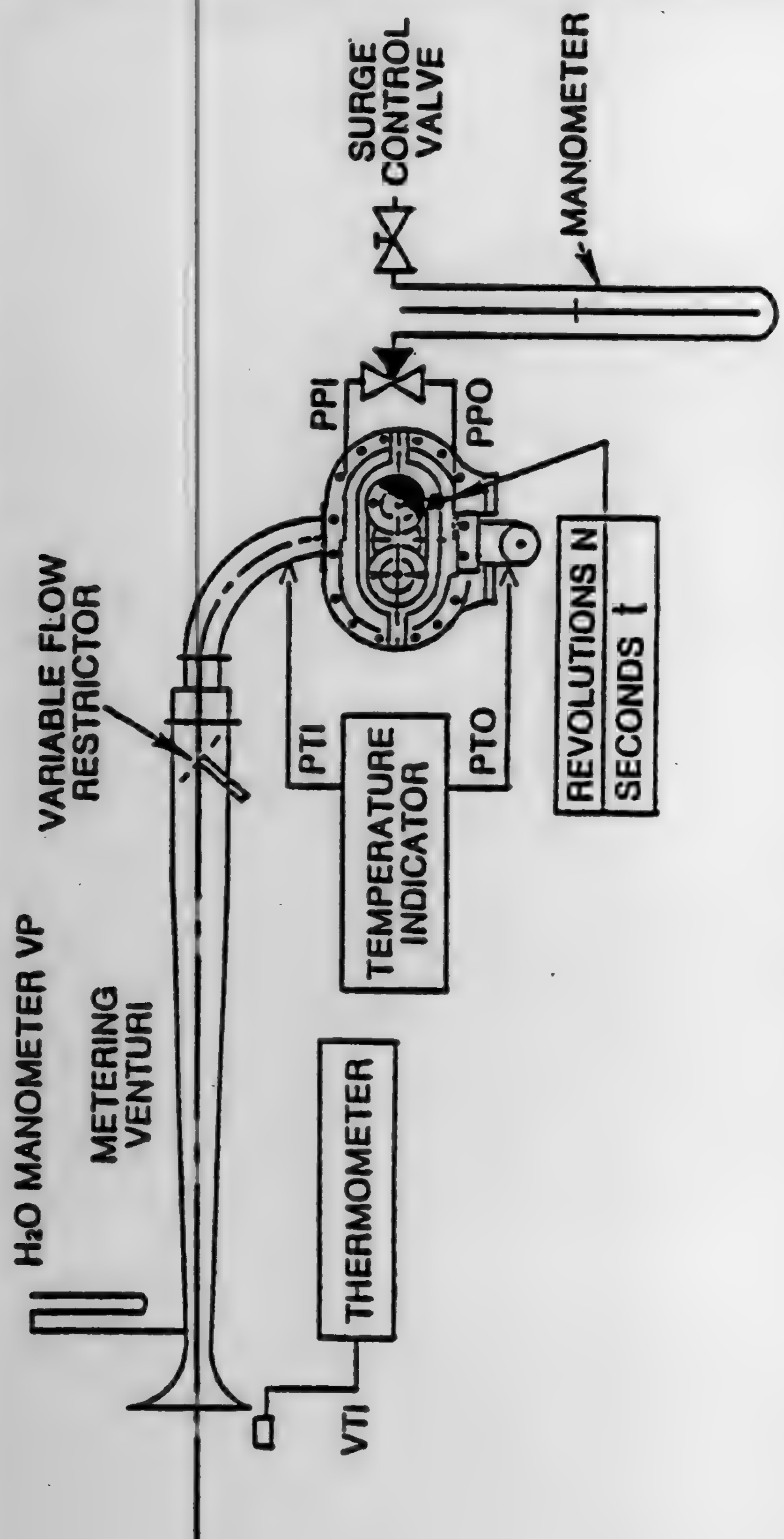
SURGE CONTROL VALVE
MANOMETER
PPI
PPO
VARIABLE FLOW RESTRICTOR
REVOLUTIONS N
SECONDS t
PTI
TEMPERATURE INDICATOR
PTO
H₂O MANOMETER VP
METERING VENTURI
THERMOMETER
VTI

FIGURE N86-8 — PDP-CVS CALIBRATION CONFIGURATION

BILLING CODE 6560-50-C

Calibration Data Measurements

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_B	In. Hg (kPa)	±.01 in. Hg (±.034 kPa).
Ambient temperature	T_A	°F (°C)	±.5°F (±.28°C).
Air temperature into SFV	ETI	°F (°C)	±.50 °F (±.28°C).
Pressure drop between SFV inlet and throat	EDP	In. H_2O (kPa)	±.05 in. H_2O (±.012 KPa).
Air temperature at CVS pump inlet	PTI	°F (°C)	±.5°F (±.28°C).
Pressure depression at CVS pump inlet	PPI	In. fluid (kPa)	±.05 in. fluid (±.022 kPa).
Specific gravity of manometer fluid (1.75 oil)	Sp. G		
Pressure head at CVS pump outlet	PPO	In. fluid (kPa)	±.05 in. fluid (±.022 kPa).
Air Temperature at CVS pump outlet (optional)	PTO	°F (°C)	±.5°F (±.28°C).
Pump revolutions during test period	N	Revs	±1 Rev.
Elapsed time for test period	t	s	±.05 s.

(5) After the system has been connected as shown in Figure N86–8, set the variable restrictor in the wide open position and run the CVS pump for 20 minutes. Record the calibration data.

(6) Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression that will yield a minimum of six data points for the total calibration. Allow the system to stabilize for 3 minutes and repeat the data acquisition.

(7) *Data analysis:* (i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute (68° F, 29.92″HG) from the flowmeter data using the manufacturer's prescribed method.

(ii) The air flow rate is then converted to pump flow, V_o, in cubic feet per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Qs}{n} \times \frac{T_p}{528} \times \frac{29.92}{P_p}$$

Where:

V_o = Pump flow, ft³/revolution (m³/revolution) at T_p, P_p.

Qs = Meter air flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).

n = Pump speed in revolutions per minute.

T = Pump inlet temperature R(K)

P = PTI + 460 (°R), or = PTI + 273 (°K)

P = Absolute pump inlet pressure, in. Hg (kPa)

P = P − PPI (Sp. Gr/13.57) for SI units,

$P_p = P_B - PPI$

Where:

P_B = barometric pressure, in. Hg (kPa).

PPI = Pump inlet depression, in. fluid (kPa).

Sp. Gr. = Specific gravity of manometer fluid relative to water.

(iii) The correlation function at each test point is then calculated from the calibration data.

$$x_o = \frac{1}{n}\sqrt{\frac{P_p}{P_e}}$$

Where:

x_o = correlation function.

ΔP_p = The pressure differential from pump inlet to pump outlet, in. Hg (kPa).

$= P_e - P_p$

P_e = Absolute pump outlet pressure, in. Hg (kPa)

$= P_B + PPO$ (Sp. Gr./13.57) for SI units,

$P_e = P_B + PPO$

(d) *CFV calibration.* (1) Calibration of the CFV is based upon the flow equation for a critical venturi. Gas flow is a function of inlet pressure and temperature:

$$Q_s = \frac{K_v P}{\sqrt{T}}$$

Where:

Q_s = flow,

K_v = calibration coefficient,

P = absolute pressure,

T = absolute temperature.

The calibration procedure described below establishes the value of the calibration coefficient at measured values of pressure, temperature and air flow.

(2) The manufacturer's recommended procedure shall be followed for calibrating electronic portions of the CFV.

(3) Measurements necessary for flow calibration are as follows:

Calibration Data Measurements

Parameter	Symbol	Units	Tolerances
Barometric Pressure (corrected)	P_B	In. Hg (kPa)	±.01 in. Hg (±.034 kPa).
Air temperature, flowmeter	ETI	°F (°C)	±.50° F (±.28° C).
Pressure drop between SFV inlet and throat	EDP	In. H_2O (kPa)	±.05 in. H_2O (±.012 kPa).
Air flow	Q_s	Ft³/min. (m³/min.)	±.5%.
CFV inlet depression	PPI	In. fluid (kPa)	±.05 in. fluid (±.022 kPa).
Temperature at venturi inlet	T_v	°F (°C)	±.5° F (±.28° C).
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr		

(4) Set up equipment as shown in Figure N86–9 and check for leaks. Any leaks between the flow measuring devices and the critical flow venturi will seriously affect the accuracy of the calibration.

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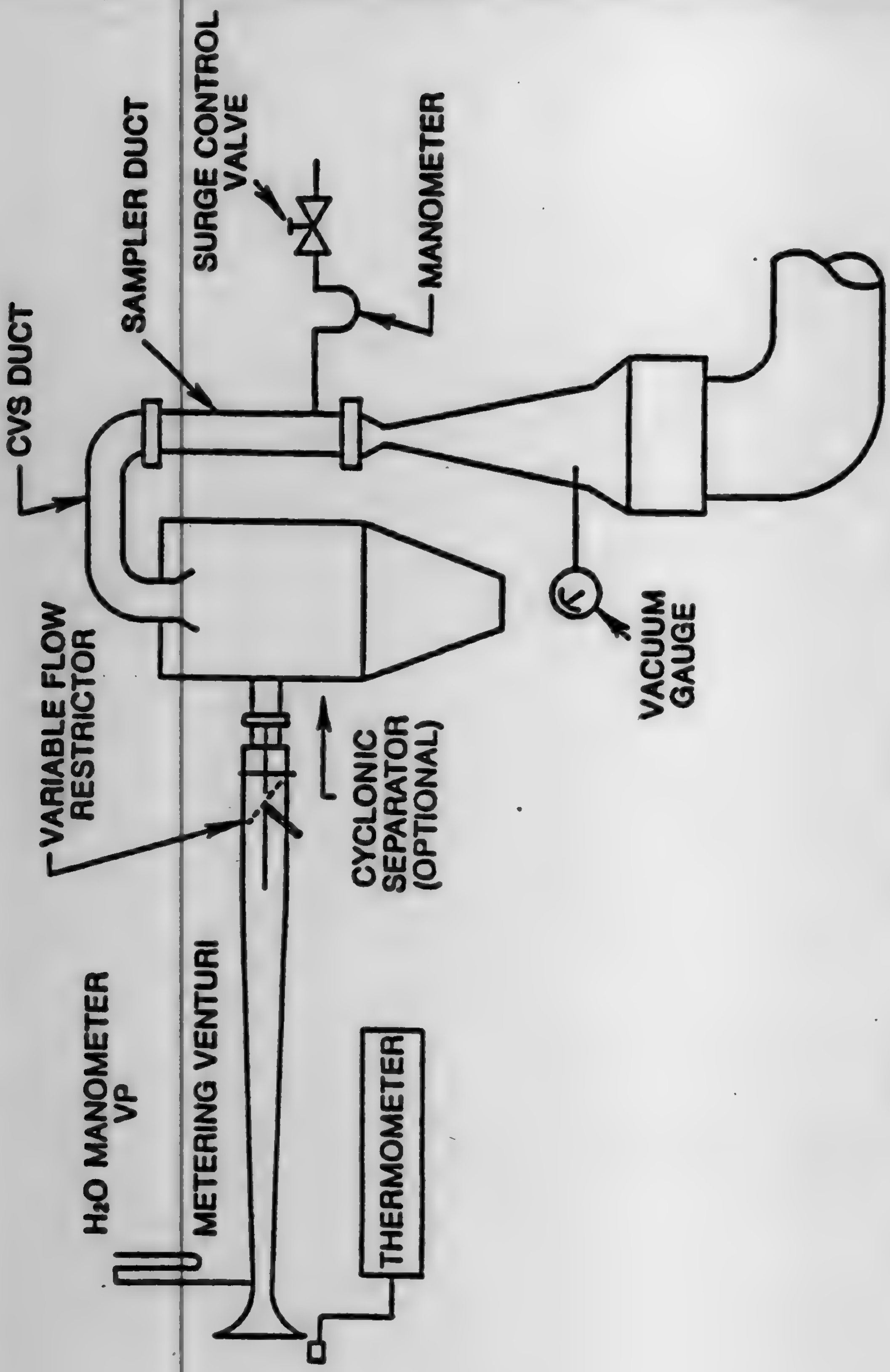
CVS DUCT
SAMPLER DUCT
SURGE CONTROL VALVE
MANOMETER
VACUUM GAUGE
VARIABLE FLOW RESTRICTOR
CYCLONIC SEPARATOR (OPTIONAL)
H₂O MANOMETER VP
METERING VENTURI
THERMOMETER

FIGURE N86-9 — CFV-CVS CALIBRATION CONFIGURATION

BILLING CODE 6560-26-C

(5) Set the variable flow restrictor to the open position, start the blower, and allow the system to stabilize. Record data from all instruments.

(6) Vary the flow restrictor and make at least 8 readings across the critical flow range of the venturi.

(7) *Data analysis.* The data recorded during the calibration are to be use in the following calculations:

(i) The air flow rate, Q_s, at each test point is calculated in standard cubic feet per minute from the flow meter data using the manufacturer's prescribed method.

(ii) Calculate values of the calibration coefficient for each test point:

$$K_v = \frac{Q_s \sqrt{T_v}}{P_v}$$

Where:

Q_s = Flow rate in standard cubic feet per minute, standard conditions are 68°F, 29.92 in. Hg (20°C, 101.3 kPa).
T_v = Temperature at venturi inlet, R(K).
P_v = Pressure at venturi inlet, mm Hg (kPa).
$= P_B - PPI$ (Sp. Gr./13.57).
for SI units: $P_v = P_B - PPI$

Where:

PPI = Venturi inlet pressure depression, in. Fluid (kPa).
Sp. Gr. = Specific gravity of manometer fluid, relative to water.

(iii) Plot K_v as a function of venturi inlet pressure. For sonic flow, K_v will have a relatively constant value. As pressure decreases (vacuum increases), the venturi becomes unchoked and K_v decreases. See Figuree N86-10

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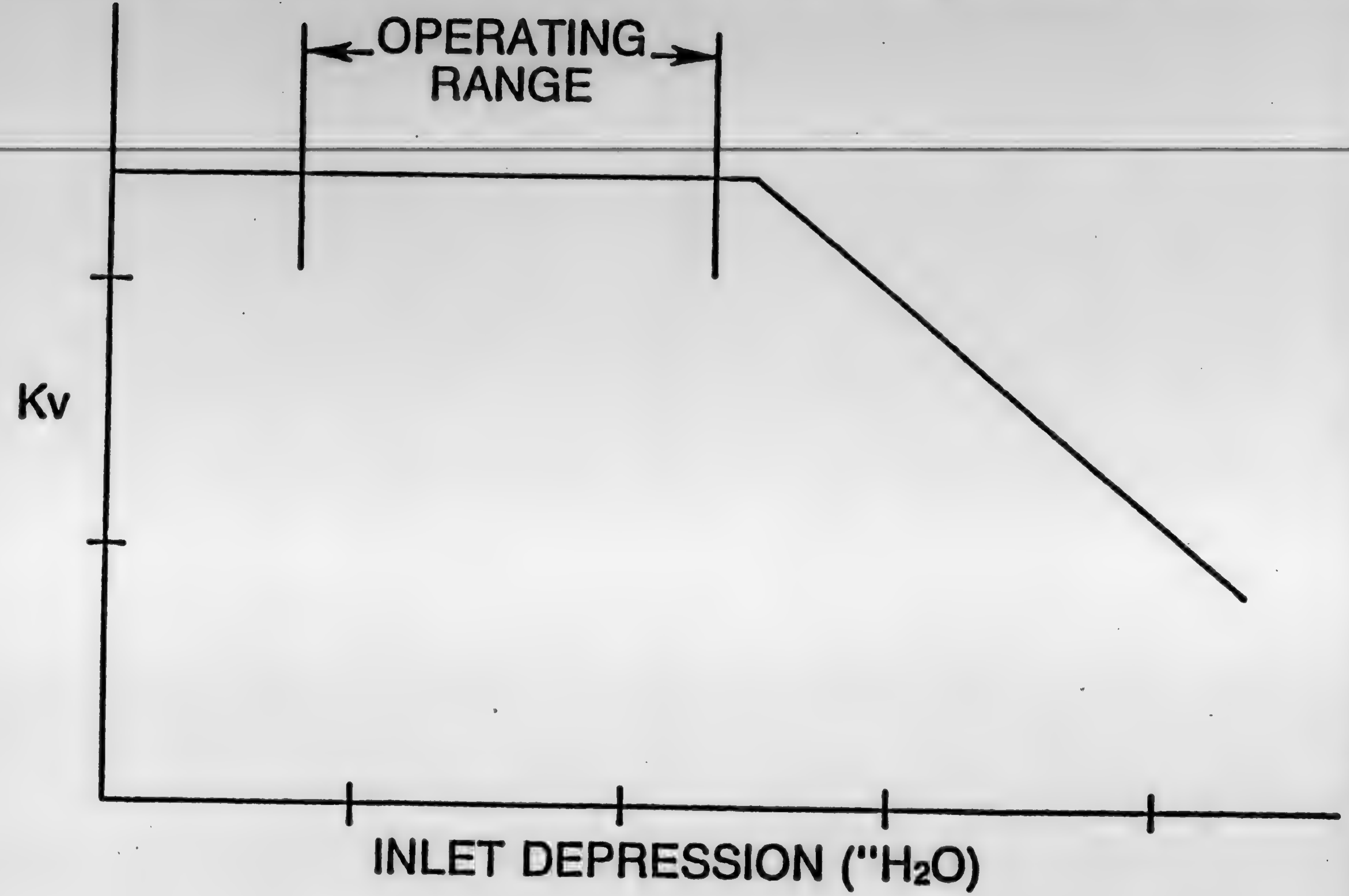

FIGURE N86-10 — SONIC FLOW CHOKING

BILLING CODE 6560-26-C

(iv) for a minimum of 8 points in the critical region calculate an average K_v and the standard deviation.

(v) If the standard deviation exceeds 0.3 percent of the average K_v take corrective action.

(e) *CVS system verification.* The following "gravimetric" technique can be used to verifty that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system. (Verification can also be accomplished by constant flow metering using critical flow orifice devices.)

(1) Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous).

(2) Determine a reference cylinder weight to the nearest 0.01 grams.

(3) Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period (approximately 5 minutes).

(4) The calculations of § 86.1342–86 are performed in the normal way except in the case of propane. The density of propane (17.56 g/ft^3/carbon atom (0.6201 kg/m^3/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 g/ft^3 (1.164 kg/m^3) is used.

(5) The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

(6) Good engineering practice requires that the cause for any discrepancy greater than ±2 percent must be found and corrected.

23. A new § 86.1320–86 is added and reads as follows:

§ 86.1320–86 Gas meter or flow instrumentation calibration, particulate measurement.

Sampling for particulate emissions requires the use of gas meters or flow instrumentation to determine flow through the particulate filters. This instrument shall receive initial and periodic calibrations as follows:

(a)(1) Install a standard air flow measurement device (such as laminar flow element) upstream of the instrument. This standard device shall measure air flow at standard conditions. Standard conditions are defined as 68°F (20°C) and 29.92 inches of mercury (101.3 kPa). A critical flow orifice, a bellmouth nozzle, or a laminar flow element is recommended as the standard device.

(2) Flow air through the calibration system at the sample flow rate used for particulate testing and at the backpressure which occurs during the sample test.

(3) When the temperature and pressure in the system have stabilized, measure the gas meter indicated volume of the instrument over a time period of at least 5 minutes and until a flow volume of at least ± 1 percent accuracy can be determined by the standard device. Record the stabilized air temperature and pressure upstream of the instrument and as required for the standard device.

(4) Calculate air flow at standard conditions as measured by both the standard device and the instrument.

(5) Repeat the procedures of paragraphs (b) through (d) above using flow rates which are 10 percent above the nominal sampling flow rate and 10 percent below the nominal sampling flow rate.

(6) If the air flow at standard conditions measured by the instrument differs by more than ± 1 percent from the standard measurement at any of the three measured flow rates, then a correction shall be made by either of the following two methods:

(i) Mechanically adjust the instrument so that it agrees within 1 percent of the standard measurement at the three specified flow rates, or

(ii) Develop a continuous best fit calibration curve for the instrument (as a function of the standard device flow measurement) from the three calibration points that represents the data to within 1 percent at all points to determine corrected flow.

(b) *Other systems.* A bell prover may be used to calibrate the instrument if the procedure outlined in ANSI B109.1–1973 is used. Prior approval by the Administrator is not required to use the bell prover.

24. A new § 86.1321–86 is added and reads as follows:

§ 86.1321–86 Hydrocarbon analyzer calibration.

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID shall be operated to a set point ±10°F (±5.5°C) between 365 and 385°F (185 and 197°C).

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for initial instrument start-up and basic operating adjustment using the appropriate fuel (see § 86.1314–86) and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90% of the most common operating range.

(3) One of the following procedures is required for FID or HFID optimization.

(i) The procedures outlined in Society of Automotive Engineers (SAE) paper No. 770141, "Optimization of Flame Ionization Detector for Determination of Hydrocarbons in Diluted Automobile Exhaust"; author, Glenn D. Reschke.

(ii) The HFID optimization procedures outlined in 40 CFR 86, Subpart D.

(iii) Alternate procedures are allowed, if approved in advance by the Administrator.

(4) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID or HFID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

25. A new § 86.1322–86 is added and reads as follows:

§ 86.1322–86 Carbon monoxide analyzer calibration.

The NDIR carbon monoxide analyzer shall receive the following initial and periodic calibrations:

(a) Initial and periodic interference check. Prior to its introduction into service and annually thereafter the NDIR carbon monoxide analyzer shall be checked for response to water vapor and CO_2:

(1) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance on the most sensitive range to be used.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Bubble a mixture of 3 percent CO_2 in N_2 through water at room temperature and record analyzer response.

(4) An analyzer response of more than 1 percent of full scale for ranges above 300 ppm full scale or more than 3 ppm on ranges below 300 ppm full scale will require corrective action. (Use of conditioning columns is one form of corrective action which may be taken.)

(b) Initial and periodic calibration. Prior to its introduction into service and

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smoothly thereafter the NDIR carbon monoxide analyzer shall be calibrated.

(1) Adjust the analyzer to optimize performance.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Calibrate on each used operating range with carbon monoxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviaiton from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

(c) The initial and periodic interference, system check, and calibration test procedures specified in 40 CFR 86, Subpart D may be used in lieu of the procedures specified in this section.

26. A new § 86.1323–86 is added and reads as follows:

§ 86.1323–86 Oxides of nitrogen analyzer calibration.

The chemiluminescent oxides of nitrogen analyzer shall receive the following initial and periodic calibration.

(a) Prior to its introduction into service and weekly thereafter the chemiluminescent oxides of nitrgen analyzer shall be checked for NO_2 to NO converter efficiency. Figure N86–11 is a reference for the following steps:

(1) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Connect the outlet of the NO_x generator to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NO generator analyzer-system an NO in nitrogen (N_2) mixture with a NO concentration equal to approximately 80 percent of the most common operating range. The NO_2 content of the gas mixture shall be less than 5 percent of the NO concentration.

(5) With the oxides of nitrogen analyzer in the NO mode, record the connection of NO indicated by the analyzer.

(6) Turn on the NO_x generator O_2 (or air) supply and adjust the O_2 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step (5). Record the concentration of NO in this $NO+O_2$ mixture.

(7) Switch the NO_x generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step (5). There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NO_x mode and measure total NO_x. Record this value.

(9) Switch off the NO_x generator but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the NO_x in the $NO+O_2$ mixture. Record this value.

(10) Turn off the NO_x generator O_2 (or air) supply. The analyzer will now indicate the NO_x in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in step (4).

(11) Calculate the efficiency of the NO_x converter by substituting the concentrations obtained into the following equation:

$$\text{Percent Efficiency} = [1+a-b/c-d)1\times 100$$

Where:

a = concentration obtained in step (8).
b = concentration obtained in step (9).
c = concentration obtained in step (6).
d = concentration obtained in step (7).

If converter efficiency is not greater than 90 percent corrective action will be required.

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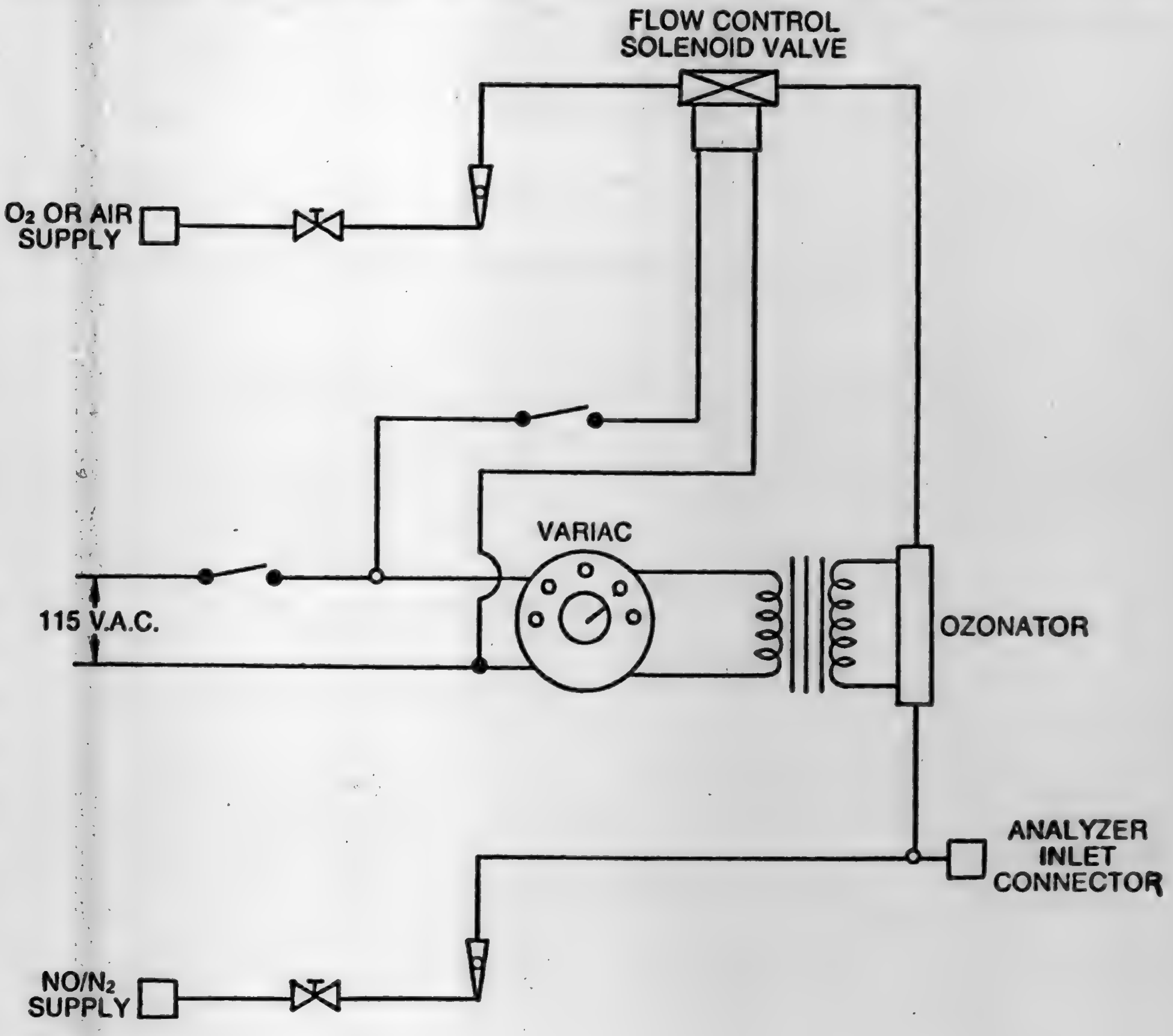
FLOW CONTROL SOLENOID VALVE
O_2 OR AIR SUPPLY
VARIAC
115 V.A.C.
OZONATOR
ANALYZER INLET CONNECTOR
NO/N_2 SUPPLY

(SEE FIG. N86-7 FOR SYMBOL LEGEND)

FIGURE N86-11 — NO_x CONVERTER EFFICIENCY DETECTOR

BILLING CODE 6560-26-C

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the chemiluminescent oxides of nitrogen analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples. Proceed as follows:

(1) Adjust analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Calibrate on each normally used operating range with NO in N_2 calibration gases with nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

(c) The initial and periodic interferences, system check, and calibration test procedures specified in 40 CFR 86, Subpart D may be used in lieu of the procedures specified in this section.

27. A new § 86.1324-86 is added and reads as follows:

§ 86.1324-86 Carbon dioxide analyzer calibration.

Prior to its introduction into service and monthly thereafter the NDIR carbon dioxide analyzer shall be calibrated as follows:

(a) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance.

(b) Zero the carbon dioxide analyzer with either zero-grade air or zero-grade nitrogen.

(c) Calibrate on each normally used operating range with carbon dioxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent of less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

(d) The initial and periodic interferences, system check, and calibration test procedures specified in 40 CFR 86, Subpart D may be used in lieu of the procedures in this section.

28. A new § 86.1325-86 is added and reserved as follows:

§ 86.1325-86 [Reserved]

29. A new § 86.1326-86 is added and reads as follows:

§ 86.1326-86 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or necessary according to good practice.

30. A new § 86.1327-86 is added and read as follows:

§ 86.1327-86 Engine dynamometer test procedures; overview.

(a) The engine dynamometer test procedure is designed to determine the brake-specific emission of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate (diesels only). The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in §§ 86.1334-86 and 86.1335-86, respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of Subpart P may be run after the "hot start" test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during both the cold and hot start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), carbon monoxide (CO), carbon dioxide (CO_2), and oxides of nitrogen (NO_x). In addition, for diesels only, particulates are collected on fluorocarbon coated glass fiber filters or fluorocarbon based (membrane) filters and the dilution air is prefiltered.

(b) Engine torque and rpm shall be recorded continuously during both the cold and hot start tests. Data points shall be recorded at least once every second.

(c) Using the torque and rpm feedback signals the brake horsepower is integrated with respect to time for the cold and hot cycles. This produces a brake horsepower-hour value that enables the brake-specific emissions to be determined (see § 86.1344-86, Calculations; exhaust emissions).

(d)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air cooled engines, the fan shall be installed.

(4) Additional accessories (e.g., oil cooler, alternators, air compressors, etc.) may be installed with advance approval by the Administrator.

(5) The engine must be equipped with a production type starter.

(e) Means of engine cooling which will maintain the engine operating temperatures (e.g., intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer. Only water is allowed as an engine-coolant medium. Rust inhibitors and lubrication additives may be used, up to the levels recommended by the additive manufacturer. Antifreeze mixtures (e.g., ethylene glycol, alcohols) and other coolants that would enhance heat transfer are specifically prohibited.

(f) *Exhaust system.* A chassis-type exhaust system shall be used which is stabilized with respect to emissions. The exhaust system shall meet the following requirements:

(1) For all catalyst and trap-oxidizer systems, the distance from the exhaust manifold flange(s) to the catalyst or trap-oxidizer shall be the same as in the vehicle configuration unless the manufacturer provides data showing equivalent performance at another location.

(2) The exhaust back pressure or restriction shall be typical of those seen in the actual vehicle exhaust system configuration or the back pressure shall be the manufacturer's recommended maximum exhaust back pressure limit.

(3) For all diesel engines, the distance from the exhaust manifold flange to the exit of the chassis-type exhaust system shall be a maximum of 12 feet.

31. a new § 86.1328-86 is added and reserved as follows:

§ 86.1328-86 [Reserved]

32. A new § 86.1329-86 is added and reserved as follows:

§ 86.1329-86 [Reserved]

33. A new § 86.1330-86 is added as reads as follows:

§ 86.1330-86 Test sequence, general requirements.

(a) The test sequence shown in Figure N86-12 shows the major steps encountered as the test engine undergoes the procedures subsequently described.

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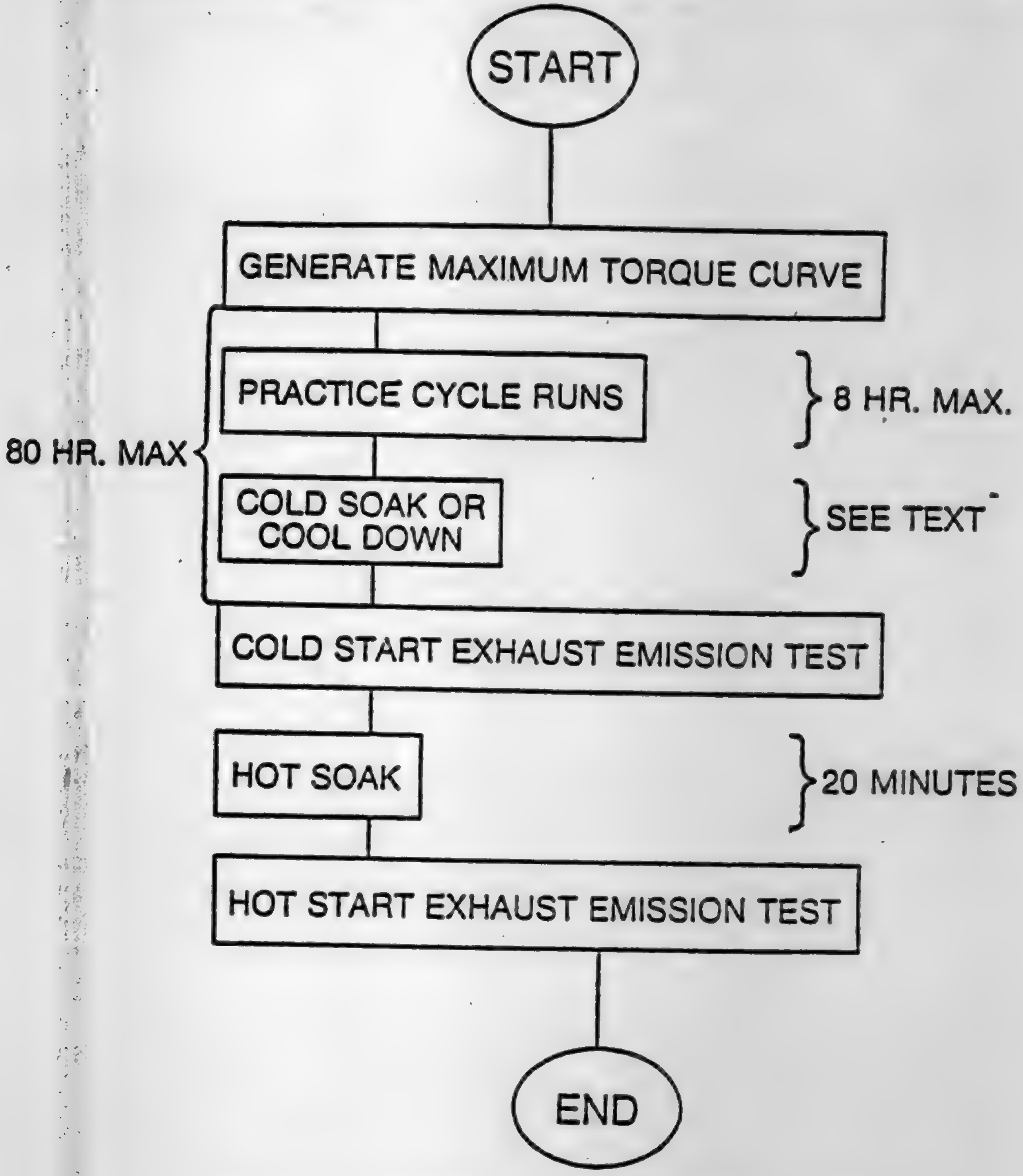
START
GENERATE MAXIMUM TORQUE CURVE
PRACTICE CYCLE RUNS
8 HR. MAX.
80 HR. MAX
COLD SOAK OR COOL DOWN
SEE TEXT
COLD START EXHAUST EMISSION TEST
HOT SOAK
20 MINUTES
HOT START EXHAUST EMISSION TEST
END

FIGURE N86-12 — TEST SEQUENCE

BILLING CODE 6560-26-C

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(b) The average temperature of the engine intake air and CVS dilution air shall be maintained at 25° C ± 5° C (77°F ± 9° F) throughout the test sequence. Engines with auxiliary emission control devices which are temperature dependent (e.g., chokes, air cleaner, hot air doors, etc.) shall be tested at an average ambient test cell temperature 25° C ± 5°C throughout the test sequence, except as noted in § 86.1335–86.

(c) No control of ambient or CVS dilution air humidity is required. Engine intake air humidity shall not exceed 90 grains of water per pound of dry air.

(d) The idle test of Subpart P may be run after completion of the hot start exhaust emission test, if applicable.

(e) The barometric pressure observed during the generation of the maximum torque curve shall not deviate more than 1 in. Hg from the value measured at the beginning of the map. The barometric pressure observed during the exhaust emission test shall not deviate more than 1 in. Hg from the value measured at the beginning of the emission test. The average barometric pressure observed during the exhaust mission test must be within 1 in. Hg of the average observed during the maximum torque curve generation.

(f) *Diesel Engines only.* Air inlet and exhaust restrictions shall be set to represent the average restrictions which would be seen in use in a represenative application. Inlet depression and exhaust backpressure shall be set with the engine operating at maximum horsepower.

34. A new § 86.1331–86 is added and reserved as follows:

§ 86.1331–86 [Reserved]

35. A new § 86.1332–86 is added and reads as follows:

§ 86.1332–86 Engine mapping procedures.

(a) Mount test engine on the engine dynamometer.

(b) Determine minimum mapping speed.

(1) *Gasoline-fueled engines.* The minimum mapping speed shall be calculated from the following equations:

(i) Minimum Speed = Curb Idle RPM—200 RPM; or

(ii) Minimum Speed = 400 RPM, whichever is greater.

(2) *Diesel-engines.* The minimum mapping speed shall be calculated from the following equations:

(i) Minimum Speed = Low Idle RPM—200 RPM; or

(ii) Minimum Speed = 400 RPM, whichever is greater.

(c) Determine maximum mapping speed.

(1) *Gasoline-fueled.* (i) For ungoverned engines the maximum

```
Maximum Speed = Curb Idle RPM +
```

(ii) For governed engines the maximum mapped speed shall be either that speed at which the wide open throttle torque drops off to zero, or the maximum speed as calculated for

```
Maximum Speed = Curb Idle RPM +
```

(ii) For governed engines the maximum mapping speed shall be either that speed at which wide open throttle torque drops off to zero, or the maximum speed as calculated for ungoverned engines, whichever is smaller.

(d) Determine maximum torque curve (i.e., map the engine).

(1) During engine warm-up, the engine may be operated such that a preliminary estimate of measured rated speed can be made.

(2) *Gasoline-fueled engines.* (i) Start the engine and operate at zero load in accordance with the manufacturer's start-up and warm-up procedures for 1 minute ±30 seconds.

(ii) Operate the engine at a torque equivalent to 10±3 percent of the most recent determination of maximum torque for 4 minutes ±30 seconds at 2000 rpm.

(iii) Operate the engine at a torque equivalent to 55±5 percent of the most recent determination of maximum torque for 35 minutes ±1 minute at 2000 rpm.

(iv) Operate the engine at idle.

(v) Operate the throttle fully.

(vi) While still maintaining wide-open throttle and full-load obtain minimum engine speed. Maintain minimum engine speed for 15 seconds. Record the average torque during the last 5 seconds.

(vii) In no greater than 100 RPM increments, determine the maximum torque curve from minimum speed to maximum speed. Hold each test point for 15 seconds and record the average torque over the last 5 seconds.

(viii) *Alternate mapping technique.* In place of (d)(2)(vi) and (vii) above, a continual sweep of RPM is allowed. While operating at wide open throttle, the engine speed is increased at a constant 8 RPM/second (±1 RPM/second) from minimum speed to maximum speed. Speed and torque points shall be recorded at a sample rate of at least one point per second.

(ix) Recalculate minimum and maximum speeds per (b)(1) and (c)(1)(i) or (ii) of this section using the measured rated speed derived from the new maximum torque curve. If either of the new minimum or maximum speeds lay outside the range of speeds encompassed by the actual map, then the map shall be considered void. The entire mapping procedures shall be repeated, using the newly derived measured rated speed in all calculations.

mapping speed shall be calculated from the following equations:

$$\frac{115\ (\text{Measured Rated RPM} - \text{Curb Idle RPM})}{100}$$

ungoverned engines, whichever is smaller.

(2) *Diesel-engines.* (i) For ungoverned engines the maximum mapping speed shall be calculated from the following equation:

$$\frac{113\ (\text{Measured Rated RPM} - \text{Curb Idle RPM})}{100}$$

(3) *Diesel engines.* (i) Start the engine and operate at free idle for 2 to 3 minutes.

(ii) Operate the engine at approximately 50 percent power at the peak torque speed for 5 to 7 minutes.

(iii) Operate the engine at rated speed and wide open throttle for 25 to 30 minutes.

(iv) *Option.* It is permitted to precondition the engine at rated speed and maximum horsepower until the oil and water temperatures are stabilized. The temperatures are defined as stabilized if they are maintained within 2 percent of point for 2 minutes. The engine must be opertated a minimum of 10 minutes for this option. This optional procedure may be substituted for step (iii).

(v) Unload the engine and operate at the low idle speed.

(iv) Operate the engine at wide open throttle and minimum engine speed. Increase the engine speed at a constant rate of 8 RPM/second (±1 RPM/second) from minimum to maximum speed. Engine speed and torque points shall be recorded at a sample rate of at least one point per second.

(vii) Recalculate minimum and maximum speeds per (b)(2) and (c)(2)(i) or (ii) of this section using the measured rated speed derived from the new maximum torque curve. If either of the new minimum or maximum speeds lay outside the range of speeds encompassed by the actual map, then the map shall be considered viod. The entire mapping procedure shall be repeated, using the newly derived measured rated speed in all calculations.

(e) Mapping curve generation.

(1) *Gasoline-fueled engines.* (i) Fit all data points recorded under (d)(2)(vi) and (vii) of this section (100 RPM increments) with a cubic spline technique.

(ii) All points generated under the continuous RPM sweep by step (d)(2)(vi) and (viii) shall be connected by linear interpolation between points.

(iii) For governed engines, all points above the maximum speed (see (c)(1)(ii) of this section) shall be assigned maximum torque values of zero for purposes of cycle generation.

(iv) For all engines, all speed points below 400 RPM shall be assigned a maximum torque value equal to that observed at 400 RPM for purposes of cycle generation.

(v) The torque curve resulting from step (i) through (iv) is the mapping curve and will be used to convert the normalized torque values in the engine cycle (see Appendix I, f) to actual torque values for the test cycle.

(2) *Diesel-engines.* (i) Connect all data points recorded under (d)(3) (vi) and (vii) of this section using linear interpolation between points.

(ii) For governed engines, all points above the maximum speed (see (c)(2)(ii) of this section) shall be assigned maximum torque values of zero for purposes of cycle generation.

(iii) For all engines, all speed points below 400 RPM shall be assigned a maximum torque value equal to that observed at 400 RPM for purposes of cycle generation.

(iv) The torque curve resulting from steps (i) through (iii) is the mapping curve and will be used to convert the normalized torque values in the engine cycle (see Appendix I, g) into actual torque values for the test cycle.

(f) *Alternate mapping and mapping curve generation techniques.* If a manufacturer believes that the above mapping techniques are unsafe or unrepresentative for any given engine or engine family, alternate mapping techniques may be used. Alternate techniques may be used only if approved in advance by the Administrator, and only if the Administrator judges that change to be justified, and the alternate procedure to be technically correct.

36. A new § 86.1333–86 is added and reads as follows:

§ 86.1333–86 Transient test cycle generation.

(a) The heavy-duty transient engine cycles for gasoline- and diesel-fueled engines are listed in Appendix I (f and g). These second-by-second listings are designed to represent transient torque and RPM maneuvers characteristic of heavy-duty vehicles. Both RPM and torque are normalized in these listings.

(1) To unnormalize RPM use the following equation:

$$\text{Actual RPM} = \frac{\%\text{RPM}(\text{Measured Rated RPM} - \text{Curb Idle RPM})}{100} + \text{Curb Idle RPM}$$

(Curb idle for diesel engines is defined as the low idle RPM.)

(2) Torque is normalized to the maximum torque at the RPM listed with it. Therefore, to unnormalize the torque values in the cycle, the maximum torque curve for the engine in question must be used. The generation of the maximum torque curve is described in § 86.1332.86.

(b) *Example of the unnormalization procedure.* The following test point shall be unnormalized:

Percent RPM	Percent torque
43	82

The test engines have these values:

Measured Rated RPM = 3800 (Does not appear on given torque curve.)

Curb Idle RPM = 600.

Maximum torque curve as illustrated in Figure N86–13.

Calculate actual RPM:

Actual RPM = percent RPM (Measured Rated RPM–Idle RPM)/100 + Idle RPM

Actual RPM = 43(3800–600)/100 + 600

Actual RPM = 1976

Determine actual torque:

Determine the maximum torque at 1976 RPM from Figure N86–13. Then multiply this value (356 ft-lb) by 0.82. This results in an actual torque of 294 ft-lbs.

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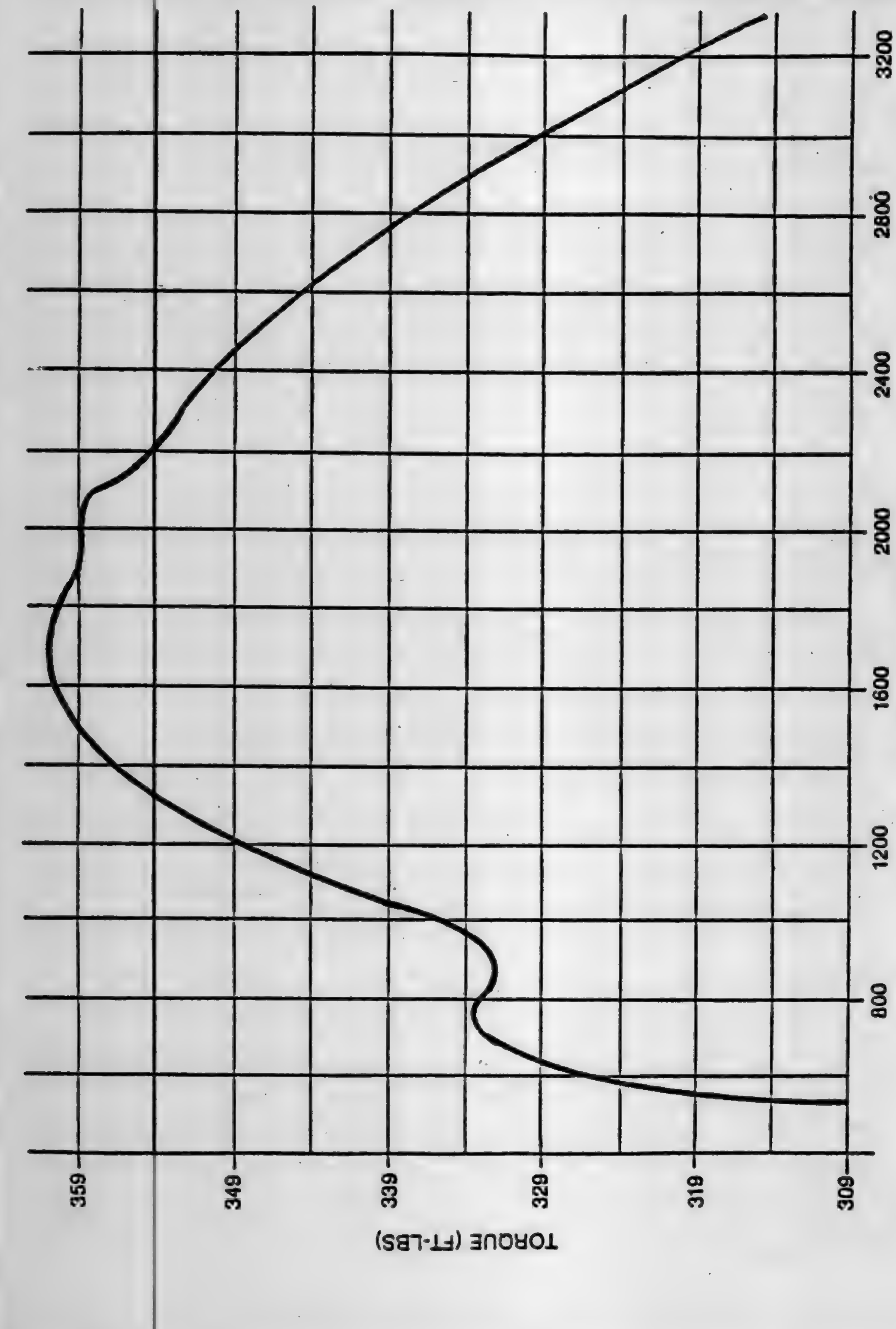

FIGURE N86-13—SAMPLE MAXIMUM TORQUE CURVE FOR A GASOLINE-FUELED ENGINE.

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(c) Engine speed and torque shall be recorded at least once every second during the cold start test and hot start test. The torque and RPM feedback signals may be electrically filtered.

(d) *Gasoline-fueled engines.* The zero percent speed specified in the gasoline-fueled engine cycle (Appendix I (f)) shall be superceded by proper operation of the engines automatic choke.

(1) During automatic choke operation a manual transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of 0 ft-lbs ± 10 ft-lbs (using for example clutch disengagement, speed to torque control switching, software overrides, etc.) at those points in Appendix I where both reference speed and reference torque are zero percent values.

(2) During automatic choke operation an automatic transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of CITT ft-lbs ± 10 ft-lbs (see (e)(2) of this section for definition of CITT) at those points in Appendix I where both reference speed and reference torque are zero percent values.

(3) This automatic choke high idle allowance is permitted only for the first 150 seconds of the cold cycle and the first 30 seconds of the hot cycle, after which the cycles shall be run as specified in Appendix I (f). (See 86.1341-86 for allowances in the cycle validation criteria.)

(e) *Automatic Transmissions.* The reference cycles Appendix I (f and g) shall be altered for engines intended for use with automatic transmissions.

(1) Zero percent speed for automatic transmission engines is defined as curb idle RPM, i.e., in-vehicle, coupled with automatic transmission in gear.

(2) All zero-percent speed, zero-percent torque points (idle points) shall be modified to zero percent speed, x percent torque. Using the manufacturers' specified curb idle transmission torque (CITT), the maximum torque available at the curb idle (i.e., with transmission) RPM as determined from the maximum torque curve generated in § 86.1332-86, x percent torque is defined per the following equation:

$$x\,\% = \frac{\text{CITT} \times 100}{\text{Maximum Torque at Curb Idle RPM}}$$

37. A new § 86.1334-86 is added and reads as follows:

§ 86.1334-86 Pre-test engine and dynamometer preparation.

Control system calibration. (a) Before the cold soak or cool down, final calibration of the dynamometer and throttle control systems may be performed. These calibrations may consist of steady-state operation and/or actual practice cycle runs, but emissions may not be measured.

(b) Following any practice runs or calibration procedures, the engine shall be turned off and allowed to either cold soak at 60° to 86°F for a minimum of 12 hours, or be cooled per § 86.1335-86.

38. A new § 86.1335-86 is added and reads as follows:

§ 86.1335-86 Optional forced cool-down procedure.

(a) This forced cool-down procedure applies to both gasoline and diesel-fueled engines.

(b) No substances or fluids may be applied to the engines internal or external surfaces except for water and air, and only as prescribed in (c) and (d) of this section.

(c) For water-cooled engines two types of cooling are permitted.

(1) Water may be circulated through the engine's water coolant system.

(i) The cooling water may be flowed in either direction and at any desired flow rate. The thermostat may be removed or blocked open during the cool down but must be restored before the exhaust emissions test begins.

(ii) The temperature of the circulated or injected water shall be between 10° C (50° F) and 30° C (86° F).

(iii) No fluid except water and no fluid or substance in solution with water is permitted. This does not preclude the use of a building's standard water supply for forced cool-down purposes.

(2) Flows of air may be directed at the exterior of the engine.

(i) Air shall be directed uniformly over the entire exterior surface of the engine at any desired flow rate.

(ii) The temperature of the cooling air shall not exceed 30° C (86° F). This is the only occasion when test cell ambient air temperature may deviate from the general specifications set forth in § 86.1330-86(b), i.e., may be less than 20° C (68° F).

(d) For air-cooled engines only cooling as prescribed in (c)(2) of this section is permitted.

(e) The cold cycle exhaust emission test may begin after a forced cool down only when the engine oil temperature as measured at the dipstick is between 20° C and 24° C (68° F and 75° F). No engine oil change is permitted during the test sequence, nor is any direct or indirect cooling of engine oil permitted except by natural conduction and convection associated with the procedures in (c) and (d) of this section.

(f)(1) The cold cycle exhaust emission test for gasoline engines equipped with catalytic converters may begin after a forced cool down only when the catalyst bed tremperature at the catalyst outlet is 25° C±5° C (77° F±9° F), in addition to the temperature restriction in (e) of this section.

(2) Catalyst cool down may be accomplished in whatever manner and using whatever coolant deemed appropriate by proper engineering judgment. The catalyst, engine, and exhaust piping configurations shall not be separated, altered, or moved in any way during the cool down.

(g) At the completion of the forced cool down, all general requirements specified in § 86.1330-86 and the oil temperature specification set forth in (e) of this section must be met before the cold cycle exhaust emission test may begin.

39. A new § 86.1336-86 is added and reads as follows:

§ 86.1336-86 Engine starting and restarting.

(a) *Gasoline-fueled engines.* This paragraph applies to gasoline-fueled engines only.

(1) The engine shall be started with a production engine starter motor according to the manufacturer's recommended starting procedures in the owner's manual. The 24±1 second free idle period shall begin when the engine starts.

(2) *Choke operation:* (i) Engines equipped with automatic chokes shall be operated according to the manufacturer's operating instructions in the owner's manual, including choke setting and "kick-down" from cold fast idle.

(ii) Engines equipped with manual chokes shall be operated according to the manufacturer's operating instructions in the owner's manual.

(3) The operator may use the choke, throttle, etc. where necessary to keep the engine running.

(4) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine (automatic- and manual-choke engines) shall be started by depressing the throttle half way and cranking the engine until it starts.

(b) *Diesel engines.* The engine shall be started with a production engine starting-motor according to the manufacturer's recommended starting procedures in the owner's manual. The 24±1 second free idle period shall begin when the engine starts.

(c)(1) If the engine does not start after 15 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The gas flow measuring device (or revolution counter) on the constant volume sampler (and the hydrocarbon integrator and particulate sample pump(s) when testing diesel vehicles, see § 86.1337. Engine dynamometer test run) shall be turned off during this diagnostic period. In addition, either the CVS should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the engine shall be rescheduled for testing from a cold start.

(2) If longer cranking times are recommended to the ultimate purchaser, such cranking times may be used provided the owner's manual and the service repair manual indicate the longer cranking times are normal, and if the use of the longer cranking times is approved in advance by the Administrator.

(3) If a failure to start occurs during the cold portion of the test and is caused by an engine malfunction, corrective action of less than 30 minutes duration may be taken (according to § 86.084–25), and the test continued. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the timing sequence shall begin. If failure to start is caused by engine malfunction and the engine cannot be started, the test shall be voided and corrective action may be taken according to § 86.084–25. The reasons for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(4) If a failure to start occurs during the hot start portion of the test and is caused by engine malfunction, the engine must be started within one minute of key on. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the transient engine cycle timing sequence shall begin. If the engine cannot be started within one minute of key on, the test shall be voided, corrective action taken, (according to § 86.084–25), and the engine rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(d) If the engine "false starts," the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(e) *Engine stalling*. (1) If the engine stalls during the initial idle period of either the cold or hot start test, the engine shall be restarted immediately using the appropriate cold or hot starting procedure and the test continued. If the engine cannot be started before the first non-idle record of the cycle, the test shall be voided.

(2) If the engine stalls anywhere in the cold cycle, except in the initial idle period, the test shall be voided.

(3) If the engine stalls on the hot cycle portion of the test at any time up to and including 580 seconds into the hot cycle, the engine may be shut off and resoaked for 20 minutes. The hot cycle may then be rerun. Any stalling of the engine or voiding of the hot cycle more than 580 seconds into the hot cycle shall result in a void test. Only one hot start resoak and restart is permitted.

40. A new § 86.1337–86 is added and reads as follows:

§ 86.1337–86 Engine dynamometer test run.

(a) The following steps shall be taken for each test:

(1) Prepare the engine, dynamometer, and sampling system for the cold start tests. Change filters, etc. and leak check as necessary.

(2) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(3) Start the CVS (if not already on), the sample pumps, except the diesel particulate sample pump(s), if applicable, the temperature recorder, the engine cooling fan(s) and any data collection system (i.e., chart recorders, computers, data loggers, etc.). The heat exchanger of the constant volume sampler (if used), and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their respective operating temperatures before the test begins. See § 86.1304–86(e) for continuous sampling procedures.

(4) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

Note.—CFV–CVS sample flow rate is fixed by the venturi design.

(5) Attach the CVS flexible exhaust tube to engine tailpipe(s).

(6) Carefully install a clean particulate sample filter into each of the filter holders for diesel tests. The filters must be handled with forceps or tongs. Rough or abrasive filter handling will result in erroneous weight determination.

(7) Follow the manufacturer's choke and throttle instructions for cold starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon, continuous NO_x, CO, or CO_2 (if used) analyzer(s) system integrator(s) and turn on the particulate sample pumps and indicate the start of the test on the data collection medium (i.e., mark the chart on a chart recorder, set a byte on a computer or data logger, etc.).

(8) As soon as it is determined that the engine is started, start a "free idle" timer.

(9) Allow the engine to idle freely with no-load for 24±1 seconds. This idle period for automatic transmission engines may be interpreted as an idle speed in neutral or park. All other idle conditions shall be interpreted as an idle speed in gear. It is permissible to lug the engine down to curb idle speed during the last 8 seconds of the free idle period for the purpose of engaging dynamometer control loops.

(10) Begin the transient engine cycles such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle time is included in the 25±1 seconds.

Note.—During diesel testing, adjust the sample pump(s) so that the flow rate through the particulate sample probe or transfer tube is maintained at a constant value within ±5 percent of the set flow rate. Record the average temperature and pressure at the gas meter(s) or flow instrumentation inlet. If the set flow rate cannot be maintained because of high particulate loading on the filter, the test shall be terminated. The test shall be rerun using lower flow rate and/or a larger diameter filter.

(11) On the last record of the cycle cease sampling, immediately turn the engine off, and start a hot soak timer. For diesel engines immediately after the engine stops running, simultaneously turn off the gas flow measuring device(s) and the diesel hydrocarbon integrator, mark the hydrocarbon recorder chart, and turn off the particulate sample pump(s).

(12) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower. As soon as possible transfer the "cold start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 83.1340–86 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test. For diesel engines carefully remove each particulate sample filter from its holder and place each in a petri dish, and cover.

(13) Allow the engine to soak for 20 ± 1 minutes.

(14) Prepare the engine and dynamometer for the hot start test.

(15) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(16) Start the CVS (if not already on), the sample pumps (except the diesel particulate sample pump(s), if applicable), the temperature recorder,

the engine cooling fan(s) and any data collection system (i.e., chart recorders, computers, data loggers, etc.). The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their respective operating temperatures before the test begins. See § 86.1340-86(e) for continuous sampling procedures.

(17) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

Note.—CFV-CVS sample flow rate is fixed by the venturi design.

(18) Carefully install a clean particulate filter into each of the filter holders for diesel tests. The filters must be handled only with forceps or tongs. Rough or abrasive filter handling will result in erroneous weight determination.

(19) Follow the manufacturer's choke and throttle instruction for hot starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon analyzer system integrator, mark the recorder chart, and turn on the particulate sample pump(s).

(20) As soon as it is determined that the engine is started, start a "free idle" timer.

(21) Allow the engine to idle freely with no-load for 24 ± 1 seconds. The provisions and interpretations of step (a)(8) of this section apply.

(22) Begin the transient engine cycle such that the first non-idle record of the cycle occurs at 25 ± 1 seconds. The free idle is included in the 25 ± 1 seconds.

(23) On the last record of the cycle cease sampling. For diesel engines, simultaneously turn off gas flow measuring device(s) and the diesel hydrocarbon integrator, mark the hydrocarbon recorder chart, and turn off the particulate sample pump(s).

(24) As soon as possible transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340-86 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(25) For diesel engines, carefully remove each particulate sample filter from its holder and place each in a clean petri dish and cover as soon as possible. Within one hour after the end of the hot start phase of the test, transfer the four particulate filters to the weighing chamber for post-test conditioning.

(26) The CVS and the engine may be turned off, if desired.

(b) The procedure in paragraph (a) of this section is designed for one sample bag for the cold start portion and one for the hot start portion. It is permissible to use 4 sample bag per test portion. The bags shall sample for the portion of the cycle as indicated below:

Bag No.	Sample time	
	Gasoline-fueled	Diesel
1	272	297
2	579	597
3	895	902
4	1167	1199

41. A new § 86.1338-86 is added and reads as follows:

§ 86.1338-86 Emission measurement accuracy.

(a) Measurement accuracy for analysis systems used for bag measurements.

(1) Good engineering practice would dictate that analyzer readings below 15 percent of full scale chart deflection should generally not be used.

(2) Some high resolution read-out systems such as computers, data loggers, etc., can provide sufficient accuracy and resolution below 15 percent of full scale. Such systems may be used provided that additional calibration bottles are added to insure that the calibration curves below 15 percent of full scale, in the region of the sample measurements, conforms to the accuracy specifications in § 86.1316-86 through § 86.1326-86.

(b) Measurement accuracy for analysis systems used for continuous measurement systems.

(1) Analyzers used for continuous analysis must be operated such that the integrated concentration value over the test cycle falls between 15 and 100 percent of full scale chart deflection. Exceptions to these limits are:

(i) The analyzer's response may be less than 15 percent or more than 100 percent of full scale if automatic range change circuitry is used and the limits for range changes are between 15 and 100 percent of full-scale chart deflection;

(ii) The analyzer's response may be less than 15 percent of full scale if:

(A) Alternative (a)(2) of this section is used to insure that the accuracy of the calibration curve is maintained below 15 percent; or

(B) The full-scale value is 155 ppmC or less; or

(C) The emissions from the engine are erratic and the integrated chart deflection value is greater than 15 percent of full scale; or

(D) The contribution of all data read below the 15 percent level is less than 10 percent by mass of the final test results.

(iii) During engine start-up the HC analyzer is allowed to "spike" off-scale for a maximum of 5 seconds.

42. A new § 86.1339-86 is added and reads as follows:

§ 86.1339-86 Diesel particulate filter handling and weighing.

(a) At least 1 hour, but not more than 80 hours before the test, place each filter in an open, but protected, petri dish and place in the weighing chamber which meets the humidity and temperature specifications of § 86.1312-86.

(b) At the end of the 1 to 80 hour stabilization period, weigh the filter on a balance having a precision of one microgram. Record this weight. This reading is the tare weight.

(c) The filter shall then be stored in a covered petri dish which shall remain in the weighing chamber until needed for testing.

(d) If the filter is not used within one hour of its removal from the weighing chamber, it shall be re-weighed.

(e) After the test, and after the sample filter is returned to the weighing room, condition it for at least 1 hour but not more than 80 hours. Then weigh a second time. This latter reading is the gross weight of the filter. Record this weight.

(f) The net weight (M_{P_f}) is the gross weight minus the tare weight.

Note.—Should the sample on the filter contact the petri dish or any other surface, the test is void and must be re-run.

43. A new § 86.1340-86 is added and reads as follows:

§ 86.1340-86 Exhaust sample analysis.

(a) The analyzer response may be read by automatic data collection (ADC) equipment such as computers, data loggers, etc. If ADC equipment is used the following is required.

(1) For bag analysis the analyzer response must be stable at greater than 99 percent of final reading. A single value representing the average chart deflection over a 10 second stablized period may be stored.

(2) For continuous analysis systems, the ADC system must store at least 5 chart deflection readings per second.

(3) The chart deflections in (a) (1) and (2) of this section may be stored on long term computer storage devices such as computer tapes, storage discs, punch cards, or they may be printed in a listing for storage. In either case a chart recorder is not required and records from a chart recorder, if they exist, need not be stored.

(4) If the data from ADC equipment is used as permanent records, the ADC equipment and the analyzer values as interpreted by the ADC equipment are subject to the calibration specifications in §§ 86.1316–86 through 86.1326–86, as if the ADC equipment were part of the analyzer.

(b) Data records from any one or a combination of analyzers may be stored as chart recorder records.

(c) *Software zero and span.* (1) The use of "software" zero and span is permitted. The process of software zero and span refers to the technique of initially adjusting the analyzer zero and span responses to the calibration curve values, but for subsequent zero and span checks the analyzer response is simply recorded without adjusting the analyzer gain. The observed analyzer response recorded from the subsequent check is mathematically corrected back to the calibration curve values for zero and span. The same mathematical correction is then applied to the analyzer's response to a sample of exhaust gas in order to compute the true sample concentration.

(2) The maximum amount of software zero and span mathematical correction is ±10 percent of full scale chart deflection.

(3) Software zero and span may be used to switch between ranges without adjusting the gain of the analyzer.

(4) The software zero and span technique may not be used to mask analyzer drift. The observed chart deflection before and after a given time period or event shall be used for computing the drift. Software zero and span may be used after the drift has been computed to mathematically adjust any span drift so that the "after" span check may be transformed into the "before" span check for the next segment.

(d) For bag sample analysis perform the following sequence:

(1) Warm-up and stabilize the analyzers.

(2) Clean and/or replace filter elements, conditioning columns (if used), etc., as necessary.

(3) The order of steps (1) and (2) may be interchanged.

(4) Obtain a stable zero reading.

(5) Zero and span the analyzers with zero and span gases. The span gases shall have concentrations between 75 and 100 percent of full scale chart deflection. The flow rates and system pressures during spanning shall be approximately the same as those encountered during sampling.

(6) Re-check zero response, repeat paragraphs (d)(4) and (d)(5) of this section or use software zero and span if necessary.

(7) If a chart recorder is used, identify the most recent zero and span response as the pre-analysis values.

(8) If ADC equipment is used, electronically record the most recent zero and span response as the pre-analysis values.

(9) Measure HC (except diesels), CO, CO_2, and NO_x concentrations in the sample bag(s) with approximately the same flow rates and pressures used in paragraph (d)(5) of this section. Constituents measured continuously do not require bag analysis.

(10) Rechecking of the zero and span point after the analysis of the bag is permitted. The number of bags that may be analyzed after pre-analysis values for zero and span have been determined is not specified. The limiting criteria on the time span or the number of events that may occur between the pre-analysis and post-analysis zero span checks are the following:

(i) A pre-analysis zero and span value for each range of each constituent to be analyzed must be determined and identified or recorded prior to analyzing the bag. The bag may be sampled in order to identify the specific range required prior to the determination of the pre-analysis values.

(ii) A post-analysis zero and span check for each range used must be performed and the values recorded. The time interval or the number of events that may occur between the pre and post checks is not specified. However, the difference between pre-analysis zero and span values (recorded in step (7) and (8)) versus those recorded for the post-analysis check may not exceed the zero drift limit or the span drift limit of 2 percent of full scale chart deflection for any range used.

(iii) The time span between the pre and post checks may be no longer than the time period that was used to evaluate the analyzer drift performance.

(11) Analyze the remaining sample and background bags as outlined in steps (4) through (10).

(e) For continuous sample analysis perform the following sequences:

(1) Warm-up and stabilize the analyzers.

(2) Clean and/or replace filter elements, conditioning columns (if used) etc., as necessary.

(3) The order of steps (1) and (2) may be interchanged.

(4) Leak check portions of the sampling system that operate under a vacuum when sampling.

(5) Allow heated sample lines, filters, pumps, etc., to stabilize at operating temperature.

(6) The order of steps (4) and (5) may be interchanged.

(7) Obtain a stable zero reading.

(8) Zero and span each range to be used on each analyzer used prior to the beginning of the cold cycle. The span gases shall have a concentration between 75 and 100 percent of full scale chart deflection. The flow rates and system pressures shall be approximately the same as those encountered during sampling.

(9) Re-check zero response, repeat steps (7) and (8) or use software zero and span if necessary.

(10) If a chart recorder is used, identify the most recent zero and span response as the pre-analysis values.

(11) If ADC equipment is used, electronically, record the most recent zero and span response as the pre-analysis values.

(12) Measure the emissions (HC required for diesels, NO_x, CO, CO_2 optional) continuously during the cold start cycle. Indicate the start of the test, the range(s) used, and the end of the test on the recording medium (chart paper or ADC equipment). Use approximately the same flow rates and system pressures used in step (8).

(13) Collect background HC, CO, CO_2, and NO_x in a sample bag.

(14) Perform a post-analysis zero and span check for each range at the conditions specified in step (8).

(15) Neither the zero drift nor the span drift between the pre-analysis and post-analysis checks on any range used may exceed 3 percent for HC or 2 percent for NO_x, CO, and CO_2 of full scale chart deflection, or the test is void.

(16) Determine HC background levels for the cold start cycle by introducing a sample from the background bag into the overflow HC span system.

(17) Determine background levels of NO_x, CO, or CO_2 (if necessary) by the technique outlined in paragraph (e) of this section. The continuous analyzers may be used for analysis under paragraph (e).

Note.—For a quality control check on diesel HC, compare an analysis of a background bag to a continuous analysis of background air sampled through the total hydrocarbon probe. For best results, the difference should be less than 1 percent on the average (time integrated) dilute hydrocarbon emission level during the test.

(18) Repeat steps (7) through (17) for the hot cycle. The post-analysis zero and span check for the cold start (or previous hot start) cycle may be used for the pre-analysis zero and span for the following hot start cycle.

(19) If the HC drift is greater than 3 percent of full-scale chart deflection, hydrocarbon hang-up is suspected.

(f) HC hang-up. If the HC hang-up is suspected, the following sequence may be performed.

(1) Fill a clean sample bag with zero gas.

(2) Zero and span the HFID with the overflow system.

(3) Analyze the sample bag through the overflow sample system.

(4) Analyze the sample bag on another FID or HFID meeting the specification of this Subpart or 40 CFR, Subpart D that does not have a hang-up problem.

(5) If the difference between the readings obtained is 3 percent or more of the HFID full scale, disconnect probe and clean same. (Soaking with sulfuric acid has proven effective.) Clean sample line also. (Heating to 450° F and flow nitrogen gas continuously for 12 hours has proven useful.)

(6) Reassembe the sample system, heat to specified temperature, and repeat the procedure in (1) through (6) above.

44. A new § 86.1341–86 is added and reads as follows:

§ 86.1341–86 Test cycle validation criteria.

(a) To reduce errors between the feedback and reference (cycle trace) values the engine speed and torque feedback signals may be shifted a maximum of ±5 seconds with respect to the reference speed and torque traces. If the feedback signals are shifted, both speed and torque must be shifted the same amount in the same direction.

(b) Calculate the brake horsepower for each pair of engine speed and torque values recorded. Also calculate the reference brake horsepower for each pair of engine speed and torque reference values. Calculations shall be to five significant digits.

(c) Linear regressions of feedback value on reference value shall be performed for speed, torque and brake horsepower. The method of least-square shall be used. The equation shall have the form:

$$y = mx + b$$

Where:

y = The feedback (actual) value of speed (in RPM), Torque (in ft-lbs.), or brake horsepower.

m = Slope of the regression line.

x = The reference value (speed, torque, or brake horsepower).

b = The y intercept of the regression line.

(d) The standard error of estimate (SE) of y on x and the coefficient of determination (r^2) shall be calculated for each regression line.

(e) For a valid test the criteria in Figure N86–14 must be met for both cycles (cold start and hot start) individually. Deletions from the regression analysis are permitted where allowed in Figure N86–14.

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REGRESSION LINE TOLERANCES

	SPEED	TORQUE	BRAKE HORSEPOWER
STANDARD ERROR OF ESTIMATE (SE) OF Y ON X	100 RPM	13% OF MAXIMUM ENGINE TORQUE	8% OF MAXIMUM BRAKE HORSEPOWER
SLOPE OF THE REGRESSION LINE, M	0.970-1.030	0.83-1.03 HOT 0.77-1.03 COLD	0.89-1.03 (HOT) 0.87-1.03 (COLD)
COEFFICIENT OF DETERMINATION, R^2	0.9700 1/	0.8800 (HOT) 1/ 0.8500 (COLD) 1/	0.9100 1/
Y INTERCEPT OF THE REGRESSION LINE, B	± 50 RPM	± 15 FT. LBS.	± 5.0 OF BRAKE HORSEPOWER

1/ MINIMUM

PERMITTED POINT DELETIONS FROM REGRESSION ANALYSIS

CONDITION		POINTS TO BE DELETED
FIRST 24 SECONDS (± 1) OF FREE IDLE OF HOT AND COLD CYCLES		SPEED, TORQUE, BRAKE HORSEPOWER
WIDE OPEN THROTTLE	SPEED CONTROL: TORQUE FEEDBACK < TORQUE REFERENCE	TORQUE, BRAKE HORSEPOWER
	TORQUE CONTROL: SPEED FEEDBACK < SPEED REFERENCE	SPEED, BRAKE HORSEPOWER
SPEED CONTROL, CLOSED THROTTLE, TORQUE REFERENCE < ZERO		TORQUE, BRAKE HORSEPOWER
GASOLINE FUELED ENGINES EQUIPPED WITH AUTOMATIC CHOKES; FIRST 150 SECONDS OF COLD CYCLE OR FIRST 30 SECONDS OF HOT CYCLE, CLOSED THROTTLE AND: MANUAL TRANSMISSION, IF TORQUE FEEDBACK A: IS EQUAL TO ZERO (± 10 FT. LBS.) OR;		SPEED BRAKE HORSEPOWER
B. AUTOMATIC TRANSMISSION, IF TORQUE FEEDBACK IS EQUAL TO CURB IDLE TRANSMISSION TORQUE (± 10 FT. LBS.)		SPEED BRAKE HORSEPOWER

FIGURE N86-14

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(f) The integrated brake horsepower-hour for each cycle (cold and hot start) shall be between −15 percent and +5 percent of the integrated brake horsepower-hour for the reference cycle or the test is void. All torque and speed data points must be used to calculate the intergrated brake horsepower-hour. For the purposes of this calculation, negative torque values (i.e., motoring horsepower) shall be set equal to zero and included.

(g) If a dynamometer test run is determined to be statistically or experimentally void, corrective action shall be taken. The engine shall then be allowed to cool (naturally or forced) and the dynamometer test rerun per § 86.1337–86.

45. A new § 86.1342–86 is added and reads as follows:

§ 86.1342–86 Calculations; exhaust emissions.

(a) The final reported transient emission test results shall be computed by use of the following formula:

$$A_{wm} = \frac{1/7(g_C) + 6/7(g_H)}{1/7(\text{BHP-Hr}_C) + 6/7(\text{BHP-Hr}_H)}$$

Where:

A_{wm} = Weighted mass emission level (HC, CO, CO_2, NOx or particulate (diesel only)) in grams per brake horsepower hour.

g_C = Mass emission level in grams, measured during the cold start test.

g_H = Mass emissions level in grams, measured during the hot start test.

BHP-HR_C = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the cold start test.

BHP-HR_H = Total brake horsepower-hour (brake horespower integrated with respect to time) for the hot start test.

(1) The mass of each pollutant for the cold start test and the hot start test for bag measurements and diesel heat exchanger sample system measurements is determined from the following equations:

(i) Hydrocarbon mass:

$$HC_{mass} = V_{mix} \times \text{Density}_{HC} \times (HC_{conc}/1{,}000{,}000)$$

(ii) Oxides of nitrogen mass:

$$NOx_{mass} = V_{mix} \times \text{Density}_{NO_2} \times K_H \times (NOx_{conc}/1{,}000{,}000)$$

(iii) Carbon monoxide mass:

$$CO_{mass} = V_{mix} \times \text{Density}_{CO} \times (CO_{conc}/1{,}000{,}000)$$

(iv) Carbon dioxide mass:

$$CO_{2mass} = V_{mix} \times \text{Density}_{CO_2} \times (CO_{2conc}/100)$$

(v) Diesel particulate mass:

$$P_{mass} = [V_{mix} + V_{Sf}] \times \frac{P_f}{V_{Sf}}$$

(2) The mass of each pollutant for the cold start test and the hot start test for flow compensated sample systems is determined from the following equations:

$$\text{(i)}\quad HC_{mass} = \sum_{i=1}^{n}\left[\frac{(HC_e)_i}{10^6} \times (\dot{V}_{mix})_i \times (\text{Density}_{HC}) \times \Delta T\right] - \frac{HC_d}{10^6}\left(1-\frac{1}{DF}\right) \times V_{mix} \times \text{Density}_{HC}$$

$$\text{(ii)}\quad NOx_{mass} = \sum_{i=1}^{n}\left[\frac{(NOx_e)_i}{10^6} \times (\dot{V}_{mix})_i \times (\text{Density}_{NO_2}) \times \Delta T\right] - \frac{NOx_d}{10^6}\left(1-\frac{1}{DF}\right) \times V_{mix} \times \text{Density}_{NO_2}$$

$$\text{(iii)}\quad CO_{mass} = \sum_{i=1}^{n}\left[\frac{(CO_e)_i}{10^6} \times (\dot{V}_{mix})_i \times (\text{Density}_{CO}) \times \Delta T\right] - \frac{CO_d}{10^6}\left(1-\frac{1}{DF}\right) \times V_{mix} \times \text{Density}_{CO}$$

$$\text{(iv)}\quad CO_{2mass} = \sum_{i=1}^{n}\left[\frac{(CO_{2e})_i}{10^6} \times (\dot{V}_{mix})_i \times (\text{Density}_{CO_2}) \times \Delta T\right] - \frac{CO_{2d}}{10^6}\left(1-\frac{1}{DF}\right) \times V_{mix} \times \text{Density}_{CO_2}$$

(3) Meaning of symbols:

(i) HC_{mass} = Hydrocarbon emissions, in grams per test phase.

Density_{HC} = Density of hydrocarbons is 16.33 g/ft³ (.5768 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane X 3.

$HC_{conc} = HC_e - HC_d[1-(1/DF)]$

Where:

HC_e = Hydrocarbon concentration of the dilute exhaust bag sample or, for diesel heat exchanger systems, average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated HC traces, in ppm carbon equivalent. For flow compensated sample systems $(HC_e)_i$ is the instantaneous concentration.

HC_d = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(ii) NOx_{mass} = Oxides of nitrogen emissions, in grams per test phase.

Density_{NO2} = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

NOx_{conc} = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$NOx_{conc} = NOx_e - NOx_d[1-(1/DF)]$

Where:

NOx_e = Oxides of nitrogen concentration of the dilute exhaust bag sample as measured, in ppm. For flow compensated sample systems $(NOx_e)_i$ is the instantaneous concentration.

NOx_d = Oxides of nitrogen concentration of the dilute air as measured, in ppm.

(iii) CO_{mass} = Carbon monoxide emissions, in grams per test phase.

Density_{CO} = Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³), at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc} = CO_e - CO_d[1-(1/DF)]$

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust bag sample volume corrected for water vapor and carbon dioxide extraction, in ppm. For flow compensated sample systems $(CO_e)_i$ is the instantaneous concentration. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = [1 - 0.01925CO_{2e} - 0.000323R]CO_{em}$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust bag sample, in percent. For flow compensated sample systems $(CO_{2e})_i$ is the instantaneous concentration.

R = Relative humidity of the dilution air, in percent (see § 86.1342–86(a)(5)).

CO_d = Carbon moxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1 - 0.000323R)CO_{dm}$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

Note.—If a CO instrument which meets the criteria specified in § 86.1311–86 is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

(iv) CO_{2mass} = Carbon dioxide emissions, in grams per test phase.

Density_{CO2} = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³), at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

CO_{2conc} = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2conc} = CO_{2e} - CO_{2d}[1-(1/DF)]$

Where:

CO_{2d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(v) P_{mass} = Mass of particulate determined in grams per test phase.

P_f = Mass of particulate per test on the exhaust filter (or filters if the back-up filter is required. See § 86.1310–86(c) for determination), grams.

V_{sf} = Total volume of sample removed from the primary dilution tunnel, cubic feet at standard conditions.

(a) For a single-dilution system:

$$V_{sf} = \frac{V_{ss} \times (P_B + P_{is}) \times 528°R}{T_{is} \times 760 \text{ mmHG}}$$

Where:

V_{ss} = actual volume of dilute sample removed from the primary-dilution tunnel, cubic feet.
P_B = barometric pressure, mmHg.
P_{is} = pressure elevation above ambient measured at the inlet to the dilute exhaust sample gas meter or flow instrumentation, mmHg. For most gas meters or flow instruments with unrestricted discharge P_{is} is negligible and can be assumed = 0.
T_{is} = average temperature of the dilute exhaust sample at the inlet to the gas meter or flow instrumentation, °R.

Note.—V_{sf} may require correction according to § 86.1320–86(f).

(b) For a double-dilution system:

$V_{sf} = V_{sf}$

Where:

$V_{st} = V_{sv} \times (P_B + P_{tv}) \times 528°R / T_{tv} \times 760$ mmHG
V_{sv} = actual volume of double diluted sample which passed through the particulate filter, cubic feet.
P_B = barometric pressure, mmHg.
P_{tv} = pressure elevation above ambient measured at the inlet to the sample gas meter located at the exit side of the secondary dilution tunnel, mmHg. For most meters with unrestricted discharge P_{tv} is negligible and can be assumed = 0.
T_{tv} = Average temperature of the dilute exhaust sample at the inlet to the exit side gas meter or flow instrumentation, °R.
$V_{sd} = V_{sp} \times (P_B + P_{ip}) \times 528°R / T_{ip} \times 760$ mmHG
V_{sp} = actual volume of secondary dilution air, cubic feet.
P_B = barometric pressure, mmHg.
P_{ip} = pressure elevation above ambient measured at the inlet to the sample gas meter or flow instrumentation located at the inlet side of the secondary dilution tunnel, mmHg. For most gas meters with unrestricted discharge P_{ip} is negligible and can be assumed = 0.
T_{ip} = Average temperature of the dilute exhaust sample at the inlet to the inlet side gas meter or flow instrumentation, °R.

Note.—Both V_{st} and V_{sd} may require correction according to § 86.1320–86(f). These corrections must be applied before V_{sf} is determined.

Note.—The background particulate level inside the dilution air filter box at EPA is very low. This particulate level will be assumed = 0, and background particulate samples will not be taken with each exhaust sample. It is recommended that background particulate checks be made periodically to verify the low level. Any manufacturer may make the same assumption without prior EPA approval.

(vi) $DF = 13.4/[CO_{2e} + (HC_e + CO_e) \times 10^{-4}$
K_H + Humidity correction factor.

For gasoline engines:

$K_H = 1/[1 - 0.0047(H - 75)]$ (or for SI units $= 1/[1 - 0.0329(H - 10.71)]$)

For diesel engines:

$K_H = 1$.

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.
$H = [(43.478)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$ for SI units, $H = [(6.211)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$
R_a = Relative humidity of the ambient air, in percent.
P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.
P_B = Barometric pressure, in mm Hg (kPa).
Dt = Time interval (in seconds) between samples in flow compensated systems (0.2 seconds maximum).
V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R (293°K) and 760 mm Hg (101.3 kPa).
$(V_{mix})_i$ = Instantaneous dilute exhaust volumetric flow rate (for compensated flow systems), in cubic feet per second.

For PDP–CVS, V_{mix} is:

$$V_{mix} = V_o \times \frac{N(P_B - P_4)(528°R)}{(760 \text{ mm Hg})(T_p)}$$

for SI units,

$$V_{mix} = V_o \times \frac{N(P_B - P_4)(293.15°K)}{(101.3 \text{ kPa})(T_p)}$$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (cubic metres) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.
N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.
P_B = Barometric pressure, in mm Hg (kPa).
P_4 = Pressure depressions below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).
T_p = Average temperature of dilute exhaust entering positive displacement pump during test, °R (°K).

(b) Sample calculation of mass values of exhaust emissions:

(1) Assume the following test results for a gasoline engine:

	Cold start cycle test results	Hot start cycle test results
V_{mix}	6924 ft³	6873 ft³.
R	30.2%	30.2%.
R_a	30.2%	30.2%.
P_B	735 mm Hg	735 mm Hg.
P_d	22.676 mm Hg	22.676 mm Hg.
HC_e	132.07 ppm C equiv.	[illegible].13 ppm C equiv.
NOx_e	7.86 ppm	10.09 ppm.
CO_{em}	171.22 ppm	114.28 ppm.
CO_{2e}	.178%	.281%.
HC_d	3.60 ppm C equiv.	8.70 ppm C equiv.
NOx_d	0.0 ppm	0.10 ppm.
CO_{dm}	0.89 ppm	0.89 ppm.
CO_{2d}	0.0%	0.26%.
BHP–HR	0.259	0.347.

Then:

Cold Start Test

$H = [(43.478)(30.2)(22.676)]/[735 - (22.676)(30.2)/100] = 41$ grains of water per pound of dry air.
$K_H = 1/[1 - 0.0047(41 - 75)] = 0.862$
$CO_e = [1 - 0.01925(.178) - 0.000323(30.2)]171.22 = 169.0$ ppm
$CO_d = [1 - 0.000323(30.2)]0.89 = .881$ ppm
$DF = 13.4/[.178 + (132.1 + 169.0)(10^{-4})] = 64.392$
$HC_{conc} = 132.1 - 3.6[1 - (1/64.265)] = 128.6$ ppm
$HC_{mass} = 6924(16.33)(128.6/1{,}000{,}000) = 14.53$ grams
$NOx_{conc} = 7.86 - 0.0[1 - (1/64.265)] = 7.86$ ppm
$NOx_{mass} = 6924(54.16)(.862)(7.86/1{,}000{,}000) = 2.54$ grams
$CO_{conc} = 169.0 - .881[1 - (1/64.265)] = 168.0$ ppm
$CO_{mass} = 6924(32.97)(168.0/1{,}000{,}000) = 38.35$ grams
$CO_{2conc} = .178 - 0[1 - /64.265)] = .178\%$
$CO_{2mass} = 6924(51.85)(.178/100) = 639$ grams

Hot Start Test

Assume similar calculations result in the following:

$HC_{mass} = 8.72$ grams
$NOx_{mass} = 3.49$ grams
$CO_{mass} = 25.70$ grams
$CO_{2mass} = 1226$ grams

(2) Weighted mass emission results:

$$HC_{wm} = \frac{1/7(14.53) + 6/7(8.72)}{1/7(0.259) + 6/7(0.347)} = 28.6 \text{ grams/BHP-HR}$$

$$NOx_{wm} = \frac{1/7(2.54) + 6/7(3.49)}{1/7(0.259) + 6/7(0.347)} = 10.0 \text{ grams/BHP-HR}$$

$$CO_{wm} = \frac{1/7(38.35) + 6/7(25.70)}{1/7(0.259) + 6/7(0.347)} = 82.2 \text{ grams/BHP-HR}$$

$$CO_{2wm} = \frac{1/7(639) + 6/7(1226)}{1/7(0.259) + 6/7(0.347)} = 3615 \text{ grams/ BHP-HR}$$

(c) The final reported brake-specific fuel consumption (BSFC) shall be computed by use of the following formula:

$$BSFC = \frac{1/7(M_C) + 6/7(M_H)}{1/7(BHP\text{-}HR_C) + 6/7(BHP\text{-}HR_H)}$$

Where:

$BSFC$ = brake-specific fuel consumption in pounds of fuel per brake horsepower-hour (lbs/BHP-HR)

M_C = mass of fuel, in pounds, used by the engine during the cold start test.

M_H = mass of fuel, in pounds, used by the engine during the hot start test.

$BHP\text{-}HR_C$ = total brake horsepower-hours (brake horsepower integrated with respect to time) for the cold start test.

$BHP\text{-}HR_H$ = total brake horsepower-hours (brake horsepower integrated with respect to time) for the hot start test.

(1) The mass of fuel for the cold start and hot start test is determined from the following equation:

$M = (G_s/R_s)(1/453.6)$

(2) Meaning of symbols:

M = Mass of fuel, in pounds, used by the engine during the cold or hot start test.

G_s = Grams of carbon measured during the cold or hot start test.

$$G_s = [12.011/(12.011 + \alpha(1.008))]HC_{mass} + 0.429CO_{mass} + 0.273\ CO_{2mass}$$

Where:

HC_{mass} = Hydrocarbon emissions, in grams for cold or hot start test.

CO_{mass} = Carbon monoxide emissions, in grams for cold or hot start test.

CO_{2mass} = Carbon dioxide emissions, in grams for cold or hot start test.

α = The measured hydrogen to carbon ratio of the fuel.

R_s = The grams of carbon in the fuel per gram of fuel.

$R_s = 12.011/[12.011 + \alpha(1.008)]$

(d) Sample calculation of brake-specific fuel consumption:

(1) Assume the following text results:

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	Cold Start Cycle Test Results	Hot Start Cycle Test Results
BHP-HR	6.945	7.078
α	1.85	1.85
HC_{mass}	37.08 grams	28.82 grams
CO_{mass}	357.69 grams	350.33 grams
CO_{2mass}	5419.62 grams	5361.32 grams

Then:

G_s for cold start test =

$$[12.011/(12.011 + (1.85)(1.008))](37.08) + 0.429(357.69) + 0.273(5419.62) = 1665.10 \text{ grams}$$

G_s for hot start test =

$$[12.011/(12.011 + (1.85)(1.008))](28.82) + 0.429(350.33) + 0.273(5361.32) = 1638.88 \text{ grams}$$

$$R_2 = 12.011/[12.011 + 1.85(1.008)] = .866$$

$$M_C = (1665.10/.866)(1/453.6) = 4.24 \text{ lbs.}$$

$$M_H = (1638.88/.866)(1/453.6) = 4.17 \text{ lbs.}$$

(2) Brake-specific fuel consumption results:

$$BSFC = \frac{1/7(4.24) + 6/7(4.17)}{1/7(6.945) + 6/7(7.078)} = .592 \text{ lbs. of fuel/BHP-HR}$$

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46. A new § 86.1343–86 is added and reserved as follows:

§ 86.1343–86 [Reserved]

47. A new § 86.1344–86 is added and reads as follows:

§ 86.1344–86 Required information.

(a) The required test data shall be grouped into the following three general categories:

(1) Engine set-up and descriptive data. This data must be provided to the EPA supervisor of engine testing for each engine sent to the Administrator for confirmatory testing prior to the initiation of engine set-up. This data is necessary to insure that EPA test personnel have the correct data in order to set up and test the engine in a timely and proper manner. This data is not required for tests performed by the manufacturers.

(2) Pre-test data. This data is general test data that must be recorded for each test. The data is of a more descriptive nature such as identification of the test engine, test site number, etc. As such, this data can be recorded at any time within 24 hours of the test.

(3) Test-data. This data is physical test data that must be recorded at the time of testing.

(b) All data may be supplied to the Administrator by punch cards, magnetic tape, or other electronic data processing means. Acceptable data formats and transmission techniques will be provided in the Application Format for Certification of the applicable Model Year.

(c) Engine set-up data. Because the specific test facilities may change somewhat with time, the specific data parameters and number of items may vary slightly. The Application Format for Certification for the applicable Model Year will specify the exact requirements. In general, the following type of data will be required:

(1) Engine manufacturer.

(2) Engine system combination.

(3) Engine code and CID.

(4) Engine identification number.

(5) Applicable engine model year.

(6) Engine fuel type.

(7) Recommended oil type.

(8) Exhaust pipe configuration pipe sizes, etc.

(9) Curb idle speed.

(10) Dynamometer idle speed. (Automatic transmission engines only.)

(11) Engine parameter specifications such as spark timing, operating temperature, advance curves, etc.

(12) Engine performance data such as, maximum BHP, rated speed, fuel flow, governed speed, etc.

(13) Recommended start-up procedure.

(14) Maximum safe engine operating speed.

(15) Number of hours of operation accumulated on engine.

(16) Manufacturer's recommended inlet depression limit and typical in-use inlet depression level.

(17) Exhaust system.

(i) *Diesel engines.* (A) Header pipe inside diameter.

(B) Tailpipe inside diameter.

(C) Minimum distance in-use between the exhaust manifold flange and the exit of the chassis exhaust system.

(D) Manufacturer's recommended maximum exhaust back pressure limit for the engine.

(E) Typical back pressure as determined by the maximum back pressure application of the engine.

(F) Minimum back pressure required to meet applicable noise regulations.

(ii) *Gasoline-fueled engines.* Typical in-use back pressure in vehicle exhaust system.

(d) Pre-test data. The following data shall be recorded, and reported to the Administrator for each test conducted for Compliance with the provisions of 40 CFR 86, Subpart A:

(1) Engine-system combination.

(2) Engine identification.

(3) Instrument operator(s).

(4) Engine operator(s).

(5) Number of hours of operation accumulated on the engine prior to beginning the test sequence (Figure N86–12).

(6) Fuel identification with average of test fuel used.

(7) Date of most recent analytical assembly calibration.

(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve number, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(e) *Test data.* The physical parameters necessary to compute the test results and insure accuracy of the results shall be recorded for each test conducted for compliance with the provisions of 40 CFR 86, Subpart A. Additional test data may be recorded at the discretion of the manufacturer. Extreme details of the test measurements such as analyzer chart deflections will generally not be required on a routine basis to be reported to the Administrator for each test, unless a dispute about the accuracy of the data arises. The following type of data shall be required to be reported to the Administrator. The Application Format for Certification for the applicable Model Year will specify the exact requirements which may change slightly from year to year with the addition or deletion of certain items.

(1) Date and time of day.

(2) Test number.

(3) Engine intake air or test cell temperature.

(4) Barometric pressure.

Note.—A central laboratory barometer may be used; *Provided,* that individual test cell barometric pressure are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(5) Engine intake or test cell and CVS dilution air humidity.

(6) Maximum torque versus speed curve as determined in § 86.1332, with minimum and maximum engine speeds.

(7) Measured maximum horsepower, maximum torque, and rated speeds.

(8) Measured maximum horsepower and torque.

(9) High idle engine speed (diesel engines only).

(10) Fuel consumption at maximum power and torque (diesel engines only).

(11) Curb-idle fuel flow rate.

(12) Cold soak time interval and cool down procedures.

(13) Temperature set point of the heated continuous analysis system components (if applicable).

(14) Test cycle validation criteria as specified in § 86.1341 for each test phase (cold-hot).

(15) Total CVS flow rate with dilution factor for each test phase (cold-hot).

(16) Sample concentrations (background corrected) for HC, CO, CO_2, and NO_x for each test phase (cold-hot).

(17) Brake specific emissions (g/BHP-hr) for HC, CO and NO_x for each test phase (cold-hot).

(18) The weighted (cold-hot) brake specific emissions (g/BHP-hr) for the total test.

(19) The weighted (cold-hot) carbon balance brake specific fuel consumption for the total test.

(20) The number of hours of operation accumulated on the engine after completing the test sequences described in Figure N86–10.

(21) *Additional required records for diesel engines.* (i) Pressure and temperature of the dilute exhaust mixture and secondary-dilution air in the case of a double-dilution system at the inlet to the respective gas meter(s) or flow instrumentation used for particulate sampling.

(ii) The temperature of the dilute exhaust mixture immediately before the particulate filter.

(iii) Gas meter or flow instrument readings at the start of each sample period and at the end of each sample period.

(iv) The stabilized pre-test weight and post-test weight of each particulate sample filter.

(v) The temperature and humidity of the ambient air in which the particulate filters were stabilized.

(vi) The temperatures of the gas (1) flowing in the heated sample line before the heated filter and (2) before the HFID, and the temperature of the control system of the heated hydrocarbon detector.

[FR Doc. 81-257 Filed 1-6-81; 8:45 am]

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Wednesday
January 7, 1981

Part IV

Postal Service

Privacy Act of 1974; Systems of Records, Annual Publication

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POSTAL SERVICE

Privacy Act of 1974; Systems of Records, Annual Publication

AGENCY: U.S. Postal Service.

ACTION: Annual report and final notice of records system changes.

SUMMARY: The primary purpose of this document is to publish the annual notice under 5 USC 552a(e) (4) of the systems of records, as defined in the Privacy Act of 1974, Pub. L. 93–579, which are maintained by the Postal Service. The full text of the Postal Service's systems of records last appeared at: 43 FR 40122, September 8, 1978, with numerous revisions published at 45 FR 1558, January 7, 1980. (Also see Privacy Act Issuances, 1979 Compilations, Volume IV, p. 3208.) This document publishes in full the systems that the Postal Service has amended since the January 7, 1980, publication and provides the full systems descriptions of those systems that were not published in the January 7, 1980, issue of the **Federal Register**. It also provides the system numbers and names of those systems that appeared in the January 7, 1980, **Federal Register** which have not been amended. In summary, the reader has available, in this publication and the January 7 document, the complete text for each Postal Service system of records. This document also provides final notice of several record systems description changes that have recently appeared for public comment in the **Federal Register**.

DATE: Parts 1, 2, and 3 are effective January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. A. Scott Hamel (202) 245–4142.

SUPPLEMENTARY INFORMATION: Changes to the January 7, 1980, list appeared in the Federal Registers on May 15, 1980 (45 FR 32153), August 1, 1980 (45 FR 51322), August 25, 1980 (45 FR 56483), September 23, 1980 (45 FR 63198), and November 7, 1980 (45 FR 74124).

The Postal Service has determined it is necessary to: (1) publish final notice of the August 1, 1980, August 25, 1980, September 23, 1980 and November 7, 1980 proposals; (2) delete a previously published system from the list of systems of records; and (3) make minor editorial corrections and revisions to the descriptions of several systems of records.

Postal Service regulations concerning the privacy of information appear in 39 CFR 266. Those Postal Service systems of records which are exempt from certain provisions of the Privacy Act are listed in 39 CFR 266.9(b).

Part 1: Final Notice of Prior Proposals

On August 1, 1980, August 25, 1980, September 23, 1980 and November 7, 1980 the Postal Service published for comment in the **Federal Register** (45 FR 51322, 45 FR 56483, 45 FR 63198 and 45 FR 74124, respectively) notices of several Postal Service systems of records changes. The final notice of the changes follows:

(a) The Postal Service has determined that it is necessary to modify an existing system of records to provide for the collection and maintenance of information that will be used to make lockbox service available in convenient, detached locations to a larger segment of the public. The system will now contain completed questonnaires from members of the public who are interested in expanded lockbox service. The final revisions and the system to which it applies follows:

USPS 010.020, Collection and Delivery Records—Boxholders Records

Categories of individuals covered by the system:

Change to read, "Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use."

Categories of records in the system:

Change to read, "Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Change routine use No. 2 to read, "2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business."

Storage:

Change to read, "Information is stored on printed or card form filed in metal file cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips."

Retention and disposal:

Add, "c. Lockbox preference questionnaire forms are retained for six months after termination of survey."

(b) The Postal Service has automated certain portions of three systems to improve their operating efficiency. The systems affected and the changes to be made are set forth below:

USPS 070.040, Inquiries and Complaints—Customer Complaint Records

Storage:

Change to read, "Records are stored in original typed, printed, handwritten or computer printed form and on magnetic tape."

Safeguards:

Change to read, "Paper records are maintained in closed filing cabinets. Computer records are subject to the security of the computer room."

Retention and disposal:

Change to read, "Records are retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Paper records are destroyed by burning or shredding. Computer records are destroyed by erasing."

USPS 120.098, Personnel Records—Office of Workers' Compensation Program (OWCP) Records

Categories of records in the system:

Change to read, "Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim; automated payment and accounting records."

Storage:

Change to read, "Printed forms and correspondence. (Note.—In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.) Continuation of pay and DOL chargeback information is stored on computer media."

Retrievability:

Change to read, "Records are retrieved alphabetically by name and social security number."

Safeguards:

Change to read, "Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security."

Retention and disposal:

Change to read, "OWCP case files are maintained for five years after employee has left the Postal Service, then destroyed.

System manager(s) and address:

Change to read, "APMG, Employee Relations Department, and APMG, Finance Department, Headquarters."

USPS 210.020, Contractor Records—Contract Employee Assignment Records

System name:

Change to read, "Contract Records, Drivers Screening System."

System location:

Change to read, "Mail Processing Department, Headquarters; Regional Offices; Sectional Centers; Bulk Mail Centers; District Offices; Post Offices; Postal Data Centers; and Transportation Management Offices (TMOs)."

Categories of individuals covered by the system:

Change to read, "Persons under a highway contract with the USPS."

Categories of records in the system:

Change to read, "Name, social security account number and highway contract to which assigned."

Storage:

Change to read, "Originally typed, printed or handwritten form; magnetic tape and computer printed reports."

Retrievability:

Change to read, "Primarily by highway contract and postal locations serviced; secondarily, by individual's social security number and name."

Safeguards:

Change to read, "Through computerized codes and passwords, access is restricted to offices that are the authority for a specific contract and to only those post offices serviced by the contract."

Retention and disposal:

Change to read, "Records are held one year after the contract expires, or one year following an individual's employment termination with a company that has been awarded a highway contract."

Notification procedure:

Change to read, "Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the TMO Manager. Inquiries should contain full name and highway contract number."

(c) The Postal Service plans to extract and report leave usage information about PAR program participants from its payroll processing system (USPS 050.020). Reports will be distributed to PAR program personnel in order to improve the ability to assess the success of the PAR program. The following constitutes final notice of the necessary changes.

USPS 120.140, Personnel Records—Program for Alcoholic Recovery (PAR)

System location:

Change to read, "PAR offices, regional headquarters and Postal Data Centers."

Categories of individuals covered by the system:

Change to read, "USPS employees who volunteer for or are referred to the Program."

Storage:

Change to read, "Printed forms and paper files. Sick leave and Leave Without Pay information is stored on computer media."

Safeguards:

Change to read, "These restricted files are maintained in locked file cabinets with limited access to PAR personnel in secured facilities. Automated records are protected through computer password security and encoding of personal identifiers."

Retention and disposal:

Change to read, "1. Case card is destroyed six years following close of case file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records card is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing."

(d) The Postal Service has modified USPS 120.120, Personnel Records—Personnel Research and Test Validation Records and USPS 120.098, Personnel Records—Office of Workers' Compensation (OWCP) Record Copies. For USPS 120.120, the Postal Service has expanded the types of records in the system, has modified the statement of purpose, has added one routine use and deleted an existing routine use "9", and has made other minor changes to the system.

USPS 120.098 was modified to add a new temporary routine use to allow the Postal Service on a one-time basis to disclose a limited amount of information about plan members to respective Federal health benefit carriers. This information will be used to identify postal employees who have received compensation payments for the same injury from both the Postal Service and the carriers.

One comment was received objecting to the proposed change in USPS 120.098 and objecting to the proposed adoption of USPS 120.099 (see (e) of this notice). The commenter questioned the right of the Postal Service to secure and store records under the system. The commenter also raised questions about the categories of individuals being limited to employees who have "voluntarily" filed for injury compensation and questioned the meaning of "left the Postal Service" in the retention and disposal of records section.

The purposes and authority for the maintenance of the systems are in consonance with the provision of the Privacy Act 5 U.S.C. 552a(e)(1) which requires that an agency with a system of records maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. The purposes of USPS 120.098 and USPS 120.099 are to help ensure the efficiency of postal operations, especially in light of concern regarding expenditures under the injury compensation program. Use of the word "voluntarily" was not intended to differentiate between postal employees who have "involuntarily" filed claims for injury compensation since all claims are filed on a voluntary basis. The word "voluntarily" merely points out the nature of involvement in the program. The meaning of "left the Postal Service" in the retention and disposal sections merely refers to an employee, who, for whatever reason, is no longer carried on Postal Service rolls.

(e) This document presents final notice of two new systems of records.

(1) USPS 120.121, Personnel Records—Applicant Race, Sex, National Origin and Disability Status Records. USPS 120.121 has been created to provide the Postal Service with the ability to assess the impact of selection decisions on applicants in each racial, sex, national origin and disability category who take entry level employment examinations; to implement and evaluate USPS affirmative action program in keeping with equal employment opportunity programs requirements under the law, and to identify categories of individuals for personnel records research.

(2) USPS 120.099, Personnel Records—Injury Compensation Payment Validation Records. USPS 120.099 was created to enable the Postal Service to identify employees who receive double compensation payments for the same

injury. See (d) above for a discussion of the comment received on proposed USPS 120.099. The descriptions of the two new systems appear in the list of systems at the end of this document. The changes mentioned above (a)–(e) have been incorporated into the list of systems descriptions at the end of this document.

Part 2: Deletion of a Previously Announced System of Records

Based on review and discussion with the responsible custodian of records within system USPS 120.037, Personnel Records, Grievance and Appeals Records for Bargaining Unit Employees, it was found that the records of this nature are not maintained in a manner that causes them to be retrieved by name or other personal identifiers. Rather, those records are retrieved by grievance case number. Since retrieval of records by some form of personal identification is required to bring them within the Privacy Act's definition of "systems of records", 5 U.S.C. 552a(a)(5), this system should not have been established as a Privacy Act system of records. For this reason, final notice is hereby given of the deletion of system 120.037.

Part 3: Editorial Corrections and Revisions

the Postal Service has also determined it is necessary to make certain editorial corrections and revisions to several systems of records descriptions. These editorial corrections and revisions do not reflect changes in the systems themselves, but are provided only as changes to the descriptions. In many cases, they correct typographic errors. These changes do not affect the general character or purpose of any system described, nor do they expand the population of individuals to which the systems apply. The following constitutes final notice of these changes:

USPS 050.010, Finance Records—Employee travel records (Accounts Payable) 050.010

System name:

Change to read, "Finance Records—Employee Travel Records (Accounts Payable, 050.010.

USPS 050.020, Finance Records—Payroll System, 050.020

Categories of indivisuals covered by the system:

Change to read, "USPS employees and postmaster relief/replacement employees."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Change routine use No. "20" to read, "20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit."

USPS 070.040, Inquiries and Complaints—Customer Complaint Records, 070.040

System name:

Change to read, "Inquiries and Complaints—Customer Complaint Records, 070.040.

USPS 090.020, Non-Mail Services—Passport Application Records, 090.020

Notification procedure:

Change to read, "Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster of the post office where a passport application was made. Inquiries should contain full name and date of application. (NOTE: The original case file is maintained by Department of State and must be requested from that organization as provided for under Department of State Privacy Act systems for passport information.)

USPS 120.130, Personnel Records—Postmaster Selection Program Records, 120.130

System manager(s) and address:

Change to read, "APMG, Employee Relations Department."

USPS 120.180, Personnel Records—Skills Bank (Human Resources) Records, 120.180

Categories of individuals covered by the system:

Change to read, "Skills bank records are maintained on different categories of USPS employees, Women, PCES and employees in various job categories.

Retention and disposal:

Change to read, "Paper records will be destroyed 1 or 2 years after information is successfully entered into the system, depending upon the particular program involved, by shredding or burning. Automated information will be erased 1 year after employee is terminated or is no longer in the particular job category."

Record source categories.

Change to read, "information is obtained directly from employee and USPS personnel forms and reports."

USPS 190.030, Litigation Records—Labor Topic Files, 109.030

System name:

Change to read, "Litigation Records—Labor Law Topic Files 190.030

USPS 200.010, Non-Mail Monetary Claim—Relocation Assistance Claims, 200.010

System name:

Change to read, "Non-Mail Monetary Claims—Relocation Assistance Claims, 200.010.

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

Annual Notice of Systems of Records

The following points are relevant to the annual notice of Postal Service system of records provided in this document.

a. Most system containing contract records, as well as other legal records relating to those contracts, are considered business records by the Postal Service, rather than systems of personal records, as that term is defined in the Privacy Act. Accordingly, these systems are not listed.

b. All Postal Service records described in this list are subject to:

1. The subpoena of a court of competent jurisdiction.
2. Review by Congress or one of its committees or subcommittees upon request.
3. The "routine use" portion of each system notice contains, as the first item, the system "purpose." The "purpose" is included to provide clarity and promote understanding of the system by the layman. It may be defined as that activity performed by those officers and employees of the Postal Service who have a need for component records of the system in the performance of their duties. Disclosure accounting is not maintained by the Postal Service for any activity listed as a "purpose."

A complete description of the following systems of records was published in the Federal Register of January 7, 1980 (45 FR 1558). These systems have not been revised since that publication:

USPS 030.010, Equal Employment Opportunity—EEO Discrimination Complaint Investigations

USPS 030.030, Equal Employment Opportunity—EEO Administrative Litigation Case Files

USPS 040.020, Customer Program—Sexually Oriented Advertisements
USPS 050.005, Finance Records—Accounts Receivable File Maintenance
USPS 050.040, Finance Records—Uniform Allowance Program
USPS 070.010, Inquiries and Complaints—Correspondence Files of the Postmaster General
USPS 080.010, Inspection Requirements—Investigative File System
USPS 080.030, Inspection Requirements—Vehicular Violations Record System
USPS 100.050, Office Administration—Localized Employee Administration Records
USPS 110.020, Property Management—Possible Infringement of USPS Intellectual Property Rights
USPS 120.020, Personnel Records—Blood Donor Record System
USPS 120.036, Personnel Records—Discipline, Grievance and Appeals Records for Non-Bargaining Unit Employees
USPS 120.050, Personnel Records—Employee Suggestion Control
USPS 120.060, Personnel Records—Employment and Financial Interest Records
USPS 120.070, Personnel Records—General Personnel Folders (Official Personnel Folders and Records related thereto)
USPS 120.090, Personnel Records—Medical Records
USPS 120.100, Personnel Records—Performance Awards System Records
USPS 120.170, Personnel Records—Safe Driver Award Records
USPS 120.220, Personnel Records—Arbitration Case Files
USPS 130.020, Philately—Educators Stamp Fun Mailing Lists,
USPS 150.025, Records and Information Management Records—Privacy Act Appeals System
USPS 170.010, Statistical (Cost) Systems—Workload Reporting Records
USPS 190.010, Litigation Records—Civil Action Case Files
USPS 190.020, Litigation Records—National Labor Relations Board Administrative Litigation Case Files
USPS 200.030, Non-Mail Monetary Claims—Tort Claims Records.
USPS 210.010, Contractor Records—Architect Engineers Selection Records.
USPS 210.030, Contractor Records—Contractor Employee Fingerprint Records.

The following are complete descriptions of those systems that have changed since the January 7, 1980 **Federal Register** publication and of those systems which last appeared in the September 8, 1978 **Federal Register**:

USPS 010.010

SYSTEM NAME:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers requesting mail forwarding services from their local postal facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain customer name, old address, new mailing address, mail forwarding instructions, effective date, information as to whether the move is permanent or temporary and the customer's signature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide mail forwarding and address correction services to postal customers who have changed address. Use—

1. Records about any named individual are made available to any member of public upon request.

2. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

This source document is stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone.

RETRIEVABILITY:

This system of records is indexed by name and address. Information may be retrieved by route number or ZIP Code where a computerized system is in use.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Source document retained for 1 year from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 1 year from effective date. At the end of that period, the tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Service Department, headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.020

SYSTEM NAME:

Collection and Delivery Records—Boxholder Records, 010.020.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosed to public when box is being used for purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Public Law 93–647.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is stored on printed or card form filed in metal cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

RETRIEVABILITY:

Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

SAFEGUARDS:

Access limited to employees working in the boxholder section.

RETENTION AND DISPOSAL:

a. Billing forms are destroyed by shredding 2 years after closeout of the last entry.

b. Boxholder applications are retained for 2 years after termination of the rental.

c. Lockbox preference questionnaire forms are retained for six months after termination of survey.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department.

APMG, Finance Department, Headquarters.

APMG, Rates & Classification Department, headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the local postmaster, requestors in person should identify themselves with drivers license, military, government or other form of identification.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.030

SYSTEM NAME:

Collection and Delivery Records—Carrier Drive-Out Agreements, 010.030.

SYSTEM LOCATION:

District Offices, Sectional Centers, Post Offices, Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Letter carriers who use privately owned vehicles to transport the mails pursuant to a valid agreement with the local postmaster.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in these records contain Route Number, name and address of carrier, social security number and effective dates of the agreement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1206.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide reimbursement to carriers driving their own vehicles.

Use—

1. Provide necessary tax information to Internal Revenue Service.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is contained on preprinted forms, magnetic tape and computer printout reports.

RETRIEVABILITY:

The system is indexed by employees' social security number, pay location number and pay period.

SAFEGUARDS:

Normal precautions of filing equipment and limited access and the physical security measures of the computer facility.

RETENTION AND DISPOSAL:

Megnetic tape records are retained for two calendar years (January–December) and then deleted. Source forms are retained until a new or changed agreement and then destroyed by shredding or burning after 1 year.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

A carrier wishing to know if there is information in this system of records concerning him should notify the post office worked of the pay periods the agreement was in force, the route worked, give his name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.040

SYSTEM NAME:

Collection and Delivery Records—City Carrier Route Records, 010.040.

SYSTEM LOCATION:

Postal Service Headquarters, Regional Headquarters, District Offices, Sectional Centers, Post Offices, Automatic Data Processing Centers, Postal Data Centers and ADP Contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Letter carriers, substitute carriers and flexible employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, social security account number, age, route number, length of service, leave time and whether or not a transportation agreement exists. It also includes information pertaining to work load, work schedule, performance analysis and individual's work habits. Inspection reports of employees, work load and work load adjustments. Employee and Examiner's comments on route adjustments and inspections. Statistical engineering record of carrier and route characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To assist management in evaluating mail delivery and collection operations and administering these functions efficiently.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.
7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is contained on printed forms, computerized media, computer printouts.

RETRIEVABILITY:

The system is indexed by route number, employee name, or postal facility name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Route inspection records are retained for 2 years where inspections are made annually or more frequently, and for 5 years where inspections are made less than annually. Disposal of records is by shredding or burning.

b. Other records in system are retained for a period of up to 1 year depending upon the criticality of the information and then destroyed by shredding or burning.

c. Statistical engineering records are retained for 5 years and then further retained on a year-by-year basis as specifically justified.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters; SAPMG Operations Group, Headquarters (Statistical Engineering Records).

NOTIFICATION PROCEDURE:

Inquiries should contain employees name and social security number, specify the type of information being requested, and forwarded to post office where employed.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

From employees, carrier supervisors, and route inspectors.

USPS 010.050

SYSTEM NAME:

Collection and Delivery Records—Delivery of Mail Through Agents, 010.050.

SYSTEM LOCATION:

Sectional Centers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customer requesting delivery of mail through an agent and the agent to whom the mail is to be delivered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the name and address of customer, name and address of agent and the signatures of both parties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—It serves as the written authority for the delivery of mail other than as addressed.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file cabinets on pre-printed forms.

RETRIEVABILITY:

Forms are filed by customer name.

SAFEGUARDS:

Access is limited to postal employees in the delivery section.

RETENTION AND DISPOSAL:

Records are maintained until contract is terminated then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department.

NOTIFICATION PROCEDURE:

Submit to local postmaster proof of personal identity and name.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Co-signers of the request for delivery of mail through an agent.

USPS 010.070

SYSTEM NAME:

Collection and Delivery Records—Mailbox Irregularities, 010.070.

SYSTEM LOCATION:

District Offices, Sectional Centers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal Service customers whose mailbox does not comply with USPS standards and regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information consists of the reports of irregularities as submitted by the carrier or route inspector, the name and address of customer and the date and signature of the postmaster.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide for the efficient delivery of the mail.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is recorded on pre-printed forms.

RETRIEVABILITY:

Information is organized around route number.

SAFEGUARDS:

File in cabinets and access is limited to those USPS peronnel having a working requirement.

RETENTION AND DISPOSAL:

Retained for one year after completed action and destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Information may be obtained from the local postmaster, by presenting identification as to name and address and zip code.

RECORD ACCESS PROCEDURES:

Make request of the local postmaster.

CONTESTING RECORD PROCEDURES:

Make request of the local postmaster.

RECORD SOURCE CATEGORIES:

Carrier or route inspector.

USPS 010.080

SYSTEM NAME:

Collection and Delivery Records—Rural Carrier Routes, 010.080.

SYSTEM LOCATION:

Post Offices having rural carriers operations; Delivery Services Department, Sectional Centers; Regions; Districts; Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers receiving rural mail delivery services, and rural carriers, substitute carriers and flexible employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contained in this system are: Employee workload, work schedule and performance analysis. Inspection reports of employees, workload and workload adjustments, route travel description, employee and examiners' comments on adjustments and inspection. Employee name, route number, age, length of service, physical condition, quality of service and vehicle adequacy. Customer addresses and names of persons at address location (some rural routes only).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To assist management in evaluating rural mail delivery and collection operations and administering these functions efficiency and provide basis for payment of salary and vehicle maintenance allowance carriers.

Use—

1. Provide Bureau of the Census, Department of Commerce address information as requested to assist them in their statutory requirement of census taking.
2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or presecuring such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
8. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Preprinted forms or lists in ordinary file equipment or on computer tape and printouts.

RETRIEVABILITY:

Records are maintained by name and address of customer, and by route number, employee name or postal facility name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records in card or list form are maintained as long as the customer resides on the route; they are destroyed by shredding one year after the customer moves. b. Route travel description records, and establishment and discontinuance orders are retained until route is discountinued and then transferred to the Federal Records Center within two years after discontinuance date. c. Trip reports are retained for three years and then disposed of by shredding or burning. d. Route inspection reports and mail count records (mail counts made annually or more frequently) are retained for two years. Where mail counts are made less than annually records are retained until the next mail counts. Disposal of records is by shredding or burning. e. Other carrier records in system are retained for a period of up to one year depending upon the criticality of the information and then destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address. Employee inquiries should state employee name and social security number, route number, specify the type of information being requested, and forward to post office where employed.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The customer to whom the record pertains and from employees, carrier supervisors and route inspectors.

USPS 020.010

SYSTEM NAME:

Communications (Public Relations)—Biographical Summaries of Management Personnel for Press Release, 020.010

SYSTEM LOCATION:

Office of Public and Media Relations, Headquarters.

Office of Communications and Public Affairs, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS executives, directors and managers to include regional staff officers, division directors, district managers, sectional center managers and other key management officials who may have frequent contact with news media or public speaking engagements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical summaries on sheets of paper plus photographs. Summaries include information as to present title and responsibility, length of service, age, place of birth, marital status and participation in local community activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose and Routine.

Use—

1. To provide the public with brackground information on postal management personnel in connection with public relations matters such as speaking engagements, media appearances, appearances before civic, fraternal and employee organizations.
2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is maintained on regular bond paper in file cabinets.

RETRIEVABILITY:

Information is filed by name and title.

SAFEGUARDS:

File cabinets are located in communications offices where information is available only to individuals having a need for access.

RETENTION AND DISPOSAL:

a. Biographical sketches maintained at regions are retained while the individual is assigned within the region. If individual is promoted to or assigned to a position within the USPS outside the Region, biographical information is forwarded to the appropriate Public Affairs office; if employment with the USPS is terminated, the sketch is destroyed by shredding.

b. Biographical sketches maintained at USPS, Washington, D.C., are retainted indefinitely.

SYSTEM MANAGER(S) AND ADDRESS.

APMG, Employee and Public Communications, Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should contain name and position held and presented to the Manager of Communications and Public Affairs where currently, or previously, employed.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 030.020.

SYSTEM NAME:

Equal Employment Opportunity—Equal Employment Opportunity Staff Selection Records, 030.020

SYSTEM LOCATION:

Employee Relations Department, Headquarters, Regional Headquarters, Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates considered by Promotion Boards for EEO staff position.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of candidate, level, address, service computation date, date of birth, Social Security Number, postal background, personal information required to assess employee qualifications for position, estimate of potential and record of members of Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 1001, Executive Orders 11478 and 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide headquarters with information needed to complete selection process.

Use—

1. USPS Promotion Board reviews these records to determine applicant's eligibility for appointment.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any state of the legislative coordination and clearance process as set forth in that Circular.
3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressinal office made at the request of that individual.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Forms, paper files.

RETRIEVABILITY:

Name of applicant and pay location.

SAFEGUARDS:

Maintained in locked file cabinets within secured facility.

RETENTION AND DISPOSAL:

Records are transferred to the Federal Records Center and maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS.

APMG, Employee Relations Department, Headquarters

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the head of the facilities where application was made. Inquiries should contain full name, position applied for, the date the Promotion Board met and Social Security Number.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Employee, and employee personnel data.

USPS 040.010.

SYSTEM NAME:

Customer Programs—Memo to Mailers Address File, 040.010

SYSTEM LOCATION:

USPS Headquarters, Customer Services Department and at a contractor site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subscribers to Memo to Mailers monthly newsletter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subscribers' mailing addresses and status of membership in Postal Customers Councils.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To prepare mailing labels for the monthly mailing of Memo to Mailers.

Use—

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tape and computer printout.

RETRIEVABILITY:

Records are maintained by subscriber's name, city, state and ZIP Code.

SAFEGUARDS.

The list contractor is forbidden by contract to use the list for any other means than to produce mailing labels for the U.S. Postal Service.

RETENTION AND DISPOSAL:

The master file is maintained indefinitely, and is updated each month.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER and supply their name and address.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION PROCEDURE" above.

RECORD SOURCE CATEGORIES:

Subscribers, Postmaster, USPS Customer Service Representatives.

USPS 050.010.

SYSTEM NAME:

Finance Records—Employee Travel Records (Accounts Payable), 050.010

SYSTEM LOCATION:

Postal Data Centers, Postal Service Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS Employees on official travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel vouchers and travel advances containing employee name, social security number, Finance Number, basic travel information, and relocation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 2008.

ROUTINE USERS OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Reimburse Employees for official travel.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

7. Records in this system are subject to review by an independent Certified Public Accountant during an official audit of Postal Service finances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is stored on pre-printed forms and magnetic tape.

RETRIEVABILITY:

Information is indexed by social security number.

SAFEGUARDS:

Access is subject to computer center access control.

RETENTION AND DISPOSAL:

Retained four years after payment and destroyed by burning or magnetic tape by scratching and reuse.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department, Headquarters.

NOTIFICATION PROCEDURE:

Requests for information should be presented to Employee's Personnel Officer, furnishing name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is received from the employee filing a voucher.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees and postmaster relief/replacement employees

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 1003, 5 USC 8339

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluations, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 USC, Section 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W-2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FI (SS Tax) Deduction—To SS Administration as record of earnings under the SS act for all casual employees not under retirement.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers' Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcment or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide data for the automated Central Personnel Data File (CPDF) maintained by the Office of Personnel Management.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this sytem are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Public Law 93-647. (Proposed 10/79)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY.

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Payroll Systems Department, Headquarters, APMG, Employee Relations Department.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

USPS 060.010

SYSTEM NAME:

Fraud and False Representation Records—Consumer Protection Case Records, 060.010

SYSTEM LOCATION:

Consumer Protection Office, Law Department, USPS Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents in proceedings initiated pursuant to 39 U.S.C. subsection 3005; names of attorneys representing parties; assigned Postal Inspectors; and promoter of scheme.

CATEGORIES OF RECORDS IN THE SYSTEM:

Describes and provides history of the above and identifies interested parties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

39 USC subsection 3005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Ready reference source for determining status of pending case and identification of postal employees most familiar therewith.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. Disclosure may be made to a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information in this system is maintained on printed forms.

RETRIEVABILITY:

Records are maintained by an alphabetic indexing by name of respondent.

SAFEGUARDS:

Records are maintained in closed filing cabinets under general scrutiny by personnel of the Law Department.

RETENTION AND DISPOSAL:

Records in this system are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Consumer Protection Office, Law Department, USPS Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name, name by which respondent in proceeding may have been designated; approximate time period in which proceedings may have been initiated.

RECORD ACCESS PROCEDURES:

See SYSTEM MANAGER above.

CONTESTING RECORD PROCEDURES:

See SYSTEM MANAGER above.

RECORD SOURCE CATEGORIES:

Complaints, correspondence between parties involved and Postal Inspection Service investigative reports.

USPS 060.020

SYSTEM NAME.

Fraud and False Representation Records—Prohibitory Order, 060.020

SYSTEM LOCATION.

Consumer Protection Office, Law Department, Headquarters, Postal Service Centers, Regional Headquarters, Sectional Management Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting prohibitory orders, the mailers against whom such orders are issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for prohibitory orders, the mailing upon which request is predicated, the issued order and the registered mail receipt signed by mailer against whom order was issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC subsection 3008.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process request of an order to prohibit pandering advertisement and to determine whether violations of orders have occurred. Used by Consumer Protection Office and Regional Counsel to investigate violations of postal statutes.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the

appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is maintained in letter form, handwritten and typed.

RETRIEVABILITY:

Data may be found by prohibitory order number or by name of person requesting order.

SAFEGUARDS:

Records are maintained in closed filing cabinets.

RETENTION AND DISPOSAL:

Information is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Consumer Protection Office, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Name and address of person requesting prohibitory order should be furnished the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Persons requesting prohibitory orders.

USPS 070.020

SYSTEM NAME:

Inquiries and Complaints—Government Officials' Inquiry System, 070.020.

SYSTEM LOCATION:

Government Relations Department, USPS Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, applicants for employment, contractors, lessors, and customers who have written to nonpostal government officials, congressmen and other government officials corresponding with the USPS in behalf of postal customers/employees and various individuals to whom Postal Service announcements/greetings are directed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information stemming from correspondence described above, and lists of individuals for announcements/greetings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide USPS officials with the means of responding to inquiries from and/or for other government officials and to serve as a work load reporting system for which a description appears as USPS 170.010.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RECRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

In original, typed, printed, or handwritten form and on magnetic tape/disk and computer printouts.

RETRIEVABILITY:

Subject category as derived from correspondence and the name of the inquirer and/or official inquiring in his/her behalf.

SAFEGUARDS:

Records are maintained in closed file cabinets under general scrutiny of personnel of Government Relations Department. Computer readable media are maintained in a secured data processing facility.

RETENTION AND DISPOSAL:

Paper records are maintained for four years and then destroyed by shredding; magnetic tape/disk records are kept for three years and then erased.

SYSTEM MANGER(S) AND ADDRESS:

APMG, Government Relations Department, USPS Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above System manager. Inquiries should contain full name, the name of the government official to whom he wrote, the nature of his inquiry and the approximate date.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Nonpostal government officials.

USPS 070.040

SYSTEM NAME:

Inquiries and Complaints—Customer Complaint Records, 070.040.

SYSTEM LOCATION:

Consumer advocate. USPS, Regional and National Headquarters, District Officers, Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS customers who have initiated complaints against the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The complainant's name, address, and nature of the specific complaint, and resolution of same.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process USPS customer complaints regarding mail services.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged

with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are stored in original typed, printed, handwritten or computer printed form and on magnetic tape.

RETRIEVABILITY:

By chronological sequence within subject category as derived from correspondence and the name of inquirer or complainant.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets. Computer records are subject to the security of the computer room.

RETENTION AND DISPOSAL:

Records are retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Paper records are destroyed by burning or shredding. Computer records are destroyed by erasing.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the same facility to which they submitted their complaint.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

USPS customers.

USPS 090.020

SYSTEM NAME:

Inspection Requirements—Mail Cover Program, 090.020.

SYSTEM LOCATION:

USPS Inspection Service National and Regional Headquarters; Divisional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom a mail cover has been duly authorized to obtain information in the interest of (1) protecting the national security (2) locating a fugitive and (3) obtaining evidence of the commission or attempted commission of a crime which is punishable by imprisonment for a term exeeding one year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and addresses of individuals, inter-office memorandums, and correspondence with other agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401,404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To investigate the commission on or attempted commission of acts constituting a crime that is punishable by law.

Use—

1. Information from this system of records may be disclosed to an appropritate law enforcement agency, whether Federal, State or local, charged by law with the responsibility for investigating, prosecuting or otherwise acting with respect to protecting the national security, locating a fugitive, or obtaining evidence of commission or attempted commission of a crime.

2. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court on grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice.

3. A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Original typed documents and/or duplicate copies.

RETRIEVABILITY:

Subject's name filed alphabetically by fiscal year.

SAFEGUARDS:

Mail cover data is stored in locked cabinets or in a safe. Classified mail cover material and any mail cover data which involves national security is stored in a safe or in metal file cabinets equipped with either steel lockbar hasp and staple, or locking device and an approved three or more combination dial-type padlock from which the manufacturer's identification numbers have been obliterated

RETENTION AND DISPOSAL:

Files and records pertaining to mail covers are retained for eight years, and older data is destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, UPSPS Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name and current address, together with previous addresses for past eight years when applicable.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Correspondence from requesting authority and record of action taken upon that request.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 C.F.R. 266.9 for details.

USPS 090.030

SYSTEM NAME:

Non-Mail Services—Passport Application Records, 090.020.

SYSTEM LOCATION:

Eight-hundred (800) Post Offices in all states except New Jersey.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons applying for passports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Passport applications, name, telephone number and services rendered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 411, 22 U.S.C. 214.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process the application of passports.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the stature, or rule, regulation, or order issued pursuant thereto.
2. Records may be transferred to the State Department.
3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. Disclosure may be made to congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information in this system is maintained on printed forms in hard copy.

RETRIEVABILITY:

By name of applicant and by postal accounting quarter.

SAFEGUARDS:

Information in this system of records is maintained in file cabinets in the Accounting Unit.

RETENTION AND DISPOSAL:

Passport applications are retained for two days at the post office where application was made and then forwarded to the Department of State. Applicant's names and telephone numbers are retained at the post office for three months following the close of the postal quarter in which application was made.

SYSTEM MANAGER(S) AND ADDRESS:

APMG Delivery Services Department.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster of the post office where a passport application was made. Inquiries should contain full name and date of application. (NOTE: The original case file is maintained by Department of State and must be requested from that organization as provided for under Department of State Privacy Act system for passport information.)

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the applicant.

USPS 090.030.

SYSTEM NAME:

Non-Mail Service—U.S. Savings Bonds Application Record. 090.030

SYSTEM LOCATION:

Selected Post Offices throughout the United States where the Postal Service is the issuing agent.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons applying for U.S. Savings Bonds to be issued in the names of natural persons in their own right only.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address, number of bonds applied for and total amount of purchase.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 411.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To process applications for U.S. Savings Bonds.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
3. To refer, where there is an indication of a violation or potential violator of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, local or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
4. Records may be transferred to the Treasury Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information in this system is maintained on printed forms in hard copy.

RETRIEVABILITY:

By name of applicant.

SAFEGUARDS:

Information in this system of records is maintained on secure premises in file cabinets.

RETENTION AND DISPOSAL:

Information in this system is maintained for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

AMPG, Finance Department.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster in whose facility the application was filed. Inquiries should contain full name and address of customer.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information in this system of record is obtained from the applicant.

SYSTEM NAME:

Office Administration—Carpool Coordination/Parking

Records System. 100.010

SYSTEM LOCATION:

Procurement and Supply Department, Headquarters and various field installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees, other building tenants, and other individuals who are members of carpools with USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, letters of violations, letters of suspensions, payment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Provide parking and carpooling services to employees.

Use—

1. To provide each employee of Headquarters, USPS, who desires to join or establish a carpool with the listing of employees who live in his/her ZIP Code area.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Preprinted forms and magnetic tape/disc.

RETRIEVABILITY:

Carpool member name and ZIP Code, space or license number.

SAFEGUARDS:

Folders containing paper documents are maintained in locked file cabinets to which only authorized personnel have access. Computer equipment is located in secured area, and magnetic tape/disc files are kept in locked steel cabinets.

RETENTION AND DISPOSAL:

All carpool and parking service records are retained for a period of six months following termination of service. At the end of retention period, paper records are destroyed by shredding and tape/disc records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

AMPG, Procurement and Supply Department, Headquarters, Executive Manager, PST & DI Center.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager where employed.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

From carpool and parking service applicants/users.

USPS 100.020

SYSTEM NAME:

Office Administration—Customer Services Communicator Letter, 100.020.

SYSTEM LOCATION:

Customer Services Department, Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Headquarters and Regional Customer Services personnel, District Managers, District Directors of Customer Services, Sectional Center Directors of Customer Services, BMC General Managers and Customer Engineers, selected postmasters and requesters, Customer Services representatives, Sectional Center Managers of Retail Sales and Services, Post Office Managers of Customer Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and home/business address of employees receiving newsletter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To distribute a sales and marketing newletter to Postal Service Customer services employees.

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Addressograph plates, magnetic tape, computer printouts and paper forms.

RETRIEVABILITY:

Name of recipient of communicator letter.

SAFEGUARDS:

Addressograph plates and paper forms are kept in closed file cabinets accessible only by authorized customer services personnel. Magnetic tapes and computer printouts are maintained in a secured ADP facility.

RETENTION AND DISPOSAL:

Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded, computer records are erased, and addressograph plates are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Postmaster General, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where they are employed.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

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CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from payroll system and in-house listings of interested readers.

USPS 110.010

SYSTEM NAME:

Property Management Records—Accountable Property Records, 110.010.

SYSTEM LOCATION:

All USPS Components.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees assigned accountable property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records controlling the issuance of accountable Postal Service Property, such as equipment, credentials, and controlled documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide a record of accountable property on hand and to whom it has been assigned.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate law enforcement agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information in this system is maintained on printed forms.

RETRIEVABILITY:

Name of recipient of accountable property and types of equipment.

SAFEGUARDS:

Physical security.

RETENTION AND DISPOSAL:

As long as individual is charged with equipment, records are returned to individual when he is no longer accountable.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief Postal Inspector, Headquarter; (2) APMG, Procurement and Supply Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in the system should address inquiries to the Custodian in the facility where assignment was made. Headquarters employees should submit request to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is obtained by the individual to whom the record pertains.

USPS 120.035.

SYSTEM NAME:

Personnel Records—Employee Accident Records, 120.035

SYSTEM LOCATION:

Safety offices in any USPS facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All postal employees that have an accident that involves 100 dollars or more damage and/or an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, age, sex and type of accident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Laws 91-596 and 94-82, Executive Orders 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide data for analytical studies.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of Worker's Compensation and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

4. To a court, party, or counsel for a party, to litigation involving accident or to which it is relevant or to persons insurance companies or counsel for the foregoing settlement or attempting to settle claims involving the accident.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE.

Information in this system is maintained on index cards, magnetic tape, preprinted forms and computer print-outs.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Maintained in closed file cabinets within secured facilities.

RETENTION AND DISPOSAL:

Records are maintained locally for two years. Copies are maintained at National Headquarters for five years follwing the end of the calendar year to which they relate as required by OSHA.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

USPS Accident Reports and OWCP claim forms.

USPS 120.040.

SYSTEM NAME:

Personnel Records—Employees Job Bidding Records, 120.040

SYSTEM LOCATION:

Most departments, facilities and certain contractor sites of the Postal Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have made a "Bid for Preferred Assignment" with the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM.

Knowledge of schemes, vacant position characteristics, seniority of the employee, level of the candidate, and craft.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 1001, 1206.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide the Office of Personnel with fair and impartial information to match vacant position to the most qualified candidate.

Use—

1. To provide information for official bulletin boards and release to various employee organizations.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are stored on magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

This system is indexed by employee name and Social Security Number.

SAFEGUARDS:

Computer center access control and limitation within offices to those employees maintaining the system.

RETENTION AND DISPOSAL:

Computer records are saved two years, then automatically deleted. Paper records are kept six months after a vacancy is filled, then destroyed. Some records are retained until employee separation.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE.

The employee should state the position of bid and identify himself with name, Social Security Number, closing date of the bid notice, and forward this information to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

RECORDS ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Employee personnel data, scheme knowledge, qualifications of the job and of the candidate, successful bidders notices from vacant duty assignment postings.

USPS 120.060

SYSTEM NAME:

Personnel Records—Master Minority File Records, 120.060.

SYSTEM LOCATION:

Employee Relations Department, Headquarters and Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the Minority Designation Code and social security number of USPS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2000e–16, Executive Orders 11478 and 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Purpose—To provide the USPS Office of Equal Employment Opportunity with minority statistics as required.

1. Disclosure may be made to the Civil Service Commission for the oversight and enforcement of Federal EEO regulations.

2. Information contained in this system for records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tapes.

RETRIEVABILITY:

Employee's social security number.

SAFEGUARDS:

Computer Password security, physical security, specialized access instructions.

RETENTION AND DISPOSAL:

Computer records are retained for two years.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department.

NOTIFICATION PROCEDURE:

Employees wishing to know whether a minority code is maintained for them, should address inquiries to the System Manager. Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained from the employees.

USPS 120.098

SYSTEM NAME:

Personnel Records—Office of Workers' Compensation Program (OWCP), Record Copies 120.098.

SYSTEM LOCATION:

All postal facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal employees who have voluntarily filed for injury compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim; automated payment and accounting records.

AUTHORITY FOR MAINENANCE OF THE SYSTEM:

39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide injury compensation to qualifying employees is and to maintain a record of the events as a basis for managerial decisions.

Use—

1. To provide information to the Department of Labor for the purpose of determining whether a claimant qualifies for compensation and to what extent qualification applies.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court on administrative body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files. (Note: This routine use will be in effect for a period of one year from its effective date.)

POLICIES AND PRACTICES STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed forms and correspondence (Note: In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.) Continuation of pay and DOL charge-back information is stored on computer media.

RETRIEVABILITY:

Records are retrieved alphabetically by name and social security number.

SAFEGUARDS:

Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security, encryptions, and/or a computer software security system.

RETENTION AND DISPOSAL:

OWCP case files are maintained for five years after employee has left the Postal Service, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, and APMG, Finance Department, Headquarters.

NOTIFICATION PROCEDURES:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System manager.

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above. (Note: The original case file (in most cases) is maintained by OWCP and must be requested from that organization as provided for under

Department of Labor Privacy Act System DOL/EAS–13.)

CONTESTING RECORD PROCEDURES:

The contents of OWCP records may be contested only by contacting OWCP as provided for under the Department of Labor Privacy Act System DOL/EAS–13.

RECORD SOURCE CATEGORIES:

Information is obtained from the claimant, the supervisor, witnesses, physicians, and Department of Labor.

USPS 120.099

SYSTEM NAME:

Personnel Records—Injury Compensation Payment Validation Records, 120.099.

SYSTEM LOCATION:

All postal facilities having injury compensation units, National Headquarters and Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Postal Service employees who have received or are receiving injury compensation program payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of individuals whose names appear in two systems of records, research case records, and remuneration records related to injury compensation paid to current and former employees by the Postal Service. (See "Retention and disposal" below for cases in which these records are converted to investigative files.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 39 U.S.C. 1005.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Purpose—This information is used to identify instances in which improper double payments have been or are being made to Postal Service employees who have filed injury/sickness compensation claims and to maintain records of this event as a basis for: detecting fraud; seeking remuneration and/or legal actions; reporting the extent of double payments nationwide; and for proposing corrective legislation.

Use:

1. (Temp.) Disclosure of information about plan members may be made to respective health benefit carriers for a one-time comparison with the carriers' claim/payment files. (Note: This routine use will be in effect for a period of one year from its effective date.)

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administration body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Computer reports, paper records, correspondence and research records. (Note: These files are considered to be USPS records to which USPS regulations apply.)

RETRIEVABILITY:

Records are retrieved by social security number.

SAFEGUARDS:

These restricted files are maintained in locked file cabinets. Access to automated records is protected through a computer security system, file encryption, and/or password protection.

RETENTION AND DISPOSAL:

a. Computer reports.

(1) Initial data collection reports and master file/tape are maintained for 3 years and destroyed by depersonalization.

(2) Subsequent reports containing affirmative identifications become part of research case records.

b. Research case records (copies of records from other system—includes computer reports, paper records, and correspondence).

(1) If research determines nonapplicability, destroy by burning or shredding, 6 months after such determination is made.

(2) If research determines applicability, research records then become (a) part of an investigative case file and fall within system USPS 080.010, Inspection Requirements Investigative File System (refer to USPS 080.010 for retention and disposal instructions), or (b) a remuneration case file which is maintained for 2 years and destroyed by burning or shredding.

Extra copies of research records are destroyed at the time a remuneration or investigative case file is created.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees or former employees wishing to know whether information about them is maintained in this system or records should address inquires to the System manager.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained from Postal Service injury compensation case files, payment records and employment records as found in USPS Privacy Act Systems: USPS 050.020, 120.070, and 120.098; Social Security Administration death files; and pertinent Federal health benefit carriers' claim/payment files.

USPS 120.110

SYSTEM NAME:

Personnel Records—Preemploy Investigation Records, 120.110

SYSTEM LOCATION:

Post Offices/Facilities; Regional and National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal Employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Replies from character references, former employers and local police records, drug history records and other investigative reports used to determine suitability for employment. Other

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records filed with these are: Civil Service Commission records (privacy system—CSC/GOVT-4) compiled through a National Agency Check and Inquiry (NACI) and forwarded to the USPS for assistance in making a hiring decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 410(b), 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To determine suitability for employment.

Use—

1. To any agency from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

2. In the event of an indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charge with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; such referral shall also include, and be deemed to authorize (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other interagency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties.

3. To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on matters.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congresssional office made at the request of that individual.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is maintained on preprinted forms and correspondence.

RETRIEVABILITY:

Information is indexed alphabetically by name.

SAFEGUARDS:

Information is stored in locked file cabinets accessible to those with an appropriate security clearance.

RETENTION AND DISPOSAL:

a. If an applicant is found unsuitable for employment, or if an employee is found unsuitable after he has begun work, all local investigative records which support the decision of unsuitability will be retained for a period of two years from the date action was taken to deny or terminate employment. b. If an employee is initially found suitable for employment as result of a local investigation, and is ultimately retained upon receipt of the NACI report from the Civil Service Commission, the local investigative reports will be retained for a period of two years from the date the employee is initially found suitable for employment. c. CSC NACI reports are retained in the same fashion as local investigative records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURES:

Apply to the head of the postal facility where employed giving name. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

a. Local Investigative records—Apply to the head of the postal facility where employed. Headquarters employees should submit requests to the System manager. b. CSC NACI reports—Apply to the Civil Service Commission as instructed by privacy system CSC/GOVT-4.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

Information is obtained primarily from local police records, former employers, and character reference.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.120

SYSTEM NAME:

Personnel Records—Personnel Research and Test Validation Records, 120.120.

SYSTEM LOCATION:

USPS National Tests Administration Center, Los Angeles, CA; USPS National and Regional Headquarters; Bulk Mail Centers; District Offices; and the Oklahoma City Computer Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for postal employment and USPS employee applicant for reassignment and/or promotion.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer scannable information and the applicants' answers to the test questions. Reports and analyses that have resulted from comparison of information from this system and from system USPS 120.121.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide verification of the applicants' test score. Data are collected whenever an examination is given and are used for construction, analysis, and validation of written tests;

for research on personnel measurement and selection methods and techniques and research on personnel management practices such as performance evaluation or productivity. Race and national origin data are used to evaluate any adverse impact of the selection process. Use of these race and national origin data is limited to research projects and test validation conducted by the Postal Service. No personnel decisions are made in the use of these research records. Many data are collected under conditions assuring their confidentiality. This confidentiality will be protected. Personnel information in this system of records is used by the personnel research staff in the Office of Personnel Management of the U.S. Postal Service.

Use—

1. To disclose information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection process, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.

3. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

4. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Answer sheets in handwritten form and computer storage media.

RETRIEVABILITY:

This system of records is indexed by employee name, batch number or employee's date of examination and examination center administering the examination.

SAFEGUARDS:

These records are maintained in closed file cabinets in a secure facility.

RETENTION AND DISPOSAL:

Records are maintained for five years. Paper records are destroyed by shredding and computer records by erasing.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether this system of records contains information on them should address inquiries to the head of the Test Administration Center where they were examined. Inquiries should contain full name, social security number, date of examination, examination number, and place of participation in the examination.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Applicants's test answers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39. CFR 266.9 for details.

USPS 120.121

SYSTEM NAME:

Personnel Records—Applicant Race, Sex, National Origin and Disability Status Records, 120.121.

SYSTEM LOCATION:

USPS National Test Administration Center, Los Angeles, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for USPS entry-level examinations, including USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, date of birth, lead office installation number, race, sex, national origin and disability status data.

AUTHORITY FOR MAINTENACE OF THE SYSTEM:

39 U.S.C. 401, 101 and 5 U.S.C. 7201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide the Postal Service with the ability to assess the impact of personnel selection decisions on applicants in each racial, sex, national origin and disability category. Note: These data are maintained only on those applicants who voluntarily provide it and under conditions assuring that the individual's self-identification as to race, sex, national origin, and disability status does not accompany that individual's application when it is under consideration by a selecting official. Data are collected via a research questionnaire on an applicant-by-applicant basis and used to produce summary descriptive statistics and analytical studies to evaluate personnel/organizational measurement and selection methods; implement and evaluate USPS affirmative action programs; determine any adverse impact in the overall personnel selection process; identify categories of individuals for personnel research; and for related work force studies.

Use—

1. To disclose information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection process, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent

in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Disclosure may be made in response to the order of a court of competent jurisdiction.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.

6. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative and clearance process as set forth in that Circular.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files, magnetic tape and disks.

RETRIEVABILITY:

Records are retrieved by name and Social Security Number.

SAFEGUARDS:

Records are maintained in lockable filing cabinets in a secured room. Access is further restricted by computer passwords.

RETENTION AND DISPOSAL:

Records are retained for five years. Manual records are shredded or burned and magnetic tapes or disks are erased. Statiscal records (without individual identifiers) are maintained for as long as needed for the purpose of conducting longitudinal studies.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether this system of records contains information about them should address inquiries to the head of the Test Administration Center where they are examined. Inquiries should be written, signed, and contain full name, Social Security Number, type of examination, examination number, and the date and place of participation in the examination.

RECORDS ACCESS PROCEDURE:

See Notification procedure above. Requests for access must also follow the USPS Privacy Act regulations regarding access to records and verification of identity (39 CFR 266.6).

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Information is provided by applicants taking entrance examinations.

USPS 120.130

SYSTEM NAME:

Personnel Records—Postmaster Selection Program
Records. 120.130

SYSTEM LOCATION:

USPS Headquarters; Regional Headquarters

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees desiring to be considered for promotion to Postmaster position.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, date of birth, social security number, education summary, postal background other employment experience, Postal Inspector's Investigative Memorandum, and other pertinet personal information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide Regional Management Selection Board and the National Management Selection Board with fair and impartial information to match requirements for Postmaster position to the best qualified candidate.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed, typed or handwritten forms.

RETRIEVABILITY:

Applicant's name and post office for which application was made.

SAFEGUARDS:

Locked file cabinets in a secured facility.

RETENTION AND DISPOSAL:

Records for positions 24 and above are maintained at National Headquarters for two years. All records are maintained at Regional Headquarters for five years. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department.

NOTIFICATION PROCEDURE:

Employees wishing to know whether this system of records contains information on them should address inquiries to the Regional Postmaster General of the region in which the application was made. Inquiries should contain full name, the postal facility to which application was made, title and place of employment.

RECORD ACCESS PROCEDURES:

See Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained from the employee, postal background personnel data, and from forms completed by the employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.140

SYSTEM NAME:

Personnel Records—Program for Alcoholic Recovery (PAR), 120.140

SYSTEM LOCATION:

PAR offices, regional headquarters and Postal Data Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees who volunteer for or are referred to the Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Number of counseling contracts and leave usage while participant in the Program, name and personal information necessary to assit employees in a Program of recovery.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide Counselors with information to maintain caseload and follow-up counseling of individuals under the Program. Used as a management date source for statistical reporting on the Program.

USE—

None.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed froms and paper files. Sick leave and Leave Without Pay information is stored on computer media.

RETRIEVABILITY:

Employee name and case number.

SAFEGUARDS:

These restricted files are maintained in locked file cabinets with limited access to PAR personnel and in secured facilities. Automated records are protected through computer password security and encoding of personal identifiers.

RETENTION AND DISPOSAL:

1. Case card is destroyed six years following close of file. 2. Correspondence and reports are destroyed three years (field) or ten years (Headquarters) after close of case file. 3. Historical case records cared is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. Paper records are destroyed by shredding and computer tape/disk records are destroyed by erasing.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Dept., Headquarters.

NOTIFICATION PROCEDURE:

Employees participatng in the Program should address inquiries to the head of the facility where participating in the Program. Inquiries should contain employees name and location of employment. Headquarters employees should submit requests to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The participating employee, PAR counselor and the referring source.

USPS 120.151.

SYSTEM NAME:

Personnel Records—Recruiting, Examining and Appointment Records, 120.151.

SYSTEM LOCATION:

U.S. Postal Service personnel offices and/or other offices within Postal Service facilities authorized to engage in recruiting or examining activities or make appointments to positions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and professional resumes, personal applications, test scores, academic transcripts, letters of recommendation and registers of eligibles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide managers and personnel officials information in recruiting and recommending appointment of qualified persons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Job applicant name and/or social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for period of usefulness which varies by type of record and ranges from one day to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed with the exception of lists of eligibles and examination cards which are transferred to the National Personnel Records Center, St. Louis, Mo. Certain records of examination are maintained as part of USPS 120.120, Personnel Records—Personnel Research and Test Validation Records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information is contained on them in this system of records should address inquiries to the head of the facility to which job application was made. Inquiries should contain full name, social security number, and if applicable, approximate date of application submitted and residence.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individual, school officials, former employers, supervisors, named references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.152

SYSTEM NAME:

Personnel Records—Career Development and Training Records, 120.152.

SYSTEM LOCATION:

Postal Education and Development Centers (PEDCs) and other facilities within the Postal Service where career development and training activities are conducted or authorized.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former postal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Career development records and applications for and records of postal and non-postal training. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge; career goals; education and work histories or summaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide managers and supervisors with decisionmaking information to employee career development, training and assignment.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit to the extent that the information is relevent and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty in investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designed managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for a period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed. Certain records of examinations are maintained as part of

USPS 120.120. Personnel Records—Personnel Research and test Validation Records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, APMG, Real Estate and Buildings Department, and APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Current and former field employees wishing to know whether information is contained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject, subject's employment records and his/her supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.153

SYSTEM NAME:

Personnel Records—Individual Performance Evaluation/Measurement, 120.153.

SYSTEM LOCATION:

U.S. Postal Service facilities where individual performance evaluation/ measurement activities are conducted.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former postal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual performance evaluation and measurement records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide managers and supervisors with decision making information for training needs, promotion and assignment considerations, or other employee/job related actions.

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper filed, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. PES Merit Evaluation forms are physically maintained on the left side of the Official Personnel Folder (USPS 120.070) for a period of two years. At the end of the period of usefulness records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Postmaster General having jurisdiction over the functional or administrative area which developed the particular performance evaluation/ measurement procedure.

NOTIFICATION PROCEDURE:

Current and former field employees wishing to know whether information is maintained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject, subject's employment records and his/her supervisor, or program director.

USPS 120.180

SYSTEM NAME:

Personnel Records—Skills Bank (Human Resources Records), 120.180.

SYSTEM LOCATION:

Maintained by various postal facilities as determined by management.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Skills bank records are maintained on different categories of USPS employees, Women, PCES and employees in various job categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, social security number, address, job position, sex, educational background, work history, salary history, skills, licenses, language, career preferences, geographical preferences, special achievements, merit awards, project assignments, benefits, and other personal information. (The various systems in existence may contain more or less information than specified herein.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92–261, 39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by USPS management to place employees in new positions, and to assist in career planning and training in general; also used by management to provide statistics for management of personnel. /Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Preprinted forms, magnetic tape and disk files, computer reports, and microfiche.

RETRIEVABILITY:

Name and social security number.

SAFEGUARDS:

Locked file cabinets, controlled access, computer password authentication, magnetic tape library, physical security.

RETENTION AND DISPOSAL:

Paper records will be destroyed 1 or 2 years after information is successfully entered into the system depending upon the particular program involved, by shredding or burning. Automated information will be erased 1 year after employee is terminated or is no longer in the particular job category.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether such a system exists at their place of employment or whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name, social security number, and place of employment.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURES above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURES above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from employee and USPS personnel forms and reports.

USPS 120.190

SYSTEM NAME:

Personnel Records—Supervisors Personnel Records, 120.190.

SYSTEM LOCATION:

Any Postal facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of summaries or excerpts from the following other USPS personnel systems: 120.036, 120.070, 120.150, 120.180, 120.210; as well as records of discipline. In addition, copies of other Postal Service records and records originated by the supervisor may be included at the supervisor's discretion.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To enable supervisors to efficiently manage assigned personnel.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

3. Disclosure of records of discipline may be further made to a labor organization pursuant to the National Labor Relations Act upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Records of discipline may become part of USPS 120.070 and would therefore be subject to disclosure under the routine uses of that system of records.

5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files, index cards, magnetic tape and disk, computer printouts.

RETRIEVABILITY:

Indexed by employee name.

SAFEGUARDS:

Paper documents/index cards are locked in supervisors desk or filing cabinets. Computer readable media are maintained in secured data processing facilities.

RETENTION AND DISPOSAL:

1. Except for those records of discipline described in subparagraphs 2, 3, and 4 below, supervisor's personnel records may be retained for the duration of the supervisor-employee working relationship. Upon separation of an employee from the Postal Service, the entire file pertaining to that employee is destroyed by burning or shredding within 30 days.

2. Counseling Records shall be destroyed after one year if there has been no disciplinary action initiated against the employee during that period.

3. Letters of Warning shall be destroyed after two years if there has been no disciplinary action initiated against the employee during that period.

4. A record of counseling, a letter of warning, or other disciplinary record, which has been relied upon in a subsequent suspension or discharge, will be retained in this system in accord with subparagraphs 1 through 3 above. Such records also will be permanently filed in USPS 120.070, if the subsequent suspension or discharge ultimately is sustained or modified in a manner requiring the preparation of a Form 50.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether this system of records contains information on them should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Other personnel records systems, supervisor notes, employees, postal customers.

USPS 120.210

SYSTEM NAME:

Personnel Records—Vehicle Maintenance Personnel and Operators Records, 120.210.

SYSTEM LOCATION:

Vehicle Service Operations at Post Offices, Sectional Centers, District Offices, Regional Offices, Headquarters, Bulk Mail Centers, Postal Data Centers and Automatic Data Processing Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee workload, work schedule, performance analysis and work habits. Employee name, age, length of service, physical condition, vehicle accidents, driving citations, safety awards records, driver license revocation and suspension, driving habits, vehicle training, results of driving tests, qualifications to drive vehicles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide local post office managers, supervisors and Director of Fleet Management Operations with information to adjust workload, change schedules, change type equipment operated, lists of equipment assigned to employee, and used as a basis for corrective action or safe driving awards.

Use—

1. To provide GSA and USPS driver credentials.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any state of the legislative coordination and clearance process as set forth in that Circular.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed forms, and computer tapes.

RETRIEVABILITY:

Employee name, vehicle number, route number, work order number and facility name.

SAFEGUARDS:

Records are maintained in closed file cabinets in secured facilities.

RETENTION AND DISPOSAL:

a. Records pertaining to postal-owned vehicle driver's individual testing and driver's records are retained for three years after separation of the employee and destroyed by shredding.

b. Accident reports are retained for three years and destroyed by shredding.

c. Inspection reports are retained for two years after the date of the report and destroyed by shredding.

d. Other records are retained as long as the individual is employed as a vehicle operator, held for one year from the date of reassignment and destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Inquiries should contain employee's full name, social security number, route number, work station and facility where employed.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The employee, medical doctors, driver examiner/instructor state vehicle departments and supervisors.

USPS 120.230

SYSTEM NAME:

Personnel Records—Adverse Action Appeals (Administrative Litigation Case Files) 120.230.

SYSTEM LOCATION:

Law Department, Regional and National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees involved in Veterans' Appeal and other adverse action appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d) .

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s).

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Cousnel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Employees involved in Veterans Appeals and other adverse actions appeals; (b) Counsel(s) or other representative(s) for parties in administrative litigation other than Postal Service; (c) Other individuals involved in appeals. Source documents include the formal case file, and other records relevant to the case.

USPS 120.240

SYSTEM NAME:

Personnel Records—Garnishment Case Files, 120.240.

SYSTEM LOCATION:

Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees involved in garnishment cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By name of litigant(s) of case and State of court action.

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Employees involved in garnishment cases; (b) Counsel(s) or other representative(s) for parties other than Postal Service; (c) Other individuals involved in garnishment cases. Source documents include internal memoranda and court related documents.

USPS 130.010

SYSTEM NAME:

Philately—Ben Franklin Stamp Club Sponsors and Direct Mail Responders List, 130.010

SYSTEM LOCATION:

Customer Services Department, Headquarters, and at a contractor computer center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adult sponsors of stamp clubs for youth groups as well as club presidents of adult groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of club sponsors or presidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—As an adjunct to a philatelic program, lists of club sponsors or presidents of stamp clubs are used by Sectional Center personnel and District personnel as well as individual postmasters as follows:

1. To assist sponsors in forming stamp clubs.
2. Making contact with clubs to assist in program presentation and USPS cooperation at stamp shows and philatelic exhibits.
3. Responsiveness to philatelic sales requests.
4. Determining USPS needs for films, graphics, and publications related to philately.
5. To mail newsletters to stamp club sponsors and club presidents.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computer tape/disk.

RETRIEVABILITY:

Indexed by name of individual and ZIP Code within the club or stamp group to which he/she is associated.

SAFEGUARDS:

Paper records are maintained in locked steel file cabinets in a secured facility; computer media are stored in a fire resistant and secured facility.

RETENTION AND DISPOSAL:

Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded and computer tape/disk records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name, address, and the club or stamp group with which he/she is associated.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to which the record refers.

USPS 130.040

SYSTEM NAME:

Philately—Philatelic Product Sales and Distribution, 130.040.

SYSTEM LOCATION:

USPS Headquarters, Customer Services Department and at a contractor site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers who have initiated correspondence expressing an interest in philately by (1) responding to various philatelic product sales promotion programs by submitting order forms, business reply cards, or cut outs from posters and promotional literature, (2) providing postal clerks with name and address information to receive future philatelic product announcements, (3) opening subscription accounts for philatelic products, or (4) requesting products in unsolicited correspondence, such as letters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer/subscriber name and account number, address, funds on deposit, remittance type and amount order/product specifications, order history; also, speical lists identifying individuals who have submitted bad checks, special services customers/subscribers, and individuals who have registered multiple service complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—(1) to operate a subscription service for customers who remit money for a particular philatelic product or products; (2) to maintain a file to send philatelic product announcements and sales literature to customers or subscribers; (3) to serve, as a source for statistical data for research and market

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analysis, billing and inventory data, and mailing basis for product shipment and (4) to identify discrete groups of customers/subscribers for better order control and service.

Use—

1. Disclosure may be made where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in original typed or handwritten form, or microform, and on magnetic tape or disk and computer printouts.

RETRIEVABILITY:

Records are indexed by customer/subscriber name and by account number, if assigned.

SAFEGUARDS:

Paper and microform records are maintained in closed filing cabinets under general scrutiny of personnel of the Phalatelic Sales Division and the Building Security Guard Force, and when maintained on magnetic tape and disk, the information is protected by ADP physical, technical software and administrative security of the Headquarters Data Center or by contractors providing similar protection which is subject to the audit and inspection of the USPS Inspection Service.

RETENTION AND DISPOSAL:

ADP and microform records are maintained for three years after the individual has failed to make a purchase or has indicated no other interest. ADP records are obliterated after their period of usefulness; microform records are incinerated. Correspondence and other paper documents are retained for 3 years and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Customer Services Department, Headquarters.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name and address.

RECORD ACCESS PROCEDURES:

See Notification procedure above.

CONTESTING RECORD PROCEDURES:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual as is described in "Category of Individuals Covered by the System" above.

USPS 140.020

SYSTEM NAME:

Postage—Postal Meter Records, 140.020.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Meters users.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer name and address, meter update activity, schedule for meter upgradings for on-site meter settings, license application, and transaction documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To enable responsible administration of postal meter activities.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. To disclose identity and address of meter user and identity of agent of user to any member of public upon request.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed forms.

RETRIEVABILITY:

Records are indexed by customer name and by numeric file of postage meters.

SAFEGUARDS:

Records are maintained in closed file cabinets in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained for one year after final entry or the duration of the license and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the local postmaster from which license was obtained supplying name and meter number.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and officials making entires to reflect activities.

USPS 150.010

SYSTEM NAME:

Records and Information Management Records—Information Disclosure Accounting Records (Freedom of Information Act), 150.010.

SYSTEM LOCATION:

Records Officer, USPS Headquarters, and records Custodians at all USPS facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USPS employees and citizens requesting information under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of requestor and the type of information requested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 412, 5 USC 552; Public Law 93-502.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Those records are kept in order to determine the status of information requested and to facilitate the processing of requests.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files.

RETRIEVABILITY:

Individuals name and date of request.

SAFEGUARDS:

Locked file drawers and access control.

RETENTION AND DISPOSAL:

Records are maintained by Custodians and the Records Officer for a period of two years. The Headquarters Library and General Counsel keep permanently copies of legal proceedings and appeals related to these records.

SYSTEM MANAGER(S) AND ADDRESS:

Postal Service Records Officer, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name and date of request.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual making the request.

USPS 150.015

SYSTEM NAME:

Records and Information Management Records—Freedom of Information Appeals System. 150.015

SYSTEM LOCATION:

USPS National Headquarters. Law Department.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

The system encompases all individuals who submit appeals under the Freedom of Information Act from denials of access to or copies of records maintained by the Postal Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of copies of all correspondence relating to appeals from the denials of requests for access to or copies or records pursuant to the Freedom of Information Act, of pleadings on civil actions arising under the Act, and of other documents incidential thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Purpose—To enable the General Counsel to carry out his duties as appellate authority and to comply with reporting requirements. Use—

1. These records are used to provide information and records to the Department of Justice in its coordination of responses to requests for information and its representation of the Postal Service in civil actions, and to prepare reports required by 5 USC 552(d).
2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are stored in paper folders.

RETRIEVABILITY:

Alphabetically, by name of the requester except in those instance where a requester has an appeal filed on his behalf by an attorney. In those cases, the attorney's name might appear as the requester appellant.

SAFEGUARDS:

These records are stored in locked filed cabinets.

RETENTION AND DISPOSAL:

These records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, National Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager above and should contain the name of the requester and the name of that person's attorney.

USPS 150.020

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, and that person's attorney.

SYSTEM NAME:

Records and Information Managment Records—Information Disclosure Accounting Records (Privacy Act). 150.020.

SYSTEM LOCATION:

Records Officer, USPS Headquarters and records Custodians at all USPS facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any USPS employee or citizen who makes an inquiry under the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of inquirer and the type of information requested and USPS response thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401; Public Law 93-579.88 Statute 1896.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—These records are to provide information related to requestors of personal information under the Privacy Act.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper files.

RETRIEVABILITY:

Requesters' name and date of inquiry.

SAFEGUARDS:

Locked file drawers and access control.

RETENTION AND DISPOSAL:

Request letters and related correspondence are retained for two years. Accountings of disclosures are retained for five years or the life of the disclosed record, whichever is longer. All records are destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Postal Service Records Officer, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this sytem of records shold address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name, and date of the request.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual making the request.

USPS 160.010

SYSTEM NAME:

Special Mail Services—Insured and Registered Domestic Mail Inquiry and Application for Indemnity Records, 160.010.

SYSTEM LOCATION:

Rates and Classification Department, Headquarters, Postal Data Center, St. Louis, MO, and Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Insured and registered domestic mail claimants/inquiries including mail senders and addresses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of mail sender and addressee; declaration of claimant/inquirer, claim/inquiry status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in responding to inquiries on the status of domestic insured and registered mail, and in the adjudication of claims related to such mail.

Use—

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Handwritten and typed forms, microfilm, computer readable media and printouts.

RETRIEVABILITY:

Claimant/inquirer name, case number, registered article number.

SAFEGUARDS:

Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

RETENTION AND DISPOSAL:

Domestic inquiries are maintained for two years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered domestic claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

RECORD ACCESS PROCEDURES:

NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information from the individual completing the claim/inquiry form.

USPS 160.020

SYSTEM NAME:

Special Mail Services—Insured and Registered International Mail Inquiry and Application for Indemnity Records, 160.020.

SYSTEM LOCATION:

Rates and Classification Department, USPS Headquarters; Postal Data Center, St. Louis, MO; and International Adjusting Offices in Chicago, New York, New Orleans and San Francisco.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Insured and registered international mail claimants/inquirers, including mail senders and addresses, declaration of claimants/inquirers, claim/inquiry status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in responding to inquiries regarding international mail, and in the adjudication of insured and registered international mail claims.

Use—

1. To refer where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.
2. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
5. To refer an international mail inquiry or claim to the appropriate foreign postal authority when required for claim resolution.
6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Handwritten and typed forms, microfilm, computer readable media and printouts.

RETRIEVABILITY:

Claimant/inquirer name, case number, registered article number.

SAFEGUARDS:

Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

RETENTION AND DISPOSAL:

International inquiries are maintained for three years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rate and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered foreign mail claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information from the individual completing the claim/inquiry form.

USPS 160.030

SYSTEM NAME:

Special Mail Services—Express Mail Service Insurance Claims for Loss Delay and Damage, 160.030.

SYSTEM LOCATION:

St. Louis Postal Data Center, St. Louis, MO.

CATEGORIES OF RECORDS IN THE SYSTEM:

Postal Service forms and correspondence related to the claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used in the adjudication of express mail service claims for loss, delay and damage.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.
2. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Stored in file cabinets in original, typed, handwritten, copied or printed form.

RETRIEVABILITY:

Claims are ordered by date of mailing but are retrieved by name of claimant through visual scanning.

SAFEGUARDS:

Maintained in steel file cabinets within the exclusive custody of Express Mail Marketing personnel in the Customer Services Department and Claims Personnel in the Rates and Classification Department.

RETENTION AND DISPOSAL:

Records are retained for one year then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Claimants wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

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RECORD SOURCE CATEGORIES:

Information is obtained from the claimant or designated representative.

USPS 190.030

SYSTEM NAME:

Litigation Records—Labor Law Topic Files, 190.030.

SYSTEM LOCATION:

Law Department, National Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in employee and labor relations matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Miscellaneous notes, memoranda of law, and case analyses prepared by Postal Service attorneys and personnel; (b) Other relevant documents; (c) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and computer tape/disk.

RETRIEVABILITY:

By topic title or name of individual.

SAFEGUARDS:

Topic folders are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific files should submit their name and file topic title, if known, to the General Counsel, Law Department, Headquarters.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

(a) Individuals involved in employee and labor relations matters; (b) Counsel(s) or other representative(s) for parties in an action other than the Postal Service; (c) Other individuals involved in this matter. Source documents include internal memoranda, court related documents, case files and other relevant records.

USPS 200.010

SYSTEM NAME:

Non-Mail Monetary Claims—Relocation Assistance Claims, 200.010

SYSTEM LOCATION:

USPS National Headquarters (Real Estate and Buildings Department), Washington, D.C. 20260, and all Regional Real Estate and Buildings Departments.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners and tenants of real property purchased or leased by the U.S. Postal Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Completed claim forms and other documents related to indemnifying occupants of property acquired by the U.S. Postal Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and 39 USC 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to adjudicate claims for reimbursement of relocation expenses incurred by owners and tenants of real property acquired by the U.S. Postal Service.

Use—

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body, or in connection with the settlement of any claim or the resolution of any dispute.

4. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

5. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

6. May be disclosed to a Federal compliance investigator for case or program review.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Stored in file cabinets in original, typed, printed or handwritten form.

RETRIEVABILITY:

Claims are ordered and retrieved alphabetically by claimant name within project file.

SAFEGUARDS:

Maintained in locked file cabinets within the exclusive custody of Real Estate and Buildings Department management personnel.

RETENTION AND DISPOSAL:

Records are retained for the life of the facility and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Real Estate and Buildings Department, Headquarters.

NOTIFICATION PROCEDURE:

Claimants wishing to know whether and what information about them is maintained in this system of records should address inquiries to the same facility to which they applied for relocation benefits.

RECORD ACCESS PROCEDURES:

See NOTIFICATION Procedure above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION Procedure above.

RECORD SOURCE CATEGORIES:

Information is obtained from previous dwelling owner or tenant claimant and Postal Service claim reviewers and adjudicators.

USPS 200.020

SYSTEM NAME:

Non-Mail Monetary Claims—Monetary Claims involving Present or Former employees (case files), 200.020

SYSTEM LOCATION:

Law Department, Headquarters, Regional Counsel Offices, Regional Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in monetary claims cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service Attorneys and other personnel; (d) Correspondence and telephone records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401, 409(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper documents and compute tape/disk.

RETRIEVABILITY:

By name of litigant(s).

SAFEGUARDS:

Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

RETENTION AND DISPOSAL:

Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Law Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

RECORD ACCESS PROCEDURES:

See "System Manager" above.

CONTESTING RECORD PROCEDURES:

See "System Manager" above.

RECORD SOURCE CATEGORIES:

(a) Individuals involved in monetary claims cases, (b) Counsel(s) or other representatives for parties in litigation other than Postal Service. Source documents include records relevant to the case.

USPS 210.020

SYSTEM NAME:

Contractor Records—Driver Screening System Assignment Records, 210.020.

SYSTEM LOCATION:

Mail Processing Department, Headquarters, Regional Offices; Sectional Centers; Bulk Mail Centers; District Offices; Post Offices; Postal Data Centers; and Transportation Management Offices (TMOs).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons under a highway contract with the USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number and highway contract to which assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 USC 401.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To ascertain employees having an assignment requiring access to mail or postal premises under contract with the USPS.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613 and the contents of the requested record are needed by the investigator in the performance of his duty of investigate a discrimination issue involved in the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Originally typed, printed or handwritten form; magnetic tape and computer printed reports.

RETRIEVABILITY:

Primarily by highway contract and postal locations serviced; secondarily, by individual's social security number and name.

SAFEGUARDS:

Through computerized codes and passwords, access is restricted to offices that are the authority for a specific contract and to only those post offices serviced by the contract.

RETENTION AND DISPOSAL:

Records are held one year after the contract expires, or one year following an individual's employment termination with a company that has been awarded a highway contract.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Mail Processing Department, Headquarters.

NOTIFICATION PROCEDURE:

Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the TMO Manager, Inquiries should contain full name and highway contract number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

Information is obtained from the contractor.

List of U.S. Postal Service Facilities Referenced Herein.

The address of each Postal Service facility to which requests may be sent (referred to in systems descriptions), other than post offices and the geographical area served, is provided below. The addresses of individual post offices are not provided because of their large number and because that information is available locally to all concerned individuals.

The addresses of all Postal facilities, including locations in Puerto Rico, and the Virgin Islands are contained in THE NATIONAL ZIP CODE AND POST OFFICE DIRECTORY, Publication 65, STOCK NUMBER 039–000–00261–2, available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Postmasters, upon request, will supply the addresses of the Management Sectional Centers and District Offices to which they report.

The following excerpts of addresses and areas serviced is provided for convenience of Privacy Act correspondents, and obviates the repetition in each notice. All "Headquarters" addresses are:

(Office), U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

Postal Service Regional Offices

Regional Postmaster General, Central Region, Main P.O. Bldg., Chicago, IL 60699. (States serviced: IL, MI, OH, IN, HY, WI, MN, IA, MO, ND, SD, NE, KS (except 679).)

Regional Postmaster General, Eastern Region, P.O. Box 8601, Philadelphia, PA 19101. (States serviced: VA, WV, MD, DE, PA, DC, and those portions of New York State and New Jersey outside the Greater New York City Metropolitan area.)

Regional Postmaster General, Southern Region, 5100 Popular Ave., Memphis, TN 38166. (States serviced: TN, AL, MS, TX, LA, GA, FL, NC, SC, OK, AR and KS (679).)

Regional Postmaster General, Northeast Region, 1633 Broadway (at 50th Street) New York, NY 10098. (States serviced: New York City, RI, MA, NH, VT, ME, and those portions of New York State, Connecticut, and New Jersey within the New York City Metropolitan area, also Puerto Rico and Virgin Islands.)

Regional Postmaster General, Western Region, 850 Cherry St., San Bruno, CA 94099. (States serviced: CA, NV, HI, AK, WA, OR, MT, ID, WY, UT, CO, AZ, NM, EL Paso, TX Dist. and Guam.)

Inspection Service

Chief Postal Inspector, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

Training Institute

Postal Service Training and Development Institute, 10000 Kentsdale Drive, Potomac, MD 20854.

National Test Administration Center

National Test Administration Center, U.S. Postal Service, Federal Building, Room 2001, 300 North Los Angeles Street, Los Angeles, California 90012.

Bulk Mail Centers

Atlanta, 1805 Bolton Road, NW., Atlanta, GA 30369.

Chicago, 7500 West Roosevelt Road, Building No. 1, Forest Park, IL 60130.

Cincinnati, 3055 Crescentville Road, Cincinnati, OH 45235.

Dallas, P.O. Box 21106, Dallas, TX 75211.

Denver, 7755 East 56th Avenue, Commerce City, CO 80022.

Des Moines, 4000 NW., 109th Street, Des Moines, IA 50395.

Detroit, 17500 Oakwood Boulevard, Allen Park, MI 48101.

Greensboro, 3701 West Wendover Avenue, Greensboro, NC 27495.

Jacksonville, 7415 Commonwealth Avenue, Jacksonville, FL 32099.

Kansas City, 4900 Speaker Road, Kansas City, KS 66106.

Los Angeles, 4701 South Eastern Avenue, Bell, CA 90201.

Memphis, 1921 Elvis Presley Boulevard, Memphis, TN 38136.

Minneapolis-St. Paul, 3165 South Lexington Avenue, St. Paul, MN 55121.

New York, 80 County Road, Jersey City, NJ 07307.

Philadelphia, 1900 Byberry Road, Philadelphia, PA 19116.

Pittsburgh, R.D. No. 2, Wexford, PA 15090.

St. Louis, 5800 Phantom Drive, Hazelwood, MO 63042.

San Francisco, 2501 Rydin Road, Richmond, CA 94850.

Seattle, P.O. Box 5000, Federal Way, WA 98002.

Springfield, 190 Fiberloid Street, Springfield, MA 01151.

Washington, 9201 Edgeworth Drive, Washington, D.C. 20027.

[FR Doc. 81–306 Filed 1–6–81; 8:45 am]

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federal register

Wednesday
January 7, 1981

Part V

Environmental Protection Agency

State Registration of Pesticides To Meet Special Local Needs

V 46/4 JA 7 81 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP-30003B; PH FRL 1619-2]

State Registration of Pesticides To Meet Special Local Needs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes final rules for the registration of pesticides by the States to meet special local needs, as authorized by sec. 24(c) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [FIFRA] (sec. 22 and 23, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136 et seq.). This rule clarifies the scope of the authority granted to the States by the statute, describes registration procedures for States, and establishes procedures for EPA's exercise of its statutory power to disapprove certain State registrations and to suspend State registration authority.

EFFECTIVE DATE: This rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. EPA will publish a notice of the actual effective date of this rule. See Supplementary Information for further details.

FOR FURTHER INFORMATION CONTACT: P. H. Gray, Jr., Sec. 24(c) Working Group Leader (TS-770-M), Office of Pesticide Programs, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 1401 M St. SW., Washington, D.C. 20460, 202-472-9400.

SUPPLEMENTARY INFORMATION: These rules will be designated as §§ 162.150 through 162.155, Subpart D, Part 162, Title 40 of the Code of Federal Regulations.

These rules were tentatively designated as Subpart B and published as a proposed rule for public comment on August 7, 1979 (44 FR 46414). Subsequent to the publication of the proposed rules, the Section 24(c) Working Group was notified that Subpart B would be designated for future amendments to regulations under section 3 of FIFRA. Accordingly, the final sec. 24(c) regulations will be designated as Subpart D of Part 162.

Subpart D replaces the proposed rules establishing the Interim Section 24(c) Program published on September 3, 1975 (40 FR 40538), as well as the Transitional Section 24(c) Policy statement signed on October 5, 1978, by the Deputy Assistant Administrator for Pesticide Programs [44 FR 46422 *et seq.*].

Background

On September 30, 1978, the Federal Pesticide Act of 1978 (Pub. L. 95-396, 92 Stat. 819) amending the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) went into effect. Among the sections of FIFRA which were substantially modified is sec. 24(c) (sec. 2 of Pub. L. 95-396), which authorizes the States to register "additional uses of federally registered pesticides to meet special local needs." The changes made in sec. 24(c) by the Federal Pesticide Act are described in the preamble to the proposed sec. 24(c) regulations published in the **Federal Register** of August 7, 1979 (44 FR 46414).

Comments on the proposed rules were received from approximately 15 sources, including members of the pesticide production industry, pesticide user groups, environmental groups, and several States. These comments are available for public inspection at the Office of the Documents Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, D.C. 20460.

After consideration of all comments received, EPA has made several, relatively minor, changes in Subpart D. Most of these revisions were made to clarify sec. which apparently were unclear to some readers, or in response to comments made on specific issues discussed in the preamble to the proposed rule. Both the significant relevant comments and the significant changes in the rule are discussed below.

Comments

General

Comments referred to in this preamble are numbered 1(30003A) through 17(30003A) in EPA's public access file. For the purposes of discussion in this preamble, the comments are referred to as numbers 1 through 15A, corresponding to the official numbering system.

Of the comments received, seven comments [nos. 3, 6, 8, 10, 11, 15, and 15A] were received which were generally, or entirely, supportive of the proposed regulations. These included comments from the Ohio Department of Agriculture, Dow Chemical Co., the Georgia Department of Agriculture and Cooperative Extension Service, and the Virginia and Ohio Farm Bureau Federations.

Four commenters responded to the suggestion contained in the preamble to the proposed rules that State registrations are limited by sec. 24(c) to products formulated only from manufacturing-use products (technical grade materials) registered under sec. 3 of FIFRA (44 FR 46415). Two commenters (nos. 4 and 5) favored this interpretation of sec. 24(c), while the third commenter (no. 7) opposed it as unnecessary. The fourth commenter (no. 1) favored the idea of a limitation, but suggested that States also be allowed to register products formulated from end-use products registered by EPA.

EPA has concluded that sec. 24(c)(1) was intended to limit State registration of new end-use products to those whose active ingredients are present because of the use of federally-registered products. Accordingly, a new § 162.152(b)(2)(ii) has been added to clarify this limitation.

In effect, this provision will permit States to continue to register new end-use products which are formulated from one or more manufacturing-use or end-use products previously registered by EPA under sec. 3 of FIFRA. Reformulation of a product labeled for end-use, for the purpose of manufacturing a new product, is generally a use not permitted by the original product's labeling. Ordinarily, this would technically be a use inconsistent with the original end-use product's labeling and a violation of sec. 12(a)(2)(G) of FIFRA. However, EPA has determined that such a practice is consistent with the purposes of FIFRA, at this time, and, under sec. 2(ee) of FIFRA, that it is not prohibited by the Act. This practice—registration of reformulated end-use products—is also consistent with EPA's past practice for registration under sec. 3.

Nonetheless, the Agency recognizes that this policy under sec. 3 and sec. 24(c) may cause difficulties in the application of the data requirements for registration under sec. 3 of the Act. For example, in EPA's proposed data guidelines, some data requirements which apply to manufacturing-use products do not apply to end-use products with particular use patterns. In addition, reformulation of end-use products could create opportunities for evasion of the data compensation provisions of sec. 3(c)(1)(D) of the Act.

Accordingly, EPA is now in the process of re-evaluating its policy regarding registration of reformulated end-use products under sec. 3. If EPA concludes that the disadvantages of registering such products outweigh the advantages, then EPA's policy under sec. 3 will be modified accordingly. Thereafter, any reformulation of end-use products, for distribution or sale, not in conformance with the products' labeling or EPA policy would be a violation of sec. 12(a)(2)(G) of FIFRA, and registration of such a product would not be consistent with the purposes of FIFRA. Therefore, since sec. 24(c)(1) requires State registrations to be issued "in accordance with the purposes of the Act," State registration of end-use products must be carried out consistently with EPA's current and future policy on registration under sec. 3. Section 162.152(b)(2) (ii) of the regulations will be revised to clarify any limitations on State authority when, and if, EPA modifies its policy on reformulation of end-use products.

It should be noted that § 162.152(b)(2)(ii) will effectively bar an applicant for State registration from producing active ingredients for his own use in formulating end-use products, unless he has already obtained a section 3 registration for the ingredient as a manufacturing-use product. In addition, § 162.152(b)(1)(iv) and § 162.152(b)(2)(iii) [§ 162.152(b)(2)(ii) in the proposed rules] expressly prohibit State registration of new manufacturing-use products and of amendments to federally registered manufacturing-use products.

Three commenters commented on proposed § 162.153(h)(4)(i). One commenter (no. 7) stated, incorrectly, that that section authorized EPA to request data used for unreasonable adverse effects determinations from a State for any registration issued under sec. 24(c) of FIFRA. The other commenters (nos. 1 and 8) responded to the question posed in the preamble to the proposed rule (44 FR 46417) on whether § 162.153(h)(4) should be revised to authorize EPA to request data on unreasonable adverse effects in every case where States are required by § 162.153(c) to conduct such a hazard review. Those commenters, including the Wyoming Department of Agriculture, suggested that § 162.153(c) and (h)(4) be made consistent.

In accordance with these comments, and for the reasons set forth in the preamble to the proposed rule, § 162.153(h)(4) has been revised to authorize EPA to request, when appropriate, hazard data from the States in all situations covered by § 162.153(c). This data may be required in such cases to enable EPA to determine if an imminent hazard is created by the registration.

With regard to another question raised in the preamble to the proposed rule on excluding voluntary cancellations from the prohibition in § 162.153(b) against State registrations of cancelled uses, three comments were received. Two commenters (nos. 6 and 14) suggested that all voluntarily cancelled uses should be included in the prohibition.

One commenter (no. 1) favored allowing States to register a use voluntarily cancelled under section 3 if such cancellation was not preceded by a notice of intent to cancel. However, the commenter went on to suggest that in such cases the State must first determine the reason for voluntary cancellation, since a registrant may voluntarily cancel a registration because of health or safety concerns, even though EPA has not issued a notice of intent to cancel.

EPA has considered these issues at length and has decided that section 24(c)(1) was not intended to apply in all cases of voluntarily cancelled registrations, since some registrations may have been cancelled merely for reasons of convenience. However, voluntary cancellations made by a registrant subsequent to a notice of intent to cancel by EPA are in the same general class as cancellations actually made by the Administrator for health and safety reasons. Therefore, such cancellations are covered by sec. 24(c)(1). Accordingly, § 162.152(a)(3) has been revised to specifically include such voluntarily cancelled registrations.

Where no notice of cancellation is involved, the reason for voluntary cancellation may not be apparent. In such cases, EPA may have access to facts that the States do not, and which States should consider before deciding whether to issue a registration under section 24(c). Therefore, § 162.152(b)(1)(iii) and (2)(iv) have been expanded slightly to require States to consult, informally, with EPA before registering any use of a product for which federal registration has been voluntarily cancelled without a prior notice of intent to cancel by the Administrator.

On a related matter, one commenter (no. 4) suggested that § 162.152(b) should also require States to notify EPA prior to registration of any products which are not similar in composition to any pesticide registered under sec. 3. EPA does not feel that such an extension is necessary, given that § 162.153(c)(1)(i) requires States to determine that such a registration will not cause unreasonable adverse effects on man or the environment, and that EPA has authority to request underlying hazard data under § 162.153(1)(4) and to disapprove such registrations, if appropriate, under §162.154.

Definitions

Several commenters objected that several of the proposed definitions were intended to make "essentiality" a prerequisite for State registration, contrary to the intent of sec. 24(c)(2). One of these commenters (no. 7) claimed that the definition of "pest problem" under § 162.151(d) would lead to this result—in the case of desiccants, defoliants, and plant regulators—since that definition uses the word "requiring" when describing when such pesticides may be registered to correct a pest problem. EPA does not agree with this commenter's interpretation of the definition, and rejects any suggestion that EPA is trying indirectly to take any action forbidden by sec. 24(c). However, to avoid any confusion with regard to the meaning of the term "pest problem," § 162.151(d)(2) has been revised to state clearly that a pest problem may exist whenever use of a defoliant, desiccant, or plant regulator would be "appropriate."

Similarly, two commenters (nos. 2 and 16) claimed that the definition of "special local need" under § 162.151(i) would make essentiality a criteria for registration, since that section and § 162.153(b) require a State to determine "that an appropriate federally registered pesticide . . . is not sufficiently available" to meet the local need. EPA must also reject this interpretation of § 162.151(i). As the preamble to the proposed regulations stated (44 FR 46415, 46416), § 162.151(i) clearly leaves the States ample discretion to determine whether any pesticide registered under sec. 3 is both "appropriate" and "sufficiently available" to meet the local need. This discretion allows a State to register a pesticide which is not absolutely "essential," if, in the good faith exercise of its authority, the State determines that a federally registered pesticide is either not "appropriate" or is, for some reason, not "sufficiently available." On the other hand, § 162.151(i) leaves any State free to use lack of essentiality as a ground for denying State registration if the State feels that is appropriate. Therefore, the definition of "special local need" represents a reasonable compromise between the need to give States some direction as to how to determine whether a special local need exists, and the need to allow the States to exercise the discretion Congress intended them to have. No change in the definition is required.

Similarly, EPA must reject the suggestion of two commenters (nos. 9 and 15) who believe that § 162.153(b) should not give examples of what a State may consider as not involving a special local need. EPA again points out, as previously stated in the preamble to the proposed rule (44 FR 46416), that § 162.153(b) leaves the States full discretion as to whether these examples should be used in a given case. EPA does not intend to second-guess the States in such matters but it does expect the States to use their discretion to make reasonable determinations under § 162.153(b), in order to prevent registrants from circumventing the requirements of sec. 3 of FIFRA. For this reason, EPA must reject another commenter's (no. 1) claim that registration in other States is a factor which should never be considered by a State under § 162.153(b). An obvious nationwide pattern of State registrations for a particular use should be considered by a State in determining whether a registrant is evading registration requirements under sec. 3. However, EPA cannot specify a number of States which can be used as a basis for drawing a line between local and national needs, as was requested by one commenter (no. 4). Such decisions must be made on a case-by-case basis.

On the other hand, EPA must reject the suggestion of two commenters (nos. 5 and 8) that the definition of "special local need" is too broad and allows the States too much discretion. As stated earlier, the current definition reflects Congress' intent to broaden State authority under sec. 24(c) and is consistent with the experience of EPA and the States under the original sec. 24(c).

Another commenter (no. 12), however, raised a valid question about the definition. That commenter asked whether economic factors, as well as considerations of quantity, location, transportation difficulties, and similar factors affecting the availability of federally registered pesticides, could be considered in determining that a "federally registered pesticide is not sufficiently available." EPA has considered this issue carefully and has concluded that economic factors may indeed be taken into consideration by a State in deciding whether or not an EPA-registered product is "sufficiently available."

On a similar topic, one commenter (no. 5) stated that the definition of "similar use pattern" under § 162.151(1) was too broad, and that EPA is required to write "standards" to define what is a similar use pattern. Another commenter (no. 13) claimed that the definition should have stated expressly that a change from terrestrial to aquatic applications is not considered a similar use pattern. EPA must reject both comments.

The definition of "similar use pattern" was intended to be broad, in accordance with the apparent intent of Congress that the term be interpreted in a way which would allow States to issue certain routine registrations free from EPA's disapproved authority in cases where the Agency has already considered the same or similar registrations under sec. 3 (see S. Rep. 95–1188, p. 51). Also, there is no need to write more specific standards to distinguish between similar and non-similar use patterns since § 162.151(h) can be easily applied to all situations likely to arise under sec. 24(c). Finally, it should be noted that changes from aquatic to terrestrial applications, and vice versa, are "changed used patterns," as defined by 40 CFR 162.3(k), and are therefore expressly excluded from § 162.151(h), since § 162.3 is incorporated by reference in § 162.151.

Finally, another comment (no. 7) on the definition section of the proposed rule requested clarification of the definition of "federally registered," § 162.151(a). Specifically, the commenter asked if pesticides registered by a State prior to August 4, 1975, as described in EPA's Pesticide Enforcement Policy Statement No. 3, are considered "federally registered." Such registrations are not covered by § 162.151(a) since they were not registered by the Administrator of EPA, nor by the Secretary of Agriculture, and since such registrations are specifically excluded from the applicability of this rule by § 162.150(b).

The same commenter also asked whether a valid registration under sec. 24(c) sustains itself under the provisions of FIFRA. As stated in the preamble to the proposed rule (44 FR 46416), valid registrations under sec. 24(c) are subject to all provisions of FIFRA which come into effect after issuance of a registration, including provisions for continuing a federal registration.

State Registration Authority

Two commenters (nos. 4 and 16) objected generally that these rules would expand State registration authority beyond that granted by the original version of sec. 24(c), contrary to the intent of Congress. EPA must reject these comments for the reasons stated in the preamble to the proposed rule (44 FR 46414).

Another commenter (no. 5) stated specifically that sec. 24(c) does not authorize States to register new pesticide products, as provided by proposed § 162.152(b)(2). The commenter cited that absence of language in sec. 24(c) expressly authorizing such registrations, as well as certain portions of the Senate Committee on Agriculture, Nutrition, and Forestry Report on the Federal Pesticide Act of 1978, pp. 81, 169 (January 1979) which the commenter believes support its interpretation.

EPA has considered these points at length. In fact, similar arguments were exhaustively examined by EPA prior to the drafting of the proposed rule. However, it was concluded that, although the express language of sec. 24(c) could be interpreted as the commenter suggested, such an interpretation "would be inconsistent with Congress' general intent to broaden State registration authority * * *" (see preamble, 44 FR 46415), since such an interpretation would, in fact, remove authority which States clearly possessed under the original sec. 24(c). It is extremely unlikely that Congress intended such a result.

It should also be noted that, although the legislative history cited by the commenter tends to support the commenter's opinion, other, equally valid, examples of the legislative history of sec. 24(c) support EPA's interpretation (see, e.g., H.R. Rep. 95–1188, pp. 50–51, (September 12, 1978)). Therefore, that portion of the commenter's argument is not sufficiently persuasive.

In addition, EPA would point out that only one response was received on this issue, even though the preamble to the proposed rule clearly invited comment on EPA's interpretation. Therefore, this commenter apparently stands alone in objecting to § 162.152(b)(2), even though other members of the pesticide manufacturing industry might benefit economically if the commenter's suggestion were adopted by EPA.

Therefore, since the language of sec. 24(c) is subject to the interpretation given it in the proposed rules, since that interpretation is consistent with Congress' general intent, and since the legislative history of the section is not conclusive, EPA must reject this comment.

On a similar matter, another commenter (No. 16) stated his opinion that sec. 24(b) of FIFRA prohibits States from issuing registrations under sec. 24(c) for a pesticide use already registered under sec. 3, contrary to proposed § 162.152(c)(2). EPA rejects this comment on the grounds that it is based on an erroneous interpretation of sec. 24(b). That section merely prohibits States requiring changes in the labeling or packaging of products registered under sec. 3. It does not prohibit State registration of the use itself under sec. 24(c), even though the State registration may require the addition of supplemental labeling to the product. Such supplemental labeling is necessary to implement sec. 24(c), and its use is therefore "required under [the] * * *

Act" and is authorized by sec. 24(b). Those sections must be read consistently, and not in such a way as to negate each other.

With regard to limitations on State authority, one commenter (No. 5) suggested that the requirement in § 162.152(a)(2), as explained in the preamble to the proposed rule (44 FR 46415), for tolerances and clearances for food or feed uses should not apply to inert ingredients, by-products, and metabolites. The commenter claimed that such a requirement would be inconsistent with Agency policy with regard to registrations under sec. 3 of FIFRA. EPA must reject this comment since the requirement is, in fact, consistent with current Agency policy for federal registrations (e.g., 40 CFR Part 180). Although EPA does not always publish tolerances or other clearances for inerts, metabolites, and by-products, it always satisfies itself that nontoxicological problems will be caused by such compounds before registering a product. EPA believes that this policy, together with sec. 24(c)(3)'s express prohibition against State registration of pesticides for food or feed use without tolerances or exemptions under the FFDCA, justifies the limitation found in § 162.152(a)(2).

Another commenter (No. 4) criticized proposed § 162.152 (b) and (c), which permits State registration of uses of products for which other uses of the same product have been cancelled by EPA. The commenter implied that the States should not be allowed to register such uses, and that authority to do so would lead to State registration of many new uses of products like DDT over which EPA would have little or no control. This commenter has apparently overlooked the statement in the preamble to the proposed rule (44 FR 46415) which explained that the provisions in question were written to be consistent with the express language of sec. 24(c)(1). In addition, the commenter has overlooked the fact that § 162.152 (b) and (c) require States to consult with EPA prior to registering such uses. This prior consultation will allow EPA to discuss controversial applications with a State, and, where necessary, provide EPA with an opportunity to dissuade the State from issuing a potentially hazardous registration. In those cases where the State nevertheless issues a registration, EPA will at least have had sufficient prior notice of the State action to take whatever steps might be necessary and appropriate to prevent unreasonable adverse effects from occurring.

State Registration Procedures

One commenter (No. 4) requested that it be given direct notification of any sec. 24(c) registration issued for a use of a pesticide for which other uses of the same pesticide were cancelled after hearings in which the commenter had participated. EPA must reject this request for special notification since it would impose an unreasonable and unnecessary burden upon the Agency or the States. Since notice of all sec. 24(c) registrations will be regularly published in the **Federal Register** under § 162.153(i), the commenter, and other persons, will have adequate notification of registrations in which they have an interest.

Two commenters (Nos. 6 and 9) suggested that proposed § 162.153(h)(2) should be amended to allow States more than 45 days after issuance of a registration in which to send EPA a copy of final printed labeling for that registration. Both commenters stated that, in general, States cannot obtain copies of final printed labeling in time to comply with the 45 day limit. This accords with other comments received by EPA during the drafting of the proposed rule. EPA has therefore decided that, as suggested by some commenters, 60 days is a more reasonable time limit for submission of such labeling. Section 162.153(h)(2) has been amended accordingly.

One commenter (No. 16) criticized proposed § 162.153(d), which requires States to perform efficacy reviews only when registering public health uses, on the grounds that the requirement imposes an unfair burden on such registrants. EPA strongly disagrees with this comment. Although § 162.153(d) does place a burden on registrants of public health uses, the necessity of ensuring the efficacy of pesticides registered for such uses is clear and well-established. Lack of efficacy could have a direct and serious adverse impact on the health of persons who rely on such products for control of disease-causing pests. This is generally not the case for registration of other (e.g., agricultural) uses. Moreover, as stated in the preamble to the proposed rule, the efficacy review provision is consistent with EPA's general policy for registrations issued under sec. 3 of FIFRA (e.g., 40 CFR 162.18(b)(2)(i)).

One commenter (No. 9) objected generally to the proposed section on State registration procedures under § 162.152 on the grounds that they are not expressly authorized by FIFRA. The commenter suggested that State registration procedures be described in voluntary "guidelines" instead. EPA rejects this broad criticism since, for reasons stated in the preamble to the proposed rule (44 FR 46416), it is necessary to the implementation of EPA's duties under sec. 24(c) for all States to observe certain minimal uniform procedures. Only in this way can EPA be assured that States are exercising their authority in accordance with the limitations of sec. 24(c), and only by this type of regulation can EPA obtain the data needed to make reasonable decisions, when appropriate, on whether to disapprove State registrations or to suspend State authority. Therefore, such regulations are implicitly authorized by sec. 24(c) and sec. 25(a) of FIFRA.

Another commenter (No. 7) suggested that data required to be submitted to States by registrants under § 162.153 should be considered as "protected under FIFRA sec. 3(c)(1)(D) with respect to future use in support of registrations under sec. 3 of FIFRA." EPA cannot agree with this interpretation. The data protection provisions of sec. 3(c) specifically apply only to data submitted to the Administrator of EPA. Neither sec. 3(c)(1)(D) nor sec. 10, "Protection of Trade Secrets," was intended to apply to data held only by the States under sec. 24(c). As stated in the preamble to the proposed rules (44 FR 46416), valid registrations issued under sec. 24(c) are considered "registrations under sec. 3." However, the procedures leading up to registration by the State are not covered by the procedural requirements for issuance of registrations under sec. 3. This includes requirements under FIFRA for data use protection and compensation.

On another matter, one commenter (No. 16) objected to proposed § 162.153(d)(4) (now § 162.153(e)(5)) on the grounds that States are not authorized to classify pesticides for restricted use under FIFRA. This commenter has apparently misunderstood the clear intent and meaning of § 162.153(e)(5). That section does not allow States to classify pesticides for restricted use under FIFRA. It merely recognizes that many States have authority to classify pesticides under State law, and that it is possible that special conditions in a State may warrant a restriction of a pesticide use which is not restricted by EPA. States have always been free to impose such additional restrictions on pesticide use within their jurisdictions under sec. 24(a) of FIFRA, provided that they do not violate sec. 24(b) by altering the approved federal labeling or packaging in any way not specifically authorized by EPA. The agency has long recognized and sanctioned such action by States, and § 162.153(e)(5) merely confirms this fact and lays down certain procedures which will ensure that States do not violate sec. 24(b) in exercising their authority. Of course, such an additional restriction under State law is enforceable only under State law, not under FIFRA sec. 3(d).

On a related topic, another commenter (No. 7) asked for clarification of a statement in the preamble to the proposed rule (44 FR 46417) to the effect that classification of a pesticide for restricted use by EPA will "automatically apply to all registrations previously issued under sec. 24(c) for that pesticide." As the commenter correctly observed, the preamble should have read that restriction of a use by EPA "will automatically apply to all registrations under sec. 24(c) for that use of the pesticide."

The same commenter also argued that proposed § 162.153(e)(3)(viii) was wrong in requiring that State supplemental labeling prohibit use of a pesticide inconsistent with EPA-approved labeling. The commenter claimed that this would largely negate the effect of sec. 24(c), since State supplemental labeling often authorizes uses inconsistent with the federal labeling. EPA disagrees with this assessment.

EPA recognizes that State supplemental labeling frequently authorizes uses not specifically authorized by EPA-approved labeling. That is consistent with the purpose of sec. 24(c). However, such additional uses also must be, and generally are, consistent with the federal labeling under the terms of FIFRA sec. 2(ee). That section allows many uses not found on the federal labeling, as long as the new use is not prohibited by the EPA labeling and is otherwise in conformance with sec. 24 and regulations thereunder. Therefore, State supplemental labeling can, and must, be written in such a way as to conform with approved federal labeling, as required by proposed § 162.153(e)(3)(viii). Readers should note, however, that proposed § 162.153(e)(3)(viii) has been combined with § 162.153(e)(3)(vii) in the final rule to eliminate some redundancy.

The same commenter also suggested that § 162.153(e) be expanded to provide additional guidance to States on supplemental labeling requirements in cases where a State registers an unclassified use of a pesticide for which other uses have been classified as restricted by EPA. EPA does not believe that such additional guidance is required since § 162.153(e)(3) already gives sufficient instruction as to the minimum required contents of any supplemental labeling. In any event, in many of the cases described by the commenter, the State will be required to classify the use registered under sec. 24(c) as restricted under § 162.153(g). In those instances where the State need not classify the use as restricted, it is free to indicate that fact on the supplemental labeling.

However, the Agency has, on its own initiative, slightly modified § 162.153(e)(3), and added a new § 162.153(e)(4), to clarify when State approved labeling must be made available to purchasers and users of pesticides registered under sec. 24(c), and to emphasize that the States have the primary responsibility for ensuring compliance with this requirement.

Commenter no. 7 also suggested that EPA publish a summary of all prior State registration actions in the first notice published under § 162.153(i). EPA has already compiled such a listing and has made it available to the States and to the public on microfiche.

Disapproval of State Registrations

One commenter (no. 7) suggested that § 162.153(c) be amended by changing the disapproval period for State registrations, for which EPA was not timely notified, from 90 days to 80 days from the time that EPA actually received notification of the registration. This suggestion was based on the commenter's belief that a disapproved registration remains in effect until the disapproval period is over, even though it may actually have been disapproved before the end of the disapproval period. The commenter was concerned that disapproved registrations should not remain effective longer than absolutely necessary. EPA shares this concern but does not agree with the commenter's suggestion, since it is based on an erroneous interpretation of sec. 24(c)(2). Disapprovals by EPA under that section are effective immediately, as § 162.154(c) clearly implies, unless the notice of disapproval indicates otherwise. This is the most reasonable interpretation of the statutory language. It is extremely unlikely that Congress intended that a State registration should be considered valid—and the pesticide to be lawfully distributed and used—after it has been disapproved on health, environmental, or other substantial grounds. Nothing in the legislative history of the section supports any interpretation other than EPA's. However, to avoid confusion on this subject, § 162.154(c) has been slightly amended to clarify this point.

Two commenters (nos. 7 and 12) also suggested that § 162.154(c) be amended to require the Administrator to include instructions on use or disposal of existing stocks of disapproved pesticides whenever appropriate. EPA agrees that such a change is reasonable and § 162.154(c) has been amended accordingly.

Finally, the U.S. Department of the Interior in its comments (no. 13) suggested that EPA consult the Fish and Wildlife Service whenever making a determination under § 162.154(a)(1)(i) on the possible creation of unreasonable adverse effects on the environment. Although EPA must retain sole responsibility for making such decisions under § 162.154, the Agency intends to consult with other Agencies whenever appropriate to obtain expert advice on matters with which the other Agencies are concerned.

Suspension of State Authority

One commenter (no. 16) suggested that § 162.155(b)(2) and (c)(3) be amended to require the Administrator to suspend a State's authority whenever a State commits any of the acts described therein. EPA rejects this suggestion since it would deprive the Administrator of the discretion, expressly granted by sec. 24(c)(4), which is needed in order to negotiate reasonable solutions with States in cases where suspension of State authority is not necessary.

Similarly, EPA must partially reject another commenter's (no. 8) claim that § 162.155(b)(2) allows the Administrator too much discretion in that it authorizes suspension for a State's refusal to correct "other deficiencies in its program specified by the Administrator." This authority is consistent with sec. 24(c)(4) and is necessary to ensure that State programs are implemented in accordance with sec. 24(c). However, EPA agrees that the term "other deficiencies" is somewhat broad and § 162.155(b)(2) has therefore been revised to limit the Administrator's power to cases of "significant deficiencies" in the State program.

Finally, the same commenter also suggested that § 162.155 be amended to specify the administrative or judicial remedies which are available to a State subject to a suspension of its authority. EPA agrees with this request and § 162.155 has been modified to specify that remedies are available under sec. 16 of FIFRA and the Administrative Procedure Act.

In addition, § 162.155(c) has been revised to clarify the procedures by which final decisions on suspension will be made, including procedures for administrative hearings and appeals.

Miscellaneous

One commenter (no. 7) requested that the rules be revised to state expressly that sec. 24(c) registrants must comply with State law as well as all applicable federal laws and regulations. EPA does not believe such an amendment is required since it is clear that all State laws and regulations which are not in conflict with FIFRA, or rules thereunder, must be obeyed by those under the jurisdiction of the State.

Another commenter (no. 6) objected to the statement in the preamble to the proposed rule (44 FR 46417) that disapprovals by EPA of registrations under sec. 24(c) are not the same as denial, suspension, or cancellation of registrations under sec. 3 and 6 of FIFRA. The commenter argued that disapprovals are equivalent to such actions, and that State registrants subject to disapproval are entitled to remedies under sec. 3, 6 and 15 of FIFRA. EPA rejects this argument absolutely since the language of sec. 24(c) itself clearly distinguishes between disapprovals and other actions taken under FIFRA and establishes procedures for disapproval different from procedures established for sec. 3 and 6. Nor is there any indication in either sec. 3 or 6, or their legislative history, that disapproval of State registrations is to be covered by the procedures established expressly for denial, suspension, and cancellation of registrations.

Two commenters (nos. 5 and 9) objected that proposed § 162.156(a)(3), stating that registrations not issued in accordance with § 162.156(a) and (b) are invalid, was unauthorized under sec. 24(c). EPA strongly disagrees with this interpretation for the reasons stated in the preamble to the proposed rule (44 FR 46418). Even though sec. 24(c) does not expressly refer to invalidation of State registrations, it does specifically lay down several important prerequisites to the issuance of registrations by a State under that section. § 162.156(a) and (b) restate and clarify those conditions. A State registration which does not meet all of those prerequisites clearly cannot be considered valid under sec. 24(c). It would be unreasonable, for example, to conclude that a registration issued by a State for a pesticide use previously cancelled by EPA should be considered valid even though sec. 24(c)(1) expressly prohibits such registrations. The unreasonableness of considering such potentially hazardous unauthorized registrations as valid until disapproved is further demonstrated by the fact that EPA's authority to disapprove State registrations is relatively limited. Therefore, § 162.156(a)(3) is a necessary, proper, and authorized way to prevent pesticides which are registered in flagrant violation of sec. 24(c)(1), but which are beyond EPA's disapproval authority, from entering into public use. However, EPA does recognize that proposed § 162.156(a)(3) was somewhat overbroad in that it incorporated as grounds for invalidation all of § 162.152(b), even though some provisions of the latter section were not limitations on State authority created by sec. 24(c). Accordingly, § 162.156(a)(3) has been revised to incorporate by reference only those parts of § 162.152(b) derived from the limitations found in sec. 24(c).

On the same topic, another commenter (no. 6), implicitly conceding the legitimacy of § 162.152(a)(3), suggested that a 90 day limit be placed on the Administrator's authority to issue notices of invalidity. EPA must also reject this suggestion, which was apparently based on the fact that there is a 90 day limit on EPA's disapproval authority. As explained above, invalidation and disapproval are of entirely different natures. The procedural restraints expressly imposed on disapproval actions by sec. 24(c) are not, and should not be, imposed on notices of invalidation which merely point out that a particular registration is void, from the moment it was issued, under the direct operation of sec. 24(c) itself. However, pursuant to another commenter's request (no. 16), § 162.156(a)(3) has been slightly modified to require the Administrator to notify the registering State whenever he discovers that a State registration is invalid.

Finally, one commenter (no. 2) suggested that the five year limit for completion of a regulatory review under sec. 2(d)(8) of Executive Order 12044, proposed for this rule (44 FR 46418), be shortened to two and one-half years. EPA must reject this suggestion. The five year review period is standard for this type of regulation, while the period proposed by the commenter is too short to permit an accurate evaluation of the effectiveness of this rule. However, it should be noted that the regulation is subject to amendment at any time if a need for such action can be shown. The commenter and other interested persons, are, of course, free to bring such a need to EPA's attention whenever it arises.

Several other comments were received which were either irrelevant or clearly erroneous in content, or which were too minor to warrant discussion in this preamble.

Conclusion

As the preceding discussion shows, relatively few changes in the proposed regulations were necessary. Those changes are either minor or made pursuant to specific proposals on which public comment was invited in the preamble to the proposed rule. Therefore, this regulation does not require reproposal under 5 U.S.C. 553(b).

Regulatory Analysis

EPA has determined that this rule does not require a Regulatory Analysis under Executive Order 12044. A screening study to this effect is available for review.

Statutory Review

The U.S. Department of Agriculture has reviewed this regulation in accordance with section 25(a) of FIFRA and has concurred with only one minor comment in its publication in the **Federal Register**. That comment involved clarification of § 162.152(a)(2) and the comment has been incorporated in this final rule.

The regulation was also submitted for scientific review and comment to the FIFRA Scientific Advisory Panel (SAP) in accordance with section 25(d) of FIFRA. In a letter dated August 20, 1980 to the EPA Deputy Assistant Administrator for Pesticide Programs, the SAP concurred without comment in the proposed regulation.

Regulatory Review

Section 2(d)(8) of Executive Order 12044 requires that a plan for evaluating the regulation after its issuance be developed. The Agency's plan for evaluation of this rule calls for an analysis by EPA of the regulation and its effect on State regulatory agencies and registrants, in cooperation with the State-FIFRA Issues Research and Evaluation Group.

This evaluation will be performed within five years from the date of promulgation of this rule, and a determination will then be made as to whether modification of the rule is necessary.

Effective Date: On December 17, 1980, President Carter signed the Federal Insecticide, Fungicide, and Rodenticide Act Extension bill (Pub. L. 96–539). This bill amended several sections of FIFRA, including sec. 25 on rulemaking. Section 4 of the Extension Act adds a new paragraph, sec. 25(e), to FIFRA which requires EPA to submit final regulations to Congress for review before the regulation becomes effective. Copies of this rule have been transmitted to appropriate offices in both Houses of Congress.

(FIFRA 24(c); 7 USC 136v)

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

Pursuant to sec. 4 of the 1980 FIFRA Extension Act, and in accordance with President Carter's statement on signing the bill (Weekly Compilation of Presidential Documents, p. 2814, December 22, 1980), this rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. Since the actual length of this waiting period may be affected by Congressional action, it is not possible, at this time, to specify a date on which this regulation will become effective. Therefore, EPA at the appropriate time, will publish a notice in the **Federal Register.** announcing the end of this "report and wait" period and notifying the public of the actual effective date of this regulation.

40 CFR Part 162 is amended by reserving Subparts B and C and establishing Subpart D, to read as follows:

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

* * * * *

Subparts B-C—[Reserved]

Subpart D—Regulations Pertaining to State Registration of Pesticides To Meet Special Local Needs

Sec.

162.150 General.
162.151 Definitions.
162.152 State registration authority.
162.153 State registration procedures.
162.154 Disapproval of State registrations.
162.155 Suspension of State registration authority.
162.156 General requirements.

Authority. Sec. 24(c) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA or the Act (secs. 22 and 23, Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136 et seq.)

Subparts B-C—[Reserved]

Subpart D—Regulations Pertaining to State Registration of Pesticides To Meet Special Local Needs

§ 162.150 General.

(a) *Scope.* This subpart sets forth regulations governing the registration by any State of pesticide products, or uses thereof, formulated for distribution and use within the State to meet special local needs under sec. 24(c) of the Act. It also sets forth regulations governing the exercise by the Administrator of the power to disapprove specific State registrations and to suspend a State's registration authority under sec. 24(c). Unless otherwise indicated, any reference herein to registrations issued by a State includes amendments of registrations issued by States.

(b) *Applicability.* This subpart applies only to State registration authority granted by sec. 24(c) of FIFRA. It does not apply to any authority granted, or procedures established, by State law with respect to registration, licensing, or approval required for use within the State of federally registered pesticide products. In addition, this subpart does not apply to products or uses registered by a State prior to August 4, 1975, and which have continued in intrastate commerce in accordance with § 162.17, unless those products were subsequently registered by the State under sec. 24(c).

§ 162.151 Definitions.

Unless otherwise indicated, terms used in this subpart have the meanings set forth in FIFRA and in Subpart A of this part. In addition, as used in this subpart, the following terms have the meanings set forth below: (a) "Federally registered" means currently registered under sec. 3 of the Act, after having been initially registered under the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 (Pub. L. 86–139; 73 Stat. 286; June 25, 1947) by the Secretary of Agriculture or under FIFRA by the Administrator.

(b) "Manufacturing-use product" means any pesticide product other than a product to be labeled with directions for end use. This term includes any product intended for use as a pesticide after re-formulation or repackaging.

(c) "New product" means a pesticide product which is not a federally registered product.

(d) "Pest problem" means (1) a pest infestation and its consequences, or (2) any condition for which the use of plant regulators, defoliants, or desiccants would be appropriate.

(e) "Product" or "pesticide product" means a pesticide offered for distribution and use, and includes any labeled container and any supplemental labeling.

(f) "Similar composition" refers to a pesticide product which contains only the same active ingredient(s), or combination of active ingredients, and which is in the same category of toxicity, as a federally registered pesticide product.

(g) "Similar product" means a pesticide product which, when compared to a federally registered product, has a similar composition and a similar use pattern.

(h) "Similar use pattern" refers to a use of a pesticide product which, when compared to a federally registered use of a product with a similar composition, does not require a change in precautionary labeling under § 162.10(h), and which is substantially the same as the federally registered use. Registrations involving changed use patterns are not included in this term.

(i) "Special local need" means an existing or imminent pest problem within a State for which the State lead agency, based upon satisfactory supporting information, has determined that an appropriate federally registered pesticide product is not sufficiently available.

(j) "State" or "State lead agency" as used in this subpart means the State agency designated by the State to be responsible for registering pesticides to meet special local needs under sec. 24(c) of the Act.

§ 162.152 State registration authority.

(a) *Statutory limitations.* In accordance with sec. 24(c) of the Act, each State is authorized to register a new end use product for any use, or an additional use of a federally registered pesticide product, if the following conditions exist: (1) There is a special local need for the use within the State;

(2) The use is covered by necessary tolerances, exemptions or other clearances under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346 et seq.), if the use is a food or feed use;

(3) Registration for the same use has not previously been denied, disapproved, suspended or cancelled by the Administrator, or voluntarily cancelled by the registrant subsequent to issuance by the Administrator of a notice of intent to cancel that registration, because of health or environmental concerns about an ingredient contained in the pesticide product, unless such denial, disapproval, suspension or cancellation has been superseded by subsequent action of the Administrator; and

(4) The registration is in accord with the purposes of FIFRA.

(b) *Types of registrations—(1) Amendments to federal registrations.*

(i) Subject to the provisions of paragraphs (a) and (b)(1)(ii)(iv) of this section, States may register any new use of a federally registered pesticide product.

(ii) A State may register any use of a federally registered product for which registration of other uses of the product was denied, disapproved, suspended, or cancelled by the Administrator, provided that the State may register a use not considered by the Administrator in reaching such a determination only after the State consults with appropriate EPA personnel.

(iii) Except as provided in paragraph (a)(3) of this section, a State may register any use of a federally registered product for which registration of some or all uses has been voluntarily cancelled by the registrant, provided that a State may register such a use only after the State has consulted with appropriate EPA personnel.

(iv) A State may not register an amendment to a federally registered manufacturing-use product.

(2) *New products.* (i) Subject to the provisions of paragraph (a) and subparagraphs (b)(2) (ii) and (iii) of this section, a State may issue registrations to meet special local needs for the following types of new end-use products: (A) A product which is identical in composition to a federally registered product, but which has differences in packaging, or in the identity of the formulator.

(B) A product which contains the same active and inert ingredients as a federally registered product, but in different percentages.

(C) Subject to the requirements of paragraph (b)(2)(ii) of this section, a product containing a new combination of active, or active and inert, ingredients.

(ii) A State may register a new product only if each of the active ingredients in the new product is present because of the use of one or more federally registered products and if each of the inert ingredients in the new product is contained in a federally registered product.

(iii) A State may not register a new manufacturing-use product.

(iv) A State may register any use of a new product containing an ingredient described in paragraph (a)(3) of this section, if the new product registration is for a formulation or a use not included in the denial, disapproval, suspension, or cancellation, or if the federally registered use was voluntarily cancelled without a prior notice of intent to cancel by the Administrator. However, a formulation or use of such a new product which was not considered by the Administrator during such proceedings, or which was not the subject of a notice of intent to cancel, may be registered by a State only after the State consults with appropriate EPA personnel regarding the registration application.

(c) *Effect of State registration.* (1) A State registration issued under FIFRA sec. 24(c) which meets the conditions described in paragraphs (a) and (b) of this section, and which is not disapproved by the Administrator under § 162.154, shall be considered a federal registration, but shall authorize distribution and use only within that State. Accordingly, such registrations are subject to all provisions of FIFRA which apply to currently registered products, including provisions for cancellation and suspension of registrations, and reregistration of products.

(2) A State may require, as a condition of distribution or use of a pesticide product within the State, that the pesticide product be registered under State law as well as under FIFRA. Neither FIFRA sec. 24(c) nor §§ 162.150–162.156 affects a State's right under its own law to revoke, suspend, cancel, or otherwise affect such a registration issued under State law. However, the federal registration, whether issued under FIFRA sec. 3 or 24(c), is not affected by such a State action.

§ 162.153 State registration procedures.

(a) *Application for registration.* States shall require all applicants for registration to submit the following information: (1) Name and address of the applicant and any other person whose name will appear on the labeling or in the directions for use.

(2) The name of the pesticide product, and, if the application is for an amendment to a federally registered product, the EPA registration number of that product.

(3) A copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of: (i) For a new product, a copy of the complete proposed labeling; or,

(ii) For an additional use of a federally registered product, a copy of proposed supplemental labeling and a copy of the labeling for the federally registered product.

(4) The complete formula of the product, if the application is for a new product registration.

(5) Any other information which is required to be reviewed prior to registration under this section.

(b) *Special local need determination.* In reviewing any application for registration, the State shall determine whether there is a special local need for the registration. Situations which a State may consider as not involving a special local need may include, but are not limited to, applications for registrations to control a pest problem present on a nationwide basis, or for use of a pesticide product registered by other States on an interregional or nationwide basis.

(c) *Unreasonable adverse effects determination.* (1) Prior to issuing a registration in the following cases, the State shall determine that use of the product for which registration is sought will not cause unreasonable adverse effects on man or the environment, when used in accordance with labeling directions or widespread and commonly recognized practices: (i) For use of a product which has a composition not similar to any federally registered product.

(ii) For use of a project involving a use pattern not similar to any federally registered use of the same product or of a product with a similar composition.

(iii) For use of a product for which other uses of the same product, or of a product with a similar composition, have had registration denied, disapproved, suspended, or cancelled by the Administrator.

(2) Determinations required by paragraph (c)(1) of this section shall be based on data and criteria consistent with those sections of subpart A of this part, and of Part 163 of this chapter, applicable to the type of product or use under consideration. Such determinations may also involve consideration of the effect of the anticipated classification of the product or use under § 162.153(h).

(d) *Efficacy determination.* Prior to registration of any use of a product for public health purposes—that is, a use which could result in substantial harm to the public health if the product does not perform its intended function, the State shall determine that the product warrants the claims made for it in the registration application. Such determinations shall be based on criteria specified in applicable sections of subpart A and of Part 163 and on any additional criteria established by the State.

(e) *Labeling requirements.* (1) Prior to issuing any registration, the State shall review the proposed labeling submitted with the application to determine compliance with this paragraph. In addition, the State shall review a copy of the final printed labeling as soon as practical after a registration is issued in order to verify compliance with this paragraph.

(2) For a new product, the State must, as a condition of the registration, require that the product be accompanied from the time it enters the stream of commerce by labeling meeting all applicable criteria of § 162.10. New product labeling must all contain: (i) A

statement identifying the State where registration is to be valid.

(ii) The special local need registration number assigned by the State.

(3) Except as provided in paragraph (e)(4) of this section, as a condition for a registration of an additional use of a federally registered product, the State must require that at the time of sale to users, labeling from the federally registered product be accompanied by supplemental labeling which contains:

(i) A statement identifying the State where registration is valid.

(ii) Directions for use to meet the special local need which satisfy the criteria of § 162.10(i).

(iii) The trade name of the product.

(iv) The name and address of the section 24(c) registrant.

(v) The EPA registration number of the federally registered product.

(vi) The special local need registration number assigned by the State.

(vii) A statement prohibiting use of the product in a manner inconsistent with all applicable directions, restrictions, and precautions found in the labeling of the federally registered product and accompanying supplemental labeling.

(4) When a federally registered product is already in the stream of commerce at the time the State issues a registration for an additional use of that product, the State must ensure that supplemental labeling for the additional use, meeting the criteria of paragraph (e)(3) of this section, is made available to purchasers and users of the product within 45 days of the date on which the State approves the final printed supplemental labeling.

(5) If a State classifies for restricted use a product or use registered by the State, which is not required to be so classified by paragraph (g) of this section, then the State may require supplemental labeling for the product or use containing additional appropriate precautions, and a statement that the product or use is for restricted use within that State.

(f) *Packaging and coloration standards.* All products registered by a State must meet all appropriate packaging standards prescribed by the Administrator under sec. 25(c)(3) of FIFRA. State registered products must also meet all appropriate standards for coloration, or discoloration, established by regulation under sec. 25(c) of FIFRA, including the standards contained in § 162.13. Prior to issuing any registration, the State shall determine that the product will conform to these requirements.

(g) *Classification.* (1) As part of the registration of any product or use, a State shall classify the product or use as a restricted use pesticide if: (i) The product is identical or similar in composition to a federally registered product: (A) For which all federally registered uses have been classified as restricted by the Administrator; or

(B) For which a use similar to the State registered use has been classified as restricted by the Administrator; or

(ii) The State registered product or use meets the criteria for classification as a restricted use pesticide under the applicable provisions of § 162.11(c) (1) through (4).

(h) *Notification and Submission of Data.* (1) Within ten working days from the date a State issues, amends, or revokes a registration, the State shall notify EPA, in writing, of the action. Notification of State registrations, or amendments thereto, shall include the effective date of the registration or amendment, a confidential statement of the formula of any new product, and a copy of the draft labeling reviewed and approved by the State, provided that labeling previously approved by the Administrator as part of a federal registration need not be submitted.

(2) Notification of State registrations or amendments shall be supplemented by the State sending to EPA a copy of the final printed labeling approved by the State within 60 days after the effective date of the registration or amendment.

(3) Notification of revocation of a registration by a State shall indicate the effective date of revocation, and shall state the reasons for revocation.

(4) The Administrator or his designee may request, when appropriate, that a State submit to EPA any data used by the State to determine that unreasonable adverse effects will not be caused when the State registers any use described in paragraph (c)(1) of this section. Within 15 working days of receipt of such a request from EPA, the State shall submit two copies of the requested data.

(i) *Federal Register Publication.* The Administrator shall publish in the **Federal Register**, on a regular basis, a summary of all State registrations made under sec. 24(c) during a previous reporting period established by the Administrator. For each product or use registered, the notice shall indicate:

(1) The name of the product.

(2) The name of the registrant.

(3) The registered use(s) of the product.

(4) The effective date of the State registration.

(5) If the registration is for an additional use of a federally registered product, whether the State registration involves a changed use pattern.

§ 162.154 Disapproval of State registrations.

(a) *General disapprovals.* (1) Except as provided in paragraph (b) of this section, the Administrator may disapprove, on any reasonable grounds, any state registration which, when compared to a federally registered product, does not have both a similar composition and a similar use pattern; provided that the Administrator may not disapprove such a registration solely because of a lack of essentiality. Grounds for disapproval of State registrations not involving similar products may include, but are not limited to: (i) Probable creation of unreasonable adverse effects on man or the environment by the registered use.

(ii) Refusal of the registering State to submit information supporting the registration as required by § 162.153(h).

(iii) Failure of information submitted by the State to support the State's decision to issue the registration under standards established by § 162.153.

(2) Prior to disapproval of any State registration under this paragraph, the Administrator shall notify the registering State, in writing, of the Administrator's intent to disapprove, and of the reasons for disapproval. The notice of intent will provide a reasonable time, not less than ten days from the date the notice is received by the State, for the State to respond, and will invite the State to consult with the Administrator or his designee. If the grounds for disapproval are based on actions or omissions by the State, the notice will, if possible, also provide the State with a reasonable amount of time in which to take corrective action, not to exceed the time allowed for disapproval under paragraph (c) of this section.

(3) The registering State may, within ten days of receipt of a notice of intent to disapprove, request that the Administrator, or his designee, consult with appropriate State officials prior to the Administrator's final decision on disapproval. The Administrator will consider any relevant information presented at such a consultation, or in any other timely and appropriate fashion, in deciding whether to withdraw the notice of intent to disapprove.

(b) *Special disapprovals.* (1) The Administrator may disapprove any State registration, including a registration for a similar product, at any time, if the Administrator determines that use of the product under the State registration: (i) Would constitute an imminent hazard.

(ii) May result in a residue on food or feed exceeding, or not covered by, a tolerance, exemption, or other clearance under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a et seq.).

(2) If the Administrator disapproves a registration under this paragraph, the Administrator shall provide the registering State with written notification of disapproval, in accordance with paragraph (c) of this section as soon thereafter as practicable. Such notification will specify the grounds for disapproval and invite the State to comment on the decision.

(3) If requested by the State within ten days of its receipt of a notice of disapproval, the Administrator, or his designee, will consult with appropriate State officials. The Administrator may consider any information presented at such a consultation, or in any other appropriate fashion, in determining whether the disapproval should be rescinded.

(c) *Decision and notification of disapproval.* Except as provided in paragraph (b)(1) of this section, the Administrator will make a final decision on disapproval of a State registration, and provide written notification thereof to the State, within 90 days of the effective date of the registration; provided that, if the State does not notify the Agency of a registration within ten days of its effective date, then the Administrator will make a final decision on disapproval within 90 days of the date on which EPA receives notification of the State registration. The notice of disapproval will specify an appropriate date on which the disapproval will become effective. Disapproval may become effective immediately, or at anytime within the period allowed for the Administrator to make a final decision on disapproval. The notice of disapproval will also, when appropriate, give instructions for use or disposal of the pesticide. Each notice of disapproval will be published in the **Federal Register**.

(d) *Effect of disapproval.* If a registration issued by a State is disapproved by the Administrator, that registration will not be valid for any purpose under FIFRA, as of the date the disapproval becomes effective. Thereafter, distribution or sale of the pesticide, in either interstate or intrastate commerce, for uses subject to the disapproval will be a violation of sec. 12(a)(1) of FIFRA.

(e) *Recission of disapproval.* If the Administrator determines, after consultation with the State lead agency, that a registration, previously issued by the State and disapproved by the Administrator, should not have been disapproved under FIFRA, then the Administrator shall rescind the disapproval. The Administrator shall send written notification of the rescission to the State. In addition, the Administrator shall publish notice of any rescission of disapproval in the **Federal Register**.

(f) *Notification of registrants.* Any State that issues a registration which has been disapproved, or which is subject to a notice of intent to disapprove, shall be responsible for notifying the affected registrant of any such notice of intent or disapproval, and of any recession of disapproval by the Administrator.

§ 162.155 Suspension of State registration authority.

(a) *General.* (1) If the Administrator finds that a State is not capable of exercising, or has failed to exercise, adequate control over its registration program, so that the State cannot ensure that registrations issued by it will be in accord with the purposes of FIFRA, then the Administrator may suspend the State's authority to register pesticides under sec. 24(c) of the Act. Registrations issued by the State after suspension of its authority will not be considered valid under FIFRA. Registrations issued by the State prior to suspension will not be affected by the suspension.

(2) The Administrator may suspend all or any part of a State's registration authority, as appropriate.

(b) *Grounds for Suspension.* (1) The Administrator may suspend a State's registration authority due to lack of, or failure to exercise, adequate control by the State over its sec. 24(c) registration program. Adequate control includes, but is not limited to, all of the following: (i) Access to appropriate scientific and technical personnel to review data and make determinations as required by § 162.153.

(ii) Registration procedures satisfying § 162.153.

(iii) Complete and accurate records of State registrations.

(iv) Adequate legal authority: (A) To deny, suspend, revoke, or amend a State registration when the registration is not in compliance with FIFRA, this subpart, or State law, or when necessary to prevent unreasonable adverse effects on the environment.

(B) To enter, at reasonable times, by consent, warrant, or other legal means, any establishment where pesticides are produced or held for distribution or sale, to inspect, sample, and observe whether pesticides are being produced or distributed in compliance with FIFRA, this subpart, State law, and the terms of any State registration.

(2) The Administrator may suspend a State's registration authority if the State fails to exercise the controls specified in paragraph (b)(1) of this section, or if the State refuses to correct within a reasonable time any other significant deficiencies in its regulatory program, as specified by the Administrator in a notice of intent to suspend.

(c) *Procedures for Suspension.* (1) Prior to suspending the registration authority of any State, the Administrator will notify the State lead agency, in writing, of the Administrator's intent to suspend, and of the specific grounds for suspension. The notice of intent will specify whether the suspension will be complete or partial, and will provide the State an opportunity to respond and a reasonable amount of time, not less than 30 days from the date the notice is received, in which to correct the deficiencies specified in the notice. If the State does not correct the specified deficiencies within the reasonable time allowed by the notice, or if the Administrator has not withdrawn the notice of intent before that time, the notice of intent will be published in the **Federal Register**, and the public given an opportunity to comment thereon.

(2) If requested by the affected State lead agency within 30 days of receipt of the notice of intent to suspend, an informal consultation between appropriate State and EPA officials will be held to discuss the proposed suspension. In such a case, the Administrator shall not make a final decision on the proposed suspension until after the consultation. The Administrator shall consider all relevant information presented at the consultation, or in any other appropriate manner, in determining whether to suspend the State's authority. If the Administrator determines, on the basis of such information, that the deficiencies listed in the notice of intent no longer exist, or will be corrected in a reasonable time, then the Administrator will withdraw, in writing, the notice of intent to suspend.

(3) Within ten days of the date a notice of intent to suspend is published in the **Federal Register**, a State may request a public hearing to consider the proposed suspension. If a hearing is requested, the Administrator will:

(i) Schedule a public hearing to be held in that State.

(ii) Publish in the **Federal Register** a notice announcing the date, time, and location of the hearing.

(iii) Appoint a presiding officer who shall preside over the hearing.

(iv) Prescribe additional, appropriate procedures for the conduct of the hearing, including procedures for the presentation of relevant material evidence from the State, EPA, or members of the public who would be affected by the outcome of the hearing. Evidence may be presented in either oral or written form, at the discretion of the Administrator.

(4) Following the close of any hearing held under paragraph (c)(3) of this section, the presiding officer shall make a recommended decision that the State's authority to register pesticides under sec. 24(c) of FIFRA be suspended, in whole or in part, or that the State's authority not be suspended and that the notice of intent to suspend be withdrawn.

(5) Any recommended decision made by a presiding officer under paragraph (c)(4) of this section may be appealed to the Administrator within 30 days after its issuance by the State or by EPA. Any recommended decision which is not appealed, or which the Administrator does not review on his own initiative, will become a final Agency action 30 days after its issuance.

(6) If no hearing is requested under paragraph (c)(3) of this section, or if a recommended decision is appealed to the Administrator under paragraph (c)(5) of this section, the Administrator shall issue a final order either suspending the State's authority to register pesticides under section 24(c) of FIFRA, in whole or in part, or withdrawing the notice of intent to suspend.

(7) Any final order suspending State registration authority, issued under paragraph (c) (5) or (6) of this section, will specify the grounds therefor and an effective date for the suspension. If the suspension is merely partial, the notice of suspension will specify the types of registrations which will not be recognized as valid under sec. 24(c). All final orders issued under paragraph (c) (5) or (6) will be published in the **Federal Register.**

(d) *Termination of suspension.* Suspension of a State's authority will be effective for the period specified in the notice of suspension, or if no period was specified, until such time as the Administrator is satisfied that the State can and will exercise adequate control over its program. In the latter case, the Administrator will notify the State that the suspension is terminated, or that it will be terminated on a specific date. In either case, the Administrator will publish a notice of the termination of suspension in the **Federal Register.**

(e) *Judicial review.* Any State whose authority to register pesticides has been finally suspended by the Administrator may seek judicial review of the Administrator's decision under sec. 16 of FIFRA, at any time prior to termination of the suspension. Such suspension shall remain in effect during the period of judicial review unless otherwise ordered by the Administrator.

§ 162.156 General requirements.

(a) *Requirements for distribution and use.* (1) Any product whose State registration has been issued in accordance with §§ 162.152 and 162.153 may be distributed and used in that State, subject to the following provisions of the Act and the regulations promulgated thereunder:

(i) Sec. 12(a)(1) (A) through (E), in accordance with:

(A) Sec. 2(q)(1) (A) through (G).

(B) Sec. 2(q)(2) (A) through (D).

(ii) Sec. 12(a)(2) (A) through (G) and (I) through (P).

(2) A product or use classified by a State for restricted use under § 162.153(g) may be used only by, or under the direct supervision of, an applicator certified under a plan approved by EPA in accordance with sec. 4 of FIFRA.

(3) State registrations which are not issued in accordance with § 162.152 (a) and (b)(2) (i), (ii) and (iii) are not authorized by section 24(c) and are not considered valid for any purposes under FIFRA. When the Administrator determines that a registration is invalid, the Administrator shall notify the registering State that the registration is invalid, and may specify the reason for the invalidity.

(b) *Establishment registration requirements.* No person may produce any pesticide, including any pesticide registered by a State under section 24(c), unless the establishment in which it is produced is registered by the Administrator in accordance with sec. 7 of FIFRA and 40 CFR Part 167.

(c) *Books and records requirements.* All producers of pesticides, including those producers of pesticides registered by States under sec. 24(c), must maintain records in accordance with the requirements imposed under sec. 8 of FIFRA and 40 CFR Part 169.

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Part VI

Department of Transportation

Federal Highway Administration

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625 and 655]

[FHWA Docket No. 81-2]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices.

SUMMARY: The FHWA is iviting comments on requests for changes on the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD contains the standards for traffic control devices and has been approved by the FHWA for use on all streets and highways open to public travel.

DATE: Comments must be received on or before July 15, 1981.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 81-2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Partlow, Office of Traffic Operations, (202) 426-0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426-0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA prepares and issues the national standards for traffic control devices used on all streets and highways open to public travel. These standards are published in the MUTCD which has been incorporated by reference into Title 23, Code of Federal Regulations (CFR), Parts 625 and 655. the MUTCD is available for inspection and coying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($18.00). The FHWA both receives requests and initiates recommendations for changes (i.e., amendments) to the MUTCD.

This advance notice contains requests for changes to the MUTCD which were received or originated by the FHWA. These requests are being processed in accordance with the informal rulemaking procedure of the Administrative Procedure Act (5 U.S.C. 553) and the Department of Transportation procedures issued pursuant to Executive Order 12044.

Each request has been assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received. This advance notice is being issued to provide the public with an opportunity to participate in the processing of requests for amendments to the MUTCD. Based upon comments received and on its own review, the FHWA will prepare a notice of proposed amendments which will provide recommendations for the disposition of the suggested amendments to the MUTCD. Any final amendments which result from that action will be published in the Federal Register and incorporated by reference into title 23, CFR.

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1. Signs (Part II)

(a) *Request II-38* (*Chng.*) *Identifying Left-Hand Exits on Interchange Sequence Signs.*

This request from the Michigan Department of Transportation (MiDOT) is for a change in the MUTCD to provide guidance on and a method for identifying left-hand exits on interchange sequence signs for urban freeways. The request was originally for an interpretation of Section 2F-31 of the MUTCD. Since neither Section 2F-31 nor other sections of the MUTCD address this subject, the FHWA has modified the request to a request for a change. The MUTCD recommends the use of Interchange Sequence signs where interchanges are closely spaced. When used, the signs should identify and show the street names and distances for the next three exits on the freeway or expressway. Neither the text nor the typical sign illustrations in the MUTCD provide guidance on a manner for identifying left-hand exits.

The MiDOT pointed out that the MUTCD provides guidance for identifying left-hand exits on freeways and expressways in rural and other areas where the interchanges are far enough apart to preclude the need for Interchange Sequence signs. MiDOT also noted that without specific guidance at closely spaced interchanges, motorists assume the approaching exit is on the right-hand side and make erroneous lane changes before realizing the mistake through reading the information provided on subsequent guide signs.

(b) *Request II-52* (*Chng.*) *Beginning of Pavement Width Transition Sign.*

The Michigan Department of Transportation (MiDOT) has requested that the MUTCD be amended to include a standard warning sign to mark the physical beginning point of a pavement width transition. The proposed sign has three black downward slanting arrows on a yellow diamond shaped background supplemented by a separate plaque with the message LANE ENDS.

Section 2C-19 of the MUTCD presently includes signs for use in providing motorists with advance warning of pavement width transitions, that is, locations where there is a reduction in the number of traffic lanes in the direction of travel on a multilane highway. The MUTCD recommends that these advance warning signs should be placed 250 feet or more in advance of the physical beginning point of the pavement width transition in order to provide drivers with sufficient time comprehend and react to the sign messages. The MiDOT suggests that this advance signing should be followed by the proposed sign to identify the exact location of the beginning of the transition and to provide motorists with better warning of the condition. Supplementing this request, the MiDOT suggests appropriate editorial changes for Section 2C-19 and illustration changes in Figures 3-10 (page 3B-13) and 6-13a (page 3B-23) of the MUTCD. The MiDOT also recommends that contingent upon approval of the proposed sign, the RIGHT (LEFT) LANE ENDS sign (Sign W9-1, page 2C-10 in the MUTCD) should be considered an alternate rather than a supplement to the LANE ENDS MERGE RIGHT (LEFT)

Sign (sign W-9-2, page 2C-10 in the MUTCD) and that the pavement Width Transition symbol sign (sign W4-2, page 2C-10 in the MUTCD) should be described in detail in the text of Section 2C-19 of the MUTCD.

(c) *Request II-53 (Chng.) Mandatory Movement Signs.*

This request from an individual is for an amendment to the MUTCD to provide standard signs for mandatory turning movements at intersections. The requester noted that there are many intersections where all traffic is required to make a single turning movement (for example, all traffic must turn right), while other movements (straight ahead and left turn) are prohibited. Since the MUTCD does not provide a specific sign for this purpose, some jurisdictions use regulatory signs with legends such as RIGHT TURN ONLY or ALL TRAFFIC with an appropriate arrow. These signs are permissible in the MUTCD under Section 2B-44, Other Regulatory Signs. Other jurisdictions use the Lane Use Control Sign (R3-5) (turn arrow with the word ONLY) of Section 2B-17. However, this sign is intended for overhead mounting to control traffic movement in one lane only. A directional arrow within a colored ring is used in Canada to designate a mandated movement.

The requester suggests that a new section providing standard mandatory turn signs should be added to the MUTCD, that symbol signs are preferable to word legend signs, that a minimum of two signs should be required at each installation, and that the R3-3 NO TURNS signs (mandatory straight ahead movement) should be changed to a symbol sign if a standard symbol is adopted for mandatory turn signs.

(d) *Request II-54 (Chng.) Add Percent Grade Within Hill Sign.*

The Hill sign (sign W7-1, page 2C-13 of the MUTCD) may be supplemented by several signs with appropriate legends such as the percent of grade (MUTCD sign W7-3, page 2C-13) or the percent of grade plus the length of grade (MUTCD sign W7-3b, page 2C-14). The Utah Department of Transportation (UDOT) has requested an amendment to the MUTCD to permit the display of the percent of grade within the Hill sign so that when supplemental signs such as NEXT 5 MILES or 5 MILES AHEAD are installed a more complete message will be conveyed. For example, at a location where a mild grade and a steeper grade are separated by a short level section, motorists could be warned of the remaining length of the mild grade, and then, by an additional sign assembly, be warned of the distance to the steeper grade. In each case, the percent of grade could also be displayed.

The UDOT suggests that this usage of the proposed sign and supplementary signs would encourage motorists to maintain a slower speed in the short level section.

2. Markings (Part III)

(a) *Request III-22 (Chng.) Pavement Marking Symbol for School Crossing.*

Section 3B-17 of the MUTCD states that symbol messages are generally preferable to word messages for pavement markings used to warn, guide, or regulate traffic. The same section includes the pavement marking word message SCHOOL as appropriate for use where warranted, but does not provide an alternate marking symbol.

The Utah Department of Transportation (UDOT) has developed a symbol for this purpose and has requested that the MUTCD be amended to permit use of the proposed symbol as an alternate to the marking word message SCHOOL. The UDOT suggested that use of the proposed symbol would reduce the time and material requried for installation of the message and that the symbol would last longer since it would not be in the wheel tracks of vehicles using the roadway. The proposed symbol is a suitable elongation of the standard walking children symbol adopted for use on the School Advance sign (S1-1).

(b) *Request III-23 (Chng.) Mounting Height of Object Markers.*

This request, originated by the FHWA, is for an amendment to the MUTCD to specify the minimum mounting height of object markers. Object markers are traffic control devices used to mark obstructions within or adjacent to a roadway.

Request III-7 (Chng.) Object Markers was published in the Federal Register on January 24, 1980 (45 FR 5750), in a notice of proposed amendments to the MUTCD (FHWA Docket No. 79-35). Request III-7 (Chng.) included among others, a request for the determination of the appropriate mounting height for Type 3 Object Markers. The FHWA commented in that notice that Section 1A-4 and other unspecified sections of the MUTCD provided sufficient guidance on this matter. After an additional review of the comments received in Docket 79-35 and information from other sources, the FHWA has determined that better guidance is needed in the MUTCD.

The FHWA is now inviting comments on a proposal to amend Section 3C-1 of the MUTCD to specify mounting heights. The FHWA suggests a height of 4 feet from the pavement edge to the bottom of the object marker when used within the roadway or within 6 feet of the shoulder or curb, and a height of 4 feet above the ground when used 6 feet or more from the shoulder or curb.

These heights are suggested by the need to maintain the effectiveness of the devices by providing a vertical clearance area for weeds, plowed snow, and the splash pattern resulting from wet pavements. The FHWA suggests that when object markers are applied directly to a hazardous object, the mounting height should be permitted to vary according to need.

(c) *Request III-24 (Chng.) Delineators on Truck Escape Ramps.*

Truck escape ramps are specially constructed vehicle lanes which leave the alignment of the main roadway and are intended as recovery areas where runaway trucks may be brought safely under control. Approximately 60 runaway truck ramps are now in operation in the United States and others are in the planning stage.

The Institute of Transportation Engineers (ITE) has requested an amendment to the MUTCD to provide a standard for the color and spacing of delineators used to indicate the edge of runaway truck ramps. The ITE stated that different States are using a variety of colors on delineators to mark the edge of their ramps and that it is important that a standard color be established for this function.

Report No. FHWA-TS-79-201, Emergency Escape Ramps for Runaway Heavy Vehicles (1978),[1] suggests that delineation for escape ramps is needed, but must be different from the standard white (for right edge of roadway) and yellow (for left edge of roadway) now provided in the MUTCD. Motorists not wishing to use the ramps have been led into the ramps by the standard white and yellow delineations.

3. Signals (Part IV)

(a) *Request IV-33 (Chng.) Single Portable Traffic Light.*

The MUTCD requires that all traffic signal installations must provide a minimum of two signal faces for through traffic for each approach to an intersection. This request from Lifeguard, Inc., if for an amendment of Section 4B-12-1 of the MUTCD to provide for the use of a single signal face on a portable mounting for control of traffic through construction and maintenance zones. The single faced portable signal could be used in place of a single flagger in controlling traffic in work areas.

(b) *Request IV-25 (Chng.) Speed Limit Sign Beacon.*

The Utah Department of Transportation has requested a change in Section 4E-2 and Section 7D-24 of the

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[1] Available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

MUTCD to permit the use of horizontally aligned Speed Limit Sign Beacons when the Speed Limit sign is longer vertically than horizontally. The MUTCD presently permits horizontal alignment of Speed Limit Sign Beacons only when the Speed Limit sign is longer horizontally than vertically.

(c) *Request IV–27 (Chng.) Rules for Phasing and Sequencing of Traffic Signals.*

The Signals Technical Committee of the National Committee on Uniform Traffic Control Devices completed a review resulting in a substantial proposal for a well defined set of parameters for phasing and sequencing of traffic signals. The committee has requested that the MUTCD be revised to incorporate these changes which it believes will provide more uniformity in the phasing and sequencing of traffic signals.

The following list enumerates the recommended changes to the MUTCD by the Signals Technical Committee:

[Section 4B–6 Application of Signal Indications]

1. Delete paragraph 5(a) and redesignate paragraphs 5(b) through 5(f) to read as paragraphs 5(a) through 5(e), respectively.

2. Revise new paragraph 5(a) to read as follows:

(a) A steady YELLOW ARROW indication shall be used following a GREEN ARROW indication which has been displayed simultaneously with a CIRCULAR RED indication in the same signal face. A GREEN ARROW need not be terminated by a displayed interval if a CIRCULAR GREEN permitting the turn to continue on a permissive basis is displayed in the same signal face simultaneously with the GREEN ARROW or immediately following the GREEN ARROW termination.

3. Add new paragraphs 5(f) and (g) to read as follows:

(f) A GREEN ARROW shall not be displayed when any conflicting movements has a CIRCULAR GREEN or CIRCULAR YELLOW or YELLOW ARROW.

(g) A YELLOW ARROW shall not be displaed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW.

4. Delete paragraph 6(e).

5. Add to the very end of Section 4B–6, paragraph 6, the following new wording:

The following signal indications shall not be displayed on any signal face, either alone, or in combination with any other indication:

(a) Straight-through RED ARROW.

(b) Straight-through YELLOW ARROW.

[Section 4B–9 Arrangement of Lenses in Signal Faces]

6. Delete from paragraphs 1 and 2 the words "Straight-through" YELLOW ARROW.

7. Delete arrangement "t" from Figure 4–1 on page 4B–9.

[Section 4B–12 Number and Location of Signal Faces]

8. Add a new paragraph 13 to read as follows:

13. If a signal face(s) displays control for a particular vehicular movement during any interval of a sequence, it must display control for that same movement during all intervals of the sequence.

[Section 4B–15 Vehicle Change Interval]

9. Add a new paragraph which addresses the question of YELLOW ARROW to GREEN ARROW, at the end of the section to read as follows:

A YELLOW ARROW shall not be terminated by a GREEN ARROW. It may be terminated by a CIRCULAR GREEN (if the movement controlled by the arrow is to continue on a permissive basis), a CIRCULAR YELLOW, a CIRCULAR RED, or a RED ARROW.

[Section 4B–16 Unexpected Conflicts During Green Interval]

10. Add a new paragraph, which expands the ruling on unexpected conflicts, at the end of the section to read as follows:

During a change interval, entry into an intersection is not controlled or prohibited. It is, therefore, necessary to define responsibilities during the change interval as being similar to those which exist during the green interval.

[Section 4B–18 Flasing Operation of Traffic Control Signals]

11. Add a new paragraph, which provides additional guidance in the use of flashing operations, at the beginning of the section to read as follows:

The mode of operation of a traffic signal operation may be exclusively steady—stop and go—or it may be exclusively flash mode. The initiation and termination of flashing displays shall follow the same rules as the steady modes with flashing yellow considered the same as steady green and flashing red considered the same as steady red.

[Section 4B–19 Continuity of Operation]

12. Delete the first paragraph of this section and add a new first paragraph to read as follows:

A traffic signal installation, except as provided below, shall be operated in an activated mode at all times.

[Section 4B–22 Priority Control of Traffic Signals]

13. Add a new paragraph which permits a priority change from yellow to green, at the end of this section to read as follows:

When a priority sequence is initiated, the display may proceed from Steady Yellow to Steady Green. This exception does not apply to the termination of priority or to any display during priority operation.

4. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)

Request VIII–9 (Chng.) Elevation of top of Foundation for Flashing Lights and Gates.

This request from the Florida Department of Transportation is for the deletion of the requirement that the top of the foundation for flashing light signal and gate supports shall be at the same elevation as the crown of the roadway. The request, if adopted, would require revision of Figures 8–3, 8–4, and 8–5 on pages 8C–2, 8C–3 and 8C–4 respectively in the MUTCD. The requirement that the top of the foundation shall be no more than 4 inches above the finished ground would not be changed.

The crown of the roadway can still be used as a reference point for determining vertical clearance for cantilevered flashing light signals (Figure 8–4), the vertical location of gates in the down position (Figure 8–5), and the vertical location of flashing light signals (Figure 8–3). As an alternative, some other reference point could be specified.

This advance notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

Note—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. Due to the preliminary nature of this inquiry, a regulatory evaluation has not been prepared at this time. The expected impact of the changes requested is so minimal that a full evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: January 2, 1981.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 81-567 Filed 1-6-81; 8:45 am]

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This is the fourth and final cumulative list of public laws for the second session of the 96th Congress. The continuing listing of public laws published after enactment in the "Reader Aids" section of the Federal Register will be maintained on a current basis. Any comments may be addressed to the Director, Office of the Federal Register, Washington, D.C. 20408.

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Jan. 28	H.J.Res. 478	96-188	94:3	To extend by sixty days the expiration date of the Defense Production Act of 1950.	$1.00
Feb. 8	H.R. 4320	96-189	94:4	To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.	1.25
Feb. 12	S. 423	96-190	94:17	Dispute Resolution Act.	1.25
Feb. 15	H.R. 5176	96-191	94:27	General Accounting Office Personnel Act of 1980.	1.00
	S. 1300	96-192	94:35	International Air Transportation Competition Act of 1979.	1.25
Feb. 18	H.R. 2440	96-193	94:50	Aviation Safety and Noise Abatement Act of 1979.	1.25
Feb. 21	S.J.Res. 108	96-194	94:61	To validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.	1.00
Feb. 25	S. 1452	96-195	94:63	To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.	1.00
Feb. 28	H.J.Res. 469	96-196	94:64	Designating February 19, 1980, as "Iwo Jima Commemoration Day."	1.00
	H.J.Res. 477	96-197	94:65	To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.	1.00
Mar. 5	H.J.Res. 267	96-198	94:66	To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America".	1.00
	H.R. 3757	96-199	94:67	To establish the Channel Islands National Park, and for other purposes.	1.25
Mar. 6	S.J.Res. 109	96-200	94:78	To provide for the designation of October 3, 1980, as "American Enterprise Day".	1.00
	H.R. 6374	96-201	94:79	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor.	1.00
Mar. 8	S.J.Res. 43	96-202	94:80	To proclaim March 21, 1980, "National Energy Education Day".	1.00
Mar. 10	S. 1850	96-203	94:81	To authorize the conveyance of lands in the city of Hot Springs, Arkansas.	1.00
Mar. 11	H.J.Res. 434	96-204	94:83	To authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week".	1.00
Mar. 12	H.R. 3756	96-205	94:84	To authorize appropriations for certain insular areas of the United States, and for other purposes.	1.25
Mar. 13	S.J.Res. 149	96-206	94:93	To recognize the Honorable Carl Vinson on the occasion of the christening of the United States Ship Carl Vinson, March 15, 1980.	1.00
	H.J.Res. 493	96-207	94:94	Providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	H.J.Res. 494	96-208	94:95	Providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
Mar. 14	H.R. 4337	96-209	94:96	To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Mar. 17	H.R. 5913	96-210	94:100	To amend section 502(a) of the Merchant Marine Act, 1936.	1.00
	S. 1792	96-211	94:101	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.	1.00
	S. 643	96-212	94:102	Refugee Act of 1980.	1.50
Mar. 18	H.R. 3398	96-213	94:119	Agricultural Adjustment Act of 1980.	1.00
Mar. 24	S. 2225	96-214	94:122	To provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased.	1.00
Mar. 25	S. 1454	96-215	94:123	To authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces.	1.00
Mar. 27	S. 1682	96-216	94:125	To amend the Act of August 9, 1955 (69 Stat. 539)(25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington.	1.00
	S. 2222	96-217	94:126	To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status.	1.00
Mar. 28	H.J.Res. 414	96-218	94:127	Authorizing the President to proclaim May 1, 1980, "National Bicycling Day".	1.00
	H.J.Res. 514	96-219	94:128	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.	1.00
Mar. 30	S. 2269	96-220	94:129	To extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes.	1.00
Mar. 31	H.R. 4986	96-221	94:132	Depository Institutions Deregulation and Monetary Control Act of 1980.	3.00
Apr. 1	H.R. 2797	96-222	94:194	Technical Corrections Act of 1979.	2.00
Apr. 2	H.R. 3919	96-223	94:229	Crude Oil Windfall Profit Tax Act of 1980.	3.25
	H.J.Res. 463	96-224	94:309	Designating the week of October 5 through October 11, 1980, as "National Diabetes Week".	1.00
Apr. 3	H.J.Res. 520	96-225	94:310	To extend by sixty days the expiration date of the Defense Production Act of 1950.	1.00
	H.R. 24	96-226	94:311	General Accounting Office Act of 1980.	1.00
	H.R. 4996	96-227	94:317	Paiute Indian Tribe of Utah Restoration Act.	1.00
	S. 1515	96-228	94:323	To authorize the striking of Bicentennial medals.	1.00
Apr. 7	H.R. 2676	96-229	94:325	Environmental Research, Development, and Demonstration Authorization Act of 1980.	1.00
Apr. 8	H.R. 6585	96-230	94:329	To extend the reorganization authority of the President under chapter 9 of title 5.	1.00
	S.J.Res. 131	96-231	94:330	Designating April 10, 1980, as "ORT Centennial Day".	1.00
Apr. 10	H.R. 5794	96-232	94:331	To designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building".	1.00
	S.J.Res. 97	96-233	94:332	Designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Apr. 11	S. 2427	96-234	94:333	To encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes.	1.00
Apr. 12	H.R. 3824	96-235	94:335	To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.	1.00
Apr. 22	H.R. 6029	96-236	94:336	Providing for the implementation of the International Sugar Agreement, 1977, and for other purposes.	1.00
Apr. 24	H.J.Res. 474	96-237	94:338	To authorize and request the President to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week".	1.00
	H.R. 6464	96-238	94:339	To authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Michigan, in return for two new office buildings at the Detroit Arsenal, Warren, Michigan.	1.00
Apr. 30	H.R. 7140	96-239	94:341	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans.	1.00
May 1	H.J.Res. 541	96-240	94:342	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.	1.00
May 3	S. 2637	96-241	94:343	To ensure that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect January 1, 1977.	1.00
May 5	H.R. 4197	96-242	94:344	To amend the Wool Products Labeling Act of 1939 with respect to recycled wool.	1.00
May 16	H.J.Res. 545	96-243	94:345	Making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.	1.00
May 19	H.R. 126	96-244	94:346	To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.	1.00
May 21	H.R. 5673	96-245	94:347	To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes.	1.00
May 23	H.R. 6839	96-246	94:348	To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.	1.00
	H.R. 10	96-247	94:349	Civil Rights of Institutionalized Persons Act.	1.00
	H.R. 3928	96-248	94:355	To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico.	1.00
May 26	S. 1309	96-249	94:357	Food Stamp Act Amendments of 1980.	1.25
	S.J.Res. 175	96-250	94:371	To extend the expiration date of the Defense Production Act of 1950.	1.00
	S. 668	96-251	94:372	To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).	1.00
May 28	H.R. 2313	96-252	94:374	Federal Trade Commission Improvements Act of 1980.	1.50
May 29	S. 2648	96-253	94:398	To authorize appropriations for the Federal Election Commission for fiscal year 1981.	1.00
May 30	S. 2253	96-254	94:399	To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes.	1.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 6615	96-255	94:420	To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes.	1.00
	H.R. 7471	96-256	94:421	To extend the present public debt limit through June 5, 1980.	1.00
May 31	H.R. 6081	96-257	94:422	Special Central American Assistance Act of 1979.	1.00
June 3	H.R. 3807	96-258	94:425	To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.	1.00
	S. 662	96-259	94:429	To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.	1.00
	H.R. 4088	96-260	94:435	To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes.	1.00
June 4	H.J.Res. 554	96-261	94:436	Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980.	1.00
June 5	H.R. 4890	96-262	94:437	To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983.	1.00
June 6	H.R. 3789	96-263	94:438	To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.	1.00
	H.R. 7428	96-264	94:439	To extend the present public debt limit through June 30, 1980.	1.00
June 9	H.R. 3236	96-265	94:441	Social Security Disability Amendments of 1980.	2.25
	H.J.Res. 445	96-266	94:482	To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week".	1.00
	H.R. 6727	96-267	94:483	To establish the Bon Secour National Wildlife Refuge.	1.00
June 13	S. 1786	96-268	94:485	To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act.	1.00
	S. 2517	96-269	94:486	To rename certain buildings of the Library of Congress.	1.00
June 14	S. 1658	96-270	94:487	Asbestos School Hazard Detection and Control Act of 1980.	1.25
June 16	S. 2666	96-271	94:499	To authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.	1.00
June 17	H.R. 3434	96-272	94:500	Adoption Assistance and Child Welfare Act of 1980.	2.00
	H.R. 4453	96-273	94:536	To amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.	1.00
	H.R. 2102	96-274	94:537	Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.	1.00
	H.R. 6842	96-275	94:539	To protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.	1.00
	H.R. 6285	96-276	94:541	Egg Research and Consumer Information Act Amendments of 1980.	1.00
	H.R. 3979	96-277	94:544	To repeal and amend certain laws regulating trade between Indians and certain Federal employees.	1.00
	S.J.Res. 127	96-278	94:547	To authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".	1.00
June 18	H.J.Res. 442	96-279	94:549	Designating the week beginning June 22, 1980, as "National Athletic Boosters Week".	1.00
	S.J.Res. 89	96-280	94:550	Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.	1.00
June 19	S.J.Res. 183	96-281	94:551	Congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".	1.00
June 27	H.J.Res. 521	96-282	94:552	Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.	1.00
June 28	H.R. 2759	96-283	94:553	Deep Seabed Hard Mineral Resources Act.	2.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 2460	96-284	94:587	Uniformed Services Health Professionals Special Pay Act of 1980.	1.00
	H.R. 6022	96-285	94:595	To establish the Tensas River National Wildlife Refuge.	1.00
	H.J.Res. 569	96-286	94:598	To provide for a temporary increase in the public debt limit.	1.00
	H.R. 5926	96-287	94:599	To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.	1.00
	H.R. 6169	96-288	94:603	To establish the Bogue Chitto National Wildlife Refuge.	1.00
	H.R. 6614	96-289	94:605	To authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.	1.00
	H.R. 4887	96-290	94:607	To authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes.	1.00
	H.R. 4869	96-291	94:608	To extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.	1.00
	H.R. 5259	96-292	94:609	To name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse".	1.00
June 30	H.R. 7685	96-293	94:610	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.	1.00
	S. 932	96-294	94:611	Energy Security Act.	4.25
	S. 562	96-295	94:780	To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.	1.25
July 1	S. 2245	96-296	94:793	Motor Carrier Act of 1980.	2.00
	S.J.Res. 119	96-297	94:827	To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.	1.00
	H.R. 7477	96-298	94:829	To amend the Internal Revenue Code of 1954 to provide a three-month extension of taxes which are transferred to the Airport and Airway Trust Fund.	1.00
July 2	S.J.Res. 115	96-299	94:830	Designating July 1980 as "National Porcelain Art Month".	1.00
	S.J.Res. 188	96-300	94:831	Extending the reporting date of the National Commission on Air Quality.	1.00
	H.R. 5751	96-301	94:832	To more adequately protect archeological resources in southwestern Colorado.	1.00
	S. 2698	96-302	94:833	To provide authorizations for the Small Business Administration, and for other purposes.	1.50
July 3	H.R. 5997	96-303	94:855	To provide for the display of the Code of Ethics for Government Service.	1.00
July 8	H.R. 7542	96-304	94:857	Supplemental Appropriations and Rescission Act, 1980.	3.25
	S. 751	96-305	94:929	Navajo and Hopi Indian Relocation Amendments Act of 1980.	1.00
	H.R. 7482	96-306	94:937	To authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.	1.00
	S.J.Res. 168	96-307	94:938	Designating July 18, 1980, as "National POW-MIA Recognition Day".	1.00
July 9	S. 598	96-308	94:939	Soft Drink Interbrand Competition Act.	1.00
	S. 2546	96-309	94:940	To authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes.	1.00
July 17	H.R. 7474	96-310	94:941	Ocean Thermal Energy Conversion Research, Development, and Demonstration Act.	1.00
	H.R. 7573	96-311	94:947	To provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.	1.00
July 23	S. 2009	96-312	94:948	Central Idaho Wilderness Act of 1980.	1.00
July 25	S.J.Res. 180	96-313	94:955	To provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	S.J.Res. 181	96-314	94:956	To provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 2382	96-315	94:957	To provide for additional authorization for appropriations for the Tinicum National Environmental Center.	1.00
July 30	S. 2240	96-316	94:960	National Aeronautics and Space Administration Authorization Act, 1981.	1.00
July 31	S. 1647	96-317	94:964	Commission on Wartime Relocation and Internment of Civilians Act.	1.00
Aug. 1	S. 1466	96-318	94:968	To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes.	1.00
	S. 2508	96-319	94:972	To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.	1.00
Aug. 3	S. 2492	96-320	94:974	Ocean Thermal Energy Conversion Act of 1980.	1.75
Aug. 4	S. 2995	96-321	94:1001	To allow the transfer of certain funds to fund the heat crisis program.	1.00
	H.R. 6666	96-322	94:1002	To revise the laws relating to the Coast Guard Reserve.	1.25
	H.R. 5580	96-323	94:1016	North Atlantic Treaty Organization Mutual Support Act of 1979.	1.00
Aug. 8	H.R. 1198	96-324	94:1020	To clarify the authority to establish lines of demarcation dividing the high seas and inland waters.	1.00
	H.R. 6613	96-325	94:1021	Maritime Labor Agreements Act of 1980.	1.00
	H.R. 827	96-326	94:1023	To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.	1.00
	S.1916	96-327	94:1026	To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.	1.00
	H.R. 5748	96-328	94:1027	To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.	1.00
Aug. 11	H.R. 7786	96-329	94:1029	To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.	1.00
Aug. 26	H.R. 7102	96-330	94:1030	Veterans' Administration Health-Care Amendments of 1980.	1.50
Aug. 28	S. 1963	96-331	94:1055	To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the State of South Carolina.	1.00
Aug. 29	S. 1140	96-332	94:1057	To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes.	1.00
	S. 1730	96-333	94:1060	To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe.	1.00
	H.J. Res. 589	96-334	94:1061	Providing additional program authority for the Export-Import Bank.	1.00
Sept. 4	H.R. 507	96-335	94:1062	To authorize Federal participation in stream rectification, Trinity River Division Central Valley project, California, and for other purposes.	1.00
	S. 496	96-336	94:1063	To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.	1.00
	S.J. Res. 83	96-337	94:1066	To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.	1.00
	S. 1998	96-338	94:1067	To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.	1.00
	S. 2549	96-339	94:1069	To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.	1.00
	S. 2055	96-340	94:1072	To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.	1.00
Sept. 8	H.R. 8010	96-341	94:1076	To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 6974	96-342	94:1077	Department of Defense Authorization Act, 1981.	2.25
	H.R. 5168	96-343	94:1123	Military Personnel and Compensation Amendments of 1980.	1.25
	S. 2680	96-344	94:1133	To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).	1.00
	H.R. 5892	96-345	94:1139	Wind Energy Systems Act of 1980.	1.25
Sept. 10	H.R. 7072	96-346	94:1148	To amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.	1.00
Sept. 12	H.R. 1781	96-347	94:1150	To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.	1.00
	H.R. 1967	96-348	94:1152	To modify the boundary of the White River National Forest in the State of Colorado.	1.00
	S. 390	96-349	94:1154	Antitrust Procedural Improvements Act of 1980.	1.00
Sept. 15	H.R. 2538	96-350	94:1159	To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.	1.00
	H.R. 4627	96-351	94:1161	To authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.	1.00
Sept. 17	H.J.Res. 607	96-352	94:1162	Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980.	1.00
Sept. 19	H.J.Res. 594	96-353	94:1163	To authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".	1.00
	S. 299	96-354	94:1164	Regulatory Flexibility Act.	1.00
Sept. 24	S. 670	96-355	94:1171	Rural Development Policy Act of 1980.	1.00
	S. 1625	96-356	94:1177	To amend the Act of December 20, 1944, as amended.	1.00
	H.R. 5766	96-357	94:1178	To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.	1.00
Sept. 25	S. 261	96-358	94:1184	Agricultural Subterminal Facilities Act of 1980.	1.00
Sept. 26	H.R. 6940	96-359	94:1190	Infant Formula Act of 1980.	1.00
	H.R. 3210	96-360	94:1196	To terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954.	1.00
	H.R. 6511	96-361	94:1197	To designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building".	1.00
	S. 1650	96-362	94:1198	National Aquaculture Act of 1980.	1.25
	S. 2223	96-363	94:1207	To permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.	1.00
	H.R. 3904	96-364	94:1208	Multiemployer Pension Plan Amendments Act of 1980.	3.75
	S. 1125	96-365	94:1312	Federal Crop Insurance Act of 1980.	1.25
Sept. 29	H.R. 3292	96-366	94:1322	Fish and Wildlife Conservation Act of 1980.	1.25
Oct. 1	H.R. 7590	96-367	94:1331	Energy and Water Development Appropriation Act, 1981.	1.25
	S. 2443	96-368	94:1347	West Valley Demonstration Project Act.	1.00
	H.J.Res. 610	96-369	94:1351	Making continuing appropriations for the fiscal year 1981, and for other purposes.	1.25
Oct. 3	H.R. 7825	96-370	94:1360	To establish the Ice Age National Scenic Trail, and for other purposes.	1.00

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.J.Res. 551	96-371	94:1361	Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes.	1.00
	S.J.Res. 209	96-372	94:1363	Providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities.	1.00
	H.R. 6395	96-373	94:1366	To amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission.	1.00
	H.R. 5192	96-374	94:1367	Education Amendments of 1980.	4.00
	H.R. 5276	96-375	94:1505	To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes.	1.00
	S. 2489	96-376	94:1509	To authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.	1.00
	H.R. 7478	96-377	94:1512	To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4 1/4 per centum which may be outstanding.	1.00
Oct. 6	H.R. 5164	96-378	94:1513	To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.	1.00
	S. 1895	96-379	94:1520	To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake".	1.00
	H.R. 6242	96-380	94:1521	To establish a Towing Safety Advisory Committee in the Department of Transportation.	1.00
	S. 1123	96-381	94:1523	To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980.	1.00
	H.R. 3748	96-382	94:1525	To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.	1.00
	H.R. 8018	96-383	94:1526	To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam".	1.00
	H.R. 8024	96-384	94:1527	To change the name of Aubrey Lake, Texas, to Ray Roberts Lake.	1.00
Oct. 7	H.R. 7511	96-385	94:1528	Veterans' Disability Compensation and Housing Benefits Amendments of 1980.	1.25
	H.R. 6308	96-386	94:1539	Magnetic Fusion Energy Act of 1980.	1.00
	S. 1442	96-387	94:1545	To authorize the documentation of certain vessels as vessels of the United States, and for other purposes.	1.00
	H.R. 8081	96-388	94:1547	To establish the United States Holocaust Memorial Council.	1.00
	S. 2271	96-389	94:1551	To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.	1.00
	H.R. 4792	96-390	94:1556	To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building–U.S. Courthouse.	1.00
	H.R. 5410	96-391	94:1557	To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election.	1.00
	H.R. 5732	96-392	94:1558	To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building".	1.00
	H.R. 6531	96-393	94:1559	To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building.	1.00
	H.R. 7414	96-394	94:1560	To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building".	1.00
	H.R. 7450	96-395	94:1561	To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building".	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 7782	96-396	94:1562	To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule.	1.00
	H.R. 8202	96-397	94:1563	To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period.	1.00
	S. 1177	96-398	94:1564	Mental Health Systems Act.	3.00
Oct. 8	S. 2719	96-399	94:1614	Housing and Community Development Act of 1980.	3.50
Oct. 9	H.R. 7831	96-400	94:1681	Department of Transportation and Related Agencies Appropriation Act, 1981.	1.50
	S. 2126	96-401	94:1701	Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation.	1.00
	S. 91	96-402	94:1705	Uniformed Services Survivor Benefits Amendments of 1980.	1.00
	H.R. 7670	96-403	94:1709	To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.	1.00
	S. 341	96-404	94:1711	To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	S. 1795	96-405	94:1713	To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	S. 2398	96-406	94:1715	To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forest, and for other purposes.	1.00
	H.R. 3956	96-407	94:1717	Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras.	1.00
	H.R. 7130	96-408	94:1718	To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building".	1.00
	H.R. 7309	96-409	94:1719	To designate the Federal building in Portland, Oregon the "Edith Green Federal Building".	1.00
	H.R. 7544	96-410	94:1720	To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building".	1.00
	H.R. 7588	96-411	94:1721	To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building".	1.00
	H.R. 7770	96-412	94:1722	To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center".	1.00
	H.R. 8161	96-413	94:1723	To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building".	1.00
	H.J.Res. 472	96-414	94:1724	Designating October 19, 1981, as a "Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia".	1.00
	S. 2801	96-415	94:1725	To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility".	1.00
	H.J.Res. 560	96-416	94:1726	To proclaim March 19, 1981, as "National Agriculture Day".	1.00
Oct. 10	S. 1654	96-417	94:1727	Customs Courts Act of 1980.	1.50
	H.R. 7301	96-418	94:1749	Military Construction Authorization Act, 1981.	2.00
	S.J.Res. 201	96-419	94:1784	To provide for the designation of a week as "National Lupus Week".	1.00
	H.R. 7919	96-420	94:1785	Maine Indian Claims Settlement Act of 1980.	1.25
	S.J.Res. 82	96-421	94:1798	To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week".	1.00
	H.R. 7859	96-422	94:1799	Refugee Education Assistance Act of 1980.	1.25
	S. 2730	96-423	94:1811	Federal Railroad Safety Authorization Act of 1980.	1.25

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 3180	96-424	94:1820	To repeal a provision of the Refugee Education Assistance Act of 1980.	1.00
	S. 2475	96-425	94:1821	Automobile Fuel Efficiency Act of 1980.	1.25
	S. 3148	96-426	94:1830	To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building".	1.00
	H.R. 7666	96-427	94:1831	Federal Employees' Group Life Insurance Act of 1980.	1.00
	H.R. 7218	96-428	94:1839	To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes.	1.00
	S. 3044	96-429	94:1844	To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building".	1.00
	H.R. 7434	96-430	94:1845	To provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes.	1.00
	H.R. 6065	96-431	94:1850	To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes.	1.00
	H.R. 6331	96-432	94:1851	To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes.	1.00
	H.R. 7939	96-433	94:1855	To amend the Securitites Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.	1.00
	S. 1796	96-434	94:1859	To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.	1.00
	H.R. 7411	96-435	94:1861	Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes.	1.00
Oct. 13	H.R. 7592	96-436	94:1863	Military Construction Appropriation Act, 1981.	1.00
	H.R. 5546	96-437	94:1870	To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.	1.00
	S. 965	96-438	94:1871	To amend the Consolidated Farm and Rural Development Act.	1.00
	H.R. 7779	96-439	94:1878	To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court.	1.00
	S. 1790	96-440	94:1879	Privacy Protection Act of 1980.	1.00
	H.R. 8103	96-441	94:1884	To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively.	1.00
	H.R. 5048	96-442	94:1885	Manassas National Battlefield Park Amendments of 1980.	1.00
	H.J.Res. 568	96-443	94:1888	To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week".	1.00
	S. 2936	96-444	94:1889	To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate.	1.00
	H.R. 6440	96-445	94:1891	To establish priorities in the payment of claims against the People's Republic of China.	1.00
	S. 2185	96-446	94:1893	To authorize the acceptance and use of bequests and gifts for disaster relief.	1.00
	S. 2511	96-447	94:1894	Civil Rights Commission Authorization Act of 1980.	1.00
Oct. 14	S. 1946	96-448	94:1895	Staggers Rail Act of 1980.	3.50
	H.R. 7085	96-449	94:1967	Hostage Relief Act of 1980.	1.00
	S. 2597	96-450	94:1975	Intelligence Authorization Act for Fiscal Year 1981.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 4310	96-451	94:1963	To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes.	1.25
	H.R. 7665	96-452	94:1994	Fifth Circuit Court of Appeals Reorganization Act of 1980.	1.00
Oct. 15	H.R. 5451	96-453	94:1997	Maritime Education and Training Act of 1980.	1.25
	S. 1798	96-454	94:2011	Household Goods Transportation Act of 1980.	1.25
	H.R. 4273	96-455	94:2024	To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes".	1.00
	S. 1482	96-456	94:2025	Classified Information Procedures Act.	1.00
	S. 1640	96-457	94:2032	To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.	1.00
	S. 1873	96-458	94:2035	Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.	1.00
	H.R. 6554	96-459	94:2042	Maritime Appropriation Authorization Act for Fiscal Year 1981.	1.00
	H.R. 4417	96-460	94:2044	Chesapeake Bay Research Coordination Act of 1980.	1.00
	S. 2320	96-461	94:2049	National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.	1.00
	H.R. 8178	96-462	94:2053	Federal District Court Organization Act of 1980.	1.00
	S. 2412	96-463	94:2055	Used Oil Recycling Act of 1980.	1.00
Oct. 17	S. 2622	96-464	94:2060	Coastal Zone Management Improvement Act of 1980.	1.25
	H.R. 6790	96-465	94:2071	Foreign Service Act of 1980.	3.75
	H.R. 5288	96-466	94:2171	Veterans' Rehabilitation and Education Amendments of 1980.	3.00
	H.R. 3122	96-467	94:2220	Relating to the tariff treatment of certain articles.	1.25
	H.R. 6593	96-468	94:2229	Swine Health Protection Act.	1.00
	S. 2043	96-469	94:2235	Animal Cancer Research Act.	1.00
Oct. 19	H.R. 6686	96-470	94:2237	Congressional Reports Elimination Act of 1980.	1.25
	H.R. 6883	96-471	94:2247	Installment Sales Revision Act of 1980.	1.25
	S. 1393	96-472	94:2257	To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.	1.00
	H.R. 5295	96-473	94:2263	To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes.	1.00
	H.R. 5326	96-474	94:2267	To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana.	1.00
	H.R. 6816	96-475	94:2269	To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State.	1.00
	S. 3072	96-476	94:2271	Rattlesnake National Recreation Area and Wilderness Act of 1980.	1.00
Oct. 21	H.R. 7554	96-477	94:2275	Small Business Investment Incentive Act of 1980.	1.50
	H.R. 6665	96-478	94:2297	Act to Prevent Pollution from Ships.	1.00
	H.R. 2743	96-479	94:2305	National Materials and Minerals Policy, Research and Development Act of 1980.	1.00
	S. 1250	96-480	94:2311	Stevenson-Wydler Technology Innovation Act of 1980.	1.25
	H.R. 5612	96-481	94:2321	To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes.	1.25
	S. 1156	96-482	94:2334	Solid Waste Disposal Act Amendments of 1980.	1.75
	S. 2725	96-483	94:2360	To extend certain authorizations in the Clean Water Act, and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Nov. 24	H.R. 7212	96-484	94:2365	To ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes.	1.00
Nov. 26	S.J. Res.156	96-485	94:2368	To authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week".	1.00
Dec. 1	S. 2357	96-486	94:2369	Federal Question Jurisdictional Amendments Act of 1980.	1.00
Dec. 2	H.R. 39	96-487	94:2371	Alaska National Interest Lands Conservation Act.	4.50
	H.R. 8329	96-488	94:2552	To allow the obsolete aircraft carrier United States ship Intrepid to be transferred to the Intrepid Museum Foundation, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review.	1.00
	S. 43	96-489	94:2553	To promote safety and health in skiing and other outdoor winter recreational activities.	1.00
	H.R. 7942	96-490	94:2556	To approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes.	1.00
	S. 1135	96-491	94:2561	To provide for certain lands to be held in trust for the Moapa Band of Paiutes and to be considered to be part of the Moapa Indian Reservation.	1.00
	H.R. 8112	96-492	94:2565	To require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development.	1.00
	S. 2251	96-493	94:2568	Gasohol Competition Act of 1980.	1.00
Dec. 3	H.R. 3765	96-494	94:2570	Agricultural Act of 1980.	1.25
	H.R. 4084	96-495	94:2581	Suisun Marsh Preservation and Restoration Act of 1979.	1.00
Dec. 4	S. 1386	96-496	94:2583	Arts and Humanities Act of 1980.	1.25
	S. 1179	96-497	94:2595	To incorporate the Gold Star Wives of America.	1.00
	S. 3193	96-498	94:2598	To designate the Jacob K. Javits Federal Building.	1.00
Dec. 5	H.R. 7765	96-499	94:2599	Omnibus Reconciliation Act of 1980.	3.75
	H.R. 2510	96-500	94:2696	To amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under civil service retirement and disability system.	1.00
	S. 885	96-501	94:2697	Pacific Northwest Electric Power Planning and Conservation Act.	2.00
	H.R. 8117	96-502	94:2737	To amend the Safe Drinking Water Act, and for other purposes.	1.00
	H.J. Res. 634	96-503	94:2740	To authorize the United States Secret Service to continue to furnish protection to the former Vice President or his spouse.	1.00
	H.R. 2583	96-504	94:2741	To amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes.	1.00
	H.R. 5108	96-505	94:2743	Metlakatla Indian Community Enrollment Act of 1980.	1.00
Dec. 8	S. 3152	96-506	94:2745	To amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such Acts for two additional years.	1.00
	H.R. 4892	96-507	94:2747	To repeal section 506 of the Communications Act of 1934.	1.00
	S. 2352	96-508	94:2748	To increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes.	1.00
	S. 2441	96-509	94:2750	Juvenile Justice Amendments of 1980.	1.50
Dec. 11	H.R. 7020	96-510	94:2767	Comprehensive Environmental Response, Compensation, and Liability Act of 1980.	2,.25
	H.R. 6410	96-511	94:2812	Paperwork Reduction Act of 1980.	1.25
Dec. 12	H.R. 6889	96-512	94:2827	Methane Transportation Research, Development, and Demonstration Act of 1980.	1.00
	S. 1918	96-513	94:2835	Defense Officer Personnel Management Act.	1.00
	H.R. 7724	96-514	94:2957	Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.	1.75
	H.R. 5496	96-515	94:2987	National Historic Preservation Act Amendments of 1980.	1.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 568	96-516	94:3007	National Science Foundation Authorization and Science and Technology Equal Opportunities Act.	1.00
	H.R. 6933	96-517	94:3015	To amend the patent and trademark laws.	1.25
	S.J. Res. 213	96-518	94:3030	To designate the Clinical Center of the National Institutes of Health located in Montgomery County, Maryland, as the "Warren Grant Magnuson Clinical Center of the National Institutes of Health".	1.00
	H.R. 6086	96-519	94:3031	To provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country.	1.00
	H.R. 8228	96-520	94:3033	To provide that a certain portion of Lake Erie shall be declared nonnavigable.	1.00
	H.R. 6211	96-521	94:3037	To authorize the Secretary of the Interior to issue certain patents under the Color of Title Act.	1.00
	H.R. 7805	96-522	94:3038	To authorize appropriations for the American Folklife Center for fiscal years 1982, 1983, and 1984.	1.00
	H.R. 7466	96-523	94:3039	To amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status.	1.00
	H.R. 7815	96-524	94:3042	To recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes.	1.00
	H.R. 6388	96-525	94:3043	To amend the Foreign Assistance Act of 1961 to authorize appropriations for international disaster assistance for the victims of the recent earthquakes in southern Italy.	1.00
Dec. 15	H.R. 7631	96-526	94:3044	Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981.	1.50
	H.R. 8105	96-527	94:3068	Department of Defense Appropriation Act, 1981.	1.75
	H.R. 7591	96-528	94:3095	Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes.	1.50
	H.J. Res 205	96-529	94:3119	Authorizing appropriation of funds for acquisition of a monument to Doctor Ralph J. Bunche and installation of such monument in Ralph J. Bunche Park in New York City.	1.00
	H.R. 8061	96-530	94:3121	District of Columbia Appropriation Act.	1.00
	H.R. 6243	96-531	94:3129	To provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafter be known and designated as the —"R. Shaefer Heard Park".	1.00
	S. 2134	96-532	94:3130	To provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building.	1.00
Dec. 16	H.R. 6942	96-533	94:3131	International Security and Development Cooperation Act of 1980.	2.00
	S. 1835	96-534	94:3164	To extend the Joint Funding Simplification Act of 1974.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 5856	96-535	94:3165	To amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel.	1.00
	H.J.Res. 644	96-536	94:3166	Making further continuing appropriations for the fiscal year 1981, and for other purposes.	1.00
Dec. 17	S. 2728	96-537	94:3173	Indian Health Care Amendments of 1980.	1.25
	S. 988	96-538	94:3183	Health Programs Extension Act of 1980.	1.25
	H.R. 7018	96-539	94:3194	To extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes.	1.00
	S. 3074	96-540	94:3197	Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981.	1.00
	H.R. 6975	96-541	94:3204	To extend certain temporary tax provisions, and for other purposes.	1.00
	S. 3235	96-542	94:3209	To clarify certain effective date provisions of the Customs Courts Act of 1980.	1.00
	H.R. 7385	96-543	94:3211	To authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes.	1.00
	H.J.Res. 601	96-544	94:3213	Making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.	1.00
Dec. 18	H.R. 1298	96-545	94:3215	To designate the United States Post Office and Federal Building in Huntington, West Virginia, as the "Sidney L. Christie Federal Building".	1.00
	H.R. 8173	96-546	94:3216	To provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson.	1.00
	S. 1391	96-547	94:3217	To amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, and for other purposes.	1.00
	H.R. 8404	96-548	94:3218	To designate the Federal Building-United States Courthouse in Sacramento, California, the "John E. Moss Federal Building-United States Courthouse".	1.00
	S. 1972	96-549	94:3219	To authorize the Secretary of the Interior to reimburse certain purchasers of subleases from, and creditors of, the Sangre de Christo Development Company, Incorporated, and for other purposes.	1.00
Dec. 19	H.R. 8298	96-550	94:3221	To designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes.	1.25
	H.R. 8235	96-551	94:3233	To grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created.	1.50
	H.R. 3351	96-552	94:3254	To amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certian surgery performed on an outpatient basis.	1.00
	S. 2318	96-553	94:3255	To revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.	1.00
	S. 1996	96-554	94:3257	Wood Residue Utilization Act of 1980.	1.00
	H.R. 5182	96-555	94:3260	To amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date.	1.00
	H.J.Res. 570	96-556	94:3261	To provide for a temporary increase in the public debt limit.	1.00
	H.R. 7147	96-557	94:3262	To provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota.	1.00
	S. 2969	96-558	94:3263	To authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities.	1.00
Dec. 22	H.R. 2170	96-559	94:3264	To provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 5487	96-560	94:3265	To designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes.	1.25
	S. 2163	96-561	94:3275	To provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes.	1.75
	S. 1824	96-562	94:3303	To designate the "John D. Larkins, Jr., Federal Building".	1.00
	H.J.Res. 615	96-563	94:3304	Providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.	1.00
	S. 2227	96-564	94:3305	To grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas.	1.25
	H.R. 7217	96-565	94:3321	To establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes.	1.00
	H.J.Res. 642	96-566	94:3328	Providing for convening of the first regular session of the Ninety-seventh Congress on January 5, 1981, and for other purposes.	1.00
	H.R. 7865	96-567	94:3329	Nuclear Safety Research, Development, and Demonstration Act of 1980.	1.00
	S. 3027	96-568	94:3334	Disaster Relief Act Amendments of 1980.	1.00
	S. 2726	96-569	94:3335	Environmental Research, Development, and Demonstration Authorization Act of 1981.	1.00
	H.R. 2111	96-570	94:3339	To extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes.	1.00
	S. 1784	96-571	94:3341	Alaska Federal-Civilian Energy Efficiency Swap Act of 1980.	1.00
	S. 1148	96-572	94:3344	To reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes.	1.00
	S. 2189	96-573	94:3347	Low-Level Radioactive Waste Policy Act.	1.00
	H.R. 999	96-574	94:3350	To amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes.	1.00
	H.R. 4941	96-575	94:3353	To name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown", respectively.	1.00
	H.R. 8345	96-576	94:3355	To name the United States Customs House in Ogdensburg, New York, the "Robert C. McEwen United States Customs House".	1.00
	H.J.Res. 337	96-577	94:3357	Designating February 11, 1981, "National Inventors' Day".	1.00
Dec. 23	H.R. 7709	96-578	94:3358	To amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning United States residents.	1.00
	H.R. 7626	96-579	94:3359	Military Pay and Allowances Benefits Act of 1980.	1.25
	S. 3096	96-580	94:3370	To amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wisconsin.	1.00
	S. 1985	96-581	94:3371	To authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, to authorize the Secretary of Interior to convey certain interests in lands in the State of Arizona, to amend the Act of March 14, 1978 (92 Stat. 154), and for other purposes.	1.00
	H.R. 8195	96-582	94:3374	To amend the Railroad Retirement Act of 1974 to extend certain cost-of- living increases.	1.00
	H.R. 6796	96-583	94:3375	To amend and extend title VII of the Comprehensive Employment and Training Act.	1.00
	H.R. 7682	96-584	94:3377	To amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes.	1.00
	H.R. 7814	96-585	94:3379	To designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness", and for other purposes.	1.00
	H.R. 7306	96-586	94:3381	To provide for the orderly disposal of certain Federal lands in Nevada, and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes.	1.00
	S. 1142	96-587	94:3387	Authorizing appropriations to the Secretary of Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Dec. 24	S. 3212	96-588	94:3386	To designate the "Thomas J. McIntyre Federal Building".	1.00
	H.R. 5043	96-589	94:3389	Bankruptcy Tax Act of 1980.	1.75
	S. 3261	96-590	94:3414	To amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purpose of such section.	1.00
	H.R. 6671	96-591	94:3415	Inland Navigational Rules Act of 1980.	1.50
	S. 1455	96-592	94:3437	Farm Credit Act Amendments of 1980.	1.50
	H.R. 4774	96-593	94:3452	To amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.	1.00
	H.R. 1196	96-594	94:3453	To revise and improve the laws relating to the documentation of vessels, and for other purposes.	1.25
	H.R. 4968	96-595	94:3464	To amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain United States retirement bonds, and for other purposes.	1.00
	H.R. 5391	96-596	94:3469	To amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes.	1.00
	H.R. 8444	96-597	94:3477	To authorize appropriations for certain insular areas of the United States, and for other purposes.	1.00
	H.R. 3317	96-598	94:3485	To amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes.	1.00
	H.R. 3637	96-599	94:3491	International Coffee Agreement Act of 1980.	1.00
	H.R. 7694	96-600	94:3493	To authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam.	1.00
	H.R. 5505	96-601	94:3495	To simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes.	1.00
Dec. 28	S. 1803	96-602	94:3500	To modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes.	1.00
	H.R. 4155	96-603	94:3503	To amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes.	1.25
	H.R. 7112	96-604	94:3516	State and Local Fiscal Assistance Act Amendments of 1980.	1.00
	H.R. 7956	96-605	94:3521	Miscellaneous Revenue Act of 1980.	1.25
	H.R. 5737	96-606	94:3534	To amend the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam.	1.00
	S. 2363	96-607	94:3539	To provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes.	1.25
	H.R. 5973	96-608	94:3550	To amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes.	1.00
	H.R. 5047	96-609	94:3555	To provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes.	1.25
	S. 2729	96-610	94:3564	National Visitor Center Emergency Repair Act of 1980.	1.00
	H.R. 8406	96-611	94:3566	To amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration.	1.25
	S. 2261	96-612	94:3575	To provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes.	1.00
	H.R. 7171	96-613	94:3579	To make certain miscellaneous changes in the tax laws.	1.00

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today.

INTERNATIONAL COMMUNICATION AGENCY

80818 12-8-80 / Gifts and decorations from foreign governments, revised regulations

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

80818 12-8-80 / Gifts and decorations from foreign governments, revised regulations

PENSION BENEFIT GUARANTY CORPORATION

80822 12-8-80 / Payment of premiums; Multiemployer pension plan

STATE DEPARTMENT

80818 12-8-80 / Gifts and decorations from foreign governments, revised regulations

Deadlines for Comments On Proposed Rules for the Week of January 11 Through January 17, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

75218 11-14-80 / Official Standards of the U.S. for the grades of sea island cotton and tentative standards for the preparation of long-staple cotton; comments by 1-15-81

Agricultural Stabilization and Conservation Service—

77035 11-21-80 / 1981 National Marketing quotas for burley tobacco; comments by 1-16-81

[Comments closing date corrected at 45 FR 79078, 11-28-80]

75219 11-14-80 / Proposed determinations of marketing quotas for the 1981-82, 1982-83 and 1983-84 marketing years for fire-cured, dark air-cured, virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco, comments by 1-13-81

Food and Nutrition Service—

74725 11-12-80 / Food Stamp Program; criteria for authorizing wholesalers; comments by 1-12-81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

77038 11-21-80 / Licensing of ocean thermal energy conversion facilities and plantships; comments by 1-16-81

DEFENSE DEPARTMENT

Defense Investigative Service—

82960 12-17-80 / Financial privacy; policies and procedures for obtaining information from financial institutions; comments by 1-16-81

ENVIRONMENTAL PROTECTION AGENCY

82964 12-17-80 / Air quality implementation plan, New Mexico; variance for Phelps Dodge Corp., Playas, N. Mex.; comments by 1-16-81

81789 12-12-80 / Colorado nonattainment area plans; comments by 1-12-81

76906 11-20-80 / Guideline for Federal procurement of cement and concrete containing fly ash; comments by 1-15-81

76076 11-17-80 / Hazardous waste management system; wastewater treatment tanks, neutralization tanks, containers, transport vehicles, etc.; comments by 1-16-81

80318 12-4-80 / Maryland application for interim authorization, phase 1; hazardous waste management program; comments by 1-15-81

75241 11-14-80 / Ocean dumping, proposed designation of sites; comments by 1-13-81

81792 12-12-80 / Ohio State Implementation Plan for sulfur dioxide; coments by 1-12-81

80317 12-4-80 / Pennsylvania application for interim authorization, phase 1; hazardous waste management program; comments by 1-13-81

81608 12-11-80 / Proposed revision of the State Implementation Plan for Kansas; comments by 1-12-81

[Corrected at 45 FR 84099, 12-22-80]

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82675 12–16–80 / Proposed removal of revisions to Massachusetts State Implementation; comments by 1–15–81

81608 12–11–80 / Proposed revision of the State Implementation Plan for Kansas; comments by 1–12–81

78970 1–26–80 / Toxic substances; significant new uses; comments by 1–12–81

82678 12–16–80 / Receipt of request from State of New York to revise its State Implementation Plan; comments by 1–15–81

81793 12–12–80 / West Virginia State Implementation Plan; proposed revision; comments by 1–12–81

FEDERAL COMMUNICATIONS COMMISSION

46121 7–9–80 / American Telephone and Telegraph Co.; longterm cost allocation procedures; comments by 1–11–81

79841 12–2–80 / FM broadcast station in Ainsworth, Nebr.; proposed changes in table of assignments; comments by 1–13–81

78189 11–25–80 / FM broadcast station in Spirit Lake, Iowa; proposed changes in table of assignments; comments by 1–13–81

78190 11–25–80 / FM broadcast station in Wiggins, Miss.; proposed changes in table of assignments; comments by 1–13–80

68170 10–17–80 / Inquiry into the future role of low-power television broadcasting and television translators in the National Telecommunications System; comments by 1–15–81

74523 11–10–80 / MTS and WATS market structure; interstate telecommunications services; Alaska submarket, reply comments extended to 1–14–81

82280 12–15–80 / Overseas Communications Services; Comments extended to 1–16–81

[Originally published at 45 FR 82280, 11–19–80]

73718 11–6–80 / TV broadcast station in Sierra Vista, Ariz., proposed changes in table of assignments; reply comments by 1–12–81

FEDERAL TRADE COMMISSION

85076 12–24–80 / Credit practices; comments extended to 1–16–81

[*See also* 45 FR 56070, 8–22–80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

69126 10–17–80 / Establishment of a monograph for ingrown toenail relief drug products for over-the-counter human use; comments by 1–14–81

69122 11–17–80 / Establishment of monograph for nailbiting and thumbsucking deterrent drug products for over-the-counter human use; comments by 1–14–81

75229 11–14–80 / General biological products standards; pyrogen test requirements; comments by 1–13–81

75226 11–14–80 / Provisionally listed color additives; Proposal to postpone the closing date for the provisional list of certain color additives; comments by 1–13–81

79093 11–28–80 / Restricted devices; comments period extended to 1–16–81

[*See also* 45 FR 65619, 10–3–80]

81734 12–12–80 / Stabilizers and emulsifiers in lowfat and skim milk; consumer interest regulations; objections by 1–12–81

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of the Assistant Secretary—

74940 11–13–80 / Community Development Block Grants; community development disaster assistance program; comments by 1–12–81

INTERIOR DEPARTMENT

Fish and Wildlife Service—

82975 12–17–80 / Migratory bird hunting annual regulations, special procedures; comments by 1–16–81

68975 10–17–80 / Proposed endangered status and critical habitat for the Kentucky cave shrimp; comments by 1–15–81

Indian Affairs Bureau—

82667 12–16–80 / Attorney contracts with Indian tribes; Payments of tribal attorney fees with appropriated funds; comments by 1–15–81

[Corrected at 45 FR 84068, 12–22–80]

81781 12–12–80 / Grants under Indian Child Welfare Act; comments by 1–12–81

Mines Bureau—

82669 12–16–80 / Revision of provisions for purchases of helium by Federal agencies; comments by 1–15–81

National Park Service—

82278 12–15–80 / Gulf Islands National Seashore; Off-road vehicles; comments by 1–14–81

INTERNATIONAL TRADE COMMISSION

82957 12–17–80 / Ethics rules, proposed amendments; comments by 1–15–81

INTERSTATE COMMERCE COMMISSION

85133 12–24–80 / Improvement of trailer on flatcar and container on flatcar service regulations; comments by 1–12–81

LABOR DEPARTMENT

Employment and Training Administration—

81768 12–12–80 / Grant awards; migrant and other seasonally employed farmworkers program under Comprehensive Employment and Training Act; comments by 1–12–81

Office of the Secretary—

81785 12–12–80 / Labor standards for Federal service contracts; comments by 1–12–81

NUCLEAR REGULATORY COMMISSION

75536 11–14–80 / Fracture toughness requirements for nuclear power reactors; comments by 1–13–81

[Corrected at 45 FR 77450, 11–24–80]

79820 12–2–80 / Intent to prepare environmental impact statement for reactor siting criteria; comments by 1–16–81

79492 12–1–80 / Searches of individuals at Power Reactor facilities; comments by 1–15–81

POSTAL SERVICE

81787 12–12–80 / Enclosures with special fourth-class matter; amendments to Domestic Mail Manual; comments by 1–11–81

RAILROAD RETIREMENT BOARD

78704 11–26–80 / Annuities under the Railroad Retirement Act; comments by 1–12– 81

SECURITIES AND EXCHANGE COMMISSION

70890 10–27–80 / Equity securities; purchases by issuer and others; comments by 1–15–81

83259 12–18–80 / Exemption from registration of interests and participations in certain H.R. 10 plans; comments by 1–14–81

69911 10–22–80 / Net capital requirement for brokers and dealers; comments by 1–15–81

69915 10–22–80 / Net capital requirements for brokers and dealers; comments by 1–15–81

69909 10–22–80 / Proposed comprehensive revision to system for registration of securities offerings; comments by 1–15–81

STATE DEPARTMENT

75687 11–17–80 / International agreements, coordination and reporting; comments by 1–16–81

Consular Affairs Bureau—

81778 12–12–80 / Change in fees for consular services; comments by 1–12–81

Office of the Legal Adviser—

75687 11–17–80 / Coordinating and reporting of international agreements; comments by 1–16–81

[Corrected at 45 FR 81666, December 11, 1980]

TRANSPORTATION DEPARTMENT

Coast Guard—

77439 11–24–80 / Casualty reporting requirements for vessels; comments by 1–15–81

81607 12–11–80 / Drawbridge operation regulations; Skull Creek, S.C.; comments by 1–12–81

Federal Aviation Administration—

75138 11–13–80 / Air carrier; carry-on baggage; accessible storage of flexible travel canes carried by blind passengers; comments by 1–12–81

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

74942 11–13–80 / Multivantage dates under the labeling and advertising regulations for wine under the Federal Alcohol Administration Act; comments by 1–12–81

Internal Revenue Service—

75695 11–17–80 / Foreign oil and gas taxes; limitation on foreign tax credit; comments by 1–16–81

75695 11–17–80 / Foreign taxes, credibility; comments by 1–16–81

75709 11–17–80 / Limited liability companies, classification, comments by 1–16–81

75692 11–17–80 / Oil and gas not considered taxes; payments to foreign countries; comments by 1–16–81

75231 11–14–80 / Windfall profit tax; Clarification of rules relating to base prices of Tier 2 and Tier 3 oil; comments by 1–13–81

WATER RESOURCES COUNCIL

76701 11–20–80 / Protection and management of historic and cultural environment; comments by 1–12–81

Deadlines for Comments On Proposed Rules for the Week of January 18 through January 24, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

80535 12–5–80 / Wheat and wheat foods research and nutrition education; comments by 1–19–81

Animal and Plant Health Inspection Service—

76689 11–20–80 / Importation of animals; procedures for withdrawal or denial of approval of commercial bird quarantine station; comments by 1–19–81

Commodity Credit Corporation—

85041 12–24–80 / Cooperative Marketing Associations; Eligibility requirements for price support; comments by 1–23–81

Farmers Home Administration—

76089 11–18–80 / Clarification of economic emergency loans (final rule); comments by 1–19–81

77036 11–21–80 / Community facility loans and development grants for community domestic water and waste disposal systems; comments by 1–21–81

76440 11–19–80 / Supervised bank accounts; loan and grant disbursement; comments by 1–19–81

Food and Nutrition Service—

77258 11–21–80 / Federal sanctions and State agency liabilities; comments by 1–21–81

Food Safety and Quality Service—

77037 11–21–80 / Grading of shell eggs, rabbits, and poultry, and inspection of eggs and egg products; comments by 1–21–81

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM—

77080 11–21–80 / Workshop responsibilities and specification changes; comments by 1–20–81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

76661 11–20–80 / Deep seabed mining; pre-enactment explorers; comments by 1–19–81

80847 12–8–80 / Tanner crab off Alaska; Amendment to fishery management plan and proposed regulation; comments by 1–18–81

CONSUMER PRODUCT SAFETY COMMISSION

76447 11–19–80 / Voluntary standards activities; modification of policy; comments by 1–19–81

EDUCATION DEPARTMENT

84950 12–23–80 / College Library Resources Program (Title II–A HEA); comments by 1–22–81

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

84823 12–23–80 / Availability of revised supplementary information and extension of the time period for public comment; comments by 1–23–81

80273 12–4–80 / Maximum lawful price for natural gas from stripper wells; comments by 1–23–81

ENVIRONMENTAL PROTECTION AGENCY

77464 11–24–80 / Air quality, Arizona, California, Hawaii, and Nevada; ambient surveillance provisions; comments by 1–20–81

85101 12–24–80 / Air quality attainment designations, Maryland redesignation for carbon monoxide for Cumberland and Hagerstown; comments by 1–23–81

84098 12–22–80 / Approval and promulgation of implementation plan for Illinois; comments by 1–21–81

77054 11–21–80 / Approval and promulgation of implementation plans; proposed revision to the New York State implementation plan; comments by 1–21–81

77052 11–21–80 / Approval and promulgation of implementation plans: State of Iowa; State implementation plan for lead; comments by 1–21–81

84099 12–22–80 / Approval and promulgation of State implementation plans: State of Missouri; comments by 1–21–81

83546 12–19–80 / Colorado State Implementation Plan; alternative emission reduction for Coors Container Facility; comments by 1–19–81

85101 12–24–80 / Diphenamid, proposed tolerance of herbicide on raspberries; comments by 1–23–81

85102 12–24–80 / Fluchloralin; proposed tolerances of herbicide on peanuts, peanut forage, and peanut hay; comments by 1–23–81

77435 11–24–80 / Hazardous waste listings; wastes from wood preserving industry; re-opening of comment period; comments by 1–23–81

[*See also* 45 FR 33123 and 33136, 5–19–80]

76616, 76620, 76624, 76626 11–19–80 / Hazardous waste management system; interim rules; comments by 1–19–81 (4 documents)

80561 12–5–80 / Hazardous Waste management system; used oil burned as fuel report; comments by 1–19–81

80316 12–4–80 / Intent to promulgate a maintenance of pay provision as part of the Idaho State Implementation Plan; comments by 1–19–81

85105 12-24-80 / 2,4-*D* isopropyl ester; proposed tolerance on citrus fruits; comments by 1-23-81

85103 12-24-80 / Methidathion; proposed tolerances of insecticide on mangos; comments by 1-23-81

76346 11-18-80 / National emission standards for the hazardous air pollutant vinyl chloride; comments by 1-19-81

77353 11-21-80 / Physical, chemical, persistence, and ecological effects testing; proposed good laboratory practice standards; comments by 1-21-81

77332 11-21-80 / Proposed environmental test standards; comments by 1-21-81

84827 12-23-80 / Proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk of cancer; comments by 1-22-81

76404 11-18-80 / Proposed standards to limit atmospheric emissions of particulate matter from new, modified, and reconstructed asphalt blowing stills, asphalt saturators, asphalt storage tanks, and mineral handling and storage operations in the asphalt processing and roofing manufacturing industry; comments by 1-19-81

76209 11-18-80 / Redesignation of Linn County, Iowa (Cedar Rapids), from nonattainment to attainment regarding ozone ambient air quality standards; comments by 1-19-81

76427 11-18-80 / Standards of performance for new stationary sources; priority list; comments by 1-19-81

81074 12-9-80 / Steam electric power generating point source category effluent limitation guidelines; pretreatment standards and new source performance standards; comments by 1-19-81

85104 12-24-80 / Terbacil; proposed tolerance of herbicide on aparagus; comments by 1-23-81

FEDERAL COMMUNICATIONS COMMISSION

73719 11-6-80 / FM broadcast station in Andrews and Pawley's Island, S.C., proposed changes in table of assignments; reply comments by 1-19-81

78735 11-26-80 / FM broadcast station in Los Lunas, N. Mex.; changes in table of assignments; reply comments by 1-19-81

73720 11-6-80 / FM broadcast station in North Las Vegas, Nevada, proposed changes in table of assignments; reply comments by 1-19-81

73990 11-7-80 / FM broadcast station in St. Johnsbury, Vt.; changes in table of assignments; reply comments by 1-19-81

FEDERAL MARITIME COMMISSION

84832 12-23-80 / Exemption of collective bargaining agreements; proposed revocation; comments by 1-22-81

FEDERAL RESERVE SYSTEM

80648 12-5-80 / Truth in lending; Regulation Z; proposed complete revision; comments by 1-19-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service—

76212 11-18-80 / Hospitals and medical facilities construction and modernization and health professional personnel teaching facilities; loan guarantees; use of notes as collateral for tax-exempt financing; comments by 1-19-81

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of Assistant Secretary—

76376 11-18-80 / Changes in mortgage amounts under HUD's single family mortgage insurance programs; (interim rule); comments by 1-19-81

INTERIOR DEPARTMENT

Fish and Wildlife Service—

70198 10-22-80 / Proposed determination of critical habitat for the Hawksbill Sea Turtle in Puerto Rico; comments by 1-21-81

70192 10-22-80 / Proposed listing with endangered status and critical habitat for the Monito Gecko; comments by 1-21-81

Land Management Bureau—

84390 12-22-80 / Oil and gas leasing, and leasing of minerals other than oil and gas; special acts; comments by 1-21-81

National Park Service—

84997 12-24-80 / Demonstrations and special events; 1981 inauguration; comments by 1-23-81

84390 12-22-80 / Oil and gas leasing, and leasing of minerals other than oil and gas; Special Acts; comments by 1-21-81

INTERSTATE COMMERCE COMMISSION

80370 12-4-80 / Coal rate guidelines nationwide; comments by 1-19-81

80150 12-3-80 / Railroad revenue adequacy standards; comments by 1-19-81

JUSTICE DEPARTMENT

Prisons Bureau—

75125 11-13-80 / Control, custody, care, treatment, and instruction of inmates; incoming publications; interim rule; comments by 1-19-81

LABOR DEPARTMENT

83998 12-19-80 / Procurement; grants and contracts; cost principles and procedures; comments by 1-19-81

Personnel Management Office—

76087 11-18-80 / Civil service retirement program and Federal employees health benefits program; definition of child eligible for survivor annuity benefits and health benefits coverage; interim rule; comments by 1-19-81

76183 11-18-80 / Regulations to govern promotion of Administrative Law Judges (ALJs); comments by 1-19-81

POSTAL SERVICE

84060 12-22-80 / Annual presort First-class Mailing fee; comments by 1-[illegible]-81

84926 12-23-80 / Centralized delivery mail receptacles; comments by 1-21-81

SECURITIES AND EXCHANGE COMMISSION

78158 11-25-80 / Revisions of investment company current report forms; comments by 1-23-81

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

76868 11-20-80 / Export airworthiness approvals; comments by 1-19-81

76691 11-20-80 / Summary of petitions received and dispositions of petitions denied; comments by 1-19-81

Federal Highway Administration—

77455 11-24-80 / Buy-America requirements; use of domestic steel construction materials; comments by 1-23-81 [Corrected at 45 FR 80836, 12-8-80]

63535 9-25-80 / Elimination of the first aid kit in buses operating in interstate or foreign commerce; comments by 1-22-81

70288 10-23-80 / Inspection, repair, and maintenance—inspection requirements for leased vehicles; comments by 1-21-81

63535 9-25-80 / Parts and accessories necessary for safe operation; comments by 1-22-81 [Corrected at 45 FR 65261, 9-25-80]

76705 11-20-80 / Use and disposition of property acquired by States for modified or terminated highway projects; comments by 1-19-81

National Highway Traffic Safety Administration—

84108 12-22-80 / Passenger automobile average fuel economy standards; proposed decision to grant exemption; comments by 1-21-81

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

76191 11-18-80 / Amendments to explosive materials regulations; comments by 1-19-81

Customs Service—

76449 11–19–80 / Examination of merchandise; amendments to regulations; comments by 1–19–81

Internal Revenue Service—

76450 11–19–80 / Indirect foreign tax credit for domestic corporations required to include amounts in gross income with respect to certain third-tier corporations under section 951; comments by 1–19–81

VETERANS ADMINISTRATION

77050 11–21–80 / Privacy Act exemptions; comments by 1–21–81

Next Week's Meetings

AGRICULTURE DEPARTMENT

80852 12–8–80 / Written contracts for the motor transportation of exempt agricultural commodities, Chicago, Ill. and McAllen, Tex. (open), 1–12–81

80852 12–8–80 / Written contracts for the motor transportation of exempt agricultural commodities, Fresno, Calif. and Atlanta, Ga. (open), 1–16–81

80852 12–8–80 / Written contracts for the motor transportation of exempt agricultural commodities, Portland, Oreg. and Orlando, Fla. (open), 1–14–81

Food and Nutrition Service—

84810 12–23–80 / Food Stamp Program; monthly reporting/retrospective accounting, Washington, D.C. (open), 1–13–81

Forest Service—

80156 12–3–80 / Continental Divide National Scenic Trail Advisory Council, Albuquerque, N. Mex. (open), 1–14 through 1–17–81

ARTS AND HUMANITIES, NATIONAL FOUNDATION

85531 12–29–80 / Humanities Panel, Washington, D.C. (closed), 1–7 through 1–10–81

81133 12–9–80 / Humanities Panel, Washington, D.C. (closed), 1–12–81

[Corrected at 45 FR 83354, 12–18–80]

79204 11–28–80 / Humanities Panel, Washington, D.C. (closed), 1–12 and 1–14–81

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85531 12–29–80 / Visual Arts Panel (Conceptual/Performance/New Genre), Washington, D.C. (closed), 1–15 and 1–16–81

85532 12–29–80 / Visual Arts Panel (Video), Washington, D.C. (closed), 1–9 through 1–11–81

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84117 12–22–80 / Polyurethane foam petition, Washington, D.C. (open), 1–15–81

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83647 12–19–80 / U.S. Merchant Marine Academy Advisory Board, Kings Point, N.Y. (open), 1–13–81

[Originally published at 45 FR 79525, 12–1–80]

National Bureau of Standards—

85136 12–24–80 / Visiting Committee, Gaithersburg, Md. (open), 1–15–81

National Oceanic and Atmospheric Administration—

81249 12–10–80 / Mid-Atlantic Fishery Management Council, Ocean City, Md. (open), 1–14–81

National Telecommunications and Information Administration—

85810 12–30–80 / Grant Appeals Board of the Public Telecommunications Facilities Program, Washington D.C. (open), rescheduled for 1–15–81

[*See also* FR 72243, 10–31–80]

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85499 12–29–80 / USAF Scientific Advisory Board, Pease AFB, N.H. (open), 1–16–81

85499 12–29–80 / USAF Scientific Advisory Board, Washington, D.C. (closed), 1–13 and 1–14–81

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85499 12–29–80 / Command and General Staff College Advisory Committee, Ft. Leavenworth, Kans. (open), 1–14 through 1–16–81

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82696 12–16–80 / Secretary of the Navy's Advisory Board on Education and Training, Winter Park, Fla. (open), 1–14–81

Office of the Secretary—

81091 12–9–80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 1–14 and 1–15–81

85500 12–29–80 / ECM Advisory Committee of the Science Board Task Force, Arlington, Va. (closed), 1–15 and 1–16–81

78194 11–25–80 / Wage Committee, Wash., D.C. (partially open), 1–13–81

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85500 12–29–80 / Bilingual Education National Advisory Council, Washington, D.C. (open) 1–10 through 1–12–81

86525 12–31–80 / Fund for the Improvement of Postsecondary Education, Board of Advisors, Berkeley, Calif. (open), 1–14 and 1–15–81

81645 12–11–80 / Indian Education National Advisory Council, Washington, D.C. (open), 1–11–81

85143 12–24–80 / Vocational Education National Advisory Council, Legislative Committee, Chicago, Ill. (open), 1–13–81

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80867 12–8–80 / National Petroleum Council, Emergency Preparedness Committee, Coordinating Subcommittee, New York, N.Y. (open), 1–15 and 1–16–81

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81062 12–9–80 / Discussion of proposed revisions to Form No. 15, "Annual Report to Gas Supply for Certain National Gas Pipelines, Washington, D.C." (open), 1–16–81

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83669 12–19–80 / Meeting, Washington, D.C. (open), 1–15–81

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85158 12–24–80 / Community Alcoholism Services Review Committee, Bethesda, Md. (open), 1–11–81

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76251 11–18–80 / Allergenic Products Workship on Standardization, Bethesda, Md. (open, by reservations), 1–13 and 1–14–81

81887 12–12–80 / Clinical Chemistry and Hermotology Devices Panel, Clinical Chemistry Device Section, Silver Spring, Md. (partially open), 1–15 and 1–16–81

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81887 12–12–80 / Endocrinologic and Metabolic Drugs Advisory Committee, Rockville, Md. (open), 1–12 and 1–13–81

81887 12–12–80 / Gastrointestinal Drugs Advisory Committee, Rockville, Md. (partially open), 1–12 and 1–13–81

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85124	12–24–80 / Foster care maintenance and adoption assistance; child welfare services; San Francisco Calif., 1–12–81; Chicago, Ill., 1–13–81; Dallas, Tex., 1–14–81; and Kansas City, Mo. 1–16–81 (all sessions open)
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[*See also* 45 FR 73963, 11–7–80]

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Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

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86378 12–30–80 / ED—Rehabilitation training program provisions; effective date stayed pending congressional approval

86812 12–31–80 / HHS/HDSO—Adoption assistance and child welfare services; foster care; State eligibility requirements for additional payments; effective 12–31–80

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86894 12–31–80 / ED—Education opportunity centers program; comments by 3–2–81

86336 12–30–80 / Experimental program for opportunities in advanced study and research in education; comments by 1–29–81

86333 12–30–80 / ED—High school equivalency and college assistance migrant program(s) provisions; comments by 3–2–81

86886 12–31–80 / ED—Institutional grants for graduate and professional study; comments by 2–17–81

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86900 12–31–80 / ED—Special Services for Disadvantaged Students Program; comments by 3–2–81

86922 12–31–80 / ED—Special Programs Staff and Leadership Personnel Training Program; comments by 3–2–81

86854 12–31–80 / ED—Student assistance general provisions; comments by 3–2–81

86906 12–31–80 / ED—Talent Search Program; comments by 3–2–81

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86812 12–31–80 / HHS/HDSO—Adoption assistance and child welfare services; foster care; State eligibility requirements for additional payments; comments by 3–10–81

86817 12-31-80 / HHS/HDSO—Foster care maintenance and adoption assistance; child welfare services; Federal financial participation; comments by 3-16-81

86511 12-31-80 / LSC—Restrictions on certain activities (legislative advocacy, etc.) by fund recipients; comments by 1-30-81

86328 12-30-80 / VA—Veterans' cost-of-instruction payments (formula grant) program amendments; comments by 3-2-81

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169 1-2-81 / HHS/HDSO—Grant funds for child welfare services training program; apply by 3-6-81 (2 documents)

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86894 12-31-80 / ED—Education Opportunity Centers Program; Washington, D.C., 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif. 2-17-81; Dallas, Tex., 2-19-81 (all sessions open)

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86922 12-31-80 / ED—Special Programs Staff and Leadership Personnel Training Program; Washington, D.C. 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas Tex. 2-19-81 (all sessions open)

86908 12-31-80 / ED—Talent Search Program; Washington, D.C. 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas, Tex., 2-19-81 (all sessions open)

86911 12-31-80 / ED—Upward Bound Program; Washington, D.C., 2-9-81; Chicago, Ill., 2-11-81; San Francisco, Calif., 2-17-81; Dallas, Tex., 2-19-81

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85531 12-29-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 1-7 through 1-16-81

85531 12-29-80 / NFAH—Visual Arts Panel (Conceptual/Performance/New Genre), Washington, D.C. (closed), 1-15 and 1-16-81

85532 12-29-80 / Visual Arts Panel (Video), Washington, D.C. (closed), 1-9 through 1-11-81

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85815 12-30-80 / Revocation of requirement for preapplication for major grants under research on knowledge used and school improvement program

[*See also* 45 FR 80575, 12-5-80]

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federal register

Thursday
January 8, 1981

Highlights

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2023	**Use of gasohol in Federal motor vehicles** Executive order
2159	**Grant Programs—Business** Commerce/MBDA seeks applications under its General Business Services Program to operate for a 12 month period beginning 5–1–81, to serve Manhattan, N.Y.; apply by 1–29–81; pre-application conference on 1–12–81
2203, 2204	**Continental Shelf** Interior/GS publishes notices of receipt of proposed development and production plans (2 documents)
2199	**Continental Shelf** Interior/GS and DOT/CG have signed a new memorandum of understanding to promote safety of activities and facilities; effective 12–18–80
2121	**Gases** DOT/MTB and RSPA updates changes in its regulations pertaining to the shipment of dispersant and refrigerant gas; comments by 2–23–81

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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2093	**Social Programs** HHS/SSA intends to issue regulations governing the conducting of experiments and demonstration projects under the Disability Insurance and Supplemental Security Income Programs
2093	**Social Programs** HHS/SSA intends to publish regulations relating to the allowance of additional child care dropout years for benefit compulation of younger disabled workers
2306	**Civil Rights** EPA proposes consolidated non-discrimination regulation; comments by 3-9-81 (Part VII of this issue)
2042	**Excise Taxes** Treasury/IRS amends temporary regulations that apply to tax on the use of civil aircraft
2026	**Banking** FRS sets requirements for updating transfer agent registration information; effective 1-7-81
2097	**Speed Measuring Radar Devices** DOT/NHTSA proposes performance requirements and test methods for evaluating speed measuring radar devices used by law enforcement agencies; comments by 2-2-81
2280	**Aviation Safety** DOT/FAA clarifies conditions under which a pilot may approach and land at an airport when weather conditions do not allow the pilot to see the runway until shortly before landing; effective 5-8-81 (Part III of this issue)
2063	**Highway Safety** DOT/NHTSA publishes final rule regarding improvement of seat belt assemblies; effective 9-1-82
2030	**Traffic Regulations** DOT/FHWA revises and consolidates existing regulation which prescribes procedures for obtaining basic uniformity of traffic control devices on all streets and highways; effective 1-30-81
2192	**Privacy Act Document** HHS
2245	**Sunshine Act Meetings**

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Federal Register
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Thursday, January 8, 1981

Presidential Documents

Title 3—

The President

Executive Order 12261 of January 5, 1981

Gasohol in Federal Motor Vehicles

By the authority vested in me as President of the United States of America by Section 271 of the Energy Security Act (94 Stat. 710; Public Law 96–294; 42 U.S.C. 8871), in order to require Federal agencies which own or lease motor vehicles to use gasohol in those vehicles which are capable of operating on gasohol where it is available at reasonable prices and in reasonable quantities, it is hereby ordered as follows:

1–101. In procurement actions for unleaded gasoline motor fuel, Federal agencies shall, whenever feasible, specify that gasohol is an acceptable substitute motor fuel. In such procurements there shall be a preference for the purchase of gasohol.

1–102. Agencies may procure the components of gasohol and do their own blending.

1–103. In determining the feasibility of specifying gasohol as a substitute motor fuel in procurement actions for unleaded gasoline, agencies shall include in their considerations such factors as the availability of storage facilities for bulk purchases and the number of vehicles capable of operating on gasohol.

1–104. Agencies shall designate those vehicles which are capable of using gasohol, consistent with overall agency needs and sound vehicle management practices. Agencies shall specify the conditions governing the use of gasohol, including when gasohol shall be purchased from normal retail outlets by vehicle operators.

1–105. The use of gasohol by the Department of Defense pursuant to this Order shall be in accordance with Section 815 of the Department of Defense Authorization Act, 1980 (93 Stat. 817; Public Law 96–107; 10 U.S.C. 2388 note) which provides for the use of gasohol to the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices, as determined by the Secretary of Defense.

1–106. Vehicles used in experimental programs to test fuels other than gasohol are excepted from this Order.

1–107. The authority vested in the President by Section 271(b) of the Energy Security Act (42 U.S.C. 8871(b)) is delegated to the Secretary of Defense with respect to gasohol use by the Department of Defense, and delegated to the Administrator of General Services with respect to gasohol use by other agencies.

1–108. Federal agencies shall make available to the Department of Energy, upon request, relevant data or information they possess concerning agency gasohol usage.

1–109. For purposes of this Order "Gasohol" means a motor fuel which has an octane rating of not less than 87 (R+M)/2 and which consists of approximately 90 percent unleaded gasoline and approximately 10 percent anhydrous (199 proof or above) ethyl alcohol derived from biomass, as defined in Section 203(2)(A) of the Energy Security Act (94 Stat. 683; Public Law 96–294; 42 U.S.C. 8802(2)(A)).

1–110. (a) The Secretary of Defense with respect to gasohol use by the Department of Defense, and the Administrator of General Services with

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respect to gasohol use by other agencies, shall issue such guidelines for the implementation of this Order as they deem appropriate.

(b) Such guidelines shall provide for a determination of reasonable prices and reasonable quantities based on the local prevailing price of unleaded gasolines, the octane requirements for vehicles in the Federal fleet, local market availability of gasohol or its components, and other such factors, as may be appropriate.

Jimmy Carter

THE WHITE HOUSE,
January 5, 1981.

[FR Doc. 81-832
Filed 1-6-81; 3:39 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 504]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 9, 1981–January 15, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on January 6, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good on size 88's and larger and easier on smaller sizes.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.804 is added as follows:

§ 907.804 Navel Orange Regulation 504.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 9, 1981, through January 15, 1981, are established as follows:

(1) District 1: 776,000 cartons;
(2) District 2: 54,509 cartons;
(3) District 3: unlimited cartons;
(4) District 4: 24,000 cartons;

(b) As used in this section, "handled," "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 7, 1981

Charles R. Brader,

Director, Fruit and Vegetable Division. Agricultural Marketing Service.

[FR Doc. 81–969 Filed 1–7–81; 2:56 pm]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 292

Representation and Appearances: Clarifying Right to Representation

Correction

In FR Doc. 80–38648 appearing at page 81732 in the issue for Friday, December 12, 1980, make the following correction:

On page 81733, § 292.5(b), in the second column, in the second line, the words "tht nothing is" should have read "that nothing in".

BILLING CODE 1505–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Physical Protection of Plants and Materials; Clarifying and Corrective Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Clarifying and corrective amendments.

SUMMARY: The Nuclear Regulatory Commission is issuing certain clarifying and correcting amendments that refer to documents incorporated by reference in Part 73, Physical Protection of Plants and Materials. These amendments do not modify current practices or application of the regulations.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Patricia D. Anderson, (301) 492–7297.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is amending two sections of 10 CFR Part 73, "Physical Protection of Plants and Materials" to clarify the citations to materials incorporated by reference into two sections within Part 73. The citations as corrected appear below.

PART 73—PHYSICAL PROTECTION OF MATERIALS

1. Section 73.26(l)(1) is revised to read as follows:

§ 73.26 [Amended]

* * * * *

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(l) *Shipment by sea.* (1) Shipments shall be made only on container-ships. The strategic special nuclear material container(s) shall be loaded into exclusive use cargo containers conforming to American National Standards Institute (ANSI) Standard MH5.1—"Basic Requirements for Cargo Containers" (1971) or International Standards Organization (ISO) 1496, "General Cargo Containers" (1978) Locks and seals shall be inspected by the escorts whenever access is possible.

* * * * *

2. Part 73, Appendix B.I.B.1.b(2)(a) is revised to read as follows:

* * * * *

(2) Hearing: (a) Individuals shall have no hearing loss in the better ear greater than 30 decibels average at 500 Hz, 1,000 Hz, and 2,000 Hz, with no level greater than 40 decibels at any one frequency (by ISO 389 "Standard Reference Zero for the Calibration of Purtone Audiometer" (1975) or ANSI S3.6—1969 (R 1973) "Specifications for Audiometers")

* * * * *

Dated at Bethesda, Maryland this 29th day of December, 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-527 Filed 1-7-81; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0338]

Amendment to Requirements for Updating Transfer Agent Registration Information

December 30, 1980.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has amended its Regulations H (12 CFR Part 208) and Y (12 CFR Part 225) to eliminate the requirement that registered transfer agents file amendments to their registration statement on Form TA-1 to reflect changes in previously filed information listing securities for which the institutions act as transfer agents. These amendments anticipate future action by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission to substantially reduce information required by Form TA-1. It is anticipated that the revised Form TA-1 will not require the detailed information concerning individual issues which is presently required and thus no amendment requirement will be necessary. The Board has determined that it is appropriate to eliminate the amendment requirement at this time in order to reduce the burden on those transfer agents that would otherwise be required to file an amendment by January 30, 1981.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Donald R. Vinnedge, Manager, Trust Activities Program, (202) 452-2717, or Walter R. McEwen, Attorney, (202) 452-2521, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Regulation H (12 CFR 208.8(f)(2)) and Regulation Y (12 CFR 225.5(c)(2)) state in pertinent part that:

> Within thirty calendar days following the close of any calendar year * * * during which the information required by Item 7 of Form TA-1 becomes inaccurate, misleading or incomplete, the [registered transfer agent] shall file an amendment to Form TA-1 correcting the inaccurate, misleading or incomplete information.

The information required by Item 7 of Form TA-1 is shown on Schedule B of that form. Schedule B presently requires detailed information for each security issue serviced by the registrant as transfer agent, co-transfer agent, registrar, or co-registrar. This information consists of the name of the security, the type of security and class or series, the CUSIP number and the capacity in which the registrant acts on that issue. Schedule B also requires similar information for issues previously listed on Schedule B but no longer serviced by the registrant and for those situations in which the name of the issuer has changed or the capacity in which the registrant acts for the issuer has changed.

Staff of the Board, the SEC and the other Federal bank regulatory agencies have agreed that the information presently required on Schedule B is too detailed. Staff of the agencies are near agreement on a revised Form TA-1 which would require only aggregate statistical information. It is expected that in early 1981 the SEC and the Federal bank regulatory agencies will adopt a revised Form TA-1 that will substantially reduce the information presently required.

The Board has concluded that failure to revise 12 CFR 208.8(f)(2) and 12 CFR 225.5(c)(2) would result in an undue burden upon those State member bank transfer agents that would be required to file amended Form TA-1 at a time when the Board believes that the furnished information is unnecessary. Accordingly the Board is amending Regulation H and Y to eliminate the requirement to amend Form TA-1 within 30 calendar days of December 31 in order to update information presently required on Schedule B. Effective with this action, transfer agents may disregard the instruction on Form TA-1 that relates to the filing of this information (Instruction III-15).

The Board is also acting to amend Regulations H and Y by deleting 12 CFR 208.8(f)(4) and 12 CFR 25.5(c)(4) which were adopted in December, 1977 as temporary exemptive rules to permit registered transfer agents for which the Board is the appropriate regulatory agency to delay filing Schedule B which otherwise would have been due on January 30, 1978. The purpose of the extension was to provide registrants with sufficient time to accomodate their data processing systems to a new format required by a revision of Form TA-1. The purpose of the temporary exemptive rules has been met and the rules are presently unnecessary. Accordingly, the Board is acting to amend Regulations H and Y to delete the language of the temporary exemptive rules.

Because this action facilitates the reduction of a reporting burden, the Board for good cause finds that the notice and public procedure provisions of 5 U.S.C. 553 are unnecessary and that immediate implementation is in the public interest.

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Pursuant to Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) and Sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248), the Board hereby adopts the following amendments to Regulation H (12 CFR Part 208) and Regulation Y (12 CFR Part 225):

1. The second sentence in 12 CFR 208.8(f)(2) is deleted.

2. 12 CFR 208.8(f)(4) is deleted in its entirety.

3. The second sentence in 12 CFR 225.5(c)(2) is deleted.

4. 12 CFR 225.5(c)(4) is deleted in its entirety.

By order of the Board of Governors, December 30, 1980.

Theodore Allison,

Secretary of the Board.

[FR Doc. 81–589 Filed 1–7–81; 8:45 am]

BILLING CODE 6210–01–M

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12 CFR Parts 211 and 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended § 211.5(c)(2) of its Regulation K to allow the Board to waive the 60 days' prior notification period for those proposals that qualify for the Board's prior notification procedure but must be consummated in less than 60 days, and section 265.2(c) of its Rules Regarding Delegation of Authority to give the Director of the Division of Banking Supervision and Regulation authority to exercise this waiver.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Jr., Senior Counsel (202/452–3269), or James S. Keller, Senior Attorney (202/452–3582), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Section 211.5(c)(2) of the Board's Regulation K (12 CFR 211.5(c)(2)) provides that certain investments may be made after the investor has given 60 days' prior written notice to the Board. In several instances, proposals that would otherwise qualify for this notification procedure have had to be processed pursuant to the specific consent procedures of § 211.5(c)(3) of Regulation K (12 CFR 211.5(c)(3)) because the investor had to be able to consummate the transaction on an expedited basis (e.g., a proposal to bid on a failing foreign bank).

Since the purpose of the prior notification process is to simplify procedures for both the investor and the Board, it seems inconsistent with the consent procedures of Regulation K that a proposal qualifying for the prior notification procedure and requiring expedited treatment must be processed under the specific consent procedure to allow consummation in less than 60 days. Accordingly, the Board has amended Regulation K to allow the Board to waive the 60 days' prior notification period in certain circumstances. The Board has also delegated to the Director of the Division of Banking Supervision and Regulation authority to waive this notification period on behalf of the Board.

The provisions of 5 U.S.C. 553 relating to notice and public participation are not followed in connection with adoption of these amendments because the Board finds for good cause that notice and public participation are unnecessary since the amendment to Regulation K relaxes a restriction previously imposed, while the amendment to the Rules of Delegation of Authority is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

PART 211—INTERNATIONAL BANKING OPERATIONS

(1) Pursuant to its authority under the Federal Reserve Act (12 U.S.C. 211 *et seq.*), the Board amends the first sentence of § 211.5(c)(2) of Regulation K (12 CFR 211.5(c)(2)) as follows:

§ 211.5 Investments in other organizations.

* * * * *

(c) Investments procedures. * * *

* * * * *

(2) Prior notification. An investment in a subsidiary * * * notice to the Board, unless the Board waives such period because it finds immediate action by the investor is required by the circumstances presented, if the total amount * * *.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

(2) Pursuant to its authority under section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board amends its Rules Regarding Delegation of Authority (12 CFR Part 265) by adding paragraph (c)(27) as follows:

§ 265.2 Specific functions delegated to Board employees and to the Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(27) Under section 25 and 25(a) of the Federal Reserve Act and Part 211 of this chapter (Regulation K), to waive the 60 days' prior notice period for an investment that qualifies for the prior notification procedures set forth in § 211.5(c)(2) of Regulation K (12 CFR 211.5(c)(2)).

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81–604 Filed 1–7–81; 8:45 am]

BILLING CODE 6210–01–M

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12 CFR Part 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In acting upon applications and requests pursuant to the Board's Regulation K as revised on June 17, 1979, the Board has found that a number of administrative actions that currently must be taken by the Board are of a ministerial nature and could be more expeditiously handled by the Reserve Banks. Accordingly, the Board has delegated certain authority under Regulation K to the Director of the Division of Banking Supervision and Regulation and the Federal Reserve Banks.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Senior Counsel (202/452–3269), James S. Keller, Senior Attorney (202/452–3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Since passage of the Board's revised Regulation K (12 CFR Part 211) on June 14, 1979, the Board has acted upon numerous applications regarding the establishment of Edge Corporations and the foreign activities of U.S. investors. As a result of its experience with the revised regulation, the Board believes that a number of Board actions required by Regulation K should be delegated to the Reserve Banks in order to permit more expeditious action on matters that do not affect the Board's overall policy regarding Regulation K. Accordingly, the Board has determined that the following powers are to be delegated to the Reserve Banks and, in one instance, to the Director of the Division of Banking Supervision and Regulation:

1. *The issuance of a final permit to an Edge Corporation to commence business.* Under § 211.4(a)(2) of the Board's Regulation K, an Edge Corporation that has received a preliminary permit from the Board may elect officers and otherwise complete its organization, invest in obligations of the

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United States Government and maintain deposits with banks, but it may not exercise any other powers until the Board has issued a final permit to commence business. The issuance of the final permit is generally routine once the Edge Corporation's president, treasurer and secretary and at least three directors certify that at least 25 per cent of the issued and subscribed stock specified in the articles of association has been paid in and that each shareholder has individually paid in at least 25 per cent of his stock subscription. Accordingly, the Board has delegated to the Reserve Banks the authority to issue the final permit to the Edge Corporation to commence business.

Section 211.4(a)(2) also states that "[n]o amendment to the articles of association [of an Edge Corporation] shall become effective until approved by the Board." A number of proposed amendments that are received by the Board could be more efficiently acted upon by the Reserve Banks. Accordingly, the Board has delegated to the Reserve Banks authority to take action on an Edge Corporation's request to amend its articles of association for the purposes of changing its name and permitting non-U.S. citizens to become directors or majority stockholders of the Edge Corporation.

2. *Extension of the time within which interests acquired in satisfaction of a debt previously contracted must be disposed of by a investor.* Pursuant to section 211.5(e) of the Board's Regulation K, shares or other evidences of ownership acquired to prevent a loss upon a debt previously contracted in good faith must be disposed of promptly, but in no event later than two years after their acquisition, unless the Board authorizes retention for a longer period. In a delegation of authority pursuant to the Bank Holding Company Act and the Board's Regulation Y, the Board has previously delegated to the Reserve Banks the authority to extend the time limit for disposing of interests in a nonbanking organization acquired by a bank holding company in satisfaction of a debt previously contracted. 12 CFR 265.2(f)(12). The Board has delegated to the Reserve Banks the authority to grant extensions of time for such acquisitions of interests in foreign companies.

3. *Extension of time for a bank holding company to accomplish a purchase of stock authorized by section 4(c)(13) of the Bank Holding Company Act and Regulation K.* The Board has previously delegated to the Reserve Banks the authority to extend the time within which an Edge or Agreement Corporation or a member bank may purchase stock that has been authorized by the Board pursuant to section 25 or 25(a) of the Federal Reserve Act if no material change has occurred in the general condition of the corporation or the member bank since such authorization. (12 CFR 265.2(f)(45)). Since a bank holding company may also be an "investor" under Regulation K, the Board believes it consistent to authorize the Reserve Banks to extend the time within which a bank holding company may accomplish a purchase of stock that has been authorized by the Board pursuant to section 4(c)(13) of the Bank Holding Company Act.

4. *Conversion of an Edge Corporation to a branch of an affiliated Edge Corporation.* Pursuant to Regulation K, an Edge Corporation may, with prior Board approval, establish branches in the United States. In acting on an application to establish a branch, the Board considers the financial condition and history of the Edge Corporation, the general character of its management, the convenience and needs of the community to be served with respect to international banking and financing services, and the effects of the establishment of the branch on competition. The establishment of an Edge Corporation branch through the conversion of an existing Edge Corporation does not usually raise issues under the above factors. The Board has delegated the approval of the establishment of such branches to the Reserve Banks.

5. *Requirement that an application for specific consent be filed with the Board.* Under Section 211.5(c)(2) of the Board's Regulation K, certain investments may be made after the investor has given 60 days' prior written notice to the Board. During the notification period the Board may disapprove the investment, suspend the period or require that an application be filed by the investor for the Board's specific consent. Certain investments qualifying for the prior notification procedure might nevertheless raise issues that clearly warrant the Board's attention. Accordingly, the Board has delegated to the Director of the Division of Banking Supervision and Regulation and the Reserve Banks the authority to require that an application be filed for the Board's specific consent.

6. *Investment by a U.S. investor in its first subsidiary, joint venture, and portfolio investment where general consent provisions are not exceeded.* Pursuant to section 211.5(c) of the Board's Regulation K, an investor must receive prior specific consent before making an investment in its first subsidiary, its first joint venture and its first portfolio investment, unless an affiliate has made such an investment. Where such an investment could be made under the general consent provisions of section 211.5(c)(1)(i) but for its being the initial investment of a particular class, the investment is unlikely to raise a significant issue. The Board has delegated the authority to approve such investments to the Reserve Banks.

The provisions of 5 U.S.C. 553 relating to notice, public participation and deferred effective date are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*), the Federal Reserve Act (12 U.S.C. 226 *et seq.*) and the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*), the Board amend its Rules Regarding Delegation of Authority (12 CFR Part 265) in § 265.2 by adding paragraphs (c)(28), (f)(18) (iv) and (v), (f) (50), (51) and (52), and by revising paragraphs (f) (27) and (45) to read as follows:

§ 265.2 Specific function delegated to Bank employees and to Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(28) Pursuant to § 211.5(c)(2) of this Chapter (Regulation K), to require that an investor file an application for the Board's specific consent.

* * * * *

(f) *Each Federal Reserve Bank* is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving application or registration statements; as to its officers under paragraph (f)(23) of this section; and as to its own facilities under paragraph (f)(26) of this section:

* * * * *

(18) Under the provisions of the second paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 612) and § 211.4(a)(2) of this chapter (Regulation K), to issue to an Edge Corporation a final permit to commence business and to approve amendments to the Articles of Association of any "Edge Corporation" to reflect the following:

* * * * *

(iv) Any change in the name of such corporation; and

(v) Deletion of the requirement that all directors and shareholders of such corporation must be U.S. citizens.

* * * * *

(27) Under § 211.5(e) of this chapter (Regulation K), to extend the time within which an investor must divest itself of interests in a foreign portfolio investment, joint venture or subsidiary acquired in satisfaction of a debt previously contracted.

* * * * *

(45) To extend the time within which an Edge or Agreement Corporation or a member bank or a bank holding company may accomplish a purchase of stock pursuant to section 25 or 25(a) of the Federal Reserve Act or section 4(c)(13) of the Bank Holding Company Act if no material change has occurred in the general condition of the corporation, the member bank or the bank holding company since such authorization.

* * * * *

(50) Pursuant to § 211.4(c)(2) of this Chapter (Regulation K), to approve an Edge Corporation application to establish a branch that represents the conversion of an Edge Corporation to a branch of another Edge Corporation with the same parent.

(51) Pursuant to § 211.5(c) of this Chapter (Regulation K), to grant prior specific consent to an investor for an investment in its first subsidiary, its first joint venture, and its first portfolio investment, where such investment does not exceed the general consent limitations of § 211.5(c)(1)(i) of this Chapter.

(52) Pursuant to § 211.5(c)(2) of this Chapter (Regulation K), to require that an investor file an application for the Board's specific consent.

By order of the Board of Governors of the Federal Reserve System, December 30, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-152 Filed 1-7-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

Liquidity of Member Banks

Dated: December 31, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulation.

SUMMARY: These amendments implement recent statutory authority by permitting member institutions of the Federal Home Loan Bank System to invest in certain highly rated corporate debt obligations and commercial paper for the purpose of satisfying their liquidity requirements.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: David J. Bristol, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552, telephone number 202-377-6461.

SUPPLEMENTARY INFORMATION: Section 325 of the Housing and Community Development Act of 1980 (Pub. L. 96-399, 94 Stat. 132 (1980)) provides that, subject to Federal Home Loan Bank Board approval, liquid assets held by Federal Home Loan Bank member institutions may include highly rated corporate debt obligations with a period of three years or less remaining until maturity and highly rated commercial paper with a period of 270 days or less remaining until maturity. In addition, the Act provides that the Board may approve as liquid assets unpledged deposits in the Savings Bank Trust Company, New York, New York.

Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a), imposes upon the Board the responsibility of maintaining the liquidity of member institutions to ensure "sound mortgage credit and a more stable supply of such credit," and to enable institutions "to meet withdrawals or to pay obligations" in an emergency. In order to provide that a reliable reserve always exists for such purposes, the Board has limited liquidity investments to debt obligations that are both liquid and stable. The requirement that such an investment be liquid is to ensure that cash will be readily available to serve the purposes of Section 5A of the Act. The requirement of stability is necessary so that the liquidity reserve is not eroded by a decline in market value. On the basis of these standards, the Board has limited liquidity investments to assets that may be readily converted to cash, and that are subject to only limited changes in market value.

To implement the recent statutory changes, the Board is amending Part 523 of the regulations for the Federal Home Loan Bank System to allow member institutions to invest for liquidity purposes an amount not to exceed one percent of assets in the following instruments of one issuer: (1) non-convertable corporate debt obligations rated in one of the four highest ratings by the most recently published rating of such obligations by a nationally recognized investment rating service, and having a remaining period to maturity of three years or less; and (2) commercial paper rated in one of the two highest ratings by the most recently published rating of such paper by a nationally recognized investment rating service, and having a period remaining to maturity of 270 days or less. To preserve the liquidity and stability of these corporate instruments, the Board is requiring that eligible corporate debt obligations and commercial paper must be denominated in dollars, and that the issuers of such instruments must be domiciled in the United States. Further, since the presence of a provision in a corporate debt obligation allowing the conversion of such obligation to common stock would reduce the stability of the market value of such instruments, the Board believes it prudent to exclude from liquidity any corporate debt obligation containing a convertibility feature.

In adopting as appropriate the three-year maximum maturity for corporate debt obligations prescribed in this statute, the Board notes that such corporate obligations, while less liquid than U.S. Treasury obligations for which five-year maturities are authorized by this Part, are somewhat more liquid than local government securities for which only two-year maturities are authorized. Further, except for the three-year maximum maturity, the exclusion of convertible obligations, and the requirement that such instruments continue to be highly rated, the eligibility requirements that corporate debt obligations and commercial paper must satisfy for liquidity are substantially identical to the requirements for investment by Federal associations as set forth in new § 545.9-4 adopted by the Board on November 10, 1980 (Board Resolution No. 80-701; 45 FR 76104, published on November 18, 1980).

The Board is also amending paragraph (h) of § 523.10 to provide that corporate debt obligation and commerical paper qualifying under paragraph (g) having a period remaining to maturity of six months or less are eligible as short-term liquid assets. The six-month maturity requirement for these instruments was chosen because the Board believes that corporate debt obligations and commercial paper, like time deposits, bankers' acceptances, and state and local government issues, are less consistently liquid and stable than eligible United States Treasury and Federal agency securities for which maturities of up to one year are authorized by paragraph (h).

The Board is also amending Part 523 to allow member institutions to invest for liquidity purposes in time deposits in the Savings Bank Trust Company, New York, New York.

Since the Board believes that there is a current need to expand investment powers under the liquidity regulations to enable member institutions to cope with rapidly changing market conditions, and because these amendments directly implement a statutory mandate and relieve prior restriction, the Board finds that observance of the notice and comment provisions of 12 CFR 508.11 and 5 U.S.C. 553(b) and the 30-day delay of effective date provision of 12 CFR 508.14 and 5 U.S.C. 553(d) are unnecessary and contrary to the public interest.

Accordingly, the Board hereby amends Part 523 of Subchapter B, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

1. Amend § 523.10(g) by amending subparagraph (1); removing the word "and" at the end of subparagraph (6) thereof; removing the period at the end of subparagraph (7) thereof, and replacing it with a semicolon; redesignating subparagraph (7) as subparagraph (8) and inserting new subparagraph (7) thereto; and amend § 523.10(h) by removing the word "and" at the end of subparagraph (5) thereof; removing the period at the end of subparagraph (6) thereof, and replacing it with a semicolon; redesignating subparagraph (6) as subparagraph (7); and inserting new subparagraph (6) thereto; to read as follows:

§ 523.10 Definitions for the purposes of this section and §§ 523.11 and 523.12.

* * * * *

(g) *Liquid assets.*

(1) Time deposits in a Bank, the Bank for Savings and Loan Associations, Chicago, Illinois, or the Savings Bank Trust Company, New York, New York;

* * * * *

(7) Corporate debt obligations and commercial paper denominated in dollars and issued by a corporation domiciled in the United States, if: (i) such corporate debt obligations (*a*) continue to be rated in one of the four highest grades by the most recently published rating of such obligations by a nationally recognized investment rating service, (*b*) will mature in 3 years or less, and (*c*) are not convertible to common stock;

(ii) Such commercial paper (*a*) continues to be rated in one of the two highest grades by the most recently published rating of such paper by a nationally recognized investment rating service, and (*b*) will mature within 270 days or less;

Provided, that an amount not in excess of 1 percent of such institution's assets invested in eligible corporate debt obligations or commercial paper of a single issuer shall be counted as a liquid asset;

* * * * *

(h) *Short-term liquid assets.*

* * * * *

(6) Corporate debt obligations and commercial paper specified in paragraph (g)(7) of this section which will mature in 6 months or less;

* * * * *

(Sec. 25, 94 Stat. 1649, Pub. L. 96–339; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 81–680 Filed 1–7–81; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-74; Amdt. 39-4016]

Airworthiness Directives; AVCO Lycoming O-235 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Lycoming O-235 type aircraft engines and requires repetitive inspections of the push rods P/N 73806 for loose ball ends, bulging, splitting, proper length, and proper tappet clearance. This results from findings of damaged push rods which have led to eventual failure of the rods resulting in rough engine operation and power loss.

EFFECTIVE DATE: January 13, 1981. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: I. Mankuta, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of improperly manufactured push rods, P/N 73806, installed in certain O–235 series aircraft engines. The deficiency has caused the rod to compress in service resulting in engine roughness and power loss. Lacking visible evidence of damage, the deficiency can also be determined by improper tappet clearance. As a result of an accident which had not been determined to result from the deficiency involving one of the engines, the FAA determined nevertheless to issue AD 80–25–02 which was transmitted to all known operators and owners of the engines by air mail letter under date of November 25, 1980. Since a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by adding the following new Airworthiness Directive:

80–25–02 Avco Lycoming: Applies to O–235 series engines with Serial Numbers L–12500–15 thru L–20676–15 inclusive, all remanufactured O–235 series engines, regardless of serial number, shipped between December 10, 1976, and November 8, 1979, and all O–235 series engines regardless of serial number that had pushrods replaced between December 10, 1976, and November 24, 1980.

Model O–235 series engines are installed in but not limited to, Piper PA–38–112, Cessna 152, Gulfstream American AA1C, Beech 77, and Bellanca 7ECA aircraft.

This AD does not apply to O–235 series engines incorporating eight pushrods P/N 73806, identified by revision letter K or subsequent revision letter, or by code T–T, –85 or the symbol ≠ as described in Lycoming Service Bulletin No. 453 or a subsequent approved revision.

Compliance with this AD is also required by the following engine serial numbers which were previously exempt by Emergency Airworthiness Directive 80–25–02 RI:

L–15619–15
L–16333–15
L–17291–15
L–17644–15
L–18054–15
L–18055–15
L–18073–15
L–18074–15
L–18141–15
L–18142–15
L–18207–15
L–18206–15
L–18502–15
L–18503–15
L–18601–15
L–18948–15
L–18949–15
L–18950–15
L–18951–15
L–19028–15
L–19029–15
L–19030–15
L–19031–15
L–19145–15
L–19146–15
L–19147–15
L–19148–15
L–19149–15
L–19766–15
L–19767–15
L–19768–15
L–19990–15
L–19991–15
L–19992–15
L–19993–15
L–19994–15
L–19995–15
L–19996–15

L-19997-15
L-19998-15
L-20155-15
L-20156-15
L-20157-15
L-20158-15
L-20172-15
L-20173-15
L-20174-15
L-20175-15
L-20176-15
L-20242-15
L-20243-15
L-20244-15
L-20245-15
L-20246-15
L-20323-15
L-20324-15
L-20325-15
L-20326-15
L-20327-15
L-20384-15
L-20385-15
L-20386-15
L-20387-15
L-20388-15
L-20389-15
L-20428-15
L-20429-15
L-20430-15
L-20431-15
L-20432-15
L-20460-15
L-20461-15
L-20462-15
L-20463-15
L-20464-15
L-20523-15
L-20524-15
L-20525-15
L-20526-15
L-20527-15
L-20609-15
L-20610-15
L-20611-15
L-20612-15

Compliance required as indicated:

In order to prevent failures of engine pushrods which can cause rough engine operation and power loss, accomplish the following:

1. Prior to further flight, remove all eight pushrods and inspect for loose ball ends and evidence of bulging and splitting of the pushrod tubing. Measure the length of the pushrod assembly. The overall length shall not be less than $11\frac{13}{32}$ inches. If all these conditions are satisfactory set valve clearances in accordance with Paragraph 8 of Lycoming Service Instructions Nos. 1388A dated January 25, 1980, and 1068A dated September 1, 1978. If any pushrod is found damaged or is less than the specified dimension noted above, replace with a serviceable part prior to further flight.

2. With 25 hours in service after the effective date of this AD and every 25 hours thereafter, measure and record valve tappet clearances in accordance with Lycoming Service Instructions 1388A and 1068A. If any valve clearance increases more than .015 inch since the last 25 hour inspection, remove the pushrod and inspect for damage and shortening in accordance with Item 1 above.

3. The 25 hour repetitive inspection described in Paragraph 2 above may be discontinued upon installation of P/N 73806 pushrods which have been identified by one of the codes specified in this AD.

4. A special flight permit may be issued in accordance with FAR 21.197 to fly the aircraft to a base where the above inspections may be accomplished.

5. Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Beech Aircraft Corp. Executive Airplane Service Communique No. 52 dated December 16, 1980, pertains to this subject)

This Amendment becomes effective Jan. 13, 1981, to all persons except those to whom it was made effective by airmail letters dated November 25, 1980, November 28, 1980, and December 3, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in Jamaica, New York, on December 29, 1980.

Irving Mark,

Acting Director, Eastern Region.

[FR Doc. 81-696 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-63-AD; Amdt. 39-4013]

Airworthiness Directive; Lockheed-California Company Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness Directive (AD) which requires inspection to detect a possible loose rudder servo plate on Lockheed L-1011 series airplanes, and corrective action where necessary. This Airworthiness Directive is prompted by reports of a loose rudder servo retainer plate in service, which in one instance resulted in a jammed rudder during a training flight.

DATES: Effective date January 18, 1981. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, Post Office Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1.

Also, a copy of the service information may be reviewed at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108; or 15000 Aviation Blvd., Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Harvey Chimerine, Aerospace Engineer, Airframe Branch, ANW-120L, Los Angeles Area Aircraft Certification Office, Federal Aviation Administration, Northwest Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone (213) 536-6359.

SUPPLEMENTARY INFORMATION: There have been reports of looseness of rudder retainer plate P/N 1559161-102 which, in one case, came loose and fell between bungee P/N 1604162-107 and servo valve brace assembly P/N 1519240-101, jamming the rudder on a Lockheed L-1011-385 series airplane. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection for looseness, rebonding, and retainer clip installation on rudder servo retainer plate P/N 1559161-101/-102 in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region. Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231 has been approved as a means of compliance with this Airworthiness Directive.

It is estimated that 70 aircraft will be affected by this Airworthiness Directive, that it will take approximately 2.6 manhours per aircraft to accomplish the required actions, and that the average labor cost per manhour will be $35. Based on these figures, the total cost impact of this AD is estimated to be $6,370.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Lockheed-California: Applies to all Model L-1011 series airplanes certificated in all categories. Compliance required as indicated unless already accomplished. To prevent possible rudder jamming, accomplish the following:

A. Inspect all aircraft within 300 hours time in service after the effective date of this Airworthiness Directive in accordance with the following:

(1) Visually inspect the rudder servo retainer plates, P/N 1559161-101/-102, in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

Note.—Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231, dated November 25, 1980, has been approved as a means of compliance with this requirement.

(2) If rudder servo plates, P/N 1559161-101/-102, are found loose, repair and install retainer clips in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

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Note.—Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231, dated November 25, 1980, has been approved as a means of compliance with this requirement.

(3) Within the next 1,500 hours time-in-service after the effective date of this Airworthiness Directive, install retainer clips in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

Note.—Accomplishment of Lockheed L-1011 Service Bulletin 093-27-231, dated November 25, 1980, has been approved as a means of compliance with this requirement.

(4) If a retainer clip has been installed in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region, no further action is required.

(5) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

This amendment becomes effective January 18, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12004 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on December 29, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-596 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ANW-15]

Designation of Control Zone, Oak Harbor, Wash.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a control zone at Oak Harbor, Washington, to provide controlled airspace to protect aircraft executing instrument operations at Oak Harbor Airport. Weather observation and reporting is now available at Oak Harbor Airport and complete the criteria needed for control zone establishment.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANW-534), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

History

On September 4, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a part-time control zone at Oak Harbor, Washington (45 FR 60920). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. This is the same amendment as that proposed in the notice. § 71.171 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 356).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) is amended, effective 0901 GMT, February 19, 1981, by adding a control zone at Oak Harbor, Washington, to read as follows:

Oak Harbor, Washington

Within a 5-mile radius of the Oak Harbor Air Park Airport (latitude 48°15'06"N, longitude 122°40'40"W), excluding the portion within the Whidbey Island, Washington, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Washington, December 24, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 81-458 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AWA-24]

Facility Name Change; Port of Columbus (Ohio) International Airport, Grandview LOM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The name of the Grandview LOM (Outer Marker Compass Locator) at the Port of Columbus International Airport, has been changed to "SHOWE". "SHOWE" is currently depicted on the instrument approach procedure charts. This amendment substitutes the name "SHOWE" in the description of the Columbus, Ohio, Control Zone where Grandview appears; thereby updating the control zone description and eliminating the possibility of confusion.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the description of the Columbus, Ohio (Port Columbus International Airport), control zone by substituting the name "SHOWE" where Grandview appears in the text. The name of the Grandview LOM (Outer Marker Compass Locator) has been changed to "SHOWE". Since this amendment is editorial in nature, it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. Section 71.171 of Part 71 was republished in the **Federal Register** on January 2, 1981 (46 FR 353).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 353) is amended, effective 0901 GMT, February 19, 1981, as follows:

Under Columbus, Ohio (Port Columbus International Airport) "within 2 miles each side of the 094° bearing from the Grandview LOM, extending from the 6-mile radius zone to 2 miles east of the Grandview LOM" is deleted and "within 2 miles each side of the 094° bearing from the SHOWE LOM, extending from the 6-mile radius zone to 2 miles east of the SHOWE LOM" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 2, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-507 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 21244; Amdt. No. 1181]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective February 19, 1981*

Dothan, AL—Wheelless, VOR-B, Amdt. 4
Barrow, AK—Wiley Post-Will Rogers Memorial, VOR Rwy 24, Amdt. 1
Yakutat, AK—Yakutat, VOR Rwy 11, Amdt. 11
Yakutat, AK—Yakutat, VOR Rwy 29, Amdt. 3
Yakutat, AK—Yakutat, VOR/DME Rwy 2, Original
Kamuela, HI—Waimea-Kohala, VOR Rwy 4, Amdt. 8
Kamuela, HI—Waimea-Kohala, VOR-A, Amdt. 6
Peoria, IL—Greater Peoria, VOR Rwy 12 (TAC), Amdt. 17
Ironwood, MI—Gogebic County, VOR Rwy 9, Amdt. 10
Ironwood, MI—Gogebic County, VOR/DME Rwy 27, Amdt. 6

Columbus-West Point-Starkville, MS—Golden Triangle Regional, VOR-D, Amdt. 3
Columbus-West Point-Starkville, MS—Golden Triangle Regional, VOR/DME-E, Amdt. 3
Poughkeepsie, NY—Dutchess County, VOR-A, Amdt. 10
Poughkeepsie, NY—Dutchess County, VOR/DME Rwy 6, Amdt. 3
Poughkeepsie, NY—Dutchess County, VOR/DME or TACAN Rwy 24, Amdt. 3
Quakertown, PA—Quakertown, VOR Rwy 11, Amdt. 3, cancelled
North Kingstown, RI—Quonset State, VOR-A, Original

* * * *Effective December 16, 1980*

Washington, DC—Washington National, VOR/DME Rwy 18, Amdt. 6

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective February 19, 1981*

Barrow, AK—Wiley Post-Will Rogers Memorial. LOC/DME BC Rwy 24, Original
Columbus-West Point-Starkville, MS—Golden Triangle Regional, LOC/DME BC Rwy 36, Amdt. 3
Niagara Falls, NY—Niagara Falls Intl, LOC (BC) Rwy 10L, Amdt. 3

* * * *Effective January 22, 1981*

Oakland, CA—Metropolitan Oakland Intl, LOC Rwy 11, Amdt. 1, cancelled
Atlanta, GA—DeKalb-Peachtree, LOC Rwy 20L, Amdt. 3, cancelled

* * * *Effective December 24, 1980*

Jamestown, ND—Jamestown Muni, LOC/DME BC Rwy 12, Amdt. 4
Bismarck, ND—Bismarck Muni, LOC/DME BC Rwy 13, Amdt. 6
Watertown, SD—Watertown Muni, LOC/DME BC Rwy 17, Amdt. 4
Huron, SD—Huron Regional, LOC/DME BC Rwy 30, Amdt. 6

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective February 19, 1981*

Barrow, AK—Wiley Post-Will Rogers Memorial, NDB Rwy 6, Amdt. 4
Barrow, AK—Wiley Post-Will Rogers Memorial, NDB Rwy 24, Amdt. 4
Port Heiden, AK—Port Heiden, NDB Rwy 5, Amdt. 2
Port Heiden, AK—Port Heiden, NDB Rwy 13, Amdt. 2
Sand Point, AK—Sand Point, NDB/DME-A, Amdt. 1
Yakutat, AK—Yakutat, NDB Rwy 11, Amdt. 1
Niagara Falls, NY—Niagara Falls Intl, NDB Rwy 28R, Amdt. 13
Hillsboro, OH—Highland County, NDB Rwy 5, Amdt. 1
Hillsboro, OH—Highland County, NDB Rwy 23, Amdt. 1
Sheridan, WY—Sheridan County, NDB Rwy 31, Original
Ft. Scott, KS—Ft. Scott Muni, NDB Rwy 17, Amdt. 5

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective February 19, 1981*

Yakutat, AK—Yakutat, ILS Rwy 11, Amdt. 3
Columbus-West Point-Starkville, MS—Golden Triangle Regional, ILS Rwy 18, Amdt. 3
Niagara Falls, NY—Niagara Falls Intl, ILS Rwy 28R, Amdt. 18
Poughkeepsie, NY—Dutchess County, ILS Rwy 6, Amdt. 2

* * * *Effective January 22, 1981*

Oakland, CA—Metropolitan Oakland Int'l, ILS Rwy 11, Original
Atlanta, GA—DeKalb-Peachtree, ILS Rwy 20L, Original

* * * *Effective December 29, 1980*

Coeur d'Alene, ID—Coeur d'Alene Air Terminal, ILS Rwy 5, Amdt. 1

* * * *Effective December 25, 1980*

Marysville, CA—Yuba County, ILS Rwy 14, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective February 19, 1981*

Peoria, IL—Greater Peoria, RADAR-1, Amdt. 6

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective February 19, 1981*

Peoria, IL—Greater Peoria, RNAV Rwy 12, Amdt. 1
Poughkeepsie, NY—Dutchess County, RNAV Rwy 6, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on January 2, 1981.

John S. Kern,
Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 81-598 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3052]

Farnam Companies, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Phoenix, Ariz. firm and its corporate officer, engaged in the manufacture, advertising, sale and distribution of pesticide products, to cease representing, through print and broadcast advertising or otherwise, that their pesticide products are absolutely or unqualifiedly safe, non-toxic or free of hazard to humans, pets, wildlife or the environment; or making any representation that is inconsistent or which detracts from the effectiveness of required warnings or directions for use set forth on pesticide product labels. The firm is further prohibited, for a period of three years, from disseminating advertising or promotional material which fails to include a warning statement as designated in the order.

DATES: Complaint and order issued December 11, 1980.*

FOR FURTHER INFORMATION CONTACT: Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837-2271.

SUPPLEMENTARY INFORMATION: On Tuesday, Sept. 30, 1980, there was published in the **Federal Register**, 45 FR 64596, a proposed consent agreement with analysis In the Matter of Farnam Companies, Inc., a corporation, and Russell W. McCalley, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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* Copies of the Complaint and the Decision and Order filed with the original document.

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The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.85 Government approval, action, connection or standards; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service;§ 13.195 Safety; 13.195–60 Product. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–40 Furnishing information to media. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 81-652 Filed 1-7-81; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-3053]

Murata Manufacturing Co., Ltd.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, "Murata," a Japanese manufacturer and seller of electronic components, including various types of ceramic capacitors, to divest itself of the Arizona Division of Erie Technological Products, Ltd. (ETP), to a Commission-approved buyer within nine months from the effective date of the order. Should Murata fail to divest ETP's Arizona Division in the specified time, it must divest the entire company to an eligible party within the four months following the initial divestiture period. Respondent is further required to hold ETP's business and assets completely separate and apart from its business and assets pending divestiture, and barred from acquiring, without prior Commission approval, certain firms engaged in the manufacture or sale of ceramic capacitors.

DATES: Complaint and order issued December 16, 1980.*

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Thursday, October 2, 1980, there was published in the **Federal Register**, 45 FR 65252, a proposed consent agreement with analysis in the Matter of Murata Manufacturing Co., Ltd., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5–20 F.T.C. Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 81-649 Filed 1-7-81; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35-21863; File No. S7-846]

Statements of Beneficial Ownership of Securities of Registered Holding Companies and Their Subsidiaries

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending Rule 72(b) to clarify that rules adopted under section 16 (a) and (b) of the Securities Exchange Act of 1934 ("1934 Act"), including exemptive rules, shall apply equally to any reporting requirements or liability imposed by section 17 (a) and (b) of the Public Utility Holding Company Act of 1935 ("1935") with respect to a transaction involving any security of a registered holding company or subsidiary thereof. The amendment resolves a conflict in the coverage of sections 16 and 17 that has resulted in questions about the applicability of the Commission's rules under section 16 (a) and (b) to transactions involving the securities of registered holding companies and their subsidiaries.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie, Associate Director, Division of Corporate Regulation, (202) 523-5156, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today announces the adoption of an amendment to Rule 72(b) under the 1935 Act which will eliminate an unnecessary distinction between the application of existing rules, including exemptions, under section 16 (a) and (b) of the 1934 Act regarding the filing of statements of beneficial ownership and the liability for short-swing profits by certain corporate insiders to the parallel reporting and liability provisions of section 17 (a) and (b) of the 1935 Act. As amended, Rule 72(b) provides that all rules adopted under section 16 (a) and (b) of the 1934 Act shall apply equally to transactions involving any security of a registered holding company or any subsidiary thereof, to the extent that any such rule would be pertinent.

The amendment resolves a statutory conflict between section 16 of the 1934 Act and section 17 of the 1935 Act that left in doubt the legality of certain transactions involving securities, other than the equity securities, of registered holding companies and their subsidiaries. Section 16 (a) and (b) of the 1934 Act, and the rules thereunder, apply only to transactions in equity securities registered under section 12 of the 1934 Act, while section 17 (a) and (b) apply to transactions involving all of the securities of registered holding companies and their subsidiaries. Paragraph (b) of Rule 72, adopted March 9, 1961 (HCAR No. 14383), eliminated the duplication in reporting requirements of section 16(a) of the 1934 Act and section 17(a) of the 1935 Act by applying the rules under section 16(a) to the statements of beneficial ownership required by section 17(a) and Rule 72(a) thereunder, but did not expressly apply the Commission's rules exempting certain transactions from liability for short-swing profits under section 16(b) to transactions which are subject to potential liability under section 17(b).

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*Copies of the Complaint and Decision and Order filed with the original document.

The Commission has concluded that insider trading in the securities of registered holding companies and their subsidiaries involves no greater opportunity for abuse than insider trading in the securities of other issuers, and that it would be in the public interest to eliminate the unnecessary distinction which now exists in the Commission's rules under sections 16 and 17.

The proposed amendment to Rule 72(b) was published for comment in HCAR No. 21662 (July 22, 1980) (45 FR 49957). The Commission received six letters in response to its invitation for comments, all recommending adoption of the amendment as published. No changes in the text of the amendment are considered necessary.

Statutory Basis and Text of the Amendment

The Securities and Exchange Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations, pursuant to its authority under the Public Utility Holding Company Act of 1935 [15 U.S.C. 79a et seq.], and particularly sections 17 (a) and (b) and 20(a) thereof [15 U.S.C. 79q (a) and (b) and 79t(a)]], by amending paragraph (b) of § 250.72 to read as set forth below. This action is effective immediately pursuant to the Administrative Procedure Act [5 U.S.C. 553(d)(1)].

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Paragraph (b) of § 250.72 is revised to read as follows:

§ 250.72 Filing of statements pursuant to section 17(a).

* * * * *

(b) The rules under section 16 (a) and (b) of the Securities Exchange Act of 1934, including any rules which exempt a transaction from the duties or liabilities of section 16 (a) or (b), shall apply to any duty or liability imposed with respect to a transaction involving any security of a registered holding company or subsidiary thereof under section 17 (a) or (b) of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 31, 1980.

[FR Doc. 81-461 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM81-9]

Incremental Pricing; Rule Adopting Revised Alternative Fuel Price Ceilings for the State of Kentucky

Issued December 24, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim rule.

SUMMARY: This rule amends § 282.404(a) of the Commission's regulations implementing the Natural Gas Policy Act of 1978. Specifically, the amendment provides that the alternative fuel price ceilings applicable to the State of Kentucky for December 1980 and January 1981 are the ceilings set forth in § 282.404(a)(3), rather than the ceilings previously published by the Energy Information Administration (EIA). The Commission is taking this action on the basis of its finding that the substantial differential between the price ceilings in Kentucky and those in the neighboring state of Ohio should be reduced, on an interim basis, until such time as the Commission acts in the generic rulemaking (Notice of Inquiry, Docket No. RM79-21, 45 FR 74505, November 10, 1980) dealing with alternative fuel ceiling prices.

The Commission is also directing the EIA to publish the Region D ceiling price, rather than the state price, for Kentucky for the months following January 1981, until the Commission acts in Docket No. RM79-21.

DATES: Interim Rule effective December 24, 1980, Comments due: January 23, 1981. Public Hearing: January 19, 1981.

ADDRESSES: All comments and requests to participate to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Public Hearing to be held at: Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 (Room to be announced).

FOR FURTHER INFORMATION CONTACT: Thomas Gross, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, (202) 357-8077 (or) Colette Bohatch, Office of the General Counsel, (202) 357-8140.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending, on an interim basis, its regulations on incremental pricing (18 CFR Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432). Specifically, § 282.404(a) is amended to provide that the alternative fuel price ceilings for Kentucky, for the months of December 1980 and January 1981, are the ceilings set forth in § 282.404(a)(3), rather than the ceilings previously published by the Energy Information Administration (EIA) of the Department of Energy. Further, the Commission is directing the EIA to publish the regional alternative fuel price ceiling for Region D as the alternative fuel price ceiling for Kentucky for months following January 1981, until the Commission takes final action on the generic rulemaking in Docket No. RM79-21.

II. Background

Title II of the NGPA requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as industrial boiler fuel. Section 204(e) of the NGPA directs the Commission to establish ceilings on gas prices charged to incrementally priced users, based on the cost of alternative fuel oils in each region designated by the Commission.

Under the Commission's regulations implementing section 204(e), alternative fuel price ceilings for each month are published in the **Federal Register** on, or before, the twentieth day of the month preceding their effective date. The ceiling for each region is calculated by a formula which uses the price of high-sulfur No. 6 fuel oil observed in that region during a previous period. The collection of data, the application of the formula, and the publication of the ceilings are performed by the EIA, in accordance with its statutory responsibilities. (Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Department of Energy Delegation Order No. 0204-3, October 1, 1977.)

In its initial regulations implementing the incremental pricing program (Docket No. RM79-21, Order No. 50, issued September 28, 1979, 44 FR 57754, October 5, 1979), the Commission implemented two sets of designated regions: (1) 48 regions, each region being one of the 48 continental states; and (2) eight multistate regions, labeled Regions A through H. The 48 state regions are to be used for purposes of calculating the regional alternative fuel price ceilings. However, if available data for a particular state are insufficient to permit calculation of a price ceiling for that state, the price ceiling for that state is the price ceiling calculated for the multistate region in which the state is located.

Due, in part, to its recognition that, in some cases, alternative fuel price ceilings vary significantly in neighboring states, raising questions of inequity and possible fuel switching, the Commission recently instituted a rulemaking proceeding in Docket No. RM79-21 for the purpose of re-examining both the designation of incremental pricing regions and the methodology for calculating the price ceilings in those regions. On November 4, 1980, the Commission issued a Notice of Inquiry (Notice) in that docket (45 FR 74505, November 10, 1980), requesting public comment on possible revisions suggested in the Notice.

In other dockets, several persons filed documents with the Commission, stating that the published alternative fuel price ceilings for Kentucky are inequitably and substantially higher than the price ceilings in neighboring states. These persons have urged the Commission to eliminate the inequity by substituting the price ceiling calculated for the multistate region in which Kentucky is located (Region D) for the price ceiling calculated for Kentucky. The substance of these filings is discussed below.

III. Discussion

On October 7, 1980, Armco, Inc. (Armco) filed with the Commission, in Docket No. SA81-1-000, an application for a staff adjustment pursuant to section 502(c) of the NGPA and § 1.41 of the Commission's regulations. Armco stated that under the incremental pricing provisions of Title II of the NGPA and under the Commission's regulations, Armco has been required to pay incremental pricing surcharges that have raised the price it pays for natural gas substantially above both the national average and the average in its neighboring state of Ohio. Armco requested that the Commission:

> Substitute for the posted price in the State of Kentucky the regional average price, notwithstanding that there may have been technically sufficient sales in each of the test months to trigger the operation of the methodology contained in Order Nos. 50 and 51 rather than substituting the regional average.[1]

Similarly, on November 26, 1980, the Commission received an application for a staff adjustment pursuant to section 502(c) of the NGPA from Louisville Gas and Electric Company (Louisville), in Docket No. SA81-9-000, stating that the price ceiling for Kentucky has consistently exceeded the alternative fuel price ceilings for each of the remaining Region D states by a substantial margin. Louisville requested the Commission to issue a clarifying amendment to Order No. 50 requiring the EIA to use regional sales data when statistically valid price data are unavailable for the state region.

On November 5, 1980, the Commission received a letter from the Office of the Secretary, the Kentucky Department of Energy (KDOE) stating, among other things, that the price ceiling in the State of Kentucky is not based on a valid statistical sample. KDOE urged that the Commission "place the Kentucky incremental natural gas ceiling price at the regional price and that the action be made retroactive to August 1, 1980."

On December 10, 1980, the Associated Industries of Kentucky and Dow Corning Corporation (collectively Petitioners) filed with the Commission, in Docket No. RM79-21, a petition for an Interim Rule for the State of Kentucky pursuant to section 501(a) of the NGPA and § 1.7(b) of the Commission's regulations.[2] In their application, Petitioners state that Kentucky's price ceiling is unfairly and unreasonably high due to the EIA methodology and will result in fuel switching. Petitioners requested the Commission to issue an interim rule for the State of Kentucky which will use the sales of high-sulfur No. 6 fuel oil in a multistate region[3] for computing the price ceiling for Kentucky.

The Commission notes that there has been a recurring substantial price differential between the published price ceilings for the States of Kentucky and Ohio as the following list indicates:

	Kentucky (MMBtu)	Ohio (MMBtu)
September, 1980	3.51	2.20
October, 1980	3.53	2.14
November, 1980	3.49	2.11
December, 1980	3.41	2.29
January, 1981	4.35	2.87

As discussed above, the Commission is analyzing, in the context of the generic rulemaking in Docket No. RM79-21, the differences in the alternative fuel price ceilings among nearby states and the possibility of undesirable and unnecessary fuel switching or inequities among competing companies. The Commission has accorded a high priority to this rulemaking and is currently considering alternative methodologies for computing the price ceilings. However, comments submitted at informal public conferences conducted in connection with that rulemaking proceeding have urged the Commission to devote additional study to potential revisions before formulating a generic rule revising the current methodology. The Commission agrees, but recognizes that the time required for additional study will preclude, in the interim, providing to incrementally priced end-users in Kentucky relief that might result from the generic rulemaking revising the methods for computing alternative fuel price ceilings.

The Commission has investigated the oil and gas transactions in Kentucky and Ohio and the manner in which the alternative fuel price ceilings reflect those transactions. The Commission is persuaded that until such time as the substantial price differential between these states is addressed in the generic rulemaking in Docket No. RM79-21, good cause exists to reduce this differential on an interim basis.

When this matter is taken up in the context of the generic rulemaking, the differences between the Ohio and Kentucky ceilings may, in fact, be found to be warranted. However, because the Commission has decided to proceed with further study before acting on a generic rule, it believes the public interest requires interim action to prevent any disadvantage or inequity to incrementally priced users in Kentucky.

Accordingly, the Commission believes that good cause exists to direct the EIA to use the Region D price ceiling as the price ceiling for Kentucky, pending final action in Docket No. RM79-21.

Because any incremental pricing surcharges incurred in December 1980 will not be billed until the beginning of January 1981, the regional methodology is made effective for the billing month of December 1980. The Commission denies the request of KDOE to make the rulemaking retroactive to August 1, 1980, because surcharges incurred before December, 1980 have already been billed. The administrative burdens to interstate pipelines and local distribution companies of making adjustments to those surcharges at this time outweigh any benefit to be gained.

In order to effect application of this regional methodology with respect to the months of December 1980 and January 1981, this rulemaking adds § 282.404(a)(3) to the Commission's incremental pricing regulations. The new section establishes that the Region D price ceilings for December 1980 and January 1981 supersede the alternative

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[1] Armco's Supplemental Application for a Staff Adjustment, Docket No. SA81-1-000 filed October 14, 1980.

[2] The issuance of this interim rule will serve as notice of petitioner's application for an interim rule.

[3] Petitioner states that the Commission could use either the multistate regional grouping originally suggested in Order No. 50 (Region D), or the revised grouping suggested in the Commission's Notice of Inquiry issued November 4, 1980, Docket No. RM79-21.

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fuel price ceilings for Kentucky previously published by the EIA. Based on data provided by the EIA, the Region D price ceiling is $2.70/MMBtu for December 1980 and is $3.28/MMBtu for January 1981.

In order to effect application of the regional methodology with respect to months following January 1981, until the time the generic rulemaking is completed, the Commission is requesting the Executive Director of the Commission to send an amended Data Services Request (DSR) to the EIA. The DSR will direct the EIA to publish the regional average price ceiling for Region D as the price ceiling for Kentucky, until the Commission takes final action on the generic rulemaking in Docket No. RM79-21. The interim rule amends Appendix I to Subpart D of Part 282 to conform to this change.

IV. Effective Date

The Commission believes that because it has decided to proceed with further study before acting on a generic rule, failure to grant immediate relief to incrementally priced end-users in Kentucky would be contrary to the public interest. Accordingly, the Commission finds that good cause exists in accordance with 5 U.S.C. 553(b) and (d) to make this rule effective immediately as an interim rule, applicable to the price ceilings for Kentucky for December 1980 and thereafter until the Commission takes final action on the generic rule in Docket No. RM79-21. The Commission will afford an opportunity for interested persons to present views and comments, as set forth below, before the rule is adopted in final form.

V. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this interim rule. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, and should reference Docket No. RM81-9. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EST, January 23, 1981, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 100, 825 North Capitol Street NE., Washington, D.C., during regular business hours.

B. Public Hearing

Interested persons may request the opportunity for an oral presentation of their views at a public hearing. Requests for an oral hearing should be submitted no later than January 7, 1981, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM81-9. If any requests are received by that time, the hearing will be held on January 19, 1981, at the above address, and will be announced by January 12, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission amends Subpart D, Part 282, Subchapter I, of Chapter I, Title 18 of the *Code of Federal Regulations*, on an interim basis, as provided below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 282.404(a) is amended by adding subparagraph (3) to read as follows:

§ 282.404 Alternative fuel price ceilings.

(a) *General rule.*

* * * * *

(3) for the months of December 1980 and January 1981, the alternative fuel price ceilings for Kentucky are $2.70 per million Btu's and $3.28 per million Btu's, respectively. The alternative fuel price ceilings set forth in this subparagraph supersede those price ceilings published previously.

2. Appendix I to Subpart D of Part 282 is amended by revising the paragraph following the list of 31 metropolitan regions to read as follows:

The following are multistate regions which may be used by the Commission in deriving alternative fuel price ceilings for state incremental pricing regions (1) for which statistically valid samples of oil prices may be unavailable, or (2) where the Commission determines that the public interest requires use of the regional ceiling in place of the state ceiling.

[FR Doc. 81-525 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

Traffic Control Devices on Federal-Aid and Other Streets and Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises and consolidates the existing regulation which prescribes procedures for obtaining basic uniformity of traffic control devices on all streets and highways as prescribed in the Manual on Uniform Traffic Control Devices (MUTCD).

EFFECTIVE DATE: January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Donald P. Ryan, Chief, Signs and Markings Branch, Office of Traffic Operations, 202-426-0411, or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0761. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The MUTCD[1] has been approved by the Federal Highway Administrator as the national standard for all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The MUTCD has been also specifically approved by the FHWA for application on all Federal-aid highway projects (23 CFR 625.3(c)(1)).

The exisiting regulation on the MUTCD appears as Subpart F of Part 655 of title 23, Code of Federal Regulations (23 CFR Part 655F).

A notice of Proposed Rulemaking (NPRM) was published on September 27, 1979, under FHWA Docket No. 79-17 (44 FR 55598). The NPRM proposed to amend the existing regulation for traffic control devices on Federal-aid and other streets and highways to eliminate redundant and inapplicable material and to reorganize and consolidate the remaining provisions.

Based upon a review of comments received in response to the NPRM, the FHWA is making final revisions to the existing regulation. The revisions delete information pertaining to movable bridges, trail markers, and wrong-way traffic controls, since standards and guidelines for these devices have been incorporated into the MUTCD. Much of the material on project procedures, funding, and target dates which is no longer pertinent to the regulation has been deleted. Color specifications for sign materials which provide a method for determining the color of retroreflective sign materials is added in an Appendix. References to standards for specific information signs, traffic control plans, and needs inventories are outlined, as well as provisions for the use of higher cost materials on Federal-aid projects.

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[1] May be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock Number 050-001-81001-8). It is available for inspection and copying as precribed in 49 CFR Part 7, Appendix D.

The availability of funds under Chapter 1 (Federal-Aid Highways) or Chapter 4 (Highway Safety) of 23 U.S.C. is not affected by the revision of this regulation.

Discussion of Major Comments

All comments received were submitted by State highway agencies. These comments were reviewed and analyzed by the FHWA and resulted in several substantive changes in the regulation. Some comments resulted in editorial changes and other suggested changes were considered inappropriate for inclusion in the regulation.

The proposed requirement for mandatory compliance with official MUTCD changes within 2 years has been deleted in response to the majority of comments received. Section 655.603(b) provides that the States shall adopt the changes within 2 years of issuance by the FHWA. Section 655.603(d)(4) provides that the FHWA may establish target dates for compliance of traffic control device installations.

Two comments concerned the requirement for States to have a program for upgrading substandard devices and installing needed devices. Section 655.603(d)(1) was changed to show clearly that the requirement for such a program previously existed and is still a provision of 23 CFR 1204.4, Highway Safety Program Standard 13, Traffic Engineering Services.

The requirement in § 655.604(a) that upgrading programs be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards, was changed to a recommendation since a mandatory provision would be inconsistent with the basic regulation, 23 CFR 1204.4.

The proposed 23 CFR 655.606, Higher Cost Materials, has been rewritten in response to comments on the ambiguous and redundant nature of the proposed wording.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Donald P. Ryan, Office of Traffic Operations, at the address specified above.

In consideration of the foregoing and under the authority of 23 U.S.C. 101(e), 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b), the Federal Highway Administration hereby amends 23 CFR Part 655, by revising Subpart F to read as set forth below.

(Catalogue of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: December 30, 1980.

John S. Hassell, Jr.,
Federal Highway Administrator.

PART 655—TRAFFIC OPERATIONS

* * * * *

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways

Sec.
655.601 Purpose.
655.602 Definitions.
655.603 Standards.
655.604 Achieving basic uniformity.
655.605 Project procedures.
655.606 Higher cost materials.
655.607 Funding.
Appendix—Alternate method of determining the color of retroreflective sign materials.

Authority: 23 U.S.C. 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b).

§ 655.601 Purpose.

To prescribe the policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).[1]

§ 655.602 Definitions.

The terms used herein are defined in accordance with definitions and usages contained in the MUTCD and 23 U.S.C. 101(a).

§ 655.603 Standards.

(a) *National MUTCD.* All traffic control devices installed on any street, highway or bicycle trail open to public travel shall conform to the standards contained in the MUTCD.

(b) *State MUTCD.* Where State MUTCDs or supplements are required, they shall be in substantial conformance with the national MUTCD. Changes in national standards issued by the FHWA shall be adopted by the States within 2 years of issuance to maintain conformance. The FHWA Regional Administrator has been delegated the authority to approve State MUTCDs and supplements. States are encouraged to adopt the national MUTCD as their official manual on uniform traffic control devices.

(c) *Color specifications.* Color determinations and specifications of sign and pavement marking materials shall conform to requirements of the FHWA Color Tolerance Charts.[2] An alternate method of determining the color of retroreflective sign materials is provided in the Appendix.

(d) *Compliance.* (1) *Existing highways.* Each State, in cooperation with its political subdivisions, shall have a program as required by Highway Safety Program Standard 13, Traffic Engineering Services (23 CFR 1204.4) which shall include provisions for the systematic upgrading of substandard traffic control devices and for the installation of needed devices to achieve conformity with the MUTCD.

(2) *New or reconstructed highways.* Newly constructed or reconstructed streets and highways shall not be opened to the public for unrestricted use until all appropriate traffic control devices, either interim or permanent, are installed and functioning properly. When interim devices are used, they shall conform to the MUTCD.

(3) *Construction area activities.* All traffic control devices installed in construction areas shall conform to the MUTCD. Traffic control plans for handling traffic and pedestrians in construction zones and for protection of workers shall conform to the requirements of 23 CFR Part 630, Subpart J, Traffic Safety in Highway and Street Work Zones.

(4) *MUTCD changes.* The FHWA may establish target dates for achieving compliance with changes in the MUTCD.

(e) *Specific information signs.* Standards for specific information signs are contained in 23 CFR Part 655, Subpart C, National Standards for Specific Information Signs.

§ 655.604 Achieving basic uniformity.

(a) *Programs.* Programs for the orderly and systematic upgrading of existing traffic control devices or the installation of needed traffic control devices on or off the Federal-aid system should be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards. These inventories provide the necessary information for programming upgrading projects.

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[1] The MUTCD, Federal Highway Administration 1978 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (GPO Stock No. 050–001–81001–8). It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[2] Available for inspection and copying from the Office of Traffic Operations, Federal Highway Administration, 400 Seventh St., SW., Washington, D.C. 20590.

(b) *Inventory.* An inventory of all traffic control devices is required by Highway Safety Program Standard 13, Traffic Engineering Services (23 CFR 1204.4). Highway planning and research funds and highway related safety grant program funds may be used in statewide or systemwide studies. Also, metropolitan planning (PL) funds and Urban System funds may be used in urbanized areas provided the activity is included in an approved unified work program.

§ 655.605 Project procedures.

(a) *Federal-aid highways.* Federal-aid projects involving the installation of traffic control devices shall follow normal procedures as established in 23 CFR Part 630, Subpart A, Federal-Aid Programs Approval and Project Authorization. Simplified and timesaving procedures are to be used to the extent permitted by existing policy.

(b) *Off-system highways.* Certain federally funded programs are available for installation of traffic control devices on streets and highways that are not on the Federal-aid system. The procedures used in these programs may vary from project to project, but essentially, the guidelines as set forth herein should be used.

§ 655.606 Higher cost materials.

The use of signing, pavement marking, and signal materials (or equipment) having distinctive performance characteristics but costing more than other materials (or equipment) commonly used may be approved by the FHWA Division Administrator when the specific use proposed is considered to be in the public interest.

§ 655.607 Funding.

(a) *Federal-aid highways.* Funds apportioned under 23 U.S.C. 104(b) are eligible to participate in projects to install traffic control devices in accordance with the MUTCD on newly constructed or reconstructed highways, or on existing highways to achieve basic conformity with the MUTCD, when this work is not construed to be maintenance. Funds apportioned by other sections of 23 U.S.C. are eligible for participation in improvements conforming to the MUTCD in accordance with the provisions of applicable program regulations and directives.

(b) *Off-system highways.* Federal-aid highway funds are eligible to participate in traffic control device improvement projects on off-system highways that will directly facilitate and control traffic flow on any Federal-aid highway.

Appendix.—Alternate Method of Determining the Color of Retroreflective Sign Materials

1. The FHWA Color Tolerance Charts provide that conventional color measuring instruments such as spectrophotometers and tristimulus photoelectric colorimeters should not be used for measurement of retroreflective material colors and that such materials should be evaluated visually using the Color Tolerance Charts and paying strict attention to prescribed illumination and viewing conditions.

2. As an alternate to visual testing, the diffuse day color of retroreflective sign material may be determined in accordance with ASTM E 97, "Standard Method of Test for 45-Degree, 0-Degree Directional Reflectance of Opaque Specimens by Filter Photometry." Geometric characteristics must be confined to illumination incident within 10 degrees of, and centered about, a direction 45 degrees from the perpendicular to the test surface; viewing is within 15 degrees of, and centered about, the perpendicular to the test surface. Conditions of illumination and observation must not be interchanged.

3. Standards to be used for reference are the Munsell Papers designated in Table I or Table II, attached. The papers must be recently calibrated on a spectrophotometer. Acceptable test instruments are:

a. Gardner Multipurpose Reflectometer or Model XL 20 Color Difference Meter,

b. Gardner Model AC-2a or XL 30 Color Difference Meter,

c. Meeco Model V Colormaster,

d. Hunterlab D25 Color Difference Meter, or

e. Approved equal.

4. Average performance sheeting is identified as Types I and II sheeting and high performance sheeting is identified as Types III and IV sheeting in Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects[1] (FP-79, Section 633).

BILLING CODE 4910-22-M

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[1] This document is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

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TABLE I

Color Specification Limits and Reference Standards
Types I and II Sheeting

Color	Chromaticity Coordinates* (Corner Points)								Reflectance Limits (%Y) Y		Reference*** Standard (Munsell Papers)
	1		2		3		4				
	x	y	x	y	x	y	x	y	Min.	Max.	
White**	.305	.290	.350	.342	.321	.361	.276	.308	35	--	6.3GY 6.77/0.8
Red	.602	.317	.664	.336	.644	.356	.575	.356	8	12	8.2R 3.78/14.0
Orange	.535	.375	.607	.393	.582	.417	.535	.399	18	30	2.5YR 5.5/14.0
Brown	.445	.353	.604	.396	.556	.443	.445	.386	4	9	5.0YR 3/6
Yellow	.482	.450	.532	.465	.505	.494	.475	.485	29	45	1.25Y 6/12
Green	.130	.369	.180	.391	.155	.460	.107	.439	3.5	9	0.65BG 2.84/8.45
Blue	.147	.075	.176	.091	.176	.151	.106	.113	1.0	4	5.8PB 1.32/6.8

*The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.

**Silver white is an acceptable color designation.

***Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

TABLE II

Color Specification Limits and Reference Standards
Types III and IV Sheeting

Color	Chromaticity Coordinates* (Corner Points)								Reflectance Limits (%Y) Y		Reference*** Standard (Munsell Papers)
	1		2		3		4				
	x	y	x	y	x	y	x	y	Min.	Max.	
White**	.303	.287	.368	.353	.340	.380	.274	.316	27	--	5.0PB 7/1
Red	.613	.297	.708	.292	.636	.364	.558	.352	2.5	11	7.5R 3/12
Orange	.550	.360	.630	.370	.581	.418	.516	.394	14	30	2.5YR 5.5/14
Yellow	.498	.412	.557	.442	.479	.520	.438	.472	15	40	1.25Y 6/12
Green	.030	.380	.166	.346	.286	.428	.201	.776	3	8	10G 3/8
Blue	.144	.030	.244	.202	.190	.247	.066	.208	1	10	5.8PB 1.32/6.8

*The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.

**Silver white is an acceptable color designation.

***Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

[FR Doc. 81-587 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-22-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 154

[T.D. 7752]

Civil Aircraft Use Tax—Special Rules for the Period July 1, 1980 Through September 30, 1980

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations that apply to the tax on the use of civil aircraft. Congress extended this tax for the period July 1 through September 30, 1980. These regulations prescribe the date for filing the return for this period and provide the public with other information necessary to comply with the law.

DATES: The amendment applies to civil aircraft use at any time during the taxable period July 1, 1980, through September 30, 1980. The deadline for filing returns for this period is set at February 2, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond W. McKee of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202-566-3458) not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

Section 4491 of the Code provides generally for an excise tax on the use of civil aircraft. This tax was due to expire on July 1, 1980. On that date, Congress extended the tax for three additional months in Pub. L. 96-298, 94 Stat. 829. That Act modifies the rates of the tax for that period and provides that the due date for any return for this tax for this period will be no earlier than October 31, 1980. It also provides that the three month period July 1 through September 30, 1980, is to be treated as one year for purposes of this tax.

Section 154.3-1 of the Excise Tax Regulations (temporary regulations on the tax on use of civil aircraft) provides generally that a return must be filed before the end of the month following the month in the taxable year in which the first use of the aircraft occurs. It also provides that a "taxable period" is a one-year period beginning on July 1 and ending the following June 30 during the period after June 30, 1970, and before July 1, 1980.

This amendment defines the period July 1, 1980, through September 30, 1980, as a taxable period and sets the due date for all returns for this period on February 2, 1981. It also provides for proration of the tax and states that the tax may not be paid in installments. The amendment brings the regulations into conformity with Pub. L. 96-298.

Drafting Information

The principal author of this regulation is Raymond W. McKee of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Waiver of Certain Procedural Requirements of Final Treasury Directive

A determination has been made by William E. Williams, Acting Commissioner of Internal Revenue, that there is need for immediate guidance in order to make clear that under the amendment to section 4491 of the Code made by Pub. L. 96-298, returns for the period July 1, 1980, through September 30, 1980, which could have been due as early as October 31, 1980, are not due until February 2, 1981. Because of the immediate need for this regulation, compliance with the procedural requirements of paragraphs 8 through 14 of the final Treasury directive (43 FR 52121), relating to improving regulations, would be impractical, and, therefore, these requirements have not been followed.

Adoption of Amendments to the Regulations

Accordingly, Part 154 of 26 CFR is amended as follows:

A new § 154.3-2 is added immediately after § 154.3-1 to read as follows:

§ 154.3-2 Special rules with respect to the tax on civil aircraft for the period July 1, 1980, through September 30, 1980.

(a) *In general.* Public Law 96-298 (94 Stat. 829) amended section 4491 to extend the application of the tax on the use of taxable civil aircraft from July 1, 1980, through September 30, 1980. This section contains special rules for the determination, return, and payment of the tax for this period. Except as provided in this section, the rules in § 154.3-1 apply with respect to the tax on the use of taxable civil aircraft (as defined in section 4492 (a)) during the period July 1, 1980, through September 30, 1980.

(b) *Taxable period.* The period July 1, 1980, through September 30, 1980, is a taxable period.

(c) *Rate and computation of tax*—(1) *Rate.* For the taxable period specified in paragraph (b) of this section, the tax imposed on each taxable civil aircraft is $6.25 (the "basic charge") plus, in certain instances, a tax based on weight (the "poundage charge"). The poundage charge is (i) in the case of a turbine engine powered aircraft, ⅞ cent a pound for each pound of the maximum certificated takeoff weight of the aircraft, and (ii) in the case of a nonturbine engine powered aircraft with a maximum certificated takeoff weight of more than 2,500 pounds, ½ cent a pound for each pound of the maximum certificated takeoff weight of the aircraft in excess of 2,500 pounds.

(2) *Proration of tax.* If the first taxable use of a taxable civil aircraft is made in August, 1980, the poundage charge is two-thirds of the amount that would be due for the full taxable period specified in paragraph (b) of this section. If the first taxable use of a taxable civil aircraft is made in September, 1980, the poundage charge is one-third of the amount that would be due for that full taxable period.

(d) *Returns.* The return for the taxable period specified in paragraph (b) of this section shall be filed on or before February 2, 1981.

(e) *No installment payments of tax.* The tax imposed during the period specified in paragraph (b) of this section shall be paid on or before February 2, 1981. Section 6156 and § 154.3-1 (f) shall not apply, so that tax is not payable in installments. However, an extension of time for filing the return pursuant to § 154.3-1 (g) shall operate to extend the time for payment of the tax unless specified to the contrary in the extension.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 6071 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 949, 26 U.S.C. 6071; 68A Stat. 917; 26 U.S.C. 7805).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 19, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 81-388 Filed 1-7-81; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Surface Mining Reclamation and Enforcement Permanent Regulatory Program; Extension of Date for Submission of Information

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), United States Department of the Interior.

ACTION: Notice of extension of date for submission of information.

SUMMARY: OSM is extending the deadline for interested persons to respond to a request for information on the amount of time it takes coal operators to comply with the Permanent Regulatory Program's reporting and recordkeeping requirements.

DATES: Comments are due by September 10, 1981 for reporting under 30 CFR Part 707. Comments are due by October 10, 1981 for reporting under 30 CFR Parts 816, 817, 822 and 826. Comments are due by October 31, 1981 for all reporting under all other 30 CFR Parts.

ADDRESS: Assistant Director, Management and Budget, Office of Surface Mining Reclamation and Enforcement, Room 226, 1951 Constitution Avenue, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Joan Shaw, 202-343-5447.

SUPPLEMENTARY INFORMATION: By notice confirming the recordkeeping and reporting requirements which appeared in the **Federal Register** on June 18, 1979 (44 FR 35192-93), OSM asked operators to inform it as to how long it takes them to comply with its Permanent Regulatory Program's reporting and recordkeeping requirements. The original deadline for such information was November 30, 1980. At the request of several industry members, OSM has decided to extend the deadlines in order to allow operators to report to OSM the time it is taking them to comply with requirements which, in many cases, are only becoming applicable in 1981. The dates selected by OSM correspond to deadlines by which OSM must submit its estimates of compliance time to the General Accounting Office.

Accordingly, the period is extended through October 31, 1981 for all information previously requested except for information relating to 30 CFR Parts 707, 816, 817, 822 and 826. The extension dates listed below have been established for comments on these Parts.

Comments are due by September 10, 1981 for:

30 CFR Part 707—Information to be maintained on site for extracting coal incident to government-financed highway or other construction.

Comments are due by October 10, 1981 for:

30 CFR Part 816—Permanent Program Performance Standards—Surface mining activities.

30 CFR Part 817—Permanent Program Performance Standards—Underground mining activities.

30 CFR Part 822—Special Permanent Program Performance Standards—Operations in alluvial valley floors.

30 CFR Part 826—Special Permanent Program Performance Standards—Operations on steep slopes.

The reader is referred to the June 18, 1979 **Federal Register** (44 FR 35192-93) for further information.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Department of the Interior has determined that this document is not a major Federal action significantly affecting the quality of the human environment. Accordingly, no environmental impact statement has been prepared separately for this action.

Dated: December 30, 1980.

Walter N. Heine,

Director, OSM.

[FR Doc. 81-686 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78-173]

Drawbridge Operation Regulations; Newark Bay, Passaic, and Hackensack Rivers, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final Rule Correction.

SUMMARY: This document corrects a final rule published at 45 FR 73653, November 6, 1980, relating to certain railroad drawbridges across the Passaic and Hackensack Rivers in New Jersey.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-NBR/14), Room 1414, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-0942).

SUPPLEMENTARY INFORMATION: In FR Doc. 80-34518 appearing on page 73653 in the **Federal Register** of November 6, 1980 there were several typographical errors. These should be corrected as follows:

1. In paragraph (a)(5)(iv) of § 117.200 the word "Western" should be substituted for "Eastern," and the number "16.3" should be substituted for "10.3."
2. In paragraph (a)(5)(v) of § 117.200 the number "16.5" should be substituted for "10.5."
3. In the list of paragraphs deleted from § 117.225(f), the number "(1-e)" should substituted for "(1.3)."

Dated: December 30, 1980.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 81-677 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1722-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979 to include a permit program for new and modified major stationary sources of air pollutants. On May 9, 1980, EPA conditionally approved Missouri's permitting regulations. On December 22, 1980, the state submitted a draft revision to the regulations for the purpose of fulfilling one of these conditions.

The purpose of this notice is to advise the public that the state has

drafted a revision to the regulation to satisfy the condition. EPA is reviewing the material submitted and intends to issue a notice of final rulemaking if the state submits a final regulation which is substantially the same as the draft revisions. Until final action is published in the **Federal Register**, the conditional approval of the SIP is being continued.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Room 2922, Washington, D.C. 20460
Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374–3791 (FTS) 758–3791.

SUPPLEMENTARY INFORMATION: On May 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Sections 172(b)(6), 172(b)(11)(A) and 173 of the Clean Air Act, as amended (45 FR 30626). These sections require states to establish in the SIP a permit program for new and modified sources of air pollutants in areas where the air quality is worse than the national standards. Missouli's program, as outlined in Rule 10 CSR 10–6.060 Permits Required and in Rule 10 CSR 10–6.020 Definitions, contained minor deficiencies resulting in EPA's conditional approval on May 9, 1980. The state agreed to correct these deficiencies by certain deadlines.

One of the conditions promulgated by EPA requires the state to change the requirements for permitting modifications to Class C sources (major sources in nonattainment areas) to be applicable both to a modification to a single course operation and to two or more sources operations which result in an increase in potential emissions greater than certain levels (de minimus) specified in the regulation. This change was to be submitted to EPA by January 1, 1981.

On December 1, 1980, the state published in the *Missouri Register* a proposed change to Rule 10 CSR 10–6.060 for the purpose of fulfilling this condition. This proposed revision was received by EPA on December 22, 1980. The Missouri Air Conservation Commission has scheduled a public hearing in regard to this matter on January 21, 1981. (The Commission did not meet in December.)

The public is advised that the state has submitted a draft revision to the regulations. EPA is reviewing the material to determine if it complies with the requirements of the Clean Air Act and the condition promulgated by EPA. EPA intends to issue a notice of final rulemaking if the state submits final revisions to the regulation which are substantially the same as the draft changes. EPA's conditional approval of the Missouri SIP is being continued until final action is published in the **Federal Register.**

Dated: January 2, 1981.

Kathleen Camin,

Regional Administrator.

[FR Doc. 81–676 Filed 1–7–81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 87

[EN-FRL 1721–1]

Control of Air Pollution From Aircraft and Aircraft Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This final rule extends the applicability of the temporary exemption provision of the standards for smoke and fuel venting emissions from some in-use aircraft engines to include the JT3D engine smoke standard, for which partial compliance is required by January 1, 1981. This rule also delays the existing partial compliance date from January 1, 1981, until February 1, 1981.

The existing exemption provision is not applicable to JT3D engines and EPA is unable to exempt operators who have recently indicated that they cannot meet the January 1, 1981 compliance date. The one month delay of the compliance date will give EPA time to respond to the exemption requests it has received.

The rule will enable EPA to provide temporary relief to numerous operators of JT3D powered aircraft who are unable to obtain retrofit parts.

EFFECTIVE DATE: January 8, 1981. The EPA will, however, consider revisions based on comments it receives on or before February 9, 1981.

ADDRESS: Send written comments to: Director, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Guy, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 472–9413.

SUPPLEMENTARY INFORMATION: The aircraft engine exhaust emission standards were promulgated by EPA on July 17, 1973 (38 FR 19090). Several of the provisions of these standards required compliance of in-use aircraft gas turbine engines (JT8D) certified for operation within the United States with smoke and fuel venting requirements by January 1, 1974. Because the short time period between promulgation of the standards and that effective date was not sufficient for all operators to complete modifications on their aircraft to meet these requirements, the regulation was amended on December 21, 1973, to add a provision for temporary exemptions (38 FR 35000). This provision permitted temporary exemptions from the smoke and fuel venting requirements to accommodate problems encountered by several airlines in completing the necessary retrofit work by January 1, 1974.

At that time, it was not expected that similar problems would be encountered by operators of aircraft powered by JT3D engines in complying with the smoke standard applicable to that engine. This was because the effective date was considerably later (January 1, 1978) so as to allow sufficient lead time for development and certification of the necessary smoke reduction components, and it was not anticipated that any operators would incur serious delays in compliance.

Although the JT3D smoke retrofit program compliance date has been further delayed twice since 1973 (41 FR 54861; December 15, 1976, and 44 FR 64266; November 6, 1979), it nevertheless appears that there may be operators of JT3D powered aircraft who will experience difficulty in achieving the required compliance with the smoke standard by January 1, 1981. The reasons for these difficulties include small companies just entering the airline industry who were not aware of the requirement, the lead time necessary to purchase a retrofit kit and the cost of replacement engines or aircraft.

With due consideration to the foregoing, it has been determined that the applicability of the temporary exemption provisions of the aircraft engine emission standards should be extended to include smoke standards applicable to in-use JT3D engines. This action will provide the necessary authority to provide temporary exemptions for aircraft or aircraft engine owners or operators who apply for an exemption and who demonstrate that they comply with the criteria provided in 40 CFR 87.101.

There are no significant air quality impacts to this amendment. FAA estimates that JT3D powered aircraft represent less than 10% of domestic operations. Because these engines are fuel inefficent, the major airlines have drastically curtailed their usage, so that operations involving them have been reduced by more than one-quarter since 1976. Further, most major airlines which use this equipment have either already retrofitted their engines or are on an FAA compliance plan.

The Agency finds that to propose this revision to the temporary exemption regulations prior to final rulemaking would be impracticable and contrary to the public interest. These revisions are critical to the activities of operators of JT3D powered aircraft and must be effective as soon as possible to permit these operators to apply for exemptions, given the smoke standard compliance date of January 1, 1981. Without these amendments, certain operators of these aircraft would be forced to ground their airplanes as of the January 1, 1981, effective date. Moreover, these amendments will not have a significant adverse effect upon air quality, as described above. The Agency finds further that there is good cause to make these revisions effective earlier than 30 days after their promulgation because they provide a means whereby aircraft operators may obtain temporary relief from restrictions in the present regulations.

EPA will act promptly on requests for temporary exemptions submitted in accordance with the procedures described in § 87.101. However, because there is insufficient time to enable aircraft operators to apply for exemptions and for EPA to act on those requests, the amendment to the regulations delays the effective date of the standards for one month, to enable aircraft operators to continue operations while they are submitting requests for temporary exemptions. Exemption requests, however, may be submitted at any time before or after February 1, 1981.

This rulemaking action does not constitute a regulation which will result in major economic impact. Accordingly, the Environmental Protection Agency has determined that this document does not contain a major proposal or a substantial revision requiring preparation of an economic impact analysis under Executive Orders 11821, 11949 and 12044, OMB Circular A-107, or Section 317 of the Clean Air Act.

Dated: December 31, 1980.

Douglas M. Costle,
Administrator.

Part 87, Chapter I of Title 40 of the Code of Federal Regulations, is amended as follows:

1. In section 87.101, all of paragraphs (a) and (b) which precede paragraphs (a)(1) and (b)(1) respectively are revised to read as follows:

§ 87.101 [Amended]

(a) The Administrator of the Environmental Protection Agency may grant to any aircraft or aircraft engine temporary exemption from any applicable standard under § 87.11(a), § 87.31(a), or § 87.31(c), provided that the owner or operator of such aircraft or aircraft engine demonstrates:

* * * * *

(b) Applications for temporary exemptions from the requirements of § 87.31(a) or § 87.31(c) shall be submitted in duplicate to the Administrator of the Environmental Protection Agency and shall contain the following information:

* * * * *

2. In § 87.102, paragraphs (c) and (d) are added to read as follows:

§ 87.102 Thirty-day suspension of fuel venting and smoke standards.

* * * * *

(c) The applicability of the standards of § 87.31(c) to aircraft subject to such standards is suspended until February 1, 1981.

(d) Application for temporary exemption from the standards of § 87.31(c) for aircraft which will not be in compliance by February 1, 1981, must be submitted in accordance with the procedures of § 87.101.

(Secs. 231, 301(a), Clean Air Act, as amended (42 U.S.C. 7571, 7601(a)))

[FR Doc. 81-650 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-33-M

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40 CFR Part 122

[EN-FRL 1710-7]

Consolidated Permit Regulations; NPDES Application Requirements for Coal Mines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends for the Coal Mining Point Source Category a portion of the requirements in EPA's consolidated permit regulations that certain testing data for organic toxic pollutants be submitted as part of the application for a National Pollution Discharge Elimination System (NPDES) permit. During the suspension, EPA will reconsider the appropriateness of this requirement in light of the coal industry's petition for reconsideration based upon newly presented data.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Gail S. Goldberg, Office of Water Enforcement (EN-336), Washington, DC. 20460, (202) 426-7035.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued final consolidated permit regulations and the NPDES permit application forms under the Clean Water Act (45 FR 33290). Included in those regulations and the NPDES permit application form is a requirement that applicants provide data obtained through sampling and analysis to characterize their process wastestreams for those pollutants specifically listed in Appendix A to Part 122. Applicants in the coal mining industry, which is listed as a primary industry in the Consent Decree issued in *NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833, 1841, must test their process wastewater discharges for toxic pollutants.

The May 19 regulations, at 40 CFR Part 122.53(d)(7)(ii)(A), provide that:

(ii) Each applicant with processes in one or more primary industry category (see Appendix A to Part 122) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(A) The organic toxic pollutants in the fractions designated in Table I of Appendix D for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (d)(8) of this section.

Table I of Appendix D, requires that applicants in the coal mining industry test and report data on all four organic pollutant fractions. Table II of Appendix D lists the organic toxic pollutants in each fraction.

Exempted from this testing requirement are coal mines whose average annual production is less than 100,000 tons of coal, and applicants whose outfalls were analyzed by EPA during EPA's industry sampling program, if the data is less than three years old and remains representative of the present discharge.

The National Coal Association (NCA) petitioned the Agency for reconsideration and stay of certain provisions of EPA's NPDES regulations and permit application form requirements. NCA requested that EPA stay application of 40 CFR Part 122.53(d)(7)(ii)(A) and 40 CFR Part 122.53(d)(7)(ii)(B) (for total phenols only) as they relate to the coal mining point source category pending a determination or reconsideration. NCA argued that effluent data contained in the Agency's *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards for the Coal Mining Point Source Category,* July 1980, demonstrates that the 114 organic toxics and total phenols are not present in coal mine discharges in quantities or frequencies justifying these sampling and analytical requirements. Futhermore, they argued that when pollutants were detected, their presence was shown to be caused by contamination during sampling and analysis.

EPA has stated its willingness, at 45 FR 33528, to "continue to investigate existing data and add or delete requirements to ensure that waste streams be analyzed only for pollutants which may be discharged." We believe that NCA's petition raises sufficiently substantial questions about the testing requirement for coal mines to justify today's suspension of 40 CFR 122.53(d)(7)(ii)(A) pending further evaluation of this new presentation of data on organic toxic pollutants. This suspension of the requirement in 122.53(d)(7)(ii)(A) that coal mines sample and analyze for 114 organic toxic pollutants (and the parallel suspension of the requirement that applicants complete Item V–C of the NPDES application Form 2c, 45 FR 33563) will relieve the industry from the cost of meeting testing requirments that may prove unnecessary. When the Agency completes its analysis of the data from coal mines, we will change the requirement if appropriate or reinstate it, if not. During the suspension, however, coal mines will still be required under § 122.53(d)(7)(iii)(A), to sample and analyze their wastestreams for those organic pollutants which they know or have reason to believe exist in their discharge. In addition, as applicants in the primary industries listed in the NRDC Consent Decree, coal mines must report quantitative results for the 13 metals on the toxic pollutant list and for cyanide and total phenols. Items V–A, B, and D must still be completed, accordingly to the instructions in the NPDES application Form 2c and in accordance with § 122.53(d)(7)(i), (ii)(B) (iii), (iv) and (v).

We reject NCA's request that we change the requirement in 40 CFR 122.53(d)(7)(ii)(B) that all primary industries test for total phenols. These industries must continue to test and report results for total phenols in their process wastewater outfalls because phenols are a significant toxic pollutant. They have been commonly found in discharges from primary industries, and are more likely to be found in discharges from primary industries than from secondary industry outfalls. Further, information on total phenols indicates the possible presence of several phenolic compounds which are toxic pollutants. Reporting requirements for total phenols provide significant, useful information to the permit writer which outweigh the relatively minor cost associated with testing.

(Clean Water Act, 33, U.S.C. § 1251 et seq.)

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

§ 122.53 [Amended]

40 CFR § 122.53(d)(7)(ii)(A), as it applies to coal mines, is suspended until further notice.

[FR Doc. 81-055 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5797

[CA-275]

California; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes three Departmental Orders which withdrew land for the Klamath River Project. This action will restore 418.18 acres of said land to the operation of the public land laws generally, including the mining laws. This action is being taken because the Water and Power Resources Service (formerly the Bureau of Reclamation) no longer has need for the 418.18 acres.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, 916–484–4431.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. The Departmental Orders of July 19, 1904, January 28, 1905, and February 28, 1921, withdrawing lands for the Klamath River Project are hereby revoked so far as they affect the following described lands:

Mount Diablo Meridian

T. 47 N., R. 3 E.,
Sec. 19, Lots 1, 2, 3, 4, and 5, and SE¼SE¼;
Sec. 20, Lots 1 and 2, fractional part of SW¼NE¼, E½NE¼, and NW¼SW¼.

The area described aggregates 418.18 acres in Siskiyou County. The land is located about 11 miles east of Tulelake, California. The primary use of these lands is grazing.

2. At 10 a.m. on February 3, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on February 3, 1981. They have been open to applications and offers under the mineral and geothermal leasing laws.

Inquiries concerning the land shall be addressed to the Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-591 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 5798

[N-050476]

Nevada; Revocation of Public Land Order No. 2307

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an administrative site withdrawal affecting 640 acres of public lands withdrawn for use by the National Park Service. This action will restore the lands to the operation of the mineral leasing laws. The lands will continue to be withdrawn from the public land laws and the mining laws pursuant to Pub. L. 88–639.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

By virtue of the authority contained in Section 204(a) of the Federal Land

Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order 2307 of March 21, 1961, which withdrew the following described public lands for use as a National Park Service administrative site is hereby revoked in its entirety:

Mount Diablo Meridian

T. 18 S., R. 67 E.,
Sec. 12, all.

The area described contains 640 acres in Clark County.

2. The public lands described above will be open to applications and offers under the mineral leasing laws at 10 a.m. on February 3, 1981.

3. The public lands described above will continue to be closed to the public land laws and the mining laws pursuant to P.L. 88–639 which established the Lake Mead National Recreation Area.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operatións, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Guy R. Martin,
Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81–502 Filed 1–7–81; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 5799

[ORE–04207]

Oregon; Revocation of Public Land Order No. 1362

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 80 acres of lands as an administrative site for use by the Bureau of Land Management. This action will restore the lands to operation of the public land laws generally, including the mining laws

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1362 of November 13, 1956, which withdrew the following described lands for use by the Bureau of Land Management as an administrative site is hereby revoked in its entirety:

Willamette Meridian

Catlow Camp

T. 33 S., R. 32 E.,
Sec. 31, SE¼NE¼;
Sec. 32, SW¼NW¼.

The area described contains 80 acres in Harney County.

2. At 10 a.m., on February 3, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on February 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on February 3, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,
Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81–511 Filed 1–7–81; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 5802

[ORE–015563]

Partial Revocation of Public Land Order No. 3917

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order in part as to 160 acres of lands withdrawn as a material site for use by the Bureau of Land Management. This action will open the lands to location under the mining laws.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3917 of January 18, 1966, which withdrew certain lands for use by the Bureau of Land Management as material sites is hereby revoked so far as it affects the following described lands:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 19 S., R. 9 W.,
Sec. 13, SW¼.

The area described contains 160 acres in Douglas County, Oregon.

2. At 10 a.m., on February 3, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws and to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Land.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,
Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81–513 Filed 1–7–81; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 5804

[ORE 013237]

Oregon; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order in part as to 690 acres of lands withdrawn for reclamation purposes. This action will restore the lands to operation of the public land laws, generally, including the mining laws.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4849 of June 18, 1970, which withdrew certain lands for use by the Water and Power Resources Service (formerly Bureau of Reclamation) for reclamation purposes in connection with the Burnt River Project is hereby revoked so far as it affects the following described lands:

Willamette Meridian

Burnt River Project

Dark Canyon and Reservoir Site

T. 12 S., R. 41 E.,
Sec. 3, W½SW¼ and SE¼SW¼;

Sec. 4, E½SE¼;
Sec. 9, NE¼NE¼, W½NE¼, S½NE¼SW¼, SE¼SW¼, and W½SE¼;
Sec. 16, N½NW¼NE¼, NE¼NW¼, W½NW¼, W½NW¼SW¼, and W½SW¼SW¼;
Sec. 20, N½NE¼NE¼;
Sec. 21, NW¼NW¼NW¼.

The area described contains 690 acres in Baker County, Oregon.

2. At 10 a.m., on February 3, 1981, the lands will be open to operation of the public lands laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on February 3, 1981, will be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on February 3, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,
Assistant Secretary of the Interior.
December 29, 1980

[FR Doc. 81-594 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 5805

[A-9152]

Arizona; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document partially revokes the Departmental Orders of June 11, 1954 and May 18, 1956, affecting 43,307.09 acres of lands withdrawn for reclamation purposes by the Water and Power Resources Service. This action will restore 23,041.12 acres to operation of the public land laws generally including the mining laws. The remaining 20,265.97 acres will remain withdrawn for the Glen Canyon National Recreation Area under the jurisdiction of the National Park Service, pursuant to the Act of October 27, 1972 (86 Stat. 1311–1313) and the Paria Canyon Primitive Area under the jurisdiction of the Bureau of Land Management, pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–1418).

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders of June 11, 1954 and May 18, 1956, withdrawing lands for the Colorado River Storage Project, are hereby revoked so far as they affect the following described lands:

Gila and Salt River Meridian

T. 41 N., R. 7 E.,
  Secs. 1 through 16 inclusive;
  Sec. 17, N½, SE¼;
  Sec. 18, lots 1 and 2, E½NW¼, NE¼
  Sec. 19, lots 3 and 4, E½SW¼;
  Secs. 21 through 26 inclusive;
  Sec. 27, N½ and SE¼;
  Sec. 29, SW¼;
  Secs. 30, 31, and 32;
  Sec. 35, N½ and SE¼;
  Sec. 36.
T. 42 N., R. 7 E.,
  Secs. 31 through 36 inclusive.
T. 40 N., R. 8 E.,
  Sec. 4, N½, SW¼, N½SE¼, SW¼SE¼;
  Secs. 5 and 6;
  Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
  Sec. 8, N½;
  Sec. 9, NW¼NE¼, NW¼.
T. 41 N., R. 8 E.,
  Secs. 2 through 10 inclusive;
  Sec. 11, NE¼, W½, N½SE¼, SW¼SE¼;
  Sec. 14, W½E½, W½;
  Sec. 15;
  Secs. 17 through 22 inclusive;
  Sec. 23, NW¼NE¼, S½NE¼, NW¼, S½;
  Sec. 26, N½, W½SW¼, NE¼SW¼, NW¼SE¼;
  Secs. 27 through 31 inclusive;
  Sec. 33;
  Sec. 34, N½, W½SW¼, NE¼SW¼, N½SE¼;
  Sec. 35, W½NW¼, NW¼SW¼.
T. 42 N., 8 E.,
  Secs. 31 through 34 inclusive;
  Sec. 35, lots 3 and 4, SW¼, W½SE¼, SE¼SE¼.

The areas described aggregate approximately 43,307.09 acres in Coconino County.

2. A portion of the lands, described in paragraph 1 of this order lies within the Glen Canyon National Recreation Area Established under authority of the Act of October 27, 1972 (86 Stat. 1311–1313) therefore, remains closed to location, and entry under the public land laws, including the mining laws. These lands will be administered by the National Park Service in accordance with the provisions of said Act. The lands remain open to mineral leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181 et seq., and the Acquired Lands Mineral Leasing Act of August 7, 1947, 30 U.S.C. 351 et seq.

3. A portion of the lands described in paragraph 1 of this order lies within the Paria Canyon Primitive Area and remains closed to location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. This Primitive Area was established under the authority of the Act of September 19, 1964, 78 Stat. 986; 43 U.S.C. 1411–18, and is administered by the Bureau of Land Management.

4. The public lands under the jurisdiction of the Bureau of Land Management not including the Paria Primitive Area are described as follows:

Gila and Salt River Meridian

T. 41 N., R. 7 E.,
  Secs. 1 through 6 inclusive;
  Sec. 7, lots 1, 2, 3, 4, NE¼, E½W½;
  Sec. 8, N½, N½SW¼, SE¼SW¼, and SE¼;
  Secs. 9 through 16 inclusive;
  Sec. 17, NE¼, NE¼SE¼;
  Sec. 18, lot 1;
  Sec. 21, NE¼, N½NW¼, SE¼NW¼, and E½SE¼;
  Secs. 22 through 25 inclusive;
  Sec. 26, N½, N½SW¼, SE¼SW¼, and SE¼;
  Sec. 27, N½NE¼, SE¼NE¼, NE¼NW¼;
  Sec. 30, lots 1, 2, 3, 4, SE¼SW¼;
  Sec. 31, lots 1, 2, 3, 4, NW¼NE¼, S½NE¼, E½W½, and SE¼;
  Sec. 32, W½SW¼, SE¼SW¼.
T. 41 N., R. 7 E.,
  Sec. 35, NE¼, NE¼SE¼;
  Sec. 36.
T. 42 N., R. 7 E.,
  Secs. 31 through 35 inclusive.
T. 40 N., R. 8 E.,
  Sec. 6.
T. 41 N., R. 8 E.,
  Secs. 7 and 8;
  Secs. 17 through 21 inclusive;
  Secs. 28 through 31 inclusive.

Containing approximately 23,041.12 acres in Coconino County.

5. At 10 a.m. on February 3, 1981, the public lands described in paragraph 4 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. At 10 a.m. on February 3, 1981, the public lands in paragraph 4 will be open to location under the U.S. mining laws. However, the location of mining claims on lands reserved for power purposes shall be subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621). The lands have been and continue to be open to applications and offers under the mineral leasing laws.

7. Any disposal of the public lands described in paragraph 4 that are

included in Power Project No. 2469, Waterpower Designation No. 7, Power Site Reserve Nos. 446 and 447, and Power Site Classification Nos. 320 and 429, including appropriation under the United States Mining Laws, shall be subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075; as amended, 16 U.S.C. 818.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Valley Bank Center, Phoenix, Arizona 85073.

Guy R. Martin,

Assistant Secretary of the Interior.

December 29, 1980.

[FR Doc. 81-500 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 10

[Docket No. FEMA-GEN-10]

Environmental Considerations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Pursuant to 44 CFR 10.8(d), the Federal Emergency Management Agency is amending its regulation to categorically exclude the actions listed below from application of 44 CFR Part 10 of FEMA's regulations. That part implements the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508).

EFFECTIVE DATE: February 9, 1981.

ADDRESS: Federal Emergency Management Agency, 1725 Eye Street NW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, 1725 Eye Street, NW., Washington, D.C. 20472, telephone (202) 634-1990.

SUPPLEMENTARY INFORMATION: FEMA has determined that the actions listed below have no significant impact on the quality of the human environment and should be categorically excluded from the preparation of environmental impact statements and environmental assessments. Housing in existing resources and minimal home repairs are both performed under section 404 of the Disaster Relief Act of 1974 (Pub. L. 93-288), as amended, as assistance for temporary housing. By definition, housing in existing resources requires no new structures or infrastructure. Minimal home repairs average about $600 per structure and are intended only to make a damaged residence habitable. Neither action, individually or collectively, has the potential to have a significant impact on the quality of the human environment. The same can also be said for crisis counseling assistance and training performed under section 413 of the Disaster Relief Act of 1974, and administrative actions in support of maintaining normal day to day actions.

FEMA consulted with the Council on Environmental Quality. It issued a notice of proposed rulemaking on October 14, 1980 (45 FR 67686). No comments were received from outside the agency by the due date for comments.

Accordingly, section 10.8(c)(2) of Part 10, Chapter I, Subchapter A of Title 44 is amended by adding subparagraphs (K) through (M) to paragraph (vii), and adding paragraph (viii) as follows:

§ 10.8 Determination of Requirement for Environmental Review.

* * * * *

(c) Categorical Exclusions* * *

(2) List of Categorical Exclusions* * *

(vii)* * *

(K) Housing in existing resources (sec. 404);

(L) Minimal home repairs (sec. 404); and

(M) Crisis counseling assistance and training (sec. 413).

(viii) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of maintaining normal day to day actions.

* * * * *

Dated: December 29, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 81-566 Filed 1-7-81; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 512

[Docket No. 78-10; Notice 03]

Confidential Business Information

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice establishes the procedures by which the National Highway Traffic Safety Administration (NHTSA) considers claims for the confidential treatment of business information. Proposed procedures were published May 25, 1978. This notice sets forth the procedures for asserting a claim for confidentiality and specifies the circumstances under which the agency may disclose information which is claimed to be confidential. The notice further establishes several presumptive class determinations relating to confidentiality. This notice clarifies and expedites the processing of confidentiality determinations and responds to the problems posed by the increasing number of confidentiality requests.

DATE: The regulation becomes effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-9511.

SUPPLEMENTARY INFORMATION: The NHTSA has determined that the increasing number of requests for confidentiality necessitate the publication of the procedures under which the agency will determine the confidentiality of business information. This regulation responds to that need by making public procedures for submitting requests for confidential treatment of business information. The regulation also details the content of the submissions that are required to substantiate a confidentiality request. This regulation imposes requirements upon the submitters of the information and upon the agency to respond to those requests in the time and manner established herein. Further, the regulation explains those limited instances in which confidential information will be released. Through this regulation, submitters of information will be better able to ensure that their confidentiality requests are properly substantiated, thus facilitating confidentiality determinations. This improvement of the existing handling of the requests will benefit both the agency and the submitter.

The notice proposing the confidential information regulation was published May 25, 1978, (43 FR 22412). In response to that notice, the agency received many comments from vehicle and equipment manufacturers, their representatives, and public interest groups..

I. General Comments

Several commenters objected to the provision in the confidentiality procedures requiring initial determinations relating to confidentiality to be made prior to an actual Freedom of Information Act (FOIA) request. These commenters alleged that the agency would be overburdened by the necessary review

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of material to ascertain its confidentiality when, in fact, the information might never be required to be released. Commenters pointed with approval to the confidentiality regulations of the Environmental Protection Agency (EPA) which allow the determination of confidentiality to be made at the time of a FOIA request (40 CFR 2.205). These same commenters also cited the Congressional Report of the Committee on Government Operations concerning FOIA requests (FOIA Report) (H. Rept. No. 95–1382) as discouraging advance determinations of confidentiality. In summation, it was suggested that the agency assume the confidentiality of information submitted to it, when a claim for confidentiality is concurrently submitted, until such time as release of the information is requested or required for agency purposes.

The NHTSA disagrees with arguments indicating that the issuance of immediate determinations of confidentiality are burdensome and contrary to existing procedures in other agencies. In fact, the agency considers immediate determinations of confidentiality to be within accepted governmental practice and to be beneficial to both the submitter of the information and the agency. The commenters cited EPA regulations as indicative of a governmental reluctance toward the use of immediate determinations of confidentiality. However, the Securities and Exchange Commission (17 CFR 250.24b–2) and the Nuclear Regulatory Commission (10 CFR 2.790) both have procedures for the immediate determination of confidentiality. Therefore, government agencies have developed and are continuing to implement different approaches to the treatment of confidential information dependent upon the nature of the individual agency and its programs. The NHTSA considers the immediate determination approach to be, for the most part, the approach best suited to this agency given its function and need for information.

The submitter of confidential information will be aided by the policy of immediate determinations. A determination of confidentiality made upon receipt of information will automatically result in the protection of the confidential information. Confidential information will be clearly identified within the agency and will be accorded treatment designed to preserve its confidentiality. The agency believes that this should improve the ability of the NHTSA to maintain the confidentiality of information that merits such treatment. Without making an immediate determination, the agency might be deluged with information for which confidentiality determinations have been requested and which the submitter would have the NHTSA presume confidential. Such massive quantities of information are difficult to control and are more susceptible to accidental disclosure. The NHTSA is confident that the immediate determination procedure will reduce the amount of confidential information. With this more manageable amount of information, the agency can better ensure its protection.

The public is also benefited by immediate determinations of confidentiality. These determinations result in immediate public access to information that is not confidential. The public should not be denied access to information that is "presumed confidential", but which is in fact not confidential.

Commenters citing the FOIA Report have misinterpreted the recommendations of that report as it pertains to the immediate determination of confidential information. The Report indicates that it is the opinion of the Committee that immediate determinations of confidentiality might not be the most efficient way to handle confidential information. However, the FOIA Report at page 38 withholds comment on any recommendation with respect to this aspect of confidentiality procedures. In reviewing the proposed regulations of the FTC, the Committee indicated their intention to await the outcome of those new regulations before reaching a definitive recommendation with respect to the issue.

The FOIA Report should also be considered in its proper perspective. This Report is the preliminary thinking of the Congressional Committee. As such, the agency considers it a useful tool in the development of confidentiality regulations. However, this report is very preliminary and some of its recommendations could change before legislation, if any, can be produced affecting the status of confidential information. Therefore, the agency cannot rely entirely upon the Committee statements in this report for the development of confidentiality regulations and must exercise its own judgment given the statutory mandates under which it operates.

The allegations that immediate review will overload the agency with unnecessary work are unfounded. There are compelling reasons for making determinations upon receipt of information beyond those mentioned above. For the most part, information is submitted to the agency in connection with rulemaking or investigations, or is submitted under a reporting requirement. With respect to information furnished pursuant to rulemaking, the Administrative Procedure Act (5 U.S.C. 101 *et seq.*) requires that informal rulemaking be conducted in the notice and comment format. To provide adequate information upon which comments can be based, the agency must make public the information upon which a decision is made unless that information comes under some confidentiality provision. Accordingly, rulemaking is facilitated by making confidentiality determinations upon receipt of the information. This procedure has been used in the past, and this regulation merely incorporates an ongoing procedure. As such, it will not increase the work load of the agency.

Information submitted pursuant to an investigation or through required reports to the agency also can have confidential determinations made upon submission without overtaxing the resources of the agency. Information gathered pursuant to either of these devices is usually made public at some point. Accordingly, a confidentiality determination will be required at that time. This regulation merely requires that the determination be made upon receipt of the information.

The instances when immediate determinations are to be made were carefully selected on the basis of the eventual likelihood that the information would customarily be made public if not determined to be confidential. The agency concluded that it is more efficient to make these determinations when information is received. Further, immediate determinations result in early public access to information that is rightfully in the public domain. Information that is not likely to be made public in the future will not have an immediate determination made concerning its confidentiality (§ 512.6(d)). Accordingly, the agency concludes that the comments indicating that the NHTSA will be overburdened by confidentiality determinations are without merit and that the agency will, in fact, be making approximately the same number of determinations as are made under existing practices.

The Freedom of Information Clearinghouse stated that they supported the regulation but indicated that they considered it necessary to review information again when a FOIA request is submitted to ensure that information previously determined to be confidential still falls within the parameters defining confidential information. The agency agrees that it will be necessary to briefly review the information at the time a FOIA request is submitted, but this review should be made significantly easier by the earlier confidentiality determination and would merely require updating a previous determination.

Several commenters disagreed with the NHTSA's policy relating to the use of confidential information. Volkswagen indicated that the agency's statutes require the agency to protect confidential information more than this regulation contemplates. Other commenters recommended that the agency return confidential information when it is through with it and return all voluntarily submitted information if the agency determines that it is not confidential.

In response to Volkswagen's comments on the statutory protection of confidential information, the agency agrees that the statutes do provide protection for confidential business information. The agency has recognized that protection in this regulation and intends by this regulation to achieve that statutory mandate. The statutes also provide, however, for limited disclosure of confidential information when such disclosure is in the public interest. This regulation balances a submitter's interest in the confidentiality of its information with the public's need for the information. It should be remembered that the agency has historically had the right to make confidentiality determinations, and to release confidential information as allowed by the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) and Titles I and V of the Motor Vehicle and Cost Savings Act (15 U.S.C. 1901 *et seq.*) (the Acts). The agency has exercised both of these rights in the past. The NHTSA has not routinely released confidential information. Release has occurred only when the public interest so demanded. This policy is unchanged by this regulation. The NHTSA fully intends to honor the confidentiality of appropriate information unless circumstances compel its disclosure. In such disclosure instances, all efforts will be made to make disclosure in a manner to minimize any adverse effects while still serving the public interest.

The commenters who suggested the return of confidential information after its use and the return of voluntarily submitted confidential information base this approach on the practices of some other agencies. The NHTSA considers it inappropriate to return information upon which agency decisions may have been based even if the agency is otherwise finished with that information. Agency decisions are subject to challenge and change as time passes, and frequently it is necessary to have all of the information upon which the initial decision was based either to support that decision or to aid in the justification of its change.

The suggested return of voluntarily submitted information that is determined not to be confidential presents another question. The NHTSA realizes that some agencies, the EPA is one, return such voluntarily submitted information after an adverse confidentiality determination. The agency notes, however, that the FOIA Report was skeptical about the advisability of this practice. That Report indicated that denial of FOIA requests for this information during presubmission review may be illegal. The NHTSA is concerned about the potential legal problems involved with presubmission review and concludes that this approach is not appropriate for the NHTSA.

Several commenters indicated that the agency would be hindered in obtaining voluntary information if it refuses to return it when the agency determines that it is not confidential. The NHTSA disagrees. Information is voluntarily submitted frequently because the submitter has something to gain through its submission. For example, a submitter might be requesting an exemption from a requirement or might be attempting to alter rulemaking in its favor by its submission. The agency has always received such information even though the NHTSA has never returned it. The existing procedure has had a negligible effect upon the ability of the agency to secure voluntary information. Moreover, the ability of the agency to secure much information through compulsory process acts as a final encouragement to the voluntary submission of information. Accordingly, the agency disagrees with arguments indicating that voluntarily submitted information should be returned to the submitter and will continue to retain this information.

Volkswagen indicated that the agency should consider the issuance of this regulation with the promulgation of the regulation on compulsory process. Their major argument was that the compulsory process regulation imposes very short time limits on the production of information pursuant to a subpoena or special order. The problems with a short response time, they argued, would be further exacerbated by requiring elaborate substantiation of confidentiality requests.

The agency acknowledges that its compulsory process devices are usually issued with a limited response time. Time limits may sometimes be short because the agency has an immediate need for information. The NHTSA concludes that there is sufficient time, however, to substantiate a confidentiality request. The amount of information required for that substantiation is significant, but not overwhelming as some commenters have argued. The specific requirements for substantiating confidentiality requests are discussed later in this preamble. In establishing the reasonable time period for responding to compulsory process orders, the agency considers the amount of time necessary to substantiate confidentiality requests.

The Motor and Equipment Manufacturers Association (MEMA) commented that the agency had not done a sufficient analysis of the costs resulting from this regulation. The agency has considered the potential costs of the regulation and concluded that they are so minimal as not to warrant a full evaluation.

Several equipment manufacturers indicated that the regulation does not address the problems of the equipment manufacturer. They indicated, for example, that the regulation developed classes of information that are presumed confidential but that those classes applied only to vehicle manufacturers. It is true that the existing classes of presumed confidential information do not apply to equipment manufacturers. This does not mean that as time goes by that such classes will not be developed. It simply means that at this time the agency has insufficient information upon which to base specific classes applicable to equipment manufacturers. Equipment manufacturers, nonetheless, can avail themselves of the processes existing in the remainder of the rule for confidentiality determinations. Further, equipment manufacturers are free to suggest additional classes they regard to be appropriate.

In a final general comment, it was suggested that the agency wait until the outcome of the Supreme Court decision in *Chrysler Corp.* v. *Schlesinger*, 565 F.2d 1172 (3rd Cir. 1977), which was being argued this term. The Supreme Court decided the *Chrysler* case on April 18, 1979 (*Chrysler* v. *Brown*). That decision has little impact upon the procedures established by the regulation, and to the extent it does affect this regulation, it confirms the agency's positions.

II. Information Supporting a Claim for Confidentiality

Several commenters complained generally about the amount of information that the agency requires to be filed in support of a request for confidential treatment of information. These commenters argued that the NHTSA's requirements go beyond the regulations of other agencies that require support for confidentiality requests and go beyond existing case law with respect to proving the confidentiality of information.

Suggestions were made that the NHTSA pattern its regulation after that of the U.S. International Trade Commission (USITC) (19 CFR 201.6(b)(3)). That regulation provides for the substantiation of confidentiality by specifying the provision of three pieces of information: (1) description of the confidential information, (2) justification for confidential treatment, and (3) a written certification under oath that the information is not available to the public. Although this regulation is less detailed than the NHTSA's, it essentially requires similar submissions. The NHTSA's regulation merely states in more detail the information that is required to justify confidential treatment. The agency has incorporated into its regulation the latest court test for substantiating confidentiality. Although the USITC regulation does not specifically refer to this test the NHTSA believes that it would be necessary for a submitter to make a similar showing to them in support of confidential treatment of information.

The Motor Vehicle Manufacturers Association (MVMA) alleged that the agency's regulation exceeded the requirement of existing judicial precedent that governs this area. It suggested that the information required by § 512.4(b) paragraphs (2), (3), and (4) requiring submitters to support the fact that they have not released information goes beyond the test *National Parks and Conservation Association* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974). *National Parks* requires, in part, that confidential information be that which is not customarily released. MVMA alleges that this does not require NHTSA to mandate by regulation that a company check every possible source of publication of information claimed to be confidential.

Although quoted in *National Parks*, the "customarily not released to the public" language is not the only test imposed by the Court in *National Parks*. That language is an excerpt of the Senate Report on the Freedom of Information Act (5 U.S.C. 552) (S. Rep. No. 813, 89th Cong. 1st Sess. 9 (1965)). The courts have attempted to use and further refine this Congressional language. The *National Parks* case in particular illustrates the courts dissatisfaction with the "customarily not released" test when it stated that a finding that information is not customarily released would not alone justify confidential treatment. Rather, the court imposed a two pronged test that measures the substantial competitive harm resulting from disclosure of information or the impairment of the Government's ability to obtain future information if similar information is released.

It is axiomatic that the "customarily not released" test in and of itself could never be conclusive of information's confidentiality absent other considerations. The fact that information is customarily not made public does not mean that the specific information for which confidentiality is requested has not been made public. If that information has in fact been made public, it does not merit confidential status under the *National Parks* test. Accordingly, some showing that information for which confidential treatment is requested has not been previously made public is a prerequisite to determining confidentiality.

Assuming the validity of the above requirements, the MVMA and others argue, nonetheless, that it is too burdensome, because it requires companies to investigate all possible instances where information may have been made public. They suggest that a submitter will be required to interview every employee to ensure that information has not been leaked.

The agency has imposed a reasonable burden upon a manufacturer to take some limited steps to check that its so-called confidential information has not been disclosed. As the preamble to the notice of proposed rulemaking indicated, it is not the intention of the agency that submitters ensure that information has never been accidentally disclosed. Rather, the agency demands that a submitter ensure that to its knowledge there have been no accidental or purposeful disclosures of the information. This requires only that a diligent effort be made by the submitter to take minimal steps ensuring that its information is actually confidential. The agency concludes that this is not a major burden upon a submitter of information.

With respect to the requirements of paragraph (2) and (3) of § 512.4(b), Wagner Electric Co. suggested that disclosures of information to parent companies or to wholly owned subsidiaries not fall within those groups to whom disclosures must be reported to the agency. The NHTSA disagrees with this position. The agency wants to know of such a disclosure, but a disclosure to a parent or wholly owned subsidiary does not necessarily mean that the information has been made public, which might deny the information confidential treatment. A submitter can explain, under the provisions of paragraph (3), that disclosure to a parent or subsidiary does not compromise the confidential nature of the information.

General Motors (GM) indicated that it considered overly burdensome the requirement that it indicate what steps had been taken to assure the confidentiality of the submitted information in its possession (§ 512.4(b)(2)). It argued that this requirement would require it to detail its plant security system or other security measures that could in turn jeopardize its future security.

The NHTSA has no interest in the specific internal security devices of any manufacturer's facilities. The NHTSA simply wants the manufacturer to briefly indicate, pursuant to paragraph (2), that proper precautions were taken to preserve the confidentiality of this information. The objective of this paragraph is to make sure that the submitter has treated this information differently from the ordinary information in its possession. If, on the other hand, the submitter has taken no measures to safeguard its own information, its claim for confidential treatment by the Government is somewhat diminished.

The MVMA asserted that the requirement of documenting every possible authorized and unauthorized disclosure of information would be burdensome. Such documentation, it argued, would require submitters to interview every person that might have access to the information to ascertain possible disclosures as well as monitor the press for possible unauthorized leaks.

The NHTSA does not consider it unreasonable to ask the submitter of information to list all of the recipients of information other than the submitter. In most instances, truly confidential information will not have been supplied to excessive numbers of individuals or entities beyond the submitter. The NHTSA concludes that information that is really confidential will be protected by the submitter. The agency is confident that any submitter with such information would know to whom, outside its organization, it has given that information. In fact, most submitters should have this information readily available. Any submitter that is unaware of outside organizations in possession of its confidential information may have to do more extensive research, but the need for such research itself may be indicative of meager internal controls of so-called confidential information and may imply that the information is really not confidential.

As to the allegations that submitters must monitor all trade newspapers to discover possible unauthorized disclosures, these are exaggerations of the effects of this rule. Paragraph (4) of § 512.4(b) requires notification to the agency of *known* authorized and unauthorized public disclosures. Submitters are under no obligation to ensure that there have been no unauthorized releases of their information. Their duty is simply to report those instances of disclosure of which they are aware. The NHTSA believes that most unauthorized disclosures of confidential information that are subsequently reported in trade papers or newspapers are likely to be brought to the submitter's attention.

Several commenters complained about the requirement in paragraph (5) of § 512.4(b). That paragraph requires submitters of information to notify the agency of existing confidentiality determinations made by the NHTSA, other agencies, or the courts relating to the confidentiality of the information or similar information. Submitters of information complained that the NHTSA was in better position to canvass court decisions relating to confidentiality and to review all of the decisions of other agencies. They argued that it was overly burdensome for submitters to do all of this research.

These comments indicate a misunderstanding of the requirements of this section. The agency does not intend that the submitter of information provide the agency with the latest judicial and agency opinions regarding the confidentiality of similar information of other submitters. This paragraph simply requires the submitter of information to supply the NHTSA with determinations respecting the confidentiality of its own similar or identical information. A submitter of information should be aware of these determinations without need to do any research whatsoever. Accordingly, the burden of this requirement upon the submitter of information is minimal. To clarify the agency's intention with respect to this paragraph, the NHTSA is modifying the language somewhat to make it clear that a submitter is responsible only for determinations relating to its own information.

The Motor Vehicle Equipment Manufacturers Association (MEMA) suggested that paragraph (8) was unnecessary. That paragraph requires information as to the effect of a disclosure of voluntarily submitted confidential information upon the ability of the NHTSA to obtain future voluntary information. The MEMA indicated that it could see no reason to raise this inquiry since it is the manufacturers' interests in confidentiality that will be harmed by disclosure not necessarily the agency's. The paragraph (8) requirement was included to provide information as to the potential harm that disclosure might impose upon the ability of the NHTSA to obtain information through voluntary means. This inquiry is one of the two pronged tests employed in *National Parks, supra.* and is frequently cited as being the appropriate test for confidentiality of voluntarily submitted information. Therefore, the agency does not agree with the MEMA's comments that this information is unnecessary.

Paragraph (9) requires a submitter of information to indicate the amount of time for which confidentiality is requested. The MEMA complained that in the instance of trade secrets no time limit is appropriate. The agency does not agree that trade secrets are always permanently confidential. Some trade secrets may become common knowledge within a certain amount of time. Nonetheless, paragraph (9) permits a submitter of information to request and justify an indefinite time period for maintaining the confidentiality of its information.

Many commenters suggested that the information submitted in support of their confidentiality requests would in turn be confidential and, if released, could cause them competitive harm. They suggested that submitters might fear to support their claims for confidentiality since the support information could in some instances be even more harmful, if disclosed, than would the disclosure of the originally submitted information. Commenters, therefore, argued that the agency should at least return any information submitted in support of a confidentiality request if that request is subsequently denied.

The agency intends by this regulation to establish a procedure where specious requests for confidentiality are discouraged while those requests that are meritorious can be handled efficiently. The agency concludes that a submitter of information who believes that disclosure of its information will result in competitive harm will support its request with necessary information. Information submitted in support of a claim of confidentiality can also be requested for confidential treatment. Consequently, the agency does not expect that this provision will discourage appropriate confidentiality requests. For the reasons stated earlier in this preamble, the agency disagrees with arguments favoring the return of information submitted to the NHTSA and will not undertake such an approach.

Paragraph (h) of § 512.4 requires submitters to update their confidentiality requests if intervening events would change the confidentiality determination. Commenters objected to this requirement as being unnecessary and costly. For example, they argued that since decisions are made immediately with respect to confidentiality, updating the information is unnecessary.

Not all decisions respecting confidentiality are made immediately. As stated earlier, most confidential information that would otherwise subsequently be made public will have an immediate determination of confidentiality. However, information that is not customarily made public by the agency pursuant to one of the agency's established procedures will not have a confidentiality determination made with respect to it until such time as a FOIA request is received. For this reason, it is necessary that information submitted by manufacturers for which confidentiality is requested be updated when circumstances change that request. If, for example, a company voluntarily disclosed information in the interim before the agency determined confidentiality, the NHTSA should be made aware of this fact since the disclosure would make the confidentiality determination moot.

Updating of previous confidentiality requests also applies even after confidentiality has been granted. In certain instances, termination of confidentiality is conditioned upon the occurrence of a particular event. In such cases, the agency should be informed that the event has occurred so that the confidential status of the information can be discontinued. Moreover, there are times when information will become disclosed or other events will make its continued confidentiality unnecessary. In these instances, the agency should be informed of the disclosure in order to correct its determination. In conclusion, the agency does not agree that the updating provision is unnecessary.

The agency concludes that the updating provision will not be costly. The requirement merely states that a company shall inform the agency of any

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changes pertaining to the information. The updating responsibility is triggered when the submitter *knows* that the initial submission is incorrect or the information given in that submission has changed. It is not required that a submitter constantly monitor all information submitted pursuant to a confidentiality determination as suggested by GM. A submitter is only charged with the responsibility of an update when it *knows* that the information previously submitted was erroneous. If by accident or mistake, the submitter does not know or realize the initial error or changed circumstances, there is no duty upon it to make the amendment. Therefore, the agency concludes that this is a reasonable burden to place upon the submitter of information.

Commenters objected to paragraph (i) of § 512.4 which states that a submitter may lose its claim of confidentiality through failure to comply with the requirements of paragraph (b). Paragraph (i) establishes times when a noncompliance *may* be deemed a waiver of the confidentiality claim and times when a noncompliance *will* waive the confidentiality request. The times when confidentiality will be lost are few: (1) failure to file the required certificate, (2) failure to request confidential treatment, and (3) failure to estabish the necessity for confidentiality. These failures will result in the loss of confidential treatment for the information. In other instances where technical insufficiencies in the required submissions exist, the agency may deem a claim of confidentiality to have been waived. On the other hand, the agency may allow the submitter to perfect its submission.

The discretionary waiver aspect of paragraph (i) allows the agency the necessary latitude to deal with all possible circumstances. For example, if a submitter is knowingly delaying or otherwise interfering with the determination process by failure to supply complete information, and the agency needs that information immediately, the NHTSA must have the authority to deny the claim of confidentiality. To do otherwise would jeopardize the public welfare while permitting submitters to avoid the agency's regulations. In most instances, however, where a submitter merely neglects to include a minor part of the required material and the oversight is not deemed to be intentional, the agency would normally grant the submitter additional time to substantiate its claim. The agency will exercise reasonable discretion in determining whether a submitter's confidentiality request has been waived.

Commenters disagreed with the regulation in section 512.4(i) to the extent that it allows the use of criminal and civil penalties for failure to amend confidentiality requests when the initial information has changed or an error has been discovered in the initial filing. These commenters challenged the authority and the wisdom of invoking either of these penalties.

The NHTSA has the authority to enforce it regulations through civil penalties (15 U.S.C., 1917, 1948, 1989, and 2008). This authority is necessary to encourage adherence to the agency's regulations. The NHTSA will retain the civil penalty provision of this paragraph. However, the agency has considered the comments submitted to it and concludes that the imposition of criminal penalties is unnecessary in the enforcement of this requirement.

III. Determining Confidentiality

The Automobile Importers Association (AIA) complained that § 512.5 was very complex and should be clarified. For example, the AIA indicated that the lengthy set of phrases connected by disjunctives and conjunctives was beyond easy comprehension. Further, the AIA indicated that the definition of "voluntarily submitted information" in this section should be amended. Currently, the section defines "voluntarily submitted information" as that information that could not be compelled by compulsory process. The AIA would have the agency define voluntarily submitted information as all information submitted to the agency voluntarily regardless of the fact that the information could have been compelled by the NHTSA.

Responding first to the comment that the language is confusing, the agency has concluded that the language of this provision is somewhat unclear. Proposed paragraphs (1) through (4) state that information is accorded confidential treatment if it is a trade secret or commercial or financial information that has not been previously disclosed and whose disclosure would likely result in substantial competitive harm to the submitter. Proposed paragraph (5) establishes a somewhat different test for voluntarily submitted information that is a trade secret or confidential business information. These two tests conform to the guidelines established by the *National Parks* case. The agency is amending this section by consolidating several of the paragraphs to clarify the tests for determining confidentiality.

The AIA also recommended that the agency adopt a different definition of "voluntarily submitted information." The purpose of proposed paragraph (a)(5) was to establish a test for preserving the confidentiality of information that the agency could not compel by compulsory process. If the agency were to release such information and such release were to discourage the submission of information that the agency could not otherwise obtain, then the NHTSA might be hindered in fulfilling its mandate. Accordingly, the agency needs to be sure that it does not discourage the flow of this information. The AIA suggestion would expand the category of voluntarily submitted information to include even that which could be produced by compulsory process but which a submitter has decided to submit voluntarily. The NHTSA disagrees with the AIA's suggestion. Since the NHTSA can compel much of the information currently submitted voluntarily, the real distinction in information submitted to the agency is whether or not it can be compelled. The agency continues to believe that information that can be compelled by it should not be subject to the same standards as that information which is freely given to the agency and which the agency could not compel.

The AIA objected to the requirements of § 512.6(d) that allow the NHTSA to delay confidentiality determinations for some information until 10 days after the receipt of a FOIA request. The AIA believed that this requirement would overly burden submitters of information since they would be required under § 512.4(h) to update their confidentiality requests if changes occur even though in these instances confidentiality determinations would not be made upon receipt of the information, but upon the receipt of a FOIA request. Earlier in this preamble, the agency stated that the burden of updating information for which confidentiality was requested is reasonable and necessary, particularly when responding to FOIA requests. It would be improper under the FOIA for the agency to withhold information that should be made available. If information previously determined to be confidential subsequently loses its confidentiality, that information might be subject to release under FOIA. Accordingly, the agency must require that submitters update this information when necessary to ensure full compliance with existing laws relating to the release of information. With respect to the other time periods for determining confidentiality, the agency is increasing them from 10 to 30 days as a result of the increased volume of confidentiality requests.

The AIA complained that the provision in section 512.6(e) that permits the agency to extend the time periods applicable to making determinations under various sections of the regulation render those time limits meaningless. It suggested that the NHTSA only has to prove good cause to itself that an extension is warranted.

The purpose of this provision is to provide for those instances in which a determination cannot occur within the normally established time frame. It is the intention of the agency to conform to the time requirements imposed upon it unless unusual circumstances prohibit timely determinations.

For example, in certain rulemaking actions manufacturers wait until the last day before submitting comments. If many comments arrived simultaneously with confidentiality requests, the agency might be unable to make all the determinations with the specified time limits. Therefore, the agency needs some discretion to extend time limits. Paragraph (e) places a burden upon the agency to establish "good cause" for an extension. These reasons must be set out in writing and provided to the submitter. Therefore, the submitter will have the opportunity of contesting the agency's "good cause" determination. As a further safeguard against abuse of the extension provision, the agency has indicated in this section that the extension as it applies to FOIA requests will be done in compliance with 5 U.S.C. 552. The NHTSA has determined that these procedures will preserve the necessary latitude required by the agency to deal with all possible contingencies while preventing routine abuse of the extension provision.

Several commenters objected to paragraph (f) of § 512.6 which specifies that the NHTSA will notify a submitter of the determination respecting its confidentiality request. The regulation indicates that this notification will provide, in the case of denials, that the information will be made public not less than 10 working days after the submitter of the information has received notice. The provision further states that the 10-working day requirement can be modified if it is in the public interest that the information be made available earlier. Commenters objected to the 10-working day requirement, some indicating that foreign submitters are particularly disadvantaged by such a short time period.

The time periods provided for the release of information are short for a number of reasons. First, in the case of FOIA requests, the agency must respond to the request within a relatively short time frame. The agency cannot, as some commenters suggest, permit submitters of information extensive periods of time to react to the agency's determinations in FOIA cases. Second, information frequently will be needed for rulemaking or other agency needs that would otherwise be delayed by a lengthy interval between a confidentiality determination and release of the information. The agency also must have the authority to reduce the time periods even further if the circumstances indicate that the public interest demands the immediate release of this information. Even under emergency release conditions, however, a submitter will be given some notification of the pending release of its information even though such notice might be short. Within even an abbreviated time frame, a submitter would have the opportunity to seek whatever judicial remedy is available to it. Accordingly, the agency concludes that the time provisions of this section meet the needs of the agency for making information available in the shortest possible time while still permitting the submitter of the information to seek whatever recourse it chooses when its confidentiality request has been denied.

The AIA pointed out that nothing in paragraph (f) indicates that the notification of the determination will be made immediately. They were concerned that the NHTSA might make a determination in some instances and not notify a submitter for some time. To prevent this from occurring, the AIA suggested some modification in the language of the provision to ensure that the agency is required to give immediate notification of a determination. Since this has always been the intention of the NHTSA, the agency agrees with the modification suggested by the AIA and changes this provision accordingly.

General Motors stated that § 512.6(f)(2) was insufficient because, although it indicates that a submitter of information will receive notice of some sort, it does not indicate that the notice of denial will state the reasons for such a denial. The section states that the submitter will be notified in writing of the denial of its confidentiality request. The agency intends that this written notice will state the reasons for the denial. To clarify this, the NHTSA is modifying this section to indicate that a statement of the reasons for denial will be part of the written notice.

A few commenters were troubled by paragraph (g) of § 512.6. This paragraph allows submitters whose requests for confidentiality have been denied to petition for a reconsideration of that denial. Dunlop Tire and Rubber Co. indicated that a petition for reconsideration was a waste of effort since the same office would be making a determination of the reconsideration petition as had made the initial denial. Accordingly, Dunlop proposed that a submitter be permitted to go directly to court without recourse to the reconsideration process.

The NHTSA disagrees with the Dunlop position that reconsideration is a futile effort. A petition for reconsideration allows a submitter of information to further emphasize a portion of its request that it may feel has been insufficiently considered by the agency. The reconsideration process allows all parties the opportunity to discover and rectify possible errors without recourse to costly and time-consuming litigation. The agency notes that it has used petitions for reconsideration in the area of rulemaking for many years and those petitions have frequently resulted in amendments of agency rulemaking actions. Therefore, the NHTSA concludes that the reconsideration process is a meaningful check upon the agency's actions and will continue to allow it when making confidentiality determinations. However, the regulation states that a submitter may petition for reconsideration. A submitter is not required to file such a petition and may instead seek judicial review.

Volkswagen argued that the petition for reconsideration process was rendered meaningless since it was possible that the information for which confidentiality was claimed could be released pending a determination on the petition for reconsideration. The paragraph states that the Chief Counsel may postpone the release of information pending a decision on the petition for reconsideration. This implies, however, that release may not be postponed in some cases. It is contemplated that in the majority of instances material will not be released until a final determination on the issue of confidentiality is made. Therefore, material generally will not be made public during the reconsideration process. In exigent circumstances, however, the agency does retain the discretion to release information if the public interest so dictates. Even in these unusual circumstances, a submitter of the information would be informed of the pending release of the information and would be able to then seek an immediate judicial intervention prior to the release of the information.

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The AIA suggested that the agency adopt a review procedure for the denials of requests for confidentiality that would allow a submitter to petition someone in the Office of the Secretary of the Department of Transportation for a review of the confidentiality request. The NHTSA has established its own internal review of denials through the petition for reconsideration process. A submitter that is still dissatisfied with the agency's action can seek a judicial remedy. Although the Secretary of the Department has authority over agency functions, that office does not review routine agency decisionmaking and does not have sufficient resources to act as a review board for every agency action. The NHTSA notes that the need for Secretarial review of these decisions is not apparent. Accordingly, the agency declines to adopt AIA's suggested modification.

General Motors objected to § 512.7(a)(2) which indicates that a confidentiality determination remains in effect until, among other things, a change occurs in applicable law. GM suggested that this was impermissibly vague. It stated that some remote lower court might make an adverse ruling on an issue of confidentiality while the Supreme Court may have decided otherwise in another case. It feared the NHTSA would follow the rule of the lower court.

The agency disagrees with GM that this provision is impermissibly vague. A change in applicable law might include a statutory change or a change in judicial interpretation of existing statutes. However, as GM must well know, the Supreme Court is the ultimate authority with respect to judicial interpretation of statutes. Accordingly, the agency would not terminate a confidentiality determination when a lower court issued a decision that might be in conflict with existing pronouncements from the Supreme Court. The agency does not consider every lower court decision to indicate a change in the applicable law, but it does consider the pronouncements of major courts as indicative of changes in the status of the law and may review confidentiality determinations in the light of those pronouncements. In any event, if the agency responded to a change in law by determining to reverse a previous finding of confidentiality, it would provide notice of that determination and the reason therefor before releasing the information in question.

IV. Disclosure of Confidential Information

Sections 512.8 and 512.10 of this regulation elicited many comments that were for the most part opposed to the release of information that has been determined to be confidential. Many commenters suggested that these two provisions be deleted entirely or, in the alternative, modified to limit severely the right of the agency to release confidential information. Commenters expressed the erroneous belief that these provisions would combine to undermine the confidentiality of information that is normally classified as confidential. The comments indicate a need for explanation of the agency's intentions, its statutory powers and limitations, and the judicial precedents that govern the area of discretionary release of information determined to be confidential.

In § 512.8, the agency established separate criteria for the release of different types of confidential information. These criteria are recitations of the various statutory sections which permit the agency to disclose such information. Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (the Act) (15 U.S.C. 1401) states that "information received pursuant to Title I of the Act relating to trade secrets or other matters referred to in 18 U.S.C. 1905 shall be confidential but may be disclosed when relevant in any proceeding under this title". This statutory language is incorporated into § 512.8(a)(1).

Section 158(a)(2)(B) of the Act (15 U.S.C. 1419) specifies that confidential information obtained under Part B of the Act may be released if "necessary to carry out the purposes of this title." This language is adopted in § 512.8(a)(2). Finally, § 512.8(a)(3) permits the release of confidential information obtained under Parts I and V of the Motor Vehicle and Cost Savings Act (15 U.S.C. 1901 *et seq.*) if the information is relevant to any proceeding under the title under which the information was obtained. The authority for this release is found in 15 U.S.C. 1914 and 2005. Accordingly, comments to the agency that any release of confidential information is contrary to the agency's statutory authority are entirely without merit.

Commenters argued that regardless of any possible statutory authority granted to the agency in its various Acts to release confidential information, 18 U.S.C. 1905 states that information relating to trade secrets and other areas of business confidentiality cannot be released. This comment indicates a misunderstanding of section 1905. Section 1905 states that certain information should be confidential and not released. However, section 1905 further states that the information outlined in that section shall not be released "except as provided by law." Any release of confidential information made pursuant to the agency's validly enacted enabling Acts is a release provided by law and, therefore, permissible under section 1905. Therefore, the agency declines to delete the discretionary release provisions of the regulation that permit the release of information under the tests established by the Act and incorporated in § 512.8.

Some commenters argued that although the release of confidential information might be permissible under existing legal authority, the agency should not release the information. They suggested that such release will jeopardize future cooperation between the agency and the industry. Further, they argued release will invite litigation increasing the adversarial relationship between the agency and the industry.

When considering the consequences of the release of confidential information, the submitters of that information should examine existing agency practice. The agency for years has been operating under the statutory provisions permitting release of confidential information. This regulation simply formalizes the release procedures used by the agency but does not increase the existing authority of the agency to release information. During the time that the agency has operated with this authority, some releases of confidential information have been made when the agency determined such releases to fall within the parameters prescribed by the applicable statutory authority. However, for the most part, confidential information has not been released. The NHTSA does not intend by this regulation to alter this practice. The agency realizes the importance to the competitive process of maintaining the confidentiality of business information. Accordingly, the agency will not release confidential information unless the release of such information meets all of the statutory requirements for release and is deemed to be in the public interest.

Commenters suggested that when the release of confidential information is necessary it should be made in the least offensive form. For example, they suggested that aggregate information or unidentified information might sometimes meet the need for public release. The agency agrees with these comments and will try to release as little information as is necessary and will attempt to do it in an inoffensive manner. The NHTSA believes that such an approach reflects existing judicial decisions such as *Pennzoil* v. *FPC*, 534 F.2d 627 (5th Cir. 1976) which indicated that agencies should examine alternative less damaging methods of public disclosure.

Most commenters suggested that the 10-working day discretionary release requirement was unnecessarily short. Many suggested longer time periods prior to release to permit the submitter time to take action to preserve the confidentiality of its information. Further, commenters objected to the provision that allows the administrator to waive the 10-day notice requirement if the public interest will be served by such waiver. At the least, they argued, a 10-day minimum is required. Some even suggested that any time period less than 10 days would violate due process.

The existing notice provision is in accordance with other notification provisions in this regulation. As stated earlier in this preamble, the agency has concluded that this time period provides an adequate opportunity for submitters of information to seek whatever recourse they feel may be necessary to preserve their rights. Accordingly, to prevent the possiblity of delay in the release of information that the agency considers necessary to its functions, the NHTSA will not amend the 10-day notification provision.

With respect to the Administrator's discretion to waive the notification provision when the public interest demands, the agency concludes that this discretion is necessary. The exigencies of the agency's regulatory activities may, on rare occasions, necessitate such waiver. For example, the Acts under which the agency operates grant the agency broad powers to protect the public safety. These powers include the right to act quickly to save lives. If the agency were to establish an inflexible minimum 10-day notice provision, it would be restricting its validly granted statutory authority.

This would undesirably limit our ability to meet our responsibilities to the public as stated in the Acts, and in their legislative histories. Accordingly, the agency will not to limit the Administrator's discretionary powers to respond to emergencies. Further, the agency notes that the courts and the FOIA Report substantiate the agency's position that minimum time limits must be flexible. The agency concludes that allegations of a due process violation when minimum time limits are not established are without merit and do not reflect current judicial thinking. The agency will always seek to provide 10 working days notification to the submitter of information. In those instances where this notice is not practicable the agency will provide sufficient time for the submitter to seek judicial recourse if it so desires.

The MVMA went so far as to suggest that prior to the release of confidential information the agency is required to have a formal adversarial hearing. For their support, they cited *Mathews v. Eldridge*, 424 U.S. 319 (1976). This case held only that some form of reasonable opportunity to be heard must be granted prior to the deprivation of a property right. The court, however, stated that full adversarial proceeding was unnecessary and that "[t]he judicial model of an evidentiary hearing is neither a required, nor even the most effective method of decisionmaking in all circumstances". (424 U.S. at 348). In fact, only in the rarest of circumstances have the courts required a full adversarial hearing prior to the termination of property rights. *Goldberg* v. *Kelly*, (397 U.S. 254 (1970)). In that case, the court required a hearing prior to the termination of welfare benefits since to do otherwise would impose an undue hardship upon the recipient which might, in fact, endanger the recipient's life. In many similar cases that are less life-threatening courts have not required formal pretermination hearings. Certainly the release of confidential information does not pose the danger to life itself that warranted the *Goldberg* approach, and accordingly, its release does not require formal hearings. The NHTSA concludes that its provision allowing the opportunity to comment prior to any release provides ample opportunity to be heard in compliance with existing judicial determinations.

The MVMA further argued that if the agency intends to continue with its informal procedures as outlined above it should at least indicate that it will consider the comments recieved and a written determination as to why the release is being made and upon what grounds the public interest is served. As stated earlier, the reasons for the release will be supplied in the first notice to the submitter. Responding to the MVMA's concern that the comments received may not be considered, all timely submitted comments will be considered prior to release of the information.

Volkswagen and several other commenters suggested that the agency better define the term "public interest". They suggested that the agency adopt a definition similar to that of the EPA (40 CFR 2.205(g)) which permits the EPA to act expeditiously when it determines that it "would be helpful in alleviating a situtation posing an imminent danger to public health or safety * * *."

The NHTSA considers that the existing wording of the regulation adequately details the necessary findings of the agency that permit the immediate disclosure of confidential information when it is in the public interest. The agency considers it unnecessary to further define by regulation what constitutes the public interest. Attempts to define terms such as public interest are usually unsuccessful, because these terms embrace very broad, diverse, and often-changing concepts. Public interest is something that can only be determined in the context of specific facts and their potential ramifications.

Although the agency will not define "public interest" in the regulation, submitters can be assured that the agency will release information only after making some showing that such release truly benefits the public. Existing case law clearly reflects the fact that certain findings must be made by an agency more than the mere recitation that the release of information is in the public interest. For example, in *Pennzoil v. FPC*, 534 F.2d 627 (5th Cir. 1976), the Court did not invalidate the public interest test, but stated that the FPC had not examined all of the relevant criteria that should go into the making of the public interest determination. The court suggested that the agency consider whether: (1) the disclosure would aid the agency, (2) the disclosure would harm the public, and (3) there are alternatives to disclosure that will work equally well (i.e., disclosure of aggregated or summarized information). Agency discretion exercised pursuant to a general public interest authority has been upheld in many other instances. *Administrator, FAA et. al. v. Robertson*, 422 U.S. 255 (1975); *Westinghouse Electric Corp. v. NRC*, 555 F.2d 82 (3rd Cir. 1977).

The AIA suggested that § 512.8(b) should specify more than just the reasons for the need for release of confidential information. They suggested that the agency require more specific information to be stated in the Administrator's notice to the submitter. The agency realizes that releases of confidential information may be contested by the submitter. Accordingly, the NHTSA will ensure that the record of the decisionmaking process and reasons for the final determination are fully established to facilitate judicial review. However, for purposes of this regulation, the agency concludes that it is sufficient to indicate that the Administrator will clearly establish all of the reasons for releasing information.

Several commenters objected to the possible releases of information under § 512.10 of this regulation. As proposed, this section permitted the disclosure of confidential information (1) to the Congress or the Comptroller General, (2) pursuant to court order, (3) to the Office of Secretary of the Department of Transportation (DOT), (4) with the consent of the submitter, (5) to other Federal agencies in accordance with applicable law, and (6) to contractors if necessary.

The agency does not fully understand the theory on which the objectors to this provision base their claims. Generally, NHTSA does not authority to withhold information of any sort from the Congress, review or oversight offices within the Executive branch, or the courts pursuant to a court order. Nor can the NHTSA deny information to the Secretary of the DOT, since the agency derives its authority from that official. Further, the agency is not at liberty to interfere with any other law that would expressly or impliedly require the agency to yield information to another Federal agency. The only provisions of this section that the agency can really affect are those relating to the release of information with the consent of the submitter, with which the agency assumes no one argues, and to the submission of information to contractors. In the latter case, the agency has indicated in the regulation that the contractors will be required to maintain the confidentiality of the information or be responsible to the parties for the consequences of its release. Therefore, in this section of the regulation, the agency has merely indicated the two instances when it will release information and has indicated that there will be safeguards for the information in those instances. The other parts of this section indicate those occasions when the NHTSA is obliged to disclose information pursuant to higher authorities. With respect to the release of information to higher authorities, the NPRM neglected to include the release of information to offices in the Executive branch that have review or oversight authority. The regulation has been amended to correct this omission, and has been reorganized for clarity.

The MEMA argued that any release of information under this section should only be made as required by law. As stated previously, that is mostly what this section does. Further, the MEMA suggested that the agency impose regulations that would safeguard the secrecy of the information in the hand of another agency or the Congress that is the recipient of the information.

The agency can not impose requirements upon the Congress or other administrative agencies. The NHTSA cannot require the Congress, for example, to promise to keep information confidential. It is assumed that the Congress or any other agency will treat confidential information with the care that it deserves. The agency, however, attempts to safeguard the information to the extent possible by ensuring that the requests for confidential information are valid and authorized and by indicating to the recipient at the time the information is released that it is confidential and should be treated accordingly. Further, the agency typically obtains a written agreement from a requesting agency that it will release the information only if required by law to do so and will consult with NHTSA regarding any FOIA requests that the requesting agency receives for the information. The agency has amended this section of the regulation to effect some of these practices.

Some commenters criticized the provision in the regulation that permits the agency to supply confidential information obtained pursuant to the agency's compulsory process devices to other agencies that do not have such powers to compel information. These commenters indicated that they thought that such a transfer of information would be contrary to the rights of a submitter.

The NHTSA agrees that access by other agencies to such confidential information posssessed by the agency should be limited. However, some access to confidential information by other agencies is legitimate and necessary. When the agency is expressly or impliedly required to provide information pursuant to applicable law, the NHTSA must supply the information. Other requests for information will be closely scrutinized by the NHTSA. The NHTSA will only release information that it has received through compulsory process to agencies that can compel the information directly from the submitter or that are otherwise authorized by law to obtain it. The agency concludes that such a transfer of information is in the best interest of the government and the submitter. Through this sharing of information, a submitter is spared the expense of compiling and submitting information that is already available to the government. However, agencies that are not expressly or impliedly authorized to obtain information from the NHTSA and that cannot obtain information from the submitter directly will not be able to obtain information from the NHTSA that the agency has received through compulsory process. If Congress had intended those agencies to have the right to such information, it would have given them the right to receive it from other agencies or the power to obtain it.

The MEMA requested that a submitter be given notice of the government's release of information pursuant to this section. The agency cannot always give advance notice of releases in these circumstances because to do so could put the agency in the position of interfering with a valid and exigent investigation by the Congress, with a court proceeding, or with other Executive branch review or oversight of agency actions. The Congress has the authority, for example, to demand some information immediately. Accordingly, the agency might not be able to provide advance notice to a submitter that its information is being disclosed. In a recent case, *EXXON et al.* v. *FTC*, 589 F.2d 582 (D.C. Cir. 1978) the court indicated that a mandatory advance notice of release of confidential information to Congress was not required unless the agency promised to give such a notice. The agency concludes that this recent decision confirms its position that releases of information in these instances that are required by law and which do not constitute the public disclosure of information are not the type of releases requiring advance notification.

The NHTSA has reviewed the existing law with respect to the disclosure of information to other government agencies and contractors and concludes that the question of whether advance notice of such disclosures is required remains unsettled. The agency believes that providing advance notice to submitters in these cases is not presently required by law nor always in the best interest of the agency, but will do so where appropriate. In the case of contractors, the agency notes that information will not be released to contractors if it would result in a conflict of interest for that contractor.

The AIA in a general comment about the release of confidential information expressed their concern that such a release might be considered a taking of private property for public use entitling the submitter of the information to compensation. They base this argument on the Constitution's Fifth Amendment protection of property rights from uncompensated public takings. In support of their argument, AIA cited two cases: *Continental Oil Company* v. *FPC*, 519 F.2d 31 (5th Cir. 1975), cert den'd sub nom. *Superior Oil* v. *FPC*, 425 U.S. 971 (1976); and *Westinghouse Electric Corp.* v. *Nuclear Regulatory Commission*, 555 F.2d 82 (3rd Cir. 1977), in which the issue of a compensable taking has been mentioned involving the release of confidential information. Unfortunately, neither of these judicial pronouncements have yet clarified this area of the law.

In *Continental Oil*, the court never reached the question of compensation, deciding the case on other issues. In *Westinghouse*, the court reached the issues of taking but determined that a taking could not occur where the information had been voluntarily given to the government. In dictum, the court indicated that a compelled production of confidential information which was subsequently released might result in a compensable taking. This issue was before the courts again in *Polaroid Corp. v. Costle*, (Civil Action No. 78-113-S) in the U.S. District Court of the District of Massachusetts. However, that case was settled prior to reaching the merits of this issue. Therefore, there is no legal precedent of which the NHTSA is aware indicating that such a release would constitute a taking, and the agency concludes that a taking will not occur as a result of such a release.

V. Miscellaneous Comments

A few commenters considered the affidavit requirement unnecessary. The MVMA alleged that it served no useful purpose and that its aim was to force people into compliance with the requirements. The MVMA further asserted that the requirement to state that the person has contacted those in authority to release confidential information and ascertained that the information had not been released necessitated the person's giving hearsay.

The above comments to this section are unwarranted by the relatively innocuous provisions of the affidavit. The affidavit simply requires a responsible official of the submitter of information to attest under oath to the accuracy of certain statements. First, the official attests to his authority. Second, the official attests to the confidentiality of the information. Since the submitter is asking the agency to make a confidentiality determination, it is proper to ask that the submitter attest to the fact that the information is confidential. Third, the authorized official must attest that he or she has contacted responsible officials who in the normal course of business may release information to determine whether the information has been released. This is the provision that the MVMA characterizes as requiring "useless hearsay." The purpose of this provision is not to prove conclusively that information was never released. This provision simply requires that the official attest to the fact that he or she has checked with the officials to discover any such disclosure. Since the provision goes to proving that the official checked with responsible personnel not to the truth of the statements of those personnel, it does not require hearsay. When the previous requirement is coupled with paragraph (4) of the affidavit, it is clear that the attesting official only attests to the fact that to the best of his knowledge information has not been released. In sum, the requirements of this provision are minimal and simply assure that the official has complied with the inquiry provisions of the regulation and has provided the agency with the information acquired through the inquiry.

The NHTSA received numerous comments suggesting additional classes of information that the industry would have the agency include within the classes of information presumed to be confidential. Almost every commenter suggested some classes for inclusion within the existing list. The effect of these comments, if adopted, would be to make almost every piece of information submitted to the agency presumptively confidential. Such an outcome would not serve the public interest nor would it comply with existing statutes granting the public access to governmental information.

The agency chose the existing classes because they were narrow enough to include only the information that the agency customarily finds confidential. The NHTSA concludes that such classes of information presumed to be confidential must be very limited and must not include information that is not normally considered confidential.

The NHTSA concludes that the existing list of classes of presumptively confidential information is sufficient for the present. The agency is experimenting with the class determination approach as a means to reduce the workload in making confidentiality determinations. At this time, however, the NHTSA does not have sufficient experience in the use of these classes to warrant an expansion of them. As soon as the agency becomes more familiar with this process, changes to the classes might be made increasing the information presumed to be confidential. This can only be done, however, after the agency evaluates the class determination procedure and further reviews the other types of information for which confidentiality is requested and which normally deserves confidential treatment. Accordingly, the agency declines to adopt the classes suggested by the manufacturers and other commenters at this time, but it will retain these comments for possible future inclusion within the regulation when experience indicates that such inclusion would be appropriate.

This regulation was reviewed under Executive Order 12044 and determined to be significant based upon the anticipated public comments on the proposed version of the regulation. However, voluntary implementation of the regulation during the past two years have demonstrated that initial concerns about having to submit significantly increased justification to support confidentiality requests and about increases in the release of confidential information have not been borne out. Further discussion of these issues is provided above in this notice. No regulatory analysis or evaluation has been prepared for this notice since it imposes little or no additional cost on persons making confidentiality claims. The primary effect of the regulation is to codify existing agency practices in implementing statutory and case law regarding confidential information.

The principal author of this regulation is Roger Tilton of the Office of Chief Counsel.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by the addition of a new Part 512, *Confidential Business Information*, as set forth below.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 112, Pub. L. 89-563, 80 Stat. 725, amended Pub. L. 91-265, 84 Stat. 262 (15 U.S.C. 1401); sec. 119, Pub. L. 89-563, 86 Stat. 950, (15 U.S.C. 1914); sec. 204, Pub. L. 92-513, 86 Stat. 957; (15 U.S.C. 1944); sec. 408, Pub. L. 92-513 as added Pub. L. 94-364, 90 Stat. 985 (15 U.S.C. 1990d), sec. 505 Pub. L. 94-163, 89 Stat. 908 (15 U.S.C. 2005), delegation of authority at 49 CFR 1.50)

Issued on December 30, 1980.

Joan Claybrook,
Administrator.

Sec.
512.1 Purpose and scope.
512.2 Applicability.
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512.6 Determination of confidential treatment.
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512.10 Disclosure of information in certain circumstances.

Authority: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 112, Pub. L. 89-563, 80 Stat. 725, amended Pub. L. 91-265, 84 Stat. 262 (15 U.S.C. 1401); sec. 119, Pub. L. 89-563, 80 Stat. 728, (15 U.S.C. 1407); sec. 104, Pub. L. 92-513, 86 Stat. 950, (15 U.S.C. 1914); sec. 204, Pub. L. 92-513, 86 Stat. 957; (15 U.S.C. 1944); sec. 408, Pub. L. 92-513 as added Pub. L. 94-364, 90 Stat. 985 (15 U.S.C. 1990d), sec. 505 Pub. L. 94-163, 89 Stat. 908 (15 U.S.C. 2005), delegation of authority at 49 CFR 1.50.

§ 512.1 Purpose and scope.

The purpose of this part is to establish the procedure by which the NHTSA will consider claims that information submitted to the NHTSA, or which the NHTSA otherwise obtains, is confidential business information, as described in 5 U.S.C. 552(b)(4).

§ 512.2 Applicability.

(a) This part applies, in accordance with its terms, to all information which is submitted to the NHTSA, or which the NHTSA otherwise obtains, except as provided in paragraph (b).

(b) Information received as part of the procurement process, is subject to the Federal Procurement Regulations, 41 CFR, Chapter 1, as well as this part. In any case of conflict between the Federal Procurement Regulations and this part, the provisions of the Federal Procurement Regulations prevail.

§ 512.3 Definitions.

"NHTSA" means the National Highway Traffic Safety Administration.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"Chief Counsel" means the Chief Counsel of the National Highway Traffic Safety Administration.

"Confidential business information" means information described in 5 U.S.C. 552(b)(4).

§ 512.4 Asserting a claim for confidential treatment of information.

(a) Any person submitting information to the NHTSA and requesting that it be withheld from public disclosure as confidential business information shall—

(1) Stamp or mark "confidential" or some other term which clearly indicates the presence of information claimed to be confidential, on the top of each page containing information claimed to be confidential.

(2) Mark each item of information which is claimed to be confidential and which appears on a page marked in accordance with paragraph (a)(1) of this section, with brackets "[]".

(3) If an entire page is claimed to be confidential, indicate clearly that the entire page is claimed to be confidential.

(4) Submit the documents containing allegedly confidential information directly to the Office of Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, D.C.

(5) In the case of a document containing information which is claimed to be confidential submitted in connection with a NHTSA activity for which there is a public file or docket, simultaneously submit to the NHTSA a copy of the document from which information claimed to be confidential is deleted, for placement in the public file or docket pending the determination of the claim for confidential treatment.

(6) Simultaneously submit to the NHTSA in writing the name, address, and telephone number of a representative for receipt of notice under this part.

(b) For each item of information marked confidential in accordance with paragraph (a) of this section, the submitter of the information shall submit information supporting the claim for confidential treatment to the NHTSA with the item. Such supporting information must show—

(1) That the information claimed to be confidential is a trade secret, or commercial or financial information.

(2) Measures taken by the submitter of the information to ensure that the information has not been disclosed or otherwise made available to any person, company, or organization other than the submitter of the information.

(3) Insofar as is known by the submitter of the information, the extent to which the information has been disclosed, or otherwise become available, to persons other than the submitter of the information, and why such disclosure or availability does not compromise the confidential nature of the information.

(4) Insofar as is known by the submitter of the information, the extent to which the information has appeared publicly, regardless of whether the submitter has authorized that appearance or confirmed the accuracy of the information (include citations to such public appearances, and an explanation of why such appearances do not compromise the confidential nature of the information).

(5) Prior determinations of the NHTSA or other Federal agencies or Federal courts relating to the confidentiality of the submitted information, or similar information possessed by the submitter, including class determinations under this part (include any written notice or decision connected with any such prior determination, or a citation to any such notice or decision, if published in the **Federal Register**).

(6) Except for information submitted to the agency in connection with the NHTSA's functions under Title V of the Motor Vehicle Information and Cost Savings Act, as amended, whether the submitter of the information asserts that disclosure would be likely to result in substantial competitive harm, what the harmful effects of disclosure would be, why the effects should be viewed as substantial, and the causal relationship between the effects and disclosure.

(7) For information submitted to the agency in connection with the NHTSA's functions under Title V of the Motor Vehicle Information and Cost Savings Act, whether the submitter of the information asserts that disclosure would result in significant competitive damage, what that damage would be, why that damage should be viewed as significant, and the causal relationship between the damage and disclosure.

(8) If information is voluntarily submitted, within the meaning of section 512.5(a)(2) of this part, why disclosure by the NHTSA would be likely to prevent the NHTSA from obtaining information in the future.

(9) The period of time for which confidentiality is claimed (permanently or until a certain date or the occurrence of a certain event) and why earlier disclosure would result in the harms set out in paragraphs (b), (6), (7), or (8) of this section as the case may be.

(c)(1) If any element of the showing to support a claim for confidentiality required under paragraph (b) of this section is presumptively established by a class determination affecting the information for which confidentiality is claimed, the submitter of information need not establish that element again under paragraph (b).

(2) If the Chief Counsel believes that information which a submitter of information asserts to be within a class of information set out in Appendix B is not within that class, the Chief Counsel—

(i) Notifies the submitter of the information that the information does not fall within the class as claimed, and briefly explains why the information does not fall within the class, and

(ii) Affords the submitter of the information a reasonable amount of time, not less than 10 working days, to comply fully with paragraph (b) of this section.

(d) Information in support of a claim for confidentiality submitted to the NHTSA under paragraph (b) of this section must consist of objective data to the maximum extent possible. To the extent that opinions are given in support of a claim for confidential treatment of information, the submitter of the information shall submit in writing to the NHTSA the basis for the opinions, and the name, title, and credentials showing the expertise of the person supplying the opinion.

(e) The submitter of information for which confidential treatment is requested shall submit to the NHTSA with the request a certification in the form set out in Appendix A from the submitter, or an agent of the submitter, that a diligent inquiry has been made to determine that the information has not been disclosed, or otherwise appeared publicly, except as indicated in accordance with paragraph (b) (3) and (4) of this section.

(f) A single showing in support for a claim that information is confidential, in accordance with paragraph (b) of this section, may be used to support a claim for confidential treatment of more than one item of information claimed to be confidential. However, general or nonspecific assertions or analyses may be insufficient to form an adequate basis for the agency to find that information may be afforded confidential treatment, under section 512.3, and may result in the denial of a claim for confidentiality.

(g) Where confidentiality is claimed for information obtained by the submitter from a third party, such as a supplier, the submitter of the information is responsible for obtaining all information or certifications from the third party necessary to comply with paragraph (b).

(h) A submitter of information shall promptly amend supporting information provided under paragraph (b) if the submitter obtains information upon the basis of which the submitter knows that the supporting information was incorrect when provided, or that the supporting information, though correct when provided, is no longer correct and the circumstances are such that a failure to amend the supporting information is in substance a knowing concealment.

(i) Noncompliance with this section may result in a waiver or denial of a claim for confidential treatment of information. However, failure to provide the certification required in paragraph (e) of this section shall result in a denial of the claim. Noncompliance with paragraph (h) of this section may subject a submitter of information to civil penalties.

(1) If the provisions of paragraph (a) of this section are not complied with at the time the information is submitted to the NHTSA so that the NHTSA is not aware of a claim for confidentiality, or the scope of a claim for confidentiality, the claim for confidentiality is waived unless the agency is notified of the claim before the information is disclosed to the public. Placing the information in a public docket or file is disclosure to the public within the meaning of this part, and any claim for confidential treatment of information so disclosed is precluded.

(2) A request that information be afforded confidential treatment may be denied if the submitter of the information does not provide with the request all of the supporting information required in paragraph (b) of this section, and will be denied if the information provided is insufficient to establish that the information may be afforded confidential treatment under the substantive tests set out in section 512.3. The Chief Counsel may notify a submitter of information of inadequacies in the supporting information, and may allow the submitter additional time to supplement the showing, but is under no obligation to provide either notice or additional time to supplement the showing.

(j) Information received that is identified as confidential and whose claim for confidentiality is supported in accordance with this section will be kept confidential until a determination of its confidentiality is made under section 512.6 of this part. Information will not be publicly disclosed except in accordance with this part.

§ 512.5 Substantive standards for affording information confidential treatment.

(a) Information obtained by the NHTSA, except for information obtained by the NHTSA under Title V of the Motor Vehicle Information and Cost Savings Act, may be afforded confidential treatment if it is a trade secret, commercial, or financial information that is not already publicly available; and

(1) Which if disclosed, would be likely to result in substantial competitive harm to the submitter of the information, or

(2) Voluntarily submitted, and failure to afford the information confidential treatment would impair the ability of the NHTSA to obtain similar information in the future. Information whose production the NHTSA could not compel by compulsory process is voluntarily submitted information within the meaning of this part.

(b) Information obtained by the NHTSA under Title V of the Motor Vehicle Information and Cost Savings Act may be afforded confidential treatment if it is a trade secret, commercial or financial information that is not already publicly available and which, if disclosed, would result in significant competitive damage.

§ 512.6 Determination of confidentiality.

(a) The decision of whether an item of information may be afforded confidential treatment under this part is made by the Office of Chief Counsel.

(b) The determination of confidentiality is made within 30 working days of the Chief Counsel's receipt of the information and knowledge that the information is claimed to be confidential if—

(1) The information relates to a rulemaking proceeding for which a public docket has been established,

(2) The information relates to a petition before the NHTSA for which a public docket has been established,

(3) The information relates to a proceeding under Part B of Subchapter I of the National Traffic and Motor Vehicle Safety Act,

(4) The information relates to an investigation or proceeding by the NHTSA to enforce any regulation or standard, or

(5) The information is received under a reporting requirement established by the NHTSA.

(c) If information does not come under paragraph (b) of this section when received by the NHTSA, but is later determined to be information described in paragraph (b), the determination of confidentiality is made within 30 working days after it is determined that the information is information described in paragraph (b).

(d) For information not described under paragraph (b) of this section, the determination of confidentiality is made within ten working days after the NHTSA receives a request for that information under the Freedom of Information Act.

(e) The timing requirements prescribed in paragraphs (b), (c), and (d) of this section may be extended by the Chief Counsel for good cause shown on the Chief Counsel's own motion, or on request from any person. An extension of the timing requirement of paragraph (d) is made only in accordance with 5 U.S.C. 552. Any extension of time is accompanied by a written statement setting out the reasons for the extension.

(f) A person submitting information to the NHTSA with a request that the information be withheld from public disclosure as confidential business information is given immediate notice of the Chief Counsel's determination regarding the request.

(1) If a request for confidentiality is granted, the submitter of the information is notified in writing that the information is being kept confidential and the length

of time during which the information will be kept confidential.

(2) If a request for confidentiality is denied in whole or in part, the submitter of the information is notified in writing of that denial, and is informed that the information will be placed in a public docket on a specified date, which is no less than ten working days after the submitter of the information has received notice of the denial of the request for confidential treatment if practicable, or some earlier date if the Chief Counsel determines that the public interest requires that the information be placed in a public file on such earlier date. The written notification of a denial specifies the reasons for denying the request.

(g) A submitter of information whose request for confidential treatment is denied may petition for reconsideration of that denial only on the basis of information or arguments that were not available at the time the originial request for confidentiality was made. The Chief Counsel may postpone placing the information in a public file in order to allow additional time to consider the petition for reconsideration. Petitions for reconsideration under this section shall be addressed to the Chief Counsel.

(h) If information which has been a subject of a confidentiality determination under this section is requested under the Freedom of Information Act, the Office of Chief Counsel advises the office processing that request whether the information has been determined to be confidential.

§ 512.7 Modification of confidentiality determinations.

(a) A determination that information is confidential business information remains in effect in accordance with its terms, unless modified by a later determination based upon—

(1) Newly discovered or changed facts.

(2) A change in the applicable law,

(3) A class determination under section 512.9 of this part, or

(4) The initial determination's being clearly erroneous.

(b) If the NHTSA believes that an earlier determination of confidentiality should be reconsidered based on one or more of the factors listed in paragraphs (a) (1)–(4) of this section, the submitter of the information is notified in writing of the NHTSA's intention to reconsider that earlier determination, and the reasons for that reconsideration, and is given an opportunity to comment which is not less than ten working days from the receipt of notice under this paragraph.

§ 512.8 Discretionary release of confidential business information.

(a) Information that has been determined or claimed to be confidential business information under § 512.6 of this part may be disclosed to the public by the Administrator notwithstanding such determination or claim if disclosure would be in the public interest as follows:

(1) Information obtained under Part A, Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to the establishment, amendment, or modification of Federal motor vehicle safety standards, may be disclosed when relevant to a proceeding under that part.

(2) Information obtained under Part B Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to defects relating to motor vehicle safety, and failures to comply with applicable motor vehicle safety standards, may be disclosed if the Administrator determines that disclosure is necessary to carry out the purposes of that Act.

(3) Information obtained under Title I or V of the Motor Vehicle Information and Cost Savings Act may be disclosed when that information is relevant to a proceeding under the title under which the information was obtained.

(b) No information is disclosed under this section unless the submitter of the information is given written notice of the Administrator's intention to disclose information under this section. Written notice is given at least ten working days before the day of intended release, although the Administrator may provide shorter notice if the Administrator finds that such shorter notice is in the public interest. The notice under this paragraph includes a statement of the Administrator's reasons for considering the disclosure of information under this section, and affords the submitter of the information an opportunity to comment on the contemplated release of information. The Administration may also give notice of the contemplated release of information to other persons, and may allow such other persons the opportunity to comment. When a release of information is made pursuant to this section, the Administrator will consider ways to make the release with the least possible adverse effects to the submitter.

§ 512.9 Class determinations.

(a) The Chief Counsel may issue a class determination relating to confidentiality under this section if the Chief Counsel determines that one or more characteristics common to each item of information in that class will in most cases necessarily result in identical treatment of each item of information under this part, and that it is appropriate to treat all such items as a class for one or more purposes under this part. The Chief Counsel obtains the concurrence of the Office of the General Counsel, United States Department of Transportation, for any class determination that has the effect of raising the presumption that all information in that class is eligible for confidential treatment. Class determinations are published in the **Federal Register**.

(b) A class determination clearly identifies the class of information to which it pertains.

(c) A class determination may state that all of the information in the class—

(1) Is or is not governed by a particular section of this part, or by a particular set of substantive criteria under this part.

(2) Fails to satisfy one or more of the applicable substantive criteria, and is therefore ineligible for confidential treatment,

(3) Satisfies one or more of the applicable substantive criteria, or

(4) Satisfies one of the substantive criteria during a certain period, but will be ineligible for confidential treatment thereafter.

(d) Class determinations will have the effect of establishing rebuttable presumptions, and do not conclusively determine any of the factors set out in paragraph (c) of this section.

§ 512.10 Disclosure of information in certain circumstances.

(a) Notwithstanding any other provision of this part, information which has been determined to be confidential business information, or which has been claimed to be confidential business information, may be disclosed pursuant to a valid request—

(1) To Congress,

(2) Pursuant to court order,

(3) To the Office of the Secretary, United States Department of Transportation and other Executive branch offices or other Federal agencies in accordance with applicable laws,

(4) With the consent of the submitter of the information,

(5) To contractors, if necessary for the performance of a contract with the Administration. In such instances, the contract limits further release of the information to named employees of the contractor with a need to know and provides that unauthorized release constitutes a breach of the contract for which the contractor may be liable to third parties.

Appendix A

Affidavit in Support of Request for Confidentiality

I, ——————, being duly sworn, depose and say:

(1) That I am (official) and that I am authorized by (company) to execute documents on behalf of (company):

(2) That the information contained in *(pertinent document[s])* is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4) [as incorporated by reference in and modified by § 505(d)(1) of Title 5 of the Motor Vehicle Information and Cost Savings Act.]

(3) That I have personally inquired of the responsible (company) personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside (*company*).

(4) That based upon such inquiries to the best of my knowledge the information for which (company) has claimed confidential treatment has never been released of become available outside the (company) except as hereinafter specified:

(5) That I make no representations beyond those contained in this affidavit and in particular I make no representations as to whether this information may become available outside (company) because of unauthorized or inadvertent disclosure except as stated in Paragraph 4; and

(6) That the information contained in the enumerated paragraphs of this affidavit is true and accurate to the best of my information, knowledge and belief.

(Official)

Appendix B—Class Determinations

The Administration has determined that the following types of information would presumptively result in significant competitive damage or would be likely to result in substantial competitive harm if disclosed to the public—

(1) Blueprints and engineering drawings containing process of production data before the public availability, or within five years of the public availability, of the subject of the blueprints or engineering drawings, where the subject could not be manufactured without the blueprints or engineering drawings except after significant reverse engineering;

(2) Future model specific product plans, projected not more than three years into the future;

(3) Model specific projections of future sales mix, projected not more than three years into the future;

Appendix C—OMB Clearance

The OMB clearance number for this regulation is 2127-0025.

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49 CFR Parts 525, 537, and 555

[Docket Nos. FE 76-04, Notice 5; FE-77-03, Notice 4; 80-21, Notice 1]

Exemptions From Average Fuel Economy Standards; Automotive Fuel Economy Reports; Temporary Exemption From Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice makes conforming amendments to several of the agency's regulations deleting specific requirements for confidentiality determinations. These conforming amendments are needed as a result of the publication today of a new agency regulation governing requests for confidentiality determinations (Part 512). Since that new regulation supercedes the confidentiality provisions existing in several of the agency's other regulations, these conforming amendments are being made without notice and opportunity for comments.

EFFECTIVE DATE: These amendments are effective April 9, 1981.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: In accordance with the above, Title 49 of the Code of Federal Regulations is amended as follows.

PART 525—EXEMPTIONS FROM AVERAGE FUEL ECONOMY STANDARDS

Part 525, *Exemptions From Average Fuel Economy Standards*, is amended as follows:

§ 525.6 [Amended]

(1) Section 525.6(g) (1) and (2) are removed and replaced with the following:

* * * * *

(g) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure in accordance with Part 512 of this Chapter.

§ 525.13 [Removed]

(2) Section 525.13 is removed and § 525.12 is revised to read:

§ 525.12 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data, memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with Part 512 and sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Part 537, *Automotive Fuel Economy Reports*, is amended as follows:

§ 537.5 [Amended]

(1) Section 537.5(c) (7) (i) and (ii) are removed and replaced with the following:

* * * * *

(c) * * *

(7) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information in accordance with Part 512 of this Chapter.

§ 537.12 [Removed]

(2) Section 537.12 is removed and § 537.11 is revised to read:

§ 537.11 Public inspection of information.

(a) Except as provided in paragraph (b), any person may inspect the information and data submitted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

(b) Except for the release of confidential information authorized by section 505 of the Act and Part 512 of this Chapter, information made available under paragraph (a) for public inspection does not include information for which confidentiality is requested under § 537.5(c) (7) and is granted in accordance with Part 512 of this Chapter, section 505 of the Act, and section 552(b) of Title 5 of the United States Code.

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

Part 555, *Temporary Exemption From Motor Vehicle Safety Standards*, is amended as follows:

§ 555.5 [Amended]

(1) Section 555.5(b) (6) is revised to read:

* * * * *

(b) * * *

(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with Part 512 of this Chapter.

§ 555.10 [Amended]

(2) Section 555.10(b) is revised to read:

* * * * *

(b) Except for the release of confidential information authorized by Part 512 of this Chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with sections 112, 113, and 158 of the Act (15 U.S.C. 1401, 1402, and 1418) and section 552(b) of Title 5 of the United Stated Code.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2005); sec 3, Pub. L. 92–548, 86 Stat. 1159; sec. 119, Pub. L. 89–563 (15 U.S.C. 1407 and 1410); delegation of authority at 49 CFR 1.50)

Issued on December 30, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80–343 Filed 1–7–81; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 571

[Docket No. 74–14; Notice 19]

Federal Motor Vehicle Safety Standards; Improvement of Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 208, *Occupant Crash Protection*, to specify additional performance requirements for both manual and automatic safety belt assemblies installed in motor vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less. These performance requirements are specified in order to prevent the installation of particularly inconvenient and uncomfortable belt assemblies and to ensure that people are not discouraged from using belts because of their design or performance. This amendment does not include several provisions that were contained in the notice of proposed rulemaking preceding this rule. Based on comments received in response to the proposal, the agency has determined that only certain of the specifications should become mandatory at the present time. Considerations involving cost, leadtime and the encouragement of innovative seat belt designs have led the agency to conclude that the other provisions should be issued only as performance guidelines that manufacturers should follow where possible, or find alternative means to accomplish the same ends. The performance guidelines will be published in a separate **Federal Register** notice.

DATE: Effective date: September 1, 1982.

ADDRESS: Any petitions for reconsideration should refer to the docket number and notice number and be submitted to: National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nelson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2264).

SUPPLEMENTARY INFORMATION: Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), currently requires most motor vehicles to be equipped with safety belts at each designated seating position. Beginning in September 1981, and phasing in over the following two years, new passenger cars will have to provide automatic occupant crash protection (i.e., occupant restraint that requires no action by occupants, such as fastening seat belts, to be effective). Many new automobiles will be equipped with automatic belts to comply with the automatic restraint requirements (automatic belts move into place around a vehicle occupant automatically when he or she enters the car and closes the door). The requirements specified in this amendment are designed to remove some of the most egregious disincentives to use of current belt designs to ensure that both the automatic belts and the manual belts installed in future vehicles will be comfortable and convenient to use.

The requirements specified in this notice are applicable to seat belt assemblies installed in all vehicles with a GVWR of 10,000 pounds or less, except for Type 2 manual belts (lap and shoulder combination belts) installed in front seating positions in passenger cars through the 1983 model year. As noted in the proposal preceding this amendment (44 FR 77210), Type 2 manual belts will be phased out in passenger cars when the automatic restraint requirements of Standard No. 208 become effective. Accordingly, the agency believes that manufacturers should be allowed to focus their efforts and resources regarding comfort and convenience on manual belts in vehicles other than passenger cars and on developing the Type 1 manual belts (lap belts) which will be installed in rear seats in passenger cars and in some front seats in conjunction with air bags and single diagonal automatic belts.

As stated in the notice of proposed rulemaking, the discomfort and inconvenience of current seat belt designs are among the most prominent factors resulting in the current low rate of safety belt use (approximately 11 percent). The proposal cited various studies which conclude that comfort and convenience play a determinative role in whether people continue to use the safety belts installed in their vehicles after they first try them (DOT HS–801–594; DOT HS–803–370). Some of the problems identified in these studies include: many belts are difficult to reach; many belts do not fit properly (e.g., they cross the occupant's neck); the pressure of many shoulder belts is felt to be excessive, particularly by women; many belts are difficult to buckle; and many belts become too tight after they have been worn for several minutes and their users have moved around.

In order to alleviate the most serious of these problems, the notice of proposed rulemaking sought to establish a variety of relatively simple, objective performance requirements that would improve the comfort and convenience of seat belt systems. Specifications involving the following performance areas were therefore proposed: torso belt occupant fit; belt retraction; adjustable buckles for certain belts; belt/seat cushion clearance; torso belt body contact pressure; automatic locking retractors (ALR's) were to be restricted; "comfort clips" were to be precluded; latchplate accessibility; webbing guides; convenience hooks for belt webbing; clearance between webbing and the occupant's head; and specifications for motorized belt systems.

There were 38 comments in response to the proposal, from vehicle manufactures, seat belt assembly manufacturers, public interest groups and consumers. All comments were considered and the most significant are discussed in this notice. In response to those comments, and for reasons set forth more fully below, the agency has concluded that this amendment will only include specifications relating to: latchplate accessibility; seat belt guides; adjustable buckles for certain belts; shoulder belt pressure; convenience hooks; belt retraction; and comfort devices. The other provisions of the proposal will be issued to the public only as performance guidelines which manufacturers may voluntarily follow if they choose. Those guidelines will be issued in a separate **Federal Register** notice.

Proposed Provisions not Included in This Amendment

(The following section sets forth the major comments to the proposed provisions that are not being included in this amendment. A general discussion of the agency's response to these comments follows after the summary.)

There were nine comments to the proposed amendment from concerned citizens. Five of these consumers supported the proposed rulemaking and stated that they have experienced extreme comfort and convenience problems with their seat belt systems. Three citizens opposed the proposal on the basis that the rulemaking represents unwarranted government interference. Finally, one commenter objected to the technical nature of the proposal, stating that the specifications were difficult to understand.

Almost all vehicle manufacturers supported the concept of the proposal that seat belt assemblies should be convenient to use and comfortable to wear. However, most manufacturers disagreed with the agency's contention that there is a demonstrable relationship between seat belt comfort and convenience and belt usage rates and that improving comfort and convenience will improve those rates. Additionally, most manufacturers did not agree that the specifications proposed by the agency would lead to belt designs that are appreciably more comfortable and convenient. For example, Ford Motor Company stated that although it does not deny that there may be some correlation between comfort and convenience and wearing rates at the extremes (i.e., for very comfortable belts or belts that are particularly uncomfortable), there is no objective evidence that a measurable relationship exists between comfort and convenience and wearing rates. Ford also stated that certain of the proposed requirements would not accommodate a large number of vehicle occupants (e.g., Ford stated that the fit zone specified in the proposal would only ensure that belts properly fit 60 percent of the population. The proposal stated the agency's belief that the fit zone would ensure over 90 percent of the population had comfortable belts). The Motor Vehicle Manufacturers Association stated that experience has shown that the incorporation of features in belt systems to improve their comfort and convenience has not resulted in increased seat belt use, and that comfort and convenience are highly subjective concepts that are not readily quantifiable. Chrysler Corporation stated that comfort and convenience improvements alone will not result in a substantial increase in belt use. Chrysler stated that the only way to improve seat belt use is to enact mandatory seat belt use laws. Volkswagen of America stated that the proposed modifications would actually eliminate several of the most promising existing automatic seat belt designs because of design restrictions. General Motors Corporation cited a study conducted for it by MOR, Inc., which indicated that removal of all perception of discomfort and inconvenience in belt systems would result in only a 1.7 percent increase in seat belt usage. The NHTSA proposal indicated that usage could be increased about 6 percent, and took exception to the MOR study. General Motors argued that the NHTSA has not adequately demonstrated, however, why the conclusions in the MOR study are invalid. American Motors Corporation stated that manufacturers already incorporate adequate comfort and convenience features in their belt systems and that regulatory action is, therefore, not warranted in this case.

The American Seat Belt Council, Hamill Manufacturing Company and other commenters supported the rationale of the proposal totally. Hamill stated that comfort and convenience is of paramount importance to 75–80 percent of the non-user segment of the driver population, who already perceive that seat belts are effective in mitigating the risk of death and injury in vehicle crashes but are dissuaded from using the belts because of perceived inconvenience and discomfort. Volvo of America Corporation acknowledged that comfort and convenience is one factor that influences usage, but stated that the major reason for the low rates of seat belt use is lack of motivation on the part of the motoring public.

In addition to the general negative comments concerning the relationship between seat belt comfort and convenience and wearing rates, many commenters (vehicle manufacturers) argued that certain of the proposed specifications would adversely affect belt effectiveness in vehicle crashes. For example, several manufacturers argued that the comfort zone for belt webbing specified in the proposal would require belt anchorages in some vehicle models to be in locations that are not the optimum location for belt performance in restraining victims in a crash situation.

Torso Belt Occupant Fit (Manual and Automatic Belts)

To alleviate problems of torso belt fit such as rubbing of the occupant's neck, the proposal specified a zone in which the torso belt would have to lie on a test dummy placed in a vehicle. The zone was established to ensure that belts are installed so that the torso belt crosses the occupant's shoulder and chest approximately midway between the neck and shoulder tip, and crosses the sternum approximately midway between the breasts. The proposed requirements specified geometric criteria to describe the required chest-crossing envelope.

The motor vehicle manufacturers were unanimous in their opposition to the proposed torso belt fit requirement. Their objections were primarily related to: the location of the specified compliance zone on the Part 572 test dummy; the location of the test dummy in the vehicle; the width of the compliance zone on the Part 572 test dummy; and the test procedure to determine compliance.

Manufacturers argued that the test procedure is not objective and repeatable because of the complexities and variability associated with locating the dummy in a specific position in the vehicle. They also argued that the procedure for placing the belt around the test dummy (the "rocking" procedure) is not objectively stated. Most manufacturers argued that the 3-inch width of the fit zone specified in the proposal is too design restrictive. Additionally, Ford argued that its tests show that the 3-inch zone would only assure proper fit on approximately 60 percent of the driving population (the agency stated in the proposal that 90 percent of the population would have the proper fit with the proposed specifications). Ford did not substantiate how it arrived at this conclusion, however. Manufacturers argued that the fit zone should be at least 3.6 inches wide and possibly as much as five inches wide in order to ensure repeatability of the compliance procedure. Manufacturers stated that the location of the compliance zone on the test dummy would not necessarily place the belt in the optimum position for effectiveness in crashes in certain vehicle models. They based this assumption on the fact that in certain current vehicle models both the belt anchorages would have to be moved to place the belt in the specified zone. The manufacturers argued that these new anchorage locations would degrade belt performance in some instances.

Clearance Between Webbing and Seat Cushion (Automatic Belts)

As noted in the notice of proposed rulemaking, the shift from manual to automatic belts may initially lead to confusion on the part of some persons. The lower end of many automatic shoulder belt designs is attached between the two front seating positions. The upper end is attached to the rear upper corner of the front door. If the lap belt or torso belt of an automatic belt system is designed so that it lies on the seat cushion or against the seatback cushion(s) when the belt system is reeled-out in its open-door position, some people are likely to be confused about how to get into the vehicle. Additionally, if the belt is lying on or hanging slightly above the seat cushion, it is likely to pull against clothing in an irritating fashion as the occupant tries to sit down. These factors led the agency to propose minimum specifications for webbing/seat clearance (three inches) so that people would not be encouraged to disconnect automatic belts because of the inconvenience.

Most manufacturers opposed the minimum specification for webbing/seat clearance. The comments stated that there is no safety rationale for the requirement because any misconception concerning the proper way to enter the vehicle would be removed after the occupant became familiar with the vehicle. Peugeot stated that experience has shown that the occupant can easily push the strap aside for a moment in order to enter the vehicle. The company argued that the proposed requirement is tantamount to requiring the installation of an automatic mechanism to move the belt system's top anchor's position. (Note: In response to this specific comment, the agency would not consider a belt system that had to be manually moved out of the way by the occupant to be an "automatic" system that would satisfy the requirements of the standard; see 39 FR 14594, April 25, 1974). Several manufacturers stated the minimum specification could degrade belt effectiveness in a crash. These manufacturers argued that the specification would preclude a belt, particularly a lap belt, from fitting securely around the occupant. This could result in the occupant "submarining" under the belt during a crash.

Motorized Track Systems—Webbing/Head Clearance

Some automatic belt designs rely on overhead, motorized track-puller systems instead of the opening of the door to move the webbing automatically out of the occupant's way when getting in and out of the vehicle. These systems pull the webbing toward the dashboard when the vehicle door is opened and then pull it toward the rear of the vehicle to deploy around the occupant after the door is closed. If such a system is used, the vehicle design should be such that the belt webbing does not pass too close to the occupant's head during its movement. Webbing that passes too close to or brushes the occupant's face or head could be annoying or disconcerting (perceived as hazardous by the intended user) and cause the occupant to defeat the automatic belt system (by unbuckling or cutting the belt, for example). The proposal specified a webbing/head clearance envelope that was intended to ensure that a moving torso belt would not come within a certain specified distance of an occupant's head and face.

Industry objected to this proposed requirement on the basis that many small vehicle models could not comply with the requirement without substantial changes to the vehicle structure (i.e., because of limited head room in these small cars). Toyota Motor Company stated that an automatic belt design it has already introduced in the market would have to be withdrawn if this proposed requirement were finalized because there is not sufficient room in its vehicle model to obtain the specified clearance. Volkswagen stated that any specification for webbing/head clearance should only specify that the webbing cannot touch the occupant's face while it is articulating, and that a minimum distance specification is too design restrictive. General Motors stated that the spherical zone specified in the proposal falls outside the vehicle on some GM body styles, and would thus preclude motorized belt systems in these vehicles.

Rate of Movement of Motorized Belts

The agency stated its belief in the proposal that motorized belt systems will be unacceptable to the public if the rate of belt movement is too slow, since the occupant would be delayed in exiting the vehicle. Systems that move too rapidly might also be unacceptable since they could be viewed by vehicle occupants as a possible hazard. Each of these problems could lead vehicle occupants to defeat the automatic belt system. Therefore, the proposal specified minimum and maximum times allowed for belts to move forward and backward on motorized track systems (between 1.5 and 1.9 seconds from start to stop).

Manufacturers stated that this proposed specification should be deleted because of the variation in performance of motorized systems due to environmental conditions. The comments pointed out that ambient temperature greatly affects motor speeds and battery conditions and that the movement time, therefore, could not be held stable. Several commenters argued that a single movement time is impractical because of the wide variety of vehicle sizes and the varying distances a belt system would have to move. The commenters stated that if such a requirement is retained it should be stated as a rate rather than total times allowed. In this way, the movement of all systems would be uniform even though it would take longer for the belt webbing to move down the track in a large vehicle than in a small vehicle.

Agency Response to Comments on Unadopted Proposals

The agency does not agree with the general negative response of most vehicle manufacturers regarding the relationship between seat belt comfort and convenience and belt use. Likewise, the agency believes that the specifications in the notice of proposed rulemaking would greatly improve the comfort and convenience of seat belt systems, particularly the new automatic belt systems that will be introduced in the future. Although the agency agrees that many factors influence belt use, it continues to believe that belts which are inconvenient to use and uncomfortable to wear will be used less regardless of these other factors. The research studies cited in the notice of proposed rulemaking clearly establish that there is a definite problem with many current seat belt designs, and that seat belt systems can be improved with relatively minor changes. Removing the most egregious problems with seat belt designs will, at a minimum, remove an impediment that currently thwarts other programs designed to increase seat belt use. For example, seat belt education campaigns will have little effect if people attempt to wear the belts but find them inconvenient and uncomfortable.

The agency also does not agree with many of the comments regarding specific provisions included in the proposal. Proper torso belt fit is an extremely important aspect of ensuring that belts are comfortable to wear and do not cross the neck or face. The problems cited by the industry with the proposed specification and test procedure are problems the agency believes can be solved. While it is true that some vehicle models may require significant modifications to comply with the fit zone, the agency believes that this is due primarily to the fact that in the past vehicles have been designed with little attention given to how the belt system will fit when installed in the vehicle. Belt systems are typically added as an afterthought long after the vehicle's structural design has been completed, with no systematic effort to coordinate a particular belt design to a particular structural design.

The industry's comments that webbing/seat clearance for automatic belts will not be a problem after occupants learn how to get into the vehicle only address part of the problem. In the months since issuance of the proposal, the agency has observed many prototype and production automatic belt designs. These observations have demonstrated that webbing/seat clearance is extremely important to ensure that the belt webbing does not scrub across the occupant's clothing when entering the vehicle. Some of the designs that were observed had such minimal clearance that buttons and shirt pocket contents were snagged by the belt system as an occupant entered the vehicle. This is obviously a problem that would encourage disconnection of the belt system. In addition, if the webbing/seat clearance is so minimal that the person has to manually move the belt out of the way to enter the automobile, the system is not really "automatic" and would not satisfy the automatic restraint requirements of the standard. The agency has concluded that these problems outweigh the perception problem discussed in the proposal. Consequently, the agency believes that the 3-inch specification in the proposal is inadequate and a greater clearance is desirable. While it is true that greater clearance may require innovative designs, the agency believes these are problems that can and should be solved.

Although these basic disagreements do exist between the NHTSA and vehicle manufacturers, the agency does believe that many of the specific comments to the proposal have merit. Also, the agency is aware that many of the problems cited by the industry are legitimate concerns. The agency is cognizant of the fact that there are a multitude of vehicle configurations that would have to be dealt with in complying with all of the provisions included in the notice of proposed rulemaking. In certain situations it may be true that strict compliance with the provisions as originally specified might compromise belt effectiveness in crashes to a limited degree, if applied to existing, unchanged structural configurations. Most manufacturers stated that the injury criteria of the standard could be met under the specifications of the proposal, but that in some instances the margin of safety would not be as great. Obviously, the agency does not want belt system performance to be degraded in the attempt to make belts comfortable and convenient enough that they will be used. However, the agency does not believe that such a compromise is necessary if belt system design and vehicle structural design are coordinated at the outset.

The agency has also considered the numerous comments concerning the leadtime that would be necessary to implement the proposed requirements in certain vehicle models, as well as the costs associated with making the changes after design plans have already been completed.

These considerations and the factors mentioned below have led the agency to conclude that requirements for torso belt fit, webbing/seat clearance, webbing/head clearance, and motorized belt track speed should not be included in this final rule. The agency believes that manufacturers should be encouraged to rapidly develop innovative automatic belt designs that will coordinate belt comfort and convenience and belt effectiveness to the greatest extent possible. In some vehicle configurations, particularly in smaller cars, strict compliance with the proposed specifications mentioned earlier may hamper these efforts. While the agency believes that it is possible and desirable to design comfortable and convenient safety belts meeting all of the proposed specifications, it does not wish to retard the introduction of automatic restraints because of minor technical problems in particular vehicle configurations. If all of the proposed requirements were issued in this final rule, additional leadtime would have to be given because of the special problems in a few vehicle models. The agency believes it is preferable to encourage voluntary compliance with some of the proposed provisions so that a majority of vehicles can be introduced at an earlier date with the comfort and convenience features incorporated.

The agency also intends to continue development of the proposed specifications in order to refine comfort zones and test procedures. Although the provisions as proposed would represent an important improvement in seat belt comfort and convenience if incorporated in current vehicle designs, comments from the industry have led the agency to conclude that some modifications and adjustments in the specifications may be desirable. Instead of delaying the introduction of improvements in seat belt design while the agency continues this development work, it has been determined that it is wiser to urge voluntary compliance with the major provisions included in the proposal so that they may be introduced as soon as possible. As automatic belts are introduced in the market, valuable data will be received concerning consumer perception of comfort and convenience. These data will be helpful to both the agency and the industry in further improving the belt systems.

Another factor influencing the decision not to include the proposed specifications in this final rule is the fact that there are automatic belt designs currently in production that do not comply with all the provisions proposed. The agency does not wish to preclude the continual production of these designs because, for example, they are ¼ inch outside the torso belt fit zone. This is particularly true since the automatic belts currently on the road were introduced voluntarily by the manufacturers prior to the effective date of the standard.

As stated earlier, the agency does urge manufacturers to voluntarily incorporate the performance specifications that were proposed but that are not included in this final rule. The agency believes all of the provisions deal with seat belt design features that substantially affect the comfort and convenience of seat belt systems, and therefore help determine whether a particular belt system will be worn. The agency also believes that the provisions adequately specify performance criteria and that manufacturers can design systems that are in conformity with the specifications and that also optimize belt effectiveness in crash situations. Although some variations may be required for specialized vehicle configurations, the great majority of the specifications should prove to be extremely helpful to manufacturers attempting to develop seat belt designs that are comfortable to wear and convenient to use.

In order to aid both seat belt manufacturers and vehicle manufacturers, the NHTSA will publish in a later **Federal Register** notice suggested performance guidelines for torso belt fit, belt/head clearance, belt/seat cushion clearance, and speed of motorized belt track systems. The agency will also include in that notice tabulation of all research reports, studies and other data concerning the improvement of seat belt comfort and convenience that are available at the National Highway Traffic Safety Administration. The agency urges all manufacturers to use the information that is available and to incorporate these performance guidelines so that vehicle occupants will not be discouraged from using seat belts because of their discomfort or inconvenience.

Provisions Included in This Amendment

In addition to the provisions discussed already, the notice of proposed rulemaking included specifications dealing with seat belt guides, torso belt pressure, latch plate accessibility, adjustable buckles for certain belts having emergency-locking retractors, convenience hooks for automatic belts, emergency-locking retractors in lap belts, belt retraction, and belt comfort devices. The proposed provisions relating to these topics were intended to alleviate some of the most serious problems with current seat belt designs. Most manufacturers agreed that there are problems in these areas, although there was not total agreement on all of the remedies specified in the proposal. After considering the comments, the agency has concluded that improvements in these areas can and should be made. The changes required by this amendment are not burdensome and can be accomplished rapidly. The major objections of the industry to the proposal related primarily to the proposed provisions that are not being included in this amendment (discussed earlier in this notice).

Seat Belt Guides

Seat belt webbing and buckles in motor vehicles often fall or are pushed down behind the seat. Consequently, occupants are discouraged or actually precluded from using the belts. Therefore, the proposal specified that belt webbing at any designated seating position shall pass through flexible stiffeners or other guides in the seat cushion to ensure that the belts are easily accessible to occupants. The provision also specified that belt buckles and latchplates are to remain above the rear cushions at all times, even in folding or tumbling seats, and that all buckles are to be "free-standing" to allow one-hand buckling. These provisions were included in response to a petition for rulemaking submitted some time ago by the Center for Auto Safety.

The American Seat Belt Council supported the proposed requirements for both seat belt guides and "free-standing" buckles. Vehicle manufacturers requested that several changes be made in the specification or that it be deleted altogether. Volkswagen stated that it would be difficult to comply with the requirement for seats that both fold and tumble and for seats designed to convert into beds. The agency believes that suitable designs can be developed to ensure that belts remain above seats that both fold and tumble. Two vehicles were furnished by Volkswagen which showed two different rear seat configurations. The agency determined that belts could be developed for either that would comply with the provision. However, one design configuration would require seat-mounted belts, with a considerable increase in cost for the belts and increased weight for the vehicle. Based on its consideration of available designs and their costs, NHTSA has concluded that the cost of requiring seats that both fold and tumble seats to comply with the requirement may not be justified. Therefore, this type of seat is not subject to this amendment.

Several manufacturers stated that the proposed requirement should not apply to fixed seats since the purpose of the requirement can be accomplished without guides or conduits for fixed seats. The agency disagrees. The problem addressed in this proposed requirement has been most prevalent with fixed seats. Latchplates and buckles that get lost behind fixed seat cushions are more difficult to retrieve than buckles behind movable seats. While it is true that fixed seats can be designed so that there is little clearance between seat backs and seat cushions, buckles and latchplates can still be forced down behind the seat when a person sits on the seat.

The proposal specified that the belt latchplate and buckle must remain in fixed positions in relation to the seat cushion and vehicle interior. Several manufacturers pointed out that the belt hardware could not remain in a "fixed" position with adjustable seats. The agency agrees that this aspect of the provision was inaccurately stated. The intent of the provision was only to require that the belt hardware pass through guides or conduits to maintain the location of the buckle and latchplate on top of the seat cushion. The provision is modified accordingly in this amendment.

Several manufacturers also objected to the specification for "free standing" buckles and "one-hand" buckling on the basis that the criteria is design restrictive and not stated in objective terms. The agency continues to believe that these provisions would increase the convenience of buckling a seat belt. Nevertheless, after considering the comments, the agency has decided that the specification would be difficult to enforce and may be too design restrictive in some instances. Additionally, a majority of vehicle manufacturers have already begun using stiffeners and other devices to make buckling of belts more simple. If this trend continues, a provision regarding this aspect of belt performance will not be necessary. Therefore, the agency is not including a requirement for "free standing" buckles in the amendment at this time. The agency does urge, however, manufacturers to voluntarily design their belt systems so that buckles are "free standing" or of some other design that facilitates easy buckling by consumers.

Torso Belt Body Contact Pressure (Manual and Automatic Belts)

NHTSA research indicates that occupants are likely to complain about belt pressure if the torso belt net contact force is greater than .7 pound. Therefore, the proposal specified that the torso portion of any belt system shall not create a contact pressure exceeding that of a belt with a total net contact force of .7 pound.

Most manufacturers objected to the belt contact force limitation. Many commenters stated that the agency has not adequately demonstrated that .7 pound of belt webbing force is the optimum upper limit in all seating configurations. In lieu of the proposed limitation, various manufacturers suggested force limitations ranging from 1 pound to 11 pounds. Manufacturers also argued that the .7-pound pressure does not allow for engineering tolerances. Ford stated that its tests using the proposed procedure indicate that test variability amounts to ±.3 pound. Other manufacturers stated that the proposed force level is so low that it would be difficult to also meet the proposed requirement that belts retract completely when unbuckled by the vehicle occupant, i.e., the retractor forces would have to be too low to meet the "self stow" provisions. Chrysler Corporation and General Motors stated that a more precise test procedure for measuring belt contact force is needed. This comment was echoed by several foreign manufacturers.

The agency does not agree with most of these objections. In a detailed study conducted by Man Factors, Inc., webbing retractor forces were varied in an experimental belt system mounted in a production vehicle. A series of male and female test subjects experienced each force level during on-the-road driving tests and reported whether the pressure felt was satisfactory or too great. That study showed that belt pressure greater than 0.7 pound was unacceptable to more than 60 percent of the test subjects. Therefore, manufacturers' comments that belt pressure should be as high as 1 to 11 pounds have little, if any, credence. Regarding other comments, the study that was conducted to determine maximum tolerable belt pressure was not conducted for a myriad of seating configurations since a given belt pressure will likely be either acceptable or unacceptable to an occupant regardless of the seating configuration. In automobiles that presently meet this pressure requirment, retraction has not been found to be a problem. Their belts retract in compliance with the proposed retraction requirements. The agency believes that comments stating that a test procedure should be included in the standard to measure the belt pressure have merit. Therefore, this amendment specifies a .7-pound maximum pressure limitation and includes a procedure for measuring belt pressure.

Latch Plate Accessibility

As noted in the proposal, one of the most inconvenient aspects of using many current seat belt designs is the difficulty that seated occupants have in reaching back to grasp the belt latchplate when the belt is unbuckled and in its retracted position. The greater the difficulty in reaching the latchplate to buckle the belt, the more likely that belt usage will cease or never begin. Poor accessibility of latchplates results from two main factors: Location of the latchplate beyond the convenient reach of some seated vehicle occupants, and inadequate clearance between the seats and side of the vehicle to allow easy grasping of the latchplate. The proposal specified requirements to define limits on reach distance for latchplates and to prescribe minimum clearances for arm and hand access.

There were several comments from the vehicle manufacturers recommending changes in the proposed specifications. The proposed test procedures for this provision specified that the vehicle seat is to be placed in its forwardmost position when testing for compliance with the reach envelope (the position in which there would presumably be the most problems). Ford Motor Company stated that the requirement should be modified to specify that the seat be located in the mid-track position since a 50th percentile adult would not normally have the seat in the forwardmost position (the proposal specified that a 50th percentile dummy be used to test for compliance with the reach envelope). The NHTSA agrees that some difficulty may be encountered in placing the 50th percentile test dummy in the forwardmost seat adjustment position. If this occurs, there is nothing that would preclude manufacturers from removing the test dummy's legs, since legs are irrelevant to the arm reach envelope. However, the agency believes that the requirement should specify that the seat be in its forwardmost adjustment position since many current latchplates are blocked with the seat in this position although they are not when the seat is in its mid-position. Since a significant number of vehicle occupants will have the seat in the forwardmost position (particularly women), the agency believes that the latchplate should be within easy reach for these occupants or they will be discouraged from wearing the belt system.

One manufacturer stated that it is not clear from the proposal whether the latchplate access specifications would apply to all seats or to just the front outboard seating positions. The requirement applies only to the front outboard seats, and the specification is modified in this amendment to clarify this point. Several commenters stated that the size of the test block used to measure latchplate access should be modified and that the block should be designed to articulate to represent the forearm and wrist of a human being. The agency does not agree with this recommendation. This size of the test block was designed to account for the limitation of the human arm and hand as they would articulate through various openings (in this case, between the seat and vehicle structure). The dimension was based on a detailed study conducted by Man Factors (See DOT-HS-7-01617, December 1976). The agency also believes that the test apparatus would be unnecessarily complicated if specifications were included for articulation. For these reasons, the test block specification and test procedure is unchanged in this notice, except for minor technical changes in the string dimensions and the deletion of one illustration (Figure 3) that was included in the proposal. These minor technical changes are in response to comments and are included for clarification purposes.

Convenience Hooks for Automatic Belts

Some automatic belt designs might include a manual "convenience hook" located, for example, on the dashboard near the A-pillar, which would enable occupants to manually move the belt webbing totally out of the way as they are about to exit the vehicle. These devices would only be permitted as additional equipment since automatic belts must operate automatically, i.e., manual hooks could not be used as the sole means of moving the belt webbing out of the occupant's way. The proposal specified that if manufacturers install such "convenience hooks," the hook must automatically release the belt webbing so that it will deploy around the occupant prior to the vehicle being driven. The proposal specified that the hook would have to automatically release the webbing when

(a) The vehicle ignition switch is moved to the "on" or "start" position.

(b) The vehicle's drive train is engaged.

Manufacturers did not object to the proposed requirements for "convenience hooks," although there were several comments that the provision needs clarification. Jaguar Rover Triumph, Inc. stated that it is not clear from the proposal whether conditions (a) and (b) mentioned in the preceding paragraphs are sequential or alternatives. This notice modifies the language of the requirement to clarify that the "hook" must release the belt webbing when the ignition switch is in the "on" or "start" position *and* the vehicle's drive train is engaged at the same time (i.e., when both condition (a) and (b) exist at the same time). An optional condition "(c)" is added in response to a comment by American Honda Motor Co. to allow vehicles with manual transmissions to have the "hook" release the webbing when the ignition is on *and* the vehicle's parking brake is released at the same time.

Belt Retraction

Many persons find seat belts inconvenient because the belt webbing will not retract completely to its stowed

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position when the system is unbuckled, so that the webbing is an obstacle when the occupant is trying to exist the vehicle. Therefore, the proposal included a specification to ensure that belts do retract completely and automatically when they are unbuckled. While there were no serious objections to the proposed requirement, several manufacturers requested changes in the test procedures. For example, it was requested that manufacturers be allowed to remove the arms on the test dummy during the compliance test since the belt webbing can get hung-up on the dummy's arms while retracting. The agency believes that this suggestion has merit since a human occupant can move his arm out of the way when a seat belt is retracting and that flexibility cannot be incorporated in the test dummies currently available. Manufacturers also requested that the test be conducted with the vehicle door open, since some systems are designed to automatically retract when the door latch is released (i.e., the retraction force is stronger in this mode). The agency agrees with this suggestion also, and it is incorporated in this notice.

Automatic Locking Retractors

Seat belts incorporating automatic locking retractors (ALR's) in the lap belt portion of the system have been identified as a major item of complaint by vehicle occupants because of the feature's discomfort and inconvenience. Many vehicle occupants report that belts incorporating the ALR's tighten excessively under normal driving conditions, making it necessary to unbuckle and refasten the lap belt to relieve pressure on the pelvis and abdomen. This discomfort causes many persons to stop using their belts.

Belt systems having ALR's have also been found very inconvenient to use, particularly if the ALR is incorporated as part of the latchplate assembly. During the process of putting the belt on, the occupant must extend the belt in a single continuous movement to a length sufficient to allow buckling. Otherwise, the retractor locks before sufficient webbing has been withdrawn to accomplish buckling, and the belt has to be fully retracted before the occupant can repeat the donning process. Many persons have found this characteristic of ALR's extremely irritating and consequently have avoided use of the belt. In addition, ALR's inhibit the driver's normal movement to pay tolls, reach the glove compartment, etc. With emergency locking retractors (ELR's) instead of automatic locking retractors, these problems would be alleviated.

Safety Standard No. 208 currently requires lap belts at outboard seating positions to be equipped with either automatic locking retractors or emergency locking retractors, in order to assure that belts are sufficiently tightened to be effective during a crash. However, this effectiveness feature can be achieved by ELR's without the concomitant discomfort and inconvenience associated with ALR's. Therefore, the proposal sought to eliminate ALR's as an alternative in the standard for front outboard designated seating positions.

The proposal also specified that emergency locking retractors for the lap belt portion of the belt system at the front outboard passenger's position shall be equipped with a manual locking device so that child restraint systems can be properly secured. Since emergency locking retractors allow some movement when the belt is fastened, the agency and some child safety experts were concerned that the child restraint system could slide out of position prior to a crash if the retractor cannot be manually locked.

Few manufacturers objected to the requirement that lap belts at front outboard designated seating positions be equipped with emergency locking retractors. However, nearly all manufacturers objected to the requirement that these emergency locking retractors be equipped with a manual locking device for securing child restraint systems. Ford Motor Company stated that the manual lock requirement is design restrictive and will preclude the installation of continuous loop manual belts and certain three-point automatic belts. Also, Ford stated that the proposed requirement is inconsistent with another proposal precluding any device that allows the introduction of slack in a belt system (e.g., comfort devices). Ford argued that the manual lock could be used to introduce excessive slack in the belt when worn by an adult. Toyota Motor Company stated that an emergency locking retractor is definitely superior to an automatic locking retractor from the standpoint of comfort and convenience. Toyota argued, however, that its tests with the GM child seat (braking, fast cornering, driving on rough roads) have demonstrated that the performance of emergency locking retractors in restraining this child seat is satisfactory without a manual locking device.

The Motor Vehicle Manufacturers Association pointed out that the Economic Commission of Europe (which sets international motor vehicle safety standards) does not even permit manual locking devices on emergency locking retractors. Volkswagen of America stated that the proposed requirement would impair the operation of these belts by allowing too much slack in the system, and argued that parents should be encouraged to place their child restraints in rear seating positions that have automatic locking retractors. General Motors argued that the agency's data is totally inconclusive in demonstrating that emergency locking retractors without locking devices cannot adequately secure child restraint systems. General Motors cited its own tests which it states demonstrated child restraints are adequately secured with emergency locking retractors. Finally, several manufacturers stated that the manual locking devices could pose a hazard in emergency situations if the emergency locking retractor is located on the vehicle door. These commenters pointed out that the vehicle door would be impossible to open from the outside if the retractor is locked.

After considering these comments, the agency has decided that while emergency locking retractors should be required for lap belts at front outboard designated seating positions, these retractors should not be required to have manual locking devices. The agency believes that the points raised in the comments represent legitimate concerns. Further, agency tests conducted after the issuance of the proposal indicate that there may not be a substantial problem with type 2 belts incorporating emergency locking retractors restraining child seats. However, the agency is planning to conduct further research regarding the use of type one belts with ELR's to secure child restraints. Additionally, the agency recently issued a proposal to amend Safety Standard No. 210, *Seat Belt Anchorages*, to require that lap belt anchorages be present at front outboard seating passenger positions that are not equipped with lap belts (e.g., vehicles equipped with a two-point, single diagonal automatic belt). Therefore, if that proposal is adopted, parents wishing to place child seats in front seating positions in the affected vehicles can purchase a lap belt having an automatic locking retractor or a manual webbing adjusting device. In light of these considerations, and the cost of installing manual locking devices on emergency locking retractors, the manual locking device of the proposal is not adopted.

The proposal also included a provision to allow manual adjustment devices on seat belt assemblies in rear seating positions that have emergency locking retractors. Although automatic locking retractors are allowed in rear seating positions, some manufacturers are currently installing emergency locking retractors. These manufacturers have requested that manual webbing adjustment devices be allowed on these belt systems, specifically for facilitating the securement of child restraint systems. Nearly all commenters agreed with this provision and it is included in this amendment.

In summary, although manual locking devices are not being required on emergency locking retractors in front seating positions, these devices or manual webbing adjustment devices are being allowed in rear seating positions. The manual webbing adjustment device would not be permitted in front seating positions, but manufacturers would be permitted to voluntarily install manual locking devices on belts in front seating positions.

Devices That Introduce Slack in Belt Webbing

Some current seat belt designs include devices that are intended to relieve shoulder belt pressure. These "comfort clips," "window-shade" devices, or other tension-relieving devices can reduce the effectiveness of belts in crash situations if the occupant uses the device to put excessive slack in the belt webbing, i.e., so that the belt is not snugly against the occupant. Therefore, the proposal included a provision to prohibit any device, either manual or automatic, that would permit the introduction of slack in the upper torso restraint. The proposal stated that such devices would not be necessary to relieve the discomfort caused by excessive belt pressure since the proposal also included a limitation on belt pressure.

Several manufacturers objected to an outright ban on tension relieving devices. The American Seat Belt Council stated that an appropriate performance requirement should be developed that will allow a small, controlled amount of slack in belt systems. General Motors stated that its tension-relieving devices allow some slack but that this slack could not be introduced inadvertently. General Motors argued that such devices should be allowed provided the slack is cancelled when the vehicle door is opened, i.e., so that there is no slack at all when an occupant uses the belt on a subsequent occasion. The commenters argued that some persons do not like any belt pressure at all, not even the .7 pounds that would be the maximum allowed under the proposed belt pressure provisions.

The agency believes there is some merit to these arguments, particularly in regard to automatic belt systems that are required to comply with the injury criteria of Safety Standard No. 208. Therefore, tension-relieving devices are not prohibited in this amendment in automatic belt systems provided the belt system can comply with the injury criteria of the standard with the belt placed in any position to which it can be adjusted. This means that if six inches of slack can be introduced in the automatic belt system by means of the tension-relieving device, the belt must be able to comply with the injury criteria with the belt webbing in that position. Since manual seat belt systems are not required to comply with the injury criteria of the standard generally, they would also not be required to comply just because they include tension-relieving devices. The agency does urge manufacturers to voluntarily limit the amount of slack that can be introduced in their manual belt systems, however.

Seat Belt Warning System

The proposal included a provision for a new sequential seat belt warning system in all motor vehicles which are not passenger cars and which have a gross vehicle weight rating of 10,000 pounds or less.

Safety Standard No. 208 currently requires a visual and audible warning system to remind vehicle occupants to fasten their manual safety belts. The present standard requires a warning system which activates, for a period of 4 to 8 seconds, a reminder light each time the vehicle ignition is operated, and an audible warning if the driver's lap belt is not in use. Studies of manual seat belt usage in passenger vehicles have shown that a sequential logic system which incorporates a visible reminder light of continuous duration and a 4- to 8-second audible warning could produce usage rates significantly greater than those obtained with the warning systems currently required. The sequential logic warning system activates unless buckling of a person's belt occurred after the person sat down in his seat. Under the current 208 requirement, the warning system can be permanently defeated if the belt is buckled and pushed behind the seat cushion and left there during subsequent occasions on which the vehicle is used.

Only the American Seat Belt Council supported the requirement for a sequential warning system. The vehicle manufacturers uniformly objected to the requirement, stating that such a system would cost $25 to $35 per vehicle (this is much higher than the agency's estimated cost figure). Also, manufacturers disputed the agency's data and argued that there is no documentation demonstrating that a sequential warning system will substantially increase belt use in vehicles other than passenger cars.

The agency agrees that the data relied upon in the proposal dealt primarily with sequential warning systems in passenger cars (The Phoenix Study, DOT–HS–801–953). There is no conclusive evidence that such a system would also improve seat belt use in light trucks and vans to a comparable degree. Although the agency is convinced that an effective warning system similar to or like that proposed would result in some increased seat belt use in these other vehicles, the agency has concluded that manufacturers should be allowed to voluntarily install such systems under an implementation schedule suited to particular vehicle models in order to minimize costs. Therefore, the proposed requirement is not included in this amendment. Specifications for a sequential warning system will, however, be included in the voluntary performance guidelines that will be issued in the near future, however, for the benefit of manufacturers that are interested in such a system.

The proposal also included a specification for warning systems for automatic seat belts, to ensure that motorized systems are locked into place before the vehicle begins moving. If for some reason the motorized belt has not returned and locked into its protective mode, the occupant would be alerted by the continuous light and by a 4- to 8-second audible warning. Although several manufacturers objected to this requirement, again primarily because of cost, the agency believes such a requirement is essential for motorized automatic belt systems. It is therefore included in this amendment.

The proposal also included an illustration chart specifying the weights and dimensions of various human body sizes (e.g., 5th percentile female). The comments to the proposal indicated that some persons were confused about inclusion of the chart. Some commenters interpreted the figures in the chart to represent a change in the Part 572 dummy dimension. The chart was included in the proposal to be republished in the standard since it had been inadvertently deleted by the *Code of Federal Regulations* some time ago. The chart, however, was not intended to make any changes in the Part 572 test dummy.

In order to give manufacturers sufficient lead time to implement the changes required by this notice, and to minimize the cost of such changes, the effective date of this amendment is September 1, 1982.

Note.—The agency has determined that this amendment does not qualify as a significant regulation under Executive Order 12221, "Improving Government Regulations", and the Departmental guidelines implementing that order. Therefore, a regulatory analysis is not required. A regulatory evaluation concerning the amendment has been prepared and placed in the public docket under the docket number and notice number of this **Federal Register** notice.

In consideration of the foregoing, Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), is amended as set forth below.

§ 571.208 [Amended]

1. In section S7.1, new paragraphs "S7.1.1.3" and "S7.1.1.4" are added to read:

S7.1.1.3 A lap belt installed at any front outboard designated seating position in a vehicle manufactured on or after Setember 1, 1982, shall meet the requirements of this section by means of an emergency-locking retractor that conforms to Standard No. 209.

S7.1.1.4 Notwithstanding the other provisions of S7.1–S7.1.1.3, emergency-locking retractors on belt assemblies located in positions other than front outboard designated seating postions may be equipped with a manual webbing adjustment device capable of causing the retractor that adjusts the lap belt to lock when the belt is buckled.

2. A new section, "S7.4" is added to read as follows:

S7.4 *Seat belt comfort and convenience.* (a) Automatic seat belts installed in any vehicle with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1982, shall meet the requirements of S7.4.1, S7.4.2, and S7.4.3.

(b) Manual seat belts, other than manual Type 2 belts in front seating positions in passenger cars, installed in any vehicle with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1982, shall meet the requirements of S7.4.3, S7.4.4, S7.4.5, and S7.4.6.

S7.4.1 *Convenience hooks.* Any manual convenience hook or other device that is provided to stow seat belt webbing to facilitate entering and exiting the vehicle shall automatically release the webbing and shall remain in the released mode for as long as (a) exists simultaneously with (b), at the manufacturer's option where applicable, or for as long as (a) exists simultaneously with (c)—

(a) The vehicle ignition switch is moved to the "on" or "start" position;

(b) The vehicle's drive train is engaged;

(c) In the case of manual transmission vehicles, the vehicle's parking brake is in the released mode (not engaged).

S7.4.2 *Webbing tension-relieving device.* Any automatic seat belt assembly that includes either manual or automatic devices that permit the introduction of slack in the webbing of the upper torso restraint (e.g., "comfort clips" or "window-shade" devices) shall comply with the injury criteria of S5 of this standard with the belt webbing in any position to which it can be adjusted. Any belt slack that can be introduced into the belt system by means of any tension-relieving device or design shall be cancelled each time the adjacent vehicle door is opened.

S7.4.3 *Belt Contact Force.* When tested in accordance with S10.6, the upper torso webbing of any seat belt assembly shall not exert more than 0.7 pounds of contact force when measured normal to and one inch from the chest of an anthropomorphic test dummy, positioned in accordance with S8.1.11 in the seating position for which that assembly is provided, at the point where the centerline of the torso belt crosses the midsagittal line on the dummy's chest.

S7.4.4 *Latchplate Access.* The latchplate of any seat belt assembly shall be located within the outboard reach envelope of either the outboard arm or the inboard arm described in S10.5 and Figure 3 of this standard. There shall be sufficient clearance between the vehicle seat and the side of the vehicle interior to allow unhindered transit of the test block defined in Figure 4 of this standard to the latchplate or buckle.

S7.4.5 *Retraction.* When tested under the conditions of S8.1.2 and S8.1.3, with anthropomorphic test dummies whose arms have been removed positioned in the front outboard designated seating positions in accordance with S8.1.11, and restrained by the belt systems for those positions, the torso and lap belt webbing of any of those seat belt systems shall automatically retract to their completely stowed position when the latchplate is released from the buckle and the adjacent vehicle door is in the open position.

S7.4.6 *Seat Belt Guides and Hardware.*

S7.4.6.1 Except for rear seats that tumble, the webbing of a manual seat belt assembly that is designed to pass through the seat cushion or between the seat cushion and seat back shall pass either through guide openings in the surface of the seat cushion or through flexible conduits between the seat cushion and seat back to maintain the location of the seat belt latchplate and buckle on the seat cushion.

S7.4.6.2 The buckle and latchplate of a manual seat belt assembly subject to S7.4.6.1 shall not pass through the guides or conduits provided for in S7.4.6.1 and fall behind the seat when the events listed below occur in the order specified: (a) the belt is completely retracted or, if the belt is nonretractable, the belt is unlatched; (b) the seat is moved to any position to which it is designed to be adjusted; and (c) the seat back, if foldable, is folded forward as far as possible and then moved backward into position. The inboard receptacle end of a seat belt assembly installed at a front outboard designated seating position shall be accessible with the center arm rest in any position to which it can be adjusted (without having to move the armrest).

3. S4.5.3(b) is amended to delete the parenthetical number "(1)" (since there is no numeral "2" in this paragraph): to change the phrase in the first sentence "at the front designated seating position," to "at the left front outboard designated seating positions"; to change the phrase, "with condition (B)," in the last sentence to read "with either condition (B) or condition (C)"; and to add a new subparagraph "(C)" to read as follows:

(C) The belt webbing of a motorized automatic belt system is not in its locked, protective mode at the anchorage point.

(4) A new paragraph S10.5 is added to read as follows:

S10.5 The reach envelopes specified in S7.4.7 are obtained by positioning an anthropomorphic test dummy in the driver's seat or passenger's seat in its forwardmost adjustment position. Attach the lines for the inboard and outboard arms to the test dummy as described in Figure 3 of this standard. Extend each line backward and outboard to generate the compliance arcs of the outboard reach envelopes of the test dummy's arms.

5. A new paragraph S10.6 is added to read as follows:

S10.6 To determine compliance with S7.4.3 of this standard, position the anthropomorphic test dummy in the vehicle in accordance with S8.1.11 and under the conditions of S8.1.2 and S8.1.3. Pull the belt webbing three inches from the dummy's chest and release until the webbing is within 1 inch of the dummy's chest and measure belt pressure.

6. The term "passive belt[s]" would be amended to read "automatic belt[s]", wherever it appears in the standard.

7. S8.1.8 would be amended to read as follows: "Anthropomorphic test devices used for the evaluation of restraint systems manufactured pursuant to applicable portions of sections S4.1.2 and S4.1.3 shall conform to the requirements of Subpart B of Part 572 of this title for a 50th percentile adult male dummy.

8. The weights and dimensions of the vehicle occupants referred to in this standard and specified in S7.1.3 would be modified to read as follows:

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 31, 1980.

Joan Claybrook,

Administrator.

BILLING CODE 4910-59-M

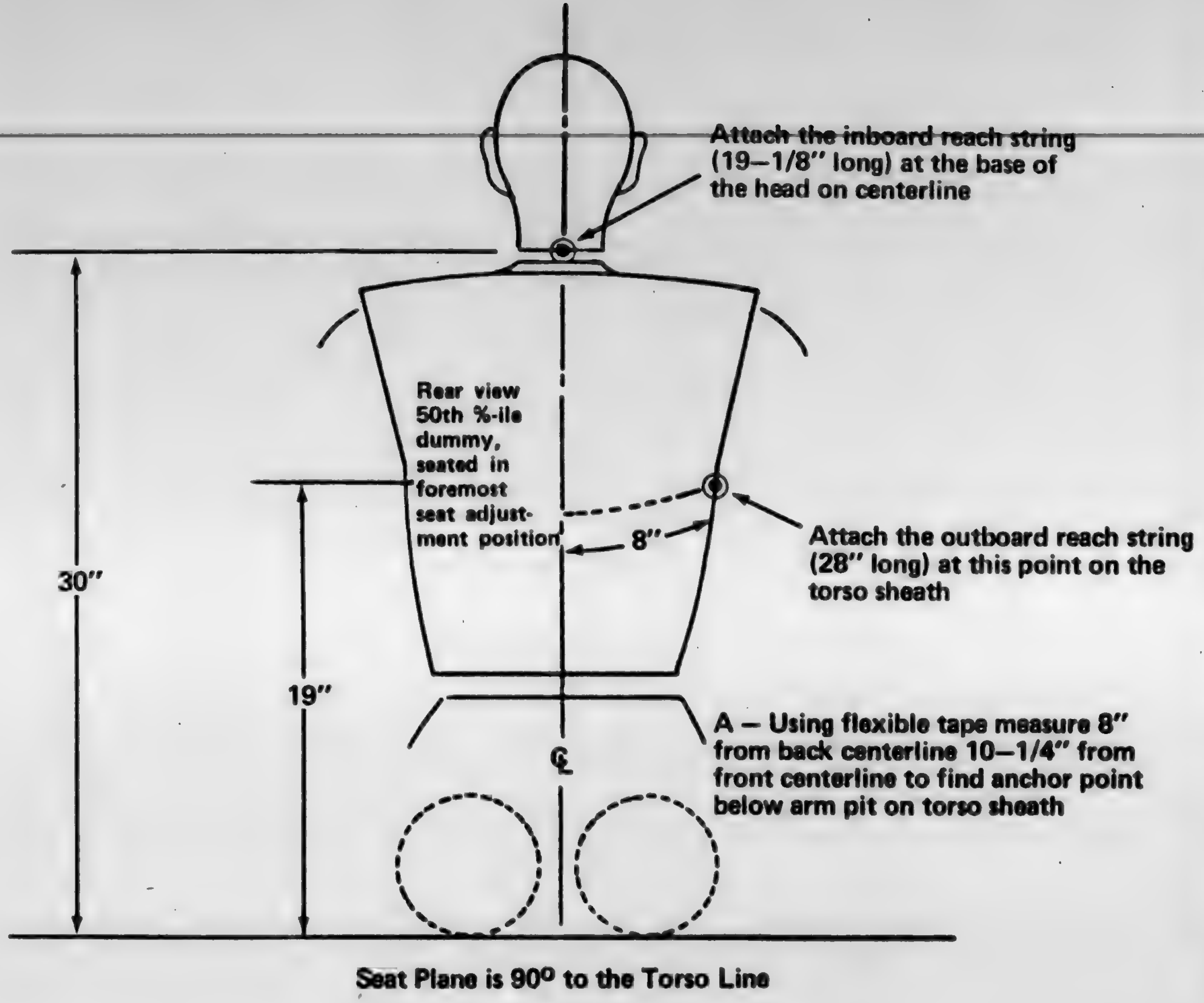
Attach the inboard reach string (19–1/8" long) at the base of the head on centerline
Rear view 50th %-ile dummy, seated in foremost seat adjustment position
30"
8"
Attach the outboard reach string (28" long) at this point on the torso sheath
19"
A – Using flexible tape measure 8" from back centerline 10–1/4" from front centerline to find anchor point below arm pit on torso sheath
℄
Seat Plane is 90° to the Torso Line

Figure 3 – Location of Anchoring Points for Latchplate Reach Limiting Chains or Strings to Test for Latchplate Accessibility

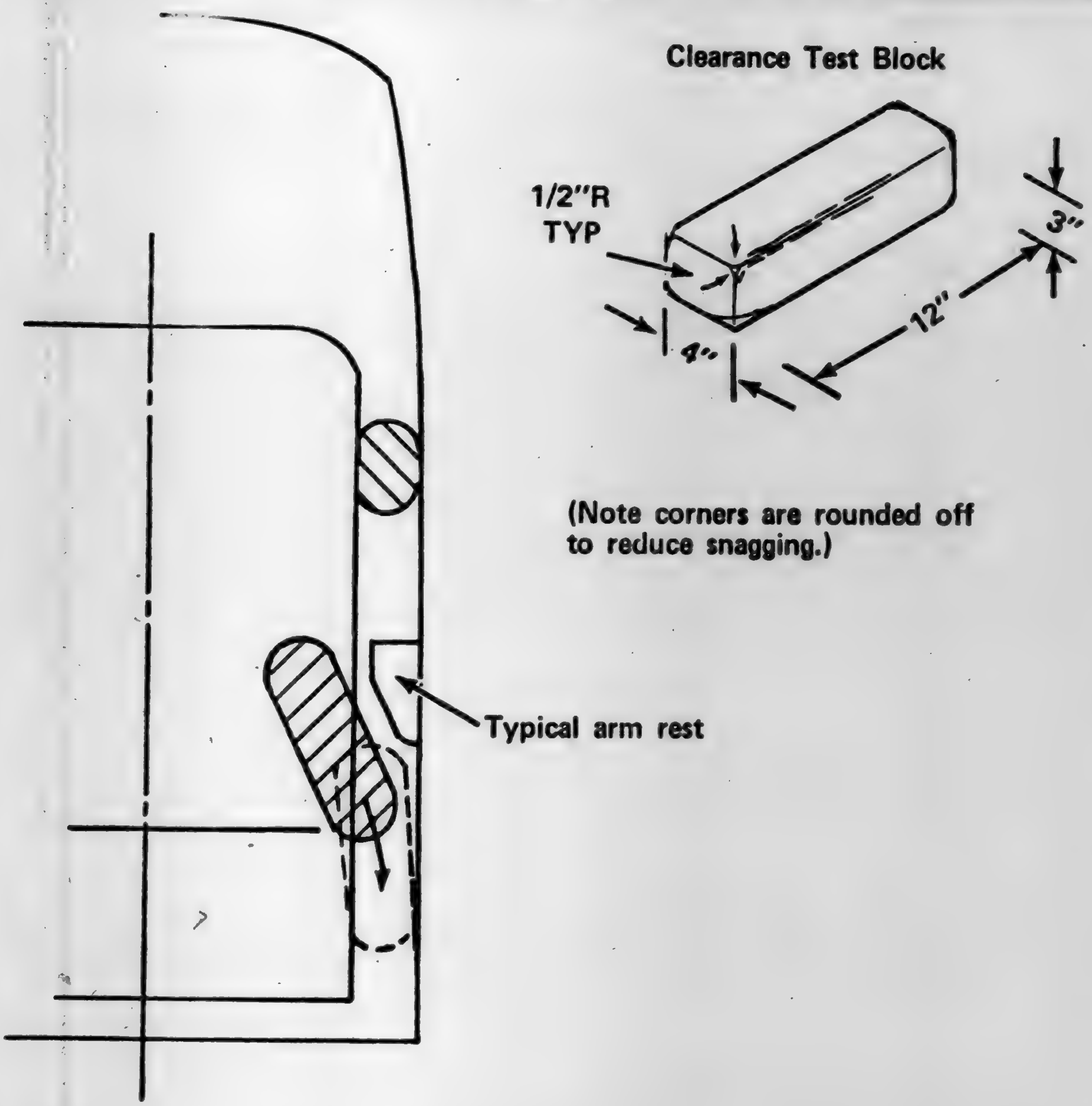
Clearance Test Block
1/2"R
TYP
4"
12"
3"
Typical arm rest

(Note corners are rounded off to reduce snagging.)

Figure 4 — Use of Clearance Test Block to Determine Hand/Arm Access

[FR Doc. 80–40846 Filed 12–31–80; 2:45 pm]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1207

[No. 37586]

Definition of Carrier Net Income for Dividend Purposes

AGENCY: Interstate Commerce Commission.

ACTION: Temporary waiver of accounting requirement.

SUMMARY: The Commission has previously announced that it will comply with the accounting treatment for carrier operating rights prescribed by the Financial Accounting Standards Board (FASB). The FASB voted on an Exposure Draft on October 8, 1980, which would require motor carriers to write-off the value of operating rights as an extraordinary item in 1980. As a result of this revised accounting policy, the Commission has redefined "carrier net income" for purposes of calculating allowable carrier dividends.

Certain carriers are limited in the amounts of dividends they can pay as a result of dividend restrictions imposed by the Commission. These dividend restrictions are expressed as a percentage of carrier net income. Because the non-cash charge for the write-off of carrier operating rights will significantly reduce carrier net income in 1980 and thereby severely restrict allowable dividends for certain carriers, the Commission will exclude this particular extraordinary item from the definition of carrier net income for dividend purposes only in 1980.

DATES: Comments: Carriers have until February 23, 1981 to comment on the requirements of this rule. Effective date: This waiver is effective for the accounting year 1980.

ADDRESS: Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Area Code: 202–275–7448.

SUPPLEMENTARY INFORMATION: The Commission has imposed dividend restrictions, as appear in Part 1207, on certain motor carriers in the past. These dividend restrictions have been imposed as a result of improper dividend payments between carriers and holding companies, over capitalization, poor financial condition, and violations of the Interstate Commerce Act. In each case, the Commission has restricted dividend payments to a percentage of carrier net income as prescribed by the Commission.

With the passage of the Motor Carrier Act of 1980 and other recent Commission decisions, the value of carrier operating rights has diminished. As a result, the Commission concurs with the October 8, 1980, vote of the FASB that motor carrier operating rights should be written-off as an extraordinary charge against net income in 1980. Because the carrying value of operating rights is usually material, this accounting treatment will significantly reduce net income and thereby limit allowable dividends by carriers subject to Commission dividend restrictions.

The write-off of carrier operating rights will result in a non-cash charge against net income. It is the opinion of the Commission that this non-cash charge against net income should not be included in the calculation of allowable dividends. Therefore, the term "carrier net income" as prescribed by the Commission and used to determine allowable dividends by carriers subject to Commission-imposed dividend restrictions, will be redefined for 1980. The revised definition will exclude the write-off of carrier operating rights. This revised definition is not meant to exclude any other type of extraordinary item.

In reviewing the implications of this accounting treatment on certain carriers, the Commission noted that the conditions and or circumstances leading to the imposition of certain carrier dividend restrictions no longer existed. Therefore, the Commission recommends that carriers subject to dividend restrictions review the circumstances leading to the imposition of their dividend restriction and, if circumstances warrant, consider the submission of a petition of reconsideration.

This final rule does not appear to significantly affect the quality of the human environment or energy conservation.

This rule is issued under the authority of 49 U.S.C. 11142.

Decided: December 17, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–423 Filed 1–7–81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Opening of Certain National Wildlife Refuges to Public Access, Use and Recreation; Delaware, Maryland, North Carolina and Virginia

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public access, use and recreation of certain national wildlife refuges in Delaware, Maryland, North Carolina and Virginia is compatible with the objectives for which the areas were established and will provide additional recreational opportunity to the public through a non-consumptive use. This document establishes special regulations governing this use.

DATE: January 1, 1981 through December 31, 1983.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Public access, use and recreation is permitted on the national wildlife refuges indicated below in accordance with 50 CFR 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or shown on maps available from addresses indicated below. No vehicle travel is permitted except on designated roads and trails. Special regulations applying to individual refuges are listed on leaflets available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following special regulations:

§ 26.34 Special regulations; public access, use and recreation; for individual wildlife refuge areas.

Public access, use and recreation is permitted on the following areas: Mason Neck National Wildlife Refuge, 9502 Richmond Highway, Suite A, Lorton, Virginia 22079. Contact Domenic Ciccone, Refuge Manager, at 703–339–5278. Special Conditions: Entry into the refuge is permitted during daylight hours for the purposes of nature study, photography and sightseeing from April 1 through November 30 only. Woodmarsh Trail is open for foot travel only. Advance appointments for environmental education trips must be made with the refuge manager. Pets are permitted only if they are confined or kept on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Great Dismal Swamp National Wildlife Refuge, 680 B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804–539–7479. Special Conditions: Entry to the refuge is permitted from sunrise to sunset for the purpose of nature study, photography, hiking, and sightseeing subject to the following restrictions. Travel by bicycle or foot is permitted on established roads within the refuge. Boat access is permitted by way of navigable waters connecting Lake Drummond with the intracoastal waterway known as the Dismal Swamp Canal. Access by registered motor vehicle within the refuge is by special use permit. Pets are permitted only if they are on a leash over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Presquile National Wildlife Refuge, Box 620, Hopewell, Virginia 23860. Contact Harold Olson, Refuge Manager, at 804–458–7541. Special Conditions: Entry by foot is permitted for the purposes of wildlife trail use, nature study, wildlife observation, and photography between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Access is gained by Government-owned and operated ferry. Individuals and organized groups wishing to visit the refuge should contact the refuge manager in advance.

Bombay Hook National Wildlife Refuge, RD 1, Box 147, Smyrna, Delaware 19977. Contact Don Perkuchin, Refuge Manager, at 302–653–9345. Prime Hook National Wildlife Refuge, RD 1, Box 195, Milton, DE 19968. Contact George O'Shea, Assistant Refuge Manager, at 302–684–8419. Special Conditions for Bombay Hook and Prime Hook: Entry by motor vehicle, bicycle or on foot is permitted from sunrise to sunset on designated routes for the purpose of nature study, photography, hiking, and sight-seeing. Pets are permitted if on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Blackwater National Wildlife Refuge, Route 1, Box 121, Cambridge, Maryland 21613. Contact John Schroer at 301–228–2677. Special Conditions: Entry by foot or motor vehicle is permitted during daylight hours on designated routes for the purposes of nature study, photography, hiking and sight-seeing. Bicycles are permitted on a designated portion of the auto drive. Visitors must remain in their vehicles while on the auto drive. Motorcycles or mopeds with motor in operation are not permitted on the auto drive or on other trails designated for foot or bicyle use. The use of mopeds or motorized bicycles shall be governed as follows: as a bicycle when motor is not in operation; as a motorcycle when motor is in operation. Pets are permitted in designated parking areas only if they are on a leash not over 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661. Contact Phillip Feiger, Refuge Manager, at 301–639–7415. Special Conditions: Entry into and travel on the Eastern Neck National Wildlife Refuge is permitted year-round during daylight hours for photography, hiking, nature study, bicycling, and for access to public waters for fin fishing, shellfishing, and crabbing on areas designated by signs as open.

1. Bicycles and registered motor vehicles are permitted only on designated roads and parking areas. Parking and leaving vehicles unattended along refuge roads is not permitted.

2. Designated nature trails, boardwalks and recreation sites are closed during refuge deer hunts for safety purposes.

3. Boat access is permitted year-round at Bogle's Wharf for commercial and sport fin fishing, shellfishing, and crabbing.

4. The Ingleside Recreation Area and associated picnicking and boat launching sites are open from May 1 through September 30 each year.

5. Pets are not permitted out of cars except in designated parking areas where they must be on a leash not exceeding 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

6. Camping on the refuge is specifically prohibited.

7. During the period May 1 through September 30, each year, the following activities are not permitted in an area delineated by posting at Eastern Neck Narrows: stopping or parking vehicles; standing on or fishing and crabbing from the roadside or shoreline; launching or removing boats.

Mackay Island National Wildlife Refuge, Pembroke Office Park, Pembroke Two Building, Suite 218, Virginia Beach, Virginia 23462. Contact Glen Bond, Refuge Manager, at 804–490–0505. Special Conditions: Entry to Great Marsh Nature Trail permitted year-round during daylight hours. Entry to other portions of the refuge on designated travel routes, including the landing of boats on designated portions of the refuge, is permitted during daylight hours from March 15 through October 15 for the purposes of nature study, photography, hiking and bicycling. No motorized vehicles are permitted on Mackay Island Road beyond the gate located 1.6 miles west of State Route 615. All waters within the refuge boundary are closed during the period October 16 through March 14. Boats may be launched from the Knotts Island Causeway at Corey's Ditch Bridge throughout the year. Boat launching at other points on the Causeway is permitted only from March 15 through October 15. Airboats are not permitted. Pets are permitted only if they are on a leash not over 10 feet in length, one end of which is secured so as to restrict the movement of the animal.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: December 29, 1980.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-623 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Opening of Certain National Wildlife Refuges to Sport Fishing; Delaware, Maryland, Virginia, and North Carolina

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Delaware, Maryland, Virginia and North Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1981 through December 31, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia 23336. Contact Dennis Holland, Refuge Manager, at 804–336–6122. Special conditions: Sport fishing, crabbing, and clamming (shellfishing) is permitted on areas designated by signs as open. Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open except as posted; (b) Other fishing is permitted from banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other portions of the refuge including bay side waters as posted; (c) Shellfishing (clams, oysters, mussels, whelks, etc.)—the area between high and low tide marks in Tom's Cove, except as posted closed; (d) Crabbing—from the banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other areas including bay side waters as posted. Commercial fishing operations or methods are not permitted. A permit is required for fishing from 10:00 PM to 4:00 AM during the period April 1 through November 30 and from one-half hour after sunset to one-half hour before sunrise during the period December 1 through March 31. At least one member of the fishing party must be actively engaged in fishing at all times. Open fires and sleeping are not permitted. No permit is required at other times.

Blackwater National Wildlife Refuge, RFD #1, Box 121, Cambridge, Maryland 21613. Contact John Schroer, Refuge Manager, at 301–228–2677. Special conditions: Sport fishing and crabbing is permitted during daylight hours on areas designated by signs from April 15 through October 15, 1981. Boat launching from refuge lands is not permitted. The use of airboats is prohibited. All fish and crab lines must be attended. No set tackle may be used.

Mackay Island National Wildlife Refuge, Knotts Island, North Carolina, under administration of Back Bay National Wildlife Refuge, Pembroke #2 Building, South 218, 287 Pembroke Office Park, Virginia Beach, Virginia 23462. Contact Glen Bond, Refuge Manager, at 804–490–0505. Special conditions: Sport fishing is permitted during daylight hours on the areas designated by signs as open. Corey's Ditch and the canal adjacent to the Knotts Island Causeway are open year round to bank fishing only. Other waters within the refuge boundary and designated roads are open from March 15 through October 15. All fishing lines must be attended. Trot lines are not permitted. Airboats are prohibited.

Dismal Swamp National Wildlife Refuge, 680B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804–539–7479. Special conditions: Boat fishing is permitted during daylight hours in Lake Drummond. Public access is limited to boats entering Lake Drummond from the Feeder Ditch on the east side of the lake. Bank fishing is prohibited. Commercial fishing operations or methods are not permitted. Fishing will be with hand held line or rod and reel.

Prime Hook National Wildlife Refuge, R.D. #1, Box 195, Milton, Delaware 19968. Contact George O'Shea, Assistant Refuge Manager at 302–684–8419. Special conditions: Pond fishing in boats propelled manually or by electric motor are permitted on Fleetwood or Turkle Ponds. Those portions of these ponds having wood duck nesting boxes are closed to public entry from March 1 through June 30, 1981. Boats may be launched from designated access points, or public roads. Bank fishing and crabbing is permitted only at designated access points and public road rights-of-way.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Howard N. Larson,

Regional Director, U.S. Fish and Wildlife Service.

December 29, 1980.

[FR Doc. 81-600 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Fees; Fishery Conservation Zone

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final rules.

SUMMARY: NOAA revises the poundage fee schedule for foreign fishing in the fishery conservation zone (FCZ). These fees are consistent with the requirements of the American Fisheries Promotion Act of 1980 (Title II of Pub. L. 96-561). Most of the poundage fees are double the 1980 fees.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Denton R. Moore, Chief, F/CM7, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20035, (202) 634-7432.

SUPPLEMENTARY INFORMATION: On November 13, 1980, the proposed fee schedule and various procedural amendments were published in the **Federal Register** (45 FR 74948). Public comments were accepted until December 15, 1980. A public hearing was held in Washington, D.C. on December 8, 1980.

The procedural amendments elicited little public comment. The final rulemaking on the fee collection procedures, effort plan format, and surcharge required under the Fishermen's Protective Act of 1967, as amended, were filed at the Federal Register on December 22, 1980.

There were numerous comments on the proposed poundage fees. Several changes in the schedule were made in response to those comments. The comments, including oral statements made at the hearing, may be grouped under five general headings. Each, with the NOAA response, appears below:

1. *Doubling or greatly increasing the fees is neither reasonable nor justified.* NOAA Response: The proposed schedule anticipated the enrollment of the American Fisheries Promotion Act (AFPA) (Title II of Pub. L. 96-561). Section 204(b)(10) of the FCMA, as amended by the AFPA, now requires NOAA to assess fees so that the receipts for 1981 are at least 7 percent of the exvessel value of the total foreign harvest in 1979, or $22.8 million.

Some commenters argued that the proposed fees would yield sums far in excess of the minimum. However, their arguments ignores fees refunded for uncaught allocations (25-30 percent of the total fish allocated). NOAA believes this fee schedule will yield approximately $25 million if current foreign fishing patterns are continued into 1981. However, unexpected changes in fishing patterns may result in receipts under $25 million.

2. *A uniform percentage rate should be applied to exvessel values to avoid the appearance of arbitrary selection of rates.* NOAA Response: The proposed schedule applied rates ranging from 1.9 to 11 percent. In the final schedule, only three rates are used, 3.5, 7, or 10 percent. The rate of 7 percent is applied to most species. The 3.5 percentage rate is used for species when 7 percent might prevent the optimum yields from being achieved or violate certain provisions in the Governing International Fishery Agreements. The 10 percent rate is used when 7 percent would be so low as to conflict with sound conservation and management, including economic considerations.

3. *Fees should recover all of the costs of providing special benefits to foreign vessel owners fishing in the FCZ.* NOAA Response: Estimated annual costs of managing foreign fishing in the FCZ range from $50 to $100 million. The net fees collected from foreign nations in 1979 (the most recent year for which final figures are available) were $11,400,000. NOAA feels that quadrupling the fees in a single year would be unreasonable, and would violate section 204(b)(10) of the FCMA as well as certain provisions of the Governing International Fisheries Agreements.

On the other hand, NOAA has determined that the proposed fees are a significant step toward recovery of such costs. During 1981, NOAA will continue to review costs to the Federal government of managing foreign fishing in the FCZ before establishing the 1982 fees. Consistent with the AFPA, a methodology for apportioning costs to users will be addressed.

4. *Fees should reflect the U.S. price where the fish are caught.*

NOAA response: The proposed schedule used the values in Hawaii for all species in the Pacific billfish and sharks fishery. The final schedule uses local U.S. values for Pacific billfish and sharks to establish poundage fees for these species in American Samoa, Guam and Northern Marianas, and Hawaii.

The proposed schedule used the Seattle price for many fish caught off Alaska. In the final schedule, the price in Alaska is used to redetermine values for flounders, other groundfish, and sablefish caught off Alaska. Separate exvessel values and fees are established for these species caught in the Pacific whiting fishery.

The proposed schedule based Atlantic squid prices on the U.S. price in January-May, 1980. The prices during the summer, when the most squid are landed in the United States, have been used to revise the values. The average U.S. price of *Illex* squid from January-September 1980 was $200/mt, and for *Loligo* squid $738/mt.

5. *Prices for "other species" should reflect the regional compositions of that category.*

NOAA response: The proposed schedule did not weight the value on the basis of the composition of the catch. For the final schedule, NOAA reviewed the composition of the foreign catch of "other species" and redetermined U.S. prices. The new value for "other finfish" in the Atlantic is $648/mt, for "other groundfish" (Alaska) it is $261/mt; and for "other fish" (Washington, Oregon, and California) it is $220/mt.

A summary of the values, percentages and fees is included in the following table.

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Table

Species	Value			Percentage			Fee		
	1980	Proposed 1981	Final 1981[*]	1980	Proposed 1981	Final 1981[*]	1980	Proposed 1981	Final 1981[*]
1 Butterfish	927	[1]1,019		3.5	[illegible]	7	32+	65	71
2 Hake, red	315	[1]266		3.5	[illegible]	3.5	11+	7	9
3 Hake, silver	369	[1]378		3.5	1.9	[illegible]	14−	7	11
4 Herring, river	113	[1]138		3.5	[illegible]	7	4−	8	10
5 Mackerel, Atlantic	530	[1]341		3.5	11	7	16	37	24
6 Other finfish (Atlantic)	930	853	[2]684	3.5	7		33	[illegible]	48
7 Sharks (Atlantic)	1,091	[3]423		3.5	7		36+	[illegible]	
8 Squid, *Illex*	176	522	[4]200	3.5	7		6+	[illegible]	14
9. Squid, *Loligo*	993	736	[4]736	3.5	10	7	[illegible]−	[illegible]	52
10 Shrimp, royal red	NA	5,445		....	3.5	Reserved	NA	191	Reserved
11 Crab, Tanner	882	627		3.5	[illegible]	7	31−	90	44
12 Atka mackerel	223	[5]114		3.5	7		8−	8	
13. Cod, Pacific	419	586	[5]266	3.5	7	10	15−	41	[illegible]
14 Flounders (Alaska)	397	550	[6]141	3.5	5	7	14−	30	10
15 Flounders (WOC)	397	[7]550		3.5	5	10	14−	[illegible]	[illegible]
16. Jack mackerel	154	[8]198		3.5	10	3.5	5+	20	7
17 Pacific ocean perch	397	[7]440		3.5	10		14	44	
18. Other groundfish (Alaska)	56	220	[6]261	3.5	3.5		2	8	9
19. Other fish (WOC)	56	[7]220		3.5	3.5	10	2	8	22
20 Pollock, Alaska	220	241	[9]205	3.5	7		8	16.50	14
21 Sablefish (Alaska)	1,587	705	[10]661	3.5	7.8	10	60−	55	[illegible]
22. Sablefish (WOC)	1,587	[7]705		3.5	7.8	10	60	55	71
23 Rockfish	397	[7]375		3.5	[illegible]	7	14	30	[illegible]
24 Snails	658	....	[11]540	3.5	....	3.5	23+	46	19
25 Squid (Pacific)	324	....	[11]145	3.5	....	7	11+	[illegible]	10
26 Whiting, Pacific	176	[12]176		3.5	5	3.5	6+	6	6
27 Precious coral	NA	....	Reserved	....	....	Reserved	NA	Reserved	
28 Seamount groundfish	397	....	[13]397	3.5	....	3.5	14	14	
29. Dolphinfish (mahi mahi) (American Samoa)	4,354	5,635	[14]1,500	3.5	3.5		152+	197	[illegible]
30. Wahoo (American [illegible])	2,968	5,071	[14]225	3.5	3.5		104−	177	8
31. Sharks (Pacific) (American Samoa)	825	[15]123		3.5	3.5		[illegible]	4	
32 Swordfish (Hawaii)	3,036	[16]3,201		3.5	3.5	7	106+	112	[illegible]
33. Swordfish (American Samoa)	3,036	3,201	[14]1,300	3.5	3.5		106+	[illegible]	[illegible]
34 Swordfish (Guam, Northern Marianas, U.S. [illegible]sessions)	3,036	[14]3,693	[11]2,200	3.5	3.5	7	106+	[illegible]	154
35. Striped marlin (Hawaii)	2,816	[16]3,693		3.6	3.5	7	[illegible]	112	[illegible]
36 Striped marlin (American Samoa)	2,816	3,693	[14]1,000	3.5	3.5		99	112	[illegible]
37. Striped marlin (Guam, Northern Marianas, U.S. possessions)	2,816	3,693	[11]2,200	3.5	3.6	7	[illegible]	112	154
38. Other Pacific billfish (Hawaii)	1,111	[16]1,477		3.5	3.5	7	40	[illegible]	103
39 Other Pacific billfish (American Samoa)	1,111	1,477	[14]1,000	3.5	3.5		40	52	35
40. Other Pacific billfish (Guam, Northern Marianas, U.S. possessions)	1,111	1,477	[11]2,200	3.5	3.5	7	40	52	140
41. Sharks (Pacific) (Hawaii, Guam, Northern Marianas, U.S. possessions)	[illegible]	[15]123		3.5	3.5	7	29	4	8

[*] If the column is blank, the proposed 1981 figure was accepted as the final figure.

[1] Maine, Massachusetts, Rhode Island, New York, New Jersey, and Virginia landings, January–May 1980

[2] Weighted average prices in New England and New Jersey for dogfish, goosefish, fluke, scup, and Jonah crab, January–September 1980.

[3] Gulf of Mexico landings, January–June 1980

[4] New England and New Jersey landings, January–September 1980

[5] Averaged 1980 United States and Japan prices.

[6] Weighted average of Alaskan bait prices and Alaska joint venture prices

[7] NMFS Northwest Region estimate based on negotiated prices of West Coast Fishermen's Marketing Association and actual prices reported by Washington Department of Fisheries.

[8] NMFS Market News, [illegible]

[9] Exvessel price paid in 1980 by Japan for Soviet-caught pollock

[10] NMFS Alaska Region estimate.

[11] 1980 price in Japan.

[12] Survey by NMFS Northwest Region of processing firms

[13] January–June 1979 price in Japan

[14] Western Pacific Fishery Management Council estimate for 1980

[15] 1979 Hawaii landings

[16] Hawaii landings, January–March 1979

Payment of Fees

On December 19, 1980, NOAA filed final rules revising the fee collection procedures. In addition to the advance payment of 25 percent of the 1980 allocation at the rate finalized in this notice, foreign nations must pay 20 percent before commencing catching operations. These funds will be used to capitalize the Fisheries Loan Fund. Thus, a nation will pay 45 percent of the estimated annual poundage fee before it begins to catch fish. Those nations which plan to fish in January 1981 must pay the additional 20 percent before or on January 30, 1981. Each nation's 20 percent cash payment (and surcharge) will be credited to that nation's account in equal amounts at the end of the second quarter (after June 30) and at the end of the third quarter (after September 30), where appropriate.

Unless otherwise notified, NOAA will draw on the letter of credit for the 20 percent. This will reduce the letter of credit to 5 percent of the annual fee, and all catching by that nation will cease until the credit is reestablished at 25 percent. These payments may be made by check, if preferred.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that this amendment does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended. Therefore, no environmental assessment or environmental impact statement is required. The Assistant Administrator also has determined that this amendment does not constitute a significant action under Executive Order 12044, and therefore does not require the preparation of a regulatory analysis.

The Assistant Administrator has determined that some countries may wish to begin harvesting their 1981 allocation on January 1, 1981. Therefore, these poundage fees must be effective for fish caught on January 1, 1981. Accordingly, the Assistant Administrator waives the 30-day delay in implementation required under the Administrative Procedures Act.

Signed this 30th day of December, 1980 in Washington, D.C.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

(16 USC 1801 *et seq.*)

For the reasons set out in the preamble, 50 CFR 611.22 is amended by revising paragraph (a)(2)(i) and adding (a)(2)(iv) to read as follows:

§ 611.22 Fee schedule for foreign fishing permits.

(a) * * *

(2) *Poundage fees.* (i). If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table I, plus the surcharge required by paragraph (b) of this section.

Table I.—(Dollars per metric ton)

Species and Poundage Fee

1. Butterfish—71
2. Hake, red—8
3. Hake, silver—11
4. Herring, river—10
5. Mackerel, Atlantic—24
6. Other finfish (Atlantic)—48
7. Sharks (Atlantic)—30
8. Squid, *Illex*—14
9. Squid, *Loligo*—52
10. Shrimp, royal red—reserved
11. Crab, Tanner—44
12. Atka mackerel—8
13. Cod, Pacific—27
14. Flounders (Alaska)—10
15. Flounders (WOC)—55
16. Jack mackerel—7
17. Pacific ocean perch—44
18. Other groundfish (Alaska)—9
19. Other fish (WOC)—22
20. Pollock (Alaska)—14
21. Sablefish (Alaska)—66
22. Sablefish (WOC)—71
23. Rockfish—28
24. Snails—19
25. Squid (Pacific)—10
26. Whiting, Pacific—6
27. Precious Coral—reserved
28. Seamount groundfish—14
29. Dolphinfish (mahi maki) (American Samoa)—52
30. Wahoo (American Samoa)—8
31. Sharks (Pacific) (American Samoa)—4
32. Swordfish (Hawaii)—224
33. Swordfish (American Samoa)—45
34. Swordfish (Guam, Northern Marianas, U.S. possessions)—154
35. Striped marlin (Hawaii)—259
36. Striped marlin (American Samoa)—35
37. Striped marlin (Guam, Northern Marianas, U.S. possessions)—154
38. Other Pacific billfish (Hawaii)—103
39. Other Pacific billfish (American Samoa)—35
40. Other Pacific billfish (Guam, Northern Marianas, U.S. possessions)—140
41. Sharks, Pacific (Hawaii) (Guam, Northern Marianas, U.S. possessions)—8

* * * * *

(iv) In 1981, nations must pay an additional 20 percent of the annual poundage fees, as determined in paragraph (a)(2)(ii) of this section, no later than January 30, 1981. Half of this amount will be credited to the second quarter bill, and half to the third quarter bill.

* * * * *

[FR Doc. 80-40649 Filed 12-31-80; 4:52 pm]

BILLING CODE 3510-22-M

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50 CFR Part 611

Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific Ocean

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has amended the preliminary management plan (PMP) for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific. Certain amounts in the joint venture processing (JVP) component of domestic annual harvest (DAH) are increased. Specifically, the JVP amount of yellowfin sole will be increased from 8,664 metric tons (mt) to 25,000 mt, and the JVP amount of flounder will be increased from 100 mt to 3,000 mt. The OY for Pacific cod is increased to 78,700 mt. The reserve for Pacific cod is increased to 22,935 mt, and total allowable level of foreign fishing (TALFF) is specified as 31,500 mt.

Final regulations are published to implement the amendment. The PMP and implementing regulations remain in effect until further amended or until superseded by regulations implementing a fishery management plan for this fishery.

EFFECTIVE DATE: Regulations effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: The PMP for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific was prepared under authority of the Fishery Conservation and Management Act of 1976 (FCMA) and was published in the **Federal Register** (42 FR 9298) on February 15, 1977. Amendments have been made periodically to account for changes in resource and harvest conditions.

During 1980, the PMP was amended twice to: (1) Shift 7,814 mt of yellowfin sole from the TALFF to the JVP component of DAH; and

(2) Increase the optimum yield (OY) for Pacific cod by 12,000 mt, from 58,700 mt to 70,700 mt (45 FR 70523).

The proposed regulations, published November 28, 1980, (45 FR 79126), modified estimates of DAH by increasing the JVP amounts of yellowfin sole from 8,664 mt to 25,000 mt, and other flounders from 100 mt 3,000 mt. The OY for these species remains unchanged; TALFF's have been adjusted accordingly.

The National Marine Fisheries Service (NMFS) surveyed that portion of the U.S. fishing industry concerned with these resources to determine expected volume of fish and processing capacities for the Bering Sea/Aleutian Islands are in 1981. Amounts of fish (metric tons) U.S. processors reported that they intended to process in 1981 are shown in Table 1. Expected domestic annual processing (DAP) amounts currently established by the PMP (Table I) are considered to be adequate and will remain unchanged. The DAP for Pacific cod remains the same because the processors' estimate is considered unrealistic in light of the small harvest in 1980 (2,800 mt).

The PMP contains a mechanism for the Regional Director to apportion those amounts of DAP to TALFF that he determines excess to U.S. needs. The reserves (Table III) will be used to accommodate increased domestic harvest, if necessary.

Table I.—*Amounts of Fish (mt) U.S. Processors Reportedly Intend To Process in the Bering Sea (DAP) and the Initial DAP*

Species	1981 U.S. reported intention to process (mt)	Initial DAP (mt)
Pollock	9,982	10,500
Pacific cod	17,241	7,200
Atka mackerel	0	0
Yellowfin sole	227	1,200
Turbot	0	1,000
Flounder	907	1,200
Pacific ocean perch	484	1,100
Rockfish	227	1,100
Sablefish	552	[illegible]
Squid	0	[illegible]
Other species	0	1,800
Total	26,560	[illegible]

Table II.—*Amounts of Fish (mt) Designated for Delivery by U.S. Fishermen to Foreign Processors (JVP)*

Species	JVP
Pollock	9,050
Pacific cod	17,065
Atka mackerel	100
Yellowfin sole	[1] 25,000
Turbot	75
Flounder	[2] 3,000
Pacific ocean perch	1,800
Rockfish	450
Sablefish	400
Squid	50
Other species	100
Total	57,050

[1] A 24,150 mt increase over the initial level for 1980.
[2] A 2,900 mt increase over 1980.

Table III.—*Initial DAH, Reserve, and TALFF Amounts (mt)*

Species	DAH	Reserve	TALFF
Pollock	19,550	50,000	1,030,450
Pacific cod	24,265	14,935	31,500
Atka Mackerel	100	1,240	23,460
Yellowfin sole	26,300	5,855	84,360
Turbot	1,075	4,500	84,425
Flounders	4,200	3,080	53,750
Pacific ocean perch	2,760	537	7,453
Rockfish	1,550	500	5,677
Sablefish	1,400	500	3,100
Squid	50	500	9,450
Other species	2,000	3,712	68,537
Total	83,150	85,324	1,402,752

Joint venture catches of some species in 1980 were greater than amounts initially provided in the PMP and have been increased (Table II). Increases in JVP have resulted in equivalent decreases in TALFF (Table III).

Reserves (Table III) established by the PMP (5 percent of the OY for each species or species group) can accommodate either the DAP or JVP components of DAH during the fishing year, should the amounts in either the DAP or JVP prove inadequate. The exception is the reserve for Pacific cod which exceeds 5 percent because domestic fishermen expressed considerable interest in the expansion of cod production.

Differences between the proposed regulations and the final regulations:

A. Pacific cod OY and reserve. The proposed regulations increased the reserve for Pacific cod by 12,000 mt, from 2,935 mt to 14,935 mt. A 1980 environmental assessment (EA) cited 20,000 mt as the amount by which the Pacific cod OY of 58,700 mt could be increased, based on recent analysis of improved stock conditions. Accordingly these final regulations increase the Pacific cod OY by an additional 8,000 mt, to 78,700 mt. The entire 8,000 mt increase is placed in reserve because of uncertainty as to the amount of Pacific cod that will be utilized by the U.S. fishing industry.

B. Salmon savings time/area closure. On October 3, 1980, NMFS announced receipt (45 FR 59187) of a petition requesting an amendment to the PNP which would provide for an annual closure of Bering Sea INPFC statistical areas I and II from October 1 through March 31, in order to reduce the incidental catch of salmon by foreign groundfish trawlers. An Advance Notice of Proposed Rulemaking (45 FR 65842) requested comments on the petition and on alternatives to the course of action suggested by the petition. On December 19, 1980, the Assistant Administrator denied the petition, but noted that additional amendments to the PMP have not been ruled out, and that a modified salmon savings closure is under active consideration for implementation in 1981.

Additionally, an FMP for the Bering Sea groundfish fishery is nearing completion. The Environmental Impact Statement (EIS) accompanying the FMP addresses the question of salmon interceptions, as does a proposed amendment to the FMP which, if approved and implemented, would establish the salmon savings area referred to above. These ongoing administrative actions provide appropriate opportunities for the resolution of the problem of salmon interception.

Public Comments

A. Comments Received. Three comments on the proposed regulations were received, addressing the following points:

(1) The Pacific cod OY should be increased substantially.

(2) The Alaska pollock OY should be increased to 1,200,000 tons.

(3) The DAH for Pacific ocean perch and sablefish should be reduced.

(4) Unused portions of the JVP estimate for Pacific cod, yellowfin sole, and other flounders should be released to TALFF at the earliest opportunity.

(5) Reallocation of unused TALFF should be made in a more timely manner.

B. Response to Comments. The following responses are keyed to the above comments:

(1) The Pacific cod OY has been raised by 8,000 mt with the increase being put into reserve.

(2) Data on pollock biomass assessments are being evaluated and adjustments will be made if appropriate.

(3) The DAH amounts are based on recent surveys. Should these amounts prove excessive, there is a mechanism in the PMP to transfer unused DAH to TALFF.

(4) Unused DAH (including the JVP portion of DAH) will be transferred to TALFF at the earliest opportunity, consistent with a reasonable estimation of expected catch by joint ventures for the season.

(5) This concern is noted and will be conveyed to the Department of State which has responsibility for these adjustments.

Other Matters

The Assistant Administrator, having reviewed the PMP, determined that the PMP is still necessary and appropriate to the conservation and management of eastern Bering Sea groundfish resources.

The Assistant Administrator further determined that the amendment of the PMP and its implementing regulations do not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act of 1969. Further, the amendment does not constitute a significant change to regulations requiring the preparation of a regulatory analysis under Executive Order 12044.

For the reasons set forth below, the Assistant Administrator for good cause waives the 30-day delayed-effectiveness period specified at 5 U.S.C. 553(d). The delayed-effectiveness period is unnecessary. Notice of the amendment and proposed regulations was published on November 28, 1980 (45 FR 79127), and the public afforded a 30-day period in which to submit comments. The public is familiar with the management measures established by the PMP, effective since January 4, 1980. These measures remain largely unchanged, and as a consequence no additional time is necessary to prepare for compliance. In addition, the amendment confers a benefit and does not work to the detriment of interested parties.

Signed in Washington, D.C., this 31st day of December 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

Revise section 4.A of 50 CFR 611.20, Appendix 1, to read as follows:

§ 611.20 Total allowable level of foreign fishing.

* * * * *

Appendix 1. *Optimum yield (OY), domestic allowable harvest (DAH), domestic allowable processing (DAP), joint venture processing (JVP), domestic non-processed fish (DNP), reserve, and total allowable level of foreign fishing (TALFF), all in metric tons*

	Species and species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
*	*	*	*		*				*
4. Alaska fisheries:									
A. Bering Sea and Aleutian Islands Groundfish Fishery.	Pollock—701	Bering Sea [1]	1,000,000	19,550	10,500	9,050	—	50,000	930,450
		Aleutians [2]	100,000	0	0	0	—	0	100,000
	Yellowfin sole—720		117,000	26,200	1,200	25,000	—	5,850	84,950
	Turbots—721, 118		90,000	1,075	1,000	75	—	4,500	84,425
	Other flounders—129		61,000	4,200	1,200	3,000	—	3,050	53,750
	Pacific ocean perch [4]—783	Bering Sea [1]	3,250	1,380	550	830	—	162	1,708
		Aleutians [2]	7,500	1,380	550	830	—	375	5,745
	Other rockfish—849		7,727	1,550	1,100	450	—	500	5,677
	Sablefish—703	Bering Sea [1]	3,500	700	500	200	—	350	2,450
		Aleutians [2]	1,500	700	500	200	—	150	650
	Pacific cod—702		78,700	24,265	7,200	17,065	—	22,935	31,500
	Atka mackerel—207		24,800	100	0	100	—	1,240	23,460
	Squid—509		10,000	50	0	50	—	500	9,450
	Other species [3]—499		74,249	2,000	1,800	200	—	3,712	68,537
*	*	*	*		*				*

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[1] Bering Sea means fishing areas I, II, and III in Figure 2, Appendix II of 50 CFR 611.9.

[2] Aleutian means fishing Area IV in Figure 2, Appendix II of 50 CFR 611.9.

[3] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, octopus, and all other finfish and marine invertebrates except those listed in the table and "unallocated species". See § 611.93(b)(2)(iii) for the definition of "unallocated species".

[4] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

* * * * * * *

[FR Doc. 80-40848 Filed 12-31-80; 4:52 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of melons grown in designated counties in South Texas to be inspected and meet minimum grade, quality and container requirements. It would promote orderly marketing of such melons and keep less desirable qualities from being shipped to consumers.

DATE: Comments due March 9, 1981.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 156 and Order No. 979 (7 CFR 979) regulate the handling of melons grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

This proposed regulation is based upon unanimous recommendations made by the committee at its public meeting at McAllen, Texas, on December 3, 1980. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1981 spring crop of South Texas melons and of the marketing prospects for the shipping season.

The proposed regulation would benefit consumers and producers by standardizing and improving the quality of melons shipped from the production area. The proposed grade requirements would prevent melons of poor quality from being shipped to fresh market outlets. Not more than 50 percent of the melons in any lot could fail the requirements for U.S. Commercial grade. A tolerance of 20 percent would be allowed for serious damage of which not more than 10 percent would be for melons affected by soft decay. Black surface discoloration would not be considered a defect. Individual cartons would be required to contain at least 25 percent U.S. Commercial quality melons.

The proposed container requirements would prevent the shipment of bulk loads of packinghouse culls which adversely affect the reputation and returns of packed South Texas melons. However, the containers required would be those customarily packed for the retail trade. Cartons that contain melons which have been chemically treated to induce ripening must be so marked in letters at least 2 inches high on carton sides.

Exceptions would be provided to certain of these handling requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 120 pounds of melons could be handled, other than for resale, per day by handler without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of melons.

The requirements with respect to special purpose shipments would allow the shipment of melons for charity, relief, canning and freezing. Shipments of melons for canning or freezing would be exempt under the legislative authority for this part. Shipments for charity or relief would be exempt since no useful purpose would be served by regulating such shipments.

It is proposed that § 979.302 (45 FR 24105, April 9, 1980) be removed and a new § 979.303 be added as follows:

§ 979.303 Handling regulation.

From May 1 through July 31, 1981, no person shall handle cantaloup or honeydew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(5), (d) or (e) and (f) all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅜ nor less than 9¾ inches in depth. All honeydew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7⅛ inches nor less than 6⅛ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each carton shall be marked to indicate the count; the name, address, and ZIP code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the carton in which the melons are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the carton shall be conspicuously marked with the words "Used Box" in letters not less than three-fourths (¾) inch high.

(4) If the carton contains cantaloups which have been treated with chemicals to induce ripening, the carton side panels shall be conspicuously marked with the words "Chemically Ripened" in letters at least two inches high.

(5) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.*

(1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (512) 787-4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (512) 723-9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 1¼¢ per carton.

(d) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 120 pounds net weight of melons per day without regard to the provisions of Sections 979.42, 979.52, 979.60, and 979.80, but this exemption shall not apply to any shipment or any portion thereof of over 120 pounds of melons.

(e) *Special purpose shipments.*

(1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraph (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" mean the United States Standards for Grades of Cantaloups (7 CFR 2851.475-2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740-2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

Dated: December 31, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-610 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-ANW-14]

Proposed Establishment of Control Zone; Burns, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish a control zone at Burns, Oregon, to provide controlled airspace to protect aircraft executing instrument procedures at Burns Municipal Airport.

DATES: Comments must be received on or before January 30, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures, and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, Operations, Procedures, and Airspace Branch, (ANW-534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 80-ANW-14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rule Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by

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submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures, and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108, or by calling (206) 767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone for the Burns, Oregon, Municipal Airport. The control zone, if designated, will allow aircraft to remain in controlled airspace while conducting instrument operations at the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356), by adding a control zone at Burns, Oregon, as follows:

Burns, Oregon

Within a 5 mile radius of the Burns Municipal Airport (latitude 43°35'32" N, longitude 118°57'14" W); and within 2 miles each side of the Wildhorse VOR (latitude 43°35'36" N, longitude 118°57'14" W) 090° radial extending from the 5 mile radius zone to 9.5 miles east of the Wildhorse VOR; within 2.5 miles each side of the Wildhorse VOR 141° radial extending from the 5 mile radius zone to 9.5 miles southeast of the Wildhorse VOR; within 2 miles each side of the Wildhorse VOR 227° radial extending from the 5 mile radius zone to 8.5 miles southwest of the Wildhorse VOR. This control zone shall be effective during the times established by a Notice to Airmen and thereafter published continuously in the Airport/Facility Directory.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Washington, December 15, 1980.

Charles R. Foster,

Director, Northwest Region.

BILLING CODE 4910-13-M

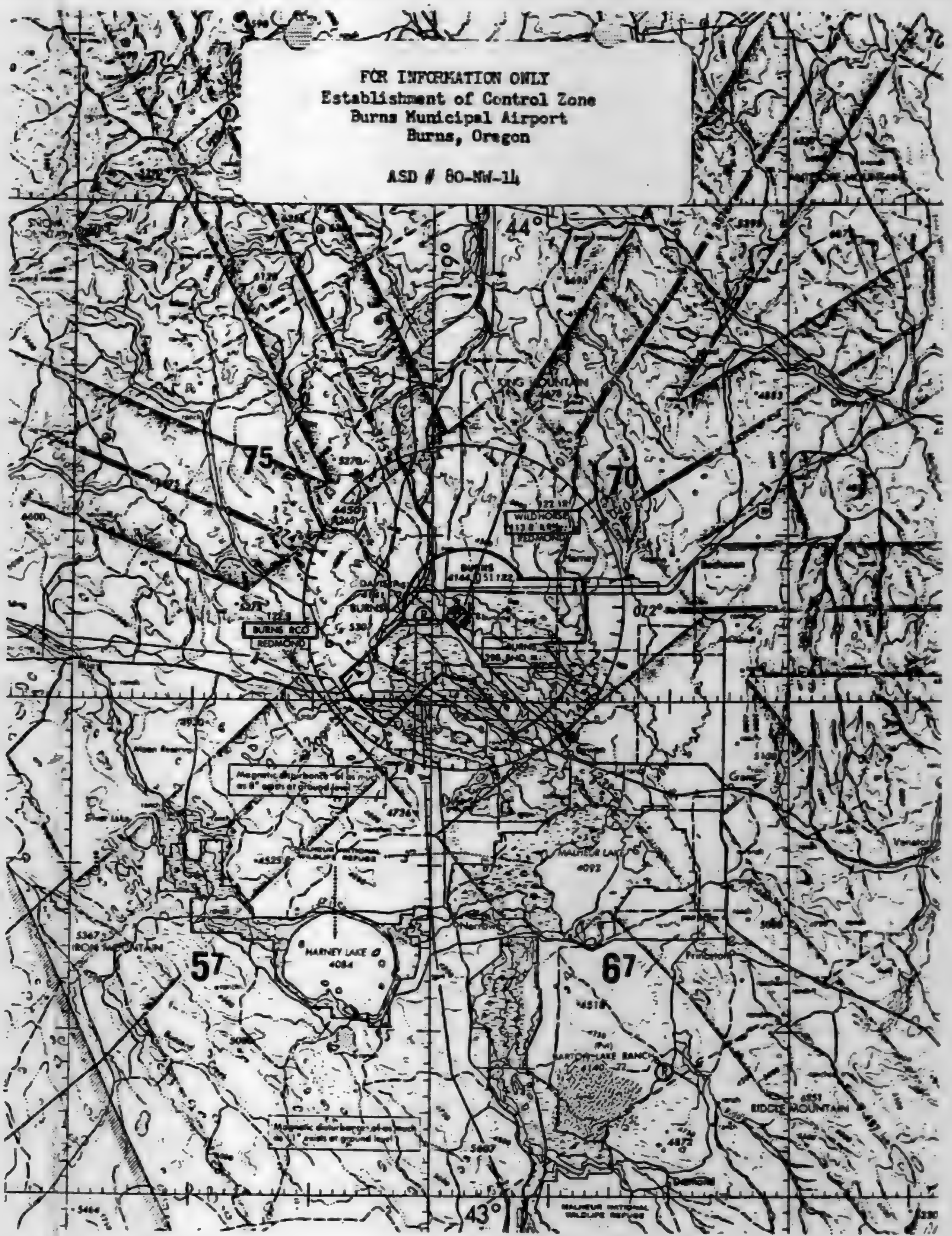
FOR INFORMATION ONLY
Establishment of Control Zone
Burns Municipal Airport
Burns, Oregon
ASD # 80-NW-14
44°
KING MOUNTAIN
75
70
WILDHORSE
REDMOND
BURNS RCO
REDMOND
BURNS
BURNS
072°
Magnetic disturbance of as much as 8° exists at ground level
4726
4525
MALHEUR LAKE
4093
HARNEY LAKE
4084
IRON MOUNTAIN
57
67
BARTON LAKE RANCH
RIDDLE MOUNTAIN
43°
MALHEUR NATIONAL WILDLIFE REFUGE

[FR Doc. 81-457 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 18605/80-AEA-8]

Proposed Alteration of Group I Terminal Control Area (TCA)—New York, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reconfigure the Group I TCA at New York, N.Y., which first became effective September 16, 1971. This action would increase the capability of the Air Traffic Control (ATC) system to separate aircraft as they leave or enter the terminal airspace around the three New York Metropolitan Airports (J. F. Kennedy International Airport, Jamaica, N.Y.; LaGuardia Airport, New York, N.Y.; and Newark International Airport, Newark, N.J.). It is based on data indicating that a high percentage of near midair collisions reported to the FAA in the New York terminal area involves Visual Flight Rules (VFR) aircraft that are not required to be under ATC control.

The objective of this proposal is to increase safety while accommodating the legitimate concerns of the airspace users and, in particular to provide the highest degree of safety for passengers in public air transportation.

DATES: Comments must be received on or before April 8, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, AEA-500, Docket No. 18605/80-AEA-8, Federal Aviation Administration, Federal Building, Room 300, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The docket for this action may be examined at the office of the Regional Air Traffic Division, at the above address, or at the FAA, Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Walter H. Mitchell, Chief, Airspace and Procedures Branch (AEA-530), Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430; telephone: (212) 995-3390.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, Room 300, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 8, 1981, will be considered before action is take on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Washington Rules Dockets for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice shall submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 18605/80-AEA-8." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591 or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

History

As part of a comprehensive program announced on December 27, 1978, in the Administrator's Plan for Enhanced Safety in the National Airspace System, the New York TCA was a candidate for expansion laterally and vertically. Consequently, the New York TCA was reviewed in depth. The goal was to provide the safest and most efficient configuration for all airspace users. Other aspects considered included safety for passengers and aircraft, environmental impacts, and costs to users.

The review disclosed that the mix of controlled and uncontrolled aircraft in the New York terminal area is extensive. Between August 1978 and December 1980, 17 Near Midair Collision Reports (NMACs) were filed, detailing incidents in the airspace which this notice proposes to add to the TCA. In addition, a study covering a period from January 1979 to December 1980 revealed 43 reported incidents in which small, VFR aircraft departing from or arriving at Flushing Airport penetrated the TCA airspace in the vicinity of LaGuardia Airport without ATC authorization. The proximity of Flushing and LaGuardia airports to each other and the mix of various types of aircraft using this complex airspace combine to create an increased collision potential between controlled and uncontrolled aircraft. Therefore, in order to minimize the potential for midair collision, this notice also proposes to eliminate the operation of uncontrolled aircraft at Flushing Airport by including Flushing in the TCA airspace.

The proposal contained in this notice was preceded by broad and helpful public participation with the FAA in considering the development of an airspace description for the TCA which would be responsive to the need to increase safety as well as the needs of both transient and local aircraft operators. An extensive publicity effort was made to invite all interested persons to participate in six informal airspace meetings. In addition to published notices, notice was given through mailings to thousands of persons believed to have an interest in this proposal. Notices were also posted in airports and Flight Service Stations (FSSs). Two meetings were held in 1979; four in 1980. As a result of the meetings and the oral and written comments received, several adjustments to the TCA configuration were recommended and are reflected in this notice. The TCA configuration which was discussed in 1979 was altered further, and has become less restrictive in its coverage.

The 1979 version of the recommended TCA expansion would have increased the overall size of the New York TCA from a 20-nautical mile (NM) radius to a 42 NM radius area of the Metropolitan New York Airports and vertically from 7,000 to 12,500 feet MSL. As a result of the numerous informal airspace meetings, the current proposal to expand the New York TCA includes an increase of only 5 NM in radius from 20 NM to 25 NM. The area directly to the north of New York City (between the Kennedy VORTAC 020° magnetic radial, counterclockwise to the Kennedy VORTAC 325° magnetic radial) would remain at a radius of 20 NM. The TCA ceiling would be raised from 7,000 to 10,000 feet MSL. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at every stage of the rulemaking process.

The FAA determined that the risk of collision between controlled and uncontrolled aircraft in the airspace between LaGuardia and Flushing Airports necessitated immediate regulatory action. Accordingly, on December 29, 1980 the FAA published an interim rule in the **Federal Register** (45 FR 85604). The rule, effective January 8, 1981, establishes requirements for communication and navigational equipment, prohibits student-pilot and training operations in the affected area, and provides improved separation between LaGuardia and Flushing Airport operations. The final determination whether or not to include Flushing Airport within the TCA will be made after a thorough analysis of the comments to that rule, comments to this notice, and the effectiveness of the special air traffic rule during the interim.

Local Benefits

The expansion of a Group I TCA, as proposed in this notice, would make a meaningful contribution to the systemwide increase in safety. The number of airport operations for the New York Metropolitan Airports in the year ending September 30, 1979, was 890,475 and is forecast to reach 1,113,000 by 1986. The total passenger enplanement for the Metropolitan Airports in calender year 1978 was 24,706,000 and is forecast to reach 37,300,000 annually by 1966. The proposed TCA expansion will enable ATC to more safely and efficiently manage the forecast increases in traffic.

Economic Impacts

The FAA is committed to ensuring that the costs of expanding the New York, N.Y., TCA are considered before final regulatory decisions are made. Since those costs may affect other TCA proposals announced in the Plan for Enhanced Safety, a comprehensive economic assessment covering the entire program as described in that plan was made available to attendees at the six informal airspace meetings held in the New York metropolitan area and is in the Regional and Washington dockets for public comment. The assessment includes systemwide assumptions concerning the impact of all of the original 44 recommended new TCAs and the expansions to existing TCAs, including the expansion of the New York, N.Y., TCA. In addition, to determine whether those general assumptions are valid for the particular TCA airspace description proposed for New York, N.Y., the FAA Eastern Regional Office has prepared a detailed addendum to the broad national study. That regional economic assessment is appended to the national assessment and is also in the Regional and Washington dockets. The objective of this process is to assist the Administrator in determining whether the least costly means of obtaining the overall objective of the terminal airspace phase of the plan have been selected. Since 14 of the original TCA sites are no longer under current consideration, the cost impact systemwide is even less than indicated in the assessment but the underlying assumptions are still valid as applied to the remaining candidates. To assist in this determination, public comment on these economic assessments is invited.

Airspace Outside the United States

Because part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

The applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States, is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertain to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention of International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Terminal Control Area

The airspace description for the proposed TCA action in this notice was developed by the FAA Eastern Region in consultation with affected users to minimize the potential impact of the proposal. Informal airspace meetings, open to the public, were held on June 26, 1979, in Jamaica, N.Y.; June 28, 1979, in Woodbridge, N.J.; May 14, 1980, in Cranford, N.J.; May 21, 1980, in White Plains, N.Y.; May 28, 1980, in Farmingdale, N.Y.; and June 3, 1980, in Jamaica, N.Y. Notice of those meetings was published in the **Federal Register** (44 FR 33409) on June 11, 1979, on March 17, 1980, (45 FR 17019), and on April 21, 1980, (45 FR 26718). Approximately 700 persons attended those meetings, which were held to obtain public participation in the development of an airspace description responsive to the needs of both transient and local users. A report describing each meeting has been placed in the Regional and Washington dockets.

The rationale for the proposal to alter the vertical and lateral dimensions of the New York, N.Y., TCA has been discussed previously in this notice. This alteration is proposed in order to limit the presence of uncontrolled aircraft in that airspace over and around John F. Kennedy, LaGuardia, and Newark Airports in which the transport of passengers by air carrier and other TAC controlled aircraft is involved, thereby reducing the potential of a midair collision between aircraft. As a result of these meetings and subsequent reviews, the size of the recommended TCA was reduced by lowering the ceiling from 12,500 to 10,000 feet MSL. In fact, the reviews concluded that the radial dimensions could be reduced from 42 to 25 miles. Those changes will provide additional airspace to all users and will avoid operating areas for sailplanes, experimental aircraft, and other special operations. The recommended TCA airspace near McGuire AFB was deleted due to a request by military representatives, in order to reduce the compression effect and allow freer use of this area by the military, without reducing the effectiveness of the proposal.

Including Flushing Airport in the TCA may have some impact on both LaGuardia and Flushing operations under certain conditions. Due to the proximity of the airports and the runway configuration interaction, simultaneous takeoffs and landings at certain times may be prohibited. FAA recognizes that, during LaGuardia's peak traffic period, aircraft arriving and departing the Flushing Airport may experience some delay. Minimal delays can be expected at LaGuardia Airport. That situation would normally occur less than .6 percent of the time.

The following are proposed responses to other user comments and recommendations. However, specific public comments providing details and data regarding the proposed disposition are invited so that FAA can further assess the correctness of its initial perceptions:

(a) Commenters stated that the proposed alteration of the TCA encompassed too much airspace.

Adjustments to the TCA configuration were made and are reflected in the configuration proposed in this notice. The size and shape have been carefully evaluated and are considered the minimum needed to efficiently contain the radar vectoring, sequencing, arrival and departure profiles of aircraft within the TCA. Further reductions in the size would diminish the safe and efficient use of that airspace by creating unacceptable risks of traffic conflict and collision potential.

(b) A comment was made that a 12,500 foot TCA ceiling is unnecessary.

As previously stated, adjustments to the TCA configuration to 10,000 feet were made and are reflected in the configuration proposed in this notice. Additional adjustments would compromise the airspace needed to contain the numerous departure and arrival flight profiles in the interest of safety.

(c) A comment was made that the FAA has already demonstrated its inability to provide adequate service and the expanded TCA will increase delays and result in increased fuel consumption.

During the first six months of 1980, the New York Common IFR Room controlled a total of 84,874 TCA operations in the present TCA. The monthly average was 14,146 with a peak day count of 1,068. The FAA does not anticipate any significant increase in traffic handled as a result of the proposed expansion. However, if such an increase does materialize, the FAA would take necessary action to deal with the traffic. It is recognized that there are delays to VFR aircraft as a result of the TCA, but it is anticipated that additional delays would be minimal and the FAA will continue to work to minimize the delays while providing an appropriate level of safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 658) by revising the description of the New York, N.Y., TCA to read as follows:

New York, N.Y., Terminal Control Area

Primary Airports

John F. Kennedy International (40°38′25″N., 73°46′41″W.)
LaGuardia (40°46′36″N., 73°52′24″W.)
Newark International (40°41′40″N., 74°10′02″W.)

References

John F. Kennedy (JFK) VORTAC (40°37′59″N., 73°46′25″W.)
LaGuardia (LGA) VOR (40°47′16″N., 73°52′39″W.)

Boundaries

Area A: That airspace extending upward from the surface to and including 10,000 feet MSL within three areas—(1) within an 8-mile radius circle centered on the JFK VORTAC; (2) within a 4-mile radius circle centered on EWR Airport; and (3) within a 6-mile radius circle centered on the LGA VOR; excluding Areas B and D.

Area B: That airspace extending upward from 500 feet MSL to and including 10,000 feet MSL within three areas—(1) within an 8-mile radius centered on the JFK VORTAC and south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline; thence easterly along the shoreline to the intersection of the JFK VORTAC 125° radial 5-mile DME fix; thence northerly along the 5-mile DME arc to, and easterly along, the JFK VORTAC 094° radial to the 8-mile radius circle centered on the JFK VORTAC; (2) within a 6.5-mile radius circle centered on EWR Airport excluding Areas C, D, and E; and (3) that airspace bounded by a line beginning at the intersection of the LGA VOR 6-mile radius circle and the LGA VOR 039° radial; thence southwesterly along the LGA VOR 039° radial to, and southerly along, the Bronx shoreline to the north stanchion of the Throggs Neck Bridge; thence southerly along the Throggs Neck Bridge and Clearview Expressway to its point of intersection with the LGA VOR 093° radial; thence easterly along the LGA VOR 093° radial to its point of intersection with the LGA VOR 6-mile radius circle; and thence counterclockwise along the LGA VOR 6-mile radius circle to the point of beginning.

Area C: That airspace extending upward from 800 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the point where the 6.5-mile radius circle centered at EWR Airport intersects U.S. Highway No. 1; thence northeast along U.S. Highway No. 1 to the Exxon Research Center at the intersection of U.S. Highway No. 1 and the 4-mile radius circle centered on EWR Airport; thence direct to the public service powerplant; thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle; thence east via the Staten Island Expressway to Richmond Avenue; thence south along Richmond Avenue to the 6.5-mile radius circle; and thence clockwise along the 6.5-mile radius circle to the point of beginning.

Area D: That airspace extending upward from 1,100 feet MSL to and including 10,000 feet MSL within three areas—(1) that airspace within a 6-mile radius circle centered on the LGA VOR west of the east bank of the Hudson River; (2) that airspace within a 6.5-mile radius circle centered on EWR Airport, east of the Colts Neck VORTAC 012° radial; and (3) that airspace between the east and west banks of the East River bounded on the north by the south end of Roosevelt Island and on the south by the 6-mile radius circle centered on the LGA VOR.

Area E: That airspace extending upward from 1,200 feet MSL to and including 10,000 feet MSL southwest of the EWR Airport between the 4-mile and 6.5-mile radius arcs centered on EWR Airport bounded on the north by the tracks of the Central Railroad of New Jersey and on the southeast by U.S. Highway No. 1.

Area F: That airspace extending upward from 1,500 feet MSL to and including 10,000 feet MSL within the consolidation of two areas—(1) that bounded by a line beginning at the intersection of a 20-mile radius circle centered on JFK VORTAC and the JFK VORTAC 208° radial; thence counterclockwise along the 20-mile circle to its intersection with the Long Island shoreline; thence southwest along the Long Island shoreline to, and counterclockwise along, a 13-mile radius circle centered on the JFK VORTAC to, counterclockwise along, an 11-mile radius circle centered on the LGA VOR to the LGA VOR 351° radial; thence along a line from the LGA VOR 351° radial to the intersection of the LGA 337° radial and the Erie Lackawanna Railroad tracks; thence southerly along the Erie Lackawanna Railroad tracks to the intersection of a 6-mile radius circle centered on the LGA VOR; thence clockwise along the LGA VOR 6-mile radius circle to, and clockwise along, an 8-mile radius circle centered on the JFK VORTAC to and clockwise along the LGA VOR 6-mile radius circle to the intersection of the New Jersey shoreline; thence southerly along the New Jersey shoreline to the intersection with and clockwise along a 6.5-mile radius circle centered on EWR Airport to the intersection with and westerly along Route 22 to the intersection of a 10-mile circle centered on EWR Airport; thence counterclockwise along a 10-mile radius circle to its intersection with the Colts Neck VORTAC 005° radial; thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook; thence south along the New Jersey shoreline to the point of beginning; and (2) that area within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker.

Area G: That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR 337° radial and the Erie Lackawanna Railroad tracks; thence south along the railroad tracks to the east branch of the Hackensack River; thence south and west along the river to the LGA VOR 299° radial; thence direct to the intersection of a 6-mile radius circle centered on the LGA VOR and the LGA VOR 264° radial at the west bank of the Hudson River; thence south along the west bank of the Hudson River to its intersection with a 6.5-mile radius circle centered on EWR Airport; thence counterclockwise along the 6.5-mile radius circle to, and southwest along, Route 22 to, and clockwise along, a 10-mile radius circle centered on EWR Airport to the LGA VOR 283° radial; and thence direct to the point of beginning.

Area H: That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the area included within the 20-mile radius circles of the JFK VORTAC, LGA VOR, EWR Airport; excluding Areas A, B, C, D, E, F, G and I; and that airspace between the 20-mile circles centered on both the JFK VORTAC and the EWR Airport and between the JFK VORTAC 163° radial and the JFK VORTAC 230° radial.

Area I: That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the JFK VORTAC 064° radial 13 DME fix at Hempstead Turnpike; thence easterly along Hempstead Turnpike to the Seaford Oyster Bay Expressway; thence northerly along the Seaford Oyster Bay Expressway to the intersection of the JFK VORTAC 049° radial; thence northeasterly along the JFK VORTAC 049° radial to a 25-mile circle centered on the LGA VOR; thence clockwise on the 25-mile circle to, and clockwise along, a 25-mile circle centered on the JFK VORTAC to the JFK VORTAC 088° radial; thence westerly along the JFK VORTAC 088° radial to, and westerly along, the south shore to Tobay Beach to a 13-mile radius circle centered on JFK VORTAC; and thence counterclockwise along the 13-mile arc to the point of beginning.

Area J: That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area between the 20-mile and 25-mile radius circles centered on the EWR Airport and between the JFK VORTAC 230° radial and the JFK VORTAC 318° radial.

Area K: That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL within the area between the 20-mile and 25-mile radius circles centered on the JFK VORTAC and the LGA VOR and between the JFK VORTAC 010° radial and the JFK VORTAC 049° radial and between the JFK VORTAC 086° radial and the JFK VORTAC 163° radial.

(Secs. 307, 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *"

Issued in Washington, D.C., on January 2, 1981.

R. J. Van Vuren,

Director, Air Traffic Service.

BILLING CODE 4910-13-M

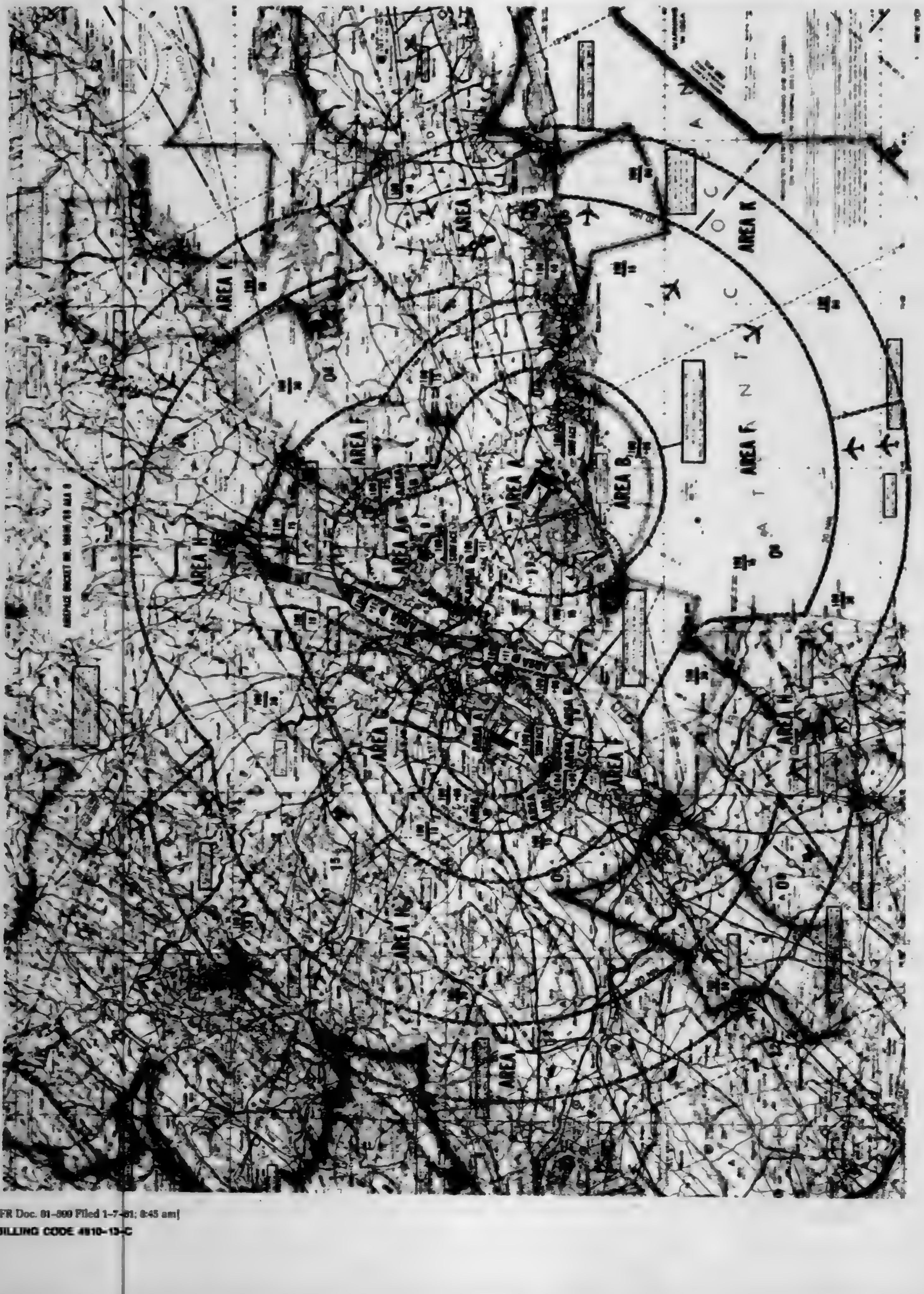
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[FR Doc. 81-800 Filed 1-7-81; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Allowance of Additional Child Care Dropout Years for Benefit Computation of Younger Disabled Workers

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Proposal to Develop Regulations.

SUMMARY: The Social Security Administration plans to publish regulations to implement the child care provision of section 102 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265). That section amends section 215(b)(2)(A) of the Social Security Act. It provides that in determining the number of benefit computation years for some disabled workers, we can drop out 1 year for each year the wage earner is living with his or her child (or the child of a spouse) substantially throughout the period in which the child was alive and under the age of 3, and the individual had no earnings (as described in section 203(f)(5)) in the year. This provision is in addition to the dropout years allowed under section 102 for all disabled workers, for which a Regulations Proposal was published on September 15, 1980, at 45 FR 60922. In these regulations we will define "living with" and "substantially throughout the period."

Where a worker is first entitled to disability insurance benefits after June 1980, the basic rule for disabled workers is that we will drop out 1 year for each 5 elapsed years, as explained in the September 15 proposal. If that dropout is fewer than 3 years, we may increase it by including child care dropout years. The total of regular and child care dropout years cannot exceed 3 years. This provision applies for monthly benefits payable beginning with July 1981. The proposed regulation will amend Subpart C of 20 CFR Part 404.

The Department of Health and Human Services has classified the proposed regulation as policy significant.

FOR FURTHER INFORMATION CONTACT: Marty Smedley, 1115 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone: 301–594–2654.

Dated: December 5, 1980.

William J. Driver,
Commissioner of Social Security.

[FR Doc. 81–608 Filed 1–7–81; 8:45 am]

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20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Experiments and Demonstration Projects Under the Disability Insurance and Supplemental Security Income Programs

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration (SSA) plans to publish proposed regulations to implement section 505 of Pub. L. 96–265 (The "Social Security Disability Amendments of 1980").

Section 505(a) directs the Secretary to conduct experiments and demonstration projects to test the relative advantages and disadvantages of (1) various ways to treat work activity of disabled applicants and beneficiaries under the Old-Age, Survivors, and Disability Insurance program, and (2) altering other program limitations and conditions that affect these individuals. For these projects, the Secretary of HHS is authorized to waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act (the Act) to the extent necessary for a thorough evaluation of the alternative methods under consideration.

Section 505(b) authorizes experiments and demonstration projects to promote the objectives or improve the administration of the Supplemental Security Income (SSI) program. For these projects, the Secretary of HHS is authorized to waive any requirements, conditions, or limitations of title XVI of the Act or to impose additional requirements, conditions, or limitations. These experiments and demonstration projects may test eligibility factors and administrative policies in the SSI program and are not limited to disabled applicants and recipients. We are required to include projects on the feasibility of treating alcoholics and drug addicts to prevent future permanent disability. Participation in SSI projects will be voluntary and the projects selected may not result in a substantial reduction of participating individual's income and resources. These regulations will be designed not to disadvantage any of the participants.

The regulations will describe the purpose and duration of the experiments and demonstration projects. They will explain how the participants are selected, the provisions of the law that may be waived, the benefits that participants may receive and any obligations the participants may have as a condition for receiving the special benefits or services provided under the projects.

FOR FURTHER INFORMATION CONTACT: Alice Farley, Social Security Administration, Room 2223, Annex, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone: (301) 594–0301.

SUPPLEMENTARY INFORMATION: No experiment or demonstration project will actually be placed in operation unless a notice describing the experiment or project is published in the **Federal Register**. The changes will require revisions to part 404 and part 416 of Title 20 of the Code of Federal Regulations. These proposed regulations will revise only regulations issued under title II and title XVI because SSA administers these titles of the Act. Any necessary regulations concerning revisions of regulations issued under title XVIII will be issued by the Health Care Financing Administration. The Department of Health and Human Services has classified the proposed regulations as technical.

Dated: December 10, 1980.

William J. Driver,
Commissioner of Social Security.

[FR Doc. 81–581 Filed 1–7–81; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625 and 655]

[FHWA Docket No. 81–2]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

Note.—This document originally appeared in the **Federal Register** for Wednesday, January 7, 1981. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices.

SUMMARY: The FHWA is inviting comments on requests for changes to the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD contains the standards for traffic control devices and has been approved by the FHWA for use on all streets and highways open to public travel.

DATE: Comments must be received on or before July 15, 1981.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 81-2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Partlow, Office of Traffic Operations, (202) 426-0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426-0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA prepares and issues the national standards for traffic control devices used on all streets and highways open to public travel. These standards are published in the MUTCD which has been incorporated by reference into Title 23, Code of Federal Regulations (CFR), Parts 625 and 655. the MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($18.00). The FHWA both receives requests and initiates recommendations for changes (i.e., amendments) to the MUTCD.

This advance notice contains requests for changes to the MUTCD which were received or originated by the FHWA. These requests are being processed in accordance with the informal rulemaking procedure of the Administrative Procedure Act (5 U.S.C. 553) and the Department of Transportation procedures issued pursuant to Executive Order 12044.

Each request has been assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received. This advance notice is being issued to provide the public with an opportunity to participate in the processing of requests for amendments to the MUTCD. Based upon comments received and on its own review, the FHWA will prepare a notice of proposed amendments which will provide recommendations for the disposition of the suggested amendments to the MUTCD. Any final amendments which result from that action will be published in the **Federal Register** and incorporated by reference into title 23, CFR.

Index of Requests

1. Signs (Part II).
(a) Request II-38 (Chng.) Identifying Left-Hand Exits on Interchange Sequence Signs.
(b) Request II-52 (Chng.) Beginning of Pavement Width Transition Sign.
(c) Request II-53 (Chng.) Mandatory Movement Signs.
(d) Request II-54 (Chng.) Add Percent Grade Within Hill Sign.
2. Markings (Part III).
(a) Request III-22 (Chng.) Pavement Marking Symbol for School Crossing.
(b) Request III-23 (Chng.) Mounting Height of Object Markers.
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Request VIII-9 (Chng.) Elevation of Top of Foundation for Flashing Lights and Gates.

1. Signs (Part II)

(a) *Request II-38* (*Chng.*) *Identifying Left-Hand Exits on Interchange Sequence Signs.*

This request from the Michigan Department of Transportation (MiDOT) is for a change in the MUTCD to provide guidance on and a method for identifying left-hand exits on interchange sequence signs for urban freeways. The request was originally for an interpretation of Section 2F-31 of the MUTCD. Since neither Section 2F-31 nor other sections of the MUTCD address this subject, the FHWA has modified the request to a request for a change. The MUTCD recommends the use of Interchange Sequence signs where interchanges are closely spaced. When used, the signs should identify and show the street names and distances for the next three exits on the freeway or expressway. Neither the text nor the typical sign illustrations in the MUTCD provide guidance on a manner for identifying left-hand exits.

The MiDOT pointed out that the MUTCD provides guidance for identifying left-hand exits on freeways and expressways in rural and other areas where the interchanges are far enough apart to preclude the need for Interchange Sequence signs. MiDOT also noted that without specific guidance at closely spaced interchanges, motorists assume the approaching exit is on the right-hand side and make erroneous lane changes before realizing the mistake through reading the information provided on subsequent guide signs.

(b) *Request II-52* (*Chng.*) *Beginning of Pavement Width Transition Sign.*

The Michigan Department of Transportation (MiDOT) has requested that the MUTCD be amended to include a standard warning sign to mark the physical beginning point of a pavement width transition. The proposed sign has three black downward slanting arrows on a yellow diamond shaped background supplemented by a separate plaque with the message LANE ENDS.

Section 2C-19 of the MUTCD presently includes signs for use in providing motorists with advance warning of pavement width transitions, that is, locations where there is a reduction in the number of traffic lanes in the direction of travel on a multilane highway. The MUTCD recommends that these advance warning signs should be placed 250 feet or more in advance of the physical beginning point of the pavement width transition in order to provide drivers with sufficient time to comprehend and react to the sign messages. The MiDOT suggests that this advance signing should be followed by the proposed sign to identify the exact location of the beginning of the transition and to provide motorists with better warning of the condition. Supplementing this request, the MiDOT suggests appropriate editorial changes for Section 2C-19 and illustration changes in Figures 3-10 (page 3B-13) and 6-13a (page 3B-23) of the MUTCD. The MiDOT also recommends that contingent upon approval of the proposed sign, the RIGHT (LEFT) LANE ENDS sign (Sign W9-1, page 2C-10 in the MUTCD) should be considered an alternate rather than a supplement to the LANE ENDS MERGE RIGHT (LEFT) Sign (sign W9-2, page 2C-10 in the MUTCD) and that the Pavement Width Transition symbol sign (sign W4-2, page 2C-10 in the MUTCD) should be described in detail in the text of Section 2C-19 of the MUTCD.

(c) *Request II-53* (*Chng.*) *Mandatory Movement Signs.*

This request from an individual is for an amendment to the MUTCD to provide standard signs for mandatory turning movements at intersections. The requester noted that there are many intersections where all traffic is required to make a single turning movement (for example, all traffic must turn right), while other movements (straight ahead and left turn) are prohibited. Since the MUTCD does not provide a specific sign for this purpose, some jurisdictions use regulatory signs with legends such as RIGHT TURN ONLY or ALL TRAFFIC with an appropriate arrow. These signs are permissible in the MUTCD under Section 2B-44, Other Regulatory Signs. Other jurisdictions use the Lane Use Control Sign (R3-5) (turn arrow with the word ONLY) of Section 2B-17. However, this sign is intended for overhead mounting to control traffic movement in one lane only. A directional arrow within a colored ring is used in Canada to designate a mandated movement.

The requester suggests that a new section providing standard mandatory turn signs should be added to the MUTCD, that symbol signs are preferable to word legend signs, that a minimum of two signs should be required at each installation, and that the R3-3 NO TURNS signs (mandatory straight ahead movement) should be changed to a symbol sign if a standard symbol is adopted for mandatory turn signs.

(d) *Request II-54* (*Chng.*) *Add Percent Grade Within Hill Sign.*

The Hill sign (sign W7-1, page 2C-13 of the MUTCD) may be supplemented by several signs with appropriate legends such as the percent of grade (MUTCD sign W7-3, page 2C-13) or the percent of grade plus the length of grade (MUTCD sign W7-3b, page 2C-14). The Utah Department of Transportation (UDOT) has requested an amendment to the MUTCD to permit the display of the percent of grade within the Hill sign so that when supplemental signs such as NEXT 5 MILES or 5 MILES AHEAD are installed a more complete message will be conveyed. For example, at a location where a mild grade and a steeper grade are separated by a short level section, motorists could be warned of the remaining length of the mild grade, and then, by an additional sign assembly, be warned of the distance to the steeper grade. In each case, the percent of grade could also be displayed.

The UDOT suggests that this usage of the proposed sign and supplementary signs would encourage motorists to maintain a slower speed in the short level section.

2. Markings (Part III)

(a) *Request III-22 (Chng.) Pavement Marking Symbol for School Crossing.*

Section 3B-17 of the MUTCD states that symbol messages are generally preferable to word messages for pavement markings used to warn, guide, or regulate traffic. The same section includes the pavement marking word message SCHOOL as appropriate for use where warranted, but does not provide an alternate marking symbol.

The Utah Department of Transportation (UDOT) has developed a symbol for this purpose and has requested that the MUTCD be amended to permit use of the proposed symbol as an alternate to the marking word message SCHOOL. The UDOT suggested that use of the proposed symbol would reduce the time and material required for installation of the message and that the symbol would last longer since it would not be in the wheel tracks of vehicles using the roadway. The proposed symbol is a suitable elongation of the standard walking children symbol adopted for use on the School Advance sign (S1-1).

(b) *Request III-23 (Chng.) Mounting Height of Object Markers.*

This request, originated by the FHWA, is for an amendment to the MUTCD to specify the minimum mounting height of object markers. Object markers are traffic control devices used to mark obstructions within or adjacent to a roadway.

Request III-7 (Chng.) Object Markers was published in the **Federal Register** on January 24, 1980 (45 FR 5750), in a notice of proposed amendments to the MUTCD (FHWA Docket No. 79-35). Request III-7 (Chng.) included among others, a request for the determination of the appropriate mounting height for Type 3 Object Markers. The FHWA commented in that notice that Section 1A-4 and other unspecified sections of the MUTCD provided sufficient guidance on this matter. After an additional review of the comments received in Docket 79-35 and information from other sources, the FHWA has determined that better guidance is needed in the MUTCD.

The FHWA is now inviting comments on a proposal to amend Section 3C-1 of the MUTCD to specify mounting heights. The FHWA suggests a height of 4 feet from the pavement edge to the bottom of the object marker when used within the roadway or within 6 feet of the shoulder or curb, and a height of 4 feet above the ground when used 6 feet or more from the shoulder or curb.

These heights are suggested by the need to maintain the effectiveness of the devices by providing a vertical clearance area for weeds, plowed snow, and the splash pattern resulting from wet pavements. The FHWA suggests that when object markers are applied directly to a hazardous object, the mounting height should be permitted to vary according to need.

(c) *Request III-24 (Chng.) Delineators on Truck Escape Ramps.*

Truck escape ramps are specially constructed vehicle lanes which leave the alignment of the main roadway and are intended as recovery areas where runaway trucks may be brought safely under control. Approximately 60 runaway truck ramps are now in operation in the United States and others are in the planning stage.

The Institute of Transportation Engineers (ITE) has requested an amendment to the MUTCD to provide a standard for the color and spacing of delineators used to indicate the edge of runaway truck ramps. The ITE stated that different States are using a variety of colors on delineators to mark the edge of their ramps and that it is important that a standard color be established for this function.

Report No. FHWA-TS-79-201, Emergency Escape Ramps for Runaway Heavy Vehicles (1978).[1] suggests that delineation for escape ramps is needed, but must be different from the standard white (for right edge of roadway) and yellow (for left edge of roadway) now provided in the MUTCD. Motorists not wishing to use the ramps have been led into the ramps by the standard white and yellow delineations.

3. Signals (Part IV)

(a) *Request IV-22 (Chng.) Single Portable Traffic Light.*

The MUTCD requires that all traffic signal installations must provide a minimum of two signal faces for through traffic for each approach to an intersection. This request from Lifeguard, Inc., if for an amendment of Section 4B-12-1 of the MUTCD to provide for the use of a single signal face on a portable mounting for control of traffic through construction and maintenance zones. The single faced portable signal could be used in place of a single flagger in controlling traffic in work areas.

(b) *Request IV-25 (Chng.) Speed Limit Sign Beacon.*

The Utah Department of Transportation has requested a change in Section 4E-2 and Section 7D-24 of the MUTCD to permit the use of horizontally aligned Speed Limit Sign Beacons when the Speed Limit sign is longer vertically than horizontally. The MUTCD presently permits horizontal alignment of Speed Limit Sign Beacons only when the Speed Limit sign is longer horizontally than vertically.

(c) *Request IV-27 (Chng.) Rules for Phasing and Sequencing of Traffic Signals.*

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[1] Available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

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The Signals Technical Committee of the National Committee on Uniform Traffic Control Devices completed a review resulting in a substantial proposal for a well defined set of parameters for phasing and sequencing of traffic signals. The committee has requested that the MUTCD be revised to incorporate these changes which it believes will provide more uniformity in the phasing and sequencing of traffic signals.

The following list enumerates the recommended changes to the MUTCD by the Signals Technical Committee:

[Section 4B-6 Application of Signal Indications]

1. Delete paragraph 5(a) and redesignate paragraphs 5(b) through 5(f) to read as paragraphs 5(a) through 5(e), respectively.

2. Revise new paragraph 5(a) to read as follows:

(a) A steady YELLOW ARROW indication shall be used following a GREEN ARROW indication which has been displayed simultaneously with a CIRCULAR RED indication in the same signal face. A GREEN ARROW need not be terminated by a displayed interval if a CIRCULAR GREEN permitting the turn to continue on a permissive basis is displayed in the same signal face simultaneously with the GREEN ARROW or immediately following the GREEN ARROW termination.

3. Add new paragraphs 5(f) and (g) to read as follows:

(f) A GREEN ARROW shall not be displayed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW or YELLOW ARROW.

(g) A YELLOW ARROW shall not be displayed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW.

4. Delete paragraph 6(e).

5. Add to the very end of Section 4B-6, paragraph 6, the following new wording:

The following signal indications shall not be displayed on any signal face, either alone, or in combination with any other indication:

(a) Straight-through RED ARROW.

(b) Straight-through YELLOW ARROW.

[Section 4B-9 Arrangement of Lenses in Signal Faces]

6. Delete from paragraphs 1 and 2 the words "Straight-through" YELLOW ARROW.

7. Delete arrangement "t" from Figure 4-1 on page 4B-9.

[Section 4B-12 Number and Location of Signal Faces]

8. Add a new paragraph 13 to read as follows:

13. If a signal face(s) displays control for a particular vehicular movement during any interval of a sequence, it must display control for that same movement during all intervals of the sequence.

[Section 4B-15 Vehicle Change Interval]

9. Add a new paragraph which addresses the question of YELLOW ARROW to GREEN ARROW, at the end of the section to read as follows:

A YELLOW ARROW shall not be terminated by a GREEN ARROW. It may be terminated by a CIRCULAR GREEN (if the movement controlled by the arrow is to continue on a permissive basis), a CIRCULAR YELLOW, a CIRCULAR RED, or a RED ARROW.

[Section 4B-16 Unexpected Conflicts During Green Interval]

10. Add a new paragraph, which expands the ruling on unexpected conflicts, at the end of the section to read as follows:

During a change interval, entry into an intersection is not controlled or prohibited. It is, therefore, necessary to define responsibilities during the change interval as being similar to those which exist during the green interval.

[Section 4B-18 Flashing Operation of Traffic Control Signals]

11. Add a new paragraph, which provides additional guidance in the use of flashing operations, at the beginning of the section to read as follows:

The mode of operation of a traffic signal operation may be exclusively steady—stop and go—or it may be exclusively flash mode. The initiation and termination of flashing displays shall follow the same rules as the steady modes with flashing yellow considered the same as steady green and flashing red considered the same as steady red.

[Section 4B-19 Continuity of Operation]

12. Delete the first paragraph of this section and add a new first paragraph to read as follows:

A traffic signal installation, except as provided below, shall be operated in an activated mode at all times.

[Section 4B-22 Priority Control of Traffic Signals]

13. Add a new paragraph which permits a priority change from yellow to green, at the end of this section to read as follows:

When a priority sequence is initiated, the display may proceed from Steady Yellow to Steady Green. This exception does not apply to the termination of priority or to any display during priority operation.

4. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)

Request VIII-9 (Chng.) Elevation of top of Foundation for Flashing Lights and Gates.

This request from the Florida Department of Transportation is for the deletion of the requirement that the top of the foundation for flashing light signal and gate supports shall be at the same elevation as the crown of the roadway. The request, if adopted, would require revision of Figures 8-3, 8-4, and 8-5 on pages 8C-2, 8C-3 and 8C-4 respectively in the MUTCD. The requirement that the top of the foundation shall be no more than 4 inches above the finished ground would not be changed.

The crown of the roadway can still be used as a reference point for determining vertical clearance for cantilevered flashing light signals (Figure 8-4), the vertical location of gates in the down position (Figure 8-5), and the vertical location of flashing light signals (Figure 8-3). As an alternative, some other reference point could be specified.

This advance notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. Due to the preliminary nature of this inquiry, a regulatory evaluation has not been prepared at this time. The expected impact of the changes requested is so minimal that a full evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: January 2, 1981.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 81-567 Filed 1-6-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

23 CFR Part 1221

[Docket No. 81-01; Notice 1]

Performance Standards for Speed Measuring Radar Devices

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes performance requirements and test methods for evaluating speed measuring radar devices used by law enforcement agencies. It is to be used in the establishment of a qualified products list which will specify which radar devices may be purchased by State and local governments with Federal highway safety funds.

DATES: Comment closing date: February 2, 1981.

Proposed Effective Date: Date of publication of final rule in **Federal Register**.

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Kathy DeMeter, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-1834) or Ronald Engle, Enforcement and Emergency Services Division, NHTSA, 400 Seventh St. SW., Washington, D.C. 20590 (202-472-4913).

SUPPLEMENTARY INFORMATION: For almost 30 years radar has been accepted by the courts and the public as a reliable method of measuring vehicular speed. Its use as a tool to enforce traffic laws has saved countless lives by encouraging motorists to maintain safe speeds. Its continued use and acceptance are vital to improve traffic safety and to conserve energy by helping to promote compliance with the national 55 mile per hour speed limit.

There are currently no standards regulating the quality of radar devices. Soon after the enactment of the 55 MPH National Maximum Speed Limit, the National Highway Traffic Safety Administration (NHTSA) recognized that the increased use of radar in support of the 55 mile per hour speed limit made the quality of that radar a matter of national concern. The agency therefore entered into an interagency agreement in 1977 with the National Bureau of Standards (NBS) to develop comprehensive performance standards that could be used to develop a qualified products list for police radar devices. The standard that follows is a product of that agreement. The resulting qualified products list will identify those specific models which can be purchased by State and local law enforcement agencies using Federal highway safety funds.

The NBS began its development of the proposed standard by reviewing the current state of the art in radar devices. It then selected those performance characteristics that it regarded as necessary to ensure the accurate and dependable use of radar devices, and devised appropriate laboratory and field tests to measure these characteristics. In the final stage of its work, NBS conducted a complete series of tests at its Boulder, Colorado facility, to validate the proposed standard.

After completing its tests of the proposed standard, NBS followed its conventional practice of seeking outside review of its work by soliciting comments on the draft standard from radar manufacturers, State and local governments, university research facilities and other interested persons. Thirty-five comments were received from a variety of sources. The NBS evaluated each of these comments in preparing the final version of the proposed standard for submission to the NHTSA. All comments on the draft standard are available for review or reproduction in Docket 81-01, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

The result of these comments and final review by the NBS and NHTSA is the proposed standard testing procedure set forth below. By this notice we are soliciting comments from the general public, as well as additional comments that the manufacturers and law enforcement agencies might have had which could result in refining the standard. Qualification testing to this standard, of products submitted by manufacturers, will be conducted by NBS approved test laboratories to be announced in the final rule. The final rule will also contain a complete description of the procedures to be undertaken by manufacturers in order for their products to be included on the qualified products list.

NHTSA expects that challenges to the use of radar will diminish as the new devices are introduced into enforcement service. This is not to suggest that the existing radar devices are inadequate. The existing devices have by and large withstood the legal challenges to their use. In the hands of properly trained officers they been shown to be accurate and reliable speed measuring devices. However, time and expense are entailed in defending the use of radar. The standard is intended to diminish these litigation costs. Concurrently with the proposed standard, NHTSA is developing a model program to train police officers in the use of radar. By simultaneously decreasing the level of skill needed for the use of radar devices and increasing the level of skill of the officers who use them, the agency intends to ensure that radar retains its acceptance as an essential law enforcement tool.

Under the proposed standard the manufacturers would be required to enclose certain information with each radar device that they sell, including complete installation and operation instructions, necessary power supply voltage levels for proper operation, microwave frequency band of operation, output power and maximum power density, antenna horizontal beam width, type of antenna polarization and environmental factors. A tuning fork would have to be supplied, and controls and antenna would have to be permanently labeled with specified operating information. All requirements, as well as all tests, are stated in both English measurements and their approximate metric equivalents. The labeling requirements that specify labeling in mph or km/h would apply to all new units. However, if an existing unit is modified so that it complies with the final standard, but such device is labeled with kph, that designation shall be an acceptable alternative to km/h. This exception applies only to existing units.

The proposed standard would require radar devices to meet strict standards of accuracy when tested under a variety of conditions. In many of these tests, a mechanical tuning fork with a known frequency is vibrated in the antenna beam to generate the target signal. The radar device must display the tuning fork signal within ±1 mph. One manufacturer, in its comments on the draft standard, objected that the tuning fork requirement may discourage the development of innovative methods of determining radar accuracy by the operator. However, in the agency's view, the tuning fork is presently the only tool available to the operator to test for proper functioning. At such time as other instruments are developed, manufacturers may petition the NHTSA to amend the standard to include those instruments. This standard is by no means static and will be updated periodically to reflect the technological advances in the radar field.

Performance requirements would also be established for transmission frequency and frequency stability, input current stability, output power stability, and the width of the antenna beam. The ability of the radar unit to withstand environmental extremes would be ensured by testing for temperature, humidity and vibration stability. The temperature test is designed to simulate the use of a radar device after prolonged exposure to heat or cold, as in a patrol vehicle parked outside in the summer or winter. The humidity test is designed to simulate the use of a radar device under dry conditions after exposure to moisture.

The standard would require radar devices to squelch all audible tones if no target speed signal is being processed, but would permit the squelch to be overridden by the operator. Such an override can assist an operator in searching for electromagnetic or mechanical motion interference. The standard would prohibit the use of an audible signal to alert the operator when a specified speed threshold has been exceeded by a target vehicle.

Under the proposed standard radar devices would have visual readout displays that are illuminated to ensure readability. The display functions would be required to have safeguards such as clearing the speed reading automatically when a different mode of operation is selected, and preventing the transfer of the patrol speed reading to the target speed display.

The proposed standard would require each radar device to be free of erroneous signals despite test signals simulating CB and police radios, patrol vehicles' ignitions, alternators, windshield wipers, air-conditioners and heater fans and other outside sources. To further ensure that the devices do not pick up erroneous signals, procedures would be established for testing the devices against interference in an actual operating environment.

The accuracy of radar devices would be ensured by requiring the devices to be free of erroneous readings while the patrol and target vehicles are driven over a measured course at specified speeds. A minimum range at which the radar device will correctly measure and display the speed of a compact vehicle is ensured by testing on a measured course.

Moving radar records the speed of the target vehicle by subtracting the speed of the patrol vehicle from the combined speed of the target and patrol vehicle. NBS researchers examined several phenomena allegedly caused by the interaction of the patrol and target speeds and concluded that the errors ascribed to them were imagined or could easily be overcome by simple precautions during proper installation and by operation of the radar devices by trained individuals.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the final standard may be issued at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In accordance with Executive Order 12221, the regulation has been reviewed for environmental and economic impact. It has been determined that there is no significant impact and therefore, no regulatory analysis is necessary.

In consideration of the foregoing, it is proposed that Chapter II of Title 23, Code of Federal Regulations be amended by adding Part 1221, *Performance Standards for Speed Measuring Radar Devices,* to read as set forth below.

(Secs. 401, 402, and 403 of the Highway Safety Act of 1966, as amended, 23 U.S.C. 401, 402, and 403; delegation of authority at 49 CFR 1.51.)

Issued on December 31, 1980.

Charles Livingston,

Associate Administrator for Traffic Safety Programs.

PART 1221—PERFORMANCE STANDARDS FOR SPEED MEASURING RADAR DEVICES

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1221.79 Speed display tests.
1221.80 Electromagnetic interference tests.
1221.81 Radar device operational tests.
1221.82 Speed accuracy test.
1221.83 Minimum range test.
Table 1—Minimum performance requirements for speed measuring radar devices.

Authority: Sections 401, 402, and 403 of the Highway Safety Act of 1966, as amended: 23 U.S.C. 401, 402, and 403; delegation of authority at 49 CFR § 1.51.

Subpart A—General

§ 1221.1 Scope.

This part establishes performance requirements and test methods for speed measuring radar devices used by law enforcement agencies to enforce vehicle speed regulations.

§ 1221.2 Purpose.

The purpose of this part is to specify performance standards for radar devices and to establish a qualified products list.

§ 1221.3 Application.

This part applies to speed measuring radar devices that transmit microwave energy, monitor the reflected signal from moving vehicles within the microwave beam, process the doppler shift of the reflected signal to display the speed of the vehicle that is being tracked, and if appropriate, the speed of the patrol vehicle. It does not apply to speed measuring radar devices that utilize low power, short range, across-the-road technology.

§ 1221.4 Definitions.

As used in this part:

"Accuracy" when used in conjunction with radar device means the degree to which the radar device measures and displays the correct speed of a target vehicle that it is tracking.

"Ambient Interference" means the conducted and/or radiated electromagnetic interference and/or mechanical motion interference at a specific test location and a time which would be detrimental to proper radar performance.

"Antenna horizontal beam width" means the total included acute angle, in the horzontal plane, of the main lobe between the half-power points of the radar antenna far-field radiation pattern, where the half-power points are measured relative to the maximum power at the center of the beam and on a radius equidistant from the face of the antenna.

"Audio doppler" means an audible signal from a radar device that is generated by driving an integral loudspeaker with the doppler shift beat frequency or with the doppler shift beat frequency which is divided by a fixed factor, provided that the audio sound corresponds directly with changes in speed of a target vehicle and any ambient interference present is discernible.

"Automatic lock" means a control function of a radar device that, when activated, causes the device to automatically retain the displayed speed of a target vehicle and preserve that speed displayed until manually reset by the operator.

"Closing speed" means the speed at which an identified radar target is moving relative to the radar device (whether the radar device is moving or not) when measured on a straight line (radius) from the radar to the target.

"Cosine angle effect" means the effect due to the target not travelling directly toward the radar device, which lowers the doppler shift frequency in proportion to the cosine of the angle between the direction of travel of the radar target and a line from the radar device to the target.

"Display" means a visual readout device.

"Doppler shift" means the magnitude of the frequency change of the radar return signal received when the source and the radar reflecting target are in motion relative to one another.

"Erroneous reading" means an incorrect target speed displayed by the radar device, one that is not due to a target vehicle or which is not within the required accuracy tolerance of the speed of a target vehicle.

"Far-field region" means that region beyond the close proximity of a transmitting antenna designed by the relationship

$$R > \frac{2d^2}{\lambda}$$

where d is the horn diameter and λ is the wavelength of the transmitted frequency, in consistent units.

"Internal circuit test" means a test function (whether manually or automatically initiated) that verifies that all radar device internal circuitry is working correctly, i.e., all target and patrol vehicle signals will be properly processed and displayed.

"Just acquired distant target" means a target just within the radar range of a radar device which was originally beyond the range and now provides a display signal of target speed.

"K-Band radar" means a speed measuring radar device designed to operate in the 24,050 to 24,250 MHz frequency band.

"Low voltage indicator" means a radar device component which alerts the operator to the fact that a low supply voltage condition exists.

"Luminance" means the photometric brightness or the luminous intensity of any surface in a given direction per unit of projected area of the surface as viewed from that direction.

"Luminance contrast" means the relationship between the luminance of an object and the luminance of its own background.

"Minimum range" means the least distance at which a given radar device will detect a specified target vehicle.

"Microwave output power" means that part of the total power produced by the microwave generator in the radar device and supplied to the antenna.

"Moving mode" means the capability of a radar device to measure and display the speed of a target vehicle while the radar device is moving with respect to the surrounding terrain.

"Near-field region" means that region in close proximity to the transmitting antenna where radiation fields predominate whose outer bounds are defined by the relationship

$$R > \frac{2d^2}{\lambda}$$

where d is the horn diameter and λ is the wavelength of the transmitting frequency, in consistent units.

"Patrol channel" means that portion of the radar circuitry of a radar device that processes and calculates the speed of a patrol vehicle when the radar device is operating in the moving mode.

"Patrol speed" means the speed at which the patrol vehicle is moving with respect to the surrounding terrain.

"Polarization" means that property of a radiated electromagnetic wave describing the time-varying direction and magnitude of the electric field vector.

"Power density" means power density per unit area or energy density flux per unit area.

"Radar horizontal capture angle" means the total included acute angle, in the horizontal plane, between the −10dB power points of the main lobe of an antenna far-field radiation pattern, where the −10 dB power points are measured relative to the maximum power at the center of the beam and on a radius equidistant from the face of the antenna.

"Radar range" means the maximum distance at which a radar device will respond to a reflected signal from a target vehicle and measure the speed of the target within the required accuracy tolerance.

"Side lobes" means beams that appear as shoulders on the primary beam radiated from the radar antenna.

"Speed display transfer" means the capability of transferring the speed reading from the patrol speed display window to the target speed display window.

"Speed lock switch" means a radar control that causes speed on display as target speed and patrol speed to be retained on display until reset.

"speed monitor alert" means a function that alerts the operator when a target speed signal is received that is equal to or above some preselected threshold speed.

"Squelch" means the capacity of a radar to inhibit the doppler audio sound when the radar is in operation.

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"Standby mode" means a function of a radar device that allows all device circuits to be energized except the microwave oscillator circuit.

"Stationary mode" means the capability of a radar device to operate from a fixed location and display the speed of a target vehicle within the required accuracy tolerance.

"Target channel" means the portion of the radar circuitry that processes the closing speed signal and calculates the speed of a radar target.

"Target speed" means the speed at which the target vehicle is moving with respect to the surrounding terrain.

"Target vehicle" means the vehicle identified as producing a given doppler radar signal that is processed and displayed by the radar device as the target speed.

"Track-Through-Lock" means the feature of a radar device whereby the unit continues to measure, process and accomplish audio doppler tracking and, in some cases, real time speed display of the target, after the speed lock switch has been actuated to the lock condition.

"Tuning fork" means a mechanical device, which when excited, produces free oscillations that may be used to generate a pseudo doppler frequency reference when placed in the radar antenna beam.

"Type I radar device" means a radar device that transmits microwave energy in the 10,500 to 10,550 MHz frequency band (in the X-band) and operates only in the stationary mode.

"Type II radar device" means a radar device that transmits microwave energy in the 10,500 to 10,550 MHz frequency band (in the X-band) and operates in both the stationary and moving modes.

"Type III radar device" means a radar device that transmits microwave energy in the 24,050 to 24,250 MHz frequency band (in the K-band) and operates only in the stationary mode.

"Type IV radar device" means a radar device that transmits microwave energy in the 24,050 to 24,250 MHz frequency band (in the K-band) and operates in both the stationary and moving modes.

"X-Band radar" means a speed measuring radar device designed to operate in the frequency band of 10,500 to 10,550 MHz.

Supart B—Requirements

§ 1221.11 Manufacturer provided equipment.

Each Type I and III radar device shall be accompanied by one tuning fork and each Type II and IV radar device shall be accompanied by two tuning forks.

§ 1221.12 Manufacturer provided information.

(a) Each radar device submitted for testing in accordance with the provisions of this standard shall be accompanied by the following minimum information:

(1) Complete instructions for installing the radar in or on the police patrol vehicle or remote from the vehicle including any precautions necessary to minimize or avoid interference from vehicle ignition, heater/air conditioner blowers or other potentially interfering components.

(2) Complete operating instructions including test procedures, procedures, internal circuit test data, required maintenance, maintenance, and any operting characteristics that are indicative of or symptomatic of possible malfunction of the radar.

(3) Nominal power supply voltage and currents (with and without displays illuminated; with and without target present; and in standby mode if appropriate).

(4) The microwave frequency band of operation.

(5) Microwave output power (in mW) as measured by a microwave power meter connected to the microwave oscillator.

(6) Lowest and highest supply voltage level at which the radar is designed to operate, the low voltage alert value and display behavior.

(7) Maximum microwave power density (mW/cm^2) measured in a plane 2 in (5 cm) distant from the front of the antenna.

(8) Antenna horizontal beam width and radar horizontal capture angle in degrees.

(9) Type of antenna polarization, i.e., linear or circular and orientation.

(10) Minimum and maximum operating speed of the radar device [target (Types I and III); target and patrol (types II and IV)].

(11) The highest and lowest temperature at which the unit is designed to operate.

(12) The highest temperature and humidity combination at which the radar device is designed to operate.

(b) Each tuning fork shall be accompanied by a calibration certificate including as a minimum the serial number of the tuning fork, the nominal design speed, a frequency calibration at 70° F (21°C), the microwave frequency band for which it is to be used (X or K), the calibrated frequency and associated radar speed in mph or km/h, and any correction factor that must be applied to the 70° F (21°C) calibration speed when used at another temperature.

§ 1221.13 Labeling requirements.

(a) *Tuning Fork.* The manufacturer shall permanently mark each tuning fork with a serial number, the radar frequency band that it is to be used with (X or K), and a nominal stationary mode radar speed specification including units (mph or km/h).

(b) *Control Functions.* The control panel of the radar device shall be permanently marked with the functions and settings of all switches, controls and displays. It shall not be possible to set the controls to a functional mode of operation that is not marked or identified on the control panel of the radar device.

(c) *Antenna.* The top surface of single piece radar devices, or the antenna of modular radar devices, shall be permanently marked with two lines that form an angle, the vertex of which is pointed toward the rear of the antenna that is centered on the major axis of the antenna beam, and is equivalent to the total included acute angle between the −10dB points of the main lobe. This marking shall be labeled, "RADAR CAPTURE ANGLE."

§ 1221.14 Tuning fork calibration requirement.

When tested in accordance with § 1221.71, the frequency of vibration of each tuning fork shall be within ±½% of that specified by the manufacturer (§ 1221.12(b)) in the certificate of calibration for that tuning fork.

§ 1221.15 Radar device tuning fork requirement.

Each radar device when tested in accordance with § 1221.72 shall meet the following tuning fork requirements, as appropriate.

(a) *All Radar Devices.* Each radar device, when placed in the stationary mode, shall respond to the signal from the tuning fork within ±1 mph (±1.6km/h).

(b) *Type II and IV Radar Devices (Approaching Mode).* Each type II and type IV radar device, when set into the approaching, moving mode, shall simultaneously respond to the signals from two vibrating tuning forks of different frequencies, and shall display the calibration speed designated for the lower frequency tuning fork as the patrol vehicle speed, and the difference between the calibration speed designated for the higher frequency tuning fork and that of the lower frequency tuning fork as the target vehicle speed; both displayed speeds shall be within ±1 mph (±.6km/h) of the correct values.

(c) *Type II and IV Radar Devices (Following Mode).* Each type II and type

IV radar device, when placed into the following, moving mode (if such capability is provided by the unit) shall respond to the signals from two vibrating tuning forks of different frequencies, and shall display the calibration speed designated to the higher frequency tuning fork as the patrol vehicle speed, and the sum of the calibration speed designated for the higher frequency tuning fork and that of the lower frequency tuning fork as the target vehicle speed; both displayed speeds shall be within ±1 mph (±.6km/h) of the correct values.

§ 1221.16 Microwave transmission requirements.

The microwave characteristics of transmission frequency and frequency stability, input current stability, radiated output power stability, antenna horizontal beam width, radar horizontal capture angle and antenna near-field power density shall be measured in accordance with § 1221.73 and shall meet the following requirements:

(a) *Transmission Frequency and Frequency Stability.* When operated at the standard supply voltage, the transmission frequency shall be within the assigned frequency band of 10,500 to 10,550 MHz for types I and II radar devices and 24,050 to 24,250 MHz for types III and IV radar devices. The transmission frequency shall remain within the assigned frequency bands when the input voltage is varied to ±20% of the nominal supply voltage or the low voltage value, whichever is lower.

(b) *Input Current Stability.* When the standard supply voltage is varied ±20%, the input current shall not vary more than 10% from its nominal value, with no variation in the numerical figure displayed on the target speed display.

(c) *Radiated Output Power Stability.* The microwave carrier output power shall not vary by more than ±1.5 dB from the nominal value when the standard supply voltage is varied ±20%.

(d) *Antenna Horizontal Beam Width.* The total included angle between the −3 dB power points of the main lobe of the microwave beam, relative to the maximum power at the center of the beam, shall not exceed 16° for type I and II and 15° for type III and IV radar devices.

(e) *Radar Horizontal Capture Angle.* The total included angle between −10 dB power points shall not exceed the value specified by the manufacturer (§ 1221.12(a)(8)).

(f) *Antenna Near-Field Power Density.* The maximum antenna near-field power density of each radar device shall not exceed that specified by the manufacturer (§ 1221.12(a)(7)

§ 1221.17 Environmental requirements.

The ability of the radar device to operate in environmental extremes shall be determined using the appropriate test methods described in § 1221.74 and each radar device shall meet the following requirements:

(a) *Operational Temperature Stability.* When tested in accordance with § 1221.74(a), following exposure to a temperature of —22°F (—30°C) or the lowest temperature at which the manufacturer states that the radar device will operate properly (§ 1221.12(a)(11), whichever is lower, and following exposure to a temperature of 140°F (60°C) or the highest temperature at which the manufacturer states that the device will operate properly (§ 1221.12(a)(11)), whichever is higher, each radar device shall continue to meet the requirements of § 1221.15 and § 1221.16(a) through § 1221.16(c).

(b) *Operational Humidity Stability.* When tested in accordance with § 1221.74(b) following exposure to 90% relative humidity at 99°F (37°C) for a minimum of 8 hours, each radar device shall continue to meet the requirements of § 1221.15 and § 1221.16(a) through § 1221.16(c).

(c) *Vibration Stability.* No fixed part of the radar device shall come loose, nor movable part be shifted in position or adjustment, as a result of the test conducted in accordance with § 1221.74(c). During the last 5 minutes of the test in any one direction, the radar device shall respond to the tuning fork signal and shall display the designated tuning fork speed within ±2 mph (±3 km/h).

§ 1221.18 Low supply voltage requirement.

Each radar device shall have a low voltage indicator capable of attracting the attention of the operator. When tested in accordance with § 1221.75 the low voltage indicator shall operate if the supply voltage is reduced to 10.8 V or the lowest voltage at which the radar device is designed to operate, whichever is lower. When the supply voltage is reduced to the low voltage alarm value, the radar shall not display any erroneous readings when subjected to the tuning fork test (§ 1221.72). A blank display is not considered an erroneous reading for this requirement only.

§ 1221.19 Doppler audio requirements.

The doppler audio output characteristics of audio output and volume control, audio squelch and squelch override and audio track-throughlock and speed monitor alert shall be tested in accordance with § 1221.76 and each radar device shall meet the following requirements:

(a) *Audio Output and Volume Control.* The radar device shall emit a doppler audio tone that is correlated with the received doppler signal and it shall have an audio volume adjustment control.

(b) *Audio Squelch and Squelch Override.* When the radar device is operated, the audio tone shall be squelched as long as no target speed signal is being processed. The radar device shall permit the operator to inhibit the squelch action to keep the receiver open.

(c) *Audio Track-Through-Lock.* For those radar devices with a track-through-lock feature, the doppler audio tone shall continue to follow the received doppler signal when the speed lock switch is activated.

(d) *Speed Monitor Alert.* The radar device shall not have a speed monitoring alert capability.

§ 1221.20 Power surge requirements.

The power surge characteristics exhibited when turning the radar device from standby to on shall be tested in accordance with § 1221.78. Switching the radar device from standby to on shall not cause any erroneous speed readings either with or without a target present.

§ 1221.21 Speed display requirements.

The speed display characteristics of display readability, display speed lock control, display clear function, internal circuit test function, speed display transfer, signal processing channel sensitivity, target channel speed displays, patrol channel speed displays, and auxiliary displays shall be tested in accordance with § 1221.79 and shall meet the following requirements:

(a) *Display Readability.* The illuminated segments used to indicate speed readings shall have a minimum daylight luminance contrast of 2.5 when compared with the display background. The characters used to indicate speed shall be at least 0.4 in (1 cm) high.

(b) *Display Speed Lock Control.* If provided, the speed lock switch shall preserve the displayed target vehicle and patrol vehicle (types II and IV) speed readings. Such speed lock switch shall require manual actuation by the radar operator and shall not be capable of automatic selflock. When the radar device has a track-through-lock capability, the speed displayed after locking shall be the target speed and patrol speed (type II and IV only) readings that existed at the instant the speed lock switch was activated. The radar device shall not recall a previous speed reading when the speed lock switch is activated.

(c) *Display Clear Function.* The selection of a different mode of operation of the radar device such as off/on, standby/on, standby/operate, standby/clear, or stationary/moving mode shall automatically clear the radar device of all displayed readings whether the speed lock switch is activated or not, unless the radar device retains displayed information indicating the mode used to acquire the locked-in target speed. It shall be permissible to accomplish a test sequence without clearing locked-in speed readings.

(d) *Internal Circuit Test Function.* The radar device shall have a self test function that, when activated, determines whether or not all signals will be processed and displayed to within ±1 mph (1.6 km/h). The radar device shall display the correct reading(s) when performing the internal circuit test function and it shall be impossible for the radar device to lockin the speed displays caused by this test. These readings shall be cleared when the radar is switched to another mode of operation. The internal circuit test switch shall not be labeled "Cal" or "Calibrate."

(e) *Speed Display Transfer.* In the moving mode the radar device shall not be capable of transferring the patrol speed reading from the patrol speed display to the target speed display.

(f) *Signal Processing Channel Sensitivity.* (1) *Stationary Mode Target Channel Sensitivity.* When the radar device is operated in the stationary mode, its signal processing channel sensitivity shall not vary more than 10 dB for targets traveling at speeds of 20 to 90 mph (32 to 144 km/h) nor more than 3 dB for targets traveling at speeds of 60 to 90 mph (96 to 144 km/h).

(2) *Moving Mode Target Channel Sensitivity (Type II and IV Only).* When the radar device is operated in the moving mode at 25 mph (40 km/h), its signal processing channel sensitivity shall not vary more than 10 dB for targets traveling at speeds of 40 to 90 mph (64 to 144 km/h). When operated at 50 mph (80 km/h), its sensitivity shall not vary more than 3 dB for targets traveling at speeds of 60 to 90 mph (96 to 144 km/h).

(g) *Target Channel Low and High Speed Displays.* (1) The target signal processor channel and target speed display shall function as specified in the test procedure at § 1221.79(g) at a speed of 20 mph (32 km/h) or the lowest speed at which the manufacturer states that his device will operate properly, whichever is lower, when operating in the stationary or moving mode.

(2) The target signal processor channel and target speed display shall function as specified in the test procedure at § 1221.79(g) at a speed of 100 mph (160 km/h) when operating in the stationary mode. While operating in the moving mode, type II and IV radar devices shall process closing speeds of at least 155 mph (248 km/h) but type IV radars shall not process closing speeds of 210 mph (336 km/h) or greater.

(h) *Patrol Channel Speed Displays (Type II and IV Radar Devices.* (1) *Low and High Speed Readings.*

(i) The patrol signal processor channel and patrol speed display shall function as specified in the test procedure at § 1221.79(h)(1) at speeds down to 20 mph (32 km/h) or the lowest speed at which the manufacturer states that his unit will operate properly (§ 1221.12(a)(10)), which ever is lower, when operating in the moving mode.

(ii) The patrol signal processor channel and the patrol speed display shall function as specified in the test procedure at § 1221.79(h)(1) at a speed of 55 mph (88 km/h) or the highest speed at which the manufacturer states that his unit will operate properly (§ 1221.12(a)(10)), whichever is higher, when operating in the moving mode.

(2) *Patrol Vehicle Speed Changes.* When tested in accordance with § 1221.79(h)(2) the patrol signal processor channel shall track the patrol car speed within ±1 mph (1.6 km/h) and maintain proper radar performance while the patrol car changes speed at a rate of 3 mph (4.8 km/h) per second.

(i) *Auxiliary Displays.* If the radar device has auxiliary speed displays, the requirements specified for the target channel and patrol channel speed displays shall apply to the auxiliary displays.

(1) If the radar device utilizes a printing device to permanently record the speed display readings, this printed record shall show the operating status (stationary or moving mode), the retained patrol vehicle and target vehicle speeds and the time of day and date at which the speed lock switch was activiated.

(2) If the radar device utilizes a separable, remote module, this remote module shall display as a minimum the retained target vehicle speed. The remote module shall clear all displays when reconnected to the radar device or when a display clear function occurs.

§ 1221.22 Electromagnetic interference susceptibility requirements.

The susceptibility of the radar device to simulated electromagnetic interference from the vehicle alternator, vehicle ignition, air conditioner/heater motor, windshield wiper motor and typical police and citizens band transceivers shall be tested in accordance with § 1221.80. During these tests, a blank target speed display shall not be considered an erroneous reading. Each radar device when tested in accordance with § 1221.80 shall meet the following requirements:

(a) *Simulated Vehicle Alternator Interference.* When subjected to a 10–20 μsec wide pulse signal of 1 V peak-to-peak amplitude (except for transition spikes) having a maximum rise time of 2 μsec and a maximum fall time of 2 μsec (both excluding ringing) and having a ringing time no greater than 8 μsecs, with a pulse repetition rate between 200 and 10,000 pulses per second (pps), the radar device shall not display any erroneous readings.

(b) *Simulated Vehicle Ignition, Air Conditioner/Heater Motor and Windshield Wiper Motor Interference.* When subjected to a negative ramp sawtooth wave signal of 1 V peak-to-peak with a positive rise time of a maximum of two μsec over a frequency range of 200 to 10,000 Hz, the radar device shall not display any erroneous readings.

(c) *Simulated Police FM Transceiver Interference.* When subjected to a 10 mW frequency modulated (FM) radio frequency signal in each police radio frequency band, the radar device shall not display any erroneous speed readings.

(d) *Simulated Citizens Band (CB) AM Transceiver Interference.* When subjected to a 5 mW amplitude modulated (AM) radio frequency in any of the CB channels specified in § 1221.80(d), the radar device shall not display any erroneous speed readings.

§ 1221.23 Radar device operational test requirements.

The operational test requirements of vehicle ignition and alternator interference, air conditioner/heater fan interference, radio frequency transceiver interference, and speed accuracy shall be tested in accordance with § 1221.81 and each radar device shall meet the following requirements:

(a) *Vehicle Ignition and Alternator Interference.* The radar device shall not display any erroneous speed readings when the engine speed is slowly increased or decreased while the patrol car is standing still with the radar device in the stationary mode and tracking a just acquired distant target traveling at a speed of 50 mph (80 km/h).

(b) *Air Conditioner/Heater Fan Interference.* The radar device shall not display any erroneous speed readings due to electromagnetic interference when the air conditioner/heater fan motor is turned off and on or changed in speed while the patrol car is standing still with the radar device operating in either the stationary or moving mode and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

(c) *Radiofrequency Transceiver Interference.* (1) *Police FM Transceiver Interference.* The radar device shall not display any erroneous speed readings when a police FM radio transceiver properly installed in the patrol vehicle is operated while the patrol vehicle is standing still with the radar device in the stationary mode and tracking a just-acquired distant target traveling at a speed of 50 (80 km/h). The radar device shall not display any erroneous readings when a handheld police FM transceiver with an integral antenna is operated inside the patrol vehicle under similar circumstances.

(2) *Citizens Band (CB) AM Transceiver Interference.* The radar device shall not display any erroneous speed readings when a CB AM transceiver properly installed in the patrol vehicle is operated while the patrol vehicle is standing still with the radar device in the stationary mode and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

(3) *Adjacent Vehicle Radiofrequency Interference.* (i) The radar device shall not display any erroneous speed readings when a second vehicle with an operating police FM transceiver is driven within 10 ft (3 m) of the stationary patrol vehicle while the radar device is operating and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

(ii) The radar device shall not display any erroneous speed readings when a second vehicle with an operating CB AM transceiver is driven within 10 ft (3 m) of the stationary radar patrol vehicle while the radar device is operating and tracking a just-acquired distant target traveling at a speed of 50 mph (80 km/h).

§ 1221.24 Speed accuracy

When tested in accordance with paragraph 6.3.12, each radar device shall display the correct speed of a target vehicle traveling at speeds of 20 to 100 mph 932 to 160 km/h) within ±1 mph (±1.6 km/h) when operated in the stationary mode. Type II and IV radar devices shall display the correct patrol vehicle speed and target vehicle speed of a radar target within ±2 mph (±3.2 km/h) when operated in the moving mode.

§ 1221.25 Minimum range.

When tested in accordance with paragraph 6.3.13, each radar device operating in the stationary mode shall have sufficient sensitivity to correctly measure and display the speed of a compact vehicle with a metallic body and a sloping front profile at a distance of 500 ft (150 m) when operated in the stationary mode.

Subpart C—Test Procedures.

Conditions

§ 1221.31 Conditions.

Allow all measurement equipment to warm up until the system has achieved sufficient stability to perform the measurement. Unless otherwise specified, perform all measurements under standard test conditions, as follows:

(a) *Standard Temperature.* Standard ambient temperature shall be between 68°F (20°C) and 86°F (30°C).

(b) *Standard Relative Humidity.* Standard relative humidity shall be between 10 and 85%.

(c) *Standard Supply Voltage.* In a nominal 12 V dc system, the standard supply voltage shall be 13.6±.1 V. A well filtered electronic power supply capable of a voltage adjustment of ±20% should be used for laboratory testing and is recommended for other tests in place of the battery for safety and convenience. The standard supply voltage shall be applied to the input terminals of the dc supply cables (including all connectors and circuit protectors) furnished by the manufacturer and adjusted to within 1% of the above value.

(d) *Standard Supply Input Current.* The standard input current shall be the value measured while the radar is operating but is not receiving a target signal.

(e) *Special Instructions.* Each time a test method requires that the radar device be connected to the simulator test range (hereafter called "simulator"), the radar device must also be connected to the standard supply voltage source and properly aligned on the simulator.

Equipment

§ 1221.41 Equipment.

The test equipment discussed in this section is limited to that equipment which is most critical in making the measurements discussed in this document. All other test equipment shall be of laboratory instrumentation quality. All test equipment, except the anechoic chamber, shall be provided with instruction manuals.

§ 1221.42 Audiofrequency synthesizer.

The audiofrequency synthesizer shall have a frequency range of 300 to 10,000 Hz, a resolution of at least 0.01 Hz, and a measurement uncertainty no greater than 1 part in 10^8

§ 1221.43 Microphone.

The microphone shall have a frequency range of 300 to 10,000 Hz and shall be capable of coupling tuning fork tones into an amplifier or oscilloscope.

§ 1221.44 Environmental chamber.

The environmental chamber or chambers shall produce air temperatures that meet the requirements of § 1221.17(a) and § 1221.17(b) while shielding the test radar device from heating or cooling air currents blowing directly on it. The temperature of the radar device shall be measured with a thermocouple (§ 1221.61) separate from the sensor used to control the chamber air temperature and shall have an accuracy of ±2°F (±1°C). Likewise, humidity shall be measured with a hygrometer separate from the sensor used to control humidity and shall have an accuracy of ±2%.

§ 1221.45 Anechoic chamber.

The rf anechoic chamber shall be shielded to exclude outside interference and shall be constructed to minimize internal microwave reflections from the chamber walls, floor and ceiling.

§ 1221.46 Microwave frequency counter.

The microwave frequency counter shall be capable of measuring microwave frequencies from 10,500 to 10,550 MHz and from 24,050 to 24,250 MHz with an uncertainty no greater than one part in 10^7

§ 1221.47 Field intensity meter.

The field intensity meter shall have a probe with omnidirectional pickup characteristics and a 4 in (10 cm) diameter protective sphere, and shall be capable of measuring E-field insensities from 0.01 mW/cm^2 to $10mW/cm^2$ to 10–mW/cm^2 with an accuracy of ±1dB.

§ 1221.48 Isotropic probe.

The isotropic probe shall have sensor antennas consisting of three orthogonal dipoles enclosed in a 4 in (10 cm) dismeter protective sphere, a minimum detectable power density level of 0.01 mW/cm^2 over the frequency range of 10 to 25 GHz, and high resistance between the sensor and metering units.

§ 1221.49 Photometer.

The photometer shall incorporate a photopic response which closely approximates the Commission International de l'Eclairage (CIE) luminous efficiency function and have optics which allow the measurement of circular areas as small as 0.004 in (0.01 cm) in diameter. the photometer shall have a full scale sensitivity of at least 0.1 foot-lambert (0.34 candela per square meter (cd/m^2)). Measurement uncertainty of the calibrated photo shall be less than 5% of the reading.

§ 1221.50 Simulator test range.

The simulator test range shall have the capability of mounting the radar device in an interference free environment and the means of generating modulation reflection signals as pseudo doppler audio signals. It shall be able to simultaneously produce simulated patrol and target vehicle speeds. The simulator test range shall consists of a mounting bench, two audio signal generators and microwave single sideband (SSB) modulator. The audio generators shall operate from 300 to 15,000 Hz with frequency counters having an uncertainty of less than 1 part in 10^6 and shall have a calibrated output with an accuracy of ±2 dB. If integral frequency counters are not included, separate counters with the required accuracy shall be used. The SSB modulator shall be capable of generating SSB modulation for frequencies of 300 to 15,000 Hz, and test personnel shall be able to monitor visually the microwave signal level and the modulator balance adjustment.

§ 1221.51 Line impedance stabilization network (LISN).

The line impedance stabilization network, constructed as in figure 1 with shielded terminals shall be capable of simultaneously interfacing with the radar device, the standard supply voltage source, and the interference injection generator.

§ 1221.52 Pulse generator.

The pulse generator shall be capable of producing 20 V peak to peak across a 50 ohm output impedance with rise and fall times of less than one μsec and pulse repetition rates of 200 to 10,000 pulses per second.

§ 1221.53 Sawtooth wave generator.

The sawtooth wave generator shall be capable of producing 20 V peak to peak across a 50 ohm output impedance. It shall also be capable of producing a sawtooth wave having a positive-going, leading-edge, fast rise-time wave of less than one μsec over a frequency range of 200 to 10,000 Hz.

§ 1221.54 FM signal generator.

The FM signal generator shall be capable of producing frequencies from 30 to 500 MHz and shall have an audio frequency modulation variable from 500 to 5000 Hz, a 50-ohm output impedance, a maximum standing wave ratio of 1.2 and a variable output level. It shall also have a deviation meter or calibrated control for determining the peak frequency deviation with an uncertainty no greater than 10%.

§ 1221.55 AM signal generator.

The AM signal generator shall cover the 25 to 30 MHz frequency range, be capable of 99% modulation of frequencies from 500 to 5000 Hz, have a 50-ohm output impedance and a maximum standing wave ratio of 1.2. The generator should include a digital frequency counter having an uncertainty no greater than 1 part in 10^6 and an AM monitor or calibrated control for determining the AM percentage with an uncertainty no greater than 10%. If an integral frequency counter is not included, a separate frequency counter having the required accuracy shall be provided.

§ 1221.56 Power meter.

The power meter shall have 50 ohm feed-through detectors for frequencies from 20 to 500 MHz and the ability to handle powers up to 50 watts with an accuracy of 10% or better.

§ 1221.57 Stopwatch.

The stopwatch shall have a 1.1 sec resolution or better and a total time accumulation of at least 5 min.

§ 1221.58 Oscilloscope.

The oscilloscope shall have a vertical input sensitivity (y-axis) of 10mV/cm or better and a frequency response of at least 5 MHz. It shall also have a horizontal input (x-axis) having at least 20 kHz frequency response and a horizontal sweeptime base resolution of 100 μsec/cm or better. It shall provide a reference voltage, accurate to 5% or better, for calibrating the vertical input.

§ 1221.59 Vibration tester.

The vibration tester shall be adjustable in frequency from 10 to 60 Hz, in a linear-sweep mode, and it shall be servo-controlled, with a reference signal derived from a suitable calibrated accelerometer or other calibrated sensor. It shall also provide an adjustable simple harmonic motion in at least one plane for a total excursion of 0.04 in (1 mm).

§ 1221.60 Slide whistle.

The slide whistle, a wind instrument with notched hollow tube and a variable displacement, shall be capable of producing audiofrequency notes from 500 to 4000 Hz.

§ 1221.61 Thermocouple.

The thermocouple shall be an American National Standards Institute (ANSI) type T thermocouple. Reference tables from ANSI/ASTM E 230–77, Standard Temperature, shall be used to convert electromotive force into measured temperature. At least one thermocouple shall be installed within the case of each radar device for temperature measurement purposes.

Procedures

§ 1221.71 Tuning fork calibration test.

Interconnect the test equipment as shown in figure 2 except that a frequency counter and amplifier may be substituted for the audiofrequency synthesizer and the oscilloscope. If used, adjust the audiofrequency synthesizer to approximately the tuning fork frequency by multiplying the labeled tuning fork speed by 31.3906 for Type I and II radar devices and by 72.0301 for Type III and IV radar devices. After striking the tuning fork on a non-metallic object, wait 3 seconds, then hold it in front of the microphone while adjusting the synthesizer frequency to obtain a stationary, circular, lissajous pattern on the oscilloscope. Record the tuning fork frequency directly from the synthesizer dials. Divide the synthesizer frequency or the frequency as measured by the counter by the appropriate constant given above to obtain the speed corresponding to the measured frequency of the tuning fork.

§ 1221.72 Radar device tuning fork test.

(a) *All Radar Devices.* Place the radar device in operation, orienting the antenna so that no moving targets are present. Activate the tuning fork by striking it on a non-metallic object and hold it 1 to 4 in. (2.5 to 10 cm) in front of the antenna with the flat side parallel to the direction of propagation. The radar must display the speed corresponding to the tuning fork frequency in the target vehicle speed window.

(b) *Type II and IV Radar Devices (Approaching Mode).* Place the radar in the moving mode of operation, orienting the antenna so that no moving targets are available to the radar. Activate the lower speed tuning fork by striking it on a non-metallic object and hold it 1 to 4 in. (2.5 to 10 cm) in front of the antenna with the flat side parallel to the direction of propagation. The radar should display the tuning fork speed in the patrol vehicle speed window. Strike the higher speed tuning fork on a non-metallic object and place in front of the antenna alongside the low speed tuning fork. The speed corresponding to the low-speed tuning fork frequency must remain in the patrol vehicle speed display window and the target vehicle speed display must indicate the difference in speed between the two tuning forks.

(c) *Type II and IV Radar Devices (Following Mode).* Place the radar in the following mode of operation, orienting the antenna so that no moving targets are available to the radar. Activate the higher speed tuning fork by striking it on a non-metallic object and hold it 1 to 4 in. (2.5 to 10 cm) in front of the antenna with a flat side parallel to the direction of propagation. The radar must display the speed corresponding to the tuning fork frequency in the patrol display window. Strike the lower speed tuning fork on a non-metallic object and place in front of the antenna alongside the high speed tuning fork. The speed corresponding to the high speed tuning fork frequency must remain in the patrol vehicle speed display window and the target vehicle speed display must indicate the sum of the two tuning forks.

§ 1221.73 Microwave transmission tests.

(a) *Transmission Frequency and Frequency Stability Test.* (1) Place the radar device in the anechoic chamber and connect the test equipment as shown in figure 4. Position the pickup horn antenna in the radar beam, a sufficient distance away from the radar device to prevent overdriving the microwave frequency counter. Adjust the standard supply voltage to its nominal value and record the microwave frequency.

(2) Reduce the standard supply voltage by 20% of its nominal value, allow it to stabilize for 2 min, and repeat the above procedure.

(3) Repeat the procedure for a change in standard supply voltage of +20%.

(b) *Input Current Test.* Place the radar device in the anechoic chamber and connect the test equipment as shown in figure 3. Vary the standard supply voltage +20% and record the change in input current. Repeat for a supply voltage of −20% of the nominal value.

(c) *Radiated Output Power Stability Test.* Position the radar device on a vertical test stand in the anechoic chamber, with the antenna pointed upward, and connect the test equipment as shown in figure 5. Mount the isotropic probe of the field intensity meter 20 to 40 in. (50 to 100 cm) from the radar antenna in the longitudinal axis of the radar beam. Record the distance between the antenna aperture and the isotropic probe and the field strength of the microwave output signal.

(d) *Antenna Horizontal Beam Width Test.* Position the radar device on a vertical test stand in the anechoic chamber, with the antenna pointed upwards, and connect the test equipment as shown in figure 5. Mount the isotropic probe of the field intensity meter 20 to 40 in. (50 to 100 cm) above the radar antenna. Energize the radar using standard supply voltage and allow it to stabilize for 2 min. Adjust the position of the radar device on the test stand until the probe is in the center of the antenna beam (maximum power), then adjust the height of the probe for a full scale or reference level on a sensitive scale of the field strength meter, maintaining the probe in the antenna far-field region. Record the distance between the antenna and the probe, and the field intensity. Move the radar unit to the right and to the left of the probe until half-power is indicated on the meter and mark the distance between the half-power points as measured. Again measure the distance between half-power points, moving the radar on a path 90° to the previous direction. Average the distances between the two half-power readings and calculate the half-power beam width using the following equation to correct for any change in radius distance.

$A + 2f^{\circ}$ Arctan (B/R).

Where A is the angular half-power beam width, f° is a factor to correct for the change in radius (from the graphed curve, figure 6), B is the average perpendicular distance from boresight to the half-power point, and R is the radius from the front of the antenna to the point at which the boresight power density was measured.

(e) *Radar Capture Angle Test.* Follow the same procedure as for either of the antenna beam width tests in par. (d) of this section except that the measurements shall be made using the 10 dB power points.

(f) *Antenna Near-Field Power Density Test.* Connect the radar device to the test equipment as shown in figure 7. Being careful not to vary the distance from the antenna, use the isotropic probe to search for the maximum signal strength in the plane 2 in. (5 cm) from the antenna aperture or lens face of the antenna and perpendicular to the longitudinal axis of the radar beam. Move the probe to obtain the maximum reading and record it.

§ 1221.74 Environmental tests.

(a) *Operational Temperature Test.* Place the radar device, with the power off, in the environmental chamber and adjust the chamber to the required low temperature ± 3.6°F (±2°C). Allow the radar device to reach temperature equilibrium and maintain it at this temperature for 30 min. Using protective gloves, remove the radar device from the environmental chamber, place it in the anechoic chamber and connect it to the standard supply voltage. After energizing, wait 2 min. before performing any measurements. The radar shall meet the requirements of § 1221.17(a) after 15 min. of operation. Repeat the above procedure at the required high temperature ±3.6°F (±2°C).

(b) *Operational Humidity Test.* Place the radar device, with the power off, in the environmental chamber. Adjust the relative humidity to a minimum of 90% at 90°F (37°C) and maintain the radar device at these conditions for at least 8 hours. Remove the radar device from the chamber, place it in the anechoic chamber and connect it to the standard supply voltage. After energizing, wait 2 min. before performing any measurements. The radar device shall meet the requirements of § 1221.17(b) after 15 min. of operation.

(c) *Vibration Test.* (1) Fasten the radar device to the vibration tester using a rigid mounting fixture. Perform a two-part test for a total of 30 min. in each of three directions, namely the directions parallel to both axis of the mounting and perpendicular to the place of the mounting.

(2) First subject the radar device to three 5 min. cycles of simple harmonic motion having an amplitude of 0.015 in (0.38 mm) [total excursion of 0.03 in (0.76 mm)] applied initially at a frequency of 10 Hz and increased at a uniform rate to 30 Hz in 2.5 min., then decreased at a uniform rate to 10 Hz in 2.5 min. Conduct the appropriate radar device tuning fork test (§ 1221.72) during the last 5 min. cycle.

(3) Then subject the radar device to three 5 min. cycles of simple harmonic motion having an amplitude of 0.0075 in (0.19 mm) [total excursion of 0.015 in (0.38 mm)] applied initially at a frequency of 30 Hz and increased at a uniform rate to 60 Hz in 2.5 min., then decreased at a uniform rate to 30 Hz in 2.5 min. Conduct the appropriate radar device tuning fork test (§ 1221.72) during the last 5 min. cycle.

(4) Repeat this procedure for each of the other two directions.

§ 1221.75 Low supply voltage test.

Connect the radar device to the standard supply voltage as shown in figure 3 and energize it. Allow the radar device to stabilize for 2 min., then conduct the appropriate radar device tuning fork test (§ 1221.72) and measure the radar speed generated by the tuning fork frequency. Continue to measure the radar speed and decrease the supply voltage at the rate of approximately 0.2 V/s until the low voltage alert is activated. Record the supply voltage level. Verify that no erroneous reading is present. Increase the supply voltage until the low voltage indicator is deactivated, and again conduct the appropriate radar device tuning fork test to verify that the radar device yields the same speed reading as at standard supply voltage.

§ 1221.76 Doppler audio tests.

Each time a test method requires that the radar device be connected to the simulator, the radar device must also be connected to the standard supply voltage source and properly aligned on the simulator. See figure 8 for a block diagram of this measurement setup. The following procedures shall be followed:

(a) *Audio Output and Volume Control Test.* (1) Connect the radar device to the simulator and energize it in the stationary mode. Establish a simulated target and vary the target speed to verify that the doppler audio is correlated with the target speed. In a single target situation, stationary mode, the doppler audio should be a single clear tone (not distorted). For type II and IV radar devices, switch to moving mode operation and use the simulator to establish a simulated moving mode situation. Vary the target speed control and verify that the simulated target doppler audio is correlated with the target speed, whether the patrol doppler audio is present or not.

(2) Vary the audio volume adjustment control.

(b) *Audio Squelch and Squelch Override Test.*

(1) Connect the radar device to the simulator and energize it in the stationary mode with no target present. Verify that the audio output is squelched.

(2) Disable the squelch function and verify that the audio doppler output continues uninterrupted.

(c) *Audio Track-Through-Lock Test.* (1) Connect the radar device to the simulator, energize it in the stationary mode and turn on the squelch. Extablish a simulated target, actuate the speed lock switch and record the target speed reading. Verify that the target speed is locked in, that the radar device continues to process the target speed, and that the doppler audio continues uninterrupted. Increase the simulated target speed and verify that the target speed reading and doppler audio are correlated with the target speed. Discontinue the simulated target and verify that the target speed display shows the target speed that existed when the speed lock switch was actuated.

(2) Repeat the above procedure using a decreased simulated target speed.

(3) For type II and IV radar devices, switch to the moving mode of operation, establish a simulated fixed patrol speed and a variable target speed and repeat the above procedure. Verify that the target speed display shows speeds that existed when the speed lock switch was actuated.

§ 1221.77 Speed monitor alert test.

Verify that the radar device does not have a speed monitor alert capability.

§ 1221.78 Power surge test.

Conduct the following test on any devices with a standby capability. Adjust all range sensitivity controls and audio volume controls to maximum for these tests. Connect the radar device to the simulator. Place the radar device in the stationary mode and establish a simulated target of 50 mph (80 km/h) switch the device to standby mode. Turn the device from standby to on and verify that there are no erroneous readings. Repeat this three times.

§ 1221.79 Speed display tests.

(1) *Display Readability Tests.* Position the radar device with the illuminated face perpendicular to the optical axis of the photometer as shown in figure 9. Position a light source at an angle of 30° from the perpendicular such that 1000 footcandles (10,760 lumens per square meter) of illumination will be measured across the face of the display. Turn on the display using standard supply voltage and use a tuning fork to place a speed reading on the display. Lock in the reading and darken the room. Vary the intensity of the display to obtain the maximum luminance contrast. Use the photometer to measure the luminance of an individual character element, either a bar or a single dot, and its background at three locations, if possible, representing the left, center and right portions of the display. Repeat for illumination angles of 45° and 60°. Record the values of daylight luminance contrast for each of the nine tests and calculate the average value of L_1 and L_2 (defined below). Calculate the daylight luminance contrast value from

$$C = \frac{L_1 - L_2}{L_2},$$

where C is the luminance contrast L_1 is the luminance of the display element and L_2 is the luminance of the background immediately surrounding the display element.

Measure the height of a typical display character.

(b) *Display Speed Lock Tests.* (1) These tests may be performed in conjunction with the display clear test (paragraph (c) of this section) for convenience. Connect the radar device to the simulator and establish a simulated target. Place the radar device in the stationary mode and activate the speed lock switch to retain the target vehicle speed reading. Increase the target speed, then discontinue the simulated target and verify that the target speed display has retained the correct speed reading.

(2) Clear the radar device and again establish a simulated target, but do not activate the speed lock switch. Discontinue the simulated target and then activate the speed lock switch. Verify that the target speed display remains blank.

(3) For type II and IV radar devices, establish both a simulated target and a simulated patrol vehicle speed. Proceed as above except that both the target speed display and the patrol speed display must be observed.

(c) *Display Clear Test.* (1) Connect the radar device to the simulator and establish a simulated target. Activate any one of the control switches (on, off, standby, test, etc.) on the radar device except the speed lock switch and verify that the previous speed reading has not been preserved. Repeat for each control switch on the radar device.

(2) With the radar device still connected to the simulator, again establish a simulated target. Lock in this speed reading using the speed lock switch. Activate any one of the control switches on the radar device (on, off, standby, test, etc.) and verify that the previous speed reading has not been preserved. Repeat for each control switch on the radar device.

(d) *Internal Circuit Test.* Activate the radar device and perform the internal circuit test in accordance with the instructions of the manufacturer. Verify that only correct readings are displayed. and that all readings are cleared automatically when the test is completed. Repeat the internal circuit test a second time and attempt to actuate the speed lock switch while readings are being displayed. Verify that these readings are not retained by the display.

(e) *Speed Display Transfer Test.* Connect the radar device to the simulator and establish a moving mode simulated patrol speed. Using each of the available controls, attempt to transfer the patrol speed reading to the target speed display.

(f) *Signal Processing Channel Sensitivity Tests.* (1) Connect the radar device to the simulator and establish a 20 mph (32 km/h) simulated target. Place the radar device in the stationary mode, increase the target signal by adjusting the generator output or audio attenuator and record the minimum target speed signal level needed to acquire the target. Repeat for target speeds of 30 to 90 mph (48 to 144 km/h) at 10 mph (16 km/h) increments.

(2) For type II and IV radar devices, place the radar device in the moving mode, establish a 25 mph (40 km/h) simulated patrol vehicle speed and then increase the patrol speed signal level by 10 dB (5 dB if using a microwave attenuator). Establish a 40 mph (64 km/h) simulated target, acquire it and record the minimum target speed signal level needed to reacquire the target. Repeat for target speeds of 50 to 90 mph (80 to 144 km/h) at 10 mph (16 km/h) increments. Repeat the procedure for a simulated patrol vehicle speed of 50 mph (80 km/h) and target speeds of 60 to 90 mph (96 to 144 km/h) at 10 mph (16 km/h) increments.

(g) *Target Channel Low and High Speed Display Tests.* (1) Connect the radar device to the simulator. With the radar device in off or standby, establish a simulated target traveling at the required low speed. Switch the radar device to the stationary mode to verify that it will acquire this target and measure its speed. For type II and IV radar devices, establish a simulated patrol speed of 20 mph (32 km/h), switch the radar device to the moving mode and repeat this procedure.

(2) Switch the radar device to the stationary mode, determine the minimum signal level necessary to establish a simulated 50 mph (80 km/h) target, then increase the simulated signal level by 10 dB (5 dB if using a microwave attenuator) and repeat this procedure using the required high speed target speed.

(3) For type II and IV radar devices, with simulated target traveling at 100 mph (160 km/h) and a patrol vehicle speed of 55 mph (88 km/h), verify that the target signal processing channel will process and display the correct speed readings. For type IV radar devices, change the closing speed to 210 mph (336 km/h), with a maximum patrol speed of 55 mph (88 km/h), and verify that the radar device will not process and display any speed reading.

(h) *Patrol Channel Speed Display Tests.* (1) *Low and High Speed Tests.* Connect the radar device to the simulator. With the radar device in off or standby, establish a simulated target and a patrol speed signal at the required low speed. Switch the radar device to the moving mode and verify that it will acquire and measure this patrol speed. With the radar device still in the moving mode, establish a simulated patrol speed of 55 mph (88 km/h) and repeat the procedure.

Switch the radar device to the stationary mode, determine the minimum signal level necessary to establish a simulated 50 mph (80 km/h) target, then increase the simulated signal level by 10 dB (5 dB if using a microwave attenuator) and repeat this procedure using the required high speed target speed.

(2) *Patrol Vehicle Speed Change Test.* (i) Connect the radar device to the simulator and establish a patrol speed of 20 mph (32 km/h). Place the radar device in the moving mode and display the correct patrol speed. Use the simulator to increase the patrol speed at a rate of 3 mph per second for 5 seconds and verify that the patrol speed display reading agrees with the simulated patrol speed during this 5 second period. Repeat this procedure for initial patrol speeds of 30 and 40 mph (48 and 64 km/h).

(ii) With the radar device still connected to the simulator, establish a patrol speed of 55 mph. Place the radar device in the moving mode and display the correct patrol speed. Use the radar target simulator to decrease the patrol speed at a rate of 3 mph per second for 5 seconds and verify that the patrol speed reading agrees with the simulated patrol speed during this 5 second period. Repeat this procedure for an initial patrol speed of 40 mph (64 km/h).

(i) *Auxiliary Display Tests.* (1) Connect the radar device together with the auxiliary printer or remote display module to the simulator and conduct the display speed lock test (paragraph (b) of this section) and the display clear test (paragraph (c) of this section). Verify that the remote module displays are cleared when it is reconnected to the radar device.

(2) With the radar device still connected to the simulator, establish a simulated target, actuate the speed lock switch and the printer function. Verify that the printout includes the items required by § 1221.21(i).

§ 1221.30 Electromagnetic interference tests.

Connect the radar device to the simulator and to the other test equipment as shown in figure 10. Activate the radar device in the stationary mode, determine the minimum signal level necessary to establish a simulated 50 mph (80 km/h) target, then increase the simulated signal level by 3 dB (1.5 dB if using a microwave attenuator). Turn the simulated signal off and proceed with each of the tests in paragraphs (a) through (d) of this section.

(a) *Vehicle Alternator Interference Test.* (1) With the pulse generator connected such that the pulse signals are impressed on the radar device power line, set the generator output to 1 V peak to peak, as measured by the oscilloscope, at a pulse repetition rate of 200 pulses per second (pps) with a pulse width of 10–20 μsecs. With the radar device still in the stationary mode, establish a simulated target of 40 mph (64 km/h) and slowly vary the generator frequency from 200 pps to 10,000 pps and back to 200 pps.

(2) For type II and IV radar devices, switch to the moving mode and determine the minimum signal level necessary to establish a patrol speed of 50 mph (80 km/h). Then increase this level by 10 dB (5 dB if using a microwave attenuator). Establish a target speed of 60 mph (96 km/h) (3 dB above a minimum target signal) and repeat the above procedure. Verify that no erroneous readings appear at any time.

(b) *Vehicle Ignition, Air Conditioner/Heater Motor and Windshield Wiper Motor.* Disconnect the pulse generator and replace it with the sawtooth as shown in figure 11, such that sawtooth wave signals are impressed on the radar device power line. Set the generator output to 1 V peak to peak, as measured by the oscilloscope, at a frequency of 200 Hz. Place the radar device in the stationary mode, establish a simulated target of 40 mph (64 km/h), then increase the simulated signal level by 3 dB and slowly vary the generator frequency from 200 to 10,000 Hz and back to 200 Hz. Verify that no erroneous readings appear at any time.

For type II and IV radar devices, switch to the moving mode, establish a patrol speed of 50 mph (80 km/h) (10 dB above minimum patrol signal) and a target speed of 60 mph (96 km/h), then increase the simulated signal level by 3 dB and repeat the above procedure. Verify that no erroneous readings appear at any time.

(c) *Police FM Transceiver Interference Test.* (1) Connect the FM signal generator to the line interference stabilization network, as shown in figure 12, such that the rf signals are impressed on the radar device power line. Set the generator to a frequency of 160 MHz with an output of 10 mW, as measured

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by the power meter, with no more than 1 mW reflected power. Place the radar device in the stationary mode, establish a simulated target of 40 mph (64 km/h), then increase the simulated signal level by 3 dB, set the generator frequency deviation to 5 kHz and slowly vary the modulation frequency from 200 to 10,000 Hz and back to 200 Hz. Verify that no erroneous readings appear at any time.

(2) For type II and IV radar devices, switch to the moving mode, establish a patrol speed of 50 mph (80 km/h) (10 dB above minimum patrol signal) and a target speed to 60 mph (96 km/h), then increase the simulated signal level by 3 dB and repeat the above procedure. Verify that no erroneous readings appear at any time.

(3) Repeat the entire test for frequencies of 40 and 460 MHz.

(d) *Citizens Band (CB) AM Transceiver Interference Tests.* (1) Connect the AM signal generator to the line interference stabilization network, as shown in figure 12, such that the rf signals are impressed on the radar device power line. Set the generator to a frequency of 27 MHz with an output of 5 mW, as measured by the power meter, with no more than 1 mW reflected power, at a frequency of 27 MHz and adjust the generator modulation to 99%. Place the radar device in the stationary mode, establish a simulated target of 40 mph (64 km/h), then increase the simulated signal level by 3 dB and slowly vary the modulation frequency from 200 to 10,000 Hz and back to 200 Hz. Verify that no erroneous readings appear at any time.

(2) For type II and type IV radar devices, switch to the moving mode, establish a patrol speed of 50 mph (80 km/h) (10 dB above minimum patrol signal) and a target speed of 60 mph (96 km/h), then increase the simulated signal level by 3 dB and repeat the above procedure. Verify that no erroneous readings appear at any time.

1221.81 Radar device operational tests.

Install the radar device in the patrol vehicle in accordance with the manufacturers instructions, using extreme care in positioning the antenna. The patrol vehicle shall be of the type normally used for law enforcement purposes, with heavy duty components and a factory installed air conditioning system. It shall have at least one standard police FM transceiver and an antenna installed in accordance with the instructions provided by the transceiver manufacturer. This test must be conducted in an environment free of extraneous moving targets such as large ventilation fans.

(a) *Vehicle Ignition and Alternator Interference Test.* Start the patrol vehicle engine. Wait 30 sec, turn on the radar device, place it in the stationary mode and acquire and track a just-acquired distant target traveling at a speed of 50 mph (80 km/h). Slowly increase and decrease the engine speed and monitor the display for erroneous readings.

(b) *Air Conditioner/Heater Fan Interference Test.* (1) Start the patrol vehicle engine and set it to a fast idle. Wait 30 sec, place the radar device in the stationary mode and acquire and trace a just-acquired distant target traveling at a speed of 50 mph (80 km/h). Turn the air conditioner/heater motor on and off at least 3 times except for the highest speed. Repeat the above procedure at all available fan motor speeds.

(2) Switch to moving mode operation and repeat the procedure.

(c) *Radiofrequency Transceiver Interference Tests.*

(1) *Police FM Transceiver Interference Test.* (i) Start the patrol vehicle engine and set it to a fast idle. Wait 30 seconds, place the radar device in the stationary mode and switch on the FM transceiver. Track a just-acquired distant target traveling at a speed of 50 mph (80 km/h), activate the push-to-talk switch and use the slide whistle to transmit tones via the microphone. Slowly vary the tone of the slide whistle from 500 Hz to 3000 Hz and back to 500 Hz, observing the target speed display for possible erroneous readings. Repeat two more times.

(ii) Turn off the FM transceiver and repeat the procedure using a handheld FM transceiver with an integral antenna and an output power of 2 watts or more positioned at the patrol vehicle driver's location.

(2) *Citizens Band (CB) AM Transceiver Interference Test.* Mount the CB transceiver in a typical front seat location and install the antenna as recommended by the manufacturer. Connect the CB transceiver power leads to the vehicle battery or the ignition switch circuitry, but not to the cigarette lighter. Start the patrol vehicle engine and set it to a fast idle. Place the radar device in the stationary mode and track a just-acquired distant target traveling at a speed of 50 mph (80 km/h). Switch on the CB transceiver, set it to channel 20, activate the push-to-talk switch and use the slide whistle to transmit tones via the microphone. Slowly very the tone from 500 to 3000 Hz and back to 500 Hz, observing the target speed display for possible erroneous readings. Repeat for channels 1 and 40.

(3) *Adjacent Vehicle Radiofrequency Interference Test.* (i) Start the patrol vehicle engine and set it to a fast idle. Place the radar device in the stationary mode and track a just-acquired distant target traveling at a speed of 50 mph (80 km/h). From a distance of at least 50 ft (15 m), slowly drive a second vehicle equipped with a police FM transceiver of at least 50 watts of output power and a matching antenna past the patrol vehicle passing within 10 ft. (3m) of it. Use the slide whistle to transmit tones between 500 and 3000 Hz from this transceiver until reaching a point 50 ft (15 m) away from the patrol vehicle. Note any erroneous readings on the radar device display. Turn the second vehicle around and repeat the above procedure, passing within 10 ft. (3 m) of the patrol vehicle on its other side, again using the slide whistle to transmit modulating tones from 300 to 3000 Hz, and observing the radar speed display.

(ii) Turn off the FM transceiver, mount the CB transceiver in the second vehicle and repeat the above procedure.

§ 1221.82 Speed accuracy test.

(a) Establish a measured distance of at least 1332 ft (400 m) on an open, level location away from other moving targets. Turn on the radar device, place it in the stationary mode and drive the patrol vehicle over the measured distance at a constant speed, measuring the elapsed time with a stopwatch while recording the patrol speed reading and the speedometer reading. Repeat the procedure twice in each direction, maintaining the same speed for all 4 runs. Use the stopwatch average time to determine the true patrol vehicle speed and use this speed to calculate the patrol vehicle speedometer correction factor and the radar device speed correction factor. Repeat this procedure for speeds of 20, 50 and 70 mph (32, 72, and 96 km/h).

(b) For type II and type IV radar devices, switch to the moving mode of operation and repeat this procedure to obtain the appropriate correction factor.

(c) Switch the radar device to the stationary mode of operation and position the patrol vehicle at one end of the measured test range. Drive a target vehicle through the measured distance at a constant speed, measuring the elapsed time with a stopwatch, recording the speedometer reading and measuring target vehicle speed with the radar device. Repeat one time, then move the patrol vehicle to the opposite end of the measured range. Repeat the procedure twice in this direction, again recording the stopwatch elapsed time, speedometer reading and radar speed reading. Calculate the true target vehicle speed, the target vehicle speedometer correction factor and the indicated radar speed reading. Repeat this procedure for speeds of 20, 50 and 70 mph (32, 80 and 112 km/h).

(d) For type II and IV radar devices, switch the radar device to the moving mode and station the patrol vehicle and the target vehicle at opposite ends of, and beyond the end of, the measured distance. Make 3 moving mode, constant speed, approaching runs in each direction, recording the speedometer readings of each vehicle and the radar device speed display reading. A stopwatch may be used to obtain the true vehicle speed. Average the 6 speedometer and speed display readings. Calculate the true target vehicle speed, the target vehicle correction factor and the indicated radar speed reading. Repeat this procedure using a patrol speed of 20 mph (16 km/h) and a target speed of 55 mph (88 km/h) and using a patrol speed of 55 mph (88 km/h) and a target speed of 70 mph.

(e) For radar devices with a moving mode, following feature, repeat this procedure using a patrol speed of 55 mph and a target speed of 70 mph (112 km/h).

§ 1221.83 Minimum range test.

(a) Establish a measured distance of 1330 ±10 ft. (400 ±3 m) on an open, level location away from other moving targets. Position the patrol vehicle at one end of the measured distance, turn on the radar device and place it in the stationary mode. Cause the target vehicle, a compact vehicle with a metallic body and a sloping front profile, to drive through the measured distance at a constant speed of 20 mph (32 km/h) toward the patrol vehicle. Use a stopwatch in the target vehicle to measure the time necessary to traverse the measured distance. Concurrently, start a stopwatch in the patrol vehicle when the radar initially displays the target vehicle speed and stop the stopwatch the instant the target vehicle passes the patrol vehicle position. Repeat this procedure two more times.

(b) Calculate the target vehicle speed using the measured distance and the stopwatch time. Calculate the average of the three patrol vehicle acquisition times and determine the minimum range from the equation.

range (feet)=1.467 (target vehicle speed in mph) (target acquisition time in secs)

(c) Repeat this procedure at target vehicle speeds of 50 and 70 mph (80 and 112 km/h).

Table 1.—*Minimum Performance Requirements for Speed Measuring Radar Devices*

Performance characteristic	Minimum requirement
Tuning Fork Characteristic:	
A. Tuning Fork Frequency Tolerance.	±1/2 pct.
Radar Device Characteristic:	
B. Radar Device Tuning Fork Speed Tolerance.	±mph (±2 km/h).
C. Input Current Variation	10,500–10,550 MHz (X Band).
D. Microwave Frequency Variation.	24,050–24,250 MHz (K Band). ±1.5 dB.
E. Radiated Output Power Variation.	18°max (X Band).
F. Antenna Horizontal Beam Width.	15°max (K Band).
G. Radar Device Speed Tolerance During Vibration.	±2 mph (±3 km/h).
H. Display Readability Contrast.	2.5.
I. Display Readability Height.	.4 in (1 cm).
J. Patrol Vehicle Speed Changes.	±1 mph (±2 km/h).
K. Target Channel Sensitivity, Stationary Mode.	<10 dB 20 to 90 mph (32 to 144 km/h). <3 dB 60 to 90 mph (32 to 144 km/h).
L. Target Channel Sensitivity, Moving Mode.	<10 dB 40 to 90 mph (64 to 144 km/h). <3 dB 60 to 90 mph (32 to 144 km/h).
M. Accuracy, Stationary Mode.	±1 mph (±2 km/h).
N. Accuracy, Moving Mode	±2 mph (±3 km/h).
O. Minimum Radar Range	500 ft (150 m).

BILLING CODE 4910-59-M

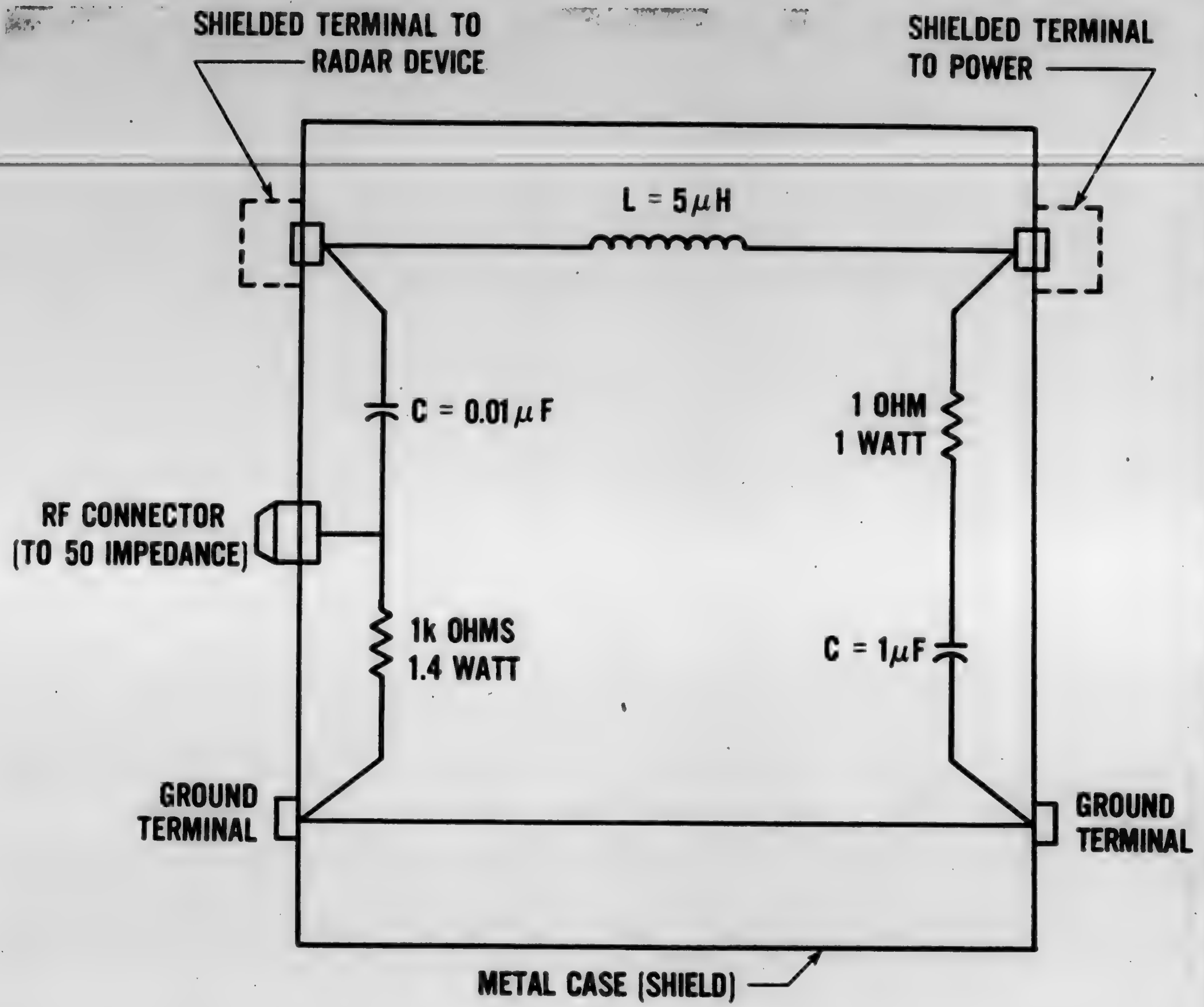
SHIELDED TERMINAL TO RADAR DEVICE
SHIELDED TERMINAL TO POWER
L = 5μH
C = 0.01μF
1 OHM 1 WATT
RF CONNECTOR (TO 50 IMPEDANCE)
1k OHMS 1.4 WATT
C = 1μF
GROUND TERMINAL
GROUND TERMINAL
METAL CASE (SHIELD)

Figure No. 1

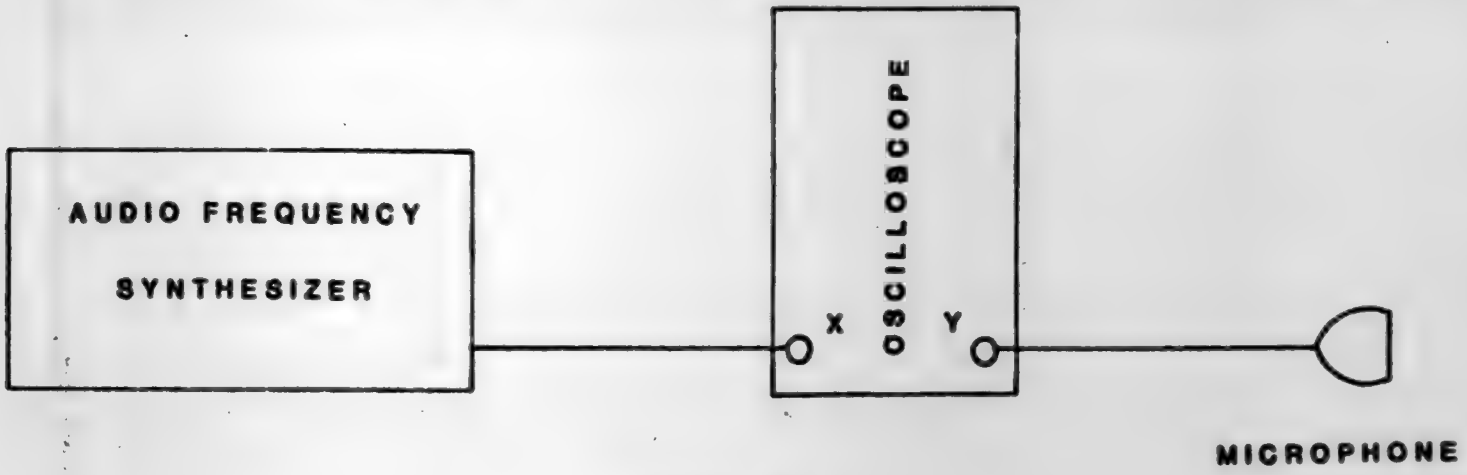
AUDIO FREQUENCY SYNTHESIZER
OSCILLOSCOPE
X
Y
MICROPHONE

Figure No. 2

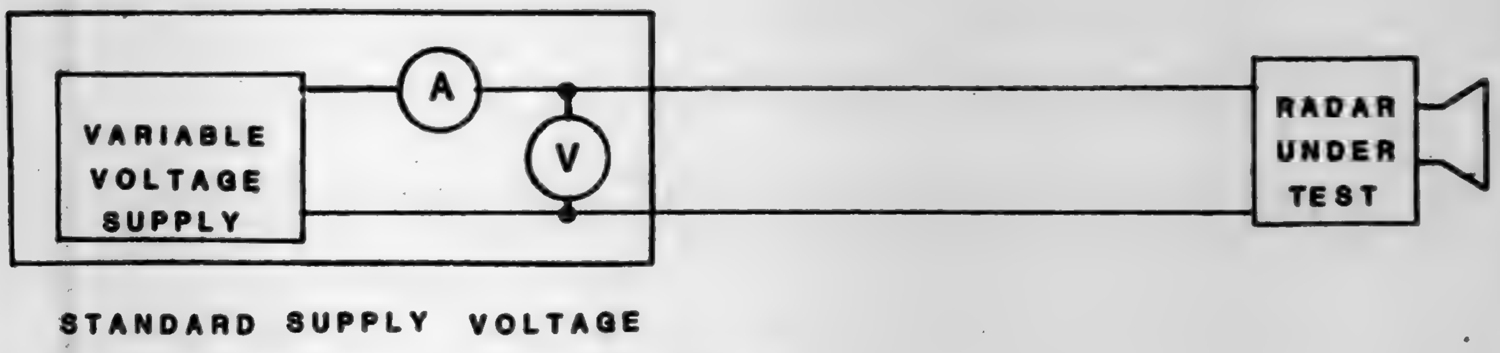
VARIABLE VOLTAGE SUPPLY
A
V
RADAR UNDER TEST
STANDARD SUPPLY VOLTAGE

Figure No. 3

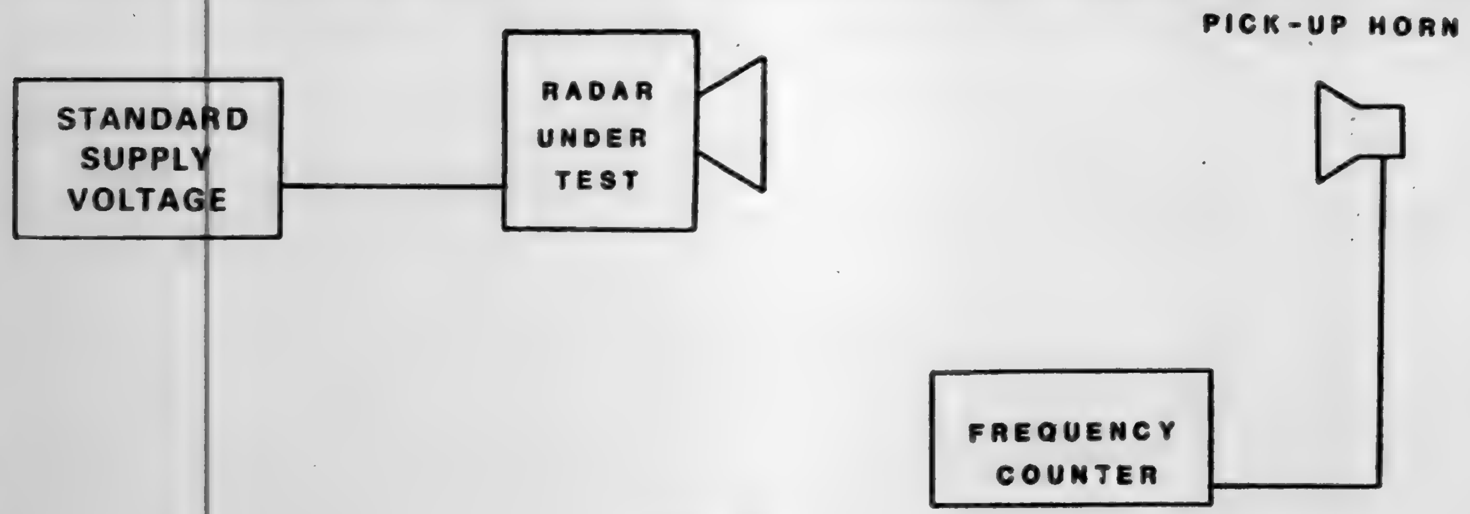
STANDARD SUPPLY VOLTAGE
RADAR UNDER TEST
PICK-UP HORN
FREQUENCY COUNTER

Figure No. 4

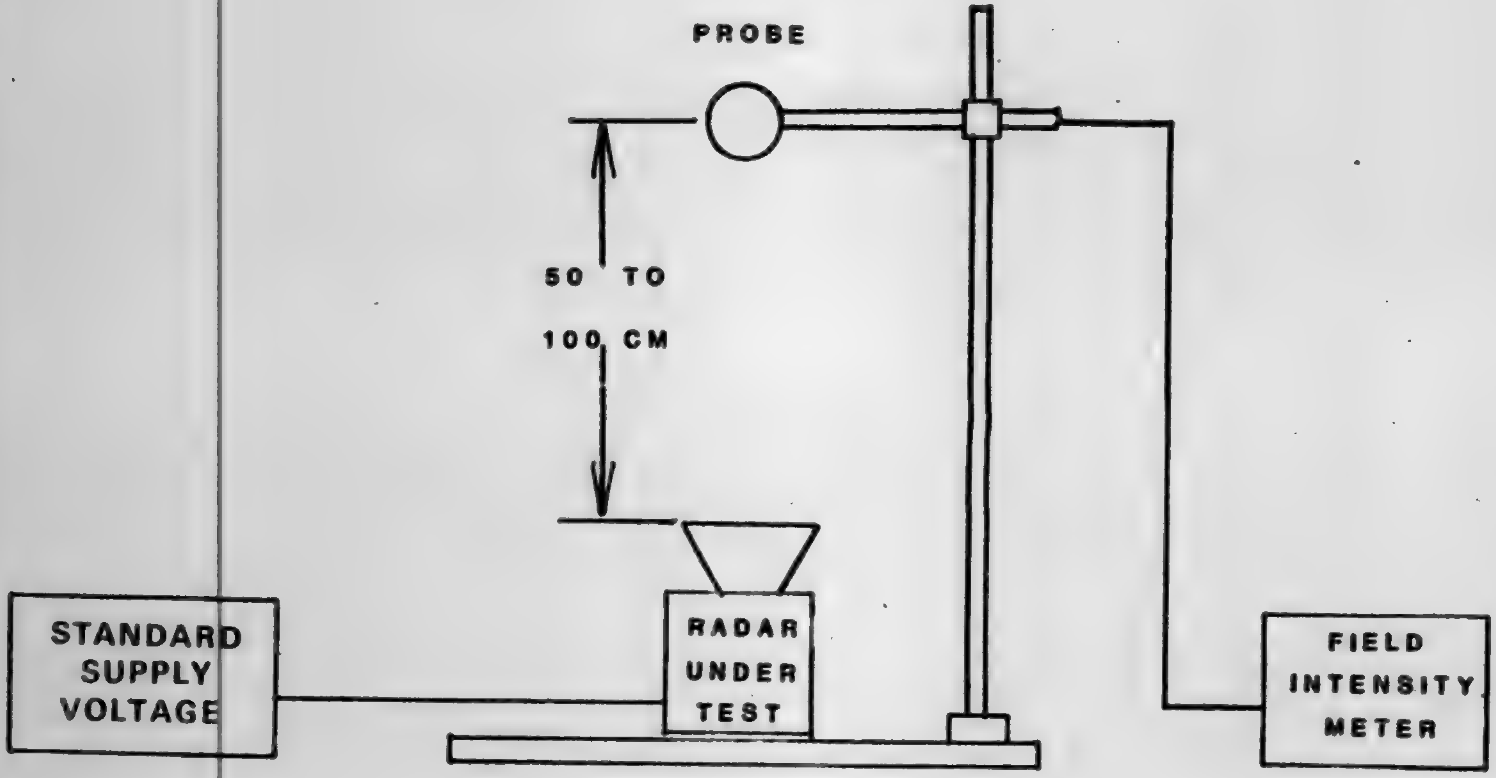
PROBE
50 TO 100 CM
STANDARD SUPPLY VOLTAGE
RADAR UNDER TEST
FIELD INTENSITY METER

Figure No. 5

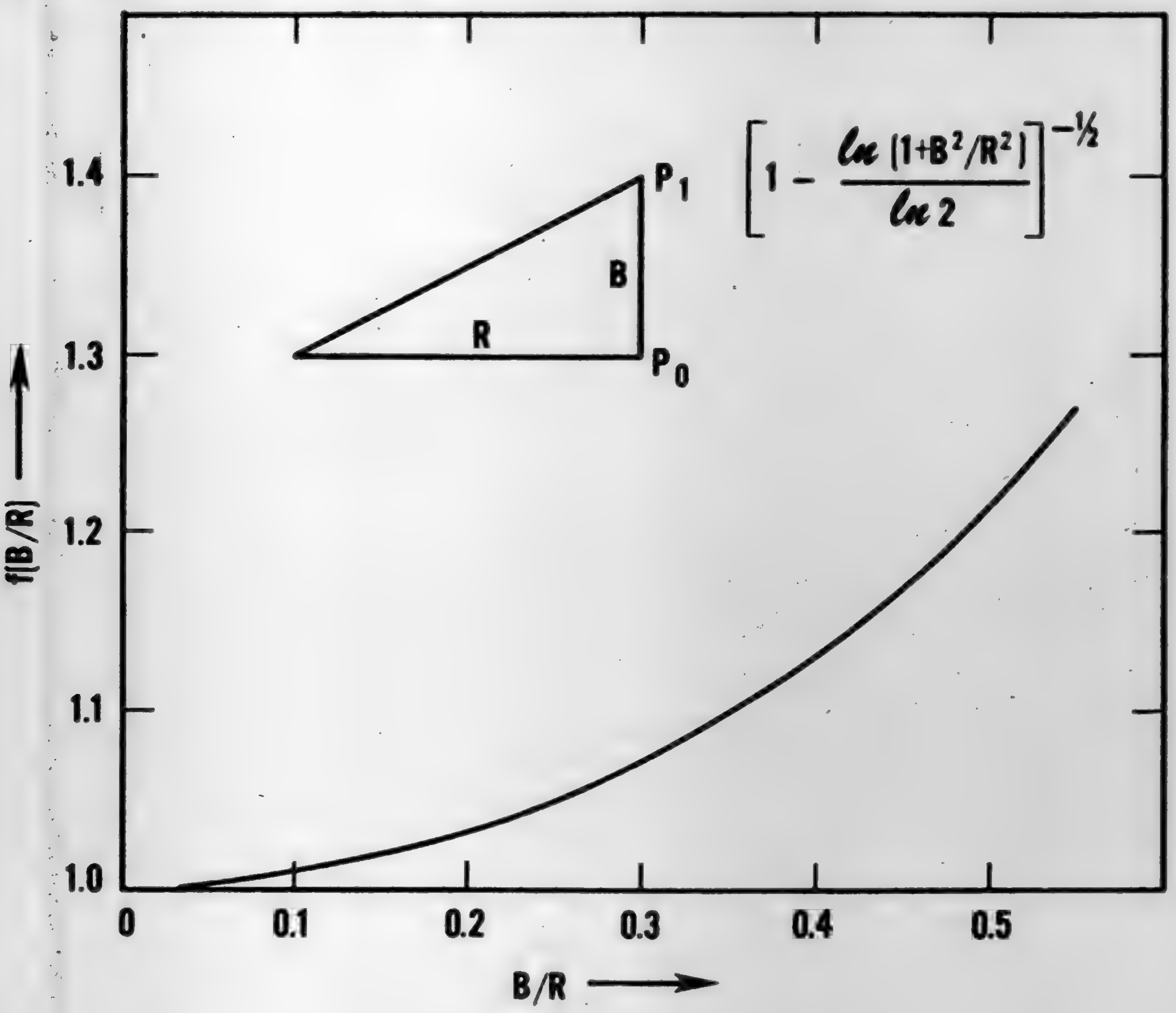

Figure No. 6

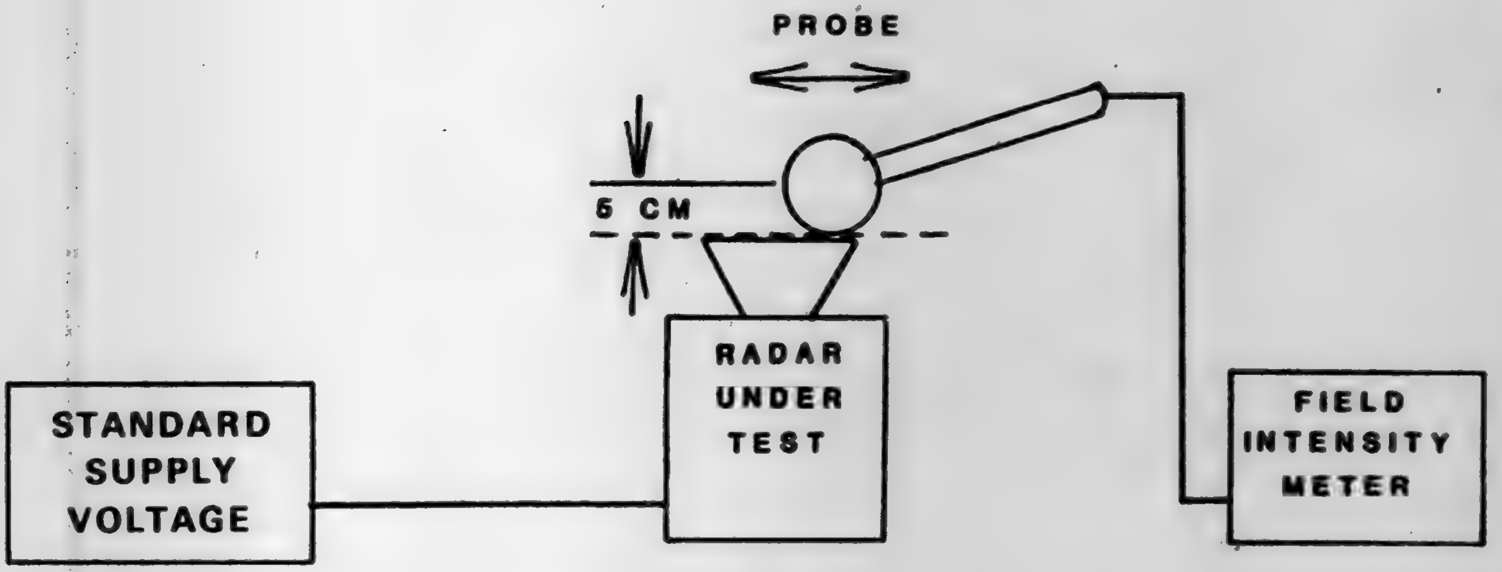
PROBE
5 CM
RADAR UNDER TEST
STANDARD SUPPLY VOLTAGE
FIELD INTENSITY METER

Figure No. 7

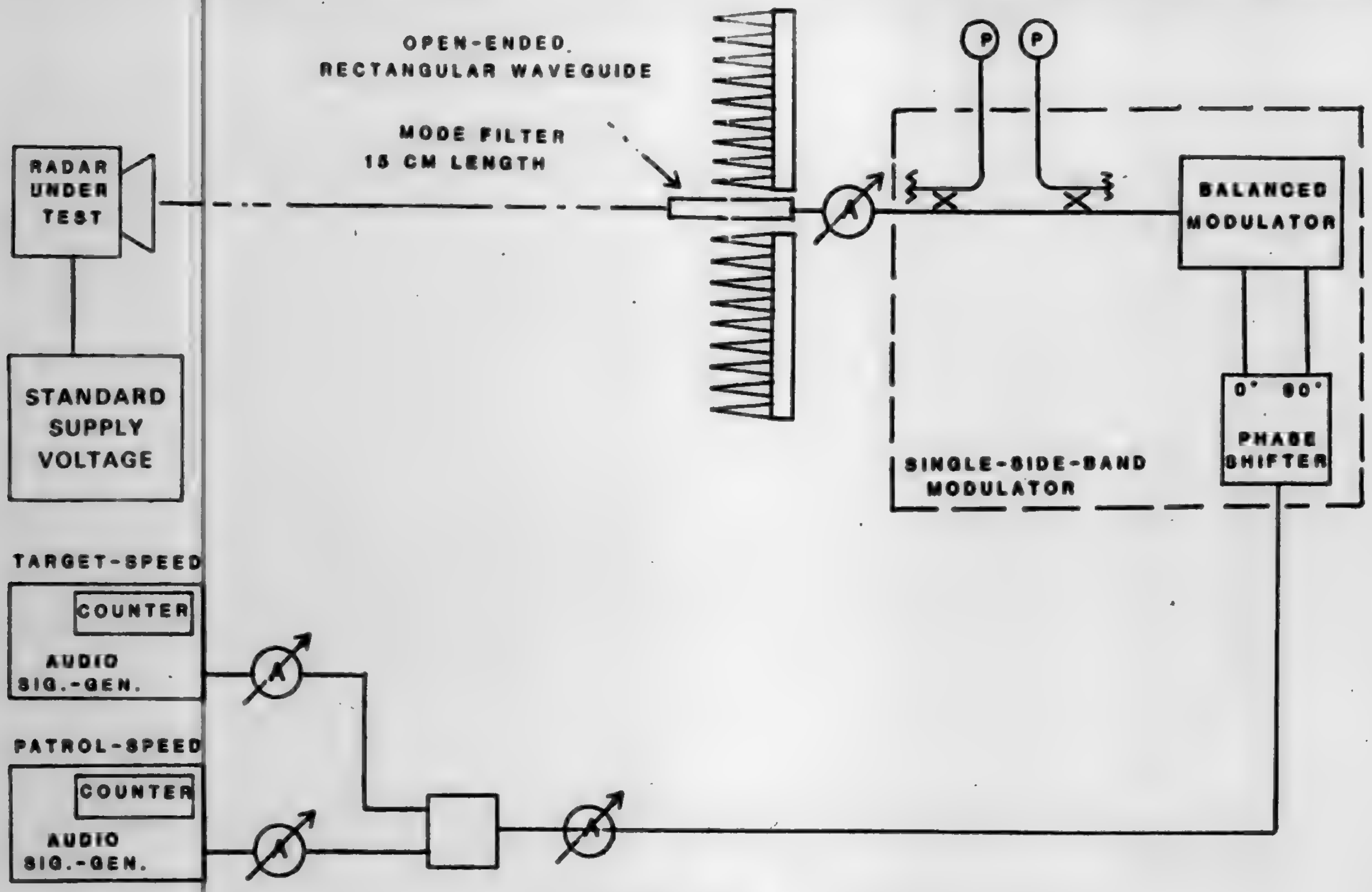
OPEN-ENDED RECTANGULAR WAVEGUIDE
MODE FILTER 15 CM LENGTH
RADAR UNDER TEST
STANDARD SUPPLY VOLTAGE
P
P
BALANCED MODULATOR
0° 90°
PHASE SHIFTER
SINGLE-SIDE-BAND MODULATOR
TARGET-SPEED
COUNTER
AUDIO SIG.-GEN.
PATROL-SPEED
COUNTER
AUDIO SIG.-GEN.
A
A
A
A

Figure No. 8

A- WAVEGUIDE MAGIC-TEE
B- WAVEGUIDE TERMINATION
C- TUNABLE DIODE DETECTORS

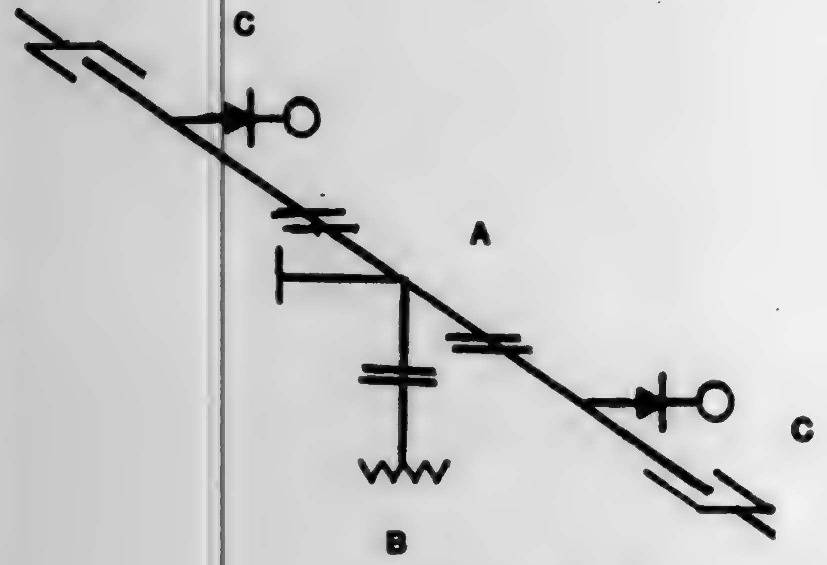

Figure No. 8a

ALL-PASS 90 DEGREE PHASE-SHIFTER

300 Hz to 10,000 Hz

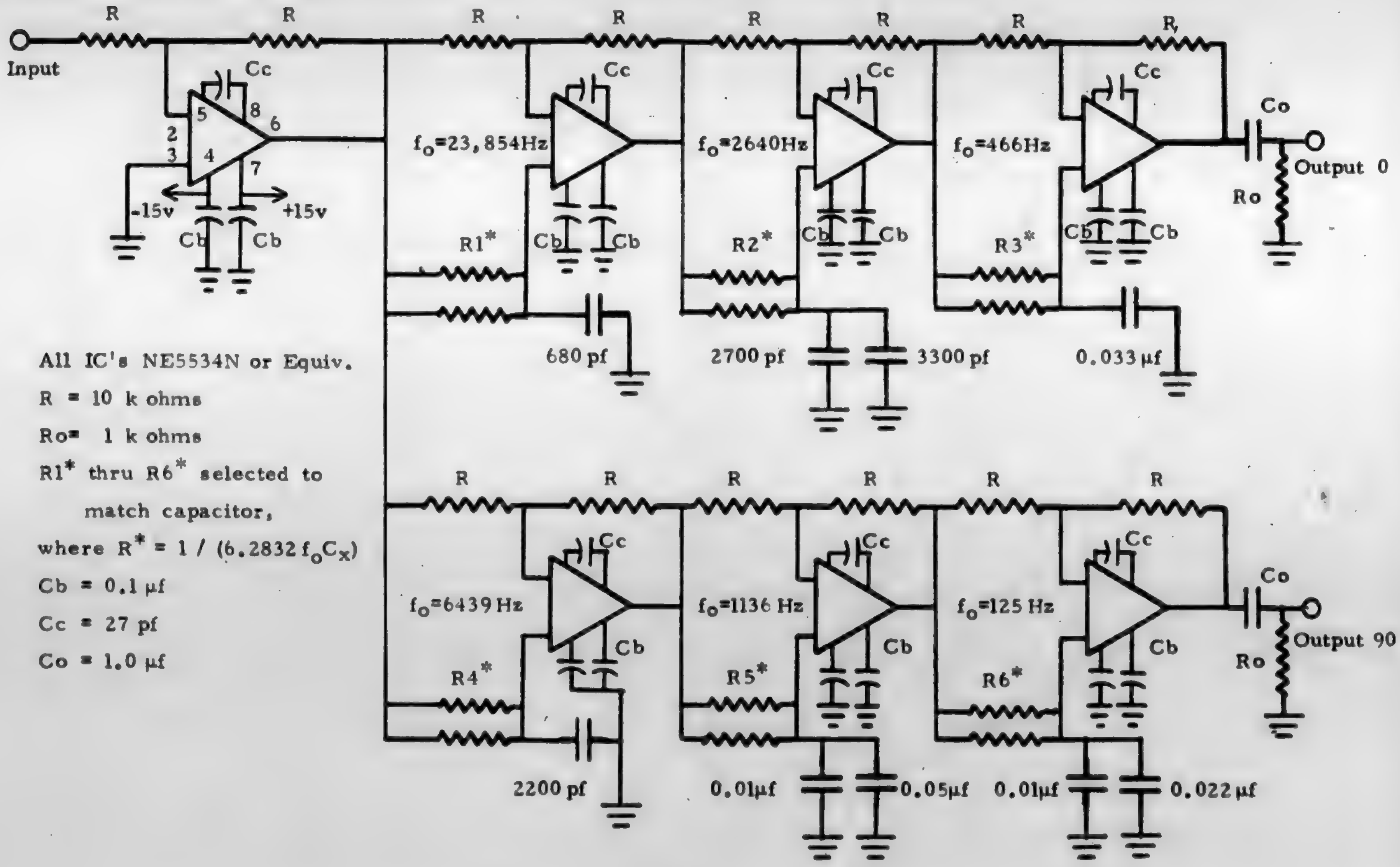
Input
R
R
Cc
5
8
6
2
3
4
7
-15v
+15v
Cb
Cb
f_o=23,854Hz
R1*
680 pf
f_o=2640Hz
R2*
2700 pf
3300 pf
f_o=466Hz
R3*
0.033 µf
Co
Ro
Output 0
f_o=6439 Hz
R4*
2200 pf
f_o=1136 Hz
R5*
0.01µf
0.05µf
f_o=125 Hz
R6*
0.01µf
0.022 µf
Output 90

All IC's NE5534N or Equiv.
R = 10 k ohms
Ro = 1 k ohms
R1* thru R6* selected to
match capacitor,
where $R^* = 1 / (6.2832 f_o C_x)$
Cb = 0.1 µf
Cc = 27 pf
Co = 1.0 µf

Figure No. 8b

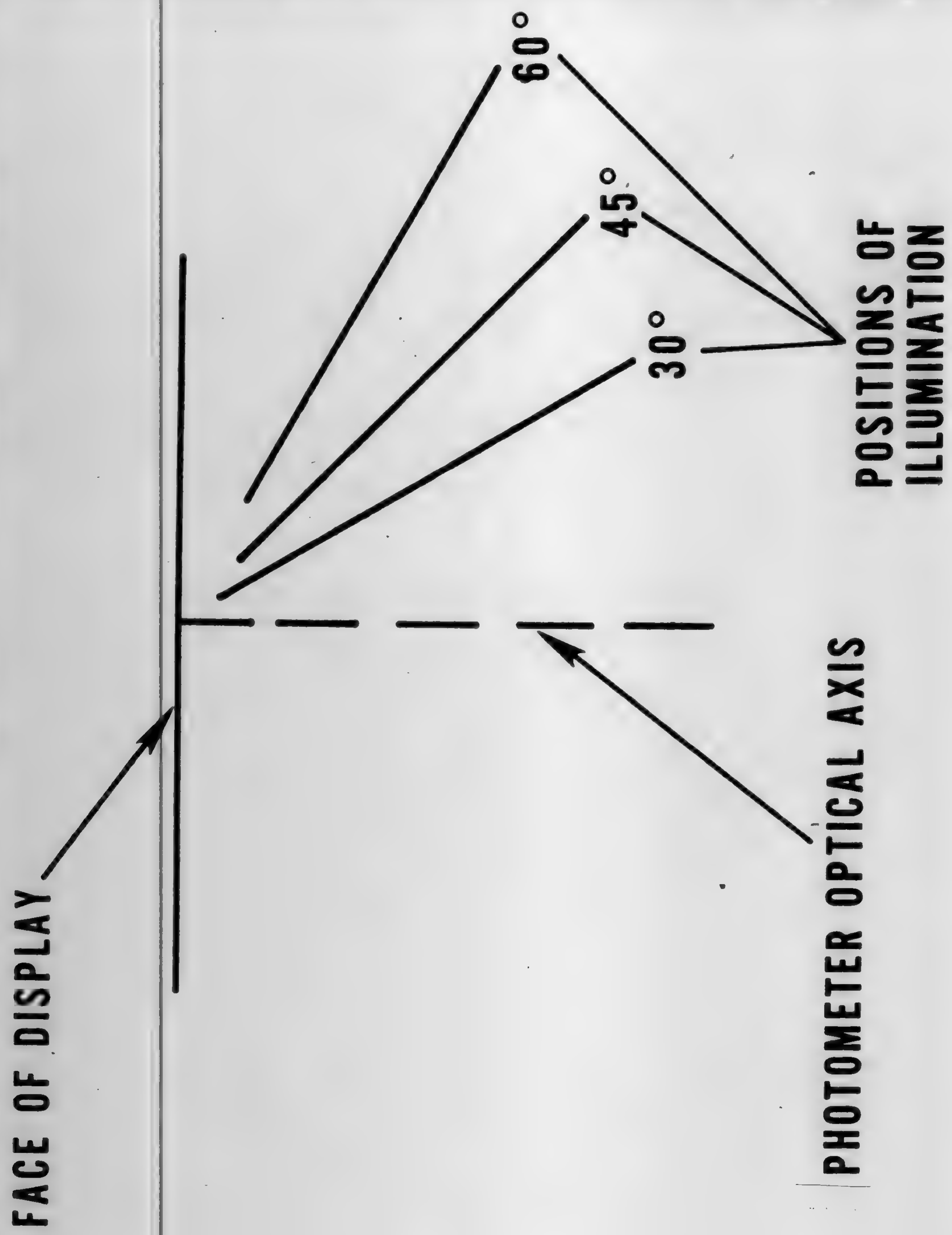
60°
45°
30°
POSITIONS OF ILLUMINATION
PHOTOMETER OPTICAL AXIS
FACE OF DISPLAY

Figure No. 9

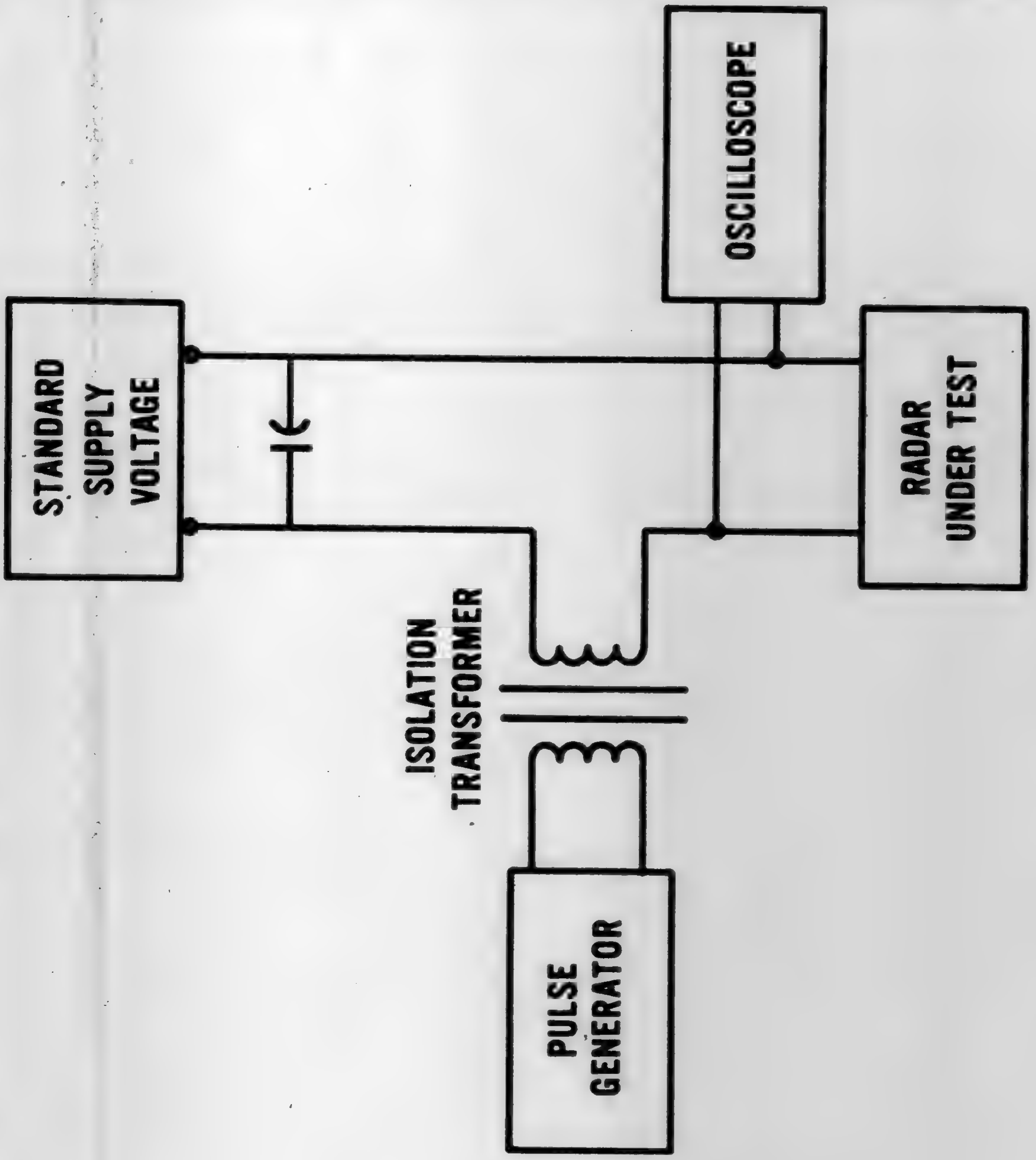
STANDARD SUPPLY VOLTAGE
OSCILLOSCOPE
RADAR UNDER TEST
ISOLATION TRANSFORMER
PULSE GENERATOR

Figure No. 10

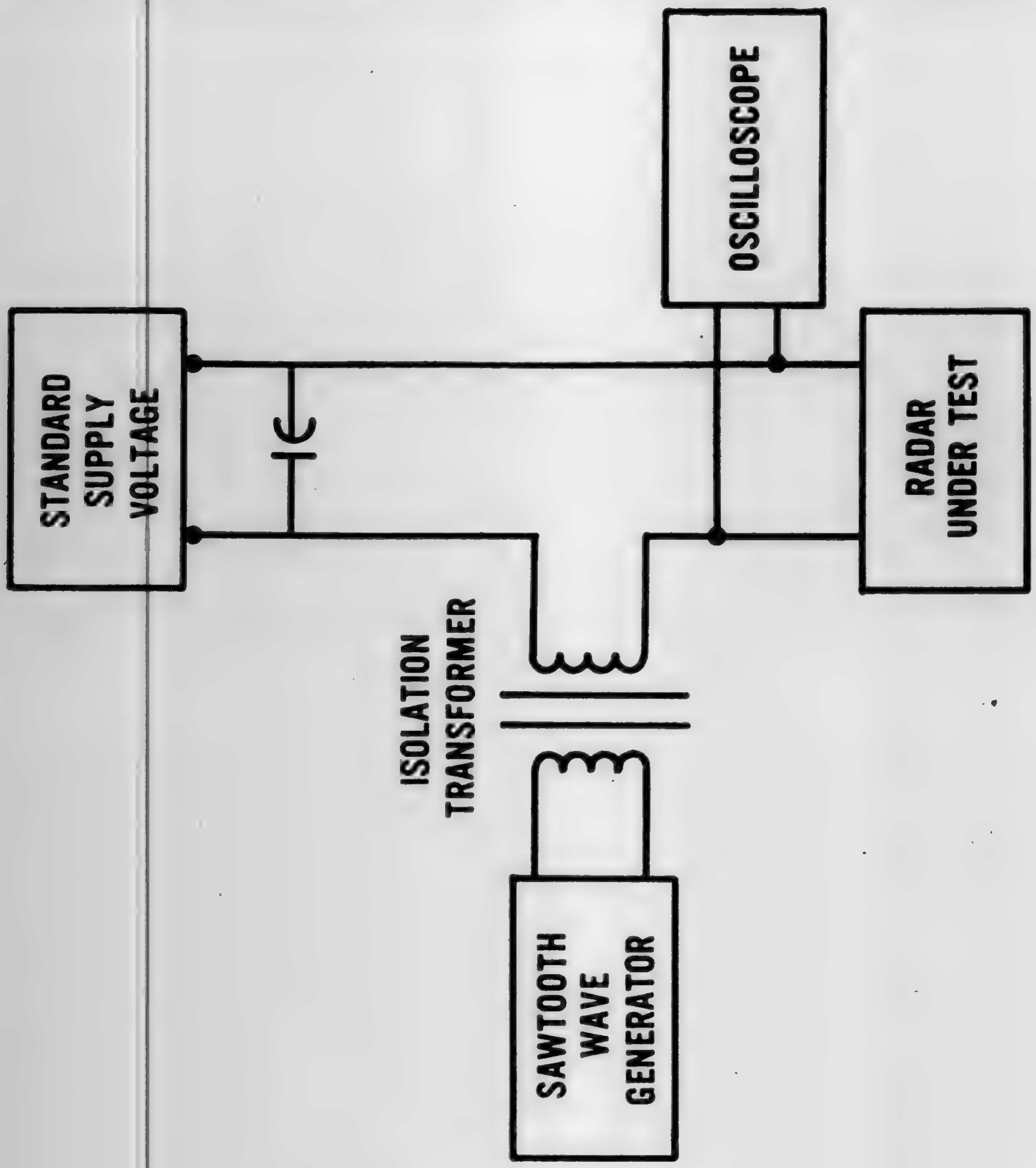
STANDARD SUPPLY VOLTAGE
OSCILLOSCOPE
RADAR UNDER TEST
ISOLATION TRANSFORMER
SAWTOOTH WAVE GENERATOR

Figure No. 11

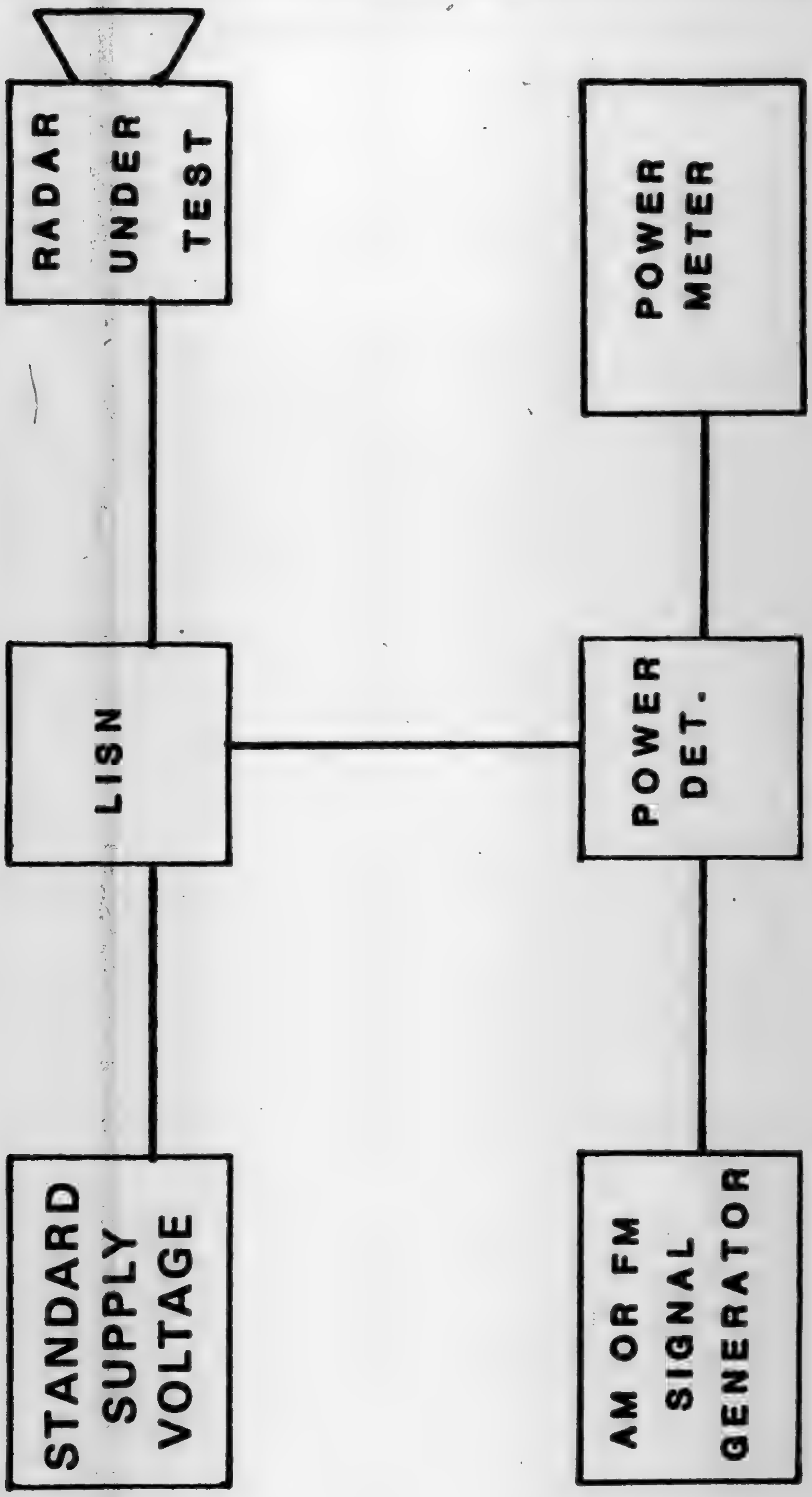
RADAR UNDER TEST
POWER METER
LISN
POWER DET.
STANDARD SUPPLY VOLTAGE
AM OR FM SIGNAL GENERATOR

Figure No. 12

BILLING CODE 4910-59-C

Appendix A—Bibliography

Editorial Note.—This appendix will not appear in the Code of Federal Regulations.

1. Allen, D. W. and Brzoticky, F. H., Calibration of Police Radar Instruments, NBS SP–442, Report of the 60th National Conference on Weights and Measurements, 1975, pp. 42–47, (May 1972).

2. Federal Communications Commission, Rules and Regulations, Part 90, Subpart F.

3. Federal Communications Commission, Bulletin OCE 37, Criteria to be met by Doppler Radars Operating in the 24.05–24.05 GHz Frequency Band, (Revised May 1979).

4. SAE Recommended Practice J1113A, Electromagnetic Susceptibility Procedures for Vehicle Components, (Revised June 1978).

5. NDS Nomograph 92, Radio Metrology, pages 102–103, (March 1966).

6. 90° Phase Shifter, 300–10,000 Hz, Electronic Design, p. 90 (September 13, 1976).

7. American National Standard for Temperature Measuring Thermocouples, ANSI MC96.1–1975.

8. ANSI/ASTM E 230–77, Standard Temperature—Electromotive Force (EMF) Tables for Thermocouples.

[FR Doc. 81–338 Filed 1–7–81; 8:45 am]

BILLING CODE 4910-59-M

Coast Guard

33 CFR Part 117

[CGD 81–002]

Drawbridge Operation Regulations; Northern Avenue, Fort Point Channel, Boston, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Boston, the U.S. Coast Guard is considering amending the regulations governing the Northern Avenue drawbridge, across Fort Point Channel. The draw presently is required to open on signal from 6 a.m. to 8 p.m.; except that Monday through Friday, excluding legal holidays, the drawspan need not open from 7 a.m. to 9 a.m., and from 4:30 p.m. to 6:30 p.m. for vessels whose draft is less than 5.5 meters (18 feet). The draw need not open from 8 p.m. to 6 a.m. The proposed change would all another closure, from 11:30 a.m. to 1:30 p.m., to the existing regulations. This proposal is intended to relieve the vehicular traffic congestion that occurs when the drawspan is open from 11:30 a.m. to 1:30 p.m., but still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before 11 February 1981.

ADDRESS: Comments should be mailed or hand-delivered to, and will be available for inspection or copying at the office of, the Commander (obr), First Coast Guard District, 150 Causeway Street (Room 432), Boston Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617–223–0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for each comment. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information: The principal persons involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Proposed Rule

Fort Point Channel is used by lobster boats, a commercial sightseeing boat, and a marine contractor. When the drawbridge is opened to allow these vessels to pass, vehicular traffic may be severely disrupted. This problem is particularly intense when the bridge is opened for the sightseeing boat during the lunchtime hours, tying up the many motorists driving to and from the restaurants and fish piers along Northern Avenue. During the summer of 1980, there were usually at least six such openings each week.

The City of Boston sees this traffic problem as a severe economic hardship to many commercial interests, and wishes to resolve the problem by keeping the drawbridge closed to vessel traffic during the lunchtime period from 11:30 a.m. to 1:30 p.m., Monday through Friday.

In the closed position, the Northern Avenue bridge provides at least 2.1 meters (7 feet) of vertical clearance above mean high water. The mean tidal range at the bridge is 2.9 meters (9.5 feet).

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.75(i)(2) to read as follows:

§ 117.75 Boston Harbor, Massachusetts, and adjacent waters; bridges.

(i) * * *

(2) From 6 a.m. to 8 p.m. the Northern Avenue bridge draw shall open on signal, except that it need not open from 7 a.m. to 9 a.m.; from 11:30 a.m. to 1:30 p.m.; and from 4:30 p.m. to 6:30 p.m., Monday through Friday, excluding legal holidays, for the passage of vessels whose draft is less than 5.5 meters (18 feet). From 8 p.m. to 6 a.m. the draw need not open for the passage of vessels.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 29, 1980.

R. H. Wood,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 81–601 Filed 1–7–81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW–1–FRL 1721–6]

Rhode Island Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the Federal Register on May 19, 1980 (45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Rhode Island application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Rhode Island interim authorization application must be received by 17 February 1981.

PUBLIC HEARING: EPA will conduct a public hearing on the Rhode Island interim authorization application at 10:00 AM on 12 February 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Rhode Island will participate in the public hearing.

ADDRESSES: The public hearing will be held at: Cannon Building Auditorium, 75 Davis Street, Providence, Rhode Island 02908.

Copies of the Rhode Island interim authorization application are available at the following addresses for inspection and copying by the public:

(1) Department of Environmental Management, Solid Waste Management Program, 75 Davis Street, Providence, Rhode Island 02908 (telephone (401) 277–2797).

(2) Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5791/4017).

(3) EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460. Written comments and requests to speak at the hearing should be sent to: Kenneth E. Wenger, Rhode Island State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kenndey Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775).

FOR FURTHER INFORMATION CONTACT: Kenneth E. Wenger, Rhode Island State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated Phase I of its regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, including manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two states in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980, and,

(2) Be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). The State of Rhode Island has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, as also noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Rhode Island interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

Representatives from the State of Rhode Island will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members of the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from Kenneth E. Wenger, Rhode Island State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775) approximately three days after the hearing at cost.

Dated: December 31, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 81–654 Filed 1–7–81; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172 and 173

[Docket No. HM–166H; Notice No. 80–10]

Hazardous Materials Tables and Hazardous Materials Communications Regulations; Shippers—General Regulations for Shipments and Packagings; Dispersant and Refrigerant Gases

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to make several amendments to the Department's Hazardous Materials Regulations pertaining to the shipment of Dispersant gas and Refrigerant gas. This action is necessary to update the regulations and reduce MTB's backlog of rulemaking petitions.

DATE: Comments must be received on or before February 23, 1981.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, SW, Washington, D. C. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426–3148.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, (202-472-2726).

SUPPLEMENTARY INFORMATION: This document is the tenth in a series of notices and amendments to incorporate changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative.

These changes are based on a petitition from the Compressed Gas Association on October 26, 1972 which would authorize shipments of fluorinated hydrocarbons and their many mixtures under a group category of Dispersant gas, n.o.s., or Refrigerant gas, n.o.s. and on several exemptions which have been issued during the past several years. these proposed changes should not have any affect on the safe handling and transportation of these gases.

In consideration of the foregoing, Parts 172 and 173 or 49 CFR would be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.101 [Amended]

1. In § 172.101 the Hazardous Materials Table would be amended by changing the following entries in Column 2, Hazardous materials description and proper shipping names, to read as follows; the other table entries for these commodities would be deleted:

Present—Col. (2)	Proposed—Col. (2)
Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*).	Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture R-500*). See Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture	Dichlorodifluoromethane (*R-12*) and dichlorotetrafluoroethane (*R-114*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-monochlorodifluoromethane mixture	Dichlorodifluoromethane (*R-12*) and chlorodifluoromethane (*R-22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-trichloromonofluoromethane mixture	Dichlorodifluoromethane (*R-12*) and trichlorofluoromethane (*R-11*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture.	Dichlorodifluoromethane (*R-12*), trichlorofluoromethane (*R-11*) and chlorodifluoromethane (*R-22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
Dichlorodifluoromethane-trichlorotrifluoroethane mixture	Dichlorodifluoromethane (*R-12*) and trichlorotrifluoroethane (*R-113*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispesant gas, n.o.s.
Dispersant gas *or* Refrigerant gas. *See* § 173.314 Note 13 and § 173.315 Note 9.	Dispersant gas, n.o.s. *See* Refrigerant gas, n.o.s.
Refrigerant gas. *See* Dispersant gas	

Add
Chlorodifluoromethane and chloropentafluoroethane mixture (*constant boiling mixture*) (*R-502*). *See* Refrigerant gas, n.o.s.

2. In § 172.101 the Hazardous Materials Table would be amended by changing the following entries in Column 2, Hazardous materials description and proper shipping names, to read as follows; appropriate identification number would be assigned to each entry; all other table entries for these commodities would remain unchanged:

Present—Col. (2)	Proposed—Col. (2)
Dichlorodifluoromethane	Dichlorodifluoromethane (*R-12*).
1,1-Difluoro-1-chloroethane. *See* Difluoromonochloroethane	1-Chloro-1,1-difluoroethane. *See* Chlorodifluoroethane (*R-142b*).
Difluoroethane	Difluoroethane (*R-152a*).
Difluoromonochloroethane	Chlorodifluoroethane (*R-142b*) *or* (1-Chloro-1,1-difluoroethane).
Monobromotrifluoromethane	Bromotrifluoromethane (*R-13B1 or H-1301*).
Monochlorodifluoromethane	Chlorodifluoromethane (*R-22*).
Monochloropentafluoroethane	Chloropentafluoroethane (*R-115*).
Monochlorotetrafluoroethane	Chlorotetrafluoroethane (*R-124*).
Monochlorotrifluoromethane	Chlorotrifluoromethane (*R-13*).

3. In § 172.101 the Hazardous Materials Table would be amended by adding the following entries:

BILLING CODE 4910-60-M

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3A)	(4)	(5) Passenger		(6) Maximum net quantity in one package		(7) Water shipments		
+/ E/ A/ W/	Hazardous materials description and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Refrigerant gas, n.o.s. or Dispersant gas, n.o.s.	Nonflammable gas	UN1078	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Refrigerant gas, n.o.s. or Dispersant gas, n.o.s.	Flammable gas	NA1954	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	

BILLING CODE 4910-60-C

PART 173—SHIPPERS—GENERAL REGULATIONS FOR SHIPMENTS AND PACKAGINGS

4. In § 173.300 paragraph (i) would be added to read:

§ 173.300 Definitions.

* * * * *

(i) *Refrigerant gas or Dispersant gas.* The term "Refrigerant gas" or "Dispersant gas" shall apply to all flammable or nonflammable, nonpoisonous refrigerant gases, dispersant gases and mixtures thereof (fluorocarbons) listed in §§ 172.101, 173.304(a)(2), 173.314(c), 173.315(a)(1) and 173.315(h), or any other compressed gas, meeting one of the following:

(A) A nonflammable mixture contining not less than 50% fluorocarbon content, having a vapor pressure not exceeding 260 psig at 130°F.

(B) A flammable mixture containing not less than 50% fluorocarbon content, not over 40% by weight of a flammable component, having a vapor pressure not exceeding 260 psig at 130°F.

§ 173.304 [Amended]

5. In § 173.304 the Table in paragraph (a)(2) would be amended by changing the following entries (see proposed change in item number 2 above) to read:

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173. 34(a), (b), § 173.301(j) (see notes following table)
(Proposed)	*Percent*	
Chlorodifluoroethane (*R-142b*) (1-chloro-1, 1-difluoroethane) (see Note 8).	100	DOT-3A150, DOT-3AA150, DOT-3B150, DOT-4B150, DOT-4BA225, DOT-4BW225, DOT-3E1800, DOT-39.
Chlorodifluoromethane (*R-22*) (see Note 8).	105	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4B240ET; DOT-4E240; DOT-39; DOT-41; DOT-3E1800.
Chloropentafluoroethane (*R-115*) (see Note 8).	110	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39.
Chlorotrifluoromethane (*R-13*) (see Note 8).	100	DOT-3A1800; DOT-3AA1800; DOT-3; DOT-3E1800; DOT-39.
(Add)		
Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. (see Note 8).	Not liquid full at 130°F.	DOT-3A240; DOT-3AA240, DOT-3B240; DOT-3E1800; DOT-4A240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4E240; DOT-9; DOT-39.

§ 173.314 [Amended]

6. In § 173.314 the following named commodities in the Table in paragraph (c) would be deleted or revised, Note 4 would be revised, Notes 27 and 28 would be added to read as follows:

Kind of gas	Maximum permitted filling density (see Note 1)	Required tank car, see § 173.31(a) (2) and (3)
(Delete)		
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture); Note 13.	Note 22	DOT-106A500X, 110A500W, Note 25. DOT-105A300W.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture; Note 13.	119 125 Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300W. DOT-112A340W-114A340W.
Dichlorodifluoromethane-monochlorodifluoromethane mixture; Note 13.	119 125 123	DOT-106A500X, 110A500W, Note 25. DOT-105A300-W. DOT-112A340W, 114A340W.
Dichlorodifluoromethane-monofluorotrichloromethane mixture; Note 13.	Note 22 Note 21	DOT-106A500X, 110A500-W, Note 25. DOT-105A300-W. DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture; Note 13.	119 125 123 Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300-W. DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichlorotrifluoroethane mixtures; Note 13.	119 125 123	DOT-106A500X, 110A500-W, Note 25. DOT-105A300-W. DOT-112A340W, 114A340W.
(Revise)		
Dichlorodifluoromethane (*R-12*); Note 13.	119 123 125	DOT-106A500X, 110A500W, Note 25. DOT-112A340W, 114A340W, Note 23. DOT-105A300W.
Difluoroethane (*R-152a*); Note 4, Note 13.	79 79 84	DOT-112A400W, 114A340W, Note 23, and 27. DOT-106A500X, 110A500W, Note 25. DOT-105A300W.
Chlorodifluoroethane; (*R-142b*) (1-Chloro1,1-difluoroethane); Note 4, Note 13.	100	DOT-1065A500X, 110A500W, Note 25. DOT-105A100W. DOT-114A340W, Note 23.
Bromotrifluoromethane (*R-13B1 or H-1301*).	124 140	DOT-110A800W, Note 7 and 13. DOT-105A500W, Note 13.
Chlorodifluoromethane (*R-22*)	105 110 108 Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300W. DOT-112A400W. DOT-114A340W; Note 7.

Kind of gas	Maximum permitted filling density (see Note 1)	Required tank car, see § 173.31(a) (2) and (3)
Chlorotetrafluoroethane (*R-124*); Note 13.	125 126	DOT-106A500X, 110A500W, Note 25. DOT-112A400W.
(Add)		
Refrigerant gas n.o.s. *or* Dispersant gas, n.o.s.	Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300W. DOT-112A340W, 114A340W, Notes 23 and 27.

Note 4: For tank cars other than DOT-106A and DOT-110A used for the transportation of liquefied flammable gases, interior pipes of loading and unloading valves must be equipped with excess-flow valves of approved design.

* * * * * * *

Note 27: DOT-112A340W, 112A400W, 114A340W tank cars may be equipped with bottom outlets, except that the bottom outlets must be rendered inoperative and effectively sealed to preclude bottom unloading when transporting flammable gases.

Note 28: A maximum safety relief valve setting of 280.5 psi is authorized on DOT Specification 114A340W tank car tanks.

* * * * * * *

7. In § 173.315 the Table in paragraph (a)(1) would be revised by deleting the following entries and adding Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. The Table in paragraph (h) would be revised by changing the heading in the second column, three entries would be deleted and Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. would be added to read:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * * * * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(Delete)				
Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*) (see Note 9).	See para. (c) of this section.	do	MC-330, MC-331	250.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture (see Note 9).	119	do	DOT-51, MC-330, MC-331.	150.
Dichlorodifluoromethane-monofluorotrichloromethane mixture (see Note 9).	See para. (c) of this section.	do	do	150.
(Add)				
Refrigerant gas n.o.s. or Dispersant, gas n.o.s..	See par. (c) of this section.	See Note 7	DOT-51, MC-330, MC-331.	See par. (c)(1) of this section.
(Revise)				
Dichloromonochloroethane (see Note 9) would be changed to read as follows.	See Note 7		MC-330, MC-331	100.
Chlorodifluoroethane (*R-142b*) (1-chloro 1,1-difluoroethane) (see Note 9).	100	See Note 7	MC-330, MC-331	100.
Monochlorodifluoromethane (see Note 9) would be changed to read as follows.	105	See Note 7	DOT-51, MC-330, MC-331.	250.
Chlorodifluoromethane (*R-22*) (see Note 9).	105	See Note 7	DOT-51, MC-330, MC-331.	250.

* * * * * * *

(h) * * *

Kind of gas	Gaging device permitted for filling purposes
(Delete)	
Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*)..	None.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture.	None.
Dichlorodifluoromethane-monofluorotrichloromethane, mixture.	None.
(Add)	
Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s..	None.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12221 and DOT implementing procedures (44 FR 11034), nor an Environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on December 19, 1980.

Alan I. Roberts,

Associate Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-258 Filed 1-7-81; 8:45 am]

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49 CFR Parts 172, 173, 175, 178, and 179

[Docket No. HM-166G; Notice No. 80-9]

Shipment of Hazardous Materials; Proposed Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to make several miscellaneous amendments to the regulations pertaining to the shipment of hazardous materials. This action is necessary to update the regulations and to reduce MTB's backlog of rulemaking petitions.

DATE: Comments must be received on or before February 23, 1981.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th St., SW. Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590 (202-472-2726).

SUPPLEMENTARY INFORMATION: This document is the ninth in a series of notices and amendments to incorporate changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. On November 30, 1978, MTB published the first notice of proposed rulemaking under Docket HM-166; Notice 78-11 (43 FR 56070).

In summary, these proposed amendments would (1) remove Rosin *or* Resin from the Hazardous Materials Table; (2) change § 173.118 to read "None" in column (5)(a) of § 172.101 for Ally alcohol; n-Butyle isocyanate; Crotonaldehyde; Flammable liquid, corrosive, n.o.s.; and Flammable liquid, poisonous, n.o.s.; (3) amend § 172.101 by adding Potassium superoxide and Sodium superoxide, change Peroxide of sodium to read Sodium peroxide and change the packaging reference in Column (5)(b) for Potassium peroxide from § 173.154 to § 173.187; (4) update § 173.31(a)(5) by removing the January 1, 1978 date; (5) require strict inspection of closures on tank cars; (6) authorize the use of DOT Specification 19B wooden boxes where the DOT Specification 15A wooden box is now authorized; (7) authorize the use of DOT Specification 112A200W tank cars for the shipment of Dichlorobutene which may be flammable and corrosive; (8) clarify the exception for Lithium batteries and devices containing lithium batteries, (9) delete Phosphorus pentasulfide from paragraph (a) of § 173.225(a); (10) remove an obsolete restriction in § 173.225(b)(2) regarding the use of non-DOT specification metal portable tanks; (11) authorize the shipment of Ammonium hydroxide containing not more than 26 percent ammonia in cargo tanks and portable tanks having a capacity of 3,000 gallons or less and all DOT Specification cargo tanks listed in § 173.33(b); (12) extend the maximum service life of DOT Specification 3HT cylinders in § 173.302(a)(2) and Note 7 of the Table in § 173.304(a)(2) to 24 years; (13) eliminate the need for shipping papers for vehicles transporting Anhydrous ammonia in nurse tanks by private carriers under specified conditions; (14) authorize the use of additional outside packaging for the shipment of Poison B liquids in limited quantities; (15) correct an oversight in Docket HM-148 regarding the shipment of an ORM-B material; (16) clarify the number of rabbits to be used in testing corrosion to skin; (17) expand the provisions of § 175.10a to include flood control; (18) reduce the minimum height of the lettering required on the name plate of DOT Specification 51, 56, 57 and 60 portable tanks from at least ⅜ inches high to at least ⅛ inch high; (19) authorize the use of stainless steel anchor legs in tank cars used to transport liquefied carbon dioxide; (20) provide for additional testing methods to insure that certain welds on tank cars are free from cracks and other detrimental weld defects; (21) remove the reference to ASTMA-240-70, Type 430A steel for tank shell fabrication; (22) require reinforcement of the dome on tank cars that do not have a flued-type opening and (23) reduce the possibility of a static electrical charge in the loading of flammable liquids in DOT Specification 115 tank cars.

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 172.101 Rosin (*colophony*) or Resin § 173.1060.	Rosin *or* Resin is listed in § 172.101 as an ORM-C. Based on the information MTB has on file and that furnished by Hercules, Inc., we are unable to justify the need for continuing to specifically regulate Rosin *or* Resin as a hazardous material.	To delete Rosin (*colophony*) *or* Resin from § 172 101 and delete § 173.1060 in its entirety.
§ 172.101 Column (5)(a)	Ally alcohol (*RQ-100/45.4*), n-Butyl isocyanate, Crotonaldehyde (*RQ-100/45.4*), Flammable liquid, corrosive, n.o.s., and Flammable liquid, poisonous, n.o.s. are classed as a flammable liquid but have more than one hazard as indicated in Column (4) of § 172.101. Column (5)(a) of § 172.101 references a packaging exception in § 173.118. However, the introductory text of § 173.118(a) limits the exception to flammable liquids that do not meet the definition of another hazard class. Therefore, the reference to § 173.118 in Column (5)(a) of § 172.101 should read "None" instead of § 173.118 for the above commodities.	To amend Column (5)(a) of § 172.101 to read "None" instead of § 173.118 for the following commodities. Ally alcohol (*RQ-100/45.4*); n-Butyl isocyanate; Crotonaldehyde (*RQ-100/45.4*); Flammable liquid, corrosive, n.o.s.; and Flammable liquid, poisonous, n.o s.
§ 172.101	Potassium superoxide and Sodium superoxide are currently shipped as Oxidizer, n.o.s. or Oxidizing material, n.o.s. Based on their properties, the MTB believes that these superoxides should be identified by their technical name instead of a generic description and that the requirements for these two commodities should be the same as for Sodium peroxide. Also, the MTB proposes to change the packaging requirement for Potassium peroxide from § 173.154 to § 173.187.	To amend the Hazardous Materials Table as follows:

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§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3A)	(4)	(5) Passenger		(6) Maximum net quantity in one package		(7) Water shipments		
+/ E/ A/ W/	Hazardous materials description and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Add)										
	Potassium superoxide	Oxidizer	UN 2466	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	1	Keep dry. Stow away from powdered metals, permanganates and combustible packaging and cargo.
	Sodium superoxide	Oxidizer	UN 2547	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	5	Keep dry. Stow away from powered metals, permanganates and combustible packaging and cargo.
	(Amend)										
	Potassium peroxide	Oxidizer	UN 1491	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	1,2	Keep dry.

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Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.31(a)(5)	To update the regulations by deleting the January 1, 1979 date in the third line	To revise § 173.31(a)(5) to read: (5) After December 31, 1978, each Specification 112 and 114 tank car must be equipped with shelf couplers in accordance with § 179.105-6 of this subchapter.
§ 173.31(b)(6)	To improve safety in rail transportation by requiring strict inspection of closures in tank cars and the replacement of defective packing, gaskets, bolting and threaded elements.	To amend § 173.31(b)(6) by adding the following two sentences: All closures of openings in tank cars must be inspected to the extent practical for corrosion of or damage to the gasket seating surfaces and for serviceability of packing, gaskets and hold-down bolts. All defective packing, gaskets, bolting or threaded elements must be replaced.
§ 173.60(a)(4), § 173.60(a)([illegible]), § 173.60(b)(1), § 173.60(c)(1). § 173.60(d)(1), § 173.60(d)(3), § 173.63(a)(2), § 173.63(b), § 173.63(c)(1), § 173.63(c)(2), § 173.63(d)(2), § 173.63(e)(1), § 173.64(a)(1), § 173.65(a)(1), § 173.65(b)(1), § 173.65(c)(1), § 173.65(g), § 173.65(h)(1), § 173.65(i)(1), § 173.65(j)(2), § 173.66(e)(1), § 173.68(d)(1), § 173.79(a)(1), § 173.92(a)(1), § 173.93(a)(5), § 173.93(a)(6), § 173.93(a)(8), § 173.93(a)(9), § 173.93(a)(11), § 173.93(b)(3), § 173.93(d)(3), § 173.93(e)(1), § 173.93(g)(1), § 173.94(a)(1), § 173.95(a)(1), § 173.124(a)(1), § 173.134(a)(2), § 173.135(a)(1), § 173.136(a)(1), § 173.137(a)(1), § 173.139(a)(1), § 173.139(a)(2), § 173.140(a)(1), § 173.145(a)(2), § 173.154(a)(7), § 173.157(a)(1), § 173.158(a)(1), § 173.161(a)(1), § 173.164(a)(3), § 173.176(d)(1), § 173.177(a)(2), § 173.184(a)(2), § 173.188(a)(1), § 173.189(a)(1), § 173.190(a)(1), § 173.190(c)(1), § 173.191(a)(1), § 173.193(a)(1), § 173.195(a)(1), § 173.195(b)(2), § 173.201(a)(2), § 173.202(a)(1), § 173.203(a)(1), § 173.206(b)(1), § 173.206(e)(1), § 173.207(a)(1), § 173.207(b)(1), § 173.208(a)(1), § 173.208(b)(1), § 173.214(a)(1), § 173.214(c)(1), § 173.225(a)(1), § 173.226(a)(1), § 173.230(a)(4), § 173.231(a)(1), § 173.233(a)(1), § 173.251(b)(1), § 173.252(a)(1), § 173.253(a)(1), § 173.276(a)(2), § 173.277(a)(1), § 173.280(a)(1), § 173.281(a)(1), § 173.288(a)(1), § 173.293(a)(1), § 173.329(a)(2), § 173.331(a), § 173.331(a)(1).	To expand the use of DOT Specification 19B (§ 178.191) wooden boxes. At the present time, DOT Specification 15A (§ 178.168) wooden boxes and 19B are both authorized in 79 paragraphs in Parts 173. Specification 15A is authorized in 88 paragraphs. This proposed change would authorize the use of Specification 19B in each of those 88 paragraphs for shipments having a maximum gross weight of 35 pounds or 150 pounds, depending on whether the box has corner posts.	To amend each of the paragraphs listed in the first column to include DOT Specification 19B wooden boxes.
§ 173.119(m)(14)	Dichlorobutene was formerly classed as a corrosive material as indicated by its reference in § 173.245a. Since Docket HM-103/112 changed the hazard class to flammable the 112A200W tank car is not authorized as the material may also be corrosive or combustible.	To revise § 173.119(m)(14) to read: (14) Specification 112A200W or 114A340W (§§ 179.100, 179.101 of this subchapter). Tank cars. Authorized only for propylene oxide except 112A200W also authorized for acrylonitrile and dichlorobutene.
§ 173.187	To change the heading of § 173.187 and the introductory text of paragraph (a) to read the same as proposed in § 172.101.	To revise the heading of § 173.187 and the introductory text of paragraph (a) to read: § 173.187 *Potassium peroxide, Potassium superoxide, Sodium peroxide or Sodium superoxide.* (a) Potassium peroxide, potassium superoxide, sodium peroxide or sodium superoxide must be packed in specification containers as follows: * * * * *
§ 173.206(f)	To clarify the exception for lithium batteries and to declare a device which contains a lithium battery not regulated because even when the battery decomposes in the device, no hazardous materials are released. If no hazard is created by the device, there is little or no basis for the device, to be regulated.	To revise § 173.206(f) and add paragraph (g) to read: (f) Lithium batteries comprised of one or more cells are not subject to the requirements of this subchapter, if they meet the following requirements: (1) Each cell may contain no more than 0.5 gram of lithium or lithium alloy. (2) Each battery may contain an aggregate quantity of no more than 1 gram of lithium or lithium alloy. (3) Each cell must be hermetically sealed. (4) Cells must be seperated so as to prevent short circuits. (5) Batteries must be packed in strong outside packagings except when installed in electronic devices. (6) If a battery contains more than 0.5 gram of lithium or lithium alloy, it may not contain a liquid or gas that is a hazardous material according to this subchapter unless the liquid or gas, if free, would be completely absorbed or neutralized by other materials in the battery. (g) Devices containing lithium batteries comprised of one or more cells which have been tested and shown to completely contain all gases and other products of decomposition when the batteries are deliberately short circuited through a resistance of not more than 0.1 ohm are not subject to any other requirement of this subchapter.

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Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.225(a)	To delete phosphorus pentasulfide from paragraph (a) because it is specifically listed in paragraph (b).	To revise the introductory text of § 173.225(a) to read: (a) Phosphorus trisulfide, phosphorus sesquisulfide and phosphorus heptasulfide must be packaged as follows:
§ 173.225(b)(2) and Note 1	To update paragraph (b)(2) by deleting the reference to Note 1. Also, Note 1 would be deleted.	In § 173.225(b)(2), Note 1 is removed.
§ 173.245(a)(36)	To authorize the transportation of ammonium hydroxide containing no more then than 26 percent ammonia in cargo tanks and portable tanks having a capacity of 3,000 gallons or less and in all of the DOT specification cargo tanks listed in § 173.33(b). All portable tanks and cargo tanks must be made from aluminum or steel.	To amend § 173.245(a) by adding paragraph (38) to read: (38) For ammonium hydroxide containing no more than 26 percent ammonia, any specification cargo tank listed in § 173.33(b) or any non-specification cargo tank or portable tank having a capacity of 3,000 gallons or less. Tanks must be made from aluminum or steel.
§ 173.302(a)(2)	To extend the maximum service life of DOT Specification 3HT cylinders in § 173.302(a)(2) to read 24 years instead of 15 years. In § 173.34(e)(13)(iii) the DOT-3HT cylinder must be condemned at the termination of a 24-year period following the date of the original test or after 4,380 pressurizations, whichever occurs first.	To amend the first sentence of § 173.302(a)(2) to read: (2) Specification 3HT (§ 178.44 of this subchapter) cylinder for aircraft use only, having a maximum service life of 24 years.
§ 173.304(a)(2) Note 7 of Table	To extend the maximum service life from 15 years to 24 years as proposed in § 173.302(a)(2).	To amend Note 7 of § 173.304 to read 24 years instead of 15 years.
§ 173.315(m)	To eliminate the need for shipping papers for vehicles transporting anhydrous ammonia in nurse tanks by a private carrier from the loading facility to the farm customer. In view of the controlled conditions under which the nurse tanks are operated and the limited amount of time during the year that the farmer has to apply the anhydrous ammonia to the soil, the need for shipping papers under these circumstances is not warranted.	To add paragraph (7) to § 173.315(m) to read: (7) Is operated in conformance with the requirements of Part 172 of this subchapter except that shipping papers are not required.
§ 173.345(a)(1)	To authorize the use of additional outside packages for the shipment of limited quantities of Poison B liquids.	To revise § 173.345(a)(1) to read: (1) In glass packagings not over 1-quart capacity each, or in metal containers or polyethylene bottles not over 1-gallon capacity each, packed in outside steel, or wooden boxes, barrels, or drums.
§ 173.500(b)(2)	Docket HM-148 deleted the "W" notation from the ORM-A and ORM-B, n.o.s. entries in § 172.101. However, the reference to vessel was not deleted from the ORM definition section.	To revise the introductory text of § 173.500(b)(2) to read: (2) An ORM-B material is a material (including a solid when wet with water) capable of causing significant damage to a transport vehicle from leakage during transportation. Materials meeting one or both of the following criteria are ORM-B materials:
Paragraph (8) of Appendix A, Part 173	To clarify how many of the six rabbits tested must show irreversible tissue destruction to require that the material under test be classed as corrosive. Based on reports from testing laboratories under contract to DOT and on conversations with shippers who do their own corrosion testing, the answer is two rabbits. Using a criterion of one rabbit could give misleading results of possible individual variations among the animals undergoing tests.	To amend the first sentence of paragraph 8, Appendix A, Part 173 to read: 8. Corrosion will be considered to have resulted if the substances in contact with the rabbit skin has caused destruction or irreversible alteration of the tissue on at least two out of each six rabbits tested.
§ 175.10(a)(12)	At present, the provisions of Subchapter C of 49 CFR do not apply, under specified conditions, to the shipment of hazardous materials which are loaded and carried on or in cargo aircraft only and which are to be dispensed or expended during flight for weather control, forest preservation and protection, or avalanche control. There is a definite need to expand this paragraph (8) to include "flood control", in order to break up ice jams and to avoid unnecessary flooding.	To amend the introductory text of § 175.10(a)(12) to include "flood control".
§ 178.245-6(a), § 178.251-7(a), § 178.255-14(a).	To standardize the minimum marking requirements on DOT Specifications 51, 56, 57, and 60 portable tanks with those of the IMCO Dangerous Goods Code which requires the markings to be at least ⅛ inch high for IMCO Types 1 and 2 portable tanks. Also it is anticipated that the proposed amendments of § 178.270-14(a) of Docket HM-167; Notice No. 78-12 (43 FR 58050) will be changed from ¼ inch high to ⅛ inch high.	To amend §§ 178.2456-(a), 178.251-7(a) and 178.255-14(a) by changing the size of the marking requirements from at least ⅝ inch high to at least ⅛ inch high.
§ 179.102-1	To authorize the use of stainless steel anchor legs as well as carbon steel. The reasons are: 1. The thermal conductivity of Type 304 or 316 stainless steel is approximately one-third of carbon steel; the anchor rivets to the center sill may be exposed for inspection at rail interchange points or shipper plants and easily replaced. Steel anchors have the rivets enclosed in insulation and flashing to reduce heat input. 2. Mechanical properties are comparable to ASTM A-516. 3. Experience has been good on eight HCL 105A600W tank cars with Type 304 stainless steel anchors constructed in 1969. 4. These materials should be exempt from impact tests, since they have excellent impact properties at temperatures well below minus 50° F.	To amend § 179.102-1 by adding the following sentence: As an alternate, anchor legs may be fabricated of stainless steel ASTM A-240, Types 304, 304L, 316, or, 316L, in which case impact tests are not required.
§ 179.102-1(a)(6) and § 179.102-4(a)(4)	The Association of American Railroads has pointed out that this weld cannot be X-rayed because of its location, but may be magnafluxed to determine if welds are free from cracks and other detrimental defects.	To amend § 179.102-1(a)(6) and § 179.102-4(a)(4) by adding the following sentence: Tank anchor to tank shell fillet welds must be examined by a suitable non-destructive testing method to insure that welds are free from cracks and other detrimental weld defects.
§ 179.200-7(d) Table, § 179.220-7(d) Table	The AAR Committee on Tank Cars no longer feels that ASTM A240-70 Type 430A steel is suitable for tank shell fabrication and should be removed from the approved list.	To delete the reference to Type 430A steel in § 179.200-7(d) and 179.220-7(d).
§ 179.200-14(c)	Experience has shown that tank cars which have flued-type domes have performed satisfactorily. Experience with tank cars that do not have a flued-type opening has shown a need for reinforcement in the dome.	To revise § 179.200-14(c) to read: (c) The opening in the tank shell within the dome shall be at least 20 inches in diameter. When the opening in the tank shell exceeds 30 inches in diameter, the opening shall be reinforced in an approved manner. This additional reinforcement may be accomplished by the use of a dome opening of the flued-type as shown in Appendix E, Figure E10C of the AAR Specification for Tank Cars or by the use of reinforcing as outlined in Appendix E, E3.04 and Figures E10K and E10L. When the opening in the tank shell is less than the inside diameter of the dome, and the dome pocket is not closed off in an approved manner, dome pocket drain holes shall be provided in the tank shell with nipples projecting inside the tank at least 1 inch.
§ 179.220-15(b)	To provide less exposure in the loading of flammable liquids in DOT Specification 115 tank cars, to the hazards incipient in the accumulation of static electrical charge. In the transportation of flammable liquids in DOT Specification 115 tank cars, the design of the car necessitates a thermal isolation between the inner container and the outer shell. Because of this thermal isolation, it is also possible that the containers may be isolated electrically.	To amend § 179.220-15(b) by adding the following sentence: The inner container and outer shell must be permanently bonded to each other electrically either by the support system used, piping, or by a separate electrical connection of approved design.

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(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53 App. A to Part 1, and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12221 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C., on December 19, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-299 Filed 1-7-81; 8:45 am]

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49 CFR Part 195

[Notice 4; Docket PS-53]

Transportation of Liquids by Pipeline; Valve Spacing on Pipelines Carrying Highly Volatile Liquids

AGENCY: Materials Transportation Bureau.

ACTION: Withdrawal of proposals to require remotely controlled valves on pipelines transporting highly volatile liquids (HVL).

SUMMARY: In an effort to reduce the effects of HVL pipeline accidents, a notice of proposed rulemaking (43 FR 39402) was published on September 5, 1978, proposing a requirement to install remotely controlled, closely spaced valves on new pipelines and certain existing pipelines. An amended notice of proposed rulemaking (44 FR 53187) was published on September 13, 1979, proposing two alternative schemes to locate valves on HVL pipelines. A public hearing was held on this matter on December 12, 1979.

Based on the information gained through these proceedings and its own analysis and evaluation of that information, the MTB has concluded that remotely controlled, closely spaced valves are not an effective means to reduce the effects of HVL pipeline ruptures. Therefore, the proposals to install valves on HVL pipelines are being withdrawn.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION:

Development of Notice 1

Notice 1, Docket No. PS-53, "Valve Spacing on Pipelines Carrying Highly Volatile Liquids", was published on September 5, 1978, proposing requirements to install closely spaced, remotely controlled valves on HVL pipelines. This proposal was prompted by statistics which illustrate HVL spills to be more hazardous than spills of other liquids. The record of pipeline accidents report to the MTB on Form 7000-1 for the 12-year period from 1968 through 1979 shows that although HVL pipeline accidents comprise only 12 percent (421) of the 3,603 reported accidents involving liquid pipelines, the HVL accidents caused 69 percent of the deaths (47 of 68) and 52 percent of the injuries (88 of 168)—an average of four deaths and seven injuries per year.

The notion of installing closely spaced, remotely controlled valves to decrease the amount of HVL spilled and thereby reduce the accident effects was supported by the following:

(1) A National Transportation Safety Board (NTSB) study (PSS-71-1) which states on page 19: "A large proportion of the losses in the accidents was due to the inability or failure to shut down rapidly not to the original failure * * * By reducing the time to shut down a failed pipeline system to minimize the loss of material, the hazardous effects to the public, to persons working near the pipeline and to property can be minimized or eliminated * * *"

(2) A Department of Transportation study performed by Mechanics Research, Inc. (DOT-AS-30008) which states in paragraph 5.3.1.3 " * * * it is obvious that the use of remotely controlled valves could drastically reduce the amount of product loss compared to the use of manual valves." And in paragraph 5.2.3.1.2: "Strong correlations were found to exist between accident effects (the number of fatalities, the number of injuries, and the amount of property damage) and the amount of product discharge."

(3) A Department of Transportation study prepared by the Columbus Laboratories (DOT/OPSO-75/06) which states on page 93: "The time to isolate a pump station and/or shut down the pipeline system varies with the degree of automatic controls * * * The fact that a majority of block valves must be manually closed indicates a very long time lag in closing off a section of damaged pipeline * * * One remedy would be to install remote control operators on the block valves. This is only a partial solution however, since the spacing of the valves is also a factor."

(4) The American National Standards Institute (ANSI) B31.4 Code "Liquid Petroleum Transportation Piping Systems" which requires remotely controlled valves at 7.5 mile maximum spacing in industrial, commercial, or residential areas on HVL pipelines.

Response to Notice 1

Sixteen commenters responded to Notice 1. There was a great disparity of conflicting views in the response to the notice. Some commenters totally rejected the idea of installing valves. Others recommended installing valves only at pump stations and terminals. Still others recommended adopting the valve spacing requirements of Part 192 for gas transmission pipelines or some variation thereof. Few of the recommendations were well supported with information demonstrating how the recommendation would be effective.

Development of Notice 3

In view of the disparity of views and the general lack of supporting information, an amended notice of proposed rulemaking (Notice 3) was published on September 13, 1979, seeking further information and proposing two alternative schemes for valve spacing. The first alternative would have applied a class location concept and valve spacing requirements similar to the requirements of Part 192 for new HVL pipelines and for HVL pipelines which are relocated, replaced, or otherwise changed. The second alternative would have required installation of remotely controlled valves from attended locations on both new and existing HVL pipelines to permit isolation of pipeline segments from pump station to pump station and from pump station to terminal. The amended notice of proposed rulemaking also gave notice of a public hearing to give interested persons ample opportunity to furnish further supporting information.

Results of Public Hearing

A public hearing was held on December 12, 1979. Spokesmen for the NTSB, the American Petroleum Institute (API), and the ANSI B31.4 subcommittee presented arguments for and against the effectiveness and adoption of the amended proposed rule as follows:

The NTSB recommended that valve spacing based on population density (first alternative) be adopted arguing that only this scheme is consistent with the findings of the NTSB study and the MRI sudy as well as the requirements of the B31.4 Code, all of which are cited above as support for the original position that remotely controlled valves could be an effective means to limit the effects of an HVL pipeline rupture.

The API argued that other paragraphs in the cited studies cast doubt on the cost-effectiveness of any scheme involving closely spaced valves and quoted portions of these studies supporting this view. The API argued that since compliance with the B31.4 Code is optional, the designer is free to comply with portions of the B31.4 Code where compliance is cost-effective, and contrasted this type of cost-effective application of a portion of the code to a rigid requirement of Part 195 to install closely spaced valves in all pipelines regardless of whether the requirement is cost-effective. The API cited a study submitted by API in response to Notice 1 which concluded that installing remotely controlled valves every 7.5 miles on existing HVL pipelines would cost $160 million with the costs outweighing the benefits by a ratio of forty to one and argued that the same ratio of costs to benefits would hold for new HVL pipelines as well. However, the API did continue to support the second alternative which would require remotely controlled valves at pump stations and terminals as it had supported in response to Notice 1. The API stated that an engineering study concerning the effectiveness of the two alternatives given in Notice 3 together with the respective costs and benefits would be submitted as formal comments when these studies were completed.

The ANSI B31.4 subcommittee representative presented engineering computations which demonstrated that an ordinary HVL leak would create a hazardous area extending 400–500 feet from the leak site (depending on wind and terrain) usually within 20 minutes from the time of rupture and the hazardous area would tend to stabilize at this distance so long as the spill continued at a constant rate. The B31.4 representative argued that the leak cannot be detected, pumps shut down, and valves closed quickly enough to preclude the formulation of a hazardous vapor cloud or reduce the size of the hazardous area; hence, valves will not substantially affect the resulting risk of explosion. Although closely spaced valves will not prevent or reduce the magnitude of the hazard, closing such valves can reduce the time the hazard is present, according to a B31.4 committee spokesman. The reason the B31.4 Code requires closely spaced valves in industrial, commercial, and residential areas is to reduce the duration of the hazard and facilitate pipeline repair, according to the spokesman.

Response to Notice 3

Twelve commenters submitted comments to the docket in response to Notice 3. Among these were the NTSB, API, and ANSI B31.4 subcommittee all of whom commented at the public hearing.

One industry commenter, the NTSB, and the Iowa State Commerce Commission argued that valves are an effective means to limit the hazard created by an HVL spill. However, none of these commenters gave computations or demonstrated why valves would be effective.

Six industry commenters, the API, and the ANSI B31.4 committee argued that valves are not an effective means to limit the hazard created by an HVL spill. The ANSI B31.4 subcommittee presented an engineering study which demonstrated that (1) a hazardous vapor cloud will form shortly after a spill occurs, and (2) this hazardous vapor cloud will not continue to increase in size, but will soon stabilize at its maximum size. The study goes on to demonstrate that valve spacing will not affect the size of the hazardous vapor cloud and, hence, will not affect the potential accident effects, but will only affect the time the hazard exists. Since a vapor cloud is usually ignited shortly after pipeline rupture, the study shows that valve spacing has little if any effect on the risk presented by an HVL pipeline rupture and release.

The API submitted an engineering study concerning the effectiveness of valve spacing and an economic study concerning the costs and benefits of the two alternatives given in Notice 3.

The engineering study included an analytical model for predicting the flow rate from a ruptured HVL pipeline and the associated downwind flammable boundaries together with the results of its application to 32 separate pipeline rupture situations. The variables considered were the distance between pipeline isolation valves, pump shutdown time, isolation valve closure time, pumping rates, and rupture configuration. The study showed that the closely spaced and remotely controlled valves cannot reduce the severity of a hazard because the addition of such valves will not decrease the downwind flammable boundary of the vapor cloud. Although closely spaced valves will cause the vapor cloud to recede faster from its maximum size, the time saved is small in the absolute sense and small compared to the rate of growth and rate of recession of the vapor cloud if the valves were not present. Consequently, closely spaced valves have no significant effect on the number of fatalities, or injuries, or the amount of property damage that might be caused by an HVL spill according to this study.

The economic study submitted by the API estimated the costs and benefits of alternative No. 1 (install valves according to a class location concept and spacing requirements similar to Part 192) and alternative No. 2 (install valves at pump stations and terminals). Cost estimates were constructed by aggregating individual carrier estimates in response to a questionnaire

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distributed by the API. The benefits were estimated by an examination of the record of past accidents to determine the effect of each alternative if the regulation had been in effect at the time of the accident. The first alternative was estimated to cost $23 million annually and would produce benefits valued at $2.2 million annually resulting in a cost benefit ratio of 10:1. The second alternative was estimated to cost $2.3 million annually with an annual benefit of $0.8 million resulting in a cost benefit ratio of 3:1.

Contrary to its recommendation to install valves at pump stations and terminals in the response to Notice 1 and at the public hearing, the API, in response to Notice 3, recommended that no additional valves be installed on HVL pipelines on the basis of the results of the engineering and economic studies.

Analysis

The studies (PSS-71-1, DOT-AS-30008, DOT/OPSO-75/06) cited in Notice 1 imply that closely spaced valves on HVL pipelines can significantly reduce the effects of an HVL accident and that the capability to remotely control these valves for faster closure will reduce the accident effects even further. Additionally, the B31.4 Code requires HVL pipelines in certain populated areas to have remotely operable valves every 7.5 miles, presumably for the purpose of reducing the potential damage of an HVL spill. However, the inference drawn from the cited studies and the B31.4 Code that remotely controlled valves are an effective means to reduce the accident effects of an HVL spill is contradicted by the results of two different engineering studies prepared by the B31.4 subcommittee and the API.

The studies cited in Notice 1 were of a general nature and offered nothing in the way of specific analysis or other demonstrative evidence in support of the statements alluding to the effectiveness of remotely controlled closely spaced valves.

The B31.4 subcommittee study and the API study, on the one hand, were specifically designed to examine in detail and determine the effectiveness of valve spacing and to derive the results from computations. The engineering computations and studies presented by the B31.4 subcommittee and the API demonstrating the ineffectiveness of closely spaced valves are based on sound engineering principles and reasonable assumptions. For example, the B31.4 study bases the amount of HVL spilled on very basic and well known formulae. Further, the assumptions made in the B31.4 study, such as a 4 mph wind and the time to recognize that a leak has occurred and pumps have shut down (30 minutes) are reasonable. Similarly, in the API study, the use of a mathematical model is an often used technique to solve this problem, and, again, the assumptions made are reasonable. As a consequence, the B31.4 subcommittee study and the API study present a much more convincing argument than the other studies.

The cost/benefit study presented by the API estimates the costs and benefits of each proposal on existing pipelines. The API reviewed 269 accidents which occurred during the period 1970-1979, and eliminated from further consideration those accidents on which valves would not have made a difference in the outcome (i.e., accidents which occurred within a pump station, accidents in which the commodity was ignited before the accident was detected, accidents in which the segment of pipeline was in compliance with one or more of the proposals, etc.). Additionally, although the engineering study demonstrated that valves are not an effective means to reduce the accident effects, the API assumed that on the remaining accidents all of the deaths, injuries, and property damage would have been prevented. Estimating the benefits on this basis will give benefits as great as can reasonably be expected. Further, judging by the magnitude of the cost/benefit ratios (10:1 and 3:1), it is unlikely that making minor changes in the methodology or the assumptions would alter the end result to the point that a changed course of regulatory action would be indicated.

The MTB learned after the hearing that the B31.4 subcommittee plans to review the requirement in the B31.4 Code to install remotely controlled valves at certain locations on HVL pipelines as a result of the information developed during the hearing. It is interesting to note that an industry code might be changed in view of information developed pursuant to a regulatory proposal. Further, it is encouraging to see at work this confluence of technical and regulatory ideas between government and industry developing better pipeline safety regulations as well as industry codes.

Conclusions

The engineering studies prepared by the B31.4 subcommittee and the API demonstrate the importance of rapid leak detection and pump shutdown in reducing the hazard created by an HVL spill. A recent final rule concerning procedures for operations, maintenance, and emergencies (Docket PS-51; 44 FR 41197, July 16, 1979, and 44 FR 70164, December 6, 1979) recognized the importance of rapid leak detection and pump shutdown by requiring that pipeline operations data be monitored at attended locations and that established procedures be followed.

Heretofore, there was no study to determine the effectiveness of closely spaced valves to reduce the accident effects of an HVL spill. The studies prepared by the B31.4 subcommittee and the API clearly demonstrate that valves are not an effective means to reduce the accident effects and that a highly unfavorable cost/benefit result could be expected.

Because valves are not an effective means to reduce the accident effects of an HVL spill, the proposal to install valves along the pipeline and the proposal to install valves at pump stations and terminals as contained in Docket PS-53 are hereby withdrawn.

(Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979); 49 CFR 1.53 and Appendix A of Part 1)

Issued in Washington, D.C., on December 31, 1980.

I. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 81-472 Filed 1-7-81; 8:45 am]

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-02; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that Safety Standard No. 108 be amended to require installation of a single center, high-mounted stoplamp on passenger cars, in addition to the stoplamps presently required. The primary purpose of the amendment would be to reduce rear end collisions by providing a more effective indication to following drivers that the brake pedal in the car ahead has been depressed. The proposal is supported by test data generated under NHTSA contracts that indicate a system of this nature has the potential of significantly improving motor vehicle safety.

DATES: Comment closing date: April 10, 1981. Proposed Effective date: September 1, 1983.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket Hours 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION: Safety Standard No. 108 *Lamps, Reflective Devices and Associated Equipment* (49 CFR 571.108) presently requires passenger cars to be equipped with two stoplamps, mounted on the rear, one one each side of the vertical centerline, as far apart as practicable, and at the same height, which is not less than 15 inches, nor more than 72 inches above the road surface. Research conducted by NHTSA supports the conclusion that rear end collisions may be significantly lessened when a passenger car is equipped with an additional stop lamp, mounted on the vertical centerline of the vehicle and at a height approximately that of the eye height of a driver in a following passenger car. The reason that accidents are reduced is that the activation of the additional lamp provides a more effective indication of driver action than that of the conventional lower mounted stoplamps. As a result, following drivers are afforded an earlier opportunity to apply their own brakes or take evasive action. The notice proposes the addition of the lamp to equipment presently required on passenger cars, as well as performance requirements for the lamp.

The Safety Problem

IN 1979, there were an estimated 4,300,000 rear end collisions involving damages, injury and death (Accident Facts, 1980 edition, p. 47). It is believed that 3,315,000 of these involved passenger cars as struck vehicles. Data from NHTSA's Fatal Accident Reporting System (FARS) for the years 1975 through 1979 found a significant upward trend in the numbers of deaths occurring annually as a result of rear end collisions involving all types of vehicles, from 867 in 1975 to 1,170 in 1979. The question of how to reduce the frequency and severity of rear end collisions presents itself as one that is especially pertinent to fulfilling the statutory purpose of the National Traffic and Motor Vehicle Safety Act, "to reduce accidents involving motor vehicles and to reduce the deaths and injuries occurring in such accidents."

The proposal under discussion is the culmination of many years of NHTSA-funded research on vehicle rear lighting systems. Early findings advocated the separation of rear lamps and signals to improve recognition and response to the different functions. Research conducted in the private sector had concluded that reaction time was significantly faster when lamps were high mounted, especially at night.

Although NHTSA was encouraged by this research, the agency decided that more data was needed since the research was based on limited real world testing. Thus in 1977 NHTSA contracted for Essex Corporation to make a study and field test evaluation of rear lighting systems. The results of this study are contained in Report No. DOT-HS-803 467, "Field Test Evaluation of Rear Lighting Systems," 1978.

The purpose of this study was to determine whether one or more of three experimental rear lighting and signaling systems would result in a significant reduction in rear-end collisions under actual traffic conditions. The three experimental systems were:

1. Single center, high-mounted stoplamp system. A single center high-mounted stoplamp was provided at the approximate eye-level of a following driver. The stoplight was positioned on the vehicle's trunk just beneath the centerline of the rear window. This stop lamp was supplemental to the normal stop and turn signal lamps of the vehicle.
2. Dual high-mounted stop and turn signal lamp system. Two high-mounted stoplamps, one on each side of the trunk directly below the rear window, were provided at the approximate eye level of a following driver. These stoplamps were supplemental to the normal stop and turn signal lamps of the vehicle.
3. Functionally-separated system. The tail lamp was separated from the stop and turn functions of existing low-mounted lamps of the vehicle.

Approximately 2,100 taxicabs in the Washington, D.C. area participated in the study. Four groups of equal number were formed to evaluate the rear-end collision experience of three groups of vehicles equipped with one of the three design concepts as compared with the experience of vehicles with conventionally configured rear lamps which formed the "control" group. During the 12-month study period, the four groups accumulated nearly 60 million miles under a broad range of weather and road conditions. Drivers in the four groups had been matched for age, sex, and prior accident record. At the end of the study, the four groups had experienced a total of 1,470 accidents, of which 217 or fifteen percent involved taxicabs being struck in the rear while in operation.

The most significant finding of the study was that the taxicabs equipped with a single center, high-mounted stoplamp had less than half the rear-end collisions experienced by the control group. This reduction, which was demonstrated to be statistically reliable, was achieved whether measured in terms of absolute number or frequency of accidents or in terms of accident rate per million vehicle miles. In addition, the effectiveness of the single light high-mounted stoplamp increased during nighttime operation and also under conditions where there was almost complete certainty that the stoplamps were illuminated just before or at the time of impact. Further, of all the cabs struck in the rear, those with the center, high-mounted stoplamp had the lowest mean cost of repair by an order of magnitude. This indicated that these accidents were less severe than accidents involving vehicles with other stoplamp systems.

While the rear-end accident rate of cabs with the single center high-mounted stoplamp was impressively lower, the rear-end collision rates of the other two experimental groups were similar to that of the control group. Since all three experimental systems were fairly novel, the substantial success of only one of the systems suggests that novelty was not a significant factor in that success.

To determine whether the drivers of cabs equipped with experimental lamps drove more carefully than drivers in the control group, a comparison was made of non-rear-end accidents. The results of this comparison indicate no statistically reliable differences between either of the three experimental groups and the control group. The similarity of experience in those crash modes and the difference in rear-end crashes supports the finding in the Essex study that the supplemental single center high-mounted stop signal has the potential to dramatically reduce the occurrence of rear-end collisions on a national scale.

The Essex report recommended another field study using a broader sampling of drivers, passenger cars, and traffic conditions to validate its findings. The Allen Corporation contracted to make this validation study and the results are given in the May 1980 Report "Validation of the Reduction of Rear-End Collisions by a High-Mounted Auxiliary Stoplamp," (DOT-HS 805 360).

Accident and exposure (mileage) data were collected on approximately 5,400 passenger cars, about 2,500 of which were equipped with the single, high-mounted stoplamp. The remaining cars served as control. The vehicles were operated by seven companies of the Bell Telephone System from New England to Florida, and also in Illinois and California from January 1, 1979, through December 31, 1979. During that time, they ran a total of approximately 55 million miles.

The test group received 53 percent fewer rear-end impacts than did the control group. The difference was statistically significant beyond the .01 level of confidence. The result is in agreement with the Essex study which found a 54 percent reduction in rear-end impacts. Therefore, the agency tentatively concludes that the single high-mounted stoplamp will provide significant safety benefits beyond those now obtained from the safety lighting required by Standard No. 108.

The Essex and Allen studies used readily available aftermarket equipment for the center high-mounted stoplamps. It did not attempt to determine the ideal lamp for this purpose or the acceptable locations and tolerances for positioning the lamp and did not attempt to solve the problems that may be encountered in installing and using them. Based on known information of the lamps and systems used in these studies, however, adequate information is available to proceed with this rulemaking without delay for research to develop the optimum lamp and installation. Not specifying all of the detailed aspects of performance would afford the manufacturers latitude in developing their stoplamps and in designing their vehicles.

NHTSA is therefore proposing that passenger cars be equipped with a center high-mounted stoplamp. Manufacturers would not be precluded from equipping other types of vehicles with this lamp provided that it conforms with the proposed requirements. The lamp must be red, with a miminum effective projected luminous lens area of 4.5 square inches and must be designed to meet the requirements of SAE Recommended Practice J186a *Supplemental High Mounted Stop and Rear Turn Signal Lamps, September 1977* except that the laboratory requirements would be in accordance with SAE J575e. The current stoplamp requirements and functions would be retained. The center high-mounted stoplamp would be actuated by the brake-light switch. The lens center of the lamp would be mounted on the vertical plane including the longitudinal axis of the vehicle. The minimum separation from rear turn signal and stoplamp would be 10 inches.

Three slightly different mounting requirements are set forth in proposed S4.3.1.9. Alternatives 1 and 3 would require that the stoplamp be placed, if practicable outside the vehicle and near the botton of the rear window. If that placement is not practicable, then the lamp would be placed inside the vehicle near the bottom of the rear window. If neither of those placements is practicable, then the lamp would be placed outside the vehicle near the top of the rear window. The minimum height of the lamp would be 34 inches above the road surface in Alternative 1 and 38 inches in Alternative 3. Placement of a high-mounted rear stoplamp in a particular location would be considered "impracticable" if, for example, there were no surface suitable for mounting the stoplamp. Comment is requested on other circumstances that should be considered as establishing impracticability. Under Alternative 2, the manufacturers would have their choice of these three locations as long as the lamp is mounted not less than 34 inches and not more than 50 inches above the road surface. Under all of these alternatives, lamps mounted outside the car may be on any surface (including the trunk lid) just below the rear window. If mounted inside the rear window, the lamp must be equipped with a light shield to prevent reflections off the rear window glass from bothering the driver.

If the agency issues a final rule, it will adopt one of these alternatives of a modification of it. Comment is requested on each alternative and on the suitability of each location specified by the alternatives.

The manufacturers indicate that the minimum time required to make appreciable changes in rear lighting arrangements is two model years. This leadtime is required for design changes, tooling changes, compliance testing, procurement, and preparation for production. The proposed effective date of September 1, 1983, therefore allows time to tool the 1984 models for compliance.

Alternatives

With additional research, more nearly optimum stoplamp configurations may be developed. For the proposed design these factors may include more effective intensity, size, beamspread, and emitting characteristics (such as flashing). Other types of lamps or added functions such as deceleration signals may be desirable and should be investigated. However, to delay this rulemaking to await new improvements will result in delay of implementing requirements known to appreciably reduce accidents. Any refinements would probably further reduce rear-end collisions by only a minor amount.

Other alternatives now being investigated include radar or automatic braking and radar warning devices. Radar or automatic braking systems have been developed and may be available as optional systems. Other systems are being developed. Time will be needed to test and evaluate these systems. At least several years are likely to pass before these systems can be proved sufficiently effective, reliable, and free of problems for the agency to consider initiating rulemaking to establish a Federal standard. Further, the cost for automatic braking or radar warning would be many times the cost of the proposed stoplamps.

Potential Benefits, Costs and Other Impacts

Benefits

The Essex study found that for taxicabs in the Washington, D.C. area, the center high-mounted single-function stoplamps reduced relevant rear-end collisions by 54 percent. Similarly, the Allen study found that for telephone company passenger cars operating with these stoplamps in many areas of the country, relevant rear-end collisions were reduced by 53 percent. A relevant rear end collision is one in which a stoplamp could have affected the outcome, unlike an irrelevant collision such as occurs, for example, when a moving vehicle strikes a parked one. Thus, of the 4,300,000 rear end collisions occuring in 1979, it is believed that 3,315,000 involved passenger cars, and of these, 2,850,900 were accidents in which the stoplamps could have affected the outcome. Of the 1170 fatalities and 145,000 injuries occuring in the 4,300,000 rear end collisions, 1006 fatalities and 125,000 injuries occurred in the 2,850,900 passenger car accidents. Had all passenger cars been equipped with the center high-mounted stoplamp, a 53 percent reduction would have meant 1,511,000 less accidents, and 533 fewer fatalities. Even where accidents occur, the new system should result in slower closing speeds with concomitantly lessened injury severity.

A center high-mounted system would also reduce property damage. Data on the cost to repair damage from rear-end collisions on a national scale were not available. Both the Essex and Allen studies reported on repair costs of relevant rear-end accidents for their test fleets. The mean average repair costs for the Essex study were $317 for the control group and $194 for the single high-mounted stoplamp group. For the Allen study, these costs were $314 for the control group and $134 for the test group.

Using the Essex data, NHTSA believes that almost $480,000,000 would have been saved in 1979 in repairs on struck vehicles by the avoidance of 1,511,000 rear-end collisions. NHTSA also believes that the remaining 1,330,900 relevant rear end collisions would have been less severe with the single high-mounted stoplamp systems, for an additional savings of $165,000,000. To this NHTSA would add a figure equal to the sum of the above, representing savings occurring to the front ends of striking vehicles for accidents avoided or made less severe—in sum, a total potential benefit approaching $1,290,000,000 annually. This is a conservative estimate as the costs to repair front ends are generally much higher than rear end repair costs.

Costs

NHTSA has considered the impacts of this proposal and determined that the proposal is not significant within the meaning of E.O. 12221 and implemental Department of Transportation guidelines. A regulatory evaluation discussing those impacts has been prepared and placed in the docket. A copy of the evaluation may be obtained from the Docket Section whose address is given near the beginning of this notice.

NHTSA investigated both plastic add-on and built-in high-mounted stoplamps. One of these designs with minor modifications should be suitable for use on most models and body styles of domestic passenger cars. The design similarities between domestic and foreign cars of similar size indicate that the results of this analysis should be equally applicable to imports. Two models from each of the size classes of 1980 models were selected for specific study, one model in each class being the production volume leader. The second vehicle in each class was selected for other factors such as the difficulty of designing the vehicle for the installation of the lamp. For each model an adequate lightweight, small lens size, weather-resistant design with easy access for changing the bulb was developed. These lamps were designed for mounting at one of five positions—the panel below the rear window, the deck lid, inside the rear window, above the rear window, or center of the tailgate below the rear window on station wagons. These lamps weighed one-half pound or less and the exposed lens size was a minimum of 3½ square inches.

The estimated consumer costs ranged from $4.45 to $5.21 and included installation. The projected 1985 model year production of domestic coupes, sedans, and station wagons is 9,492,000 cars for a total high-mounted stoplamp cost of $46,703,000 or an average cost of $4.92 per car for these stoplamps. The cost figures for the proposed 4½ square inch stoplamp should be identical.

Maintenance costs vary widely by locality and method of performing the maintenance. The primary cost will be replacement of bulbs. These bulbs cost approximately $0.50 each in many stores although service stations usually charge $1.00 each. If the owner personally replaces the bulbs and flasher himself, the bulb cost would be the only routine maintenance. Service stations usually charge from $3.00 to $7.00 to change a bulb. Dealer charges were found to range from $5.00 to to $15.00. Considering the lamp life, the operating time, the bulb cost, and a labor charge of $5.40 for a bulb change, the agency estimates that the total passenger car fleet maintenance cost would be $320,000 per year or an approximate average annual cost of $0.032 per car for the high-mounted stoplamp. Stoplamps mounted on deck lids will need bulbs suitable to withstand the mechanical shock to stay within these maintenance costs.

These maintenance costs do not include replacement of lamps which are damaged. Information on frequency of damage to these lamps was not available.

Potential Environmental Impacts

NHTSA estimates that the increased fuel consumption caused by adding approximately one-half pound of weight to each car would be only .11 gallon per year. This would be a minor increase in use of fuel. The burning of this additional amount of gasoline would also be a negligible factor in air pollution. There are no other known negative environmental impacts.

§ 571.108 [Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 be amended as follows:

1. S3 would be amended to add the following new definition after "S3. *Definitions.*":

Daylight opening means the maximum unobstructed opening through the glazing surface, as defined in paragraph 2.3.12 of section E, Ground Vehicle Practice, SAE Aerospace-Automotive Drawing Standards, September 1963.

2. Table III would be revised to add after "stoplamps".

Table III.—*Required Motor Vehicle Lighting Equipment*

[All passenger cars and motorcycles, and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 in overall width]

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers * * *	Motorcycles * * *	Applicable SAE standards or recommended practices
*	*	*	*	*
Stoplamps	2 red			J586c, August 1970.
Highmounted stoplamp	1 red effective Sept. 1, 1983	Not required	Not required	J186a, September 1977.
*	*	*	*	*

3. Table IV would be revised to add after "stoplamps".

Table IV.—*Location of Required Equipment*

[All passenger cars and motorcycles, and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 in overall width]

Item	Location on	* * *	Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses		
Col. 1	Col. 2	Col. 3	Col. 4
*	*	*	*
Stoplamps	* * *	* * *	* * *
High-mounted stoplamps	On the rear, on the vertical centerline [see proposed § 4.3.1.9].	Not required	[See proposed § 4.3.1.9].

4. New paragraphs S4.1.1.13, S4.1.1.14, and S4.1.1.15 would be added to read:

S4.1.1.13 Multipurpose passenger vehicles, trucks, trailers and buses of

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less than 80 inches in overall width need not be equipped with a high-mounted stoplamp.

S4.1.1.14 Each high-mounted stoplamp shall have an effective projected luminous area not less than 4½ square inches. The signal from the lamp shall be visible through a horizontal angle from 45 degrees to the left to 45 degrees to the right. To be considered visible, the lamp shall provide an unobstructed projected illuminated area of outer lens surface of at least 2 square inches in extent, measured at an angle of 45 degrees to the longitudinal axis of the vehicle.

S4.1.1.15 Each high-mounted stoplamp shall be energized during the final 10 minutes of the vibration test specified in SAE J575e and shall continue to provide illumination upon completion of the test.

5. New paragraphs S4.3.1.8 and S4.3.1.9 would be added to read:

S4.3.1.8 Each high-mounted stoplamp shall have an edge-to-edge separation distance from a stoplamp, tail lamp or turn signal lamp not less than 10 inches when projected on a vertical plane perpendicular to the longitudinal axis of the passenger car.

Alternative 1

S4.3.1.9 Each high-mounted stoplamp shall be mounted not less than 34 inches above the road surface:

(a) If practicable, outside the passenger car with the center of the lamp within 3 inches of the outside bottom edge of the rear window daylight opening, or

(b) If compliance with paragraph (a) of this section is not practicable, inside the passenger car with the center of the lamp not more than 3 inches above the inside bottom edge of the rear window daylight opening and with means provided to minimize reflections inside the vehicle from the light upon the rear window glazing, or

(c) If compliance with neither paragraph (a) nor (b) of this section is practicable, outside the passenger car with the center of the lamp within 3 inches of the outside top edge of the rear window daylight opening.

Aternative 2

S4.3.1.9 Each high-mounted stoplamp shall be mounted inside or outside the passenger car with the center of the lamp not less than 34 inches and not more than 50 inches above the road surface, and not more than 3 inches below the bottom or above the top of the rear window daylight opening. If the lamp is mounted inside the vehicle, means shall be provided to minimize reflections inside the vehicle from the light upon the rear window glazing.

Alternative 3

S4.3.1.9 Each high-mounted stoplamp shall be mounted:

(a) If practicable, outside the passenger car with its center not less than 36 inches above the ground surface and within 3 inches of the bottom of the rear window daylight opening; or

(b) If compliance with paragraph (a) of this section is not practicable, inside the passenger car with its center as near as practicable to 38 inches above the road surface, and with means provided to minimize reflections inside the vehicle from the light upon the rear window glazing.

6. Paragraph S4.5.4 would be revised to read:

S4.5.4 The stoplamp on each vehicle, and the high-mounted stoplamp on each passenger car, shall be activated upon application of the service brakes.

7. The final clause of the first sentence of paragraph S5.1 would be revised to read:

S5.1 * * *, for high-mounted stoplamps, stoplamps, tail lamps, and turn signal lamps designed to conform to respectively, SAE Recommended Practice J186a, and SAE Standards J586c, J585d/J585e, J588e.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The engineer and lawyer primarily responsible for this proposal are Marx Elliott and Taylor Vinson.

(Secs. 103, 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on December 31, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-368 Filed 1-7-81; 8:45 am]

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49 CFR Part 571

[Docket No. 1-11; Notice 8]

Federal Motor Vehicle Safety Standards; Rear Underride Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend 49 CFR Part 571 by adding a new safety standard, entitled "Rear Underride Protection." This standard is proposed in response to a petition for rulemaking filed by the Insurance Institute for Highway Safety (IIHS). The proposed standard specifies

performance requirements for underride protective devices on most trucks and trailers that have gross vehicle weight ratings (GVWR's) greater than 10,000 pounds. The new standard would reduce the number of deaths and injuries which occur when cars and other vehicles collide with and slide under the rear ends of trucks and trailers. This would be accomplished by reducing the likelihood of underride in a way that minimizes the crash forces to which the occupants of these small vehicles are subjected.

DATES: The proposed effective date is September 1, 1983. Comments must be received on or before April 8, 1981.

ADDRESSES: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. (Docket Room hours: 7:45 a.m.–4:15 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. John Tomassoni, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Telephone: (202) 426-2242.

SUPPLEMENTARY INFORMATION:

Background

The safety standard proposed in this notice deals with the problem of rear underride, a problem that has been the concern of the Department of Transportation, the trucking industry, and the public for more than twenty years. Rear underride involves the front of a car or other small vehicle sliding under and colliding with the rear end of a truck or trailer. Underride occurs because the rear end of the struck vehicle is relatively high off the ground and there is too little structure under the rear end to resist the striking vehicle or the structure present is not strong enough to accomplish that purpose. Underride occurs to some extent in most collisions in which a passenger car crashes into a truck rear end. This kind of crash typically results in sustantial damage to the smaller vehicle and injury to the car occupants. In 1976, 500 deaths or more than one (1) percent of all traffic fatalities occurred in collisions involving a vehicle and a heavy truck rear end. Three hundred and thirty-eight (338) of these fatalities were occupants of passenger cars. Sometimes when a car underrides a truck, the rear end of the truck body crashes through the windshield and penetrates the passenger compartment of the automobile. In those cases, the underride is considered "excessive." Deaths in accidents involving excessive underride usually result from severe head and upper body injuries. It has been estimated that excessive underride occurs in 30–40 percent of the fatal accidents in which passenger cars crash into truck rear ends.

Federal attempts to deal with the problem of rear underride date back to the early 1950's. The initial effort was a regulation, 49 CFR 393.86, *Rear End Protection*, which was established by the Bureau of Motor Carriers of the Interstate Commerce Commission (now the Bureau of Motor Carrier Safety (BMCS) of the Federal Highway Administration) in 1953. This regulation, which is still in effect today, requires most heavy motor vehicles to have a rear end device designed to help prevent underride. It applies to trucks and trailers that are manufactured after December 31, 1952, and that are used in interstate commerce. The rule provides that the ground clearance of the underride guard shall not exceed 30 inches when the vehicle is empty. The device must "be located not more than 24 inches forward of the extreme rear of the vehicle." The guard must be sufficiently wide so that its ends are not more than 18 inches inboard from either side. The regulation further requires that the device "be substantially constructed and firmly attached."

The National Highway Traffic Safety Administration (NHTSA) initiated its rulemaking efforts to improve underride protection for passenger car occupants in 1967. The agency had tentatively determined that a better regulation was needed because of the continuing problem of fatalities and serious injuries occurring in accidents involving excessive underride, and because of the absence of efforts by the vehicle manufacturers generally to go sufficiently beyond the BMCS requirement. In 1969, a rule was proposed that would have required all new trucks and trailers having gross vehicle weight ratings (GVWR's) greater than 10,000 pounds to have rear end protection devices. The ground clearance of the device was not to exceed 18 inches when the vehicle was unloaded. The strength of the device was to be demonstrated by a static test of 75,000 pounds applied with a 4" x 4" test block at the center of the device and 15 inches inboard from either side. The load requirement was subsequently lowered to 50,000 pounds, to be applied with a 4" x 12" test block at any point between the outermost sides of the guard. The displacement of the device was not to exceed 15 inches from the rearmost part of the vehicle.

In 1971, after evaluating cost and accident data and reviewing all information received in response to the notices, NHTSA terminated those rulemaking efforts. The Administrator of the agency concluded that the safety benefits achievable with the particular type of underride guard then contemplated would not be commensurate with the cost of implementing the standard. The agency had estimated that the proposed rule would save 50–100 lives per year at an annual cost to the consumer of $500,000,000. Most of the implementation costs estimated by NHTSA were related to the increase in guard weight which it thought was necessary to meet the proposed requirements.

Efforts to improve underride protection resumed in 1977, after the Auto-Truck Crash Safety Hearing was held by Senator Wendell H. Ford. This hearing was the direct result of a program conducted by the Insurance Institute for Highway Safety (IIHS) in 1976. This program focused on the problem of preventing excessive underride. IIHS performed five tests in which passengers cars were crashed into the rear of a typical semi-trailer van. Two of the tests involved prototype guards developed by IIHS. These guards were essentially rigid. (A rigid guard is one that can withstand a load impact in excess of 100,000 pounds without permanently deforming.) They were lightweight and built with diagonal struts which transmitted the collision forces from the guard bumper to the airframe of the van. These tests demonstrated that high strength underride guard structures can prevent excessive underride with little additional weight.

As a result of the Oversight Hearing and of the petition for rulemaking subsequently filed by IIHS, the Department of Transportation decided to reexamine the problem of rear underride. BMCS and NHTSA jointly initiated a program to explore achieving improved rear end protection through further regulation. An advance Notice of Proposed Rulemaking (ANPRM) was issued on August 29, 1977 (42 Fed. Reg. 43414), and comments were solicited. Many comments were received from manufacturers of trucks and truck equipment, shippers, and the general public. Most of the commenters were in favor of increased underride protection. The question of what vehicles (if any) should be exempted from the guard requirement was that issue most frequently raised. Many of the commenters expressed concern about the effect of an underride devise on

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trucks or trailers equipped with hydraulic tailgates, on-off road vehicles, and other specialized units. The ground clearance and width of the guard were frequently discussed. Most commenters said that the ground clearance of the device should be in the range of 24 to 30 inches, and that the width of the guard should be the same as the width of the vehicle. Another issue that was raised repeatedly in the comments was the strength of the underride guard. Commenters suggested load limits of anywhere from 23,000 to 50,000 pounds.

As parts of this joint program, NHTSA and BMCS let contracts for two research projects. BMCS engaged the Texas Transportation Institute of Texas A&M University (TTI) to develop underride guards that are low cost but are practical and provide effective protection from underride. NHTSA engaged Dynamic Sciences, Inc. (DSI) to develop compliance test procedures. It was intended that these joint contract efforts would generate sufficient data to support a rule applicable to all non-exempt vehicles with GVWR's greater than 10,000 pounds. Vehicles moving in intrastate and interstate commerce would be affected.

The research contracts focused on preventing excessive underride primarily through use of a rigid guard having a low ground clearance. This approach was similar to that followed by IIHS in its 1976 test program. The tests performed by TTI and DSI demonstrated what the IIHS program had shown earlier: that excessive underride could be prevented with rigid guards.

However, these tests further demonstrated that rigid guards increase the deceleration forces experienced by car occupants in a crash and thus increase the risk of injury due to hazards other than underride. Restrained dummies placed in passenger cars that were crashed into the rigid guards at collision speeds of 35 mph or more experienced injury responses that are not within the ranges allowable under FMVSS No. 208. This is significant because accident statistics indicate that at present, most accidents in which a passenger car collides with a heavy vehicle rear end are survivable. Data further indicate that a majority of the fatalities which do occur take place in accidents that do not involve excessive underride.

DSI also tested a production underride device that is typical of guards currently available to and purchased by truck and trailer manufacturers in the American market ("current guards"). This guard was not able to prevent small cars from excessively underriding test trailers at collision speeds above 30 mph. In these tests, the dummies experienced injury responses that are not within the permissible limits of FMVSS No. 208. When small cars were crashed into current guards, the guards did not fail, i.e., did not permanently deform in some manner. In tests of large cars at 30 mph, underride was excessive in offset collisions but not when the collision was centric. Occupant injury responses were within the allowable limits of FMVSS No. 208 in these tests of large cars, and in all tests the guards did not fail. Occupant responses were also within the permissible ranges of Standard No. 208 when the large car was crashed into the guard at 40 mph. However, in this test underride was excessive, and the guard was permanently deformed.

In addition, the TTI program tested a hydraulic energy-absorbing guard manufactured by Quinton-Hazell Automotive Ltd. (Quinton-Hazell). (An energy-absorbing guard is one that dissipates the energy of the impact in a controlled manner.) The Quinton-Hazell device was very effective both at preventing excessive underride, reducing occupant injury responses, and reducing damage to the colliding vehicle.

TTI also conducted two tests in which passenger vehicles were crashed into a van that had no guard but whose adjustable rear wheels were set in the rearmost position. The purpose of these tests was to determine the effectiveness of rear tandems as an underride deterrent. The tests demonstrated that the rear wheels, when placed at the extreme rear of the truck or trailer, prevent excessive underride at approximately 35 mph. Further, the restrained dummies used in these tests experienced injury responses that are within the allowable limits of FMVSS No. 208.

To gain further insight into the consequences of guard design, NHTSA then performed a comparative engineering risk analysis. This analysis used a car crash simulation model to determine the relative effectiveness of different underride guards. The model, known as the Underride Crash Analysis Model (UCAM), was used to simulate the crash of an automobile into the rear end of a heavy duty commercial vehicle equipped with an underride guard. The output of UCAM was then used as input into the Risk Analysis Model (RAM). RAM computes the probability of a serious or fatal injury to restrained and unrestrained occupants under a variety of conditions which include car size, speed of the automobile, the position of the rear wheels on the truck or trailer, and occupant free travel distance. (Occupant free travel distance is the distance that an occupant travels from his or her seating position to his or her point of impact with the vehicle interior.) The algorithm used in the RAM to calculate the overall risk of injury under each set of conditions was designed to incorporate the effects of those parameters which have a significant impact on the level of injury suffered by unrestrained and restrained occupants. For unrestrained occupants, the most important parameters are the extent to which the car underrides the truck and the velocity of the occupants with respect to the compartment itself. For restrained occupants, the significant parameters are the extent of underride and the combination of the relative velocity and the level of acceleration experienced by the occupants. For a given set of conditions describing a crash, the UCAM provides the RAM with values of these parameters for the simulated occupants. The RAM then uses these values and a postulated functional relationship describing the effect of each on the risk of serious injury to compute the overall risk of serious injury to the occupants of the automobile.

This analytical procedure is explained in further detail in "Procedure for Determining the Risk of Injury to Passenger Car Occupants Involved in Rear End Collisions with Heavy Vehicles," a report prepared by Automated Science Group, Inc., "Factors Influencing the Risk of Injury in Passenger Car and Other Vehicle Collisions with Heavy Truck Rear End," by Conrad Cooke, and an SAE publication titled "An Approach to Developing Underride Guard Requirements for Improved Occupant Protection" (SAE No. 801422). These documents have been placed in the docket.

The objective of the analysis was to learn which type of guard provides the best *overall* protection for passenger car occupants. The analysis did not concentrate (as the earlier test programs had done) solely on determing which guard most effectively prevented excessive underride. The guards analyzed included rigid, energy-absorbing, moderate strength, and current guards. (A moderate strength guard is one that will permanently deform when subjected to a load of approimately 45,000 pounds.) The extent of occupant injury in truck rear end crashes in which there is no underride guard whatsoever was also analyzed. The effectiveness of each guard was analytically quantified by determining the risk of injury rated 3 or above on the

Abbreviated Injury Scale (AIS), which covers the range of injuries from serious to fatal. The results of the risk analysis showed that energy-absorbing guards provide the best overall protection for car occupants in accidents in which cars crash into the rear ends of trucks. Conventional guards presently on the market provide the least protection. Moderate strength guards, although not as good as rigid guards in reducing the risk of excessive underride, produced an overall risk of injury for both restrained and unrestrained occupants which was approximately the same as that of the rigid guard. The performance of the moderate strength guard was reasonably comparable to the energy-absorbing guard.

The Proposed Rule

In light of the IIHS, TTI, and DSI test programs and the comparative risk analysis, the agency is proposing to mandate the use of underride guards that are at least as strong as moderate strength guards. The NHTSA's objective in developing the proposed rule was to maximize overall occupant protection while minimizing cost and effect on trucking operations. The details of the rule were modeled on existing European Economic Community (EEC Directive 79/490/EEC) and Swedish regulations, which basically mandate an underride guard capable of withstanding a load of 45,000 pounds on the vertical support members combined. This harmonization of the proposed standard and European requirements is consistent with the Trade Agreements Act of 1979.

The proposed rule would apply to most trucks and trailers having GVWR's greater than 10,000 pounds, primarily to vans and platform trailers whose ground clearance at the rear of the vehicle is greater than 55 cm. As set out in paragraph S3, truck tractors, "low chassis" vehicles, and "wheels back" vehicles would be exempted. A "low chassis" vehicle is a truck or trailer having a chassis which extends behind the rearmost point on the rear tires and whose lower surface at the rear of the chassis meets the configurational requirements for underride guards that are specified in the rule. It is contemplated that vehicles such as moving vans that have low beds would be exempted by this provision. To qualify as a "wheels back" truck or trailer under the proposed rule, the rear axle must be permanently fixed and the rearmost part of the tires on that axle must be not more than 30 cm (11.8 inches) from the rear extremity of the vehicle. (The "vehicle rear extremity" is defined in the rule as the rearmost point on the vehicle that is more than 55 cm above the ground. Protrusions such as taillights, hinges, and latches are excluded from this determination.) Truck tractors, low chassis vehicles, and wheels back vehicles are exempted from the proposed requirements because the rear end structure of these vehicles is an adequate underride deterent. "Special purpose" vehicles are also exempted in paragraph S3. A "special purpose" vehicle is a truck or trailer having work-performing equipment that is located at the lower rear of the vehicle and whose function would be significantly impaired if an underride guard meeting the requirements of this standard were attached to the vehicle. Trucks or trailers equipped with well-drilling rigs or fertilizer, salt or sand spreaders are examples of special purpose vehicles. Finally, the proposed rule does not apply to pole trailers. The agency believes that requiring underride guards on such vehicles would provide little benefit to car occupants. Since the poles carried by these trailers usually overhang the back end of the vehicles for a considerable distance, the danger of underride is due not to the structure of the trailer but to the structure of the cargo.

The proposed standard sets out certain configuration requirements in paragraph S5.1. The width, height, ground clearance and longitudinal placement of the guard are specified. The ground clearance of the proposed device must not exceed 55 cm (21.65 inches) at any point along its full width.

This maximum clearance point was chosen for two reasons. First, the guard must be low enough to engage at least some part of the engine in a small car if the guard is to prevent excessive underride. The beds of most heavy trucks and trailers without guards have a ground clearance of roughly 48 inches. On virtually every passenger car on the road today, the height of the hood at the front of the vehicle in the center is between 30 and 35 inches. If the guard on an unloaded vehicle has a clearance of 30 inches, it will barely engage the hood edge of today's cars when they are not braking. This is the ground clearance of the underride device mandated by BMCS Regulation 393.86. If there is braking during the impact, a guard with a ground clearance of 23 inches will engage the engine of 50 percent of the cars on the road today. A guard with a ground clearance of 22 inches will engage the engine of virtually all of today's cars if there is no braking. Such a guard will engage the engine of most vehicles even if braking takes place.

Second, the guard clearance must be sufficiently high so that normal trucking operations such as TOFC (Trailer On Flat Car) and RO–RO (Roll On-Roll Off) are not restricted. ("Roll On-Roll Off" is a trucking operating in which trailers are driven on board a ship that is used to transport the trailers to their destination at which point the trailers are driven off.) A 15-degree departure angle is considered the minimum for trailers to clear ramps and obstacles. If the center of a vehicle's rear tandem axles are fixed more than 6.5 feet from a guard having a ground clearance considerably less than 22 inches, the vehicle will most likely have difficulty negotiating ramps.

In light of these factors, a maximum ground clearance of 21.65 inches (55 cm) was chosen. The agency believes that this clearance point adequately balances both considerations. NHTSA strongly encourages truck and trailer manufacturers to place underride guards as low as possible on a particular vehicle design. At low speed, damage to the impacting vehicle is minimized if the underride guard engages the bumper of the car. The front bumpers of automobiles are currently required to have a ground clearance of 16–20 inches.

The width of the proposed guard is specified in paragraph S5.1.1. The guard must be wide enough to ensure engagement of the colliding vehicle even if the impact is off-center. An offset collision might occur if the driver of the passenger car were attempting to take an evasive maneuver before the crash. The agency believes that the width it specifies in the proposed standard satisfies this concern. Under paragraph S5.1.1, the underride device must be wide enough that its outermost edges are within 10 cm (3.94 inches) of the outermost sides of the vehicle. This requirement must be met at a height not greater than 55 cm. By specifying the maximum height at which the width measurement can be made, the rule assures that the guard is sufficiently wide at heights that are adequate to prevent excessive underride. Because of the possibility of offset collisions, the guard would also have to be continuous across the back of the vehicle. Thus in paragraph S5.1.1, the rule requires that the device be laterally continuous at a height of 55 cm or less.

The cross sectional height of the proposed guard is set forth in paragraph S5.1.3. At any point across the full width of the device, the cross sectional height of the guard must be at least 10 cm (3.94 inches). The agency believes that this minimum size requirement will ensure that the underride device engages a significant amount of the passenger car's structure.

Paragraph S5.1.4 of the proposed standard specifies the longitudinal

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placement of the guard on the truck or trailer. For maximum protection of car occupants, the underride device should be as close to the rear of the vehicle as possible. The proposed rule dictates that the guard be placed not more than 30 cm (11.8 inches) from the rear extremity of the truck or trailer. This measurement is to be made longitudinally from the rear extremity of the vehicle to any point along the full width of the device at a height of 55 cm or less.

The strength requirements of the rule are set forth in paragraph S5.2. The standard requires that the guard as installed be capable of withstanding separately applied loads without being displaced more than a specified distance. The loads are intended to prove the integrity of the attachments and main structural members of the device. A static test is used because of cost and ease of performance. Three load values are specified in the rule. A force (P_1) of 50,000 Newtons (11,240 pounds) is to be applied to the guard at a position of 30 cm (11.8 inches) inboard from either the right or left side of the vehicle. Then P_2, a force of 50,000 Newtons, is to be applied to the lateral center of the device. These two load forces are designed to test the strength of the underride guard near its outermost edges and at its center. P_1 ensures that the device will provide adequate protection in an offset collision. P_2 will determine whether the horizontal part of the underride device is strong enough to withstand the collision and to transmit the impact's force to the vertical struts. P_3, a force of 100,000 Newtons (22,480 pounds), is to be applied at any point within a range of 35 to 50 cm (13.8 to 19.7 inches) from either side of the vehicle longitudinal axis. This force must be applied successively to either side of the guard at the same distance from the vehicle longitudinal axis. P_3 is designed to test the strength of the vertical struts. The total applied load of 45,000 pounds ensures that the guard is at least moderately strong.

When the loads are applied by the load block, the guard cannot deflect forward more than 40 cm (15.7 inches), as measured longitudinally from the extreme rear of the vehicle to the center of the load block face plane. The measurement must be made during the force application when the specified force level is reached. The maximum displacement of 40 cm permits energy-absorbing guards (such as the hydraulic Quinton-Hazell device) to be used while ensuring that the device does not deflect so far that it fails to resist underride adequately. NHTSA realizes that the proposed rule permits guards to deflect as much as 40 cm, while wheels back vehicles must have the rearmost part of the tires on the rear axle no more than 30 cm from the vehicle rear extremity. However, the agency believes that permitting the use of the energy-absorbing guards that need this extra distance to operate effectively justifies the discrepancy.

The proposed rule specifies that a new, untested guard is to be used for each test. This is the procedure that the agency will follow in performing its compliance tests. However, a manufacturer is not required to follow this procedure in determining in the exercise of due care whether his guard complies with the proposed rule. Thus, a manufacturer may test a particular underride guard more than once. However, the agency believes that in doing so the manufacturer may be subjecting his guard to requirements that are more stringent than those set out in the rule. As long as a manufacturer acts with due care, he can certify that his underride devices comply with the standard based on analytical means also. In making that analysis, the manufacturer must be certain that the design takes into account normal manufacturing variations so that his guards will comply with the standard when they are tested by the agency.

In preparing the proposed test procedure, the agency gave consideration to the techniques suggested in previous research work, the techniques used by various manufacturers, and suggestions provided by manufacturing associations. Special attention was given to the procedures employed in the EEC regulation. Some of the features of this EEC standard were found to be appropriate for the proposed rule (as evidenced by the testing and the comparative risk analysis), and they were accordingly incorporated in the regulation. These features include the magnitude of the P_3 load requirement, the geometrics of the load applications, and the guard configurational requirements. The test procedures employed in the proposed standard, however, differ from those found in the EEC rule in several important respects.

First, the EEC regulation allows the test block to articulate. The rule does not set forth any specifics about the nature of the articulation; it merely states that the articulation must be "suitable." In failing to specify the magnitude of the articulation, the location of the joint with respect to the contact surface, etc., the EEC standard fails to control significant variables in the test procedure that can have significant effects on the test results. As a result, the agency has tentatively concluded that the EEC test procedure should not be followed on this point. In the interests of simplicity, NHTSA has further tentatively concluded that the test block used in the test procedure should be prevented from articulating.

Second, the load to be applied to the center and outer edges of the horizontal member of the device was raised from approximately 5,000 pounds to 11,240 pounds. NHTSA increased the load limit because the agency believes that 5,000 pounds is an inadequate test. Finally, the EEC requirements permit the loads to be applied to be directly proportional to the GVWR of the vehicle up to a specified load value. The agency believes that direct proportionality is inappropriate, because the forces generated in collisions of passenger cars and heavy vehicles are essentially the same for all vehicles having a GVWR greater than 10,000 pounds. The EEC requirements would allow vehicles with GVWR's less than 25,000 pounds to use guard structures that have a lower load capacity than that of current guards. As a result, NHTSA has tentatively decided not to follow the EEC regulation on this point.

Alternatives to the Proposed Rule

In developing the proposed rule, several alternatives were considered and tentatively rejected. One possible alternative that was urged by IIHS was to require the use of the rigid guard. NHTSA has tentatively rejected this option for two reasons. First, while rigid guards are excellent at preventing excessive underride, they increase the deceleration forces experienced by car occupants in a crash, and thus increase the risk of injury due to hazards other than underride. As noted above, this is significant because it appears from accident statistics that most crashes of passenger cars into the rear ends of trucks and trailers do not now result in fatalities. A majority of those crashes that do result in deaths do not involve excessive underride.

Second, rigid guards that are lightweight have diagonal support members which tend to restrict rearward slider movement. (A sliding undercarriage or a slider is a mechanism that permits the rear wheels of a trailer to be positioned in various locations along the longitudinal axis of the vehicle. The slider is positioned by carriers to achieve a preferred balance between regulated maximum axle load and maneuverability as necessary.) This was true of the underride devices used by IIHS in their test program. Because restricting slider motion causes payload displacement, these rigid guards are more expensive to use. Great Dane Trailers, Inc. contends that for every foot of slider restriction, 1720 pounds of payload are displaced.

The agency has tentatively decided not to require energy-absorbing guards such as the hydraulic Quinton-Hazell device. This energy-absorbing guard is commercially available and is in service today in Europe. As evidenced by the TTI tests and the comparative risk analysis, hydraulic guards are very effective both at preventing excessive underride and at reducing occupant injury responses. Despite their apparent advantages, NHTSA will not mandate the use of energy-absorbing underride devices at this time because the agency feels that they are heavy and costly to use. Also, developing test procedures for energy-absorbing guards would require further study on the part of the agency. However, by permitting the guard to deflect as much as 40 cm during the force applications, the proposed rule allows manufacturers to put energy-absorbing guards on their vehicles if they so desire. Such guards which are able to move during normal trucking operations may be attractive to manufacturers desiring to reduce damage potential due to docking impacts and obstacle engagement. NHTSA encourages the use of energy-absorbing guards in light of their ability to mitigate injuries, as evidenced by the testing and the risk analysis.

Another possible solution to the underride problem that was considered by the agency is applying BMCS Regulation 393.86, *Rear End Protection,* to all trucks and trailers having GVWR's greater than 10,000 pounds. This option, however, was tentatively rejected for two reasons. First, as noted above, that rule permits underride guards to have a ground clearance as high as 30 inches. Guards with a clearance that high will barely engage the engine of most passenger cars in a rear end collision. Second, the BMCS regulation as written does not set forth specific, objective load requirements for underride guards. The rule requires only that "the bumpers or devices * * * be substantially constructed and firmly attached." The BMCS standard thus does not insure that all underride devices are at least minimally capable of preventing excessive underride.

In developing the proposed rule, NHTSA also considered the possibility of eliminating rear overhang by requiring back wheels to be located at the extreme rear of the vehicle. As shown in the TTI tests, the rear wheels when located in the extreme aft position provide good protection against excessive underride. Further, the restrained dummies used in these tests experiences injury responses that were within the allowable limits of FMVSS No. 208. The wheels back option also has some cost advantages. First, it negates the need for an underride guard. Second, it requires the rear wheel assembly to be permanently fixed on trucks and trailers. Vehicles so equipped are generally lower in weight and cost than vehicles equipped with a slider. Despite these advantages, the agency has tentatively decided to exempt "wheels back" vehicles from the standard instead of mandating that design for all vehicles. This would have the effect of making the use of the wheels back design an optional method of compliance. NHTSA has decided not to require the rear wheels to be fixed in the extreme aft position because such a requirement eliminates the flexibility provided by the slider. Since the wheels back design places an operational burden on the user, NHTSA has decided not to mandate its use.

One option that the agency is still considering is making the rear ends of heavy trucks and trailers more conspicuous through the use of lights, reflective tape, etc. The cost of this option is estimated at $80 to $200 per vehicle. NHTSA continues to study this option as a requirement in addition to the proposed standard.

NHTSA stresses that the requirements set forth in the proposed rule are *minimum* requirements. If adopted, truck and trailer manufacturers and owners would be able to place any type of underride guard—rigid, energy-absorbing, moderate strength, etc.—on their vehicle that meets the requirements of the rule. In light of the results of the risk analysis, however, the agency suggests that manufacturers interested in guards stronger than moderate load design consider using hydraulics or other means to absorb energy rather than merely making the guards more rigid.

Under the proposed rule, truck owners would be able to use hinged guards if they so desire. Such underride devices may enable truck operators to avoid the operational difficulties that might be caused in some situations by a standard guard. Comment is requested whether, assuming that hinged guards are permitted by the final rule, such guards could be expected to be properly positioned and secured on vehicles whenever those vehicles are used on public roads and highways.

Costs and Benefits of the Proposed Rule

The agency has analyzed the costs and benefits of the proposed rule as mandated by Executive Order No. 12221. A regulatory evaluation was done and has been placed in the public docket. Copies are available from the Docket Section at the address given above. NHTSA estimates that the proposed requirements could have prevented as many as 60 fatal injuries per year, if they had been fully implemented in the period from 1977 to 1979. An even greater number of serious injuries would have been prevented. This is the benefit anticipated for passenger car and light truck occupants. In light of the increasing number of vehicles on the road and the trend toward smaller cars, it is expected that the number of lives saved and injuries avoided in the future will be even greater. It is estimated that the proposed rule would apply to 339,000 trucks and trailers a year according to 1978 statistics. about 85% of these vehicles would carry guards presently on the market in the absence of the requirements proposed today. The aggregate cost of the guard installation is estimated at $9.890 million for heavy trucks per year and $8.840 million per year for trailers. The cost of installing the proposed device is expected to be on the average $50 more per guard than the cost of installing current guards. It is estimated that today's guards weigh approximately 60 pounds and cost the consumer about $35 per guard. It is expected that the proposed guard will weigh 100 pounds and will cost the consumer around $85. An added fuel cost of about $500,000 per year at today's fuel prices is projected for the entire fleet of about 339,000 affected vehicles. The penalty for payload displacement is calculated at $15,000 for the fleet.

The Problems Presented by Hydraulic Tailgates and Small Manufacturers

One question repeatedly raised in the comments filed in response to the ANPRM was whether mandating an underride guard would prevent truck owners from installing and using hydraulic tailgates. The agency anticipates that many vehicles with these tailgates will fall within the special purpose vehicle exemption provided in paragraph S3. However, NHTSA believes that this issue warrants further study, and encourages interested parties to file comments on this topic. The agency is particularly interested in hearing the views and reviewing the designs of manufacturers of hydraulic tailgates that are compatible with the proposed guard.

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Another issue of concern to the agency in developing the proposed rule was the problems of small manufacturers. NHTSA is aware that compliance with new safety standards can be very expensive for a manufacturer who has limited resources. The agency realizes that there may be particular concern about the ability of small manufacturers to use and certify sophisticated hydraulic or other energy-absorbing guards. NHTSA believes, however, that small manufacturers would be able to comply with the proposed rule at a reasonable cost and without the use of sophisticated guards. Underride devices that meet the proposed requirements resembling commercial guards of today can be readily designed. Such a guard can be fabricated totally from commercially available components with cut and weld procedures. Static tests as contemplated by the proposed standard would be relatively cheap and easy to perform. If a small manufacturer does not have the staff or facilities to perform the compliance tests, he could contract out the work, or simply reproduce a sample of the frame rails used on his vehicles and test that sample with his underride device. Another option for the small manufacturer would be to purchase underride guards from a component manufacturer who has already done the compliance testing, and install the devices on his vehicles in a manner instructed by the component manufacturer to ensure certification. Therefore, NHTSA believes that small manufacturers would not experience significant problems in meeting the proposed requirements. However, the agency encourages comments on this issue.

Leadtime Requirements

The proposed effective date for the rule is September 1, 1983. The agency realizes that small manufacturers and final stage assemblers will need sufficient time to develop or purchase guards that comply with the rule. NHTSA is also aware of the concerns of large manufacturers, who will need adequate time to develop guards for the variety of vehicle models they produce. However, the agency believes that a leadtime of approximately two years is sufficient because designing and producing the proposed guard requires only marginally more effort than that required to produce and install conventional guards available today. NHTSA invites comments on the proposed leadtime, but emphasizes that claims for a longer leadtime must be substantiated.

Comments

Interested persons are invited to submit comments on the proposed rule. It is requested but not required that ten (10) copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, National Highway Traffic Safety Administration, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the Docket Room at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Comments received after the closing date and too late for consideration in regard to the proposed action will be treated as suggestions for future rulemaking. NHTSA will continue after the closing date to file relevant material in the docket as it becomes available. It is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The requirements and procedures proposed in this notice may be altered in any rule that might be forthcoming, in response to comments and further agency analysis.

The engineer and attorney primarily responsible for the development of this notice are John Tomassoni and Joan M. Griffin, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 30, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

In consideration of the foregoing, it is proposed that Part 571 be amended by adding § 571.2——, *Rear Underride Protection* (49 CFR 571.2——), as set forth below:

§ 571.2—— Standard No. 2——, Rear Underride Protection.

S1. *Scope.* This standard establishes rear underride protection requirements for heavy vehicles.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and serious injuries occurring in rear underride accidents that involve heavy vehicles.

S3. *Applicability.* This standard applies to trucks and trailers that have gross vehicle weight ratings (GVWR's) greater than 10,000 pounds. It does not apply to truck tractors, pole trailers, wheels back vehicles, low chassis vehicles, or special purpose vehicles.

S4. *Definitions.*

"Low chassis vehicle" means a truck or trailer having a chassis which extends behind the rearmost point on the rear tires and whose rear lower surface meets the configurational requirements for underride guards specified in S5.1.1 and S5.1.2. The "chassis" is the load-supporting frame on a truck or trailer, exclusive of any appurtenances which might be added to accommodate cargo.

"Rear extremity" means the rearmost point on a vehicle that falls above a horizontal plane located 55 cm (21.65 inches) above the ground when the vehicle is loaded to its GVWR and when the vehicle's cargo doors, tailgate, or other permanent structures are positioned as they normally are when the vehicle is being driven. Nonstructural protrusions such as taillights, hinges and latches are excluded from the determination of the rearmost point.

"Side extremity" means the outermost point on the sides of the vehicle that falls vertically above a horizontal plane located 55 cm (21.65 inches) above the ground and horizontally between a transverse vertical plane tangent to the vehicle rear extremity and a transverse vertical plane located 30 cm (11.8 inches) forward of that plane when the vehicle is loaded to its GVWR. Nonstructural protrusions such as taillights, hinges, and latches are excluded from the determination of the outermost point.

"Special purpose vehicle" means a truck or trailer having work-performing equipment that is located at the lower rear of the vehicle and whose function would be significantly imparied if an underride guard meeting the requirements of this standard were attached to the vehicle.

"Wheels back" vehicle is a vehicle having a permanently fixed rear axle. The rearmost part of the tires on that axle is not more than 30 cm (11.8 inches) from a transverse vertical plane tangent to the rear extremity of the vehicle.

S5. *Requirements.* Each vehicle shall be equipped with an underride guard that complies with the requirements of S5.1 and S5.2.

S5.1. *Configuration* (see Figure 1).

S5.1.1. The outermost edges of the underride guard shall be located within 10 cm (3.94 inches) of longitudinal vertical planes tangent to the side extremities, when measured transversely at a height of 55 cm or less. The underride guard shall be laterally continuous at a height of 55 cm or less.

S5.1.2. The vertical distance between the lower surface of the underride guard and the ground shall not exceed 55 cm (21.65 inches) at any point along the full width of the device when the vehicle is unloaded but has its full capacity of fuel and its tires are inflated in accordance with the vehicle manufacturer's recommendations.

S5.1.3. The cross sectional height of the underride guard shall not be less than 10 cm (3.94 inches) at any point across the full width of the device.

S5.1.4. The rearmost surface of the underride guard shall be located not more than 30 cm (11.8 inches) forward of a transverse vertical plane tangent to the rear extremity of the vehicle when measured longitudinally to any point across the full width of the underride guard at a height of 55 cm or less.

S5.2. *Strength.* When the underride guard of the vehicle is subjected to any of the force levels specified in S6.6(a) Test 1 and S6.6(b) Test 2 in accordance with the procedures and conditions specified in S6, the guard should not deflect so as to permit the center point on the contact surface of the test block specified in S6.5 to travel longitudinally forward more than 40 cm (15.7 inches) from the rear extremity of the vehicle.

S6. *Test conditions and procedures.*

S6.1. The vehicle is unloaded but has its maximum capacities of engine fuel, oil and coolant.

S6.2. The tires are inflated in accordance with the vehicle manufacturer's recommendations.

S6.3 The vehicle is placed on level ground.

S6.4. Restrain the vehicle so that it remains in place during the tests. No restraints are placed on the vehicle rearward of the centerline of the rearmost axle. The methods used to restrain the vehicle do not impair the movement of the underride guard or the test block specified in S6.5 during the testing.

S6.5. The test block used for determining compliance with S5.2 is a rectangular solid made of rigid steel. It is 20 cm (7.9 inches) ±1 mm in height and 20 cm (7.9 inches) ±1 mm in width. One of the 20 cm by 20 cm ends of the block is used as the contact surface. Each edge of the contact surface has a radius of curvature of 5±1 mm.

S6.6. Using the test block, subject the underride guard to the tests specified in paragraphs (a) and (b) of this section, as shown in Figure 2. An underride guard that has not been subjected to either of the tests is used for each test.

(a) Test 1. Apply a force (P_1) of 50,000 Newtons (11,240 pounds) to the guard 30 cm (11.8 inches) inboard of the longitudinal vertical plane tangent to the outermost point on the sides of the vehicle (either the right or the left side), and then apply a force (P_2) of 50,000 Newtons (11,240 pounds) to the same guard where it intersects the longitudinal vertical plane passing through the vehicle longitudinal axis.

(b) Test 2. Apply a force (P_3) of 100,000 Newtons (22,480 pounds) to the guard at any point not less than 35 cm (13.8 inches) and not more than 50 cm (19.7 inches) to the left of the longitudinal vertical plane passing through the vehicle longitudinal axis, and then apply the same force to the same guard at the point located at the same distance to the right of that plane.

S6.7. At the beginning of each force application, the test block is located as specified in paragraphs (a) through (c) of this section.

(a) The contact surface of the test block is touching the underride guard.

(b) The center point of the contact surface is located:

(1) In the same longitudinal plane as the point specified in S6.6; and

(2) In the horizontal plane which is tangent to the lowest point on the underride guard in the longitudinal vertical plane specified in paragraph (b)(1) of this section.

(c) The longitudinal axis of the test block and of the mechanism which propels the test block are parallel to the vehicle longitudinal axis.

S6.8. Each of the forces specified in S6.6 is reached in not less than one minute and not more than two minutes by increasing the application of force at a constant rate.

S6.9. During each force application, the longitudinal axis of the test block and the mechanism which propels the test block remain parallel to the vehicle longitudinal axis and at the same distance from that axis and the ground as at the beginning of the force application.

S6.9. When the force specified in S6.6 is initially reached, measure the distance which the center point of the test block contact surface has traveled longitudinally forward from the rear extremity of the vehicle.

BILLING CODE 4910-59-M

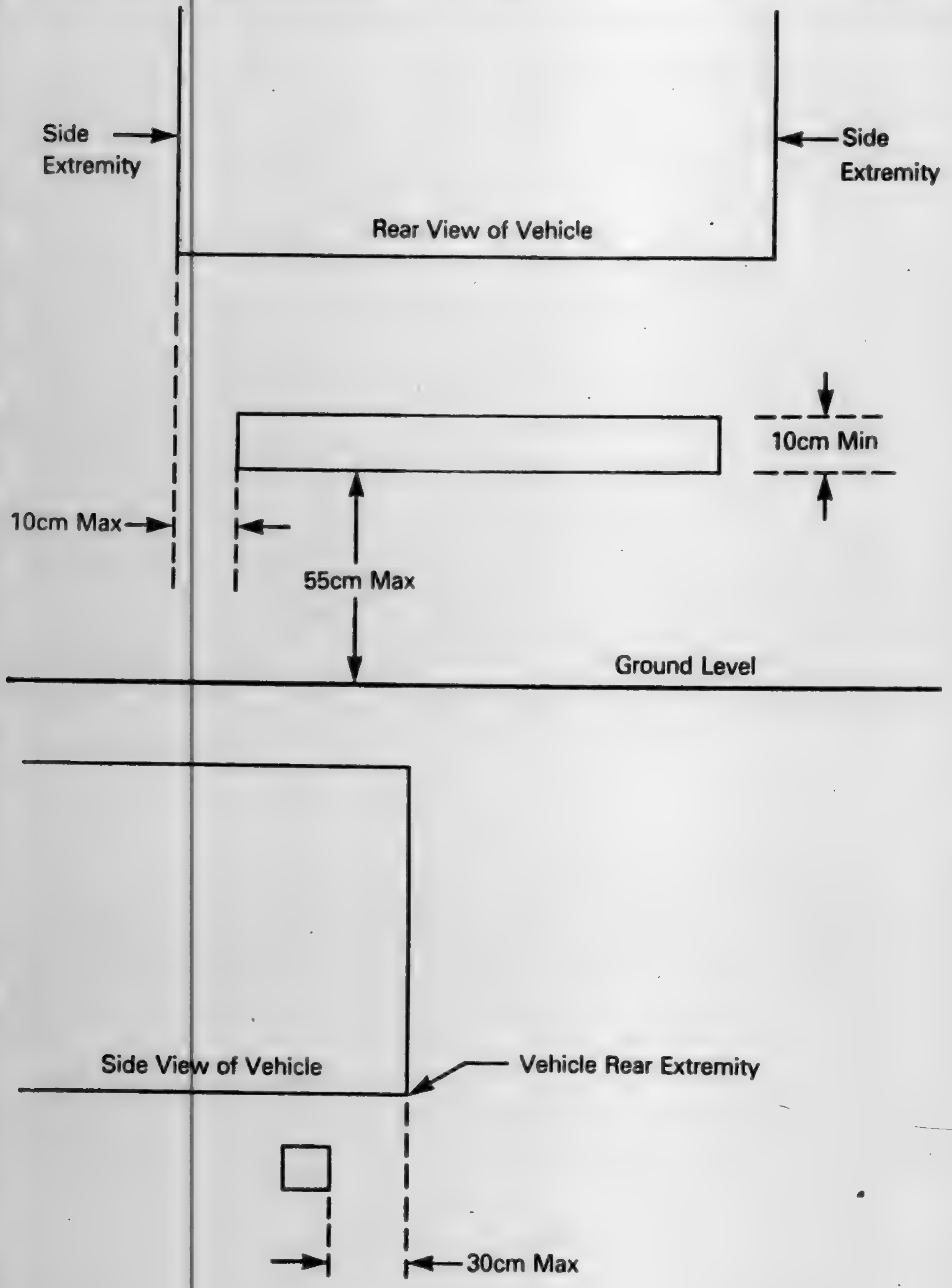
Side Extremity
Side Extremity
Rear View of Vehicle
10cm Min
10cm Max
55cm Max
Ground Level
Side View of Vehicle
Vehicle Rear Extremity
30cm Max

Figure 1
Configuration Requirements

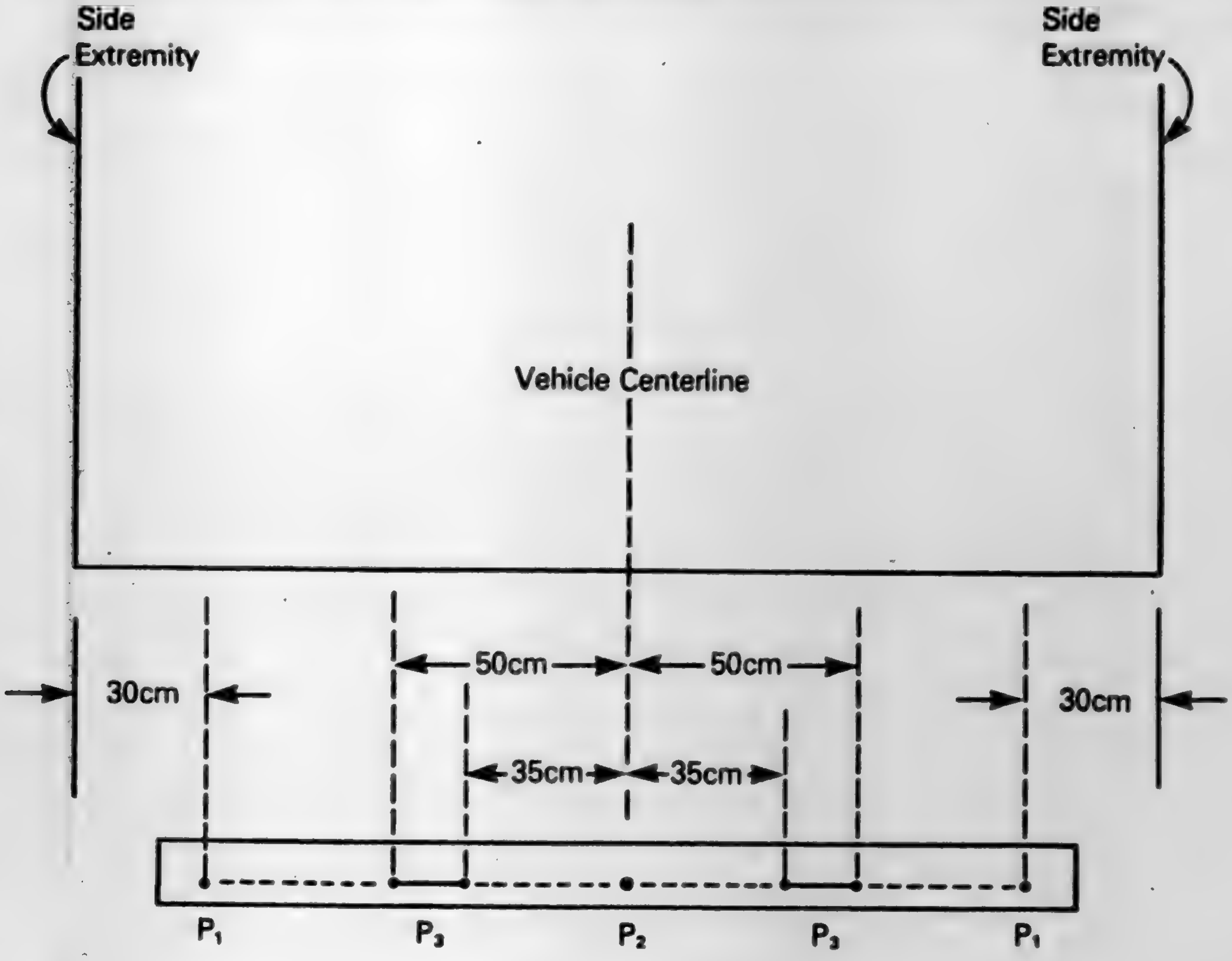
Side Extremity
Side Extremity
Vehicle Centerline
30cm
50cm
50cm
30cm
35cm
35cm
P_1
P_3
P_2
P_3
P_1

Figure 2
Performance Requirements

[FR Doc. 80-40847 Filed 12-31-80; 2:45 pm]
BILLING CODE 4910-60-C

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201 and 1241

[No. 37090]

Accounting and Reporting of Railroads' Freight Train Car Repair Costs

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is reopening a rulemaking proceeding to consider establishing criteria for accumulating, recording, and reporting the costs of repairing freight train cars. The initial Notice of Proposed Rulemaking (45 FR 57153–57159) was suspended because of pending legislation (45 FR 65641), which has now been resolved. The objective is to assure more accuracy and uniformity of repair cost information by car types. The proposed criteria require that freight car repair costs be directly identified with the types of equipment repaired. Two levels of repair costs processing are presented, and railroads may choose the more appropriate methodology. Railroad equipment repair cost information is potentially usefull to shippers and to the Commission in establishing car service compensation rates and in analyzing freight rates. Railroads would potentially benefit from improved data by having information to control and manage repair costs.

DATES: Persons interested in participating in this proceeding shall file comments within 45 days from the date this proceeding is served. If the proposed rules are adopted, they would be efffective January 1, 1982.

ADDRESS: An original and 10 copies, if possible, should be sent to: Office of Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Telephone No. (202) 275–7448.

SUPPLEMENTARY INFORMATION: The objective of this proceeding is to develop criteria for Class I railroads in collecting and reporting costs of freight train car repairs. A significant feature of this proposal is that repair costs for both foreign and system freight cars will be directly identified with each type of car that is repaired.

For purposes of this proceeding, freight train cars are divided by the car types listed in Schedule 415 of the Railroads' Annual Report Form R–1 (Form R–1).

Section 11122 of the Interstate Commerce Act, 49 U.S.C. 11122, establishes the basis for this proceeding. Under that section the Commission may establish compensation for the use of locomotives, freight train cars, and other vehicles. Subparagraph (b)(1) of Section 11122 states: "The rate of compensation to be paid for each type of freight car shall be determined by the expenses of owning and maintaining that type of freight car, including fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor.

Repair cost data by car types is potentially useful to the Commission for computing per diem (car-hire) rates for railroad-owned cars and intechange services (see our decision in Ex Parte No. 334, *Car Compensation—Basic Per Diem Charges).* Also, in our cost finding process, we want to determine as precisely as possible the cost of moving freight with a particular type of equipment.

Accurate repair cost data is also of potential benefit to shippers in establishing and analyzing freight rates. This is especially significant now because the Staggers Rail Act of 1980 promotes individual rate increases and the direct negotiation between rail carriers and shipper. Refined cost data would provide assurances that shippers will be charged a justifiable and equitable rate for freight movements. Because freight train cars are irreplaceable components in the rail transportation system, we believe that an effective and accountable methodology for accumulating, accounting for, and reporting their repair costs is equally important and should not be disregarded.

Schedule 415 of Form R–1 requires railroads to report repair costs by types of freight train cars. However, the instructions for this schedule lack criteria as to what costs should be directly accumulated by car types, and what costs can be allocated. The instructions allow alternatives, including "a carrier conducted study to determine car repair expenses by car types" and "other available standards valid for the responding carrier." Thus, the cost data is probably reported under diverse methods. Because the schedule does not require reporting railroads to explain the methods used in allocating costs, the validity and accuracy of the data cannot be evaluated.

A. Proposal

We have proposed adding new instructions to the Uniform System of Accounts for Railroad Companies to provide the following guidelines for accumulating, recording, and reporting the repair costs for foreign and system freight train cars.

For purposes of this proceeding, system cars are those freight train cars recorded in the reporting railroad's primary account 53, Freight-train cars, and those freight train cars held by the reporting road under operating lease arrangements. Other freight train cars are to be considered foreign cars.

Level I: Roads Employing a Job Order Cost System

Railroads employing a job order cost system will use this method for reporting actual repair costs by car types. A job order costs system is a system of applying actual and/or standard costs to a specific job in proportion to the amount of materials, attention, and effort used to repair a unit or group of equipment. This is the preferable and most accurate method of matching repair costs with the unit repaired. Its use is encouraged but not required.

Standard costs may be used and shall recognize the differences in performing repairs on various types of freight train cars, and the differences related to specific repair facilities. Standard costs shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to arrive at the repair costs reflected in the annual reports to the Commission.

Level II: Alternative Repair Costing Methodology

An alternative freight train car repair cost methodology is proposed which is based on a systematic allocation of the total direct repair cost amounts to the related car types for both system and foreign cars. The following steps comprise this methodology:

(1) Repair costs relating to the equipment repair process shall be recorded in accordance with regulations and account texts prescribed in 49 CFR 1201, Uniform System of Accounts for Railroad Companies (see Appendix C);

(2) Standard costs may be used and shall recognize the differences in performing repairs on various car types, and the differences related to specific repair facilities. Standard costs shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to arrive at the repair costs

reflected in the annual reports to the Commission;

(3) Direct costs relating to repairing system cars shall be separated from those applying to the repair of foreign line cars. This allocation of repair costs shall be based on a railroad conducted study which shall fairly reflect the nature of each road's repair operations;

(4) For system cars, the following steps are required:

(a) The repair costs relating to heavy, program or project repairs shall be directly assigned to the types of cars repaired by using actual or standard costs. A heavy repair is defined as a repair which is relatively so substantial in cost, repair time or physical damage, and management's involvement in the determination of the repair to be made is necessary and relatively greater than usual. Program or project repairs are those repairs which are performed under a predetermined plan where estimated costs, time, and types of cars to be repaired are identified;

(b) The repair costs relating to light and running repairs of system cars shall be allocated to the car types by using the Association of American Railroads' Car Repair Billing System (CRBS) as an allocation basis. The CRBS is currently in use by many railroads for repair cost billing purposes. It serves to identify the cars repaired and to relate the nature of these repairs with the applicable standard costs for the repairs. Therefore, system car repairs shall be priced under the CRBS and the resulting standard cost pools shall be used to allocate actual costs back to the equipment types;

(c) Repair costs paid to foreign roads for system cars shall be assigned to the types of equipment that were repaired. Foreign billings is a term used to describe amounts payable to foreign roads for repairs made to system cars. Foreign billings for light and running repairs are usually conducted through the CRBS, and therefore the car types are identified. For heavy off-line repairs, system's management is generally involved in the repair authorization, and therefore the repair costs can be matched with the type of cars repaired;

(d) Roads shall match any resulting expense credits with the car types to which they relate. Expense credits can occur, for example, when a road is charged with the repair of system equipment but the responsibility of the repair ultimately rests with a foreign road. Expense credits can also occur when billing errors or discrepancies are discovered;

(e) The various components of the repair cost process relating to system cars shall be accumulated and reported to the Commission by the types of equipment listed in Schedule 415 of Railroads' Annual Report Form R-1 (see Appendix B);

(5) For foreign cars, the distribution of actual repair cost shall be assigned to the car types as follows:

(a) The repair costs that are accumulated and traceable because of the magnitude of the repair job (heavy repairs) shall be assigned directly to the applicable car types.

(b) The remaining actual foreign repair costs shall be allocated by car types using the CRBS as the allocation basis (see 4-b above).

(c) Any resulting expense credits shall be matched with the car types to which they relate (e.g., credit memoranda and receipts from foreign roads).

(d) The net amount of foreign repair costs charges and credits shall be reported by car types in Schedule 415 of the R-1. (see Appendix B)

B. Equipment Repair Classifications

We have determined that the freight car repair process can be separated into seven repair classifications. These repair classifications, which are presented below, are for reference purposes only, but should facilitate the accounting, allocation, and reporting process.

Class(es)	Car owner	Repaired by	Responsibility
A	System	System	System.
B	Foreign	System	System.
C	System	System	Foreign.
D	Foreign	System	Foreign.
E	System	Foreign	System.
F	Foreign	Foreign	System.
G	System	Foreign	Foreign.

Classes A, C, E, and G apply to system cars, and Classes B, D, and F relate to foreign cars. Appendix D illustrates how these classifications relate to the proposed Level II methodology.

C. Discussion

The repair process methodology is proposed so that the Commission can derive more accurate information on the cost of providing rail service. Revenue equipment is one of the most important assets for producing revenues, and certainly the repair of these freight train cars is similarly significant. We are thus interested that companies report repair costs in an understandable, uniform, and comparable manner.

Under our proposal, each railroad would establish an information system which would capture actual repair costs as they occur, and centrally maintain all other relevant data for each system car. Descriptive factors such as car type, age, kind of bearings, and tare weight would be included; and repair data such as repair date, locations, repair codes, foreign or system car information, costs, and special problems encountered would also be captured along with general information and operating data. Such an information system would provide management with information on:

- The type and extent of preventive maintenance programs,
- The cost savings that could be effected by repairing cars in the most appropriate repair shops,
- The most efficient utilization of shop labor and resources,
- The appropriateness of repair standards,
- The wear patterns on repair parts and materials, and
- The life expectancy of the types of freight train cars.

This all means that under our proposal shippers would have more accurate information for determining the cost of moving freight. Additionally, shippers would be assured of having available valid data which might be used to develop measures for pinpointing efficient equipment management programs, which will certainly affect future rate determinations. Fleet characteristics and maintenance programs could be important negotiation concepts.

We believe the proposed methodology to be flexible and not overly restrictive. Some roads are moving toward the capability of directly tracing and capturing the actual repair costs by car types. These roads might prefer to report such costs using their version of a job order cost system (Level I). Other roads may use the proposed allocation methodology (Level II) which is especially adapted to utilize repair costing procedures already being used extensively. Moreover, this methodology allows management the flexibility to develop certain cost relationships within the proposed structure.

The proposed guidelines do not preclude the use of statistical sampling as a means for accumulating and allocating repair costs by equipment types. The sampling techniques used should be valid and relative to the equipment repaired for each railroad. Railroads should maintain and make available to the Commission, when requested, the basis for using the selected statistical sampling technique.

The AAR's CRBS is a repair costing system which is proven and widely accepted in the industry. The cost standards are believed to be valid and they are reviewed periodically by the industry for appropriateness. The CRBS enables users to reference which cars were repaired, and therefore, car type data can be amassed.

The proposed methodology does not adopt the CRBS as a regulatory requirement that all roads must use for billing purposes. However, the CRBS is an accessible and widely used system whereby railroads can develop cost relationships for properly assigning car type cost information.

The proposed methodology should not necessarily increase the cost of accumulating and reporting repair cost information. Our study indicates that some roads might have experienced cost savings by reviewing and updating their current reporting systems. This is noted even after CRBS information is processed for system cars, and after some advanced technologies were introduced to the reporting process.

Because uniform reporting is an essential element in this proceeding, it is important that all railroads include only repair expenses in this methodology. Repair expenses are those which represent normal or delayed repair and maintenance expenses, and which are expensed in the year incurred. They are distinguishable from capital expenditures which substantially extend the service life or substantially increase the utility of depreciable property. This is covered in 49 CFR 1201, Instruction 2-11, "Units or property rebuilt or converted."

We propose to adopt the amendments set forth in the appendices to this notice. Appendix A contains the proposed new instruction. Appendix B displays the proposed revisions to Schedule 415 of the R-1. Appendix C shows the freight train car repair account conversion reference. Appendix D gives a flow diagram of the proposed Level II methodology.

D. Request for Comments

The public and the affected carriers are requested to study the proposed changes in the regulation and Form R-1, and to submit their views and comments. All recommendations that could improve our proposal will be thoroughly considered. In addition, Section 11166 of the Interstate Commerce Act as amended by Section 302 of the Staggers Rail Act of 1980 requires that our accounting regulations be "cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of * * * carriers." In view of this provision of the Staggers Act, we specifically request comments on the following points:

1. Are the proposed regulations cost effective? In addressing this question, parties should take into account the importance of the data to the Commission, in view of other regulatory changes regarding freight rates and car hire charges; the usefulness of the data to shippers; and the cost of implementing the proposed changes. Quantification of costs and benefits is requested where possible.

2. Are the proposed regulations compatible with and not duplicative of managerial efforts in this area? Are we correct in assuming that improved car repair cost accounting will lead to improved management as well as improved regulation? are managerial innovations underway in this area that differ from, or are incompatible with, our proposals?

This proposed action does not appear to affect significantly the quality of the human environment or the convseration of energy resources.

(49 U.S.C. 10321 and 11122 and 5 U.S.C. 553)

Decided: December 30, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

Appendix A—49 CFR Part 1201 Subpart A—Uniform System of Accounts for Railroad Companies

List of Instructions and Accounts

1. Under Instructions for Property accounts, the following new line item after Item 2-20, "Accounting for leases": 2-21 "Freight train car repair costing," would be added.

Instructions for Property Accounts

2. After Instruction 2-20, the following new instruction would be added:

2-21 *Freight train car repair costing.* Class I railroads shall report the costs of repairing system and foreign freight train cars by car types. For purposes of this instruction, system, freight train cars are those which are required to be recorded in primary account 53, Freight-train cars, and those freight train cars held by the reporting road under operating lease arrangements. Other freight train cars shall be considered foreign freight train cars. The following criteria shall be used in accounting for and reporting freight train car repair costs by car types:

(a) The accounting for freight train car repair costs shall agree with the applicable instructions and texts of accounts in 49 CFR 1201 relating to the equipment repair process (see Note A).

(b) Railroads may assign either actual costs, standard costs, or a combination of both to the accounting process. Standard costs, if used, shall recognize the differences in performing repairs on various types of equipment, and the differences related to specific repair facilities. Standard cost shall be based on adequate operational data which are reviewed at least annually. The resulting variances (price, efficiency, capacity, etc.) shall be reasonably allocated back to the car types to derive the amounts reported in Form R-1.

(c) Railroads shall report repair costs by the freight train car types shown in Schedule 415 of Form R-1. In assigning repair costs, railroads may use either one of the following methodologies:

Level I: Job Order Cost System

Railroads may use a job order cost system for assigning repair costs to the car types for system and foreign freight train cars. Under this methodology, railroads shall directly match direct labor and materials with the specific unit of equipment that was repaired. Actual costs, standard costs, or a combination of both may be used as stated above.

Level II: Alternative Repair Costs Methodology

Railroads not using the job order system shall report freight train car repair costs using the methodology described below:

1. Direct repair costs relating to the repair of system cars shall be separated from those applying to the repair of foreign line equipment. This allocation of the total actual repair costs amount shall be based on a study conducted by each railroad which shall fairly reflect the nature of each road's repair operations.

System Freight Train Cars (Items 2-5)

2. The repair costs relating to heavy, program, or project repairs of system cars shall be directly assigned to the car types repaired by using actual or standard costs. A heavy repair is defined as a repair that is relatively so material in cost, repair time, or physical damage, and that management's involvement in the determination of the repair to be made is necessary and relatively greater than usual. Program or project repairs are those repairs which are performed under a predetermined plan where estimated costs, time periods, and car types to be repaired are identified.

3. The repair costs relating to light and running repairs of system cars shall be allocated to the car types by using the Association of American Railroad's Car Repair Billing System (CRBS) as the allocation base. These repairs made to system cars shall be tracked using the CRBS standard costs; and, the resulting

standard cost relationships shall be used to distribute actual light and running repair cost pool to the car types.

4. Railroads shall match repair costs billed by and paid to foreign roads for repairing system equipment with the car types that were repaired. Foreign billings for light and running repairs are usually conducted through CRBS, and therefore, the car types can be identified. For heavy off-line repairs, car type identification is possible because system management is generally involved with the authorization of such heavy repairs and car identification numbers are generally included in the billing process.

5. Railroads shall match any resulting expense credits with the car types to which they relate. This can occur, for example, when a railroad is charged with the repair costs of system cars, but the responsibility of the repair ultimately rests with and is paid by a foreign road.

Foreign Freight Train Cars (Items 6–9)

6. Foreign freight train cars repair costs that are accumulated and traceable because of the magnitude of the foreign repair job (heavy repairs) shall be assigned directly to the applicable car types.

7. The remaining actual foreign repair costs shall be allocated by car types using the CRBS as the allocation basis (see 4 above).

8. Any resulting foreign expense credits shall be matched with the car types to which they relate (e.g., credit memoranda and receipts from foreign roads).

9. The net amount of foreign repair cost charges and credits shall be reported by car types in Schedule 415 of the R–1.

(d) Equipment repair cost records, including the allocation methods used, shall be maintained and made available to the Commission upon request.

Note A.—The following accounts and reference pertain to the foreign train car repair process: 11–22–42, 21–22–42, 39–22–42, 40–22–42, 41–22–42, 61–22–42.

Instruction 2–1, "Units of Property rebuilt or converted."

Appendix B—Schedule 415—Supporting Schedule: Equipment

Schedule 415, which is provided for in 49 CFR 1241.11 is amended in the following ways. As revised, items 1 through 3 of the Schedule would appear as below:

Instructions

1. Report freight expenses only.
2. Report by type of equipment all natural expenses relating to the equipment functions (salaries and wages, materials, tools, supplies, fuels and lubricants, purchased services, and general).
3. Report in Column (b) the details for the items listed in Column (a). Freight car repair expenses shall be assigned directly to the various car types on the basis of job order records whenever possible. Otherwise, car type repair costs shall be assigned as required by Instruction 2–21, "Freight Train Car Repair Costing," 49 CFR 1201.

The following line items of this schedule shall be reconciled with the line items of Schedule 410 as shown below:

Schedule 410	Schedule 415
Column (f), net of lines 221, 222, and 235.	Column (b), lines 19 and 33
Column (f), net of lines 302, 303, 304, 305, 306, 307, and 320.	Column (b), lines 27, 30, 31, 32, 34, and 35

The variance in repair amounts reported in Schedule 410 and those reported in this schedule shall be the amounts billed to others for damaged equipment, Function 48. These amounts are included on lines 235 and 320 of Schedule 410 and should be excluded from this schedule.

As a supplement, describe the major aspects of the methodology used to derive car type disclosures. Include statements on how foreign repair costs are separated from system freight train car repair costs, and describe key features of the methodology.

4. * * *
5. * * *
6. * * *
7. * * *
8. * * *
9. * * *

BILLING CODE 7035–01–M

415. SUPPORTING SCHEDULE - EQUIPMENT

Line No.	Types of Equipment (a)	Repairs (Net Expense) (b)		Depreciation (c)	Retirements (d)	Lease and Rentals (e)	Depreciatio Base (f)	Accumulated Depreciatio (g)	Depreciation Adjustment (h)
		Foreign Cars	System Cars						
	FREIGHT TRAIN CARS:								
1	Box-Plain 40 Foot								
2	Box-Plain 50 Foot and Longer								
3	Box-Equipped								
4	Gondola-Plain								
5	Gondola-Equipped								
6	Hopper-Covered								
7	Hopper-Open Top-General Service								
8	Hopper-Open Top-Special Service								
9	Regrigerator-Mechanical								
10	Refrigerator-Nonmechanical								
11	Flat TOFC/COFC								
12	Flat Multi-level								
13	Flat-General Service								
14	Flat-Other								
15	All Other Freight Cars								
16	Cabooses								
17	Auto Racks								
18	Miscellaneous Accessories								
19	TOTAL FREIGHT TRAIN CARS								
	OTHER EQUIPMENT-REVENUE FREIGHT								
	HIGHWAY EQUIPMENT								
20	Refrigerated Trailers								
21	Other Trailers								
22	Refrigerated Containers								
23	Other Containers								
24	Bogies								
25	Chasis								
26	Other Highway Equipment (Freight)								
27	TOTAL HIGHWAY EQUIPMENT								
	FLOATING EQUIPMENT-REVENUE SERVICE								
28	Marine Line Haul								
29	Local Marine								
30	TOTAL FLOATING EQUIPMENT								
	OTHER EQUIPMENT								
31	Passenger and Other Revenue Equipment (Freight Portion)								
32	Computer & Data Processing Equipment								
33	Machinery - Freight Cars								
34	Machinery - Other Equipment								
35	Work & Other Non-revenue Equipment								
36	TOTAL OTHER EQUIPMENT								
37	TOTAL ALL EQUIPMENT, FREIGHT PORTION								

BILLING CODE 7035-01-C

Appendix C.—*Repairs to Freight Train Cars*

[Old account 314]

(DR)	(CR)
11-22-42 Salaries and Wages—Freight Car Repairs.	40-22-42 Purchased Services Billed to Others for Repair of Freight Train Cars.
21-22-42 Materials Used in Repair of Freight Train Cars.	
39-22-42 Purchase Services Billed by Others for Repair of Freight Train Cars.	41-22-42 Other Purchase Services Credits, Repair and Maintenance of Freight Train Cars.
41-22-42 Other Purchased Services Charges, Repair and Maintenance of Freight Train Cars.	
61-22-42 Other Expense Charges, Repair and Maintenance of Freight Train Cars.	

BILLING CODE 7035-01-M

APPENDIX D

THE FLOW OF FREIGHT TRAIN CAR REPAIR CHARGES & CREDITS

LEVEL II ALLOCATION METHODOLOGY

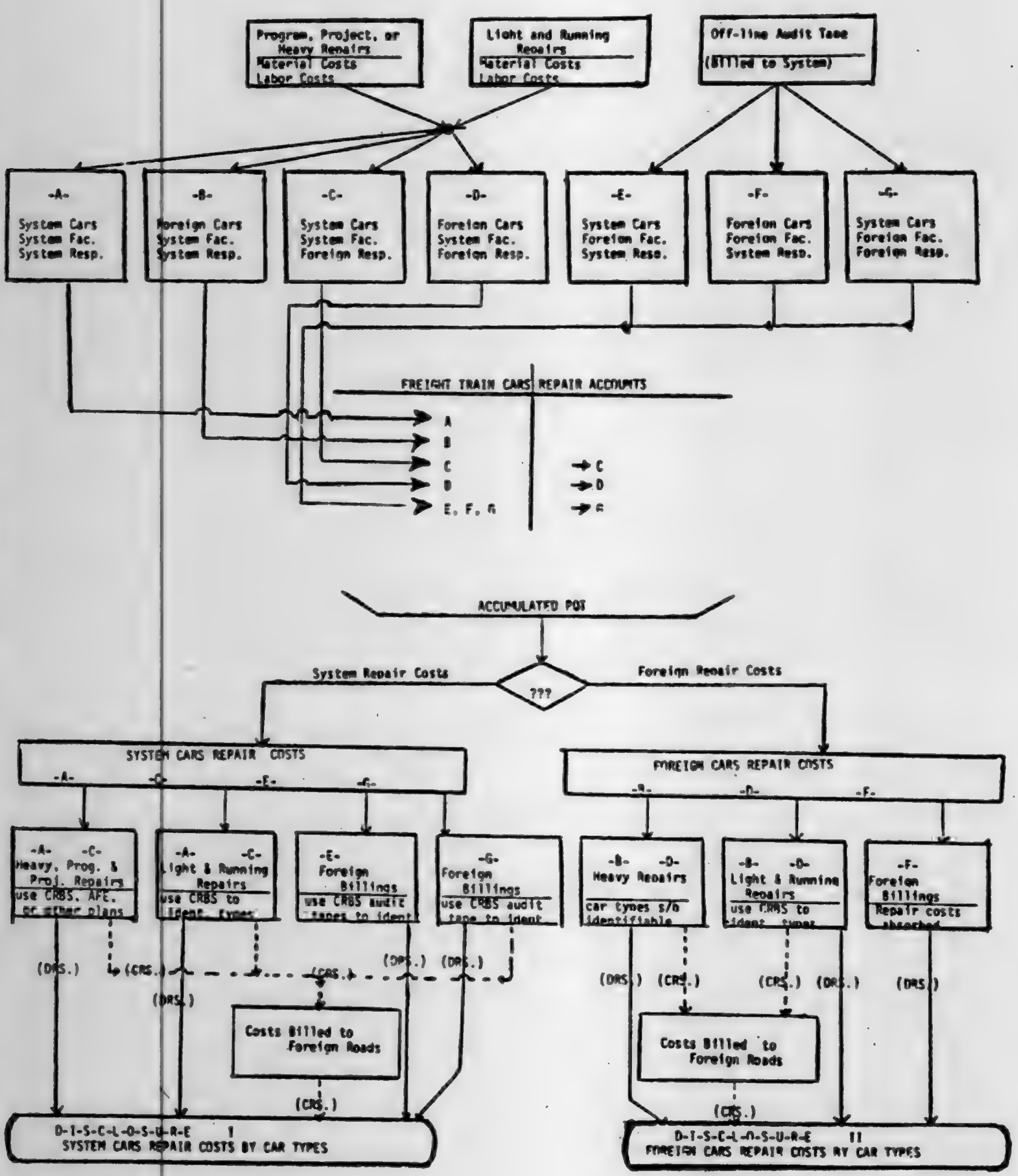
Program, Project, or Heavy Repairs
Material Costs
Labor Costs
Light and Running Repairs
Material Costs
Labor Costs
Off-line Audit Tape
(Billed to System)
-A-
System Cars
System Fac.
System Resp.
-B-
Foreign Cars
System Fac.
System Resp.
-C-
System Cars
System Fac.
Foreign Resp.
-D-
Foreign Cars
System Fac.
Foreign Resp.
-E-
System Cars
Foreign Fac.
System Resp.
-F-
Foreign Cars
Foreign Fac.
System Resp.
-G-
System Cars
Foreign Fac.
Foreign Resp.
FREIGHT TRAIN CARS REPAIR ACCOUNTS
A
B
C
D
E, F, G
C
D
G
ACCUMULATED POT
System Repair Costs
???
Foreign Repair Costs
SYSTEM CARS REPAIR COSTS
-A-
-C-
-E-
-G-
-A- -C-
Heavy, Prog. & Proj. Repairs
use CRBS, AFE, or other plans
-A- -C-
Light & Running Repairs
use CRBS to ident. types
-E-
Foreign Billings
use CRBS audit tapes to ident
-G-
Foreign Billings
use CRBS audit tape to ident
(DRS.)
(CRS.)
(CRS.)
(DRS.)
(DRS.)
(DRS.)
Costs Billed to Foreign Roads
(CRS.)
D-I-S-C-L-O-S-U-R-E I
SYSTEM CARS REPAIR COSTS BY CAR TYPES
FOREIGN CARS REPAIR COSTS
-B-
-D-
-F-
-B- -D-
Heavy Repairs
car types s/b identifiable
-B- -D-
Light & Running Repairs
use CRBS to ident. types
-F-
Foreign Billings
Repair costs absorbed
(DRS.)
(CRS.)
(CRS.)
(DRS.)
(DRS.)
Costs Billed to Foreign Roads
(CRS.)
D-I-S-C-L-O-S-U-R-E II
FOREIGN CARS REPAIR COSTS BY CAR TYPES

[FR Doc. 81-674 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Enforcement Policy

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Advance notice of proposed rulemaking; enforcement policy.

SUMMARY: A General Permit and regulations governing the taking of marine mammals incidental to commercial fishing operations are required by the Marine Mammal Protection Act of 1972, as amended (MMPA). The existing General Permit issued to the American Tunaboat Association for this purpose and the regulations underlying the General Permit (50 CFR 216.24) are valid until 2400 hours, December 31, 1985. The issuance of the General Permit was announced on December 8, 1980, 45 FR 80855, and followed the Administrator's Final Decision on the 1980 formal rulemaking to amend 50 CFR 216.24, 45 FR 72187–72196, October 31, 1980. The Final Decision contained a prohibition on sundown sets which became effective on January 1, 1981. However, because of new information regarding the effects of this prohibition and the potential of the U.S. fleet to develop means of reducing sundown mortalities, the National Marine Fisheries Service is reconsidering the appropriateness of this regulation and considering any alternative means of reducing porpoise mortality. This Advance Notice solicits information and comment on the sundown set prohibition. While such information is being collected, the Agency will follow the enforcement policy described herein regarding sundown sets. At the close of the comment period, the Agency will determine whether any amendment to the sundown set prohibition will be proposed.

DATES: Comments should be submitted on or before February 15, 1981.

ADDRESS: Send comments to: Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Richard B. Roe, telephone (202) 634–7461.

SUPPLEMENTARY INFORMATION: On October 21, 1980, the Administrator announced his Final Decision in the 1980 tuna/porpoise rulemaking, which was published on October 31, 1980 at 45 FR 72187–72196. At such time, a regulation prohibiting the setting on porpoise at sundown was promulgated, 50 CFR 216.24(d)(2)(vii)(g).

The Agency has received information regarding the effects of this prohibition and the fact that through increased training of other voluntary means, the U.S. fleet may be able to solve the problem of sundown mortalities. The purpose of this Advance Notice is to solicit relevant information from the public in support or opposition to the sundown set prohibition, including specifically (1) the causes of porpoise mortality in sundown sets (including any analysis of individual set data), (2) alternative means or mitigating measures to reduce porpoise mortality in sundown sets, if the sundown set prohibition is removed, and (3) costs of complying with the existing prohibition or any alternative to the existing prohibition. If the information received indicates that reasonable alternatives exist for reducing porpoise mortality, an amendment to the regulations may be proposed.

Title 50 CFR 216.24(d)(2)(i)(D) recognizes that the receipt of new information may require a mid-course adjustment to the regulations underlying the existing General Permit and allows the public to comment on any such proposals. If an amendment is proposed, the public will be afforded another comment period at the time of the specific proposal.

In light of its review of the sundown prohibition, the Agency has determined that it will undertake no enforcement action for alleged violations of this prohibition occurring prior to the time that a decision is announced to proceed or not proceed to amend the regulations. If the Agency finds that this enforcement policy is hampering the achievement of the goals of the Act, notice of the finding will be published in the **Federal Register**, and any alleged violation of the sundown set prohibition which occurs after the date of such publication will be subject to enforcement action.

Dated: December 30, 1980.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 81–667 Filed 1–7–81; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Parts 611 and 643

South Atlantic Fishery Management Council; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearing.

SUMMARY: The South Atlantic Fishery Management Council will hold public hearings for the purpose of public input on the Draft Fishery Management Plan for Atlantic Billfish.

DATES: Written comments on the Billfish Fishery Management Plan from members of the public may be submitted no later than March 20, 1981. Individuals or organizations wishing to comment on the fishery management plan may do so at public hearings to be held as follows:

January 13, 1981, Miami, Florida
January 14, 1981, Key West, Florida
January 15, 1981, Riviera Beach, Florida
January 20, 1981, Atlanta, Florida
January 21, 1981, Tavernier, Florida
January 22, 1981, Stuart, Florida

All of the above hearings will start at 7:30 p.m. and adjourn at 10 p.m. The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared.

ADDRESSES: Send comments to: Chairman, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407. Hearing locations:

January 13, 1981; Rosenstiel Marine School Auditorium, University of Miami, 4600 Rickenbacker Causeway, Virginia Key, Miami, Florida 33149.

January 14, 1981; Key West High School, 2100 Flagler Avenue, Key West, Florida 33040.

January 15, 1981; Council Chambers, City Hall; 600 West Blue Heron Blvd., Riviera Beach, Florida 33404.

January 20, 1981; Richard B. Russell Federal Building, Room 1278, 75 Spring Street, S.W., Atlanta, Georgia 30303.

January 21, 1981; Coral Shores High School, Highway 1, Tavernier, Florida 33070.

January 22, 1981; City Hall, Stuart, Florida 34495.

Additional hearings will be held in other locations under the jurisdiction of the South Atlantic Council at some future time.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Suite 306, Charleston, S.C. 29407, (803) 571–4366.

Dated: December 31, 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 81-487 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 611 and 672

North Pacific Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of a Public Hearing.

SUMMARY: The North Pacific Fishery Management Council will hold a public hearing to accept testimony on a proposed amendment to the Fishery Management Plan for the Groundfish of the Gulf of Alaska.

DATE: January 31, 1981 from 2-5 p.m. and 7-9 p.m.

LOCATION: Maksoutoff Room of the Centennial Building in Sitka, Alaska.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, Post Office Box 3136 DT, Anchorage, Alaska 99510, Telephone: (907) 274-7449.

SUPPLEMENTARY INFORMATION: The proposed amendment to the Gulf of Alaska Groundfish Management Plan presents several alternative schemes for closing areas in the Eastern Regulatory Area to foreign trawlers. The amendment addresses several issues: time/area closures, foreign and domestic harvest levels for Pacific Ocean perch, sablefish harvest levels, and continuing the existing no-trawl areas for foreign fishermen. The amendment package will be available to the public by January 9, 1981.

Written comments may be submitted at the public hearing or sent to North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

EFFECTIVE DATE: Public comments are invited until February 16, 1981.

Dated: December 31, 1980.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 81-486 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Continental Divide National Scenic Trail Advisory Council; Meeting; Location Change

This notice changes the location of the Continental Divide National Scenic Trail Advisory Council meeting to be held January 14–17, 1981 (45 FR 80156, December 3, 1980) to the White-Winrock Inn, P.O. Box 3220 D, 18 Winrock Shopping Center, NE, Albuquerque, NM 87110.

Craig W. Rupp,

Continental Divide National Scenic Trail Advisory Council Chairman.

December 30, 1980.

[FR Doc. 81–671 Filed 1–7–81; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Hancock Park Critical Area Treatment R.C. & D. Measure, Texas

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone 817–773–1711.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hancock Park Critical Area Treatment RC&D Measure, Lampasas County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for installation of erosion control measures on approximately 1,360 feet of streambank. The planned works of improvement include shaping to a designed slope, installation of a fabric-formed cast-in-place concrete blanket, construction of rubble masonary walls around the existing trees, and establishment of vegetation on about one acre with mulch sodding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81–673 Filed 1–7–81; 8:45 am]

BILLING CODE 3410-16-M

Oregon Park East Water-Based Recreation R.C. & D. Measure, Ill.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Warren J. Fitzgerald, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois 61820, telephone 217–398–5267.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oregon Park East Water-Based Recreation R.C. & D. Measure, Ogle County, Illinois.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Warren J. Fitzgerald, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation facilities. The planned works of improvement include picnic tables, grills and benches, picnic shelters, water wells, parking, canoe portage, playgrounds, and sanitary accommodations.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warren J. Fitzgerald. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc 81–674 Filed 1–7–81; 8:45 am]

BILLING CODE 3410-16-M

V 46/5 JA 8 81 UMI

Pere Marquette Township Park R.C. & D. Measure, Mich.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pere Marquette Township Park R.C. & D. Measure, Mason County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: rock riprap with polyethylene filter material along 400 feet of eroding riverbank, two timber walkways, 350 feet of rustic wood rail fence and approximately one-half acre of critical area planting (seed, fertilizer and mulch). Total construction cost is estimated to be $40,000; $30,000 R.C. & D. funds and $10,000 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-575 Filed 1–7–81; 8:45 am]

BILLING CODE 3410-16-M

Sand Island Critical Area Treatment R.C. & D. Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sand Island Critical Area Treatment RC&D Measure, Delta County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include adding topsoil and planting adapted grasses, shrubs, and trees. Total construction cost is estimated to be $76,400; $57,300 RC&D funds and $19,100 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-576 Filed 1–7–81; 8:45 am]

BILLING CODE 3410-16-M

Slosson Drain Outlet Critical Area Treatment R.C. & D. Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Slosson Drain Outlet Critical Area Treatment RC&D Measure, Osceola County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: installation of 500 feet of 60 inch diameter reinforced concrete pipe, rock riprap, fill, and critical area planting (seed, fertilizer, and mulch). Total construction cost is estimated to be $64,300; $48,200 RC&D funds and $16,000 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 19, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-577 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-16-M

Office of the Secretary

Rural Abandoned Mine Program (RAMP) Payments; Determination of Primary Purpose

AGENCY: Office of the Secretary, USDA.

ACTION: Determination of primary purpose for which Rural Abandoned Mine Program (RAMP) payments are made for Federal tax purposes.

FOR FURTHER INFORMATION CONTACT: Arnold Miller, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 123-E Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4757. The final USDA regulations specifying the criteria used in making these determinations and the impact of the determination are also available on request from Arnold Miller.

NOTICE OF DETERMINATION: Under the authorities of the Revenue Act of 1978 as amended, 26 USC 126; 5 USC 301; and 7 CFR Part 14, the Secretary of Agriculture gives notice that all payments under RAMP are determined to be made for the purpose of protecting or restoring the environment.

This determination will allow payment recipients to exclude part or all of the program payments made after September 30, 1979, from gross income for Federal tax purposes if annual income derived from the property benefited by the payment is not increased substantially.

The Internal Revenue Service (IRS) will issue regulations establishing criteria to be used by the taxpayer to determine the amount of exclusion and to file tax returns in this regard.

In making this determination, RAMP authorizing legislation, regulations, and operating procedures were examined using the USDA criteria for determining the primary purpose of certain payments for Federal tax purposes (7 CFR Part 14). This review indicated that the primary purpose of the program payments is to restore the environment where degraded by past coal mining activities and that program payments are made to achieve this purpose.

RAMP provides technical and financial assistance to land users to develop and apply 5- to 10-year contracts for the reclamation, conservation, and development of eligible abandoned coal-mined lands. Federal payments are made for the satisfactory establishment of reclamation treatment that protects people and the environment from the adverse effects of past coal mining and provides for beneficial uses of the area reclaimed.

Jim Williams,

Acting Secretary.

January 2, 1981

[FR Doc. 81-602 Filed 1-7-81; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Docket 38788; Order 80-12-148]

All-Cargo Authority Applications; ICB International Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause and Instituting Investigation (Order: 80-12-148).

SUMMARY: The Board proposes to approve the following application: *Applicant:* Two Americas Trading Company, Inc. d.b.a. ICB International Airlines (Docket: 38788). *Application Date:* October 2, 1980. *Authority Sought:* The applicant seeks scheduled all-cargo authority to operate in foreign air transportation between a point or points in the United States, on the one hand, and points in Spain, Nigeria, South Africa, and Zimbabwe, on the other hand.

OBJECTIONS: All interested person having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN February 2, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassadors of Spain, Nigeria, South Africa, and Zimbabwe. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other supporting evidence.

If no objections are filed, the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

ADDRESSES FOR OBJECTIONS: Docket 38788, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5035.

By the Civil Aeronautics Board, December 31, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-586 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-156; Docket 38497]

Continental Air Lines, Inc. and Air Micronesia, Inc.; Petition for Increase in Trust Territory Service Mail Rates; Order Fixing Final Service Mail Rates

Issued Under Delegated Authority, December 31, 1980.

By Order 80-12-108, served December 19, 1980, we directed all interested persons, particularly Continental Air Lines, Inc., Air Micronesia, Inc., the Department of Defense and the Postmaster General, to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine and publish the final rates specified therein to be effective on and after July 21, 1980.

The time designated for filing notice of objection has elapsed and no person has filed a notice of objection or answer to the order. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a temporary rate.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the Board in its Organization Regulations, 14 CFR 385.16(g),

1. We make final the tentative findings and conclusions set forth in Order 80-12-108.

2. The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to

Continental Air Lines, Inc. for the transportation of mail by aircraft between points within the Trust Territory, between Honolulu, Guam, and Okinawa, on the one hand, and Johnston Island and points within the Trust Territory, on the other hand, between Honolulu, Guam and Okinawa, on the one hand, and Midway Island and points within the Trust Territory, on the other hand, and between Nauru and Majuro, Trust Territory, the facilities used and useful therefor, and the services connected therewith, on and after July 21, 1980, are as follows: (a) For all mail matter other than specific mail matter for which rates are elsewhere established; $1.023 per billed ton-mile.

(b) For that class of mail (hereinafter referred to as SAM mail) consisting of the mail matter described in section 3401, of Title 39 of the United States Code when airlifted on a space available basis; $0.65 per billed ton-mile.

3. The terms and conditions applicable to the transportation of each class of mail at the rates proposed here are those set forth in Order 72-2-22.

4. We shall serve this order upon the Postmaster General, the Department of Defense, Continental Air Lines, Inc. and Air Micronesia, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten (10) days after the service date of this order.

We shall make this order effective and an action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

We shall publish this order in the **Federal Register.**

Julien R. Schrenk,

Chief Domestic Fares and Rates Division, Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-668 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-143; Docket 39072]

Trans World Air Lines, Inc.; Complaint Requesting Relief Under the International Air Transportation Competition Act From Unfair and Discriminatory Pricing Practices in Germany; Order Extending Filing Dates

Issued under delegated authority, December 31, 1980.

By Order 80-12-1[illegible]5, December 24, 1980 the Board invited all interested persons to comment upon the complaint of Trans World Air Lines, Inc., alleging unfair and discriminatory pricing practices by the Federal Republic of Germany. TWA requested remedial action under Sections 9 and 23 of the International Air Transportation Competition Act of 1979. The Board required that answers to TWA's complaint be filed by January 23, 1981.

On December 30, 1980, Lawrence A. Short, representing the parties complained against by TWA, orally requested an extension of the filing dates for answers and replies to January 19 and 29, respectively. Acting under authority delegated by the Board in 14 CFR Part 385.23(b), we will grant Mr. Shorts' request for an extension of time.

Accordingly, 1. We extend the filing dates for answers and replies to the complaint of Trans World Air Lines, Inc., in this docket to January 19 and 29, 1981, respectively; and

2. We are serving this order upon Trans World Air Lines, Lufthansa German Air Lines, the Ambassador of the Federal Republic of Germany in Washington, D.C. and the Departments of State and Transportation.

We shall publish this Order in the **Federal Register.**

Daniel M. Kasper,

Director, Bureau of International Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-669 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38495]

Universal Airlines, Inc. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on January 13, 1981, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, NW, Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C. December 30, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 81-621 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-152; Dockets 38019 et al.]

Wien Air Alaska Mainline and Bush Mail Rates Investigation et al.; Order Fixing Temporary Service Mail Rates

In the matter of Wien Air Alaska Mainline and Bush Mail Rates Investigation (Docket 38019); Sea Airmotive, Inc., Service Mail Rates Investigation (Docket 38180); Alaska International Air, Inc., Serive Mail Rates Investigation (Docket 38773); Alaska Airlines Temporary Mail Rate Proceeding (Docket 38960); Intra-Alaska Class Service Mail Rates (Docket 38961).

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of December, 1980.

By Order 80-11-81, served November 13, 1980, the Board instituted a two-tiered system of intra-Alaska service mail rates on a temporary basis. Temporary rates were established for mainline and bush priority mail services and for mainline nonpriority mail services to be effective on and after January 1, 1981. These rates did not, however, reflect the cost increases that have occurred since the base period used to set the rates. We indicated in Order 80-12-116 that we would adjust the temporary two-tier rates to reflect cost increases and apply those rates to other intra-Alaska carriers where appropriate. This order increases the temporary rates by cost escalation factor of 22.3 percent which reflects the increases in operating costs experienced by Wien since the base period and also applies those rates to Alaska International Air [1] and Sea Airmotive. It also redefines bush service.

We have employed here the same updating technique that we used in Order 80-12-116. We began, as usual, with a fuel cost projection. The cost per gallon at March 31, 1981, is estimated by (a) computing the average monthly increase in price over the latest four months; (b) projecting the average monthly increase for a period of six months; and (c) adding the six-month increase to the September 30, 1980, cost per gallon (See Appendix C). Nonfuel cost escalation was also determined in the usual manner. Cost escalation from March 31, 1979, to March 31, 1980, is based on a comparison of unit costs per available ton-mile for the year ended September 30, 1979, with unit costs per ATM for the year ended September 30, 1980. The rate of change was then projected to March 31, 1981. This estimated system unit cost was then increased by 14 percent to derive the estimated intra-Alaska unit cost. This estimated cost was then divided by the base year unit cost to determine the percentage of increase.

Inasmuch as the temporary rates of compensation to be paid to Alaska

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[1] These rates will apply to AIA's service except with respect to service to points in the Aleutian Islands for which AIA shall receive compensation at the level paid to Reeve Aleutian Airways.

Airlines.[2] Alaska International Air and Sea Airmotive are based upon rates for Wien, the establishment of new rates for Wien also results in the fixing of new temporary rates for these carriers.

Because of the imminence of the new intra-Alaska rates, we must take up another matter at this time. In Order 80-11-81, we defined bush and mainline service on the basis of aircraft type used. Service offered with aircraft having payload capacity of 4,000 pounds or less was defined as bush service and service with larger aircraft was defined as mainline service. By petition for reconsideration dated December 19, 1980,[3] Sea Airmotive requests that we modify the definitions to expand bush service to include service with aircraft having payload capacity of up to 7,500 pounds. Sea Airmotive argues that the Board's intentions as stated in Order 80-11-81 were to include, as bush service, service currently performed by subcontractors with aircraft types such as De Havilland Twin Otters and Shorts Skyvans. Sea Airmotive argues that it provides this service with such aircraft, including one version of the Twin Otter, that have payload capacities of up to 7,000 pounds. Specifically, Sea Airmotive operates De Havilland Twin Otters with payload capacities of 5,500 pounds, a De Havilland Caribou with a capacity of 7,000 pounds and a Beachcraft aircraft with capacity of 5,000 pounds. Sea Air suggests that 7,500 pounds will provide the Board with some upward flexibility to insure that its intentions for the definitions of bush and mainline service, as expressed in Order 80-11-81, are fulfilled.

The Postal Service has filed an answer to the petition, also accompanied by a motion for leave to file an unauthorized document.[4] The Postal Service argues that Sea Air has not justified its tardy request in light of the ample opportunities that it has to protest the definition after Order 80-11-81 was issued. It argues that existing data do not justify any particular cut-off weight and that a redefinition at this late date would result in substantial administrative expenses to adjust its payment rules.

We will define bush service as that provided by aircraft having a payload capacity of 7000 pounds or less.[5] We are sensitive to the difficulties that a new definition at this late hour could cause the Postal Service. These concerns must be balanced against the short-term financial impact involved in requiring a new entrant to certificated service to operate a substantial portion of its bush service at low mainline rates. The adoption of a bush definition which did not include Sea Airmotive's bush aircraft as such was inadvertent, resulting only from the fact that Sea Air was not originally included within the ambit of Order 80-11-81.

The benefits of correcting the inadvertence outweigh the burden on the Postal Service. However, we are not raising the ceiling to the 7500 pounds requested by Sea Air. After reviewing available data on aircraft operating capacity, we are confident that the 7000 pound cut-off will class as bush aircraft only those whose cost characteristics justify that classification. At capacities above that figure, the Postal Service correctly states that there is substantial room for debate at this time.

Ordinarily, mail rates are established after notice and opportunity for comment. Here, however, we are dealing with temporary rates which are subject to retroactive adjustment. Additionally, they are based on rates which were originally established through the full notice and comment procedures. We believe that no one will be prejudiced by our departing from our usual temporary rate procedures as set forth in the Board's Rules of Practice, 14 CFR 302.310. Accordingly, we waive the procedural requirements of Rule 310.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302:

1. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General on and after January 1, 1981, until further Board order, to Wien Air Alaska, Inc. and Sea Airmotive, Inc. for the transportation of mail by aircraft over their intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are those set forth in Appendix A.

2. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General on and after January 1, 1981, until further Board order, to Alaska Airlines, Inc. for the transportation of priority mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are those set forth in Appendix A.

3. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General on and after January 1, 1981, until further Board order, to Alaska International Air, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, except for operations over the Aleutian Islands segment of Route 206, the facilities used and useful therefor, and the services connected therewith, are those set forth in Appendix A.

4. We grant the motions of the Postal Service and Sea Airmotive for leave to file unauthorized documents.

5. We shall serve this order on the Postmaster General, Alaska Airlines, Inc., Alaska International Air, Inc., Kodiak-Western Alaska Airlines, Inc., Munz Northern Airlines, Inc., Peninsula Airways, Inc., Reeve Aleutian Airways, Inc., Sea Airmotive, Inc. and Wien Air Alaska, Inc.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board. All members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-670 Filed 1-7-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate one project for a 12 month period beginning May 1, 1981 to serve New York County (Manhattan), New York. The project will operate at a cost not to exceed $330,000. The Project I. D. Number is 02-10-80009-01.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreements Act of 1977, will be a grant.

Program Description: The General Business Services Program of the Minority Business Development Agency (MBDA) provides technical assistance without charge to eligible minority business persons and minority-owned firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either "not for profit" or commercial entities). These firms must be capable of providing such services as preparation of business plans, financial analysis, industrial management assistance, personnel management services, marketing planning and a broad range of other business services excluding legal services.

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[2] These rates apply only to Alaska's intra-Alaska priority mainline and bush services. Its rate for nonpriority mail remain at the level set in Order 80-9-32.

[3] This petition was accompanied by a motion for leave to file an unauthorized document, which motion will be granted.

[4] We will grant this motion.

[5] This definition should also be used in providing data in Dockets 38019 and 38961.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 26 Federal Plaza, Room No. 3707, New York, New York 10278.

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, educational institutions, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of January 29, 1981. Applications received after that date will not be considered. A pre-application conference will be held on Monday, January 12, 1981 at 2:00 p.m. in Room No. 2206 at 26 Federal Plaza, New York City.

Detailed submission procedures are outlined in each application kit. 11.800 Minority Business Development.

(Catalog of Federal Domestic Assistance)

(This program is not subject to the requirements of OMB Circular A-95)

Dated: December 30, 1980.

Carlton L. Eccles,

Regional Director.

[FR Doc. 81-627 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss oversight committee reports for herring, scallops, and billfish; Scientific and Statistical Committee, ad hoc policy review committee, and Executive Director's reports, as well as other business.

DATES: The meetings, which are open to the public, will convene on Tuesday, January 27, 1981, at approximately 10 a.m., and will adjourn on Wednesday, January 28, 1981, at approximately 5 p.m. The meetings may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: January 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-672 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

Payment of Bonuses To Be Paid to the Following Senior Executive Service Employees of the National Oceanic and Atmospheric Administration

ACTION: To announce names of Senior Executive Service Bonus recipients

NOTICE: This notice announces that on January 22, 1981, the National Oceanic and Atmospheric Administration (NOAA) will award bonuses to the following listed Senior Executive Service employees in the amounts stated.

	Bonus
Lester Machta, Director, Air Resources Laboratory, Office of Research and Development, National Oceanic and Atmospheric Administration	$9,521.38
George H. Ludwig, Director of Operations, National Earth Satellite Service, National Oceanic and Atmospheric Administration	9,521.38
William W. Fox, Jr., Director, Southeast Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	7,516.88
Hazen Bedke, Director, Western Region, National Weather Service, National Oceanic and Atmospheric Administration	7,015.75
Allen Pearson, Director, Central Region, National Weather Service, National Oceanic and Atmospheric Administration	6,514.63
Thomas D. Potter, Director, Environmental Data and Information Service, National Oceanic and Atmospheric Administration	5,963.00
William D. Bonner, Deputy Director, National Weather Service, National Oceanic and Atmospheric Administration	5,000.00
Neil L. Frank, Director, National Hurricane Center, National Weather Service, National Oceanic and Atmospheric Administration	5,000.00
Ned A. Ostenso, Deputy Assistant Administrator for Research and Development and Director, Office of Sea Grant, National Oceanic and Atmospheric Administration	5,000.00
Samuel A. Lawrence, Assistant Administrator for Management and Budget, Office of Management and Budget, National Oceanic and Atmospheric Administration	5,000.00
Eugene J. Aubert, Director, Great Lake Environmental Research Laboratory, Office of Research and Development, National Oceanic and Atmospheric Administration	4,000.00
William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	4,000.00
Martin H. Belsky, Assistant Administrator for Policy and Planning, Office of the Administrator, National Oceanic and Atmospheric Administration	4,000.00
Donald P. Martineau, Deputy Assistant Administrator for Oceanic and Atmospheric Services, Office of Oceanic and Atmospheric Services, National Oceanic and Atmospheric Administration	4,000.00
Douglas Sargeant, Director, Systems Development Office, National Weather Service, National Oceanic and Atmospheric Administration	4,000.00
Amor L. Lane, Director, Marine Minerals Division, Office of Policy and Planning, National Oceanic and Atmospheric Administration	3,000.00
Merritt N. Techter, Associate Director, Technical Services, National Weather Service, National Oceanic and Atmospheric Administration	3,000.00
Joyce M. Wood, Director, Office of Ecology and Conservation, National Oceanic and Atmospheric Administration	3,000.00
Martha O. Blaxall, Director, Office of Utilization and Development, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	2,000.00
Walter J. Chappas, Associate Director, Office of Aeronautical Charting and Cartography, National Ocean Survey, National Oceanic and Atmospheric Administration	2,000.00
William G. Gordon, Director, Office of Resource Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration	2,000.00
Richard J. Keating, Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration	2,000.00
Mirco P. Snidero, Deputy Assistant Administrator for Management and Budget, Office of Management and Budget, National Oceanic and Atmospheric Administration	2,000.00

SUMMARY: In conformance with the Civil Service Reform Act of 1978.

ADDRESS: Office of Personnel, NOAA, 6001 Executive Blvd., Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ralph C. Reeder, 301-443-8781.

Dated: December 30, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 81-632 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will hold joint public hearings for the purpose of receiving public comments on the Draft Pacific Coast Groundfish Fishery Management Plan and its associated Supplemental Environmental Impact Statement.

DATES: Written comments should be submitted to the individuals listed below by no later than February 16, 1981.

Individuals wishing to present oral testimony may do so at public hearings to be held as follows:

January 29, 1981—Westport, Washington.
January 30, 1981—Newport, Oregon.
January 30, 1981—Eureka, California.
January 31, 1981—Santa Barbara, California.

The hearings scheduled for Westport, Newport, and Eureka will start at 7 p.m.

The hearing scheduled for Santa Barbara will begin at 3 p.m.

The hearings will be tape recorded and an official transcript of the proceedings will be on file and available for review within 10 days of the hearing date at the Pacific Fishery Management Council and the Northwest Regional Office of the National Marine Fisheries Service, (addresses shown below). A written summary of each hearing will be prepared.

ADDRESS: Send comments to: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201 or: H. A. Larkins, Director, Northwest Regional Office, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

HEARING LOCATIONS:

January 29, 1981—Ocosta High School, Westport, Washington.
January 30, 1981—Marine Science Center, Marine Science Drive, Newport, Oregon.
January 30, 1981—Eureka Inn, 7th and F Streets, Eureka, California
January 31, 1981—Planning Commission Hearing Room, 123 East Anapuma Street, Santa Barbara, California.

FOR FURTHER INFORMATION CONTACT: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221-6352, or H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442-7575.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Plan, upon approval by the Secretary of Commerce, will be the basis for the management of domestic groundfish fisheries, joint-venture (domestic-foreign) fisheries, and the foreign fisheries in the Fishery Conservation Zone off Washington, Oregon and California.

This draft plan and Supplemental Environmental Impact Statement are revised versions of the same documents which were the subjects of extensive public review, including six public hearings, between November 29, 1979, and February 4, 1980. In response to comments raised during the initial review and hearings, the Council made significant changes to the plan, and has specifically delineated a preferred course of action. The Council believes that those changes were of a magnitude which warrant additional public review and has therefore scheduled the above hearings. Comments are requested on the proposed action and the alternatives that are presented and analyzed in the plan and the Supplemental Environmental Impact Statement.

The Draft Pacific Coast Groundfish Plan, including the Supplemental Environmental Impact Statement, will be mailed to all individuals and organizations currently on the Council's groundfish plan mailing list by the beginning of the 45-day comment period on January 2, 1981. In addition to these documents, draft regulations and a regulatory analysis are being prepared and will be distributed in advance of the hearings. Comments are requested on these documents as well. A limited number of copies of all documents will also be available at the public hearings.

Dated: January 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-679 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $1.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Chief, Intellectual Prop. Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, DC 20310

Patent application 6,059,020: Visible and Infrared Intensity Limiter. Filed July 19, 1979.
Patent application 6,060,948: Digital Interface Circuit for Control of Pressure Scanner. Filed July 26, 1979.
Patent application 6,062,099: Highly-Linear Closed-Loop Frequency Sweep Generator. Filed July 30, 1979.
Patent application 6,064,451: Fluid Oscillator. Filed August 7, 1979.
Patent application 6,069,022: Excessive Duty Cycle and Pulse Width Limiter. Filed August 23, 1979.
Patent application 6,074,634: Method and Apparatus for Reduction of Modal Noise in Fiber Optic Systems. Filed September 12, 1979.
Patent application 6,074,636: Fluidic Mud Pulser. Filed September 12, 1979.
Patent application 6,078,996: A Variable Output Coupler for Laser Cavities with Totally Reflecting Mirrors. Filed September 26, 1979.
Patent application 6,080,649: Irradiance Analyzer for High Power Lasers. Filed October 1, 1979.
Patent application 6,084,048: Peieris-Transition Far-Infrared Source. Filed October 12, 1979.
Patent application 6,084,686: A Multifrequency Series-Fed Edge Slot Antenna. Filed October 15, 1979.
Patent application 6,089,051: Cerenkov Submillimeter Electromagnetic Wave Oscillator. Filed October 29, 1979.
Patent application 6,092,130: Rivets for Structures Subject to Vibrations or Thermal Stresses. Filed November 7, 1979.
Patent application 6,093,083: Single-Fiber Connected Microphone-Type Acoustic-to-Electrical Transducer. Filed November 9, 1979.
Patent application 6,093,084: Fluidic Mud Pulse Telemetry Transmitter. Filed November 9, 1979.
Patent application 6,099,367: Microprocessor Base for Monitor/Control of Communications Facilities. Filed December 3, 1979.
Patent application 6,103,753: Optical Recording memory Medium. Filed December 14, 1979.
Patent application 6,103,796: Microstrip Antenna with Polarization Diversity. Filed December 14, 1979.
Patent application 6,116,422: Plating Area Calculator for Printed Circuit Boards. Filed January 29, 1980.

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Patent application 6,120,215: Apparatus Using Light Emitting Diode as Information Transmitter and Receiver. Filed February 11, 1980.

Patent application 6,121,181: Parasitic Capacitance Compensation in CMOS-Switched Active Filter. Filed February 13, 1980.

Patent application 6,122,206: Method and Apparatus for Electrically Testing Radiation Susceptibility of MOS Gate Devices. Filed February 19, 1980.

Patent application 6,132,358: Cabinet for Patch Panels used with Analog Computers. Filed March 20, 1980.

Patent 4,181,968: Method and Apparatus for Forming Convolutions of Two Complex Number Sequences Using the Fermat Number Transform. Filed June 14, 1978, patented January 1, 1980. Not available NTIS.

Patent 4,193,044: Rare Earth Semiconductor Laser. Filed January 26, 1978, patented March 11, 1980. Not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324

Patent 4,212,441: Wing Pivot Assembly for Variable Sweep Wing Aircraft. Filed May 11, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,004: Hermetic Electrical Feedthrough for Aluminum Housing and Method of Making Same. Filed June 30, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,045: Metal Nitride Oxide Semiconductor (MNOS) Dosimeter. Filed August 29, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,102: Fluorine Generator for Chemical Lasers. Filed March 21, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,122: Intrusion Detection System. Filed August 23, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,123: Integral Eenable-Disable Means for Guided Wave Radar Intrusion Detector System Portals. Filed February 7, 1979, patented July 15, 1980. Not available NTIS.

Patent 4,213,127: Doubly Adaptive CFAR Apparatus. Filed January 31, 1979, patented July 15, 1980. Not available NTIS.

Patent 4,213,168: Electret Charge Technique. Filed July 20, 1978, patented July 15, 1980. Not available NTIS.

Patent 4,213,904: Gold-Tin-Silicon Alloy for Brazing Silicon to Metal. Filed December 12, 1978, patented July 29, 1980. Not available NTIS.

Patent 4,215,072: Diphospha-S-Triazines. Filed February 7, 1979, patented July 29, 1980. Not available NTIS.

Patent 4,215,181: Fretting Fatique Inhibiting Method for Titanium. Filed May 11, 1978, patented July 29, 1980. Not available NTIS.

U.S. Department of Agriculture, Program Agreements and Pat. Branch, Admin. Ser. Div., Federal Building, Science and Education Admin., Hyattsville, MD 20782

Patent application 6,052,656: Improved Tree Rooting Using Synthetic Auxins. Filed June 27, 1979.

Patent application 6,130,634: Machine for Planting Containerized Tree and Shrub Seedlings. Filed March 14, 1980.

Patent application 6,132,591: Steep Slope Seeding Machine. Filed March 21, 1980.

Patent application 6,176,234: Dietary Supplementation with Essential Metal Picolinates. Filed August 8, 1980.

Patent application 6,176,235: Method of Enhancing Activity of Homogeneous Ziegler-Type Copper Catalysts. Filed August 8, 1980.

Patent 4,225,629: Preparation of Protein Concentrates from Whey and Seed Products. Filed August 15, 1977, patented September 30, 1980. Not available NTIS.

U.S. Department of Commerce, National Tech. information Service, Office of Gov't Inventions and Patents, Springfield, VA 22161

Patent application 6,192,129: Cryptographic Key Notarization Methods and Apparatus. Filed September 29, 1980.

U.S. Department Of Energy, Assist. Gen. Couns. for Patents, Washington, DC 20545

Patent 4,196,359: Differentially-Charged and Sequentially-Switched Square-wave Pulse Forming Network. Filed June 8, 1978, patented April 1, 1980. Not available NTIS.

Patent 4,196,417: Single Transmission Line Interrogated Multiple Channel Data Acquisition System. Filed November 23, 1977, patented April 1, 1980. Not available NTIS.

Patent 4,197,461: Miniaturized Radiation Chirper. Filed August 17, 1978, patented April 8, 1980. Not available NTIS.

Patent 4,197,462: Position-Sensitive Proportional Counter with Low-Resistance Metal-Wire Anode. Filed December 4, 1978, patented April 8, 1980. Not available NTIS.

Patent 4,200,821: Relativistic Electron Beam Crossed-Field Device. Filed March 17, 1977, patented April 29, 1980. Not available NTIS.

Patent 4,201,692: Gas Mixtures for Gas-Filled Particle Detectors. Filed January 22, 1979, patented May 6, 1980. Not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent 4,222,126: Unitized Three Leaflet Heart Valve. Filed December 14, 1978, patented September 16, 1980. Not available NTIS.

U.S. Department of the Navy, Director, Navy Patent Program/Patent Counsel for the Navy, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6,118,043: Electrical Connection. Filed February 4, 1980.

Patent application 6,118,132: Protective Coating. Filed February 4, 1980.

Patent application 6,126,588: Apparatus and Method for Multiplexing Digital Signals. Filed March 3, 1980.

Patent application 6,142,322: Towed Deployment Acoustic Arrays. Filed April 21, 1980.

Patent application 6,154,348: Method of Separating Light Isotopes Like 15N from Naturally Abundant Gases, Such as NO. Filed May 29, 1980.

Patent application 6,160,350: Liquid Propellant. Filed June 17, 1980.

Patent application 6,161,615: Portable On-Site Turning Apparatus. Filed June 20, 1980.

Patent application 6,165,596: Programmable Frequency Synthesizer (PFS). Filed July 3, 1980.

Patent application 6,166,413: Maximum Depth Monitoring Apparatus. Filed June 7, 1980.

Patent application 6,167,275: A Sawtooth Waveform Generating Circuit for Utilization in a Helmet Mounted Display. Filed July 19, 1980.

Patent application 6,167,276: Computer Generated Image Simulator. Filed July 10, 1980.

Patent application 6,167,851: Packaging for Ocean Disposal of Low Level Radioactive Waste Material. Filed July 14, 1980.

Patent application 6,168,974: Flexible Side Connector for Floating and Elevated Platforms. Filed July 14, 1980.

Patent application 6,170,492: Array Convolver/Correlator. Filed July 21, 1980.

Patent application 6,181,524: Cable Connector. Filed August 26, 1980.

[FR Doc. 81-635 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Taiwan Export Visa and Exempt Certification Stamps

January 5, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: New export visa and exempt certification stamps will be used for certain cotton, wool and man-made fiber textile products exported from Taiwan on and after January 19, 1981.

SUMMARY: The Coordination Council for North American Affairs has advised the American Institute in Taiwan that, effective on January 19, 1981, new export visa and exempt certification stamps will be authorized for certain cotton, wool and man-made fiber textile products exported from Taiwan on and after January 19, 1981.

EFFECTIVE DATE: January 19, 1981 for goods exported on and after that date. Goods exported before January 19, 1981, having visas or exempt certifications which are in accordance with previously established requirements shall not be denied entry from consumption or withdrawal from warehouse for consumption in the United States.

The Coordination Council for North American Affairs (CCNAA) will, at its discretion, issue waivers to alleviate problems arising in the use of the new visa and exempt certification stamps.

Three copies of requests for such waivers should be addressed to the Coordination Council for North

American Affairs, 4301 Connecticut Avenue, N.W., Suite 420, Washington, D.C. 20008 (Tel: 202/686–6400), and should include a copy of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice when such form is used). A self-addressed stamped envelope should accompany each waiver request. Waiver requests will be validated by CCNAA and the Committee for the Implementation of Textile Agreements (CITA) and returned directly to importers. A facsimile of the application for visa waivers follows this notice.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On October 3, 1972, a letter dated September 27, 1972, to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (37 FR 20745), which established an export visa requirement for certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported to the United States. On April 24, 1973, a further letter dated April 19, 1973 was published in the **Federal Register** (38 FR 10132) which established a certification mechanism to exempt certain textile products from the levels of restraint in the bilateral agreement.

The letter published below transmits to the Commissioner of Customs facsimiles of the new visa stamp and exempt certification. It also directs the Commissioner to permit entry for consumption, or withdrawal from warehouse for consumption, of shipments of cotton, wool and man-made fiber textile products exported from Taiwan before January 19, 1981, provided the visa and exempt certification stamps are in accordance with previously established requirements.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Application for Visa Waivers

To: Coordination Council for North American Affairs, 4301 Connecticut Avenue, NW., Suite 420, Washington, D.C. 20008.
Attention: Waivers
Port of Entry: (Indicate where appropriate whether seaport or airport)
Name and Address of Importer:
Name and Telephone Number of Customs Broker:
Description of Merchandise:
Category and TSUSA Number:
Quantity (Units as set out in TSUSA)
Entry Number or Bill of Lading Number:
Name of Carrier:
Date of Export:
Exporter:

January 5, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives of September 27, 1972 and April 19, 1973, which established, respectively, an export visa requirement and an exempt certification mechanism for certain cotton, wool and man-made fiber textile products produced or manufactured in Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directives of September 27, 1972 and April 19, 1973 are hereby further amended to provide for new visa and exempt certification stamps which will be used by Taiwan, effective on January 19, 1981 for goods exported on and after that date. Goods exported before January 19, 1981 that have been visaed or certified for exemption using previously authorized stamps shall not be denied entry for consumption, or withdrawal from warehouse for consumption, provided they are in accordance with previous directives. Facsimiles of the new stamps are enclosed.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Enclosures.

BILLING CODE 3510-25-M

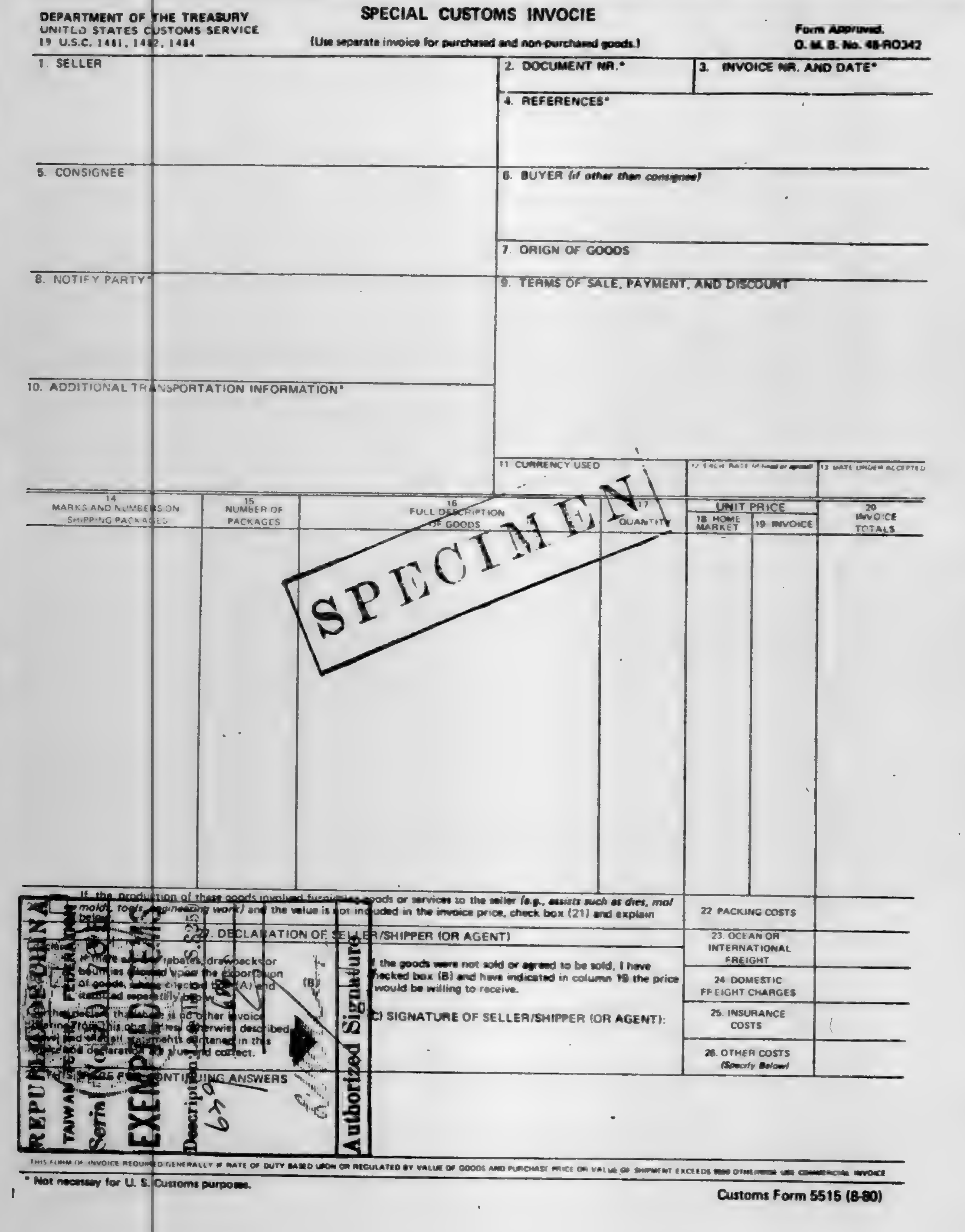

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
19 U.S.C. 1481, 1482, 1484

SPECIAL CUSTOMS INVOCIE

(Use separate invoice for purchased and non-purchased goods.)

Form Approved.
O. M. B. No. 48-RO342

1. SELLER

2. DOCUMENT NR.*

3. INVOICE NR. AND DATE*

4. REFERENCES*

5. CONSIGNEE

6. BUYER *(if other than consignee)*

7. ORIGN OF GOODS

8. NOTIFY PARTY*

9. TERMS OF SALE, PAYMENT, AND DISCOUNT

10. ADDITIONAL TRANSPORTATION INFORMATION*

11. CURRENCY USED

12. EXCH. RATE *(if fixed or agreed)*

13. DATE ORDER ACCEPTED

14 MARKS AND NUMBERS ON SHIPPING PACKAGES	15 NUMBER OF PACKAGES	16 FULL DESCRIPTION OF GOODS	17 QUANTITY	UNIT PRICE		20 INVOICE TOTALS
				18 HOME MARKET	19 INVOICE	

SPECIMEN

21. ☐ If the production of these goods involved furnishing goods or services to the seller *(e.g., assists such as dies, molds, tools, engineering work)* and the value is not included in the invoice price, check box (21) and explain below.

27. DECLARATION OF SELLER/SHIPPER (OR AGENT)

I declare:

(A) ☐ If there are any rebates, drawbacks or bounties allowed upon the exportation of goods, I have checked box (A) and itemized separately below.

(B) ☐ If the goods were not sold or agreed to be sold, I have checked box (B) and have indicated in column 19 the price I would be willing to receive.

I further declare that there is no other invoice differing from this one (unless otherwise described below) and that all statements contained in this invoice and declaration are true and correct.

(C) SIGNATURE OF SELLER/SHIPPER (OR AGENT):

28. THIS SPACE FOR CONTINUING ANSWERS

REPUBLIC OF CHINA
TAIWAN
Serial No.
EXEMPT
Description
679
Authorized Signature

22. PACKING COSTS

23. OCEAN OR INTERNATIONAL FREIGHT

24. DOMESTIC FREIGHT CHARGES

25. INSURANCE COSTS

26. OTHER COSTS *(Specify Below)*

THIS FORM OF INVOICE REQUIRED GENERALLY IF RATE OF DUTY BASED UPON OR REGULATED BY VALUE OF GOODS AND PURCHASE PRICE OR VALUE OF SHIPMENT EXCEEDS $500 OTHERWISE USE COMMERCIAL INVOICE

* Not necessary for U. S. Customs purposes.

Customs Form 5515 (8-80)

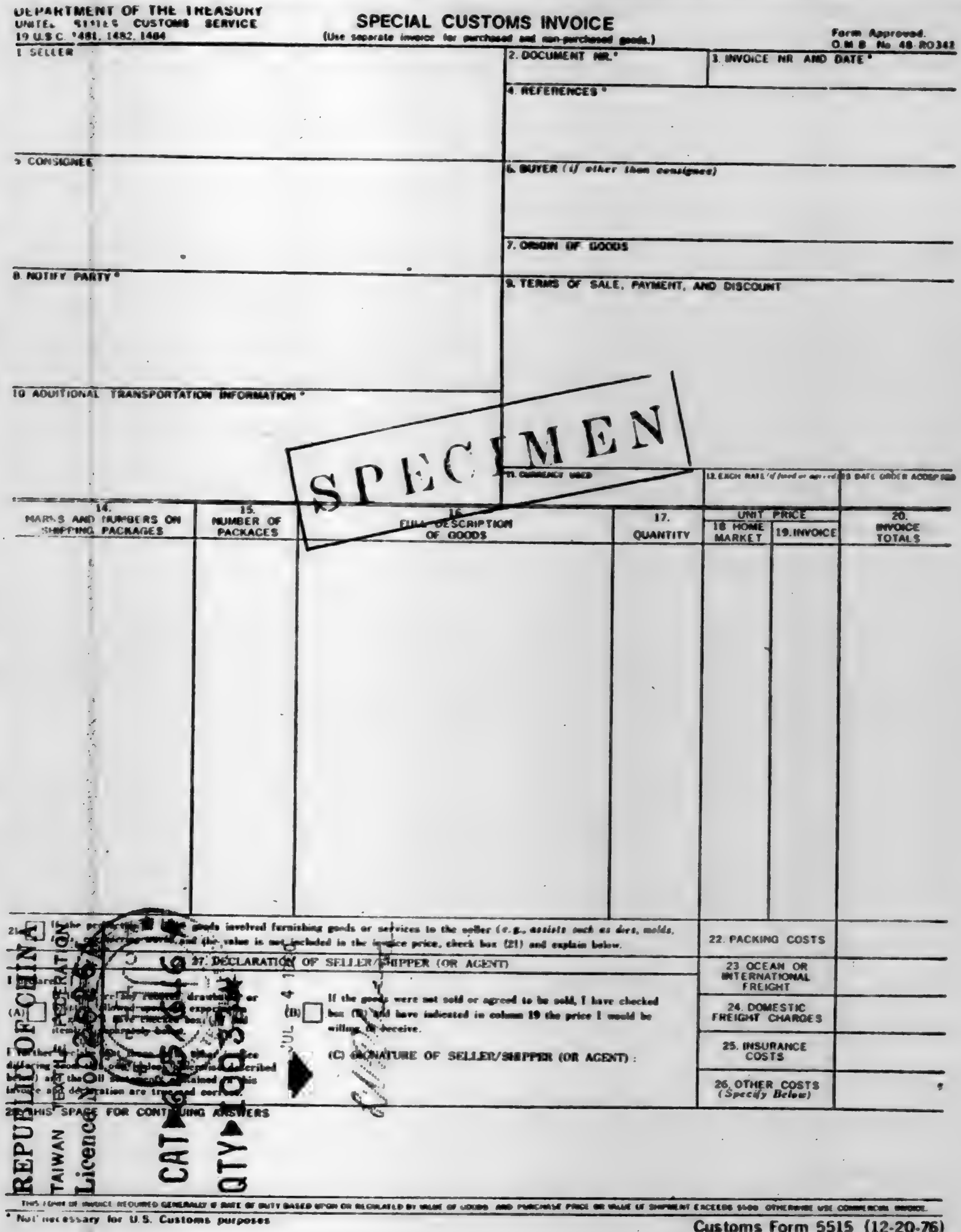

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
19 U.S.C. 1481, 1482, 1484

SPECIAL CUSTOMS INVOICE

(Use separate invoice for purchased and non-purchased goods.)

Form Approved.
O.M.B. No. 48-RO342

1. SELLER

2. DOCUMENT NR.*

3. INVOICE NR. AND DATE*

4. REFERENCES*

5. CONSIGNEE

6. BUYER (*if other than consignee*)

7. ORIGIN OF GOODS

8. NOTIFY PARTY*

9. TERMS OF SALE, PAYMENT, AND DISCOUNT

10. ADDITIONAL TRANSPORTATION INFORMATION*

11. CURRENCY USED

12. EXCH. RATE (*if fixed or agreed*)

13. DATE ORDER ACCEPTED

SPECIMEN

14. MARKS AND NUMBERS ON SHIPPING PACKAGES	15. NUMBER OF PACKAGES	16. FULL DESCRIPTION OF GOODS	17. QUANTITY	UNIT PRICE		20. INVOICE TOTALS
				18. HOME MARKET	19. INVOICE	

21. ☐ If the production of these goods involved furnishing goods or services to the seller (*e.g., assists such as dies, molds, tools, engineering work*) and the value is not included in the invoice price, check box (21) and explain below.

27. DECLARATION OF SELLER/SHIPPER (OR AGENT)

I declare:

(A) ☐ If there are any rebates, drawbacks or bounties allowed upon the exportation of goods, I have checked box (A) and itemized separately below.

(B) ☐ If the goods were not sold or agreed to be sold, I have checked box (B) and have indicated in column 19 the price I would be willing to receive.

I further declare that there is no other invoice differing from this one (unless otherwise described below) and that all statements contained in this invoice and declaration are true and correct.

(C) SIGNATURE OF SELLER/SHIPPER (OR AGENT):

REPUBLIC OF CHINA
TAIWAN TEXTILE FEDERATION
Licence
CAT▶
QTY▶

22. PACKING COSTS	
23. OCEAN OR INTERNATIONAL FREIGHT	
24. DOMESTIC FREIGHT CHARGES	
25. INSURANCE COSTS	
26. OTHER COSTS (*Specify Below*)	

28. THIS SPACE FOR CONTINUING ANSWERS

THIS FORM OF INVOICE REQUIRED GENERALLY IF RATE OF DUTY BASED UPON OR REGULATED BY VALUE OF GOODS AND PURCHASE PRICE OR VALUE OF SHIPMENT EXCEEDS $500. OTHERWISE USE COMMERCIAL INVOICE.

* Not necessary for U.S. Customs purposes

Customs Form 5515 (12-20-76)

[FR Doc. 81-611 Filed 1-7-81; 8:45 am]

BILLING CODE 3510-25-C

COMMUNITY SERVICES ADMINISTRATION

Training and Technical Assistance in the Prevention of Accidental Hypothermia to Specific CSA Grantees

AGENCY: Community Services Administration.

ACTION: Notice.

SUMMARY: The Community Services Administration (CSA) is notifying those CSA grantees which have already been funded for accidental hypothermia prevention of training and technical assistance in energy-related programs which will be provided by the Center for Accidental Hypothermia in Portland, Maine, in accordance with section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, (Catalogue of Federal Domestic Assistance 49.014).

The Community Services Administration has funded the Diocesan Human Relations Services of Portland, Maine to establish a Center for Accidental Hypothermia. The Center will provide training and technical assistance for the prevention of accidental hypothermia for elderly people to those selected Community Action Agencies and to those selected State Economic Opportunity Offices during Fiscal Years 1980–82 in the following states: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Michigan, Illinois, Wisconsin, Nebraska, Missouri, Iowa, Kansas, Montana, Wyoming, South Dakota and Idaho.

Grantees may obtain information regarding this program from Ms. Joyce Harmon, Post Office Box 3551, Portland, Maine 04104.

FOR FURTHER INFORMATION CONTACT: Miriam Charnow, Community Services Administration, 1200—19th Street, NW., Washington, D.C. 20506; Telephone: 202–632–6503; Teletypewriter: 202–254–6218.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

Michael T. Blouin,

Assistant Director for Community Action.

[FR Doc. 81–404 Filed 1–7–81; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Relocation of United States Military Enlistment Processing Command

AGENCY: Department of Defense, Department of the Army.

ACTION: Notice of intent of the relocation of United States Military Enlistment Processing Command, Headquarters and its subordinate element from Fort Sheridan, IL to building 3400, Naval Training Center, IL.

SUMMARY: The United States Military Enlistment Processing Command (USMEPCOM) Headquarters and the Headquarters of its Central Sector will be relocated from Fort Sheridan, IL, to the Naval Training Center (NTC), Great Lakes, IL, a distance of approximately 7 miles. The above actions will be completed during the next 24 months.

In December 1979, it was determined that the USMEPCOM, during a period of potential mobilization needed to have a close working relationship with the Selection Service System (SSS). It was further determined that the interaction would be facilitated if the two organizations could share automated data processing (ADP) facilities. (USMEPCOM currently receives its ADP support from USAREC and SSS from a variety of other sources.) A study group selected building 3400, NTC Great Lakes, which was vacant and had facilities which previously accommodated a similar ADP operation, as the site for a separate SSS/USMEPCOM ADP operation. As a follow-on action, it was determined by the Defense Department that USMEPCOM and one of its control elements should be collected with its ADP operation. This relocation conincides with ongoing planning for the economical reutilization of the building 3400 at Great Lakes by the Defense Department.

This action will relocate a total of 124 military and 89 civilian jobs from Fort Sheridan, IL, to Great Lakes, IL. No position will be eliminated by this move. The impact upon Fort Sheridan will be minimal since USMEPCOM comprises approximately 5 percent of the total work force. While there is a one-time cost for renovation of and relocation to the building at Great Lakes, there are some annual savings to the Department of Defense in base operating support costs from this action. There is also a tangible benefit resulting from the Command Headquarters and its data processing element being collocated in the same building. USMEPCOM will also be providing support for any upgrade/change in ADP operations for the Selection Service System. The relocation will take place in two phases. The initial phase will relocate the USMEPCOM ADP activity involving 17 military and 11 civilian personnel positions and be completed by May 1981. The close proximity of the two installations will, in effect, only mean a change in work status from Fort Sheridan to Great Lakes for the USMEPCOM personnel, with a resultant slight shift in commuter traffic patterns, since no one, with the exception of few enlisted personnel to be quartered at Great Lakes NTC, is expected to move as a result of this action.

DATE: Comments must be received by January 21, 1981.

ADDRESS: Comment to: Deputy Assistant Secretary of Defense (I&H), Room 3E 760, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: A. D. Lewis, Acting Director of Real Property in Natural Resources, Office of the Deputy Assistant Secretary of Defense (Installations and Housing), Washington, D.C. 20310, (202–697–7227).

SUPPLEMENTARY INFORMATION: The US Military Enlistment Processing Command (USMEPCOM) is located at Fort Sheridan, IL. It was organized in July 1976 from the Armed Forces Entrance and Examining Station (AFEES) Directorate of the US Army Recruiting Command (USAREC), and the Armed Forces Vocational Testing Group of the US Air Force Recruiting Command. During the period of July 1, 1976 through September 30, 1979, the Commander of USAREC also served as the Commander of USMEPCOM. On October 1, 1979, USMEPCOM became a separate command. The mission of USMEPCOM is to determine an applicant's qualifications for military service through a process of aptitude testing, moral and medical examination. The command serves as the quality control link between the Recruiting Commands and their Service Training Bases.

Dated: December 24, 1980.

Paul W. Johnson,

Deputy for Installation and Housing, ASA (IL&FM).

[FR Doc. 81–570 Filed 1–7–81; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Bonpas Creek, Illinois; Intent To Prepare Draft Environmental Impact Statement (DEIS) for Detailed Project Study of Local Protection Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Proposed Action: The proposed action is to study the feasibility for reducing flood damages in the agricultural areas within the Bonpas Creek watershed in Edwards and Wabash Counties, Illinois. The study is being conducted under the authority of Section 205 of the 1948 Flood Control Act. Four alternative structural plans have been initially selected for consideration. The reach of the stream which would be affected if any of these alternatives were implemented would be between Stream Mile (SM) 11 and SM 28.

2. Alternatives: *No Action.* If this alternative were recommended, Bonpas Creek would be left in its present condition. No improvements would be implemented. *Plan 1.* This alternative would remove only logjams, drifts, and fallen trees from the stream. *Plan 2* is the same as Plan 1 plus it includes the clearing of an overbank area extending from the bank line to a distance of 50 feet along one side of the creek. *Plan 3* is the same as Plan 2 with the addition of four short high flow cutoff channels at locations between SM 24.32 and SM 26.04. *Plan 4* is the same as Plan 1 and includes the four short high flow cutoff channels of Plan 3. Plan 4 would also include the clearing of an overbank area 50 feet back from one stream bank between SM 15 and SM 28 and tapered clearing of one bank from 50 feet wide at SM 15 to 0 feet wide at SM 11.

3. Scoping Process: Public involvement to date on the study of the Bonpas Creek Local Protection Project has involved coordinating the previous reconnaissance study and field investigations with varius Federal, State, and local agencies and individuals. The significant issues to be analyzed in depth include the project's impacts on existing flood damages, endangered species, fish and wildlife resources, and cultural and social resources.

4. Scoping Meeting: A scoping meeting prior to the preparation of the DEIS is not scheduled. Anyone identifying significant issues that should be considered in the DEIS is invited to provide them in writing to the address noted below.

5. DEIS Preparation: It is anticipated that the DEIS will be available to the public in July 1981.

6. Address: Questions regarding the DEIS should be directed to C. E. Eastburn, Colonel, Corps of Engineers, 600 Federal Place, P.O. Box 59, Louisville, Kentucky 40201. Phone: (502) 582-5601.

Dated: December 23, 1980.

By authority of the Secretary of the Army.

C. E. Eastburn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81-641 Filed 1-7-81; 8:45 am]

BILLING CODE 3710-GF-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Raising of the Level of Flood Protection at Williamsport and South Williamsport, Pennsylvania

AGENCY: Baltimore District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. Recently, a preliminary study of the Williamsport project was made as part of the Susquehanna River Basin Flood Control Review Study, which was authorized by Congress after flooding in June 1972. The Comprehensive Review Study, which was directed to determine the advisability of adopting further improvements to existing systems in the Susquehanna Basin, concluded that the projects at Williamsport and South Williamsport, Pennsylvania, warranted additional detailed study. The proposed action is to raise the level of protection presently afforded by the levee and floodwall system.

2. Alternatives to the proposed action include raising the present system to several different levels, investigating nonstructural plans such as an improved Flood Warning and Evacuation System, and no action.

3a. The public involvement program will consist principally of workshops over the duration of the study, a public meeting, letters of coordination to appropriate agencies and parties to identify concerns and issues, and additional coordination and communication efforts that may be appropriate as the study proceeds. The public involvement program will begin with a Notice of Study Initiation and letters of coordination to interested agencies and organizations in January 1981. A public workshop will be held on 20 January 1981, at Genetti Lycoming Hotel, to which all interested individuals, organizations, and parties are invited.

3b. Possible issues that will be analyzed in the DEIS are: (1) the selection of the alignment which is the best mix of cost, community protection and protection to the natural resources; (2) the selection of borrow areas; and (3) any induced damages to nearby communities.

3c. The U.S. Fish and Wildlife Service will provide input to the DEIS in accordance with the provisions of the Fish and Wildlife Coordination Act.

4. Other agencies will be coordinated with to address pertinent environmental statutes and concerns that may arise through the scoping process. The 20 January 1981 public workshop will serve as an initial scoping meeting. Additional meetings and coordination will be scheduled as appropriate.

5. The DEIS will be available to the public in April 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: David J. Webber, Environmental Analysis Branch, U.S. Army Engineer District, Baltimore, P.O. Box 1715, Baltimore, Maryland 21203.

Dated: December 31, 1980.

James W. Dunmyer,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 81-663 Filed 1-7-81; 8:45 am]

BILLING CODE 3710-41-M

Department of the Navy

Feral Animal Removal Program, San Clemente Island, CA; Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of receiving oral and written comments concerning the Draft Environmental Impact Statement for the Feral Animal Removal Program, San Clemente, California. The purpose of the program is to remove feral goats, pigs, cats and deer present on the island that are threatening the survival of endangered species indigenous to the island. Removal is considered necessary for compliance with the Endangered Species Act. The public hearing will be held at 7:00 p.m. on January 12, 1981, at the City of Coronado Council Chambers, 1825 Strand Way, Coronado, California 92118.

V 46/5 JA 8 81 UMI

A short presentation describing the program and the status of the removal program presently underway will be made at the beginning of the session followed by an opportunity for public comment. Persons wishing to speak may register in advance by contacting the following:

CDR Franklyn J. Hartman, CEC, U.S. Navy,
Staff Civil Engineer, Naval Air Station
North Island, San Diego, CA 92135,
Telephone number (714) 437-7747.

Speakers may also register on the evening of the hearing by completing a registration card at the door. Oral statements at the hearing may be limited in length if there is a large number of speakers. In any case, lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required but are strongly preferred to ensure accuracy of the record and appropriate Navy response in preparing the final Environmental Impact Statement. All presentations (including those received separately from the public hearing) will be made a part of the project record and included within the final Environmental Impact Statement together with Navy response to each comment.

Written comments concerning the Draft Environmental Impact Statement will be received by the Western Division, Naval Facilities Engineering Command, P.O. Box 727, San Bruno, CA 94066, at any time before or after the Public Hearing, until February 12, 1981.

Dated: January 6, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-735 Filed 1-6-81; 12:16 pm]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Finding of No Significant Impact

AGENCY: Department of Energy.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Department of Energy has prepared an environmental assessment on the issuance of a prohibition order under the provisions of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) to Ash Grove Cement Company located in Chanute, Kansas. This order, when made effective, will prohibit the company from burning natural gas or petroleum products as its primary energy source in kilns No. 1 and No. 2 of the subject facility. The burning of coal appears to be the most likely alternative to the use of the prohibited fuels.

Based on the environmental assessment, which is available to the public on request, the Department of Energy has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

For information and single copies of the environmental assessment contact: Steve E. Ferguson, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3684.

FOR FURTHER INFORMATION CONTACT: Anton R. Dammer, NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of Environment, Department of Energy, Room 4G-057, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4610.

SUPPLEMENTARY INFORMATION: Issuance of an ESECA prohibition order will result in the conversion from natural gas and oil to coal in Ash Grove Cement Company's kilns No. 1 and No. 2. The Department of Energy has found that there will be no significant environmental impacts associated with the proposed conversion of the Ash Grove Cement Company's facility to coal.

Air Quality—Concentrations of pollutants resulting from the conversion will be substantially below National Ambient Air Quality Standards. Electrostatic precipitators with a design efficiency in excess of 95% will be installed for collection of particulate matter. Resulting plant contributions to ambient total suspended particulate levels will be so small they will hardly be measurable and are, therefore, considered negligible. Projected sulfur dioxide and nitrogen dioxide concentrations will be significantly below the standards. Carbon monoxide and hydrocarbon emissions are also projected to be negligible.

Water Quality—Impacts to surface and groundwater resources are considered to be insignificant. Coal pile runoff will be collected and recycled back to the plant for process use. Stormwater and non-contact cooling water discharges will not change in quantity or quality as a result of the conversion.

Other Impacts—The plant modifications associated with the conversion will be minor and will be within the existing plant site, and therefore will not impact historical, archaeological or cultural resources or cause significant visual, noise, ecological or socioeconomic impacts.

Alternatives to coal conversion which are addressed in the environmental assessment include: (1) a fuel mixture of coal and natural gas or petroleum, (2) use of alternate fuels, such as domestic oil, refuse derived fuel (RDF), wood or synthetic fuels, (3) early retirement, and (4) no action. The analysis shows these alternatives to be either not technically feasible or unable to meet the purposes of ESECA.

Date Issued: January 5, 1981.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 81-659 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Anchor Hocking Corp.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

[ERA Docket No. 80-CERT-042]

On November 25, 1980, Anchor Hocking Corporation (Anchor Hocking), 109 North Broad Street, Lancaster, Ohio 43130, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 3,200 Mcf of natural gas per day to displace approximately 198,400 barrels of No. 2, No. 4, and No. 6 fuel oil (0.3 to 2.7 percent sulfur) per year at its glass manufacturing plant located in Winchester, Indiana. The eligible seller of the natural gas is Gas Transport, Inc., an Anchor Hocking interstate pipeline subsidiary. The gas will be transported by the Columbia Gas Transmission Corporation, Gas Transport, Inc., and Panhandle Eastern Pipe Line Company. Notice of that application was published in the Federal Register (45 FR 83653, December 19, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On August 20, 1979, Anchor Hocking received the original certification (ERA Docket No. 79-CERT-070) of an eligible use of natural gas at the Winchester Plant for a period of one year, which expired August 19, 1980. This recertification is being issued after the expiration date of the original certification due to the applicant's late filing. Anchor Hocking has informed ERA that it did not expect to use this gas during the interim period and that the lack of continuity with the original certificate will not result in any reduction in the amount of fuel oil that can be displaced.

The ERA has carefully reviewed Anchor Hocking's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Anchor Hocking's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-625 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-01-M

Bergen Units 1 and 2 Generating Station; Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare environmental impact statement and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to Prepare an EIS evaluating the impact of its Proposed Prohibition Order for Bergen Generating Station Units 1 & 2. The plant is located in Ridgefield, New Jersey, and is owned and operated by Public Service Electric & Gas Co. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in these units. Subsequent operation of these units would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting, to be held on February 17, 1981, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 3:00 p.m. at Ridgefield, N.J. on February 17, 1981 and will continue until all persons wishing to speak have had an opportunity to do so. The session will reconvene at 7:00 p.m. to ensure greater public participation.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3322, Washington, D.C. 20461, Telephone (202) 653-3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-4600.

Date and Location of Scoping Meeting: February 17, 1981 at the Community Center, Slocum Avenue, Ridgefield, New Jersey. Meeting will begin at 3:00 p.m. and reconvene at 7:00 p.m.

Written Comments Due: Not later than March 19, 1981.

SUPPLEMENTARY INFORMATION: On July 31, 1980, the Economic Regulatory Administration (ERA) published in the **Federal Register** a proposed Prohibition Order for Units 1 and 2 of the Bergen Generating Station, located in Ridgefield, New Jersey. The proposed order was issued prusuant to Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620). If finalized, the order would prohibit these units from burning natural gas or petroleum as their primary energy source. The proposed prohibition order was based on an ERA finding that this powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source. It was determined that the powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Units 1 & 2 of the Bergen Generating Station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other alternate fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportion and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods of meeting the requirements of the Clean Air Act, Federal Waste Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Bergen Generating Station. If it appears that the environmental effects of conversions in proximity result in the cumulative impacts, DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the public's views and suggestions concerning this subject.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Bergen Units 1 and 2 from burning gas or petroleum as a primary energy source. The meeting on February 17, 1981, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will

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be prepared. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allotted approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by March 19, 1981. Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft. EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C. January 5, 1981.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 81-657 Filed 1-7-81: 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-045]

Fruehauf Corp., Kelsey-Hayes Company, Sedalia Plant; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

On December 18, 1980, Fruehauf Corporation (Fruehauf), Kelsey-Hayes Company, 38481 Huron River Drive, Romulus, Michigan 48174, filed an application with the Administrator of the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at the Sedalia Plant located in Sedalia, Missouri, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Fruehauf states that the volume of natural gas for which it requests certification is up to 105,000 Mcf per year and this volume is estimated to displace the use of approximately 735,000 gallons (17,500 barrels) of No. 2 fuel oil (0.2 percent maximum sulfur) at the Sedalia Plant.

The eligible seller is the Frue-Kel, Inc., a subsidiary of Fruehauf Corporation, 38481 Huron River Drive, Romulus, Michigan 48174. Although the Sedalia Plant will have no direct transportation agreement with an interstate pipeline to transport natural gas in connection with this transaction, the seller, Frue-Kel, Inc., will enter into such an agreement with Columbia Gas Transmission Corporation, Panhandle Eastern Pipeline Company, Kansas-Nebraska Natural Gas Company, and Cities Service Gas Company. Additionally, the Missouri Public Service Company will be the local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street, NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before January 19, 1981.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Fruehauf and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C. on December 31, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-028 Filed 1-7-81: 8:45 am]

BILLING CODE 6450-01-M

Salem Harbor Generating Station Units 1, 2, and 3; Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Proposed Prohibition Order for the Salem Harbor Generating Station Units 1, 2, and 3. These units are located in Salem, Massachusetts. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in these units. Subsequent operation of these units would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting which will be held on February 10, 1981, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 3:00 p.m. and will reconvene at 7:00 p.m. Each session will continue until all persons in attendance wishing to speak have had an opportunity to do so. The meeting has been scheduled for both day and evening hours to allow various Federal, state, and local agencies and private citizens to participate at their convenience.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department

of Energy, 2000 M Street, NW, Washington, D.C. 20461, Telephone (202) 653–3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252–4600.

DATE AND LOCATION OF SCOPING MEETING: February 10, 1981 at City Hall Annex, One Salem Green, third floor, Salem, Massachusetts. The meeting will begin at 3:00 p.m. and will reconvene at 7:00 p.m.

WRITTEN COMMENTS DUE: March 10, 1981.

SUPPLEMENTARY INFORMATION: On March 28, 1980, the Economic Regulatory Administration (ERA) published in the **Federal Register** a proposed Prohibition Order for Unit 1 (82 MW), Unit 2 (82 MW), and Unit 3 (170 MW) of the Salem Harbor Generating Station, located in Salem, Massachusetts. The proposed order was issued pursuant to Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620). If finalized, the order would prohibit these units from burning natural gas or petroleum as its primary energy source. The proposed order was based on an ERA finding that this powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source. It was determined that this powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Units 1, 2, and 3 of the Salem Harbor Generating Station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other alternate fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods for meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Salem Harbor Generating Station. If it appears that the environmental effects of conversions in proximity result in cumulative impacts, DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision-making process. DOE solicits the public's views and suggestions concerning this subject.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Salem Harbor Units 1, 2, and 3 from burning natural gas or petroleum as its primary energy source. The meeting on February 10, 1981, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them, and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will be prepared. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allocated approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by March 10, 1981.

Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C., January 2, 1981.

William W. Burr, Jr.,

Acting Assistant Secretary for Environment.

[FR Doc. 81–658 Filed 1–7–81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81–179–000]

Arizona Public Service Co.; Rate Change

December 23, 1980.

The filing company submits the following:

Take notice that Arizona Public Service Company, on December 18, 1980, tendered for filing rate increases in its following FPC Electric Service Rate Schedules:

12—Electrical District No. 3
13—Electrical District No. 7
14—Maricopa County Municipal Water Conservation District No. 1
15—Roosevelt Irrigation District
16—Buckeye Water Conservation & Drainage District
35—Electrical District No. 6
50—Citizens Utilities Company
52—Papago Tribal Utility Authority
57—Arizona Electric Power Cooperative, Inc.
58—Wellton-Mohawk Irrigation & Drainage District
59—Arizona Power Authority
65—Colorado River Indian Irrigation Project
66—San Carlos Indian Irrigation Project
68—Electrical District No. 1
74—Town of Wickenburg
—Plains Electric Generationand Transmission Cooperative, Inc.
—Washington Water Power Company

The proposed rate changes would increase revenue from jurisdictional sales and service by $14,736,554 based

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on the 12-month period ending February 28, 1982.

Arizona Public Service Company states that the proposed changes are necessary to offset the rapidly escalating costs involved in rendering service under these schedules.

Copies of the filing were served upon the Company's resale customers affected by the filing and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc.81-545 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2790]

Boott Mills and Proprietors of the Locks and Canals of the Merrimack River; Extension of Time

December 24, 1980.

On December 15, 1980, Boott Mills and proprietors of the Locks and Canals of the Merrimack River (Boott Mills) and Massachusetts Municipal Wholesale Electric Company (MMWEC) filed a request for an extension of time for MMWEC to file a competing application in the above-docketed proceeding. The motion states that additional time is required to allow Boott Mills and MMWEC to pursue final negotiations on a joint agreement to provide for joint ownership or operation of the proposed project. On December 16, 1980, MMWEC filed a supplement to the motion for extension of time stating that the Atlantic Associates in addition to the other intervenors in this proceeding do not oppose this extension request.

Upon consideration, notice is hereby given that an extension of time for the filing of a competing application is granted to and including May 1, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-546 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-176-000]

Central Power & Light Co.; Application

December 23, 1980.

The filing company submits the following:

Take notice that on December 18, 1980, Central Power & Light Company (Applicant) submitted an amendment to interchange agreement covering a new emergency service to South Texas Electric Cooperative and Medina Electric Cooperative. Applicant states that the sale of emergency power and energy will be for a limited duration only. Applicant states that South Texas and Medina Electric Cooperatives join in support of the amendment and request expeditious approval thereof, including waiver of certain filing requirements in order that the emergency service provision of the contract amendment will be effective as of January 1, 1981.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-547 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP79-12, et al.]

El Paso Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

December 23, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 7, 1981. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company and Docket No.	Type filing
11/28/80	El Paso Natural Gas Company (RP79-12).	Report.
11/28/80	El Paso Natural Gas Company (CP77-289).	Plan.
12/15/80	Cities Service Gas Company (RP72-142, *et al.*).	Report.

[FR Doc. 81-548 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-69-000]

Georgia Power Co.; Order Accepting for Filing and Suspending Proposed Interchange Agreement Rates, Waiving Notice Requirements, and Consolidating Proceedings

Issued: December 30, 1980.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., George R. Hall and J. David Huges.

On November 13, 1980, Georgia Power Company (Georgia Power) submitted for filing proposed changes in the rates for emergency assistance and short-term power services under an Interchange Agreement with Savannah Electric and Power Company (Savannah). Such proposed rates were derived using the same costing methodologies as those originally set for investigation in Docket No. ER79-575, [1] and which are currently under investigation in Docket No. ER80-222.[2]

In Docket Nos. ER79-575 and ER80-222, Georgia Power filed revisions in its rates for emergency assistance, short-term capacity, and economy energy services under the interconnection agreement involved in this filing. Docket No. ER79-575 was terminated by Commission order on April 16, 1980, but the Commission stated that the investigation of the costing methodologies initiated in Docket No. ER79–575 was to be continued in Docket No. ER80–222 [3] which was later consolidated with Docket Nos. ER80–58, *et al.*[4]

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[1] *Georgia Power Co.*, Docket No. ER79-575, order issued October 5, 1979.

[2] *See Georgia Power Co.*, Docket No. ER80-222, order issued April 16, 1980.

Georgia Power requests waiver of the notice requirements in order to permit an effective date of January 1, 1981. Georgia Power further requests that if the Commission orders a hearing on the justness and reasonableness of the proposed charges, a one day suspension be imposed.

Notice of the filing was issued on November 12, 1980, with comments, protests, or petitions to intervene due on or before December 2, 1980. No responses were received.

Discussion

The proposed charges are based on the same costing methodologies as those currently under investigation in Docket No. ER80–222. Consistent with our preliminary evaluation in Docket No. ER79–575, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and ureasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. The Commission notes that both parties have agreed to apply the revised charges as of January 1, 1981, and that no comments, protests, or petitions to intervene were filed by any other individuals. Accordingly, we shall exercise our discretion to suspend the rates for only one day and to waive the notice requirements set out in section 35.3 of our regulations permitting the rates to take effect subject to refund thereafter on January 2, 1981.

Furthermore, the costing methodologies on which these proposed rates are based are the same as those currently being investigated in Docket No. ER80–222 which has been consolidated with Docket Nos. ER80–58, *et al.* Therefore, we find that common questions of law and fact exist. In order to avoid unnecessary duplication of effort or expenditures of resources, we shall consolidate this docket with those currently under investigation in Docket Nos. ER80–58, *et al.*

The Commission Orders:

(A) Waiver of the notice requirements of section 35.3 of the regulations is hereby granted for good cause shown.

(B) Georgia Power Company's proposed rates are accepted for filing and suspended for one day, to become effective January 2, 1981, subject to refund.

(C) This proceeding is consolidated with Docket Nos. ER80–58, *et al.*

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81–549 Filed 1–7–81; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–209]

Michigan Wisconsin Pipe Line Co.; Amendment to Application

December 24, 1980.

Take notice that on December 8, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80–209 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect the transportation of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and the construction and operation of facilities necessary therefor, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that ARCO Oil and Gas Company, a Division of Atlantic Richfield Company (ARCO) has acquired from the U.S. Department of the Interior the oil and gas leases covering West Cameron area Blocks 205, 206, 238, 239, and 249, offshore Louisiana. It is further stated that ARCO has granted Applicant the preferential right to purchase the gas reserves underlying Block 239, granted to Northern the right to purchase the gas reserves underlying Block 205, Block 238, and Block 249, and at present has not committed the reserves underlying Block 206.

Applicant proposes herein to construct and operate the facilities necessary to provide transportation onshore for the subject gas reserves.

Applicant states that Block 238 is located over 25 miles southeasterly of Applicant's existing offshore pipeline system in West Cameron area Block 171, offshore Louisiana, and that to connect Block 238 and the other ARCO blocks Applicant would construct and operate a 20-inch O.D. pipeline extension interconnecting an existing production platform in Block 171 and ARCO's production platform in Block 238 at an estimated cost of $18,758,080. Applicant further states that lateral pipeline and measurement facilities required to connect the production platform in Block 239 to the Block 238 extension would be constructed pursuant to budget authorization.

Applicant further proposes herein to provide a transportation service for Northern pursuant to a transportation agreement dated November 11, 1980. It is asserted that Northern would deliver up to 120,000 Mcf of natural gas per day attributable to its purchases of Block 205, 238, and 249 production and Applicant would deliver equivalent quantities less 2.2 percent for fuel use to Trunkline Gas Company (Trunkline) for the account of Northern.

Applicant states that the points of receipt from Northern are as follows:

(1) at a proposed subsea valve on the Block 238 extension to be located in West Cameron Block 204 with measurement on Atlantic Richfield Company's "A" platform in block 205;

(2) on Atlantic Richfield Company's "A" production platform in Block 238;

(3) at a proposed subsea valve on the Block 238 extension with measurement on Atlantic Richfield Company's "B" production platform in Block 238;

(4) at a second proposed subsea valve on the Block 238 extension with measurement at Atlantic Richfield Company's "C" production platform in West Cameron area Block 249, offshore Louisiana; and,

(5) such other point or points of receipt as added from time to time by mutual consent of the parties.

Applicant asserts that it would make redeliveries (1) at an existing onshore interconnection between the pipeline systems of Applicant and Trunkline located at Applicant's Patterson Compressor Station in St. Mary Parish, Louisiana, and (2) at the tailgate of The Superior Oil Company's Lowry Plant in Cameron Parish, Louisiana. Applicant submits it would charge Northern a monthly demand charge equal to the product of the contract demand and $7.79. It is further submitted that the primary term of the agreement is for 15 years commencing with the date of initial deliveries.

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[3] *Id.*, mimeo at p. 3.

[4] *Georgia Power Company*, Docket No. ER80–222, order issued September 3, 1980.

[5] *E.g., Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80–506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–488 (August 22, 1980) (one day suspension).

It is stated that Applicant's existing onshore pipeline system between its Grand Chenier and Eunice stations is presently operating at deliverability levels approaching design capacity and that to increase the deliverability of such system to accommodate Northern's gas Applicant would construct and operate 13,000 horsepower of compression at the Grand Chenier Station and approximately 15.2 miles of 30-inch O.D. onshore pipeline loop at an estimated cost of $19,047,300 and $10,621,050, respectively.

Applicant states that the total cost of all facilities proposed herein is $48,520,910 which would be financed with treasury funds and other funds generated internally together with borrowings from banks under short-term lines of credit as required. Applicant anticipates that any bank borrowings would subsequently be permanently financed as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-550 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3617-000]

Middle Tennessee Electric Membership Corp.; Application for Preliminary Permit

December 23, 1980.

Take notice that Middle Tennessee Electric Membership Corporation (Applicant) filed on October 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3617 to be known as Walterhill Dam Water Power Project located on the East Fork Stones River in Rutherford County, Tennessee, near the City of Murfreesboro. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George W. Flew, Project Manager, c/o Allen & Hoshall, Inc., 227 Cumberland Bend, Nashville, Tennessee 37228. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-river project would consist of: (1) an existing concrete gravity dam, approximately 250 feet long and 15 feet high, and a concrete spillway approximately 180 feet long; (2) and existing 18-foot by 24-foot powerhouse, located on the north bank of the river, with three existing intake openings in the powerhouse headwall; (3) an existing reservoir with a maximum elevation at the crest of the dam of approximately 515 feet m.s.l.; (4) existing transmission lines; and (5) appurtenant facilities. The estimated installed generating capacity is approximately 1,200 kW.

The Applicant estimates that the average annual energy output would be 3,452,300 kWh.

Purpose of Project—the power generated at the facility would be distributed by the Middle Tennessee Electric Membership Corporation System to its members, and supplement the base energy requirements of its supplying agency, the Tennessee Valley Authority.

Proposed Scope and Cost of Studies under Permit—the Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and Federal permits, and to develop prelininary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $10,200.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 25, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 25, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition to Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3617. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-553 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-88-000]

Northwest Pipeline Corp.; Application

December 24, 1980.

Take notice that on December 9, 1980, Chevron Chemical Company (Chemical) filed in Docket No. CP81-88-000 an application on behalf of Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, pursuant to Section 7(c) of the Natural Gas Act as implemented by Section 157.101 of the Commission's Regulations (18 CFR 157.101) for a certificate of public convenience and necessity authorizing the transportation of up to 2,000 Mcf of natural gas per day for the account of Chemical from Rio Blanco County, Colorado, to Kennewick, Washington, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a gas purchase contract dated October 16, 1980, Chemical would purchase a supply of natural gas from Chevron U.S.A., Inc. (Chevron) at the outlet of the Hagood Gas Processing Plant located in the Rangely Field, Rio Blanco County, Colorado, which Chemical would use as process fuel in its fertilizer plant located near Kennewick, Washington.

Chemical states that Northwest has entered into a transportation agreement with Chemical dated October 28, 1980, pursuant to which Northwest would transport the subject gas from the Hagood delivery point to the facilities of Cascade Natural Gas Corporation (Cascade), a distribution customer of Northwest, at a point of interconnection in Benton County, Washington. Cascade, it is asserted, would deliver thermally equivalent volumes to Chemical as its Kennewick plant.

Chemical asserts that the transportation agreement is for a term of 15 years but requests the service be for a term of five years as provided by § 157.105(a) of the Commission's Regulations.

Northwest proposes to charge Chemical 1.54 cents per Mcf based on Northwest's incremental cost-of-service for the facilities required to transport Chemical's gas from the Hagood delivery point to the mainline which facilities would be constructed pursuant to budget authorization. Further Northwest proposes to charge Chemical its mainline direct transportation rate which rate is currently 20.34 cents per Mcf. Chemical states that the jurisdictional portion of all revenues received would be credited to Northwest's Account 191 of the Uniform System of Accounts Prescribed for Natural Gas Companies.

It is stated that the subject gas would be used by Chemical in its fertilizer plant as process fuel in the manufacture of ammonium nitrate, complex fertilizers and nitrogen solutions all of which qualify as essential agricultural uses.

Pursuant to Section 157.103 of the Commission's regulations, Chemical states that 2,000 Mcf of gas would be transported on a peak day, 1,049.8 Mcf on an annual average day, and 383,177 Mcf annually, all exclusive of fuel use. Further Chemical states Northwest would have capacity sufficient to perform the proposed transportation service as would Cascade.

Chemical submits that by establishing the Hagood delivery point Northwest also enhances its opportunities to acquire additional gas supples which may become available for sale at that point.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-552 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-314-003]

Panhandle Eastern Pipe Line Co.; Petition To Amend

December 24, 1980.

Take notice that on December 11, 1980, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP75-314-003 a petition to amend the order issued September 26, 1975,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the expansion of the specified area of interest pursuant to an exchange agreement between Petitioner, Kansas-Nebraska Natural Gas Company, Inc. (K-N) and El Paso Natural Gas Company (El Paso), the establishment of an additional balancing point and the addition and deletion of delivery points and/or balancing points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Petitioner states that by order issued September 26, 1975, it was authorized, *inter alia*, to exchange gas with K-N and El Paso in certain portions of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas.

Pursuant to a June 1, 1980, amendment to the gas exchange agreement between the parties, Petitioner proposes herein to:

(1) Expand the area of interest to include all of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas.

(2) Add as an additional balance point the Bryant #1-21 well located in Roger Mills County, Oklahoma, which is connected to the pipelines of both K-N and El Paso; and,

(3) Facilitate the expeditious exchange of gas by allowing on an annual basis a tariff filing on or before January 31 of each year showing additions or deletions of delivery points and/or balancing points.

Petitioner asserts that facilities to accomplish the exchange of gas at new delivery points would be installed under budget authorization. It is further asserted that the deletion of wells would be limited to those wells for which abandonment authorization has been secured or for which such authorization is not required by the producer-supplier.

Petitioner asserts that the subject proposals would make available to the parties contracted gas supplies without any unnecessary duplication of facilities and would minimize expenditures with respect to such supplies.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-554 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-95-000]

Panhandle Eastern Pipe Line Co.; Application

December 24, 1980.

Take notice that on December 12, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-95-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of twenty-three taps to provide service for right-of-way grantors, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 15 direct sales taps and to make direct sales of natural gas to these customers as follows:

Location of points-of-delivery and name of applicant	End use
Alfalfa County, Okla.—Claude Ryel	Domestic.
Alfalfa County, Okla.—Max Anthony	Do.
Beaver County, Okla.—Larry Taylor	Irrigation.
Woodward County, Okla.—Charles E. Lynes	Domestic.
Clark County, Kans.—RAI Land Company	Irrigation and Grain Drying.
Franklin County, Kans.—Jess Bolling	Domestic.
Johnson County, Kans.—Kirk E. Cornelius	Do.
Meade County, Kans.—Francis E. Shinogle.	Do.
Meade County, Kans.—Francis E. Shinogle	Irrigation.
Meade County, Kans.—Holmes Carol Bender.	Do.
Meade County, Kans.—Daniel C. Loewen	Do.
Meade County, Kans.—Novinger & Dufield Trusts.	Do.
Cass County, Mo.—Dennis L. Ammon	Domestic.
Johnson County, Mo.—School District R-VII.	Commercial.
Ralls County, Mo.—Louis B. Kohl	Domestic.
Ochiltree County, Tex.—C. G. Jewell	Do.

Applicant further proposes to construct and operate four new delivery points to Town Gas Company, an existing distribution company customer of Applicant, so that Town Gas Company may provide natural gas service to the following right-of-way grantors:

Location of points-of-delivery and name of applicant	End use
Christian County, Ill.—Carl S. Stahl	Domestic.
Douglas County, Ill.—Lois E. Mott	Do.
Edgar County, Ill.—Dale Hollingsworth	Do.
Peoria County, Ill.—David R. Oedewaldt	Do.

In addition, Applicant proposes to construct and operate three new delivery points to Indiana Gas Company, an existing distribution company customer of Applicant, so that Indiana Gas Company may provide natural gas service to the following right-of-way grantors:

Location of points-of-delivery and name of applicant	End use
Hancock County, Ind.—Phyllis M. Maron	Domestic.
Madison County, Ind.—Robert A. Delaplane.	Do.
Madison County, Ind.—Robert M. Watson	Do.

Applicant estimates that each domestic use customer would require an average volume of 150 Mcf of gas per year with irrigation fuel use customers each averaging 3,750 Mcf of gas per year.

Applicant estimates the total cost of facilities proposed herein is $49,300 which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-535 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-388-003]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Petition to Amend

December 24, 1980.

Take notice that on December 11, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-388-003 a joint petition to amend the order issued November 19, 1979, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of up to 100,000 Mcf of natural gas per day on an interruptible basis for the account of United Gas Pipe Line Company (United) and the delivery of gas at an additional point in Waller County, Texas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued November 19, 1979, they were authorized to transport gas for United. It is asserted that United has advised petitioners that the gas received for transportation from ONG Western, Inc. is subject to interruption. Therefore, pursuant to an amended transportation contract dated September 10, 1980. Petitioners propose to change the volumes transported from 60,000 Mcf per day on a firm basis and 40,000 Mcf per day on a best-efforts basis to 100,000 Mcf per day on an interruptible basis and to add a point of redelivery to Houston Pipeline Company in Waller County, Texas.

Further Petitioners state that United would pay Panhandle a unit charge of 19.09 cents per Mcf at St. Mary and the LaSalle Parishes, Louisiana, points of redelivery and 20.44 cents per Mcf at the Waller County, Texas, point of redelivery.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-553 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-581]

Pataya Storage Co.; Request for Environmental Comments About a Proposed Natural Gas Storage Facility

December 29, 1980.

The Federal Energy Regulatory Commission (FERC) staff is currently evaluating the scope and significance of environmental impact associated with an application by Pataya Storage Company (Pataya), a wholly owned subsidiary of Southwest Gas Corporation (Southwest) for a certificate of public convenience and necessity. The application (Docket No. CP80-581) is filed pursuant to section 7(c) of the Natural Gas Act. The certificate would authorize construction and operation of an underground gas storage facility near Red Lake in Mohave County, Arizona. Natural gas would be stored under pressure during low demand summer months and redelivered during high demand to an interconnection with a main transmission pipeline of the El Paso Natural Gas Company (El Paso).

The applicant specifically seeks authorization to develop, by conventional methods of subsurface solution mining, two underground gas storage caverns in a massive halite (salt) deposit below Hualapai Valley in Mohave County, Arizona. The caverns would store 4 billion cubic feet (Bcf) of natural gas under pressure of 1,000 to 3,000 psi: 3 Bcf would be working gas; 1 Bcf would be cushion gas to maintain sufficient delivery pressure in the reservoir.

Solution mining of the caverns would require a groundwater withdrawal of approximately 5,700 acre feet (1.86 billion gallons) over 14 months and about 1.3 square miles of diked evaporating ponds to dispose of the brine solution that would be produced. The applicant further proposes to construct a compressor station necessary to operate the storage facility. It would consist of three 1,600-hp. reciprocating engine compressor units. Also proposed is approximately 30 miles of 16-inch diameter gas pipeline from the proposed storage facility near Red Lake south to the main transmission pipeline of El Paso near Kingman, Arizona. In addition, authorization is requested to provide Southwest with up to 100 million cubic feet per day (cfd) of natural gas and a total of 3 Bcf annually.

Also proposed are approximately 30 miles of electric power transmission line that would generally parallel the proposed gas pipeline and approximately 6 miles of improved access roadway.

The applicant also believes that additional storage service could be provided in the future from this facility for El Paso or any customers on the El Paso system, provided that sufficient transmission capacity exists in El Paso's pipeline. However, the applicant states that it has no firm plans for future expansion, and any proposal to do so would require a separate certificate.

Alternatives which the staff will consider include no project, LNG storage, underground pore space storage, and development of solution cavities in other salt bodies. Alternative electric power sources and brine disposal methods will also be evaluated.

A copy of this notice and additional technical information regarding the proposed project (including maps) have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed project. These comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis and to determine whether an environmental impact statement should be prepared. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Recommendations that the staff's evaluation address specific issues or alternatives should be supported by detailed rationale or a showing of the need to consider those issues or alternatives. Written comments should be submitted by February 13, 1981.

Additional information about the proposal is available from Mr. Lonnie Lister, Project Manager, Environmental Evaluation Branch, Office of Pipeline

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and Producer Regulation, telephone (202) 357-8870.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-586 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3620-000]

Power Authority of the State of New York; Application for Preliminary Permit

December 23, 1980.

Take notice that the Power Authority of the State of New York (Applicant) filed on October 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3620 to be known as the Delta Project located on the Mohawk River in Oneida County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas R. Frey, General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-the-river project would consist of: (1) an existing gravity dam composed of a 300-foot long ogee spillway with a maximum height of 86 feet flanked by non-overflow sections of 331 feet and 381 feet in length, respectively; (2) the Delta Reservoir with a surface area of 2,483 acres at crest elevation of 550 feet; (3) four existing 60-inch diameter outlet conduits, to be modified to serve as the power penstocks; (4) two existing 30-inch conduits in the western section of the dam providing water for a fish hatchery downstream; (5) a new powerhouse located below the eastern dam section; (6) a new 2.1 MW turbine/generator; and (7) a short transmission line and appurtenant facilities.

The Applicant estimates that the average annual energy output would be 10,300,000 kWh.

Purpose of Project—Project power would be sold to present Applicant customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, an economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to rehabilitate and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $39,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 4, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a part, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 4, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3620. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-587 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3621-000]

Power Authority of the State of New York; Application for Preliminary Permit

December 23, 1980.

Take notice that the Power Authority of the State of New York (Applicant) filed on October 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3621 to be known as the Canal Project located on Mohawk River in Schenectady and Montgomery Counties, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas R. Frey, General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-the-river project would consist of: (1) Locks E-8 through E-11 of the Erie Barge Canal System; (2) turbine/generator units rated at an average of 2.0 to 5.0 MW at each site depending upon whether estimates are based on operations during the eight month navigational season or the entire year; and (3) transmission and appurtenant facilities.

The Applicant estimates that the average annual energy output would be between 46 and 110 GWh.

Purpose of Project—Project power would be sold to the Applicant's customers.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $75,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 4, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 4, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3621. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-558 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RI81-3-000]

Riddell Petroleum Corp.; Petition for Declaratory Order

December 24, 1980.

Take notice that on November 12, 1980, Riddell Petroleum Corporation (Riddell), 1606 First City National Bank Building, Houston, Texas 77002, filed in Docket No. RI81-3-000 a petition for declaratory order pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7). Riddell requests that the Commission declare that Riddell may collect the applicable maximum lawful price under the National Gas Policy Act of 1978 (NGPA) for certain past sales of natural gas to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin).

In its petition Riddell, a certificated small producer, indicates that it made sales of gas to Michigan Wisconsin from the Laverne Field, Harper County, Oklahoma, under a contract dated July 31, 1958, for a term which ended December 19, 1978. Under the terms of the contract, Riddell states that the price for the gas was set at a fixed rate plus fixed escalations, such that the price at the date of the expiration of the contract was approximately 27 cents per Mcf.

Riddell further states that shorty after the expiration of the contract it sought to negotiate a new contract with Michigan Wisconsin to provide for collection of the applicable maximum lawful price, but negotiations were delayed by Michigan Wisconsin's having to deal with a number of expired contracts during the same time period. Riddell asserts that it was assured by Michigan Wisconsin that the new contract would be retroactive to the expiration date of the original contract. Following further delays in negotiating the terms of a new agreement and after further assurances by Michigan Wisconsin, Riddell states, the parties executed a new contract on July 2, 1979 that provided for the collection by Riddell of the applicable maximum lawful price for the sale of the gas. Riddell states that during the period from December 1978 through June 1979, Michigan Wisconsin continued to take delivery of the gas and paid Riddell at the applicable maximum lawful price set forth in Section 104 of the NGPA.

By its petition Riddell requests that the Commission issue an order declaring that Riddell was entitled to collect the applicable maximum lawful price for sales of the subject gas during the period from December 19, 1978 to July 2, 1979, as being contractually permitted by agreement between the parties. In the alternative, Riddell requests that its petition be deemed a unilateral rate increase filing to collect the applicable maximum lawful price during the period at issue, and that the Commission accept the filing effective retroactive to December 19, 1978 and waive the portion of Section 154.94 of the Commission's Regulations (18 CFR 154.94) which requires that a rate increase filing be made prior to the collection of the rate. As a second alternative, in the event that the Commission should find that the applicable maximum lawful price for the subject sales was not contractually permitted during the period at issue, Riddell requests that the Commission waive that portion of Section 157.40(c) of its Regulations (18 CFR 157.40(c)) which requires small producer rates to be contractually permitted in order to be collected under a small producer certificate without a rate change filing, and permit Riddell to collect the maximum lawful price for the sales during the period at issue.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 24, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-559 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE80-30]

Southwestern Public Service Co.; Order on Rehearing

Issued: December 29, 1980.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

On December 3, 1980, Southwestern Public Service Company (SPSC) filed an application for exemption from certain of the reporting requirements of Part 290 of the Commission's regulations, 18 CFR 290, as published on October 11, 1979, at 44 FR 58687.[1] These regulations implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). A summary of the application was published in the **Federal Register** on January 17, 1980 (45 FR 3380), and in newspapers of general circulation in SPSC's service area during April and May of 1980. The **Federal Register** notice invited comments on the application until a closing date of February 29, 1980. The newspaper notices invited comments by May 28, 1980.

On August 18, 1980, comments were received from the Public Utility Commission of Texas (TPUC) in support of SPSC's application. No other comments were received.

In its application, SPSC requested exemption from the requirement of section 290.406(a) to provide class load data for certain customer groups defined in section 290.404(a), (b), and (d). SPSC based its request on a two-part argument: (1) that time-of-day rates would not be cost-effective for its retail business because of certain load and cost characteristics of its system; and (2) since section 290.404(h) provides an exemption from the class load data requirements for customer groups served under time-of-day rates, SPSC should receive the same exemption.

On October 28, 1980, the Director of the Office of Electric Power Regulation issued an order denying the SPSC application.[2] SPSC filed an application for rehearing of that denial on November 28, 1980.

SPSC states that its application for rehearing is not predicated on any errors in the order denying the requested exemption. Rather, SPSC indicates that the New Mexico Public Service Commission (NMPSC) is currently considering the need for SPSC to supply various class load data in its Case No. 1567, which is a proceeding initiated to consider the rate-making standards of Title I of PURPA for SPSC. It appears that these class load data are similar to those required to be reported under the provisions of Part 290 from which SPSC sought exemption in its original application. SPSC anticipates that NMPSC, upon the completion of its proceedings in Case No. 1567, will be in a position to determine whether it will support SPSC's application for exemption. As a result, SPSC has requested that this Commission grant rehearing of the prior order for the purpose of keeping SPSC's exemption application pending until the NMPSC has completed its proceedings and has expressed its position to this Commission.

On December 2, 1980, NMPSC filed a letter confirming SPSC's statements as to the status of Case No. 1567, and indicating a probable conclusion of that case by July 15, 1981. NMPSC states that it will, upon conclusion of Case No. 1567, communicate to this Commission whether and to what extent it will support SPSC's application for exemption. NMPSC suggests that a final decision on SPSC's application be deferred until its determinations are available for consideration.

Discussion

Upon consideration of the pleadings, and in view of the fact that TPUC supported SPSC's original application, it appears reasonable to hold this matter in abeyance until NMPSC has made the determinations discussed above and has communicated them to this Commission.

Accordingly, the SPSC application for rehearing will be granted to the extent that a final decision on SPSC's application for exemption will be deferred until August 31, 1981, or until such earlier time as will permit consideration of any comments which may be submitted by the NMPSC on this matter.

The Commission Orders

(A) SPSC's application for rehearing is hereby granted to the extent that a final decision on SPSC's original application for exemption will be deferred until August 31, 1981, or until such earlier time as will permit consideration of any comments which may be submitted by the NMPSC on this matter.

(B) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-560 Filed 1-7-81; 8:45 am]

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[1] On November 6, 1979, SPSC had filed a letter requesting a one-month extension of time beyond November 1, 1979, to submit its application for exemption.

[2] Authority to act on such matters has been delegated to the Director, Office of Electric Power Regulation, under § 3.5(g)(37) of the Commission's regulations, 18 CFR 3.5(g)(37), as amended on January 23, 1980.

[Docket No. GP80-20]

Tennessee Gas Pipeline Co.; Third Party Protest[1]

December 23, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B,"[3] Associated Gas Distributors (AGD) protested on December 9, 1980, the assertion by the Tennessee Gas Pipeline Company (Tennessee) and certain producers that the contracts identified in its protests constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

AGD stated that the language of the following contracts does not constitute authority for the producer to increase prices to the extent claimed by Tennessee in its evidentiary submission:

Seller	Rate schedule No.	Date
Amoco Production Co.	573	1/1/49
		4/1/75
		6/20/80
Tenneco Oil Co.	293	10/1/79
Samedan Oil Corp.	CS 71-430	5/21/79
Transocean Oil, Inc.	10	4/27/80
		5/18/78
Texaco, Inc.	136	9/30/55
		9/1/73
		7/8/80
Gulf Oil Corp.	175	
Texaco, Inc.	59	8/1/50
		6/1/74
		5/1/80
Texaco, Inc.	56	10/2/50
		6/1/74
		5/1/80
Texaco, Inc.	260	10/27/53
		6/1/74
		5/1/80
Superior Oil Co.	2	8/17/53
		1/28/75
		7/15/76
		8/27/80
Texaco, Inc.	528	8/1/75
		7/31/80
Aminoil of L. A., Inc	10	12/31/56
		8/1/79
Chevron U.S.A., Inc.	178	12/31/56
		8/1/79
Mesa Petroleum Co	87	
Mesa Petroleum Co	88	
Santa Fe Energy Co	CS 71-206	8/31/79

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 8, 1981, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-581 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

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[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protest.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

[Docket No. CP81-93-000]

Transcontinental Gas Pipe Line Corp.; Application

December 24, 1980.

Take notice that on December 11, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP81-93-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement between the parties dated June 23, 1980, as amended November 17, 1980, Applicant proposes to transport up to 18,300 Mcf of natural gas per day on a firm basis for United both individually and as agent for Amoco Production Company. It is stated that Applicant would receive the gas at an interconnection between the facilities originating in Ship Shoal Block 84 jointly owned by Northern Natural Gas Company, Division of InterNorth, Inc., Southern Natural Gas Company and United and Applicant's Southeast Louisiana gathering system in Ship Shoal Blocks 70 and 72, offshore Louisiana. It is further asserted that Applicant would redeliver thermally equivalent quantities at (1) the existing interconnection between the systems of Applicant and United at Starks, Calcasieu Parish, Louisiana, (2) the existing interconnection between the systems of Applicant and United in Victoria County, Texas, (3) the existing interconnection between Applicant and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. at Crowley, Acadia Parish, Louisiana, (4) the existing interconnection between Applicant and United at the Cameron Meadows Plant, Cameron Parish, Louisiana, (5) the existing interconnection between Applicant and Florida Gas Transmission Company in Vermilion Parish, Louisiana, and (6) any other mutually agreeable existing authorized points of interconnection between the systems of Applicant and United.

It is submitted that for all quantities transported, United would pay Applicant a monthly demand charge of $41,496 and Applicant would retain 1.2 percent of the quantities transported as compressor fuel and line loss make-up. It is further asserted that the agreement is for a primary term of ten years from the date of initial deliveries and from year to year thereafter.

Applicant states that the proposed transportation service would assist United in receiving quantities of gas into its system which United would purchase in Block 84, Ship Shoal area, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-582 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2899]

Twin Falls Canal Co. and North Side Canal Co., Ltd.; Application for Preliminary Permit

December 23, 1980.

Take notice that Twin Falls Canal Company and North Side Canal Company, Ltd. (Applicant) filed on November 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed project No. 2899 to be known as the Milner Hydroelectric Project located on the Snake River in Twin Falls, Jerome, Cassia, and Minidoka Counties, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John Rosholt, Esquire, P.O. Box 1906, Twin Falls, Idaho 83301, with copies to Mr. James G. Patrick, 1575 Kingswood Drive, Hillsborough, California 94010.

Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing Applicant's Milner Dam, a 73-foot high by 2,160-foot long earth and rockfill structure creating; (2) the Milner Reservoir, with storage capacity of 40,000 acre-feet; (3) the existing Twin Falls South Side Canal; (4) a new forebay structure; (5) two 15-foot, 6-inch diameter penstocks, each approximately 390 feet long serving; (6) a new powerhouse to contain two Francis-type, turbine-generating units with a total rated capacity of 50.25 MW, operating under a head of 140 feet; (7) approximately 1.25 miles of 138-kV transmission line that would transmit project power to an existing Idaho Power Company's substation.

The Applicant estimates that the average annual energy output would be 161.5 GWhs.

Purpose of project—Applicant proposes to sell the project energy to Idaho Power Company (IPC) which would be used in IPC's electric service area.

Proposed Scope and Cost of Studies under Permit—Extensive studies including geological reconnaissance; preliminary engineering, cost estimates, and economic analysis have been undertaken. Applicant proposes no new road or ground disturbing field tests. Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include further engineering and environmental data. The costs of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application are estimated by the Applicant to be about $150,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for project No. 2899. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-303 Filed 1-7-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3540-000]

Utah Hydro Corp.; Application for Preliminary Permit

December 23, 1980.

Take notice that Utah Hydro Corporation (Applicant) filed on October 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3540-000 to be known as the East Canyon Hydroelectric Project located on East Canyon Reservoir in Weber County, Utah. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: J. D. Catten, 8184 Breeze Drive, Magma, Utah 84044. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Army Corps of Engineers' East Canyon Dam and would consist of a penstock, a powerhouse with one or more generating units having a total rated capacity of 1,416-KW, and an 11-mile long transmission line. The project would be capable of generating up to 12.0 GWH annually.

Purpose of Project—Energy generated at the project would be sold to Utah Power and Light Company.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 28, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 27, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3540. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–642 Filed 1–7–81; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 10 Through November 14, 1980

During the week of November 10 through November 14, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Blex Oil Co., Minneapolis, Minnesota, BFA-0485, Freedom of Information

Blex Oil Company filed an Appeal from a partial denial by the DOE District Manager for the Central Enforcement District of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemptions 7(C) and 7(D) should be released to the public. Since the person whose privacy was being protected had no objection to the release of the documents, the appeal was granted.

Deutsche Corporation, Tulsa, Oklahoma, BFA-0494, Freedom of Information

Deutsche Corporation filed an Appeal from two denials by the Acting Assistant Administrator for Enforcement, Economic Regulatory Administration, of a request for information which it had submitted under the Freedom of Information Act. In considering the Appeal, the DOE provided a more thorough description of the withheld documents but upheld the adequacy of the Acting Assistant Administrator's justifications for nondisclosure. Nevertheless, the DOE released a portion of a document withholdable under Exemption 2 because release of that material would not be contrary to the public interest. Important issues that were considered in this decision included (i) whether documents made available by the DOE to the General Accounting Office could continue to be withheld from the public under the FOIA and (ii) whether comments solicited by an agency from persons outside the government are protected by Exemption 5.

Husky Oil Co., Denver, Colorado, DEA-0541, Motor gasoline

Husky Oil Co. filed an Appeal of an Assignment Order issued to it by the ERA on June 28, 1979. The order increased Husky's base period supply obligations to Mapleton Sales, Inc., a wholesale purchaser-reseller who sought the assignment for a new retail outlet it planned to open. In considering the Appeal, the DOE determined that the ERA failed to set forth an adequate factual basis for the issuance of the assignment order. Accordingly, the Appeal was granted and the assignment order was remanded to ERA for further proceedings.

Leonard L. Kleinman, Cleveland, Ohio, BFA-0493, Freedom of Information

Leonard L. Kleinman filed an Appeal from a partial denial by the District Manager of the Central Enforcement District of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the determination by the District Manager failed to adequately explain the withholding of documents under Exemption 7(A). The DOE also found the District Manager failed to include in his partial denial an index of those documents which were withheld under Exemption 7(A). Finally, the DOE found that the determination by the District Manager under 10 CFR 1004.1 was inadequate. The DOE therefore remanded the matter to the District Manager for corrective action.

Joe A. Rudberg, Dallas, Texas, BFA-0496, Freedom of Information

Mr. Joe A. Rudberg filed an Appeal from a partial denial by the Economic Regulatory Administration (ERA) of a request for information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the ERA correctly withheld five documents under Exemption 6 and one document under Exemption 2. Accordingly, the Appeal was denied.

Remedial Orders

Bill Dobko d.b.a. Bill Dobko Chevron, Redwood City, California, BRO-1218, Motor gasoline

Bill Dobko d.b.a. Bill Dobko Chevron objected to a Proposed Remedial Order which the Western District of the Economic Regulatory Administration Office of Enforcement (ERA) issued to the firm on April 29, 1980. In the Proposed Remedial Order, ERA found that during the audit period, Dobko sold motor gasoline to its retail customers at prices in excess of its maximum lawful selling prices in violation of 10 CFR 212.93, charged for services by means of a fee computed on a cents-per-gallon basis in violation of 10 CFR 210.62(d), and failed to make records available for inspection upon request in violation of 10 CFR 210.92(b). In considering the firm's objections, the DOE upheld ERA's findings that Dobko violated 10 CFR 212.93, 10 CFR 210.62(d), and 10 CFR 210.92(b). The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order. The important issues discussed in the Decision and Order include (i) whether § 212.93 of the DOE regulations violates Section 324 of the Clean Air Act, and (ii) whether the Administrative Procedure Act permits Dobko to require a subpoena before producing records.

Shoreline Texaco, San Francisco, California, BRO-1169, Motor gasoline

Shoreline Texaco objected to a Proposed Remedial Order that the DOE Office of Enforcement issued to the firm on March 21, 1980. In the Proposed Remedial Order, the Office of Enforcement found that Shoreline had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order. The important issues discussed in the Decision include (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Ye Old Pumphouse, San Francisco, California, BRO-1154, Motor gasoline

Ye Old Pumphouse objected to a Proposed Remedial Order that the DOE Office of Enforcement issued to the firm on March 21, 1980. In the Proposed Remedial Order, the Office of Enforcement found that Ye Old Pumphouse had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Remedial Orders

In the following case involving a Proposed Remedial Order and/or an Interim Remedial Order for Immediate Compliance, no Statement of Objections was filed. The DOE therefore issued the order in final form.

Company Name, Case No. and Location

Robert J. Kutinac, BRW-0070, Cicero, IL.

Requests for Exception

A&B Holding Company, Inc., San Antonio, Texas, BEE-1210, Gasohol

A&B Holding Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. In its Application, the firm sought an increase in its base period allocation of unleaded gasoline so that it could produce gasohol for sale to three large multiple-retailers that were not base period customers of A&B. In considering the request, the DOE found that exception relief was necessary to provide A&B with an assured supply of additional unleaded gasoline so that it would undertake the planned expansion of its gasohol marketing operations. Accordingly, exception relief was granted increasing A&B's base period allocation of unleaded gasoline by 130,000 gallons per month.

Belco Petroleum Company, Houston, Texas, DXE-2251, Crude oil

Belco Petroleum Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Belco to sell at market prices not to exceed $20.76 per barrel 100 percent of the crude oil produced from the White River Unit located in Vintah County, Utah.

Big K Oil Company, Rockingham, North Carolina, DEE-5009, Motor gasoline

Big K Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. The firm also sought a change of its base period supplier from Swink Quality Oil Company to Texaco, Inc. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience a gross inequity or serious hardship in the absence of exception relief increasing its base period allocation. The DOE also determined that Big K's mere preference not to do business with its base period supplier was insufficient justification for the approval of an exception authorizing the change of supplier sought by the firm. Accordingly, exception relief was denied.

David Douglas Public Schools, Portland, Oregon, BEE-1124, Motor gasoline

David Douglas Public Schools filed an Application for Exception from the provisions of 10 CFR Part 211 in which the school district sought a change in its base period suppliers of motor gasoline. In considering the request, the DOE found that in the absence of convincing evidence of fraud or a deteriorating business relationship between David Douglas and its base period suppliers, an exception terminating the existing supplier/purchaser relationships and assigning an unwilling supplier to the School District was not warranted. Accordingly, exception relief was denied.

Marion DX, Marion, Iowa, BEO-0786, Motor gasoline

Marion DX filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that any difficulties which the firm might be experiencing were attributable to competitive market conditions rather than DOE regulations. Accordingly, exception relief was denied.

Northland Oil Company, Ely, Minnesota, DEE-7737, motor gasoline

Northland Oil Company (Northland) filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of motor gasoline. In considering the firm's request, the DOE determined that the firm had failed to show that its community is bearing a disproportionate share of the burden of the current gasoline supply situation. Accordingly, the firm's Application for Exception was denied.

BYS, Inc., Dallas, Texas, BXE-0617, crude oil

BYS, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit BYS, Inc. to sell at market prices 100 percent of the crude oil produced from the Humble-Dowdy Fee Lease located in Duval County, Texas.

J.R.'s Servicenter, Arona, Pennsylvania, BEO-0636, motor gasoline

J.R.'s Servicenter filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm would not experience a gross inequity in the absence of exception relief. The DOE also found that residents in the firm's market area are not experiencing any difficulties in obtaining gasoline as a result of the DOE regulatory program. Accordingly, exception relief was denied.

Mechanical Technology Incorporated, Ballston SPA, New York, BEE-0421, motor gasoline; propane

Mechanical Technology Inc. (MTI) filed an Application for Exception from the provisions of § 212.83(c)(2) of the DOE price regulations. If granted, MTI's exception request would permit Mobil Oil Corporation to retain for its own benefit utility cost reductions experienced at Mobil's Torrance, California refinery as the result of the installation of an experimental system developed by MTI which converts industrial waste-heat into electrical power. In considering MTI's request, the DOE found that MTI's system has the potential to reduce significantly the amount of energy consumed by the petroleum refining industry. The DOE also found that the price regulations reduced Mobil's incentive to install MTI's system and thereby frustrated the national energy policy objective of reducing energy consumption. The DOE therefore determined that the application of the price regulations in this instance resulted in a gross inequity. Consequently, MTI's exception request was granted.

Nova Mud Corporation, Ely, Nevada, BEO-0535, motor gasoline

Nova Mud Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious hardship, gross inequity, or unfair distribution of burdens since it was able to purchase its increased requirements for motor gasoline from retail outlets. Accordingly, exception relief was denied.

River Valley Marina, Little Rock, Arkansas, BEO-1071, motor gasoline

River Valley Marina filed an Application for exception from the provisions of 10 CFR Part 211 in which the firm sought an increased based period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it or its customers were experiencing a gross inequity, serious hardship, or unfair distribution of burdens as a result of the DOE regulations. Accordingly, exception relief was denied.

U.S. Oil Company, Combined Locks, Wisconsin, DEE-3174, DEE-6387, motor gasoline

U.S. Oil Company of Combined Locks, Wisconsin, filed two Applications for exception from the provisions of 10 CFR Part 211, in which the firm requested that the DOE issue orders directing new, lower-priced suppliers to furnish the firm with its base period volumes of motor gasoline. The DOE upheld the tentative finding reached in a November 2, 1979 Proposed Decision and Order that in the absence of exception relief providing U.S. Oil Company with competitively priced gasoline the competitive viability of the firm's distribution system was in serious jeopardy. The DOE also considered and rejected the following contentions advanced in Statements of Objections to the proposed determination: (i) U.S. Oil's difficulty is unrelated to DOE regulations, (ii) the Proposed Decision and order was not based upon a sufficient factual or legal basis, (iii) national energy policy objectives were frustrated by the issuance of the Proposed Decision (iv) the firms selected as new suppliers to U.S. Oil did not receive adequate notice of their selection or an opportunity to comment on the firm's exception applications, and (v) the Economic Regulatory Administration lacks the authority to make assignments pursuant to a directive from the Office of Hearings and Appeals. However, the DOE sustained the contention that permanent exception relief is unwarranted in the present case. Accordingly, the Proposed Decision and Order was modified to specify that the exception relief granted U.S. Oil will terminate on December 31, 1980.

Weitzel Brothers, Inc., Baltimore, Maryland, DEE-6102, motor gasoline

Weitzel Brothers, Inc. filed an Application for exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to establish that its base period allocation is unrepresentatively low or that the retail outlets in its market area cannot satisfy the demand for gasoline. Accordingly, exception relief was denied.

Request for Modification

Cities Service Company, Tulsa, Oklahoma, BMR-0058, gasohol

Cities Service Company filed an Application for Modification of a Decision and Order issued to Ewing Oil Company. As a result of that determination, Cities was directed to supply Ewing with motor gasoline so that Ewing could produce and market gasohol. In its Application, Cities sought a modification of the period for which exception relief was granted to Ewing. In considering the request, the DOE found that the changed circumstances upon which Cities' Application was based were the result of discretionary decisions by Cities and did not constitute an appropriate basis for modification of the Order. Cities' Application for Modification was accordingly denied.

Motion for Discovery

Marathon Oil Company, Washington, D.C., BED-0138, BEJ-0138

In a Motion for Discovery, Marathon sought access by its in-house counsel and other employees to the entire record of a proceeding initiated by an Application for Exception from the provisions of 10 CFR 211.67, the Entitlements Program, filed by Little America Refining Company (Larco). Although the DOE recognized the need of Marathon for Larco's confidential financial data, the DOE noted a concern for a proper balance between the data needs of Marathon and the protection that should be afford Larco against harm caused by a disclosure of proprietary data to its competitors. The DOE also noted that this concern led it to direct Larco to provide its confidential data to independent counsel of each party to the proceeding, but not to employees of intervenors, in previous Discovery Decisions in connection with the Larco proceeding. In the current Decision, however, the DOE found that Marathon correctly maintained that its outside counsel, may benefit from consultation with Marathon's employees, and the consultation may be improved if the individuals on Marathon's staff have had an opportunity to review the confidential data involved. The DOE therefore ordered Marathon and Larco to negotiate an agreement on the designation of three of Marathon's employees in addition to Marathon's in-house counsel to review Larco's confidential data. The DOE also ordered the parties to submit a Stipulation of Protective Order once the agreement is reached.

Supplemental Orders

Kenny's Food Market, Richfield, Minnesota, BEX-0132, motor gasoline

Kenny's Food Market originally filed an Applicant for Exception from the provisions of the Mandatory Petroleum Allocation Regulation in which the firm sought an increase in its base period allocation of motor gasoline. The DOE granted that request upon a finding that exception relief was necessary to prevent the firm from experiencing a gross inequity. However, the decision granting relief to the firm stipulated that Kenny's provide the DOE with certain financial information by July 31, 1980. Because the firm did not submit this information, the DOE concluded that Kenny's had failed to establish that it continued to experience a gross inequity in the absence of exception relief. Accordingly, the exception relief which was previously approved was rescinded on a prospective basis.

Publix Oil Company, Morristown, Tennessee, BEX-0067, motor gasoline

In a Decision and Order issued to Publix Oil Company on July 24, 1980, the Office of Hearings and Appeals assigned five firms to supply Publix with specified volumes of motor gasoline during the period August 1, 1980 through July 31, 1981. Beginning August 1, 1981, Marathon Oil Company was required to supply the assigned volumes to Publix under the same terms and conditions of a supply contract which was in existence between Marathon and Publix prior to the imposition of the base period for motor gasoline allocation. This supplemental order modified the July 24 Decision and Order by: (1) rescinding the condition that limited Publix's profit margin to a specified level; (2) permitting Publix to sell gasoline that it purchases on the surplus market to non-base period customers; (3) adjusting the amount of relief to reflect the adjusted base period volumes of Publix's customers; (4) permitting assigned suppliers without a Tennessee rack price to place Publix in their appropriate class of purchaser and charge the corresponding price; and (5) adjusting the amount of relief to reflect Publix's reduced supply obligations to a group of former Arco jobbers.

Interim Orders

The following firms were granted interim exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Bell's Service, BEN–0023, Rialto, CA
Colstrip Town Pump, BEN–1158, Wash., DC
Hogan's Marathon, BEN–1438, Wash., DC
East 80 Marathon, BEN–1454
Dave's Marathon (Lansing), BEN–1458
Leon's Marathon, BEN–1462
Dry Ridge Marathon (Marathon Oil Co.), BEN–1471

Petitions Involving the Motor Gasoline Allocation Regulation

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in increases in the firm's base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Belle Meade, BEO–0245, Nashville, TN
Columbia Amoco, DEE–6129, Ellicott City, MD
E. W. Massey Gulf Service Station, DEO–0385, Sulpher Springs, TX
Get It and Go Shell, BEE–0395, Leeds, AL
Penn Flat Service Center, Inc., BEO–0141, Brooklyn, NY

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Avondale Shell, DEO–0344
Bruton Pet. Co., DEE–6661
Crown Central Petroleum Corp., BEA–0429
Flint Ink Corp., BEL–0288
Hunt Oil Co., DEE–7604
J. D. Streett & Co., BRS–0107; BRT–0107
R & D Texaco, BEE–1867
Ramo, Alan, BFA–0506
Tony's Elmora Shell, Inc., DEO–0322

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reported system.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 31, 1980.

[FR Doc. 81–493 Filed 1–7–81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL 1674–3]

Collection of SO_2 Emissions Data From Certain Coal-Fired Electric Utility Steam Generating Units

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this Notice is to announce a one-year program being considered by the Administrator to expand the availability of short-term SO_2 emissions data from certain coal-fired electric utility steam generating units and to invite comment on the intended program before it is made final. The program would require, under authority granted to the Administrator by Section 114 of the Clean Air Act, that utilities report the 24-hour (daily) SO_2 emission rate (lb. $SO_2/10^6$ Btu) and the daily heat input (10^6 Btu) for each coal-fired steam generator capable of firing at least 3,000 million Btu/hr heat input (300–MW potential electrical output capacity). Utilities will be allowed to use continuous (and possibly intermittent) emission monitoring or fuel sampling and analysis methods to determine the required emissions information in accordance with criteria set forth by the Administrator.

Today's Notice describes the basis for the one-year program under consideration and presents the tentative requirements which would have to be met in complying with the program. Final requirements will be established after the Administrator has had an opportunity to consider the comments received pursuant to this Notice.

DATES: EPA will consider comments received on or before March 9, 1981.

ADDRESS: Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460, Attention: Docket No. OAQPS–79–12.

Docket No. OAQPS–79–12, containing material relevant to this Notice, is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St. SW, Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Joseph Sableski or Daniel deRoeck, Plans Guidelines Section (MD–15), U.S. Environmental Protection Agency, Research Triangle, Park, N.C. 27711; Telephone No. (919) 541–5437, or (FTS) 629–5437.

SUPPLEMENTARY INFORMATION:

I. Background

The Administrator of the U.S. Environmental Protection Agency is considering the implementation of a one-year reporting program applicable to coal-fired electric utility steam generating units. The program, requiring the submission of daily SO_2 emissions data, would enable the Agency to significantly improve its ability to define the emissions from power plants and would provide a data base to more effectively assess the environmental impacts of SO_2 emissions.

Relatively little short-term SO_2 emissions data from power plants are currently available. While several special studies of short duration have been made on individual plants, EPA's main data base defines annual average SO_2 emissions. The interpretation of short-term averages using long-term averages is very difficult at best because of the tendency for power plants burning coal to experience highly variable emissions, especially over short averaging periods of 24 hours or less. This emissions variability results from the natural variation in the sulfur content of coal. In recent years there has been a growing awareness of the problems associated with sulfur variability in developing meaningful emission limits and determining compliance for coal-fired sources. The data that would be acquired through the program being considered by the Administrator could assist the Agency in its planned review of existing policies and procedures for developing, evaluating, and enforcing emission limits for coal-fired power plants (45 FR 9994, February 14, 1980).

SO_2 Emission Limits for Power Plants

Traditionally, the setting of emission limits for coal-fired power plants has been done without allowances for sulfur variability. Mathematical dispersion models used to predict ground-level concentrations of SO_2 have generally assumed a constant emission rate. The predictions from these models were then used to develop emission limits which typically did not specify an averaging period over which the limit would apply. As a result, the tendency has been that such inadequately-defined emission limits are interpreted inconsistently and are usually not applied to short-term periods such as 24 hours or less.

EPA is evaluating various alternative methods for establishing emission limits for power plants. In some cases, the methods make specific allowances for sulfur variability. In any event it is clear that meaningful emission limits must specify averaging periods over which the limit will apply. Additionally, the Agency believes that the averaging period should be adequate to demonstrate protection of the ambient standards.

One of the approaches being evaluated includes a modeling technique that replaces the constant emission rate with a distribution of SO_2 emission rates to determine statistically the air quality impact that may result. (45 FR 9996, February 14, 1980). Another approach, which is already being applied by some States, is to set a 24-hour maximum limit with several exceptions allowed per month. Also, a number of States and industries have recommended a 30-day averaging period. While the Agency does not endorse any such approaches for general application at this time, the availability of an emissions data base defining the short-term variability of SO_2 emissions is an important element in appraising the implications of various alternative approaches for setting future SO_2 emission limits.

Compliance Status of Power Plants

As the trend for enforcement programs moves away from determining compliance on an infrequent basis and towards continuous determination of compliance, the routine availability of data becomes an important consideration. Routine data collection is especially important when enforcing regulations for sources whose emissions tend to vary even under constant operating loads.

II. Proposed Program

The program being considered by the Administrator would require the owners or operators of prescribed coal-fired electric utility steam generating units (see *Affected Sources* below), to calculate and report to EPA the following information:

1. *SO_2 emission rate* (lb.SO_2/10^6Btu) expressed as a 24-hour (daily) average; and

2. *Heat input* (10^6 Btu) expressed on a 24-hour (daily) basis.

The above information would be reported quarterly according to a schedule that would be announced after the Administrator has considered comments on the proposed program. Also, utilities would be required to submit additional information, as part of the initial quarterly report, to identify the source(s), characterize the coal being consumed, and to describe the methods used for determining the SO_2 emissions. Table 1 summarizes the information that the Administrator intends to require.

Through the response to question number 12 at the end of this Notice, the Administrator will be able to assess the feasibility of collecting data for averaging periods less than 24 hours. This requirement would potentially only apply to utilities having continuous emission monitors that provide data on as short a time frame as 15 minutes.

One way to expedite the Agency's acquisition of short-term data is to establish retroactive reporting requirements. That is, utilities would be required to determine their daily 24-hour emission rate for a one year period which has already commenced, e.g., January 1 to December 31, 1980. In order for this to be feasible, utilities must have adequate historical data from which emission rates and heat inputs can be determined. Therefore, this notice solicits comments on the availability of historical data retained by utilities, and the time that would be needed to review such data and make the appropriate daily determinations.

Affected Sources: Coal-fired electric utility steam generating units having a potential electrical output capacity of 300 MW (3,000 million Btu/hr input) would be subject to the requirements of the proposed program. Information available to the Agency indicates that, based on this cutoff size, approximately 225 coal-fired steam generators would be affected. These units account for about half the SO_2 emissions produced by the electric utility industry. The Administrator believes that the selected cutoff size would serve to minimize the burden on the electric utility companies and keep the amount of data received by EPA to a manageable level, while providing the Agency with a meaningful data base.

Sampling Methods: The Administrator intends to accept SO_2 emissions information that is derived from either continuous emission monitoring or fuel sampling and analysis methods. He is also considering another method, known as intermittent monitoring; this method is further discussed below.

An affected coal-fired steam generating unit that has installed a continuous monitor to comply with Federal (40 CFR Part 60) or State regulations to install and operate a continuous emission monitoring system for SO_2 must use that system as the basis for calculating the required emissions information. The program described herein does not attempt to impose additional monitoring requirements for continuous monitoring on utilities, but it will specify that required monitors be calibrated and operated in accordance with the applicable regulations.

Table 1. Summary of Information Required by Proposed EPA Program

Quarterly Reports

- 24-hr. (daily) emission rate (lb. SO_2/10^6 Btu)
- 24-hr. (daily) heat input (10^6 Btu)

Initial Report Only

1. Source Information:

- Company name and address
- Plant name and address
- Unit I.D.
- Heat input capacity/Potential electrical output capacity
- Name and title of reporting official

2. Emissions Characterization Information:

- Type(s) of coal used (Bituminous, etc.)
- Source of coal (Bureau of Mines Coal Districts)
- Standard sampling method (CEM vs. coal sampling and analysis)
- Identification of ASTM procedures, where applicable
- Use of flue gas desulfurization
- Use of coal cleaning methods

Where continuous monitoring is not currently required and installed, SO_2 emissions from affected coal-fired steam generators would have to be estimated from the collection and analysis of daily coal samples. The Administrator is mindful of the comments received from utility representatives in response to the Advance Notice of Proposed Rulemaking entitled "Emission Monitoring of Stationary Sources" (44 FR 46481, August 8, 1979). Those comments strongly suggested that fuel sampling and analysis techniques could be used to determine SO_2 emissions in lieu of continuous monitors.

EPA is continuing its investigation of the need for requiring continous monitoring for existing coal-fired steam generators, but intends to examine the feasibility of allowing other methods, such as fuel sampling and analysis, where they are shown to be acceptable alternatives. The fact that the proposed program would allow the use of fuel sampling and analysis techniques does not imply that they will be prejudged as acceptable alternatives for future regulatory programs; however, the Administrator may be able to use the data to assist in making that kind of decision at a later date.

The main steps in a fuel sampling and analysis program include (1) collection of a representative sample, (2) preparation of the sample for analysis, and (3) analysis of the sample for its essential components and heat content. Information available to EPA indicates that many, if not most, utilities generally follow standard testing procedures published by the American Society of Testing Materials (ASTM). Therefore, in a manner consistent with current industry practices, the Administrator intends to specify that utilities use the following methods to collect, prepare, and analyze their coal samples:

- •ASTM D–2234 (Standard Methods for Collection of a Gross Sample of Coal);
- •ASTM D–2013 (Standard Method for Preparing Coal Samples for Analysis);
- •ASTM D–3177 (Standard Test Method for Total Sulfur in the Analysis of Coal and Coke), or an acceptable automatic analytical device;
- •ASTM D–2015 (Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Method).

A very difficult step in the fuel sampling and analysis program is the initial step of collecting a representative gross sample. This is complicated by the fact that there is no single standard method of collection or coal sampling universally employed by utilities or prescribed by ASTM. The coal sampling procedure for each power plant is designed in conjunction with the specific coal distribution system in use at the plant. The introduction to ASTM D–2234 acknowledges this situation in the following way:

> These standard methods give the over-all requirements for the collection of coal samples. The wide varieties of coal handling facilities preclude the publication of detailed procedures for every sampling situation. The proper collection of the sample involves an understanding and consideration of the physical character of the coal, the number and weights of increments, and the over-all precision required.

Thus, ASTM D–2234 is actually a series of methods that are classified according to the reliability of each individual method. Classifications are based upon the type (human discretion vs. no human discretion) of increment collection, the conditions (e.g., full stream cut, part stream cut) of increment collection, and the kind of intervals or spacing (systematic vs. random) between increments. Accordingly, the owner or operator of each affected steam generator will be expected to use the most reliable classification method that can reasonably be applied without major expenditure and equipment replacement by the utility.

Utilities will be expected to collect, to the extent feasible, samples of coal on a daily "as-fired" basis. "As-fired" is interpreted here to mean that the sample is collected from the coal stream just prior to filling the bunkers (or silos) or at any point downstream of the bunkers before it is conveyed to the combustion chamber of the boiler.

Where "as-fired" sampling is not feasible, utilities would have to estimate their daily emissions on the basis of sampling performed at other locations. In most instances, where an "as-fired" sampling procedure cannot be implemented, coal will be sampled when it is received from the supplier or mine prior to storage for later use. Utilities must apply their best engineering judgment when basing their emission estimates on "as-received" samples since these coal samples generally will not be representative of the coal which is actually burned during any particular day.

The methods involved in the preparation and analysis of coal samples appear to be more straightforward than those for collecting the gross sample. Preparation and analysis methods are not dependent on the differences in individual coal distribution systems from one plant to another. Consequently, these methods are more readily standardized. One disadvantage of the ASTM method for sulfur analysis, however, is that it generally takes several hours to complete. For this reason, a number of utilities have switched to an automated analytical device so that sulfur content can be determined much more rapidly. Therefore, where such automated devices are used, the Administrator intends to accept them in lieu of the standard ASTM method.

As mentioned above, the Administrator is also considering intermittent monitoring as a method for determining SO_2 emmissions under this program. In this method, the SO_2 is collected by an in-stack sampling train, captured in a solution, and analyzed. The operation of the train is controlled intermittently by a timer or on a continuous basis by a pump with a low, constant flow rate. This method would allow an extended sampling period (in this case, 24 hours) and the determination of the average SO_2 emission rate for that period. As of this writing, EPA is preparing a notice that would propose the intermittent monitoring method as an acceptable procedure for compliance with § 60.47a(f) of 40 CFR Part 60, Subpart DA; Subpart DA covers new source performance standards for fossile fuel-fired steam electric plants. Paragraph (f) requires that in the event of a breakdown in the continuous emission monitoring system, emission data must be obtained by other monitoring systems or reference methods approved by EPA.

Emission Calculations

(1) Utilities would be required to calculate a daily average emission rate through the use of continuous emission monitoring or coal sampling and analysis methods for each affected coal-fired steam generator according to the following procedures:m urage

(i) For continuous emission monitoring, the hourly SO_2 emission rate is to be arithmetically averaged for each hour of boiler operation per day. The hourly emission rates are calculated according to the procedures in 40 CFR 60.45 (e) and (f).

(ii) For coal sampling and analysis, the following equation is to be used:

$$\bar{E} = \frac{2.0(\%S)}{GCV} \times 10^4$$

Where:

E = Daily sulfur dioxide emission rate from fuel analysis; lb/million Btu.

%S = Sulfur content of daily fuel supply, on a dry basis; weight percent.

GCV = Gross calorific value of daily fuel supply, on a dry basis; Btu/lb.

(2) Values for the 24-hour (daily) heat input, expressed in million Btu's per day, could be determined directly from knowledge of the gross calorific value of the coal and the amount of coal consumed during each daily 24-hour period. However, where information pertaining to the daily tonnage of coal consumed cannot readily be determined, it is more likely that utilities will depend upon daily megawatt production data which can be converted to a daily heat input value when the efficiency of the boiler is taken into account. The Administrator intends to accept either method for determining the daily heat input.

Additional Consideration: In addition to comments on the program described above, EPA is also interested in obtaining comments on the following indirectly related matter.

In the Federal Register of October 6, 1975, EPA promulgated regulations requiring continuous emission monitoring on certain source categories under Part 60 (New Source Performance Standards) (40 FR 46250). Subpart D of that regulation allows fossil fuel-fired steam generators without flue gas desulfurization units to use continuous emission monitors or fuel sampling and analysis to determine SO_2 emissions. At the time of promulgation, however, EPA concluded that a meaningful fuel analysis procedure could not be developed that would be adequate or consistent with the then-current fuel situation. EPA indicated that further study was necessary to specify a procedure. Facilities that elected to use fuel analysis instead of continuous SO_2 monitoring did not actually have to begin sampling and analysis until EPA published a sampling and analysis procedure. Therefore, a gap currently exists in the Federal regulations. Nevertheless, almost all utilities which are burning low sulfur coal to meet the NSPS are reportedly analyzing coal sample and in many cases they are also monitoring SO_2 in stack gases. EPA is therefore posing another question in this notice on the feasibility of requiring power plants to use the data obtained from fuel analysis in preparing excess emission reports.

III. Program Authority

Section 114 of the Clean Air Act provides administrative authority for EPA to require the owner or operator of any emissions source to report its emissions and any other information as may be reasonably required by the Administrator. The Administrator believes that the one-year program being considered is an appropriate use of Section 114 in that the data which would be required will be used by the Agency to evaluate techniques for setting SO_2 emission limits and to orient and prioritize new enforcement initiatives to bring sources into compliance with the requirements of implementation plans.

In light of the nationwide impact of the requirements, the Administrator is announcing his intentions so that utilities and other interested persons may respond. After all relevant comments have been considered, the Administrator will announce the final program in a subsequent **Federal Register** Notice. However, each utility will be sent a certified letter citing the authority under Section 114 which will require that the prescribed emissions information for affected coal-fired steam generating units be reported to EPA. Utilities will be required to provide a written acknowledgement of receipt of the Section 114 letter to EPA.

IV. Comments

The Administrator invites general comments on the overall program described in this Notice. Also, he is particularly interested in comments pertaining to coal sampling and analysis methods and the extent of their use by utilities. In order to direct commenters to specific areas of interest, comments should address, but not be limited to, the following:

1. What are the specific problems associated with estimating the daily SO_2 emission rate on the basis of "as-received" coal samples?
2. What additional costs will be incurred in order to collect and analyze daily coal samples?
3. What types of modifications to existing coal sampling systems would have to be made to increase their reliability (based on ASTM classification)?
4. What procedures are used to assess the reliability of current coal sampling methods?
5. How often is the steam-electric heat rate evaluated?
6. Does the heat rate vary significantly from day to day?
7. Is daily coal consumption data (i.e., tons of coal burned per day) routinely documented?
8. What additional costs would be incurred to make the required determinations of daily SO_2 emission rates and heat input for the one-year reporting period?
9. Is adequate historical data available to determine the daily SO_2 emission rate and heat input for the one-year period beginning January 1, 1980? How much time would be needed to make the necessary determinations based on historical data?
10. What duplication of burdens with other State, local or Federal requirements would result from compliance with the proposed requirements?
11. What has been control agency experience with the use of fuel analysis data to estimate emissions?
12. For those sources with continuous emission monitors, what additional costs would be incurred to make the required determinations of SO_2 emission rates and heat input, on a 3 hour basis, for the one-year reporting period?
13. What financial and technical problems are incurred if EPA specifies as-fired fuel analysis as described in 40 CFR Part 60, Appendix A, Method 19, Section 3.3 as the acceptable fuel sampling method of 40 CFR Part 60, Subpart D, Section 60.45 for the purposes of reporting excess emissions?

Dated: December 29, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 81-012 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-26-M

[A-10-FRL 1721-6]

Fairchild Air Force Base; Issuance of PSD Permit

Notice is hereby given that on July 28, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Fairchild Air Force Base for approval to modify the central heating plant near Spokane, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of sulfur dioxide (SO_2) shall not exceed the following:

Emission Limitations

Source	Pollutant	Pounds per hour	Tons per year
Coal-fired boilers	SO_2	17	[1]72

[1] 85 percent removal.

2. With the exception of SO_2, allowable emissions of particulate matter will be less than 50 tons per year, 100 pounds per hour and 1,000 pounds per day. Potential emissions of all other pollutants regulated under the Clean Air Act will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 30, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 81-009 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-38-M

[A-10-FRL 1721-7]

Kaiser Aluminum; Issuance of PSD Permit

Notice is hereby given that on July 18, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Kaiser Aluminum and Chemical Corporation for approval to modify the primary aluminum reduction plant in Tacoma, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of carbon monoxide (CO) shall not exceed the following:

Emission Limitations

Source	Pollutant	Tons per year
Six prebake reduction cells	CO	429

2. With the exception of CO, allowable emissions of particulate matter and fluorides will be less than 50 tons per year, 100 pounds per hour and 1,000 pounds per day. Potential emissions of all other pollutants regulated under the Clean Air Act will be less than 100 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 30, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 81-610 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-26-M

[A2-FRL 1721-2]

Prevention of Significant Air Quality Deterioration (PSD); Non-Applicability Determination

AGENCY: Environment Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on December 17, 1980, the EPA Region II Office issued a determination of PSD non-applicability to Tishman, Speyer, Silverstein Partnership relative to an electrical cogeneration facility consisting of eight deisel fuel internal combustion generators located in a commercial office building at 11 West 42nd Street, New York, New York. This determination was issued under EPA's Prevention of Significant Air Quality Deterioration regulations (43 FR 26388 codifed at 40 CFR 52.21 (1978)) and is final action under the Clean Air Act (the Act).

DATES: This determination is effective on January 8, 1981. (See Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by March 9, 1981. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: December 17, 1980.

Charles S. Warren,

Regional Administrator.

Final Determination of the Applicability of Prevention of Significant Air Quality Deterioration (PSD) Review Requirements

In the matter of Tishman-Speyer-Silverstein, Partnership (11 West 42 Street).

Background

On August 25, 1980, the United States Environmental Protection Agency (EPA) issued a Preliminary Determination that the subject source, a co-generation facility consisting of eight internal combustion diesel generator units with associated heat recovery mufflers and ancillary equipment, is exempt from PSD review and that no EPA PSD permit was required prior to the commencement of construction of the facility. This preliminary determination was based upon the conclusion that the facility was exempted from the EPA PSD regulations under a so-called "grandfather" provision found at 40 CFR 52.21(i)(3) (1979 ed.). Comments on the preliminary determination were received from counsel for the Consolidated Edison Company of New York, Inc. (Con Ed) on October 24, 1980 and from counsel for Tishman-Speyer-Silverstein Partnership (Partnership), the owner of the facility, on November 5, 1980.[1]

Consideration of Comments

In its October 24, 1980 comments, Con Edison disagreed with EPA's Preliminary Determination. Although it acknowledged that actual construction of the facility apparently had begun prior to March 19, 1979, Con Ed contends that a necessary preconstruction permit, had not been obtained by the Partnership prior to that date. The permit, issued by the City of New York Department of Buildings, is entitled "Plumbing, Mechanical Equipment and Tank Installation". Con Ed argued that, because the permit was not finally approved until March 14, 1980, construction work that required a permit and took place prior to that date was "unlawful" and should not be "countenanced" by EPA in granting the facility an exemption from PSD review.

To have commenced construction for the purposes of EPA's PSD regulations, a facility owner must obtain all necessary preconstruction approvals or permits and begin, or cause to begin, a continuous program of physical on-site construction of the facility (40 CFR 52.21(b)(8)(i)).[2] Necessary preconstruction approvals or permits are those Federal, State or local permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State implementation plan (SIP)(40 CFR 52.21(b)(9)). The Department of Buildings permit referred to be Con Ed is not such a required air quality control permit, as Con Ed concedes. Therefore, the date by which such permit was finally approved is irrelevant to determining when construction commenced for the purposes of EPA's PSD regulations.[3]

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[1] EPA's PSD regulation found at 40 CFR 52.21 does not require that the Agency prepare and circulate for comment preliminary determinations as to the applicability of PSD requirements to a facility and the Agency does not routinely do so. However, in this instance, EPA became aware that the question of whether this source required a PSD permit was at issue in pending litigation, *Con Edison v. Realty Investment Associates*, 79 Civ. 618 (S.D.N.Y.). Although EPA was not a party to this action, the Court invited EPA to comment on the issues raised. Accordingly, EPA felt that it was appropriate, in this instance, to allow the parties to the litigation an opportunity to comment on any EPA determination that might touch upon issues in the litigation.

[2] Both Con Ed and the Partnership submitted comments addressing whether construction of the facility could be said to have commenced as a result of firm contractual obligations for construction of the facility having been entered into prior to March 19, 1979 (40 CFR 52.21(b)(8)(ii)). This test is an alternative test to the physical on-site construction test. Since EPA concludes that construction had commenced under the latter test, there is no need to address comments related to the former test.

[3] Whether, as a matter of local law, construction activity undertaken prior to the date of permit approval is otherwise "unlawful" is a question beyond the scope of this determination. The

Footnotes continued on next page

This Agency's Preliminary Determination proposed to find that construction of the facility had commenced prior to March 19, 1979 because a continuous program of actual on-site construction of the facility had begun prior to that date, because such construction, once commenced, was not discontinued and was completed within a reasonable period of time, and because all final Federal, State and local preconstruction permits necessary under the applicable SIP for this facility had been obtained (40 CFR 52.21(i)(3)). Nothing in the comments received leads EPA to alter this tentative conclusion.

No comments were received which challenged EPA's Preliminary Determination that the remaining criteria of 40 CFR 52.21(i)(3) were met by this facility.

Final Determination

Based upon EPA's Preliminary Determination of August 25, 1980, its analysis of comments received and the above discussion, EPA concludes that the Partnership's co-generation facility located at 11 West 42 Street is exempt from PSD review under the provisions of 40 CFR 52.21(i)(3) (1979 ed.).[4] Consequently, no EPA PSD permit is required, or was required, prior to the commencement of construction of the facility.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before March 9, 1981. Under Section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: December 17, 1980

Charles S. Warren,

Regional Administrator.

[FR Doc. 81-985 Filed 1-7-81; 8:45 am]

BILLING CODE 6560-38-M

Footnotes continued from last page

Partnership, in its comments of November 5, 1980, contends that the date of final permit approval is entirely *pro forma* and that it is the customary practice in the construction industry to begin work under such a permit immediately upon its being examined and recommended for approval by the borough examiner. Such recommendation for approval was given on January 24, 1979.

[4] On August 7, 1980, EPA promulgated extensive modifications to its PSD regulations (45 *Fed. Reg.* 52676 *et seq.*). No substantive changes were made to applicable provisions relied upon in making this determination; however, 40 CFR 52.21(i)(3) was recodified as 40 CFR 52.21(i)(4)(iv).

FEDERAL MARITIME COMMISSION

Performance Review Board

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the addition of M. David Vaughn, General Counsel, Federal Mediation and Conciliation Service and Robert P. Gajdys, Director of Administration, Federal Mediation and Conciliation Service to the list of members of the Performance Review Board.

DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Herron, Jr., Director, Office of Personnel, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Richard J. Daschbach,

Chairman.

[FR Doc. 81-986 Filed 1-7-81; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-24]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving electric and gas utility rates, Docket No. 80-0511.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission involving the application of the Iowa-Illinois Gas and Electric Company for an increase in its electric and gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: December 22, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-983 Filed 1-7-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committees:

Alcohol Abuse Prevention Review Committee.

Alcohol Biomedical Research Review Committee.

Alcohol Psychosocial Research Review Committee.

Authority for these committees will expire on December 31, 1982 unless the Secretary formally determines that continuance is in the public interest.

Dated: December 30, 1980.

Robert L. Trachtenberg,

Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 81-622 Filed 1-7-81; 8:45 am]

BILLING CODE 4110-88-M

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports; Meeting

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on Thursday, January

22, 1981. The meeting will be held from 10:00 a.m. to 4:00 p.m. in Room 339–A, Hubert Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

The purpose of the meeting is to assess progress on the national program of physical fitness and sports; and to plan future directions of the PCPFS.

A list of the Council members and the Executive Order establishing their responsibilities may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201. Telephone: 202–755–7947.

The meeting will be open to the public.

Dated: December 30, 1980.

Glenn V. Swengros,

Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 81–661 Filed 1–7–81; 8:45 am]

BILLING CODE 4110-85-M

Office of the Secretary

Privacy Act of 1974; System of Records and Notice of Proposed Routine Uses

AGENCY: Department of Health and Human Services (HHS), Office of the Secretary (OS), Office of the General Counsel (OGC).

ACTION: Notice of new system of records.

SUMMARY: This notice describes a new system of records, Demonstration Project: Applications for Assistance in Order to Comment on Proposed Regulations, No. 09–90–0085, in accordance with requirements of the Privacy Act of 1974. The purpose of the system is to maintain assistance applications, evaluation results and other records generated during a demonstration project of assistance for persons who could help the Department decide issues in a proposed regulation, but who could not afford to participate in the rulemaking without assistance. OGC invites public comment on the routine uses proposed for the system.

DATES: OGC filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on January 5, 1981. We have requested a waiver of OMB's requirement of 60 days advance notice before a new system may be made effective. After OMB acts on our request for a waiver, we will publish a notice of the effective date of the new system and proposed routine uses. Routine uses will become effective no earlier than February 9, 1981, in order to allow public comment on the routine uses proposed in this notice.

ADDRESS: The public should address comments to the Deputy General Counsel for Regulation Review, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Ms. Carel Hedlund, Demonstration Project, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, telephone: (202) 245–7545.

SUPPLEMENTARY INFORMATION: On December 17, 1980, the Department of Health and Human Services published a notice in the **Federal Register** announcing a demonstration project of assistance to persons wishing to comment on proposed Department regulations. The initial project will be based on the proposed regulations implementing the Adoption Assistance and Child Welfare Act of 1980. The project allows person who want to participate in public meetings or to submit written comments on the proposed regulation to apply for reimbursement for their costs in doing so. Assistance may be provided only if (1) the information the applicant plans to present will help the Department decide issues in the proposed regulation, (2) the applicant represents an interest that otherwise might not be heard, and (3) the applicant cannot otherwise afford the costs of participating in the rulemaking. The system of records will consist of the applications for assistance, additional information gathered to assess applications, evaluation results, award or denial notices to applicants, and post-award budget and cost documentation.

The system of records will have a minimal effect on the privacy and confidentiality rights of individuals. Application for assistance is completely voluntary, and the information solicited from applicants is the minimum necessary to determine eligibility. Each item of information supplied by applicants relates to one of the eligibility criteria which are required by law. Information in the system will be disclosed within the Department only to the extent necessary to evaluate applications, make awards or denials, provide assistance to successful applicants, and evaluate the demonstration project. Routine use disclosures are very limited: to the Treasury Department, to the Special Assistant to the President for Consumer Affairs, and to congressional offices acting on behalf of an individual. Disclosures to the Treasury Department and to the Special Assistant to the President for Consumer Affairs are compatible with the purposes for collecting these records because these disclosures are necessary to reimburse successful applicants and to evaluate the results of the demonstration project. Disclosures to congressional offices are compatible because they respond to inquiries by the individual to whom the record pertains. The Department believes this important test of ways to increase public participation in agency rulemaking justifies the small effect on privacy and confidentiality caused by creating the system of records for the demonstration project.

Dated: January 2, 1981.

Joan Z. Bernstein,

General Counsel.

09–90–0085

SYSTEM NAME:

Demonstration Project: Applications for Assistance in Order to Comment on Proposed Regulations (HHS/OS/OGC).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Demonstration Project, Room 706–E, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system includes records of individuals who have applied for assistance to comment on proposed regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include information needed by the Department to evaluate and act on applications for assistance to comment on proposed regulations. The information includes name, address, telephone number, organization (if applicant represents a group), issues important to the applicant, information to be supplied in applicant's comment, income of individual, number of individual's dependents, additional financial information supplied by individual, information concerning cost of providing comments on regulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system of records is authorized by Executive Order 12044 on Improving Government Regulations and Executive Order 12160 on Providing for

Enhancement and Coordination of Federal Consumer Programs.

PURPOSE(S):

The records in the system must be maintained to evaluate applications for assistance, to notify applicants of the Department's decision, to provide assistance to successful applicants, and to conduct evaluations of the demonstration project. System records are disclosed to members of the Evaluation Board and other Department employees as necessary to perform these and other functions in the demonstration project.

ROUTINE USES OF RECORDS IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Treasury Department in order to reimburse costs of successful applicants.

To the Special Assistant to the President for Consumer Affairs for coordination of Executive Branch consumer affairs activities.

To a congressional office from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Applications and related records are maintained in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the applicant.

SAFEGUARDS:

Records are maintained in locked filing cabinets. Only individuals who perform functions necessary to conduct the demonstration project have access to system records.

RETENTION AND DISPOSAL:

Records are maintained for one year following the end of the demonstration project and then are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy General Counsel for Regulation Review, Room 706-E, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

An individual should contact the System Manager at the address above and provide his or her name and address to find out whether the system contains his or her record. If access to the record is desired, the individual is encouraged to request access at the same time he or she requests notification of whether the system contains his or her record. The individual should also include his or her name and address for purposes of obtaining access.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURE above; the request for access should reasonably identify the records the individual wants to see.

CONTESTING RECORD PROCEDURES:

An individual should contact the System Manager at the address above if he or she wants to amend a system record because the record is not accurate, relevant, timely, or complete. The request for amendment should reasonably identify the records, specify the information to be amended, and describe the correction or amendment to be made.

RECORD SOURCE CATEGORIES:

Information in system records is obtained primarily from the individual applying for assistance. Additional information may be obtained from Department employees familiar with the applicant.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-682 Filed 1-7-81; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently in pertinent part at 42 FR 61317, December 2, 1977), is amended to reflect the following changes in the National Institute on Aging:

(1) Abolish the Extramural and Collaborative Research Program,

(2) Establish the Biomedical Research and Clinical Medicine Program, and the Social and Behavioral Research Program, and

(3) Establish the Epidemiology, Demography and Biometry Program. These changes will enhance the Institute's ability to attract highly-qualified scientific staff. They will also better enable the Institute to utilize all available mechanisms in the conduct and support of research in the scientific areas of responsibility.

Sec. HN-B, Organization and Functions, is amended as follows: Under the heading *National Institute on Aging (HN-X),* make the following changes:

(1) Delete the statement for the *Extramural and Collaborative Research Program (HN-X3)* is its entirety.

(2) After the statement for the *Gerontology Research Center (HN-X2),* insert the following statements:

Biomedical Research and Clinical Medicine Program (HN-X4)

(1) Provides advice and assistance to the Institute Director and other officials on biological and clinical aging research, programs, activities, and organization; (2) plans and directs extramural and collaborative research and training in the areas of biological and clinical aging research; (3) plans, develops, and administers policies and operating procedures of the Program, evaluates scientific accomplishments of supported scientists and institutions for conformance to program goals and objectives; (4) determines the state-of-the-art of the Program's scientific fields of responsibility and recommends priorities and areas for emphasis; (5) collaborates with NIH Bureaus, Institutes and Divisions and other Federal agencies in the coordination and support of relevant scientific activities; and (6) Recommends mechanisms to be used or develops mechanisms to accomplish Program objectives.

Social and Behavioral Aging Research Program (HN-X5)

(1) Provides advice assistance to the Institute Director and other officials on social and behavioral aging research programs, activities, and organizations; (2) plans and directs a program of extramural and collaborative research and training in the areas of social and behavioral aging research; (3) plans, develops, and administers policies and operating procedures of the Program, and evaluates scientific accomplishments of supported scientists and institutions for conformance to program goals and objectives; (4) assesses needs for research and training in the Program's scientific fields of responsibility, and recommends priorities and area for emphasis; (5) colaborates with NIH Bureaus, Institues and Divisions and other Federal agencies in the coordination and support of relevant scientific activities; (6) recommends mechanisms to be used or develops mechanisms to accomplish program objectives; (7) consults with professional and scientific associations

in identifying research needs and develops programs to meet them.

Epidemiology, Demography, and Biometry Program (HN-X6)

(1) Plans, conducts, and directs epidemiology, demography, and biometry programs relevant to the mission of the National Institute on Aging; (2) collects and analyzes data regarding the distribution of the aged by such categories as sex, race, socio-economic and demographic characteristics and serves as a focal point for these data; (3) plans, initiates, coordinates, and analyzes national and international epidemiologic longitudinal studies and studies of special populations; (4) in collaboration with NIA staff and that of other Institutes, federal agencies and scientific organizations, recommends priorities and develops epidemiologic studies of specific diseases and conditions affecting the aged; (5) provides consultation and service to NIH program areas and private organizations on epidemiology, demography, and biometry studies on aging; (6) recommends mechanisms to be used or develops mechanisms to accomplish Program objectives; (7) plans and directs extramural and collaborative research and training in the areas of epidemiology, demography, and biometry research, and serves as the primary federal source of information regarding research and training in these areas.

Dated: December 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-660 Filed 1-7-81; 8:45 am]

BILLING CODE 4110-08-M

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on Fort Hall Irrigation Project, Idaho

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Fort Hall Irrigation Project for Calendar Year 1981 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall Project assessment rates proportionate with actual operation and maintenance costs. The proposed assessment rates for 1981 will amount to an increase of approximately eight percent.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than February 9, 1981.

Fort Hall Irrigation Project

Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operation difficulties and waste of water.

Duty of Water

Dependent upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

Charges

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1981 and subsequent years until further notice as follows:

(1) Fort Hall Unit basic rate.—$15.35 per acre
(2) Michaud Unit basic rate—$19.15 per acre
Additional rate for sprinkler when pressure is supplied by project—$8.35 per acre
(3) Minor Units basic rate—$13.50 per acre

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance assessments the same as lands on non-Indian ownership and lands owned by non-members of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938).

Wilford G. Bowker,

Acting Area Director.

[FR Doc. 81-634 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-02-M

[INT FES 80-55]

Proposed Recreational Lease of Wildhorse Reservoir Lands to Shoshone-Paiute Indian Tribes of Duck Valley, Elko County, Nevada; Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Indian Affairs, Department of the Interior has prepared the final environmental statement for the proposed lease of certain Wildhorse Reservoir lands to the Shoshone-Paiute Indian Tribes of Duck Valley, Nevada.

The environmental statement considers the effects of a proposal for the lease of a 150-acre parcel of Wildhorse Reservoir lands to the Duck Valley Indians, and the concurrent development of a study to determine the feasibility of leasing additional parcels of the BIA-administered lands at the reservoir to the Tribe for recreational purposes.

Copies of the statement are available for review at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of Interior, Washington, D.C., Telephone 202-343-8248

Bureau of Indian Affairs, Eastern Nevada Agency Office, 1555 Ruby View Drive, Elko, Nevada 89801, Telephone 702-738-5165

Bureau of Indian Affairs, Eastern Nevada Sub-Agency, Owyhee, Nevada 89832, Telephone 702-757-3068

Bureau of Indian Affairs, Phoenix Area Office, Room 502, 3030 North Central Avenue, Phoenix, Arizona 85012, Telephone 602-241-2275

Single copies of the statement can be available upon request to the Phoenix Area Office at the above address.

Dated: December 31, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 81-647 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-02-M

Umatilla Indian Reservation; Oregon's Acceptance of Retrocession of Jurisdiction

December 16, 1980.

Pursuant to Resolution 79-31, enacted by the Umatilla Indian Reservation and to Oregon State Executive Order EO-80-8, signed by Governor Victor Atiyeh, all criminal jurisdiction exercised by the State of Oregon over the Confederated Tribes of the Umatilla Indian Reservation will be returned to the United States as of January 2, 1981, at 12:01 am. Through retrocession to the United States, criminal jurisdiction will return to the Confederated Tribes of the Umatilla Indian Reservation.

This notice is published in exercise of the authority delegated to the Commissioner of Indian Affairs by the Assistant Secretary—Indian Affairs in 230 DM 2.[1]

William E. Hallett,

Commissioner of Indian Affairs.

[FR Doc. 81-408 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Burley District Advisory Council; Meeting

Notice is hereby given that in accordance with Section 309 of the Federal Land Policy and Management Act, (90 Stat. 2743-2749), as amended by the Public Rangelands Improvement Act (Pub. L. 95-514), the Burley District Advisory Council will meet on February 25, 1981.

The meeting will convene at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items include:

1. Rangeland Management Program Document, outlining the course of action following the Bannock-Oneida EIS;
2. Twin Falls Planning, inventory review and specialist recommendations;
3. Issues and planning criteria for the Cassia Resource Management Plan.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:00 p.m. and 3:30 p.m. or they may file written statements for the Board's consideration. Written statement must be submitted to the District Manager by 4:30 p.m. February 24, 1981. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, by February 20, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

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[1] Certified copy of Executive Order No. EO-80-8, Tribal Resolution No. 79-31, and Superintendent William D. Sandoval's recommendation filed with the office of the Federal Register as part of the original document.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection and reproductions (during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Nick James Cozakos,

District Manager.

[FR Doc. 81–628 Filed 1–7–81; 8:45 am]

BILLING CODE 4310–84–M

Burns District; Harney Planning Continuation

The Harney Environmental Impact Statement (EIS) is composed of the Andrews Resource Area (RA) and the Riley Resource Area for approximately 2.7 million acres within the Burns District. The EIS is scheduled for completion by September 30, 1982 and the planning effort is in various stages of completion.

The Burns District has compiled several major issues for the Harney EIS Area and would appreciate additional public comment. General issues that have been developed are as follows:

1. *Lands*—potential land exchanges; desert land entries, rights-of-way for energy corridors, private land exchanges; withdrawals for Areas of Critical Environmental Concern (ACEC), Research Natural Areas (RNA) and Outstanding Natural Areas (ONA).

2. *Geology—Energy—Minerals*—Geothermal energy development and mining.

3. *Range*—allocation of forage for livestock, wildlife, wildhorses, and watershed; stocking rates for livestock; seasons of livestock use; trespass; protection and management of riparian vegetation; rangeland improvements and the conflict with other resources such as wilderness interim management requirements, visual resources, watershed protection; shifting livestock operators within and to other allotments to bring grazing use in balance with grazing capacities.

4. *Wildlife*—habitat protection and development and the conflicts with other resource uses; riparian vegetation, and other habitat alterations.

5. *Cultural*—protection of cultural resources and the conflicts with useage of other resources.

6. *Recreation*—off-road vehicle management plans; areas of critical environmental concern; areas of outstanding natural areas; visual resource management classification.

7. *Watershed*—protection of the watershed; prevention of point and non-point pollution; and improvement of water quality; rare and endangered species of both flora and fauna species.

8. *Wilderness*—extent to which interim management requirements restrict use of other resources within study areas and eventual designated areas.

9. *ACEC's*—identification and protection of Areas of Critical Environmental Concern (ACEC); and protection of sensitive, threatened and endangered (S, T & E) species of plants and animals. ACEC's are areas where special management attention is required to protect and prevent irreparable damage to *important* historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

Public suggestions or nominations of areas must include the following elements to be considered for study:

—a legal description of the boundaries, or show on a map or aerial photo and describe by terrain features such as roads, streams, ridges, etc.

—a description of relevance and importance to historic, cultural or scenic values, fish and wildlife resources or other natural systems of processes, or to protect life and safety from natural hazards. Illustrate objective evidence the values are of more than *local* significant (for example, information or testimony from research entities, recognized scientists or consulting groups).

—your name, address, and telephone number.

All areas will be evaluated by an interdisciplinary team under the concepts of multiple use and Bureau ACEC guidelines.

It is important that the public participates in the planning system as increased private and public use of the resources in this area is anticipated. Public announcements and notices in local newspapers will provide times, dates and locations of upcoming meetings associated with the planning, environmental impact statement and decision phases of the effort.

Anyone who wishes to discuss the BLM planning effort and availability of information, may contact the Riley or Andrews Area Managers, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720, or call (503) 573–2071.

I. Christian Vosler,

District Manager.

December 29, 1980.

[FR Doc. 81–636 Filed 1–7–81; 8:45 am]

BILLING CODE 4310–84–M

Resource Management Plan and Environmental Impact Statement for the Northeast Resource Area and Fountain Creek Planning Unit; Canon City District, Colo.

The following three amendments to the original Federal Register announcement (Volume 45, No. 222/ Friday, November 14, 1980/page 75331) are hereby made:

(1) The first set of public meetings to identify issues and planning criteria will be held in April.

(2) Two locations, Boulder and Wray, are added to the list of meeting places.

(3) For further information contact:

Melvin D. Clausen, District Manager, P.O. Box 311, 3080 East Main Street, Canon City, Colorado 81212, (303) 275–0631; or

Francis Young, Area Manager, West 44th Avenue, Wheatridge, Colorado 80033, (303) 234–4988

Melvin D. Clausen,

District Manager.

[FR Doc. 81–629 Filed 1–7–81; 8:45 am]

BILLING CODE 4310–84–M

Salt Lake District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Salt Lake District Grazing Advisory Board will be held February 18, 1981.

The meeting will begin at 3:00 P.M. in the BLM conference room at 2370 South 2300 West, Salt Lake City, Utah 84119.

The purpose of the meeting will be to organize the new board, and give an update on the Randolph E. S. implementation and the Tooele planning process.

The meeting is open to the public. Interested persons may make oral statements at 4:00 P.M. on February 18, 1981 at the BLM office, or file written statements for the board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119 by February 11, 1981. The District Manager may establish a time limit for each person.

Dated: December 31, 1980.

Frank W. Snell,

District Manager.

[FR Doc. 81-636 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Intent To Reschedule Public Hearing on Federal Coal Leasing Target for Powder River Coal Production Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Public hearing.

SUMMARY: The public hearing on the Federal Coal leasing target for the Powder River Coal Production Region which was scheduled by the Powder River Regional Coal Team in Gillette, Wyoming, for December 23, 1980, as published in the **Federal Register** Notice December 3, 1980, was cancelled due to inclement weather. As outlined in the December 3 notice, the hearing is to receive oral and written comments in order to assist the Secretary of the Interior in the establishment of a Federal coal leasing target for the Powder River Coal Production Region. The hearing will be rescheduled as detailed below.

DATE: Written comments will still be accepted until close of business January 26, 1981. The public hearing will be held in Gillette, Wyoming, on January 15, 1981. The hearing will start at 7 p.m.

ADDRESS: The hearing will be held at the Holiday Inn, 2009 South Douglas Highway, Gillette, Wyoming.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Powder River Project Manager, or Ron Moore, Wyoming Coal Coordinator, Bureau of Land Management (930), P.O. Box 1828, Cheyenne, Wyoming 82001, 307-778-2220, extension 2413, or FTS 328-2413.

Jack Belmain,

Acting State Director.

[FR Doc. 81-637 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 017768 WR]

Colorado; Proposed Continuations of Withdrawals

December 30, 1980.

The appropriate district managers of the Bureau of Land Management have filed statements of justification for continuation of existing public land withdrawals made by Public Land Order 1608 of March 28, 1958. The Bureau desires to continue the withdrawals in their entirety for 20 years. The continuations are proposed pursuant to the provisions of Section 204 (1), Federal Land Policy and Management Act of 1976 (90 Stat. 2754; 43 U.S.C. 1714). The following public lands are affected:

Sixth Principal Meridian, Colorado

T. 7 N., R. 91 W.,
  Section 35, Tract of land described by metes and bounds in SE¼SE¼, containing approximately 1 acre in Moffat County.

New Mexico Principal Meridian, Colorado

T. 45 N., R. 13 W.,
  Section 27, Tract of land described by metes and bounds in NE¼NE¼, containing approximately .068 acres in San Miguel County.

The lands are withdrawn for administrative sites in Craig and Norwood, Colorado. Both tracts are being used for warehouse and storage areas.

The lands are withdrawn from all forms of appropriation under the public land laws, including the mining laws. They are not withdrawn from leasing under the mineral leasing laws nor from operation of the Materials Act of July 31, 1947 (61 Stat. 681), as amended. No changes in the effects of the withdrawals are proposed.

Notice is hereby given that an opportunity to request a public hearing is afforded in connection with the proposed continuations. Persons who desire to be heard on the proposals may submit written request for a hearing to the undersigned officer on or before February 1, 1981. Upon determination that a public hearing will be held, appropriate notice will be published in the **Federal Register.** In lieu of, or in addition to, attendance at a public hearing, written comments regarding the proposed action may be filed with the undersigned officer on or before February 1, 1981.

The final determination on continuation of these withdrawals will be published in the **Federal Register.** The withdrawals will remain in effect pending this final action.

All communications pertaining to this action should be addressed to the undersigned.

Robert D. Dinsmore,

Chief, Branch of Adjudication, Colorado State Office, Bureau of Land Management, 700 Colorado State Bank Building, Denver, Colorado 80220.

[FR Doc. 81-638 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

La Sal Pipeline Co.; Right-of-Way

December 29, 1980.

AGENCY: U.S. Department of the Interior, Bureau of Land Management.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement on a Proposed Crude Oil Pipeline.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Colorado State Office will prepare an environmental impact statement on a proposed crude oil pipeline and related facilities including pumping stations, valve stations, scraper traps, and tankage. The proposal has been made through application for a right-of-way pursuant to Part 2880, 43 CFR regulations pertaining to oil and gas pipelines. The applicant is La Sal Pipeline Company, a wholly owned subsidiary of Exxon Pipeline Company. The pipeline would begin in an area north of Parachute, Colorado in the vicinity of the Colony Oil Shale Development Operation and end in a tankage facility near Casper, Wyoming. The total length of the proposed pipeline is approximately 300 miles.

The purpose of the proposal is to transport processed shale oil from the Colony Development to refinery capacity in Casper, Wyoming. The pipeline would transport approximately 50,000 barrels per day (bpd); the size of the pipe is nominally sixteen inches in diameter. The anticipated cost of the pipeline project would be approximately 100 million dollars (1980).

The proposed action is considered to be the construction, maintenance and operation of a sixteen inch crude oil pipeline and ancillary facilities. The pipeline will be analyzed as a discrete action; it is not an enabling action for other development at either end. The EIS will analyze the site specific and cumulative impacts of the proposed action and alternatives, including no action.

Alternatives that will be analyzed include the applicant's proposed route, alternate routes, alternate means of transport, and no action. Other alternatives may be developed subsequent to scoping. The level of detail in the EIS will be determined following the scoping process; it will be equivalent to the level of anticipated impacts. The impact analysis will define how the components of the proposed action and alternatives interact with the surrounding environment. Impacts will be traced beyond the end points and the right-of-way boundary to the point where they no longer have significant effects.

A series of scoping sessions will be held during the weeks of January 26, and February 2, 1981. Tentatively, one public session will be held in Grand Junction, Craig, and Denver, Colorado; and Casper, and Cheyenene, Wyoming.

Notice of all meetings will be published in local media at least two weeks before each meeting. The scoping process will involve personal contact with agencies and individuals, in addition to formal contact with other federal, state and local agencies and groups.

In accordance with the final regulations of the Council on Environmental Quality for Implementation of Procedural Provisions of the National Environmental Policy Act, the scoping meetings will:

a. Inform affected federal, state and local agencies, and other interested groups or individuals about the proposal.

b. Define the scope and significant issues to be analyzed in the EIS. This includes identification and elimination from detailed study those issues which are not significant.

c. Identify environmental reports which may be related to the proposal or may contain relevant data.

d. Identify related consultation and review requirements which will be addressed in the EIS, including identification of mandated documentation.

FOR FURTHER INFORMATION CONTACT: James E. Dean, La Sal Pipeline EIS Coordinator, Colorado State Office, Bureau of Land Management, 1600 Broadway, Denver, CO 80202. Telephone: Commercial— 303-837-3515; FTS—327-3515.

George C. Hinton,

Acting State Director.

[FR Doc. 81-671 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

Vale District; Northern and Southern Resource Areas; Invitation To Comment

The Bureau of Land Management, Vale District, is beginning multiple resource use planning on public lands in the Southern Malheur Resource Area, and a plan amendment in the Northern Resource Area in Malheur County and part of Harney County in eastern Oregon.

Resource inventories, were begun in Southern Malheur RA for soils, vegetation, water quality, and fisheries habitat in 1980, and are due for completion early in 1981. Inventory of other resources for the area, namely: cultural, wilderness, visual, recreation development, wildlife, forestry, and water are either complete, adequate for the need, covered by sufficient existing data, or are inadequate and will not be completed for this planning period due to manpower and funding deficiencies. Additional soil and vegetation inventories are now complete and must be considered along with Areas of Environmental Concern (ACEC's), Wilderness Study Areas, and proposed right-of-way Corridors identified in the Western Regional Corridor Study for Northern Malheur RA.

The inventory data will be used to evaluate the capability and limitation of the resources for intensive development and use. The evaluation will then be used to develop resource management recommendations for approximately 2,636,600 acres of public land in Southern Malheur and 1,324,900 acres in Northern Malheur under the jurisdiction of the Vale District, Bureau of Land Management.

BLM resource specialists in range management, minerals, wildlife, fisheries, forest management, hydrology, soils, recreation, cultural resources, wilderness review, ecology, and socio-economics, will comprise the interdisciplinary planning team. Planning will essentially be done at the district level with reviews and consultation occurring at the Oregon State Office level, with the District Multiple Use Advisory Council, District Grazing Advisory Board, Division of State Lands, Malheur County Planning Board, and the adjacent BLM district offices.

General types of issues surrounding the development and use of the resources are anticipated, as follows:

1. *Lands*—potential land exchanges; rights-of-way for energy corridors, roads, reservoirs, canals, and ditches; withdrawals to protect areas of critical environmental concern, natural areas, etc.; leases and permits to facilitate industrial and residential expansion, geothermal development, mining, other mineral extraction, sanitary landfills, education facilities, recreational parks expansion, etc.; trespass abatement; conflicting land uses, agriculture vs mining, water storage, etc.; and withdrawal restoration.

2. *Minerals*—potential development of geothermal, uranium, and oil and gas on public surface and subsurface ownership; social and economic impacts of rapid, large-scale development of oil and gas and uranium on small communities and other resource uses; rehabilitation of land disturbed by mineral exploration and development.

3. *Range*—allocation of vegetation for livestock, wildlife, wildhorses, and watershed; stocking rates for livestock; seasons of livestock use; protection and management of riparian vegetation; rangeland improvements and the conflict with other resources such as wilderness interim management requirements, visual (scenery) resources, watershed protection, etc.; shifting livestock operators within and to other allotments to bring grazing use in balance with grazing capacities.

4. *Wildlife*—habitat protection and development and the conflicts with other resource uses such as livestock grazing, mining, ORV, and recreation; introduction of new, non-native species such as Bighorn Sheep, which may cause competition for forage with livestock and other wildlife species; predator control and management.

5. *Cultural*—protection of cultural resources and the conflicts with useage of other resources.

6. *Recreation*—recreation potential and development of existing and new situations, including access, facility development, and protection; conflicting uses with other resources; and levels of ORV use.

7. *Water*—protection of the watershed; prevention of point and non-point pollution; and improvement of water quality to federal clean water standards.

8. *Wilderness*—determination of wilderness suitability for future wilderness designation; extent to which interim management requirements restrict use of other resources within study areas and within eventual designated areas.

9. *Public Access*—securing access to the Public lands for resource management and use by the public.

10. *Fire Management*—use of fire as a management tool to manipulate vegetation types. This includes the manipulation of wildfires as well as controlled (prescription) burning.

Issues relevant to Northern Malheur amendment must be confined to vegetative allocation for livestock, wildlife and watershed, ACEC's, Wilderness Study, and R/W Corridors.

Areas of Critical Environmental Concern (ACEC's)

Identification and protection of Areas of Critical Environmental Concern (ACEC), is of major concern at this point.

Areas of Critical Environmental Concern are areas where special management attention is required to protect and prevent irreparable damage to *important* historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

Public suggestions or nominations of areas must include the following elements to be considered for study:

—A legal description of the boundaries, or show on a map or aerial photo and describe by terrain features such as roads, streams, ridges, etc.

—A description of relevance and importance to historic, cultural or scenic values, fish and wildlife resources or other natural systems of processes, or to protect life and safety from natural hazards. Illustrate objective evidence the values are of more than *local* significance (for example, information or testimony from research entities, recognized scientists or consulting groups).

—Your name, address, and telephone number.

All areas will be evaluated by an interdisciplinary team under the concepts of multiple use and Bureau ACEC guidelines.

Threatened and Endangered (T&E) Plants and Animals

The identification and location of threatened and endangered plants and animals that occur in the district is desired at this time. Currently there are three threatened or endangered and seven sensitive species of animals on the Federal list. One additional threatened animal species occurs on the Oregon List. There are no plant species known to occur in the District that are listed Federally, however, there are 10 threatened or endangered and eight sensitive species that appear on the Oregon list.

It is important that the public participate in long range plans for this planning areas as increasd private and public use of the resources in anticipated. Public involvement will therefore be a continuing and key part of the Bureau's planning process. The BLM strongly urges the public to offer information and assistance to this planning effort. Specific notices of meetings and opportunities for public participation will be announced from time to time in advance of the acutal dates. A general schedule of dates and type of public participation is set forth as follows:

Planning element (or phase)	Type of public notice and involvement	Date of notice or meeting
A. Identification of Resource, Issues, and Areas of Environmental Concern (ACEC), and notice of intent to begin planning in the Southern Malheur Resource Area and to amend the Northern Malheur Resource Area MFP.	Public will be notified by newspress, this FEDERAL REGISTER notice, and by special brochure mailing, and requested to respond orally or in writing within 30 days of notice. No public meetings are planned.	January 1981.
B. Development of Planning Criteria	Public will be notified by newspress and special newsletter, and requested to respond orally or in writing within 30 days of publication.	March 1981.
	Public meetings may be planned throughout the district to provide for personal contact with planning team and to answer general planning questions.	Specific dates will be announced.
C. Steps, 2, 3, and 4 of the Unit Resource Analysis (URA) Planning Area Analysis (PAA), and Step 1 of the Management Framework Plan (MFP).	Informal contact for professional consultations will be made with known technical interest groups and federal, state, and county agencies. General public involvement may occur through field tours from time to time of the planning area. No public meetings are planned. Public notice of tours will be by newspress.	January through October 1981.
D. Management Framework Plan (MFP) Alternatives	Public notice by newspress and special newsletter of public meetings to identify additional alternatives, and to express a preferred alternative. 15 days written response is allowed after meetings.	Winter 1981-82.
E. Publication of Management Framework Plan final alternatives with the preferred alternatives identified for the Southern Malheur Resource Area and the Northern Malheur Amendment. Scoping for the Southern Malheur Grazing Environmental Impact Statement will be done at this time.	Public notice by newspress and newsletter of public meetings. FEDERAL REGISTER notice of intent to begin Southern Malheur EIS and of scoping process. A 45-day written comment period is provided after publication of NOI, and public meetings.	Summer 1982.

Anyone desiring to discuss BLM planning and environmental assessment efforts and availability of information may do so by contacting the District Manager, Bureau of Land Management, P.O. Box 700, Vale, Oregon 97918 or by phone call to (503) 473–3144. Written or oral response relevant to the identification of additional issues and public concerns in the management of the resources must be made on or before February 23, 1981.

Recipients of this notice must contact the District Manager orally or in writing if they wish to receive future mailings from the District office relevant to Management Framework Planning in the Southern Malheur EIS area.

Dated: December 30 1980.

David Lodzinski,

Acting District Manager.

[FR Doc. 81-681 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Geological Survey

DEPARTMENT OF TRANSPORTATION

Coast Guard

Memorandum of Understanding; Outer Continental Shelf.

AGENCIES: U.S. Geological Survey, Department of the Interior; U.S. Coast Guard, Department of Transportation.

ACTION: Final document.

SUMMARY: The U.S. Geological Survey and the U.S. Coast Guard have signed a new Memorandum of Understanding (MOU) to promote the safety of activities and facilities on the Outer Continental Shelf (OCS) of the United States associated with the exploration, development, and production of mineral resources, to avoid duplication of effort, and to promote consistent, coordinated, and less burdensome regulation of these facilities. This MOU may identify changes required in individual regulations, or modifications to the OCS regulatory scheme, or both. This MOU is in response to the enactment of the OCS Lands Act Amendments of 1978 (Public Law 95–372).

DATES: This MOU is effective December 18, 1980.

ADDRESSES: A copy of the MOU may be obtained from the following offices:

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, 640 National Center, Reston, Virginia 22092

Manager, Outer Continental Shelf Safety Project, U.S. Coast Guard (G–MP-30CS), 2100 2nd Street SW., Washington, D.C. 20593

FOR FURTHER INFORMATION CONTACT: Mr. Price McDonald, Chief, Branch of Offshore Field Operations, Conservation Division, U.S. Geological Survey, 640 National Center, Reston, Virginia 22092, telephone (703) 860–7571.

Dated: December 24, 1980.

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division.

The Memorandum of Understanding between the USGS and the USCG is revised in its entirety to read as follows:

Memorandum of Understanding Between the United States Geological Survey of the Department of the Interior and the United States Coast Guard of the Department of Transportation Concerning Regulation of Activities and Facilities on the Outer Continental Shelf of the United States

I. Purpose

The purpose of this Memorandum of Understanding is to promote the safety of activities and facilities on the Outer Continental Shelf of the United States (OCS) associated with the exploration, development, and production of mineral resources, to avoid duplication of effort, and to promote consistent, coordinated and less burdensome regulation of these facilities.

II. Definitions

For purposes of this Memorandum of Understanding, the following definitions apply:

Act—The Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372).

Deepwater Port—A facility licensed by the Secretary of Transportation under the Deepwater Port Act of 1974.

Vessel—Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water. This term does not include atmospheric or pressure vessels used for the containment of fluids or gases.

Outer Continental Shelf—The submerged lands which are subject to the Act.

OCS Activity—Any offshore activity associated with exploration for, development of, or production of mineral resources of the OCS.

OCS Facility—Any artificial island, platform, installation, or other device, permanently or temporarily attached to the seabed or subsoil of the OCS, and used for any OCS activity. This term does not include a deepwater port or vessel engaged in transportation, but does include a:

1. *Fixed OCS Facility*—Any fixed, bottom-founded facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated columns, gravity platforms and other structures;

2. *Floating OCS Facility*—Any buoyant facility securely and substantially moored to the seabed or subsoil of the OCS, including tension leg platforms, permanently moored semi-submersibles, ship-barge shape hulls, or other buoyant structures. This term does not include mobile offshore drilling units;

3. *Mobile Offshore Drilling Unit (MODU)*—Any vessel capable of engaging in drilling operations for the exploration or exploitation of mineral resources of the OCS. This term includes mobile offshore drilling units engaged in OCS activities that are U.S., foreign, or not documented under the laws of any nation;

4. *OCS Terminal*—Any fixed or floating facility which is used or intended for use primarily as a port or terminal for transferring produced oil, gas or other OCS mineral resources to or from a vessel;

5. *Mobile Well Servicing Unit (MWSU)*—Any vessel other than a MODU which engages in well servicing operations on the OCS.

III. Agency Authorities on the OCS

A. General

1. The Department of the Interior is responsible for management of mineral leasing on the OCS of the United States, including coordinating Federal Activities related to this program. Within the Department of the Interior, the U.S. Geological Survey regulates all mineral exploration, drilling, and production activities on leased or leasable land.

2. The United States Coast Guard of the Department of Transportation regulates to promote the safety of life and property on OCS facilities and vessels engaged in OCS activities, and the safety of navigation.

B. Statutory Authorities of the Geological Survey on the OCS Include

1. Providing for the prevention of waste and the conservation of the natural resources of the OCS, and the protection of correlative rights.

2. Requiring suspension or temporary prohibition of any operation or activity on a lease if there is a threat of serious or irreparable harm or damage to life, to property, to mineral deposits or to the marine, coastal, or human environment.

3. Reviewing allegations of violations of safety regulations issued under the Act.

4. Reviewing and approving exploration plans, development and production plans, and applications for permits to drill necessary for prompt and efficient exploration, development, and production of a lease area.

5. Reviewing and approving applications for remedial work on completed wells.

6. Approving rights of use and easement.

7. Inspecting drilling and production operations to ensure compliance with applicable lease terms and Geological Survey regulations and orders.

8. Ensuring compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 USC 7401 et seq.), to the extent that activities authorized under the Act significantly affect the air quality of any State.

9. Exercising the Secretary of the Interior's responsibilities for the assessment, compromise, and collection of civil penalties under section 24(b) of the Act.

C. Statutory Authorities of the Caost Guard on the OCS Include

1. Promoting the safety of life and property on OCS facilities and adjacent waters.

2. Requiring hazardous working conditions related to activities on the OCS to be minimized.

3. Reviewing allegations of violations of occupational safety and health regulations under the Act.

4. Administering applicable vessel navigation, safety and inspection laws contained in Titles 46 and 33 of the United States Code.

5. Inspecting OCS facilities and vessels engaged in OCS activities to ensure compliance with applicable Coast Guard requirements.

D. Similar Statutory Authorities Involving Both Agencies Include

1. Establishing minimum requirements or standards of design, construction, alteration, and repair for vessels, rigs, platforms, or other vehicles or structures engaged in OCS activities.

2. Performing scheduled and unannounced inspections of OCS facilities to assure compliance with regulations promulgated pursuant to the Act.

3. Enforcing regulations promulgated pursuant to the Act, including authority to utilize by agreement the services of personnel or facilities of other Federal agencies.

4. Investigating and making public reports on deaths, serious injuries, fires, and oil spillage occurring as a result of OCS operations.

5. Requiring the use of the best available and safest technologies on OCS drilling and production operations as set forth in section 21(b) of the Act.

IV. Responsibilities

To accomplish the purposes of this memorandum both agencies agree to observe the following guidelines with respect to overseeing OCS facility design and construction, systems and equipment, and operations.

A. Facility Design and Construction Requirements, Including Plan Approval

1. The Geological Survey exercises technical review and approval responsibility for design, fabrication, and installation of all fixed OCS facilities. Additionally, after technical review and approval of the design and fabrication of all floating OCS facilities by the Coast Guard, the Geological Survey will have final approval responsibility for the installation of such facilities. The Geological Survey will coordinate technical and plan review as necessary with the Coast Guard to ensure that any applicable Coast Guard requirements affecting design or construction are complied with.

The Geological Survey verifies the following for all OCS facilities:

a. Site-specific considerations, such as oceanographic, meteorological, geological and geophysical conditions including bottom conditions and the capability of the seabed to support or hold the position of the facility to be installed and operated.

The Geological Survey establishes requirements and verifies the following for fixed OCS facilities:

b. Structural integrity involving design, fabrication, and installation;

c. General arrangement of drilling, production, and well control systems and equipment;

d. Modification and repair related to structural integrity.

2. The Coast Guard exercises technical review and approval responsibility for design and construction of all floating OCS facilities, and all vessels engaged in OCS activities, including MODUs and MWSUs. The Coast Guard will coordinate technical and plan review as necessary with the Geological Survey to ensure that any applicable Geological Survey requirements affecting design or construction are complied with.

The Coast Guard establishes requirements for the following on all OCS facilities:

a. Structural fire protection, including specifying fire endurance capabilities of bulkheads, decks, and escape routes, testing and classification of materials, and requirements for ventilation systems;

b. Access, landings and emergency escape routes.

The Coast Guard establishes requirements for the following on floating OCS facilities and vessels engaged in OCS activities:

c. Design, loading, fabrication and construction requirements;

d. Stability and buoyancy;

e. Modification and repair requirements related to structural integrity;

f. General arrangement.

B. Systems and Equipment

Systems approved by one agency which are interconnected to systems approved by the other agency must be acceptable to both agencies.

1. The Geological Survey establishes requirements and verifies compliance with those requirements for systems and equipment for drilling, production, well control, and workover, on all OCS facilities.

Systems and equipment for which the Geological Survey establishes requirements, as necessary, on all OCS facilities include:

a. Blowout preventer and other well control equipment;

b. Surface production safety systems;

c. Emergency Shutdown System (ESD), including associated gas and fire detection systems;

d. Subsurface well-control equipment, including safety valves;

e. Atmospheric, pressure and fired vessels used for the processing of production;

f. Wellhead and flow-line equipment, including valves and sensors for wellheads, flow lines, and pipelines;

g. Dehydration equipment and gas compressor units used in production operations;

h. Hydrogen sulfide control equipment, including the hydrogen sulfide gas detection system;

i. Production and production-associated piping systems, including incoming and departing pipelines;

j. Pumps used to transfer liquids within the production process systems and into pipelines;

k. Fire Loop System which is used for detection and to initiate platform shutdown;

l. Subsea completions;

m. Wellhead fire-prevention;

n. Gas detection systems for drilling, production or gas transmission systems or equipment;

o. Oil and gas sale and metering equipment for production from OCS leases;

p. Containment systems for overflow from equipment associated with drilling and production.

Other systems and equipment for which the Geological Survey is responsible on fixed facilities include:

q. Electrical system design and equipment, including designation of classified locations;

r. Pressure vessels and piping associated with drilling operations;

s. Engine exhaust insulation and spark arrestors.

2. The Coast Guard establishes systems and equipment requirements, as appropriate, for propulsion machinery, auxiliary machinery and personnel safety equipment on all OCS facilities. The Coast Guard also establishes requirements for equipment on all OCS facilities to mitigate occupational safety or health hazards, or ensure the seaworthiness of a MODU, MWSU, floating OCS facility, or vessel. However, the Coast Guard will not establish requirements for drilling, production or workover equipment that would duplicate or conflict with Geological Survey requirements. Nor will the Coast Guard establish requirements for safety factors, shutdown or relief valves for pressure vessels or piping in systems for which Geological Survey has design approval.

Systems and equipment for which the Coast Guard establishes requirements, as necessary, on all OCS facilities include:

a. Lifesaving systems and equipment;

b. Fire detection, control and extinguishing systems and equipment not covered under IV.B.1. (c) and (k) of this Memorandum;

c. General alarms;

d. Cranes, booms or other material handling equipment, including industrial trucks;

e. Personnel protection equipment, excluding equipment for protection from hydrogen sulfide;

f. Communications;

g. Helicopter fueling facilities;

h. Helicopter deck installations;

i. Navigation lights, obstruction lights, and sound signals;

j. Boilers, pressure vessels, and piping not covered under IV.B.1. of this Memorandum;

k. Underwater working chambers designed for human occupancy and their support systems;

l. Hotel services including fresh water, flushing water, heating systems, etc.;

m. Permanent and portable quarters.

Other systems and equipment for which the Coast Guard establishes

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requirements, as necessary, on floating OCS facilities, MODUs, MWSUs, and vessels include:

n. Electrical system design and equipment, including designation of classified areas;

o. Mooring systems.

Other systems and equipment for which the Coast Guard establishes requirements, as necessary, on OCS terminals include:

p. Oil transfer, gas inerting and vapor recovery systems.

C. Operations

1. The Geological Survey administers procedures, including training, drills, inspections and emergency procedures on all OCS facilities with respect to:

a. Drilling, workover, and production operations, including well control;

b. Pollution prevention, except for transfers to or from a vessel (as vessel is defined in section II. of this Memorandum);

c. Safe welding, burning and hot tapping procedures;

d. Control of hydrogen sulfide;

e. Pipeline operations associated with an OCS facility;

f. Wellhead and platform removal.

Other procedures which the Geological Survey administers on OCS fixed facilities include:

g. Underwater and above water structural inspection and repair.

2. The Coast Guard administers requirements, including those for training, drills, inspections and emergency procedures, on all OCS facilities for:

a. Firefighting;

b. Emergency egress from a facility, including use of lifesaving and other general emergency equipment;

c. Handling, transfer and stowage of explosives, radioactive, flammable (other than produced hydrocarbons), and other hazardous materials;

d. Transfer of petroleum and other products from or to a vessel (as vessel is defined in section II. of this Memorandum);

e. Transfer of materials and personnel on or off the facility by crane or other means;

f. Vehicle and vessel operations;

g. Helicopter operations on OCS facilities;

h. Occupational safety and health of personnel;

i. Diving operations.

Other requirements which the Coast Guard administers on OCS floating facilities and vessels include:

j. Underwater and above water structural inspection and repair;

k. Stability considerations.

V. Inspections

A. Each agency will conduct scheduled and unannounced inspections, as necessary, to ensure compliance with its own requirements. Both agencies will coordinate inspections to minimize disruption of operations. If, in the course of a routine inspection, deficiencies falling within the responsibility of the other agency are apparent, the deficiencies will be reported to the other agency for action. This is not intended, however, to prevent any inspector from either agency from taking such action as is considered necessary to prevent serious or irreparable harm to persons, property or the environment on the OCS. Such action, however, will be subsequently reported to the other agency.

B. The Geological Survey administers procedures for requiring shut-down of drilling and production operations and may initiate such procedures upon request by the Coast Guard.

C. The Cost Guard issues certificates indicating compliance with Cost Guard requirements for all floating OCS facilities and vessels engaged in OCS activities, including MODUs and MWSUs.

VI. Investigations

A. Responsibility

Investigation and public report by the Geological Survey or the Coast Guard are required for fires, oil pollution, deaths and injuries associated with OCS activities. In addition, the agencies investigate certain other incidents relating to other regulatory responsibilities, e.g. loss of well control, sinking, capsizing, or major damage to a vessel or facility. To avoid duplicative efforts and simplify administration, the primary agency regulating a particular facility, system, or operation will be responsible for leading the investigation and reporting on incidents involving that facility, system, or operation. Where only one agency has an investigative interest in an incident, that agency will investigate and report. Where both agencies have investigative interest in an incident, one agency will assume lead responsibility with supporting participation by the other agency. Assumption of lead agency responsibility, the extent of supporting participation, and procedures for coordination will be determined by the circumstances of the particular incident. Normally, all investigations which involve both agencies will be coordinated by applying the following guidelines in numerical order to determine lead agency.

B. Guidelines

1. *Collisions*—The Coast Guard will normally be the lead agency.

2. *Fires and Explosions*—The Geological Survey will normally be the lead agency for incidents of fires or explosion involving drilling or production operations. Coast Guard participation will be requested in all investigations of fires or explosions that involve death or injuries or vessels, equipment, or operations for which the Coast Guard is responsible under paragraphs IV. B.2. or C.2. of this Memorandum.

3. *Deaths and Injuries.*The Coast Guard will normally be the lead agency for all incidents involving death or injuries. Geological Survey participation will be requested in investigations of all deaths and injuries associated with oil or gas drilling or production operations or equipment, including hydrogen sulfide exposure.

4. *Pollution*—The Geological Survey will normally be the lead agency for incidents involving pollution from all OCS facilities. Coast Guard participation will be requested in all investigations of pollution.

5. *Facilities, Material and Equipment.*

a. The Coast Guard will normally be the lead agency for incidents involving damage to MODUs, MWSUs, or other vessels, or floating OCS facilities, and failure of or damage to propulsion, auxiliary, or emergency systems and equipment covered under IV. B.2 of this Memorandum.

b. The Geological Survey will normally be the lead agency for all other incidents involving failure of or damage to fixed OCS facilities.

C. Conduct of Investigations

1. The lead agency responsible for an investigation under these guidelines will conduct, review, approve and release the investigation report in accordance with the normal procedures of that agency. Comments by the supporting agency will be included in the investigation report.

2. If both agencies participate in an investigation, the lead agency will forward an information copy of the final report to the supporting agency.

3. Reports prepared by a single agency need not be routinely forwarded to the other agency, but will be available upon request.

VII. Oil Spill Contingency Plans

Exploration Plans or Development and Production Plans are submitted to the Geological Survey for review and approval. The Coast Guard will provide a technical review of that portion of the

Plan which addresses the adequacy of the oil spill contingency plan, including the adequacy of oil spill response, clean up equipment, and procedures. The criteria by which to judge the adequacy of a plan will be jointly agreed upon by the Geological Survey and the Coast Guard.

VIII. Exchange of Services and Personnel

To the extent its own operations permit, each agency will provide the other agency with such assistance, technical advice and support, including transportation, as may be requested. Such exchange of services and use of personnel shall be on a nonreimbursable basis.

IX. Cooperation in Standards and Regulation Development

A. Both agencies will exchange data and study results, participate in research and development projects of mutual interest, and exchange early drafts of rulemaking notices.

B. Both agencies will review current standards, regulations and orders and will propose revisions to them as necessary in keeping with the provisions of this Memorandum of Understanding.

C. Both agencies will review reporting and data collection requirements imposed on operators of OCS facilities and, wherever feasible, will eliminate or minimize duplicate reporting and data collection.

X. Implementation

A. Each agency will review its internal procedures and where appropriate, will revise them to accommodate the provisions of this Memorandum of Understanding. Each agency will also designate one senior official who will be responsible for continuing coordination and implementation of the provisions of this Memorandum of Understanding.

B. On the effective date of this agreement, the Coast Guard/Geological Survey Memorandum of Understanding for mobile offshore drilling units, dated April 11, 1977, is cancelled.

XI. Savings Provision

Nothing in this Memorandum of Understanding shall be deemed to alter, amend, or affect in any way the statutory authority of the Geological Survey or the Coast Guard.

XII. Effective Date

This Memorandum of Understanding is effective upon signature. It may be amended at any time by mutual written agreement of both agencies and may be terminated by either agency upon 30 days written notice.

Signed at Washington, D.C., this 18th day of December 1980.

J. B. Hayes,

Commandant, U.S. Coast Guard, Department of Transportation.

H. William Menard,

Director, U.S. Geological Survey, Department of the Interior.

[FR Doc. 81-624 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Advisory Committee on Water Data for Public Use; Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular No. A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the Advisory Committee on Water Data for Public Use is necessary and in the public interest.

The purpose of the Committee is to advise the Department of the Interior, through the Geological Survey, on plans, policies, and procedures related to Federal water-data acquisition programs and on the effectiveness of those programs in meeting national needs. Advice and counsel are also provided relative to the Survey's efforts to implement Office of Management and Budget Circular No. A-67, which provides guidelines for the coordination of the acquisition of certain water data by Federal agencies.

The General Services Administration concurred in the renewal of this Committee on December 15, 1980.

Further information regarding this renewal may be obtained from Porter E. Ward, Chief, Office of Water Data Coordination, Geological Survey, 417 National Center, Reston, Virginia 22092, (703) 860-6931.

Doyle G. Frederick,

Acting Director, U.S. Geological Survey.

[FR Doc. 81-393 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Earthquake Studies Advisory Panel; Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular No. A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the Earthquake Studies Advisory Panel is necessary and in the public interest.

The purpose of the panel is to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

The General Service Administration concurred in the renewal of this Panel on December 15, 1980.

Further information regarding this renewal may be obtained from Dr. John R. Filson, Chief, Office of Earthquake Studies, Geological Survey, 905 National Center, Reston, Virginia 22092 (703) 860-6472.

Boyle G. Frederick,

Acting Director, U.S. Geological Survey.

[FR Doc. 81-394 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A Inc., Unit Operator of the High Island Block 52 Federal Unit Agreement No. 14-08-001-6381, submitted on December 12, 1980, a proposed annual plan of development/production describing the activities it proposes to conduct on the High Island Block 52 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 18, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 81-442 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Ocean Production Company has submitted a unit Development and Production Plan describing the activities it proposes to conduct on Leases OCS 038, 063, 064, 065, 068, and 069, Blocks 120, 93, 114, 117, 118, and 119, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 2, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-640 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Livestock Grazing on Public Lands; Schedule of Fees, 1981

Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1981 fee year beginning March 1, 1981, and ending February 28, 1982, for livestock grazing on the public lands under the administration of the Bureau of Land Management.

For the purpose of establishing charges, one animal unit month (AUM) shall be considered equivalent to grazing use by one cow, five sheep, or one horse for one month.

Bills shall be issued in accordance with the rates prescribed in this notice.

Inside Statutory Grazing Districts

Pursuant to Department regulations (43 CFR 4130.5-1(a)), as published January 10, 1979 (44 FR 2173), fees within districts shall be $2.31 per AUM.

Exceptions to the above rates for certain LU project lands (Bankhead-Jones Land) will not apply for the 1981 grazing year or in subsequent years under the current grazing fee formula. The rates shall be the same as above, $2.31 per AUM. Areas for which different rates applied in previous years are as follows:

Arizona. The San Simon project (Cienega area) transferred to the Department by Executive Order 10322.

Colorado. The Great Divide project transferred to the Department by Executive Order 10046.

Montana. For all LU lands within districts transferred to the Department by Executive Order 10787.

New Mexico. For the Hope Land project transferred to the Department by Executive Order 10787, and the San Simon project (Cienega area) transferred to the Department by Executive Order 10322.

Outside Statutory Grazing Districts (Exclusive of Alaska)

Pursuant to Departmental regulations (43 CFR 4130.5-1(a)), the rate for grazing leases shall be $2.31 per AUM.

Exceptions to the above rate set for certain LU project lands and for all O&C and intermingled public lands in Western Oregon will not apply for the 1981 grazing year or in subsequent years under the current grazing fee formula. The rates shall be the same as above, $2.31 per AUM. Areas for which different rates applied in previous year are as follows:

Montana. Those Milk River project lands outside districts transferred to the Department by Executive Order 10787.

Wyoming. The Northeast Wyoming project lands transferred to the Department by Executive Order 10046 and amended by Executive Order 10175.

Western Oregon. O&C and intermingled public lands.

James W. Curlin,

Deputy Assistant Secretary for Land and Water.

January 2, 1981.

[FR Doc. 81-444 Filed 1-7-81; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 347 (Sub-No. 1)]

Coal Rate Guidelines—Nationwide; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to notice of proposed guidelines.

SUMMARY: At 45 FR 80370, December 4, 1980, the Commission proposed to expand the scope of this proceeding to coal rates nationwide. Comments were due 45 days from the date of Federal Register publication of the Notice of Proposed Guidelines on or before January 19, 1981. Several persons intending to comment have requested additional time to prepare their statements. The requests are granted.

DATE: Comments are now due April 17, 1981.

ADDRESS: An original and 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

Decided: December 31, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-620 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 394]

Cost Ratio For Recyclables—1980 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: Section 204 of the Staggers Rail Act of 1980, Pub. L. 96-448, requires rail carriers to maintain rates for the transportation of recycled and recyclable materials, other than recycled or recyclable scrap iron and steel, at revenue-to-variable cost ratio levels equal to or less than a described average revenue-to-variable cost ratio. The Commission has calculated this average cost ratio to be 146 percent. The rail carriers are prohibited from increasing rates on recyclables, other than recycled or recyclable scrap iron and steel, above the prescribed level.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: We instituted this proceeding by notice at 45 FR 76551 (November 19, 1980) in order to implement Section 204 of the Staggers Rail Act of 1980, Pub. L. 96-448. We have, on January 5, 1981, issued a final decision in Ex Parte 394 prohibiting the railroads from increasing rates on recycled and recyclable materials, other than recycled and recyclable iron and steel, which produce a revenue-to-variable cost ratio greater than 146 percent. *Copies of the complete decision are available from the Secretary, ICC, Washington, D.C.*

Dated: December 30, 1980.

Authority: 49 U.S.C. 10731.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Claff, Trantum, Alexis, and Gilliam. Vice Chairman Gresham concurring in part and dissenting in part with a separate expression. Commissioner Gilliam dissenting in part with a separate expression. Commissioner Clapp dissenting with a separate expression. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,
Secretary.

Vice Chairman Gresham, concurring in part and dissenting in part:

The majority does not explain why it rounded the revenue to variable cost ratio of 146.3 percent to 146 percent. In my opinion, there is no basis for rounding this figure. To this extent, I dissent from the position of the majority.

Commissioner Gilliam, dissenting in part:

I do not agree with the majority that Section 204 of the Staggers Rail Act allows the railroads to take no action to reduce rates on recyclables. The Statute clearly states that such reductions must be made within 90 days. I believe that any ambiguity in the statutory requirement regarding rate reductions was a recognition by Congress that there was a need for practical reasons to allow flexibility in making each and every individual rate reduction. This would still require the railroads to make the necessary reduction on an average basis within 90 days.

Commissioner Clapp, dissenting:

Section 204 of the Staggers Rail Act calls for some immediate rate reductions on certain recyclable commodities. The approach taken in this decision raises substantial legal questions. The alleged statutory ambiguity which is the underpinning of the majority's rationale does not appear unless certain phrases in Section 204 and the Conference Report are read completely out of context.

Section 204 provides that the nation's railroads "notwithstanding any other provision [of law]" must act to "reduce and thereafter maintain" rates for recyclables, other than scrap iron and steel, to the level set forth in this decision. It also states that "as long as any rate equals or exceeds such average revenue-to-variable cost ratio established by the Commission, such rate shall not be required to bear any further rate increase." The Conference Report states that rates "currently" above the threshold could not take increases until the rate falls below the threshold.

How can the clear direction to "reduce and maintain" be excised from the statute? We have before us the statements of the architects of the version of Section 204 reported out of the Conference Committee. They contradict the majority's interpretation that no immediate decreases are needed.

Congressmen Madigan and Florio point out that Section 204 should not have a serious revenue impact on the railroads, since scrap iron and steel does not fall within its ambit. They note:

> It was understood [by the Conference Committee] as Section 204 provides, that railroads would have to first reduce and thereafter maintain rates on all other recyclable materials at or below the level to be established by the Commission annually.

Similarly, Senator Long states that "the proposed majority ruling * * * threatens to repeal, by administrative fiat, the specific initial rate reduction requirement of the statute." I disagreed with that proposal and I remain convinced that Section 204 requires immediate rate reductions. Average reductions (by commodity and/or geographic region) would suffice. If average reductions were made, some individual rates would fall above and some below the Section 204 ceiling. The statute and Conference Report language is consistent with this approach. Those individual rates that currently are and would remain above the threshold after an average reduction could not be increased unless they later fall below it.

[FR Doc. 81-675 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application together with applicant's supporting evidence can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(H).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Decided: December 23, 1980.

By the Commission, Review No. 5, Board member Krock, Taylor and Williams. (In MC-F-14519, Board member Taylor dissents. He finds no public benefit resulting from one party controlling two carriers which may at least in part, provide the same service.

MC-F-14513, filed November 25, 1980. Applicant: BURNS-PORTLAND EXPRESS, INC. (Burns-Portland) (P.O. Box 11915, Spokane, WA 99211)—purchase (portion)—System 99 (8201 Edgewater Drive, Oakland, CA 94621) Representative: John G. McLaughlin, Jerry R. Woods, Suite 1600, One Main Place, 101 SW Main Street, Portland, OR 97204. Burns-Portland seeks authority to purchase a portion of the interstate operating rights of System 99 contained in System 99 certificate MC-98327 (Sub 10), which authorizes the transportation of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), over regular routes, between Bend, OR and Crane, OR, serving all intermediate points. From Bend over U.S. Highway 20 to Burns, OR, then over OR Highway 78 to Crane, and return over the same route. The rights to be sold by System 99 duplicate, in part, the rights to be retained by System 99 in MC-98327 (Sub 10) to provide service over U.S. Highway 20 between Bend, OR and Burns, OR in connection with its authorized operations under MC-98327 (Subs 10 and 22) between Portland, OR and Boise, ID. Donald A. Miles seeks control of the operating rights through the purchase. Buyer is affiliated with Crocker Truck Lines, Inc., which holds authority in No. MC-141441. Impediment: An impediment to the approval of this transaction exists due to the sale and retention of duplicating rights.

Note.—Application for temporary authority has been filed.

MC-F-14519F, filed December 1, 1980. ARKANSAS BEST CORPORATION (ABC) (1000 South 21st Street, P.O. Box 48, Fort Smith, AR 72902) —continuance in control—TRANS-STATES LINES, INC. (TSL) (2604 Industrial Park Road, Van Buren, AR 72956. Representatives: Thomas Harper and Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. ABC, a non-carrier with its stock publicly held and widely distributed, seeks authority to continue in common control and management of TSL upon the institution by TSL of operations, in interstate or foreign commerce, as a motor common carrier. ABC holds no authority from this Commission. However, it contols through stock ownership, Arkansas Best Freight System, Inc. (ABF), a motor carrier operating pursuant to authority issued in MC-29910 and sub-numbers thereunder, and Container Carrier Corporation (CCC), a motor common carrier operating pursuant to authority issued in MC-135419 and sub-numbers thereunder. ABF has also been awarded authority pursuant to MC-F-12110 and MC-F-13608. TSL has been granted authority to operate as a motor common carrier in MC 149026 (Sub-5, 7, 8, 9, and 10), as follows: (1)(a) *new furniture,* from Fort Smith, AR, to points in the United States (except AK and HI), (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (a) above (except commodities in bulk), from points in the United States (except AK and HI), to Fort Smith, AR, and (c) *rough lumber,* from points in the United States (except AK and HI), to Russellville, AR; (2) *such commodities* as are dealt in by producers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), on the one hand, and on the other, Little Rock, AR; (3) *office furniture, office supplies, tool boxes, cases, and metal articles,* between Fort Smith, AR, on the one hand, and on the other, points in the United States (except AK and HI); (4) *insulation materials and supplies* used in the manufacture of appliances (except in bulk), from Kansas City, MO, and Newark, OH, to the facilities of Whirlpool Corporation, at Fort Smith, AR; and (5) (a) *new furniture,* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of new furniture (except commodities in bulk), between West Plains, MO, on the one hand, and on the other, points in the United States (except AK and HI). Condition: Arkansas Best Corporation, as a non-carrier holding company, shall continue to be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Arkansas Best Corporation need only file such special reports as the Commission may from time to time require. Arkansas Best Corporation is not made subject to the accounting requirements of 49 U.S.C. 11142. Condition: Authorization and approval of this transaction is conditioned to provide that to the extent that Trans-States Lines, Inc.'s operating rights duplicate those of Arkansas-Best Freight System, Inc., and Container Carrier Corporation, they may not thereafter be severed from common ownership by sale or otherwise.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-619 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Office of Proceedings

[Volume No. 389]

Permanent Authority Decisions; Decision-Notice

Decided: December 12, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an Applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before February 9, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before February 9, 1981 or the application shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 121082 (Sub-17F), filed April 28, 1980. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *restaurant and store fixtures, office equipment, office supplies, printing machinery, printing supplies, janitorial supplies, iron and steel articles, and paper products*, between Detroit, MI, on the one hand, and, on the other, points in MI.

MC 144622 (Sub-104F), filed September 30, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bkdg., Minneapolis, MN 55402. Transporting *foodstuffs*, from Louisville, KY, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, LA, MA, ME, MD, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 144622 (Sub-106F), filed October 1, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *foodstuffs* (except commodities in bulk and frozen), (1) from Greenville, MS, to points in AL, GA, KS, MO, OK, TN and TX, and (2) from Millsboro, DE, to points in CT, MA, NY, PA, RI, VA, and WV.

MC 144622 (Sub-107F), filed October 1, 1979. Applicant: GLENN BROS. TRUCKING, INC. P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *such commodities* as are dealt in or used by grocery and variety stores (except foodstuffs and commodities in bulk), from points in IL, IN, MA, NH, NJ, NY, OH, SC, TN, and TX, to Harrison, AR.

MC 144622 (Sub-108F), filed October 1, 1979. Applicant: GLENN BROS.

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TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *toilet preparations*, and (2) *such commodities* as are dealt in by retail chain stores, between Detroit, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before February 23, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

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Decided: December 17, 1980.

By the Commission, Review Board Number 3, members Parker, Fortier and Hill.

MC 2962 (Sub-76F), filed December 8, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana Street, Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving Forrest City, AR as an off-route point in connection with carrier's authorized regular routes.

MC 49052 (Sub-9F), filed December 10, 1980. Applicant: MACON TRADING POST, INC., d.b.a. TRADING POST, OF MACON, GA, P.O. Box 4032, 103 Cherry St., Macon, GA 31208. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1112, Washington, DC 20036. Transporting *household goods* as defined by the Commission, (1) between points in VA, NC, SC, KY, TN, MS, AL, GA, and FL, and (2) between the points described in (1), on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, WV, OH, MI, IN, IL, WI, MN, IA, MO, AR, LA, KS, OK, TX, NM, AZ, CA, and DC.

MC 56082 (Sub-79F), filed December 8, 1980. Applicant: DAVIS & RANDALL, INC., 52 East Main Street, Fredonia, NY 14063. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *malt beverages and empty containers* between Rochester, NY, on the one hand, and, on the other, points in PA and OH.

MC 103993 (Sub-1070F), filed December 5, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *motor vehicles*, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-627F), filed December 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *institutional furniture*, and (2) *parts and accessories* for institutional furniture, between Broken Arrow, Tulsa, and Oklahoma City, OK, and Bedford, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Diversified Medical, Inc.

MC 109632 (Sub-34F), filed December 8, 1980. Applicant: LOPEZ TRUCKING, INC., 131 Linden St., Waltham, MA 02154. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Transporting *construction materials, millwork, lumber, lumber products, metal articles, machinery, wood, and wood products*, between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, OH, SC, NC, and DC.

MC 118283 (Sub-107F), filed December 4, 1980. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., Suite 708 McClure Building, Frankfort, KY 40601. Transporting *foodstuffs in vehicles equipped with mechanical refrigeration (except in bulk)*, from the facilities of American Home Foods at Milton, PA, to points in KY and WV.

MC 119493 (Sub-405F), filed December 8, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). Transporting *alcoholic liquors* (except in bulk, in tank vehicles), and *materials, equipment, and supplies* used in the manufacture and distribution of alcoholic liquors, between points in IL, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM. (Board Member Hill dissenting).

MC 125973 (Sub-5F), filed December 8, 1980. Applicant: CROWN WAREHOUSE TRANSPORTATION COMPANY, INC., 710 E. 9th Avenue, Gary, IN 46401. Representative: Jack H. Blanshan, 205 W. Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives) between points in the U.S., under a continuing contract(s) with Indiana Wholesale Food Supply Corporation, of Gary, IN.

MC 128592 (Sub-15F), filed December 12, 1980. Applicant: KLM, INC., Old Hwy 49 South, P.O. Box 6098, Jackson, MS

39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in the U.S., under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 148412 (Sub-4F), filed December 9, 1980. Applicant: GRIBBLE TRUCKING, INC., RD 3, Rockwood, PA 15557. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of trucks and parts for trucks, between points in the U.S., under continuing contract(s) with Mack Trucks, Inc., of Allentown, PA.

MC 149492 (Sub-2F), filed December 8, 1980. Applicant: CHICAGOLAND QUAD CITIES EXPRESS, INC., 817 W. 21st St., Chicago, IL 60608. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. Transporting *plastic pellets and granules,* between points in the U.S., under continuing contract(s) with American Thermoplastics Co., of Calumet City, IL.

MC 150522 (Sub-2F), filed December 4, 1980. Applicant: VIRGINIAN ELECTRIC CO., a corporation, d.b.a. VIRGINIAN POWER TRANSPORT, 530 29th St., Parkersburg, WV 26101. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Transporting (1) iron and steel articles, *metal products, pump jacks and conveyor systems,* and (2) *materials, equipment and supplies* used in the manufacture and production of the commodities in (1) above, between points in the U.S., under continuing contract(s) with CGM Contractors, of Vienna, WV.

Notes.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 151603 (Sub-1F), filed December 4, 1980. Applicant: JOSEPH F. BOISSONNEAULT, d.b.a. J. B. ARABIANS, 6105 Welsh Road, Whitemore Lake, MI 48189. Representative: Ralph S. Rumsey, 111 S. Fourth Avenue, Ann Arbor, MI 48104. Transporting *lumber products, wood products, and pre-cut logs* from the facilities of Yesteryear Log Homes at or near China Grove, MC to points in MI.

MC 153092 (Sub-2F), filed December 8, 1980. Applicant: RICHARD F. DEMORANVILLE, d.b.a. DEMO TRUCKING, Bedford Street, Lakeville, MA 02346. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *building materials* (except in bulk), between points in MA, on the one hand, and, on the other, points in ME, NH, VT, CT, and RI.

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Decided: December 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, Liberman.

MC 42487 (Sub-1009F), filed December 12, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Memphis, TN, and Baton Rouge, LA, over U.S. Hwy 61, serving all intermediate points; (2) between Memphis, TN, and Laplace, LA, over U.S. Hwy 51, serving all intermediate points; (3) Between Corinth, MS, and New Orleans, LA: From Corinth over U.S. Hwy 45 to Meridian, MS, then over U.S. Hwy 11 to New Orleans, and return over the same route, serving all intermediate points; (4) Between Shannon and Brooksville, MS, over Alternated U.S. Hwy 45, serving all intermediate points; (5) Between Memphis, TN, and Tuscumbia, AL, over U.S. Hwy 72, serving all intermediate points; (6) Between Clarksdale, MS, and Birmingham, AL: From Clarksdale over MS Hwy 6 to Tupelo, MS, then over U.S. Hwy 78 to Birmingham, and return over the same route, serving all intermediate points; (7) Between Greenville, MS, and Birmingham, AL: From Greenville over U.S. Hwy 82 to Tuscaloosa, AL, then over U.S. Hwy 11 to Birmingham, and return over the same route, serving all intermediate points; (8) Between Vicksburg, MS, and Birmingham, AL: From Vicksburg over U.S. Hwy 80 to Meridian, MS, then over U.S. Hwy 11 to Birmingham, and return over the same route, serving all intermediate points; (9) Between Memphis, TN, and Tupelo, MS, over U.S. Hwy 78, serving all intermediate points; (10) Between Jackson and Hattiesburg, MS, over U.S. Hwy 49, serving all intermediate points; (11) Between Natchez and Hattiesburg, MS: From Natchez over U.S. Hwy 84 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Hattiesburg, and return over the same route, serving all intermediate points; (12) Between Hattiesburg, MS and Mobile, AL, over U.S. Hwy 98, serving all intermediate points; and (13) Between Meridian, MS and Mobile, AL, over U.S. Hwy 45, serving all intermediate points; serving the off-route points of Ackerman, Amory, Bude, Kosciusko, Louisville, New Albany, Philadelphia, Ripley, and Taylorsville, MS, Sulligent, AL, and Moscow and Grand Junction, TN, in connection with routes (1) through (13) above. NOTE: Applicant intends to tack the above described authority. Applicant also intends to tack to its existing authority.

MC 98047 (Sub-1F), filed December 12, 1980. Applicant: ALEXANDER NAHIGIAN, d.b.a. ALEXANDER TRANSPORT, 31 Middleby Rd., Lexington, MA 02173. Representative: Alexander Mahigian (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT, MA, ME, NH, RI, and VT.

MC 134197 (Sub-14F), filed December 12, 1980. Applicant: JACKSON AND JOHNSON, INC., West Church St., P.O. Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY 14580. Transporting (1) *foodstuffs,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of foodstuffs, between points in Eric County, NY, on the one hand, and, on the other, points in CT, MA, RI, ME, NH, VT, DE, PA, MD, NJ, and NY.

MC 136687 (Sub-5F), filed December 12, 1980. Applicant: BYNUM TRANSPORT, INC., 4609 Hwy. 92, East, Lakeland, FL 33801. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. Transporting *feed, feed ingredients and feed supplements,* between points in FL, GA, LA, AL, MS, TX, MO, TN, SC, and NC.

MC 147047 (Sub-4F), filed December 8, 1980. Applicant: CAPITAL WIRE AND CABLE CORPORATION, d.b.a. CWC TRUCKING COMPANY, 910 10th St., P.O. Box 7, Plano, TX 75074. Representative: William Sheridan, 1025 Metker, P.O. Drawer 5049, Irving, TX 75062. Transporting *such commodities* as are dealt in or used by distributors of chemical products (except commodities in bulk), between points in OK and LA, and those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in AZ, LA, MS, OK, and TX.

MC 150747 (Sub-1F), filed December 10, 1980. Applicant: L AND O TRUCKING COMPANY, INC., 2179 Freemont, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting *concrete pipe*, and *accessories* for/concrete pipe, *iron and steel articles*, and *aluminum articles*, between points in Shely County, TN, and Crittenden County, AR, on the one hand, and, on the other, points in AR, MS, MO, and those in TN on and west of the Tennessee River.

MC 153177, filed December 15, 1980. Applicant: STEPHAN CORPORATION, d.b.a. SUBURBAN LINES, Franingham, MA 01701. Representative: D. W. Stepham (same address as applicant). Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in MA and FL and extending to points in the U.S. (except AK and HI).

Volume No. OP4–180

Decided: December 29, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 139667 (Sub-7F), filed December 4, 1980. Applicant: CHARLES SCHMIDT, JR., d.b.a. C. SCHMIDT TRUCKING COMPANY, INC., 101 W. Sanger, Salem, IL 62881. Representative: Brenda Schmidt (same address as applicant). Transporting *automotive parts and accessories* used in the manufacture of automobiles, between points in MO, TX, IL, TN, OH, GA, NJ, AL, KY, WI, MI, NY, MD, LA, SC, NC, PA, OR and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Member Hill dissenting in part: Member Hill would publish * * * Between points in the United States as originally sought.

Volume No. OP4–181

Decided: December 30, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Libernaw. Member Chandler not participating.

MC 36556 (Sub-48F), filed December 16, 1980. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon (same address as applicant). Transporting (1)(a) *fertilizer compounds, ice melting compounds, and vermiculite products*, from points in Kenosha County, WI, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, and SD, and (b) *materials, equipment, and supplies* used in the manufacture and distribution the commodities in (1)(a) above, in the reverse direction, (2)(a) *lime and lime products, and masonry cement*, from points in Brown, Dodge, and Fond du Lac Counties, WI, to points in IL, IN, IA, MN, and MO, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (2)(a) above, in the reverse direction

MC 77016 (Sub-23F), filed December 18, 1980. Applicant: BUDIG TRUCKING CO., a corporation, 1100 Gest St., Cincinnati, OH 45203. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Boonville, MO, and Kansas City, KS, over U.S. Hwy 40, serving all intermediate points, and serving Wyandotte and Johnson Counties, KS, and points in MO, as off-route points; (2) Between Cincinnati, OH, and Lexington, KY, over Interstate Hwy 75, serving those intermediate points south of the Grant-Scott, KY, county line, with service at Lexington, restricted against traffic originating at, destined to, or interchanged at points in Mason County, KY; (3) Between St. Louis, MO, and Cincinnati, OH: From St. Louis over Interstate Hwy 70 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Cincinnati, and return over the same route, serving all intermediate points, and serving those points in IL on and north of Interstate Hwy 64 and on and south of U.S. Hwy 36, those points in IN on and south of IN Hwy 28, Ft. Wayne, IN, and points in OH as off-route points; (4) Between St. Louis, MO, and Nashville, TN: From St. Louis over Interstate Hwy 64 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Nashville, and return over the same route, serving no intermediate points; (5) Between Louisville and Morehead, KY, over Interstate Hwy 64, serving those intermediate points east of the Woodford-Fayette, KY, country line, with service at Louisville, restricted against traffic originating at, destined to, or interchanged at points in Mason County, KY; (6) Between Louisville, KY, and Nashville, TN, over Interstate Hwy 65, serving Bowling Green, KY, as an intermediate point, with service at Nashville, restricted against traffic originating at, destined to, or interchanged at points in Fayette and Scott Counties, KY; and (7) Between Olive Hill, KY, and Charleston, WV, over U.S. Hwy 60, serving all intermediate points.

Note.—Applicant intends to tack the authority sought herein at common points and at Boonville and St. Louis, MO; Louisville, Morehead, Lexington, and Olive Hill, KY; and at Cincinnati and Aberdeen, OH, with its other authority.

MC 106647 (Sub-366F), filed December 16, 1980. Applicant: CLARK TRANSPORT COMPANY, INC., 13101 S. Torrence Ave., Chicago, IL 60633. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, IL 60603. Transporting *motor vehicles*, (1) between points in Lake and Cook Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in AL, AR, IN, IA, KS, KY, MN, MS, NE, ND, OH, PA, SD, TN, and WV, (2) between points in St. Louis, Jefferson, and St. Charles Counties, MO, and Madison, St. Clair, and Monroe Counties, IL, on the one hand, and, on the other, points in AR, IN, IA, MO, and TN, and (3) between points in Wayne County, MI, on the one hand, and, on the other, points in MI.

MC 107006 (Sub-14F), filed December 16, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting *welding equipment and supplies*, between the facilities of Hobart Brothers Co., at or near Troy, Ohio, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113436 (Sub-5F), filed December 10, 1980. Applicant: AUTOMOBILE CARRIERS, INC., 3401 North Dort Hwy., Flint, MI 48501. Representative: Joseph Gracia, Suite 2311–3221 W. Big Beaver Rd., Troy, MI 48084. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of General Motors Corporation or its dealers.

MC 114896 (Sub-90F), filed December 12, 1980. Applicant: PUROLATOR ARMORED, INC., 255 Old New Brunswick Rd., Piscataway, NJ 08859. Representative: Peter A. Greene, 1920 N St. N.W., Washington, DC 20036. Transporting *articles of unusual value*, between points in the U.S., under continuing contract(s) with Engelhard Industries Division, Engelhard Minerals & Chemicals Corp., of Iselin, NJ, LeaRonal, of Freeport, NY, and E. I. duPont de Nemours & Co., Inc., of Wilmington, DE.

MC 119726 (Sub-174F), filed December 17, 1980. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Ave., Indianapolis, IN 46217. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. Transporting *general commodities*

(except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 119777 (Sub-504F), filed October 23, 1980, previously noticed in the **Federal Register** issue of November 18, 1980, and republished this issue. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy. 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *such commodities* as are used in, or in connection with, the construction, operation, repair, servicing, maintenance or dismantling of pipelines, (1) between points in MT, ND, SD, MN, and IA, and (2) between points in (1) and points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correctly state the territorial description in (2) above.

MC 126436 (Sub-15F), filed December 16, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30059. Representative: Bruce E. Mitchell, 3390 Peachtree Rd. NE., 5th Fl.-Lenox Towers South, Altanta, GA 30326. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) between points in the U.S., under continuing contract(s) with A.O. Smith Corporation, of Milwaukee, WI.

MC 136786 (Sub-239F), filed December 16, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *plastic containers,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Essex County, MA, McDonough County, IL, Lawrence County, TN, and Montgomery County, AL, on the one hand, and, on the other, points in the U.S.

MC 143776 (Sub-13F), filed December 17, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities,* between the facilities used by Northern Industrial Warehouse Corp., at or near Chicago, IL, on the one hand, and, on the other, points in the U.S. Condition: To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 148727 (Sub-2F), filed September 22, 1980, published in the **Federal Register** issue of October 8, 1980, and republished this issue. Applicant: EAGLE CONTRACT CARRIER CORPORATION, P.O. Box 2367, Winchester, VA 22601. Representative: Lawrence E. Lindeman, 425 13th St. NW., Suite 1032, Washington, DC 20004. Transporting *general commodities* (except used household goods and classes A and B explosives), between points in the United States, under continuing contract(s) with National Fruit Product Co., Inc., of Winchester, VA, and United Drug Service, of Washington, D.C.

Note.—This application is republished pursuant to a Decision of the Commission, Division 2, Acting as an Appellate Division, decided December 12, 1980, for the purpose of including National Fruit Product Co., Inc., of Winchester, VA, as an additional contracting shipper.

MC 150626 (Sub-3F), filed December 12, 1980. Applicant: HAROLD IVES TRUCKING CO., P.O. Box 885, Hwy. 79 East, Stuttgart, AR 72160. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting *Chemicals,* in containers, between points in Philadelphia County, PA, on the one hand, and, on the other, points in AR, MC, and TN.

MC 151356 (Sub-1F), filed December 4, 1980. Applicant: THE BIRGE COMPANY, INC., 421 E. 16th St., Paterson, NJ 07514. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting (1) *automotive products,* (2) *chemicals and cleaning compounds* (except commodities in bulk), and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153186F, filed December 16, 1980. Applicant: NOX-CHEM TRANSPORTATION, INC., 1444 S. 20th St., Omaha, NE 68108. Representative: Mark A. Kennally (same address as applicant). Transporting *chemicals,* and *materials, equipment, and supplies* used in the manufacture of chemicals, between points in CA, FL, NE, NJ, LA, IL, and WA, on the one hand, and, on the other, points in the U.S.

MC 153206F, filed December 16, 1980. Applicant: WORTH TRANSPORT COMPANY, a corporation, 857 Matzinger Rd., Toledo, OH 43612. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between the facilities of Spartan Chemical Company, Inc., at Toledo, OH, on the one hand, and, on the other, points in the U.S.

MC 153236F, filed December 17, 1980. Applicant: NEW EXPERIENCE, INC., 23 No. Gore, Suite 206, St. Louis, MO 63119. Representative: Steve Vossmeyer, 393 No. Euclid Ave., Suite 300, St. Louis, MO 63108. To operate as a *broker,* in St. Louis County, MO, in arranging for the transportation by motor vehicle of *passengers and their baggage* in special and charter operations, between points in the U.S. (including AK and HI).

MC 153247F, filed December 16, 1980. Applicant: BOWLING GREEN ALL SPORTS, INC., Route 13, Box 99, Bowling Green, KY 42101. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *passengers and their baggage,* in charter operations, between points in Allen, Barren, Butler, Simpson, and Warren Counties, KY, on the one hand, and, on the other, points in the U.S. (except HI).

Volume No. OP4-183

Decided: December 30, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 73366 (Sub-1F), filed December 18, 1980. Applicant: FIRPO & SONS, INC., d.b.a. FIRPO'S MOVING & STORAGE, 900-B Tryens Rd., Aston, PA 19014. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. Transporting *household goods,* between points in CT, DE, FL, GA, IN, IL, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, WV, and DC.

MC 123987 (Sub-39F), filed November 25, 1980, previously published in the **Federal Register** issue of December 16, 1980, and republished this issue. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) *forest products, lumber, and lumber and wood products* (except furniture), (2) *construction materials* (except commodities in bulk), (3) *iron and steel articles,* (4) *paper and paper products,* (5) *chemicals* (except commodities in bulk), and (6) *pipe,* between points in CA, NV, ID, WY, ND, SD, UT, IA, MO, AR, LA, NE, KS, OK, TX, CO, NM, MT, OR, WA, IL, and TN.

Note.—The purpose of this republication is to correct the commodity description.

MC 146646 (Sub-137F), filed December 18, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6335–A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY and Philadelphia, PA, to points in CA, WA, OR, AZ, CO, IL, FL, GA, MN, MO, TX, and UT, restricted to traffic originating at the facilities of West Coast Shippers Association and its members.

MC 153307F, filed December 18, 1980. Applicant: J. B. FLATOW & CO. OF INDIANA, INC., P.O. Box 3157, South Bend, IN 46619. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *metals, metal articles, and slag,* between points in the U.S., under continuing contract(s) with Hurwich Iron Company, Inc. and South Bend Baling & Iron Company, Inc., of of South Bend, IN, and Elkhart Metals Corporation, of Elkhart, IN.

Volume No. OP5–088

Decided: December 23, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 83539 (Sub-541F), filed November 14, 1980. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). Transporting *wallboard, wallboard paper, and starch,* between points in AZ, CA, CO, NV, NM, OK, TX, and UT, restricted to traffic originating at or destined to the facilities of American Gypsum Company.

MC 105269 (Sub-92F), November 28. 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except commodities in bulk, in tank vehicles), between points in IN, IA, KY, MN, MO, NY, OH, PA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities and warehouses of International Paper Company, its subsidiaries and suppliers.

MC 108589 (Sub-36F), filed December 1, 1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Knoxville, TN, and Somerset, KY: from Knoxville over U.S. Highway 25–W to Caryville, TN, then over TN Hwy 63 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Somerset (also from Caryville over U.S. Hwy 25–W to Corbin, KY, then over U.S. Hwy 25 to London, KY, and then over KY U.S. Hwy 80 to Somerset), and return over the same route; (2) between Jamestown and Lexington, KY: from Jamestown over U.S. Hwy 127 to Danville, KY, then over KY U.S. Hwy 34 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Lexington, and return over the same route; (3) between Russel Springs and Louisville, KY: from Russell Springs over KY Hwy to Columbia, KY, then over KY Hwy 61 to Elizabethtown, KY, and then over U.S. Hwy 31–W to Louisville, and return over the same route; (4) between Somerset, KY, and Cincinnati, OH: from Somerset over U.S. Hwy 27 to Lexington, KY, and then over U.S. Hwy 25 to Cincinnati, and return over the same route; (5) between Louisville, KY, and Cincinnati, OH: from Louisville over Interstate Hwy 71 to Cincinnati; (6) between Louisville, KY, and Morehead, KY: from Louisville over Interstate Hwy 64 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Morehead, and return over the same route; and (7) between Lexington and Corbin, KY: from Lexington over Interstate Hwy 75 to Corbin, serving East Bernstadt, KY, as an off-route point, and serving all intermediate points on routes (1) through (7).

Note.—Applicant presently is authorized to provide service over these seven routes and some of the intermediate points. The purpose of this application is to allow applicant to serve all intermediate points.

MC 109238 (Sub-24F), filed November 19, 1980. Applicant: DEHART MOTOR LINES, INC., P.O. Box 368, Conover, NC 28613. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *filters and filter media,* between points in Catawba County, NC, on the one hand, and, on the other, Los Angeles, CA.

MC 109818 (Sub-91F), filed November 25, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 34227, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of automotive exhaust components, between points in Seward County, NE, on the one hand, and, on the other, points in IL, WI, WV, MI, OH, MD, and PA, restricted to traffic originating at or destined to the facilities of Walker Manufacturing Co.

MC 113678 (Sub-903F), filed November 21, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same as applicant). Transporting *instruments or photographic goods, optical goods and watches and clocks* as described in Item 38 of the Standard Transportation Commodity Code Traffic, between Denver, CO, Omaha, NE, points in Dakota and Washington Counties, MN, Yellowstone County, MT, Case County, ND, Dallas and Collin Counties, TX, Salt Lake City, UT, and Lewis and Spokane Counties, WA.

MC 117568 (Sub-24F), filed November 25, 1980. Applicant: WADE TRUCK LINES, INC., Box 156, Verona, MO 65769. Representative: Charles J. Fain, 333 Madison, Jefferson City, MO 65101. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives) between points in the U.S., under continuing contract(s) with Syntex Agribusiness, Inc. of Springfield, MO.

MC 118959 (Sub-255F), filed November 10, 1980. Applicant: JERRY LIPPS, INC., 130 South Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. Transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in St. Louis County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121568 (Sub-68F), filed November 10, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting (1) *bearings and bushings,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of bearings and bushings (except commodities in bulk), between points in Haywood County, TN, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant intends to tack.

MC 125708 (Sub-208F), filed November 13, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting (1) *steel and wood fence posts, fence post fittings, wire fencing, coiled wire and* *pipe,* from points in TX to points in the U.S., and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), in the reverse direction.

MC 125708 (Sub-212F), filed November 29, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *metals and metal products,* and *materials and supplies* used in the manufacture and distribution of metals and metal products, between points in TX, NM, AZ, CO, AR, and LA.

MC 129768 (Sub-16F), filed November 18, 1980. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *glass and glass products,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in La Salle County, IL, on the one hand, and, on the other, points in MI, WI, IN, KY, MO, and OH.

MC 134319 (Sub-16F), filed November 21, 1980. Applicant: BRAAFLADT TRANSPORT COMPANY, a corporation, 501 N. Broadway, P.O. Box 1065, Dimmitt, TX 79027. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *propane,* in bulk, in tank vehicles, between points in TX and NM.

Note.—Any certificate issued in this proceeding shall expire 5 years from date of issuance.

MC 138438 (Sub-95F), filed November 21, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *building materials,* and (2) *accessories and supplies* used in the manufacture and installation of building materials, between points in the U.S., restricted to traffic originating at or destined to the facilities of Tamko Asphalt Products, Inc. and its suppliers.

MC 138438 (Sub-97F), filed November 26, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1)(a) *pipe and pipe fittings, couplings, building materials, insulating materials,* and (b) *materials and supplies* used in the installation of commodities in (1)(a), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities and warehouses of CertainTeed Corporation, its subsidiaries, and suppliers.

MC 143328 (Sub-37F), filed November 20, 1980. Applicant: EUGENE TRIPP TRUCKING, a corporation, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. Transporting *alcoholic beverages,* between points in Multnomah County, OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, MT, NE, NV, NM, ND, TX, UT, WA, and WY.

MC 144989 (Sub-20F), filed December 2, 1980. Applicant: Blue Ridge Mountain Contract Carrier, Inc., P.O. Box 1984, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. Transporting *such commodities* as are dealt in or used by a manufacturer of household products, between points in the U.S., under continuing contract(s) with Blue Cross Laboratories, Inc. of North Hollywood, GA.

Volume No. OP5-069

Decided: December 23, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 145108 (Sub-27F), filed November 18, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the U.S. under continuing contract(s) with Eagle Picher Industries, Inc., of Joplin, MO.

MC 145108 (Sub-29F), filed November 21, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with The Enterprise Companies and Insilco Company, and their subsidiaries, of Wheeling, IL.

MC 145108 (Sub-30F), filed November 21, 1980. Applicant: BULLETT EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *such commodities* as are dealt in by hardware stores, drug stores, discount houses, and food business houses (except frozen commodities and commodities in bulk), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract with The Clorox Company, Oakland, CA.

MC 146079 (Sub-12F), filed November 29, 1980. Applicant: JACKSON TRANSPORTATION, INC., R.R. 1, Box 410A, Clayton, IN 46118. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of The Richardson Company at (a) Detroit, MI, (b) Los Angeles and City of Industry, CA, (c) Berkeley Heights, NJ, (d) Lemont, Orland Park, and Chicago, IL, (e) Paterson, NJ, (f) West Haven, CT, (g) Holyoke, MA, (h) Beacon and Alden, NY, (i) Conneaut, OH, (j) Houston, TX, (k) Lynchburg, VA, (l) Indianapolis, IN, and (m) Philadelphia, MS, on the one hand, and, on the other, points in the U.S.

MC 146578 (Sub-20F), filed November 25, 1980. Applicant: PALMETTO MOTOR LINES, INC., P.O. Box 6445, Spartanburg, SC 29304. Representative: Nina G. Shults (address same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Spartanburg County, SC, on the one hand, and, on the other, points in AL, AR, FL, and TX.

MC 150249 (Sub-1F), filed November 28, 1980. Applicant: RICHLAND TRUCKING, INC., Route 1, Tillar, AR 71670. Representative: Douglas W. Bonner, Jr., One Spring St., Little Rock, AR 72201. Transporting *paper, paper products and woodpulp,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between the facilities of Potlatch Corporation at or near Cypress Bend, AR, on the one hand, and, on the other, McGehee, Yellow Bend and Pine Bluff, AR, Greenville, MS, and Baton Rouge and New Orleans, LA, restricted to traffic having a prior or subsequent movement by rail or water.

MC 150339 (Sub-15F), filed November 21, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities*

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(except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Abbott Laboratories, of North Chicago, IL.

MC 150539 (Sub-1F), filed November 21, 1980. Applicant: CSI TRUCKING, INC., Foreign Trade Zone No. 2, Napoleon Ave. and Wharf, New Orleans, LA 70130. Representative: John B. Geddie, 2200 South Post Oak Road, Suite 707, Houston, TX 77056. Transporting (1) *flexible pipe, fittings, and carrying spools*, and (2) *equipment* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with Coflexip and Services Inc., of Houston, TX.

MC 151378 (Sub-4F), filed November 28, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John F. Clark (same address as applicant). Over *regular* routes, transporting *general commodities*, between St. Louis and Kansas City, MO: over Interstate Hwy 70, serving the intermediate and off-route points of Booneville, Washington, and Jefferson City, MO. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of the certificate.

MC 151968 (Sub-2F), filed November 21, 1980. Applicant: ALLSTATE TRANSPORTATION COMPANY, a corporation, 10700 Lyndale Avenue, South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting (1) *generators, generator sets* and *internal combustion engines*, and (2) *materials, equipment and supplies* used in the manufacture and installation of the commodities in (1) above, between points in the U.S., under continuing contract with the Onan Corporation of Fridley, MN.

MC 151968 (Sub-3F), filed November 13, 1980. Applicant: ALLSTATE TRANSPORTATION COMPANY, a corporation, 10700 Lyndale Avenue, South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting *windows*, and *materials, equipment, and supplies* used in the manufacture, installation, and distribution of windows, between points in the U.S., under continuing contract(s) with DeVac, Inc., of Minneapolis, MN.

MC 152199 (Sub-1F), filed December 1, 1980. Applicant: VELDE EXPRESS, INC., 534 No. Iris Drive, Irving, TX 75061. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *confectionery, and materials, equipment, and supplies* used in the manufacture and distribution of confectionery, between points in the U.S., under continuing contract(s) with Pangburn Company, of Fort Worth, TX.

MC 152649 (Sub-1F), filed November 24, 1980. Applicant: RIVERLAND TRUCKNG CORPORATION, INC., West 10th Ave., Drawer E, Reserve, LA 70084. Representative: Harry M. England (same address applicant). Transporting (1) *non-alcoholic beverages*, and (2) *matrials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Coastal Canning Enterprises, Inc. of LA, and Sewell Plastics, Inc. of GA.

MC 152769F, files November 21, 1980. Applicant: JOHN M. TICHENOR, d.b.a. CARDINAL TOURS, 9118 Tiverton Way. Representative: (same as applicant). Transporting *passengers and their baggage*, in special or charter operations, between Louisville, KY, on the one hand, and, on the other, points in IN, OH, and TN.

MC 152929F, filed November 25, 1980. Applicant: DELTA COAL SALES, INC., P.O. Box 307, Grantsville, MD 21536. Representative: Kenneth W. Johnson, 122 Market St., Rockwood, PA 15557. Transportating *general commodities*, between points in the U.S. under continuing contract(s) with Delta Mining, Inc., of Grantsville, MD. Condition: Any permit issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of the certificate.

MC 152969F, filed December 2, 1980. Applicant: CLINTON WAYNE SELLERS, d.b.a. WOODYS TRUCKING SERVICE, Whiteville, NC 28472. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *lumber, and forest and wood products*, from points in NC, SC, GA, and VA, to points in the United States in the east of WI, IL, KY, TN, MS, and LA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-807 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before February 23, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4–175

Decided: December 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 109887 (Sub-1F), filed December 16, 1980. Applicant: WEST END MOVING & STORAGE, INC., 241 Pine St., Bridgeport, CT 06605. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. As a *broker* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–182

Decided: December 30, 1980

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 140786 (Sub-5F), filed December 18, 1980. Applicant: THE UNITED STATES CARGO & COURIER SERVICE, INC., 1362 Essex Ave., Columbus, OH 43211. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP5–090

Decided: December 23, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 116299 (Sub-4F), filed November 18, 1980. Applicant: BRIDGEPORT UNITED DELIVERY COMPANY, a corporation, 80 Central Ave., Bridgeport, CT 06607. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting *shipments* weighting 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151799 (Sub-1F), filed November 18, 1980. Applicant: GLENNMAR, INC., 500 SW. 315th, Federal Way, WA 98003. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 15280, (Sub-9F), filed November 18, 1980. Applicant: FROSTY MAID ICE CREAM CO., INC., 98 Sidney St., Lodi, NJ 07644. Representative: Zimmerman & Zimmerman, 720 Anderson Ave., P.O. Box 6, Cliffside Park, NJ 07010. Transporting *food and other edible products (include edible byproducts but excluding alcoholic beverages and drugs)* intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situtations, between points in the U.S., under continuing contract(s) with Olympic Ice Cream of Richmond Hill, NY and Southern Dairies of Fla., Inc., of Fort Lauderdale, FL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–606 Filed 1–7–81; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP1–110]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: December 30, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before February 23, 1981 (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 142470 (Sub-3F), filed December 16, 1980. Applicant: FLEET TRANSIT, INC., 3225 Tate St., Baltimore, MD 21226. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 151921 (Sub-2F), filed December 15, 1980. Applicant: McAFEE

ENTERPRISES, INC., P.O. Box 2099, Clarksville, IN 61020. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

[FR Doc. 81-605 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Finding

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations; or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before February 23, 1981 (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 9, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-108

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 42011 (Sub-69F), filed December 2, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer LL, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (3) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (4) *commodities*, the transportation of which because of size or weight requires the use of special equipment, related articles and supplies when their transportation is incidental to the transportation of commodities which because of size or weight require special equipment, and parts of commodities which because of size or weight require special equipment; (5) *self-propelled articles* each weighing 15,000 lbs. or more, restricted to commodities which are transported on trailers; (6) *metal articles;* and (7) *construction materials, equipment, and supplies*, between points in AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, ND, OK, SD, TX, UT, WI, and WY, on the one hand, and, on the other, points in AL, AZ, CA, CT, DE, FL, GA, ID, KY, ME, MD, MA, MI, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, VT, VA, WA, WV, and DC.

MC 127550 (Sub-8F), filed December 8, 1980. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington St., Bartonville, IL 61607. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *heavy equipment and machinery*, (2) *parts* for the commodities named in (1) above, (3) *materials* used in the manufacture and distribution of the commodities in (1), and (4) office and maintenance supplies, between points in the U.S., under continuing contract(s) with Caterpillar Tractor Co., of Peoria, IL.

MC 143701 (Sub-32F), filed December 2, 1980. Applicant: HODGES FRIEGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *cabinets*, from the facilities of Stanley Vidmar at or near Allentown, PA, to points in the U.S.

MC 144121 (Sub-6F), filed December 4, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting (1) *heating units*, (2) *building and housing units, wood products and laminated products*, (3) *parts and accessories* for the commodities in (1) and (2) above, and (4) *materials, equipment and supplies* used or useful in the manufacture, distribution, erection and assembly of the commodities in (1), (2) and (3) above, between points in WI, on the one hand, and, on the other, points in the U.S.

MC 144860 (Sub-2F), filed December 1, 1980. Applicant: GLOBAL VAN LINES, INC., One Globan Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006. Transporting (1) *copying, duplicating or reproducing machines* and (2) *materials, supplies, parts and accessories* used in the manufacture, distribution, installation or operation of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Xerox Corporation, of Rochester, NY.

MC 147751 (Sub-1F), filed December 8, 1980. Applicant: NIGHT HAWK MOTOR TRANSPORT, INC., 4722 S. Dixie Drive, Dayton, OH 45439. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting (1) *automotive parts, accessories and supplies*, and (2) *1materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Dayton, OH Flint, MI, and Indianapolis, IN, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, OK and TX.

Volume No. OPI–109

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

MC 11220 (Sub-231F), filed December 17, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (1) between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OH, OK, TN, TX, WV, and WI, those in and north of Levy, Marion, Putnam, and St. Johns Counties, FL, those in Lancaster, Cass, Sarpy, Douglas, Saunders, Dodge, and Washington Counties, NE, those in and west of Orleans, Genesee, Wyoming, and Allegany Counties, NY, and those in and west of Warren, Forest, Clarion, Armstrong, Westmoreland, and Fayette Counties, PA, and (2) between those points in (1) above, on the one hand, and, on the other, points in the U.S.

MC 35320 (Sub-624F), filed December 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th St., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission) serving Amarillo, TX, as an off-route point in connection with applicant's otherwise authorized regular-route operations.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 80430 (Sub-184F), filed December 5, 1980. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Dr., P.O. Box 851, LaCrosse, WI 54601. Representative: A. David Millner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. *Over regular routes*, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between San Antonio, TX and Richmond, VA, from San Antonio over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E (also over Interstate Hwy 35W) to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Richmond, and return over the same routes, (2) between junction Interstate Hwys 35 and 20 and Richmond, VA, from junction Interstate Hwys 35 and 20 over Interstate Hwy 20 to junction Interstate Hwy 85, then over Interstate Hwy 85 to U.S. Hwy 301, then over U.S. Hwy 301 to Richmond, and return over the same routes, (3) between junction Interstate Hwys 20 and 30 and junction Interstate Hwys 40 and 85, from junction Interstate Hwys 20 and 30 over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 85, and return over the same routes, (4) between San Antonio, TX and junction Interstate Hwys 240 and 40, from San Antonio over Interstate Hwy 10 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction Interstate Hwy 40, and return over the same routes, (5) between junction Interstate Hwys 35 and 40 and junction Interstate Hwys 30 and 40, over Interstate Hwy 40, (6) between junction Interstate Hwys 64 and 71 and Richmond, VA, from junction Interstate Hwys 64 and 71 over Interstate Hwy 71 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Richmond, and return over the same routes, (7) between junction Interstate Hwys 35 and 44 and junction Interstate Hwys 44 and 64, over Interstate Hwy 44, (8) between junction Interstate Hwys 40 and 55 and junction Interstate Hwys 57 and 64, from junction Interstate Hwys 40 and 55 over Interstate Hwy 55 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 64, and return over the same routes, (9) between junction Interstate Hwy 40 and U.S. Hwy 78 and junction U.S. Hwy 78 and Interstate Hwy 85, over U.S. Hwy 78, (10) between junction Interstate Hwys 40 and 81 and junction Interstate Hwy 81 and U.S. Hwy 50, over Interstate Hwy 81, (11) between junction Interstate Hwys 81 and 77 and junction U.S. Hwy 50 and Interstate Hwy 95, from junction Interstate Hwys 81 and 77 over Interstate Hwy 77 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction U.S. Hwy 48, then over U.S. Hwy 48 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 695, then over Interstate Hwy 695 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 95 and U.S. Hwy 50 (also over Interstate Hwy 70 to junction Interstate Hwy 270, then over Interstate Hwy 270 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95 and U.S. Hwy 50), and return over the same routes, (12) between junction Interstate Hwys 20 and 85 and Richmond, VA, from junction Interstate Hwys 20 and 85 over Interstate Hwy 20 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Richmond, and return over the same routes, (13) between junction Interstate Hwy 35 and U.S. Hwy 79 and junction TX Hwy 43 and Interstate Hwy 20, from junction Interstate Hwy 35 and U.S. Hwy 79 over U.S. Hwy 79 to junction TX Hwy 43, then over TX Hwy 43 to junction Interstate Hwy 20, and return over the same routes, (14) between junction of Interstate Hwys 20 and 59 and Pittsburgh, PA, from junction Interstate Hwys 20 and 59 over Interstate Hwy 59 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Pittsburgh, and return over the same routes, (15) between junction Interstate Hwys 20 and 65 and junction Interstate Hwys 65 and 64 over Interstate Hwy 65, (16) between Houston, TX and junction Interstate Hwys 45 and 20, over Interstate Hwy 45, (17) between Houston, TX and junction U.S. Hwy 59 and Interstate Hwy 20, over U.S. Hwy 59, (18) between junction U.S. Hwy 59 and Interstate Hwy 20 and junction U.S. Hwy 71 and Interstate Hwy 70, from junction U.S. Hwy 59 and Interstate Hwy 20 over U.S. Hwy 59 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction Interstate Hwy 70, and return over the same routes, (19) between Baton Rouge, LA and junction Interstate Hwys 20 and 95, from Baton Rouge over Interstate Hwy 12 to junction Interstate Hwy 10 then over Interstate Hwy 10 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwys 95 and 20, and return over the same route; (20) between junction Interstate Hwys 12 and 59 and junction Interstate Hwys 59 and 20, over Interstate Hwy 59; (21) between junction Interstate Hwy 95 and U.S. Hwy 17 and

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junction Interstate Hwys 26 and 40, from junction Interstate Hwy 95 and U.S. Hwy 17 over U.S. Hwy 17 to junction Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 40, and return over the same route, (22) between Mobile, AL and Richmond, VA, from Mobile over Interstate Hwy 65 to junction Interstate Hwy 85, then over Interstate Hwy 85, to Richmond, and return over the same routes, (23) between Montgomery, AL and Evansville, IN, from Montgomery over Interstate Hwy 65 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Evansville, and return over the same route, (24) between Beaumont and Lufkin, TX, over U.S. Hwy 69, (25) between Charleston, WV, and junction Interstate Hwys 70 and 77, over Interstate Hwy 77, (26) between Atlanta, GA and Jacksonville, FL, from Atlanta over Interstate Hwy 75 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Jacksonville, and return over the same route, serving all intermediate points in routes (1) through (26) above, and serving points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV, and DC, as off-route points.

MC 115331 (Sub-550F), filed December 15, 1980. Applicant: TRUCK TRANSPORT INCORPORATED, 11040 Manchester Road, St. Louis, MO 63122. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities,* in bulk, between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of MC–115331 or Subs which duplicates the above authority.

MC 119741 (Sub-287F), filed December 16, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *pretzels* from Reading, PA, to Terre Haute, IN.

MC 121470 (Sub-71F), filed December 2, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan St., Nashville, TN 37207. Representative: Helen Jones (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of roofing and roofing materials, (1) between points in Jasper County, MO, Frederick County, MD, Phillips County, KS, Tuscaloosa County, AL, Knox County, TN, Arapahoe County, CO, Douglas County, NE, Wyandotte County, KS, and Tulsa County, OK, on the one hand, and, on the other, points in the U.S., and (2) between points in Jasper County, MO, Frederick County, MD, Phillips County, KS, Tuscaloosa County, AL, Knox County, TN, Arapahoe County, CO, Douglas County, NE, Wyandotte County, KS, and Tulsa County, OK.

MC 121741 (Sub-2F), (Partial Republication), filed October 10, 1980, previously noticed in **Federal Register** issue of November 4, 1980. Applicant: WESTERN TEX-PACK, INC., 3200 W. Bolt St., Fort Worth, TX 76110. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (b) restricted against any shipments originating at and destined to Wichita Falls, Fort Worth, Dallas, Albany, and Abilene, TX.

Note.—The purpose of this partial republication is to clarify the restriction in (b). The rest of the publication remains the same.

MC 128951 (Sub-41F), filed November 18, 1980. Applicant: ROBERT H. Dittrich d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073.Representative: Rodney H. Jeffery (same address as applicant). Transporting *gaskets and parts for gaskets,* and *weather stripping and parts for weather stripping,* between points in Brown County, MN, on the one hand, and, on the other, those points in IA on and west of U.S. Hwy 35, and those points in KS and NE on and east of U.S. Hwy 77.

MC 141220 (Sub-4F), filed December 12, 1980. Applicant: MOYER TRUCK LINE, INC., P.O. Box 253, Centralia, MO 65240. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *fertilizer and fertilizer ingredients,* between Lawrence, KS, on the one hand, and on the other, points in MO, IA, and AR.

MC 142941 (Sub-75F), filed December 15, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). Transporting *such commodities* as are dealt in by wholesale and retail food business houses (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Shurfine-Central Corporation and its members.

MC 143531 (Sub-6F), filed December 12, 1980. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84601. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT. Transporting *building materials,* between points in the U.S., under continuing contract(s) with Acropolis Wholesale Lumber, of West Valley City, UT.

MC 144740 (Sub-29F), filed December 15, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same address as applicant). Transporting (1) *confectionery* and (2) *materials and supplies* used in the manufacture and distribution of confectionery (except commodities in bulk), between points in the U.S., under continuing contract(s) with Charms Company of Frehold, NJ.

MC 147321 (Sub-5F), filed December 15, 1980. Applicant: BILL STARR TRUCKING, INC., 1041 Vista Dr., Independence, MO 64056. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *malt beverages* from Fort Worth, TX to Kansas City and Excelsior Springs, MO.

MC 151441 (Sub-1F), filed December 12, 1980. Applicant: SHAKER MOUNTAIN TRANSPORT, INC., 2550 Purvis Dr., Burbank, CA 91504. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. Transporting *edible salt, canned or preserved foodstuffs, dairy products, and materials and supplies* used in the manufacturing of dairy products, between points in the U.S., under continuing contract(s) with Masson Cheese Corporation, of Bell, CA, and Star Valley Cheese Corporation, of Thayne, WY.

MC 151730 (Sub-1F), filed December 16, 1980. Applicant: QUINTON L. SIMPKINS AND JUNE R. SIMPKINS, d.b.a. S.S.S. EXPRESS, P.O. Box 605, Christiansburg, VA 24073. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *new furniture* and *parts* for new furniture, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Montgomery County, VA, and Catawba and Guilford Counties, NC, on the one hand, and, on the other, points in AL, AR, AZ, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, MI, MO, MS, NC, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV, and DC.

MC 151921 (Sub-1F), filed December 15, 1980. Applicant: McAFEE ENTERPRISES, INC., P.O. Box 2099, Clarksville, IN 47130. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *heavy machinery and equipment* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above between points in Jefferson County, KY, and Clark and Jefferson Counties, IN, on the one hand, and, on the other, points in the U.S.

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By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

MC 5227 (Sub-77F), filed December 19, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting (1) *retail store and office fixtures and equipment,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) between points in Sedgwick County, KS, on the one hand, and, on the other, points in the U.S.

MC 42487 (Sub-1013F), filed December 19, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving Randolph, VT as an off-route point and points in Windsor County, VT as intermediate or off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

MC 51146 (Sub-861F), filed December 19, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of American Cyanamid Company, and its subsidiaries.

MC 60186 (Sub-70F), filed December 19, 1980. Applicant: NELSON FREIGHTWAYS, INC., 47 East St., P.O. Box 1358, Rockville, CT 06066. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., N.W., Washington, DC 2004. Transporting *foodstuffs* (except frozen and in bulk), and *materials, equipment, and supplies* used in the manufacture, packaging and distribution of foodstuffs, (1) between the facilities of William Underwood, at or near Portland, ME, on the one hand, and, on the other, the facilities of William Underwood, at or near Hannibal, MO, and (2) from the facilities of William Underwood, at or near Hannibal, MO, to points in NY, NJ, PA, and MD.

MC 105566 (Sub-239F), filed December 19, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlood Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of Rohm and Haas Company and its subsidiaries.

MC 120636 (Sub-12F), filed December 24, 1980. Applicant: BURNTON STORAGE & VAN CO., INC., 6th and Locust Sts., P.O. Box 577, Chatsworth, IL 60921. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting (1) *foodstuffs and kindred products,* and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and distribution of the commodities in (1) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Bunge Edible Oil Corporation, at Kankakee, IL.

MC 124887 (Sub-127F), filed December 19, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, P.O. Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140086 (Sub-11F), filed December 19, 1980. Applicant: DELARIA TRANSPORT, INC., 327 8th Ave., N.W., New Brighton, MN 55112. Representative: James M. Christenson, 4444 IDS Center, 80 So. Eighth St., Minneapolis, MN 55402. Transporting (1) *animal byproducts* and (2) *feed ingredients,* between points in IL, IN, IA, MI, MN, NE, ND, SD, and WI.

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By the Commission, Review Board No. 3, members Parker, Fortier, and Hill. Member Fortier not participating.

MC 297 (Sub-13F), filed December 16, 1980. Applicant: WOODLAND TRUCK LINE, INC., P.O. Box 70, Woodland, WA 98674. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *pulp, paper, or allied products* as described in Item 26 of the Standard Transportation Commodity Code, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in WA, OR, ID, MT, WY, UT, NV, CA, CO, NM, NE, and AZ.

MC 39406 (Sub-22F), filed December 15, 1980. Applicant: CENTRAL MOTOR LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in GA, NC and SC, on the one hand, and, on the other, points in IL, IN, KY, OH, TN, VA, and WV. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of the regular route authority held in MC 39406, lead and subs 8, 10, 11, 13, 14, 15, and 16.

MC 59117 (Sub-81F), filed December 8, 1980. Applicant: ELLIOT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *foundry materials,* between points in Franklin, Jefferson, Jasper, St. Charles, St. Louis, St. Genevieve, and Washington Counties, MO, on the one hand, and, on the other, points in OK and KS.

MC 118127 (Sub-29F), filed December 10, 1980. Applicant: HALE DISTRIBUTING COMPANY, INC., 2301 E. Francis St., P.O. Box 3187, Ontario, CA 91761. Representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, NY 11743. Transporting *frozen foods,* between points in CT, DE, IL, IN, MA, MD, ME, MI, MO, NJ, NY, OH, PA, RI, TX, VA, VT, WI, WV, and DC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, KS, KY, MO, MT, NM, NV, OH, OK, OR, TN, TX, UT, WA, and WY.

MC 124887 (Sub-125F), filed December 16, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *primary metal products,* including galvanized (except coating or other allied processing) as described in Item 33 of the Standard Transportation Commodity Code Tariff, and (2) *pipe,* between points in the U.S., restricted to traffic originating at or destined to the facilities of Concol Pipe Co.

MC 124887 (Sub-126F), filed December 16, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, Box 230, Altha, FL 32421 Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *building and construction materials*, between points in AL, AR, FL, GA, KY, LA, MO, MS, NC, OK, SC, TN, TX, and VA.

MC 128837 (Sub-24F), filed December 15, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *glass containers, and materials and supplies* used in the manufacture and distribution of glass containers, between points in the U.S.

MC 128837 (Sub-26F), filed December 16, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *vinegar and sweet cider*, between points in Madison and Richland Counties, IL, on the one hand, and, on the other, points in AR, CO, IA, IN, KS, KY, MO, NE, OH, MI, MN, and TN.

MC 144957 (Sub-8F), filed December 18, 1980. Applicant: PETERCLIFFE, LTD., 12623 East Imperial Hwy., Suite 204, Santa Fe Springs, CA 90670. Representative: Patrick H. Smyth, 19 So. LaSalle St., Suite 401, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, NV, and UT, on the one hand, and, on the other, points in AL, AR, MS, VA, WV, and DC, restricted to traffic moving on bills of lading of freight forwarders.

MC 144957 (Sub-9F), filed December 17, 1980. Applicant: PETERCLIFFE, LTD., 12623 East Imperial Hwy., Suite 204, Santa Fe Springs, CA 90670. Representative: Patrick H. Smyth, 19 So. LaSalle St., Suite 401, Chicago, IL 60606. Transporting *general commodities* (except classes A and B explosives), (1) between points in AZ, CA, NV, and UT, and (2) between points in AZ, CA, NV, and UT on the one hand, and, on the other, points in NE, IA, CO, MN, and KS, restricted to traffic moving on bills of lading of freight forwarders.

MC 145267 (Sub-15F), filed December 11, 1980. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Transporting (1) *drugs and toilet preparations*, and (2) *materials* used in the manufacture and packaging of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Whitehall Laboratories, of New York, NY.

MC 145267 (Sub-16F), filed December 11, 1980. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Transporting (1) *foods and foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with Fearn International, Inc., and its subsidiaries, of Franklin Park, IL.

MC 145557 (Sub-13F), filed December 16, 1980. Applicant: LIBERTY TRANSPORT, INC., P.O. Box 9182, Kansas City, MO 64168. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *such commodities* as are dealt in or used by grocery, variety, discount, and drug stores, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) between points in Wyandotte County, KS, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY.

MC 145957 (Sub-4F), filed December 15, 1980. Applicant: PETTIS TRUCKING COMPANY, INC., Rt. 4, Box 249-B, Brewton, AL 36426. Representative: Thomas M. Pettis (same address as applicant). Transporting *lime and lime products*, in dump vehicles, from points in AL to points in MS, FL and GA.

MC 145997 (Sub-33F), filed December 16, 1980. Applicant: J.E.M. EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *alcoholic liquors, and materials, equipment and supplies* used in the manufacture and distribution of alcoholic liquors, between points in IL, on the one hand, and on the other, points in the U.S.

MC 146937 (Sub-7F), filed December 16, 1980. Applicant: ALL STAR AIR FREIGHT, INC., 7001 West 20th St., Hialeah, FL 33014. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53 St., Miami, FL 33166. Transporting *yarn, fabrics, garments and garment hangers*, between points in the U.S., under continuing contract(s) with Niki-Lu Industries, Inc., of Miami Lakes, FL.

MC 147196 (Sub-12F), filed December 16, 1980. Applicant: ECONOMY TRANSPORT, INC., 1205 St. Louis St., New Orleans, LA 70150. Representative: Donald A. Larousse (same address as applicant. Transporting *iron and steel pipe, casing, fittings and accessories*, between points in the U.S., under continuing contract(s) with Readd Supply Company, of Houston, TX.

MC 150567 (Sub-19F), filed December 16, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *used heavy construction and mining equipment*, between points in the U.S. (excluding AK and HI), under continuing contract(s) with Mesaba Service & Supply of San Mateo, CA.

MC 152917 (Sub-1F), filed December 16, 1980. Applicant: J. HOOVER ENTERPRISES, INC., d.b.a. GO-FER EXPRESS, 903 East Lincolnway, LaPorte, IN 46350. Representative: Patrick H. Smyth, 19 South LaSalle St.—Suite 401, Chicago, IL 60603. Transporting (1) *machinery parts, and plastic products*, and (2) *equipment and supplies* used in the manufacture of the commodities in (1) above, between points in Porter, LaPorte, St. Joseph, Elkhart and Marshall Counties, IN, on the one hand, and on the other, points in IL, IA, MI, MO, OH, and WI.

MC 153226F, filed December 12, 1980. Applicant: THE STANDARD WAREHOUSE COMPANY, a corporation, P.O. Box 5263, Columbia, SC 29250. Representative: Claude M. Walker, Jr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, in household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in SC, NC, and GA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-673 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Clark Oil and Refining Corp.; Consent Decree in Action To Enforce Compliance With Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Clark Oil and Refining Corp.*, was lodged with the United States District Court for the Northern District of Ohio. The decree requires defendant to comply with the applicable portion of the federally-approved Ohio state implementation plan and provides that defendant will pay a civil penalty of $5,000.

The Department of Justice will receive on or before February 9, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Clark Oil and Refining Corp.*, D.J. Ref. 90–5–2–1–207.

The consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, Room 400, U.S. Courthouse, Cleveland, Ohio 44114; at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81–642 Filed 1–7–81; 8:45 am]

BILLING CODE 4410–01–M

Douglas County Sewer Improvement District No. 1, et al.; Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Douglas County Sewer Improvement District No. 1, et al.*, has been lodged with the United States District Court for the District of Nevada. The decree requires the defendant to install certain equipment to ensure that it complies with the terms of its permit.

The Department of Justice will receive on or before February 9, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Douglas County Sewer Improvement District No. 1, et al.*, D.J. Ref. 90–5–1–6–103.

The consent decree may be examined at the office of the United States Attorney, District of Nevada, United States Courthouse, 300 Las Vegas Boulevard, Las Vegas, Nevada 89101; at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94102; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81–645 Filed 1–7–81; 8:45 am]

BILLING CODE 4410–01–M

Honokaa Sugar Co. and Laupahoehoe Sugar Co.; Proposed Consent Decree in Actions To Enjoin Discharge of Air and Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 11, 1980, a combined proposed Consent Decree in *United States v. Honokaa Sugar Company,* Civil No. 78–0017 and proposed Amended Consent Decree in *United States* v. *Laupahoehoe Sugar Company,* Civil No. 76–0057, was lodged with the United States District Court for the District of Hawaii. The proposed decree will require Theo H. Davies & Co., Ltd. and its subsidiary, Davies Hamakua Sugar Company to come into compliance with the provisions of the Clean Air Act, 42 U.S.C. 7401, and Clean Water Act, 33 U.S.C. 1251 *et seq.*, and to pay a civil penalty.

The Department of Justice will receive on or before February 9, 1981, written comments related to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20503, and refer to *United States* v. *Honokaa Sugar Company,* DJ Ref. 90–5–1–1–859.

The proposed consent decree may be examined at the office of the United States Attorney, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850; at the Region IX Office of Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, California 94105; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1254), Tenth Street and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81–646 Filed 1–7–81; 8:45 am]

BILLING CODE 4410–01–M

Kaiser Steel Corp.; Proposed Consent Degree in Actions To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, FR 19029, notice is hereby given that on December 29, 1980, a proposed amendment to the consent decree in *United States of America* v. *Kaiser Steel Corporation,* was lodged with the United States District Court for the Central District of California. The proposed amendment to the decree makes certain changes in the existing decree concerning the abatement of emission of air pollutants from coke batteries.

The proposed consent decree may be examined at the office of the United States Attorney, Room 1123, U.S. Courthouse, 312 North Spring Street, Los Angeles, California 90012; at the Region IX office of the Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, California 94105; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1252, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cent per page reproduction charge) payable to the Treasurer of the United States. The Department of Justice will receive written comments relating to the proposed consent decree on or before February 9, 1981. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America*

v. *Kaiser Steel Corporation,* DJ Reference #90–5–2–1–24.

Anthony C. Liotta,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81–644 Filed 1–7–81; 8:45 am]

BILLING CODE 4410–01–M

Marathon Oil Co. and Amoco Oil Co.; Consent Decrees in Actions To Enforce Compliance With Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that consent decrees in *United States* v. *Marathon Oil Company* and *United States* v. *Amoco Oil Company,* were lodged with the United States District Court for the Northern District of Illinois. The decrees require Marathon Oil Company and Amoco Oil Company to comply with the applicable portion of the federally-approved Ohio state implementation plan and provide that Marathon and Amoco will pay civil penalties of $6,000 and $5,000, respectively.

The Department of Justice will receive on or before February 9, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530 and should refer to *United States* v. *Marathon Oil Company,* D.J. Ref. 90–5–2–1–340 and *United States* v. *Amoco Oil Company,* D.J. Ref. 90–5–2–1–357.

The consent decrees may be examined at the office of the United States Attorney, Northern District of Illinois, Everett McKinley Dirksen Building, Room 1500 South, 219 S. Dearborn Street, Chicago, Illinois 60604, at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Tenth Street and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of each proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Divison of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81–643 Filed 1–7–81; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 80–24]

Clifton Jack Alexander; Hearing

Notice is hereby given that on August 22, 1980, the Drug Enforcement Administration, Department of Justice, issued to Clifton Jack Alexander, M. D., Phoenix, Arizona, an Order To Show Cause as to why the Drug Enforcement Administration should not deny Respondent's application for registration under Section 303 of the Controlled Substances Act (21 U.S.C. 823), executed on April 11, 1980, to distribute and dispense Schedule IV and V controlled substances.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 29, 1981 in Hearing Room "A", U.S. District Court Courthouse, 55 East Broadway, Tucson, Arizona.

Dated: January 2, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81–656 Filed 1–7–81; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

Date: January 19, 1981.
Time: 9:15 a.m. to 5:30 p.m.
Room: Room 109 Parlor, O'Hare Hilton, Chicago, Illinois.
Program: This meeting will review applications for Residential Fellowships for College Teachers in English and Composition, submitted to the Division of Fellowships and Seminars for projects beginning after January 1, 1981.
Date: January 19, 1981.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for Residential Fellowships for College Teachers in Sociology, submitted to the Division of Fellowships and Seminars for projects beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;
(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and
(3) Iinformation the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

V. Loughnan,

Acting Advisory Committee Mancgement Officer.

[FR Doc. 81–684 Filed 1–7–81; 8:45 am]

BILLING CODE 7536–01–M

Theatre Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Theatre Panel to the National Council on the Arts will be held on January 22–23, 1981, from 9:00 a.m.–5:30 p.m., in room 1422, Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on January 23, 1981, from 9:00 a.m.–5:30 p.m. to discuss policy. The remaining sessions of this meeting on January 22, 1981, from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-639 Filed 1-7-81; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-2]

Reports, Recommendation Responses; Availability

Aircraft Accident Reports in Brief Format

U.S. Civil Aviation, Issue No. 1 of 1980 Accidents (NTSB-BA-80-10).—The first of the series of volumes containing abbreviated reports on U.S. civil aviation accidents which occurred last year was released by the National Transportation Safety Board on December 31.

In Press Release No. SB 80-106 announcing issuance of this first volume, the Safety Board provided a winter reminder to general aviation pilots of the frequent hazards of fog on approach and landing in cold weather. The Board cited as an example one of 299 accidents reported in Issue No. 1, where the pilot and all six passengers aboard a twin-engine corporate aircraft were killed when it crashed in fog below the glideslope and 400 yards left of the localizer on an instrument landing system (ILS) approach.

The pilot had been briefed on his destination weather before his departure, and again when he was several miles away from the airport. Each briefing reported that the airport weather was below the pilot's landing minimums for the ILS approach he attempted—a 200-foot ceiling and visibility of half a mile. Five minutes before the crash, the tower broadcast an alert to all aircraft that prevailing visibility was a quarter of a mile and apparently det[illegible]ting. The Board listed the weat[illegible]t the accident scene as a ceiling of [illegible]eet and visibility of a quarter of a m[illegible]less in fog.

The ILS was checked after the accident and found to be operating within tolerances. Examination of the wreckage disclosed no evidence of pre-impact malfunction or failure. The Board determined that the cause of the accident was the pilot's "improper Instrument Flight Rules operation." The fog and low ceiling were cited as contributing factors.

Note.—The brief format reports in this publication present the facts, conditions, circumstances, and probable cause(s) for each accident. Additional statistical information is tabulated by injury index, injuries and causal factors. While these brief reports contain essential information, more detailed data may be obtained from the original factural reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 20 cents per page for printed matter, 65 cents per page for black-and-white photographs, and $4.37 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Requests should be addressed to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of the publication may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

Responses to Safety Recommendations

Aviation

A-80-8, from the Federal Aviation Administration, December 18, 1980.—Letter is in further response to a recommendation issued last January 21, supplements FAA's letter of last April 18 (45 FR 29145, May 1, 1980), and responds to the Safety Board's comments of June 6. The recommendation resulted from a Trans World Airlines B-727 maneuver accident over southern Michigan on April 4, 1979. The aircraft entered a high-speed spiral dive while cruising at 39,000 feet, from which it did not recover until it desenced to an altitude between 5,000 and 6,000 feet. An emergency landing was made at an alternate airport. There was extensive in-flight damage. The No. 7 landing edge-slat on the right wing, the No. 10 spoiler panel, and several other components were missing. The Board recommended that FAA disseminate to all Boeing 727 operators and flightcrews information of the type included in Boeing Operations Manual Bulletin 75-7 and TWA Flight Operations Safety Bulletin 6903, which address control problems associated with high-speed asymmetrical leading edge slat configuration on B-727 aircraft.

The Board stated in its June 6 letter that it was difficult to accept FAA's reasons for not concurring in this recommendation. Investigation was still under way but the Board noted that isolation of the No. 7 leading edge slat in the extended position created lateral control problems. Both referenced bulletins address operational aspects related to high-speed asymmetric slat extension, not just "failures discovered during scheduled maintenance * * *." The Boeing bulletin indicates that if a slat should extend in flight, "Significant lateral control would be required to prevent high roll rates." The Board believes that the flight simulations mentioned in the TWA bulletin have accurately demonstrated the measure of lateral control needed by a pilot to cope with a high-speed asymmetric leading edge slat configuration in the B-727. Consequently, notwithstanding the low probability of slat extension without some advance warning, the Board believes it is important that B-727 pilots be made aware of the control problems associated with an asymmetrical configuration. This obviously was part of the original intent of the Boeing bulletin which, according to several pilots involved in the investigation, was never brought to their attention.

The Board believes that sufficient factual information has been developed in the investigation to define the dimensions of the problems and the measures of control needed by a pilot to retain control of the aircraft. The Board further believes this information should be made available to the pilot.

In response, FAA states that its previous nonconcurrence with A-80-8 was based on FAA's contention that selected information relative to control problems associated with high-speed asymmetrical leading edge slat configuration on B-727 aircraft is not meaningful and could, in fact, be misleading. Specifically, FAA refers to information such as that contained in Boeing Operations Manual Bulletin 75-6 and TWA Flight Operations Safety Bulletin 79-3.

FAA notes that certain information referred to in the TWA Safety Bulletin was predicated upon developmental simulator tests conducted by the Boeing Company. To the best of FAA's knowledge, no FAA representatives were involved in this testing, and the conclusions obtained have not been validated by FAA. Thus, FAA is reluctant to agree that such information should be widely disseminated throughout industry. Further discussions with representatives of the Boeing Company relative to this subject revealed that a viable flight-test program began in July 1980. This program involves the use of a Boeing-owned B-727 which has been dedicated for use in the test program. FAA anticipates that conditions similar to those which led to the TWA Flight 841 upset will be investigated at length. A detailed report of findings will be made available to the Safety Board, the FAA, and the industry. FAA plans no further action in regard to recommendation A-80-6 pending the outcome of this test program.

A-80-101 through -104, from the Federal Aviation Administration, December 15, 1980.—Response is to recommendations issued September 25 as a result of the Safety Board's study of air taxi accidents which occurred in Alaska from 1974 through 1978. (See 45 FR 73828, November 6, 1980.)

FAA reports that its Alaskan Region, in cooperation with the State of Alaska and the National Weather Service (NWS), is currently involved in high frequency (HF) transmissions to collect weather and airport information. Also, FAA is evaluating "meteor burst" technology and televisions weather observations.

Recommendation A-80-101 asked FAA to evaluate, in cooperation with the State of Alaska and NWS, the feasibility of equipping its flight service stations and the NWS-certified weather observers in rural villages with high-frequency transceivers that have the appropriate frequencies to facilitate the ground-to-ground communication of weather and runway conditions. FAA concurs, noting that such an effort is now in progress. FAA's Alaskan Region is presently using HF transceivers to collect weather and airport information from remote locations. Due to the unreliable nature of HF (atmospheric influences, skip, etc.), FAA plans to provide HF transceivers as needed, until they can be replaced with more reliable "meteor burst" or satellite communications.

With respect to recommendation A-80-102, which asked FAA to locate and maintain permanently a Principal Operations Inspector and a Principal Maintenance Inspector at Nome, Bethel, Ketchikan, and at as many other regional aviation hubs as possible, FAA says it appreciates the intent but does not concur in substance in this recommendation. FAA states that the establishment of GADO's or satellite offices at any location, including those in Alaska, is based upon a number of factors including the need for full-time FAA services and consideration of the various alternatives available to provide these services. FAA has considered establishing additional GADO's at the locations identified in recommendation A-80-102. However, the workload historically has been cyclic, and FAA has been unable to justify domiciled GADO personnel at those locations. FAA inspectors from the Alaskan Region GADO's and FSDO's have provided required services through expanded travel and extended duration of assignment at these locations when activity has warranted. FAA states that this flexibility of assignment has permitted FAA managers to meet the changing demands of the work situation in Alaska while still controlling growth of the Federal work force. A present review of future inspector staffing requirements in Alaska includes potential location assignment of domiciled inspectors. FAA expects to complete its study in April 1981 and will inform the Board of findings and long-term staffing plans at that time.

In response to recommendation A-80-103 which called on FAA to continue to develop, in cooperation with NWS, the concept of "meteor burst" technology for transmission of weather observations from rural villages to regional aviation hubs in Alaska, FAA reports that "meteor burst" technology is presently being tested at two locations in Alaska, and so far the results have been favorable. Future plans are pending, and FAA will continue to monitor this effort.

With respect to recommendation A-80-104, which asked FAA to continue to develop and improve in cooperation with MWS, the technology of the television weather observation system in Alaska, FAA reports that "slow scan" and "live scan" television observations are being tested at two Alaskan locations. More locations are planned subject to the outcome of these tests, and FAA will continue to monitor this effort.

Marine

M-79-68 and -69, from the United States Coast Guard, December 16, 1980.—Letter is in response to the Safety Board's comments of July 11 on Coast Guard's initial response of May 13 (45 FR 36232, May 29, 1980) to recommendations developed as a result of investigation and analysis of the capsizing of the clam dredge PATTI-B at Ocean City, Md., May 9, 1978.

The Safety Board's July 11 letter first addresses recommendation M-79-67, noting that the recent revision to Coast Guard's *Addendum, National Search and Rescue Manual* fulfills, as far as possible, the intent of the recommendation. The Board realizes that there is no way to require the wearing of personal flotation devices (PFD's) as a contingency to receiving Coast Guard assistance, and the Board did not intend for this recommendation to carry such a message. The Board finds the instructions in the revision to the SAR Manual adequate and will produce at least an enhanced probability of PFD's being worn by persons on board a vessel being assisted. The Board classified recommendation M-79-67 as "Closed—Acceptable Action."

The Board accepts Coast Guard's proposed boarding and education program along with the proposed media campaign as being acceptable toward eventual fulfillment of M-79-68. The Board said it would hold the file open and asked to be notified of the initiation of the boarding and education program. The Board also asked to be furnished copies of hand-outs and other examples of the proposed media campaign which directly address the issues of the recommendation, i.e., the adverse effects of anchoring by the stern, water on deck, and loss of stability due to a boat's momentarily being poised on a wave.

With respect to recommendation M-79-69, the Board notes that current Coast guard regulations (46 CFR 179.10-5) require all passenger vessels over 65 feet in length and vessels under 65 feet in length which carry more than 150 passengers to be checked for stability according to the standards and procedures set forth in 46 CFR Part 74. The Board notes that § 74.10 states that a vessel must meet both the weather and passenger criteria for stability unless it is not of an ordinary form.

The Board refers to Coast Guard's May 13 statement that Coast Guard weather criteria has "shortcomings" in application to small vessels and that because of this, some undefined "righting energy criteria" is applied to vessels when Coast Guard questions the intact stability of a vessel. Further, Coast Guard stated that it had sponsored research into the seakeeping characteristics of various hull forms which "did not provide all the answers, but did offer considerable insight into small vessel seakeeping problems." From this, the Board concluded that "it is highly doubtful" that practical definitive intact stabiliy criteria can be developed for small vessels. This response left the Board with two pertinent questions: What is the undefined righting energy criteria applied to overcome the shortcomings of the weather criteria? What has Coast Guard done with the "considerable insight" gained from stability studies to further the development of stability requirements for small vessels similar in design to the PATTI-B?

In response to the Board's comments, Coast Guard on December 16 reported that it will forward to the Safety Board the implementing documents of the Uninspected Vessel Boarding Program when it becomes fully operational. Coast Guard provided a sample of the handouts currently available for use by fishing vessel operators and recreational boaters. Also, Coast Guard provided a copy of an instructional slide show which is available at no cost to groups of interested fishermen or the boating public. These handouts and related educational materials are representative of what is currently available to the public. Coast Guard said similar materials will be developed when the need is identified, but there are no present plans to publish handouts dealing specifically with water on deck or loss of stability due to a vessel's being momentarily poised on a wave. Coast Guard said that should casualty trend data indicate particular problems in these areas, the matter will be reconsidered.

With respect to recommendation M–79–69, Coast Guard notes that a previous Safety Board letter asked Coast Guard what the undefined righting energy criteria is which is applied to overcome the shortcomings of the weather criteria. Coast Guard believes that further calculations in the form of a righting energy analysis is required when it is considered that the weather criteria is not exclusively an adequate measure of a vessel's intact stability due to the vessel's hull form or operation. Compliance with one of the following two standards has been accepted in the past as demonstrating adequate righting energy:

(a) Navigation and Vessel Navigation Inspection Circular (NVC) No. 3–73 dated 18 April 1973 derived from IMCO Resolution A.167.

(b) A criteria commonly known as "Rahola Criteria" developed from a doctoral thesis by Vaakko Rahola entitled "The Judging of the Stability of Ships and the Determination of the Minimum Amount of Stability."

In answer to the Safety Board's inquiry as to what insight Coast Guard has gained from stability studies to further the development of stability requirements for small vessels similar in design to the PATTI–B, Coast Guard says it has issued warnings to the public stating that there is no established stability standard that is considered full satisfactory for small vessels. An example of such a warning can be found in NVC 3–76 dated 29 September 1976, entitled "Stability of Fishing Vessels." Coast Guard has also encouraged research into the seakeeping characteristics of small vessels on the international level, but is no longer able to continue small vessel research due to limited funds and other priorities.

Railroad

R–80–23 and –24, from The Atchison, Topeka, and Santa Fe Railway Company (Santa Fe), December 12, 1980.—Letter is in response to the Safety Board's comments of November 7 on Santa Fe's initial responses of last June 23 (45 FR 52521, August 7, 1980). The recommendations, issued following investigation of an Amtrak passenger train derailment on the Santa Fe tracks at Lawrence, Kans., October 2, 1979, asked Santa Fe to establish rules and procedures to verify that locomotive engineers are familiar with a district so that they can operate safely in the event any fixed or other pertinent sign is inoperative or missing (R–80–23), and to establish special rules which explain and identify the location of automatic train stop indicators that are not located at automatic block signals (R–80–24).

The Safety Board's November 7 letter commended the Santa Fe for acting to ensure that locomotive engineers are familiar with the districts over which they are eligible to operate. Based on the stops indicated in Santa Fe's June 23 letter, the Board classified recommendation R–80–23 in a "Closed–Acceptable Action" status. However, the Board asked Santa Fe for a copy of its bulletin or instruction requiring locomotive engineers to report semiannually their actual trip experience over the various districts on which they may be called to operate trains.

With respect to recommendation R–80–24, the Safety Board asked Santa Fe to reconsider its response concerning the need for special rules to explain and identify automatic train stop (ATS) inductors not located at automatic block signals. Even though speed restrictions are identified in the Santa Fe timetable by milepost location, the Board's accident investigation disclosed that, in practice, engineers will depend upon the various types of trackside signs in advance of the speed restrictions, rather than a timetable, for identifying where to begin slowing their trains. The Board notes that had the dispatcher been notified of the missing ATS and 30/25 speed signs by crewmembers of freight trains that preceded Amtrak No. 4 into Lawrence during the previous 12 hours, the dispatcher may have made the engineer of No. 4 aware of the missing signs. Consequently, the engineer would not have been depending upon the signs for controlling the speed of the train as he approached Lawrence, and may have used the timetable to determine the milepost location of the speed restriction.

Santa Fe in its December 12 letter states that it is not able to furnish the additional documentation requested as no other bulletin other than Bulletin 308 has been issued concerning the engineer's familiarization trips over various districts over which he may be called for service.

Santa Fe notes that its June 23 statement to the effect that "enginemen are now required to report semiannually their trip experience over various districts * * *" was based on advice received that such an understanding had been reached with employee respresentatives. The terms of an agreement with the Brotherhood of Locomotive Engineers to which reference was made had been generally determined in conference and included a provision for semiannual familiarization trips. However, other aspects of this agreement have not been finalized and, thus, no formal agreement yet requires the semiannual familiarization trip.

In order to assure compliance with Bulletin 308 (now renumbered 309), Santa Fe has directed the Road Foreman of Engines to furnish on a monthly basis to the Superintendent, Trainmasters, and Chief Dispatcher a listing of enginemen who are qualified in passenger service and who have complied with that Bulletin. Santa Fe notes that the Road Foreman of Engines develops the necessary information from correspondence direct with the enginemen and this information is kept on record in the Trainmaster's office. Further, in filling unexpected vacancies, the Crew Clerks are now required to obtain the names of qualifed passenger enginemen from the Chief Dispatcher's office. Snta Fe believes this procedure effectively assures compliance with Bulletin 309 as only Enginemen so listed by the Road Foreman of Engines are eligible for passenger engine assignments.

With reference to the Board's request for reconsideration of recommendation R–80–24 concerning the need for special rules to explain and identify ATS inductors not located at automatic block signals, Santa Fe states that it would be willing to include within the special rules of the Time Table, relating to speed regulations, and appropriate notation such as an asterisk with explanation footnoted identifying those curves at which ATS inert inductors are located. Santa Fe enclosed a copy of page 3 of the Eastern Division Time Table No. 11 showing how the additional designation could be presented. Santa Fe stated that if this is the type of special rule that the Safety Board had in mind in recommendation R-80-24, this notation will be made in the next publication of the Time Table.

Note.—Copies of the Safety Board's recommendation letters, as well as responses and related correspondence, are provided free of charge. All requests for copies must be in writing, identified by recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

January 2, 1981.

[FR Doc. 81-601 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected:

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

Department of Agriculture

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

Federal Grain Inspection Service
Certificate of Temporary License Examination
CP-10
On occasion
Individuals or households
Employ of official grain inspection agencies
Agricultural research and services.
500 responses; 40 hours;
$260 Federal cost, 1 form
Charles A. Ellett, 202-395-7340.
Used to certify applicant's competency and applicant's and chief inspector's understanding license is only temporary. Will result in savings of time and reduce travel cost if examination for a temporary license is administered by chief inspector instead of field office personnel.

Extensions (no change)

Farmers Home Administration
7 CFR 19331, Self-help technical assistance grants on occasion
Businesses or other institutions
Public and private nonprofit corporations
Small businesses or organizations
Public assistance and other income supplements, 690 responses; 1,265 hours; 0 form
Charles A. Ellett, 202-395-7340.
Section 523 of title V of the Housing Act of 1949 and Public Law 90-448, authorize self-help technical assistance grants to develop modest housing for low and moderate-income individuals and families.

Reinstatements

Food and Nutrition Service
Food stamp points and hours demonstration project
Nonrecurring
State or local governments
Demon. proj. which test changes to increa. prog. ben.
Public assistance and other income supplements, 30 responses; 45 hours; 0 form
Charles A. Ellett, 202-395-7340
Study to determine the costs, participant needs, and the results of extra service in a variety of settings.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

Center for Disease Control
Study of birth defects risk factors including military service in Vietnam

Nonrecurring
Individuals or households
Mot./Fat./Grandmothers of babies born in Atlanta 1968–80
Health, 25,100 responses; 10,800 hours; $1,000,000 Federal cost; 4 forms
Richard Eisinger, 202–395–6880
The major objective of this study is to determine whether an unusually high proportion of fathers of babies born with D served in Vietnam. This comparison will yield an estimate of the risk of siring a child with a defect for Vietnam veterans relative to that risk for nonveterans. Will begin as soon as clearance received, interviews will last about one year. (If done under contract, may be delayed up to one year.)

Health Care Financing Administration
Uniform billing form
HCFA–1480
On occasion
Businesses or other institutions
Public and private hospitals and skilled nursing facilities
SIC: 321
Small businesses or organizations
Health, 1,905,000 responses; 555,625 hours; $11,441,783 Federal cost; 1 form
Richard Eisinger, 202–395–6880
Billing form used by hospitals (including psychiatric and TB) and skilled nursing facilities for inpatient and outpatient services. Can be used to obtain payment under medicare, medicaid, Blue Cross, CHAMPUS, or commercial insurance plans.

Revisions

Health Care Financing Administration
Evaluation of second surgical opinion programs for elective surgery
HCFA–6, HCFA–6A, HCFA–L–6
On occasion, nonrecurring
Individuals or households
Per. cal. listholders organ. in the Nat'l sec. surgical opin.
Health, 1,345 responses; 1,272 hours; 3 forms
Richard Eisinger, 202–395–6880
Need: To encourage patients considering surgery to obtain advice on which to base their decision about whether to have surgery.
Use: To determine what happens after patients contact the NSSOP and how patients feel about the SSO process in which they have been engaged.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6341

New

Occupational Safety and Health Administration
Federal cash transaction report
OSHA–160, SF–272 and 272A
Quarterly
Businesses or other institutions
Labor organizations, education instit., employer assoc.
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety, 620 responses; 3,100 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
This form is used by grantee to account for funds. The financial documents are used to maintain the financial management system which provides the control of grant funds.

Occupational Safety and Health Administration
Financial Status Report
OSHA–175 SF–269
Annually
Businesses or other institutions
Labor Organ., Educ. Instit., Employer Assoc. & Others
SIC: Multiple
Small business or organizations
Consumer and occupational health and safety, 155 responses; 310 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
This form is used by the grantee to provide a status of funds. The financial documents are used to maintain the financial management system which provides the control of grant funds.

Occupational Safety and Health Administration
Consultation Program Monthly Report
OSHA–174
Monthly
State or local governments
Employees in 33 States and 5 private contractors
SIC: Multiple
Consumer and occupational health and safety, 456 responses; 3,648 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
The consultation program monthly report would serve five purposes. It provides a backlog report for each project to OSHA. It provides a status for each project. It provides a report for each project of new visits. It provides a report of contractor activity for all 5 private contract projects. It provides an invoice for reimbursing 5 private contractors.

Occupational Safety and Health Administration
2-Acetylaminofluorene, 29 CFR 1910.1014(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–157
On occasion
Businesses or other institutions
Bus. estab. where this substance is manufactured
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and occupational health and safety, 50 responses; 50 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Occupational Safety and Health Administration
BETA-Propiolactone, 29 CFR 1910.1013(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–158
On occasion
Businesses or other institutions
Bus. estab. where this substance is manuf., processed
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and occupational health and safety, 50 responses; 50 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Occupational Safety and Health Administration
Ethyleneimine, 29 CFR 1910. 1012(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–159
On occasion
Businesses or other institutions
Bus. estab. where this substance is manuf., processed
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and occupational health and safety, 50 responses; 200 hours; $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Occupational Safety and Health Administration
Temporary Labor Camps, 29 CFR 1910. 142(1)—Reporting of Communicable and Epidemic Diseases
OSHA–165

Nonrecurring
Farms
Superintendents of migratory agricultural labor camps
SIC: 761, 174, 175, 161, 131, 133, 134, 171
Small businesses or organizations
Consumer and occupational health and safety, 25 responses; 25 hours: $0 Federal cost, 1 form
Arnold Strasser, 202-395-6880
This reporting requirement is needed to assure that workers housed in temporary labor camps are protected from communicable and epidemic disease outbreaks to the extent possible and that persons having or suspected of having communicable disease are identified to local public health authorities for appropriate treatment/action. This standard requires the labor camp superintendent to report immediately to the local health officer the name and address of anyone with comm. disease.

WATER RESOURCES COUNCIL

Agency Clearance Officer—Louis D. Walker—202-254-6442

Extensions (No Change)

Title III Request for Assistance and Annual Report
Annually
State or local governments
State government
Water resources, 55 responses; 1,760 hours; 1 form
Edward H. Clarke, 202-395-7340
The water resources council provides funding to the States for conduct of comprehensive water and related resources planning. The major components of the planning process are general studies, special studies, and plan formulation. Federal and non-federal matching shares are for expenses which are reasonable and allowable to the State planning effort, including, but not limited to personal services, training of personnel, fringe benefits, consultant * * *

Dated: December 31, 1980.

C. Louis Kincannon,
Deputy Assistant Director for Reports Management.

[FR Doc. 81-390 Filed 1-2-81; 10:51 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11526; (811-1344)]

Exeter Fund, Inc.; Filing of Application for an Order Declaring Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Exeter Fund Inc. ("Applicant"), 1250 Drummers Lane, (P.O. Box 1100), Valley Forge, Pennsylvania 19482, a Maryland cororation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, investment company, filed an application on October 23, 1980, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that on November 23, 1965, it registered under the Act, and that on the same date it filed a registration statement on Form S-5 pursuant to the Securities Act of 1933 for the public offer and sale of 1,000,000 shares of its capital stock. Applicant further states that it commenced a public offering of its shares immediately after such registration statement was declared effective by the Commission on January 19, 1966.

Applicant states that on October 19, 1977, Applicant's Board of Directors approved an Agreement and Plan of Reorganization ("Agreement") between Applicant and First Index Investment Trust (now known as "Vanguard Index Trust"), a trust registered under the Act as an open-end, diversified, management investment company, which provided for (i) the acquisition by Vanguard Index Trust of substantially all the assets of Applicant in exchange for shares of beneficial interest of Vanguard Index Trust, (ii) the pro rata distribution of such shares of Vanguard Index Trust to shareholders of the Applicant according to their respective interests; and (iii) the dissolution and deregistration of the Applicant as an investment company.

The application states that Applicant and Vanguard Index Trust filed an application with the Commission on October 27, 1977 and amendments thereto on December 23, 1977, March 3, 1978 and March 21, 1978, pursuant to Section 17(b) of the Act, for an order exempting from the provisions of Section 17(a) of the Act, the transaction contemplated by the Agreement, and that such order was granted on April 18, 1978 (Investment Company Act Release No. 10210). Applicant states that the Agreement was approved by its shareholders on April 19, 1978 and the transaction consummated on April 30, 1978. Expenses incurred in implementing the Agreement were borne by Vanguard Index Trust and Applicant. Applicant represents that it currently has no assets and no outstanding debts or other liabilities. It further represents that it is not a party to any litigation but is still technically a party to an application filed jointly by the investment companies in The Vanguard Group pursuant to Sections 6(c), 17(b) and 17(d) and Rule 17d-1 thereunder (File. No. 812-4094; Admin. Proc. No. 3-5281) seeking a permanent order of the Commission permitting the funds in the Group to "internalize" their distribution expenses. Applicant also represents that it is not now engaged and does not propose to engage in any business activity other than that necessary to wind up its affairs.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 26, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 81-661 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11528; (812–4352)]

Fidelity Money Market Trust; Filing of Application

December 31, 1980.

Notice is hereby given that Fidelity Money Market Trust ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("the Act"), filed an application on December 8, 1980, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated February 20, 1980 (Investment Company Act Release No. 11054). This earlier order, pursuant to Section 6(c) of the Act, exempted Applicant from the provisions of Section 2(a) (41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share according to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is organized and existing under the laws of the Commonweath of Massachusetts, and its securities are registered under the Securities Act of 1933 (File No. 2–62417). Applicant states that it is a "money market" fund offering to institutional, corporate and substantial individual investors a convenient and economical means of investment in professionally managed portfolios of money market instruments with the objective of obtaining as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant further states that its shares are sold without a sales charge.

According to the application, Applicant currently consists of three portfolios, differentiated in their permitted investments; namely a U.S. Government Portfolio, a Domestic Money Market Portfolio and an International U.S. Dollar-Denominated Money Market Portfolio. Applicant further states that it invests exclusively in various high-grade money market instruments, including U.S. Government and Federal agency obligations; U.S. dollar-denominated obligations of the largest banks, including United States banks and their branches located outside of the United States and United States branches of foreign banks; prime commercial paper; high-grade corporate obligations which are rated AAA or AA by Standard & Poor's Corporation or Aaa or Aa by Moody's Investor Services, Inc., and certain repurchase agreements with respect to obligations which, without regard to maturity, it is authorized to invest.

According to the application, all of Applicant's assets are invested in money market instruments maturing in less than one year, and the dollar-weighted average portfolio maturity of its portfolio may not exceed 120 days. The minimum initial investment in shares of the Applicant is $250,000 with additional investments accepted in any amount. Applicant further represents that at the close of business on October 31, 1980, Applicant's aggregate net assets were approximately $428,541,000. Fidelity Management and Research Company serves as investment adviser to Applicant.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filling of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

On February 20, 1980, the Commission issued an order (Investment Company Act Release No. 11054) exempting Applicant from the provisions of 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to utilize the amortized cost valuation method for purposes of valuing the portfolio securities held in its existing portfolios in pricing its shares for sale, redemption and repurchase. On the basis of use of the amortized cost valuation method, Applicant maintains a $1.00 net asset value per share. Applicant proposes to create and offer to the public a new portfolio which will invest exclusively in U.S. Treasury obligations (the "U.S. Treasury Portfolio")—i.e., instruments which are issued or guaranteed as to principal and interest by the U.S. Treasury and thus constitute direct obligations of the United States of America. Applicant states that the same overall investment policies applicable to Applicant's existing portfolios would apply to the U.S. Treasury Portfolio.

Applicant requests an amended order of the Commission further exempting it from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to permit it to use the amortized cost method of valuing portfolio securities held in the U.S. Treasury Portfolio. In support of the relief requested Applicant represents that use of the armortized cost method of valuing the instruments held in the U.S. Treasury Portfolio will benefit shareholders by enabling Applicant to maintain a $1.00 per share purchase and redemption price with respect to the U.S. Treasury Portfolio in a manner which is consistent with that permitted with respect to Applicant's existing portfolios. Thus, Applicant states that the granting of the requested exemption by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has further agreed that the following conditions (the same conditions contained in the above order) may be imposed in the requested amended order of the Commission:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following duties and responsibilities:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 26, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an Attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-662 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11522 (811-119)]

Fundamental Trust Shares, Series A; Proposal To Terminate Registration

December 31, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Fundamental Trust Shares, Series A ("Fund"), 206-7 Bank of America Building, 111 South El Camino Real, San Clemente, California 92672, registered under the Act as a unit investment trust, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund registered under the Act on November 1, 1940. The Commission's files further indicate that the Fund's depositor, Fundamental Group Corporation, was organized under the laws of the State of New York on September 17, 1930. The Fund filed a registration statement pursuant to the Securities Act of 1933 ("1933 Act") on July 15, 1933, in order to make a public offering of its shares. Such registration statement was declared effective on July 27, 1933, and a public offering commenced shortly thereafter. The last Form N-30A-1 filed by the Fund with the Commission on

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[1] To fulfill this obligation, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the excercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably praticable.

September 22, 1947, indicates that on December 31, 1946, the Fund had 218,000 shares outstanding. The files of the Commission further indicate that the last communication the staff had with the Fund was in September, 1949. Furthermore, the Secretary of State of the State of New York has advised the staff of the Commission that Fundamental Group Corporation, the Fund's depositor, was dissolved by proclamation on December 15, 1955, for failing to pay the necessary New York state franchise taxes. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 23, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-693 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11527; (812-4753)]

Hellenic American Development Corp.; Filing of Application for an Exemption

December 31, 1980.

Notice is heregy given that Hellenic American Development Corporation ("Applicant"), 235 Montgomery Street, Suite 1020, San Francisco, California 94104, a Delaware coporation, filed an application on October 22, 1980, and an amendment thereto on December 22, 1980, for an order pursuant to Section 6(C) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of Delaware on October 17, 1980, primarily for the purpose of acquiring a 60% ownership interest in a Greek-chartered commercial bank ("Bank") with headquarters in Athens, Greece. The Applicant states that it will register shares of common stock under the Securities Act of 1933 and distribute them in a public offering. Applicant estimates that it will receive net proceeds of between $7,309,400 and $23,250,000 from the offering. All but $626,000 of these proceeds will be used to supply 60% of the capital of the Bank. The remaining 40% will be subscribed by Greek citizens resident in Greece. The Bank's original capitalization will be not less the $12 million and is not expected to exceed $35 million. Applicant represents that it does not have any present plans to establish any business operations in the United States other than in connection with the oversight and management of the Bank and other business interests in Greece.

Applicant states that the Bank is the second Greek-chartered bank to receive authority to be majority-owned by private individuals or entities not resident in and citizens of Greece. As a majority-owner of the outstanding shares of the Bank, Applicant will be in position to elect 100% of the directors if it wishes to do so. Applicant asserts that it is its intent to introduce new operational technology and customer services typically offered by or through many domestic commercial banks in the United States and to operate the Bank in a manner more akin to the present United States model of commercial banks than the present Greek model of commercial banks. According to the application the Bank will be a full service banking institution offering individuals and domestic and international businesses a complete range of retail banking services including, among others, checking and savings accounts, loans, cash management services, financing, foreign exchange and commercial letters of credit. Applicant states that the Bank is authorized to engage in investment banking and securities brokerage transactions but will engage in such activities, if at all, only on an occasional or incidental basis. Applicant also states that the Bank has authorization to immediately establish a headquarters office in Athens, Greece, and five branch locations in the Athens-Piraeus area. Applicant states that the Bank does not have, nor does it presently intend to seek, authority to establish a representative or branch office in the United States or elsewhere outside Greece.

Applicant further states that the Bank is highly regulated pursuant to Greek law, which provides for supervision by the Bank of Greece and the Currency Committee. Applicant states that these entities regulate the Bank's capital reserves, loans and liquidity. Statutory law prohibits banks from engaging in insurance activities and limits the extent of equity participation banks may hold in an individual enterprise. Applicant represents that the Bank will not take equity participation except as an occasional and incidental part of its commercial banking activities. Applicant states that banks must be audited annually by two independent "sworn" Greek auditors who have specific statutorily defined obligations. Applicant also asserts that the Bank must report regularly to the Currency Committee, which may conduct bank examinations and unannounced audits and impose both civil and penal sanctions against banks and bank officials. Applicant asserts that the Bank is also regulated by the Ministry of Commerce, which must approve all Articles of Incorporation and amendments thereto, assure appropriate capitalization and review minutes of all directors' meetings and annual financial statements.

Section 3(a)(3) of the Act defines investment company to mean any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Section 6(c) provides that the Commission, by order upon application, may exempt any person from the provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that it is applying to the Commission because of ucertainty as to whether or not foreign commercial banks would be defined as "investment companies" under the Act. If the Bank is considered and investment company, Applicant will be deemed an investment company.

Applicant states that, although the Bank may be considered an investment company under the Commission's current interpretation of the Act, the Bank, as a commercial banking institution, is significantly different from the type of institution that Congress intended the Act to regulate. Applicant states that approval of this application is both necessary and appropriate in the public interest. The imposition of the Act on parties such as those involved in the transactions described in this application would unnecessarily impede mobility of capital and management resources, to the detriment of the interest of citizens of both the United States and Greece. Applicant states that it can provide to Greece a capital investment in a Greek banking enterprise, and management and operational personnel and concepts that will be of significant benefit to Greece and its citizens.

Applicant states that to exempt domestic banks from the Act while at the same time requiring Applicant to register would contravene the policy of the International Banking Act of 1978, which was designed to establish "the principle of parity of treatment between foreign and domestic banks in like circumstances." Applicant states that the disincentive that would be imposed by the application of the Act to the circumstances described above can have no beneficial effect and indeed might reduce opportunities for U.S. investors and managers and deny the opportunity for an improved banking environment for Greece.

Applicant states that approval of the application is consistent with the protection of investors, both because a commercial bank, such as this one, is substantially different from the typical investment company that Congress intended the Act to regulate, and because the Bank's activities do not lend themselves to the abuses which the provisions of the Act were designed to prevent. Applicant asserts, in addition, that the Bank's activities are extensively regulated by the Greek banking authorities. Finally, Applicant represents that it is issuing its shares publically and, therefore, will report regularly and completely on its activities and those of its subsidiary the Bank, to its shareholders and to the Commission. Applicant further represents that any additional issue of its securities will be registered pursuant to the Securities Act of 1933.

Notice is further given that any interested person may, not later than January 26, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-664 Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11524; (812-4759)]

Kredietbank N.V. and Kredietbank North American Finance Corp.; Filing of Application for an Exemption

December 31, 1980.

Notice is hereby given that Kredietbank N.V. ("Kredietbank") and Kredietbank North American Finance Corp. ("KB Finance", together with Kredietbank, the "Applicants") c/o James G. Johns[illegible], Jr., Esq., Cleary, Gottlieb, Steen, [illegible] Hamilton, 1 State Street Plaza, New York, New York 10004, filed an application on October 31, 1980, and an amendment thereto on December 15, 1980, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that Kredietbank is the third largest commercial bank in Belgium and engages in "full service" commercial banking in Belgium and abroad. They further state that at March 31, 1980, Kredietbank had total assets of approximately $13.8 billion. (All dollar amounts are computed using the exchange rate as of March 31, 1980, of 31.17 Belgian francs per United States dollar). The application states that Kredietbank's principal office is located at Arenbergstraat 7, 1000 Brussels, and that it maintains in the United States a state-licensed branch and representative office at 450 Park Avenue, New York, New York 10017, and a representative office at 2 Peachtree Street, Atlanta, Georgia 30303. In addition, Kredietbank has applied for a license to operate a representative office in St. Louis, Missouri. Applicants state that KB Finance, a newly incorporated Delaware corporation, was established as a financing vehicle for Kredietbank's activities outside Belgium, and that its principal office will be at 2 Peachtree Street, Atlanta, Georgia 30303. Applicants represent that the principal areas of activity of Kredietbank are the extension of credit and the receipt of deposits; and that at March 31, 1980, its loans and advances of approximately $8,365 million accounted for approximately 60% of its total assets, its deposits and medium-term, negotiable time deposits of approximately $12,571 million accounted for approximately 90% of its liabilities, and 30% of its total assets consisted of securities issued or guaranteed by the Belgian government. For the fiscal year ended March 31, 1980, interest and commissions in connection with commercial banking activities accounted for 67% of Kredietbank's gross revenues. Applicants state that at March 31, 1980, approximately 42.5% of the common stock of Kredietbank was owned by Almanij N.V., a publicly traded financial holding company.

The application further states that Kredietbank has applied to the Federal Reserve Board (the "Board") for approval of its acquisition of 74% of the capital stock of KB Business Credit Inc. ("KB Business Credit"), a newly formed New York corporation which would be engaged in extending secured and unsecured credit to business enterprises and in making leases of personal property in accordance with the regulations of the Board. Such approval was granted on October 28, 1980.

According to the application, Kredietbank engages in various types of investment banking activities outside the United States, in common with all major European banks and many foreign merchant banking subsidiaries of American banks. Applicants state that these activities consist principally of underwriting governmental, quasi-governmental and corporate issues in the Belgian and Eurosecurities markets, as well as related secondary market transactions, and that Kredietbank also acts as an investment adviser to individuals, corporate pension funds and mutual funds and as a custodian of securities. They further state that these investment banking, advisory and custodianship activities only accounted for approximately 8.5% of Kredietbank's net income for the fiscal year ended March 31, 1980.

Applicants represent that the principal business of KB Finance will be to act as a financing vehicle for operations of Kredietbank and its affiliates outside of Belgium, and to sell short-term notes in the United States. Applicants further represent that the proceeds of any borrowings made by KB Finance will be relent to, or deposited with, Kredietbank and its affiliates. It is also represented that KB Finance will not deal with its rights relating to its loans to or deposits with Kredietbank and its affiliates, nor will it deal with or trade in securities. Under current Belgian law, if Kredietbank were to issue commercial paper notes directly, a Belgian withholding tax could be imposed on that portion of payment on the Notes which constitutes interest. No United States withholding taxes will be imposed, however, on payment of interest on the Notes by KB Finance, nor will Belgian withholding tax be imposed on interest payments by Kredietbank to KB Finance.

Applicants state that Kredietbank's activities are subject to a variety of regulatory measures in Belgium, principally adminstered by the Belgian Banking Commission, with which all Belgian commercial banks must be registered, and the Belgian National Bank, which supervises national monetary and credit policies and acts as a lender of last resort to the Banking System. According to the application, the Banking Commission is authorized to issue regulations concerning the solvency and liquidity of banks and has introduced capital adequacy tests which must be observed by Belgian banks in their financial operations. The Banking Commission currently requires banks to maintain an "equity ratio", *i.e.* a level of equity with respect to various categories of assets covering adequately the degree of risk involved in such categories so as to assure that Kredietbank's depositors are properly protected against loss. The application also states that banks are required to file monthly reports containing detailed financial information prepared according to accounting rules approved by the Banking Commission. Applicants state that the external audit of banks is conducted by independent auditors selected from a list of special auditors approved by the Banking Commission and that the auditors conduct weekly physical examinations of Kredietbank's records and issue a detailed, semi-annual report to the Banking Commission.

Applicants further state that Kredietbank, as a foreign bank with a branch in New York, is subject to the regulatory and reporting requirements of the Board relating to bank holding companies, pursuant to the International Banking Act of 1978. Applicants further represent that, on the basis of prior interpretations by the staffs of the Federal Reserve Bank of New York and the Board, Kredietbank does not require the Board's approval to acquire or control the shares of KB Finance and that the proposed operations of KB Finance will not violate any provisions of the Bank Holding Company Act of 1956, as amended (the "1956 Act"). The Application states that the 1956 Act provides that the Board has the power in certain circumstances to terminate certain U.S. activities of Kredietbank or terminate Kredietbank's control of KB Finance.

Applicants currently propose to have KB Finance issue and sell in the United States short-term negotiable promissory notes of the type generally referred to as commercial paper (the "Notes"). According to the application, the proceeds from the sale of the Notes (except for amounts needed to repay maturing securities issued by KB Finance) will be lent to or deposited with Kredietbank and/or lent to KB Business Credit, for use in the recipient's lending operations, and that payment of the Notes will be unconditionally guaranteed by Kredietbank. The application states that, in addition, Kredietbank may issue the Notes directly if changes in the Belgian tax laws are effected that would eliminate the tax advantages of having KB Finance issue the Notes.

According to the application, the Notes will be denominated in United States dollars; will be of prime quality and issued in minimum denominations of $100,000; will rank *pari passu* among themselves and equally with all other unsecured indebtedness, and superior to the rights of equity securities, issued by Kredietbank or KB Finance, as the case may be; will be sold through one or more major United States commercial paper dealers to traditional types of commercial paper purchasers, and will not be offered to the general public. Applicants state that while Kredietbank cannot predict with certainty the aggregate amount of the Notes which will be outstanding, it currently believes that during the first year of sale the aggregate amount of Notes outstanding will average between $150 million and $200 million. Applicants undertake to ensure that each dealer in the Notes will provide offerees, prior to any sale of Notes to such offerees, with a memorandum, updated as necessary, which describes the business of Kredietbank, KB Finance and KB Business Credit, which contains the most recent, publicly available audited fiscal year-end balance sheet and income statement of Kredietbank, accompanied by a description of any material differences between Belgian accounting principles applicable to Kredietbank and generally accepted accounting principles applicable to United States banks. Applicants represent that such memoranda will be at least as comprehensive as those customarily used in offering commercial paper in the United States. Such memoranda will be updated as promptly as practicable to reflect material changes in the business or financial condition of the Applicants. Applicants consent to any order granting the relief requested under Section 6(c) of the Act being expressly conditioned upon its compliance with its undertakings regarding disclosure documents.

Applicants represent that the presently proposed issue of commercial paper and all future issues of debt securities offered for sale in the United States by Kredietbank or KB Finance shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and that its United States counsel shall have certified that such rating has been received. Applicants do

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not intend to register their offering of commercial paper under the Securities Act of 1933 ("1933 Act") in reliance upon an opinion of their special United States legal counsel to the effect that the proposed offering of commercial paper is entitled to the exemption from the registration requirements contained in Section 3(a)(3) of the 1933 Act. Applicants will not market any Notes until they have received such an opinion letter. Applicant do not request Commission review or approval of such opinion letter, and the Commission expresses no opinion as to the availability of any such exemption. Applicants further undertake that, in respect of any future offerings of debt securities in the United States, they will obtain an opinion of legal counsel in the United States as to compliance with, or the availability of an exemption from, the 1933 Act.

The application contains undertakings that, in connection with the sale of the Notes, Applicants will appoint a United States banking institution as authorized issuing agent of the Notes and that, both as to the Notes and any other debt securities which may be issued in the future, they will authorize such banking institution, the Commission or a corporate entity which normally acts in such capacity to accept any process served in any state or federal court action by a holder as to any such security. Applicants undertake to expressly accept the jurisdiction of any state of federal court in the City and State of New York in respect of any such action and to continue such appointment of an agent for service and such consent to jurisdiction until payment in full of all amounts relating to the respective security is made. Applicants state that the authorized agent will not be a trustee for the holders of the Notes or otherwise obliged to act for them. Applicants represent that they will similarly consent to jurisdiction, and will appoint an agent for service of process in suits arising from any future offerings of debt securities that Kredietbank or KB Finance may offer for sale in the United States.

Any future debt securities issued by KB Finance will be unconditionally guaranteed by Kredietbank. Applicants undertake that in connection with any future offering of debt securities they will distribute to offerees, prior to any sale of the securities being offered, disclosure documents at least as comprehensive as the dealer's memorandum referred to above, except that such undertaking shall not apply in connection with deposit-taking or other banking activities of Kredietbank's New York branch or such other branches or agencies as it may establish in the United States under the regulation and supervision of federal or state banking authorities. In no event will such disclosure documents be less comprehensive than is customary for United States offerings of similar debt securities. In addition, any future offering of securities of the Applicants which is subject to the registration requirements of the 1933 Act will be made pursuant to offering documents which comply with the requirements of the 1933 Act.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis". Applicants state that, while they believe they are not investment companies, they recognize that uncertainty exists concerning whether at least some foreign commercial banks may be considered to be investment companies as defined under the act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, or any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that approval of their application would be appropriate in the public interest for several reasons. They represent that if Kredietbank and KB Finance were deemed investment companies and if their application were denied, then they would be precluded from publicly offering securities in the United States. Applicants assert that this effect would disadvantage them vis-a-vis the major American banks with which Kredietbank competes throughout the world. Applicants assert that such inequality of treatment of domestic and foreign banks appears to be inconsistent with the United States public interest regarding equal treatment of foreign and domestic banks in like circumstances, an interest explicitly reinforced by the United States Congress in enacting the International Banking Act of 1978. Finally, Applicants assert that the public interest would be served by permitting the kind of sophisticated United States investors which purchase commercial paper the opportunity to acquire commercial paper issued by Kredietbank and KB Finance.

Applicants further assert that the requested exemption would be consistent with the protection of investors. Applicants cite, as support for this assertion, the extensive regulatory and other measures to which Kredietbank is subject in Belgium and the United States, the fact that their commercial paper will be short-term and of prime quality, and the fact that certain anti-fraud provisions of the federal securities laws will apply to the offering of the Notes.

Applicants also assert that the specific exemption of American commercial banks from the provisions of the Act indicates a Congressional recognition that the dangers to investors to which the Act was directed are not present in the case of commercial banks subject to examination and supervision by banking authorities.

Applicants assert that there are close similarities between Kredietbank and large American banks, that they are subject to substantial and varied regulation, and that the risks to investors in connection with purchases of securities of KB Finance guaranteed by Kredietbank would not be greater than those in connection with purchases of securites of large domestic banks. Applicants assert that from the point of view of protection of investors, exemption of the Applicants would appear to be as appropriate as the statutory exemption for domestic banks. In addition, Kredietbank states that neither it nor KB Finance will obtain any advantage under United States federal or state regulatory laws as a result of issuing the Notes though KB Finance, and Applicants state that the exemption they have requested will not give them any competitive advantage over U.S. banks in issuing commercial paper.

Applicants assert that the rationale for granting an exemption under Section 6(c) to Kredietbank applies equally to KB Finance since the sole business of KB Finance will be to operate as a financing vehicle for Kredietbank and its affiliates. Applicants represent that KB Finance will not deal with its rights relating to loans to Kredietbank and its affiliates, nor will it deal with or trade in securities. They state that in light of the unconditional guaranty of the Notes by Kredietbank the purchase thereof will be equivalent to the purchase of obligations of Kredietbank.

Notice is further given that any interested person may, not later than January 26, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81–665 Filed 1–7–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11520; (812–4729)]

Short-Term Investments Co.; Filing of Application for Exemption

December 31, 1980.

Notice is hereby given that Short-Term Investments Co. ("Applicant"), 11 Greenway Plaza, Suite 1919, Houston, Texas 77046, an open-end, diversified management investment company, filed an application on September 5, 1980, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), requesting an order of the Commission exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it is a "money market" fund designed as an investment vehicle for institutions holding short-term cash reserves. Applicant further states that its investment objective is to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity, and that it will pursue this objective by investing in high-grade money market instruments. Applicant also states that the money market instruments in which it will invest will normally have maturities of six months or less from the date of purchase, and, with the exception of securities subject to repurchase agreements, in no case will Applicant purchase a security having a maturity in excess of one year, or maintain a dollar-weighted average maturity with respect to its portfolio securities in excess of 120 days.

Applicant states that it will invest exclusively in the following types of money market instruments in seeking to fulfill its investment objectives: (i) securities issued or guaranteed as to principal and interest by the United States Government or by its agencies or instrumentalities; (ii) certificates of deposit, time or savings deposits, and bankers' acceptances of domestic commercial banks, savings banks and savings and loan associations having total assets in excess of $1 billion as of the date of their most recently published financial statements; (iii) certificates of deposit and time deposits of London branches of domestic banks having total assets in excess of $1.5 billion as of the date of their most recently published financial statements; (iv) commercial paper, including variable amount master notes, which (a) is rated (at the time of purchase) A–1 by Standard and Poor's Corporation ("S&P") or Prime–1 by Moody's Investors Service, Inc. ("Moody's") or (b) if not rated, is issued by a company having an outstanding debt issue rated (at the time of purchase) AA or better by S&P or Aa or better by Moody's; and (v) certain repurchase agreements pertaining to the above securities, subject to certain restrictions.

Applicant states that it is primarily intended for use by banks and other institutions acting in a fiduciary, advisory, agency, custodial, or similar capacity. Applicant further states that in its experience, two factors have appeared to be particularly helpful in attracting investment in a fund such as Applicant: (1) stability of principal, and (2) a steady flow of investment income. Applicant believes that by maintaining a portfolio of high quality money market instruments it can provide investors with these features. Applicant states that while the large, sophisticated investors which will own its shares would not be concerned with differences which could occur between pricing by a market valuation method and the yield they obtain pursuant to amortized cost valuation, such investors will require that the yield not exhibit the volatility that can occur through use of "mark-to-market" valuation.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities; and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities by means of the amortized cost method of valuation (i.e., valuing securities at cost, adjusted for amortization of premium or accretion of discount).

Section 6(c) of the Act provides, in pertinent part, that the Commission, upon application, may conditionally or uncoditionally exempt any person, security, or transaction, or any class or clasess of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemptive is necessary or appropriate in the public interst and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the issunace of the requested order is consistent with the exemption standards of Section 6(c) of the Act. Applicant represents, for example, that its board of directors has determined in good faith, in light of Applicant's characteristics, that the amortized cost method of valuing portfolio securities is appropriate, and preferable for Applicant, and would reflect the fair value of its portfolio securities. Applicant further states that the experience of its investment adviser, AIM Adivsors, Inc., in managing other investment companies, has demonstrated that, given the nature of Applicant's policies and operations, there will normally be a negligible discrepancy between prices determined by use of the amortized cost method and those determined by a market valuation method. In addition, Applicant expressly consents to issuance of the requested order on the basis of the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment aviser, Applicant's board of directors undertakes—as a perticular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed to take into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, as it deems appropriate and at such internvals as are reasonbable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from its $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize captial gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of directores determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 26, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

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[1] To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-[illegible] Filed 1-7-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Design Considerations for Minimizing Hazards Caused by Uncontained Turbine Engine and Auxiliary Power Unit Rotor and Blade Failures

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability of draft Advisory Circular and request for comments.

SUMMARY: The draft Advisory Circular is intended to provide guidance for demonstrating compliance with the design requirements of the Federal Aviation Regulations to minimize the hazards caused by uncontained turbine engine and auxiliary power unit rotor and blade failures.

DATES: Commenters must identify file number AC 25.904-X and comments must be received on or before March 9, 1981.

ADDRESS: Send all comments in duplicate on the draft Advisory Circular to Federal Aviation Administration, Office of Airworthiness, Attention: Propulsion Branch (AWS-140), 800 Independence Ave., SW., Washington, DC 20591; or delivered in duplicate to Room 331B, 800 Independence Ave., SW., Washington, DC 20591. Comments delivered must be marked file number AC 25.903-X. Comments may be inspected at Room 331B between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas G. Horeff, Chief, Propulsion Branch (AWS-140), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, (Telephone (202) 426-8200).

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are solicited on all aspects of the draft Advisory Circular. A copy of the draft Advisory Circular may be obtained by contacting the person identified under "For Further Information Contact." Issued in Washington, DC, on January 2, 1981.

M. C. Beard,

Director of Airworthiness.

Subject: Design considerations for minimizing hazards caused by uncontained turbine engine and auxiliary power unit rotor and blade failures

1. *Purpose.* This circular provides guidance and acceptable means, not the sole means, by which compliance may be shown with the design requirements of Part 25 to minimize the hazards to the airplane caused by uncontained turbine engine rotor and fan blade failures and auxiliary power unit rotor failures.

2. *Applicable Regulations.* Part 25, Sections 25.901(c) and 25.903(d)(1), pertaining to auxiliary power unit and turbine engine installations.

3. *References.* a. NASA CP-2017, "An Assessment of Technology for Turbojet Engine Rotor Failures," Workshop held at Massachusetts Institute of Technology, March 29-31, 1977.

b. Report No. FAA-RD-77-44, "Study to Improve Airframe Turbine Engine Rotor Blade Containment," C. O. Gunderson, July 1977.

c. Report No. FAA-RD-77-100, "Study to Improve Turbine Engine Rotor Blade Containment," K. F. Heerman, K. R. McClure, R. H. Erikson, August 1977.

d. Society of Automotive Engineers Aerospace Information Report AIR 1537, "Report on Aircraft Engine Containment," October 1977.

4. *Background.* Although turbine engine and auxiliary power unit manufacturers are making every effort to reduce the probability of uncontained rotor and fan blade failures, service experience shows that uncontained rotor and fan blade failures continue to occur. Failures have resulted in high velocity fragment penetration of fuel tanks, adjacent structures, fuselage, and other engines of the aircraft. Since it appears unlikely that uncontained rotor and fan blade failures can be completely eliminated, FAR 25 requires that aircraft design precautions be taken to protect the aircraft from such events.

a. Uncontained engine rotor failure statistics reported in Reference d indicate that there were 275 uncontained failures of discs, spacers and blades during 417 million engine flight hours from January 1962 through December 1975. The main causes of these failures were high cycle fatigue (22.5 percent), material defects (9.1 percent), rubbing against static parts (10.2 percent), and low cycle fatigue (5.5 percent). Failures were also caused by overhaul procedures (4.0 percent), overtemperature (5.5 percent), manufacturing defects and misassembly (6.1 percent), foreign object damage (5.5 percent), overspeed (0.4 percent), and other factors.

b. These statistics indicate the existence of many different failure modes not readily apparent or predictable by failure analysis. Because of the random nature of uncontained rotor and fan blade failures, it is very difficult to analyze all possible failure modes and to provide protection to all areas. In spite of this difficulty, design considerations reflected in this circular provide guidelines for achieving the desired objective of protecting the aircraft from uncontained rotor and fan blade failures. While these guidelines are based on service experience, tests, and analyses within the current state-of-the-art, they are not necessarily the only means available to the designer.

5. *Definitions.* a. *Rotor.* Rotors include hubs, discs, rims, and spacers. Rotor failure does not include blade failures resulting from fractures within the blade, but does include blade separations resulting from failure of any of the aforementioned components.

b. *Critical Component.* Any component whose failure jeopardizes the safety of the airplane is a critical component. Each component under consideration must be evaluated on an individual basis.

c. *Probable Impact Area.* (1) *Rotor Failures.* Probable impact area is that area likely to be impacted by uncontained rotor or fan blade fragments. Observations of impact areas resulting from uncontained engine rotor failures have shown that heavy fragments tend to remain within an angular spread angle of ± 5° relative to the plane of rotation of the rotor and that smaller fragments have been deflected within spread angles greater than ± 5°. In view of the energy levels involved and actual experience, angular spread angles which should be considered to protect against uncontained engine rotor failures are ± 5° for one-third disc fragments and other large fragments (over 6 lbs. for large engines) and ± 15° for smaller fragments. If an auxiliary power unit is installed for which full rotor containment has not been demonstrated, the probable impact area and energy levels of uncontained rotor fragments specified by the manufacturer should be considered. NOTE: The specified spread angles originate at the engine centerline.

(2) *Fan Blade Failures.* Service experience has shown that fan blade fragments have been contained initially by the engine but have been expelled from the plane of rotation of the fan in

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both the forward and aft directions. In forward trajectory failures, blade tip fragments have been expelled forward of the engine front flange and either lodged in or penetrated the nacelle inlet or departed without contacting the nacelle inlet. An aft trajectory failure lodged in the fan case wall, shearing a hydraulic line and impacting a main fuel line. Therefore, the probable impact area for fan blade failures is included within an angular spread angle between the nacelle inlet forward of the inlet lip and 15° aft of the plane of rotation of the fan. If the engine manufacturer has accumulated data on uncontained fan blade fragments, the probable impact area and energy levels specified by the manufacturer should be considered.

6. *Design Considerations.* The following design considerations provide information and guidelines and are not intended to exclude the use of other means or methods of compliance. The problem of uncontained rotor and fan blade failure protection is approached by suggesting the following three basic considerations in order of assumed practicality: location of engines; location of critical systems and components; and external shields and deflection barriers.

a. *Location of Engines.* During preliminary aircraft design reviews, there should be an examination of the location of each engine and auxiliary power unit from the standpoint of minimizing the effects of uncontained rotor and fan blade failures. In this regard, the following observations are listed for consideration:

(1) Engine should not be located in a position such that uncontained rotor failure fragments could disable the pilots.

(2) Wing pylon mounted engine rotating elements should be forward of the wing leading edge, if practicable.

(3) Embedded engines, located within the primary airplane envelope, because of their close proximity to adjacent structure, introduce special problems which must be studied carefully for satisfactory solutions. The goal here, however, is still the same, and that is to provide protection for vital structure, primary flight controls and essential systems from uncontained rotor failures.

(4) Wing mounted engines should be positioned in a manner such that the plane of rotating elements in one engine does not intersect critical portions of an adjacent wing engine.

(5) Aft fuselage and tail mounted engines and engines installed in the fuselage should be positioned in a manner such that the plane of rotating elements does not intersect critical tail structure, essential controls and systems, or the fuselage pressure vessel. If this is not possible, other available design precautions should be taken to minimize effect on safety.

b. *Location of Critical Systems and Components.* Flammable fluid system components should not be installed in probable fragment impact areas if damage to any of these components will jeopardize the safety of the airplane. Should necessity dictate the need to mount these components in vulnerable areas, then they should be protected by installing them behind massive airframe structure. Some airplane manufacturers currently employ this principle by mounting critical components behind wing spars and massive fuselage structural elements. These components should also be installed in a manner such that fragments from any one engine failure will not render the remaining engines inoperative.

(1) Provisions should be incorporated to assure that flammable fluids released from damaged lines or components will not impinge on ignition sources. In this regard, electrical equipment located in areas where flammable fluids may be liberated due to line or tank puncture should be of a nonsparking type or otherwise protected and isolated.

(2) Essential electrical system components should not be located in impact zone areas unless adequately protected from fragment impact damage. It should be noted that in addition to the loss of electrical power due to such damage, the sparking or excessive heating of damaged electrical elements can ignite flammable fluids released from punctured lines in the area.

(3) Fuel tanks should not be located in impact zone areas. If, however, it should become absolutely necessary to locate fuel tanks in these vulnerable areas, it should be shown that the potential for ignition will not exist, given the conditions of materials, temperature, velocity, and other significant characteristics that can be shown to exist during uncontained rotor failures.

(4) One design consideration is to incorporate some degree of redundancy for critical system components located in impact zone areas. This redundancy should provide sufficient physical separation of the critical components to ensure against simultaneous damage of the redundant components following an uncontained rotor failure. For example, one airplane manufacturer of an airplane with aft fuselage mounted engines provides two separate hydraulic rudder control systems with one set of components mounted on the forward vertical stabilizer spar and the other system components mounted on the rear spar.

(5) Large structural elements, which are depended upon to protect critical aircraft systems, components, and controls from rotor fragment impact, should be designed to deflect the fragments or otherwise attenuate their effects. Fail safe elements should provide alternate load paths in the event of fragment impact damage. The subjects of external shield and deflector effectiveness and fragment impact energies are discussed in paragraphs 6(c) and 7.

(6) Instrument system components which are critical to safe flight operation should not be located in impact zone areas unless system redundancy is provided and lines are routed in a manner such that damage to both systems cannot occur.

(7) One additional consideration concerns the probable extent of damage to the fuselage pressure vessel in the event of an uncontained rotor or fan blade failure. This involves an analytical estimate of the location and hole sizes anticipated. Airframe engineers responsible for evaluation of pressure vessel integrity should be advised of the analytical results.

(c) *External Shields and Deflectors.* A shield or deflector external to the engine is recommended for fragments where other methods of protection are impractical. Testing of protective shields consisting of single-layer metals, fiber composites, or layered multimaterial configurations has shown promising results. Structural damage to the aircraft may also be minimized by providing controlled deflection devices. When shields or deflection devices are used to provide protection from uncontained rotor and fan blade failures, the design rationale should consider the most probable failure modes, fragment trajectories, translational and rotational velocities, fragment temperature, and fragment energies. Design substantiation should be accomplished by appropriate testing if the analysis is not based on a background of testing.

7. *Fragment Energy.* The maximum fragment energy to be considered by the designer should be associated with the failure of a one-third disc segment of any rotor stage when operating at the take-off power rating. Although it is assumed that failure of a one-third disc segment would be the most severe in terms of its potential for doing damage, it should be noted that restrained rotational energy is directly transferable into translational energy. A fragment whose translational velocity has been retarded may still possess sufficient rotational energy to do considerable damage.

a. References b and c include some typical fragment weights and energies of large high by-pass ratio engines that can be used in designing external shields or deflectors. Reference a indicates that uncontained high energy heavy fragments which depart the engine within an angular spread angle of ±5° do so without measurable loss of translational energy and little loss of rotational energy while fragments deflected beyond 5° have translational energy that diminishes to zero with increasing spread angles up to 33°.

[FR Doc. 81–669 Filed 1–7–81; 8:45 am]

BILLING CODE 4910–13–M

Application for Type Certificate; Boeing Model 757 Series Airplane

AGENCY: Federal Aviation Adminisrtation (FFA), DOT.

ACTION: Announcement of certification status and statement of type certification basis.

SUMMARY: The Boeing Commerical Airplane Company (Boeing) has applied for a type certificate for its Model 757 series airplane. This announces the type certification program for this airplane and provides information on the type certification basis to be established under § 21.17 of the Federal Aviation Regulations (FARs). As appropriate, subsequent announcements will provide updates of the certification status. This is an non-rulemaking proceeding within the meaning of the administrative procedure provisions of 5 U.S.C. 551 *et.seq.* If rulemaking becomes necessary during the processing of this application, it would be initiated separately by a Notice or Notices of Proposed Rulemaking for the following:

—The issuance of Special Conditions under § 21.16 where it is found that the airworthiness regulations otherwise applicable do not contain adequate or appropriate safety standards because of a novel or unusal design feature; and

—The application of special retroactive airworthiness regulations which are required by the Administrator pursuant to the policies announced in the disposition of proposal 8–2 of Airworthiness Review Program, Amendment No. 8A, 45 FR 60154. September 11, 1980.

A certification docket has been established to receive comments on the certification basis set forth in this announcement. The FAA will address all significant comments received.

DATE: Comments on this announcement must be received on or before March 9, 1981. Subsequent announcements will contain their own closure dates.

ADDRESS: Comments must be mailed in duplicate to: Federal Aviation Administration, Office of Regional Counsel, Attention: Certification Docket, Docket No. CT 1192 NW–D, 9010 East Marginal Way South, Seattle, Washington 98108 or delivered in duplicate to Room 300S at the same address. Comments may be inspected at Room 300S between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Don C. Jacobsen, Acting Chief, Aircraft Certification Division [ANW–100], FFA Building, Boeing Field, Seattle, Washington 98108. Telephone (AC 206) 767–2582.

Comments Invited

Announcements of the certification status and the type certification basis of an aircraft are part of the FAA's continuing efforts to keep the public informed of the type certification programs conducted by the FAA. They are in addition to the rulemaking process which provides the public an opportunity to participate directly in the establishment of specific airworthiness standards. While the FAA seeks innovative ways for involving the public in the type certification process for aircraft, it is neither appropriate nor possible for the public to be involved in the detailed findings of type design conformity or regulatory compliance, responsibilities specifically charged by the Congress to the FAA. In this connection, it should be noted that the task of establishing that an aircraft meets the applicable certification standards is a large and technically complex one extending over several years and including thousands of hours of technical data review, ground testing of systems and structural components, and hundreds of hours of flight testing, in which FAA engineers, inspectors and flight test pilots participate.

Interested parties are invited to provide comments, written data, views, or arguments relevant to the type certification basis of the Boeing Model 757 series airplane as contained in this annoumcement. Communications should reference Certification Docket Number CT 1192 NW–D and be submitted in duplicate to the address specified above. All communications received on or before the closing date specified will be considered by the Administrator.

Availability of Additional Copies of Announcement

Any person may obtain additional copies of this announcement by submitting a request to the Federal Aviation Administration, Public Affairs Officer, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone: (AC 206) 767–2670. Each communication must identify the docket number.

Program Process

The statutory prerequisite for the issuance of an aircraft type certificate is a finding by the Administrator that the aircraft is of proper design, material, specification, construction and performance for safe operation and meets the standards, rules and regulations prescribed therefor. [Section 603(a) of the Federal Aviation Act of 1958 (Act), 49 U.S.C. 1423(a).] In exercising his powers and duties under the Act, the Administrator must do so consistently with any obligation assumed by the United States in any treaty or other international agreement [Section 1102 of the Act, *supra*]. For example, when components are produced by an aircraft overseas supplier and they are not readily inspectable during assembly, they are subject to reciprocal agreements, known as "bilaterals," which have been consummated between this country and the exporting country. In such cases, the FAA would notify the foreign certifying authority of the applicable design data, test, and quality control requirements to be met.

The administrative process for aircraft projects in which complete type certification is involved generally consists of the following major steps:

1. Establishment of a Type Certification Board which programs its meetings according to need but generally includes at least three significant phases (preliminary, preflight, and final).
2. Issuance of a Type Inspection Authorization (TIA) when the examination of the technical data required for type certification is completed or has reached a point where it appears that the aircraft will meet the pertinent regulations. The TIA is the authorization for FAA personnel to conduct ground inspections and begin flight testing to assure that the test aircraft meets design standards. The preflight type board is also held at this time. After these inspections and flight testing are completed, the final type board is held to resolve any outstanding matters.
3. Preparation of the Type Certificate Data Sheet (which becomes a part of the type certificate) and the Airplane Flight manual, setting forth the limitations prescribed by the applicable airworthiness regulations and any other limitations and information found necessary for type certification.

4. Issuance of a publicly available "decision document" that summarizes the basis for the decision to issue a type certificate, including an identification of all applicable regulations, issues, means of compliance (including tests and analyses), and resolution of issues. The issuance of "decision documents" was initiated by the FAA with the type certification of the McDonnell Douglas DC–9–80 and announced in the **Federal Register** on August 28, 1980 (45 FR 57638).

After (1) the Type Certificate Data Data Sheet has been prepared, (2) all outstanding items have been resolved, (3) all applicable airworthiness and aircraft noise regulations and any special conditions have been met, (4) the Administrator has found no feature or characteristic that makes the aircraft unsafe for the category in which certification is required, (5) the decision document has been approved, (6) the airplane is considered safe in its operational environment, and (7) the Airplane Flight Manual has been approved, then an aircraft type certificate will be issued. Reviews are conducted for aircraft intended for use in air carrier service, during and parallel to the type certification process, from the time the type certification board is convened to the final issuance of a type certificate, to establish the operational suitability of the aircraft. These reviews include evaluation of the aircraft for operations under such FAR's as Parts 91, 121 and 125, the ICAO Annexes, FAA Advisory Circulars, airport and air traffic control compatibility, minimum equipment lists, and training requirements.

Background

On January 10, 1977, Boeing applied to the FAA Northwest Region for the type certification of a new model airplane. Subsequently, Boeing identified the model as the 757 series, and elected to extend the application date to February 28, 1978, which became the new effective date of application by virtue of the provisions of § 21.17(c)(2). Boeing plans to complete its type certification activities by February 1983; i.e., within five years [as established under § 21.17(b)] from the extended date.

The Model B–757 series airplane is a medium-range airplane having a low, swept wing with two wing-mounted engines. The airplane is the second Boeing member of a family of new technology fuel efficient airplanes utilizing a high aspect ratio wing planform, advanced airfoil technology, high bypass ratio engines, and advanced electronics.

Program Status

The preliminary meeting of the Boeing 757 Type Certification Board was held in two phases: Phase I (review and evaluation of type design) was held on December 12, 1978; and Phase II (establishment of certification basis and further design review) was held on August 17, 1979. Between these two meetings and subsequently, several meetings of FAA and industry specialists have been convened for discussion and deliberation. Aircraft design has not been completed by Boeing and complete substantiating data is yet to be submitted to the FAA.

Type Certification Basis—General

The applicable airworthiness standards are those regulations designated in accordance with § 21.17 and are known as the "type certification basis" for the airplane design. Special Conditions may be issued, and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the Boeing Model 757 series airplane. Special Conditions, as appropriate, would be issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and would become part of the type certification basis in accordance with § 21.17(a)(2).

Exemptions from the applicable airworthiness standards designated by § 21.17(a)(1), if granted, would also become part of the type certification basis. Petitions for exemption are published in the **Federal Register**, and the petitions are acted upon after review of comments received, in accordance with § 11.27.

Should the FAA conclude that recent or future regulatory amendments should be applied to the Model 757 series that would not otherwise be applied under § 21.17(a)(1), than an amendment to require retroactive application will be proposed and acted upon consistent with the general rulemaking procedures of Part 11 and the regulatory policies of Executive Order 12044. Such retroactive regulations would be in lieu of those issued as Special Conditions because of having satisfied the "novel and unusual design feature" criteria of § 21.16. This procedure is described in the disposition of proposal 8–2 in Amendment 8A of the Airworthiness Review Program. (45 FR 60154; September 11, 1980.)

In addition, there are special retroactive noise requirements prescribed as a matter of law. In the case of the Model 757 series, Stage 3 noise limits are required by § 36.201(b)(3).

Statement of Type Certification Basis

Based on the date of application (February 28, 1978), and pursuant to § 21.17(a)(1), the type certification basis of the Boeing Model 757 series airplane will be:

—Part 25 of the Federal Aviation Regulations (effective February 1, 1965), Amendments 25–1 through 25–41, effective September 1, 1977.

—Part 36 of the Federal Aviation Regulations (effective December 1, 1969), Amendments 36–1 through 36–9, effective April 3, 1978.

—Special Federal Aviation Regulation 27.

If type certification is not completed by February 28, 1983, the applicable amendments to Parts 25 and 36 and SFAR 27 would be adjusted to include later amendments in accordance with § 21.17(c).

Pursuant to § 21.17(a)(1)(ii), Boeing has elected to comply voluntarily with later amendments to Part 25, Amendments 25–42 through 25–45, effective December 1, 1978, except a portion of Amendment 25–42 [Section 25.109]. Compliance with § 25.109, as amended, is the subject of further discussion in this announcement. Boeing has also agreed to comply with the following additional matters proposed by the FAA which are now later effective amendments to Part 25:

—High lift devices [reference § 25.345, effective December 1, 1978 (Amendment 25–46)].

—Pressurized cabin loads [reference § 25.365(e) (1) and (2), effective October 14, 1980 (Amendment 25–54)].

—Flutter, deformation, and fail-safe criteria [reference § 25.629, effective December 1, 1978 (Amendment 25–46)].

—Lift and drag devices, control [reference § 25.697, effective December 1, 1978 (Amendment 25–46)].

—Tires [reference § 25.733, effective December 31, 1979 (Amendment 25–49)].

—Installation—Auxiliary Power Units [reference §§ 25.901(d), 25.1103(a), (b)(2), (d), (e), and (f) 25.1142, and 25.1522, effective December 1, 1978 (Amendment 25–46)].

Exemptions

As of the date of this announcement, Boeing has not petitioned the FAA for any exemptions relative to the type certification of the Model 757 series airplane.

Special Conditions

The novel or unusual design feature of the Boeing Model 757 series airplane, known to the FAA at this time, which necessitates the issuance of a Special Condition pursuant to § 21.16 is:

A Centralized caution and warning system that combines the visual and aural alerting features ordinarily required as separate systems in the rules applicable to the airplane.

This Special Condition will be proposed in a subsequent Notice of Proposed Rulemaking pursuant to §§ 11.28 and 11.49 (Amendment 11–20, effective October 14, 1980) and all public comments received on that Notice will be considered before the Special Condition is issued.

Special Rulemaking Considerations

Consideration has been given to the updated accelerate-stop performance requirements of § 25.109 as amended by Amendment 25–42, effective March 1, 1978. By virtue of the date of application for a type certificate for the 757 and the provisions of § 21.17(a)(1), this amendment would not apply but for additional rulemaking action on the part of the FAA. After careful deliberation, the FAA has concluded that the very complex problem of takeoff performance should be addressed at a public technical review, to be announced soon in the **Federal Register.** This public review would consider operational and certification rule changes, including retroactive applicability of Amendment 25–42, and other factors affecting takeoff and accelerate-stop distances, such as, decisions speeds, wet runway accountability, automatic braking systems, reduced thrust, reverse thrust, screen height, and others. The FAA will subsequently decide on the direction to proceed in this rulemaking activity. During the interim while the FAA is formulating the public technical review, the FAA encourages any submissions on this subject that the public believes are relevant to this effort; these comments may be mailed in duplicate to the following office: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket (AGC-204), Docket No. 21246, 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

Administrative Matters Under Consideration

In addition, there may be administrative changes to agency issuances, such as Advisory Circulars, necessitated by decisions made during these proceedings. For example, the Boeing Model 757 series airplane will have an automatic landing roll-out system that contains automatic deceleration and directional roll-out control. Appendix I of Advisory Circular (AC) 120–28B entitled "Criteria for Approval of Category IIIa Landing Weather Minima," contains criteria for airworthiness approval for Category IIIa airborne systems. Appendix I of AC 120–28B will be revised to include criteria for automatic landing roll-out systems equipment and installations that may be used to show airworthiness acceptability of the automatic landing systems for Category IIIb operations.

Finally, design evaluation does not end with the issuance of the type certificate. Regulations require aircraft owners and operators to submit various reports and data on the aircraft's service experience. The FAA continues to monitor the safety performance of the design after the type design is approved and the product is introduced into service. This is accomplished through the various reports and data the FAA receives daily as well as through post-certification design reviews. The airworthiness standards such as Part 25, as well as the operational standards such as Parts 91, 121 and 125, are amended from time to time to consider new technologies and to upgrade the existing level of safety. If, during any evaluation, an unsafe condition is found as a result of service experience and that condition is likely to exist or develop in other products of the same type, the FAA issues an Airworthiness Directive (AD) under Part 39 to require a change to the type design or to define special inspection or operational limitations. In effect, these are also retroactive applications of required type design change.

Issued in Seattle, Washington, on December 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 81–418 Filed 1–7–81; 8:45 am]

BILLING CODE 4910–13–M

Application for Type Certificate; Boeing Model 767 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of certification status and statement of type certification basis.

SUMMARY: The Boeing Commercial Airplane Company (Boeing) has applied for a type certificate for its Model 767 series airplane. This announces the type certification program for this airplane and provides information on the type certification basis to be established under Section 21.17 of the Federal Aviation Regulations (FARs). As appropriate, subsequent announcements will provide updates of the certification status. This is a non-rulemaking proceeding within the meaning of the administrative procedure provisions of 5 U.S.C. 551 *et. seq.* If rulemaking becomes necessary during the processing of this application, it would be initiated separately by a Notice or Notices of Proposed Rulemaking for the following:

—The issuance of Special Conditions under § 21.16 where it is found that the airworthiness regulations otherwise applicable do not contain adequate or appropriate safety standards because of a novel or unusual design feature; and

—The application of special retroactove airworthiness regulations which are required by the Administrator pursuant to the policies announced in the disposition of proposal 8–2 of Airworthiness Review Program, Amendment No. 8A, 45 FR 60154, September 11, 1980.

A certification docket has been established to receive comments on the certification basis set forth in this announcement. The FAA will address all significant comments received.

DATE: Comments on this announcement must be recieved on or before March 9, 1981. Subsequent announcements will contain their own closure dates.

ADDRESS: Comments must be mailed in duplicate to:

Federal Aviation Administration, Office of Regional Counsel, Attention: Certification Docket, Docket No. CT 1180 NW–D, 9010 East Marginal Way South, Seattle, Washington 98108

or delivered in duplicate to Room 300S at the same address. Comments may be inspected at Room 300S between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Don C. Jacobsen, Acting Chief, Aircraft Certification Division (ANW–100), FAA Building, Boeing Field, Seattle, Washington 98108. Telephone (AC 206) 767–2582.

Comments Invited

Announcements of the certification status and the type certification basis of an aircraft are part of the FAA's continuing efforts to keep the public informed of the type certification programs conducted by the FAA. They are in addition to the rulemaking process which provides the public an opportunity to participate directly in the establishment of specific airworthiness standards. While the FAA seeks innovative ways for involving the public in the type certification process for aircraft, it is neither appropriate nor possible for the public to be involved in the detailed findings of type design conformity or regulatory compliance, responsibilities specifically charged by the Congress to the FAA. In this connection, it should be noted that the task of establishing that an aircraft meets the applicable certification standards is a large and technically complex one extending over several years and including thousands of hours of technical data review, ground testing of systems and structural components, and hundreds of hours of flight testing, in which FAA engineers, inspectors and flight test pilots participate.

Interested parties are invited to provide comments, written data, views, or arguments relevant to the type certification basis of the Boeing Model 767 series airplane as contained in this announcement. Communications should reference Certification Docket Number CT 1180 NW–D and be submitted in duplicate to the address specified above. All communications received on or before the closing date specified will be considered by the Administrator.

Availability of Additional Copies of Announcement

Any person may obtain additional copies of this announcement by submitting a request to the Federal Aviation Administration, Public Affairs Officer, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, Telephone: (AC 206) 767–2670. Each communication must identify the docket number.

Program Process

The statutory prerequisite for the issuance of an aircraft type certificate is a finding by the Administrator that the aircraft is of proper design, material, specification, construction and performance for safe operation and meets the standards, rules and regulations prescribed therefor. [Section 603(a) of the Federal Aviation Act of 1958 (Act), 49 U.S.C. 1423(a).] In exercising his powers and duties under the Act, the Administrator must do so consistently with any obligation assumed by the United States in any treaty or other international agreement [Section 1102 of the Act, *supra*]. For example, when components are produced by an aircraft overseas supplier and they are not readily inspectable during assembly, they are subject to reciprocal agreements, known as "bilaterals," which have been consummated between this country and the exporting country. In such cases, the FAA would notify the foreign certifying authority of the applicable design data, test, and quality control requirements to be met.

The administrative process for aircraft projects in which complete type certification is involved generally consists of the following major steps:

1. Establishment of a Type Certification Board which programs its meetings according to need but generally includes at least three significant phases (preliminary, preflight, and final).
2. Issuance of a Type Inspection Authorization (TIA) when the examination of the technical data required for type certification is completed or has reached a point where it appears that the aircraft will meet the pertinent regulations. The TIA is the authorization for FAA personnel to conduct ground inspections and begin flight testing to assure that the test aircraft meets design standards. The preflight type board is also held at this time. After these inspections and flight testing are completed, the final type board is held to resolve any outstanding matters.
3. Preparation of the Type Certificate Data Sheet (which becomes a part of the type certificate) and the Airplane Flight Manual, setting forth the limitations prescribed by the applicable airworthiness regulations and any other limitations and information found necessary for type certification.
4. Issuance of a publicly available "decision document" that summarizes the basis for the decision to issue a type certificate, including an identification of all applicable regulations, issues, means of compliance (including tests and analyses), and resolution of issues. The issuance of "decision documents" was initiated by the FAA with the type certification of the McDonnell-Douglas DC–9–80 and announced in the **Federal Register** on August 28, 1980 (45 FR 57638).

After (1) the Type Certificate Data Sheet has been prepared, (2) all outstanding items have been resolved, (3) all applicable airworthiness and aircraft noise regulations and any special conditions have been met, (4) the Administrator has found no feature or characteristic that makes the aircraft unsafe for the category in which certification is required, (5) the decision document has been approved, (6) the airplane is considered safe in its operational environment, and (7) the Airplane Flight Manual has been approved, then an aircraft type certificate will be issued. Reviews are conducted for aircraft intended for use in air carrier service, during and parallel to the type certification process, from the time the type certification board is convened to the final issuance of a type certificate, to establish the operational suitability of the aircraft. These reviews include evaluation of the aircraft for operations under such FAR's as Parts 91, 121 and 125, the ICAO Annexes, FAA Advisory Circulars, airport and air traffic control compatibility, minimum equipment lists, and training requirements.

Background

On October 13, 1976, Boeing applied to the FAA Northwest Region for the type certification of a new model airplane, later identified as the 767 series, and pursuant to § 21.17(b), requested an extension of the five-year effectivity period of the application to six years. The FAA approved the extension based on the complexity of the program, which will require a longer period of time for design, development and testing, particularly in light of the fact that approximately 45 percent of the aircraft will involve world-wide manufacturing facilities. Boeing plans to complete its type certification activities on or before October 13, 1982.

The Model B–767 series airplane is a medium-range airplane having a low, swept wing with two wing-mounted engines. The airplane is the first Boeing member of a family of a new technology fuel efficient airplanes utilizing a high aspect ratio wing planform, advanced airfoil technology, high bypass ratio engines, and advanced electronics.

Program Status

The preliminary meeting of the Boeing 767 Type Certification Board was held in two phases: Phase I (review and evaluation of type design) was held on September 19, 1978; and Phase II (establishment of certification basis and further design review) was held on June 17, 1979. Between these two meetings and subsequently, several meetings of FAA and industry specialists have been convened for discussion and deliberation. An interim meeting of the Board is presently scheduled for February 12, 1981. Aircraft design has not been completed by Boeing and complete substantiating data is yet to be submitted to the FAA.

Type Certification Basis—General

The applicable airworthiness standards are those regulations designated in accordance with § 21.17 and are known as the "type certification basis" for the airplane design. Special Conditions may be issued, and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the Boeing Model 767 series airplane. Special Conditions, as appropriate, would be issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and would become part of the type certification basis in accordance with § 21.17(a)(2).

Exemptions from the applicable airworthiness standards designated by § 21.17(a)(1), if granted, would also become part of the type certification basis. Petitions for exemption are published in the **Federal Register**, and the petitions are acted upon after review of comments received, in accordance with Section 11.27.

Should the FAA conclude that recent or future regulatory amendments should be applied to the Model 767 series that would not otherwise be applied under § 21.17(a)(1), then an amendment to require retroactive application will be proposed and acted upon consistent with the general rulemaking procedures of Part 11 and the regulatory policies of Executive Order 12044. Such retroactive regulations would be in lieu of those issued as Special Conditions because of having satisfied the "novel and unusual design feature" criteria of Section 21.16. This procedure is described in the disposition of proposal 8–2 in Amendment 8A of the Airworthiness Review Program. (45 FR 60154; September 11, 1980.)

In addition, there are special retroactive noise requirements prescribed as a matter of law. In the case of the Model 767 series, Stage 3 noise limits are required by Section 36.201(b)(3).

Statement of Type Certification Basis

Based on the date of application (October 13, 1976), and pursuant to § 21.17(a)(1), the type certification basis of the Boeing Model 767 series airplane will be:

—Part 25 of the Federal Aviation Regulations (effective February 1, 1965), Amendments 25–1 through 25–37, effective February 14, 1975.

—Part 36 of the Federal Aviation Regulations (effective December 1, 1969), Amendments 36–1 through 36–9, effective April 3, 1978.

—Special Federal Aviation Regulation 27.

If type certification is not completed by October 13, 1982, the applicable amendments to Parts 25 and 36 and SFAR 27 would be adjusted to include later amendments in accordance with Section 21.17(c).

Pursuant to § 21.17(a)(1)(ii), Boeing has elected to comply voluntarily with later amendments to Part 25, Amendments 25–38 through 25–45, effective December 1, 1978, except portions of Amendment 25–38 [§ 25.979 (d) and (e) and § 25.1143(e)]; –40 [§§ 25.901(b)(1)(i), 25.1091(e) and 25.1093(b)]; –41 [§ 25.1438]; and –42 [§ 25.109]. Compliance with § 25.109, as amended, is the subject of further discussion in this announcement. Boeing has also agreed to comply with the following additional matters proposed by the FAA which are now later effective amendments to Part 25:

—High lift devices [reference § 25.345, effective December 1, 1978 (Amendment 25–46)].

—Pressurized cabin loads [reference § 25.365(e) (1) and (2), effective October 14, 1980 (Amendment 25–54)].

—Flutter, deformation, and fail-safe criteria [reference § 25.629, effective December 1, 1978 (Amendment 25–46)].

—Lift and drag devices, control [reference § 25.697, effective December 1, 1978 (Amendment 25–46)]

—Tires [reference § 25.733, effective December 31, 1979 (Amendment 25–49)].

—Installation—Auxiliary Power Units [reference §§ 25.901(d), 25.1103(a), (b)(2), (d), (e), and (f), 25.1142, and 25.1522, effective December 1, 1978 (Amendment 25–46)].

Exemptions

As of the date of this announcement, Boeing has not petitioned the FAA for any exemptions relative to the type of certification of the Model 767 series airplane.

Special conditions

The novel or unusual design feature of the Boeing Model 767 series airplane, known to the FAA at this time, which necessitates the issuance of a Special Condition pursuant to § 21.16 is:

A centralized caution and warning system that combines the visual and aural alerting features ordinarily required as separate systems in the rules applicable to the airplane.

This Special Condition will be proposed in a subsequent Notice of Proposed Rulemaking pursuant to §§ 11.28 and 11.49 (Amendment 11–20, effective October 14, 1980) and all public comments received on that Notice will be considered before the Special Condition is issued.

Special Rulemaking Considerations

Consideration has been given to the updated accelerate-stop performance requirements of § 25.109 as amended by Amendment 25–42, effective March 1, 1978. By virtue of the date of application for a type certificate for the 767 and the provisions of § 21.17(a)(1), this amendment would not apply but for additional rulemaking action on the part of the FAA. After careful deliberation, the FAA has concluded that the very complex problem of takeoff performance should be addressed at a public technical review, to be announced soon in the **Federal Register**. This public review would consider operational and certification rule changes, including retroactive applicability of Amendment 25–42, and other factors affecting takeoff and accelerate-stop distances, such as, decisions speeds, wet runway accountability, automatic braking systems, reduced thrust, reverse thrust, screen height, and others. The FAA will subsequently decide on the direction to proceed in this rulemaking activity. During the interim while the FAA is formulating the public technical review, the FAA encourages any submissions on this subject that the public believes are relevant to this effort; these comments may be mailed in duplicate to the following office:

Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket (AGC–204) Docket No. 21247, 800 Independence Avenue, SW., Washington, D.C. 20591

or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

Administrative Matters Under Consideration

In addition, there may be administrative changes to agency issuances, such as Advisory Circulars, necessitated by decisions made during these proceedings. For example, the Boeing Model 767 series airplane will have an automatic landing roll-out system that contains automatic deceleration and directional roll-out control. Appendix 1 of Advisory Circular (AC) 120–28B entitled "Criteria for Approval of Category IIIa Landing Weather Minima," contains criteria for airworthiness approval for Category IIIa airborne systems. Appendix 1 of AC 120–28B will be revised to include criteria for automatic landing roll-out systems equipment and installations that may be used to show airworthiness acceptability of the automatic landing systems for Category IIIb operations.

Finally, design evaluation does not end with the issuance of the type certificate. Regulations require aircraft owners and operators to submit various reports and data on the aircraft's service experience. The FAA continues to monitor the safety performance of the design after the type design is approved and the product is introduced into service. This is accomplished through the various reports and data the FAA receives daily as well as through post-certification design reviews. The airworthiness standards such as part 25, as well as the operational standards such as Parts 91, 121 and 125, are amended from time to time to consider new technologies and to upgrade the existing level of safety. If, during any evaluation, an unsafe condition is found as a result of service experience and that condition is likely to exist or develop in other products of the same type, the FAA issues an Airworthiness Directive (AD) under Part 39 to require a change to the type design or to define special inspection or operational limitations. In effect, these are also retroactive applications of required type design change.

Issued in Seattle, Washington, on December 31, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 81-417 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Broward County, Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Broward County, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, P.O. Box 1079, Tallahassee, Florida 32302, Telephone: (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an environmental impact statement (EIS) for a proposal to improve State Road 820 in Broward County, Florida. The proposed improvement would involve the reconstruction of State Road 820 (Hollywood Boulevard) from Interstate Route 75 to State Road 7, a distance of eight miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening to a six- or eight-lane divided roadway; (3) widening to six lanes plus frontage roads on the portion of the project west of State Road 817; and (4) alternate corridors.

Federal, State, and local agencies have contributed early coordination comments through the A-95 process. Additionally, a project planning team developing this project has contacted State, Federal, County, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. Public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting is planned at the project site during the early part of 1981.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

Issued on: December 30, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 81-848 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to Section 19(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held January 15, 1981, at 10:00 a.m. until 12:00 p.m. in Room 4234 at the Department of Transportation, 400 7th Street SW., Washington, D.C. 20590. The agenda for the meeting is as follows:

—Advisory Committee Program Review
—MBRC Program Supporters—
  Acknowledgment
—Bonding—Executive Summary
—Open Discussion

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Office of the Secretary, 400 7th Street SW., Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on December 30, 1980.

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 81-391 Filed 1-7-81; 8:45 am]

BILLING CODE 4910-06-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 28, 1981, at 9:00 a.m., the Veterans Administration Regional Office, Atlanta, Georgia Station Committee on Educational Allowances shall at Room 550, 730 Peachtree Street, NE., Atlanta, Georgia 30365 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in AVIA Corporation, 1951 Airport Road, Atlanta, Georgia 30341 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: December 30, 1980.

T. R. Whire,

Director, VA Regional Office, 730 Peachtree Street, NE., Atlanta, Georgia 30365.

[FR Doc. 81-572 Filed 1-7-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 5
Thursday, January 8, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

December 31, 1980.

TIME AND DATE: 9:30 a.m., January 8, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Request by the Senate Special Committee on Aging for information on Board initiatives or programs relating to the elderly during 1980. (Memo No. 180, OGC)

3. Dockets 38511 and 38488, *Peoples Express Fitness Investigation* and *People Express Show Cause Proceeding.* (Memo No. 011A, OGC)

4. Dockets 33363, 38008 and 38009, *Former Large Irregular Air Service Investigation,* Application of GenAir International, Inc. (Memo No. 192, OGC)

5. Docket 34271, *Davis Airlines Fitness Investigation.* (OGC)

6. Dockets 33363, 37942, and 38399, *Former Large Irregular Air Service Investigation; Applications of Jet Charter Service Inc.;* Order on Discretionary Review. (Memo No. 190, OGC)

7. Docket EAS-548, Appeal of essential air service determination for Zanesville, Ohio. (Memo No. 195, OGC, OCCR, BDA)

8. Dockets 38922 and EAS-423—Frontier's notice of intent to suspend service at Liberal, Kansas. (Memo No. 186, BDA)

9. Docket 36864, Western's Notice to Suspend Service at West Yellowstone, Montana. (BDA, OCCR)

10. Docket 34591, Notice of Piedmont Aviation to Suspend Service at Hot Springs, VA. (Memo No. 169, BDA, OCCR)

11. Dockets 37501, EAS-565, and 38224, Essential Air Service at Hazleton, PA, and Notice of Perkiomen Airways to terminate service at Hazleton. (Memo No. 012C, BDA, OCCR)

12. Docket 38442, Direct Air's proposal to provide essential air service with compensation at Kokomo/Logansport/Peru, Indiana. (Memo No. 188, BDA, OCCR)

13. Docket 37554, Establishment of the Standard Foreign Fare Level. (BDA)

14. Docket 38930, Sea Airmotive Kodiak-Bush Points Subpart Q Proceeding. (Memo No. 187, BDA)

15. Docket 38814, Sedalia-Marshall-Boonville Stage Line, Inc.—certification as section 418 all-cargo air carrier. (Memo No. 181, BDA)

16. Procedures for Handling Section 419 Subsidy Rates at the End of the Current Subsidy Rate Periods. (BDA)

17. Dockets 32860 and 35634, IATA agreements proposing tax-related fare and rate increases to/from Zaire. (Memo No. 191, BIA)

18. Dockets 37702, 37779, 37780, 37781, 37784, and 37799: Applications of Societe Anonyme Belge D'Exploitation de la Navigation Aerenne, Deutsche Lufthansa Aktiengesellshaft, Japan Air Lines Company, KLM Royal Dutch Airlines, Compagnie National Air France, Scandinavian Airlines System for amendment and renewal of foreign air carrier permits for conditional Alaska stopover authority between Europe and Japan. (Memo No. 185, BIA, OGC, BALJ)

19. Docket 38606, Application of Air Florida to amend its certificate to permit it to add New York and Governors Harbour, Bahamas Islands as coterminal points on its route 197-F. (Memo No. 178, BIA, OGC, BALJ)

20. Dockets 34405, 35520, 37429—Applications of Air Tungaru for permit authority for routes negotiated under the Bermuda 2 Agreement; for Air Nauru to perform the air transportation on behalf of Air Tungaru; and a Complaint by the Tuvalu Islands Developing Company, Inc. (Memo No. 179, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-16-81 Filed 1-6-81; 4:00 pm]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, January 5, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing an amendment to Part 341 of the Corporation's regulations, entitled "Registration of Transfer Agents."

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-20-81 Filed 1-6-81; 1:52 p.m.]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, January 13, 1981 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Compliance. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, January 15, 1981 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Certification
Advisory opinion: Draft AO 1980-137—Don L. Richardson, Republican Candidate, U.S. Senate (Texas)
Appropriations and budget: Budget Execution Report
Pending Legislation
Classification actions
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Lena L. Stafford,

Administrative Assistant to the Secretary to the Commission.

[S-23-81 Filed 1-6-81; 3:19 pm]

BILLING CODE 6715-01-M

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4

FEDERAL ENERGY REGULATORY COMMISSION.

January 5, 1981.

TIME AND DATE: 1 p.m., January 12, 1981.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing of the Commission on hydro matters.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

[S–17–81 Filed 1–5–81; 4:2[illegible] p.m.]

BILLING CODE 6450-85-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., Wednesday, January 14, 1981.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PESON FOR MORE INFORMATION:

Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Service Corporation Activity—First Federal Savings and Loan Association of Charlotte, Charlotte, North Carolina.

Proposed Acquisition and Merger of—Yosemite Savings and Loan Association, Modesto, California and Valley Federal Savings and Loan Association, Van Nuys, California.

Branch Office Application—First Federal Savings and Loan Association of Bemidiji, Bemidiji, Minnesota.

[S–24–81 Filed 1–6–81; 3:19 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., January 14, 1981.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Rule to Exempt Agreements Covering the Collection, Compilation, and Exchange of Credit Information from the Filing and Approval Requirements of section 15 of the Shipping Act, 1916.
2. Proposed Rule Regarding the Right of Independent Action in Conference Agreements and Tariff Filing Requirements.
3. Docket No. 80–[illegible]3: Exemption of Tariff Matter Covering the Movement of Cargo Between Foreign Countries Either Transshipped From One Water Carrier to Another At U.S. Ports or Transported Overland Through the United States—Proposed Final Rule.
4. Docket No. 79–[illegible]9: Independent Ocean Freight Forwarder Application—Stute International Inc.—Consideration of Request for Oral Argument and Possible Consideration of the Record.
5. Special Docket No. 752: Application of Coordinated Caribbean Transport, Inc. for the Benefit of Universal Transcontinental Corp. as Agent for Morisaenz, S.A.C.—Review of Initial Decision.
6. Special Docket No. 744: Application of Sea-Land Service, Inc. for the Benefit of Stone and Downer Co.—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–25–81 Filed 1–6–81; 3:21 p.m.]

BILLING CODE 6730-01-M

7

[USITC SE–80–61A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 86609, December 31, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 14, 1981.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

4. Petitions and complaints, if necessary:
   d. Multicellular plastic film (Docket No. 706).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–26–81 Filed 1–6–81; 3:39 pm]

BILLING CODE 7020-02-M

8

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

Public/Private Sector Task Force.

DATE AND TIME:

8 p.m.–10:30 p.m., Monday, January 12, 1981.

9 a.m.–5 p.m., Tuesday, January 13, 1981.

8:30 a.m–3:30 p.m., Wednesday, January 14, 1981.

PLACE:

Heroy Room/Cosmos Club, January 12, 1981.

Room 121, Cannon House Office Building, January 13, 14, 1981.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Draft Progress Report.

Future Plans for the Task Force.

Toni Carbo Bearman,

Executive Director, NCLIS.

January 5, 1980.

[S–21–81 Filed 1–6–81; 2:06 p.m.]

BILLING CODE 7527-01-M

9

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

NCLIS/SLA TASK FORCE MEETING.

DATE AND TIME:

9 a.m.–5 p.m., Wednesday, January 14, 1981.

9 a.m.–5 p.m., Thursday, January 15, 1981.

PLACE: Delaware Room, Mayflower Hotel.

STATUS: Open.

MATTERS TO BE DISCUSSED: Committee Task Force Charges and Plans.

Douglas S. Price,

Deputy Director, NCLIS.

January 5, 1981.

[FR Doc. S–22–81 Filed 1–6–81; 2:07 pm]

BILLING CODE 7527-01-M

10

POSTAL RATE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, January 6, 1981.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Issues in Docket No. R80–1.

[Closed pursuant to 5 U.S.C. § 552b(c)(10)]

CONTACT PERSON FOR MORE INFORMATION:

Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268; telephone (202) 254–5614.

[S–18–81 Filed 1–5–81; 5:16 pm]

BILLING CODE 7715-01-M

11

POSTAL RATE COMMISSION.

January 5, 1981.

Notice is hereby given that the General Counsel, Officer-of-the-Commission, and the Director, Office of Technical Analysis and Planning, of the Postal Rate Commission will meet on Wednesday afternoon, January 7, 1981, with Mr. John Mulligan, a regional official of the U.S. Postal Service, to discuss, in general terms, rate making procedures. No particular matter at issue in Docket R80–1 nor substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

David F. Harris,

Secretary.

[S–19–8 Filed 1–5–81; 5:17 pm]

BILLING CODE 7715-01-M

federal register

Thursday
January 8, 1981

Part II

Environmental Protection Agency

Clean Water Act, Toxic Pollutant List; Removal of Dichlorodifluoromethane and Trichlorofluoromethane; Petition to Remove Ethylbenzene, Phenol, 2,4-Dichlorophenol, 2,4,5-Trichlorophenol, and Pentachlorophenol; Proposed Denial of Petition to Remove Monochlorophenyl Phenyl Ether; and Petition to Remove Chlorodifluoromethane

V 46/5 JA 8 81 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 401

[WH-FRL 1701-5]

Removal of Dichlorodifluoromethane and Trichlorofluoromethane From the Toxic Pollutant List Under Section 307(a)(1) of the Clean Water Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is deleting dichlorodifluoromethane (F-12) and trichlorofluoromethane (F-11) from the toxic pollutant list. As a result of its review of available data and the public comments, the Agency concludes that no significant potential exists for exposure to the two chemicals via water. This conclusion coupled with the compounds' low mammalian toxicity does not suggest any environmental or human health hazard resulting from the delisting of these compounds. EPA has determined that deleting these compounds will not compromise adequate control over their discharge into the aquatic environment and EPA anticipates no adverse effects on the aquatic environment as a result of this action.

EFFECTIVE DATE: December 24, 1980.

FOR FURTHER INFORMATION CONTACT: Jacqueline V. Carr, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 (202-245-3036).

SUPPLEMENTARY INFORMATION:

Background

On November 2, 1979, E. I. du Pont de Nemours and Company petitioned EPA to remove the fluorocarbons, dichlorodifluoromethane (F-12) and trichlorofluoromethane (F-11) from the toxic pollutant list established under section 307(a)(1) of the Clean Water Act. After reviewing data supplied by Du Pont to support the petition and additional data, EPA published a proposal to delist F-11 and F-12 and requested comment on the proposal in 45 FR 46103 July 9, 1980.

Four respondents submitted comments. All respondents supported the action to remove the chemicals from the toxic pollutant list.

As a result of its review, EPA concludes that available data support the deletion of dichlorodifluoromethane (F-12) and trichlorofluoromethane (F-11) for the following reasons:

(1) No significant potential exists for contamination of water supplies by F-11 or F-12 due to the methods of transportation, use, and disposal of these compounds. During manufacture of these compounds, total losses to the environment are small. Almost all of the total losses during manufacturing are to the air from fugitive emissions with only a miniscule amount of loss accounted for by direct discharge into water from point source effluents.

(2) Experimental data and field measurements all confirm the water/air partition for F-11 and F-12 is so low that no significant hazard exists for contamination of water supplies.

(3) The low solubility and high volatility of F-11 and F-12, combined with low mammalian toxicity do not suggest any environmental or human health hazard.

Dated: December 24, 1980.

Douglas M. Costle,
Administrator.

40 CFR Subchapter N, Part 401 is amended by the deletion of two compounds.

§ 401.15 [Amended]

At § 401.15 under number 38, halomethanes, in the list of toxic pollutants designated pursuant to section 307(a)(1) of the Act, delete both trichlorofluoromethane (F-11) and dichlorodifluoromethane (F-12).

[FR Doc. 81-175 Filed 1-7-81; 8:45 am]
BILLING CODE 6560-29-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 1701-6]

Petition To Remove Ethylbenzene, Phenol, 2,4-Dichlorophenol, 2,4,5-Trichlorophenol, and Pentachlorophenol From the § 307(a)(1) List of Toxic Pollutants Final Action

AGENCY: United States Environmental Protection Agency.

ACTION: Denial of a petition from the Dow Chemical Company to remove ethylbenzene, phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol from the list of toxic pollutants under section 307(a)(1) of the Clean Water Act, as amended, 33 U.S.C. 1317(a).

SUMMARY: On November 7, 1979, in 44 FR 64555, the EPA published and requested public comment on a petition and supporting data from Dow Chemical Company, USA to remove five chemicals from the section 307(a)(1) toxic pollutant list. Ten respondents submitted comments to the Agency.

EPA reviewed all supporting data supplied by Dow, the public comments, and additional available data and concludes that the present data base supports the continued listing of phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol,and pentachlorophenol based on their mammalian and aquatic toxicity, widespread occurrence in the aquatic ecosystem and potential to persist under certain aquatic conditions. Available data also support the continued listing of ethylbenzene because it occurs in the aquatic environment, bioacumulates in man, and has the potential to persist in the aquatic ecosystem.

Discharge of chemicals listed under section 307(a) of the Clean Air Act are subject to the most stringent technological controls representing Best Available Technologies Economically Achievable (BAT). BAT is anticipated to be more costly than technologies resulting from waivers from BAT (granted to industrial dischargers of nonconventional pollutants) or technology for conventional pollutants. The denial of this petition precludes reclassification of the chemicals thereby eliminating the possibility for industrial use of alternative technologies and resultant lessening of economic impact.

FOR FURTHER INFORMATION CONTACT: Jacqueline V. Carr, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 (202-245-3036).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 307(a) of the Clean Water Act of 1977 (the Act), EPA published a list of toxic pollutants on January 31, 1978 in 43 FR 4109. Section 307 also authorizes the Administrator to add or remove any pollutant from the list. In revising the toxic pollutant list, the Administrator is directed to take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the pollutant on such organisms.

Listing determinations under Section 337(a) are discretionary. The Act lists a number of factors the Administrator "shall take into account", but allows a weighing of these factors, leaving ample leeway for discretionary action.

On August 11, 1978, Dow Chemical Company, U.S.A. (Dow) requested that ethylbenzene, phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol be removed from the toxic pollutant list. Dow claimed that the five chemicals fail to meet the statutory criteria for toxic pollutants under section 307(a)(1). Dow asserts specifically that:

(1) Ethylbenzene, phenol, 2,4,5-trichlorophenol and pentachlorophenol are not persistent in the environment. Removal mechanisms include biodegradation and/or volatilization.

(2) No evidence has been cited for the carcinogenicity, teratogenicity, or mutagenicity of ethylbenzene, 2,4-dichlorophenol, 2,4,5-trichlorophenol and pentachlorophenol, and phenol.

(3) Toxicological findings indicate that ethylbenzene is only moderately toxic to fish and that 2,4-dichlorophenol, and 2,4,5-trichlorophenol have low mammalian toxicities via oral exposure.

Dow also asserted that retention of these five chemicals on the list dilutes the Agency's efforts and diverts attention from more serious environmental issues; introduces unwarranted barriers to the introduction of new products containing the compounds, often resulting in the use of less efficacious or more expensive materials; and results in the needless expenditure of funds by industry and government for expensive monitoring, analysis and reporting.

On November 7, 1979, in 44 FR 6455, the EPA requested public comment on Dow's petition. Ten respondents submitted comments. Three respondents supported the continued listing of ethylbenzene, phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol and pentachlorophenol as toxic pollutants. One respondent supplied information without any recommendation. The remaining respondents supported specific delistings: three supported the delisting of phenol; two supported the delisting of pentachlorophenol; and one supported the delisting of phenol and ethylbenzene.

Action on the Petition

The EPA concludes that the petition from Dow to delist phenol, 2,4-dichlorophenol, 2,4,5-trichlorophenol, pentachlorophenol and ethylbenzene must be denied because available data indicate that:

(1) Phenol warrants listing because of the combined effects of its high toxicity to aquatic life, its ability to promote the carcinogenicity of weak carcinogens, its widespread occurrence in industrial effluents and the aquatic ecosystem, and its potential to persist under certain environmental conditions.

(2) Pentachlorophenol warrants listing because it is highly toxic to aquatic organisms, bioaccumulates, and is widespread in industrial effluents and in the aquatic ecosystems.

(3) 2,4-Dichlorophenol and 2,4,5-trichlorophenol warrant listing because they are highly toxic to aquatic organisms, they promote the carcinogenicity of other chemicals and they are discharged in point source effluents.

(4) Ethylbenzene warrants listing because it occurs in industrial effluents and the aquatic environment and it bioaccumulates in man any may bind to sediment offering a potential for exposure to benthic organisms. The current toxicity data base for ethylbenzene is insufficient to warrant delisting since there is no assurance that adequate control of this chemical will not be compromised (Cong. Reg. daily ad. S. 19649).

Summary of Aquatic Fate

Persistence/Degradability/Occurrence

The biochemical oxygen demand (BOD) data which Dow supplied as evidence that the chemicals do not persist due to rapid biodegradation were theoretical calculations based on laboratory tests performed under experimental conditions in which oxygen, nutrients and acclimated organisms were in abundance. This situation rarely exists in nature. Furthermore, there is evidence which suggests that the theoretical degradation rates reported by Dow are significantly higher than those actually observed in nature. Data relevant to each particular compound are summarized below.

Phenol

Dow asserted that phenol is more than 99 percent biodegraded in seven days. However, a report of a 1974 derailment in southern Wisconsin which resulted in significant groundwater contamination by phenol indicated that nineteen months after the spill, phenol still persisted (Delfino and Dube, 1976; Baker, et. al., 1978). The first tests revealed phenol concentrations of 0.21 to 3.2 mg/l in nearby wells. Concentrations in the well water eventually reached a maximum of 1,130 mg/l. These data indicate that the rates of dilution and degradation were very slow, and depends, in part, on the amount of the chemical in the environment and other physico-chemical conditions.

Phenol is highly soluble in water, indicating that exposure to affected organisms is quite likely. The water solubility of phenol ranges from 67,000 mg/l at 16°C to essentially complete miscibility at 66°C (Kirk and Othmer, 1963), suggesting a potential for exposure in excess of acutely toxic levels. It has been detected (but not quantified) in the wastewaters of various industries, in finished drinking water, sediment, and fish (Shackelford and Keith, 1976; U.S. EPA, 1980).

Large amount of the chemical are produced annually. Phenol ranked 38th in production among U.S. chemicals in 1978 (*Chemical & Engineering News*, 1979) with annual production of 2.38 billion pounds (United States International Trade Commission, 1978), so that the likelihood of discharge to the aquatic environment is high. Disposal methods include deepweel injection, incineration, degradation in water and municipal sanitation (NSF, 1975). Deepweel injection is another potential source of contamination of groundwater, and (eventually) of surface water.

2,4-Dichlorophenol and 2,4,5-Trichlorophenol

Few data exist regarding the persistence of chlorinated phenols in the environment. Although microbial biodegradation has been extensively studied, data on other environmental processes are limited. Dow concluded that 2,4-dichlorophenol and 2,4,5-trichlorophenol were rapidly degraded and therefore nonpersistent in the aquatic environment. Dow based its conclusion on theoretical oxygen demand data which showed 2,4-dichlorophenol to be 90 percent degraded at five days with no further degradation by 20 days and 2,4,5-trichlorophenol to be 44 percent degraded at 5 days and only 75 percent degraded at 20 days. Dow's conclusion that 2,4,5-trichlorophenol is rapidly biograded is inconsistent with their definition of rapidly biodegradable chemicals, i.e. those chemicals which are at least 50 percent biodegraded in 5 days. In fact, at 20 days, 25 percent of the 2,4,5-trichlorophenol persisted in Dow sample. Alexander and Aleem (1961) reported that 2,4,5-trichlorophenol was resistant to microbial decomposition. Additional data indicate that 2,4-dichlorophenol is biodegraded but that the rates of microbial degradation are dependent on numerous variables, so that the compound can be expected to persist under certain conditions. The low vapor pressure (1 mm Hg at 53.0°C) and non-volatility of 2,4-dichlorophenol from alkaline solutions (Sax, 1975) would cause it to be only slowly removed from surface water via volatilization. Studies have indicated low sorption of 2,4-dichlorophenol from natural surface waters by various clays (Aly and Faust, 1964). Aly and Faust (1964) examined the dissipation of 2,4-DCP from natural lake waters at a buffered pH of 7. In aerated lake waters, with initial 2,4-DCP concentrations of 100, 500, and 1,000 ug/l, the percentages of 2,4-DCP remaining at 9 days were 0, 0.34, and 46 respectively. By contrast, initial concentrations of 100, 500, and 1,000 ug/l in unaerated and unbuffered waters resulted in percentages of 40, 51.6, and 56, respectively, remaining at 17 days. Aly and Faust concluded that the persistence of chlorophenol would tend to increase at lower pH and under anaerobic conditions that might result from the decomposition of excessive organic matter.

Ingols, et al. (1966) studies the degradation of various chlorophenols by activated sewage sludge and concluded that 2,4-DCP was degraded more rapidly by activated systems with previous exposure to chlorophenols than by by those with no previous exposure to chlorophenols. When activated sludge was exposed to 2,4-DCP at levels of 100 mg/l of sludge, 75 percent of the chemical disappeared in two days, and essentially 100 percent was gone in five days. However, acclimated organisms are not expected to be found in nature.

2,4-dichlorophenol has been detected in municipal and industrial effluents, finished drinking water, and surface waters (Shackelford and Keith, 1976).

Sidewell (1971) verified the presence of 2,4-dichlorophenoxyacetic acid manufacturing wastes. Over a 3-month period, total chlorophenol content ranged from 68 mg/l of waste to 125 mg/l, with 2,4-dichlorophenol content ranging as high as 86 percent of total.

Trichlorophenol (unspecified isomers) has been found in river water, finished drinking water, chemical plant effluent water and sewage treatment plant effluents in the U.S. (Shackelford & Keith, 1976) indicating environmental persistence. 2,4,5-Trichlorophenol was detected at unspecified concentrations in drinking water (Deinzer et. al., 1975). 2,4,5-Trichlorophenol was found at levels of 16–45 mg/kg in body fat of rainbow trout after experimental exposure to sulphate pulp bleachery effluents diluted 40 times with brackish water (Landner et. al., 1977). No measured bioconcentration factor is available for 2,4,5-trichlorophenol, but data on octanol/water partition coefficients indicate that 2,4,5-trichlorophenol should bioaccumulate to a greater extent than 2,4,5-trichlorophenol, thereby increasing the potential for exposure to consumers of aquatic life. Partition coefficients of 6,000 and 4,900 were reported for 2,4,5- and 2,4,5-trichlorophenol, respectively (U.S. EPA, 1979c).

Pentachlorophenol

Dow asserts that a number of studies indicate that pentachlorophenol does not persist in the environment. Dow reported that Arsenault (1976) summarizes naturally occurring detoxification mechanisms, i.e., biodegradation, degradation by light, methylation, and conjugation with sulfate (detoxified bound form). Dow also stated that Chue and Kirsch (1972) and Etzel and Kirsch (1975) demonstrated the biodegradability of pentachlorophenol in continuous-flow enrichment cultures. Pentachlorophenol concentrations as high as 200 ppm were metabolized as the sole source of organic carbon and energy, the product of metabolism being carbon dioxide (CO_2).

Data available to EPA indicate that pentachlorophenol is persistent in water and in aquatic organisms. Pentachlorophenol has been detected in the effluent waters from various manufacturing and processing plants (Shackelford & Keith, 1976), in rain-, snow- and lake-water, and in creek-water containing industrial discharges (Fountaine et al., 1976). Pentachlorophenol also has been detected in fish, white shark liver, bird eggs anf fish food (Zitko et al., 1974), birds, snails, frogs and fish (Vermeer et al., 1974; Renberg, 1974), and fish extracts (Tokunaga, 1971).

The log octanol/water partition coefficient of 5.01 (Leo et al., 1971) indicates that pentachlorophenol should be bioaccumulated significantly in the aquatic environment. Several investigations have documented the distribution of pentachlorophenol in the aquatic environment, confirming its potential to bioaccumulate. Rudling (1970) observed a 1,000-fold concentration of the compound in the eel, *Anguilla anguilla*, living in lake water that had been contaminated with a 3 μg/l concentation of pentachlorophenol from pulp mill discharges. Pierce and Victor (1978) studied the fate of pentachlorophenol in a freshwater lake near Hattiesburg, Mississippi, after accidental spills of wood-treating pentachlorophenol-containing wastes in fuel oil. Pentachlorophenol was found to persist in the water and in fish over six months following the spills. Fish were also observed to accumulate several of the degradation products of pentachlorophenol, namely pentachloroanisole and the 2,3,5,6- and 2,3,4,5-tetrachlorophenol isomers. The bioaccumulation of pentachloroanisole is to be expected, based upon its log octanol/water partition coefficient of 5.66 (Tute 1971).

Akitake and Kobayashi (1971) demonstrated that a 72-hour exposure to a sublethal level of pentachlorophenol of 100 μg/l resulted in a 900-fold concentration of the compound in the goldfish, *Carassius auratus*. In another study (Kobayashi and Akitake, 1975) these authors reported a concentration factor of 1,000 after exposure of goldfish for 120 hr. in 0.1 mg/l pentachlorophenol and observed a maximum concentration of 166 μg pentachlorophenol/g body weight in fish exposed to 0.2 mg/l in the water. Lee and Metcalf (1975) studied the fate of radiolabeled pentachlorophenol in a model aquatic ecosystem with a six element food chain and reported it to be ecologically magnified (bioconcentrated) in the mosquito fish, *Gambusia affinis*.

Ethylbenzene

Its vapor pressure and water solubility suggest that volatilization is one mechanism for removal of ethylbenzene from the aquatic environment (U.S. EPA, 1979b; Dow, unpublished). The relative importance of biodegradation in the determination of the fate of ethylbenzene in the aquatic environment is not clear (U.S. EPA, 1979b). Dow's data suggest that only forty-five percent of their ethylbenzene sample was biodegraded after 20 days (Dow, unpublished). Although no specific environmental sorption studies were found in the reviewed literature, the log octanol/water partition coefficient of 3.15 (Tute 1971) suggests that sorption processes may be significant for ethylbenzene. The extent to which this adsorption will interfere with volatilization has not been determined.

Ethylbenzene has been detected at several geographical locations in finished drinking water, industrial effluents, surface waters and well waters (Burnham, et al., 1972; Shackelford and Keith 1976). In a survey of water contamination present in the drinking water of ten cities in the United States, ethylbenzene was detected but not quantified in six of ten samples (U.S. EPA, 1975). Recent studies of the coastal waters of the Gulf of Mexico have shown that aromatic hydrocarbons comprise 80–90% of the total dissolved hydrocarbons at most sampling sites. Total concentrations of volatile aromatic such as ethylbenzene range from 0.6 to 4.5 ng/liter (Sauer, 1978).

Ethylbenzene has been shown to persist in man for days after exposure (Wolff, et al. 1977). It is present in the respiratory tract (Conkle, et al. 1975), umbilical cord and maternal blood (Dowty, et al. 1976) and subcutaneous fat (Wolff, et al. 1977) of exposed humans.

Summary of Toxicological Effects

Phenol

Aquatic Life Toxicology

Toxicity data for phenol indicate clearly that the compound is sufficiently toxic to justify continued listing under section 307(a). An EPA report cites acute toxicity data for phenol in 13 species of freshwater fish and 15 species of freshwater invertebrates (U.S. EPA, 1979a). All of these organisms are important to the aquatic food chain and most reside in U.S. waters. Rainbow trout, the fish species most sensitive to phenol, had LC 50 concentrations as low as 5 mg/l (McLeary, 1976). These results are confirmed by data submitted by Dow from a study in its laboratories which listed an LC 50 for phenol in rainbow trout of 4.97 mg/l (Brosier, 1974). Phenol was fatal to rainbow trout at 7.3 mg/l in 2 hours and at 6.5 mg/l in 12 hours; at these concentrations there was rapid damage to gills and severe pathology of other tissues (Mitrovic, et al. 1968). Pathologic changes in gills and in fish tissues were found at phenol concentrations in the range of 20 to 70 μg/l (Reichenbach-Klinke, 1965).

The one available acute LC 50 value for phenol in marine fish was 6.0 mg/l in the mountain bass, *Kuhlia sandvicensis*, (Nunogowa et al., 1970). Acute LC 50 values for phenol in marine invertebrates were 58 mg/l in the eastern oyster, *Crassostrea virginica* and 52 mg/l in the hard clam, *Mercenaria mercenaria*. Decreased egg development in the oyster, *Crassostrea virginica*, has been found to occur at phenol levels of 2 mg/l (Davis and Hidu, 1969). Various environmental conditions will increase the toxicity of phenol. Lower dissolved oxygen concentrations, increased salinity, and increased temperature all enhance the toxicity of phenol (EIFAC, 1973).

Mammalian and Human Toxicology

Regardless of the route of administration of phenol, the signs and/or symptoms of acute toxicity in man and experimental animals are similar. The predominant acute action of a toxic dose of phenol in man appears to be on the central nervous system, leading to sudden collapse and unconsciousness. In some mammalian species, these effects are preceded by muscular twitchings and severe convulsions. The approximate lethal doses (LD_{50}) for phenol in various species exposed by oral and dermal routes include oral doses of 0.1 g/kg, 0.5 g/kg, 0.4 to 0.6 g/kg and 0.34 to 0.53 g/kg in the cat, dog, rabbit and rat, respectively. The LD_{50} of phenol in rats via the dermal route of exposure was 0.67 to 2.5 g/kg (U.S. EPA, 1980). It is difficult to estimate the LD_{50} for oral exposure to phenol for man, even though phenol has a long history of use in suicidal attempts. Oral doses of phenol estimated to be lethal to man range from 0.14 g/kg to 0.43 g/kg (U.S. EPA, 1980b).

The symptoms reported by humans who had consumed phenol-contaminated groundwater for approximately one month (Baker, et. al. 1978) included diarrhea, mouth sores and burning mouth. The daily dose of phenol consumed was estimated to be 10 to 240 mg.

Heller and Pursell (1938) fed phenol to rats in their drinking water concentrations ranging from 100 to 12,000 mg/l over several generations. Impairment of growth was observed at concentrations between 7,000 and 12,000 mg/l.

In an unpublished study by Dow Chemical Company (1976), rats were fed by gavage 20 daily doses of 0.1 g phenol/kg body weight. These rats showed slight liver and kidney effects, while rats which received 20 daily doses of 0.05 or 0.01 g phenol/kg body weight demonstrated none of those effects. In a subsequent series of tests, rats received 135 doses of 0.1 or 0.05 g phenol/kg body weight by gavage over a 6-month period. The growth of the rats receiving the phenol was comparable to that of the controls. Very slight liver changes and slight to moderate kidney damage were seen in the rats which had received 0.1 g phenol/kg. The feeding of 0.05 g phenol/kg resulted only in slight kidney damage.

In a 41-day feeding study, Kociba, et al. (1976) fed 125 mg phenylsalicylate/kg/day to beagle dogs. Since phenylsalicylate is metabolized to phenol, this resulted in urinary levels up to 6,144 mg/l. This high level of phenol excretion was not associated with any discernible ill effects in the dogs. Repeated exposures to phenol at high concentrations have resulted in chronic liver damage in man (Merliss, 1972).

Phenol has been reported to be mutagenic (without metabolic activation) *vitro* to *Drosphila* gonadal tissue (Hadorn and Niggli, 1946), and in *Escherichia coli* B/sd-4 at concentrations of 0.01 to 0.2 percent and bacterial survival rates were 0.5 to 1.7 percent, respectively (Demerec et. al., 1951). Phenol was not mutagenic (with or without metabolic activation) in six mutant strains of *Salmonella typhimurium* (Cotruvo et. al., 1970 and *Neurospora* (Dickey et. al., 1949).

Salaman and Glendenning (1957), Boutwell and Bosch (1959), and Van Duuren et. al. (1968) have shown that phenol in acetone or benzene promotes skin cancer in several strains of mice pretreated with dimethylbenz(a)anthracene or benzo(a)pyrene.

2,4-Dichlorophenol, 2,4,5-Trichlorophenol and Pentachlorophenol

Aquatic Life Toxicology

There are few data on the acute toxicity of 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol and no chronic toxicity data are available for aquatic organisms.

Two studies on the acute toxicity of 2,4-dichlorophenol to freshwater fish are available. Ninety-six hour LC 50 values of 0.38 mg/l, and 2.02 mg/l were reported for the rainbow trout, *Salmo gairdneri* and bluegill *Lepomis macrochirus*, respectively (Brosier 1974; U.S. EPA, 1979d). Two studies on *Daphnia magna* report 48-hour LC 50 values of 2.6 mg/l (Kopperman, et. al. 1974; U.S. EPA, 1978). There are no data available for the acute toxicity of 2,4-dichlorophenol to marine organisms.

Freshwater acute LC 50 values reported for 2,4,5-trichlorophenol are 0.45 mg/l for the bluegill, *Lepomis machrochirus*, 2.7 mg/l for a cladoceran, *Daphnia magna* and EC 50 values of 1.2 mg/l and 1.6 mg/l for the plants *Selenastrum capricornutum* and *Lemna minor*, respectively (U.S. EPA, 1978; Blackman, et. al., 1955). The lowest concentrations of 2,4,5-trichlorophenol reported to kill 50% or more of rainbow trout, *Salmo gairdneri* were 1 mg/l at 48 hours (Shumway and Palensky, 1973) and 0.30 mg/l at 96 hours (Brosier, 1974).

Available saltwater acute LC 50 studies of 2,4,5-trichlorophenol report values of 1.7 mg/l in the sheephead minnow, *Cyprinodon variegatus* and 3.6 mg/l in the mysid shrimp, *Mysidopsis bahia* (U.S. EPA, 1978).

Studies of the acute toxicity of pentachlorophenol to freshwater organisms report LC 50 values of 46 ug/l for rainbow trout, *Salmo gairdneri* (Brosier, 1974) and 63 ug/l for sockeye salmon, *Oncorhynchus nerka* (Webb and Brett, 1973). Sublethal effects were observed on the growth rate of sockeye salmon at a concentration of 1.74 ug/l.

Mammalian and Human Toxicology

Relatively few studies of the acute or subacute toxicity of 2,4-dichlorophenol have been reported. Acute oral LD_{50} values reported are 580–4000 mg/kg in the rat and 1600 mg/kg in the mouse (Deichman, 1943; Kobayaski, et. al. 1972).

The mechanism of toxic action for 2,4-dichlorophenol in mammilian systems *in vivo* has not been well defined. Limited *in vitro* studies indicate 2,4-dichlorophenol inhibits oxidative phosphorylation in rat liver mitochondria and rat brain homogenates (Farquharson, et al. 1958; Mitsuda, et al. 1963). A concentration of 4.2×10^{-5} M 2,4-DCP inhibited oxidative phosphorylation by 50 percent in rat liver mitochondria.

The clinical signs of acute poisoning with 2,4,5-trichlorophenol include decreased activity and motor weakness (Deichman, 1943). Oral LD_{50} values for 2,4,5-trichlorophenol in rats have been reported as 820 mg/kg (in fuel oil) and 2960 mg/kg (in corn oil) (Deichman and McCollister et al., 1961).

Rabbits given 28 daily oral doses of 2,4,5-trichlorophenol in 5 percent gum acacia solution exhibited no effects at 1 or 10 mg/kg but experienced kidney and liver lesions at 100–500 mg/kg (McCollister, et al., 1961).

Rats fed dietery levels of 2,4,5-trichlorophenol of 100, 300, 1000, 3000, or 10,000 mg/kg in feed for 98 days exhibited no effects from ingesting up to 1000 mg/kg. Dietary levels of 3000 and 10,000 mg/kg produced degenerative changes in the kidney and liver, which were considered to be reversible (McCollister et al., 1961). The mechanism of action involves the uncoupling of oxidative phosphorylation (Mitsuda, et al., 1963).

McCollister, et al. (1961) reported on skin irritation and sensitization studies in 200 humans. A 5 percent solution of 2,4,5-trichlorophenol in sesame oil was mildly irritating in a few individuals upon prolonged contact, but there was no evidence of sensitization.

The oral lethal dose of pentachlorophenol in several species of animals ranges from 70 to 300 mg/kg (Bevenue and Beckman, 1967; Diechmann, et al., 1942). The mechanism of action involves the uncoupling of oxidative phosphorylation (Weinbach and Garbus, 1965). Fuel oil-type solvents reduce the lethal dose, while aqueous solutions of the sodium salt are less toxic.

Pentachlorophenol exposure has resulted in death in man through occupational accidental exposures and suicide attempts (Gordon, 1956; Bergner, et al. 1965; Armstrong, et al. 1969). Lesions following fatal exposures include inflamed gastric mucosa, pulmonary congestion, pulmonary edema, fatty metamorphosis of the lever, and degeneration of renal tubules and myocardium.

Symptoms in chronic toxicity, in general, are similar to those seen in acute intoxications. Chronic intoxications result from relatively high levels of continuous exposure. Symptoms in nonfatal chronic exposures include muscle weakness, headache, anorexia, abdominal pain, and weight loss in addition to skin, eye, and respiratory tract irritation.

Pentachlorophenol solutions can cause skin irritation. Immersion of hands for 10 minutes in a 0.4 percent solution of pentachlorophenol cause pain and inflammation (Bevenue, et al. 1967a).

One unique poisoning episode involved babies wearing diapers rinsed in an antimicrobial laundry neutralizer containing sodium pentachlorophenate. Babies wearing the diapers an average of eight days became ill and some died. Some were less severely affected and recovered spontaneously (Armstrong, et al. 1969; Robson, et al. 1969). Six of the nine severely affected had hepatomegaly and two of the nine had splenomegaly in addition to profuse sweating hyperpyrexia.

Goldstein, et al. (1977) fed rats 20, 100, or 500 ppm technical and pure pentachlorophenol (equivalent to 1.2, 6, and 30 mg/kg, respectively) for eight months. At 20 ppm, liver aryl hydrocarbon hydroxylase and glucuronyl transferase were increased in female rats fed technical pentachlorophenol as compared to controls fed pure pentachlorophenol. At 100 ppm technical pentachlorophenol increased excretion of uroporphyrin and delta-aminolevulinic acid. Feeding 20 or 100 ppm of pure pentachlorophenol had no effect. Body weight gain was reduced at 500 ppm with both types of pentachlorophenol. The no-observable-adverse-effect-level (NOAEL) for pure pentachlorophenol from this study was 6 mg/kg (i.e., the 100 ppm diet group).

Available data do not permit an evaluation of the carcinogenicity of 2,4-dichlorophenol, 2,4,5-trichlorophenol, and pentachlorophenol. The primary carcinogenicity of 2,4-dichlorophenols and 2,4,5-trichlorophenol could not be evaluated from a single study by Boutwell and Bosch (1959) which indicated that 2,4-dichlorophenol and 2,4,5-trichlorophenol promote the tumorigenicity of dimethylbenzanthracene in mice. The report of Boutwell and Bosch (1959) is the only one found that deals with the tumorigenicity of 2,4-dichlorophenol and 2,4,5-trichlorophenol. However, since the study was designed primarily to detect promoting activity, the effects of the compounds as primary carcinogens could not be evaluated (there were no animals treated with 2,4-dichlorophenol or 2,4,5-trichlorophenol alone and length of exposure was 16 weeks rather than full life). The National Cancer Institute (NCI) is scheduling a study of the carcinogenicity of 2,4-dichlorophenol for February 1981. No decision has been made to test 2,4,5-trichlorophenol (NCI, personal communication).

Several studies were found which addressed the mutagenicity of 2,4-dichlorophenol 2,4,5-trichlorophenol and pentachlorophenol. Amer and Ali (1968, 1969) reported some effects of 2,4-dichlorophenol, 2,4,5-trichlorophenol and pentachlorophenol on chromosomes which affected mitosis of *Vicia faba*. Rasanen, et al. (1977) tested 2,4,5-trichlorophenol for mutagenicity using the *Salmonella*-mammalian microsome Ames test with both the nonactivated and activated systems and reported it as nonmutagenic under both conditions. Pentachlorophenol was not mutagenic in *Drosophila melangaster* (Vogel & Chandler, 1974), the mouse host-medicated assay or *in vitro* spot tests (Buselmaier, et al., 1973) and *in vitro* tests with *Salmonella typhimurium* Anderson 35 al., 1972).

No studies are available on the teratogenicity of 2,4-dichlorophenol and 2,4,5-trichlorophenol. Pentachlorophenol has been reported to be nonteratogenic but embryotoxic in rats (Schwetz et al., 1974) and hamsters (Hinkle, 1973). Hinkle (1973) found fetal deaths and/or resorptions in three of six test groups using Golden Syrian hamsters. Dose-response data and statistical analysis were not provided. The dose range was from 1.25 to 20 mg/kg.

Schwetz, et al. (1974) provided more complete data from a rat study using purified and commercial grade pentachlorophenol. Dosages ranged from 5 to 50 mg/kg daily and exposure was during days 6 to 15 of gestation. The NOAEL based on incidence of fetal resorption was 5.8 mg/kg (adjusted dose to provide 5 mg pentachlorophenol/kg) for commercial and 15 mg/kg for purified grade pentachlorophenol. At 50 mg purified pentachlorophenol/kg fetal resorption was 100 percent. The NOAEL level for reducing fetal body weight was 15 mg/kg for both grades. Fetal anomalies consisting of subcutaneous edema and dilated ureters were observed in soft tissues at doses of 15 mg/kg or above for both grades of pentachlorophenol. The NOAEL for soft tissue anomalies was 5 mg commercial grade pentachlorophenol/kg/day. Delayed ossification of the skull was noted at 5 mg/kg with purified pentachlorophenol. The NOAEL for skeletal anomalies with commercial PCP was 5.8 mg/kg. At higher dosages, skeletal anomalies consisted of lumbar spurs, supernumerary or fused ribs, or supernumerary, abnormally shaped, missing, or unfused centers of ossification of vertebrae or sternebrae. These effects were mor readily produced when dosing occurred on days 8–11 rather than days 12–15 of gestation. The authors considered the effects by PCP to be evidence of embryo-toxicity and fetotoxicity, not teratogenicity (U.S. EPA, 1980 b).

Ethylbenzene

Aquatic Life Toxicology

Reported acute LC–50 values for ethylbenzene in freshwater vertebrates and invertebrates were generally between 30 and 200 mg/l (Pickering and Henderson, 1966; U.S. EPA, 1978). One chronic test indicated that effects on the embryo and larval stages of the fathead minnow would occur at concentrations greater than 440 µg/l. No chronic tests have been conducted with saltwater organisms and ethylbenzene and no definite effect level has been determined for freshwater organisms.

Mammalian and Human Health Effects

There have been no investigations of the mutagenicity, carcinogenicity or teratogenicity of ethylbenzene. There are also no recent reports of the chronic toxicity of ethylbenzene from full-time studies in mammals. Wolf et al (1956) reported that ethylbenzene had low acute oral toxicity in rats exposed for 6 months to the chemical. Ethylbenzene caused slight histopathological changes including cloudy swelling of the parenchymal cells of the liver and cloudy swelling of the tubular epithelium of the kidney. The significance of these effects was not explained.

In man and in animals, ethylbenzene is an irritant of mucous membranes. It is this response which forms the basis for the current Threshold Limit Value (TLV). The U.S. EPA recommended carcinogenicity testing for ethylbenzene in 1976, but test results are not yet available. Similarly, no data exist for mutagenicity and teratogenicity of ethylbenzene. The potential adverse human health effects following exposure to ethylbenzene were stated (40 FR 1910.1034) to be:

1) kidney disease,

Ethylbenzene is not nephrotoxic. Concern is expressed because the kidney is the primary route of excretion of ethylbenzene and its metabolites.

2) liver disease,

Ethylbenzene is not hepatotoxic. Since ethylbenzene is metabolized by the liver, concern is expressed for this tissue.

3) chronic respiratory disease.

Exacerbation of pulmonary pathology might occur following exposure to ethylbenzene. Individuals with impaired pulmonary function might be at risk.

4) skin disease,

Ethylbenzene is a defatting agent and may cause dermatitis following prolonged exposure. Individuals with pre-existing skin problems may be more sensitive to ethylbenzene (U.S. EPA, 1980 c)

Rationale for Denial of Dow Petition

As a result of its review the EPA concludes that available data support the listing of phenol, 2,4-dicholorophenol, 2,4,5-trichlorophenol, pentachlorophenol, and ethylbenzene.

1. Phenol warrants listing because of the combined effects of high toxicity to aquatic life, its ability to promote the carcinogenicity of weak carcinogens, its widespread occurrence in industrial effluents and the aquatic ecosystem, and its potential to persist under certain environmental conditions.

2. Pentachlorophenol warrants listing because it is highly toxic to aquatic organisms, bioaccumulates, and is

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widespread in industrial effluents and in the aquatic ecosystem.

3. 2,4-Dichlorophenol and 2,4,5-trichlorophenol warrant listing because they are highly toxic to aquatic organisms, they promote the carcinogenicity of other chemicals and they are discharged in point source effluents.

4. Ethylbenzene warrants listing because it occurs in industrial effluents and the aquatic environment and it bioaccumulates in man and may bind to sediment. The current toxicity data base for ethylbenzene is sufficient to warrant delisting since there is no assurance that adequate control of this chemical will not be compromised (Cong. Reg. daily ad. S. 19649).

Dated: December 24, 1980.

Douglas M. Costle,
Administrator.

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[WH-FRL 1701-7]

Proposed Denial of a Dow Chemical Company Petition To Remove Monochlorophenyl Phenyl Ether From the Clean Water Act Section 307(a)(1) Toxic Pollutant List

AGENCY: Environmental Protection Agency.

ACTION: Proposed denial of a petition to remove monochlorophenyl phenyl ether (ClDPO) from the class of compounds, haloethers, on the toxic pollutant list under section 307(a)(1) of the Clean Water Act, as amended, 33 U.S.C. 1317(a).

SUMMARY: This action notices receipt of a petition from Dow Chemical, USA, to remove monochlorophenyl phenyl ether, hereafter referred to as ClDPO, from the toxic pollutant list. It addresses the petition's contentions, discusses data submitted by Dow in support of the petition, reviews additional information available to the Agency regarding this chemical, and affirms that ClDPO be retained on the toxic pollutant list. Dischargers of chemicals listed under section 307(a) of the Clean Air Act are subject to the most stringent technological controls representing Best Available Technology Economically Achievable (BAT). BAT is anticipated to be more costly than technologies resulting from waivers from BAT (granted to industrial dischargers of nonconventional pollutants) or technologies representing BCT (control technology for conventional pollutants. The denial of this petition precludes reclassification of the chemcial thereby eliminating the possibility for industrial use of alternative technologies and resultant lessening of economic impact.

DATES: Public comments on this proposed denial must be submitted on or before March 9, 1981, 1981, to Mr. Joseph A. Krivak at the address listed below.

ADDRESS: Criteria and Standards Division (WH–585), Office of Water Regulations & Standards, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Krivak, Director (202–755–0100).

SUPPLEMENTARY INFORMATION: Section 307(a)(1) of the Clean Water Act requires EPA to publish a list of toxic

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pollutants and also authorizes the Administrator to add or remove substances from this list. These determinations are to be based upon the following statutory standard:

> The Administrator, in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

As the Agency interprets this standards, the authority granted is essentially discretionary. That is, the Administrator is to consider each of the enumerated statutory factors, but has leeway to weigh the importance of each factor, and of data submitted pursuant to each factor. In making this balancing determination, special attention will be paid to potential impact on public health and the aquatic food chain.

On March 27, 1979 (44 FR 18279), EPA published a notice identifying data deemed relevant in processing section 307 petitions. The purpose of the notice was to provide guidance to persons petitioning EPA for a change in the toxic pollutant list.

The purpose of the section 307(a) list of toxic pollutants is to focus attention on the potential significant environmental harm which might result if such pollutants are discharged to the aquatic environment and to control such harmful discharges through the development and implementation of appropriate effluent limitations. Toxic pollutants are subject to BAT (as are non-conventional pollutants) and (unlike non-conventional pollutants) are not eligible for waivers on water quality or economic grounds.

Background

On June 7, 1978, the Agency received a petition from the Dow Chemical Company requesting the removal of aromatic haloethers, found in section 307(a) under the general class "haloethers", from the toxic pollutant list. The subject compound, ClDPO, is an aromatic haloether. The Agency reviewed data supplied by Dow to support their petition and reviewed other available data as well. Some of the data pertained to ClDPO. From this review, the Agency concluded that the entire group of aromatic haloethers, including ClDPO, should be retained on the list. Accordingly, we published a proposed denial of the Dow petition in 44 FR 18279, March 27, 1979. After consideration of public comments, the Agency published a final denial of the petition in 44 FR 59948, October 17, 1979.

On February 22, 1980, the Agency received another petition from Dow requesting that ClDPO alone be removed from the toxic pollutant list. The Agency has tentatively determined to deny the petition. ClDPO should be retained on the toxic pollutant list because data indicate it is toxic to aquatic organisms and mammals, may pose a human health threat, is present in effluent discharges and fish tissue, and bioconcentrates to a significant degree in aquatic organisms. EPA's detailed responses to Dow's specific contentions in their petition are set forth below.

(1) Dow contends that according to the EPA document, *The Process of Selection and Prioritization of Toxic Pollutants in Point Source Water Effluent Discharges*, ClDPO has not been found in municipal or industrial wastewater effluent discharges.

EPA Response

EPA, in fact, has identified ClDPO in both aquatic organisms and in industrial effluents. Thus, EPA has identified ClDPO in aquatic biota of the Pacific Northwest. Some observations are: 0.05 mg/kg of ClDPO was found in lake trout tissue from Galbraith Lake near the Antigun River in Alaska; 0.10 mg/kg of ClDPO was found in fish tissue taken from the Kenai River near Soldotna in Alaska (*1*).

ClDPO likewise has been identified in the untreated effluent of a paint manufacturer in New Jersey at a level of 266 μg/1 (*8*).

ClDPO has also been identified in eight different samples of the effluent of a company in Kansas at levels of about 20μg/1. The discharge area drains into Cowskin Creek and then into the Arkansas River (*8*). Exposure of affected organisms to ClDPO, therefore, is not only possible but in fact is occurring.

(2) Dow states: "ClDPO has only one known commercial use i.e., in a mixture for a dielectric fluid. In this use, the fluid is hermetically sealed within capacitors. Human exposure is minimal during production and processing for use, and when disposed of by simple incineration or in an approved landfill, contamination of the environment is completely avoided."

EPA Response

We disagree with Dow's conclusion. It may be true that at the present time ClDPO is only used as a component of dielectric fluid; however, this does not preclude it from being used otherwise in the future as new applications develop. Moreover, the fact that ClDPO is hermetically sealed within capacitors may not preclude evironmental hazard. PCB's in their applications are also hermetically sealed and yet are now found in many waters throughout the world. In any case, other exposure pathways for ClDPO are available. ClDPO is initially prepared as a separate chemical (*2*). It can be potentially stored or shipped as a separate chemical and therefore, there is always the possibility of an accidental spill or discharge. The fact that ClDPO has been found in aquatic biota and in industrial effluents demonstrates that the chemical has found its way into the aquatic environment.

Dow's claim that this chemical may safely be disposed of through simple incineration or in approved landfills may or may not be true. The claim is unsubstantiated and is entirely irrelevant to a listing determination under section 307(a). Waste disposal practices are, of course subject, to Federal and State regulations under the Resource Conservation and Recovery Act of 1976 (RCRA).

(3) Dow states: "ClDPO is a relatively low-volume production chemical. In 1977 and 1978, production was well under 300 thousand pounds. Also, the market for ClDPO is not expected to exceed one million pounds annually. Production quantities like these are not in the same category as most materials on the toxic pollutant list."

EPA Response

We believe that currently there is a sufficient volume of ClDPO being produced and a potential exposure to affected organisms that exists to warrant concern for environmental hazard. Dow did not furnish production and/or use figures for 1979, but did indicate that production by Dow would not exceed one million pounds in the near future.

While this is Dow's best estimate for future production, this does not include potential for imports and other manufacturers producing ClDPO. Since ClDPO has not been widely used until now, it is possible that limited monitoring and sampling programs have simply not yet detected its presence in more than two or three regions of the United States. Since Dow states that future production will be increased at least threefold for ClDPO, the potential for increased future discharges exists.

(4) Dow states: "Environmental and mammalian toxicity data and the expected use-exposure pattern for ClDPO indicate a very low level of environmental and human hazard."

EPA Response

Dow has failed to substantiate this assertion. Dow's own data submitted in the previous petition for the removal of all aromatic haloethers demonstrated significant toxicity for ClDPO.

With respect to aquatic toxicity, acute data on freshwater organisms commonly used in toxicity testing show significant toxicity for ClDPO. The static 96-hour LC_{50} value for ClDPO on fathead minnows was 1.75 mg/1 (*3*). In a flow-through test on the same species, the threshold LC_{50} value for fathead minnows was 0.090 mg/1 (*3*). The static 48-hour LC_{50} value for *Daphnia magna* was 0.39 mg/1 (*3*). Chronic toxicity test data for aquatic organisms are not available.

Dow attempts to counter these data by postulating an antagonistic effect on fish toxicity between ClDPO and the butylated derivatives of ClDPO. Dow claims that the presence of these butylated materials as a mixture in the commercial capacitor fluid reduces the acute aquatic life toxicity of ClDPO by 1½ orders of magnitude. While this may be true, EPA under section 307(a) does not evaluate mixtures of compounds. The properties of ClDPO must stand or fall on their own merits. Furthermore, since the compound is prepared alone before being formulated into the capacitor fluid mixture, ClDPO has the potential to be stored and shipped alone and, therefore, be introduced into the aquatic environment as an individual compound.

With regard to mammalian toxicity, Dow introduced data from a sub-chronic study of rats conducted at its toxicology laboratory (*4, 10*). The rats were fed doses of 0, 5, 15, 45 and 90 mg/kg body weight/day of a mixture of 20% ClDPO and other mono-, di-, and tri-butyl derivatives of ClDPO (the dielectric fluid) for as long as 156 days (*4*). The major portion of the toxicological observations were made during the first 91 days (*10*). Dow stated that a number of parameters were unaffected including demeanor, clinical chemistry determinations, urinalyses, hematology, urinary excretion of coproporphyrin, uroporphyrin, creatinine and delta-aminolevulinic acid, and the weights of the brain, heart and testes at the time of sacrifice (*4*).

The dielectric fluid affected body weight, food consumption, and pathology (*10*). Body weight and food consumption of the treated rats were lower than those parameters of the controls. The pathology and organ weight data suggested that the liver and kidney were adversely affected and were toxicologically the most sensitive organs responding to the dielectric fluid. Even though Dow stated that these effects were "mild in degree, reversible in nature and none progressed in severity or nature throughout the rest of the study" (*4*), definite mammalian toxicity of this dielectric fluid was demonstrated by this study. It must also be remembered that this test was conducted with a mixture containing only 20% ClDPO along with other butylated derivatives of ClDPO. Therefore the results of these tests are probably not indicative of the effects of ClDPO alone.

In a further toxicity study conducted by Dow on rats' and rabbits' embryonal and fetal development, the 20% mixture was also used. Dow cited data that indicated a decrease in maternal weight gain and an increase in liver weights in the rat (*4*). EPA is not considering this positive toxic response to be relevant to our analysis because it also pertains to the mixture.

A single-dose oral feeding study conducted on guinea pigs demonstrated the acute toxicity of ClDPO alone toward non-human mammals (*11*). Four-day and thirty-day lethal doses were 700 mg/kg body weight and 600 mg/kg body weight, respectively. Since EPA's policy is that toxic responses to a chemical in non-human mammals can indicate a potential hazard for that chemical to human health (44 FR 15976, March 15, 1979), we regard this positive response as indicative of a possible adverse effect on humans.

Another such indication is the Occupational Safety and Health Administration's (OSHA) occupational air standard for a number of aromatic haloethers, including ClDPO (*9*) (see 29 CFR 1910.1000 Table Z1). Although this standard reflects dangers posed by airborne exposure, we think it nevertheless reflects a regulatory recognition of potential toxicity of ClDPO to humans.

(5) Dow states: "Although no long-term carcinogenicity tests have been performed, the Ames mutagenicity test on microbes was *negative* for the 20% ClDPO mixture, *using* both *activated* and *non-activated* test systems." (emphasis original)

EPA Response

A compound need not be genetically active to be listed under section 307(a), other toxic effects alone being sufficient under the statutory standard. As indicated above, the Agency regards the aquatic life and mammalian toxicity of ClDPO as sufficient to justify its inclusion on the list.

Further, Dow's data by no means show conclusively that ClDPO is not genetically active. First, very limited data were forwarded with the petition and the testing protocol itself was not submitted. Second, Dow did not submit any Ames test data for pure ClDPO or any data on mammalian cell mutagencity testing for pure ClDPO or the 20% mixture. In any case, EPA has found that the Ames test is not the ultimate test of the mutagenicity or potential carcinogenicity of a chemical. Approximately ten percent of carcinogens tested (18/175) were non-mutagenic in the Ames test. Several chlorinated hydrocarbons among the 65 toxic pollutants tested negative in the Ames test and positive in full carcinogenicity testing. Examples include carbon tetrachloride, 1,1-dichloro-2,2-bis(p-chlorophenyl)ethene (DDE), and dieldrin (*7*). While these three compounds tested negative in the Ames test, they exhibited potentials for mutagenic activity as shown by other mutagenicity screening tests. For instance, they have been shown to interact with the DNA of mammalian cells.

(6) Dow states: "Our data on environmental transport and fate show that ClDPO is rapidly degraded in the activated sludge test, in the simple BOD test, and the river die-away test. Any ClDPO accidentally entering the aquatic environment will dissipate rapidly by biodegradation and evaporation. Absorption and bioconcentration in fish are reversible in nature, and therefore do not play an important role in determining ClDPO's fate in the aquatic environment."

EPA Response

It is important to note that biodegradation is a function of the presence of organisms capable of metabolizing the pollutant, of temperature, of the presence of nutrients, and of the chemical characteristics of the pollutant. Furthermore, biodegradation does not necessarily mean that the environmental pollutional load is lessened. Some degradation products are persistent and may be more harmful than the original pollutant. Dow fails to address many of these variables in its environmental fate discussion. Thus in the test submitted by the petitioner, no degradation intermediates were identified or biological properties assessed. Therefore, the extent of molecular degradation and potential toxicity of intermediate chemical species are not known for ClDPO.

Dow also indicates that the rate of formation of $14CO_2$ from ring-labeled ClDPO was mesured in activated sludge and compared with the rate of $14CO_2$

formation from a ring-labeled PCB isomer. ClDPO was found to degrade 1400 times faster than the PCB isomer (*3*). However, this comparison is not meaningful and is not a definitive method for determining relief of environmental pollution load. PCBs are extremely stable compounds in the aquatic environment and so the practice of comparing ClDPO's biodegradation rate to that of a PCB isomer is questionable for showing pollution load relief.

EPA disputes Dow's assertion that bioconcentration does not play an important role in determining the fate of ClDPO in the aquatic environment. Although the bioconcentration factor (BCF) of 736 for ClDPO in trout muscle cited in the petition (*5*) is lower than the BCF of 9,550 for a PCB isomer (*6*) the BCF of 736 for ClDPO is still significant. Moreover, data on a single tissue type from one aquatic vertebrates species is inadequate to demonstrate low bioconcentration potential. Bioconcentration data must be obtained in various tissues from several freshwater and marine species before a determination of insignificant bioconcentration potential can be made.

(7) Dow states: "The sediment-binding data shown in table 2 of the petition (bound to suspended solids—sediment/water ratio—4:1) represent the ratio of chemical bound to sludge to the concentration of chemical in the supernatant water from centrifuged sludge. Activated sludge simulates some aquatic sediments. Sediment binding ratios, like the 4:1 ratio for C1DOP, indicate such compounds will be bound to sediments reducing the concentrations that will remain in water."

EPA Response

EPA agrees that the ability of ClDPO to bind to sediments should reduce the concentration of ClDPO that would remain in the water column. However, ClDPO's association with sediments suggests a potential exposure problem for benthic organisms and bottom feeders. ClDPO, therefore, would not necessarily be removed from the aquatic food chain.

(8) Dow states: "Clearly ClDPO does not fit the definition of a toxic pollutant as defined by section 502(13) of the Clean Water Act. There has been no known discharge and, on the basis of the information available to the Agency, there has been no interference with water quality.

Finally, other sections of the Clean Water Act Amendments provide the Agency with authority to regulate chemicals like ClDPO when and if they become a health or environmental hazard. We do not believe that ClDPO poses such a hazard."

EPA Response

ClDPO has been detected in industrial effluents (*8*) and fish tissues (*1*). Therefore, actual exposure of ClDPO to the aquatic community has been demonstrated and potential exposure of ClDPO to humans has been suggested. In addition, acute fish toxicity (*3*) and moderate mammalian toxicity (*11*) have been demonstrated. These are some of the criteria used for placing or keeping a compound as a toxic pollutant under section 307(a).

Summary

For the reasons stated above, EPA has concluded that Dow has not presented sufficient evidence in its petition for the removal of ClDPO from the toxic pollutant list. EPA, therefore, proposes to deny the petition for removal of ClDPO from the toxic pollutant list based on the evidence presented herein.

Dated: December 24, 1980.

Douglas M. Costle,

Administrator.

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[WH-FRL 1701-8]

Petition To Remove Chlorodifluoromethane From the List of Toxic Pollutants Under Section 307(a)(1) of the Clean Water Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Request for public comment on a petition from Vulcan Materials Company to delete chlorodifluoromethane (R–22) from the list of toxic pollutants under Section 307(a)(1) of the Clean Water Act.

SUMMARY: This action notices receipt of and requests comments on a petition (and supporting data) from Vulcan Materials Company (Vulcan) to remove the refrigerant, chlorodifluoromethane (R–22) from the Section 307(a)(1) toxic pollutant list. The EPA is also requesting additional information on chlorodifluoromethane relating to its toxicity, persistence (including its mobility and degradability in water), bioconcentration, bioaccumulation, or biomagnification and octanol/water partition coefficent. Information is also requested on the extent of point source discharges, qualitative or quantitative determinations in industrial and municipal wastewater effluents, ambient water, benthic sediments, fish and other aquatic life and any other data relating to the potential for human, aquatic or wildlife exposure. EPA will evaluate all data and public comments before deciding on the listing status of R–22. The decision will be published in the **Federal Register** if the petition is denied or as a Final Rule if the petition is accepted.

DATES: Public comments on the petition and additional information will be received until March 9, 1981.

ADDRESS: Send comments to: Jacqueline V. Carr, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jacqueline V. Carr, Telephone (202) 245-3036.

SUPPLEMENTARY INFORMATION: On September 9, 1980, Vulcan Materials Company petitioned the EPA to remove chlorodifluoromethane (R–22) from the toxic pollutant list. Vulcan proposed the removal of this chemical from the list of toxic pollutants under Section 307(a)(1) of the Clean Water Act based on an assertion that R-22 is similar in its physical and toxicological properties to the chlorofluorocarbons, dichlorodifluoromethane (F-12; R-12) and trichlorofluoromethane (F-11; R-11) which the EPA proposed to delist in 45 FR 46103 on July 9, 1980. Vulcan concluded that R-22 does not present a hazard to drinking water supplies or to the aquatic environment.

Vulcan Materials Company supplied the following information to support the petition.

Chlorodifluoromethane (R-22)

(1) This refrigerant gas has very similar physical and toxicological properties when compared to trichlorofluoromethane (R-11) and dichlorofluoromethane (R-12). R-22 boils at −41.4° F (−42.5° C). The solubility of water in R-22 is 1.2×10⁶ ug/l and the heat of vaporization is 5,213 cal/g mole[1] as compared to 3,996 cal/g mole and 8,363 cal/g mole for R-11 and R-12 respectively. Additional physical constants may be found in the attachment[2] (Table 1).

(2) NIOSH has listed similar aquatic toxicity values for R-22 and R-12, i.e., TLm96>1,000.[3] Inhalation exposure to rats suggests that R-22 may be less toxic than R-11 with the LCLo for R-22 being 25 pph/4 hours as compared to 10 pph/20 minutes for R-11.

Table VI-1.—*Physical Properties of Selected Fluorocarbons: Methane Series (After Shepherd, 1961)*

Property	F-11	F-12	F-21	F-22	F-30
Chemical formula	CCl_3F	CCl_2F_2	$CHCl_2F$	$CHClF_2$	CH_2Cl_2
Molecular weight	137.4	120.9	102.9	86.5	84.9
Boiling point, °F	74.8	−21.6	48.1	−41.4	105.2
Freezing point, °F	−168	−252	−211	−256	−142
Vapor pressure, psig:					
At 70°F	[1] 13.4	70.2	8.4	122.5	[1]7.1
At 130°F	24.3	181.0	50.5	300	9.0
Liquid density, g/cm₃:					
At 70°F	1.485	1.325	1.323	1.209	1.325
At 130°F	1.403	1.191	1.193	1.064	
Vapor density at boiling point, g/1	5.86	6.26	4.57	4.83	3.30
Heat of vaporization at boiling point, Btu/lb	78.31	71.04	104.2	100.7	141.7
Liquid viscosity, centipoise:					
At 70°F	0.439	0.262	0.351	0.236	[2]0.441
At 130°F	0.336	0.227	0.256	0.211	
Liquid thermal conductivity at 70°F, (Btu)(ft)/(ft₂)(hr)(°F)	0.063	0.051	0.072	0.062	[2]0.069
Surface tension at 77°F, dynes/cm	19	9	19	9	[3]28
Solubility of water at 70°F, wt pct	0.009	0.008	0.13	0.12	[2]0.17
Flammable limits, vol pct in air	None	None	None	None	None
Toxicity: Underwriters' Laboratories, Inc. rating system	5A	6	[4](5)	5A	4-5

[1] In pounds per square inch absolute.

[2] At 68°F.

[3] At 77°F.

[4] Much less than 4, slightly more than 5.

Summary of Additional Available Data

1. Production and use

Five manufacturers in the U.S. operate 14 plants which produce chlorodifluoromethane. Production of R-22 in 1979 exceeded 200 million pounds. R-22 is used primarily as a refrigerant and has minor uses as a polymer intermediate, propellant and solvent (CEQ, 1975; personal communication, Vulcan Materials Company).

2. Persistence and Degradability

The hydrolysis rate of R-22 is reported to be less than 0.01 grams per liter of water per year (CEQ, 1975). The rate of hydrolysis is proportional to the concentration in solution and the hydroxyl ion concentration (Dupont, 1974). This rate is considered too low to be a significant aquatic fate process.

There are no data for other fate processes, although volatilization of R-22 is considered the dominant fate process based on the vapor pressure (10 atm at 24°C) and water solubility (3.0×10⁶ μg/l @ 25°C and 1 atm.) of the compound (Dupont, 1974; Handbook of Chemistry and Physics, 1976).

There are no data which indicate that monitoring for R-22 has been done in industrial effluents, wastewater treatment streams, surface waters, fish or sediments.

Toxicity

A threshold limit value of 1000 ppm (35000mg/m³) has been established by the American Conference of Governmental Industrial Hygienists (ACGIH) to protest workers from adverse effects of inhaling R-22 (Dupont, 1974). Human deaths associated with fluorocarbon propellant inhalation are attributed to cardiac arrhythmia (U.S. EPA, 1974). Belej et.al. (1974) exposed monkeys to inhalatory concentrations of R-22 of 10 and 20 percent. No arrythmia or tachychardia were observed but monkeys showed decreased myocardial contractability with a fall in aortic blood pressure. R-22 was also shown to sensitize the hearts of mice to epinephrine (Aviado and Belej, 1974).

R-22 is weakly mutagenic in *Salmonella typhmurium* strains TA 1535 and TA 100. Bacteria exposed for 24 hours to R-22 concentrations of 1, 33, and 50 percent mutated from a dependence on histidine to histidine independence in greater numbers than untreated bacteria. The presence of a rat liver microsomal activating system was not required for mutagenic activity (Longstaff and McGregor, 1978). The authors cautioned against the use of these data to assess risks to man until conventional animal studies are completed.

Haskell Laboratory (Dupont), 1977 conducted embryotoxicity and teratogenicity studies in rates exposed to chlorodifluoromethane by inhalation. Two studies were conducted, the first using female rats exposed to 0.1 and 1.0 percent (vol/vol in air) R-22, the second using females exposed to 0.05, 0.10 and 2.00 percent (vol/vol in air) R-22.

Gross external examination of all fetuses showed a few fetuses with minute hematomas and petechial hemorrhages in several litters in all control and test groups. One fetus in a litter of 3 in the high level group of the second study experienced anophthalmia (absent eye) in both eyes, lack or organization of the central nervous system and ossification. No major skeletal abnormalities were detected in either study. Several soft tissue malformations were observed in fetuses in both groups. Abnormalities observed were microphthalmia (small eye) and anophthalmia. Cleft palate was observed in one fetus exposed to 0.1 percent R-22. Subcutaneous edema (anasarca) was detected in two fetuses (0.05 percent and 2.00 percent R-22).

Under the conditions of the two studies, chlorodifluoromethane is a weak teratogen. The incidence of abnormalities was not dose related but statistically significant when compared to historical control litters at Haskell Laboratories and Charles River Laboratories.

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[1] *Handbook of Chemistry and Physics*, 53rd Ed., CRC Publishers.

[2] *Fluorocarbons and the Environment*, National Science Foundation, NSF 75-403.

[3] *The Registry of Toxic Effect of Chemical Substances*, NIOSH, 1976.

Studies of chronic inhalatory toxicity in rats and mice indicate that R–22 exposures of 0.196 percent given 6 hours/day for 300 days produce no toxic effects (U.S. EPA, 1974).

A study of the acute inhalatory toxicity of R–22 in laboratory animals indicates that as a concentration of 10% R–22 produced tremors in guinea pigs at 2 hours; 40% R–22 produced anesthesia in dogs in less then 90 minutes and concentration of 70% and 40% were approximate lethal concentrations (ALC—minimum concentration causing death over a given exposure period) to dogs (less than 90 min) and mice (2 hr), respectively (U.S. EPA, 1974).

There are practically no data on the acute and chronic toxicity of R–22 in aquatic organisms. NIOSH(1977) lists an aquatic toxicity rating (TLm 96) over 1000 ppm for an unspecified species.

Request for Additional Information

In revising the toxic pollutant list, the Clean Water Act directs the Administrator to take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms, the importance of the organisms and the nature and extent of the effect of the pollutant on such organisms.

EPA requests additional information on the fate and toxicity of F–22 in the Aquatic environment for the assessment of these statutory factors. EPA requests information on chlorodifluoromethane relating to its toxicity to aquatic life, persistence (including its mobility and degradability in water), bioconcentration, bioaccumulation, or biomagnification and octanol/water partition coefficient. Information is also requested on the extent of point source discharges, quanitative or quantitiative determinations in effluents, ambient water, benthic sediments, fish and other aquatic life and other data relating to the potential for human, aquatic or wildlife exposure.

Date: December 24, 1980.

Douglas M. Costle,

Administrator.

Reference

1. Aviado, D. and Belej, M. 1974. Toxicity of aerosol propellants on the respiratory and circulatory systems: I. Cardiac arrhythmia in the mouse, Toxicology 2:31–42.

2. Belej, M. et al., 1974. Toxicity of aerosol propellants in the respiratory and circulatory system: IV. Cardiotoxicity in the monkey. Toxicology 2:381–395.

3. Council on Environmental Quality (CEQ), 1975. Fluorocarbons and the Environment. Report of Federal Task Force on Inadvertent Modification of the Stratosphere. U.S. Government Printing Office, Washington, D.C.

4. Dupont, 1974. FREON PRODUCT INFORMATION "FREON" FLUORACARBONS PROPERTIES AND APPLICATIONS.

5. Handbook of Chemistry and Physics 1976 57th ed. Chemical Rubber Co., Cleveland, Ohio.

6. Haskell Laboratory, 1977. Embryotoxic and Teratogenic Studies in Rats with Inhaled Chlorodifluoromethane (FC–22). Medical Research Project Nos. 223 and 2579–001.

7. Longstaff, E. and D. B. McGregor, 1978. Mutagenicity of a Halocarbon Refrigerant Monochlorodifluoromethane (R–22) in *Salmonella Typhmurium.* Toxicology Records 2:1–4.

8. National Institute for Occupational Safety and Health (NIOSH), 1977 Edition Registry of Toxic Effects of Chemical Substances Vol. II.

9. Personal communication with Thomas A. Robinson, Ph. D., Vulcan Materials Company.

10. U.S. EPA, 1974. Environmental Hazard Assessment of one and two carbon fluorocarbons. U.S. Dept. of Commerce NTIS PB 246–419.

11. U.S. EPA, 1979. Water-Related Environmental Fate of 129 Priority Pollutants Vol. II. U.S. EPA, Office of Water Planning and Standards, Washington, D.C. 20460.

[FR Doc. 81–176 Filed 1–7–81; 8:45 am]

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federal register

Thursday
January 8, 1981

Part III

Department of Transportation

Federal Aviation Administration

Takeoff and Landing Minimums

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 91, and 121

[Docket No. 20060; Amdt. Nos. 1-30, 91-173, 121-166]

Takeoff and Landing Minimums

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments clarify the conditions under which a pilot may approach and land at an airport when the weather conditions do not allow the pilot to see the runway until shortly before landing. They also add certain requirements that must be met before a pilot may take off an air carrier aircraft in weather conditions that limit the pilot's visiblilty. These amendments are necessary to clarify the regulations and to provide the additional requirements needed for operating an aircraft safely under these weather conditions.

EFFECTIVE DATE: May 8, 1981.

FOR FURTHER INFORMATION CONTACT: Harold E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rule Making

These amendments are based on Notice of Proposed Rule Making (NPRM), Notice No. 80-4, published in the **Federal Register** on March 6, 1980 (45 FR 14802). All interested persons have been given an opportunity to participate in the making of this rule and due consideration has been given to all information submitted. Except for the changes discussed below these amendments and the reasons for their adoption are the same as those stated in Notice 80-4.

Effective Date of Amended Rule

This rule is effective May 8, 1981 to provide a period for public dissemination of its provisions and to conduct the necessary pilot education regarding compliance.

Background

Part 97 of the Federal Aviation Regulations prescribes standard instrument approach procedures for instrument letdown to many airports in the United States and prescribes the weather minimums applicable to takeoffs and landings under instrument flight rules (IFR) at those airports for which procedures are prescribed. Rules applicable to the use of these instrument approach procedures previously were set out in §§ 91.6, 91.116, and 91.117 and for air carriers in §§ 121.651, 121.653, and 135.225. A recent addition of a new Part 125 of the Federal Aviation Regulations adds a § 125.381 for operation of certain large airplanes other than under Parts 121 or 135. Section 91.116(b) prohibited a person from landing an aircraft using a Part 97 instrument approach procedure unless the visibility is at or above the landing minimum prescribed for the particular procedure. Section 91.117(b) prohibited a person from operating an aircraft below the prescribed minimum descent altitude (MDA) or from continuing an approach below the decision height (DH) unless certain conditions are met. The conditions specified that to continue descent the aircraft must be in a position from which a normal approach to the runway of intended landing can be made, and the approach threshold of that runway, or approach lights or other markings identifiable with the approach end of that runway, must be clearly visible to the pilot. It also required that the pilot execute the appropriate missed approach procedure if the requirements of that paragraph were not met when the pilot reached the missed approach point or DH or at any time after that. Sections 121.651 and 121.653 formerly specified, and § 135.225 currently specifies, the conditions in which air carrier and commercial operator aircraft may initiate an approach if weather conditions are above published minimums, and they provide exceptions when weather conditions deteriorate below minimums while an approach is in progress.

A regulatory project was initiated in 1968 to clarify certain requirements applicable to instrument approach procedures and some of the landing rules discussed above. Notice 72-17 was issued on July 12, 1972, and a withdrawal notice was issued on December 7, 1975, due to adverse comments regarding the proposed elimination of the "look-see" privileges for Part 91 operators. An effort was initiated to resolve other changes needed to update the rules to be consistent with present standards. Comments received on Notice 72-17 were considered and changes made where appropriate for those sections of the rule being revised. Notice 80-4 was issued on March 6, 1980. Comments were received, reviewed, and necessary changes were made in the preparation of this final rule.

Need for Amendments

The revised rules, including §§ 1.1, 91.6, 91.116, and 121.651, are necessary based on operating experience to ensure an appropriate level of safety in instrument approaches and landings, and are necessary to clarify certain rules which, in some cases, have been misinterpreted. Other changes are necessary to make administrative corrections to the rules, to update them, or to make them consistent with current FAA and aviation system policies and practices. Any additional changes that may be needed to update § 135.225 or the recently issued § 125.381 to be consistent with the revised §§ 91.116 and 121.651 may be taken in a subsequent rulemaking proceeding.

Approach and landing accidents are the largest single cause of air carrier passenger fatalities and also represent a significant percentage of general aviation fatalities. Between 1964 and 1975, the National Transportation Safety Board recorded 259 air carrier approach and landing accidents which constituted 41% of the total number of air carrier accidents and 46% of the fatalities. Excluding the area of very low visibility approaches conducted under Category II and III where special equipment, training, and approval procedures are used resulting in a good safety record, 62 of these accidents occurred when the reported weather conditions were less than a ceiling of 1,200 feet and 3 miles visibility. Forty-six of these involved ceilings of less than 600 feet and visibility of less than 1½ miles. The following factors were cited as causing, or possible factors contributing to, the 62 accidents: continuation of the descent below the MDA or the DH with inadequate visual cues; unrecognized altitude loss or descent rate; disorientation; collision with obstacles well below the normal descent path; visual illusions; failure to monitor or cross check altitude; inadvertent descent below the glide slope; loss of sight of the runway while below the MDA or the DH; failure to initiate a missed approach; and other factors related to lack of adequate visual reference. Since 1975 investigations of numerous incidents and accidents, such as the 1979 commuter air carrier accidents at Hyannis, Massachusetts and Rockland, Maine, indicate the inappropriate use of limited visual references during approach and landing. Pilot use of inappropriate visual references also occurs in general aviation operations. For example, data from the FAA's General Aviation Accident Data System for 1979 indicate that use of inadequate visual references during the landing phase may have been a contributing factor in at least 35 accidents. Accordingly, the FAA is revising, clarifying, and combining the provisions regarding takeoff and landing under IFR now in § 91.116 and the limitations on the use of instrument approach procedures now in § 91.117 into a revised § 91.116 entitled "Takeoff and landing under IFR." New § 91.116 generally redesignates former paragraphs (c) through (f) as paragraphs (f) through (i) and makes necessary revisions throughout all paragraphs. Similar provisions in the former § 91.6(c) regarding Category II operations are clarified and in some cases revised to be consistent with current practice and the revised § 91.116.

Specific Changes to the Rule and Discussion of Comments

Fifty-five comments were submitted to the docket in response to Notice 80–4, representing the views of individuals, companies, associations of U.S. airlines, pilots, and manufacturers, various government organizations, and a consumer interest group. The comments largely favor the general intent of the rule but since the vast majority of comments include recommendations for revision of one or more sections, it is difficult to categorize the comments as a concurrence or nonconcurrence with the proposals in the notice. The problem of resolving the comments is compounded by the fact that any attempt to favorably resolve or adopt some suggestions would contradict or cause further complications with others. Although many commenters identify areas in which revisions should be made in the rule, very few offer specific suggestions that would resolve the alleged problem without making the rule so general that it would have little or no effect or contradict some other viewpoint. These issues are discussed in subsequent paragraphs referring to specific comments on the proposed rule.

It should be noted, however, that most comments submitted reflect a good appreciation for both the technical aspects of these rules and the difficulty of regulating in this area, as well as the need for amendment of these regulations. A number of commenters indirectly reinforce the need for rule making in this area because their comments show a misunderstanding of the application of the previous rules, and two commenters appear to misunderstand the rule to the point where they might be conducting operations in violation of the current rules.

Category II and Category III Operations

To appropriately address current FAA and industry practices and achieve uniformity of applications, the FAA is amending the former § 91.6, Category II operation: general operating rules, to extend its requirements to Category III operations. In general, Category III operations are conducted in accordance with an approved instrument approach procedure in visibility conditions less than 1,200 feet runway visual range (RVR) as described in FAA advisory circulars and International Civil Aviation Organization standards and recommended practices. A conforming change is made in Part 1 to include a definition of Category III operations. Previous changes to § 91.6, involving Category II operations, were made when the FAA did not have sufficient operating experience available to include Category III provisions. This is no longer the case since U.S. Category III operations have been conducted for over 6 years and regulatory safeguards similar to those for Category II operations are appropriate because administratively both types of operations are implemented in a similar way. For Parts 121, 125, and 135 operators, Category II and Category III authorizations are made under operations specifications provisions in those parts. Part 91 operators obtain letters of authorization from FAA district offices. For § 91.6(b) to apply to both Category II and Category III operations, references to ground equipment, inoperative components, and specific RVR locations and RVR readings are deleted. However, a minor change from the revisions proposed in the notice in paragraph (b) is made to delete additional references to ground components. Based on commenters' suggestions and further FAA review, the specific list in the former § 91.6(b), second sentence, is unnecessary because it is redundant to either the procedure itself, the specific authorization to conduct the operation, or because any adjustments to minimums are published in the Notices to Airmen. Including these references in § 91.6 is unnecessary because RVR inoperative components and ground equipment requirements are specifically provided for in the revised § 91.116(k), approved instrument approach procedures under Part 97, and Category II and Category III authorizations, when appropriate.

Section 91.6(d) is revised to provide definitive guidance for the pilot conducting the approach by explicitly stating those visual references the sighting of which permits the continuation of an approach below the authorized DH, when the approach procedure provides for a DH. The visual references are the same as those required in the revised § 91.116, with the exception of the runway end identifier lights and the visual approach slope indicator (VASI) which are not appropriate visual references for a Category II or Category III operation. VASI's and runway end identifier lights generally are installed on runways which do not have electronic glide slope guidance.

Under § 91.6(d)(2)(i) the approach lights may be used as a visual reference to 100 feet above the touchdown zone elevation. Thereafter, the approach lights may be used as a visual reference for continued descent only if either the red terminating bars or the red side row bars also are distinctly visible and identifiable. This provision is appropriate because of the characteristics of approach light systems with sequenced flashing lights in an Instrument Landing System Category I configuration (ALSF I) or Category II configuration (ALSF II) which are designed so that the pilot should see these visual references during a Category II approach if at least landing minimum weather conditions are present. Either the ALSF I or ALSF II approach light system may be used at present for Category II operations.

The pilot should see one of the visual references specified in § 91.6(d)(2): (1) at, or before reaching, 100 feet above the touchdown zone during a Category II approach, or (2) at, or before, DH during a Category III approach which requires use of a DH. Therefore, if the pilot does not see one of these visual references, Category II and Category III approach procedures that use a DH require the pilot to execute a missed approach.

One commenter states that sighting of the red terminating bars of an ALSF I approach light system may not be certain in cases of wide-body aircraft conducting a Category II approach when weather is at minimums. While this may be valid in certain unusual instances, the requirement to see the red terminating bars as a condition for continuation below 100′ is necessary to ensure that appropriate visual reference is present. Further, this situation is rare because only a few aircraft types are involved, and weather conditions would have to be uniform, and exactly at minimums for this situation to occur. Further, only some runways used for Category II have the ALSF I lighing system, and the FAA is in the process of upgrading the ALSF I approach light systems to the ALSF II configuration for

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which the situation described by the commenter does not occur.

For Category III approaches which do not specify a DH, any necessary provision for application of landing minimums will be listed in the operations specifications or letter of authorization covering the operation. A number of commenters express concern relative to the fact that proposed § 91.6 does not clearly distinguish between fail-passive Category III operations which apply a DH and fail-operational Category III operations without a DH. A new § 91.6(f) is added to clearly distinguish and acknowledge the requirements for operations without a DH. An additional qualification is also added to § 91.6(c) to clarify that the decision height provision of § 91.6(c) does not apply to those Category III operations which do not use a decision height.

Commenters suggest, and the FAA agrees, that a further clarification is necessary for terminology previously used in § 91.117(b)(1) and proposed under §§ 91.6(d)(1), 91.116(b)(1), and 121.651(c)(1) regarding a normal descent to the runway. In addition to the former provision that for continuation of a descent the aircraft must be "continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers," another provision is added. The phrase "and where (such a) descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing" is added to clarify the intent of the former wording requiring a "normal approach to the runway of intended landing". The provision is applied for all landings in Category II or Category III and for Part 121 and 135 operations. For Part 91 and 125 operations, in other than Category II or Category III landings, this provision is not mandatory because there are aircraft types, runways, and circumstances where the additional requirement may not always be necessary for safety. Thus, the provision of § 91.116(c)(1) for touchdown in the touchdown zone is limited to Part 121 and 135 operators and for all approaches in Category II and Category III. However, it should be noted that compliance with the provision to "touchdown in the touchdown zone" is a good operating practice for all operations. The fact that it is not mandatory for Part 91 operations should not be taken as an encouragement to complete an approach by a steep descent and touchdown beyond the touchdown zone because visual references on an approach such as a nonprecision approach are not acquired until well after passing the visual descent point (VDP), or near the missed approach point.

Use of the word "touchdown" in the context of § 91.6(d)(1), § 91.116(c)(1), or § 121.651(d)(1) regarding the requirement for a normal descent to a landing is appropriate to denote the particular event (touchdown) which must take place within the touchdown zone. Use of the word "landing" in this instance could be incorrectly taken to include other situations such as flare or rollout to a full stop, a touch and go, or landing to the point of turnoff from the runway which may or may not completely take place within the touchdown zone. Thus the word "touchdown" is used in § 91.6(d)(1) and §§ 91.116(c)(1) and 121.651(d)(1) even though the word "landing" is retained in other provisions of §§ 91.6, 91.116, and 121.651.

Other comments on the proposed changes to §§ 1.1 and 91.6 are generally supportive. A number of minor revisions were suggested such as including in the definition of "Category III operations" in § 1.1 the term "landing on" the runway in addition to an "ILS approach" to the runway. This suggestion is adopted since Category III operations specifically provide for safe rollout in reduced visibilities as well as a safe approach to touchdown. However, it should be noted that the case of a Category III approach which terminates in a missed approach rather than a landing is still considered to be a Category III operation even though a landing may not be completed.

Based on other comments, the words "straight-in" in proposed § 1.1 in conjunction with an ILS approach are unnecessary for the definition of a CAT III operation since the other type of approach is a circling approach and there are no CAT III circling approaches. Thus the term "straight-in" is deleted.

References to Part 125 are added to §§ 91.6 and 91.116 to be consistent with issuance of the new part on October 2, 1980. Part 125 is effective February 1, 1981.

The changes to §§ 1.1 and 91.6 are adopted as proposed and discussed above to uniformly apply the criteria used under current operations specifications and letters of authorization and appropriately update the rules to be consistent with current FAA and industry practice.

Landing

Section 91.116(b) prohibited a person operating an aircraft (except a military aircraft of the United States) from landing that aircraft using a standard instrument approach procedure prescribed in Part 97 unless the visibility is at or above the landing minimum prescribed in that part for the procedure used. The revised rule clarifies this point to specify that no pilot may operate an aircraft below MDA or DH unless the "flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used." This revised requirement is necessary to make it clear that the visibility referred to is the visibility from the aircraft. Section 91.116(c)(2) and (c)(3) also make it clear that the pilot must have this flight visibility from descent below MDA or DH until touchdown.

In particular need of clarification is the phrase "other markings identifiable with the approach end of the runway" found in the former §§ 91.117(b)(2) and 91.6(c)(2). In some instances, pilots interpret this phrase to include towers, smoke stacks, buildings, and other landmarks which may be located far from the end of the runway, and pilots may be descending below the MDA using these landmarks. This language also has been interpreted erroneously by some pilots to allow the use of a series of landmarks as progress points for instrument approaches. Use of such landmarks can result in mistaken identification of position or aircraft flight path.

To correct these practices, the revised rule specifies the visual references which are intended to allow descent below MDA or DH. The rule now precludes use of references not listed, which under the previous rule may sometimes have been used as the basis for continued descent even though they were not appropriate. Accordingly, revised § 91.116(c) prohibits descent below MDA and the continuation of an approach below DH unless at least one of the following is distinctly visible to and identifiable by the pilot for the intended runway: approach light system; threshold; threshold markings; threshold lights; runway end identifier lights; visual approach slope indicator; touchdown zone or touchdown zone markings; touchdown zone lights; runway or runway markings; or runway lights.

In Notice 80-4 the words "clearly visible" are used. However, commenters note, and the FAA agrees, that in low visibility operations visual references could rarely be considered clearly visible in the strict sense of the word due to factors such as the distortion of rain on the windshield, backscattered light of landing lights, and other reasons.

The words "distinctly visible and identifiable" were suggested by commenters and are adopted because they appropriately denote the intention that the visual references be discrete and unmistakably identifiable. The change from "clearly visible" to "distinctly visible and identifiable" should not be taken to mean that descent below MDA or DH can be based on a general glow of approach lights through a layer of fog or other obscurations where the visual references themselves are not discretely identifiable.

In accordance with concerns expressed by several commenters, an exclusion is added to § 91.116(c)(3) which limits applicability of this provision to approaches other than Category II or III. This is necessary to address possible misinterpretations of the applicability of § 91.116(c)(3) regarding Category II and Category III visual reference requirements. The commenters note, and the FAA agrees, that visual aids such as runway end identifier lights or VASI are not appropriate aids on which to base continuation of a Category II or Category III approach and that operations specifications, letters of authorization, or § 91.6(d)(2) provide the means to address any necessary limitations or conditions that may be appropriate in lieu of § 91.116(c)(3).

To preclude premature descents and unnecessary maneuvering at low altitudes, an additional requirement is added to § 91.116(b) for straight-in, nonprecision instrument approach procedures. For approaches which incorporate a VDP, the rule provides that the pilot may not descend below MDA until the VDP is reached if the pilot has the means to establish that point and if a normal descent to the runway can be made from that point. However, since the Department of Defense, Air Transport Association, and other commenters express concern over certain aspects of the VDP provisions of § 91.116(b)(2) as proposed, an additional exception is added. The comments suggest that the inflexible provisions of the proposed rule limit initiation of descent prior to reaching the VDP, which may adversely affect safety in cases where descent prior to the VDP is necessary to maintain a normal descent profile to the runway. A review of these comments results in the identification of cases where certain combinations of aircraft types, approach speeds, flap settings, and descent rate capability taken with possible VDP placement could possibly lead to abnormal descents from MDA to the runway if strict compliance with the rule as proposed in the notice is necessary. The commenters note, and the FAA agrees, that literal compliance with the proposal to "never descend until reaching the VDP" could adversely affect safety in unusual cases where the normal descent gradient and use of normal procedures requires the initiation of a descent shortly before reaching the VDP for some aircraft types or circumstances. Examples of situations in which it may be necessary for a pilot to descend shortly before reaching the VDP would be the case of an aircraft making a no flap approach, or an aircraft that must maintain a more shallow descent angle to provide for power settings compatible with engine anti-ice requirements. Therefore, the rule allows an exclusion in cases where literal compliance with the requirement to delay descent until passing the VDP is not appropriate for certain aircraft or situations because it would lead to an abnormal descent path to the runway, high rates of descent, or other unusual piloting procedures if descent is delayed until reaching the VDP.

One commenter questions the applicability of the VDP provisions of proposed § 91.116(b)(2) to Part 121 operations because the VDP provisions were not repeated in proposed § 121.651. Since no exclusion of particular operations was proposed, the VDP provisions of § 91.116(c)(4) as adopted apply to Part 91, 121, 125, 135 and other operators conducting a Part 97 approach procedure. However, to clarify this issue and prevent further misunderstanding in the special case of continuation of an approach in deteriorated weather, VDP provisions are repeated in § 121.651(c)(4).

In § 91.116(c) the qualification "where an MDA or DH is applicable" is added to clearly relate the use of the MDA or DH to the specific procedure used. In cases where both an MDA or DH are provided in a single procedure, such as an ILS or localizer approach, or where either a DH or MDA is not provided, this qualification clarifies the use of either the MDA or DH as appropriate to the specific type of approach used.

The terminology used in § 91.6(d)(2)(i) regarding the limitations on use of approach lights as an exclusive condition for descent below 100' is added for consistency in §§ 91.116(c)(3)(i), 121.651(c)(3)(i), and 121.651(d)(3)(i) because of the design of lighting systems and instrument approach procedures. When an aircraft is at or below 100' above the touchdown zone, the red side row bars on an ALSF II approach light system, red terminating bars of the ALSF I approach light system, or the threshold or other references listed in § 91.116(c)(3) should be in sight. If the approach is flown to a runway which does not have one of the two approach light systems mentioned above, then at or below 100' one of the other references in § 91.116(c)(3) must also be in sight to continue descent to a landing. For other than Category II or III, regardless of the type of straight-in or nonprecision approach flown, when at or below 100' above the touchdown zone, one of the visual references specified in § 91.116(c)(3)(ii) through § 91.116(c)(3)(x) should be visible if flight visibility is at or above the specified minimums. Conversely, if the approach lights are visible, but red terminating bars or red side row bars are not visible either due to poor visibility or because they are not installed, and the other visual references specified in § 91.116(c)(3) are not visible either, then regardless of the type of approach (other than Category II or III) the flight visibility is substantially less than minimums and continued descent below 100' may not be safe and is not appropriate. Further, to apply the provision to see the red side row bars or red terminating bars only to § 91.6(d)(2)(i) and not § 91.116(c)(3) or § 121.651 would lead to the anomalous situation in which if the pilot misjudged the flight visibility required in § 91.116(c)(2), continued descent would be permitted on a basic ILS or nonprecision approach with less flight visibility and visual reference than required for a Category II or Category III approach. Thus the proposed limitations § 91.6(d)(2)(i) to see the red side row bars or red terminating bars below 100' when using the approach lights as a sole reference for descent, is repeated in §§ 91.116(c)(3)(i), 121.651(c)(3)(i), and 121.651(d)(3)(i).

New § 91.116(d) continues to provide that no person operating an aircraft (except military aircraft of the United States) may land that aircraft when the flight visibility is less than the visibility prescribed in the standard instrument approach procedure being used. The word "touchdown" was used in the notice in lieu of "landing" because of problems with the definition of what constitutes a landing. Commenters stated that, in most instances use of the word "touchdown" instead of "land" did not improve the clarity of the rule. These comments caused the FAA to reconsider the necessity for use of the word "touchdown" in this section. Therefore, based on commenters' suggestions and subsequent review, the term "land" is retained with the exception of a special case where the word "touchdown" is retained in § 91.116(c)(3) as discussed earlier with respect to § 91.6(d)(1).

Any deliberate touchdown of an aircraft when the flight visibility is less than the visibility prescribed is clearly contrary to the intent of the rule, regardless of whether a full stop landing is completed or not. However, the FAA recognizes that inadvertent and momentary contact of the wheels with the runway may occur during rare instances in which a missed approach must be conducted from a very low altitude. This inadvertent contact may result even though proper procedures are used. This contact is not considered to be landing the aircraft within the meaning of § 91.116(d), and special piloting techniques or procedures are not required to avoid contact by the wheels with the runway under these circumstances. Therefore, most of the detailed references to touchdown are deleted in favor of the word "land" in §§ 91.6, 91.116, and 121.651. Retention of the word "touchdown" in §§ 91.116(c)(1) and 121.651(d)(1) is discussed in the section under § 91.6(d)(1).

One commenter indicates that retaining the provision for pilot determination of visibility does not improve safety because of the possibility of distraction of the pilot. However, there is no evidence that this responsibility alone has caused an unsafe condition. In fact, accident statistics and reports indicate the opposite is true. Causal factors of some accidents appear to be related to continued pilot descent below MDA or DH with only limited visual contact and inadequate visual reference to safely continue the approach to a landing. Thus, §§ 91.116(c)(2) and 91.116(d) retain the concept of pilot determination of the specified visibility and clarify the frequently misunderstood point that the visibility referred to is flight visibility.

Missed Approach Procedures

Additional missed approach requirements are added in § 91.116(e) to preclude unsafe situations resulting from misidentification of ground references. For the same reasons stated for retaining of the provisions of flight visibility in §§ 91.116(c)(2) and 91.116(d), a missed approach is required whenever the flight visibility required by paragraph (c)(2) is lacking, even though the pilot may have one of the visual cues required by paragraph (c)(3) distinctly in sight. A pilot is also required to follow an appropriate missed approach procedure whenever an identifiable part of the airport is not distinctly in sight during a circling maneuver.

Some commenters express concern that the FAA's use of the general term "identifiable part of the airport" in the circling maneuver provision of § 91.116(e) is inconsistent with the FAA's statement that the former § 91.117(b)(2) regarding "markings identifiable with the approach end of the runway" was inadequate and needed revision. However, these two cases are not contradictory. Formerly there were no regulatory provisions during a circling approach restricting a pilot to maintain visual contact with the airport. The revised rule adds the "identifiable part of the airport" requirement to preclude situations where the circling maneuver could be conducted far from the airport with the possibility of misidentification of landmarks not associated with the airport. Since the circling approach provisions of § 91.116(e) specifically refer to a "part of the airport," the misinterpretation associated with the former § 91.117(b)(2) should not occur.

Some commenters express concern that the wording of proposed § 91.116(e) requiring visual contact with the airport during a circling approach might be interpreted to unnecessarily restrict pilots in the selection of a circling maneuver after establishing visual contact and while maneuvering to the point of descent from MDA for final alignment with the landing runway. However, revised § 91.116(e)(2) does not impose additional restrictions on pilots regarding selecting the direction of turn or the type of turn, such as a teardrop, 80°–260° turn, or standard traffic pattern. Such choices of a circling approach maneuver should be selected by the pilot based on good operating practice and are restricted only by limitations that may be specified in the standard approach procedure itself. There is no implication that the rule requires any particular type or direction of turn to maintain visual contact based on angle of sight or windshield view for the pilot or co-pilot depending on which pilot may be flying the approach or other such factors. Good operating practices described in the Airman's Information Manual or other instrument flight training references may continue to be used and are encouraged.

Another subject on which comments were received relates to the § 91.116(e) requirement to immediately initiate an "appropriate" missed approach if visual reference is lost. The commenters correctly note that it is unsafe in some cases to initiate an immediate missed approach which strictly follows the published procedure. This, however, is the reason why the word "appropriate" missed approach is used. Under § 91.116(e) pilots must continue to be aware that the published missed approach procedure provides obstacle clearance only when the missed approach is conducted on the missed approach segment from or above the missed approach point. If the aircraft initiates a missed approach at a point prior to the missed approach point, from below MDA or DH, or on a circling approach, obstacle clearance is not necessarily provided by following the published missed approach procedure. In this situation obstacle clearance is the pilot's responsibility. When a missed approach is initiated in this situation, the pilot must consider other factors such as the aircraft's geographical location with respect to the prescribed missed approach point, direction of flight and/or minimum turning altitudes in the prescribed missed approach procedure, aircraft performance, visual climb restrictions, charted obstacles, IFR departure procedures, takeoff visual climb requirements as expressed by nonstandard takeoff minima, or other factors not specifically expressed by the approach procedures. During a missed approach, the aircraft must be on, or must reintercept, a published segment of the procedure at or above the altitude specified in the procedure, and must maintain a climb gradient equal to or greater than the standard (1:40 or 2.5%) unless otherwise published, for obstacle clearance to be ensured by the published missed approach procedure alone. For these reasons the wording of former § 91.117(b)(2) with respect to an "appropriate" missed approach is retained in § 91.116(e).

Due to the need for exclusions approved by the Administrator, and to consolidate provisions for alternate approvals, the authority of the Administrator in sections of § 91.116, for approval of a circling maneuver where a part of the airport may not be in sight is removed from this section. Such approval is now included under § 91.116(a) in the general provisions for alternate approvals by the Administrator for § 91.116(a) through (k).

Procedure Turns

As described in the notice, due to the possibility of misinterpretation, the current limitation on procedure turns is revised in § 91.116(j) to more clearly require the pilot to obtain an Air Traffic Control (ATC) clearance before making a procedure turn under specified conditions. The former § 91.116(h) required the pilot simply to advise ATC of his intention to make a procedure turn when final approach clearance is received. The revised rule specifies that such a clearance must be issued by ATC. This precludes situations in which the pilot advises ATC but due to communication difficulties ATC does not receive the request or cannot comply with the pilot's request. In addition, the reference to the designation "FINAL" in the former § 91.116(h), which is no longer used in the context of limitations on procedure turns, is deleted from this provision.

The words "final approach course" have been adopted in § 91.116(j) to be consistent with terminology used in instrument approach and air traffic control procedures rather than the term "final approach segment" used in the notice.

A question was raised regarding applicability of revised § 91.116(j) for a case where the segment of an instrument approach being flown does not specify a "No procedure turn (No PT)" limitation, but other transition segments for the procedure not used by the aircraft do have the limitation. A procedure turn may be made following segments not limited by the "No PT" restriction, but a procedure turn is prohibited unless ATC clearance is received for those segments to which the "No PT" limitation applies. No major comments suggest changing this proposed provision and it is as adopted as proposed.

Inoperative or Unusable Components and Visual Aids

The revised rule incorporates the substance of § 91.117(c), Inoperative or unusable components and visual aids, into § 91.116(k), except the inoperative component tables are deleted. Making the increased minimums mandatory by those tables is unnecessary because the essential limitations are uniformly being incorporated into the instrument approach procedures under Part 97 where necessary.

A number of commenters question the philosophy and method of dealing with the middle marker as an inoperative component of an ILS as proposed. A major supplier of instrument approach procedure charts points out that it is unnecessary to uniquely consider middle marker outages in landing rules. Instead the regulatory means for accommodating middle marker beacon outages should be the same as that used for other components such as approach lights. Further consideration of this point indicates that the comment is valid and that middle marker inoperative situations are not unique in terms of the need for adjustments to minima. Safety can be maintained and such outages can be more appropriately handled by the same administrative means as other inoperative components, such as through the U.S. standard for Terminal Instrument Procedures, in combination with inclusion on FAA 8260 series forms which define Part 97 instrument approach procedures and establish minimums. This provides an equivalent regulatory basis for any adjustments necessary to minimums due to the middle marker being inoperative, but allows the adjustments to be processed and implemented with the same procedures as for approach lights or other items. It also standardizes, simplifies, and increases the likelihood of correct application of these provisions by pilots. Other commenters also point out that provisions for inoperative components, including unusable middle markers, may be adequately addressed through Part 97 instrument approach procedures as defined by FAA Form 8260. Therefore, inoperative component tables may continue to be published as a description of the adjustments made to approach procedures, but they would be based on United States Standard for Terminal Instrument Approach (TERPS) or used for training or informational purposes since the procedure itself specifies any necessary limitations. Accordingly, the middle marker inoperative adjustments are removed from § 91.116 and any necessary adjustments are accommodated in the same way as lighting or other inoperative components as part of the Part 97 instrument approach procedure or Notices to Airmen.

Since § 91.116(f) is deleted, the Department of Defense suggestion to add a military exclusion for the middle marker inoperative situation in the revised § 91.116 is unnecessary. Any special provisions for military use of civil approach procedures which specify minimums adjustments may continue to be appropriately addressed or waived by the military as necessary, and development of military standard approach procedures may be done in accordance with applicable military directives. Other than for explanation of civil approach procedure applicability and use when military aircraft land at civil airports, no provision of § 91.116 regarding elimination of the inoperative components table from § 91.116(f) requires a charge to military procedures.

ILS Components

New § 91.116(k) describes the basic components of an ILS and specifies what airborne and ground equipment may be substituted for those components. As proposed, these components include the localizer, glideslope, outer marker, and middle marker. For consistency, provisions are also added to the rule to address the applicability of the inner marker for Category II and Category III operations since commenters appropriately note that the former § 91.117(c) and the notice did not specifically provide for these cases. Applicability and substitution provisions are added to § 91.116(k) for the inner marker for Category II and Category III to ensure that the provisions of § 91.116(k) are complete and consistent with current practice.

Other Comments on Section 91.116

In several provisions of § 91.116, the phrase "except a military aircraft of the United States" is added to accommodate Department of Defense comments and requirements.

Some comments indicate that the rule is too specific and should be kept only as a good operating practice, or that certain provisions of the rules should not apply to particular operators such as helicopter operations. However, comments such as these do not have supporting evidence and are vague or general and request further relaxation of the rule. It is not clear how the FAA can delete flight visibility and visual reference requirements from § 91.116 and still provide the necessary safety provisions in view of the poor accident and incident record discussed in Notice 80-4. The purpose of this rule making is to clarify and make necessary changes to the rules to increase safety. Therefore the provisions of § 91.116 described in the notice are retained with the revisions noted in the previous paragraphs. The revisions include clarification of flight visibility, specific listing of visual references, incorporation of provisions limiting descent prior to reaching a VDP, and deletion of the inoperative components table in § 91.117 as redundant with Part 97, and provisions of TERPS.

Revision of Part 121

For consistency, § 121.651 combines the former takeoff and landing weather minimums for domestic and flag air carriers (§ 121.651) and those for supplemental air carriers and commercial operators (§ 121.653). For the purposes of this section, the operations of domestic, flag, and supplemental carriers are sufficiently similar that the distinction in takeoff and landing minimums is no longer necessary. This is consistent with the reduced emphasis on distinctions among these carriers which results from the Airline Deregulation Act of 1978 (Pub. L. 95-504) and is responsive to the President's goal of regulatory simplification. Comments on the

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simplification of these rules are generally supportive. One commenter suggests even further reorganization of these rules to provide separate sections for takeoff and landing minima and to simplify the redundancy between Parts 91, 121, and 135 for takeoff and landing under IFR. Although the FAA recognizes that such reorganization may have merit, it does not appear practical at this time to make such changes without further public comment. Additional action on such proposals may be a subject for future rulemaking.

Section 121.651(a) prohibits a pilot from beginning takeoff when the weather conditions reported by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, are less than those specified for the takeoff airport in the certificate holder's operations specifications or, if the operations specifications do not contain minimums for the airport, the minimums specified under the Part 97 procedure. This allows weather reports by sources other than the U.S. National Weather Service or sources approved by it, but which are approved by the Administrator, to apply for takeoff minimums at foreign airports. Thus this change uniformly applies takeoff minimums where weather is reported by sources approved by the Administrator, as well as at locations having U.S. National Weather Service-operated or approved weather facilities. There were no specific comments identifying problems with this section and the section is adopted essentially as proposed.

Proposed § 121.651(b) clarifies that a pilot at an airport within the United States or at a U.S. military installation which has one of the three specified acceptable weather report sources may not continue an approach past a final approach fix or, if a fix is not established in the standard instrument approach procedure, begin the final approach segment of an instrument approach procedure unless a weather report is issued for that airport. At foreign airports, weather services for Part 121 operators are approved by the Administrator rather than the U.S. National Weather Service. Thus § 121.651(b) allows initiation of the final approach segment of instrument approaches at foreign airports not having weather reporting facilities under the jurisdiction of the U.S. National Weather Service.

U.S. National Weather Service expresses concern regarding the language used in § 121.651(b) which states that no person may continue an approach past a final approach fix unless a weather report is issued by the U.S. National Weather Service, a source approved by that service, or a source approved by the Administrator. The concern relates to the fact that it approves weather observations within the United States, whereas the proposed rule also provides for use of sources approved by the Administrator rather than the National Weather Service. However, the provision for approval of the Administrator is necessary in this case, and must be considered in context with current § 121.101(b)(1), and (b)(2), and § 121.119. Sections 121.101 and 121.119 state the conditions under which the Administrator may approve sources of weather reports. Section 121.651(b)(1) and (b)(2) must address operations at airports other than those at which the National Weather Service approves weather observations as provided in § 121.101 and § 121.119. It is therefore necessary to provide for approval of a report by the Administrator in § 121.651 for clarity, to be consistent with established practice, and to be compatible with §§ 121.101 and 121.119.

In § 121.651(b), the provision that "no pilot may * * * *continue an approach past the final approach fix, or where a final approach fix is not used,* begin the final segment of an instrument approach procedure * * *" (emphasis added) is added to provide for the situation where a final approach segment may begin prior to a final approach fix depicted on the procedure. As proposed in such situations an aircraft waiting for a weather improvement above minimums before commencing an approach may have incorrectly held at a point further from the airport than intended because of a misinterpretation of the rule. The adopted rule clarifies the intent that the aircraft in such instances may proceed at least to the depicted final approach fix while waiting for a weather improvement even though some final approach segment in the procedure may begin earlier.

A typographical error regarding the incorrect use of the word "or" versus the correct word "and" is corrected between § 121.651(b)(1) and § 121.651(b)(2) in accordance with the original intent of the provisions of these sections discussed in Notice 80-4.

Sections 121.651(c) and (d), which govern the receipt of a later weather report indicating below minimum conditions and initiation of an approach when weather is below minimums if ILS and precision approach radar (PAR) are used simultaneously is revised. Section 121.651(c) provides that a pilot who has begun the final approach segment of an instrument approach procedure to an airport in accordance with § 121.651(b) and then receives a below minimum report or a pilot who initiates the approach under § 121.651(d) may continue the approach and touchdown if the same safeguards prescribed in § 91.116(c) are met.

The applicable provisions of § 91.116(c) are repeated in §§ 121.651(c) and 121.651(d) to clarify and simplify use of this section without the need to cross reference § 91.116(c). Sections 121.651(c) and (d) are also revised from the wording used in Notice 80-4 to retain the word "landing" in lieu of the word "touchdown" for the same reasons explained in the discussion of § 91.116(d).

Section 121.651(c) provides additional safety in the case of deteriorating weather by revising the conditions for continuation of an approach when variable weather may go below minimums after the aircraft has passed the final approach fix. The former § 121.651(d)(2) required that aircraft on a nonprecision approach must have reached MDA as a condition for continuation of an approach. This is believed in some instances to have led to aircraft descending to MDA at higher than normal descent rates after passing the final approach fix when weather was variable and deteriorating, to be able to continue the approach if weather was subsequently reported below minima. This practice could encourage high sink rates near the ground and unstabilized approaches due to the pilot's effort to reach MDA soon after passing the final approach fix. Accordingly, § 121.651(c) only applies the condition that the aircraft be past the final approach fix to continue an approach in the situation of deteriorating weather, for both precision and nonprecision approaches, this encouraging stabilized descents and use of normal descent gradients.

As proposed, the exception of § 121.651(d), allowing initiation of an approach when weather is below minimums if ILS and PAR are simultaneously used, is retained. However, commenters correctly note that air carriers apply this provision rarely and only at a very few airports due to PAR being phased out at civil airports. Further, it is suggested that these provisions are no longer appropriate for air carrier operations. As a result, further revision or deletion of § 121.651(d) may be considered in future rule making but the provision is retained at this time.

Section 121.651(d) applies the same safeguards as in § 91.116(c) with the exception of paragraph (c)(4) which relates to operations prior to reaching a VDP in straight-in, nonprecision instrument approach procedures and does not apply in the instance of a precision approach.

The revisions to §§ 121.651(c) and (d) are necessary to be consistent with the revised § 91.116. They upgrade and clarify the requirements for instrument approaches for air carrier operations. They are adopted substantially as proposed in the notice.

Foreign Airports

Finally, a new § 121.651(f) is added to require a pilot making an IFR takeoff, approach, or landing at a foreign airport to comply with the applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over the airport, unless otherwise authorized in the certificate holder's operations specifications. This ensures that U.S. operators comply with appropriate foreign governmental regulations when conducting international operations. No specific comments were received on this section and it is adopted as proposed.

Pilots Continuously Determining Flight Visibility

Based on comments, difficult issues to resolve are the various sections dealing with requirements for the pilot to continuously determine that the flight visibility is not less than the visibility specified in the procedure used (§§ 91.116(b)(3), 121.651(c)(3) and 121.651(d)(3) in the notice and §§ 91.116(c)(2), 121.651(c)(2), and 121.651(d)(2)). Comments on these issues range from strong support for the concept and wording to significant disagreement with the concept. Some commenters state that this provision could adversely affect safety. A main objection to this provision centers on the interpretation of the phrase "continuously determine" flight visibility. It is suggested that this might be interpreted by some to mean that the pilot or pilots cannot conduct a normal cross check of cockpit instruments while below MDA or DH. Use of the term "continuous" in this context is inappropriate if it is taken to mean that scanning of instruments such as airspeed, altitude, and vertical speed is not acceptable in conjunction with scanning of outside visual references. Such an interpretation is certainly not the intent, and if this interpretation is applied, it could very well be detrimental to flight safety. Accordingly, the word "continuously" is dropped from these sections as being potentially confusing and redundant to § 91.116(e) which provides for conditions in which a missed approach must be initiated.

Another point raised in the comments is the fact that pilots do not have a means to numerically assess flight visibility and compare it with the published minimums and that the list of visual references specified in § 91.116(c)(3)(i) thru (x) is adequate alone. Although these comments are to some degree valid in the sense that visual estimation of visibility by either a pilot or ground observer does require judgement and may not necessarily be numerically exact, it nevertheless remains a concept that provides for the necessary safety during landing. Such assessment of visibility has been the basis for many years for both ground weather observations and pilot use in compliance with the landing minima and visual flight rules. Although alternative concepts such as mandatory use of ground-reported visibility or RVR have been suggested, no other concept adequately replaces the provisions of §§ 91.116(c)(3) and 91.116(d) and provides equivalent safety without further restricting flight operations. The intent of §§ 91.116 and 121.651 is not to remove the requirement for assessment of visibility, but to further clarify its applicability by clearly specifying the often misunderstood point that the rule refers to "flight" visibility as opposed to ground-reported visibility. The associated changes to §§ 91.6, 91.116, and 121.651 provide an increase in safety by explicitly listing the references that must be in sight as a condition for continued descent below MDA or DH even though the pilot may have determined that the required flight visibility is present. Conversely, having one of these specific references in sight is not sufficient alone to safely continue descent if the flight visibility is below minimums. Thus the addition of a specific list of visual references in § 91.116(c)(3) further clarifies the runway environment terminology previously used in § 91.117(b)(2) rather than the long-standing concept of use of flight visibility.

Associated comments relate to the need for slant visual range measurements, and to the relationship between § 121.655, which addresses the precedence of ground-reported RVR in weather reports, and § 121.651. A commenter indicates that minima are not and cannot be measured in terms of slant visual range, and that horizontal flight visibility at altitude may be less than the authorized reported visibility observed at ground level.

Regarding the first point, this statement is partially true. The FAA acknowledges that slant visual range (SVR) is not used now, and the FAA agrees with the commenter that there are presently no ground measurement systems available which are practical for operational measurement of SVR. The FAA plans to continue to monitor technical developments in this area for any advances which may overcome the many technical problems and practical limitations which remain. Even if numerous problems with ground measurement of SVR are resolved, it is not clear that having this information in addition to RVR contributes to or is essential for safe descent below MDA or DH. In a number of accident and incident cases, pilots have continued the approach below MDA or DH in spite of the fact that little or no visual reference existed and the pilot observed that slant visibility was poor. It is not clear how providing ground reports of SVR to the pilot would have prevented the accident or incident since the pilot already had actual slant visibility information which could not have been provided by a ground sensor as accurately or in real time. Conversely, if the pilots applied the conditions specified in § 91.116(c) which clarifies the applicability of the use of flight visibility and lists acceptable visual references for continuation of descent, the continued descent below MDA or DH in marginal visibility well below that specified in the standard instrument approach procedure would clearly have been inappropriate.

The FAA also does not agree with the commenters' views that assessment of flight visibility is impossible for pilots to do. As pointed out in earlier discussions, for many years pilots have been making such judgments to safely operate aircraft, as well as to comply with former §§ 91.105, 91.116, 121.651, and 121.653, even though such judgments may not be numercially exact. For example § 91.105 requires pilots to estimate horizontal visibilities of 1 mile and 3 miles and to estimate horizontal and vertical distances from clouds of 500 feet, 1,000 feet, and 2,000 feet. Sections 91.116, 121.651, and 91.105 all require pilots to estimate flight visibility in situations where slant range and other factors such as horizontal visibility, aircraft height above ground, obscuration due to fog, rain or snow, scud, low cloud or other restrictions to visibility must be considered.

Regarding the points that horizontal visibility at altitude may be less than the authorized reported visibility at ground level, the FAA agrees. However, this is not sufficient reason to remove the requirement for assessment of flight visibility from §§ 91.116 or 121.651. In fact, the possibility of this situation is an important reason why revised §§ 91.116 and 121.651 continue to require assessment of flight visibility. Technical literature[1] from a variety of sources suggest instances where slant visibility as seen by the pilot can be very much less than the horizontal visibility at ground level. Thus if the requirement for flight visibility assessment by the pilot is removed, it would be permissible to continue a descent below MDA or DH in the unsafe situation where visibility is reported above minimums and one or more visual references listed in § 91.116(c)(3) may be distinctly in sight but the flight visibility is much less than the visibility specified in the procedure and is inadequate to safely complete the landing.

In all these cases, the commenters' recommended resolution of the issues appears to be less restrictive than the former rules. The previous §§ 91.116(b) and 121.651(d) required that no person land unless the visibility is at or above (greater than or equal to) the published minimums, and that for continuation of an approach in deteriorating weather for Part 121 operators, the actual weather be at or above published minimums. The commenters' suggested changes to delete sections such as § 91.116(c)(2) or § 121.651(c)(2) relating to flight visibility would lead to the rules permitting the approach to be continued in unsafe conditions.

For example, in a case where weather is reported to be above minimums, if the requirements of § 91.116(c)(2) were deleted and § 91.116(c)(3) regarding visual references alone was met by having one or more of the listed visual references distinctly in sight, a pilot could have continued the approach even though the flight visibility was very poor and much less than the published minimums. This situation is unsafe because the necessary visual reference for assessment or control of the aircraft's approach path may not be present. Other alternatives suggested by commenters, such as making ground-reported weather exclusively controlling, would require unnecessary missed approaches and diversions to alternate airports when weather is better than reported and safe for an approach and landing. The suggestion to make ground-reported RVR or meteorological visibility exclusively controlling for continuation of a descent below MDA or DH could lead to restrictions on operations with little or no overall benefit to safety. An example of this would be the case where the pilot has the listed references of § 91.116(c)(3) distinctly in sight and has determined that the flight visibility is at or above the published minimums as in § 91.116(c)(2), but the visibility or RVR is reported below minimums due to commonly recognized weather measuring and reporting inaccuracies. In this case, the commenter's suggestion requires an unnecessary missed approach and a diversion to an alternate airport could result.

The comment that § 121.655 establishes precedence of RVR over ground-reported prevailing visibility is correct. However, the commenter's implication that this has any affect on the pilot's assessment of visibility for continuation of an approach below MDA or DH is not valid. Section 121.655 requires that the main body of the weather report, rather than other portions of the report, applies regarding compliance with § 121.651(b) for determining the weather conditions necessary for the initiation of an approach. If an RVR report is currently available, it supersedes other weather reports that may apply to initiation of an approach under § 121.651(b). It does not relieve or take precedence over the pilot's responsibility below MDA or DH to ensure that the required flight visibility exists. Once a pilot has passed the final approach fix, no provision of § 121.655 supersedes the pilot's responsibility to assess visual reference below the MDA or DH. Thus even though a report of RVR may indicate that weather is above minimums and the RVR reports take precedence over other weather reports under § 121.655 for initiating an approach, when below MDA or DH the pilot must, in his judgment, determine that the actual weather conditions are at least equal to the prescribed minimums to continue an approach. Conversely, once past the final approach fix, if the pilot determines that the visual requirements of §§ 121.651(c) and 91.116 (c), (d) and (e) are met, the approach may continue and a landing may be made.

It is important to note the provision to continue an approach below MDA or DH if flight visibility is considered by the pilot to be above minimums and one of the acceptable visual references is in sight is not an encouragement for pilots to deliberately misestimate visibility to land in unsafe conditions with ground reported prevailing visibility or RVR reported below minimums. The FAA intends to continue to closely review the circumstances related to any landings made when weather is reported below minimums. To assess compliance with §§ 91.116(c) and 121.651(c) and for enforcement cases, the FAA will continue to consider a variety of factors such as ground-reported weather, variability of the weather, reports of other pilots who attempted or completed landings, pilots awaiting departure located in a position to judge visual reference in the area of the touchdown zone, reports of visual reference seen by other crewmembers on the aircraft, air traffic personnel, or ground observer reports, or many other such factors. Should evidence of a poor safety record continue or there be evidence of deliberate disregard of the visual reference provisions of §§ 91.116(c) and 121.651(c), the FAA will reconsider both the applicability and precedence of ground-reported visibility and RVR and the potential applicability of additional rules. If necessary, provisions similar to §§ 121.651(b), 135.225, and 125.381 may then be developed to apply to all operations.

Because of the problems identified with alternatives suggested by commenters and the fact that the primary intent of the proposal is to explicitly state the necessary visual references and make it clear that the visibility referred to is flight visibility, §§ 91.116(c), 91.116(d), 121.651(c), and 121.651(d) are adopted as discussed above.

Special Cases Requiring Authorization of the Administrator

Numerous commenters correctly identify areas in proposed § 91.116 where the Administrator must be able to approve approach procedures which vary from the provisions of § 91.116(a) through (k). For example, in the case of an aircraft operating on a straight-in or circling approach, it is sometimes necessary for an instrument approach procedure to provide for a visual segment from the missed approach point to the airport, as at numerous Alaskan airports and airports such as Palm Springs, California, and Missoula, Montana. Thus the Administrator must retain the authority to approve instrument approach procedures where the pilot may not necessarily have one of the visual references specified in § 91.116(c)(3) in sight. There are other cases where the Administrator's authority to issue special provisions must also be available to approve visual approaches, contact approaches, helicopter procedures, or other items such as waivers for all-weather takeoff and landing research and development. Accordingly, the provisions of former §§ 91.116 and 91.117 regarding the authority of the Administrator to authorize deviations is retained in

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[1] Copies of these documents are contained in the docket.

§ 91.116, but is consolidated in § 91.116(a) for applicability to § 91.116(a) through (k).

List of Visual References

One commenter suggests that the list of approved visual references proposed in § 91.116(b)(4) and adopted in § 91.116(c)(3) and § 121.651(c)(3) be expanded to include additional items such as lead-in lights and runway markings. In the case of lead-in lights, the comment is not adopted because there are numerous types of approach light systems, of which lead-in lights are just one type, and each would have to be listed and updated as frequent changes in these systems are made. Since lead-in lights and other such visual aids are specific types of approach lights, and are considered and approved by the Administrator to be credited in an instrument approach procedure, it is unnecessary to specifically list each type. In the case of runway markings, the difference in meaning of "runway markings" from the word "runway" is considered sufficient to warrant being included separately to clarify the rule. Runway markings generally consist of standard patterns painted on the runway surface which show the threshold, runway identification number, centerline, touchdown aiming point, and distance coding. In contrast, the term "runway" may refer only to the surface of the pavement. This may not be as distinctly visible as lights or markings, for example, during a night approach on a wet runway.

One comment suggests adding centerline lights to the list in § 91.6(b). This, however, is inappropriate and unnecessary because of the design of the lighting systems. Centerline lights are intended to be installed along with touchdown zone lights, and since touchdown zone lights are set at an intensity greater than centerline lights, they should, in normal circumstances, be visible at the same time or before the centerline lights. Further, if the aircraft has inadvertently passed the touchdown zone prior to touchdown, and the touchdown zone lights or other items in § 91.6(b) are not visible but the centerline lights are visible, continued descent based on the centerline lights alone is not appropriate. Not only is it unlikely that weather is above minimums, but the pilot may also have no way of knowing how far along the runway the aircraft has traveled or how much runway remains for landing. If touchdown occurs past the touchdown zone, by the time the aircraft reaches the color-coded centerline lights at the opposite end of the runway there may be insufficient runway remaining to stop. Therefore, this item is not added to the list.

To clarify and uniformly apply the provisions regarding use of approach lights as a visual reference, the wording is standardized in §§ 91.6, 91.116, and 121.651 as "approach light system." The question is raised by commenters whether the entire approach light system must be visible to the pilot. It is intended that the entire system need not necessarily be in view under either § 91.6 or § 91.116 when descending below MDA or DH. At the time Notice 80-4 was issued, the special description in proposed § 91.6 clarifying descent below 100′ was considered sufficient. It was not considered necessary in § 91.116 or § 121.651 because of the relatively infrequent occurrence of this situation. However, since commenters raise the issue and are uncertain as to whether "approach lights" and "approach light systems" have different meanings and whether it was necessary to see all or just part of the approach light system, the FAA has clarified the rule by adopting the wording used in proposed § 91.6 in §§ 91.116(b)(3) and 121.651(c)(3). It should be noted, however, that even though only a part of the approach light system need be visible during descent below MDA or DH to 100′ above the touchdown zone elevation, the requirements of § 91.116(c) regarding adequate flight visibility must also be met to continue an approach.

A question is raised regarding the intent of § 91.116(e)(1) as far as missed approaches are concerned. The commenter is uncertain as to the applicability of a rule in the case where visual references may be temporarily lost while below MDA or DH. The commenter asks whether the rule requires that a missed approach be conducted even though visual references reappear. The rule provides that any time the conditions of the rule are met, a missed approach is not required. During the time when the visual references are not available below MDA or DH, however, the pilot is expected to initiate a missed approach. When below MDA or DH, any deliberate delay in initiation of a missed approach in the hope that visual references will soon reappear, is not appropriate, such as in the case of deliberate descent through low cloud, scud, or fog in which the requirements of § 91.116(c) cannot be met. If the pilot uses normal procedures, however, and does not deliberately delay taking action to transit the intermittent condition, but still has not initiated the missed approach when the visual references reappear, a missed approach is not required.

Use of Person or Pilot

Some provisions of the rules are intended to refer only to a pilot because the rule can only be used by a pilot crewmember during flight, for example sighting visual references during a landing as specified in § 91.116(c). However, other provisions of the revised rules may apply to an operator or someone other than a pilot flight crewmember, for example § 91.6(g) concerning operations specifications. In an instance such as § 91.6(g), "operation of an aircraft" may apply to other persons as well as the pilot because other persons may also be responsible for correct application of a certificate holder's operations specifications. The revised rules provide for this situation by retaining the word "person" where someone other than the pilot of an aircraft may also be involved with application of the rules, and the rules use the term "pilot" where a rule clearly is intended for use by a pilot crewmember during flight.

The Amendments

Accordingly, the Federal Aviation Administration amends Parts 1, 91, and 121 of the Federal Aviation Regulations (14 CFR Parts 1, 91, and 121), as follows effective:

PART 1—DEFINITIONS AND ABBREVIATIONS

§ 1.1 [Amended]

1. By amending § 1.1 of Part 1 by adding a definition of "Category III Operations" immediately following the definition of "Category II Operations" as follows:

* * * * *

"Category III operations," with respect to the operation of aircraft, means an ILS approach to, and landing on, the runway of an airport using a Category III ILS instrument approach procedure issued by the Administrator or other appropriate authority.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

2. By revising § 91.6 to read as follows:

§ 91.6 Category II and III operations: general operating rules.

(a) No person may operate a civil aircraft in a Category II or Category III operation unless:

(1) The flightcrew of the aircraft consists of a pilot in command and a second in command who hold the appropriate authorizations and ratings prescribed in § 61.3 of this chapter;

(2) Each flight crewmember has adequate knowledge of, and familiarity with, the aircraft and the procedures to be used; and

(3) The instrument panel in front of the pilot who is controlling the aircraft has appropriate instrumentation for the type of flight control guidance system that is being used.

(b) Unless otherwise authorized by the Administrator, no person may operate a civil aircraft in a Category II or Category III operation unless each ground component required for that operation and the related airborne equipment is installed and operating.

(c) For the purpose of this section, when the approach procedure being used provides for and requires use of a DH, the authorized decision height is the DH prescribed by the approach procedure, the DH prescribed for the pilot in command, or the DH for which the aircraft is equipped, whichever is higher.

(d) Unless otherwise authorized by the Administrator, no pilot operating an aircraft in a Category II or Category III approach that provides and requires use of a DH may continue the approach below the authorized decision height unless the following conditions are met:

(1) The aircraft is in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and where that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing.

(2) At least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The touchdown zone or touchdown zone markings.

(vi) The touchdown zone lights.

(e) Unless otherwise authorized by the Administrator, each pilot operating an aircraft shall immediately execute an appropriate missed approach whenever prior to touchdown the requirements of paragraph (d) of this section are not met.

(f) No person operating an aircraft using a Category III approach without decision height may land that aircraft except in accordance with the provisions of the letter of authorization issued by the Administrator.

(g) Paragraphs (a) through (f) of this section do not apply to operations conducted by the holders of certificates issued under Parts 121, 123, 125, 129, or 135 of this chapter. No person may operate a civil aircraft in a Category II or Category III operation conducted by the holder of a certificate issued under Parts 121, 123, 125, 129, or 135 of this chapter unless the operation is conducted in accordance with that certificate holder's operations specifications.

3. By revising § 91.116 to read as follows:

§ 91.116 Takeoff and landing under IFR.

(a) *Instrument approaches to civil airports.* Unless otherwise authorized by the Administrator for paragraphs (a) through (k) of this section, when an instrument letdown to a civil airport is necessary, each person operating an aircraft, except a military aircraft of the United States, shall use a standard instrument approach procedure prescribed for the airport in Part 97 of this chapter.

(b) *Authorized DH or MDA.* For the purpose of this section, when the approach procedure being used provides for and requires use of a DH or MDA, the authorized decision height or authorized minimum descent altitude is the DH or MDA prescribed by the approach procedure, the DH or MDA prescribed for the pilot in command, or the DH or MDA for which the aircraft is equipped, whichever is higher.

(c) *Operation below DH or MDA.* Where a DH or MDA is applicable, no pilot may operate an aircraft, except a military aircraft of the United States, at any airport below the authorized MDA or continue an approach below the authorized DH unless—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and for operations conducted under Part 121 or Part 135 unless that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used;

(3) Except for a Category II or Category III approach where any necessary visual reference requirements are specified by the Administrator, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The runway end identifier lights.

(vi) The visual approach slope indicator.

(vii) The touchdown zone or touchdown zone markings.

(viii) The touchdown zone lights.

(ix) The runway or runway markings.

(x) The runway lights; and

(4) When the aircraft is on a straight-in nonprecision approach procedure which incorporates a visual descent point, the aircraft has reached the visual descent point, except where the aircraft is not equipped for or capable of establishing that point or a descent to the runway cannot be made using normal procedures or rates of descent if descent is delayed until reaching that point.

(d) *Landing.* No pilot operating an aircraft, except a military aircraft of the United States, may land that aircraft when the flight visibility is less than the visibility prescribed in the standard instrument approach procedure being used.

(e) *Missed approach procedures.* Each pilot operating an aircraft, except a military aircraft of the United States, shall immediately execute an appropriate missed approach procedure when either of the following conditions exist:

(1) Whenever the requirements of paragraph (c) of this section are not met at either of the following times:

(i) When the aircraft is being operated below MDA; or

(ii) Upon arrival at the missed approach point, including a DH where a DH is specified and its use is required, and at any time after that until touchdown.

(2) Whenever an identifiable part of the airport is not distinctly visible to the pilot during a circling maneuver at or above MDA, unless the inability to see an identifiable part of the airport results only from a normal bank of the aircraft during the circling approach.

(f) *Civil airport takeoff minimums.* Unless otherwise authorized by the Administrator, no pilot operating an aircraft under Part 121, 123, 125, 129, or 135 of this chapter may take off from a civil airport under IFR unless weather conditions are at or above the weather minimums for IFR takeoff prescribed for that airport under Part 97 of this chapter. If takeoff minimums are not prescribed under Part 97 of this chapter for a particular airport, the following minimums apply to takeoffs under IFR for aircraft operating under those parts:

(1) For aircraft having two engines or less—1 statute mile visibility.

(2) For aircraft having more than two engines—½ statute mile visibility.

(g) *Military airports.* Unless otherwise prescribed by the Administrator, each person operating a civil aircraft under IFR into or out of a military airport shall comply with the instrument approach procedures and the takeoff and landing minimums prescribed by the military authority having jurisdiction of that airport.

(h) *Comparable values of RVR and ground visibility.*

(1) Except for Category II or Category III minimums, if RVR minimums for takeoff or landing are prescribed in an instrument approach procedure, but RVR is not reported for the runway of intended operation, the RVR minimum shall be converted to ground visibility in accordance with the table in paragraph (h)(2) of this section and shall be the visibility minimum for takeoff or landing on that runway.

(2)

RVR (feet)	Visibility (statute miles)
1,600	¼
2,400	½
3,200	⅝
4,000	¾
4,500	⅞
5,000	1
6,000	1¼

(i) *Operations on unpublished routes and use of radar in instrument approach procedures.* When radar is approved at certain locations for ATC purposes, it may be used not only for surveillance and precision radar approaches, as applicable, but also may be used in conjunction with instrument approach procedures predicated on other types of radio navigational aids. Radar vectors may be authorized to provide course guidance through the segments of an approach procedure to the final approach course or fix. When operating on an unpublished route or while being radar vectored, the pilot, when an approach clearance is received, shall, in addition to complying with § 91.119, maintain the last altitude assigned to that pilot until the aircraft is established on a segment of a published route or instrument approach procedure unless a different altitude is assigned by ATC. After the aircraft is so established, published altitudes apply to descent within each succeeding route or approach segment unless a different altitude is assigned by ATC. Upon reaching the final approach course or fix, the pilot may either complete the instrument approach in accordance with a procedure approved for the facility or continue a surveillance or precision radar approach to a landing.

(j) *Limitation on procedure turns.* In the case of a radar vector to a final approach course or fix, a timed approach from a holding fix, or an approach for which the procedure specifies "No PT", no pilot may make a procedure turn unless cleared to do so by ATC.

(k) *ILS components.* The basic ground components of an ILS are the localizer, glide slope, outer marker, middle marker, and, when installed for use with Category II or Category III instrument approach procedures, an inner marker. A compass locator or precision radar may be substituted for the outer or middle marker. DME, VOR, or nondirectional beacon fixes authorized in the standard instrument approach procedure or surveillance radar may be substituted for the outer marker. Applicability of, and substitution for, the inner marker for Category II or III approaches is determined by the appropriate Part 97 approach procedure, letter of authorization, or operations specification pertinent to the operation.

4. By removing § 91.117 and marking it as follows:

§ 91.117 [Reserved]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. By revising § 121.651 to read as follows:

§ 121.651 Takeoff and landing weather minimums: IFR: all certificate holders.

(a) Notwithstanding any clearance from ATC, no pilot may begin a takeoff in an airplane under IFR when the weather conditions reported by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, are less than those specified in—

(1) The certificate holder's operations specifications; or

(2) Parts 91 and 97 of this chapter, if the certificate holder's operations specifications do not specify takeoff minimums for the airport.

(b) Except as provided in paragraph (d) of this section, no pilot may continue an approach past the final approach fix, or where a final approach fix is not used, begin the final approach segment of an instrument approach procedure—

(1) At any airport, unless the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, issues a weather report for that airport; and

(2) At airports within the United States and its territories or at U.S. military airports, unless the latest weather report for that airport issued by the U.S. National Weather Service, a source approved by that Service, or a source approved by the Administrator, reports the visibility to be equal to or more than the visibility minimums prescribed for that procedure. For the purpose of this section, the term "U.S. military airports" means airports in foreign countries where flight operations are under the control of U.S. military authority.

(c) If a pilot has begun the final approach segment of an instrument approach procedure in accordance with paragraph (b) of this section and after that receives a later weather report indicating below-minimum conditions, the pilot may continue the approach to DH or MDA. Upon reaching DH or at MDA, and at any time before the missed approach point, the pilot may continue the approach below DH or MDA and touch down if—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and where that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used;

(3) Except for Category II or Category III approaches where any necessary visual reference requirements are specified by authorization of the Administrator, at least one of the following visual references for the intended runway is distinctly visable and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The runway end identifier lights.

(vi) The visual approach slope indicator.

(vii) The touchdown zone or touchdown zone markings.

(viii) The touchdown zone lights.

(ix) The runway or runway markings.

(x) The runway lights; and

(4) When the aircraft is on a straight-in nonprecision approach procedure which incorporates a visual descent point, the aircraft has reached the visual descent point, except where the aircraft is not equipped for or capable of establishing that point, or a descent to the runway cannot be made using normal procedures or rates of descent if descent is delayed until reaching that point.

(d) A pilot may begin the final approach segment of an instrument approach procedure other than a Category II or Category III procedure at an airport when the visibility is less than the visibility minimums prescribed for that procedure if that airport is served by a operative ILS and an operative PAR, and both are used by the pilot. However, no pilot may operate an aircraft below the authorized MDA, or continue an approach below the authorized DH, unless—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers and where such a descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach procedure being used; and

(3) Except for Category II or Category III approaches where any necessary visual reference requirements are specified by the authorization of the Administrator, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The runway end identifier lights.

(vi) The visual approach slope indicator.

(vii) The touchdown zone or touchdown zone markings.

(viii) The touchdown zone lights.

(ix) The runway or runway markings.

(x) The runway lights.

(e) For the purpose of this section, the final approach segment begins at the final approach fix or facility precribed in the instrument approach procedure. When a final approach fix is not prescribed for a procedure that includes a procedure turn, the final approach segment begins at the point where the procedure turn is completed and the aircraft is established inbound toward the airport on the final approach course within the distance prescribed in the procedure.

(f) Unless otherwise authorized in the certificate holder's operations specifications, each pilot making an IFR takeoff, approach, or landing at a foreign airport shall comply with the applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over the airport.

6. By removing § 121.653 and marking it as follows:

§ 121.653 [Reserved]

(Sec. 307, 313(a), 501, 601, 601(a) and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1401, 1421, 1421(a), and 1424); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to the person identified under "For Further Information Contact:"

Note.—This rule is a final order of the Administrator as defined by the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C. on December 30, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 81-459 Filed 1-7-81; 8:45 am]

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federal register

Thursday
January 8, 1981

Part IV

Interstate Commerce Commission

Rules Governing Applications for Operating Authority, Removal of Restrictions from Authorities of Motor Carriers of Property, Implementation of Intercorporate Hauling Reform Legislation, Motor Carrier Rate Bureau Provisions, Acceptable Forms of Requests for Operating Authority (Motor Carriers and Brokers of Property), and Intercorporate Hauling Interpretation; Supplemental Notices

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1003, 1011, 1100

[Ex Parte No. 55 (Sub-No. 43)]

Rules Governing Applications for Operating Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final Rules; Supplemental Notice.

SUMMARY: At 45 FR 86771, December 31, 1980, the Commission adopted final rules which govern applications for operating authority filed with the Commission. The rules modify the Commission's permanent authority procedures governing the issuance of certificates, permits and licenses to motor and water carriers, freight forwarders, and brokers to speed up administrative processes. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office 202-275-7440, Peter Metrinko—202-275-7805, Edward E. Guthrie—202-275-7691.

SUPPLEMENTARY INFORMATION:

COMMISSIONER CLAPP, concurring in part, dissenting in part:

I support most of the positions taken here. At the same time, I am concerned, as I have been concerned in certain other recent actions taken by the Commission, that fair play, due process, and, indeed, the dictates of the 1980 Motor Carrier Act have been submerged beyond recognition in the race to prove to all that we as a Commission favor competition in the market place. We have been proving that for several years. In the long run, however, indifference to proper procedures and to Congressional mandate may set back the very goals we seek to attain. That is not only shortsighted and self-serving, it is foolish and costly to a sound national transportation system.

For the past four years, the Commission has placed increasing emphasis on competition and the concurrent reduction of economic regulation. Congress has indicated its approval of this approach, particularly this year with the passage of the Motor Carrier Act, the Rail Act, the Household Goods Act and other legislation. The responses from industry and the public have been encouraging. In loosening the regulatory reins which grew even tighter over the years, the Commission has attempted to strip away artificial roadblocks to progress, such as frivolous protests, while retaining for the parties with legitimate grievances, the opportunity to be heard. There are disconcerting efforts to sweep all that aside. Due process goes out the window.

I am concerned about several procedural changes made by the majority—none of which were noticed in the interim rules: (1) The refusal to permit consolidation requests by anyone except applicants; (2) The total rejection of the ability of applicants to amend their cases; (3) The restriction of service of motions; and (4) The discretionary republication of incorrect **Federal Register** notices. Each of these will cause some hardship on participating parties as they attempt to keep up to date on a proceeding. All of these actions were taken, the majority states, because of time constraints placed on the Commission by Congress. When the solutions to time constraints constrain due process we had better reconsider who must make the sacrifice, the Commission with access to all the information, or parties attempting to participate. I suggest it falls on us. Certainly some better solution is available.

Another majority position more substantive than these procedural issues—and perhaps even more unfair—is the continued refusal to define the burden of the intervening parties. As I pointed out in my concurring opinion to *La Bar's Inc., Extension—Mountaintop Insulation,* 132 M.C.C. 263 (1980) we have gone to great lengths to establish presumptions for the applicant's prima facie case. See also *Tiger Transportation, Inc., Extension—Points in Ten Midwestern States,* 132 M.C.C. 281 (1980); *Art Pape Transfer, Inc., Extension—Commodities in End Dump Vehicles,* 132 M.C.C. 84 (1980).

A reasonable corollary would be to propose similar guidelines for intervening parties. Their statutory burden is to prove that a grant is inconsistent with public convenience and necessity. 49 U.S.C. 10922. But an analysis of the above cases and the statements and rules issued in this rulemaking can only result in the conclusion that we have been less than consistent in describing this burden. Again, the issue is not more or less regulation but fair play. Congress has expressly retained the concept of the opposed proceeding to provide for a balancing of interests. It is our responsibility to articulate the parameters of this balancing so that intervening parties may contribute meaningfully to the proceedings. The failure to develop clear evidentiary standards for all participants is not only prejudicial but results in an impossible burden as parties attempt to second guess the Commission.

Here in this rulemaking, we have undertaken a major restructuring of the procedural and substantive methods by which this agency and the public interact. The rules laid down here will prevail for months and perhaps years to come. While I believe that these new rules are, for the most part, a necessary improvement over past procedures, I am not convinced that we have found the best or even the fairest approach.

It should be recognized that only two of the seven decisions served December 24, 1980, all of which will have impact on motor carrier operating rights, were under statutory deadline. Most, if not all, would have profited from extended attention. This decision is no exception.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-613 Filed 1-7-81; 8:45 am]

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49 CFR Parts 1002 and 1137

[Ex Parte No. MC-142 (Sub-No. 1)]

Removal of Restrictions From Authorities of Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; supplemental notice.

SUMMARY: At 45 FR 86747, December 31, 1980, the Commission published rules implementing the Motor Carrier Act of 1980, which outline procedures to process expeditiously applications of individual motor carriers of property seeking to remove operating restrictions or to broaden unduly narrow authorizations in their outstanding certificates or permits. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office—202-275-7440, Howell I. Sporn—202-275-7575, Edward E. Guthrie—202-275-7691.

SUPPLEMENTARY INFORMATION:

COMMISSIONER CLAPP, concurring in part, dissenting in part:

As I noted in my concurring opinion to the original proposal, the use of this proceeding by existing carriers seeking to expand authority may cause more significant changes in the nation's transportation system than any other section of the 1980 Motor Carrier Act. For example, general commodities carriers may now enter the household goods and bulk areas with ease while many carriers, formerly limited by size and weight restrictions, may now expand into the general commodities arena. All of this and more can be accomplished without the necessity of the application proceeding required of new entrants.

Because of the ability of existing carriers to obtain enormous expansions in authority so easily, I feel that the majority's unwillingness to do more than merely "consider" safety fitness is extremely shortsighted. We should make it clear that with eased expansion and entry, safety fitness will be considered extremely important.

There is certainly no evidence that when Congress considered the matter of restriction removal it did so with the thought that unfit carriers should be permitted to expand their operations or that we should not consider evidence of fitness. Our duty to maintain a safe and sound system is not advanced by the majority's simplistic argument that all applicants have already been found fit—albeit 40 years ago.

The majority has also seen fit to disregard without discussion the question of whether a carrier recently found unfit by the Commission should be able to have major restrictions removed. Discussion would not only be helpful but in order since the rules specifically permit carriers with limited term certificates to request restriction removal. See Section 1137.27. Limited terms are frequently imposed on the certificates of carriers who have been found to be only marginally fit. The expectation is that the carrier will either improve its operations and receive permanent authority or the certificate will expire.

I urge parties to removal proceedings to raise fitness issues where pertinent—especially safety. The Commission should not rubber stamp restriction removal requests when serious fitness questions are raised.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-014 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1002 and 1136

[Ex Parte No. MC-122 (Sub-No. 1)]

Implementation of Intercorporate Hauling Reform Legislation

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; supplemental notice.

SUMMARY: At 45 FR 86761, December 31, 1980, the Commission published rules which allow related but separately incorporated members of the same corporate family to provide transportation service to each other without obtaining a license from the Commission subject to certain conditions and limitations. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Melvin B. Werner—202-275-7987, Kathleen King—202-275-0956.

SUPPLEMENTARY INFORMATION:

COMMISSIONER CLAPP, concurring:

There are two items on which I wish to make further comment. Under the modified regulations, corporations may begin CIH operations immediately upon mailing their notices to the Commission. The language of the statute would appear to allow this although the statutory history is somewhat contradictory. Compare the early floor remarks on S. 2245, Congressional Record dated April 15, 1980, p. 3596, with the subsequent Report of the House Committee on Public Works and Transportation, No. 96-1069, June 3, 1980. Under our rules, an unreceipted, unpublished notice may be the only evidence available in a vehicle to attest to the legality of the operations. Should any enforcement problems arise because of this, I trust either the States or participating corporations will let us know so that we may consider remedial action.

The second matter concerns our ability to change by rulemaking the statutory 100 percent requirement. I would modify the language of the decision as I do not believe the statute or its history indicates that we may, on our own, develop such a rule. At the same time, I believe we should be watching closely to see whether problems arise and if they do we should gather information and consider proposing changes to the Congress.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-015 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1331

[Ex Parte No. 297 (Sub-No. 5)]

Motor Carrier Rate Bureaus—Implementation of Pub. L. 96-296

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision; policy statement; supplemental notice.

SUMMARY: At 45 FR 86736, December 31, 1980, the Commission implemented the rate bureau provisions of the Motor Carrier Act of 1980. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall—202-275-7656.

SUPPLEMENTARY INFORMATION.

COMMISSIONER CLAPP, concurring:

The discussion on remedies for potential violations of bureau agreements is confusing. It is doubtful that the elaborate tariff rejection process is necessary, assuming a meaningful Commission enforcement role. The possibility of antitrust prosecution is probably the strongest deterrent against potential abuse. This Commission, by active and even-handed oversight efforts, could, if necessary, hold fact-finding hearings and turn the results over to the antitrust enforcement agencies. More than this seems superfluous.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-016 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 55 (Sub-43A)]

Acceptable Forms of Requests for Operating Authority (Motor Carriers and Brokers of Property)

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement; supplemental notice.

SUMMARY: The Commission issued this policy statement at 45 FR 86798, December 31, 1980, to guide carriers in requesting authority under the Motor Carrier Act of 1980. Carriers are now to apply for broad, unencumbered authority. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, 202-275-7440; David B. Gaynor, 202-275-7904; Edward E. Guthrie, 202-275-7691.

SUPPLEMENTARY INFORMATION:

Commissioner Clapp, Concurring in Part, Dissenting in Part

Grant descriptions is an area with which the Commission has wrestled many times. The very act of limiting a grant by commodity or territory creates controversy and confusion and has resulted in massive interpretation lists and cases. It is gratifying, therefore, that with the impetus of the 1980 Motor Carrier Act we have taken a positive step forward in simplifying the system. Regrettably, however, this particular act of "simplification" is likely to result in even more confusion and uncertainty among carriers and shippers. In particular, I am concerned with the majority's conclusion that all commodity descriptions must be as "broad or broader than the [two-digit] STCC groupings." This contrasts unfavorably with out companion decision in Ex Parte No. MC-142 (Sub-No. 1) served December 24, 1980, where we agreed that carriers could upgrade a narrow authority, through restriction removal proceedings, to (1) the appropriate two-digit STCC; (2) a commodity description from our *Descriptions* cases; or (3) a broad class description. See 49 CFR 1137.21(b).

The principal question now is how this "broad or broader" description will be interpreted both at the application and operational levels. Will the Commission reject an application for lesser authority when the carrier cannot or will not support a greater request? Or, will we grant the broader grouping although unsupported by even representational evidence? And what burden will intervening parties bear? I believe that we should continue to encourage carriers to apply for reasonable and realistic authorities which serve their full needs. The bottom line, however, should be that carriers and shippers must be able to make their own business judgments as to the sector of marketplace in which they are willing and able to participate. A decision to allow carriers some discretion in commodity choices is *not* restrictive, it is common sense.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-017 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-122 (Sub-No. 3)]

Interpretation—Intercorporate Hauling

AGENCY: Interstate Commerce Commission.

ACTION: Petition for declaratory order; supplemental notice.

SUMMARY: The Commission has been asked to determine whether the exemption of section 9 of the Motor Carrier Act of 1980 is available to certain types of companies. In a notice published at 45 FR 86768, December 31, 1980, the Commission published a notice asking for comments in this matter. In this proceeding, Commissioner Clapp reserved his right to submit a separate expression. That separate expression appears below.

FOR FURTHER INFORMATION CONTACT: Melvin B. Werner, 202-275-7985; Edward E. Guthrie, 202-275-7691.

SUPPLEMENTARY INFORMATION:

Commissioner Clapp, Concurring in Part, Dissenting in Part

I agree with Commissioner Gilliam's comments. Section 10524(b) was intended to eliminate the prohibitions against compensated intercorporate hauling which had arisen from past Commission interpretations of the original private carriage exemption statute. Thus it must be read as adding to section 10524(a), the original section, and not as an independent exemption. Therefore, regardless of whether a corporate family sets up a special company to provide private service to all affiliates, the transportation performed must be within the scope of, and further the family's primary business which must be other than transportation. The majority has, therefore, reached the only possible conclusion with respect to the inability of air carriers to set up exempt motor carrier affiliates and this reasoning applies with equal force to any transportation parent's attempt to set up an exempt carrier affiliate. I see no need to seek comments on this or consider implementing regulations precluding what the statute clearly prohibits.

The issue of whether a person engaged in a warehousing business may use the CIH exemption is less clear as the 1980 Act's addition of Section 10524(b) is not relevant and has not altered precedent on the primary business test of Section 10524(a). The question is whether the current exclusion of warehousing should be changed and the majority has so concluded. But, rather than form premature and unsubstantiated premises on this narrow issue, I suggest that it would be more productive to call for an extensive reexamination of the primary business test and to request comments on the entire issue including, as suggested by Commissioner Gilliam, the interplay between warehouses and freight forwarders. Also if warehousing is then found to be within the exemption, what would be the status of motor carriers who turn their terminals into affiliate "warehouses."

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-018 Filed 1-7-81; 8:45 am]

BILLING CODE 7035-01-M

federal register

Thursday
January 8, 1981

Part V

Department of Transportation

Federal Highway Administration

Carpool and Vanpool Projects

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 656

Carpool and Vanpool Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978. The revised rule contains the basic criteria for determining whether carpool and vanpool (ridesharing) projects are eligible for Federal-aid funding under 23 U.S.C. 146.

EFFECTIVE DATE: January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Reichart, Office of Highway Planning, 202-426-0210, or Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This rule amends the FHWA's existing carpool and vanpool regulation (23 CFR 656) as required by Section 126 of the Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95-599, 92 Stat. 2689). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent; permits the use of Federal-aid secondary system funds for such projects; changes these projects from demonstration projects to regular Federal-aid highway projects; and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. This rule does not concern grants and loans made pursuant to subsections (e) and (f) of Section 126 of the STAA.

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** (44 FR 70753) on December 10, 1979, requesting comments on proposed revisions to the carpool and vanpool regulation. Thirty-three letters were submitted to the public docket (No. 79-28) in response to the NPRM.

Discussion of Comments

The FHWA carefully reviewed all comments received. As many comments as possible have been incorporated into this final rule. The purpose of this preamble is to explain our actions regarding the most significant comments as well as to present our approach and policies regarding the Federal-aid role in ridesharing transportation.

The FHWA recognizes that all ridesharing efforts, regardless of the purpose of the trips involved, help to conserve energy, reduce pollution, and reduce traffic congestion. However, the work or commute trip is the most adaptable trip purpose for ridesharing arrangements, accounting as it does for some 40 percent of all home-based trips taken by automobile. The commute trip is specifically addressed in the national policy statement in the STAA. The FHWA continues this emphasis for ridesharing projects as such projects contribute to better transportation system management, especially during peak travel periods where street and highway physical capacity is often constrained. This policy emphasis is not meant to inhibit State and local officials from implementing Federal-aid ridesharing projects that address other trip purposes where such projects are consistent with local needs and the policy objectives stated in § 656.3 of this rule.

Several comments were received regarding the size of vans which can be purchased with Federal-aid funds. The allowable passenger capacity in § 656.5(c)(3)(i) has been changed from 8 to 15 passengers to 7 to 15 passengers to accommodate smaller sized vans available in the marketplace and to be consistent with certain State motor vehicle code definitions that use the 7 passenger number criterion. Section 656.5(c)(3)(ii) requires that provision be made for repayment of the acquisition cost of the van, but also specifies two situations in which repayment may not be required where the van is used as a marketing device.

Many commenters objected to the lowering of the Federal matching ratio from 90 percent to 75 percent for Federal-aid ridesharing projects. This change was legislatively mandated by Congress in Section 126(b) of the STAA. The STAA repealed the Emergency Highway Energy Conservation Act of 1974 under which ridesharing projects were funded on a demonstration basis with a 90 percent Federal share. The STAA removed the demonstration status and incorporated ridesharing projects into the regular Federal-aid highway program, which limits the Federal share of the project cost to 75 percent (except as provided under Section 120 of Title 23 U.S.C., for certain public land States).

The FHWA has determined that a wide variety of in-kind services and activities can be accepted as the local share or "match" of the project cost. In-kind contributions permitted as local match include properly valued public service announcements (PSA), computer services, and project-related staff time for administration by employees of public and private organizations. Private employers are particularly encouraged to commit their resources as described above in order to contribute to areawide ridesharing efforts. In general, a project-related cost that is eligible for Federal-aid funding is, when properly valued and accounted, acceptable as a local in-kind match. The FHWA believes that this flexibility should reduce the burden some States or local areas may face in providing the required local match.

Section 656.5(c)(5) indicates that Federal-aid funds will participate in the initial or renewal costs of leasing parking spaces or the acquisition of easements or restrictions to provide preferential parking for carpools. Where a reduction in the overall number of vehicles using the designated portion of a commercial parking facility can be demonstrated, that reduction may be used in computing the lease or acquisition cost for the project. However, the regulation does not permit the cost to be computed on the basis of a reduction of the per-vehicle user charge for parking in the designated area.

Another issue raised involved the use of Federal-aid Interstate (FAI) funds for ridesharing projects. This issue had two general aspects. The first was the comment offered by many that FHWA should allow FAI funds to participate in the costs to construct exclusive (not served by existing or planned transit) carpool and vanpool fringe parking facilities not located within the existing FAI right-of-way. At the present time, FHWA has authority under 23 U.S.C. 146(a) to use Federal-aid urban (FAUS), primary (FAP) and secondary (FAS) system funds for such carpool and vanpool fringe parking facilities. Regarding FAI funds, FHWA has authority to use these funds to construct exclusive carpool and vanpool fringe parking facilities within existing FAI right-of-way. Outside existing right-of-way, FAI funds may be used for carpool and vanpool fringe parking facilities *only* when such facilities serve existing or planned public mass transportation service.

It should be emphasized that other regular construction projects such as constructing high occupancy vehicle (HOV) lanes and facilities and multimodal fringe parking facilities can be funded with all categories of Federal-aid funds including FAI funds.

The second aspect of FAI funding involved numerous suggestions that these funds be eligible to participate in the administrative costs of ridesharing programs. Currently, 23 U.S.C. 146(a) specifically authorizes the use of FAUS, FAP, and FAS funds for such purposes. The FHWA believes that these three classes of funds have considerable untapped potential to support ridesharing projects and strongly encourages State and local officials to give priority to ridesharing projects in the annual programs of projects prepared by the States.

Another concern raised by commenters is the language in § 656.5(a) that ridesharing projects "must serve a Federal-aid system" and be financed with the appropriate class of eligible funds, "depending on the system served." This is merely a restatement of FHWA policy that Federal-aid funds should be used for projects that will improve the people-moving efficiency of the overall Federal-aid system, and that the class of funds used should depend on the system benefited by the expenditure. In projects involving physical facilities, such as providing a bus and carpool lane, the class of Federal-aid funds to use is usually obvious. With respect to other ridesharing projects such as promotion and matching programs or van acquisition, which by their nature cannot be limited to a specific physical facility, State and local officials must decide which Federal-aid system will receive the primary benefit and use that class of funds for the project. Splitting or prorating of costs among different system funds for a nonconstruction, ridesharing project that serves a geographic area is neither required nor encouraged.

Many commenters suggested that the requirement in § 656.5(b) that Federal-aid carpool and vanpool projects not have "an adverse effect on any mass transportation system" be deleted. This restriction is specifically included in the authorizing legislation (STAA) and therefore cannot be administratively deleted. In considering this legislation, the congressional conferees addressed the "adverse effect" issue in their Conference Report and stated that an adverse effect had to be an "appreciable adverse impact," more than a *de minimic* effect. The FHWA believes that the intent of this requirement is consistent with the policy and practice followed by Federal-aid ride-sharing projects since 1974, i.e., ridesharing projects are intended to complement public transportation and accommodate travel demands that transit cannot conveniently accommodate on a cost-effective basis. Carpools and vanpools are viewed as integral parts of a balanced transportation system that complement and enhance the efforts of public and private transit services to broaden the alternatives to the single-occupancy automobile. Ridesharing operations are particularly complementary for low-density and suburb-to-suburb trips not efficiently served by fixed-route, radial transit services and where adequate peak-period transit service is not available. In many cases, carpooling and vanpooling activities help to identify potential transit expansion markets and for many commuters serve as the first step in shared riding, preparing them to become transit riders as service expands.

The FHWA believes that institutional processes are in place that ensure coordination of transportation planning and project funding and protection against appreciable adverse impacts. The metropolitan planning organization, comprised of local elected officials and with representation of other agencies, including transit operators, provides the primary mechanism to ensure that ridesharing projects do not have a substantial adverse effect on area transit service. It should be noted that several transit agencies currently use Federal-aid funds to support ridesharing projects to complement their existing transit service. The FHWA welcomes these ridesharing program partners and strongly encourages other transit operators to support ridesharing projects.

Other Considerations

The FHWA believes the promotional advocacy role the Federal Government is taking with respect to ridesharing is creating an organization commitment within the transportation profession and between leaders in both the public and private sectors to implement and expand ridesharing opportunities, including highway-related incentives such as preferential HOV lanes. If a sudden and severe energy shortage were to take place, expansion of ridesharing arrangements could proceed without delay. Such a rapid response to a crisis situation could diminish the need for other emergency measures and help relieve the crisis conditions. Apart from emergency contingencies, public officials and private employers are increasingly regarding ridesharing as an effective tool of community and economic development, harnessing the efficient use of private vehicles to serve the public interest.

The FHWA's primary involvement is to provide a safe and adequate physical network of streets and highways, including funding of ridesharing incentives, to hasten the removal of legal and regulatory barriers that inhibit the growth of ridesharing and to provide information, technical assistance, and encouragement to accelerate and enhance ridesharing.

Ridesharing as a practice has grown rapidly beyond its carpool origins and is still evolving as a concept. This rule addresses the use of Federal-aid highway funds to help support and carry out carpool and vanpool projects, the backbone of the ridesharing concept.

This regulation will have no significant economic effect as it will not increase spending. The regulation will merely implement the policies set forth in the STAA. For these reasons the FHWA has determined that this document does not contain a significant regulation under the criteria established by the U.S. Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above.

In consideration of the foregoing and under the authority of 23 U.S.C. 146 and 315, and section 126 of the STAA (Public Law 95–599, 92 Stat. 2689) and the delegation of authority by the Secretary of Transportation in 49 CFR 1.48(b), Chapter 1 of Title 23, Code of Federal Regulations, Part 656 is revised as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: December 30, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

23 CFR Part 656 is revised to read as follows:

PART 656—CARPOOL AND VANPOOL PROJECTS

Sec.
656.1 Purpose.
656.3 Policy.
656.5 Eligibility.
656.7 Property management.

Authority: 23 U.S.C. 146 and 315; section 126 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2689; 49 CFR 1.48(b).

§ 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

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§ 656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

§ 656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C 120. Except for paragraph (c)(3) of this section, for all purposes of this regulation the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this regulation if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the opportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs (including both labor and other related items).

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons.

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before the scheduled termination date for the reason, concurred in by the State, that its continuation is no longer productive. The cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 7–15 passengers (no buses, passenger cars or station wagons); and

(ii) Provision is made for repayment of acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance. Repayment is not required under the following conditions:

(A) When vehicles are purchased as demonstrator vans for use as a marketing device. Vehicles procured for this purpose should be used to promote the vanpool concept among employees, employers, and other groups by allowing potential riders and sponsors to examine commuter vans; or

(B) When vehicles are purchased for use on a trial commuting basis to enable people to experience vanpooling first hand. The trial period must be limited to a maximum of 2 months. That part of the user fee normally collected to cover the capital or ownership cost of the van would be eligible for reimbursement as a promotional cost during the limited trial period. As with established vanpool service, all vehicle operating costs must be borne by the user(s) during the trial period.

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to ensure that the high occupancy vehicle (HOV) lane designation is effective and that the project is fully developed and operating properly.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trial blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs for leasing parking space or acquisition of easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the designated portion of a commercial facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include acquisition of land and normal construction activities, including installation of lighting and fencing, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, when funded with Federal-aid Interstate funds, fringe parking construction shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

§ 656.7 Property management.

All of the applicable provisions of OMB Circular A–102, Appendix N, concerning property management standards shall apply.

[FR Doc. 81–508 Filed 1–7–81; 8:45 am]

BILLING CODE 4910-22-M

federal register

Thursday
January 8, 1981

Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service/National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rulemaking.

SUMMARY: The Fishermen's Contingency Fund (FCF) regulations are amended to allow the Office of the General Counsel to close a claim file when a claimant withdraws a claim, abandons a claim by failing to respond to a notice of deficiencies, or a financially responsible party admits liability. This amendment will eliminate unnecessary procedural steps involving public notice and adjudication by an Administrative Law Judge (ALJ) for files which have, in effect, ceased to be claims.

The regulations are also amended to allow a claim to be processed upon submission of sufficient, rather than all, claim information presently required by program regulations. The Agency's experience is that in some cases not all information required by the regulations for a claim application is essential to an accurate and equitable claim decision. This amendment will prevent delays occasioned by requiring claimants to provide information which may not be relevant to a decision on a particular claim.

Minor changes are also made to the requirements of the claim application to eliminate duplication and to establish specifically when estimates or when receipts for replacement or repair costs are required with a claim application. These changes will apply to all past, present, and future claims.

EFFECTIVE DATE: February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Hensley, Program Leader, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven St., N.W., Washington, D.C. 20235. Phone number (202) 634-4688.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking for implementation of Title IV, the Fishermen's Contingency Fund, was published in the Federal Register on May 24, 1979 (44 FR 30292).

On January 24, 1980 (45 FR 6062), NOAA published final regulations implementing Title IV, but reserved § 296.10, which deals with procedures for adjudication of claims by an ALJ.

On July 2, 1980 (45 FR 44942), NOAA published § 296.10 and several minor changes to the previously issued regulations to improve their clarity or to delete from the required contents of a claim application several items of information which were unnecessary for the resolution of a claim.

On October 2, 1980 (45 FR 65264), NOAA published proposed rulemaking and invited comments for 30 days ending November 3, 1980. Comments were received from three sources. The following summarizes the comments and the Agency's responses.

Section 296.7(e)

Contents of claim application. The proposed amendment of § 296.7(e) provides that the Chief, FSD, may determine what information is necessary to process a claim.

Comment: One commenter stated that this provision allowed the Chief, FSD, too much leeway in determining whether a claim contains sufficient information for processing and recommended, after an opportunity for comment, specific changes in the information requirements rather than blanket authority. A second commenter contended the provision would weaken the application process by requiring inadequate proof.

Response: The purpose of the proposed amendment is to prevent unnecessary delay by allowing a claim to be processed even though not all information requirements listed under § 296.7(e) have been met. Unnecessary delay would be occasioned, for example, if the claim were not processed because the claimant had failed to state the visibility at the time and place of the damage or loss, as required by § 296.7(e)(17). This information is not always relevant to a claim decision. If, however, the circumstances of the damage or loss indicated that visibility was a relevant factor, that information would be required, and the claim would not be processed until the claimant submitted it.

The action of the Chief, FSD, is the first step in a three-tier procedural system for a claim determination. The Chief, FSD, processes the claim and proposes a settlement for consideration by the NOAA General Counsel; the NOAA General Counsel then makes an official Agency recommendation on the disposition of the claim; and an ALJ adjudicates the claim based upon either written evidence or evidence presented at an oral hearing. Since the NOAA General Counsel reviews, and the ALJ decides on, the adequacy of all claims, the leeway given the Chief, FSD, in determining the sufficiency of information for processing a claim constitutes no weakening of the claim process. In proof of either eligibility or of compensable amounts is inadequate, the NOAA General Counsel will require the Chief, FSD, to obtain such proof from the claimant. If the claimant does not provide it, the ALJ will deny the claim. In addition, interested persons have the opportunity to participate in the ALJ's adjudication and may, of course, argue the inadequacy of claim documentation at that point or seek judicial review of the ALJ's approval of a claim.

Section 296.7(e)(7)

The proposed amendment deletes the words "a full description of the fishing gear involved (including a list of all components)."

Comment: One commenter disagreed with the proposed deletion, arguing that interested persons had a right to know what equipment was in use when the damage or loss occurred.

Response: This information is required by 296.7(e)(10)(ii). The deletion was made to avoid duplication.

Section 296.7(e)(10)(iv)

Comment: One commenter observed a typographical error in line nine where "unusally" is printed for the word "usually."

Response: This error was made in printing the regulations and is corrected.

Section 296.7(e)(10)(v)

The proposed amendment allows claimants who have repaired or replaced their gear before filing a claim to submit only receipts for actual costs, rather than both receipts and second-source estimates. Second-source estimates may be requested by the Chief, FSD, if necessary.

Comment: One commenter contended that second-source estimates should always be required and not be at the discretion of the Chief, FSD.

Response: The Agency's experience is that most claimants repair or replace their lost or damaged gear before submitting their claims. These claimants have stated that they have difficulty obtaining estimates in their home ports from commercial fishing gear repair and supply companies with which they do not regularly trade. The amendment will alleviate this problem by requiring submission of only the receipt for actual costs at the time and place of the damage or loss. If the amounts shown on the receipts represent costs higher than the Agency's experience shows to be current for the time and place of the damage or loss, the Chief, FSD, will then require from the claimant a second-source estimate and a statement explaining the reason for the higher costs. We have added to the regulation this explicit statement of when a receipt for actual costs will not be adequate. We believe this meets the concern of the commenter while avoiding unnecessary burdens on the claimant.

Section 296.8(d)(1)

Concerning timeliness, completeness and eligibility of claims. The proposed amendment provides that, regardless of whether public notice of the claim has been given, the General Counsel may close a claim file when the claimant has withdrawn or abandoned the claim by failing to respond to a notice of deficiency sent by the Chief, FSD, or by accepting payment from another source.

Comment: One commenter stated that all interested persons should be notified of the final disposition of claims closed by the General Counsel.

Response: The Agency will give notice in the **Federal Register** of all claim files closed by the General Counsel under this Section.

Note.—The Assistant Administrator for Fisheries made an initial determination that these regulations are not significant under Executive Order 12044. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental impact statement under the National Environmental Policy Act.

Dated: January 5, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(Pub. L. 95–372; 92 Stat. 629; 43 U.S.C. section 1841 *et seq.*)

Accordingly, 50 CFR Part 296 is amended as follows:

§ 296.7 Instructions for filing claims.

1. Section 296.7 is amended by:

a. Revising the introductory clause of paragraph (e) to read as follows:

* * * * *

(e) *Contents.* Each claim shall be signed by the claimant and shall accurately and completely provide the following information, or so much of the information as the Chief, FSD, determines is necessary to process the claim:

* * * * *

b. By revising paragraph (e)(7) to read as follows:

* * * * *

(e) * * *

(7) A statement of: the type of fishing operation being conducted (for example, trawling for shrimp) and the type and size of vessel involved;

* * * * *

c. By revising paragraph (e)(10)(iv) to read as follows:

* * * * *

(e) * * *

(10 * * *

(iv) If the lost or damaged gear is not replaced or repaired before the claim is filed, estimates from two different commercial fishing gear repair or supply companies of the present replacement cost of the fishing gear and the repair cost of the fishing gear (if it is repairable). If fishing gear of the type lost or damaged is usually made or repaired by the claimant, a detailed estimate prepared by the claimant identifying the repair or replacement cost of the fishing gear may be included in place of one of the estimates from commercial fishing gear repair or supply companies;

* * * * *

d. Revising paragraph (e)(10)(v) to read as follows:

* * * * *

(e) * * *

(10) * * *

(v) If the fishing gear is repaired or replaced before a claim is filed under this Part, a copy of the itemized invoice or receipt for the repair or replacement of the fishing gear. If the fishing gear of the type lost or damaged is usually made or repaired by the claimant, an itemization of all costs (including receipts for materials) prepared by the claimant may be submitted in place of a receipt or invoice from a commercial fishing gear repair or supply company. The Chief, FSD, may request a second-source estimate for replacement or repair costs if the amounts shown on such receipts or invoices represent costs higher than the Agency's experience shows to be current for the time and place of the damage or loss; and

§ 296.8 NMFS Processing of Claims. [Amended]

2. Section 296.8 is amended by:

a. Revising paragraph (a)(3)(iv) to read as follows:

(a) * * *

(3) * * *

(iv) If any person admits responsibility under paragraph (a)(3)(ii) of this section or otherwise, the Chief, FSD, will so inform the claimant and will not take any further action on the claim. If the person admitting responsibility later denies, or withdraws the admission of, responsibility, the Chief, FSD, will resumes processing the claim. If the person admitting responsibility does compensate the claimant for the loss with respect to which the claim was filed, the Chief, FSD, will forward the claim to the General Counsel for action under paragraph (d)(1) of this section.

* * * * *

b. Revising paragraph (b)(1) to read as follows:

* * * * *

(b) * * *

(1) *General.* The Chief, FSD, will promptly review each claim filed under § 296.7 and determine whether it is timely filed within the 60-day period specified in § 296.7 (c), sufficiently complete under § 297.7(e) to allow processing, and eligible on its face.

* * * * *

c. Revising paragraph (b)(3)(i) to read as follows:

* * * * *

(b) * * *

(3) * * *

(i) If the Chief, FSD, finds that the claim is not sufficiently complete to allow processing, the Chief, FSD, will send to the claimant a written notice stating the deficiency in the claim.

* * * * *

d. Striking the word "property" in paragraph (c)(1) and inserting in lieu thereof the word "sufficiently."

e. Revising paragraph (d)(1) to read as follows:

(d) * * *

(1) *Concerning timeliness, completeness and eligibility of claims.* The General Counsel will review any finding made by the Chief, FSD, under paragraph (b)(2), (3) or (4) of this section, and will determine whether to send the claim, together with an official agency recommendation that the claim be denied, to the ALJ for an expedited proceeding under section 296.10(*l*) of this Part. If the General Counsel finds that the claimant has abandoned the claim by failing to respond to a notice of deficiency sent by the Chief, FSD, under paragraph (b)(3) of this section, by expressly withdrawing the claim from further consideration, or by accepting payment from another source, the General Counsel may close the file without further action under this Part 296, regardless of whether public notice of such a claim has been given under paragraph (a) of this section.

[FR Doc. 81-685 Filed 1-7-81; 8:45 am]

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federal register

Thursday
January 8, 1981

Part VII

Environmental Protection Agency

Non-Discrimination on the Basis of Race, Color, National Origin, Age, Handicap, and Sex in Federally Assisted Programs

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ENVIRONMENTAL PROTECTION AGENCY

Office of the Administrator

[AS-FRL 1694-6]

40 CFR Parts 7 and 12

Non-Discrimination on the Basis of Race, Color, National Origin, Age, Handicap and Sex in Federally Assisted Programs

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing this consolidated non-discrimination regulation to apply the following provisions of Federal statutes and guidelines to all EPA assistance programs:

1. Title VI of the Civil Rights Act of 1964 (40 CFR Part 7)
2. Section 504 of the Rehabilitation Act of 1973, as amended
3. The Age Discrimination Act of 1975
4. Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (40 CFR Part 12)
5. Federal Register Vol. 44, No. 114, June 12, 1979, pp. 33768 (Department of Health, Education & Welfare implementing guidelines for the Age Discrimination Act)
6. Federal Register Vol. 42, No. 86, May 4, 1977, pp. 54950 (Health, Education & Welfare implementing guidelines for Sec. 504 of the Rehabilitation Act)

These statutes along with Executive Order 12250 require the Agency to prohibit discrimination on the basis of race, color, national origin, handicap, age and sex. This Regulation provides a foundation for transforming these required prohibitions into a manageable program.

When implemented, this Regulation will streamline the administrative requirements currently imposed on recipients of agency funds by multiple non-discrimination regulations. In addition it will strengthen agency monitoring efforts by eliminating redundancy and refining compliance procedures.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Written comments should be sent to the Mr. Eduardo Terrones, Director, Office of Civil Rights (A-105), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Arl Williams, Associate Director of External Compliance Programs Staff, Office of Civil Rights (A-105), USEPA, 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 755-0540.

SUPPLEMENTARY INFORMATION: This proposed regulation consolidates all provisions which prohibit discrimination (on the basis of race, color, national origin, sex, age, or handicap) in programs recieiving EPA assistance. In order to ensure non-discrimination, the regulation requires an assurance of non-discrimination at the time of application for EPA assistance. A transition plan outlining the steps which the recipient will take to make its facilities and programs accessible to the handicapped, and a compliance report setting forth the recipient's compliance with the regulation. If EPA, based on a complaint from an aggrieved party, or on its own investigation, finds that an applicant or recipient has not complied with this regulation, it may terminate, annul, or refuse to grant or to continue EPA assistance after a hearing. Applicants and recipients can regain eligibility for assistance by complying with this regulation.

When drafting this proposed regulation, EPA's task group did not change the content of earlier EPA regulations, but rather the form in which this content is expressed. Specifically, the proposal:

—Combines all non-discrimination provisions into a coherent structure that is easy to understand and easy to follow.

—Eliminates the portions of guidelines which are redundant or inapplicable to EPA, and

—Expresses them in simple language that preserves their original intent.

The proposed regulation streamlines certain administrative procedural requirements. For example, under the HEW guidelines, recipients must submit both a self-evaluation and a compliance report. Under EPA's proposed regulation, recipients are not required to submit a self-evaluation. In addition, applicants for Step I construction grant assistance need not file compliance reports. Moreover, applicants for Step II and Step III construction grant assistance will not be required to submit specific demographic data if the entire population in the applicant's area will be served upon completion of the project.

In addition to updating EPA's Non-Discrimination Regulations, our concern is to make the requirements as clear and convenient to comply with as possible and to make them easier for us to administer. We particularly welcome comments and suggestions on this aspect of the proposal.

We do not intend to compromise the substance of the prohibitions against discrimination. These provisions deal with four distinct legislative basis for preventing discrimination—Title VI considerations; Section 504 considerations; Age considerations and Sex considerations—and the prohibited acts of discrimination can vary with the basis. Our proposal reflects this diversity, and we have preserved the distinctions where they are required by the Acts or the nature of the protected group. For example, the proposed rule:

—Prohibits discrimination based on sex only in programs funded under the Clean Water Act of 1972, because there is no statutory authority to prohibit it under our other programs.

—Lays down special requirements to make programs accessible to the handicapped (§ 7.45), as required by the Rehabilitation Act of 1973.

—Permits exceptions on the basis of age if certain requirements are met, as permitted by the Age Discrimination Act of 1975, and requires mediation of only discrimination complaints based on age, as required by the Age Discrimination Act of 1975.

We particularly solicit commenters' attention to these distinctions; please let us know if we have omitted a significant substantive provision or retained an unnecessary distinction.

Phase-In

Because the vast majority of EPA's assistance funds are distributed under the construction grants programs, we would like to clarify the application of this regulation to that program.

In order to avoid disruption of wastewater treatment construction projects under way, this regulation will not apply to projects which receive Step I grant assistance before (effective date). All Step I projects awarded after (effective date) will be subject to this regulation. Recipients who were subject to non-discrimination rules, policies and statutes effective at the time of their initial award remain subject to those rules, policies and statutes.

Accessibility

Under § 7.55(a), recipients must make their facilities accessible to the handicapped if it can be done without unreasonable expense or risk *or* if accessibility is necessary in order to receive the benefits of the program. Our review of facilities funded under the construction grants program has shown that the actual treatment works areas are inherently hazardous and cannot be made both accessible and safe. As accessibility is not necessary in order to receive the benefits of the program, we have determined that the treatment works areas need not be accessible. Other accessibility determinations will be made by the Deputy Compliance Officer on a case-by-case basis.

Specialized Regulation

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." We have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

It is proposed to amend title 40 CFR by removing Part 12 and by revising Part 7 to read as follows:

PART 7—EPA NON-DISCRIMINATION IN ASSISTED PROGRAMS

Subpart A—General

Sec.
7.10 Purpose of this part.
7.15 Applicability.
7.20 Agency responsibility.
7.25 Definitions.

Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin, Sex or Age

7.30 General prohibition.
7.35 Specific prohibitions.
7.40 Exception: Permissible age distinctions.

Subpart C—Discrimination Prohibited on the Basis of Handicap

7.45 General prohibition.
7.50 Specific prohibitions.
7.51 Exceptions.
7.55 Accessibility for handicapped.
7.60 Transition Plan.

Subpart D—Requirements for Applicants and Recipients

7.65 Assurances.
7.70 Notice of non-discrimination.
7.75 Compliance reports.
7.80 Grievance procedures.
7.85 Notice of lawsuits.
7.90 Maintenance of a log of complaints.
7.95 Access to information.
7.100 Intimidation and retaliation prohibited.

Subpart E—Agency Compliance Procedures

7.105 Actions available to EPA to obtain compliance.
7.110 Coordination with other agencies.
7.115 Pre-award compliance.
7.120 Post-award compliance.
7.125 Complaint investigations.
7.130 Procedure for annulling, suspending or terminating EPA assistance.
7.135 Procedure for regaining eligibility.

Authority: Sec. 602 of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1; Sec. 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; The Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.; Sec. 13 of the Federal Water Pollution Control Act Amendments of 1972.

Subpart A—General

§ 7.10 Purpose of this part.

This Part implements the non-discrimination provisions of the following statutes (the Acts) in the financial assistance programs of the Environmental Protection Agency (EPA): Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 and Section 13 of the Federal Water Pollution Control Act. These provisions prohibit discrimination on the basis of race, color, national origin, age, handicap or sex in federally funded programs.

§ 7.15 Applicability.

(a) *General Applicability.* This Part applies to all applicants for, and recipients of, EPA assistance awarded after (effective date). It supercedes the current provisions found at 40 CFR 7 and 40 CFR 12. It does not supercede Executive Order 11246 "Equal Employment Opportunity" (September 24, 1965) nor any future amendments to that Order or EPA's implementing regulation (40 CFR 8).

(b) [Reserved]

§ 7.20 Agency responsibilities.

(a) *Policy.* EPA's Administrator, Compliance Officers and Project Officers seek the cooperation of applicants and recipients in securing compliance with this Part, and are available to provide assistance.

(b) The EPA Compliance Officer (CO) is responsible for developing and administering EPA's Compliance programs under the Acts.

(c) The Assistant Compliance Officer (ACO) will assist the Compliance Officer and may exercise the authority of the Compliance Officer.

(d) Deputy Compliance Officers (DCO's) are responsible for field administration of compliance programs according to directives and guidelines promulgated by the Compliance Officer.

(e) EPA's Project Officers will provide notice to each recipient of its obligations under this Part and will provide recipients with technical assistance or guidance upon request.

§ 7.25 Definitions.

As used in this Part, the term:

"Administrator" means the Administrator of EPA. It includes any other agency official authorized to act on his or her behalf, unless explicitly stated othewise.

"Age Distinction" means terms that necessarily imply a particular age or range of ages (for example, terms like "children," "adult," "older persons," but not terms like "student").

"Applicant" means anyone who submits an application to EPA.

"Application" means any formal or informal request for EPA assistance.

"Assistance Approving Official" means the official authorized to execute an assistance agreement on behalf of EPA.

"Compliance Officer" (CO) is the Director of the Office of Civil Rights, EPA Headquarters. The Assistant Compliance Officer (ACO) is the Director, External Compliance Programs Staff, Office of Civil Rights. The Deputy Compliance Officer (DCO) is the Regional Director of the Office of Civil Rights.

"EPA" means the Environmental Protection Agency.

"EPA Assistance" means EPA's entire contribution to a project under a grant, loan, cooperative agreement, technical assistance award, or assistance under the Intergovernmental Personnel Act. It does not include procurement contracts, or contracts of insurance or guaranty. It can take the form of:

(a) funds, or

(b) services of personnel, or

(c) interest in, or use of, real or personal property, including:

(1) transfers or leases of property for less than fair market value, and

(2) proceeds from later transferring or leasing property, if EPA's share of its fair market value is not returned.

"Facility" means all or any part of structures, equipment, or other real or personal property or interests therein.

"Handicapped Person" means any person who:

(a) has a physical or mental impairment that substantially limits one or more major life activities,

(b) has a history of, or has been classified as having, a mental or physical impairment that substantially limits major life activities,

(c) has a physical or mental impairment that substantially limits major life activities only because of other's attitudes or prejudices, or

"Major Life Activities" include caring for one's self, performing manual tasks, walking, seeing, hearing, standing, speaking, breathing, learning, and working.

"Office of Civil Rights" (OCR) is the EPA Office of Civil Rights at headquarters, Washington, D.C., with counterparts in each EPA regional office.

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"Physical or Mental Impairments (Handicaps)" include: (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; endocrine; (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional illness, or specific learning disabilities; (c) The following diseases and conditions: orthopedic impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; ataxia, Parkinson's disease; paraplegia; quadriplegia; arthritis; lung disease; kidney disease; drug addiction and alcoholism.

"Program" means an EPA assistance activity.

"Project" means the scope of work for which EPA assistance is awarded.

"Project Officer" means the EPA official designated in the Assistance Agreement as the Agency's principal contact with the recipient and responsible for the performance and/or coordination of project monitoring.

"Racial Distinctions:"

(a) American Indian or Alaskan Native. A person having origins in the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(b) Asian or Pacific Islander. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. These areas include China, India, Japan, Korea, the Philippine Islands, and Samoa.

(c) Black. A person having origins in any of the black racial groups of Africa.

(d) Hispanic. A person whose culture or national origin is Mexican, Puerto Rican, Cuban, Central or South American or other Spanish heritage regardless of race.

(e) White. A person having origins in any of the original people of Europe, North Africa, or the Middle East.

"Recipient" means the primary entity receiving assistance from EPA. It does not include incidental, unintended, or ultimate beneficiaries of the assistance.

"Ultimate Beneficiaries" means those people the program is designed to benefit.

Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin, Sex or Age

§ 7.30 General prohibition.

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity that receives or benefits from EPA assistance, on the basis of race, color, national origin, or age, or in programs funded under the Federal Water Pollution Control Act, on the basis of sex.

§ 7.35 Specific prohibitions.

A recipient may not directly or indirectly, on the basis of race, color, national origin, age, or if applicable, sex, take any of the following actions:

(a) Denying a person any service, financial aid or other benefit of the program.

(b) Providing to a person any service, financial aid or benefit which is inferior or is provided in a different manner from that provided to others under the program.

(c) Restricting a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid or benefit provided by the program.

(d) Subjecting a person to segregation in any manner or separate treatment in any way related to receiving services or benefits under the program.

(e) Establishing criteria for participation in the program or receiving benefits therefrom which have the effect of excluding groups of qualified persons from enjoying the benefits under the program.

(f) Denying a person the opportunity to participate as a member of a planning or advisory board.

(g) Permitting discriminatory activity in a facility built in whole or in part with EPA assistance.

(h) Choosing a site for a facility that has the purpose or effect of discriminating by limiting access to the services or benefits provided by the facility.

(i) Discriminating in employment in any program whose goals include employment.

§ 7.40 Exception: Permissible age distinctions.

(a) A recipient may take an action which is based on age if age bears a reasonable relationship to its normal program operations or activities, or if factors other than age cannot easily be measured without reference to age, or

(b) A recipient may consider other relevant factors regardless of any disproportionate impact on persons of different ages if those factors bear a reasonable relationship to the normal operation of the program or activity, or to the achievement of a statutory objective, or

(c) A recipient may make age distinctions prescribed in a Federal, State or local statute or ordinance adopted by an elected legislative body, if the statute or ordinance:

(1) provides benefits or assistance based on age, or

(2) establishes criteria for participation in age-related terms, or

(3) describes intended beneficiaries or target groups in age-related terms.

Subpart C—Discrimination Prohibited on the Basis of Handicap

§ 7.45 General prohibition.

No qualified handicapped person shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity that receives or benefits from EPA assistance, on the basis of handicap.

§ 7.50 Specific prohibitions.

A recipient, in providing any aid, benefit or service may not, directly or through contractual, licensing, or other arrangement:

(a) Deny a qualified handicapped person any service financial aid or other benefit of an EPA assisted program;

(b) Provide to a qualified handicapped person any service, financial aid or other benefit which is inferior or is provided in an inferior manner from that provided to others under the program;

(c) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(d) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(e) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards which are a part of the program, through membership criteria, location of permanent meeting sites or other administrative action;

(f) Choose a site for a facility that has the purpose or effect of excluding handicapped persons, denying them benefits of the program or otherwise subjecting them to discrimination;

(g) Fail to make a reasonable accommodation for handicapped employees and applicants for employment, taking into account the safe and efficient operation of the program; or

(h) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service from the program.

§ 7.51 Exceptions.

(a) Handicapped persons must always have the same opportunity as non-handicapped persons to participate in EPA-assisted programs. Nevertheless, recipients may provide separate or different programs for the handicapped when reasonable accommodation of the standard program will not permit handicapped people to get the same results obtained by the non-handicapped.

(b) When separate or different programs are used, the program aids, benefits and services must be as effective as those associated with the standard program. These aids, benefits and services need not produce results or levels of achievement for handicapped persons that are identical to those obtained by non-handicapped persons; rather they must give handicapped persons equal opportunity to obtain the same results, to gain the same benefits, or to reach the same levels of achievement in the most integrated setting appropriate to their needs.

§ 7.55 Accessibility for the handicapped.

(a) *General Accessibility Requirements.* A recipient must operate each program or project so that as a whole it is readily accessible to and usable by handicapped persons. Facilities must be made accessible only if:

(1) Removing barriers to accessibility can be accomplished without incurring unreasonable costs or unreasonably impairing the safe and efficient operation of the facility, or

(2) Accessibility is necessary to receive the benefit of the program. However, a recipient does not have to make each of its facilities or every part of a facility accessible to and usable by all handicapped persons. A recipient need not alter existing facilities where other methods will satisfy the accessibility requirements of this section.

(b) *Methods of Making a Facility Accessible Without Alterations.* A recipient may comply with the accessibility requirements of this section by redesigning equipment, by reassigning services to accessible building, by assigning aids to beneficiaries, or by any other means that result in its program or activity being accessible to the handicapped. However, in choosing among available alternatives for accessibility, a recipient must give priority to methods that offer program benefits to handicapped persons in the most integrated setting possible.

(c) *Methods of Making Facilities Accessible With Alterations.* Design, construction or alteration of facilities that conform to the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," (ANSI) published by the American National Standards Institute, Inc. (ANSI A117.1-1961) (R1971), incorporated by reference in this Part, constitutes compliance with this section. EPA will permit departures from these standards if the recipient demonstrates that the departures provide equivalent access to the facility.

(d) *Deadlines for Making Existing Facilities Accessible.*

(1) Facilities not requiring alterations for accessibility must adhere to the provisions of this section by (60 days of effective date).

(2) Recipients having an existing facility which does require alterations to be made accessible, must submit a transition plan by (six months from effective date). The recipient must make the changes as soon as possible, but not later than (three years from effective date).

§ 7.60 Transition plan.

If structural changes are necessary to make the program accessible to the handicapped, an applicant or recipient must submit a transition plan.

(a) *Requirements.* The transition plan must set forth the steps needed to complete the structural changes required. It must, at a minimum:

(1) Identify the physical obstacles in its facilities that limit handicapped person's access to its program or activity,

(2) Describe in detail what will be done to make the facilities accessible,

(3) Specify the schedule for the steps needed to make the program fully accessible, and include a year-by-year timetable if it will take more than a year,

(4) Indicate the person responsible for carrying out the plan.

(b) *Availability to the Public.* Applicants and recipients must make a copy of the transition plan available for public inspection at the site of the project or at the main office of the applicant or recipient.

(c) *Notice of Accessibility.* The recipient must make sure that interested persons, including those with impaired vision or hearing, can find out about the existence and location of the assisted program services, activities, and facilities that are accessible to and usable by handicapped persons.

Subpart D—Requirements for Applicants and Recipients

§ 7.65 Assurances.

Applicants for EPA assistance must submit an assurance with their applications, providing that the assisted activity will not involve any discrimination that is prohibited by this Part. The Compliance Officer (CO) must approve the assurance before financial assistance is granted. The applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance and this Part.

(a) *Duration of assurance.* (1) Real property. When EPA awards assistance in the form of real property, the transfer instrument may contain a covenant running with the land which assures non-discrimination. EPA may also retain a right of reverter which will cause the property to revert to EPA if the covenant is ever broken.

(2) Personal property. When EPA provides assistance to obtain personal property, the assurance will obligate the recipient for as long as it continues to own or possess the property.

(3) In all other cases, the assurance will obligate the recipient for as long as EPA assistance is extended.

§ 7.70 Notice of non-discrimination.

(a) *Requirements.* A recipient must provide public notice that it does not discriminate on the basis of race, color, national origin, sex, age, or handicap to the following groups: participants, applicants, employees—including those with impaired vision or hearing—and unions or professional organizations holding collective bargaining or professional agreements with the recipient. The notice must also identify the responsible employee designated under the grievance procedure, as required in S. 7.90. Methods of initial and continuing notification may include posting notices, publishing in newspapers and magazines, placing notices in recipients' internal publications, and distributing memoranda or other written communications in English and any other language as necessary. The notice must be included in all major correspondence prepared by the recipient (i.e., printed letterhead).

(b) *Deadline.* Current recipients must provide initial notice of non-discrimination by (90 days of effective date). Recipients of assistance awarded after (effective date) must provide initial notice by 30 days after award. The recipient must continue to provide notice for as long as it receives EPA assistance.

§ 7.75 Compliance reports.

(a) *Submission Requirement.* Each recipient must submit a Compliance Report to the Project Officer before work is initiated on the project. Recipients of Step I assistance under Title II of the Clean Water Act need not submit new compliance reports, but must submit any reports that are submitted in connection with earlier receipt of other federal funds.

(b) *Processing the Compliance Report.* Upon receipt of the Compliance Report, the Project Officer will forward it to the Deputy Compliance Officer (DCO) for approval. If the DCO does not approve the compliance report, he or she will direct the recipient to take steps to gain approval. If these steps are not taken in a timely fashion, the DCO may initiate a compliance review or investigation pursuant to §§ 7.115 and 7.120 of this Part.

(c) *Recipient Requirements.* In preparing the Compliance Report, the recipient must:

(1) Consult with interested and involved persons in describing compliance with age and handicap provisions;

(2) Identify and justify each age distinction it imposes if the recipient has at least 15 full-time employees. (The Administrator or Regional Administrator, as appropriate, may order recipients with fewer than 15 full-time employees to do this as well);

(3) Consider the effects of its current policies and practices that do or may involve handicap discrimination;

(4) Provide, on request of the DCO, statistics on racial/ethnic, national origin, age, sex, and handicapped data, showing the extent to which these groups are or will be beneficiaries of the recipient's program. (In no event shall recipients of wastewater treatment construction grants be required to conduct demographic surveys or to expend grant assistance for the collection of such data.)

(5) Notify Sub-Recipient of their Obligation Under This Part.

(d) *Racial Distinctions.* Compliance reports must include the racial distinctions set forth in the § 7.25 when determining categories of race, color and national origin.

(e) *Records Required.* A recipient must maintain adequate records of its efforts to comply with this Part. It must keep records for three years after the project has been completed except when any complaint or other action for possible violation of this Part is brought before the three-year period ends. In that case, the recipient must keep the records until the complaint is resolved.

(f) *Corrective Action.* Recipients must take corrective and remedial action whenever the DCO determines that the compliance report is inaccurate, incomplete, or reflects discrimination in violation of this Part.

(g) *Requirements for Sub-Recipients.* Sub-recipients must submit these reports to the primary recipient.

(h) *Availability to the Public.* The recipient must make its Compliance Report available to the public on request for three years following project completion.

(i) *Inaccessibility of Information.* If any information required of a recipient is in the exclusive possession of another agency, institution, or person which refuses to release the information, the recipient must state this in its report. The recipient must also explain the efforts it has made to obtain the information.

§ 7.80 Grievance procedures.

(a) *Requirements.* Each recipient must: (1) designate at least one person to coordinate its efforts to comply with this Part, and (2) adopt grievance procedures incorporating appropriate due process for the prompt and fair resolution of complaints which allege violation of this Part.

(b) *Exception:*

Recipients with fewer than 15 full-time employees need not comply with this section unless the Administrator finds a violation of this Part or determines that creating a grievance procedure will not significantly impair the recipient's ability to provide benefits or services.

§ 7.85 Notice of lawsuits.

Within two weeks of service of process recipients must notify the CO of any lawsuits filed against it alleging discrimination on the basis of race, color, sex, national origin, age and handicap.

§ 7.90 Maintenance of a log of complaints.

Each recipient must maintain a log of complaints which identifies each complaint by the nature of the complaint, the date this complaint was filed, the date the recipient's investigation was completed, and the disposition and date of disposition.

§ 7.95 Access to information.

Each recipient shall permit the CO or his designated representative access during normal business hours to its books, records, accounts, and other sources of information, including its facilities, as may be pertinent to ascertain compliance with this Part. Where any information required from a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution or person refuses to furnish this information, the recipient must set forth in writing the efforts it has made to obtain the information and provide it to the CO or his designee.

§ 7.100 Intimidation and retaliation prohibited.

No applicant or recipient or other person may intimidate, threaten, coerce, or discriminate against any individual either:

(a) For the purpose of interfering with any right or privilege guaranteed by the Acts or this Part, or

(b) Because the individual has filed a complaint or has testified, assisted or participated in any way in an investigation, proceeding or hearing under this Part.

Subpart E—Agency Compliance Procedures

§ 7.105 Actions available to EPA to obtain compliance.

(a) *Specific Actions.* Under the procedures set forth in this Subpart, if EPA determines that any applicant or recipient is not in compliance with this Part, it may:

(1) Terminate, suspend, annul, or refuse to grant or continue EPA assistance, or

(2) Refer the matter to the U.S. Department of Justice to enforce the rights of the United States, or

(3) Order the recipient to take remedial action to overcome the effects of the discrimination. If a recipient exercises control over a sub-recipient who has discriminated, EPA may require both to take remedial action.

(b) *Other Means.* EPA may also use any other means authorized by law to obtain compliance, either in place of or in addition to the actions listed above.

§ 7.110 Coordination with other agencies.

If the EPA Office of Civil Rights (OCR) conducts a compliance review or investigates an alleged violation of this Part, it will notify any other agency with jurisdiction over the subject matter under investigation and inform it of the findings in order that subsequent investigations can be coordinated. When EPA and another agency or agencies give assistance to the same recipients, EPA and the other agencies will:

(a) Coordinate their efforts to achieve recipients' compliance with the Acts, and

(b) Insure that one of the agencies is designated as the primary one for this purpose.

§ 7.115 Pre-award compliance procedure.

(a) *Review of Assurances and Reports.* Before Federal assistance is approved, the DCO will review the assurances report from each applicant and any other compliance data that EPA has on file from that applicant, and issue a written determination of their compliance with this Part. The DCO may request additional information from the applicant, local government officials, and protected class organization; and may conduct on-site reviews.

(b) *Non-Compliance.* If the review indicates non-compliance, an applicant may agree in writing to take enumerated steps to come into compliance with this Part. The DCO must approve the written agreement before any award is made.

(c) *Refusal To Comply.* If the applicant refuses to enter into such an agreement, the DCO shall notify the CO who in turn shall notify the Assistant Attorney General for Civil Rights, U.S. Department of Justice, of the following:

(1) The preliminary findings of non-compliance,

(2) The actions necessary to come into compliance, and

(3) The fact that the applicant or recipient has ten (10) days to come into compliance, and that it may provide during this period a documentary submission responding to, rebutting, or denying the allegations raised in the notice.

(d) *Enforcement.* If within this ten (10)-day period, the applicant has not complied with the actions set forth to come into compliance, the CO must make a formal determination of non-compliance, notify the applicant, the Assistant Attorney General for Civil rights, (if a Title VI matter), and institute enforcement proceedings under § 7.130.

§ 7.120 Post-award compliance.

(a) *Periodic Review.* The OCR will periodically conduct compliance reviews of selected recipients, based on:

(1) The number and nature of complaints filed against a recipient with EPA or other Federal agencies; and

(2) The scope of problems identified in a compliance investigation; and

(b) *Notice of Review.* The DCO will notify each recipient selected for a compliance review, and of the time for which the review is scheduled. The recipient may at any time before receiving EPA's review findings, make a documentary submission responding to, rebutting, or denying allegations raised in the course of the compliance review.

(c) *Post Review Notice.* Within 180 days from the initiation of the compliance review, the DCO will notify the recipient in writing by certified mail, return-receipt requested of:

(1) Preliminary findings;

(2) Recommendations for achieving voluntary compliance; and

(3) Recipient's right to engage in voluntary compliance negotiations where appropriate.

(d) *Title VI.* The CO must at the same time notify the Assistant Attorney General for Civil Rights of these recommendations if they relate to Title VI.

(e) *Formal Determination of Non-Compliance.* If within 50 days after receiving the post/award notice the recipient has not agreed to the EPA recommendations, the preliminary findings have not been proven to be false, and voluntary compliance has not been secured, the DCO shall prepare a formal written determination of non-compliance. It shall be issued no later than 14 days after the conclusion of the 50-day negotiation period. After review and approval of the determination, the CO will send a copy to both the recipient and the Assistant Attorney General for Civil Rights.

(f) *Voluntary Compliance Time Limits.* After the recipient and the Assistant Attorney General for Civil Rights are notified of the determination, the recipient will have ten (10) days to come into voluntary compliance. This ten-day period will begin at the time the recipient receives written notice of the determination. If voluntary compliance is not achieved within the 10 days, the CO shall institute proceedings under § 7.130.

(g) *Form of Voluntary Compliance Agreements.* All agreements to come into voluntary compliance shall be in writing, shall set forth the specific steps the recipient has agreed to take, and shall be signed by the DCO or his/her designee and an official of the recipient with authority to legally bind the recipient.

§ 7.125 Complaint investigations.

OCR must promptly investigate all complaints filed under this section unless both parties agree to a delay, pending settlement negotiations. OCR must also investigate when a compliance report or review indicates a violation of this Part.

(a) *Who May File a Complaint.* A person who believes that he or she or a specific class of persons has been discriminated against in violation of this Part, and who has been unable to resolve the complaint informally, may file a complaint. The complaint may be filed by a representative, with the prior consent of the complainant.

(b) *Where, When and How to file Complaint.* The complainant may file a complaint at any EPA office. It will, if appropriate, be referred to the regional office where the cause of complaint occurred.

(1) The complaint should be in writing and it must describe the alleged discriminatory acts which violate this part.

(2) The complaint must be filed within 180 days of the time the alleged discrimination occurred, unless the DCO waives the time limit for good cause.

(c) *Response to Complaint.* The DCO will promptly acknowledge receipt of the complaint and notify the complainant, the recipient, and the Assistance Approving Official involved that the complaint has been accepted or rejected. If accepted, the DCO will include an explanation of the recipient's rights and obligations under EPA's complaint procedure. If the complaint is rejected because EPA lacks jurisdiction, the CO will refer the complaint to the Federal agency having jurisdiction and advise the complainant, the recipient and the Assistance Approving Official accordingly.

(d) *Prompt Resolution.* The parties to the complaint must participate actively to ensure prompt resolution of the complaint. EPA may impose penalties on parties who do not cooperate in a good faith and timely manner. The penalties may include dismissal of the complaint for failure to prosecute or an automatic finding for the complainant.

(e) *Confidentiality.* The DCO and Regional Administrator will agree to keep the complainant's identity confidential except to the extent that disclosure would be required by law in proceedings for enforcement of this Part. If that occurs the agency will request the complainant to release EPA from its agreement.

(f) *Mediation.* (1) The CO will refer all accepted complaints alleging age discrimination to the Federal Mediation and Conciliation Service (FMCS).

(2) Both the complainant and the recipient must participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. The recipient

and the complainant must meet with the mediator at least once before EPA's CO will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(3) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator will send a copy of the agreement to EPA's CO, who will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(4) The mediator must protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the Director, FMCS.

(5) EPA will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(i) 60 days elapse from the time EPA received the complaint; *or*

(ii) Before the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(6) The mediator shall return unresolved complaints to OCR.

§ 7.130 Procedure for annulling, suspending or terminating EPA assistance.

(a) *Recommendation of Termination.* If OCR determines that a recipient has violated this Part, the DCO, (with approval of the CO), will recommend to the Assistance Approving Official that assistance be annulled, suspended or terminated. The DCO must send a copy of this recommendation to the recipient by certified mail, return-receipt requested, and the CO will send a copy to the Assistant Attorney General, Office of Civil Rights, U.S. Department of Justice.

(b) *Recommendation of Dismissal.* If OCR's investigation of a complaint reveals no violation of this Part, the DCO (with approval of the CO) will recommend to the Assistance Approving Official that the complaint be dismissed. The DCO will send a copy of this recommendation to the complainant and/or recipient by certified mail, return receipt requested.

(c) *Final Decision.* The Assistance Approving Official must issue a final decision under EPA regulations [40 CFR 30, Subpart J] within 30 days of the date of OCR's recommendation. If the final decision suspends or terminates assistance, it must provide that it will not become effective until 30 days from the recipient's receipt of the letter. The Assistance Approving Official must send the final decision to the recipient by certified mail, return-receipt requested, with a copy to the complainant. The final decision must contain the following paragraph:

> This is a final decision by (name) the Assistance Approving Official. Under applicable EPA regulations (see particularly Subpart J of 40 CFR Part 30), this decision will be final and conclusive unless you file a brief written notice of appeal within 30 days from the date of receipt of this decision. Send the appeal to the *EPA Board of Assistance Appeals* (A-134), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 by certified mail, return-receipt requested. Your notice of appeal need only indicate that an appeal is intended, include a copy of this decision, and add a brief explanation of why you believe the decision is wrong. The Board will notify you of further applicable requirements and procedures.

(d) *Appeal Rights.* When a recipient receives the Assistance Approving Official's final decision to annul, suspend or terminate assistance, it may:

(1) Proceed to regain eligibility by complying with § 7.135;

(2) File notice of appeal with the EPA Board of Assistance Appeals (Board) within 30 days, as provided in the final decision letter; or

(3) May have a conference hearing or an evidentiary hearing.

(e) *Consequence.* (1) *Board's Decision.* If the Board finds that the recipient has violated this Part, it will issue a decision making an explicit finding of non-compliance.

(2) *Report to Congressional Committees.* EPA will submit a full written report of the circumstances and the grounds for annulment, suspension or termination to the Committees of the House and Senate having legislative jurisdiction over the program or activity involved. The Administrator personally will sign that report.

(3) *Effective Date.* EPA will annul, suspend or terminate assistance after 30 calendar days from the time the Board's decision is issued. The annulment, termination or suspension must be limited to the particular recipient who was found to have discriminated, and must be limited in its effect to the particular program or the part of it in which the discrimination was found.

(f) *Consolidated or Joint Hearings.* The Board may, by agreement with other departments or agencies, provide for consolidated or joint hearings, when the same or related facts are asserted to constitute either:

(1) non-compliance with the Part involving two or more types of EPA assistance, or

(2) non-compliance with both this Part and the regulations of one or more Federal departments or agencies issued under the Acts.

§ 7.135 Procedure for regaining eligibility.

(a) *Requirements.* A recipient whose assistance has been annulled or suspended under this Part regains eligibility as soon as it:

(1) Provides reasonable assurance that it is complying and will comply with this Part in the future, *and*

(2) Satisfies the terms and conditions for regaining eligibility that are specified in the annulment, termination or suspension order.

(b) *Procedure.* The recipient must submit a written request to restore eligibility to the Project Officer, declaring that the requirements set forth in § 7.135(a) have been met. If these requirements have been met, the Assistance Approving Official must restore the recipient's eligibility, and must notify the recipient of the restoration of award.

(c) *Rights on Denial of Restoration of Eligibility.* If the Assistance Approving Official denies a request to restore eligibility, the recipient may file a written request for a hearing, listing the reasons it believes the Assistance Approving Official was in error. EPA will conduct a hearing, according to the procedures set forth in § 7.130(d)(2). The Board will issue a written decision, setting forth the reasons for restoring or failing to restore eligibility.

PART 12—[REMOVED]

Dated: December 22, 1980.

Douglas Costle,

Administrator, Environmental Protection Agency.

[FR Doc. 81-806 Filed 1-7-81; 8:45 am]

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Thursday, January 8, 1981

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Heritage Conservation and Recreation Service—

81384 12–9–80 / National natural landmarks program provisions

PERSONNEL MANAGEMENT OFFICE

81029 12–9–80 / Provision for reinstatement of Administrative Law Judges

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

83204 12–18–80 / Designation of transition area; Hinesville, Ga.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

A complete listing for the second session of the 96th Congress is published in the Reader Aid section of the issue of January 7, 1981.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

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2315 **Tin Stockpile Contributions** Executive order delegating authority

2343 **Passports** State eliminates practice under which American citizen under age 13 may be included in U.S. passport issued to parent or sibling; effective 1-1-81

2329 **School Breakfast and Lunch Programs** USDA/FNS excludes Job Corps centers from participation in School Nutrition Programs; effective 1-1-81

2331 **School Breakfast and Lunch Programs** USDA/FNS amends Food Distribution Program regulations; effective 1-1-81

2332 **Food Stamps** USDA/FNS provides new procedures for States to report on reconciliation of Authorization to Participate (ATP) cards and issuance and participation data; effective 2-1-81

2390 **Indians—Claims** Interior/BIA announces extinguishment of all land and related claims of the Maine Indians

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—

The President

Executive Order 12262 of January 7, 1981

Interagency Employee Benefit Council

By the authority vested in me as President by the Constitution of the United States of America, and in order to improve the administration of the Employee Retirement Income Security Act (ERISA) and to continue the improvements made by Reorganization Plan No. 4 of 1978, it is hereby ordered as follows:

1–1. *Establishment of the Council.*

1–101. There is established the Interagency Employee Benefit Council.

1–102. The Council shall be composed of the following, or their representatives:

(a) The Secretary of the Treasury.

(b) The Attorney General.

(c) The Secretary of Commerce.

(d) The Secretary of Labor.

(e) The Secretary of Health and Human Services.

(f) The Director of the Office of Management and Budget.

(g) The Administrator of the Small Business Administration.

(h) The Chairman of the Equal Employment Opportunity Commission.

(i) The Executive Director of the President's Commission on Pension Policy.

1–103. The following, or their designated representatives, are invited to participate in the activities of the Council:

(a) The Federal Trade Commission.

(b) The Securities and Exchange Commission.

(c) The National Labor Relations Board.

(d) Any other Executive agencies the Council invites.

1–104. The Secretary of Labor shall be the Chairman of the Council.

1–2. *Functions of the Council.*

1–201. The Council shall assist in interagency coordination of proposals affecting employee benefits under ERISA. It shall identify the potential economic consequences of those proposals for ERISA participants.

1–202. The Council shall develop comprehensive long-term and short-term policies applicable to the plans covered by ERISA. The Council shall identify and coordinate research into employee benefit issues affecting ERISA-covered employees, into the economic effects of private pensions, and into the effectiveness of ERISA.

1–203. The Council shall develop effective policy approaches to a comprehensive information-sharing program among ERISA agencies, including development of a common or coordinated data base, data use, and publications. The Council shall develop a program for the use of common facilities and a common information system.

1–204. The Council shall identify inconsistencies in the operation of programs under ERISA. It shall recommend to the President ways to reduce or eliminate those inconsistencies.

1–205. Where feasible, the Council should coordinate public participation through public hearings on government-wide ERISA-related programs.

1–206. The Council shall establish and maintain a mechanism to evaluate the effectiveness of the overall ERISA program.

1–207. The Council shall submit annually to the President a summary report of significant ERISA-related achievements of the member agencies.

1–3. *Administrative Provisions.*

1–301. The Council shall meet at least once each quarter.

1–302. Each member agency with respect to matters within the jurisdiction of the agency shall cooperate with and assist the Council in performing its functions.

1–303. The Secretary of Labor shall be responsible for providing the Council with such administrative services and support as may be necessary.

1–304. The Council may establish such working groups or subcommittees as may be appropriate for the conduct of the Council's functions.

Jimmy Carter

THE WHITE HOUSE,
January 7, 1981.

[FR Doc. 81-960
Filed 1-7-81; 3:44 pm]
Billing code 3195-01-M

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Executive Order 12263 of January 8, 1981

Strategic and Critical Materials Transaction Authority

By the authority vested in me as President by the Constitution and the Statutes of the United States of America, including the Strategic and Critical Materials Transaction Authorization Act of 1979 (93 Stat. 1289; Public Law 96-175) (hereinafter referred to as "the Act") and Section 301 of Title 3 of the United States Code, and in order to provide for the contribution of tin to the Tin Buffer Stock established under the Fifth International Tin Agreement, the functions vested in the President by Section 5 of the Act are hereby delegated to the United States Trade Representative.

Jimmy Carter

THE WHITE HOUSE,
January 8, 1981.

[FR Doc. 81-1058
Filed 1-8-81; 11:42 am]
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Rules and Regulations

Federal Register
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Friday, January 9, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Pay Under the General Schedule

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations revise the current procedures and standards for withholding within-grade increases and granting quality step increases in accordance with the intent of the Civil Service Reform Act of 1978, and clarify and simplify the current within-grade increase regulations.

EFFECTIVE DATE: February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Jan Karicher, 202-632-4634.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management is publishing regulations to supplement and implement the Civil Service Reform Act of 1978 (Pub. L. 95-454) and to update existing provisions. Proposed regulations were published in the **Federal Register** on July 29, 1980 (45 FR 50336-50341). Certain changes have been made in the proposed regulations in order to clarify them, and a number of substantive changes have also been made.

Analysis of Comments. The proposed regulations provided a 60-day period for public comment which ended on September 29, 1980. The Office of Personnel Management received comments from 22 agencies, three labor organizations, and one individual. These comments, for the most part, pointed out specific provisions which need clarification. As a result of the comments, the Office has made or considered making the following changes.

Sections 531.413-531.420—Subpart E—Salary Retention is being redesignated as Subpart F. Subpart E will now be entitled "Quality Step Increases" and proposed §§ 531.413 through 531.420 can now be found under Subpart E.

2. Section 531.430—The definition of "acceptable level of competence" has been expanded in order to unify the provision relevant to the level of performance required to meet an acceptable level of competence. There is no substantive change from the proposed regulations. In response to comments about the equivalency of "fully satisfactory", to terms used in agency performance appraisal plans, two changes have been made. The term "fully acceptable" is substituted for the term "fully satisfactory", and a specific statement is added that these are equivalent to "fully successful" or other such terms in an agency appraisal system.

The definition of "equivalent increase" has been expanded in order to clarify that an equivalent increase is the amount of the increase from the step of the grade the employee holds before the increase to the next higher step of that grade.

3. Section 531.404(b)—This paragraph has been deleted since § 531.404(a) contains the eligibility requirements.

Section 531.404(c)—This paragraph has been revised in order to specify that another subordinate official may be delegated authority to establish the requirements for performance to be at an acceptable level of competence.

4. Section 531.405(b)(1)—It was suggested that this paragraph be revised to read, "on an initial appointment to a permanent position . . ." We believe that the inclusion of the word "permanent" may confuse individuals since the term "permanent position" has been redefined in § 531.403 of this subpart. We have changed the term "initial" to "the first" in order to clarify this paragraph, but have not added the term "permanent position."

5. Section 531.405(a)(2)—It was suggested that the term "military service" be changed to "uniformed service" since the Public Health Service (PHS) is considered to be a uniformed service. However, 5 U.S.C. 8331(13), the reference contained in this section, includes service with the PHS in the definition of "military service". Although this paragarph has now been renumbered as § 531.405(b)(1) because of editorial changes, no change in terminology has been made.

Section 531.406(b)—Due to editorial changes, this paragraph is now numbered § 531.406(c). It was suggested that "Otherwise creditable service during . . . " be deleted from the beginning of this paragraph, and that it begin, "A leave of absence . . . " Since not all periods of absence are creditable service, no revision has been made to the proposed terminology.

6. Section 531.407(b)(2)—This paragraph has been revised in order to clarify determinations of whether an employee has actually received an equivalent increase.

Section 531.407(c)(6)—Several comments pointed out that the guidance contained in FPM Chapter 315, which states that, when an employee is promoted into a managerial or supervisory position and during the probationary period is returned to a position at the same grade and step held prior to the promotion because of unsuccessful performance, the promotion will be considered an equivalent increase, is not in conformance with these regulations. The information provided in the FPM reflects previous policy. However, experience has shown that the previous policy resulted in inequitable treatment among affected individuals. This change more effectively carries out the "no fault" return rights by requiring return to the salary which would have been received had the promotion not occurred. It both precludes an unintended benefit under the highest previous rate rule and guarantees no financial penalty by loss of creditable service toward completion of a waiting period. The guidance contained in FPM Chapter 315 will be amended to reflect this change. Additionally, we will amend the provisions contained in 5 CFR 531.203(d), pertaining to the highest previous rate rule, to prohibit use of the rule in this situation.

Section 531.407(c)(7)—This paragraph conflicts with several long standing Comptroller General decisions. Based on a negative comment referencing these decisions, the paragraph has been deleted. We are currently reviewing the cited decisions, and if warranted, we will consult further with the Comptroller General.

7. Section 531.408—This section has been revised and reorganized as two sections. Section 531.408 is now entitled "Communication of performance requirements" and contains the provisions of proposed paragraph 531.408(b). The remainder of proposed § 531.408 "Acceptable level of competence determinations" is renumbered as § 531.409 under the final regulations.

Section 531.408(a)—This paragraph is now § 531.409(a) and it has been revised in order to clarify that the authority to determine what constitutes an acceptable level of competence may be delegated to subordinate agency officials. This incorporates into regulation a long-established practice on determinations.

Section 531.408(b)(2)—This paragraph is now § 531.408(c). We have revised it in order to specify that the agency head shall establish the most suitable procedure with which to advise employees who are not covered by an appraisal system under 5 CFR Part 430 of the specific requirements for performance at an acceptable level of competence. This paragraph covers employees under Part 430 who have not been informed of performance standards under that Part, as well as individuals occupying positions which are excluded from Part 430.

Section 531.408(c)(3)—This paragraph is now § 531.409(b)(2). It was suggested that this section be deleted from the final regulations since many agencies doubt that an employee who has been demoted for cause will perform at an acceptable level of competence immediately after placement into a new position. Section 5335 of title 5, United States Code, provides that an employee is entitled to consideration for a within-grade increase if he or she has not received an equivalent increase during the appropriate waiting period. Therefore, consideration is required by statute. Additionally, this section allows the employee to commence performance of the duties of his or her new position without being adversely affected by performance in the prior position. Therefore, this paragraph has not been deleted.

Paragraphs (1) and (2) of § 531.408(d) "Justification for determination" have been combined under paragraph (4) of § 531.409(b) "Basis for determination" and, as recommended by several comments, specific time frames for notice have been added. We have also specified that the agency will designate the appropriate official to reconsider a negative determination. However, we have not adopted suggestions that we retain the current requirement that the reconsideration decision be made by a higher level official. A decision by a higher level official is unwarranted in view of the absence of such a requirement in an adverse action.

Section 531.408(e)—This paragraph is now § 531.409(d). It was suggested that an employee who has not been in a duty status for at least 60 days prior to completion of the waiting period be required to perform for a complete 60-day period, regardless of the within-grade increase eligibility date, in order to receive a determination. This suggestion was not adopted because the employee may not return to duty for a sufficient period to make a determination based on performance. This provision was proposed to resolve a problem with current regulations when an employee has been in a duty status for such a small part of the waiting period that the agency has an insufficient basis on which to make a decision to grant or deny the within-grade increase. This section should assist agencies to avoid finding themselves in the position of making an unwarranted acceptable level of competence determination or trying to deny a within-grade increase without a sufficient basis. Additionally, this paragraph specifies that the absence must be considered creditable service. Absence which is considered creditable service should not be the result of unsatisfactory performance, and we do not believe that an employee whose absence is the result of a legitimate extended illness or whose absence benefits the Government should have his or her increase delayed. The remaining provisions are reenacted from current regulations. Therefore, this paragraph has not been revised.

8. Section 531.409—This section has now become paragraph (e), "Notice of determination," under § 531.409 "Acceptable level of competence determinations".

9. Section 531.410(b)(2)(i)—This paragraph has now become § 531.410(a)(3). As recommended by one comment it has been revised to indicate that an employee must be in a duty status in order to be allowed a reasonable amount of official time to prepare a response to a negative determination.

Section 531.410(b) (4) and (5)—These paragraphs have been combined and revised as § 531.410(d). It was suggested that the reconsideration procedures specified in 5 U.S.C. 5335(c) be made optional for a member of an exclusively recognized bargaining unit. The provisions of 5 U.S.C. 5335(c) are mandatory by law, and therefore, this paragraph has not been revised.

Section 531.410(c)—As proposed, this paragraph stated that, when the agency neglected to make a negative determination within the sixty days after completion of the waiting period, the employee would receive the within-grade increase, effective the first day of the first pay period beginning 60 days after the due date. However, many agencies and the General Accounting Office objected strongly to this proposed change because of the requirement in 5 U.S.C. 5335(a)(3)(B), which states that an employee's performance must be at an acceptable level of competence in order to receive a within-grade increase. Although the intent of the proposed provision was to develop an equitable solution when a current determination is not made, based on the strong opposition to the concept, this paragraph has been deleted from the final regulations.

Section 531.410(d)—Comments suggested that it is not necessary to establish a separate file for a negative determination when the employee does not request reconsideration. Due to the sensitivity of the documentation which may accompany a negative determination, we believe that such information should be placed in a file to which only individuals involved in the determination have access. However, at this time we have not determined the most appropriate method of record keeping to be used. Therefore, the information contained in § 531.407(d)(4), of the current regulations, has been placed under paragraph 531.410(a)(1). At such time as we have developed a new system of records keeping, we will further amend this provision. In the interim agencies are reminded that such records are considered part of OPM's Manual Personnel Records (OPM/GOVT-1, 45 FR 78415, November 25, 1980) Privacy Act System of records.

10. Section 531.411(b)(2)—This paragraph is now § 531.412(b) and has been revised to clarify that, when a within-grade increase has been denied and subsequently approved because the employee has improved performance to an acceptable level of competence, the effective date of the increase is the first day of the first pay period after approval. Paragraph (a) of this section covers the situations when (1) a negative determination is reversed on reconsideration or appeal and the increase is retroactive to the date it was originally due, or (2) for any other reason the increase is to be retroactive to the date it was originally due.

11. Section 531.415(a)(1)—This paragraph is now contained in § 531.504(a)(1) of Subpart E, Part 531. It

was suggested that performance of critical elements of a position be the basis for determining the appropriateness of granting a quality step increase. Quality step increases must be based on overall high quality performance including both critical and non-critical elements of the job. However, redesignated § 531.506(c) does specifically require that performance of all critical elements be fully satisfactory.

Section 531.415(b)—Several comments indicated that it is an agency's responsibility to establish the specific criteria which must be met in order to receive a quality step increase. Therefore this paragraph has been deleted.

12. Section 531.416(a)—This paragraph has been placed under § 531.505 of Subpart E. It has been revised in order to permit the awarding of a quality step increase on the basis of either the most recent appraisal or a written statement setting forth the reasons for the award. However, because of concern expressed about unwarranted quality step increases based on old performance appraisals, we have added a requirement that if an appraisal is more than 60 days old, it must be supplemented by a written statement setting forth the reasons for the award.

13. Section 531.417(c)—This paragraph is now § 531.506(c) of Subpart E. It has been revised to indicate that, while the decision to award a quality step increase must be based on overall performance, a quality step increase shall not be granted when performance in any critical element is less than fully satisfactory.

14. Section 531.419(d)—This paragraph is now § 531.508(d) of Subpart E. Several comments were received requesting this section be deleted from the final regulations. Agencies believe that furnishing statistical information to each employee will be administratively infeasible. We believe that publicizing the performance which merits a quality step increase will act as an incentive to agency employees. Therefore, the provision remains unchanged.

15. It was suggested that a section be added which would permit an employee covered by a collective bargaining agreement, which contains an exclusive grievance procedure, to use that procedure when the employee feels his or her level of performance warrants a quality step increase. It is inappropriate for OPM to regulate the content of a negotiated agreement.

For non-bargaining unit employees, § 771.206(c)(ix) excludes from grievable matters the receipt of or failure to receive a quality step increase under section 5336 of title 5, United States Code. Therefore, this provision has not been added.

The Office of Personnel Management has carefully examined and considered all comments made during the public comment period. The Office has attempted to address the major points organizations have made both in letters and orally. Certain other comments and suggestions were made concerning matters more properly handled in guidance and information material which OPM will be issuing at a later date.

Note.—OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is amending 5 CFR Part 531 as follows:

Subpart E is redesignated as Subpart F, and the Table of Sections is revised, Subpart D is revised, and a new Subpart E is added to read as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

* * * * *

Subpart D—Within-Grade Increases

Sec.
531.401 Applicability.
531.402 Employee coverage.
531.403 Definitions.
531.404 Entitlement to within-grade increase.
531.405 Waiting periods for within-grade increase.
531.406 Creditable service.
531.407 Equivalent increase determinations.
531.408 Communication of performance requirements.
531.409 Acceptable level of competence determinations.
531.410 Reconsideration of a negative determination.
531.411 Withholding a within-grade increase.
531.412 Effective date of within-grade increase.
531.413 Reports and evaluation of within-grade increase authority.

Subpart E—Quality Step Increases

531.501 Applicability.
531.502 Definitions.
531.503 Purpose of quality step increase.
531.504 Level of performance required for quality step increase.
531.505 Justification and documentation for quality step increase.
531.506 Restrictions on granting quality step increase.
531.507 Effective date of quality step increase.
531.508 Agency plans for granting quality step increase.
531.509 Reports and evaluation of quality step increase authority.

Subpart F—Salary Retention

Sec.
531.601 Purpose.
531.602 Entitlement.
531.603 Definitions.
531.604 Documentation.
531.605 Equivalent tenure.
531.606 Demotion for personal cause.
531.607 Demotion at employee's request.
531.608 Demotion in a reduction in force.
531.609 Continuous service.
531.610 Transfer of function.
531.611 Work performance.
531.612 Formula for computing retained rate.
531.613 Rate determination.
531.614 Retention period—reassignment.
531.615 Within-grade increases.
531.616 Pay adjustment.
531.617 Appeals to Merit Systems Protection Board.

Authority: 5 U.S.C. 5335, and 5336, E.O. 11721, as amended, § 402.

Subpart D—Within-Grade Increases

§ 531.401 Applicability.

This subpart contains regulations of the Office of Personnel Management to carry out section 5335 of title 5, United States Code, which authorizes agencies to grant within-grade increases, and to carry out section 402 of Executive Order 11721, as amended, which requires the Office to issue regulations and standards to ensure that only those employees whose performance is at an acceptable level of competence receive within-grade increases. This subpart should be read together with these sections of law and Executive order.

§ 531.402 Employee coverage.

(a) Except as provided in paragraph (b) of this section, this subpart applies to employees who occupy permanent positions classified and paid under the General Schedule and who are paid at less than the maximum step of their grades.

(b) This subpart does not apply to:

(1) Employees who are covered by the Merit Pay System established under chapter 54 of title 5, United States Code;

(2) Members of the Senior Executive Service established under subchapter II of chapter 31 of title 5, United States Code;

(3) Individuals appointed by the President, by and with the advice and consent of the Senate; and

(4) Employees of the government of the District of Columbia.

§ 531.403 Definitions.

In this subpart:

"Acceptable level of competence" means a level of performance identified by an employing agency at which the performance by an employee of the duties and responsibilities of his or her assigned position is fully acceptable (or equivalent terms such as fully satisfactory or fully successful used in the agency's performance appraisal plan) and, in addition to the requirement of § 531.404 of this subpart, warrants advancement of the employee's rate of basic pay to the next higher step of the grade of his or her position. An employee whose current performance with respect to any critical element is unacceptable, as defined in § 430.101(a)(3), is not performing at an acceptable level of competence. Further, absent unusual circumstances, an employee whose overall performance during the waiting period is at the minimum level required for retention in the position but below a fully acceptable level is not performing at an acceptable level of competence.

"Agency" means an agency defined in section 5102 of title 5, United States Code.

"Callendar week" means a period of any seven consecutive calendar days.

"Critical element" has the meaning given that term in § 430.202(e) of this chapter.

"Employee" means an employee of an agency who is covered under § 531.402(a) of this subpart.

"Equivalent increase" means an increase or increases in an employee's rate of basic pay equal to or greater than the amount of a within-grade increase from the specific step of the grade of the position occupied by the employee before the increase to the next step of the grade of that position.

"Permanent position" means a position filled by an employee whose appointment is not designated as temporary by law and does not have a definite time limitation of one year or less. "Permanent position" includes a position to which an employee is promoted on a temporary or term basis for at least one year.

"Rate of basic pay" means the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

"Scheduled tour of duty" means any work schedule established for an employee in accordance with the regular procedures for the establishment of workweeks in § 610.111 of this chapter. For a full-time employee this includes the basic 40-hour workweek. For a part-time employee this is any regularly scheduled work of less than 40-hours during the administrative workweek.

"Waiting period" means the minimum time requirement of creditable service to become eligible for consideration for a within-grade increase.

"Within-grade increase" means a periodic increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade in accordance with section 5335 of title 5, United States Code, and this subpart. The term "within-grade increase" is synonymous with the term "step-increase" used in section 5335 of title 5, United States Code.

§ 531.404 Entitlement to within-grade increase.

An employee paid at less than step 10 of the grade of his or her position shall be advanced in pay to the next higher step of that grade upon meeting the three requirements established by law:

(a) The employee must have completed the required waiting period for advancement to the next higher step of the grade of his or her position;

(b) The employee must not have received an equivalent increase during the waiting period; and

(c) The employee's performance must be at an acceptable level of competence, as determined by the head of the agency or by another agency official to whom this authority has been delegated.

§ 531.405 Waiting periods for within-grade increase.

(a) Length of waiting period. (1) For an employee with a scheduled tour of duty the waiting periods for advancement to the following steps in all General Schedule grades are:

(i) Steps 2, 3, and 4—52 calendar weeks of creditable service;

(ii) Steps 5, 6 and 7—104 calendar weeks of creditable service; and

(iii) Steps 8, 9, and 10—156 calendar weeks of creditable service.

(2) For an employee without a scheduled tour of duty, the waiting periods for advancement to the following steps in all General Schedule grades are:

(i) Steps 2, 3 and 4—260 days of creditable service in a pay status over a period of not less than 52 calendar weeks;

(ii) Steps 5, 6 and 7—520 days of creditable service in a pay status over a period of not less than 104 calendar weeks; and

(iii) Steps 8, 9, and 10—780 days of creditable service in a pay status over a period of not less than 156 calendar weeks.

(b) Commencement of a waiting period. A waiting period begins;

(1) On the first appointment as an employee of the Federal Government, regardless of tenure;

(2) On receiving an equivalent increase; or

(3) After a period of nonpay status or a break in service (alone or in combination) in excess of 52 calendar weeks, unless the nonpay status or break in service is creditable service under § 531.406 of this subpart.

(c) A waiting period is not interrupted by non-workdays intervening between an employee's last scheduled workday in one position and his or her first scheduled workday in a new position.

§ 531.406 Creditable service.

(a) *General.* Depending on the specific provision of law or regulation, service may be creditable for the completion of one waiting period or for the completion of successive waiting periods. Paragraph (b) of this section identifies service which is creditable in the computation of a single waiting period. Paragraph (c) identifies service which is creditable in the computation of successive waiting periods.

(b) *Service creditable for one waiting period.* (1) Military service as defined in section 8331(13) of title 5, United States Code, is creditable service in the computation of a waiting period when an employee is reemployed with the Federal Government after expiration of the restoration or reemployment period granted by law, Executive order, or regulation, but not later than 52 calendar weeks after separation from such service or hospitalization, continuing thereafter for a period of not more than one year, which is a direct result of such service.

(2) Time in a nonpay status is creditable service in the computation of a waiting period for an employee with a scheduled tour of duty when it does not exceed an aggregate of:

(i) Two workweeks in the waiting period for steps 2, 3, and 4;

(ii) Four workweeks in the waiting period for steps 5, 6, and 7; and

(iii) Six workweeks in the waiting period for steps 8, 9, and 10.

Except as provided in paragraph (c) of this section, time in a nonpay status in excess of the allowable amount shall extend a waiting period by the excess amount.

(c) *Service creditable for successive within-grade increases.* (1) Otherwise creditable service during a leave of absence from a position in which an employee is covered by this subpart, whether the employee is on leave without pay or is considered to be on furlough, is creditable service in the computation of waiting periods for successive within-grade increases when:

(i) The employee is engaged in military service as defined in section 8331(13) of title 5, United States Code and returns to Federal employment within the restoration period granted by law, Executive order, or regulation;

(ii) The employee is receiving continuation of pay or injury compensation under subchapter I of chapter 81 of title 5, United States Code;

(iii) The employee performs service that is creditable under section 8332(b)(5) of (7) or title 5, United States Code;

(iv) The employee is temporarily employed by another agency in a position covered by this subpart; or

(v) The employee is assigned to a State or local government or institution of higher education under sections 3371-3376 of title 5, United States Code.

(2) The period from the date of an employee's separation from Federal service with a restoration or reemployment right granted by law, Executive order, or regulation to the date of restoration or reemployment with the Federal Government through the exercise of that right is creditable service in the computation of waiting periods for successive within-grade increases.

(3) The period during which a separated employee is in receipt of injury compensation under subchapter I of chapter 81 of title 5, United States Code, as a result of an injury incurred by the employee in the performance of duty is creditable service in the computation of waiting periods for successive within-grade increases when the employee is reemployed with the Federal Government.

§ 531.407 Equivalent increase determinations.

(a) *Multiple increases.* When an employee receives more than one increase in his or her rate of basic pay during a waiting period, no one of which is an equivalent increase, the first and subsequent increases during the waiting period shall be added together until they amount to an equivalent increase, at which time the employee shall be deemed to have received an equivalent increase.

(b) *Position change.* When an employee changes positions without receiving an equivalent increase, or when an individual not covered by this subpart moves to a position in which he or she is covered by this subpart without receiving an equivalent increase, he or she shall be deemed to have received his or her last equivalent increase—

(1) At the time of the last equivalent increase in the prior position; or

(2) At the time he or she was deemed to have received an equivalent increase in the prior position under paragraph (a) of this section, if that is later.

(c) *Increases in pay not considered equivalent increases.* An increase in an employee's rate of basic pay shall not be considered an equivalent increase when it results from the following:

(1) A statutory pay adjustment, including an adjustment required by section 5402(c)(3) of title 5, United States Code;

(2) The periodic adjustment of a wage schedule or the application of a new pay or evaluation plan under the Federal Wage System;

(3) The establishment of higher minimum rates under section 5303 of title 5, United States Code, or an increase in such rates;

(4) A quality step increase under section 5336 of title 5, United States Code, and Subpart E of this part;

(5) A temporary or term promotion when returned to the permanent grade and step; and

(6) An increase resulting from placement of an employee in a supervisory or managerial position who does not satisfactorily complete a probationary period established under section 3321(a)(2) of title 5, United States Code, and is returned to a position at the same grade and step held by the employee before such placement.

§ 531.408 Communication of performance requirements.

(a) The head of the agency or other designated agency official shall determine the specific requirements for performance at an acceptable level of competence.

(b) Employees covered by an appraisal system established under § 430.203 of this chapter shall be informed of the specific performance requirements that constitutes an acceptable level of competence within the time frame and by the means of communication of performance standards established under § 430.203 of this chapter.

(c) Employees not covered by an appraisal system established under § 430.203 of this chapter shall be informed, under procedures established by the head of the agency, of the specific requirements for performance at an acceptable level of competence within a reasonable time after initial appointment or permanent change in position.

§ 531.409 Acceptable level of competence determinations.

(a) *Responsibility.* The head of the agency or other agency official to whom such authority is delegated shall determine which employees are performing at an acceptable level of competence.

(b) *Basis for determination.* An acceptable level of competence determination shall be based on an employee's performance of the duties and responsibilities of his or her assigned position or positions during the waiting period except when:

(1) An employee has not been informed of the specific requirements for performance at an acceptable level of competence at least 30 days before the end of a waiting period; or

(2) An employee is reduced in grade because of unacceptable performance to a position in which he or she is or will within 60 days become eligible for consideration for a within-grade increase.

Under these circumstances, the employee shall be informed that his or her determination is postponed and of the specific requirements for performance at an acceptable level of competence. The determination shall be based on a period during which the employee has had a reasonable opportunity (no more than the minimum period designated in the agency performance appraisal plan or 90 days if no minimum is established) to demonstrate performance at an acceptable level of competence.

(c) *Documentation.* The decision to grant or withhold a within-grade increase to an employee must be supported by the employee's most recent appraisal made pursuant to § 430.203 of this chapter. If the most recent appraisal does not support the decision, there must be a written statement setting forth the reasons for granting or withholding the within-grade increase.

(d) *Waiver of requirement for determination.* An employee shall receive a within-grade increase when he or she has been in a duty status for less than 60 days during the final 52 calendar weeks of the waiting period because of absences that are creditable service in the computation of a waiting period or periods under § 531.406 of this subpart, because of paid leave, or because the employee received service credit under the back pay provisions of Subpart H of Part 550 of this chapter. In such a situation there shall be a presumption that the employee would have performed at an acceptable levewl of competence during the waiting period had he or she been in a duty status sufficient time for a determination based on performance.

(e) *Notice of determination.* (1) A level of competence determination shall be communicated to an employee in writing as soon as possible after completion of the waiting period or other period upon which it was based.

(2) When the head of an agency or his or her designee determines that an

employee's performance is not at an acceptable level of competence, the negative determination shall be communicated to the employee in writing and shall:

(i) Set forth the reasons for the negative determination and the respects in which the employee must improve his or her performance in order to be granted a within-grade increase under section 531.411(b) of this subpart;

(ii) Inform the employee of his or her right to request that the appropriately designated agency official reconsider the determination.

§ 531.410 Reconsideration of a negative determination.

(a) When an agency head, or his or her designee, issues a negative determination the following procedures are established in accordance with section 5335(c) of title 5, United States Code for reconsideration of the negative determination:

(1) An employee or an employee's personal representative may request reconsideration of a negative determination by filing, not more than 15 days after receiving notice of determination, a written response to the negative determination setting forth the reasons the agency shall reconsider the determination;

(2) When an employee files a request for reconsideration, the agency shall establish an employee reconsideration file which shall contain all pertinent documents relating to the negative determination and the request for reconsideration, including copies of the following:

(i) the written negative determination and the basis therefore;

(ii) the employee's written request for reconsideration;

(iii) the report of investigation when an investigation is made;

(iv) the written summary or transcript of any personal presentation made; and

(v) the agency's decision on the request for reconsideration.

The file shall not contain any document that has not been made available to the employee or his or her personal representative with an opportunity to submit a written exception to any summary of the employee's personal presentation;

(3) An employee in a duty status shall be granted a reasonable amount of official time to review the material relied upon to support the negative determination and to prepare a response to the determination; and

(4) The agency shall provide the employee with a prompt written final decision.

(b) The time limit to request a reconsideration may be extended when the employee shows he or she was not notified of the time limit and was not otherwise aware of it, or that the employee was prevented by circumstances beyond his or her control from requesting reconsideration within the time limit.

(c) An agency may disallow as an employee's personal representative an individual whose activities as a representative would cause a conflict of interest of position, an employee whose release from his or her official duties and responsibilities would give rise to unreasonable costs to the Government, or an employee whose priority work assignment precludes his or her release from official duties and responsibilities. Section 7114 of title 5, United States Code, and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(d) When a negative determination is sustained after reconsideration, an employee shall be informed in writing of the reasons for the decision and of his or her right to appeal the decision to the Merit Systems Protection Board. However, for an employee covered by a collective bargaining agreement a reconsideration decision that sustains a negative determination is only reviewable in accordance with the terms of the agreement.

§ 531.411 Withholding a within-grade increase.

Continuing evaluation following withholding. After a within-grade increase has been withheld, an agency may grant the within-grade increase at any time after it determines that the employee has demonstrated sustained performance at an acceptable level of competence. After withholding a within-grade increase, the agency, at a minimum, shall determine whether the employee's performance is at an acceptable level of competence after each 52 weeks following the original due date for the within-grade increase.

§ 531.412 Effective date of within-grade increase.

(a) Except as provided in paragraph (b) of this section, a within-grade increase shall be effective on the first day of the first pay period following completion of the required waiting period and in compliance with the conditions of eligibility. When, due to administrative error, oversight, or delay, a positive determination is made after the waiting period is completed, the effective date of the within-grade increase shall be retroactive to the original due date.

(b) When an acceptable level of competence is achieved at some time after a negative determination, the effective date is the first day of the first pay period after the acceptable determination has been made.

§ 531.413 Reports and evaluation of within-grade increase authority.

(a) *Reports.* The Office of Personnel Management may require agencies to maintain records and report on the use of the authority to grant or withhold within-grade increases.

(b) *Evaluation.* The Office of Personnel Management may evaluate an agency's use of the authority to grant or withhold within-grade increases. An agency shall take any corrective action required by the Office.

Subpart E—Quality Step Increases

§ 530.501 Applicability.

This subpart contains regulations of the Office of Personnel Management to carry out section 5336 of title 5, United States Code, which authorizes the head of an agency, or another official to whom such authority is delegated, to grant quality step increases, and to carry out section 403 of Executive Order 11721, as amended, which requires the Office to issue regulations and assist agencies in establishing plans for the administration of this section of law.

§ 531.502 Definitions.

"Agency" means an agency defined in section 5102 of title 5, United States Code.

"Employee" means an employee of an agency who is covered by subpart D of this part.

"Quality step increase" means an increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of the grade in accordance with section 5336 of title 5, United States Code, and this subpart. The term "quality step increase" is synonymous with the term "step increase" used in section 5336 of title 5, United States Code.

§ 531.503 Purpose of quality step increase.

The purpose of the authority to grant quality step increases is to provide an agency with the flexibility to recognize sustained high quality performance at a level that substantially exceeds an acceptable level of competence as defined by § 531.403 of this part by authorizing faster that normal step increases.

§ 531.504 Level of performance required for quality step increase.

(a) To be considered for a quality step increase, an employee must:

(1) Perform the duties and responsibilities of his or her assigned position at a level that substantially exceeds an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality; and

(2) Sustain performance at that level for a period of time sufficient to conclude that such a level is characteristic of his or her performance and is expected to continue in the future.

§ 531.505 Justification and documentation for quality step increase.

The decision to grant a quality step increase to an employee must be supported by the employee's most recent appraisal made pursuant to § 430.203 of this chapter or, when the appraisal is more than 60 days old, by a supplemental written statement setting forth the reasons for granting the quality step increase. This documentation shall be filed in the employee's Official Personnel Folder.

§ 531.506 Restrictions on granting quality step increases.

(a) As provided by 5 U.S.C. 5336, a quality step increase may not be granted to an employeee who has received a quality step increase within the preceding 52 consecutive calendar weeks.

(b) A quality step increase may not be granted to an employee unless, at the time it becomes effective, he or she is expected to remain for at least 60 days in the same position or in a similar position at the same grade level in which his or her performance can be expected to continue at the same level of effectiveness.

(c) While overall performance must be judged, as provided in § 531.504(a)(1) of this subpart, a quality step increase may not be granted to an employee covered by an appraisal system established under § 430.203 of this chapter whose current performance with respect to any critical element is less than fully satisfactory.

§ 531.507 Effective date of quality step increase.

A quality step increase shall be effective on the first day of the first pay period following the approval date.

§ 531.508 Agency plans for granting quality step increases.

Each agency shall establish a plan for granting quality step increases. The plan shall:

(a) Be as simple as practicable;

(b) Provide for delegation of authority to grant quality step increases to the lowest practicable level of management;

(c) Include criteria and procedures to provide for the granting of quality step increases with reasonable consistency throughout the agency and with fairness to all employees;

(d) Establish a method by which employees in the agency will be informed, at least annually, of the number of quality step increases granted in the agency by grade level; and

(e) Provide for appropriate instruction, guidelines, and training for supervisors and managers on the use of the authority to recommend or grant quality step increases.

§ 531.509 Reports and evaluation of quality step increase authority.

(a) *Reports.* The Office of Personnel Management shall require agencies to maintain records and reports on the use of the authority to grant quality step increases, in accordance with established procedures.

(b) *Evaluation.* The Office of Personnel Management may evaluate an agency's use of the authority to grant quality step increases. The agency shall take any corrective action required by the Office.

Subpart F—Salary Retention

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[FR Doc. 81-615 Filed 1-8-81; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation liberalizes and simplifies current allotment regulations to allow for greater flexibility and discretion at the agency level in determining appropriate types of allotments which Federal employees may make from their pay. The regulations more closely reflect the original intent of the legislation governing allotment of pay by civilian employees.

EFFECTIVE DATE: These regulations are effective on February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, 202-632-4634.

SUPPLEMENTARY INFORMATION: On May 13, 1980, the Office of Personnel Management published proposed rules in the **Federal Register** (45 FR 31379-31382) with a request for comments from interested parties before publication as final regulations. Twenty-two formal responses and numerous phone calls from agencies, credit union associations, employee organizations, State welfare and insurance organizations were received, eighteen favorable and supportive of the liberalization of allotment procedures and four unfavorable.

The most frequently mentioned comment concerned allotments for child support. Six agencies and State welfare organizations recommended that agencies be required to permit allotments for child support payments if requested by the employee. The Social Services Amendments of 1974 (Pub. L. 93-647), provide, among other things, for prevention or remedy of neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families . . ." to this end, the Child Support Enforcement Program was established by Congress. In view of the above two legislative actions, we believe that there is sufficient legal authority to warrant that alimony and child support allotments be mandatory, rather than discretionary, on the part of the agency, where an employee voluntarily requests an allotment to be made. We have, accordingly, included the provision in the section of the regulations pertaining to mandatory allotments. It should be noted that this provision pertains only to voluntary alimony and child support payments. Court-ordered payments for child support are covered under 5 CFR Part 581, Processing Garnishment Orders for Child Support and/or Alimony.

Two comments from credit union associations were received requesting that OPM clarify its regulations to enable an allotment to a credit union to be directed to the payments of loans, life insurance premium payments, family members' savings accounts, etc., prior to its being sent to a share account. OPM has always taken the position that the agency is not responsible for determining the disposition of the savings once an allotment has been made. Pub. L. 90-365, approved June 29, 1968, governs allotments to financial institutions, and implementing regulations have been published by the Department of the Treasury at 31 CFR Part 209. Since the suggested procedure of permitting distribution of funds prior to deposit in a share account is not within the purview of OPM, we have taken the liberty of referring the letters received in this regard to the Department of the Treasury for response.

Two suggestions were made requesting that retirees be permitted to have allotments for union dues withheld from their annuities. Since these regulations pertain to current employees and not to annuitants, we are unable to include the recommendation in the regulations.

One request was received suggesting that the agency be responsible for terminating dues allotments to a labor organization when the allotter is placed in a supervisory or management position excluded from the bargaining unit. OPM maintains that it is the primary responsiblity of an agency to cancel allotments of union dues when an employee is no longer in the bargaining unit, but that it is the employee's duty to advise the agency promptly if allotments are being improperly withheld. This view is supported by Comptroller General Decision B-180095 dated September 8, 1980. Any disagreement or improper payment of dues to a labor organization should more appropriately be resolved by the employee and the organization in question. Accordingly, the suggestion has not been incorporated in the regulations.

One written and one oral comment were received concerning service fees for withholding dues for members of associations of management officials and/or supervisors. Since 1964, OPM regulations have contained a discretionary fee-for-service provision for organizations of management officials and/or supervisors. This provision has been deleted in the new regulations because a service fee may now be charged at the discretion of each agency for any allotment unless there are specific instructions in law, Executive order, or regulation which provide for determination or waiver of fees. For example, Part 209.8 of Title 31, CFR, states that a service charge for allotments to savings institutions shall be collected by each agency, while section 7115 of title 5, U.S.C., provides that no service charge shall be made on allotments to labor organizations. Since a discretionary fee-for-service provision for associations of supervisors and/or management officials was previously contained in the regulation for a number of years with no apparent financial burden to the associations, and in view of the fact that the actual cost of the service is the maximum amount the agency may charge, we do not foresee any problems caused by the continuation of this authority.

One written comment was received suggesting that the granting of a request for allotment for dues to an association of management officials and supervisors be voluntary on the part of the agency rather than mandatory. Dues withholding privileges for associations of managers and/or supervisors were first authorized by Executive Order 11491, as amended on October 29, 1969. Section 21(b) of this Order provided that an agency "may" deduct the dues of such an association from the pay of members of the association who make a voluntary allotment for this purpose. However, section 21(b) was revoked in 1975 by Executive Order 11838.

The reason for this revocation was explained in the Federal Labor Relations Council report explaining the amendments made. The report stated that "the implementation of agency systems for intramanagement communication and consultation with supervisors and associations of supervisors had reached the stage where they would be dealt with more appropriately" outside the Executive order system through agency regulations and the Federal Personnel Manual. The FLRC report further stated that the Civil Service Commission "should and will" continue to provide in its regulations for voluntary allotments for the dues of associations of management officials and supervisors in order to assure that the deletion of 21(b) from the Order will have no "detrimental effect" on members of such associations. Thus, it seems that the deletion of section 21(b) from Executive Order 11491 was based on an assumption that the former CSC would retain a provision in its regulations for the withholding of dues for these manager/supervisor associations.

Our original intent was to retain specific references to only those types of allotments which an agency is required by law or Executive order to permit. However, we concluded that allotments for dues to associations of managers and/or supervisors should also be mandatory based on the history of this provision. Furthermore, even if the history of this provision were different, we believe that in OPM's role as a management agency we should facilitate organizations of management officials. Elimination of this provision could also be construed as lack of OPM support of participation in such organizations. Accordingly, no change has been made in the regulations.

One oral and one written comment were received questioning the necessity of promulgating revised regulations. It is argued that existing legal and regulatory requirements provide each agency with the authority which OPM wants to delegate. While it is true that the agencies had the authority to permit allotments not inconsistent with Subchapter III, Chapter 55, title 5, United States Code, existing regulations do not offer Federal employees the variety of allotments which will be offered under new regulations in view of the previous regulatory requirement barring allotments of pay for any purpose not specifically permitted by law or Executive order. For this reason, OPM believes that a change in the regulations is appropriate.

Several questions were received concerning forms to be used for allotments for which no applicable form currently exists. OPM is in the process of devising a multi-purpose form which may be used for making allotments. This form will be provided to the agencies; however, it may not be available for some time. In the interim, a letter from the employee to the payroll office which contains the pertinent information and which has been signed by the prospective allottee will suffice.

In the final regulations, we have elaborated on the authority of the agency to permit up to two allotments for savings under Department of Treasury regulations to stress that OPM does not regulate these types of savings allotments. The head of the agency carries out such allotments in accordance with the regulations of the Department of the Treasury at 31 CFR Part 209, with the exception of those employees in Alaska and Hawaii and other employees outside the continental United States, who will continue to be covered under 5 CFR Part 550. OPM continues to defer to the Department of the Treasury's authority to regulate allotments for savings even though there is a limitation of two allotments for savings permitted under those regulations, because it is unclear how regulating additional allotments to savings under 5 CFR Part 550 would affect employees presently making allotments under Title 31. OPM's action is not intended to be a permanent solution to the problem, but is necessary until the matter is studied in more detail.

Employees assigned to duty outside the continental United States have previously been covered under 5 CFR Part 550 because they are excluded from coverage under 31 CFR Part 209. We have included a provision making it mandatory for an agency to accept requests for allotments for savings made by these employees to ensure that they do not lose any existing rights under the new regulations.

In addition to the above changes, OPM has added two paragraphs to § 550.312 "General Limitations" to protect the agencies from adverse consequences resulting from disputes which may arise between the allottee and the allotter.

A number of questions were received concerning procedural matters, such as: the order of precedent for allotments, allotments for items such as subway passes and bus farecards, the cost of which will automatically increase each year, years with 27 pay periods, etc. Resolution of procedural matters such as these will more appropriately be left to the authority of the agencies. Consequently, we have made no changes to the regulations to accommodate them.

In addition to the changes discussed in this supplementary information, several minor changes have been made to the regulations for clarity.

The Office of Personnel Management will supplement the regulations with guidance issued through the Federal Personnel Manual System.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending the table of contents and revising Subpart C of Part 550 of Title 5, Code of Federal Regulations, to read as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart C—Allotments and Assignments From Federal Employees

Definitions

Sec.
550.301 Definitions.

General Provisions

550.311 Authority of agency.
550.312 General limitations.

Labor Organization

550.321 Authority.
550.322 Savings provision.

Association of Management Officials and/or Supervisors

550.331 Scope.

Combined Federal Campaign

550.341 Scope.
550.342 Limitation of allotment.

Income Tax Withholding

550.351 Scope.

Allotments for Savings

550.361 Scope.

Alimony and/or Child Support

550.371 Scope.

Foreign Affairs Agency Organizations

§ 550.381 Scope.

Authority: 5 U.S.C. 5527, E.O. 10982, 3 CFR 1959–1963 Comp., p. 502.

Subpart C—Allotments and Assignments From Federal Employees

Definitions

§ 550.301 Definitions.

In this subpart:

"Agency" means an Executive agency as defined by section 105 of Title 5, United States Code.

"Allotment" means a recurring specified deduction for a legal purpose from pay authorized by an employee to be paid to an allottee.

"Allottee" means the person or institution to whom an allotment is made payable.

"Allotter" means the employee from whose pay an allotment is made.

"Association of management officials and/or supervisors" means an association composed of either management officials and/or supervisors with which the agency has established official relationships.

"Combined Federal Campaign" means an organization of voluntary health and welfare agencies authorized to solicit charitable contributions in a local area in accordance with arrangements prescribed by the Director of the Office of Personnel Management under Executive Order 10927.

"Continental United States" means the several States and the District of Columbia, but excluding Alaska and Hawaii.

"Dues" means the regular periodic amount specified by an allotter to be withheld from his or her pay which is required to maintain the allotter as a member in good standing in a labor organization or association of management officials and/or supervisors or other organization.

"Employee" means an employee of an agency, unless otherwise provided.

"Foreign affairs agency" means the Department of State, the International Communications Agency, the Agency for International Development and its successor agency or agencies.

"Labor organization" means a labor organization as defined by section 7103(a)(4) of Title 5, United States Code, unless specified otherwise.

"Pay" means the net pay due an employee after all deductions authorized by law (such as retirement or social security deductions, Federal withholding tax, and others, when applicable) have been made.

General Provisions

§ 550.311 Authority of agency.

(a) An agency shall permit an employee to make:

(1) An allotment for dues to a labor organization under section 7115 of Title 5, United States Code;

(2) An allotment for dues to an association of management officials and/or supervisors under § 550.331;

(3) An allotment for charitable contributions to a Combined Federal Campaign under §§ 550.341 and 550.342;

(4) An allotment for income tax withholding under § 550.351;

(5) Up to two allotments for savings under Department of Treasury regulations as codified at Part 209 of Title 31, Code of Federal Regulations;

(6) An allotment for savings for an employee assigned to a post of duty outside the continental United States under § 550.361;

(7) An allotment for child support and/or alimony payments under § 550.371.

(b) In addition to those allotments provided for in paragraph (b) of this ection, an agency may permit an employee to make an allotment for any legal purpose deemed appropriate by the head of the agency.

(c) The head of an agency may prescribe such additional regulations governing allotments as appropriate which are consistent with subchapter III of chapter 55 of Title 5, United States Code, and this subpart. Discretionary allotments under this subpart may be limited in number as determined appropriate by the head of the agency.

§ 550.312 General limitations.

(a) The allotter shall specifically designate the allottee and the amount of the allotment in writing in an allotment authorization.

(b) The total amount of allotments may not exceed the pay due the allotter for a particular period.

(c) An employee shall request in writing a change in or the revocation of an allotment.

(d) Allotters shall agree that the agency shall be held harmless for any authorized allotment disbursed by the agency in accordance with the employee's request for an allotment from pay.

(e) Allotters shall agree that disputes regarding any authorized allotment shall be a matter between the allotter and the allottee.

Labor Organization

§ 550.321 Authority.

Section 7115, Title 5, United States Code, authorizes an employee to make an allotment for dues to a labor organization as defined in subchapter 1 of chapter 71 of Title 5, United States Code. Such an allotment shall be effected in accordance with such rules and regulations as may be prescribed by the Federal Labor Relations Authority.

§ 550.322 Saving provision.

An agency shall permit a supervisor who so desires, to continue an allotment of dues to a labor organization as defined by section 2(e) of Executive Order 11491, as amended, which was permissible when the supervisor was excluded from a formal or exclusive unit by reason of the requirements of former section 24(d) of this Order.

Association of Management Officials and/or Supervisors

§ 550.331 Scope.

An agency shall permit an employee to make an allotment for dues to an association of management officials and/or supervisors when the employee is a supervisor or management official, and the employee is a member of an association of management officials and/or supervisors with which the agency has agreed in writing to deduct allotments for the payment of dues to the association.

Combined Federal Campaign

§ 550.341 Scope.

An agency shall permit an employee to make an allotment for charitable contributions to a Combined Federal Campaign. Allotments for contributions to the Department of Defense Overseas Combined Federal Campaign shall be permitted in accordance with a special agreement between the Office of Personnel Management and the Department of Defense which may contain any necessary exceptions to these regulations.

§ 550.342. Limitation of allotment.

(a) An agency shall permit an employee to make an allotment for a charitable contribution to a Combined Federal Campaign only when the employee is employed in an area in which a Combined Federal Campaign authorized by the Office of Personnel Management is established.

(b) An allotment to a Combined Federal Campaign shall be:

(1) For a term of 1 year beginning with the first pay period which begins in January and ending with the last pay period which begins in December, and

(2) An equal amount deducted each pay period. Minimum deductions will be established by agreement between OPM and officials of the Combined Federal Campaign.

(c) The allotter may not change the amount deducted each pay period during the term of an allotment to a Combined Federal Campaign. The allotter shall be informed of this restriction before the allotment is requested.

(d) The allotter may voluntarily discontinue the allotment at any time, but a discontinued allotment may not be reinstated.

Income Tax Withholding

§ 550.351 Scope.

When an employee has a legal obligation to pay, but the agency has no legal obligation to withhold, State, District of Columbia, or local income or employment taxes, an agency shall permit an employee to make an allotment for payment of the taxes.

Allotments For Savings

§ 550.361 Scope.

An agency shall permit an employee within the continental United States to make up to two allotments of pay to a financial organization of his/her choice, for credit to his/her savings account as authorized under Department of Treasury regulations codified at Part 209 of Title 31, Code of Federal Regulations. Additional allotments to savings for these employees will not be permitted under this Part.

An employee assigned to a post of duty outside the continental United States who is not covered under Department of Treasury regulations at 31 CFR Part 209 shall be permitted to make allotments of pay to a financial organization of his/her choice for credit to his/her savings account.

Alimony and/or Child Support

§ 550.371 Scope.

An agency shall permit an employee to make an allotment for alimony and/or child support when he or she voluntarily elects to do so. However, this provision does not apply to garnishment orders issued to enforce child support and/or alimony obligations which are codified at Part 581 of this title.

Foreign Affairs Agency Organizations

§ 550.381 Scope.

If an agency permits an employee to make an allotment for dues to a foreign affairs agency organization, the agency must also provide, in accordance with Section 15 of Executive Order 11636:

(a) that the employee be allowed to revoke the authorization at least every six months; and

(b) that the allotment terminates when the dues withholding agreement between a foreign affairs agency and the organization is terminated or ceases to be applicable to the employee.

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1203

[Public Comment No. 1]

Hearing Procedures for Original Jurisdiction Cases

AGENCY: Merit Systems Protection Board.

ACTION: Interim regulations.

SUMMARY: These regulations establish interim procedures for the Board's review of the regulations of the Office of Personnel Management (OPM). The Board is authorized by statute to review OPM regulations, and to order Federal agencies to cease compliance with regulations it finds invalid or to cease implementing them in an invalid manner. Additionally, the Board seeks comments on these regulations with the intent to issue final regulations at a later date.

EFFECTIVE DATE: January 9, 1981. Comments should be submitted no later than February 13, 1981.

ADDRESS: Comments should be submitted in writing indicating the above-referenced public comment number to the Office of the Secretary, Merit Systems Protection Board, Room 220, 1717 H Street, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Deborah M. House, Executive Assistant to the Chairwoman (202) 653-7111.

SUPPLEMENTARY INFORMATION: These regulations are published pursuant to the statutory authority conferred on the Merit Systems Protection Board by the Civil Service Reform Act of 1978, authorizing the Board to review the regulations of OPM on their face and as implemented by any agency to determine whether they require any Federal employee to commit a prohibited personnel practice. This statutory provision further authorizes the Board to order Federal agencies to cease compliance with such regulations or to cease implementing them in a certain manner if a finding of invalidity is made by the Board. The Board is also authorized to take appropriate corrective action to provide relief to parties affected by the implementation of an invalid regulation or an invalidly implemented regulation (5 U.S.C. 1205(e)).

The statutory authority to conduct such a review became effective on January 11, 1979. The Board has already completed one such review in the case of *Wells, et al.* v. *Patricia Roberts Harris, et al.*, (Docket No. HQ120500017, Opinion issued December 17, 1979) and has several others under consideration. Therefore, the Board has determined that good cause has been established for publishing these regulations for immediate effect. However, because of the far-reaching impact of these regulations upon Federal agencies and their employees, the Board is also requesting comment on these interim regulations and will issue final regulations under this Part after all comments have been received and considered.

Part 1203 is added to read as follows:

PART 1203—HEARING PROCEDURES FOR ORIGINAL JURISDICTION CASES

Subpart A—Review of the Rules and Regulations of the Office of Personnel Management

General

Sec.
1203.1 Application.
1203.2 Definitions.

Procedures for Review

1203.11 Request for regulation review.
1203.12 Board determination on the request for regulation review.
1203.13 Filings.
1203.14 Service.
1203.15 Review of regulations on the Board's own motion.
1203.16 Proceedings.

Order of the Board

1203.17 Final order of the Board.
1203.18 Enforcement of order.

Authority: 5 U.S.C. 1205 (a)(4), (e) and (g).

Subpart A—Review of Rules and Regulations of the Office of Personnel Management

General

§ 1203.1 Application.

(a) *General.* This Subpart applies to the Board's review of any rule or regulation ("regulations") issued by the Office of Personnel Management (OPM), on its face or as implemented by any agency, pursuant to the Board's authority under 5 U.S.C. 1205 (a)(4) and (e).

(b) *Application of Part 1201.*

(1) Except as otherwise provided, where appropriate the Board may, on its own motion or that of a party, apply the provisions of 5 CFR Part 1201, Subpart B, to proceedings under this Subpart.

(2) The following provisions of 5 CFR Part 1201, Subpart B are specifically not applicable to proceedings under this Subpart.

(i) Sections 1201.21–1201.28 Petitions for Review of Agency Actions; and

(ii) Sections 1201.111–1201.118 Final decisions.

§ 1203.2 Definitions.

(a) *Invalid regulation.* A regulation issued by OPM which, on its face, would require an employee to commit a prohibited personnel practice if that regulation were implemented by any agency.

(b) *Invalidly implemented regulation.* A regulation issued by OPM which is implemented by an agency in such a manner that it has required, or will require, an employee to commit a prohibited personnel practice. A regulation which is valid on its face may be invalidly implemented.

(c) *Merit System principles.* Those principles set forth at 5 U.S.C. 2301(b) (1)–(9).

(d) *Pleadings.* Briefs, motions, requests for regulation review, responses and attachments.

(e) *Prohibited personnel practices.* Those impermissible actions set forth at 5 U.S.C. 2302(b) (1)–(11).

(f) *Regulation review.* The procedure whereby the Board, pursuant to 5 U.S.C. 1205(e), reviews the regulations issued by OPM on their face and/or as implemented for the purpose of determining whether they require any employee to commit a prohibited personnel practice. No regulation shall be reviewed prior to its effective date.

(g) *Request for regulation review.* A request for the Board to initiate a regulation review. Requests may be submitted by an interested person or upon the written complaint of the Special Counsel. A request for regulation review by an interested person may be denied or granted at the sole discretion of the Board. A request for regulation review by the Special Counsel shall be granted.

Procedures for Review

§ 1203.11 Request for regulation review.

(a) *Contents.* A request for regulation review shall contain the following:

(1) The name and address of the requestor or representative, if any;

(2) Identification by citation of the regulations being challenged;

(3) A statement (attaching any relevant documents) setting forth with particularity the reasons why the regulation and/or the implementation of the regulation has required, or will require the commission of, a prohibited personnel practice by any employee, including specific identification of the prohibited personnel practice at issue;

(4) In the event that the prohibited personnel practice complained of is one prohibited by 5 U.S.C. 2302(b)(11) the following additional information must be supplied:

(i) Identification of the law or regulation alleged to be violated and the basis of that violation;

(ii) Identification of the merit principles involved and an explanation of how the law or regulation in question implements or directly concerns that merit system principle(s);

(5) A statement of the action the requestor would like the Board to take; and

(6) The name, address and signature of the requestor's representative (or the requestor if there is no representative).

§ 1203.12 Board determination on the request for regulation review.

(a) *Order.* After considering the initial request for regulation review, the Board shall issue an order determining whether the request shall be granted or denied in whole or in part. Requests for regulation review submitted by the Special Counsel shall be granted.

(b) *Publication.* All Board orders granting or denying a request for regulation review shall be published in the **Federal Register**. Orders which grant the review, in whole or in part, shall set forth the following:

(1) Identification by citation of the regulations being challenged;

(2) Where appropriate, identification of the agency (agencies) involved;

(3) A statement of the issues to be addressed;

(4) The docket number assigned to the proceeding; and

(5) Appropriate directives for further adjudication, including the time period for filing responses in support of, or in opposition to, the petition for review.

§ 1203.13 Filings.

(a) *Place for each pleading and number of filings.* All pleadings shall be filed with the Secretary of the Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419. One original and three copies must be filed. All pleadings shall be made available in the Secretary's Office for review by the public.

(b) *Time for filing.* Under this Part, pleadings shall be filed in accordance with the following:

(1) *Request for regulation review.* May be filed at any time after the effective date of the regulation.

(2) *Responses to requests for regulation review.* A response in support of or in opposition to the request for review shall be filed within the time period provided in the Board's order

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published in the **Federal Register** granting the request for regulation review in whole or in part.

(3) *Replies.* A reply may be filed to the response(s) within 10 days after it is filed. The reply shall address only those matters raised in the response which were not addressed in the original request.

(4) *Motions.* Motions may be filed at any time. The filing of a motion shall not delay the action of the Board on any matter unless it so orders. Motions requesting extensions of time or continuances may be ruled on immediately if time does not permit consideration of the views of the other parties.

(5) *Oppositions.* Oppositions to motions shall be filed within five days of receipt of the motion.

(6) *Additional pleadings.* May be filed only if requested by the Board or it provides leave to do so. Pleadings filed without authorization shall not be considered.

(c) *Method and date of filing.* Filing may be made either by mail addressed to the Office of the Secretary or by personal delivery to that office. The date of filing shall be determined by the date of mailing indicated on the certified mail. If the filing is made by regular mail, the date of filing shall, in the absence of any evidence to the contrary, be presumed to be the date five days prior to the receipt of the mail by the Board. If the filing is by personal delivery, it shall be considered filed on the date it is received in the Office of the Secretary.

(d) *Extensions of time.* Requests for extensions of time will be granted only for good cause shown.

§ 1203.14 Service.

(a) *Method.* Service shall be made by the parties by mail or by personal delivery. Service by mail is accomplished by mailing to all parties or their representatives, at the last known address, a copy of the pleading and a certificate of service. Service by personal delivery is accomplished by delivering the pleading to the business office or home of the person to whom it is addressed and leaving it with that person, or with a responsible person at that address. Proof of service in the form of a certificate of service must be submitted to the Board.

(b) *Parties.* The request for review of regulations shall be served on the Director of OPM in all instances and the chief executive officer of the implementing agency when the implementation of a regulation is being challenged. All other pleadings shall be served on the party requesting the regulation review and any other parties as designated by order of the Board.

§ 1203.15 Review of regulations on the Board's own motion.

Order for regulation review. The Board may, from time to time, initiate a regulation review on its own motion pursuant to 5 U.S.C. 1205(e)(1)(A). Notice of this review will be published in the **Federal Register.**

§ 1203.16 Proceedings.

The Board has substantial discretion in conducting a regulation review under this Subpart. The review may be undertaken on the basis of the pleadings alone or on one or more of the following:

(a) Submission of additional written comments;

(b) Presentation of oral argument;

(c) Evidentiary hearing; or

(d) Any other procedures in accordance with law and as deemed appropriate by the Board.

Order of the Board

§ 1203.17 Final order of the Board.

(a) *Invalid regulation.* In the event that the Board determines that a regulation is invalid on its face in whole or in part, it shall require any agency to cease compliance with such provision and may order such other remedial action as necessary.

(b) *Invalidly implemented regulation.* In the event that the Board determines that a regulation has been invalidly implemented in whole or in part, it shall require the agency (agencies) to terminate the invalid implementation.

(c) *Corrective action.* The Board may order such corrective action as is necessary to ensure compliance with its order, including but not limited to:

(1) The implementation of the necessary remedial measures to reverse the effets of any prohibited personnel practice;

(2) Cancellation of any personnel action related to the prohibited personnel practice;

(3) Award of back pay and benefits;

(4) Award of attorney fees;

(5) Rescission of any action related to the cancelled personnel action;

(6) Removal of any reference, record or document within an employee's personnel folder related to the prohibited personnel practice; and

(7) Requiring submission by the agency of a verified report setting forth its compliance with the order.

§ 1203.18 Enforcement of order.

(a) *Petition.* Any party may petition the Board for enforcement of a final order issued under this Subpart. This petition shall be filed with the Office of the Secretary of the Board, and shall be served upon all parties to the original review. The petition shall specifically set forth the reasons why the petitioning party believes there has been a failure to comply with the order of the Board.

(b) *Compliance.* The Board shall take all necessary action to ascertain whether there has been compliance with the final decision of the Board. Where compliance has not been made, the Board shall undertake such actions as are necessary to obtain compliance.

(c) *Enforcement.* Where appropriate, the Board may institute enforcement procedures as set forth at 5 CFR 1201.184.

Dated: January 5, 1981.

Merit Systems Protection Board.

Ruth T. Prokop,

Chairwoman.

[FR Doc. 81-919 Filed 1-8-81; 8:45 am]

BILLING CODE 6325-[illegible]-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81–332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register.** This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

Agricultural Marketing Service

7 CFR Part 180

Plant Variety Protection; Limits of Reciprocity

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Plant Variety Protection Office, Livestock, Poultry, Grain, and Seed Division, offers statutory protection for 17 years to developers of new varieties of plants that reproduce through seeds (sexually). In order for

foreign nationals to apply for protection in the United States, reciprocity limitations must first be determined consistent with the plant variety protection laws of each country, and then set forth in the regulations after appropriate rulemaking proceedings. The change in regulations will maintain protection currently afforded to foreign nationals, however, it will eliminate the need for amending the regulations to establish reciprocity limits for each interested country or to take into account changes in the law of countries already referred to in the regulation. The change will also make it easier for U.S. nationals to obtain protection in foreign countries.

EFFECTIVE DATE: January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Bernard M. Leese, Commissioner, Plant Variety Protection Office, Livestock, Poultry, Grain, and Seed Division, AMS, National Agricultural Library Building, Beltsville, Maryland 20705, (301) 344–2518. The Impact Analysis describing the options considered in developing the proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

July, 8, 1980, notice was published in the **Federal Register** (45 FR 45914) inviting written comments not later than August 7, 1980, on proposed amendments of § 180.5 of the Regulations and Rules of Practice (7 CFR 180.5(a)) under the Plant Variety Protection Act to set forth the limits of reciprocity in order that all foreign applicants may receive protection equal to that afforded U.S. nationals in their country for plant variety protection on sexually reproduced plants in the United States.

The previous procedure for establishing reciprocity required an amendment to the rules of practice in § 180.5(a) to set the specific limits on protection for each country that indicated that a foreign national was interested in applying for plant variety protection in the U.S.A. This procedure required unnecessary and time-consuming rulemaking each time a new country requested reciprocity. In addition, for countries already covered by the rules of practice, amendment proceedings were required to take into account any changes in the laws of such countries that affect the limits on reciprocity previously set forth in the rules of practice. Previous rules covered the United Kingdom, Federal Republic of Germany, Republic of South Africa, Israel, and the Netherlands. Several other countries have passed or have proposed plant variety protection legislation and would likely have requested reciprocity agreements in the future, which would have required USDA to amend the reciprocity regulations to permit applications from the requesting nations and to establish the appropriate limits. Such amendments required a thorough review of the current laws of each foreign country at the time of the original request, in addition, USDA must keep continuously informed of changes in foreign plant variety protection laws so that reciprocity agreements and the regulations could be changed to maintain the limits on protection for foreign nations equal to that which the foreign countries grant U.S. nationals.

The rule modification eliminates the need to amend the regulations to establish or update the reciprocity limits each time a foreign national seeks protection by establishing a general procedure to require foreign applicants to furnish a copy of their current national law and an English translation. Based on a review of these materials, the eligibility of the applicant and the limits on the protection to be granted will be determined so as to give the foreign applicant the amount of the protection that is afforded a U.S. national in that foreign country. However, the regulation does not affect the rights of any foreign national whose application has been accepted in accordance with § 180.5(a), since the reciprocity limits on any pending applications already have been established at the time of filing of the applications based on the previous regulations.

Comments were received from five persons, all members of the Plant Variety Protection Board. The comments received did not suggest alternative solutions and all were in favor of adopting the proposed amendments.

After consideration of all relevant matters presented, including the proposal in the notice, the proposal, with no substantive change from the proposed rule, is adopted as follows:

Section 180.5(a) is removed including subparagraph (1) through (4) and replaced with new language. As revised, paragraph (a) reads as follows:

§ 18.5 General Requirements.

(a) Protection under this Act shall be limited to nationals of the United States except where this limitation would violate a treaty, and except that nationals of a foreign State:

(1) Shall be entitled to only so much of the protection afforded under this Act as is afforded by said foreign State to nationals of the United States for the same genus and species under the laws of said foreign State in effect at the time that the application for protection under this Act is filed.

(2) Shall, at the time of filing an application for plant variety protection in the United States, furnish the Plant Variety Protection Office, for use in determining the extent of protection to be provided in accordance with subparagraph (a)(1) above, with a copy of the current plant variety protection laws, and the regulations, thereunder, for the country of which the applicant is a national and an accurate English translation of such laws and regulations.

* * * * *

(7 U.S.C. 2326 and 2403; 84 Stat. 1542 and 1547, section 6 and 49)

Done at Washington, D.C., on December 30, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81–629 Filed 1–8–81; 8:45 am]

BILLING CODE 3410–02–M

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 230, and 235

Exclusion of Job Corp Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: These final regulations amend Parts 210, 215, 220, 230 and 235, to exclude Job Corps centers funded by the Department of Labor from participation in the School Nutrition Programs. This emergency final rule implements the mandate of Public Law 96–499 and will save $15.2 million yearly in Child Nutrition Program Funds.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Chief, Policy and Program Development Branch, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–9065. The Impact Analysis Statement is available on request from the above named individual.

SUPPLEMENTARY INFORMATION:

Administrative Procedures

This final action has been reviewed under USDA procedures established in the Secretary's Memorandum 1955 to implement Executive Order 12044, and

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has been classified as "not significant". Robert Greenstein, Administrator of the Food and Nutrition Service has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because the provisions of this rule are mandated by Public Law 96–499 and are thus nondiscretionary. Solicitation of public comments is unnecessary. Further, the change made by the provisions of this rule is effective January 1, 1981. Good cause therefore, exists both for dispensing with the solicitation of public comments and for making this rule effective earlier than 30 days after publication.

Background

Public Law 94–105, enacted on October 7, 1975, expanded the definition of "school" in an effort to increase the number of children reached by the benefits of the school nutrition programs. The definition of "school" in section 12(d)(6) of the National School Lunch Act and section 15(c) of the Child Nutrition Act of 1966 was expanded by Public Law 94–105 to include "any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded)". Though the legislative history of the provision does not indicate that Congress specifically addressed whether Job Corps centers should be included under this expanded definition of "school", the broad language of the amendment indicates that Congress intended to include all institutions in which children are cared for on a residential basis. On May 4, 1976, final regulations to redefine "school" to include residential child care institutions as required by Public Law 94–105 were published in the **Federal Register** at 41 FR 18426. Under this regulation, only those Job Corps centers which met the basic eligibility requirements and which offered a residential child care program could participate; and only those meals served by participating Job Corps centers to children under 21 years of age who were enrolled on a residential basis were eligible for program reimbursement. Prior to Public Law 94–105, Job Corps centers received food service funds from the Department of Labor.

Public Law 96–499, the "Omnibus Reconciliation Act of 1980", enacted on December 5, 1980, amended section 12(d)(6) of the National School Lunch Act and Section 15(c) of the Child Nutrition Act to require that " 'school' means (A) any public or nonprofit private residential child care institution (including, but not limited to), orphanages and homes for the mentally retarded, but excluding Job Corps centers funded by the Department of Labor".

In response to the mandate of Public Law 96–499, Job Corps centers beginning January 1, 1981 will not be eligible for school nutrition program funds. It is estimated that the passage of Public Law 96–499, will save $15.2 million in budget authority under the Programs. Therefore, these final regulations amend all School Nutrition Program regulations to exclude Job Corp centers funded by the Department of Labor from participation in the Child Nutrition Programs. The Department is issuing this rulemaking as a final rule because it is nondiscretionary and mandated by Public Law 96–499.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, Part 210, National School Lunch Program, is amended as follows: In § 210.2, paragraph (o)(2) is revised to read as follows:

§ 210.2 Definitions.

* * * * *

(o) * * *

(2) with the exception of residential summer camps which participate in Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes, any public or nonprofit private child care institution, or distinct part of such institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institutions" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children, long-term care facilities for chronically ill children; and juvenile detention centers.

* * * * *

PART 215—SPECIAL MILK PROGRAM

Accordingly, Part 215—Special Milk Program is amended as follows: in § 215.2, paragraph (v)(2) is revised to read as follows:

§ 215.2 Definitions.

* * * * *

(v) * * *

(2) with the exception of residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes, any public or nonprofit private child care institution, or distinct part of such institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institutions" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children, long-term care facilities for chronically ill children; and juvenile detention centers.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

Accordingly, Part 220—School Breakfast Program is amended as follows: in § 220.2, paragraph (c)(2) is revised to read as follows:

§ 220.2 Definitions.

* * * * *

(c) * * *

(2) with the exception of residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes, any public or nonprofit private child care institution, or distinct part of such institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institutions" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children, long-term care facilities for chronically ill children; and juvenile detention centers.

* * * * *

PART 230—FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM

Accordingly, Part 230—Food Service Equipment Assistance Program is amended as follows: in § 230.2, paragraph (aa)(2) is revised to read as follows:

§ 230.2 Definitions.

* * * * *

(aa) * * *

(2) with the exception of residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes, any public or nonprofit private child care institution, or distinct part of such institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institutions" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children, long-term care facilities for chronically ill children; and juvenile detention centers.

* * * * *

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

Accordingly, Part 235—State Administrative Expense Funds is amended as follows: in § 235.2, paragraph (o)(2) is revised to read as follows:

§ 235.2 Definitions.

* * * * *

(o) * * *

(2) with the exception of residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes, any public or nonprofit private child care institution, or distinct part of such institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institutions" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children, long-term care facilities for chronically ill children; and juvenile detention centers.

(Catalogue of Federal Domestic Assistance Numbers 10.555, 10.558, 10.553, 10.554)

(Section 205, Public Law 96–499, "The Omnibus Reconciliation Act of 1980", 94 Stat. 2599)

Dated: December 31, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 81–827 Filed 1–8–81; 8:45 am]

BILLING CODE 3410–30–M

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7 CFR Part 250

[Admt. 1]

Food Distribution Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This rule amends the regulations governing the Food Distribution Program to: (1) Update the quoted provisions of the National School Lunch Act, as amended by the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499), (2) reduce the national average value of donated foods or cash in lieu of foods which the Secretary is required to make available to States for distribution to schools and institutions conducting non-profit food service programs under the National School Lunch Act, and (3) specify that schools which participate in the School Breakfast Program will not receive donated-food assistance based on the number of breakfasts served under that program. These changes implement the Omnibus Reconciliation Act.

EFFECTIVE DATE: Effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8386.

The Impact Analysis Statement is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA Procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not significant. Robert Greenstein, Administrator of the Food and Nutrition Service, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because the provisions of this rule are mandated by Pub. L. 96–499 and are thus nondiscretionary. Solicitation of public comments is unnecessary. Further, the changes made by the provisions of this rule are effective January 1, 1981. Good cause therefore exists both for dispensing with the solicitation of public comments and for making this rule effective earlier than 30 days after publication.

Section 6 of the National School Lunch Act, as amended, requires the Secretary of Agriculture to make available to States for distribution to schools conducting nonprofit lunch programs under that Act, a national average value of donated foods, or—where applicable—cash in lieu thereof, of not less than 10 cents for each lunch served. This amount is subject to adjustment each school year to reflect changes in the Price Index for Food Used in Schools and Institutions, which is computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meat, poultry, and fish, dairy products, processed fruits and vegetables, and fats and oils). Section 202(a) of Pub. L. 96–499, enacted December 5, 1980, provides that for the fiscal year ending September 30, 1981, the mandated level of commodity assistance under section 6(e) of the Act shall be reduced by 2 cents after the required adjustment per Index changes has been made. However, owing to late enactment of Pub. L. 96–499, this amendment provides that the reduction shall become effective on January 1, 1981. This is consistent with congressional action on the conference report to the Agriculture, Rural Development and Other Related Agencies Appropriations, fiscal year 1981. This report provides for a rescission of $285 million in funds appropriated for Child Nutrition Programs for fiscal year 1981. The $285 million rescission is based on January 1, 1981 implementation date for all provisions of the omnibus Reconciliation Act of 1980 that alter commodity or cash reimbursement rates in Child Nutrition Programs.

In a further action, section 202(b) of Pub. L. 96–499 amended section 6 of the National School Lunch Act to add a new subsection (f) which prohibits the Secretary from offering, beginning with the school year ending June 30, 1981, commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966. This provision eliminates any legislative commodity entitlement for School Breakfast Programs. It does not eliminate the authority given the Secretary under section 8 of the Child

Nutrition Act of 1966 to donate foods acquired under price-support and surplus-removal activities for use in breakfast programs. Further, commodities earned under the National School Lunch Program (NSLP) do not have to be restricted to usage in the NSLP as long as they are utilized within a school food authority's nonprofit food service.

In another action, section 202(c) of Pub. L. 96-499 amended section 14(a) of the National School Lunch Act to extend the commodity provisions of that section through fiscal year 1984. Implementing changes for the above actions are made by these amendments.

Accordingly, the food distribution regulations are amended as follows:

1. In § 250.1, paragraph (b)(17) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984," paragraph (b)(6), which contains the quoted provisions of section 6 of the National School Lunch Act, is amended by adding to the end thereof a new section 6(f), and a new paragraph (b)(19) is added as follows:

§ 250.1 General purpose and scope.

* * * * *

(b) *Legislation.* * * *

(6) * * * (f) Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966.

* * * * *

(19) Section 202(a) of the Omnibus Reconciliation Act of 1980, which reads as follows:

> For the fiscal year ending September 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as determined under section 6(e) of the National School Lunch Act, shall be reduced by 2 cents.

2. In § 250.4, paragraph (b)(5)(i) is revised as follows:

§ 250.4 Availability of donated foods.

* * * * *

(b) *Quantities.* * * *

(5)(i) The value of donated foods to be distributed for lunches in schools and for lunches and suppers in nonresidential child care institutions or, where applicable, the amount of cash payments to be made in lieu of donated foods for such meals, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions prescribed by section 6(e)(2) of the National School Lunch Act, as amended. For the period beginning January 1, 1981 and ending September 30, 1981, the national average value of donated foods or cash payments in lieu thereof, as adjusted in accordance with this paragraph (b)(5)(i), shall be reduced by 2 cents.

* * * * *

3. In § 250.8, paragraph (a) is amended by removing the first sentence and inserting its place the following two sentences:

§ 250.8 Eligible recipient agencies.

(a) *Schools and school food authorities.* Schools or school food authorities which participate in the National School Lunch Program under part 210 of this chapter are eligible to receive donated foods under section 416, section 32, section 709, section 6 and section 14. Schools or school food authorities which participate in the School Breakfast Program under part 220 of this chapter shall not, beginning January 1, 1980, receive donated-food assistance based upon the number of breakfasts served under that program, except that those schools or school food authorities may continue to receive donated foods under section 8 of the Child Nutrition Act of 1966.* * *

* * * * *

(Sec. 202, Pub. L. 96-499, 95 Stat. 2599)

Dated: December 31, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 81-402 Filed 1-8-81; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 272 and 273

[Amendment No. 171]

Food Stamp Issuance and Participation Reporting System; Reconciliation Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Stamp Act of 1977 (Public Law 95-113, 91 Stat. 958, September 29, 1977) specifies that State agencies shall, among other things, be responsible to the Secretary for any financial losses involved in the issuance of coupons. Additionally the 1979 Amendments to the Food Stamp Act of 1977 (Pub. L. 96-58, 93 Stat. 389, Aug. 14, 1979) require that the Secretary report monthly to Congress on the status of program funds obligated and whether or not such obligations will exceed appropriations. If so, the Secretary is required, within 60 days of such a report, to take steps to reduce or terminate program benefits to keep obligations within amounts appropriated.

This final rule provides new procedures for States to report on the reconciliation of Authorization to Participate (ATP) cards to enable State agencies and the Department to identify unauthorized issuance of benefits in order to establish liabilities for overissuance of coupons; and changes the procedures for States' reporting of food stamp issuance and participation data to provide program managers with more up-to-date information on the expenditure of food stamp appropriations for reporting to the Congress.

To carry out these new reporting procedures, two new forms are being established—Form FNS-46, *Food Stamp Reconciliation Report,* and Form FNS-388, *State Coupon Issuance and Participation Estimates.* Additionally, Form FNS-256, *Project Area Participation and Coupon Issuance,* is being revised.

EFFECTIVE DATE: This rule is effective February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Larry Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Room 678, 500 12th Street, S.W., Washington, D.C. 20250, 202-447-9075. The Final Impact Statement describing the options considered in developing this final rule and assessing the impact of implementing each option is available on request from Mr. Carnes.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

Introduction

This final rule addresses certain provisions contained in the proposed rule of November 9, 1979 (44 FR 65318) and all the provisions contained in the proposed rule of May 27, 1980 (45 FR 35335).

44 FR 65318: One of several proposed rules issued by the Department on November 9, 1979, provided for a reconciliation report for the use of States to identify unauthorized issuances of benefits. The comment analysis and changes to that portion of the November 9, 1979 proposed rules are being incorporated into this final rulemaking.

The Department received 14 comments, all from program administrators, on the reconciliation report. Based on those comments, the due date for submission of form FNS-46 report was changed from 45 days to 90 days following the end of the report month. The preamble to this rulemaking explains other suggested changes made to the proposed form.

Other provisions of the November 9 rule will be addressed in later final rulemaking packages.

45 FR 35335: On May 27, 1980, the Department published proposed rules to revise its present systems for States to report food stamp issuance and program participation. The revisions are being made to improve the timeliness and accuracy of issuance and participation data used in: (1) measuring the use and availability of food stamp bonus funds; (2) making decisions regarding benefit reductions which may be required to avoid expenditure of benefits in excess of appropriations; and (3) reporting nationwide program expenditures and participation to Congress and the general public.

The Secretary's decision on whether program benefits must be reduced to keep program spending within the amount appropriated is based upon a comparison of issuance at a given time in a fiscal year to funds available for the remainder of the fiscal year. Section 18 of the Food Stamp Act of 1977 (as amended, P.L. 96-58, 93 Stat. 389, August 14, 1979) requires the Department to submit to the House and Senate Agriculture Committee by the 15th of each month a report of program benefit expenditures for the fiscal year through the end of the second month preceding the reporting month. The Department must also report whether there is reason to believe that reductions in benefits during the year will be necessary. The new reporting system set out in § 274.8(a)(5) will provide the Department with an accurate basis for reporting food stamp expenditures and for assessing the need to reduce benefits. Also, this system will permit any necessary reduction in food stamp benefits to be tailored as closely as possible to available funds.

Prior to preparing the May 27, 1980 proposed rule, the Department established a task force consisting of State program officials; FNS National and Regional personnel; and representatives of the Department's Office of Budget, Planning and Evaluation. The task force solicited comments from State agencies and members of the American Public Welfare Association. Additionally, ten State welfare agencies participated in a pilot test of the proposed reporting system. Later all States voluntarily participated in an expanded test of the new system. The task force's analysis and recommendations and pilot test results served as the foundation for the proposed rules.

During the comment period, the Department received 21 comment letters and one telephone comment. Thirteen State welfare agencies, one local welfare agency and six FNS Regional Offices commented.

In light of the comments received, the final rules are only slightly modified from the proposed rules. This preamble addresses the changes made to the proposed regulations and a few areas of concern where changes were not made. Because the explanation of many of this rule's provisions is set forth in the proposed rule of May 27, 1980, it may be necessary to refer to that publication for a full understanding of these reporting procedures.

FNS-46 Reconciliation Report

Eight State agencies, one local agency, one Federal agency, and 4 FNS Regional offices, commented on this portion of the November 9, 1979 proposed rule. Some commenters felt the FNS-46 was unnecessary. The Department continues to believe that a report which identifies and distinguishes authorized from unauthorized issuances is of major importance and will be of considerable value in tightening program accountability. The Department also believes that existing forms cannot be revised to solicit the information to be reported on FNS-46 without adding greatly to the complexity of these forms. Also, FNS-46 is a report of specialized information and because of its due date, could not be made compatible with existing forms.

The most frequent comment on FNS-46 concerned the due date. Many commenters stated that an accurate report could not be prepared within the proposed 45-day timeframe provided in 274.8(a)(5), of the proposed rule. Therefore the due date has been changed to 90 days from the end of the report month.

Several other recommendations for changes to the form were adopted. The form was revised to provide space for reporting the total number and value of all ATP's transacted, and total replacements for ATP's. Also, the form was reorganized to include a section for reporting unmatched ATP's for which State agencies are liable (blank, lost or stolen, expired, out-of-State, or duplicate ATP's transacted erroneously by the State Agency) and a section for other unmatched ATP's (duplicates in which both original and replacement ATP's were redeemed, counterfeit, altered, and others). Unmatched ATP's are those that cannot be matched to the State agency's master record.

FNS-388 Reporting System

Thirteen State welfare agencies, one local welfare agency and six FNS Regional Offices commented on this action of the May 27, 1980 proposed rule. The majority of the comments dealt with four issues: (1) the effectiveness of the FNS-388 report form, (2) the estimation procedures used by the States in determining the level of participation, (3) the timeframe for submission of the form, and (4) the accuracy standards.

Thirteen commenters (7 State welfare agencies, 1 local agency, and 5 FNS Regional offices) favored the system. Some commenters stated they liked the rules as proposed. They stated they believed the system would reduce the reporting burden; they found the form to be working satisfactorily under the pilot test; and they had no problem meeting accuracy standards under the pilot test.

Three States expressed some disfavor with the reporting timeframe and/or the accuracy standards. California stated that during the pilot test they were able to meet the accuracy standards consistently when they submitted the FNS-388 on the twenty-fifth instead of nineteenth of the month. Maryland also reported trouble meeting the accuracy standards continually. Nebraska was concerned that they would have difficulty meeting the four percent accuracy standard due to unemployment changes and the seasonal participation of migrants.

Reporting Timeframe and Accuracy Standards

The final rule retains the 19-day reporting timeframe and the accuracy standards as specified in 274.8(a)(6) (i) and (ii), respectively, of the proposed rules. As stated earlier, the majority of State agencies commenting indicated they had no significant problem meeting the reporting timeframe and the accuracy standards for the FNS-388.

The pilot test of the system showed that very few States were not meeting the requirement that the data on the FNS-388 be telephoned to the Regional Office on the 19th of each month.

Additionally, the latest test month (May 1980) for which all data required by the form were reported showed that the majority of States are meeting the accuracy standards (±4% for current month estimates and ±2% for previous month estimates).

For May 1980, FNS-250/256 actual data were available to perform an accuracy test on issuance estimates for 36 out of the 54 States, and an accuracy test on participation (persons and households) for 52 out of the 54 States. Of the 36 States for which an accuracy

V46/6 JA 9 81 UMI

test was done on issuance estimates, 30 met the ±4% standard and 32 met the ±2% standard. For the 52 States for which an accuracy test was done on the estimated number of persons, 45 met the ±4% standard and 43 met the ±2% standard. For the 52 States for which an accuracy test was done on the estimated number of households, 43 met the ±4% standard and 37 met the ±2% standard.

Estimation Procedures

The proposed rule provided that States could develop their own estimation procedures. The Department did not receive any negative comments on this provision. Two commenters asked that this provision be retained in the final rule. The provision has been adopted in the final rule.

Submission of Actual Data on the FNS-388

One State agency suggested that the rules be changed to allow a State to provide actual figures when available for the preceding month rather than revised estimates. The Department has adopted this change in § 274.8(a)(6)(i) of the final rule.

Relationship Between the FNS-388 and FNS-360

One State asked if the FNS-388 would replace the FNS-360, Federal Outlay Report. The FNS-388 does not replace the FNS-360. The FNS-388 contains Statewide estimates of issuance and participation. The FNS-360 contains Federal outlays by counties and cities with populations over 25,000.

Revisions to FNS-388 Estimates and Remeasurement of Accuracy

One commenter suggested that FNS add a provision to clarify that a State need not submit a revised FNS-388 when the State submits a revised FNS-250 or FNS-256. The commenter also suggested that FNS not remeasure the accuracy of the FNS-388 estimate when a State submits a revised FNS-250 or FNS-256.

The Department agrees that there is no need for a State to submit a revised FNS-388 with a revised FNS-250 or FNS-256; however, the Department does not see the need to add such a provision to the regulations.

With regard to the remeasurement of accuracy of estimates when revised FNS-250's and FNS-256's are submitted, FNS will use the latest data available at a particular point in time for which accuracy standards are evaluated to determine if a State can switch from monthly to quarterly reporting for the FNS-256. Any revised data available at the time the determination is made would be included. The latest available data will also be used at the time a determination is made to require a State to reinstate monthly reporting of the FNS-256.

Explanation of Significant Changes in FNS-388 Estimates

One commenter suggested that the final rule mandate that a State explain significant changes in FNS-388 estimates of participation. The commenter said that if there were no requirement to explain significant changes, there should be no follow up when they occur.

The Department does not believe it is necessary to mandate that significant changes be explained. However, each month FNS will check the accuracy of past estimates and also analyze those currently reported. In this analysis, FNS may find significant changes in the estimates. These changes could be the first indication that a State needs to adjust its estimation procedures, or the change could indicate that something unusual happened; e.g., high unemployment in the State. In either case, FNS would like to know the reason for the significant changes. Therefore, the Department has retained the option to follow-up on significant changes and will contact States when it determines that such information is needed.

Submission of the FNS-388

One commenter stated that the instructions for submitting the FNS-388 form to FNS were not clear. The Department has revised the instructions to indicate that the States send the completed form to the FNS Regional Offices. The States are not required to send a copy to the National office.

FNS-256 Reporting System

Fifteen commenters raised questions or concerns about the FNS-256 reporting system described in the May 27, 1980 proposed regulations (11 State welfare agencies and 4 FNS Regional offices). The main issues addressed in the comment letters related to elimination of the monthly submission of the FNS-256 or information required on the report.

Monthly Reporting of the FNS-256

Several States requested that the Department retain the requirement to continue monthly reporting of the FNS-256. Implementation of the new reporting system is intended to reduce the States' Federal reporting burden and the Department has an obligation to carry out that intent. Therefore, the Department has retained the provision in § 274.8(a)(6)(iii) which requires States to submit the FNS-256 monthly until FNS accuracy standards for the FNS-388 are met. States meeting those accuracy standards will be given approval to submit the FNS-256 only for the months of January, April, July and October each year.

Reporting PA and NPA Participation

Several States requested that the Department retain the requirement to continue reporting both PA and NPA participation. Since the 1977 Food Stamp Act eliminated the categorical eligibility provision, the Department no longer needs separate PA and NPA participation data on the FNS-256. Should the need arise, the Department can obtain this information through other data collection means. However, if States want to continue to have the PA and NPA data broken down separately for internal use, they are free to do so.

Reporting on the Form FNS-256

The Department is eliminating the requirement that participation and issuance data be submitted only on the FNS-256. The Department does not want to interfere with a State's system for collecting program data the State needs. With approval from FNS, a State may submit a State-designed form or other type of document (e.g., computer printout) in lieu of the FNS-256 forms. However, the State's document must contain all of the data required on the FNS-256 form.

Elimination of the FNS-256 Report

One State suggested that the Department eliminate the FNS-256 reporting requirement for those States that can provide actual issuance and participation data for the previous month on the FNS-388. The FNS-388 and FNS-256 provide data at different levels of detail. The FNS-388 provides data at a Statewide level while the FNS-256 provides data at the project area level. The Department needs project level data reported on the FNS-256 for the months of January, April, July, and October. Therefore, the Department will retain the requirement for the FNS-256 report.

Responsibility for Determining When a State can Change FNS-256 Reporting Frequency

Commenters indicated that the rule was not clear as to who has the responsibility to determine when a State is to change the FNS-256 reporting frequency. The Department has revised § 274.8(a)(6)(iii) of the rule to indicate that the FNS National Office will make that determination.

Effective Date for Discontinuing Monthly FNS-256 Reporting

Commenters indicated that the rule was not clear as to the effective date on which a State may discontinue monthly FNS-256 reporting. FNS will notify a State to switch to submitting the FNS-256 one month each quarter if its FNS-388 estimates meet accuracy standards for any three consecutive months.

The Department has checked the accuracy of the estimates on FNS-388's submitted during the pilot test of the new reporting system. Based on the test results the Department believes that the States have been providing FNS-388 reports that are reliable for determining whether a State should reduce its FNS-256 reporting. The Department, therefore, wants to provide an opportunity for those States now meeting the accuracy standards to switch to submitting the FNS-256 one month each quarter effective with the publication of these final rules.

Although States may begin submitting the FNS-256 for one-month each quarter following three consecutive months for which their estimates on the FNS-388 meet accuracy standards, FNS must wait until the third month's report is received before the accuracy check can be completed. That report is not due until 45 days after the end of the report month. FNS will make a determination on whether a State has met the accuracy standard and notify the States as soon as practicable after the submission of the third report if the State is no longer required to submit FNS-256's monthly.

For example, it would be mid-December, at the earliest, before FNS would have the August, September, and October reports on hand to conduct an accuracy test. If these months did meet accuracy standards, it would be late December before the State would be notified that they could switch to reporting one month each quarter. The notice to the State would explain that the State need not send a report for November or December and that the next report due would be for January. A State notified at this point might have a November FNS-256 report in preparation or may have already submitted that monthly report. However, the State would not be held accountable for the November or December reports.

On the other hand, if the October, November, and December reports were the three consecutive FNS-388 reports meeting the accuracy standards, the first month for which an FNS-256 report would not be required would be the following February, since January is a required quarterly report month. The State would be required to submit the January report.

Resumption of FNS-256 Monthly Reporting

The Department did not receive any comments on the proposed provision regarding resumption of monthly FNS-256 reporting. However, the provision is slightly modified in the final rule.

The proposed rule provided that FNS may require resumption of monthly reporting on the FNS-256 if a State refuses to improve its estimation procedures or fails to meet the tolerances in reporting estimates for bonus dollar amounts for three consecutive months.

The primary purpose of the FNS-256 is to report participation data. Therefore, § 274.8(a)(b)(ii) has been changed in the final rule to reflect that resumption of monthly reporting would be based on refusal to improve estimation procedures or failure to meet accuracy standards for reporting participation data for two consecutive quarters on the FNS-388.

Completing the Form FNS-256

In light of questions raised by commenters, the following are further clarifications of needed information to be reported on the FNS-256:

(1) *Altered ATP's.* The State shall count the altered amount not the original amount for reporting on the FNS-256.

(2) *Supplemental, Duplicate, or Expired ATP's.* The State shall count households and associated persons only once for reporting on the FNS-256 even though the household may have been erroneously issued and may have transacted more than one ATP in the month. These may have been supplemental, duplicate or expired ATP's. However, the State shall report the total value of all ATP's transacted by a household.

(3) *ATP's Issued After the Twenty-fifth.* The State shall count all ATP's transacted in the month regardless of when they were issued.

(4) *Out-of-Project ATP's.* The State shall count ATP's transacted in a project area whether they were issued within or outside of the project area.

(5) *Dollar Amount of Coupons.* States are to include all issuances made on which documentation exists (even though that documentation may be erroneous, i.e., expired, counterfeit, duplicate, etc.) Cashier errors would not be included on the FNS-256 since documentation for cashier errors would not exist. Cashier errors are accounted for on the FNS-250.

Omitting the Total Value of Coupons Issued

One commenter suggested that the Department not require reporting of the total value of coupons issued on the FNS-256. The commenter stated that the FNS-250 is due at the time as the FNS-256.

The FNS-256 contains data by project area, and the FNS-250 contains data by reporting point. In most instances project areas and reporting points are not the same. The Department needs issuance data from both of these. Therefore, the Department will retain the requirement to report issuance data on the FNS-256.

Accordingly, 7 CFR Parts 272 and 274 are being amended by this final action.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

7 CFR Part 272 is amended as follows:

In § 272.1, a new paragraph (23) is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

* * * * *

(23) Amendment No. *171.* (i) All States operating an ATP issuance system shall submit the first Form FNS-46, Food Stamp Reconciliation Report, in accordance with Amendment No. 171, for the month of February 1981. This report shall be submitted to the FNS Regional Office within 90 days from the end of the report month.

(ii) All States shall submit the Form FNS-388, State Coupon Issuance and Particpation Estimates, for February 1981 and each month thereafter. Those States that have not submitted procedures for estimating program participation, shall submit them to the FNS Regional Office on or before February 9, 1981.

* * * * *

PART 274—ISSUANCE AND USE OF FOOD COUPONS

7 CFR Part 274 is amended as follows:

In § 274.8, a new paragraph (5) is added (previously reserved) and paragraph (6) is revised.

The addition and revision read as follows:

§ 274.8 State agency reporting and destruction of unusable coupons.

(a) *State agency reporting.* * * *

* * * * *

(5) Each State agency operating an ATP issuance system shall report monthly to FNS on the reconciliation of

the transacted ATP's against the HIR Master File. This report shall be made by completing Form FNS-46, Food Stamp Reconciliation Report. The report shall be prepared at the level of the State agency where the actual reconciliation of the transacted ATP's to the HIR Master File takes place. This report shall be submitted to FNS no later than 90 days following the end of the report month. The first report shall be due for the month of February 1981.

(6) The State agency shall report on coupon issuance and participation on the Food Stamp Program as follows:

(i) The State agency shall mail the FNS-388, State Coupon Issuance and Participation Estimates, to the FNS Regional Office by no later than the 19th of each month. The FNS-388 shall contain statewide estimates of the dollar value of coupons issued, and estimates of the number of households and persons who have participated based on the State's estimating procedures evaluated by FNS as required in paragraph (a)(6)(ii) of this section. The FNS-388 shall contain estimates for the current month and revised estimates for the preceding month. If a State agency has the ability to report actual figures for the preceding month rather than revised estimates, it may use the actual figures on the FNS-388. The FNS-388 shall be signed by a designated State agency official (preferably the person responsible for completing the report). The State agency shall telephone the FNS-388 data to the appropriate FNS Regional Office on the 19th of each month prior to mailing the report to that office. When the 19th falls on a weekend or holiday, the FNS-388 data shall be reported by telephone and mailed on the first working day after the 19th.

(ii) The State agency shall submit the estimation procedures to be used in producing the FNS-388 to the FNS Regional Office for review and comment. The estimation procedures shall be documented by the State agency in a manner prescribed by FNS. FNS shall monitor on a monthly basis the accuracy of the estimated dollar value of coupons issued as reported on the FNS-388 against the total dollar value of coupons issued as reported by the State agency for all issuance agents on the FNS-256 for the corresponding month. FNS shall monitor periodically the accuracy of the estimated numbers of households and persons participating as reported on the FNS-388 against the actual total participation for all project areas as reported on the FNS-256 for the corresponding month. Current month's estimates shall be within ±4 percent and previous month's estimates shall be within ±2 percent of actual amounts. If the degree of accuracy falls outside of these tolerances, FNS shall notify the State agency and assist the State agency in revising its estimation procedures to improve the degree of accuracy. In no event shall the failure to meet these tolerances result in an administrative or fiscal sanction against the State agency. FNS may require resumption of monthly project area reporting on the FNS-256 by withdrawing its approval in paragraph (a)(6)(iii) of this section under two conditions: (A) the State agency refuses to improve its estimating procedures, or (B) the current and previous months, estimates on the FNS-388 for persons participating exceeds accuracy standards for two consecutive quarters.

(iii) The State agency shall mail to the FNS Regional Office the Form FNS-256, Project Area Participation and Coupon Issuance, for each project area by the 45th day following the end of the report month. The FNS-256 shall contain each project area's actual participation by the number of households and persons and the dollar value of coupons actually issued. With prior approval of FNS, the State agency may substitute their own form or other reporting document provided that the alternative reporting format contains all the information required by the FNS-256. The State agency shall submit an FNS-256 monthly for each project area until approval is received from FNS to discontinue monthly reporting.

If the State agency achieves the degree of accuracy on the FNS-388 specified in paragraph (a)(6)(ii) of this section for at least three consecutive months for "current" and "previous" months and for all three categories of dollars, persons, and households, FNS shall notify the State agency to discontinue the FNS-256 as a monthly report starting with the next report month. Thereafter, the State agency shall submit the FNS-256 for the months of January, April, July, and October each year.

* * * * *

Notes.—The reporting and/or recording keeping requirements in this amendment have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. Additionally, **Federal Register** policy does not permit the final forms to be reprinted in the **Federal Register**. However, supplies will be available.

(91 Stat. 958 (7 U.S.C. 2011-2027))

(Catalog of Federal Domestic Assistance Programs No. 10.551 Food Stamps)

Dated: December 31, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 81-401 Filed 1-8-81; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 277

[Amdt. No. 168]

Payment of Certain Administrative Costs of State Agencies

Correction

In FR Doc. 80-40407 appearing at page 85699 in the issue for Tuesday, December 30, 1980, make the following correction:

On page 85702, in the first column, in the fourth line, the number "275" should have read "277".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 287; Lemon Regulation 286, Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 11-17, 1981, and increases the quantity of such lemons that may be so shipped during the period January 4-10. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective January 11, 1981, and the amendment is effective for the period January 4-10, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on January 6, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is similar to last week.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.587 is added as follows:

§ 910.587 Lemon Regulation 287.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period January 11, 1981, through January 17, 1981, is established at 225,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.586 Lemon Regulation 286 (46 FR 5) is amended to read as follows:

§ 910.586 Lemon Regulation 286.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period January 4, 1981, through January 10, 1981 is established at 235,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 8, 1981.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–1057 Filed 1–8–81; 11:22 am]

BILLING CODE 3410-2-M

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7 CFR Part 982

Filberts Grown in Oregon and Washington; Free and Restricted Percentages for the 1980–81 Marketing Policy Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes marketing percentages for inshell filberts for the marketing policy year beginning August 1, 1980. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

EFFECTIVE DATES: August 1, 1980 through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5053. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant".

On December 2, 1980, notice was published in the **Federal Register** (45 FR 79818) inviting written comments on the proposed establishment of free and restricted percentages of 29 percent and 71 percent, respectively. One comment was received.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The order requires that free and restricted percentages for a particular marketing policy year shall apply to all inshell filberts handled during that year. The marketing policy year began August 1, 1980, and these percentages apply automatically to all such filberts beginning at that time.

The percentages were recommended by the Filbert Control Board, hereinafter referred to as the "Board". The Board is established under the marketing agreement and Order No. 982, both as amended (7 CFR Part 982), and hereinafter referred to as the "order", regulating the handling of filberts grown in Oregon and Washington. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The percentages are based upon the following estimates by the Board for the 1980–81 marketing policy year:

	Tons
Inshell supply:	
(1) Total production	14,500
(2) Less substandard, farm use, etc.	435
(3) Merchantable production	14,065
(4) Plus carryover August 1, 1980 subject to regulation	133
(5) Supply subject to regulation (Item 3 plus Item 4)	14,198
Inshell requirements:	
(6) Trade demand	4,500
(7) Plus carryover July 31, 1981 for needs early next season	700
(8) Total	5,200
(9) Less carryover August 1, 1980 not subject to regulation	1,128
(10) Inshell requirements	4,072
Percentages:	
(11) Free percentage (Item 10 divided by Item 5)	29
(12) Restricted percentage (100 percent minus 29 percent)	71

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be noncompetitive with normal market outlets for inshell filberts.

The commentator stated that to establish free and restricted percentages this late in the marketing policy year is an after the fact action, as 80 percent of inshell filbert shipments are made during the months of October and November. However, § 982.41 provides that the free and restricted percentages for a particular marketing policy year shall apply to all inshell filberts handled during that year. Thus, while final percentages may not be established until after most inshell filberts have been marketed, handlers have anticipated their restricted obligations for the marketing policy year and generally governed their operations accordingly.

Secondly, the commentator stated that the Board's 1980–81 estimated trade demand of 4,500 tons is substantially below the 5,302 ton average of merchantable sales for inshell filberts in the United States for the past 10 years. The commentator stated that reductions in the portion of filberts available for domestic inshell consumption have caused consumption to fall. Under § 982.40 of the order, the Board estimates trade demand for inshell filberts for each marketing policy year and uses this estimate to arrive at the free and restricted percentages for that year. Both estimated trade demand and merchantable sales of inshell filberts fluctuate from year to year. Nevertheless, for the past 10 years beginning with the 1970–71 marketing policy year, the Board's estimated trade demand for any particular year has remained above actual trade acquisitions for that year. In the 1979–80 marketing policy year, for instance, the supply of inshell filberts available under the free percentage was 42 percent higher than actual trade acquisitions, with the result that the carryover on August 1, 1980, of inshell filberts totaled 1,261 tons. The 10-year average supply for the marketing policy years 1970–71 through 1979–80 was 24 percent higher than acquisitions. Thus, available supplies of inshell filberts for domestic consumption during this 10-year period exceeded demand as measured in actual sales.

After consideration of all relevant matter presented, including that in the notice, the comment submitted, the information and recommendation submitted by the Board, and other available information, it is further found that to establish this rule will tend to effectuate the declared policy of the act.

Therefore, § 982.230 is added to establish free and restricted percentages for the 1980–81 marketing policy year as follows:

§ 982.230 Free and restricted percentages—1980–81 marketing policy year.

The free and restricted percentages for merchantable filberts for the 1980–81 marketing policy year shall be 29 percent and 71 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 5, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81–804 Filed 1–8–81; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Quality Service

9 CFR Part 331

Designation of the State of Maine Under the Federal Meat Inspection Act for Special Purposes

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: Representatives of the Governor of Maine have advised this Department that Maine is no longer in a position to administer a meat inspection program concerning certain businesses and transactions in the State of Maine. The Secretary of Agriculture is therefore required by section 205 of the Federal Meat Inspection Act to assume the responsibility of administering this program.

DATES: Effective date of this document: January 9, 1981.

Effective date of application of regulation: February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Gonter, Director, Evaluation and Enforcement Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–5643.

SUPPLEMENTARY INFORMATION:

Background

Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules or parts of the carcasses of such aminals that died otherwise than by slaughter, with respect to operators engaged in specified kinds of businesses in or for "commerce" as defined in the Act.

Section 205 of the Federal Meat Inspection Act (21 U.S.C. 645) authorizes the Secretary of Agriculture to exercise authorities under the aforesaid section with respect to persons, firms, and corporations engaged in the specified kinds of businesses but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an appropriate advisory committee, that the State or Territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

Representatives of the Governor of the State of Maine have advised this Department that the State of Maine is no longer in a position to continue administering authorities under the aforesaid sections with respect to persons, firms and corporations engaged in the specified kinds of businesses in Maine, but not in or for "commerce".

The Secretary, after consultation with the appropriate advisory committee, has now determined that the State of Maine is not exercising, in a manner to effectuate the purposes of the said Act, with respect to businesses, operating wholly within the State of Maine, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inspection Act including the Secretary or his representatives being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, the State of Maine is hereby designated under section 205 of the Federal Meat Inspection Act for the exercise of the specified authorities with respect to businesses, operating wholly within the State of Maine, and hereafter sections 202, 203 and 204 of the Federal Meat Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of businesses specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such businesses in or for commerce and the transactions involved were in commerce.

§ 331.6 [Amended]

Accordingly, the table in § 331.6 of the Federal meat inspection regulations (9 CFR 331.6) is amended as follows:

1. In the "State" column, "Maine" is added in alphabetical order in all three places.
2. In the "Effective date of designation" column, is added on the line with "Maine" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended; 81 State. 584, 21 U.S.C. 621, 645; 42 FR 35625–35632)

After consulting with the appropriate advisory committee, Donald L. Houston, Administrator, Food Safety and Quality Service, has determined that it is necessary to designate the State of Maine immediately in accordance with section 205 of the Federal Meat Inspection Act, in order to carry out the Secretary's responsibilities under the Act. Therefore, it does not appear that any additional relevant information would be made available to the Secretary by an impact statement or by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to public interest.

Done at Washington, D.C., on January 1, 1981.

Thomas P. Grumbly,
Acting Administrator.

[FR Doc. 81-667 Filed 1-8-81; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Subtitle A

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register**. This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34-17383]

Form U-4, the Uniform Application for Securities Industry Registration

Correction

In FR Doc. 80-40087 appearing on page 84992 in the issue of Wednesday, December 24, 1980, the Release Number in the heading reading "Release No. 34-17388" should have read "Release No. 34-17383".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 79N-0231]

Canned Fruits, Canned Berries; Amendment of Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the United States (U.S.) standard of identity for canned berries. This amendment is based on the identity provisions of the Codex Alimentarius Commission's "Recommended International Standard for Canned Raspberries" and the "Recommended International Standard for Canned Strawberries." This action is taken to promote honesty and fair dealing in the interest of consumers and facilitate international trade.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin February 10, 1981. Objections by February 9, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The standard amended by this final rule will, among other things, (1) permit the use, within specified limits, of safe and suitable calcium salts as firming agents for all berries; (2) permit the use of safe and suitable organic acids for all berries; (3) permit the addition of specified nutritive carbohydrate sweeteners to all berries; (4) provide for strawberry varieties of the genus *Fragaria*; and (5) recodify the format to reflect other recently promulgated standards of identity.

A proposal to amend the U.S. standard of identity for canned berries was published in the **Federal Register** of September 25, 1979 (44 FR 55191). The proposal invited interested persons to submit comments. Comments were received from a government agency and a trade association.

The United States Department of Agriculture (USDA) stated that the USDA voluntary grade standards for berries (Title 7, Code of Federal Regulations) would reference the product descriptions established in the U.S. standard for canned berries.

The trade association stated that it concurs with FDA's proposal to retain the provision for the optional use of safe and suitable nutritive carbohydrate sweeteners.

It has been FDA's past policy to allow the use of safe and suitable nutritive carbohydrate sweeteners as optional ingredients of the packing media as provided for in the existing standard of identity for canned berries (21 CFR 145.120) as well as for other canned fruits. However, as a result of a series of public hearings held between August 1978 and October 1978, it became apparent that consumers desire a specific listing, by name, in food standards of those ingredients which characterize the food rather than simply a general provision for the use of "safe and suitable" ingredients. A notice requesting public comment on a tentative proposed revision of the agency's policy regarding the use of "safe and suitable" provisions in food standards was published in the **Federal Register** of December 21, 1979 (44 FR 75990). Consistent with consumer desire, FDA is listing in § 145.120(a)(3)(i) set out below the individual nutritive carbohydrate sweeteners that may be used.

The agency requests comments concerning the completeness of the list. If any commonly used nutritive carbohydrate sweeteners have been omitted, they will be included in the regulation at the time a notice confirming the effective date of the final regulation is published. Comments should be submitted to the Dockets Management Branch, Food and Drug Administration (address above), during the period for objections.

Because FDA is not aware of the use of honey or brown sugar in canned berries, the regulation set out below does not provide for their use. Further, the sweeteners listed in § 145.120 (a) (4) (iv) function only as sweeteners and do not impart a taste, flavor, or other characteristic to the finished food in addition to sweetness. Therefore, the present labeling requirement which was retained in the proposed § 145.120(a)(5)(ii) is unnecessary and is deleted.

After consideration of the comments received and other relevant information in the record, FDA concludes it will promote honesty and fair dealing in the interest of consumers to revise the standard of identity for canned berries as set out below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 145 is amended by revising § 145.120, to read as follows:

§ 145.120 Canned berries.

(a) *Identity*—(1) *Ingredients.* Canned berries is the food prepared from any suitable variety of one of the optional berry ingredients specified in paragraph (a)(2) of this section, which may be packed in one of the optional packing media specified in paragraph (a)(3) of this section, and may contain one or any combination of two or more of the safe and suitable optional ingredients specified in paragraph (a)(4) of this section. Such food is sealed in a container and before or after sealing is so processed by heat to prevent spoilage.

(2) *Varietal types.* The optional berry ingredients referred to in paragraph (a)(1) of this section are prepared from stemmed fruit of the following optional varietal types of berry ingredient; namely:

(i) Raspberry varieties conforming to the characteristics of *Rubus idaeus* L. or *Rubus occidentalis* L.

(ii) Blackberries.

(iii) Blueberries.

(iv) Boysenberries.

(v) Dewberries.

(vi) Gooseberries.

(vii) Huckleberries.

(viii) Loganberries.

(ix) Strawberry varieties conforming to the characteristics of *Fragaria.*

(x) Youngberries.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(*a*) Water.

(*b*) Fruit juice(s) and water.

(*c*) Fruit juice(s).

Such packing media may be used as such or may be sweetened with sweeteners referred to in paragraph (a)(4)(iv) of this section.

(ii) When a sweetener is added as a part of any such liquid packing medium, the four density ranges of the resulting packing media hereinafter specified for each berry ingredient, expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure described in § 145.3(m), shall be designated by the appropriate name for each of the respective density ranges for each berry ingredient as:

(*a*) "Slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(*b*) "Light sirup", when the liquid used is water, "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(*c*) "Heavy sirup", when the liquid used is water; or "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(*d*) "Extra heavy sirup", when the liquid used is water; or "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

The density ranges referred to herein are:

Optional berry ingredient	Density ranges							
	(*a*)		(*b*)		(*c*)		(*d*)	
	Minimum	Maximum less than	Minimum	Maximum less than	Minimum	Maximum less than	Minimum	Maximum not more than
Blackberries		14	14	19	19	24	24	35
Blueberries		15	15	20	20	25	25	35
Boysenberries		14	14	19	19	24	24	35
Dewberries		14	14	19	19	24	24	35
Gooseberries		14	14	20	20	25	25	35
Huckleberries		15	15	20	20	25	25	35
Loganberries		14	14	19	19	24	24	35
Raspberries	11	18	15	20	20	27	27	35
Strawberries	10	14	14	19	19	27	27	35
Youngberries		14	14	19	19	24	24	35

(*a*) "Slightly sweetened water." (*b*) "Light sirup." (*c*) "Heavy sirup." (*d*) "Extra heavy sirup."

(4) *Optional ingredients.* The optional ingredients referred to in paragraph (a)(1) of this section are:

(i) Natural and artificial flavors.

(ii) Calcium salts as firming agents provided that the calcium added is no more than 0.035 percent, calculated as calcium, of the weight of the finished canned berries.

(iii) Organic acids.

(iv) One or any combination of two or more of the dry or liquid forms of sugar, invert sugar sirup, dextrose, glucose sirup, and fructose. Such sweeteners, if defined in § 145-3, shall be as defined therein, except that such sweeteners for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145-3.

(5) *Labeling requirements.* (i) The name of the food is the appropriate name of the berry ingredient specified in paragraph (a)(2) of this section.

(ii) The name of the packing medium, as used in paragraph (a)(3)(i) of this section preceded by "In" or "Packed in," as provided in paragraph (a)(3) of this section and, in the case of raspberries other than red raspberries provided for in paragraph (a)(2) of this section, the name of such packing medium and the color of such raspberry shall be included as part of the name or in close proximity to the name of the food. When the liquid portion of the packing media provided for in paragraph (a)(3) (i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(*a*) In the cases of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(*b*) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(3) of this section; and

(*c*) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(5)(iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a)(5)(ii)(*b*) of this section, such names and the words "from concentrate", as specified in paragraph (a)(5)(ii)(*c*) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 9, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin February 10, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: December 29, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-282 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration

21 CFR Part 178

[Docket No. 79F-0316]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Hydrogen Peroxide

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of hydrogen peroxide as a sterilizing agent for polyethylene used in contact with food. This action responds to a food additive petition filed by Brik Pak, Inc.

DATES: Effective January 9, 1981, objections by February 9, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Falci, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 21, 1979 (44 FR 54776), FDA announced that a food additive petition (FAP 8H3404) had been filed by Brik Pak, Inc., 2775 Villa Creek Drive, Dallas, TX 75234, to provide for the safe use of hydrogen peroxide as a sterilizing agent for polyethylene used in contact with food.

Hydrogen peroxide is an oxidizing agent with extensive applications. It is generally recognized as safe (GRAS) for use under § 182.1366 *Hydrogen peroxide* as a multiple purpose bleaching agent and under § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging.* Hydrogen peroxide is also regulated as a food additive under § 172.814 *Hydroxylated lecithin,* under § 172.892 *Food starch-modified,* and under § 175.105 *Adhesives.* The standards of identity provide for the use of hydrogen peroxide under Part 133—Cheese and related cheese products and Part 160—Eggs and egg products. FDA has proposed to affirm the GRAS status of hydrogen peroxide as an antimicrobial agent in whey processing. In addition, hydrogen peroxide has been considered effective as an antiseptic agent. In response to FDA's request to evaluate ingredients in drug products without prescription for cleaning and healing of mouth injuries, an expert advisory committee on antimicrobial agents found that hydrogen peroxide was the only substance that could safely and effectively be used for cleaning mouth injuries. A proposed rule based on the recommendations of the Advisory Review Panel on Over-The-Counter Dentrifrice and Dental Care Day Products was published in the **Federal Register** of November 2, 1979 (44 FR 63270).

Hydrogen peroxide has been used outside of the United States in food and on food-packaging materials for the purpose of controlling the growth of microorganisms. In addition to prolonging the shelf-life of dairy products, hydrogen peroxide has been used successfully in the aseptic packaging of shelf-stable food such as milk, fruit juice, soft drinks, and other products.

In February 1980, FDA received a prepublication manuscript from Japan (Ito, Watanabe, and Naito, Department of Cancer Research, Research Institute for Nuclear Medicine and Biology, Hiroshima University, Kasumi 1-2-3, Hiroshima 734, Japan) describing a bioassay of hydrogen peroxide performed using C57B1 mice. The study suggests that hydrogen peroxide may cause cancer in the duodenum after it is administered in the drinking water at 0.1 percent and 0.4 percent in a lifetime mouse feeding study.

In response to the study from Japan, FDA initiated a review of all available safety data on hydrogen peroxide, including the Japanese study and subsequent clarification obtained from the Japanese authors. FDA concludes after this review that there is insufficient evidence from the Japanese study and elsewhere to conclude that hydrogen peroxide is a duodenal carcinogen. The manuscripts of the Japanese study and memoranda of FDA's Cancer Assessment Committee meetings are on public file and may be seen in the Dockets Management Branch, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

In addition, FDA has considered the issue of exposure to hydrogen peroxide. Under conditions of use approved in this regulation, the level of hydrogen peroxide that will be present in milk packaged in materials sterilized by hydrogen peroxide will be no greater than 100 parts per billion (ppb) at the time of packaging and fall to approximately 1 ppb within 24 hours. FDA has concluded that the proposed use of hydrogen peroxide in sterilizing food packaging will not measurably increase hydrogen peroxide exposure.

In response to the notice of filing, FDA has received four comments. These comments and FDA's responses are summarized below.

1. One comment questioned whether FDA is using or developing reproducible methodology for hydrogen peroxide determination because although many methods are available to measure low levels of hydrogen peroxide, accuracy at high sensitivity varies considerably.

The literature reports a number of assays for hydrogen peroxide with detection limits between 0.1 and 5.0 parts per million (ppm). However, the variability of these methods is difficult to assess at these low detection limits. The petitioner has submitted a method with validation data that indicates the method can be used to monitor hydrogen peroxide at the 0.1 ppm level in distilled water when it is used to sterilize packaging materials under simulated use conditions. The agency is investigating a number of methods to develop better reliability and sensitivity. At the present time, however, FDA has determined that in view of the fact that hydrogen peroxide is unstable and decomposes in food matrices, the submitted method is sufficient to allow food processors to determine whether their products are in compliance with the 0.1 ppm tolerance.

2. One comment stated that the petitioned additive may result in the contamination of food products by hydrogen peroxide.

FDA has determined that under good manufacturing practices, the minute amount of hydrogen peroxide that might become a component of food as the result of sterilizing the polyethylene food-contact surface would not present a hazard to the public health.

3. One comment stated that in normal usage hydrogen peroxide could be deposited on the outside surface of the packaging material, and that the handling of hydrogen peroxide could be hazardous to employees.

FDA finds that in the use of the petitioned additive, only the food-contact inner surface is exposed to the hydrogen peroxide solution and, therefore, contamination of the outside surface of the packaging material would be limited to edges. FDA also determines that although the sterilization bath containing hydrogen peroxide in the petitioned use is not enclosed, the accompanying exhaust system and subsequent packaging in hot sterile air should minimize hydrogen peroxide contamination in the processing facilities.

In any case, FDA considers the potential exposure to hazardous chemicals in workplaces to be under the jurisdiction of the Occupational Safety and Health Administration (OSHA), Department of Labor. Under the recommendation of the American Conference of Governmental and Industrial Hygienists, OSHA has adopted 1 ppm, or 1.4 milligrams per cubic meter of air, as the permissible exposure to 90 percent hydrogen peroxide in workroom air. The amount of hydrogen peroxide that can escape in the sterilization bath from the petitioned use is below this permissible exposure.

4. One comment inquired whether FDA intends to establish a tolerance for residual hydrogen peroxide on the packaging material.

FDA finds that the potential level of migration of hydrogen peroxide under the condition of use set forth below would not be considered harmful to the public health. However, because the use of hydrogen peroxide in sterilizing packaging material could result in the migration of residues to food, a tolerance is being imposed for hydrogen peroxide when it is used for the packaging of food.

After evaluation of comments, data in the petition, and other relevant material, FDA concludes that Part 178 should be amended as set forth below to include the petitioned additive.

The Director, Bureau of Foods, has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Director's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 178 is amended in Subpart B by adding new § 178.1005, to read as follows:

§ 178.1005 Hydrogen peroxide solution.

Hydrogen peroxide solution identified in this section may be safely used as a sterilizing agent for polyethylene food-contact surfaces.

(a) *Identity.* For the purpose of this section, hydrogen peroxide solution is an aqueous solution containing 30 to 35 percent hydrogen peroxide (CAS Reg. No. 7722–84–1) by volume.

(b) *Optional adjuvant substances.* Hydrogen peroxide solution identified in paragraph (a) of this section may contain substances generally recognized as safe in or on food, substances generally recognized for their intended use in food packaging, substances used in accordance with a prior sanction or approval, and substances permitted by applicable regulations in Parts 174 through 179 of this chapter.

(c) *Specifications.* Hydrogen peroxide solution shall meet the specifications of the Food Chemicals Codex, 2d Ed. (1972)[1] which is incorporated by reference, and the United States Pharmacopeia, except that hydrogen peroxide may exceed the concentration specified therein.

(d) *Limitation.* No use of hydrogen peroxide solution for sterilizing food packaging material shall be considered to be in compliance if more than 0.1 parts per million of hydrogen peroxide can be determined in distilled water packaged under production conditions (assay to be performed immediately after packaging).

(e) *Conditions of use.* (1) Hydrogen peroxide solution identified in and complying with the specifications in this section may be used to treat polyethylene food-contact surfaces complying with § 177.1520 of this chapter, to the extent indicated for and at least equivalent to attaining commercial sterility through thermal process for metal containers as provided in Part 113 of this chapter.

(2) The polyethylene shall be used in articles for packaging commercially sterile foods only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, III, IV–B, V, and VI–B.

(3) Processed food packaged with a hydrogen peroxide treated polyethylene article shall conform with Parts 108, 110, 113, and 114 of this chapter, as applicable.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 9, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

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[1] Copies may be obtained from the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037, or examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

Effective date. This regulation shall become effective January 9, 1981.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 31, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-603 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. SD-165]

Person Who May Be Included in One Passport

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department amends its regulations to eliminate the current practice under which the name and photograph of an American citizen child under the age of 13 years may be included in the United States passport issued to the child's parent or sibling. As amended, the regulations require that any citizen needing passport documentation to depart from or enter the United States must be in possession of a valid passport issued in his or her own name. The amendment will not affect the validity of passports issued prior to the effective date of this amendment. The amendment is made as a result of the declining use of family-type passports and the Department's new Travel Document Issuing System which was designed on the concept of one person—one passport.

EFFECTIVE DATE: The rule will become effective on January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Elliott B. Light, Department of State, Office of Citizenship Appeals and Legal Assistance (PPT/C), 2201 C Street, N.W., Washington, D.C. 20520, telephone (202) 632-0896.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to revise Part 51 was published in the **Federal Register** on November 25, 1980 (45 FR 78163). Interested persons were invited to submit comments concerning the revision by December 26, 1980. No unfavorable comments were received; therefore, the proposed revision is adopted without change, as set forth below.

Part 51 of Title 22 Code of Federal Regulations is amended as follows:

1. Revise § 51.2 to read as follows:

§ 51.2 Passport issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department no person shall bear more than one valid or potentially valid U.S. passport at any one time.

§ 51.5 [Deleted]

2. Delete § 51.5.

§ 51.21 [Amended]

3. Delete the current § 51.21(c)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(c)(1), and renumber the current § 51.21(c)(3) as § 51.21(c)(2).

4. Delete the current § 51.21(d)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(d)(1), and renumber the current § 51.21(d)(3) as § 51.21(d)(2).

5. Delete the current § 51.21(e) and renumber the current § 51.21(f) as § 51.21(e).

§ 51.22 [Deleted]

6. Delete § 51.22.

7. Revise § 51.23 to be entitled, "Name of applicant to be used in passport" and to read as follows:

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence of citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

§ 51.25 [Amended]

8. Delete the final sentence of § 51.25(a).

9. Delete the current § 51.25(b) and renumber the current § 51.25(c) as § 51.25(b). Renumber the current § 51.25(d) as § 51.25(c).

§ 51.28 [Amended]

10. Delete the words "or any person to be included" from § 51.28(a).

11. Revise § 51.32 to read as follows:

§ 51.32 Amendment of passports.

Applicants for amendment of a passport shall be made on forms prescribed by the Department.

(Sec. 1, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 30 FR 10603; 3 CFR 1966–70 Comp. p. 507)

Dated: December 29, 1980.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 81-734 Filed 1-8-81; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-888]

Project Selection Criteria

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule updates 24 CFR Part 200, Subpart N, relating to HUD's evaluation of applications for various assisted housing programs. As of October 1, 1980, the applicable requirements for all programs under the United States Housing Act of 1937 are set forth in the applicable program regulations. Accordingly, 24 CFR Part 200, subpart N, is being amended to delete all references to the United States Housing Act of 1937 and its programs.

EFFECTIVE DATE: January 9, 1981, retroactive to October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public Housing and Indian Programs, Department of Housing and Urban Development, Washington, D.C. 20410 (202-755-5846). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Part 200, Subpart N, Project Selection Criteria, was published for effect January 7, 1972. This rule amends 24 CFR 200, Subpart N, relating to HUD's evaluation of applications for various assisted housing programs, by deleting all references to the United States Housing Act of 1937 and its programs.

The Public Housing Development regulation 24 CFR 841, published last year for public comment, was revised effective October 1, 1980, and incorporates the requirements for project site selection which are similar to those under the Section 8 Housing Assistance Payments Programs. The

Indian Housing Program was specifically excluded from 24 CFR 200, Subpart N, and the Section 8 programs, which were developed later, were never made subject to it. Therefore, as of October 1, 1980, each program regulation implementing the United States Housing Act of 1937 states the appropriate program site selection requirements. Accordingly, the conforming amendment is being made retroactively effective October 1, 1980 to coincide with the effective date of the Part 841 rule. In addition, because of this retroactivity, the Secretary has requested and obtained waiver of the thirty-day deferral of effective date required by Section 7(o)(3) of the Department of HUD Act.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 was made in accordance with HUD procedures for the revised 24 CFR 841, Public Housing Development regulation. No further finding is necessary since this final rule is merely a conforming amendment.

The rule is not listed in the Department's semi-annual agenda of significant rules; published pursuant to Executive Orders 12044 and 12221.

(Sec. 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, 42 U.S.C. 1437 et seq.)

Accordingly, 24 CFR 200, Subpart N, is amended to remove all reference to the United States Housing Act of 1937 and its programs as follows:

1. In the listing of "authorities"at the head of Subpart N, the phrase, ", and the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.)" is removed.

§ 200.700 [Amended]

2. In Section 200.700, the phrase "; and (d) applications for low-rent housing assistance under the U.S. Housing Act of 1937" is removed.

§ 200.705 [Amended]

3. In § 200.705, in the first sentence, the phrase "; and the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.)" is removed.

§ 200.710 [Amended]

4. In § 200.710, in the title, the phrase "and evaluation of applications for low-rent public housing" is removed. In the first sentence of that Section, the phrase "and applications for low-rent public housing" is removed.

5. In § 200.710, in the first sentence of the Evaulation of Requests, the phrase, "*or* evaluation of application for low-rent public housing" is deleted; and the three check points, "[ ] low-rent public housing", "[ ] Public" (under Sponsorship), and "[ ] App. public housing" are removed.

6. Also in § 200.710 in the first paragraph of "General Instructions", the parenthetical phrase in the first sentence, "(25 or more in the case of public housing acquisition or leasing)" is removed. In the next succeeding paragraph, in the second sentence, the following phrases are deleted: "Indian Reservation Housing," and "public housing acquisition or leasing of existing housing of fewer than 25 units not requiring rehabilitation,".

7. Also in § 200.710, under Criterion 6. "Ability to perform", in the last sentence of paragraph (B), the phrase, "or an LHA with no units under management" is removed.

8. Also in § 200.710, under Criterion 8. "Provision for sound housing management":

(a) Subparagraph (A)(2) is removed and subparagraph (A)(1) is revised by removing the "(1)" at the beginning, and by removing the "; or," at the end of the subparagraph.

(b) Subparagraphs (B)(2) and (B)(3) are removed and subparagraph (B)(1) is revised by removing the "(1)" at the beginning, and by removing the "; or," at the end of the subparagraph.

9. In the "Summary of Ratings", the phrase "or low-rent public housing" is removed from the heading of the second column.

Issued at Washington, D.C., November 6, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-670 Filed 1-8-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chapter I

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register**. This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 260

[SWH-FRL 1721-5]

Hazardous Waste Management System; General and EPA Administered Permit Programs; the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Interim final amendment to rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today making a number of changes to its May 19, 1980, hazardous waste regulations. First, it is amending the definition of "existing hazardous waste management facility" in §§ 122.3 and 260.10(20) to make it conform to the recently enacted Solid Waste Disposal Act Amendments of 1980 and to clarify the term "construction". Second, EPA is adding a definition of the term "Federal, State or local . . . approvals or permits" to §§ 122.3 and 260.10(20). The absence of such a definition has apparently caused considerable confusion. Finally, it is amending the requirement for a permit prior to construction found in § 122.22(b) to allow new hazardous waste management facilities (other than land disposal facilities and surface impoundments) to commence construction before receiving a permit.

DATES: Effective Date: January 9, 1981. Comment Date: This amendment is promulgated as an interim final rule. The Agency will accept comments on it until March 10, 1981.

ADDRESS: Comments on the amendment should be sent to Docket Clerk [Docket No. 3005], Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information contact John H. Skinner, Director, State Programs and Resource Recovery Division, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9107. For further information on implementation contact:

Region I, Dennis Hueber, Chief, Radiation, Waste Management Branch, John F. Kennedy Building,

Boston, Massachusetts 02203 (617) 223–5777
Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, N.Y. 10007 (212) 264–0504/5
Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 (215) 597–0960
Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365 (404) 881–3016
Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6148
Region VI, R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas Texas 75270 (214) 767–2645
Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106 (816) 347–3307
Region VIII, Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203 (303) 837–2221
Region IX, Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105 (415) 556–4606
Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442–1260.

SUPPLEMENTARY INFORMATION:

I. Authority

These amendments are issued under the authority of Sections 1006, 2002(a) and 3005 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. §§ 6906, 6912(a) and 6925.

II. Amendments to and Clarification of Definition of "Existing Hazardous Waste Management Facility"

A. Date by Which a Facility Must Have Been in Operation or Commenced Construction

Section 3005(e) of RCRA provides that a hazardous waste management facility will be treated as having been issued a permit (commonly referred to as "interim status") until final action is taken on its permit application if, among other things, it was "in existence" on a date set forth in the statute. In its May 19, 1980, hazardous waste regulations, EPA used the term "existing hazardous waste management facility" to identify those facilities which met this requirement and defined the term to include a facility which was in operation, or for which construction had commenced, "on or before October 21, 1976", the then-controlling statutory date. *See* §§ 122.3 and 260.10, 45 FR 33074 and 33421.

On October 21, 1980, RCRA was amended to extend interim status to facilities in existence "on November 19, 1980." See Section 10 of the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96–482). See also 45 FR 67756 (October 14, 1980). EPA is today amending its regulatory definition of "existing hazardous waste management facility" to conform to this amendment.

B. Clarification of the Definition of "Commenced Construction"

As noted above, EPA's May 19, 1980, definition of "existing hazardous waste management facility" included facilities for which "construction had commenced" by October 21, 1976 (now November 19, 1980). The definition further provided that EPA would consider construction of a facility to have commenced if:

(a) The owner or operator had obtained all necessary Federal, State and local preconstruction approvals or permits; and

(b)(1) A continuous physical, on-site construction program had begun, or

(2) The owner or operator had entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for construction of the facility to be completed within a reasonable time.

The term "physical construction" was in turn defined as "excavation, movement of earth, erection of forms or structures or similar activity to prepare a [hazardous waste management] facility to accept hazardous waste". *See* § 122.3.

Since their promulgation, EPA has been asked three major questions about these two requirements:

(1) Does the term "contractual obligations . . . for construction" in paragraph (b)(2) refer to contractual obligations for physical construction or something less than physical construction (e.g., design and engineering studies)?

(2) In determining whether he will incur a "substantial loss" within the meaning of paragraph (b)(2), does the owner or operator of a facility measure his potential loss against the total cost of physical construction of the facility or against all costs associated with building the facility (e.g., physical construction costs, engineering and design studies, permit application and processing fees)?

(3) Does the term "necessary Federal, State and local preconstruction approvals or permits" in paragraph (a) include building, zoning and similar permits and approvals required under laws and ordinances other than hazardous waste laws or statutes? The answers to these and two related questions are presented below.

1. *"Contractual Obligations . . . for Construction"*. The word "construction" in the phrase "contractual obligations . . . for construction" in paragraph (b)(2) has apparently confused some readers because of the absence of the qualifying adjective "physical" (as in paragraph (c)(1)). We think it is clear from the preamble to EPA's May 19 regulations that this term was intended to cover only *physical* construction. First, the preamble noted that the definition of "commenced construction" was derived largely from EPA's Prevention of Significant Deterioration (PSD) regulations issued under the Clean Air Act. Those regulations define the term "construction" in the counterpart to paragraph (b) as "fabrication, erection, installation or modification of a source". 40 CFR 52.21(b)(7). Second, the May 19 preamble expressly stated that options to purchase or contracts for feasibility, engineering or design studies would not constitute contractual obligations within the meaning of paragraph (b)(2). 45 FR 33324.

To avoid any future confusion on this point and to clarify in the regulatory language the intent explained in the preamble, the definition of "hazardous waste management facility" is being amended so that the term "physical construction" is used throughout.

2. *"Substantial loss"*. In the preamble to its May 19 regulation, EPA stated that, in general, if the amount an owner or operator must pay to cancel construction agreements exceeded 10% of the "total project cost", the loss would be deemed "substantial" within the meaning of paragraph (b)(2). 45 FR 33324. By "total project cost", EPA meant the total cost incurred for physical construction of the project, not all costs that might be associated with the project. The consistent use of the term "physical construction" in the definition of "commenced construction" should make this clear.

3. *"All Necessary Federal, State and Local Preconstruction Approvals or Permits"*. In its May 19, 1980, regulations, EPA did not define the term "all necessary Federal, State or local preconstruction approvals or permits" in paragraph (a) of the definition of "commenced construction." The absence of such a definition has apparently caused considerable confusion. Some readers of the May 19 regulations, focusing on the adjective "all", have construed the term as

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encompassing all Federal, State or local permits necessary to break ground at a hazardous waste management facility, including building and zoning permits. Other readers, relying on the statement in the May 19 preamble that the definition of "commenced construction" was derived from EPA's PSD regulations, have construed the term as applying only to permits and approvals required under Federal, State or local hazardous waste statutes and regulations (just as the PSD regulations apply only to Federal or State air quality control laws and regulations). This confusion has been further compounded by the fact that EPA has given conflicting advice on exactly what permits and approvals are required.

EPA is today adding a definition of "Federal, State or local . . . approvals or permits" to make it clear that, similar to EPA's PSD regulations, the permits and approvals required under paragraph (a) of the definition of "commenced construction" are those required under Federal, State or local "hazardous waste control laws or regulations." This latter phrase is intended to cover permits required under any Federal, State, or local law which is intended to control the management of hazardous waste as defined under RCRA, including not only State and local hazardous waste legislation and ordinances but also other environmental statutes, if those laws are designed to regulate the treatment, storage or disposal of hazardous wastes,[1] or the siting of hazardous waste management facilities.

Even though a facility may not be required to obtain State or local building or zoning permits prior to November 19, 1980, in order to be deemed to have "commenced construction" under EPA's regulations, this in no way relieves the facility from having to obtain whatever approvals or permits are necessary under Federal, State or local laws to actually commence construction. In some situations, failing to obtain these permits may prevent a facility from meeting the requirements of paragraph (b) of the definition of "commenced construction"—e.g., the facility may be unable to begin a continuous on-site physical construction program prior to November 19, 1980. If this is the case, the facility cannot qualify for interim status.

Some facilities which obtained necessary State or local hazardous waste or solid waste preconstruction permits but not local zoning or building permits, before November 19, 1980, may not have notified under Section 3010 (if applicable) or filed Part A of their permit application, believing that they were not eligible for interim status. Consistent with EPA's November 19, 1980, policy statement concerning "late" interim status (see 45 FR 76633), such facilities may qualify for interim status if (1) they meet the requirements of paragraph (b) in the definition of "commenced construction" and (2) they file a complete Part A permit application by July 9, 1981 or before they commence operations, whichever first occurs.

4. *Other Issues.*—a. A number of persons have asked whether a facility which obtained all necessary Federal, State and local preconstruction permits and *completed* construction (but did not commence operations) prior to November 19, 1980, has "commenced construction". Although the May 19, 1980, regulations do not expressly address this issue, we think that any reasonable reading of the definition of "commenced construction" would compel this result. In order to have completed construction by November 19, 1980, a facility clearly must have "begun a continuous program of physical on-site construction" before that date.

This interpretation of the definition of "existing hazardous waste management facility" will no doubt allow a number of product storage and non-hazardous waste management facilities which, prior to November 19, 1980, were being converted into hazardous waste management facilities, to qualify for interim status. We see no reason not to permit these converted facilities to continue to operate if they have obtained any necessary preconstruction permits required for modification of the facility and have otherwise demonstrated an intent to handle hazardous waste prior to November 19, 1980. See 45 FR 76633–76634 (November 19, 1980).

b. Many manufacturing and production plants have facilities for treating, storing or disposing of hazardous waste on the plant's premises. Because the definition of hazardous waste management facility includes not only treatment, storage and disposal operational units, but also "all contiguous land structures, other appurtenances and improvements on the land used for treating, storing or disposing of waste" (se § 122.3), a number of persons have questioned whether the requirements of paragraphs (a) and (b) in the definition of "existing hazardous waste management facility" apply to the manufacturing or production plant as well as the hazardous waste operational unit.

The answer is no. Paragraphs (a) and (b) apply only to those parts of a manufacturing plant directly used for "treating, storing or disposing of hazardous waste." They do not apply to production facilities, product storage areas, non-hazardous waste treatment, storage or disposal units or other parts of the plant not used for managing hazardous waste.[2]

III. Amendment to Requirement for a Permit Prior to Construction

Section 122.22(b) of the May 19, 1980, regulations prohibited any person from beginning physical construction of a new hazardous waste management facility without having received a final RCRA permit. The rationale for this prohibition was that a permit writer would be in a better position to incorporate location, design and construction requirements (see Section 3004(4)) in a new facility permit if permit decisions were made before the owner or operator made a substantial and irrevocable commitment to the location, design and construction of a facility. See 45 FR 33322 (May 19, 1980). As Congress has recently noted, there may be "practical and technical limitations in modifying or retrofitting" a facility once construction has commenced. See H.R. Rep. No. 96–1444, 96th Cong., 2d Sess. 33–34 (1980).

At the time EPA published § 122.22(b), the Agency intended to promulgate its Part 264 facility-specific technical permitting regulations ("Phase II standards") on or before November 19, 1980, the effective date of its May 19, 1980, regulations. Thus, the § 122.22(b) ban on the construction for new facilities would last for at most six months.

It is now clear, however, that some of the Phase II standards will not be promulgated even by the end of 1980. Regulations for hazardous waste incinerators are not scheduled to be issued until mid-January 1981; the standards for land disposal facilities are not scheduled to be published until January, and they also may be reproposed in whole or in part. The effect of these delays is to prevent any new hazardous waste management facility from commencing construction until mid-July 1981 at the earliest.[3] Depending on the speed with which EPA and the States can issue permits, some facilities may not be able to begin construction until much later.

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[1] For example, some States regulate waste pesticides under agricultural statutes, wastewater treatment sludges under water pollution control statutes and hazardous waste incinerators under air pollution control laws.

[2] Readers should note that areas at the site of generation used for the short-term storage of hazardous waste are not required to obtain permits and therefore are not subject to the requirements of paragraphs (a) and (b). See § 262.34, as amended by 45 FR 76624 (November 19, 1980).

This situation may have adverse environmental consequences. New hazardous waste management facilities that are constructed in anticipation of RCRA requirements will probably provide better safeguards for human health and the environment than many existing facilities. In fact, EPA expects that a number of existing facilities will not be able to meet the Phase II standards and eventually will be denied a permit and forced to terminate operation. New facilities will be needed to replace the capacity shortfall caused by the closure of such existing facilities. In the absence of replacement capacity, generators will have difficulty finding a place to treat, store or dispose of hazardous wastes.

For these reasons, while EPA believes that the prohibition on construction in § 122.22(b) serves an important environmental objective, it recognizes that this requirement needs to be adjusted during the period that EPA cannot issue permits because its Phase II regulations have not become effective. Therefore, EPA is today amending § 122.22(b) so that, after November 19, 1980, and until the effective date of the Phase II standards applicable to his operations, a person may begin physical construction of a hazardous waste management facility (other than a land disposal facility or surface impoundment) *at his own risk* before being issued an RCRA permit, provided that he obtains any other Federal, State or local permits or approvals necessary to begin physical construction and submits Part A of his permit application prior to beginning physical construction. Section 122.22(b) is being further modified to allow construction to continue after the effective date of the Phase II regulations if the facility has submitted Part B of the permit application on or before such effective date (or on a later date specified by the Administrator).

These amendments to § 122.22(b) apply only to persons who make a commitment to completion of physical construction of a facility within a reasonable time. The purpose here is to limit this provision to those persons who begin "legitimate" physical construction in the period from November 19, 1980, until the effective date of Phase II. Such a commitment could be demonstrated through a continuous on-site, physical construction program or through the establishment of contractual obligations for completion of physical construction. Thus persons who simply make a "token" effort towards physical construction (such as ground breaking with no firm commitment to completion within a reasonable time period) would not be exempted from the requirement to obtain an RCRA permit prior to completing physical construction of the facility. By imposing these restrictions, EPA intends to avoid delaying legitimate construction activities without providing a major loophole to the important requirement of obtaining a permit before initiating physical construction.

Readers should note that the terms and words used in this amendment are identical to the terms and words used in the amended definition of "existing hazardous waste management facility" and should be interpreted in a similar manner.

The new provisions apply to all new hazardous waste management facilities except landfills, surface impoundments, injection wells, or land treatment facilities. These facilities will still be required to obtain a RCRA permit before beginning physical construction. The adverse health and environmental impacts of facilities that treat, store or dispose of hazardous waste in or on the land are strongly dependent on the hydrogeology of the site and the proximity to surface waters and ground waters. Certain locations may be totally unacceptable for such facilities no matter how well designed, constructed or operated. Therefore EPA believes that commitment to particular locations, or to particular designs in particular locations must not be made until there is a thorough evaluation of the design and location through the permitting process.

At some hazardous waste management disposal facilities, wastes are stored or treated (through chemical or physical fixation or stabilization or through other processes) prior to disposal. Under this amendment, physical construction of such storage or treatment process could begin before issuance of a permit. Only those parts of the facility that directly involve the placement of hazardous waste in or on the land would require an effective permit before beginning physical construction.

It should be noted that for those facilities for which physical construction may begin prior to the effective date of Phase II, actual operation must not begin until a permit is issued and becomes effective. Furthermore, owners and operators of such facilities are starting physical construction *at their own risk*. EPA (or the State) may ultimately determine that a partially constructed facility (even one constructed using the Phase II standards as guidance) must be modified or relocated to meet those standards. If the facility is unable or unwilling to make these changes, the Agency (or State) will deny its permit. EPA does not intend to allow financial commitments made during this period to deter RCRA's objective of assuring protection of human health and the environment.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after the promulgation date. The purpose of Section 3010(b) is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements.

The amendments to the definition of "existing hazardous waste management facility" in §§ 260.10(20) and 122.3 are designed to bring EPA's regulations into conformance with new legislation or with the intent expressed in the preamble to the Agency's May 19, 1980, regulations. They impose no new regulatory requirements. For these reasons, EPA thinks a delayed effective date for these regulations is unnecessary and is making them effective immediately.

For the amendments to § 122.22(b), the Agency believes that an effective date six months after promulgation would frustrate the objective of the amendment, which is to allow certain types of hazardous waste management facilities to commence construction immediately and thereby reduce the potential for a capacity shortfall caused by the closure of existing facilities and a construction moratorium on new ones. In addition, these amendments impose no new regulatory requirements on new facilities; indeed, they relax existing ones.

V. Interim Final Promulgation

Although EPA would prefer to go through formal rulemaking before publishing the amendments to § 122.22(b), the Agency believes there is good cause for not providing notice and opportunity for comment on them prior to promulgation. (See Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B)). As noted above, a significant delay in promulgating these amendments is likely to have adverse consequences for human health and the environment.

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[3] Although EPA is prepared to begin processing permit applications as soon as its Phase II regulations are published, those permits cannot become effective until the regulations on which they are based become effective.

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VI. Regulatory Impacts

EPA believes that the effect of the amendments to § 122.22(b) will be to reduce the overall cost and economic impact of EPA's hazardous waste management regulations. This is achieved by allowing many facilities to proceed with construction now and thus avoid potentially higher construction costs in the future. The Agency is unable to estimate the cost and impact reduction because it does not have an estimate of the number of facilities that will be affected by these amendments; nor does it know if any of these savings will be offset by the higher costs of retrofitting these facilities in the event that they are not properly designed or constructed.

Dated: December 31, 1980.

Douglas M. Costle,
Adminstrator.

Title 40 of the Code of Federal Regulations is amended to read as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND CONTROL PROGRAM

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The definitions of "Existing hazardous waste management facility" in § 260.10 and "Existing HWM facility" in § 122.3 are revised to read as follows:

§§ 260.10 and 122.3 [Amended]

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

(a) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either

(b)(1) A continuous on-site, physical construction program has begun; or

(2) The owner or operator has entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for physical construction of the facility to be completed within a reasonable time.

2. The following definition is added to §§ 260.10 and 122.3: "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

3. section 122.22(b) is revised to read as follows:

§ 122.22 [Amended]

* * * * *

(b) *New HWM facilities* (1) Except as provided in paragraph (b)(3) of this section, no person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and received a finally effective RCRA permit.

(2) An application for a permit for a new HWM facility (including both Part A and Part B) may be filed any time after promulgation of those standards in Part 264, Subpart I et seq. applicable to such facility. The application shall be filed with the Regional Administrator if at the time of application the State in which the new HWM facility is proposed to be located has not recieved Phase II interim authorization for permitting such facility or final authorization; otherwise it shall be filed with the State Director. Except as provided in paragraph (b)(3) of this section, all applications must be submitted at least 180 days before physical construction is expected to commence.

(3) After November 19, 1980, but prior to the effective date those of those standards in Part 264, Subpart I et seq., which are applicable to his facility, a person may begin physical construction of a new HWM facility, except for landfills, injection wells, land treatment facilities or surface impoundments (as defined in 40 CFR 260.10), without having received a finally effective RCRA permit, if prior to beginning physical construction, such person has:

(i) Obtained the Federal, State and local approvals or permits necessary to begin physical construction,

(ii) Submitted Part A of the permit application, and

(iii) Made a commitment to complete physical construction of the facility within a reasonable time.

Such person may continue physical construction of the new HWM facility after the effective date of the permitting standards in Part 264, Subpart I et seq. applicable to his facility if he submits Part B of the permit application on or before the effective date of such standards (or on some later date specified by the Administrator). Such person must not operate the new HWM facility without having received a finally effective RCRA permit.

[FR Doc. 81-831 Filed 1-8-81; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF THE INTERIOR

43 CFR Subtitle A

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register**. This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

Bureau of Land Management

43 CFR Public Land Order No. 5806

[NM-18881]

New Mexico; Revocation of Public Land Order 4863

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Public Land Order No. 4863 in its entirety which withdrew land for the Navajo Indian Irrigation Project.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Stella Gonzales, New Mexico State Office, 505-988-6211.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4863 of July 6, 1970, which withdrew the following described public land for the Navajo Indian Irrigation Project is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 29 N., R. 9 W.,
Sec. 36, SE¼SE¼.

The area described contains 40 acres in San Juan County.

2. At 10 a.m., on February 5, 1981, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to

10 a.m., on February 5, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on February 5, 1981, the land will be open to location under the U.S. mining laws, and to applications and offers under the mineral leasing laws for all minerals except oil and gas and other hydrocarbon substances, helium and carbon dioxide.

Oil and gas and other hydrocarbon substances, helium and carbon dioxide with the right to prospect for, mine and remove same were retained by the State of New Mexico when the land was reconveyed to the United States.

Inquiries concerning the land should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Guy R. Martin,

Assistant Secretary of the Interior.

December 31, 1980.

[FR Doc. 81-810 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 332

[Docket No. FEMA PP-44-332]

Voluntary Agreements: Standards and Procedures

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency with the concurrence of the United States Department of Agriculture, Department of Defense, Department of the Interior, Department of Commerce and Department of Transportation is issuing standards and procedures relating to the voluntary agreements under section 708 of the Defense Production Act of 1950, as amended. The Attorney General, after consultation with the Chairman of the Federal Trade Commission, has granted his approval. The regulation sets out standards and procedures for developing these agreements, carrying them out, including the conduct of meetings, terminating or modifying the agreements and public access to records and meetings. Antitrust immunity may be given to representatives of industry or other interests who, under prescribed conditions and with appropriate governmental approval, enter into these voluntary agreements to help provide for the defense of the United States.

EFFECTIVE DATE: January 9, 1981.

ADDRESS: Resources Preparedness Office, Office of Plans and Preparedness, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Messrs. M. Arnold Marvin or Clair Blong, Resources Management Division, FEMA (202-566-1324).

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on December 12, 1979, and comments were due by February 11, 1980. The regulation was proposed to be codified at 32A CFR Part 166. However, as of July 1, all FEMA regulations in Title 32A of CFR were transferred to Title 44 CFR. This regulation therefore has been redesignated as 44 CFR Part 332.

No comments were received from the public. The Assistant Attorney General, Antitrust Division, required clarifying amendments to § 332.2(e)(1) and (3) which have been made.

Subsection 708(c)(1) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), hereinafter referred to as DPA, provides that:

> * * * Upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements to help provide for the defense of the United States through the development of preparedness programs and expansion of productive capacity and supply beyond levels needed to meet essential civilian demand in the United States.

The authority of the President delegated to the Administrator of General Services by Section 501 of Executive Order 10480, as amended by Executive Order 11956, and pursuant to Section 1 of Executive Order 12148, has been transferred to the Director of the Federal Emergency Management Agency. This authority, subject to the direction and control of the Director of FEMA, has also been delegated to the Secretaries of Defense, the Interior, Agriculture, Commerce, and Transportation, except that for the purpose of carrying out the objectives of Title I of the DPA concerning priority performance of contracts and orders and allocations of materials and facilities, the authority may be exercised only by the Director of the Federal Emergency Management Agency.

Under subsection 708(e) of the DPA, the director of FEMA has authority to promulgate rules by which these voluntary agreements may be developed and carried out. The following rules, establishing the basic framework for the development and carrying out of voluntary agreements, have been concurred in by the action agencies for voluntary agreements. These are the United States Department of Agriculture, Department of Defense, Department of the Interior, Department of Commerce, and the Department of Transportation. The Attorney General, pursuant to Section 708(e)(1), has approved the regulation. These rules are arranged in a chronological manner from initiation of events to development of a voluntary agreement to the carrying out of an approved voluntary agreement. It should be noted that these rules apply only to the development and carrying out of voluntary agreements to effectuate the purposes of the DPA and do not apply to the development or carrying out of voluntary agreements under the Energy Policy and Conservation Act.

In addition to the requirements of these rules, once adopted, certain other requirements may pertain to the development or carrying out of voluntary agreements to effectuate the purposes of the DPA. Section 708(i) of the DPA directs the Attorney General and the Chairman of the Federal Trade Commission to promulgate such rules as each deems necessary or appropriate to carry out his responsibility under Section 708 of the DPA.

It is necessary to continue in effect certain existing voluntary agreements which expire in the near future. Hence, for good cause, this rule is made effective immediately upon publication.

A finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with 44 CFR Part 10. Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

The regulation is in consonance with the provision of the Executive Order 12044 dated March 23, 1978, and does not impose an unnecessary burden on the small business sector of the economy.

This regulation essentially is administrative in nature. It does not impact, adversely, on the central cities, suburban communities, nor non-metropolitan communities. As provided in Executive Order 12044, March 23, 1978, this regulation does not have any significant economic consequence on the general economy, individual industries, geographic regions or levels of government.

Accordingly, subchapter E of Chapter 1, Title 44 Code of Federal Regulations is amended by adding a new Part 332 as follows:

PART 332—VOLUNTARY AGREEMENTS UNDER SECTION 708 OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

Sec.
332.1 General provisions.
332.2 Developing voluntary agreements.
332.3 Carrying out voluntary agreements.
332.4 Termination or modifying voluntary agreements.
332.5 Public access to records and meetings.

Authority: Sec. 708, Defense Production Act of 1950, as amended (50 U.S.C. App. 2158); E.O. 10480, 3 CFR 1949–1953 Comp. p. 961, as amended; E.O. 12148, 44 FR 43239.

§ 332.1 General provisions.

(a) Pursuant to Section 708 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), the President may consult with representatives of industry, business, financing, agriculture, labor, or other interests, and may approve the making of voluntary agreements to help provide for the defense of the United States by developing preparedness programs and expanding productive capacity and supply beyond levels needed to meet essential civilian demand.

(b) *Sponsor.* (1) As used in this Part, "sponsor" of a voluntary agreement is an officer of the Government who, pursuant to a delegation or redelegation of the functions given to the President by Section 708 of the Defense Production Act (DPA) of 1950, as amended, proposes or otherwise provides for the development or carrying out of a voluntary agreement.

(2) The use of voluntary agreements, as authorized by Section 708 of the DPA to help provide for the defense of the United States through the development of preparedness programs, is an activity coordinated by the Director of the Federal Emergency Management Agency, as provided by Sections 101 and 501(a) of Executive Order 10480, as amended.

(3) The sponsor of a voluntary agreement shall carry out sponsorship functions subject to the direction and control of the Director of the Federal Emergency Management Agency.

(c) This Part applies to the development and carrying out under Section 708 of the DPA, as amended, of all voluntary agreements, and the carrying out of any voluntary agreement which was entered into under former Section 708 of the DPA and in effect immediately prior to April 14, 1976, and which is in a period of extension as authorized by subsection 708(f)(2) of the DPA.

(d) The rules in the Part void any provision of a voluntary agreement to which they apply, if that provision is contrary to or inconsistent with them. Each voluntary agreement shall be construed as containing every substantive provision that these rules require, whether or not a particular provision is included in the agreement.

(e) Pursuant to subsection 708(d) of the DPA, the sponsor may establish such advisory committees as he deems to be necessary for developing or carrying out voluntary agreements. Such advisory committees shall comply with this Part as well as with the requirements and procedures of the Federal Advisory Committee Act (Pub. L. 92–463, as amended).

§ 332.2 Developing voluntary agreements.

(a) *Purpose and scope.* This section establishes the standards and procedures by which voluntary agreements may be developed through consultation, pursuant to subsection 708(c) of the DPA.

(b) *Proposal to develop an agreement.* (1) A sponsor who wishes to develop a voluntary agreement shall submit to the Attorney General and the Director of the Federal Emergency Management Agency a document proposing the agreement. The proposal will include statements as to: the purpose of the agreement; the factual basis for making the finding required in subsection 708(c)(1) of the DPA; the proposed participants in the agreement; and any coordination with other Federal agencies accomplished in connection with the proposal.

(2) If the Attorney General, after consultation with the Chairman of the Federal Trade Commission, approves this proposal, the sponsor shall then initiate one or more meetings of interested persons to develop the agreement.

(c) *Conduct of meetings held to develop the agreement.* (1) The sponsor shall give to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate written notice of each meeting to develop a voluntary agreement. The sponsor shall also publish in the **Federal Register** notice of the time, place, and nature of each meeting at least seven days prior to the meeting.

(2) The sponsor shall chair each meeting held to develop a voluntary agreement. Both the Attorney General and the Chairman of the Federal Trade Commission, or their delegates, shall attend each of these meetings.

(3) Any interested person may attend a meeting held to develop a voluntary agreement, unless the sponsor of the agreement limits attendance pursuant to Section 5 of this Part.

(4) Any interested person may, as set out in the **Federal Register** meeting notice, submit written data and views concerning the proposed voluntary agreement, and at the discretion of the Chairman of the meeting, may be given the opportunity for oral presentation.

(d) *Maintenance of records.* (1) The sponsor is responsible for the making of a full and verbatim transcript of each meeting. The Chairman shall send this transcript, and any voluntary agreement resulting from the meeting, to the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, and any other party or repository required by law.

(2) The sponsor of a voluntary agreement shall maintain each meeting transcript and voluntary agreement, and make them available for public inspection and copying the extent required by Section 5 of this Part.

(e) *Effectiveness of agreements.* The following steps must occur before a new voluntary agreement or an extension of an existing agreement may become effective:

(1) The sponsor must approve the agreement and certify in writing that it is necessary to carry out the purposes of subsection 708(c)(1) of the DPA;

(2) The Director of the Federal Emergency Management Agency must approve this certification, and submit it to the Attorney General with a request for a written finding; and

(3) The Attorney General, after consulting with the Chairman of the Federal Trade Commission, must issue a written finding that the purposes of subsection 708(c)(1) can not reasonably be achieved through a voluntary agreement having less anti-competitive effects or without any voluntary agreement.

§ 332.3 Carrying out voluntary agreements.

(a) *Purpose and scope.* This section establishes the standards and procedures by which the participants in each approved voluntary agreement shall carry out the agreement.

(b) *Participants.* The participants in each voluntary agreement shall be reasonably representative of the appropriate industry or segment of that industry.

(c) *Conduct of meetings held to carry out an agreement.* (1) The sponsor of a

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voluntary agreement shall initiate, or approve in advance, each meeting of the participants in the agreement held to discuss problems, determine policies, recommend actions, and make decisions necessary to carry out the agreement.

(2) The sponsor shall provide to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate prior notice of the time, place, and nature of each meeting, and a proposed agenda of each meeting. The sponsor shall also publish in the **Federal Register**, reasonably in advance of each meeting, a notice of time, place, and nature of the meeting. If the sponsor has determined, pursuant to Section 5 of this Part, to limit attendance at the meeting, the sponsor shall publish this **Federal Register** notice within ten days of the meeting.

(3) Any interested person may attend a meeting held to carry out a voluntary agreement unless the sponsor has restricted attendance pursuant to Section 5 of this Part. A person attending a meeting under this section may present oral or written data, views, and arguments to any limitations on the manner of presentation that the sponsor may impose.

(4) No meeting shall be held to carry out any voluntary agreement unless a Federal employee, other than an individual employed pursuant to 5 U.S.C. 3109, is in attendance. Any meeting to carry out a voluntary agreement may be attended by the sponsor of the agreement, the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, or their delegates.

(5) Notwithstanding any other provision of this section, a meeting between a single participant and the sponsor solely to deliver or exchange information is not subject to the requirements and procedures of this section, provided that a copy of the information is promptly delivered to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency.

(d) *Maintenance of records.* (1) The participants in any voluntary agreement shall maintain for five years all minutes of meetings, transcripts, records, documents, and other data, including any communications among themselves or with any other member of their industry, related to the carrying out of the voluntary agreement. The participants shall agree, in writing, to make available to the sponsor, the Attorney General, the Chairman of the Federal Trade Commission and the Director of the Federal Emergency Management Agency for inspection and copying at reasonable times and upon reasonable notice any item that this section requires them to maintain.

(2) Any person required by this paragraph to maintain records shall indicate specific portions, if any, that such person believes should not be disclosed to the public pursuant to Section 5 of this Part, and the reasons therefor. Any item made available to a Government official named in this paragraph shall be available from that official for public inspection and copying to the extent set forth in Section 166.5 of this Part.

§ 332.4 Termination or modifying voluntary agreements.

The Attorney General may terminate or modify a voluntary agreement, in writing, after consultation with the Chairman of the Federal Trade Commission and the sponsor of the agreement. The sponsor of the agreement, with the concurrence of or at the direction of the Director of the Federal Emergency Management Agency, may terminate or modify a voluntary agreement, in writing, after consultation with the Attorney General and the Chairman of the Federal Trade Commission. Any person who is a party to a voluntary agreement may terminate his participation in the agreement upon written notice to the sponsor. Any antitrust immunity conferred upon the participants in that agreement by subsection 708(j) of the DPA shall not apply to any act or omission occurring after the termination of the voluntary agreement. Immediately upon modification of a voluntary agreement, no antitrust immunity shall apply to any subsequent act or omission that is beyond the scope of the modified agreement.

§ 332.5 Public access to records and meetings.

(a) Interested persons may, pursuant to 5 U.S.C. 552, inspect or copy any voluntary agreement, minutes of meetings, transcripts, records, or other data maintained pursuant to these rules.

(b) Except as provided by paragraph (c) of this section, interested persons may attend any part of a meeting held to develop or carry out a voluntary agreement pursuant to these rules.

(c) The sponsor of a voluntary agreement may withhold material described in this section from disclosure and restrict attendance at meetings only on the grounds specified in:

(1) Section 552(b)(1) of 5 U.S.C., which applies to matter specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy. This section shall be interpreted to included matter protected under Executive Order 12065, dated June 28, 1978 (3 CFR 1979-1975 Comp. p. 678), establishing categories and criteria for classification; and

(2) Section 552(b)(3) of 5 U.S.C., which applies to matter specifically exempted from disclosure by statute; and

(3) Section 552(b)(4) of 5 U.S.C., which applies to trade secrets and commercial or financial information obtained from a person as privileged and confidential.

Dated: October 20, 1980.

John W. Macy, Jr.,

Director.

Department of Transportation, Office of the Secretary

For the United States Department of Transportation, I concur in the attached regulations of the Federal Emergency Management Agency (FEMA) implementing section 708 of the Defense Production Act of 1950, as amended, entitled "Voluntary Agreements: Standards and Procedures" (Docket No. FEMA PP-44-332) to be codified as 44 CFR Part 332.

Issued in Washington, D.C. on November 21, 1980.

Neil Goldschmidt,

Secretary of Transportation.

Department of the Interior

The Department of Interior has concurred in the regulations on Voluntary Agreements in 44 CFR Part 332.

Dated: December 22, 1980.

Joseph W. Gorrell,

Acting Assistant Secretary, Energy and Minerals.

Department of Defense

The Department of Defense has concurred in the regulations on Voluntary Agreements in 44 CFR Part 332.

Dated: November 18, 1980.

Walter La Berge

Under Secretary of Defense for Research and Engineering.

Department of Commerce

The Department of Commerce has concurred in the regulations on Voluntary Agreements in 44 CFR Part 332.

Dated: November 14, 1980.

Phillip W. Klutznick.

Department of Agriculture

The Department of Agriculture has concurred in the regulations on

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Voluntary Agreements in 44 CFR Part 332.

Dated: December 5, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 81-332 Filed 1-8-81; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[Gen. Docket 79-263; FCC 80-670]

Amendment of Freedom of Information Rules To Modify Fees for Record Searches

Correction

In FR Doc. 80-40278 appearing at page 85027 in the issue for Wednesday, December 24, 1980, make the following corrections:

(1) In the "For Further Information Contact" paragraph, Norman B. Blumenthal's telephone number should have read "(202) 632-6990".

(2) On page 85027, in the third column, the last eight lines of the column should have appeared at the bottom of the middle column immediately above footnote 1.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Subtitle A

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register.** This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Florida, Georgia, and South Carolina

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Florida and Georgia is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on these areas during the 1981 fishing season.

DATES: Effective on date of publication through calendar year 1981.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Manager, U.S. Fish and Wildlife Service, 15 N. Laura Street, Jacksonville, Florida 32202. Telephone: 904-701-2267.

John P. Davis, Refuge Manager, Savannah (and Blackbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Georgia 31412. Telephone: 912-944-4415.

Del Pierce, Refuge Manager, J. N. "Ding" Darling National Wildlife Refuge, P.O. Drawer B. Sanibel, Florida 33957. Telephone: 813-472-1100.

Bruce Blihovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028. Telephone: 904-985-4673.

Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278 Boynton Beach, Florida 33437. Telephone: 305-732-3684.

Stephen Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Florida 32780. Telephone: 305-867-4820.

John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, Georgia 31501. Telephone: 912-283-2580.

Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31080. Telephone: 912-986-5441.

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355. Telephone: 904-925-6121.

Martin Perry, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Florida 32320. Telephone: 904-653-8806.

SUPPLEMENTARY INFORMATION: John C. Oberheu is the primary author of these special regulations.

General Conditions

1. Fishing is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 33, all applicable State regulations, the general conditions, and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established, and (b) that funds are available for the development operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. The determination is based upon consideration of among other things, the Service's Final Environmental Statement in the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of conditions applying to the individual refuge and a map of the sport fishing area(s) are available at refuge headquarters. Portions of refuges which are closed to fishing are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specific areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

4. Sport fishing on portions of the following refuges shall be in accordance with all applicable State and Federal regulations and conditions as indicated.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Florida

J. N. "Ding" Darling National Wildlife Refuge

Sport and commercial fishing is permitted in 1,050 acres of tidal waters of the J. N. "Ding" Darling National Wildlife Refuge, Sanibel, Florida. Sport fishing only is permitted in 800 acres of freshwater impoundments on the Darling Tract and from the fishing pier located on Lighthouse Point. A valid Florida state fishing license is required for catching freshwater species from the Darling Tract impoundments. Boats are prohibited in the Darling Tract impoundments. The taking of live shellfish other than clams and oysters is prohibited in refuge waters. The following special regulations apply to the public fishing pier: Cast nets are limited to bait nets with a stretched mesh of ¾ inch or less; boats will not be allowed to tie up at the pier except during emergency situations; and fishermen will be limited to no more than two fishing poles, rods or lines.

Lake Woodruff National Wildlife Refuge

Sport fishing on the Lake Woodruff National Wildlife Refuge, DeLeon Springs, Florida is permitted on approximately 650 acres. The sport fishing season is open year-round on delineated refuge waters west of Norris Dead River, Lake Woodruff, Spring Garden Creek, Highland Park Canal, and the Canal bordering the east side of Norris Dead River. Refuge waters east of Norris Dead River Canal, Lake Woodruff and Spring Garden Creek will be open to fishing and access March 15 to October 15, 1981. Fishing and access on refuge waters are permitted during daylight hours only. Air thrust boats are prohibited.

Loxahatchee National Wildlife Refuge

Sport fishing is permitted in all waters (61,352 acres) of the Loxahatchee National Wildlife Refuge, Boynton Beach, Florida except the headquarters management area and those areas marked by signs as being closed. All public entry onto the refuge for any purpose is limited to the following points: (a) S–5A (Twenty-Mile Bend) boat ramp; (b) Headquarters area; (c) Loxahatchee Recreation Area. Sport fishing is permitted year-round. Fishing is restricted to 1½ hours before sunrise until 1 hour after sunset. Boats must enter or leave the refuge through the three public ramps: (a) S–5A (Twenty-Mile Bend) boat ramp; (b) Headquarters boat ramp; (c) S–39 (Loxahatchee Recreation Area) boat ramps. Method of fishing allowed is with attended rod and reel and/or pole and line. Air thrust boat use is authorized only by special permit issued by the refuge manager. Speed boats and racing craft are prohibited.

Merritt Island National Wildlife Refuge

Sport fishing is permitted in the open waters of the Indian River, Banana River, Mosquito Lagoon, Mosquito control impoundments and interior lakes except for the Kennedy Space Center security areas. No more than 20 total fish daily per person may be taken from the K.A.R.S. marina in the Banana River or Eddy Creek "trout hole" in Mosquito Lagoon during the period November 15–March 31 annually, by any individual sport fisherman. Sport fishing is permitted during daylight hours only. Night sport fishing from boats in the open waters on the Indian River, Banana River, and Mosquito Lagoon is permitted by fishermen with a refuge special use permit. The permit is free and can be obtained from the refuge headquarters. Fishing in close proximity to manatees is prohibited. Fishing lines must be attended at all times and discarding of tangled line into the waters of the refuge is prohibited.

St. Marks National Wildlife Refuge

Sport fishing is permitted in all waters of the St. Marks National Wildlife Refuge (approximately 2,205 acres), St. Marks, Florida except those marked by signs as being closed. The sport fishing season on the refuge extends from March 15 through October 15, 1981, with the exception of Otter Lake which is open year-round. Travel is restricted to established, designated roads only. Fishing is permitted ½ hour before sunrise until ½ hour after sunset during the open season. Boats with electric motors and gasoline engines up to and including 4 horsepower are permitted. Trotlines shall be taken up daily prior to closing hours of fishing. The taking of saltwater species in Apalachee Bay and tidal creeks is subject to State regulations. Year-round launching of saltwater fishing boats from the Lighthouse launch ramp is regulated. The launching of commercial boats and sport net boats is prohibited.

St. Vincent National Wildlife Refuge

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Florida is permitted on 245 acres from March 15 through October 15, 1981. Fishermen are permitted on the refuge from ½ hour before sunrise to ½ hour after sunset. Boats with electric motors permitted; all other motors prohibited. Private boats may not be left on the refuge overnight. Use of live minnows as bait is prohibited.

Georgia

Blackbeard Island National Wildlife Refuge

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Georgia is permitted on only two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1981. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than ½ hour after sunset. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited. Private boats may not be left on the refuge overnight.

Okefenokee National Wildlife Refuge

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Georgia in the designated open water areas connected by established boat runs. Fishing permitted during posted hours only. Boats with motors not larger than 10 horsepower, canoes, and row boats permitted. Use of live minnows as bait prohibited. Trotlines, limblines, nets and other set tackle prohibited. Persons entering refuge from main access points must register with the respective concessioner. Persons using the Sill access ramp on the Pocket and Kingfisher Landing access ramp are required to sign the respective registers when they enter the swamp and again when they leave. The Banks Lake Unit of Okefenokee is opened to sport fishing in Banks Lake and other designated refuge water areas. Persons fishing at night must possess a refuge special use permit or register with the refuge concessioner. Trotlines, limblines, nets, traps, and other set tackle are prohibited. Boat speed in Banks Lake will not exceed that of a 14 ft. aluminum boat powered by a (10) horsepower outboard engine.

Piedmont National Wildlife Refuge

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Georgia, is permitted on approximately 115 acres during daylight hours. Fishing is allowed on the following areas in accordance with all applicable State regulations subject to the following restrictions: Refuge creeks open daily May 11 through September 12, 1981. Ponds 2A, 6A, 7A, 9A, 11A, 11B open daily May 11 through June 13, 1981. Pond

21A open daily May 11 through September 12, 1981, for youths 12 years of age or younger only. Pond 22A and Allison Lake open daily May 11 through September 12, 1981. Boats allowed on pond 2A and Allison Lake only. Electric motors permitted; all other motors prohibited. Boats may not be left on refuge overnight. No minnows allowed for bait. Fishing shall be with rod and reel and/or pole and line only. Bass creel limit is 5.

Georgia and South Carolina

Savannah National Wildlife Refuge

Sport fishing on the Savannah National Wildlife Refuge, portion of Jasper County, South Carolina, and Chatham and Effingham Counties, Georgia is permitted only on designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1981, for all impounded waters. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than ½ hour after sunset. Only electric motors are permitted on impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" sign are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of these special regulations supplement the regulations which generally govern fishing on wildlife refuge areas and which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at anytime.

Dated: December 22, 1980.

Larry E. Goldman,

Acting Area Manager.

[FR Doc. 81-526 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 46, No. 6
Friday, January 9, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No.762 3131]

Standard Brands, Inc., and Ted Bates &, Company, Inc.; Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent orders, accepted subject to final Commission approval, would require, among other things, a New York City manufacturer of various products, including "Fleischmann's Margarine" products, and a New York City advertising agency to cease referring to any test or survey when making representations regarding the performance, benefit, choice or superiority of a product, unless the referenced test or survey has been scientifically designed, executed and analyzed by "experts," and provides substantiation for the representations. The firms would be further barred from representing, by reference to a test or survey, that survey respondents recommend or use a particular brand of product more often than a competitive brand, unless they disclose the fact that an equal or greater percentage of such respondents have no brand preference. The order would additionally require that the firms maintain, for a period of three years, records substantiating advertising claims.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with§ 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the Matter of Standard Brands, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Standard Brands, Inc., a corporation, sometimes hereinafter referred to as respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Standard Brands, Inc., by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Standard Brands, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive office and principal place of business located at 625 Madison Avenue, New York, New York 10022.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty as

provided by law for each violation of the order after it becomes final.

Part I

It is ordered that respondent Standard Brands, Inc., a corporation (hereinafter referred to as respondent), and its successors, assigns, officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any product (hereinafter "Product") in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making representations, directly or by implication, by reference to a survey or test, or the results thereof, concerning the performance or any characteristic, benefit, recommendation, usage or choice of or other preference for such Product, unless:

(a) Such survey or test is designed, executed and analyzed in a competent and reliable scientific manner; and

(b) Such survey or test substantiates the claim(s) represented by providing a reasonable basis therefor; and

(c) In regard to any claims of superiority based thereon, such survey or test establishes that such Product is superior to each compared product in respect to which the specific representation is made to a degree that will be discernible to or of benefit to consumers or potential consumers to whom the representation is directed.

2. Representing, directly or by implication, that survey respondents:

(a) Recommend such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not recommend a specific brand of the product, without disclosing such fact(s); or

(b) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not use a specific brand of the product, without disclosing such fact(s); or

(c) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents are not aware of the specific brand of the product which they do use, without disclosing such fact(s).

3. Representing, directly or by implication, by reference to a survey or test of experts, that experts recommend, use, choose, or otherwise prefer such Product in any respect unless:

(a) Such experts in fact possess the expertise to evaluate such Product with respect to such representations; and

(b) Such experts actually exercised their expertise by evaluating or testing such Product, and based their stated preferences, findings, or opinions on such exercise of their expertise; and

(c) Such representation, to the extent it expresses or implies a product comparison, is supported by an actual comparative evaluation or test by such experts; and

(d) Such representation, to the extent it expresses or implies that such Product is superior to competing products, is supported by an actual comparative evaluation or test by such experts and by a conclusion therefrom that such Product is superior in fact to the competing products with respect to the feature(s) so represented as compared.

4. Representing, directly or by implication, that such product is recommended, used, chosen, or otherwise preferred in any respect more often than any or all competing products unless and only to the extent that respondent possessed and relied upon a reasonable basis for such representation at the time of its initial and each subsequent dissemination. A reasonable basis shall consist of competent and reliable evidence which substantiates a statement or representation.

5. Failing to maintain records:

(a) Which provided the basis upon which respondent relied at the time of the initial and each subsequent dissemination of the claim; and

(b) Which shall be maintained by respondent for a period of three years from the date such advertising or sales promotional material was last disseminated by respondent or any division or subsidiary of respondent.

Part II

For purposes of this Order, each of the terms listed below is defined as follows:

1. The term "experts" shall be deemed to be an individual(s), group(s) or institution(s), possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

2. An advertising claim which is a personal endorsement of a product reflecting solely the subjective opinion of the endorser shall not be deemed to be a test.

Part III

It is further ordered that respondent shall, within 60 days after service upon it of this Order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements.

It is further ordered that respondent notify the Commission at least 30 days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

In the matter of Ted Bates & Company, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Ted Bates & Company, Inc., a corporation, sometimes hereinafter referred to as respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Ted Bates & Company, Inc., by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Ted Bates & Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its executive office and principal place of business located at 1515 Broadway, New York, New York 10036. Ted Bates/New York Division is the sole operating division of Ted Bates & Company, Inc.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

Part I

It is ordered that respondent Ted Bates & Company, Inc., a corporation (hereinafter referred to as respondent) and its successors, assigns, officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, of any product whose advertising account is: (1) currently or in the future assigned to Ted Bates/New York Division; or (2) currently or in the future assigned to Ted Bates/New York Division and is transferred from Ted Bates/New York Division of any subsidiary of Ted Bates & Company, Inc., do forthwith cease and desist from:

1. Making representations, directly or by implication, by reference to a survey or test of "experts" or "consumers" (as hereinafter defined in Part II of this Order), or the results thereof, concerning the performance or any characteristic, benefit, recommendation, usage or choice of or other preference for such Product, unless:

(a) Such survey or test of experts or consumers is designed, executed and analyzed in a competent and reliable scientific manner; and

(b) Such survey or test of experts or consumers substantiates the claim(s) represented by providing a reasonable basis therefor; and

(c) In regard to any claims of superiority based thereon, such survey or test of experts or consumers establishes that such Product is superior to each compared product in respect to which the specific representation is made to a degree that will be discernable to or of benefit to consumers or potential consumers to whom the representation is directed.

2. Representing, directly or by implication, by reference to a survey or test that experts or consumers surveyed or tested:

(a) Recommend such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not recommend a specific brand of the product, without disclosing such fact(s); or

(b) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not use a specific brand of the product, without disclosing such fact(s); or

(c) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents are not aware of the specific brand of the product which they do use, without disclosing such fact(s).

3. Representing, directly or by implication, by reference to a survey or test of experts, that experts recommend, use, choose, or otherwise prefer such Product in any respect unless:

(a) Such experts in fact possess the expertise to evaluate such Product with respect to such representation; and

(b) Such experts actually exercised their expertise by evaluating or testing such Product, and based their stated preferences, findings, or opinions on such exercise of their expertise; and

(c) Such representation, to the extent it expresses or implies a product comparison, is supported by an actual comparative evaluation or test by such experts; and

(d) Such representation, to the extent it expresses or implies that such Product is superior to competing products, is supported by an actual comnparative evaluation or test by such experts and by a conclusion therefrom that such Product is superior in fact to the competing products with respect to the feature(s) so represented as compared.

4. Representing, directly or by implication, by reference to a survey or test of consumers that consumers recommend, use, choose, or otherwise prefer such Product in any respect unless and only to the extent that respondent has a reasonable basis for such representation. A reasonable basis shall consist of any competent and reliable evidence which substantiates a statement or representation.

5. Failing to maintain records

(a) Which provided the basis upon which respondent relied at the time of the initial and each subsequent dissemination of the claim; and

(b) Which shall be maintained by respondent for a period of three years from the date such advertising or sales promotional material was last disseminated by respondent or any division or subsidiary of respondent.

Part II

For purposes of this Order, each of the terms listed below is defined as follows:

1. The term "experts" shall be deemed to be an individual(s), group(s) or institution(s), possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

2. The term "consumers" shall be deemed to be any person(s) who is a user or potential user of the product.

3. An advertising claim which is a personal endorsement of a product reflecting solely the subjective opinion of the endorser shall not be deemed to be a test.

Part III

It shall be an affirmative defense to any compliance action brought pursuant to this Order alleging that an advertisement was, in whole or in part, unsubstantiated, or not supported by a reasonable basis, for respondent to show that, prior to disseminating an advertisement containing a statement or representation challenged in such compliance action, respondent submitted to its client in writing all the claims which it reasonably believed were contained in the advertising prepared by it and exercised due care to assure itself that the advertiser possessed and relied upon a reasonable basis for those claims.

It shall be an affirmative defense to any compliance action brought pursuant to this Order alleging that an advertisement was, in whole or in part, false, misleading or deceptive, for respondent to show that, prior to disseminating an advertisement containing a statement or representation challenged in such compliance action, respondent submitted to its client in writing all the claims which it reasonably believed were contained in the advertising prepared by it and exercised due care to assure itself that those claims were neither false, misleading nor deceptive when placed respondent.

Provided, however, that nothing in this Order shall be deemed to deny or limit respondent with respect to any other right, defense, or other affirmative defense to which respondent may otherwise be entitled by law in such compliance action or any other action; nor shall any inference adverse to respondent be drawn in any case from its failure to invoke this paragraph or to rely on the procedures provided herein.

It is further ordered that respondent shall, within 60 days after service upon it of this Order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the Order.

It is further ordered that respondent shall forthwith distribute a copy of this Order to the senior executive officer of each account assigned to respondent's Ted Bates/New York Division and the executive in charge of research for such Division.

It is further ordered that respondent notify the Commission at least 30 days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

Standard Brands, Inc., Ted Bates & Company, Inc., File No. 762 3131, Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has provisionally accepted agreements to proposed consent orders from Standard Brands, Inc. and Ted Bates & Company, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

This matter concerns print advertisements for Fleischmann's margarine. The complaint challenges claims regarding doctors' preference and usage of Fleischmann's margarine. For example, the challenged ads represented, "When a doctor chooses margarine, chances are it's Fleischmann's," "Fleischmann's is the margarine most recommended by doctors," and "Twice as many doctors personally use Fleischmann's." The ads claimed that these statements were based on a national survey of doctors.

The complaint charges that the survey does not support the representations made because only 15.5% of the doctors surveyed recommended Fleischmann's. Most doctors (84.5%) did not state that they recommend Fleischmann's. In fact, at least 67.5% of the surveyed doctors did not recommend a specific name brand of margarine, according to the complaint. In addition, the complaint charges that the ads imply that the doctors surveyed possessed and applied medical expertise in choosing Fleischmann's margarine and that the companies had no reasonable basis for such claims.

The provisionally accepted consent orders contain the following provisions designed to remedy the advertising violations charged as well as to prevent respondents from engaging in similar alleged illegal acts and practices.

Both consent orders extend to all products. The Ted Bates order covers all product accounts currently or in the future assigned to the Ted Bates/New York Division or those accounts which originated there and were transferred to any subsidiary.

These orders require (Part I, Paragraph 1) that representations which refer to surveys or tests (surveys or tests of experts or consumers in the case of Ted Bates), be designed, executed and analyzed in a competent and reliable scientific manner. Also, claims made must be substantiated by the featured research. Further, the survey or test referred to must establish any superiority claims made.

In regard to brand recommendations (Part I, Paragraph 2), the orders require the disclosure of material facts which explain, in the ad representations, any limitations about the surveys or tests. In particular, material percentages of survey respondents not mentioned in usage or recommendation claims must be disclosed in certain situations.

Further, the orders establish (Part I, Paragraph 3) certain requirements for advertising surveys based on expert preferences. Such requirements are drawn from the Commission's guides concerning Use of Endorsements and Testimonials in Advertising. (16 CFR Part 225).

Finally, both orders contain provisions requiring a reasonable basis for future claims. (Part I, Paragraph 4). The Ted Bates order requires a reasonable basis for future claims that consumers recommend, use, choose or prefer any product when such claim refers to a survey or test. The Standard Brands order requires a reasonable basis for any recommendation or usage claim for any product. To monitor compliance with the orders, three-year recordkeeping provisions are contained therein. (Part I, Paragraph 5).

The Ted Bates order contains an affirmative defense which requires the ad agency, should it elect to assert the defense in a compliance action, to submit in writing to its client prior to the dissemination of advertisements, all the claims which it reasonably believes are contained in proposed advertising and then exercise due care to assure itself that the claims are substantiated or not false, misleading or deceptive.

This is only the second time that the Commission has accepted an order containing such an affirmative defense provision. See also *J. Walter Thompson Company*, 94 F.T.C. 331 (1979). The conduct that an ad agency must undertake in order to exercise the affirmative defense has the potential to improve the quality and frequency of communications between ad agencies and their client-advertisers concerning the existence, meaning, and substantiation of advertising claims. It is hoped that better communication will, in turn, reduce the risk of deceptive claims.

However, due to lack of experience with the affirmative defense, its benefits are still speculative. The two orders containing the defense offer an opportunity to better understand how the claims listing provision operates and whether it has any unintended, undesirable effects. In accepting the provision, the Commission emphasizes that it is not standard policy to include this defense in ad agency orders and that its staff should continue to explore a variety of other means to encourage greater focus on implied claims.

The purpose of this analysis is to facilitate public comment on the proposed orders and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[FR Doc. 81-668 Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 9131]

Teledyne, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Los Angeles, Calif. manufacturer of oral irrigating devices and other consumer products, to cease misrepresenting the content, results or conclusions of any survey or opinion research; failing to base preventive or therapeutic claims about devices upon other than competent and reliable scientific tests or other evidence; and claiming that the American Dental Association recommends the Water Pik unless such claim is in fact authorized by the ADA. Further, the order requires that claims regarding the ability of a device to prevent, mitigate or treat periodontal disease be based upon clinical tests which are well-controlled using acceptable testing procedures and that the firm maintain records substantiating its claims for three years after disseminating advertisements affected by this order.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the Matter of Teledyne, Inc., a corporation, and Teledyne Industries, Inc., a corporation.

Agreement Containing Consent Order To Cease and Desist

The Agreement herein, by and between Teledyne, Inc., a corporation, and Teledyne Industries, Inc., a corporation, respondents in the above proceeding initiated by the Federal Trade Commission, is entered into by their duly authorized officers and their attorneys, and counsel for the Federal Trade Commission, in accordance with the Commission's Rule governing consent order procedure. In accordance herewith, the parties hereby agree that:

1. Respondent Teledyne, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware with its executive office and principal place of business located at 1901 Avenue of the Stars, Los Angeles, California 90067.

Respondent Teledyne Industries, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its executive office and principal place of business located at 1901 Avenue of the Stars, Los Angeles, California 90067.

2. Respondents have been served with the Commission's Complaint charging it with a violation of Sections 5 and 12 of the Federal Trade Commission Act, together with a form of order the Commission believes warranted in the circumstances.

3. Respondents admit all jurisdictional facts set forth in the said copy of the Complaint.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it, together with the Complaint, will be placed on the public record for a periods of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this Agreement and so notify respondents, in which event it will take such action as it may consider appropriate.

6. No agreement, understanding or representation not contained in the Order or the aforementioned Agreement may be used to vary or to contradict the terms of the Order. However, the Complaint in Docket No. 9131 may be used in construing the terms of the Order.

7. This Agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said Complaint of the Commission issued in this proceeding.

8. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service, except that, up to and including October 15, 1980 or the effective date of this Order, whichever is later, respondents may use oral irrigating device packaging and instruction booklets which may not conform to the terms of this Order to the extent that, by that date, such packaging and instruction booklets have become part of final packaging already containing oral irrigating devices. Mailing of the Complaint and decision containing the agreed-to Order to respondents' address as stated in this Agreement shall constitute service. Respondents waive any other right they may have to any other form of service.

9. Respondents have read the Complaint and Order contemplated hereby, and understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order and that they may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

10. Nothing in this Order shall be deemed to deny or limit respondents with respect to any right, defense, or affirmative defense to which

respondents may otherwise be entitled by law in a compliance action or any other action.

11. If the Federal Trade Commission hereafter promulgates any trade regulation rule or guide governing the advertising or offering for sale of any Product subject to this Order, and such rule or guide concerns practices covered by this Order, and said rule or guide is less restrictive than the corresponding provision(s) of this Order, and respondents file a motion with the Commission to modify this Order to correspond to such less restrictive rule or guide, the Commission shall rule upon said motion within one hundred twenty (120) days after said motion is filed, or if respondents' motion to modify is filed at least sixty (60) days prior to the effective date of such rule or guide, then the Federal Trade Commission shall rule upon respondents' motion to modify within such time periods, then such rule or guide shall automatically be deemed to modify and replace the corresponding provision(s) of this Order.

Part I

It is ordered that respondents, their successors and assigns, and their officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other entity, in connection with the consumer advertising, offering for sale, sale or distribution of any consumer product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the content, results or conclusions of any survey or opinion research.

B. Employing, in any advertisement for any product, the word "survey" (or any comparable term), or basing any claim upon one or more surveys in whole or in part which states, either expressly or by implication, the beliefs, opinions, practices, recommendations, or endorsements of any group, unless:

(1) A representative, unbiased and fair sampling from the population referred to in the advertisement is questioned;

(2) A projectable sample was used and the sample size of and the response rate to the survey were sufficiently large so as to allow meaningful projections to the population referred to in the advertisement with a reasonable degree of confidence, unless there is a clear and conspicuous disclosure in the advertisement that the survey may not be representative of the population referred to in the advertisement;

(3) The survey was completed within three (3) years prior to the date of the representation, unless there is other appropriate data which establish a reasonable basis for concluding that the beliefs, opinion, practices, recommendations or endorsements of the members of the group referred to in the advertisement have not materially changed since the completion of the survey; and

(4) The survey was designed, executed and analyzed in a competent and reliable manner.

(C) Representing, directly or by implication, that the beliefs, opinions, practices, recommendations or endorsements of members of any group have been surveyed or sampled unless the survey or sample directly solicits the beliefs, opinions, practices, recommendations, or endorsements of the members of that group.

D. Representing, directly or by implication, that a professional body or any portion thereof has some belief, opinion, recommendation, endorsement or follows some typical course of conduct unless and only to the extent such representation is true.

Part II

It is further ordered that respondents, their successors and assigns, and their officers, representatives, and agents and employees, directly or through any corporation, subsidiary, division or other method in connection with the consumer advertising or, offering for sale, sale or distribution to a consumer of a "device," as "device" is "defined in the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. (1) Making any statements or representations, directly or by implication, concerning the preventative or therapeutic abilities of such devices unless at the time the statements or representations are made, respondents possess and rely on a reasonable basis for such statements or representations, which shall consist of competent and reliable scientific tests as defined in Paragraph A(2) hereafter, or other competent and reliable evidence that substantiates such representation.

(2) For the purposes of this Order, a scientific test is one in which a person with skill and expertise in the field, conducts the test and evaluates its results in a disinterested manner using these testing procedures generally accepted in the profession which best ensure accurate and reliable results.

B. (1) Making any statements or representations, directly or by implication, concerning the ability of such devices to prevent, mitigate, or treat periodontal disease unless, at the time the statements or representations are made, respondents possess and rely on a reasonable basis for such statements or representations, which shall include a competent and reliable clinical test and may also include other competent and reliable evidence including competent and reliable opinions of experts who are qualified by professional training, education, and experience to render competent and reliable judgments in such matters.

(2) For purposes of this Order, a "clinical test" is one in which a person with skill and expertise in the field conducts a well-controlled test on human subjects, using those testing procedures generally accepted in the profession which ensure accurate and reliable results, and evaluates its results in a disinterested manner. The results of the test must be clinically significant, which requires that the test be, among other things, of sufficient duration to ensure that the results are not materially distorted by any unusual short term practices or temporary physical conditions of the test subjects (as such practices or conditions related to the test conditions).

Part III

It is further ordered that respondents, their successors and assigns, and their officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other entity in connection with the advertising, offering for sale, distribution or sale of the Water Pik oral irrigating device in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication that the Water Pik oral irrigation device is accepted, approved or endorsed by the American Dental Association unless (1) such claim is expressly authorized in writing, and unless (2) there is good reason to believe that at the time of such claims the American Dental Association subscribes to the facts or opinion therein contained.

Part IV

It is further ordered that respondents, for the period of three years after respondents last disseminated the advertisements of the products covered by this Order, shall retain all test results, data, and other documents or information on which it relied for their advertisements or any documentation which contradicts, qualifies or calls into serious question any claim included in such advertisements which were in their possession during either their creation or dissemination. Such records may be inspected by the staff of the commission upon reasonable notice.

It is further ordered that respondents notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondents such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

It is further ordered that the respondents shall forthwith distribute a copy of this Order to each of their operating divisions, and to each of their officers, agents, representatives or employees who are engaged in the preparation and placement of advertisements.

It is further ordered that the respondents shall, within sixty (60) days after this Order becomes final and annually thereafter for three (3) years, file with the Commission a report, in writing, signed by a responsible officer for respondents, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Teledyne Inc. and Teledyne Industries, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondents with disseminating advertisements containing several false, misleading, or unsubstantiated representations regarding the "Water Pik" oral irrigating device. The complaint alleged that the Water Pik advertisements claimed without a reasonable basis that (1) four out of five dentists recommend Water Pik to their patients; (2) four out of five dentists recommend the Water Pik because, in their medical judgment, the Water Pik plays a significant role in the prevention of gum disease; (3) the Water Pik when used with other methods of dental care plays a significant incremental role in the prevention of gum disease; and (4) the use of the Water Pik will significantly diminish the chances of getting gum disease.

Additionally, the complaint alleged that the Water Pik advertisements falsely represented that an appropriately designed survey proves that the Water Pik is recommended by four out of five dentists and that the American Dental Association recommends the Water Pik.

The consent order contains various provisions designed to remedy the alleged advertising violations.

Part I of the order prohibits the misrepresentation of the contents, results or conclusions of any survey. In addition this Part requires that any survey used in respondents' advertising must be designed, executed and analyzed in a competent and reliable manner. The survey sampling must be representative and unbiased. The survey must be projectable unless respondents clearly and conspicuously disclose that the survey may not be representative of the population referred to in the advertisement. Finally, the survey may not be more than three years old unless there is other data which establishes that the survey results are still valid.

Part I also prohibits respondents from making claims regarding the opinions or recommendations of any group unless that group is actually asked about their opinions or recommendations.

Part II(A) of the order requires that any preventative or therapeutic claims about a device must be based upon competent and reliable scientific tests or other reliable evidence.

Part II(B) of the order requires that any claim regarding the ability of a device to prevent, mitigate or treat periodontal disease must be based upon clinical tests. The clinical test must be well-controlled using accepted testing procedures. The results of the test must be clinically significant. The clinical test must be of sufficient duration to ensure that the test results are not distorted by any unusual conditions.

Part III of the order prohibits respondents from claiming that the American Dental Association recommends the Water Pik unless such a claim is authorized by the American Dental Association.

Part IV of the order requires respondents to maintain records of its substantiation for its claims for a period of three (3) years after the dissemination of any advertisement subject to this order. The order also requests respondents to retain any documents which contradict or call into question any of their advertising claims. Such records may be inspected by the Commission's staff. The order requires that respondents distribute a copy of the order to each of their operating corporate divisions and to notify the Commission of any change in their corporate structure which might affect compliance obligations. Respondents must within sixty (60) days of the effective date of this order, and annually thereafter for three (3) years, file a report with the Commission regarding their compliance with this order.

The purpose of this analysis is to facilitate public comment on the proposed order and this is not intended to constitute an official interpretation of the complaint, agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 81-[illegible] Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 9131]

J. Walter Thompson Company; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a New York City advertising agency to cease making survey claims unless the surveys are designed, executed and analyzed in a competent and reliabe manner. Further, the firm is prohibited from making claims regarding the opinions or recommendations of any professional group unless that professional group is actually asked about their opinions or recommendations.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

Agreement Containing Consent Order To Cease and Desist

In the matter of J. Walter Thompson Company, a corporation.

The Agreement herein, by and between J. Walter Thompson Company, a corporation, respondent in the above proceeding initiated by the Federal Trade Commission, is entered into by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, in accordance with the Commission's Rule governing consent order procedure.

1. Respondent J. Walter Thompson Company ("JWT") is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal offices and place of business located at 420 Lexington Avenue, New York, New York 10017.

2. Respondent has been served with the Commission's Complaint charging it with a violation of Section 5 of the Federal Trade Commission Act, together with a form of order the Commission believes warranted in the circumstances.

3. Respondent admits all jurisdictional facts set forth in the said copy of the Complaint of the Commission to the extent they relate to J. Walter Thompson Company.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the Complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this Agreement and so notify JWT, in which event it will take such action as it may consider appropriate.

6. No agreement, understanding or representation not contained in the Order or the aforementioned Agreement may be used to vary or to contradict the terms of the Order. However, the Complaint in Docket No. 9131 may be used in construing the terms of the Order.

7. This Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said Complaint of the Commission issued in this proceeding.

8. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's Rules, the Commission may, without further notice to respondent, (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Mailing of the Complaint and decision containing the agreed to Order to respondent's address as stated in this Agreement shall constitute service.

9. All parts and provisions of this Order, except Part II, shall be binding on JWT upon service in accordance with Paragraph 8 above. Part II of this Order shall become binding upon the effective date of a final order in this proceeding against Teledyne, Inc., or Teledyne Industries, Inc., or any division thereof, which requires those respondents to cease and desist from disseminating claims for the prevention, mitigation or treatment of periodontal disease without a reasonable basis. In the event that the Complaint against Teledyne, Inc., or Teledyne Industries, Inc., in this proceeding (Docket No. 9131) is dismissed, then the Commission shall, upon the application of JWT, set aside this Order.

10. Respondent has read the Complaint and Order contemplated hereby, and it understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order and that it may be liable for a civil penalty of up to $10,000 for each violation of the Order after it becomes final.

11. Nothing in this Order shall be deemed to deny or limit JWT with respect to any right, defense, or affirmative defense to which JWT may otherwise be entitled by law in a compliance action or any other action.

12. If the Federal Trade Commission hereafter promulgates any trade regulation rule or guide govering the advertising or offering for sale of any Product subject to this Order, and such rule or guide concerns practices covered by this Order, and said rule or guide is less restrictive than the corresponding provision(s) of this Order, and JWT files a motion with the Commission to modify this Order to correspond to such less restrictive rule or guide, the Commission shall rule upon said motion within 120 days after said motion is filed, or if JWT's motion to modify is filed at least sixty (60) days prior to the effective date of such rule or guide, then the Federal Trade Commission shall rule upon respondent's motion within sixty (60) days after effective date of such rule or guide. Should the Federal Trade Commission fail to rule upon JWT's motion to modify within such time periods, then such rule or guide shall automatically be deemed to modify and replace the corresponding provision(s) of this Order.

Part I

It is ordered that respondent J. Walter Thompson Company ("JWT"), its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other entity, in connection with the advertising, offering for sale, sale or distribution of any "drug" or "device" (as those terms are defined by Section 15 of the Federal Trade Commission Act); aids to decrease use of cigarettes, cigars or pipes; smoke alarms; water purifiers; baby food preparation kits; shower head attachments; and water foot massagers (hereinafter referred to in Part I as "Product" or "Products"), in or affecting commerce, as "commerce" is fefined in the Federal Trade Commission Act, do forethwith cease and desist from:

A. Employing, in any advertisement for any product, the word "survey" (or any comparable term), or basing any claim upon one or more surveys in whole or in part which states, either expressly or by implication, the beliefs, opinions, practices, recommendations, or endorsements of any professional group (or portion thereof) with expertise relative to the product, unless:

(1) A projectable sample was used and the sample size of and response rate to the survey were sufficiently large so as to allow meaningful projections to the

population referred to in the advertisement with a reasonable degree of confidence unless there is a clear and conspicuous disclosure in the advertisement that the survey may not be representative of the population referred to in the advertisement;

(2) The survey was completed within three years prior to the date of the representation, unless there is other appropriate data which establishes a reasonable basis for concluding that the beliefs, opinions, practices, recommendations or endorsements of the members of the relevant professional population surveyed have not materially changed since the completion of the survey; and

(3) The survey was designed, executed and analyzed in a competent and reliable manner.

B. Representing, directly or by implication, that the beliefs, opinions, practices, recommendations or endorsements of members of any professional group with expertise relative to the advertised product have been surveyed or sampled unless the survey or sample directly solicits the beliefs, opinions, practices, recommendations, or endorsements of members of that group.

Provided, however, in circumstances where the survey or sample was conducted by an independent third party and was not, directly or indirectly, conducted or controlled by JWT or its client, it shall be an affirmative defense to an alleged violation of this Part for JWT to prove that it had a reasonable basis for believing that the survey or sample was conducted in accordance with the provisions of Part I of this Order. For purposes of this affirmative defense, JWT may demonstrate that it had a reasonable basis by showing (i) that the document reflecting the survey or sample had sufficient information for JWT to conclude that the survey(s) or sample(s) was conducted in accordance with this Part, or (ii) where there is insufficient information in such document that JWT made an appropriate inquiry and either (1) received a letter or memorandum from the third party containing adequate information regarding those aspect(s) of the sample(s) or survey(s) as to which there was insufficient information so that JWT had a reasonable basis for concluding that the sample(s) or survey(s) was conducted in accordance with this Part, or (2) sent a letter or memorandum to the third party confirming the third party's oral communication of adequate information regarding those aspect(s) of the sample(s) or survey(s) as to which there was insufficient information so that JWT had a reasonable basis for concluding that the sample(s) or survey(s) was conducted in accordance with this Part. In lieu of the letter or memorandum required by (1) or (2) above, JWT may rely on other written confirmation regarding the aspect(s) of the sample(s) or survey(s) as to which there was insufficient information only if JWT has a reasonable explanation for so doing.

Part II

It is further ordered that respondent J. Walter Thompson Company ("JWT"), its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other entity, in connection with the advertising, offering for sale, sale or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Making any statements or representations, directly or by implication, concerning the ability of the advertised product to prevent, mitigate, or treat periodontal disease unless, at the time the statements or representations are made, JWT possesses and relies on a reasonable basis for such statements or representations, which shall include a competent and reliable clinical test and may also include other competent and reliable evidence including competent and reliable opinions of experts who are qualified by professional training, education, and experience to render competent and reliable judgments in such matters.

For purposes of this Order, a "clinical test" is one in which a person with skill and expertise in the field conducts a well-controlled test on human subjects, using those testing procedures generally accepted in the profession which ensure accurate and reliable results, and evaluates its results in a disinterested manner. The clinical test must be of sufficient duration to ensure that the results (a) were not materially distorted by any unusual short-term practices or temporary physical conditions of the test subjects (as such practices or conditions related to the test conditions), and (b) were clinically significant.

Provided, however, in circumstances where the clinical test or other evidence was not directly or indirectly conducted or controlled by JWT, it shall be an affirmative defense to an alleged violation of this Part for JWT to prove that it reasonably relied on the expert judgment of its client or of an independent third party in concluding that it had a reasonable basis in accordance with Part II of this Order. Such expert judgment shall be in writing signed by a person qualified by education or experience to render the opinion. Such opinion shall describe the contents of such test or other evidence upon which the opinion is based.

Provided further, however, in the event the Commission enters a final order to cease and desist against Teledyne, Inc., or Teledyne Industries, Inc., or any division thereof, in this proceeding which prohibits the dissemination, without a reasonable basis, of claims for the prevention, mitigation or treatment of periodontal disease and if said order did not require that the reasonable basis for such claims include, as an essential and necessary element, a clinical test, the phrase in the second paragraph of Part II "and may also include" shall thereupon be deleted and the word "or" inserted in its place.

Part III

It is further ordered that:

For the period of three years after JWT last placed the advertisements for dissemination, JWT shall retain all test results, data, and other documents on which it relied for advertisements of Products covered by this Order which were in its possession during either creation or placement by JWT of the advertisements.

JWT shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

JWT shall forthwith distribute a copy of this Order to each of its operating divisions, and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements of the Products covered by this Order.

JWT shall, within sixty (60) days after service upon it of this Order, and at such other times as the Commission may require, file with the Commission a written report setting forth in detail the manner and form of its compliance with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from J. Walter Thompson Company.

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The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondent with disseminating advertisements containing several false, misleading, or unsubstantiated representations regarding the "Water Pik" oral irrigating device. The complaint alleged that the Water Pik advertisements claimed without a reasonable basis that (1) four out of five dentists recommend Water Pik to their patients; (2) four out of five dentists recommend the Water Pik because, in their medical judgment, the Water Pik plays a significant role in the prevention of gum disease; (3) the Water Pik when used with other methods of dental care plays a significant incremental role in the prevention of gum disease; and (4) the use of the Water Pik will significantly diminish the chances of getting gum disease.

Additionally, the complaint alleged that the Water Pik advertisements falsely represented that an appropriately designed survey proves that the Water Pik is recommended by four out of five dentists.

The consent order contains various provisions designed to remedy the alleged advertising violations.

Part I of the Order requires that certain survey claims made by the respondent must be based upon surveys that are designed, executed and analyzed in a competent and reliable manner. The survey must be projectable unless respondent clearly and conspicuously discloses that the survey may not be representative of the population referred to in the advertisement. Also, the survey may not be more than three years old unless there is other data which etablishes that the survey results are still valid. Part I also prohibits respondent from making claims regarding the opinions or recommendations of any professional group unless that professional group is actually asked about their opinions or recommendations.

Carol M. Thomas,

Secretary.

[FR Doc. 81-690 Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR 20 and 803

[Docket No. 79N-0182]

Proposed Mandatory Device Experience Reporting Regulation; Hearing Change

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; notice of hearing change.

SUMMARY: The Food and Drug Administration (FDA) is rescheduling the public hearing announced for January 22, 1981, on the proposed mandatory device experience reporting regulation.

DATES: Public hearing on February 2, 1981; notices of participation by January 15, 1981.

ADDRESSES: Notices of participation to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Public hearing location: Hubert H. Humphrey Bldg. Auditorium, 200 Independence Ave., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert A. Forst, Bureau of Medical Devices (HFK-70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 18, 1980 (45 FR 76183) FDA announced a proposed rule to require manufacturers and distributors (including importers) of medical devices to submit reports concerning medical devices that (1) may have caused a death or injury, (2) may have a deficiency that could result in a death or injury or that could give inaccurate diagnostic information and, thereby, result in improper treatment, or (3) are the subject of a remedial action. The proposed rule announced a 90-day comment period and scheduled a public hearing to be held on January 22, 1981. FDA has received a request from the Health Industry Manufacturers Association (HIMA) to postpone the date of the hearing by 2 weeks to allow participants more time to prepare and to avoid hardships for medical device industry executives who hope to participate in the hearing and who also are involved in inaugural activities or in HIMA's annual business meeting, both of which occur the same week.

Under the circumstances, FDA believes that a 2-week postponement of the hearing is reasonable, and has rescheduled the hearing for February 2, 1981. Interested persons have until January 15, 1981, to file notices of participation with the Dockets Management Branch (address above).

Dated: December 31, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-480 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 101

[Docket No. 77N-0292]

Food Labeling; Net Weight Labeling Requirements; Partial Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; partial extension of comment period.

SUMMARY: In the proposed rulemaking to amend the net weight labeling regulations, the Food and Drug Administration (FDA) is extending the period for submitting pertinent data relating to moisture loss characteristics of various foods. The period for submitting other comments closed on January 5, 1981.

DATE: Pertinent data relating to moisture loss characteristics must be submitted on or before March 6, 1981.

ADDRESS: Pertinent data relating to moisture loss characteristics to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 8, 1980 (45 FR 53023), FDA proposed to amend the net weight labeling regulations. These amendments would quantitatively define permissible "reasonable variations" from stated net weights for several foods subject to moisture loss. Interested persons were requested to submit by November 6, 1980, comments and pertinent data on moisture loss characteristics of various foods. In the **Federal Register** of October 28, 1980 (45 FR 71366), the agency extended the comment period to January 5, 1981, as a result of several requests to extend the comment period.

FDA now has received three requests for additional extensions of the comment period. These requests are on file with the Dockets Management Branch.

1. FDA received a request on behalf of the Task Force on European Net Weight Enforcement of the Industry Committee on Packaging and Labeling for a 90-day extension of the comment period so that FDA may include in the administrative record any relevent recommendations resulting from the January meeting of the National Conference of Weights and Measures' Select Committee on Uniformity of State Laws. These recommendations would concern the National Conference's consideration of whether individual States in the United States should adopt an enforcement approach that currently is followed by the European Economic Community (EEC) that relies on point-of-packing regulation of the net weight of prepackaged food commodities imported from other EEC countries. Although FDA has a general interest in the outcome of the National Conference's meeting, the question of whether the United States should adopt an approach similar to that of the EEC is beyond the scope of the proposed regulations and, even if such adoption were desirable, it would have to be separately proposed. If the January meeting of the National Conference results in a recommendation for a regulatory approach suitable for adoption at the Federal level, any interested person may submit a citizen's petition under § 10.30 (21 CFR 10.30) requesting FDA to propose a regulation adopting this approch. If the meeting of the National Conference or another source develops information relevent to this rulemaking, any interested person may submit a citizen's petition asking FDA to reopen the administrative record in this rulemaking to allow receipts of this information. However, it is inappropriate to extend the comment period now given the uncertainty that the meeting will yield information relevant to this rulemaking proceeding.

This request for extension also included comments about alleged legal deficiencies in the proposal that will be considered and addressed along with other comments.

2. FDA has also received requests from the Grocery Manufactures of American, Inc., (GMA) and Saluto Foods Corp. (Saluto) requesting additional time to compile and submit moisture loss data on several food classes not covered by the proposals. GMA requested 60 additional days, and Saluto requested 90 additional days.

After carefully evaluating the merits of the requests, FDA has concluded that a general extension of the comment period on the proposed rulemaking has not been justified, and is giving notice that the comment period ends on January 5, 1981.

The agency believes, however, that it is in the interest of consumers that the additional moisture loss data that are now being collected by industry for submission to FDA and that will be available in the near future be considered in the preparation of the final rule. These additional data may make it possible for FDA to act more quickly to expand the number of products or product classes of food subject to moisture loss for which FDA has quantitatively defined permissible "reasonable variations" from stated net weight.

It is in the interest of consumers and regulated industry to have as many products or product classes with specific moisture variation standards as possible, to assure fair competition and fulfillment of consumer expectations. The agency concludes that a 60-day extension is adequate for the submission of pertinent data on moisture loss characteristics and is extending the deadline for submitting such data to March 6, 1981. FDA encourages manufacturers and trade associations that hope to submit such data to discuss their data collection procedures with Bureau of Foods representatives early in this 60-day period. These discussions may be arranged by calling the contact person identified above.

With this extension, FDA has provided a total of 180 days as a part of this rulemaking for the submission of pertinent data on moisture loss characteristics. FDA advises interested persons that it will grant no further extension of the comment period beyond this 60-day period for submission of moisture loss data granted in this notice. If the relevant data are available after the date, they must be submitted as a citizen's petition in accordance with 21 CFR 10.30 to initiate a separate rulemaking.

Accordingly, interested persons may, on or before March 6, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, pertinent data on moisture loss characteristics of food. Four copies of all data shall be submitted, except that individuals may submit single copies. The submissions are to be indentified with the docket number found in brackets in the heading of this document. All submissions received may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 2, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-582 Filed 1-5-81; 2:21 pm]

BILLING CODE 4110-03-M

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21 CFR Part 310

[Docket No. 80N-0395]

Hypophosphatemia and Hyperphosphatemia Drug Products for Over-the-Counter Human Use; Proposed Rulemaking

Correction

In FR Doc. 80-37893, published at page 81154, in the issue of Tuesday, December 9, 1980, make the following corrections:

1. On page 81154, second column, second paragraph, beginning with "should FDA accept * * *", the first word in the fifth line now reading "hyperphosphatemia" should read "hypophosphatemia". In the ninth line of that paragraph, the first word now reading "hypophosphatemia" should read "hyperphosphatemia".

2. On page 81155, first column, ninth line, the date now reading "January 8, 1971" should read "January 6, 1981".

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[SD-160]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

Correction

In FR Doc. 80-38022 in the issue for Monday, December 8, 1980, in the document heading, the bracketed information "[SD-160]" was left out. As corrected, the heading reads as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 115

Payment of Sioux Benefits; Eligibility Criteria and Application Procedures Governing Benefits

December 19, 1980.

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to add a new Part 115 to Subchapter J, Chapter I, Title 25 of the Code of Federal Regulations. The proposed rule would prescribe the eligibility criteria and application procedures governing payment of "Sioux benefits" under the 1889 Sioux Allotment Act, as amended, the 1928 Sioux Benefits Act, and section 14 of the 1934 Indian Reorganization Act (25 U.S.C. 474). Revision of the Bureau's regulations is required as a result of a suit brought against the Bureau by South Dakota Legal Services on behalf of Mrs. Josephine High Elk, a Cheyenne River Sioux. The litigation challenged the constitutionality of the Bureau's eligibility requirements governing Sioux benefits on the ground that they discriminated against plaintiff on the basis of sex and on the basis of the race or tribal affiliation of her spouse. Promulgation of the proposed regulations would resolve the pending litigation by establishing non-discriminatory criteria for determining "head of family" eligibility for Sioux benefits.

DATES: Comments on the proposed rulemaking must be received on or before February 9, 1981.

ADDRESSES: Written comments may be mailed or delivered to Barbara C. Davis, Branch of Trust Funds, Bureau of Indian Affairs, Room 4540, CODE 207, Department of the Interior, 18th & C Sts. N.W., Washington, D.C. 20240; telephone (202) 343-2963.

FOR FURTHER INFORMATION CONTACT: Sandra R. Etheridge, Division of Indian Affairs, Office of the Solicitor, Department of the Interior, Washington, D.C., 20240; telephone (202) 343-9405.

SUPPLEMENTARY INFORMATION: "Sioux benefits" are articles of farming equipment and stock, or, more commonly today, the commuted cash value of such articles, payable by the Bureau to certain Sioux Indians under the provisions of four Federal statutes—the 1889 Sioux Allotment Act (Act of March 2, 1889, c. 405, § 17, 25 Stat. 888, 895), an 1896 amendment to that act (Act of June 10, 1896, c. 398, 29 Stat. 321, 334), a 1928 statute which continued those benefits (Act of May 21, 1928, c. 662, 45 Stat. 684) and section 14 of the Indian Reorganization Act (Act of June 18, 1934, c. 576, § 14, 48 Stat. 984, 987, 25 U.S.C. 474). Under each of these statutes, only Sioux Indians who are single persons over the age of eighteen *or* heads of a family are eligible. In addition, the applicant must have received an allotment of land to be eligible for benefits under the 1889 or 1928 statutes. The 1934 law continued such benefits for unallotted Indians on the Pine Ridge, Rosebud, and Cheyenne River Reservations with provision for a gradual phase-out of such benefits.

The primary change in existing Bureau policies regarding Sioux benefits made by the proposed regulations would be with respect to revising the standards for determining whether an applicant is a "head of a family" eligible for Sioux benefits. Prior to this time, the BIA has employed a rule that a Sioux woman married to a Sioux man cannot be considered the head of a family for payment of Sioux benefits, but a Sioux woman married to a non-Sioux man could receive the benefits as the head of the family. This standard was challenged as discriminating against Sioux women on the basis of sex and on the basis of the race or tribal affiliation of their husbands. Under the Federal statutes, there is no difference in the amount of benefit payments between single adults and heads of families, and it is necessary to prove "head of family" status only if an applicant is not eligible for benefits as a single adult. Therefore, the regulations provide that all unmarried persons over the age of eighteen (including persons who are single, legally separated, divorced, or widowed) may apply as "single." Only persons under eighteen and married persons would have to prove "head of family" status as a condition of receiving the benefits. With respect to married applicants, determination of whether a person is head of a family will not turn on whether that person is the husband or wife, or whether an applicant's husband is a Sioux. Instead, either spouse can be considered the head of the family if the applicant and his or her spouse so agree. If the applicant and spouse do not agree on whether the husband or wife is the head of the family, an economic contribution test is used to determine "head of family" status. This test is also used for married applicants who are physically, but not legally, separated from their spouses and for married applicants whose spouses have previously received the benefits as head of the family. *It should be noted that the proposed regulations do allow for the possibility of a husband and wife each receiving the benefits as head of the family at different points in time and do not prevent a person from receiving Sioux benefits merely because his or her spouse has previously received the benefits either before or during their marriage.* In no case, however, can a person receive more than one payment of benefits in his or her own right, either as a single person or as a head of a family. Persons who have been denied payment of Sioux benefits under prior regulations would be allowed to reapply under the new standards.

The proposed regulations cannot be promulgated as final rules until inconsistent decisions regarding payment of Sioux benefits issued by the General Accounting Office are modified or rescinded.

The primary author of this document is John L. Saxon, formerly Attorney, Division of Indian Affairs, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

This proposed rule is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

It is proposed to amend Subchapter J of Chapter I of Title 25 of the Code of Federal Regulations by addition of a new Part as follows:

PART 115—PAYMENT OF SIOUX BENEFITS

Sec.
115.1 Scope.
115.2 Purpose.
115.3 Definitions.
115.4 Eligibility.
115.5 Application procedure.
115.6 Administration.

Authority: Act of March 2, 1889, c. 405, § 17, 25 Stat. 888, 895; Act of June 10, 1896, c. 398, 29 Stat. 321, 334; Act of May 21, 1928, c. 662, 45 Stat. 984; Act of June 18, 1934, c. 576, § 14, 48 Stat. 987, 25 U.S.C. 474; R.S. § 463, 25 U.S.C. 2; R.S. § 465, and 25 U.S.C. 9.

§ 115.1 Scope.

The regulations in this Part govern the payment of "Sioux benefits" to allotted Sioux Indians under the Act of March 2, 1889, c. 405, § 17, 25 Stat. 888, 895; the Act of June 10, 1896, c. 398, 29 Stat. 321, 334; and the Act of May 21, 1928, c. 662, 45 Stat. 984; and to unallotted Sioux Indians on the Cheyenne River Indian Reservation under the Act of June 18, 1934, c. 576, § 14, 48 Stat. 987, 25 U.S.C. 474.

§ 115.2 Purpose.

The purpose of these regulations is to implement the provisions of federal statutes which provide for the payment of "Sioux benefits" to Sioux Indians by setting forth the criteria governing eligibility for and entitlement to "Sioux benefits" and by establishing procedures governing application for and payment of "Sioux benefits."

§ 115.3 Definitions.

As used in this Part, the term—

(a) "Area Director" means the Area Director, Aberdeen Area Office, BIA, or his/her delegate.

(b) "Bureau" or "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(c) "Commissioner" means the Commissioner of Indian Affairs, BIA, or his/her delegate.

(d) "Sioux benefits" means the allotment of stock and farming equipment plus $50.00 cash as provided for by the Act of March 2, 1889, c. 405, § 17, 25 Stat. 888, 895, or its commuted cash value as provided in the Act of June 10, 1896, c. 398, 29 Stat. 321, 334.

(e) "Sioux Indian" means a member of any of the bands or tribes comprising the Sioux Nation of Indians to which the Act of March 2, 1889, c. 405, 25 Stat. 888, applied.

(f) "Single person" includes all unmarried persons (other than an unmarried person under the age of eighteen years) and any person who is legally separated, divorced, or widowed.

(g) "Head of a family" means only (1) a married person who meets the requirements of section 115.4(c)(1) or (2) (if living with his/her spouse) or section 115.4(c)(3) (if not living with his/her spouse), and (2) an unmarried person under the age of eighteen years who meets the requirements of section 115.4(c)(3).

(h) For the purpose of determining family support under sections 115.4(c)(2) and 115.4(c)(3), "family" means two or more persons (including the applicant) related by blood, through marriage, or by adoption to the applicant and who live together in the same household and are dependent upon the applicant for all or part of their support.

§ 115.4 Eligibility.

(a) Allotted Sioux Indians. The eligibility of allotted Sioux Indians for Sioux benefits is governed by the Act of March 2, 1889, c. 405, § 17, 25 Stat. 888, 895; the Act of June 10, 1896, c. 398, 29 Stat. 321, 334; and the Act of May 21, 1928, c. 662, 45 Stat. 984. The Act of June 18, 1934, c. 576, § 14, 48 Stat. 987, 25 U.S.C. 474, is inapplicable to any Sioux Indian to whom an allotment of land has been made under the provisions of the Act of May 29, 1908, c. 216, § 19, 35 Stat. 444, 451, or any prior federal statute. Under the applicable statutes, an allotted Sioux Indian is eligible for Sioux benefits if—

(1) He/she received a valid allotment of land under the provisions of the Act of May 29, 1908, c. 216, § 19, 35 Stat. 444, 451, or any prior federal statute (regardless of whether such allotment is still held by the applicant);

(2) He/she is either a single person over the age of eighteen (18) years *or* a head of a family (as provided in § 115.4(c));

(3) Where his/her allotment was taken under the provisions of the Act of May 29, 1908, 35 Stat. 444, 451, he/she has duly made application for Sioux benefits, and such application has been approved during his/her lifetime (as provided in § 115.5); *and*

(4) He/she has not previously been paid Sioux benefits in his/her own right (as provided in § 115.4(d)).

(b) Unallotted Sioux Indians. The Act of June 18, 1934, c. 576, § 14, 48 Stat. 987, 25 U.S.C. 474, applies only to Sioux Indians who, but for the provisions of section 1 of that Act, 25 U.S.C. 461, would have been eligible for an allotment of land under the provisions of the Act of May 29, 1908, c. 216, § 19, 35 Stat. 444, 451, or any prior federal statute, and have not, in fact, been allotted lands under the provisions of such federal statutes. That Act has current application only to unallotted Sioux Indians of the Cheyenne River Indian Reservation because of the proviso that the payment of Sioux benefits under that Act would continue only until such time as the lands available for allotment on each reservation as of June 18, 1934, would have been exhausted by the allotment of eighty (80) acres of land to each person receiving Sioux benefits under that Act. Under this statute, a Sioux Indian belonging to the Cheyenne River Indian Reservation is eligible for Sioux benefits if—

(1) He/she would be eligible, but for the provisions of the Act of June 18, 1934, c. 576, § 1, 48 Stat. 984, 25 U.S.C. 461, for an allotment of land under the provisions of the Act of May 29, 1908, c. 216, § 19, 35 Stat. 444, 451, or any prior federal statute, and has not been allotted lands under the provisions of such federal statutes;

(2) He/she is either a single person over the age of eighteen (18) years *or* a head of a family (as provided in § 115.4(c));

(3) He/she has duly made application for Sioux benefits and such application has been approved during his/her lifetime (as provided in § 115.5);

(4) He/she has not previously been paid Sioux benefits in his/her own right (as provided in § 115.4(d)); *and*

(5) The hypothetical allotment of 80 acres of tribal land to the applicant would not exhaust the lands available for allotment on the Cheyenne River Indian Reservation as of June 18, 1934, considering the allowance of similar hypothetical allotments to other such Indians previously receiving Sioux benefits under such Act.

(c) Head of a Family. The following criteria apply in determining head of family status under both sections 115.4(a) and 115.4(b).

(1) Except as provided in section 115.4(c)(2), when an applicant for Sioux benefits is married and living with his/her spouse, the applicant will be deemed to be a head of a family if designated as such by both the applicant and his/her spouse.

(2) When an applicant for Sioux benefits is married and living with his/her spouse, but the applicant's spouse (i) does not concur in the applicant's designation as head of the family, or (ii) has previously received Sioux benefits as head of the family which includes the applicant, the applicant will be deemed to be a head of a family if the economic contribution to the support of the family attributable to the applicant exceeds the contribution by his/her spouse for the eighteen (18) months period immediately preceding the date of the application for Sioux benefits.

(3) When an applicant for Sioux benefits is (i) unmarried, or (ii) married, but not living with his/her spouse, the applicant will be deemed to be a head of a family if the primary source of economic contribution to the support of the family is attributable to the applicant. Welfare or support payments made to the applicant by the government or his/her spouse shall be deemed attributable to the applicant.

(4) The Bureau shall not presume that a husband is a head of a family for purposes of this Part solely because of his status as a husband. The Bureau shall not presume that a wife is not a head of a family for purposes of this Part solely because of her status as a wife.

(5) The Bureau shall not presume that a Sioux woman married to a non-Sioux man is a head of a family for purposes of this Part solely because of such status. The Bureau shall not presume that a Sioux woman married to a Sioux man is not a head of a family for purposes of this Part solely because of such status.

(d) Double benefits. The prohibition against multiple payment of Sioux benefits to a person in his/her own right extends to the payment of Sioux benefits under any federal statute. However, a person will not be deemed to have received payment of Sioux benefits in his/her own right due to the fact that (1) Sioux benefits were paid to such person in his/her capacity as an heir of an Indian held to have a vested right to receive such benefits as of the date of death, or (2) Sioux benefits have previously been paid to that person's spouse or former spouse. Although the prohibition against double benefits would not preclude both spouses from receiving Sioux benefits during their marriage (assuming they both were otherwise eligible) or preclude a widowed or divorced applicant from receiving Sioux benefits merely because his/her spouse had previously received Sioux benefits, an applicant would not be able to receive Sioux benefits in his/her own right first as a single adult and again as a head of a family, or vice versa.

§ 115.5 Application procedure.

(a) Agency Superintendent. Application for Sioux benefits must be submitted to the Agency Superintendent for the reservation and shall contain such information as may be prescribed by the Bureau. Applications by unallotted Sioux Indians applying pursuant to the Act of June 18, 1934, c. 576, § 14, 48 Stat. 984, 987, 25 U.S.C. 474, or by Sioux Indians whose allotments were taken under the Act of May 29, 1908, c. 216, § 19, 35 Stat. 444, 451, must be submitted within the lifetime of the applicant. Within thirty (30) days of receipt of a completed application, the Agency Superintendent shall verify the necessary information and forward the application and relevant documentation to the Area Director along with his/her recommendation for approval or disapproval.

(b) Area Director. Within fourteen (14) days of receipt of an application from the Agency Superintendent, the Area Director shall approve or disapprove the application and notify, in writing, the applicant and the Agency Superintendent of such decision and, if denied, the reasons therefor. Failure of the Area Director to act within the specified time shall have the effect of approval of the application.

(c) Appeal. Approval of an application by the Area Director shall be final and conclusive. Disapproval of an application may be appealed to the Commissioner pursuant to the administrative review procedures of 25 CFR 2, and the Commissioner's determination shall be subject to the administrative appeal procedures of 43 CFR 4.350 *et seq.* Approval of an application on administrative appeal or pursuant to judicial review shall relate back to the date of the Area Director's decision.

(d) Prior Applications.

(1) Eligibility for Sioux Benefits will be determined by an applicant's status as of the date of application, except that where an applicant's application was disapproved prior to the promulgation of these regulations under the provisions of previous Bureau regulations or policies, the applicant may reapply and, if he/she so requests, have his/her eligibility determined based upon his/her status as of the date of such prior application, which shall be deemed to be the date of the application.

(2) Unallotted Sioux Indians of the Pine Ridge and Rosebud Reservations whose applications were submitted and disapproved prior to the termination of payment of Sioux benefits on each respective reservation may reapply for benefits under this subsection within one year of the effective date of this Part and receive payment if their eligibility under section 115.4(b) is established as of the date of such initial application.

§ 115.6 Administration.

(a) No payment of Sioux benefits may be made unless an application therefor has been made and approved as provided by federal law.

(b) Payment of Sioux benefits shall be made in accordance with a budget or plan for expenditure submitted by the applicant and approved by the Agency Superintendent.

(c) The Commissioner shall annually compute the commuted monetary value of Sioux benefits to be effective on October 1 of that year and notify the affected tribes and Bureau agencies of such determination.

(d) The Area Director shall annually notify both the Cheyenne River Sioux Tribe and the Commissioner of the number of Sioux benefits remaining available to be paid under the provisions of the Act of June 18, 1934, c. 576, § 14, 48 Stat. 987, 25 U.S.C. 474.

Thomas W. Fredericks,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 81-[illegible] Filed 1-8-81; 8:45 am]

BILLING CODE 4310-[illegible]

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Disclosure of Comments Received From Federal Agencies on the Iowa State Program Resubmitted Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Announcement of Public Disclosure of Comments on the Iowa Program Resubmission.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies, and is today announcing receipt and availability for public review of agency comments.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106, Telephone (816) 374-3920

Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319, Telephone (515) 281-5774.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone (816) 374-3920.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the permanent regulatory program resubmittd by Iowa on December 15, 1980. For the detailed background on the Iowa submission, see the following notices published in the Federal Register: March 6, 1980 (45 FR 14598–14599), April 25, 1980 (45 FR 27953–27954), June 18, 1980 (45 FR 41164–41166), October 16, 1980 (45 FR 68673–68686) and December 15, 1980 (45 FR 82276–82278). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Iowa program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following agencies were invited to comment on the Iowa program:

- Department of Agriculture: State Land Use Committee
- Advisory Council on Historic Preservation
- Department of Labor: Mine Safety & Health Administration
- Environmental Protection Agency
- Water Resources Council
- Department of Energy
- Department of the Interior: Bureau of Indian Affairs, Bureau of Land Management, Bureau of Mines, Heritage Conservation & Recreation Service, Fish & Wildlife Service, National Park Service, Geological Survey,
- Department of the Army: Corps of Engineers

Of these agencies invited to comment, OSM received comments from the Heritage Conservation and Recreation Service, which are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: January 6, 1981.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 81-670 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 936

Public Disclosure of Comments Received From Federal Agencies on the Oklahoma State Permanent Program Resubmitted Under P.L. 95-87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Disclosure of Public Comments on the Oklahoma Resubmitted Program.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106, Telephone: (816) 374-3920

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (203) 343-4728

Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521-3859

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke, Assistant Regional Director, State and Federal programs, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone (816) 374-3920.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the permanent regulatory program resubmitted by Oklahoma for his review on December 8, 1980. See the December 8, 1980, **Federal Register** (45 FR 80837-80839). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Oklahoma program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Oklahoma program:

- Department of Agriculture: Soil Conservation Service, Forest Service, Agricultural Stabilization and Conservation Service, Science and Education Administration
- Advisory Council on Historic Preservation
- Department of Labor: U.S. Mine Safety and Health Administration
- Environmental Protection Agency
- Water Resources Council
- Department of Energy
- Department of the Interior: Bureau of Indian Affairs, Bureau of Land Management, Bureau of Mines, Heritage Conservation and Recreation Service, Fish and Wildlife Service, National Park Service, Geological Survey
- U.S. Army Corps of Engineers

Of these agencies invited to comment, OSM received comments from the following offices: Environmental Protection Agency, Department of the Interior, Fish and Wildlife Service.

These comments are available for review and copying during business hours, at the locations listed above under "ADDRESSES."

Dated: January 6, 1981.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 81-671 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 430 and 431

[WH-FRL 1650-6]

Pulp, Paper, and Paperboard Builders' Paper and Board Mills Point Source Categories; Effluent limitations Guidelines, Pretreatment Standards, and new Source Performance Standards;

Correction

In FR Doc. 81-88, appearing at page 1430 in the issue for Tuesday, January 6, 1981, the comments period is incorrect. The comment period which is shown in the **Federal Register** as "February 4, 1981", should actually be "March 9, 1981".

BILLING CODE 1505-01

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Ch. V

Improving Government Regulations; Semiannual Agenda

AGENCY: Council on Environmental Quality.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda covers the two matters for which the Council has responsibility: The National Environmental Policy Act (NEPA) regulations and the National Oil and Hazardous Substances Pollution Contingency Plan.

ADDRESSES: Questions should be addressed to: C. Foster Knight, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: C. Foster Knight, (202) 395-5750.

SEMIANNUAL AGENDA OF REGULATIONS

A. National Environmental Policy Act Regulations

The Council's final regulations implementing the procedural requirements of the National Environmental Policy Act were published in Volume 43 FR page 55990, on November 29, 1978. Their effective date is July 30, 1979. The Council's NEPA regulations are published in Volume 40 Code of Federal Regulations beginning with section 1500. No revisions or amendments to these final regulations are under preparation or consideration by the Council.

B. National Oil and Hazardous Substances Pollution Contingency Plan

1. *Need For Revision*—In December, 1980, the Congress enacted the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. 96–510 (also known as "Superfund"), which requires, in section 105, that the National Contingency Plan be revised to conform with the new legislation and to contain a new section to be called the National Hazardous Substances Response Plan.

2. *Legal Basis*—Section 311(c)(2) of the Clean Water Act (33 U.S.C. Sec. 1321) requires the President to prepare and publish a National Oil and Hazardous Substances Pollution Contingency Plan. In Executive Order 11735 (August 3, 1976), the President designated the Council on Environmental Quality to carry out this responsibility. The Comprehensive Environmental Response, Compensation and Liability Act of 1980 is also the legal basis for revising the National Contingency Plan because it expressly requires, in section 105, specified revisions to the Plan.

3. *Status of the National Contingency Plan and Proposed Revisions*—The National Contingency Plan in its current form appears in 45 FR 17832 (March 19, 1980) and will be republished in Volume 40 Code of Federal Regulations beginning with section 1510.

The forthcoming revisions to the National Contingency Plan will be published, after notice and opportunity for public comment, within 180 days following enactment of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. 96–510.

Dated: January 5, 1981.

C. Foster Knight,

Acting General Counsel.

[FR Doc. 81–828 Filed 1–8–81; 8:45 am]

BILLING CODE 3125–01–M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 381

Cargo Preference—U.S.-Flag Vessels Geographical Allocation of Preference Cargoes

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Proposed new 46 CFR 381.8 interprets the phrase, "by geographical areas," in the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) by prescribing the geographical allocation of preference cargoes among the ports in the four coastal areas of the United States.

DATES: Written comments by interested persons must be received by February 9, 1981.

ADDRESS: Send the original and 5 copies of comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099–B, Department of Commerce, 14th & E Streets, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr., Secretary, Maritime Administration, Maritime Administration, Room 3099–B, 14th & E Streets, N.W., Washington, D.C. 20230, 202–377–2188.

SUPPLEMENTARY INFORMATION: The Cargo Preference Act of 1954, commonly known as P.L. 664, is incorporated in the Merchant Marine Act, 1936, as amended, as section 901(b) (46 U.S.C. 1241(b)). This Act requires Government agencies to take all necessary and practicable steps to assure that United States-flag commercial vessels shall transport at least 50 percent of the gross tonnage of ocean cargoes that the agencies or their programs generate, if such vessels are available at fair and reasonable rates, in such a manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes "by geographical areas." The proposed new regulation, 46 CFR 381.8, prescribes the geographical allocation of preference cargoes among the ports in the four coastal areas of the United States: Great Lakes, Atlantic Coast, Gulf Coast and Pacific Coast.

The Assistant Secretary of Commerce for Maritime Affairs has made a preliminary determination, pursuant to provision of Executive Order 12044 and implementing Department of Commerce and Maritime Administration procedures, that the preparation of a regulatory analysis is not required.

Accordingly, it is proposed that 46 CFR Part 381 be amended to add a new § 381.8, to read as follows:

§ 381.8 Geographical allocation of preference cargoes.

In order to insure a fair and reasonable participation of U.S.-flag commercial vessels "by geographical areas" in the carriage of cargoes, as required by the Cargo Preference Act of 1954 (46 U.S.C. 1241.(b)), the head of each agency or department having responsibility under that Act (listed in § 381.2(c)) shall prescribe regulations or formal staff instructions providing for the equitable allocation of its preference cargoes among the ports in the four coastal areas of the United States: Great Lakes, Atlantic Coast, Gulf Coast, and Pacific Coast. Each agency or department shall endeavor to make a proportional distribution of the types of cargoes in its allocations among the four coasts, commensurate with the various types of cargoes, i.e., liner, dry bulk and liquid bulk, which may be generated by the agency, its contractors or grantees, or through its programs. In no case, however, shall any coastal area receive less than 10 percent of the agency's or department's cargo. In addition to prescribing regulations or formal staff instruction, the head of each affected agency shall develop an Action Plan which will encompass: (a) the method of implementing the regulations or staff instructions; (b) projected annual cargo mix by coastal area; and, (c) the time required for the allocation of the cargoes and compliance with this regulation. Each agency or department having a responsibility under the Cargo Preference Act shall furnish a copy of its regulations or staff instructions to the Secretary, Maritime Administration, for approval not later than 60 days after the effective date of this rule and shall submit a copy of the Action Plan to the Secretary, Maritime Administration, for approval not later than 90 days after the effective date of this regulations.

(Secs. 204(b), 212(d), and 901(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1122(d), and 1241(b)). Reorganization Plans No. 21 of 1950 (64 Stat. 1237) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91–469 (84 Stat. 1036); and Department of Commerce Organization Order 10–8 (38 FR 19707, July 1973))

Dated: December 30, 1980.

By Order of the Assistant Secretary for Maritime Affairs, Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81–733 Filed 1–8–81; 8:45 am]

BILLING CODE 3510–15–M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Northern Michigan Electric Cooperative, Inc., Boyne City, Mich.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $9,000,000 to Northern Michigan Electric Cooperative, Inc. (Northern), of Boyne City, Michigan. This loan guarantee will provide financing for the purchase of a 1.28 percent undivided ownership interest in the existing Campbell Unit No. 3, a coal-fired 770 MW generation unit, and a 14.44 percent undivided ownership interest in 10 miles of 345 kV transmission line constructed by Consumers Power Company.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the project, including the engineering and economic feasibility studies and proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Clyde L. Johnson, Jr., Manager, Northern Michigan Electric Cooperative, Inc., P.O. Box 138, Boyne City, Michigan 49712.

In order to be considered, proposals must be submitted by February 9, 1981, to Mr. Johnson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals, received, as Northern Michigan Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 29th day of December 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 81–603 Filed 1–8–81; 8:45 am]

BILLING CODE 3410–15–M

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

Change of Place of Closed Board Meeting

The closed meeting of the Chrysler Corporation Loan Guarantee Board scheduled to be held on January 6, 1981 at 11:00 a.m. has been moved from Room 4426 to Room 4121, Main Treasury Building, 15th Street & Pennsylvania, N.W., Washington, D.C.

Persons desiring further information should contact Bruce D. Bolander, Secretary of the Board, at (202) 566–2278.

Dated: January 5, 1981.

Bruce D. Bolander,

Secretary of the Board.

[FR Doc. 81–698 Filed 1–8–81; 8:45 am]

BILLING CODE 4810–70–M

COMMISSION ON CIVIL RIGHTS

Florida Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 7:00 p.m., on January 23, 1981, at the Equal Employment Opportunity Commission, 300 Biscayne Blvd., Way, 4th Floor, Suite 414, Miami, Florida. The purpose of the meeting is to plan for FY 81 and followup to the Escambia Project and Miami hearings.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Ted Nichols, University of Miami, Coral Gables, Florida 33124, (305) 284–3064 or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Ave., N.E., Atlanta, Georgia 30303, (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–717 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

Hawaii Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that meeting of the Hawaii Advisory Committee to the Commission will convene at 2:00 p.m., and will end at 5:00 p.m., on January 17, 1981, at the Ala Moana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii. The purpose of the meeting is to discuss rechartering of the Advisory Committee and plan an education project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Patricia K. Putman, 1910 Ala Moana Boulevard, Honolulu, HI 96815, (808) 948–7355 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–718 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

Hawaii Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 12:00 p.m., and will end at 2:00 p.m., on January 17, 1981, at the Ala Moana Hotel, Board Room, 410 Atkinson

V 46 / 6 JA 9 81 UMI

Drive, Honolulu, Hawaii. The purpose of the meeting is for the Hawaiian Issues Subcommittee to plan followup of the State Advisory Committee report, *Breach of Trust? Native Hawaiian Homelands.*

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Patricia K. Putman, 1910 Ala Moana Boulevard, Honolulu, HI 96815, (808) 948–7355 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–719 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

Iowa Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 8:00 p.m., on January 19, 1981, at the Ramada Inn, 929 Third Street, Des Moines, Iowa 50309. On January 20, 1981, the meeting will convene at 9:00 a.m., and will end at 1:00 p.m., at the same location. The purpose of the meetings is orientation of the newly rechartered Committee and program planning for FY 81. Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Lee B. Furgerson, 1225 Stephenson Way, Des Moines, Iowa 50307, (515) 245–4848 or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Managment Officer.

[FR Doc. 81–720 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

Kentucky Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 12:00 p.m., and will end at 4:00 p.m., on January 27, 1981, at the Executive Inn, 978 Phillips Lane, Crown Room, Louisville, Kentucky 40213. The purpose of the meeting is orientation of the newly rechartered Committee, and update on CDBG study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. James M. Rosenblum, 33 Ten Broeck Way, Louisville, Kentucky 40222, (502) 426–8000 or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue NE., Atlanta, Georgia 30303, (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–721 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

Maryland Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 6:30 p.m., and will end at 9:30 p.m., on January 21, 1981 at the Thomas Hunter Lowe Office Building, 6 Bladen Blvd., Room 212, Annapolis, Maryland. The purpose of the meeting is to discuss the Maryland Statewide Conference Report and to discuss plans for followup to the Conference. Reports of Subcommittee activity for Administration of Justice will also be discussed.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Newton I. Steers, Jr., 6601 River Road, Bethesda, Maryland 20034, (301) 320–5820 or the Mid-Atlantic Regional Office, 2120 L Street, NW., Suite 510, Washington, D.C. 20036, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–722 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

Massachusetts Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 2:30 p.m., and will end at 5:00 p.m., on February 3, 1981, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110. The purpose of the meeting is a press conference releasing the Committee's report on the status of civil rights in Massachusetts and discussion of affirmative action reports.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Bradford E. Brown, 17 Roberta Jean Circle, P.O. Box 95, E. Falmouth, Massachusetts 02536, (617) 548–5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–723 Filed 1–8–81; 8:45 am]

BILLING CODE 6335–01–M

New Mexico Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 2:00 p.m., and will end at 4:00 p.m., on January 26, 1981, at the AMFAC Hotel, 2910 Yale Blvd., Albuquerque, New Mexico 87119. The purpose of the meeting is to discuss planning for energy project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Hon. Roberto A. Mondradon, Lt. Governor's Office, State Capitol, Room 425, Santa Fe, New Mexico 87503, (505) 827–2513 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229.5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81-724 Filed 1-8-81; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 10:00 p.m., on January 28, 1981, at the Netherland Hilton Hotel, 5th and Race Streets, Cincinnati, Ohio 45201. On January 29, 1981, the meeting will convene at 10:00 a.m., and will end at 1:00 p.m., at the same location. The purpose of the meetings is Committee briefing and Press Conference to release the Police/Community Relations Report.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Henrietta H. Looman, 1222 Woodland Avenue, N.W., Canton, Ohio 44703, (216) 454-2278 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81-725 Filed 1-8-81; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 2:00 p.m., and will end at 5:30 p.m., on January 30, 1981, at the Ramada Inn, 160 Union Avenue, Levee Room, Memphis, Tennessee 38103. The purpose of the meeting is to report progress on the Knoxville Affirmative Action report, and discuss program planning for FY 81.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Samuel B. Kyles, 704 S. Parkway East, Memphis, Tennessee 38106, (901) 946-2529 or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N. E., Atlanta, Georgia 30303, (404) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81-730 Filed 1-8-81; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:30 p.m., and will end at 9:30 p.m., on January 15, 1981, at Howard Johnson's Motor Lodge, Room 1311, 122 W. South Temple Street, Salt Lake City, Utah. The purpose of the meeting is to discuss the current project on Affirmative Action in the energy industry.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. John Florez, OEO, University of Utah, 207 Park Building, Salt Lake City, UT 84112, (801) 581-6365 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81-727 Filed 1-8-81; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on January 28, 1981, at the Vermont Federal Savings and Loan Association, Friendship Room, 99 State Street (Rear Door), Montpelier, Vermont. The purpose of this meeting is discussion of program planning and the report on the status of civil rights in Vermont.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Philip H. Hoff, 192 College Street, Hoff, Wilson & Po, Burlington, Vermont 05401, (802) 658-4300 or the Northeastern Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81-726 Filed 1-8-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Laboratory Accreditation Criteria; Committee for Freshly Mixed Field Concrete

AGENCY: Department of Commerce, Office of the Assistant Secretary for Productivity, Technology and Innovation.

ACTION: Notice of termination.

SUMMARY: The Committee has concluded its work. The results are reflected in the criteria that were established for accrediting laboratories that test freshly mixed field concrete in a **Federal Register** notice of final criteria dated January 23, 1980 (45 FR 5572-5600).

SUPPLEMENTARY INFORMATION: The National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete was established in 1978 under the procedures of the National Voluntary Laboratory Accreditation Program, and in accord with the Federal Advisory Committee Act. The committee developed and recommended to the Secretary of Commerce criteria for accreditation of laboratories that test freshly mixed field concrete; evaluated public comment derived from publication of proposed criteria, and recommended to the Secretary appropriate actions covering such criteria.

EFFECTIVE DATE: The effective date of termination is December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard L. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, telephone (202) 377-3221, or the Department's Committee Management Analyst, Mrs. Yvonne Barnes, telephone (202) 377-4217.

Dated: December 31, 1980.

David Nathan,

Assistant Secretary for Administration.

[FR Doc. 81-718 Filed 1-8-81; 8:45 am]

BILLING CODE 3510-17-M

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: February 3, 1981, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA: General Session:

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Planning for the 1982 International List Review.
(4) Discussion on use of a standardized Department of Commerce specification sheet.
(5) Briefing on calibration equipment trends.
(6) Discussion on U.S. unilateral controlled items.
(7) New Business.

Executive Session.

(8) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 18, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94.409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce telephone: 202-377-4217.

For further information or copies of the minutes contact: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: January 2, 1981.

Saul Padwo,

Director of Licensing.

[FR Doc. 81-710 Filed 1-8-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Tanker Construction Program; Determination by Maritime Subsidy Board That Neither a New Nor a Supplemental Environmental Impact Statement for the Tanker Construction Program Is Required; Application by Chestnut Shipping Company

The Maritime Subsidy Board (the Board) has received an application from Chestnut Shipping Company (Chestnut) for construction-differential subsidy (CDS) to aid in retrofitting two tankers, designated MA Hulls 316 and 317, MarAd Design T8-S-100b, to comply with requirements for pollution prevention established by the Port and Tanker Safety Act of 1978. The Board has reviewed the application and has determined that the environmental impact of constructing such vessels, which can be categorized as intermediate size vessels, has already been adequately covered in the Environmental Impact Statement for the Tanker Construction Program (EIS) which was published on May 30, 1973, and adopted by the Maritime Administration/Maritime Subsidy Board in Docket No. A-75 on August 30, 1973.

A paper discussing the basis for the Board's decision, and copies of the EIS and Docket No. A-75, are available for public inspection in the Office of the Secretary, Room 3099-B, Maritime Administration, Department of Commerce Building, 14th & E Sts., NW, Washington, DC 20230.

(Catalog of the Federal Domestic Assistance Program 11.500.

Dated: December 17, 1980.

By Order of the Maritime Subsidy Board/Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-692 Filed 1-8-81; 8:45 am]

BILLING CODE 3510-15-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate three San Francisco Region projects for a twelve month period beginning May 1, 1981. The aggregate total cost of the projects is $687,000.

Funding Instrument: It is anticipated that the funding instruments, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be grants.

Program Description: The General Business Program (GBS) of the Minority Business Development Agency (MBDA) provides technical assistance to minority businesspersons and firms for the purpose of improving their stability by increasing their managment and marketing capabilities. MBDA offers competitive grants to consulting firms (either non-profit or commercial entities). These firms must be capable of providing such services as:

—Preparation of business plans;
—Financial packaging;
—Industrial management assistance;
—Personnel Management services;
—Marketing planning;

and a broad range of other business services excluding legal services.

Applications are invited for the following four projects:

1. One grant for management and technical assistance project to operate in the Portland, Oregon and Washington SMSA in Multnomah, Clackamas, and Washington Counties of Oregon and Clark County in Washington. The project will operate at a cost not to exceed $110,000. The Project I.D. Number is 10-10-80013-01.

2. One grant for a management and technical assistance project to operate in the Santa Barbara-Santa Maria-Lompoc and Oxnard-Simi Valley-Ventura SMSAs in Santa Barbara and Ventura counties of California. The project will operate at a cost not to exceed $220,000. The Project I.D. Number is 09-10-80014-01.

3. One grant for a management and technical assistance project to operate in the Anaheim-Santa Ana-Garden Grove SMSA in Orange County, California. The project will operate at a cost not to exceed $357,000. The Project I.D. Number is 09-10-80015-01.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for these projects may be requested by writing the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 450 Golden Gate Avenue, Box 36014, San Francisco, California 94102.

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, educational institutions, hospitals, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of February 11, 1981. Applications received after this date will not be considered.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

(This program is not subject to the requirements of OMB Circular A-95)

Dated: December 31, 1980.

R. V. Romero,

Regional Director.

[FR Doc. 81-824 Filed 1-8-81; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency, San Francisco Region, announces a correction in its announcement appearing in the **Federal Register** on November 28, 1980, Volume 45, No. 231, page 79134. Under the paragraph headed "Closing Date", the final sentence should read: Applications received after January 15, 1981 will not be considered.

Dated: December 31, 1980.

R. V. Romero,

Regional Director.

[FR Doc. 81-825 Filed 1-8-81; 8:45 am]

BILLING CODE 3510-21-M

Office of the Secretary

Definition of Aerospace Industry Materials Needs; Invitation for Expression of Public and Private Sector Materials Needs and Recommendations for Federal Action

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation.

ACTION: Solicitation of written comment from the public and private sector and notice of public workshop to review these public and private sector views.

SUMMARY: In Section 5(C) of the Materials and Minerals Policy, Research and Development Act of 1980, Pub. L. 96-479, the Secretary of Commerce, in consultation with the Federal Emergency Management Agency, the Secretaries of Interior and Defense, and the Director of the Central Intelligence Agency, is directed to report to the Congress before October 21, 1981, on critical materials needs in a specific case related to national security, economic well-being and industrial production.

As used in the Act, the term "materials" means substances, including minerals, of current or potential use that will be needed to supply the military, industrial and essential civilian needs of the United States in the production of goods or services, particularly those which are primarily imported or for which there is a prospect of shortages or uncertain supply, with the exclusion of food and of energy fuels used as such.

The Department is considering the aerospace industry as a focus for the first study and has begun to examine anticipated materials used in the aerospace industry. An early goal is to select at least three to five selected materials for detailed study of industry needs, anticipated supplies, and the implications of severe shortages or supply interruptions. Using several alternative scenarios, the study will estimate the industrial demand for several selected materials. These demands will be compared with total world supply/demand estimates for the selected materials in order to support analyses of the national security, economic, and industrial production implications of anticipated supply/demand disparities.

The Department, by this Notice, is soliciting information from affected individuals and organizations supporting identification of (1) the particular materials to be examined and (2) the current or anticipated problems with these materials. Suggestions for corrective action will also be appreciated.

Written statements should be addressed to Dr. John B. Wachtman, Jr., National Bureau of Standards, Materials Building B308, Washington, D.C. 20234 for receipt by February 5, 1981.

On February 9-10, 1981, the Department of Commerce will hold a Workshop that will be conducted by John B. Wachtman, Jr., of the National Bureau of Standards, Philip Goodman of the Office of Productivity, Technology and Innovation and James Owens of the Bureau of Industrial Economics. Various Departmental activities in the critical materials area are being coordinated with Pub. L. 96-479 responsibilities through a Task Force under the Chairmanship of Jordan J. Baruch: John B. Wachtman, Jr., Vice Chairman; James Owens; Philip Goodman; Antonio Macone, Office of Commodity Policy; Leon Karadbil, Office of Industrial Mobilization; Candice Stevens, Office of Policy; and Robert B. Ellert, Office of the General Counsel. The members of this Task Force will also participate in the Workshop. This Workshop will consist of summary presentations of responses to the above questions by the institutions submitting them, followed by a general discussion. This Workshop will take place in the Green Auditorium of the National Bureau of Standards, in Gaithersburg, Maryland beginning at 9:00 a.m. both days and ending no later than 4:00 p.m. on February 10th.

SUPPLEMENTARY INFORMATION: All major critical materials needs areas of the aerospace industry will be open for discussion:

(1) Supplies of, and requirements for, raw and bulk materials;

(2) Supplies of, and requirements for, specifically engineered materials and forms, including special parts; and

(3) The development of substitute materials including advanced highly engineered materials.

Among the concerns that will be addressed are:

(1) Anticipated requirements in the foreseeable future;

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(2) Current or anticipated difficulties in obtaining materials in any form;

(3) Prospects for, and implication of, fluctuations in demand, supply, and prices;

(4) Timely availability of processed materials and parts; and

(5) Other materials issues of prime concern to the aerospace industry.

The materials finally chosen for detailed study will be specific and should typify the full range of materials needs of the industry. For example, possible specific materials for close examination might include the following:

(1) Cobalt, as a raw material on which the U.S. is import dependent;

(2) Titanium forgings, as a special processing capacity need; and

(3) Rapidly-solidified alloys, as a promising route to both conservation of materials or increased performance.

Public and private sector views are also solicited on recommended actions to deal with aerospace materials problems such as:

(1) improvement in materials production base;

(2) stockpiling, both public and private;

(3) Federal emergency allocation procedures;

(4) improvement of capacity for airframes, engines, and components;

(5) expanded conservation and recycling of materials; and

(6) improved research and development of new materials both for subsitution and for higher performance.

All written comments that are furnished in response to this invitation will be available for inspection and copying prior to the workshop in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

Signed: January 6, 1981.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 81-730 Filed 1-8-81; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 6, 1981.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will meet on January 29 and 30, 1981 at the Headquarters Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio. The purpose of the meeting is to review the progress of the logistics-oriented Scientific Advisory Board Ad Hoc Committees and determine the Panel's plan of action for the next eighteen months. The Panel will meet from 8:00 a.m. to 4:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-820 Filed 1-8-81; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Strategy Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on January 26-27, 1981, from 8:00 a.m. to 5:00 p.m. each day, at the American Embassy, Tokyo, Japan, and Headquarters, Commander U.S. Naval Forces Japan, Yokosuka, Japan. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions on the nature of collective security in the Pacific and Indian Ocean, centering around the most sensitive intelligence information available on the military and political situation in the area. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander Catherine E. Becker, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Phone (703) 756-1205.

Dated: January 6, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-737 Filed 1-8-81; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session 12-13 February 1981 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for 12-13 February 1981 to discuss interim finidngs and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with 5 U.S.C. App. I section 10(d) (1976), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. section 552b(c) (1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 6, 1981.

[FR Doc. 81-672 Filed 1-8-81; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policies, Practices, and Programs, Civil Rights and WEEA Program Committees. This notice also

describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: January 26, 1981, 8:00 a.m. to 5:00 p.m.; and January 27, 1981, 8:30 a.m. to 4:30 p.m.

ADDRESS: From 4:30 p.m. to 5:00 p.m. on January 26 and from 3:00 p.m. to 4:30 p.m. on January 27, 1981, meetings will be held in the National Institute of Education Conference Room at 1200 19th Street, N.W., Room 823 of the Brown Building. All other meetings of the Council will be held in the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Dauito, Administrative Assistant, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., Suite 821, Washington, D.C. 20036 (202) 653-5846.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95-561. The Council is mandated to (a) advise the Secretary on matters relating to equal educational opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with resepct to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee will take place on January 26, 1981 from 8:00 a.m. to 9:30 a.m. The agenda will include plans for the Council meeting as well as a discussion of current activities and future plans.

The meeting of the Federal Policies, Practices, and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on January 26, 1981 from 10:30 a.m. to 4:30 p.m.

The agenda for the Federal Policies, Practices, and Programs Committee will include a discussion of the Council's Congressional testimony on sex equity provisions in the Vocational Education Act, and discussion of a joint forum with the National Advisory Council on Vocational Education on implications of the sex equity report for reauthorization.

The agenda for the Civil Rights Committee will include discussion of the Council's study on alternatives to Federal assistance terminations as a sanction for certain types of Title IX violations, education initiatives relating to Title IX of the 1972 Education Amendments, and new priorities for 1981.

The agenda for the Program Committee will include a review of evaluation plan for FY '80, review of "Guidelines for Participation" in evaluation activities by Council members, review of framework for WEEAP product matrix, and a status report from the WEEAP Director.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 9:30 a.m. to 10:30 p.m. on January 26 and from 8:30 a.m. to 2:45 p.m. on January 27, 1981. The agenda will include reports of the Executive Director and the Women's Educational Equity Act Program, action on recommendations from the Council's Standing Committees, and plans for future Council meetings.

At 4:30 p.m. on January 26, there will be a swearing-in ceremony for newly appointed Council members in Room 823 of the National Institute of Education's Brown Building at 1200 19th Street N.W. On January 27, from 3:00 p.m. to 4:30 p.m. a panel of community organization representatives will discuss women's equity needs and programs. This panel will also meet in Room 823 of the Brown Building.

The meetings of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., Suite 821, Washington, D.C.

Signed at Washington, D.C., on January 6, 1981.

Joy R. Simonson,

Executive Director.

[FR Doc. 81-673 Filed 1-8-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Aluminum Company of America (Alcoa); Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Charles L. Croxton, Program Manager for Natural Gas Liquids, Program Operations Division, Office of Enforcement, 2000 M Street, N.W., Room 5204, Washington, D.C. 20461 (202) 653-3541.

SUPPLEMENTARY INFORMATION: On July 18, 1979, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Aluminum Company of America, (ACA) of Point Comfort, Texas on June 18, 1979, which will not become effective sooner than 30 days after publication, 44 Fed. Reg. 41908 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by ACA pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

A second notice was published in the **Federal Register**, 44 Fed. Reg. 67210 (1979), which stated that no comments were received and therefore the proposed Consent Order was finalized.

Pursuant to the Consent Order, ACA refunded the sum of $1,100,000 by Certified check made payable to the United States Department of Energy. This sum was received by DOE and has been placed into a suitable account pending determination of its proper distribution.

The following claim was submitted to the ERA: Tenneco Oil.

Action Taken: The ERA is unable readily to identify the persons entitled to receive the $1,100,000 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 15, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 18th day of December, 1980.

Robert Gerring,

Director, Program Operations Division.

[FR Doc. 81-709 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Kern County Refinery, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: October 7, 1980.

Comments by: February 9, 1981.

ADDRESS: Send comments to: Lon W. Smith, District Manager of Enforcement, U.S. Department of Energy, 333 Market Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Lon W. Smith, District Manager of Enforcement, U.S. Department of Energy, 333 Market Street, San Francisco, California 94105, Telephone (415) 764-7038.

SUPPLEMENTARY INFORMATION: On October 7, 1980, the Office of Enforcement of the ERA executed a Consent Order with Kern County Refinery, Inc., of Bakersfield, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Kern County Refinery, Inc. ("Kern"), with its home office located in Bakersfield, California, is a firm engaged in the refining and marketing of refined petroleum products, including motor gasoline, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Kern, the Office of Enforcement, ERA, and Kern entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was March and April, 1979. The audit was conducted to determine Kern's compliance with the petroleum allocation regulations, for motor gasoline.

2. Previously, ERA had alleged that Kern had violated the Mandatory Petroleum Allocation Reglations by:

(a) Failing to supply certain of its base-period customers with their adjusted base-period allocations of motor gasoline, while supplying nonbase-period customers;

(b) Failing to report proper allocation fractions to the ERA and Kern's customers;

(c) Failing to report available surplus product to the ERA prior to distributing the purportedly surplus product at its discretion; and

(d) Failing to follow normal business practices in its allocation of product.

3. Kern, without admitting that it had violated any regulations, voluntarily entered into this Consent Order as a means of settling this dispute with the DOE, thus permitting it to avoid the expense of protracted litigation.

4. In the Consent Order, Kern agreed to:

(a) Offer to deliver the product to each base-period purchaser in accordance with its normal business practices, including delivery locations;

(b) File the Prime Supplier's Monthly Report, form EIA-25, each month for each state, in accordance with 10 CFR 211.17(b) and 10 CFR 211.222;

(c) Compute its monthly allocation fraction in accordance with 10 CFR 211.10;

(d) File surplus product reports in accordance with 10 CFR 210.10(g), regardless of whether or not any of its product constitutes prime supply; and

(e) Pay $18,000 in a compromise settlement of civil penalties.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to: U.S. Department of Energy, Lon W. Smith, District Manager of Enforcement, 333 Market Street, San Francisco, CA 94105. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 764-7038.

You should indentify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Kern County Refining, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on February 9, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco on the 30th day of December 1980.

Lon W. Smith,

District Manager, Office of Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 81-710 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Sid Richardson Carbon and Gasoline Co. and Richardson Products Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Charles L. Croxton, Program Manager for Natural Gas Liquids, Program Operations Division, Office of Enforcement, 2000 M Street NW., Room 5204, Washington, D.C. 20461, (202) 653-3541.

SUPPLEMENTARY INFORMATION: On October 4, 1979, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Sid Richardson Carbon and Gasoline Co. and Richardson Products Co., (SRC), of Fort Worth, Texas on August 31, 1979, which would not become effective sooner than 30 days after publication, 44 FR 57148 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by SRC pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA. Although interested persons were invited to submit comments regarding the proposed Consent Order to the DOE, no comments were received. The proposed Consent Order was therefore finalized, 44 FR 66656 (1979).

Pursuant to the Consent Order, SRC refunded the sum of $1,100,000 by certified check made payable to the United States Department of Energy on November 29, 1979. This sum has been placed into a suitable account pending determination of proper distribution.

The following persons submitted claims to the ERA:

Diamond Shamrock Corporation
McCulloch Gas Processing Corporation

Action Taken: The ERA is unable readily to identify the persons entitled to receive the $1,100,000 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 15, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 105.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the day 18th day of December, 1980.

Robert Gerring,

Director, Program Operations Division.

[FR Doc. 81-711 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Westland Oil Development Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 23, 1980.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461, Telephone Number (202) 653-3517.

SUPPLEMENTARY INFORMATION: On October 2, 1980, the Office Enforcement of the ERA published notification in the **Federal Register** that it executed a Consent Order with Westland Oil Development Corporation (Westland) of Houston, Texas on June 23, 1980, 45 FR 65280 (1980). Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by Westland pursuant to the Consent Order were requested to submit notice of their claims to the ERA.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order, therefore, was issued as signed.

Pursuant to the Consent Order, Westland is refunding the sum of $2,634,189.09 by certified checks made payable to the United States Department of Energy in four equal installments at ninety day intervals. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution.

The ERA received no claims to the refunds.

Action Taken: The ERA is unable readily to identify the persons entitled to receive the $2,634,189.09 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 23, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, DC on the 31th day of December, 1980.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-712 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

LaGloria Oil & Gas Co., a Wholly Owned Subsidiary of Texas Eastern Transmission Corp.; Action Taken on Consent Order

Pursuant to 10 C.F.R. § 205.199(J), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 C.F.R. § 205.199(c), no Consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits public comments with respect to its terms.

On November 18, 1980, ERA published a notice of a proposed Consent Order which was executed between LaGloria Oil and Gas Company and the DOE (45 F.R. 76224, November 18, 1980). With that notice, and in accordance with 10 C.F.R. § 205.199(J), ERA invited interested persons to comment on the proposed Consent Order. Also, in that notice, and in accordance with 10 C.F.R. Section 205,283, interested parties who believe that they have a claim to all or a portion of the refund were instructed to provide notification to ERA.

Four parties submitted written notification of claims and one of these parties submitted a comment on the terms and conditions of the Consent Order. ERA has concluded that the Consent Order as executed between the DOE and LaGloria Oil and Gas Company is an appropriate resolution of the compliance proceedings described in the Notice published November 18, 1980, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on February 9, 1981.

Issued in Dallas, Texas, this 22nd day of December, 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-662 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

McFarland Energy, Inc.; Notice of Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 19, 1980.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street NW., Washington, D.C. 20461, Telephone Number (202) 653-3517.

SUPPLEMENTARY INFORMATION: On August 13, 1979, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a Consent Order with McFarland Energy, Inc., (MEI) of Los Angeles County, California on July 16, 1979, 44 Fed. Reg. 47397, August 13, 1979). Interested persons were invited to submit comments concerning the terms.

conditions or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by MEI pursuant to the Consent Order were requested to submit notice of their claims to the ERA.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order, therefore, was not modified.

Pursuant to the Consent Order, MEI refunded the sum of $265,000 plus interest (a total of $353,131.99) by certified checks made payable to the United States Department of Energy. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution.

The following persons submitted claims to the ERA: Mr. W. L. Theisen, Golden Eagle Refining Co., Inc.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the $353,131.99 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 19, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 5th day of January, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-863 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Quintin Little Co.; Notice of Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 23, 1980.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street NW., Washington, D.C. 20461, Telephone Number (202) 653-3517.

SUPPLEMENTARY INFORMATION: On April 8, 1980, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Quintin Little Company (QLC) of Ardmore, Oklahoma on March 7, 1980, which would not become effective sooner than 30 days after publication (45 FR 23719, April 8, 1980). Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by QLC pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

A second notice was published in the **Federal Register** (45 FR 36112, May 29, 1980), which stated that no comments were received and therefore, the proposed Consent Order was finalized.

Pursuant to the Consent Order, QLC is refunding the sum of $1,700,000 by certified checks made payable to the United States Department of Energy in 24 monthly installments. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution.

The following persons submitted claims: Koch Industries, Defense Logistics Agency.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the $1,700,000 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 23, 1980 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington on the 5th day of January, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-864 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Union Texas Petroleum Corp.; Notice of Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: December 23, 1980.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street NW., Washington, D.C. 20461, Telephone No. (202) 653-3517.

SUPPLEMENTARY INFORMATION: On April 1, 1980, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Union Texas Petroleum Corporation (UTP) of Houston, Texas on March 6, 1980, which would not become effective sooner than 30 days after publication, 45 FR 21340 (1980). Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by UTP pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

A second notice was published in the **Federal Register**, 45 FR 36119 (1980), which stated that no objections to the Consent Order were received and, therefore, the proposed Consent Order was finalized.

Pursuant to the Consent Order, UTP refunded the sum of $2,100,000 by certified check made payable to the United States Department of Energy on June 14, 1980. This sum received by DOE has been placed into a suitable account pending determination of its proper distribution.

The following persons submitted claims: Cities Services Company, Defense Logistics Agency, Mobil Oil Corporation, Koch Industries.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to received the $2,100,000 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on December 23, 1980 to implement Special

Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the indentity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, DC on the 31th day of December, 1980.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-805 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research Conservation Panel of the Energy Research Advisory Board; Notice of Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770)

Date and time: January 23, 1981, 9:00 am to 5:00 pm

Place: Department of Energy, Forrestal Building, Room 6E-069, 1000 Independence Avenue SW., Washington, D.C. 20585

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F-032, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252-8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department

Tentative agenda:

—Receive and act on draft report from Advanced Conservation Technologies Subpanel

—Consideration of establishment of Industrial Conservation Subpanel

—Discussion and consideration of possible Conservation Panel report

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 am and 4:00 pm Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on January 5, 1981.

N. D. Pewitt,

Deputy Director, Office of Energy Research.

[FR Doc. 81-806 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP81-20-000]

U-T Offshore System; Order Accepting Proposed Tariff Sheets for Filing and Establishing Hearing Procedures

Issued December 31, 1980.

On December 1, 1980, the U-T Offshore System (U-TOS) filed revised tariff sheets[1] which contain proposed rate changes designed to decrease annual revenues from jurisdictional transportation services by $610,000. Such proposed rates are based on actual costs for the twelve months ended August 31, 1980, as adjusted for known and measurable changes expected through December 31, 1980. The pipeline proposed an effective date of January 1, 1981.

Such decrease in proposed rates is primarily due to a reduction in rate base due to an increase in depreciation reserve and a request by U-TOS for a change in its method of determining depreciation expense from a straight-line rate to a unit of production method. Offsetting the decrease in depreciation expense are proposed increases in operating costs and cost of capital. U-TOS claims an overall rate of return of 11.5% which yields a return of 17.0% on common equity capital, comprising 33.29% of its total capitalization.

U-TOS indicates that this filing is filed pursuant to Section 4 of the Natural Gas Act and in compliance with the condition in Ordering Paragraph (B) of the Commission's Order of March 7, 1978, in Docket No. CP76-118. For the reasons set forth below, we shall treat this filing as in compliance with the March 7, 1978 order.

On March 7, 1978, the Commission amended the pipeline's certificate of public convenience and necessity to provide for an interim transportation rate for the subject transportation services. The Commission further directed in its March 7, 1978, order that:

> Additionally, U-TOS shall submit a cost of service study every two years to justify its then existing rates or to provide a basis for a rate change. The first such study shall be submitted on or before March 31, 1981. Any changes found to be necessary shall become effective the first day of the year in which the cost study is submitted.[2]

Since the time period covered by the instant rate filing, with a proposed effective date of January 1, 1981, would be the same time period covered by the required biennial cost study, it is appropriate to accept the proposed tariff sheets for filing as being in compliance with the Commission's March 7, 1978, order in Docket No. CP76-118, and permit them to become effective as of January 1, 1981, as provided below.

Based upon a review of U-TOS's filing the Commission finds that the proposed tariff sheets have not been justified. Accordingly, the Commission shall accept U-TOS's filing, to become effective on January 1, 1981, *Provided; however;* that pursuant to the certificate condition set forth in the March 7, 1978, order, as set forth above, any changes found to be necessary in such rates shall become effective as of January 1, 1981. Should any refunds be necessary, the amount to be refunded shall include interest at the rate prescribed in Section 154.67 of the Regulations.

The Commission Orders:

(a) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the lawfulness of the changed rates proposed by U-TOS.

(B) Pending hearing and decision, U-TOS' proposed Tariff Sheets are accepted for filing and the sheets may become effective as of January 1, 1981. *Provided; however;* that any change found necessary pursuant to the certificate condition imposed by the Commission in Docket No. CP76-118 in the March 7, 1978, order, shall become effective as of January 1, 1981. Should any refunds be necessary, the amount to be refunded shall include interest at the rate prescribed in section 154.67 of the Regulations.

(C) The Commission Staff shall prepare and serve top sheets on all parties on or before April 1, 1981.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room of the

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[1] Third Revised Sheet No. 4, First Revised Sheet No. 6 and Second Revised Sheet No. 7 to its FERC Original Volume No. 1.

[2] *U-T Offshore System,* "Order Denying Rehearing and Amending Certificate of Public Convenience and Necessity," Docket No. CP76-118, (issued March 7, 1978).

Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the Rules of Practice and Procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-966 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-11-000 (PGA81-1, IPR81-1, LFUT81-1)]

United Gas Pipe Line Co.; Order Accepting Tariff Sheets for Filing, Subject to Conditions, Suspending Effective Date, and Consolidating Instant Docket With Proceedings in Docket No. TA80-2-11, et al.

Issued December 31, 1980.

On December 1, 1980, United Gas Pipe Line Company (United) filed a rate increase reflecting (1) a 15.5 cents per Mcf increase in the cost of purchase gas, (2) an increase of .14 cents per Mcf in the Louisiana First Use Tax surcharge and (3) an increase of 38.0 cents per Mcf in the demand portion of the deferred surcharge and an increase of 5.41 cents per Mcf in the commodity portion of the deferred surcharge.[1] United proposes an effective date of January 1, 1981.

United's filing does not provide the calculations required by § 282.602 of the Commission's Regulations, which requires that the monthly debit and credit entries to Accounts 192.1, 192.2, and 805.2 must be submitted when filing a reduced PGA rate under the incremental pricing provisions of the Natural Gas Policy Act. In addition, the filing does not provide the monthly adjustments for the Louisiana First Use Tax surcharge adjustment balance in Account 186. In order to comply with the Commission's Regulations, United must provide this information and acceptance of its filing shall be subject to the condition that the information be provided.

On May 30, 1980, United filed a PGA rate increase in Docket No. TA80-2-11 (PGA80-2, IPR80-2 and LFUT80-2) which was suspended by the Commission order issued June 30, 1980, as the Commission was unable to determine the propriety of amounts United included in its Unrecovered Purchase Gas Cost Account. Review of United's filing in the instant docket reveals that United has used the same methodology in the preparation of Account 191 as in the aforementioned suspended PGA rate filing.

Therefore, based upon review of United's filing the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. The Commission shall accept United's tariff sheets for filing, and suspend the effectiveness such that the rates will go into effect on January 1, 1981, subject to refund, and subject to Commission action in the proceedings in Docket No. TA80-2-11 (PGA80-2, IPR80-2 and LFUT80-2). The Commission grants waiver of the notice requirements in order to allow the rates to be effective January 1, 1981.

In a number of suspension orders,[2] the Commission has addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of the other statutory standards. It has been acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. A rate change filed is pursuant to Commission authorized tracking authority is the type of circumstance which justifies a shortened suspension period. Accordingly, we believe we should exercise our discretion to suspend the rate, but permit the rate to take effect January 1, 1981, subject to refund, and subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

United's filing includes increases pursuant to area rate clauses in its contracts with producers. The Commission's acceptance of this filing shall not constitute a determination that any or all of the area rate clauses permit NGPA prices. Should it ultimately be determined—in accordance with the procedures prescribed in Order No. 23, as amended by subsequent orders in Docket No. RM79-22—that a producer is not entitled to an NGPA price under an area rate clause, the refunds made by the producer to United shall be flowed through to the ratepayers in accordance with the procedures prescribed in United's PGA clause.

The Commission Orders:

(A) United's proposed tariff sheets are accepted for filing and suspended and waiver is granted of the notice requirements such that the rates may become effective January 1, 1981, subject to refund, and subject to the outcome of the proceedings in Docket No. TA80-2-11 (PGA80-2, IPR80-2 and LFUT80-2).

(B) Acceptance of United's tariff sheets is conditioned upon the filing, within 15 days, of calculations showing the monthly debits and credits to Accounts 192.1, 192.2, and 805.2 and the monthly surcharge adjustments for the Louisiana First Use Tax surcharge adjustment in Account 186.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-967 Filed 1-8-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-1722-4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of December 29, 1980 to January 2, 1981.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from January 9, 1981 and will end on February 23, 1981. The 30-day review period for final EIS's as calculated from January 9, 1981 will end on February 9, 1981.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

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[1] Substitute Revised Fifty-Second Revised Sheet No. 4, Second Revised Sheets No. 4-A and 4-B and Substitute First Revised Sheet No. 4-C to FERC Gas Tariff, First Revised Volume No. 1.

[2] *E.g., Valley Gas Transmission, Inc.,* Docket No. RP80-98 (August 22, 1980) (1 day suspension); *Great Lakes Gas Transmission Co.,* Docket No. RP80-134 (September 24, 1980) (5 month suspension).

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558–8270.

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of December 29, 1980 to January 2, 1981. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 (202) 245–3006.

Dated: January 5, 1981.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250 (202) 447–3965.

Draft

PANDORA MOTH MANAGEMENT PLAN, KAIBAB NATIONAL FOREST: Coconino County, Ariz., December 29: Proposed is a management plan for the suppression of the pandora moth infestation of ponderosa pine around Jacob Lake within the Kaibab National Forest, Coconino County, Ariz. The alternatives considered are: (1) Pilot project utilizing acephate, (2) pilot project utilizing permethrin, and (3) no action. (USDA–FS–DEIS–03–07–81–1) (EIS Order No. 800994).

Draft

TAOS SKI VALLEY MASTER DEVELOPMENT PLAN, CARSON NATIONAL FOREST: Taos County, N. Mex., December 29: Proposed is a master development plan for the Taos Ski Valley within the Carson National Forest, Taos County, N. Mex. The preferred alternative would involve: (1) Additional chair lifts, (2) 69 acres of new ski trails, (3) a snowmaking operation, (4) construction of the up-mountain restaurant, (5) expansion of parking facilities, (6) skier limit of 4,800 per day, and (7) expansion of the east and west boundaries. Six Phasing alternatives for up-mountain development and four for parking and transportation development are considered. (EIS Order No. 800995)

EXTENSION: The review period for the above EIS has been extended until March 9, 1981. (No. 800995).

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, (202) 272–0121.

Draft

MONROE HARBOR DIKED DISPOSAL AREA: Monroe County, Mich., December 31: Proposed is the construction of a diked disposal facility for Monroe Harbor within the Sterling State Park, Monroe County, Mich. The facility would consist of an onshore and offshore diked basin with a clay liner, a pumpout platform at Monroe Harbor, a pile supported pipeline, and an underground pipe within the park. The total storage capacity would be 4,200,000 cubic yards. (Detroit District). (EIS Order No. 800998)

Final

JOYCE CREEK FLOOD CONTROL PROJECT: Camden County, N.C., January 2: Proposed is a flood control and drainage project for the previously channeled Joyce Creek and two of its tributaries, Cyprus Run and Mill Run, Camden County, N.C., consisting of about 9.5 miles of stream channel excavation. Construction will be from one side only and include construction of sediment traps. (Wilmington District). Comments made by: EPA, HEW, DOC, DOI, USDA, State and local agencies. (EIS Order No. 810002).

Final Supplement

BIG STONE LAKE-WHETSTONE RIVER MODIFICATION (FS–1): Big Stone and Lac qui Parle Counties, Minn. and Grant County, S. Dak., December 29: Proposed is the Big Stone Lake-Whetstone River modification project located in Big Stone and Lac qui Parle Counties, Minn. and Grant County, S. Dak. This supplement has been prepared to address a significant change for the proposed diversion channel into the US–75 reservoir in the Big Stone National Wildlife Refuge. This statement supplements a final EIS, No. 710520, filed 12–16–70. (St. Paul District). Comments made by: EPA, AHP, USDA, DOC, FERC, HUD, DOT, State agencies. (EIS Order No. 800990).

Report

REPORT—WALNUT CREEK PROJECT, CITY OF CONCORD: Contra Costa County, Calif., December 29: This supplemental report provides current information concerning the Walnut Creek project in Contra Costa County, California as related to final EIS, #770911, filed 7–27–77. Specifically addressed is a change in the proposed plan along sections of Pine and Galindo Creeks in the city of Concord. (San Francisco District.) (EIS Order No. 800989.)

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary, for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230.

EXTENSION: Spiney Lobster Fishery Mgmt. Plan, Pacific, published **Federal Register** November 17, 1980—review extended from January 7, 1981 (prior extension) to January 21, 1981. (#800655)

ENVIRONMENTAL PROTECTION AGENCY

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2777.

Draft

BENZENE EMISSIONS, STANDARDS, regulatory, December 30: Proposed are standards for the control of continuous process benzene emissions from vents in the ethylbenzene/styrene (EBIS) industry. Regulatory alternatives considered are: (1) Do not set standard, (2) 85% reduction based on use of scrubbers and condensers, (3) 94% reduction based on use of flare system coupled to scrubbers and condensers, (4) 99% reduction based on use of boiler, and (5) 100% reduction based on plant closure and substitutes for styrene. (EPA–450/3–79–79–035a.) (EIS Order No. 800997.)

Draft

Contact: Mrs. Norma Hughes (WH–548), Environmental Protection Specialist, Office of Water and Waste Management, Environmental Protection Agency, 401 M Street, S.W., (202) 472–2838.

NORTH ATLANTIC INCINERATION SITE, DESIGNATION, Atlantic, December 29: Proposed is the designation of a site for the thermal destruction of toxic organic wastes, principally organohalogens, within the Atlantic Ocean. The preferred site is located approximately 140 NMI east of Delaware Bay and 155 NMI from Ambrose Light, New York. The alternatives consider: (1) No action, and (2) use of other sites. (EIS Order No. 800993.)

Final

Contact: Office of Noise Abatement and Control, Environmental Protection Agency, Washington, D.C. 20460, (202) 557–7777.

MOTORCYCLES AND MOTORCYCLE EXHAUST SYSTEMS NOISE EMISSIONS, regulatory, January 1: Proposed are noise regulations for motorcycles and motorcycle exhaust systems. The regulations would require that all street and off-road motorcycles with an engine displacement of 170 cc and less, manufactured after 1–1–83, not emit a noise level in excess of 83 decibels. Lower levels of noise emissions are required as of 1–1–86. Comments made by: Businesses. (EIS Order No. 810000.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755–6300.

V 46/6 JA 9 81 UMI

Draft

BRIARWOOD SUBDIVISION, MORTGAGE INSURANCE, Yellowstone County, Mont., December 30: Proposed is the issuance of HUD home mortgage insurance for the Briarwood housing development in Yellowstone County, Montana. The development which would encompass 960 acres will consist of 3,455 single and multi-family dwelling units. Also included in the development would be a golf course, park, recreational and open space areas, and a shopping center. (HUD–RO8–EIS–81–IVD.) (EIS Order No. 800996.)

Section 104(h). The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

DETROIT/HAMTRAMCK CENTRAL INDUSTRIAL PARK, UDAG, Wayne County, Mich., December 29: Proposed is the awarding of a UDAG to the cities of Detroit and Hamtramck, Wayne County, Michigan, for the construction of a central industrial park. The project would initially consist of acquisition, relocation, demolition and site preparation of 465 acres. The industrial park would include water, sewer service, drainage, transportation, power, communication and other facilities. The alternatives considered include: (1) No action, (2) residential use of the site, (3) a smaller site, and (4) other sites. Comments made by: COE, EPA, DOI, State and local agencies, individuals and businesses. (EIS Order No. 800991.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

U.S. 70 IMPROVEMENTS, PORTALES-CLOVIS SECTION, Roosevelt and Curry Counties, N. Mex., January 2: Proposed is the improvement of the Portales-Clovis section of U.S. 70 in Roosevelt and Curry Counties, New Mexico. Improvement alternatives in the Portales subsection include consideration of no action and three relief routes on new location. Alternatives considered for the Clovis section include no action, widening the existing route and two relief routes southeast of the existing route. (FHWA–NM–EIS–80–03–D.) (EIS Order No. 810001.)

Report

REPORT—U.S.–7 IMPROVEMENT, 4(F) EVALUATION, Belmont County, Ohio, December 29: This supplemental report provides a 4(f) evaluation for the improvement of U.S.–7 in the city of Bellaire, Belmont County, Ohio as related to final EIS, No. 760046, filed 1–12–76. (FHWA–OHIO–4(f)–71–08–D.) (EIS Order No. 800992.)

[FR Doc. 81–731 Filed 1–8–81; 8:45 am]

BILLING CODE 6560–37–M

[WH–FRL 1722–6]

Intent To Transfer Confidential Information to a Contractor

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to transfer confidential information to contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential information collected under Section 308 of the 1977 Clean Water Act to an EPA contractor. The transfer of this information to the contractor is necessary for summarizing the technical data base which will support effluent limitations and standards for the Organic Chemicals and Plastics/Synthetic Fibers industrial categories.

DATE: Comments on the notice of transfer are due on or before January 19, 1981. For Further Information contact: Maria M. Irizarry, Organic Chemicals Branch, Effluent Guidelines Division, (WH–552), U.S. Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460, (202) 426–2497.

SUPPLEMENTARY INFORMATION: The data to be transferred was obtained from a wastewater sampling program conducted within these two industries. Portions of these data have been declared confidential by the sampled facilities. The facilities affected are those involved in screening, verification and long-term self-sampling programs of the Organic Chemicals Branch. Originally this information was to be coded and analyzed statistically by Walk, Haydel and Associates, Inc., of New Orleans, La. and a notice authorizing transfer of the data to support that effort was published in the **Federal Register** of February 4, 1980. However, EPA has revised its plans and now intends to have the information coded and analyzed by SRI International of Menlo Park, California under contract No. 68–01–6062. The contract contains all provisions required by EPA regulations (40 CFR 2.302(h)(2–3)) for treatment of confidential information. In accordance with those regulations, sampled facilities have ten days from the date of this notice to comment on EPA's proposed transfer of this information.

Dated: January 2, 1981.

Merna Hurd,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81–807 Filed 1–8–81; 8:45 am]

BILLING CODE 6560–29–M

FEDERAL MARITIME COMMISSION

[Agreement No. 10404]

East Asiatic Co., Knutsen Joint Transpacific Service; Notice of Availability of Energy Impact Statement

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, the Office of Energy and Environmental Impact has assessed the possible Commission actions with regard to Agreement No. 10404 published at 45 *Fed. Reg.* 71423 (October 28, 1980) and has determined that Commission approval of the agreement should promote greater energy efficiency and energy conservation than Commission disapproval or modification. The environmental impacts involved are insignificant.

This Energy Impact Statement will become final within 20 days and is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20572, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81–809 Filed 1–8–81; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Avenue Bancorporation; Formation of Bank Holding Company

Avenue Bancorporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Avenue Bank and Trust Company of Oak Park, Oak Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 3, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 5, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-833 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

Boatmen's Bancshares, Inc.; Acquisition of Bank

Boatmen's Bancshares, Inc., St. Louis, Missouri, has applied for the Board's approval under sections 3(a)(3) and (5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Plaza National Bancshares, Inc., St. Louis, Missiouri, and thereby acquire control of Plaza Bank of West Port, St. Louis, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 29, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-834 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

Boelus Investment Co.; Formation of Bank Holding Company

Boelus Investment Company, Boelus, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(s)(1)) to become a bank holding company by acquiring 99.3 per cent or more of the voting shares of Boelus State Bank, Boelus, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 30, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidences that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 5, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-835 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

Fidelcor, Inc.; Proposed Acquisition of Fidelcor Life Insurance Company

Fidelcor, Inc., Rosemont, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b) (2)), for permission to acquire voting shares of Fidelcor Life Insurance Company, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage de novo in the activities of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary bank, The Fidelity Bank. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic areas to be served are southeastern Pennsylvania, Delaware, Maryland, and New Jersey. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 29, 1981.

Board of Governors of the Federal Reserve System, December 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-836 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

First Lincolnwood Corp.; Formation of Bank Holding Company

First Lincolnwood Corp., Lincolnwood, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C 1842(a)(1)) to become a bank holding company by acquiring at least 80 per cent of the voting shares of The First National Bank of of Lincolnwood, Lincolnwood, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the officers of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 2, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-837 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

First Peoples Bancorp, Inc.; Formation of Bank Holding Company

First Peoples Bancrop, Inc., Jefferson City, Tennessee, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Peoples Bank, Jefferson City, Tennessee. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board

[FR Doc. 81-838 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

Mid-South Bancorp, Inc.; Formation of Bank Holding Company

Mid-South Bancorp, Inc., Murfreesboro, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Murfreesboro Bank & Trust Company, Murfreesboro, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Georgia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 28, 1981. Any comment on application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-839 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

Piedmont BankGroup, Incorporated; Acquisition of Bank

Piedmont BankGroup, Incorporated, Martinsville, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire the successor by merger to The First National Bank of Ferrum, Ferrum, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(e)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 29, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-840 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

Southern Indiana Bancorp, Inc.; Formation of Bank Holding Company

Southern Indiana Bancorp, Inc., Newburg, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Southern Indiana Bank and Trust Company, Newburgh, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 31, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-841 Filed 1-8-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Independence National Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of voting securities of I.C.H. Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 22, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b) (2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-690 Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Reeves Communications Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Maypal Limited. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Reeves. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 24, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3984.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-701 Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Kennecott Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Curtiss-Wright Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Kennecott Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-700 Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the Board of Scientific Counselors, NIMH.

Authority for this committee will expire on January 4, 1983 unless the Secretary formally determines that continuance is in the public interest.

Dated: December 30, 1980.

Robert L. Trachtenberg,

Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 81-714 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-88-M

Advisory Committees; Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committees:

Drug Abuse Biomedical Research Review Committee

Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee

Drug Abuse Resource Development Review Committee

Authority for these committees will expire on December 31, 1982 unless the Secretary formally determines that continuance is in the public interest.

Dated: December 30, 1981.

Robert L. Trachtenberg,

Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 81-713 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 80P-0349]

Cranbrook Institute of Science; Approval of Variance for the Cranbrook Laser Scanning System Model 3 and Laser Light Show

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for the Cranbrook Laser Scanning System Model 3 including the laser light show manufactured and produced by Cranbrook Institute of Science. The scanning system provides a laser display to produce a variety of special lighting effects. The principal use of this product is to provide entertainment to general audiences.

DATES: The variance became effective November 18, 1980, and ends November 18, 1985.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Cranbrook

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Institute of Science, 500 Lone Pine Rd., P.O. Box 801, Bloomfield Hills, MI 48013, has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the demonstration laser product known as the Cranbrook Laser Scanning System Model 3 and laser light show, assembled and produced by Cranbrook Institute of Science. The shows have levels of accessible laser radiation in excess of class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection will be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for Cranbrook Institute of Science personnel. The product shall bear the Variance Number 80P-0349.

By letter of November 18, 1980, the Director of the Bureau of Radiological Health approved the requested variance, which terminates on November 18, 1985.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch, Food and Drug Administration, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-578 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0092]

Laser Displays, Inc.; Approval of Variance for a Laser Projection System and Laser Light Show

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for the Laser Projector Model LaserGraph One and laser light shows manufactured and produced by Laser Displays, Inc. The projector provides a laser display to produce a variety of special lighting effects. The principal use of this product is to provide entertainment to general audiences.

DATES: The variance became effective November 12, 1980, and ends November 12, 1982.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Laser Displays, Inc., 755 Boylston St., Boston, MA 02116, has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the demonstration laser product known as the Laser Projector Model LaserGraph One and laser light shows manufactured and produced by Laser Displays, Inc. The shows have levels of accessible laser radiation in excess of class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection will be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for personnel who operate the product. The product shall bear the Variance No. 80P-0092.

By letter of November 12, 1980, the Director of the Bureau of Radiological Health approved the requested variance, which terminates on November 12, 1982.

By letter of October 15, 1980, the Director of the Bureau of Radiological Health approved the requested variance, which terminates on October 15, 1982.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch, Food and Drug Administration, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-580 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0262]

Lookinglas Laser Works; Approval of Variance for a Laser Projection System and Laser Light Show

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for laser products has been approval by the Bureau of Radiological Health for the laser projection system and Lookinglas Laser Works laser light show manufactured and produced by Lookinglas Laser Works. The projector provides a laser display to produce a variety of special laser lighting effects. The principal use of this product is to provide entertainment to general audiences.

DATES: The variance became effective October 15, 1980, and ends October 15, 1982.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Lookinglas Laser Works, 7181 21st St. #5, Westminster, CA 92683, has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products. The variance permits the manufacturer to introduce into commerce the demonstration laser product known as the Lookinglas Laser Works laser light show incorporating the Laser Systems Development Corporation Model Redeye R-2(a) laser projector assembled and produced by Lookinglas Laser Works. The shows have levels of accessible laser radiation in excess of class II levels but not exceeding those required to perform the intended function of the product. Suitable means of radiation protection will be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for Lookinglas Laser Works personnel. The product shall bear the Variance Number 80P-0262.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Docket Management Branch, Food and Drug Administration, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-579 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-80-631]

Redelegation of Authority

AGENCY: Office of General Counsel, Department of Housing and Urban Development.

ACTION: Redelegation of Authority.

SUMMARY: The General Counsel redelegates authority to exercise power and authority with respect to (a) service of process directed to employees of the Department, and (b) approval of the legality of the issuance of subpoenas and similar matters pertaining to regulatory programs for which primary enforcement responsibility is vested in the Secretary.

SUPPLEMENTARY INFORMATION: Pursuant to the delegation of authority from the Secretary to the General Counsel on June 8, 1971, 36 FR 11052, as amended, to exercise certain power and authority and to redelegate power and authority, the General Counsel redelegates the following authority as described below.

With respect to the authority described in Section A, paragraph 4 of that delegation, the authority to accept, on behalf of the Secretary, service of all summonses, subpoenas, and other judicial, administrative or legislative processes directed to the Secretary or a Central Office employee in an official capacity is hereby redelegated to the Associate General Counsel for Litigation. Authority to accept such service of process directed to a Field Office employee in an official capacity is redelegated to the Regional Counsel with responsibility for the employee's Field Office.

With respect to the authority described in Section A, paragraph 5 of the above-referenced delegation, the authority to approve the legality of the issuance of subpoenas or interrogatories, the compelling of attendance by witnesses, and the granting of petitions to revoke or modify subpoenas or interrogatories pertaining to regulatory programs for which primary enforcement responsibility is vested in the Secretary, except with respect to those approvals pursuant to Section 811 of the Fair Housing Act (42 U.S.C. 3611), is redelegated to the Associate General Counsel for Regulatory Programs.

EFFECTIVE DATE: January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Sally W. Watts, Office of General Counsel, U.S. Department of Housing and Urban Development, Room 10182, Area Code (202) 755-1704.

Authority: See 36 FR 11052.

Issued at Washington, D.C., December 31, 1980.

Jane McGrew,

General Counsel.

[FR Doc. 81-675 Filed 1-8-81; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-80-632]

Inspector General; Delegation of Authority

The Inspector General of the Department of Housing and Urban Development is hereby authorized to issue such rules and regulations as may be necessary to carry out the functions, powers and duties of the Inspector General of the Department of Housing and Urban Development. This authority may not be redelegated.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Effective date: This delegation of authority shall be effective as of December 1, 1980.

Issued at Washington, D.C., December 31, 1980.

Jane McGrew,

Acting Secretary of Housing and Urban Development.

[FR Doc. 81-676 Filed 1-8-81; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-81-1052]

Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development.

ACTION: Notice.

SUMMARY: HUD is issuing a Notice of the date for submission of preapplications for applicants in the State of Kentucky for the Small Cities Program; and of the availability of the criteria to be used by HUD and Kentucky for selection in the Community Development Block Grant Program for Fiscal Year 1981.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Director, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that in accordance with 24 CFR 570.422 (45 FR 57120-57122, August 27, 1980) and 24 CFR 570.420(h) (2) (45 FR 55979, August 21, 1980), the Department of Housing and Urban Development (HUD) has established the submission date for preapplications for the Small Cities Program Grants for Fiscal Year 1981 for applicants in the State of Kentucky.

For Fiscal Year 1981 HUD is implementing a demonstration that provides for a substantial State role in the Small Cities selection process, and Kentucky is one of two States selected to participate in this demonstration.

The State of Kentucky has developed selection criteria and procedures which are substituted for the selection factors for Comprehensive grants (24 CFR 570.424) and the selection factors for Single Purpose grants (24 CFR 570.428). These selection factors and additional information may be obtained by contacting the Department for Local Government for Kentucky at the address listed below. The Catalog of Federal Domestic Assistance Program number is 14.219. All applications are subjected to OMB Circular A-95 requirements.

Applicants are hereby advised to submit their preapplications for Single Purpose and for Comprehensive Grants pursuant to criteria developed for the State of Kentucky, no earlier than: January 12, 1981 and no later than January 26, 1981. Preapplications shall be submitted to: Department for Local Government, First Floor, Capitol Plaza Tower, Frankfort, Kentucky 40601, Attn: Sally J. Hamilton.

For all applicants, for both metropolitan and nonmetropolitan areas, the earliest and latest date for submission as indicated above shall apply. Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Program will be accepted only during the designated time period. Preapplications received after the deadline must be postmarked no later than the applicable deadline submission date. Any preapplications postmarked after that date are unacceptable and will be returned.

Issued at Washington, D.C., December 31, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 81-877 Filed 1-8-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammal Annual Report; Availability

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal annual report.

SUMMARY: The Director, U.S. Fish and Wildlife Service, on September 15 signed the annual report on the Service's administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period April 1, 1979, to March 31, 1980, and was submitted to the Congress on December 5. By this notice, the Director informs the public that the report is available and that any interested individual may secure a single copy by requesting same in writing from the Service.

ADDRESS: Write for a copy to Director (PUB), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Bardwell, Division of Wildlife Management, Branch of Wildlife Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-632-2202.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972 (MMPA). These species are polar bears, sea and marine otters, walruses, manatees (three species), and dugongs. The report reviews the service's marine mammal-related activities during the report period and summarizes the following status information for each species: Distribution and migration, abundance and trends, general biology, ecological problems, allocation problems, regulations, and current research. Administrative actions discussed include MMPA appropriations, financial grants to states to help them develop and implement programs for protecting and managing marine mammals in their waters, marine mammals in Alaska, legal actions against the Department of the Interior, endangered and threatened marine mammal species (specifically the West Indian manatee and the sea otters in California), marine mammal care and maintenance regulations and standards, law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies, ecological characterizations of U.S. coastal areas, and international activities.

This notice was prepared by Jackson E. Lewis, Marine Biologist, Division of Wildlife Management, Branch of Wildlife Assistance, 202-632-2202.

Dated: December 31, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 81-738 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 2, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 26, 1981.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

Montgomery County

Montgomery, *Scott Street Firehouse,* 410 Scott St.

CALIFORNIA

Los Angeles County

Pasadena, *Colorado Street Bridge,* Colorado Blvd.

IDAHO

Shoshone County

Wallace, *Wallace Carnegie Library,* City Park

OKLAHOMA

Adair County

Westville vicinity, *Alberty Chapel Cemetery,* SE of Westville

Creek County

Drumright, *Washington School,* 214 W. Federal St.

Garfield County

Enid, *Government Springs,* 4th St. and East Pk.

Okmulgee County

Henryetta vicinity, *Wilson School,* NW of Henryetta

[FR Doc. 81-521 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Indian Affairs

Extinguishment of Indian Claims; Maine Indian Claims Settlement Act of 1980

AGENCY: Bureau of Indian Affairs.

ACTION: Notice of extinguishment of Indian claims pursuant to the Maine Indian Claims Settlement Act of 1980, Pub. L. 96-420.

SUMMARY: Pursuant to Section 4(d) of the Maine Indian Claims Settlement Act of 1980, this notice announces the extinguishment of all land and related claims of the Maine Indians.

NOTICE: The Maine Indians covered by the Maine Indian Claims Settlement Act include the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians. Each of these Indians is described in Section 3 of the Settlement Act.

The Settlement Act was signed into law on October 10, 1980. When the President signed the 1981 Interior Department Appropriations Act on December 12, 1980, the following provisions in Section 4 of the Settlement Act became effective:

> Sec. 4(a)(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine from, by or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said

transfer: *Provided, however,* That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before the date of this Act and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any state, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any state.

(b) To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any state or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

Thus, Section 4 extinguishes any claims of aboriginal title of the Maine Indians anywhere in the United States and bars all claims based on such title. The section also extinguishes any land claims in the State of Maine arising under federal law by *any* Indian tribe or individual Indian, except that any personal claim of an individual Indian which arises under a federal statute of general applicability to non-Indians as well as Indians would not be extinguished.

In return for the extinguishment of these Indian claims, the Act authorizes appropriations to establish both trust and land acquisition funds for the Maine Indians. These funds will be held in trust by the Secretary of the Interior. Before the Secretary may expend these moneys on their behalf, Section 5(f) of the Act requires that each Tribe execute relinquishments and releases acknowledging the extinguishment of their claims to the extent provided in Sections 4, 11 and 12 of the Act. Sections 11 and 12 provide for the discharge of claims for any past mismanagement of trust funds and claims arising from any treaty or agreement the State of Maine and any Indian tribe or the United States.

In addition, as provided by Section 6(c) of the Settlement Act, as of March 10, 1981, the federal government shall no longer have criminal jurisdiction over the Maine Indian reservations under federal laws applying specially to "Indian country."

This notice is published in the exercise of authority delegated by the Assistant Secretary of the Interior pursuant to 209 DM 8.

For further information on the Settlement Act contact James Weber, Office of the Solicitor, Division of Indian Affairs, Department of the Interior, Washington, D.C. 20240, (202) 343-9331.

Dated: January 6, 1981.

Thomas W. Fredericks,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 81-823 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Arizona Strip District Multiple Use Advisory Council; Meeting; Correction

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting, correction.

SUMMARY: The Arizona Strip District Multiple Use Council meeting date published in the **Federal Register** of December 9, 1980 on page 81129 is changed from January 8, 1981 to February 12, 1981. The agenda is not changed.

DATE: February 12, 1981.

ADDRESS: The Four-Seasons Convention Center, Suite 8, 747 East St. George Blvd., St. George, Utah.

FOR FURTHER INFORMATION CONTACT: Billy R. Templeton, 196 E. Tabernacle St., St. George, Utah 84770, (801) 673-3545.

Billy R. Templeton,

District Manager, Arizona Strip District.

[FR Doc. 81-811 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-84-M

[Formerly PET-4]

National Petroleum Reserve—Alaska; Call for Nominations and Comments on Oil and Gas Leasing; Correction

On December 23, 1980, the call for nominations and comments on oil and gas leasing for the National Petroleum Reserve—Alaska was published on page 84879 of the **Federal Register.**

The second column, first paragraph, fourth line read:

"1980 (Pub. L. 96-516), nominations and".

The reference to the Fiscal Year 1981 Interior Department Appropriations Act dated December 12, 1980, is corrected to read: "Public Law 96-514".

James W. Curlin,

Deputy Assistant Secretary of the Interior.

January 6, 1981.

[FR Doc. 81-861 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 81-1]

Proposed Grazing and Wilderness Management for the East San Diego County Planning Unit, El Centro Resource Area, Desert District, California; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement concerning a proposed intensive grazing and wilderness management program for the East San Diego County Planning Unit in San Diego County, California. Management proposals are presented and analyzed for each of eleven existing and one proposed grazing allotments and five wilderness study areas. Intensive management will occur on ten of the allotments and no grazing will be allowed in two allotments. Two of the wilderness study area are proposed as suitable for wilderness designation. The planning unit covers 256,587 acres, of which 38 percent is Federal land.

Comments on the final environmental impact statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by February 16, 1981 to the Area Manager, El Centro Resource Area, Bureau of Land Management, 333 South Waterman Avenue, El Centro, California 92243.

A limited number of copies of the final environmental impact statement are available upon request at the following offices:

California State Office, Bureau of Land Management 2800 Cottage Way, Sacramento, California 95825 Telephone (916) 484–4541

El Centro Area Office, Bureau of Land Management 333 South Waterman Avenue, El Centro, California 92243 Telephone (714) 352–5842

Copies of the final environmental impact statement will be available for public reading and review at the following locations:

Division of Rangeland Management, Bureau of Land Management Interior Building, 18th & C Streets, N.W. Washington, D.C. 20240

California State Office (911), Bureau of Land Management 2800 Cottage Way, Sacramento, California 95825 Telephone (916) 484–4541

El Centro Area Office, Bureau of Land Management 333 South Waterman Avenue, El Centro, California 92243 Telephone (714) 352–5842

Dated: December 30, 1980.

Roland A. Rush,

Acting State Director.

[FR Doc. 81–729 Filed 1–8–81; 8:45 am]

BILLING CODE 4310–84–M

[INT FEIS 81–2]

Proposed Grazing Management for the Mount Dome Planning Unit, Siskiyou Resource Area; Redding District, California; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement concerning a proposed intensive grazing management program for the Mount Dome Planning Unit in Siskiyou and Modoc Counties, California. Management proposals are presented and analyzed for each of twenty-seven (27) grazing allotments. Intensive management will occur on seven of the allotments and less intensive management will occur on twenty allotments. The planning unit covers 581,048 acres, of which six percent is Federal land.

Comments on the final environmental impact statement are being solicited from public agencies and interest individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by February 16, 1981, to the District Manager, Redding District, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96001.

A limited number of copies of the final environmental impact statement are available upon request at the following offices:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541

Redding District Office, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96001, Telephone (916) 246–5325

Copies of the final environmental impact statement will be available for public reading and review at the following locations:

Division of Rangeland Management, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240

California State Office (911), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541

Redding District Office, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96001, Telephone (916) 246–5325

Dated: December 29, 1980.

James B. Ruch,

State Director.

[FR Doc. 81–732 Filed 1–8–81; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Statute 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 7:30 p.m. (EST), on Thursday, January 29, 1981, at Happy Days Visitor Center located on State Route 303 (Streetsboro Road), 1 mile west of State Route 8, near Peninsula, Ohio. Parking is on the north side of Route 303, and a pedestrian tunnel leads to the building on the south side of the highway.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 46Off–4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mr. Norman A. Godwin
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. John Ray
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. Robbie Stillman
Mr. Barry K. Sugden
Dr. Robert W. Teater

Matters to be discussed at this meeting include:

1. Organization of the Commission: Second Five Year Term.
2. Cuyahoga Valley National Recreation Area: Past, Present, and Future.
3. Development plans and priorities.
4. Report on Park operations.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 650–4414. Minutes of the meeting will be available for public inspection 3 weeks after the meeting at the office of Cuyahoga Valley National Recreation Area located at 501 West Streetsboro Road (State Route 303), 2 miles east of Peninsula, Ohio.

Dated: December 20, 1980.

Warren H. Hill,

Acting Regional Director, Midwest Region.

[FR Doc. 81–659 Filed 1–8–81; 8:45 am]

BILLING CODE 4310–70–M

Gateway National Recreation Area; Public Discusssions

Notice is hereby given that a series of public discussions concerning access improvements to Gateway National Recreation Area, will be conducted at a series of meetings, the time and location listed below.

Pub. L. 95–344, Title III, approved on August 15, 1978, authorizes the National Park Service to develop plans and projects to improve access to units of the National Park System.

The series of meetings will be scheduled to receive public comment on improving access to Gateway National Recreation Area located in New York and New Jersey. Two sets of meetings will be held in each state in accordance with the law.

The first set of meetings will be held to inform the public on the intentions of the National Park Service to formulate a plan to improve public access and give the public an opportunity to recommend plans. The schedule for the set of public discussions will take place as follows:

In the New York, the meetings will be held at 7:00 p.m., Tuesday, February 17, 1981, at Brooklyn College, Boylan Hall, Room 3139, entrance on Campus Road and East 27th Street, Brooklyn, New York, and at 7:00 p.m., Wednesday, February 18, 1981, at the Staten Island Unit, Great Kills Conference Room, Staten Island, New York.

In New Jersey, the first meeting will be held at 7:00 p.m., Wednesday, February 25, 1981, at Borough Hall, 100 1st Avenue, Atlantic Highlands, New Jersey, (four blocks off route #36 in New Jersey).

The second set of meetings will inform the public on proposed National Park Service plans with an additional chance for public involvement and response. The schedule for this set of public discussions will take place as follows:

In New York, the meetings will be held at 7:00 p.m., Tuesday, March 24, 1981, at Brooklyn College, Boyland Hall, Room 3139, entrance on Campus Road and East 27th Street, Brooklyn, New York, and 7:00 p.m., Thursday, March 26, 1981, at the Staten Island Unit, Great Kills Conference Room, Staten Island, New York.

In New Jersey, the second meeting will be held 7:00 p.m., Wednesday, March 25, 1981, at Borough Hall, 100 1st Avenue, Atlantic Highlands, New Jersey (four blocks off Route 36 in New Jersey). All interested persons are invited to attend and participate in the discussions. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis.

Individuals and/or groups who wish to speak or make a presentation, should contact the Public Information Office by telephone (212) 630-0393 or post-card, stating the date of the meeting they will attend. Persons wishing further information concerning these various meetings, or wish to submit written statements, may contact Herbert S. Cables, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Bldg. #69, Floyd Bennett Field, Brooklyn, New York 11234, telephone #(212) 630-0353.

Dated: December 29, 1980.

Richard L. Stanton,

Regional Director, North Atlantic Region.

[FR Doc. 81-800 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Mid-Continent Resources, Inc.; Coal Basin Mines, Pitkin and Gunnison Counties, Colo.; Pending Decision To Approve Major Modification to a Coal Mining and Reclamation Plan (Federal Lease No. CO-9005, U.S. Forest Service Special Use Permit No. 4082-811)

Correction

In FR Doc. 80-38865, published at page 82728, on Tuesday, December 16, 1980, make the following changes:

(1) On page 82729, in the second column, third paragraph "(20 days from the date of publication)" should be changed to read "January 5, 1981."

(2) On page 82729, in the second column, fourth paragraph labeled "DATES", "(20 days from date of publication)" should be changed to read "January 5, 1981."

(3) On page 82730, fourth paragraph labeled "DATES", "January 5, 1981" should be changed to read "January 19, 1981."

BILLING CODE 1505-01-M

Water and Power Resources Service

Availability of Water From McKay Dam and Reservoir, Umatilla Project, Oregon; Review of Applicant List

The Department of the Interior, through the Water and Power Resources Service (Service), is initiating action that will eventually provide qualified entities and individuals with permanent rights to irrigation water from McKay Dam and Reservoir, Oregon. McKay Dam, located on McKay Creek about six miles south of Pendleton, Oregon, was constructed by the Service during the period 1923-1927. Pursuant to Title III of Public Law 92-228 enacted March 11, 1976, the dam was modified for safety purposes and the original construction costs were reallocated among the several benefitting functions. The Service is now preparing to review applications to contract for permanent rights to a share of the remaining available water supply from McKay Reservoir.

The yield from approximately 17,000 acre-feet of space remains to be marketed for irrigation use on a permanent basis. Existing contrasts provide a first right to contract for part of this space to the Stanfield Irrigation District (3,690 acre-feet) and the Westland Irrigation District (7,380 acre-feet), both of Stanfield, Oregon.

During the period 1959-1980, the Service received a number of requests for a portion of the remaining available water. The applicants of record are:

Date of request	Applicant	Address
1/16/59	Roger J. Bounds	
6/6/59	Albers Ditch Co.	
7/24/59	Joseph Cunha Estate.	c/o Alfred F. Cunha, Attorney at Law, P.O. Box 1167, 410 SE Dorion Ave., Pendleton, OR 97801
8/10/59	S. T. Carroll	
1/1/60	Fred Andrews	Route 1, Box 6, Echo, OR 97826
4/4/60	B. W. Ellis *	
8/4/60	Jess Linebaugh	
1/5/61	Ernest R. Sires *	
8/16/61	W. E. Wall	
6/11/62	C. A. Hubbard	
7/24/62	G. W. Gaboury, Partner.	
8/10/63	George H. Corey	
7/20/63	Guy E. Knapp	
7/30/63	J. F. Riley	
7/30/63	Lee Foster	
8/5/63	Glen E. Male	
10/8/63	Spike Brothers	Route 1, Box 4, Echo, OR 97826.
4/11/64	Bob Rhea	
6/6/64	Ted A. Hendrickson	Route 2, Echo, OR 97826.
12/3/65	Alred F. Cunha	Address same as for Joseph Cunha Estate, above.
2/3/67	Pioneer Irrigation Co..	
12/12/67	Ted Edelman	
9/15/68	Clayton S. Killmen	
12/5/69	Individual represented by R. E. O'Rourke.	c/o Robert E. O'Rourke, Attorney at Law, 331 SE 2nd St., P.O. Box 490, Pendleton, OR 97801.
1/8/71	Teel Irrigation District.	c/o Chester J. Prior, Star Route, Echo, OR 97825.
1/22/72	A. Blankenship	
3/5/74	Robert U. Genter	
3/22/74	Stanfield and Westland Irrigation Districts.	c/o Robert E. O'Rourke. Address above.
7/10/74	Echo Cemetery District.	
8/8/74	Marion Jack Improvement District.	c/o Keith Blanchard, 4217 SW Lake Drive, Pendleton, OR 97801.
11/9/78	Lewis Livestock Co.	c/o Kenneth E. Lewis, 4475 SW Scholls Ferry Road, Portland, OR 97225.

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* The Service's records indicate that applicant's lands have since passed to other ownerships.

As indicated above, the present address of some applicants is unknow. Those applicants, or anyone knowing their whereabouts, are requested to provide an address by writing to the Regional Director, Attention Code 440, Water and Power Resources Service, Box 043-550 West Fort Street, Boise, Idaho 83724; or by telephone to Mr.

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Martin Fabricius, Agricultural Economist, Repayment and Statistics Branch, at (208) 334–1162. Address corrections may be made in the same manner.

No new applications can be accepted inasmuch as pending applications considerably exceed the water supply now available for contracting.

It is the intention of the Service to contact all applicants listed above, prior to May 1, 1981, to ascertain their present interest in contracting for a permanent right to water from McKay Reservoir. At that time, criteria for determining eligibility will also be supplied. In addition, the State of Oregon will be consulted before any final allocations are approved.

Thereafter, a proposed draft contract will be provided to the prospective contractors. Concurrently, the draft contract will be made available for public review and comment, and any negotiating sessions will be open to the public. The Service will make a public announcement when these contractual processes are ready to begin. It is anticipated this will occur during the second half of 1981 with the objective of completing contractual arrangements prior to the 1982 irrigation season.

Dated: January 2, 1981.

J. D. Ellingboe,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 81–702 Filed 1–8–81; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Notice No. 204]

Assignment of Hearings

December 31, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropiate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 22301 (Sub-29F), Sioux Transportation Co., Inc., now assigned December 9, 1980, at Chicago, IL, is canceled and transferred to modified procedure.

MC 140094 (Sub-3F), Latin Express Service, Inc., now assigned for hearing on January 21, 1981 (3 days), at Miami, FL, in a hearing room to be later designated.

MC 146946 (Sub-1F), Linten Heavy Haulers, now assigned for hearing on December 9, 1980 (9 days), at Los Angeles, CA, is canceled and application dismissed.

MC 44783 (Sub-11F), The Mahoning Express Company, now assigned for hearing on January 28, 1981, at Columbus, OH, is transferred to Modified Procedure.

MC 111079 (Sub-3F), H. W. Jones and Son, Inc., now assigned for hearing on January 7, 1981, at Cincinnati, OH, is transferred to Modified Procedure.

MC 125433 (Sub-302F), F–B Truck Line Company, now assigned for hearing on January 20, 1981, at Chicago, IL, will be held in Room 1221, Everette Mckinley Dirksen Building, 219 South Dearborn Street.

MC 110988 (Sub-414F), Schneider Tank Lines, Inc., now assigned for hearing on January 21, 1981, at Chicago, IL, will be held in Room 1221, Everette Mckinley Dirksen Building, 219 South Dearborn Street.

MC 119656 (Sub-63F), North Express, Inc., now assigned for hearing on January 28, 1981, at Chicago, IL, will be held in Room 1221, Everette Mckinley Dirksen Building, 219 South Dearborn Street.

MC–C–10637, Overland Motor Express, Inc., d.b.a. Boulder-Denver Truck Line, Inc. v. Arkansas-Best Freight System, Inc., now assigned for hearing on January 15, 1981, at Denver, CO, will be held at the Suite 700, Securities & Exchange Commission, 410 17 Street.

MC 106398 (Sub-1073F), National Trailer Convoy, Inc., now assigned for hearing on January 7, 1981, at Denver, CO, will be held at the Suite 700, Securities & Exchange Commission, 410 17th Street.

MC 106398 (Sub-1011F), National Trailer Convoy, Inc., now assigned for hearing on January 5, 1981, at Phoenix, AR, will be held at the Court Room No. 235, Federal Building & Post Office, 522 North Central Avenue.

MC 117786 (Sub-81F), Riley Whittle, Inc., now assigned for hearing on January 7, 1981, at Phoenix, AR, will be held at the Court Room No. 235, Federal Building & Post Office, 522 North Central Avenue.

MC–C–10540, V. I. P. Limousine, Inc. v. Rudy's Limousine Service, Inc., MC 150181F, Rudy's Limousine Service, Inc., now assigned for hearing on January 20, 1981, at Stamford, CT, is postponed to January 26, 1981 (4 days), at Stamford, CT, in a hearing room to be later designated.

MC 25798 (Sub-390F), Clay Hyder Trucking Lines, Inc., MC 95540 (Sub-1141F), Watkins Motor Lines, Inc., MC 115841 (Sub-768F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on February 17, 1981 (9 days), at Orlando, FL, will be held at the Holiday Inn, 6515 International Drive.

MC 29079 (Sub-168F), Brada Miller Freight System, Inc., now assigned for continued hearing on February 10, 1981 (3 days), at Birmingham, AL, in a hearing room to be later designated.

No. 37450, Central Illinois Light Company v. The Atchison Topeka and Santa Fe Railway Company, et al., now assigned for hearing on January 5, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 147391 (Sub-2F), Loyd Rudy, d.b.a. Loyd's Hot Shot Service Extension-Oilfield Service, now assigned for hearing on December 9, 1980 (9 days), at Casper, WY, is dismissed.

MC 136818 (Sub-82F), Swift Transportation Company, Inc., now assigned for hearing on January 14, 1981, at Phoenix, AZ, will be held at the Maricapa County Superior Court Building, 101 West Jefferson Street.

MC 144606 (Sub-9F), Duncan Sales & Leasing Co., Inc., now assigned for hearing on January 19, 1981, at Phoenix, AR will be held at the Maricapa County Superior Court Building, 101 West Jefferson Street.

AB–1 (Sub-102F), Chicago and North Western Transportation Company—Abandonment—Near Wisconsin Rapids and Wausau, WI, will be held at the Council Chambers, City Hall, 407 Grant Street.

MC 118838 (Sub-57F), Gabor Truckings, Inc., now assigned for hearing on January 20, 1981, at Seattle, WA, will be held in Room No. 2866, Federal Building, 915 Second Avenue.

MC 147422F, Jeffrey M. Kornacker, d.b.a. K Transport Co., now assigned for hearing on January 13, 1981 (4 days), at Chicago, IL, is canceled and application is dismissed.

MC 145359 (Sub-13F), Thermo Transport, Inc., now assigned for hearing on January 13, 1981 (1 day), at Los Angeles, CA, is canceled and application is dismissed.

MC 61016 (Sub-57F), Peter Pan Bus Lines, Inc., now assigned for hearing on January 14, 1981 (3 days), at Springfield, MA, is canceled and application is dismissed.

MC 30844 (Sub-641F), Kroblin Refrigerated Xpress, Inc., is canceled and application is dismissed.

MC 116506 (Sub-5F), Johnstown-Pittsburgh Express, Inc., now assigned for hearing on January 20, 1981 (4 days), at Pittsburgh, PA, in a hearing room to be later designated.

MC 139763 (Sub-3F), Oak Harbor Freight Lines, Inc., now assigned for hearing on January 26, 1981 (2 weeks), at Seattle, WA, will be held in Room B–006, Federal Office Building, 909 1st. Avenue.

MC 99234 (Sub-19F), Westway Motor Freight, Inc., now assigned for hearing on January 19, 1981, at Denver, CO, is canceled and application is dismissed.

MC 114211 (Sub-410F), Warren Transport, Inc., now assigned for hearing on January 19, 1981, at St. Louis, MO, is transferred to Modified Procedure.

MC 128270 (Sub-35F), Rediehs Interstate, Inc., now assigned for hearing on December 8, 1980 (1 day), at St. Louis, MO, is transferred to Modified Procedure.

MC 119789 (Sub-700F), Caravan Refrigerated Cargo, Inc., now assigned for hearing on December 11, 1980, at Fort Worth, TX, is transferred to Modified Procedure.

MC 103373 (Sub-6F), Howard Martin, Inc., now assigned for hearing on January 6, 1981, at Chicago, IL, is transferred to Modified Procedure.

MC 107496 (Sub-1244F), Ruan Transport Corporation, now assigned for hearing on January 27, 1981 (4 days), at Chicago, IL, will be held in Room 1944C, Everette Mckinley Dirksen Building, 219 South Dearborn Street.

MC 133591 (Sub-101F), Wayne Daniel Truck, Inc., now assigned for hearing on December 12, 1980, at Fort Worth, TX, is transferred to Modified Procedure.

MC 148827 (Sub-1F), David Alger, d.b.a. D&C Transportation, now assigned for hearing on January 8, 1981, at Montpelier, VT, will be held in the Conference Room No. 216 DOT, U.S. Post Office & Federal Building & Courthouse, 87 State Street.

FF–523, Henry Ortiz, now assigned for hearing on January 12, 1981 (5 days), at Cleveland, OH, will be held in Room No. 1455, Federal Building, 1240 East Ninth Street.

MC 146742 (Sub-2F), H & F Trucking Company, Inc., now assigned for hearing on January 21, 1981; at Chicago, IL, will be held in the Kluczynski Federal Bldg., 230 South Dearborn Street.

MC–F–14171F, Columbus Retail Merchants Delivery, Inc.—Purchase—Reed Lines, Inc., MC 14251 (Sub-7F), Columbus Retail Merchants Delivery Inc., now assigned for hearing on December 15, 1980 (5 days), at Columbus, OH, is canceled and application is dismissed.

MC 35628 (Sub-410F), Interstate Motor Freight System, now assigned for hearing on December 9, 1980, at Albany, NY, is transferred to Modified Procedure.

MC 95084 (Sub-155F), Hove Truck Line, now assigned for hearing on February 19, 1981 (2 days), at 9:30 a.m., local time, at St. Paul, MN, in a hearing room to be later designated.

MC 117940 (Sub-363F), Nationwide Carriers, Inc., now assigned for hearing on February 23, 1981 (5 days), at Minneapolis, MN, in a hearing room to be later designated.

MC 25798 (Sub-390F), Clay Hyder Trucking Lines, Inc., MC 95540 (Sub-1141F), Watkins Motor Lines, Inc., MC 115841 (Sub-768F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on February 17, 1980 (9 days), at 9:30 a.m., local time, at Orlando, FL, on March 3, 1981 (9 days), at Chicago, IL, on March 17, 1981 (9 days), at San Francisco, CA, in a hearing room to be later designated.

MC 109533 (Sub-128F), Overnite Transportation Company, now assigned for Prehearing Conference on January 6, 1981, at Washington, D.C., is conceled and application is dismissed.

MC 120427 (Sub-10F), Williams Transfer, Inc., now assigned for hearing on January 14, 1981, at Lincoln, NE, is canceled and application is dismissed.

MC 110380 (Sub-18F), Berschens of Madison, Inc., now assigned for hearing on January 21, 1981 (3 days), at Milwaukee, WI, is canceled and application is dismissed.

MC 114334 (Sub-57F), Builders Transportation Co., now assigned for hearing on December 15, 1980, at St. Louis, MO is transferred to Modified Procedure.

MC 61016 (Sub-57F), Peter Pan Bus Lines, Inc., now assigned for hearing on January 14, 1981 (3 days), at Springfield, MA, will be held in Room No. 205 2d Floor, Federal Building & Courthouse, 436 Dwight Street.

MC 99848 (Sub-3F), J. F. Lux Trans. Co. Inc., now assigned for hearing on January 7, 1981 (3 days), at Boston, MA will be held in Room No. 501, 150 Causeway Street.

MC 136012 (Sub-6F), United States Transportation, Inc., now assigned for hearing on December 12 1981 (3 days), at Cincinnati, OH, on December 12, and 14, 1981, will be held in Room 9017, Federal Building, 550 Main Street, on December 13, 1981, will be held in Room 8017, Federal Building, 550 Main Street.

FF 526F, United Van Lines, Inc., now assigned for hearing on January 27, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 42487 (Sub-930F), Consolidated Freightways Corporation, now assigned for hearing on March 10, 1981, at Little Rock, AR, will be held at the Camelot Inn, Markham and Broadway.

MC 68960 (Sub-20F), Checker Express Co., now assigned for hearing on February 18, 1981 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 135598 (Sub-30F), Sharkey Transportation, Inc., now assigned for hearing on February 19, 1981 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 20356 (Sub-18F), Bradger Freightways, Inc., now assigned for hearing on February 23, 1981 (4 days), at Chicago, IL, in a hearing room to be later designated.

MC 128861 (Sub-1F), OK Delivery System, Inc., now assigned for hearing on January 7, 1981, at Portland, OR, is canceled and application is dismissed.

MC 86247 (Sub-24F), ICL–International Carrier Limited, now assigned January 28, 1981, at Detroit, MI, is canceled and application is dismissed.

MC 2900 (Sub-424F), Ryder Truck Lines, Inc., now assigned for Prehearing Conference on December 17, 1980, at Washington, D.C., canceled and application is dismissed.

MC 145673 (Sub-6F), Road Rail Services, Inc., now assigned for hearing on January 7, 1981 (3 days), at Chicago, IL, will be held in Room 3883, Kluczynski Federal Building, 230 South Dearborn Street.

MC 121123 (Sub-3F), Leoni Motor Express, Inc., now assigned for hearing on January 12, 1981 (2 days), at Chicago, IL, will be held in Room 1221, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 10339, Mclean Trucking Company and Wolverine Express, Inc.—Investigation and Revocation of Certificates, now assigned for hearing on January 14, 1981 (3 days), at Chicago, IL, will be held in Room 1221, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 138875 (Sub-255F), Shoemaker Trucking Company, now assigned for hearing on January 6, 1981, at Boise, ID, will be held in Room 429, Federal Building & U.S. Courthouse, 550 West Fort Street.

MC 118318 (Sub-44F), Ida-Cal Freight Lines, Inc., now assigned for hearing on January 8, 1981, at Boise, ID, will be held in Room 429, Federal Building & U.S. Courthouse, 550 West Fort Street.

MC 108223 (Sub-31F), Century-Mercury Motor Freight, now assigned for hearing on January 12, 1981, at St. Paul, MN, will be held in Room 564, Federal Building, 316 North Robert.

MC 44605 (Sub-52F), Milne Truck Lines, Inc., now assigned for hearing on January 20, 1981, at Washington, D.C., is postponed to continued hearing on February 3, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–C–10715, Delta Lines, Inc., et al. v. Best-Way Freight Lines, of Arizona now assigned for hearing on February 25, 1981 (3 days), at Las Vegas, NV, in a hearing room to be later designated.

MC 23618 (Sub-62F), McAlister Trucking Company d.b.a. Matco, now assigned for hearing on February 17, 1981 (2 days), at Houston TX, in a hearing room to be later designated.

Ex Parte No. 371, in the Matter of Louis J. Amato, now assigned for Prehearing Conference on January 7, 1981, at Washington, D.C., is postponed to February 3, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 121568 (Sub-43F), Humboldt Express, Inc., now assigned for hearing on January 13, 1981 (4 days), at Memphis, TN, in a hearing room to be later designated.

MC 133095 (Sub-248F), Texas-Continental Express, Inc., now assigned for hearing on January 14, 1981, at Fort Worth, TX, is canceled and application is dismissed.

MC 73866 (Sub-8F), Louis J. Gardella, Inc., now assigned for hearing on February 10, 1981 (2 days), at New York, NY, in a hearing room to be later designated.

MC 152113F, Arrow Courier, Inc., now assigned for hearing on February 12, 1981 (2 days), at New York, NY, in a hearing room to be later designated.

MC 117940 (Sub-363F), Nationwide Carriers, Inc., now assigned for hearing on February 23, 1981, at Minneapolis, MN, is canceled and reassigned to February 23, 1981 (5 days), at St. Paul, MN, in a hearing room to be later designated.

MC 114211 (Sub-456F), Warren Transport, Inc., now assigned for hearing on January 29, 1981 (2 days), at Chicago, IL, will be held in Room 383, 230 South Dearborn Street.

MC 108640 (Sub-13F), Sturm Freightways, Inc., now assigned for hearing on February 2, 1981 (5 days), at Chicago, IL, will be held in Room 383, 230 South Dearborn Street on February 2, 4, 5, 1981, and on February 3, 1981, in Room 1221, Everette Mckinley Dirksen Building, 219 South Dearborn Street.

MC 32882 (Sub-124F), Mitchell Bros. Truck Lines, now assigned for hearing on January 13, 1981 (4 days), at Salt Lake City, UT, will be held in Room 3419, Federal Building, 125 South Street.

MC 124160 (Sub-38F), Savage Brothers, Incorporated; now assigned for hearing on January 19, 1981, at Salt Lake City, UT, will be held in Room 3419, Federal Building, 125 South Street.

MC 11722 (Sub-62F), Brader Hauling Service, Inc., now assigned for hearing on January 12, 1981 (2 days), at Seattle, WA, will be held held in Room B–008, 909 1st Street.

MC 145579 (Sub-8F), D. Irvin Transport, Limited, now assigned for hearing on January 7, 1981 (3 days), at Seattle, WA, will be held in Room 514, Federal Building, 915 Second Avenue.

MC 63562 (Sub-68F), BN Transport Inc., now assigned for hearing on January 14, 1981 (3 days), at Seattle, WA, will be held in Room 3086, 30th Floor, Federal Building, 915 Second Avenue.

MC 13651 (Sub-21F), People Transfer, Inc., now assigned for hearing on January 19, 1981 (1 week), at Sacramento, CA, will be held in Room 4037, EDD Building, 722 Capitol Mall (M Street).

MC 119702 (Sub-69F), Stahly Cartage Co., now assigned for hearing on January 6, 1981, at St. Louis, MO, is transferred to Modified Procedure.

MC 142941 (Sub-35F), Scarborough Truck Lines, Inc., now assigned for hearing on January 12, 1981 (1 day), at Salt Lake City, UT, will be held in Room 3233, Federal Building, 125 South State Street.

MC 143739 (Sub-34F), Shurson Trucking Co., Inc., now assigned for hearing on January 13, 1981 (1 day), at Salt Lake City, UT, will be held in Room 3233, Federal Building, 125 South State Street.

MC 112989 (Sub-127F), West Coast Truck Lines, Inc., now assigned for hearing on January 14, 1981 (1 day), at Salt Lake City, UT, will be held in Room 3233, Federal Building, 125 South State Street.

MC 139171 (Sub-4F), Controlled Delivery Service, Inc., now assigned for hearing on January 15, 1981 (2 days), at Salt Lake City, UT, will be held in Room 3233, Federal Building, 125 South State Street.

MC 90794 (Sub-7F), DI Jub Leasing Corp., now assigned for hearing on January 7, 1981, is changed to Prehearing Conference on January 7, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 8922 (Sub-6F), the Wahl Moving & Transfer Co., is transferred to Modified Procedure.

MC 14215 (Sub-41F), Smith Truck Service, Inc., now assigned for hearing on January 5, 1981, at Washington, D.C., is transferred to Modified Procedure.

MC 148079 (Sub-1F), Frye Trucking Company, Inc., now assigned for hearing on January 12, 1981, at Raleigh, NC, will be held at the Multi Purpose (Conference Room), Salvation Army Community Center, 215 South Person Street.

MC 119787 (Sub-10F), F. W. Groves Trucking Company, now assigned for hearing on January 6, 1981, at Wilmington, NC, will be held in the Conference Room, City Hall, East Main Street.

MC 136605 (Sub-135F), Davis Bros. Dist., Inc., now assigned for hearing on January 22, 1981, at Portland, OR, will be held in Room 211, State Office Building, 1400 South West 5th Avenue.

MC 148752 (Sub-2F), H & H Services, Inc., now assigned for hearing on January 12, 1981, at Casper, WY, will be held in Court Room 2, Bankruptcy Court, 111 South Wolcott.

MC 142477 (Sub-2F), Earl Pippin d.b.a. Earl Pippin Transporter, now assigned for hearing on January 14, 1981, at Raleigh, NC, will be held at the Multi Purpose (Conference Room), Salvation Army Community Center, 215 South Person Street.

MC 146892 (Sub-13F), R & L Transfer, Inc., now assigned for hearing on January 21, 1981, at Columbus, OH, will be held in Room 220, Federal Courthouse, 85 Marconi Boulevard.

MC 59856 (Sub-89F), Salt Creek Freightways, now assigned for hearing on January 5, 1981, Salt Lake City, UT, will be held in Court Room, 3rd Floor-Metropolitan Hall of Justice, 240–400 South.

MC 148436 (Sub-1F), Marchand Construction, Inc., now assigned for hearing on January 12, 1981, at Fort Worth, TX, is canceled and application is dismissed.

MC 70151 (Sub-56F), United Trucking Service, Inc., now assigned for hearing on December 8, 1980, at Detroit, MI, is dismissed.

MC 113651 (Sub-304F), Indiana Refrigerator Lines, Inc., now assigned for hearing on January 13, 1981, at New York, NY, is canceled and application is dismissed.

MC 136818 (Sub-82F), Swift Transportation Company, Inc., now assigned for hearing on January 14, 1981, at Phoenix, AZ, is transferred to Modified Procedure.

MC 10540 V.I.P. Limousine, Inc., v. Rudy's Limousine Service, Inc., MC 150161F, Rudy's Limousine Service, Inc., now assigned for hearing on January 26, 1981, at New Haven, CT, at the Civil Service, Hearings Room 200, 170 Orange Street.

MC 119787 (Sub-10F), F. W. Groves Trucking Company, now assigned for hearing on January 6, 1981, in the Conference Room, City Hall, East Main Street, Wilmington, N.C.

MC 102616 (Sub-1011F), Coastal Tank Lines, Inc., now assigned for hearing on February 10, 1981 (4 days), at Fort Worth, TX, in the ICC Hearing Room, 4th Floor, 411 W. 7th Street, Neil P. Anderson Building.

MC 143739 (Sub-34F), Shurson Trucking Co., Inc., now assigned for hearing on January 13, 1981, at Salt Lake City, UT, is canceled and application.

MC 148827 (Sub-1F), David Alger, d.b.a. D&C Transportation, now assigned for hearing on January 8, 1981 at Montpelier, VT, is canceled.

MC–C–10716, Motor Cargo, et al. v. Best-Way Freight Lines of Arizona, now assigned for hearing on January 28, 1981 (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 145359 (Sub-13F), Thermo Transport, Inc., now assigned for hearing on January 13, 1981, is transferred to Modified Procedure.

MC 124160 (Sub-38F), Savage Brothers, Incorporated, now assigned for hearing on January 19, 1981, at Salt Lake City, UT, is transferred to Modified Procedure.

MC 45656 (Sub-26F), Anderson Truck Line, Inc., now assigned for hearing on January 26, 1981, at Charlotte, NC, is transferred to Modified Procedure.

MC 103051 (Sub-480F), Fleet Transport Company, Inc., now assigned for hearing on January 26, 1981, at Nashville, TN, is transferred to Modified Procedure.

MC 125628 (Sub-5F), S. S. Baird & Sons Limited, now assigned for hearing on January 14, 1981, at Portland, MA, is transferred to Modified Procedure.

MC 112989 (Sub-127F), West Coast Truck Lines, Inc., now assigned for hearing on January 14, 1981, at Salt Lake City, UT, is transferred to Modified Procedure.

No. 37450, Central Illinois Light Company v. the Atchison Topeka and Sante Fe Railway Company, et al., now assigned for hearing on January 5, 1981, is postponed to January 26, 1981, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 42487 (Sub-928F), Consolidated Freightways Corporation of Delaware, now assigned for hearing on January 19, 1981, at Minneapolis, MN, is transferred to Modified Procedure.

MC 114552 (Sub-243F), Senn Trucking Company, now assigned for hearing on January 26, 1981 (1 day), at Jacksonville, FL, will be held in Room 765, Federal Office Building, 400 West Bay Street.

MC 145360 (Sub-6F), Thom's Transport Company, Inc., now assigned for hearing on January 27, 1981 (2 days), at Jacksonville, FL, will be held in Room 765, Federal Office Building, 400 West Bay Street.

MC 148020 (Sub-3F), Big "M" Transport, Inc., now assigned for hearing on January 29, 1981 (2 days), at Jacksonville, FL, will be held in Room 765, Federal Office Building, 400 West Bay Street.

MC 138882 (Sub-370F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on December 18, 1980, at Fort Worth, TX, is transferred to Modified Procedure.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81–706 Filed 1–8–81; 8:45 am]

BILLING CODE 7035-01-M

Assignment of Motor Carrier and Broker Docket Numbers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of change of procedure for assigning motor carrier docket numbers.

SUMMARY: In the future, the Commission will only assign one MC number to a motor carrier and all applications will be docketed under that number. If a carrier currently holds more than one MC number, all future applications will be docketed under the carrier's common number. Since this change only affects internal operations and procedures of the Commission, it is being issued in final form and public comments are not being requested.

EFFECTIVE DATE: Effective January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Gloris Stewart, 202–275–7091.

SUPPLEMENTARY INFORMATION: The Commission has assigned different Motor Carrier (MC) numbers to carriers who held both common carrier authority and contract carrier authority. In instances in which a carrier also held broker authority another MC number was also assigned. In the future, motor carriers will be assigned only one MC number. All applications seeking common or contract motor carrier authority or broker authority will be docketed under that one MC number.

A carrier currently holding more than one MC number should provide all docket numbers on future OP-1 applications. It should indicate for each number whether it is a common, contract or broker number. However, all subsequent applications will be docketed under the *common carrier authority number.*

Restriction removal applications will also be docketed only under the carrier's common carrier number. They will be docketed with a docket suffix of "X" e.g. MC 12457 (Sub-10) X to distinguish cases and pleadings handled under the restriction removal procedure.

At this time we will also discontinue use of the suffix "F" on motor carrier cases since all such cases are now routinely microfilmed.

Appropriate changes will be made in the Commission's records. However, the Commission will not reissue existing permits or licenses under the common carrier number.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-706 Filed 1-8-81; 8:45 am]

BILLING CODE 7035-01-M

[Vacate Accounting Series Circular No. 171]

Bad Order Freight Train Cars

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission's Bureau of Accounts is announcing that it is vacating Accounting Series Circular No. 171—Bad Order Freight Train Cars, dated August 28, 1978, in response to the Association of American Railroad's petition, dated August 25, 1980.

ADDRESS: Written comments, if any, should be sent to Mr. Bryan Brown, Jr., Chief, Section of Accounting and Reporting, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Tel: (202) 275-7448.

SUPPLEMENTARY INFORMATION: In 1978 the Bureau of Accounts (BOA) issued Accounting Series Circular No. 171—Bad Order Freight Train Cars (Circular), dated August 28, 1978. The purpose of the Circular was to provide accounting for cars retained in a bad order status for a year or longer without the establishment of a firm plan for their repair and restoration to service or other disposition. Concurrently, there was a critical car shortage, coupled with a bad order car ratio of approximately 9 percent. Under the circumstances, we considered one year to be a reasonable time frame for carriers to determine the future disposition of bad order cars. The Circular instructed affected carriers to either perform retirement accounting for the cars or reclassify the associated investment cost from account 731, Road and Equipment Property, to account 737, Property Used in Other Than Carrier Operations, if management believed that the cars may be repaired at some future date.

The Association of American Railroads (AAR) filed a petition (Petition), dated August 25, 1980, on behalf of the railroad industry. AAR requested the Commission to vacate the Circular. The Petition cited various reasons why the Circular should be vacated, including primarily the failure to process the Circular in a public proceeding in accordance with the Administrative Procedure Act (APA).

Accounting Series Circulars are informal advisory opinions of the BOA. They are not formal rules promulgated and published by the Commission under the APA. The BOA does not have to initiate a formal proceeding to issue an accounting circular. In this instance the Circular simply prescribed the interpretative accounting procedures considered appropriate within the scope of the Commission's related accounting regulations, as prescribed in Instructions 2-5 and 2-8(b), and the texts of accounts 731 and 737. The Commission did not participate in the issue of the Circular. For the preceding reasons, the BOA will process the Petition by means of this Notice.

The national car shortage seems to have been alleviated to the extent that there are now car overages. The Commission's order served August 18, 1980, in Ex Parte No. 334 (Sub-4), *Order Granting Railroads Flexibility in Setting Per Diem Levels,* referred to the present period of worsening car surpluses and the railroads' placing many cars in storage. The car overages could cause carriers to retain surplus cars in a bad order status for over a year without establishing a repair program or being able to determine the need for their future use.

Under the foregoing circumstances, the Circular is no longer appropriate as the prescribed accounting is not practicable. Consequently, the Circular shall be vacated. This action does not (1) preclude the issue of an accounting circular in the future if necessary to provide appropriate accounting for bad order cars, or (2) relieve carriers of their responsibility to comply with the Commission's accounting regulations which would require the performance of retirement accounting for those bad order cars which are actually withdrawn from transportation service, and are subject to recovery of the associated salvage or other disposition, in accordance with Instructions 2-5 and 2-8(b).

The Circular shall be vacated on the date published in the **Federal Register**.

Dated: December 24, 1980.

Ronald S. Young,

Director.

[FR Doc. 81-707 Filed 1-8-81; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation: American Cast Iron Pipe Company.

2. Wholly-owned subsidiaries:

a. Specification Rubber Products, Inc., P.O. Drawer H, Alabaster, Alabama 35007.

b. American Valve & Hydrant Manufacturing Company, 3350 Hollywood Street, Beaumont, Texas 77704.

1. Parent Corporation and address of principal office: Chesebrough-Pond's, Inc., 33 Benedict Place, Greenwich, CT 06830.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

a. Adolph's Food Products Manufacturing Company, 5355 Cartwright Avenue, North Hollywood, California 91601.

b. Adolph's, Ltd., 5355 Cartwright Avenue, North Hollywood, California 91601.

c. Benedict Sales Corporation, 1680 Lyell Avenue, Rochester, New York 14606.

d. Chesebrough-Pond's Manufacturing Company, Las Piedras, Puerto Rico 00571.

e. Erno Laszlo, Ltd., 10 E. 53rd Street, New York, New York 10022.

f. Filac Corporation, 435 Lakeside Drive, Sunnyvale, California.

g. G. H. Bass & Company, Weld Street, Wilton, Maine 04294.

h. Health-tex, Inc., 1411 Broadway, New York, New York 10018.

i. Health-tex Manufacturing Company, Inc., Cabo Rojo, Puerto Rico 00623.

j. Kidsport U.S.A., Inc., 1411 Broadway, New York, New York 10018.

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k. Prince Matchabelli, Inc., 33 Benedict Place, Greenwich, Connecticut 06830.

l. Prince Matchabelli Manufacturing Company, Inc., 306 South State Street, Dover, Delaware 30828.

m. Ragu Foods, Inc., 1680 Lyell Avenue, Rochester, New York 14606.

n. Warrenton Industries Company, Inc., 306 South State Street, Dover, Delaware 30828.

1. Parent corporation—City Products Corporation, 1700 South Wolf Road, Des Plaines, Illinois 60018.

2. Wholly-owned subsidiaries of City Products Corporation which will participate in the operations and addresses of their respective principal offices:

A. Coast-to-Coast Stores (Central Organization), Incorporated, 10801 Red Circle Drive, Minnetonka, Minnesota 55343.

B. Huffman-Koos Co., Route 4 at Main Street, North Hackensack, New Jersey 07661.

C. T. D. S. Transportation, Inc., 1700 South Wolf Road, Des Plaines, Illinois 60018.

D. T. G. & Y. Stores Co., 3815 North Santa Fe, Oklahoma City, Oklahoma 73125.

E. Vons Grocery Co., 10150 Lower Azusa Road, El Monte, California 91731.

F. White Stores, Inc., 3910 Call Field Road, Wichita Falls, Texas 76308.

3. Divisions of City Products Corporation which will participate in the operations and addresses of their respective principal offices:

A. American Furniture, 105 North Oregon Street, El Paso, Texas 79901.

B. Barker Bros., 818 West Seventh Street, Los Angeles, California 90017.

C. Ben Franklin, 1700 South Wolf Road, Des Plaines, Illinois 60018.

D. Colby's Home Furnishings, 1001 Skokie Boulevard, Northbrook, Illinois 60062.

1. Parent corporation and address of principal office: Dixico, Incorporated, 1415 South Vernon, Dallas, Texas 75224.

2. Wholly-owned subsidiaries and divisions which will participate in the operations and address of their respective principal offices:

(a) Flexible Packaging Division, 1300 South Polk, Dallas, Texas 75224.

(b) Contact Products Division, 9244 Markville, Dallas, Texas 75222.

(c) Ink/Coating Division, 4525 Joseph Hardin Drive, Dallas, Texas 75236.

(d) Capitol Plastics of Ohio Division, 333 Van Camp Road, Bowling Green, Ohio 43402.

(e) Richmond Division, Colton and Opal, Redlands, California 92373.

(f) Plastic Industries Division, 12400 Industry Street, Garden Grove, California 92373.

(g) Polytube Division, 275 Welton Street, Hamden, Connecticut 06501.

(h) Stevens and Thompson Paper Company, Incorporated (subsidiary), P.O. Box 206, Greenwich, New York 12834.

1. Parent corporation: Dresser Industries, Inc., World Headquarters, 1505 Elm Street, Dallas, Texas 75201.

2. Wholly-owned subsidiaries:

A. Atlas Oilfield Services Group, Dresser Tower, 601 Jefferson, Houston, Texas 77002.

B. Compressor Group, Dresser Tower, 601 Jefferson, 28th Floor, Houston, Texas 77002.

C. Construction Equipment Group, 400 W. Wilson Bridge Road, Worthington, Ohio 43085.

D. Harbison-Walker Refractories Group, 2 Gateway Center, Pittsburgh, Pennsylvania 15222.

E. Industrial Equipment Group, Dresser Tower, 601 Jefferson, Houston, Texas 77002.

E. Industrial Equipment Group, Dresser Tower, 601 Jefferson, Houston, Texas 77002.

F. Industrial Minerals Division, Dresser Tower, 601 Jefferson, 33rd Floor, Houston, Texas 77002.

G. Industrial Specialties Group, 23rd Floor, North Wing, 3 Gateway Center, Pittsburgh, Pennsylvania 15222.

H. Magcobar Group, Dresser Tower, 601 Jefferson, Houston, Texas 77002.

I. Mining Equipment and Foundry Group, 400 W. Wilson Bridge Road, Worthington, Ohio 43085.

J. Oilfield Equipment Group, Dresser Tower, 601 Jefferson, 34th Floor, Houston, Texas 77002.

K. Petroleum Equipment Group, Dresser Tower, 601 Jefferson, 26th Floor, Houson, Texas 77002.

L. Power Systems Group, Dresser Tower, 601 Jefferson, Houston, Texas 77002.

M. Tool Group, O'Hare Plaza, 5725 N. East River Road, Chicago, Illinois 60631.

N. Dresser Industries Canada, Ltd., Mississauga Service Centre, 6688 Kitimat Road, Mississauga, Ontario L5N 1P8.

O. Dresser Services, Inc., 10201 Westheimer Road, Houston, Texas 77001.

P. DIRELOC, Inc., 1505 Elm Street, Dallas, Texas 75201.

Q. Dresser Finance Corporation, 1505 Elm Street, Dallas, Texas 75201.

R. Dresser International Sales Corporation, 1505 Elm Street, Dallas, Texas 75201.

S. Dresser Americas, Inc., 1505 Elm Street, Dallas, Texas 75201.

T. Dresser Leasing Corporation, 3 Gateway Center, Suite 300, Pittsburgh, Pennsylvania 15222.

U. Dresser Minerals International, Dresser Tower, 601 Jefferson, 34th Floor, Houston, Texas 77002.

V. Radio Magcobar, Inc., Dresser Tower, 601 Jefferson, Houston, Texas 77002.

W. Cardinal Chemical, Inc., Dresser Tower, 601 Jefferson, Houston, Texas 77002.

X. Dresser Machinery, Ltd., 1505 Elm Street, Dallas, Texas 75201.

1. Parent corporation and address of principal office: Evans Products Company, 1121 S. W. Salmon Street, Portland, Oregon 97208.

2. Wholly owned subsidiaries which will participate in the operations and addresses of their respective principal offices:

(a) Alamo Enterprises Building Supplies, Inc., 4807 West Avenue, San Antonio, Texas 78213.

(b) ATEC Industries, Inc., 7055 Herbert Road, Canfield, Ohio 44406.

(c) Capp Homes Supply Co., 3355 Hiawatha Avenue, Minneapolis, MN 55406.

(d) Evans Track-Work Leasing Co., East Tower, 2550 Golf Road, Rolling Meadows, IL 60008.

(e) Evans Transportation Co., East Tower, 2550 Golf Road, Rolling Meadows, IL 60008.

(f) Lindsley Stores, Inc., 8405 N. W. 53rd Street, Miami, Florida 33166.

(g) Louisville, New Albany & Corydon Railroad Co., P.O. Box 248, Corydon, IN 47112.

(h) Morrison Railway Supply Corp., East Tower, 2550 Golf Road, Rolling Meadows, IL 60008.

(i) P. D. L., Inc., 7055 Herbert Road, Canfield, Ohio 44406.

(j) Railway Track Work Co., 2381 Philmont Avenue, Bethayres, Pennsylvania 19006.

(k) United States Railway Leasing Co., East Tower, 2550 Golf Road, Rolling Meadows, IL 60008.

1. Parent corporation and address of principal office: Fox Grocery Company, 400 Penn Center Boulevard, Pittsburgh, Pennsylvania 15235.

2. Wholly-owned subsidiary: Foxtran, Inc., Box 29, Belle Vernon, Pennsylvania 15012.

1. Parent corporation and address of principal office: General Signal Corporation, High Ridge Park, Stamford, Connecticut 06904.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Sola Basic Industries, Inc., P.O. Box 10077, Stamford, Connecticut 06904.

(b) OZ/Gedney Company, Main Street, Terryville, Connecticut 06786.

(c) Edwards Company, Inc., 195 Farmington Avenue, Box F, Farmington, Connecticut 06032.

(d) General Signal Mfg. Corp., P.O. Box 10008, Stamford, Connecticut 06904.

(e) General Signal Industries, Inc., P.O. Box 10076, Stamford, Connecticut 06904.

1. Parent corporation and address of principal office: The Goodyear Tire & Rubber Company, 1144 East Market Street, Akron, Ohio 44316.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. The Kelly-Springfield Tire Company, 800 Kelly Road, Cumberland, Maryland 21502.

B. Lee Tire & Rubber Company, Hector Street, Conshohocken, PA 19428.

C. Reneer Films Corporation, Auburn, PA 17922.

D. Motor Wheel Corporation, 1600 N Larch Street, Lansing, Mich. 48914.

E. Goodyear Atomic Corporation, P.O. Box 628, Piketon, Ohio 45661.

F. Goodyear Aerospace Corporation, 1210 Massillon Road, Akron, Ohio 44315.

G. The Goodyear Rubber Plantations Company, 1144 East Market Street, Akron, Ohio 44316.

H. Goodyear Farms, P.O. Box 158, Litchfield Park, Arizona 85340.

I. Goodyear Western Hemisphere Corporation, 1144 East Market Street, Akron, Ohio 44316.

J. Litchfield Park Properties, 111 West Indian School Road, Litchfield Park, Arizona 85340.

K. Cosmoflex, Incorporated, P.O. Box 994, Hannibal, MO 63401.

L.* Motor Wheel Corporation of Canada, Ltd., P.O. Box 2011, Chatham, Ontario.

1. Parent corporation and address of principal office: The Greyhound Corporation (Arizona), Greyhound Tower, Phoenix, Arizona 85077.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices: Aircraft Service, Inc., P.O. Box 592378, Miami International Airport, Miami, FL 33159; Aircraft Service International, Inc., P.O. Box 523883, AMF, Miami, FL 33159; Florida Export Tobacco Co. Inc., P.O. Box 592355 AMF, Miami, FL 33159; Florida Export Warehouse Corp., P.O. Box 592355, AMF, Miami, FL 33159; Greyhound Lines, Inc., Greyhound Tower, Phoenix, AZ 85077; Motor Coach Industries Limited, 1149 St. Matthews Avenue, Winnipeg, Manitoba, Canada R3G 0J8; Frank Fair Industries Ltd., 400 Archibald Street, Winnipeg, Manitoba, Canada R3G 0J8; Motor Coach Industries, Inc., 1149 St. Matthews Avenue, Winnipeg, Manitoba, Canada R3G 0J8; Las Vegas Convention Service Co., P.O. Box 42669, Las Vegas, Nevada 89104; Romex, Inc., Box 6631 (R.I.A.C.), Roswell, MN 88201; Transportation Manufacturing Corporation, Box 5670 (R.I.A.C.), Roswell, NM 88201; Universal Coach Parts, Inc., 7 East Lake Street, Northlake, IL 60164; Faber Tower Restaurants, Inc., 55 East Monroe Street, Chicago, IL 60603; Greyhound Food Management, Inc., Greyhound Tower, Phoenix, AZ 85077; Greyhound Support Services, Inc., Greyhound Tower, Phoenix, AZ 85077; Post Houses, Inc., Greyhound Tower, Phoenix, AZ 85077; Armour and Company, Greyhound Tower, Phoenix, AZ 85077; Armour International Sales Corporation, Greyhound Tower, Phoenix, AZ 85077; Armour-Dial, Inc., Greyhound Tower, Phoenix, AZ 85077; Armour Handcrafts, Inc., 150 Meadowland Parkway, P.O. Box 1534, Secaucus, NJ 07094; Malina International Sales Corporation, 150 Meadowland Parkway, P.O. Box 1534, Secaucus, NJ 07094; Armour International Company, Greyhound Tower, Phoenix, AZ 85077; Dispatch Services, Inc., Box 592034, AMF, Miami, FL 33159; Greyhound Exposition Services, Inc., P.O. Drawer 42669, Las Vegas, NV 89104; Shorrock, Inc., Greyhound Tower, Phoenix, AZ 85077; Greyhound Exhibitgroup, Inc., 2800 Lively Boulevard, Elk Grove, IL 60007.

1. Parent corporation: Lonza, Inc., Fair Lawn, New Jersey.

2. Wholly-owned subsidiaries:

(a) Quad Chemical, Inc.

(b) Bio Labs, Inc.

1. Parent Corporation and Principal Office: National Material Corporation, 2525 Arthur Avenue, Elk Grove Village, Illinois 60007. Other National Material Corporation locations are: 2001 Dr. Thomas Blvd., Arnold, Pennsylvania 15068; 510 Constitution Blvd., New Kensington, Pennsylvania 15068; 101 Cairns Road, Mansfield, Ohio 44903; 2410 E. Lynch Road, Evansville; Indiana 47711. Divisions of National Material Corporation: National Lamination Company, 555 Santa Rosa Drive, Des Plaines, Illinois 60018; Sherman Lamination Company, 10 Thompson Street, Stratford, Connecticut 06497; National Metal Products, 100 Leland Court, Bensenville, Illinois 60106.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: M & M Steel Products, Inc., 4505 Euclid Ave., East Chicago, Indiana 46312; M & M Steel Products, Inc., 1302 W. 107th St., Chicago, Illinois 60643; Rolled Steel Corporation, 6101 W. Oakton St., Skokie, Illinois 60077; Taber Metals, Inc., Route 1, Airport Road, Russellville, Arkansas 72801; Tower Metals and Ore Corporation, 1965 Pratt Blvd., Elk Grove Village, Illinois 60007. Divisions of Tower Metals and Ore Corporation: Tower Metal Products, 301 N. Hill Street, P.O. Box 791, Ft. Scott, Kansas 66701; Wilmar Processing, 533½ Rathbone, P.O. Box 88, Aurora, Illinois 60507; Wilmar Processing, 555 Lawton, P.O. Box 358, Beloit, Wisconsin 53511; Wilmar Processing, P.O. Box 31, Oswego, Kansas 67356.

(1) The parent corporation is Nortek, Inc. Its principal office is located at 815 Reservoir Avenue, Cranston, Rhode Island.

(2) Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices are:

(a) Vitta Corporation, 382 Danbury Road, Wilton, Connecticut 06897
(b) Fidelity Investment Co., 815 Reservoir Avenue, Cranston, Rhode Island 02910
(c) Sanford Finishing Corp., U.S. Hwy 1 Bypass, Sanford, North Carolina 27330
(d) Stretch Yarns, Inc., 110 Chace Street, Fall River, Massachusetts 02724
(e) Gray Textile Corp., 110 Chace Street, Fall River, Massachusetts 02724
(f) Nursery Originals, 280 Rand Street, Central Falls, Rhode Island 02863
(g) Duro Finishing Co., 110 Chace Street, Fall River, Massachusetts 02724
(h) Pioneer Finishing Corp., 110 Chace Street, Fall River, MA 02724
(i) Duro Textile Printers, Inc., 110 Chace Street, Fall River, MA 02724
(j) Tooltech, Inc., 3145 Columbia Avenue, Minneapolis, MN 55418
(k) TKN, Inc., 815 Reservoir Avenue, Cranston, RI 02910

I. Parent corporation and address of principal office: Pennzoil Company, P.O. Box 2967, Pennzoil Place, 711 Milam, Houston, Texas 77001.

II. Wholly owned subsidiaries participating in operations:

Duval Sales Corporation, P.O. Box 2967, Houston, Texas 77001
Duval Corporation, 4715 East Ft. Lowell Road, Tucson, Arizona 85712
Atlas Processing Company, P.O. Box 3099, Shreveport, LA 71103.

1. Parent corporation and address of principal office: Prairie Material Sales, Inc., 7601 West 79th Street, Bridgeview, Illinois 60455.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Evanston Fuel & Material Co., 1320 Simpson Street, Evanston, Illinois 60201
(b) A No. 1 Express & Cartage Co., Inc., 1320 Simpson Street, Evanston, Illinois 60201

The parent corporation is: Schnucks, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.

The wholly-owned subsidiaries which will participate in the operations are:

Schnuck Markets, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Schnuck Distributing Co., Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Schnuck Baking Co., Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Schnucks Quality Kitchen, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Four Winds Farms, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Hawk Point Farms Company, 12921 Enterprise Way, Bridgeton, MO 63044.
General Merchandisers, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Creative Data Services, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Show Case Distributors, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Supermarket Sign Company, 12921 Enterprise Way, Bridgeton, MO 63044.
Schnucks Station Restaurant, Ltd., 12921 Enterprise Way, Bridgeton, MO 63044.
Pantry Foods, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Schnucks-Twenty-Five, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Bettendorf's-Rapp's Supermarkets, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Clipper Cold Storage, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Schnuck Supermarkets, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.
Schnuck Super Centers, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.

1. Parent corporation and address of principal office:

Southwest Forest Industries, P.O. Box 7548, Phoenix Arizona 85011.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Southwest Forest Gulf Coast, Incorporated, P.O. Box 2565, Panama City, Florida 32401
(b) Atlanta & Saint Andrews Bay Railway Company, P.O. Box 669, Panama City, Florida 32401
(c) Plastronic Packaging Corporation, P.O. Box 200, Stevensville, Michigan 49127
(d) Flowable Packaging Division, Southwest Forest Industries, Inc., P.O. Box 7548 Phoenix, Arizona 85011.
(e) Southwest Forest Machinery, P.O. Box 337, Sangar, California 93657
(f) The Mallery Lumber Corporation, Star Route Box 1, Emporium, Pennsylvania 15834
(g) Jordan Millwork Company, P.O. Drawer 1167, Sioux Falls, South Dakota 57101
(h) Dakota Sash & Door Company, P.O. Drawer 1167, Sioux Falls, South Dakota 57101
(i) Southwest Kenworth, Incorporated, P.O. Box 13467, Phoenix, Arizona 85002
(j) The Apache Railway Company, P.O. Drawer E, Snowflake, Arizona 85937
(k) Knox Lumber Company, 801 Transfer Road, St. Paul, Minnesota 55114.

1. Parent Corporation:

Waldbaum, Inc., Hemlock & Boulevard Ave., Central Islip, N.Y. 11722.

2. Wholly Owned Subsidiary:

Waldbaum, Inc., Hemlock & Boulevard Ave., Central Islip, N.Y. 11722.
&
Charro Trucking, Hemlock & Boulevard Ave., Central Islip, N.Y. 11722.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-708 Filed 1-8-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. Vol. 391]

Motor Carriers; Permanent Authority Decisions

Decided: December 29, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Fortier is not participating.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 121834 (Sub-1F), filed June 27, 1980, previously noticed in the **Federal Register** issue of August 28, 1980. Applicant: EZZELL TRUCKING, INC., P.O. Box 67, U.S. 421 N. Harrells, NC 28444. Representative: James A. Ezzell, U.S. 421 N., P.O. Box 67, Harrells, NC 28444. Transporting (1) *feed ingredients,* between Hartsville, SC, and Harrells, NC, and (2) *general commodities* (except classes A and B explosives), between points in NC. Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration MC 121834.

Note.—This republication includes part (2) of the application.

MC 134645 (Sub-36F), filed June 1, 1980, previously noticed in the **Federal Register** issue of December 27, 1979 as MC 124071. (Sub-18F). Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *meat, meat products, and meat byproducts and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from St. Cloud, MN, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Landy Packing Company, Inc., at St. Cloud, MN.

Note.—This republication indicates that the applicant is a common carrier and includes a restrictive amendment.

MC 147315 (Sub-3F), filed May 27, 1980, previously noticed in the **Federal Register** issue of July 17, 1980. Applicant: TRIWAYS, INC., 2455 East 27th St., Los Angeles, CA 90058. Representative: William Davidson, 2455 East 27th St., Vernon, CA 90058. Transporting *wearing apparel,* between Carson, CA and Salt Lake City, UT, under continuing contract(s) with K-Mart Apparel Corp., of Carson, CA.

Note.—This republication corrects, the commodity description.

[FR Doc. 81-517 Filed 1-8-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3-130]

Motor Carriers; Permanent Authority Decisions

Decided: December 29, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 141175 (Sub-6F), filed December 17, 1980. Applicant: CARLEPIED TRANSFER, INC., 319 Butterworth St., Jefferson, LA 70181. Representative: G. H. Knapp, Jr. (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons, and munitions) for the U.S. Government, between points in the U.S.

MC 153224F, filed December 16, 1980. Applicant: LOUIS L. COUSIN, 6 Robin Lane, Swampscott, MA 01907. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

[FR Doc. 81-618 Filed 1-8-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol. No. OP3-125

Decided: December 24, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce and Jones. (Member Joyce not participating.)

MC 15975 (Sub-42F), filed December 12, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting (1) *alcoholic liquors*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of alcoholic liquors, between points in IL on the one hand, and, on the other, points in IA, IL, MO, MI, OH, PA, and WV.

MC 15975 (Sub-43F), filed December 12, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting (1) *household appliances*, (2) *radio and television receiving sets*, (3) *sound reproduction or recording equipment*, and (4) *materials and supplies* used in the manufacture and distribution of the commodities in (1) through (3) above, between Louisville, KY, on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85.

MC 36255 (Sub-5F), filed December 15, 1980. Applicant: K & R DELIVERY, INC., 255 West Oakton St., Des Plaines, IL 60018. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in MO, MI, WI, IN, and IL.

MC 99685 (Sub-7F), filed December 10, 1980. Applicant: G. I. TRUCKING COMPANY, a corporation, 14727 Alondra Blvd., La Mirada, CA 90638. Representative: Fred H. Mackensen, c/o Murchison & Davis, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and motor vehicles), (1) between those points in CA in and south of San Luis Obispo, Kern and San Bernardino Counties, on the one hand, and, on the other, points in AZ, and (2) between points in AZ.

MC 107515 (Sub-1403F), filed December 15, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE, 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of textile products, between points in the U.S.

MC 117415 (Sub-7F), filed December 16, 1980. Applicant: JENSEN TRUCKING CO., INC., P.O. Box 402, American Fork, UT 84003. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting (1) *lumber* and *wood products*, (2) *forest products*, (3) *pulp* and *paper products*, and (4) *building materials*, between points in WA, OR, MT, ID, UT, NM, AZ, CO, WY, NV, and CA.

MC 117765 (Sub-306F), filed December 18, 1980. Applicant: HAHN TRUCK LINE, INC., 1100 S. Mac Arthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting *salt and salt products*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AR, CO, IA, IL, IN, KS, KY, LA, MS, MO, NE, NM, OH, OK, TN, and TX.

MC 121594 (Sub-1F), filed December 15, 1980. Applicant: A. M. TRANSFER & CRANE SERVICE, INC., 239 N.W. 26th Street, Miami, FL 33127. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd Street, Miami, FL 33166. Transporting *commodities* which, by reason of size or weight, require the use of special handling or equipment, between those points in FL in and south of Brevard, Orange, Polk, Hillsborough and Pinellas Counties, FL (except Dade and Broward Counties).

MC 121644 (Sub-8F), filed November 16, 1980. Applicant: S & W FREIGHT LINES, INC., 1136 Haley Road, P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) (1) Between Bristol, VA, and Houston, TX, (a) from Bristol over Interstate Hwy 81 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, TX, and return over the same route, serving the intermediate points of Chattannooga, Knoxville, Memphis, Murfreesboro, and Nashville, TN, and (I) serving all other points in Hawkins, Sullivan, Cocke, Hamblen, Davidson, Jefferson, Greene, Washington, Knox, Carter, Shelby, Rutherford, and Hamilton Counties, TN, and (II) points in DeSoto County, MS, Washington County, VA, Crittenden County, AR, Harris and Galveston Counties, TX, and Dade, Walker and Catoosa Counties, GA, as off-route points; (2) Between Bristol, VA, and Houston, TX, (a) from Bristol over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction U.S. Hwy 59, and then over U.S. Hwy 59 to Houston, TX, and return over the same route, (I) serving the intermediate points of Knoxville, Memphis, and Nashville, TN, and (II) serving all other points in Hawkins, Sullivan, Cocke, Hamblen, Davidson, Jefferson Greene, Washington, Knox, Carter, Shelby, and Rutherford Counties, TN, DeSoto County, MS, Washington County, VA, Crittenden Copunty, AR, and Harris and Galveston Counties, TX, as off-route points.

Note.—(1) Common control may be involved, and (2) applicant intends to tack with its existing authority.

MC 126904 (Sub-40F), filed December 16, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *sugar and sugar products* (except in bulk), between points in CO, LA, MO, and TX, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 134105 (Sub-554F), filed December 16, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Ave., Chatanooga, TN 37406. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting (1) *tallow, lard, vegetable oil, salad oil, and margarine* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), (except commodities in bulk), between points in Hamilton County, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, NC, SC, TX, and VA.

MC 134335 (Sub-7F), filed December 15, 1980. Applicant: ALL FREIGHT, INC., 238 Sheldon Rd., Berea, OH 44017. Representative: James Duvall, P.O. Box 97, 230 W. Bridge St., Dublin, OH 43017. Transporting *general commodities* (except classes A and B explosives and household goods) between points in the U.S., under continuing contract(s) with Ceilcote Company, Inc., of Berea, OH.

MC 136635 (Sub-45F), filed December 8, 1980. Applicant: WHITEFORD TRUCK LINE, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis IN 46240. Transporting (1) *cesspools, greasetraps,* and *pipe fittings,* and (2) *materials, equipment,* and *supplies* used in the manufacture and installation of the commodities in (1) above, between Michigan City, IN, on the one hand, and, on the other, points in the U.S.

MC 145235 (Sub-9F), filed December 15, 1980. Applicant: DUTCH MAID PRODUCE, INC., RD #2, Willard, OH 44890. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting (A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of S.C.M. Corporation; and (B) *printed matter* and *materials, equipment and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between Willard, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of Permit No. 145235 and Subs 5 and 6.

MC 145624 (Sub-6F), filed December 16, 1980. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *hazardous waste materials,* between points in the U.S. in and east of ND, SD, NE, KS, OH, and TX.

Note.—The certificate granted in this proceeding shall expire 5 years from its date of issuance.

MC 145945 (Sub-4F), filed December 12, 1980. Applicant: WILLIS LEASING CORPORATION, 3175 Wall Ave., Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in UT, WY, CA, CO, ID, and OR, on the one hand, and, on the other, points in IN, OH, IL, CO, MI, AR, and TX.

MC 147655 (Sub-3F), filed December 12, 1980. Applicant: PAYNE, INC., P.O. Box 112, Brandy Station, VA 22714. Representative: Gary E. Thompson, 4304 East-West Hwy, Washington, DC 20014. Transporting *commodities in bulk,* between those points in the U.S. in and east of TX, OK, KS, NE, SD, and ND, restricted to traffic originating at or destined to the facilities used by (a) National Minerals Corporation, (b) Exposaic Industries, Inc., (c) Culpepper Stone Co., Inc., (d) Owens-Corning Fiberglas Corporation, and (e) Culpepper Farmers' Cooperative, Inc.

MC 148774 (Sub-3F), filed December 16, 1980. Applicant: LTD AIR CARGO, INC., P.O. Box 30132, Memphis, TN 38130. Representative: James N. Caly, III, 222 E. Mallory Ave., Memphis, TN 38109. Transporting *surface vehicle parts,* between Memphis, TN and Atlanta, GA.

MC 149075 (Sub-7F), filed November 12, 1980. Applicant: OVER LAND, INC., 4121 Augusta Rd., Garden City, GA 31408. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting (1) *sand and gravel,* between points in Effingham County, GA, on the one hand, and, on the other, points in the U.S., and (2) *cement,* between points in Chatham County, GA, on the one hand, and, on the other, points in SC and FL.

MC 151165 (Sub-1F), filed December 15, 1980. Applicant: CATHAY, INC., 7680 South State St., Midvale, UT 84047. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington; DC 20005. Transporting (1) *ice cream,* and (2) *materials and supplies* used in the manufacture and distribution of ice cream, between

Woodbridge, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151465 (Sub-2F), filed December 16, 1980. Applicant: DOUBLE-JAY ENTERPRISES, INC., Route 1, Box 90, Kearney, MO 64060. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *foodstuffs,* in packages, from the facilities of R. B. Rice Sausage Company, at or near Kansas City, Joplin, and St. Louis, MO, to points in FL, AL, GA, KY, OH, SC, TN, OK, TX, KS, CO, and GA.

MC 151514 (Sub-1F), filed December 9, 1980. Applicant: KARL MAXWELL, N. 5521 Arden Rd., Otis Orchards, WA 99027. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201. Transporting *dry fertilizer,* between points in the U.S., under continuing contract(s) with Cargill, Inc., of Great Falls, MT.

MC 151694 (Sub-1F), filed December 8, 1980. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. Transporting *feed and feed ingredients,* between points in the U.S., under continuing contract(s) (a) with Eastern Mineral Inc., (b) Southeastern Mineral, Inc., (c) Marshall Minerals, Inc., and (d) Mineral Associates, Inc., all of Bainbridge, GA.

MC 152544 (Sub-5F), filed December 15, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St. Jacksonville, FL 32206. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *furniture parts,* (2) *iron and steel articles,* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S. (except HI), restricted to the transportion of traffic originating at or destined to the facilities used by Leggett & Platt, Inc.

MC 152674 (Sub-3F), filed December 16, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter (same address as applicant). Transporting (1) *automobile parts and accessories,* (2) *scrap iron and steel,* and (3) *machinery,* between points in OH and OK, on the one hand, and, on the other, points in the U.S. (except AK, OH, OK, and HI).

MC 153155F, filed December 12, 1980. Applicant: MANLOWE UNITED, INC., 1049 Egret St., Foster City, CA 94404. Representative: George M. Carr, 235 Montgomery St., Suite 1620, San Francisco, CA 94104. Transporting *general commodities,* between points in CA, restricted to traffic having a prior or subsequent movement by water or rail.

MC 153175F, filed December 12, 1980. Applicant: SPECIAL COMMODITIES, INC., R.F.D. 8, George Washington Hwy., Smithfield, RI 02917. Representative: A. Joseph Mega, 175 Forbes St., Riverside, RI 02915. Transporting (1) *dismantled houses and dismantled buildings,* (2) *iron and steel articles,* and (3) *materials, equipment, and supplies* used in the manufacture, distribution, installation, and erection of the commodities in (1) and (2) above, between points in the U.S., under continuing contract(s) with Acorn Structures, Inc., of Concord, MA.

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Decided: December 24, 1980.

By the Commission, Review Board No. 2, Members Chandler, Liberman, and Eaton. (Member Chandler not participating.)

MC 85255 (Sub-73F), filed December 18, 1980. Applicant: PUGET SOUND TRUCK LINES, INC., 3720 Airport Way South, Seattle, WA 98134. Representative: Clyde H. MacIver, 1415 Fifth Ave., Suite 1900, Seattle, WA 98171. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in WA and OR.

MC 107515 (Sub-1405F), filed December 19, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transorting *plastic articles* (except commodities in bulk), and *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), from the facilities of Eli Lilly & Co., at or near Indianapolis, Lafayette, and Clinton, IN, to points in TN, GA, and NC.

MC 109955 (Sub-1F), filed December 18, 1980. Applicant: WARD BROS. TRANSFER & STORAGE CO., INC., 801 Mayfair Ave., Madison, WI 53714. Representative: Rolfe E. Hanson, 121 West Doty St., Madison, WI 53703. Transporting *household goods* as defined by the Commission, between points in WI, IA, IL, MI, MN, IN, MO, KY, OH, and TN.

MC 111545 (Sub-305F), filed December 12, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., S.E., Marietta, GA 30067. Representative: J. Michael May (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S. (except HI but including AK).

MC 135385 (Sub-9F), filed December 18, 1980. Applicant: J. C. BANGERTER & SONS, INC., 1285 North Main St., Bountiful, UT 84010. Representative: Harry D. Pugsley, 1283 East South Temple #501, Salt Lake City, UT 84102. Transporting *such commodities* as are dealt in or used by a manufacturer of paper products, between points in the U.S. (except AK and HI), under continuing contract(s) with St. Regis Paper Company, of Tacoma, WA.

MC 138704 (Sub-7F), filed December 18, 1980. Applicant: GARY L. DUNPHY, Embden, ME 04958. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *scrap and waste paper,* between points in the U.S., under continuing contract(s) with Giove Company, Inc., of Jamaica, NY.

MC 140334 (Sub-5F), filed December 17, 1980. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717-17th St., Suite 2600, Denver, CO 80202. Transporting *medical and health care products,* between points in the U.S., under continuing contract(s) with Parke Davis Co., of Greenwood, SC.

MC 140635 (Sub-31F), filed December 18, 1980. Applicant: ADAMS LINES, INC., 2619 N St., Omaha, NE 68107. Representative: John L. Hornung (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Morton Chemical, Division of Morton-Norwich Products, Inc., at or near Elk Grove Village and Ringwood, IL, on the one hand, and, on the other, points in CA.

MC 145605 (Sub-1F), filed December 18, 1980. Applicant: CHARLEY T. LONG, d.b.a. C & F EQUIPMENT, 12660 Central Rd., Apple Valley, CA 92307. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of machinery, between points in the U.S., under continuing contract(s) with Industrial Parts Depot, Inc., of Torrance, CA.

MC 146985 (Sub-8F), filed December 17, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731

South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Suite 200 Metro Bldg., Fort Wayne, IN 46802. Transporting *such commodities* as are dealt in or used by a manufacturer of household appliances, between points in the U.S., under continuing contract(s) with The Kent Company, of Elkhart, IN.

MC 146985 (Sub-10F), filed December 17, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Suite 200 Metro Bldg., Fort Wayne, IN 46802. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Michigan Fruit Canners, of Coloma, MI.

MC 148564 (Sub-6F), filed December 19, 1980. Applicant: G. KAY, INC., P.O. Box 222, Geneva, NE 68361. Representative: Jack L. Shutz, P.O. Box 82028, Lincoln, NE 68501. Transporting *fertilizer and fertilizer materials,* between points in Tooele County, UT, Wood County, TX, Chafee County, CO, Tulsa, Rogers, and Mayes Counties, OK, Cherokee County, KS, Yellowstone County, MT, Jasper County, MO, and the facilities of Eagle-Picher Industries, Inc., in Adams County, NE, on the one hand, and, on the other, points in SD, MN, NE, IA, KS, MO, CO, and OK.

MC 153265F, filed December 18, 1980. Applicant: CFC TRANSPORT, INC., 339 S.W. 6th St., Des Moines, IA 50309. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *malt beverages,* between points in the U.S., under continuing contract(s) with Gore Creek Distributing Co., of Little Rock, AR, (2) *materials and equipment* used in the manufacture of fiberglass, between points in the U.S., under continuing contract(s) with Continental Fiberglass Corporation, of Des Moines, IA, and (3)(a) *paint,* and (b) *materials, equipment, and supplies* used in the manufacture of paint, between points in the U.S., under continuing contract(s) with Ameron, Inc., of Des Moines, IA.

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Decided: December 29, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Member Jones not participating.)

MC 35334 (Sub-91F), filed December 19, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William J. Hanlon (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MO, NE, NH, NJ, NY, OH, PA, RI, TN, WV and WI.

MC 107515 (Sub-1404F), filed December 16, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., 5th Floor; Lenox Towers South, Altanta, GA 30326. Transporting *such commodities* as are dealt in or used by manufacturers of petroleum products, between points in Ramsey and Hennepin Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107905 (Sub-1F), filed December 16, 1980. Applicant: AUBURNDALE TRUCK COMPANY, a corporation, 3240 Monroe St., Toledo, OH 43606. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. Transporting (1) *such commodities* which because of size or weight requires the use of special equipment, (2) *self-propelled articles* each weighing 15,000 pounds or more; and (3) *parts* for the commodities in (1), (2), and (3) above, between points in U.S.

MC 110325 (Sub-171F), filed December 16, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) Between Oklahoma City, OK, and Las Cruces, NM, from Oklahoma City over Interstate Hwy 40 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Las Cruces, and return over the same route, (2) Between Wichita, KS, and Tucumcari, NM, from Wichita over U.S. Hwy 54 to Tucumcari, and return over the same route, as alternate routes, serving no intermediate points, but serving Tucumcari, NM in route (1) above, for purposes of joinder only, in connection with carrier's otherwise authorized regular route operations.

MC 133324 (Sub-7F), filed December 16, 1980. Applicant: CAR CARRIERS, INC., 13101 S. Torrence Ave., Chicago, IL 60603. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, IL 60603. Transporting *motor vehicles,* (1) between points in Wayne County, MI, on the one hand, and, on the other, points in IL, IN, IA, MD, MN, NE, OH, PA, VA, and DC, (2) between points in Lake and Cook Counties, IL, and Lake and Porter County, IN, on the one hand, and, on the other, points in DE, MD, MI, SD, VA, and DC, and (3) between points in IL, on the one hand, and, on the other, points in MI, MO, and WI.

MC 133494 (Sub-20F), filed December 16, 1980. Applicant: E. W. BELCHER TRUCKING, INC., Rt. 1, Box 757-M, Sanger, TX 76266. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Fort Worth, TX 76112. Transporting *soybean meal* (except in bulk in tank vehicles), from points in KS to points TX.

MC 134105 (Sub-553F), filed December 16, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *petroleum and petroleum products, vehicle body sealer, and sound deadener compound* (except in bulk), between Farmers Valley, PA, on the one hand, and, on the other, points in AL, AR, GA, LA, MS, MO, OK, TN, and TX, restricted to traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation.

MC 141914 (Sub-95F), filed December 16, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). Transporting (1) *alcoholic liquors,* and (2) *materials, supplies, and equipment* used in the manufacture, distribution and sales of alcoholic liquors (except commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146885 (Sub-6F), filed December 16, 1980. Applicant: BEN CAPOBIANCO TRUCKING, INC., 5275 Talawanda Dr., Fairfield, OH 45014. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Hunt Manufacturing Company, Lightning Products Division, at or near Florence, KY, to the facilities of Hunt Manufacturing Company, Lightning Products Division, at or near Fresno, CA.

MC 150425 (Sub-4F), filed December 15, 1980. Applicant: TRANS-CONTINENTAL EXPRESS, INC., P.O. Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *malt beverages and materials, supplies, and equipment* used in the production and distribution of malt beverages, between Fort Worth, TX, New Orleans, LA, and Belleville, IL, on the one hand, and, on the other, points in AR and LA, (2) *alcoholic beverages and materials, supplies, and equipment* used in the production and distribution of alcoholic beverages, between Chicago, IL, and Westfield, NY, on the one hand, and, on the other, points in Mobile County, AL, and (3) *alcoholic liquors, materials, supplies, and equipment* used in the manufacture, distribution, and sale of alcoholic liquors (a) between points in IL, on the one hand, and, on the other, those points in the U.S. in and west of WI, IN, KY, AR, and LA, (b) between Ft. Smith, AR, on the one hand, and, on the other, those points in the U.S. in and east of TX, OK, KS, NE, IA, and IL, and (c) between New Orleans, LA, on the one hand, and, on the other, points in IL, MO, AR, TN, TX, OK, MS, AL, GA, and FL.

MC 151395 (Sub-7F), filed December 16, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (a) *containers and pulpboard,* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of containers and pulpboard, between those points in the U.S. in and east of MN, IA, MO, OK, and TX, restricted to traffic originating at or destined to the facilities of Container Corporation of America.

MC 151475 (Sub-1F), filed December 16, 1980. Applicant: ARROW CHARTER LINES, INC., 7825 Santa Fe Ave., Huntington Park, CA 90255. Representative: James H. Lyons, 523 West 6th St., Suite 1216, Los Angeles, CA 90014. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip and special operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in AZ, CO, NV, and UT.

MC 151485 (Sub-1F), filed December 16, 1980. Applicant: DOUBLE-JAY ENTERPRISES, INC., Route 1, Box 90, Kearney, MO 64060. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *railway car parts, and mounted wheel sets,* and (2) *materials, and supplies* used in the manufacture, repair, and distribution of the commodities in (1) above, between the facilities used by North American Car Corporation, at or near Kansas City, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151845 (Sub-1F), filed December 16, 1980. Applicant: ADAMIC TRUCKING, INC., 15522 Rider Rd., Burton, OH 44021. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting (1) *metal buildings,* knocked down, and (2) *parts, accessories, and supplies* used in the installation of metal buildings, between Galesburg, IL, and Annville, PA, on the one hand, and on the other, points in Cuyahoga, Geauga, Lake, Portage, and Stark Counties, OH.

MC 153184F, filed December 15, 1980. Applicant: GEORGE EDWARD MONIZE and LINDA ANN MONIZE, d.b.a. MONIZE TRUCKING, 1582 Russell Road, Merlin, OR 97532. Representative: Linda Ann Monize (same address as applicant). Transporting (1) *lumber and lumber mill products,* from points in OR to points in CA, NV and WA; (2) *block, brick, stone, sand, cement, tile, lime, stoves, steel;* and (3) *materials, equipment and supplies* used in the manufacture, production, processing, installation and distribution of the commodities in (2) above, (except commodities in bulk), from points in CA, NV, and WA to Grants Pass, OR, under continuing contract(s) with Cascade Enterprises, Inc., of Grants Pass, OR, and Caveman Lumber Company, of Merlin, OR.

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Decided: December 29, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 61825 (Sub-137F), filed December 17, 1980. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, V.C. Drive, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting *salt* and *salt products,* from Painesville, OH, to points in NC, TN, and VA.

MC 85934 (Sub-127F), filed December 17, 1980. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Representative: Martin J. Leavitt (same address as applicant). Transporting *petroleum* and *petroleum products,* between points in Berrien and Jackson Counties, MI, on the one hand, and, on the other, points in IN.

MC 125335 (Sub-111F), filed December 15, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816. Transporting *such commodities* as are dealt in or used by food business houses, between points in CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, restricted to traffic originating at or destined to the facilities of Stouffer Foods Corporation, Division of Stouffer Corporation.

MC 135365 (Sub-8F), filed December 10, 1980. Applicant: J. C. BANGERTER & SONS, INC., 1283 North Main St., Bountiful, UT 84010. Representative: Harry D. Pugsley, 1283 East South Temple No. 501, Salt Lake City, UT 84102. Transporting *such commodities* as are dealt in by grocery stores, between points in the U.S., under continuing contract(s) with Smiths Management Corporation, of Layton, UT.

MC 138635 (Sub-47F), filed December 17, 1980. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *furniture and hardware,* and (2) *materials, equipment, and supplies* used in the manufacture of furniture and hardware, between Evansville, IN, Hopkinsville, KY, and Blytheville, AR, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343-11344, or submit an affidavit indicating why such approval is unnecessary.

MC 138635 (Sub-124F), filed December 19, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *electrical appliances, electrical equipment, electrical heaters,* and *electrical stoves,* and (2) *material, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in CA and MO, on the one hand, and, on the other, points in GA, NC, SC, and VA, restricted to traffic originating at or destined to the facilities of Superior Electric Products Corporation.

MC 140384 (Sub-5F), filed December 18, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 2785, Amarillo, TX 79105. Representative: R. L. Gordon, 111 West Clarendon, Phoenix, AZ 85013. Transporting (1) *foodstuffs,* and (2) *materials and supplies* used in the manufacture of foodstuffs, between points in the U.S., under continuing contract(s) with Lamb-Weston, Inc.

MC 142205 (Sub-12F), filed December 17, 1980. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, VA 22075. Representative:

Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *such commodities* as are dealt in or used by manufacturers of polystyrene insulation, between points in the U.S. (except AK and HI), under continuing contract(s) with Insulated Building Systems, Inc., of McLean, VA.

MC 146055 (Sub-12F), filed December 17, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68114. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. Transporting *meats,* and *packinghouse products,* between points in Shelby County, IA, on the one hand, and, on the other, points in NY and LA.

MC 146985 (Sub-9F), filed December 17, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Suite 200, Metro Building, Fort Wayne, IN 46802. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Upjohn Company, of Portgage, MI.

MC 151495 (Sub-1F), filed December 17, 1980. Applicant: PUTNAM TRANSFER & STORAGE COMPANY, a corporation, 1701 Moxahala Ave., Zanesville, OH 43701. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contracts with Williams & Company, Inc., of Pittsburgh, PA and The House of Metals, Inc., of Cambridge, OH.

MC 151595 (Sub-1F), filed December 8, 1980. Applicant: CLARK TRANSPORTATION AGENCY, INC., 28 Westwood Parkway, Barre, VT 05641. Representative: Karson E. Clark (same address as applicant). Transporting *passengers and their baggage,* in round-trip charter and special operations, limited to the transportation of not more than 18 passengers (excluding the driver) in one vehicle at one time, beginning and ending at points in VT, and extending to points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, VA, and DC.

MC 152604 (Sub-1F), filed December 12, 1980. Applicant: SUNBELT TRANSPORT, INC., 1900 Emery St., NW., Atlanta, GA 30318. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in GA, restricted to traffic having a prior or subsequent movement by rail.

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Decided: December 30, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Member Jones not participating.)

MC 108194 (Sub-15F), filed October 15, 1980, previously noticed in **Federal Register** on November 4, 1980. Applicant: WILLIAM B. MEYER, INCORPORATED, Long Beach Blvd., Stratford, CT 06497. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW, Suite 1112, Washington, DC 20036. Transporting *household goods,* as defined by the Commission, (1) between points in NY, CT, RI, and MA, and (2) between points named in (1) above, on the one hand, and, on the other, points in ME, NH, VT, NJ, PA, DE, MD, OH, VA, NC, SC, GA, FL, IN, IL, MI, and DC.

Note.—(1) Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of certificate No. MC-108194, at applicant's written request, and (2) this republication corrects the territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-619 Filed 1-8-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 1]

Petitions, Applications, Alternate Route Deviations, Intrastate Applications, and Gateways, Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 19, 1981. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

MC 106407 (Sub-E6) (Correction), filed June 4, 1974, published in the **Federal Register** March 3, 1976, republished August 7, 1980. Applicant: T. E. MERCER TRUCKING CO, INC., P.O. Box 1809, Fort Worth, TX 76101. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. *Pipe, pipeline material, machinery,* and *equipment* incidental to and used in connection with the construction, repairing, or dismantling of gas, gasoline or oil pipelines, restricted to traffic moving to or from pipeline rights-of-way, between points in LA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WI, WV, and DC. (Gateway eliminated: points in MS) Purpose of republication—show entire territory.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-704 Filed 1-8-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-No. 39F)]

Chesapeake and Ohio Railway Company—Abandonment—in Lexington, Fayette County, Ky.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 6, 1981, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment and discontinuance of service on the following line of railroad known as: Lexington Belt Line from Valuation Station 150+55 to Valuation Station 174+00 at end of line, a distance of 0.44 mile, in Lexington, Fayette County, KY, and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any State or local government agency or other interested party to negotiate the

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acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to the Chesapeake and Ohio Railway Company. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than January 19, 1981. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1056 Filed 1-8-81; 11:19 am]

BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-No. 64F)]

Southern Pacific Transportation Company—Abandonment—in Harris County, TX; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 6, 1981, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment of a line of railroad known as the Old Bayshore Line of the Galveston Branch extending from milepost 24.10 to milepost 25.09 at the end of the line, a distance of .99 miles in Harris County, TX. A certificate of public convenience and necessity permitting abandonment was issued to the Southern Pacific Transportation Company. Since no investigation was instituted, the requirement of Section 112.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than January 19, 1981. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1055 Filed 1-8-81; 11:19 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.118]

Mission Director, Zimbabwe; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, Zimbabwe, the authority to:

1. Sign U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent;
2. Sign contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent; and
3. Authorize advance payments to other than profit-making organizations.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Mission Director at his discretion to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Mission Director whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective December 3, 1980.

Dated: December 16, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 81-614 Filed 1-8-81; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.116]

Principal A.I.D. Representative, the Gambia; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Principal A.I.D. Representative, The Gambia, the authority to:

1. Sign U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent;

2. Sign contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent; and

3. Authorize advance payments to other than profit-making organizations.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Principal A.I.D. Representative at his discretion to the person or persons designated by the Principal A.I.D. Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Principal A.I.D. Representative whichever shall first occur. The authority so redelegated by the Principal A.I.D. Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Principal A.I.D. Representative in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective December 3, 1980.

Dated: December 16, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 81-812 Filed 1-8-81; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.117]

Principal A.I.D. Representative, Malawi; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Principal A.I.D. Representative, Malawi, the authority to:

1. Sign U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent;

2. Sign contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent; and

3. Authorize advance payments to other than profit-making organizations.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Principal A.I.D. Representative at his discretion to the person or persons designated by the Principal A.I.D. Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Principal A.I.D. Representative whichever shall first occur. The authority so redelegated by the Principal A.I.D. Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Principal A.I.D. Representative in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective September 19, 1979.

Dated: December 16, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 81-813 Filed 1-8-81; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-4; Exemption Application No. D-2046]

Exemption From the Prohibitions for Certain Transactions Involving the Bakery Drivers Local 802 Pension Fund Located in Long Island City, N.Y.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the leasing of office space by the Bakery Drivers Local 802 Pension Fund (the Pension Fund) to the Bakery Drivers Local Union 802 (the Union), Bakery Drivers Local 802 Welfare Fund (the Welfare Fund), Bakery Drivers Local 802 Credit Union (the Credit Union), and other tenants in a building to be purchased from the Bakery Drivers Real Estate Corporation (the Corporation), which is wholly owned by the Union.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8671. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 7, 1980, notice was published in the **Federal Register** (45 FR 74106) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed on behalf of the trustees of the Pension Fund.

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was furnished by November 26, 1980, to interested persons in compliance with the requirements to notify interested persons as set forth in the notice of pendency of the proposed exemption. The Department has received one comment objecting to the purchase of the building. However, the exemption covers only the leasing of the building to the specified parties in interest. As stated in the notice of pendency, no exemptive relief was requested for the purchase of the building and no such relief is being granted. No requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the leasing of office space by the Pension Fund to the Union, the Welfare Fund, the Credit Union, and other tenants, in the building to be purchased from the Corporation, according to the lease terms and conditions specified in the notice of proposed exemption, provided the rental payments are not less than fair market rental value.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of January 1981.

Morton Klevan,

Deputy Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-842 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-3; Exemption Application No. D-1502]

Exemption From the Prohibitions for Certain Transactions Involving the Rhodes, Kendall & Harrington, a Professional Law Corporation, Profit Sharing Plan and Trust Agreement Located in Newport Beach, California

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the sale of a partnership interest in Abbott Equities, Ltd., by the Rhodes, Kendall & Harrington, a Professional Law Corporation, Profit Sharing Plan and Trust Agreement (the Plan) to RK&H Properties. RK&H Properties is a partnership composed of Terry L. Rhodes, Robert A. Kendall and Bruce E. Harrington who are stockholders in Rhodes, Kendall & Harrington, a Professional Law Corporation, the Sponsor of the Plan, as well as being trustees of the Plan.

FOR FURTHER INFORMATION CONTACT: Dan O'Neil of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8368. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 7, 1980, notice was published in the **Federal Register** (45 FR 74110) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of a partnership interest by the Plan to RK&H Properties. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice to interested persons has been given as set forth in the Notice of Proposed Exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the

exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a 10 percent partnership interest in Abbott Equities, Ltd., by the Plan to RK&H Properties for approximately $80,600, the exact amount to be determined at the date of sale, the terms to be cash, provided that the selling price is at least the fair market value of the interest at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 31st day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-652 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-2, Exemption Application No. D-2103]

Exemption From the Prohibitions for Certain Transactions Involving The Citizens Bank and Trust Company Revised Retirement Plan Located in Jeffersonville, Ind.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the cash sale of certain real property by the Citizens Bank and Trust Company Revised Retirement Plan (the Plan) to the Citizens Bank and Trust Company (the Employer), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 7, 1980, notice was published in the Federal Register (45 FR 74108) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice and an accompanying statement have been provided to all interested persons in order to comply with the notification requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplement to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the

Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan to the Employer of certain real property located at 438, 440, and 442 Spring Street in Jeffersonville, Indiana for $58,000, provided this amount is not less than the fair market value on the date of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 31st day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-844 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2105]

Proposed Exemption for Certain Transactions Involving the San Marcos Development Company Defined Benefit Pension Plan Located in San Diego, California

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the contribution of three unencumbered single-family homes and the real property on which they are located (the Properties) by the San Marcos Development Company (the Employer) to the San Marcos Development Company Defined Benefit Pension Plan (the Plan), the Employer's guarantee of the leses on the Properties, and any repurchase of any of the Properties by the Employer pursuant to a "put" exercised by the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, and the trustee of the Plan, California Canadian Bank (the Bank).

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 23, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2105. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund of the Department of Labor, telephone (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganiation Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Deparment for the complete representations of the applicant.

1. The Employer is a real estate development company which specializes in the subdivision of land in California and Arizona, the construction of single-family homes thereon, and the sale of such homes and land to the ultimate consumers. The applicant represents that the Employer is financially strong but at present is extremely short of cash and its assets are not liquid. The Employer does not expect to have sufficient cash on hand, after meeting its other fixed obligations, to make the contribution due to the Plan for the Plan year ending June 30, 1980 (estimated by the Plan's actuary as ranging from $160,000 to $265,000), the Employer believes that borrowing to make the contribution would be fiscally irresponsible and could possibly cause irreparable damage to the Employer by slowing its recovery from the 1980 recession as the real estate market improves. For these reasons, the Employer has requested that the Internal Revenue Service waive the Employer's required contribution for the Plan year ending June 30, 1980 and allow the Employer to contribute the waived amount to the Plan over a 15 year amortization period. However, if the proposed exemption is granted, the Employer will engage in the proposed transaction described herein and will withdraw its waiver request, if still pending, or ignore it, if already granted.

2. All employees of the Employer (approximately ten) participated in the Plan as of August 1, 1980. The Employer manages the Plan's investments by directing the Bank. As of June 30, 1980, approximately half of the Plan's total assets were invested in real property; the remainder was held in cash equivalents and in promissory notes, maturing January 10, 1982, of the two principal owners of the Employer.[1] About half of the Plan's real property investments are in single-family homes, rented to unrelated parties, which generated approximate net rental income of 7.2 percent of book value equity for the year ended June 30, 1980, and have appreciated in value to an estimated 139 percent of cost.

3. The Properties are legally described as follows:

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[1] The applicant states that the loans represented by these notes were made pursuant to a provision in the trust agreement relating to the Plan authorizing loans to Plan participants. The provision is intended to comply with the requirements of section 408(b)(1) of the Act, which provides that section 406 shall not apply to any loans made by a plan to parties in interest who are participants or beneficiaries of the plan provided certain conditions are met. Counsel for the applicant believes that the loans to the two principal owners of the Employer are not prohibited transactions. The Department is expressing no opinion as to whether these loans meet the requirements of section 408(b)(1).

Lots 36, 40 and 41 of Casa Real Lakeside, in the County of San Diego, State of California, according to Map thereof No. 7689, recorded in the office of the County Recorder of San Diego County, on July 5, 1973.

The properties are commonly described as follows:

Lot 36, 10244 Avenida Real, Lakeside, California
Lot 40, 11618 Rio Fondo, Lakeside, California
Lot 41, 11612 Rio Fondo, Lakeside, California.

These homes were built to meet the standards of the County of San Diego and of the Federal Housing Administration. The homes qualified for Veterans' Administration loans. The Employer built these homes in 1977 as part of a 50 house tract. As is its practice, the Employer retained these homes for its own investment portfolio and currently is renting them to unrelated parties on a month-to-month basis for $425 to $450 per month. According to Lee C. Johnson Co., a real estate appraisal, consultation, and research firm appointed by the Bank to appraise the Properties, the fair market value of the Properties on September 11, 1980 was $250,000.

4. The Properties would be contributed to the Plan subject to the existing month-to-month leases, but subject to no other encumbrances or liabilities. The fair market value of the Properties equals approximately 23 percent of the Plan's total assets as of June 30, 1980. The Properties would be held by the Plan for investment purposes under the management of the Bank. A proposed amendment to the trust agreement would give the Bank exclusive investment management responsibilities with respect to assets contributed to the trust by the Employer, other than cash or its equivalent. This amendment is in the process of being adopted. The Bank is wholly unrelated to the Employer and is engaged in the banking and trust company business in California. The Bank currently is the trustee of the assets of both the Plan and the defined contribution plan sponsored by the Employer. The Bank has never engaged in commercial transactions with the Employer and no such transactions are contemplated.

5. By letter dated September 16, 1980, the Bank has represented that (a) the Bank has been asked to serve as trustee with respect to the Properties and is willing to do so, (b) the Bank has been authorized and instructed to use its independent fiduciary judgment in serving as trustee and, accordingly, the Bank will be free to refuse to accept the Properties or, if it accepts the Properties, to manage or otherwise dispose of the Properties at any time to any person without the consent of any other party (c) after considering the proposed transaction, the Plan's investment experience, portfolio mix and liquidity needs, the Bank has concluded that it will accept the proposed contribution, and that the contribution would be appropriate for the Plan and best serve the interests of the Plan's participants and beneficiaries, and (d) the Bank reserves the right to refuse to accept the proposed contribution if changed conditions warrant such refusal or if the Bank determines that it would be imprudent to accept the contribution. The Bank has explained that its conclusion, in item (c) above, is based on the following factors: (i) The Employer will only claim as a contribution for funding purposes the amount of the fair market value of the Properties it contributes to the Plan; (ii) the Bank, as trustee, will be free to hold the Properties contributed to the Plan or to sell them as the Bank in its discretion sees fit and will sell the Properties if it determines that it would be imprudent to continue to hold them; (iii) the "put," described below, guarantees the Plan a 10 percent return for 10 years after the Properties are contributed to the Plan, which the Bank states is a reasonable minimum rate of return; (iv) the Plan may in fact enjoy a higher return from the Properties; and (v) in the Bank's experience, homes, such as those to be contributed to the Plan, have been appreciating at a rate faster than 10 percent per year in the San Diego area and quite possibly will continue to do so in the future.

6. To ensure that the Plan actually realizes the expected benefits from the contribution, the Employer proposes to guarantee the existing leases. Specifically, if the original tenant under one of such leases fails to pay rent when due or damages the Property, and the trustee, after making diligent efforts to do so, is unable to collect any such past-due rent or recover amounts sufficient to pay for any such damage to the Property, the Employer will pay such amounts to the trustee within 30 days after receiving the trustee's written request that it do so. In addition, the Employer will give the Plan a "put" under which the Plan may require the Employer to buy back one or more homes for an amount (the put price) equal to the value of the homes at the time of contribution (as determined by an independent appraisal) increased 10 percent per year for the period during which the Plan has held the Property, offset by net rental income from the Property during such period. This put would be exercisable upon 30 days prior written notice to the Employer. The put could be exercised with respect to a home only after the Plan has diligently tried to sell the home but has received no offers from qualified buyers at a price at least equal to the put price and only if the put price is at least equal to the fair market value of the home. Although the put would not have an expiration date, the maximum put price for any home would be limited to twice its appraised value at the time of the contribution. The Bank's letter of September 16, 1980, also states that the proposed "put" and guarantee are acceptable without change.

7. The Employer will pay any costs incurred in the proposed transaction. No commission will be paid to any party.

8. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria contained in section 408(a) of the Act because (a) the contribution would be a one-time transaction; (b) the fair market value of the Properties for purposes of both the contribution and the put has been determined by an independent appraiser appointed by the Bank; (c) the contribution would enable the Plan to effect its customary investments at a considerable savings since all closing and transaction costs will be avoided; (d) the Employer will pay any costs incurred in the proposed transaction; (e) the proposed transaction is likely to yield an attractive return to the Plan from both rent and capital appreciation, both of which will be guaranteed by the Employer; and (f) the trustee has determined that the proposed transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons

On or before January 26, 1981, the notice of pendency will be mailed or delivered to all present participants and beneficiaries of the Plan. Included with such notice will be a statement that interested persons have a right to comment and request a hearing on the proposed exemption within the period set forth in this notice. Both the notice and the statement will also be posted on appropriate employee bulletin boards within such 15-day period.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary

or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the contribution of the Properties by the Employer to the Plan provided the contribution is valued at its fair market value, the Employer's guarantee of the leases on the Properties, and any repurchase of the Properties by the Employer pursuant to a put exercised by the Plan.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 31st day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administrator, U.S. Department of Labor.

[FR Doc. 81-653 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1188]

Proposed Exemption for Certain Transactions Involving Panlmatic Company Employees' Profit Sharing Plan and Trust, Located in Elk Grove Village, Illinois

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, prospectively, the leasing of certain real property by Panlmatic Company Employees' Profit Sharing Plan and Trust (the Plan) to Panlmatic Company (the Employer), a party in interest with respect to the Plan. The Proposed exemption, if granted, would affect the Employer, the Plan, its fiduciaries, participants, beneficiaries and other interested persons.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 16, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1188. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver, of the Department of Labor, Telephone (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an Application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed jointly by the Employer and the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Employer, incorporated in Illinois during 1956, is located in a suburb of Chicago at 73 East Bond Street, Elk Grove Village, Illinois (the Bond Property). Its principal activities are the manufacture, assembly, and sale of electrical and mechanical equipment. It has 75 employees. As of September 30, 1979, it had total assets of $2,009,649 with total liabilities of $1,140,342, and retained earnings of $868,307. For the year ended September 30, 1979, the

Employer had net sales of $5,584,747, and income before taxes of $211,464.

(2) The Plan is a qualified, non-contributory, individual account, profit-sharing plan and trust which was established during August 1966 by the Employer. It has 65 participants. The administrator of the Plan is the Employer and the trustees are Messrs. Stanley Luc, Jr. and Robert Rusteburg, who are officers, directors and substantial owners of the Employer. As of September 30, 1979, it had total assets of $1,823,612 with total liabilities of $259. Of its assets, $911,920, or 50 percent, was the current book value of the Bond Property. For the year ended September 30, 1979, the Plan had a net income of $422,467 and during the year the Employer made a maximum allowable funding contribution of $260,479. For the year ended September 30, 1980, in unaudited financial statements, its projected assets totaled $2,460,000 and liabilities were zero. Of these assets, $950,000, or 38 percent, was the current book value of the Bond Property. The net income for the Plan was $636,838 of which $310,000 was projected contributions by the Employer.

(3) The applicants are requesting a prospective exemption from the prohibited transaction provisions of the Act for leasing the Bond Property by the Plan to the Employer. Since purchasing the Bond Property in January 1973 for $325,927 from an unrelated party, the Plan has continuously leased it to the Employer. The Plan had a substantial addition constructed on the Bond Property, which was begun on July 1, 1978, and completed on December 1, 1978, for a cost to the Plan of $413,644. This addition increased the building area by 68 percent; and, upon completion, it is believed by the applicants that under proposed regulations issued by the Department, the transitional rules of section 414(c)(2) of the Act may not have been available for the lease between the Plan and the Employer. Therefore, the applicants request a prospective exemption for the duration of the lease and for its two optional renewal periods.

(4) The subject lease agreement between the Plan and the Employer for the Bond Property is an "absolute" net lease with the Employer responsible for all maintenance, taxes, insurance, and any other expenses of the Bond Property. This lease has an expiration date of June 30, 1984, and two five-year renewal options. The rental payments are $102,000 per year (or $2.01 per square foot), initially yielding the Plan a 13 percent return, which will be increased on October 1, 1981, to $114,000 per year (or $2.25 per square foot). During the renewal periods of the lease the rentals will be increased to the higher of either the fair market rental as determine by an independent, qualified appraiser, or to $140,400 per year during the first renewal period and to $162,400 per year during the second renewal period. Included in the extensive insurance protections provided by the Employer throughout the entire lease agreement, including the two renewal periods, is annual rent coverage.

(5) The Bond Property consists of a one story brick office and industrial building with a parking lot located on a site zoned industrial with a street frontage of 528 feet and a depth of 200 feet. The brick building has a total of 50,593 square feet of which 30,109 square feet was constructed 15 years ago and 20,484 square feet was completed on December 1, 1978. The Plan owns title to the Bond Property free and clear except for the usual utility easements and the leasehold interest of the Employer. As of September 19, 1978, R.J. Schmitt & Associates, Inc. of Prospect Heights, Illinois appraised the Bond Property and found, subject to the completion of the 20,484 square foot addition, that it had a fair market value of $898,000 and its annual fair rental value, on a net basis, was $1.85 per square foot.

(6) On July 11, 1980, The First National Bank of Highland Park, a National Banking Association of Highland Park, Illinois, accepted its appointment to act in a fiduciary capacity as the Independent Real Estate Investment Manager (the Manager) over the Bond Property as an asset of the Plan. Prior to accepting, the Manager made an examination of the lease and employed J.G. Hoppe Real property Consultants of Oak Park, Illinois to inspect the Bond Property and to perform a rental appraisal and a comparative evaluation of the lease arrangements. The fair rental value, on a net basis, was found to be $2.00 per square foot. Thereafter, the Manager (i) approved the lease as reasonable and fair (ii) found the rentals to be at the prevailing market rentals for similar property, and (iii) concluded that the lease arrangements between the Plan and the Employer are in the best interest and to the general benefit of the participants and beneficiaries of the Plan. The Manager is solely responsible for lease negotiations, enforcement of terms, and all other management activities of the Bond Property.

(7) The applicants represent that leasing the Bond Property to the Employer will provide the Plan a return on its investment of significant proportions (13 percent and more), plus long term capital appreciation as contrasted to smaller returns (less than 7 percent) experienced by the other assets of the Plan. In addition, if forced to divest itself of the Bond Property, the applicants feel that the Plan would suffer a loss of investment opportunity with a demonstrated minimum risk and a substantially increasing yield. The applicants predict that rental income from the Bond Property combined with future Employer contributions will increase the value of other assets of the Plan at a much faster rate than the value of the Bond Property will appreciate. This action will result in a rapid decline in the relative value of the Bond property as a percentage of Plan assets. The applicants also represent that the Plan is well protected in the proposed transaction because of the location of the Bond Property in one of the largest industrial complexes in the world with a multiple purpose, high quality, well designed facility that is valuable and readily marketable.

(8) In summary, the applicants represent that the proposed transaction meets the criteria for an exemption under section 408(a) of the Act because (1) the lease agreement will allow the Plan to diversy its investments in a proven successful yielding asset; (2) the lease agreement will be solely managed and monitored by an independent fiduciary; (3) the Plan will be receiving a return which independent appraisers have determined to be fair and reasonable and which will be protected by a rental insurance coverage; and (4) an independent fiduciary has determined that the transaction is appropriate for the Plan and in the best interest of the participants and beneficiaries of the Plan.

The Department notes that the proposed exemption, if granted, would not extend to use of Plan funds for the benefit of the Employer prior to the proposed exemption nor to the lease agreement of the Board Property by the Plan to the Employer after the expiration of the availability of section 414(c)(2) of the Act and prior to the proposed exemption. Such transactions, if prohibited, must be "corrected" within the meaning of section 4975(f)(5) of the Code.

Notice to Interested Persons

Notice of the proposed exemption, including a copy of the notice of pendency as published in the **Federal Register**, will be distributed on or before January 19, 1981 through meetings to actively employed participants or by first class mail to all other participants and beneficiaries. These interested persons will be informed of their right to submit written comments or request a public hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(a)(1)(A) through (E) of the Code shall not apply, prospectively, to the leasing of the Bond Property, located at 73 East Bond Street, Elk Grove Village, Illinois, for the duration of the lease, and its two optional renewal periods. The proposed exemption is subject to the conditions (1) that any prohibited transactions committed in connection with the use of the assets of the Plan for the benefit of the Employer or with the lease of the Bond Property to the Employer by the Plan are to be "corrected" within the meaning of section 4975(f)(5) of the Code, and (2) that the excise taxes imposed by section 4975 of the Code by reason of such prohibited transactions are paid within 90 days of the published grant of this proposed exemption.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81–850 Filed 1–8–81; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1676]

Proposed Exemption for Certain Transactions Involving the Paul W. Lawrence Co., Inc., Profit Sharing Plan, Located in Hastings, Minnesota

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions imposed by the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption will exempt for a period of three years the proposed sales by the Paul W. Lawrence Co., Inc. (the Employer), the sponsor of the Paul W. Lawrence Co., Inc. Profit Sharing Plan (the Plan) of its interests in contracts for deed or residential first mortgage loans (collectively, the Contracts) to the Plan. The proposed exemption will also exempt the guarantee of the obligation of the Employer, and Paul W. Lawrence (Lawrence) and his wife, all parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the Employer, Lawrence, his wife, participants and beneficiaries of the Plan and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 18, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D–1676. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Lawrence and Samuel Hertogs (Hertogs), the trustees (the Trustees) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan

No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with six participants. As of June 30, 1979, the Plan had net assets of $245,062. Lawrence owns 100% of the stock of the Employer. Hertogs is not a shareholder but is an officer and director of the Employer.

2. The Employer purchases undeveloped real estate, sub-divides the same, constructs homes on the real estate and obtains mortgages thereon. The Employer then sells the homes to purchasers under a contract for deed or a residential first mortgage loan. A contract for deed is a contract whereby the owner in fee simple absolute (the Vendor), or the Vendor's assignee agrees by contract to convey to the buyer (Vendee) by a warranty deed, accompanied by an abstract of title or torrens certificate showing good and marketable title in the Vendor, the fee simple title to the premises upon the payment by the Vendee of the principal and interest due from the Vendee to the Vendor under the contract for deed. A residential first mortgage loan may be a conventional, FHA or VA loan. The Employer is requesting an exemption for a three-year period to sell the above described Contracts to the Plan for a cash purchase price of the lesser of the Employer's cost or the market value of the Contract. If the Employer receives any premium or additional consideration in connection with such Contracts, such premium will be passed along to the Plan. The Employer will receive no financial benefit from any Contract sold to the Plan. The proposed exemption would also exempt the guarantee of the obligation of the Employer and/or Lawrence and his wife in such transactions.

3. The Contracts that the Employer is proposing to sell to the Plan are not seasoned in the sense that they have not been in existence for any period of time. The proposed transactions would involve new construction by the Employer. In making residential loans and reviewing residential loan applications, the Employer will follow the Federal National Mortgage Association (FNMA) guidelines. The factors influencing acceptability would include the credit record and financial statements of the loan applicant, the ratio between expenses to be assumed as a result of the loan and the stabilized income of the applicant, verification of employment, the age and condition of the property offered as security (determined by inspection), the value of the security and the ratio of the loan sought to the value of the security. The Plan will not purchase any Contract where the loan to value ratio exceeds 85% and any Contract where the Plan does not have the first interest in the property underlying the Contract.

4. The Plan will not purchase any Contract which upon its purchase would put the value of all Contracts owned by the Plan at 50% or more of the current value of the assets of the Plan. No more than 10% of Plan assets will be invested in any one Contract and the Plan will not purchase more than one Contract from any mortgagor or Vendee. All Contracts purchased by the Plan will meet all FNMA underwriting criteria. Also, there will be an appraisal of the underlying security by an FNMA approved independent appraiser prior to any purchase of a Contract by the Plan. In addition, the purchaser of the property will be required to maintain casualty insurance on the property subject to the Contract at all times during the term of the Contract.

5. Prior to any purchase by the Plan of the Employer's interest in a Contract, a party unrelated to the Plan or the Employer, Mr. Francis Poepl (Poepl), president of the Vermillion State Bank in Vermillion, Minnesota, will determine whether each such transaction is a suitable investment for the Plan and that the terms of the proposed transactions are at least as favorable to the Plan as those which the Plan could receive in the same type of transaction with an unrelated party. No Contract will be purchased by the Plan in which the annual return is less than 12%. Poepl will also supervise the servicing of all transactions. The Employer will service the Contracts at no cost to the Plan.

6. The Employer, Lawrence and his wife jointly and severally guarantee as follows:

To repurchase, at the higher of the Plan's cost or the current market value, any Contract with accrued interest more than three months delinquent in payments at any time during the life of the Contract. If the Employer has not purchased the Contract for deed with the accrued interest within ten days of the Contract for deed being three months in arrears in payments, Lawrence or his wife shall do so within ten days thereafter.

7. As of June 30, 1979, the Employer had total net assets of $2,349,376. As of September 30, 1979, Mr. & Mrs. Paul W. Lawrence had over $8,000,000 of assets in excess of liabilities.

8. The Plan has invested in contracts for deed since 1967. Since 1967, there have never been any defaults that have not been cured on any contracts for deed or mortgages thereon, except one contract for deed where the house was repossessed and resold at a gain to the Plan.

9. The three-year period for the exemption would begin on the date the grant of an exemption for the proposed transactions appears in the **Federal Register.**

10. The applicants represent the proposed transactions will satisfy section 408(a) of the Act as follows: (1) The Trustees represent that the proposed transactions are in the best interests of the Plan; (2) the proposed transactions will be approved and monitored by an independent party; (3) the exemption will be a temporary exemption for three years; (4) the Plan will receive a high rate of return on its investments; (5) the Employer, sole stockholder of the Employer and his wife will provide personal guarantees; and (6) the dollar amount of all the Contracts at the time of their being placed in the Plan will be limited to 50% of the assets of the Plan.

Notice to Interested Persons

A copy of the notice of pendency on or before January 19, 1981 will be hand delivered to all participants and beneficiaries of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the

employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and repesentations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale by the Employer of its interests in contracts for deed or redidential mortgage loans to the Plan as described herein and for the guarantee of the obligation of the Employer by Lawrence and his wife.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81–861 Filed 1–8–81; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–2128]

Proposed Exemption for Certain Transactions Involving the Dakota Steel and Supply Company Employees Profit-Sharing Retirement Plan Located in Rapid City, S. Dak.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of certain improved real property by the Dakota Steel and Supply Company Employees Profit-Sharing Retirement Plan (the Plan) to the Dakota Steel and Supply Company (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, and any other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 23, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2128. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately 81 participants. Custodial and administrative duties for the Plan are performed by the First Northwestern Trust Company of South Dakota (the Trustee). Major investment decisions affecting the Plan are made by a three member Profit Sharing Retirement Committee, which is comprised of Plan participants who are affiliated with the Employer.

2. In January 1959, the Plan acquired a one acre parcel of improved real property (the Property) from the Employer for a purchase price of $24,100. The Property is located in the Deadwood Avenue industrial area of Pennington County, South Dakota and is legally described as follows: "Lot One (1) of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼) of Section Twenty-Seven (27), Township Two (2) North; Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota." The Property is surrounded by other land owned by the Employer. At the time of acquisition, the Property consisted of the one acre tract and a building situated thereon. In subsequent years, the building was expanded to include office and storage facilities.

3. Following acquisition, the Plan leased the land and the building to the Employer for an initial, ten year period commencing in January 1959. Terms of the lease provided for a monthly rental of $250. The lease was renegotiated in 1962 and the rental was then increased to $275 per month. Successive leases were also entered into between the Plan and the Employer at varying durations and rental rates. None of the leases contained renewal provisions.

4. Contemporaneous with the leasing arrangement, the Employer sublet the Property at no profit to the Rapid Tank Company (Rapid Tank), an unrelated entity. Rapid Tank is a vendee of the Employer which desired to be in proximity to the Employer's business premises in order that it could purchase materials utilized in the construction of storage tanks.

5. By letter dated June 29, 1978, the Department advised the Plan that the lease to the Employer constituted a violation of the Act. The Department held, nevertheless, that a lease arrangement by the Plan directly with Rapid Tank would not be prohibited by the Act. Accordingly, in September 1978, the Plan began leasing the Property to Rapid Tank. This leasing arrangement is to continue until August 1981. The current lease provides for a monthly rental of $1,000.

6. Since the Property is surrounded by other holdings of the Employer, ingress and egress is severely impaired for employees of Rapid Tank. To acquire access to the Property, Rapid Tank employees must pass through the Employer's gate and cross certain premises owned by the Employer. Rapid Tank employees possess keys to the Employer's gate for the purpose of gaining access to the Property. However, the Employer considers such possession a security risk, potentially affecting its holdings. Therefore, the Employer has requested the Plan to terminate its leasing arrangement with Rapid Tank as the Employer does not wish for Rapid Tank employees to cross its lands.

7. The Employer has offered to purchase the Property from the Plan for cash. The Employer is considered by the Plan Trustee to be the only logical purchaser of the Property since its present land holdings already surround the subject parcel. If the sale is made prior to the expiration of the lease currently existing between the Plan and Rapid Tank, the sales terms will be made subject to that lease.

8. The proposed sales price of the Property is $93,500. This amount represents the higher of two independent appraisals made of the Property during August 1980. Mr. Donovan D. Rypkema, a real estate appraiser, valued the Property at $43,000. Mr. Eugene P. Neal, a realtor, appraised the Property at $93,500 by placing less emphasis on the access limitations. When consummated, the proposed transaction will not involve the payment of real estate commissions or fees, other than those paid to the appraisers.

9. As of May 1980, the Plan had assets totaling $1,261,372. Thus, the Property involved in the proposed transaction would constitute approximately 7.4% of the total Plan assets.

10. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because (1) it will be a one-time transaction for cash; (2) the sale will permit the Plan to divest itself of an asset available for rental to only a few parties; (3) the purchase price of the property will be the greater of two independent appraisals; (4) no brokerage commissions or fees will be incurred by the Plan; and (5) the Trustee has determined that the proposed transaction is appropriate for the Plan and protective of its participants and beneficiaries.

Notice to Interested Persons

Notice will be given to all interested persons within fifteen (15) days of the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption. Notice will be given to current participants, their beneficiaries and the Employer by first class mail.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale, for $93,500, of the Property by the Plan to the Employer, provided this amount is not less than the fair market value on the date of the sale.

The proposed exemption, if granted will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 31st day of December 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-845 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2162]

Proposed Exemption for Certain Transactions Involving the Employee Group Term Life Plan Maintained by the International Harvester Company Located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt, under certain conditions, the reinsurance by the Association Life Insurance Company, Inc. (ALIC) of a group term life insurance contract sold to the International Harvester Company (the Employer) on behalf of the Employee Group Term Life Plan (the Plan). ALIC is a party in interest with respect to the Plan. The proposed exemption, if granted would affect the Employer, participants and beneficiaries of the Plan, ALIC, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 10, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2162. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restictions of section 406(a) and (b) of the Act. The proposed exemption was requested in an application filed on behalf of the Employer and ALIC, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Preamble

On August 7, 1979, the Department published a class exemption [Prohibited Transaction Exemption 79-41 (PTE 79-41), 44 FR 46365] which permits insurance companies that have substantial stock or partnership affiliations with employers establishing or maintaining employee benefit plans to make direct sales of life insurance, health insurance or annuity contracts which fund such plans, if certain conditions are satisfied.

In PTE 79-41, the Department stated its view that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest with respect to the plan, the purchase of the insurance contract would be a prohibited transaction.

The Department further stated that as of the date of publication of PTE 79-41, it had received several applications for exemption under which a plan or its employer would contract with an unrelated company for insurance, and the unrelated company would, pursuant to an arrangement or understanding, reinsure part or all of the risk with (and cede part or all of the premiums to) an insurance company affiliated with the employer maintaining the plan. The Department felt that it would not be appropriate to cover the various types of reinsurance transactions for which it had received applications within the scope of the class exemption, but would instead consider such applications on the merits of each individual case.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer, a worldwide enterprise having numerous subsidiaries, licensees and joint venturers, designs, manufactures and markets self-propelled heavy machinery for use on and off the highways. At October 31, 1979, the Employer's products were sold through approximately 6,300 independent dealers and distributors, including 3,900 in the United States.

2. The Plan is a welfare benefit plan which provides group term life insurance to domestic salaried and hourly employees of the Employer. The estimated total number of participants currently covered under the Plan is approximately 75,000 active and retired employees. Approximately $1 billion in insurance is in force under the Plan with the annual premium being approximately $76 million.

3. ALIC is a wholly-owned subsidiary of Harco Holdings, Inc. (Harco), a holding company 79 percent of which is owned by the Employer. A wholly-owned subsidiary of the Employer owns the remaining 21 percent of Harco. ALIC is a stock life insurance company which was organized under the laws of the State of Wisconsin in December, 1954, and commenced doing business in January, 1955. Its premiums and annuity considerations are generated from the sale of life, annuity and accident and health policies. Approximately 10% of its aggregate premiums and annuity considerations emanate from reinsurance. Generally, ALIC's business is solicited from various sources including, but not limited to, the following—the Employer and members of its affiliated group, reinsurance, and the general public. As of December 31, 1979, ALIC's balance sheet assets aggregated $28.7 million with a net equity of $12.5 million.

4. The benefits under the Plan have been funded since 1952 through the purchase of a group insurance policy from the Aetna Life and Casualty Company (Aetna). Aetna is unrelated to the Employer and ALIC. Aetna enjoys an A+ (Excellent) rating from the A. W. Best Company, whose insurance ratings and reports are widely utilized in financial and regulatory circles. ALIC now proposed to enter into a reinsurance contract with Aetna in that Aetna will cede less than 10 percent of the total insurance in force under the Plan's policy to ALIC. It is proposed that Aetna will pay over to ALIC, from its general fund, an amount in dollars equal

to the total premiums paid on behalf of the insureds times the percentage of insurance ceded. Aetna will continue to remain liable directly and primarily to the insureds.

5. The applicants represent that the reinsurance transaction, as proposed, will upon implementation and continuously thereafter, meet all of the conditions of PTE 79-41 covering direct insurance transactions:

(a) ALIC is a party in interest as defined in Act section 3(14)(G) by reason of stock affiliation with the employer maintaining the Plan.

(b) ALIC is licensed to sell insurance in 45 states and the District of Columbia.

(c) ALIC obtained a Certificate of Compliance from the Insurance Commissioner of the State of Wisconsin in January, 1955. Such certificate is automatically renewed each year by the Wisconsin Insurance Department and continues to be effective unless rescinded. ALIC's certificate has never been rescinded.

(d) ALIC underwent a financial examination by the Insurance Commissioner of the State of Wisconsin as of December 31, 1976. During the course of future examinations, it is anticipated that the proposed reinsurance contract with Aetna, upon implementation, will be examined thoroughly, as well as the results of the company's participation therein.

(e) ALIC has undergone in the past, and will continue to undergo in the future, an annual examination by an independent certified public accountant.

(f) The Plan pays no more than adequate consideration for the contract; this is true inasmuch as Aetna, one of the largest group underwriters in the country, enjoys substantial economies of scale in overall policy administration, and the premium charged to the Plan is highly competitive. Additionally, the proposed reinsurance transaction will not be a factor in the premium computations and thus will not in any way affect plan costs.

(g) Aetna, the direct insurer of the Plan, will not follow the normal commercial practice of paying a broker a commission for placing the Plan's policy with it.

(h) The gross prmiums and annuity considerations received in 1979 through reinsurance by ALIC for life and health and annuity contracts from all employee plans (and their employers) with respect to which ALIC is a party in interest did not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in 1979 by ALIC. Such premiums amounted to approximately 1.9 percent of ALIC's gross premiums received. The gross premiums and annuity considerations received in 1979 by ALIC from life, health and annuity contracts for all employee benefit plans (and their employers) with respect to which ALIC is a party in interest did not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in 1979 by ALIC. Such premiums amounted to approximately 6.7 percent of ALIC's gross premiums received.

The applicants represent that for the future, ALIC will not derive more than a total of 50 percent of its gross premiums (including reinsurance receipts) from transactions involving insurance contracts of plans (and their employers) with respect to which it is a party in interest.

6. In summary, the applicants represent that the subject transactions meet the statutory criteria of section 408(a) of the Act because: (1) The insurance could not be purchased by the Plan directly from ALIC more economically than the Plan purchases it from Aetna; (2) Plan participants and beneficiaries are afforded insurance protection by Aetna, one of the largest and most experienced group insurers in the United States, at competitive rates arrived at through arm's-length negotiations; (3) ALIC is a sound, viable insurance company which has been in business for many years and does a substantial amount of business outside its affiliated group of companies; and (4) Each of the protections provided to the Plan and its participants by PTE 79-41, will be met under the subject reinsurance transaction.

Notice to Interested Persons

Within 30 days from the publication of this notice in the **Federal Register**, notification will be provided to all domestic salaried and hourly employees of the Employer (and its domestic subsidiaries). Notice to current employees will be made by posting on a bulletin board that is customarily used for providing notices with regard to labor management relations matters at the worksites of the Plan participants. In the case of any retired employees covered under the Plan, such notice will be provided by mail. In addition, to the extent that any participants under the Plan are members of an organization described in Act section 3(4), a copy of the notice will be provided to the organization by mail. The notification will contain a copy of this notice of proposed exemption, and will inform interested persons of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by ALIC from the group term life insurance contract sold by Aetna to the Employer to provide benefits to the Plan, provided the following conditions are met:

(a) ALIC—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with the Employer that is described in section 3(14)(E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the Insurance Commissioner of its domiciliary state, Wisconsin, within the 18 months prior to the date when the transaction is entered into or when such certificates last made available by the State of Wisconsin if earlier; and

4(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

4(B) Has undergone a financial examination (within the meaning of the law oif its domiciliary state, Wisconsin) by the Insurance Commissioner of the State of Wisconsin within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the group life insurance contract;

(c) No commissions are paid with respect to the direct sale of the contract, or the reinsurance thereof; and

(d) For each taxable year of ALIC, the gross premiums and annuity considerations received in that taxable year by ALIC for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which ALIC is a party in interest by reason of a relationship to such employer described in section 3(14)(E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in that taxable year for ALIC. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means the total of premiums and annuity considerations received, both for the subject reinsurance transaction as well as for any direct sale of life insurance, health insurance or annuity contracts to such plans (and their employers) by ALIC. This total is to be reduced (in both the numerator and the denominator of the fraction) by experience refunds paid or credited in that taxable year by ALIC.

(2) All premiums and annuity considerations written by ALIC for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-848 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-815]

Proposed Exemption for a Certain Transaction Involving the Employees Profit-Sharing Plan of Bernhard Associates Company, Inc., Located in Dallas, Tex.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the leasing of real property by the Employees Profit-Sharing Plan of Bernhard Associates Company, Inc. (the Plan) to Bernhard Associates Company, Inc. (the Employer). The lease was entered into before the effective date of the Act, but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act. The proposed exemption, if granted, would affect the Employer and participants and beneficiaries of the Plan.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 23, 1981.

EFFECTIVE DATES: If the proposed exemption is granted, the exemption will be effective from January 1, 1975 until March 31, 1980.

ADDRESS: All written comments and requests for a hearing (a least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Departmernt of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-815. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan established for the benefit of employees of the Employer. For the past several years the Plan has had 7-9 participants. On December 27, 1974, Warren K. Bernhard and Donald Krusemark sold to the Plan real estate and improvements located at 2550 Manana, Dallas, Texas (the Property), which the Employer occupied as its principal place of business. The sales price was $70,000, which was paid in cash by the Plan to the sellers. The sellers are officers and

shareholders of the Employer and trustees of the Plan.

2. The Property consists of a tract of land 115.74 feet by 176.7 feet, totaling 20,541 square feet, a portion of which contains a black top parking lot and a building with 6,085 square feet of floor space. The building is a general purpose facility divided into 1,750 square feet of office facilities and 4,335 of warehouse space. Adjoining the Property to the rear is another parcel of land (the Rear Parcel). Two mini-warehouse buildings are located on the Rear Parcel, and there are also areas on the Rear Parcel that can be used for uncovered storage. The mini-warehouse buildings were leased to unrelated third parties.

3. On the same date that the Property was purchased by the Plan, December 27, 1974, the Plan entered into an oral lease with the Employer, under which the Property was leased by the Plan to the Employer for the rental amount of $2,000 per month. The oral lease was on a triple net basis, so that the Employer paid all expenses including taxes, insurance and utilities on the Property. The applicant has represented that under Texas law, an oral lease constitutes a binding and continuous contract. In addition, the Employer has used portions of the Rear Parcel for uncovered storage. The applicant has represented that the monthly rental included payments for its use of the Rear Parcel for uncovered storage space.

4. The Property, valued at its cost, constituted approximately 23.6 percent of Plan assets as of June 30, 1976. The annual rate of return provided to the Plan by the lease, based on the cost of the Property to the Plan, was approximately 34 percent, which exceeded the return the Plan received on its other investments.

5. The applicant submitted three independent appraisals for the fair rental value of the Property. The highest fair market rental value established by these three independent appraisals was $1,250 per month. All three independent appraisals indicate that even including the rental values of the uncovered storage areas on the Rear Parcel, the rental figure of $2000 per month was greater than the fair market rental value for the Property. The applicant has represented that amounts received by the Plan in excess of fair rental value did not cause the annual additions to participants' accounts to exceed the limitations of section 415 of the Code.

6. The lease between the Plan and the Employer terminated on March 31, 1980, on which date the Employer vacated the Property. However, the Employer continued to use the uncovered storage area on the Rear Parcel. Effective May 1, 1980, the Plan entered into an agreement to lease the Property to P & R Electrical Company of Dallas, Texas (P & R), an unrelated party. P & R is paying a monthly rental to the Plan of $1,565. The lease is for a two year period with a one year renewal option. Rental for the renewal term will be based on the then prevailing rate for equivalent properties. In addition, on July 1, 1980, P & R entered into a lease agreement with the Plan with respect to the Rear Parcel. Under the terms of that lease agreement, P & R has sole and exclusive power and authority to lease all of the mini-warehouses located on the Rear Parcel, and P & R also has the right to use all of the uncovered storage space located on the Rear Parcel.

7. The applicant recognizes that the use of the uncovered storage space on the Rear Parcel by the Employer for the period between March 31, 1980 and July 1, 1980 constitutes a prohibited transaction under the Act and the Code for which no exemptive relief is proposed. Accordingly, the Employer represents that it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of such use of Plan property within 60 days of the publication in the **Federal Register** of a final notice of the granting of the exemption proposed herein. In addition, the Employer represents that it will reimburse the Plan for the fair rental value of the uncovered storage space on the Rear Parcel for the period between March 31, 1980 and July 1, 1980.

8. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) the Property was leased for a higher rental value than that established by independent appraisal and higher than that established for a subsequent third party tenant; (2) all payments on the lease were made in a timely fashion in accordance with the lease agreement; (3) the lease was terminated on March 31, 1980; (4) the trustees of the Plan determined that the transaction was appropriate for the Plan and in the best interests of the Plan participants and beneficiaries; and (5) with respect to the prohibited use of the uncovered storage space on the Rear Parcel, the Employer will fully comply with the excise tax provisions of section 4975 of the Code.

Finally, the applicant represents that the lease was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. As soon as the applicant realized that the lease had become a prohibited transaction, the applicant submitted a good faith request for an exemption instead of terminating the lease transaction.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415

Notice to Interested Persons

Notification of this proposed exemption will be furnished to all Plan participants within 14 days of the publication of this notice in the **Federal Register.** This notification will inform the interested persons of their right to comment and request a hearing on the proposed exemption, and will contain a copy of the proposed exemption. Notification will be made either by personal delivery or by first class mail.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its

participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the leasing by the Plan to the Employer of the Property, located at 2550 Manana, Dallas, Texas, for the period from January 1, 1975 through March 31, 1980, and the use by the Employer of the uncovered storage areas on the Rear Parcel for that same period, provided the rental payments were not less than fair rental value.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this proposed exemption.

Signed at Washington, D.C., this 5th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services, Administration, U.S. Department of Labor.

[FR Doc. 81-943 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1575]

Proposed Exemption for Certain Transactions Involving the Kishwaukee Valley Medical Group, S.C. Employee's Retirement Plan and Trust Located in Woodstock, Ill.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption exemption would exempt both the proposed sale of certain real property by the Kishwaukee Valley Medical Building Partnership (the Partnership) to the Kishwaukee Valley Medical Group, S.C. Employee's Retirement Trust (the Trust) and the proposed lease of the same real property by the Trust to the Kishwaukee Valley Medical Group, S.C. (the Employer). The proposed exemption, if granted, would affect the Trust and its participants and beneficiaries, the Employer, and other persons who would be parties to the two transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before Feburary 16, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application NO. D-1575. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W. Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C.E. Beaver, of the Department of Labor, telephone (202) 523-7901. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and from taxes imposed bny section 4975 (a) and (b) of the Code, by reason of section 4975(a)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Partnership, the Employer, and the trustee of the Trust, First National Bank of Woodstock, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Employer, an Illinois medical corporation formed from a partnership on January 28, 1968, is owned by 10 physicians who operate a medical clinic (the Clinic) which is located at 1307 West Jackson Street, Woodstock, Illinois, 60 miles northwest of Chicago. Each of these 10 physicians owns 10 percent of the voting stock of the Employer and each works as an employee for the Employer. The Employer has 7 directors on its board and a staff of 12 physicians, who practice in various medical and surgical specialities, plus 49 full and part-time nurses and administrative personnel. The practice of the Employer, founded in 1965 by 2 physicians, has increased with the growth of the local population so that for the year ended December 31, 1977, its outpatient visits totaled 46,424 and its hospitalized patients exceeded 8,000. According to audited financial statements prepared on a cash basis, the Employer had gross receipts from professional services of $1,705,353 for the year ended December 31, 1978. The total assets of the Employer for the year ended December 31, 1978, were $129,291 and its total liabilities were $11,725.

2. The Trust forms a part of the Kishwaukee Valley Medical Group, S.C. Employee's Retirement Plan (the Plan) which is a defined contribution plan adopted in 1969. As of January 1, 1979, the number of participants in the Plan was 44. All employees of the Employer who have attained 21 years of age and have completed one year of service are covered by the Plan. The First National Bank of Woodstock (the Trustee), as trustee under the Plan, has discretionary authority regarding the investment of Trust assets. The most recent favorable determination letter for qualification of the Plan and Trust under section 401(a) of the Code was issued July 18, 1979. As of December 31, 1979, the assets of the Trust, consisting of cash, commercial paper, treasury and corporate bonds, and common stock, had a fair market value of $1,024,717. The Employer regards the Plan and Trust as major factors in its success in attracting and retaining qualified personnel.

3. The Partnership is composed of 10 partners, all of whom are employees of the Employer. Nine of the partners are shareholders of the Employer, and seven are the directors of the Employer. The Partnership is a general partnership whose sole purpose is to own real property, consisting of land and a building thereon, and to lease this property to the Employer for operating its Clinic. This Clinic property is a one story, professional office building and medical clinic. It is readily adaptable for uses other than the practice of medicine. In addition, the Partnership owns certain personal property or equipment which is located on the Clinic property and is leased to the Employer. Currently, the annual rent being paid by the Employer to the Partnership for the Clinic property is $84,000, or $7,000 per month. From this annual rent the Partnership pays out $25,075 per year in expenses for insurance coverage, real estate taxes, major maintenance, equipment, and for professional fees (e.g., accounting, appraisal, and legal services). In addition, the Employer has been paying an additional sum of approximately $11,300 per year for repairs and minor maintenance costs with respect to the Clinic property. An annual rental of $9,000 is also paid by the Employer to the Partnership for the lease of the aforementioned personal property or equipment owned by the Partnership.

4. The Trustee, joined by the other applicants and by a signed petition from participants of the Plan and Trust, has proposed that the Trust purchase the Clinic property from the Partnership. The purchase price for the Clinic property will be the current fair market value as determined by a qualified, independent appraiser within 60 days of the grant of the proposed exemption. This sale will not include the equipment owned by the Partnership and leased to the Employer. The Trustee has expressed an opinion that the sales price for conveyance of the Clinic property is reasonable and fair. An appraisal has been made of the Clinic property by the same independent appraiser, H. F. Harrison and Associates, at four different times: 1973 ($285,000), 1978 ($525,000), 1979 ($560,000), and 1980 ($560,000).

5. The terms for the proposed sale transaction will involve no down payment by the Trust. The entire purchase price will be paid over a period of 8 years and 2 months. The method of payment will be the issuance of a promissory note by the Trust to the Partnership for the amount of the purchase price with interest charges on the unpaid balance computed at an annual rate of 7 percent. The assignment of beneficial interest in the Clinic property will be held in escrow by the State Bank of Woodstock until the purchase price is paid in full by the Trust. Existing mortgage indebtedness of $283,321 on the Clinic property will not be assumed by the Trust, but the Trust will acquire the Clinic property subject to such indebtedness. In order to avoid a conflict, a mortgage on the property with an outstanding balance of $62,014, which is held by the First National Bank of Woodstock (the trustee of the Trust), in its individual capacity, will be refinanced by the State Bank of Woodstock. Thereafter, two banks will be holding mortgages on the property. The State Bank of Woodstock, Woodstock, Illinois for approximately $123,654, and the McHenry State Bank, McHenry, Illinois for approximately $159,667. As payments become due on these outstanding mortgages, the Partnership will continue to be obligated to make payments. All mortgage payments will be accelerated to pay in full the amounts due thereon by February 1985. In the event the Partnership defaults in its payments, the Trust may elect to make the payments and deduct such payments (together with interest, penalties, or attorney's fees resulting from such defaults) from the amount then currently outstanding on the promissory note issued by the Trust for the purchase of the Clinic property.

6. Upon the sale of the Clinic property to the Trust, the Employer proposes to enter into a 10-year lease of the Clinic property with the Trust at an initial monthly rental of $6,700, which was determined by a qualified, independent appraiser. This monthly rental will be increased, to the greater of either the fair rental value as determined by a qualified, independent appraiser, or by 6 percent per annum, during each year of the lease, including the two three-year renewal periods. The lease will be on a "triple net" basis for the Trust, with the Employer bearing all costs incurred by the Clinic property, including taxes, maintenance, professional fees, and any other expenses. The lease will provide the Trust with income sufficient to cover payments due on its promissory note issued for the purchase of the Clinic property, and income sufficient to pay any tax due from unrelated business taxable income. At all times a positive cash flow will be produced by the lease payments of the Employer. The initial annual rentals will yield the Trust a return of 14 percent on the 1980 ($560,000) appraised value of the Clinic property, less the payments due on principal and interest of the purchase price of the Clinic property. Further, it is estimated that the fair market value of the Clinic property will appreciate at a rate of 7½ percent per year. In the event of default by the Employer in its lease payments, the Trust would have three alternatives (i) find a new tenant and collect damages, if any, from the Employer; (ii) cancel its lease with the Employer, void its obligation of payments on its promissory note issued to the Partnership, and return the property to the Partnership; or (iii) liquidate its interest in the property and pay in full its purchase obligations on the promissory note. In the judgment of the Trustee, the terms of this lease agreement are reasonable and fair, the proposed rentals are at or above the prevailing fair market rentals for similar property, and the proposed purchase and lease of the Clinic property will benefit the Trust and its participants and beneficiaries.

7. In summary, the applicants represent that the proposed sale of the Clinic property to the Trust and the proposed lease of the same property to the Employer meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the sale contract and lease agreement will be finalized, documented, and preserved, (2) the current assets of the Trust and contributions from the Employer or employees will not be needed for the purchase price because the lease rentals will fully amortize the purchase price and pay all expenses, (3) the Trust will be insulated from loss if the lease rentals are discontinued, (4) the selling

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price of the property will be for the current fair market value as determined by a qualified, independent appraiser within 60 days of the grant of the proposed exemption, (5) the terms of the lease agreement have been judged to be fair and reasonable by the discretionary Trustee, and (6) the favorable and continuing rate of return to the Trust on its investment and the anticipated 7½ percent appreciation in value of the property will be beneficial for the participants and beneficiaries of the Trust.

Notice to Interested Parties

Within ten days of publication of the proposed exemption in the **Federal Register**, all participants and beneficiaries of the Trust will receive, through meetings for active participants, or by first class mail for all other participants and beneficiaries of the Trust, a copy of the notice as published in the **Federal Register** and a statement informing interested persons of their right to comment or request a hearing within the period specified in such notice. Copies of all such communications to participants and beneficiaries of the Trust will be provided to the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provision to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to both the proposed sale of the real property at 13707 West Jackson Street, Woodstock, Illinois by the Partnership to the Trust, and to the proposed lease of that real property by the Trust to the Employer, if such sale and lease are according to the terms set forth in the application for exemption.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in this application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 5th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-847 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2144]

Proposed Exemption for Certain Transactions Involving the Nalle Clinic Company Pension Plan and Trust Located in Charlotte, N.C.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan by the Nalle Clinic Company Pension Plan and Trust (the Plan) to the Nalle Clinic Company (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 18, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2144. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section

4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan, which was established in 1954, is a defined contribution plan with 216 participants and total assets as of June 30, 1980 of $2,923,809. The Employer is a medical clinic formed in 1944 to provide medical services.

2. The Employer, in order to expand its capacity for providing medical care, undertook the construciton of a new Primary Care Center (the Property) located at 7110 Lawyers Road, Charlotte, North Carolina. Construction costs on the Property were financed by North Carolina National Bank.

3. The Plan proposes to loan the Employer $325,000 as permanent financing on the Property receiving in return a first mortgage and a deed of trust on the Property. The proposed loan would be repaid in 120 monthly installments. The interest rate shall be 14¼ percent per annum, for the first five years of the loan. On the fifth anniversary of the making of the loan, the interest rate shall be adjusted to the higher of 14¼ percent per annum, or ¼ percent more than the rate for comparable loans prevailing in Charlotte, Mecklenburg County, North Carolina as determined by the Independent Trustee of the Plan. In addition, payment of physician salaries will be subordinated to the loan payments.

4. The Property has been appraised by Mr. Everett Wohlbruck of Realty World of Charlotte, North Carolina, an independent appraiser, as having a current fair market value of $490,000. Thus, the loan would represent only about 67% of the value of the Property and less than 12% of the Plan's assets. The Employer represents that it will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. During the life of the loan, the Employer will keep the collateral adequately insured against fire or other loss at its expense.

5. The North Carolina National Bank of Charlotte, North Carolina (the Bank), by letter dated October 20, 1980, has represented that it would lend the Employer $325,000 on the same terms and conditions as proposed herein, except that the Bank would only charge 14 percent interest for the first five years of the loan. The Employer represents that interest paid to the Plan by the Employer in excess of fair market interest rates will not cause the annual additions to participants' accounts to exceed the limitations of section 415 of the Code.

6. The applicant represents that the Central Bank of Birmingham is an independent fiduciary with respect to the Plan and has no relationship with the Employer other than as Trustee of the Plan. The independent fiduciary, who is responsible for making an independent determination that the proposed loan is appropriate and suitable for the Plan, has examined the terms of the proposed loan and determined that such a loan is appropriate and suitable for the Plan. The independent fiduciary will be required to make the same determination immediately prior to consummation of the transaction. The independent fiduciary will be empowered and directed as the holder of the note and the beneficiary of the deed of trust to enforce the terms of such instruments, including making demand for timely payment, bringing suit or other appropriate process against the Employer in the event of default, keeping accurate records, and reporting at least annually on the performance of the loan, specifically including whether the value of the collateral securing the loan remains equal to at least 150 percent of the outstanding balance of the loan. The independent fiduciary will be entitled to such information from the Employer and the Plan as may be reasonably necessary to fulfill its responsiblilities, and shall be paid reasonable compensation and reimbursement for reasonable expenses, if any, including legal or appraisal fees or costs. If the Central Bank of Birmingham is unable or unwilling to serve or resigns, another unrelated, qualified, independent fiduciary will be appointed.

7. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the Plan will receive 14¼ percent on its investment, which is greater than the rate which would be charged the Employer by an unrelated party, (2) the Employer will insure the Property and add additional collateral so that the value of collateral securing the loan is always at least 150 percent of the outstanding balance of the loan, (3) the loan will be administered by an independent fiduciary, and (4) the independent fiduciary has determined that the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries and protective of their interests.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the proposed exemption will be given to all Plan participants by posting the notice of pendency at the Employer's principal place of business in the places customarily used for labor relations matters. Terminated participants and beneficiaries who have the right to receive benefits will be notified by mail. The notice will include a copy of the notice of pendency along with a statement advising interested persons of their right to comment and request a hearing within the time period set forth in the notice of pendency. Notice of the proposed exemption will be posted and mailed within 10 days of its publication in the **Federal Register.**

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsiblity provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their benficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a loan of $325,000 by the Plan to the Employer, based on the terms and conditions set forth above, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 31st day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81–[illegible] Filed 1–8–81; 8:45 am]

BILLING CODE 4510–29–M

[Application Nos. D–2134 and D–2135]

Proposed Exemption for Certain Transactions Involving Ness & Co. Profit Sharing Plan and Northwest Food Brokers, Inc. Employees' Profit Sharing Plan Located in Portland, Oreg.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) the proposed sale of a land sale contract (the Contract) to the Ness-NWFB Employees' Retirement Trust (the Trust), which holds the assets of the Ness & Co. Profit Sharing Plan and the Northwest Food Brokers, Inc. Employees' Profit Sharing Plan (collectively, the Plans), by Ness & Co., a contributing employer to the Trust; and (2) the extension of credit resulting from Ness & Co.'s agreement to indemnify and hold the Trust harmless regarding the Contract. The proposed exemption, if granted would affect Ness & Co., the Trust, the Plans, the trustees, participants and beneficiaries of the Trust and Plans and other persons who would participate in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 24, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application Nos. D–2134 and D–2135. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of two applications for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code.

The proposed exemption was requested in two applications filed by Ness & Co., pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicant.

1. The trustees of the Trust (Trustees) are Steven Ness and Terry Nevin, who are, respectively, president and vice-president of both Ness & Co. and Northwest Food Brokers, Inc. (NWFB). Steven Ness and members of his family hold controlling interests in both Ness & Co. and NWFB.

2. Ness & Co. proposes to sell a parcel of real Property (the Property) located at 310 S.E. Sixth Avenue, Portland, Oregon

which is improved by a multipurpose warehouse building, to Mr. Robert L. Young, who is an officer, director and majority shareholder of Image Control Systems, Inc. (Image Control). There is no pre-existing relationship between Mr. Young, Image Control, Ness & Co., NWFB or the Trust. The warehouse at one time served as the primary business location for Ness & Co., but has for several years been leased to unrelated third parties.

3. Mr. Young and Ness & Co. have entered into an earnest money agreement in which Mr. Young agrees to purchase the Property for $195,000. Mr. Young will pay $72,500 as a downpayment at closing. The remainder of the purchase price of $122,500 will be paid pursuant to the terms of the Contract over a period of 15 years with interest at the rate of 20% per annum. The Contract provides for monthly payments in the amount of $2,151.50, which includes principal and interest. No prepayment is permitted under the Contract for the first five years and if there is prepayment between the fifth and fifteenth year, substantial prepayment penalties must be paid by Mr. Young. The Contract requires that Mr. Young maintain insurance on the Property, at his own expense, against fire and other risks. Mr. Young will lease the building to Image Control for a minimum period of 60 months with an agreed monthly lease payment of $2,500. Mr. Young, as lessor, will pay all utilities, taxes and maintenance as provided by the lease agreement.

4. The value of the Property, which is the primary collateral for the Contract, is greatly in excess of the $122,500 obligation. The Property was appraised by Gerald L. Curtis, an independent M.A.I. appraiser, to have a fair market value of $228,000 as of January 1, 1980. Mr. Young's down payment of $72,500 represents 37% of the $195,000 purchase price. Mr. Young's personal net worth is greatly in excess of the $122,500 obligation.

5. Following the closing of the sale of the Property to Mr. Young, Ness & Co. proposes to transfer its vendor's interest in the Contract to the Trust. The purchase price to be paid by the Trust will be $122,500, reduced by the amount of any principal payments received by Ness & Co. prior to the transfer. This will represent approximately 15% of Trust assets. Ness & Co. will agree to indemnify and hold the Trust harmless in the event of any loss suffered as a result of default by Mr. Young under the terms of the Contract. Ness & Co.'s net worth, as of December 31, 1979, was approximately $3 million. The assignment from Ness & Co. to the Trust will be recorded in the appropriate public record to perfect the security interest of the Trust.

5. It is represented that the Contract is readily marketable and with the net return of 20%, it is anticipated that the Trust could sell the Contract to a third party without any substantial discount. Mr. Young obtained a commitment letter from People's National Bank for a similar $122,500 loan. Mr. Curtis noted in his appraisal that demand in the area for this type of building was strong.

6. An independent real estate investment broker, the Hayden-Watson Co. (H–W), stated in a letter dated May 29, 1980, that the purchase of the Contract by the Trust would be a sound investment in that the terms of the Contract are better than a normal market transaction. H–W further stated that the location, size and price of the building on the Property represent a highly marketable product. It was also emphasized that with a land sale contract, the deed remains in the possession of the contract holder until the satisfaction of the debt.

7. In summary, it is represented that the proposed transaction satisfies the statutory criteria of section 408(a) due to the following:

(a) the Trustees state that the proposed transaction is in the best interests of the Plans and their participants and beneficiaries;

(b) an independent real estate investment broker has stated that the terms of the Contract are better than arm's length for the Trust and that the Property is highly marketable;

(c) the collateral underlying the $122,500 Contract was recently appraised by an independent appraiser at $228,000; and

(d) both Mr. Young and Ness & Co. guarantee Contract performance and each has a net worth greatly in excess of $122,500.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the pending exemption will be provided to all interested persons, including all participants and beneficiaries of the Plans. The notice will include a copy of the Notice of Pendency of the exemption published in the **Federal Register** and will inform each recipient of his right to comment on or request a hearing regarding the pending exemption. The notice will be provided within 15 days of the publication in the **Federal Register** and will be delivered by hand to current employees and mailed to the last known address of any other participants or beneficiaries who have a vested interest in either of the Plans.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the applications for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the applications, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the sale of the Contract for $122,500 to the Trust by Ness & Co.; and (2) the extension of credit resulting from Ness & Co.'s agreement to indemnify and hold the Trust harmless with regard to the Contract.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-849 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

Pension and Welfare Benefit Programs

[Application Nos. D-1654, D-1655]

Proposed Exemption for Certain Transactions Involving the Smith & Schnacke Retirement Plan, Part A and the Smith & Schnacke Retirement Plan, Part B, Located in Dayton, Ohio

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of money (the Loan) by the Smith & Schnacke Retirement Plan, Part A and the Smith & Schnacke Retirement Plan Part B, (collectively the Plans) to Smith & Schnacke (the Employer), the sponsor of the Plans. The proposed exemption, if granted, would affect the Plans, the Employer, the participants and beneficiaries of the Plans, and other persons participating in the transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before February 25, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application Nos. D-1654, D-1655. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Louis Campagna, of the Department, telephone (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby give of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer and the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Employer is a Legal Professional Association with offices located in Dayton, Columbus and Cincinnati, Ohio. As of December 31, 1979, the Plans had 154 participants and total assets of $1,963,356. The trustee of the Plans is the Central Trust Company, N.A. of Cincinnati, Ohio.

2. The Employer and the Plans are requesting an exemption to allow the Loan by the Plans to the Employer. The Loan will be used to retire a prior loan (the Prior Loan) which the Employer entered into on March 19, 1979, with the City National Bank and Trust Company of Columbus, Ohio (City National) in the amount of $125,000. City National is otherwise independent of the parties to the transaction. The Prior Loan has a floating interest rate of 1% over the prime lending rate, adjusted monthly, set by City National and is unsecured except for the joint and severable liability of the 48 shareholders (the Shareholders) of the Employer. The Prior Loan is to be repaid on the basis of a ten year amortization schedule with the balance due on March 19, 1984.

3. The amount of the Loan by the Plans to the Employer will be the outstanding balance on the Prior Loan on the date the grant of an exemption for the Loan is published in the Federal Register. As of March 4, 1980, the balance outstanding on the Prior Loan was $115,625.08. The Loan will have a floating interest rate of 1% above the prime lending rate, adjusted monthly, set by City National but in no event will the interest rate be less than 9% per annunm. The Loan will be for a 5 year term, payable in 60 equal monthly installments of principal and interest.

4. The Loan will be secured by certain tangible personal property (the Collateral) of the Employer located at the Employer's offices in Dayton, Ohio. The Collateral will include office furnishings, typewriters, dictating equipment, data processing and other office equipment. An independent appraisal performed by S & V Office Equipment, Inc. of Dayton, Ohio valued the Collateral as of June 23, 1980, at $195,975.00.

5. The Loan will be represented by a promissory note signed by the president of the Employer and all of the

Shareholders of the Employer thereby personally obligating each shareholder jointly and severably for repayment of the Loan in the event of default. The net worth of all the Shareholders of the Employer as of March 4, 1980, was in excess of $750,000.

6. A security agreement and UCC financing statement will be executed by the Employer and the Plans recording the Plans' security interest in the Collateral. Both instruments will be filed with the Secretary of State of Ohio and in the recorder's office in each county of Ohio in which the Employer has a place of business. No other lender has a secured interest in the Collateral. The Collateral will be kept fully insured against theft, fire and other casualty loss throughtout the term of the Loan. All insurance policies on the Collateral will reflect the Plans' interest in the Collateral and will provide that any insured loss will be paid first to the Plans. Proceeds from the sale of any of the Collateral will remain subject to the Plans' security interest until replacement property is obtained.

7. The First National Bank of Cincinnati (the Bank), which is independent of the parties to the transaction, has concluded that the Loan would be in the best interests of the Plans. The Bank will monitor the terms of the Loan, authorize advancement of the Loan proceeds to the Employer and will enforce collection on the Loan in the event of a default. The Bank will monitor the Collateral so that the value of the Collateral will at no time fall below 170% of the balance of the Loan. The Employer, upon the request of the Bank, will pay additional cash to the Plan to reduce the balance of the Loan in the event the value of the Collateral falls below 170% of the balance of the Loan. The Bank will, at any time in its discretion, require the Employer to obtain subsequent independent appraisals of the Collateral to assure the value of the Collateral remains at 170% of the balance of the Loan. In addition, the Employer will provide the Bank with an independent appraisal of the Collateral on June 30th of each year of the Loan's term.

8. In summary, the applicants represent that the proposed Loan satisfies the statutory criteria of section 408(a) of the Act because: (1) the Bank represents that the Loan would be in the best interests of the Plans; (2) the Bank will monitor the terms of the Loan; (3) the Loan will have a high rate of interest with a floor of 9% per annum and will at all times be secured by the Collateral with a value of at least 170% of the balance of the Loan; (4) the Plans will have a first security interest in the Collateral; (5) the Shareholders of the Employer personally guarantee repayment of the Loan in the event of a default; (6) the terms of the Loan are superior to the Plans than those between City National and the Employer for the Prior Loan; and (7) the Loan will be for a relatively short term and will represent less than 6% of the assets of the Plans.

Notice to Interested Persons

Notice of the proposed exemption will be furnished to all active participants in the Plans and all former participants and beneficiaries who have a vested interest in benefits under the Plans. Such notice will contain a copy of the notice of pendency as published in the **Federal Register** as well as a statement informing all such interested persons of their right to comment or request a hearing in regard to the proposed exemption. The notice will be provided within 15 days of publication of the notice of pendency to all interested persons by first class mail or by posting on all bulletin boards and other appropriate places throughout the facilities of the Employer.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4875(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisisons of the Act and the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Loan in an amount representing the balance remaining on the Prior Loan on the date the grant of the exemption for the Loan is published in the **Federal Register** provided that the terms of the Loan are at least as favorable to the Plans as they could obtain in a transaction with an unrelated party. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

V 46/6 JA 9 81 UMI

Signed at Washington, D.C., this 31st day of December, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-854 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1936]

Proposed Exemption for Certain Transactions Involving the Washington-Idaho-Montana Carpenters-Employers Retirement Plan Located in Spokane, Washington

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the lease of office space by Washington-Idaho-Montana Carpenters-Employers Retirement Plan (the Plan) to Administration Services, Inc. (ASI), a service provider to the Plan and, therefore, a party in interest. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and ASI.

DATES: Written comments must be received by the Department of Labor on or before February 18, 1981.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective July 1, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1936. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applicaiton on file with the Department for the complete representations of the applicant.

1. The Plan is a multi-employer pension plan with approximately 8,000 participants. ASI has served as contract administrator for the Plan since its inception in 1965. ASI provides administrative support services for the Plan including, among other things, the storing and distributing of Plan literature, maintaining employee pension records and ensuring that employers make the required contributions.

2. In 1967, the Plan constructed an office building (the Building), which is located at East 123 Indiana, Spokane, Washington. The Building had 11,265 square feet of floor space, of which 8,864 feet were considered rentable.

In the spring of 1979, the Plan added a new second floor to the Building. With the new addition, the Building has total floor space of 22,107 square feet, of which 18,270 square feet are considered rentable.

3. In 1970, the Plan entered into a lease with ASI for office space in its Building. The lease covered 4,200 square feet in the Building with monthly rental payments of $1,559 (ASI occupied 47% of the building). With the new addition in 1979, additional office space became available. ASI agreed to rent an additional 2,435 square feet of office space by moving their operations to the Building's new second floor. A new lease was executed on July 1, 1979 which provided for the rental of 6,635 square feet of office space by ASI with monthly rental payments of $4,700 ($8.50 per square foot per year) and providing for rent escalation in case of increased building operating expenses (ASI now occupies 36% of the Building). The lease runs through June 30, 1982 with two renewal options of two years each. The lease provides for renegotation of the rental payments to be charged during the option periods. At the time the new lease was executed, the applicant believed that the transaction was covered by the transitional rules of section 414(c)(2) of the Act. Section 414(c)(2) may not be applicable, therefore the applicant has requested an exemption.

4. On December 5, 1978, J. K. Robbins and Associates prepared a management plan which states that rental of office space on the second floor of the Plan's Building should be at least $7.25 per square foot per year. On April 2, 1979, T. J. Meenach Co. of Spokane, Washington appraised the Building and determined a fair market rental value of $8.50 per square foot per year for the second floor.

5. The applicant represents that ASI is an independent contract administrator who serves other Taft-Hartley trusts as well as private trusts. ASI is a family-owned corporation and no trustee or any other party in interest to the Plan owns or controls any part of ASI. It was further represented that by enlarging the Building and leasing a portion to ASI, it was possible to provide complete handicap facilities for all retired and disabled participants. In addition, the applicant represents that maintaining the Plan's administrative office at the same location for 15 years offers great convenience to Plan participants who live out of town and are not familier with the City of Spokane. Also, since ASI maintains all the Plan's records in the Building, both time and cost savings are realized.

6. The applicant has represented that ASI has no discretionary power with respect to the operation of the Plan and performs no duties which would make ASI a fiduciary with respect to the Plan.

7. In summary, the applicant represents that the transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the rental paid the Plan was determined by an independent appraisal; (2) leasing space to ASI benefits the Plan and its participants and beneficiaries; (3) the decision to lease to ASI and the terms of the lease were decided by the trustees of the Plan, none of whom has any relationship to ASI; and (4) the trustees have determined that the transaction was appropriate for the Plan and was in the best interest of the Plan's participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be sent by first class mail within 10 days of publication in the **Federal Register** to all contributing employers to the Plan, and to each union, members of which are participants in the Plan, for conspicuous posting. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things requrie a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F)of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection within the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the lease of office space by the Plan to ASI as described herein, provided that the terms of the transaction were not less favorable to the Plan than that obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this proposed exemption.

Signed at Washington, D.C., this 31st day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-855 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1864]

Proposed Exemption for Certain Transactions Involving the Zorn's Poultry Farms, Inc. Retirement Plan Located in Bethpage, New York

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan of $150,000 by the Zorn's Poultry Farms, Inc. Retirement Plan (the Plan) to Zorn's Poultry Farms, Inc. (the Employer), a party in interest with respect to the Plan. The proposed exemption if granted, would affect the participants and beneficiaries of the Plan and the Employer.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 27, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1864. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523-8864. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Plan Administrator, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons

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are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan, which has been in existence for the past fifteen years, is a defined benefit plan with 13 participants and total assets as of April 30, 1980 of $379,455.

2. The Plan proposes to loan the Employer $150,000 for the construction of a new freezer receiving in return a promissory note collateralized by personalty owned by the Employer, personal guarantees of Peter and Joseph Zorn, and stock owned by Peter Zorn. The personalty serving as security for the loan consists of machinery and equipment of the Employer. The stock offered as security by Mr. Zorn includes 46 shares of Zorn's Poultry Farms, Inc., 25 shares of Zorn's Caterers, Inc. and 60 shares of Zorn's Realties, Inc. The loan is to be repaid in quarterly installments over a five year period. The interest rate shall be the prime rate as established by Citibank of New York at the biginning of each respective quarter plus 2%, but in no case less than 12% annually. The loan will be secured by a properly executed Security Agreement and Uniform Commercial Code financing statement filed in favor of the Plan and also by the personal guarantees of Peter and Joseph Zorn.

3. The personalty of the Employer, including the new freezer, has been appraised by Daley-Hodkin Appraisal Corporation of Milville, New York, as having a current fair market value of no less than $225,000. The net worth of the individuals grarantying the loan is at least $1.3 million. The stock pledged as collateral is not publicly traded and no market value has been determined. The fair market value of the personalty is 150% of the amount of the proposed loan and the Employer represents that it will add any additional collateral that may be required during the life of the loan to ensure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. During the life of the loan, the Employer will keep the collateral adequately insured against fire or other loss at its expense.

4. The Bankers Trust Company of Farmingdale, New York (Bankers Trust), has represented that it would lend between $100,000 and $150,000 to the Employer for 5 years at a floating interest rate of prime plus 1% with no minimum interest rate. The security required by Bankers Trust for the loan consists of a security interest on the new freezer and the personal guarantees of Peter and Joseph Zorn.

5. The trustees of the Plan have appointed Mr. Robert H. Troescher, a partner in the law firm of Hill, Lent and Troescher (the Law Firm) located in Lynbrook, New York, to serve as an independent trustee and escrow agent. Mr. Troescher has no other relationship with the Employer or the Plan.

Mr. Troescher has examined the proposed loan transaction and has represented that it is in the best interests of the Plan. As independent trustee, Mr. Troescher will be empowered to enforce the terms of the loan agreement between the Plan and the Employer, including making demand for timely payment, bringing suit or other appropriate process in the event of default, and ensuring that the security for the loan remains equal to at least 150 percent of the outstanding balance of the loan. If Mr. Troescher is unable to perform his duties, he has designated Mr. John K. Mountford as his substitute trustee and Mr. John J. Tormey as secondary substitute trustee. Mr. Mountford is a partner and Mr. Tormey is an associate in the Law Firm.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the loan will be administered by an independent trustee and escrow agent; (2) the Employer will insure the collateral and additional collateral so that value of the collateral securing the loan is always at least 150% of the outstanding balance of the loan; (3) the Plan will receive an interest rate which is greater than the rate which the Employer would be charged by an unrelated party; (4) the loan will be personally guaranteed by Peter and Joseph Zorn; and (5) the independent trustee and escrow agent has determined that the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries and protective of their interests.

Notice to Interested Persons

Within 20 days after the notice of pendency is published in the **Federal Register**, notice will be given to all Plan participants and beneficiaries by personal delivery, and by posting on a conspicuous bulletin board readily available to all working employees. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) throught (E) of the Code, shall not apply to a loan of $150,000 by the Plan to the Employer, based on the terms and conditions set forth above, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of January, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81–656 Filed 1–8–81; 8:45 am]

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Office of the Secretary

[TA–W–8100, 8100A–L, 8304, 8592, 8592A–LL, 8627]

Garland Corp. et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Garland Corporation, Brockton, Massachusetts, Garland Knitting Mills, Incorporated, Beaufort, South Carolina, DSB, Incorporated, Brockton, Massachusetts, Bristol Knitting Mills, Incorporated, Fall River, Massachusetts, and Garland Knitting Mills of Georgia, Incorporated, Warrenton, Georgia.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigations were initiated on May 19, May 27, and June 9, 1980 in response to petitions filed on behalf of workers at the Garland Corporation, Brockton, Massachusetts (TA–W–8100); Bristol Knitting Mills, Incorporated, Fall River, Massachusetts (TA–W–8304); DSB, Incorporated, Brockton, Massachusetts (TA–W–8592) and Garland Knitting Mills of Georgia, Incorporated, Warrenton, Georgia (TA–W–8627). The investigation revealed that Bristol Knitting Mills, Incorporated, DSB Incorporated and the Garland Knitting Mills of Georgia, Incorporated are wholly owned subsidiaries of the Garland Corporation. The investigation was expanded to include Garland Knitting Mills, Incorporated, Beaufort, South Carolina (TA–W–8100A), Garland Corporation showrooms (TA–W–8100B–8100L) and DSB, Incorporated retail stores and Garland Company stores (TA–W–8592–8592LL—showroom and retail store locations are found in the appendix). The workers produce women's sweaters, women's sportswear and women's dresses.

U.S. imports of women's, misses' and children's sweaters, slacks, shorts and dresses increased absolutely in the first quarter of 1980 compared to the like period in 1979. In 1979, the ratio of imports to domestic production was 126.6 percent for sweaters, and 43.3 percent for slacks and shorts.

In a survey conducted by the Department of Commerce, customers accounting for a significant proportion of the Garland Corporation and its subsidiaries' sales declines indicated that they had decreased purchases from the subject firm and subsidiaries and had increased purchases of imported women's apparel during the fiscal year ending October, 1979 compared to the fiscal year ending October 1978. The Department of Commerce certified the Garland Corporation and its subsidiaries eligible to apply for firm adjustment assistance on March 20, 1980 (Project number F–MA–0944).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters, women's sportswear and women's dresses produced at the Garland Corporation; Garland Knitting Mills, Incorporated; Bristol Knitting Mills, Incorporated; Garland Knitting Mills of Georgia, Incorporated; and sold by DSB, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Garland Corporation and subsidiaries. In accordance with the provisions of the Act, I make the following certifications:

"All workers of the Garland Corporation, Brockton, Massachusetts (TA–W–8100) including company showrooms (TA–W–8100B–8100L) and all workers of all retail outlets and Garland Company Stores of DSB, Incorporated, Brockton, Massachusetts (TA–W–8592–8592LL) who became totally or partially separated from employment on or after December 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and

"All workers of Garland Knitting Mills, Incorporated, Beaufort, South Carolina (TA–W–8100A) who became totally or partially separated from employment on or after May 1, 1979 and on or before October 25, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and,

All workers of Bristol Knitting Mills, Incorporated, Fall River, Massachusetts (TA–W–8304) who became totally or partially separated from employment on or after January 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and

All workers of Garland Knitting Mills of Georgia, Incorporated, Warrenton, Georgia (TA–W–8627) who became totally or partially separated from employment on or after May 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of August 1980.

Note.—This document was submitted to the Office of the Federal Register for publication on January 6, 1981.

Harry J. Gilman,

Supervisory Economist, Office of Foreign Economic Research.

DSB Retail Stores

8592A, 8592B	Boston (2), Massachusetts (Dock Square, New Burry Street)
8592C	So. Weymouth, Massachusetts
8596D	Burlington, Massachusetts
8592E	Canton, Massachusetts
8592F	Worcester, Massachusetts
8592G	Hadley, Massachusetts
8592H	So. Portland, Maine
8592I	So. Burlington, Vermont
8592J	Auburn, Maine
8592K	Medford, Massachusetts
8592L	Nashua, New Hampshire
8592M	Providence, Rhode Island
8592N	Lincoln, Rhode Island
*8592O	Cranston, Rhode Island
*8592P	Wellesley, Massachusetts
8592Q	Cambridge, Massachusetts

*Closed, December, 1979.

Garland Company Stores

8592R	Brockton, Massachusetts
8592S	Beaufort, South Carolina
8592T	Saugus, Massachusetts
8592U	Quincy, Massachusetts
8592V	Boston, Massachusetts (Washington St)
8592W	Framingham, Massachusetts
8592X	Fall River, Massachusetts

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8592U	Leominister, Massachusetts
8592Z	Cohasset, Massachusetts
8592AA	Waterville, Maine
8592BB	Salem, New Hampshire
8592CC	Bath, Maine
8592DD	Hyannis, Massachusetts
8592EE	Portsmouth, New Hampshire
8592FF	Lewiston, Maine
8592GG	Wells, Maine
8592HH	Pittsfield, Massachusetts
8592II	Laconia, New Hampshire
8592JJ	Salem, Massachusetts
8592KK	Barre, Vermont
8592LL	Rutland, Vermont

Garland Showrooms

TA-W-8100B	Atlanta, Georgia
TA-W-8100C	Chicago, Illinois
TA-W-8100D	Dallas, Texas
TA-W-8100E	Denver, Colorado
TA-W-8100F	Los Angeles, California
TA-W-8100G	Minneappolis, Minnesota
TA-W-8100H	New York, New York
TA-W-8100I	Detroit, Michigan
TA-W-8100J	Charlotte, North Carolina
TA-W-8100K	San Francisco, California
TA-W-8100L	Seattle, Washington

[FR Doc. 81-868 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other person showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 19, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 19, 1981.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 31st day of December 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ball & Socket Plastics, Inc. (company)	Waldoboro, ME	12/23/80	12/16/80	TA-W-11,983	Cast polyester and casein garment buttons.
Target Togs (ILGWU)	Garfield, NJ	12/23/80	12/17/80	TA-W-11,984	Sportcoats and raincoats.
Van Heusen Co. (company)	Geneva, AL	12/23/80	12/17/80	TA-W-11,985	Men's sport and dress shirts.
Van Heusen Co. (company)	Opp, AL	12/23/80	12/17/80	TA-W-11,986	Men's sport and dress shirts.
Van Heusen Co. (company)	Hartford, AL	12/23/80	12/17/80	TA-W-11,987	Men's sport and dress shirts.
Van Heusen Co. (company)	Clayton, AL	12/23/80	12/17/80	TA-W-11,988	Men's sport and dress shirts.
Van Heusen Co. (company)	Aguadilla, PR	12/23/80	12/17/80	TA-W-11,989	Men's sport and dress shirts.
Van Heusen Co. (company)	Ozark, AL	12/23/80	12/17/80	TA-W-11,990	Men's sport and dress shirts.
Van Heusen Co. (company)	Brinkley, AR	12/23/80	12/17/80	TA-W-11,991	Men's sport and dress shirts.
Van Heusen Co. (company)	Augusta, AR	12/23/80	12/17/80	TA-W-11,992	Men's sport and dress shirts.
Armour Handcrafts, Bucilla Div. (workers)	Long Island City, NY	12/23/80	12/20/80	TA-W-11,993	Needlepoint and stitching kits.
Ford Motor Co., Kentucky Truck Plant (company).	Louisville, KY	12/22/80	12/12/80	TA-W-11,994	Medium and heavy duty trucks.
Julius Berger & Co., Inc. (company)	W. Orange, NJ	12/29/80	12/11/80	TA-W-11,995	Infants wear.
Metro Goldwyn Meyers (workers)	Culvert City, CA	12/23/80	12/12/80	TA-W-11,996	Produces and distributes motion pictures.
Nicholson Machine Products, Inc. (company)	Trenton, MI	12/23/80	12/16/80	TA-W-11,997	Machine: connecting rods, pinion gear, manifolds, transmission parts.
P & K American, Inc. (workers)	Humptulips, WA	12/23/80	12/18/80	TA-W-11,998	Shakes and shingles.
Raycord Company, Inc. (company)	Spartanburg, SC	12/24/80	12/11/80	TA-W-11,999	Contractor of men's and ladies' shirts.
Raycord Company, Inc. (company)	Chesnee, SC	12/24/80	12/11/80	TA-W-12,000	Contractor of men's and ladies' shirts.
Washington Stove Works (International Molders & Allied Workers Union).	Everett, WA	12/23/80	12/17/80	TA-W-12,001	Free standing fireplaces (Franklin Stoves).
Ditto of California, Inc. (company)	Panorama City, CA	12/23/80	12/16/80	TA-W-12,002	Ladies' jeans and tops.
Ditto of California, Inc. (company)	Leesville, LA	12/23/80	12/16/80	TA-W-12,003	Ladies' jeans and tops.
Gulf & Western Industries: Paramont Pictures (workers).	Los Angeles, CA	12/23/80	12/12/80	TA-W-12,004	Produces and distributes motion pictures.
Mallory Capacitor Co. (workers)	Huntsville, AL	12/29/80	12/20/80	TA-W-12,005	Capacitors.
Mario Sportswear (workers)	Boston, MA	12/22/80	12/16/80	TA-W-12,006	Skirts.
Merit Plastics, Inc., Service Cable Div. (workers).	Mt. Clemens, MI	12/22/80	12/11/80	TA-W-12,007	Break cables.
Ray-O-Vac Corp. (IBEW)	Lancaster, OH	12/22/80	12/15/80	TA-W-12,008	Nine volt batteries.
Sebewaing Industries, Inc. (workers)	Sebewaing, MI	12/22/80	12/18/80	TA-W-12,009	Metal stamping for auto assembly.
Smart Maid Coat & Suit Corp. (workers)	New York, NY	12/22/80	12/8/80	TA-W-12,010	Ladies' coats and suits.
Apparel Suppliers of Calif., Inc. (Co.)	Chula Vista, CA	12/29/80	12/17/80	TA-W-12,011	Mfg. women's and men's clothing.
Salant & Salant (company)	Truman, AR	12/29/80	12/23/80	TA-W-12,012	Jeans.
Salant & Salant (company)	Somerville, TN	12/29/80	12/23/80	TA-W-12,013	Office complex that services Salant Corp.
Somerville Mfg. Co., Inc. (company)	Vivian, LA	12/29/80	12/23/80	TA-W-12,014	Men's dress slacks.
Star Coat Manufacturing Co., Inc. (company)	Hoboken, NJ	12/22/80	12/17/80	TA-W-12,015	Ladies' coats and blouses.
Supercraft Coats, Inc. (workers)	Garfield, NJ	12/23/80	12/16/80	TA-W-12,016	Ladies' coats and suits.
Warner Communications, Inc.: Warner Brothers, Inc. (workers).	Burbank, CA	12/23/80	12/12/80	TA-W-12,017	Produces and distributes motion pictures.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Westboro Shoe Mfg. Co. (workers)	Dexter, MO	12/22/80	12/17/80	TA-W-12,018	Sewing uppers of shoes.
White Farm Equipment Co. (workers)	Syracuse, NY	12/23/80	12/17/80	TA-W-12,019	Tractors and plows.
Adams Co. (workers)	Dubuque, IA	12/30/80	12/26/80	TA-W-12,020	Fireplace sets and transmission parts.
Columbia Pictures Industries, Inc. (workers)	Burbank, CA	12/23/80	12/12/80	TA-W-12,021	Producing and distributing motion pictures.
Hampshire Manufacturing Co. (workers)	Nashua, NH	12/30/80	12/24/80	TA-W-12,022	Vinyl fabricators.
Lally Mfg. Corp. (workers)	New York Mills, NY	12/30/80	12/12/80	TA-W-12,023	Men's and women's clothing.
MCA, Inc. (workers)	Universal City, CA	12/23/80	12/12/80	TA-W-12,024	Producing and distributing motion pictures.
Post Shake Co., Inc. (workers)	Montesano, WA	12/30/80	12/26/80	TA-W-12,025	Cedar shakes.
RCR Sportswear, Inc. (ILGWU)	Passaic, NJ	12/23/80	12/17/80	TA-W-12,026	Ladies' coats and raincoats.
Walt Disney Productions (workers)	Burbank, CA	12/23/80	12/12/80	TA-W-12,027	Producing and distributing motion pictures.
20th Century Fox Film Corp. (workers)	Los Angeles, CA	12/23/80	12/12/80	TA-W-12,028	Producing and distributing motion pictures.
Advanced Plating of Michigan (workers)	Harper Woods, MI	12/31/80	12/17/80	TA-W-12,029	Co. chrome plates auto parts.
Cutler Metal Products Co. (workers)	Camden, NJ	12/31/80	12/23/80	TA-W-12,030	Fuel tanks for tractor trailers.
Duke of Hollywood (ACTWU)	Los Angeles, CA	12/31/80	12/22/80	TA-W-12,031	Men's sportshirts.
Fedders Automotive Components Co. (USWA).	Buffalo, NY	11/24/80	11/21/80	TA-W-12,032	Automotive radiators.
Gunter Shake, Inc. (workers)	Forks, WA	12/31/80	12/22/80	TA-W-12,033	Cedar shakes and shingles.
Herbert Kenzer, Inc. (workers)	New York, NY	12/31/80	12/23/80	TA-W-12,034	Manufactures ladies coats.
Hurst Performance (workers)	Brighton, MI	12/31/80	12/27/80	TA-W-12,035	Install sun roofs.
Vogue Dolls, Inc. (workers)	Laconia, NH	12/31/80	12/23/80	TA-W-12,036	Doll clothing.

[FR Doc. 81-657 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-28-M

MINIMUM WAGE STUDY COMMISSION

Notice of Meeting; Location Change

On January 6, 1981 a notice was published in the **Federal Register** (46 FR 1378; 81-374) for meetings to be held January 12-16, 1981. Due to an unavoidable conflict in the availability of rooms the place of the meetings has been changed to:

January 12: Rayburn HOB 2175, 10:30 a.m.
January 13: Rayburn HOB 2261, 9 a.m.
January 14: Rayburn HOB 2257, 10 a.m.
January 15: Rayburn HOB 2261, 9 a.m.
January 16: Rayburn HOB 2261, 9 a.m.

Washington, D.C. this 7th of January 1981.

Louis E. McConnell,

Executive Director.

[FR Doc. 81-1028 Filed 1-8-81; 9:35 am]

BILLING CODE 4510-23-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11530; 812-4751]

D. L. Babson Tax-Free Income Fund, Inc.; Filing of Application

January 5, 1981.

Notice is hereby given that D. L. Babson Tax-Free Income Fund, Inc., 2440 Pershing Road, Kansas City, Missouri 64108, ("Applicant"), registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, filed an application on October 24, 1980, and an amendment thereto on December 10, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant's Money Market Portfolio to compute its net asset value per share using the armotized cost method. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "series" mutual fund, which is currently offering two separate and diversified portfolios of municipal bonds. Applicant states that its investment objective is to provide investors with the highest level of regular income exempt from federal income tax consistent with the quality and maturity standards prescribed for each of Applicant's portfolios. It is further stated that on September 23, 1980, Applicant's board of directors approved amendments to Applicant's Articles of Incorporation providing for the addition of a new class of shares (to be called the "Money Market Portfolio"). Those amendments were approved by shareholders on December 8, 1980.

Applicant represents that the Money Market Portfolio is designed to offer substantial individual investors, banks, corporations and other institutions a convenient way to invest in a professionally-managed portfolio of short-term municipal obligations, interest payments on which are exempt from federal income tax. The Money Market Portfolio also invests in commitments to purchase such securities on a "when-issued" basis. It is stated that these obligations are issued by cities, municipalities and municipal agencies, and will include Tax Anticipation Notes, Revenue Anticipation Notes, Tax and Revenue Anticipation Notes, Bond Anticipation Notes, Grant Anticipation Notes and Construction Loan Notes. Applicant states that the Money Market Portfolio will also invest in Project Notes, which are obligations of a state or local public housing agency but guaranteed by the federal government through the Department of Housing and Urban Development. Applicant represents that the maturities of these instruments at the time of issuance generally will be less than one year. The Money Market Portfolio will also invest in tax-free municipal obligations on which the original maturities exceeded one year, if at the time of purchase the time remaining to maturity is not more than one year. It is also stated that the dollar-weighted average maturity of the Money Market Portfolio will at all times be 120 days or less.

Applicant states that the municipal bonds held by the Money Market Portfolio will be rated at the time of purchase within the two highest grades (Aaa, Aa) assigned by Moody's Investors Services, Inc. ("Moody's") or (AAA, AA) assigned by Standard & Poor's Corporation ("S&P"), or will be of comparable quality as determined by the board of directors. The Money Market Portfolio may, from time to time, invest in "Temporary Investments", consisting of short-term notes issued by or on behalf of municipal issuers meeting the prescribed quality standards; commercial paper or other corporate notes meeting comparable quality standards; obligations of the United States government, its agencies or instrumentalities, bank certificates of deposit; bankers acceptances; and any of the foregoing classes of securities subject to short-term repurchase agreements.

Applicant states, in addition, that all of the above instruments are generally offered on the basis of a quoted yield to maturity and the market price of the security is adjusted so that relative to the stated range of interest it will return the quoted rate to the purchaser. Applicant states that the Money Market Portfolio intends to declare and credit its net income as a dividend to its shareholders on a daily basis and distribute it monthly, and that for this purpose "net income" will consist of all interest income accrued on the portfolio assets of the Applicant, less all expenses of that Portfolio. Applicant asserts that if it values its securities on the basis of amortized cost, there will be no calculation for unrealized capital gains or losses, and that since its dividend will be paid daily, the per share net asset value of the Money Market Portfolio will remain constant at $1.00.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value portfolio securities of its Money Market Portfolio by means of the amortized cost method of valuation (i.e., valuing securities at cost, adjusted for amortization of premium or accretion of discount).

Section 6(c) of the Act provides in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it wishes to attract sophisticated individual and institutional investors and that it believes that many of these investors require a short-term municipal bond fund which maintains a constant net asset value per share and pays dividends which do not fluctuate on account of daily changes in the values of its portfolio securities. Applicant states that it believes that in order to attract such investors and retain them as shareholders, the Money Market Portfolio must have a stable net asset value, preferably at $1.00 per share, and a constant steady flow of investment income. Applicant also states that it will not own portfolio securities having maturities exceeding one year, and that its average portfolio maturity will not exceed 120 days. Applicant further states that it believes that, with respect to municipal securities maturing in 120 days or less, there is normally a negligible discrepancy between market value and the amortized cost value of such securities. On the basis of the foregoing, Applicant believes that the valuation of its Money Market Portfolio's investment securities on the amortized cost basis will benefit its shareholders by enabling the Money Market Portfolio to more effectively maintain its $1.00 price per share while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Lastly, Applicant states that a number of short-term money market funds which will be in direct competition with the Money Market Portfolio now effect sales, redemptions and repurchases of their shares at prices calculated by means of the amortized cost method of valuation. Therefore, Applicant's board of directors has determined in good faith that this method of calculating the net asset value per share of the Money Market Portfolio under such circumstances is appropriate and in the best interests of shareholders. In addition, Applicant has agreed that the following conditions be imposed in any order granting the exemptions it has requested:

1. In supervising the operations of the Money Market Portfolio and delegating special responsibilities involving management of the Portfolio to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Money Market Portfolio's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the Money Market Portfolio's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the Money Market Portfolio's average portfolio maturity; a capital distribution; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Money Market Portfolio will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Money Market Portfolio will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modificiations thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the boards of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Money Market Portfolio will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 30, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-740 Filed 1-8-81; 8:45 am]

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[Release No. 34-17413; File No. (SR-CBOE-1980-7)]

Chicago Board Options Exchange, Inc.; Filing of Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Chicago Board Options Exchange's ("CBOE") Statement of the Terms of Substance of the Proposed Rule Change.

[The following amendments to the rule changes in SR-CBOE-1980-7, as filed on April 17, 1980, replace and restate in their entirety those originally proposed rule changes.]

Chapter XX—GNMA Options

Introduction

The rules in this Chapter are applicable only to options where the underlying security is a GNMA (as defined below). In addition, the rules in Chapters I through XIX are also applicable to options where the underlying security is a GNMA, in some cases supplemented by one or more rules in this Chapter, except for rules that have been replaced in respect of GNMA options by one or more rules in this Chapter and except where the context otherwise requires. Whenever a rule in this Chapter supplements or, for purposes of this Chapter, replaces one or more rules in Chapters I-XIX, that fact is indicated in brackets following the rule in this Chapter.

Definitions

Rule 20.1—GNMA.

(a) The term "GNMA" means a mortgage pass-through security guaranteed as to timely payment of principal and interest by the Government National Mortgage Association, as described in the current standard prospectus of the Department of Housing and Urban Development covering such securities, bearing a stated rate of interest which is a qualifying rate. Any two or more separate certificates representing GNMAs bearing the same qualifying rate delivered in accordance with the Rules of the Clearing Corporation upon exercise of an option contract shall, for purposes of the Rules, be deemed to be a single GNMA, having a remaining unpaid principal balance equal to the sum of the remaining unpaid principal balances of such separate certificates. Options on GNMAs are sometimes referred as GNMA options.

Put

(b) The term "put" means an option contract under which the holder of the option has the right, in accordance with the terms and provisions of the option, to sell to the Clearing Corporation, subject to Rule 20.8(c), the nominal principal amount of the underlying security covered by the option cover.

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[2] Applicant states that in fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Money Market Portfolio will invest available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Call

The term "call" means an option contract under which the holder of the option has the right, in accordance with the terms and provisions of the option, to purchase from the Clearing Corporation, subject to Rule 20.8(c), the nominal principal amount of the underlying security covered by the option contract.

Exercise Price

(d) The term "exercise price" means the specified percentage of the nominal principal amount at which the underlying security may be purchased or sold upon exercise of an option contract assuming delivery of a GNMA bearing a stated rate of interest equal to the designated rate. If the stated rate of interest of a GNMA delivered upon exercise of an option contract is a qualifying rate other than the designated rate, however, the exercise price shall be an amount which provides the same yield to maturity as the amount which would have been payable if the stated rate of interest had been equal to the designated rate (assuming a 30-year term and prepayment at the end of the twelfth year of the mortgage obligations underlying GNMAs).

Aggregate Exercise Price

(e) The term "aggregate exercise price" means the exercise price of an option contract multiplied by the nominal principal amount of the underlying security covered by the option contract; provided that if the remaining unpaid principal balance of a GNMA delivered upon exercise of an option contract varies from the nominal principal amount as permitted by Rule 20.8(c), the aggregate exercise price shall be adjusted to equal the product of the exercise price and such remaining unpaid principal balance, plus in each case the appropriate differential.

Covered

(f) The term "covered" has the same meaning as set forth in Rule 1.1(y), except that long positions must match short positions on the basis of the remaining unpaid principal balance of the underlying GNMA within the variation permitted by Rule 20.8(c), and all "covering" underlying GNMAs must bear a qualifying rate of interest.

Designated Rate

(g) The term "designated rate" means a rate of interest of 8% or such other rate as may be designated by the Board (or the Committee designated by the Board).

Nominal Principal Amount

(h) The term "nominal principal amount" means the remaining unpaid principal balance of GNMAs required to be delivered to the holder of a call or by the holder of a put upon exercise of an option without regard to any variance in the remaining unpaid principal balance permitted to be delivered upon such exercise by Rule 20.8(c) or the Rules of the Clearing Corporation.

Qualifying Rate

(i) The term "qualifying rate" means any rate of interest equal to or less than the GNMA production rate; provided that:

(A) in the event of any increase in the GNMA production rate, a GNMA issued prior to the date of any such change bearing a stated rate of interest equal to any such changed GNMA production rate (or any lower rate of interest which was not a qualifying rate on the day prior to that date) shall be deemed not to bear a qualifying rate until the expiration of 45 days from the date of such increase or until after the settlement date for options on GNMAs following the next expiration date for any series of such options whichever shall last occur, unless such GNMA bears a stated rate of interest deemed to constitute a qualifying rate in accordance with subparagraph (B) hereof; and

(B) in the event of any decrease in the GNMA production rate, a GNMA bearing a stated rate of interest which was equal to the GNMA production rate (or any lower rate of interest which is not otherwise a qualifying rate) on the day prior to the date of any such decrease shall be deemed to continue to bear a qualifying rate for a period of 45 days from the date of such decrease or until the settlement date for options on GNMAs following the next expiration date for any series of such options, whichever shall last occur.

GNMA Production Rate

(j) The term "GNMA production rate" means a rate of interest .50% below the maximum stated rate of interest on residential mortgages which the Federal Housing Administration is willing to insure and which the Veterans Administration is willing to guarantee, as it may vary from time to time in accordance with official announcements of changes in such rates made by the Federal Housing Administration.

Appropriate Differential

(k) The term "appropriate differential" with respect to a GNMA option contract means a positive or negative amount equal to the product of (A) the difference between the remaining unpaid principal balance of a GNMA delivered upon exercise of that contract and the nominal principal amount, and (B) the difference between the current cash market price of GNMAs bearing the same stated rate of interest as that borne by the GNMA delivered upon exercise and the exercise price.

Current Cash Market Price

(l) The term "current cash market price" with respect to GNMAs means the prevailing price in the cash market for GNMAs to be delivered on the next monthly settlement date determined in the manner specified by the Board.

. . . Interpretations and Policies

.01 For purposes of paragraph (a) of this Rule, the current standard prospectus of the Department of Housing and Urban Development covering GNMAs shall be form HUD 1717.

.02 The following example illustrates the meanings of the terms "exercise price," "aggregate exercise price," "nominal principal amount," and "appropriate differential" in connection with a call option on GNMAs, as those terms are defined in paragraphs (d), (e), (h) and (k) of this Rule.

Assume that the holder of one call option on GNMAs (*i.e.*, an option permitting the holder to purchase from the Clearing Corporation $100,000 remaining unpaid principal balance of GNMAs, the nominal principal amount), having an exercise price of 85 (*i.e.*, 85% of the nominal principal amount), elects to exercise the call. Further, assume that the GNMA delivered to the holder upon such exercise bears a qualifying rate of interest equal to 10% and, in accordance with Rule 20.8(c), has a remaining unpaid principal balance of $99,000. Finally, assume that the current cash market price of GNMAs bearing a stated rate of interest of 10% is 100 (*i.e.*, 100% of the remaining unpaid principal balance).

The exercise price of the option being exercised is adjusted, on the basis of the standard assumptions for GNMAs, to provide the yield equivalent of a GNMA at the designated rate or 8% (*i.e.*, the exercise price becomes $98\frac{3}{64}$ instead of 85). Further, because the remaining unpaid principal balance of the GNMA delivered varies from the nominal principal amount, the aggregate exercise price (which would have equaled $98\frac{3}{64}\%$ × $100,000 or $98,046.88, in the event the GNMA delivered had had a remaining unpaid principal balance of $100,000, the nominal principal amount) is adjusted to equal the product of the adjusted exercise price ($98\frac{3}{64}$) and the remaining unpaid principal balance of the GNMA delivered upon exercise ($99,000), or $97,066.41, plus the appropriate differential. In this case, the appropriate differential is an amount equal to the product of the difference between the remaining unpaid principal balance of the GNMA delivered upon exercise ($99,000) and the nominal principal amount ($100,000, or −$1,000, and the difference between the current over-the-counter cash market price of GNMAs bearing a stated rate of interest at 10% (100) and the adjusted exercise price of the call ($98\frac{63}{64}$), or $1\frac{1}{64}$, yielding −$19.53. Thus, adding the negative amount of −$19.53, the appropriate differential, to $97,066.41, the product obtained in the first step of the aggregate exercise price adjustment, the aggregate exercise price payable by the holder of the call upon exercise is $97,046.88.

.03 A determination of the current cash market price for purposes of calculating the appropriate differential pursuant to paragraph (k) of this Rule shall be made immediately prior to the time the Clearing Corporation, in accordance with the Rules of the Clearing Corporation, commences preparation of advice as to the aggregate exercise price of puts and calls on GNMAs which have been exercised.

[Rule 20.1 and the Interpretations and Policies 20.1.01, .02 and .03 replace definitions set forth in Rule 1.1(n), (o) (s) and (t), and supplement the definition set forth in Rule 1.1(y).]

Wire Connections

Rule 20.2. The Exchange will permit members to establish and maintain wire connections with other members and nonmembers for the purpose of obtaining timely information on price movements in GNMAs. Written notice of each such wire connection shall be filed promptly with the Exchange.

Position Limits

Rule 20.3 Except with the prior written permission of the President or his designee, no member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction in GNMA options if the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate position in excess of 1,000 option contracts (whether long or short) of the put class and the call class on the same side of the market covering underlying GNMAs, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more series of options. Reasonable notice shall be given of each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange floor.

[Rule 20.3 replaces Rule 4.11.]

Exercise Limits

Rule 20.4. Except with the prior written permission of the President or his designee, no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in GNMA options where such member or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five consecutive business days aggregate long positions in excess of 1,000 GNMA option contracts or such other number of such contracts as may be fixed from time to time by the Board as the exercise limit for GNMA options. Reasonable notice shall be given of each new exercise limit fixed by the Board, by posting notice thereof on the bulletin board on the Exchange floor.

[Rule 20.4 replaces Rule 4.12.]

Reports Related to Position Limits and Liquidation of Positions

Rule 20.5. For purposes of Rules 4.13 and 4.14, references to Rule 4.11 in connection with position limits shall be deemed, in the case of GNMA options, to be to Rule 20.2.

[Rule 20.5 supplements Rules 4.13 and 4.14.]

Designation of GNMA Options

Rule 20.6 GNMA options dealt in on the Exchange are designated by reference to the issuer of the underlying security (*i.e.*, GNMA), expiration month, the year of the expiration month for the longest term option series, exercise price and type (put or call). GNMA options dealt in on the Exchange shall be deemed to be for GNMAs bearing a stated rate of interest equal to the designated rate.

[Rule 20.6 replaces Rule 5.1.]

Approval of Underlying Securities

Rule 20.7. GNMAs may be approved as underlying securities for Exchange transactions by the Board (or the Committee designated by the Board), subject to such requirements as to remaining unpaid principal balance, date of issuance, pool or other characteristics as the Board (or the Committee designated by the Board) deems necessary or appropriate in the interest of maintaining a fair and orderly market or for the protection of investors.

. . . Interpretations and Policies

.01 The Board has determined that GNMA pools which include builder loans shall be ineligible as underlying securities for GNMA options dealt in on the Exchange.

.02 The Board (or the Committee designated by the Board) may determine, for any reason, to withdraw approval of GNMAs as underlying securities; and, after any announcement by the Exchange of any such withdrawal, each member organization shall, prior to effecting any GNMA option transaction for a customer, inform such customer of that fact.

[Rule 20.7 and Interpretations and Policies 20.7.01 and .02 replace Rules 5.3 and 5.4.]

Terms of GNMA Option Contracts

Rule 20.8. (a) The expiration month, expiration year and exercise price for GNMA option contracts of each series shall be determined by the Board (or the Committee designated by the Board) at the time each series of options is first opened for trading. Unless the Board (or the Committee designated by the Board) otherwise provides and so indicates at the post at which the option contract is traded, GNMA options shall expire in the months of March, June, September and December, and a series of options of a given expiration month shall generally be opened for trading about 15 months prior to such expiration month (*e.g.*, September options will generally be opened during June of the preceding year).

(b) The exercise price of each series of GNMA options shall be fixed by the Board (or the Committee designated by the Board) at a percentage of nominal principal amount, assuming a stated rate of interest equal to the designated rate, which is an integral multiple of 2% and which results in a yield (assuming a 30-year term and prepayment at the end of the twelfth year for the mortgage obligations underlying GNMAs) which is reasonably close to the current yield of GNMAs bearing a stated rate of interest equal to the then current highest qualifying rate (unless another qualifying rate shall have been specified, for purposes of this Rule, by the Board or the Committee designated by the Board as determined by the current cash market price of such GNMAs at the time such series of options is first designated for trading. Additional series of GNMA options may be opened to reflect substantial changes in prices. The exercise price of all GNMA options of any series of GNMA options may be fixed by the Board (or the Committee designated by the Board), upon two business days' notice, at a percentage of nominal principal amount, assuming a stated rate of interest equal to the designated rate, which is an integral multiple of 1% so long as the foregoing provisions with respect to the resulting yield are satisfied. Notice of any such changed exercise price shall be posted on the bulletin board on the Exchange floor.

(c) The remaining unpaid principal balance of a GNMA delivered upon exercise of a put or a call may vary, in accordance with the Rules of the Clearing Corporation, in any amount less than 2.5% of the nominal principal amount.

. . . Interpretations and Policies

.01 In fixing exercise prices of GNMA options, the Board (or the Committee designated by the Board) may take into account prices of GNMAs bearing a stated rate of interest equal to the highest qualifying rate (unless another qualifying rate shall have been specified for purposes of this Rule, by the Board or the Committee designated by the Board) in the market for forward delivery.

[Rule 20.8 and Interpretation and Policy 20.8.01 replace paragraph (a) of Rule 5.6.]

Days and Hours of Business

Rule 20.9. Except under unusual conditions as may be determined by the Board (or the Committee or the Exchange official or officials designated by the Board), hours during which GNMA option transactions may be made on the Exchange shall correspond to the hours during which underlying GNMAs are normally traded in the over-the-counter cash market.

. . . Interpretations and Policies

.01 GNMA option trading shall normally end at 2:00 p.m. (Chicago time).

[Rule 20.9 and Interpretation and Policy 20.9.01 replace Interpretation and Policy 6.1.01.]

Trading Rotations

Rule 20.10. (a) The opening rotation in each series of GNMA options shall be overseen by an Exchange employee designated as the Post Coordinator for GNMA options and shall be held as promptly following availability of opening quotations on the quotation display mechanism(s) approved by the Exchange as the Post Coordinator deems appropriate under the circumstances. Generally, the Post Coordinator shall open first those series with respect to which the greatest buying and selling interest has been expressed have been opened (deferring opening relatively inactive series); provided, however, that more than one series may be opened simultaneously. These procedures may be altered or supplemented by the Board (or the Committee designated by the Board).

(b) In the event that current quotations are not available for underlying GNMAs within a reasonable time after 8:00 a.m. (Chicago time), the Post Coordinator shall report the delay to a Floor Official and an inquiry shall be made to determine the cause of the delay. The opening rotation for GNMA options shall be delayed until such current quotations are available, unless two Floor Officials determine that the interests of a fair and orderly market are best served by opening trading.

[Rule 20.10 supplements Interpretation and Policy 6.2.01.]

Trading Halts and Suspension of Trading

Rule 20.11. Another factor that may be considered by Floor Officials in connection with the institution of trading halts in GNMA options and by the Board in connection with the suspension of trading in GNMA options is that current quotations for the underlying securities are unavailable or have become unreliable.

[Rule 20.11 supplements Rules 6.3 and 6.4.]

Meaning of Premium Bids and Offers

Rule 20.12. Bids and offers for GNMAs shall be expressed in thirty-seconds of a point (one point being equal to $1,000 and 1/32 of a point being equal to $31.25), unless a different fraction of a point shall have been approved for this purpose by the Board (or the Committee designated by the Board) for all GNMA Options or a GNMA option contract of a particular series.

[Rule 20.12 replaces Rules 6.41 and 6.42.]

Priority of Bids and Offers

Rule 20.13. The following rules of priority shall be observed with respect to bids and offers for GNMA options:

(a) Priority of bids. The highest bid shall have priority, but where two or more bids for the same option contract represent the highest price, priority shall be afforded to such bids in the sequence in which they are made.

(b) Priority of offers. The lowest offer shall have priority, but where two or more offers for the same option contract represent the lowest price, priority shall be afforded to such offers in the sequence in which they are made.

(c) Openings. Any order present at the post at least five (5) minutes prior to commencement of the opening rotation for that series of GNMA options shall be entitled to participate in the opening.

[Rule 20.13 replaces Rules 6.45 and 6.46.]

Accommodation Liquidations

Rule 20.14. Paragraphs (ii)–(v) of Rule 6.54 shall not be applicable to GNMA options closing transactions.

[Rule 20.14 replaces Rule 6.54.]

Reconciliation of Unmatched Trades

Rule 20.15. All Exchange members, Clearing Members and their respective agents shall resolve unmatched trades in GNMA options from the previous day's trading no later than 8:00 a.m. (Chicago time) of the following business day.

[Rule 20.15 supplements Rule 6.61.]

Responsibilities of Floor Brokers

Rule 20.16. A Floor Broker handling a contingency order that is dependent upon quotations or prices other than those originating on the floor shall be responsible for satisfying the dependency requirement on the basis of the most reliable information reasonably available to him concerning such quotations and prices but, in no event, shall be held to an execution of such an order. Unless mutually agreed by the members involved, an execution or nonexecution that results shall not be altered by the fact that such information is subsequently found to have been erroneous.

[Rule 20.16 replaces paragraph (b) of Rule 6.73.]

Post Coordinators for GNMA Options

Rule 20.17. Notwithstanding any provision in the Rules to the contrary, there shall be neither Board Brokers nor Order Book Officials for GNMA options and there shall be no limit order book for GNMA options. The functions of Order Book Officials set forth in Rules 7.5 and 7.6 shall be performed with respect to GNMA options by an exchange employee designated as the Post Coordinator for GNMA Options.

[Rule 20.17 supplements Rules 7.3, 7.4, 7.5 and 7.6 and 7.11.]

Obligations of Market-Makers

Rule 20.18. Without limiting the general obligation to deal for his own account as stated in Rule 8.7(b), a Market-Maker holding an Appointment in GNMA options, in the course of maintaining a fair and orderly market, is expected to bid and/or offer so as to create differences of:

(i) no more than ¼ point between the bid and offer for each option contract for which the bid is less than 1 point;

(ii) no more than ½ point where the bid is 1 point or more but less than 5 points;

(iii) no more than ¾ point where the bid is 5 points or more but less than 10 points; and

(iv) no more than 1 point where the bid is 10 points or more,
Provided that the Board (or the Committee designated by the Board) may establish differences other than the above for all GNMA options or for one or more series of options.

. . . **Interpretations and Policies**

.01 The bid/ask differentials specified in Rule 20.18 shall apply to all but the two longest term GNMA option series. For these series the maximum bid/ask differential shall be (i) ½ point for option contracts where the bid is less than 1 point; (ii) 1 point for option contracts where the bid is 1 point or more but less than 5 points; (iii) 1½ points for option contracts where the bid is 5 points or more but less than 10 points; and (iv) 2 points for all other transactions.

.02 The bid/ask differentials specified in Rule 20.18 and in Interpretation and Policy .01 thereto may be waived by the Board (or the Committee or the Exchange official or officials designated by the Board) in the interests of preserving a fair and orderly market as an alternative to halting or suspending trading in GNMA options under Rules 6.3 and 6.4 when conditions are present which otherwise would cause such a halt or suspension.

[Rule 20.18 and Interpretations and Policies 20.18.01 and .02 supplement paragraph (b) of Rule 6.7.]

Opening of Accounts

Rule 20.19. In addition to the general approval and prospectus delivery required under Rule 9.7, a customer's account must be specially approved for transactions in GNMA options before a member organization may accept an order from a customer to purchase or write such options, and at or prior to the time of such approval the member organization shall furnish the customer with a current Clearing Corporation prospectus on GNMA options as provided in Rules 9.15 and 20.20.

[Rule 20.19 supplements Rule 9.7.]

Delivery of Current Prospectus

Rule 20.20. For purposes of this Chapter the term "current prospectus" means that edition of the prospectus on GNMA options (or the GNMA options supplement together with the current prospectus on stock options) of the Clearing Corporation as registrant which, at the time it is to be furnished to a given customer, meets the requirements of Section 10(a)(3) of the Securities Act of 1933. (Note: The Exchange will advise members when a new Clearing Corporation prospectus on GNMA options meeting the requirements of Section 10(a)(3) is available).

[Rule 20.20 supplements Rule 9.15.]

Communications to Customers

Rule 20.21. (a) Except as otherwise provided in this Rule, no written materials respecting GNMA options may be disseminated to any person who has not previously or contemporaneously received a current prospectus.

(b) Advertisements that describe or refer to GNMA options may only be used (and copies of the advertisements may be sent to persons who have not received a current prospectus) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus may be obtained; if an advertisement under this Rule deals with both stock options and GNMA options, such advertisement shall state the name(s) and address(es) of the person(s) from whom current copies of both prospectuses may be obtained. Such advertisements may have the characteristics set forth in subparagraphs (i)–(iii) of Interpretation and Policy 9.21.02A.

[Rule 20.21 supplements Rule 9.21.]

Allocation of Exercise Assignment Notices

Rule 20.22. In the case of GNMA options, the method of allocation of exercise notices established pursuant to Rule 11.2 may provide that an exercise notice of block size shall be allocated to a customer or customers having an open short position of block size and that an exercise notice of less than block size shall not be allocated, to the extent feasible, to a customer having a short position of block size. For the purposes of this Rule, an exercise notice or a short position of 10 or more contracts where the underlying security is a GNMA shall be deemed to be of "block size."

[Rule 20.22 supplements Rule 11.2.]

Delivery and Payment

Rule 20.23. In the case of GNMA options, payment of the aggregate exercise price (i) shall be accompanied by payment of accured interest on the underlying GNMAs from and including the first day of the month in which such options are exercised to and including the exercise settlement date; and (ii) shall not be required until the Member Organization informs the customer of the precise amount of the aggregate exercise price.

[Rule 20.23 supplements Rule 11.3.]

Margin Requirements

Rule 20.24. (a) This Rule sets forth the minimum amount of margin which must be maintained in margin accounts of customers having positions in GNMA option contracts dealt in on the Exchange. The Exchange may at any time impose higher margin requirements in respect of such positions when it deems such higher margin requirements to be advisable.

(b) For each put or call GNMA option contract carried in a short position in the account, margin must be maintained equal to at least 130% of the current market value of the contract plus $1,500; provided, however, that the maximum margin required for any GNMA option contract carried in a short position shall be $5,000 plus the current market value of the contract.

(c) The requirements set forth in paragraph (b) hereof are subject to the following exceptions, which in each case may be applied at the discretion of the Member Organization with which the account is maintained.

(1) Short call covered by long GNMA. No margin is required in respect of a GNMA call option contract carried in a short position which is covered by long position in underlying GNMAs within the meaning of Rules 1.1(y) and 20.1(f).

(2) Spreads with same expiration date. This subparagraph (c)(2) applies to accounts carrying positions in long call GNMA options (or short put GNMA options) which are offset by positions in short call GNMA options (or long put GNMA options) for the same nominal principal amount of GNMA's provided that the expiration date of the long calls (or short puts) is the same as the expiration date of the offsetting short calls (or long puts).

(A) When the exercise price of the long call GNMA option (or short put GNMA option) is less than or equal to the exercise price of the offsetting short call GNMA option (or long put GNMA option), no margin is required, provided that the long option is paid in full.

(B) When the exercise price of the long call GNMA option (or short put GNMA option) is greater than the exercise price of the offsetting short call GNMA option (or long put GNMA option), margin is required equal to the difference in exercise prices multiplied by the appropriate muliplier factor set forth below. For purposes of this subparagraph (c)(2)(B), the mutiplier factor to be applied shall depend on the then current highest qualifying rate as defined in Rule 20.1(i). If the then current highest qualifying rate is less than 8%, the multiplier factor shall be 1; if the then current highest qualifying rate is greater than or equal to 8% but less than 10%, the multiplier factor shall be 1.2; if the then current highest qualifying rate is greater than or equal to 10% but less than 12%, the multiplier factor shall be 1.4; and if the then current highest qualifying rate is greater than or equal to 12%, but less than or equal to 14% the multiplier factor shall be 1.5. The multiplier factor or factors for higher qualifying rates shall be established by the Board (or the Committee designated by the Board) as required.

(3) Other spreads. This subparagraph (c)(3) applies to accounts carrying positions in long call GNMA options (or short put GNMA option) which are offset by positions in short call GNMA options (or long put GNMA options) for the same nominal principal amount of GNMAs, provided that the expiration date of the long calls (or short puts) is different than the expiration date of the offsetting short calls (or long puts). For each put or call GNMA option contract carried in a short position in the account which is offset by a corresponding option contract carried in a long position in the account, margin must be maintained equal to at least 130% of the current market value of the short option contract plus $1,500, reduced by the current market value of offsetting long option contract; provided, however, that the minimum margin required for a spread position subject to this subparagraph (c)(3) shall be $1,00.

(4) Short put and short call. This subparagraph (c)(4) applies to accounts carrying positions in short put GNMA options which are offset by positions in short call GNMA options for the same nominal principal amount of GNMAs. The margin required for such a position shall be the margin required for the short put option contract or the margin required for the short call option contract (pursuant to paragraph (b) of this Rule), whichever is greater, plus the current market value of the other contract.

[Rule 20.24 supplements Rule 12.3.]

Determination of Value for Margin Purposes

Rule 20.25. For margin purposes, positions in GNMAs shall be valued at the current cash market price for GNMAs bearing the same stated rate of interest as those in the positions. Notwithstanding anything to the contrary in Rule 12.5, GNMA options contracts, for purposes of Rule 20.24, shall be deemed to have market value and the term "current market value" as to any position in a particular GNMA options series (as used in that Rule) shall mean the closing price of the series on the Exchange on the day with respect to which a determination of current market value is made.

[Rule 20.25 supplements Rule 12.5.]

CBOE's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Item 3. Purpose of Proposed Rule Changes.

The basis and purpose of CBOE's proposed rule changes remain the same as set forth in SR-CBOE-1980-7, as originally filed. The amendments to these proposed rule changes, set forth above, are intended to clarify and make certain technical changes in those proposed rule changes (i) to establish positions and exercise limits of 1,000 options for GNMA options; (ii) to exclude GNMA pools which include builder loans from securities underlying GNMA options dealt in on CBOE; (iii) to alter exercise price intervals; (iv) to eliminate a limit order book for GNMA options; (v) to provide for a Post Coordinator for GNMA options (who will assume certain responsibilities normally carried out by board brokers or order book officials); (vi) to clarify the prices of bids for GNMA options (in view of elimination of a limit order book for such options); (vii) to alter permissible maximum bid-ask differentials for GNMA options; and (viii) to establish different minimum customer margin requirements. In addition, the amendments transfer the proposed rule changes to a separate chapter of CBOE's rules. The material amendments are discussed in greater detail below. Amendments not discussed below make only clarifying changes.

The Introduction to Chapter 20 (which would contain all rules uniquely applicable to GNMA options) would make clear the limited application of the chapter and the general applicability of CBOE's other rules to GNMA options except as otherwise provided in the chapter.

The definition of "qualifying rate" in proposed Rule 21.1(i) (which would replace the amendment to Rule 1.1(hh) originally proposed) would be amended to take into account changes in the GNMA production rate greater than the minimum possible interval, treating GNMAs bearing stated rates of interest in the "gaps" created by any such GNMA production rate change in a manner consistent with the pattern intended to be established by the definition as originally proposed.

Proposed Rules 20.3 and 20.4 would retain the position and exercise limits of 1,000 contracts originally proposed for GNMA options.

Interpretation and Policy .01 to Rule 20.7 (which would replace the amendment to Rule 5.3 originally proposed) would establish that GNMA pools which include builder loans are ineligible as underlying securities for GNMA options traded on the CBOE, conforming CBOE's proposed GNMA options market to prevailing practice in GNMA cash and futures markets, which take into account the fact that such loans typically are refinanced in a relatively short period of time (resulting in more rapid pay-downs than are typical for other GNMAs).

Rule 20.8(b) (which would replace the amendment to Rule 5.6 originally proposed) would provide for the introduction of exercise prices at intervals of 2% rather than 1% (reserving authority to revert to 1% intervals) to take into account recently experienced volatility in GNMAs and thereby to reduce the chances of an inappropriate proliferation of GNMA options series. In addition, Interpretation and Policy .01 to the Rule would make clear that GNMA prices in the market for forward delivery may be taken into account in determining and introducing exercise prices. Such flexibility is necessary in the event the forward market trades at a significant premium or discount to the spot market in order to facilitate arbitrage between the GNMA forward and GNMA options markets, thus enhancing pricing efficiency.

Rule 20.10 (which would replace the amendment to Rule 6.2 originally proposed) would provide that opening rotations in GNMA options are to be overseen by a CBOE employee designated as a Post Coordinator for such options. Because there will not be board brokers or order book officials for GNMA options (as discussed below), this opening function is to be performed by the Post Coordinator. Further, the Rule would establish general opening procedures differing from those used for stock options and would provide for changes in those procedures.

Rule 20.11 (which would replace the amendments to Rules 6.3 and 6.4 originally proposed) would make clear that, in the event quotations for GNMAs are believed to have become unreliable, trading halts or suspensions in GNMA options may be instituted (in the same manner as when such quotations become unavailable).

Rule 20.12 (which would replace the amendments to Rules 6.41 and 6.42 originally proposed) would simplify terminology used in the rules and would establish thirty-seconds of a point rather than sixty-fourths of a point as the standards for bids and offers for GNMA options.

Rule 20.13 (which would replace the amendment to Rule 6.45 originally proposed) reflects elimination of a limit order book for GNMA options, discussed below, and would clarify the priorities of bids and offers for GNMA options under that circumstance. Rule 20.14 (which would replace the amendment to Rule 6.54 originally proposed) similarly would make clear that paragraphs (ii) through (v) of Rule 6.54 do not apply to GNMA options in that circumstance.

Rule 20.16 (which would replace the amendment to Rule 6.73 originally proposed) would make clear that floor brokers handling contingency orders for GNMA options dependent upon prices other than those originating on the CBOE will be entertained only on a "not-held" basis in view of the character of and relative lack of information concerning completed transactions in GNMAs in other markets.

Rule 20.17 would eliminate a limit order book for GNMA options and would transfer the regulatory functions normally performed by board brokers and order book officials to the Post Coordinator for GNMA options. This change reflects CBOE's judgment that, in view of the likely number of series of GNMA options and the anticipated sudden influxes of GNMA options orders upon announcements of government actions or statistical information, the operational problems associated with administering a limit order book would significantly impede trading during periods when prompt trading responses are most vital. In addition, CBOE believes that, given the different composition of anticipated participants in the planned GNMA options market and the fact that simple limit order strategies are unlikely to be used as frequently as in CBOE's stock option market, it would be neither appropriate nor administratively feasible to maintain a GNMA options limit order book. Finally, in view of the larger dollar amounts which will characterize GNMA options transactions, CBOE does not believe, under the circumstances, that it should expose itself to the increased liabilities which would be associated with maintenance of a GNMA options limit order book.

Rule 20.18 (which would replace the amendment to Rule 8.7 originally proposed) would expand the maximum bid-ask differentials for GNMA options quotations to levels CBOE believes are appropriate in view of the significantly increased volatility of GNMA's recent experience, introducing four categories of differentials geared to different premium levels (referenced to preceding bid prices) in place of the originally proposed two categories. These requirements parallel, in large part, those set forth in Rule 8.7(b) applicable to options on stocks. In addition, Interpretation and Policy .02 to the rule would permit waiver of the maximum bid-ask differential in the interest of preserving a fair and orderly market as an alternative to initiating trading halts or suspensions in GNMA options when conditions are present which would otherwise cause such a halt or suspension. CBOE believes that this greater flexibility is appropriate to its proposed GNMA options market, particularly since conditions in the GNMA markets can become very uncertain immediately prior to announcements of changes, government actions or statistical information.

Rules 20.24 and 20.25 (which would replace the amendments to Rules 12.3 and 12.5 originally proposed) would establish a new minimum customer margin system for GNMA options based upon GNMA options premiums. Margin required for short call or put positions would be 130% of the current market value of each contract in the position plus $1,500 per contract (subject to a maximum of the sum of such current market values plus $5,000). Margin required with respect to spreads having the same maturity in the event the exercise price of the long call (or short put) is greater than that of the short call (or long put) would be equal to the difference in the exercise price multiplied by a variable factor keyed to the then current highest qualifying rate (ranging from 1.0 in the case of a qualifying rate below 8% to 1.5 in the case of qualifying rates at or between 12% and 14%). Margin required on other spreads would be 130% of the current market value of each short option contract plus $1,500 per contract, reduced by the current market value of each long option contract, subject to a $1,000 minimum for such a spread position. Margin for short call and short put positions would be the greater of the requirements for either short position considered alone plus the sum of the current market values for contracts in the other position. Each side of all other combination positions would be margined separately. This premium based customer margin system is expected to afford considerably greater protection than the system originally proposed (*i.e.*, 3% margin based on the value of underlying GNMAs). In addition, the new system would simplify margin computations and would effect automatic variations in margins in response to changes in market volatility.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 9, 1981.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 5, 1981.

[FR Doc. 81-736 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

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[Release No. 34-17415; File No. SR-CSE-80-7]

The Cincinnati Stock Exchange; Filing of Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 5, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Effective December 1, 1980, members present on the floor of the Exchange or members using a representative of a member present on the floor of the Exchange, whether executing orders for their firms or others, will be obligated to pay to the Exchange a floor fee equal to $0.05 per 100 shares per single side of each round lot transaction executed outside the National Securities Trading System ("NSTS") with a maximum of $12.50 per single side of such transaction.

On transactions executed outside the NSTSA, the floor fees charged to any member shall not exceed $500.00 per month.

The Cincinnati Stock Exchange's Statement of Basis and Purpose.

By action of the Executive Committee on November 7, 1980, a floor fee on transactions executed outside the NSTS was established.

Section 6(b)(4) of the Act is the basis for these fees since specified charges are reasonable and equitably allocated to those who avail themselves of such Exchange services.

No comments were solicited from Members nor were any received.

Fees as set forth impose no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of purpose of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number references in the caption above and should be submitted on or before January 30, 1981.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 5, 1981.

[FR Doc. 81-739 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11531; 811-2710]

Den Management, Inc.; Proposal To Terminate Registration

January 5, 1981.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), 1 Spruce Place, Denville, NJ 07834, to declare by order on its own motion, that Den Management, Inc. ("Fund"), registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of New Jersey on October 27, 1976, and registered under the Act on November 24, 1976. The files of the Commission further indicate that the Fund has not filed a registration statement pursuant to the Securities Act of 1933 and thus, has not made a public distribution of its securities. Furthermore, the Fund has never filed any of the periodic reports required by the Act. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in part, that when the Commission, on its own motion or upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 30, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-741 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11533; 811-2983]

Federated Cash Management Trust; Filing of Application

January 5, 1981

Notice is Hereby Given that Federated Cash Management Trust ("Applicant"), 421 Seventh Avenue Pittsburgh, PA 15219 which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 21, 1980, requesting an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on December 28, 1979, and that it simultaneously registered an indefinite number of its shares of beneficial interest of common stock under the Securities Act of 1933. According to the application, the registration of those shares became effective on April 9, 1980, at which time an initial public offering of those shares commenced. Applicant further states that it was dissolved pursuant to its Declaration of Trust and applicable state law on August 18, 1980.

According to the application, on August 18, 1980, Applicant's Trustees recommended to its shareholders that Applicant's affairs be wound up and terminated and that unanimous consent of shareholders approving such termination was obtained on August 18, 1980. Applicant states that it voluntarily redeemed all of its 5,355,932 outstanding shares at their $1 net asset value per share and that such redemptions were completed on August 18, 1980. Applicant further states that all its portfolio securities either matured or were sold to Federated Master Trust (a money market fund registered under the Act) pursuant to Rule 6C–5(T) under the Act. According to the application, that liquidation resulted in transfer agent and administrative fees of $21,645.99, which were assumed by Cash Management Research Corp., Applicant's investment adviser.

Applicant states that as of the date of the filing of the application it had no assets or liabilities and was not a party to any litigation or administrative proceeding. Applicant further states that it is not engaged and does not propose to engage in any business activities other than those necessary for the winding up of its affairs and that there are no shareholders of Applicant to whom distribution in complete liquidation of their interests has not been made. According to the application, Applicant intends to file Articles of Dissolution with the Secretary of State of the Commonwealth of Massachusetts.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company as defined by the Act, it shall so declare by order and, upon taking effect of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than January 30, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidvit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–742 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21876; 70–6536]

National Fuel Gas Supply Corporation et al; Proposed Institution of System Money Pool Arrangement, Proposed Establishment of New Short-Term Borrowing Limitations and Request for Exception From Competitive Bidding

January 5, 1981.

In the Matter of National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301; Penn-York Energy Corporation, 10 Lafayette Square, Buffalo, New York 14203; National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203; National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10112.

Notice is hereby given that National Fuel Gas Company ("National"), a registered holding company, and three of its subsidiary companies, National Fuel Gas Distribution Corporation ("Distribution"), National Fuel Gas Supply Corporation ("Supply") and Penn-York Energy Corporation ("Penn-York") have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) thereof and Rules 42, 43, 45, 50(a)(2), and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

National, Distribution, Supply, and Penn-York (collectively, the "System") are seeking authorization for National to incur external short-term borrowings, by the issuance of notes to banks and commercial paper to a dealer through December 31, 1981. The proceeds from such borrowings would be loaned to System subsidiaries. National proposes to issue up to $40,000,000 of commercial paper and to establish bank lines of credit of $138,700,000. The companies also request approval for the institution of a System money pool. It is anticipated that during 1981 subsidiaries will have an aggregate amount of up to $70,000,000 of surplus funds from System companies would be made available through the money pool.

The maximum principal amount of unsecured debt the System may have outstanding at any one time from bank borrowings, commercial paper sales, surplus fund loans or any other source would be $92,687,764, which is 20% of System's consolidated capitalization as of September 30, 1980. According to National's Certificate of Incorporation as discussed in this Commission's Order of May 21, 1980 (HCAR No. 21585), the System's outstanding short-term debt may not exceed 20% of the System's consolidated capitalization. However, borrowings by Supply for the purchase of gas for storage is considered to be "inventory loans" and are not included as "unsecured debt" for purposes of National's Certificate of Incorporation. The aggregate maximum outstanding principal amount of short-term borrowings by the System would be $138,700,000. These borrowings include up to $46,012,236 of inventory loans to Supply.

During 1981 the subsidiaries will need to borrow a maximum aggregate amount of $180,000,000 for working capital. Distribution will require $90,000,000 for its construction program and the financing of deferred purchase gas costs. Supply needs working capital up to $50,000,000 for the purchase of gas to be stored during the summer and withdrawn for sale in the winter as well as for construction and deferred purchase gas costs. Penn-York will need to borrow up to approximately $40,000,000 for the development of underground storage facilities for the use of non-affiliated utilities. Distribution, Supply and Penn-York would borrow up to $90,000,000, $50,000,000 and $40,000,000, respectively.

However, due to differences in timing, working capital requirements can be satisfied through short-term unsecured borrowings not to exceed $92,687,764, plus up to $46,012,236 in gas inventory loans to supply.

National would administer the money pool and coordinate the System's short-term borrowings. Borrowings outside the System, when necessary, would be made through the issuance and sale of commercial paper and/or borrowings from banks and such funds would be included in the money pool. Requests by subsidiaries for short-term loans would be met from money pool sources in the following order: (1) surplus funds of any of the subsidiaries; (2) surplus funds of National; (3) proceeds from National's sale of commercial paper and bank borrowings. It is not expected that National will need to make borrowings through the money pool and no loans would be made by any subsidiary to National.

Loans through the money pool will be adequately documented on the books of the participants. The interest rate applicable to all loans of surplus funds through the money pool will be the lower of the following two rates as published daily in *The Wall Street Journal:* (1) the rate for commercial paper placed directly by a major finance company and having a term most nearly equal to the particular money pool loan in question, or (2) the prime rate. The interest rate applicable to funds borrowed by National (either through commercial paper or bank loans) and loaned through the money pool will be equal to National's net cost for such external borowings. In cases where both surplus funds from other subsidiaries and external funds are concurrently borrowed through the money pool, the interest rate applicable to all funds will be equal to the net cost of the externally borrowed funds. Interest on all borrowings through the money pool will be payable monthly until the principal amount is paid in full except where there are external borrowings from Chase. In that instance, interest will be payable in a manner to allow National to make its payment of interest on a quarterly basis. Any surplus funds not needed by other subsidiaries or for the retirement of external borrowings will be temporarily invested by the subsidiary that generated the surplus.

Costs for compensating balances to support the lines of credit may be incurred although System operating balances are expected to meet compensating balance requirements. In some cases, however, one subsidiary may have a larger operating balance than required to support its allocable share of the lines of credit and its balance will be used to support the allocable share of another subsidiary. Therefore, initially, the cost of compensating balances will be allocated to the subsidiaries on the basis of 50% to Distribution Corporation, 28% to Supply Corporation and 22% to Penn-York. At the end of the calendar year, the costs would be retroactively reallocated among the subsidiaries on the basis of the relative maximum outstanding short-term borrowings of each subsidiary during the year. Each subsidiary would pay that portion of total line of credit costs equal to the ratio of its maximum short-term borrowings to the maximum aggregate System short-term borrowings on a non-coincidental basis during the year.

If intra-system sources of funds are insufficient to meet short-term loan requests, National proposes to issue and sell from time to time through December 31, 1981, commercial paper in an aggregate maximum outstanding principal amount of $40,000,000 to A. G. Becker & Co., Incorporated ("Dealer") and/or short-term unsecured notes to The Chase Manhattan Bank, N.A. ("Chase") and make the proceeds therefrom available to its subsidiaries through the money pool.

The commercial paper will be sold by National to the Dealer in minimum sale amounts of not less than $50,000 and note denominations of not less than $25,000, with varying maturities not to exceed nine months, and will not be prepayable prior to maturity. No commission will be payable in connection with the issuance and sale of the commercial paper; however, the Dealer will reoffer and sell the commercial paper at a discount rate of ⅛ of 1% per annum less than the prevailing discount rate from the Dealer to National. The Dealer, in reoffering the commercial paper, will limit the reoffer and sale to a nonpublic list of not more than 200 buyers of commercial paper including commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, college and university funds, municipal and state funds, or other financial institutions which normally invest funds in commercial paper. No sale will be made to any buyer unless and until such buyer has received a current report of the financial condition of National. It is anticipated that the commercial paper of National will be held by the buyer to maturity; however, the Dealer may, if desired, repurchase the commercial paper and reoffer it to others on the approved list of buyers.

The decision to issue commercial paper or short-term notes would be at the discretion of National, except that, if the effective interest cost for commercial paper exceeds the effective cost of equivalent borrowings from Chase under the back-up line of credit on the date of issue, National will issue its short-term unsecured notes to Chase.

National proposes to establish lines of credit with banks and to issue and sell short-term unsecured notes to such banks through December 31, 1981 up to an aggregate outstanding principal amount of $138,700,000. Of these borrowings $46,012,236 of the proceeds will be committed for the purchase of gas inventory by Supply. The proceeds would be made available to the subsidiaries through the money pool.

Lines of credit will be established with Chase as well as Buffalo, Erie and Oil City banks. Under each of the lines of credit, any unsecured note issued will be issued by National, will be dated as of the date of issue, will mature not later than twelve months from the date thereof and will be prepayable at any time, in whole or in part, without penalty or premium. The notes issued and sold to Chase and to the Erie and Oil City banks will bear interest at the prime rate of interest in effect from time to time at Chase. The notes issued and sold to the Buffalo banks will bear interest at the prime rate of interest in effect from time to time at each individual bank. In the case of Chase, interest will be payable quarterly until the principal amount is paid in full. In the case of all the other banks, interest will be payable monthly until the principal amount is paid in full.

There will be no commitment fee or any closing or related costs in connection with the above borrowings. However, each bank may require the System to keep compensating balances that will usually be met through normal operating balances. However, assuming National borrowed the full amount under each line of credit, and the full average compensating balance under each line was required, the effective cost of money, based on the current 21% prime rate, would range from 23.333% to 26.250%. The 26.250% rate is the maximum effective interest cost and is based on a 20% compensating balance. The weighted average effective cost of money if all lines were fully utilized would be 25.990%.

National requests an exception from the competitive bidding requirements of Rule 50(b) pursuant to subparagraph (a)(5) for the issuance of commercial paper by National because the notes will mature within nine months, will be issued to a limited, defined group of buyers, the interest cost will not exceed the cost of equivalent bank borrowings from Chase, and current commercial paper notes for prime issuers are published in daily financial publications.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. It is further stated that the fees and expenses to be incurred in connection with the proposed transactions are estimated to be $2,800. It is requested that the reports required by Rule 24 be provided on a quarterly basis.

Notice is further given that any interested person may, not later than January 29, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-743 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11532; 811-294]

New York Bank Trust Shares; Proposal To Terminate Registration

January 5, 1981.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that New York Bank Trust Shares ("Fund"), c/o National Distribution Group, 111 Broadway, New York, New York 10006, registered under the Act as a unit investment trust, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund registered under the Act on November 1, 1940, and that National Distributors Corporation, a Maryland corporation, acted as depositor to the Fund. The files of the Commission further indicate that the Fund made a public offering of its shares prior to the effective date of the Securities Act of 1933. The files of the Commission also indicate that the trust agreement between the Fund and National Distributors Corporation was terminated as of February 15, 1944, and that notice of such termination was given to the certificate holders of the Fund on or about November 15, 1943. In addition, the files of the Commission indicate that the last communication the staff had with the Fund was in November, 1943. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in part, that when the Commission on its own motion upon or application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 30, 1981 at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-744 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17414; File No. SR-NYSE-80-45]

New York Stock Exchange, Inc.; Filing of Proposed Rule Change

Pursuant to Section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 87s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Taking or Supplying Securities Named in Order Rule 91:

* * * * *

.40 Orders received by specialists via the DOT system—In the case where a specialist takes or supplies, for an account in which he has an interest, the securities named in an order which is received by the specialist via the DOT system, paragraphs (b)(3) and (c)(3) and paragragh .10 above shall not apply. A member representing the member organization which transmitted the order via the DOT system, may reject any such trade by notifying the specialist in writing promptly after the member organization has received a report on the transaction. Any transaction not rejected in this manner shall be deemed accepted.

The Exchange's Statement of the Basis and Purpose

The proposed rule change would amend Rule 91 to exempt transactions involving DOT[1] orders from the requirement that a specialist must confirm with the member of the Floor *each* transaction in which the specialist takes or supplies securities named in an order that he holds as agent for the member. It is proposed that the present confirmation procedure be replaced by an exception-type process which would give the member the right to reject any DOT trade by notifying the specialist in writing promptly after the member organization has received a report on the transaction. Orders not submitted through the DOT system would continue to be subject to the present written confirmation procedure.

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[1] DOT is the Designated Order Turnaround System which electronically delivers directly to the trading post for a stock, orders transmitted to the Exchange by member organizations subscribing to the service. DOT presently handles market orders up to 299 shares and day limit orders up to 500 shares.

If a member organization believes that it received a poor execution on a DOT order, it can send its Floor broker to the specialist's post promptly after receiving the report on the transaction. If the Floor broker in questioning the execution price then learns that the specialist acted as principal, he may reject the trade.

The Exchange's Statement of Basis Under the Act for the Proposed Rule Change

The DOT system has significantly improved the processing of small orders by sending such orders directly to the specialist. By adding to the operational efficiency of the DOT system and allowing for easier future enhancement of the system, the proposed change to Rule 91 will better enable the Exchange to meet the objectives and requirements of the Securities Exchange Act of 1934 (the "Act"), which include the maintenance of fair and orderly markets, and the fostering of cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to transactions in securities (see Section 6(b) and 11(a) of the Act).

The enhancement and added operation capacity of the DOT system will result in a more efficient and effective market operation (see Section 11(A)(a)(1)(B) of the Act). In addition, such improvements to the DOT system would help assure the economically efficient execution of securities transactions (see Section 11A(a)(1)(C)(1) of the Act). Furthermore, such improvements to the DOT system would be consistent with and advance the purposes of the Act set forth in Section 17A(a)(1), including the prompt and accurate clearance and settlement of securities transactions and the introduction of more efficient procedures for the clearance and settlement operation.

Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange has not solicited comment on these proposed rule changes and it has not received any.

Burden on Competition

The Exchange does not perceive any unnecessary burden on competition that will be imposed by the proposed rule change.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date, if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 5, 1981.

[FR Doc. 81-745 Filed 1-8-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

[Public Debt Series—No. 39-80]

Interest Rate on Treasury Notes of Series C-1988

The Secretary announced on December 30, 1980, that the interest rate on the notes designated Series C-1988 described in Department Circular—Public Debt Series—No. 39-80 dated December 16, 1980, will be 12⅜ percent. Interest on the notes will be payable at the rate of 12⅜ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-826 Filed 1-8-81; 8:45 am]

BILLING CODE 4810-40-M

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 16]

Surety Companies Acceptable on Federal Bonds; Warning—Additional Counterfeit Surety Bonds

The Treasury Department alerted federal agencies engaged in surety bonding operations and federal bond-approving officers that counterfeit surety bonds may have been accepted by government agencies by FR 45 No. 207, page 70370 October 23, 1980. Federal agencies and bond-approving officers are advised that additional counterfeit surety bonds may have been accepted. Therefore the Treasury requests that federal agencies take positive steps to disseminate this notice to all agency bond-approving officers.

Individuals posing as employees or representatives of Industrial Indemnity Company, San Francisco, California, are offering bogus bonds and commitments in eastern Pennsylvania and New Jersey.

The counterfeit bonds discovered so far were written using the Industrial Indemnity Company name with the initials N.A. following and showing a business address of 603D Edison Avenue, Philadelphia, Pennsylvnia. However, this is not to say that other variations may not exist.

Neither "Industrial Indemnity Company, N.A." nor their employees or agents have any connection with nor any authority to issue bonds or make any commitment on behalf of the San Francisco-based Industrial Indemnity Company.

Industrial Indemnity Company, incorporated in the state of California in 1920, is wholly-owned by Crum & Forster, a New York based insurance holding company. It is licensed to issue surety bonds in all states except Connecticut and West Virginia and holds a Treasury Department certificate of authority as an acceptable surety on federal bonds. The company was last listed at FR 45 No. 128, page 44506 July 1, 1980 (Treasury Circular 570, 1980 revision). This company is and has been in good standing with the Treasury Department and bona fide bonds issued by it should be accepted.

Federal bond-approving officers are advised to search their files from May 1, 1980 and to look closely at the name of the surety appearing on the bonds. Anyone finding a bond listing the Industrial Indemnity Company name with the initials N.A. following should refer the matter to Charles McMannus of the U.S. Postal Inspector's Office, P.O. Box 7500, Philadelphia, Pennsylvania 19100, or phone Mr. McMannus on (215) 596-5208 or FTS 596-5208. Bond-approving officers should also closely examine the corporate seal impressed on the bond and the related power-of-attorney.

In order to verify the authenticity of a doubtful bond, bond-approving officers may call Industrial Indemnity Company's Vice President of Surety, Ken Ryan, or Assistant Vice President of Surety, Thomas E. Frederick, at (415) 986-3535. (Caution—do not check authenticity by calling a phone number inserted or labeled on a bond or power-of-attorney.)

If a bond-approving officer finds that he or she has accepted a counterfeit bond, strong steps should be taken to protect the interests of the Government and any laborers, materialmen or suppliers involved. At the discretion of the agency, such steps may include halting progress payments until the principal has furnished a satisfactory bond, defaulting a principal, requiring a principal to make positive arrangements to pay his suppliers, etc.

Questions concerning this notice should be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226 by phoning (202) 634-2458 or FTS 634-2458.

Dated: December 30, 1980.

Irvin E. Faunce,

Acting Commissioner, Bureau of Government Financial Operations.

[FR Doc. 81-696 Filed 1-8-81; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board for Health Services Research and Development; Meeting

In accordance with Public Law 92-463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development. This meeting will convene in Room 119 of the Veterans Administration Central Office Building, 810 Vermont Avenue, NW, Washington, DC, January 15 and 16, 1981, beginning at 3 p.m., on January 15, 1981 and at 9 a.m., on January 16, 1981. The purpose of the meeting is to review health services research and development applications for scientific and technical merit and to make recommendations to the Director, Health Services Research and Development Service (HSR&DS) regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the January 15th session for approximately one hour to cover administrative matters and to discuss the general status of the program. During the closed session, the Board will be reviewing research and development applications relating to the delivery and organization of health services. This review involves oral review and discussion of site visits, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and the performance and competence of individual investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Further, the Board's recommendations are strictly advisory in nature; other factors are considered in final funding decisions. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with 5 U.S.C. 552(c)(4), (c)(6), and (c)(9)(B), and the determination of the Administrator of Veterans Affairs under section 10(d) of of Public Law 92-463.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Mrs. Dolores Zupan, Program Assistant (15D), Scientific Review Division, Research and Development, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 (202-389-5414) at least three days before the meeting.

The appearance of this notice at least 15 days in advance of the meeting has been hindered due to delays in administrative processing.

Dated: January 5, 1981

By direction of the Administrator:

Max Cleland,

Administrator.

[FR Doc. 81-697 Filed 1-8-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 6
Friday, January 9, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Civil Rights Commission.......................... 1
Federal Energy Regulatory Commission.......................... 2
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Securities and Exchange Commission. 5

CORRECTIONS

In the **Federal Register** of Tuesday, January 6, 1981, on pages 1393 and 1394, the documents for the Consumer Product Safety Commission, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, and the Nuclear Regulatory Commission carried incorrect **Federal Register** Document Numbers. They should be changed as follows:

Agency	Incorrect docket	Correct docket
1. Consumer Product Safety Commission.	S-2383-81	S-2-81
2. Federal Energy Regulatory Commission.	S-2382-81	S-1-81
3. Federal Home Loan Bank Board.	S-2384-81	S-3-81
4. Nuclear Regulatory Commission.	S-2385-81	S-4-81

BILLING CODE 1505-01-M

1

COMMISSION ON CIVIL RIGHTS.

DATES:

January 11, 1981, 7 p.m.–9 p.m.;
January 12, 1981, 9 a.m.–12 noon; 1:30–4 p.m.

PLACE: Holiday Inn, Mass. Ave., N.W., at Thomas Circle, Washington, D.C., 1121 Vermont Ave., Room 512, Washington, D.C.

STATUS: Open to public.

MATTERS TO BE CONSIDERED: Sunday, January 11:

I. Approval of Agenda;
II. Approval of Minutes of Last Meeting;
III. Review of Agency Operating Plan;
IV. Review of Miami Hearing;
V. Memorandum on Affirmative Action Consultation.

Monday, January 12:

VI. Applicability of Title VI of the Civil Rights Act of 1964, to Payments Made Under Part B of Medicare:
VII. Review of ERA Statement;
VIII. Review of Child Care Report;
IX. Review of Health Consultation Statement;
X. Review of National Indian Report;
XI. State Advisory Committee Re-charters:
  A. Alaska
  B. Nebraska
  C. South Dakota
  D. Vermont
  E. Virginia
  F. Wisconsin
XII. Action re: Idaho Advisory Committee Report Entitled *"A Roof Over Our Head: Migrant and Seasonal Farmworker Housing in Idaho"*;
XIII. Followup re: *Sin Papeles: The Undocumented in Texas*;
XIV. Civil Rights Developments in the Central States Region;
XV. Staff Director's Report:
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Reports
  D. Correspondence
    1. Letter from White House on Anti-Civil Rights Amendments.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division (202) 254-6697.

[S-28-81 Filed 1-7-81; 11:37 am]

BILLING CODE 6335-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 1393, January 6, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 7, 1981.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

ER-7: ER80-508, Boston Edison Company.

Kenneth F. Plumb,
Secretary.

[S-29-81 Filed 1-7-81; 11:45 am]

BILLING CODE 6450-85-M

3

FEDERAL RESERVE SYSTEM.

BOARD OF GOVERNORS.

TIME AND DATE: 10 a.m., Wednesday, January 14, 1981.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed interpretation of Regulation K (International Banking Operations) concerning investments by U.S. banking organizations in foreign companies and foreign banks that do business in the U.S.
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 6, 1981.

James McAfee,
Assistant Secretary of the Board.

[S-27-80 Filed 1-6-81; 4:28 pm]

BILLING CODE 6210-01-M

4

[USITC ERB-80-14A]

INTERNATIONAL TRADE COMMISSION.
Executive Resources Board (ERB)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 187, January 2, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 7, 1981.

CHANGES IN THE MEETING: The meeting previously scheduled to be held on Wednesday, January 7, 1981, has been rescheduled for Wednesday, January 21, 1981. There are no other changes to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-30-80 Filed 1-7-81; 2:34 pm]

BILLING CODE 7020-02-M

5

SECURITIES EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 12, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, January 12, 1981, at 9:30 a.m. and on Tuesday, January 13, 1981, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, January 12, 1981, at 9:30 a.m., will be:

Regulatory matter bearing enforcement implications.

The subject matter of the closed meeting scheduled for Tuesday, January 13, 1981, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authories.
Litigation matters.
Formal orders of investigation.
Settlement of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive action and institution of administrative proceeding of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

January 7, 1980.

[S-31-80 Filed 1-7-81; 3:26 pm]

BILLING CODE 8010-01-M

V46/6 JA 9 81

federal register

Friday
January 9, 1981

Part II

Department of Health and Human Services

Food and Drug Administration

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures Re Medicated Feed Applications

V46/6 JA9 81 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207, 210, 225, 226, 501, 510, 514, and 558

[Docket No. 77N-0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures Re Medicated Feed Applications

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. Incorporated in this proposal are the terms previously proposed defining the various medicated feed articles produced.

DATE: Comments by April 9, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary Medicine (HFV-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION:

I. Terminology for Medicator Feeds

In the Federal Register of January 17, 1978 (43 FR 2526), the agency proposed revised definitions for articles used in the manufacture of medicated animal feeds. The period for comment on the proposal was extended to May 19, 1978. As proposed, the currently used terminology, "premix", "intermediate premix", "supplement" or "concentrate", and "complete feed", would have been replaced by Type A, Type B, Type C, and Type D medicated feed articles. The proposed changes were intended to eliminate the ambiguity that currently exists in medicated feed nomenclature.

The currently used definitions were promulgated by the agency in the Federal Register of July 19, 1964 (29 FR 10506), under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), to establish the various types of food additives and animal feed products that were applicable to the use of drugs in animal feeds. The definitions were based on the safety considerations such as the concentration of the drug in each article, the intended use of the article, and the risk of harm to humans associated with ingesting the article by the animal or food derived from the animal.

Section 558.3 (21 CFR 558.3) lists and defines the feed additive articles as complete feed, feed supplement, feed concentrate, and feed premix. Ambiguities have arisen because these commonly used terms have different meanings in the animal feed industry. For example, a "concentrate" is a concentrated source of energy (e.g., certain basal feedstuffs such as corn, soybeans, or milo) to the animal scientist and many others in the industry. However, many in the feed and animal drug industry and the regulatory agencies use the term "concentrate" to mean a concentrated drug supplement. A drug concentrate is also known as an intermediate premix or custom premix that contains only drugs, vitamins, and minerals. Thus, a concentrate for feed is referred to by several terms, some of which have different meanings.

Similarly, a "supplement" is known by many in the agricultural industry as an article of feed that supplies protein, vitamins, or minerals to animal diets that are otherwise nutritionally complete. Others view a supplement as being a dilute medicated feed concentrate. The term may also be used to refer to a supplemental medicated feed application.

A premix refers to a concentrated mix of any ingredient normally added to animal feed. It thus includes drugs, nutrients, and other substances added for medicinal or nutritional purposes.

The 1978 proposal, among other things, more precisely defined the difference between an animal drug requiring an application to be approved under section 512(c) of the act (21 U.S.C. 360b(c)) and a regulation published under section 512(i) of the act (21 U.S.C. 360b(i)) and an animal feed requiring an application to be approved under section 512(m)(2) of the act (21 U.S.C. 360b(m)(2)). It changed the conditions for approval of intermediate premixes (Type B medicated feeds) from an NADA to a medicated feed application on the basis that such articles are medicated animal feeds. The document also proposed revised definitions of production classes of animals.

The agency is publishing a new proposal to redefine the various types of medicated feed articles to utilize terminology not subject to varying trade and government usage and interpretation and to identify more clearly those medicated feed articles requiring an approved new animal drug application (NADA) or medicated feed application. When the original terms in § 558.3 were promulgated, the American Feed Manufacturers Association (AFMA) suggested that the medicated feed articles be designated by letter. The agency has concluded that terms such as those suggested by AFMA provide a practical system for clearly identifying the various types of medicated animal feeds. The definitions designate the currently used medicated feed articles as Type A medicated article and Type B or Type C medicated feeds.

II. The Task Force

In June 1978, FDA formed a Medicated Feed Task Force composed of members representing the Bureau of Veterinary Medicine (BVM), Executive Director of Regional Operations (EDRO), Associate Commissioner for Regulatory Affairs (ACRA), and the Office of the Chief Counsel. The Task Force was to review and examine the existing medicated feed program and to explore and recommend ways to employ resources more efficiently.

The Task Force concluded that the existing program is the result of piecemeal policies affecting animal drugs resulting from application of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) (the act) enacted in 1938, as it evolved before and after the passage of the Animal Drug Amendments of 1968 (Pub. L. 90-399). For example, section 201(g) of the act (21 U.S.C. 321(g)), which defines the term "drug", does not distinguish between drugs intended for use in man or other animals, nor did section 201(p) of the act (21 U.S.C. 321(p)), which defines the term "new drug", distinguish between new drugs intended for use in man or other animals. Therefore, before enactment of the Animal Drug Amendments, new drugs intended for both man and other animals were subject to the preclearance provisions of section 505 of the act (21 U.S.C. 355).

In 1945, Congress added section 507 to the act (21 U.S.C. 357) requiring the agency to certify batches of drugs composed wholly or partly of any kind of penicillin. This section has been amended several times to include streptomycin, chlortetracycline, bacitracin, chloramphenicol, and their derivatives. Again, no distinction was made in these provisions between the use of these drugs in man or other animals. Under authority granted by section 507(c) of the act (21 U.S.C. 357(c)), however, the Commissioner of Food and Drugs exempted antibiotics that were added to animal feeds from the certification provisions if the antibiotics were labeled for specific conditions of use that were published in the regulations.

From the mid-1940's medicated premixes have been marketed for the administration of drugs to animals in medicated feed. Until the effective date of the Animal Drug Amendments of 1968, the act provided no unique procedure under the act for the review and approval of animal drugs, including those for the manufacture of medicated animal feed by feed mills. Before a new drug could be manufactured into a medicated feed, an application for the manufacture of a medicated premix required approval. The holder of the premix approval was then required to supplement its application for each feed manufacturer requesting use of the drug.

The Food Additives Amendment of 1958 applied to food additives intended for both man or other animals. This amendment added section 201(s) to the act (21 U.S.C. 321(s)), which defines the term "food additive" as any substance the intended use of which results or may reasonably be expected to result, directly, or indirectly, in its becoming a component or otherwise affecting the characteristics of any food. Thus, any drug added to food or feed of an animal was a food additive, and any drug capable of causing residues in the edible products of the food-producing animal was also considered to be a food additive because the residue from such drug would constitute a food additive in the edible products. Such drugs placed on the market following enactment of the Food Additives Amendment of 1958 could not be legally marketed unless a food additive regulation was promulgated providing for the drug's safe use or the drug was generally recognized as safe and, for those uses approved after October 10, 1962, as effective.

Because animal drugs intended for use in animal feeds were subject to the preclearance provisions of three distinct sets of procedural requirements, their administrative and preclearance provisions were overlapping, unduly complex, and time consuming.

The Animal Drug Amendments of 1968 added a new section—section 512 (21 U.S.C. 360b)—to the act, in which were consolidated the various parts of the act that related to new drugs intended for use in animals, including those intended for use in animal feeds. Consequently, section 512 of the act provides for separate, distinct requirements regarding regulation of new animal drugs and animal feeds bearing or containing new animal drugs.

New sections 201(w) and 201(x) of the act (21 U.S.C. 321(w) and 321(x)) defining the terms "new animal drug" and "animal feed," respectively, were also added.

Even after passage of the Animal Drug Amendments, the medicated feed program continued to grow in a haphazard way. Exemptions from section 512(m) of the act resulted in feeds containing some carcinogenic drugs being exempt from preapproval requirements, whereas feeds containing some drugs with wide margins of safety are subject to only partial or no exemptions. This was compounded by inconsistencies in the exemptions among drugs and among uses of individual drugs. For example, a new animal drug in feed may be exempted for one species but not others, making the preclearance procedure confusing and difficult to enforce because marketing under the exempted use may be diverted to a nonexempted use.

It was against this background that the Medicated Feed Task Force met to evaluate the agency's past policies, consider current needs, and recommend new initiatives in the agency's medicated feed programs. The Task Force concluded that the current medicated feed program lacks focus. It recommended, among other things, that regulatory control of feeds containing new animal drugs that pose a potential risk to humans from residues should be strengthened, and control of feeds containing drugs that pose little risk to humans should be reduced, thereby better utilizing the limited resources of the agency. Requirements for approved medicated feed applications should be based upon the degree of risk from use of the drug either in terms of the toxicity of the drug itself or the concentration of the drug in a feed. FDA should approve such applications only after firms pass an inspection demonstrating their ability to manufacture feeds in compliance with current good manufacture practice regulations (21 CFR Part 225). The Task Force presented its report, entitled "Second Generation of Medicated Feeds," to the Commissioner of Food and Drugs, who announced its availability in the **Federal Register** of December 15, 1978 (43 FR 58634).

Following the Commissioner's decision to implement the recommendations of the Task Force to restructure the medicated feed program, the agency announced in the **Federal Register** of March 6, 1979 (44 FR 12208) that it was postponing action on the feed definitions proposal.

Since the release of the Task Force report and in response to comments on the report submitted by the public, additional revisions to the recommendations of the Task Force have been made by the agency. The revisions are consistent with the aims of the Task Force and the mandate of the agency to protect the public health.

III. Purpose of This Proposal

The purpose of this document is to:

1. Propose revisions in the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs on the basis of the recommendations of the Medicated Feed Task Force.
2. Propose terms defining the various medicated feed articles produced.
3. Respond to comments made on the 1978 feed definitions proposal.
4. Respond to comments received on the Medicated Feed Task Force Report.
5. Announce the compliance (directed inspection) program.
6. Explain the implementation process and schedule of the new program.
7. Propose good manufacturing practice regulations for firms producing medicated feeds not requiring an approved medicated feed application.

IV. Drug Categories

The Task Force recommendations focused on maximizing public health protection by orienting the medicated feed program to the human risk potential of medicated feeds. Control is strengthened where the potential risk is greatest and lessened where the risk is minimal. The drugs administered in medicated feed are placed in three categories. The placement is subject to change by notice and comment rulemaking, based on review of existing or new safety data.

Where the potential for unsafe residues is the least, the level of use for the drug for subsequent manufacture of a medicated feed is least limited. Where the potential for drug residues is greatest from misuse, the level of use for the drug for subsequent manufacture of a medicated feed is more limited. Where the agency's concern about the safety of the drug is the greatest, the level of use for the drug for subsequent manufacture of a medicated feed will be the most limited.

The concentration of a medicated feed article exempt from the requirement of an approved medicated feed application is a function of its category and its highest continuous use level. The manufacture of a Type A medicated article will continue to require an approved new animal drug application. The manufacture of a Type B or Type C mediated feed from a Type A medicated article will require an approved medicated feed application. However, the use of a Type B or Type C medicated feed for further manufacture is exempt

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from the requirement of an approved medicated feed application. The maximum (Type B medicated feed) exempt level for a Category I drug is 200 times the highest continuous use level; for a Category II drug, 100 times the highest continuous use level; and for a Category III drug, 50 times the highest continuous use level.

Category I—These drugs require no withdrawal period at the lowest use level in each species for which they are approved.

Drugs in this category include: aklomide, ammonium chloride, amprolium with or without ethopabate, bacitracin (from bacitracin methylene disalicylate or zinc bacitracin), bambermycins, buquinolate, chlortetracycline, coumaphos, decoquinate, dichlorvos, erythromycin (thiocyanate salt), ethylenediamine dihydriodide, iodinated casein, nequinate, nystatin, oleandomycin, oxytetracycline, penicillin, penicillin with streptomycin, poloxalene, streptomycin, tylosin, virginiamycin, zoalene.

Category II—These drugs are subject to a withdrawal period at the lowest use level for at least one species for which they are approved.

Drugs in this category include: arsanilate sodium, arsanilic acid, butynorate, carbarsone, clopidol, famphur, hygromycin B, lasalocid, levamisole, lincomycin, monensin, neomycin, nicarbazin, nitrasone, novobiocin, phenothiazine, piperazine, pyrantel tartrate, robenidine, ronnel, roxarsone, sulfadimethoxine-ormetoprim, sulfaethoxypyridazine, sulfamethazine, sulfamerazine, sulfanitran with aklomide, sulfaquinoxaline, sulfathiazole, thiabendazole.

Category III—These drugs are regulated on a "no-residue" basis or with a "zero" tolerance because of a carcinogenic concern.

Drugs in this category include: carbadox, chlormadinone acetate, dimetridazole, furazolidone, ipronidazole, melengestrol acetate, nitrofurazone, nitromide.

The act does not explicitly provide for an exemption from approval for the direct manufacture of a medicated feed from a new animal drug (Type A medicated article), or for the manufacture of one medicated feed from another medicated feed. Section 512(a)(1) of the act requires that before a new animal drug can be approved for use in manufacturing a medicated feed, an application must be filed with FDA under section 512(b) of the act. The following information must be included in the application:

1. Full reports of investigations which have been made to show whether or not the drug is safe and effective for use;

2. A full list of the articles used as components of the drug;

3. A full statement of the composition of the drug;

4. A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the drug;

5. Such samples of the drug and of the articles used as components thereof, of any animal feed for use in on which the drug is intended, and of the edible portions or products (before or after slaughter) of animals to which the drug (directly or in or on animal feed) is intended to be administered, as FDA may require;

6. Specimens of the labeling proposed to be used for the drug, or in case the drug is intended for use in animal feed, proposed labeling appropriate for such use, and specimens of the labeling for the drug to be manufactured, packed, or distributed by the applicant;

7. A description of practicable methods for determining the quantity, if any, of the drug in or on food, and any substance formed in or on food, because of its use; and

8. The proposed tolerance or withdrawal period or other use restrictions for the drug if any tolerance or withdrawal period or other use restrictions are required in order to ensure that the proposed use of the drug will be safe.

Upon approval of an animal drug application, a regulation is published under section 512(i) of the act, which provides:

> When a new animal drug application filed pursuant to subsection (b) is approved the Secretary shall by notice, which upon publication shall be effective as a regulation, publish in the **Federal Register** the name and address of the applicant and the conditions and indications of use of the new animal drug covered by such application, including any tolerance and withdrawal period or other use restrictions and, if such new animal drug is intended for use in animal feed, appropriate purposes and conditions of use (including special labeling requirements) applicable to any animal feed for use in which such drug is approved, and such other information, upon the basis of which such application was approved, as the Secretary deems necessary to assure the safe and effective use of such drug.* * *

Before an animal feed bearing or containing a new animal drug can be approved, an application must be filed with FDA under section 512(m)(1) of the act, which provides the following:

> Any person may file with the Secretary an application with respect to any intended use or uses of an animal feed bearing or containing a new animal drug. Such person shall submit to the Secretary as part of the application (A) a full statement of the composition of such animal feed, (B) an identification of the regulation or regulations (relating to the new animal drug or drugs to be used in such feed), published pursuant to subsection (i), on which he relies as a basis for approval of his application with respect to the use of such drug in such feed, (C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed, (D) specimens of the labeling proposed to be used for such animal feed, and (E) if so requested by the Secretary, samples of such animal feed or components thereof.

This document proposes to modify the current requirements for obtaining approval for the manufacture of medicated animal feeds by not requiring the submission of medicated feed applications for those drug uses where there are adequate data available to show that to do so will not compromise the public health. While FDA believes that there exists implied authority for the agency to waive unnecessary ministerial requirements of the act, it is currently seeking an amendment to section 512 of the act that will provide explicit statutory authority to grant such exemptions.

For each drug category an approved medicated feed application is not required for the use of Type B medicated feed for the subsequent manufacture of another Type B or a Type C medicated animal feed.

The drug categories set the maximum levels for each Type B medicated feed based upon the highest continuous use level, as follows:

Maximum concentration

Category	Type B
I	200X
II	100X
III	50X

(X = the multiple of the highest continuous use level on a drug-by-drug basis)

The term "highest continuous use level" means the highest feed dosage at which the drug is approved for continuous use (14 days or more) or, if the drug is not approved for continuous use, it means the highest level used for disease prevention or control. If the drug is approved for multiple species at different use levels, the highest level would govern under this definition.

Because of the exemptions from approved medicated feed applications available under these provisions, it is expected that the number of firms requiring approved medicated feed applications will be greatly reduced. This will provide regulatory focus on those products of greatest human health concern through uniform application of criteria for exemption.

V. Proposed Definitions

In the light of the recommendations of the Medicated Feed Task Force, and the comments received on the report of the Task Force, the definitions proposed in 1978 have been reevaluated and are being revised. As previously stated, the revised definitions of medicated feed articles serve several purposes. First, they establish a clear separation between those medicated feed articles that constitute new animal drugs subject to approval under section 512(c) of the act and animal feeds subject to approval under section 512(m)(2) of the act. Second they serve to distinguish among the various kinds of medicated feed articles subject to approval under section 512(m)(2) of the act. Type A medicated articles constitute animal drugs; Type B and Type C medicated feeds constitute animal feeds containing new animal drugs.

A. *Type A medicated article.* Under the proposed new definitions, the most concentrated article will be designated as Type A. This is a drug premix for medicating animal feed. The article will be solely for use in the manufacture of other medicated animal feed articles (animal feed bearing or containing a new animal drug), and it will be limited to use solely in accordance with its published regulation. It will consist of a new animal drug for use in the manufacture of a medicated animal feed and is approved under section 512(b) of the act. It usually will include a diluent (carrier substance), and it must be further diluted with nutrient material to produce either a Type B or Type C medicated feed.

A proposed Type A medicated article is comparable to the present "feed additive premix". In the current regulations, a "premix" must be diluted so that not more than 100 pounds of the article is added to a basic feed to produce 1 ton of a complete medicated animal feed, and this feed must have been shown to be safe and effective in accordance with section 512(b) of the act for its labeled drug use. In such premixes, a large quantity of carrier substances is required. The premix is then mixed with nutrient feed ingredients to produce the medicated animal feed. The NADA for a Type A medicated article must include evidence that all Type B and Type C medicated feed manufactured from it are safe when used as directed. In addition, the NADA must include adequate and well-controlled investigations demonstrating that such Type C medicated feeds are effective whether manufactured directly or through a Type B medicated feed.

When the Type A article and the medicated feeds (Type B and Type C) manufactured from it have been shown to be safe and effective under their labeled conditions of use in accordance with the requirements of section 512 of the act and the applicable regulations, the NADA will be approved. Notice of the approval and any applicable restrictions and conditions of use will be published in the **Federal Register** in accordance with section 512(i) of the act (21 U.S.C. 360b(i)). Consequently, a Type A medicated article requires an approved NADA and must be shipped in accordance with section 512(a)(1) of the act and 21 CFR 510.7.

A Type A medicated article is defined as a new animal drug intended solely for use in the manufacture of Type B or Type C medicated feeds. It consists of a new animal drug(s), with or without carrier (e.g., calcium carbonate, rice hulls, corn gluten) with or without other inactive ingredients. The manufacture of a Type A medicated article requires an application approved under § 514.105(a) (21 CFR 514.105(a)).

Type B and Type C medictated feeds are animal feeds containing one or more drugs and a substantial quantity of nutrient ingredients. For the purpose of these regulations, a substantial quantity of nutrients includes vitamins and/or minerals and/or other nutritional ingredients in an amount not less than 50 percent of the weight of the Type A medicated feed article. The manufacture of a medicated animal feed from a Type A medicated article requires an application approved under § 514.105(b).

The primary emphasis of the Task Force was to stress drug safety to humans as the major criterion for establishing conditions for approval of medicated feed applications. The safety of an animal drug in feed is a function of both the human risk potential associated with the drug and its concentration in a medicated feed. The human risk potential is the basis for the categorization of animal drugs used in feed. The Type B and Type C medicated feeds are designated in terms of drug concentration. The conditions for approval for their manufacture is a function of the category of drug and nature of the medicated feed as follows.

B. *Type B medicated feed.* The proposed Type B medicated feed will be an animal feed bearing or containing a new animal drug that is intended solely for further manufacturing of other medicated feeds (Type B or Type C). The Type B medicated feed will consist of a new animal drug(s) approved under section 512(b) of the act as a Type A medicated article, a carrier, and nutrients. A proposed Type B medicated feed will conform to the statutory definition of animal feed. Before the article can be fed to animals, however, it must be substantially diluted with a nutrient(s) to form a Type C medicated feed.

The Type B medicated feed will be similar to the present "feed concentrate." The definition of the Type B feed, however, has been revised to encompass intermediate premixes.

In recent years there has been a trend, particularly in the medicated feed industry, toward unit packaging. This precludes the need for weighing of the drug component by the subsequent mixer, thereby improving quality control by eliminating possible weighing errors, cross-contamination of open bags, and other handling and weighing procedures prone to errors. The Task Force anticipates that the same trend would occur in lower concentration medicated feeds if intermediate level mixers were provided the economic incentive. A Type B medicated feed and the conditions proposed for its approval are intended to accommodate and encourage this trend. The maximum concentration of a Type B medicated feed is 200 times the highest continuous use level for Category I drugs, 100 times the highest continuous use level for Category II drugs, and 50 times the highest continuous use level for Category III drugs. The 200X, 100X, and 50X factors are divisible into 2,000 pounds, and multiples thereof, which are batch sizes commonly used in the industry.

C. *Type C medicated feed.* A proposed Type C medicated feed will also be a medicated animal feed bearing or containing a new animal drug. It will be produced by substantially diluting a Type A medicated article or Type B medicated feed with other feed ingredients to a level for use that is covered by an approved NADA. A Type C feed may be offered as a complete feed, or when specified under 21 CFR Subchapter E, it may be fed top dressed or offered free-choice in conjunction with other animal feed to supplement the amimal's total daily ration.

The manufacture of Type B and Type C medicated feeds produced from a Type A medicated article is subject to the current good manufacturing practice regulations in 21 CFR Part 225. Where an approved medicated feed application is required such application shall include the following information:

1. Name and address of the applicant;
2. The registration number and last date of registration of each mill as

assigned pursuant to section 510 of the act;

3. Whether the submission is an original or supplemental application;

4. Identification of the drug(s) or Type A medicated feed article used by name, potency, and manufacturer;

5. The species of animal(s) for which the medicated feed is intended;

6. The form of feed to be produced, i.e., mash, meal, crumbles, pellets, liquid, or other;

7. Whether the feed is to be shipped in bag or bulk;

8. Whether the feed is a Type B or Type C feed;

9. Whether the feed is for sale or own use or both;

10. The generic or brand name of the medicated feed, name of the drug(s) and finished level in feed, and amount of drug(s) or premix per ton;

11. Identification of the regulation(s) in Subchapter E on which the request for approval of the medicated feed is based;

12. Whether the attached labeling is in draft or final printed form;

13. A commitment to establish and maintain the required program of sampling and assaying as follows:

a. For Type B medicated feeds, assays of the first three batches manufactured, followed thereafter by assay of representative samples of not less than 5 percent of the annual production of each Type B medicated feed produced. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until three consecutive batches are within limitations. Reports of assays shall be kept on the premises for not less than 1 year after the last date of shipment of the assayed medicated feed.

b. For Type C medicated feeds, an assay of the first batch manufactured, followed thereafter by two samples at periodic intervals during the calendar year. If a medicated feed contains a combination of drugs, only one of the drugs need be subject to analysis each time, provided the one tested is different from the one(s) previously tested. Reports of assays shall be kept on the premises for not less than 1 year after the last date of shipment of the assayed medicated feed.

14. A statement of minimum and maximum assay variation permitted from the labeled amount of the drug;

15. Identification of the authorized agent;

16. Applicant's name, title, and signature of responsible individual, and date.

This document proposes a new § 558.4 *Medicated feed applications.* The use of any Type A medicated article (premix) in the subsequent manufacture of Type B or Type C medicated feeds must be the subject of an approved medicated feed application. Each drug approved for use in medicated feed is listed in tabular form under its appropriate category. The maximum drug concentrations for Type B medicated feeds are given along with their respective assay limits. The regulation states that under section 512(a)(1) of the act a new animal drug intended for use in the manufacture of an animal feed shall be deemed to be unsafe for such purposes, unless the consignee for the drug holds an approved medicated feed application. The types of feed and drug levels that will not require an approved medicated feed application are proposed as follows:

Category I Drugs—Type B and Type C medicated feeds manufactured from any Type B feeds containing up to 200 times the highest approved continuous use level.

Category II Drugs—Type B and Type C medicated feeds manufactured from Type B feeds containing up to 100 times the highest approved continuous use level.

Category III Drugs—Type B and Type C medicated feeds manufactured from Type B feeds containing up to 50 times the highest approved continuous use level.

The Task Force also recommended that generic labeling be permitted for the approval of Type B and Type C feeds. The generic labeling permits the use of one representative label for each drug for each use, permitting different brand names under the same approval for Type B and Type C medicated feeds. This change has already been placed into effect for Type C medicated feeds and is reducing the number of labels being submitted for approval.

Consistent with the agency's concern with utilizing its limited resources on drugs and drug levels of human health significance, the regulations covering current good manufacturing practice are revised to maintain the current requirements for use of drugs of public health significance and to reduce the requirements for use of drugs for which an approved medicated feed application is not required. Accordingly, Part 225 is amended to provide for a relaxation of the requirements for current good manufacturing practice where the drug or drug concentration is of less public health significance.

VI. Comments on the January 17, 1978, Proposal

In the light of the conclusions and recommendations of the Task Force, the January 17, 1978, proposal has been reevaluated. The agency received nearly 50 responses to the proposal from animal feed and drug manufacturers, associations, and individuals. The issues raised and the agency's response to each are as follows:

1. Four comments asked that an economic impact study be completed before finalizing the proposal. The comments expressed concern that implementation of the proposal would result in significant cost increases, particularly from an increased burden of paperwork. This could result in loss of marginally profitable product lines.

The proposed action was intended to reduce the preclearance requirements for animal drugs in feed. Specifically, at the present time Type B medicate feed applications (intermediate premixes) require approval under section 512(c) of the act as new animal drugs. The proposal places these articles in the category of animal feeds requiring approval under section 512(m) of the act. This change substantially reduces the kind of information required for approval and removes the requirement that an approval be published for each such article under section 512(i) of the act. Under these circumstances the agency stated in its proposal that the action did not contain a major proposal requiring preparation of an inflation impact statement. No factual information was submitted in the comments to refute this conclusion. Nevertheless, the agency has prepared a revised regulatory analysis assessment which is on file with the Dockets Management Branch. Also, see "X. Summary of Regulatory Analysis Assessment" below.

2. A number of comments requested FDA to provide additional opportunity for public participation, either through a public hearing or by reproposal, before finalizing the 1978 proposal.

In connection with the implementation of the Medicated Feed Task Force and in consideration of the comments received on the initial proposal, this proposal incorporates further revisions to the recommendations of the Task Force. Moreover, the report of the Task Force has been made publicly available for comment. Interested persons are again being provided an opportunity for comment through this proposal.

3. Comments were made on alleged changes in the conditions of use for certain drugs through the comment and rulemaking procedure. A number of comments addressed specific changes in the regulations allegedly altering their conditions of use.

The agency did not intend to change the conditions of use of new animal drugs through rulemaking procedures.

Each of the specific comments received alleging changes in conditions of use of new animal drugs has been evaluated and, where appropriate, revisions have been made in this proposal.

4. Two comments requested that the regulations be amended to include the criteria for exemption from the requirement of an approved medicated feed application.

This proposal sets forth the medicated feed application exemption criteria based upon human risk potential.

5. Several comments requested that "on-farm" mixers be exempt from the requirement of an approved medicated feed application.

The act does not provide a basis for the preferential treatment of on-farm mixers over commercial feed mills. If an establishment, be it a commercial mill or an on-farm mixer, chooses to manufacture medicated feeds that do not require an approved application, they must be produced from the appropriate concentration of a Type B medicated feed as given in proposed § 558.4(c). Conversely, if an establishment, whether a commercial mill or an on-farm mixer, chooses to manufacture feeds that exceed the exempted concentrations in § 558.4(c), then an approved application is required. An approved medicated feed application merely requires that a firm register and comply with current good manufacturing practice regulations (21 CFR Part 225). The agency will consider any suggestions relative to any authority under the act that could provide for alternate requirements for "on-farm" mixers.

6. A number of comments requested that animal drugs that are not new animal drugs be exempt from the requirements of section 512(m) of the act.

The agency agrees that section 512(m) of the act does not apply to other than new animal drugs. Each of the animal drugs named in proposed § 558.4(c) is a new animal drug and thus subject to the requirements of section 512(m) of the act.

7. It was suggested that the requirement of approved medicated feed applications for the use of each drug be abandoned in favor of a system of certification of feed mills.

The Medicated Feed Task Force considered this approach as a possible alternative to the current system of approval of medicated feed applications. Although the concept of certification appeared to be advantageous in reducing paperwork, it was rejected because there is no authority under the act for such a program.

8. Several comments expressed concern that the amendment to § 207.20 *Who must register and submit a drug list* appeared to require that animal feed manufacturers list their drugs as well as register under section 510 of the act.

The amendment proposed was not intended to impose a drug listing requirement. On the contrary, the amendment would place Type B medicated feeds under the exemption from drug listing. At the present time they are not exempt from listing. Under this proposal, the exemption from drug listing is retained, and the regulation provides a further exemption from registration for all firms except those manufacturing medicated animal feeds requiring approved medicated feed applications.

9. A comment asked that Part 225—Current Good Manufacturing Practice for Medicated Feeds, be revised in paragraph (b)(3) of § 225.58 *Laboratory controls* to change the words "each batch" to "each Type B medicated feed article". The change was requested for clarity and consistency with § 514.2(c)(6). It was requested that the requirement in the third sentence of paragraph (b)(3) be changed to reduce the number of batch assays from five to three when one is out of compliance. It was argued that if three consecutive assays are adequate to initially establish control, three should be sufficient to reestablish control.

FDA agrees and has adopted both changes.

10. A number of comments requested that § 510.110 *Animal feed labeling; collective names for feed ingredients* be revised to permit the use of the same collective names in the labeling of Type B medicated feeds as is currently permitted in the labeling of supplements of complete feeds.

On the basis of the recommendations of the Medicated Feed Task Force, this revision is being proposed. The requested revision would permit the latitude in the labeling of Type B medicated feeds as is currently enjoyed for the labeling of Type C medicated feeds. The use of collective names permits the manufacturer to select alternate feed ingredients having similar characteristics on a "least-cost" basis without the necessity for providing alternate labeling for each formulation change. This change will reduce the amount of paperwork otherwise generated by the submission of supplemental applications for each alternative label change. The same rationale exists for the use of collective names for Type B medicated feed as for Type C medicated feed (e.g., linear programming of formulations based upon availability and cost of ingredients).

11. The proposal added a new paragraph (m) to § 510.3 *Definitions and interpretations*, providing for definitions of various production classes of animals. Many of the comments objected to the setting of age and/or weight limitations for classes of animals by regulation. They argued that such designations should be used solely as guidelines because of variations in feeding programs, local custom, and customer preference. In addition, many comments and suggestions were submitted regarding the specific animal classes.

The agency agrees that the definitions provided should be considered to be guidelines rather than regulations, and this proposal sets them forth as such. Their purpose is solely to clarify classes of animals in relation to label directions for use of animal drugs. Additionally, certain changes have been made in the definitions on the basis of comments received.

12. Several comments objected to the requirement in § 514.1(b)(3)(v)(*b*) that a new animal drug application for approval to manufacture a medicated premix include representative labeling for Type B, C, and D medicated feed articles to be manufactured from the premix. Objections were based primarily on the inability of the premix manufacturer to anticipate all of the various labeling that might be used for the medicated feed.

This requirement is not new. Representative feed labeling has been required previously as part of a new animal drug application for a premix. Obviously the premix manufacturer will be unable to anticipate all labeling that might be used. However, representative or typical labeling provides useful information to agency reviewers as to how the feeds will be offered for sale. Moreover, section 512(b)(6) of the act requires such representative labeling to be included in a new animal drug application.

13. A number of comments objected to the requirement in § 514.1(b)(5)(x) as appearing to require stability data routinely on nondrug ingredients. Comments stated that unless the premix manufacturer tested the stability of every nutrient ingredient that might be mixed with his premix, a feed manufacturer could be prevented from incorporating nutrients not stability tested by the sponsor of the premix. They objected that it is unreasonable to require this kind of stability testing for the use of medicated premixes when it is not required for use in nonmedicated feeds.

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FDA agrees that routine stability testing for nondrug ingredients should not be required. However, where a stability problem for a nondrug ingredient is known or suspected, stability data may be requested by the agency.

14. Several comments stated that the feed assay requirements should be the same whether or not the manufacture of a feed required an approved medicated feed application.

Section 225.58 *Laboratory controls* is being revised. As revised, the manufacture of medicated feeds that do not require an approved application does not require a schedule of assays to be conducted. As previously stated, the agency program proposes to require more stringent controls over drugs of greater public health significance. Consistent with this goal, current good manufacturing regulations, including the requirement for performing routine assays, are more stringent for feeds requiring approved medicated feed applications than for those that do not. The regulations being proposed will not require that routine assays be performed for feeds not requiring an approved application. However, when assays have been performed, including those by State Feed Control Officials, records shall be maintained and, where necessary, corrective action shall be taken and documented.

15. Comments requested that the assay requirements for Type B medicated feeds provide a greater assay range than assay requirements for Type A medicated articles.

Because the agency does not have adequate information on appropriate assay limits for Type B medicated feeds, it had established the same limits for Type B feeds as for Type A medicated feed articles. However, the agency may revise the limits set by this proposal upon receipt of sufficient information in response to this proposal.

16. A number of comments requested that the regulations provide for the submission of representative master formulas in the medicated feed application rather than specific master formulas for each batch variation of Type B medicated feed produced. The comments argued that master formulas are frequently revised to provide for changes in formulations based upon availability of alternate ingredients and production of least-cost formulation. The requirement of preapproval for each such formulation would discourage this practice, resulting in an increase in production cost.

The agency agrees that the industry should have the latitude to adjust feed formulas to meet changing needs. Firms are required under current good manufacturing regulations to maintain a Master Record File and batch production records. Under these circumstances, and consistent with the decision to permit the use of collective names in the labeling of feed ingredients (see comment number 10 above), the requirement of submission of master formulas is deleted from this proposal.

17. Other comments regarding the content of medicated feed applications were concerned with the possible use of a facilities and procedures file for multi-plant firms to eliminate repetitious submissions, identification of responsible positions rather than responsible persons, and the commitment to have the required assays done rather than designating a specific laboratory.

Based upon recommendations of the Medicated Feed Task Force, each of these suggestions has been adopted. Rather than requiring detailed information in applications, greater reliance will be placed on field inspection programs to ensure that firms are in compliance with current good manufacturing practice regulations (21 CFR Part 225).

18. Three comments objected to the use of the word "premix" in defining Type A medicated articles because the agency had stated that the word tends to be ambiguous and subject to misunderstanding. The comments also objected to reference to nutrient content as part of the definition of a Type A medicated article.

This proposal deletes the word "premix" from the definition. However, the dividing line between a new animal drug (Type A medicated article) as defined in section 201(w) of the act and an animal feed (Type B or Type C medicated feed) as defined in section 201(x) of the act, is based upon the presence of a substantial source of nutrients. Therefore, reference to nutrient content is an essential part of the definition.

19. Comments objected to the defining of Type B and Type C medicated feeds in terms of nutrient content, misuse, and potential for producing unsafe residues.

As previously noted, the nutrient content is a part of the definition of an animal feed in section 210(x) of the act. For the purpose of defining Type B medicated feeds, a substantial quantity of nutrients is an amount not less than 50 percent of the weight of the Type A medicated feed article from which it is manufactured. References to misuse and potential for unsafe residues are not a part of the revised definitions. However, the potential for unsafe residues is a factor in determining the maximum permitted drug level in a Type B medicated feed.

20. A comment stated that the regulations should permit the manufacture of a Type B medicated feed from two Type A medicated articles.

The regulations do not bar the manufacture of a Type B medicated feed from two Type A medicated articles provided that an application has been approved for the combination and the combination product was authorized by regulations under section 512(i) of the act.

21. Comments objected to the provision in the definition of a Type C medicated feed article that when fed free-choice in amounts not less than one-half pound per head per day, the article shall not produce unsafe residues in food-producing animals. The comments pointed out that numerous drugs are approved for free-choice feeding on the basis of less than one-half pound per head per day and that the restriction would in effect withdraw prior approvals.

The agency has determined that the definition need not include the one-half pound restriction. The need to set a minimum on the amount of feed to be offered free-choice is a matter to be addressed as a part of the conditions of approval for the Type A medicated article and where such a restriction is appropriate, it will be included in the regulation published under section 512(i) of the act describing the conditions of use of the drug.

22. Seven comments stated that the proposed definition of a Type D medicated feed article should not be limited to the sole ration, but should recognize that these diets are supplemented with drinking water and frequently with oyster shell, grit, salt, and minerals as well as roughage.

Because good nutritional practice often dictates the supplementation of a base ration with free-choice nutrients the definition has been so revised. In addition, the use of drinking water is also recognized in the revised definition. The Type D medicated feed article defined in the 1978 proposal is combined with the Type C medicated feed article in this proposal.

23. One comment was concerned that the regulations would not identify holders of approved Type B medicated feed applications.

Because a Type B medicated feed is not a new animal drug but is an animal feed bearing or containing a new animal drug, its approval is not required to be the subject of a regulation published under section 512(i) of the act. The agency believes that to require publication of approval of all Type B medicated feeds would place an unnecessary burden on the agency and the regulated industry. Furthermore, because the use of a Type B feed does not require an approved medicated feed application, such identification would serve no useful purpose.

24. Nine comments stated that the proposal should continue to permit exemptions from the requirement of approved applications for the manufacture of medicated feeds covered by § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.*

The agency does not agree. Section 558.15 was established to require and obtain the submission of appropriate data with which to evaluate the long-term effects of the use of subtherapeutic antibacterials in animal feed. The section was not intended to provide a basis for exemption from other requirements of the act. At the time the section was established many of the products subject to it were being marketed without the approval of medicated feed applications. Rather than address the status of such products at that time, the agency permitted their continued marketing only on an interim basis while the data required by § 558.15 were being obtained and evaluated. The agency cannot justify the continued manufacture of these medicated feeds without an approved medicated feed application. Therefore, if this proprosal is finalized, 180 days thereafter, under the provisions of § 558.4 as amended, the use of each drug or combination drug in the manufacture of a medicated feed must be the subject of an approved application pursuant to section 512(m) of the act. Alternatively, in the absence of any other regulation upon which a sponsor may rely, the agency would have no choice but to proceed against their use in the manufacture of medicated feed.

25. Numerous comments were received addressing the changes proposed in the various regulations listed in Subpart B—Specific New Animal Drugs for Use in Animal Feeds. The comments were concerned with editorial errors, failure to include certain approved sponsors or approved uses, and proper identification of Type C and Type D medicated feed articles.

Each of these comments has been considered, and appropriate revisions have been made. However, because the regulations involved are subject to ongoing amendments and changes and because this proposal causes a number of the comments to become moot, the individual comments are not discussed.

The revisions proposed in the medicated feed approval system will require significant changes in some of the current procedures and requirements. Currently, all firms manufacturing medicated animal feeds are required to register under section 510 of the act. The amended regulations will require only those firms manufacturing medicated animal feed requiring approved medicated feed applications to register.

A number of new animal drugs approved under section 512(b) of the act will become animal feed and meet the definition of an animal feed in proposed § 558.3(b)(2). This document proposes to delete these approvals from the existing regulations and deem such approvals to be for approved medicated feed applications. This action is to the benefit of the sponsors of these applications because they will no longer be required to list their drugs under Part 207; they may market their medicated feeds to customers not required to hold an approved medicated feed application; and they will no longer be required to submit periodic records and reports under § 510.300 (21 CFR 510.300).

Certain medicated feed articles have heretofore been permitted to be manufactured under a waiver from the requirement of an approved medicated feed application. This document proposes to replace all previously granted waivers with a categorizing of exemptions based upon factors of human safety. Therefore, approved medicated feed applications will be required for some medicated feed articles that were formerly exempt. To provide for the submission and approval of such medicated feed applications where none was previously required, the effective date for implementation of this proposal shall be 180 days following the date of publication of a final order based upon this proposal.

VII. Comments on the Task Force Report

Following the release of the Task Force Report, a number of comments were received by the agency. Based upon comments received, additional meetings and further discussions on the proposed medicated feed program, a number of modifications in the recommendations of the Task Force have been made. Points that were raised by the comments and the agency's responses are as follows:

1. Several comments questioned the authority of the agency to revoke existing exemptions from the requirement of an approved medicated feed application through notice and comment rulemaking procedure, when the exemption has been granted as a part of the conditions of approval of a new animal drug application.

Some exemptions resulted historically from a change in the new animal drug status of the article; others were granted on the basis of uniform criteria set forth in a 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. In the former case the agency took no affirmative action granting the waiver. In the latter case, where the waiver was granted on the bais of the 1971 memorandum, each approval published in the Federal Register publication stated that the memorandum constituted an interim agency policy that is under review. This proposal constitutes notice of termination of the interim policy. The criteria being proposed are in anticipation that the Congress will make explicit what the agency has considered implicit regarding the authority of the agency to waiver the ministerial requirements of section 512(m) of the act.

2. Comments were concerned that the Task Force implementation be placed into effect uniformly to ensure that the new requirements do not create competitive disadvantages in the manufacture and marketing of medicated feeds. Concern was also expressed that any revised labeling be implemented so as to coincide with date of registration of feeds in the various States.

The agency intends to place this program into effect uniformly 180 days following finalization of this proposal. In this manner no competitive advantages would be expected to occur.

3. One comment suggested that the category designation system of I, IIA, IIB, and IIC was confusing and should be replaced with categories I, II, III, and IV.

The agency has revised its initial recommendations to establish three categories of drugs (I, II, and III).

4. A comment requested that the medicated feed application be simplified by deleting the requirement that the supplier of the premix (Type A medicated article) be named in the application. In lieu of this requirement the comment proposed that the applicant include a commitment to purchase such articles only from approved suppliers.

The agency believes that the name of the sponsor of the premix is necessary in an application to ensure that suppliers of Type A medicated articles are in compliance by being registered and by holding approved applications for such articles. Feed manufacturers may identify alternate suppliers for the

Type A medicated articles they purchase.

5. A comments requested that collective names be permitted in the labeling of Type B medicated feed articles.

As was previously stated, the agency agrees with this comment and is providing for the use of collective names in the labeling of Type B medicated feeds.

6. A comment suggested that the definition of a Type B medicated feed article be revised to delete the word "substantially" in reference to the required dilution of a Type A medicated article to produce a Type B medicated feed article. It was pointed out that a number of medicated feed articles that are, infact, intermediate premixes may be produced with less than a substantial dilution.

The agency agrees and has revised the definition as previously discussed to encompass such articles.

7. A comment alleged that the manufacture of Type D medicated feed articles directly from Type A medicated articles is more likely to ensure the proper amount of drug in the finished feed, and hence less likely to result in residues, than producing a Type D feed from Type B or Type C medicated feed articles. The assumption is that intermediate steps in the manufacturing process accord greater opportunity for error in mixture and cross-contamination. It was requested that special consideration be given exempting on-farm mixers from the requirement of approved medicated feed applications.

The agency acknowledges that this may be so for the most modern mills having the most sophisticated equipment, whether on-farm or commercial feed mill. For the most part, however, the industry does not have the capability for precision mixing. Moreover, the magnitude for error is substantially increased when highly concentrated drugs are used. Special exemption for on-farm mixers is not provided for. As previously noted, the previously proposed Type D medicated feed article has been combined with the proposed Type D medicated feed article and constitutes a Type C medicated feed in this proposal. No data were submitted that would establish that the manufacture of these medicated feeds directly from a Type A medicated article would be more likely to ensure the proper amount of drug in the finished feed than when they are producted through the intermediate step of a Type B medicated feed. To manufacture feeds containing high risk drugs, in addition to obtaining an approved medicated feed application, the firm must register and comply with current good manufacturing practices. Without the capacity to comply with CGMP's, a firm should not be using high-risk drugs.

8. Several comments requested that the Task Force reconsider certain criteria for drug use approval to consider that potential risk based upon "intended use" rather than "drug concentration." It was stated that large-scale mixer-feeders using concentrated drug sources are less likely to cause edible products of treated animals to contain illegal drug residues than feeds from commercial manufacturers. An approach was suggested for such operations that would include separate regulations covering good manufacturing practices for mixer-feeders, require that they be certified for exemption from sections 510 and 512(m) of the act, and provide for revocation of certificates for repeat violators.

The agency believes that the concentration of drug permitted to be exempt for mixer-feeders should be controlled as previously discussed in comment number 7. above. Although the concept of certification for exemption from sections 510 and 512(m) of the act has merit, there is no authority under the act for such certifications.

9. A comment requested that the regulations include the maximum levels of Type C medicated feed articles.

The agency has revised the initial proposal to provide that the maximum of a Type B level of the drug will be that specified in the regulations published under section 512(i) of the act. The maximum of the Type C medicated feed will be the highest level of use specified in the regulation published under section 512(i) of the act.

10. Several comments requested that Category IV drugs be permitted a 20X exemption in order that certain customarily used on-farm mixer drugs continue to be available to mixer-producers.

Under the revised criteria, these drugs now in Category III will be available at 50X or below without the requirement of a medicated feed application.

11. Concern was expressed that firms having passed an inspection within the last year or two not be subject to another preinspection and that, under the implementation of the preinspection approval program, firms that fail the inspection be reinspected on an expedited basis and in any case in less than a 12-month period.

Firms that have passed inspection within the past year would not ordinarily be subject to immediate reinspection under the new proposed program. Reinspection of firms that have failed a prior inspection will occur as soon as practicable on the basis of the availability of agency resources.

12. Comments urged the use of State inspection involvement and thorough training to ensure uniform and broad implementation.

The agency agrees with these concerns and is taking a number of steps to ensure uniform implementation. These include the involvement of State agencies through contractual agreements with FDA to participate in the inspectional programs, and participation by State and Federal personnel in a comprehensive medicated feed training program.

VIII. Implementation Procedures

The Task Force recommended a major reordering and restructuring of the medicated feed program to focus on protection of the public from unsafe drug residues in the edible products of treated animals. It proposed that agency resources be directed toward the use of high-risk drugs and drugs in high risk concentrations in feed by:

(1) Requiring an approved medicated feed application under section 512(m) of the act for the manufacture of such a feed, and

(2) Approving such application only after an inspection of the manufacturing facilities of the applicant establishes that the firm is capable of manufacturing feeds containing high risk drugs or drugs in high risk concentration, in that the firm is operating in compliance with current good manufacturing practice (CGMPR). Manufacturers of medicated feeds will be inspected within a 3-year time period.

The directed inspections are intended to permit more efficient use of inspectional resources to determine whether medicated feed firms are in compliance with key CGMPR factors. During this inventory inspectional phase (directed inspection), which has already begun and will continue until this proposal is finalized, the agency will develop an inventory of firms in compliance with CGMPR's.

If the proposal is finalized, firms in compliance may apply for approval of medicated feeds requiring approval under section 512(m) of the act under a new medicated feed application to be developed and issued by the agency. Firms that fail the directed inspection will be denied approval of additional medicated feed applications unless corrective actions have been taken resulting in compliance with the CGMPR's. Additionally, the agency will evaluate each failure to determine whether further administrative and regulatory action should be initiated, i.e., withdrawal of approval of applications, regulatory letter, seizure, injunction, prosecution. A firm failing inspection may either initiate immediate corrective action or may voluntarily request withdrawl of approval of its medicated feeds application(s) and cease manufacturing medicated feeds which require this approval.

The final regulation under this proposal will, if adopted, exempt from drug registration under section 510 of the act (21 U.S.C. 360) medicated feed manufacturers not requiring approved applications pursuant to section 512(m) of the act (21 U.S.C. 360b(m)). These firms will not be considered subject to the biennial inspectional requirements of the act, but will continue to be subject to all other provisions of the act.

IX. Summary of Amendments

The revisions proposed in the medicated feed approval system will require significant changes in some of the current procedures and requirements. The specific amendments proposed are as follows:

§ 207.10 *Exemptions for domestic establishents.* This section is amended to exempt from registration firms that do not require approved medicated feed applications for the medicated feeds they manufacture. Consistent with the recommedations of the Task Force, only firms manufacturing medicated feed articles that require an approved medicated feed application will be required to register under section 510 of the act. Currently, all firms manufacturing medicated animal feeds must register. This change should substantially reduce the number of firms currently subject to the 2-year inspectional obligation in section 510(h) of the act. It would not, however, preclude inspection by the agency.

§ 207.20 *Who must register and submit a drug list.* This section is amended in paragraph (a) to incorporate the new medicated feed nomenclature.

§ 210.3 *Definitions.* This section is amended to insert the revised definitions of medicated feed types into the regulations and to provide a cross-reference to the regulations regarding current good manufacturing practices.

Part 225—Current Good Manufacturing practice for Medicated Feeds. This part is amended by inserting the revised nomenclature and revised assay requirements. New §§ 225.120 through 225.202 are established for current good manufacturing practice for firms not producing medicted animal feeds requiring approved medicated feed applications.

Part 226—Current Good Manufacturing Practice for Medicated Premixes. This part is amended by inserting the revised nomenclature.

§ 501.110 *Animal feed labeling; collective names for feed ingredients.* This section is amended to provide for the new medicated feed nomenclature and to permit the use of collective names in the labeling of Type B medicated feeds.

§ 510.3 *Definitions and interpretations.* A new paragraph (m) is proposed to include the revised species and classes of food animals.

§ 510.7 *Consignees of new animal drugs for use in the manufacture of animal feed.* This section is revised in paragraph (b)(2) to provide for the conditions for exemption from the requirement of an approved medicated feed application from section 512(m) of the act in accordance with the provisions of § 558.4.

§ 514.1 *Applications.* This section is amended in paragraph (b) to include the revised nomenclature and provide for the submission of representative labeling for Type B medicated feeds.

§ 514.2 *Applications for animal feeds bearing or containing new animal drugs.* This section is completely revised and expanded to include the specific information to be submitted in medicated feed applications for Type B and Type C approvals.

§ 514.112 *Return of applications for animal feeds bearing or containing new animal drugs.* This section was formerly covered by § 558.4. It has been transferred and updated without substantive change.

§ 558.3 *Definitions and general considerations applicable to this part.* This section has been completely revised. Each of the types of medicted feed articles are defined, and the criteria for their exemption from the requirement or an approved medicated feed application are set forth.

§ 558.4 *dMedicated feed applications.* A new section is proposed to set forth the provisions for the approval of medicated feed applications. It cites the requirement in the act that an application is required to include a reference to the regulation on which the approval relies. In order that these requirements be inclusive of all currently marketed medicated articles, this section provides that in addition to the specific regulations in Part 558, Subpart B, §§ 510.515, 558.15, and 558.20 may provide a basis for such reference. The section describes the categories and lists the drugs in each category. The listing includes the maximum level of Type B medicated feeds and the assay limits for each. In some instances specific assay limits could not be found in agency files. If any interested persons find these assay limits inappropriate, they are invited to submit data justifying any requested revisions.

§ 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed on animals.* Paragraph (g) is amended to include the revised nomenclature and to delete a provision that intermediate premixes produced from premixes in compliance with this section need not submit applications for their approval. This section was promulgated in the **Federal Register** of April 20, 1973 (38 FR 9811) requiring that certain data be submitted to justify the continued use of such drugs. Each drug sponsor was required to submit commitments to carry out the necessary studies. The regulation was amended in the **Federal Register** of February 25, 1976 (38 FR 8282) identifying each product and sponsor that complied with the commitment to provide required data. As amended, paragraph (g)(2) of the section exempted from the submission of applications and data the manufacturer of intermediate premixes, provided that the intermediate premixes were produced from premixes in compliance with the section.

Because such articles are redefined in this proposal as Type B medicated feeds, they will be subject to section 512(m) of the act, and approved medicated feed applications will be required for their manufacture. This will ensure equitable and uniform requirements for the manufacture of all Type B medicated feeds. Because the exemption was granted under notice and comment rulemaking procedure, the same procedure is being used for its revocation.

§ 558.20 *Drugs used in medicated feeds before January 1, 1958 which are not otherwise listed; interim listing.* A new section is proposed to include reference to drugs in medicated feeds not covered by specific regulations. The listing of these drugs does not alter their current status under the act, but does provide a basis for their continued use subject to approval of medicated feed applications under procedures described in § 558.4.

Part 558, Subpart B—Specific New Animal Drugs for Use in Animal Feeds. This subpart is republished with the following changes:

1. The revised nomenclature is added.
2. Conditions for waiver from the requirements of section 512(m) of the act are revoked. These conditions are included in § 558.4.
3. Assay limits are revoked. These are also covered by § 558.4.
4. A number of new animal drug sponsors listed pursuant to section 512(i) of the act are deleted. Under the revised

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definitions these articles constitute animal feeds because they meet the definition of an animal feed in proposed § 558.3(b)(2). This document proposes to delete these listings from the existing regulations and deem such approvals to be approved medicated feed applications. This action is to the benefit of the sponsors of these applications because they will no longer be required to list their drugs under Part 207 (21 CFR Part 207); they may market their medicated feed articles to customers not required to hold an approved medicated feed application; and they will no longer be required to submit periodic records and reports under § 510.300 of the regulations.

5. Regulations covering drugs approved prior to August 1, 1969 for use in feed which were the subject of regulations published under the Food Additives Amendment of 1958 did not identify the sponsors of such articles. This proposal adds the sponsors of the food additive petitions for those drugs when the regulations were first promulgated under the Food Additives Amendment. Any other persons not so identified will be added to the final regulations if they respond in writing to this proposal identifying their approval by NADA number and approval date.

Currently, all firms manufacturing medicated animal feeds are required to register under section 510 of the act. The amended regulations will require only those firms manufacturing medicated animal feed requiring approved medicated feed applications to register.

Certain medicated feed articles have heretofore been permitted to be manufactured under a waiver from the requirement of an approved medicated feed application. This document proposes to replace all previously granted waivers with a categorizing of exemptions based upon factors of human safety. Therefore, approved medicated feed applications will be required for some medicated feed articles that were formerly exempt. To provide for the submission and approval of such medicated feed applications where none was previously required, the effective date for implementation of this proposal shall be 180 days following the date of publication of a final order based upon this proposal.

In compliance with Executive Order 12044 on Improving Government Regulations, and in accordance with Department (HHS) guidelines, FDA has asessed the economic impact of this rulemaking. Based on this assessment, FDA has determined that a Regulatory Analysis, as described in E.O. 12044, is not required. Following is a summary of the results of the Regulatory Analysis Assessment. A copy of the complete Regulatory Assessment is on file with the Dockets Management Branch, Food and Drug Administration.

X. Summary of Regulatory Analysis Assessment

FDA estimated the direct costs to industry and to the agency of the proposed restructured medicated feeds program for the 3-year transition phase and for subsequent years. In the estimated transitional phase, industry will incur net estimated startup costs of $3.0 million ($1.0 million annually). This includes one-time costs to submit applications for 26 previously exempt drugs. It also includes transitional phase savings because exemptions for drugs in newly-defined risk-by-feed-type categories and the generic labeling provision will reduce the number of "business as usual" applications.

The transitional phase impact on FDA will be $1.0 million ($0.3 million annually). This includes the inspection cost increment over present costs of inspections assuming that FDA will inspect all medicated feed establishments in its present inventory during the 3-year transitional phase, and that the agency will be successful in implementing a directed compliance program that significantly reduces the duration of inspections. It also includes the cost of processing applications for the previously exempt drugs and a saving on handling "business as usual" applications. (It is also possible to estimate the FDA inspection cost impact against the hypothetical baseline of full implementation of the existing statutory biennial inspection requirement. On this basis, FDA would have significant "savings" in the transition phase.)

Estimated Annual Net Costs and Savings[a] of the Proposed Medicated Feeds Program

[In millions of dollars]

Cost component	Transitional phase		Ongoing phase	
	Industry	FDA	Industry	FDA
Submision of applications for previously exempt drugs in feeds	1.53	0.11		
New submissions	(0.54)	(0.04)	(0.54)	(0.04)
Inspections[b]		0.25		(0.19) to 1.28
Net cost or savings	0.99	0.32	(0.54)	(0.23) to 1.24

[a] Savings expressed in parentheses.

[b] The range of impacts reflects low and high estimates of establishments in the FDA official inventory.

After the transition phase, it is estimated that the medicated feeds industry will save $0.5 million annually. In the ongoing period of the restructured program the estimated range of impact on FDA is from savings of $0.2 million annually to costs of $1.2 million annually, depending on the number of establishments that will require biennial inspection.

The regulatory analysis assessment discusses possible industry adaptations to the restructured program.

The agency has determined pursuant to 21 CFR 25.24(b)(12) and (d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 207, 210, 225, 226, 501, 510, 514, and 558 be amended as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

1. Part 207 is amended in § 207.10 by revising paragraph (f) to read as follows:

§ 207.10 Exemptions for domestic establishments.

* * * * *

(f) Persons who use drugs to manufacture Type B or Type C medicated animal feed except persons required under the act and its regulations to hold an approved medicated feed application to possess and use a drug or animal feed bearing or containing the drug.

PART 210—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS: GENERAL

2. Part 210 is amended by revising the title of the part as set out above and in § 210.3 by revising paragraph (b)(13) and (14) to read as follows:

§ 210.3 Definitions.

* * * * *

(b) * * *

(13) The term "medicated feed" means any Type B or Type C medicated feed as defined in § 558.3 of this chapter. The feed contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated feeds is subject to the requirements of Part 225 of this chapter.

(14) The term "medicated premix" means a Type A medicated article as

defined in § 558.3 of this chapter. The article contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated premixes is subject to the requirements of Part 226 of this chapter.

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PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

3. Part 225 is amended:

a. In § 225.1 by revising paragraph (b), to read as follows:

§ 225.1 Current good manufacturing practice.

* * * * *

(b)(1) The provisions of this part set forth the criteria for determining whether the manufacture of a medicated feed is in compliance with current good manufacturing practice. These regulations shall apply to all types of facilities and equipment used in the production of medicated feeds, and they shall also govern those instances in which failure to adhere to the regulations has caused nonmedicated feeds that are manufactured, processed, packed, or held to be adulterated. In such cases, the medicated feed shall be deemed to be adulterated within the meaning of section 501(a)(2)(B) of the act, and the nonmedicated feed shall be deemed to be adulterated within the meaning of section 402(a)(2)(D) of the act.

(2) The regulations in §§ 225.10 through 225.115 apply to facilities manufacturing one or more medicated feeds for which an approved medicated feed application is required. The regulations in §§ 225.120 through 225.202 apply to facilities manufacturing solely medicated feeds for which approved medicated feed applications are not required.

b. In § 225.58 by revising paragraph (b)(1) and (2), to read as follows:

§ 225.58 Laboratory controls.

* * * * *

(b) * * *

(1) For Type C medicated feeds, an assay of the first batch manufactured, followed thereafter by two samples at periodic intervals during the calendar year. If a medicated feed contains a combination of drugs, only one of the drugs need be subject to analysis each time, provided the one tested is different from the one(s) previously tested. Reports of assays shall be kept on the premises for not less than 1 year after the last date of shipment of the assayed medicated feed.

(2) For all Type B medicated feeds, assays of the first three batches manufactured, followed thereafter by assay of representative samples of not less than 5 percent of the annual production of each Type B medicated feed produced. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until three consecutive batches are within limitations. Reports of assay shall be kept on the premises for not less than 1 year after the last date of shipment of the assayed medicated feed.

* * * * *

c. By adding new Subpart F consisting of §§ 225.120, 225.130, and 225.135, to read as follows:

Subpart F—Facilities and Equipment

Sec.
225.120 Buildings and grounds.
225.130 Equipment.
225.135 Work and storage areas.

Subpart F—Facilities and Equipment

§ 225.120 Buildings and grounds.

Buildings used for production of medicated feed shall provide adequate space for equipment, processing, and orderly receipt and storage of medicated feed. Areas shall include access for routine maintenance and cleaning of equipment. Buildings and grounds shall be constructed and maintained in a manner to minimize vermin and pest infestation.

§ 225.130 Equipment.

Equipment shall be capable of producing a medicated feed of intended potency, safety and purity, and shall be maintained in a reasonably clean and orderly manner. Scales and liquid metering devices shall be accurate and of suitable size, design, construction, precision, and accuracy for its intended purpose. All equipment shall be designed, constructed, installed, and maintained so as to facilitate inspection and use of cleanout procedure(s).

§ 225.135 Work and storage areas.

Work areas and equipment used for the production or storage of medicated feeds or components thereof shall not be used for, and shall be physically separated from, work areas and equipment used for the manufacture of fertilizers, herbicides, insecticides, fungicides, rodenticides, and other pesticides unless such articles are approved for use in the manufacture of medicated feed.

d. By adding new Subpart G consisting of §§ 225.142, 225.158, and 225.165, to read as follows:

Subpart G—Product Quality Assurance

Sec.
225.142 Components.
225.158 Laboratory assays.
225.165 Equipment clean-out procedures.

Subpart G—Product Quality Assurance

§ 225.142 Components.

Adequate procedures shall be established and maintained for the receipt, labeling, storage, and use of all medicated feed articles intended for use in manufacturing medicated feeds to aid in assuring their identity, strength, and purity. All drug components must be used in accord with the labeled directions for use. Packaged drugs in the storage areas shall be stored in their original closed containers. Bulk drugs shall be identified and stored in a manner such that their identity, strength, quality, and purity will be maintained. An accurate inventory record shall be maintained for each drug component and shall be reconciled with production records each day the drug component is used in the production of medicated feeds. Significant discrepancies must be investigated and appropriate action taken immediately.

§ 225.158 Laboratory assays.

Where the results of laboratory assays of drug components, including assays by State Feed Control Officials, indicate that the medicated feed is not in accord with the permissible limits specified in this chapter, investigation and corrective action shall be implemented immediately and such records shall be maintained on the premises for a period of one year.

§ 225.165 Equipment clean-out procedures.

Adequate clean-out procedures shall be established and used for all equipment used in the production and distribution of medicated feeds to avoid unsafe contamination of medicated and nonmedicated feeds.

e. By adding new Subpart H consisting of § 225.180, to read as follows:

Subpart H—Labeling

Sec.
225.180 Labeling.

Subpart H—Labeling

§ 225.180 Labeling.

Medicated feed that is mixed for further distribution shall be accompanied by appropriate labeling. Such labeling shall identify the medicated feed and provide the user with adequate directions for use, including appropriate withdrawal and other warning or caution statements.

f. By adding new Subpart I consisting of § 225.202, to read as follows:

Subpart I—Records

Sec.
225.202 Formula, production, and distribution records.

Subpart I—Records

§ 225.202 Formula, production, and distribution records.

Where applicable, records after the last date of shipment of the medicated feed identifying the formulation, date of mixing, and distribution of the medicated feed shall be maintained for one year. Such records shall be adequate to facilitate the recall of specific batches of medicated feed that have been distributed and to reconcile drug component usage against the inventory.

PART 226—CURRENT GOOD MANUFACTURING PRACTICE FOR TYPE A MEDICATED ARTICLES

4. Part 226 is amended by changing the term "medicated premixes" to "Type A medicated article(s)" wherever it appears.

PART 501—ANIMAL FOOD LABELING

5. Part 501 is amended in § 501.110 by revising paragraph (a)(1) to read as follows:

§ 501.110 Animal feed labeling; collective names for feed ingredients.

(a) * * *

(1) The animal feed is a Type B or Type C medicated feed as defined in § 558.3 of this chapter and is intended solely for animal use.

* * * * *

PART 510—NEW ANIMAL DRUGS

6. Part 510 is amended:

a. In § 510.3 by adding new paragraph (m), to read as follows:

§ 510.3 Definitions and interpretations

* * * * *

(m) The following definitions of production classes of animals are to be considered as a guideline for use in animal drug labeling:

(1) *In poultry.* (i) "Broiler chickens" and "fryer chickens" are synonymous and denote chickens marketed for meat purposes only, usually at 6 to 9 weeks of age.

(ii) "Roaster chickens" are chickens marketed for meat purposes only, usually at 9 to 14 weeks of age.

(iii) "Replacement chickens" are chickens raised for the purpose of replacing breeding and laying chickens.

(iv) "Laying chickens" are chickens maintained for the purpose of producing eggs for food only.

(v) "Breeding chickens" are chickens raised for the purpose of producing eggs for hatching only.

(vi) "Fryer-roaster turkeys" are turkeys marketed for meat purposes only, usually at 12 to 17 weeks of age.

(vii) "Young hen or tom turkeys" are turkeys marketed for meat purposes only, usually at 17 to 26 weeks of age.

(iii) "Replacement turkeys" are turkeys raised for the purpose of replacing breeding turkeys only.

(ix) "Breeding turkeys" are turkeys maintained for the purpose of producing eggs for hatching only.

(2) *In swine.* (i) "Breeding swine" are swine used for reproduction.

(ii) "Prestarting swine" are swine that weigh up to 20 pounds.

(iii) "Starting swine" are swine that weigh from 21 to 40 pounds.

(iv) "Growing swine" are swine that weigh from 41 to 100 pounds.

(v) "Developing swine" are swine that weigh 75 to 126 pounds.

(vi) "Finishing swine" are swine that weigh between 100 to 125 pounds to market weight.

(3) *In ruminants*—(i) Cattle.

(*a*) "Calves" are cattle from birth to 8 months of age.

(*1*) "Vealers" are cattle intended for slaughter which have subsisted largely on milk or milk replacers and are usually less than 4 months of age and generally have a live weight less than 400 pounds.

(*2*) "Slaughter calves" are those from 3 to 8 months of age which are inteded for slaughter or for stocker or feeder cattle.

(*3*) "Replacement calves" are those intended for breeding purposes only.

(*b*) "Stocker and feeder cattle" are those intended for feedlots or slaughter only.

(*c*) "Feedlot cattle" are those maintained in feedlots and intended for slaughter.

(*d*) "Breeding cattle" are those intended for reproduction purposes.

(*1*) "Replacement heifers" are females prior to first parturition.

(*2*) "Replacement bulls" are males, 8 to 14 months of age.

(*3*) "Breeding cows" are females beyond first parturition.

(*4*) "Breeding bulls" are males, 14 months of age and older.

(*e*) "Lactating dairy cows" are cows of dairy or dual purpose breeds that produce milk intended for human consumption.

(*f*) "Non-lactating cows or dry dairy cows" are cows of dairy or dual purpose breeds that temporarily are not producing milk.

(ii) Sheep:

(*a*) "Lambs" are sheep from birth to 14 months of age.

(*1*) "Replacement lambs" are those intended for breeding purposes only.

(*2*) "Feedlot lambs" are those maintained in feedlots and intended for slaughter.

(*b*) "Breeding sheep" are those of breeding age used primarily for reproduction purposes.

b. In § 510.7 paragraph (b)(2) is revised to read as follows:

§ 510.7 Consignees of new animal drugs for use in the manufacture of animal feed.

* * * * *

(b) * * *

(2) When the use of such drug in the manufacture of an animal feed has been exempted from the requirements of section 512(m) of the act in accordance with the provisions of § 558.4 of this chapter.

PART 514—NEW ANIMAL DRUG APPLICATIONS

7. Part 514 is amended:

a. In § 514.1 by revising paragraphs (b)(3) (v)(*b*) and (vii)(*a*) and (b)(5)(x), to read as follows:

§ 514.1 Applications.

* * * * *

(b) * * *
(3) * * *
(v) * * *

(*b*) Representative labeling proposed to be used for Type B and Type C medicated feeds containing the new animal drug.

* * * * *

(vii) * * *

(*a*) A description of practicable methods of analysis of adequate sensitivity to determine the amount of the new animal drug in its final dosage form including Type B and Type C medicated feeds and in drinking water should also be included. Methods should be included for any Type A medicated article. Where two or more active ingredients are included, methods should be quantitative and specific for each active ingredient.

* * * * *

(5) * * *

(x) A complete description of, and data derived from, studies of the stability of the new animal drug, including information showing the suitability of the analytical methods used. A description of any additional stability studies underway or planned. Stability data for the finished dosage form of the new animal drug in the container in which it is to be marketed, including any proposed multiple dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the new animal drug is intended for use in the manufacture of Type B or Type C medicated feed as defined in § 558.3 of this chapter, stability data shall be derived from studies in which representative formulations of the medicated feed articles are used. If the data indicate that an expiration date is needed to preserve the identity, strength, quality, and purity of the new animal drug, the applicant shall propose such expiration date. If no expiration date is proposed, the applicant shall justify its absence.

* * * * *

b. By revising § 514.2, to read as follows:

§ 514.2 Applications for animal feeds bearing or containing new animal drugs.

(a) Applications to be filed under section 512(m) of the act shall be completed, signed, and submitted in triplicate in the form described in paragraphs (b) and (c) of this section.

(b) Each application for a Type B or Type C medicated feed shall include the following information:

(1) The name and address of the applicant.

(2) The registration number assigned pursuant to section 510 of the act and last date of registration of each mill.

(3) Whether the submission is an original or supplemental application.

(4) Identification of the drug(s) or Type A medicated article used by name, potency, and manufacturer.

(5) The species of animal(s) for which the feed is intended.

(6) The form of feed to be produced, i.e., mash, meal, crumbles, pellets, liquid, or other specified form.

(7) Whether the feed is to shipped in bag or bulk.

(8) Whether the feed is a Type B or Type C medicated feed.

(9) Whether the feed is for sale or for own use (not for sale).

(10) The generic labeling of the medicated feed and level of the drug(s) in the finished feed, and the amount of Type A or Type B medicated feed per ton contained therein.

(11) Identification of the regulation(s) in Subchapter E of this chapter on which approval relies.

(12) Sample generic labeling representative of each intended use as stated in the claim. Each generic label shall include the claim, drug level, mixing directions, feeding directions, caution and/or warning statements and any other special directions required by the published regulation. This shall consist of bag labels, invoice copy, bulk labels, and placards when applicable.

(13) A commitment to establish and maintain the required program of sampling and assaying as follows:

(i) For Type B medicated feeds assays of the first three batches manufactured, followed thereafter by assay of representative samples of not less than 5 percent of the annual production of each Type B medicated feed produced. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until three subsequent batches are within limitations. Reports of assays shall be kept on the premises for not less than 1 year after the last date of shipment of the assayed medicated feed.

(ii) For Type C medicated feeds, an assay of the first batch manufactured, followed thereafter by two samples at periodic intervals during the calendar year. If a medicated feed contains a combination of drugs, only one of the drugs need be subject to analysis each time, provided the one tested is different from the one(s) previously tested. Reports of assays shall be kept on the premises for not less than 1 year after the last date of shipment of the assayed medicated feed.

(14) A statement of the minimum and maximum assay permitted from the labeled amount of the drug.

(15) Identification of the agent authorized to act on behalf of applicant.

(16) The applicant's name, responsible individual's title and original signature, and date.

(c) Upon approval, one copy of the application will be signed by an authorized employee of the Food and Drug Administration designated by the Commissioner, and it will be returned to the applicant.

c. By adding new § 514.112, to read as follows:

§ 514.112 Return of applications for animal feeds bearing or containing new animal drugs.

Applications submitted pursuant to § 514.2 will be returned to the applicant if such applications are incomplete or inaccurate or do not contain an identification of the applicable regulation(s). These regulations, published pursuant to section 512(i) of the act, are found in Part 558 of this chapter, and are the basis on which approval of the application relies, as required by § 514.2(b)(11).

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

8. Part 558 is amended:

a. By revising § 558.3, to read as follows:

§ 558.3 Definitions and general considerations applicable to this part.

(a) Regulations in this part provide for approved uses of drugs and combinations of drugs in animal feeds. Approved combinations of such drugs are specifically identified or incorporated by cross reference. Unless specifically provided for by the regulations, a combination of two or more drugs is not approved.

(b) The following definitions apply to terms used in this part:

(1) A "Type A medicated article" is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. It consists of an animal drug(s), with or without carrier (e.g., calcium carbonate, rice hull, corn gluten) with or without other inactive ingredients. The manufacture of a Type A medicated article requires an application approved under § 514.105(a) of this chapter.

(2) A "Type B medicated feed" is intended solely for the manufacture of other medicated feeds (Type B or Type C). It contains a substantial quantity of nutrients including vitamins and/or minerals and/or other nutritional ingredients in an amount not less than 50 percent of the weight of the Type A medicated article. It is manufactured by diluting a Type A medicated article or another Type B medicated feed. The maximum concentration of a Type B medicated feet is 200 times the highest continuous use level for Category I drugs, 100 times the highest continuous use level for Category II drugs, and 50 times the highest continuous use level for Category III drugs. The term "highest continuous use level" means the highest dosage at which the drug is approved for continuous use (14 days or more), or, if the drug is not approved for continuous use, it means the highest level used for disease prevention or control. If the drug is approved for multiple species at different use levels, the highest level would govern under this definition. The manufacture of a Type B medicated animal feed from a Type A medcaited article requires an application aproved under § 514.105(b) of this chapter.

(3) A "Type C medicated feed" is intended as the complete feed for the animal or may be fed top dressed on or offered free-choice in conjunction with other animal feed. It contains a substantial quantity of nutrients

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including vitamins and/or minerals and/or other nutritional ingredients in an amount not less than 50 percent of the weight of the Type A medicated article. It is manufactured by diluting a Type A medicated article or another Type B medicated feed. A Type C medicated feed may be further diluted to produce another Type C medicated feed. The manufacture of a Type C medicated feed from a Type A medicated article requires an application approved under § 514.105(b) of this chapter.

(4) New animal drugs for use in animal feed are placed in three categories as follows:

(i) *Category I*—These drugs require no withdrawal period at the lowest use level in each species for which they are approved.

(ii) *Category II*—These drugs require a withdrawal period at the lowest use level for at least one species for which they are approved.

(iii) *Category III*—These drugs are regulated on a "no-residue" basis or with a "zero" tolerance because of a carcinogenic concern.

b. By revising § 558.4, to read as follows:

§ 558.4 Medicated feed applications.

(a) Section 512(a)(1) of the act provides that a new animal drug intended for use in the manufacture of an animal feed shall be deemed to be unsafe for such purposes, unless the consignee for the drug holds an approved medicated feed application. Therefore, the manufacture of all medicated feeds, including those provided for in §§ 510.515, 558.15, and 558.20 directly from Type A medicated articles, are required to be the subject of approved medicated feed applications unless exempted under § 558.4(b).

(b) Exemptions from the requirement of an approved medicated feed application for the manufacture of Type B and Type C medicated feeds are based upon the public health significance of the drug. Animal drugs for use in animal feeds are identified in Categories I through III with the categories in order of increased public health significance. An approved medicated feed application is not required for the manufacture of any medicated animal feed produced from a Type B or Type C medicated feed conforming to the conditions for use prescribed by regulation.

(c) This paragraph identifies each drug by category, the maximum level of drug in Type B medicated feeds, and the assay limits for the drug in Type B and Type C medicated feeds, as follows:

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Category I.

Drug	Type B Maximum (200 X)	Assay Limits (% of Labeled Amount)	
		Type B	Type C
Aklomide	22.75 g/lb (5.0%)	90-110	85-120
Ammonium chloride	8.0 - 16.5 oz/lb	90-110	85-120
Amprolium with or without Ethopabate	22.7 g/lb (5.0%)	94-114	85-115
Bacitracin (from bacitracin methylene disalicylate or zinc bacitracin)	10.0 g/lb	85-115	70-130
Bambermycins	800 g/ton	90-110	70-130
Buquinolate	9.8 g/lb (2.2%)	90-110	85-120
Chlortetracycline	10 g/lb	95-125	70-130
Coumaphos	90.8 g/lb (20%)	95-115	80-120
Decoquinate	2.72 g/lb (0.6%)	90-105	80-120
Dichlorvos	5.0 g/lb (11.0%)	100-115	80-130
Erythromycin (thiocyanate salt)	6.47 g/lb	85-115	<20 g/ton 50-150 >20 g/ton 75-125
Ethylenediamine dihydriodide	337.5 g/ton (0.037%)	90-110	85-115
Iodinated casein	20 g/lb (4.4%)	85-115	75-125
Nequinate	1.83 g/lb (0.4%)	95-112	80-120
Nystatin	5.0 g/lb	85-115	75-125
Oleandomycin	1.125 g/lb	85-120	70-130
Oxytetracycline	10.0 g/lb	90-120	65-135
Penicillin	10.0 g/lb	80-120	65-135
Penicillin, Streptomycin	1.5 g/lb 7.5 g/lb	80-120 85-115	65-135 70-130
Poloxalene	12.0%	90-110	85-115
Tylosin	10.0 g/lb	80-120	75-125
Virginiamycin	5.0 g/lb	85-115	70-130
Zoalene	11.4 g/lb (2.5%)	98-104	85-115

Category II.

Drug	Type B Maximum (100 X)	Assay Limits (% of Labeled Amount) Type B	Type C
Arsanilate Sodium	4.5 g/lb (1.0%)	98-108	75-125
Arsanilic acid	4.5 g/lb (1.0%)	98-108	75-125
Butynorate	17.0 g/lb (3.75%)	90-110	85-115
Butynorate,	9.05 g/lb (2.0%)	90-110	85-115
Sulfanitran,	13.6 g/lb (3.0%)	85-115	75-125
Dinsed,	9.05 g/lb (2.0%)	90-110	85-115
Roxarsone	2.27 g/lb (0.5%)	95-103	85-120
Butynorate,	63.45 g/lb (14.0%)	90-110	85-115
Piperazine,	49.85 g/lb (11.0%)	90-110	85-115
Phenothiazine	272.9 g/lb (58.0%)	90-110	85-115
Carbarsone	17 g/lb (3.75%)	93-102	85-115
Clopidol	5.7 g/lb (1.25%)	94-106	80-120
Famphur	5.5 g/lb	100-110	90-115
Hygromycin B	1200 g/ton	90-110	75-125
Lasalocid	5.65 g/ton (1.25%)	100-120	75-125
Levamisole	36 g/lb	85-120	85-125
Lincomycin	2.0 g/lb	90-115	80-130
Monensin	5.5 g/lb	90-110	75-125
Neomycin	7.0 g/lb	80-120	70-125
Neomycin,	7.0 g/lb	80-120	70-125
Oxytetracycline	10.0 g/lb	80-120	65-135
Nicarbazine	5.675 g/lb (1.25%)	98-106	80-120
Nitarsone	8.5 g/lb (1.875%)	90-110	85-115
Novobiocin	17.5 g/lb	85-115	80-120
Phenothiazine	66.5 g/lb	90-110	85-115
Piperazine	165 g/lb (40.25%)	90-110	85-115
Pyrantel tartrate	4.8 g/lb	90-110	85-115
Robenidine	1.5 g/lb (0.33%)	95-115	80-120
Ronnel	6.0%	85-115	80-120
Roxarsone	2.275 g/lb (0.5%)	95-103	85-120
Roxarsone,	2.275 g/lb (0.5%)	95-103	85-120
Aklomide	11.35 g/lb (2.5%)	90-110	85-120

Category II.

Drug	Type B Maximum (100 X)	Assay Limits (% of Labeled Amount)	
		Type B	Type C
Roxarsone,	2.275 g/lb (0.5%)	95-103	85-120
Clopidol,	11.35 g/lb (2.5%)	94-106	80-120
Bacitracin methylene disalicylate	5 g/lb	85-115	70-130
Roxarsone,	2.275 g/lb (0.5%)	95-103	85-120
Monensin	5.5 g/lb	90-110	75-125
Sulfadimethoxine with Ormetoprim	5.65 g/lb (1.25%)	95-115	75-125
Sulfaethoxypyridazine	11.0%	95-105	85-115
Sulfamerazine	4.0%	85-115	80-120
Sulfamethazine	5.0 g/lb (1.25%)	85-115	80-120
Sulfamethazine,	5.0 g/lb (1.25%)	85-115	80-120
Chlortetracycline,	5.0 g/lb	95-125	70-130
Penicillin	2.5 g/lb	80-120	65-135
Sulfamethazine,	5 g/lb (1.25%)	85-115	80-120
Chlortetracycline	5.0 g/lb	95-125	70-130
Sulfamethazine,	5 g/lb (1.25%)	85-115	80-120
Tylosin	5 g/lb	80-120	75-125
Sulfanitran,	13.6 g/lb (3.0%)	85-115	75-125
Aklomide	11.29 g/lb (2.5%)	90-110	85-120
Sulfanitran,	13.6 g/lb (3.0%)	85-115	75-125
Aklomide,	11.2 g/lb (2.5%)	90-110	85-125
Roxarsone	2.715 g/lb (0.625%)	95-103	70-130
Sulfanitran,	13.6 g/lb (3.0%)	85-115	75-125
Aklomide,	11.2 g/lb (2.5%)	90-110	85-120
Roxarsone	2.27 g/lb (0.5%)	95-103	80-120
Sulfaquinoxaline	11.2 g/lb (2.5%)	85-115	80-120
Sulfathiazole,	5 g/lb (1.25%)	85-115	80-120
Chlortetracycline,	5 g/lb	85-125	70-130
Penicillin	2.5 g/lb	80-120	65-135
Thiabendazole	45.4 g/lb (10.0%)	94-106	85-115

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Category III.

Drug	Type B Maximum (50 X)	Assay Limits (% of Labeled Amount)	
		Type B	Type C
Carbadox	1.25 g/lb (0.0875%)	90-110	75-125
Chlormadinone acetate	0.011%	85-115	75-125
Dimetridazole	4.4 g/lb (1.0%)	96-103	85-120
Furazolidone	5 g/lb (1.1%)	95-105	85-115
Ipronidazole	1.414 g/ton (0.313%)	98-115	75-125
Melengestrol acetate	0.011%	90-110	70-120
Nitrofurazone	5.0 g/lb (1.0%)	90-110	80-120
Nitromide,	5.67 g/lb (1.25%)	90-110	85-115
Sulfanitran	6.8 g/lb (0.625%)	85-115	75-125
Nitromide,	5.67 g/lb (1.25%)	90-110	85-115
Sulfanitran,	6.8 g/lb (0.625%)	85-115	75-125
Roxarsone	1.135 g/lb (0.25%)	95-103	85-120

(d) When drugs from more than one category are in combination, the category defining the most restricted use will apply to the combination drug product.

c. In § 558.15 by revising the introductory text of paragraph (g) and paragraph (g)(2), to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

* * * * *

(g) The submission of applications and data required by paragraphs (a) and (b) of this section is not required for the continued manufacture of any Type A medicated article which is produced solely from another Type A medicated article that is in compliance with the requirements of this section.

* * * * *

(2) The following is a list of drug combinations permitted when prepared from Type A medicated articles listed in paragraph (g)(1) of this section. Drug combinations listed in Subpart B of this part name their sponsors and are incorporated herein by reference because they are safe and effective by contemporary standards, or such sponsors have been notified of any additional safety or efficacy data required on an individual basis:

* * * * *

d. By adding new § 558.20, to read as follows:

§ 558.20 Drugs used in medicated feeds in use before January 1, 1958 which are not otherwise listed; interim listing.

Applications for animal feeds bearing or containing new animal drugs must contain a reference to a section in the new animal drug regulations where the drug and the intended use is listed. For the purposes of such applications the following list of drugs was compiled. The list identifies drugs which must be the subject of approved medicated feed applications and which are not listed for the indicated uses in other new animal drug regulations. The drugs are not listed elsewhere since they were in use prior to the Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act of January 1, 1958, which amendment required the listing of such drugs in appropriate regulations.

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Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
Arsanilate sodium	Swine	0.005-0.01%	Increase rate of gain and improve feed efficiency in growing swine.	Withdraw 5 days before slaughter. As sole source of organic arsenic.
Arsanilate sodium	do	0.01%	Control of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed continuously as sole source of organic arsenic.
Arsanilate sodium	do	0.025-0.04%	Treatment of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed for 5-6 days as sole source of organic arsenic.
Arsanilic acid	Swine	0.005-0.01%	Increase rate of gain and improve feed efficiency in growing swine.	Withdraw 5 days before slaughter. As sole source of organic arsenic.
Arsanilic acid	do	0.01%	Control of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed continuously as sole source of organic arsenic.
Arsanilic acid	do	0.025-0.04%	Treatment of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed for 5-6 days as sole source of organic arsenic.
Butynorate (dibutyltin dilaurate)	Turkeys	0.0375%	As an aid in the prevention of coccidiosis (caused by *E. meleagridis*, *E. meleagrimitis*, *E. gallopavonis*) and hexamitiasis.	Withdraw 7 days before slaughter.

Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
Butynorate plus sulfanitran, dinsed and roxarsone	do	0.02% 0.03% 0.02% 0.0025-0.005%	Aid in stimulating growth and improving feed efficiency; preventing coccidiosis (E. meleagridis, E. meleagrimitis, E. gallopavonis), large roundworms, tapeworms and hexametiasis.	do
Ethylenediamine dihydriodide	Chickens and Turkeys	1/4 lb/ton	An aid in the removal of mucus from upper respiratory tract following treatment for chronic respiratory disease (air-sac	Treat birds with caution until tolerance is determined, because of variation in susceptibility to iodides. Treat 5-7 days.
Ethylenediamine dihydriodide	Swine	250 to 500 mg daily.	By loosening mucus and congestion, aid in control of respiratory difficulties. Aids in loosening mucus in upper respiratory tract.	Treat animals with caution until tolerance is determined because of variation in susceptibility to iodides. Treat for 7 days.
Ethylenediamine dihydriodide	Sheep	Self feed at rate to provide 12 mg per head per day.	As an aid in prevention of soft tissue lumpy jaw in sheep.	

Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
Ethylenediamine dihydriodide	Cattle	400 to 500 mg per head daily.	Aids in the treatment of foot rot caused by *Spnerophorus necrophorus*; aids in treatment of soft tissue lumpy jaw caused by *Actinobacillus lignierisi*.	Treat animals with caution until tolerance is determined, because of variation in susceptibility to iodides. Not to be administered to dairy cattle in production. Feed for 2-3 weeks.
Ethylenediamine dihydriodide	Cattle	50 mg per head daily in feed continuously.	Aids in the prevention of foot rot and soft tissue lumpy jaw.	
Neomycin sulfate	Chickens, Turkeys and Ducks	70-140 g/ton of complete feed as neomycin base.	For treatment of bacterial enteritis (nonspecific enteritis, salmonellosis, bluecomb, mud fever).	
Neomycin sulfate	Mink	140 g/ton of complete feed as neomycin base.	For treatment of bacterial enteritis and diarrhea.	
Neomycin sulfate	Swine, Calves, Cattle, Horses, Sheep, Goats	70-140 g/ton of complete feed as neomycin base.	For treatment of bacterial enteritis (scours, diarrhea, bloody dysentery, vibrionic dysentery, winter dysentery, white scours, colibacillosis, salmonellosis; diarrhea caused by *E. coli*, vibrio and salmonella organisms); enterotoxemia in lambs.	

Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
Nitarsone (4-nitrophenyl-arsonic acid)	Chickens and Turkeys	0.01875%	As an aid in the prevention of blackhead.	Withdraw 5 days before slaughter. As sole source of organic arsenic.
Phenothiazine	Chickens	.0.5 g per bird.	Removal of cecal worms (*Herterakis gallinarum*).	For 1 day only.
Phenothiazine	Turkeys	1 g per bird.	do	do.
Phenothiazine	Swine	5 g up to 25 lb; 8 g, 26-50 lb; 10 g, 51-100 lb; 20 g, 101-200 lb; 30 g, 201 lb and up.	Removes nodular worms (*Oesophagostomum*).	
Phenothiazine	Sheep and Goats	25-60 lb body weight, 12.5 g; over 60 lb body weight, 25 g.	Removal of stomach worms (*Haemonchus*, *Ostertagia*, and *Trichostrongylus* spp.); large-mouth bowel worms (*Chabertia* spp.), and hookworms (*Bunostomum* spp.).	Milk from dairy animals which have been treated with phenothiazine should not be used for food for four days following treatment.
Phenothiazine	do	1 g/head/day	Control of stomach worms (*Haemonchus*, *Ostertagia*, and *Trichostrongylus* spp.); large-mouth bowel worms and hookworms (*Chabertia* spp.), (*Bunostomum* spp.).	Do not feed to lactating dairy animals. Feed continuously.
Phenothiazine	Cattle	10 g/100 lb body weight, up to a maximum of 70 g.	Removes common stomach worms (*Haemonchus*), lesser stomach worms (*Ostertagia*), hair worms, bankrupt worms (*Trichostrongylus* spp.),	Milk from dairy animals which have been treated with phenothiazine should not be used for food for four days following

Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
			nodular worm (*Oesophagostomum* spp.), and large-mouth bowel worms (*Chabertia* spp.).	treatment.
Phenothiazine	do	20 g/100 lb body weight up to a maximum of 60 g. Micronized (2-3 micron size particles)--(10 g/100 lb body weight, up to a maximum of 60 g.	Hookworms (*Bunostomum* spp.)	For 1 day only. Milk from dairy animals which have been treated with phenothiazine should not be used for food for four days following treatment.
Phenothiazine	Cattle	0.25 g/100 lb body weight/day. For adult average dose is 2 g.	Controls common stomach worms (*Haemonchus*), lesser stomach worms (*Ostertagia*), hair worms, bankrupt worms (*Trichostrongylus* spp.), nodular worm (*Oesophagostomum* spp.) and large-mouth bowel worms (*Chabertia* spp.).	Do not feed to lactating dairy animals.
Phenothiazine	Horses and Mules	2.5 g/100 lb body weight up to a maximum of 30 g.	Removal of strongyles (*Strongylus* spp.).	For 1 day only.

Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
Phenothiazine	do	2 g per head per day.	do	For continuous use; feed 2 g per head per day for 21 consecutive days then none for 9 days. Repeat the feeding schedule as long as worm control is desired.
Piperazine	Chickens (under 6 weeks of age)	0.2-0.4%	Control of infestation of large roundworms (Ascaris).	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumd will furnish in 1 day 50 mg of piperazine per bird.
Piperazine	Chickens (over 6 weeks of age)	0.2-0.4%	Control of infestation of large roundworms (Ascaris).	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100 mg of piperazine per bird.
Piperazine	Turkeys (under 12 weeks of age)	0.2-0.4%	Control of infestation of large roundworms (Ascaris).	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100 mg of piperazine per bird.

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Drug Ingredient	Species	Use Levels	Indications for Use	Limitations
Piperazine	Turkeys (over 12 weeks of age)	0.2-0.4%	do	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100-400 mg of piperazine per bird according to size.

e. By republishing Subpart B of Part 558 to reflect the proposed definitions and other considerations, as follows:

Subpart B—Specific New Animal Drugs for Use in Animal Feeds

Sec.
558.35 Aklomide.
558.45 Ammonium chloride, feed grade.
558.55 Amprolium.
558.58 Amprolium and ethopabate.
558.60 Arsanilate sodium.
558.62 Arsanilic acid.
558.76 Bacitracin methylene disalicylate.
558.78 Bacitracin zinc.
558.95 Bambermycins.
558.105 Buquinolate.
558.115 Carbadox.
558.120 Carbarsone (not U.S.P.).
558.126 Chlormadinone acetate.
558.128 Chlortetracycline.
558.145 Chlortetracycline, penicillin procaine, and sulfamethazine.
558.155 Chlortetracycline, penicillin procaine, and sulfathiazole.
558.175 Clopidol.
558.185 Coumaphos.
558.195 Decoquinate.
558.205 Dichlorvos.
558.240 Dimetridazole.
558.248 Erythromycin thiocyanate.
558.254 Famphur.
558.262 Furazolidone.
558.266 Griseofulvin.
558.274 Hygromycin B.
558.295 Iodinated casein.
558.305 Iponidazole.
558.311 Lasalocid sodium.
558.315 Levamisole hydrochloride (equivalent).
558.325 Lincomycin.
558.342 Melengestrol acetate.
558.355 Monensin.
558.365 Nequinate.
558.366 Nicarbazin.
558.367 Niclosamide.
558.370 Nitroforazone.
558.376 Nitromide and sulfanitran.
558.415 Novobiocin.
558.430 Nystatin.
558.435 Oleandomycin.
558.450 Oxytetracycline.
558.460 Penicillin.
558.464 Poloxalene.
558.465 Poloxalene liquid Type C medicated feed article.
558.485 Pyrantel tartrate.
558.515 Robenidine hydrochloride.
558.525 Ronnel.
558.526 Ronnel liquid Type C medicated feed.
558.530 Roxarsone.
558.565 Styrylpyridinum chloride, diethylcarbamazine (as base).
558.575 Sulfadimethoxine, or metoprim.
558.579 Sulfaethoxypyridazine.
558.582 Sulfamerazine.
558.615 Thiabendazole.
558.625 Tylosin.
558.630 Tylosin and sulfamethazine.
558.635 Virginiamycin.
558.680 Zoalene.

§ 558.35 Aklomide.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated article to 017210 in § 510.600(c) of this chapter, as follows:

(1) 50 percent aklomide.

(2) 25 percent aklomide and 20 percent sulfanitran.

(3) 25 percent aklomide, 20 percent sulfanitran, and 5 percent roxarsone.

(4) 50 percent aklomide and 10 percent roxarsone.

(d) [Reserved]

(e) [Reserved]

(f) *Related tolerances.* See § 558.30 of this chapter.

(g) *Conditions of use.* It is used for chickens as follows:

(1) *Amount per ton.* Aklomide, 227 grams (0.025 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella* and *E. necatrix.*

(ii) *Limitations.* Not to be fed to birds laying eggs for human consumption.

(2) *Amount per ton.* Aklomide, 227 grams (0.025 percent) with sulfanitran, 181.6 grams (0.02 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix,* and *E. acervulina.*

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter.

(3) *Amount per ton.* Aklomide, 227 grams (0.025 percent) with sulfanitran, 181.6 grams (0.02 percent) and roxarsone, 22.7–45.4 grams (0.0025–0.005 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix,* and *E. acervulina;*

growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.

(4) *Amount per ton.* Aklomide, 227 grams (0.025 percent) with roxarsone, 22.7–45.4 grams (0.0025–0.005 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella,* and *E. necatrix;* growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to birds laying eggs for human consumption; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.

§ 558.45 Ammonium chloride, feed grade.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated article: 99 percent to 011462 and 000018 in § 510.600(c) of this chapter.

(d) [Reserved]

(e) [Reserved]

(f) *Conditions of use.* It is used for cattle and sheep as follows:

(1) *Amount per day.* 21.3–35.5 grams (0.75–1.25 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For range cattle.

(2) *Amount per day.* 28.4–42.5 grams (1.0–1.5 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For fattening cattle.

(3) *Amount per day.* 7.1 grams (0.25 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For sheep.

§ 558.55 Amprolium.

(a) *Approvals.* (1) Type A medicated feed article: 25 percent to No. 000006 in § 510.600(c) of this chapter for use as in paragraph (e)(1) of this section.

(2) [Reserved]

(b) [Reserved]

(c) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

(d) *Related tolerances.* See § 556.50 of this chapter.

(e) *Conditions of use*—(1) *Calves.* It is used as follows:

(*i*) *Amount.* 227 milligrams per 100 pounds (5 milligrams per kilogram) body weight per day.

(*a*) *Indications for use,* As an aid in the prevention of coccidiosis caused by *Eimeria bovis* and *E. zurnii.*

(*b*) *Limitations.* Administer form Type C medicated feeds/containing from 0.05 to 1.25 percent amprolium with the usual amount of feed consumed in 1 day; feed for 21 days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard; withdraw 24 hours before slaughter; as sole source of amprolium.

(*ii*) *Amount.* 454 miligrams per 100 pounds (10 milligrams per kilogram) body weight per day.

(*ii*) *Indications for use.* As an aid in the treatment of coccidiosis caused by *Eimeria bovis* and *E. zurnii.*

(*b*) *Limitations.* Administer from a Type C medicated feed article containing from 0.05 to 1.25 percent amprolium with the usual amount of feed consumed in 1 day; feed for 5 days; for a satisfactory diagnosis, a microscopic examination of the feces should be done by a veterinarian or diagnostic laboratory before treatment; when treating outbreaks, the drug should be administered promptly after diagnosis is determined; withdraw 24 hours before slaughter; as sole source of amprolium.

(2) *Chickens and turkeys.* It is used as follows:

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(*i*) 36.3 to 113.5 (0.004% to 0.0125%)..	....	Replacement chickens; development of active immunity to coccidiosis..	Feed as follows—	

Growing conditions	Up to 5 weeks of age	From 5 to 8 weeks of age	Over 8 weeks of age
	Amprolium grams per ton	*Amprolium grams per ton*	*Amprolium grams per ton*
Severe exposure coccidiosis..	113.5 (0.0125%)............	72.6–113.5 (0.008%–0.0125%).	36.3–113.5 (0.004%–0.0125%)
Moderate exposure to coccidiosis..	72.6–113.5 (0.008%–0.0125%)............	54.5–113.5 (0.006%–0.0125%).	36.3–113.5 (0.004%–0.0125%)
Slight exposure to coccidiosis..	36.3–113.5 (0.004%–0.0125%)............	36.3–113.5 (0.004%–0.0125%).	36.3–113.5 (0.004%–0.0125%)

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilate sodium 90 (0.01%).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (*i*).	
	Arsanilic acid 90 (0.01%)	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (*i*).	
	Arsanilic acid 90 (0.0%) plus erythromycin 4.6 to 18.5.	1. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01%) plus erythromycin 92.5.	1. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
		2. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 5 d before slaughter, as sole source of organic arsenic. Feed according to subtable in item (*i*).	
	Arsanilic acid 90 (0.01%) plus erythromycin 185.	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (*i*).	

Growing conditions	Up to 5 weeks of age	From 5 to 8 weeks of age	Over 8 weeks of age
	Amprolium grams per ton	*Amprolium grams per ton*	*Amprolium grams per ton*

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Bacitracin 100 to 200	Replacement chickens; development of active immunity to coccidiosis; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate or bacitracin zinc. Feed according to subtable in item (i).	
	Chlortetracycline 100 to 200.	Replacement chickens; development of active immunity to coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride. Feed according to subtable in item (i).	
(i) 36.3 to 113.5 (0.004% to 0.0125%).	Erythromycin 4.6 to 18.5.	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency.	As erythromycin thiocyanate. Feed according to subtable in item (i)	
	Erythromycin 92.5	1. Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 24 h before slaughter. Feed according to subtable in item (i).	
		2. Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress..	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter. Feed according to subtable in item (i).	
	Erythromycin 185	Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter. Feed according to subtable in item (i).	
	Hygromycin B 8 to 12	Replacement chickens; development of active immunity to coccidiosis; control of infestation of large round worms (*Ascarıs galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Feed according to subtable in item (i)	
	Penicillin 2.4 to 50	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency.	As penicillin. Feed according to subtable in item (i)	
	Penicillin plus streptomycin 90 to 180 (of combination).	Replacement chickens; development of active immunity to coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type C medicated feed contains 16.7% penicillin; as penicillin procaine, as streptomycin sulfate. Feed according to subtable in item (i).	
	Roxarsone 22.7 to 45.4 (0.0025% to 0.005%).	Replacement chickens; development of active immunity to coccidiosis; growth promotion, and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sale source of organic arsonic. Feed according to subtable in item (i).	
(ii) 72.6 to 113.5 (0.008% to 0.0125%)..		Broiler chickens; prevention of coccidiosis caused by *Eimeria tenella* only..	Withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (ii).	
	Arsanilate sodium 90 (0.01%).	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter, as sole source of organic arsenic	
	Arsanilic acid 90 (0.01%.	do	do	
	Bacitracin 100 to 200	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate, or bacitracin zinc	
	Chlortetracycline 100 to 200.	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not for laying chickens; as chlortetracycline hydrochloride	
	Hygromycin B 8 to 12	Broiler chickens; prevention of coccidiosis caused by *Eimeria tenella* only; control of infestation of large round worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Feed according to subtable in item (ii)	
	Penicillin 2.4 to 50	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; growth promotion and feed efficiency.	As penicillin procaine	
	Penicillin plus streptomycin 90 to 180 (of combination).	Treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type C medicated feed contains 16.7% penicillin; as penicillin procaine; as streptomycin sulfate.	
	Roxarsone 22.7 to 45.4 (0.0025% to 0.005%).	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic	
(iii) 113.5 (0.0125%).		1. Laying chickens; prevention of coccidiosis		
		2. Laying chickens; treatment of coccidiosis	For moderate outbreaks of coccidiosis; administer for 2 weeks	
	Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025% to 0.00375%).	Broiler chickens; as an aid in the prevention of coccidiosis; for increased rate of weight gain; improved feed efficiency, and improved pigmentation.	Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; roxarsone as provided by 017210 in § 510.600(c) of this chapter, bambermycins by 012799; withdraw 5 d before slaughter.	
(iv) 113.5 to 227 (0.0125% to 0.025%).	Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025% to 0.00375%).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis.		
		2. Turkeys; prevention of coccidiosis		
	Arsanilate sodium 90 (0.01%).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do	
	Arsanilic acid 90 (0.01%)	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do	
	Arsanilic acid 90 (0.01%) plus erythromycin 92.5.	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic.	

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		Growing conditions	Up to 5 weeks of age From 5 to 8 weeks of age Over 8 weeks of age	
			Amprolium grams per ton Amprolium grams per ton Amprolium grams per ton	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic.	
(iv) 113.5 to 227 (0.0125% to 0.025%).	Arsanilic acid 90 (0.01%) plus erythromycin 185.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory diseases.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improved pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic	
	Bacitracin 4 to 50	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As bacitracin methylene disalicylate or bacitracin zinc; bacitracin zinc by 012769, 046573 in § 510.600(c) of this chapter.	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency.	do	
	Bacitracin 100 to 200	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	do	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As bacitracin zinc	
	Bacitracin 100 to 500	Turkeys; prevention of coccidiosis; treatment of infectious sinusitis, blue comb (mud fever).	As bacitracin zinc	
	Bacitracin plus penicillin 100 to 500 (of combination).	do	Type C medicated feed contains 50% to 75% of bacitracin but not more than 125 g penicillin; as penicillin procaine; as bacitracin zinc.	
	Chlortetracycline 100 to 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not for laying chickens, as chlortetracycline hydrochloride	
	Erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As erythromycin thiocyanate	
(iv) 113.5 to 227 (0.0125% to 0.025%).	Erythromycin 92.5	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter.	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 24 h before slaughter	
	Erythromycin 185	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d, do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	
	Hygromycin B 8 to 12	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; control of infestation of large round worms (*Heterakis gallinae*) and capillary worms. *Capillaria obsignata*.	Feed according to subtable in item(i)	
	Penicillin 2.4 to 50	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As penicillin procaine	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency.	do	
	Penicillin plus streptomycin 90 to 180 (of combination).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type C medicated feed contains 16.7% penicillin; as penicillin procaine; as streptomycin sulfate.	
		2. Turkeys; prevention of coccidiosis; treatment of infectious sinusitis, blue comb (mud fever), hexamitiasis.	Type C medicated feed contains not less than 2.4 g of penicillin nor less than 12 g of streptomycin; as penicillin procaine; as streptomycin sulfate.	
	Roxarsone 22.7 to 45.4 (0.0025% to 0.005%)	1. Broiler chickens and replacement chickens were immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter, as sole source of organic arsenic	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do	
(v) 227 (0.025%)		Laying chickens; treatment of coccidiosis	For severe outbreaks of coccidiosis; administer for 2 weeks	

§ 558.58 Amprolium and ethopabate.

(a) *Approvals.* Type A medicated article: 25 percent amprolium and 0.8 percent ethopabate; 25 percent amprolium and 8 percent ethopabate; 5 percent amprolium and 0.16 percent ethopabate; 5 percent amprolium and 1.6 percent ethopabate; to 000006 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

(d) *Related tolerances.* See §§ 556.50 and 556.260 of this chapter.

(e) *Conditions of use.* (1) It is used for chickens as follows:

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) Amprolium 113.5 (0.0125 pct) and ethopabate 3.6 (0.0004 pct).		Broiler chickens as an aid in the prevention of coccidiosis.	Not for laying hens; as sole source of amprolium.	
(ii) Amprolium 113.5 (0.0125 pct) and ethopabate 3.6 (0.0004 pct).	Bambermycins 2 to 3 plus roxarsone 22.8 to 34.1 (0.0025 to 0.00375 pct)	Broiler chickens; as an aid in the prevention of coccidiosis, for increased rate of weight gain improved feed efficiency, and pigmentation.	Feed continuously as the sole ration; as sole source of amprolium and organic arsenic, amprolium and ethopabate as provided by 000006 in sec. 510.600(c) of this chapter, roxarsone by 017210, bambermycins by 000039; withdraw 5 d before slaughter.	
	Lincomycin 2 to 4	Broiler chickens; for increase in rate of weight gain; improved feed efficiency; as an aid in the prevention of coccidiosis.	NOt for laying chickens; as lincomycin hydrochloride monohydrate; as sole source of amprolium.	
	Lincomycin 2 to 4 plus roxarsone 45.4 (0.005 pct).	Broiler chickens; for increase in rate of weight gain; improved feed efficiency and; pigmentation; as an aid in the prevention of coccidiosis.	Not for laying chickens; as lincomycin hydrochloride monohydrate; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic.	
	Roxarsone 45.4 (0.005 pct).	Broiler chickens; to aid in prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. marima,* and *E. brunetti* is likely to occur, for increased rate of weight gain in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium; do not use as a treatment for outbreaks of coccidiosis; feed as sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; roxarsone as provided by 017210 in sec. 510.600(c) of this chapter; combinations as provided by 000006.	
(iii) Amprolium 113.5 (0.0125 pct) and ethopabate 36.3 (0.004 pct).		Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina E. marima* and *E. brunetti* is likely to occur.	Not for chickens over 16 weeks of age.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improve pigmentation.	Not for laying hens; withdraw 5 d before slaughter; as sole source of organic arsenic; as erythromycin thiocyanate.	
	Bacitracin 4 to 50	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; to aid in prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur; for increased rate of weight gain in broiler chickens raised in floor pens.	Not for chickens over 16 weeks of age; do not feed to laying chickens; as sole source of amprolium; not for use as a treatment for outbreaks of coccidiosis; as bacitracin methylene disalicylate as provided by 046573 or bacitracin zinc as provided by 012769 in sec. 510.600(c) of this chapter feed as the sole ration from the time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; combination as provided by 000006 in sec. 510.600(c) of this chapter.	
	Bacitracin 10 to 50 plus roxarsone 15.4 to 45.4 (0.0017 pct to 0.005 pct).	Broiler chickens; as an aid in prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur, improved feed efficiency.	Do not feed to laying chickens; withdraw 5 d before slaughter, as sole source of amprolium and organic arsenic, do not use as a treatment for outbreaks of coccidiosis feed as the sole ration from time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard, amprolium and ethopabate as provided by 000006 in sec. 510.600(c) of this chapter, bacitracin zinc as provided by 012769; roxarsone as provided by 017210, combination as provided by 012769.	012769
	Bacitracin 10 plus roxarsone 30 to 45.4 (0.0033 pct to 0.005 pct).	Broiler chickens; as an aid in prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur, improved feed efficiency and improved pigmentation.	do	012769
	Bambermycins 1 to 3	Broiler chickens; as an aid in the prevention of coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur, for increased rate of weight gain, and improved feed efficiency.	Feed continuously as the sole ration as sole source of amprolium, amprolium and ethopabate as provided by 000006 in sec. 510.600(e) of this chapter, bambermycins as provided by 012799.	
	Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025 pct to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur, for increased rate of weight gain; improved feed efficiency, and improved pigmentation.	Feed continuously as the sole ration; as source of amprolium and organic arsenic amprolium and ethopabate as provided by 000006 in sec. 510.600(c) of this chapter; roxarsone by 017210; bambermycins by 012799. Withdraw 5 d before slaughter.	
	Erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	Not for laying hens; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
(iv) Amprolium 113.5 to 227 (0.0125 to 0.025 pct) and ethopabain 3.6 (0.0004 pct).		For broiler chickens and replacement chickens where immunity to coccidiosis is not desired, prevention of coccidiosis.	Not for laying hens	
	Arsanilic acid 90 (0.01 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired, prevention of coccidiosis; growth promotion and feed efficiency improving pigmentation.	As sole source of organic arsenic; withdraw 5 d before slaughter; not for laying hens.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation.	Feed for 2 d before stress; and 3 to 6 d after stress, withdraw 5 d before slaughter; as sole source of organic arsenic; not for laying hens.	

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		2. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza; growth promotion and feed efficiency; improving pigmentation.	Feed for 7 to 14 d; withdraw 5 h before slaughter; as sole source of organic arsenic; not for laying hens.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	For broiler chickens and replacement chickens where immunity to coccidiosis is not desired, prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 4 to 50	For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As bacitracin methylene disalicylate; not for laying hens	
	Bacitracin 100 to 200	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	do	
		2. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As bacitracin zinc not for laying hens	
	Bacitracin 4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As bacitracin methylene disalicylate; not for laying hens; as sole source of organic arsenic; withdraw 5 d before slaughter.	
	Chlortetracycline 100 to 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis), prevention of synovitis.	Not for laying hens; as chlortetracycline hydrochloride	
	Chlortetracycline 200	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease caused by strains of *Mycoplasma gallisepticum* susceptible to chlortetracycline.	In low calcium Type medicated feeds containing 0.8 pct dietary calcium and 1.5 pct sodium sulfate; feed continously as sole ration for not more than the 1st 3 weeks of life; not for laying hens.	
	Erythromycin 92.5	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; not for laying hens.	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza.	Feed to 7 to 14 d; withdraw 24 before slaughter; not for laying hens	
	Erythromycin 185	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes, withdraw 48 h before slaughter.	
	Penicillin 2.4 to 50	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Not for laying hens; as penicillin procaine	
	Penicillin plus streptomycin 90 to 180 (of combination).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type C medicated feed contains 10.7 pct penicillin; as penicillin procaine; as streptomycin sulfate; not for laying hens.	
	Roxarsone 22.7 to 45.5 (0.0025 to 0.005 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As sole source of organic arsenic; withdraw 5 d before slaughter; not for laying hens.	
(v) Amprolium 136.2 (0.015 pct) and ethopabate 3.6 (0.0004 pct).	Bacitracin 10	Broiler chickens, as an aid in the prevention of coccidiosis; growth promotion and feed efficiency.	Feed as sole ration; use as sole source of amprolium; do not feed to laying hens; as bacitracin methylene disalicylate.	047019

§ 558.60 Arsanilate sodium.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated article: 20, 50, or 100 percent arsanilate sodium, to 043731 in § 510.600(c) of this chapter.

(d) *Related tolerances.* See § 556.680 of this chapter.

(e) *Conditions of use.* (1) It is used for chickens and turkeys as follows:

(i) *Grams per ton.* 90 (0.01 percent).

(ii) *Indications for use.* For growth promotion and feed efficiency; improving pigmentation.

(iii) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) Arsanilate sodium may also be used in combination with:

(i) Amprolium as in § 558.55.

(ii) Zoalene as in § 558.60.

§ 558.62 Arsanilic acid.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated article: 20, 50, or 100 percent arsanilate acid to 043731 in § 510.600(c) of this chapter.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) Conditions of use—(1) It is used for chickens and turkeys as follows:

Arsanilic acid in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
90 (0.01 pct)		1. Chickens; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic	
		2. Turkeys; growth promotion and feed efficiency; improving pigmentation.	do	
	Erythromycin 4.6 to 18.5.	Chickens; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 92.5	1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic.	
		2. Chickens; as an aid in the prevention of infectious coryza; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 185	Chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	

(2) Arsanilic acid may also be used in combination with:

(i) Amprolium as in § 558.55.

(ii) Amprolium and ethopabate as in § 558.58.

(iii) Bacitracin zinc as in § 558.78.

(iv) Bacitracin and zoalene as in § 558.680.

(v) Buzuinolate as in § 558.105.

(vi) Zoalene as in § 558.680.

§ 558.76 Bacitracin methylene disalicylate.

(a) *Approvals.* Type A medicated article: 25, 40, or 50 percent bacitracin methylene disalicylate to 046573 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) *Special considerations.* The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

(d) *Related tolerances.* See § 556.70 of this chapter.

(e) *Conditions of use.* (1) It is used as follows:

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4 to 50		Chickens, turkeys, and pheasants; growth promotion and feed efficiency.		
(ii) 5 to 20		Quail; not over 5 weeks of age; growth promotion and feed efficiency.		
(iii) 10 to 50		1. Swine; growth promotion and feed efficiency		
		2. Chickens; maintaining or increasing egg production	Feed 50 g per ton 1st 4 to 6 weeks of egg production; 10 to 50 g per ton for remainder of egg-laying period.	
(iv) 50 to 100		1. Chickens; prevention of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).		
		2. Swine; aid in prevention of bacterial swine enteritis		
		3. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		
(v) 100		1. Chickens; maintaining or increasing hatchability of eggs		
		2. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin.		
		3. Chickens; prevention of early mortality of chicks due to susceptible organisms.	For chicks; in starter ration	
		4. Swine; treatment of bacterial swine enteritis		
100 of combination	Penicillin	1. Chickens; maintaining or increasing hatchability of eggs	Type C medicated feed combination containing 75 g of bacitracin plus 25 g of penicillin; as penicillin procaine.	
		2. Swine; treatment of bacterial swine enteritis	Type C medicated feed containing 50 to 75 pct of bacitracin; as penicillin procaine.	
(vi) 100 to 200		1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).		
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		
100 to 200 of combination.	Penicillin	1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).	Type C medicated feed containing not less than 25 g of penicillin nor less than 50 g of bacitracin; as penicillin procaine.	
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	do	

(2) It is used for cattle as follows:

(i) *Amount.* 70 milligrams per head per day.

(*a*) *Indications for use.* Feedlot beef cattle; reduction in the number of liver condemnations due to abscesses.

(*b*) *Limitations.* Administer continuously throughout the feeding period.

(ii) *Amount.* 250 milligrams per head per day.

(*a*) *Indications for use.* Feedlot beef cattle: reduction in the number of liver condemnations due to abscesses.

(*b*) *Limitations.* Administer continuously for 5 days then discontinue for subsequent 25 days, repeat the pattern during the feeding period.

(3) It is also used in combination with:

(i) Amprolium as in § 558.55.

(ii) Amprolium with ethopabate as in § 558.58.

(iii) Arsanilic acid with zoalene as in § 558.680.

(iv) Carbarsone (not U.S.P.) as in § 558.120.

(v) [Reserved]

(vi) Hygromycin B as in § 558.274.

(vii) Monensin as in § 558.355.

(viii) Lasalocid sodium as in § 558.311.

(ix) Monensin and roxarsone as in § 558.355.

§ 558.78 Bacitracin zinc.

(a) *Approvals.* (1) Premix level of 50 grams bacitracin zinc per pound to 046573 in § 510.600(c) of this chapter for use as in paragraph (e)(1)(i) and (ii) only of this section.

(2) Premix levels of 10, 25, 40, and 50 grams of bacitracin zinc per pound to 012769 in § 510.600(c) of this chapter for use as in paragraph (e) of this section.

(b) [Reserved]

(c) *Special considerations.* The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

(d) *Related tolerances.* See § 556.70 of this chapter.

(e) *Conditions of use.* (1) It is used in complete feeds as follows:

Bacitracin zinc in grams per ton	Combinations in grams per ton	Indications for use	Limitations	Sponsor
(i) 4 to 50		1. Chickens, turkeys, and pheasants; growth promotion and feed efficiency.		
		2. Chickens, turkeys and phesants; for increased rate of weight gain and improved feed efficiency.	Growing chickens, turkeys, and pheasants	046573, 012769
(ii) 5 to 20		1. Quail; growth promotion and feed efficiency	In quail not over 5 weeks of age	
		2. Quail; for increased rate of weight gain and improved feed efficiency.	Growing quail; feed as the complete feed to starting quail through 5 weeks of age.	046573, 012769
(iii) 10 to 50		1. Swine; growth promotion and feed efficiency		
		2. Chickens; maintaining or increasing egg production	Feed 50 g per ton 1st 4 to 6 weeks of egg production; 10 to 50 g per ton for remainder of egg-laying period.	012769
		3. Swine; increased rate of weight gain and improved feed efficiency.		012769
(iv) 50 to 100		1. Chickens, prevention of chronic respiratory disease (arisac infection); blue comb (nonspecific infections enteritis).		012769
		2. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		012769
		3. Swine; aids in the prevention of bacterial swine enteritis		012769
(v) 100		1. Chickens; maintaining or increasing hatchability of eggs		012769
		2. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin.		012769
		3. Swine; treatment of bacterial swine enteritis		012769
100 of combination	Penicillin	Swine; treatment of bacterial swine enteritis	Feed containing 50% to 75% bacitracin; as procaine penicillin	
(vi) 100 to 500		1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonepecific infectious enteritis).		012769
		2. Chickens; prevention of early mortality of chicks due to susceptible organisms.	For chicks; in starter feed	012579
		3. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		012579
100 to 500 of combination	Penicillin	1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).	Feed containing not less than 50% nor more than 75% of bacitracin except that it contains not more than 125 g of penicillin; as procaine penicillian.	
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	do	

(2) It is used in feed for growing cattle at 35 to 70 milligrams per head per day as follows:

(i) To aid in stimulating growth and improving feed efficiency.

(ii) For increased rate of weight gain and improved feed efficiency; see sponsor 012769.

(3) Bacitracin zinc is used in accordance with the provisions of this section in combination with:

(i) Amprolium as in § 558.55.

(ii) Amprolium with ethopabate as in § 558.58.

(iii) Arsanilic acid and zoalene as in § 558.680.

(iv) [Reserved]

(v) Hygromycin B as in § 558.274.

(vi) Monensin as in § 558.355.

(vii) Zoalene as in § 558.680.

§ 558.95 Bambermycins.

(a) [Reserved]

(b) *Approvals.* (1) Type A medicated article: 2 and 10 grams of bambermycins activity per pound to 012799 in § 510.600(c) of this chapter for use as provided in paragraph (e)(1) and (e)(2) (i) and (ii) of this section.

(2) Type A medicated article: 0.4 gram of bambermycins activity per pound to 012799 for use as provided in paragraph (e)(2) of this section.

(c) [Reserved]

(d) [Reserved]

(e) *conditions of use*—(1) *Broiler chickens.* It is used as follows:

(i) *Amount per ton.* 1 to 2 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (0.125 percent) plus ethopabate, 36.3 grams (.004 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina, E. maxima,* and *E. brunetti* is likely to occur. For increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter.

(iii) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 1,13.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025–.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina, E. maxima,* and *E. brunetti* is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic: amprolium and ethopabate as provided by .000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(iv) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 3.63 grams (.0004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025–.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210. Withdraw 5 days before slaughter.

(v) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus roxarsone, 22.8 to 34.1 grams (.0025–.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by 000006 in § 510.600(c) of this chapter, roxarsone as provided by 017210. Withdraw 5 days before slaughter.

(vi) *Amount per ton.* Bambermycins, 1 gram plus monensin, 90 to 110 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium provided by 000986 in § 510.600(c) of this chapter; as bambermycins provided by 012799 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Bambermycins, 1 gram plus monensin, 90 to 100 grams plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent).

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; use as sole source of organic arsenic; withdraw 5 days before slaughter; as monensin sodium provided by 000986 in § 510.600(c) of this chapter; as bambermycins provided by 012799 as roxarsone provided by 017210.

(viii) *Amount per ton.* Bambermycins, 1 gram plus zoalene, 113.4 grams (0.0125 percent).

(*a*) *Indications for use.* As an aid in the prevention and control of coccidiosis; for increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Do not feed to chickens over 14 weeks of age; feed continuously as sole ration; zoalene as provided by 025700 in § 510.600(c) of this chapter.

(ix) *Amount per ton.* Bambermycins, 1 gram plus zoalene, 113.4 grams (0.0125 percent) plus roxarsone, 22.7 grams (0.0025 percent).

(*a*) *Indications for use.* As an aid in the prevention and control of coccidiosis; for increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Do not feed to chickens over 14 weeks of age; feed continuously as sole ration; feed as sole source of organic arsenic; withdraw 5 days before slaughter, zoalene as provided by 025700, roxarsone as provided by 017210 in § 510.600(c) of this chapter.

(2) *Growing-finishing swine.* It is used as follows:

(i) *Amount per ton.* 2 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Feed continuously as sole ration.

(ii) *Amount per ton.* 2 to 4 grams.

(*a*) *Indications for use.* For increased rate of weight gain.

(*b*) *Limitations.* Feed continuously as sole ration.

§ 558.105 Buquinolate.

(a) [Reserved]

(b) *Approvals.* Type A medicated feed article: 16.5 and 22 percent to 000149 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

(e) *Related tolerances.* See § 556.90 of this chapter.

(f) *Conditions of use.* It is used as follows:

(1) *Broiler or fryer chickens*—(i) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*

(*b*) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus arsanilic acid, 90 grams (0.01 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus roxarsone, 22.7–45.4 grams (0.0025–0.005 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iv) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus penicillin, 2.4–50 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; as penicillin procaine.

(v) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus bacitracin, 4–50 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; as bacitracin zinc or bacitracin methylene disalicylate.

(vi) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus penicillin plus bacitracin, 3.6–50 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E.*

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brunetti, and *E. acervulina;* growth promotion and feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; not less than 0.6 gram of penicillin nor less than 3 grams of bacitracin; as procaine penicillin plus bacitracin zinc or bacitracin methylene disalicylate.

(vii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus chlortetracycline, 200 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific enteritis); prevention of synovitis.

(*b*) *Limitations.* In low calcium type C medicated feeds containing 0.8 percent dietary calcium and 1 to 1.5 percent sodium sulfate; to be fed continuously for not more than the first 21 days of life.

(viii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus lincomycin, 2–4 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti, E. acervulina.*

(*b*) *Limitations.* For broiler and fryer chickens; feed continuously as the sole ration.

(ix) *Amount per ton.* Buquinolate, 75–100 grams (0.00825–0.011 percent) plus roxarsone, 22.7–34.0 grams (0.0025–0.00375 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed continuously as sole ration; withdraw 5 days before slaughter; as sole course of organic arsenic; roxarsone as provided by 017210 in § 510.600(c) of this chapter.

(*x*) *Amount per ton.* Buquinolate, 100 grams (0.011 percent) plus bacitracin, 4–15 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* increased rate of weight gain.

(*b*) *Limitations.* Feed continuously as the sole ration; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

(xi) *Amount per ton.* Buquninolate, 100 grams (0.011 percent) combined with bacitracin, 19–35 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* For floor raised broiler or fryer chickens, feed continuously as sole ration; as bacitracin zinc provided by 012769 in § 510.600(c) of this chapter.

(2) *Broiler, fryer, roaster or replacement chickens*—(i) *Amount per ton.* 75–100 grams (0.00825–0.011 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*

(iii) *Limitations.* Feed continuously as the sole ration; do not administer over 75 grams per ton (0.00825 percent) to replacement chickens over 20 weeks of age.

(3) *Laying or breeding chickens*—(i) *Amount per ton. 75 grams (0.00825 percent).*

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*

(iii) *Limitations.* Feed to caged layers for 2 weeks following caging; feed continuously to layers and breeders kept on floors while in production or until marketed.

§ 558.115 Carbadox.

(a) [Reserved]

(b) *Approvals.* Type A medicated article: 2.2 percent (10 grams per pound) to 000069 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.100 of this chapter.

(e) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

(f) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* 10–25 grams (0.0011–0.00275 percent).

(i) *Indications for use.* For increase in rate of weight gain and improvement of feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(2) *Amount per ton.* 50 grams (0.0055 percent).

(i) *Indications for use.* For control of swine dysentery (vibrionic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); increase rate of weight gain and improve feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(3) *Amount per ton.* Carbadox 50 grams (0.0055 percent) plus pyrantel tartrate, 96 grams (0.0106) percent).

(i) *Indications for use.* For control of swine dysentery (vibrionic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severly debilitated animals; feed continuously as sole ration. Do not use in Type C medicated feeds containing less than 15 percent crude protein.

§ 558.120 Carbarsone (not U.S.P.).

(a) *Approvals.* (1) Type A medicated article: 37.5 percent carbarsone to 011794 in § 510.600(c) of this chapter.

(2) Type A medicated article: 25 percent carbarsone and 5 grams per pound bacitracin (as bacitracin methylene disalicylate) to 011794.

(b) [Reserved]

(c) [Reserved]

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* (1) It is used for turkeys as follows:

(i) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent).

(*a*) *Indications for use.* As an aid in the prevention of blackhead.

(*b*) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(ii) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent) carbarsone plus 10 grams per ton bacitracin (as bacitracin methylene disalicylate).

(*a*) *Indications for use.* As an aid in the prevention of blackhead; for increased rate of weight gain.

(*b*) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) Carbarsone (not U.S.P.) may also be used in combination with:

(i) Zoalene as in § 558.680.

(ii) [Reserved]

§ 558.126 Chlormadinone acetate.

(a) *Approvals.* Type A medicated articles: 1 gm per lb. to 000986, 2 gm per lb. to 000033, in § 510.600(c) of this chapter.

(b) [Reserved]

(c) [Reserved]

(d) *Related tolerances.* See § 556.130 of this chapter.

(e) *Conditions of use.* It is used for beef heifers and beef cows as follows:

(1) *Amount.* 10 milligrams per head per day.

(2) *Indications for use.* Synchronization of estrus (heat).

(3) *Limitations.* Administer for 18 days; do not administer within 28 days of slaughter; do not administer to cows producing milk for food.

§ 558.128 Chlortetracycline.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated article: 10 and 50 gm per lb. Chlortetracycline to 010042 in § 510.600(c) of this chapter; 35 gm chlortetracycline with 7.7 percent (35 gm) sulfamethazine to 010042.

(d) *Related tolerances.* See § 556.150 of this chapter.

(e) *Conditions of use.* (1) It is used for cockatoos, macaws, and parrots as follows:

(i) *Amount.* 10 milligrams per gram of mash.

(ii) *Indications for use.* Treatment of psittacine birds suspected or known to be infected with psittacosis.

(iii) *Limitations.* As chlortetracycline hydrochloride.

(2) It is used for laboratory mice as follows:

(i) *Amount.* Not less than 100 grams per ton of feed.

(ii) *Indications for use.* As an aid in reducing the incidence of bacterial diarrhea.

(3) It is used as follows:

Table 1

Chlortetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 10 to 50		1. Chickens and turkeys; growth promotion and feed efficiency.	As chlortetracycline hydrochloride	
		2. Swine; growth promotion and feed efficiency	do	
(ii) 20 to 50		1. Lambs and growing sheep; growth promotion and feed efficiency.	do	
		2. Mink; growth promotion and feed efficiency; as an aid in increasing pelt size.	do	
(iii) 50 to 100		1. Chickens and turkeys; during times of stress, for prevention of diseases named in this section caused by organisms susceptible to the indicated levels of the cycline salt.	do	
		2. For chickens; prevention of chronic respiratory disease (air-sac infection).	do	
		3. For turkeys; prevention of infectious sinusitis, hexamitiasis	do	
		4. For laying chickens; maintaining or increasing egg production or hatchability of eggs.	do	
		5. For chicks; prevention of early mortality due to organisms susceptible to chlortetracyline.	do	
		6. Swine; maintenance of weight gain in the presence of atrophic rhinitis; reduction of the incidence of cervical abscesses; preventon of bacterial swine enteritis; prevention of bacterial swine enteritis during times of stress.	do	
100 to 200		1. For chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride	
		2. For turkeys; treatment of blue comb (nonspecific infectious enteritis, mud fever), infectious sinusitis, hexamitiasis; prevention of synovitis.	As chlortetracyline hydrochloride	
		3. For chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracyline hydrochloride as follows: In low-calcium, Type C medicated feed containing 0.8 pct dietary calcium, not to be fed continuously for more than 8 weeks; in low-calcium Type C medicated feed containing 0.40 to 0.55 pct dietary calcium, not to be fed continuously for more than 5 d; in low-calcium Type C medicated feed containing 0.8 pct dietary calcium and 1 to 1.5 pct sodium sulfate, to be fed continuously for not more than the 1st 3 weeks of life.	
		4. Swine; treatment of bacterial swine enteritis	As chlortetracyline hydrochloride	
(v) 200		1. For chickens; prevention and control of coccidiosis caused by *Eimeria necatrix* and *E. tenella*.	Not to be fed to laying chickens; as chlortetracyline hydrochloride in low-calcium Type C medicated feed containing 0.8 pct dietary calcium, not to be fed continuously for more than 8 weeks; in low-calcium Type C medicated feed containing 0.8 pct dietary calcium and 1.0 to 1.5 pct sodium sulfate, to be fed continuously for not more than the first 3 weeks of life.	
		2. For chickens; treatment of coccidiosis caused by *Eimeria necatrix* and *E. tenella*.	Not to be fed to laying chickens; as chlortetracyline hydrochloride in low-calcium Type C medicated feed containing 0.4 to 0.55 pct dietary calcium, not to be fed continuously for more than 5 d.	
		3. For chickens; control of synovitis	Not to be fed to laying chickens; as chlortetracyline hydrochlonde	
		4. For turkeys; control of snyovitis	As chlortetracyline hydrochloride	
		5. For broiler chickens; treatment of chronic respiratory disease caused by strains of *Mycoplasma gallisepticum* susceptible to chlortetracyline.	In low-calcium Type C medicated feed containing 0.8 pct dietary calcium and 1.5 pct sodium sulfate; feed continuously as Type C medicated feed for not more than the first 3 weeks of life.	
		6. Swine; as an aid in reducing spread of leptospirosis	Sole medication; as chlortetracyline hydrochloride	
(vi) 200 to 400		For ducks; for the control and treatment of fowl cholera caused by *Pasteurella multocida* susceptible to chlortetracyline.	Feed in Type C medicated feed to provide from 8 to 28 mg per pound of body weight per day depending upon age and severity of disease, for not more than 21 d; as the calcium complex of chlortetracyline equivalent to chlortetracyline hydrochloride.	
(vii) 400		1. For turkey poults not over 4 weeks of age; aid in reducing mortality due to paratyphoid caused by *Salmonella typhimurium*.	In low-calcium Type C medicated feed containing 1 pct total calcium with not less than 0.45 pct calcium from calcium sulfate; as chlortetracyline hydrochloride.	
		2. Swine; as an aid in reducing shedding of leptospirae; as an aid in reducing the abortion rate of swine and the mortiality rate of newborn pigs when leptospirosis is present.	To be fed for 14 d as sole medication; as chlortetracyline hydrochloride.	
(viii) 500		For chickens; aid in the reduction of mortality due to *E. coli* infections suspectible to such treatment.	Not to be fed to laying chickens, as chlortetracyline hydrochloride; in Type C medicated feed containing 0.8 pct dietary calcium; not to be fed continuously for more than 5 d; withdraw 24 h prior to slaughter.	

Table 2

Chlortetracycline Milligrams per pound of body weight per day	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
(i) 0.1		For calves up to 250 lb in weight; growth promotion and feed efficiency.	In milk replacers or starter Type C medicated feed.	
(ii) 0.5		1. For beef cattle over 1,500 lb in weight; aid in prevention of anaplasmosis.	Not to be administered within 48 h of slaughter.	
		2. For calves up to 250 lb in weight; aid in the prevention of bacterial diarrhea.	In milk replacers or starter Type C medicated feed.	
(iii) 5.0		For beef cattle; aid in the elimination of the carrier state of anaplasmosis.	Feed for 60 days; for use in the carrier state only; not to be fed within 10 d of slaughter. Labeling shall include a statement that a positive complement-fixation test at conclusion of a 60-d feeding period does not necessarily establish that anaplasmosis carrier state is still active. To positively establish that the carrier state has been eliminated, inject blood from a suspected carrier into a splenectomized (susceptible) calf.	
(iv) 25 to 70		For calves; growth promotion and feed efficiency.		
(v) 70		1. For feedlot cattle; aid in prevention of liver abscesses.		
		2. For beef cattle up to 700 lb in weight; aid in reduction of bacterial diarrhea; aid in prevention of foot rot.		
		3. For growing cattle; growth promotion and feed efficiency.		
(vi) 85		For horses up to 1 year of age; growth promotion and feed efficiency.	Do not slaughter for food purposes.	
(vii) 100		For beef cattle over 700 lb in weight; aid in reduction of bacterial diarrhea; aid in prevention of foot rot.		
(viii) 350		1. For beef cattle; aid in preventon of bacterial pneumonia and shippings fever (hemorrhagic septicemia); aid in reduction of losses due to respiratory infection (infectious rhinotracheitis, shipping fever complex).	Not to be administered within 48 h of slaughter.	
		2. For beef cattle up to 700 lb in weight; aid in prevention of anaplasmosis.	do.	
	Sulfamethazine 350	For beef cattle; aid in the maintenance of weight gains in the presence of respiratory disease such as shipping fever.	Feed to 28 d; withdraw 7 d prior to slaughter.	
(ix) 500		For beef cattle 700 to 1,000 lb in weight; aid in prevention of anaplasmosis.	Not to be administered within 48 h of slaughter.	
(x) 750		For beef cattle 1,000 to 1,500 lb in weight; aid in prevention of anaplasmosis.	do.	

(4) Chlortetracycline may also be used in combination with:

(i) Amprolium as in § 558.55.

(ii) Amprolium plus ethopabate as in § 558.58.

(iii) Buquinolate as in § 558.105.

(iv) Clopidol as in § 558.175.

(v) Decoquinate as in § 558.195.

(vi) [Reserved]

(vii) Hygromycin B as in § 558.274.

(viii) Robenidine hydrochloride as in § 558.515.

(ix) Roxarsone as in § 558.530.

(x) Zoalene as in § 558.680.

§ 558.145 Chlortetracycline, penicillin procaine, and sulfamethazine.

(a) *Specifications.* (1) The antibiotic substance refers to the antibiotic or feed-grade antibiotic.

(2) [Reserved]

(3) [Reserved]

(4) The antibiotic activities are expressed in terms of the appropriate antibiotic standards.

(5) Type C medicated feed contains in each ton, 100 grams of chlortetracycline, 50 grams of penicillin as penicillin procaine and 100 grams of sulfamethazine.

(b) *Approvals.* Type A medicated article: 20 grams of chlortetracycline per pound, 4.4 percent (20 grams) of sulfamethazine, and pencillin procaine equivalent in activity to 10 grams of penicillin per pound to 000196 and 010042 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) [Reserved]

(e) *Related tolerances.* See §§ 556.150, 556.510, and 556.670 of this chapter.

(f) *Conditions of use.* (1) It is administered to swine for reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery); prevention of these diseases during times of stress; maintenance of weight gains in the presence of atrophic rhinitis; growth promotion and increased feed efficiency in swine weighing up to 75 pounds.

(2) Withdraw 7 days prior to slaughter.

§ 558.155 Chlortetracycline, penicillin procaine, and sulfathiazole.

(a) *Specifications.* (1) The antibiotic substance refers to the antibiotic or feed-grade antibiotic.

(2) [Reserved]

(3) [Reserved]

(4) The antibiotic activities are expressed in terms of the appropriate antibiotic standards.

(b) *Approvals.* (1) Type A medicated articles: 20 grams of chlortetracycline hydrochloride, 4.4 percent (20 grams) sulfathiazole, and penicillin procaine, equivalent to 10 grams of penicillin per pound, to 025001 in § 510.600(c) of this chapter.

(2) Type A medicated articles: 40 grams of chlortetracycline hydrochloride, 8.8 percent (40 grams) sulfathiazole, and penicillin procaine equivalent to 20 grams of penicillin per pound, to 025001 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) [Reserved]

(e) *Related tolerances.* See §§ 556.150, 556.510, and 556.690 of this chapter.

(f) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* Chlortetracycline, 100 grams plus penicillin, 50 grams plus sulfathiazole, 100 grams.

(2) *Indications for use.* For increased rate of weight gain and improved feed efficiency in animals up to 6 weeks postweaning. For increased rate of weight gain in animals from 6 to 16 weeks postweaning. Maintenance of weight gains in the presence of atrophic rhinitis; reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery).

(3) *Limitations.* For swine raised in confinement (dry-lot) or on limited pasture; withdraw 7 days prior to slaughter; as penicillin procaine and chlortetracycline hydrochloride, as follows:

Minimum Amount of Type C Medicated Feed Article Which the Animal Should Consume

Type of feed	Approximate body weight in pounds	Minimum desired daily feed intake in pounds
Prestarter (up to 6 weeks' postweaning)	20	1
Starter (up to 6 weeks' postweaning)	55	1½
Grower (6 to 16 weeks' postweaning)	80	2
Finisher (6 to 16 weeks' postweaning)	150	5

§ 558.175 Clopidol.

(a) [Reserved]

(b) *Approvals.* (1) Type A medicated articles: 25-percent to 025700 in § 510.600(c) of this chapter.

(2) [Reserved]

(3) Type A medicated article combinations of clopidol 25 percent, roxarsone 10 percent, and bacitracin methylene disalicylate, 4, 10, 15, or 25 grams per pound to 025700 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.160 of this chapter.

(e) *Conditions of use.* It is used as follows:

(1) *Broiler chickens*—(i). *Amount per ton.* Clopidol 113.5 grams (0.0125 percent).

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Do not feed to chickens over 16 weeks of age.

(ii) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus roxarsone, 45.4 grams (0.005 percent).

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; improved pigmentation.

(*b*) *Limitations.* Do not feed to chickens over 16 weeks of age withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus roxarsone, 45.4 grams (0.005 percent) plus bacitacin, 4–25 grams.

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; improved pigmentation; increased rate of weight gain..

(*b*) *Limitations.* Do not feed to chickens over 16 weeks of age withdraw 5 days before slaughter; as sole source of organic arsenic; as bacitracin methylene disalicylate, provided by 046573 in § 510.600(c) of this chapter; or as bacitracin zinc provided by 012769.

(iv) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus bacitracin zinc, 5 to 25 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Feed continuously as sole ration. Bacitracin zinc as provided by 012769 in § 510.600(c) of this chapter.

(v) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus bacitracin methylene disalicylate, 4 to 50 grams per ton.

(*a*) *Indications for use.* For increased rate of weight gain; to aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. mivati,* and *E. brunetti.*

(*b*) *Limitations.* Feed continuously as the sole ration from the time chicks are placed in floor pens until slaughter. Do not feed to chickens over 16 weeks of age. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.

(vi) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus lincomycin, 2–4 grams.

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati;* increase in rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* As lincomycin hydrochloride monohydrate; do not feed to chickens over 16 weeks of age.

(2) *Broiler chickens and replacement chickens.* (i) *Amount per ton.* Clopidol, 113.5 or 227 grams (0.0125 or 0.025 percent).

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Feed up to 16 weeks of age if intended for use as caged layers; feed continuously as the sole ration; withdraw 5 days before slaughter if given at the level of 0.025 percent in type C medicated feed or reduce level to 0.0125 percent 5 days before slaughter.

(ii) *Amount per ton.* 113.5 grams (0.0125 percent) clopidol with 200 grams chlortetracycline.

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. mivati,* and *E. brunetti,* and infectious synovitis caused by *Mycoplasma synoviae.*

(*b*) *Limitations.* Feed continuously as sole ration from the time chicks are

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placed in floor pens, up to 21 days of age.

(3) [Reserved]

(4) *Replacement chickens*—(i) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent).

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* For replacement chickens intended for use as caged layers; do not feed to chickens over 16 weeks of age.

(ii) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus roxarsone 45.4 grams (0.005 percent).

(*a*) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati; growth promotion and feed efficiency; improving pigmentation.*

(*b*) *Limitations.* For replacement chickens intended for use as caged layers; do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic.

(5) *Turkeys*—(i) Amount per ton. Clopidol, 113.5 or 227 grams (0.0125 or 0.025 percent).

(ii) *Indications for use.* Aid in the prevention of leucocytozoonosis caused by *Leucocytozoon smithi.*

(iii) *Limitations.* For turkeys grown for meat purposes only; to be administered continously in Type C medicated feed at 0.0125 or 0.025 percent clopidol as the sole ration depending upon management practices, degree of exposure, and amount of feed eaten; withdraw 5 days before slaughter.

§ 558.185 Coumaphos.

(a) [Reserved]

(b) *Approvals.* (1) Type A medicated articles: 1.12, 2.0, 11.2, and 50 percent for use as in paragraph (f) of this section to 000859 in § 510.600(c) of this chapter.

(2) Type A medicated articles: 1.12 and 11.2 percent for use as in paragraph (f)(1)(ii) of this section to 017800.

(c) [Reserved]

(d) *Special considerations.* Warning—Coumaphos is a cholinesterase inhibitor. Do not use this product simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals. Atropine is antidotal.

(e) *Related tolerances.* See 40 CFR 180.189.

(f) *Conditions of use.* It is used as follows:

(1) *Beef and dairy cattle*—(i) *Amount.* Coumaphos 0.00012 lb. (0.054 gram) per 100 lb. body weight per day.

(*a*) *Indications for use.* As an aid in the reduction of fecal breeding flies through control of fly larvae.

(*b*) *Limitations.* Feed for the duration of fly season in a feed containing 0.0033 percent not over 0.0066 percent coumaphos; do not feed to animals less than 3 months old; not for use in pelleted feed.

(ii) *Amount.* Coumaphos, 0.0002 lb. (0.091 gram) per 100 lb. body weight per day.

(*a*) *Indications for use.* Control of gastrointestinal roundworms (*Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Trichostrongylus spp.*).

(*b*) *Limitations.* Feed for 6 consecutive days in the normal grain ration to which the animals are accustomed but not in rations containing more than 0.1 percent coumaphos; do not feed to animals less than 3 months old do not feed to sick animals or animals under stress, such as those just shipped, dehorned, castrated, or weaned within the last 3 weeks; do not feed in conjunction with oral drenches or with feeds containing phenothiazine. Should conditions warrant, repeat treatment at 30-day intervals.

(2) *Laying chickens*—(i) *Amount.* Coumaphos 27.2 grams per ton (0.003 percent).

(ii) *Indications for use.* For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common roundworm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*).

(iii) *Limitations.* Administer continuously for 14 days; when reinfection occurs, treatment may be repeated but not sooner than 3 weeks after the end of the previous treatment; do not feed to chickens within 10 days of vaccination or other conditions of stress; treatment of colored breeds of commercial layers should be avoided while in production since these breeds appear to be more sensitive to coumaphos than white breeds; as sole medication; medications in general should be avoided while birds are approaching peak production; such interruption of normal feeding practices may upset the flock and lower egg production; diagnosis by competent personnel is essential; flock condition and production records should be carefully evaluated prior to treatment.

(3) *Replacement pullets*—(i) *Amount.* Coumaphos 36.3 grams per ton (0.004 percent).

(ii) *Indications for use.* For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common roundworm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*).

(iii) *Limitations.* Administer before the onset of production; diagnosis by competent personnel is essential; administer continuously for from 10 to 14 days; do not feed to chickens under 8 weeks of age nor within 10 days of vaccination or other conditions of stress; if birds are maintained on contaminated litter or exposed to infected birds, a second 10 to 14 day treatment is recommended but not sooner than 3 weeks after the end of the previous treatment; as sole medication; if reinfection occurs after production begins, repeat treatment as recommended for laying flocks.

§ 558.195 Decoquinate.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated articles: 6 percent to 011801 in § 510.600(c) of this chapter.

(d) [Reserved]

(e) *Related tolerances.* See § 556.170 of this chapter.

(f) *Special considerations.* Bentonite should not be used in decoquinate containing medicated feeds.

(g) *Conditions of use.* (1) It is used as follows:

Table 1

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
27.2 (0.003 pct)		Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima,* and *E. brunetti.*	Do not feed to laying chicken	011801
	Bacitracin 10 to 50	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima,* and *E. brunetti;* for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; feed as sole ration; as bacitracin zinc provided by 012769 in sec. 510.600(c) of this chapter.	011801
	Chlortetracycline 200	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria Tenella, E. necatrix, E. acervulina, E. maxima,* and *E. brunetti;* for the treatment of chronic respiratory disease (air-sac infection), prevention of synovitis.	Do not feed to laying chickens; in low calcium Type C medicated feed articles containing 0.8 pct of calcium; not to be fed continuously for more than 8 weeks; as chlortetracycline hydrochloride provided by 010042 in sec. 510.600(c) of this chapter.	
	Roxarsone 45.4 (0.005 pct).	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima,* and *E. brunetti;* growth promotion and feed efficiency; improving pigmentation.	Do not feed to laying chickens; withdraw 5 d before slaughter, as sole source of organic arsenic.	011801
	Lincomycin 2	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria Tenella, E. necatrix, E. acervulina, E. maxima, E. mivati,* and *E. brunetti;* for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; feed as sole ration; as lincomycin hydrochloride monohydrate provided by 000009 in sec. 510.600(c) of this chapter.	000009, 011801
	Roxarsone 11 to 45 (0.0012–0.005 pct) plus bacitracin 2 to 50.	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. Mivati, E. maxima,* and *E. brunetti;* for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of organic arsenic; as bacitracin zinc provided by 012769 in sec. 510.600(c) of this chapter; as roxarsone provided by 017210.	011801

Table 2

Decoquinate	Combination in grams per ton	Indications for use	Limitations	Sponsor
22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram).		Cattle; as an aid in the prevention of coccidiosis in ruminating calves and cattle caused by *Eimeria bovis* and *E. zurnii.*	Administer as a feed containing 0.0015 to 0.003 pct decoquinate, or 0.05 to 0.5 pct decoquinate. Feed for at least 28 d during periods of coccidiosis or when it is likely to be a hazard. Do not feed to breeding animals or cows producing milk for food. .0015—.003 pct feed should be consumed within 7 d of manufacture, 0.5—.5 pct feed within 2 mo.	011801

§ 558.205 Dichlorvos.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 9.6 percent to 025001 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Special considerations.* (1) Dichlorvos is to be included in meal or mash or mixed with feed in crumble form only after the crumble feed has been manufactured. Do not mix in feed to be pelleted nor with pelleted feed. Do not soak the feed or administer as wet mash. Type C medicated feed must be dry when administered. Do not use in animals other than swine. Do not allow fowl access to feed containing dichlorvos or to feces from treated animals.

(2) Dichlorvos is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(e) *Related tolerances.* See § 556.180 of this chapter.

(f) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* Dichlorvos, 348 grams (0.0384 percent).

(i) *Indications for use.* For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum sp. p.*), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) of the gastrointestinal tract.

(ii) *Limitations.* For swine up to 70 pounds body weight, feed as sole ration for 2 consecutive days. For swine from 70 pounds to market weight, feed as sole ration at the rate of 8.4 pounds of feed per head until feed has been consumed. For boars, open or bred gilts, and sows, feed as sole ration at the rate of 4.2 pounds per head per day for 3 consecutive days.

(2) *Amount per ton.* Dichlorvos, 479 grams (0.0528 percent).

(i) *Indications for use.* For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum sp. p.*), large roundworm (*Ascaris suum*), and the

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thick stomach worm (*Ascarops strongylina*) of the gastrointestinal tract.

((ii) *Limitations.* For boars, open or bred gilts, and sows, feed as sole ration at the rate of 6 pounds per head for one feeding.

(3) *Amounts per ton.* Dichlorvos, 334–500 grams (0.0366–0.0550 percent).

(i) *Indications for use.* An aid in improving litter production efficiency by increasing pigs born alive, birth weights, survival to market, and rate of weight gain. Treatment also removes and controls mature, immature and/or fourth-stage larvae of whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum sp. p.*), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) occurring in the gastrointestinal tract of the sow or gilt.

(ii) *Limitations.* For pregnant swine; mix into a gestation feed to provide 1,000 milligrams per head daily during last 30 days of gestation.

§ 558.240 Dimetridazole.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 30 percent to 017210 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.210 of this chapter.

(e) *Conditions of use.* It is used for turkeys as follows:

(1) *Amount per ton.* 136 to 182 grams (0.015 to 0.02 percent).

(i) *Indications of use.* For prevention of blackhead (histomoniasis, infectious enterohepatitis), growth promotion and feed efficiency.

(ii) *Limitations.* Feed continuously; do not feed to birds producing eggs for human consumption; withdraw 5 days before slaughter; as sole source of dimetridazole.

(2) *Amount per ton.* 544 to 725 grams (0.06 to 0.08 percent).

(i) *Indications for use.* As an aid in the control of blackhead (histomoniasis, infectious enterohepatitis).

(ii) *Limitations.* Feed for not more than 7 days; do not feed to birds producing eggs for human consumption; withdraw 5 days before slaughter; as sole source of dimetridazole.

§ 558.248 Erythromycin thiocyanate.

(a) *Approvals.* Type A medicated articles: 2.2 percent (10 grams per pound) to 043731 in § 510.600(c) of this chapter for use in swine feed; 11 percent (50 grams per pound) to 043731 for chicken, turkey, and cattle feed.

(b) [Reserved]

(c) *Special considerations.* The levels of antibiotic are expressed in terms of erythromycin master standard. One gram of erythromycin thiocyanate is equivalent to 0.925 gram of erythromycin master standard.

(d) *Related tolerances.* See § 556.230 of this chapter.

(e) *Conditions of use*—(1) It is used as follows:

Erythromycin thiocyanate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4.6 to 18.5		Chickens; growth promotion and feed efficiency		
(ii) 9.25 to 18.5		Turkeys; growth promotion and feed efficiency	For turkeys not over 12 weeks of age	
(iii) 9.25 to 64.75		Swine; increase in weight grain, improved feed efficency in starter pigs (9.25 to 64.75) and grower-finishing pigs (9.25).	Starter ration for animals up to 35 lb body weight	043731
(iv) 18.5		Laying chickens; aid in increasing egg production		
(v) 92.5		1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter.	
		2. Chickens; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 24 h before slaughter	
		3. Turkeys; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress	
(vi) 185		1. Chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	
		2. Turkeys; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes.	

(2) It is used for feedlot beef cattle at 37 milligrams per head per day as an aid in stimulating growth and improving feed efficiency.

(3) Erythromycin thiocyanate may also be used in combination with:

(i) Amprolium as in § 558.55.

(ii) Amprolium and ethopabate as in § 558.58.

(iii) Arsanilic acid as in § 558.62.

(iv) Zoalene as in § 558.680.

§ 558.254 Famphur.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 13.2 and 33.3 percent to 010042 in § 510.600(c) of this chapter.

(c) *Special considerations.* Famphur is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *Related tolerances.* See 40 CFR 180.233.

(e) *Conditions of use.* It is used for cattle as follows:

(1) *Amount.* 1.1 milligrams per pound body weight per day.

(i) *Indications for use.* For control of grubs and as an aid in control of sucking lice.

(ii) *Limitations.* For beef cattle and nonlactating dairy cows; feed for 30 days; withdraw from dry diary cows and heifers 21 days prior to freshening; withdraw 4 days prior to slaughter.

(2) *Amount.* 2.3 milligrams per pound body weight per day.

(i) *Indications for use.* For control of grubs.

(ii) *Limitations.* For beef cattle and nonlactating dairy cows; feed for 10 days; withdraw from dry dairy cows and heifers 21 days prior to freshening; withdraw 4 days prior to slaughter.

§ 558.262 Furazolidone.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 10, 50, and 100 grams per pound to 000007 and 011801 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.290 of this chapter.

(e) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* 150 grams (0.0165 percent).

(i) *Indications for use.* In sows, for prevention of bacterial scours in baby pigs; growth promotion while on medication.

(ii) *Limitations.* Feed 1 week before farrowing and 2 weeks after farrowing.

(2) *Amount per ton.* 100 to 200 grams (0.011 to 0.022 percent).

(i) *Indications of use.* Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication.

(ii) *Limitations.* Feed 100 grams per ton for 5 weeks; or 150 grams per ton for 3 weeks; or 200 grams per ton for 2 weeks.

(3) *Amount per ton.* 300 grams (0.033 percent).

(i) *Indications for use.* Treatment of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication.

(ii) *Limitations.* Feed 10 to 14 days.

§ 558.266 Griseofulvin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 35 percent (160 grams per pound) to 000085 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use.* It is used for chinchillas as follows:

(1) *Amount.* 160 milligrams per pound (0.0353 percent).

(2) *Indications for use.* Prevention, treatment, and control of fungal infections caused by *Trichophyton,* and as an aid in the prevention of fur chewing associated with these fungal infections.

(3) *Limitations.* Administer as sole ration.

§ 558.274 Hygromycin B.

(a) *Approvals.* Type A medicated article: 2.4 and 8 grams to 000986 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) [Reserved]

(d) *Related tolerances.* See § 556.330 of this chapter.

(e) *Conditions of use.* It may be used as follows:

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12		Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Withdraw 3 days before slaughter	000986
	Bacitracin 100	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (airsac infection), blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate or bacitracin zinc, withdraw 3 days before slaughter.	
	Bacitracin plus penicillin (100 to 200 of combination).	1. Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (airsac infection), blue comb (nonspecific infectious enteritis).	Feed containing not less than 25% of penicillin plus not less than 50% of bacitracin; as penicillin procaine plus bacitracin methylene disalicylate; withdraw 3 days before slaughter.	
		2. Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (airsac infection), blue comb (nonspecific infectious enteritis).	Combination containing not less than 50% nor more than 75% of bacitracin, except that it contains not more than 125 g of penicillin; as penicillin procaine plus bacitracin zinc, withdraw 3 days before slaughter.	
		3. Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (airsac infection), blue comb (nonspecific infectious enteritis).	Combination containing 50% to 75% bacitracin, but not more than 125 g of penicillin, as penicillin procaine, withdraw 3 days before slaughter.	
	Chlortetracycline 100 to 200.	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (airsac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; withdraw 3 days before slaughter.	
	Penicillin 100	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (airsac infection), blue comb (nonspecific infectious enteritis).	As penicillin procaine, withdraw 3 days before slaughter	
	Penicillin plus streptomycin (90 to 180 of combination).	do	Feed containing 16.7% of penicillin; as penicillin procaine plus streptomycin sulfate; withdraw 3 days before slaughter.	
	Tylosin 4 to 50	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); growth promotion and feed efficiency.	As tylosin phosphate withdraw 3 days before slaughter	000986
(ii) 12		Swine; control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostenum dentatum*) and whipworms (*Trichuris suis*).	Withdraw 15 days before slaughter	000986
	Chlortetracycline 100 to 200	Swine; control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostenum dentatum*) and whipworms (*Trichuris suis*); treatment of bacterial swine enteritis.	As chlortetracycline hydrochloride; withdraw 15 days before slaughter	
Tylosin 10 to 100		Swine: Control of infestations of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostomum dentatum*), and whipworms (*Trichuris suis*); growth promotion and feed efficiency.	As tylosin phosphate; withdraw 15 days prior to slaughter, feed continuously as follows:.	000986

Animal wt (lbs.)	Amount of tylosin (g/t)
Up to 40	20 to 100
41 to 100	20 to 40
101 to market wt	10 to 20

(2) Hygromycin B may also be used in combination with:

(i) Amprolium as in § 558.55.

(ii) Zoalene as in § 558.680.

§ 558.295 Iodinated casein.

(a) *Approvals.* See 017762 in § 510.600(c) of this chapter.

(b) *NAS/NRC status.* The use of this drug is NAS/NRC reviewed and found effective. Applications for these uses need not include efficacy data as required by § 514.111 of this chapter but may require bioequivalency or safety data.

(c) *Conditions of use.* (1) *Ducks.*—(i) *Amount per ton.* 100 to 200 grams.

(ii) *Indications for use.* For increased rate of weight gain and improved feathering in growing ducks.

(2) *Dairy cows*—(i) *Amount per pound.* ½ to 1½ grams per 100 lb of body weight.

(ii) *Indications for use.* For increased milk production in dairy cows.

(iii) *Limitations.* This drug is effective for limited periods of time, and the effectiveness is limited to the declining phase of lactation. Administration must be accompanied with increased feed intake; administration may increase heat sensitivity of the animal.

§ 558.305 Ipronidazole.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 12.5 percent to 000004 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.340 of this chapter.

(e) [Reserved]

(f) *Conditions of use.* It is used for turkeys as follows:

(1) *Amount per ton.* Ipronidazole, 56.75 grams (0.00625 percent).

(i) *Indication for use.* As an aid in the prevention of blackhead (histomoniasis). For increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* Withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food.

(2) *Amount per ton.* Ipronidazole, 56.75 grams (0.00625 percent) plus sulfadimethoxine, 56.75 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent).

(i) *Indications for use.* As an aid in the prevention of blackhead (histomoniasis) and coccidiosis caused by all Eimeria species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis*, and *E. meleagrimitis*; bacterial infections due to *P. multocida* (fowl cholera).

(ii) *Limitations.* Withdraw 5 days before slaughter. Do not feed to turkeys producing eggs for food.

(3) *Amount per ton.* Ipronidazole, 227 grams (0.025 percent).

(i) *Indications for use.* For the treatment of blackhead (histomoniasis) in turkeys.

(ii) *Limitations.* Withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food. Feed for 7 days at the 0.025 percent level. Follow treatment with the preventive level (0.00625 percent) of ipronidazole.

§ 558.311 Lasalocid sodium.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 68 and 90.7 grams per pound of lasalocid sodium activity to 000004 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerance.* See § 556.347 of this chapter.

(e) *Conditions of use.* It is used for broiler or fryer chickens as follows:

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(1) 68 (0.0075 pct) to 113 (0.0125 pct).	....	For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati*, and *E. maxima*.	For broiler or fryer chickens only, feed continuously as the sole ration; withdraw 3 days before slaughter.	000004
(2) 68 (0.00075 pct) to 113 (0.0125 pct).	Roxarsone 45.4 (0.005 pct).	For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati*, and *E. maxima* and as an aid in the reduction of lesions due to E. tenella.	For broiler or fryer chickens only; feed continuously as the sole ration; as sole source of organic arsenic; withdraw 5 days before slaughter, roxarsone provided by 017210 and 011801 in sec. 510.600(c) of this chapter.	000004
(3) 68 (0.0075 pct)	Lincomycin 2 (0.00044 pct).	For the prevention of coccidiosis caused by *Eimeria mivati, E. brunetti, E. tenella, E. acervulina, E. maxima*, and *E. necatrix*; for increased rate of weight gain and improved feed efficiency.	For broiler and fryer chickens only; feed continuously as sole ration; withdraw 5 days before slaughter; finished feed must be used within 4 weeks of manufacture; as lincomycin hydrochloride monohydrate.	000004
(4) 68 (0.0075 pct)	Bacitracin 10 to 50	For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati*, and *E. maxima*, and for increased rate of weight gain and improved feed efficiency.	For broiler and fryer chickens only; feed continuously as sole ration; withdraw 3 days before slaughter; bacitracin methylene disalicylate provided by 046573 in § 510.600(c) of this chapter.	000004

§ 558.315 Levamisole hydrochloride (equivalent).

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* Type A medicated articles: 227 grams per pound to No. 043781 in § 510.600(c) of this chapter.

(d) [Reserved]

(e) *Related tolerances.* See § 556.350 of this chapter.

(f) [Reserved]

(g) *Conditions of use.* It is used as follows:

(1) *Cattle*—(i) *Amount per pound.* 0.36–3.6 grams (0.08–0.8 percent).

(ii) *Indications for use.* Treatment of the following gastrointestinal worms and lung worm infections; stomach worms (*Hawmonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus Cooperia, Nematodirus, Bunostomum, Oesophagostomum*), and lungsworms (*Dictyocaulus*).

(iii) *Limitations.* Administer mixed thoroughly in one half the usual amount of morning feed; the mixed feed should be consumed within 6 hours; when the mixed feed is consumed resume normal feeding; mixed Type C medicated feed is to be fed at the rate of 0.36 grams of levamisole hydrochloride (equivalent) per 100 lb. of body weight; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 48 hours of treatment; consult veterinarian before using in severely debilitated animals; do not administer to dairy animals of breeding age; for use in pelleted or meal feed only; the label shall bear the caution, "Muzzle foam may be observed. However, this reaction will disappear within a few hours. If this condition persists, a veterinarian should be consulted. Follow recommended dosage carefully."

(2) *Swine*—(i) *Amount per pound.* 0.36 grams (0.08 percent).

(ii) *Indications for use.* Treatment of the following nematode infections: large roundworms (*Ascaris suum*), nodular worms (*Oesophagostomum* spp.), lungworms (*Metastrongylus* spp.), intestinal threadworms (*Strongyloides ransomi*), swine kidney worms (*Stephanurus dentatus*).

(iii) *Limitations.* It is recommended that regular feed be withheld overnight and Type C medicated feed administered the following morning; feed 1 lb. of 0.08 percent Type C medicated feed per 100 lbs. of body weight of pigs to be treated; may be fed as sole feed or thoroughly mixed with 1 to 2 parts of regular feed prior to feeding; when mixed feed is consumed, resume normal feeding. Pigs maintained under conditions of constant worm exposure may require retreatment within 4 to 5 weeks after the first treatment due to reinfection; do not slaughter for food within 72 hours of treatment; the label shall bear the caution, "Excessive salivation or muzzle foam may be observed. This reaction is occasionally seen and will disappear in a short time after medication. If pigs are infected with mature lungworms, coughing and vomiting may be observed soon after Type C medicated feed is consumed. This reaction is due to the expulsion of worms from the lungs and will be over in several hours."

§ 558.325 Lincomycin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 4 grams per pound to 000009 in § 510.600(c) of this chapter for use as in paragraphs (f)(1) and (f)(3) of this section; 20 grams per pound to 000009 for use as in paragraph (f) (1), (2), and (3).

(c) [Reserved]

(d) *Related tolerances.* See § 556.360 of this chapter.

(e) [Reserved]

(f) *Conditions of use.* (1) Broilers. It is used as follows:

(i) *Amount per ton.* 2 to 4 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* As lincomycin hydrochloride monohydrate.

(ii) *Amount per ton.* 2 grams.

(*a*) *Indications for use.* For control of necrotic enteritis caused by *Clostridium spp.* or other susceptible organisms.

(*b*) *Limitations.* As lincomycin hydrochloride monohydrate.

(2) *Swine.* It is used as follows:

(i) *Amount per ton.* 40 grams.

(*a*) *Indications for use.* For control of swine dysentery.

(*b*) *Limitations.* Feed as sole ration; for use in swine on premises with a history of swine dysentery but where symptoms have not yet occurred; not for use in breeding swine; withdraw 6 days before slaughter.

(ii) *Amount per ton.* 100 grams; then 40 grams.

(*a*) *Indications for use.* For treatment and control of swine dysentery.

(*b*) *Limitations.* Feed 100 grams per ton for 3 weeks or until signs of disease disappear, followed by 40 grams per ton; feed as sole ration; not for use in breeding swine; withdraw 6 days before slaughter.

(iii) *Amount per ton.* 100 grams.

(*a*) *Indications for use.* For treatment of swine dysentery.

(*b*) *Limitations.* Feed as sole ration for 3 weeks or until signs of disease disappear; not for use in breeding swine; withdraw 6 days before slaughter.

(3) Lincomycin may also be used for broilers in combination with:

(i) Amprolium, ethopabate, and roxarsene as in §§ 558.58 and 558.530.

(ii) Amprolium and ethopabate as in § 558.58.

(iii) Clopidol as in § 558.175.

(iv) Buquinolate as in § 558.105.

(v) Decoquinate as in § 558.195.

(vi) Zoalene as in § 558.680.

(vii) Monensin as in § 558.355.

(viii) Robenidine hydrochloride as in § 558.515.

(ix) Roxarsone and monensin sodium as in §§ 558.355 and 558.530.

(x) Lasalocid sodium as in § 558.311.

(xi) Nicarbazin and roxarsone as in § 558.366.

(xii) Nicarbazin as in § 558.366.

§ 558.342 Melengestrol acetate.

(a) *Approvals.* Dry Type A medicated articles: 100 milligrans of melengestrol acetate per pound; liquid Type A medicated articles: 500 milligrams of melengestrol acetate per pound, to 000009 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) [Reserved]

(d) *Related tolerances.* See § 556.380 of this chapter.

(e) *Conditions of use.* It is used for heifers as follows:

(1) *Amount.* 0.25 to 0.50 milligram per head per day.

(2) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and suppression of estrus (heat).

(3) *Limitations.* Heifers being fed for slaughter; withdraw 48 hours prior to slaughter.

§ 558.355 Monensin.

(a) *Specifications.* Monensin is present as monensin or the sodium salt. A mininum of 90 percent of monensin activity is derived from monensin A.

(b) *Approvals.* Approvals for Type A medicated articles containing specified levels of monensin activity to firms identified in § 510.600(c) of this chapter for conditions of use indicated in paragraph (f) of this section are as follows:

(1) To 000986: 36.3 (for export only), 44, 45, or 60 grams per pound, paragraph (f) (1)(i) and (4) of this section.

(2) To 000986: 110 grams per lb., paragraph (f)(1) (i), (iii), (iv), (v), (ix), and (x).

(3) To 000986: 44 grams per lb. with 18 grams per lb. of roxarsone; 110 grams per lb. with 45 grams per lb. of roxarsone, paragraph (f)(1)(ii).

(4) To 012286; 303.5 grams per ton, as monensin sodium, with .0138 percent roxarsone, paragraph (f)(1)(ii).

(5)–(6) [Reserved]

(7) To 000986: 20, 30, 45, or 60 grams per pound, as monensin sodium, paragraph (f)(3).

(c) [Reserved]

(d) *Special considerations.* (1) Type C medicated chicken feed containing monensin as the mycelial cake shall bear an expiration date of 90 days after its date of manufacture.

(2) Type C medicated cattle feeds containing 30 grams or less monensin sodium per ton shall bear an expiration date of 30 days after its date of manufacture.

(3)–(4) [Reserved]

(5) Liquid Type C medicated feeds shall bear an expiration date of 8 weeks after its date of manufacture.

(e) *Related tolerances.* See § 556.420 of this chapter.

(f) *Conditions of use.* It is used as follows:

(1) *Broiler chickens*—(i) *Amount per ton.* Monensin, 90–110 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 72 hours before slaughter; as monensin or monensin sodium.

(ii) *Amount per ton.* Monensin, 90–110 grams, plus roxarsone, 45.4 grams (0.005 percent).

(*a*) *Indications for use.* Growth promotion and feed efficiency, improving pigmentation; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as monensin or monensin sodium.

(iii) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 5–25 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as bacitracin methylene disalicylate provided by 046573 in § 510.600(c) of this chapter; as monensin sodium.

(iv) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 10 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as bacitracin zinc provided by 012769 in § 510.600(c) of this chapter; as monensin sodium.

(v) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 10–30 grams.

(*a*) *Indications for use.* For improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as bacitracin zinc provided by 012769 in § 510.600(c) of this chapter; as monensin sodium.

(vi) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 gram. See § 558.95(e)(1)(vi).

(vii) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 gram plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent). See § 558.95(e)(1)(vii).

(viii) *Amount per ton.* Monensin, 90 to 110 grams plus oxytetracycline, 200 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* for the control of complicated chronic respiratory disease (CRD or air-sac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli.*

(*b*) *Limitations.* Withdraw 72 hours before slaughter; do not feed to laying chickens; feed continuously as sole ration; as monensin sodium.

(ix) *Amount per ton.* Monensin, 90–110 grams plus lincomycin, 2 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; to be fed as a sole ration, withdraw 72 hours before slaughter; as monensin sodium.

(x) *Amount per ton.* Monensin, 90–110 grams plus lincomycin, 2 grams and roxarsone, 15–45 grams.

(*a*) *Indications for use.* For increase in rate of weight gain; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as roxarsone provided by 017210 in § 510.600(c) of this chapter; as monensin sodium provided by 000986; as lincomycin provided by 000009; as a combination provided by 000009.

(xi) *Amount per ton.* Monensin, 90 to 110 grams, plus lincomycin, 2 grams and roxarsone, 15 to 30 grams.

(*a*) *Indications for use.* For increase in rate of weight gain, improved feed efficiency, improved pigmentation, and as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as roxarsone provided by 017210 in § 510.600(c) of this chapter; as monensin sodium provided by 000986; as lincomycin provided by No. 000009; as a combination provided by 000009.

(xii) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin methylene disalicylate, 25 grams, and roxarsone, 11.3 to 22.7 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. maxima,* and *E. mivati;* for increased rate of weight gain and for improved feed efficiency.

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as monensin sodium provided by 000986 in § 510.600 of this chapter; as bacitracin methylene disalicylate provided by 046573; as roxarsone provided by 011801.

(2) [Reserved]

(3) *Cattle*—(i) *Amount per ton.* Monensin, 5–30 grams.

(a) Indications for use. Improved feed efficiency.

(b) Limitations. Feed only to cattle being fed in confinement for slaughter. Feed continuously at a rate of 50 to 360 milligrams of monensin per head per day; as monensin sodium. Type C medicated feeds may be manufactured from monensin liquid Type B or Type C medicated feeds which contain a minimum of 20 percent molasses in combination with any of the following feed ingredients or their equivalents: condensed fermentation solubles, whey, ammonium, polyphosphate, sodium hydroxide, phosphoric acid, fat, sulfuric acid, attapulgite clay, water, urea, vitamins, and/or minerals; a pH of 4.3 to 6; agitate until homogenous prior to use; mix thoroughly with grain and/or roughage prior to feeding. Do not allow horses or other equines access to feed containing monensin. Ingestion of monensin by horses has been fatal.

(ii) *Amount per ton.* Monensin, 10 to 30 grams, plus tylosin, 10 grams.

(a) Indications for use. Improved feed efficiency; for reduction of incidence of liver abscesses caused by *Sphaerophorus necrophorus* and *Corynebacterium pyogenes.*

(b) Limitations. Feed only to cattle being fed in confinement for slaughter. Feed continuously as sole ration at the rate of 100 to 360 milligrams of monensin and 90 milligrams of tylosin per head per day; as monensin sodium; as tylosin phosphate. Do not allow horses or other equines access to formulations containing monensin (ingestion of monesin by horses has been fatal).

(iii) *Amount per ton.* Monensin, 25 to 400 grams.

(a) Indications for use. Increased rate of weight gain.

(b) Limitations. Feed to pasture cattle (slaughter, stocker, and feeder) weighing more than 400 pounds. Feed at the rate of not less than 50 nor more than 200 milligrams per head per day in a minimum of 1 pound of feed, as monensin sodium. During the first 5 days of feeding, cattle should receive no more than 100 milligrams per day. Do not exceed the levels of monensin recommended in the feeding directions, as reduced average daily gains may result. Do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal).

(4) *Replacement chickens intended for use as cage layers*—(i) *Amount per ton.* Monensin, 90 to 110 grams.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(iii) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium; do not feed to chickens over 16 weeks of age.

§ 558.365 Nequinate.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles; 4 percent nequinate to 017800 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.440 of this chapter.

(e) *Special considerations.* Do not use in Type B or Type C medicated feed containing bentonite.

(f) *Conditions of use.* It is used as follows:

(1) *Broiler or fryer chickens*—(i) *Amount per ton.* Nequinate, 18.16 grams.

(a) Indications for use. An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(b) Limitations. Feed continuously as the sole ration.

(ii) *Amount per ton.* Nequinate, 18.16 grams (0.002 percent) plus roxarsone, 45.4 grams (0.005 percent).

(a) Indications for use. An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; for improving pigmentation.

(b) Limitations. Feed continuously as sole ration throughout the starting period; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Nequinate, 18.16 grams (0.002 percent) plus oxytetracycline, 200 grams.

(a) Indications for use. For control of complicated chronic respiratory disease (air-sac infection), infectious synovitis, and treatment of blue comb (nonspecific infectious enteritis).

(b) Limitations. As monoalkyl (C_8-C_{18}) trimethylammonium oxytetracycline as provided by No. 000069 in § 510.600(c) of this chapter.

(2) *Roaster chickens or replacement chickens for caged layers*—(i) *Amount per ton.* Nequinate, 18.16 grams (0.002 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(iii) *Limitations.* Feed continuously as the sole ration; do not feed to chickens over 16 weeks of age.

§ 558.336 Nicarbazin.

(a) *Approvals.* Type A medicated article: 25 percent nicarbazin to 000006 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) *Related tolerances.* See § 556.445 of this chapter.

(d) [Reserved]

(e) *Conditions of use.* It is used for chickens as follows:

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
113.5 (0.0125 pct)[1]		Chickens; aid in preventing outbreaks of cecal (*Eimena tenella*) and intestinal (*E. acervuline, E. maxima, E. necatrix,* and *E. brunetti*) coccidiosis[1].	Feed continously as sole ration from time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard; do not use as a treatment for coccidiosis; do no use in flusing mashes; do not feed to laying hens; withdraw 4 days before slaughter.	000006
	Lincomycin 2 (0.00044 pct).	Broiler chickens; aid in preventing outbreaks of cecal (*Eimena tenella*) and intestinal (*E. acervulina, E. maxima E. necatrix* and *E. brunetti*) coccidiosis; for increased rate of weight gain.	do	000006
113.5 (0.0125 pct)	Roxarsone 22.7 (0.0025)	do	Feed continuously as sole ration from time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard; as sole source of organic arsenic; do not use a treatment for coccidiosis; do not use in flushing mashes; do not feet to laying hens; withdraw 5 days before slaughter.	000006
	Roxarsone 22.7 (0.0025) plus linocomycin 2 (0.0004).	do	do	000006

[1] These claims are NAS/NRC reviewed and are found effective. Applications for these uses need not include the effectiveness data specified by § 514.111 of this chapter

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§ 558.367 Niclosamide.

(a) *Approvals.* Type A medicated articles: 66 percent to No. 000859 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) *Conditions of use.* It is used for laboratory mice as follows:

(1) *Amount per ton.* 6.6 pounds (0.033 percent).

(2) *Indications for use.* Control of the mouse tapeworm *Hymenolepis nana.*

(3) *Limitations.* Feed daily for 7 consecutive days. Do not administer other drugs during treatment. If reinfection occurs, treatment may be repeated after 30 days. Do not feed to sick or debilitated animals or animals under severe stress. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. When mixed according to directions and fed free choice, the Type C medicated feed will provide a daily dose of 500 milligrams per kilogram of body weight.

§ 558.370 Nitrofurazone.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals:* Type A medicated articles: 50 grams per pound to 000007 and 011801 in § 510.600(c) of this chapter.

(d) *Conditions of use.* It is used for mink as follows:

(1) *Amount per ton.* 100 to 200 grams (0.011 to 0.022 percent).

(i) *Indications for use.* Treatment of gray diarrhea.

(ii) *Limitations.* Feed 100 grams per ton for 3 days, then 200 grams per ton for 21 days (amount of active ingredient calculated on Type C medicated feed before water added); do not repeat treatment. Discard unused Type C medicated feed every 24 hours.

(2) *Amount per ton.* 100 grams (0.011 percent).

(i) *Indications for use.* Control of gray diarrhea.

(ii) *Limitations.* Feed continously during susceptible period, not to exceed 90 days (amount of active ingredient calculated on Type C medicated feed before water added). Discard unused mixed Type C medicated feed every 24 hours.

§ 558.376 Nitromide and sulfanitran.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 25 percent nitromide, 30 percent sulfanitran, with or without 5 percent roxarsone to 017210 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See §§ 556.220 and 556.660 of this chapter.

(e) *Condtions of use.* It is used for chickens as follows:

(1) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanitran (0.03 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix,* and *E. acervulina.*

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A medicated articles containing not more than 25 percent nitromide and 30 percent sulfanitran.

(2) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanitran (0.03 percent), plus 45.4 grams per ton roxasone (0.005 percent).

(i) *Indications for use.* Prevention of coccidiosis caused by *Eimeria tenella, E. necatrix,* and *E. acervulina; growth promotion and feed efficiency; improving pigmentation.*

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A medicated articles containing not more than 25 percent nitromide, 30 percent sulfanitran, and 5 percent roxarsone; as sole source of organic arsenic.

§ 558.415 Novobiocin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 25 grams of novobiocin activity per pound to 000009 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) [Reserved]

(e) *Related tolerances.* See § 556.460 of this chapter.

(f) *Conditions of use.* It is used as follows:

(1) *Chickens*—(i) *Amount.* Novobiocin, 6–7 mgs. per lb. body weight per day.

(*a*) *Indications for use.* Aid in the treatment of breast blisters associated with staphylococcal infections susceptible to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type C medicated feed which contains not less than 200 grams of novobiocin activity per ton; not for laying chickens; feed 5 to 7 days; withdraw 4 days before slaughter.

(ii) *Amount.* Novobiocin, 10–14 mgs. per lb. body weight per day.

(*a*) *Indications for use.* Treatment of staphylococcal synovitis and generalized staphylococcal infections susceptible to novobiocin.

(*b1*) *Limitations.* Administer, as sole ration, Type C medicated feed which contains not less than 350 grams of novobiocin activity per ton; not for laying chickens; feed 5 to 7 days; withdraw 4 days before slaughter.

(2) *Turkeys*—(i) *Amount. Novobiocin, 4–5 mgs. per lb. body weight per day.*

(*a*) *Indications for use.* Aid in the treatment of breast blisters associated with staphylococcal infections susceptable to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type C medicated feed which contains not less than 200 grams of novobiocin activity per ton; not for laying turkeys; feed 5 to 7 days; withdraw 4 days before slaughter.

(ii) *Amount.* Novobiocin. 5–8 mgs. per pound of body weight per day.

(*a*) *Indications for use.* Aid in the control of recurring outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin following initial treatment with 7–8 mgs. per pound of body weight per day.

(*b*) *Limitations.* Administer, as sole ration, Type C medicated feed which contains not less than 200 grams of novobiocin activity per ton; feed 5 to 7 days; not for laying turkeys; withdraw 4 days before slaughter.

(iii) *Amount.* Novobiocin, 7–8 mgs. per pound of body weight per day.

(*a*) *Indications for use.* Treatment of staphylococcal synovitis and generalized staphylococcal infection susceptible to novobiocin; treatment of acute outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type C medicated feed which contains not less than 350 grams of novobiocin activity per ton; feed 5 to 7 days; not for laying turkeys; withdraw 4 days before slaughter.

(3) *Mink*—(i) *Amount.* 20 mgs. per lb. body weight per day.

(ii) *Indications for use.* For treatment of generalized infections, abscesses, or urinary infections caused by staphylococcal or other novobiocin sensitive organisms.

(iii) *Limitations.* Administer, as sole ration, Type C medicated feed which contains not less than 200 grams of novobiocin activity per ton; feed for 7 days.

(4) *Ducks*—(i) *Amount.* Novobiocin, 350 grams per ton.

(ii) *Indications for use.* Control of infectious serositis and fowl cholera in ducks caused by *Pasteurella anatipestifer* and *P. multocida,* susceptible to novobiocin.

(iii) *Limitations.* Administer, as sole ration, for 5 to 7 days, continue medication for 14 days if necessary, repeat if reinfection occurs; discontinue use at least 3 days before slaughter; not for use in laying ducks.

§ 558.430 Nystatin.

(a) [Reserved].

(b) *Approvals.* Type A medicated articles: 20 grams of nystatin activity per pound to 000003 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.470 of this chapter.

(e) *Conditions of use.* It is used for chickens and turkeys as follows:

(1) *Amount.* 50 grams per ton.

(i) *Indications for use.* Chickens and turkeys; aid in control of crop mycosis and mycotic diarrhea (*Candida albicans*).

(ii) *Limitations.* Growing and laying chickens; growing turkeys.

(2) *Amount.* 100 grams per ton.

(i) *Indications for use.* Chickens and turkeys; treatment of crop mycosis and mycotic diarrhea (*Candida albicans*).

(ii) *Limitations.* Growing and laying chickens; growing turkeys; to be fed for 7 to 10 days.

§ 558.435 Oleandomycin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 5 grams of oleandomycin activity per pound to 000069 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.480 of this chapter.

(e) *Special considerations.* Do not use bentonite in Type B or Type C medicated feeds containing oleandomycin.

(f) *Conditions of use.* It is used as follows:

(1) *Chickens and turkeys*—(i) *Amount per ton.* Oleandomycin, 1–2 grams.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency for broiler chickens and growing turkeys.

(2) *Swine*—(i) *Amount per ton.* Oleandomycin, 5–11.25 grams.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency in growing-finishing swine.

§ 558.450 Oxytetracycline.

(a) *Approvals.* Type A medicated articles equivalent of 10 and 50 grams per pound of oxytetracycline hydrochloride to 000069 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) *Special considerations.* The amount of oxytetracycline is expressed in terms of an equivalent amount of oxytetracycline hydrochloride.

(d) *Related tolerances.* See § 556.500 of this chapter.

(e) *Conditions of use.* (1) It is used as follows:

Table 1.—*For Chickens and Turkeys*

Oxytetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 50		Chickens and turkeys; during times of stress, for prevention of diseases named in this section caused by organisms susceptible to the named levels of the oxytetracycline salt.	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline	
(ii) 50 to 100		1. Chickens; prevention of blue comb (nonspecific infectious enteritis).	do	
		2. Chickens and turkeys; prevention of early mortality of chicks and poults due to organisms susceptible to the oxytetracycline salt.	For chicks (1st 2 weeks of life); for poults (1st 4 weeks of life), as mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline.	
		3. Turkeys; prevention of hexamitiasis	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline	
(iii) 100 to 200		1. Chickens; prevention of complicated chronic respiratory disease (air-sac infection) and control of complicated chronic respiratory mortality and severity during outbreaks; prevention of fowl cholera.	do	
		2. Chickens; treatment of blue comb (nonspecific infectious enteritis); prevention of infectious synovitis; control of complicated chronic respiratory disease (air-sac infection) by lowering mortality and severity of disease during outbreaks; reduction of lesion and mortality due to organisms susceptible to oxytetracycline in the presence of complicated chronic respiratory disease (air-sac infection).	As mono-alkyl (C_8-C_{18}) trimethly ammonium oxytetracycline in low-calcium Type C medicated feed containing 0.18 pct to 0.55 pct dietary calcium; not to be fed continuously for more than 5 d; low calcium Type C medicated feed may be fed for a total of 3 to 5 d periods through the 1st 10 weeks of life with an interim period of 5 d between each low-calcium feeding. Not to be fed to laying chickens.	
		3. Turkeys: control of infectious sinusitis; prevention of infectious synovitis.	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline	
		4. Turkeys; control blue comb (nonspecific infectious enteritis, mud fever); treatment of hexamitiasis.	do	
(iv) 200		1. Turkeys; control of infectious synovitis	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline	
		2. Chickens; prevention of avian infectious hepatitis; prevention and control of *E. tenella*, cause of cecal coccidiosis, caused by *E. tenella*.	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline in low-calcium Type C medicated feed containing 0.18 pct to 0.55 pct dietary calcium; not to be fed continuously for more than 5 d; low-calcium Type C medicated feed may be fed for a total of 35-d periods through the 1st 10 weeks of life with an interim period of 5 d between each low-calcium feeding. Not to be fed to laying chickens.	
		3. Chickens; control of infectious synovitis	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline	
		4. Chickens; control of fowl cholera during periods of outbreaks.	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline; in low-calcium Type C medicated feed containing 0.18 pct to 0.55 pct dietary calcium; for 2 weeks from outbreak of disease, 5 d of low calcium and the remaining period on normal calcium; not to be fed to laying chickens.	
	Monensin 90 to 110	Broiler chickens; for the control of complicated chronic respiratory disease (CRD or air-sac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli*; and as an aid in the prevention of coccidiosis caused by *Eimeria necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.	Withdraw 72 h before slaughter; do not feed to laying chickens: feed continuously as sole ration; as monensin sodium.	[illegible]
	Nequinate 18.16 (0.002 pct).	Broiler or fryer chickens; as an aid in prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti* and *E. mivati*. For control of complicated chronic respiratory disease (air-sac infections) infectious synovitis, and treatment of blue comb (nonspecific infectious enteritis).	As mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline	
(v) 500		Broiler chickens; as an aid in the reduction of mortality due to air-saccuitis (air-sac infection) caused by *Escherichia coli* sensitive to oxytetracycline.	Feed for 5 d as sole ration; treat at first clinical signs of disease; do not feed to laying hens; withdraw 24 hr prior to slaughter.	[illegible]

Table 2.—*For Cattle*

Oxytetracycline in milligrams per head per day	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
75 to 80		Beef cattle; reduction of the incidence and severity of liver abscesses.	For beef cattle weighing over 400 lb; as mono-alkyl (C_8-C_{18}) trimethyl-ammonium oxytetracycline.	

Table 3.—*For Fish*

Oxytetracycline	Combination	Indications for use	Limitations	Sponsor
(i) 250 mg per kilogram of fish per day (11.35 g per 100 lb of fish per day).		Pacific salmon; for marking of skeletal tissue	For salmon not over 30 g body weight; administer as sole ration for 4 consecutive days in Type C medicated feed containing oxytetracycline hydrochloride or mono-alkyl (C_8-C_{18}) trimethyl-ammonium oxytetracycline; fish not to be liberated for at least 7 d following the last administration of type D article.	
(ii) 2.5 to 3.75 g per 100 lb of fish per day.		1. Salmonids; control of ulcer disease caused by *Hemophilus piscium*, furunculosis caused by *Aeromonas salmonicida*, bacterial hemorrhagic septicemia caused by *Aeromonas liquefaciens*, and pseudomonas disease.	Administer as mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline in Type C medicated feed for 10 d; do not liberate fish or slaughter fish for food for 21 d following the last administration of type C medicated feed; do not administer when water temperature is below 9° C (48.2° F).	
		2. Catfish; control of bacterial hemorrhagic septicemia caused by *Aeromonas liquefaciens* and pseudomonas disease.	Administer as mono-alkyl (C_8-C_{18}) trimethyl ammonium oxytetracycline in Type C medicated feed for 10 d; do not liberate fish or slaughter fish for food for 21 d following the last administration of Type C medicated feed; do not administer when water temperature is below 16.7° C (62° F).	

(2) Oxytetracycline may also be used in combination with:

(i) Robenidine hydrochloride as in § 558.515.

(ii) [Reserved]

§ 558.460 Penicillin.

(a) *Specifications.* As penicillin procaine G or feed grade penicillin procaine.

(b) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) *Related tolerances.* See § 556.510 of this chapter.

(f) *Conditions of use.* (1) It is used as follows:

Penicillin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 1.5 to 42.5	Streptomycin 7.5 to 48.5.	Swine; growth promotion and feed efficiency	Feed not more than 50 g of Type C medicated feed containing at least 1.5 g of penicillin and at least 7.5 g of streptomycin; as streptomycin sulfate.	
(ii) 2.4 to 38.0	Streptomycin 12.0 to [illegible]	Chickens and turkeys; growth promotion and feed efficiency.	Feed not more than 50 g of Type C medicated feed containing at least 2.4 g of penicillin and at least 12 g of streptomycin; as streptomycin sulfate.	
(iii) 2.4 to 50		Chickens, turkeys, and pheasants; growth promotion and feed efficiency.		
(iv) 5 to 20		Quail; growth promotion and feed efficiency	Quail, not over 5 weeks of age	
(v) 10 to 50		Swine; growth promotion and feed efficiency		
(vi) 22.5 to 50 (of combination).	Streptomycin	Chickens; maintaining or increasing egg production	Type C medicated feed contains 16.7 pct of penicillin; as penicillin procaine, as streptomycin sulfate.	
(vii) 45 to 90 (of combination).	do	Swine; aid in the prevention of bacterial swine enteritis	do	
(viii) 50 to 100		1. Chickens; prevention of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).		
		2. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		
(ix) 90 (of combination).	Streptomycin	1. Chickens; prevention of early mortality caused by organisms susceptible to penicillin and streptomycin.	For chicks; in starter ration containing 16.7 pct of penicillin; as penicillin procaine, as streptomycin sulfate.	
		2. Swine; treatment of bacterial swine enteritis	Type C medicated feed contains 16.7 pct of penicillin; as penicillin procaine; as streptomycin sulfate.	
(x) 90 to 180 (of combination)	do	1. Chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	do	
		2. Turkeys; treatment of infectious sinusitis; blue comb (mud fever), hexamitiasis.	do	
(xi) 90 to 270 (of combination).	do	Swine; treatment of bacterial swine enteritis	Type C medicated feed contains 16.7 pct of penicillin; feed not more than 14 d; as penicillin procaine; as streptomycin sulfate.	
(xii) 100		1. Chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific enteritis).		
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		

(2) Penicillin may also be used in combination with:

(i) Amprolium as in § 558.55.

(ii) Amprolium plus ethopabate as in § 558.58.

(iii) Bacitracin methylene disalicylate as in § 558.76.

(iv) Bacitracin zinc as in § 558.78.

(v) Buquinolate as in § 558.105.

(vi) Hygromycin B as in § 558.274.

(vii) [Reserved]

(viii) Reserpine as in § 558.505.

(ix) Roxarsone and zoalene as in § 558.680.

(x) Zoalene as in § 558.680.

§ 558.464 Poloxalene.

(a) [Reserved]

(b) *Approvals.* Dry Type A medicated article of 53 percent and liquid Type A medicated article of 99.5 percent to 000007 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) For prevention of legume (alfalfa, clover) and wheat pasture bloat in cattle.

(2) Poloxalene dry Type A medicated article and liquid Type A medicated article must be thoroughly blended and evenly distributed in feed prior to use. This may be accomplished by preparing a Type B medicated feed prior to preparing the Type C medicated feed. Dosage is 1 gram of poloxalene per 100 pounds of body weight daily and continued during exposure to bloat producing conditions. If bloating conditions are severe, the dose is doubled. Treatment should be started 2 to 3 days before exposure to bloat-producing conditions. Repeat dosage if animals are exposed to bloat-producing conditions more than 12 hours after the last treatment. Do not exceed the higher dosage levels in any 24-hour period.

§ 558.465 Poloxalene liquid Type C medicated feed article.

(a) [Reserved]

(b) *Approvals.* Type A medicated feed articles: 99.5 percent to No. 000007 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use.* (1) For control of legume (alfalfa, clover) and wheat pasture bloat in cattle, use 7.5 grams of poloxalene per pound of liquid. Type C medicated feed (1.65-percent weight/weight). Each animal must consume 0.2 pound of Type C medicated feed per 100 pounds of body weight daily for adequate protection.

(2) For control of legume (alfalfa, clover) bloat in cattle grazing of prebloom legumes, use 10.00 grams of poloxalene per pound of liquid Type C medicated feed (2.2 percent weight/weight). Each animal must consume 0.15 pound of Type C medicated feed per 100 pounds of body weight daily for adequate protection. If consumption exceeds 0.2 pound of Type C medicated feed per 100 pounds of body weight daily, cattle should be changed to a Type C medicated feed containing 7.5 grams of poloxalene per pound.

(3) Poloxalene liquid Type A medicated feed must be thoroughly blended and evenly distributed into a liquid Type C medicated feed and offered to cattle in a covered liquid Type C medicated feed feeder with lick wheels. The formula for the liquid Type C medicated feed, on a weight/weight basis, is as follows: Ammonium polyphosphate 2.66 percent, phosphoric acid (75 percent) 3.37 percent, sulfuric acid 1.00 percent, water 10.00 percent, and molasses sufficient to make 100.00 percent, vitamins A and D and/or trace minerals may be added. One free-turning lick wheel per 25 head of cattle must be provided.

(4) The medicated liquid Type C medicated feed must be introduced at least 2 to 5 days before legume consumption to accustom the cattle to the medicated liquid Type C medicated feed and to lick wheel feedings. If the medicated feeding is interrupted, this 2- to 5-day introductory feeding should be repeated.

§ 558.465 Pyrantel tartrate.

(a) *Approvals.* Type A medicated articles containing pyrantel tartrate to firms identified by drug labeler codes in § 510.600(c) of this chapter for the specific usage indicated in paragraph (e) of this section:

(1) To 000069: 9.6, 19.2, and 80 grams per pound, paragraph (e)(1) through (3); 48 grams per pound, paragraph (e)(1) through (4).

(2) To 017800: 48 grams per pound, paragraph (e)(1) through (3).

(3) To 016968: 9.6 and 19.2 grams per pound, paragraph (e)(1) through (3).

(4) To 026186: 9.6 and 19.2 grams per pound, paragraph (e)(1) through (3).

(5) To 017790: 9.6 and 19.2 grams per pound, paragraph (e)(1) through (3).

(6) To 01803: 9.6 and 19.2 grams per pound, paragraph (e)(1) through (3).

(7) To 017255: 9.6 and 19.2 grams per pound, paragraph (c)(1) through (3).

(b) *[Reserved]*

(c) *Related tolerances.* See § 556.560 of this chapter.

(d) *Special considerations.* (1) Consult veterinarian before using in severely debilitated animals.

(2) Do not mix in Type B or C medicated feeds containing bentonite.

(e) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* 96 grams (0.0106 percent).

(i) *Indications for use.* Aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*esophagostomum*) infections.

(ii) *Limitations.* Feed continuously as sole ration; withdraw 24 hours prior to slaughter.

(2) *Amount per ton.* 96 grams (0.0106 percent).

(i) *Indications for use.* For the removal and control of large roundworm (*Ascaris suum*) infections.

(ii) *Limitations.* Feed for 3 days as sole ration; withdraw 24 hours prior to slaughter.

(3) *Amount per ton.* 800 grams (0.0881 percent).

(i) *Indications for use.* For the removal and control of large roundworm (*Ascaris suum*) and nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* As a single therapeutic treatment; feed at the rate of 1 lb. of Type C. medicated feed per 40 lb. of body weight for animals up to 200 lb. and 5 lb. of Type C medicated feed per head for animals 200 lb. or over; withdraw 24 hours prior to slaughter.

(4) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and carbadox, 50 grams (0.0055 percent).

(i) *Indications for use.* For control of swine dysentery (vibrionic dysentery, bloody scours or hemorrhage dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large

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roundworm (*Ascaris suum*) infections, aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine weighing over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type C medicated feed containing less than 15 percent crude protein.

§ 558.515 Robenidine hydrochloride.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 30 grams per pound to 010042 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Special considerations.* Type D medicated feed articles containing robenidine hydrochloride must be fed within 50 days days from the date of manufacture. Do not use in Type B or Type C medicated feeds containing bentonite.

(e) *Related tolerances.* See § 556.580 of this chapter.

(f) *Conditions of use.* It is used for chickens as follows:

(1) *For broiler and fryer chickens*—(i) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima, and E. necatrix.*

(*b*) *Limitations.* Do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter.

(ii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus roxarsone, 22.7–45.4 grams (.0025 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix* and increased rate of weight gain.

(*b*) *Limitations.* Do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter; as sole source of organic arsenic. Roxarsone provided by 017210 in § 510.600(c) of this chapter.

(iii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 100 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* as an aid in the control of chronic respiratory disease (CFD) caused by *M. gallisepticum* susceptible to chlortetracycline; as an aid in the control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

(*b*) *Limitations.* For broiler or fryer chickens only; withdraw 5 days prior to slaughter; do not feed to layers, feed continuously as sole ration; as chlortetracycline hydrochloride provided by 010042 in § 510.600(c) of this chapter.

(iv) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 200 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* as an aid in the treatment of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline; as an aid in the control of chronic respiratory disease (CRD) caused by *M. gallisepticum* susceptible to chlortetracycline.

(*b*) *Limitations.* Withdraw 5 days prior to slaughter; do not feed to layers; feed continuously as sole ration; as chlortetracycline hydrochloride provided by 010042 in § 510.600(c) of this chapter.

(v) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 500 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* as an aid in the reduction of mortality due to *E. coli* susceptible to chlortetracycline.

(*b*) *Limitations.* Withdraw 5 days prior to slaughter; do not feed to layers; not to be fed continuously for more than 5 days; as chlortetracycline hydrochloride provided by 010042 in § 510.600(c) of this chapter.

(vi) *Amount per ton.* Robenidine hydrochloride, 30 grams (.0033 percent) plus bacitracin, 4 to 50 grams (as bacitracin zinc).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix* and, in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain; in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(*b*) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as bacitracin zinc provided by 012769 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Robenidine hydrochloride, 30 grams (.0033 percent) plus bacitracin, 4 to 50 grams (as bacitracin methylene disalicylate).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix,* and if in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain or if in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(*b*) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as bacitracin methylene disalicylate provided by 046573 in § 510.600(c) of this chapter.

(viii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus lincomycin, 2 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency and as an aid in prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix.*

(*b*) *Limitations.* Do not feed to laying hens; feed continuously as the sole ration; withdraw 5 days before slaughter; lincomycin as provided by 000009 in § 510.600(c) of this chapter; approval for this combination granted to 000009, § 510.600(c) of this chapter.

(2) *For broiler chickens*—(i) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033) percent) plus oxytetracycline, 200 grams.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* for the control of complicated chronic respiratory disease (CRD or air-sac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli.*

(iii) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 5 days before slaughter; oxytetracycline as provided by 000069 in § 510.600(e) of this chapter.

§ 558.525 Ronnel.

(a) [Reserved]

(b) *Approvals.* (1) Type A medicated feeds: 18 and 40 percent to 025700 in § 510.600(c) of this chapter.

(2) Type C medicated feed: 5.5 percent in mineral mix to 021930 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Special considerations.* (1) Maximum level permitted in a Type C medicated feed is 6 percent.

(2) Type C medicated feed containing ronnel shall be thoroughly mixed with ground grain for top dressing or with complete ration.

(3) A statement that ronnel-Type C medicated feed is to be used as sole source of ronnel.

(4) "Warning-Ronnel is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after

exposure to cholinesterase inhibiting drugs, pesticides, or chemicals."

(e) *Related tolerances.* See 40 CFR 180.177.

(f) *Conditions of use.* It is used for beef cattle and nonlactating dairy animals as follows:

(1) *Amount.* 0.00078 lb. (0.35 gram) per 100 lb. body weight per day for 14 days.

(i) *Indications for use.* Control of grubs.

(ii) *Limitations.* Feed for 14 days in Type C medicated feed containing not over 0.26 percent ronnel; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of Type C medicated feed, or if Type C medicated feed has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(2) *Amount.* 0.0018 lb. (0.82 gram) per 100 lb. body weight per day for 7 days.

(i) *Indications for use.* Control of grubs; aid in the reduction of cattle lice, when the drug is used for cattle grub control.

(ii) *Limitations.* Feed for 7 days in Type C medicated feed containing not over 6 percent ronnel; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C medicated feed, or if Type C medicated feed has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(3) *Amount.* 0.01375 lb. (6.24 gram) per 100 lb. body weight per month for not less than 75 days.

(i) *Indications for use.* Control of grubs and hornflies.

(ii) *Limitations.* Feed 0.25 lb. of a mineral Type C medicated feed in granular form containing 5.5 percent ronnel per 100 lb. of animal weight per month for not less than 75 days; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C medicated feed, or if Type C medicated feed has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(4) *Amount.* 0.0009 lb. (0.41 gram) per 100 lb. body weight per day for 14 days.

(i) *Indications for use.* Control of grubs.

(ii) *Limitations.* Feed for 14 days in Type C medicated feed containing 0.3 percent ronnel; withdraw from daily animals 10 days before calving, if dairy cows or heifers freshen during feeding of Type C medicated feed or if Type C mediated feed has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(5) *Amount.* 0.012 lb. (5.5 grams) per 100 lb. body weight per month for not less than 75 days.

(i) *Indications for use.* Control of grubs and hornflies.

(ii) *Limitations.* Feed 0.2 lb. of mineral Type C medicated feed containing 6 percent ronnel per 100 lb. of animal weight per month for not less than 75 days; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of Type C medicated feed, or if Type C medicated feed has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment.

§ 558.526 Ronnel liquid Type C medicated feed.

(a) *Approvals.* To 025700 in § 510.600(c) of this chapter, use of 20 percent liquid Type A medicated articles for the manufacture of 0.72 percent liquid Type C medicated feed.

(b) [Reserved]

(c) *Related tolerances.* See 40 CFR 180.177.

(d) *Conditions of use.* (1) It is used as 0.72 percent liquid Type C medicated feed for beef cattle and nonlactating dairy animals for control of grubs.

(2) Both the 7 and 14-day feeding programs require 1.75 pounds of 0.72 percent liquid Type C medicated feed for each 100 pounds of body weight.

(i) Feed for 7 days, 0.25 pound of 0.72 percent liquid Type C medicated feed per 100 pounds of body weight per day.

(ii) Feed for 14 days, 0.25 pound of 0.72 percent liquid Type C medicated feed per 200 pounds of body weight per day.

(3) Must be evenly top-dressed over the grain portion of the ration or over the mixed total ration.

(4) Treat cattle as soon as possible after heel fly activity ceases, and before grubs reach the backs of the animals, Ronnel is not fully effective during the latter stages of grub development, when grubs have reached the backs of animals.

(5) Treat southern area cattle July through September (7 or 14-day treatment). Treat northern area cattle August through October (7-day treatment) or August through December (14-day treatment).

(6) Dairy animals should be treated early in their dry period but only if the dry period occurs between the end of the adult heel fly season and before grubs reach the back of the animal.

(7) Withdraw from dairy animals 10 days before calving. If animals freshen during feeding of a Type C medicated feed, or if Type C medicated feed has not been withdrawn 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment.

(8) Withdraw 10 days prior to slaughter.

(9) Warning—Ronnel is a cholinesterase inhibitor. Do not use simultaneously or within a few days before or after treatment with or exposure to any cholinesterase inhibiting drugs, pesticides, or chemicals.

(10) Use as sole source of ronnel.

(11) Do not feed to animals that are sick, under stress (shipping, dehorning, castration), or that have been weaned within the preceding 3 weeks.

(12) [Reserved]

(13) This drug is toxic to fish. Keep out of lakes, streams, and ponds. Do not contaminate water by cleaning of equipment or disposal of wastes. Do not reuse empty container; destroy it by burning or burying in noncroplands away from water supplies.

§ 558.530 Roxarsone.

(a) *Approvals.* Type A medicated articles: 10.20, and 50 percent to 011801 in § 510.600(c) of this chapter.

(b) [Reserved]

(c) [Reserved]

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens and turkeys as follows:

(1) *Grams per ton.* Roxarsone 22.7 to 45.4 (0.0025 to 0.005 percent).

(2) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(3) *Limitations.* Withdraw 5 days before slaughter, as sole source of organic arsenic.

(4) *Permitted combinations.* It may also be used in combination with:

(i) Aklomide as in § 558.35.

(ii) Amprolium as in § 558.55.

(iii) Amprolium and ethopabate as in § 558.58.

(iv) Bacitracin methylene desalicylate as in § 558.76.

(v) Bacitracin zinc as in § 558.78.

(vi) Buquinolate as in § 558.105.

(vii) Chlortetracycline as in § 558.128.

(viii) Clopidol as in § 558.175.

(ix) Decoquinate as in § 558.195.

(x) Monensin as in § 558.355.

(xi) Nequinate as in § 558.365.

(xii) Nitromide and sulfanitran as in § 558.376.

(xiii) Robenidine hydrochloride as in § 558.515.

(xiv) Sulfadimethoxine, ormetoprim as in § 558.575.

(xv) Zoalene as in § 558.680.

(xvi) Penicillin and zoalene as in § 558.680.

(xvii) Bambermycins alone and in combination as in § 558.95.

(xviii) Nicarbazin as in § 558.366.

§ 558.565 Styrylpyridinium chloride, diethylcarbamazine (as base).

(a) [Reserved]

(b) *Approvals.* Type C medicated feed: 0.035 percent styrylpyridinium chloride, and 0.021 percent diethylcarbamazine (as base) to 010042 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is used for the control of hookworms *(Ancylostoma caninum)* and roundworms *(toxocara canis)* and for the prevention of heartworm disease *(Dirofilaria immitis)* in dogs.

(2) Type C medicated feeds administered to dogs as follows: Maximum stressed dogs are fed an amount of the Type C medicated feed in ounces equal to the dogs body weight in pounds divided by 4. Medium stressed dogs are fed an amount of the Type C medicated feed in ounces equal to the dogs body weight in pounds divided by 4.5. Low stressed dogs are fed an amount of the Type C medicated feed in ounces equal to the dogs body weight in pounds divided by 5. Underweight dogs are fed 10 percent more than the amounts specified in this paragraph. Overweight dogs are fed 10 percent less than the amounts specified in this paragraph, with adjustments made every 7 days until the desired body weight is obtained.

(3) Dogs with established heartworm infections should not be treated with the drug until they have been converted to a negative status. For the prevention of heartworm infestation, the drug should be administered before the mosquito season and as soon as young puppies are born. The drug should be administered continuously during periods of exposure to hookworm, roundworm, and heartworm infestations to control recurring burdens of hookworms and roundworms and prevent the maturation of immature heartworms (third stage infective larvae) into adults.

(4) Federal law restricts this drug to use by or on the order of a licenses veterinarian.

§ 558.575 Sulfadimethoxine, ormetoprim.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 25 percent of sulfadimethoxine and 15 percent of ormetoprim to 000004 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See §§ 556.490 and 556.640 of this chapter.

(e) *Conditions of use.* It is used as follows:

(1) *Broiler chickens*—(i) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely, *E. tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera).

(*b*) *Limitations.* Feed as sole ration; withdraw 5 days before slaughter.

(ii) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent) plus roxarsone, 22.7 grams (0.0025 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely *E. tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera); growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed as sole ration: withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) *Replacement chickens*—(i) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely *E. tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera).

(iii) *Limitations.* Feed as a sole ration; do not feed to chickens over 16 weeks (112 days) of age; withdraw 5 days before slaughter.

(3) *Turkeys.*—(i) *Amount per ton.* Sulfadimethoxine, 56.75 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis,* and *E. meleagrimitis* and bacterial infection due to *P. multocida* (fowl cholera).

(*b*) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

(ii) *Amount per ton.* Sulfadimethoxine, 56.5 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent) plus ipronidazole, 56.75 grams (0.00625 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis,* and *E. meleagrimitis* and bacterial infection due to *P. multocida* (fowl cholera); and blackhead (histomoniasis).

(*b*) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

§ 558.579 Sulfaethoxypyridazine.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 5.5 percent for swine, 5.5 and 11 percent for cattle, to 010042 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.650 of this chapter.

(e) *Conditions of use.* It is used as follows:

(1) *Swine.*—(i) *Amount.* 25 milligrams per pound body weight per day.

(ii) *Indications for use.* For treatment of bacterial scours, pneumonia, enteritis, bronchitis, septicemia accompanying *Salmonella choleraesuis* infection.

(iii) *Limitations.* Administer 1,000 grams per ton (0.11 percent) in Type C medicated feed for not less than 4 days nor more than 10 days; do not treat within 10 days of slaughter; as sole source of sulfonamide; for use by or on the order of a licensed veterinarian.

(2) *Cattle.*—(i) *Amount.* 25 milligrams per pound body weight per day.

(ii) *Indications for use.* For treatment of respiratory infections (pneumonia, shipping fever), foot rot, calf scours; as adjunctive therapy in septicemia accompanying mastitis and metcemia accompanying mastitis and metritis.

(iii) *Limitations.* Administer as top dressing or in mixed feed for 4 days; do not treat within 16 days of slaughter; as sole source of sulfonamide; milk that has been taken from animals during treatment and for 72 hours (6 milkings) after latest treatment must not be used for food; for use by or on the order of a licensed veterinarian.

§ 558.582 Sulfamerazine.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles. 99 percent to 010042 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.660 of this chapter.

(e) *Conditions of use.* It is used for rainbow trout, brook trout, and brown trout as follows:

(1) *Amount.* 10 grams of sulfamerazine per 100 pounds of fish per day.

(2) *Indications for use.* Control of furunculosis.

(3) *Limitations.* Treat for not more than 14 days; do not treat within 3 weeks of marketing or stocking in stream open to fishing.

§ 558.615 Thiabendazole.

(a) [Reserved]

(b) [Reserved]

(c) *Approvals.* In dry Type A medicated articles: 22, 44.1, 66.1 percent. The 66.1 percent level is solely for the manufacture of cane molasses liquid Type C medicated feed article which is mixed in dry feeds. See 000006 in § 510.600(c) of this chapter.

(d) [Reserved]

(e) *Special considerations. Not to be used in Type B or Type C medicated feeds containing bentonite.*

(f) *Related tolerances.* See § 556.730 of this chapter.

(g) *Conditions of use.* It is used as follows:

(1) *Cattle.*—(i) *Amount.* 3 grams per 100 lb. body weight.

(*a*) *Indications for use.* Control of infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Namatodirus spp., Oesophagostomum radiatum*).

(*b*) *Limitations.* Use 3 grams per 100 lb. body weight at a single dose; may repeat once in 2 to 3 weeks; do not treat animals within 3 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(ii) *Amount.* 5 grams per 100 lb. body weight.

(*a*) *Indications for use.* Control of severe infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Nematodirus spp., Oesophagostomum radiatum*); control of infections of *Cooperia spp.*

(*b*) *Limitations.* 5 grams per 100 lb. body weight as a single dose or divided into 3 equal doses, administered 1 dose each day, on succeeding days; may repeat once in 2 to 3 weeks; do not treat animals within 3 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(2) *Goats.*—(i) *Amount.* 3 grams per 100 lb. body weight.

(ii) *Indications for use.* Control of severe infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Bunostomum spp., Strongyloides spp., Chabertia spp.,* and *Oesophagostomum spp.*).

(iii) *Limitations.* 3 grams per 100 lb. body weight at a single dose; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(3) *Sheep and goats.*—(i) *Amount.* 2 grams per 100 lb. body weight.

(ii) *Indications for use.* Control of infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Bunostomum spp., Strongyloides spp., Chabertia spp.,* and *Oesophagostomum spp.*); also active against ova and larvae passed by sheep from 3 hours to 3 days after Type C medicated feed in consumed (good activity against ova and larvae of *T. colubriformis* and *axei, Ostertagia spp., Nematodirus spp., Strongyloides spp.;* less effective against those of *Haemonchus contortus* and *Oesophagostomum spp.*).

(iii) *Limitations.* Use 2 grams per 100 lb. body weight at a single dose; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(4) *For swine.*—(i) *Amount.* 45.4–908 grams per ton (0.005–0.1 percent).

(ii) *Indications for use.* Aid in the prevention of infections of large roundworms (*Ascaris spp.*).

(iii) *Limitations.* Administer continuously Type C medicated feed containing 0.05–0.1 percent thiabendazole per ton for 2 weeks followed by Type C medicated feed containing 0.005–0.02 percent thiabendazole per ton for 8–14 weeks; do not treat animals within 30 days of slaughter.

§ 558.625 Tylosin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles containing drug substance with diluent or Type B medicated feed containing drug substance with diluent plus vitamins, minerals, and/or other nutrient ingredients to sponsor(s) identified in § 510.600(c) of this chapter for the specific usage indicated in paragraph (f) of this section:

(1) To 000986: 40 and 100 grams per pound, paragraphs (f)(1)(ii) through (f)(1)(vi) of this section; 40 grams per pound, paragraph (f)(1)(i) of this section.

(2)–(4) [Reserved]

(5) To 017800: 40 grams per pound, paragraph (f)(1)(i) and (vi) *(a), (b), (c),* and *(d)* of this section.

(6)–(14) [Reserved]

(15) To 026186: 20 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(16)–(26) [Reserved]

(27) To 020275: 40 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(28)–(72) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) *Related tolerances.* See § 556.740 of this chapter.

(f) *Conditions of use.* It is used as follows:

(i) *For beef cattle—(a) Amount per ton.* 8–10 grams.

(b) Indications for use. For reduction of incidence of liver abscesses caused by *Sphaerophorus necrophorus* and *Corynebacterium pyogenes.*

(c) Limitations. As tylosin phosphate; each animal must receive not more the 90 milligrams per day and not less than 60 milligrams per day; feed continuously as sole ration.

(ii) *Broiler chickens.—(a) Amounts per ton.* Tylosin, 800–1000 grams.

(b) Indications for use. To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum.*

(c) Limitations. As tylosin phosphate; withdraw 5 days before slaughter; administer in Type C medicated feed to chickens 0 to 5 days of age, follow with second administration in Type C medicated feed for 24 to 48 hours at 3 to 5 weeks of age.

(iii) *Chickens—(a) Amounts per ton.* Tylosin, 4–50 grams.

(1) Indications for use. For increased rate of weight gain and improved feed efficiency.

(2) Limitations. As tylosin phosphate.

(b) [Reserved]

(iv) *Laying chickens—(a) Amount per ton.* Tylosin, 20–50 grams.

(b) Indications for use. For improved feed efficiency.

(c) Limitations. As tylosin phosphate.

(v) *Replacement chickens—(a) Amount per ton.* Tylosin, 1,000 grams.

(b) Indications for use. To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum.*

(c) Limitations As tylosin phosphate; withdraw 5 days before slaughter; administer in Type C medicated feed to chickens 0 to 5 days of age, follow with second administration in Type C medicated feed for 24 to 48 hours at 3 to 5 weeks of age.

(vi) *Swine—(a)—Amount per ton.* Tylosin, 10–100 grams.

(1) Indications for use. For increased rate of weight gain and improved feed efficiency.

(*2*) *Limitations.* As tylosin phosphate; continuous use as follows: *Grams per ton:* 20–100, prestarter or starter; 20–40, grower; 10–20, finisher.

(*b*) *Amount per ton.* Tylosin, 40–100 grams.

(*1*) *Indications for use.* Prevention of swine dysentery (vibrionic).

(*2*) *Limitations. Use 100 grams per ton for at least 3 weeks followed by 40 grams per ton until market weight; as tylosin phosphate.*

(*c*) *Amount per ton.* Tylosin, 40–100 grams.

(*1*) *Indications for use.* Treatment and control of swine dysentery (vibrionic).

(*2*) *Limitations.* Administer in Type C medicated feed as tylosin phosphate after treatment with tylosin in drinking water as tylosin base: 0.25 gram per gallon in drinking water for 3–10 days, 40–100 grams per ton in Type C medicated feed for 2–6 weeks.

(*d*) *Amount per ton.* Tylosin, 100 grams.

(*1*) *Indications for use.* Maintaining weight gains and feed efficiency in presence of atrophic rhinits.

(*2*) *Limitations.* As tylosin phosphate.

(2) [Reserved]

(2) Tylosin may also be used in combination with:

(i) Hygromycin B as in § 558.274.

(ii)–(iii) [Reserved]

(iv) Monesin as in § 558.355.

§ 558.630 Tylosin and sulfamethazine.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles containing drug substances with diluent, or Type B medicated feed containing drug substances with diluent plus vitamins, minerals, and/or other nutrient substances, the drug substances being a combination of equal amounts of tylosin and sulfamethazine, to sponsor(s) identified in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section:

(1) To 000986: 40 grams per pound each, paragraph (f)(2)(i) of this section.

(2)–(4) [Reserved]

(5) To 017800: 40 grams per pound each, paragraph (f)(2)(ii) of this section.

(6) To 017139: 20 grams per pound each, paragraph (f)(2)(ii) of this seciton.

(c)–(d) [Reserved]

(e) *Related tolerances.* See §§ 556.670 and 556.740 of this chapter.

(f) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* Tylosin, 100 grams plus sulfamethazine, 100 grams.

(2) *Indications for use.* (i) Maintaining weight gains and feed efficiency in the presence of atrophic rhinits; lowering the incidence and severity of *Bordetella bronchiseptica* rhinits; prevention of swine dysentery (vibrionic); control of swine pneumonias caused by bacterial pathogens (*P. multocida* and/or *C. pyogenes*); for reducing the incidence of cervical lymphadenitis (jowl abscesses) caused by Group E Streptococci. Only the sulfamethazine portion of this combination is active in controlling jowl abscesses.

(ii) Maintaining weight gains and feed efficiency in the presence of atrophic rhinits; lowering the incidence and severity of *Bordetella bronchiseptica* rhinits; prevention of swine dysentery (vibrionic); control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

(3) *Limitations.* As tylosin phosphate; withdraw 15 days before slaughter.

§ 558.635 Virginiamycin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 2.2 percent virginiamycin activity (10 grams per pound), 11 percent virginiamycin activity (50 grams per pound), and 50 percent virginiamycin activity (227 grams per pound) to 000007 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.750 of this chapter.

(e) *Special considerations.* (1) Not for use in breeding swine over 120 pounds.

(2) Dilute Type A medicated article with at least 10 pounds of a feed ingredient prior to final mixing in 1 ton of feed.

(3)–(4) [Reserved]

(f) *Conditions of use.* It is used for swine as follows:

(1) *Amount per ton.* 100 grams for 2 weeks.

(i) *Indications for use.* Treatment of swine dysentery in nonbreeding swine.

(ii) *Animal weight.* Over 120 pounds.

(2) *Amount per ton.* 100 grams for 2 weeks, 50 grams thereafter.

(i) *Indications for use.* Treatment and control of swine dysentery.

(ii) *Animal weight.* Up to 120 pounds.

(3) *Amount per ton.* 25 grams.

(i) *Indications for use.* Aid in control of swine dysentery. For use in animals or on premises with a history of swine dysentery but where symptoms have not yet occurred.

(ii) *Animal weight.* Up to 120 pounds.

(4) *Amount per ton.* Administer 10 grams per ton from weaning to 120 pounds body weight followed by 5 grams per ton to market weight.

(i) *Indications for use.* Increased rate of weight gain and improved feed efficiency.

(ii) *Animal weight.* For continuous use from weaning to market weight.

(5) *Amount per ton.* Administer 10 grams per ton from weaning to 120 pounds body weight followd by 5 to 10 grams per ton to market weight.

(i) *Indications for use.* Increased rate of weight gain and improved feed efficiency for swine up to 120 pounds body weight; increased rate of weight gain for swine from 120 pounds to market weight.

(ii) *Animal weight.* For continuous use from weaning to market weight.

§ 558.680 Zoalene.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles: 25 percent to 017210 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Related tolerances.* See § 556.770 of this chapter.

(e) *Conditions of use.* (1) It is used for chickens and turkeys as follows:

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 36.3 to 113.5 (0.004% to 0.0125%).		Replacement chickens; development of active immunity to coccidiosis.	In grower Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilate sodium 90 (0.01%).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.	

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Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01%)	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01%) plus erythromycin 4.6 to 18.5.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As erythromycin thiocyanate; in grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01%) plus erythromycin 92.5.	1. Replacement chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 2 d before stress and 3 to 6 d after stress; as erythromycin thiocyanate; in grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		2. Replacement chickens; as an aid in the prevention of infectious coryza; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 7 to 14 d; as erythromycin thiocyanate; grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01%) plus erythromycin 185.	Replacement chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation and development of active immunity to coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for good purposes; withdraw 5 d before slaughter; as erythromycin thiocyanate; and as sole source of organic arsenic; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilate acid 90 (0.01%) plus penicillin 2.4 to 50.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation..	As procaine penicillin; grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdrew 5 d before slaughter; as sole source of organic arsenic; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Bacitracin 100 to 500	Replacement chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); development of active immunity to coccidiosis.	As bacitracin zinc; growther Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows—.	

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Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Chlortetracycline 100 to 200.	Replacement chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); development of active immunity to coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; grower Type C medicated feeds; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Chlortetracycline 200	Replacement chickens; control of synovitis; development of active immunity to coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; in grower Type C medicated feeds; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Erythromycin 4.6 to 18.5.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis.	As erythromycin thiocyanate; Grower Type C medicated feeds; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Erythromycin 92.5	1. Replacement chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; development of active immunity to coccidiosis.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; as erythromycin thiocyanate; grower Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

		Replacement chickens; as an aid in the prevention of infectious coryza; development of active immunity to coccidiosis.	Feed for 7 to 14 d, withdraw 24 h before slaughter; as erythromycin thiocyanate; grower Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Erythromycin 185	Replacement chickens; as an aid in the prevention and reductions of lesions and in lowering severity of chronic respiratory disease; development of active immunity to coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter; in grower Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows—.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Hygromycin B 8 to 12	Replacement chickens; development of active immunity to coccidiosis; control of infestation of large round worms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	In grower Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows;.	

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Penicillin 2.4 to 50	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis.	As procaine penicillin; grower Type C medicated feed; not to be fed to birds over 14 weeks of age; as follows—.

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Penicillin 2.4 to 50 plus roxarsone 22.7 to 45.4 (0.0025% to 0.005%).	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As procaine penicillin; grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.0125%)	75.4–113.5 (0.0083%–0.0125%)
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

	Roxarsone 22.7 to 45.4 (0.0025% to 0.005%).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In grower Type C medicated feed; not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; as follows—.

Growing conditions	Starter Type C medicated feed	Grower Type C medicated feed
	Grams per ton	*Grams per ton*
Severe exposure	113.5 (0.01125%)	75.4–113.5 (0.0083%–0.0125%).
Light to moderate exposure	75.4–113.5 (0.0083%–0.0125%)	36.3–75.4 (0.004%–0.0083%).

(8) 113.5 (0.0125%)		Broiler chickens; prevention and control of coccidiosis	
	Arsanilate sodium 90 (0.1%).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 days before slaughter; as sole source of organic arsenic.
	Arsanilic acid 90 (0.01%)	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.
	Arsanilic acid 90 (0.01%) plus erythromycin 4.6 to 18.5.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As erythromycin thiocyanate; withdraw 5 d before slaughter; as sole source of organic arsenic.
	Arsanilic acid 90 (0.01%) plus erythromycin 92.5.	1. Broiler chickens; aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation; control of coccidiosis.	do.
		2. Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation; aid in the prevention of infectious coyza.	do.
	Arsanilic acid 90 (0.01%) plus erythromycin 185.	Broiler chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; as erythromycin thiocyanate, withdraw 5 d before slaughter; as sole source of organic arsenic.
	Arsanilic acid 90 (0.01%) plus penicillin 2.4 to 50.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As penicillin procaine, withdraw 5 d before slaughter; as sole source of organic arsenic.
	Arsanilic acid 90 (0.01%) plus bacitracin 4 to 50.	Broiler chickens; prevention and control of coccidiosis; improving pigmentation; growth promotion and feed efficiency.	Withdraw 5 d before slaughter; as sole source of organic arsenic; as bacitracin methylene disalicylate.
	Bacitracin 4 to 50	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As bacitracin methylene disalicylate, or bacitracin zinc
	Bacitracin 4 to 50 plus roxarsone 22.7 to 45.4 (0.0025% to .005%).	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As bacitracin methylene disalicylate, or bacitracin zinc; withdraw 5 d before slaughter; as sole source of organic arsenic.
	Bacitracin 100 to 500	Broiler chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention and control of coccidiosis.	As bacitracin zinc
	Chlortetracycline 100 to 200.	Broiler chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis; prevention and control of coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride
	Chlortetracycline 200	Broiler chickens; prevention and control of coccidiosis; control of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride
	Erythromycin 4.6 to 18.5.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As erythromycin thiocyanate
	Erythromycin 92.5	1. Broiler chickens; aid in the prevention of chronic respiratory disease during period of stress; prevention and control of coccidiosis.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; as erythromycin thiocyanate.
		2. Broiler chickens; as an aid in the prevention of infectious coryza; prevention and control of coccidiosis.	Feed for 7 to 14 d; withdraw 24 h before slaughter; as erythromycin thiocyanate.
	Erythromycin 185	Broiler chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; prevention and control of coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter; as erythromycin thiocyanate.

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Hygromycin B (8 to 12)	Broiler chickens; prevention and control of coccidiosis; control of infestation of large round worms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).		
	Lincomycin 2	Broiler chickens; increase in rate of weight gain; improved feed efficiency; as an aid in the prevention and control of coccidiosis.	Do not feed to laying chickens; to be fed as the sole ration; as lincomycin hydrochloride monohydrate provided by 000009. in ; zoalene provided by 025700. in § 510.600(c) of this chapter.	
	Penicillin 2.4 to 50	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As penicillin procaine	
	Penicillin 2.4 to 50 plus roxarson 22.7 to 45.4 (0.0025% to 0.005%).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic; as penicillin procaine.	
	Roxarsone 22.7 to 45.4 (0.0025% to 0.005%).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic	
(m) 113.5 to 170.3 (0.0125% to 0.01875%).		Turkeys; prevention and control of coccidiosis	For turkeys grown for meat purposes only	
	Arsanilate sodium 90 (0.01%).	Turkeys; growth promotion and feed efficiency; improving pigmentation.	For turkeys grown for meat purposes only; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01%)	do	do	
	Carbarsone (Not U.S.P.) 227 to 340.5 (0.025% to 0.0375%).	Turkeys; prevention and control of coccidiosis; aid in the prevention of blackhead.	For turkeys grown for meat purposes only; feed continuously beginning 2 weeks before blackhead and coccidiosis are expected and continue as long as prevention of blackhead and prevention and control of coccidiosis is needed; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Roxarsone 22.7 to 45.4 (0.0025% to 0.005%).	Turkeys; growth promotion and feed efficiency; improving pigmentation.	Withdrawn 5 d before slaughter; as sole source of organic arsenic	

(2) *Permitted combinations.* It may be used in accordance with provisions of this section in the combinations provided as follows:

(i) Bambermycins in accordance with § 558.95.

(ii) Roxarsone in accordance with § 558.530.

Interested persons may, on or before April 9, 1981, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Dockets Management Branch (formerly the Hearing Clerk's office), Food and Drug Administration.

Dated: December 24, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-40045 Filed 12-31-80; 12:10 pm]

BILLING CODE 4110-03-M

federal register

Friday
January 9, 1981

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA80-5133	September 26, 1980.
CA80-5135	October 3, 1980.
CA80-5147	November 28, 1980.
North Dakota:	
ND80-5102	February 1, 1980.
ND80-5132	October 10, 1980.
Oregon:	
OR80-5145	November 21, 1980.
Washington:	
WA80-5136	October 17, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publications in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Kentucky: KY79–1167(KY81–1171), December 14, 1979

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 2nd day of January 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. CA80-5133 - Mod. #1 (45 FR 64046 - September 26, 1980) San Diego County, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS:					
Carpenters	$15.11	.91	1.55		.07
Piledrivermen	15.36	.91	1.55		.07
Millwrights; Pneumatic Nailer; Hardwood Floor layers	15.61	.91	1.55		.07
*DIVERS:					
Divers	35.22	.91	1.55		.07
Stand-by Divers	17.61	.91	1.55		.07
Tender	16.61	.91	1.55		.07
DRYWALL INSTALLERS	16.60	.91	1.55		.07

Divers:*
Shall receive a minimum of 8 hours pay for any day or part thereof.

DECISION NO. CA80-5135 - Mod. #3 (45 FR 65867 - October 3, 1980) Imperial, Inyo, Kern, Los-Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Modification No. 1, in Vol 45, Page No. 81953, of the Federal Register dated December 12, 1980, to read Modification No. 2					
SHEET METAL WORKERS:					
Area 2	$16.73	1.20	2.13		.04

DECISION NO. CA80-5147 - Mod. #2 (45 FR 79275 - November 28, 1980) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis-Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
SHEET METAL WORKERS:					
Area 2	$16.73	1.20	2.13		.04
Area 3	21.73	1.20	2.13		.04

DECISION #ND80-5102 - Mod #2 (45 FR 7463 - Feb. 1, 1980) Statewide North Dakota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Line Construction:					
Group 1	$12.90	.45	4%		1/2%
Group 2	12.87	.45	4%		1/2%
Group 3	10.32	.45	4%		1/2%
Group 4	8.60	.45	4%		1/2%
Group 5	7.90	.45	4%		1/2%

DECISION NO. ND80-5132 - Mod #2 (45 FR 67525 - Oct. 10, 1980) Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh, and Ward Counties, North Dakota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Drywall Tapers: Area 1	$11.20	.25	.50		
Electricians:					
Area 1:					
Zone A:					
Electricians	11.55	.50	3% + .80	6%	1%
Cable Splicers	12.13	.50	3% + .80	6%	1%
Zone B:					
Electricians	12.17	.50	3% + .80	6%	1%
Cable Splicers	12.75	.50	3% + .80	6%	1%
Zone C					
Electricians	13.05	.50	3% + .80	6%	1%
Cable Splicers	13.63	.50	3% + .80	6%	1%
Elevator Constructors	13.16	1.195	.82	a	.035
Millwrights	11.91	.80	.60		.02
Painters:					
Area 1:					
Brush, Roller, Paperhanger	10.30	.25	.50		.02
Sandblasting, Structural Steel Spray	11.05	.25	.50		.02
Area 3:					
Brush	9.75				
Spray	10.10				
Plumbers:					
Area 3	14.66	.75	.65		.04
Soft Floor Layers:					
Area 2	9.90	.25	.50		
OMIT:					
Carpenters:					
Area 2:					
Millwrights	11.91	.80	.60		.02
Area 4:					
Millwrights	9.86	.50	.50	.50	.02

DECISION NO. OR80-5145 - Mod #1 45 FR 77321 - Nov. 21, 1980) Statewide Oregon	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers; Stonemasons:					
Area 2	$16.05	.95	1.00		.12
Electricians:					
Area 2					
Electricians	17.57	.95	3% + 1.30		.05
Cable Splicers	18.32	.95	3% + 1.30		.05
Area 3					
Electricians	19.05	.90	3% + 2.50		.04
Cable Splicers	20.95	.90	3% + 2.50		.04
Area 4					
Electricians	20.55	.90	3% + 1.00		.07
Lead Cable Splicers	22.61	.90	3% + 1.00		.07
Area 5					
Electricians	19.55	.90	3% + 2.00		.10
Cable Splicers	20.30	.90	3% + 2.00		.10

DECISION NO. WA80-5136 - Mod#4 (45 FR 69151 - Oct. 17, 1980) Statewide Washington	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers:					
Area 3	$16.69	.78	1.45		.04
Bricklayers; Marble Setters:					
Area 8	15.33	.80	1.55		.23
Carpenters:					
Area 2:					
Carpenters and Drywall applicators	14.93	.75	.95		.06
Carpenters on creosoted material	15.03	.75	.95		.06
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shingler; Floor Sander and other stationary power woodworking tools	15.06	.75	.95		.06
Millwrights and Machine erectors	15.43	.75	.95		.06
Electricians:					
Area 1					
Electricians	17.85	.95	3% + .40		.02
Cable Splicers	18.25	.95	3% + .40		.02
Area 2					
Electricians	17.57	.95	3% +1.30		.05
Cable Splicers	18.32	.95	3% +1.30		.05
Area 3					
Electricians	17.57	.95	3% +1.30		.05
Cable Splicers	19.33	.95	3% +1.30		.05
Area 5					
Electricians	19.55	.90	3% +2.00		.10
Cable Splicers	20.30	.90	3% +2.00		.10
Area 7					
Electricians	17.10	.95	3% +1.05	8%	.13
Cable Splicers	18.81	.95	3% +1.05	8%	.13
Terrazzo Workers, Tile Sette					
Area 1	13.50	.80	2.00		
Area 3	15.30	.80	1.00		.07
Area 6	15.25	.90	.80		

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: See below
DECISION NO. KY81-1171 DATE: Date of Publication
Supersedes Decision No. KY79-1167 dated December 14, 1979 in 44FR 72797
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories

Bracken, Mason, Nicholas, and Robertson	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning & Heating Mechanics	5.03				
Bricklayers	5.75				
Carpenters	5.24				
Cement Masons	5.24				
Drywall Hangers	5.31				
Drywall Finishers	5.31				
Electricians	5.10				
Insulation Installers	5.24				
Laborers	4.00				
Mason Tenders	4.00				
Painters	5.24				
Plumbers	5.00				
Roofers	5.37				
Sheet Metal Workers	5.03				
Soft Floor Layers	5.37				
Tile Setters	5.24				
Truck Drivers	4.85				
POWER EQUIPMENT OPERATORS					
Backhoe	5.81				
Bulldozer	6.33				
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))					

[FR Doc. 81-581 Filed 1-8-81; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
January 9, 1981

Part IV

Department of Energy

Office of Conservation and Solar Energy

Residential Conservation Service Program; Federal RCS plan

V 46/6 JA 9 81 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 456

[Docket No. CAS-RM-80-123]

Residential Conservation Service Program; Federal RCS Plan

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) is issuing this Proposed Rule to implement section 219(a) of the National Energy Conservation Policy Act (NECPA) as amended by the Energy Security Act (ESA). Section 219 of NECPA directs the Secretary of Energy to promulgate a Federal Standby Plan which is to be used by regulated utilities in States which do not have approved Residential Conservation Service (RCS) Plans and by regulated utilities in States which have approved plans which are found not to be adequately implemented.

The purpose of the RCS program is to encourage the installation of energy conservation measures in existing houses by residential customers of larger gas and electric utilities. In developing this plan DOE has relied heavily upon the existing regulations that were promulgated to provide direction to those States and nonregulated utilities which elected to submit their own plans for approval (44 FR 64602, November 7, 1979). DOE has also incorporated in this proposed rulemaking the amendments made to the RCS program by ESA.

Pursuant to section 219(a) of NECPA, utilities will not be subject to the provisions of the Federal RCS Plan until such time as the plan is finalized and the Secretary issues an order directing the utility to offer a "utility program" to its residential customers.

DATES: Written comments must be received no later than February 23, 1981, 4:30 p.m., e.s.t., in order to ensure their consideration. (See "Comment Procedure" under Supplementary Information below.)

A national hearing will be held on January 29, 1981 in Washington, D.C. beginning at 9:00 a.m. A regional hearing will be held on January 26, 1981 in Kansas City, Missouri beginning at 9:00 a.m. Requests to speak at the hearings must be received no later than 4:00 p.m. on January 14, 1981.

ADDRESSES: All written comments and requests to speak at the Washington, D.C. hearing should be addressed to Carol A. Snipes (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Office of Hearings and Dockets, Mail Station 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202-252-9319).

Requests to speak at the Kansas City, Missouri hearing should be addressed to: Dottie Doll, DOE Regional Office, Region VII, 324 East 11th Street, Kansas City, Missouri 64106 (816-374-5533).

The Washington, D.C. hearing will be held in Room 2105, 2000 M Street, N.W., Washington, D.C. The Kansas City hearing will be held in the Conference Room 140, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

James R. Tanck, Director, Building Conservation Services Division, Office of Conservation and Solar Energy, Department of Energy, 1000 Independence Avenue, S.W., Room GH-068, Washington, D.C. 20585, (202) 252-9161

Laura Rockwood, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-128, Washington, D.C. 20585, (202) 252-9519

I. Introduction.
II. Major Provisions.
III. Regulatory Analysis and Urban and Community Impact Assessment.
IV. Environmental Impact Statement.
V. Contractor Contribution to the Rulemaking.
VI. Shortened Comment Period.
VII. Comment Procedures.

I. Introduction

On November 7, 1979, the Department of Energy (DOE) published a Final Rule implementing the Residential Conservation Service (RCS) Program to encourage and facilitate the installation of energy conservation measures and renewable resource measures (44 FR 64602). DOE had approached the development of the program intending that it be a State initiated and directed activity as contemplated by Congress.

Nevertheless section 219(a) of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619; 92 Stat 3206 *et seq.*) provides that if a State Plan is not approved within the allotted period or if the Secretary determines, after the notice and opportunity for a public hearing, that an approved plan is not being adequately implemented in such State, the Secretary shall promulgate a plan which meets the requirements of the Act.

Exercise of Federal Standby Authority will be required in at least four States that chose not to submit plans as well as in an undetermined number of States that may not adequately implement approved plans. Section 219 of NECPA specifically requires the Secretary by order require each regulated utility in such a State to implement the plan within 90 days, not 180 days, as is the case of utilities covered by RCS plans approved pursuant to section 212 of NECPA. By publishing the plan in proposed and final forms and allowing an opportunity for public comment, DOE intends to provide each standby-covered utility with adequate time within which to implement the Federal RCS Plan.

Section 219(a)(1) of NECPA requires that the Federal RCS Plan meet the requirements of section 213 for RCS Plans. There is, thus, a great degree of uniformity between the Federal RCS Plan and the RCS regulations concerning State Plans, 10 CFR 456, Subparts B and C. The basic difference between the two rules is that in the Federal RCS Plan the Secretary has assumed the role and responsibility otherwise delegated to the lead State agency under the Final Rule. This means that where the State or its delegate was the responsible party for an element of the program, for example, enforcement, listing, etc., the Secretary now has that responsibility. It also means that where the States were provided flexibility and discretion in the Final Rule regarding the implementation of a provision, for example, the requirements for eligibility of benefits, the Secretary now exercises such discretion.

In a number of cases, DOE proposes to exercise such discretion by providing utilities with options; (e.g.; the offering of audits and auditor qualification procedures). In other cases the utility is to establish its own procedures and inform the Secretary of them (e.g., the performance of audits).

DOE discusses below those provisions whereby it is exercising its discretion and whereby it is proposing to deviate from the provisions of the Final Rule. Those sections of the plan not discussed in the preamble are required specifically either by the RCS regulations or by NECPA. This Proposed Rule reflects the changes made to the RCS program pursuant to the Energy Security Act (ESA) (Title V, Subtitle B, Pub. L. 96-294, Stat 611 *et seq.*).

II. Major Provisions

A. Program Announcement—§ 456.1007

Most of the requirements for the program announcement in the Federal RCS Plan closely parallel those in the Final Rule, with two exceptions. First, the Federal RCS Plan specifies that savings estimates in the announcements are to be expressed in *percentages of annual* energy bills. This format appears to provide the most reliable information. Secondly, DOE proposes to establish three options for offering program audits through the program announcement. Under the first option, the utility or participating home heating supplier would make an open or "unconditional" offer to provide an audit to any residential customer within 30 working days of the request. Under the second option, the program announcement would describe the audit and state that the utility will provide audits in one geographical section of its service area at a time. Following this "conditional" offer, the utility would send a second notice to the residents in each area to make an unconditional offer that any request for audits from that area would be honored within 30 calendar days. The utility would also send a third notice to confirm audit appointments. The utility would also be required to attempt to fill *any* audit request within 30 working days. The third option provides that an audit be performed not later than 90 days after a request. To balance the longer response time, this option requires that the utility make an extra effort to publicize the program by distributing program announcements every 6 months instead of every 2 years.

The three options are designed to accommodate each utility's need to plan its use of resources while still providing timely RCS audits. DOE believes that the longer a customer has to wait after requesting an audit, the less responsive he or she will be to the information provided during the audit. However, DOE also acknowledges that utilities will provide better and more reliable services when they are able to anticipate their demand. The time frames given for each option reflect information obtained during review of the RCS plans submitted by States and nonregulated utilities. DOE seeks comments on the feasibility of each option.

B. Requirements of Energy Audits—§ 456.1008

The requirements for energy audits under the Federal RCS Plan follow the Final Rule in most respects. However, DOE is interested in receiving comments on the following areas where it has exercised its discretion to be more explicit than the Final Rule. DOE proposes to require the cost and savings estimates be presented in ranges of dollars to reflect more accurately the wide variations in products available for each measure. To eliminate the burden of validating alternative audit procedures, DOE proposes that the model audit prepared by DOE in support of the RCS program be the audit format used under the Federal RCS Plan. In an effort to assure that the estimates of energy cost savings and installation costs reflect local energy rates and local prices, DOE proposes to require a semi-annual sample survey of contractors and suppliers. Finally, DOE has proposed to exclude the use of Class B, or "do-it-yourself", audits from the Federal RCS Plan. The legislative intent under NECPA was to promote on-site audits because of the higher quality of information they provide. DOE does not want to undermine the value of the program by encouraging less reliable audit formats.

C. Arranging Installation and Arranging Financing—Sections 456.1009 and 1010

DOE believes that the arranging services are critical to the success of the program and has designed its proposed requirements accordingly. As proposed, the arranging services must be provided within 10 working days of the request. The 10-day response time was established based on similar requirements proposed in State plans. The arranging installation service consists chiefly of the utility or home heating supplier sending requests for bids to three or more installers who provide all measures requested and to three or more installers who install less than all of the program measures. This provides the customer with the flexibility to choose between a general contractor and an installer who specializes in certain program measures. Utilities will also be required to assist customers in evaluating any bids submitted. DOE believes that both services are important in motivating customers to act on these audit recommendations. Unless the homeowner actually takes steps to improve the energy efficiency of his home, the RCS program will have fallen short of its target. The utility will also provide the customer with a job completion card to be returned to the utility upon completion of an installation in order to be eligible for program benefits.

DOE also proposes that utilities assist customers who wish to do their own installations. In particular, the utilities must offer to inspect any "do-it-yourself" installations for compliance with RCS installation standards. The utility may charge the customer a price not to exceed the cost of providing the inspection, which is to be used only for the benefit of the customer and is not part of any official reporting. These inspections should ensure higher customer confidence in the benefit to be obtained from installing measures.

The arranging financing service consists of providing the customer with specific information on the various lenders participating in the RCS program, answering any questions a customer may have on financing, making loan applications available, and supplying the lender, with customer permission, a copy of the audit performed by the utility on the customer's residence. DOE considered a more extensive arranging service. However, the proposed service is considered to be adequate to provide assistance to the customer. DOE requests comments on its approach to both arranging installation and arranging financing.

D. Accounting and Payment of Cost—§ 456.1011

DOE has proposed the necessary changes to reflect the ESA amendments to the treatment of the costs and the accounting requirements. As a result of these immediately effective amendments, a State regulatory authority may exercise its discretion in the manner of cost recovery for the amounts expended for general and administrative functions and project manager requirements, subject to a $15.00 maximum charge per dwelling unit. ESA removes the requirement in NECPA that customers be charged directly for labor and material for measures purchased or installed in their homes. In addition, the ESA removed the requirement that regulatory authorities find that expensing of costs, other than information costs, general and administrative costs, and project manager costs, will result in lower prices for utility service to rate-payers before permitting utilities to expense such costs. For these reasons, DOE has proposed a plan which does not mandate the manner of cost recovery.

E. List of Suppliers, Contractors, and Lenders—§ 456.1013

As the listing agency, DOE is responsible for the preparation and maintenance of the Master Record of all suppliers, contractors, and lenders who sell, install, or finance program measures and who wish to be included in the lists distributed under the program. In carrying out this responsibility DOE has proposed to establish a temporary delisting procedure (for a period of 30 days) for a limited number of violations. This temporary delisting will provide for immediate consumer protection while avoiding permanent harm to installers, etc. The temporary delisting will only eliminate utility arranging with the installer during the 30-day period, while a case is established for either a permanent delisting or a relisting. DOE proposes to assign to the utilities the responsibility for such delistings. This is being proposed because DOE believes that quick action may be necessary and not possible on a national level of operation of RCS under Federal authority. The rule also provides for an extended delisting which will be the responsibility of the Secretary. Persons subject to delisting may be reinstated, provided all violations have been corrected and the person seeking reinstatement has agreed to pay for second inspections of all previously corrected violations. Persons subject to extended delistings may not be reinstated within 6 months after delisting. DOE believes that the lack of access to the RCS customers and business will be an effective deterrent for installers, etc.

For customers' protection, DOE has proposed that as a condition for inclusion on the list, the person seeking to be listed must either have sufficient liability insurance or a performance bond of at least $100,000, or agree to the withholding of payment until the installation has been inspected. The $100,000 level is comparable to levels set by the various States in their plans. Because the performance bond may prove difficult for some installers, DOE has provided an alternative of delaying payment until the job has passed an inspection. Such inspections should be given priority by the inspecting utility. DOE requests comments on this approach to listing.

F. Qualification Procedures for Auditors, Installers and Inspectors—§ 456.1015

In this rule DOE proposes to give the utilities three options in developing procedures to ensure the qualifications of their auditors and inspectors. First, the utility may provide a training program using the DOE model auditor training manual. Second, the utility may send its potential auditors and inspectors to a DOE-arranged training program. The utility would be expected to bear the cost of such training. Third, auditors and inspectors may take an appropriate qualification test which has been approved by DOE. DOE strongly urges utilities to provide adequate training for their energy auditors, and, therefore, proposes to review all training plans. DOE requests comments on the implementation of auditor, installer and inspector qualification procedures under this plan.

In addition, the rule proposes to require installers of furnaces to study the applicable standards in the DOE furnace efficiency manual and to take that portion of a DOE approved qualification test pertaining to furnace efficiency.

G. Complaints Processing Procedures—§ 456.1016

DOE proposes to require that each utility or participating home heating supplier contract with a neutral organization for the arbitration of disputes against such utility or supplier arising from an activity carried out under the Federal RCS Plan. DOE does not intend to supersede preexisting arbitration agreements. DOE solicits comments on the use of an independent arbitration association.

H. Procedures Which a Utility Must Report to the Secretary—§ 456.1022

DOE chose to leave utilities some flexibility in certain areas of the Federal RCS Plan. To ensure that the utilities and participating home heating suppliers select various procedures that are consistent with the overall plan, DOE considers it necessary to require those entities to report their selections prior to plan implementation. Because NECPA requires that utilities implement programs under Federal standby orders within 90 days of the order, DOE proposes that proposed utility procedures be filed with the Department no later than 30 days after issuance by the Secretary so that DOE can review the procedures before the 90 days has run. Recognizing that the turnaround time is short, DOE solicits comments on whether the utilities can meet their 30-day deadline. DOE's principal alternative to this requirement would be to eliminate the options offered to utilities under this Proposed Rule and prescribe specific procedures so that DOE review would not be needed before program implementation.

The following is a list of the more important procedures which are to be reported to DOE before program implementation:

1. Procedures for estimating cost and energy savings;
2. Procedures to describe the offering of a program audit;
3. Procedures for treatment of costs;
4. Procedures to assure the requisite inspection qualifications;
5. Procedures for handling the conciliation conference and redress; and
6. Procedures for qualifying auditors, inspectors and installers. DOE is particularly interested in receiving comments on the feasibility of obtaining timely determinations concerning cost recovery from the State utility regulatory authorities.

III. Regulatory Analysis and Urban and Community Impact Assessment

The President, by Executive Order 12044, has directed agencies of the executive branch to conduct a Regulatory Analysis of regulations they prepare that are likely to have major impact. Section 3(a) of the executive order directs the agencies to establish criteria to identify which regulations require regulatory analyses. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). In accordance with OMB A-116, an Urban and Community Impact Assessment should be prepared when the Proposed Rule is a major policy and program initiative. This assessment should be incorporated into the Regulatory Analysis.

DOE determined that the Residential Conservation Service Program, authorized under Title II, Part 1 of the National Energy Conservation Policy Act, was a major action and required preparation of a Regulatory Analysis and an Urban and Community Impact Assessment. Consequently, the Department prepared the two analyses in draft in conjunction with the publication of the Proposed Rule for the RCS program on March 19, 1979, (44 FR 16546). These analyses were finalized for publication in conjunction with the Final Rule which was published November 7, 1979 (44 FR 64602). As previously discussed, this rule was primarily developed by incorporating into the plan the applicable existing RCS provisions for which regulatory analyses were parpared. The major exception is the incorporation of the required Energy Security Act amendments into the plan. However, because those provisions of this Proposed Rule are generally limited to incorporated amendments to the RCS program as mandated by ESA and reflect only a minimal amount of administrative discretion, DOE believes that they do not constitute a significant regulation which will have a major impact. Therefore, for the reasons cited above a regulatory analysis is not required for this rulemaking.

IV. Environmental Impact Statement

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE prepared an Environmental Impact Statement (EIS) for the entire Residential Conservation Service Program. A notice of availability of the Final Environmental Impact Statement was published in the **Federal Register** on November 7, 1979, (44 FR 64602). The only aspects of the rulemaking which are not covered by the Environmental Impact Statement are those which reflect several recent changes in the RCS program mandated by the Energy Security Act. The changes in the program involve warranty requirements, utility cost and accounting provisions and amendments to the provision on utility supply, installation and financing of conservation and renewable resource measures. DOE has reviewed these program changes, and has determined that conclusions reached in the Environmental Impact Statement are unaffected by them. DOE has determined that the Energy Security Act Amendments to the RCS program do not represent "substantial changes in the proposed action that are relevant to environmental concerns", (40 CFR 1502.9(c)(1)(i)), and, therefore, a supplement to the Environmental Impact Statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

V. Contractor Contribution to the Rulemaking

The following entity has made a contribution to the proposed rulemaking: Oak Ridge National Laboratories.

VI. Shortened Comment Period

Executive Order 12044 (43 FR 12661, March 23, 1978) generally requires agencies to provide the public with at least 60 days to comment on proposed significant regulations. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979.) DOE feels that for the reasons listed below, it is reasonable to reduce the comment period to 45 days.

First, DOE previously provided for an extensive comment period on the vast majority of the provisions of this rulemaking during promulgation of the RCS Final Rule published on November 7, 1979. Secondly, the provisions not previously commented upon are not significant, because they do not reflect new policy concerns nor do they deviate substantially from positions aired by DOE in other contexts. Finally, the amendments made in response to the ESA will be subject to public review through the rulemakings necessitated by the Act. In the Federal RCS Plan, DOE has made a deliberate effort not to exercise wide discretion in adopting the ESA requirements.

VII. Comment Procedures

A. Written Comments—Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed procedures, requirements, and criteria. DOE is soliciting comments primarily on those areas where it has exercised its discretion otherwise accorded to participating States under the RCS. DOE does not wish to receive comments on issues already examined and resolved pursuant to the November 7, 1979, rules and its subsequent amendments. Comments should be submitted to the address indicated in the "Addresses" section of this preamble and should be identified on the envelope and on the documents submitted to DOE with the designation "Residential Conservation Service Program, Docket No. CAS-RM-80-123." Fifteen copies should be submitted. All written comments must be received by February 23, 1981, 4:30 p.m., e.s.t., to ensure considerations.

All written comments received on this Proposed Rule will be available for public inspection in the DOE Reading Room 1E-190, Forrestal Building 1000 Independence Avenue, S.W., Washington, D.C., between the hours 8:00 a.m., and 4:30 p.m., Monday through Friday. Any information or data considered by the person furnishing it to be confidential must be so identified and one copy submitted in writing. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

B. Hearing Request Procedures—The time and place of the public hearing is indicated in the "Hearing" section of this preamble. DOE invites any person who has an interest in the proposed rulemaking or who is a representative of a group or class of persons that has a interest in the proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the "Public Hearings" section of this preamble and must be received before 4:00 p.m., on January 14, 1981. A request should be labeled both on the document and on the envelope "Residential Conservation Service Program," Docket No. CAS-RM-80-123.

The person making the request should briefly described the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has an interest; give a concise summary of the proposed oral presentation, and provide a telephone number where he or she may be contacted through the day of the hearing.

Each person who, in DOE's judgment, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of this participation before 4:30 p.m., on January 21, 1981.

Persons selected to appear at the hearing should bring 15 copies of his or her statement to the hearing site given in the "Public Hearings" section.

The hearing will begin at 9:00 a.m., c.s.t., on January 26, 1981, in Kansas City and at 9:00 a.m., e.s.t. on January 29 in Washington, D.C.

C. Conduct of Hearing—DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentations may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, at the registration desk. The presiding officer will determine whether the question is relevant and material, and whether the limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Authority: Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, amended by Title V, Subtitle B of the Energy Security Act Pub. L. 96-294, 794 Stat. 611 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 *et. seq.*

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 in Part 456 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., December 23, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

10 CFR Part 456 is amended by adding to the Table of Contents the following:

V46/6 JA9 81 UMI

Subpart J—Federal RCS Plan

Sec.
456.1000 Introduction.
456.1001 Definitions.
456.1002 Request for confidential treatment.
456.1003 Coverage of Federal RCS plan.
456.1004 Procedures for investigating and enforcing compliance with the Federal RCS Plan.
456.1005 Utility supply, installation, and financing.
456.1006 Scope of benefits.
456.1007 Program announcement.
456.1008 Requirements for energy audits.
456.1009 Arranging installation.
456.1010 Arranging financing.
456.1011 Accounting and payment of costs.
456.1012 Customer billing, repayment of loans, and termination of service.
456.1013 List of suppliers, contractors, and lenders.
456.1014 Postinstallation inspection.
456.1015 Qualification procedures for auditors, installers, and inspectors.
456.1016 Complaints processing procedures.
456.1017 Coordination.
456.1018 Home heating suppliers.
456.1019 Reporting and recordkeeping.
456.1020 Procedures for amendments of the Federal RCS plan.
456.1021 Utility and home heating supplier liability.
456.1022 Procedures which a utility must report to the secretary.

Part 456 is amended by adding the following new subpart:

Subpart J—Federal RCS Plan

§ 456.1000 Introduction.

The Federal RCS Plan specifies the procedures to be followed to ensure that eligible customers receive the services of the RCS Program when a State or nonregulated utility does not submit an acceptable RCS Plan within the necessary time or fails to implement adequately an approved plan.

This Plan sets forth the functions which the utilities, subject to the Federal RCS Plan, will be ordered to perform. The first of these functions calls for utilities to provide a marketing campaign to convince customers to take part in the RCS Program. At the core of this effort is the offer of an on-site energy audit of an eligible customer's residence. After the customer has received an analysis of the energy efficiency of his/her residence, the utility would provide related services, such as helping the customer locate conservation supplies, identifying qualified contractors, and contacting lenders for any necessary financing of this work.

§ 456.1001 Definitions.

The following definitions are used for purposes of the Federal RCS Plan:

(a) *Secretary.* The term "Secretary" means the Secretary for the U.S. Department of Energy.

(b) *Class B Energy Audit.* The term "Class B Energy Audit" means an energy audit in which the estimates of costs and savings associated with the installation of program measures are based on information collected by an eligible customer about his or her residential building and sent to a covered utility or participating home heating supplier for analysis.

(c) *Covered Utility.* The term "covered utility" means in any calendar year a public utility which during the second preceding calendar year had either:

(1) Sales of natural gas for purposes other than resale which exceeded 10 billion cubic feet, or

(2) Sales of electric energy for purposes other than resale which exceeded 750 million kilowatt-hours.

(d) *Eligible Customer.* The term "eligible customer" means a person who:

(1) Owns or occupies a residential building; and

(2) Receives a fuel bill from a covered utility or participating home heating supplier for fuel used in such residential building.

(e) *Energy Conservation Measures.* The term "energy conservation measures" means the following measures in a residential building:

(1) *Caulking.* The term "caulking" means pliable materials used to reduce the passage of air and moisture by filling small gaps including (i) at fixed joints on a building, (ii) underneath baseboards inside a building, (iii) in exterior walls at electric outlets, (iv) around pipes and wires entering a building, and (v) around dryer vents and exhaust fans in exterior walls. Caulking includes, but is not limited to, materials commonly known as "sealants," "putty," and "glazing compounds."

(2) *Weatherstripping.* The term "weatherstripping" means narrow strips of material placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

(3) *Furnace Efficiency Modifications.* The term "furnace efficiency modifications" means:

(i) *Replacement Furnaces or Boilers.* The term "replacement furnaces or boilers" means a furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generation or reduced heat losses.

(ii) *Furnace Replacement Burner (Oil).* The term "furnace replacement burner (oil)" means a device that atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture; that is an integral part of an oil-fired furnace or boiler including the combustion chamber; and that, because of its design, achieves a reduction in the oil used from that used by the device which it replaces.

(iii) *Flue-Opening Modification (Vent Damper).* The term "flue-opening modification (vent damper)" means an automatically operated damper installed in a gas-fired furnace (often called a vent damper) which:

(A) is installed downstream from the draft hood; and

(B) conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

(iv) *Intermittent Pilot Ignition Device (IID).* The term "intermitten pilot ignition device (IID)" means a device which, when installed in a gas-fired furnace or boiler, automatically ignites the gas burner and replaces a gas pilot light.

(4) *Replacement Central Air Conditioner.* The term "replacement central air conditioner" means a central air conditioner which replaces an existing central air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency.

(5) *Ceiling Insulation.* The term "ceiling insulation" means a material primarily designed to resist heat flow which is installed between the conditioned area of a building and an unconditioned attic. Where the conditioned area of a building extends to the roofs, the term "ceiling insulation" also applies to such material used between the underside and upperside of the roof. The term "ceiling insulation" also includes such material installed on the exterior of the roof.

(6) *Wall Insulation.* The term "wall insulation" means a material primarily designed to resist heat flow which is installed within or on the walls between conditioned areas of a building and unconditioned areas of a building or the outside.

(7) *Floor Insulation.* The term "floor insulation" means a material primarily designed to resist heat flow which is installed between the first-level conditioned area of a building and an unconditioned basement, a crawl space, or the outside beneath it. Where the first-level conditioned area of a building is on a ground-level concrete slab, the term "floor insulation" also means such material installed around the perimeter of or on the slab. In the case of mobile homes, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

(8) *Duct Insulation.* The term "duct insulation" means a material primarily designed to resist heat flow which is installed on a heating or cooling duct in an unconditioned area of a building.

(9) *Pipe Insulation.* The term "pipe insulation" means a material primarily designed to resist heat flow which is installed on a heating or cooling pipe in an unconditioned area of a building.

(10) *Water Heater Insulation.* The term "water heater insulation" means a material primarily designed to resist heat flow which is suitable for wrapping around the exterior surface of the water heater casing.

(11) *Storm Window.* The term "storm window" means a window or glazing material placed outside or inside an ordinary or prime window, creating an air space, to provide greater resistance to heat flow than the prime windows alone.

(12) *Thermal Window.* The term "thermal window" means a window unit with improved thermal performance through the use of two or more sheets of glazing material affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

(13) *Storm or Thermal Door.* The term "storm or thermal door" means:

(i) A second door, installed outside or inside a prime door, creating an insulating air space.

(ii) A door with enhanced resistance to heat flow through the glass area by affixing two or more sheets of glazing material, or

(iii) A prime exterior door with an R-value of at least 2.

(14) *Heat Reflective and Heat Absorbing Window or Door Material.* The term "heat reflective and heat absorbing window or door material" means a window or door glazing material with exceptional heat-absorbing or heat-reflecting properties, or reflective or absorptive films and coatings applied to an existing window or door which thereby result in exceptional heat-absorbing or heat-reflecting properties.

(15) *Devices Associated with Electric Load Management Techniques.* The term "devices associated with electric load management techniques" means customer-owned or -leased devices that reduce the maximum kilowatt demand on an electric utility and which are either:

(i) Part of a radio, ripple or other utility-controlled load-switching system on the customer's premises;

(ii) Clock-controlled load-switching devices;

(iii) Interlocks and other load-actuated, load-limiting devices; or

(iv) Energy storage devices with control systems.

(16) *Clock Thermostat.* The term "clock thermostat" means a device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and that uses:

(i) A temperature control device for interior spaces incorporating more than one temperature control lever, and

(ii) A clock or other automatic mechanism for switching from one control level to another.

(f) *Energy Conserving Practices.* The term "energy conserving practices" means:

(1) Furnace Efficiency Maintenance and Adjustments, which means cleaning and combustion efficiency adjustment of gas or oil furnaces, periodic cleaning or replacement of air filters on forced-air heating or cooling systems, lowering the bonnet or plenum thermostats to 80°F on a gas or oil forced-air furnace, and turning off the pilot light on a gas furnace during the summer.

(2) Nighttime Temperature Setback, which means manually lowering the thermostat control setting for the furnace during the heating season to a maximum of 55° during sleeping hours;

(3) Reducing Thermostat Settings in Winter, which means limiting the maximum thermostat control setting for the furnace to 68°F during the heating season;

(4) Raising Thermostat Setting in Summer, which means setting the thermostat control for an air conditioner to 78°F or higher during the cooling season;

(5) Water Flow Reduction in Showers and Faucets, which means placing a device in a shower head or faucet to limit the maximum flow to three gallons per minute, or replacing existing shower heads or faucets with those having built-in provisions for limiting the maximum flow to three gallons per minute;

(6) Reducing Hot Water Temperatures, which means manually setting back the water heater thermostat setting to 120°F, and reducing the use of heated water for washing clothes;

(7) Reducing Energy Use When a Home Is Unoccupied, which means reducing the thermostat setting to 55°F when a home is empty for four hours or longer in the heating season, turning an air conditioner off in the cooling season when no one is home, and turning a water heater off when a home is vacant for two days or longer;

(8) Plugging Leaks in Attics, Basements, and Fireplaces, which means (i) installing scrap insulation or other pliable materials in gaps around pipes, ducts, fans, or other items which enter the attic or basement from a heated space, (ii) installing fireproof material to plug any holes around any damper in a fireplace, and (iii) adding insulation to an attic or basement door;

(9) Sealing Leaks in Pipes and Ducts, which means installing caulking in any leak in a heating or cooling duct, tightening or plugging any leaking joints in hot water or steam pipes, and replacement of washers in leaking water valves;

(10) Efficient Use of Shading, which means using shades or drapes (i) to block sunlight from entering a building in the cooling season, (ii) to allow sunlight to enter during the heating season, and (iii) to cover windows tightly at night during the heating season; and

(11) Such other low or no cost practices designed by DOE and approved by the Secretary in the Federal RCS Plan which (i) save energy; (ii) do not require the installation of energy conservation or renewable resource measures; and (iii) do not adversely impact the RCS Program.

(g) *Federal RCS Plan.* The term "Federal RCS Plan" means a plan developed pursuant to Subpart F of 10 CFR 456 and Section 219 of NECPA.

(h) *Governor.* The "Governor" means the Governor or chief executive officer of a State or his designee.

(i) *Home Heating Supplier.* The term "home heating supplier" means a person who sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane, and propane) to an eligible customer for consumption in a residential building.

(j) *Measures Warrants.* (1) The term "manufacturer's measure warranty" means, at a minimum, a written warranty by the manufacturer of an energy conservation or renewable resource measure to the eligible customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure, that such manufacturer shall replace within a reasonable period of time and at no charge, parts or materials for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design.

(2) The term "supplier's measure warranty" means, at a minimum, a written warranty equivalent to that required under § 456.1001(j)(1) by the supplier of an energy conservation or renewable resource measure provided to persons who purchase the measure from such supplier.

(3) The term "contractor's measure warranty" means, at a minimum, a written warranty by a contractor

installing an energy conservation or renewable resource measure that any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time.

(k) *Participating Home Heating Supplier.* The term "participating home heating supplier" means a home heating supplier that has elected to participate in the Federal RCS Plan which includes home heating suppliers.

(l) *Program Announcement.* The term "program announcement" means the Residential Conservation Service Program information and offer of services required to be sent by a covered utility or participating home heating supplier to each eligible customer by § 456.306.

(m) *Program Audit.* The term "program audit" means an energy audit in which the estimates of costs and savings are based on an onsite inspection of the residence of an eligible customer by an auditor qualified according to the Federal RCS Plan.

(n) *Program Information.* The term "program information" means the program announcement and any information dissemination activities related to a Residential Conservation Service Program.

(o) *Program Measures.* The term "program measures" means those energy conservation or renewable resource measures which the Secretary has by rule determined to be appropriate by climatic region and building category and which are found in § 456, Appendix I.

(p) *Public Utility.* The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in a residential building.

(q) *Rate.* The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sales of electric energy or natural gas.

(r) *Ratemaking Authority.* The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(s) *Renewable Resource Measure.* The term "renewable resource measure" means the following measures in or with respect to a residential building:

(1) *Solar Domestic Hot Water Systems.* The term "solar domestic hot water systems" means equipment designed to absorb the sun's energy and to use this energy to heat water for use in a residential building other than for space heating, including thermosiphon hot water heaters.

(2) *Active Solar Space Heating Systems.* The term "active solar space heating systems" means equipment designed to absorb the sun's energy and to use this energy to heat living space by use of mechanically forced energy transfer, such as fans or pumps.

(3) *Combined Active Solar Space Heating and Solar Domestic Hot Water System.* The term "combined active solar space heating and solar domestic hot water system" means equipment designed to perform both of the functions described in § 456.1001(s) (1) and (2).

(4) *Passive Solar Space Heating and Cooling Systems.* The term "passive solar space heating and cooling systems" means systems that make most efficient use of, or enhance the use of, natural forces—including solar insolation, winds, nighttime coolness, and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective, or radiant energy transfer. Passive solar systems include only:

(i) *Direct Gain Glazing Systems.* The term "direct gain glazing systems" means the use of south-facing (+ or −45° of True South) panels of insulated glass, fiberglass, or other similar transparent substances that admit the sun's rays into the living space where the heat is retained. Glazing is either double-paned or single-paned equipped with movable insulation.

(ii) *Indirect Gain Systems.* The term "indirect gain systems" means the use of panels of insulated glass, fiberglass or other transparent substances that direct a sun's rays onto specially constucted thermal walls, ceilings, rockbeds, or containers of water or other fluids where heat is stored and radiated.

(iii) *Solaria/Sunspace Systems.* The term "solaria/sunspace systems" means a structure of glass, fiberglass, or similar transparent material which is attached to the southfacing (+ or −45° of True South) wall of a structure which allows for air circulation to bring heat into the residence, and which is able to be closed off from the residential structure during periods of low solar insolation.

(iv) *Window Heat Gain and/or Loss Retardants.* The term "window heat gain and/or loss retardants" means those mechanisms which significantly reduce summer heat gain or wintertime heat loss through windows by use of devices such as awnings, insulated rollup shades (external or internal), metal or plastic solar or movable rigid insulation.

(5) *Wind Energy Devices.* The term "wind energy devices" means equipment that uses wind energy to produce energy in any form for personal residential purposes.

(6) *Replacement Solar Swimming Pool Heaters.* The term "replacement solar swimming pool heaters" means devices which are used solely for the purpose of using the sun's energy to heat swimming pool water and which replace a swimming pool heater using electricity, gas and other fossil fuel.

(t) *Residential Building.* The term "residential building" means any building used for residential occupancy which:

(1) Is not a new building to which final standards under Sections 304(a) and 305 of the Energy Conservation and Production Act apply;

(2) Has a system for heating, cooling, or both heating and cooling living spaces; and

(3) Contains at least one, but not more than four, dwelling units. Townhouses and rowhouses in rows of more than four separate houses are included in this definition, but garden apartment complexes which contain clusters of four or fewer apartment units are not.

(u) *Residential Conservation Service (RCS) Program.* The term "Residential Conservation Service (RCS) Program" means the program required to be implemented by covered utilities pursuant to the Federal RCS Plan.

(v) *State.* The term "State" means a State, the District of Columbia, and Puerto Rico.

(w) *State Agency.* The term "State Agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(x) *State Regulatory Authority.* The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sales of electric energy or natural gas by any public utility (other than by such State agency)—except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

§ 456.1002 Request for confidential treatment.

(a) *Request.* If a party wishes to file a document with DOE in connection with the Federal RCS Plan claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552, or is otherwise exempt by law from public disclosure, and if that party wishes to request that DOE not disclose such information, that party must comply with the DOE FOIA regulations set forth in 10 CFR 1004 (44 FR 1908, Jan. 8, 1979).

(b) *Disposition of Request.* DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by DOE to deny such claim, in whole or in part, and an opportunity to respond thereto, will be given to the person claiming confidentiality of the information no less than 7 days prior to the public disclosure of such information.

(c) *Document-by-Document Identification.* Each request for confidential treatment must be made with respect to each separately identified document and must be made at the time that document is first submitted to DOE.

§ 456.1003 Coverage of Federal RCS plan.

(a) *Regulated Utilities.* All regulated utilities providing utility service in a State where the Federal RCS Plan is ordered to be enforced and which meet the definition of "covered utility" in this Plan shall be subject ot the Federal RCS Plan.

(b) *Home Heating Suppliers.* The Federal RCS Plan includes home heating suppliers, in States where the Federal RCS Plan is ordered to be enforced, when 25% of the homes in that State are heated by oil, propane, butane, and/or kerosene.

§ 456.1004 Procedures for investigating and enforcing compliance with the Federal RCS plan.

(a) *Investigation and Enforcement.*

(1) The Secretary requires each utility and each participating home heating supplier subject to the Federal RCS Plan to comply with the Federal RCS Plan pursuant to the authority given the Secretary in Section 219 of the National Energy Conservation Policy Act (NECPA), in Pub. L. 95-619, November 9, 1978.

(2) Individuals or groups wishing to report possible noncompliance with this Plan may inform the covered utility or participating home heating supplier in their area and/or the Secretary. The Secretary may investigate any allegation of noncompliance, or any complaint concerning the RCS Program or this Plan, submitted to DOE, or on his own initiative may review the activities of utilities subject ot the Federal RCS Plan to determine compliance with the Plan.

(3) Utilities or participating home heating suppliers subject to the Federal RCS Plan shall notify the Secretary within a reasonable length of time from date of receipt of any reports of possible noncompliance with this Plan submitted in accordance with § 456.1004(a)(2).

(b) *Conflicts of Laws.* Each utility subject to the Federal RCS Plan shall petition the Secretary in accordance with § 456.102 whenever the utility believes it is prohibited by a State or local law or regulation from taking any action required to be taken under NECPA or any rule or Federal RCS Plan promulgated pursuant to NECPA, or whenever the utility believes it is required or permitted by a State or local law or regulation to take any action prohibited by NECPA or any rule or Federal RCS Plan promulgated pursuant to NECPA.

(1) This petition shall contain a copy of the applicable State or local laws or regulations and a description of the action the utility believes it is prohibited from taking or is permitted or required to take under such laws or regulations.

(2) The Secretary shall give notice of the petition to the Governor, State Energy Office, and State Regulatory Authority of the applicable State and such other persons as the Secretary deems appropriate. Any such person or entity may file comments with the Secretary with respect to such petition within 30 days of receipt of the notice.

(3) If the Secretary determines pursuant to such petition that a State or local law or regulation prohibits a utility from taking any action required to be taken under NECPA or any rule or plan promulgated pursuant to NECPA or permits or requires a utility to take any action prohibited by NECPA or any rule or plan promulgated pursuant to NECPA, the Secretary shall issue an order superseding such State or local laws or regulations to the extent inconsistent with NECPA or any rule or plan promulgated pursuant to NECPA. Such an order shall be effective with respect to all utilities otherwise subject to such State or local laws or regulations and shall moot any outstanding petitions under this Section by such utilities.

(4) Appeals.

(i) Any person aggrieved by any order, finding, or determination made under § 456.1004(b) may appeal that order, finding, or determination in accordance with 10 CFR, Subpart G of Part 205.

(ii) Any person so aggrieved has not exhausted his administrative remedies until an appeal has been filed under that Subpart and an order granting or denying the appeal has been issued.

§ 456.1005 Utility supply, installation, and financing.

(a) Except as provided in this section, no covered utility may supply or install any energy conservation or renewable resource measure.

(b) The prohibition in § 456.1005(a) shall not apply to the supply or installation of:

(1) Furnace efficiency modifications,

(2) Clock thermostats, and

(3) Devices associated with load management techniques.

(c) The prohibition contained in § 456.1005(a) shall not apply to any energy conservation or renewable resource measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply and installation and each supplier or contractor:

(1) Is on the list of suppliers and contractors referred to in § 456.1013;

(2) Is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and,

(3) If selected by the utility, is selected in a manner consistent with § 456.1005(d).

(d) Activities of a public utility under § 456.1005(c):

(1) May not involve unfair methods of competition;

(2) May not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

(3) Shall be undertaken in a manner that provides, subject to reasonable conditions the utility may establish to ensure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available for the supply or installation by any contractor on the lists referred to in § 456.1013 or for the purchase of such measures to be installed by the customer;

(4) Shall be undertaken, to the extent practicable and consistent with § 456.1005(d) (i), (ii), and (iii), in a manner that minimizes the cost of residential energy conservation measures to such customers; and

(5) Shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under § 456.1005(c).

(e) The prohibition in § 456.1005(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure that the covered utility was (1) engaged in on November 9, 1978, or (2) for which the covered utility had broadly advertised or completed substantial preparations, by November 9, 1978:

(i) During such time as applications for determinations with respect to such activities, filed in accordance with § 456.509, are pending; and

(ii) Upon a final determination that, on or by November 9, 1978, such energy conservation or renewable resource measure was being supplied or installed, had been broadly advertised, or for which substantial preparation had been completed, by the utility seeking such determination.

(f) The prohibition in § 456.1005(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure:

(1) Which a State or local law or regulation required or explicitly permitted a covered utility to engage in; or

(2) Which the Attorney General of the appropriate State certifies in accordance with § 456.508(a)(2) was intended by a State law or regulation in effect on November 9, 1978, to be required or permitted.

(g) Each utility subject to the Federal RCS Plan must report to the Secretary any State or local law or regulation in effect on November 9, 1978, which requires or explicitly permits a covered utility to engage in any supply or installation of any energy conservation or renewable resource measures.

(h) A covered utility is exempt from any Federal requirement to include in its RCS program any supply, installation, or financing of any energy conservation or renewable resource measure in which it is engaged by reason of a State law or regulation in effect prior to November 8, 1978, permitting or requiring such activities. However, a covered utility that does include supplying and installing in its RCS program pursuant to the exemption in § 456.1005(f) shall be subject to all the requirements of the Federal RCS Plan with respects to those activities in the same manner as any other contractor, supplier, or lender, except that it shall be exempt from the requirements of § 456.1011 (Accounting and Payment of Costs) and § 456.1012 (Customer Billing, Repayment of Loans, and Termination of Service) with respect to such activities.

(i) The Secretary may waive any prohibition of § 456.1005(a) upon petition by a covered utility pursuant to § 456.509 and a finding that:

(1) The petition, in the case of a covered utility subject to the Federal RCS Plan, is supported by the Governor of the State subject to this Plan, and

(2) If such waiver were granted:

(i) Fair and reasonable prices and rates of interest would be charged, and

(ii) The otherwise prohibited activities would not involve or result in unfair methods of competition or unfair deceptive acts or practices.

(j) Whenever any public utility undertakes to finance a lending program for energy conservation or renewable resource measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program.

(k) Each utility subject to the Federal RCS Plan that supplies, installs, or finances any energy conservation or renewable resource measure and that wishes to so inform the eligible customer in the course of offering RCS services must be listed as such pursuant to § 456.1013 in the same manner and subject to the same requirements as any other supplier, installer, or lender.

(l) Each utility subject to the Federal RCS Plan that supplies, installs, or finances any energy conservation or renewable resource measure must notify the Secretary when such program becomes effective.

(m) Each utility subject to the Federal RCS Plan that supplies or installs, or finances the sale or installation of, energy conservation or renewable resource measures shall:

(1) Report semiannually to the Secretary the prices and interest rates charged in conjunction with the services offered pursuant to Sections 216 (b), (c), (d)(1), (d)(2), and (e) of NECPA, and the nature of the services provided; and

(2) Report semiannually to the Secretary the procedures used to select products to be supplied, installed, or financed and to select installers to perform utility-supported work, and report any steps the utility has taken to ensure that the activities have no adverse effect on competition.

(n) Notwithstanding § 456.1005 (b)–(f), no covered utility may supply, install, or finance the supply or installation of energy conservation or renewable resource measures if the Secretary has determined, after notice and opportunity for public hearing and after consultation with the Federal Trade Commission, that:

(1) Such loans are being made, or supply or installations carried out, by such utility at unreasonable rates or on unreasonable terms and conditions, or

(2) Such loans made, or supply or installations carried out, by such utility have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices or are being carried out in a manner that does not comply with § 456.1005 (c) and (d).

(o) Any covered utility conducting activities pursuant to the exemptions provided for in § 456.1005 (b), (c), and (e)(2) or the waiver provisions of § 456.1005(i) shall comply with the requirements of § 456.1011 (a), (b)(2) and (3), and § 456.1012 with respect to those activities. Any covered utility carrying out activities pursuant to the exemptions provided for in § 456.505 (e)(1) shall, within such reasonable time as the Secretary prescribes, comply with the requirements of § 456.1011 (a), (b)(2) and (3), and § 456.1012 with respect to such activities. There is no requirement that a utility conducting a financing program comply with the requirements of § 456.1011 (a), (b)(2) or (3) or § 456.1012 with respect to such financing program.

§ 456.1006 Scope of benefits.

(a) The benefits listed in § 456.1006(d) (1) through (7) below shall be made available to any eligible customer who takes the following actions:

(1) Requests the arranging of installation service as provided in § 456.1009(a);

(2) Signs a contract for the installation of a program measure with an installer listed in the Master Record; and

(3) Returns to the utility the card provided according to § 456.1009(b)(4).

(b) The benefits listed in § 456.1006(d) (5), (6), and (7) below shall be made available to any eligible customer who takes the following actions:

(1) Requests the arranging of financing service as provided in § 456.1010(a);

(2) Obtains a loan for the installation or purchase of a program measure from a lender listed in the Master Record.

(c) The benefits listed in § 456.1006(d) (1), (2), (5), (6), and (7) below shall be made available to any eligible customer who takes the following actions:

(1) Purchases any program measure from a supplier listed in the Master Record; and

(2) Receives some evidence from the supplier that the measure meets applicable material standards or carries the measures warranty.

(d) The benefits to which an eligible customer is entitled as a result of certain actions described in § 456.1006 (a) through (c) above are:

(1) The measure warranty, defined in § 456.1001(j)(1) and (2) with respect to any program measure;

(2) The measure warranty defined in § 456.1001(j) (1)–(3) with respect to any program measure;

(3) Supply or installation of a measure subject to the standards in 10 CFR 456, Subparts G, H, or I;

(4) Enforcement of installation standards through the mandatory inspections described in § 456.1014(a) and through inclusion in the pool from which random inspections will be made pursuant to § 456.1014(b);

(5) Billing of costs and repayment of loans as described in § 456.1012;

(6) Access to the conciliation conference and redress procedures described in § 456.1016, and

(7) The requirements placed on suppliers, lenders, and contractors by § 456.1013(b).

§ 456.1007 Program announcement.

(a) *Distribution and Content.* Each utility and participating home heating supplier subject to the Federal RCS Plan must send a copy of the Program Announcement to the Secretary no later than 30 days after issuance of an order to comply with the Federal RCS Plan by the Secretary. Each utility and participating home heating supplier subject to the Federal RCS Plan must send to each eligible customer no later than 90 days after the above-mentioned order is issued by the Secretary and every two years thereafter until January 1, 1985, a Program Announcement which shall, at a minimum: .

(1) List the program measures for the category of residential buildings owned or occupied by such eligible customer,

(2) Include a range of estimates of the savings in energy costs, expressed in percentages, for a period of one year, which are likely to result from installation of each of the program measures in a typical building or buildings in such category;

(3) List the energy conserving practices and state that they are of low or no cost;

(4) Include a range of estimates of the savings in energy costs, expressed in percentages, for a period of one year, likely to result from the adoption of the practices, individually and as a group;

(5) For each of the services required to be offered under § 456.1008 (Program Audits), § 456.1009 (Arranging Installation), § 456.1010 (Arranging Financing), and § 456.1013(3) (List Distributed to Eligible Customers):

(i) Offer and describe the service using one of the following options.

(A) Each utility or participating home heating supplier subject to the Federal RCS Plan may send a Program Announcement meeting the requirements of this Plan to every eligible customer as a separate mailing, beginning no later than 90 days after the above-mentioned order to comply with the Federal RCS Plan and every two years thereafter until January 1, 1985, which includes the offer of a program audit to be provided within 30 working days after an eligible customer requests such an audit.

(B) Each utility and participating home heating supplier subject to the Federal RCS Plan may send a Program Announcement meeting the requirements of this Plan to every eligible customer on a separate mailing beginning no later than 90 days after the above mentioned order to comply with the Federal RCS Plan and every two years thereafter until January 1, 1985, which includes the offer of a program audit conditioned upon the serving of one geographic area at a time. Each utility and each participating home heating supplier subject to the Federal RCS Plan must define for the approval of the Secretary each geographic area, list how many customers are contained within each area and include a map of its entire service area. All customers who receive a conditional offer of a program audit must be recontacted with a separate mailing and receive an unconditional offer of a program audit within two years of receiving the conditional offer. The unconditional offer must state that the auditor will be in the customer's area within no more than 90 days for a period of 60 days and must relist the program benefits and again describe the audit and be subject to the same prohibitions as the Program Announcement. Within 30 days before the audit, the customer must be recontacted by a separate mailing, by phone, or by a bill stuffer to remind the customer of the audit. However, any customer who at any time requests an audit, regardless of his geographic area or the fact that his area may not be targeted for audits at the time of his request, must be scheduled for an audit. An auditor must attempt to schedule this customer for an audit within 30 working days of the request for an audit if at all possible or at the earliest possible date. If for any reason a utility or participating home heating supplier subject to the Federal RCS Plan cannot provide its eligible customers with the audits they request within 30 working days of the customer's request, that utility or participating home heating supplier may submit a written request to the Secretary for an extension of its response time to include an additional 30 days. The utility or participating home heating supplier must include in its written request for an extension of its response time the number of calls over 35 days old, the measures being taken to reduce the backlog, and an estimate of how long the utility or participating home heating supplier needs the 30 day extension to remain in effect.

(C) Each utility or participating home heating supplier subject to the Federal RCS Plan may send a Program Announcement meeting the requirements of this Plan to each eligible customer as a separate mailing, beginning no later than 90 days after the above-mentioned order to comply with the Federal RCS Plan and every 6 months thereafter until January 1, 1985, which includes the offer of a program audit to be conducted within 90 days after an eligible customer requests such an audit.

(ii) Explain that an eligible customer may request the services offered in the Program Announcement by telephone, by letter, or in person; and

(iii) List the direct costs, if any, of receiving the service, which are to be charged to the eligible customer.

(6) With respect to the benefits listed in § 456.1006(d)(4), describe the benefits and explain what action an eligible customer must take to qualify for them, as described in § 456.1006(a)–(c).

(7) Include the following disclosure: "Energy savings depend on many factors the estimates contained in this Program Announcement are based on estimates for typical houses which are defined in terms of: [define as in § 456.1007(b)(5) below]. Your costs and savings will be different if your house is a different size or is using a different fuel, if your family is a different size, or if your energy-using habits are different from those we assumed. The energy audit which we offer will provide more specific estimates for your home."

(8) Include a brief explanation of the benefits of the Federal energy tax credits as follows: "You may qualify for a Federal tax credit for part of what you spend on some of the improvements discussed in our program. Fifteen percent of investments you make in insulation, caulking and weatherstripping, storm windows, certain furnace improvements, and other items may be claimed as a credit. The maximum on this credit is $300. Forty percent of your costs for many solar and wind energy products may be claimed. The maximum on this credit is $2200. Not all improvements and not all homes quality for these credits. Our energy auditor can answer your questions. The Internal Revenue Service Publication 903, which is available from your local IRS, also is helpful." [Give the address and telephone number of the nearest branch of the Internal Revenue Service.]

(9) Include a brief explanation of the benefits of the Weatherization Assistance Program for Low Income Persons, 10 CFR Part 440, information on how to contact the office qualified to assist, and a brief description of who is eligible for assistance as follows: "If your family income is below 125% of the federally established poverty level for your family size, you may be eligible for help from the Weatherization Assistance Program. You may apply for a grant of up to $1000 to pay for insulation, weatherstripping, caulking, storm doors and windows, and other items. For more information, contact the appropriate agency listed below which has been assigned by the Governor to handle this program." [List the agency.]

(10) Not include any advertising for the sale, installation, or financing by any supplier, contractor, or lender (including the utility) of any energy conservation measure, renewable resource measure, or energy conserving practice; however, if the utility or participating home heating supplier subject to the Federal RCS Plan is a lender listed in accordance with § 456.1013(b)(3), the Program Announcement may so state.

(11) Not include any information regarding any product which is not an energy conservation measure, a renewable resource measure, or an energy conserving practice.

(b) *Calculation Procedures.* With respect to the estimates of the savings included in the Program Announcement, each utility or participating home heating supplier subject to the Federal RCS Plan shall:

(1) Describe in the Program Announcement the procedures by which such estimates shall be made as follows: "These are average high and average low savings estimates which were based on assumptions made about an average single-family residence and on the price of fuel in your area as of (date). Our energy advisor will calculate a table like this specially for your house.";

(2) Submit with the Program Announcement to the Secretary for his review proof that such estimates are based on prices for fuel which were in effect no more than 6 months prior to issuing the Program Announcement and on climate data which are representative of those for the location of each eligible customer;

(3) If any eligible customer is to receive two or more Program Announcements from different utilities or participating home heating suppliers subject to the Federal RCS Plan, submit to the Secretary, no later than 30 days after issuance of an order to comply with the Federal RCS Plan by the Secretary, a copy of each of the Program Announcements in question, to establish that the cost and savings estimates required in § 456.1007(a) of this section are the same; and

(4) Assure the Secretary that such estimates in Program Announcements distributed in different parts of the State are consistent. For the purposes of this Program, "consistent" means the same except for variations in the characteristics of typical homes and in the price and climate data applicable in the different parts of the State.

(5) Define a typical house for purposes of § 456.1007(b)(3) above in terms of: age, number of stories, type of construction, floor area in square feet, building length, width, and height, wall heights, building volume, attic area, attic end walls area, roof area, basement/crawl space/slab on grade area, length of exposed perimeter of slab on grade, door area, window area, amount of window area on south side, water heater location in a conditioned or unconditioned space, number of air changes per hour, type of heating system and its average seasonal efficiency, and type of cooling system and its EER number.

(c) *New Customer.* (1) A new customer is a person who becomes an eligible customer after the initial distribution of the Program Announcement but before January 1, 1985.

(2) Each utility and participating home heating supplier subject to the Federal RCS Plan shall send a Program Announcement which meets the requirements of this Section to each new customer within 60 days of such customer becoming a new customer.

(3) Within 60 days of becoming a new customer, each new customer shall be informed by the utilities and participating home heating suppliers subject to the Federal RCS Plan that, upon request, the customer may receive a copy of the results of any program audit of the cutomer's residence which the utility or participating home heating supplier may have performed pursuant to the Federal RCS Plan and upon such a request, such utility or home heating supplier shall provide such results.

§ 456.1008 Requirements for energy audits.

(a) *Timing and Preconditions.* (1) Each utility or participating home heating supplier subject to the Federal RCS Plan shall offer program audits according to one of the following options.

(i) Each utility or participating home heating supplier subject to the Federal RCS Plan that chooses to send the Program Announcement in accordance with § 456.1007(a)(5)(i)(A), shall provide a program audit to each eligible customer upon a request for such an audit within 30 working days of the receipt of such request.

(ii) Each utility or participating home heating supplier subject to the Federal RCS Plan that chooses to provide a conditional offer in accordance with § 456.1007(a)(5)(i)(B) must provide an unconditional offer of a program audit within two years of receipt of the conditional offer in the Program Announcement. The unconditional offer must state that the auditor will be in the customer's area within no more than 90 days for a period of 60 days. Then within 30 days before the audit, the customer must be recontacted by a separate mailing, by phone, or by a bill stuffer to remind the customer of the audit. However, any customer who at any time requests an audit, regardless of his geographic area or the fact that his area may not be targeted for audits at the time of his request, must be scheduled for an audit. An auditor must attempt to schedule this customer for an audit within 30 working days of the request for an audit if at all possible or at the earliest possible date. If for any reason a utility or participating home heating supplier subject to the Federal RCS Plan cannot provide its eligible customers with the audits they request within 30 working days of the customer's request, that utility or participating home heating supplier may submit a written request to the Secretary for an extension of its response time to include an additional 30 days. The utility or participating home heating supplier must include in its written request for an extension of its response time the number of calls over 35 days old, the measures being taken to reduce the backlog, and an estimate of how long the utility or participating home heating supplier needs the 30 day extension to remain in effect.

(iii) Each utility or participating home heating supplier subject to the Federal RCS Plan that chooses to send Program Announcments to its eligible customers every 6 months, in accordance with § 456.1007(a)(5)(i)(C), shall provide a program audit to each eligible customer upon a request for such an audit within 90 days of the receipt of such request.

(2) Each utility and participating home heating supplier subject to the Federal RCS Plan is prohibited from requiring as a precondition of providing a program audit to an eligible customer that such customer purchase or perform any other energy audit, including a Class B energy audit.

(3) Each utility and participating home heating supplier subject to the Federal RCS Plan is prohibited from

discriminating unfairly among eligible customers in providing program audits.

(b) *Contents of Program Audit.* Each utility and participating home heating supplier subject to the Federal RCS Plan shall provide to each eligible customer upon request a comprehensive program audit which addresses all energy conserving practices and all program measures.

(1) The auditor shall determine in each program audit which of the energy conserving practices would save energy in the residence, repeat the savings estimates which appear in the Program Announcement for the practices in § 456.1007(a)(4), explain such energy conserving practices to the eligible customer, emphasize the importance of these practices, and recommend that they be performed before installation of any measure.

(2) The auditor shall determine in each program audit the applicability of each program measure in that residence. If a program measure is not applicable, then the requirements of this paragraph to provide estimates of the cost and savings in a range of dollars for installation of such measure in such residence need not apply. A program measure is applicable in a residence if:

(i) The measure is not already present in the residence;

(ii) Installation of the measure is not a violation of Federal, State, or local law or regulations;

(iii) With respect to ceiling insulation, the difference between the effective R-value of any existing insulation and the program measure level for that residence is R-11 or more;

(iv) With respect to wind energy devices: (A) the estimated average annual wind resource in the vicinity of the site is 10 miles per hour, or greater, at 10 meters (33 feet) above ground level; and (B) there are no major wind obstructions over 55 feet high, greater than 30 feet wide, within 100 feet of a potential location for the wind energy device.

(v) With respect to active solar heating systems, or combined active solar systems, a site exists on or near the residence which is free of major obstruction to solar radiation and the residence has a space-heating system other than a steam heating, electric resistance radiant heating, or electric resistance baseboard heating system;

(vi) With respect to active domestic hot water systems, a site exists on or near the residence which is free of major obstruction to solar radiation;

(vii) With respect to flue-opening modifications, the furnace combustion air is taken from a conditioned area;

(viii) With respect to replacement furnaces or boilers, the existing furnace is approximately five years old or older;

(ix) With respect to replacement central air conditioners, the residential building has a central air conditioner that is approximately five years old or older;

(x) With respect to water heater insulation, the remaining useful life of the water heater appears to the auditor to be at least three years and space is available around the water heater to install insulation;

(xi) With respect to clock thermostats, either the residence currently has a thermostat or the existing furnace or central air conditioner is compatible with a clock thermostat;

(xii) With respect to replacement solar swimming pool heaters, there is an existing heated swimming pool and a site exists near the pool which is free of major obstruction to solar radiation;

(xiii) With respect to wall insulation, there is no insulation in a substantial portion of the exterior walls, and the building is not a mobile home;

(xiv) With respect to floor insulation, no floor insulation is present;

(xv) With respect to direct gain glazing systems and indirect gain systems, the living space of the residence has either a south-facing (+ or −45° of True South) wall or an integral south-facing (+ or −45° of True South) roof, which is free of major obstruction to solar radiation;

(xvi) With respect to solaria/sunspace systems, the living space of the residence has a south-facing ground-level wall, which is free of major obstructions to solar radiation;

(xvii) With respect to heat-absorbing or heat reflective window and door material, the residence has an existing central or room air conditioner.

(3) The auditor is required to give each estimate of energy cost savings and of installation costs provided as a result of a program audit based on actual measurements or inspections, as appropriate, performed on site by the auditor in accordance with the DOE model audit.

(4) Each utility and participating home heating supplier subject to the Federal RCS Plan shall survey a representative sample of contractors and suppliers every 6 months and report to the Secretary every 6 months the methods used to assure that the estimates of energy cost savings and of installation costs and any other economic calculation provided as a result of the program audit shall be based on typical recent local electricity rates, typical recent local fuel prices, typical recent local prices for materials and installation of program measures, and typical local climate data for the eligible customer's location.

(5) Each utility and participating home heating supplier subject to the Federal RCS Plan shall use as program audit procedures those contained in the DOE model audit. For the purposes of this paragraph, the term "program audit procedures" means the measurements or inspections which the auditor must make in a customer's residence and the calculations which must be performed in making energy cost savings estimates.

(6) The auditor is required to base any cost and savings estimate for any applicable furnace efficiency modification to a gas or oil furnace or boiler on an evaluation of the seasonal efficiency of such furnace or boiler. This seasonal efficiency shall be based on estimated peak (tuned-up) steady state efficiency corrected for cycling losses. In the case of an oil furnace, or a furnace which has been converted from burning oil or coal by installation of a gas burner, steady state efficiency shall be derived by a flue gas analysis of measured flue gas temperature and carbon dioxide content. In the case of a gas furnace, steady state efficiency shall be derived from manufacturer's design data and observation of the furnace components, or, alternatively, by a flue gas analysis of measured flue gas temperature and carbon dioxide content.

(c) *Results of Program Audit.* The auditor, in person, on site, is required to provide the following information in writing to each eligible customer who receives a program audit upon completion of the audit. If the eligible customer is not present or otherwise declines in-person presentation, the auditor is relieved of any obligation to deliver the results in person.

(1) An estimate of the total cost (materials and labor), expressed in a range of dollars, of installation by a contractor of each applicable program measure addressed in the program audit;

(2) An estimate of the total cost, expressed in a range of dollars, of installation by the customer of each applicable program measure, other than replacement central air conditioners, wall insulation, active solar space heating systems, and combined active solar space heating and solar domestic hot water systems, addressed in the program audit, except that any utility or participating home heating supplier subject to the Federal RCS Plan is prohibited from providing any estimate to any eligible customer of the cost of purchase of furnace efficiency modifications, devices associated with load management techniques, or wind

energy devices for installation by the eligible customer;

(3) An estimate of the savings in energy costs, expressed in a range of dollars, which would occur during the first year from installation of each applicable program measure addressed by the program audit;

(4) Clear indication to the eligible customer, through sample calculation and disclosure, that the total energy cost savings from the installation of more than one program measure may be less than the sum of energy cost savings of each measure installed individually. The following disclosure or its equivalent may be included: "If you install more than one of the measures we have analyzed for your house, the total savings will probably be less than the sum of the savings estimates we have given. As you install more measures, the amount of energy left to be saved by additional measures shrinks. For example, installing storm windows cuts down air infiltration and therefore makes it less important to install weatherstripping."

(5) The following disclosure or its equivalent: "The procedures used to make these estimates are consistent with DOE criteria for residential energy audits. However, the actual installation costs you incur and energy savings you realize from installing these measures may be different from the estimates contained in this audit report. Although the estimates are based on measurements of your house, they are also based on assumptions which may not be totally correct for your household."

(6) An estimate of the annual normal maintenance costs, if any, of each applicable program measure, as determined either from a survey of local contractors reviewed by DOE or from the DOE model audit;

(7) The possible economic benefits to the eligible customer of existing Federal tax incentives (and the State tax incentives, if applicable) with, at a minimum, one sample calculation of the effect of the tax benefit on the cost to the customer of installing one applicable energy conservation program measure and one applicable renewable resource program measure;

(8) With respect to a program audit addressing an applicable solar domestic hot water system or active solar space heating system, or combination thereof, a description of the solar system assumed by the auditor in preparing energy savings estimates which shall include the following information:

(i) Square feet of collector;

(ii) Collector characteristics, including glazing materials and other collector materials;

(iii) Any storage system needed, including the capacity of storage;

(iv) Any freeze protection needed;

(v) The estimated percent of the space and/or water heating load to be met by solar energy;

(vi) Any physical connections needed with existing heating systems;

(vii) Any site preparation needed; and

(viii) If the results are based on a simulation, the following disclosure or its equivalent: "The energy cost savings estimates you receive are based on systems which may be different from the ones you purchase. Also, these estimates were not determined using actual conditions but using simulated measurements. Therefore, the cost savings we have estimated may be different from the savings which actually occur."

(9) With respect to a program audit addressing an applicable passive solar space heating and cooling system:

(i) The generic designation and a pictorial description of the particular systems considered by the auditor;

(ii) The estimated percentage of the heating load to be met such system;

(iii) The approximate dimensions of such system;

(iv) Collection storage characteristics, including the recommended heat capacity of storage; and

(v) The disclosure provided in § 456.1008(c)(8)(viii).

(10) With respect to a program audit addressing an applicable wind energy device:

(i) Installation cost estimates, as required in § 456.1008(c)(1), based on commercially available wind devices of a kilowatt rating appropriate to the level of electricity consumption in the customer's residence;

(ii) Estimates of energy cost savings, as required in § 456.1008(c)(3), provided in the form of a function of average yearly wind speeds for the system used in § 456.1008(c)(10)(i);

(iii) The average yearly wind speed at the nearest qualified wind measurement station and the relationship between that data and the likely wind speeds at the residence. A qualified wind measuring station is one which meets the following minimum requirements:

(A) the anemometer is located no less than 10 meters (33 feet) above ground level;

(B) data used to determine the annual average wind speed have been collected for one year or more and contain at least one month's continuous hourly reading for every four-month period of time; and

(C) calibration of the data collection and recording instrument(s) had been certified by the instrument manufacturer(s) at the time of purchase; and

(iv) A description of the type of wind energy device used by the auditor in preparing the energy savings estimates.

(d) *Additional Information Required for Program Audits.* The auditor is required to present the following information to the eligible customer during, or upon completion of, the program audit.

(1) An explanation of the benefits and services listed in § 456.1006 and a brief description of how the eligible customer can qualify for such benefits and services;

(2) The lists of contractors, suppliers, and lenders developed pursuant to § 456.1013 for the applicable program measures, at a minimum; and

(3) An explanation of the benefits of the Weatherization Assistance Program for Low Income Persons, § 456.1007(a)(9), an explanation of the appropriate office to contact for more information, and a brif description of who is eligible for such assistance.

(e) *Prohibitions and Disclosure Required for Program Audits.*

(1) The auditor is prohibited from estimating, as part of any program audit provided pursuant to the Federal RCS Plan, the costs or energy cost savings of installing any product which is not an energy conserving practice or a program measure;

(2) Any auditor is prohibited from recommending any supplier, contractor, or lender who supplies, installs, or finances the sale or installation of any program measure if such recommendation would unfairly discriminate among such suppliers, contractors, or lenders. If the utility or participating home heating supplier subject to the Federal RCS Plan has arranged the audit and is itself a supplier, installer, or lender listed in accordance with § 456.1013(b), the auditor may so state;

(3) No utility or auditor may unfairly discriminate among program measures;

(4) Each energy auditor must provide the eligible customer with a written statement of any substantial interest which the person or the person's employer has, directly or indirectly, in the sale or installation of any program measures.

(f) *Program Audits of Furnaces.* In order for an auditor of a utility or participating home heating supplier subject to the Federal RCS Plan to provide cost and savings estimates for furnace efficiency modifications with respect to a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by that utility or participating home heating supplier, the eligible customer must request such audit by signing a form which includes the following statement:

> If your home is heated by a source of fuel other than [state the type of fuel supplied by the utility or participating home heating supplier], only the supplier of the other fuel may audit your furnace unless you specifically request us to audit your furnace. Federal law requires that such a request be in writing. If you want us to audit your furnace, although we do not supply the fuel for it, please sign below.

(g) *Qualifications for Program Auditors.* Each auditor who performs a program audit pursuant to the Federal RCS Plan shall:

(1) Be qualified according to the applicable procedures in § 456.1015 of this Plan;

(2) Be under contract or subcontract to, be an employee of, or be an employee of a contractor or subcontractor to, a utility or participating home heating supplier subject to the Federal RCS Plan.

(h) *Class B Energy Audits.* Class B audits shall not be offered in conjunction with and RCS program carried out under the Federal RCS Plan.

§ 456.1009 Arranging installation.

(a) Each utility subject to the Federal RCS Plan shall arrange installation of any program measure within 10 working days of any eligible customer's request when the eligible customer:

(1) Requests arranging services at the time of the audit or

(2) Writes, calls, or visits the covered utility in the customer's service area to request arranging services.

(b) Each utility subject to the Federal RCS Plan shall arrange installation of any program measure within 10 working days of any eligible customer's request, by:

(1) Sending requests for bids to three or more installers in the Master Record who provide all program measures requested by the customer and to three or more installers in the Master Record who install less than all program measures for each of the specific program measures requested by the customer. The utility subject to the Federal RCS Plan will present the eligible customer with the list of installers from which the customer may select the ones to whom the customer's request for bids will be sent. This list of installers will be a specially prepared list of names of installers, in which the names will be presented in random order. A computer or other method may be used to prepare the special lists of installers and ensure that the names of the installers appear in random order on the lists. The lists will be revised every 6 months to alter the random order in which the names of the installers appear on the lists. A copy of the energy analysis, if any, for the eligible customer's residential building will be included in each request for bid.

(2) Explaining and performing the services described in § 456.1009(b)(1) of this section in the eligible customer's residential building at the time of the energy analysis by the auditor or, if the eligible customer requests, by a utility representative at some later time.

(3) Providing, upon the eligible customer's request, a consultation by phone or in person at the utility's office for evaluation of the bids obtained pursuant to § 456.1009(b)(1) in order to compare differences in, and number of, program measures to be installed under the various bids.

(4) Providing the eligible customer with a card to be filed out by the customer and to be returned to the utility by the customer upon completion of an arranged job, or upon the customer's receiving an arranged loan, in order to assure that the eligible customer receives the program benefits to which he/she is entitled. Such card should at least provide space to report information concerning the types of measure(s) installed, date of completion, and name, address, and telephone number of the customer.

(c) *Additional Services:* (1) Each utility subject to the Federal RCS Plan will provide its eligible customers with the current Master Record for their service area.

(2) Upon request, the utility subject to the Federal RCS Plan will furnish its eligible customers with a copy of the standards for program measures and explain these standards to the eligible customer.

(3) Upon request, the utility subject to the Federal RCS Plan will assist eligible customers who desire to install program measures themselves in the following manner:

(i) The utility subject to the Federal RCS Plan will provide the eligible customer with the list of suppliers in the Master Record.

(ii) If the customer has had a program audit conducted and if more than 90 days have lapsed since the program audit, the utility subject to the Federal RCS Plan will review the audit results to identify any changes in cost of materials, or changes in rates that would affect the calculated savings.

(iii) The utility subject to the Federal RCS Plan will inspect, upon request by any eligible customer, the completed program measure installations for conformance with the standards for program measures. This inspection will be available to all eligible customers who request them and will be for the eligible customer's information only and need not be reported to the Secretary. The utility may charge the eligible customer a price not to exceed the cost of providing the service.

(iv) The utility subject to the Federal RCS Plan may also conduct periodic workshops to instruct on the installation of program measures and may supply brochures on specific program measures.

(d) Upon the request by a lender making a loan to an eligible customer, each utility subject to the Federal RCS Plan will bill the eligible customer for the repayment of financing for the purchase or installation of a program measure as required in § 456.1012.

(e) *Prohibitions.* (1) No utility subject to the Federal RCS Plan will recommend, select, or provide information about any supplier or installer when such a recommendation would result in unfair discrimination among suppliers or installers. Further, no utility subject to the Federal RCS Plan will discriminate unfairly among customers, suppliers, installers, or program measures. However, a utility which is listed in accordance with § 456.1013(b) (1) or (2) may so state.

(2) No utility subject to the Federal RCS Plan may arrange installation with any supplier or installer unless such person is listed on the Master Record.

(3) No utility subject to the Federal RCS Plan may arrange installation of any measure that is not a program measure under the Federal RCS Plan.

§ 456.1010 Arranging financing.

(a) Each utility subject to the Federal RCS Plan shall arrange financing for the purchase or installation of any program measure within 10 working days of when the eligible customer:

(1) Requests arranging services at the time the auditor is at the eligible customer's residential building, or

(2) Writes, calls, or visits the utility subject to the Federal RCS Plan in his service area to request arranging services.

(b) Each utility subject to the Federal RCS Plan shall arrange the financing for the purchase or installation of a program measure within 10 working days of the request by any eligible customer, by:

(1) Answering any questions the eligible customer may have concerning the financing of the purchase or installation of program measures.

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(2) Assuring that the eligible customer has a current list of lenders in the Master Record.

(3) Providing information concerning lender's loan programs, as provided by the respective lenders, including program measures the lenders will finance and information, in addition to the listing criteria for lenders to be included on the Master Record, about the terms and conditions upon which loans may be granted.

(4) Making available to the eligible customer a loan application form for each of the listed lenders selected by the customer.

(5) Supplying information to the eligible customer on the low income weatherization loan and tax incentive programs in accordance with § 456.1007(a) (8) and (9) (Program Announcement which may be applicable.

(6) Supplying the lenders to which the eligible customer applies for a loan with a copy of the eligible customer's audit results upon the request of the eligible customer.

(c) Upon the request of a lender making a loan to an eligible customer, each utility subject to the Federal RCS Plan will bill the eligible customer for the repayment of a loan as required in § 456.1012 (Customer Billing and Repayment of Loans).

(d) *Prohibitions.* (1) No utility subject to the Federal RCS Plan may recommend, select, or provide information about any lender when such a recommendation would result in unfair discrimination among lenders. When arranging financing, no utility subject to the Federal RCS Plan may discriminate unfairly among suppliers installers, lenders, or program measures. However, if the utility is listed in accordance with § 456.1013(b)(3) it may so state.

(2) No utility subject to the Federal RCS Plan may arrange financing for the purchase or installation of program measures with a lender unless the lender is listed in the Master Record.

(3) No utility subject to the Federal RCS Plan may arrange financing for the purchase of installation of any measure that is not a program measure under the Federal RCS Plan.

(4) No utility subject to the Federal RCS Plan may arrange financing for the purchase or installation of furnance efficiency modifications, devices associated with load management techniques, and wind energy devices for installation by the eligible customer unless such customer is qualified to perform such installation pursuant to § 456.1015(c).

§ 456.1011 Accounting and payment of costs.

(a) *Accounting.* Utilities subject to the Federal RCS Plan must use the following accounts and procedures:

(1) All amounts expended or received by a utility subject to the Federal RCS Plan which are attributable to the RCS Program, including any penalties paid under 10 CFR 456 Subpart F (Federal Standby Authority) shall be accounted for on the books and records separately from amounts attributable to all other activities of the utility.

(2) Utilities subject to the Federal RCS Plan and the jurisdiction of the Federal Energy Regulatory Commission (FERC) shall utilize the Uniform System of Accounts as prescribed in Title 18, CFR Parts 101, 104, 201 and 204. Covered rural electric cooperatives subject to the Federal RCS Plan shall utilize the Uniform Systems of Accounts as prescribed by the Rural Electrification Administration (REA) in Title 7, CFR Part 1701, Appendix A.

(i) All amounts expended by a utility subject to the Federal RCS Plan for the RCS Program shall be charged to subaccounts within Account 908, Customer Assistance Expenses, its equivalent or successor, or the appropriate account designated specifically by FERC or REA for program expenses. Appropriate records shall be maintained thereunder so as to allow ready identification of costs attributable to the following program elements:

(A) Program Information; and

(B) Program Audit;

(ii) Billed income attributable to the program shall be accounted for in subaccounts within Account 456, Other Electric Revenue (for electric utilities) or Account 495, Other Gas Revenue (for gas utilities), their equivalents or successors, or the appropriate account designated specifically by FERC or REA for program billed income.

(b) *Payments of Costs.* Utilities subject to the Federal RCS Plan shall treat costs as described below and shall specify how the costs described in § 456.1011 (b)(2), (c), and (d) will be treated.

(1) All amounts expended by a utility subject to the Federal RCS Plan for the Program Announcement and all public education and program promotion directly related to providing information about a utility's RCS Program shall be treated as a current expense of providing utility service and be charged to all ratepayers of the utility subject to the Federal RCS Plan in the same manner as other current operating expenses of providing such utility service.

(2) The following program elements shall be recovered in the manner specified by the State regulatory authority for all regulated utilities subject to the Federal RCS Plan except that the amount that may be recovered directly from a residential customer for whom the activities described in § 456.1011(b)(2)(ii) are performed shall not exceed $15 per dwelling unit, or the actual cost of such activities, whichever is less:

(i) Administrative and general expenses, including those associated with program audits, customer billing services, and arranging.

(ii) Project manager requirements, including:

(A) The providing of program audits;

(B) The arranging for a lender to make a loan to an eligible customer to finance the purchase and installation costs of energy conservation and renewable resource measures, including the costs of conducting conciliation conferences pursuant to § 456.1016(a);

(C) The arranging to have the program measures installed, including any costs of conducting postinstallation inspections pursuant to § 456.1014, and of conducting conciliation conferences pursuant to § 456.1016(a); and

(D) List distribution.

(3) In determining the amount to be recovered directly from customers as provided under subsection (2), the State regulatory authority shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

§ 456.1012 Customer billing, repayment of loans, and termination of service.

(a) *Customer Billing.* (1) Every charge, by a utility or participating home heating supplier subject to the Federal RCS Plan, to a customer for any portion of the costs of carrying out any activity pursuant to the Federal RCS Plan or for repayment of a loan made under the RCS Program, shall be listed individually on a bill, and the customer shall be permitted to include such payments in his payment for utility or fuel service; and

(2) When any portion of the costs of carrying out any activity pursuant to the Federal RCS Plan is included in a payment for utility or fuel service, or when repaying a loan made under the RCS Program in a payment for utility or fuel service, payments received for such bill shall be first charged to pay for the purchase of utility or fuel service and only the excess shall be credited to charges for the other costs or repayments, unless the eligible customer

requests an alternative distribution of payments.

(b) *Repayment of Loans.* (1) In the case of any loan arranged by a public utility pursuant to § 456.1006(b), the utility, at the request of the lender, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the lender the cost incurred by the utility in carrying out such manner of repayment.

(2) In the case of any loan for the purchase or installation of program measures made by a participating home heating supplier subject to the Federal RCS Plan under the RCS Program, or under the circumstances described in § 456.1006(b), by a lender other than that participating home heating supplier,

(i) The participating home heating supplier shall permit the eligible customer to include repayment of that loan in such customer's payment of his periodic utility or fuel bill over a period of not less than three years, unless the eligible customer chooses a shorter repayment period. A participating home heating supplier subject to the Federal RCS Plan shall not be required to provide for monthly payments of less than five dollars.

(ii) A lump-sum payment of outstanding principal and interest may be required by the lender upon default (as determined under applicable law) in payment by the eligible customer.

(iii) No penalty shall be imposed by any home heating supplier or other lender arranged with by the home heating supplier under the Federal RCS Plan for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(3) Each utility or participating home heating supplier subject to the Federal RCS Plan shall handle all customer complaints in accordance with the Fair Credit Act.

(c) *Termination of Service.* No utility or participating home heating supplier subject to the Federal RCS Plan shall terminate or otherwise restrict utility or fuel service to any customer for any default by such customer for payments due for any services under the RCS Program.

§ 456.1013 List of suppliers, contractors, and lenders.

(a) *Master Record.* The procedures for the preparation of a Master Record of all suppliers, contractors, and lenders who sell, install, or finance program measures, in a State subject to the Federal RCS Plan, and who wish to be included in the lists distributed pursuant to § 456.1013(c) are as follows:

(1) DOE is the Listing Agency which is responsible for the preparation and maintenance of the Master Record. The Secretary is responsible for the criteria for inclusion in and delisting from the Master Record as well as for retaining the ultimate responsibility for the Master Record. However, the Secretary assigns the duties of compiling and maintaining the Master Record to utilities subject to the Federal RCS Plan.

(2) Each utility subject to the Federal RCS Plan shall ensure that a reasonable attempt is made to inform all suppliers, contractors, and lenders who sell, install, or finance program measures in the State of the pending compilation of the Master Record and the intended use of the Master Record, and provide such suppliers, contractors, and lenders an opportunity through effective notice to apply for inclusion in the Master Record. At a minimum, the following methods of notice shall be used:

(i) Publication in newspapers of general circulation in the utility service area; and

(ii) Direct notification of appropriate trade associations.

(3) All persons, and only such persons, who agree to comply with the requirements of § 456.1013(b) below [unless on the basis of past experience, the Secretary determines that such person's agreement is not adequate assurance of compliance with the requirements of § 456.1013(b)], are included in the initial Master Record, and thereafter in the existing Master Record within a reasonable time after applying for inclusion.

(4) Criteria for delisting:

(i) Temporary delisting. Each utility subject to the Federal RCS Plan shall cease temporarily from arranging with any persons in the Master Record whom the Secretary has verified as failing to comply with the requirements of § 456.1013(b) below for a period of 30 days following this verification. That person, after being notified by the utility, may inquire about the case against him or her and may make restitution in accordance with § 456.1013(a)(5) (i) and (ii) below.

(ii) Extended delisting. After verification to the Secretary by the utility subject to the Federal RCS Plan of 3 violations of the listing requirements of § 456.013(b) below by a person in the first 6 months following the person's first arranged service to a customer or 3 violations in any successive 12-month period, any person found by the utility in violation shall, as ordered by the Secretary, not be considered as part of the Master Record or arranged with for a period of 6 months.

(iii) Each person proposed for extended delisting shall have:

(A) Written notice from the utility of the proposed removal and the grounds for such removal at least 30 days before the actual removal;

(B) An opportunity to respond in writing to the allegations contained in the notice described in § 456.1013(a)(4)(iv)(A), with at least 30 days notice; and

(C) With respect to installers, access to the records of the Listing Agency regarding the inspections of the work of such installer;

(iv) Each person removed from the Master Record shall have an opportunity to file a complaint through, and participate in, the redress proceeding described in § 456.1016 for the purpose of contesting such removal.

(5) Each utility subject to the Federal RCS Plan shall ensure that all persons deleted from the Master Record have an opportunity to be included anew in the Master Record, subject to the criteria that after being delisted for 6 months the delisted person has:

(i) Corrected all old violations; and

(ii) Agreed to pay for the second inspection of all of the previous violations.

(6) The Secretary will forward to the appropriate utility or home heating supplier subject to the Federal RCS Plan the name and address of any supplier, installer, or lender who has been added to or delisted from the Master Record, within 30 days of such additions or deletions.

(b) *Requirements for Inclusion in the Master Record.* (1) When installing program measures under the circumstances described in § 456.1005, all installation contractors included in the Master Record shall:

(i) Comply with any applicable installation standards found in 10 CFR 456 Subparts G and I and, with respect to materials for which there is an applicable standard in 10 CFR 456 Subpart G or H, install only materials labled as complying with DOE standards;

(ii) Install only measures covered by the measures warranty defined in:

(A) § 456.1001(j) (1) or (2), and

(B) § 456.1001(j)(3);

(iii) Furnish the customer with a written contract detailing the job to be performed and its cost certifying that any applicable Federal RCS Plan requirements for installation and material standards will be complied with;

(iv) Comply with any applicable qualification requirements set forth in § 456.1015 pursuant to § 456.314;

(v) Include in every contract a guarantee that the contractor will correct any violation of any installation standards in 10 CFR 456 Subparts G or I without cost to the customer;

(vi) Include in every contract for installation of a flue-opening modification, electrical or mechanical ignition devices, or wind energy devices a guarantee to correct any violation of the standard in 10 CFR 456 Subparts G through I, without cost to the customer, as soon as possible after notification of any such violation by an inspector pursuant to § 456.1014.

(vii) Select one of the following three options and agree to the inclusion of such information on the list given to the eligible customer: have liability insurance sufficient to indemnify itself against possible liability arising from installation of program measures; have a performance bond of at least $100,000; or agree that the eligible customer is not to pay the contractor until the job has been inspected no later than 7 working day from the date of completion of the job (as indicated by receipt by the utility of the job completion card from the customer);

(viii) With respect to an installer of vent dampers or intermittent ignition devices, have liability insurance sufficient to indeminfy itself against possible liability arising from installation when installing such measures under the circumstances described in § 456.1006 pursuant to § 456.305.

(ix) Comply with all applicable Federal, State, and local laws and regulations; and

(x) Agree of participate in good faith in the conciliation conference described in § 456.1016 when there is a complaint by an eligible customer against such person.

(2) When supplying program measures under the circumstances described by the Federal RCS Plan pursuant to § 456.1006, all suppliers included in the Master Record shall:

(i) With respect to the program measures the supplier is listed as carrying, supply program measures that carry the measure warranty defined in § 456.1001(j) (1) or (2);

(ii) With respect to the program measures the supplier is listed as carrying, if there is any applicable material standard found in 10 CFR 456 Subparts G or H, supply program measures that are labeled as complying with DOE standards;

(iii) Comply with all applicable Federal, State, and local laws and regulations;

(iv) Have a method for informing customers of those products supplied by the supplier that are program measures, that have a measures warranty and that meet any applicable DOE material standards pursuant to 10 CFR 456 Subparts G or H (as determined from a label stating that the product meets DOE standards); and

(v) Agree to participate in good faith in the conciliation conference described in § 456.1016(a) when there is a complaint by an eligible customer against such person.

(3) When financing the sale or installation of program measures under the circumstances described in § 456.1006, all lenders included in the Master Record shall:

(i) Not take security in real property that is used as the principal residence of the eligible customer, unless the eligible customer acknowledges in writing that he or she is aware of the consequences of default on the loan;

(ii) Comply with all applicable Federal, State, and local laws and regulations; and

(iii) Provide the appropriate utility subject to the Federal RCS Plan in the customer's service area with copies of the lenders' loan forms;

(iv) Agree to participate in good faith in the conciliation conference described in § 456.1016(a) when there is a complaint by an eligible customer against such person.

(c) *Lists Distributed to Eligible Customers.* Each utility and participating home heating supplier subject to the Federal RCS Plan shall provide, upon request to every eligible customer, lists of all suppliers, contractors, and lenders included in the Master Record who sell, install or finance program measures in their service area or a smaller area of the utility or participating home heating supplier's choosing, subject to the Secretary's approval.

(1) Each utility subject to the Federal RCS Plan shall publish these lists which shall include the following information in a fair, open, and nondiscriminatory manner:

(i) the name and address of each such supplier, contractor, and lender; and

(ii) A matrix of the suppliers, contractors, or lenders, organized by program measures and indicating which program measures they supply, install, or finance.

(2) Each utility subject to the Federal RCS Plan shall indicate in these lists which type of a program measure a supplier or contractor sells or installs but shall not include in these lists the brand names of any program measure. If the lists include information regarding one specific type of a program measure, then it shall include such information for all types of such measure. For example, if the lists indicate who sells wooden storm windows, then they must also indicate who sells aluminum or vinyl storm windows. the utility subject to the Federal RCS Plan shall provide the eligible customer in its service area with copies of these lists or a smaller area of the utility's choosing, subject to the Secretary's approval.

(3) Each utility subject to the Federal RCS Plan shall include in these lists in a clear and conspicuous manner the following information:

(i) the following statement or its equivalent: "The persons listed have agreed to comply with any applicable DOE standards and Federal RCS Plan procedures for the sale, installation, or financing of program measures under the circumstances described in § 456.1006";

(ii) A description of the circumstances under which such standards shall be met and what procedures shall be followed;

(iii) A description of the complaints processing procedures required in § 456.1016, including an explanation of who may have access to such procedures and how to gain access to such procedures; and

(iv) An invitation to all suppliers, contractors, and lenders not included on the lists to apply for inclusion.

(4) Each utility subject to the RCS Plan will send to the Secretary every 30 days any names it determines should be included or deleted from these lists. The Secretary will review the names and inform the appropriate utility of any names the Secretary authorizes to be included or deleted from these lists. Each utility subject to the Federal RCS Plan shall then distribute to each of its eligible customers these updated lists, at least every 30 days, reflecting the approved additions and deletions received pursuant to § 456.1013(a)(6) above.

§ 456.1014 Postinstallation inspection.

(a) *Mandatory Inspection of All Flue-Opening Modifications, Electrical or Mechanical Ignition Systems, and Wind Energy Devices.* Each utility subject to the Federal RCS Plan shall provide procedures for performing postinstallation inspections of all flue-opening modifications, electrical or mechanical ignition systems, and wind energy devices installed under the circumstances described in § 456.1006. These procedures shall, at a minimum, assure:

(1) That such inspection occur within one week of the installation;

(2) That the inspector performing these inspections:

(i) Meets the applicable qualifications of § 456.1014; and

(ii) Has no financial interest in the contractor who installed the measure unless such contractor is a utility or participating home heating supplier subject to the Federal RCS Plan;

(3) That such inspection examines compliance with the applicable installation standards found in 10 CFR 456 Subparts G and I; and

(4) That the results of such inspections are reported to:

(i) The customer, within 48 hours;

(ii) The installer, within 48 hours; and

(iii) The Listing Agency, within a reasonable time.

(b) *Random Inspection.* Each utility subject to the Federal RCS Plan shall:

(1) Conduct the following inspections with respect to program measures installed under the circumstances described in the Federal RCS Plan pursuant to § 456.1008:

(i) Four of the first ten installations by each contractor of:

(A) Ceiling insulation;

(B) Floor insulation;

(C) Wall insulation;

(D) Active solar water heating;

(E) Active solar space heating; and

(F) Combined active solar space heating and solar domestic hot water system.

(ii) Ten percent of all installations of each program measure listed in § 456.1014(b)(1)(i). In fulfilling this requirement, the inspections pursuant to § 456.1014(b)(1)(i) may be included in the ten percent calculation. The inspections required by this paragraph may be reduced in number at such time as the utility subject to the Federal RCS Plan demonstrates to the Secretary that a ten percent inspection is unnecessary to ensure safe and effective installation of these measures under the RCS Program;

(iii) At least one inspection during the life of the RCS Program of the work of every contractor that makes an installation, under the circumstances described in § 456.1006 for which there is an installation standard in 10 CFR 456 Subpart G or I; and

(iv) An additional inspection of each contractor inspected pursuant to § 456.1014(b)(1)(iii) above who has been found through such inspection to have violated any applicable standard of 10 CFR 456 Subparts G or I.

(2) Provide procedures for the Secretary's review to assure that the inspector performing these inspections:

(i) Meets the applicable qualifications of § 456.1015; and

(ii) Has no financial interest in the contractor who installed the program measures unless the utility is the installer, in which case the utility may subcontract to a neutral party for inspection (whose services may be reimbursed by the utility) and report the findings of those inspections to the Secretary.

(3) Provide procedures for the Secretary's review to assure that such inspection examines compliance with any applicable DOE installation standards pursuant to 10 CFR 456 Subparts G or I.

(4) Provide procedures for the Secretary's review to assure that the results of such inspections are reported within 3 weeks to:

(i) The customer;

(ii) The installer; and

(iii) The Listing Agency.

§ 456.1015 Qualification procedures for auditors, installers, and inspectors.

(a) *Auditor Qualification Requirements.* Each utility subject to the Federal RCS Plan must (1) provide an auditor training program for its potential RCS auditors using the DOE model auditor training manual; or (2) send its potential RCS auditors to a central location provided by the Secretary for the DOE auditor training program using the DOE model auditor training manual; or (3) provide the opportunity for its potential RCS auditors to take the DOE auditor qualification tests. In addition, a delegate of the Secretary will administer any DOE auditor qualification tests periodically in each State subject to the Federal RCS Plan. The Secretary will arrange for auditor training in States subject to the Federal RCS Plan upon request by any utility that can provide a sufficient number of attendants. Participating utilities must bear the cost of such arranged training. The person or persons who are to conduct the audits pursuant to § 456.1008, after attending the DOE model auditor training program and/or passing the DOE auditor qualification tests, will be considered qualified as RCS auditors. The utility shall submit its procedures for qualifying auditors to DOE within 30 days of issuance by the Secretary of an order to comply with the Federal RCS Plan.

(b) *Inspector Qualification Requirements.* Each utility subject to the Federal RCS Plan shall assure that inspectors of flue-opening modifications, electrical and mechanical ignition systems, wind energy systems, solar domestic hot water systems, active solar space heating systems, and combined active solar space heating and solar domestic hot water systems are able to inspect for compliance with any DOE installation standards for these measures. The utility shall submit its procedures for training and qualifying inspectors to DOE within 30 days.

(c) *Installer Qualification Requirements.* Each utility subject to the Federal RCS Plan shall assure that installers of flue-opening modifications, electrical and mechanical ignition systems, wind energy systems, solar domestic hot water systems, active solar space heating systems, and combined active solar space heating and solar domestic hot water systems are able to install these measures in compliance with any application DOE installation standards. Such procedures for installers of IIDs and vent dampers may include participation in training based on the DOE curriculum. The utility shall submit its procedures for qualifying installers to DOE within 30 days of issuance by the Secretary of an order to comply with the Federal RCS Plan.

(d) *Additional Requirements with Respect to Qualifying Procedures.* Each utility subject to the Federal RCS Plan is required by the Secretary to:

(1) Provide procedures for the Secretary's review which assure that persons are permitted, in a nondiscriminatory manner, to participate in the qualification procedures and describe how this will be done; and

(2) Identify the timetable for initial implementation of the qualification procedures and for subsequent implementation of such procedures. Such timetable shall, at a minimum, provide for initial implementation no later than 60 days following the issuance of the order to comply with the Federal RCS Plan.

§ 456.1016 Complaints processing procedures.

(a) *Conciliation Conference for Customer Complaints.* Each utility and participating home heating supplier subject to the Federal RCS Plan is required to make a conciliation conference available for the purpose of resolving complaints by eligible customers against persons who sell, install, or finance the sale or installation of program measures under the circumstances described in § 456.1006. For the resolution of complaints by eligible customers against the utility or participating home heating supplier subject to the Federal RCS Plan concerning any matter specific to the RCS Program, the utility or participating home heating supplier in question must contract the handling of the conciliation conference with a neutral party, subject to the approval of the Secretary.

(1) Each utility or participating home heating supplier subject to the Federal

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RCS Plan must describe the procedures for conciliation conferences:

(i) The conciliation conference must be free of cost and easily accessible to the eligible customer making the complaint;

(ii) Participation in the conciliation conference by the eligible customer making the complaint must be voluntary; and

(iii) The conciliation conference must be conducted by an impartial conciliator who has no financial interest in any party involved in the complaint or in the outcome of the proceeding.

(2) Each utility or participating home heating supplier subject to the Federal RCS Plan shall permit the conciliation conference to be conducted by telephone.

(b) *Redress Proceedings.* (1) Each utility or participating home heating supplier subject to the Federal RCS Plan shall contract (and monitor such contract) with the American Arbitration Association, or its equivalent, to make available to, and handle a redress proceeding for, all persons alleging injury by such utility of participating home heating supplier arising from an activity carried out under the Federal RCS Plan or from a violation of the Federal RCS Plan.

(2) Each utility or participating home heating supplier subject to the Federal RCS Plan shall arrange upon request such arbitration proceedings in third party disputes arising from an activity carried out under the Federal RCS Plan or from a violation of the Federal RCS Plan.

(3) The Secretary may waive any of the requirements of this Subsection upon a showing from the utility or participating home heating supplier subject to the Federal RCS Plan that an adequate and substantially equivalent State procedure exists which accomplishes one or more of the requirements of § 456.1016 (b).

§ 456.1017 Coordination.

(a) *Other Programs.* The Secretary will contact annually the cognizant Federal, State, and local official responsible for energy conservation programs, within and affecting a State which is covered by the Federal RCS Plan, which shall include but not be limited to:

(1) Federal Energy Extension Service;

(2) Basic State Energy Conservation Program of the Department of Energy;

(3) Supplemental State Energy Conservation Program of the Department of Energy; and

(4) Weatherization Assistance Program for Low Income Persons.

(b) *Energy Suppliers.* Coordination of the RCS Program may be conducted among energy suppliers within a State which is subject to the Federal RCS Plan. Collusion on prices charged to eligible customers is not permitted.

(c) *State Regulatory Authority.* The Secretary has provided each State Regulatory Authority with a copy of this Plan and has requested each State Regulatory Authority to return its written comments on the Federal RCS Plan to the Secretary.

§ 456.1018 Home heating suppliers.

(a) *Participation and Withdrawal.* If 25% of the residences in a State subject to the Federal RCS Plan are heated with fuel oil, propane, butane, or kerosene, the Secretary will notify the appropriate persons and trade associations of his decision to include any home heating supplier in the RCS Program that wishes to participate and will implement a Plan for them. Any home heating suppliers wishing to participate may contact the Secretary. Any participating home heating supplier may request a waiver of requirements in this Plan which he considers beyond his limited resources (see § 456.1018(b) below). Any participating home heating supplier may withdraw voluntarily from the RCS Program by submitting to the Secretary a written request which contains written assurance from that participating home heating supplier that the names of its customers who have requested RCS services from them have been referred to the appropriate utility in the same service area. The participating home heating supplier withdrawing from the RCS Program must inform in writing the utility in the same service area of the eligible customer being transferred to the utility and of the RCS Program services pending, in progress, and completed for each eligible customer involved.

(b) *Waiver of Requirements.* (1) The Secretary will individually consider requests for waivers of RCS Program requirements from participating home heating suppliers on the basis of one or more of the following factors:

(i) Number of eligible customers of the participating home heating supplier;

(ii) Number of employees of the participating home heating supplier;

(iii) The participating home heating supplier's business volume; and

(iv) The participating home heating supplier's billing system.

(2) The Secretary will not waive the following requirement for any home heating supplier who chooses to participate in the program:

(i) 10 CFR § 456.303 (Procedures for Investigating and Enforcing Compliance with the Federal RCS Plan);

(ii) 10 CFR § 456.305 (scope of Benefits), in that any benefit to which any eligible customer is entitled by receiving a service from a utility subject to the Federal RCS Plan must also be available to any eligible customer who receives the same service from a participating home heating supplier:

(iii) 10 CFR § 456.306(d) (Calculation Procedures for the Program Announcement), if the participating home heating supplier provides a Program Announcement to its eligible customers;

(iv) 10 CFR § 456.307(b) (3) through (7) (Accuracy of Auditing Procedures), for those measures for which a participating home heating supplier performs program audits for its eligible customers;

(v) 10 CFR § 456.307(g) (Qualifications for Program Auditors);

(vi) Those sections which prohibit anticompetitive activities or unfair discrimination by utilities or participating home heating suppliers subject to the Federal RCS Plan, which are:

(A) 10 CFR § 456.306(a) (10) and (11) (Information Prohibited from the Program Announcement);

(B) 10 CFR § 456.307(a)(3) (Discrimination Among Customers in Providing Energy Audits);

(C) 10 CFR § 456.307(e) (Prohibitions and Disclosure in Auditing);

(D) 10 CFR § 456.307(f) (Furnace Audits);

(E) 10 CFR § 456.308(e) (Prohibitions of Discrimination in Arranging Installation);

(F) 10 CFR § 456.309(e) (Prohibitions of Discrimination in Arranging Financing);

(G) 10 CFR § 456.312(C) (1)–(4) (Content of Lists).

(vii) The following reporting and recordkeeping requirements:

(A) § 456.318(a)(1);

(B) § 456.318(a)(6), except that the Secretary may waive § 456.318(a)(6)(v) concerning the accounting of program costs; and

(C) § 456.318(b) (Recordkeeping).

§ 456.1019 Reporting and recordkeeping.

(a) *Reporting.* Each utility and participating home heating supplier subject to the Federal RCS Plan shall submit to the Secretary on July 1, 1981, and annually thereafter through July 1, 1986, a report containing the following information for the 12-month period ending the preceding April 1, except that the Secretary may waive any of the reporting requirements for a good cause:

(1) From any utility subject to the Federal RCS Plan, a brief description of the services offered pursuant to § 456.503 and of the nature of the exempted activity in which it is engaged;

(2) From any utility subject to the Federal RCS Plan, a brief description of the services offered pursuant to § 456.504 and of the nature of the exempted activity in which it is engaged;

(3) From any utility subject to the Federal RCS Plan, a brief description of the services offered pursuant to § 456.505 and of the nature of the exempted activity in which it is engaged;

(4) From any utility subject to the Federal RCS Plan, a brief description of the services for which the utility is petitioning for such a waiver pursuant to § 456.509;

(5) The approximate number of eligible customers and, if available, the percentage of those customers for whom the utility or heating supplier is the primary heating fuel supplier;

(6) A copy of the Program Announcement distributed to eligible customers;

(7) The number of eligible customers who have requested each service and the number of requests the utility or participating home heating supplier has fulfilled, including:

(i) The number of program audits performed:

(ii) The number of installations arranged by the utility or participating home heating supplier subject to the Federal RCS Plan;

(iii) The number of loans arranged by the utility or participating home heating supplier subject to the Federal RCS Plan;

(iv) The number of customers, if any, who are using the utility's billing service for repayment of loans;

(v) The number of installations, if any, of program measures which the utility or participating home heating supplier subject to the Federal RCS Plan supplied, installed, or financed;

(8) The number and function of people assigned to the utility's or participating home heating supplier's program, including part-time employees;

(9) The costs incurred by the utility or home heating supplier in providing each service under the Program, including separately those costs paid by individual customers for services received and those costs paid by all ratepayers;

(10) The number and nature of complaints by eligible customers against suppliers, contractors, and lenders which have been handled through the conciliation conference established under § 456.1016;

(11) A brief description of the status of activities carried out pursuant to § 456.1015 (Qualification Procedures for Auditors, Installers, and Inspectors) including whether sufficient qualified personnel are available for program needs, the reasons for any shortages, and the proposed resolution of any such shortage problem;

(12) The number of persons added to or removed from the list established according to § 456.1013 and reasons for removal of persons; and

(13) The number and results of post-installation inspections conducted according to § 456.1014.

(b) *Recordkeeping.* Each utility and participating home heating supplier subject to the Federal RCS Plan shall keep the following records for the periods indicated and make them available to the Secretary upon request, except that the Secretary may for good cause waive any of the recordkeeping requirements:

(1) The name and address of each eligible customer who receives a program audit, which shall be kept for five years from the date of such program audit;

(2) A copy of the data collected during the audit and a copy of the estimates of costs and savings presented to the customer, which shall be kept for five years from the date of such program audit;

(3) A copy of all requests furnished by eligible customers for furnace audits pursuant to § 456.1008(f), which shall be kept for five years from the date of such request;

(4) The name and address of each eligible customer for whom a utility or participating home heating supplier subject to the Federal RCS Plan arranges installation or financing of a program measure, which shall be kept for five years from the date of such arrangement;

(5) The amount and cost of fuel purchased each month or other billing period for the twelve months prior to and the twelve months following each program audit for each eligible customer, which shall be kept for two years from the date of such program audit; and

(6) The names of the individuals who have met the qualification criteria described in § 456.1015. These records shall be:

(i) Updated within a reasonable period of time following each implementation of the qualification procedures, and

(ii) Maintained separately for installers and inspectors of flue-opening modifications, electrical or mechanical ignition devices, and wind energy devices.

§ 456.1020 Procedures for amendments of the Federal RCS plan.

Amendments to this plan may be made in accordance with informal rulemaking requirements applicable to DOE.

§ 456.1021 Utility and home heating supplier liability.

A utility or home heating supplier subject to the Federal RCS Plan that arranges for a lender to make a loan to, or a contractor to perform work for, an eligible customer should not be held liable, by virtue of its role as project manager for the RCS Program, in any cause of action between such customer and such lender or contractor.

§ 456.1022 Procedures which a utility must report to the secretary.

Utilities subject to the Federal RCS Plan must report the following procedures to the Secretary, no later than 30 days after issuance by the Secretary of an order to comply with the Federal RCS Plan:

(a) Procedures for estimating the energy costs savings which are included in the Program Announcement [§ 456.1007(b)(4)].

(b) Procedures describing the offer of the program audit [§ 456.1008(a)(1)].

(c) Procedures for surveying the sample of contractors and suppliers for the estimate of energy costs savings [§ 456.1008(b)(4)].

(d) Procedures for the treatment of costs described in § 456.1011(b) (3) and (4).

(e) Procedures for performing post-installation inspections of all flue-opening modifications, electrical or mechanical ignition systems, and wind energy devices installed under the RCS Program [§ 456.1014(a)].

(f) Procedures to assure that the inspector is qualified and has no financial interest in the contractor installing program measures [§ 456.1014(b)(2)].

(g) Procedures to assure that the post-installation inspections examine compliance with applicable DOE installation standards [§ 456.1014(b)(4)].

(h) Procedures to assure that the results of post-installation inspections are reported within 3 weeks to the customer, the installer and the Listing Agency [§ 456.1014(b)(5)].

(i) Procedures to assure how nondiscriminatory participation is permitted for any person to qualify as an installer, auditor, or inspector [§ 456.1015(d)(1)].

(j) Procedures to identify the timetable for initial and subsequent implementation of the qualification procedures for auditors, inspectors, and installers [§ 456.1015(d)(2)].

(k) Procedures for handling the conciliation conference [§ 456.1016(a)(1)].

(l) Procedures for handling redress proceedings [§ 456.1016(b)].

(m) Procedures for handling auditor, inspector, and installer training (§ 456.1015).

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Part V

Environmental Protection Agency

Canned and Preserved Seafood Processing Point Source Category

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 408

[WH-FRL 1721-4]

Canned and Preserved Seafood Processing Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed response to petition for modification and amendment of regulations.

SUMMARY: The purpose of this notice is to amend the BPT and NSPS effluent limitations regulations affecting Alaskan subcategories of the Canned and Preserved Seafood Processing Point Source Category. This amendment results from EPA's proposed response to a petition for modification of BPT regulations, which also is being announced today.

The Petitions, submitted by a portion of the Alaskan seafood industry, request that the regulations cited in Section I, below, be modified to delete Anchorage, Cordova, Juneau, Ketchikan, and Petersburg from the "non-remote" Alaska subcategories. The practical effect of this modification would be to change the wastewater control technology from screening and solids handling to grinding for plants located in these areas. EPA proposes to grant the petition for the city of Juneau and to deny the petition for Anchorage, Cordova, Ketchikan and Petersburg. EPA also proposes to redefine the term "non-remote" for the Alaskan segment of the industry to eliminate the words "population center," and to include Ward's Cove as a "non-remote" area because of its proximity to the Ketchikan processing center. EPA is also considering and solicits comments on the addition of Dutch Harbor and the Kenai Peninsula to the list of "non-remote" processing centers.

DATES: A period of sixty days from the date of publication in the Federal Register will be allowed for submission of comments on this proposal. Comments must be received on or before March 10, 1981.

ADDRESS: Send comments in triplicate to: Mr. Daniel S. Lent, Effluent Guidelines Division, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: EGD Docket Clerk, Canned and Preserved Seafood Processing Industry, (WH-552). A copy of the supporting information and all public comments submitted in response to this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library), 401 M St., S.W., Washington, D.C. 20460; EPA Region X, 1200 6th Avenue, Seattle, Washington, 98101; and the EPA Alaska Operations Office, 701 "C" Street, Anchorage, Alaska. The EPA's Public Information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. Daniel S. Lent, at the address listed above, or call (202) 426-2707. Information concerning the economic analysis may be obtained from Mr. Arthur H. Berman, Office of Analysis and Evaluation (WH-586), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, or call (202) 755-2484.

SUPPLEMENTARY INFORMATION: On May 19, 1980, the Environmental Protection Agency suspended the applicability of the "best practicable control technology currently available" (BPT) effluent limitation requirements for the "non-remote" cities of Anchorage, Cordova, Juneau, Ketchikan and Petersburg, Alaska. See 45 FR 32676, May 19, 1980. The effect of the suspension was to relieve seafood processing facilities in those cities from BPT requirements based on screening solids from their effluent streams and instead to subject the facilities to the less stringent BPT effluent limitations applicable in "remote" cities.

In those cities, BPT effluent limitations are based on grinding the solids in the process wastewater and discharging them into the navigable waters adjacent to the processing plant. The suspension was to be in effect until October 15, 1980, by which time EPA expected to respond to a complete petition for modification of BPT effluent limitations filed by various seafood processing facilities in the affected cities. Because of the time required to obtain complete information from the petitioners, to review the petition and the public comments thereon, and to conduct the Agency's technical and economic analyses of the petition, the Agency was unable to respond to the petition by the October 15 date. The suspension will remain in effect until EPA makes a final decision.

Petitioners Pacific Seafood Processors Association, Morpac, Inc., Nefco-Fidalgo Packing Company, North Pacific Processors, E. C. Phillips & Son, Inc., Washington Fish & Oyster Company, and Whitney-Fidalgo Seafoods submitted their original petition for modification to EPA on May 7, 1980. Pursuant to the schedule established in EPA's suspension notice, petitioners filed a supplemental petition on June 16, 1980. On July 16, 1980, EPA requested additional information, and petitioners responded to that request on August 15, 1980.

EPA has carefully reviewed the petition, supplemental petition, supplemental information, and other information available in the record. Based on this review, EPA today proposes to grant the petition to modify the BPT regulations to delete the city of Juneau, Alaska, from the "non-remote" Alaska subcategory. The Agency proposes to deny the petition to delete the cities of Anchorage, Cordova, Ketchikan and Petersburg from the group of "non-remote" subcategories. In addition, EPA proposes to revise the scope of the term "non-remote" so that the classification will be based solely on an area's character as a processing center; no area will be included solely by virtue of its being a population center. EPA proposes to amend BPT regulations for these subcategories by adding Ward's Cove (as part of Ketchikan) to the list of "non-remote" areas. EPA also is considering, but not proposing at this time, the addition of the Dutch Harbor and Kenai Peninsula as "non-remote" processing centers. The basis of EPA's proposal is explained below.

I. Statutory Requirements and the Current Regulations

The Clean Water Act, 33 U.S.C. 1251 *et seq.*, requires, among other things, that each point source, other than publicly owned treatment works (POTWs), must achieve, not later than July 1, 1977, effluent limitations based on the application of the best practicable control technology currently available ("BPT") as defined by the Administrator pursuant to Section 304(b) of the Act. Section 301(b)(1)(A). Section 304(b) requires the Administrator to publish regulations providing guidelines for effluent limitations. The factors relating to the assessment of BPT:

> Must include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate. Section 304(b)(1)(B).

The Administrator published effluent limitations guidelines for the seafood processing category on June 26, 1974 (39 FR 23134) and December 1, 1975 (40 FR

55770). The regulations provide for two groups of subcategories for Alaskan processors depending on whether the processor operates at a "remote" or a "non-remote" location. "Non-remote" facilities are those located in "population or processing centers." The regulations do not define that term but provide a non-exclusive list of cities deemed included. See 40 CFR 408.40, 408.60, 408.90, 408.162(b)(1), 408.165(a)(1), 408.172(b)(1), 408.175(a)(1), 408.200(b)(1), 408.202(b)(1), 408.205(a)(1), 408.292(b)(1), 408.295(a)(1), 408.312(b)(1), and 408.315(a)(1). In "non-remote" locations, BPT was based on screening the solids from the seafood processing wastewaters and disposing of the solids by some means other than discharge to navigable waters. In "remote" locations, by contrast, BPT was based merely on grinding the processing solids to reduce the size of the pieces, which could then be discharged into the navigable waters as a part of the facility's effluent.

The Association of Pacific Fisheries, a trade association representing processors in affected subcategories, and various processors including one of the present petitioners, challenged the EPA regulations in federal court. In those challenges, petitioners relied in large part on arguments similar to those put forward in the present petitions. The plaintiffs argued essentially that in evaluating BPT, EPA underestimated the costs and overestimated the benefits of using the screening rather than the grinding control technology. The United States Court of Appeals for the Ninth Circuit, exercising its original jurisdiction pursuant to section 509(b) of the Act, upheld the Agency BPT regulations in all respects challenged in the present petition. *Association of Pacific Fisheries* v. *EPA*, 615 F. 2d 794 (9th Cir. 1980). The Court found that "given the limitations the Agency faced when it adopted industry standards for the first time, * * * there was a sufficent basis for promulgating the regulations as an initial matter." *615* F. 2d *809*. The Court noted, however, that various avenues for reexamination of the regulations remained, including the possibility that the processors might file with EPA a petition for reconsideration in order to advance evidence as to whether the agency should review its original actions. The present petition followed that decision.

II. Contents of the Petition

The essence of the petitioners' claim is that the **classification of Juneau, Anchorage, Cordova, Ketchikan, and Petersburg as population or processing centers is unlawful under section 304(b) in that the classification fails to reflect** the statutory requirement that the Administrator consider the total cost of application of technology in relation to the effluent reduction benefits to be achieved. The petition noted that the Congress, in explaining the cost-benefit factor, stated:

> The balancing test between total cost and effluent reduction benefit is intended to limit the application of technology only where the additional degree of effluent reduction is wholy out of proportion to the cost of achieving such marginal level of reduction for any class or category of sources.

A Legislative History of the Water Pollution Control Act Amendments of 1972, Serial No. 93-1, 93d Cong. 1st Sess. (1973), Vol I, 170 ("Legis. Hist."). According to the petition, EPA erred in both its determination of compliance costs and its assessment of the effluent reduction benefits.

A. Costs

The major cost elements associated with screening, according to the petition, are the cost of the barge to remove screened wastes and dock construction needed to accommodate the barging operation. The petition showed that while the petitioners' cost figures for the actual waste screening and storage did not significantly differ from EPA's estimates, their calculations on the cost of barging and dock facilities for individual plants were much higher than EPA's analysis. EPA estimated that the average capital cost for barges would be $25,000 per plant; petitioners' estimates, in contrast, ranged from $225,000 to $485,000 in barge costs per plant, with an additional $90,000 to $172,000 required per plant for dock expansion.

The discrepancy in barging cost derives from the nature of the barges on which the estimates were based. EPA's July 16, 1980 letter requested information as to why large, elaborate, fully equipped and self-propelled barges were required to haul the wastes the relatively short distances—from one to five miles—which were contemplated, rather than using simple scows with tugs. Petitioners responded that the barges must be water tight, must be large enough to handle peak capacity waste volumes, and must be self-propelled for ease of operation and to assure crew and vessel safety in rough weather. Petitioners further asserted that cooperative barging is not desirable because a plant cannot be dependent on a competitor's equipment.

Petitioners' supplemental information also included materials on asserted dock construction requirements and costs. These consisted primarily of drawings of the plant sites showing the additions claimed to be necessary, and a brief synopsis, without costs, of four common piling types used as dock support in Alaskan waters, including a notation that creosote-treated fir bearing piles are normally used. The response to questions showed dock costs of $130.00 per square foot if concrete pilings are used and $100.00 per square foot if creosoted wood pilings are used. In the petition, all dock construction costs are based on using concrete pilings.

B. Effluent Reduction Benefits

Turning to the other half of the cost/benefit comparison, the processors' petition asserts that screening in Alaska, other than in the city of Kodiak, achieves no effluent reduction benefit.

The petition points out that the effluent from seafood processing plants includes only seafood residuals; nothing is added during the processing. The petition recognizes that "effluent reduction benefits" pursuant to the statute are not primarily water quality benefits but simply the reduction in pounds of waste discharged into the water. The petition asserts, however, that in all areas of Alaska other than Kodiak, screening achieves no effluent reduction benefit because the only practicable disposal method is to barge the wastes and to dispose of them in the ocean, so that the same number of pounds of seafood waste enter the water after the screening as would be discharged by only grinding and discharging at the dock. The petition contends that the effluent enters the food chain at a high level as a food source for birds, fish and crabs.

The petition acknowledges that processors in other areas of the United States have available various options, including landfill, discharge into municipal sewers, and the use of seafood waste reduction facilities for by-product recovery. It recognizes that some reduction facilities are operating in Alaska but denies that these form the basis of a feasible option for any of the petitioners. Thus, the petition notes that a reduction facility in Kodiak operates at a loss, even though the city has seventeen facilities and processes year round. The petition further states that the reduction facility in Petersburg is operated by a competitor of the Whitney Fidalgo, Petersburg, petitioner; it questions the capacity of that reduction facility, expresses concern about relying on a competitor's plant, and claims that the petitioner would incur high costs to use the facility because it would need to widen its dock to move the fish wastes to shore and through the center of Petersburg.

Another reduction facility operates at Seward, Alaska, about one hundred

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miles down a paved, year-round road from Anchorage. Five smaller processors in Anchorage who did not join the present petition haul their wastes to the Seward reduction facility. The data submitted for petititoner Whitney-Fidalgo, Anchorage, indicates that use of this facility would cost the petitioner less than barging from the same location. Again, however, the petition contends that the plant cannot rely on its competitor's facility for its waste disposal; in addition, it states that the road between Anchorage and Seward may be impassible or subject to significant load limitations during early parts of the processing season.

The petition notes that an EPA contractor evaluated the possibility of developing reduction facilities at other locations, particularly Cordova and Ketchikan. The contractor concluded that facilities in those cities could operate at a profit. The petition, however, contends that this analysis erred both in overstating the percentage of raw waste material that could be recovered and in undersizing the proposed Cordova facility. As a result, petitioners contend that facilities in either location would not be profitable.

The final aspect of the petitioners' denial of effluent reduction benefits is that although the petition is not based on seafood wastes being environmentally innocuous, there is evidence in fact that the wastes are not harmful and may actually have beneficial environmental impacts.

C. Other Factors

Finally, the petition contends that the Administrator did not consider other significant factors in establishing BPT. Thus, it contends that screening and barging involves significant energy demands, that storage of seafood wastes may create unsanitary conditions barred by U.S. Food and Drug Administration and Alaska standards, and that the costly screening and barging requirements will adversely affect the ability of American processors to compete with foreign-owned floating processors, in conflict with policy statements contained in the legislative history of the 1978 amendments to the Fisheries Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

III. Framework for Decision

A. Cost of Technology and Effluent Reduction Benefits

The processors' petition for an EPA rulemaking to revise the "non-remote" classification of various Alaskan cities in connection with two groups of subcategories for the seafood processing industry in Alaska is a proper request for amendment of a rule under 5 U.S.C. P.O. Box553(e). The petition correctly states the controlling issue in this petition: that under section 304 of the Clean Water Act, the Administrator must consider "the total cost of application of technology in relation to the effluent reduction benefits to be achieved by such application." To decide the petition, the Administrator must analyze the relation of costs to effluent reduction benefits in each of the cities for which reclassification is requested. The Agency must apply a consistent framework to each city's analysis.

In contending that the BPT screening requirement will force processors to undergo unreasonably high costs, petitioners assert that certain barging and dock construction expenses would have to be incurred to dispose of the screened wastes. EPA is in general not persuaded by a number of the petitioners' assertions as to the type of barge and the extent and nature of dock improvements which would be necessary to sustain an adequate barging operation. The petitioners' rather general statements regarding the logistics of a barge and tug, numbers of trips and possible weather conditions are not sufficient to convince the Agency that only large, sophisticated, self-propelled barges could be used. Neither is EPA convinced that the indicated extent of dock expansion and quality of dock construction are necessary and the most cost-efficient means of handling the screened wastes, if barging is necessary.

More importantly, however, EPA questions the petition's premise that barging is in fact the appropriate disposal method for screened seafood wastes for facilities operating in most of the areas covered by the petition. Rather, EPA believes that in every area but Juneau, the number and size of the processors, the quantity of wastes produced, the length of the processing season and other factors, including, in some cases, the proximity of existing reduction facilities, make it possible to process the screened wastes at existing or feasible seafood waste reduction facilities. Thus, BPT effluent limitations can reasonably be based on a technology consisting of screening the wastes and disposing of the wastes through recycling in a reduction facility.

Where the cost of installing and operating a reduction facility is reasonable, definite effluent reduction benefits can be achieved because a lower total amount of pollutants will be disposed of in the water. EPA believes that the petition fails to take adequate account of this potential effluent reduction benefit associated with the screening technology. Therefore, applying as a test the question whether the costs of the technology are "wholly out of proportion" to the cost of achieving projected effluent reduction benefits (see *Legis. Hist.* cited above, see also *Association of Pacific Fisheries* v. *EPA*, 615 F.2d at 805), EPA concludes that the screening technology is BPT for seafood processors in any location where waste reduction facility costs are not unreasonable.

The petition challenges the EPA contractor's determination that processing centers in Cordova and Ketchikan could be profitable. EPA has performed an updated cost analysis reflecting petitioners' concerns. This analysis, described in the specific discussion of the Cordova area, below, found that whether the facility could be profitable depended upon prevailing fish meal prices. If fish meal prices are assumed to be $425.00 per ton, the costs of using a reduction facility in Cordova would not be unreasonably burdensome for Cordova processors. In any event, the potential profitability of the plant is not determinative of whether a reduction facility may constitute a reasonable waste treatment technique. There is no provision in the Clean Water Act holding that waste treatment methods may be considered only where EPA can prove that they will produce net revenues.

Of course, effluent limitations only prescribe discharge limitations. Individual point sources are free to achieve the limitations by any lawful means, and therefore a petitioner may choose to barge the wastes to an acceptable ocean disposal site rather than employing a separate or collective reduction facility. Even if barging is employed, it is not clear that no effluent reduction benefit would result. As the Ninth Circuit noted in *Association of Pacific Fisheries*, while it was reasonable for EPA to find that some plants would choose a land-based reduction center rather than barging, the Act also permits EPA to consider the improvement in near-shore water quality which would result from barging to be an effluent reduction benefit. 615 F.2d at 806–807. Analogously, the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1401 *et seq*, generally exempts from its permitting requirements the transportation for dumping or dumping of fish wastes, but not if the wastes are deposited in protected or enclosed waters or if the Administrator finds that the deposits could have adverse effects. 33 U.S.C. 1412(d). Thus, the MPRSA also recognizes the benefit of relocating waste disposal from certain waters to other areas of the ocean.

The present petition does not make it clear that no adverse environmental effects have occurred from near-shore discharges. To the contrary, the petition itself acknowledges that, at least in the past, adverse conditions have occurred near the discharge points. Similarly the Ninth Circuit found that the record refers to such effects at Cordova, Petersburg, Kodiak, and Anchorage. 615 F.2d at 607. In addition, comments from the Fish and Wildlife Service, U.S. Department of the Interior, filed in response to EPA's notice of the present petition, refer to the accumulation of seafood wastes in the area of the discharges, the gathering of scavengers including bears, the presence of noxious conditions caused by odors, bacteria and decomposition, and the public health hazards present in tidal waters affected by seafood waste discharges. The Interior Department's comments also take issue with the claim that the seafood residual discharges constitute a valuable food source. Instead, the Department advises that high-volume discharge, through an outfall in areas where accumulation and deposition on the sea floor is likely, results in conditions not amendable to ready recycling of the waste into the food chain. The Municipality of Anchorage also commented that near-shore disposal is creating undesirable environmental impacts in that city. These are evidenced by the attraction of seagulls to the area, which is within one half mile of the central business district.

The Agency has also studied the environmental impact of seafood waste discharges, most recently updated and summarized in a report to the Congress as required by Section 74 of the Clean Water Act as amended in 1977. The *Section 74 Seafood Processing Study* identified adverse water quality impacts and associated nuisance problems in marine waters at locations in Alaska and the contiguous states. The degree to which these problems occurred depended on site-specific conditions such as the amount of waste discharged and the hydrological conditions of the receiving waters. For example, the most severe water quality impact was documented at the Dutch Harbor processing center where investigations in the areas of outfalls found accumulations of sludge and whole fish parts, generation of toxic hydrogen sulfide gas, depressed dissolved oxygen levels, and the absence of benthic life. Similar environmental impacts, although less severe, were noted in Cordova and Kenai.

Properly controlled barge disposal in more open waters where better dispersion can occur will eliminate these problems. Thus, at-sea disposal will result in near-shore effluent reduction benefits even for any processors in processing centers who prefer ocean disposal of the screened wastes.

Petitioners' other objections to imposition of the screening requirements are not persuasive. The petition refers to the high energy costs of barging. EPA does not believe that barging waste for distances of less than two miles will result in high energy costs, judging from the experience at one company which showed insignificant fuel use during a recent processing season. Furthermore, barging is not needed if a reduction facility is used. Next, the petition remarks on the potential sanitary problems of waste storage but fails to indicate the extent of storage that would be required, particularly if reduction facilities are used, nor to explain why the problem is more serious for the Alaskan "non-remote" processors than for other American seafood processors. The petitioners also fail to note that there are FDA approved methods which are in use in Alaska for storing such material at the plant site. See 42 FR 14338, March 15, 1977. Finally, petitioners suggest that screening costs will impair the competitive position of American processors, in contravention of Congressional pronouncements in connection with the Fisheries Conservation and Management Act amendment of 1978. EPA does not believe that the Congress intended that the 1978 legislative history excerpt quoted in the petition should be read to authorize inadequate waste treatment by American seafood processors in the name of protecting them from foreign competition.

In summary, in areas where seafood waste reduction facilities are available or can be installed, use of the reduction technology will result in a clear effluent reduction benefit in terms of a lower total quantity of pollutants discarded into the water. Further, where waste reduction facilities can be used, barging will not be necessary, unless a processor uses a barge to transport wastes to the reduction facility, so that the processors will not incur any barging expense as an incident of achieving BPT effluent limitations. However, even where barging is selected, the Agency concludes that effluent reduction benefits will result.

B. Other Statutory Factors

Section 304(b) requires the Administrator to consider various additional factors in assessing BPT. Under the statute, the Administrator must take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors that the Administrator deems appropriate. EPA has considered these factors in the present proposal.

The age of seafood processing equipment and facilities, the type of process, engineering aspects of the application of various types of control techniques, and process changes are not at issue. An effluent screening device can readily be installed in each plant at the point of the facility's discharge. No complex engineering is required. The age of the facilities is not relevant, and no internal process change is required.

Further, the Agency believes that the non-water quality environmental impact of the technology will not be excessive. Reduction facilities should have no adverse air quality impact. Any odor problems associated with the operation of a reduction facility can be eliminated by proper plant location and operating procedures.

IV. Cost Analysis and Economic Impact Analysis

A. Introduction

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analyses of certain regulations. See 43 FR 12661, March 23, 1978. EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major or significant regulations involving annualized compliance costs of more than $100 million or meeting other specified criteria. See 44 FR 30988, May 29, 1979. Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives. The proposed changes in regulations for the canned and preserved seafood processing industry do not meet these criteria and thus do not require a formal regulatory analysis.

B. Cost Reasonableness

The cost for Alaska seafood processing plants in Anchorage, Cordova, Petersburg, and Ketchikan to implement individual screening and collective reduction range from $0.003 to

$0.025 per pound of waste removed. These costs of achieving BPT can be compared with other industries' costs of achieving BPT to provide a perspective on their reasonableness. In a portion of the fruits and vegetables processing industry, the average cost of wastewater treatment to meet BPT effluent limitations for a group of model plants was $0.10 per pound of conventional pollutants removed, with a range of $0.03 to $0.19. In the corn wet milling subcategory of the grain milling industry, the cost for a medium-sized model plant was $0.14 per pound of conventional pollutants removed. The cane sugar refining industry shows a cost of $0.14 per pound of conventional removed for a small model plant. These costs have been adjusted to 1980 dollars by a standard construction cost index. It is readily apparent that the projected BPT costs in these four Alaskan areas are substantially less than BPT costs for other industries and therefore entirely reasonable.

In Juneau, EPA projected that screening and reduction would cost $0.18 per pound. This figure is a major step higher than costs projected for the rest of the petitioners, because the collective treatment available in other areas cannot currently be implemented in Juneau. EPA does not believe that it is reasonable to promulgate effluent limitations that would impose a disproportionate cost on a discharger whose isolated Alaska processing location precludes the type of collective waste disposal that accounts for the lower costs elsewhere in Alaska.

C. Cost Analysis

EPA has analyzed the cost of reduction facilities for each area where reclassification has been requested. The Agency prepared an initial study pursuant to Section 74 of the Clean Water Act Amendments of 1977. Following receipt of the present petition, EPA updated that study. The updated study, *Market Feasibility Study of Seafood Waste Reduction in Alaska*, November 1980, analyzed the cost of individual and collective reduction facilities based on 1980 information regarding production data, costs, and fish meal and fish oil prices. Updated assumptions regarding inflation and interest rates were also used.

EPA's current analysis used a discounted cash flow model to determine the costs of reduction for each area in the petition. The Agency's approach is more fully described in the aforementioned report.

The 1980 EPA study indicates reduction costs per area as follows:

Table A

Area	Total pounds of waste removed per year	Reduction cost (dollars per ton)
Petersburg	10,000,000	[1] +8.09
Ketchikan	15,000,000	[2] 7.96
Cordova	12,000,000	22.71
Anchorage	2,800,000	[3] 64.91
Juneau	760,000	324.55

[1] Profit.

[2] Wastes from Ward's Cove are included in the analysis for Ketchikan.

[3] Anchorage processors have the option of hauling wastes to the reduction facility at Seward at a net cost of $8–12 per ton.

A sensitivity analysis of the EPA study indicates that the feasibility of reduction facilities is sensitive to changes in the price of fish meal. EPA recognizes that the price is fairly volatile, having ranged from a low of $318.00 to a high of $505.00 per ton between 1977 and 1980. The reduction costs reflected in Table A are based on an average fish meal price of $425.00 per ton. The Agency believes that this price fairly represents average market conditions for 1980. However, it must also be noted that increased finfish landings and more favorable fishmeal prices will further decrease the cost of reduction and potentially allow some of these facilities to become profitable. The Agency solicits comments and data on the factors which influence the economics of reduction.

D. Economic Impact Analysis

EPA has done an economic impact analysis for BPT and a draft analysis for soon-to-be-proposed BCT regulations for the seafood processing industry. These analyses are based on the costs of screening and barging for processors in all Alaskan subcategories, with both "remote" and "non-remote" status. Although the petitioners only challenge the cost/benefit relationship of the current BPT regulations and do not allege that adverse economic impacts result from the current requirements, EPA re-examined the BCT cost study in the interest of thoroughness. An economic impact analysis based on the costs of reduction facilities was not done due to time constrants.

The BCT study, *Draft Report: Economic Impact Analysis of Proposed Limitations Guidelines for the Canned and Preserved Seafood Processing Point Source Category, July 1980*, is more recent than the BPT report and is therefore based on more timely data. It confirms that screening and barging (as opposed to screening and collective reduction) have negligible impacts on Alaskan processors. In fact, the analysis shows that Alaskan processors are economically strong. Out of 164 plants analyzed throughout Alaska, EPA projected that only two plants might be forced to close as a result of proposed BCT cost burdens. These plant closures would result in an employment loss of 100 people.

The two projected closures are small processors in the mechanized salmon subcategory. All medium-sized and large-sized plants in this subcategory will remain economically viable after the imposition of treatment costs. The study further indicated that all plants in all other Alaskan seafood processing subcategories will remain economically viable after installing the required technologies.

The study was done on a model plant basis across subcategories, not specifically for plants at the locations in the petition. The impact analysis results were extrapolated from the model plants to qualitatively assess potential impacts. Thus the projected closures cannot be correlated with any of the petitoners' plants.

The most recent cost analysis and market feasibility study, referenced earlier, examines reduction and barging costs on a plant-by-plant basis as well as collectively for the five locations represented by petitioners. The results clearly indicate that economics of scale can be achieved in both collective reduction and collective barging.

In this study collective reduction was, in all but two cases, found to be less costly on a dollar per ton of waste basis than individual barging. Thus, one may reasonably infer that collective reduction will not have excessively adverse economic impact because individual barging causes minimal levels of economic impacts. Specific economic impact levels have not been analyzed for the costs of reduction facilities. Also, if barging in processing centers is organized on a collective basis, economic impacts, already judged to be low, should be further lessened.

V. Proposed Response to Petition and Amendment to Regulations

A. Summary

The Agency proposes to grant the petition for the city of Juneau and to deny the petition for Anchorage, Petersburg, Ketchikan, and Cordova. Under this proposal, Juneau's designation for BPT would change from "non-remote" to "remote." The other areas would remain "non-remote" for BPT purposes. EPA proposes to revise the scope of the term "non-remote" to eliminate the concept that a locality will be so classified solely on the basis of its character as a population center. The Agency also proposes to include Ward's Cove in the Ketchikan processing center.

Finally EPA proposes to amend the regulations providing new source performance standards in these subcategories to assure that new sources in areas classified as "non-remote" for BPT purposes will also employ the screening technology.

B. Feasibility of Reduction Facilities

EPA's BPT effluent limitations guidelines for the "non-remote" Alaska seafood processors subcategories are based on screening. In proposing to retain this technology for four of the cities named in the petiton, EPA examined the options for disposal of the screened waste. Where seafood waste reduction facilities may be available, implementation of the guidelines not only would result in removing the waste solids from the water but also in recovering for other uses a significant portion of the waste. EPA's proposed classification of the various localities as "non-remote" is based on the Agency's belief that each of these areas qualifies as a processing center and that collective reduction facilities can be operated in each locality.

The seafood commodities being processed at the petitioners' facilities command high prices in the market place. The screened waste solids are similar in character, yet they are discarded as valueless. Reduction facilities are a proven method of converting both finfish and shellfish waste into marketable products. Research indicates that promising avenues may exist to improve the economics of shellfish waste reduction in Alaska. Reduction facilities can process salmon, herring and bottom fish wastes into fish meal and fish oil.

Finfish reduction is a wet process. The wastes may or may not be chopped, depending on their size. The wastes are then cooked to denature flesh protein and break the cell walls to allow subsequent separation of solids from the oil and water liquor. The cooked fishmeal is strained and pressed, after which the presscake is shredded, dried, strained, ground, and packaged. Meanwhile, the press liquors are desludged, purified, deodorized and steamed to produce the fish oil. Solids removed from the fish oil production process are added to the fish meal. Thus, essentially no waste is created. Five tons of finfish waste, when processed, can produce approximately one ton of fish meal and 0.4 tons of fish oil. The remaining portion is predominantly water, most of which is removed by evaporation, with the balance added to the dried meal to improve its palatability to animals. These items can sell for over $400.00 per ton.

Fish meal is used as a protein source for animal feeds. It currently provides only about 10 percent of the total proteins used in animal feeds. It competes with other high-protein feed supplies, including oilseed meals such as soybeans, animal residues and grain proteins. Soybean meal is the largest competitor currently providing about 45 percent of the protein for processed feeds. EPA has ascertained that fish meal prices and soybean meal prices over the last thirty years show a high degree of association.

The reduction technology for shellfish wastes, such as shrimp or crab, usually consist of grinding, drying and packaging; cooking may also occur, depending on the character of the wastes. Shellfish meal has a lower protein content than fish meal and hence is less marketable, selling for about $125.00 per ton. However, the natural polymer chitin and its derivative, chitosan, can be derived from shellfish wastes.

Chitin and chitosan production and its variations currently remain in the pilot stage of development. Essentially, chitin and chitosan production involves mechanical separation of the adventitious protein, demineralization of the residual shell with dilute acid, deproteinization with a dilute alkali and deacetylation of the chitin with caustic soda to produce chitosan. Possible commerical applications of the product include use in textile, paper processing, wastewater treatment, photography, and pharmaceuticals.

Because shipment of needed chemicals to Alaska might be difficult, EPA's analysis of the feasibility of chitosan production assumed that the mechanical separation and stabilization of shellfish wastes would be completed in Alaska and the wastes would be transported to Seattle for the chemical processing. EPA's analysis was hampered by the pilot nature of existing facilities, the unavailability of confidential, proprietary information, lack of production of cost data regarding reported large-scale production in Japan, Poland and Russia, and by the variability of costs and marketability of chitin and chitosan depending on the specie, location and quality of source material employed. Nonetheless, EPA's analysis indicated that the process has a real potential for cost effective production.

The Agency realizes that further market development is necessary before large-scale chitin plants are feasible. Because of the uncertainties regarding chitin/chitosan production, EPA particularly solicits comments on this aspect of the present proposal. This information will be especially important in determining whether reduction can be profitable in the Dutch Harbor area where waste production is primarily from shellfish.

Finfish reduction technology has long been used in Europe. Proven systems now operating in this country are still supplied by European manufacturers. The European-manufactured equipment involves a high capital expense because of transportation costs and duties. However, several American made systems are currently marketed or planned for marketing in the near future. These systems show an approximately 20 percent lower capital cost than the European systems. The American-made reduction systems are also claimed to have lower energy requirements and therefore lower operating costs. Although EPA's analysis of the present petition used the cost of the European reduction systems to ensure that the cost of solids reduction would not be underestimated, it is likely that actual reduction facility costs may be lower than EPA estimates, if American equipment is used.

The petition raised the issue of reliance on a competitor for waste disposal. In areas where competitors own existing reduction facilities, the Agency feels that suitable long term contractual arrangements can be agreed upon between processors and competitors who operate facilities. EPA notes that the economic viability of the reduction facility depends on a supply of raw material, namely, the seafood wastes. The competitor therefore may have an incentive to contract for delivery of the petitioner's wastes. The contract can cover allocation of capacity during peak loads. Plant expansion may also be attractive to the competitor, if a petitioner's waste is known to be available for processing.

For areas where reduction facilities are not in operation, processors may choose not to operate their own reduction facilities. However, a facility might be constructed and operated by an independent entrepreneur under contract with the various potential users, as is currently the case in Kodiak. A nearby municipality might also be willing to construct a facility. Either of these options would avoid the question of competitive use of the plant. This arrangement could be employed whether or not the reduction operation was profitable. In Kodiak, for example, where the reduction facility operates at a loss because of the high volume of shellfish waste processed, the processors using the facility subsidize its operation.

A key factor determining the feasibility of reduction or any other solids disposal option for processors in Alaska is the amount of processing waste available for the processing or joint disposal. EPA recognizes that a processor's location in a population center has no bearing on that question, and that the costs of solids disposal for an isolated processor might be considerably higher than for a processor that has access to a collective solids disposal operation. Therefore, EPA believes that the definitions of "remote" and "non-remote" need revision.

EPA intends the term processing center to cover any geographic area within which processors can reasonably achieve economies of scale by arranging for collective disposal of screened seafood wastes. Thus, under the proposed revision the term would not only include individual cities but would also cover any area where feasible highway or barge transportation would permit collective waste disposal.

The Agency proposes to remove the words "population center" from the definition of "non-remote" areas, in order to focus on processing centers, and to add Ward's Cove (as a part of Ketchikan) to the areas designated as "non-remote."

C. Revision of New Source Performance Standards

In addition to defining the limitations achievable by the application of BPT in the Alaska seafood processing subcategories of issue here, EPA regulations also provide new source performance standards ("NSPS") for processors in these locations, pursuant to section 306 of the Clean Water Act. EPA believes that any new sources in these locations, classified as "non-remote" for BPT purposes, should also be required to meet effluent limitations based on screening technology because new processors should be able to participate in collective waste disposal or reduction facilities employed by existing processors in these areas. Therefore, EPA proposes to amend the regulations to provide that all areas categorized as "non-remote" for purposes of BPT are also categorized as "non-remote" for purposes of NSPS.

D. City-by-City Analysis

This section analyzes each area in light of the information discussed above.

Juneau

EPA proposes to grant the petition to reclassify the City of Juneau as "remote." Granting of the petition for Juneau is based on the relatively high projected cost for screening and solids disposal as compared with costs in areas currently classified as "non-remote" and with the costs of the other petitioners. The Agency believes that because of the limited amount of waste generated in this area (under 800,000 pounds per year), and the distance to other processors, Juneau should not be classified as a processing center, notwithstanding its substantial population.

Because of the relatively low quantities of waste generated in Juneau, EPA analysis indicates that the cost of barging and ocean disposal per ton of waste would be more than three times as expensive as for other petitioners. The Agency also considered solids disposal options other than barging for the Juneau petitioner. The nearest reduction facility is 120 miles away in Petersburg. Access to this facility would be by barge, and the cost of transportation would be prohibitive. The limited amount of waste generated would make the cost of building and operating an on-site reduction facility in Juneau very high, $325.00 per ton of waste processed, compared with the costs of these facilities in processing centers. The city of Juneau has indicated a willingness to accept some seafood waste in its municipal wastewater treatment system in order to help promote greater efficiency in the systems' biological treatment units. However, the city would probably have difficulty in disposing of all the seafood wastes generated. Therefore, if the municipal treatment system was utilized, additional solids disposal would still be needed. In summary, EPA believes that Juneau should not be classified as a processing center. However, of course, any future significant changes in the amount of seafood processed in Juneau could require a change in the area's classification.

Anchorage

EPA proposes to deny the petition to reclassify Anchorage as "remote." The proposed denial is based on two factors. First, the Anchorage petitioner has reasonable access to a reduction facility located at Seward. In addition, the municipality of Anchorage, commenting on the petition, strongly urged denial.

The Seward reduction facility is about 100 miles from Anchorage and can be reached by paved road which is open year round. The general feasibility of hauling seafood wastes from Anchorage to Seward is attested to by five non-petitioner processors in Anchorage which have been using this method for the last two year. Some load restrictions may be imposed on road use during the winter, but since production declines during this period, EPA believes that load restrictions would not impair waste hauling. In any case, EPA notes that the Anchorage processors hauling to Seward have access to the Anchorage city landfill on an emergency basis, at a cost of $5.00 per ton.

EPA estimates hauling costs from Anchorage to the Seward facility at $20.00 per ton of waste, based on the experience of the five Anchorage processors who have been using the Seward facility. The Seward facility has been paying the processors from $8.00 to $12.00 per ton, depending on the type of waste. The net cost therefore is expected to be between $8.00 and $12.00 per ton.

As further support for the denial, EPA notes that the Municipality of Anchorage plans to build a small boat harbor within a few hundred feet of the petitioning cannery's outfall. The Municipality's comments on the petition state that the City has twice advised the cannery that any aesthetic, public health or navigation problems resulting from the operation must be avoided. The Municipality also indicated concern that serious water quality problems may arise if the suspension of EPA's screening requirements is continued. The Municipality's water quality concerns alone are not, of course, determinative of the question of available technology. However, they do further emphasize the significance for this location of the effluent reduction benefits which the technology can achieve.

Petersburg

EPA proposes to deny the petition to reclassify Petersburg as "remote." Denial is proposed because a reduction facility already exists in Petersburg, providing a viable alternative for disposal of petitioner's wastes at reasonable cost. Inclusion of the petitioner's wastes with those of other processors in the area would make this a profitable reduction facility. Acceptance of this petition could result in closure of this facility, if additional Petersburg processors turned to discharging their wastes. Unemployment from closing of the reduction facility and environmental damage could result.

EPA estimates that three round trips per day by a five ton flat bed truck would be adequate to carry the petitioning facility's peak production waste to be reduction plant. It appears that this can be arranged without a large dock addition. The Agency believes that long term contractual agreements could be reached between the petitioner and the reduction facility that would minimize any problems that might be created by petitioner's reliance on a competitor's facility.

The Agency also believes that the existing collective reduction facility, with a capacity to process 100 metric tons per day of waste solids and with additional solids storage capacity, is large enough to handle waste supplied during peak waste generation, amounting to 53,000 pounds of waste solids per day from the petitioning facility.

Ketchikan and Ward's Cove

EPA proposes to deny the petition to reclassify the City of Ketchikan as "remote," and to add Ward's Cove as an additional "non-remote" location as a part of the Ketchikan processing center. This proposed action is based on consideration of the extent of seafood processing in the Ketchikan/Ward's Cove area. First, there are three processors in Ketchikan, accounting for roughly 11,000,000 pounds of waste per year. An additional processor operates at Ward's Cove, 3.2 miles by road from Ketchikan. This processor generates approximately 5,000,000 pounds of waste per year. EPA believes that the Ward's Cove and Ketchikan processors are sufficiently close that they could participate in a joint waste reduction facility and that their combined wastes are sufficient to justify such an undertaking. The proposed redefinition of "non-remote" focusing on processing centers would cover the Ketchikan/Ward's Cove area as a unit.

The inclusion of the Ward's Cove facility with the three other Ketchikan facilities increases the amount of waste produced in that area by approximately 40 percent, based on 1980 production data. A revised cost analysis shows that a collective reduction facility with a capacity of 250 metric tons per day of waste solids, could process the waste produced by all plants in this processing center for about $8.00 per ton of waste. This is based on conservative estimates—a 20 percent fish meal recovery rate and a fish meal price of $425.00 per ton. Should the actual average fish meal price be higher than $425.00 per ton, reduction facility operators would realize higher levels of revenue. Consequently, the net costs of solids disposal for the processors would be lower.

Projected increases in bottom fish processing should also help a Ketchikan reduction facility achieve a positive return. The hatcheries program in Cordova, if proven successful, might also be implemented in Ketchikan. This would tend to smooth out the cyclic nature of salmon production and related waste available for reduction.

Cordova

EPA proposes to deny the petition to reclassify the City of Cordova as "remote." The primary reason for the proposal is that four prosessors are located in Cordova and generate sufficient waste, on the order of 12,000,000 pounds per year, to make Cordova a viable site for a reduction facility. Also, a salmon hatchery program has been initiated in Cordova in an effort to smooth out the cyclic nature of the salmon runs. If this program proves successful, it should assure a more constant supply of salmon for the Cordova processors and hance a more certain supply of seafood processing wastes for a reduction facility in the city.

Petitioners argued that an EPA contractor's feasibility study for a Cordova reduction facility was based on erroneous assumptions. EPA's updated market feasibility study utilized a larger collection reduction facility with a capacity of 100 metric tons of waste solids, and considered a 20 percent, not 25 percent, fish meal recovery rate, consistent with the position taken in the Petition. The result, based on a fish meal price of $425.00 per ton and a shell fish meal price of $125.00 per ton, showed an average cost of reduction to be $22.71 per ton of waste. Here again, higher fish meal prices would result in lower net solids disposal costs for the processors. Furthermore, larger returns can also be expected if bottom fish processing increases or if there is any increase in salmon production.

EPA notes that the city of Cordova itself had commenced a feasibility study relating to installation of a reduction facility. This study was halted when EPA's suspension of Cordova's "non-remote" classification made it appear that processors would continue grinding and discharging, so that no wastes would be available for reduction. EPA is optimistic that this study may be resumed.

VI. Response to Comments

EPA received five comments on and recommended responses to the petition for modification. A summary of each of these submissions follows:

1. Comment: The Department of Interior, Fish and Wildlife Service, Anchorage, Alaska, stated generally that seafood wastes can generate water quality problems and that barging, if properly planned and implemented, can achieve an effluent reduction benefit. The commenter also pointed out that any relaxation of effluent standards will inhibit the development of recycling technologies. The Fish and Wildlife Service recommended denial of the petition.

Response: EPA proposes to follow the commenter's recommendation as to most petitioners.

2. Comment: The State of Maine, Department of Environmental Protection, also stated that discharge of seafood wastes can generate water quality problems. It asserted that the cost of screening and barging for the petitioners is not out of line with the amount spent for water pollution control by many other industries. According to this commenter, the Alaskan petitioners have been given an unfair economic advantage by not having to install BPT treatment by 1977, and recommended that screening be maintained as a minimum level of treatment for the petitioning seafood processors.

Response: EPA agrees with this recommendation as to most petitioners.

3. Comment: The Municipality of Anchorage indicated that the present outfall from the petitioning processor in Anchorage is located within a few hundred feet of a proposed site of a small boat harbor. Water quality and navigation problems may occur if present discharge practices continue. Any suspension of BPT beyond the 1981 season would be looked on very seriously by the Municipality. The Municipality of Anchorage thus recommended denial of the petition for the Municipality of Anchorage.

Response: EPA proposes to follow the Municipality's recommendation.

4. Comment: Chugach Natives, Inc., stated that it is hard for people, econmically affected, to understand technology-based regulations when the actual and apparent impact is negligible. There is no adequate basis in effluent reduction versus economic impact when barging or landfill are the only cost-effective solids disposal alternatives. The commenter recommended that EPA accept the petition, at least for Cordova.

Response: EPA proposes to deny the petition for Cordova. As explain some depth previously, EPA believes that a collective reduction facility can be operated in the Cordova processing area at reasonable economic cost or possibly even at a profit. Use of a reduction facility would prevent pollutants from being returned to the ocean and hence would result in a clear effluent reduction benefit.

5. Comment: Chugach Alaska Fisheries, Inc., explained that it processes seafood in the Cordova area and is affected by the Cordova suspension and offers many jobs and

processes the catches of many local fishermen. It states that although this facility is classified as part of the Cordova processing area, in fact the economics of scale do not apply. The commenter urged EPA to consider the results of new advances in grinding technology. It asserted that a fish meal plant in the Cordova area would not be a profitable venture. Therefore, it was recommended that EPA grant the petition for the Cordova area.

Response: EPA proposes to deny the petition for Cordova, for reasons set forth in the response to comment 4.

VII. Solicitation of Comments

The Agency, in revising the definition of "non-remote" to focus on processing centers, has identified two additional areas which can be considered as "non-remote." They include the Kenai Peninsula and Dutch Harbor.

The Agency particularly invites comments regarding inclusion of these two processing centers as "non-remote" for purposes of compliance with BPT regulations.

Alternatively these processing centers may be included as "non-remote" in the soon-to-be-proposed BCT regulations, which would allow processors at these locations until 1984 to comply with effluent limitations based on screening technology.

Kenai Peninsula

The Kenai Peninsula hosts many seafood processors within a relatively small geographical area. Their combined waste production in 1976 was greater than 6,800,000 pounds. The processors are dispersed around the perimeter of the peninsula in such municipalities as Kenai, Soldotna, Ninilchik, Homer, and Seward. Locations within the peninsula are linked with a modern paved road system. EPA believes the existing collective reduction facility at Seward is accessible to processors on the peninsula. The capacity of this plant, 150 metric tons per day, should be adequate to handle all the waste from processors on the Peninsula as well as the wastes from Anchorage's petitioning processor.

Dutch Harbor

The Dutch Harbor area has grown in recent years to be the second largest seafood processing port in the world, in terms of total fish landed. Data from 1976 show that over 27,500,000 pounds of waste are generated there per year.

The Agency is aware that seafood processing in Dutch Harbor is limited almost exclusively to shellfish, and that the economics of a reduction facility for shellfish wastes are less favorable than those for finfish wastes. EPA also recognizes that barging conditions in the Bering Sea can be difficult. The Agency is also aware that most processors in this area are located on boats which leaves little space for screening and solids collection. The Agency's initial cost analysis showed that reduction would be more costly in Dutch Harbor than in most other processing centers.

In light of the problems which may develop in attempting to dispose of screened seafood wastes in the Dutch Harbor area, EPA particularly solicits comments on this area in the "non-remote" classification.

The Agency also solicits comments, data, and information on the following:

(1) Feasibility of shellfish reduction and chitin/chitosan production and marketing, and the long-term economic prospects for these products.

(2) Possible increase in finfish landings and improved market conditions which result in more favorable conditions for implementing finfish reduction processes in Alaska, including the potential for improved, American-made reduction technologies.

(3) Finfish and shellfish landing projections and all related technical and economic factors which bear upon waste disposal and reduction in the Dutch Harbor and Kenai Peninsula areas, including:

a. transportation costs to Washington of by-products

b. present waste treatment equipment in place

(4) Information on the market for Alaskan seafood by-products such as:

a. factors affecting supply

b. demand trends

c. price trends

d. growth potential of the fish meal market

e. relationship with and future trends in competing soybean and oil markets

(5) Any information that would assist the Agency in assessing plant specific economic impacts of reduction facility costs for "non-remote" processors to include:

- production data
- financial data

(6) Possible use of seafood wastes as an energy source through methane production.

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

Subpart D—Non-Remote Alaskan Crab Meat Processing Subcategory

1. Section 408.40 is proposed to be revised to read as follows:

§ 408.40 Applicability; description of the non-remote Alaskan crab meat processing subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing, in non-remote Alaska, of dungeness, tanner, and king crab meat. The effluent limitations contained in this Subpart D are applicable to facilities located in processing centers including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg.

Subpart F—Non-Remote Alaskan Whole Crab and Crab Section Processing Subcategory

2. Section 408.60 is proposed to be revised to read as follows:

§ 408.60 Applicability; description of the non-remote Alaskan whole crab and crab section processing subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing, in non-remote Alaska, of dungeness, tanner and king whole crab and crab sections. The effluent limitations contained in this Subpart F are applicable to facilities located in processing centers including, but not limited to, Anchorage, Cordova, Ketchikan, and Ward's Cove, Kodiak, and Petersburg.

Subpart I—Non-Remote Alaskan Shrimp Processing Subcategory

3. Section 408.90 is proposed to be revised to read as follows:

§ 408.90 Applicability; description of the non-remote Alaskan shrimp processing subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing of shrimp in non-remote Alaska. The effluent limitations contained in this Subpart I are applicable to facilities located in processing centers including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg.

Subpart P—Alaskan Hand-Butchered Salmon Processing Subcategory

4. Section 408.162(b)(1) is proposed to be revised to read as follows:

§ 408.162 [Amended]

* * * * *

(b) * * *

(1) Any hand-butchered salmon processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of seafood)	
TSS	2.6	1.6
Oil and grease	0.31	0.19
pH—Within the range 6.0 to 9.0.		
	English units (pounds per 1,000 lb of seafood)	
TSS	2.6	1.6
Oil and grease	0.31	0.19
pH—Within the range 6.0 to 9.0.		

* * * * *

5. Section 408.165(a)(1) is proposed to be revised to read as follows:

§ 408.165 [Amended]

(a) * * *

(1) Any hand-butchered salmon processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of seafood)	
TSS	2.3	1.4
Oil and grease	0.28	0.17
pH—Within the range 6.0 to 9.0.		
	English units (pounds per 1,000 lb of seafood)	
TSS	2.3	1.4
Oil and grease	0.28	0.17
pH—Within the range 6.0 to 9.0.		

* * * * *

Subpart Q—Alaskan Mechanized Salmon Processing Subcategory

6. Section 408.172(b)(1) is proposed to be revised to read as follows:

§ 408.172 [Amended]

* * * * *

(b) * * *

(1) Any mechanized salmon processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of seafood)	
TSS	44	26
Oil and grease	29	11
pH—Within the range 6.0 to 9.0.		
	English units (pounds per 1,000 lb of seafood)	
TSS	44	26
Oil and grease	29	11
pH—Within the range 6.0 to 9.0.		

* * * * *

7. Section 408.175(a)(1) is proposed to be revised to read as follows:

408.175 [Amended]

(a) * * *

(1) Any mechanized salmon processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of seafood)	
TSS	42	25
Oil and grease	28	10
pH—Within the range 6.0 to 9.0.		
	English units (pounds per 1,000 lb of seafood)	
TSS	42	25
Oil and grease	28	10
pH—Within the range 6.0 to 9.0.		

* * * * *

Subpart T—Alaskan Bottom Fish Processing Subcategory

8. Section 408.202(b)(1) is proposed to be revised to read as follows:

§ 408.202 [Amended]

* * * * *

(b) * * *

(1) Any Alaskan bottom fish processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) kg/kkg of seafood	
TSS	3.1	1.9
Oil and grease	4.3	0.58
pH—Within the range 6.0 to 9.0.		
	(English units) lb/1,000 lb of seafood	
TSS	3.1	1.9
Oil and grease	4.3	0.58
pH—Within the range 6,0 to 9.0.		

* * * * *

9. Section 408.205(a)(1) is proposed to be revised to read as follows:

§ 408.205 [Amended]

(a) * * *

(1) Any Alaskan bottom fish processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) kg/kkg of seafood	
TSS	1.9	1.1
Oil and grease	2.8	0.34
pH—Within the range 6.0 to 9.0.		
	(English units) lb/1,000 lb of seafood	
TSS	1.9	1.1
Oil and grease	2.6	0.34
pH—Within the range 6.0 to 9.0.		

* * * * *

Subpart AC—Alaskan Scallop Processing Subcategory

10. Section 408.292(b)(1) is proposed to be revised to read as follows:

§ 408.292 [Amended]

* * * * *

(b) * * *

(1) Any Alaskan scallop processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) kg/kkg of seafood	
TSS	6.0	1.4
Oil and grease	7.7	0.24
pH—Within the range 6.0 to 9.0.		
	(English units) lb/1,000 lb of seafood	
TSS	6.0	1.4
Oil and grease	7.7	0.24
pH—Within the range 6.0 to 9.0.		

* * * * *

11. Section 408.295(a)(1) is proposed to be revised to read as follows:

§ 408.295 [Amended]

(a) * * *

(1) Any Alaskan scallop processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of seafood)	
TSS	5.7	1.4
Oil and grease	7.3	0.23
pH—Within the range 6.0 to 9.0.		
	English units (pounds per 1,000 lb of seafood)	
TSS	5.7	1.4
Oil and grease	7.3	0.23
pH—Within the range 6.0 to 9.0.		

* * * * *

Subpart AE—Alaskan Herring Fillet Processing Subcategory

12. Section 408.312(b)(1) is proposed to be revised to read as follows:

§ 408.312 [Amended]

* * * * *

(b) * * *

(1) Any herring fillet processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) kg/kkg of seafood	
TSS	32	24
Oil and grease	27	10
pH—Within the range 6.0 to 9.0		
	(English units) lb/1,000 lb of seafood	
TSS	32	34
Oil and grease	27	10
pH—Within the range 6.0 to 9.0.		

* * * * *

13. Section 408.315(a)(1) is proposed to be revised to read as follows:

§ 408.312 [Amended]

(a) * * *

(1) Any herring fillet processing facility located in a processing center including, but not limited to, Anchorage, Cordova, Ketchikan and Ward's Cove, Kodiak, and Petersburg shall meet the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) kg/kkg of seafood	
TSS	23	18
Oil and grease	20	7.3
pH—Within the range 6.0 to 9.0		
	(English units) lb/1,000 lb of seafood	
TSS	23	18
Oil and grease	20	7.3
pH—Within the range 6.0 to 9.0.		

* * * * *

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Part VI

Environmental Protection Agency

Proposed Disposal Standards for Inactive Uranium Processing Sites; Proposed Rule and Extension of Comment Period

V46/6 JA 9 81 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 192

[AH-FRL 1610-4]

Proposed Disposal Standards for Inactive Uranium Processing Sites; Invitation for Comment

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule and extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) requests comments on proposed standards for disposal of residual radioactive materials (mainly tailings) from inactive uranium processing sites. EPA has developed these standards pursuant to Section 275(a) of the Atomic Energy Act, 42 U.S.C. Section 2022(a), as added by Section 206(a) of PL 95-604, the Uranium Mill Tailings Radiation Control Act of 1978. PL 95-604 requires the Department of Energy to conduct remedial actions for designated inactive uranium processing sites in accordance with standards promulgated by EPA.

The proposed standards apply to disposal of tailings which qualify for remedial actions under Title I of PL 95-604, and set limits on their radon release to the atmosphere and on water contamination. The standards also require tailings to be disposed of in a way that provides a reasonable expectation that these limits will be satisfied for at least one thousand years.

We have already proposed standards for the cleanup of open lands and buildings contaminated with residual radioactive materials from inactive uranium processing sites (45 FR 27370-27375, April 22, 1980). The cleanup standards were also made immediately effective as interim standards pending public review and promulgation of final standards (45 FR 27366-27368, April 22, 1980). We are hereby extending the comment period for the cleanup standards we proposed earlier so that it will coincide with the comment period for the disposal standards.

Additional background material for the proposed cleanup and disposal standards is given in a Draft Environmental Impact Statement (EIS) that EPA is issuing. Copies of an earlier version of the draft EIS were placed in the Docket and in Reading Rooms at EPA's Regional Offices when the cleanup standards were published. In addition to this request for written comments, the Agency will shortly announce the time and place of hearings at which interested persons may present comments on both the previously proposed cleanup standards and these disposal standards.

DATE: Comments on both the cleanup standards and the disposal standards should be received on or before May 11, 1981.

ADDRESS: Comments on the proposed cleanup and disposal standards should be submitted to Docket No. A-79-25, which is located in the Environmental Protection Agency, Central Docket Section, West Tower Lobby, 401 M Street SW., Washington, D.C. 20460. Single copies of the Draft Environmental Impact Statement (EPA Report 520/4-80-011) may be obtained by writing to the address given below.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley Lichtman, Criteria & Standards Division (ANR-460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number 703-557-8927.

SUPPLEMENTARY INFORMATION:

I. Introduction

The proposed standards were developed by EPA at the direction of Congress in order to protect public health, safety, and the environment from uranium mill tailings produced at processing sites which are now inactive. There are two major parts of the remedial actions necessary for this protection: cleanup and disposal. The cleanup process reduces the potential health consequences of tailings which have been dispersed from their original location on a tailings pile or used in construction. Disposal is the operation which places the tailings themselves in a condition which will be safe for a long time. The disposal site may be at the original location of the tailings, or a new one. Standards are proposed here for the disposal aspects of the remedial actions.[1]

In order to carry out our responsibility under PL 95-604 to set generally applicable standards for uranium mill tailings, we have examined their potential public health and environmental impacts. This examination established the radiological and nonradiological characteristics of tailings which require control.

Tailings are hazardous primarily because: 1) breathing radon and its decay products exposes the lungs to alpha particles; 2) the body may be exposed to gamma rays; 3) radioactive materials and nonradioactive toxic elements from tailings may be swallowed with food and water. The radiation hazard from tailings lasts for many thousands of years, and nonradioactive toxic elements persist indefinitely. The longevity of these hazards played a major role in determining the proposed standards.

Although the available data are consistent with many models, we believe that a linear, nonthreshold dose-effect relationship is a reasonable basis for deriving estimates of radiation risk to the general public and for establishing regulations. This model assumes that any radiation dose presents some risk to humans and that the risk of low doses is directly proportional to the risk demonstrated at higher doses. We recognize, however, that the data preclude neither a threshold for some types of radiation below which there is no damage to people, nor the possibility that low doses may do more damage to people than the linear model implies.

The alpha particles from inhaled radon decay products can cause lung cancer. Also, gamma rays can cause cancers, teratogenic effects, and genetic damage. Our health risk estimates are based on our review of epidemiological studies conducted in the United States and other countries of underground miners of uranium and other metals who have been exposed to radon decay products, and on three reports: *The Effects on Population of Exposure to Low Levels of Ionizing Radiation* (1972) *Health Effects of Alpha Emitting Particles in the Respiratory Tract* (1976) by the Advisory Committee on the Biological Effects of Ionizing Radiation of the National Academy of Sciences (the BEIR Committee), and the report of the United Nations Scientific Committee on the Effects of Atomic Radiation entitled *Sources and Effects of Ionizing Radiation* (1977). Details of our risk estimates are provided in *Indoor Radiation Exposure Due to Radium-226*

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[1] The cleanup standards (Subpart B and Subpart C) were proposed earlier (45 FR 27370-27375, April 22, 1980), and simultaneously also were declared immediately effective as interim standards (45 FR 27366-27368, April 22, 1980). We issued interim cleanup standards in order to have standards in effect as soon as possible, because some buildings have been found where tailings are causing radiation levels that are very hazardous to anyone exposed to them for long times. Public Law 95-604 precludes undertaking remedial action before EPA has promulgated standards. The interim cleanup standards permit the Department of Energy to clean up open lands and buildings under PL 95-604 to alleviate these problems. In addition to having issued interim cleanup standards, however, we are following the public review process contemplated by PL 95-604 for promulgating final cleanup standards.

In this notice we propose disposal standards and invite the public to comment on them. For the convenience of the reader, we are restating here some background material from our earlier notice proposing cleanup standards.

in Florida Phosphate Lands (EPA 520/4–78–013) and in the Draft Environmental Impact Statements (EIS) (EPA 520/4–80–011).

Data from studies of underground miners lead to uncertain risk estimates for exposure to radon and its decay products. This uncertainty is increased when the data are used to estimate the risk to the general population. Nevertheless, we believe the information is sufficient to give a basis for public health standards. For gamma ray exposure standards the data base is very large and good, but again involves extrapolation for application to tailings.

Oftentimes it is not possible to remove all the risk to people exposed to radiation or many other hazardous materials. In deciding how much we should attempt to reduce the risk, we considered the longevity, efficacy, and costs of remedial actions for uranium mill tailings as well as the level of risk. We also considered things which are not easily quantified, such as equity of risk distribution, and administrative difficulties. Finally, we considered the overall implementation costs and protection offered by alternative standards to determine those which are most reasonable.

EPA's mandate is to set standards which apply to any site and method of control. Therefore, our analyses of technology, costs, risk, and other pertinent factors emphasize the general characteristics of uranium mill tailings and their control. The law gives other agencies of Government the authority to decide how these standards will be satisfied at specific locations. They will issue site-specific Environmental Impact Statements where they are required under the National Environmental Policy Act, or an Environmental Assessment will be prepared to determine whether such an EIS is required.

The information, reasoning, and judgments which lead us to issue these particular proposed disposal standards for tailings piles at inactive uranium processing sites are summarized below. Additional background information and more complete presentations of our reasoning and judgments are given in the Draft Environmental Impact Statement.

II. Disposal of Tailings

In PL 95–604, the Congress stated its findings that tailings ". . . may pose a potential and significant radiation health hazard to the public, . . . and . . . that every reasonable effort should be made to provide for stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings." The Environmental Protection Agency was directed by Congress to set ". . . standards of general application for the protection of the public health, safety, and the environment . . ." for such materials. The legislative record also shows Congress intended that these standards not be site-specific.

The Committee report on the Uranium Mill Tailings Radiation Control Act expressed the intention that the technologies used for remedial actions should not be effective for only a short period of time. "The Committee does not want to visit this problem again with additional aid. The remedial action must be done right the first time," it stated (H.R. Rep. No. 1480, 95th Cong., 2nd Sess., page 40(1978)). Our proposed disposal standards are meant to ensure this long-lasting solution for those tailings piles at inactive processing sites that are covered by PL 95–604.

Pathways and Health Effects

Uranium mill tailings can effect people's health through four basic pathways. These are:

1. *Diffusion of radon-222, the noble gas decay product of radium-226, from the tailings to the air.* Breathing radon-222 and its short half-life decay products (principally polonium-218, bismuth-214, and polonium-214) exposes the lungs to alpha particles. Smaller additional doses to the lungs and other organs result from swallowing and breathing the long-lived radon-222 decay products (lead-210 and polonium-210).

2. *Small particles of tailings material in the air.* Wind erosion of unstabilized tailings piles results in airborne tailings material. Intake of thorium-230, radium-226, and lead-210 are the principal concerns from this pathway. The predominant doses are to the lungs from breathing these radionuclides and to the bones from eating foods containing them.

3. *Waterborne material.* Both wind and water flowing over or through the tailings can carry radioactive and other toxic materials to bodies of water. This could cause long-term contamination of surface and underground water, and human intake of toxic substances.

4. *External gamma radiation exposure from tailings.* A tailings pile emits gamma radiation, since many of the radioactive nuclei in it produce gamma rays along with their other decay products. The most important gamma emitters are lead-214 and bismuth-214.

The increase in cancer possibly caused by airborne substances from a pile can be estimated reasonably well by using general environmental transport models. However, the levels of waterborne contaminants and their effects are highly site-specific and we can only discuss them in general. The possible effects of direct gamma radiation from the piles are easy to estimate. They are small, except very close to the tailings piles.

EPA's analysis of the exposure pathways for uranium mill tailings piles relies on existing information provided by NRC and DOE and their contractors, and on earlier studies by EPA.[2] To significantly enhance this knowledge would require several years of intensive investigation. We believe this is unnecessary and that such a delay in promulgating standards would not be in the public interest.

Radiation Effects from Air Pathways

Based on the current U.S. population, we estimated the air-transmitted hazards of uranium mill tailings piles for people close to the pile (within several miles), in the surrounding region (within 50 miles, but not "close to the pile"), and in the remainder of the nation. Four sources of exposure were considered: inhaled short-lived radon decay products, the most important source of potential cancers; the long-lived radon decay products, principally lead-210; airborne tailings; and direct gamma radiation. Estimating the risk from exposure to the short-lived radon decay products and the gamma radiation is relatively straightforward. However, the pathways and dose calculations for long-lived radon decay products and airborne tailings depend very heavily on assumptions about the use and preparation of locally grown foodstuffs. Dose estimates for these pathways are given in the NRC Draft Generic Environmental Impact Statement on Uranium Milling (DGEIS). These estimates are likely to be high because of the assumptions made in regard to local foods. Nevertheless, the risks are small compared with those due to the short-lived radon decay products.

From our analysis we conclude:

1. Lung cancer caused by radon's short-lived decay products is the dominant radiation hazard from untreated uranium mill tailings piles on local, regional, and national scales. Effects of long-lived radon decay

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[2] We analyzed 22 of the 25 tailings piles at inactive processing sites DOE has designated for remedial actions under PL 95–604. The other 3 piles were determined to be eligible for remedial actions only after our assessment was nearly completed. However, based on general descriptions of the 3 piles, we believe that including them in the assessment would not cause us to change our proposals for disposal standards that apply to all the designated sites.

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products, of windblown tailings, and of direct gamma radiation from the piles are much less significant.

2. Individuals near a pile bear much higher radiation risks than those far away. For example, we estimate that individuals living continuously one mile from a large pile would have about 200 times as great a chance of a fatal lung cancer caused by radon decay products as persons living 20 miles away (7 in 10,000 versus 3 in 1,000,000). People even closer to some of the piles at inactive processing sites bear increased lifetime lung cancer risks as high as 4 chances in 100.

3. The total number of cancer deaths estimated to be caused by a uranium mill tailings pile depends strongly on the size and locations of the local populations.

4. Based on present population data, all the 22 piles at inactive sites we studied, taken together, may cause about 40 to 90 deaths from lung cancer per century among persons living 50 miles or more away from a pile. When local and regional rates are added to these, the estimated total national effect of all the 22 piles is about 200 premature deaths from lung cancer per century; i.e., about 2 deaths each year.

Part of the uncertainty in these estimates is due to necessary approximations in estimating the environmental radiation levels a tailings pile produces, and what dose people will receive. Additional uncertainty comes from our incomplete knowledge of the effects on people of these generally low exposures.

Our estimates are based upon current population sizes and geographical distributions. Overall increases in national population would raise the estimated national effects in approximate proportion. Development of new population centers near currently remote piles, and substantial growth of cities already near one, would increase these estimates proportionately to this growth.

Water Pathways

The water-transmitted hazards of uranium mill tailings are due both to radionuclides and to nonradioactive toxic substances, such as arsenic, lead, selenium, and molybdenum. Uranium, thorium, radium, and nonradioactive toxic substances can contaminate water resources and affect crops, animals, and people. A theoretical analysis of a model pile performed for NRC's DGEIS on Uranium Milling showed that ground water contamination by selenium, sulfate, manganese, and iron might exceed current drinking water standards over an area 2 kilometers wide and 8 to 30 kilometers long.

Tailing piles at inactive mill sites already have lost much of the water deposited in them during mill operation. The water evaporated, went underground, or ran out on the surface. Any future water contamination by the pile would be from erosion, rain, snow, or flooding. The quality of streams and lakes could be degraded by contaminated seepage from a pile, or by tailings which are carried to them by wind or water.

The movement of contaminants to ground water depends on a combination of complex chemical and physical properties of the underground environment, and on conditions such as precipitation and evaporation. Chemical and physical processes in the subsoil partly remove contaminants from water passing through it. However, some contaminants, such as selenium, arsenic, and molybdenum, can occur in forms which are not removed.

Future ground water contamination could be caused by either past or future releases of toxic substances from the piles. These substances are likely to move slowly through the ground. Ground water itself can move more slowly than a few feet per year, and only in coarse or cracked materials does the speed exceed one mile per year. For these reasons, pollutants from tailings may not affect the quality of nearby water supply wells for decades or longer after they are released. However, once polluted, the quality of such water supplies can not be quickly restored by eliminating the source. Even if a pile is covered so that there is no further run-off or seepage, it may take longer to restore the original water quality throughout the affected area than the time from the start of the pile to the first contamination of water supplies.

In the draft EIS for these proposed standards, we review the health problems that could arise from using water containing nonradioactive toxic substances from uranium mill tailings.

Control of Tailing Piles

The objectives of tailings disposal should be to control harmful substances so as to avoid their spread to the general environment and to people. The longevity or permanence of control methods is of prime concern. Because of the long lifetimes of the radioactive contaminants (thorium-230, for example, has a half-life [3] of about 80,000 years) and the presence of other toxic chemicals (which never decay), the potential for harming people will persist indefinitely. Many interrelated factors affect the long-term performance of tailings pile disposal methods. They include external natural phenomena, such as earthquakes, floods, windstorms, and glaciers, internal chemical and mechanical processes, and human activities. Predicitions of the stability of the piles become less certain as the time period increases. Beyond several thousand years, long-term geological processes and climatic change will determine the effectiveness of most "permanent" control methods.

Attempts to stabilize tailings piles at inactive sites by applying thin covers on them have had only limited and short-term control objectives, but the growing awareness of the hazards of tailings and passage of PL 95-604 in 1978 have led to increasing research on effective long-term control methods. Although several States and the NRC have begun regulating tailings at active mills, no disposal method has been tested sufficiently to establish its practicality or effectiveness over long periods of time. However, we believe the basic principles of effective long-term control methods are understood.

Radon release control methods range from a simple barrier between the tailings and the atmosphere to such ambitious treatments as embedding tailings in cement or processing them to remove the radon sources. Covering the tailings with permeable barriers, such as soil, slows down the radon passing through; less is released because some of the radon decays before it gets to the air. The more permeable the covering material, the thicker it must be for a given reduction in radon release. Maintaining the integrity of thin impermeable covers, such as plastic sheets, over periods as short as tens to hundreds of years, however, is highly uncertain under the likely range of chemical and physical stresses.

Methods that control radon (a gas) will also prevent releases of tailings particulates to the air or to surface water.[4] Similarly, permeable covers sufficiently thick for effective radon control will also absorb gamma radiation very well (although thin impermeable covers will not). Disruptions of the tailings by streams, floods, wind, or rain can be delayed by contouring the pile and its cover, and by stabilizing the surface (with stones, for example) to make it resistant to erosion. If necessary, erosion can be delayed by burying the tailings pile in a shallow pit or moving it away from a flood-prone or otherwise problematic site.

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[3] A half-life is the time it takes for a given quantity of a radioactive isotope to decay to half that quantity.

[4] However, recent studies suggest that some processes occurring in tailings piles tend to carry dissolved contaminants upward, perhaps even through soil coverings. Disposal system designers must carefully consider this possibility. The Department of Energy currently is intensively investigating a variety of disposal methods.

As an alternative to covering tailings on or just below the Earth's surface, nearly complete long-term control of contaminant releases to air and surface water could be achieved by burying them in deep mined cavities. In most cases, however, direct contact with ground water would be difficult to avoid. The potential hazards of tailings could also be reduced by chemically processing them to remove contaminants. Such processes have limited efficiencies, however, so the residual tailings would still require careful disposal. Furthermore, the extracted substances, radium and thorium, for example, would be concentrated and perhaps even more hazardous than before.

In the draft EIS we analyze the health and environmental protection benefits and the costs of several levels of controlling tailings, assuming a variety of potential control methods. We find that radon emission levels of an "average" pile can be reduced to approximately the levels characteristic of ordinary land by applying a soil cover at costs in a range of about 1 to 14 million (1979) dollars. The cost does not depend much on the degree of radon reduction. Rather, the range of costs mainly reflects the choices of materials for stabilizing the surface, the possible need for specific water protection features, and transportation and site preparation costs if a new site is needed. We estimate the costs for deep disposal to be about 8 to 63 million (1979) dolloars; the lowest estimate assumes the availability of a suitable open-pit mine close to the tailings pile and other favorable circumstances. Disposal using chemical processing to extract radium and perhaps other substances would cost approximately 78 million (1979) dollars per pile.

Selection of Proposed Disposal Standards

Proposed Radon Emission Standards

From several perspectives, we find it reasonable to reduce radon emission rates from tailings at inactive processing sites from their current values of several hundred pCi/m² sec [5] to a range more characteristic of natural emission rates from ordinary land. Typical natural emission rates are from 0.5 to 1 pCi/m²-sec, with variations up to several times these values not unusual.

After considering the alternatives, we have concluded that the numerical limit on pile emissions, following disposal, should be chosen in a range of about 0.5 to 2.0 pCi/m²-sec. When this emission rate is added to that of a normal earth covering, the disposal site emission rate would still be within natural variations.

Several analyses [6] of controlling radon emission by covering piles with soil suggest that the required covering thickness rises sharply [7] near an emmision rate of about 1 pCi/m²-sec. However, there has been no opportunity to test these analyses against full-scale field experience. If soil coverings should be less efficient in controlling radon than the analyses indicate, achieving a standard at the low end of the range could be much more difficult and expensive than we estimate. Yet, the health benefit so gained would be marginal. We therefore propose an allowed tailings emission rate of 2 pCi/m²-sec, rather than a slightly lower figure, to allow for more technical flexibility in implementing the standards.

Higher control levels, say 10–40 pCi/m²-sec, appear unjustified, because emission rates of that size can be lowered to 2 pCi/m²-sec for about 10% additional cost.[8] With such elevated radon emissions, the probable need for land-use restrictions adjacent to the disposal site would place a continuing administrative burden on future generations.

We also find almost total control of radon release from the tailings unjustified. Incremental costs for achieving long-term emission rates lower than 2 pCi/m²-sec rise rapidly relative to radon emission reduction and any health benefits that might be achieved. There is no need to restrict the use of land near the disposal site because of radon releases from the tailings for emission rates near 2 pCi/m²-sec. We have not found any administrative or aesthetic advantages in further reductions.

We believe our approach is appropriate for the new and large-scale undertaking of tailing disposal. Typically, the proposed standard would reduce radon emissions and their possible effects by 99%. Measures that will cut down radon emissions this much for at least 1000 years (see below) will also eliminate blown tailings and excess gamma radiation. Therefore, implementing the radon control standard will virtually eliminate all the potential hazards except water pollution.

Proposed Ground Water Protection Standards

The proposed ground water protection standards provide that after tailings piles are disposed of the piles will not cause ground water concentrations of selected contaminants to exceed specified levels. We chose levels we believe are adequate to protect good quality ground water for direct human consumption and for a wide variety of other purposes. If upstream ground water already exceeds the specified concentration levels for causes other than tailings, then no further degradation is allowed.

Except as noted below, the specified concentration levels are the same as the maximum contaminant levels of the National Interim Primary Drinking Water Regulations (NIPDWR). We use these levels quite differently here, however, and our standards have no legal tie to the NIPDWR. Though fluoride levels are given in the NIPDWR, we are omitting them from the proposed standards because fluorides are not important constituents of tailings. Levels for molybdenum and uranium are not given in the NIPDWR, but we believe they are needed because of the abundance of these substances in tailings, their toxicity, and their likely mobility in ground water. We selected the proposed molybdenum level on the basis of avoiding toxic effects in humans. The proposed uranium level is the one for which our estimate of bone cancer risk is about the same as the estimated bone cancer risk from radium under the NIPDWR.

The contaminants we include in the proposed ground water standard cover the most hazardous tailings substances. Conditions that control these toxic substances will also control many other substances. We do not wish to complicate the task of demonstrating compliance with the standard by including nonessential requirements, such as a much-expanded list of covered contaminants. It is in this same spirit that we are proposing to allow minimal degradation of very good quality water. There is no clear need for stricter standards than we are proposing, and substantial additional resources could be required to meet them for some piles.

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[5] pCi/m²-sec stands for picocuries per square meter per second, a measure of the release rate of radioactivity from a surface. A curie is the amount of radioactive material that produces 37 billion nuclear transformations per second. A picocurie is a trillionth of a curie. One picocurie produces a little more than two nuclear transformations per minute.

[6] These studies are cited in the draft EIS.

[7] Reducing the emission rate from 10 to 9 pCi/m²-sec (a 10% reduction) requires about 1 cm of added soil; the same size reduction from 2 to 1 pCi/m²-sec (50%) takes about 50 cm of added soil.

[8] This assumes that covering the tailings with soils and clay is a feasible method for radon control to an emission rate of about 2 pCi/m²-sec.

There is evidence of limited ground water contamination at some of the inactive sites, but the prospects for long-term contamination have not been fully assessed. The proposed ground water protection standards, however, apply only to releases from tailings that may occur after disposal of the piles. It may sometimes be possible to improve the quality of an already-contaminated aquifer, but we believe a generally applicable requirement to meet pre-set standards is not feasible.

The Department of Energy will prepare Environmental Impact Statements or Environmental Assessment reports for each site to support the decisions it will reach, with NRC's concurrence, on necessary remedial action to satisfy the standards. We believe that disposal methods that satisfy the standards will avoid ground water problems caused by future releases from the piles for at least 1000 years (see below). We expect DOE to consider the need for and practicality of controlling contaminants that have already seeped under the tailings pile, and to apply technical remedies that are found justified. Institutional controls should also be applied, however. If tailings are found to be contaminating ground water that is being used, we would expect DOE to provide alternate water sources or other appropriate remedies. We note that PL 95–604 will terminate DOE's authority to do so as a remedial action seven years after we promulgate standards, unless Congress extends the period. However, PL 95–604 provides for Federal custody of the disposal sites under NRC licenses after the remedial action program is completed. The custodial agency is authorized to carry out such monitoring, maintenance, and emergency measures as the NRC may deem necessary to protect public health. We expect NRC's monitoring requirements will be sufficient to ensure detection of any contamination by the tailings of usable ground water near the disposal sites, and to cause the custodial agency to take necessary measures to avoid any significant public health problem.

The actions necessary to avoid future ground water contamination may increase disposal costs in some cases up to double the cost of radon control alone. Available information suggests that such measures often will not be needed because many tailings piles do not threaten ground water. Moreover, where the standards might be exceeded only in the immediate neighborhood of a pile, we do not believe the substantial costs and disruptions necessary to avoid the violation would be warranted. Therefore, when existing tailings sites are used for disposal, we propose that the ground water protection standards be applied 1.0 kilometer from the pile. If tailings are moved to a new disposal site for any reason, then site selection and preparation are possible. We propose that the standard for a new site be applied 0.1 kilometer from the pile.

EPA is developing a ground water protection strategy which, to the extent that various legislative authorities allow and it is practicable, will guide the development of consistent regulations for a number of its programs. These include programs for disposal of solid wastes under the Resource Conservation and Recovery Act, underground injection control under the Safe Drinking Water Act, wastewater sludge disposal under the Clean Water Act, and disposal of uranium mill tailings under the Uranium Mill Tailings Radiation Control Act. Persons wishing to comment on this issue (consistency) should refer to EPA's notice (45 FR 66816–23, October 8, 1980) discussing various approaches for protecting ground water from hazardous wastes at land disposal sites covered under Subtitle C of the Resource Conservation and Recovery Act.

We would be pleased to receive suggestions for alternative formulations of ground water standards for disposal of uranium mill tailings covered by Title I of PL 95–604. Should the standard contain limits on allowed degradation, or should it specify nondegradation (no increases in concentrations), or no releases? If degradation limits are used, as we propose, in what other ways might they be determined? Should the standards apply at different distances from the tailings for new disposal sites than for existing sites? What should these distances be? Are more substances needed in the list of covered contaminants, or are any of them superfluous? Comments on these issues will be most useful when supported by reasons and data.

Proposed Surface Water Protection Standards

Wind, rain, or floods can carry tailings into rivers, lakes, and reservoirs. Pollutants may also seep out of the piles and contaminate surface waters. However, implementing the radon emission limits and the ground water protection requirements will greatly reduce this. A pile with severely restricted radon releases will not be able to release particulates to wind or water. Similarly, the ground water protection requirements imply limited water flow through the pile, which limits flow to the surface as well as under the ground. Thus, we expect that the radon emission and ground water standards will protect surface water. However, to assure adequate protection, we propose to require that surface water not be degraded by tailings after disposal of the piles. This means that after disposal, any contaminant releases from the disposal site should not increase the concentration of any harmful substances in surface water.

Longevity of Disposal Standards

Congress recognized that uranium mill tailings are hazardous for a long time, and directed EPA to set reasonable standards for their long-term disposal. We propose requiring a reasonable expectation that the radon emission and water protection standards for disposal of tailings piles will be satisfied for at least 1,000 years.

Institutional control methods such as recordkeeping, maintenance, monitoring, and land-use restrictions are useful adjuncts to an adequate disposal system, to provide greater protection than the standards require, and to regulate deliberate disruptions of the tailings by people.[9] However, we do not believe they should be relied upon for periods longer than a century, and are inappropriate for long-term control. They should not replace use of adequate long-term physical disposal methods.

The choice of a 1,000-year period of application results from practical considerations. Based on existing knowledge of control methods and natural processes, we believe it unreasonable to *generally* require longer protection under this remedial action program, because adequate methods for demonstrating compliance are not clearly available and may be very costly. We consider it likely, however, that the implementers of the standards will require longer protection at some piles, based on site-specific evaluations of disposal methods and their costs.

We believe 1,000 years meets the Congressional criterion that "the remedial action must be done right the first time." This does not mean our concern for the future is limited to 1,000 years, but does reflect our judgment that the remedial actions must be practical. We would be pleased to receive comments on whether 1,000 years is the best choice.

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[9] For example, Sec. 104(h) of PL 95–604 anticipates that subsurface minerals at a tailings disposal site may be used. However, it provides that any tailings disturbed by such use "will be restored to a safe and environmentally sound condition." Therefore, we propose to apply the disposal standards to the use of any subsurface mineral rights acquired under the provisions of Sec. 104(h).

III. Implementation

PL 95–604 requires the Secretary of Energy to select and perform remedial actions for uranium mill tailings from inactive processing sites in accordance with EPA's standards, with the full participation of any State that shares the cost. Remedial actions will be selected and performed with the concurrence of the Nuclear Regulatory Commission and in consultation, as appropriate, with affected Indian tribes and the Secretary of the Interior. The costs of the remedial actions will be borne by the Federal Government and the States as prescribed by law.

The disposal standards will be implemented by showing that the disposal method provides a reasonable expectation of satisfying the radon emission limits and water protection provisions of the standards for at least 1,000 years. We intend for this expectation to be founded upon analyses of the physical properties of the disposal system and the potential effects of natural processes over time. Computational models, theories, and expert judgment will be major tools in deciding that a proposed disposal system will satisfy the standard. Post-disposal monitoring can serve only a minor role in confirming that the standards are satisfied. Where measurements are necessary to determining compliance, they may be performed within the accuracy of available field and laboratory instruments used in conjunction with reasonable survey and sampling procedures.

Disposal of tailings piles from inactive processing facilities is a large scale undertaking for which there is very little experience. Although preliminary engineering assessments for the sites affected by these standards have been performed, specific engineering requirements and costs to meet the standards at each site have yet to be determined. We believe disposal costs averaging about 11 million (1979) dollars per tailings pile are most likely. This estimate includes some costs that will probably not always be incurred, because some piles will not need to be moved to a new site or buried in an excavated pit. For some sites, the disposal cost will be partly offset by recovered land values or by uranium or other minerals recovered through reprocessing the tailings prior to disposal.

Exceptions

We believe that our proposed standards are the strictest that are justified for general application at all the inactive uranium processing sites covered by PL 95–604. However, providing greater protection may be reasonable at specific sites. Therefore, we urge the implementers to lower the residual risk as far below the required level as is reasonably achievable.

On the other hand, the standards could be unreasonably strict for certain circumstances. Because the scale of material-moving activity is so great, the possibility of serious harm to both workers and the general public from accidents associated with transporting an entire tailings pile to a new disposal site deserves particular consideration. Relocating a pile should be considered whenever it may not be practical to satisfy all the disposal standards at the original location. However, circumstances might be such that one would not expect the standards to be greatly exceeded within a thousand years, and that substantial human exposure to any resulting pollution would not necessarily occur. If all practical transport methods would probably cause serious harm to people from accidents, and if this and other risks associated with the transportation system are large enough, the near-term endangerment may outweight the additional long-term benefits of full rather than partial compliance with the standards. By carefully considering all these factors for each tailings pile where the issue arises, exceptions to the disposal standard could be justified because of the degree of unavoidable endangerment in attempting full compliance.

We do not consider the current remoteness of a pile from population centers sufficient by itself to justify relaxing the standards. Even small numbers of people nearby require protection, and the population of an area could increase considerably over the one thousand year period to which the standards apply. Furthermore, radon released from tailings piles travels over long distances.

In order to allow for reasonable implementation of PL 95–604, we are proposing criteria that may be used to determine whether particular circumstances justify exceptions to the disposal standards. In such exceptional cases, DOE, with the concurrence of NRC, may select and perform remedial actions that come as close to meeting the disposal standards as is reasonable. When doing so, DOE shall also inform EPA.

Note.—The costs and benefits of these standards are discussed in the Draft Environmental Impact Statement. However, our program to set remedial action standards for PL 95–604 does not require preparation of an economic analysis under Executive Order 12044. We expect the costs of the remedial action program in any calendar year to be less than the 100 million dollar criterion EPA has established (44 FR 30988–30998, May 29, 1979) for requiring an economic analysis.

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

Note.—Subparts B and C of the following were proposed earlier (45 FR 27370–27375, April 22, 1980) and are repeated here for the convenience of the reader.

The Administrator of the Environmental Protection Agency hereby proposes to add a Part 192, Subpart A, to Title 40 of the Code of Federal Regulations as follows:

PART 192—ENVIRONMENTAL PROTECTION STANDARDS FOR URANIUM MILL TAILINGS

Subpart A—Environmental Standards for the Disposal of Residual Radioactive Materials From Inactive Uranium Processing Sites

Sec.

192.01 Applicability.
192.02 Definitions
192.03 Standards.
192.04 Effective date.

Subpart B—Environmental Standards for Cleanup of Open Lands and Buildings Contaminated With Residual Radioactive Materials From Inactive Uranium Processing Sites

192.10 Applicability.
192.11 Definitions.
192.12 Standards.
192.13 Effective date.

Subpart C—Exceptions

192.20 Criteria for exceptions.
192.21 Remedial actions for exceptional circumstances.

Authority: Section 275 of the Atomic Energy Act of 1954, 42 U.S.C. 2022, as amended by the Uranium Mill Tailings Radiation Control Act of 1978, PL 95–604.

Subpart A—Environmental Standards for Disposal of Residual Radioactive Materials From Inactive Uranium Processing Sites

§ 192.01 Applicability.

This subpart applies to the disposal of residual radioactive material at any designated processing site or depository site as part of any remedial action conducted under Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (PL 95–604), or following any use of subsurface minerals at such a site.

§ 192.02 Definitions.

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as in Title I of the Uranium Mill

Tailings Radiation Control Act of 1978 and the Atomic Energy Act.

(b) *Remedial action* means any action performed under section 108 of the Uranium Mill Tailings Radiation Control Act of 1978.

(c) *Disposal* means any remedial action intended to assure the long-term, safe, and environmentally sound stabilization of residual radioactive materials.

(d) *Disposal site* means the region within the smallest practical boundaries around residual radioactive material following completion of disposal.

(e) *Depository site* means a disposal site selected under Section 104(b) or 105(b) of the Uranium Mill Tailings Radiation Control Act of 1978.

(f) *Aquifer* means a geologic formation, group of formations, or portion of a formation capable of yielding usable quantities of ground water to wells or springs.

(g) *Ground water* means water below the land surface in the zone of saturation.

(h) *Underground source of drinking water* means:

(1) An aquifer supplying drinking water for human consumption, or

(2) An aquifer in which the ground water contains less than 10,000 milligrams/liter total dissolved solids.

(i) *Curie* (Ci) means the amount of radioactive material which produces 37 billion nuclear transformations per second. One picocurie (pCi)=10-12 Ci.

(j) *Surface waters* means "waters of the United States, including the territorial seas" ("navigable waters") as defined in the Federal Register Volume 44, page 32901, June 7, 1979. (*Comment:* This definition is taken from the Regulations for the National Pollutant Discharge Elimination System, 40 CFR 122.3(t). In essence, it includes all U.S. surface waters which the public may traverse, enter, or draw food from.)

§ 192.03 Standards.

Disposal of residual radioactive materials shall be conducted in a way that provides a reasonable expectation that for at least one thousand years following disposal—

(a) The average annual release of radon-222 from a disposal site to the atmosphere by residual radioactive materials will not exceed 2 pCi/m^2-sec.[*]

(b) Substances released from residual radioactive materials after disposal will not cause

(1) The concentration of that substance in any underground source of drinking water to exceed the level specified in Table A, or

(2) An increase in the concentration of that substance in any underground source of drinking water, where the concentration of that substance prior to remedial action exceeds the level specified in Table A for causes other than residual radioactive materials. This subsection shall apply to the dissolved portion of any substance listed in Table A at any distance greater than 1.0 kilometer from a disposal site that is part of an inactive processing site, or greater than 0.1 kilometer if the disposal site is a depository site.

(c) Substances released from the disposal site after disposal will not cause the concentration of any harmful dissolved substance in any surface waters to increase above the level that would otherwise prevail.

§ 192.04 Effective date.

The standards of this Subpart shall be effective 60 days after final promulgation of this rule.

Subpart B—Environmental Standards for Cleanup of Open Lands and Buildings Contaminated With Residual Radioactive Materials From Inactive Uranium Processing Sites

§ 192.10 Applicability.

This subpart applies to open lands and buildings which are part of any processing site designated by the Secretary of Energy under Public Law 95–604, Section 102. Section 101 of Public Law 95–604, states that "processing site" means—

(a) Any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971 under a contract with any Federal agency, except in the case of a site at or near Slick Rock, Colorado, unless—

(i) Such site was owned or controlled as of January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or

(ii) A license (issued by the [Nuclear Regulatory] Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act) for the production at such site of any uranium or thorium product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date; and

(b) Any other real property or improvement thereon which—

(i) Is in the vicinity of such site, and

(ii) Is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

Any ownership or control of an area by a Federal agency which is acquired pursuant to a cooperative agreement under this title shall not be treated as ownership or control by such agency for purposes of subparagraph (A)(i). A license for the production of any uranium product from residual radioactive materials shall not be treated as a license for production from ores within the meaning of subparagraph (A)(ii) if such production is in accordance with section 108(b).

§ 192.11 Definitions.

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as defined in Title I of the Uranium Mill Tailings Radiation Control Act of 1978.

(b) *Remedial action* means any action performed under Section 108 of the Uranium Mill Tailings Radiation Control Act of 1978.

(c) *Open land* means any surface or subsurface land which is not a disposal site and is not covered by a building.

(d) *Working Level (WL)* means any combination of short-lived radon decay products in one liter of air that will result in the ultimate emission of alpha particles with a total energy of 130 billion electron volts.

(e) *Dose equivalent* means absorbed dose multiplied by appropriate factors to account for differences in biological effectiveness due to the type and energy of the radiation and other factors. The unit of dose equivalent is the "rem."

(f) *Curie (Ci)* means the amount of radioactive material which produces 37 billion nuclear transformations per second. One picocurie (pCi) = 10^{-12}Ci.

§ 192.12 Standards.

Remedial actions shall be conducted so as to provide reasonable assurance that—

(a) The average concentration of radium-226 attributable to residual radioactive material from any designated processing site in any 5 cm thickness of soils or other materials on open land within 1 foot of the surface, or in any 15 cm thickness below 1 foot, shall not exceed 5 pCi/gm.

(b) The levels of radioactivity in any occupied or occupiable building shall not exceed either of the values specified in Table B because of residual radioactive materials from any designated processing site.

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[*] Note.—The radon emitted from a tailings site after disposal will come from the tailings and from materials covering them. Radon emissions from the covering materials should be estimated as part of developing a disposal plan for each site. These plans will be reviewed and concurred with by the Nuclear Regulatory Commission prior to disposal. After disposal, the radon emission standard is satisfied if the emission rate is less than or equal to 2 pCi/m^2-sec plus the emission rate expected from the disposal materials.

(c) The cumulative lifetime radiation dose equivalent to any organ of the body of a maximally exposed individual resulting from the presence of residual radioactive materials or byproduct materials shall not exceed the maximum dose equivalent which could occur from radium-226 and its decay products under paragraphs (a) and (b) of this section.

§ 192.13 Effective date.

The standards of this Subpart shall be effective 60 days after promulgation of this rule.

Subpart C—Exceptions

§ 192.20 Criteria for exceptions.

Exceptions to the standards may be justificable under any of the following circumstances:

(a) Public health or safety would be unavoidably endangered in attempting to meet one of more of the requirements of Subpart A or Subpart B.

(b) The goal of environmental protection would be better served by not satisfying cleanup requirements for open land, § 192.12(a) or the corresponding part of § 192.12(c). to justify an exception to these requirements there should be a clearly unfavorable imbalance between the environmental harm and the environmental and health benefits which would result from implementing the standard. The likelihood and extent of current and future human presence at the site may by considered in evaluating these benefits.

(c) The estimated costs of remedial actions to comply with the cleanup requirements for buildings, § 192.12(b) or the corresponding part of § 192.12(c), are unreasonably high relative to the benefits. Factors which may be considered in this judgment include the period of occupany, the radiation levels in the most frequently occupied areas, and the residual useful lifetime of the building. This criterion can only be used when the values in Table B are only slightly exceeded.

(d) There is no known remedial action to meet one or more of the requirements of Subpart A or Subpart B. Destruction and condemnation of buildings are not considered remedial actions for this purpose.

§ 192.21 Remedial actions for exceptional circumstances.

Section 108 of PL 95–604 requires the Secretary of Energy to select and perform remedial actions with the concurrence of the Nuclear Regulatory Commission and the full participation of any State which pays part of the cost, and in consultation, as appropriate, with affected Indian tribes and the Secretary of the Interior. Under exceptional circumstances satisfying one or more of the conditions § 192.20(a), (b), (c), and (d), the Department of Energy may select and perform remedial actions, according to the procedures of Section 108, which come as close to meeting the standard to which the exception applies as is reasonable under the exceptional circumstances. In doing so, the Department of Energy shall inform any private owners and occupants of affected properties and request their comments on the selected remedial actions. The Department of Energy shall provide any such comments to the parties involved in implementing Sec. 108 of Public Law 95–604. The Department of Energy shall also inform the Environmental Protection Agency of remedial actions for exceptional circumstances under Subpart C of this rule.

Table A

Milligrams/liter:	
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Molybdenum	0.05
Nitrogen (in nitrate)	10.0
Selenium	0.01
Silver	0.05
pCi/liter:	
Combined radium-226 and radium-228	5.0
Gross alpha particle activity (including radium-226 but excluding radon and uranium)	15.0
Uranium	10.0

Table B

Average Annual Indoor Radon Decay Product Concentration (including background) (WL)	0.015
Indoor Gamma Radiation (above background) (milliroentgens/hour)	0.02

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January 9, 1981

Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Policy and Criteria for de Minimis Exceptions to Full Compliance With Deinstitutionalization Requirement of Juvenile Justice and Delinquency Prevention Act

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DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Policy and Criteria for de Minimis Exceptions to Full Compliance With Deinstitutionalization Requirement of the Juvenile Justice and Delinquency Prevention Act, 1974, as Amended

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP).

ACTION: Issuance of final policy.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq., (JJDP Act), is issuing a policy and criteria for determining full compliance with de minimis exceptions to the deinstitutionalization requirement of Section 223(a)(12)(A) of the JJDP Act, as amended.

SUPPLEMENTARY INFORMATION: Section 223(a)(12)(A) of the JJDP Act requires that states participating in the Formula Grant Program (Part B, Subpart I), of the JJDP Act "provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such non-offenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities." Section 223(c) of the Act further provides that failure to achieve compliance with the Section 223(a)(12)(A) requirement within the three-year limitation shall terminate a State's eligibility for formula grant funding unless a determination is made that the State is in substantial compliance, through achievement of deinstitutionalization of not less than 75 percent of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities and has made an unequivocal commitment to achieving full compliance within two additional years. The Agency's Office of General Counsel, in Legal Opinion 76–7, October 7, 1975, indicated that a State's failure to meet the full compliance requirement within the statutorily designated time-frame would result in future ineligibility for Formula Grants unless such failure was de minimis. The opinion further stated that such determinations would be made on a case-by-case basis.

OJJDP published in the August 14, 1980, **Federal Register** a proposed policy and criteria for de minimis exceptions to full compliance. That publication provided interested persons the opportunity to submit comments and recommendations on the proposed criteria. A total of 15 comments were received and analyzed. The responses included comments from 15 of the 50 states participating in the JJDP Act Formula Grant program. Appendix A provides additional information regarding the review and analysis of these comments. OMB Circular No. A–95, regarding State and Local Clearinghouse review of Federal and Federally-assisted programs and projects, is not applicable to the issuance of this policy. This policy is specifically applicable to Program No. 16.540, Juvenile Justice and Delinquency Prevention Allocation to States, within the Catalog of Federal Domestic Assistance.

Policy and Criteria for de Minimis Exceptions to Full Compliance With Section 223(a)(12)(A) of the JJDP Act

The following provides the Office of Juvenile Justice and Delinquency Prevention policy for the determination of State compliance with Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.*). The criteria presented below will be applied in determining whether a State has achieved full compliance, with de minimis exceptions, with the above cited deinstitutionalization requirement of the Juvenile Justice Act. Also specified is the information which each state must provide in response to each criterion when seeking from OJJDP a finding of full compliance with de minimis exceptions.

States requesting a finding of full compliance with de minimis exceptions should submit the request at the time the annual monitoring report is submitted or as soon thereafter as all information required for a determination is available. For those States that have participated in the formula grant program continuously since 1975 such a request, if needed, would be due December 31, 1980, because that is the first monitoring report due after five years of participation. States that had extremely low rates of institutionalization when they began participation in the program are eligible to request a finding of full compliance with de minimis exceptions after three years of participation in lieu of demonstrating a 75% reduction from the number of status and non-offenders institutionalized in their base year.

Background

Office of General Counsel Legal Opinion 76–7, October 7, 1975, establishes that a State's "good faith" effort to meet the (then) two year requirement for deinstitutionalization of status offenders would preclude the imposition of sanctions with regard to funds already granted to the State under the formula grant program. However, a State's "good faith" effort cannot be considered in determining whether the statutory minimum compliance level has been met. In terms of eligibility for funding the opinion concluded:

> A State's failure to met the Section 223(a)(12) requirement within a maximum of two years from the date of submission of the initial plan would result in future fund cut-off unless such failure was de minimis. These determinations would be made on a case-by-case basis.

Subsequent amendments to the Juvenile Justice Act in 1977 modified Section 223(a)(12) to require full compliance within three years. However, Section 223(c) was also amended to provide that if a State was in substantial compliance with the modified Section 223(a)(12)(A) provision at the end of three years, substantial compliance being defined as a 75 percent reduction in the number of status offenders held in juvenile detention or correctional facilities, then the State could be given up to two additional years to achieve full compliance.

Thus, this opinion provides the legal basis for the OJJDP to utilize the de minimis principle, i.e., by disregarding instances of non-compliance that are of slight consequence or insignificant, in making a dtermination regarding a state's full compliance with Section 223(a)(12)(A) of the Act.

Parameters

The legal concept of de minimus, meaning "the law cares not for small things," is generally applied where small, insignificant or infinitesimal matters are at issue. Whether a matter, such as the number of status offenders and non-offenders held in non-compliance with Section 223(a)(12)(A), can be characterized as de minimis cannot be determined by an inflexible formula. Therefore, OJJDP will consider each case on its merits based on criteria which take into consideration relative numbers, circumstances of non-compliance, and State law and policy. The establishment of these criteria is intended to achieve an equitable determination process. States reporting significant numbers of institutionalized status and non-offenders should not expect a finding of full compliance with de minimus exceptions. In determining whether a State has achieved substantial compliance within three years, OJJDP must compare the number of status and non-offenders held in non-compliance with Section 223(a)(12)(A) at the conclusion of the three year period with the number of status and non-offenders held at the start of the three year period (the State's baseline figure). However, in determining whether a State is in full compliance with de minimis exceptions, OJJDP does not consider a comparison of the current situation to baseline to be relevant. Only data and information which accurately and completely portrays the current situation is relevant when demonstrating full compliance with de minimus exceptions.

Individual states must continue to show progress toward achieving 100 percent compliance in order to maintain eligibility for a finding of full compliance with de minimis exceptions.

Criteria and Required Information

The OJJDP has determined that the following criteria will be applied in making a determination of whether a State has demonstrated full compliance with Section 223(a)(12)(A) with de minimis exceptions. While States are not necessarily required to meet each criterion at a fully satisfactory level, OJJDP will consider the extent to which each criterion has been met in making its determination of whether the State is in full compliance with the minimis exceptions. The information following each criterion must be provided to enable OJJDP to make this determination.

Criterion A

The extent of non-compliance is insignificant or of slight consequence in terms of the total juvenile population in the State.

In applying this criterion OJJDP will compare the State's status offender and non-offender detention and correctional institutionalization rate per 100,000 population under age 18 to the average rate that has been calculated for eight states (e.g., two states from each of the four Bureau of Census regions). The eight states selected by OJJDP were those having the smallest institutionalization rate per 100,000 population *and* which also had an adequate system of monitoring for compliance. By applying this procedure and utilizing the information provided by the eight states' most recently submitted monitoring reports, OJJDP determined that eight states' average annual rate was 17.6 incidences of status offenders and non-offenders held per 100,000 population under age 18. In computing the standard deviation from the mean of 17.6, it was determined that a rate of 5.8 per 100,000 was one standard deviation below the mean and 29.4 per 100,000 was one standard deviation above the mean. Therefore, in applying Criterion A, states which have an institutionalization rate less than 5.8 per 100,000 population will be considered to be in full compliance with de minimis exceptions and will not be required to address Criteria B and C. Those states whose rate falls between 17.6 and 5.8 per 100,000 population will be eligible for a finding of full compliance with de minimis exceptions if they adequately meet Criteria B and C. Those states whose rate is above the average of 17.6 but does not exceed 29.4 per 100,000 will be eligible for a finding of full compliance with de minimis exceptions only if they full satisfy Criteria B and C. Finally, those states which have a placement rate in excess of 29.4 per 100,000 population are presumptively ineligible for a finding of full compliance with de minimis exceptions because any rate above that level is considered to represent an excessive and significant level of status offenders and non-offenders held in juvenile detention or correctional facilities.

However, OJJDP will consider requests from such States where the State demonstrates exceptional circumstances which account for the excessive rate. Exceptional circumstances are limited to situations where, but for the exceptional circumstance, the State's institutionalization rate would be within the 29.4 rate established above.

The following will be recognized for consideration as exceptional circumstances:

(1) Out of State runaways held beyond 24 hours in response to a want, warrant, or request from a jurisdiction in another State or pursuant to a court order, solely for the purpose of being returned to proper custody in the other State;

(2) Federal wards held under Federal statutory authority in a secure State or local detention facility for the sole purpose of affecting a jurisdictional transfer, appearance as a material witness, or for return to their lawful residence or country of citizenship; and

(3) A State has recently enacted changes in State law which have gone into effect and which the State demonstrates can be expected to have a substantial, significant, and positive impact on the State's achieving full compliance with the deinstitutionalization requirement within a reasonable time.

In order to make a determination that a State has demonstrated exceptional circumstances under (1) and (2) above, OJJDP will require that the State has developed a separate and specific plan under Criterion C which addresses the problem in a manner that will eliminate the non-compliant instances within a reasonable time.

OJJDP deems it to be of critical importance that all states seeking a finding of full compliance with de minimis exceptions demonstrate progress toward 100 percent compliance and continue to demonstrate progress annually in order to be eligible for a finding of full compliance with de minimis exceptions.

The following information must be provided in response to criterion A and must cover the most recent and available 12 months of data (calendar, fiscal, or other period) or available data for less than 12 months, projected to 12 months in a statistically valid manner. If data projection is used the state must provide the statistical method used, the actual reporting period by dates and the specific data used. States are encouraged to use and expand upon currently available monitoring data gathered for purposes of the annual monitoring report required by Section 223(a)(15).

1. Total number of *accused* status offenders and non-offenders held in secure detention facilities or secure correctional facilities in excess of 24 hours (per OJJDP monitoring policy).
2. Total number of *adjudicated* status offenders and non-offenders held in secure detention facilities or secure correctional facilities.
3. Total number of status offenders and non-offenders held in secure detention facilities or secure correctional facilities (i.e., sum of items 1 and 2).
4. Total juvenile population (under 18) of the State according to the most recent available U.S. Bureau of the Census data or census projections.

States may provide additional pertinent statistics that they deem relevant in determining the extent to which the number of non-compliant incidences is insignificant or of slight consequence. However, factors such as local practice, available resources, or organizational structure of local government will not be considered relevant by OJJDP in making this determination.

Criterion B

The extent to which the instances of non-compliance were in apparent

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violation of State law or established executive or judicial policy.

The following information must be provided in response to criterion B and must be sufficient to make a determination as to whether the instances of non-compliance with Section 223(a)(12)(A) as reported in the State's monitoring report were in apparent violation of, or departures from, state law or established executive or judicial policy. OJJDP will consider this criterion to be satisfied by those States that demonstrate that all or substantially all of the instances of non-compliance were in apparent violation of, or departures from, state law or established executive or judicial policy. This is because such instances of non-compliance can more readily be eliminated by legal or other enforcement processes. The existence of such law or policy is also an indicator of the commitment of the State to the deinstitutionalization requirement and to future 100% compliance. Therefore, information should also be included on any newly established law or policy which can reasonably be expected to reduce the State's rate of institutionalization in the future.

1. A brief description of the non-compliant incidents must be provided with includes a statement of the circumstances surrounding the instances of non-compliance. (For example: Of 15 status offenders/non-offenders held in juvenile detention or correctional facilities during the 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, 3 were accused status offenders held in excess of 24 hours in a diagnostic and evaluation facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offenders jurisdiction.) Do not use actual names of juveniles.

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached. (for example: The 3 accused status offenders held in jail in excess of 24 hours were held in apparent violation of a State law which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law. The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

Criterion C

The extent to which an acceptable plan has been developed which is designed to eliminate the non-compliant incidents within a reasonable time, where the instances of non-compliance either (1) indicate a pattern or practice, or (2) appear to be consistent with State law or established executive or judicial policy, or both.

If the State determines that instances of non-compliance (1) do not indicate a pattern or practice, *and* (2) are inconsistent with an in apparent violation of State law or established executive or judicial policy, then the State must explain the basis for this determination. In such case no plan would be required as a part of the request for a finding of full compliance under this policy.

The following must be addressed as elements of an acceptable plan for the elimination of non-compliance incidents that will result in the modification or enforcement of state law or executive or judicial policy to ensure consistency between the state's practices and the JJDP Act deinstitutionalization requirements.

1. If the instances of non-compliance are sanctioned by or consistent with State law or executive or judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit non-compliant placement so that it is consistent with the Federal deinstitutionalization requirement.

2. If the instances of non-compliance were in apparent violation of State law or executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of non-compliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcment of applicable State law or executive or judicial policy.

3. In addition, the plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and non-offenders in non-compliance with Section 223(a)(12)(A). It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

Implementation of Plan and Maintenance of Full Compliance

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under Criteria C above, the State will be required to include the plan as a part of its current or next submitted formula grant plan as appropirate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliant incidences have been eliminated.

Determinations of full compliance status will be made annually by OJJDP following the submission of the monitoring report due by December 31st of each year. Any State reporting less than 100% compliance in any annual monitoring report would, therefore, be required to follow the above procedures in requesting a finding of full compliance with de minimis exceptions. An annual monitoring report will continue to be due by December 31st of each year.

FOR FURTHER INFORMATION CONTACT: Mr. Doyle A. Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Washington, DC 20531. (202) 724-8491.

Ira M. Schwartz,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

Appendix A—Supplemental Information: Review and Analysis of Comments in Response to Proposed Policy and Criteria

A total of 15 comments were received and included in the analysis. The response included comments from 15 of the 50 states participating in the formula grant program. All comments and recommendations were logged, reviewed and analyzed. The review and analysis consisted of recording each response as to whether or not a specific recommendation was presented. This recording effort was established to determine whether the respondent recommended each component of the policy and criteria to be: (1) retained, (2) eliminated, or (3) modified, or if no specific recommendation was made. The analysis also identified and recorded substantive responses for consideration during the revision process.

The results are presented according to each component of the proposed criteria.

Criterion (a)

"The extent of non-compliance is insignificant or of slight consequence in terms of the total juvenile population in the State"

In applying this criterion, a state's status offender and non-offender institutionalization rate per 100,000 population under age 18 will be compared to the average rate calculated for eight states. The eight states represent two states from each of the four Bureau of Census regions having the smallest institutionalization rate *and* which also had an adequate monitoring system. The institutionalization rate is based on the data contained in the 1979 monitoring reports. The proposed criteria were initially developed before all 1979 reports were finalized and approved. Thus a recalculation, based upon all final 1979 reports, is reflected in the final policy. This recalculation resulted in a change of the eight state average annual rate from 15.8 to 17.6 incidences of status offenders and non-offenders held per 100,000 population under age 18. Also, the standard deviation below and above the mean is changed to 5.8 and 29.4 respectively. The eight states used in calculating the average rate include Massachusetts, Pennsylvania, Iowa, Wisconsin, Virginia, West Virginia, New Mexico and Washington. These states include both urban and rural states, states having an out-of-state runaway population, and states having an illegal alien and native American population.

Several comments were received which recommended exceptional circumstances which would justify a finding of full compliance with de minimis exceptions for any state which exceeded the rate of one standard deviation above the mean. Generally, the situations which states indicated should be exceptional circumstances include (1) states having recent changes in State law which will have substantial, significant, and positive impact on achieving full compliance (2) states which can document they did not achieve full compliance with de minimis exception because juveniles were held in State/local facilities who were Federal wards being held pursuant to Federal Codes, and (3) states which can document they did not achieve full compliance with de minimis exceptions because out-of-state runaways were being held pending return to their state of residence. As a result of these comments, criterion A was modified to delineate the acceptable exceptional circumstances and the conditions which must exist to enable a finding of full compliance.

The comment that a comparison should be made between the number of status offenders held and the number of youth charged with status offenders was not considered as an appropriate change because such comparison would reward states for charging an excessive number of youth with status offenses. The comment that states which can document a consistent decline in the rate of institutionalization should be eligible for a finding of full compliance, regardless of the absolute number held, is inconsistent with the intent of Congress to totally remove status offenders and non-offenders from inappropriate facilities within 5 years.

Five of the fifteen responses indicated the criteria go too far in giving an advantage to states which hold status offenders in secure facilities by allowing an excessive number to be held and still maintaining eligibility for a finding of full compliance. Several responders felt it was critically important that OJJDP not establish a policy which creates the impression that less than 100% compliance will satisfy the statutory requirement. The OJJDP is committed to the Congressional mandate to remove all status offenders and non-offenders from secure detention facilities and secure correctional facilities and under no circumstances should the de minimis policy and criteria be construed as a lessening of OJJDP's commitment to complete deinstitutionalization of youth under Section 223(a)(12)(A) of the JJDP Act.

Criterion (b)

"The extent to which the instances of non-compliance were in apparent violation of State law or established executive or judicial policy."

The information to be provided in response to this criterion is to demonstrate whether the instances of non-compliance with Section 223(a)(12)(A) were in apparent violation of state law or established executive or judicial policy or constitutes a pattern or practice. There were no substantial comments or recommendations on this criterion, thus the criterion is unchanged.

Criterion (c)

"The extent to which an acceptable plan has been developed which is designed to eliminate the non-compliant incidents within a reasonable time, where the instances of non-compliance either (1) indicate a pattern or practice, *or* (2) appear to be consistent with state law or established executive or judicial policy, or both."

The few comments on this criterion generally stated that plan elements one and three should be combined into a single element. The criterion has been modified to reflect these comments by combining these two plan components. Other comments which were received but did not result in a modification were that "the criterion should require the development of a plan even when there is no pattern or practice and when violations are inconsistent with state law and (2) the state can always develop a plan but implementation may be difficult thus some agreement as to what is practicable must be reached between the state and OJJDP." The review of the plan developed in response to this criteria and the negotiation, if necessary, between the state and OJJDP as to the viability and practicability of the plan will result in a mutual agreement as to what is expected from both parties. OJJDP technical assistance resources and capability will be available to assist states in the implementation of the states plan for 100% compliance.

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Friday
January 9, 1981

Part VIII

Department of Justice

Office of Justice Assistance, Research, and Statistics

Planning and Coordination Grants to Develop and Support Model Comprehensive Programs for High-Risk Youth; Office of Juvenile Justice and Delinquency Prevention Draft Guideline; Request for Comments

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

Office of Juvenile Justice and Delinquency Prevention Draft Guideline: Planning and Coordination Grants To Develop and Support Model Comprehensive Programs for High-Risk Youth; Request for Comments

AGENCY: Office of Juvenile Justice and Delinquency Prevention.

ACTION: Request for public comment.

SUMMARY: This draft guideline is a proposed addition to the National Priority Program and Discretionary Program Announcement, published in the **Federal Register** on February 15, 1980, (45 FR 10702) and as such will be subject to the same regulations which govern that manual. It will not in any way impact upon the programs or regulations presently set out in that announcemnt or affect the eligibility of those individuals applying for previously announced programs.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to the Juvenile Justice & Delinquency Prevention Act of 1974 as amended, is inviting interested comments on the proposed guideline: Planning & Coordination Grants to Develop and Support Model Comprehensive Programs for High-Risk Youths, and will consider such comments before the final publication of this guideline. The period for public comment on this draft guideline is February 9, 1981.

After publication of the final guideline, which is expected to be published in the **Federal Register** in February 1981, it is anticipated that applicants will have 30 days to develop applications. It is therefore recommended that all interested applicants should begin the development of their applications immediately.

FOR FURTHER INFORMATION CONTACT: Mr. William Modzeleski at (202) 724-7751, Office of Juvenile Justice & Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

Ira M. Schwartz,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

Guidelines for Application for Planning and Coordination Grants To Develop and Support Model Comprehensive Programs for High-Risk Youth

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I. Executive Summary

These guidelines are the first step in developing a national demonstration to encourage comprehensive service programs for "high-risk youth." In this case the term "high-risk youth" (described more precisely in a later section) refers generally to those young people who are usually the hardest to reach and the hardest to serve well, in part because of their numerous needs and problems.

A key idea of this demonstration is to find new ways to replace piece-meal programming with comprehensive multi-purpose programs which provide, in effect, a one-stop shopping center for young people for whom single-purpose programs are simply not sufficient. The demonstration seeks to answer questions about the potential value of more comprehensive projects, as well as ways to implement them effectively.

To encourage the planning and development of effective, comprehensive demonstration projects for this population, funds will be distributed in a two-stage process: (1) the award of a limited number of small planning and coordination grants to organizations which can demonstrate the capacity to mount comprehensive programs effectively, and (2) the award of an even smaller number of demonstration grants (of varying sizes) to those organizations from among the planning and coordination grantees who produce the implementation plans which are evaluated as having the greatest demonstration potential.

These guidelines constitute the procedures for making application for funds in the first stage of the process, namely the planning and coordination phase. While a variety of agencies and organizations are *eligible* (see below) to apply for planning and coordination grants, it is clear from the selection criteria described in a subsequent section that organizations which *can demonstrate a very clear commitment, current capacities, current staff capabilities, recent experience, and other concrete factors bearing upon effectiveness will be given priority consideration for a planning and coordination grant.* Interested organizations should look first at the selection criteria involving current organizational capacity, recent demonstrated interest, staff background, etc. before deciding whether to submit an application.

For those who decide to submit an application, a typed double-spaced proposal of no more (and possibly less) than ten pages; a completed two page question and answer form; and a title page and budget sheet (all of which appear in the appendix) must be completed.

The background, objectives, and procedures of this demonstration effort are laid out in subsequent sections of these guidelines. Certain features of the process are, however, important to note from the outset:

1. This is a demonstration effort supported by several agencies of the federal government. The immediate purpose is to pool resources to encourage comprehensive programs, to reduce red tape, and to avoid duplication of services. The ultimate goal is to test whether and how comprehensive programs better serve young people's needs. Another goal is to encourage greater local initiative in the use of all possible resources to mount comprehensive youth service programs.

2. The demonstration is being implemented and coordinated by a private, non-profit corporation called Act Together, Inc. which is working in a unique partnership with the federal agencies and the private sector.

3. The notion of awarding planning and coordination grants before awarding demonstration grants is designed to ensure that sufficient

preparation time, energy, and assistance are available to organizations which might operate the demonstrations. During the coordination and planning period, grantees will need to demonstrate their ability to mount a comprehensive program, and to gain cooperation from state and local service agencies, organizations, and funding sources.

4. While the planning and coordination grants may cover all of the costs incurred in doing the planning and coordination for a demonstration, in no case will the demonstration grants for a program cover more than two-thirds of the costs of operating the comprehensive program.

5. Projects which receive demonstration grants will be expected to assume responsibility for working with Act Together to make information available about the program to other program operators around the country in a coordinated effort to help others learn from the successes of each project.

6. A key objective of this competition and demonstration is to serve youngsters with problems who may not be served by existing categorical or other programs. This process seeks to avoid the counterproductive situation in which a young person must have a certain label or stigma alienating himself or herself from society at large in order to qualify for service support.

7. Another key objective of the entire process is to simplify the application and reporting requirements for applicants and grantees, and determine whether such simplification aids the provision of comprehensive services.

8. Applicants will need to demonstrate previously proven effectiveness and local credibility in reaching and serving the proposed population, in harnessing local resources, and in operating projects efficiently and responsibly.

9. No funds will be available to maintain currently on-going projects in their present form.

10. The process is designated to encourage the development of comprehensive projects which will (a) become self-sustaining and outlive the demonstration, and (b) provide services which will bring participants to a point of substantially greater self-sufficiency and a reduced need for future government support.

In summary, this demonstration can show, if model programs prove effective, that opportunities for the development of a productive and self-sufficient lifestyle can be created for even those young people whose opportunities are currently most constricted, and that federal support agencies and local service agencies can act together to insure that enough of the right services are available, that the needs of the whole person are addressed, and that administrative obstacles to serving high-risk youngsters are overcome.

II. Questions and Answers

1. Why is the federal government focusing only on comprehensive programs for high-risk youths in this competition?

The federal government recognizes that this population is particularly hard-to-reach and hard-to-serve. These young people have multiple problems and they need comprehensive, multi-service programs to meet these needs. This is a deliberate attempt by the government to spur coordination of available resources at the federal, state, and local levels, and to develop programs which meet the diverse needs of these young people.

2. Why is the federal government funding only demonstration projects?

Though much has been accomplished in the past decade, much still needs to be learned about serving high-risk youths. The targeting of this money will help determine what services this population most needs and how these services can best be provided. It is hoped that the knowledge gained from these demonstration programs will be used to improve federal policy, to bring about greater cooperation among federal agencies serving youths in general, and improve coordination of existing regulations and audit requirements affecting youth-serving agencies.

3. Must programs focus exclusively on high-risk youths or may other young people be included?

These programs must focus on high-risk populations. Programs must focus on multiple (i.e., more than one) sub-group of this population (e.g., ex-offenders, high school drop-outs, or drug abusers). Programs are desired which serve youths with a variety of "labels" as well as no "labels".

4. What is meant by comprehensive programs?

Comprehensive programs include services from a range of different categories, such as health services, mental health and drug abuse-related services, employment and training services, recreational programs and educational activities. These programs are tailored to the multiple, concurrent needs of high-risk youth.

5. Who may apply for a Planning and Coordination Grant?

The competition is open to existing public or private youth-serving agencies of two types: (a) those now operating multi-service programs and (b) those which have planned extensively for comprehensive programs but have not yet begun to provide services. This includes, but is not limited to, juvenile justice projects, public schools, alternative schools, youth advocacy programs, State and local government agencies, and community development agencies.

In order for an agency to be eligible under (a) above, it must be providing already more than one category of service to high-risk youths; must be receiving funds from more than one source; and must have an exemplary administrative record.

In order for an agency to be eligible under (b) above, it must demonstrate that it has been in the process of planning a coordinated youth services program in its community for a substantial period of time (six months or more), that staff persons associated with the agency have demonstrated their effectiveness in serving high-risk youths in other capacities and that a Planning and Coordination grant will be instrumental in launching the new program.

6. Will some organizations have a better chance of getting funded than others?

Yes. Evaluators of applications will be looking for several important criteria, including a promising approach to coordination in comprehensive services; a demonstrated understanding of the needs of the population these organizations propose to serve; a good "track record"; knowledge of existing local resources; and the potential to serve as national models for replication. More specific information on criteria for selection is provided in Appendix D.

7. How much of the funding will the government provide for these demonstration programs?

The federal government, coordinating with Act Together as an intermediary, will provide all of the funds necessary for planning and coordination and up to two-thirds of the funds for operation of the demonstration programs. A minimum of one-third of the demonstration program costs must come from at least one other source, public or private.

8. Will an organization have to prepare a full-scale proposal in order to apply for a Planning and Coordination Grant?

No. The application for Planning and Coordination Grant funds consists of a title page, a narrative on the proposed program (not more than 10 typewritten pages, double spaced), a Question and Answer Form, and a Budget Sheet. These are all described in detail in this document. All applications for Planning and Coordination Grants must include an "Application for Federal Assistance."

9. How long will the selection process take?

Applications are due by March 12. A final decision on which applicants will receive Planning and Coordination Grants will take approximately six weeks.

10. What is the duration of the Planning and Coordination Grant and what is expected of the recipients during that time?

The planning and coordination period will be approximately 12 weeks. Much more than a plan for a comprehensive program is expected to result. New institutional connections should be made, staff identified—in other words, high levels of coordination, as well as planning, must occur. Act Together staff will be available to play an active role in assisting with these planning and coordination activities. Applicants must realize that all demonstration projects will be expected to begin no later than October, 1981. Applications for Planning and Coordination Grants should be written with this in mind.

11. Can these demonstration funds be used to pay wages to the youths who will be involved in a work experience?

No. However, programs are encouraged to offer paid work experiences and to seek funds for this purpose from local sources such as CETA and private organizations.

12. What laws and regulations will apply if several federal agencies are providing the funds?

Existing law must of course provide the basis for granting federal funds to worthy projects. However, it should be noted that the legal and regulatory bases for providing the funds under this competition allow for more coordination with less administrative burden. The laws and regulations to which applicants will want to give attention are referenced in the introduction.

It is most important to note that the federal agencies involved and Act Together are jointly pledged to reduce the amount of bureaucratic red tape involved. Act Together will play an active role in clarifying procedures for the programs funded and will work with federal agencies to simplify these procedures.

13. For how long a period will the demonstration grants be funded?

The demonstration period for program operation will run approximately 12 to 18 months.

14. Whom do I contact for more information?

Questions should be referred to Act Together. The mailing address is P.O. Box 19995, Washington, D.C. 20036. The telephone number is 202/833-2395.

III. Purpose and Objectives of the New Federal Initiative

Over the past two decades, the number of programs offering services to high-risk youth has increased dramatically. Almost without exception, these programs have grown out of the recognition of a service gap. Typically, each program has become the responsibility of a particular agency delivering a particular type of service within the general population. This service-oriented process of developing programs has led to duplication of services and crossed lines of responsibility. Without thorough exploration of the relationship between various youth needs, evidence suggests that some "fall through the cracks." In addition, overlapping regulations, funding mechanisms, eligibility criteria and reporting requirements emanating from the federal level can become barriers to the development of truly effective youth service programs.

This new federal initiative is designed to find ways to diminish these obstacles and stimulate innovative ways to coordinate services to meet the multiple needs of high-risk youths. A major objective, then, is not just to fund programs which will provide an interesting package of services to youth, but rather to fund programs which combine services in ways which can be studied and which enable federal policy makers to determine whether a comprehensive approach is more effective and under which circumstances.

The Planning and Coordination Grant is intended to give programs the time and money to actively develop appropriate linkages and to cement the working relationships that will eliminate the gaps in the local delivery system.

A related objective is to use the knowledge gained from these demonstration programs to prepare changes in federal policies and regulations, and to facilitate coordination of existing administrative requirements for youth programs among the various departments and agencies. The federal sponsors of this initiative are specifically interested, for example, in experimenting with the use of waiver authority to simplify service delivery at the local level, with the development of new criteria for local coordination and "linkaging" and with the role of legislatively mandated local bodies (e.g., CETA prime sponsors) in joint funding efforts.

Act Together, as an intermediary, will promote the flow of information from the local level to the federal agencies involved, consult with local program developers in the design and implementation of their programs, and assist them to draw out the policy implications of their program experiences.

IV. Background and Program Description

A. Origins of Act Together

The creation of Act Together, Inc., and the launching of this new national demonstration, had their origins with the creation of a federal executive branch Interagency Working Group on Youth in the Spring of 1979. The Working Group was composed of officials from the Law Enforcement Assistance Administration, the Department of Agriculture, the then Department of Health, Education and Welfare and the Department of Labor. The Group was chaired by the Office of Management and Budget.

This interagency group was organized because there was great concern that federal programs serving "troubled" or "high-risk" youths were not sufficiently coordinated, and that information about successful program initiatives or models was not being disseminated adequately. It was felt that greater coordination among federal agencies, and a counterpart increase in cooperation among agencies at the local level, could result in greatly increased program effectiveness, decreased costs and a sharp reduction in the paperwork which local youth serving agencies are required to prepare.

Deliberations of the Working Group focused on several key areas of concern:

(1) Promoting greater coordination among local agencies through changes in federal policy guidelines and regulations;

(2) Improving the management ability of local youth services, especially the management of integrated services; and

(3) Coordinating youth related research, development and evaluation activities.

One of the proposed mechanisms approved by the Working Group for achieving greater coordination among youth services was the creation of a new, national intermediary organization which could assist in identifying promising approaches throughout the country for coordinating youth services and which could work closely with the federal agencies in achieving its goals of streamlining youth policies, regulations and programs.

With the generous financial support of the Edna McConnell Clark Foundation, a private task-force was established to collaborate with the Working Group in creating the new intermediary. This joint private/public initiative led to the creation of Act Together, Inc., a private not-for-profit organization governed by a Board of Directors made up of persons distinguished for their contributions to the youth field. Act Together subsequently entered into a Cooperative Agreement with the agencies represented in the Working Group. The Agreement calls for Act Together to assist the federal agencies to carry out the demonstration described herein.

B. Rationale for Planning and Coordination Grants

Act Together and the agencies involved wish to encourage and support a creative process of program development under this competition. The method most likely to accomplish this is one in which applicants are given the time, financial support, and technical assistance to produce carefully considered designs and to coordinate a broad range of resources. The initial emphasis on Planning and Coordination Grants is designed to do this.

Act Together will play an active role, working on-site with each recipient of a Planning and Coordination Grant. It will provide planning, networking, resource development, and technical assistance. The entire Planning and Coordination Grant process is structured to stimulate creative thinking about the complex agencies and organizations, and new ideas for cooperation and coordination of services at the national, state, and local levels. While Planning and Coordination Grants may range as high as $25,000, applicants are encouraged to conduct these activities less expensively whenever possible.

C. Role of the Intermediary

Act Together has the general responsibility to work with the federal agencies in identifying programs and strategies with the potential to serve as national models; to document and publicize the performance record of comprehensive program; to provide technical assistance and to work with the Federal Coordinating Council in making recommendations for improving youth policies and administrative practices. (The Coordinating Council on Juvenile Justice and Delinquency Prevention is established under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 and amendments. Its purpose is to coordinate all Federal juvenile delinquency programs and to make recommendations annually to the President and Congress with respect to coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs.) This demonstration will provide valuable data and experience to the federal agencies and to Act Together, and will be used to shed light on the more important barriers to coordinating youth services.

Act Together's technical assistance to grantees will focus to the greatest extent on practical and high-priority matters: how to enhance the cooperation and contributions of other local resource agencies, how to reach out to others who may be interested in adapting program elements, how to reduce administrative problems in Washington, how to get local public officials an administrators to make things easier rather than more difficult, and how to document program activities in a way would be of interest to others. Act Together will actively seek a supportive role in helping funded projects to reduce barriers imposed by local and federal officials, to comprehensive service delivery and, where neccesary, help local persons obtain expeditious treatments of their concerns in Washington.

With regard to the competition itself, Act Together's role is:

1) To prepare and disseminate these guidelines, with prior government concurrence;

2) To receive applications for Planning and Coordination Grants and to provide for a proper review of all applications prior to recommendation to the Government;

(3) To recommend applicants to the federal agencies for Planning and Coordination Grants;

(4) To provide the recipients of these grants with technical assistance during the planning and coordination phase;

(5) To ascertain the local credibility of statements made by all successful applicants for Planning and Coordination Grants, during the planning and coordination phase;

(6) To receive and review all applications for demonstration grants;

(7) To make recommendations to the agencies for demonstration grants;

(8) To provide technical assistance and program monitoring services to grantees; and

(9) To develop and implement a program of learning and replication activities based on the demonstration projects.

D. Target Population

The youths served by this demonstration have been characterized as high-risk youths because the failure to provide a comprehensive approach to their needs now can result in the risk of long-term dependency, unproductive behavior, and costlier investments later.

These youths are the young people critically in need of basic academic skills, new vocational opportunities, mental health services, crisis counseling, and other support services tied together in some meaningful whole.

They are the young people who may be alienated from or cynical about schools, employers, families, and even traditional human service agencies. They may be young people whose only real choice at the moment is to make a dangerous living from the "streets." They may already be involved in the criminal justice system, or "abusers" of drugs or alcohol. They may live in the inner city, or in a remote rural area, isolated in either instance from any real opportunity.

Even where institutions reach out or profess to reach out to assist the poor, the disadvantaged, and the disaffected, for some reason or other these young people are not reached. Some of them are systematically excluded from the services of community agencies.

Some categories of "high-risk" youths are easier to identify than others: teenage parents whose prospects for future success and survival are already much pooer than their counterparts; youngsters who have serious behavioral problems; young urban dwellers from various minority groups, many of whose members drop out or are forced out of school prior to graduation; youthful offenders; or Hispanic youth whose past education has been consistently interrupted by the movement of migrant streams.

These young people often may have been rejected by their families or may be status offenders. Some may have a long history of incarceration, a transient family life, or may be from a family with a long history on the public assistance rolls. They might also have limited English-speaking ability, or be below even a fifth grade reading level. It is expected that the appropriate target population groups selected for this demonstration will be characterized by two, three, or more of these descriptive characterizations. They have been deprived of both educational and economic opportunities, and the services of agencies which commonly provide needed services to youth. They need, especially, programs which provide them with re-entry points into the service systems and which help prevent them from dropping off or dropping out again.

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V. Essential Elements of Comprehensive Programs

A. Desired Characteristics of Sponsoring Agencies

One of Act Together's major objectives is to support existing agencies which are already serving high-risk youths effectively, and which can meet an ambitious start-up timetable for an expanded or better program. However this does not preclude the possibility that agencies which are not currently providing services but which show evidence of a long standing commitment to and planning for a comprehensive youth service delivery program may be funded. In evaluating applicants, these are some of the characteristics Act Together will be looking for:

1. Documented evidence of existing local service gaps and/or barriers to coordination at the local level.
2. Accurate data on the specific needs of the population which the sponsoring agency proposes to serve.
3. Evidence of previous staff experience and commitment in (a) managing grants and (b) developing effective linkages among community resources.
4. Evidence of ability to attract funds and other resources to support programs for young people who are hard-to-reach and hard-to-serve.
5. Proven effectiveness of "entrepreneurial" ability in getting many local component programs to work together with the applicant.
6. An ability to manage and operate youth programs in accord with good management and auditing procedures.
7. The ability to make a small staff and limited resources go far in terms of services to high-risk youths and to avoid cumbersome bureaucracy.
8. An innovative and promising design for coordinating youth services which is based on local needs rather than a theoretical model. (Some applicants, for example, may want to design an advocacy process to "bargain" for services from existing agencies on behalf of neglected populations, providing a bargaining as well as a coordinating function.)

In order to experiment with the effectiveness of a variety of public and private agencies as leaders in local coordination efforts, several kinds of lead agencies will be eligible to participate. These include, but are not limited to juvenile justice projects, public schools, alternative schools, youth advocacy programs, community development agencies, and state and local agencies. In every instance, however, the applicant agency must be able to demonstrate a minimum threshold capacity for effective service, for careful management and budgeting practices, for immediate credibility in the community to be served, for attracting resources, cooperation and support from the schools, the courts, the CETA prime sponsor, and other local agencies, and for a continuing concern with the needs of neglected populations. Locally credible agencies proposing to provide new or expanded services to groups previously shut out from such services will have an advantage.

B. Desired Characteristics of Comprehensive Programs

The agencies selected to receive Planning and Coordination Grants must ultimately demonstrate that their comprehensive programs will represent a significant advance over the current state of fragmented youth programming at the local level. Applicants will be expected to demonstrate:

1. A capacity to develop comprehensive services tailored to the individual needs of high-risk youth, to include at least more than one sub-group of the total population of high-risk youths.
2. Specific ideas about what innovative approaches can be taken to integrate more efficiently existing local services.
3. An understanding of how to pull together a variety of funding sources (e.g., employment and training, special education, foster care, juvenile justice funds, etc.) to produce projects which are long-lasting and comprehensive rather than short-term and limited.
4. A serious commitment to design or redesign projects for maximum adaptability to other places, and to maintain the kind of documentation and on-going self-analysis deemed necessary to facilitate the replication of successful ideas.
5. Goals for the young people to be served which demonstrate thoughtful commitment to building their self-sufficiency and their capacity for independent living.
6. A willingness to graft innovative ideas and practices from around the country with what local agencies already know how to do well, to create valuable departures from current practice.
7. The specific ways in which they plan to get along with the people and agencies they will need to get along with, while insuring the accessibility of services to high-risk youth.

C. Mobilization of Additional Resources

This point will be re-emphasized by Act Together again and again. All model projects will be expected to mobilize a considerable proportion of additional resources through linkage with other local programs, the "blending" of other locally available funds, and the creative marshalling of an unusual combination of public and private funding sources. In the grant for program operation, Act Together will fund a maximum of two out of every three project dollars. Therefore, each project must be designed to obtain the maximum possible local and state support.

D. The Development of an Explicit Replication Strategy

Applicants should be aware that, during the Planning and Coordination Grant period, they will be expected to design a specific strategy for communicating to other youth program operators throughout the country what they might learn if awarded a demonstration grant.

VI. Requirements for the Planning and Coordination Grants Application

A. Statement of the Problem

Describe, as succinctly and specifically as possible, the nature of the problem(s) your program will address. This would include a description of the target population(s) your program would serve, the dimensions of the community to be served, the particular gap(s) or weakness(es) in present service delivery, and the main barriers to delivering adequate services.

B. Explanation of Local Rationale for a Comprehensive Program

This is an important statement, part philosophy, part cold, hard facts, justifying why a more comprehensive strategy is needed in your local area and explaining what you mean by a comprehensive program for the population you propose to serve. Discuss how the delivery of services could be improved for the target population; and how the current barriers to delivering services can be overcome.

C. Description of your Approach to Combining and Coordinating Local Resources to Provide Comprehensive Services

This section should describe how you propose to involve others during the planning and coordination phase in such a way that initial implementation of a comprehensive program could begin in the fall of 1981. The information you provide here should demonstrate a knowledge of possible funding sources and service providers, and your thoughts regarding your strategy for leveraging additional monies and influence. The programs of those with whom you intend to work in the design and implementation of a comprehensive youth service project should be described. Describe the potential value and impact of the services you hope to provide.

D. Statement of Organizational Capacity

This is a statement of your organization's ability to manage the program based on the expertise of staff members and the recent administrative record of your organization. Describe your experiences in managing grants, developing effective linkages among community resources, and success in full serving high-risk youths. State specifically the resources which other local agencies have already been willing to pledge to the effort, and what additional commitments you will seek during the planning and coordination period.

E. Question and Answer Form

A Question and Answer Form (Appendix B) must be filled out by each project. It is designed to give us important information on each program in a uniform manner. *Answer each question on the form provided, using only the space allotted.*

F. Budget

Please provide all pertinent information in connection with the Budget Form included as Appendix C.

VII. Evaluation and Selection of Planning and Coordination Grants

All Planning and Coordination Grant applications will be evaluated by experienced outside reviewers, the Board of Directors of Act Together, Inc., and representatives of the federal agencies which are cooperating in this initiative. A standard Reviewer Form (Appendix D) will be used to evaluate these applications.

After the applications are submitted, they will be read and evaluated by outside reviewers in a two-stage process. The top 50 applications will be presented to the Act Together Board of Directors for its review. The Board will review these applications and recommend up to 20 applications to the federal government for Planning and Coordination Grant funding. The government will review these applications and make their final determination for funding. This procedure is expected to take two months. The planning and coordination period will run approximately 12 weeks.

In the course of considering applications for planning and coordination grants, a variety of factors will be taken into account in order to arrive at a funding of a mix of projects that will facilitate the analysis and replication function that is the chief thrust of this demonstration.

Such factors will include geographic distribution, target population emphasis, and funding sources, for example.

The criteria by which Planning and Coordination Grant applications will be judged should be clear from the areas of emphasis in these guidelines and, especially from the weighted scores of the various categories on the appended review form. The potential capacity of the proposing organization to deliver improved services to hard-to-serve youth and capacity to marshall local resources and support are two of the most important criteria, and these two qualities need to be demonstrated in as convincing a manner as possible. The capacity of project staff both to deal with the target population and to manage grants will count heavily. A clear and precise understanding of the population to be served is important, as are the potential effectiveness and ambitiousness of the combination of services to be provided. Programs which have the capacity to make useful and/or original contribution to disseminating useful ideas about comprehensive projects for high-risk youth will also gain some advantage.

VIII. Requirements for Submitting an Application

The procedure for submitting an Application for a Planning and Coordination Grant is as follows:

1. *Title Page*—Application for Federal Assistance (Standard Form 424).

A title page form is included as Appendix A. It should be completed and used as the cover page of the application.

2. *Length.*

The narrative description of the program should not exceed 10 typed pages, double-spaced. The Question and Answer Form (Appendix B) and the Budget Form (Appendix C) should be filled out from the back of this document and stapled to the narrative and the Title Page.

3. *Attachments.*

If you wish, you may include brief background material to support or document aspects of your application. However, reading the attachments should not be necessary for understanding the proposed project. Each attachment should be clearly designated (Attachment 1, Attachment 2, etc.) and all the attachments should total no more than 6 sheets of paper.

4. *Signatories.*

The original title page should bear the signature, in ink, of the director or other authorized representative of the organization which is submitting the proposal.

5. *Number of copies.*

Five copies of the Application (Title Page, Narrative, Question and Answer Form, Budget, and Attachments, if any) must be submitted.

6. *Deadlines and Mailing Address.*

To be considered, applications must be received on or before 5 p.m., March 12, 1981. Applications should be mailed to: Act Together, Inc., P.O. Box 19995, Washington, D.C. 20036. As soon as an application is received, Act Together will send an acknowledgement to the applicant.

7. *Notification.*

All applicants will be notified by mail of the action taken on their application.

8. *Copies of Application/ Notifications.*

a. Concurrent with submission of application, the applicant organization should notify or submit a copy of the application to the appropriate A-95 Clearinghouse(s) in accordance with A-95 requirements (28 CFR Part 30).

9. *Late Applications.*

Applications received after the deadline will be deemed ineligible and returned to the sender.

10. *Where to get Further Information.*

If you need further information write Act Together at the above mailing address or call 202/833-2395.

BILLING CODE 4410-18-M

APPENDIX A

OMB Approval No. 29-R0218

FEDERAL ASSISTANCE

1. TYPE OF ACTION (*Mark appropriate box*)
☐ PREAPPLICATION
☐ APPLICATION
☐ NOTIFICATION OF INTENT (Opt.)
☐ REPORT OF FEDERAL ACTION

2. APPLICANT'S APPLICATION
a. NUMBER
b. DATE *Year month day* 19

3. STATE APPLICATION IDENTIFIER
a. NUMBER
b. DATE ASSIGNED *Year month day* 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City :
e. County :
f. State :
g. ZIP Code:
h. Contact Person (*Name & telephone No.*) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (*From Federal Catalog*)
a. NUMBER ☐☐●☐☐☐
b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State
B–Interstate
C–Substate District
D–County
E–City
F–School District
G–Special Purpose District
H–Community Action Agency
I–Higher Educational Institution
J–Indian Tribe
K–Other (*Specify*):
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant
B–Supplemental Grant
C–Loan
D–Insurance
E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (*Names of cities, counties, States, etc.*)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A–New
B–Renewal
C–Revision
D–Continuation
E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

14. CONGRESSIONAL DISTRICTS OF:
a. APPLICANT
b. PROJECT

15. TYPE OF CHANGE (*For 12c or 12e*)
A–Increase Dollars
B–Decrease Dollars
C–Increase Duration
D–Decrease Duration
E–Cancellation
F–Other (*Specify*):
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE *Year month day* 19

17. PROJECT DURATION *Months*

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ *Year month day* 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (*Name, City, State, ZIP code*)

21. REMARKS ADDED
☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶

a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	*Response attached*
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE
a. TYPED NAME AND TITLE
b. SIGNATURE
c. DATE SIGNED *Year month day* 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED *Year month day* 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. DEFERRED
☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

33. ACTION DATE ▶ *Year month day* 19

34. STARTING DATE *Year month day* 19

35. CONTACT FOR ADDITIONAL INFORMATION (*Name and telephone number*)

36. ENDING DATE *Year month day* 19

37. REMARKS ADDED
☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION

a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.

b. FEDERAL AGENCY A-95 OFFICIAL (*Name and telephone no.*)

424-101

STANDARD FORM 424 PAGE 1 (10-75)
Prescribed by GSA, Federal Management Circular 74-7

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SECTION IV—REMARKS ***(Please reference the proper item number from Sections I, II or III, if applicable)***

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Appendix B.—Question and Answer Form

Please fill in the answers to the questions below in the space provided.

1. Whom will your program serve?

____

____

2. What local services need the most improvement; which need to be expanded most desperately; and what are the most glaring local service omissions for this group?

____

____

____

____

3. What will be the major services your program will provide?

____

____

____

____

4. What's innovative about the way you propose to approach the problem?

____

____

____

____

5. What are two of your key goals?

____

____

____

6. What institutions do you hope to draw together during the planning period? What would be the most important commitments you could get from them?

____

____

____

7. Why is there a need in your case for more comprehensive services for the target population you propose to serve?

____

____

____

8. What changes would you hope to see in the young people involved in your program?

____

____

____

____

9. What other sources of funds would you seek to attract to your program?

____

____

____

____

10. What's especially innovative about the way your agency operates currently?

____

____

____

____

Appendix C.—Budget Form for Planning and Coordination Grant

(Provide Information on These and Any Other Applicable Categories)

Personnel
Fringe Benefits
Travel/Transportation
Equipment
Supplies
Indirect Charges (if any)

Appendix D.—Reviewer Form

Total=100 (Weightings in Parentheses)

1. Is the target population clearly defined and does the program undertaken show a sophisticated understanding of the population it proposes to serve? (10)

2. Does the organization offer convincing evidence that it can achieve a substantial improvement in terms of providing coordinated services to high-risk youths in the target area? (20)

3. Is there evidence that the program will be able to harness local-state or other resources to become self-supporting? Is there evidence of real depth in the current local support for the agency? (15)

4. Does the program design seem appropriate and effective? (10)

5. Does the organization show evidence that it has the capacity and necessary community acceptance necessary to build the linkages and network necessary for a comprehensive program? Does the program design integrate such linkages? (10)

6. Does the project staff have the demonstrated ability and experience to deal with high-risk youths? (10)

7. Does the project staff have the demonstrated ability and experience to manage grants? (10)

8. Is there evidence that the target population will see the proposed services as useful and meaningful? (5)

9. Will some of those involved at the level of staff, board, consultants, etc., come from the same community as the target group? (5)

10. Does the program plan demonstrate a commitment to cooperate with national replication efforts? (5)

Appendix E.—Intent To Submit Application

(Not a prerequisite for submission of an application)

If your agency is planning to submit a proposal under this initiative, please tear out this page and mail it by February 20, 1981 to: Act Together, Inc., P.O. Box 19995, Washington, D.C. 20036.

This will enable Act Together to estimate how many applications will be received and plan more accurately for the review process and not delay the grant awards.

Yes, I plan to submit an application under the

Name of organization: ______________

____

Address: ______________________

____

____

[FR Doc. 81-874 Filed 1-8-81; 8:45 am]

BILLING CODE 4410-18-M

federal register

Friday
January 9, 1981

Part IX

Office of Personnel Management

Office of Government Ethics

V 46 / 6 JA 9 81 UMI

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 738

Office of Government Ethics

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Title IV of the Ethics in Government Act of 1978 as amended (the Act), sets forth the responsibilities of the Director of the Office of Government Ethics in providing overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency. In carrying out these responsibilities the Director of the Office of Government Ethics (the Office) must not only provide consistent guidance to individuals and agencies but must develop guidelines for agency ethics programs. The Office of Personnel Management (OPM) is publishing final regulations setting forth the elements of an agency's ethics program, the responsibilities of an agency head with regard to that program and the duties of the designated agency ethics official as well as regulations establishing a formal advisory opinion service.

EFFECTIVE DATE: February 9, 1981.

FOR FURTHER INFORMATION CONTACT: Jane Ley at (202) 632-7642.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management ("OPM") is publishing final regulations (1) setting forth the elements of an agency's ethics program, the responsibilities of an agency head with regard to that program and the duties of a designated agency ethics official; and (2) establishing the formal advisory opinion service of the Office of Government Ethics. Proposed regulations were published in the **Federal Register** on July 29, 1980 (45 FR 50534–50537). Editorial revisions and other changes have been made in order to simplify and clarify the regulations.

The notice of proposed rulemaking provided a 60-day period for public comment. OPM received comments from 28 individuals, agencies, and other organizations including labor organizations and public interest groups. The following summarizes the comments received and changes made:

Subpart A

One comment indicated that the leadership role of the Office of Government Ethics in the ethics program within the executive branch was not highlighted adequately. The General policy statement was amended to emphasize that leadership role.

Subpart B

Several comments were received questioning the relationship of the alternate agency ethics official to the deputy ethics officials and the selection of the alternate agency ethics officials.

One comment suggested that the designated agency ethics official ("DAEO") be allowed to select his or her alternate. This was not incorporated because the primary purpose of having an alternate DAEO was to have an individual who could certify financial disclosure reports of nominees ("nominee statements") in the DAEO's absence. Such individual should, as is the DAEO, be selected by the head of the agency. This selection certainly could be as a result of the DAEO's recommendation.

Some commenters were concerned that the alternate agency ethics official could not also be a deputy ethics official. Language was added to make it clear that he or she could also serve as a deputy.

A number of comments were received about the various ethics program elements listed in § 738.203(b). One concern expressed was that a designated agency ethics official did not have "line" authority over all persons and divisions within an agency and therefore would not have the authority to carry out all of the listed program elements. Because this authority was not there, the DAEO could not "ensure" that all those elements were being carried out. The final regulation does not reflect any change in this portion of that section. The DAEO derives his or her authority for the ethics program directly from the head of the agency; he or she can therefore direct a program that does cut across organizational lines. While in many cases the DAEO simply will be monitoring or coordinating the actions of other offices within the agency, he or she could confer, if necessary, with the head of the agency to "ensure" that such action was taken. Ultimate responsibility would then rest with the agency head.

Some comments were received regarding the requirement that a DAEO or alternate personally *review* the financial disclosure reports of Presidential nominees. The final regulations require the DAEO or alternate personally *certify* these reports. He or she may seek assistance from others in the review process but must personally certify the report on behalf of the agency. One commenter incorrectly thought that this requirement was meant to include the review and certification of all incumbent Presidential appointees; the DAEO or alternate personally must certify only those reports of Presidential nominees who are awaiting confirmation hearings.

A number of comments questioned the scope of the statutory requirement that an agency publish a list of those circumstances or situations which have resulted or may result in non-compliance with ethics laws and regulations. The regulation was changed to reflect the fact that an agency need not publish such a list in the **Federal Register** but may use an internal publication system. Such lists would be available to the public upon request.

One comment stated that an agency's counseling and education programs should be considered separate elements of a total ethics program. The final regulation reflects this comment by discussing each program separately.

One comment indicated that these regulations had not made clear that the Inspector General within an agency has an integral part in an agency ethics program. The commenter's point was correct. These regulations now contain a paragraph dealing with the referral of matters to and acceptance of matters from an agency's Office of the Inspector General, if the agency has such an Office.

One comment questioned the requirement in the proposed regulations that certain deputy ethics officials file a confidential SF 278 if those officials were already required to file the confidential form required by that agency pursuant to Executive Order 11222. The special requirement for a deputy ethics official to file a financial disclosure report was deleted from the final regulation. Persons involved with an agency's ethics program will file any report which is already required of them by the Act or regulations promulgated pursuant to Executive Order 11222. They will not be required by these regulations to file an additional report.

Subpart C

One commenter requested that § 738.301(b) be changed so that only present employees could request and receive advice from their employing agencies. The commenter felt that it was not an agency's position to provide post-employment advice to those outside the government. OGE believes that post-employment advice for former *employees* is in fact a service which should be provided by an agency ethics program as well as by OGE. The final regulation remains unchanged.

The term "parties" has been substituted for "persons" in § 738.301(c) to reflect more accurately the statute and legislative history. That section was also changed to make clear that, consistent with the Freedom of Information Act, the privacy of individuals is the subject of protection through deletion of identifying information.

One commenter suggested that there was an inconsistency between the statement concerning the issuance of opinions in § 738.301(b) and the acceptance of requests in § 738.302. These provisions are not inconsistent. The key term in § 738.301(b) is *issuance*. A request can be submitted by anyone; however, a request does not insure that an opinion will be issued.

Some commenters felt that the regulations should allow the DAEO to request an opinion on his or her own without waiting for a request to be generated by some other person. Section 738.302 has been clarified to make it more clear that DAEO's may make such requests.

A reference to the possible issuance of an informal letter opinion as an alternate to a formal advisory opinion was deleted because of the objections that OGE had proposed no guidelines on the use and weight of such letters.

One comment indicated that the proposed regulations would not allow OGE to seek additional information necessary to the issuance of an opinion from a source other than the person making the request without notifying that person. Since it is foreseen that it may be necessary to obtain such information, the final regulation has been amended to delete this specific notification requirement.

Two commenters objected to the procedures set forth in § 738.305(d) concerning OGE's consultation with the Criminal Division of the Department of Justice when a request indicated an actual or apparent violation of any conflict of interest law in 18 U.S.C. 202–209. This provision, however, is an integral part of a Memorandum of Agreement entered into on May 19, 1980 by OGE and the Department of Justice regarding Justice's agreement to allow OGE to issue binding advisory opinions interpreting criminal statutes.

A number of comments concerned the notice and comment procedure established for formal advisory opinion requests. One commenter felt such a procedure was unnecessary and counterproductive especially in instances where a timely answer was required. A number of commenters felt that notice at the Office of Government Ethics would not be adequate to notify interested persons, especially the agency involved. The final regulations have changed the availability of notice and comment to interested *parties* instead of persons. Generally, the DAEO of the agency involved will also receive a copy of a request.

The language change to interested parties rather than interested persons necessitated changes in the notice provisions of § 738.306 and the comment provisions of § 738.307.

One commenter suggested that the reference to OGE's consultation with Office of Legal Counsel, Department of Justice, before issuing an opinion involving 18 U.S.C. 202–209 but which did not involve an actual or apparent violation should be placed in § 738.306 rather than § 738.309. This change appears in the final regulation.

A number of commenters mistakenly believed that § 738.212(a) was a mandatory direction to refer requests to OGE. It was the intent of the regulation to make it mandatory that a DAEO consult with this Office before *referring* a request and not to make the referral itself mandatory. OGE does not want to receive referrals of requests that are more properly handled by the agency. Clarifying language was added to this section to reflect more adequately this procedure.

One commenter felt that a referral to OGE by a DAEO should require the permission of the requester who had originally sought the DAEO's advice. Language was added to § 738.312(a) to include this concept.

New Material

A new § 738.313 was added to the final regulations by OGE. The provision contained in this section is a rule of procedure and practice, and therefore has been incorporated into the final regulation without additional notice. The new section requests that a DAEO transmit to OGE copies of written opinions issued by him or her which involve the application of 18 U.S.C. 202–209.

The Office of Personnel Management has determined that this is a significant regulation for the purposes of Executive Order 12044.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5, Code of Federal Regulations, as follows:

(1) A new Part 738 is added to read as follows:

PART 738—OFFICE OF GOVERNMENT ETHICS

Subpart A—General Provisions

Sec.
738.101 Authority and purpose.
738.102 General policies.
738.103 Agency regulations.
738.104 Definitions.

Subpart B—Designated Agency Ethics Officials

738.201 In general.
738.202 Responsibility of agency head.
738.203 Duties of designated agency ethics official.
738.204 Deputy ethics official.

Subpart C—Formal Advisory Opinion Service

738.301 In general.
738.302 Who may request a formal advisory opinion.
738.303 Subject matter of formal advisory opinions.
738.304 Form of requests for formal advisory opinions.
738.305 Acceptance of requests for formal advisory opinions.
738.306 Notice of requests.
738.307 Written comment on requests.
738.308 Issuance.
738.309 Reliance on formal advisory opinions.
738.310 Public availability and publication of formal advisory opinions.
738.311 Copies of published formal advisory opinions.
738.312 Referral of requests.
738.313 Agency Opinions.

Authority: Titles II and IV of Pub. L. 95–521 (October 26, 1978), as amended by Pub. L. 96–19 (June 13, 1979) and Pub. L. 96–28 (June 22, 1979).

Subpart A—General Provisions

§ 738.101 Authority and purpose.

(a) *Authority*. The regulations of this part are issued pursuant to the authority of Titles II and IV of the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended) ("the Act").

(b) *Purpose*. These regulations supplement and implement Titles II, IV and V of the Act, set forth more specifically certain procedures provided in those titles, and furnish examples, where appropriate.

§ 738.102 General policies.

(a) The Office of Government Ethics ("the Office") provides overall direction and leadership concerning executive branch policies related to preventing conflicts of interest. The head of each agency has primary responsibility for the administration of the "ethics in government" program within his or her agency. The Office carries out its leadership role by:

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(1) Providing information on and promoting ethical standards in executive agencies;

(2) Consulting with agencies regarding their agency ethics programs and assisting them in interpreting ethics rules and regulations;

(3) Developing rules and regulations pertaining to conflicts of interests and standards of conduct;

(4) Monitoring compliance with the public and confidential financial disclosure requirements;

(5) Establishing a formal advisory opinion service; and

(6) Evaluating the effectiveness of programs designed to prevent conflicts of interests.

§ 738.103 Agency regulations.

Each agency may, subject to the prior approval of the Office of Government Ethics, issue regulations not inconsistent with this part.

§ 738.104 Definitions.

For the purposes of this part:

"*Act*" means the Ethics in Government Act of 1978 (Pub. L. 95–521; as amended).

"*Agency*" means any executive department, military department, Government corporation, independent establishment or agency, including the United States Postal Service and Postal Rate Commission.

"*Designated agency ethics official*" means an officer or employee who is designated by the head of the agency to coordinate and manage the agency's ethics program in accordance with the provisions of § 738.203 of this part.

"*Director*" means the Director of the Office of Government Ethics.

"*Executive branch*" includes each executive department, military department, Government corporation, independent establishment, and any other entity or administrative unit in the executive branch unless such agency, entity or unit is specifically included in the coverage of Title I (relating to the legislative branch) or Title III (relating to the judicial branch) of the Act.

"*Person*" includes an individual, partnership, corporation, association, government agency, or public or private organization.

Subpart B—Designated Agency Ethics Official

§ 738.201 In general.

Each agency shall have a designated agency ethics official who is the officer or employee designated by the head of the agency to administer the provisions of Title II of the Act within that agency, to coordinate and manage the agency's ethics program and to provide liaison to the Office of Government Ethics with regard to all aspects of such ethics program. The agency's ethics program shall be designed to implement Titles II, IV and V of the Act and regulations promulgated thereunder, Executive Order 11222 (relating to standards of conduct for officers and employees within the executive branch) and regulations promulgated thereunder, and other statutes and regulations applicable to agency ethics matters.

§ 738.202 Responsibilities of agency head.

(a) *In general.* The head of each agency is responsible for and shall exercise personal leadership in establishing, maintaining, and carrying out the agency's ethics program. He or she shall make available to the ethics program sufficient resources (including investigative, audit, legal, and administrative staff as necessary) to enable the agency to administer its program in a positive and effective manner.

(b) *Selection of a designated agency ethics official.* The head of each agency shall appoint an individual to serve as the designated agency ethics official and an individual to serve in an acting capacity in the absence of the primary designated agency ethics official (alternate agency ethics official). In selecting these two individuals the head of an agency should ensure that the experience of such appointees in administrative, legal, managerial, or analytical work demonstrates the ability to—

(1) Review the financial disclosure reports submitted by officers or employees within the agency, assessing the application of conflict of interest laws and regulations to the information reported and counseling those officers or employees with regard to resolving actual or potential conflicts of interests, or appearances thereof;

(2) Review the financial disclosure reports submitted by Presidential appointees for confirmation purposes and counsel those appointees with regard to resolving potential conflicts of interest, or appearances thereof, before the confirmation hearing;

(3) Counsel agency personnel concerning ethics standards and programs;

(4) Counsel departing and former agency officials on post-employment conflict of interest standards;

(5) Assist managers and supervisors in understanding and implementing agency ethics programs;

(6) Administer a system for periodic evaluation of the ethics program; and

(7) Select deputy ethics officials if necessary and manage the ethics program through them.

(c) *Designation.* The head of each agency shall formally delegate functional authority to coordinate and manage the ethics program as set forth in § 738.203 to the designated and alternate agency ethics officials. Within 30 days of any such delegation of authority the head of the agency shall submit to the Office of Government Ethics a formal written designation. The designation shall include:

(1) The names of the individuals so designated;

(2) The title of the position held by each designee; and

(3) A copy of the delegation of authority.

§ 738.203 Duties of the designated agency ethics official.

(a) *In general.* The designated agency ethics official shall coordinate and manage the agency's ethics program. The program consists generally of:

(1) Liaison with the Office of Government Ethics;

(2) Review of financial disclosure reports;

(3) Initiation and maintenance of ethics education and training programs; and

(4) Monitoring administrative actions and sanctions.

(b) *Program elements.* In carrying out this program on behalf of the head of the agency, the designated agency ethics official shall ensure that:

(1) Close liaison with the Office of Government Ethics concerning the agency's ethics program is developed and maintained;

(2) An effective system and procedure for the collection, filing, review, and, when applicable, public inspection of the financial disclosure reports as required by Title II of the Act, Executive Order 11222, and other applicable statutes and regulations is developed and properly administered;

(3) The financial disclosure reports of Presidential nominees to agency positions submitted prior to Senate confirmation hearings pursuant to § 734.604(c) of Part 734 are certified personally by him or herself or alternate designated agency ethics official in his or her absence;

(4) All financial disclosure reports submitted by employees and filed in bureaus and regional offices, as well as those submitted and filed at the agency's headquarters, are properly maintained and effectivelly and consistently reviewed for conformance with all applicable laws and statutes;

(5) A list of those circumstances or situations which have resulted or may result in noncompliance with ethics laws and regulations is developed, maintained and published within the agency as required by § 206(b)(7) of the Act and made available for public inspection;

(6) An education program for agency employees concerning all ethics and standards of conduct matters, including post employment matters, is developed and conducted in cooperation with the education program of the Office of Government Ethics;

(7) A counseling program for agency employees concerning all ethics and standards of conduct matters including post employment matters, is developed and conducted;

(8) Records are kept, when appropriate, on advice rendered;

(9) Prompt and effective action including administrative action is undertaken to remedy:

(i) Violations or potential violations, or appearances thereof, of the agency's standards of conduct including post employment regulations;

(ii) The failure to file a financial disclosure report or portions thereof;

(iii) Potential or actual conflicts of interests, or appearances thereof, which were disclosed on a financial disclosure report; and

(iv) Potential or actual violations of other laws governing the conduct or financial holdings of officers or employees of that agency, and

that a follow-up is made to ensure that actions ordered, including divestiture and disqualification, have been taken;

(10) The agency's standards of conduct regulations, financial disclosure systems, and post-employment enforcement systems are evaluated periodically to determine their adequacy and effectiveness in relation to current agency responsibilities;

(11) Information developed by internal audit and review staff, the Office of the Inspector General, if any, or other audit groups is reviewed to determine whether such information discloses a need for revising agency standards of conduct or for taking prompt corrective action to remedy actual or potential conflict of interest situations;

(12) The services of the agency's Office of the Inspector General, if any, are utilized when appropriate, including the referral of matters to and acceptance of matters from that Office;

(13) A list of those persons to whom delegations of authority are made pursuant to § 738.204(a) is maintained and made available to the Office of Government Ethics, upon request; and

(14) Information required by the Act or requested by the Office of Government Ethics in the performance of its responsibilities is provided in a complete and timely manner.

§ 738.204 Deputy ethics official.

(a) *Functions.* A designated agency ethics official may, if necessary, delegate to one or more deputy ethics officials any of the duties referred to in § 738.203, except for those functions set forth in § 734.604(c)(2) of Part 734 and referred to in § 738.203(b)(3) (certification of nominee statements). A deputy ethics official shall work under the supervision of the designated agency ethics official in carrying out such delegated functions.

(b) *Dual status.* A deputy ethics official may also be designated pursuant to § 738.202 to serve as the alternate agency ethics official. During the absence of the designated agency ethics official a deputy ethics official who has also been designated as the alternate ethics official shall perform the functions set forth in § 734.604(c)(2) of Part 734 and referred to in § 738.203(b)(3).

Subpart C—Formal Advisory Opinion Service

§ 738.301 In general.

(a) The Director of the Office of Government Ethics has the authority and responsibility to render formal advisory opinions pursuant to Section 402(b)(8) of the Act. This service is available to any person who has a question about a matter over which the Office of Government Ethics has jurisdiction. Formal advisory opinions will be issued when a two-pronged test is met. First, the person making the request must meet the requirements of § 738.302 and, second, the subject matter of the request must meet the criteria set forth in § 738.303.

(b) Normally, formal advisory opinions will not be issued to individuals who wish to obtain general advice concerning their own specific present or proposed activities or financial transactions. Such questions should be directed to the designated ethics official of the agency in which the individual will serve, serves or served. If a designated agency ethics official receives a request which he or she believes should be answered by the Office of Government Ethics, a referral procedure is available.

(c) The Office of Government Ethics will provide interested parties, to the extent practicable, with an opportunity to comment on any question which will be the subject of a formal advisory opinion issued by the Office. These opinions will be published in a form which will not identify specific individuals unless necessary to the understanding of the opinion. Copies will be sent to the designated ethics officials of each agency and be available at the Office of Government Ethics in that same form.

§ 738.302 Who may request a formal advisory opinion.

Any person (as defined in § 738.104) may request an opinion with respect to a situation in which that person is directly involved. A designated agency ethics official, representative, or attorney may request an opinion on behalf of the person. Notwithstanding this direct involvement requirement, a designated agency ethics official may always request an opinion concerning a situation about which he or she has knowledge.

§ 738.303 Subject matter of formal advisory opinions.

Formal advisory opinions will be rendered on matters of general applicability or on important matters of first impression concerning the application of the Act, Executive Order 11222 and regulations promulgated pursuant to such Act and Executive Order, and the laws embodied in 18 U.S.C. 202–209. The Director will respond to those requests which in his or her discretion fall within this category taking into consideration:

(a) The unique nature of the question and its precedential value,

(b) The potential number of officers or employees throughout the Government affected by the question,

(c) The frequency with which the question arises, and

(d) The likelihood or presence of inconsistent interpretations on the same question by different agencies.

Except in unusual circumstances, opinions will not be rendered with respect to hypothetical situations posed in requests. Opinions may be rendered, however, on proposed activities or transactions.

§ 738.304 Form of requests for formal advisory opinions.

(a) A request for a formal advisory opinion should be directed to the Director, Office of Government Ethics, 1900 E Street, NW, Room 436H, Washington, D.C. 20415.

(b)(1) A request should be in writing and signed by the individual making the request or by a representative of that person. A request shall state all material facts necessary for the Director to render a complete and correct opinion.

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(2) In addition, it should also include the following information:

(i) the name, mailing address, and daytime telephone contact of the individual making the request, and

(ii) a copy of the position, description of the position involved, if available.

(c) If the request is submitted by a representative, he or she must show his or her representative status, list a mailing address and daytime telephone contact.

§ 738.305 Acceptance of requests for formal advisory opinions.

(a) Subject to the provisions of paragraph (d) of this section, the Director shall review each request for a formal advisory opinion and take one of the following actions:

(1) If the Director determines that the person making the request meets the requirements of § 738.302 and that the subject matter of the request qualifies under the criteria established in § 738.303, he or she shall assign an identifying number to the request and notify the person that a formal advisory opinion will be rendered; or

(2) If the Director determines that the person making the request is not a person who is eligible to receive a formal advisory opinion as provided in § 738.302, or that the subject of the request is not a matter upon which the Office issues formal advisory opinions as outlined by § 738.303, he or she shall so notify the person making the request.

When a formal advisory opinion will not be rendered, the Office of Government Ethics may provide other informational assistance to the person as appropriate. (See also § 738.312.)

(b) If at any time after receipt of a request for a formal advisory opinion, the Director believes that additional relevant information is needed, he or she may seek such information directly from the person requesting the opinion or from other sources which may include the agency involved.

(c) The person requesting the opinion may furnish the Office of Government Ethics with legal memoranda or other material relevant to the opinion requested.

(d)(1) In the case of a request which involves an actual or apparent violation of any conflict of interest law embodied in 18 U.S.C. 202–209, the Director shall consult with the Criminal Division of the Department of Justice.

(2) If after such consultation the Criminal Division determines that a criminal investigation will be undertaken, the Director shall take no further action with regard to that request pending a determination by the Criminal Division not to prosecute.

(3) Upon receipt of a determination by the Criminal Division not to prosecute, the Director shall then follow the procedures for all other requests for formal advisory opinions set forth in this part.

§ 738.306 Notice of requests.

The Director shall provide notice to interested parties identified in a request which will be the subject of a formal advisory opinion that such an opinion will be rendered. Generally, the designated agency ethics official of the agency involved shall be notified of the request.

§ 738.307 Written comment on requests.

(a) To the extent practicable, the Director shall provide interested parties with an opportunity to submit written comment on a request for a formal advisory opinion. A time by which the comment should be received to be considered will be indicated with the notice that the request has been made.

(b) Additional time in which to comment may be granted upon written request or at the discretion of the Director. Such requests and all written comments shall be sent to the Office of Government Ethics, 1900 E Street, NW, Room 436H, Washington, D.C. 20415.

§ 738.308 Issuance.

(a) A formal advisory opinion,

(1) Which involves the application of any conflict of interest law embodied in 18 U.S.C. 202–209 to a transaction or activity which does not raise a question of an actual or apparent violation of this law but which raises an important matter of first impression, or

(2) Which is issued following the procedure set forth in § 738.305(d),

requires consultation by the Office of Government Ethics with the Office of Legal Counsel of the Department of Justice before it is issued.

(b) An advisory opinion shall be considered issued when it is dated, numbered, and signed by the Director. Unless released by the person who made the request, the opinion will not become publicly available until information which identifies individuals involved and which is unnecessary to the complete understanding of the opinion has been deleted from the opinion and this version of the opinion is placed in a public reading file at the Office of Government Ethics. (See § 738.310)

§ 738.309 Reliance on formal advisory opinions.

(a) Any formal advisory opinion referred to in § 738.308(a) or any provisions or finding of a formal advisory opinion involving the application of the Act, Executive Order 11222 and the regulations promulgated pursuant to the Act or Executive Order, may be relied upon by:

(1) Any person directly involved in the specific transaction or activity with respect to which such advisory opinion has been rendered, and

(2) Any person directly involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion was rendered.

(b) Any person who relies upon any provision or finding of any formal advisory opinion in accordance with paragraph (a) of this section and who acts in good faith in accordance with the provisions and findings of such opinion, shall not, as a result of such act, be subject to prosecution under 18 U.S.C. 202–209 or, in the case where the opinion is exculpatory, be subject to any administrative adverse action or civil action based upon legal authority cited in that opinion.

§ 738.310 Public availability and publication of formal advisory opinions.

(a) The Director shall make sufficient deletions in any formal advisory opinion so that unless necessary to the complete understanding of the opinion, the identity of any person involved is not disclosed. No deletion shall in any way affect the substance of the opinion.

(b) A copy of this version of the opinion shall then be make available for public inspection within 10 working days after the issuance of the opinion at the Office of Government Ethics, 1717 H Street, NW, Room 436, Washington, D.C.

(c) The Director shall thereafter publish this version of the opinion.

§ 738.311 Copies of published formal advisory opinions.

Each designated agency ethics official shall receive a copy of each published opinion. Copies will also be available to the public from the Office of Government Ethics upon request at no more than cost.

§ 738.312 Referral of requests.

(a) If a designated agency ethics official receives a request for advice from a person and determines that the request may come within the criteria set forth in § 738.303, he or she shall contact the Office of Government Ethics concerning the request before referring the request to the Office. If after such consultation the Office of Government Ethics determines that the request should be the subject of a formal advisory opinion, the designated agency ethics official shall notify the person making the request of that determination and request the person's permission to refer the request to the Office of Government Ethics.

(b) If the Director receives a request for an opinion which does not fulfill the criteria set forth in § 738.303, he or she may:

(1) Furnish informational assistance to the person as provided in § 738.305(a), or

(2) Refer the request to the appropriate designated agency ethics official.

(c) In all instances covered by paragraphs (a) and (b) of this section, a referral will not be made in the case of questions regarding possible future employment plans of an individual making the request unless he or she is first notified and gives his or her consent or the request itself indicates that such a referral may be made.

§ 738.313 Agency opinions.

If the designated agency ethics official issues a written opinion concerning the application of 18 U.S.C. 202–209, he or she shall transmit a copy of that opinion to the Office of Government Ethics.

[FR Doc. 81-616 Filed 1-8-81; 8:45 am]
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today.

AGRICULTURE DEPARTMENT

Foreign Agricultural Service—

83191 12-18-80 / Export sales, reporting of peanuts

GENERAL SERVICES ADMINISTRATION

81202 12-10-80 / ADP and telecommunications management; Federal Conversion Support Center, software conversion assistance; temporary

Rules Going Into Effect on Sunday, January 11, 1981

POSTAL RATE COMMISSION

83222 12-18-80 / Expedited procedures for experimental classification requests

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

A complete listing for the second session of the 96th Congress is published in the Reader Aid section of the issue of January 7, 1981

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federal register

Monday
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Highlights

2589 **Loan Program** USDA/FmHA amends regulation on insured Economic Emergency loans; comments by 3-13-81

2661 **Grant Programs** USDA/SEA announces it will accept statements of eligibility for funds to be distributed in fiscal year 1981 relating to Animal Health and Disease Research

2900 **Environmental Protection** USDA/FmHA proposes to amend regulations for implementing the National Environmental Policy Act; comments by 3-13-81 (Part III of this issue)

2962 **Prisoners** Justice/Prisons Bureau proposes rule for the management of inmates in Federal correctional institutions; comments by 3-16-81 (Part VI of this issue)

2590 **Aliens** Justice/INS clarifies language of existing rule to provide that certain immigrant aliens may use the Alien Registration Receipt Card in place of immigrant visas when returning to the United States; effective 2-10-81

2654 **Veterans** VA/DOD publishes proposal regarding resumption of contribution to funds upon reenlistment; comments by 2-11-81

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

2591 **Small Businesses** SBA clarifies and sets forth procedural provisions applicable to SBA determinations of maximum size a business can be, and be eligible for SBA programs; effective 1-12-81

2596 **Electric Utilities** DOE/FERC publishes extension for applications for exemptions to 3-15-81 for report due 6-30-82 regarding information associated with the cost of providing electric service

2606 **Conflict of Interest** State establishes procedure for imposing administrative restrictions for violation of the post employment laws by former officers and employees of the Department of State, including Foreign Service; effective 1-1-81; comments by 2-11-81

2802 **Hazardous Waste** EPA amends regulations regarding standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities; effective 7-13-81; comments by 3-13-81 (Part II of this issue)

2893 **Hazardous Waste** EPA proposes to amend regulations relating to closure, tank, and waste pile standards for owners and operators of hazardous waste facilities; comments by 4-13-81 (Part II of this issue)

2956 **Electric Utilities** DOE/ERA issues rules implementing reporting of major electric utility system emergencies; effective 1-1-81 (Part V of this issue)

2597 **Imports** Treasury/Customs amends regulations regarding valuation of imported merchandise for customs purposes; effective 1-12-81

2613 **Railroads** DOT/FRA publishes regulations regarding formal rules of practice for passenger service; effective 1-12-81; comments by 2-26-81

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2767 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 46, No. 7
Monday, January 12, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1945

Economic Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation on insured Economic Emergency (EE) loans. This action is required to clarify the policies set forth in this regulation and to explicitly incorporate certain related policies concerning the use of EE loan funds. This action is intended to provide clarification in the authorized use of EE loan funds to pay delinquent installments owed on farm real estate purchase contracts, finance essential farm alcohol fuel and methane gas facilities and certain farm and home related operating expenses which were inadvertently omitted and to delete an inadvertently included requirement inserted when this regulation was recently amended and published in the **Federal Register** on May 27, 1980 (45 FR 35782).

EFFECTIVE DATE: January 12, 1981. Comments due by March 13, 1981.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, FmHA, USDA, Room 6346-S, Washington DC 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. William Krause, USDA, FmHA, Room 5344, South Agriculture Building, 14th and Independence Ave., SW., Washington DC 20250. Telephone (202) 447-6257.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified as "significant." OMB Circular A-95 regarding State and local clearing house review of Federal and Federally-assisted programs and projects is not applicable to this action. The Catalog of Federal Domestic Assistance Number is 10.428, Economic Emergency Loans.

The emergency nature of this action warrants publication of this final rule without completion of a Draft Impact Analysis. A Final Impact Statement on this action, as well as related action on insured economic emergency (EE) loans published May 27, 1980, (45 FR 35782) and guaranteed EE loans published November 18, 1980, (45 FR 76089), will be developed after public comments have been received. Information for this analysis, in addition to public comments, will be developed through the comprehensive study of the EE program mandated by Pub. L. 96-220 due in Congress March 31, 1981.

Mr. Alex P. Mercure, Under Secretary for Small Community and Rural Development, has determined that an emergency situation exists which warrants publication without opportunity for a prior public comment period. This determination was based on the urgent need to clarify issues necessary for proper implementation of Pub. L. 96-220 to assure that EE loan funds continue to be provided to farmers, ranchers, and aquaculture operators suffering economic stress due to the general lack of agricultural credit from private and cooperative agricultural credit sources. Post-publication comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible. As indicated above, the Final Impact Statement for this action will also cover the related actions for both the insured and guaranteed portions of the EE program identified above.

The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

The major changes to Subpart C of Part 1945 are as follows:

1. Section 1945.116 (a)(2)(iii) is amended to clarify that EE funds may be advanced to pay in full *only* that portion of a secured or unsecured debt representing an applicant's *annual* family living and farm production expenses.
2. Section 1945.116 (a)(9) is amended to clarify that EE loan funds may be used to pay other taxes due or about to become due in addition to delinquent real and personal property taxes.
3. Section 1945.116 (a)(10) is amended to clarify that EE loan funds may be used under certain conditions to pay a reasonable fee(s) for recordkeeping and related farm management service(s).
4. Section 1945.116 (b)(1) is amended to clarify that EE loan funds may be used to finance alcohol fuel and methane gas facilities when necessary to have a viable farming operation.
5. Section 1945.117 (a)(5) is amended to remove the inadvertently included requirement concerning "real estate title having to be conveyed to the applicant at least one year before the date of the EE loan application" and to explicitly state certain conditions that must be met when a farm real estate purchase contract(s) is involved.

Accordingly, Subpart C of Part 1945 is amended as follows:

PART 1945—EMERGENCY

Subpart C—Economic Emergency Loans

1. § 1945.102 is revised to read as follows:

§ 1945.102 Program objectives.

The objective of EE loans is to make adequate financial assistance available during the period authorized by Title II of Pub. L. 95-334, as amended, (authority expires September 30, 1981) in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit due to economic stress such as a general tightening of agricultural credit *or* an unfavorable relationship between production costs and prices received for agricultural commodities. Supervisory assistance will be given in accordance with the provisions of Subpart B of Part 1924 of this Chapter. *It is the policy of FmHA to make insured EE loans only when guaranteed EE loans are not available through private and cooperative agricultural lenders.*

2. § 1945.116 (a)(2)(iii); (9) and (10); and (b)(1) are revised to read as follows:

§ 1945.116 Loan purposes.

* * * * *

(a) *Operating purposes.* * * *

(2) * * *

(iii) When *annual* credit advances were made for family living and/or farm production expenses, but also included funds for capital expenditures such as equipment, foundation livestock, and real estate purchases or improvements, *only* that portion advanced for *annual* family living and farm production expenses may be *fully* paid with EE loan funds. However, one year's interest and an amount not to exceed 20 percent of the appraised market value for the essential farm and home equipment and livestock under prior lien to the creditor(s), or 20 percent of the balance owed to the creditor(s) (whichever is the lesser) may be paid with EE loan funds.

* * * * *

(9) Payment of delinquent real and personal property taxes and other taxes such as income and social security taxes due or about to become due, and water or drainage charges or assessments.

(10) Payment of reasonable expenses incidental to obtaining, planning, making and closing the loan such as fees for legal, architectural, and technical services which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay a reasonable fee(s) for recordkeeping and related farm management service(s), if necessary, to meet the objectives of the loan plus the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building or land improvements. However, loan funds are *not* to be used to pay fees charged applicants by agricultural management consultants and other professionals for preparation of EE loan dockets, including farm and home plans and other FmHA forms used in processing such loans.

* * * * *

(b) *Real estate purposes.* (1) Changing or reorganizing the farming operation so it will be an economically viable operating unit. Such purpose includes the contruction, improvement, alteration, repair, relocation, purchase or moving of essential either service buildings, facilities, and structures on the applicant's real estate necessary for reorganization of the operation, including the purchase and/or installation or augmentation and improvement of essential farmstead water and sewage systems, and other equipment or facilities necessary to the operation (including alcohol fuel and methane gas facilities, and equipment which utilizes wind or solar energy).

* * * * *

3. § 1945.117 (a)(5) is revised to read as follows:

§ 1945.117 Loan limitations and special provisions.

(a) *Limitations on use of loan funds.* * * *

(5) Installments owed on farm or home real estate debts will not be paid unless such real estate was purchased by the applicant at least one year before the date of the EE loan application. When a farm real estate Purchase Contract(s) is involved, the following conditions must be met and documented in the case file by the County Supervisor or loan approval official:

(i) The farm real estate Purchase Contract(s) must have been in effect for at least 12 months before the date of the EE loan application.

(ii) The terms of the farm real estate Purchase Contract(s) must be reasonable and in keeping with terms normally provided by sellers in the area. EE loan funds will *not* be used to pay an installment(s) owed on such a Purchase Contract(s) which contains terms too tight for the applicant/borrower to meet under normal conditions.

(iii) Such contract(s) must meet the real estate security requirements prescribed in § 1945.120 (b)(7) of this Subpart. In addition, it must be determined that such Purchase Contract(s) provides the applicant/borrower with comparable rights and benefits afforded by regular deeds and real estate security instruments.

* * * * *

Note.—This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301; Title II of Pub. L. 95–334, as amended by Pub. L. 96–220; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: December 12, 1980.

Alex P. Mercure,

Under Secretary for Small Community and Rural Development.

[FR Doc. 81-1009 Filed 1-9-81; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 211

Documentary Requirements: Immigrants, Waivers; Returning Immigrants and Crewmen

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule clarifies the language of the existing rule to provide that certain immigrant aliens may use the Alien Registration Receipt Card in place of immigrant visas when returning to the United States, and also corrects the text to exempt immigrant alien crewmen on board U.S. flagships from the visa requirements after voyages of more than one year.

EFFECTIVE DATE: February 10, 1981.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536. Telephone: (202) 633-3048.

For specific information: F. P. Murphy, Deputy Assistant Commissioner, Inspections, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536. Telephone: (202) 633-3275.

SUPPLEMENTARY INFORMATION: This rule clarifies the language of 8 CFR 211.1(b)(1) to provide that immigrant aliens, returning to unrelinquished lawful permanent residences in the United States, may use their alien registration receipt cards in place of immigrant visas when entering the United States. The rule specifically includes civilian employees of the U.S. Government. The former rule was not explicit as to these alien principals, although their spouses and children were specifically mentioned. In addition to improving the readability of the rule, this revision also corrects an error in the former rule which limited the use of the alien registration receipt cards by alien crewmen to a period not exceeding one year. An alien crewman regularly serving aboard an aircraft or vessel of American registry who is returning after a temporary absence abroad in connection with his/her duties is exempted from the visa requirement even though such absence exceeds one year.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking is unnecessary because this rule is interpretative and clarifies the former rule.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended:

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

In § 211.1, paragraph (b)(1) is revised to read as follows:

§ 211.1 Visas.

* * * * *

(b) *Returning residents* (1) *Alien Registration Receipt Card (Form I-151 or I-551).* An Alien Registration Card may be presented in lieu of an immigrant visa by an immigrant alien who is returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad, *provided* such absence did not involve travel to, in, or through Iran and who is: (i) returning after a temporary absence abroad not exceeding one year; or (ii) an alien crewman regularly serving aboard an aircraft or vessel of American registry who is returning after a temporary absence abroad in connection with his/her duties in that occupation, notwithstanding travel to, in, or through Iran pursuant to his/her employment as a crewman; or (iii) a civilian employee of the U.S. Government returning from a foreign assignment pursuant to official orders; or (iv) a spouse or child of a civilian employee of the U.S. Government or a spouse or child of a member of the Armed Forces of the U.S., *provided* such spouse or child resided abroad while such member of the Armed Forces or such civilian employee was on overseas duty and is preceding or accompanying the member or employee or is following to join the member or employee within four months of the member's or employee's return to the U.S.

* * * * *

(Secs. 103 and 211; 8 U.S.C. 1103 and 1181)

Dated: January 6, 1981.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-937 Filed 1-9-81; 8:45 am]

BILLING CODE 4410-10-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

[Amdt. 38]

Size Determination Procedures

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The amendments set forth clarifying and procedural provisions applicable to SBA determinations of the maximum size a business can be and be eligible for SBA programs. The amendments are largely of an interpretive and technical nature reflecting existing SBA precedents and policies. The amendments also help implement size determination procedures relating to subcontracting assistance established by Pub. L. 95-507 and assistance to small business concerns pursuant to Section 8(a) of the Small Business Act.

These amendments (which refer to the present format of the size regulation), primarily relate to procedures for size protests and appeals in contrast to other recent proposed amendments to Part 121 (March 10, 1980; 45 FR 15442) which primarily involve basic changes in the size standards and in the economic theory of such standards. These amendments were published in proposed form in the **Federal Register** of April 22, 1980 (45 FR 26974). For the most part, they are being adopted as proposed with some minor clarifications.

EFFECTIVE DATE: January 13, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen A. Klein, Office of General Law (202) 653-6762.

SUPPLEMENTARY INFORMATION: Particular areas covered in the proposed amendments include:

1. Joint venture definition and subcontracting affiliations.
2. Annual receipts applicable period regarding new concerns and affiliates.
3. Recertifications.
4. Size determinations to assist other agencies.
5. Multiple Award Schedule set asides.
6. Time as of which size status is determined for set aside procurements.
7. Time as of which size status is determined for Government property sale or lease purposes.
8. Subcontracting size determinations.
9. Formal size determinations on concerns for 8(a) assistance purposes.

Response to Comments

Comments were received from the National Aeronautics and Space Administration and from certain timber concerns. The NASA comments state that, to simplify size determinations and provide more certainty, the date of written self-certification of size eligibility by a bidder or offeror on Government procurements should be used in all cases as the determinative point in time regardless of when award is made. Conversely, the timber firm comments contend that it also is necessary to consider size status at time of award on Government set aside timber sales to prevent acquisition of a small bidder by a large firm between the time of bid and the time of award. (The SBA Size Regulations (121.3-2(a)(iv)) already treat merger agreements and options to acquire current control as constituting present power to control. Accordingly, evidence of any such arrangements at the time of bid and self-certification can be considered in an SBA size determination. The effect of these existing provisions would be significant in restraining the acquisitions envisaged by the timber firm comments.) The Regulation adopts the NASA recommendation and provides that for procurement and property sales purposes size is determined as of the date of written self-certification as part of a bid or offer.

A comment was received opposing the provision regarding timeliness of protests on multiple award schedule small business set asides. The comment contended it would result in repeated SBA size determinations on a concern over the life of a contract. The comment confuses the procedural question of timeliness of protest with the substantive question of the time as of when size eligibility is determined. Once a firm was determined by SBA to be small, the determination would be effective as to that award throughout the period under the contract.

Explanation of Amendments

These amendments relate to procedural, organizational and administrative matters in connection with SBA determinations on the small business size status of concerns under the various SBA size standards. They are largely of a clarifying and technical nature in areas where SBA experience on particular size determination cases indicates the desirability of general guidelines or modifications in existing rules. To a major extent these amendments reflect existing SBA policies or interpretations. A number of the amendments relate to size determinations in the Government procurement area.

SBA size determinations are made at the SBA field office in the region where the firm is located. Appeals of formal size determinations under Part 121 may be taken to the Size Appeals Board. The

SBA size standards are generally in terms of a number of employees or average annual receipts and include all concerns under common ownership or control in determining whether a company is within the particular size standard applicable to the size determination. Procurement size standards utilized may vary depending on the industry category which is the principal nature of a particular procurement for which the size determination is being made. Financial assistance size standards vary in terms of the primary industry of the concern and its affiliates.

The joint venture affiliate amendment indicates that, for SBA size determination purposes, joint ventures are temporary in nature (e.g., a single project) and may be in corporate or other legal form. Also, it is indicated that certain subcontracting relationships may give rise to a joint venture.

With respect to the annual receipts amendment, it should be noted that it indicates certain interpretive language which had been omitted from the Code of Federal Regulations. The matter covers inclusion of affiliate receipts and computation of average receipts of new concerns.

A provision is added noting that recertification is not required if an SBA adverse size determination is based solely on an ineligibility restricted to a particular procurement or sale. Also, it is noted that recertifications are generally appealable at that time to the Size Appeals Board only by the concern in question (i.e., in the case of an adverse size determination on an application for recertification).

The amendment on SBA size determinations to assist other agencies could have application to possible debarment proceedings by such other agencies when small business size status is an issue, and to small business size status under Government regulatory or assistance programs. It generally would apply if an agency utilizes the SBA size standards and requests an SBA size determination on the status of a particular concern. Agencies might refer to such SBA size standards in their regulations or written eligibility guidelines.

As respects size determinations on multiple award schedule small business set asides, the identity of offerors may not be disclosed until after award and the normal procedures on timeliness of protests would generally not be appropriate. Therefore, the amendment provides that a protest may be made at any time prior to the expiration of the contract period.

The amendment dealing with the time of size eligibility for procurement and property sales purposes is a codification of the present interpretation of the current regulations by the Size Appeals Board. It generally provides that size eligibility for award of a contract is determined as of bid/offer submission. This interpretation, adopted by the Board in a recent case, revised the Board's previous views in this area. Since this principle is currently being applied by the Board, it is preferable that this issue should be codified in the regulations.

The previous case law interpretation often determined size eligibility as of both the time of bid opening and the time of the Board's decision in cases where award had not yet been made. In such instances, size certifications by bidders and offerors could only be projections of intent. The present case law interpretation by the Board that the certification relates to the time it is made is codified in this final rule. Bidders/offerors will be able to accurately make this critical contractual certification and to make appropriate judgments in the operations of their business. The rule will assist SBA by facilitating a more equitable and expeditious handling of size protests and appeals.

The amendment for subcontracting size determinations is in response to the recommendation in the Conference Report on Pub. L. 95-507 (House of Representatives Report No. 95-1714) that SBA establish a procedure to review the eligibility of small subcontractors which have made written representations on their small business size status, when such written representations are challenged on those procurements which are required to have small business subcontracting plans. These size determinations relate to subcontracting under Section 8(d) of the Small Business Act (see Part 125 of the SBA Regulations, 13 CFR Part 125; see also Policy directive of the Office of Federal Procurement Policy, 45 FR 31028, May 9, 1980). Either the contracting officer or other affected party, including the concern making the written representation when its representation is rejected, can institute a size determination by SBA. When the subcontracting protest challenges the small business size of the concern, the SBA size determinations would be made under Part 121; if the protest challenges the firm as not owned and controlled by socially and economically disadvantaged individuals, the SBA determination regarding such status would be made under procedures to be adopted pursuant to Part 124 of the SBA Regulations.

The amendment relating to size determinations for the SBA 8(a) program indicates that Part 121 size procedures may be utilized when appropriate to assist the existing SBA 8(a) program eligibility determination procedures. The 8(a) regulations issued pursuant to Pub. L. 95-507 are set forth in Part 124 of the SBA Regulations (13 CFR Part 124). Also, special size treatment for divestiture agreements re 8(a) firms is deleted from the Size Regulation as no longer to be applicable under Pub. L. 95-507.

It is noted that Pub. L. 96-481, enacted October 21, 1980, prohibits SBA from rulemaking with respect to size standards until March 31, 1981. This prohibition relates to the general revision of its size standards which SBA proposed on March 10, 1980 (45 FR 15442). The legislative history (e.g., Senate Report No. 96-974, pp. 27-28; Congressional Record, September 26, 1980, p. S13691) indicates that the prohibition applies to the final promulgation of revised size standards and is designed to give the Congress and the SBA more time to study and review the size standards. Since the amendments herein are not size standards and set forth SBA procedures in size determinations on individual business concerns, it is SBA's view that the above-mentioned prohibition is not applicable to this rulemaking.

Dated: December 24, 1980.

William H. Mauk, Jr.,

Acting Administrator.

Therefore, pursuant to the authority of Section 5(b)(6) of the Small Business Act (15 U.S.C. 634), the Small Business Administration amends Part 121 of its Regulations (13 CFR Part 121) as follows:

§ 121.3-2 [Amended]

1. Section 121.3-2(a)(vii) (Control through contractual relationships) is amended by revising subparagraphs (A) and (C) to read as follows:

(a) * * *

(vii) Control through contractual relationships. (A) Definition of a joint venture for size determination purposes: A joint venture for size determination purposes is an association of persons and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

* * * * *

(C) Joint venture—procurement and property sale assistance. Concerns bidding on a particular procurement or property sale as joint venturers are considered as affiliated and controlling or having the power to control each other with regard to performance of the contract. Moreover, an ostensible subcontractor which is to perform primary or vital requirements of a contract may have a controlling role such to be considered a joint venturer affiliated on the contract with the prime contractor. A joint venture affiliation finding is limited to particular contracts unless the SBA size determination finds general affiliation as between the parties.

* * * * *

2. Section 121.3-2(b) (Definition of annual receipts) is amended by adding the following at the end thereof:

* * * * *

(b) * * * If a concern has been in business less than a year, its annual receipts for the purpose of a size standard based on 1 year's receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has been in business less than 3 years, its average annual receipts for the purpose of a size standard based on 3 years' receipts shall be computed by determining its average weekly receipts for the period in which it has been in business, and multiplying such figure by 52. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts to include the affiliate's receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such a concern had been an affiliate during a portion of the applicable accounting period.

* * * * *

§ 121.3-4 [Amended]

3. Section 121.3-4(d) (regarding recertifications) is amended by adding the following new paragraphs at the end thereof:

* * * * *

(d) * * *

(1) Recertification shall not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation due to a joint venture (e.g., ostensible subcontracting) limited to a particular Government procurement or property sale, or is based solely on an ineligible nonmanufacturer size determination on a particular Government procurement.

(2) If SBA makes a size determination denying an application for recertification, such adverse size determination may be appealed to the Size Appeals Board. Recertifications have future effect only and, except as to timber sales size determinations, are not appealable to the Board by other than the concern in question (however, the concern's later self-certification on subsequent set-aside procurements or property sales may be protested in the usual manner).

4. Section 121.3-4 (regarding size determinations) is amended by adding the following new paragraph (e) at the end thereof:

* * * * *

(e) Size determinations for compliance purposes. Upon request by other Government agencies, SBA size determinations under Part 121 may be made to assist in the enforcement or administration of regulations or contracts, as well as in connection with award of contracts or granting of assistance. SBA size determinations are findings on the size status of a concern (including its affiliates) as of a definite time and regarding a specific applicable SBA size standard, and do not rule on compliance, contractual or administrative matters which are handled by the other agencies.

§ 121.3-5 [Amended]

5. Section 121.3-5 (regarding protests) is amended by adding the following new paragraph (e) at the end thereof:

* * * * *

(e) Multiple Award Schedules. Protests will be deemed timely if received by SBA at any time prior to the expiration of the contract period (including renewals) on a multiple award schedule procurement set aside for small business.

§ 121.3-8 [Amended]

6. Section 121.3-8 (definition of small business for Government procurement) is amended by adding the following new sentence as the second sentence thereof:

* * * The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer.* * *

§ 121.3-9 [Amended]

7. Section 121.3-9 (definition of small business for sale or lease of Government property) is amended by adding the following new sentence as the second sentence thereof:

* * * The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer.* * *

§ 121.3-12 [Amended]

8. Section 121.3-12 (definition of small business Government subcontractors) is amended by adding a new paragraph (c) as follows:

* * * * *

(c) The contracting officer or other affected party in connection with small business subcontracting requirements, pursuant to section 8(d) of the Small Business Act, may protest a written representation of small business status, or the refusal to accept such written representation, of a concern offering as a subcontractor on a particular procurement. The protest and related information shall be referred to the SBA Regional Office in which the concern has its principal office and a size determination shall be made under this Part 121.

§ 121.3-2 [Amended]

9. (a) Sec. 121.3-2(a) is amended by deleting the third and fourth sentences thereof.

(b) A new § 121.3-17 is added to Part 121 of the SBA Regulations to read as follows:

§ 121.3-17 Formal size determinations on concerns for 8(a) assistance.

(a) As set forth in subsection (b) hereof, SBA may make formal size determinations under this Part 121 to assist in eligibility findings of concerns under Part 124 (8(a) assistance). Eligibility for 8(a) assistance is determined by the SBA Associate Administrator for Minority Small Business and Capital Ownership Development. Such eligibility is determined with reference to the 8(a) program in general and not with reference to award of particular 8(a) procurements. The size standards of Part 121 are utilized as related to the primary industry classification of the 8(a) concern.

(b) The Associate Administrator for Minority Small Business and Capital Ownership Development (AAMSB-COD) or a Regional Administrator may refer a case of 8(a) size eligibility to the regional office where the concern is located for a size determination under Part 121 (which is appealable by either party to the Size Appeals Board). Size determinations under Part 121 on initial entry into the 8(a) program or on program completion or termination are advisory to the ASMSB-COD; and/or to the Administrative Law Judge in 8(a) proceedings under Part 124.

[FR Doc. 81-1085 Filed 1-9-81 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-39-AD; Amendment 39-4015]

Airworthiness Directives; Gates Learjet 23, 24, 25, 28 and 29 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 80-26-02, applicable to Gates Learjet 23, 24, 25, 28 and 29 series airplanes that have an FC-110 autopilot system installed and codifies the corresponding emergency AD letter dated December 11, 1980, into the **Federal Register**. This AD requires, prior to further flight, deactivation of the FC-110 autopilot pitch axis and requires the crew to observe appropriate Airplane Flight Manual (AFM) limitations for an inoperative autopilot and emergency procedures for pitch axis malfunction. The AD further requires on or before April 1, 1981, modification of the airplane by requiring (1) replacement of the existing pitch axis servo and capstan with a D.C. torquer, (2) inspection of the autopilot trim coupler board to assure that the proper transistors are installed and (3) incorporation of a trim monitor preflight test switch. Upon accomplishment of these three requirements, and an addition to the AFM describing the function and use of the trim monitor, the autopilot pitch axis may be reactivated. These actions are necessary to reduce the hazard created by a possible pitch axis malfunction, which, if not detected, could result in a hazardous flight attitude.

EFFECTIVE DATE: January 15, 1981, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated December 11, 1980. Compliance: As prescribed in the body of the AD.

ADDRESSES: Gates Learjet Corporation, Airplane Modification Kits No. AMK 80-3, Change 4, and AMK 80-16B, Change 2 referenced in this AD, may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277; Telephone (316) 942-2000. A copy of the Airplane Modification Kit documents are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Larry Malir, ACE-213, Aircraft Certification Program, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4281.

SUPPLEMENTARY INFORMATION: The horizontal stabilizer on Gates Learjet aircraft is positioned by either of the following three systems: secondary pitch trim, primary pitch trim and autopilot. The primary pitch trim system is directly operated by the pilot or the copilot by means of a control wheel mounted switch and the secondary pitch trim system by means of a pedestal mounted switch. The secondary pitch trim is also operated by the autopilot's trim circuits during autopilot operation. In the event of an actual axis malfunction which would cause a trim runaway in a nose-up direction, the malfunction could force the airplane into heavy stall buffet and, if not immediately corrected, can result in the flameout of both engines. A Learjet Model 25, Serial No. 25-010, was recently involved in a nose-up pitch malfunction which caused the flameout of both engines. After considerable loss of altitude, the crew completed a safe recovery and landing. During the investigation of that incident, the autopilot pitch axis servo was found to have a defective magnetic drive clutch. The servo installed on the aircraft was equipped with a magnetic powder clutch which is suspected to have become coagulated and caused the clutch to jam. The jammed clutch caused the elevator to be displaced and the autopilot continuously retrimmed the horizontal stabilizer causing the nose-up condition. Further evaluation of this incident and review of the service history on the Gates Learjet 23, 24, 25, 28 and 29 series airplanes revealed that certain malfunctions of the autopilot system could result in a hazardous flight attitude. Consequently, the FAA determined, in the interest of safety, to issue AD 80-22-10 requiring that the autopilot pitch axis be deactivated to reduce hazards created by a possible malfunction in that axis. Since the FAA determined that this was an unsafe condition that may exist in other airplanes of the same type design and an emergency condition existed, immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by AD 80-22-10 by airmail letter dated October 24, 1980, and became effective as to these individuals upon receipt of that letter. Specifically, AD 80-22-10 required the FC-110 autopilot pitch axis be deactivated and compel the crew to observe appropriate Airplane Flight Manual (AFM) limitations for an inoperative autopilot and emergency procedures for pitch axis malfunction. The AD further required on or before January 1, 1981, modification of the airplane by requiring (1) replacement of the existing pitch axis servo and capstan with a D.C. torquer, (2) inspection of the autopilot trim coupler board to assure that the proper transistors are installed, and (3) incorporation of a trim monitor preflight test switch. Upon accomplishment of these three requirements, and an addition to the AFM describing the function and use of the trim monitor, the autopilot pitch axis may be reactivated. The service centers that were approved to perform the modification were restricted to only those listed in AD 80-22-10.

Subsequent to the issuance of AD 80-22-10, the manufacturer revised Airplane Modification Kits AMK 80-3 and AMK 80-16. AMK 80-3 referred to in paragraph B)1.b) of this AD has been revised to include Change 4. This change incorporates a revised Jet Electronics and Technology, Inc. (J.E.T.) Service Bulletin, a Parts Required List clarification, and footnotes to the kit instructions. AMK 80-16 referenced in paragraph B)1.a) and b) of the AD has been reidentified as AMK 80-16B, Change 2. Revision B added a relay assembly to the trim preflight test circuitry and Change 2 specified an operational check of the Autopilot Pitch Trim System plus parts list changes. The temporary Airplane Flight Manual referenced in paragraph B)2 of the AD bears the date of October 21, 1980. This date is incorrect. It should reflect the date of October 22, 1980. Numerous operators and other interested persons have objected to the compliance date of January 1, 1981, referenced in paragraph B) of the AD. The basis for these objections is the insufficiency of time and work facilities for the nine service centers listed in the AD to accomplish the required modifications. The FAA has investigated the situation and has verified the accuracy of these objections. Consequently, the compliance time is being extended to

April 1, 1981. Concurrently, six additional service centers are being added that are authorized to accomplish the modifications. This action will prevent an undue hardship which would be caused if operators are forced to terminate operations because of service center workload and will not adversely compromise the safe operation of unmodified airplanes.

Since the condition described herein is likely to exist or develop in other aircraft of the same type design, an emergency AD is being issued, superseding AD 80-22-10. This new AD 80-26-02 will reiterate the substance of AD 80-22-10 and, at the same time, incorporate the changes mentioned herein. The superseding AD will not require repetition of those requirements previously accomplished by AD 80-22-10.

This AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Gates Learjet: Applies to 23, 24, 25, 28 and 29 series airplanes certificated in all categories.

Compliance: Required as indicated, unless previously accomplished in accordance with AD 80-22-10.

(A) Before further flight:

1. Deactivate the pitch function of the FC-110 Automatic Flight Control System (AFCS) or Automatic Flight Control Stability System (AFC/SS), as indicated below, by pulling the AFCS Pitch DC Circuit Breaker to the off position, banding it to prevent use of this function and checking to assure this function is the only deactivated circuit or control:

Series	Serial No.	Location
23	003 thru 014	Pilot's Switch Panel.
	015 thru 099	Pilot's Sub Panel.
24	100 thru 139 (except 131, 132 & 134).	Pilot's Sub Panel.
	131, 132 & 134	Pilot's circuit breaker panel.
	140 thru 229	Autopilot computer rack (under pilot's seat).
	230 and up	Pilot's circuit breaker panel.
25	003 thru 069 (except 032).	Autopilot computer rack (under pilot's seat).
	032	Pilot's Sub Panel.
	070 and up	Pilot's circuit breaker panel.
28	001 and up	Pilot's circuit breaker panel.
29	001 and up	Pilot's circuit breaker panel.

2. Install a locally fabricated placard on or near the autopilot control head in clear view of the crew, using letters at least 3/32 inch high, which reads:

AUTOPILOT PITCH AXIS INOPERATIVE

OBSERVE APPROPRIATE AFM AIRSPEED LIMITATIONS FOR INOPERATIVE AUTOPILOT

and operate the airplane in accordance with this placard.

3. Insert in the appropriate section of the existing Airplane Flight Manual (AFM) the FAA approved temporary Airplane Flight Manual Change dated October 22, 1980, pertaining to emergency procedures for pitch axis malfunction.

(B) On or before April 1, 1981, accomplish all of the following at a Gates Learjet authorized service center holding appropriate FAA repair station ratings (see attached list):

1. Visually inspect the elevator control system to assure that Pitch Axis Servo (D.C. Torquer), P/N 6600163-( ) is installed.

(a) If installed, modify the airplane by incorporating autopilot pitch trim monitor test switch in accordance with Gates Learjet Airplane Modification Kit AMK 80-16B, Change 2.

(b) If not installed, modify the airplane by replacing the pitch servo actuator and capstan and incorporating autopilot pitch trim monitor test switch in accordance with Gates Learjet Airplane Modification Kits AMK 80-3, Change 4, and AMK 80-16B, Change 2, respectively.

2. Insert in the appropriate sections of the existing Airplane Flight Manual (AFM) the FAA approved temporary Airplane Flight Manual changes dated October 22, 1980, for autopilot trim monitor.

(C) When paragraph B of this AD has been accomplished, the requirements of paragraphs (A) 1. and 2. of this AD are no longer applicable.

(D) Airplanes may be flown in accordance with FAR 21.197 to a location where the requirements of this AD can be accomplished provided the autopilot is not operative during that flight.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, FAA, Central Region, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This AD supersedes AD 80-22-10.

This amendment becomes effective on January 15, 1981, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated December 11, 1980, and is identified as AD 80-26-02.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 30, 1980.

John E. Shaw,

Acting Director, Central Region.

Gates Learjet Customer Service Centers

Airesearch Aviation Company, 221 Smithtown Avenue, Ronkonkoma, Long Island, NY 11779
Airesearch Aviation Company, 17250 Chanute Road, Box 60218, Houston, TX 77205
Airesearch Aviation Company, 4150 Donald Douglas Drive, Long Beach, CA 90809
Combs Gates Denver, Hangar 7, Stapleton International Airport, Denver, CO 80207
Combs Gates Indianapolis, Indianapolis Airport, Indianapolis, IN 46241
Duncan Aviation, Inc., Box 81887, Lincoln, NE 68501
Executive Jet Aviation, Inc., Port Columbus Airport, Columbus, OH 43219
Gates Learjet Corporation, Customer Service, Box 11186, Tucson, AZ 85734
Gates Learjet Corporation, Customer Service, Wichita Mid-Continent Airport, Box 7707, Wichita, KS 67277
Dee Howard Company, P.O. Box 17300, International Airport, San Antonio, TX 78217
Jet Fleet Corporation, 8605 Lemmon Avenue, Dallas, TX 75209
Northern Air Service, Inc., Kent County Airport, Grand Rapids, MI 49508
ERA Helicopters, Inc., P.O. Box 762, Anchorage, Alaska 99510
Jet East, Inc., 7363 Cedar Springs, Dallas, TX 75235
Corporate Jet Aviation, Inc., 1951 Airport Road, DeKalb Peachtree Airport, Atlanta, GA 30341

[FR Doc. 81-805 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ARM-17]

Establishment of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a 700' transition area at Holyoke, Colorado to provide controlled airspace for aircraft executing the new nondirectional radio beacon (NBD) standard instrument approach procedure developed for the Holyoke Municipal Airport, Holyoke, Colorado.

EFFECTIVE DATE: 0901 GMT, February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On Thursday, November 20, 1980, the FAA published for comment a proposal to establish a 700′ transition area at Holyoke, Colorado (45 FR 76692). The only comments received as a result of this circular expressed no objections.

Drafting Information

The principal authors of this document are Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, February 19, 1981, as follows:

Holyoke, Colorado

That airspace extending upward from 700′ above the surface within an 6.5 mile radius of the Holyoke Municipal Airport (latitude 40°34′40″ N., longitude 102°16′30″ W.) and within 3 miles each side of the 012° and 158° bearings from the Heginbotham NDB (latitude 40°34′53″ N., longitude 102°16′40″ W.) extending from the 6.5 mile radius area to 11.5 miles north-northwest and south-southeast of the Heginbotham NDB.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colorado on December 30, 1980.

George P. Hunter,

Acting Director.

[FR Doc. 81-766 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 80-AGL-23]

Facility Name Change; Minneapolis, Minn.

Correction

In FR Doc. 80-40262 appearing at page 85441 in the issue for Monday, December 29, 1980, make the following corrections:

(1) On page 85441, in the second column, paragraph "V-13", the second line "radials is" should be corrected to read "radials and".

(2) Also on page 85441, in the second column, paragraph "V-97", the second line "and 'Gopher, Minn.' " should be corrected to read "and 'to Gopher, Minn.' ".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM79-6]

Procedures Governing the Collection and Reporting of Information Associated With the Cost of Providing Electric Service

Issued December 24, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Reporting requirement; extension of time.

SUMMARY: Part 290 of the Commission's Federal Energy Regulatory Commission's (Commission) regulations concern the collection of the cost of service information required under section 133 of the Public Utility Regulatory Policies Act of 1978. Section 290.601(a) requires utilities filing an application for an exemption from the June 30, 1982 report to file for such exemption by December 31, 1980. This order extends that deadline to assure that utilities have adequate opportunity to submit such applications for exemptions as may be justified.

DATE: Applications for exemptions extended to March 15, 1981 for the report due June 30, 1982.

ADDRESS: File applications with Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, (202) 357-8400.

SUPPLEMENTARY INFORMATION:

Order Granting Blanket Extension of Time

Part 290 of the Commission's regulations, implementing Section 133 of the Public Utility Regulatory Policies Act of 1979, contains exemption provisions at 290.601 which state, in pertinent part:

> (a) *Application.* A utility may apply for an exemption from all or part of the requirements set forth in this part by filing an application with the Commission no less than 18 months prior to the time the information would otherwise be required, and by November 1, 1979, for the 1980 filing.

Under this provision, December 31, 1980 would be the required filing date for applications for exemption applicable to the reporting of information that is due on or before June 30, 1982.

A number of applications for exemption, applicable to the November 1, 1980 reporting date, were received after the November 1, 1979 date specified in the regulations. Primarily in consideration of the fact that the regulations were new, having been issued on September 28, 1979, the Staff did not seek strict enforcement of the deadline. The regulations have now been in place long enough for utilities to be able to make such determinations as may be necessary to support applications for exemption related to future filings. Therefore, in the future, the Commission and the Staff will require that such applications be filed on or before the stated deadline to receive full consideration.

The next such deadline called for by the regulations, December 31, 1980, is close at hand. In order to assure that covered utilities have adequate opportunity to prepare and submit such applications for exemption as may be justified, the Commission will extend the time for filing such applications from December 31, 1980 to March 15, 1981. This extension of time is granted to all utilities covered under the regulations.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1025 Filed 1-9-81; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 152

[T.D. 81-7]

Valuation of Imported Merchandise for Customs Purposes

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to enable the Customs Service ("Customs") to implement and administer the provisions of Title II of Pub. L. 96-39, the "Trade Agreements Act of 1979", relating to the valuation of imported merchandise for customs purposes.

The more significant changes are:

1. To eliminate section 402a, Tariff Act of 1930, as amended (19 U.S.C. 1402), the basis for appraising "Final List" articles.

2. To eliminate the "American Selling Price" basis for valuation.

3. To provide the following five bases—one primary and four secondary—for determining customs value:

a. Transaction value of the imported merchandise (the primary basis);

b. Transaction value of identical merchandise;

c. Transaction value of similar merchandise;

d. Deductive value; and

e. Computed value.

4. To provide that if Customs rejects the transaction value resulting in an increase in duties, the importer will be notified of the rejection, receive an explanation of the action, and be given 20 days in which to reply if in disagreement.

5. To provide that Customs, upon written request, shall furnish an importer with a written explanation of how the customs value of the imported merchandise was determined.

6. To provide that information submitted by an importer, buyer, or producer regarding the valuation of merchandise will not be rejected on the basis of the accounting method used to prepare the information if the preparation was in accordance with "generally accepted accounting principles."

The amendments are considered to be significant.

EFFECTIVE DATE: January 12, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas Lobred (202-566-2938) or Richard Rosettie (202-566-2790), Office of Commercial Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96-39 (93 Stat. 144), the "Trade Agreements Act of 1979", approved July 26, 1979 (the "Act"), incorporates into U.S. law the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations (MTN) and transmitted to the Congress by the President on June 19, 1979.

Title II of the Act, "Customs Valuation", implements the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade ("the Agreement") relating to customs valuation. Title II makes significant changes in the laws administered by Customs relating to the valuation of imported merchandise.

The United States has entered into a supplementary agreement ("protocol") on customs valuation which would eliminate one of the tests under the Agreement, and Title II, by which related parties can establish an acceptable transaction value, *i.e.*, the use of the transaction value from unrelated parties' sales of identical goods from third countries (section 152.103(j)(2)(i)(C) of the NPRM). The legislation required to approve and implement the protocol to the trade agreement relating to customs valuation, Pub. L. 96-490, was enacted by the Congress and signed into law on December 2, 1980. In addition, the determination necessary for acceptance of the customs valuation agreement and the protocol to that agreement has been made by the United States Trade Representative and published in the **Federal Register** on December 24, 1980 (45 FR 85239). Accordingly, the aforementioned test has been deleted and other conforming changes have been made in the document.

Effective Dates of Title II

Presidential Proclamation No. 4768, of June 28, 1980, declares that the effective date for the provisions of Title II, except those relating to certain rubber footwear, is July 1, 1980. The amendments made by section 223(b) of the Act relating to certain rubber footwear will become effective on July 1, 1981.

Implementation of Title II, the "new value law," will neither repeal nor amend automatically sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402), with regard to merchandise exported to the United States before the respective effective dates. The new value law will be applicable to merchandise exported to the United States on or after the applicable effective date, and the value will be determined in accordance with section 402, Tariff Act of 1930, as amended by section 201 of the Act.

However, the "old value law", sections 402 and 402a, Tariff Act of 1930, as amended, will apply to merchandise exported to the United States before the applicable effective date. This would include merchandise in a Customs bonded warehouse, in a foreign-trade zone, or in international transit to the United States before the applicable effective date. Accordingly, sections 10.18 and 10.19, Customs Regulations (19 CFR 10.18, 10.19), relating to the valuation of assembled articles and the elements involved in determining constructed value or cost of production for articles imported under item 807.00, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), will be applicable only if the articles were exported to the United States before July 1, 1980.

Notice of Proposed Rulemaking ("NPRM")

Because of the necessity to continue to administer the "old value law" for an indefinite period while it also implements the "new value law", Customs published a NPRM in the **Federal Register** on March 31, 1980 (45 FR 20912). That document proposed to amend Part 152, Customs Regulations (19 CFR Part 152), concerning the classification and appraisement of merchandise to provide for a new subpart relating to the "new value law" while retaining the regulations relating to the "old value law."

The preamble of that NPRM provided a detailed description of the specific changes in the valuation provisions administered by Customs and the background and purpose of the proposed regulations amendments and should be read in conjunction with this document.

The NPRM invited interested persons to submit comments on the amendments on or before May 30, 1980. As discussed below, consideration of the numerous comments received and further review of Title II have resulted in a number of changes to the proposed amendments.

Discussion of Comments

The following is a section-by-section analysis of the comments received, presented in ascending numerical order:

1. *Section 152.101(c) Importer's option.*—Customs specifically solicited comments on this section relating to the importer's requesting the application of computed value before deductive value

at the time the entry summary is filed. Many of the commenters responded to this issue, and all but one favored a time other than that of filing the entry summary (*e.g.*, 20 days after filing the entry summary), to make the importer's election of the application of computed before deductive value.

Customs agrees that this is an important and legitimate concern. In order to provide the public the full benefit of this election, Customs considered a variety of proposals in addition to those specifically identified by commenters. Unfortunately, the only certain time which would be known to both Customs and the public other than the date of filing the entry summary is the date of liquidation. The date of liquidation usually is so remote from the importation of the merchandise and documentation of the entry as to be unacceptable.

However, Customs wishes to advise the public that if subsequent events or submissions demonstrate that this time frame creates a burden or establishes a pattern of importers being deprived of the statutory election, Customs would endeavor to make the appropriate modifications. In the interim, Customs will consider any workable suggestions from the public.

2. *Section 152.101(d) Explanation to importer.*—A number of commenters suggested that the time period proposed for an importer to request an explanation of the valuation of the merchandise, (*i.e.*, within 90 days from the date of liquidation of the entry), should be extended to permit the timely filing of a protest.

In this regard, the Statement of Administrative Action relating to Customs valuation, submitted to and approved by Congress along with the Act, and the proposed regulations make clear that this explanation to the importer is separate from any present administrative procedures of Customs. This result is consistent with the overall design of Title II of the Act that appraisement be the result of consultation between the importer and Customs. As it was envisioned that such consultation would facilitate the determination of appraisements, there was no intent, nor any need, to tie the furnishing of a written explanation to the importer with the formal protest procedure set forth in Part 174, Customs Regulations (19 CFR Part 174). Consequently, to make it clear that this procedure is not tied to the period for filing a protest, the time period has been adopted as proposed. It should be noted that the vast majority of persons who might file a protest would have previously been informed under proposed section 152.103(m) of the grounds for rejection of transaction value.

In addition, several commenters suggested that section 152.101(d) be reworded to emphasize more strongly the confidentiality of information Customs receives from the public. Customs thinks that the last sentence in the proposed section makes the point adequately, as does present Part 103, Customs Regulations (19 CFR Part 103).

3. *Section 152.102(a) Assist.*—Some commenters requested that the definition of "assist" contain the limitation that research and development costs for tools, molds, etc., undertaken in the United States not be dutiable.

As this suggestion is contrary to both the Statement of Administrative Action and the Act, we have no authority to adopt it.

4. *Section 152.102(b) Commission.*—A number of commenters pointed out that Customs treatment of buying and selling commissions was not only confusing but contrary to the language of the Act.

While the language contained in the proposed regulation is consistent with the Act, Customs believes that the point raised is valid. Therefore, section 152.102(b) has been revised by deleting all reference to "buying commission," a term not mentioned in the Act, and substituting the following definition of "selling commission": "Selling commission" means any commission paid to the seller's agent, who is related to or controlled by, or works for or on behalf of, the manufacturer or the seller.

5. *Section 152.102(c) Generally accepted accounting principles.*—Several commenters recommended that the section indicate that the concept of "generally accepted accounting principles" is not limited to those principles practiced in the United States.

Customs agrees, and a phrase has been added to subparagraph (2) of the definition to include that recommendation.

6. *Section 152.102(e) Packing costs.*—Several commenters wanted the section to specify that the cost of containers and other instruments of international traffic is not included in packing costs.

As that concept is not a new element created by the Act, and is currently stated in the Statement of Administrative Action, Customs has adopted that suggestion.

7. *Section 152.102(g) Related persons.*—One of the commenters suggested that Customs change the term "partners" in the section to the phrase "legally recognized partners in business."

The language contained in proposed section 152.102(g) is taken from the Act. Further, Customs thinks that the term "partners" means the same under United States law as the phrase "legally recognized partners in business." Accordingly, the requested change has not been adopted.

8. *Section 152.103(a)(2) Indirect payment.*—Several commenters suggested breaking this section into two paragraphs to illustrate a dichotomy between advertising which is not considered an indirect payment (an exception) as opposed to indirect payments in general.

The section is meant to discuss indirect payments generally, and to emphasize that advertising undertaken by the buyer is not considered to be an indirect payment. Customs does not think another paragraph with a heading of "advertising" would lend more emphasis to the declaratory statement made, and has not adopted the suggestion.

9. *Section 152.103(a)(3) Assembled merchandise.*—In response to many comments seeking specific clarification of this section, three examples have been added which should be helpful in illustrating the meaning of the section.

10. *Section 152.102(a)(4) Rebate.*—Several commenters pointed out that this section appeared to restrict Customs treatment of defective merchandise.

Customs has no such intent, and defective merchandise still will be accorded treatment under the provisions of section 158.12, Customs Regulations (19 CFR 158.12), relating to merchandise partially damaged at the time of importation.

Several commenters also suggested that the second example appearing after this section include the correct answer in numerical form. This suggestion has been adopted and the example modified accordingly.

11. *"New" section 152.103(a)(5) Foreign inland freight.*—Based upon comments received concerning the dutiability of foreign inland freight, a new section has been added to state that foreign inland freight charges will be dutiable to the extent they are included in the price actually paid or payable for the imported merchandise.

12. *Section 152.103(e) Apportionment.*—A commenter suggested that Customs modify the interpretative note following this section to reflect "generally accepted accounting principles."

As this suggestion has merit, the interpretative note has been modified to reflect that the correctness of any numerical figure the importer asks

Customs to apportion will be used as long as that figure is in accordance with "generally accepted accounting principles."

13. *Section 152.103(f) Royalties or license fees.*—It was requested that Customs expand this section to include the language of the House Report relating to royalties.

The language in this section tracks that contained in the Statement of Administrative Action. The explanatory language contained in the House Report would be very difficult to transform into regulation and, in definitive terms, would add little or nothing over that set forth in section 152.103(f). Accordingly, Customs has not adopted the request.

Several commenters suggested deletion of the word "unrelated" which appears in the example following this section, as unnecessary.

Although Customs agrees that it is not required in all cases that the buyer be unrelated to the seller, it would be a relevant factor in some cases. Therefore, the language of that example has not been modified.

14. *Section 152.103(l)(1) Validation of transaction.*—Several commenters noted that the example following the interpretative notes in this section was confusing. To avoid any possible confusion, appropriate modifications have been made.

15. *Section 152.103(1)(2)(i) Test values.*—A commenter suggested that the word "are" in the second sentence of the section should be changed to "include" to correspond to the language in the Statement of Administration Action. Customs agrees and has made the appropriate change.

16. *Section 152.103(m) Rejection of transaction value.*—Many commenters suggested extending the time period provided in the proposed section so that an importer would have more than 20 days to respond to the district director if in disagreement with Customs grounds for rejecting transaction value as the basis of appraisement for the imported merchandise.

The time period proposed is the same as that now provided in section 152.2, Customs Regulations (19 CFR 152.2), relating to notification to importers of increased duties. Long experience with section 152.2 has demonstrated that this time frame works. Additionally, Customs would point out that several avenues exist for presentation of conflicting views to Headquarters for resolution.

17. *Section 152.105(c)(3) Prices: "further processing".*—Many commenters responded to Customs specific request for comments on the time of the importer's election of the "further processing method" of price appraisal under deductive value. The commenters unanimously urged a time period for the election considerably later than that of the time of filing the entry summary with Customs.

For the same reasons given in the discussion of the importer's option provided in § 152.101(c), Customs is unable to make the requested change.

However, Customs wishes to advise the public that if subsequent events or submissions demonstrate that this time frame creates a burden or establishes a pattern of importers being deprived of the statutory election, Customs would endeavor to make the appropriate modifications. In the interim, Customs will consider any workable suggestions from the public.

One commenter wanted Customs to define the term "further processing" for purposes of this section. As there is no intent on Customs part to establish any other than the ordinary commercial meaning of that term, it would not be appropriate to delineate a precise meaning within the valuation context alone. Moreover, any consideration of the applicability of this section will be determined on a case-by-case basis.

18. *Section 152.107 Value if other values cannot be determined or used.*—A commenter suggested that this section contain an additional paragraph stating that the time for consideration of the appraisal under deductive value of a price applicable to merchandise which has undergone "further processing" could be extended beyond the 180 days specified in the proposal. It was suggested that the paragraph could be similar to that proposed in section 152.107(c) concerning the flexible administration of the "90 days" sales requirement for merchandise sold in the condition as imported but not sold at or about the date of the appraised merchandise.

Customs cannot adopt the suggestion because (1) the three paragraphs in the proposed section are taken from the provisions of the Valuation Code acceded to by the United States and forming the basis for Title II of the Act (there being no provision for flexible administration of the 180 day period), and (2) because of the 1 year limit for liquidation of entries, any extension of the 6 month period would lead to predictable difficulties for both Customs and importers.

Additional Comments

One commenter suggested that all procedural requirements to implement the provisions of Title II be placed in a separate section of the regulations.

Customs thinks this suggestion has merit; however, it was felt that the spirit of the law, that is, closer cooperation between Customs and the importing community, would be accommodated better if procedural requirements were interspersed among the substantive provisions wherever possible.

Several commenters requested that, in cases where either deductive or computed value is applicable because no identical or similar merchandise exists, Customs always accept the importer's cost figures without considering, where appropriate, goods of the same class or kind.

Customs cannot accept this request because it is contrary to the language of the Act.

Several commenters expressed concern about the effect of the proposed regulations on existing §§ 10.18 and 10.19, Customs Regulations (19 CFR 10.18, 10.19), relating to the valuation of assembled articles and the elements involved in determining constructed value or cost of production under the "old value law".

Customs has included a statement in the portion of this document designated Effective Dates of Title II to clarify that those sections will apply only to appraisement of merchandise exported to the United States before July 1, 1980, the general effective date of the Act.

Two commenters noted that it is very expensive and time-consuming to require the keeping and furnishing of assist data on duty-free merchandise specifically for Customs purposes when such information has no practical use under the Act.

Customs agrees that maintenance of records relating to dutiable assists which are then not applicable to clearly duty-free merchandise, could be burdensome, and the need for maintenance of those records will be scrutinized by Customs on a case-by-case basis.

Finally, Customs notes that a number of comments received were outside the scope of the proposed regulation, that is, they were not concerned with customs valuation. Therefore, it would not be appropriate to deal with them in the context of this document. Included in this group would be those comments concerning the Special Customs Invoice (CF 5515) and matters of tariff

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classification, *e.g.*, comments addressing the classification of intangibles such as software and other intellectual properties, classification under item 807.00, TSUS, and the use of tariff classification breakdowns to determine "same class or kind".

Editorial Changes

Upon its own review, Customs has made other nonsubstantive changes in the proposed amendments. Those changes, in addition to the correction of typographical errors and other minor editorial corrections, are listed below by affected section:

1. Section 152.101(d) has been revised by adding the word "after" to the first sentence, immediately following the phrase "within 90 days," and striking the word "of" preceding "liquidation".

2. Section 152.103(a)(4) has been modified by adding an example for clarification relating to cash discounts.

3. Section 152.103(d)(2), Example 1, is too broad in scope. Customs has modified the answer to that example to cover situations in which design work undertaken in the United States is part of the price actually paid or payable for the imported merchandise, and as such, is dutiable. In that circumstance, those charges are dutiable because there is no authority in the Act for a deduction from the price actually paid or payable.

4. Section 152.103(f) has been revised by adding the phrase "to a third party" after the word "buyer" in the last sentence of the section. This change is consistent with the Statement of Administrative Action and was omitted from the proposal inadvertently.

Inapplicability of Delayed Effective Date Provision

Because these final amendments, having been subject to notice and public procedure requirements, implement the valuation provisions of Pub. L. 96-39, the "Trade Agreements Act of 1979", which provisions generally became effective July 1, 1980, it is found that the good cause exists, under 5 U.S.C. 553(d)(3), to dispense with a delayed effective date.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

To reflect these changes, Part 152, Customs Regulations (19 CFR Part 152), is amended as set forth below.

R. E. Chasen,
Commissioner of Customs.

Approved: December 12, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

1. Part 152 is amended by adding a new § 152.20 to read as follows:

§ 152.20 Effective date.

The value for appraisement of merchandise exported to the United States before July 1, 1980, or, for articles classified in item 700.60, Tariff Schedules of the United States (19 U.S.C. 1202), before July 1, 1981, will be determined in accordance with this subpart.

2. Part 152 is amended by adding a new Subpart E, "Valuation of Merchandise," to read as follows:

Subpart E—Valuation of Merchandise

Sec.
152.100 Interpretative notes.
152.101 Basis of appraisement.
152.102 Definitions.
152.103 Transaction value.
152.104 Transaction value of identical merchandise and similar merchandise.
152.105 Deductive value.
152.106 Computed value.
152.107 Value if other values cannot be determined or used.
152.108 Unacceptable bases of appraisement.

Authority: R.S. 251, as amended (19 U.S.C. 66); sec. 624, 46 Stat. 759 (19 U.S.C. 1624); and Title II, Pub. L. 96-39, 93 Stat. 194 (July 26, 1979).

Subpart E—Valuation of Merchandise

§ 152.100 Interpretative notes.

The interpretative notes set forth in this subpart have been derived from information contained in the Statement of Administrative Action relating to customs valuation, submitted to and approved by Congress along with the Trade Agreements Act of 1979 (Pub. L. 96-39), and will have the force and effect of regulations issued under this subpart.

§ 152.101 Basis of appraisement.

(a) *Effective date.* The value for appraisement of merchandise exported to the United States on or after July 1, 1980, or, for articles classified under item 700.60, Tariff Schedules of the United States (19 U.S.C. 1202), on or after July 1, 1981, will be determined in accordance with section 402, Tariff Act of 1930 (19 U.S.C. 1401a), as amended by section 201, Trade Agreements Act of 1979.

(b) *Methods.* Imported merchandise will be appraised on the basis, and in the order, of the following:

(1) The transaction value provided for in § 152.103;

(2) The transaction value of identical merchandise provided for in § 152.104, if the transaction value cannot be determined, or can be determined but cannot be used because of the limitations provided for in § 152.103(j);

(3) The transaction value of similar merchandise provided for in § 152.104, if the transaction value of identical merchandise cannot be determined;

(4) The deductive value provided for in § 152.105, if the transaction value of similar merchandise cannot be determined;

(5) The computed value provided for in § 152.106, if the deductive value cannot be determined; or

(6) The value provided for in § 152.107, if the computed value cannot be determined.

(c) *Importer's option.* The importer may request the application of the computed value method before the deductive value method. The request must be made at the time the entry summary for the merchandise is filed with the district director (see § 141.0a(b) of this chapter). If the importer makes the request, but the value of the imported merchandise cannot be determined using the computed value method, the merchandise will be appraised using the deductive value method if it is possible to do so. If the deductive value cannot be determined, the appraised value will be determined as provided for in § 152.107.

(d) *Explanation to importer.* Upon receipt of a written request from the importer within 90 days after liquidation, the district director shall provide a reasonable and concise written explanation of how the value of the imported merchandise was determined. The explanation will apply only to the imported merchandise being appraised and will not serve as authority with respect to the valuation of importations of any other merchandise at the same or a different port of entry. This procedure is for informational purposes only, and will not affect or replace the protest or administrative ruling procedures contained in Parts 174 and 177, respectively, of this chapter, or any other Customs procedures. Under this procedure, Customs will not be required to release any information not otherwise subject to disclosure under the Freedom of Information Act, as amended (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or any other statute (see Part 103 of this chapter).

§ 152.102 Definitions.

As used in this subpart, the following terms will have the meanings indicated:

(a) *Assist.* (1) "Assist" means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:

(i) Materials, components, parts, and similar items incorporated in the imported merchandise.

(ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.

(iii) Merchandise consumed in the production of the imported merchandise.

(iv) Engineering, development, artwork, design work, and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise.

(2) No service or work to which subparagraph (1)(iv) of this paragraph applies will be treated as an assist if the service or work—

(i) Is performed by an individual domiciled within the United States;

(ii) Is performed by that individual while acting as an employee or agent of the buyer of the imported merchandise; and

(iii) Is incidental to other engineering, development, artwork, design work, or plans or sketches that are undertaken within the United States.

(3) The following apply in determining the value of assists described in subparagraph (1)(iv) of this paragraph—

(i) The value of an assist that is available in the public domain is the cost of obtaining copies of the assist.

(ii) If the production of an assist occurred in the United States and one or more foreign countries, the value of the assist is the value added outside the United States.

(iii) If the assist was purchased or leased by the buyer from an unrelated person, the value of the assist is the cost of the purchase or of the lease.

(b) *Commission.* "Selling commission" means any commission paid to the seller's agent, who is related to or controlled by, or works for or on behalf of, the manufacturer or the seller.

(c) *Generally accepted accounting principles.* (1) "Generally accepted accounting principles" refers to any generally recognized consensus or substantial authoritative support regarding—

(i) Which economic resources and obligations should be recorded as assets and liabilities;

(ii) Which changes in assets and liabilities should be recorded;

(iii) How the assets and liabilities and changes in them should be measured;

(iv) What information should be disclosed and how it should be disclosed; and

(v) Which financial statements should be prepared.

(2) The applicability of a particular set of generally accepted accounting principles will depend upon the basis on which the value of the imported merchandise is sought to be established, and the relevant country for the point in contention.

(3) Information submitted by an importer, buyer, or producer in regard to the appraisement of merchandise may not be rejected by Customs because of the accounting method by which that information was prepared, if the preparation was in accordance with generally accepted accounting principles.

(d) *Identical merchandise.* "Identical merchandise" means merchandise identical in all respects to, and produced in the same country and by the same person as, the merchandise being appraised. If identical merchandise cannot be found (or for purposes of related buyer and seller transactions (see § 152.103(j)(2)(i)(A)), regardless of whether identical merchandise can be found), merchandise identical in all respects to, and produced in the same country as, but not produced by the same person as, the merchandise being appraised, may be treated as "identical merchandise". "Identical merchandise" does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or sale for export to the United States of the merchandise, and is not an assist because undertaken within the United States.

(e) *Packing costs.* "Packing costs" means the cost of all containers (exclusive of instruments of international traffic) and coverings of whatever nature and of packing, whether for labor or materials, used in placing merchandise in condition, packed ready for shipment to the United States.

(f) *Price actually paid or payable.* "Price actually paid or payable" means the total payment (whether direct or indirect, and exclusive of any charges, costs, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller.

(g) *Related persons.* "Related persons" means: (1) Members of the same family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.

(2) Any officer or director of an organization, and that organization.

(3) An officer or director of an organization and an officer or director of another organization, if each individual also is an officer or director in the other organization.

(4) Partners.

(5) Employer and employee.

(6) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization, and that organization.

(7) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(h) *Same class or kind.* "Merchandise of the same class or kind" means merchandise (including, but not limited to, identical merchandise and similar merchandise) within a group or range of merchandise produced by a particular industry or industry sector.

(i) *Similar merchandise.* "Similar merchandise" means merchandise produced in the same country and by the same person as the merchandise being appraised, like the merchandise being appraised in characteristics and component material, and commercially interchangeable with the merchandise being appraised. If similar merchandise cannot be found (or for purposes of related buyer and seller transactions (see § 152.103(j)(2)(i)(A)), regardless of whether similar merchandise can be found), merchandise produced in the same country as, but not produced by the same person as, the merchandise being appraised, like the merchandise being appraised in characteristics and component material, and commercially interchangeable with the merchandise being appraised, may be treated as "similar merchandise". "Similar merchandise" does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise, and is not an assist because undertaken within the United States.

(j) *Sufficient information.* "Sufficient information" means information that establishes the accuracy of:

(1) Any amount—

(i) added under § 152.103(b) to the price actually paid or payable;

(ii) deducted under § 152.105(d) as profit or general expenses or value from further processing, or

(iii) added under § 152.106(b) as profit or general expenses; or

(2) Any difference taken into account under § 152.103(j)(2)(iv); or

(3) Any adjustment made under § 152.104(d).

(k) *Unit price in greatest aggregate quantity.* "Unit price at which merchandise is sold in the greatest aggregate quantity" means the unit price at which the "merchandise concerned" is sold to unrelated persons at the first commercial level after importation (in cases to which § 152.105(c)(1) and (2) apply), or after further processing (in cases to which § 151.105(c)(3) applies), at which the sales take place in a total volume greater than the total volume sold at any other unit price and sufficient to establish the unit price.

§ 152.103 Transaction value.

(a) *Price actually paid or payable*—(1) *General.* In determining transaction value, the price actually paid or payable will be considered without regard to its method of derivation. It may be the result of discounts, increases, or negotiations, or may be arrived at by the application of a formula, such as the price in effect on the date of export in the London Commodity Market. The word "payable" refers to a situation in which the price has been agreed upon, but actual payment has not been made at the time of importation. Payment may be made by letters of credit or negotiable instruments and may be made directly or indirectly.

Example 1. In a transaction with foreign Company X, a U.S. firm pays Company X $10,000 for a shipment of meat products, packed ready for shipment to the United States. No selling commission, assist, royalty, or license fee is involved. Company X is not related to the U.S. purchaser and imposes no condition or limitation on the buyer.

The customs value of the imported meat products is $10,000—the transaction value of the imported merchandise.

Example 2. A foreign shipper sold merchandise at $100 per unit to a U.S. importer. Subsequently, the foreign shipper increased its price to $110 per unit. The merchandise was exported after the effective date of the price increase. The invoice price of $100 was the price originally agreed upon and the price the U.S. importer actually paid for the merchandise.

How should the merchandise be appraised?

Actual transaction value of $100 per unit based on the price actually paid or payable.

Example 3. A foreign shipper sells to U.S. wholesalers at one price and to U.S. retailers at a higher price. The shipment undergoing appraisement is a shipment to a U.S. retailer. There are continuing shipments of identical and similar merchandise to U.S. wholesalers.

How should the merchandise be appraised?

Actual transaction value based on the price actually paid or payable by the retailer.

Example 4. Company X in the United States pay $2,000 to Y Toy Factory abroad for a shipment of toys. The $2,000 consists of $1,850 for the toys and $150 for ocean freight and insurance. Y Toy Factory would have charged Company X $2,200 for the toys; however, because Y owed Company X $350, Y charged only $1,850 for the toys. What is the transaction value?

The transaction value of the imported merchandise is $2,200, that is, the sum of the $1,850 plus the $350 indirect payment. Because the transaction value excludes C.I.F. charges, the $150 ocean freight and insurance charge is excluded.

Example 5. A seller offers merchandise at $100, less a 2% discount for cash. A buyer remits $98 cash, taking advantage of the cash discount.

The transaction value is $98, the price actually paid or payable.

(2) *Indirect payment.* An indirect payment would include the settlement by the buyer, in whole or in part, of a debt owed by the seller, or where the buyer receives a price reduction on a current importation as a means of settling a debt owed him by the seller. Activities such as advertising, undertaken by the buyer on his own account, other than those for which an adjustment is provided in § 152.103(b), will not be considered an indirect payment to the seller though they may benefit the seller. The costs of those activities will not be added to the price actually paid or payable in determining the customs value of the imported merchandise.

(3) *Assembled merchandise.* The price actually paid or payable may represent an amount for the assembly of imported merchandise in which the seller has no interest other than as the assembler. The price actually paid or payable in that case will be calculated by the addition of the value of the components and required adjustments to form the basis for the transaction value.

Example 1. The importer previously has supplied an unrelated foreign assembler with fabricated components ready for assembly having a value or cost at the assembler's plant of $1.00 per unit. The importer pays the assembler 50¢ per unit for the assembly. The transaction value for the assembled unit is $1.50.

Example 2. Same facts as Example 1 above except the U.S. importer furnishes to the foreign assembler a tooling assist consisting of a tool acquired by the importer at $1,000. The transportation expenses to the foreign assembler's plant for the tooling assist equal $100. The transaction value for the assembled unit would be $1.50 per unit plus a *pro rata* share of the tooling assist valued at $1,100.

(4) *Rebate.* Any rebate of, or other decrease in, the price actually paid or payable made or otherwise effected between the buyer and seller after the date of importation of the merchandise will be disregarded in determining the transaction value under §152.103(b).

(5) *Foreign inland freight.* If the price actually paid or payable by the buyer to the seller for the imported merchandise does not include a foreign inland freight charge (an ex-factory price), the foreign inland freight charge will not be added to the price if paid to a unrelated seller. In those situations where the price actually paid or payable for imported merchandise included a charge for foreign inland freight, that charge will be part of the transaction value to the extent it is included in that price.

(b) *Additions to price actually paid or payable.* (1) The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to—

(i) The packing costs incurred by the buyer with respect to the imported merchandise;

(ii)Any selling commission incurred by the buyer with respect to the imported merchandise;

(iii) The value, apportioned as appropriate, of any assist;

(iv) Any royalty or license fee related to the imported merchandise that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States; and

(v) The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

(2) The price actually paid or payable for imported merchandise will be increased by the amounts attributable to the items (and no others) described in paragraphs (b)(1) (i) through (v) of this section to the extent that each amount is not otherwise included within the price actually paid or payable, and is based on sufficient information. If sufficient information is not available, for any reason, with respect to any amount referred to in this section, the transaction value will be treated as one that cannot be determined.

(3) *Interpretative note.* A royalty is paid on the basis of the price in a sale in the United States of a gallon of a particular product imported by the pound and transformed into a solution after importation. If the royalty is based partially on the imported merchandise and partially on other factors which have nothing to do with the imported merchandise (such as if the imported

merchandise is mixed with domestic ingredients and is no longer separately identifiable, or if the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported merchandise and can be readily quantified, an addition to the price actually paid or payable will be made.

(c) *Sufficiency of information.* Additions to the price actually paid or payable will be made only if there is sufficient information to establish the accuracy of the additions and the extent to which they are not included in the price.

(d) *Assist.* If the value of an assist is to be added to the price actually paid or payable, or to be used as a component of computed value, the district director shall determine the value of the assist and apportion that value to the price of the imported merchandise in the following manner:

(1) If the assist consist of materials, components, parts, or similar items incorporated in the imported merchandise, or items consumed in the production of the imported merchandise, acquired by the buyer from an unrelated seller, the value of the assist is the cost of its acquisition. If the assist were produced by the buyer or a person related to the buyer, its value would be the cost of its production. In either case, the value of the assist would include transportation costs to the place of production.

(2) If the assist consists of tools, dies, molds, or similar items used in the production of the imported merchandise, acquired by the buyer from an unrelated seller,the value of the assist is the cost of its acquisition. If the assist were produced by the buyer or a person related to the buyer, its value would be cost of its production. If the assist has been used previously by the buyer, regardless of whether it had been acquired or produced by him, the original cost of acquisition or production would be adjusted downward to reflect its use before its value could be determined. If the assist were leased by the buyer from an unrelated seller, the value of the assist would be the cost of the lease. In either case, the value of the assist would include transportation costs to the place of production. Repairs or modifications to an assist may increase its value.

Example 1. A U.S. importer supplied detailed designs to the foreign producer. These designs were necessary to manufacture the merchandise. The U.S. importer bought the designs from an engineering company in the U.S. for submission to his foreign supplier.

Should the appraised value of the merchandise include the value of the assist?

No, design work undertaken in the U.S. may not be added to the price actually paid or payable.

Example 2. A U.S. importer supplied molds free of charge to the foreign shipper. The molds were necessary to manufacture merchandise for the U.S. importer. The U.S. importer had some of the molds manufactured by a U.S. company and others manufactured in a third country.

Should the appraised value of the merchandise include the value of the molds?

Yes. If is an addition required to be made to transaction value.

(e) *Apportionment.* (1) The apportionment of the value of assists to imported merchandise will be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles. The method of apportionment actually accepted by Customs will depend upon the documentation submitted by the importer. If the entire anticipated production using the assist is for exportation to the United States, the total value may be apportioned over (i) the first shipment, if the importer wishes to pay duty on the entire value at once, (ii) the number of units produced up to the time of the first shipment, or (iii) the entire anticipated production. In addition to these three methods, the importer may request some other method of apportionment in accordance with generally accepted accounting principles. If the anticipated production is only partially for exportation to the United States, or if the assist is used in several countries, the method of apportionment will depend upon the documentation submitted by the importer.

(2) *Interpretative note.* An importer provides the producer with a mold to be used in the production of the imported merchandise and contracts to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request Customs to apportion the value of the mold over 1,000, 4,000, 10,000 units, or any other figure which is in accordance with generally accepted accounting principles.

(f) *Royalties or license fees.* Royalties or license fees for patents covering processes to manufacture the imported merchandise generally will be dutiable. Royalties or license fees paid to third parties for use, in the United States, of copyrights and trademarks related to the imported merchandise generally will be considered selling expenses of the buyer and not dutiable. The dutiable status of royalties or license fees paid by the buyer will be determined in each case and will depend on (1) whether the buyer was required to pay them as a condition of sale of the merchandise for exportation to the United States, and (2) to whom and under what circumstances they were paid. Payments made by the buyer to a third party for the right to distribute or resell the imported merchandise will not be added to the price actually paid or payable for the imported merchandise if the payments are not a condition of the sale of the merchandise for exportation to the United States.

Example. A foreign producer sold merchandise to an unrelated U.S. importer. The U.S. importer pays a royalty to an unrelated third party for the right to manufacture and sell a product made in part from the imported merchandise. The royalty is based on the selling price of the further-manufactured product in the U.S.

Is the license fee part of the appraised value? No. The license fee is not a condition of the sale of the imported merchandise for export to the U.S.

(g) *Proceeds of subsequent resale.* Additions to the price actually paid or payable will be made for the value of any part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrues directly or indirectly to the seller. Dividends or other payments from the buyer to the seller which do not relate directly to the imported merchandise will not be added to the price actually paid or payable. Whether any addition would be made will depend on the facts of the particular case.

Example. A buyer contracts to import a new product. Not knowing whether the product ultimately will sell in the United States, the buyer agrees to pay the seller initially $1 per unit with an additional $1 per unit to be paid upon the sale of each unit in the United States. Assuming the resale price in the United States can be determined in a reasonable period of time, the transaction value of each unit would be $2. Otherwise, the transaction value could not be determined for want of sufficient information.

(h) *Right to reproduce.* Charges for the right to reproduce the imported merchandise in the United States will not be added to the price actually paid or payable. The right to reproduce denotes that an idea or an original work is incorporated in, or reflected by, the imported merchandise, and the right is reserved to reproduce that idea or work in other merchandise by using the imported merchandise. The concept of the right to reproduce relates only to the following classes of merchandise: originals or copies of artistic or scientific works; originals or copies of models and industrial drawings; model machines and prototypes; and plant and animal species.

Example. The importer purchases a painting. By purchasing the painting, the owner possesses the right to resell, lease, or otherwise place it on display. Absent an agreement to the contrary, he does not possess the right to reproduce copies of the painting. Fees paid for the right to reproduce the painting would not be dutiable.

(i) *Exclusions from transaction value.* The transaction value of imported merchandise does not include any of the following, if identified separately from the price actually paid or payable and from any cost or other item referred to in paragraph (b) of this section:

(1) Any reasonable cost or charge that is incurred for—

(i) The construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States; or

(ii) The transportation of the merchandise after its importation.

(2) The customs duties and other Federal taxes currently payable on the imported merchandise by reason of its importation, and any Federal excise tax on, or measured by the value of, the merchandise for which vendors in the United States ordinarily are liable.

Example. A foreign shipper sells a piece of equipment to a U.S. buyer. The total contract price for the equipment includes technical assistance in the U.S. The equipment cannot be purchased without the technical assistance, but the contract provides a breakdown of costs.

Should the appraised value include the technical assistance? No, transaction value does not include any reasonable costs for construction, erection, assembly, maintenance of, or technical assistance, for the imported merchandise after its importation into the U.S., the cost of which can be accurately identified as being separate from the price actually paid or payable for the merchandise to which they relate.

(j) *Limitations on use of transaction value.*—(1) *In general.* The transaction value of imported merchandise will be the appraised value only if—

(i) There are no restrictions on the disposition or use of the imported merchandise by the buyer, other than restrictions which are imposed or required by law, limit the geographical area in which the merchandise may be resold, or do not affect substantially the value of the merchandise;

(ii) The sale of, or the price actually paid or payable for, the imported merchandise is not subject to any condition or consideration for which a value cannot be determined;

(iii) No part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made under paragraph (b)(1)(v) of this section; and

(iv) The buyer and seller are not related, or the buyer and seller are related but the transaction value is acceptable.

(2) *Related person transactions.* (i) The transaction value between a related buyer and seller is acceptable if an examination of the circumstances of sale indicates that their relationship did not influence the price actually paid or payable, or if the transaction value of the imported merchandise closely approximates—

(A) The transaction value of identical merchandise, or of similar merchandise, in sales to unrelated buyers in the United States; or

(B) The deductive value or computed value of identical merchandise, or of similar merchandise; and

(C) Each value referred to in paragraph (j)(2)(i) (A) and (B) of this section that is used for comparison relates to merchandise that was exported to the United States at or about the same time as the imported merchandise.

(ii) In applying the values used for comparison, differences with respect to the sales involved will be taken into account if based on sufficient information supplied by the buyer or otherwise available to Customs and if the differences relate to—

(A) Commercial levels;

(B) Quantity levels;

(C) The costs, commissions, values, fees, and proceeds described in paragraph (b) of this section; and

(D) The costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

(k) *Restrictions and conditions on sale.* (1) A restriction placed on the buyer of imported merchandise that does not affect substantially its value will not prevent transaction value from being accepted as the appraised value.

(i) *Interpretative note.* A seller requires a buyer of automobiles not to sell or exhibit them before a fixed date that represents the beginning of a model year.

(2) The transaction value will not be accepted as the appraised value if the sale of, or the price actually paid or payable for, the merchandise is subject to a condition or consideration for which a value cannot be determined.

(i) *Interpretative note 1.* The seller establishes the price of the imported merchandise on condition that the buyer also will buy other merchandise in specified quantities.

(ii) *Interpretative note 2.* The price of the imported merchandise is dependent upon the price or prices at which the buyer of the merchandise sells other merchandise to the seller of the merchandise.

(iii) *Interpretative note 3.* The price of the imported merchandise is established on the basis of a form of payment extraneous to the merchandise, such as where the merchandise is to be further processed by the buyer, and has been provided by the seller on condition that he will receive a specified quantity of the finished merchandise.

(l) *Related buyer and seller.*—(1) *Validation of transaction.* The district director shall not disregard a transaction value solely because the buyer and seller are related. There will be related person transactions in which validation of the transaction value, using the procedures contained in § 152.103(j)(2), may not be necessary.

(i) *Interpretative note 1.* Customs may have previously examined the relationship or may already have sufficient detailed information concerning the buyer and seller to be satisfied that the relationship did not influence the price actually paid or payable. In such case, if Customs has no doubts about the acceptability of the price, the price will be accepted without requesting further information from the importer. If Customs does have doubts about the acceptability of the price and is unable to accept the transaction value without further inquiry, the importer will be given an opportunity to supply such further detailed information as may be necessary to enable Customs to examine the circumstances of the sale. In this context, Customs will examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at in order to determine whether the relationship influenced the price.

(ii) *Interpretative note 2.* If it is shown that the buyer and seller, although related, buy from and sell to each other as if they were not related, this will demonstrate that the price has not been influenced by the relationship, and the transaction value will be accepted. If the price has been settled in a manner consistent with the normal pricing practices of the industry in question, or with the way the seller settles prices for sales to buyers who are not related to him, this will demonstrate that the price has not been influenced by the relationship.

(iii) *Interpretative note 3.* If it is shown that the price is adequate to ensure recovery of all costs plus a profit which is equivalent to the firm's overall profit realized over a representative period of time (e.g., on an annual basis), in sales of merchandise of the same class or kind, this would demonstrate that the price has not been influenced.

Example. A foreign seller sells merchandise to a related U.S. importer. The foreign seller does not sell identical merchandise or similar merchandise to any unrelated parties. The transaction between the foreign seller and the U.S. importer is determined by Customs to be unaffected by the relationship.

How should the merchandise be appraised?

Transaction value based on the price actually paid or payable. A transaction value between a related buyer and seller is acceptable if the relationship did not affect the price actually paid or payable. This is so even if similar merchandise is being sold at a higher price, which includes a higher percentage for profit and general expenses.

(2) *Test values.* (i) The importer or the buyer may demonstrate that the transaction value in a related person transaction is acceptable by showing that the value "closely approximates" any one of the test values provided in § 152.103(j)(2)(i). The factors that will be examined to determine if the transaction value closely approximates a test value include:

(A) The nature of the imported merchandise and the industry,

(B) The season in which the merchandise is imported,

(C) Whether the difference in value is commercially significant, and

(D) Whether the difference in value is attributable to internal transport costs in the country of exportation.

(ii) Because these factors may vary, Customs will not be able to apply a uniform standard, such as a fixed percentage, in each case. A small difference in value in a case involving one type of imported merchandise may be unacceptable, although a large difference in a case involving another type may be acceptable, in determining if the transaction value closely approximates any of the test values. Customs will be consistent in determining if one value "closely approximates" another value. The same approach will be taken if Customs considers a transaction value that is higher than any of the enumerated test values as will be taken if the transaction value is lower than any of the test values.

Example. In applying any of the test values, if the transaction value in the sale under consideration is rejected because 95 does not closely approximate 100, then a transaction value for the sale of the same merchandise at 105 occurring at or about the same time likewise would have to be rejected. Similarly, if 103 were considered to closely approximate 100, a transaction value of 97 likewise would closely approximate 100.

(iii) If one of the test values provided in § 152.103(j)(2)(i) has been found to be appropriate, the district director shall not seek to determine if the relationship between the buyer and seller influenced the price. If the district director already has sufficient information to be satisfied, without further detailed inquiries, that one of the test values is appropriate, he shall not require the importer to demonstrate that the test value is appropriate.

(m) *Rejection of transaction value.* When Customs has grounds for rejecting the transaction value declared by an importer and that rejection increases the duty liability, the district director shall inform the importer of the grounds for the rejection. The importer will be afforded 20 days to respond in writing to the district director if in disagreement. This procedure will not affect or replace the administrative ruling procedures contained in Part 177 of this chapter, or any other Customs procedures.

§ 152.104 Transaction value of identical merchandise and similar merchandise.

(a) *General.* The transaction value of identical merchandise, or of similar merchandise, is the transaction value (acceptable as the appraised value under § 152.103 but adjusted under paragraph (e) of this section) of imported merchandise that is—

(1) With respect to the merchandise being appraised, either identical merchandise, or similar merchandise; and

(2) Exported to the United States at or about the time that the merchandise being appraised is exported to the United States.

(b) *Identical merchandise.* Minor differences in appearance will not preclude otherwise conforming merchandise from being considered "identical". See § 152.102(d).

(c) *Similar merchandise.* The quality of the merchandise, its reputation, and the existence of a trademark will be factors considered to determine whether merchandise is "similar". See § 152.102(i).

(d) *Commercial level and quantity.* Transaction values determined under this section will be based on sales of identical merchandise, or similar merchandise, at the same commercial level and in substantially the same quantity as the sales of the merchandise being appraised. If no such sale is found, sales of identical merchandise, or similar merchandise, at either a different commercial level or in different quantities, or both, will be used, but adjusted to take account of that difference. Any adjustment made under this section will be based on "sufficient information". See section 152.102(j). If in applying this section to any merchandise, two or more transaction values for identical merchandise, or for similar merchandise, are determined, the merchandise will be appraised on the basis of the lower or lowest of those values.

(e) *Adjustments.* (1) Adjustments for identical merchandise, or similar merchandise, because of different commercial levels or quantities, or both, whether leading to an increase or decrease in the value, will be made only on the basis of sufficient information; e.g., valid price lists containing prices referring to different levels or quantities.

(2) *Interpretative note.* If the imported merchandise being valued consists of a shipment of 10 units and the only identical imported merchandise for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being *bona fide* through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions for transaction value of identical or similar merchandise is not appropriate.

§ 152.105 Deductive value.

(a) *Merchandise concerned.* For the purposes of deductive value, "merchandise concerned" means the merchandise being appraised, identical merchandise, or similar merchandise.

(b) *Merchandise of the same class of kind.* For the purposes of deductive value, "merchandise of the same class or kind" includes merchandise imported from the same country as well as other countries as the merchandise being appraised.

(c) *Prices.* The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (d) of this section) is appropriate depending upon

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when and in what condition the merchandise concerned is sold in the United States:

(1) If the merchandise concened is sold in the condition as imported at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity at or about such date.

(2) If the merchandise concerned is sold in the condition as imported but not sold at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of such importation.

(3) If the merchandise concerned was not sold in the condition as imported and not sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 180th day after the date of such importation. This provision will apply to appraisement of merchandise only if the importer so elects at the time of filing the entry summary.

(d) *Deductions from price.* The price determined under paragraph (c) of this section will be reduced by an amount equal to—

(1) Any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported merchandise that is of the same class or kind, regardless of the country of exportation as the merchandise concerned;

(2) The actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;

(3) The usual costs and associated costs of transportation and insurance incurred with respect to shipments of the merchandise concerned from the place of importation to the place of delivery in the United States, if those costs are not included as a general expense under paragraph (d)(1) of this section;

(4) The customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, the merchandise for which vendors in the United States ordinarily are liable; and

(5) But only in the case of price determined under paragraph (c)(3) of this section, the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to the cost of that processing.

(e) *Profit and general expenses; special rules.* (1) The deduction made for profit and general expenses (taken as a whole) will be based upon the importer's profit and general expenses, unless the profit and general expenses are inconsistent with those reflected in sales in the United States of imported merchandise of the same class or kind from all countries, in which case the deduction will be based on the usual profit and general expenses reflected in those sales, as determined from sufficient information. Any State or local tax imposed on the importer with respect to the sale of imported merchandise will be treated as a general expense.

(2) In determining deductions for commissions and usual profit and general expenses, sales in the United States of the narrowest group or range of imported merchandise of the same class or kind, including the merchandise being appraised, for which sufficient information can be provided, will be examined.

(f) *Packing costs.* The price determined under paragraph (c) of this section will be increased, but only to the extent that the costs are not otherwise included, by an amount equal to the packing costs incurred by the importer or the buyer with respect to the merchandise concerned.

(g) *Assists.* For purposes of determining deductive value, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise concerned will be disregarded.

(h) *Unit price in greatest aggregate quantity.* The unit price will be established after a sufficient number of units have been sold to an unrelated person. The unit price to be used when the units have been sold in different quantities will be that at which the total volume sold is greater than the total volume sold at any other unit price.

(1) *Interpretative note 1.* Merchandise is sold to an unrelated person from a price list which grants favorable unit prices for purchases made in larger quantities:

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1–10 units	$100	10 sales of 5 units 5 sales of 3 units	65
11–25 units	95	5 sales of 11 units	55
Over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is $90.

(2) *Interpretative note 2.* Two sales to unrelated persons occur: in the first sale, 500 units are sold at a price of $95 each; in the second sale, 400 units are sold at a price of $90 each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is $95.

(3) *Interpretative note 3.* Various quantities are sold to unrelated persons at various prices:

(a) *Sales*

Sale quantity	Unit price
40 units	$100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) *Totals*

Total quantity sold	Unit price
65	$90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is $90.

(i) *Further processing.*—(1) *Quantified data.* If merchandise has undergone further processing after its importation into the United States and the importer elects the method specified in paragraph (c)(3) of this section, deductions made for the value added by that processing will be based on objective and quantifiable data relating to the cost of the work performed. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis for the deduction. That deduction also will reflect amounts for spoilage, waste, or scrap derived from the further processing.

(2) *Loss of identity.* If the imported merchandise loses its identity as a result of further processing, the method specified in paragraph (c)(3) of this section will not be applicable unless the value added by the processing can be determined accurately without unreasonable difficulty for either importers or Customs. If the imported merchandise maintains its identity but forms a minor element of the merchandise sold in the United States, the use of paragraph (c)(3) of this section will be unjustified. The district director shall review each case involving these issues on its merits.

Example. A foreign shipper sells merchandise to a related U.S. importer. The foreign shipper does not sell to any unrelated person. The transaction between the foreign shipper and the U.S. importer is determined to have been affected by the relationship. There is no identical or similar merchandise from the same country of production. The U.S. importer further processes the product and sells the finished product to an unrelated buyer in the U.S. within 180 days of the date of importation. No assists from the unrelated U.S. buyer are involved, and the type of processing involved can be accurately costed.

How should the merchandise be appraised?

The merchandise should be appraised under deductive value with allowances for profit and general expenses, freight and insurance, duties and taxes, and the cost of processing.

§ 152.106 Computed value.

(a) *Elements.* The computed value of imported merchandise is the sum of—

(1) The cost or value of the materials and the fabrication and other processing of any kind employed in the production of the imported merchandise;

(2) An amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class of kind as the imported merchandise that are made by the producers in the country of exportation for export to the United States;

(3) Any assist, if its value is not included under paragraph (a) (1) or (2) of this section; and

(4) The packing costs.

(b) *Special rules.* (1) The cost or value of materials under paragraph (a)(1) of this section will not include the amount of any internal tax imposed by the country of exportation that is directly applicable to the materials or their disposition if the tax is remitted or refunded upon the exportation of the merchandise in the production of which the materials were used.

(2) The amount for profit and general expenses under paragraph (a)(2) of this section will be based upon the producer's profit and general expenses, unless the producer's profit and general expenses are inconsistent with those usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States. In that case, the amount under paragraph (a)(2) of this section will be based on the usual profit and general expenses of such producers in those sales, as determined from "sufficient information". See § 152.102(j).

(c) *Profit and general expenses.* The amount for profit and general expenses will be taken as a whole. If the producer's profit figure is low and general expenses high, those figures taken together nevertheless may be consistent with those usually reflected in sales of imported merchandise of the same class or kind.

(1) *Interpretative note 1.* A product is introduced into the United States, and the producer accepts either no profit or a low profit to offset the high general expenses required to introduce the product into this market. If the producer can demonstrate that there is a low profit on sales of the imported merchandise because of peculiar commercial circumstances, the actual profit figures will be accepted provided the producer has valid commercial reasons to justify them and his pricing policy reflects the usual pricing policies in the industry.

(2) *Interpretative note 2.* Producers have been forced to lower prices temporarily because of an unforseeable drop in demand, or they sell merchandise to complement a range of merchandise being produced in the United States and accept a low profit to maintain competitiveness. If the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of merchandise of the same class or kind as the merchandise being valued which are made in the country of exportation for export to the United States, the amount for profit and general expenses will be based upon reliable and quantifiable information other than that supplied by or on behalf of the producer of the merchandise.

(d) *Assists and packing costs.* Computed value also will include an amount equal to the apportioned value of any assists used in the production of the imported merchandise and the packing costs for the imported merchandise. The value of any engineering, development, artwork, design work, and plans and sketches undertaken in the United States will be included in computed value only to the extent that their value has been charged to the producer. Depending on the producer's method of accounting, the value of assists may be included (duplicated) in the producer's cost of materials, fabrication, and other processing, or in the general expenses. If duplication occurs, a separate amount for the value of the assists will not be added to the other elements as it is not intended that any component of computed value be included twice.

(e) *Merchandise of same class or kind.* Sales for export to the United States of the narrowest group or range of imported merchandise, including the merchandise being appraised, will be examined to determine usual profit and general expenses. For the purpose of computed value, merchandise of the same class or kind must be from the same country as the merchandise being appraised.

Example. A foreign shipper sells merchandise to a related U.S. importer. The foreign shipper does not sell to any unrelated persons. The transaction between the foreign shipper and the U.S. importer is determined to have been affected by the relationship. There is no identical or similar merchandise from the same country of production. The U.S. importer further processes the product and sells the finished product to an unrelated buyer in the U.S. within 180 days of the date of importation. No assists from the unrelated U.S. buyer are involved, and the type of processing involved can be accurately costed. The U.S. importer has requested that the shipment be appraised under computed value. The profit and general expenses figure for the same class or kind of merchandise in the country of exportation for export to the U.S. is known.

How should the merchandise be appraised?

The merchandise should be appraised under computed value, using the company's profit and general expenses if not inconsistent with those usually reflected in sales of merchandise of the same class or kind.

(f) *Availability of information.* (1) It will be presumed that the computed value of the imported merchandise cannot be determined if—

(i) The importer is unable to provide required computed value information within a reasonable time, and/or

(ii) The foreign producer refuses to provide, or is legally prevented from providing, that information.

(2) If information other than that supplied by or on behalf of the producer is used to determine computed value, the district director shall inform the importer, upon written request, of

(i) The source of the information,

(ii) The data used, and

(iii) The calculation based upon the specified data

if not contrary to domestic law regarding disclosure of information. See also § 152.101(d).

§ 152.107 Value if other values cannot be determined or used.

(a) *Reasonable adjustments.* If the value of imported merchandise cannot be determined or otherwise used for the purposes of this subpart, the imported merchandise will be appraised on the basis of a value derived from the methods set forth in § 152.103 through 152.106, reasonably adjusted to the extent necessary to arrive at a value. Only information available in the United States will be used.

(b) *Identical merchandise or similar merchandise.* The requirement that identical merchandise, or similar merchandise, should be exported at or about the same time of exportation as the merchandise being appraised may be interpreted flexibly. Identical merchandise, or similar merchandise, produced in any country other than the country of exportation or production of the merchandise being appraised may be the basis for customs valuation. Customs values of identical merchandise, or similar merchandise, already determined on the basis of deductive value or computed value may be used.

(c) *Deductive value.* The "90 days" requirement for the sale of merchandise referred to in § 152.105(c) may be administered flexibly.

§ 152.108 Unacceptable bases of appraisement.

For the purposes of this subpart, imported merchandise may not be appraised on the basis of—

(1) The selling price in the United States of merchandise produced in the United States;

(2) A system that provides for the appraisement of imported merchandise at the higher of two alternative values;

(3) The price of merchandise in the domestic market of the country of exportation;

(4) A cost of production, other than a value determined under § 152.106 for merchandise that is identical merchandise, or similar merchandise, to the merchandise being appraised;

(5) The price of merchandise for export to a country other than the United States;

(6) Minimum values for appraisement;

(7) Arbitrary or fictitous values.

(R.S. 251, 46 Stat. 759, Title II, Pub. L. 96-39, 93 Stat. 194 (19 U.S.C. 66, 402, 1624))

[FR Doc. 81-815 Filed 1-9-81; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF STATE

22 CFR Part 18

[Dept. Reg. 108.799]

Regulations Concerning Post Employment; Conflict of Interest

AGENCY: Department of State.

ACTION: Interim rule.

SUMMARY: The interim rule implements the application of Title V of the Ethics in Government Act of 1978 by establishing the procedure for imposing administrative restrictions for violation of the post employment laws by former officers and employees of the Department of State, including the Foreign Service.

DATES: The effective date of the regulation will be January 1, 1981, but comments will be considered for possible amendments to the regulation.

Written comments must be received on or before February 11, 1981.

ADDRESS: Comments should be addressed to the Assistant Legal Adviser for Management, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Mr. K. E. Malmborg, Assistant Legal Adviser—(202) 632-2350.

SUPPLEMENTARY INFORMATION: Title V of the Ethics in Government Act of 1978 amended 18 U.S.C. 207, which prohibits certain post employment activities of former Government employees.

Subsection (j) of 18 U.S.C. 207 as amended, provides that if the head of a department finds that a former officer or employee of the department violated 18 U.S.C. 207(a), (b) or (c), he or she may prohibit that person from appearing before that department, or from communicating with that department with the intent to influence, on behalf of any other person (except the United States) for a period not to exceed five years, or take other appropriate disciplinary action. Subsection (j) also requires that the former officer or employee be given notice and opportunity for a hearing. Accordingly, departments and agencies, in consultation with the Director of the Office of Government Ethics, are required to establish procedures for implementing that responsibility by January 1, 1980. The Office of Government Ethics published interim regulations to implement 18 U.S.C. 207 in the **Federal Register** on April 3, 1979 (44 FR 19974 (1979)).

The interim rule implements 18 U.S.C 207(j) for the Department of State. It applies by reference, the substantive provisions of the regulations published by the Office of Government Ethics. The regulations will be enforced by the Director General of the Foreign Service and Director of Personnel.

The sanctions available may affect a former employee's eligibility to conduct business before the entire Department of State. It has been determined that the interim regulation does not meet the Department of State criteria for a significant regulation.

In consideration of the foregoing, after consultation with the Office of Government Ethics, Subchapter B of 22 CFR is amended by adding a new Part 18 to read as follows:

PART 18—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Subpart A—General Provisions

Sec.
18.1 Scope.
18.2 Definitions.
18.3 Director General.
18.4 Records.

Subpart B—Applicable Rules

18.5 Interpretative standards; advisory opinions.

Subpart C—Administrative Enforcement Proceedings

18.6 Authority to prohibit appearances.
18.7 Report of violation by a former employee.
18.8 Institution of proceeding.
18.9 Contents of complaint.
18.10 Service of complaint and other papers.
18.11 Answer.
18.12 Motions and requests.
18.13 Representation.
18.14 Hearing examiner.
18.15 Hearings.
18.16 Evidence.
18.17 Depositions.
18.18 Proposed findings and conclusions.
18.19 Decision of the hearing examiner.
18.20 Appeal to the Board of Appellate Review.
18.21 Decision of the Board of Appellate Review.
18.22 Notice of disciplinary action.

Authority: (18 U.S.C. 207, as amended, 92 Stat. 1864).

Subpart A—General Provisions

§ 18.1 Scope

This part contains rules governing disciplinary action against a former officer or employee of the Department of State, including the Foreign Service, because of a violation of the post employment conflict of interest prohibitions. Such disciplinary action may include prohibition from practice before the Department of State and any component thereof as defined in this part.

§ 18.2 Definitions.

For the purpose of this part—

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(a) The term "Department" means the Department of State and includes the Foreign Service.

(b) The term "Director General" means the Director General of the Foreign Service and Director of Personnel.

(c) The term "practice" means any informal or formal appearance before, or, with the intent to influence, any oral or written communication to the Department on a pending matter of business on behalf of any other person (except the United States).

§ 18.3 Director General.

The Director General shall institute and provide for the conduct of disciplinary proceedings involving former employees of the Department as authorized by 18 U.S.C. 207(j), and perform such other duties as are necessary or appropriate to carry out his/her functions under this part.

§ 18.4 Records.

The roster of all persons prohibited from practice before the Department shall be available to public inspection at the Office of Director General. Other records may be disclosed upon specific request, in accordance with appropriate disclosure regulations of the Department.

Subpart B—Applicable Rules

§ 18.5 Interpretative standards; advisory opinions.

(a) A determination that a former officer or employee of the Department violated 18 U.S.C. 207(a), (b) or (c) will be made in conformance with the standards established in the interpretative regulations promulgated, either in interim or final form by the Office of Government Ethics and published at 5 CFR Part 737.

(b) Former officers and employees of the Department wanting to know whether a proposed course of conduct would be in conformity with the Act or the interpretive regulations thereunder may contact the Assistant Legal Adviser for Management to request an advisory opinion.

Subpart C—Administrative Enforcement Proceedings

§ 18.6 Authority to prohibit appearances.

Pursuant to 18 U.S.C 207(j), if the Director General finds, after notice and opportunity for a hearing, that a former officer or employee of the Department has violated 18 U.S.C. 207(a), (b) or (c), the Director General in his/her discretion may prohibit that person from engaging in practice before the Department for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 18.7 Report of violation by a former employee.

(a) If an officer or employee of the Department has reason to believe that a former officer or employee of the Department has violated any provision of this part, or if any such officer or employee receives information to that effect, he/she shall promptly make a written report thereof, which report or a copy thereof shall be forwarded to the Director General. If any other person has information of such violations, he/she may make a report thereof to the Director General or to any officer or employee of the Department.

(b) The Director General shall coordinate proceedings under this part with the Department of Justice in cases where it initiates criminal prosecution.

§ 18.8 Institution of proceeding.

Whenever the Director General determines that there is sufficient reason to believe that any former officer or employee of the Department has violated 18 U.S.C. 207(a), (b) or (c), he/she may institute an administrative disciplinary proceeding. The proceeding may be for that person's suspension from practice before the Department or for some lesser penalty. The proceeding shall be instituted by a complaint which names the respondent and is signed by the Director General and filed in his/her office. Except in cases of willfulness, or where time, the nature of the proceeding, or the public interest does not permit, a proceeding will not be instituted under this section until facts or conduct which may warrant such action have been called to the attention of the proposed respondent in writing and he/she has been accorded the opportunity to provide his/her position on the matter.

§ 18.9 Contents of complaint.

A complaint shall plainly and concisely describe the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against him/her so that the respondent is able to prepare a defense. Written notification shall be given of the place and of the time within which the respondent shall file his/her answer, which time shall not be less than 15 days from the date of service of the complaint. Notice shall be given that a decision by default may be rendered against the respondent in the event he/she fails to file an answer.

§ 18.10 Service of complaint and other papers.

(a) Complaint. The complaint or a copy thereof may be served upon the respondent by certified mail; by delivering it to the respondent or his/her attorney or agent of record either in person; or by leaving it at the office or place of business of the respondent, attorney or agent; in any other manner which has been agreed to by the respondent; or by first-class mail in case of a person resident abroad.

(b) Service of papers other than complaint. Any paper other than the complaint may be served upon a respondent as provided in paragraph (a) of this section or by mailing the paper by first-class mail to the respondent at the last address known to the Director General, or by mailing the paper by first-class mail to the respondent's attorney or agent of record. Such mailing shall constitute complete service.

(c) Whenever the filing of a paper is required or permitted in connection with a proceeding, and the place of filing is not specified by this subpart or by rule or order of the hearing examiner, the paper shall be filed with the Director General, Department of State, Washington, D.C. 20520. All papers shall be filed in duplicate.

§ 18.11 Answer.

(a) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the Director General. The answer shall be filed in duplicate with the Director General.

(b) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the Director General shall constitute a waiver of hearing, and the Director General may make his/her decision by default without a hearing or further procedure.

§ 18.12 Motions and requests.

Motions and requests, including requests to intervene, may be filed with the Director General.

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§ 18.13 Representation.

A respondent or proposed respondent may appear in person or he/she may be represented by counsel or other representative. The Director General may be represented by an attorney or other employee of the Department.

§ 18.14 Hearing examiner

(a) After an answer is filed, if the Director General decides to continue the administrative disciplinary proceedings, he/she shall appoint a hearing examiner to conduct those proceedings under this part.

(b) *Authorities*. Among other powers, the hearing examiner shall have authority, in connection with any proceeding assigned or referred to him/her, to do the following:

(1) Take evidence under appropriate formalities;

(2) Make rulings upon motions and requests;

(3) Determine the time and place of hearing and regulate its course and conduct;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written argument on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(10) Make initial decisions.

§ 18.15 Hearings.

Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be closed unless an open hearing is requested by the respondent, except that if classified information or protected information of third parties is likely to be adduced at the hearing, it will remain closed. If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to him/her, he/she shall be deemed to have waived the right to a hearing and the hearing examiner may make a decision against the absent party by default.

§ 18.16 Evidence.

The rules of evidence prevailing in courts of law and equity are not controlling in hearings under this part. However, the hearing examiner shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

§ 18.17 Depositions.

Depositions for use at a hearing may, with the consent of the parties in writing or the written approval of the hearing examiner, be taken by either the Director General or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories. There shall be at least 10 days written notice to the other party. The requirement of a 10-day written notice may be waived by the parties in writing. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogation shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

§ 18.18 Proposed findings and conclusions.

Except in cases where the respondent has failed to answer the complaint or where a party has failed to appear at the hearing, the hearing examiner, prior to making his/her decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

§ 18.19 Decision of the hearing examiner.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the hearing examiner shall make the initial decision. The decision shall include

(a) a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and

(b) an order of suspension from practice before the Department or other appropriate disciplinary action, or an order of dismissal of the complaint. The hearing examiner shall file the decision with the Director General and shall transmit a copy thereof to the respondent or his/her attorney of record. A party adversely affected by the decision shall be given notice of his or her right to appeal to the Board of Appellate Review (Part 7 of this Chapter) within 30 days from the date of the hearing examiner's decision.

§ 18.20 Appeal to the Board of Appellate Review.

Within 30 days from the date of the hearing examiner's decision, either party may appeal to the Board of Appellate Review. The appeal shall be taken by filing notice of appeal, in triplicate, with the Board of Appellate Review, which shall state with particularity exceptions to the decision of the hearing examiner and reasons for such exceptions. If an appeal is by the Director General, he/she shall transmit a copy thereof to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief, in triplicate, with the Board of Appellate Review. If the reply brief is filed by the Director General, he/she shall transmit a copy of it to the respondent. The Director General shall transmit the entire case record to the Board of Appellate Review within 30 days after an appeal has been taken.

§ 18.21 Decision of the Board of Appellate Review.

The Board of Appellate Review shall decide the appeal on the basis of the record. The decision of the Board shall be final, and not subject to further administrative review. Copies of the Board's decision shall be forwarded promptly to the parties by the Board.

§ 18.22 Notice of disciplinary action.

Upon the issuance of a final order suspending a former officer or employee from practice before the Department, the Director General shall give notice thereof to appropriate officers and employees of the Department. Officers and employees of the Department shall refuse to participate in any appearance by such former officer or employee or to accept any communication which constitutes the prohibited practice before the Department during the period of suspension. The Director General shall take other appropriate disciplinary action as may be required by the final order.

Dated: December 3, 1980.

Robert H. Miller,

Acting Under Secretary of State for Management.

[FR Doc. 81-1100 Filed 1-9-81; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Export and Substitution Restrictions; Correction

AGENCY: Forest Service, USDA.

ACTION: Correction to final rule.

SUMMARY: Revised regulations regarding the export of timber from National Forest System lands and the use of such timber in substitution for private timber which is exported by the purchaser were published in the **Federal Register** on December 5, 1980, (45 FR 80526). This document sets forth corrections to that regulation to make it conform to the proposed rule. No substantive changes are made.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 447-4051.

1. Section 223.10(a)(4) and (b)(1) and (2) are revised to read as follows:

§ 223.10 Timber export and substitution restrictions.

(a) * * *

(4) Substitution means the purchase of unprocessed timber from National Forest System lands to be used as replacement for unprocessed timber from private lands which is exported by the purchaser. Substitution occurs when (i) a person increases purchases of National Forest timber in any Calendar year more than 10 percent above their historic level and in the same calendar year exports unprocessed timber from private land in the tributary area; or (ii) a person increases exports of unprocessed timber from private land in any tributary area more than 10 percent above their historic level in any calendar year while they have National Forest timber under contract.

* * * * *

(b) Unprocessed timber from National Forest System lands west of the 100th Meridian in the contiguous 48 States may not (1) be exported from the United States; (2) be used in substitution for unprocessed timber from private lands which is exported by the purchaser;

* * * * *

Bob Bergland

Secretary.

January 6, 1981.

[FR Doc. 81-1015 Filed 1-9-81; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

Rules of Practice in Patent Cases; Deposit of Computer Program Listings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: Rules of practice are amended to provide special procedures for presentation of computer program listings in the form of microfiche in patent applications. Use of microfiche is desirable in view of the number of computer program listings being submitted as part of the disclosure in patent applications. Such listings are often several hundred pages in length. By filing and publishing such computer program listings on microfiche rather than on paper, substantial cost savings can result to the applicants, the public, and the Patent and Trademark Office.

DATES: Sections 1.77 and 1.96 effective January 12, 1981. Section 1.21 effective March 13, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Louis O. Maassel by telephone at (703) 557-3070 or, for details of the specifications, Mr. J. Kent Hughes at (703) 557-0410, or by mail marked to their attention addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This notice changes two rules and adds a new rule to provide suitable procedures for presenting computer program listings where such listings are submitted with applications for patent to fulfill the disclosure requirements of 35 U.S.C 112.

Classification

This amendment of Part I of Title 37 CFR is deemed significant under procedures established by the Department of Commerce pursuant to Executive Order 12044.

Regulatory Analysis

The Patent and Trademark Office has reviewed the amendment and determined that it will have no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044.

Background

The notice of proposed rulemaking was published in the **Federal Register** of June 15, 1977 at 42 FR 30522 and in the Official Gazette of July 5, 1977 at 960 O.G. 2. An oral hearing was held on September 13, 1977.

A computer program listing, as used in these rules, means the printout that lists, in proper sequence, the instructions, routines, and other contents of a program for a computer. The listing may be either in machine or machine-independent (object or source) programming language which will cause a computer to perform a desired task, such as solving a problem, regulating the flow of work in a computer, or controlling or monitoring events. The general description of the computer program listing will appear in the specification while computer program listing may appear either directly or as a microfiche as appendix to the specification and be incorporated into the specification by reference.

Discussion of the Background and Major Issues Involved

The provisions of 37 CFR 1.52 and 1.84 for submitting specifications and drawings on paper have been found suitable for most patent applications. However, when lengthy computer program listings must be disclosed in a patent application in order to provide a complete disclosure, use of paper copies can become burdensome.

The cost of printing long computer programs in patent documents is also very expensive to the Patent and Trademark Office. Likewise, the issue fee, which must be paid by the applicant, is based on the number of pages and may be correspondingly high.

In the past, all disclosures part of a patent application were presented on paper with the exception of microorganisms. Under new section 1.96, several different methods for submitting computer program listings, including the use of microfiche are set forth.

Relatively short computer program listings (10 pages or less) will be submitted on paper and be printed as part of the patent. If the computer program listing is 10 or more pages in length, it may be submitted on either paper or microfiche, although microfiche is preferred.

Copies of publicly available computer program listings will be available from the Patent and Trademark Office at a cost of one dollar per microfiche or on paper at a cost of 30 cents per page. These costs represent the estimated costs to the Office of furnishing the copies.

Response to Public Comments Received

Nine individuals and organizations submitted written comments relating to the proposed rule change. Two additional individuals asked for clarification of certain points at the oral hearing.

All of the suggestions relating to clarification of the rules were adopted.

The proposal to accept microfiche for 10 or less pages of listing was not adopted since such listings cause no serious printing or cost problems. It is not considered to be cost effective to prepare and maintain a microfiche on so few pages.

The suggestion to permit lined paper was not adopted since high-quality reproduction procedures used would pick up such lines.

A number of proposals were directed to permitting listings to be filed on other forms of microfilm and machine readable material. Such proposals were not adopted at this time in view of the difficulty to the public and the office of reading and reproducing such material on a single machine.

The mandatory use of microfiche for listings over 50 pages has been deleted since such a mandatory requirement would conflict with the Patent Cooperation Treaty requirements.

Other Information

The micrographic standards referred to in section 1.96(b)(2) may be obtained from either the National Micrographic Association, 8719 Colesville Road, Silver Spring, Maryland, 20910 or the American National Standards Institute, 1430 Broadway, New York, New York 10018.

Amendment of Regulations

For the reasons set out in the preamble and under the authority given to the Commissioner of Patents and Trademarks by 35 USC §§ 6 and 41, Part 1 of Title 37 CFR is amended as set forth below.

1. Section 1.21 is amended by adding a new paragraph (l) to read as follows:

§ 1.21 Patent and miscellaneous fees and charges

* * * * *

(l) The fee for obtaining a microfiche copy of an available microfiche, per microfiche $1.00

* * * * *

2. Section 1.77 is amended by revising paragraph (c) to read as follows:

§ 1.77 Arrangement of application

* * * * *

(c)(1) Cross-reference to related applications, if any.

(2) Reference to a "microfiche appendix" if any. (See Section 1.96(b)). The total number of microfiche and total number of frames should be specified.

* * * * *

3. A new Section 1.96 is added and reads as follows:

§ 1.96 Submission of computer program listings.

Descriptions of the operation and general content of computer program listings should appear in the description portion of the specification. A computer program listing for the purpose of these rules is defined as a print-out that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform a desired procedure or task such as solve a problem, regulate the flow of work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications in the following forms:

(a) *Material which will be printed in the patent.* If the computer program listing is contained on 10 printout pages or less, it must be submitted either as drawings or as part of the specification.

(1) *Drawings.* The listing may be submitted in the manner and complying with the requirements for drawings as provided in Section 1.84. At least one figure numeral is required on each sheet of drawing.

(2) *Specification.* (i) The listing may be submitted as part of the specification in accordance with the provisions of Section 1.52, at the end of the description but before the claims.

(ii) The listing may be submitted as part of the specification in the form of computer printout sheets (commonly 14 by 11 inches in size) for use as "camera ready copy" when a patent is subsequently printed. Such computer printout sheets must be original copies from the computer with dark solid black letters not less than 0.21 cm high, on white, unshaded and unlined paper, the printing on each sheet must be limited to an area 9 inches high by 13 inches wide, and the sheets should be submitted in a protective cover. When printed in patents, such computer printout sheets will appear at the end of the description but before the claims and will usually be reduced about ½ in size with two printout sheets being printed as one patent specification page. Any amendments must be made by way of submission of a substitute sheet if the copy is to be used for camera ready copy.

(b) *As an appendix which will not be printed.* If a computer program listing printout is 11 or more pages long, applicants may submit such listing in the form of microfiche, referred to in the specification (see § 1.77 (c)(2)). Such microfiche filed with a patent application is to be referred to as a "microfiche appendix." The "microfiche appendix" will not be part of the printed patent. Reference in the application to the "microfiche appendix" should be made at the beginning of the specification at the location indicated in § 1.77(c)(2). Any amendments thereto must be made by way of revised microfiche. All computer program listings submitted on paper will be printed as part of the patent.

(1) *Availability of appendix.* Such computer program listings on microfiche will be available to the public for inspection, and paper or microfiche copies thereof will be separately available for purchase, after a patent based on such an application is granted or the application is otherwise made publicly available.

(2) *Submission requirements.* Computer-generated information submitted as an appendix to an application for patent shall be in the form of microfiche in accordance with the standards set forth in the following American National (ANSI) or National Micrographics Association (NMA) Standards (Note: As new editions of these standards are published, the latest shall apply):

ANSI PH 1.28–1976—Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.
ANSI PH 1.41—1976 Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.
NMA–MS1 (1971) Quality Standards for Computer Output Microfilm.
ANS1/NMA MS2 (1978) Format and Coding Standards for Computer Output Microfilm.
NMA MS5 (ANSI PH 5.9–1975) Microfiche of Documents.
ANSI PH 2.19 (1959)—Diffuse Transmission Density.

except as modified or clarified below:

(i) Either Computer-Output-Microfilm (COM) output or copies of photographed paper copy may be submitted. In the former case, NMA standards MS1 and MS2 apply; in the latter case, standard MS5 applies.

(ii) Film submitted shall be first generation (camera film) negative appearing microfiche (with emulsion on the back side of the film when viewed with the images right reading).

(iii) Reduction ratio of microfiche submitted should be 24:1 or a similar ratio where variation from said ratio is required in order to fit the documents into the image area of the microfiche format used.

(iv) Film submitted shall have a thickness of at least .005 inches (0.13 mm) and not more than .009 inches (0.23 mm) for either cellulose acetate base or polyester base type.

(v) Both microfiche formats A1 (98 frames, 14 columns x 7 rows) and A3 (63 frames, 9 columns x 7 rows) which are described in NMA standard MS2 (A1 is also described in MS5) are acceptable for use in preparation of microfiche submitted.

(vi) At least the left-most 1/3 (50 mm x 12 mm) of the header or title area of each microfiche submitted shall be clear or positive appearing so that the Patent and Trademark Office can apply serial number and filing date thereto in an eye-readable form. The middle portion of the header shall be used by applicant to apply an eye-readable application identification such as the title and/or the first inventor's name. The attorney's docket number may be included. The final right-hand portion of the microfiche shall contain sequence information for the microfiche, such as 1 of 4, 2 of 4, etc.

(vii) Additional requirements which apply specifically to microfiche of filmed paper copy:

(A) The first frame of each microfiche submitted shall contain a standard test target which contains five NBS Microcopy Resolution Test Charts (No. 1010A), one in the center and one in each corner. See illustration on page 2 of NMA Recommended Practice MS104, Inspection and Quality Control of First Generation Silver Halide Microfilm. See also paragraph 7 of NMA-MS5.

(B) The second frame of each microfiche submitted must contain a fully descriptive title and the inventor's name as filed.

(C) The pages or lines appearing on the microfiche frames should be consecutively numbered.

(D) Pagination of the microfiche frames shall be from left to right and from top to bottom.

(E) At a reduction of 24:1 resolution of the original microfilm shall be at least 120 lines per mm (5.0 target) so that reproduction copies may be expected to comply with provisions of paragraph 7.1.4. of NMA Standard MS5.

(F) Background density of negative appearing camera master microfiche of filmed paper documents shall be within the range 0.9 to 1.2 and line density should be no greater than 0.08. The density shall be visual diffuse density as measured using the method described in ANSI Standard PH 2.19.

(G) An index, when included, should appear in the last frame (lower right hand corner when data is right-reading) of each microfiche. See NMA-MS5, paragraph 6.6.

(viii) Microfiche generated by Computer Output Microfilm (COM).

(A) Background density of negative-appearing COM-generated camera master microfiche shall be within the range of 1.5 to 2.0 and line density should be no greater than 0.2. The density shall be visual diffuse density as described in ANSI PH 2.19.

(B) The first frame of each microfiche submitted should contain a resolution test frame in conformance with NMA standard MS1.

(C) The second frame of each microfiche submitted must contain a fully descriptive title and the inventor's name as filed.

(D) The pages or lines appearing on the microfiche frames should be consecutively numbered.

(E) It is preferred that pagination of the microfiche frames be from left to right and top to bottom but the alternative, i.e., from top to bottom and from left to right, is also acceptable.

(F) An index, when included, should appear on the last frame (lower right hand corner when data is right reading) of each microfiche.

(G) Amendment of microfiche must be made by way of replacement microfiche.

Dated: December 19, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Dated: December 30, 1980.

Approved:

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 81-1012 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5791

[LA-0155887]

California; Partial Revocation of Reclamation Withdrawals

Correction

In FR Doc. 80-39804, published at page 84788, in the issue of Tuesday, December 23, 1980, in the third column, the tenth line from the bottom of the page, the first entry now reading "NE½" should read "NE¼".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 201

[Docket No. AMRP-2, Notice 1]

Formal Rules of Practice for Passenger Service; Addition of New Part

AGENCY: Federal Railroad Administration ("FRA"), DOT.

ACTION: Final rule.

SUMMARY: Subsections 402(f) and 402(h) of the Rail Passenger Service Act (45 U.S.C. 562 (f) and (h), "the Act"), require the Secretary of Transportation ("the Secretary") to make findings and issue orders concerning passenger service operation by the National Railroad Passenger Corporation ("Amtrak") in conjunction with railroad facilities owned by private railroad companies and regional transportation agencies (collectively, "the railroads"). The Secretary's duties under these sections include consideration of accelerated speed proposals and proposals for operation of additional trains by Amtrak, including such matters as whether such accelerated speeds are unsafe or otherwise impracticable, the nature and extent of improvements to track, signal systems, and other facilities that would be required to make such accelerated speeds safe and practicable, and whether the operation of additional trains would unduly impair the freight operations of the railroad involved. The Secretary has delegated these duties to the Federal Railroad Administrator ("the Administrator"), and the new part sets forth procedures by which the Administrator shall discharge such duties.

DATES: This rule is effective on January 12, 1981. Written comments must be received before February 26, 1981. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

ADDRESS: Written comments should identify the docket and notice numbers and be submitted in triplicate to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590. Persons desiring notification that their written comments have been received by FRA shall submit a stamped, self-addressed postcard with the comments. FRA will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours (8:30 a.m.—5 p.m.) in Room 5101 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Gregory B. McBride, Office of the Chief Counsel, RCC–50, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, 202–472–5438.

SUPPLEMENTARY INFORMATION: In order to provide national rail passenger service, Amtrak has entered into numerous agreements with the railroads for the operation of passenger trains and for the use of railroad facilities. Various sections of the Act authorize the Secretary to act when Amtrak and a contracting railroad are unable to agree on modification of preference rights (402(e)), accelerated speeds (402(f)), additional passenger trains (402(h)), and disposal of railroad facilities (406). These rules pertain to the Secretary's duties under subsections 402(f) and 402(h) of the Act.

Section 10(2) of the Amtrak Improvement Act of 1973 (Pub. L. 93–146) added subsection (f) to section 402 of the Act. Subsection 402(f) concerns the maximum speeds at which trains may be operated by or on behalf of Amtrak. If a railroad refuses to permit accelerated speeds, Amtrak may apply to the Secretary for an order requiring the railroad to permit those speeds. In addition to examining the safety and practicability of such speeds, the Secretary shall also make findings with respect to the nature and extent of railroad facility improvements necessary to make the accelerated speeds safe and practicable. After a hearing, the Secretary shall issue an order fixing maximum speeds for Amtrak trains on just and reasonable terms and conditions.

Section 216 of the Passenger Railroad Rebuilding Act of 1980 (Pub. L. 96–254) added subsection (h) to section 402 of the Act. Subsection 402(h) concerns the mandatory operation of additional trains for Amtrak by a railroad with which Amtrak is unable to obtain a satisfactory voluntary agreement for this purpose. The Secretary may, after a hearing on the record, order the railroad to permit or provide the requested operation of additional trains on schedules based upon legally permissible operating times. The hearing includes consideration of whether an order would unduly impair freight operations by the railroad, and the burden is on the railroad opposing the additional passenger trains to demonstrate that the requested operation would impair freight operations. The Secretary is also required to give consideration to the statutory goal that Amtrak shall implement schedules that will attain a system-wide average speed of at least 55 miles per hour which can be adhered to with a high degree of reliability and passenger comfort.

Under 49 CFR 1.49(1), the Secretary has delegated the duties under subsections 402 (f) and (h) to the Administrator. The Administrator proposes to execute these duties under this new part. The first paragraph of the part provides a general statement of authority. The second paragraph incorporates by reference the definitions of the preceding part. The third paragraph sets forth the scope of the regulations. The fourth paragraph sets out procedures for applying for a hearing. The fifth paragraph provides for publication of notices of hearings. The sixth paragraph provides for notification by interested persons. The seventh paragraph sets out the qualifications and powers of the hearing officer. The eighth paragraph requires direct testimony to be in writing. The ninth paragraph lists the address to which affidavits and exhibits shall be sent. The tenth paragraph provides for inspection and copying of documents. The eleventh paragraph prohibits ex parte communications. The twelfth paragraph provides for prehearing conferences. The thirteenth paragraph describes the final hearing agenda. The fourteenth paragraph provides for cancellation of hearings. The fifteenth paragraph provides for rebuttal testimony to be submitted after the prehearing conference. The sixteenth paragraph provides for waiver of hearing rights for failure to notify the Administrator as required. The seventeenth paragraph provides for the conduct of the hearing. The eighteenth paragraph prescribes rules for direct testimony. The nineteenth paragraph prescribes rules for cross-examination. The twentieth paragraph provides for oral and written arguments. The twenty-first paragraph provides for the hearing officer's actions after the hearing. The twenty-second paragraph provides for the final decision by the Administrator on the issue and for publication of the decision in the **Federal Register.**

Since this regulation involves agency practice, the rule-making procedures of 5 U.S.C. 553 do not apply. Instead, FRA has determined that this regulation is a non-significant regulation under the criteria stipulated by DOT In its Regulatory Policies and Procedures (44 FR 11034) implementing Executive Order 12044. Since the proposed application and hearing procedures are relatively simple and straight forward and involve only a one-time process rather than a continuing reporting requirement, the economic impact on potential applicants and the railroad industry would be minimal. Therefore, FRA has concluded that a full regulatory evaluation of this proposed amendment is inappropriate. In addition, FRA has determined that, under DOT's Regulatory Policies and Procedures, this is an emergency regulation. Because of short-term statutory deadlines, a pending application must be acted on in the very near future; therefore, these regulations are issued as final regulations effective on the date of publication. They may be changed, however, in light of written comments.

FRA has evaluated this document and determined that it does not have any special impact on small business.

In consideration of the foregoing, Chapter II of Title 49 of the Code of Federal Regulations is amended by adding a new Part 201, Formal Rules of Practice for Passenger Service, to read as set forth below.

Issued in Washington, D.C. on December 24, 1980

John M. Sullivan,
Administrator.

PART 201—FORMAL RULES OF PRACTICE FOR PASSENGER SERVICE

Sec.

201.1 General.
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201.22 Recommended decision, certification of the transcript, and submission of comments on the recommended decision.
201.23 Administrator's decision.

Authority: Secs. 402(f) and (h) of Pub. L. 91–518, 84 Stat. 1327, as amended by sec. 10(2) of Pub. L. 93–146, 87 Stat. 548 and sec. 216 of Pub. L 96–254, 94 Stat. 418 (45 U.S.C. 562 (f) and (h)); sec. 1.49 of Title 49, Code of Federal Regulations.

§ 201.1 General.

This part prescribes procedures under which applications will be received and heard and by which rules and orders will be issued under subsections 402(f) and (h) of the Rail Passenger Service Act (45 U.S.C. 562 (f) and (h)).

§ 201.3 Definitions.

(a) The definitions set forth in § 200.3 shall apply to this part.

(b) The following definitions shall also apply to this part:

(1) "Party" means—

(i) The Administrator or his representative; or

(ii) A person who has notified the Administrator by specified dates of his or her intent to participate in the hearing pursuant to §§ 201.7 and 201.16(b).

(2) "Witness" means any person who submits written direct testimony on an application to the Secretary under this part. A person may be both a party and a witness.

§ 201.4 Scope of Regulations.

The procedural regulations in this part govern the practice and procedure in hearings held under subsections 402(f) and (h) of the Act. These hearings will be governed by the provisions of 5 U.S.C. section 556 and section 557 of the Administrative Procedure Act. The regulations shall be construed to secure the just, speedy, and inexpensive determination of all issues raised with respect to any proposal to increase speeds or to add trains pursuant to subsections 402(f) and (h) of the Act with full protection for the rights of all persons affected thereby.

§ 201.5 Applications.

(a) Each application and objection under this part shall be submitted in writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590.

(b) Any procedural issues arising from the submission or consideration of applications under this part, such as timeliness and adequacy, shall be heard and decided by the presiding officer appointed under § 201.8.

(c) In accordance with subsection 402(f) of the Act, Amtrak may apply to the Administrator for an order requiring a railroad to permit accelerated speeds by Amtrak trains. Each application shall:

(1) List by endpoints the routes for which Amtrak desires such acceleration;

(2) Not list routes of more than one railroad;

(3) Indicate by route and train the maximum speeds for Amtrak trains permitted by the railroad and the maximum speeds desired by Amtrak;

(4) Indicate for each route listed the track classification as specified in FRA track safety standards (49 CFR Part 213); and

(5) Explain why the maximum speeds Amtrak desires are safe and practicable, or what track, signal system, or other facility improvements would make such speeds safe and practicable.

(d) In accordance with subsection 402(h) of the Act, Amtrak may apply to the Administrator for an order to require a railroad to permit or provide the operation of additional passenger trains on its rail lines. Each application shall:

(1) List the railroad, the endpoints of the proposed additional train or trains, and the proposed schedule for such additional train or trains, and

(2) Describe and give the background of all prior efforts and negotiations to obtain a satisfactory voluntary agreement with the railroad for the operation of the proposed additional train or trains.

(e) In addition to the data provided with their applications, applicants shall furnish the Administrator with any other information that the Administrator finds necessary in order to make the determinations required by the Act.

(f) Each applicant shall promptly notify, by registered or certified mail, any party affected by any application, whether Amtrak or a railroad, of the submission of each application under this part, and shall provide a copy of the application with such notice. An official United States Postal Service return receipt from the registered or certified mailing constitutes prima facie evidence of notice.

§ 201.6 Notice of hearing.

(a) A notice of hearing on an application shall be published in the **Federal Register.**

(b) The notice shall state:

(1) The nature of the hearing;

(2) The place and date of the hearing. The date shall not be less than 60 days after publication of notice of the hearing;

(3) The legal authority under which the hearing is to be held;

(4) Issues of fact which may be involved in the hearing;

(5) If a draft Environmental Impact Statement is required, the date of publication of the draft and the place(s) where the draft and comments thereon may be viewed and copied;

(6) The place(s) where records and submitted direct testimony will be kept for public inspection;

(7) The final date for filing a notice of intent to participate in the hearing;

(8) The final date for submission of direct testimony on the application, and the number of copies required;

(9) The docket number assigned to the case, which shall be used in all subsequent proceedings; and

(10) The place and date of the prehearing conference.

§ 201.7 Notification by interested persons.

Any person desiring to participate as a party shall notify the Administrator, by registered or certified mail, on or before the date specified in the notice.

§ 201.8 Presiding officer.

(a) Upon publication of the notice of hearing pursuant to § 201.6, the Administrator shall appoint a presiding officer pursuant to 5 U.S.C. 3105. No individual who has any conflict of interest, financial or otherwise, shall serve as presiding officer in such proceeding.

(b) The presiding officer, in any proceeding under this part, shall have power to:

(1) Change the time and place of the hearing and adjourn the hearing;

(2) Evaluate direct testimony submitted pursuant to these regulations, make a preliminary determination of the issues, conduct a prehearing conference to determine the issues for the hearing agenda, and cause to be published in the **Federal Register** a final hearing agenda;

(3) Rule upon motions, requests, and admissibility of direct testimony;

(4) Administer oaths and affirmations, question witnesses, and direct witnesses to testify;

(5) Modify or waive any rule (after notice) upon determining that no party will be prejudiced;

(6) Receive written comments and hear oral agruments;

(7) Render a recommended decision; and

(8) Do all acts and take all measures, including regulation of media coverage, for the maintenance of order at and the efficient conduct of the proceeding.

(c) In case of the absence of the original presiding officer or his inability to act, the Administrator may assign to a successor the powers and duties of the original presiding officer without abatement of the proceeding unless otherwise ordered by the Administrator.

(d) The presiding officer may upon his own motion withdraw as presiding officer in a proceeding if he deems himself to be disqualified.

(e) A presiding officer may be requested to withdraw at any time prior to the recommended decision. Upon the filing by an interested person in good faith of a timely and sufficient affidavit alleging the presiding officer's personal

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bias, malice, conflict of interest, or other basis which might result in prejudice to a party, the hearing shall recess. The Administrator shall immediately act upon such allegation as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as he may deem appropriate in the circumstances.

§ 201.9 Direct testimony submitted as written documents.

(a) Unless otherwise specified, all direct testimony, including accompanying exhibits, shall be submitted to the presiding officer in writing no later than the dates specified in the notice of the hearing, the final hearing agenda, or within 15 days after the conclusion of the prehearing conference, as the case may be. All direct testimony shall be in affidavit form, and exhibits constituting part of such testimony, referred to in the affidavit and made a part thereof, shall be attached to the affidavit. Direct testimony submitted with exhibits shall state the issue to which the exhibit relates; if no such statement is made, the presiding officer shall determine the relevance of the exhibit to the issues published in the **Federal Register**.

(b) The direct testimony submitted shall contain:

(1) A concise statement of the witness' interest in the proceeding and his position regarding the issues presented. If the direct testimony is presented by a witness who is not a party, the witness shall state his relationship to the party;

(2) Facts that are relevant and material; and

(3) Any proposed issues of fact not stated in the notice of the hearing and the reason(s) why such issues should be considered at the hearing.

(c) Ten copies of all direct testimony shall be submitted unless the notice of the hearing specifies otherwise.

(d) Upon receipt, direct testimony shall be assigned a number and stamped with that number and the docket number.

(e) Contemporaneous with the publication of the notice of hearing, Amtrak's direct testimony in support of its application shall be available for public inspection as specified in the notice of hearing. Amtrak may submit additional direct testimony during the time periods allowed for submission of such testimony by witnesses.

§ 201.10 Mailing address.

Unless otherwise specified in the notice of hearing, all direct testimony shall be addressed to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590. All affidavits and exhibits shall be clearly marked with the docket number of the proceeding.

§ 201.11 Inspection and copying of documents.

(a) If confidential financial information is not involved, any document in a file pertaining to any hearing authorized by this part or any document forming part of the record of such a hearing may be inspected or copied in the Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, unless the file is in the care and custody of the presiding officer in which case he shall notify the parties as to where and when the record may be inspected.

(b) If confidential financial information is involved, the presiding officer, at his discretion, upon the request of any party, may deny the public inspection and copying of such information.

§ 201.12 Ex parte communications.

(a) After notice of a hearing is published in the **Federal Register**, all communications, whether oral or written, involving any substantive or procedural issue and directed either to the presiding officer or to the Administrator, without reference to these rules of procedure, shall be deemed ex parte communications and shall not be considered part of the record for decision. A record of oral ex parte communications shall be made by the persons contacted. All written ex parte communications shall be available for public viewing at the places(s) specified in the notice of hearing.

(b) The presiding officer shall not consult any person or party on any fact in issue or on the merits of the matter unless notice and opportunity is given for all parties to participate.

§ 201.13 Prehearing conference.

(a) After an examination of all the direct testimony submitted, the presiding officer shall make a preliminary determination of issues of fact to be addressed at the hearing.

(b) The presiding officer's preliminary determination shall be made available at the place or places provided in the notice of the hearing at least five days before the prehearing conference is held.

(c) The purpose of the prehearing conference shall be to enable the presiding officer to determine, on the basis of the direct testimony submitted and prehearing discussions:

(1) Whether the presiding officer's preliminary determination of issues of fact for the hearing has omitted or misconstrued any significant issues, and

(2) The nature of the interest of each party and which parties' interests are adverse.

(d) Only parties may participate in the prehearing conference. A party may appear in person or be represented by counsel.

(e) Parties who do not appear at the prehearing conference shall be bound by the conference's determinations.

§ 201.14 Final agenda of the hearing.

(a) After the prehearing conference, the presiding officer shall prepare a final agenda which shall be published in the **Federal Register** within ten days after the conclusion of the conference. A copy of the final agenda shall be mailed to all parties.

(b) The final agenda shall list: (1) All the issues the hearing shall address, the order in which those issues shall be presented, and the direct testimony submitted on those issues; and (2) a final date for submission of direct testimony on issues of fact not included in the notice of hearing if such issues are presented. The final agenda may also specify a final date for submission of direct testimony to rebut testimony previously submitted during the time specified in the notice of the hearing.

(c) The presiding officer shall publish with the final agenda a list of witnesses who may appear at the hearing, a list of parties, the nature of the interest of each party, and which parties' interests are adverse on the issues presented.

§ 201.15 Determination to cancel the hearing.

(a) If the presiding officer concludes that no issues of fact are presented by the direct testimony submitted, he shall publish such conclusion in the **Federal Register** with a notice that a hearing shall not be held. The notice shall set forth a date for filing written comments on the proposed recommended decision. Written comments may include proposed findings and conclusions, arguments, or briefs.

(b) A person need not be a party to submit written comments.

(c) Promptly after expiration of the period for receiving written comments, the presiding officer shall make a recommended decision based on the record, which in this case shall consist of the testimony, exhibits, and written comments submitted. He shall transfer to the Administrator his recommended decision, the record, and a certificate stating that the record contains all the written direct testimony and comments submitted. The Administrator shall then make a final decision in accordance with these regulations.

§ 201.16 Rebuttal testimony and new issues of fact in final agenda.

(a) Direct testimony to rebut testimony offered during the time period specified in the notice of hearing may be submitted pursuant to these regulations within fifteen days after the conclusion of the prehearing conference unless the presiding officer otherwise specifies in the final agenda.

(b) If the final agenda presents issues not included in the notice of the hearing published pursuant to § 201.6,

(1) Any person interested in participating at the hearing on such issues presented shall notify the Administrator by certified mail of an intent to participate not later than ten days after publication of the final agenda. Such person may present direct testimony or cross-examine witnesses only on such issues presented unless he previously notified the Administrator pursuant to § 201.7, and

(2) Additional written direct testimony concerning such issues may be submitted within the time provided in the final agenda. Such direct testimony will comply with the requirements of § 201.9.

§ 201.17 Waiver of right to participate.

Persons who fail to notify the Administrator pursuant to §§ 201.7 and 201.16 shall be deemed to have waived their right to participate as parties in any part of the hearing.

§ 201.18 Conduct of the hearing.

(a) The hearing shall be held at the time and place fixed in the notice of hearing, unless the presiding officer changes the time or place. If a change occurs, the presiding officer shall publish the change in the **Federal Register** and shall expeditiously notify all parties by telephone or by mail; *provided*, that if the change in time or place of hearing is made less than five days before the date previously fixed for the hearing, the presiding officer shall also announce, or cause to be announced, the change at the time and place previously fixed for the hearing.

(b) The presiding officer shall, at the commencement of the hearing, introduce into the record. The notice of hearing as published in the **Federal Register**; all subsequent notices published in the **Federal Register**; the draft Environmental Impact Statement if it is required, and the comments thereon and agency responses to the comments; and a list of all parties. Direct testimony shall then be received with respect to the matters specified in the final agenda in such order as the presiding officer shall announce. With respect to direct testimony submitted as rebuttal testimony or in response to new issues presented by the prehearing conference, the presiding officer shall determine the relevance of such testimony.

(c) The hearing shall be publicly conducted and reported verbatim by an offical reporter.

(d) If a party objects to the admission or rejection of any direct testimony or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the presiding officer. The transcript shall not include argument or debate thereon except as ordered by the presiding officer. The ruling of the presiding officer on any objection shall be a part of the transcript and shall be subject to review at the same time and in the same manner as the Administrator's final decision. Only objections made before the presiding officer may subsequently be relied upon in the proceedings.

(e) All motions and requests shall be addressed to, and ruled on by, the presiding officer if made prior to his certification of the transcript, or by the Administrator if made thereafter.

§ 201.19 Direct testimony.

(a) Direct testimony shall be submitted by affidavit as provided in these regulations and introduced at the hearing by a witness in order to be considered part of the record. Such direct testimony shall not be read into evidence but shall become a part of the record subject to exclusion of irrelevant and immaterial parts thereof.

(b) The witness introducing direct testimony shall:

(1) State his name, address, and occupation;

(2) State his qualifications for introducing the direct testimony. If an expert, the witness shall briefly state the scientific or technical training that qualifies him as an expert;

(3) Identify the direct testimony previously submitted in accordance with these regulations; and

(4) Submit to appropriate direct and cross examination. Cross-examination shall be by a party whose interests are adverse to those of the witness on the issue presented if the witness is a party, or adverse to the interests of the party who presented the witness if the witness is not a party.

(c) A party shall be deemed to have waived the right to introduce direct testimony if such party fails to present a witness to introduce the direct testimony.

(d) Offical notice may be taken of such matters as are judicially noticed by the courts of the United States, *provided*, that parties shall be given adequate notice by the presiding officer at the hearing of matters so noticed and shall be given adequate opportunity to show that such facts are inaccurate or are erroneously noticed.

§ 201.20 Cross-examination.

(a) The presiding officer may:

(1) Require the cross-examiner to outline the intended scope of the cross-examination;

(2) Prohibit parties from cross-examining witnesses unless the presiding officer has determined that the cross-examiner has an adverse interest on the facts at issue to the party-witness. For the purposes of this subsection, the Administrator's or his representative's interest shall be considered adverse to all parties;

(3) Limit the number of times any party or parties having a common interest may cross-examine an "adverse" witness on the same matter; and

(4) Exclude cross-examination questions that are immaterial, irrelevant, or unduly repetitious.

(b) Any party shall be given an opportunity to appear, either in person or through an authorized counsel or representative, to cross-examine witnesses. Before cross-examining a witness, the party or counsel shall state his name, address, and occupation. If counsel cross-examines the witness, counsel shall state for the record the authority to act as counsel. Cross-examiners shall be assumed to be familiar with the direct testimony.

(c) Any party or party's counsel who fails to appear at the hearing to cross-examine an "adverse" witness shall be deemed to have waived the right to cross-examine that witness.

(d) Scientific, technical, or commercial publications may be used only for the limited purpose of impeaching witnesses under cross-examination unless previously submitted and introduced in accordance with these regulations.

§ 201.21 Oral and written arguments.

(a) The presiding officer may, in his discretion, provide for oral argument at the end of the hearing. Such argument, when permitted, may be limited by the presiding officer to the extent necessary for the expeditious disposition of the proceeding.

(b) The presiding officer shall announce at the hearing a reasonable period of time within which any interested person may file with the presiding officer any written comments on the application, including proposed findings and conclusions or written arguments or brief based upon the record, citing where practicable the relevant page or pages of the transcript. If a party filing a brief desires the presiding officer to reconsider any objection made by such party to a ruling of the presiding officer, he shall specifically identify such rulings by reference to the pertinent pages of the transcript and shall state his arguments thereon as a part of the brief.

(c) Oral or written arguments shall be limited to issues arising from direct testimony on the record.

§ 201.22 Recommended decision, certification of the transcript, and submission of comments on the recommended decision.

(a) Promptly after expiration of the period for receiving written briefs, the presiding officer shall make a recommended decision based on the record and transmit the decision to the Administrator. The recommended decision shall include:

(1) A statement containing a description of the history of the proceedings;

(2) Findings on issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(b) The presiding officer shall also transmit to the Administrator the transcript of the hearing, the original and all copies of the direct testimony, and written comments. The presiding officer shall attach to the original transcript of the hearing a certificate stating that, to the best of his knowledge and belief, the transcript is a true transcript of the testimony given at the hearing except in such particulars as are specified.

(c) Immediately after receipt of the recommended decision, the Administrator shall give notice thereof in the **Federal Register**, send copies of the recommended decision to all parties, and provide opportunity for the submission of comments. The recommended decision may be reviewed and/or copied in the Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590.

(d) Within twenty days after the notice of receipt of the recommended decision has been published in the **Federal Register**, any interested person may file with the Administrator any written comments on the recommended decision. All comments shall be submitted during the twenty-day period to the Administrator at the above address.

§ 201.23 Administrator's decision.

(a) Upon receipt of the recommended decision and transcript and after the twenty-day period for receiving written comments on the recommended decision has passed, the Administrator's decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions, and decision of the presiding officer. The Administrator may also remand the hearing record to the presiding officer for a fuller development of the record.

(b) The Administrator's decision shall include:

(1) A statement containing a description of the history of the proceeding;

(2) Findings on issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(c) The Administrator's decision shall be published in the **Federal Register**. If the Amtrak application is approved in whole or in part, the final order shall be promulgated with the decision.

[FR Doc. 81-881 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-12; Notice 2]

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 209, *Seat Belt Assemblies*, to exempt seat belts installed in conjunction with automatic restraint systems from the belt elongation requirements of the standard. This amendment is based on a petition for rulemaking submitted by Mercedes-Benz of North America and follows the publication of a proposal. The amendment permits manufacturers to install belt systems incorporating load-limiting devices which are intended to make further reductions in head and upper torso injuries during an accident. Some load-limiting belt systems utilize webbing that elongates more than is currently allowed by Standard No. 209. This amendment would permit this and other type systems to exceed the maximum elongation allowed by the standard.

DATES: This amendment is effective January 12, 1981.

ADDRESSES: Any petitions for reconsideration should refer to the docket number and notice number and be submitted to: National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: Safety Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), specifies performance requirements for seat belts to be used in motor vehicles. One of these performance requirements specifies the maximum amount that the webbing of a belt assembly is permitted to extend or elongate when subjected to certain specified forces (paragraph S4.2(c)). Mercedes-Benz of North America petitioned NHTSA to exempt seat belt assemblies installed in passenger cars in conjunction with air cushion restraint systems from the webbing elongation requirements of the standard. The agency granted that petition and issued a notice of proposed rulemaking to amend the standard on August 4, 1980 (45 FR 51626).

Mercedes is considering the use of a belt system that incorporates a load-limiting device. A load-limiter is a seat belt assembly component or feature that controls tension on the seat belt and modulates or limits the force loads that are imparted to a restrained vehicle occupant by the belt assembly during a crash. Load-limiting devices are intended to reduce head and upper torso injuries through increased energy management. A load-limiter can be a separate component of the seat belt system, such as a torsion bar that allows the retractor to reel out additional webbing when a certain designed force level is reached. The load-limiter can also be a feature of the webbing itself, such as webbing that will elongate to certain designed lengths when subjected to particular force levels. Mercedes is interested in using the latter type load-limiting system. However, the webbing in the Mercedes belt system would elongate beyond the limits that are currently specified in Standard No. 209. Mercedes' petition stated that this type belt system should be allowed in vehicles equipped with air cushion restraints since the two systems used in conjunction with one another can be designed to achieve the maximum reduction in head injuries and upper torso injuries.

Although safety belts protect occupants from life-threatening impacts with the vehicle interior, the forces necessarily generated by the belts upon occupants during a crash can result in upper torso injury. As noted in the notice of proposed rulemaking, data available to the agency indicate that load-limiting belts can reduce these injuries, as well as working in combination with an automatic restraint system to provide protection for impacts with the vehicle interior. The proposal specified that both Type 1 (lap belts) and Type 2 (combination lap and shoulder belts) manual belts having load-limiting devices and used in conjunction with automatic restraints would be exempted from the elongation requirements. Additionally, the proposal specified that such belts would have to be labeled to clarify that they are intended for use only in vehicles equipped with automatic restraint systems.

The proposal limited the use of load-limiting belts to vehicles equipped with automatic restraints since there are currently no dynamic performance requirements or injury criteria for manual belt systems used alone. There are no requirements to ensure that a load-limiting belt system would protect vehicle occupants from impacting the steering wheel, instrument panel and windshield, which would be very likely if the belts elongated beyond the limits specified in Standard No. 209. Therefore, the elongation requirements are necessary to ensure that manual belts used as the sole restraint system will adequately restrain vehicle occupants.

Nine comments were submitted in response to the August 4 proposal, all supporting the exemption for load-limiting belts. Vehicle manufacturers stated that the proposed exemption from the elongation requirements would allow design flexibility and lead to improved occupant restraint systems.

American Motors Corporation (AMC) stated that the exemption for load-limiting belts should only apply to Type 2 manual belts. The company argued that the only available data relates to the ability of Type 2 load-limiting belts to reduce certain head and upper-torso injuries. AMC stated that torso injury is not a function of lap belt loads and that no similar correlation has been made between lap belt loads and pelvic fractures. Therefore, the company believes that the exemption from the elongation requirements for Type 1 belts should be postponed until specific injury patterns can be correlated with lap belt loads.

The agency proposed allowing the exemption for both Type 1 and Type 2 belts in order to give manufacturers broader design latitude to use load-limiting features on all belt systems used in conjuction with automatic restraints. AMC is correct in its statement that more data are available regarding the correlation between Type 2 belts and upper-torso injury than is available regarding load-limiting features on Type 1 belts. However, comments received from Rolls-Royce Motors stated that the company has tested manual Type 1 belts incorporating load-limiting features and found that better results are obtained under the injury criteria of Safety Standard No. 208 (49 CFR 571.208) than with Type 1 belts which must comply with the elongation requirements. In light of this information, and the fact that load-limiting Type 1 belts would only be allowed in conjuction with automatic restraint systems complying with the injury criteria of Standard No. 208, the agency has decided to include Type 1 belts in the exemption. This will allow manufacturers to develop innovative designs to maximize the protection provided by its automatic restraint systems. If future data indicate a problem with Type 1 belts that incorporate load-limiting features, the exemption from the elongation requirements can be reconsidered by the agency.

The August 4, 1980, notice proposed to add a new definition to Standard No. 209 to define "load-limiter", and limited the exemption from the elongation requirements to belts incorporating load-limiters and installed in conjunction with automatic restraints. Volvo of America Corporation commented that the definition of "load-limiter" is very broad and could be interpreted to include all existing belt webbing. Volvo stated that the exemption should, therefore, apply to any Type 1 or 2 belt installed in conjunction with an automatic restraint, and not be limited to load-limiting belts.

While the agency understands Volvo's point that the proposed language may be extremely detailed, we believe the language is necessary to clarify the exemption and to avoid confusion for belt manufacturers. Safety Standard No. 209 is an equipment standard rather than a vehicle standard, and each seat belt assembly must be certified by the belt manufacturer. The proposed language was intended to create a clear distinction between belts complying with elongation requirements of Safety Standard No. 209 and those that incorporate load-limiting features that preclude compliance with the elongation requirements. The proposed language explained which belt systems must be labeled as being for use only in vehicles equipped with automatic restraints. The agency believes this language, including the definition of "load limiter", is necessary at the current time to clarify the requirements for those persons or manufacturers who may not be totally familiar with the requirements of Safety Standard No. 209. Otherwise, it would not be clear from the standard why certain belts are exempted from the elongation requirements of the standard.

In another comment related to this same subject, General Motors Corporation pointed out that the proposed labeling requirement for load-limiting belts could apply to all Type 1 and 2 belts incorporating load-limiting features even if all current 209 requirements are met. General Motors stated that load-limiting belt systems that can, nevertheless, comply with the elongation requirements of the standard should not be limited in their application to vehicles equipped with automatic restraint systems. The agency agrees with this argument, and the language is changed in this amendment accordingly.

General Motors also questioned the need to require any label at all on load-limiting belts. The proposal specified that such belts would have to be permanently marked or labeled to indicate the assembly may only be installed in vehicles in conjunction with an automatic restraint system. General Motors argued that a label is not necessary to control the installation of load-limiting belts in the proper vehicles. Seat belt manufacturers must currently provide appropriate installation instructions for its equipment. General Motors contends that this requirement, coupled with the fact that replacement belts are generally ordered and installed by a repair facility, will ensure that load-limiting belts are only installed in vehicles equipped with automatic restraints. The agency does not agree with this position. As stated earlier, the agency believes that care must be taken to distinguish load-limiting belt systems from other systems. If there is a label on the belt itself, a person making the installation will be aware that the belt should only be installed in conjunction with automatic restraints. This should be made obvious to the person making the installation without reference to the installation instructions. Further, none of the other commenters objected to the proposed labeling requirement. American Motors Corporation specifically stated that a label is necessary.

General Motors is correct in its statement that this warning will also be provided in the installation instructions provided by the belt manufacturer. Paragraphs S4.1(l) of Safety Standard No. 209 provides, in part, that the installation instruction sheet provided by the belt manufacturer shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles. Therefore, belt manufacturers will be required to specify in the installation instructions that load-limiting belts are only to be installed in combination with automatic restraint systems. The agency believes that at the current time these duplicative warnings, in the instruction sheet and on a belt label, are a necessary precaution to ensure that load-limiting belts are only installed in the proper vehicles. After a majority of vehicles on the road are equipped with automatic restraints, such labeling may no longer be necessary.

Volvo of America Corporation commented that some upper limit on belt elongation may be required for Type 1 manual belts incorporating load-limiting features, although no such limit was specified in the proposal. Volvo pointed out that Type 1 belts installed in conjunction with air cushion restraints will also provide roll-over protection for vehicle occupants. The company is concerned that if no upper limit on elongation is specified, such belts may not provide the intended protection in roll-over accidents.

While the agency agrees that this is a legitimate concern, it does not believe it is necessary to specify such an upper limit at the current time. It is not likely that manufacturers will design load-limiting belt systems that will elongate appreciably beyond the limits specified in Standard No. 209. Presumably, load-limiting belts will be designed to provide actual restraint in conjunction with the automatic restraint system, if the vehicle is to comply with the injury criteria of Safety Standard No. 208. If a load-limiting belt design elongates to the extent that it would provide no protection in roll-over accidents, it would also not provide any protection in frontal crashes. Therefore, it is not likely that manufacturers would permit such extensive elongation in their systems. Moreover, the forces generated in frontal crashes are more severe than those that occur in roll-over accidents, so the elongation that would occur even with load-limiting systems would not be as great in roll-over accidents as in frontal accidents. The agency believes that manufacturers should be given broad latitude in the development of load-limiting belt systems to be used in vehicles equipped with automatic restraints. In light of these considerations, no uppper limit on belt elongation is specified in this amendment. Manufacturers should be cognizant of the point made by Volvo, however, during the development of their systems.

The comments of Renault USA included general questions regarding automatic seat belts and the relationship between Safety Standard No. 208 and Safety Standard No. 209. Some confusion apparently exists regarding paragraph S4.5.3.4 of Safety Standard No. 208 and agency interpretations regarding that paragraph. The agency has stated in the past that only automatic belts that are installed to meet the frontal crash protection requirements of S5.1 of Standard No. 208 are exempted from the requirements of Standard No. 209. Yet, the agency has also stated that those portions of Standard No. 209 relating to retractors are applicable to all automatic belts. Renault finds these statements inconsistent.

Paragraph S4.5.3.4 of Standard No. 208 is a general provision which exempts certain automatic belts, those meeting the injury criteria of the standard, from the requirements of Standard No. 209. However, paragraph S4.5.3.3(a) of Standard No. 208 specifically provides that automatic belts shall conform to S7.1 of Standard No. 208, and that paragraph relates to the performance requirements for belt retractors specified in Standard No. 209. It is for this reason that the agency has stated that all automatic belts must comply with the retractor requirements, notwithstanding the general exemption specified in S4.5.3.4.

Renault contends that paragraph S4.5.3.4 is also inconsistent by its own terms since, Renault states, an automatic belt system must always comply with the injury criteria of S5.1 of Standard No. 208. This incorrect. Paragraph S4.5.3 of Safety Standard No. 208 specifies that an automatic belt may be used to meet the crash protection requirements of any option under S4 and in place of any seat belt assembly otherwise required by that option. Therefore, prior to the effective date of the automatic restraint requirements of the standard, automatic belts could be used to satisfy the third option of section S4—the seat belt option. Automatic belts installed under the third option would not be required to comply with the injury criteria of S5.1, since the injury criteria is only specified as a requirement under option 1 and option 2. Manufacturers are permitted, however, to install automatic belts in satisfaction of either option 1 or option 2 and to certify to the injury criteria, if they desire. In summary, automatic belts installed in passenger cars in compliance with the injury criteria of Safety Standard No. 208 are only required to comply with the provisions of Safety Standard No. 209 relating to retractors. They are not required to comply with any other provision in Standard No. 209. Automatic belts installed in passenger cars that are not certified as being in compliance with the injury criteria of Standard No. 208, i.e., those installed under the third option of the standard, are required to comply with all provisions of Standard No. 209. Manual seat belts having load-limiters, installed in vehicles in conjunction with automatic restraints meeting the injury criteria of Standard No. 208, are required to comply with all provisions of Standard No. 209 except the elongation requirements (by this amendment).

The agency has determined that this amendment is not a significant regulation under Executive Order 12221, "Improving Government Regulations," and the Departmental guidelines implementing that Order. Therefore, a regulatory analysis is not required. The exemption specified in this amendment provides manufacturers with broader design alternatives and should havé little if any economic or environmental impact. Consequently, the agency has also determined that a regulatory evaluation is not required.

The engineer and lawyer primarily responsible for the development of this rule are William Smith and Hugh Oates, respectively.

§ 571.209 [Amended].

In consideration of the foregoing, Safety Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), is amended as set forth below.

1. A new definition is added to section S3 to read: "Load-limiter" means a seat belt assembly component or feature that controls tension on the seat belt to modulate the forces that are imparted to occupants restrained by the belt assembly during a crash.

2. Paragraph S4.2(c) is amended to add the following phrase to the beginning of the first sentence: "Except as provided in S4.5,"

3. Paragraph S4.4(a) is amended to add the following phrase to the beginning of the first sentence after the heading "Type 1 seat belt assembly": "Except as provided S4.5,"

4. Paragraph S4.4(b) is amended to add the following phrase to the beginning of the first sentence after the heading "Type 2 seat belt assembly": "Except as provided in S4.5."

5. A new section S4.5 is added to read:

S4.5 *Load-limiter.* (a) A Type 1 or Type 2 seat belt assembly that includes a load-limiter is not required to comply with the elongation requirements of S4.2(c), S4.4(a)(2), S4.4(b)(4) or S4.4(b)(5).

(b) A Type 1 or Type 2 seat belt assembly that includes a load-limiter and that does not comply with the elongation requirements of this standard may be installed in motor vehicles only in conjunction with an automatic restraint system as part of a total occupant restraint system.

(c) In addition to the marking requirements specified in S4.1(k), a Type 1 or Type 2 seat belt assembly that includes a load-limiter and that does not comply with the elongation requirements of this standard shall be permanently and legibly marked or labeled with the following words:

"This seat belt assembly may only be installed in vehicles in combination with an automatic restraint system such as an air cushion or an automatic belt."

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 5, 1981.

Joan Claybrook,

Administrator.

[FR Doc. 81–1036 Filed 1–9–81; 8:45 am]

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Proposed Rules

Federal Register
Vol. 46, No. 7
Monday, January 12, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. F&V AO 205-A5]

Filberts Grown in Oregon and Washington; Recommended Decision on Proposed Amendment of the Marketing Agreement, as Amended, and Order, as Amended, and Opportunity To File Written Exceptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision proposes an amendment of the filbert marketing agreement and order, and provides interested persons opportunity to file written exceptions to the proposals. The proposed amendment would change the method for adopting and implementing the marketing policy and volume regulation. Other proposals include a definition of a new term, "marketing year," which would change procedures for various aspects of marketing order administration, and would change the name of the Filbert Control Board to the Filbert/Hazelnut Marketing Board. The main purpose of the proposal is to improve the effectiveness of the order.

DATE: Written exceptions to this recommended decision must be filed by January 30, 1981.

ADDRESSES: Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written exceptions shall be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-5053. The Draft Impact Statement describing the options considered in developing this proposal and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding: Notice of Hearing—Issued June 18, 1980, and published June 24, 1980 (45 FR 42315).

This proposal has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant".

J. S. Miller has determined that an emergency situation exists that warrants less than a 60-day comment period. If adopted, the new marketing year would begin May 1, 1981, and handlers need to know of any such change as soon as possible so they can plan their processing, shelling and marketing operations accordingly.

Preliminary statement. Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed amendment of the marketing agreement and order regulating the handling of filberts grown in Oregon and Washington. Copies of this decision may be obtained from the Hearing Clerk.

This proposed amendment was formulated on the record of a public hearing held at Portland, Oregon, July 9, 1980. Notice of the hearing was published in the June 24, 1980, issue of the **Federal Register** (45 FR 42315). The notice contained proposals submitted by the Filbert Control Board.

Material issues. The material issues of record are as follows:

(1) Adding the definitions of (a) "marketing year" and (b) "disappearance", and (c) revising the definition of "Board";

(2) Providing for a public member and alternate on the Board and establishing the qualifications for such membership;

(3) Changing the dates specified nomination procedures and terms of office for members and alternates on the Board;

(4) Providing that the books of the Board be audited by one or more public accountants at least once each marketing year;

(5) Changing the method for adopting and implementing the Board's marketing policy and volume regulation;

(6) Clarifying which free and restricted percentages are applicable at any given time;

(7) Changing the date by which handlers may defer satisfying their restricted obligations by posting bonds;

(8) Increasing the maximum level of funds in the Board's operating reserve;

(9) Changing the dates by which excess funds may be used by the Board or must be refunded to handlers;

(10) Changing the dates by which handlers must report their carryovers; and

(11) Making such changes in the order as may be necessary to bring it into conformity with any amendment that may result from the hearing.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing.

(1)(a) A new term, "marketing year" should be added to the marketing agreement and order (hereinafter referred to as the "order") and defined in § 982.17 to mean the 12 months from May 1 to the following April 30, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary. This term would replace "fiscal year" and "marketing policy year", both of which are currently defined to mean the 12 months from August 1 to the following July 31, both inclusive. The current definition of "marketing policy year" also provides for "such other period of time as may be recommended by the Board (i.e., the Filbert Control Board hereinafter referred to as the "Board") and established by the Secretary."

It was proposed in the notice of hearing (hereinafter referred to as the "notice") that the definitions of "fiscal year" and "marketing policy year" be revised to mean the 12 months from May 1 to the following April 30, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary. With respect to the proposed revision of the definition of "marketing policy year", the evidence of record is that the dates of operation should be so revised. While the order currently permits this change through informal rulemaking, proponents testified that the revised dates of operation should be stated in the order.

The marketing policy year now begins August 1. The purpose of the proposal to change the beginning of the year to May 1 is to encourage handlers to shell or export filberts during May, June, and July. Currently, handlers tend to delay shelling or exporting until August 1 in order to obtain restricted credit in the new marketing policy year. Thus, these handlers may have a substantial inventory of inshell filberts. In the past, this delay has resulted in uncertainty for handlers in planning for pre-harvest shipments of inshell filberts. Also, excessive supplies of inshell filberts carried over into a new marketing policy year have resulted in price weakness in that year. To the extent that the change in marketing policy year would encourage earlier shelling and exporting of filberts during May, June, and July, it would reduce handlers' inventories of inshell filberts and in turn lower their costs.

May 1 should be selected initially for the beginning of the marketing policy year because April 30 is inventory tax date in Oregon and handlers take inventory as of that date. Moreover, handlers generally have completed processing by May 1, and most have satisfied their withholding obligations by then. However, there is still time to develop shelled and export business. Authority to change the date by informal rulemaking should be retained in the order in the event that unforeseen circumstances develop which would necessitate changing the beginning of that year.

The evidence of record does not support the need for a separate definition of "fiscal year" since no situation was envisioned in the testimony that revealed that the fiscal year date should differ from the marketing policy year. It was testified that beginning the fiscal and marketing years on different dates would only create confusion in the Board's records, in appointment of Board members and in reconciling data. One operating period should apply to order provisions which currently refer either to a "marketing policy year" or "fiscal year". In lieu of those terms, the term "marketing year" should be defined and substituted for "marketing policy year" and "fiscal year" wherever these terms appear in the order. Sections 982.54(c) and 982.86(b)(3) should also be revised by deleting "(or fiscal year, if applicable)" wherever that term appears. Also, for the purpose of uniformity in Material Issues to follow, "marketing year" will be used in the discussion of recommended changes instead of "marketing policy year", or "fiscal year" as contained in the notice.

(b) Current § 982.19 should be redesignated § 982.20 and a new § 982.19 should be added to define the term "disappearance" to mean the difference between orchard-run production and the available supply of merchantable filberts and merchantable equivalent of shelled filberts. The term "disappearance" should also reflect the quantity of cull filberts that are of no value, filberts used at home, local sales and unharvested filberts. Orchared-run production is the total amount of filberts produced by growers. The available supply of merchantable filberts and the merchantable equivalent of shelled filberts should be understood to include the merchantable inshell equivalent of ungraded lots.

The addition of a definition of the term "disappearance" is necessary because that term appears in the revised §§ 982.30(c) (1) and (2), as discussed in the Material Issue (5). Provisions in these two subsections provide that for the purpose of computing the "preliminary computed" and "final computed" percentages, the average of the "disappearance" for the past three years shall be used. The use of such an average eliminates the need for the Board to estimate in September the amount of the individual components to be included in the new definition of "disappearance". The precise level of components is difficult to estimate before harvest and the three year average of disappearance should be a close approximation. For the purpose of recommending "final" percentages on or before November 15, the Board may consider the estimates of the individual factors which would be included in "disappearance".

(c) The definition of "Board" in § 982.18 should be revised to mean the "Filbert/Hazelnut Marketing Board". "Filberts" are generally known as "Hazelnuts" on world markets and this change would identify the domestic commodity more clearly when exported to those markets. "Marketing" should be substituted for "Control", since "Marketing" more clearly demonstrates the purposes of the Board. As a conforming change, the title of the order should be changed to read "Filberts/Hazelnuts Grown in Oregon and Washington".

(2) In § 982.30(g), "public" should be inserted before "member" to make it clear that the person serving on the board is neither a grower nor a handler but represents the public.

So that the "public member" would be truly representative of the public and represent its views, that member should not have any direct financial interest in the growing or handling of filberts. The term "direct" should mean that the "public member" would not have any business dealing with any handler or grower and would not receive any remuneration directly from a grower or handler. "Direct financial interest", however, should not include interests clearly of an indirect nature such as salaries of University employees who receive grants for studies of agricultural products. This qualification should be added as a new paragraph (b) in § 982.34. Paragraph (b) should provide that any person nominated to serve as a public member or alternate shall not have a direct financial interest in any filbert growing or handling operation.

Except as provided in §§ 982.30(g) and 982.34(b), the evidence of record is that it is unnecessary to provide any additional qualifications for public member because the language should be broad enough to include anyone who is outside the industry and well qualified. The aim of the Board should be to recommend those who understand the marketing process and have a knowledge of consumer interests.

(3) In view of the proposal in Material Issue No. (1)(a) to change the beginning date of the marketing year to May 1, the dates in §§ 982.32 (e) and (f), and 982.33(b)(1), which pertain to nomination procedures and terms of office for members and alternates on the Board, should be deleted and replaced with provisions expressed in terms of a specified number of days before or after the beginning of the marketing year, as applicable. Then, it would be unnecessary to amend §§ 982.32 and 982.33 if the dates of the marketing year are changed.

In § 982.32(e), June 1 should be deleted as the final date for submitting board nominees to the Secretary and replaced with a provision setting the deadline for submitting nominations 60 days prior to the beginning of a marketing year. This would provide adequate time for the Secretary to act on the nominations prior to the marketing year. Also, the term "that date" appearing in the last sentence of paragraph (e) should be deleted, and the phrase "by that time" substituted because a date would no longer be contained in that paragraph. For effective management of the order, all industry Board members should be selected by the Secretary before the beginning of the marketing year to provide continuity in the decision making process of the Board.

A proposal in the notice of hearing to amend the first sentence of § 982.32(e) by deleting the word "group" where it first appears in that sentence was not supported at the hearing and that word should be retained.

Since the beginning of terms of office of Board members would coincide with the beginning of the marketing year, the phrase "by July 1 of any year", in the second sentence of § 982.32(f) should be deleted and the phrase "within 30 days after the beginning of the marketing year", substituted instead. This change would allow the Secretary to select the public member or alternate without regard to nominations if the new Board members fail to nominate such member or alternate within 30 days after the beginning of the marketing year.

Finally, § 982.33(b) should be amended to eliminate the specific dates of August 1 and July 31. Instead, the beginning of the terms of office of all Board members should coincide with the beginning of the marketing year to enable them to perform their duties as Board members more efficiently.

(4) The Board should cause its books to be audited by one or more public accountants, approved by the Board, at least once for each marketing year and at such other times as the Board deems necessary or as the Secretary may request, and file with the Secretary reports of all audits made. This duty is different from that proposed at the hearing which would have required the use of one or more "accountants", and different from that currently set forth in § 982.39(f) which requires the Board to use a "competent public accountant" and file with the Secretary three copies of the reports of all audits made.

The evidence of record does not support the use of an "accountant" who is neither a "certified public accountant" nor a "public accountant". For example, "certified public accountants" so certified by the State of Oregon (in which the Board's office is located) have passed certain tests provided by the Accountancy Board and can perform in any other State based on their certification in Oregon. A "public accountant" is certified by the Oregon Secretary of State to practice in Oregon, and need not be a "certified public accountant". The testimony was that the Board should have flexibility in selection of its accountants, depending upon its needs, in order to save costs, at the same time assuring itself that audits are made by competent professionals. However, no guidelines were suggested at the hearing which the Board might use to determine when it would be appropriate to have its books audited by someone other than a "certified public accountant" or "public accountant". Further, only individuals in these two categories can certify as to the accuracy of the records. For the purposes of this provision, "public accountant" should include individuals in either of these two categories. With the required use of "public accountants," the term "competent", as currently used in § 982.39(f) in reference to the qualifications of the accountants, is no longer necessary and should be deleted. Similarly, it is no longer necessary to specify the exact number of copies of audit reports to be filed with the Secretary, and the requirement for filing three copies should be deleted.

(5) Filbert production in Oregon and Washington during the period 1969 through 1978 averaged 10,722 tons annually, but for five of the last 10 crops production exceeded the average by as much as 40 percent. Historically, the primary and most profitable outlet for filberts has been the domestic inshell market. That market, however, is limited, with annual sales holding relatively constant between about five and six thousand tons a year. Retail sales of inshell filberts are confined almost exclusively to the holiday season, and most inshell filberts for the domestic market are sold by handlers during the period August through November.

Filberts are harvested during the months of September and October, and the grower price is usually established just prior to harvest. Thus, if any uncertainty develops in the market just prior to harvest, as has often been the case for reasons to be discussed, a reduced grower price results. The grower price represents a composite based on the prices handlers expect to receive for sales of inshell and shelled filberts in domestic markets and exports. The domestic inshell market is considered the most important of these, and it is the one most subject to sudden price variation during periods of market uncertainty or oversupply.

To promote orderly marketing conditions and thereby improve grower returns, § 982.40 currently provides for a marketing policy and, when appropriate, volume regulation. For each marketing policy year, the Board must hold a meeting for the purpose of recommending to the Secretary a marketing policy for that year. The recommendation must include the inshell allocation, based on such factors as an adjustment for carryover subject to regulation, the trade demand, and the Board's estimate of the quantity of merchantable filberts or available supply expected to be produced that year. It must also take into consideration the need for an adjustment to protect against any error in estimation of that production. As soon as practicable after the official production estimate is released in November, the Board shall, if necessary, meet to determine if any change should be made in the Board's estimate of the quantity of merchantable filberts or available supply expected to be produced. At any time prior to February 15, the Board, or two or more handlers who during the preceding marketing policy year (or fiscal year, when appropriate) handled at least 10 percent of all filberts handled, may recommend to the Secretary revision in the marketing policy for that year.

Section 982.41 currently provides, in part, that whenever the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quantity of merchantable filberts which may be handled during a marketing policy year would tend to effectuate the declared policy of the act, the Secretary shall establish the free percentage or increase the free percentage, as applicable, to prescribe the portion of those filberts which may be handled as inshell filberts, and a restricted percentage to prescribe the portion that must be withheld from such handling. In establishing such percentages, the Secretary must consider the ratio of (a) the use of the estimated inshell trade demand and, when applicable, the inshell handler carryover at the end of the year, less that portion of the inshell handler carryover at the beginning of the marketing policy year not subject to regulation to (b) the estimated supply of merchantable filberts subject to regulation and other relevant factors.

While this method has proven generally satisfactory, the record evidence is that it has not always protected against underestimation of the crop or overestimation of domestic market needs and in some years it has resulted in the release of excessive amounts of inshell filberts. The Board's September estimates of crop production and trade demand are the two major components in the calculation of the free and restricted percentages which have been most subject to error. A more accurate estimate of crop production is not available until November. In six of the last ten years, the November estimate has exceeded the September estimate, in one year by as much as 19 percent. The Board's September marketing policy recommendations have a direct influence on grower prices, and the record evidence is that when handlers question the Board's September estimates, lower grower prices have resulted.

In 1975, the order was amended to permit the Board to make an adjustment to protect against any error in estimation of the production. Nevertheless, the record evidence is that market uncertainty in the critical September-November period has occurred because of the perceived possible inaccuracy of initial Board production estimates and the resulting recommended free and restricted percentages. Thus, even when the price to growers should have been stronger, market uncertainty negated that expectation.

Although the Board's September estimates of trade demand have not varied greatly from year to year, the record evidence is that the resulting quantities of filberts available to the domestic inshell markets have varied substantially and in some years have been well in excess of the September trade demand estimates. Thus, the Board's difficulty in tailoring the available supply to its September estimate is another factor which promotes market uncertainty.

To reduce market uncertainty and thus improve grower returns, the order should be amended to provide a different method for recommending and establishing free and restricted percentages. This method should be more systematic and less vulnerable to errors in estimation of crop production and trade demand, and should be implemented earlier in the marketing year. To achieve this, computations based on a prescribed formula using historical data should be adopted. And, until more accurate information is available later in the marketing year, computed free and restricted percentages for that year should be in effect. For the purpose of recommending marketing policy, the Board should meet earlier in the marketing year than it currently does.

Therefore, § 982.40 should be amended to provide that for each marketing year, the Board may hold meetings for the purpose of computing marketing policy (i.e., preliminary computed and final computed free and restricted percentages) for that year, and shall do so for the purpose of submitting any recommendations on its policy to the Secretary (i.e., the trade demand, the final percentages or any revision of those percentages). Prior to August of a marketing year, the Board should meet in order to recommend establishment of an inshell trade demand for that year to the Secretary. The Board may then designate one of its employees to compute and announce the preliminary computed and final computed free and restricted percentages, as based on such trade demand established by the Secretary pursuant to § 982.40(b). Pursuant to § 982.40(c) and (e) the Board should also meet on or before November 15 to recommend "final" percentages to the Secretary. Also, the Board should be authorized to meet prior to February 15 if it is to recommend a revision of such percentages.

In addition to these meetings, the Board may deem it necessary to hold additional marketing policy meetings, for example in September or October. Proposed § 982.40(a) is a statement of general guidelines for the operation of the section.

Section 982.40(b) should provide that prior to August of a marketing year, the Board shall recommend establishment of an inshell trade demand for that year to the Secretary. Section 982.16 currently defines the inshell trade demand to mean the quantity of inshell filberts acquired by the trade from all handlers during a marketing policy year for distribution in the continental United States. For the purpose of the initial marketing policy computations, the inshell trade demand shall be equal to the average of the trade acquisitions of inshell filberts during the preceding three marketing years. If the trade acquisitions during any one or all of those years are abnormally low because of crop conditions, the Board may use a prior year or years to determine the three year average. Thus, the words "because of crop conditions", should be added following the word "low" in the third sentence of § 982.40(b) proposed in the notice. A year might be designated as abnormal if, in the Board's judgement, the crop was so short that not enough filberts were available to supply a normal demand.

If the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quantity of merchantable filberts which may be handled during a marketing year through application of the free and restricted percentages to that trade demand, as provided in § 982.40(c), would tend to effectuate the declared policy of the act, the Secretary shall establish that trade demand.

Using an average of three years to calculate trade demand is appropriate. Such an average is long enough to dampen the effect of short-term aberrations which often occur in the supply and demand, yet not too long as to obscure trends in the consumption of filberts.

Section 982.40(c) should be added to provide that prior to September 20 of that marketing year, the Board shall compute and announce "preliminary computed" free and restricted percentages for that year to release 70 percent of the inshell trade demand computed for that year. When the Board determines that a firm field price has been established for filberts for that marketing year, it shall compute and announce "final computed" free and restricted percentages for that year to release 80 percent of the inshell trade demand computed for that year. The "preliminary computed" or "final computed" free percentages shall be computed by multiplying the trade demand, adjusted by the declared carrying, by 70 percent or 80 percent, as the case may be, and dividing by the most recent official estimate of orchard-run production, less the average disappearance during the preceding three years, plus the undeclared carryin. The difference between 100 percent and the preliminary or final computed free percentage shall be the "preliminary computed" or "final computed" restricted percentage.

The computation of "preliminary computed" and "final computed" percentages should be made using the trade demand computed pursuant to § 982.40(b). The use of 80 percent of such trade demand for the purpose of computing the "final computed" percentages provides a safety factor of 20 percent which is slightly larger than the largest percentage of error previously encountered by the Board in estimating the crop. This percentage will apply until November when a more precise estimate will be available. The use of 70 percent until a firm field price has been established should provide incentive for both handlers and growers to agree on a firm field price. Early establishment of a price is desirable to reduce marketing uncertainties which tend to inhibit domestic inshell sales and ultimately lower the grower price. In the past, delays in establishing a field price have resulted in handlers selling filberts at a lower wholesale price than was justified by existing conditions.

Section 982.40(c) should also provide that on or before November 15, the Board shall meet to recommend to the Secretary the "final" free and restricted percentages to release 100 percent, or up to 110 percent if market conditions justify, of the inshell trade demand previously established by the Secretary for the marketing year. The recommendation shall include the estimated tonnage of merchantable filberts expected to be produced during the marketing year, the estimated tonnage of inshell filberts held by handlers on the first day of the marketing year which may be available for handling as inshell filberts thereafter, and any other pertinent factors bearing on the marketing of filberts during the marketing year. Whenever the Secretary finds, on the basis of the recommendation of the Board, or other available information that to establish the final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

Evidence of record is that November 15 should be the final date on which the Board should make its recommendation of the final free and restricted percentages to the Secretary. This deadline is necessary so that handlers will have sufficient time to adjust their operations to the regulatory actions. However, the Board should not be precluded from meeting before November 15 if it can make accurate estimates of the tonnage of merchantable filberts expected to be produced during the marketing year. Other considerations at this meeting should be the carryover of filberts at the start of the marketing year, prices, imports, trade position and any other factors which may affect market conditions.

The Board should be permitted to recommend release of more than 100 percent—up to 110 percent—of the trade demand if justified by market conditions. In the past, increases in free percentages have not necessarily resulted in increased domestic shipments. However, the record evidence is that in a strong market release of an additional amount may be warranted, and providing for the release of up to 110 percent would allow handlers to ship as many inshell filberts as the seasonal inshell market could absorb. However, release of amounts in excess of 110 percent should not be permitted. With few exceptions, the actual amount the market has absorbed in recent years did not exceed the trade demand as would have been computed, using a three year average. However, on occasions, when the equivalent of more than 110 percent of trade demand was released, wholesale market prices fell substantially. A prescribed maximum percentage above 110 percent could in itself create market uncertainty at the time grower prices are established because of the potential for unlimited upward adjustment of the total amount of inshell filberts to be released in domestic outlets.

The last sentence in proposed § 982.40(c) differs from that contained in the notice, which provided that "whenever the Secretary concurs with the recommendation of the Board, the Secretary shall establish the final free and restricted percentages". The record evidence is that this wording would unnecessarily restrict the actions of the Secretary. Paragraph (c) should instead provide that whenever the Secretary finds, on the basis of the recommendation of the Board, or other available information, that to establish the final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

Section 982.40(e) should provide that any time prior to February 15 of the marketing year, the Board may recommend to the Secretary revisions in the marketing policy for that year. For the reasons previously stated, paragraph (e) should provide that in no event shall any revision result in free and restricted percentages which would release more than 110 percent of the inshell trade demand computed for that marketing year. Following the Board's November meeting, it may become apparent to handlers that changes have occurred in the market since that meeting which may necessitate revision of the Board's policy. Thus, paragraph (e) should also provide that at any time during the period December 1 through February 10, at the request of two or more handlers who during the preceding marketing year handles at least 10 percent of all filberts handled, the Board shall meet to determine whether the marketing policy should be revised. February 10 should be established as the deadline for such request in order to enable the Board to make the necessary arrangements for the meeting, and to meet before the February 15 deadline.

Finally, § 982.40(d) should provide that prior to September 20, the Board may review grade and size regulations and recommend any modifications thereof. This provision is the same as currently contained in § 982.40(a)(2). So that growers and handlers would be aware of any changes before new crop filberts are handled, the Board's review should be made prior to September 20. When considering changes in the grade and size regulation, the Board should take into account whether such changes will necessitate changes in plant equipment or operations. The Board should allow handlers sufficient time to complete such changes before they begin handling new crop filberts of the current marketing year. However, for discussion and recommendation of possible changes in grade and size regulations for future marketing years, the September 20 deadline should not apply.

(6) Section 982.41 should be revised to conform with the proposed revision of § 982.40 by providing that the free and restricted percentages—as computed by the Board, or established by the Secretary pursuant to § 982.40, as the case may be—shall apply to all merchantable filberts handled during the marketing year. Also, the order currently provides that until the free and restricted percentages are established by the Secretary for a marketing year, the percentages in effect at the end of the previous year are applicable. Under the proposal, the "preliminary computed" or "final computed" percentages would be applicable in September, October, or later, and the final percentages would not be established by the Secretary until November or December. Therefore, § 982.41 should also provide that until the "preliminary computed" or "final computed" free and restricted percentages are computed by the Board for the current marketing year, the percentages in effect at the end of the previous marketing year shall be applicable.

As a conforming change, §§ 982.50(a)(1) and (d) should be revised by adding the word "applicable" before the terms "free percentage" and "restricted percentage" wherever they appear. That section provides for the computation of a handler's restricted obligation. The applicable free and restricted percentages at any given time for such computations shall be those percentages then effective pursuant to § 982.41.

(7) Section 982.54(a) currently provides, in part, that compliance by any handler with the requirements of § 982.50 as to the time when restricted filberts shall be withheld shall be temporarily deferred to any date desired by the handler, but not later than April 30 of the marketing policy year. In view of the proposed change in the beginning of the marketing year, this deadline should be changed to not later than 60 days prior to the end of the marketing year.

Thus, handlers would have to meet their withholding obligations by the last day in February if the marketing year begins May 1 (as discussed in Material Issue (1)(a)). The 60-day period allows sufficient time to process documents and make the determination that the handlers have satisfied their withholding obligations. A longer period of time could impose a hardship on handlers who are shelling to satisfy their obligations and are limited by their shelling capacity.

(8) The Board, with the approval of the Secretary, should be permitted to

establish and maintain an operating monetary reserve in an amount not to exceed approximately one marketing year's operational expenses or such lower limits as the Board, with the approval of the Secretary, may establish. Currently, § 982.62(a) permits a maximum reserve of 50 percent of the average Board expenses for the most recent five years.

The increase in the operating reserve is necessary as a result of the proposed change in the beginning of the marketing year. For example, if the beginning date is changed from May 1 to August 1, a marketing year of 15 months would result for which no adequate funds may be available. Also, little is known regarding prospective crop size as early as May 1. If experience indicates that this results in an unnecessary amount of funds in the operating reserve, the Board with the approval of the Secretary, should be able to reduce the percentage to a level considered reasonable.

(9) Section 982.62(b) should be revised to permit the Board to maintain and use, until December 1, funds in excess of reserve requirements and the previous marketing year's expenses, so long as the handler's pro rata share of excess funds are refunded or credited to each handler's account by January 1. Currently, the Board may use excess funds for four months and must refund them within five months (December 31) of the end of the previous fiscal year (July 31). Under the proposal, the marketing year would end April 30, and the Board would therefore have to refund any excess by September 30.

Adequate funds generally are obtained from handlers by December 1 of each year. This proposal would permit changes in the marketing year without depriving the Board of the use of excess funds until such time as the Board obtains adequate assessments in the new marketing year. January 1 would afford the Board a reasonable time to make payment following the December 1 deadline on the use of the funds. Also, with the proposed change in the marketing year to begin May 1, the Board might have little or no assessment income for possibly six months of the marketing year. The Board must have funds available for its maintenance and functioning.

(10) In addition to the current requirement in § 982.65 that handlers file reports of inventory as of January 1 and August 1, that section should also require handlers to file reports as of May 1. If the marketing year begins on May 1, as proposed in Material Issue (1)(a), it is essential that the industry have a record of carryover from the prior marketing year. It is necessary, however, to retain the August 1 date because there is a possibility that a large quantity of the carryover on May 1 may be orchard-run condition, and a more accurate accounting would be obtained on August 1. It would also be desirable to have an accounting of the movement of filberts, both inshell and shelled, for the period from May 1 to August 1. Finally, the Board, with the approval of the Secretary, should be able to require carryover reports as of dates other than January 1, May 1, and August 1. If the marketing year were to begin on other than those dates, for example, it would be necessary to have an inventory as of that date.

(11) Some of the amendatory actions included in this recommended decision require conforming changes elsewhere in the order, as amended. Such changes have been discussed with the issues to which they are pertinent. All such changes should be incorporated in the recommended amendment of the order.

Rulings on briefs of interested persons. At the end of the hearing, the Administrative Law Judge fixed August 8, 1980, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. No briefs were filed.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except for the findings and determinations which may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of filberts grown in the production area in the same manner, as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of filberts grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of filberts grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended Amendment of the Marketing Agreement and Order

The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. The Title of the order is revised to read as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

2. Section 982.17 is revised to read as follows:

§ 982.17 Marketing year.

"Marketing year" means the 12 months from May 1 to the following April 30, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary.

§§ 982.1–982.88 [Nomenclature Change]

3. The terms "marketing policy year" and "fiscal year" are changed to "marketing year" wherever they appear in §§ 982.1 through 982.88.

4. Section 982.18 is revised to read as follows:

§ 982.18 Board.

"Board" means the Filbert/Hazelnut Marketing Board established pursuant to § 982.30.

5. Section 982.19 is renumbered § 982.20 and a new § 982.19 is added to read as follows:

§ 982.19 Disappearance.

"Disappearance" means the difference between orchard-run production and the available supply of merchantable filberts and merchantable equivalent of shelled filberts.

§ 982.20 [Renumbered from § 982.19]

6. Section 982.30(g) is revised to read as follows:

§ 982.30 Establishment and membership.

* * * * *

(g) One public member who is neither a grower nor a handler.

7. Section 982.32(e) and (f) are revised to read as follows:

§ 982.32 Nomination.

* * * * *

(e) All votes cast by cooperative handlers, independent handlers, or for cooperative growers, shall be weighted according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulations are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each such handler or cooperative grower group during the preceding marketing year and if less than one ton is recorded for any such handler or cooperative grower group, the vote shall be weighted as one vote. All votes cast by independent growers shall be given equal weight. Nominations received in the foregoing manner by the Board shall be reported to the Secretary at least 60 days prior to the beginning of each marketing year, together with a certificate of all necessary data and other information deemed by the Board to be pertinent or requested by the Secretary. If such nominations of any group are not submitted to the Secretary by that time, the Secretary may select the representatives of that group without nomination.

(f) Nominees for the member and alternate member positions specified in § 982.30(g) shall be chosen by the other eight members who are to serve on the Board during the ensuing marketing year. If nominations for such member or alternate are not submitted within 30 days after the beginning of the marketing year, the Secretary may select such member or alternate without nomination.

* * * * *

8. Section 982.33(b)(1) is revised to read as follows:

§ 982.33 Selection and term of office.

* * * * *

(b) *Term of office.* (1) The term of office of each member and alternate member shall be two marketing years from the beginning of the marketing year, except that (i) the terms of office of one of the grower members and the member's alternate specified in § 982.30 (a) and (b) shall expire at the end of the first even numbered marketing year following the year of selection, and the terms of office of all other members and alternate members shall expire at the end of the first odd-numbered marketing year following the year of selection; (ii) if the representation on the Board in an ensuing marketing year will, by reason of change in representation pursuant to § 982.30 (c) and (f), be different from that in the current marketing year, the terms of office of all grower and handler members and alternate members shall expire at the end of the current marketing year and successor members and alternate members shall be nominated and selected in conformance with §§ 982.30 and 982.33; (iii) if the districts for independent grower presentation in an ensuing marketing year will be different from that in the current marketing year, the terms of office of all independent grower members and alternate members specified in § 982.30 (e) and (f) shall expire at the end of the current marketing year, and persons nominated to succeed them shall be nominated and selected so as to conform with such changed representation.

* * * * *

9. Section § 982.34 is revised to read as follows:

§ 982.34 Qualification.

(a) Any person selected to serve as a member or an alternate member of the Board shall qualify by filing with the Secretary a written acceptance of appointment. Any member or alternate member who at the time of selection was a member or employed by a member of the group which nominated that person shall, upon ceasing to be such a member or employee, become disqualified to serve further and that position on the Board shall be deemed vacant. In the event any member or alternate member of the Board qualified and selected, in accordance with the provisions of §§ 982.30 and 982.32, to represent independent growers should, during that person's term of office, handle filberts produced by other growers, or become an employee of a handler, that position on the Board shall thereupon be deemed to be vacant.

(b) Any person nominated to serve as a public member or alternate shall not have a direct financial interest in any filbert growing or handling operation.

10. Section § 982.39(f) is revised to read as follows:

§ 982.39 Duties.

* * * * *

(f) To cause the books of the Board to be audited by one or more public accountants, approved by the Board, at least once for each marketing year and at such other times as the Board deems necessary or as the Secretary may request, and to file with the Secretary reports of all audits made;

* * * * *

11. Section 982.40 is revised to read as follows:

§ 982.40 Marketing policy and volume regulation.

(a) *General.* As provided in this section, for each marketing year, the Board may hold meetings for the purpose of computing its marketing policy for that year, and shall do so for the purpose of submitting any recommendations on its policy to the Secretary. The Board may designate one of its employees to compute and announce the preliminary computed and final computed free and restricted percentages.

(b) *Trade demand.* Prior to August of a marketing year, the Board shall recommend establishment of an inshell trade demand for that year to the Secretary. That inshell trade demand shall be equal to the average of the trade acquisitions of inshell filberts during the preceding three years. If the trade acquisitions during any one or all of those years was abnormally low because of crop conditions, the Board may use a prior year or years in determining the three-year average.

If the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quanity of merchantable filberts which may be handled during a marketing year through application of the free and restricted percentages to that trade demand, as provided in paragraph (c) of this section, would tend to effectuate the declared policy of the act, the Secretary shall establish that trade demand.

(c) *Inshell allocation*—(1) *Preliminary computed percentages.* Prior to September 20 of that marketing year, the Board shall compute and announce preliminary computed free and restricted percentages for that year to release 70 percent of the inshell trade demand computed for that year. The preliminary computed free percentage shall be computed by multiplying that trade demand, adjusted by the delcared carryin, by 70 percent and dividing by the most recent official estimate of orchard-run production less the average disappearance during the preceding three years, plus the undeclared carryin. The difference between 100 pecent and the preliminary free percentage shall be the preliminary computed restricted percentage.

(2) *Final computed percentages.* The Board upon determining that a firm field price has been established for filberts for that marketing year, shall compute

and announce final computed free and restricted percentages for that year to release 80 percent of the inshell trade demand computed for that year. The final computed free percentage shall be computed by multiplying that trade demand, adjusted by the declared carryin, by 80 percent and dividing by the most recent official estimate of orchard-run production less the average disappearance during the preceding three years plus the undeclared carryin. The difference between 100 percent and the final computed free percentage shall be the final computed restricted percentage.

(3) *Final percentages.* On or before November 15 the Board shall meet to recommend to the Secretary the final free and restricted percentages to release 100 percent, or up to 110 percent if market conditions justify, of the inshell trade demand previously established by the Secretary for the marketing year. The recommendation shall include the following:

(i) The estimated tonnage of merchantable filberts expected to be produced during the marketing year.

(ii) The estimated tonnage of inshell filberts held by handlers on the first day of the marketing year which may be available for handling as inshell filberts thereafter.

(iii) Any other pertinent factors bearing on the marketing of filberts during the marketing year.

Whenever the Secretary finds, on the basis of the recommendation of the Board, or other available information that to establish the final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

(d) *Grade and size regulations.* Prior to September 20 the Board may consider grade and size regulations in effect and may recommend modifications thereof.

(e) *Revision of marketing policy.* At any time prior to February 15 of the marketing year, the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided,* That in no event shall any revision result in free and restricted percentages which would release more than 110 percent of the inshell trade demand computed for that marketing year. At any time during the period December 1 through February 10, at the request of two or more handlers who during the preceding marketing year handled at least 10 percent of all filberts handled, the Board shall meet to determine whether the marketing policy should be revised.

12. Section 982.41 is revised to read as follows:

§ 982.41 Free and restricted percentages.

The free and restricted percentages computed by the Board or established by the Secretary pursuant to § 982.40, shall apply to all merchantable filberts handled during the current marketing year. Until the preliminary or final computed free and restricted percentages are computed by the Board for the current marketing year, the percentages in effect at the end of the previous marketing year shall be applicable.

§ 982.50 [Amended]

13. Sections 982.50(a)(1) and (d) are amended by adding the word "applicable" before the words "free percentage" and "reserve percentage" wherever they appear.

14. Sections 982.54(a) and (c) are revised to read as follows:

§ 982.54 Deferment of restricted obligation.

(a) *Bonding.* Compliance by any handler with the requirements of § 982.50 as to the time when restricted filberts shall be withheld shall be temporarily deferred to any date required by the handler, but not later than 60 days prior to the end of the marketing year, upon the voluntary execution and delivery by such handler to the Board, before handling any merchantable filberts of such marketing year, of a written undertaking, secured by a bond or bonds with a surety or sureties acceptable to the Board, that on or prior to such date the handler will have fully satisfied the restricted obligation required by § 982.50.

* * * * *

(c) *Bonding rate.* Said bonding rate for each pack shall be an amount per pound representing the season's domestic price for such pack net to handler f.o.b. shipping point which shall be computed at the opening price for such pack announced by the handler or handlers who during the preceding marketing year handled more than 50 percent of the total volume handled. If such opening prices involve different prices announced by two or more handlers for respective packs, the price so announced shall be averaged on the basis of the quantity of such packs handled during the preceding marketing year by each such handler. Until bonding rates for a marketing year are fixed, the rates in effect for the preceding marketing year shall continue in effect and when such new rates are fixed, necessary adjustments should be made.

* * * * *

15. Section 982.62 (a) and (b) are revised to read as follows:

§ 982.62 Accounting.

(a) *Operating reserve.* The Board, with the approval of the Secretary, may establish and maintain an operating monetary reserve in an amount not to exceed approximately one marketing year's operational expenses or such lower limits as the Board, with the approval of the Secretary, may establish.

(b) *Refunds.* At the end of a marketing year, funds in excess of the marketing year's expenses and reserve requirements shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments the handler paid in excess of the handler's pro rata share of expenses of the Board. However, excess funds may be maintained and used by the Board until December 1 following the end of any such marketing year. *Provided,* That the Board shall refund to each handler upon request, or credit to the handler's account with the Board, the handler's share of such excess prior to January 1.

* * * * *

16. Section 982.65 is revised to read as follows:

§ 982.65 Carryover reports.

As of January 1, May 1, and August 1, or such other dates as the Board may recommend and the Secretary approve, each handler shall report within 10 days to the Board the handler's inventory of inshell and shelled filberts. Such reports shall be certified to the Board and the Secretary as to their accuracy and completeness and shall show, among other items, the following: (a) Certified merchantable filberts on which the restricted obligation has been met; (b) merchantable filberts on which the restricted obligation has not been met; (c) the merchantable equivalent of any filberts intended for handling as inshell filberts; and (d) restricted filberts withheld.

17. Section 982.86(b)(3) is revised to read as follows:

§ 982.86 Effective time, termination or suspension.

* * * * *

(b) *Suspension or termination.* * * *

(3) The Secretary shall terminate the provisions of this subpart at the end of any marketing year whenever the Secretary finds that such termination is favored by a majority of the producers of filberts who during the preceding marketing year have been engaged in the production for marketing of filberts in the States of Oregon and Washington: *Provided,* That such majority have during such period produced for market more than 50 percent of the volume of

such filberts produced for market within said States; but such termination shall be effected only if announced 30 days or more before the end of the then current marketing year.

* * * * *

Signed at Washington, D.C., on January 7, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-1029 Filed 1-9-81; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

1980 Crop Sunflower Seed Price Support Program; Withdrawal of Proposed Rule

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: Consideration of a price support program for the 1980 crop sunflower seed, as represented by a proposed rule published in the Federal Register on September 15, 1980, (45 FR 60914), is withdrawn.

ADDRESS: Production Adjustment Division, ASCS-USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan, Agricultural Program Specialist, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, 202/447-7951.

SUPPLEMENTARY INFORMATION: After careful consideration of comments received, market prices, proposed levels of support and other factors, it has been determined that no price support program for the 1980 crop of sunflower seed is necessary. Therefore, notice is hereby given by the Executive Vice President, Commodity Credit Corporation, that the proposed rule published on September 15, 1980, (45 F.R. 60914) relating to price support for 1980 crop sunflower seed is withdrawn.

Signed at Washington, D.C. on January 5, 1981.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-1033 Filed 1-9-81; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-ARM-21]

Establishment of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to establish a 700′ and 1,200′ transition area at Powell, Wyoming to provide controlled airspace for aircraft executing the new nondirectional radio beacon (NDB) standard instrument approach procedure developed for the Powell Municipal Airport, Powell, Wyoming.

DATES: Comments must be received on or before February 16, 1981.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn.: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM-538), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration (FAA) is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to establish 700′ and 1,200′ transition areas at Powell, Wyoming. This proposal is necessary to provide controlled airspace for aircraft executing the new NDB standard instrument approach procedure developed for the Powell Municipal Airport, Powell, Wyoming. Accordingly, the Federal Aviation Administration proposes to amend subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending subpart G, 71.181 so as to establish the following transition areas to read:

Powell, Wyoming

That airspace extending upward from 700′ above the surface within an 8-mile radius of the Powell Municipal airport (Latitude 44°52′10″ N., Longitude 108°47′29″ W.) and within 3 miles each side of the Powell NDB (Latitude 44°52′10″ N., Longitude 108°47′02″ W.) 164° bearing extending from an 8-mile radius area to 9 miles southeast of the Powell NDB; and that airspace extending upward from 1,200′ above the surface beginning at Latitude 45°22′00″ N., Longitude 108°55′00″ W., to Latitude 45°22′00″ N., to Longitude 108°11′00″ W., to Latitude 44°11′00″ N., Longitude 108°11′00″ W.; thence southwestward along the edge of the Worland, Wyoming 1,200′ transition area to Latitude 44°00′00″ N., Longitude 108°25′00″ W., to Latitude 44°00′00″ N., Longitude 108°42′30″ W., to Latitude 44°25′45″ N., Longitude 108°57′30″ W., to Latitude 44°25′45″ N., Longitude 109°41′45″ W.; thence along the west side of V-465 to point of beginning, excluding the Cody, Wyoming 1,200′ transition area.

Drafting Information

The principal authors of this document are Pruett Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on December 31, 1980.

Walter A. Barbo,

Action Director.

[FR Doc. 81-747 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6274; File No. S7-867]

Consideration of the Impact of the Small Business Investment Incentive Act of 1980 on Certain Exemptions From the Registration Provisions of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is considering the relationship among certain exemptions from the registration provisions of the Securities Act of 1933 (the "1933 Act") and the efficacy of such exemptions as they relate to the capital formation needs of small business. The present inquiry is prompted by the recent enactment of the Small Business Investment Incentive Act of 1980 which includes two statutory changes in the 1933 Act that have an impact on small business. The first is the new Section 4(6) of the 1933 Act which provides an exemption from the registration requirements of that Act for offers and sales of securities by an issuer to accredited investors if the aggregate amount of securities offered is $5 million or less and if there is no public solicitation. The second is an increase from $2 million to $5 million in the ceiling on the Commission's authority under Section 3(b) of the 1933 Act to exempt small offerings from the registration requirements of that Act.

The Commission is requesting commentators to focus on the interrelationship between the recently enacted statutory exemption contained in Section 4(6) of the 1933 Act and the Commission's other exemptive rules, especially Rules 146 and 242. The Commission is also requesting comments on the adequacy of the present ceiling limitations included in the exemptions under Section 3(b) and the extent, if any, to which they should be increased. The Commission intends to consider these comments in deciding whether to propose any amendments to existing rules under the 1933 Act.

DATE: Comments must be received on or before February 20, 1981.

ADDRESSES: All communications on the matters discussed in the release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549. Comments should refer to File No. S7-867 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Paula Chester (202/272-2644), Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it is considering the interrelationship among certain exemptions from the registration provisions of the Securities Act of 1933 (the 1933 "Act") [15 U.S.C. 77a *et seq.*], particularly as they relate to the capital formation needs of small business. The present inquiry is prompted by the recent enactment of the Small Business Investment Incentive Act of 1980 (the "1980 Act") [Pub. L. No. 96-477 (October 21, 1980)].

New Section 4(6) of the 1933 Act added by the 1980 Act [1] raises certain questions concerning what the appropriate relationship should be between Section 4(6) and the Commission's other exemptive rules, including Rules 146 [17 CFR 230.146], 240 [17 CFR 230.242], and 242 [17 CFR 230.242]. Section 4(6) provides an exemption from the registration provisions of the 1933 Act for transactions involving offers and sales of securities by an issuer solely to one or more "accredited investors" [2] if the aggregate offering price does not exceed the amount allowed under Section 3(b) of that Act.[3] No advertising or public solicitation is permitted in connection with such transactions, and the issuer is requird to file a notice of such sales with the Commission on such forms as the Commission shall prescribe.[4]

In addition, the increase in the Section 3(b) ceiling from $2,000,000 to $5,000,000 raises the question of whether, and to what extent, the Commission should raise the ceiling on certain exemptive provisions, including Regulation A, promulgated under Section 3(b). A corollary issue raised by the Section 3(b) increase is the relationship of the offering limit on Form S-18, which is a simplified registration form available to certain corporate issuers going public for the first time [17 CFR 239.29], to the ceiling amount under Regulation A.

Therefore, the Commission is today seeking comments and guidance from interested persons as to what the appropriate relationship should be between Section 4(6) and other exemptive provisions and what the appropriate ceiling amounts should be for the various Section 3(b) exemptions and Form S–18.[5] Any changes in the rules would of course, be made only to the extent consistent with the public interest and the protection of investors.

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[1] The provisions of Section 4 of the Securities Act provide in pertinent part: The provisions of Section 5 shall not apply to—

(6) transactions involving offers or sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer files such notice with the Commission as the Commission shall prescribe.

[2] New Section 2(15) of the Securities Act provides: (15) the term "accredited investor" shall mean—

(i) A bank as defined in section 3a(21) of the Act whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Act; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section (2)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; or an employee benefit plan; including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Securities Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company or registered investment adviser; or

(ii) Any person who, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial matters, or amount of assets under management qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.

[3] As amended by Section 301 of the 1980 Act, the ceiling amount of Section 3(b) is increased to $5,000,000.

[4] In order to permit issuers to utilize Section 4(6) immediately, the Commission recently adopted, on an interim basis, a notice-of-sales form [hereinafter referred to as "Form 4(6)"], to be used by issuers relying on the new statutory exemption. Securities Act Release No. 6256 (November 7, 1980) [45 FR 75182].

I. Regulatory Framework of the 1933 Act Exemptions

Absent an available exemption, the 1933 Act requires that a registration statement must be filed with the Commission disclosing prescribed categories of information before securities may be offered for sale to the public. The securities cannot be sold to the public until the registration statement becomes effective. In addition, prospective investors must be furnished a prospectus containing the most significant information in the registration statement. Congress, however, recognized that that are certain situations "where there is no practical need for * * * [registration] or where the public benefits [therefrom] are too remote."[6] Accordingly, a number of exemptions to the registration requirements are contained in the 1933 Act. The exemptions which in the past have been most typically relied upon by small business and which are the subject of this inquiry are those provided by Sections 3(b) and 4(2).[7]

A. Section 3(b)

The Commission is authorized under Section 3(b) of the 1933 Act to exempt securities from registration if it finds that registration for these securities is not necessary in the public interest because of the small amount involved or the limited character of the public offering.[8] Pursuant to this authority, the Commission has adopted various exemptive rules and regulations, the most significant of which from a small business standpoint are Regulation A [17 CFR 230. 251–264], Rule 240 and Rule 242.

Regulation A permits an issuer to sell securities in an unregistered public offering, up to an aggregate amount of $1.5 million in any one year, provided certain conditions are met. Among other things, a notification and offering cricular supplying information about the issuer and the securities offered must be filed with the regional office of the Commission for the region in which the issuer's principal business operations are conducted. The offering circular must be furnished at or prior to the time any written offer of securities is made. Simultaneous with the consideration of the primary exemptions herein, the Commission has announced in a separate release that it is proposing substantitve revisions to the disclosure requirements of Regulation A designed to codify disclosure policies and practices currently followed with respect to Regulation A.[9] Such codification is especially appropriate if the Regulation A ceiling is to be increased materially from the current level of $1,500,000.

Rule 240 provides a conditional exemption from registration for limited offers and sales of small dollar amounts of securities by small, closely-held businesses. The conditions which must be satisfied in order to use the rule are: (1) no more than $100,000 of securities of the issuer may be sold in reliance on the rule or otherwise without registration within a preceding twelve month period; (2) the securities may not be offered and sold by means of general advertising or general solicitation; (3) no commission or similar remuneration may be paid by the issuer for soliciting buyers; (4) both immediately before and after the offering the securities of the issuer must be beneficially owned by fewer than 100 people; and (5) a notice on Form 240 [17 CFR 239.240] must be filed with the Commission's Regional Office for the region in which the issuer's principal business operations are conducted within ten days after the close of the month in which a sale in reliance on the rule is made.

Rule 242, promulgated by the Commission on January 17, 1980, exempts certain corporate issuers from the registration provisions of the 1933 Act for transactions involving offers and sales of securities up to an aggregate amount of $2 million in any six-month period.[10] to an unlimited number of accredited investors and 35 non-accredited persons, provided that (a) there is no general advertising or general solicitation in connection with the offering; (b) certain specified written information is delivered in offerings involving non-accredited purchasers; and (c) a notice is filed on Form 242 [17 CFR 239.242]. Unlike Rule 240, a commission or similar remuneration may be paid by the issuer for soliciting buyers. The availability of the rule is limited to "qualified issuers" which are defined as any domestic or Canadian corporation which is not an investment company, not engaged in significant oil and gas or mining operations, and is not a subsidiary of an issuer which would not be qualified to use the exemption.

B. Section 4(2) and Rule 146

Section 4(2), commonly referred to as the "private-offering" exemption, provides an exemption from registration for "transactions by an issuer not involving any public offering. The primary consideration, as established by the Supreme Court in the *Ralston Purina* case [11] is whether the offerees need the protections afforded by the 1933 Act as evidenced by whether the offerees have "access" to the same kind of information that registration would disclose and whether they are able to fend for themselves.

In an effort to introduce certainty into the private offering exemption, the Commission adopted Rule 146 which provides that transactions involving the offer and sale of securities shall be deemed not to involve any public offering within the meaning of Section 4(2) of the 1933 Act if they are part of an offering that meets all the conditions of the Rule. When Rule 146 is used as the basis for an exemption, there can be no general advertising or solicitation in connection with the transactions; offers and sales may only be made to persons the issuer reasonably believes have the requisite knowledge and experience in financial matters or who can bear the economic risks; sales may only be made to such persons except that persons meeting only the economic risk test must also have an offeree representative capable of providing the requisite knowledge and experience; offerees must have access to or be furnished with information comparable to that which would be contained in a registration statement[12]; there may be no more than 35 purchasers; the issuer must inform each offeree that he must continue to bear the risk of the investment indefinitely since resales can only be effectuated through registration or an exemption therefrom; and reasonable care must be taken by the issuer to ensure that purchasers are not taking with a view to distribution. Issuers relying on the rule must file a notice of such sales with the Commission on Form 146 [17 CFR 239.146].

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[5] On October 16, 1980 the Commission announced that it was undertaking a study, supported jointly by the Commission and the Small Business Administration, which will examine the major exemptions from registration under the Securities Act of 1933 focusing primarily on the "private placement" exemption and on the financing needs of small businesses. The project is being conducted by the Directorate of Economic and Policy Analysis and that office will prepare a series of reports during the next 12 months which will present a descriptive profile of the issuers of securities utilizing each exemption, as well as data regarding characteristics of the offerings, aftermarket experience and compliance costs.

[6] H.R. Rep. No. 85, 73rd Cong., 1st Sess. 5 (1933).

[7] It should be noted that these sections do not provide an exemption from the anti-fraud provisions of the Securities Act or from the civil liability provisions of Sections 12(2) of the 1933 Act or other provisions of the Federal securities laws.

[8] As stated earlier, recent Congressional action increased the ceiling to $5,000,000; *supra*, note 3.

[9] Securities Act Release No. 6275 (December 23, 1980).

[10] As originally adopted paragraph (c) of Rule 242 specified that the aggregate amount of an issue of securities could not exceed the amount allowed under Section 3(b) of the 1933 Act which at that time was $2 million. However, the Rule was amended as a result of the recent increase in the Section 3(b) ceiling to $5 million to maintain the $2 million level originally prescribed by the Commission. The amendment is designed to maintain the status quo pending review of all ceiling limitations under Section 3(b). *See* Securities Act Release No. 6250 (October 23, 1980) [45 FR 71775].

[11] *Securities and Exchange Commission* v. *Ralston Purina Co.*, 346 U.S. 119 (1953).

II. Scope of Inquiry

The Commission is interested in obtaining the written views of interested members of the public on the issues set forth below. Although the principal purpose of this release is to focus on those questions which are raised as a result of the recent enactment of the Section 4(6) exemption and the increase in the limit of Section 3(b) to $5,000,000, commentators are encouraged also to provide their views on the broader question as to whether the exemptions under the 1933 Act provided by Rules 240, 242, 257 and Regulation A and Rule 146 along with the newly created Section 4(6) exemption considered together provide a coherent scheme for relieving issuers of the burdens of the full scale registration provisions of the 1933 Act in connection with the raising of capital, particularly by smaller companies, consistent with adequate investor protection and, if not, what steps the Commission should take to make the scheme more coherent. Thus, when answering the following specific questions, commentators are invited to address the role of such exemptions in the general pattern of exemptive provisions under Sections 3(b) and 4(2).

A. Relationship Between Rules 146, 242 and Section 4(6)

The first set of issues the Commission is requesting commentators to focus on relates to the interrelationship between Section 4(6) and Rules 146 and 242. These three exemptions are all private offering exemptions in that they prohibit public solicitation and general advertising and limit the offerees and/or purchasers to specific types of individual and/or to a specified maximum number of individuals. A comparative chart outlining the exemptive provisions of these three exemptions is attached as Appendix A.

Rule 242 was designed to alleviate some of the concerns raised by various commentators at the small business hearings regarding certain problems in complying with Rule 146. Commentators at the hearings consistently indicated that the provisions of Rule 146 presented compliance problems for smaller issuers which result in uncertainty as to whether the exemption is available.[13] For example, it was noted that Rule 146 requires issuers to make a subjective determination concerning the sophistication of each offeree and each purchaser,[14] and if a mistake is made with respect to an offeree who declines to purchase, purchasers may still have the right to rescind the transaction because of the violation.[15]

In addition, it was felt that the informational requirements of Rule 146(e) created uncertainty by requiring that issuers which do not file periodic reports with the Commission pursuant to the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29] (June 4, 1975) furnish their offerees with substantially the same information "as would be required to be included" in a registration statement or, if the offering does not exceed $1,500,000, the same information "as required to be included" by Schedule I of Regulation A.

Rule 242 responded to these criticisms by removing any sophistication test for either offerees or purchasers and by indicating more specifically the type of information that must be furnished to purchasers. The concept of accredited investor was introduced for the first time in Rule 242 and the rule contains no limitation on the number of accredited investors who can purchase securities. In addition, if only accredited investors are involved in an offering there is no specific requirement to furnish them with information. This is based on the assumption that accredited investors are in a position to ask for and obtain whatever information they believe is relevant. The rule also provides that securities can be sold to an additional 35 individuals and specifies that these individuals should be furnished the same kind of information as required by Form S–18, to the extent material.

Section 4(6) also includes the concept of accredited investors and a new Section 2(15) defines accredited investors in substantially the same way as Rule 242, except that $100,000 purchasers and directors and executive officers of the issuer are not included in the definition as they are in Rule 242. The Commission is given rulemaking authority in Section 2(15) to expand the definition.

In adopting the ceiling limitations placed on Rule 242 offerings, it was the Commission's intention that the Rule be primarily of benefit to small companies, providing a relatively objective and less costly method of raising capital. Apparently a similar legislative intent was present in the enactment of Section 4(6). On the other hand, Rule 146 is available to both small and large issuers and can be used to raise an unlimited amount of capital.

The Commission invites comments on the following concepts of "accredited investor," "qualified issuer," and "issue of securities" as these concepts currently exist in the three exemptions.

1. Accredited Investor

As indicated above, the new Section 4(6) exemption incorporates the accredited investor concept and that term is defined in Section 2(15). The Commission is given rulemaking authority to expand this definition to include additional types of purchasers as "accredited investors" based on such factors as financial sophistication, net worth, knowledge, experience in financial matters, or assets under management.[16] In the absence of such a rule, the only investors who may purchase securities sold in reliance on that exemption are the list of institutional-type purchasers contained in the statutory definition of "accredited investor,"[17] which, unlike Rule 242, includes "business development companies" as defined in Section

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[12] Where, however, an offering does not exceed $1.5 million the rule requires the issuer to furnish only the information required by Schedule I of Regulation A. *See* Securities Act Release No. 5975 (September 6, 1978) [43 FR 41193].

[13] Summary of Comments Relating to Small Business Hearings and Proposed Form S–18, Division of Corporation Finance, Securities and Exchange Commission, File No. S7–734, at 146 [hereinafter cited as "Small Business Hearings"].

[14] Rule 146(d)(1) provides:

(d) Nature of offerees. The issuer and any person acting on its behalf who offer, offer to sell, offer for sale or sell the securities shall have reasonable grounds to believe and shall believe:

(1) Immediately prior to making any offer, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree is a person who is able to bear the economic risk of the investment; and

(2) Immediately prior to making any sale, after making reasonable inquiry, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree and his offeree representative(s) together have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of the prospective investment and that the offeree is able to bear the economic risk of the investment.

[15] *Henderson v. Hayden, Stone, Inc.*, 461 F. 2d 1069 (5th Cir. 1972).

[16] *Supra*, note 2.

[17] *Id.*

2(a)(48) of the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq]*.[18]

The definition contained in Rule 242, on the other hand, includes directors or executive officers of the issuer as well as purchasers of $100,000 or more of the issuer's securities for cash or certain cash equivalents.[19]

The Commission is currently considering proposing rules under Section 2(15) of the 1933 Act, to include officers and directors as well as $100,000 purchasers for cash or cash equivalents in the definition of "accredited investors" for purposes of Section 4(6) transactions. In addition, the Commission is considering the inclusion of "business development companies" in the definition of "accredited investor" contained in Rule 242. Such amendments would result in identical definitions for both type transactions and, thus, would eliminate this inconsistency between the two exemptions. The Commission believes, based on the public comments it received prior to adopting Rule 242, that the $100,000 purchaser may be appropriate in the context of Rule 242 which is available only to corporate issuers and which limits the amount of the offering to $2,000,000. However, a $100,000 purchaser may not have sufficient leverage in a $5,000,000 transaction to ask for and obtain the information needed to make an informed investment decision. In a limited partnership transaction involving immediate tax benefits, the economic significance to an investor of a $100,000 investment may be less than in a corporate offering. Therefore, the Commission invites comment on whether and to what extent the definition of accredited investor contained in Rule 242 and Section 2(15) for purposes of transactions in reliance on Section 4(6) should be identical.

The Commission is also considering the advisability of incorporating the accredited investor concept into Rule 146. That rule now contains a provision that persons who buy at least $150,000 of securities for cash need not be included when calculating the 35 purchasers ceiling. However, such persons must still meet the sophistication test of the rule and must be provided with an offering circular. The Commission is considering excluding accredited investors not only from the calculation of 35 purchasers but also from the sophistication and information requirements of the rule, on the assumption that one can presume that accredited investors, being sophisticated, may fend for themselves.

Interested persons are asked to comment on whether this is a desirable amendment of Rule 146 and whether the definition of accredited investor for purposes of Rule 146 should be the same as for Rule 242, especially with respect to the $100,000 amount. Comments are also invited as to whether the Commission has the authority, particularly in light of judicial interpretations, to make such changes.

2. Qualified Issuers

As stated earlier, the availability of Rule 242 is limited to "qualified issuers" which are defined as any domestic or Canadian corporation, which is (a) not an investment company; (b) not engaged in significant oil and gas operations; (c) not engaged in significant mining operations; and (d) not a subsidiary of an issuer which would not be qualified to use the exemption. These type of issuers represent the same issuers that are prohibited from using Form S-18. The Commission included the issuer restrictions because both Form S-18 and Rule 242 were considered to be in the nature of an experiment representing a significant departure from traditional disclosure concepts. For this reason the Commission determined to proceed cautiously with respect to the expansion of the availability of these provisions. Section 4(6), however, has no issuer qualification. Although the Commission recognizes that Rule 242, in its present form, is narrower than that currently provided by the statutory exemption for sales to accredited investors, the Commission also notes that, unlike Section 4(6), Rule 242 permits sales to 35 additional persons for which no qualification standards are presumed or imposed. Thus, the Commission invites comment on the advisability of eliminating some or all of the issuer qualifications of rule 242, particularly in view of the enactment of Section 4(6). Since the same types of issuers are also restricted from registering their securities on Form S-18, the Commission also invites comment on whether such restrictions should be eliminated from Form S-18.

3. The "Issue" Concept

Section 4(6) specifies that the aggregate price of an issue of securities offered in reliance on the exemption shall not exceed the amount allowed under Section 3(b). However, the term "issue of securities" is not defined in the 1933 Act. Thus, it becomes important to determine whether separate transactions are part of the same issue, *i.e.*, are deemed to be "integrated."

Generally, the determination as to whether separate sales of securities are part of the same issue depends on the particular facts and circumstances. The following factors should be considered in determining whether separate sales are part of the same issue for purposes of Section 4(6):[20]

(a) whether the sales are part of a single plan of financing;

(b) Whether the sales involve issuance of the same class of security;

(c) whether the sales have been made at or about the same time;

(d) whether the same type of consideration is received; and

(e) whether the sales are made for the same general purpose.[21]

These same factors are applicable to a determination of whether offers and sales should be integrated for purposes of the exemption under Section 4(2) of the 1933 Act and the Commission's Rules 146 and 242. The Commission, however, has adopted "safe harbor" provisions under Rules 146 and 242 which are designed to provide certainty by identifying certain offers and sales of securities which will be deemed not part of an issue in connection with offerings and sales made under these Rules. In determining which securities constitute a single issue for purposes of Rule 146, sales of securities occurring more than six months prior to and six months subsequent to the subject offering will not be considered part of the same issue if, during neither of the six-month periods, there were offers or sales of securities by or for the issuer of the same or a similar class as those of the subject offering. Rule 242 has a similar safe harbor provision except sales pursuant to any Section 3(b) exemption or pursuant to employee plans are permitted during the six-month "window-period."

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[18] Title I of the 1980 Act contains amendments to the Investment Company Act that are designed to exempt "business development companies" from certain specific provisions of that Act in favor of a carefully tailored pattern of regulation that takes into account the special needs of so-called "venture capital" activity, while at the same time preserving important investor protections. In order to qualify as a "business development company" under the 1980 Act, a company has to be a domestic company that is operated for the purpose of investing in the securities of certain described issuers, and that makes available significant managerial assistance to those issuers. *See* Section 101 of the 1981 Act.

[19] The pertinent provisions of the definition of "accredited investor" contained in Rule 242 are as follows:

(ii) Any person who purchases $100,000 or more of securities of the issuer per issue sold pursuant to this rule for any combination of (A) cash, or (B) an obligation to pay which provides for full recourse against the purchaser of the securities and for discharge of the obligation within 60 days of the first issuance of the securities, or (C) the cancellation of any indebtedness owed by the issuer of the securities being offered pursuant to this rule; and

(iii) Any director or executive officer of the issuer of the securities being offered pursuant to this rule.

[20] In its report on S. 2000, which proposed Section 4(6) as finally adopted by the House, the Senate Committee on Banking, Housing and Urban Affairs stated that ". . . existing interpretations of the term 'issue of securities' would apply in determining whether separate securities transactions should be considered as part of the same 'issue of securities.' " S. Rep. 958, 96th Cong., 2d Sess. at 44 (1980).

[21] Securities Act Release No. 4552 (November 6, 1962) [27 FR 11316].

The Commission is curently considering proposing a similar safe harbor provision for sales of securities made in reliance on Section 4(6). It is anticipated that any proposed safe harbor would permit sales pursuant to an employee plan to be made during the six-month period without resulting in a loss of the safe harbor. The Commission invites comments as to whether safe harbor provision should be adopted for purposes of Section 4(6) and, if so, what form it should take. The Commission is interested in receiving comments on the effects of such an approach on the integration concept as a whole.

B. Increases in Ceiling Limitations

As originally adopted in 1933, the maximum dollar value of securities that could be exempt from registration pursuant to Section 3(b) was $100,000. Prior to the enactment of the 1980 Act, the ceiling had been raised on several occasions, most recently in May and October 1978, when it was increased from $500,000 to $1,500,000[21] and then from $1,500,000 to $2,000,000.[22] The recent increase to $5,000,000 authorized by Congress was intended to provide the Commission with increased flexibility in developing exemptions targeted to smaller issuers without the need to seek legislative amendments on a frequent basis.[23] Thus the Commission invites public discussion as to whether the ceiling should be raised for existing exemptive provisions under Section 3(b), or whether new exemptions tailored to offerings between $2,000,000 and $5,000,000 should be developed.

1. Rule 240.

Rule 240 has generally been applauded as representing a welcome balancing of the needs of small business to raise capital with the protection of investors. The rule has been described as being particularly useful for the small local issuer who is seeking funds from friends and relatives.[24] Commentators, however, have consistently favored an increase in the $100,000 limitation on the aggregate sales price.[25] The Commission is considering increasing the amount of securities that can be sold under this exemption, particularly since the $100,000 limitation was adopted in 1975 when the Regulation A limitation was $500,000.

The Commission notes that during the year ended September 30, 1980, 1,486 issuers who used the Rule 240 exemption filed notices on Form 240 for an aggregate amount of sales of $14,164,141. During the same period in 1979, 477 issuers filed notices on Form 240 for an aggregate amount of $9,707,205.

Rule 240 requires neither specified information nor any assurance that offerees and buyers will be able to obtain information in some other way. The Commission is concerned about whether a significant increase in the ceiling without corresponding safeguards with respect to minimum disclosure requirements is appropriate in the public interest or the protection of investors. The Commission invites comment on whether and to what extent the ceiling limitation under Rule 240 should be increased and also asks commentators to express their views on the advisability of prescribing minimum disclosure standards in conjunction with an increase in the ceiling.

2. Regulation A Ceiling

The Commission is considering the advisability of increasing the Regulation A ceiling from $1,500,000 to some greater amount, possibly $3,000,000. During the 12 months ended September 30, 1980 there were 398 filings under Regulation A for an aggregate amount of $344,355,729 compared with 347 filings for an aggregate amount of $277,807,614 in the preceding year. During the 1980 period, 115 of the filings were for offerings between $1,400,000 and $1,500,000, and during the 1979 period 67 filings were for offerings in that range.[26]

If the Regulation A ceiling is increased, the Commission has considered the advisability of requiring certified financial statements for one year, at least in offerings exceeding a certain dollar amount. However, if that were done, a Regulation A offering that is required to include certified financial statements may have little advantage over a register offering on Form S-18.

Another approach being considered is to reduce the length of time to six months in which the maximum aggregate amount of securities may be sold under Regulation A. Assuming an increase to $2,000,000, such an approach would permit an issuer to sell up to $4,000,000 in a year. This approach has the advantage of coinciding with the approach taken in Rule 242 in calculating the amount that can be sold under that exemption. The Commission is concerned, however, that, because of the time and cost involved in preparing for an offering under Regulation A, an issuer may be unable or unwilling to make two offerings in a twelve-month period.

The Commission invites comments on whether and to what extent the ceiling on Regulation A should be increased; whether issuers making offerings under Regulation A over some particular level should be required to furnish one year certified financial statements; and whether it would be useful to increase this ceiling indirectly be allowing offerings up to $2,000,000 every six months.

The Commission also invites commentators to consider whether it would be appropriate, in light of the recent efforts to implement integration, to make the exemption provided by Regulation A available only to companies who are not reporting under the Securities Exchange Act of 1934. In this connection the Commission notes that 31 of the 398 Regulation A offerings during the year ended September 30, 1980 were made by reporting companies and 30 of the 347 Regulation A offerings during the same period in 1979 were by reporting companies. Further, proposed initiatives for integration will substantialy reduce the registration costs for all companies which have been filing periodic reports for more than three years.

The Commission is also concerned with an appropriate increase in Rule 257 [17 CFR 230.257] under Regulation A. Rule 257 permits offerings not exceeding $100,000 to be made to seasoned issuers[27] without the use of an offering circular.[28] Although the rule is available for primary and secondary offerings of securities, it is not currently being utilized extensively. This may be due, in part, to the limited amount of securities which may be sold thereunder. The Commission requests commentators to express their views with respect to whether and, if so, to what extent an increase in the ceiling under rule 257 is appropriate.

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[21] Pub. L. No. 95-283, May 21, 1978.

[22] Pub. L. No. 95-425, October 6, 1978.

[23] S. Rep. 958, *supra* note 20 at 12.

[24] Small Business Hearings, *supra* note 12 at 132.

[25] *Id.* at 136.

[26] Because of the increase in Regulation A filings and the probabilties of raising the current ceiling from $1,500,000, the Commission is proposing in a separate release to update the disclosure requirements adopted in 1958 to reflect current disclosure practice to enable issuers to save time and expense in complying with the Regulation.

[27] This includes issuers which have been organized or incorporated for more than one year and have a net income from operations for one of the last two fiscal years.

[28] Although an offering circular does not have to be filed, Rule 257(a) does require that there be filed as an exhibit to the notification a statement setting forth the information (other than financial statements) required by Schedule I of Form 1-A.

3. Rule 242

When the Commission originally adopted Rule 242 it provided that an issuer could sell up to the amount allowed under Section 3(b) during any six month period in reliance on the Rule. At that time the Section 3(b) ceiling was $2,000,000. On October 23, 1980 after the Section 3(b) ceiling had been raised to $5,000,000, the Commission adopted an amendment to Rule 242 to specify that $2,000,000 could be sold in any six month period and eliminated the prior reference to the Section 3(b) amount.[29] The amendment was intended to maintain the rule's limitations as originally adopted by the Commission pending further review of its experience under Rule 242. The Commission stated at that time that it intended to reconsider the limitation on the amount of securities that can be sold under Rule 242 along with other ceiling limitations prescribed by other Section 3(b) exemptions in the near future.[30] The Commission is considering the desirability of increasing the dollar amount of securities that may be sold under the Rule 242 exemption. The Commission is also considering the desirability of conforming Rule 242 and Regulation A with respect to the time period during which the limit may be sold, so that both rules would be based on either a six month period or a twelve month period. If this were done, Rule 242 might be amended to provide that the amount permitted under Section 3(b) could be sold in a twelve month period, thus increasing in effect the amount that could be sold under Rule 242 from $4,000,000 in a 12 month period to $5,000,000 in a 12 month period.

A recent study of Rule 242 prepared by the Directorate of Economic and Policy Analysis and released by the Commission [31] indicates that during the first six months the exemption was available 64 issuers filed Form 242 notices of intended sales aggregating $38,058,704. The intended sales reported by issuers ranged from $17,500 to $2,000,000 with an average intended sales amount of $613,850. Thirteen of the issuers, approximately 20 percent, reported intended sales of $1,000,000 or more and, of these, four issuers reported intended sales of the maximum $2,000,000. This study also indicated that issuers using Rule 242 are small when measured by their financial characteristics and number of employees. Over half had no more than $1,000,000 in annual revenues and total assets for their latest fiscal year and reported either zero or negative net income. Over half of the issuers had no more than 20 full-time and 5 part-time employees. However, these issuers are about the same size or slightly larger than issuers of a sample of comparable small public offerings, as measured by revenues, assets, income, shareholders' equity, and number of employees.

Commentators are invited to comment on the advisability of increasing the Rule 242 ceiling, in light of the foregoing study, and, if an increase is advisable, the most desirable method of effecting the increase. Commentators are also requested to focus on the relationship between an increase in Rule 242 and those of other Section 3(b) ceiling limitations, as well as Section 4(6).

4. Form S–18

Last year the Commission simplified registration and reporting procedures for small businesses through the adoption of Form S–18. This form is available to certain domestic and Canadian corporate issuers, who are not subject to the Commission's continuous reporting requirements, for the registration of securities to be sold for cash not exceeding an aggregate offering price of $5 million.

The present inquiry with respect to Form S–18 relates to whether the $5,000,000 ceiling limitation should be raised if the Regulation A ceiling is significantly increased. The Commission notes that as of October 31, 1980, 23 of the 173 filings made on Form S–18 since the adoption of the Form were for offerings between $4,000,000 and $5,000,000. It is also noted that during the 12 month period ended July 31, 1980, 64 filings were made on Form S–1 by companies who were not reporting companies for offerings between $5,000,000 and $10,000,000. If the ceiling on Form S–18 had been higher and if that Form had been available to limited partnerships and/or companies with significant mining and oil and gas operations, some or all of those issuers who used Form S–1 might have used Form S–18.

The Commission invites comment on whether an increase in the Form S–18 ceiling would be advisable if an increase is adopted in the Regulation A ceiling. Comments are also invited as to whether an increase in the amount of secondary offerings that may be permitted by the Form, currently set at $1,500,000, should be effected.

All interested persons are invited to submit their written views or comments on the foregoing questions and on any other areas which they believe might be relevant to the consideration of the exemptions described herein. These comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington D.C., 20549 on or before February 20, 1981. Such communications should refer to File No., S7–867, and will be available for public inspection.

By the Commission.

George A. Fitzsimmons

Secretary.

December 23, 1980.

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[29] Securities Act Release No. 6250 (October 23, 1980) [45 FR 71775].

[30] *Id.*

[31] Rule 242: A Monitoring Report on the First Six Months of its Use.

Appendix A.—*Comparison Chart*

Comparison item	Rule 242	Rule 240	Rule 146	Section 4(6)
Aggregate Sales Price	$2,000,000/6 mo. (including all § 3(b) sales).	$100,000/12 mo. (including all sales of exempt securities).	Unlimited	$5,000,000 per offering.
Commission Prohibition	No	Yes	No	No.
Manner of Offering	No general solicitation or general advertising.	No general solicitation or advertising.	No general solicitation or general advertising.	No general solicitation or general advertising.
Excluded Issuers	Non-U.S. or Canadian; limited partnerships; corporations with significant oil and gas or mining operations; investment companies.	None	None	None.
Nature of Offerees	Not regulated	Not regulated	Must be capable of evaluating the merits and risks of prospective investment and/or be wealthy.	Accredited investors.
Nature of Purchasers	*Not regulated	Not regulated	Must be sophisticated and/or wealthy with offeree representative.	Accredited investors.
Number of Purchasers	Reasonable basis to believe and believe, after reasonable inquiry, 35 or fewer, not counting accredited purchasers and purchasers of $100,000 of securities.	Available only if 100 or fewer total beneficial owners of securities.	Reasonable basis to believe and believe, after reasonable inquiry, 35 or fewer, not counting purchasers of $150,000 of securities.	No limit on number of accredited investors—no other persons.

Appendix A.—*Comparison Chart*

Comparison item	Rule 242	Rule 240	Rule 146	Section 4(6)
Applicability of Sec. 10b and Rule 10b-5	Applies	Applies	Applies	Applies.
Information Requirement	(1) Non-accredited purchasers: (a) Reporting companies—most recent annual report definitive, proxy statement and recent periodic reports. (b) Non-reporting companies—info required by Part I of Form S-18 to the extent material. (2) Accredited purchasers: No specific requirement unless both accredited and non-accredited purchasers involved and then all purchasers required to be furnished same info.	None	Must furnish (unless offeree has access via economic bargaining power):. (1) $1,500,000 offerings—info may be limited to Schedule I (Reg A) info;. (2) Other offerings— (a) Reporting companies—recent Form S-1 or Form 10, definitive proxy statement and recent periodic reports. (b) Non-reporting companies—info that would be required to be included in registration statement on form which issuer would be entitled to use.	No specific requirements.
Opportunity of Questions	Yes	No	Yes	No specific requirement.
Resales Restricted	Yes	Yes	Yes	Yes.
Report of Sales	Yes, if condition of Rule	Yes, condition of Rule except for first offerings under Rule.	Yes, condition of Rule	Yes, condition of exemption.

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17 CFR Parts 230 and 239

[Release No. 33-6275; File No. S7-868]

Small Offering Exemption From Registration Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing for comment amendments to the rules, forms, and disclosure requirements under Regulation A. The regulation, which may be used by a variety of issuers to raise up to $1.5 million worth of securities during any twelve-month period, has not been substantially revised since 1956. The proposals represent a comprehensive updating and revision of the disclosure requirements. Certain minor rule and form amendments are also being proposed. The proposals are being published at this time is view of the recent increase in the use of the Regulation and the Commission's inquiry in a companion release concerning an increase in the offering ceiling limit of Regulation A.

DATE: Comments must be received on or before March 23, 1981.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549. Comments should refer to File No. S7-868 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Paul A. Belvin, or Daniel Abdun-Nabi, Office of Small Business Policy, Division of Corporation Finance (202) 272-2644.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for public comment proposed amendments to Regulation A [17 CFR 230.251 et seq.] under the Securities Act of 1933 (the 1933 Act")] [15 U.S.C. 77a et seq., as amended]. Regulation A provides an exemption from the registration provisions of the 1933 Act for sales of securities up to $1.5 million during a 12 month period .[1] Form 1-A [17 CFR 239.90], which contains the Regulation A disclosure provisions, is the subject of a complete revision.

Introduction

During April and May 1978, the Commission held a series of small business hearings in several cities across the nation.[2] The primary issue addressed at the hearings concerned the impact the federal securities laws have on small businesses trying to raise capital. In this regard, the continued viability of Regulation A as an alternative to full registration received considerable attention. Commentators at the hearings consistently indicated the need to revise and update the requirements of Regulation A to make it a more practical means for small businesses to raise capital.

As a result of the hearings, numerous revisions to the Commission's rules and regulations have already been made. With respect to Regulation A, the "ceiling" amount of securities that may be offered has been increased [3] and a rule adopted allowing issuers to use a preliminary offering circular in Regulation A offerings.[4] These revisions are significant in that they have expanded the usefulness of Regulation A.[5] The Regulation A rules and schedules themselves, however, are in need of a thorough review and update; they have not been substantially revised since 1956.[6] Consequently, the Regulation A disclosure schedule requirements have essentially become outdated and do not reflect the type of disclosure actually being included in Regulation A offering circulars.

Commentators at the Commission's Small Business Hearings expressed the view that the absence of updating revisions to the Regulation A disclosure requirements could impose a burden on smaller issuers. These issuers might be required to spend a longer period, and consequently a greater expense, in the pre-offering comment and amendment period since issuers and inexperienced counsel would believe that Schedule I accurately reflected the Regulation A disclosure requirements and prepare their initial filing accordingly. In response to these comments the proposals published today for public comment represent a comprehensive revisions and reformatting of the Regulation A disclosure provisions. Also included in the proposed amendments are certain minor changes to the Regulation A rules. Additional substantive amendments to these rules will be proposed in the near future. In this regard the Commission today published a companion release [7] which, among other things, seeks public comment as to whether the "ceiling amount" in Regulation A should be raised and, if so, whether any amendments to disclosure requirements, such as the inclusion of certified financial statements, should be made for offerings in excess of the current $1.5 million ceiling. The release is in response to the recently enacted Small Business Investment Incentive Act of 1980 which, among other things, raised the ceiling applicable to Section 3(b) of the 1933 Act, under which Regulation A is promulgated, from $2 million to $5 million.[8]

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[1] Regulation A is promulgated pursuant to Section 3(b) of the Securities Act. Section 3(b) authorizes the Commission to adopt rules and regulations to exempt $5 million of securities per issue from registration, subject to appropriate conditions, if it finds that registration is not necessary in the public interest or for the protection of investors by reason of the small amount involved or the limited character of the offering. This "ceiling" amount was recently increased from $2 million to $5 million pursuant to the Small Business Investment Incentive Act of 1980, Pub. L. No. 96-477 (October 21, 1980).

[2] In Securities Act Release No. 5914 (March 6, 1978) [43 FR 10876], the Commission announced its intention to hold a series of small business hearings. The full text of the comments offered can be found in Commission File No. S7-734.

[3] The ceiling applicable to Regulation A was increased, in September 1978, from $500,000 to $1,500,000. Securities Act Release No. 5977 (September 18, 1978) [43 FR 55254].

[4] Securities Act Release No. 6075 (June 1, 1979) [44 FR 33362].

[5] During fiscal 1978, 242 notifications on Form 1-A were filed representing $87 million worth of securities while 347 notifications for $278 million were filed for fiscal 1979. During fiscal 1980, 398 notifications were filed for $351 million.

[6] Securities Act Release No. 3013 (February 14, 1956) [21 FR 1147].

As discussed fully below, the instant proposals are designed to codify disclosure standards which are currently being applied to Regulation A offerings and to provide specific disclosure requirements for different types of issuers and different types of offerings. The Commission does not expect that the amendments proposed today will in any way increase the burdens on issuers utilizing the Regulation. Rather, the proposals should have a beneficial effect on those issuers through a reduction in the time spent in the preparation and review of a Regulation A filing. In addition, the Commission anticipates that the proposed amendments should significantly assist the administration of uniform disclosure policies with respect to Regulation A offerings as processed by the Commission's nine Regional Offices.

Discussion

Regulation A represents a method by which a variety of different types of issuers may issue securities publicly. The offerings may involve a simple offering of debt or equity securities to the public to raise capital or they may involve transactions such as a merger of companies or an offering pursuant to an employee stock option or benefit plan. Generally, the Form 1-A notification, Schedule I of Form 1-A and a group of relatively brief rules currently delineate the disclosure requirements applicable to all of these types of offerings. If the same types of offerings were registered, they would be subject to the detailed disclosure requirements established by the guides for the preparation of registration statements (17 CFR 231, Release No. 33-4936), a series of rules under Regulation C (17 CFR 230.400-230.494), and the various registration forms which are applicable to the different types of offerings (17 CFR 239.4-239.61).

Form 1-A and Schedule I were not designed to reflect the variety of offerings that have, over the years, been made pursuant to Regulation A. As a result, offering circulars filed for these offerings, to a certain extent rely, by analogy, on the standards applied to registered offerings. The staff of the Office of Small Business Policy, Division of Corporation Finance, have reviwed a large number of offering circulars over a recent period. This review indicated that the disclosure in these circulars is often similar, in certain respects, to the quantity and quality of disclosure being made in registered offerings. For example, circulars relating to employee plans included disclosure that would be required by Form S-8 (17 CFR 239.16b); circulars for mergers include disclosure that would normally appear in a Form S-14 (17 CFR 239.23) registration; offerings relating to bank holding companies included much of the information required by Guide No. 61 to Guides to Preparation of Registration Statements.[9] The bulk of disclosure included in these circulars was not limited to the disclosure requirements set out in Schedule I of Regulation A and did not result necessarily from comments by the staff.

A review of more commonplace corporate equity offerings by Regulation A issuers also revealed that many current disclosure practices, which are technically applicable to registration statements only, were and are followed with respect to these offerings when made pursuant to Regulation A. For example, most offering circulars include a "risk factors" section in the forepart of the circular. Such disclosure is not technically required by the existing Regulation A disclosure requirements but is required in registration statements pursuant to Guide No. 6 to Guides to Preparation of Registration Statements. The inclusion of certain registered offering type disclosures may be explained in part by the fact that issuers concerned with Securities Acts liability for failure to state a material fact pattern have looked to the various forms for registration for guidance in the absence of adequate disclosure requirements under Regulation A.

The initial consideration in revising the Regulation was to develop disclosure requirements for a single regulation that would be flexible enough to facilitate a wide variety of offerings. In addition, primary consideration was given to retaining a regulatory structure that would remain less burdensome for small issuers than the registration format. The approach proposed herein represents a flexible method of facilitating a variety of issuers and offerings and, at the same time, minimizing to the extent possible the burdens that would be placed on issuers utilizing the exemption. The proposed items generally are less burdensome than the corresponding items applicable to registration statements. In this respect, any future additions to these items for the more specialized offerings, such as employee plans and mergers, will be drafted with a view towards minimizing the disclosure burdens on small issuers.

The existing structure of Regulation A calls for the filing of a "notification" on Form 1-A, and exhibits to that form which include, among other things, an offering circular prepared in accordance with Schedule I of Form 1-A. As proposed today, a single document, designated the "offering statement," would replace the present notification and offering circular. The offering statement would consist of three parts and would be the basic form to be used by every issuer for every offering made under the Regulation.

Part I of the offering statement is similar to the present notification. Every issuer utilizing the Regulation will be required to disclose the information called for in Part I—Notification. The basic purpose of the current notification is to present certain information which is necessary to determine the availability of the exemption. For example, the existence of any disqualifications under Rule 252 would be disclosed in the notification. Part I—Notification of the Offering Statement serves the same purpose. As discussed below, the items have been revised and consolidated. Similar to the existing notification, Part I—Notification will be filed and publicly available but will not be circulated by the issuer to investors.

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[7] Securities Act Release No. 6274 (December 23, 1980) (Comment period expires on February 20, 1981).

[8] Pub. L. No. 96-477 (October 21, 1980).

[9] 17 CFR 231, Release No. 33-4936.

Part II of the offering statement consists of the offering circular to be distributed to investors. Part II—Offering Circular was specifically designed to facilitate the different types of offerings which may be made under the exemption. The proposed structure contemplates the establishment of a "pool" of disclosure items. The disclosure required by this pool will range from basic items such as description of business and management remuneration to more specialized items such as the description of an employee plan or a discussion of the investment policies of a real estate investment trust. The general instructions to Part II of the offering statement indicate the items to which a particular issuer would be required to respond. Accordingly, a real estate investment trust would not have to respond to items germane to offerings by mining companies. However, both real estate investment trusts and mining companies would have to disclose information pursuant to the management remuneration item. This concept was first recommended by the Advisory Committee on Corporate disclosure with respect to registered offerings [10] and has been adopted in part by the Commission in Regulation S-K.[11] The Commission believes that the concept is especially appropriate in the context of Regulation A since the disclosure requirements must relate to a wide variety of issuers and offerings.

The "pool" of items proposed today represents the basic disclosure items that will be applicable to most Regulation A issuers. In the event the proposed amendments are adopted, additional items tailored to the various issuers that use the Regulation, e.g. issuers engaged in oil and gas or mining operations, will be proposed.

Part III of the offering statement relates solely to exhibits. The exhibits would be treated in the same manner as those currently required by Form 1-A. That is, they would be filed with the Commission, be publicly available, but would not be circulated to investors. Most of the exhibits currently required by Form 1-A are required by Part III—Exhibits with the notable exception of the offering circular which would become Part II of the Offering Statement. Certain exhibits have been added to the list of those currently required by Form 1-A. These represent documents which are often called for by the staff as suppemental information. Also, Part III—Exhibits would require the sequential numbering of the Offering Statement.[12] The manually signed copy of the offering statement would be required to be sequentially numbered beginning with the cover page and for each copy to utilize an exhibit index which relies on this numbering system.

In considering the proposed revision of Regulation A, it is important to recognize that, as a practical matter, it would not represent an expansion of the disclosure that is currently being made in Regulation A offering circulars. Therefore, while the proposed revisions would result in more detailed disclosure requirements, in fact, they would constitute a codification of current disclosure policies and practices followed by the staff and experienced issuers with respect to Regulation A offerings. More comprehensive and explanatory disclosure requirements should aid issuers in preparing the necessary documents and should therefore save issuers time and expense in complying with Regulation A. Adoption of a comprehensive system of disclosure standards is particularly important at this time in view of the possible increases in the ceiling amount that may be offered pursuant to the Regulation as discussed above.

Although the Commission anticipates that adoption of the proposals published today would benefit smaller issuers, inquiry also is made as to whether the codification represented by today's proposals reflects an appropriate level of disclosure for Regulation A offerings. The Commission specifically requests comment on whether any or all of the disclosure requirements of Regulation A should call for different levels or types of disclosure than the instant proposals.

Amendments to Rules and Forms

Numerous amendments to the regulation A rules are proposed simply to make them consistent with the new terminology utilized in the proposed disclosure requirements. The rules currently refer to a "notification" on Form 1-A and an offering circular including the information required by Schedule I. The revised structure proposes a uniform "offering statement" which is made up of three parts. The majority of the rule amendments are therefore merely technical in nature. Certain substantive amendments which are proposed are discussed below.

Synopsis

I. Offering Statement

A. General

A cover page for the offering statement will be placed on the front of the Part I—Notification. This cover page is designed to set forth basic information such as the issuer's name and address. Following the cover page is a series of self-explanatory instructions as to the use and preparation of the offering statement.

B. Part I—Notification

The first six items of this part are generally a consolidated version of the present notification. The existing requirements have been abbreviated in several instances. For example, Item 2(b) of Schedule I requires the issuer's affiliates to be named and all positions held with the issuer to be described. The revised version of these items only requires disclosure of the names of these individuals. The existing requirements have also been consolidated. For example, Items 2, 3 and 4 of the existing notification have been consolidated into Item 1 of Part I—Notification. Also, old Items 5, 6 and 7 have been consolidated into new Item 2.

Items 7 and 8 of Part I—Notification are new additions. Item 7 requires disclosures of any marketing arrangements known to the issuer that may have a deleterious effect on the aftermarket in the issuer's securities. Item 8 concerns potential conflicts of interest with respect to experts that prepare or certify portions of the offering statement.

C. Part II—Offering Circular

1. Text.—The textual disclosure requirements of Part II—Offering Circular are essentially self-explanatory. The revised offering circular disclosure requirements were built upon the major concepts embodied in Schedule I; however, the proposed disclosures emphasize the importance of information on the business of the issuer, the quality of its management, potential conflicts of interest, and the use of proceeds. This emphasis reflects the Commission's belief that these issues are of particular importance in Regulation A offerings.

The revised items are longer that those appearing in existing Schedule I for two reasons. First, the revised items reflect disclosure standards which have evolved since the adoption of the existing Schedule I in 1956 and which, for the most part, are being followed by issuers and their counsel in drafting their circulars. Second, existing

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[10] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (1977) at 456.

[11] 17 CFR 229.20 et seq.

[12] A similar proposal was recently adopted with respect to registration statements. Securities Act Release No. 6230, (August 27, 1980) [45 FR 58622].

Schedule I does not provide any explanatory instructions to issuers. The language of the Schedule I requirements is so general that necessary refining of the scope of any item is, therefore, accomplished through the comment process. The result is more extensive comments by the staff and more expense to the issuer through time and money spent in revising the offering circular. A significant portion of the revised items is dedicated to instructions which are designed to aid issuers in determining the intent and scope of the disclosure requirement prior to filing. These instructions should aid issuers in the preparation of the circular and therefore result in a more complete document at the time of filing with the Commission.

As noted above, the proposals are lengthier than the requirements of existing Schedule I. However, the proposed amendments generally call for significantly less extensive disclosure than Form S–18. For example, the proposals, similar to Schedule I, do not contain an express disclosure requirement regarding pending legal proceedings. Also, proposed Item 10. Security Ownership of Management and Certain Security Holders calls for less disclosure than its corresponding item in Form S–18 by requiring disclosure relating to record ownership and voting control only. The Commission specifically solicits comments as to whether the narrative disclosure requirements of Regulation A and Form S–18 should be more uniform.[13]

2. Financial Statement.—The financial statement requirements have remained essentially unchanged. The standards for when certified financial statements are required and when uncertified financials will be allowed have not been altered. Requirements have been added which will codify the standards applied in cases where there have been past successions to other businesses or will be future successions to other businesses. In addition, a detailed definition of the term "significant subsidiary" has been included as a guide to issuers.

With regard to certified financial statements, an instruction has been added requiring that any report of an independent accountant regarding financial statements shall comply with Article 2 of Regulation S–X. Article 2 sets forth technical requirements regarding the content of auditors' reports which are included to: (1) represent that the audit was performed in accordance with Generally Accepted Auditing Standards, (2) clearly state an opinion on the financials and related accounting principles, and (3) identify and explain matters to which exception is taken. Article 2 also includes standards regarding auditors independence.

D. Part III—Exhibits

Although the exhibit requirements delineated in Form 1–A have been reworded, the substantive requirements have remained substantially unchanged. One major modification is this regard concerns the reformatting of the disclosure requirements. The offering circular will no longer be filed as an exhibit to the notification. Pursuant to the proposal, the offering circular will constitute an entirely separate part of the offering statement.

Two procedural concepts have been added and are set forth in Item 1 of Part III. These provisions allow for incorporation by reference of exhibits that have been previously filed. The second indicates that if any material changes occur with respect to exhibits filed an amended version reflecting such changes would be required. The former is meant to avoid duplication and will benefit those Regulation A issuers that are subject to the reporting provisions under the Securities Exchange Act of 1934.[14] The latter was meant to assure that material changes in required documents are filed with the Commission.

Certain exhibit requirements have been added as has the new sequential numbering system and exhibit index requirements. The latter two additions are discussed fully below "Rule Amendments." Six new requirements have been included in the proposals. The first concerns the issuer's charter and/or by-laws or similar instruments. The second concerns voting trust agreements. Certain material contracts will also be required under the third new section. In most instances, each of the above three types of documents are filed pursuant to staff comments since such documents are essential to an adequate review of the disclosure made in the offering circular. Additionally, filing these documents should not represent a significant burden to issuers. The fourth requirement concerns the filing of material foreign patents which is necessitated since Regulation A may be used by Canadian issuers. Unlike domestic patents, the staff and the public do not have any assured access to Canadian patents. be used by certain Canadian issuers. Unlike domestic patents, the staff and the public do not have any assured access to Canadian patents. Based on past experience the Commission does not anticipate that this additional requirement will place a significant burden on issuers. Fifth, certain reorganization and acquisition agreements will be filed under the revised item. Since Regulation A may be used in the merger/acquisition context, such information is important. Lastly, two provisions concerning escrow agreements have been added. Any escrow agreement utilized to comply with Rule 253(c) will be filed as an exhibit. In this connection, the proposals include a new optional Form 7–A which is described below. In the event the offering is minimum-maximum offering, the escrow agreement that will be used for funds received, up to the minimum, will also be filed.

A new subsection has been added which encompasses the consent requirements set forth in existing Form 1–A concerning experts, underwriters and non-residents. This subsection includes the consent requirements already included in Form 1–A. Specifically the consent of the underwriter connected with the offering, experts who prepare parts of the offering statement and non-residents will continue to be required. A new requirement concerning experts has been included. If an expert's report is quoted or summarized (as opposed to experts who actually prepare or certify parts of the offering statement), his consent will now be required. Form requirements, such as a manual signature an dating requirement, have also been added. Finally, a provision has been made to allow issuers to apply to the Commission for a waiver of any consent requirement.

II. Amendments to Rules

Amendments to each Regulation A rule are proposed herein.[15] The majority of these amendments are technical in nature since terminology in the existing rules referring to a "notification" on Form 1–A and an "offering circular" which includes information required by Schedule I needed to be revised to reflect the new "offering statement" terminology.

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[13] The Commission has simultaneously proposed for comment substantial revisions to Regulation S–K [17 CFR 229.20 et seq.] and the Guides for the Preparation and Filing of Registration Statements. Securities Act Release No. 6276 (December 23, 1980) (Comment period expires March 6, 1981). While it is recognized that Regulation A calls for less extensive disclosure than registered offerings, the Commission solicits comments as to whether Regulation A should require disclosure consistent with any of the proposed substantive disclosure provisions.

[14] *See* Sections 12, 13, and 15(d) of the Securities Exchange Act of 1934. 15 U.S.C. § 78 l, m, n(d) (1976).

[15] No amendments to Rule 252 have been proposed inasmuch as substantial revisions to that rule were proposed in the recent past. *See* Securities Act Release No. 6214 (June 19, 1980) [45 FR 42642].

Four substantive revisions are also proposed. First, Rule 259 has been revised to require an affirmative statement in every circular to the effect that the Commission has not passed upon the adequacy or accuracy of the disclosure presented therein. In addition, this undertaking notes that the Commission has not passed upon the availability of the Section 3(b) exemption from registration as it relates to the particular issuer. Existing Rule 259 prohibits statements which imply that the Commission has passed upon the adequacy or accuracy of disclosure or the availability of the exemption. As a matter of practice, the proposed undertaking was inserted in virtually every circular under the existing rule. Therefore, the proposal merely represents a codification of current practice.

Second, Rule 255 has been amended to include a sequential numbering system. This system would require the manually signed version of the offering statement to be numbered sequentially from the first page of the statement through the last page of the last exhibits. This numbering may be done in any legible form, including handwriting. Rule 255 as amended would call for a new "index" which is to be included at the beginning of Part III—Exhibits. The cover page of the offering statement would include an indication of the total number of pages which make up the statement as well as an indication of where the exhibit index is located. Since this system may be presented in handwritten form, it is not expected that it would represent a significant burden to issuers. On the other hand, the benefit to the staff and public would be significant since locating specific pages of the statement will be much easier. This is especially true because the Commission's files are now kept on a microfiche system.

Third, a basic definition of the term "parent" has been inserted in Rule 251. This addition was necessary since new Item 10(e) of Part II—Offering Circular refers to "parents" of the issuer.

Fourth, the printing and legibility requirements previously included in Rule 256(d) with respect to the offering circular have been deleted and a new general instruction concerning legibility has been included in the offering statement. Previously, Rule 256(d) set forth specific requirements as to print size allowed in the offering circular. The revised General Instruction sets out legibility requirements but does not specify print size. Accordingly, General Instruction B(d) provides that the Offering Statement must be printed, mimeographed, lithographed, typewritten or prepared by a similar process which will result in clearly legible copies.

III. New Form 7-A

Issuers that are subject to Rule 253(c) are required to file an escrow agreement with the Commission as an exhibit to the ntofication. In the past the staff of the Commission's regional offices distributed a form of escrow to issuers which met the requirements of Rule 253(c). Rather than continuing this distribution by the staff, it is proposed that the form of escrow be adopted as new optional Form 7-A under Regulation A. Form 7-A will not be a mandatory form. Issuers will have the option of utilizing any other type of escrow agreement as long as it meets the requirements of Rule 253(c).

Text of Proposals

The text of the proposals is set forth below.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Regulation A, § 230.251–§ 230.264, is proposed to be amended as follows:

1. Section 230.251 is amended by adding the definition of "parent" to read as follows:

§ 230.251 Definitions of terms in this regulation.

* * * * *

Parent. A "parent" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

* * * * *

2. Section 230.253 is amended by revising paragraph (c)(1) to read as follows:

§ 230.253 Special requirements for certain offerings.

* * * * *

(c) * * *

(1) All securities issued prior to the filing of the offering statement, a proposal to be issued, for a consideration consisting in whole or in part of assets or services and held by the person to whom issued; and

* * * * *

3. Section 230.254 is amended by revising paragraphs (b) and (d)(1) to read as follows:

§ 230.254 Amount of securities exempted.

* * * * *

(b) The aggregate offering price of securities which have a determinable market value shall be computed upon the basis of such market value as determined from transactions or quotations on a specified date within 15 days prior to the date of filing the offering statement or the offering price to the public, whichever is higher; *Provided,* That the aggregate gross proceeds actually received from the public for the securities offered hereunder shall not exceed the maximum aggregate offering price permitted in the particular case by paragraph (a) of this section.

* * * * *

(d) * * *

(1) Unsold securities the offering of which has been withdrawn with the consent of the Commission by amending the pertinent offering statement to reduce the amount stated therein as proposed to be offered;

* * * * *

4. Section 230.255 is revised to read as follows:

§ 230.255 Filing of offering statement.

(a) At least 10 days (Saturdays, Sundays and holidays excluded) prior to the date on which the initial offering or sale of any securities is to be made under this regulation, there shall be filed with the Regional Office of the Commission specified below five copies of the offering statement required by this Regulation which shall consist of Part I—Notification, Part II—Offering Circular, and Part III—Exhibits. The Commission may, however, in its discretion, authorize the commencement of the offering prior to the expiration of such 10-day period upon a written request for such authorization.

(b) The offering statement shall be signed by the issuer and each person, other than the issuer, for whose account any of the securities are to be offered. If the offering statement is signed by any person on behalf of any other person, evidence of authority to sign on behalf of such other person shall be filed with the offering statement, except where an officer of the issuer signs on behalf of the issuer. At the time of filing an offering statement, the applicant shall pay to the Commission at the Regional Office where the offering statement is filed a fee of $100.00, no part of which shall be refunded.

(c) The offering statement shall be filed with the Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted in the United States. The offering statement of any issuer having or proposing to have its principal business operations in Canada shall be filed with the Regional Office nearest the place where the issuer's principal business operations are conducted or proposed to be conducted, unless the offering is to be made through a principal underwriter located in the United States, in which case the offering statement shall be filed with the Regional Office for the region in which such underwriter has its principal office.

(d) An amendment to any part of the offering statement will necessitate the filing of an amended offering statement which shall be signed in the same manner as the original offering statement. Five copies of such amendment shall be filed with the same Regional Office as the original offering statement at least 10 days prior to any offering or sale of the securities subsequent to the filing of such amendment, or such shorter period as the Commission, in its discretion, may authorize upon a written request for such authorization.

(e) An offering statement or any other document filed as a part thereof may be withdrawn upon application unless the offering statement is subject to an order under § 230.261 at the time the application is filed or becomes subject to such an order within 15 days (Saturdays, Sundays and holidays excluded) thereafter; *Provided* That an offering statement may not be withdrawn after any of the securities proposed to be offered thereunder have been sold. Any such application shall be signed in the same manner and filed with the same Regional Office as the offering statement.

(f) The manually signed original (or in the case of duplicate originals, one duplicate original) of all offering statements, reports, or other documents filed shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the cover page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first on the first page of the document.

(g) Each offering statement shall contain an exhibit index, which should immediately precede the exhibits filed with such offering statement. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation in the manually signed original, the page number in the sequential numbering system described in paragraph (f) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the manually signed offering statement shall list the page in the filing where the exhibit index is located.

5. Section 230.256 is amended by revising paragraphs (a) introductory text, (a)(1), (b), and (c) introductory text, removing existing paragraph (d), and redesignating existing paragraphs (e) through (i) as paragraphs (d) through (h) revised to read as follows:

§ 230.256 Filing and use of the offering circular.

(a) Except as provided in paragraph (c) of this section and in § 230.257 of this part:

(1) No written offer of securities of any issuer shall be made under this regulation unless an offering circular containing the information specified in Part II of the offering statement is concurrently given or has previously been given to the person to whom the offer is made, or has been sent to such person under such circumstances that it would normally have been received by him at or prior to the time of such written offer; and

* * * * *

(b) In the case of transactions effected on a securities exchange, delivery of the offering circular (offering statement—Part II) shall be deemed to have been made if prior to such transactions a reasonable number of copies of the offering circular have been furnished to the exchange for delivery to any person or persons requesting copies thereof.

(c) Any written advertisement or other written communication, or any radio or television broadcast, which states from whom an offering circular containing the information specified in Part II of the offering statement may be obtained and in addition contains no more than the following information may be published, distributed or broadcast at or after the commencement of the public offering to any person prior to sending or giving such person a copy of such circular:

* * * * *

(d) If the offering is not complete within nine months from the date of the offering circular (offering statement-part II) a revised offering circular shall be prepared, filed and used in accordance with these rules as for an original offering circular, except that in the case of offerings under stock purchase, savings, stock option or other similar plans for the benefit of employees, if the offering is not completed within 12 months from the date of the offering circular, a revised offering circular shall be prepared, filed and used in accordance with these rules as for an original offering circular. In no event shall an offering circular be used which is false or misleading in light of the circumstances then existing.

(e) If the original offering circular (offering statement—Part II) is revised or amended, such revised or amended circular shall be filed as an amendment to the offering statement, as provided by § 230.255(d), with the appropriate Regional Office of the Commission at least 10 days prior to its use, or such shorter period as the Commission may, in its discretion, authorize upon a written request for such authorization.

(f) Sales by a dealer (including an underwriter no longer acting as an underwriter in respect of the security involved in such transaction) of securities of an issuer not subject, immediately prior to the time of filing an offering statement, to the provisions of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, offered pursuant to this regulation and taking place prior to the expiration of ninety days after the first date upon which the securities were bona fide offered to the public, shall not be exempt pursuant to this regulation unless: (1) the dealer furnishes a copy of the then current offering circular (offering statement—Part II) to the purchaser prior to or with the purchaser's receipt of the confirmation of the sale; or (2) the offering circular has previously been mailed or delivered to such purchaser. Failure by a dealer to comply with the provision of this subparagraph shall not otherwise affect the availability of the exemption for any other person, including the aggregate amount of securities exempted pursuant to Rule 254.

(g) The issuer or, if there is an underwriter, the underwriter shall provide reasonable quantities of copies of the offering circular (offering statement—Part II) to any dealer on request prior to the expiration of ninety days after the first date upon which securities of such issuer were bona fide offered to the public pursuant to this regulation.

(h) An offering circular filed pursuant to paragraph (e) of this section may be distributed prior to the expiration of the 10-day waiting period for offerings provided for in § 230.255 (a) and (d) and paragraph (e) of this section and such distribution may be accompanied or followed by oral offers related thereto, provided the conditions in paragraphs (1) through (4) are met. For the purposes of this section, any offering circular distributed prior to the expiration of the ten day waiting period is called a Preliminary Offering Circular. Such Preliminary Offering Circular may be used to meet the requirements of paragraph (a)(2) of § 230.256: *Provided,* That if a Preliminary Offering Circular is inaccurate or inadequate in any material respect, a revised Preliminary Offering Circular or an offering circular of the type referred to in paragraph (4) of this section, shall be furnished to all persons to whom the securities are to be sold at least 48 hours prior to the mailing of any confirmation of sale to such persons, or shall be sent to such persons under such circumstances that it would normally be received by them 48 hours prior to their receipt of confirmation of the sale.

(1) Such Preliminary Offering Circular contains substantially the information required by this section to be included in an offering circular, or contains substantially that information except for the omission of information with respect to the offering price, underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, conversion rates, call prices, or other matters dependent upon the offering price. For issuers not subject to the reporting provisions under section 13(a) or 15(d) of the Securities Exchange Act of 1934, the disclosure on the outside front cover page of the Preliminary Offering Circular should include a bona fide estimate of the range of the maximum offering price and maximum number of shares or other units of securities to be offered or should include a bona fide estimate of the principal amount of debt securities to be offered.

(2) The outside front cover page of the Preliminary Offering Circular shall bear the caption "Preliminary Offering Circular," the date of its issuance, and the following statement which shall run along the left hand margin of the page and be printed perpendicular to the text, in boldface type at least as large as that used generally in the body of such offering circular;

An offering statement pursuant to Regulation A relating to these securities has been filed with the Securities and Exchange Commission. Information contained in this Preliminary Offering Circular is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time an offering circular which is not designated as a Preliminary Offering Circular is delivered. This Preliminary Offering Circular shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sales of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

(3) The Preliminary Offering Circular relates to a proposed public offering of securities which is to be sold by or through one or more underwriters who are broker-dealers registered under section 15 of the Securities Exchange Act of 1934, each of whom has furnished a signed Consent and Certification in the form prescribed as a condition to the use of such offering circular;

(4) An offering circular which contains all of the information specified in Part II of the offering statement and which is not designated as a Preliminary Offering Circular is furnished with or prior to delivery of the confirmation of sale to any person who has been furnished with a Preliminary Offering Circular pursuant to this paragraph.

6. Section 230.257 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 230.257 Offerings not in excess of $100,000.

Except as to issues specified in paragraph (a) of § 230.253 and issues of assessable stock, the offering circular (offering statement—Part II) need not be filed or used in connection with an offering of securities under this regulation if the aggregate offering price of all securities of the issuer, its predecessors and affiliates offered or sold without the use of such an offering circular does not exceed $100,000, computed in accordance with § 230.254, provided the following conditions are met:

(a) In addition to filing Part I—Notification and Part III—Exhibits, there shall be filed as an exhibit five copies of a statement setting forth the information (other than financial statements) required by Part II—Offering Circular of the offering statement.

* * * * *

7. Section 230.258 is amended by revising the introductory text and paragraph (c) to read as follows:

§ 230.258 Sales material to be filed.

Four copies of each of the following communications prepared or authorized by the issuer or anyone associated with the issuer, and of its affiliates or any principal underwriter for use in connection with the offering of any securities under §§ 230.251 to 230.265 shall be filed, with the office of the Commission with which the offering statement is filed, at least five days (exclusive of Saturdays, Sundays and holidays) prior to any use thereof, or such shorter period as the Commission, in its discretion, may authorize:

* * * * *

(c) every letter, circular or other written communication proposed to be sent, given or otherwise communicated to more than ten persons, except an offering circular (offering statement—Part II) filed pursuant to § 230.256(e).

8. Section 230.259 is revised to read as follows:

§ 230.259 Statement required in all offering circulars.

There shall be set forth on the cover page of every offering circular the following statement in capital letters printed in boldface roman type at least as large as ten-point modern type and at least two points leaded:

"THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION DOES NOT PASS UPON THE MERITS OF OR GIVE ITS APPROVAL TO ANY SECURITIES OFFERED OR THE TERMS OF THE OFFERING, NOR DOES IT PASS UPON THE ACCURACY OR COMPLETENESS OF ANY OFFERING CIRCULAR OR OTHER SELLING LITERATURE. THESE SECURITIES ARE OFFERED PURSUANT TO AN EXEMPTION FROM REGISTRATION WITH THE COMMISSION; HOWEVER, THE COMMISSION HAS NOT MADE AN INDEPENDENT DETERMINATION THAT THE SECURITIES OFFERED HEREUNDER ARE EXEMPT FROM REGISTRATION."

9. Section 230.260 is revisd to read as follows:

§ 230.260 Reports of sales hereunder.

Within 30 days after the end of each six-month period following the date of the original offering circular (offering statement—Part II) required by § 230.256, or of the statement required by § 230.257, the issuer or other person for whose account the securities are offered shall file with the Regional Office of the Commission with which the offering statement was filed four copies of a report on Form 2–A containing the information called for by that form. A final report shall be made upon completion or termination of the offering and may be made prior to the end of the six-month period in which the last sale is made.

10. Section 230.261 is amended by revising the introductory text of paragraph (a), and paragraphs (a)(2), (a)(4), (b), and (d) to read as follows:

§ 230.261 Suspension of exemption.

(a) The Commission may, at any time after the filing of an offering statement, enter an order temporarily suspending the exemption, it has reason to believe that * * *

(2) The offering statement or any other sales literature contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

* * * * *

(4) Any event has occurred after the filing of the offering statement which would have rendered the exemption hereunder unavailable if it had occurred prior to such filing;

* * * * *

(b) Upon the entry of an order under paragraph (a) of this section the Commission will promptly give notice to the persons on whose behalf the offering statement was filed (1) that such order has been entered, together with a brief statement of the reasons for the entry of the order, and (2) that the Commission, upon receipt of a written request within 30 days after the entry of such order, will, within 20 days after the receipt of such request, set the matter down for hearing at a place to be designated by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission. Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of an opportunity for such hearing, either vacate the order or enter an order permanently suspending the exemption.

* * * * *

(d) All notices required by this rule shall be given to the person or persons on whose behalf the offering statement was filed by personal service, registered or certified mail or confirmed telegraphic notice at the addresses of such persons given in the offering statement.

11. Section 230.262 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 30.262 Consent to service of process.

(a) If the issuer, any of its directors or officers, any person for whose account any of the securities are to be offered, or any underwriter of the securities to be offered, is not a resident of the United States, each such non-resident person shall, at the time of filing the offering statement required by § 230.255, furnish to the Commission in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which—

* * * * *

12. Section 230.263 is revised to read as follows:

§ 230.263 Notice of delayed or suspended offering and sale.

If within three business days after the issuer has received notice that the Commission has no further comments with respect to the offering statement a bona fide effort is not made to proceed with the offering and sale of the securities proposed to be offered under this regulation, or if the offering or sale of such securities is suspended by the issuer or any underwriter within 15 days after the issuer has received such notice, a notice of the delay or suspension, stating the reasons therefor, shall be filed by the issuer or underwriter with the Regional Office of the Commission with which the offering statement was filed, unless such information is set forth in the offering statement. Such notice shall be sent promptly by telegraph or air mail and if sent by telegraph shall be confirmed in writing within a reasonable time by the filing of a signed copy of the notice.

13. Section 230.264 is revised to read as follows:

§ 230.264 Procedure with respect to abandoned offering statement.

When an offering statement under §§ 230.251 to 230.265, or the latest substantive amendment thereto, if any, has been on file with the Commission for a period of nine months from its filing date and the offering has not commenced, the Commission may, in its discretion, proceed in the following manner to determine whether such filing has been abandoned by the issuer:

(a) Notice will be sent to the issuer, and to any counsel for the issuer named in the offering statement, by registered or certified mail, return receipt requested, addressed to the most recent addresses for issuer and issuer's counsel as reflected in the offering statement. Such notice will inform the issuer and issuer's counsel that the offering statement or amendments thereto is out of date and must be either amended to comply with applicable requirements of §§ 230.251 to 230.265 or be withdrawn within thirty days after the date of such notice.

(b) If the issuer or issuer's counsel fails to respond to such notice by filing a substantive amendment or withdrawing the offering statement or does not furnish a satisfactory explanation as to why the issuer has not done so within thirty days, the Commission may, where consistent with the public interest and the protection of investors, enter an order declaring the offering statement abandoned.

(c) When such an order is entered by the Commission, the papers comprising the offering statement and any amendment thereto will not be removed from the files of the Commission but will be plainly marked in the following manner: "Declared abandoned by order dated ———."

(Secs. 3(b), 19(a), 48 Stat. 75, 85; sec. 209, 48 Stat. 908; 59 Stat. 167; 84 Stat. 1480; sec. 308(a)(1)(2)(3), 90 Stat. 56, 57; sec. 18, 92 Stat. 275; sec. 2, 92 Stat. 962; 15 U.S.C. 77c(b), 77s(a))

Statutory Authority

The Commission hereby proposes for comment adoption of Form 7–A and revisions to Form 1–A, Rule 251, and Rules 253 through 264 pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a).

By the Commission.

Dated: December 23, 1980.

Shirley E. Hollis,

Assistant Secretary.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. Section 239.90 is proposed to be revised as follows:

§ 239.90 Form I–A, offering statement under Regulation A.

Date Filed ______

File No. ______

Securities and Exchange Commission

Washington, D.C. 20549

Regulation A Offering Statement

Under the Securities Act of 1933

______

(Exact name of issuer as specified in charter)

______

(Address of principal executive offices)

______

(Address of principal place of business or intended principal place of business)

______

(Name and address of agent for service)

______

(State other jurisdiction of incorporation)

______

(Date of incorporation or organization)

______

(Standard industrial classification code number)[1]

______

(IRS employer I.D. number)[1]

General Instructions

A. Rule as to Use of the Offering Statement

(a) This form is to be used for securities offerings made pursuant to Regulation A [17 CFR §§ 230.251 et seq.] under the Securities Act of 1933. Attention is directed to the rules applicable to offerings made pursuant to Regulation A which describe, among other things, the kinds of securities that may be sold, those issuers which may utilize Regulation A, and the amount of securities that may be exempted thereunder.

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[1] If, at the time of filing, the issuer is unable to supply its standard industrial classification code number or its IRS employer I.D. number, such information may be omitted and supplied by amendment prior to the commencement of the offering.

(b) Issuers utilizing Regulation A shall prepare an offering statement. All issuers shall provide the information which is called for by Part I—Notification and Part III—Exhibits, of the offering statement. Depending on the type of issuer, the kind of securities being issued, and the nature of the transaction in which the securities are being issued, issuers will be required to provide information required by the appropriate items of Part II—Offering Circular of the offering statement.

B. Preparation of Offering Statement

(a) Part I—Notification

Part I of the offering statement shall contain the numbers and captions of the items in Part I of the offering statement, but the text of the items may be omitted provided the answers are so prepared to indicate to the reader the coverage of the items without the necessity of referring to the text of the items or the instructions thereto.

(b) Part II—Offering Circular

(1) Part II of the offering statement shall contain the information required by items 1 through and including 13.

(2) Part II of the offering statement shall contain the information called for by the items which are applicable to the issuer pursuant to General Instruction B(b), except that no reference need be made to inapplicable items and negative answers to any item may be omitted. Information provided in the offering circular should be presented in textual form rather than presenting item-by-item answers. The text of the items should be omitted from the offering circular.

The information required in the offering circular need not follow the order of the items or other requirements in Part II. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in tabular form it shall be given in substantially the tabular form specified in the item. All information contained in the offering circular shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth thereunder. Except as to financial statements and other tabular data, all information set forth in the offering circular shall be divided into reasonably short paragraphs or sections.

Unless indicated otherwise, information set forth in any part of the offering circular need not be repeated elsewhere in the offering circular. Where necessary or desirable to call attention to information contained elsewhere in the offering circular, this may be done by an appropriate cross-reference.

(c) Part III—Exhibits

Part III of the offering statement shall include the index to exhibits and all exhibits required by that part. The text of the items in Part III need not be repeated in Part III provided the index clearly identifies each exhibit and the exhibits are in readable form.

(d) Printing

The offering statement may be printed, mimeographed, lithographed, or typewritten or prepared by any similar process which will result in clearly legible copies.

C. Documents Comprising the Offering Statement

The offering statement shall consist of the cover page, Part I—Notification, Part II—Offering Circular, Part III—Exhibits, the required signatures, and any other information or documents which are required or which the issuer may file as a part of the offering statement.

Each part of the offering statement may be amended independent of the other parts of the offering statement. Each amendment should indicate which part(s) is being amended. An amendment to any part will, however, necessitate the filing of a new signature page.

D. Supplemental Information

Supplemental information submitted pursuant to any item in Part I—Notification, Part II—Offering Circular, or Part III—Exhibits of the offering statement will be returned to the person who submitted it provided a request for its return is made at the time such information is submitted to the Coimmission and provided further that return of such information is consistent with the protection of investors and the provisions of the Freedom of Information Act (5 U.S.C. 552). In addition, issuers may request confidential treatment of supplemental information submitted to the Commission (17 CFR 200.83).

Part I—Notification

Item 1. Significant Parties

(a) List the full name and business and residential addresses for (1)–(3) below. List the full name and business address for (4)–(13) below:

(1) the issuer's directors;
(2) the issuer's officers;
(3) the issuer's general partners;
(4) record owners of 10 percent or more of any class of the issuer's equity securities or any other person who has or shares the right to vote or direct the voting of such securities;
(5) promoters currently connected with the issuer;
(6) predecessors of the issuer;
(7) affiliates of the issuer;
(8) counsel to the issuer in connection with the proposed offering;
(9) each managing underwriter in connection with the proposed offering;
(10) the underwriter's directors;
(11) the underwriter's officers;
(12) the underwriter's general partners;
(13) counsel to the underwriter.

Item 2. Application of Rule 252(c)–(e)

(a) State whether any of the individuals or entities identified pursuant to Item 1 are subject to any disability described in Rule 252(c)–(e).

(b) If any such individual or entity is subject to the provisions of Rule 252: (1) provide a full description including pertinent names, dates and other details; and

(2) state whether or not an application has been made pursuant to Rule 252(f) for a waiver of the applicable provisions of Rule 252 and whether such application has been granted or denied.

Item 3. Application of Rule 253(a) and (b)

State whether or not the issuer is subject to the provisions of Rule 253(a) or (b).

Item 4. Jurisdictions in which Securities are to be Offered

(a) List the jurisdictions in which the securities are to be offered by underwriters, dealers or salespersons.

(b) List the jurisdictions in which the securities are to be offered other than by underwriters, dealers or salesmen and state the method by which such securities are to be offered.

(c) If the offering or any part thereof is to be made by use of the facilities of any securities exchange, identify the exchange.

(d) If the issuer is subject to Rule 253(b), state the Province(s) in which the securities have been or will be qualified or made eligible for offering.

Instruction: In the event an offering is to be made in jurisdictions or on exchanges not previously identified pursuant to this item, an amendment to the offering statement should be filed which identifies the new jurisdictions and exchanges.

Item 5. Unregistered Securities Issued or Sold Within One Year

(a) As to any unregistered securities issued by the issuer or any of its predecessors or affiliated issuers within one year prior to the filing of this notification, state (1) the name of such issuer; (2) the title and amount of securities issued; (3) the aggregate offering price or other consideration for which they were issued and the basis for computing the amount thereof; (4) the names of the persons or the identity of the class of persons to whom the securities were issued.

Instruction: In responding to this subsection, issuers should consider the effect of the grant or exercise of options, warrants, or rights with regard to the issuer's securities.

(b) As to any unregistered securities of the issuer or any of its predecessors or affiliated issuers which were sold within one year prior to the filing of this notification by or for the account of any person who at the time was a director, officer, promoter or principal security holder of the issuer of such securities, or was an underwriter of any securities of such issuer, furnish the information specified in 1 through 4 of paragraph (a).

(c) Indicate the section of the Act or rule or regulation of the Commission under which exemption from registration was claimed with respect to such securities and state briefly the facts relied upon for the exemption.

Item 6. Other Present or Proposed Offerings

State whether or not the issuer or any of its affiliated issuers is currently offering or currently contemplates the offering of any securities in the United States or Canada in addition to those covered by this notification.

If so, describe fully the present or proposed offering.

Item 7. Marketing Arrangements

Briefly describe any arrangement known to the issuer or to any person named in answer to Item 4(d) or 10(a) of Part II made for any of the following purposes:

(a) To limit or restrict the sale of other securities of the same class as those to be offered for the period of distribution.

(b) To stabilize the market for any of the securities to be offered.

(c) For withholding commissions, or otherwise to hold each underwriter or dealer responsible for the distribution of his participation.

(d) Identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the amount of securities so intended to be confirmed.

Instructions: 1. If the information required by subsection (d) is not available at the time the offering statement is filed, an amendment to Part I—Notification, including such information, should be made prior to the commencement of the offering.

2. If the answer to this item is contained in an exhibit, the item may be answered by a cross-reference to the relevant paragraphs of the exhibit.

Item 8. Relationship with Issuer of Experts Named in Offering Statement

If any expert named in the offering statement as having prepared or certified any part thereof was employed for such purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, had a material interest in the registrant or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer or employee furnish a brief statement of the nature of such contingent basis, interest or connection.

Part II—Offering Circular

Item 1. Cover Page

The cover page of the offering circular shall include the following information:

(a) Name of the issuer;

(b) The mailing address of the issuer's principal executive offices including the zip code and the issuer's telephone number;

(c) Date of the Offering circular;

(d) Description and amount of securities offered (*Note:* this description should include, for example, appropriate disclosure of redemption and conversion features of debt securities);

(e) The statement required by Rule 259;

(f) The table(s) required by Item 2;

(g) The name of the underwriter or underwriters;

(h) Any materials required by the law of any state in which the securities are to be offered;

(i) If applicable, identification of material risks in connection with the purchase of the securities; and

(j) Approximate date of commencement of proposed sale to the public.

Instruction: Where the name of the registrant is the same as the name of another well-known company or indicates a line of business in which the registrant is not engaged or is engaged to only a limited extent, a statement should be furnished to that effect. In some circumstances, however, disclosure may mot be sufficient, and a change of name may be the only way to cure its misleading character.

Item 2. Distribution Spread

(a) The information called for by the following table shall be given, in substantially the tabular form indicated, on the outside front cover page of the offering circular as to all securities being offered (estimate, if necessary).

	Price to public	Underwriting discounts and commissions	Proceeds to issuer or other persons
Per unit			
Total			

If the securities are to be offered on a best efforts basis the cover page should set forth the termination date, if any, of the offering, any minimum required sale and any arrangements to place the funds received in an escrow, trust, or similar arrangement. The following tabular presentation of the total maximum and minimum securities to be offered should be combined with the table required above:

	Price to public	Underwriting discounts and commissions	Proceeds to issuer to other persons
Total Minimum			
Total Maximum			

Instructions: 1. The term "commissions" shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which any underwriter is interested, made in connection with the sale of such security.

2. Only commissions paid by the issuer in cash are to be indicated in the table. Commissions paid by other persons or any form of non-cash compensation shall be briefly identified in a note to the table with a cross-reference to a more complete description elsewhere in the offering circular.

3. Prior to the commencement of sales pursuant to Regulation A, the issuer shall inform the Commission whether or not the amount of compensation to be allowed or paid to the underwriters, as described in the offering statement, has been cleared with the National Association of Securities Dealers, Inc.

4. If the securities are not to be offered for cash, state the basis upon which the offering is to be made.

5. If it is impracticable to state the price to the public, the method by which it is to be determined shall be explained.

(b) Any finder's fees or similar payments shall be disclosed on the cover page with a reference to a more complete discussion in the offering circular. Such disclosure should identify the finder, the nature of the services rendered and the nature of any relationship between the finder and the issuer, its officers, directors, promoters, principal stockholders and underwriters (including any affiliates thereof).

(c) The amount of the expenses of the offering borne by the issuer, including underwriting expenses to be borne by the issuer, should be disclosed in a footnote to the table.

Item 3. Summary Information, Risk Factors and Dilution

(a) Where appropriate to a clear understanding by investors, there should be set forth in the forepart of the offering circular, under an appropriate caption, a carefully organized series of short, concise paragraphs, summarizing the principal factors which make the offering one of high risk or speculative. *Note:* These factors may be due to such matters as an absence of an operating history of the issuer, an absence of profitable operations in recent periods, an erratic financial history, the financial position of the issuer, the nature of the business in which the issuer is engaged or proposes to engage, conflicts of interest with management, reliance on the efforts of a single individual, or the method of determining the market price where no market currently exists. Issuers should *avoid* generalized statements and include only those factors which are unique to the issuer.

(b) Where there is material disparity between the public offering price and the effective cash cost to officers, directors, promoters and affiliated persons for shares acquired by them in a transaction during the past three years, or which they have a right to acquire, there should be included a comparison of the public contribution under the proposed public offering and the effective cash contribution of such persons. In such cases, and in other instances where the extent of the dilution makes it appropriate, the following shall be given: (a) the net tangible book value per share before and after the distribution; (b) the amount of the increase in such net tangible book value per share attributable to the cash payment made by purchasers of the shares being offered; and (c) the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

Item 4. Plan of Distribution

(a) If the securities are to be offered through underwriters, give the names of the principal underwriters, and state the respective amounts underwritten. Identify each such underwriter having a material relationship to the issuer and state the nature of the relationship. State briefly the nature of the underwriters' obligation to take the securities.

(b) State briefly the discounts and commission to be allowed or paid to dealers, including all cash, securities, contracts or other consideration to be received by any dealer in connection with the sale of the securities.

(c) Outline briefly the plan of distribution of any securities being issued which are to be offered through the selling efforts of brokers or dealers or otherwise than through underwriters.

(d) If any of the securities are to be offered for the account of security holders, indicate on the cover page the total amount to be offered for their account and include a cross-reference to a fuller discussion elsewhere in the offering circular. Such discussion should identify each selling security holder, state the amount owned by him, the amount offered for his account and the amount to be owned after the offering.

(e)(1) Describe any arrangements for the return of funds to subscribers if all of the securities to be offered are not sold; if there are no such arrangements, so state.

(2) If there will be a material delay in the payment of the proceeds of the offering by the underwriter to the issuer, the salient provisions in this regard and the effects on the issuer should be stated. Instruction: Attention is directed to the provisions of Rules 10b–9 [17 CFR § 240.10b–9] and 15c2–4 [17 CFR § 240.15c2–4] under the Securities Exchange Act of 1934. These rules outline, among other things, antifraud provisions concerning the return of funds to subscribers and the transmission of proceeds of an offering to a seller.

Item 5. Use of Proceeds to Issuer

State the principal purposes for which the net proceeds to the issuer from the securities to be offered are intended to be used, and the approximate amount intended to be used for each such purpose. Instructions. 1. If any substantial portion of the proceeds has not been allocated for particular purposes, a statement to that effect shall be made together with a statement of the amount of proceeds not so allocated and how the registrant expects to employ such funds not so allocated.

2. Include a statement as to the use of the actual proceeds if they are not sufficient to accomplish the purposes set forth and the order of priority in which they will be applied. However, such statement need not be made if the underwriting arrangements are such that, if any securities are sold to the public, it can be reasonably excpected that the actual proceeds of the issue will not be substantially less than the estimated aggregate proceeds to the issuer as shown under Item 2.

3. If any material amounts of other funds are to be used in conjunction with the proceeds, state the amounts and sources of such other funds.

4. If any material part of the proceeds is to be used to discharge indebtedness, describe the terms of such indebtedness. If the indebtedness to be discharged was incurred within one year, describe the use of the proceeds of such indebtedness.

5. If any material amount of the proceeds is to be used to acquire assets, otherwise than in the ordinary course of business, briefly describe and state the cost of the assets. If the assets are to be acquired from affiliates of the issuer or their associates, give the names of the persons from whom they are to be acquired and set forth the principle followed in determining the cost to the issuer.

6. The issuer may reserve the right to change the use of proceeds provided that such reservation is due to certain contingencies which are adequately disclosed.

Item 6. Description of Business

(a) Narrative description of business.

(1) Describe the business done and intended to be done by the issuer and its subsidiaries and the general development of the business during the past five years or such shorter period as the issuer may have been in business. Such description should include, but not be limited to, a discussion of the following factors if such factors are material to an understanding of the issuer's business:

(a) The principal products produced and services rendered and the principal markets for and method of distribution of such products and services.

(b) The status of a product or service if the issuer has made public information about a new product or service which would require the investment of a material amount of the assets of the issuer or is otherwise material.

(c) The estimated amount spent during each of the last two fiscal years on company-sponsored research and development activities determined in accordance with generally accepted accounting principles. In addition, state the estimated dollar amount spent during each of such years on material customer-sponsored research activities relating to the development of new products, services or techniques or the improvement of existing products, services or techniques.

(d) The number of persons employed by the issuer, indicating the number employed full time.

(e) The material effects that compliance with Federal, State and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the issuer and its subsidiaries. The issuer shall disclose any material estimated capital expenditures for environment control facilities for the remainder of its current fiscal year and for such further periods as the issuer may deem material.

(2) The issuer should also describe those distinctive or special characteristics of the issuer's operation or industry which may have a material impact upon the issuer's future financial performance. Examples of factors which might be discussed include dependence on one or a few major customers or suppliers (including suppliers of raw materials or financing), existing or probable governmental regulation, material terms of and/or expiration of material labor contracts or patents, trademarks, licenses, franchises, concessions or royalty agrreements, unusual competitive conditions in the industry, cyclicality of the industry and anticipated raw material or energy shortages to the extent management may not be able to secure a continuing source of supply.

(3) The following requirement in subparagraph (a) applies only to issuers (including predecessors) which have not received revenue from operations during each of the three fiscal years immediately prior to the filing of the offering statement.

(a) Describe, if formulated, the issuer's plan of operation for the twelve months following the commencement of the proposed offering. If such information is not availabe, the reasons for its unavailability shall be stated. Disclosure relating to any plan should include, among other things, a statement indicating whether, in the issuer's opinion, the proceeds from the offering will safisfy its cash requirements and whether, in the next six months, it will be necessary to raise additional funds.

(b) Any engineering, management or similar reports which have been prepared or provided for external use by the issuer or by a principal underwriter in connection with the proposed offering should be furnished to the Commission at the time of filing the offering statement or as soon as practicable thereafter. There should also be furnished at the same time a statement as to the actual or proposed use and distribution of such report or memorandum. Such statement should identify each class of persons who have received or will receive the report or memorandum, and state the number of copies distributed to each such class. If no such report or memorandum has been prepared, the Division should be so informed in writing at the time the report or memorandum would otherwise have been submitted.

(b) Segment Data. If the issuer is required to include segment information in its financial statements an appropriate cross-reference shall be included in the description of business.

Item 7. Description of Property

State briefly the location and general character of the principal plants, and other materially important physical properties of the issuer and its subsidiaries. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held.

Instruction. What is required is information essential to an investor's appraisal of the securities being offered. Such information should be furnished as will reasonably inform investors as to the suitability, adequncy, productive capacity and extent of utilization of the facilities used in the enterprise. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given.

Item 8. Directors, Executive Officers and Significant Employees

(a) List the names and ages of each of the following persons stating his term of office and any periods during which he has served as such and briefly describe any arrangement or understanding between him and any other person(s) (naming such person(s)) pursuant to which he was or is to be selected to his office or position:

(1) directors;

(2) persons nominated or chosen to become directors;

(3) executive officers;

(4) persons chosen to become executive officers;

(5) significant employees.

Instructions. 1. No nominee or person chosen to become a director or person chosen to be an executive officer who has not consented to act as such should be named in response to this item.

2. The term "executive officer" means the president, secretary, treasurer, any vice-president in charge of a principal business function (such as sales, administration, or finance) and any other person who performs similar policy making functions for the issuer.

3. The term "significant employee" means persons such as production managers, sales managers, or research scientists, who are not executive officers, but who make or are expected to make significant contributions to the business of the issuer.

(b) Family relationships. State the nature of any family relationship between any director, executive officer, person nominated or chosen by the issuer to become a director or executive officer or any significant employee.

Instruction. The term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

(c) Business experience. Give a brief account of the business experience during the past five years of each director, person nominated or chosen to become a director or executive officer, and each significant employee, including his principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When an executive officer or significant employee has been employed by the issuer for less than five years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

(d) Involvement in certain legal proceedings. Describe any of the following events which occurred during the past five years and which are material to an evaluation of the ability or integrity of any director, person nominated to become a director or executive officer of the issuer.

(1) A petition under the Bankruptcy Act or any State insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of such person, or any partnership in which he was general partner at or within 2 years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding (excluding traffic violations and other minor offenses).

Item 9. Remuneration of Directors and Officers

(a) Furnish, in substantially the tabular form indicated, the aggregate annual remuneration of each of the three highest paid persons who are officers or directors of the issuer and all officers and directors as a group.

Name of individual or identity of group	Capacities in which remuneration was received	Aggregate Remuneration

Instruction: 1. In case of remuneration paid or to be paid otherwise than in cash, if it is impracticable to determine the cash value thereof, state in a note to the table the nature and amount thereof. 2. This item is to be answered on an accrual basis if practicable; if not so answered, state the basis used.

(b) Briefly describe all remuneration payments proposed to be made in the future pursuant to any ongoing plan or arrangement to the individuals and group specified in Item 9(a). The description should include a summary of how each plan operates, any performance formula or measure in effect (or the criteria used to determine payment amounts), the time periods over which the measurement of benefits will be determined, payment schedules, and any recent material amendments to the plan. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in scope, terms or operation in favor of officers or directors of the registrant and which are available generally to all salaried employees.

Item 10. Security Ownership of Management and Certain Security-Holders

(a) Voting securities and principal holders thereof.

Furnish the following information, in substantially the tabular form indicated, with respect to voting securities held of record by:

(1) each of the three highest paid persons who are officers and directors of the issuer;

Note.—In the event none of the issuer's officers or directors have received a salary in the past twelve months, this item should be responded to for every officer and director.

(2) all officers and directors as a group;

(3) each shareholder who owns more than 10% of any class of the issuer's securities, including those shares subject to outstanding options.

(1)	(2)	(3)	(4)	(5)
Title of class	Name and address of owner	Amount owned before the offering	Amount owned after the offering	Percent of class

Instruction: Column (4) need not be responded to if the information would be the same as that appearing under column (3).

(b) If, to the knowledge of the issuer, any other person holds or shares the power to vote or direct the voting of securities described pursuant to subsection (a) above, appropriate disclosure should be made. In addition, if any person other than those named pursuant to subsection (a) holds or shares the power to vote 10% or more of the issuer's voting securities, the information required by the table should be provided with respect to such person.

(c) Non-voting securities and principal holders thereof. Furnish the same information as required in subsection (a) above with respect to securities that are not entitled to vote.

(d) Options, warrants and rights. Furnish the information required by the table as to options, warrants or rights to purchase securities from the issuer or any of its subsidiaries held by each of the individuals and group referred to in subsection (a) above:

Name of holder	Title and amount of securities called for by options, warrants or rights	Exercise price	Date of exercise

Instruction: Where the total market value of securities called for by all outstanding options, warrants or rights does not exceed $10,000 for any officer, director, or principal shareholder named in answer to this item, or $50,000 for all officers and directors as a group, this item need not be answered with respect to options, warrants or rights held by such person or group. If the issuer cannot ascertain the market value of its securities, the offering price may be used for purposes of this subsection. If, as is the case with offerings of debt securities, the offering price cannot be determined at the time of filing the offering statement, the issuer may utilize any reasonable method of valuation.

(e) List all parents of the issuer, showing the basis of control and as to each parent the percentage of voting securities owned or other basis of control by its immediate parent, if any.

Item 11. Interest of Management and Others in Certain Transactions

Describe briefly any transactions during the previous two years or any presently proposed transactions, to which the issuer or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the issuer, the nature of his interest in the transaction and, where practicable, the amount of such interest;

(1) Any director or officer of the issuer;

(2) Any nominee for election as a director;

(3) Any principal security holder named in answer to Item 10(a);

(4) If the issuer was incorporated or organized within the past three years, any promotor of the issuer;

(5) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same house as such person or who is a director or officer of any parent or subsidiary of the issuer.

Instruction: 1. No information need be given in answer to this item as to any transaction where:

(a) The rates of charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

(b) The transaction involves services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

(c) The amount involved in the transaction or a series of similar transactions, including all periodic installments in the case if any lease or other agreement providing for periodic payments or installments does not exceed $50,000; or

(d) The interest of the specified person arises solely from the ownership of securities of the issuer and the specified person receives no extra or special benefit not shared on a pro-rata basis by all of the holders of securities of the class.

2. It should be noted that this Item calls for disclosure of indirect as well as direct material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity which engages in a transaction with the issuer or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item where:

(a) the interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) through (5) above, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) the interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in (1) through (5) above had an interest of less than 10 percent; or

(c) the interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the issuer or any of its subsidiaries and the transaction is not material to such other person.

3. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of interest, the approximate amount involved in the transaction shall be disclosed.

4. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the issuer where any of the specified persons was or is to be a principal underwriter or is a controlling person, or member, of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the issuer or its subsidiaries.

5. As to any transaction involving the purchase or sale of assets by or to any issuer or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller.

6. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration from the issuer or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation furnishing the services to the issuer or its subsidiaries.

Item 12. Securities Being Offered

(a) If capital stock is being offered, state the title of the class and furnish the following information:

(1) Outline briefly: (i) dividend rights; (ii) voting rights; (iii) liquidation rights; (iv) preemptive rights; (v) conversion rights; (vi) redemption provisions; (vii) sinking fund provisions; and (viii) liability to further calls or to assessment by the issuer.

(2) Briefly describe potential liabilities imposed on shareholders under state statutes or foreign law, e.g., to laborers, servants or employees of the registrant, unless such disclosure would be immaterial because the financial resources of the registrant are such as to make it unlikely that the liability will ever be imposed.

(b) If debt securities are being offered, outline briefly the following:

(1) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund or retirement.

(2) Provisions with respect to the kind and priority of any lien securing the issue, together with a brief identification of the principal properties subject to such lien.

(3) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(4) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

Instruction: In the case of secured debt there should be stated (i) the approximate amount of unbonded property available for use against the issuance of bonds, as of the most recent practicable date, and (ii) whether the securities being issued are to be issued against such property, against the deposit of cash, or otherwise.

(c) If securities described are to be offered pursuant to warrants, rights, or convertible securities, state briefly:

(1) the amount of securities called for by such warrants, convertible securities or rights;

(2) the period during which and the price at which the warrants, convertible securities or rights are exercisable;

(3) the amounts of warrants, convertible securities or rights outstanding; and

(4) any other material terms of such securities.

(d) In the case of any other kind of securities, appropriate information of a comparable character.

Item 13. Financial Statements

Furnish the following financial statements of the issuer, or of the issuer and its predecessors, prepared in accordance with generally accepted accounting principles and practices in the United States or, in the case of a Canadian company, a reconciliation to such shall be provided. The statements required for the issuer's latest fiscal year shall be certified by an independent public accountant or certified public accountant if the issuer has filed or is required to file with the Commission certified financial statements for such fiscal year; the statements filed for the period or periods preceding such latest year need not be certified. Any report of an independent accountant shall comply with the requirements of Article 2 of Regulation S–X. (a) A balance sheet shall be furnished as of a date within 90 days prior to the filing of an offering statement or such longer period of time not exceeding six months, as the Commission may permit at the written request of the issuer upon a showing of good cause therefor. (b) Statements of income, statements of changes in financial condition, and statements of other stockholders' equity for each of the two fiscal years preceding the date of the most recent balance sheet being filed and for the interim period, if any, between the end of the most recent of such fiscal years and the date of the most recent balance sheet being filed, or for the period of the issuer's existence if less than the period specified above.

If an unaudited income statement for an interim period is filed, a statement shall be made that all adjustments necessary for a fair statement of the results for such period have been included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise there shall be furnished as supplementary information, but not as a part of the offering statement, a letter describing in detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

(c) Past succession to other businesses.

(1) If, during the period for which its income statements are required, the issuer has by purchase or by pooling of interests succeeded to one or more businesses which in the aggregate are significant, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the balance sheet being filed, and, if a purchase has been effected during the most recent fiscal year or in a subsequent period, pro forma statements of income reflecting the combined operations of the entities shall be

V 46/7 JA 12 81 UMI

furnished in columnar form for the latest fiscal year and any interim periods. In addition, furnish income statements, separate or combined as appropriate, for such business or businesses for such period prior to the purchase as may be necessary when added to the time, if any, for which income statements after the purchase are filed to cover the same period for which income statements of the issuer are required in Item (b) above.

(2) the term "significant subsidiary" means (a) a subsidiary or (b) a subsidiary and its subsidiaries which meet any of the conditions described below based on (i) the most recent annual financial statements, including consolidated financial statements, of such subsidiary which would be required to be filed if such subsidiary were an issuer and (ii) the most recent annual consolidated financial statements of the issuer being filed:

1. the parent's and its other subsidiaries' investments in and advances to, or their proportionate share (based on their equity interests) of the total assets (after intercompany elimination) of, the subsidiary exceed 10 percent of the total assets of the parent and its consolidated subsidiaries.

2. the parent's and its other subsidiaries' proportionate share (based on their equity interests) of the total sales and revenues (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total sales and revenues of the parent and its consolidated subsidiaries.

3. the parent's and its other subsidiaries' equity in the income before income taxes and extraordinary items of the subsidiary exceeds 10 percent of such income of the parent and its consolidated subsidiaries, provided that if such income of the parent and its consolidated subsidiaries is at least 10 percent lower than the average of such income for the last five fiscal years such average income may be substituted in the determination.

Note.—This instruction shall not apply with respect to the issuer's succession to the business of any totally held subsidiary or to the succession of one or more businesses which, considered in the aggregate, would not meet the test of a significant subsidiary.

(d) Future successions to other businesses.

(1) If, after the date of the most recent balance sheet filed pursuant to paragraph (a) above, the issuer by purchase or by pooling of interests succeeded or is about to succeed to one or more businesses or acquired or is about to acquire an investment in a business the investment in which is required to be accounted for by the equity method, there shall be filed for such business financial statements, combined if appropriate, which would be required if they were the issuer. In addition, to reflect the succession to any businesses, there shall be filed in columnar form (i) a balance sheet of the issuer, (ii) the balance sheets of the constitutent businesses, (iii) the changes to be effected in the succession, and (iv) the pro forma balance sheet of the issuer giving effect to the plan of succession. There shall also be filed pro forma statements of income in columnar form for the periods for which the results of operations of the acquired business would have been included in the issuer's income statement for a pooling of interests or would have been presented on a pro forma basis for a purchase had succession occurred on the date of the latest balance sheet filed. By a note to the financial statements, or otherwise, a brief explanation of the changes shall be given.

(2) the acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(3) no financial statements need be filed, however, for any business acquired or to be acquired, or for any business in which an investment acquired or to be acquired is required to be accounted for by the equity method, from a totally held subsidiary. In addition, the statements of any one or more such businesses may be omitted if the businesses, considered in the aggregate, would not meet the test of a significant subsidiary as defined above.

Part III—Exhibits

Item 1. Index to Exhibits

(a) An index to the exhibits filed should be presented immediately following the cover page of Part III.

(b) Each exhibit should be listed in the exhibit index according to the number assigned to it under Item 3.

(c) The index to exhibits should identify the location of the exhibit under the sequential numbering system.

(d) Where exhibits are incorporated by reference, the reference shall be made in the index to exhibits. Instructions: (1) Any document or part thereof filed with the Commission pursuant to any Act administered by the Commission may, subject to the limitations of Rule 24 of the Commission's Rules of Practice, be incorporated by reference as an exhibit to any offering statement. (2) If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the issuer shall file with the reference a statement containing the text of such modification and the date thereof.

Item 2. Description of Exhibits

Set forth below is a description of each document for which copies should be filed, where appropriate:

(1) *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter or letter pursuant to which the securities are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Charter and by-laws—The charter and by-laws of the issuer or instruments corresponding thereto as presently in effect and any amendments thereto.*

(3) *Instruments defining the rights of security holders*—(a) All instruments defining the rights of (1) holders of the equity or debt securities being issued; (2) holders of long-term debt of the issuer, and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed; and (3) holders of a new class of securities or indebtedness, the creation of which was required to be disclosed in a periodic report.

(b) Where the instrument defines the rights of holders of long-term debt of the issuer and all of its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there need not be filed (1) any instrument with respect to long-term debt not being issued if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the issuer and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the issuer of the securities being issued; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(4) Voting trust agreement—Any voting trust agreements and amendments thereto.

(5) Material contracts—(a) Every contract not made in the ordinary course of business which is material to the issuer and is to be performed in whole or in part at or after the filing of the offering statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the issuer or subsidiary of the issuer is a party or has succeeded to a party by assumption or assignment or in which the issuer or such subsidiary has a beneficial interest. (b) If the contract is such as ordinarily accompanies the kind of business conducted by the issuer and its subsidiaries, it is made in the ordinary course of business and need not be filed unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the offering statement or report, or underwriters are parties except where the contract merely involves the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the issuer's business is substantially dependent, as in the case of continuing contracts to sell the major part of issuer's products or services or to purchase the major part of issuer's requirement of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which issuer's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10 percent of all such assets of the issuer and its subsidiaries; or

(4) Any lease under which a significant part of the property described in the offering statement as held by the issuer.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same period of allocation of benefits between management and non-management participants.

(6) Material foreign patents—Each material foreign patent for an invention not covered by a United States patent. If the filing is an offering statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material patents on patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(7) Plan of acquisition, reorganization, arrangement, liquidation, or succession—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report.

(8) Statement concerning issuer's financing—If any of the securities proposed to be offered hereunder are to be offered for the account of any person other than the issuer, a written statement signed by the issuer representing that the proposed offering will not interfere with any needed financing by the issuer under this regulation.

(9) Escrow agreements—(a) Any escrow agreement or similar arrangement which has been executed in order to effect compliance with Rule 253(c) shall be filed and may be prepared in conformity with Form 7–A. (b) In the event the offering is contingent upon a minimum purchase requirement, any escrow agreement applicable to the proceeds received up to the minimum amount required.

(10) Consents—(a) Experts—(i) If any accountant, engineer, geologist, or appraiser, or any person whose profession gives authority to a statement made by him, is named as having prepared or certified any part of the offering statement or is named as having prepared or certified a report or evaluation, whether or not for use in connection with the offering statement; (ii) if any portion of the report of an expert is quoted or summarized as such in the offering statement, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization; (iii) if it is stated that any information contained in the offering statement has been reviewed or passed upon by any persons and that such information is set forth in the offering statement upon the authority of or in reliance upon such persons as experts, the written consents of such persons shall be filed with the offering statement.

(b) Consent and certification by underwriter—A written consent and certification, in the form set forth below, signed by each underwriter of the securities proposed to be offered hereunder. All underwriters may, with appropriate modifications, sign the same consent and certification or separate consents and certifications may be signed by any underwriter or group of underwriters.

Consent and Certification by Underwriter

1. The undersigned hereby consents to being named as underwriter in an offering statement filed with the Securities and Exchange Commission by (name of issuer) pursuant to Regulation A in connection with a proposed offering of (title of securities) to the public.

2. The undersigned hereby certifies that it furnished the statements and information set forth in such offering statement with respect to the undersigned, its directors and officers or partners, that such statements and information are accurate, complete and fully responsive to the requirements of Parts I, II and III of the Offering Statement thereto, and do not omit any information required to be stated therein with respect of any such persons, or necessary to make the statements and information therein with respect to any of them not misleading.

____

(Underwriter)

By ____________________________

Date __________________________

3. If a Preliminary Offering Circular will be distributed as permitted by Rule 256(i), the Consent and Certification by Underwriter shall include the following additional paragraph:

The undersigned hereby undertakes, in connection with any distribution of the Preliminary Offering Circular as permitted by Rule 256(i), (a) to keep an accurate and complete record of the name and address of each person furnished such Preliminary Offering Circular and (b) if such Preliminary Offering Circular is inaccurate or inadequate in any material respect, to furnish a revised Preliminary Offering or an offering circular of the type referred to in Rule 256(i)(4) to all persons to whom the securities are to be sold at least 48 hours prior to the mailing of any confirmation of sale to such persons, or to send such a circular to such persons under circumstances that it would normally be received by them 48 hours prior to their receipt of confirmation of the sale.

(c) Consent of non-resident—Each consent to service of process required by Rule 262 shall be filed. Each such consent shall be prepared and executed in conformity with the appropriate form prescribed therefor.

(d) Formal requirements—All written consents filed shall be dated and manually signed.

(e) Application to dispense with consent—An application to the Commission to dispense with any written consent of an expert shall be made by the issuer and shall be supported by an affidavit or affidavits establishing that the obtaining of such consent is impracticable or involves undue hardship on the issuer.

Signature

This offering statement has been signed in the City of ——— State (or Province) of ——— on ———, 19——

____

(Issuer)

By ____________________________

(name and title)

____

(Selling security holder)

2. Section 239.96 is proposed to be added to read as follows:

239.96 Form 7A, optional form of escrow for securities that are subject to the provisions of Rule 253(c) of Regulation A (§ 230.253(c) of this chapter).

Securities and Exchange Commission, Washington, D.C.

Form 7–A

[As adopted in Release No. 33- ——, ——, 1980]

OPTIONAL FORM OF ESCROW FOR SECURITIES THAT ARE SUBJECT TO THE PROVISIONS OF RULE 253(c) OF REGULATION A

(Pursuant to Regulation A under Securities Act of 1933)

This escrow agreement entered into this —— day of ——, 19—, between (the issuer), a corporation organized under the laws of the State of ———, hereinafter referred to as the "Corporation," and (the purchaser) ——— of (address) ———, hereinafter referred to as "Purchaser," and (independet agent) ——— of (address) ———, hereinafter referred to as the "escrow agent," witnesseth:

Whereas in order to comply with the provisions of Rule 253(c) of the General Rules and Regulations under the Securities Act of 1933, as amended, hereinafer referred to as the "General Rules and Regulations," the Corporation simultaneously with the execution of this agreement is depositing with the escrow agent (number) ——— shares of the (class) ——— stock of the Corporation issued in the name of Purchaser and bearing certificate No. ———, the deposit of which is hereby acknowledged by the escrow agent:

Now, therefore, the parties hereto agree as follows:

1. The escrow agent hereby accepts said shares in escrow and agrees to hold and keep said shares in accordance with the terms and conditions hereof and for the uses and purposes herein set forth, and to deliver said shares upon the performance of the conditions hereinafter set forth.

2. The escrow agent shall not be held to take notice of any terms of any agreement or any rights stated with respect to the deposited shares unless expressly stated in writing herein.

3. During the period of holding the deposited shares in escrow, no transfer or any other disposition of any of said shares or of any interest therein is to be made whether subject to this escrow agreement or otherwise but all of said shares are to be held intact as issued and placed in escrow hereunder.

4. The escrow agent is hereby authorized and instructed to hold the deposited shares in escrow, pursuant to Rule 253(c) of the General Rules and Regulations, until such date as shall be thirteen months from the date, shown on a definitive offering circular, of an offering of shares of stock of the

Corporation in accordance with the provisions of the General Rules and Regulations. Thereafter upon receipt of written advice by the Corporation and Purchaser to the escrow agent (and to the Securities and Exchange Commission) that none of the deposited shares or any interests therein have been transferred or otherwise disposed of and that the deposited shares are registered under the Securities Act of 1933, as amended, or covered by a filing pursuant to the provisions of Regulation A under the General Rules and Regulations, or are otherwise exempt from registration or are not then required to be registered and that a copy of such advice has been delivered to the Securities and Exchange Commission, said shares will be delivered to Purchaser by escrow agent. If a registration statement is not then in effect and if an appropriate filing under Regulatin A has not been completed under said Act with respect to the deposited shares, prior to delivery of the deposited shares to Purchaser by escrow agent, (i) Corporation and Purchaser will advise escrow agent that Corporation and Purchaser have instructed the transfer agent for the deposited shares to the effect that no transfer of the deposited shares shall be made unless a registration statement under the Securities Act of 1933, as amended, with respect to such shares is in effect or an exemption from the registration requirements of such Act is in fact applicable to such shares and (ii) Corporation shall impress upon the face of the certificate or certificates representing the deposited shares and upon all certificates issued in exchange therefor the following legend:

"No sale, offer to sell or transfer of the shares represented by this certificate shall be made unless a registration statement under the Federal Securities Act of 1933, as amended, with respect to such shares is then in effect or an exemption from the registration requirements of such Act is then in fact applicable to such shares."

5. The fee of the escrow agent for its services hereunder shall be $———, payable at the time of the execution of this agreement, to be borne by ———.

6. In performing any of its duties hereunder, the escrow agent shall not incur any liability to anyone for any damages, losses, or expenses except for willful default or negligence, and it shall accordingly not incur any such liability with respect (i) to any action taken or omitted in good faith upon advice of its counsel or counsel for the Corporation given with respect to any questions relating to the duties and responsibilities of the escrow agent under this agreement, or (ii) to any action taken or omitted in reliance upon any instrument, including the written advices provided for herein, not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which the escrow agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons and to conform with the provisions of this agreement.

7. The Corporation and Purchaser, jointly and severally, hereby agre to indemnify and hold harmless escrow agent against any and all losses, claims, damages, liabilities and expenses, including reasonable cost of investigation and counsel fees and disbursements, which may be imposed upon escrow agent or incurred by escrow agent in connection with its acceptance of appointment of escrow agent hereunder, or the performance of its duties hereunder, including any litigation arising from this agreement or involving the subject matter hereof or the shares deposited hereunder.

In witness whereof, (Corporation) ——— and (escrow agent) ——— have caused this agreement to be executed by their respective officers, thereunto duly authorized, (Purchaser) ——— has signed this agreement as of the day and year first above written.

(Corporation)
By: ———
(Title)
(Escrow Agent)
By: ———
(Title)
———(I.S.)

[FR Doc. 81-978 Filed 1-9-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5 80-20R]

Drawbridge Operation Regulations: Cambridge Harbor, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maryland State Highway Administration, the Coast Guard is considering amending the regulations governing operation of the drawbridge on Maryland State Highway 342 across Cambridge Harbor, mile 0.1, at Cambridge, Maryland. The proposed change would extend the midday period when the draw need not be opened for the passage of vessels, and would delete those portions of the regulations providing for the departure of passenger trains on the Pennsylvania Railroad at Cambridge. This proposal is being made because of an increase in vehicular traffic congestion during the proposed period of change, and the fact that passenger trains no longer serve Cambridge. This change is being considered because it should improve the flow of vehicular traffic and still provide for the reasonable needs of navigation. Additionally, several other changes are being proposed which are editorial in nature.

DATE: Comnments must be received on or before February 11, 1981.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, from 8 a.m. through 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Specialist, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705 (804-398-6222).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will evaluate all comments received and decide on a final course of action. The proposed regulation may be changed in the light of comments received.

Classification: This proposed regulation is considered to be nonsignificant in accordance with the guidelines set forth in DOT Order 2100.5 (Policies and Procedures for Simplification, Analysis and Review of Regulations).

Regulatory Analysis: An economic evaluation of the proposal has not been conducted because the expected economic impact is so minimal as to not warrant the evaluation. Anticipated benefits to be derived are mainly intangible and include savings in time and increased convenience for motorists, and less wear and tear on the draw machinery of the bridge. Drafting Information:

The principal persons involved in drafting this proposal are: Ann B. Deaton, Project Manager, Fifth Coast Guard District, Aids to Navigation Branch and LCDR Mark P. Troseth, Project Attorney, Assistant Legal Officer, Fifth Coast Guard District.

Discussion of the Proposed Regulation:

The proposed changes in the regulations are as follows: (1) to amend the current regulations by increasing the midday period when the draw need not open for the passage of vessels to: from 12 noon until 1 p.m. Current regulations provide that the draw need not open for the passage of vessels from 12 noon to 12:10 p.m. and from 12:50 p.m. to 1 p.m.; (2) to delete that portion of the regulations providing for the departure of passenger trains from Cambridge. Current regulations provide that the draw need not open for 20 minutes before the scheduled time of departure from Cambridge of any regularly scheduled passenger train on the Pennsylvania Railroad; (3) to delete that portion of the regulations concerning vessel right of way; (4) to delete that portion of the regulations concerning opening signals; (5) to rewrite and renumber that portion of the regulations concerning posting of the regulations.

These changes in the regulations are being considered because: (1) An increased volume of vehicular traffic between the hours of 12 noon and 1 p.m., Monday through Friday, causes traffic congestion problems at the bridge, and there has been a corresponding decline in the number of drawbridge openings for the passage of vessels during the same hour. The Coast Guard believes this change would benefit vehicular traffic and still provide for the reasonable needs of navigation; (2) passenger trains on the Pennsylvania Railroad no longer stop in, depart from or pass through Cambridge; (3) discussion of vessel right of way is considered inappropriate for this regulation; (4) the provisions for opening signals for drawbridges are contained in Section 117.240 of this part; (5) the existing paragraph concerning posting of regulations is unclear insofar as the location of the signs is concerned.

For the reasons set out in the preamble, it is proposed that Part 117 of Title 33, Code of Federal Regulations, § 117.270 be amended to read as follows:

§ 117.270 Cambridge Harbor, MD; bridge.

(a) The draw shall be opened on signal except that: (1) From 6 p.m. to 6 a.m., every day, and from 12 noon to 1 p.m., Monday through Friday, the draw need not be opened for the passage of vessels.

(2) At all times not covered by the regulations in paragraph (a)(1), and in all other respects, the regulations contained in Section 117.240 shall govern the operation of this bridge.

(b) A copy of the regulations in this section shall be posted in a conspicuous place on both the upstream and downsteam sides of the bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: December 23, 1980.

T. T. Wetmore III,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 81-1090 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

Correction of Inventorship

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rules specify that certain inventorship errors can be corrected in patents and patent applications which are not correctable under the existing rules. For example, the named inventor could be changed from a sole individual who is not the inventor to a sole individual who is the inventor. The change is being proposed in view of the court decision in *Stoddard* v. *Dann*, 564 F.2d 556, 195 USPQ 97 (D.C. Cir. 1977) which held a sole-to-sole inventorship change to be appropriate in certain instances. The proposed rule change will clarify what corrections may be made by applicants and patentees.

DATES: Written comments by March 6, 1981. Hearing: March 6, 1981, beginning at 9:30 a.m.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The hearing will be held in Room 11C24 of Building 3, Crystal Plaza located at 2021 Jefferson Davis Highway, Arlington, Virginia. Written comments and transcript of hearing will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Louis O. Maassel by telephone at (703) 557-3070 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is considering amendments to the Rules of Practice in Patent Cases which authorize the correction of inventorship. The proposal would permit changes from an applicant who is not the inventor to another applicant who is the actual inventor in a situation where there is no deceptive intention. The situation is similar to that presented in *Stoddard* v. *Dann*, 564 F.2d 556, 195 USPQ 97, a decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit in 1977. Situations which involve deceptive intention, such as that in *Bemis* v. *Chevron Research Co.*, 599 F.2d 910, 203 USPQ 123 (9th Cir. 1979) where the Court prohibited a conversion from a sole applicant to another sole applicant who was the actual inventor, are not covered by the proposed amendment. The proposed changes adding §§ 1.48 and 1.426 would broadly provide for the correction of inventorship from an original applicant or applicants, who was or were not the actual inventor or inventors to another applicant or applicants who is or are the actual inventor or inventors.

The proposal would permit the substitution of one inventor for another inventor as contemplated by *Stoddard* v. *Dann*. Only joint inventorship errors involving addition or deletion of less than all applicants, were correctable prior to the *Stoddard* v. *Dann*, decision. To date, two petitions requesting sole-to-sole conversion of inventorship have been granted by the Patent and Trademark Office based on *Stoddard* v. *Dann*. Others have been denied where the fact situations were not appropriate.

Codifying the Court's decision in *Stoddard* v. *Dann* in the patent rules seems highly desirable and will result in very little additional expense to the Patent and Trademark Office or applicants. It is expected that only a few requests for conversion will have to be processed each year by the Patent and Trademark Office.

The proposed rule change takes full advantage of the holding in *Stoddard* v. *Dann*. The decision is construed to cover not just fact situations identical to that in *Stoddard* v. *Dann* (e.g., covering only a foreign inventor who cannot understand English and does not know United States patent practice). The rationale of *Stoddard* v. *Dann* is considered to apply to all innocent inventorship errors. Therefore, if the statute can be read to permit sole-to-sole conversion in a specific fact situation, it can also be read to permit correction of other innocent errors of inventorship.

Notice is hereby given that, pursuant to the authority contained in Section 6 of the Act of July 19, 1952, as amended (66 Stat. 793, 85 Stat. 364, 88 Stat. 1949; 35 U.S.C. 6 as amended) the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending §§ 1.45 and 1.324 and by adding new §§ 1.48 and 1.426.

This proposal has been reviewed pursuant to E.O. 12044 and determined to have no potential major economic consequences requiring the preparation of a regulatory analysis.

In the text of the proposed amendments to § 1.324, additions are indicated by arrows and deletions are indicated by brackets.

It is proposed to amend 37 CFR Chapter I, as follows:

§ 1.45 [Amended]

1. By amending § 1.45 by removing the heading "(a)" to the first paragraph and by removing entirely paragraphs "(b)" and "(c)".

2. By adding § 1.48 to read as follows:

§ 1.48 Correction of inventorship.

If an application for patent has been made through error without any deceptive intention by one person as sole inventor when the person was not in fact the inventor, or was actually a joint inventor, the application may be corrected by amendment to remove the name of the person not the inventor and add the name of the actual sole inventor, or to include all the joint inventors. Such amendment must be accompanied by a statement of the facts verified by the original applicant and an oath or declaration as required by § 1.65 by the applicant who is the actual inventor, or each applicant who is a joint inventor. Such amendment must be diligently made and have the written consent of any assignee. In like manner, if an application for patent has been made through error without any deceptive intention by two or more persons as joint inventors, when they were not in fact joint inventors, or all the actual joint inventors, the application may be corrected by amendment to remove the names of those not inventors and add the names of the actual joint inventors, or to include all the joint inventors. Such amendment must be accompanied by a statement of the facts verified by the original applicants and an oath or declaration as required by § 1.65 by each applicant who is a joint inventor. Such amendment must be diligently made and have the written consent of any assignee.

3. By revising § 1.324 to read as follows:

§ 1.324 Correction of error in joining inventor.

Whenever a patent is issued and it appears that there was [a misjoinder or nonjoinder of inventors] ►an error in the designation of inventorship◄ and that such [misjoinder or omission] ►error◄ occurred [by error and] without deceptive intention, the Commissioner may, on application of all the parties and the assignees and satisfactory proof of the facts, or on order of a court before which such matter is called in question, issue a certificate [deleting the misjoined inventor from the patent or adding the non-joined inventor to] ►correcting inventorship in◄ the patent.

4. By adding § 1.426 to read as follows:

§ 1.426 Correction of inventorship.

If an international application for patent designating the United States of America has been made through error without any deceptive intention by one person as sole inventor when the person was not in fact the inventor, or was actually a joint inventor, the international application may be corrected by amendment before the United States Patent and Trademark Office to remove the name of the person not the inventor and add the name of the actual sole inventor, or to include all the joint inventors. Such amendment must be accompanied by a statement of the facts verified by the original applicant and an oath or declaration as required by § 1.70 by the applicant who is the actual inventor, or each applicant who is a joint inventor. Such amendment must be diligently made and have the written consent of any assignee. In like manner, if an international application for patent designating the United States of America has been made through error without any deceptive intention by two or more persons as joint inventors, when they were not in fact joint inventors, or all the actual joint inventors, the international application may be corrected by amendment before the United States Patent and Trademark Office to remove the names of those not inventors and add the names of the actual joint inventors, or to include all the joint inventors. Such amendment must be accompanied by a statement of the facts verified by the original applicants and an oath or declaration as required by § 1.70 by each applicant who is a joint inventor. Such amendment must be diligently made and have the written consent of any assignee.

Dated: December 15, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Dated: December 24, 1980.

Approved:

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 81-678 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-16-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans' Education; Resumption of Contribution to Funds Upon Reenlistment

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation issued jointly by the Veterans Administration and the Department of Defense clarifies that an individual who, because of a discharge or release from active duty, stops contributing to the fund upon which Post Vietnam era veterans' educational assistance payments are based, may resume contributing upon reenlisting. Since the regulations do not address this problem, confusion has arisen as to whether these individuals may resume contributions. The proposed regulation eliminates the confusion by providing a rule to deal with this situation.

DATES: Comments must be received on or before February 11, 1981. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until February 23, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.5058(a), Title 38, Code of Federal Regulations is amended specifically to permit an individual whose contributions to the Veterans' Educational Assistance Program fund have been interrupted as a result of the individual's discharge or release, to resume contributing if he or she reenlists.

This proposed regulation does not meet the Veterans Administration's established criteria for significant regulations. The proposal will have no effect, either direct or indirect, on schools, businesses, the general public, the environment, or State and local governments. The proposal will not impose any new reporting requirements on schools. There will be no costs to businesses or to educational institutions caused by this proposal. The proposal will affect some veterans, but their number will be small.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until February 23, 1981. Any person visiting the Veterans Administration Central Office in Washington, DC for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 17, 1980.

Max Cleland,

Administrator, Veterans Administration.

Approved: December 12, 1980.

Robert A. Stone,

Deputy Assistant, Secretary of Defense.

In § 21.5056, paragraph (a) is revised to read as follows:

§ 21.5056 Resumption of participation.

(a) An eligible individual, who remains otherwise eligible, may resume active contribution to the fund, if he or she has—

(1) Voluntarily elected to suspend following completion of minimum participation;

(2) Suspended at anytime for reasons of hardships; or

(3) Received a discharge or release from active duty after participation and reenlisted. (38 U.S.C. 1621)

* * * * *

[FR Doc. 81-1014 Filed 1-9-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[A-6-FRL 1723-3]

Approval and Promulgation of State Implementation Plans; Air Quality Surveillance Data Reporting for Arkansas, Louisiana, New Mexico and Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the State Implementation Plans (SIPs) for the States of Arkansas, Louisiana, New Mexico and Oklahoma to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air Quality Surveillance; Plan Content.

DATES: Interested persons are invited to submit comments on this proposed action on or before February 11, 1981.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, Attn: Jerry Stubberfield, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittals are available for inspection during normal business hours at the address above and at the following location: Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas, 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Background

Section 319 of the Clean Air Act, as amended, requires the Environmental Protection Agency (EPA) to establish monitoring criteria to be followed uniformly across the Nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), EPA, on May 10, 1979 (44 FR 27558), promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions.

Requirements for Air Quality Surveillance Network

The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR 58.20 requires that the State adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

(b) Provide for meeting the requirements of Appendices A, C, D, and E of 40 CFR Part 58.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D of 40 CFR Part 58. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A of 40 CFR Part 58 for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

On the dates listed below, the indicated States submitted final revisions to their SIPs concerning compliance with these Federal Monitoring Regulations and EPA finds that they meet the requirements of Part 58.

Arkansas—April 24, 1980
Louisiana—January 10, 1980
New Mexico—December 12, 1979
Albuquerque—January 18, 1980
Oklahoma—March 7, 1980

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized developmental procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Pursuant to the provisions of 5 U.S.C 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the proposal relates only to air quality surveillance to be carried out by four states and will not cause any significant economic impacts.

This notice of proposed rulemaking is issued under the authority of Section 319 of the Clean Air Act as amended.

Dated: December 29, 1980.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 81-1032 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[CGD 80-148]

Great Lakes Pilotage; Rates Increase

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the Great Lakes Pilotage Regulations. These amendments would increase the basic pilotage rates by an average of approximately ten percent in the U.S. Great Lakes pilotage system. Reasonable travel expenses would be included in the cancellation charge if a pilot has commenced travel to that assignment prior to the cancellation notice being received. Additionally, it is proposed that if a pilot is available for service but not utilized for more than one hour due to delay or cancellation then charges would be made for the entire period. These changes are made in order to increase the revenue received by the pilot organizations so that they may cover their increased operating costs.

DATE: Comments must be received on or before February 26, 1981.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/24) (CGD 80-148), U.S. Coast Guard, Washington, D.C. 20593. Between the hours 7 a.m. and 5 p.m., Monday through Thursday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC/24), Room 2418, Department of Transportation, Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G-MVP-4/14), Room 1400, Department of Transportation, Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593. (202) 755-8683.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 80-148) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the Marine Safety Council address noted above. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and LT Michael Tagg, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Coast Guard has recently completed a review of revenues earned and expenses incurred by the three Great Lakes pilot organizations during 1980. Revenue requirements for 1981 have been developed and the number of vessels, their size, and route patterns have been projected for 1981.

It is proposed to increase the basic rates for pilotage on the Great Lakes by an average of approximately ten percent so that the pilot organizations may cover their increased operating costs. The various cost elements (pilot boats, dispatching, pilot travel, administration, and pilot training) have increased at different rates. While the average rate increase for the whole system is approximately ten percent, pilot compensation is projected to increase by only eight percent. The guideline followed in the development of a pilot compensation figure is that target compensation for U.S. pilots is to be comparable to the earnings of their licensed counterparts on U.S. Great Lakes vessels. Increasing the basic rates by an average of ten percent would cover the projected increase in pilot organization operating costs for 1981 and would sufficiently increase pilot compensation to maintain reasonable parity between the Great Lakes pilots and their licensed counterparts on U.S. Great Lakes vessels.

Situations have occurred where a request for a pilot has been placed and subsequently cancelled, but the pilot, based on the original request, was placed on travel enroute to the normal boarding place prior to the cancellation being received. In addition to the dislocations caused the pilot pools there is the matter of the travel expenses that were incurred by the pilot. These unproductive travel expenses must be absorbed by the pilot organizations. It is therefore proposed that a charge for reasonable travel expenses be added to the cancellation charge in cases where the pilot is placed on travel prior to the cancellation being received.

Presently, when a pilot is available but not utilized due to delay or cancellation, time charges are assessed only for periods in excess of one hour. In an effort to encourage better pilot utilization, it is proposed that if the pilot is available but not utilized for periods exceeding one hour, then all hours may be charged. If the period is one hour or less there is no time charge.

Under certain circumstances a ship may request the assignment of two pilots, or, the Director, Great Lakes Pilotage Staff may require the assignment of two pilots when it is considered necessary for the safe navigation of the ship. At present the vessel is charged one and one half times the normal charge for the two pilots. Generally, assignments involving two pilots are more difficult and a longer period of time is required to complete a transit. This reduces the availability of pilots but produces revenue for the second pilot at only one half the normal rate. In order to make the charge for this type of assignment more representative of the difficulty and length of the assignment, it is proposed that in those instances where two pilots are assigned to a vessel the fee will be twice the normal basic rate.

These proposed regulations are considered to be nonsignificant and, accordingly, a draft evaluation has been prepared and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each draft evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State, and local governments, as well as the anticipated benefits and impacts of the regulations. The estimated cost of this proposal is $700,000. This figure is the amount of additional revenue the U.S. pilots should receive under this proposal based on the projected 1981 traffic and the increased amount that shippers would have to pay for pilotage services on the Great Lakes. The benefit of this rule is the value of avoiding or minimizing costly delays and disruptions in shipping attributable to the failure to retain qualified pilots and to attract new qualified pilots. The overall efficiency of the pilotage system is enhanced by having an appropriate number of pilots available to provide the required services. The draft evaluation from which this information is taken has been included in the public docket and can be obtained from the Marine Safety Council at the address indicated above.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1166) requires an initial regulatory flexibility analysis for proposed regulations having a significant economic impact on an substantial number of small entities. The pilotage fees in question account for less than five percent of the total shipping costs and the increase necessitated by the current high inflation rates will not have a significant impact on the shipping industry. The proposed regulations will impose no additional paperwork burden on the users. For these reasons it has been determined that the proposed regulations do not fall within the purview of the Act. Pursuant to section 605(b) of the Act, it is certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

In the development of this proposal U.S. and Canadian shipping associations and pilot associations were consulted.

In consideration of the foregoing, the Coast Guard proposes to amend Part 401 of Title 46 of the Code of Federal Regulations as set forth below:

1. By revising § 401.405 to read as follows:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable for all services and assignments performed by U.S. Registered Pilots in the areas described in § 401.300.

(a) District 1: (1) For passage through the District or any part thereof, $7.24 for each statute mile, plus $96 for each lock transited, but with a minimum basic rate of $211 and a maximum basic rate for a through trip of $927.

(2) For a moveage in any harbor, $318.

(b) District 2: (1) Southeast Shoal to Toledo or any point on Lake Erie west of Southeast Shoal, $494.

(2) Between points on Lake Erie west of Southeast Shoal, $292.

(3) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat, $860.

(4) Southeast Shoal to Detroit/Windsor or any point on the Detroit River, $494.

(5) Southeast Shoal to Detroit Pilot Boat, $358.

(6) Toledo or any point on Lake Erie west of Southeast Shoal and Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat, $996.

(7) Toledo or any point on Lake Erie west of Southeast Shoal and the Detroit/Windsor or any point on the Detroit River, $641.

(8) Toledo or any point on Lake Erie west of Southeast Shoal and the Detroit Pilot Boat, $494.

(9) Detroit/Windsor or any point on the Detroit River and between points on the Detroit River, $292.

(10) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River, $648.

(11) Detroit Pilot Boat to any point on the St. Clair River, $648.

(12) Detroit Pilot Boat to Port Huron Change Point, $503.

(13) Between points on the St. Clair River, $292.

(14) Port Huron Change Point to any point on the St. Clair River, $358.

(c) District 3: (1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario, $844.

(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corporation Wharf, $706.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Marie, Michigan, $318.

(4) For a moveage in any harbor, $318.

2. By revising § 401.410(a) to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (b) of this section, the basic rates for each 6 hour period or part thereof that a U.S. pilot is on board in the undesignated waters shall be:

(i) In Lake Ontario, $171

(ii) In Lake Erie, $211

(iii) In Lakes Huron, Michigan and Superior, $171 plus $162 for each time a U.S. pilot performs the docking or undocking of the ship.

(b) When in direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne, or between Port Colborne and Southeast Shoal, and the vessel's master plans to use an appropriate certificate in lieu of a pilot, the ship shall pick up or discharge the pilot at the Cleveland pilot boat. No charge is to be made for the transit between Southeast Shoal and the Cleveland pilot boat or between the Cleveland pilot boat and Southeast Shoal unless the services of the pilot are utilized.

3. By revising § 401.420 to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) Except as provided in this paragraph, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $26 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $422 for each continuous 24 hour period during which the interruption continues. There is no charge for an interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge shall be made for an interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $26 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $422 for each continuous 24 hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $160;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $26 for each hour or part of an hour including the first hour, with a maximum basic rate of $422 for each 24 hour period.

4. By revising § 401.425 to read as follows:

§ 401.425 Provision for additional pilot.

The Director, Great Lakes Pilotage Staff, U.S. Coast Guard, or the General Manager, Great Lakes Pilotage Authority, Ltd., Canada, may require the assignment of two pilots to a ship upon request of the ship or when in his judgment, because of anticipated long transit, uncommon ship size, adverse weather or sea conditions or other abnormal circumstances, the assignment of two pilots is considered necessary for the safe navigation of the ship. The Director or General Manager shall direct which of the pilots is to be in charge, as circumstances require. The charge to the ship shall be twice the appropriate charge provided for in §§ 401.405, 401.410, and 401.420. This section does not apply to a ship in a direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne unless the ship is required by law to have a registered pilot on board in these waters.

5. By revising § 401.428 to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point the pilot shall be paid at the rate of $162 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 5, 74 Stat. 260 (46 U.S.C. 216c); Sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4); 49 CFR 1.46(d)))

Dated: January 6, 1981.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 81-1031 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-14-M

Notices

Federal Register
Vol. 46, No. 7
Monday, January 12, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on Saturday, January 31, 1981, at 9:00 a.m., a public information meeting will be held at the State of Hawaii, Department of Education Board Room, Room 403, Queen Liliuoukalani Building, 1390 Miller Street, Honolulu, Hawaii.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the continuing use of Kaho'olawe, an undertaking of the U.S. Department of the Navy, that will adversely affect archeological and cultural properties eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimze any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the properties by the Navy.

III. A statement by the Hawaii State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 44 Union Boulevard, Suite 616, Lakewood, Colorado 80228; or 303-234-4946.

Dated: January 6, 1981.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 81-946 Filed 1-9-81; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the Department of Agriculture hereby republishes its annual notice of the existence and character of the systems of records currently maintained pursuant to the Privacy Act of 1974. The last such annual republication for the Department of Agriculture can be found at 44 FR 69694 (December 4, 1979). That republication updated the earlier complete publication found at 43 FR 51268 (November 2, 1978).

Since the last annual republication, the following additions and corrections have been published:

45 FR 3361 (1/17/80)—Revision of FS-21—Public Involvement Respondents on Forest Service Activities

45 FR 10824 (2/19/80)—Revision of FS-4—Certification of Engineering Personnel

45 FR 10825 (2/19/80)—Publication of SCS-3—Federal Financed Cost-Sharing Information Applicable to Individual Participants in SCS Programs.

The above-cited **Federal Register** notices are printed in full below.

Dated: January 6, 1981.

Bob Bergland,

Secretary of Agriculture.

USDA/FS-21

SYSTEM NAME:

Public Involvement Respondents on Forest Service Activities, USDA/FS

SYSTEM LOCATION:

Records in this system are maintained at Forest Service Headquarters in Washington, D.C., the 9 Regional Offices, 123 Forest Supervisor Office, and 673 District Ranger Offices. The address for the Headquarters is Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013; the address for Regional Foresters and Forest Supervisors are listed in 36 CFR 200:2, Subpart A; and addresses for District Rangers are in the telephone directory of the applicable locality under the heading, United States Government, Department of Agriculture, Forest Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer respondents in public involvement efforts related to natural resource management issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

May include one or more elements of Correspondence, news clippings, questionnaires, response forms, summary lists, oral comments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order No. 11514, March 5, 1970, and 42 U.S.C. 4321.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

"Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

By issue on published documents; keysort cards; magnetic tape; punched cards; original correspondence; microfilm.

RETRIEVABILITY:

By issues.

SAFEGUARDS:

File cabinets.

RETENTION AND DISPOSAL:

Records are retained for 2 years after the decision is made and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Public Information and Involvement, Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, or the appropriate Regional Forester, Forest Supervisor, or District Ranger at the addresses specified under Location above.

NOTIFICATION PROCEDURE:

Any Forest Service field office or the WO, where the respondent gave or mailed comment or any Forest Service office to which such comments might have been sent for review or analysis. Identifying information should be by public involvement issue and approximate year.

RECORD ACCESS PROCEDURES:

Use same procedures as for requesting Notification.

CONTESTING RECORD PROCEDURES:

Use same procedures as for requesting Notification.

RECORD SOURCE CATEGORIES:

Respondents voluntarily give the information to agency in meetings, hearings, and by correspondence.

USDA/FS-4

SYSTEM NAME:

Certification of Engineering Personnel, USDA/FS.

SYSTEM LOCATION:

At the Forest Service Headquarters Offices of the Chief, Regional Foresters, and Forest Supervisors as listed in 36 CFR 200.2, Subpart A, where individual is or was employed, and at Bibliographic Retrieval Service, Inc., 702 Corporation Park, Scotia, N.Y. 12302.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Forest Service employees who have taken examinations in one or more of the certification categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the name, social security number, work location, written and oral examination results, and certificates issued for each Forest Service employee defined in the preceding paragraph.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 7 CFR 2.60.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

"Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Examination results, and supporting documents. Data is also on magnetic tape.

RETRIEVABILITY:

Manual system is indexed by name and location. ADP System is indexed by individual Social Security numbers.

SAFEGUARDS:

Records are maintained in standard filing system and on magnetic tape. The records are located in offices that are locked during non-office hours. They are available only to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained for the duration of individual's employment and thereafter filed in the Federal Records Center in accordance with standard procedures. Entries on magnetic tape are eliminated when employee leaves the organization.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Engineering, Forest Service, U.S. Department of Agriculture, Washington, D.C. 20250 or the appropriate Regional Forester, Forest Supervisor in charge of the unit where the individual is or was employed.

NOTIFICATION PROCEDURE:

Employees (past or present) may request information as to whether or not the system contains records pertaining to them from the appropriate system manager listed in the preceeding paragraph. A request for information should be in writing and should include the individual's full name, address, and social security number; approximate date of last certification or examination, and place of employment at that time.

RECORD ACCESS PROCEDURES:

Use same procedures as for requesting Notification.

CONTESTING RECORD PROCEDURES

Use same procedures as for requesting Notification.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from written, oral, and applied examinations.

USDA/SCS-3

SYSTEM NAME:

Federal Financed Cost-Sharing Information applicable to individual particpants in USDA—Soil Conservation Service (SCS) programs.

SYSTEM LOCATION:

Records in this system are maintained at the Soil Conservation Service. Headquarters in Washington, D.C. and in the Computer Centers located at the National Finance Center, New Orleans, Louisiana, SCS Technical Service Center, Fort Worth, Texas, and USDA Computer Centers located in Washington, D.C., Fort Collins, Colorado, and Kansas City, Missouri.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer participants, namely landowners and operators in conservation programs administered by the Soil Conservation Service where federally financed cost sharing is involved. The programs are the Great Plains Conservation Program, Small Watershed Program, Rural Abandoned Mine Program, and Resource Conservation and Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer data cards, tapes, computer printouts, and hard copies of records. these records include name, address, social security number, SCS program, and amount of payment by program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Soil Conservation Act, Pub. L. 74-46, 49 Stat. 163, (16 U.S.C. 590a-f, q); Resource Conservation and Development Program, Pub. L. 87-703, as amended (7 U.S.C. 1010-1011); Small Watershed Program, Pub. L. 83-566, 68 Stat. 666, as amended (16 U.S.C. 1001-1009); Rural Abandoned Mine Program, Pub. L. 95-87, 91 Stat. 163 (16 U.S.C. 590 a-f, q); Great Plains Conservation Program, Pub. L. 84-1021, 70 Stat. 1115, as amended (16 U.S.C. 590 p(b)); and related laws 42 U.S.C. 3271-3274.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Report to Internal Revenue Service (IRS) of payments made to individual participants for income tax purposes. Also used by authorized USDA personnel for budget estimates and program cost data.

Disclosure of data to IRS is in accordance with the Internal Revenue Act of 1954 (26 U.S,C. 6041) as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING RECORDS IN THE SYSTEM.

STORAGE:

By individual on keypunched cards or magnetic tapes for computers.

RETRIEVABILITY:

Names and addresses of the individuals are kept for reports to the Internal Revenue Service. Record material will be retrieved by name, social security number, and program applicable.

SAFEGUARDS:

Locked file cabinets, locked computer storage rooms, and locked computer terminal rooms. Access to records is in accordance with USDA ADP security plan as supplemented by SCS.

RETENTION AND DISPOSAL:

Maintained indefinitely on a currently updated basis.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management Systems Branch, Management Evaluation Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013.

NOTIFICATION PROCEDURE:

Any Soil Conservation Service officer from which the individual participant has received technical assistance for implementation of a conservation plan required for Federal cost-sharing financial assistance will receive requests for information regarding the system of records. Identifying information should be made by individual names, social security number, address, contract or agreement number, and program involved.

RECORD ACCESS PROCEDURES:

To obtain information for obtaining access to the system of records, write to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Use the same procedures as for records access.

RECORD SOURCE CATEGORIES:

Participants voluntarily ask for Federal financial cost-share assistance to apply needed conservation treatment or practices to lands owned or operated by the individual particpant. Such cost-sharing data is needed for Federal income tax information as it applies to the year and income of the participant using the programs.

[FR Doc. 81-1019 Filed 1-9-81; 8:45 am]

BILLING CODE 3410-01-M

Science and Education Administration

Establish Eligibility for Funding for Animal Health and Disease Research

The Science and Education Administration announces that it will accept statements of eligibility for funds to be distributed in Fiscal Year 1981 under the provisions of Sections 1429–1439 of Pub. L. 95–113 (7 U.S.C. 3191–3201) relating to Animal Health and Disease Research.

Section 1433 of Pub. L. 95–113 authorizes funds to be distributed among the States on a formula basis for the support of animal health and disease research programs conducted by eligible institutions in the States. Section 1434 authorizes funds to be allocated to eligible institutions on a discretionary basis to support research on specific national or regional animal health or disease problems. For Fiscal Year 1981 6.5 million dollars will be distributed under Section 1433. No funds will be distributed under Section 1434.

Any college or university having an accredited college of veterinary medicine or a department of veterinary science or animal pathology, or a similar unit conducting animal health and disease research in a State agricultural experiment station is eligible for funding, provided the institution has a demonstrable capacity for conducting animal health and disease research. Colleges or universities with a department of veterinary science or animal pathology must provide evidence that such department is a distinct unit within the institution with its major activity centered on food animal health and disease research, education or extension. At least one faculty member of this department must hold the degree, Doctor of Veterinary Medicine. Published material of the college or university must be submitted which identifies the department of veterinary science or animal pathology, its administrative relationship to other units within the college or university, its functions and its faculty. Fiscal information should be included that will permit estimation of the magnitude which food animal health research, education or extension bears to the total effort of the department.

The capacity to conduct animal health and disease research will be determined on the basis of the following criteria:

1. One or more faculty of professional rank currently conducting food animal health and disease research.

2. Ongoing programs in livestock, poultry, or other food animal health and disease research. Such programs should involve studies on infectious, noninfectious, parasitic, and chemical factors that reduce the efficiency of production or endanger the suitability for human food of livestock, poultry, and other food animals or their products.

Colleges of Veterinary Medicine, State agricultural experiment stations, and other institutions that established eligibility in Fiscal Year 1980 are not required to submit new statements of eligibility in response to this Notice. Such institutions will be notified individually and requested to certify their continued eligibility status.

Other institutions desiring to establish eligibility under Section 1433 for Fiscal Year 1981 must submit a statement of eligibility to the Director of Science and Education, U.S. Department of Agriculture, Washington, D.C., within 30 days following the date of publication of this notice. In addition to the specific information required for colleges and universities with a department of veterinary science or animal pathology as identified above, statements must include evidence of the institution's capacity to perform animal health and disease research. Such evidence should address the above-numbered criteria and include, where available, a summary of each research project which was conducted by the institution on animal health and disease problems of food animals in Fiscal Year 1979. The summaries should include the following information:

1. Project Title
2. Research Objectives
3. Research Approach
4. Total Expenditures on the Project
5. Full-time Equivalents of Professional Rank Staff Devoted to the Project

Questions regarding this program should be directed to: Dr. Earl J. Splitter, Assistant Deputy Administrator, Animal Sciences, SEA/CR, U.S. Department of Agriculture, Washington, D.C. 20250 Telephone Number: (202) 447–5007.

Dated: January 6, 1981.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 81-1000 Filed 1-9-81; 8:45 am]

BILLING CODE 3410-22-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations, Week Ended January 2, 1981

Subpart Q Applications [1]

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 31, 1980	39114	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10158. Application of Trans World Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board Procedural Regulations, requests that its certificate of public convenience and necessity for Route No. 2 be amended by adding a new segment which would authorize service between the terminal point Akron/Canton, OH, and the intermediate points: Albuquerque, NM*; Allentown-Bethlehem-Easton, PA; Anchorage, AK; Ashville, NC; Augusta, GA; Austin, TX; Bakersfield, CA; Bangor, ME; Baton Rouge, LA; Billings, MT; Boise, ID; Boston, MA*; Bristol-Kingsport-Johnson City, TN; Burlington, VT; Casper, WY; Cedar Rapids-Iowa City, IA; Charleston, SC; Charleston/Dunbar, WV; Chattanooga, TN; Chicago, IL*; Columbia, SC; Columbus, GA; Corpus Christi, TX; Daytona Beach, FL; Denver, CO*; Duluth, MN-Superior, WI; Erie, PA; Eugene, OR; Evansville, IN; Fairbanks, AK; Fargo, ND-Moorhead, MN; Fayetteville, NC; Flint, MI; Ft. Wayne, IN; Gainesville, FL; Grand Junction, CO; Grand Rapids, MI; Great Falls, MT; Green Bay-Clintonville, WI; Greensboro-High Point, NC; Greenville-Spartanburg, SC; Honolulu, HI*; Houston, TX*; Huntsville, AL; Jackson-Vicksburg, MS; Jacksonville, FL; Juneau, AK; Kahului, HI; Kailua, HI; Kalamazoo-Battle Creek, MI; Lansing, MI; Lexington-Frankfort, KY; Lihue, HI; Los Angeles, CA*; Lubbock, TX; Melbourne, FL; Miami, FL*; Midland-Odessa, TX; Mobile, AL; Monterey-Salinas, CA; Montgomery, AL; Newport News-Hampton, VA; Pensacola, FL; Pittsburgh, PA*; Portland, ME; Raleigh-Durham, NC; Rapid City, SD; Roanoke, VA; Rochester, NM; Saginaw-Bay City-Midland, MI; St. Croix, VI; St. Louis, MO*; St. Thomas, VI; Santa Barbara, CA; Savannah, GA; Scranton-Wilkes Barre, PA; Seattle-Tacoma, WA*; Shreveport, LA; South Bend, IN; Springfield, MO; Spokane, WA; Tallahassee, FL; and the terminal point Youngstown, OH. Conforming Applications, motions to modify scope, and Answers may be filed by January 28, 1981.
Jan. 2, 1981	39127	American Eagle Airlines, Inc., P.O. Box 8782, Baltimore-Washington International Airport, Maryland 21240. Application of American Eagle Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing it to engage in scheduled air transportation between a point or points in the United States, on the one hand, and points in Belgium, the Netherlands, Luxemburg, and West Germany, on the other. Conforming Applications, motions to modify scope, and Answers may be filed by January 30, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-1021 Filed 1-9-81; 8:45 am]

BILLING CODE 6320-01-M

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[1] See 14 CFR 302.1701 et seq.

[Docket 37498]

Carrier Selection Case for New Bedford, Mass.; Change of Time and Date of Oral Argument

The Oral Argument in this proceeding has been changed from Tuesday, January 13, 1981, at 10:00 a.m. to Monday, January 19, 1981, at 1:00 p.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. Parties which wish to participate in the argument please advise the Secretary, in writing, on or before Wednesday, January 7, 1981, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C. January 5, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-1022 Filed 1-9-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Union Shake Company, P.O. Box 692, Sylva, North Carolina 28779, a producer of red cedar shakes (accepted December 9, 1980); (2) RTR Industries, Inc., 8116 Deering Avenue, Canoga Park, California 91304, a producer of loudspeakers (accepted December 15, 1980); (3) Ahlstedt Manufacturing Corporation, 8747 Ferry Street, Montague, Michigan 49437, a producer of electric cargo carriers (accepted December 17, 1980); (4) S. J. Novelties, Inc., 136 West 21st Street, New York, New York 10011, a producer of women's footwear and belts (accepted December 18, 1980); (5) Robert Manufacturing Company, Inc., 125 Whipple Street, Providence, Rhode Island 02940, a producer of women's dresses (accepted December 19, 1980); (6) Engineering Products Company, Inc., 2021 MacArthur Road, Waukesha, Wisconsin 53186, a producer of garden and lawn tractors (accepted December 22, 1980); (7) Acousti-phase, Inc., P.O. Box 207, Proctorsville, Vermont 05153, a producer of stereo speakers (accepted December 22, 1980); (8) R & N Knitted Headwear, Inc., 544 Park Avenue, Brooklyn, New York 11205, a producer of knit scarves, headwear, dickies and leg warmers (accepted December 22, 1980); (9) Champ Products Corporation, R. R. 2, 117 Pleasant Drive, Union City, Indiana 47390, a producer of handbags (accepted December 23, 1980); (10) Rapid Die and Molding Company, Inc., 3901 Wesley Terrace, Schiller Park, Illinois 60176, a producer of loudspeaker parts (accepted December 23, 1980); (11) Grace Shoe Mfg. Company, Inc., 200 Market Street, Lowell, Massachusetts 01852, a producer of women's footwear (accepted December 23, 1980); (12) Liberty Leather Corporation, 65 Harrison Street, Gloversville, New York 12078, a producer of leather (accepted December 23, 1980); (13) Shamrock Knitting Mills, Inc., 670 South Cobb Drive, Marietta, Georgia 30061, a producer of hosiery and knit headwear (accepted December 24, 1980); (14) Congelados Criollos, Inc., G.P.O. Box K, San Juan, Puerto Rico 00936, a processor of vegetables, fruits, herbs and meats (accepted December 29, 1980); (15) Sunbury, Inc., 125 Providence Street, West Warwick, Rhode Island 02983, a producer of women's skirts and slacks (accepted December 29, 1980); (16) D & R Cedar Products, Inc., P.O. Box 269, Forks, Washington 98331, a producer of cedar shakes and shingles (accepted December 30, 1980); (17) Automated Automation, Inc., 11110 Allisonville Road, Noblesville, Indiana 46060, a producer of wire detangling equipment (accepted December 31, 1980); (18) Bossert Manufacturing Corporation, 1002 Oswego Street, Utica, New York 13503, a producer of metal stampings (accepted December 31, 1980); (19)

Jaqueline Knitwear, Inc., 131 Saw Mill River Road, Yonkers, New York 10702, a producer of women's sweaters (accepted January 2, 1981); and (20) Parker Metal Corporation, 60 Prescott Street, Worcester, Massachusetts 01605, a producer of television antennas, shipping carts, fasteners and other hardware (accepted January 5, 1981).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (P.L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 81-939 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Beth Israel Hospital; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00247. Applicant: Beth Israel Hospital, 330 Brookline Avenue, Boston MA 02215. Article: Accessories for Electron Microscope consisting of: Stem Videoscope, Remote Control Photomonitor, Focus Control Unit and Bulk Specimen Holder. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: See Notice on page 41996 in the **Federal Register** of June 23, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The article is being manufactured by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the Department of Health and Human Services in its memorandum dated August 7, 1980 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic article.

The Department of Commerce knows of no similar accessory manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105 Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-960 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-25-M

Massachusetts Institute of Technology et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00456. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Standard Spark-Ignition Research Engine. Manufacturer: Ricardo Engineers, Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study of turbulent combustion in internal combustion engines. Initially, research will be concentrated in the areas of theoretical model evaluation and the determinant detonation characteristics of alternative fuels. The article will be used in conjunction with a dynamometer for experiments under various operating conditions. Experimental data will be collected by means of a high-speed on-line data acquisition system. These data will be used directly in experimental investigations as support for theoretical models. Application received by Commissioner of Customs: September 16, 1980.

Docket No. 80–00466. Applicant: Grinnell College, Grinnell, Iowa 50112. Article: Electron Microscope, Model H–300 and Accessories. Manufacturer: Hitachi Limited, Canada. Intended use of article: The article is intended to be used for various research interests which include: developmental studies of nectaries, investigations of endomycorhizal fungi associations with the plants they infect, detection of structural damage in *Tetrahymena* DNA, and detection of lesions in rat brain tissue resulting from electrode implantation. In addition, the article will be used to teach a course entitled Transmission Electron Microscopy, Biology 343. The course teaches practical theoretical aspects of transmission electron microscopy from tissue preparation to photography. Application received by Commissioner of Customs: September 24, 1980.

Docket No. 80–00468. Applicant: University of California, San Francisco, 612 Forbes Blvd., So. San Francisco, California 94080. Article: High Purity Germanium Well Counter. Manufacturer: Enertec, France. Intended use of article: The article is intended to be used in the radioactive microsphere method of measuring flow to organs and regions within organs. Microspheres made of polystyrene are injected into the left atrium (in adult animals) or into venal cavae (in fetal animals) and distributed to various organs and regions within those organs in proportion to the blood flow at that time. At the end of the experiment, the animal is sacrificed, and the organs to be examined are removed and sectioned into small pieces that can be placed in a well counter to measure the gamma-ray emissions from the various radionuclides used. Application received by Commissioner of Customs: September 26, 1980.

Docket No. 80-00469. Applicant: Columbia University in the City of N.Y., Box 610 Havemeyer Hall, Chemistry Department, New York, N.Y. 10027. Article: Excimer Laser, EMG 101. Manufacturer: Lambda Physik, West Germany. Intended use of article: The article is intended to be used for studies of diphenyl carbene and diphenyl trimethylene methane. The article will also be used in graduate studies in chemistry to train students in "state-of-the-art" scientific research. Application received by Commissioner of Customs: September 26, 1980.

Docket No. 80-00471. Applicant: University of Illinois at Urbana-Champaign, 223 Administration Building, Urbana, Illinois 61801. Article: Magnet System I (500 MHz). Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of very low concentrations of hydrogen and carbon nuclei in systems of chemical and biological importance, e.g., coal, drugs, antibiotics, catalysts. Experiments to be conducted will consist of observation of nuclear quadrupole couplings and carbon-13 chemicals shifts via Fourier transform nuclear resonance techniques. These experiments will be conducted to determine the molecular structure of new materials used in energy research, improvement of drug design, analysis of molecular structure of new antibiotics, etc. Application received by Commissioner of Customs: September 26, 1980.

Docket No. 80-00472. Applicant: NIH, Molecular Toxicology Section, Bldg. 10, Room 6N119, Bethesda, Maryland 20205. Article: Electron Microscope JEM 100CX w/Scanning Attachments. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by scientists to analyze the ultrastructure and composition of a wide variety of biological specimens. Application received by Commissioner of Customs: September 26, 1980.

Docket No. 80-00473. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Single-photon Emission Tomography System, Tomomatic 64. Manufacturer: Medimatic A/S, Denmark. Intended use of article: The article is intended to be used to study brain function in patients, including cognitive brain mechanism (learning, speech, hearing, etc.) as well as psychiatric disorders. Human volunteers will be studied by applying various stimuli (e.g., reading material, visual scenes, mental exercises, sound patterns, muscle movements) and recording the local changes in the brain blood flow pattern in cross section. The objectives of these studies will be to obtain a better understanding of how different parts of the brain function with regard to psychiatric and cognitive aspects of human behavior. After evaluation, this method of studying brain function will be introduced to physicians who are in the neurology residency program. Application received by Commissioner of Customs: September 26, 1980.

Docket No. 80-00474. Applicant: University of Texas Medical Branch, 322 Administration Building, UMED No. O-45075-S, Galveston, TX 77550. Article: Tachophor, #2127-01 with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies on in vitro and/or in vivo reactions between biological molecules following increase, decrease, or absence of one or all of the reacting molecules. The objective pursued in the course of these investigations is to understand and identify the role of biological molecules in physiological functions and to correlate these functions with chemical alterations seen in animals. Application received by Commissioner of Customs: September 30, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-941 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-25-M

National Institutes of Health; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 80-00199. Applicant: National Institutes of Health, Building 2, Room 122, Bethesda, MD 20205. Article: Superconducting Magnet, Model 500-54 and Attachments. Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for investigations of proteins; nucleotides associated through hydrogen bonding and other mechanisms; synthetic and natural polynucleotides, such as t-RNA; carbohydrates; lipids; and various types of organic natural products. These investigations will include studies of proton NMR, where the small range of chemical shifts, together with broad lines in polymeric molecules or complexities engendered by spin-spin interactions in various organic molecules, prevent interpretation of the spectra at frequencies significantly less than 500 MHz. In addition, the article will be used in other studies of quadrupolar nuclei, such as ^{2}H, ^{14}N, where high field is required to minimize overlap broad lines; ^{13}C, ^{31}P, and other nuclei of spin ½, in cases where resolution of signals will be enhanced; and elucidation of relaxation and dynamic processes by investigation of magnetic field strength.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a wide bore (54 millimeters) 500 megahertz proton frequency magnet. The National Bureau of Standards advises in its memorandum dated June 16, 1980 that (1) the feature of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-942 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-25-M

Ramapo College of New Jersey; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 80-00239. Applicant: Ramapo College of New Jersey, Program in Biology, 505 Ramapo Valley Road, Mahwah, New Jersey 07430. Article:

Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials that have been embedded in an appropriate resin. These specimens will then be used in investigations that include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at hostparasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the courses, Introduction of Electron Microscopy and Advanced Electron Microscopy, I, II, and III which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of tissues and cells, and various subcellular organelles and the employment of cytochemical staining methods to localize various constituents.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 8, 1978).

Reasons: The captioned application is a resubmission of Docket Numbers 78-00388 and 79-00153 which were denied without prejudice to resubmission on December 14, 1978 and June 8, 1979 respectively for informational deficiencies. The foreign article has a cutting speed range of 0.1 to 60 millimeters/second (mm/sec) The Model MT 5000 ultramicrotome manufactured by DuPont/Sorvall Division of the DuPont Company (Sorvall) has a cutting speed range 0.1 to 40 mm/sec. However, the most closely comparable domestic instrument available at the time the article was ordered was Sorvall's Model MT-2B ultramicrotome. The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the Department of Health and Human Services in its memorandum dated August 7, 1980, that (1) cutting speeds in the excess of 5 mm/sec are pertinent to the applicant's research studies and (2) the Model MT-2B does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-943 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-25-M

University of Michigan et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with repsect to the question of whether an instrument or apparatus or equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 80-00374. Applicant: University of Michigan, Biological Station 4053, Natural Sciences Bldg., Ann Arbor, Michigan 48109. Article: Infrared Gas Analyzer. Manufacturer: ADC., Inc., United Kingdom. Intended use of article: The article is intended to be used to measure the rate of carbon dioxide exchange in selected trees in the field. The rate of this exchange is dependent on several environmental factors, including light, temperature, and humidity. It is necessary that carbon dioxide exchange be measured continuously and simultaneoulsy with the other environmental factors so that the effects of these factors on the exchange can be assessed. Experiments will consist of monitoring carbon dioxide exchange throughout 24 hr. periods along with the environmental factors. The objective of this research effort is to develop the capability to predict carbon dioxide exchange in a successional temperate forest. Application received by Commissioner of Customs: July 11, 1980.

Docket Number 80-00387. Applicant: Department of Defense, U.S. Navy, Mare Island Naval Shipyard, Code 134.2, Vallejo, CA 94592. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended Use of article: The article is intended to be used for studies of the following materials: Crystalline and non-crystalline solids, including items such as ferrous and non-ferrous alloys, oxides, sulphides, and minerals (especially asbestos), interactions involved in phase transformations, dislocation-precipitate reactions in these and other materials. The experimental work will be designed to study phenomena related to: various failure modes, types of structural defects and their effect on basic internal structures, identification of particles by morphology and composition, observe effects of phase transformations. Application received by Commissioner of Customs: July 21, 1980.

Docket Number 80-00431. Applicant: State University of New York, Maritime College, Fort Schuyler, Bronx, N.Y. 10465. Article: Ship Tanks Load Indicator. Manufacturer: Gotaverken, Sweden. Intended use of article: The article is intended to be used for marine transportation training for merchant marine officers. Application received by Commissioner of Customs: August 22, 1980.

Docket Number 80-00442. Applicant: Thomas Jefferson University Hospital, Division of Diagnostic Ultrasound, 5th Fl. Curtis Bldg., 1015 Walnut Street, Philadelphia, PA 19107. Article: Octoson, Multiple Transducer Echoscope. Manufacturer: Ausonics Ltd., Australia. Intended use of article: The article is intended to be used for clinical and scientific research in the field of human ultrasonic diagnosis. The article will also be used in extensive educational programs for both physicians and technologists in which trainees from multiple disciplines are exposed to the state of the art of imaging capabilities of various instrumentation types. Application received by Commissioner of Customs: September 4, 1980.

Docket Number 80-00443. Applicant: Gerontology Research Center, National

Institute on Aging, Experimental Morphology Section, OSD, c/o Baltimore City Hospitals, Baltimore, Maryland 21224. Article: ASID-4D Scanning Mode for Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is an accessory to an existing electron microscope being used for analysis of biological tissue and subcellular fragments to determine by scanning electron microscopy changes which occur with aging and the effects of experimental manipulation of aging. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00444. Applicant: Henry Ford Hospital, 2799 W. Grand Blvd., Detroit, MI 48202. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the diagnosis of renal, muscular, viral and hematopoetic diseases and establishing the identity of a number of tumors all of which are used in the medical management of patients. In addition, the article will be used to study the effects of disease and localization of enzymes and other substances at the ultrastructural level. Examples of research projects are (1) ultrastructure of liposarcoma in vivo and in vitro and the localization of creatine phosphokinase (CPK) in the myocardium. The article will also be used for educational purposes—training of pathologists to study the diseases listed. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00445. Applicant: University of Illinois at Chicago Circle, Department of Physics, 829 W. Taylor Street, Chicago, Ill. 60680. Article: Excimer-Multigas Laser, Model EMG 2000. Manufacturer: Lambda Physik Gmbh, West Germany. Intended use of article: The article is intended to be used to generate radiation of ultra-high spectral brightness at wavelengths of 193 and 248 nm. This laser emission, in turn, will be converted to the XUV region with nonlinear optical processes. Experiments will include development of a laser emitting below 100 nm, feasibility studies of VUV light source for plasma diagnostics, and spectroscopic and kinetic processes relevant to XUV lasers. One postdoctoral fellow and two graduate students will use the article for the above research and will learn fundamental techniques of laser application to chemical and physical research. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00446. Applicant: Cornell University, College of Agriculture and Life Sciences, Mann Library, Ithaca, New York 14853. Article: Gas Exchange Leaf Chamber. Manufacturer: University of Calgary, Canada. Intended use of article: The article is intended to be used to monitor carbon dioxide exchange and water vapor loss in plant leaves under field conditions. Ozone and sulfur dioxide pollutants will be added to the air intake stream in order to assess the impact of these gases on net assimilation. The objective of this work is to identify the physiological impact of various gaseous pollutants (at low concentrations) on trees common to Northeastern United States. Air pollutants will be viewed as an additional environmental stress acting on plants under field conditions. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00447. Applicant: SUNY at Stony Brook, Stony Brook, L.I., New York 11794. Article: Diffraction Grating on Fused Silica. Manufacturer: Ion Tech Ltd., United Kingdom. Intended use of article: The article is intended to be used in a small-scale monochromator for ultra-high vacuum environment. The experiments to be conducted include ultraviolet and photoelectron spectrometry, extended absorption fine structure, and generally, photoemission at various wavelengths. The purpose of these studies is to elucidate the electronic structure of solid surfaces of metals and semi-conductors. In addition, the article will be used for graduate training in scientific research in courses in Materials Science and Engineering. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00449. Applicant: The Ohio State University Research Foundation, 1314 Kinnear Road, Columbus, Ohio 43212. Article: Electron Microscope, Model EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for examination of DNA molecules (plasmids, bacterial chromosomes and bacteriophage genomes) cells and subcellular material.The experiments to be conducted are: Examination of Plasmid DNAs from B.thuringiensis, B.subtilis and Staphylococcus aureus; examination of phage DNAs from B.thuringiensis and B.subtilis; and Heteroduplex analysis of plasmid and phage DNAs from these species. The article will also be used for training of students in the use of electron microsopy for analysis of biological molecules in the courses: Microbiology 999. "Doctoral Research" and Microbiology 693. "Undergraduate Research". Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00450. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 S. Cass Avenue, Argonne, IL. 60439. Article: Mass Spectrometer System, Model Isomass 54R. Manufacturer: VG Isotopes Limited, United Kingdom. Intended use of article: The article is intended to be used for studies of uranium in nuclear reactor fuel elements. The relative abundances of all uranium isotopes, as well as the total uranium content of fuel rods, will be determined by mass spectrometry. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00451. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: NMR Magnet System, Model 250/80. Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of nuclear magnetic resonance spectra and relaxation of chemical substances in liquid, crystalline, amorphous, and polymeric states. The research is carried out in the framework of training students to be independent scientific investigators. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00452. Applicant: University of Washington, Ocean TGT II, Oceanography WB-10, Room "G", Marine Science Building, Seattle, WA 98195. Article: #800 Telescope Cases, 6 each. Manufacturer: Lortie, Canada. Intended use of article: The article is intended to be used for logistic support of research cruises. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00453. Applicant: Iowa State University, Ames, Iowa 50011. Article: NMR Spectrometer, Model WM-300 and Accessories. Manufacturer: Bruker AG, West Germany. Intended use of article: The article is intended to be used to obtain primarily ^{31}P, ^{13}C, ^{1}H and ^{19}F spectra of a variety of organic and biological compounds. Some of the experiments to be carried out involve in situ and perfusion experiments on tissues. Kinetic experiments will be performed occasionally as well as studies of fluctional molecules as a function of temperature. The objective purused in the investigation will be to make structural assignments in the most rapid manner possible. In most cases the work will be done on low sensitivity nuclei (i.e., natural abundance ^{13}C). In addition, the article will be used in a thesis research course to prepare students for a career in research. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00454. Applicant: U.S. Geological Survey, Western Region, 345 Middlefield Road, MS-85, Menlo Park, CA 94025. Article: Mass Spectrometer, MAT 260 with Accessories. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used in geochemical and geochronologic studies which involve analysis of Rb, Sr, Nd, Sm, U, Pb, Th. In addition, the article will be used in the training of visting graduate and post-graduate students in geologic research using isotopic techniques. Application received by Commissioner of Customs: September 11, 1980.

Docket Number 80-00455. Applicant: U.S. Department of Energy, Savannah River Laboratory, Operated by E.I. dupont DeNemours, Aiken, SC 29801. Article: Mass Spectrometer, Model MAT 250. Manufacturer: Varian MAT GmbH, West Germany. Intended use of article: The article is intended to be used in investigations to determine the article's suitability for research analyses and for routine control analyses in the various Department of Energy nuclear energy installations. Mixtures of the hydrogen isotopes will be analyzed. Pure gases will be used for standardization and stability measurements. Application received by Commissioner of Customs: September 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-944 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-25-M

Senior Executive Service Bonuses

The following Senior Executives of the International Trade Administration are scheduled to receive bonuses on January 26, 1981:

Michael Doyle, Director for Administration—$7,516.87 (15%)

Allen J. Lenz, Director, Office of East-West Policy and Planning—$5,512.37 (11%)

Paul T. O'Day, Deputy Assistant Secretary for Textiles and Apparel—$5,512.37 (11%)

John B. Roose, Director, Office of Export Promotion—$5,512.37 (11%)

William V. Skidmore, Deputy to the Deputy Assistant Secretary for Export Administration—$5,512.37 (11%)

Dated: January 8, 1981.

James T. King, Jr.,

Director, Office of Personnel.

[FR Doc. 81-925 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: National Zoological Park (P6C).

b. Address: Smithsonian Institution, Washington, D.C. 20008.

2. Type of Permit: Scientific Research.

3. Names and Number of Animals: Grey seal (Halichoerus grypus) 200.

4. Type of Take: To import specimen material taken from up to 100 grey seals which are to be killed by the Canadian Ministry of Fisheries and Oceans in 1981, and from up to 100 live grey seals in 1982.

5. Location of Activity: Canada.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of the notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 7, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-1029 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Permit Modification Request

Notice is hereby given that Ms. Barbara J. Kuljis, c/o National Marine Fisheries Service, P.O. Box 3830, Honolulu, Hawaii 96812, has requested a modification to Scientific Research Permit No. 306 issued on October 15, 1980 (45 FR 70297), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 126).

The Permit Holder is requesting to take an additional Pacific bottlenose dolphin (*Tursiops truncatus*) as a replacement for an animal which died during capture operations. The animal will be taken by the means, in the area, and for the purposes set forth in the original permit application.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above request are available for review in the following offices:

Assistant Adminstrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 7, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-1027 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-22

Pacific Fishery Management Council, Its Groundfish Subpanel and Its Scientific and Statistical Committee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the Council has established a Scientific and Statistical Committee and a Groundfish Subpanel to assist the Council in carrying out its responsibilities.

DATES: February 17-19, 1981.

ADDRESS: The meetings will take place at the Thunderbird Motor Inn, 1312 North Bayshore Drive, Coos Bay, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

SUPPLEMENTARY INFORMATION: Meeting Agendas follows: *Scientific and Statistical Committee (SSC)*—(open meeting) February 17-18, 1981, (10 a.m. to 5 p.m., on February 17; 8 a.m. to 5 p.m. on February 18).

Agenda: Consideration of the draft Groundfish Fishery Management Plan (FMP); conduct a public comment period beginning at 3:30 p.m., on February 17, and evaluate and develop recommendations on other matters referred to the SSC by the Council.

Groundfish Subpanel—(open meeting) February 17-18, 1981, (10 a.m. to 5 p.m., on February 17; 8 a.m. to 5 p.m. on February 18).

Agenda: Consideration of draft Groundfish FMP.

Council—(open meeting) February 18-19, 1981, (10 a.m. to 5 p.m., on February 18; 8 a.m. to 4 p.m. on February 19).

Agenda: Open Session—Consideration of the Groundfish FMP; review of National Marine Fisheries Service's proposed 1981 amendment to the Washington, Oregon and California Foreign Trawl Fishery Preliminary Management Plan; discussion of matters pertaining to the 1981 Ocean Salmon FMP amendment; conduct of a public comment period beginning at 4 p.m., on February 18, and conduct other fishery management business and administrative matters.

Council—(closed session) February 18, 1981 (8 a.m. to 10 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to the Hearing Subpanel. Only those Council, SSC members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 12, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to Executive Order and 5 U.S.C. 552b(c)(6), as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meetings will be open to the public.

Dated: January 6, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-1020 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Public Telecommunications Facilities Program Policy Statement

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Policy statement

SUMMARY: The National Telecommunications and Information Administration (NTIA) announces that it will allow grantees to "buy out" any Federal interest in equipment funded with monies obtained under the Public Telecommunications Facilities Program (PTFP) or the former Educational Broadcasting Facilities Program (EBFP) of the Department of Health, Education, and Welfare (HEW). In addition, NTIA will allow grantees under these programs to transfer the Federal interest in Federally funded equipment to other eligible equipment, if they give assurances that they will continue to use the original equipment to serve substantially the same purposes for which a grant was initially issued.

EFFECTIVE DATE: January 12, 1981.

FURTHER INFORMATION: Persons desiring further information regarding this Policy Statement should contact: Robert M. Hunter, Office of Chief Counsel, NTIA/DOC, 1800 G Street, N.W., Room 703, Washington, D.C. 20504, telephone (202) 377-1866; or John L. Cameron, Director PTFP, NTIA/DOC, 606 13th Street, N.W., Washington, D.C. 20004, telephone (202) 724-3307.

SUPPLEMENTARY INFORMATION:

Policy Statement

I. Introduction

The Public Telecommunications Financing Act of 1978 (Act)[1] transferred the duties and responsibilities of the former EBFP from HEW to the Department of Commerce (Department). Under that Act, the Department (through NTIA and the PTFP), extends grants to various nonprofit entities for the planning and/or construction of public telecommunications facilities. Section 392(g) of the Act requires that NTIA maintain a ten year interest in all equipment purchased with Federal funds and further requires that during the ten year period grantees may only use the Federally funded equipment for the provision of public telecommunications services to the public.[2]

Heretofore, the public telecommunications entities receiving grants from the PTFP (or the EBFP) generally obtained the monies to pay their operating expenses from a multitude of sources—*e.g.*, donations from private corporations and members, various grants from the Corporation for Public Broadcasting and the States, and other income producing activities. Because of inflation and a generally sluggish economy, public telecommunications entities have found it more difficult in recent times to meet their expenses through these means. NTIA recognizes the extreme economic needs that many public telecommunications entities now have. Consequently, we believe it is necessary for us to encourage and facilitiate the increased independence of grantees in meeting those needs.

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[1] Pub. L. No. 95-567, 92 Stat. 2405, 47 U.S.C. § 390, *et seq.* (1978).

[2] *See also* Former section 392(f). Pub. L. No. 87-447, 76 Stat. 65 (1962), as amended by Pub. L. No. 90-129, 81 Stat. 365 (1967) and Pub. L. 94-309, 90 Stat. 683 (1976).

Many public telecommunications entities have already begun to seek out various means by which they might augment their incomes. Some of these entities have found it possible to generate substantial amounts of income by leasing unused or under-used facilities to other noncommercial organizations. To some extent, of course, these facilities have been funded in part by the Federal Government and are subject to the ten year Federal interest that restricts the use of the equipment to "the provision of public telecommunications services to the public". 47 U.S.C. 392(a)(4) and (g)(2). That interest, as described above, generally prohibits the entities that have received Federal grants from leasing any PTFP (or EBFP) funded equipment to commercial entities.

NTIA has received various proposals from its grantees as to different methods by which the grantees might be able to augment their budgets or decrease their expenses by allowing some limited use of Federally funded equipment by commercial entities. In the *PTFP Report and Order,* 44 FR 30898 (1979), we addressed some of these concerns and adopted the active/passive test which had been developed by the EBFP under HEW.[3] In a more recent *PTFP Policy Statement* we altered that test to suit the needs of the expanding technologies. 45 FR 69430 (1980). There we stated that our "primary concern was that shared use of Federally funded equipment [should] not obstruct the [simultaneous] use of that equipment by the grantee." *Id.* at 69431. We have continued to receive requests from public telecommunications entities suggesting different ways in which we might liberalize our policies. An example of such a request is the letter from Stephen W. Smith, former General Manager of WGVY-TV, to Henry Geller, Assistant Secretary for Communications and Information (dated, August 14, 1980). [Appendix A.] We set out Mr. Smith's proposals below, because they are illustrative of the broad policy issues which exist in this field and which we address in this Policy Statement.

II. Proposals

In his letter Mr. Smith stated that it is necessary for WGBY-TV to generate more income to support its operations and suggested that WGBY-TV would be able to do so by leasing its mobile TV unit to commercial as well as noncommercial organizations. Currently, WGBY-TV leases the mobile unit only to noncommercial organizations. Mr. Smith indicated that the gross income from this activity has been between $75,000 and $100,000 annually. Since the equipment associated with the mobile unit was funded through several grants from the former EBFP, however, it can only be used for the "provision of public telecommunications services".[4] As noted in the letter, NTIA's present PTFP guidelines would not permit WGBY-TV to lease the mobile unit to commercial organizations, because the van could not be operated simultaneously for both commercial and noncommercial purposes. *See PTFP Report and Order, supra* at 30,911, and *PTFP Policy Statement, supra* at 69,431. Mr. Smith, therefore, proposed four alternatives that would allow WGBY-TV to use the Federally funded equipment more profitably:

(1) NTIA would provide a blanket release of Federal interest in subject equipment based on WGBY-TV's current financial realities and demonstrated need, at no cost to WGBY-TV.

(2) WGBY-TV would expand its leasing activities to other than nonprofit clients under current NTIA guidelines or a modification thereto.

(3) NTIA would transfer Federal interest from equipment associated with the mobile unit to other equipment now held by or to be purchased by WGBY-TV, the income (if any) from which would fall within current NTIA guidelines. For example, a transfer of interest from the mobile equipment to equipment used strictly for broadcast purposes.

(4) WGBY-TV would buy out the remaining Federal interest in subject equipment on terms to be negotiated between WGBY-TV and NTIA.

III. Discussion

The first alternative is that NTIA provide a blanket release of the Federal interest in the equipment at no cost to WGBY-TV. That alternative would require the Assistant Secretary to find that there is "good cause for releasing [WGBY-TV or any other grantee] from the obligation to [use the equipment only for the provision of public telecommunications services]". Former 47 U.S.C. 392(f)(2). *See also* 47 U.S.C. 392(g)(2). However, the only causes cited by Mr. Smith in support of this blanket release of the Federal interest are the "fiscal realities of the 80's". In our view, every public telecommunications entity in the country faces the same fiscal realities and, therefore, those realities are not sufficient to establish good cause under section 392(g)(2). For us to grant a waiver in these circumstances to WGBY-TV or any other grantee would be tantamount to establishing a general policy allowing all grantees to lease their Federally funded facilities to commercial entities and would in effect repeal the restriction contained in sections 392(a)(4) and 392(g)(2). Therefore, we will not grant any such release.

The second proposed alternative is that NTIA allow WGBY-TV to "expand its activities to [include] other than nonprofit clients" either under the present guidelines or under a modification of those guidelines. In the recent *PTFP Policy Statement, supra,* NTIA adopted the position that it would permit the use of Federally funded equipment whenever such equipment could be used simultaneously by the grantee and a commercial party without interference to either. The adoption of this policy represented a significant updating of the prior active/passive test that the EBFP had initiated and NTIA had followed within the context of the statutory mandate of 47 U.S.C. 392(a)(4). However, we believe that we have given a sound and very broad interpretation to sections 392(a)(4) and (g)(2), and cannot modify our guidelines in the manner suggested. Such a modification, we believe, would require the amendment of the Act itself.

The third and fourth alternatives that were suggested (*i.e.,* the transfer of the Federal interest in PTFP funded equipment to other eligible equipment presently owned or to be purchased with non-Federal monies by grantees and the "buy out" of the Federal interest by the grantees), however, do not conflict with any provision of the Act or require an alteration of an existing NTIA policy. Either alternative could, therefore, provide a workable solution to the situation described in Mr. Smith's letter.

However, the transfer of the Federal interest to equipment other than that applied for and agreed to in the initial grant could undercut to some degree the competitive basis on which the grant was made. For example, if a grant application is evaluated in one year as being superior to other grant applications because it proposes to use a new technology to deliver public telecommunications services to the public, and the next year the grantee seeks to transfer that Federal interest to other equipment that did not have as high a priority or efficiency as that initially agreed to in the grant, it would be unfair to those applicants who had sought equipment similar to that being substituted and whose grants had been denied.

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[3] Under that test grantees were allowed to share with or lease to commercial entities spare capacity on a broadcasting tower. *See PTFP Report and Order, supra,* at 30911.

[4] Former sections 392(a)(4) and (f)(2). *See also,* 47 U.S.C. §§ 392(a)(4) and (g)(2).

Nevertheless, to the extent that the original equipment continues to generally serve its program purposes, the overall purpose of the initial grant would continue to be served. Therefore, we will not foreclose the possibility of transferring the Federal interest to other eligible equipment (either already owned or to be purchased) of equivalent value, but will look with favor only upon requests from grantees who have held and used the originally funded equipment for a substantial period of time and who will continue to use the originally funded equipment for substantially the same purposes.

In determining how long a period would be "substantial," we have examined the policy of the Federal Commuications Commission (FCC or Commission) relating to transfers by licensees after comparative hearings. The FCC presently engages in an often protracted comparative hearing process to determine which one of several mutually exclusive applicants would best serve the public interest. The Commission's present rules (47 CFR 74.597) prohibit any transfer of a license within three years of the initial granting of the license. After that three year period, however, a victorious applicant may then transfer the license to anyone subject to the Commission's approval. We believe that our comparative evaluation of grants, while not involving mutually exclusive applicants, is fairly analogous to the Commission's process and that our purpose in awarding grants on a competitive basis would continue to be effectuated, if we followed the FCC's policy of prohibiting the transfer of the Federal interest to other eligible equipment for at least three years, and if we required the released equipment to be used for substantially the same purposes as under the original grant.

Finally, as we have already pointed out, the "buy out" of the Federal interest by an applicant would not have any negative impact on the PTFP whatsoever. In fact, the "buy out" alternative would actually enable the agency to extend assistance to a greater number of public telecommunications entities, because the monies returned to the agency would in some instances be available to award further grants to entities whose applications had been deferred in a prior grant round.

IV. Conclusion

NTIA recognizes that many public telecommunications entities are now experiencing greater difficulty raising the increasingly greater amounts they need to meet their increasing operating costs. Because of this greater need, NTIA believes it is necessary to allow grantees as much freedom as possible in developing new sources of income. To the extent that we may encourage the development of these new sources of income, we have determined that a grantee may obtain the release of particular equipment from the strictures of sections 392(a)(4) and (g)(2) of the Act by: (1) transferring the Federal interest in PTFP (or EBFP) funded equipment to other eligible equipment presently owned or to be purchased by a grantee with non-Federal monies, or (2) buying out the Federal interest with non-Federal monies. In either case, the amount of the Federal interest must be determined by negotiation between PTFP and the grantee, and agreed upon by NTIA's Grants Officer (the Associate Administrator for Applications).

If the Federal interest is to be transferred to other equipment presently owned or to be purchased by a grantee: the Federal interest in that equipment must be equal to the Federal interest in the original equipment and the other equipment must have a value and useful life sufficient to satisfy the Federal interest for the remainder of the Federal interest period; the project under which the purchase of the equipment was initially funded must have been completed for at least three years; [8] the grantee must give assurances that, it will continue to use the equipment originally funded by the PTFP (or EBFP) for substantially the same purposes as under the initial grant; and if a grantee desires to transfer the Federal interest to other equipment *to be purchased* by the grantee, the grantee must submit a specific list of the equipment and the method of financing to the PTFP for prior approval and must comply with the procurement guidelines of Attachment O to the Office of Management and Budget Circulars A-102 and A-110.

(Catalog Program No. 11.550)

Dated: January 7, 1981.

Henry Geller,

Administrator, National Telecommunications and Information Administration.

Appendix A

August 14, 1980.

Henry Geller,
Assistant Secretary for Communications,
National Telecommunications &
Information Administration 606 13th
Street NW., Washington, DC 20004

Dear Mr. Geller: I'm writing to ask for your help and that of NTIA.

It's not necessary, I'm sure, to outline in any detail the financial challenges facing local public television stations these days. Like many others, WGBY is facing the fiscal realities of the 80's—federal support that is both decreased relative to inflation and more difficult to get from those who control it; increased costs across the board; a leveling out of corporate, individual and foundation support; new competition for our audience from cable, STV and other program sources, and rapid technological change that is usually beyond our financial means to obtain.

These challenges impact particularly hard upon a station such as WGBY—a UHF (Channel 57) community licensed station in the 86th market. The market is predominantly blue collar and ethnic with many sparsely populated areas to be served. There is a finite limit to the amount of individual and corporate support we can expect. Our future survival depends on the development of new sources of income or upon increasing certain current income producing activities.

One area of income that has been particularly significant is that of facilities leasing, particularly the leasing of WGBY-TV's mobile unit which has been funded in major part by the EBFP of HEW, now under the purview of NTIA. A listing of equipment for the mobile unit purchased under three EBFT grants, along with costs and dates, is included as Attachment A.

This area of endeavor has been limited to providing leasing services in line within HEW and NTIA guidelines for use of federally-funded equipment. But there are limits on the amount of business that can be generated strictly within the guidelines. WGBY has come to the realization that substantial income can be generated from other clients, in addition to the non-profit ones previously served, the nature of whose business precludes used of our equipment because of the restrictions inherent in the federal guidelines.

Our current business level is in the $75,000 to $100,000 range, gross income, annually. However, we have identified market potential of at least $300,000 gross, and potentially much more, were the equipment not subject to the federal restrictions.

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[8] Under section 392(g) and former section 392(f) the period of Federal interest does not begin to run until a project has been completed. Therefore, even though a grantee may have purchased equipment five or six years ago with EBFP funds, the PTFP will not allow such a grantee to the transfer of the Federal interest to other equipment, unless the grant project had been completed for at least three years. The effective date of the completed construction is furnished to the grantee by the PTFP when final grant payment is certified.

This is not to say that this station disagrees with the need for such restrictions or with the intent of the program. Literally, this station would not be in existence without the support it has received from the EBFT/PTFP. And it is thoroughly understood that some restrictions are necessary in order to insure the proper use of equipment funded by the federal government.

However, the financial realities facing this station make it necessary to seek relief from the restrictions in order to provide income that is direly needed for the continued existence of WGBY-TV.

There appear to be four alternatives for dealing with the situation. WGBY requests that NTIA consider each and respond as to the possibility of implementing any or all of them.

(1) NTIA would provide a blanket release of federal interest in subject equipment based on WGBY's current financial realities and demonstrated need, at not cost to WGBY.

(2) WGBY would expand its leasing activities to other than non-profit clients under current NTIA guidelines or a modification thereto.

(3) NTIA would transfer federal interest from equipment associated with the mobile unit to other equipment now held by or to be purchased by WGBY, the income (if any) from which would fall within current NTIA guidelines.

For example, a transfer of interest from the mobile unit equipment to equipment used strictly for broadcast purposes.

(4) WGBY-TV would buy out the remaining federal interest in subject equipment on terms to be negotiated between WGBY and NTIA.

These alternatives are presented in order of desirability, the most desirable appearing first.

It appears that there is now a mood favoring deregulation in the federal government. It is hoped that that spirit will augur well for this request for relief and that an early response will be forthcoming.

Sincerely,

Stephen W. Smith,

General Manager.

SWS/jm

cc: William Lucas, Associate Administrator/NTIA, John Cameron, Director/NTIA, Joanne Anderson, Project Officer/NTIA, David O. Ives, President/WGBH Educational Foundation, Henry Becton, Vice President & General Manager/WGBH, Maurice Katz, Chairman/Channel 57 Board of Tribunes

Attachment A.—*HEW I, Grant No. OEG-0-74-7604, File No. 469-I (HEW), No. T0181SC (EBFP)*

Complete project	$439,873.83
WGBY match (23.7 percent)	104,490.00
Federal grant (76.3 percent)	313,481.00

Equipment	Date	Cost	Original Federal interest in dollars	Federal interest months left	Remaining Federal interest in dollars
3 cameras	Mar. 1975	$226,010.00	$172,445.63	55 months	$79,037.75
Switcher	Mar. 1975	15,306.97	11,680.74	55 months	5,353.70
Miscellaneous (monitors, fans, delay lines)	Mar. 1975	1,650.28	1,240.46	55 months	568.15
Total phase I					84,959.60
Option: Videotape machine	April 1975	80,722.00	61,590.89	56 months	28,742.41

HEW II, Grant No. G007603074, File No. 531-T (HEW), No. AH51120 (EBFP)

Project amount	$400,744.35
WGBY match (25.1 percent)	100,744.35
Federal grant (74.9 percent)	300,000.00

Equipment	Date	Cost	Original Federal interest in dollars	Federal interest months left	Remaining Federal interest in dollars
1 camera	June 1976	$78,222.86	$58,588.94	70 months	$34,176.80
Switcher retrofit	Jan. 1977	5,212.42	3,904.10	77 months	2,506.13
Audio board	Jan. 1977	7,800.00	5,482.20	77 months	3,746.75
Total phase II					40,430.88

HEW IV, Grant No. G007904805 (25-02-04605), New July 2, 1979, File No. 613-T (HEW)

Complete project	$133,400
WGBY match	33,350
Federal grant	133,400

Equipment	Date	Cost	Original Federal interest in dollars	Federal interest months left	Remaining Federal interest in dollars
Vidifont	Mar. 1979	$15,166.50	$15,166.50	106 months	$9,967.85

HEW I	$84,959.60
HEW I (VTR)	28,742.41
HEW II	40,430.88
HEW IV	9,967.85
	164,100.34

[FR Doc. 81-1024 Filed 1-9-81; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton Textile Products From Pakistan

Correction

In FR Doc. 80-40083 appearing at page 85140 in the issue for Wednesday, December 24, 1980, on page 85141, in the first column, fourteenth line of the table "3359" should be corrected to read "359".

BILLING CODE 1505-01-M

COMMUNITY SERVICES ADMINISTRATION

Privacy Act System of Personnel Grievance Records

AGENCY: Community Services Administration (CSA).

ACTION: CSA internal system notice of a transfer of responsibility previously carried by the Office of Personnel Management (OPM).

SUMMARY: On November 25, 1980, OPM published a Privacy Act System Notice (45 FR 78378) that it would discontinue its Governmentwide system OPM/GOVT-2, Grievance Records, effective December 31, 1980. The notice stated OPM's conclusion that records which result from employee-filed grievance under either an agency's negotiated or OPM's administrative grievance procedure should be covered by the agency's internal system. The Office of Management and Budget (OMB) agreed. In an OMB memorandum, the agencies were informed that if, in publishing their individual system notices, they merely modify the former OPM/GOVT-2 Grievance Record notice (44 FR 30836, May 29, 1979, amended at 44 FR 61702, October 26, 1979), no Report on New System would be required.

This CSA notice conforms to the above instructions. Although this system #CSA-15, Personnel Grievance Records, is now added to the CSA index of Privacy Act Systems of Records, it is not in fact a new system to CSA. The notice follows.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Alan O. Mann, Privacy Act Officer,

Community Services Administration,
1200 19th St., N.W., Washington, D.C. 20506.

CSA 15 (Formerly OPM/GOVT-2)

SYSTEM NAME:

Personnel Grievance Records—CSA

SYSTEM LOCATION:

See system manager title and address below for location.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former CSA employees who have submitted grievances with CSA in accordance with the Office of Personnel Management (OPM) regulations (5 CFR 771), or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under OPM regulations (5 CFR 771), or under procedures established by CSA labor-management negotiations. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, arbitrators' awards, a copy of the original decision, and related correspondence and exhibits. This system includes files and records of internal grievances that agencies established through negotiations with the recognized CSA labor organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p218, E.O. 10987, 3 CFR 1959-1963 Comp., p519, (agency employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management) and 5 U.S.C. 7121.

PURPOSE(S):

These records are used to process an employee's grievance filed either under negotiated CSA grievance procedures or administrative procedures prescribed by OPM in accordance with 5 CFR 771.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where CSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By employees of the National Archives and Records Service (General Services Administration) as necessary for the performance of their records management function.

g. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual indentifiers, in some instance the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

i. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee

Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of U.S.C. 7201.

j. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

k. By the Office of Personnel Management for review of individual files and the CSA grievance procedures.

l. By the Department of Labor in carrying out its functions regarding labor management relations in the Federal service.

m. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

n. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records in filed folders.

RETRIEVABILITY:

Filed by names of the individuals.

SAFEGUARDS:

Locked metal file cabinets accessible by authorized personnel only.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Director, Community Services Administration, 1200 19th St., N.W., Washington, D.C. 20506.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may also contact the System manager above on the existence of such records about them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, the individual may request access to the official copy of the grievance file by contacting the agency personnel or designated office where the action was processed.

Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must follow the CSA Privacy Act regulations regarding access to records and verification of identity in accordance with the CSA regulations at 45 CFR 1006.4.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the System manager above in accordance with the CSA regulations at 45 CFR 1006.7. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Richard J. Rios,

Director.

[FR Doc. 81-1016 Filed 1-9-81; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 6, 1981.

The USAF Scientific Advisory Board Ad Hoc Committee on Non-Nuclear Armament will hold a meeting at the Penatagon, Washington, D.C., in room 5D982, on January 29 and 30, 1981 from 8:30 a.m., to 4:30 p.m.

The Committee will receive classified briefings and participate in classified discussions relating to the U.S. Air Force non-nuclear armament programs for air-to-ground munitions.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-914 Filed 1-9-81; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 29 January 1981 at the Quality Inn, Pentagon City, 300 Army Navy Drive, Arlington, VA, and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and then handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315. Topics to be discussed should be received on or before 16 January 1981.

V 46 / 7 JA 12 81 UMI

Dated: December 24, 1980.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 81-1011 Filed 1-9-81; 8:45 am]

BILLING CODE 3810-70-M

Office of the Secretary

Advisory Group on Electron Devices; Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session 5 and 6 February 1981, at the University of Arizona, Tucson, Arizona.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 81-1006 Filed 1-9-81; 8:45 am]

BILLING CODE 3810-70-M

Defense Advisory Committee on Military Personnel Testing

Under the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Advisory Committee on Military Personnel Testing has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The nature and purpose of the Defense Advisory Committee on Military Personnel Testing is to: (1) review the procedures used in the development, calibration, and validation of the current Defense selection and classification tests; (2) review the procedures being used in developing future Defense tests; and (3) provide recommendations regarding how state-of-the-art testing technology can be applied to the Defense personnel testing program

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 6, 1981.

[FR Doc. 81-996 Filed 1-9-81; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Allocation of Firm Energy and System Reserve Energy; Termination of Allocation Policy Formulation and Retraction of Notice of Intent To Prepare a Draft Enviornmental Impact Statement

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Notice of Termination of Allocation Policy Development Process and Retraction of Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: The Bonneville Power Administration (Bonneville or BPA) is terminating the development of its Proposed Policy and Formula to Guide the Allocation of Firm Energy and System Reserve Energy from the Federal Columbia River Power System (44 FR 59824, October 5, 1979). The policy was originally proposed to guide firm electric energy allocations during periods of shortage. The enactment into law of the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96-501) has altered regional electric energy planning and development. Although it does not provide new resources, the Act gives BPA the authority to acquire resources through purchase or conservation, and it provides guidance in the areas heretofore addressed in the allocation policy and associated documents.

Specifically, the Act provides for the inclusion in new power sales contracts of provisions governing the restriction of contractual obligations to meet loads in the event of a period of insufficiency. BPA expects to develop such provisions in accordance with the Act and is therefore ending work on the proposed allocation policy presently pending before the public.

This Notice also terminates development of the proposed Energy Conservation Program Requirements and Guidelines (Notice of Proposed Energy Conservation Program Requirements and Guidelines to Accompany Proposed Policy and Formula to Guide Allocation of Firm Electric Energy and System Reserve Energy from the Federal Columbia River Power System, 45 FR 58938, September 5, 1980) and the draft Environmental Impact Statement (Allocation of Firm Electric Energy and System Reserve Energy Notice of Intent to Prepare a Draft Environmental Impact Statement, 44 FR 57465, October 5, 1979). BPA plans to use the comments and information on these areas contributed to date as it develops programs and policies pursuant to the Act.

FOR FURTHER INFORMATION: Additional information on the termination of the formulation process for this policy may be obtained from Ms. Donna Lou Geiger, P.O. Box 12999, Portland, Oregon 97212, (503) 234-3361, estension 4261. Oregon callers may use the toll-free number 1-800-452-8429; callers in Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California may use 1-800-547-6048.

SUPPLEMENTARY INFORMATION: In 1976, BPA notified its preference customers that it would lack sufficient resources to fully meet their firm energy requirements after June 30, 1983. On January 26, 1978, BPA announced its intent to develop a formula to guide the allocation of available electric energy after the June 30, 1983, date of insufficiency. On October 5, 1979, Bonneville published its Proposed Policy and Formula to Guide Allocation of Firm Electric Energy and System Reserve Energy from the Federal Columbia River Power System (44 FR 57824) deferring until later the publication of proposed conservation program requirements. BPA simultaneously announced its intent to prepare a draft Environmental Impact Statement on the allocation policy. On September 5, 1980, Bonneville published proposed conservation program requirements and guidelines to accompany the proposed allocation formula and guidelines. At the time this decision to terminate was made, Bonneville was following its published Procedure for Public Participation in Marketing Policy Formulation in developing the allocation policy, including conservation guidelines, and had tentatively scheduled public meetings on the proposed policy. The development of the proposed policy will not be continued and no meeting will be held.

Bonneville expects extensive public participation in the development of policies and programs under the new Act. At a future time, Bonneville will advise the interested public of the arrangements for their participation in the development of these policies and programs.

Dated: January 2, 1981.

Ray Folsom,

Acting Administrator.

[FR Doc. 81-[illegible] Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Transportation Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Transportation Task Group of the Committee on Arcitc Oil and Gas Resources will meet in January 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Transportation Task Group meeting follow:

The third meeting of the Transportation Task Group will be held on Tuesday, January 27, 1981, starting at 9:00 a.m., Room 210-B, Anaconda Tower, 555 Seventeenth Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group members in individual study assignments.
3. Review and discuss the overall schedule of the Task Group.
4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Transportation Task Group is impowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Transportation Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 31, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 81-[illegible] Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Production Engineering Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Production Engineering Task Group of the Committee on Arctic Oil and Gas Resources will meet in January 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Production Engineering Task Group meeting follows:

The third meeting of the Production Engineering Task Group will be held on Tuesday, January 13, 1981, starting at 9:00 a.m., Room 317, Chevron U.S.A. Inc., 225 Bush Street, San Francisco, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group members in individual study assignments.
3. Review and discuss the overall schedule of the Task Group.
4. Discussion of any other maters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Production Engineering Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Production Engineering Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 31, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 81-[illegible] Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Production Engineering Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Production Engineering Task Group of the Committee on Arctic Oil and Gas Resources will meet in March 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Production Engineering Task Group meeting follows:

The fourth meeting of the Production Engineering Task Group will be held on Thursday, March 19, 1981, starting at 9:00 a.m., Room 215, Anaconda Tower, 555 Seventeenth Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group members in individual study assignments.
3. Review and discuss the overall schedule of the Task Group.

4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Production Engineering Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Transportation Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 31, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 81-902 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Water Quality Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Water Quality Task Group of the Committee on Environmental Conservation will meet in January 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Water Quality Task Group meeting follows:

The Water Quality Task Group will hold its third meeting on Thursday, January 22, 1981, starting at 9:00 a.m., in the Lancaster E Room of the Hyatt Regency Hotel, 265 Peachtree Street, Northeast, Atlanta, Georgia.

The tentative agenda for the meeting follows:

1. Review of Task Group progress and assignments of individual members.
2. Review and discussion of members' proposals for primer update.
3. Discussion of any other matters properly brought before the Task Group.

The meeting is open to the public. The Chairman of the Water Quality Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Water Quality Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 31, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 81-903 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Hazardous Waste Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Hazardous Waste Task Group of the Committee on Environmental Conservation will meet in January 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Hazardous Waste Task Group meeting follows:

The Hazardous Waste Task Group will hold its second meeting on Thursday, January 29, 1981, starting at 10:00 a.m., in the Standard Oil Company (Indiana) Building, 200 East Randolph Drive, Chicago, Illinois.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group schedule.
4. Discuss any other matters pertinent to the overall assignment of the Hazardous Waste Task Group.

The meeting is open to the public. The Chairman of the Hazardous Waste Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Hazardous Waste Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 2, 1981.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 81-904 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Synthetic Fuels Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Synthetic Fuels Task Group of the Committee on Environmental Conservation will meet in January 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Synthetic Fuels Task Group meeting follows:

The Synthetic Fuels Task Group will hold its third meeting on Friday, January 30, 1981, starting at 9:30 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street Northwest, Washington, D.C.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group schedule.
4. Discuss any other matters pertinent to the overall assignment of the Synthetic Fuels Task Group.

The meeting is open to the public. The Chairman of the Synthetic Fuels Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Synthetic Fuels Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 2, 1981.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

[FR Doc. 81-906 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Air Quality Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Air Quality Task Group of the Committee on Environmental Conservation will meet in February 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Air Quality Task Group meeting follows:

The Air Quality Task Group will hold its second meeting on Tuesday, February 17, 1981, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, Northwest, Washington, D.C.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group schedule.
4. Discuss any other matters pertinent to the overall assignment of the Air Quality Task Group.

The meeting is open to the public. The Chairman of the Air Quality Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Air Quality task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 2, 1981.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations Resource Applications.

[FR Doc. 81-[illegible] Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Lakeside/Crystal Refining Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

Comments by: February 11, 1981.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816)/374-5932.

SUPPLEMENTARY INFORMATION: On December 12, 1980, the Office of Enforcement of the ERA executed a Consent Order with Lakeside Refining Company, Crystal Refining Company, Peerless Distributing Company, and Petroleum Specialties, Incorporated, ("Lakeside/Crystal Refining Company") of Southfield, Michigan. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Lakeside/Crystal Refining Company, with its home office located in Southfield, Michigan, is a firm engaged in the refining of crude oil and sale of covered products, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Lakeside/Crystal Refining Company the Office of Enforcement, ERA, and Lakeside/Crystal Refining Company entered into a Consent Order, the

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significant terms of which are as follows:

1. This Consent Order covers the filing of consolidated amended Forms FEO-96, P-110-M-1, and EIA-14 by Lakeside/Crystal Refining Company for the reporting periods of November 1973 through October 1980.

2. It is understood that Lakeside/Crystal Refining Company does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

3. The provisions of 10 CFR § 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Terms and Conditions

In this Consent Order, Lakeside/Crystal Refining Company agrees to file amended Forms FEA-96, P-110-M-1, and EIA-14 for the reporting periods of November 1973 through October 1980. The amended forms shall be based on the consolidated data of Lakeside Refining Company, Crystal Refining Company, Peerless Distributing Company, and Petroleum Specialties, Incorporated.

Lakeside/Crystal Refining Company shall not for a thirty day period commencing October 28, 1980, charge to each class of purchaser of a covered product a price no higher than the price charged to the class of purchaser on October 27, 1980 for that covered product.

III. Submission of Written Comments

A. *Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of the Consent Order by writing to the same address or by calling (816) 374-5932.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Lakeside/Crystal Refining Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on February 11, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures at 10 CFR § 205.9(f).

Issued in Kansas City, Mo., on the 22nd day of December 1980.

William D. Miller,

Manager, Central Enforcement District, Economic Regulatory Administration.

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 81-897 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

American Statistical Association Ad Hoc Committee on Energy Statistics; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770), notice is hereby given that the American Statistical Association's Ad Hoc Committee on Energy Statistics will meet with representatives of the Energy Information Administration (EIA) on Friday, January 30, 1981, at the Hotel Washington, 15th and Pennsylvania Avenue, Northwest, Washington, D.C., from 9:00 a.m. to approximately 4:30 p.m., in the Capitol Room.

The purpose of the meeting is to enable the EIA to utilize the American Statistical Association's Ad Hoc Committee on Energy Statistics to obtain advice on EIA programs and to benefit from the Ad Hoc Committee's expertise concerning other energy statistical matters.

The tentative agenda is as follows:

A. Introductory Remarks
B. Major Topics
  1. Discussion of the work of statisticians at the DOE national laboratories
  2. Measuring the impact of alternative energy sources, specifically, solar, biomass, wood, and wind energy
  3. EIA activities in preparation for the decontrol of petroleum prices
  4. Redesign of the weekly petroleum reporting system and its relationship to the *Monthly Petroleum Statistics Report* and the *Monthly Petroleum Statement*
  5. The methodology for performing data requirements studies
  6. Overview and conclusions of the forecast volume of the EIA Annual Report to Congress, 1980
C. Other Committee Business
  1. Topics for future meetings
  2. Public comments

The meeting is open to the public. Any member of the public may file a written statement with the EIA for forwarding to the Committee, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Mr. John H. Weiner, EIA Committee Liaison, (202) 633-8696, or Dr. Fred C. Leone, Executive Director of the American Statistical Association, (202) 393-3253, at least five days prior to the meeting and reasonable provision will be made to include their presentations on the agenda. Subsequent to approval by the Committee, minutes and an executive summary of the meeting will be available for public review and copying at the Office of Planning, Evaluation, and Project Control, EIA, 12th and Pennsylvania Avenue, N.W., Room 6149, Mail Stop 4311, Washington, D.C. 20461, (202) 633-8707, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued at Washington, D.C. on January 6, 1981.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 81-898 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Environment

Environmental Advisory Committee and Subcommittee on Clean Air Act Reauthorization; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meetings:

DATE AND TIME: The *Subcommittee on Clean Air Act Reauthorization* will meet Wednesday, January 28, 1981 from 3:00 p.m. to approximately 5:00 p.m.

The *Environmental Advisory Committee* will meet Thursday and Friday, January 29-30, from 9:00 a.m. to approximately 5:00 p.m. each day.

PLACE: Department of Energy, Forrestal Building—Room 4A110, 1000 Independence Avenue, S.W., Washington, D.C. 20585

CONTACT: Rhoda Shechtel, Department of Energy, Forrestal Building—Room 4G052, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Telephone: 202-252-5187

PURPOSE OF COMMITTEE: To advise the Department of Energy on the overall activities which pertain to the goals of restoring, protecting and enhancing environmental quality and assuring public health and safety.

Tentative Agenda: *Subcommittee on Clean Air Act Reauthorization*—1-28-81 3:00-5:00 p.m.

- Opening Remarks by Chairman
- Discuss Individual Assignments of Subcommittee Members
- Prepare Tentative Agenda Items for Next Subcommittee Meeting
- Prepare Status Report for Full Committee
- Public Comment (10 minute rule)

Environmental Advisory Committee
Thursday, January 29, 1981—9:00 a.m.-12:00 noon

- Welcome and Report by Chairman
- Opening Remarks by Ruth Clusen, Assistant Secretary for Environment
- Report by DOE on Studies Relevant to Clean Air Act
- Report by Clean Air Act Reauthorization Subcommittee
- Briefing on Major Environmental Issues Pending at DOE

1:30 p.m.–5:00 p.m.

- Committee Working Session on Environmental Issues at DOE
- Committee Discussion
- Public Comment (10 minute rule)

Friday, January 30, 1981–9:00 a.m.–12:00 noon

- Continution of Committee Discussion on Environmental Issues
- DOE Reports on Pending Committee Business

1:30 p.m.–5:00 p.m.

- Discussion of Future Subcommittee Plans
- Review of Final Report on Key Environmental Issues
- Committee Business
- Public Comment (10 minute rule)

PUBLIC PARTICIPATION: The meetings are open to the public. Any member of the public who wishes to file a written statement with the Committee or Subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at 202–252–5187. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Members of the public who have not previously requested an opportunity to make an oral presentation, but who wish to speak, will be permitted to do so at a time determined by the Chairman.

TRANSCRIPTS: Available for public review and copying at the Public Reading Room 1E190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

EXECUTIVE SUMMARY: Available approximately 30 days following the meeting form the Advisory Committee Management Office.

Issued at Washington, D.C. on January 7, 1981.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 81–998 Filed 1–9–81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-3894-003, et al.]

ARCO Oil and Gas Co., Division of Atlantic Richfield Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

December 29, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 8, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft^3	Pressure base
G-3894-003, C, Nov. 10, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, All of Section 34, Block 39, Township 5 South, T & P RR Co. Survey, Upton County, Texas.	(4)	14.65
G-3913-000, D, Dec. 5, 1980	Ashland Exploration, Inc., P.O. Box 391, Ashland, Kentucky 41101.	Columbia Gas Transmission Corporation, Mingo County, West Virginia, Floyd, Breathitt, Knott and Pike Counties, Kentucky.	(3)	
G-11661-002, C, Dec. 2, 1980	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Cities Service Gas Company, Hardtner Field, Barber County, Kansas.	(3)	14.65
G-13746-002, C, Nov. 24, 1980	Mobil Oil Exploration & Producing Southeast, Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Transcontinental Gas Pipe Line Corporation, South Pelto 20 Field, Federal Offshore Louisiana.	(4)	15.025
G-17946-000, D, Dec. 2, 1980	Mobil Oil Corporation	Cities Service Gas Company, North Medicine Lodge Field, Barber County, Kansas.	Gas Purchase Contract dated 11-10-58 expired by its own terms effective 3-24-78.	
CI69-242-000, D, Dec. 9, 1980	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas.	Southern Natural Gas Company, Block 295, OCS-G-1672, Offshore Louisiana.	(3)	
CI75-36-010, C, Nov. 24, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	El Paso Natural Gas Company, Drinkard and Ellenburger Formations in Lea County, New Mexico.	(4)	14.73
CI77-517-003, C, Nov. 28, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Mid-Louisiana Gas Company, East Cameron Block 335, Offshore Louisiana.	(7)	15.025
CI77-518-003, C, Dec. 9, 1980	do	Northern Natural Gas Company, East Cameron Block 335, Offshore Louisiana.	(7)	15.025
CI77-554-001, Nov. 10, 1980[5]	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Transwestern Pipeline Company, South Empire Deep Field, Eddy County, New Mexico.		14.65

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [8]	Pressure base
CI77-566-001, Nov. 10, 1980 [9]	do	Transwestern Pipeline Company, South Empire Deep (1679) Field, Eddy County, New Mexico.		14.65
CI79-301-001, C, Nov. 20, 1980	do	Tennessee Gas Pipeline Company, Vermilion Block 241, Offshore Louisiana.	(10)	14.73
CI79-510-001, F, Oct. 30, 1980 [11]	Cotton Petroleum Corporation (Succ. in Interest to Ladd Petroleum Corporation), Suite 4200, One Williams Center, Tulsa, Okla. 74172.	Colorado Interstate Gas Company, Wild Rose Field, Sweetwater County, Wyoming.	(12)	15.025
CI80-200-001, C, Nov. 10, 1980 [13]	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Southern Union Gathering Company, San Juan Basin Area, San Juan County, New Mexico.	(14)	15.025
CI80-424-001, C, Nov. 21, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Transwestern Pipeline Company, Nash Field, Eddy County, New Mexico.	(7)	14.65
CI80-490 (CI62-48, CI63-874 and CI65-3), B, July 12, 1980.	Dorchester Gas Producing Company (Succ. to Palm Petroleum Corporation), P.O. Box 31049, Dallas, Texas 75231.	United Gas Pipe Line Company, *et al.*, Wessatche Field, Goliad County, Texas, *et al.*	Request to terminate and cancel defunct certificates and rate schedules belonging to predecessors-in-interest.	
CI81-43-000, F, Nov. 10, 1980 [15]	ARCO Oil and Gas Company, Division of Atlantic Richfield Company (Partial Successor to Pioneer Production Corporation), P.O. Box 2819, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Armagost Unit, Section 27-3N-27ECM, Beaver County, Oklahoma.	(16)	14.65
CI81-44-000, A, Nov. 10, 1980	Cities Service Company, P.O. Box 300, Tulsa, Okla. 74102.	Texas Eastern Transmission Corporation, West <Cameron Block 459, OCS G-3383, Offshore Louisiana.	(17)	15.025
CI81-45-000, A, Nov. 10, 1980	Texas Gas Exploration Corporation, 3300 First International Plaza, 1100 Louisiana, Houston, Texas 77002.	Columbia Gas Transmission Corporation, Block 248 "D" Platform and Block 247 "F" Platform, Ship Shoal Area, Offshore Louisiana.	(18)	14.73
CI81-46-000, F, Nov. 13, 1980 [19]	El Paso Exploration Company (Succ. in Interest to El Paso Natural Gas Co.), P.O. Box 1492, El Paso, Texas 79978.	El Paso Natural Gas Company, High Island Block A-571, Offshore Texas.	(20)	14.65
CI81-47-000, A, Nov. 17, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Florida Gas Transmission Company, South Timbalier Block 156 and Ship Shoal Block 292, Calcasieu Parish, Louisiana.	(21)	15.025
CI81-48-000, A, Nov. 17, 1980	do	Florida Gas Transmission Company, Vermilion Blocks 147, 182, 201, East Cameron Block 222, West Cameron Blocks 513 and 528, Jefferson Davis Parish, Louisiana.	(22)	15.025
CI81-49-000, A, Nov. 17, 1980	Case-Pomeroy Oil Corporation, P.O. Box 1511, Midland, Texas 79702.	Columbia Gas Transmission Corporation Block A-414 High Island Area, Offshore Texas.	(23)	14.65
CI81-50-000, A, Nov. 17, 1980	General American Oil Company, of Texas, Meadows Building, Dallas, Texas 75206.	United Gas Pipe Line Company, West Cameron Area, South Addition, Block 552 (OCS-G-2556), Offshore Louisiana.	(24)	15.025
CI81-51-000, A, Nov. 17, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, High Island Block A-555, Offshore Texas.	(25)	14.65
CI81-52-000, A, Nov. 17, 1980	Felmont Oil Corporation, P.O. Box 2266, Midland, Texas 79702.	Columbia Gas Transmission Corporation, Block A-414, High Island Area, Offshore Texas.	(23)	14.65
CI81-53-000, A, Nov. 17, 1980General American Oil Company of Texas.		United Gas Pipe Line Company, West Cameron Area, Block 115, (OCS-G-2828), Offshore Louisiana.	(24)	15.025
CI81-54-000, A, Nov. 17, 1980	do	United Gas Pipe Line Company, West Cameron Area, Block 116 (OCS-G-2829), Offshore Louisiana.	(24)	15.025
CI81-55-000, A, Nov. 17, 1980	do	United Gas Pipe Line Company, West Cameron Area, South Addition, Block 541 (OCS-G-2554), Offshore Louisiana.	d(24)	15.025
CI81-56-000, A, Nov. 18, 1980	do	United Gas Pipe Line Company, West Cameron Area, South Addition, Block 551 (OCS-G-2555), Offshore Louisiana.	(24)	15.025
CI81-58-000, B, Nov. 14, 1980	John B. Hawley, Jr. Trust No. 1	Northern Natural Gas Company, Hugoton Field, Stevens County, Kansas.	The landowner would like to buy gas from this well to run the motor to pump water for irrigation purposes.	
CI81-59-000, B, Nov. 17, 1980	J. R. Perkins and F. L. Parham d/b/a Perkins Production Company, P.O. Drawer 878, Duncan, Okla. 73533.	Arkansas Louisiana Gas Company, Northwest Okeene Field, Blaine County, Oklahoma.	Depleted, Well plugged and abandoned.	
CI81-59-002, C, Dec. 9, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, High Island Block 179, Offshore Texas.	(7)	14.65
CI81-60-000, A, Nov. 21, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Lone Star Gas Company, Harrison Estate Well No. 1-B, T. D. Hunt Survey, Dexter Area, Cooke County, Texas.	(26)	14.65
CI81-61-000, A, Nov. 18, 1980	General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	United Gas Pipe Line Company, West Cameron Area, South Addition, Block 560 (OCS-G-3283), Offshore Louisiana.	(24)	15.025
CI81-62-000, A, Nov. 19, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, West Delta Block 73 Field, Offshore Louisiana.	(7)	15.025
CI81-63-000, A, Nov. 21, 1980	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Sabine Pass Blocks 8 and 11, Offshore Louisiana.	(28)	15.025
CI81-64-000, A, Nov. 21, 1980	Tenneco Oil Company	Tennessee Gas Pipeline Company, Sabine Pass Block 13, Offshore Louisiana.	(28)	15.025
CI81-65-000, F, Nov. 21, 1980 [27]	Resource Oil and Gas Company (Succ. in Interest to Provident Resources, Inc.), P.O. Box 2511, Houston, Texas 77001.	Northwest Pipeline Corporation, Various Leases in Rio Blanco and Garfield Counties, Colorado.	(28)	15.025
CI81-66-000, A, Nov. 21, 1980	Tenneco Oil Company	Tennessee Gas Pipeline Company, Sabine Pass Block 18, Offshore Texas.	(28)	14.65
CI81-67-000, A, Nov. 28, 1980	Southland Royalty Company, 1000 Fort Worth Club Tower, Fort Worth, Texas 76102.	Transcontinental Gas Pipe Line Corporation, OCS-G-2825 No. 3 Well, West Cameron Block 65, Offshore Louisiana.	(29)	15.025
CI81-68-000, A, Nov. 25, 1980	do	Florida Gas Transmission Company, West Cameron Block 65, Offshore Louisiana.	(29)	15.025
CI81-69-000, A, Nov. 25, 1980	Texas Gas Exploration Corporation, 3300 First International Plaza, 1100 Louisiana, Houston, Texas 77002.	Texas Gas Transmission Corporation, "A" Platform Block A-382, A-572 and A-573, Block A-573 Field, Offshore Texas.	(18)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI81-70-000, A, Dec. 1, 1980	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company and Southern Natural Gas Company, East Cameron Block 46 Field, Federal Offshore Louisiana.	(28)	14.73
CI81-71-000, A, Dec. 1, 1980	Natresco Incorporated, P.O. Box 1521, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Block A-325, High Island Area, Offshore Texas.	(29)	14.65
CI81-72-000, A, Dec. 1, 1980	The Superior Oil Company, P.O. Box 1521, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Block A-325, High Island Area, Offshore Texas.	(30)	14.65
CI81-73-000, B, Dec. 1, 1980	Lear Petroleum, P.O. Box 7512, Amarillo, Texas 79109.	Natural Gas Pipeline Company of America, Panhandle, West Field, Carson County, Texas.	Termination of contract with NGPA.	
CI81-74-000, A, Dec. 4, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Transcontinental Gas Pipe Line Corporation, High Island Area Block A-506, Offshore Texas.	(31)	14.65
CI81-75-000, A, Dec. 4, 1980	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, North Padre Island Area, Block 967 Field, Offshore Texas.	(32)	14.65
CI81-76-000, A, Dec. 8, 1980	Texoma Production Company, P.O. Box 90996, Houston, Texas 77090.	Natural Gas Pipeline Company of America, Eugene Island Area Block 321, Well Nos. A-1, A-2, A-3 and A-4, Offshore Louisiana.	(33)	15.025
CI81-77-000, A, Dec. 8, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Northern Natural Gas Company, West Cameron Area Block 205, Offshore Louisiana.	(34)	15.025
CI81-78-000, D, Dec. 8, 1980	Summit Energy, Inc., 1800 First Natl. Bank Bldg., Dallas, Texas 75202.	Northern Natural Gas Company, Blinebry Field, Lea County, New Mexico.	(35)	
CI81-79-000, F, Dec. 8, 1980[36]	Anadarko Production Company (Partial Succ. in Interest to Sid Richardson Carbon And Gasoline Company), P.O. Box 1330, Houston, Texas 77001.	Sea Robin Pipeline Company (Succ. in Interest to United Gas Pipeline Company and Southern Natural Gas Company), Block 16, South Marsh Island Area, Offshore Louisiana OCS-G 1184.	(37)	14.73

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[1] Applicant is filing under Supplemental Casinghead Gas Contract dated 4-7-80, as amended by Letter Agreement dated 9-17-80, amendatory to Casinghead Gas Contract dated 10-16-54.

[2] Ashland Exploration, Inc. hereby seeks release of approximately 210,000 Mcf annually from its 12-31-30 contract with Columbia Gas Transmission Corporation, in order to continue furnishing gas which will be sold or resold to the existing consumers.

[3] Applicant is filing under Gas Purchase Contract dated 1-5-76, amended by Amendment (S-5521-E) dated 10-8-80.

[4] Applicant is filing under Gas Sales Contract, as amended, dated 9-18-57, amended by Amendment dated 6-27-80, but made effective 2-28-79.

[5] Four expendable exploratory wells drilled on lease with no commercial potential found; acreage surrendered/relinquished to Lessor (USBLM).

[6] Applicant is willing to accept a permanent Certificate in conformance with the Commission's Regulations under the Natural Gas Act and the NGPA of 1978.

[7] Applicant is willing to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned in accordance with the NGPA of 1978 and the Commission's Regulations under said Act.

[8] Rollover Gas Purchase Contract by and between Transwestern Pipeline Company, Buyer, and Tenneco Oil Company, Seller, dated 8-8-80, superseding the previous Gas Purchase Contract between Transwestern Pipeline Company, Buyer, and Tenneco Oil Company, Seller, dated 4-1-77, the primary term of which expired on 8-8-79, and which was extended by Letter Agreement dated 7-5-79.

[9] Rollover Gas Purchase Contract by and between Transwestern Pipeline Company, Buyer, and Tenneco Oil Company, Seller, dated 9-1-80, superseding the previous Gas Purchase Contract between Transwestern Pipeline Company, Buyer, and Tenneco Oil Company, Seller, dated 4-1-77, the primary term of which expired on 7-21-79, and which was extended by Letter Agreement dated 7-5-79.

[10] Applicant is filing under Gas Purchase and Sales Agreement dated 2-27-79, amended by Amendment dated 4-24-80.

[11] Applicant has acquired from Ladd Petroleum Corporation by virtue of an Assignment of Oil and Gas Leases and Bill of Sale dated 9-30-80.

[12] Applicant requests to continue the sale to CIG, pursuant to the terms of the Gas Purchase Contract dated 10-14-76.

[13] Supron Energy Corporation conveyed to Applicant an undivided twenty-five percent (25%) working interest in such acreage, as more fully set out in the Assignments of 6-25-80.

[14] Applicant is filing under Gas Purchase Contract dated 9-27-54, as amended, and ratified by ARCO on 11-15-79.

[15] By assignment executed 3-17-80, but effective 2-25-80, Pioneer conveyed to Applicant all of its interest in and to the Gas Producing Enterprises, Inc. Armagost No. 1 Well located at the approximate center of the SE/4 NW/4 Section 27, Township 3 North, Range 27ECM, Beaver County, Oklahoma.

[16] Applicant is filing under Gas Purchase Agreement dated 10-18-79.

[17] Applicant is filing under Gas Purchase Contract dated 9-19-80.

[18] Applicant is willing to accept the rates set forth in Section 104 of Title I of the NGPA of 1978 and as more fully set forth in Subpart D of Part 271 of the Commission's Regulations under the NGPA of 1978.

[19] By the three (3) Assignments each dated 9-30-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 10-15-80. Such Assignments are effective as of 3-14-80.

[20] Applicant is filing under Gas Purchase Agreement dated 10-15-80.

[21] Applicant proposes to construct and operate a compressor for the purpose of delivering gas to Florida Gas Transmission Company in partial satisfaction of its warranty obligations to that company under Amoco Production Company FERC Gas Rate Schedule No. 439. The gas will be delivered from those blocks by Trunkline Gas Company pursuant to a Certificate of Public Convenience and Necessity currently in force. The facility is necessary because the pressure in Florida Gas Transmission Company's pipeline at that location exceeds the pressure in Trunkline's system.

[22] Applicant proposes to construct and operate a compressor for the purpose of delivering gas to Florida Gas Transmission Company in partial satisfaction of its warranty obligations to that company under Amoco Production Company FERC Gas Rate Schedule No. 439. The gas will be delivered from those blocks by Texas Eastern Transmission Corporation pursuant to a Certificate of Public Convenience and Necessity currently in force. The facility is necessary because the pressure in Florida Gas Transmission Company's pipeline at that location exceeds the pressure in Texas Eastern's system.

[23] Applicant is willing to accept the Certificate being applied for herein if such Certificate authorizes the initial sale of gas thereunder at the applicable maximum rate prescribed by the Commission at the time of initial deliveries thereunder; provided, however, Applicant reserves the right to reject such Certificate if it contains other conditions that are unacceptable, in Applicant's judgment.

[24] Applicant is filing under Gas Purchase Contract dated 10-21-80.

[25] Applicant is filing under Gas Purchase Contract dated 9-5-80.

[26] Applicant is filing under Gas Purchase Contract dated 8-1-80.

[27] Resource Oil is acquiring this property as of 9-16-80. Sales have previously been made under the small producer certificate of Provident Resources, Inc., CS76-0530.

[28] Applicant is filing under Gas Purchase and Sales Agreement dated 8-2-74.

[29] Applicant is willing to accept a certificate conditioned to the maximum lawful price established under Section 104 of the NGPA of 1978.

[30] Applicant is willing to accept an initial rate determined in accordance with the NGPA of 1978, Part 271, Subpart B, Section 102(d).

[31] Applicant is willing to accept an initial rate consistent with that prescribed by the NGPA of 1978.

[32] Applicant is filing under Gas Purchase Contract dated 11-18-80.

[33] Applicant is filing under Gas Sales Contract dated 5-1-80.

[34] Applicant is filing under Gas Purchase Contract dated 5-22-80.

[35] The New Mexico Oil Conservation has reclassified Applicant's Gulf Hill No. 3-0 Well as an oil well, so that gas produced from said well is no longer gas subject to Applicant's gas contract with Northern Natural Gas Company, but is subject to the terms of a Casinghead Gas Contract dated 1-26-73, between Skelly Oil Company, Buyer, (Getty Oil Company has succeeded to the interest of Buyer) and Applicant, Seller, applicable to all gas produced from a well classified as an oil well.

[36] The rights and interest in the leased acreage in Block 16, South Marsh Island Area, Offshore Louisiana, OCS-G 1184, was assigned by Sid Richardson to Applicant effective 10-16-79.

[37] Applicant is filing under Contract dated 11-12-68, amended by Amendment dated 8-19-80 and Applicant requests a Certificate of Public Convenience and Necessity effective as of the effective date of assignment, 10-16-79.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 81-966 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE-81-15-000]

Central Louisiana Electric Co., Inc.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that Central Louisiana Electric Company, Inc. (CLECO), on December 23, 1980, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost-of-service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file, on or before June, 1982, information on the costs of providing electric service as specified in Section 290.404 relating to the collection and filing of sample-metered load data for all of its large rate classes.

In its application for exemption, CLECO states it should not be required to file the specified data for the following reasons:

(1) Simultaneously metering all large rate classes would impose substantial financial costs on the Company.

(2) The Company has not developed sufficient experience with load research techniques to anticipate and to remedy any logistical and technical problems that may occur.

(3) Supplying best-estimate load data for the exempted large rate classes will satisfy the intent of Section 133 of PURPA and will not significantly detract from the overall accuracy of CLECO load data estimates.

(4) CLECO will fully comply with Section 290.404 in all future filings by a rotation of metering equipment to the required classes.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-969 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-199-000]

Central Telephone & Utilities Corp., Western Power Division; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 30, 1980, Western Power Division, Central Telephone & Utilities Corporation (Western Power) tendered for filing proposed changes to its present rate schedules for service to its REA Cooperative customers as follows:

Substitute Rate Schedule 81-CWh-2 for Rate Schedule 80-Cwh-2

For service to its Municipal Wholesale customers as follows:

Substitute Rate Schedule 81-MWh-2 for Rate Schedule 80-MWh-2

For service to Central Kansas Electric Cooperative, Inc. (an interconnected transmission and distribution utility) as follows:

Substitute Schedule 81-CWh-2 for firm power service for present Schedule 80-A.

And for service to interconnected municipal utilities (the cities of Anthony, Attica, Beloit, Hoisington, Kingman, Pratt, Osborne, Stockton, Russell, and Washington, Kansas) as follows:

Substitute Schedule 81-MWh-5 for firm power service for present Schedule 80-A1.

For Transmission Service to Kansas Electric Power Cooperative Inc., an initial filing designated as:

81-TSv-1 (Transmission Service)

Western Power proposed March 1, 1981, as the effective date of these new rate schedules and states that copies of this filing were served upon each of its wholesale customers affected by this filing and the Kansas State Corporation Commission.

The proposed rate schedules, according to Western Power, will produce in the case of its REA Cooperative customers a 14.26% increase in revenue, in the case of its Municipal Wholesale customers a 12.71% increase in revenue, in the case of Central Kansas Electric Cooperative Inc., a 6.41% increase in revenue and in the case of the Interconnected Municipal Utilities a 4.37% increase in revenue over projected unadjusted test period revenue, the test period being the 12 months ending December 31, 1981. The rates under which the Company presently provides service to its REA Cooperatives and Municipal Wholesale customers are prohibitively low and confiscatory. The rates proposed for these customers will provide an adequate rate of return on the Company's investment. The proposed tariff 81-TSv-1 is to provide transmission service that has been requested by Kansas Electric Power Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.18 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-970 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3603-000]

City of Aspen and Pitkin County; Notice of Application for Preliminary Permit

December 10, 1980.

Take notice that the City of Aspen and Pitkin County (Applicant) filed on October 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3603 to be known as the Ruedi Project located on the Fryingpan River at the existing Ruedi Dam owned by the United States Water and Power Resources Service in Eagle and Pitkin Counties, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William T. Smith Jr., Musick, Williamson, Schwartz & Cope, P.C., Attorneys at Law, P.O. Box 4579, Boulder, Colorado 80306. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing government dam and would consist of a powerhouse with three turbine-generators with a total rated capacity of 5 MW. A transmission line with a minimum length of one mile would be required. The applicant estimates that the average annual energy output would be 25,600,000 kWh, which would save the equivalent of 43,000 barrels of oil or 11,900 tons of coal.

Purpose of Project—Power generated by the project would be sold to either the City of Aspen, Public Service Company of Colorado, Colorado-Ute Electric Association or the Holy Cross Electric Association, Inc.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of work to be performed under this preliminary permit would be $285,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Ruedi Project No. 3225 on June 24, 1980, by Harrison Western Corporation, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 26, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Protests," or "Petition To Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3603. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-871 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3704-000]

City of Redding; Application for Preliminary Permit

January 5, 1981.

Take notice that the City of Redding (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3704 to be known as the American River North Fork Dam Power Plant located on the North Fork of the American River in Placer County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. Brickwood, City Manager, City of Redding, 760 Parkview Avenue, Redding, California 95814 with copies to Martin McDonough, Esquire, 555 Capitol Mall, Sacramento, California 95814. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project, to be located at the base of the existing U.S. Army Corps of Engineers' North Fork Dam, would consist of: (1) a 300-foot long, 6-foot diameter penstock serving; (2) a powerhouse with a rated capacity of 12 MW; and (3) 300 feet of transmission line to connect to existing transmission facilities.

The Applicant estimates that the average annual energy output would be 63.5 million kWhs.

Purpose of Project—The power generated at the project would be used to serve the electrical need of the Applicant's customers in the City of Redding.

Proposed Scope and Cost of Studies under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The costs of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application are estimated to be about $70,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before Feb. 18, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 20, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before Feb. 18, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title, "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition To Intervene," as applicable. Any of these filings must also state that it is made in response, to this notice of application for preliminary permit for Project No. 3704. Any comments, notices of intent, competing application, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-472 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-106-000]

Columbia Gas Transmission Corp.; Notice of Publication

January 6, 1981.

Take notice that on December 19, 1980, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81-106-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 91 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.; 8 taps for residential service
Estimated annual usage of 1,200 Mcf
(2) Columbia Gas of Maryland, Inc.; 1 tap for residential service, 1 tap for commercial service
Estimated annual usage of 1,827 Mcf
(3) Columbia Gas of Ohio, Inc.; 41 taps for residential service, 1 tap for commercial service, 4 taps for industrial service
Estimated annual usage of 52,225 Mcf
(4) Columbia Gas of Pennsylvania, Inc.; 11 taps for residential service, 1 tap for commercial service
Estimated annual usage of 11,350 Mcf
(5) Columbia Gas of Virginia, Inc.; 1 tap for residential service
Estimated annual usage of 150 Mcf
(6) Columbia Gas of West Virginia, Inc.; 18 taps for residential service
Estimated annual usage of 2,700 Mcf
(7) The Dayton Power and Light Company; 2 taps for residential service, 1 tap for industrial service
Estimated annual usage of 520 Mcf
(8) Washington Gas Light Company; 1 tap for residential service
Estimated annual usage of 230 Mcf

It is estimated that the total cost of the interconnections proposed herein is $42,232 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-673 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-195-000]

Connecticut Light and Power Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 29, 1980, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated April 29, 1980 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Westfield Gas and Electric Department (Westfield).

CL&P states that the Transmission Agreement provides for a transmission service to Westfield for the wheeling of Westfield's entitlement in Uxbridge Unit Nos. 1 and 2 generating facilities during the period from May 1, 1980 to October 31, 1980.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which Westfield is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by Westfield to intervening systems.

CL&P requests an effective date of May 1, 1980 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and Westfield, Westfield, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-674 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-96-000]

Consumers Power Co.; Notice of Application

January 6, 1981.

Take notice that on November 10, 1980, Consumers Power Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP81-96-000 an application pursuant to Section 284.127 of the Commission's Regulations under the Natural Gas Policy Act of 1978 for authorization to transport natural gas for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated July 17, 1980, involving Panhandle, Southeastern Michigan Gas Company (Southeastern), Michigan Gas Storage Company (Storage Company) and Applicant, Applicant proposes to receive Panhandle gas by displacement from Storage Company at existing points of interconnection located at the Rochester Valve Site, Grand Blanc and Branch Road and by displacement deliver equivalent quantities of gas to Southeastern at New Haven, Michigan, for the account of Panhandle. Applicant proposes to begin the transportation service as soon as possible and continue for as long as the need for the service continues to exist. It is stated that maximum quantities to be transported are limited to 55,000 Mcf per day and 13,000,000 Mcf per year.

Applicant asserts that because of the benefits which accrue to Applicant as a result of a related facilities exchange agreement with Southeastern and a related letter agreement with Panhandle covering Applicant's acquisition of certain Panhandle facilities, the transportation service proposed herein would be provided by Applicant without any additional compensation.

Applicant requests authorization for the proposed transportation service herein because it proposes to perform the service on a long-term basis in excess of the 2-year limitation provided in 18 CFR 284.122.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-675 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3641-000]

Continental Hydro Corp.; Notice of Application for Preliminary Permit

January 5, 1981.

Take notice that Continental Hydro Corporation (Applicant) filed on November 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the proposed Mississippi River Lock & Dam 5A Project, FERC 3641 to be located at the U.S. Army Corps of Engineers' Mississippi River Lock & Dam 5A, a navigational aid project, on the Mississippi River near Trempealeau, Buffalo County, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' lock and dam. Project No. 3641 would consist of: (1) a proposed powerhouse located on the northeastern bank of the Mississippi River and containing five turbine units mounted on existing Corps of Engineers' Tainter gates; (2) a proposed transmission line from the powerhouse to an existing 161 kV transmission line owned by Dairyland Power Cooperative; and (3) appurtenant facilities. Applicant estimates the capacity at the Mississippi River Lock and Dam 5A to be approximately 19 MW.

The Applicant estimates that the average annual energy output would be 56,000,000 kWh.

Purpose of Project—Energy produced at the proposed project would be sold to the Dairyland Power Cooperative.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including data acquisition and analysis, preliminary project layout and design, economic feasibility studies, and environmental and social studies. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 16, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 15, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 16, 1981.

Filing and Service of Response Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent to File Competing Application," "Competing Application," "Protest," or "Petition To Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3641. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-976 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP69-23-003]

El Paso Natural Gas Co.; Notice of Petition To Amend

January 5, 1981.

Take notice that on December 9, 1980, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP69-23-003 a petition to amend the order issued August 21, 1969,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Pioneer Natural Gas Company (Pioneer) from an additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 21, 1969, in the instant docket it was authorized, *inter alia*, to transport gas for the account of Pioneer. Petitioner proposes pursuant to an amendatory agreement with Pioneer dated November 11, 1980, to transport natural gas acquired by Pioneer from West Texas Gathering Company which is in close proximity to Petitioner's Keystone Emperor Plant in Winkler County, Texas. Petitioner further states that the Keystone Emperor Plant would also be utilized as an additional balancing point.

It is asserted that no additional facilities would be required at such point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-677 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA79-24]

Exxon Company, U.S.A.; Extension of Time

January 5, 1981.

On December 30, 1980, the Secretary of Energy filed a request for an extension of time to file comments as required by the Proposed Order of the Presiding Officer issued December 17, 1980, in the above-docketed proceeding. The motion states that additional time is required since counsel has been unable to consult with appropriate agency officials because of the intervening holidays.

Upon consideration, notice is hereby given that an extension of time for the filing of comments is granted to and including January 9, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-949 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-69-000]

Georgia Power Co.; Order Accepting for Filing and Suspending Proposed Interchange Agreement Rates, Waiving Notice Requirements, and Consolidating Proceedings

Issued: December 30, 1980.

On November 13, 1980, Georgia Power Company (Georgia Power) submitted for filing proposed changes in the rates for emergency assistance and short-term power services under an Interchange Agreement with Savannah Electric and Power Company (Savannah). Such proposed rates were derived using the same costing methodologies as those originally set for investigation in Docket No. ER79-575,[1] and which are currently under investigation in Docket No. ER80-222.[2]

In Docket Nos. ER79-575 and ER80-222, Georgia Power filed revisions in its rates for emergency assistance, short-term capacity, and economy energy services under the interconnection agreement involved in this filing. Docket No. ER79-575 was terminated by Commission order on April 16, 1980, but the Commission stated that the investigation of the costing methodologies initiated in Docket No. ER79-575 was to be continued in Docket No. ER80-222[3] which was later consolidated with Docket Nos. ER80-58, *et al.*[4]

Georgia Power requests waiver of the notice requirements in order to permit an effective date of January 1, 1981. Georgia Power further requests that if the Commission orders a hearing on the justness and reasonableness of the proposed charges, a one day suspension be imposed.

Notice of the filing was issued on November 12, 1980, with comments, protests, or petitions to intervene due on or before December 2, 1980. No responses were received.

Discussion

The proposed charges are based on the same costing methodologies as those currently under investigation in Docket No. ER80-222. Consistent with our preliminary evaluation in Docket No. ER79-575, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. The Commission notes that both parties have agreed to apply the revised charges as of January 1, 1981, and that no comments, protests, or petitions to intervene were filed by any other individuals. Accordingly, we shall exercise our discretion to suspend the rates for only one day and to waive the notice requirements set out in section 35.3 of our regulations permitting the rates to take effect subject to refund thereafter on January 2, 1981.

Furthermore, the costing methodologies on which these proposed rates are based are the same as those currently being investigated in Docket No. ER80-222 which has been consolidated with Docket Nos. ER80-58, *et al.* Therefore, we find that common questions of law and fact exist. In order to avoid unnecessary duplication of effort or expenditures of resources, we shall consolidate this docket with those currently under investigation in Docket Nos. ER80-58, *et al.*

The Commission Orders:

(A) Waiver of the notice requirements of section 35.3 of the regulations is hereby granted for good cause shown.

(B) Georgia Power Company's proposed rates are accepted for filing and suspended for one day, to become effective January 2, 1981, subject to refund.

(C) This proceeding is consolidated with Docket Nos. ER80-58, *et al.*

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-950 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI61-601]

Getty Oil Co.; Petition To Amend

January 6, 1981.

Take notice that on November 24, 1980, Getty Oil Company (Petitioner), P.O. Box 1404, Houston, Texas 77001, filed in Docket No. CI61-601[1] a petition to amend the order issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the exchange of natural gas at an additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to a letter agreement dated January 7, 1980, Petitioner proposes to exchange natural gas with Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), at a new delivery point located in Northern's 6-inch pipeline at the discharge side of the Eunice Gas Plant No. 2 in order to enable Petitioner to receive residue gas from Northern when Petitioner's

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[1] *Georgia Power Co.*, Docket No. ER79-575, order issued October 5, 1979.

[2] *See Georgia Power Co.*, Docket No. ER80-222, order issued April 16, 1980.

[3] *Id.*, Mimeo at p. 3.

[4] *Georgia Power Company*, Docket No. ER80-222, order issued September 3, 1980.

[5] *E.G., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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cryogenic plant located at the Eunice Gas Plant No. 1 is shut down.

It is asserted that all gas delivered to Petitioner would be on a volume basis and would be redelivered in kind to Northern within 30 days of the date of the use of said gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-861 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-192-000]

Hartford Electric Light Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 22, 1980, The Hartford Electric Light Company (HELCO) tendered for filing as an initial rate schedule an exchange agreement (the "Agreement") between HELCO and New Bedford Gas and Edison Light Company (NBG&E). The Agreement, dated as of October 25, 1978, provides for HELCO to exchange system capacity having the characteristics of Middletown Unit No. 4, a mid-range oil-fired steam unit, for non-operable capacity from NBG&E's entitlements in Canal Unit Nos. 1 or 2, each base load oil-fired steam units.

The Agreement provides that the parties will determine prior to Monday of each week during the term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week.

NBG&E will pay capacity charges to HELCO in an amount equal to the kilowatts of capacity exchanged during the week time $0.00300 times the number of hours during each week during which NBG&E actually received associated energy deliveries. NBG&E will purchase energy from HELCO at the incremental cost of providing such energy from Middletown Unit No. 4.

HELCO requests an effective date of October 25, 1978 for the Agreement.

NBG&E has filed a certificate of concurrence in this docket.

The Agreement has been executed by HELCO and by NBG&E and copies have been mailed to each of them.

HELCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-862 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-14-000]

Huntway Refining Co.; Further Extension of Time

January 5, 1981.

On December 31, 1980, Huntway Refining Company filed a request for a further extension of time to file a petition for review of a decision and order issued September 30, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. BEE-0392). The motion states that the company requires additional time to receive and analyze responses to Freedom of Information requests filed with the Department of Energy which are required for the preparation of the petition for review.

Upon consideration, notice is hereby given that an extension of time for the filing of a petition for review is granted to and including February 9, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-863 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3629-000]

Keystone Hydro Ltd.; Application for Preliminary Permit

December 10, 1980.

Take notice that Keystone Hydro Ltd. (Applicant) filed on October 30, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3629 to be known as the Howard Fork Project located on Howard Fork, Lake Fork, and the South Fork of the San Miguel River near the towns of Ames and Ophir in San Miguel County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jerome R. Vass, P.O. Box 457, Telluride, Colorado 81435. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would affect lands of the United States within the Uncompahgre National Forest and would consist of: (1) the Lake Fork facility consisting of: (a) a small diversion structure located about 0.5 miles south of Ames; (b) a 2,000-foot long water conveyance structure along the left (west) side of the river valley; (c) a 750-foot long penstock; (d) a turbine operated at a 400-foot head utilizing a flow of 60 cfs; (2) the Howard Fork facility consisting of: (a) a small diversion structure located about 0.8 miles east of Ames; (b) a 5,000-foot long water conveyance structure along the right (east) side of the river valley; (c) a 1,000-foot long penstock; (d) a turbine operated at a 640-foot head utilizing a flow of 40 cfs; (3) a powerhouse located along the left (south) bank of the South Fork containing the turbines connected to generator(s) with a total rated capacity of 3,200-kW; (4) a short tailrace; (5) a switchyard; (6) a 150-foot long 44-kV transmission line; and (7) appurtenant facilities. Project energy would be transmitted to an existing San Miguel Power Association 44-kV transmission line.

The Applicant estimates that the average annual energy output would be 9,800,000 kWh.

Purpose of Project—Applicant intends to sell project energy to a public or private utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project, would consult with Federal, State and local agencies, and would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $200,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 17, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 20, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R., § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intevene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 17, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3629. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-954 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-433-003]

Michigan Consolidated Gas Co., Interstate Storage Division; Petition To Amend

January 6, 1981.

Take notice than on December 17, 1980, Michigan Consolidated Gas Company—Interstate Storage Division (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP78-433-003 a petition to amend the order issued July 23, 1979, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of up to an additional 1,960,000 Mcf of natural gas annually for Panhandle Eastern Pipe Line Company (Panhandle), all as more full set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued July 23, 1979, as amended, it was authorized, *inter alia,* to provide gas transportation service to Panhandle in connection with a storage service agreement Panhandle entered into with ANR Storage Company (ANR) which provides Panhandle with 50-day gas storage service for 1,140,000 Mcf of gas each year.

It is stated that in order to provide for additional gas storage services required by Panhandle's customers ANR has agreed to increase the maximum volume of gas stored from 1,140,000 Mcf annually to 3,100,000 Mcf annually effective as of April 1, 1981.

Petitioner proposes herein to transport the additional 1,960,000 Mcf of gas annually that Panhandle has contracted to store with ANR pursuant to an amendatory agreement dated December 5, 1980. It is asserted that Panhandle has also arranged with Michigan Wisconsin Pipe Line Company and Great Lakes Gas Transmission Company to increase the volumes of gas to be transported under their contracts from 1,140,000 Mcf to 3,100,000 Mcf effective as of April 1, 1981.

Petitioner states it would charge Panhandle a rate of $32,799 per month for the transportation service proposed herein.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-955 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-14-000]

Mississippi Power & Light Co.; Application for Exemption

January 5, 1981.

The filing company submits the following:

Take notice that Mississippi Power & Light Company, hereinafter called MP&L, on December 23, 1980, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file, on or before June 30, 1982, information on the cost of providing electric service as specified in Sections 290.404(b), 290.404(g)(2), 290.305(a)(3), 290.403(a) and 290.406(a) with respect to the following nine small rate classes: (1) General Light and Power (GLP–6); (2) Fayette Residential; (3) Fayette Commercial; (4) Centreville; (5) X-Ray (XR-1); (6) Miscellaneous; (7) Private Area Light (PSL–15); (8) Flood Lighting (UFL–4); and (9) Flood Lighting (RFL–4). Applicant seeks to have the exemption apply to its June, 1982, Part 290 filing and to all future Part 290 filings. This exemption is sought pursuant to Section 290.601(a)(3)(i), pertaining to exemptions based on the extent of service provided.

In its application for exemption, MP&L states that it should not be required to file the specified data for the following reasons:

(1) The nine rate classes for which exemption is sought are frozen classes into which no new customers will be allowed. Over a period of time the number of customers and the energy sales represented by these nine classes should decrease. In 1979 they represented .3% of the number of customers and .08% of the total retail energy sales of MP&L.

(2) The information gathered on these nine classes would be of little or no use since they gradually are being discontinued and since none of them are a representative sample for any of MP&L's other rate classes or for any end-use class. The primary purpose of Section 133 of PURPA is to gather information from which rates can be made. The time and expense needed to provide cost and load data for these nine small classes would be excessive compared to the amount or usefulness of the information obtained.

Applicant seeks for the exemption to apply to all future Part 290 filings since these nine classes will not be expanding. In fact, these classes should gradually decrease and eventually disappear with each successive filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-[illegible] Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3594–000]

Mitchell Eneregy Company, Inc.; Application for Preliminary Permit

December 10, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 22, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3594 to be known as Marseilles No. 2 Lock and Dam located on the Illinois River in LaSalle County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Decription—The proposed project would consist of: (1) a proposed powerhouse, located on the south bank of the river and 2 miles downstream from the dam, with generating units having a total installed capacity of 19,500 kW; (2) proposed transmission lines; and (3) appurtenant facilities. Applicant would utilize an existing dam and reservoir owned by the U.S. Army Corps of Engineers. Applicant's facilities would be located on U.S. lands.

The Applicant estimates that the average annual energy output would be 97,000,000 kWh.

Purpose of Project—The power generated at the project would be sold to Illinois Power Company.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time a study would be made of the engineering, economic, and environmental feasibility of the project. The study would include, among other things, soil exploration, design of hydraulic structures, and recreational uses. The Applicant estimates the cost of the proposed studies would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 11, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 13, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R., § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 11, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3594.

Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-656 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3596-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

December 10, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 22, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3596 to be known as Saylorville Dam located on the Des Moines River in Polk County, Iowa. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed powerhouse, located on the west bank of the river, with generating units having a total installed capacity of 11,000 kW; (2) proposed transmission lines; and (3) appurtenant facilities. Applicant would utilize an existing dam and reservoir owned by the U.S. Army Corps of Engineers. Applicant's facilities would be located on U.S. lands.

The Applicant estimates that the average annual energy output would be 50,000,000 kWh.

Purpose of Project—The power generated at the project would be sold to Iowa Power and Light Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time a study would be made of the engineering, economic, and environmental feasibility of the project. In addition, a subsurface study would be made for the powerhouse, along with preparing preliminary and final design plans for the project. The Applicant estimates the cost of the proposed studies would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 11, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 13, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R., § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 11, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATIONS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3596.

Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the

Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-887 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3671-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

January 5, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 4, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3671 to be known as Allegheny Lock and Dam No. 5 Hydro Project located on the Allegheny River in Armstrong County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 5 and would consist of: (1) new penstocks near the left dam abutment; (2) a new powerhouse containing generating units having a total rated capacity of 17,100 kW; (3) a tailrace; (4) a new transmission line; and (5) appurtenant facilities. The Applicant estimates that the average energy output would be 89,800,000 kWh.

Purpose of Project—Project energy would be sold to a local utility.

Purpose Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of two years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Noah Corporation's application for Project No. 3494 submitted September 23, 1980, under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before March 13, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 12, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 13, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3671. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-888 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3692-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 5, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 7, 1980, an application for preliminary permit [pursuant to the Federal Power Act 16, U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3692 to be known as Arrowrock Dam Project located on Boise River in Elmore County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing government dam owned by the United States Water and Power Resources Service and would consist of a powerhouse with a total installed capacity of 220 MW.

The Applicant estimates that the average annual energy output would be 321,273,000 kWh.

Purpose of Project—Power generated by the project would be sold to the Idaho Power Company or another local utility.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of the studies, Applicant would decide to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates the cost of the studies to be performed under the preliminary permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 16, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 15, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 16, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3692. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-986 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3723-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 5, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit for proposed Project No. 3723 to be known as Clear Lake Dam Hydroelectric Project located at the United States Department of the Interior, Water and Power Resources Service's (WPRS) Clear Lake Dam on the North Fork River in Yakima County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of a powerhouse with a rated capacity of 1,500 kW and appurtenant facilities.

The Applicant estimates that the average annual energy output would be 6.7 million kWh.

Purpose of Project—Project energy would be sold to a local utility.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 24-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with WPRS and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 11, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 11, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3723. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St. NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St. NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-987 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3715-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 5, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 10, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3715 to be known as the Kachess Lake Dam Hydroelectric Project located on Kachess River in Kittitas County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be located at the existing U.S. Water and Power Resources Service's Kachess Lake Dam and would consist of a power plant with a rated capacity of 3.5 MW. The Applicant estimates that the average annual energy output would be 10 million kWhs.

Purpose of the Project—Applicant states that during the permit period a power purchase agreement with a local utility will be negotiated.

Proposed Scope and Cost of Studies under Permit—Applicant seeks a preliminary permit for a period of 24 months during which it would conduct environmental, engineering and economic studies to determine the feasibility of constructing and operating the proposed project. Applicant estimates that the cost of the feasibility studies would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 11, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980). This application was filed as a competing application to the Kittitas County Public Utility District No. 1 and the City of Ellenburg's application for the Kachess Hydroelectric Project No. 3487, filed September 16, 1980.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 11, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS"

"NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3715. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-888 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-104-000]

Natural Gas Pipeline Company of America; Application

January 6, 1981.

Take notice that on December 18, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-104-000 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for the period commencing March 21, 1981, and ending December 31, 1981, and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment for the approximately eight-month period would not exceed $4,000,000 with no single project limit to exceed $1,000,000 consistent with the limits prescribed by the Commission in Applicant's order issued March 21, 1980, in Docket No. CP79-505. Such costs, it is asserted, would be financed from funds on hand.

In order to conform the time constraints in this budget authorization to other budget authorizations, Applicant proposes that the authorization herein end on December 31, 1981.

Any person desiring to be heard on or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-890 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-38]

Northern Natural Gas Company, Division of InterNorth, Inc.; Petition To Vacate Order

January 6, 1981.

Take notice that on December 12, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-38 a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure to vacate the Commission's order issued February 28, 1980, authorizing the construction and operation of a proposed standby compressor unit at the Egan Compressor Station, Acadia Parish, Louisiana, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Northern states that it was authorized by order issued February 28, 1980, to construct and operate one 1,140 horsepower compressor unit as a back-up to the existing 1,250 horsepower electric unit at the Egan Station because the Egan Station experienced irregular suction pressures from time to time causing throughput surge and shut down of the unit. Northern further asserts that Tennessee Gas Transmission Company, a Division of Tenneco, Inc. (Tennessee), assists Northern during shut-down periods in order to continue the transportation of Northern's Gulf Coast gas onshore.

Northern further states that by order issued April 28, 1980, in Docket No. CP79-396 it was authorized to transport and exchange gas by displacement with United Gas Pipe Line Company (United) and Panhandle Eastern Pipe Line Company which gas, up to 800,000 Mcf per day, is being transported and delivered into Northern's system by Northern Border Pipeline Company (Northern Border). It is explained that with the receipt by Northern of gas from Northern Border, Northern would begin exchanging up to 450,000 Mcf of its Gulf Coast gas per day for that gas received from Northern Border for United's account at the Ventura, Iowa, interconnection.

Since back-up at the Egan Station would only be required until Northern Border commences delivery of gas into Northern's system, Northern states that it believes adequate back-up for the Egan Station can be provided by the existing transportation arrangements with Tennessee. It is submitted that when Northern Border commences delivery of gas into Northern's system, those volumes presently delivered to the Egan Station would be redirected to

United in the Gulf Coast area to comply with the exchange agreement.

Northern, therefore, requests that the Commission vacate its order issued February 26, 1980, in the instant docket.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-991 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-97-000]

Northern Natural Gas Company, Division of InterNorth, Inc., Application

January 6, 1981.

Take notice that on December 15, 1980, Northern Natural Gas Company, Division of InterNorth, Inc., (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-97-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale in interstate commerce of natural gas to Panhandle Eastern Pipe Line Company (Panhandle) for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has obtained the right to purchase certain quantities of natural gas produced by Exxon Company, U.S.A. in Vermilion Block 372, offshore Louisiana, which is transported onshore by Michigan Wisconsin Pipe Line Company (Mich Wis) and delivered to Trunkline Gas Company (Trunkline) at a point of connection at the Superior Oil Company Lowry gas processing plant, Cameron Parish, Louisiana, or at an existing interconnection on the discharge side of Mich Wis' Patterson Compressor Station, St. Mary Parish, Louisiana.

It is asserted that on September 18, 1980, Applicant entered into a transportation and sales agreement with Panhandle and Trunkline which provides for the transportation of Applicant's Block 372 gas and the sale of up to 20 percent of such gas to Panhandle. Applicant submits that Trunkline would receive Applicant's Block 372 gas at the Lowry or Patterson locations and transport such gas to its Longville, Louisiana, compressor station from which the gas would be transported by Trunkline and Panhandle pursuant to the terms of a transportation agreement between the parties dated September 24, 1976.

Applicant explains that the gas would be sold to Panhandle on a monthly cost of service basis with the estimated average cost of service per Mcf for the first year of operation to be $3.32.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-992 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-51-001]

Northern Natural Gas Company, Division of InterNorth, Inc.; Amendment to Application

January 5, 1981.

Take notice that on December 19, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-51-001 an amendment to its application pending in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to relocate its proposed pipeline facilities, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

By its application filed October 26, 1979, in the instant docket, Applicant requested authorization to construct and operate two new 4,500 horsepower compressor stations (Zavala County No. 1 and No. 2), approximately 6.1 miles of 12 inch pipeline, and approximately 163 miles of 16-inch pipeline to connect its reserves in the Spillar-Haskett and Pryor Ranch acreages in Zavala County, Texas, to its existing pipeline system.

Applicant further states that subsequent to its initial filing in this proceeding, Valero Transmission Company (Valero) intervened and proposed to provide a transportation service for its Zavala County reserves and that the parties have agreed that Valero would transport for Applicant 60 billion Btu per day on a firm basis and an additional 20 billion Btu per day on a best-efforts basis.

Applicant asserts that such transportation by Valero necessitates modification of the facilities as originally proposed in order to provide for the attachment and transportation of the Zavala County reserves and that the routing change proposed herein would result in the construction and operation of approximately 7.4 miles of 12-inch pipeline connecting Zavala County No. 1, Zavala County No. 2, and approximately 19.0 miles of 12-inch pipeline connecting Zavala County No. 2 to Valero's Dimmit County 20-inch mainline. In addition, Applicant proposes to provide all measurement facilities installed at the points of delivery and redelivery. Applicant maintains that the compressor stations and the gathering facilities would remain as proposed in the original application.

Applicant estimates the cost to construct the referenced facilities is $30,771,710.

Applicant states that delivery of the referenced reserves to its system would be accomplished by connection and transportation of said reserves through the facilities herein proposed to be constructed to the tie-in on Valero's 20-inch pipeline in Dimmit County, Texas. Applicant further states that Valero would accept and transport volumes received at said interconnection and redeliver such volumes to Applicant at two interconnections of Applicant's 30-inch pipeline and Valero's 36-inch pipeline. The primary redelivery point, it is asserted, is located in Pecos County, Texas, and the alternate redelivery point is located in Midland County, Texas.

Applicant submits that said agreement with Valero would provide for a transportation charge of 14.2 cents per million Btu to the primary delivery point and 15.9 cents per milion Btu to the alternate delivery point which rate would increase one cent per year and be subject to redetermination every second year based upon Valero's actual cost. In addition, Applicant asserts that it would pay Valero a monthly charge to cover the cost of service on a compressor station Valero is required to construct and operate to transport its gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 16, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-603 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-103-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

January 6, 1981.

Take notice that on December 17, 1980, Northern Natural Gas Company, Division of InterNorth, Inc., (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-103-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has the right to purchase or is in the process of completing negotiations for the purchase of natural gas attributable to reserves located in West Cameron Area Blocks 205, 238, and 249, offshore Louisiana. In order to attach and transport these additional supplies of natural gas, Applicant proposes to construct and operate approximately 3.2 miles of 16-inch pipeline, 5.3 miles of 8-inch pipeline, associated metering and appurtenant facilities.

It is stated that the proposed 16-inch pipeline would extend from the producer platform located in Block 205 to a subsea valve on Michigan Wisconsin Pipe Line Company's (Mich Wis) proposed 20-inch pipeline in Block 204. It is further stated that an 8-inch lateral approximately 3.8 miles in length would be installed connecting the "C" Platform in Block 249 to a subsea valve on Mich Wis' proposed pipeline at the "A" Platform in Block 238. Further, it is asserted that approximately 1.5 miles of 8-inch pipeline would extend from "B" Platform in Block 238 to the subsea valve on Mich Wis' proposed pipeline at the "A" Platform in Block 238.

Applicant estimates that the proved reserves and potential gas supply attributable to the above-described sources of gas are approximately 211,000,000 Mcf. The proposed facilities, it is stated, would provide the capacity needed to transport the estimated maximum daily volumes that are expected to be available to Applicant.

The estimated cost of the proposed facilities is $7,200,000 which would be financed from funds on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-604 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-94-000]

Panhandle Eastern Pipe Line Co.; Application

January 5, 1981.

Take notice that on December 12, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-94-000 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for the 12-month period commencing April 26, 1981, and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed $3,000,000 and the cost for any single project would not exceed $500,000. Such costs, it is asserted, would be financed from funds available to the company.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-990 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-99-000]

Transwestern Pipeline Co.; Application

January 6, 1981.

Take notice that on December 12, 1980, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP81-99-000 an application pursuant to Section 284.107(b) of the Regulations under the Natural Gas Policy Act of 1978 for authorization to exchange natural gas with Intratex Gas Company (Intratex), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Intratex, an intrastate pipeline, have entered into an exchange agreement dated November 11, 1980, whereby Applicant would exchange with Intratex up to 1,000 Mcf of natural gas per day. It is further stated that gas would be received by Applicant from or for the account of Intratex at a mutually agreeable point on Applicant's 30-inch loop or 24-inch West Texas lateral in Lea County, New Mexico. It is asserted that Applicant would redeliver thermally equivalent volumes of gas to Oasis Pipe Line Company (Oasis) for Intratex's account at either or both of certain points located in Reeves and Ward Counties, Texas, thus reducing deliveries to Applicant under a gas gathering and transportation agreement dated December 19, 1978, between Applicant and Oasis. Applicant assures that if the transportation agreement terminates prior to the termination of the exchange agreement, Intratex and Applicant would make other mutually satisfactory arrangements.

Applicant asserts that the exchange agreement would be in effect for a primary term of 10 years commencing on the date of first deliveries and from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-991 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2512]

Union Carbide Corp. and Alloy Hydro Corp.; Application for Transfer of Major License

January 5, 1981.

Public notice is hereby given that an application was filed on Novebe 21, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r), by Union Carbide Corporation (Licensee) and Alloy Hydro Corporation (Transferee) for transfer of the major license for the Hawk's Nest-Glen Ferris Project No. 2512. The Hawk's Nest and Glen Ferris Developments are located on the New River and the Kanawha River, respectively, in Fayette County, West Virginia. Correspondence should be directed to: Gary J. Triplett, Esq., Union Carbide Corporation, Law Department, 437 MacCorkle Avenue, S.W., South Charleston, West Virginia, and Robert G. Bleakney, Jr., Esq., Sullivan and Worcester, 100 Federal Street, Boston, Massachusetts 02110.

Project No. 2512 consists of Hawk's Nest Development and the Glen Ferris development with installed hydroelectric generating capacity of 102 and 5.45 Megawatts, respectively. The project energy is used by the Licensee for its ferroalloy manufacturing processes, and the Licensee proposes to sell its ferroalloy business to Elkem Metal Company, the sole stockholder of Alloy Hydro Corporation.

Alloy Hydro Corporation is a private corporation, organized under the laws of the State of West Virginia, domesticated in the State of West Virginia, and is a wholly owned subsidiary of Elkem Metals Company.

Transferee proposes to continue to operate Project No. 2512 in the same manner and for the same purposes for which it is now operated, namely as a source of energy for industrial manufacturing processes.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 11, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-962 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-117-000]

Valero Transmission Co.; Application

January 5, 1981.

Take notice that on December 18, 1980, Valero Transmission Company (Applicant), P.O. Box 500, San Antonio, Texas 78292, filed in Docket No. CP81-117-000 an application pursuant to Section 284.127 of the Commission's Regulations under the Natural Gas Policy Act of 1978 for authorization to transport natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated December 9, 1980, Applicant proposees to transport on behalf of Northern up to 60 billion Btu equivalent of natural gas per day on a firm basis and such additional quantities as the parties may agree upon from time to time up to 20 billion Btu per day on a best-efforts basis from a designated point of receipt in Dimmit County, Texas, to two points of redelivery in Pecos and Midland Counties, Texas.

It is further stated that Northern has agreed to pay Applicant an initial transportation fee of 14.2 cents per million Btu for gas delivered at the Pecos County redelivery point and 15.9 cents per million Btu for gas delivered at the Midland County redelivery point for a term of ten years from the date of first delivery of gas or commencing January 1, 1982, whichever occurs first. Applicant states that its transportation fee would increase commencing with the second billing period and annually thereafter one cent per million Btu and would be subject to redetermination at the beginning of the third billing period and every other billing period thereafter. It is further stated that Northern would be obligated to pay a minimum monthly bill comprised of the above-stated transportation fees multiplied by 66⅔ percent of the contract volumes and that Applicant would also retain one-half of one percent of the total voumes of gas received from Northern to cover system fuel and shrinkage.

Applicant asserts that in order to transport Northern's gas Applicant would install compressor facilities on its Dimmit County 20-inch pipeline and that in consideration for the construction and operation of such facilities, Northern has agreed to pay Applicant a monthly demand charge of $89,000 for the first billing period. It is asserted that subsequent billing period demand charges would be based upon Applicant's actual cost of service. Applicant seeks approval of this initial $89,000 demand charge and the formula for calculating subsequent demand charges pursuant to Section 284.123(b)(2) of the Commission's Regulations.

Applicant requests authorization for the proposed transportation service herein because it proposes to perform the service on a long-term basis in excess of the 2-year limitation in 18 CFR 284.122.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1981, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-963 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-197-000]

Vermont Electric Power Co., Inc.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 29, 1980, Vermont Electric Power Company, Inc. (VELCO) tendered for filing the following rate schedule and related data:

"Participation Agreement" between	Date of agreement	Substation
Central Vermont Public Service Corp. and VELCO.	Dec. 10, 1979	Blissville.
Do	do	Chelsea.
Do	do	Fairfax.
Do	do	Hartford.
Do	do	Irasburg.
Do	do	New Haven.
Do	do	St. Johnsbury.
Do	do	Windsor.
Vermont Marble Co. and VELCO.	Aug. 14, 1980	Florence.
Washington Electric Cooperative, Inc. and VELCO.	Aug. 26, 1980	Chelsea.

• VELCO states that the service to be rendered under this Rate Schedule consists of the joint use of VELCO's facilities. In each case some of the participant's facilities will be incorporated into the substation and the participant will use in common with VELCO other parts of the substation.

The estimated monthly charges under this rate schedule are as follows:

Participant	Substation	Estimated monthly carrying charge	Estimated monthly operation and maintenance charge
Central Vermont Public Service Corp.	Blissville	$451	$64
Do	Chelsea	363	36
Do	Fairfax	553	42
Do	Hartford	926	38
Do	Irasburg	317	46
Do	New Haven	1,001	23
Do	St. Johnsbury	753	80
Do	Windsor	1,299	59
Vermont Marble Co.	Florence	1,097	71
Washington Electric Cooperative, Inc.	Chelsea	353	20

Since revenues under this rate schedule will be credited to the State of Vermont under VELCO's charges to the state under the Power Transmission Contract between the State of Vermont and VELCO, there will be no change in VELCO's overall rate of return.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission.

825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commissions Rules of Practice and Procedure (18 CFR 1.9, 1.10). All such petitions or protests should be filed on or before January 26, 1981. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-984 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-190-000]

Virginia Electric and Power Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 22, 1980, Virginia Electric and Power Company (VEPCO) tendered for filing revised supplements to the contract between VEPCO and Prince William Electric Cooperative (PWEC). VEPCO states that the contract supplements have been revised to reflect a change in the delivery voltage at PWEC's Johnson, Catharpin, Smoketown, Minnieville and Wellington Delivery Points. The Cooperative is purchasing from VEPCO the substation facilities at these five delivery points.

The contract supplement for Independent Hill Delivery Point has been revised to reflect a change in protective equipment provided by VEPCO due to the Coopertive increasing the transformer capacity at this delivery point substation.

Delivery point	Present FERC No.	Proposed FERC No.	Item corrected
Johnson	83-7	To be designated by FERC	1, 4, 5. (1), (2), (3), 6, 7, 10.
Catharpin	83-24	To be designated by FERC	1, 4, 5. (1), (2), (3), 6, 7, 10.
Smoketown	83-28	To be designated by FERC	1, 4, 5. (1), (2), (3), 6, 7, 10.
Minnieville	83-11	To be designated by FERC	1, 4, 5. (1), (2), (3), 6, 7, 10.
Wellington	83-10	To be designated by FERC	1, 4, 5. (1), (2), (3), 6, 7, 10.
Independent Hill	83-1	To be designated by FERC	1, 5. (3), 10.

VEPCO states that the revised contract supplements are intended to supersede the listed FERC Rate Schedules and requests that the revised supplements be allowed to become effective on the date the sale of the substation facilities is completed. VEPCO requests that the revised Independent Hill Delivery Point supplement be allowed to become effective on the date the Cooperative completes the installation of the new transformer.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1981, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to particiapte as a party in any hearing herein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-985 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-100-000]

Panhandle Eastern Pipe Line Co., Trunkline Gas Co.; Application

January 6, 1981.

Take notice that on December 16, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-100-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Central Illinois Public Service Company (CIPSCO), an existing resale customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation and exchange agreement between the parties dated September 30, 1980, Applicants propose to transport certain volumes of natural gas for injection into CIPSCO's storage fields during the summer period and during the succeeding winter period to transport natural gas withdrawn from storage for use by CIPSCO in its Hoopeston System.

It is stated that during the summer period, April 1 through October 31, of each year of the agreement, Trunkline would receive at the existing interconnection between Trunkline and CIPSCO's Hoopeston System in Vermilion County, Illinois, and transport to Panhandle and Panhandle would transport and deliver to CIPSCO at existing points of interconnection in Pike County or Fulton County, Illinois, for injection into CIPSCO's Sciota Field or at a point of interconnection in Edgar County, Illinois, for injection into CIPSCO's Ashmore Field natural gas at a daily rate not to exceed 4,000 Mcf. It is asserted that such deliveries would be on an interruptible basis.

It is stated that during the winter period, November 1 through March 31, Panhandle would receive gas from storage at the points of delivery described above which gas would be transported to Trunkline. Trunkline, it is further stated, would deliver natural gas at a daily rate not to exceed 8,000 Mcf to CIPSCO at the existing interconnection between Trunkline and CIPSCO in Vermilion County, Illinois. It is submitted that the term of the transportation and exchange agreement is five years from the date of first delivery and from year to year thereafter.

Applicants state that CIPSCO would pay Panhandle a unit charge of 3.25 cents per Mcf transported and Panhandle would reimburse Trunkline for its portion of the transportation service.

It is further asserted that Applicants have sufficient available capacity to transport the subject gas as well as gas provided for existing customers and transported on behalf of others.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or

1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-960 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-101-000]

Panhandle Eastern Pipe Line Co., Trunkline Gas Co.; Application

January 6, 1981.

Take notice that on December 16, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-101-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) and authorizing Trunkline to transport gas for Panhandle, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation and sales agreement dated November 5, 1980, Applicants propose to transport gas purchased by Northern from Eugene Island Blocks 384 and 385, offshore Louisiana. It is stated that Trunkline would receive the gas at a point of receipt in Jefferson Davis Parish, Louisiana, through arrangements made by Northern with Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Trunkline states that it is seeking authorization herein to redeliver said gas for Northern's account at Trunkline's Longville, Louisiana, compressor station in Beauregard Parish, Louisiana. It is asserted that the subject gas would be transported from Longville to Northern in Kiowa County, Kansas, pursuant to a previously authorized blanket transportation agreement among the parties.

Applicants assert that they initially propose to transport up to 28,000 Mcf of natural gas per day for Northern, 20 percent of which Northern has agreed to sell to Panhandle. It is further asserted that Panhandle may purchase additional volumes of gas which in Northern's sole discretion may have become available. It is submitted that Northern would pay Panhandle a monthly transportation charge of $4,480 subject to a 0.67-cent per Mcf adjustment based on firm transportation of 22,400 Mcf per day. Panhandle states it would pay Trunkline for its *pro rata* share of the transportation service from the amounts paid by Northern. Northern, it is further asserted, would reimburse Trunkline 1.0 percent of the volume received for fuel usage and line losses.

It is stated that Panhandle would pay Northern for the 20 percent it purchases Northern's actual weighted average purchase price per Mcf for the respective month for such gas plus associated transportation charges paid to others to effectuate delivery to Trunkline plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries herein.

Panhandle and Trunkline state that they have entered into a transportation agreement dated December 5, 1980, which provides for the transportation by Trunkline of Panhandle's gas. Trunkline, it is asserted, would transport the subject gas to an existing point of interconnection in Douglas County, Illinois. Panhandle states it would pay Trunkline a monthly charge of $39,032 based on a firm transportation quantity of 5,600 Mcf per day with an upward or downward adjustment of 22.90 cents per Mcf. Trunkline further states it would retain 5.0 percent of the volumes received as reimbursement for fuel and line losses.

The service proposed herein, it is stated, is the most efficient and economical means of transporting Northern's offshore Gulf Coast gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-961 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3295]

South Columbia Irrigation District, et al.; Application for License (Major)

December 10, 1980.

Take notice that on August 4, 1980, the South Columbia Basin Irrigation District, East Columbia Basin Irrigation District, and Quincy-Columbia Basin Irrigation District (Applicant) filed a joint application [pursuant to the Federal

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Power Act, 16 U.S.C. Sections 791(a)–825(r)] for a major license for the unconstructed Summer Falls Project No. 3295. Correspondence with the Applicant should be directed to: Mr. Russell Smith, Secretary-Manager, South Columbia Basin Irrigation District, P.O. Box 1006, Pasco, Washington 99301.

The proposed Summer Falls Project would consist of: (1) a diversion structure across the Main Canal of the Columbia Basin Irrigation Project just upstream of Summer Falls; (2) a canal carrying water from the diversion structure to; (3) a concrete intake structure; (4) a powerhouse on the shore of Billy Clapp Lake containing two 37-MW generating units; (6) a 13.8/230-kV substation adjacent to the powerhouse; and (7) a 230-kV transmission line, approximately 2,500 feet long, leading from the powerhouse substation to a proposed switchyard where it would tie into an existing Bonneville Power Administration transmission line.

The proposed project would have a total rated capacity of 74 MW and an average annual generation of 270,000 MWh at an estimated 1982 cost of $65,386,000. Power would be marketed to the Cities of Seattle and Tacoma.

All project facilities would be constructed on U.S. owned lands administered by the Water and Power Resources Service of the Department of the Interior.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 17, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 17, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 17, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-962 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-102-000]

Southern Natural Gas Co.; Application

January 6, 1981.

Take notice that on December 17, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP81-102-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Florida Gas Transmission Company (Florida), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Florida has arranged to purchase 50 percent of the gas produced from Block 311, Mississippi Canyon Area, offshore Louisiana, from Shell Oil Company (Shell). It is further stated that Florida would take delivery of this gas on Shell's platform in Mississippi Canyon Block 311 and would transport it through its share of the capacity of existing facilities owned by Applicant and Florida to a point of interconnection at an existing subsea tap on Applicant's 18-inch pipeline in West Delta Block 89, offshore Louisiana.

Applicant proposes pursuant to a November 13, 1980, agreement to transport up to 57,500 million Btu of the subject gas per day, less 1.0 percent for compressor fuel and unaccounted-for gas, to the interconnection of existing facilities of Applicant in Washington Parish, Louisiana, or at any other existing point of interconnection which may be mutually agreeable to Applicant and Florida from time to time.

It is asserted that Florida has agreed to compensate Applicant at a rate of 21.5 cents per million Btu of gas redelivered at the point of redelivery. It is further asserted that the term of the transportation agreement is until January 1, 1991, and from year to year thereafter.

It is submitted that the proposed service would enable Florida to take delivery of an additional source of gas without having to construct and operate duplicate facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-963 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-96-000]

Texas Gas Transmission Corp.; Application

January 6, 1981.

Take notice that on December 15, 1980, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP81-96-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing natural gas service to Illinois Gas Company (Illinois Gas) under a superseding service agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to an order issued by the Illinois Commerce Commission on January 8, 1980, the petition of Illinois Gas and Eastern Illinois Gas and Securities Company (Eastern Illinois) for approval of a plan of merger under which Eastern Illinois would be merged into Illinois Gas was granted. Applicant explains that sales by Applicant to both Illinois Gas and Eastern Illinois are governed at the present time under separate service agreements both dated September 1, 1970. Applicant asserts that by letter dated April 30, 1980, Illinois Gas requested that the two contracts be combined.

Applicant, therefore, requests permission to file with the Commission a superseding service agreement between Applicant and Illinois Gas which would combine the terms and conditions and points of delivery listed in the two separate September 1, 1970, service agreements.

It is asserted that the quantity entitlements for Illinois Gas would be the combined quantity entitlements of Illinois Gas and Eastern Illinois and that the contract demand in the new agreement would be the sum of the contract demands of the two previous agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-966 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-18]

Texas Gas Transmission Corp.; Proposed Changes in FPC Gas Tariff

January 5, 1981.

Take notice that Texas Gas Transmission Corporation, on December 24, 1980, tendered for filing Thirty-Second Revised Sheet No. 7 and Third Revised Sheet No. 7-B to its FPC Gas Tariff, Third Revised Volume No. 1.

These sheets are being issued to reflect (1) changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause, and (2) changes in the Louisiana First Use Tax, pursuant to the provisions of Section 25 of Texas Gas' Tariff, as approved by Commission Order issued May 9, 1979 in Docket No. RP79-31.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-964 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-2-18]

Texas Gas Transmission Corp.; Proposed Changes in FPC Gas Tariff

January 5, 1981.

Take notice that Texas Gas Transmission Corporation, on December 24, 1980, tendered for filing Thirty-Second Revised Sheet No. 7 and Third Revised Sheet No. 7-B to its FPC Gas Tariff, Third Revised Volume No. 1.

These sheets are being issued to reflect (1) changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause, and (2) changes in the Louisiana First Use Tax, pursuant to the provisions of Section 25 of Texas Gas' Tariff, as approved by Commission Order issued May 9, 1979, in Docket No. RP79-31.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public insepction.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-965 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-453-001]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

January 5, 1981.

Take notice that on December 5, 1980, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-453-001 a petition to amend the order issued September 28, 1977,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of certain compression and appurtenant facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

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[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Petitioner states that by order issued September 28, 1977, it was authorized to construct and operate a major extension of its Southeast Louisiana gathering system from Block 66, South Marsh Island area into Blocks 130 and 132, South Marsh Island, South Addition, and into Block 331, Vermilion area, South Addition, offshore Louisiana, in order to attach substantial new gas supplies which Petitioner had contracted to purchase in these areas as well as to provide transportation services for certain other pipelines which had purchased gas in the area. Petitioner further states that in ordering paragraph (A) of the September 28, 1977, order, the Commission conditioned the grant of the authorization therein upon compliance with Section 2.65(b) of the Commission's General Policy and Interpretations.

Petitioner proposes herein to construct and operate certain compression and appurtenant facilities including a platform for such facilities to be located on the Southeast Louisiana gathering system in South Marsh Island Block 66. It is asserted that the proposed facilities would consist of one 3,480 horse power Solar Centaur gas turbine compressor unit and one 1,080 horsepower Solar Saturn gas turbine compressor unit and appurtenant facilities to be located on a new platform. The estimated cost of the proposed facilities, it is stated, is $21,100,000 which would be financed initially through short-term loans and available cash with permanent financing to be undertaken as a part of an overall long-term financing program at a later date.

It is asserted that the proposed facilities would enable Petitioner's South Marsh Island Block 130 facilities upstream from the proposed Station No. 67 to accommodate 85,700 Mcf of additional natural gas per day which are attributable to existing firm transportation and exchange arrangements and additional purchase volumes from existing sources of gas supplies in the area while allowing delivery pressures into such facilities to be at or below maximum contract levels.

Further Petitioner requests the Commission to waive the Section 2.65(b) condition and delete such condition from its September 28, 1977, order. Petitioner submits that Section 2.65 was issued in 1968 when the Outer Continental Shelf area, offshore Louisiana, began to be developed as a major source of new natural gas reserves, with an avowed purpose of discouraging duplicative facilities and to promote maximum economies of scale through joint utilization of large-diameter pipeline extensions into the offshore area.

Petitioner avers that actual experience has fully demonstrated Petitioner's ability to utilize the facilities authorized by the September 28, 1977, order to the maximum extent possible even to the point of requiring an increase in throughput capabilities. Accordingly, Petitioner requests deletion of the Section 2.65(b) condition from the September 28, 1977, order.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-967 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-95-000]

Alabama Power Co; Order Accepting for Filing and Suspending Proposed Rates, Granting Interventions, and Establishing Price Squeeze and Other Procedures

Issued January 2, 1981.

On November 5, 1980, Alabama Power Company (Alabama) tendered for filing a proposed increase in rates for firm power service to its wholesale customers.[1] The rates proposed by Alabama would result in an increase in revenues of approximately $23,434,137 (33.6%) for the twelve month period ending December 31, 1981. Alabama has stated a proposed effective date of January 4, 1981, and has requested that the Commission allow the rates to actually become effective on January 5, 1981, following a one-day suspension. Alabama has also offered an alternative proposal under which the rate increase would be placed into effect in two phases. The first phase, representing one-half of the requested rate increase, would become effective, subject to refund, on January 5, 1981, following a one-day suspension; the second phase, representing the balance of the proposed increase would be made effective, subject to refund, no later than November 1, 1981.[2] Alabama has specifically predicated its offer of a two-phased procedure on the willingness of its customers as well as the Commission to accept its proposal.

Notice of the filing was issued on November 13, 1980, with comments, protests or petitions to intervene due on or before December 1, 1980. On December 1, 1980, the Municipal Electric Utility Association of Alabama and its twelve municipal members (collectively referred to as MEUA)[3] filed a protest and petition to intervene. MEUA requests that Alabama's proposed rates be suspended for the full statutory five-month period. MEUA has also rejected Alabama's offer of a phased-in rate increase, arguing that such a procedure would have an adverse impact on Alabama's wholesale customers. MEUA has also requested that an investigation of the company's fuel adjustment clause be undertaken in this proceeding. In particular, MEUA challenges Alabama's practice of defining energy purchases from its affiliates through Southern Company central dispatching as "economic dispatch" purchases for fuel clause purposes.[4] Furthermore, MEUA questions the provision in Alabma's fuel clause which allows the company to charge its wholesle customers the full energy costs of economy energy puchases while crediting them only for the fuel component of economy energy sales. MEUA contends that this methodology results in a windfall in revenues to the company. Even assuming that Alabama's fuel clause is in compliance with the Commission's regulations, MEUA submits that under section 35.14(a)(10) of the regulations, deviations from the fuel clause regulations may be allowed where application of the regulations "would result in an undue burden." MEUA assets that application of Alabama's proposed fuel clause would impose such a burden on its customers.

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[1] See Attachment A for a list of the affected customers. Rate schedule designations for these customers are shown on Attachment B.

[2] A similar two-phased procedure was proposed by the company and accepted by the Commission in Alabama's last wholesale rate filing in Docket No. ER78-77.

[3] The municipal customers are Alexander City, Dothan, Fairhope, Foley, Lafayette, Lanett, Laverne, Opelika, Piedmont, Sylacauga, Troy, and Tuskegee, Alabama.

[4] The identical issue was raised by the petitioners in Docket No. EL78-27. That docket, which involved a motion for a declaratory order with respect to Alabama's fuel clause billings, was consolidated with Alabama's prior rate increase submittal in Docket No. ER78-77. The issue was settled on an interim basis by a settlement agreement that encompassed both dockets and which was approved by Commission order dated March 15, 1979. Article VI of the settlement agreement provided that the interim settlement of this fuel clause issue would apply "to the date the settlement rates are replaced or superseded by a rate filing *of* the company."

In addition, MEUA has raised questions concerning Alabama's rate design, its requested return on equity, and cost of service issues. MEUA has also expressed its belief that a price squeeze would result due to the magnitude of the increase sought by Alabama in this proceeding.

On December 1, 1980, the Alabama Electric Cooperative, Inc. and ten cooperative customers (collectively referred to as Cooperatives)[5] filed a joint protest and petition to intervene. Cooperatives have raised numerous issues in their pleading, including the company's treatment of leases, its requested return on equity, its inclusion in rate base of the Farly Nuclear Unit No. 2, and the company's cash working capital request. The Cooperatives also have raised issues similar to those addressed by MEUA relating to Alabama's fuel clause, and have alleged that Alabama's proposed rates may result in a price squeeze. Cooperatives conclude by requesting that the company's proposed rates be suspended for the full five-month statutory period.

In response to the petition of MEUA and Cooperatives, Alabama, on December 18, 1980, filed an answer primarily addressing two issues raised by the respective petitioners. The company first responds to the petitioners' requests that the Commission suspend Alabama's proposed rate increase for the full five month period, arguing that its filed case-in-chief clearly justifies the granting of a one-day suspension. In support of this claim the company states that a five month suspension would be an unconscionable result in light of Alabama's "severely depressed financial condition." Additionally, Alabama argues that its decision to file for an increase under the revised requirements of § 35.13 of the Commission's regulations, as encouraged by Order No. 91, "should weigh heavily as a factor in favor of the granting of a one-day suspension."

Alabama's second contention relates to the petitioners' requests for an investigation into the company's fuel clause. Alabama argues that, due to a settlement agreement in a previous docket, an investigation into the company's fuel clause can have only a prospective application beginning with the date on which the settlement rates are replaced or superseded by a rate filing of the company.

On December 10, 1980, Mr. Robert S. Crowder, a private citizen from Birmingham, Alabama, filed an untimely letter with the Commission requesting that he be accorded intervenor status in this docket. In support of his request, Mr. Crowder states that he is a retail customer of Alabama's, that he is an intervenor in Alabama's retail rate proceedings before the Alabama Public Service Commission, and that he has appealed the decisions of that commission to the Alabama Supreme Court. Mr. Crowder states that the decisions of this Commission may affect the financial integrity of the company, and therefore the reliability of the service and the cost of that service to the petitioner at his residence. Alabama, on December 19, 1980, filed an opposition to Mr. Crowder's request for intervention, arguing that, (1) the petitioner's request is untimely, and (2) Mr. Crowder, being a retail customer, has insufficient interest and status in a wholesale proceeding to warrant his intervention in this docket.

On December 24, 1980, the Commission received a petition to intervene, dated December 12, 1980, from the Attorney General of Alabama. The petition challenges several aspects of Alabama's rate filing and requests late intervention because the Attorney General did not receive notice of the filing in a timely manner.

On December 18, 1980, Alabama filed an answer in opposition to the petition to intervene of the Attorney General, asserting that it should be denied because it was untimely filed and did not comply with the Commission's regulations.

Discussion

Alabama has made its offer to phasse the proposed rate increase expressly contingent upon the agreement of its wholesale customers to such a procedure. As noted above, MEUA has refused to accept Alabama's offer of a phased-in increase. Accordingly, the Commission will not accept the company's alternative of phased-in rates.

With respect to Alabama's fuel adjustment clause, the Commission notes that the same issues as those currently raised by Alabama's customers were raised in the previous alabama rate filing which was eventually settled. Because these fuel clause issues were not decided in the previous docket, the Commission finds it appropriate to consider these matters, along with the other issues raised by the petitioners, during the evidentiary proceeding ordered below. With regard to the Company's contention that any relief resulting from an investigation into Alabama's fuel clause may only be ordered from the date of filing of the proposed rate increase, we agree. Our review of the prior settlement agreement reveals that the parties to Docket No. ER78-77 expressly agreed to the use of the present fuel clause during the period October 1, 1978 "to the date the settlement rates are replaced or superseded by a rate filing of the Company . . ." (Article VI, Settlement Agreement). As a result, any relief that may be ordered by the Commission in this docket with respect to the company's fuel clause may be given application prospectively, beginning on June 5, 1981, the effective date of Alabama's filing. The Commission finds that participation by the petitioners in this proceeding may be in the public interest. In addition, we find that, despite the contentions raised in Alabama's opposition, good cause exists to permit Robert S. Crowder and the Attorney General of Alabama to intervene out of time and that these interventions may be in the public interest. Accordingly, we shall grant each of the petitions to intervene.

We note that Alabama has utilized a calendar year 1979 Period I and a calendar year 1981 Period II. Under section 35.13 of the Commission's regulations, as currently in effect, use of 1979 data for Period I in this case would be prohibited. However, in this as well as other respects, Alabama's submittal does comply with the revised § 35.13 regulations, as adopted by Commission Order No. 91, issued June 27, 1980, in Docket No. RM79-64. In that order, the Commission encouraged electric utilities to implement the new filing methodologies and noted that waiver of the existing regulations would be granted during the 180-day period prior to the effective date of Order No. 91. We construe Alabama's filing as impliedly requesting such waiver and, accordingly, we shall waive the current filing requirements of section 35.13.

Our analysis of Alabama's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

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[5] The Cooperatives are Baldwin County, Central Alabama, Clarke-Washington, Coosa Valley, Dixie, Pea River, Pioneer, Tallapoosa, Wiregrass and Tombigbee. All but Tombigbee are members of Alabama Electric Cooperative.

In a number of suspension orders,[6] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Alabama has claimed for the first time in response to the petitions to intervene of MEUA and Cooperative, that a five-month suspension would lead to harsh results. The Commission has stated on prior occasions however, that only a preliminary finding of a clear financial emergency would serve as an independent ground for a shorter suspension period.[7] Our review of the company's filing reveals insufficient support for such a finding here. The Commission also finds that Alabama's decision to file for an increase under the revised requirements of Section 35.13 of the Commission's regulations, does not merit the granting of a shorter suspension of rates that the Commission has preliminarily found to be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on June 5, 1981.

In accordance with Commission policy established in *Arkansas Power & Light Company*, Docket No. ER79-339, order issued August 6, 1979, we shall phase the price squeeze issue in this case. This will allow a determination first to be reached on the cost of service, capitalization, rate of return, and fuel clause issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) Waiver of the current 35.13 filing requirements is hereby granted.

(B) Alabama's proposed rates are hereby accepted for filing and suspended for five months from 60 days after filing, to become effective, subject to refund, on June 5, 1981.

(C) All petitions to intervene are hereby granted subject to the rules and regulations of the Commission: *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I (1979)], a public hearing shall be held concerning the justness and reasonableness of Alabama's proposed rates.

(E) The Commission staff shall serve top sheets in this proceeding on or before January 19, 1981.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(G) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-661 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[6] *E.g., Boston Edison Co.,* Docket No. ER80-506 (August 29, 1980) (five month suspension); *Alabama Power Co.,* Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.,* Docket No. ER80-488 (August 22, 1980) (one day suspension).

[7] *Public Service Company of Colorado,* Docket No. ER80-447, issued September 15, 1980; *Boston Edison Company,* "Order Denying Rehearing", Docket No. ER80-506, issued October 29, 1980.

[Docket No. ER81-196-000]

Arizona Public Service Co.; Filing

January 5, 1981

The filing company submits the following:

Take notice that on December 29, 1980, Arizona Public Service Company tendered for filing proposed Supplement to APS-FPC Rate Schedule No. 33 for sale of non-firm energy to United States—Western Area Power Administration.

The parties request waiver under the provisions of 35.11 so that service could be commenced on December 12, 1980.

A copy of the filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-662 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-191-00]

Carolina Power & Light Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that Carolina Power and Light Company on December 22, 1980, tendered for filing changes outlined below in its agreements with the Tri-County EMC and the Randolph EMC.

1. *Tri-County EMC*—The establishment of a new point of delivery at 115 KV to be known as Falling Creek.

2. *Randolph EMC*—The change in voltage from 69 KV to 115 KV on the Spero Point of delivery.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-883 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3685-000]

City of Bakersfield and Kern Delta Water District; Application for Preliminary Permit

January 2, 1981.

Take notice that City of Bakersfield and Kern Delta Water District (Applicant) filed on November 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3685 to be known as the Carrier Canal Project located on the Kern River in Kern County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Harold Bergen, City Manager, City of Bakersfield, 1501 Truxtun Avenue, Bakersfield, California 93301. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a powerhouse containing a single 660-kW generating unit constructed as an integral part of the rebuilt Carrier Canal Headworks Structure; and (2) a short transmission line.

The Applicant estimates that the average annual energy output would be 2,530 MWh.

Purpose of Project—Project power would supplement existing electrical supplies in the project area.

Proposed Scope and Cost of Studies Under Permit—Applicant would prepare a feasibility study, secure water rights, complete environmental documentation, perform preliminary design and cost estimates for the project, prepare an application for license, and negotiate any necessary agreements for project construction and operation. Applicant estimates the cost of performing these studies at $44,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 18, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 20, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 18, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3685. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-884 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3507]

City of Santa Clara, California; Application for Preliminary Permit

January 2, 1981.

Take notice that the City of Santa Clara (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3507 to be known as East Park Dam Hydroelectric Project located at the U.S. Water and Power Resources Service's (WPRS) East Park Dam on the Little Stony Creek in Colusa County, California. The project would utilize a WPRS's dam and waters released from its East Park Reservoir for irrigation and other purposes. The application is on file with the Commission and is available for public inspection. Correspondence with the applicant should be directed to: Mr. D.R. Von Raesfeld, City Manager, City of

Santa Clara, 1500 Warburton Ave., Santa Clara, California 95050.

Project Description—The proposed project would consist of: a powerhouse containing a single generating unit with a rated capacity of 900 kW, a two mile long transmission line connecting the powerhouse to an existing Pacific Gas and Electric Company's 21-kV transmission line west of the powerhouse, and appurtenant facilities.

The Applicant estimates that the average annual energy output would be 2.2 million kWh.

Purpose of Project—Project energy would be used to serve the Applicant's electric service area.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with WPRS and other Federal, State and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $175,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 18, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 20, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR §4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or §1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 18, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3507. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-865 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-182-00]

Otter Tail Power Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 18, 1980, Otter Tail Power Company (Otter Tail) submitted for filing an agreement between Otter Tail and the City of Ortonville, Minnesota (Ortonville).

The agreement provides for connection and distribution services to be provided by Otter Tail. Otter Tail contends that this filing is being made without prejudice to its position that the agreement and its provisions for service are not within the jurisdiction of the Commission.

Otter Tail further submits that no detailed cost of service studies have been performed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-866 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-196-000]

Puget Sound Power and Light Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that Puget Sound Power and Light Company (Puget Power), on December 30, 1980, tendered for filing a change in rates applicable to electric service rendered to ten wholesale customers under its existing Wholesale for Resale Power Contracts. Puget's filing would change both of its wholesale rate schedules, one for large customers and the second for small customers. Puget Power states that the proposed changes would increase revenues for the ten wholesale customers by $314,838 based on the 12-month period ending December 31, 1979.

Puget Power states that the reason for the proposed change in rates is that its wholesale expenses have grown significantly, while revenues have failed to keep pace since the time of the last rate change.

Copies of the filing were served upon Puget's wholesale customers and upon the Washington Utilities and Transportation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-887 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EF81-4051]

Southwestern Power Administration; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 11, 1980, the Assistant Secretary for Resource Applications of the Department of Energy (Assistant Secretary) did confirm and approve, on an interim basis, effective January 1, 1981, Rate Order No. SWPA-7.

Rate Order No. SWPA-7 provides for the transmission and/or displacement of non-Federal power and energy pursuant to Rate Schedule TDC-2.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-888 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-121]

Utah Power and Light Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 22, 1980, Utah Power and Light Company submitted for filing a copy of its wholesale accounts, including an indication of the amount of revenue subject to refund. Said filing is in compliance with Part 36.19a of the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-889 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-189-000]

Vermont Electric Power Co., Inc.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 22, 1980, Vermont Electric Power Company, Inc. (VELCO) tendered for filing an amendment to the following rate schedule:

> Ontario Hydro Power and Transmission Contract dated November 15, 1979, between VELCO and the Village of Enosburg Falls Water and Light Department, Village of Hardwick Electric Department, Village of Ludlow Electric Department, Village of Morrisville Water and Light Department, Village of Stowe Water and Light Department, Village of Swanton and Washington Electric Cooperative, Inc. for the period November 15, 1979, through September 30, 1980.

The purpose of the amendment is to change the termination date of the contract from September 30, 1980 to December 2, 1980. The amendment became effective as of October 1, 1980. All other terms and conditions of the contract remain unchanged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-890 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53020; TSH-FRL-1723-4]

Premanufacture Notices; Monthly Status Report for November 1980

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the Federal Register at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for November 1980.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on a specific chemical substance.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–210, 401 M St., SW.; Washington, DC 20460 (202–426–3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)) requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558) and the notice of availability of the Revised Inventory was published on July 29, 1980 (45 FR 50544). The requirement to submit PMN's for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979. EPA has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the end of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances that EPA has added to the Inventory during the month. Therefore, EPA is publishing the November 1980 PMN Status Report.

Interested persons may submit written comments on the specific chemical substance no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room. E–447, 401 M St., SW., Washington, DC 20460. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–53020]" and the specific PMN number. Nonconfidential portions of the PMN's written comments received on individual PMN's, and other documents in public record may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Dated: January 6, 1981.

Edward A. Klein,

Director, Chemical Control Division.

Premanufacture Notices Monthly Status Report for November 1980

PMN No.	Identity and generic name	FR citation	Expiration date
	I. Premanufacture Notices Received During the Month		
80–313	2-Chloro-2-sulfopropionic acid	In preparation	Feb. 2, 1981.
80–314	2,4-Bis[(4-(*N*-cyano-N-phenylsulfonylamino)phenyl)methyl]-*N*-cyano-*N*-phenylsulfonylbenzenamine; 4,4'-methylenebis(*N*-cyano-*N*-phenylsulfonylbenzenamine; 4,4'-methylenebis [2-[(4-(*N*-cyano-*N*-phenylsulfonylamino)pheny-methyl)-*N*-cyano-*N*-phenylsulfonylbenzenamine].	do	Feb. 1, 1981.
80–315	4,4'-Methylenebis(*N*-cyanobenzenamine); 2,4-bis[(4-(*N*-cyanoamino)phenyl)methyl]-*N*-cyanobenzenamine; 4,4'methylenebis [2-[(4-*N*-cyanoamino)phenyl)methyl]-*N*-cyanobenzenamine].	do	Do.
80–316	Generic name: Dialkyltin-diricinoleate	do	Feb. 2 1981.
80–317	Generic name: Polymer of modified resin esters and mixed oils.	do	Feb. 3, 1981.
80–318	Dimethyl diallyl ammonium chloride-acrylamide-potassium acrylate terpolymer.	do	Feb. 5, 1981.
80–319	Generic name: Salt form of acrylic acid-acrylate copolymer	do	Do.
80–320	Vanadic acid, tris(2-methylpropyl)ester	do	Do.
80–321	Generic name: Polymer of an alkyl acrylate, an alkyl methacrylate, and a saturated cyclic methacrylate.	do	Feb. 10, 1981.
80–322	Generic name: Polymer of epoxidized soybean oil benzoic acid.	do	Do.
80–323	Generic name: Acrylic emulsion	do	Do.
80–324	Generic name: Poly (allyl ether) hydroxy alkyl ester	do	Feb. 11, 1981.
80–325	Generic name: Chromophore substituted poly (oxyethylene)	do	Feb. 15, 1981.
80–326	Generic name: Chromophore substituted poly (oxyethylene)	do	Do.
80–327	Generic name: Toluene diisocyanate blocked prepolymer	do	Do.
80–328	Generic name: Unsaturated melamine formaldehyde methanol resin.	do	Feb. 16, 1981.
80–329	Generic name: Salt of fatty acid dimer	do	Do.
80–330	Amino Alcohol	do	Feb. 18, 1981.
80–331	Methacrylic fatty acid adduct	do	Feb. 19, 1981.
80–332	Soya fatty ester	do	Feb. 22, 1981.
80–333	Polymer of: Substituted alkanediol, alkanedioic acid, and alkenedioic acid.	do	Do.
80–334	Polymer of: Alkanediol, alkanedioic acid, and alkenedioic acid.	do	Do.
80–335	Polymer of: Substituted alkanediol, alkanedioic acid, and alkenedioic acids.	do	Do.
80–336	1,2,4-Substituted anthraquinone	do	Do.
80–337	Acrylamid-methacrylic copolymer	do	Feb. 23, 1981.
80–338	Salt form of acrylic acid-acrylate copolymer	do	Feb. 22, 1981.
80–339	Salt form of acrylic acid-acrylate acrylate copolymer	do	Do.
80–340	Polymer diol, monocarboxylic acid diol, diamine, and a diisocyanate.	do	Feb. 24, 1981.
	II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month		
80–239	2,2,4-Trimethyl-1,3-pentanediol, trimethylolpropane, succinic anhydride, adipic acid, isophthalic acid.	45 FR 63919 (9/26/80)	Dec. 2, 1980.
80–240	Generic name: Ethene-alkene-vinyl carbonyl amine polmer	45 FR 65030 (10/1/80)	Dec. 1, 1980.
80–241	Generic name: Polyurethane polyacrylic polymer	45 FR 63345 (9/24/80)	Dec. 3, 1980.
80–242	*N*(2-Hydroxypropyl)-*N*-tris(5-hydroxy-2-oxopentyl)-amonium acitate.	45 FR 64245 (9/29/80)	Dec. 4, 1980.
80–243	2,2,4-Trimethyl-1,3-pentanediol, trimethylolpropane, succinic anhydride, trimellitic anhydride, adipic acid, and isophthalic acid.	45 FR 65033 (10/1/80)	Dec. 7, 1980.
80–244	1-Nitronaphthaline-6-sulfonic acid, potassium salt	45 FR 65029 (10/1/80)	Do.
80–245	1-Nitronaphthaline-7-sulfonic acid, potassium salt	do	Do.
80–246	Generic name: Disubstituted heptadecane	45 FR 65032 (10/1/80)	Do.
80–247	Generic name: Aliphatic diol	do	Do.
80–248	Azelaic acid, 1,4-cyclohexanedimethanol, dimer acid, dimethylol propionic acid, methylene-bis (cyclohexyl isocyanate), neopentyl glycol, trimethylolpropane polmer.	45 FR 65033 (10/1/80)	Dec. 8, 1980.
80–249	Generic name: Aliphatic polyurethane waterborne dispersion	45 FR 65034 (10/1/80)	Dec. 9, 1980.
80–250	Propylene glycol, ethylene glycol terephthalic acid polymer, phthalic anhydride, and maleic anhydride.	45 FR 65664 (10/3/80)	Dec. 11, 1980.
80–251	Generic name: Carbomonocyclic, carbopolycyclic polyester	45 FR 69293 (10/20/80)	Do.
80–252	Generic name: Acryloxyethylheteromonocycle	45 FR 67449 (10/10/80)	Dec. 15, 1980.
80–253	Coconut fatty acids, benzoic acid, isophthalic acid, neopentyl glycol, propylene glycol.	45 FR 67450 (10/10/80)	Do.
80–254	Generic name: Dimer fatty acid polyamide	do	Do.
80–255	1-Octanamine, *N*, *N*-dimethyl-, phosphate salt	45 FR 67751 (10/14/80)	Dec. 16, 1980.
80–257	Generic name: Unsaturated branched chain hydrocarbon having 10 carbon atoms.	45 FR 67761 (10/14/80)	Dec. 17, 1980.

II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

80-258	Generic name: Unsaturated branched chain ketone having 12 carbon atoms.	do.	Do.
80-260	Generic name: Neutralized polymer of styrene, alkyl acrylates, and substituted alkyl methacrylates.	45 FR 69293 (10/20/80)	Dec. 18, 1980.
80-261	Polymer of: Palm oil, coconut oil pentaerythritol, benzoic acid, phthalic anhydride, and maleic anhydride.	45 FR 71419 (10/20/80)	Dec. 21, 1980.
80-262	Generic name: Fatty acids, esters with polyols	45 FR 71418 (10/28/80)	Do.
80-263	Linseed oil, styrene, glycerine, toluene diisocyanate	45 FR 73130 (11/4/80)	Dec. 22, 1980.
80-264	Benzenamine, [*N*-(1-methylhexylidene)-*N*N'-(1-methyl butylidene)-4,4-methylene bis].	45 FR 73127 (11/4/80)	Dec. 25, 1980.
80-265	Generic name: Di (substituted alkyl) carbomonocyclic dicarboxylate.	45 FR 73125 (11/4/80)	Do.
80-266	Generic name: Polymer of alkanedioic acids, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 2,2-dimethyl-1,3-propanediol.	do.	Do.
80-267	Generic name: Substituted phenol, reaction products with sulfur chloride.	45 FR 72785 (11/3/80)	Dec. 28, 1980.
80-268	Generic name: Esterified polyamic acid	45 FR 70107 (11/22/80)	Do.
80-269	Generic name: Dineoalkyl ester of glycerine	45 FR 74558 (11/10/80)	Do.
80-270	Polymer of glycidyl methacrylate, hydroxy propyl methacrylate, 12-hydroxystearic acid, methacrylic acid, methyl methacrylate polmer.	do.	Do.
80-272	*N*-Methyl-*N*-glucitylstearoylamide	45 FR 73128 (11/4/80).	Jan. 1, 1980.
80-273	Amines, C_{10-14} alkyldimethyl, phosphate salt	do.	Do.
80-275	Polymer of: Tall oil fatty acid, isophthalic acid, trimethylol propane, trimellitic anhydride, methyl methacrylate, ethyl acrylate, methacrylic acid, hydroxy ethyl methacrylate.	45 FR 73132 (11/4/80).	Jan. 4, 1981.
80-276	Generic name: Styrene acrylic polymer	45 FR 71415 (10/28/80).	Do.
80-277	Generic name: Modified terpolymer of mixed alkyl acrylates	do.	Do.
80-278	Generic name: Modified copolymer of mixed alkyl acrylates	45 FR 71415 (10/28/80).	Do.
80-279	Polymer of: 2,2-Dimethyl 1,3-propanediol; 2,2,4-trimethyl 1,3-pentanediol isophthalic acid; and fumaric acid.	45 FR 73128 (11/4/80).	Jan. 5, 1981.
80-280	Generic name: Hydrogen zeolites	45 FR 74562 (11/10/80).	Jan. 7, 1981.
80-281	Polymer of: Propylene glycol, neopentyl glycol, isophthalic acid, Empol 1022 dimeric fatty acid, trimellitic anhydride polymer.	45 FR 73131 (11/4/80).	Jan. 8, 1981.
80-282	Aminoalkanol salt, as a 25% aqueous solution	45 FR 75752 (11/17/80).	Jan. 12, 1981.
80-283	Generic Name: Styrene methacrylate acrylate polymer	45 FR 74993 (11/13/80).	Jan. 13, 1981.
80-284	Generic name: Polymer of alkanediols and carbomonocyclic anhydrides.	45 FR 75752 (11/17/80).	Jan. 14, 1981.
80-286	*N*(4-Diazo phenyl) morpholine hexafluorophosphate	45 FR 74993 (11/13/80).	Jan. 19, 1981
80-287	Polymer of: Tall oil fatty acid, isophthalic acid, terephthalic acid, pentaerythritol, benzoic acid, and trimethylol propane.	45 FR 77125 (11/21/80).	Do.
80-288	Polymer of: Soybean oil, pentaerythritol, isophthalic acid, benzoic acid, terephthalic acid.	do.	Do.
80-289	Amines, isopropyl, distillation residues	45 FR 75750 (11/17/80).	Jan. 21, 1981.
80-290	Amines, ethyl, distillation residues	do.	Do.
80-291	Polymer of: Epoxy resin, bisphenol A, paraformaldehyde, dibutylamine, and diethanolamine.	45 FR 79150 (11/28/80).	Do.
80-292	Generic name: Disubstituted carbopolycyclic derivative	do.	Do.
80-293	Generic name: Dimethyl alkylmethyl silicone glycol copolymer.	45 FR 79157 (11/28/80).	Jan. 25, 1981.
80-294	Generic name: Siloxane, alkoxylated aminoalkyl	do.	Do.
80-295	Generic name: Disubstituted nitrobenzene	45 FR 78791 (11/26/80).	Do.
80-296	Generic name: Ethyl, substituted, (((sulfopropyl) heteropolycyclic) methyl) alkenyl heteropolycycle.	do.	Do.
80-297	Generic name: Ethyl, substituted, methylheteropolycycle tosylate.	do.	Do.
80-298	Generic name: Substituted, methylheteropolycycle	do.	Do.
80-299	Generic name: Disubstituted benzene	do.	Do.
80-300	Generic name: Bis(Nitro, substituted phenyl)substituent	do.	Do.
80-301	Cyclohexane, 1,1'-methylene bis [4-isocyanato-, reaction products with 1,3-isobenzofurandione, polymer with 1,6-hexanediol, alpha-hydro-omega-hydroxypolyoxy[1,4-butanediyl], and (2-hydroxyethyl)-2-propenoate.	45 FR 79152 (11/28/80).	Do.
80-302	Generic name: Modified Polyester based on carbomonocyclic anhydride and alkanediols.	45 FR 80354 (11/4/80).	Jan. 26, 1981.
80-303	Generic name: Substituted alkyl peroxycarbonate	45 FR 80351 (12/4/80).	Jan. 27, 1981.
80-304	Generic name: Alkyl substituted chlorocarbonic acid	do.	Do.
80-305	Generic name: Elastomeric urethane	In preparation	Jan. 26, 1981.
80-306	Generic name: Urea/carbamate lacquer	do.	Jan. 27, 1981.
80-307	Polymer of tall oil fatty acids, neopentyl glycol, trimethylol ethane, phthalic anhydride.	do.	Do.
80-310	Butanenitrile, 2-methyl, 2,2'-azobis	45 FR 80350 (12/4/80).	Jan. 28, 1981.
80-311	Butanenitrile, 2-methyl, 2-amino	In preparation	Do.
80-312	*N*-Isocyanatotolyl-abietamide	do.	Do.

III. Premanufacture Notices for Which the Review Period Has Ended During the Month: (Expiration of the notice review period does not signify that the chemical has been added to the Inventory)

80-189	Bisphenol A-epoxy resin, 1,4-butanediol, para amino benzioc acid, and phthalic anhydride polymer.	45 FR 54854 (8/18/80).	Nov. 2, 1980.
80-190	Copolymer from dimethyl terephthalate, alpha, omega-hydroxy terminated aliphatic hydrocarbons; and a polyalkylene glycol.	45 FR 56429 (8/25/80).	Do
80-191	Polymer of: Methylene bis (4-4-cyclohexyl isocyanate), poly propylene glycol, hydroxy ethyl acrylate, and polyoxy propylene diamine.	45 FR 59196 (9/8/80).	Nov. 3, 1980.
80-192	Generic name: Very short oil non-oxidizing alkyd resin	45 FR 58201 (9/2/80).	Do.
80-193	Neopentyl glycol, 1,6-hexanediol, adipic acid, phthalic anhydride, and trimellitic anhydride.	45 FR 58194 (9/2/80).	Do
80-194	2,2,4-Trimethyl-1,3-pentanediol, 1,6-hexanediol phthalic anhydride.	do	Do.
80-195	Generic name: Substituted alkyl oxamide	do	Do.
80-196	Generic name: Trimethyl monocyclic ethyl alkenal	45 FR 59196 (9/8/80)	Nov. 5, 1980.
80-197	Generic name: Trimethyl monocyclic ethyl alkenol	do	Do.
80-198	Generic name: Styrene acrylic terpolymer	45 FR 58194 (9/2/80)	Nov. 6, 1980.
80-199	Generic name: Methyl aminoheteropolycycle	45 FR 60003 (9/11/80).	Do.
80-200	Generic name: 1-Substituted-1-(*p*-substitutedphenyl)ethane	do	Do.
80-201	Generic name: 1-Substituted-1-(4-(substituted<heteromonocyclic)phenyl)ethane.	do	Do.
80-202	Generic name: 1-Substituted-1-(4-(substituted<heteromonocyclic)phenyl)ethane.	do	Do.
80-203	Generic name: *p*-(Methylsubstituted) (substitutedbenzene), triethylammonium salt.	do	Do.
80-204	Generic name: 1-Substituted-4-(methyl-substituted) benzene.	do	Do.
80-205	Generic name: 1-Methylsubstituted)-4-(substituted<heteromonocyclic)benzene.	do	Do.
80-208	2-Oxepanone, polymer with 1,4-butanediol, 1,3-diisocyanatomethyl benzene, and (2-hydroxyethyl)-2-propenoate.	45 FR 59200 (9/8/80).	Nov. 9, 1980.
80-209	Generic name: Bis(1-polyamino-2-alkyl imidazoline)	45 FR 60006 (9/11/80).	Nov. 11, 1980.
80-210	Generic name: Bis(1-polyamino-2-alkyl imidazolene)	do	Do.
80-211	Generic name: Polytetramethylene glycol, aliphatic polyglycol, and alkyl diisocyanate.	do	Do.
80-212	Generic name: Adduct of polytetramethylene glycol, aliphatic polyglycol, aliphatic diisocyanate, and an alkyl diisocyanate.	do	Do.
80-213	Generic name: Halogenated copolyester resin	45 FR 60006 (9/11/80)	Nov. 16, 1980
80-214	Generic name: Polyester of aliphatic polyols and aromatic [illegible].	45 FR 60009 (9/11/80)	Do.
80-215	Generic name: Styrene-acrylate copolymer	45 FR 61023 (9/15/80)	Nov. 17, 1980
80-216	Generic name: Methyl fatty acid ester	45 FR 61021 (9/15/80)	Do.
80-217	Generic name: Aromatic trisazo dye	do	Nov. 18, 1980.
80-218	Generic name: Aromatic trisazo diester dye	do	Do.
80-219	Generic name: An aliphatic ester	45 FR 62194 (9/18/80)	Do.
80-220	Generic name: Polybasic acid ester of mixed short alkyl mono alcohol and a polyol.	45 FR 62985 (9/22/80)	Nov. 19, 1980.
80-221	Cyclohexanecarbonitrile, 1,1-azobis	45 FR 62195 (9/18/80)	Nov. 24, 1980.
80-222	Cyclohexanecarbonitrile, 1-amino	do	Do.
80-223	Polymer of: 1,6-Hexanediol, terphthalic acid, neopentyl glycol, trimelletic anhydride, adipic acid, and isophthalic acid.	45 FR 61019 (9/15/80)	Do.
80-224	Polymer of: Isophthalic acid, (tall fatty acid, trimelletic anhydride, terephthalic acid, neopentyl glycol, and trimethyl propane.	do	Do.
80-225	Generic name: Mono di, and tri esters of polybasic acids	45 FR 62985 (9/22/80)	Do.
80-226	Dimethyl 1,4-cyclohexanedicarboxylate, maleic anhydride, neopentyl glycol phthalic anhydride, trimethylol ethane polymer.	45 FR 61022 (9/15/80)	Nov. 19, 1980.
80-227	Benzoic acid fatty acids C_{14-18} unsaturated, maleic anhydride,and pentaerythritol polymer.	do	Nov. 24, 1980.
80-228	Benzene propanoic acid, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-(1,2-dioxo-1,2-ethanediyl) bis (imino-2, 1-ethandiyl) ester.	45 FR 62194 (9/18/80)	Do.
80-229	Generic name: Dichloro dimethoxy diethyl amino, azobenzene, sodium salt.	45 FR 62987 (9/22/80)	Do.
80-230	Generic name: Fatty acid ester	45 FR 62898 (9/22/80)	Nov. 25, 1980.
80-231	Napthalene, 1,2,3,4-tetrahydro-1,2,4,4-tetramethyl	45 FR 62197 (9/18/80)	Nov. 26, 1980.
80-232	2-Napthalene ethanol, 5,6,7,8-tetrahydrobeta, 5,5,8,8-penta methyl.	45 FR 65664 (10/3/80)	Do.
80-233	Polymer of adipic acid, benzoic acid, neopentyl glycol, phthalic anhydride, propylene glycol, trimethylol ethane, tall oil fatty acids.	45 FR 65662 (10/3/80)	Do.
80-234	Adipic acid, dimethyl 1,4-cyclohexane dicarboxylate, maleic anhydride, neopentyl glycol, phthalic anhydride, trimellitic anhydride, trimethylol ethane polymer.	45 FR 63343 (9/24/80)	Nov. 27, 1980

IV. New Substances Added to the Inventory During the Month

PMN No.	Manufacturer	Chemical identity	FR citation
80-33	Sherwin Williams Company	Generic name: Vegetable oil fatty acid ester.	45 FR 23510 (4/7/80).
80-38	Claims confidential business information (CBI)	Generic name: Alkyl ammonium salt of a halogen oxyacid.	45 FR 23511 (4/7/80).
80-39	CBI	Generic name: Nitrogen base salt of an inorganic oxidizing acid.	45 FR 23511 (4/7/80).
80-103	Monsanto	Polymer of: Styrene maleic anhydride methyl methacrylate.	45 FR 41063 (6/17/80).
80-109	CBI	Generic name: 3-(1-Amino-2-sulfo-4-anthraquinonyl-amino)-benzene sulfon-3-substituted anilide.	45 FR 41063 (6/17/80).
80-144	Spencer Kellogg, Division of Textron	Generic name: Amine extended α-ω hydroxy-poly [oxy-(methyl-1,2-ethanediyl)] polymer with 1,3-diisocyanatomethylbenzene §45 FR 49149. (7/23/80)...	
80-179	du Pont de Nemours	Generic name: Polymer of mixed alkyl acrylates.	45 FR 53805 (8/13/80).
80-187	CBI	Generic name: 1-Amino-4-substituted-9,10-dihydro-9-10-dioxo-2-anthracenesulfonic acid, monosodium salt.	45 FR 54854 (8/18/80).

[FR Doc. 81-930 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51196; TSH-FRL 1723-8]

Diisodecyl Dimerate; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences.

Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by January 30, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is addded to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before January 30, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51196]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 6, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-342

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 1, 1981.

Manufacturer's Identity. Emery Industries, Inc., 4900 Este Avenue, Cincinnati, OH 45232.

Specific Chemical Identity. Diisodecyl dimerate.

Use. Lubricant base stock.

Production Estimates.

	Kilogram per year	
	Minimum	Maximum
1st year	45,450	227,270
2d year	45,450	227,270
3d year	45,450	227,270

Physical/Chemical Properties.

Acid value—1.6 maximum.

Hydroxyl value—5.0 maximum.

Viscosity at 210°F—17.0–17.6 centistokes.

Viscosity at 100°F—131–137 centistokes.

Flash point—585°F minimum.

Toxicity Data. No data were submitted on diisodecyl dimerate. The manufacturer states that the raw materials are low in toxicity based on LD_{50} data.

Exposure

Activity exposure route(s)	Maximum Number exposed	Maximum duration		Concentration	
		Hours/day	Days/year	Average	Peak
Manufacturing: Dermal	2-3	8	12		
Disposal: Dermal	1-2	2	12		

The manufacturer states that exposure will occur only when workers remove samples from the reactor to observe progress of reaction, and by accidental spillage during packaging of final product.

Environmental Release/Disposal. The manufacturer states that byproduct water to sewer would contain a trace of isodecyl alcohol. Release to landfill would be a non-hazardous mixture of dicalite filter aid and product.

[FR Doc. 81-934 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-31-M

[OPP-50512; PH-FRL 1724-1]

Elanco Products Co.; Extension of Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has issued an extension of an experimental use permit to the following applicant. Such permits are in accordance with and subject to the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-351, 401 M St. SW., Washington, D.C. 20460 (202-755-1397).

1471-EUP-63. Elanco Products Co., PO Box 1750, Indianapolis, IN 46206. This experimental use permit allows the use of 1,343 gallons of the active ingredient ethalfluralin *N*-[ethyl-*N*-(2-methyl-2-propenyl)]-2,6-dinitro-4-(trifluoromethyl) benzenamine] on seed and pod vegetables, and peanuts to evaluate control of weeds. A total of 2,579 acres are involved. This program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and Utah. This permit is effective from April 16, 1981, to April 16, 1982. Temporary tolerances for the residues of the active ingredient in or on seed and pod vegetables, forage legumes, peanuts, and peanut hulls have been extended.

Persons wishing to review the experimental use permit are referred to the Product Manager. Inquiries regarding this permit should be directed to the person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: January 5, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-935 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-32-M

[OPP-50448A; PH-FRL 1724-2]

Shell Chemical Co.; Issuance of Experimental Use Permit; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice amends experimental use permit 201-EUP-65 for use of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzenacetate on celery to evaluate control of various insects.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-341, 401 M St. SW., Washington, D.C. 20460 (202-755-1150).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of January 11, 1980 (45 FR 2390) that Shell Chemical Co., Washington, D.C. 20036 had been issued an experimental use permit for use of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate on celery to control various insects.

This amendment increases the acreage from 180 to 190 acres. The program is authorized only in the States of California, Florida, Michigan, and New York. The program is effective from November 6, 1979 to November 6, 1981.

Persons wishing to review the experimental use permit are referred to the product manager. Inquiries regarding this permit should be directed to the person given above. It is suggested that interested persons call before visiting the EPA headquarters office so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: January 5, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-936 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51197; TSH-FRL 1723-6]

Acryliamid-Methacrylic Copolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by January 24, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, DC 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before January 24, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51197]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 5, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-337:

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period:

February 23, 1981.

Manufacturer's Identity:

Abcor, Incorporated, 850 Main Street, Wilmington, MA 01887.

Specific Chemical Identity:

Claimed confidential business information. Generic name provided: Acrylamid-methacrylic copolymer.

Use:

The manufacturer states that the new polymeric material is cast into thin films, which are then fabricated into suitable shapes to fit mechanical equipment(s) designed for housing them.

Production Estimates:

Claimed confidential business information.

Physical/Chemical Properties:

The manufacturer states that the new substance is nonvolatile and nonsoluble in water.

Toxicity Data:

No data were submitted.

Exposure:

No data were submitted.

Environmental Release/Disposal.

The manufacturer states that polymeric membranes which are no longer useful will be returned by customers to Abcor for disposal in accordance with the Resource Conservation Recovery Act (RCRA).

[FR Doc. 81-932 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-31-M

[OPP-30195; PH-FRL 1723-5]

Certain Pesticide Products; Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register certain pesticide products containing new active ingredients.

DATE: Comments must be received on or before February 11, 1981, and should bear a notation indicating the EPA registration number.

ADDRESS: Written comments to the Product Manager cited in each application at the address below: Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: The Product Manager given in each specific application.

SUPPLEMENTARY INFORMATION: EPA gives notice that certain companies have submitted applications to register pesticide products containing new active ingredients. These applications are made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162.6). Notice of receipt of these applications does not indicate a decision by the agency on the applications.

EPA File Symbol 10392-U. Sterwin Labs. New York, N.Y. Product Name: Tetra-sect Powder, containing the new active ingredient Erythrosine B at 100 percent. The application proposes that the product be classified for general use to control house flies in poultry manure in caged layer facilities. (PM-15, George T. LaRocca, Rm. E-329, 202-426-9490).

EPA File Symbol 40810-E. Ciba-Geigy Corp., Ardsley, NY 10502. Product Name: Belclene 310, containing the new active ingredient 2-(methylthio)-4-(ethylamino)-6-[1,2-dimethylpropyl)amino]-*s*-triazine at 96 percent. The application proposes that the product be classified for general use for use only by manufacturers of cooling tower formulations. (PM 23, Richard F. Mountfort, Rm. E-351, 202-755-1397).

Interested persons are invited to submit written comments on the applications referred to in this notice.

Notice of approval or denial of these applications will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act as amended, and the regulations thereunder, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

(Sec. 3(c), 86 Stat. 972, (7 U.S.C. 136a))

Dated: January 5, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-931 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51198; TSH-FRL1723-7]

N,N'-Nonanedioyl-Bis [3,4,5,6-Tetrahydro-2(1H)Pyrimidinone]; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by January 30, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460 (202-426-3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an admended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before January 30, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51198]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 6, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-341:

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period:

March 1, 1981.

Manufacturer's Identity:

The Upjohn Co., 7000 Portage Road, Kalamazoo, MI 49001.

Specific Chemical Identity:

N,N'-Nonanedioyl-bis [3, 4, 5, 6-tetrahydro-2(1*H*)pyrimidinone].

Use

Power coatings	30 percent of production.
Solvent-based coatings	40 percent of production
Polyurethanes	30 percent of production.

Production Estimates

	Kg/yr	
	Minimum	Maximum
1981	300	600
1982	600	1,200
1983	1,200	

Physical Properties

Melting point	98–101°C.
Solubility	Very soluble in polar solvents; insoluble in water

Toxicity Data.

Acute oral LD_{50} (male and female rats)—>5.0 g/kg.

Primary eye irritation (albino rabbits)—Mild irritant.

Dermal irritation (albino rabbits)—Non-irritant.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration	
		Hours/day	Days/year	Average	Peak
Processing: Inhalation, Dermal	No data were submitted.				0–1
Manufacture: Dermal, Inhalation	4	8	30		1–10

Environmental Release/Disposal. The manufacturer states that less than 10 kilograms of the PMN substance will be released to the environment per year; waste material will be disposed of by landfill.

[FR Doc. 81-933 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-31-M

[RCRA Section 3010 Public Notice; SWH-FRL 1723-1]

Notification to EPA of Hazardous Waste Activities; Availability of Information

January 6, 1981.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of information.

SUMMARY: The Environmental Protection Agency (EPA) announces that a report will be published at the end of January 1981 titled *Notification to EPA of Hazardous Waste Activities.* The report is a compilation of information EPA received during the period of May 19, 1980 to November 19, 1980 from persons who complied with the requirements of § 3010 of the Resource Conservation and Recovery Act (RCRA) and notified EPA that they were involved in hazardous waste activity. The report contains information from approximately 56,000 notifiers including generators and transporters of hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities. The report has ten volumes, one volume for each of EPA's ten regions. You may purchase the report form the Government Printing Office.

FOR FURTHER INFORMATION CONTACT: For additional information on the availability of this report contact the public Information and Participation Branch, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 755-9157.

For additional information on the content of this report contact Arthur Glazer, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 755-9150.

SUPPLEMENTARY INFORMATION: Section 3010 of the Resource Conservation and Recovery Act of 1976 (RCRA) requires any person who generates or transports hazardous waste or who owns operates a facility for the treatment, storage, or disposal of hazardous waste to notify EPA of their hazardous waste activity within 90 days of the promulgation or revision of regulations under Section 3001 of RCRA for identifying or listing hazardous waste. EPA promulgated regulations under Section 3001 of RCRA on May 19, 1980, and published revisions to those regulations on July 16, 1980. EPA received approximately 59,000 notification forms during the period of May 19, 1980 to November 19, 1980. This report contains information from approximately 56,000 of these. Several hundred notifiers requested that their information be held confidential. The Agency is still processing some of these requests, and has not included the information from these notifiers in this report. The Agency did not process the remaining 2,600 or so notifications in time to include information from them in this report. The notification forms asked for the following items of information: name and location of the hazardous waste facility, the type of activity (i.e., generate, transport, treat, store, or dispose of hazardous waste), a listing of the hazardous wastes which the facility handles, the name of the owner of the facility, whether or not the facility is Federally or privately owned, and whether or not there is an underground injection well located at the facility.

You may purchase the report form the Government Printing Office in Washington, D.C. by writing to the Superintendent of Documents, U.S. GPO, Washington, D.C. 20402, or by calling (202) 783-3238. You may also purchase the report from the Government Printing Office bookstores throughout the country. The following list contains the title, area covered, stock number, and cost of each volume.

Title	Area covered	Stock No. and cost
Notification to EPA of Hazardous Waste Activities, Region 1.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	055-000-00200-2; $10.
Notification to EPA of Hazardous Waste Activities, Region 2.	New Jersey, New York, Virgin Islands, Puerto Rico.	055-000-00201-1; $12.
Notification to EPA of Hazardous Waste Activities, Region 3.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.	055-000-00202-9; $11.
Notification to EPA of Hazardous Waste Activities, Region 4.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	055-000-00203-7; $14.
Notification to EPA of Hazardous Waste Activities, Region 5.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	055-000-00204-5; $14.
Notification to EPA of Hazardous Waste Activities, Region 6.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	055-000-00205-3; $14.
Notification to EPA of Hazardous Waste Activities, Region 7.	Iowa, Kansas, Missouri, Nebraska	055-000-00206-1; $8.50.
Notification to EPA of Hazardous Waste Activities, Region 8.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	055-000-00207-0; $8.50.

Title	Area covered	Stock No. and cost
Notification to EPA of Hazardous Waste Activities, Region 9.	Arizona, California, Hawaii, Nevada, Guam, American Samoa, Commonwealth of the Northern Marianas.	055-000-00208-8; $10.
Notification to EPA of Hazardous Waste Activities, Region 10.	Alaska, Idaho, Oregon, Washington	055-000-00209-6; $8.50.

Dated: January 6, 1981.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste (WH-562).

[FR Doc. 81-928 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-30-M

[SA-FRL 1723-2]

Science Advisory Board, Executive Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Executive Committee of the Science Advisory Board. The meeting will be held January 28-29, 1981, starting at 9:15 am of each day, in Room 1101 West Tower, EPA Headquarters, 401 M Street, SW, Washington, D.C.

The agenda for the meeting will include a briefing/discussion with the co-chairmen of the Drinking Water Research Committee, status report of the Research Outlook Subcommittee, status report on Pollution Control Guidance Documents for emerging synthetic fuel technologies, scientific and technological achievement awards for outstanding research publications by Agency employees, and items of member interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Richard M. Dowd, Director, Science Advisory Board (202) 755-0263 or Terry F. Yosie, Staff Officer, Science Advisory Board (202) 755-6634 by close of business January 21, 1981.

Richard M. Dowd,

Director, Science Advisory Board.

January 6, 1981.

[FR Doc. 81-929 Filed 1-9-81; 8:45 am]

BILLING CODE 6560-34-M

FEDERAL MARITIME COMMISSION

[Docket No. 81-1; Independent Ocean Freight Forwarder License No. 394-R]

Universal Transcontinental Corp. and J. S. Stass Co., Division of Universal Transcontinental Corp.; Order of Investigation and Hearing

On November 22, 1966, Universal Transcontinental Corporation and J. S. Stass Co., Division of Universal Transcontinental Corporation (UTC), 325 Spring Street, New York, New York 10013, were issued Independent Ocean Freight Forwarder License FMC No. 394-R.

UTC is a wholly owned subsidiary of a holding company, Transway International Corporation (Transway). Subsequent to the licensing of UTC, Tropigas International Corporation was acquired by Transway. Tropigas International Corporation admits it is a shipper and consignee of shipments to foreign countries.

Information submitted by UTC shows the licensee handled 289 export shipments for Tropigas International Corporation in 1976, 346 shipments in 1977 and 273 shipments in 1978, and received carrier compensation on all these shipments.

Both section 44 of the Shipping Act, 1916, and § 510.5 of the Commission's General Order 4 require complete independence of an ocean freight forwarder from shipper interest. More specifically, both the Shipping Act, 1916 and General Order 4 define an independent ocean freight forwarder as a "person carrying on the business of forwarding for a consideration who is not a shipper or consignee or a seller or purchaser of shipments to foreign countries, nor has any beneficial interest therein, nor directly or indirectly controls or is controlled by such shipper or consignee or by any person having such a beneficial interest."

Since Universal Transcontinental Corporation and J. S. Stass Co., Division of Universal Transcontinental Corporation, holders of FMC License No. 394-R, are owned by Transway International Corporation which in turn owns Tropigas International Corporation, a company which is engaged as a shipper and consignee of export shipments from the United States, the licensee appears to be directly or indirectly controlled by and affiliated with an export shipper and consignee. Thus, it would appear that the licensee no longer qualifies as an independent ocean freight forwarder pursuant to sections 1 and 44 of the Shipping Act, 1916, and §§ 510.2(a) and 510.5 of the Commission's General Order 4. Moreover, UTC's relationship with an exporter may be of such a nature that UTC's receipt of any "forwarder compensation" on the exporter's shipments may amount to a violation of section 16, Initial Paragraph, in that UTC on behalf of its shipper principal obtained transportation by water at less than the applicable rate or charges.

Further, in reply to the Commission's section 21 order, *Independent Ocean Freight Forwarders—Payment Received for the Securing or Booking of Cargo in Excess of the Effective Common Carrier Tariff on File with the Federal Maritime Commission*, served January 18, 1979, the licensee admitted by affidavit that it had entered into arrangements with various ocean carriers for the receipt of payments of compensation in excess of that provided for in the applicable ocean carrier tariffs. Under the arrangements the licensee received $125,280.56 in excess compensation during the year 1976 from seven ocean carriers and/or their agents. Payments received by UTC from the first carrier totalled $3,320.02; payments from the second carrier totalled $17,812.40; payments from the third carrier totalled $90,387.89; payments from the fourth carrier totalled $1,187.06; cash payments from three carriers which were commingled totalled $11,403.90; and payments from unknown ocean carriers totalled $1,149.29.

The receipt of payments from ocean carriers in excess of the ocean freight forwarder compensation by UTC and/or its officers raises the possibility that UTC may have violated section 15 and section 16, Initial Paragraph, of the Shipping Act, 1916. Section 15 may have been violated if the payments were made pursuant to an unfiled agreement between UTC and the respective carriers. It is likewise believed that UTC may have violated section 16, Initial Paragraph, by directly or indirectly passing any part of these payments through to its shipper principals and thereby permitting its principals to obtain ocean transportation at less than the applicable rates or charges. Moreover, even if UTC did not pass any or all of the payments on to its shipper clients, if the payments represent a portion of the carriers' ocean freight revenues for UTC shipments, the excess payments may have resulted in such shipments moving at less than the applicable rates and charges.

Now, therefore, it is ordered, that pursuant to sections 1, 15, 16, 22, 32, and 44 (46 U.S.C. 801, 814, 815, 821, 831 and 841(b)) of the Shipping Act, 1916, and § 510.9 of General Order 4 (46 CFR 510.9), a proceeding is hereby instituted to determine:

1. Whether UTC's relationship with an export shipper is of such a nature that UTC no longer qualifies as an independent ocean freight forwarder.

2. Whether UTC's relationship with an export shipper is of such a nature that UTC violated section 16, Initial Paragraph, by collecting "compensation" on the exporter's shipments, thereby obtaining transportation by water for property at less than the rates or charges which would otherwise be applicable.

3. Whether UTC violated section 15 of the Shipping Act, 1916, by entering into and implementing unapproved section 15 agreements providing for the receipt of payments from ocean carriers in excess of the amount of ocean freight forwarder compensation specified in the ocean carriers' applicable tariffs.

4. Whether, even if there is no relationship between UTC and an export shipper to disquality UTC as an independent ocean freight forwarder, UTC violated section 16, Initial Paragraph, by directly or indirectly passing on to its shipper principals any portion of monies received by it or its officers from ocean carriers in excess of authorized ocean freight forwarder compensation thus obtaining ocean transportation—on behalf of its shippers—at less than the applicable rates or charges.

5. Whether, even if there is no relationship between UTC and an export shipper to disqualify UTC as an independent ocean freight forwarder, UTC violated section 16, Initial Paragraph, by obtaining transportation by water at less than the applicable rates and charges by receiving "compensation" in excess of that authorized by the carriers' tariffs, even if it did not pass any or all of these monies to its shipper principals.

6. Whether civil penalties should be assessed against UTC pursuant to section 32(e) of the Shipping Act, 1916, for violations of sections 15 and 16 of the Shipping Act, 1916, and/or the Commission's rules and regulations, and, if so, the amount of any such penalty which should be imposed.

7. Whether UTC's independent ocean freight forwarder license should be suspended or revoked pursuant to section 44(d) of the Shipping Act, 1916, for:

a. Willful violations of sections 15 or 16, Initial paragraph, of the Shipping Act, 1916,

b. Change of circumstances whereby the licensee no longer qualifies as an independent ocean freight forwarder, or

c. Such conduct as the Commission finds renders UTC unfit to carry on the business of forwarding in accordance with § 510.9(e) of General Order 4.

It is further ordered, that Universal Transcontinental Corporation and J. S. Stass Co., Division of Universal Transcontinental Corporation, be named Respondents in this proceeding.

It is further ordered, that this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence within the time limits specified in Rule 61 (46 CFR 502.61) of the Commission's Rules of Practice and Procedure. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue are such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Commission's Bureau of Investigation and Enforcement (BIE) shall be a party to this proceeding.

It is further ordered, that notice of this Order be published in the **Federal Register** and a copy thereof and notice of hearing be served upon Respondents, Universal Transcontinental Corporation and J. S. Stass Co., Division of Universal Transcontinental Corporation.

It is further ordered, that any person other than Respondents and BIE having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure.

It is further ordered, that all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-947 Filed 1-9-81; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Date: January 28, 1981.

Place: Room 207, Building 1, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: H. Bruce Dull, M.D., Executive Secretary of Committee, Building 1, Room 2413, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephones: FTS: 236-3553; Commercial: 404/329-3553.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will discuss the pneumococcal vaccine statement, finalize revisions on rubella, distribute for review revisions on diphtheria and tetanus toxoids and pertussis vaccine, and other matters of interest to the Committee. Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 6, 1981.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 81-1106 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-86-M

Inhalation Toxicology and Animal Husbandry Support Services, and Reducing Stress in Video Display Tasks; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Inhalation Toxicology and Animal Husbandry Support Services

Date: January 22, 1981.

Time: 8:30 a.m. to 2:30 p.m.

Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room 117, Cincinnati, Ohio 45226.

Purpose: To discuss project protocol for modernizing the inhalation toxicology and animal husbandry support services.

Additional information may be obtained from: William D. Wagner, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684-8433.

Reducing Stress in Video Display Tasks

Date: February 2, 1981.
Time: 10:00 a.m. to noon.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room 117, Cincinnati, Ohio 45226.
Purpose: To discuss details of a research investigation concerning stress reduction in the video display terminal workplace.

Additional information may be obtained from: Marvin Dainoff, Division of Biomedical, and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684-8291.

Dated: January 6, 1981.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 81-1107 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-87-M

Office of Human Development Services

White House Conference on Aging, Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Health and Social Aspects of Long Term Care will hold their next meeting on Wednesday, January 21, 1981 from 9 a.m. until 5 p.m. at the Dallas Home for Jewish Aged, 2525 Centerville Road, Dallas, Texas, 75228.

The purpose of the meeting will be to discuss the first draft of the committee's technical report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: January 7, 1981.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 81-1001 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Health Services will hold their next meeting on Thursday, January 15, 1981, Friday, January 16, 1981, and Saturday, January 17, 1981 from 9 a.m. until 5 p.m. all three days. The meeting will be held at the Hotel Maison DuPuy Conference Room, New Orleans, Louisiana.

The purpose of the meeting will be to discuss the final drafts of the subcommittees and to develop the final recommendations for the Technical Committee Report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: January 7, 1981.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 81-1002 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Older Persons as a Growing National Resource will hold their next meeting on Tuesday, January 27, 1981 from 9:30 am until 3:30 pm in Room 5542 of the HHS-North Bldg., 330 Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of the meeting will be to review the final draft of the committee report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: January 7, 1981.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 81-1003 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee; Change in Meeting

Agency Holding the Meeting: Department of Health and Human Services, Office of Human Development Services, White House Conference on Aging, Technical Committee on Creating an Age-Integrated Society—Implications for the Economy.

Federal Register Citation of Previous Announcement: 45 FR 84153.

Previously Announced Time and Date of the Meeting: Tuesday, January 13, 1981 from 9 a.m. until 4 p.m. at 1660 L Street NW., Suite 1100, Washington, D.C.

Changes in the Meeting: The date of this meeting has been changed to Thursday, January 22, 1981 from 10 a.m. until 4 p.m. and will be held at the Travelers Insurance Company, Hartford, Connecticut.

Dated: January 6, 1981.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 81-927 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-92-M

V 46/7 JA 12 81 UMI

Public Health Service

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services, Public Health Service.

ACTION: Notification of new system of records, Mental Health Epidemiologic and Biometric Research Data, HHS/ADAMHA/NIMH, 09-30-0036.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposal to initiate a new system of records in the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), National Institute of Mental Health (NIMH), entitled, "Mental Health Epidemiologic and Biometric Research Data, HHS/ADAMHA/NIMH."

The purpose of the new system will be to maintain a data base for biometric and epidemiologic research in the area of mental health and mental illness. This system will allow the statistical analysis of research data to test hypotheses about relationships among the various items of information and generate new hypotheses to guide future research.

PHS invites interested persons to submit comments on the proposed routine uses on or before February 11, 1981.

DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget on December 23, 1980. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. If this waiver is granted, PHS will publish a notice to that effect in the **Federal Register**.

ADDRESS: Comments should be addressed to the Director, Division of Biometry and Epidemiology, NIMH, Room 18C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Comments received will be available for inspection in Room 18C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, from 8:15 a.m. to 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Director, Division of Biometry and Epidemiology, National Institute of Mental Health, 5600 Fishers Lane, Room 18C-26, Rockville, Maryland 20857; telephone 301-443-3648.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services is currently reexamining the applicability of the Privacy Act to records maintained by organizations under contract with the Department. It is recognized that the proposal to apply the provisions of the Privacy Act to these records may later be found to provide broader coverage than is required by the Act.

The purpose of this system of records will be to collect and maintain a variety of data for research activities of the Division of Biometry and Epidemiology (DBE) of the National Institute of Mental Health (NIMH). This system will allow the statistical analyses of research data to test hypotheses about relationships among the various items of information and generate new hypotheses to guide future research. The generation of information and statistical analyses will ultimately lead to a better description and understanding of mental disorders, their treatment and prevention, and the promotion of mental health. Records in this system will not be used for determination of individual eligibility or qualification for personal or property rights. Statistical analyses of these data will involve groups of individuals with given characteristics and will not refer to specific individuals.

Personal identifiers will be needed only for authorized research purposes, such as retrieving medical record data, or merging and coordinating records from several sources which pertain to a particular individual.

Contract provisions will be established to provide for prompt removal of individual identifiers when they are no longer needed for research purposes. The information that will be collected will be consistent with legislation and regulations for informed consent, confidentiality, and the protection of human subjects. The amount of personal data maintained will be the minimum feasible to accomplish the purpose of each study.

The routine uses proposed for this system do not conflict with the purpose of the system. The primary routine uses concern research: to disclose records to DHHS contractors, collaborating researchers, and their staffs, who are conducting research with or on behalf of DHHS; provided certain conditions are met, to researchers whom the System Manager deems qualified, to carry out specific research that is compatible with the purpose for which the records were obtained; and to DHHS contractors hired to collate, analyze, aggregate, or otherwise refine data contained in the system of records. To facilitate such research and research-related activities is the impetus for establishing this system of records. Recipients of records under these routine uses will be required to safeguard identifiable data in accordance with the Privacy Act, 5 U.S.C. 522a, the Department's implementing regulations (45 CFR Part 5b); and, when applicable, other confidentiality statutes (42 U.S.C. 4582, 21 U.S.C. 1175, and 42 U.S.C. 242a) and regulations 42 CFR Parts 2 and 2a.

The proposed routine use permitting disclosure to a congressional office does not violate the subject's privacy because such disclosure would be made only at the subject's request.

The proposed routine use permitting disclosure to the Department of Justice under certain conditions in the event of litigation reserves the right of the Government to use the records to defend itself or its employees in cases that may arise in connection with research programs.

The proposed routine use permitting disclosure to the Department of Justice for Freedom of Information Act (FOIA) determinations affords additional protection to the privacy of individuals by ensuring against unwarranted release of personal information under FOIA.

Dated: December 23, 1980.

Jack N. Markowitz,

Acting Director, Office of Management.

09-30-0036

SYSTEM NAME:

Mental Health Epidemiologic and Biometric Research Data, HHS/ADAMHA/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at the research facilities which collect or provide research data for this system under contract to the agency. Contractors may include: research centers, clinics, hospitals, universities, research foundations, and coordinating centers. Records may also be located at the research facilities of the Division of Biometry and Epidemiology, National Institute of Mental Health. A current list of sites is available by writing to the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of research in epidemiologic, clinical, methodologic, and longitudinal research studies of mental health and mental disorders. These individuals are selected as representative of the general population or of special groups. Special groups might include, but are not limited to: clients referred for or receiving medical or mental health services; providers of health/mental health services; demographic sub-groups as applicable, such as age, sex, ethnicity, race, occupation, geographic location; and groups exposed to hypothesized risks, such as relatives of individuals with disorders, individuals who have experienced life stresses, or individuals with previous history of illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains varying items about the individual as relevant to a particular research study. Examples include, but are not limited to, items about the health/mental health of the individual, demographic data, past and present life experiences, personality characteristics, social functioning, utilization of health/mental health services, family history, physiological measures, and characteristics and activities of health/mental health care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, 42 U.S.C. 241, General Research and Investigation Authorities.

PURPOSE(S):

The purpose of the system of records is to collect and maintain a data base for research activities of the Division of Biometry and Epidemiology (DBE) of the National Institute of Mental Health (NIMH). Analyses of these data involve groups of individuals with given characteristics and do not refer to specific individuals. The generation of information and statistical analyses will ultimately lead to a better description and understanding of mental disorders, their treatment and prevention, and the promotion of mental health.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for a research purpose, when the Department:

(a) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; e.g., disclosure of alcohol or drug abuse patient records will be made only in accordance with the restrictions of confidentiality statutes and regulations 42 U.S.C. 4582, 21 U.S.C. 1175, and 42 CFR, Parts 2 and 2a, and where applicable, no disclosures will be made inconsistent with an authorization of confidentiality under 42 U.S.C. 242a and 42 CFR Part 2a;

(b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; and

(d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected (e.g., disclosure may be made to the Department of Justice in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of the individual's participation in activities of a Federal Government-supported research project.)

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. Disclosure may be made to DHHS contractors, collaborating researchers, and their staff who are conducting a specific study and preparing scientific reports, in order to accomplish related research activities of the Department. The recipients will be required to maintain Privacy Act safeguards with respect to such records.

6. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are stored in various ways including file folders, computer cards, computer tapes or disks, microfiche, audio or video tapes, and index cards. Normally, the factual data, with study code numbers, are stored on computer tape or disc, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and followup, if any, retrieval by personal identifier (e.g., name or medical record number) is necessary. During the data analysis stage, data are normally retrieved by the variables of interest (e.g., diagnosis, age, occupation).

SAFEGUARDS:

(a) *Physical:* Physical security is achieved by storing records in locked rooms, locked file cabinets, and/or secure computer facilities. Access to personal identifiers is safeguarded by locked files and by separating data from identifiers as much as possible. Data stored in computers is secured in various ways, including access through the use of key words known only to authorized personnel.

(b) *Procedural:* Collection and maintenance of the information is done in a manner consistent with legislation and regulations in the protection of human subjects, informed consent, and confidentiality.

(c) *Authorized Personnel:* Access to identifiers and to the code which

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matches study numbers with them is strictly limited to the authorized personnel whose duties require such access. Procedures for determining authorized access to identified data are established as appropriate for each location. Personnel who may be so authorized include those directly involved in data collection and in the design of research studies, e.g., interviewers and interviewer supervisors; project managers; statisticians involved in designing sampling plans. When DBE or a contractor provides anonymous data to research scientists for analysis, study numbers which can be matched to personal identifiers will be eliminated or replaced by the Division or the contractor with random numbers which cannot be so matched.

The safeguards described for computerized records are in accordance with Part 6, Systems Security, of the Department's ADP Systems Manual. The safeguards described for nonautomated records are in accordance with Chapter 45-13, in the General Administration Manual, and the supplementary PHS chapter.

RETENTION AND DISPOSAL:

Identifiers are retained only as long as they are needed for the purposes of the current research project, and for follow-on studies generated by the present study. Disposal of identifiers is done according to the storage medium (e.g., erase computer tape, shred or burn index cards, etc.). A staff person designated by the System Manager will oversee and will describe and confirm the disposal in writing.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Biometry and Epidemiology, National Institute of Mental Health, Alcohol, Drug Abuse and Mental Health Administration, Parklawn Building, Room 18C-26, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. Provide individual's name; current address; date of birth; date, place and nature of participation in specific research study; name of individual or organization administering the research study (if known); name or description of the research study (if known); address at the time of participation; and a notarized statement by two witnesses attesting to the individual's identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state corrective action sought.

RECORD SOURCE CATEGORIES:

The system contains information obtained directly from the subject individual by interview (face-to-face or telephone), by written questionnaire, or by other tests, recording devices or observations, consistent with legislation and regulations regarding informed consent and protection of human subjects. Information is also obtained from other sources, such as health and mental health care providers, relatives, guardians, and clinical medical research records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-1017 Filed 1-9-81; 8:45 am]

BILLING CODE 4110-88-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Delegation of Authority

The following material is a portion of the Geological Survey Manual, listing the redelegations of the Director's authority found in Part 35 of Title 43 of the Code of Federal Regulations. The numbering system used is that of the Manual commencing at SM 220.2.8.

Dated: January 5, 1981.

H. William Menard,

Director.

.8 Authorities under regulations in 43 CFR Part 35—Non-Discrimination Against Minority and Women-Owned Business Enterprises in Outer Continental Shelf Leasing Activities. The authorities of the Director, Geological Survey, and those of the authorized officer that are set forth in 43 CFR Part 35 are delegated through the Chief, Conservation Division, and the Deputy Division Chief, Offshore Minerals Regulation, to the Conservation Managers of the Alaska OCS Region, the Atlantic OCS Region, the Gulf of Mexico OCS Region, and the Pacific OCS Region. The Conservation Managers may further redelegate these authorities with the approval of the Deputy Division Chief, Offshore Minerals Regulation.

[FR Doc. 81-1007 Filed 1-9-81; 8:45 am]

BILLING CODE 4310-10-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit Agreement No. 14-08-001-3847, submitted on December 16, 1980, a proposed supplemental plan of development/production describing the activities it proposed to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected

States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 31, 1980.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 81-1010 Filed 1-9-81; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

Approval of the Lower Little Miami River as a State-Administered Component of the National Wild and Scenic Rivers System

AGENCY: Heritage Conservation and Recreation Service.

ACTION: Notice of secretarial approval.

SUMMARY: As required by Section 4(c) of the Wild and Scenic Rivers Act, this notice announces that the Lower Little Miami River has been approved by the Secretary of the Interior for inclusion in the National Wild and Scenic Rivers System.

The text of the Secretary's approval is printed below.

Dated: December 31, 1980.

Chris Therral Delaporte,

Director, Heritage Conservation and Recreation Service.

Lower Little Miami National Recreational River

Approval for Designation as a State Administered Component of the National Wild and Scenic Rivers System

Pursuant to the authority granted the Secretary of the Interior by Section 2 of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1271 et seq.) and upon proper application of the Governor of the State of Ohio, the lower Little Miami River, Ohio is designated a State administered component of the National Wild and Scenic Rivers System.

The segment of the Little Miami River designated is from Glen Island, just below Foster, Ohio, downstream to its confluence with the Ohio River. The segment is approximately 28 miles long and is classified as Recreational pursuant to Section 2(b) of the Act.

The State has fulfilled the requirements of Section 2(a)(ii) of the Act by designating the Little Miami River as a scenic river under the provisions of the State Scenic Rivers Act; developing and implementing a management plan for the river; and by initiating an acquisition and development program for appropriate lands and waters along the Little Miami River.

Notice is hereby given that as of January 11, 1981, the lower Little Miami River, as described herein, was approved for inclusion in the National Wild and Scenic Rivers System as a recreational river area to be administered by the State of Ohio.

Prior to undertaking this action the proposal was circulated to affected Federal Agencies for a ninety day period of review. Comments received during the period have been carefully considered.

Dated: January 11, 1981.

Cecil D. Andrews,

Secretary of the Interior.

[FR Doc. 81-925 Filed 1-9-81; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-No. 46F)]

Baltimore and Ohio Railroad Co.—Abandonment—Near Springfield and Coal Shaft, in Sangamon County, IL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided December 24, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandonment Goshen, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment and discontinuance of service on the following line of railroad know as: Springfield Subdivision: between railroad valuation stations 9571+55.5 and 9578+63.7, a distance of 0.13 miles, at or near Springfield, Sangamon County, IL; between railroad valuation station 9578+63.7 and 9635+26.1, a distance of 1.07 miles of line jointly owned by this carrier and the Illinois Central Gulf Railroad Company (ICG), at or near Springfield, Sangamon County, IL; and between railroad valuation station 9635+26.1, at or near Springfield, Sangamon County, IL, and railroad valuation station 9738+00, at or near Coal Shaft, Sangamon County, IL, a distance of 1.95 miles. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to the Baltimore and Ohio Railroad Company. Since the investigation has been completed, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-992 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

Change in Cycle of Practitioners' Examination

AGENCY: Interstate Commerce Commission.

ACTION: Proposal to change the cycle of non-attorney practitioners' examination in 1982.

SUMMARY: For various administrative reasons outlined below, the Commission is considering several alternative proposals to change the cycle of the semi-annual Non-attorney Practitioner's Examination, to be effective in 1982.

DATES: Written comments should be filed with the Secretry 60 days from **Federal Register** publication.

ADDRESSES: Send an original and, if possible, one copy of comments to: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: James H. Bayne, (202) 275-7646.

The examination program for non-lawyer applicants to practice before this commission was initiated in 1939. In 1943, the Commission decided to hold the examination semi-annually, on the first Tuesday in April and October, respectively.

In 1948, at the request of the Association of Interstate Commerce

Commission Practitioners, the Commission decided that the examination for admission to practice should be conducted on the second Tuesday in February and July of each year. This change was apparently made to coincide with the academic year, so that training for the examination could take place during the regular semesters of the school year. For this reason, we believe no permanent change should be made in the examination schedule without the opportunity for public comment.

Our continued policy of holding the examination in February and July presents certain administrative problems, as follows:

(1) The uneven cycle for the examination is unfair to the applicants. Those individuals failing the July examination have seven months before the next examination. Those planning to retake the examination in July have a maximum period of five months to prepare themselves. Since it takes approximately 60 days to grade the examination, the intervening time becomes even more critical for the July examination.

(2) The present cycle puts the grading examiners and the Employee Board on Education and Practice under a stringent deadline to grade the examination, and provide results to the Secretary so that unsuccessful February applicants can be notified and given sufficient time to reapply for the July examination.

(3) Holding the examination in July creates problems, both for the applicants and the Commission's staff, because of vacation schedules.

We propose the following alternative cycles, in order of preference

(1) April and October
(2) May and November
(3) June and December

In order to avoid any holiday conflicts, we propose the first Tuesday of each of the above months as the standard examination date.

We propose to implement any changes in the examination cycle in calendar year 1982.

The Commission previously announced that the February 1981 examination would be cancelled; and that the next examination will be held July 14, 1981. This notice makes no change in that determination.

Decided: December 31, 1980.

By the Commission. Robert C. Gresham, Vice Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-930 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: January 6, 1981.

In our decision of December 23, 1980, a 14.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 15.1 percent. Accordingly, we are authorizing that the surcharge for this traffic be increased to 15-percent. All owner-operators are to receive compensation at this level.

In addition, the surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators is increased to 2.6-percent, that for the bus carriers to 5.6-percent, and that for United Parcel Service to 1.6-percent.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m., January 9, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Sec

Appendix.—*Fuel surcharge*

Base date and price per gallon (including tax)

January 1, 1979 .... 63.9

Date of current price measurement and price per gallon (including tax)

January 5, 1981 .... 120.3

Transportation performed by—	(1) Owner operator[1]	(2) Other[2]	(3) Bus carrier	(4) UPS
Average percent fuel expenses (including taxes) of total revenue	[illegible]	[illegible]	[illegible]	3.3
Percent surcharge developed	15.1	2.6	5.6	2.4
Percent surcharge allowed	15.0	2.6	5.6	1.6

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percnet to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-921 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. §§ 11344 and 11349.* These rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: December 30, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. Board member Krock not participating in MC-F-14523 and MC-F-14525.

MC-F-14523F, filed December 8, 1980. NEW PENN MOTOR EXPRESS, INC. (New Penn) (P.O. Box 630, Lebanon, PA 17042)—CONTINUANCE IN CONTROL—LEBARNOLD, INC. (Lebarnold) (P.O. Box 630, Lebanon, PA 17042). Representative: Jeremy Kahn, 1511 K Street, N.W., Washington, D.C. 20005. New Penn seeks authority to continue in control of Lebarnold upon the institution by Lebarnold of operations, in interstate or foreign commerce, as a motor contract carrier. By the same application Edward H. Arnold and Virginia A. Phillips, who control New Penn by stock ownership, seek authority to acquire control of said rights and property through the transaction. New Penn, a common carrier by motor vehicle, is authorized under No. MC-70832 and sub-numbers thereunder, to transport *general commodities*, usual exceptions, in interstate or foreign commerce, in PA, greater New York City, New England, and Northern and Southern NJ and DE. By permit served November 25, 1980, in MC-150170 (Sub-No. 1F), Lebarnold was granted authority to operate as a contract carrier, transporting *such commodities* as are dealt in or used by retail distributors of wearing apparel, between points in the U.S., under continuing contract(s) with Kinney Service Corporation, of Harrisburg, PA.

Note.—Lebarnold should be cautioned not to begin operations in MC-150710 (Sub-No. 1F), until common control has been approved.

MC-F-14524F, filed December 10, 1980. EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC. (ACE) (5320 N.E. 54th Avenue, Des Moines, IA 50305)—CONTROL—HOFFMAN TRANSFER, INC. (Hoffman) (1019 Cheyenne, Kansas City, KS). Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. Ace seeks authority to acquire control of Hoffman through the purchase of stock. Easter is controlled by the Board of Directors: L. D. Easter, Dennis Easter, R. L. Easter, and T. C. Miller. As a condition to the approval of this transaction they will be required to join in this application. The operating rights to be controlled are contained in Permits issued to Hoffman in MC-106200 and MC-106200 (Sub-No. 5), which authorize the transportation, as a motor contract carrier, over irregular routes, of (1) *soap, soap powder, cleaning and washing compounds, lard substitute, vegetable oil shortening, and advertising matter and premiums* used in connection with the sale of such commodities, from Kansas City, KS, to points in NE and those in IA on and west of US Hwy 218, and (2)(a) *foodstuffs* (except lard substitute and vegetable shortenings), and in connection therewith, *premiums and advertising material*, from Kansas City, KS, to points in NE and points in IA on and west of US Hwy 218, and (b) *unclaimed, unsalable, and returned shipments* of the above-specified commodities, from points in NE and points in IA on and west of US Hwy 218, to Kansas City, KS, under continuing contracts with Procter & Gamble Distributing Company. Ace is authorized to operate as a motor common carrier pursuant to certificates issued in MC-61231 and sub-numbers thereunder. Condition: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affadivit signed by L. D. Easter, Dennis Easter, R. L. Easter, and T. C. Miller, stating that they are persons in control of transferee and that they join in this application.

Note.—Application for temporary authority has been filed.

MC-F-14525F, filed December 10, 1980. INDUSTRIAL CARTAGE COMPANY, INC. (Industrial) (7701 West Jefferson Avenue, Detroit, MI 48209)—CONTINUANCE IN CONTROL—GEEM TRANSPORT LTD (Geem) (Canada Trust Building, Windsor, Ontario, Canada N9A 5P2). Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Industrial seeks authority to continue in control of Geem upon the institution by Geem of operations, in interstate or foreign commerce, as a motor contract carrier. Piggy Back Services, Inc., a non-carrier, and sole stockholder of Industrial, and in turn Robert B. Shearer, William T. Shearer, Evan A. Adams, and Mary C. Schoolenberg, through equal ownership of all of its outstanding stock, jointly control Piggy Back Services, Inc., seek authority to acquire control of said rights and property through the transaction. Industrial holds no interstate operating rights. Industrial owns 100% of the issued and outstanding capital stock of (1) International Carriers, Inc., (MC-136807) and (2) I.C.L. International Carriers Limited (MC-86247). Geem has an application pending before the Commission in MC-148557F, seeking authority to operate in interstate or foreign commerce, as a contract carrier, to transport *parts, materials, supplies and equipment* used in the manufacturing, production, distribution and servicing of motor vehicles and transportation construction equipment, between the International Boundary line at all port of entry, between the United States and Canada, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with General Motors of Canada, Ltd.

Note.—Piggy Back Services, Inc., shall continue to be considered a carrier within the meaning of 49 U.S.C. 11348, and it shall continue to be subjected to the accounting, reporting, and securities provisions of 49 U.S.C. 11142, 11144, 11145, and 11302.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-624 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-176]

Motor Carriers; Permanent Authority Decisions

Decided: December 22, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the

Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any applications, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the qualtiy of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before February 26, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Lieberman, Eaton, Chandler.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 42487 (Sub-1010F), filed December 15, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in Delaware and Dubuque Counties, IA, as intermediate and off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 42487 (Sub-1011F), filed December 11, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) between Memphis and Union City, TN, over U.S. Hwy 51; (2) Between Memphis and Paris, NT, over U.S. Hwy 79; (3) between Union City, and Paris, TN: from Union City over TN Hwy 22 to junction TN Hwy 54, then over TN Hwy 54 to Paris, and return over the same route; (4) between Union City and Humboldt, TN, over U.S. Hwy 45W; (5) Between Humboldt, TN and Corinth, MS: from Humboldt over U.S. Hwy 45W to junction U.S. Hwy 45, then over U.S. Hwy 45 to Corinth, and return over the same route; (6) between Brownsville and Jackson, TN, over U.S. Hwy 70; (7) between Memphis, TN and junction U.S. Hwy 45 and U.S. Hwy 64, over U.S. Hwy 64; (8) Between St. Louis MO and junction U.S. Hwy 51 and Interstate Hwy 155: from St. Louis over U.S. Hwy 61 to junction Interstate Hwy 155, then over Interstate Hwy 155 to junction U.S. Hwy 51 and Interstate Hwy 155, and return over the same route; and (9) serving in connection with routes (1) through (8) described above all intermediate points and the off-route points of Dyersburg, Grand Junction, Halls, Moscow, Ripley and Tiptonville, TN.

MC 42487 (Sub-1012F), filed December 16, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving points in Salt Lake County, UT, as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 112617 (Sub-475F), filed December 16, 1980. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Edward J. Kiley, 1730 M St. NW., Washington, D.C. 20036. Transporting *commodities* in bulk, between points in the U.S. (except AK and HI).

MC 113267 (Sub-371F), filed December 16, 1980. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 AMF, Memphis, TN 38130. Representative: Lawrence A. Fischer (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses, (a) between Plymouth, WI, on the one hand, and, on the other, points in TX, (b) between Van Wert, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and TX, (c) between Rock Hill and Chester, SC, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, OH, TN, TX, and WI, and (d) between Birmingham, AL, on the one hand, and, on the other, points in AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, TX, and WI.

MC 120737 (Sub-74F), filed December 16, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *such commodities* as are dealt in or used by agricultural, construction, and industrial equipment manufacturers and dealers (except commodities in bulk), between Grandville, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124887 (Sub-124F), filed December 16, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonsville, FL 32202. Transporting (1) *fabricated metal products,* and (2) *materials, equipment, and supplies* used in the manufacture of fabricated metal products, between points in Florence County, SC, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 128837 (Sub-25F), filed December 15, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *glass containers,* between points in Logan County, IL, on the one hand, and, on the other, points in San Joaquin County, CA, and McKinley County, NM, and points in FL and MA.

MC 134197 (Sub-15F), filed December 15, 1980. Applicant: JACKSON AND JOHNSON, INC., West Church St., P.O. Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice PK, Webster, NY 14580. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VA, VT, WV, and DC.

MC 141357 (Sub-9F), filed December 16, 1980. Applicant: SHANUS, INC., 232 1st St., North Minneapolis, MN 55401. Representative: Samual Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *coal and coke,* between points in IA, MN, and WI.

MC 141867 (Sub-25F), filed December 8, 1980. Applicant: SEPCIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of the United States Gypsum Company and its subsidiaries.

MC 145997 (Sub-32F), filed December 15, 1980. Applicant: J.E.M. EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *such commodities* as are dealt in or used by discount, variety, and grocery stores, between points in the U.S., restricted to traffic originating at or destined to the facilities of Wal-Mart Stores, Inc.

MC 146447 (Sub-5F), filed December 16, 1980. Applicant: TANBAC, INC., P.O. Box 22566, Ft. Lauderdale, FL 33335. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Transporting *such commodities* as are dealt in by manufacture or distributors of printed matter, between points in the U.S., under continuing contract(s) with A.D. Weiss Lithograph Company, Inc., of Hollywood, FL.

MC 146817 (Sub-10F), filed December 16, 1980. Applicant: GEORGE CAVES, d.b.a. CAVES TRUCKING, P.O. Box 29357, Lincoln, NE 68529. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Transporting *such commodities* as are dealt in or used by automotive supply stores (except commodities in bulk), between points in IL, KS, MO, OH, OK, TN, and NC, on the one hand, and, on the other, points in NE.

MC 146937 (Sub-6F), filed December 15, 1980. Applicant: ALL STAR AIR FREIGHT, INC., 7001 West 20th St., Hialeah, FL 33014. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166. Transporting (1) *replica automobiles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. under continuing contract(s) with Classic Motor Carriages, Inc., of Miami, FL.

MC 150177 (Sub-2F), filed December 11, 1980. Applicant: CONATSER TRUCKING, INC., 57 Berkshire Terrace, Amherst, MA 01002. Representative: Patrick A. Doyle, 60 Robbins Rd., Springfield, MA 01104. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of malt beverages (except commodities in bulk), between points in the U.S., under continuing contract(s) with Schoeling Brewing Company, of Cincinnati, OH.

MC 150567 (Sub-18F), filed December 16, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8916 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1) *coffee, tea, cocoa, and non-drying creamer),* in containers, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Hills Bros. Coffee, Inc., of San Francisco, CA.

[FR Doc. 81-910 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP5-95]

Motor Carriers; Permanent Authority Decisions

Decided: December 24, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrents a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before February 26, 1981, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—all applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 19778 (Sub-114F), filed December 9, 1980. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, a corporation, 10800 Franklin Ave., Franklin Park, IL 60131. Representative: Robert F. Munsell (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 119988 (Sub-269F), filed December 10, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Richmond, IL, Genoa City, Lake Geneva and Pell Lakes, WI, Blocker, Deputy, LaCrosse, Lovett, Paris, Wanatah and Wilders, IN, Alum Rock, Foxboro, Parker, St. Petersburg and Turkey City, PA, Terrill, Ayrshire, Curlew, Langdon, Leon and Garden Grove, IA, Cheviott, Dent, Miamitown and Gerald, OH, Diamond Springs, Dunmor, Lewisburg, Pine Grove and Rosewood, KY, Albany, Bethany, Blythedale, Helena, King City, New Hampton and Ridgeway, MO, Hollister, Humphreys and Tipton, OK, Yolo Bypass, CA, Clifton and Franklinton, LA, and Barto, Conerly, Davo, Fernwood, Lexie, Kokomo, Mesa and Tylertown, MS, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment of rail carrier service.

MC 141579 (Sub-3F), filed December 5, 1980. Applicant: SECURITY DELIVERY SERVICE, INC., 33 Rector St., New York, NY 10006. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 152938F, filed November 18, 1980. Applicant: ROBERT A. FORMAN, 1401 Cedar Springs, Dallas, TX 75202. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. To operate as a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 153118F, filed December 3, 1980. Applicant: ROBERT E. SPEARMAN d.b.a. RTS ENTERPRISES, 8625 Gazelle, El Paso, TX 79925. Representative: Robert E. Spearman (same as applicant). Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners and agricultural fertilizers*, by the owner of the motor vehicle in such vehicle, (except in emergency situations), between points in the U.S.

[FR Doc. 81-817 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before February 26, 1981, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authoriy granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP5-091

Decided: December 26, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 52979 (Sub-23F), filed November 28, 1980. Applicant: HUNT TRUCK LINES, INC., West High St., Rockwell City, IA 50579. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Over *regular* routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk) between Rockwell City, IA, and Des Moines, IA, from Rockwell City over U.S. Hwy 20 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Des Moines, and return over the same route, serving all intermediate points, and serving Sioux City, IA, Omaha, NE, and those points in IA on, north and west of a line beginning at the NE–IA State line, and extending along U.S. Hwy 6 to junction U.S. Hwy 65, and then along U.S. Hwy 65 to the IA–MN State line.

MC 56679 (Sub-175F), filed October 22, 1980, previously noticed in **Federal Register** issue of November 26, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same address as applicant). General commodities (except Classes A and B explosives and household goods, as defined by the Commission), over the following regular routes: (1) Between Houston, TX and Des Moines, IA, from Houston over Interstate Hwy 45 (also over U.S. Hwy 75) to Dallas, then over Interstate Hwy

35 to Des Moines, and return over the same route. (2) Between Baton Rouge, LA and Galveston, TX, from Baton Rouge, over Interstate Hwy 10 to Houston, TX, then over U.S. Hwy 75 to Galveston, and return over the same route; (3) Between Jackson, MS and Ft. Worth, TX over Interstate Hwy 20; (4) Between Dallas, TX and Knoxville, TN, from Dallas, over Interstate Hwy 30 to Little Rock, AR, then over Interstate Hwy 40 to Knoxville, and return over the same route; (5) Between Little Rock, AR and Oklahoma City, OK over Interstate Hwy 40; (6) Between Oklahoma City, OK and Chicago, IL, from Oklahoma City over Interstate Hwy 44 (also over U.S. Hwy 66) to St. Louis, MO, then over Interstate Hwy 55 (also over U.S. Hwy 66) to Chicago, and return over the same route; (7) Between Kansas City, MO and Omaha, NE over Interstate Hwy 29; (8) Between Baton Rouge, LA and Kansas City, MO, from Baton Rouge over U.S. Hwy 190 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City, and return over the same route; (9) Between Kansas City, KS and Chattanooga, TN, from Kansas City, over Interstate Hwy 70 to St. Louis, MO, then over Interstate Hwy 64 to junction U.S. Hwy 41, then over U.S. Hwy 41 (also over Interstate Hwy 24) to Chattanooga, TN and return over the same route; (10) Between Decatur, AL and Indianapolis, IN over Interstate Hwy 65; (11) Between Memphis, TN and St. Louis, MO over Interstate Hwy 55; (12) Between St. Louis, MO and Davenport, IA over U.S. Hwy 61; (13) Between junction U.S. Hwy 65 and Interstate Hwy 70 and junction U.S. Hwy 65 and Interstate Hwy 20 over U.S. Hwy 65; (14) Between Houston, TX and Texarkana, AR over U.S. Hwy 59; (15) Between Indianapolis, IN and St. Louis, MO over Interstate Hwy 70; (16) Between Cincinnati, OH and Evansville, IN, from Cincinnati over Interstate Hwy 71 to Louisville, KY and then over Interstate Hwy 64 to Evansville, and return over the same route; (17) Between Louisville, KY and Knoxville, TN, from Louisville over Interstate Hwy 64 to Lexington, KY, then over Interstate Hwy 75 to Knoxville, and return over the same route; (18) Between Bridgeport, OH, and Pittsburgh, PA, from Bridgeport over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Pittsburgh, and return over the same route; (19) Between Norfolk and Salem, VA, from Norfolk over Interstate Hwy 64 to junction U.S. Hwy 360, then over U.S. Hwy 360 to junction U.S. Hwy 460, then over U.S. Hwy 460 to Salem, and return over the same route; (20) Between Baltimore, MD, and Pittsburgh, PA, from Baltimore over Interstate Hwy 70 to junction Interstate Hwy 76, then over Interstate Hwy 76 to Pittsburgh, and return over the same route; (21) Between Chicago, IL, and Toledo, OH, over U.S. Hwy 20; (22) Between Toledo, OH, and Detroit, MI, over Interstate Hwy 75; (23) Between Chicago, IL, and Newark, NJ, from Chicago over U.S. Hwy 6 to Cleveland, OH, then over Interstate Hwy 90 to Albany, NY, then over Interstate Hwy 87 to Sufferen, NY, then over NY Hwy 17 to the NY–NJ State line, then over NJ Hwy 17 to Newark and return over the same route; (24) Between Syracuse, NY, and Harrisburg, PA, over Interstate Hwy 81; (25) Between Scranton, PA, and Newark, NJ, from Scranton over Interstate Hwy 380 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction PA Hwy 33 to junction Interstate Hwy 78, then over Interstate Hwy 78 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Newark, and return over the same route; (26) Between Scranton, PA, and Knoxville, TN, from Scranton over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Knoxville, and return over the same route, serving all intermediate points in routes (1) through (26) and serving (a) Port Arthur, TX, Peoria, IL, Topeka, KS, Beaver Falls, PA, Boston, MA, Hot Springs, AR, Mobile, and Phoenix City, AL, and (b) points within 20 miles of the points named in (a), as off route points in routes (1) through (26) above.

Note.—This republication corrects routes (18) and (20). Applicant intends to tack with its otherwise authorized operations.

MC 99149 (Sub-17F), filed December 5, 1980. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 6400 New Benton Hwy, Little Rock, AR 72219. Representative: Charles J. Lincoln II, 1550 Tower Bldg., Little Rock, AR 72201. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between "Y" City, AR and Fort Smith, AR over U.S. Hwy 71, serving all intermediate points.

Note.—Applicant intends to tack the above authority with its presently held regular-route authority at "Y" City, AR.

MC 105269 (Sub-91F), filed October 6, 1980, initially published in the **Federal Register** on October 22, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IL, IN, IA, KY, MI, MN, MO, OH, PA, WV, and WI. This application is republished so as to remove the restriction to the supporting shipper's facilities.

MC 106798 (Sub-10F), filed November 28, 1980. Applicant: GARDEN STATE COACHWAYS, INC., 690 Pearl St., Bridgeton, NJ 08032. Representative: Basil D. Beck, Jr., 230 East Commerce St., Bridgeton, NJ 08302. Transporting *passengers* and their baggage, in the same vehicle with passengers, in charter operations, beginning and ending at points in the Philadelphia, PA, commercial zone and those in Burlington County, NJ, and New Castle County, DE, and extending to points in the United States including Alaska (but excluding Hawaii).

MC 107478 (Sub-60F), filed December 3, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Dr., P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting (a) *material-handling equipment,* (b) machinery, except electrical, as defined in Item 35 of the Standard Transportation Commodity Code, and (c) *electrical machinery equipment, and supplies* as defined in Item 36 of the Standard Transportation Commodity Code, between points in Jefferson County, AL, Los Angeles and Tulare Counties, CA, Denver, El Paso and Mesa Counties, CO, Jefferson and McHenry Counties, IL, La Porte County, IN, Sullivan County, NH, Erie and Queen Counties, NY, Lenoir and Wilson Counties, NC, Cuyahoga and Tuscarawas Counties, OH, Cambria, Indiana, and Washington Counties, PA, Ellis and Harris Counties, TX, Carbon and Salt Lake Counties, UT, Scott and Tazewell Counties, VA, and Clark and Ohio Counties, WV, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 110988 (Sub-435F), filed December 2, 1980. Applicant: SCHNEIDER TANK LINES, INC. 4321 W. College Ave., Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of catalyst, between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 112989 (Sub-136F), filed November 21, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99

South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of General Refractories Company.

MC 115648 (Sub-37F), filed December 2, 1980. Applicant: LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Transporting *building materials*, from points in ID, OR, and WA, to points in CO and UT.

MC 115669 (Sub-202F), filed December 1, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Processed Minerals, Inc., its divisions and subsidiaries.

MC 126679 (Sub-26F), filed November 28, 1980. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *lumber, millwork, particleboard, building materials, concrete products, and pallets,* (a) from points in DE, MD, NJ, NY, PA, and VA, to points in AL, FL, and GA, (b) between points in NC, SC, and VA, on the one hand, and, on the other, points in DE, MD, NC, NJ, NY, PA, SC, TN, VA, and DC, and (c) between points in AR, IL, IN, KY, LA, MO, MS, OH, OK, and TX, on the one hand, and, on the other, those points in that part of the U.S. on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN to the international boundary line between the U.S. and Canada.

MC 135678 (Sub-26F), filed November 17, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting *salt, in packages, pepper, in packages, film, dry plates, sugar, in packages, dry chemicals, in sheets, salt substitutes, in packages, liquid table sauces, cheese, sugar substitutes, dry swing compounds, paper, tissues, data processing machines, parts for data processing machines, dining kits, paper napkins, plastic articles, cream substitute powder, in packages, sodium bisulphite, fertilizing compounds, in packages, and dry beverage preparations,* between points in OK, on the one hand, and, on the other, points in AZ, CA, CO, NM, NV, TX, and UT.

MC 136818 (Sub-118F), filed December 1, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Rd., Suite 320, Phoenix, AZ 85008. Transporting (1) *clothing and woolen products,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between Las Cruces, NM, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Furtex, Inc.

MC 142559 (Sub-163F), filed December 5, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in by the manufacturers and distributors of filters (except commodities in bulk), between points in Vance County, NC, on the one hand, and, on the other, points in the U.S.

MC 143638 (Sub-6F), filed December 4, 1980. Applicant: JOHNSON'S TRUCKING INC., Route 1, Box 31, Inola, OK 74036. Representative: Troy Johnson (same address as applicant). Transporting *commodities in bulk,* between points in AR, CO, IA, KS, LA, MO, NE, NM, OK, TX, and WY.

MC 150568 (Sub-2F), filed December 2, 1980. Applicant: CASE CARRIAGE CO., a corporation, 715 S. Sugar St., Celina, OH 45822. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between Chicago, IL, Indianapolis, IN, Louisville, KY, Detroit, MI, Minneapolis, MN, St. Louis, MO, Carteret, NJ, Columbus and Evendale, OH, and Ft. Worth, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151959 (Sub-3F), filed December 5, 1980. Applicant: JOHN SPINELLA AND PAUL MCDERMOTT, d.b.a. TRANS-COPPER EXPRESS CO., 512–514 State Fair Blvd., Syracuse, NY 13204. Representative: Donald G. Hichman, R.D. #1, Box 7, Union Springs, NY 13160. Transporting (a) *fabricated metal products,* (b) *parts and accessories* for fabricated metal products, and (c) *materials and supplies* used in the manufacture, assembly, and distribution of fabricated metal products, between points in Onondaga County, NY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OP5–092

Decided: December 28, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 5888 (Sub-56F), filed December 9, 1980. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth Street, Kansas City, MO 64105. Representative: Tom Zaun (same address as applicant). Transporting *wrought steel pipe and tubing and wrought iron pipe and tubing,* between Chicago, IL, and points in AR and OK.

MC 6598 (Sub-3F), filed December 8, 1980. Applicant: STERNS EXPRESS, INC., 100 Franklin St., Whitman, MA 02382. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, points in Albany, Columbia, Dutchess, Greene, Orange, Putnam, Rensselaer, Rockland, Schenectady, Ulster and Westchester Counties, NY, and points in CT, MA, ME, NH, RI, and VT.

MC 25869 (Sub-175F), filed December 8, 1980. Applicant: C.O.D.E., INC., 4800 North Colorado Blvd., Denver, CO 80216. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Monroe County, NY, DuPage County, IL, and Weld County, CO.

MC 71079 (Sub-2F), filed December 10, 1980. Applicant: R.S.J. LEASING, INC., 127–36 Northern Blvd., Flushing, NY 11368. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *iron and steel articles,* between points in the U.S.

MC 99069 (Sub-6F), filed December 9, 1980. Applicant: SOUTHGATE TRUCKING COMPANY, a corporation, P.O. Box 840, Norfolk, VA 23501. Representative: Harry C. Ames, Jr., 805 McLachlan Bank Bldg., 666 Eleventh St.,

NW., Washington, DC 20001. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between Norfolk, VA, on the one hand, and, on the other, Charleston, SC, Baltimore, MD, New York, NY, and points in NC and VA.

MC 106398 (Sub-1088F), filed December 8, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, OK 74101. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 South Second St., Elkhart, IN 46516. Transporting (1)(a) *forest products and lumber or wood products,* as described in Items 08 and 24 of the Standard Transportation Commodity Code Tariff, (b) *building materials,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commoditied in (1) between points in the U.S.

MC 108859 (Sub-86F), filed December 10, 1980. Applicant: CLAIRMONT TRANSFER CO., a corporation, 1803 Seventh Ave., North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and liquid commodities in bulk), between St. Louis, MO, points in Clinton, Muscatine and Scott Counties, IA, Boone, Campbell, Daviess, Henderson, Jefferson and Kenton Counties, KY, Anoka, Carver, Dakota, Goodhue, Hennepin, LeSueur, Olmsted, Ramsey, Rice, Scott, Wabasha, Washington, Winona, and Wright Counties, MN, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, and Warren Counties, MO, and points in IL, IN, MI, OH, and WI.

MC 109818 (Sub-90F), filed November 24, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting (1)(a) *automotive equipment,* (b) *automobile accessories, automobile parts, storage tanks, iron and steel articles, trailers, truck bodies, aluminum articles, and farm equipment,* (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), and (3) *refuse containers, refuse compactors, hoists, balers, shredders, and waste handling equipment,* between points in Scott County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 111238 (Sub-11F), filed December 10, 1980. Applicant: DOLLISON TRUCK LINES, INC., 308 Second Ave., South Charleston, WV 25303. Representative: J. W. Dollison, 1333 West Seventh Street, Cincinnati, OH 45203. Transporting *printed matter* between points in the U.S., under continuing contract(s) with Time, Inc., of Chicago, IL, and Triangle Publications, Inc., of Radnor, PA.

MC 113658 (Sub-42F), filed December 10, 1980. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Richard J. Loose (same address as applicant). Transporting *such commodities* as are dealt in or used by the manufacturers of chocolate products (except commodities in bulk) from Baltimore, MD, New York, NY, Philadelphia, PA, Newport News, VA, and Norfolk, VA, to Chicago, IL.

MC 117068 (Sub-136F), filed December 4, 1980. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *tractors (except truck-tractors), lift trucks, excavators, motor graders, scrappers, engines, generators, generators and engines combined, road rollers, pipe layers and dump trucks,* and (2) *parts, attachments, and accessories* for the commodities in (1), from points in IL, OH, OR, and IA, to points in ND.

MC 118468 (Sub-69F), filed December 9, 1980. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *chemicals and detergents,* and *materials and supplies* used in the manufacture and distribution of chemicals and detergents, between points in the U.S., under a continuing contract(s) with Overton Chemical Sales, Inc., of Sumner, IA.

MC 119428 (Sub-3F), filed December 5, 1980. Applicant: NAP & PAUL'S BOAT TRANSPORT, LTD., 385 Main St., East Hartford, CT 06118. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting *boats and boating equipment,* and *materials and supplies* used in their manufacture between points in the U.S. (including AK, but excluding HI).

MC 124676 (Sub-132F), filed December 8, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same address as applicant). Transporting *paper and paper products,* between points in Snohomish County, WA, on the one hand, and, on the other, points in UT.

MC 128899 (Sub-133F), filed December 4, 1980. Applicant: USHER TRANSPORT, INC., P.O. Box 3156, Paducah, KY 42001. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, KY 40601. Transporting (1) *lumber or wood products;* except furniture, as described in Item 24 and (2) *fabricated metal products;* except ordnance, as described in Item 34, of the Standard Transportation Commodity Code, between point in Jefferson County, KY, on the one hand, and, on the other, points in AR, IL, IN, MO, OH, TN and WV.

MC 133689 (Sub-351F), filed December 2, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *power generating equipment, and accessories for power generating equipment,* and (2) *materials, supplies and equipment used in the manufacture of commodities in (1) above,* between the facilities of Onan Corporation in (a) Hennepin County, MN, and (b) Madision County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

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Decided: December 24, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 136818 (Sub-117F), filed December 1, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Rd., Suite 320; Phoenix, AZ 85008. Transporting *chemicals and minerals,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Molycorp, Inc.,

MC 138328 (Sub-128F), filed December 8, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwys 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). Transporting *lumber or wood products,* (except furniture), as described in Item 24 of the Standard Transportation Commodity Code Tariff, from points in Otero and McKinley Counties, NM, Garfield County, UT, and Sheridan County, WY, to points in the U.S.

MC 138438 (Sub-96F), filed December 8, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N.

Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) (a) *pipe, pipe fittings, couplings, roofing materials, building materials, and insulating materials,* (b) *materials and supplies* used in the installation of the commodities in (1)(a), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by CertainTeed Corporation.

MC 138469 (Sub-258F), filed December 10, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by manufacturers of food seasoning (except in bulk) between points in Los Angeles County, CA, on the one hand, and, on the other, points in IL, NJ, NY, PA, and TX.

MC 140459 (Sub-21F), filed December 8, 1980. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *citrus juices and citrus juice concentrates,* from points in FL to Minneapolis, MN.

MC 140709 (Sub-17F), filed December 12, 1980. Applicant: FRANKHAUSER BROS INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 1101., Topeka, KS 66612. Transporting *liquid feed ingredients* (a) between points in Wichita County, KS, on the one hand, and, on the other, points in MO and CO, and (b) between points in Jasper County, MO, on the one hand, and, on the other, points in AR, OK, and KS.

MC 141869 (Sub-2F), filed December 3, 1980. Applicant: ROYAL COACH LINES, INC., 1600 Junction Ave., Racine, WI 53403. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. Over regular routes, transporting *passengers and their baggage* and *express and newspapers* in the same vehicle with passengers, between Sheboygan, WI and The O'Hare International Airport at Chicago, IL, from Sheboygan over Interstate Hwy 43 (also over U.S. Hwy 41) to junction Interstate Hwy 94, then over Interstate Hwy 94 to O'Hare Field, and return over the same route, serving points in Sheboygan, Ozaukee and Washington Counties, WI as intermediate and off-route points.

MC 142449 (Sub-12F), filed December 5, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 South Second St., Elkhart, IN 46516. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Cook, Du Page, Kane, Kendall, Lake, Mc Henry, and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, those points in MI on and south of MI Hwy 46, and points in IN. Condition: Any certificate issued in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its authority in MC–142449 Subs 1, 3, and 11.

MC 143059 (Sub-147F), filed December 1, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor (same address as applicant). Transporting *such commodities* as are dealt in or used by (1) manufacturers of (a) iron and steel articles and (b) fallout shelters, and (2) distributors of fallout shelter supplies, between points in Sullivan County, PA and Trumbull County, OH, on the one hand, and, on the other, points in the U.S.

MC 143328 (Sub-38F), filed December 8, 1980. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherlund, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. Transporting (1) *beverages,* and (2) *such products* as are dealt in by grovery stores, food business houses, and food service houses, between points in CA and CO.

MC 143488 (Sub-2F), filed December 10, 1980. Applicant: LAUREN L. DYE, d.b.a. LAUREN L. DYE & SON TRUCKING, 10342 South 400 West, Union Mills, IN 46382. Representative: Bruce R. Bancroft, Sixth Floor, First Bank Bldg., South Bend, IN 46601. Transporting *malt beverages,* in containers, between points in the U.S., under continuing contract(s) with Brumm Distributing Co., Inc., of Highland, IN.

MC 144269 (Sub-1F), filed December 10, 1980. Applicant: MESSA ENTERPRISES, INC., P.O. Box 2000, Wise, VA 24293. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *commodities* which, because of size or weight, require the use of special equipment, *construction equipment; and heavy machinery,* between points in AL, AR, FL, GA, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, WV, and DC.

MC 144498 (Sub-3F), filed December 9, 1980. Applicant: HIX TRANSPORT, INC., 4129 N–500 E., Van Buren, IN 46991. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *such merchandise* as is dealt in or used by wholesale, retail, and chain grocery and food business houses, between points in the U.S., under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

Volume No. OP5–094

Decided: December 24, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 16639 (Sub-3F), filed November 26, 1980. Applicant: STODDARD TRANSFER AND FUEL, INC., Atlas Road, Coeur d'Alene Industrial Park, Coeur d'Alene, ID 83814. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting *Household goods as defined by the Commission,* between points in ID, WA, OR, MT, NV, CA, AZ, WY, UT, CO, and NM.

MC 144879 (Sub-9F), filed November 25, 1980. Applicant: D AND J TRANSFER COMPANY, a corporation, Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Marion County, IN, and points in IL, IA, MN, NE, and SD, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, OK and TX.

MC 144969 (Sub-25F), filed December 9, 1980. Applicant: WHEATON CARTAGE CO., a corporation, 3rd and G Streets, Millville, NJ 08322. Representative: Laurence J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332. Transporting *general commodities* (except commodities in bulk, those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between Davenport, IA, Chatsworth and West Chicago, IL, Rice Lake, WI, Harrisburg, PA, Atlanta, GA, Carrollton, San Antonio, and Long View, TX, and Hollywood, Tampa, Orlando, and Jacksonville, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144999 (Sub-3F), filed December 5, 1980. Applicant: JEM TRUCKING COMPANY, INC., P.O. Box 217, Wilkesboro, NC 28697. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1)

architecutral wood and plastic laminated doors, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Buell Door Company, of Dallas, TX.

MC 145018 (Sub-19F), filed December 8, 1980. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting (1) *plastic film, plastic bags, and and plastic sheeting,* and (2) *materials and supplies* used in the manufacture of the commodities in (1), between Pottsville, PA, on the one hand, and, on the other, points in CA and TX.

MC 145108 (Sub-33F), filed November 21, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *bakery supply products and foodstuffs,* and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1), (except commodities in bulk), between points in the U.S., under continuing contract(s) with J. W. Allen & Company, of Wheeling, IL.

MC 145149 (Sub-11F), filed December 2, 1980. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, Wichita, KS 67201. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *coke,* in dump vehicles, from Decatur, Florence, Guntersville and Sheffield, AL, and Chattanooga and Knoxville, TN, to points in AL, GA, MS, and TN, restricted to traffic having a prior movement by water.

MC 145738 (Sub-23F), filed December 1, 1980. Applicant: EAST–WEST MOTOR FREIGHT, INC., P.O. Box 607, Hwy 45 South, Selmer, TN 38375. Representative: Sonny Curtner (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Nashville, Lebanon, Millersville, Greenbriar, Cookeville, Murfreesboro and McMinnville, TN, on the one hand, and, on the other, points in CA, OR, WA, CO, NV, UT, AZ, ID, and WY, restricted to traffic originating at or destined to the facilities of Mid-South Shippers Association, Inc.

MC 145828 (Sub-3F), filed December 2, 1980. Applicant: RONALD L. JONES, d.b.a. ALGOMA FARMS, 1762 Leonard Road North, Oshkosh, WI 54901. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting (1) *fabricated steel products* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with John Mathwig & Sons, Inc., of Oshkosh, WI.

MC 150398 (Sub-2F), filed December 2, 1980. Applicant: BLUE EXPRESS, INC., P.O. Box 292, Canton, SD 57013. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave. NW., Washington, DC 20036. Transporting *such commodities* as are dealt in or used by (1) retail gift and curio shops, catalogue distribution centers, and (2) manufacturers of foodstuffs and animal foods, between points in Dane and Green Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150398 (Sub-3F), filed December 3, 1980. Applicant: BLUE EXPRESS, INC., P.O. Box 292, Canton, SD 57013. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave NW., Washington, DC 20036. Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses,* between points in the U.S., under continuing contract(s) with Dalson Foods, Inc., of Maplewood, MN.

MC 151989 (Sub-1F), filed December 10, 1980. Applicant: TODD TRANSPORTATION COMPANY, a corporation, 421 Garrard Street, Covington, KY 41011. Representative: Stephen D. Strauss, 2613 Carew Tower, Cincinnati, OH 45202. Transporting *general commodities,* (except classes A and B explosives and household goods as defined by the Commission) between points in the U.S., under continuing contract(s) with H. J. Hosea and Sons Company of Newport, KY, and MegNa Forwarding, Inc. of Wilder, KY.

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Decided: December 24, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 78228 (Sub-163F), filed October 28, 1980. (Republication) Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr, 2310 Grant Building, Pittsburgh, PA 15219. Transporting *iron and steel articles,* and *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between Beaver Falls, Ambridge, and Koppel, PA, and Alliance, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This republication corrects the territorial description.

MC 119399 (Sub-142F), filed December 8, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). Transporting (1) *cheese and cheese product* and (2) *Materials and supplies* used in the production and distribution of (1) above (except in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by L. D. Schreiber Cheese Co., Inc.

MC 123048 (Sub-489F), filed December 3, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEMS, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same address as applicant). Transporting *such commodities* as are dealt in, or used by agricultural equipment and industrial equipment dealers and manufacturers (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Class of America, Inc., and its dealers.

MC 136818 (Sub-119F), filed December 1, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *general commodities,* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Van Waters & Rogers.

MC 145978 (Sub-8F), filed December 3, 1980. Applicant: R & S TRUCKING, INC., 527 E. 52nd St. N., Sioux Falls, SD 57104. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. Transporting *chemicals and cleaning supplies* (except commodities in bulk), from points in MN, IL, and WY to points in SD.

MC 146078 (Sub-36F), filed December 5, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *metal containers,* from the facilities of Thompson Can Company, at or near Dallas, TX, to points in AR, OK, MS, LA, and TN.

MC 150339 (Sub-20F), filed December 1, 1980. Applicant: PIONEER

TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting (1) *rubber scrap*, and (2) *such commodities* as are used in the recycling of rubber scrap, between points in the U.S., under continuing contract(s) with Baker Rubber, Inc., of South Bend, IN.

MC 150859 (Sub-1F), filed December 9, 1980. Applicant: H & L HOUSEHOLD MOVERS, INC., 14674–I Southlawn Lane, Rockville, MD 20850. Representative: Edward E. Harrison (same address as applicant). Transporting *household goods* as defined by the Commission, between points in MD, VA, and DC, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control of applicant and other regulated carriers must either file an application for approval of common control under 49 U.S.C. §11343 or submit an affidavit indicating why such approval is unnecessary.

MC 150939 (Sub-5F), filed December 9, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting (1) *automobile accessories*, and (2) *such commodities* as are used in their manufacture and distribution, between points in the U.S., under a continuing contract(s) with Mark Fore Vatco, Division of Beatrice Foods Co., of Chelsea, MA. Condition: The person or persons who appear to be engaged in common control of applicant and other regulated carriers must either file an application for approval of common control under 49 U.S.C. § 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 150939 (Sub-7F), filed December 9, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *synthetic fibers, synthetic textiles, plastics, and plastic products*, between points in the U.S. under continuing contract(s) with Celanese Fibers Company, Celanese Fibers Marketing Company, Fibers Industries, Inc., Amcel Company, Pan Amcel Company, and Pama Manufacturing Company, all of Charlotte, NC. Condition: The person or persons who appear to be engaged in common control of applicant and other regulated carriers must either file an application for approval of common control under 49 U.S.C. § 11343, or submit and affidavit indicating why such approval is unnecessary.

MC 152239 (Sub-2F), filed December 8, 1980. Applicant: C–B BROKERS, INC., P.O. Box 10, Hanover, VA 23069. Representative: J. D. Brown (same address as applicant). Transporting (1) *paper and paper products, pulp board, wood pulp,* and *particle board* from West Point, VA, to points in the U.S., and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), in the reverse direction.

MC 152629 (Sub-1F), filed December 9, 1980. Applicant: ATLAS WAREHOUSE COMPANY, a corporation, P.O. Box 456, Burlington, IA 52601. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. Transporting (1) *bakery goods,* from the facilities of Midwest Biscuit Company, at Burlington, IA, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution thereof, in the reverse direction.

MC 152989F, filed December 2, 1980. Applicant: SHELBY BUS COMPANY, INC., 219 North Broadway, Shelbyville, IL 62565. Representative: Dove & Dove, 143 East Main St., Shelbyville IL 62565. Transporting *passengers and their baggage,* in round-trip charter operations beginning and ending at Shelbyville, IL, and extending to points in MO, IA, IN, and MI.

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Decided: December 29, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 22509 (Sub-33F), filed December 15, 1980. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Ave., St. Joseph, MO 64506. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 98088 (Sub-22F), filed November 21, 1980. Applicant: LINDLEY TRUCKING SERVICE, INC., 1701 Grand Ave., Granite City, IL 62040. Representative: Richard Chasteen (same address as applicant). Transporting (1) *metal, and metal articles,* and (2) *materials and supplies* used in the manufacture and distribution of metal articles, between points in IL and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 99208 (Sub-16F), filed November 10, 1980. Applicant: SKYLINE TRANSPORTATION, INC., 131 Quincy Ave., P.O. Box 3569, Knoxville, TN 37917. Representative: W.H. Reed, Sr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, TX, and VA.

Note.—Applicant intends to tack this authority with its existing authorities.

MC 113158 (Sub-48F), filed November 12, 1980. Applicant: TODD TRANSPORT COMPANY, INC., Secretary, MD 21664. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. Transporting *malt beverages,* between points in Monroe County, NY and Forsyth County, NC, on the one hand, and, on the other, points in MD.

MC 114829 (Sub-25F), filed December 3, 1980. Applicant: GENERAL CARTAGE COMPANY, INC., P.O. Box 417, Sterling, IL 61081. Representative: Bernard J. Kompare, Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers of metal products, wood products and fiberglass products, between points in the U.S., under continuing contract(s) with Frantz Manufacturing Company of Sterling, IL.

MC 119789 (Sub-723F), filed December 8, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting (1) *foodstuffs* (except frozen foodstuffs, and in bulk), from Opelousas, LA, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the production and distribution of the commodities in (1), in the reverse direction. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of authority in MC 119789 (Subs-306, 348, and 647).

MC 123048 (Sub-488F), filed November 20, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Transporting *such commodities* as are dealt in or used by dealers and manufacturers of machinery (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities used by Cincinnati Milacron Inc., and its dealers.

MC 129378 (Sub-1F), filed December 11, 1980. Applicant: JENNINGS TRUCKING SERVICE, INC., Route 1, Box 72, Gotebo, OK 73041. Representative: James L. Jennings (same address as applicant). Transporting (1) *sand, rock, and gravel,* (2) *gypsum and gypsum products,* and (3) *limestone,* between points in OK, on the one hand, and, on the other, points in TX.

MC 134038 (Sub-8F), filed December 9, 1980. Applicant: MAJORS TRANSIT, INC., P.O. Box 7, Caneyville, KY 42721. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Over *regular* routes, transporting *general commodities,* (except classes A and B explosives) between Louisville, KY and Nashville, TN, (1) from Louisville over Interstate Hwy 65 to Nashville and return over the same route, and (2) from Lousiville over U.S. Hwy 31-W to Nashville and return over the same route, serving the intermediate points in Bowling Green, KY and the intermediate points in Elizabethtown, KY for purposes of joinder only.

MC 135419 (Sub-3F), filed October 15, 1980, previously noticed in the **Federal Register** issue of November 4, 1980. Applicant: CONTAINER CARRIER CORPORATION, P.O. Box 48, Fort Smith, AR 72902. Representative: William D. Hendrix (same address as applicant). Transporting *motor vehicles,* in containers between Houston and Dallas, TX, restricted to traffic having a prior or subsequent movement by water.

Note.—Purpose of republication is to modify the authority as above.

MC 139559 (Sub-2F), filed December 12, 1980. Applicant: B & H CARTAGE, INC., 52 Summit St., Newark, OH 43055. Representative: William L. Weese (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in OH, restricted to traffic having a prior or subsequent movement by rail.

MC 146438 (Sub-8F), filed December 11, 1980. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting (1) *materials and supplies* used in the production and distribution of infants' and children's wear, from points in NC and TN to the facilities of H. H. Cutler Co., in MI, NC, and TN, and (2) *infants' and children's wear,* from the facilities of H. H. Cutler Co., in MI, NC, and TN, to points in the U.S. (except AK and HI).

MC 149418 (Sub-2F), filed November 4, 1980 (republication). Applicant: BATESVILLE CASKET COMPANY, INC., Batesville, IN 47006. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Suite 400, Washington, DC 20036. Transporting (1) *metal fireplaces* and (2) *equipment and accessories* for metal fireplaces, between points in the U.S., under continuing contract(s) with Marco Manufacturing, Inc., of Louisville, KY.

Note.—This republication shows the territorial description.

MC 151249 (Sub-1F), filed December 8, 1980. Applicant: NICHOLAS COROMELAS, d.b.a. INDEPENDENT TRANSPORT OF CALIFORNIA, 3520 Fern Circle, Seal Beach, CA 90740. Representative: Nicholas Coromelas (same address as applicant). Transporting *plastic and plastic articles* and *materials* used in the manufacture of plasic and plastic articles, between points in the U.S., under continuing contract(s) with Filon, Division of Vistron Corporation, of Hawthorne, CA.

MC 153119F, filed December 8, 1980. Applicant: ROBERT FLEEGE, d.b.a. FLEEGE DISTRIBUTING CO., P.O. Box 273, Foley, MN 56329. Representative: Robert Fleege (same address as applicant). Transporting *millwork, hardware, building products, and deminsion lumber,* between points in the U.S., under continuing contract(s) with Woodcraft Industries, Inc., of St. Cloud, MN, and its subsidiaries.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-918 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-37F)]

Seaboard Coast Line Railroad Co.—Abandonment Near Craggs and Bell, FL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided December 24, 1980, a finding which is administratively final was made by the Commission, Review Board Number 5 stating that the public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of the following portions of a line of railroad extending from milepost SN-722.2 near Craggs, FL, a total distance of 8.6 miles in Gilchrist County, FL, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) it is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line railroad and the avoidable cost of providing of rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of the execution of an assitance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-923 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-85

The following applications were filed in region I.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 153333 (Sub-1–1TA), filed December 30, 1980. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William J. Hanlon, Esq., Hanover Plaza, Morristown, NJ 07960. *Contract carrier:* irregular routes: *Beverages and such commodities as are dealt in by a distributor of beverages* between the facilities of Consolidated Distribution Services in Alameda and San Francisco Counties, CA and all points in the US, under a continuing contract with Consolidated Distribution Services of Union City, CA. Supporting shipper: Consolidated Distribution Services, 33589 Central Avenue, Union City, CA 94587.

MC 11727 (Sub-1–1TA), filed December 30, 1980. Applicant: JAMES H. RUSSELL, INC., Three Rock Hill Road, Smithfield, RI 02917. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852. *Beverages and related materials used in the manufacture and distribution of beverages,* between New Haven, CT, and points in DE, ME, MD, MA, NH, NJ, NY, PA, and RI, and between Portland, ME, and points in CT, DE, MD, MA, NH, NJ, NY, PA, and RI. Supporting shipper: Cott Corporation, 197 Chatham Street, New Haven, CT 06513.

MC 82101 (Sub-1–1TA), filed December 30, 1980. Applicant: WESTWOOD CARTAGE, INC., 62 Everett Street, Westwood, MA 02090. Representative: John P. Tynan, 201 Juno Street, P.O. Box 777, Jupiter, FL 33458. *Contract carrier:* irregular routes: *Department store merchandise, and material, equipment and supplies,* between points in MA and NH, under continuing contract with Lechmere Sales Co., Inc. Supporting Shipper: Lechmere Tire & Sales Co., Inc., 275 Wildwood Street, Woburn, MA 01801.

MC 151639 (Sub-1–7TA), filed December 29, 1980. Applicant: COMMAND TRNSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Stationery, greeting cards, wrapping paper, office furnishings and materials, equipment, and supplies used in the manufacture of greeting cards and stationery,* from Dedham, MA to West Chester, PA. Supporting shipper: Rust Craft Greeting Cards, Inc., Rust Craft Road, Dedham, MA 02026.

MC 151639 (Sub-1–8TA), filed December 29, 1980. Applicant: COMMAND TRANSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Gloves and glove findings,* between Norwood, MA and New York, NY. Supporting shipper: Safety House of New England, Inc., 930 Washington, Street, Norwood, MA 02062.

MC 59720 (Sub-1–4TA), filed December 29, 1980. Applicant: KENMORE TRANSPORTATION COMPANY, 22 Eskow Road, Worcester, MA 01604. Representative: James C. Hardman, 33 N. La Salle Street, Chicago, IL 60602. *Plastic materials,* between Leominster, MA, Copley, OH, and Forest City, NC , on the one hand, and, on the other, points in the U.S. east of the Mississippi River. Supporting shipper: Polysar Incorporated, 29 Fuller St., Leominster, MA.

MC 150987 (Sub-1–6TA), filed December 22, 1980. Applicant: DOWN EAST TRUCKING INC., MRC 156, Bangor, ME 04401. Representative: R. Emery Clark, 366 Executive Building, 1030 Fifteenth St. NW., Washington, D.C. 20005. *Lumber,* from Greenville Junction, ME to points in CT, MA, NJ, NY, NH, PA, RI, and VT. Restricted to traffic originating at and/or destined to the facilities of Boulette Lumber Company. Supporting shipper: Boulette Lumber Company, P.O. Box 303, Greenville, Junction, ME 04442.

MC 93147 (Sub-1–10TA), filed December 23, 1980. Applicant: DELTA TRANSPORT CORPORATION, P.O. Box 546, 840 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Lawn and garden products, equipment, materials and supplies used in the manufacture, sale and distribution of such commodities,* between points in NJ and points in the US. Supporting shipper: Melnor Industries, 1 Carol Place, Moonachie, NJ 07074.

MC 93147 (Sub-1–9TA), filed December 23, 1980. Applicant: DELTA TRANSPORT CORPORATION, P.O. Box 546, 840 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 10013. *Glass and glass products, and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities,* between points in PA and points in the US. Supporting shipper: General Glass International Corp., 270 North Avenue, New Rochelle, NY 10801.

MC 148958 (Sub-1–1TA), filed December 24, 1980. Applicant: EVCCO TRANSPORTATION, INC., Route 22, Box 535, Lebanon, NJ 08833. Representative: George A. Olsen, P.O. Box 357, Gladstone NJ 07934. *Contract carrier:* irregular routes: *(1) Paper, paper products, plastic, plastic products, and hospital supplies; and (2) materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above,* between points in the US. Supporting shipper(s): Whitestone Products, 40 Turner Place, Piscataway, NJ 08854.

MC 118803 (Sub-1–7TA), filed December 23, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Plastic articles, and equipment and material and supplies used in the manufacuture and distribution of plastic* *articles,* between points in the US. Restricted to traffic originating at or destined to facilities or Mobil Chemical Co., under contract(s) with Mobil Chemical Co., Macedon, NY. Supporting shipper: Mobil Chemical Co., Macedon, NY 14502.

MC 140986 (Sub-1-2TA), filed December 23, 1980. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract Carrier:* irregular routes: *Adhesives, building materials, composition boards, gypsum products, gypsum board paper, mineral fiber products, paint and paint products and materials and supplies used in the packaging, installation or distribution thereof, except in bulk* between Mobile, AL, Plainfield, IL, Cloquet, MN, Greenville, MS, Barrington, NJ, Gypsum, Newark and Talmadge, OH, and Walworth, WI, on the one hand, and, on the other, points in the US. Supporting shippers: Kamco Supply Corp., Brooklyn, NY, Kamco Supply Corp., New England and Kamco Supply Corp., Boston, 4002–15th Avenue, Brooklyn, NY 11218.

MC 152999 (Sub-1-1TA) filed December 18, 1980. Applicant: LYNDONVILLE VINEGAR, INC., 247 West Avenue, Lyndonville, NY 14098. Representative: William J. Hirsch, Esq., 125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *General commodities, with the usual exceptions,* between Lyndonville, NY, on the one hand, and, on the other, all points in CT, IL, IN, KS, MA, MD, MI, MO, NH, NJ, NY, OH, OK, PA, RI, WI and WV. Supporting shipper: The Pillsbury Company, LeSueur, MN 56058.

MC 113041 (Sub-1-1TA) filed December 29, 1980. Applicant: A-C BERWICK TRANSPORTERS, INC., 155 Smith Street, Keasbey, NJ 08832. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Fatty amide, in bulk, in tank vehicles equipped with burners,* from Memphis, TN to Lawrenceville, IL. Supporting shipper: Humko Chemical, Div. Witco Chemical Corp., P.O. Box 125, Memphis, TN 38101.

MC 141516 (Sub-1-3TA) filed December 24, 1980. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, ME 04988. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Non-exempt foods or kindred products from point in ME to points in IA, KS, NB and OK.* Supporting shipper: A. K. F. Foods, Inc., d.b.a. Potato Service, P.O. Box 809, Presque Isle, ME 04769.

MC 133841 (Sub-1-10TA) filed December 24, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main St., Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wooden poles,* between points in the U.S. east of and including the states of WI, IL, MO, AR, and LA, restricted to the transportation of shipments originating at or destined to the facilities owned, operated, or utilized by Escambia Treating Company. Supporting shipper: Escambia Treating Company, P.O. Box 17108, Pensacola, FL 32522.

MC 153320 (Sub-1-1TA) filed December 24, 1980. Applicant: KLEEN-BRITE CHEMICAL COMPANY, INC., 10 Moore Street, P.O. Box 485, Rochester, NY 14602. Representative: Herbert M. Canter, Esq., Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. *(1) Such commodities as are dealt in or used by chain grocery or food business houses and (2) materials, equipment and supplies used in the manufacture and distribution of such commodities in (1), above.* From points in CT, DC, DE, MA, MD, ME, MI, NJ, NH, NY, OH, PA, RI, VA, VT and WV to points in NY north of Sullivan, Dutchess and Ulster Counties. Supporting shippers: Niagara Frontier Services, Inc., 60 Dingens St., Buffalo, NY 14206; Wegman's Food Markets, Inc., 1500 Brooks Ave., Rochester, NY 14624 and Robfogel Mill-Andrews Corporation, 20 Jet View Dr., Rochester, NY 14623.

MC 153294 (Sub-1-1TA), filed December 23, 1980. Applicant: A YANKEE LINE, INC., P.O. Box 281, Allston, MA 02134. Representative: Michael Eby, Esq., 10 Post Office Square, Boston, MA 02109. *Passengers and their baggage in the same vehicle, in special operations,* between points in MA, CT, RI, HN, on the one hand, and, on the other, points in the following Florida counties: Brevard, Broward, Dade, Hillsborough, Orange, Volusia. Supporting shipper: Beachcomber Tours, Inc., 1325 Millersport Hwy., Williamsville, NY 14221.

MC 50307 (Sub-1-2TA), filed December 24, 1980. Applicant: INTERSTATE DRESS CARRIERS, INC., 215 County Avenue, Secaucus, NJ 07094. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10106. *Wearing apparel and materials, supplies and equipment used in the manufacture of wearing apparel, except commodities in bulk,* between New York, NY, Perkasie, PA and Youngstown, OH. Supporting shipper: Harve Bernard, Ltd., 205 West 39th Street, New York, NY 10018.

MC 59457 (Sub-1-4TA), filed December 30, 1980. Applicant: SORENSEN TRANSPORATION COMPANY, INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. *Printed matter and equipment, materials and supplies used in the manufacture, distribution and sale thereof* between Franklin, KY, on the one hand, and, on the other, ME, NH, VT, CT, MA, RI, NY, PA, DE, MD, DC, VA, WV, OH, NJ, IN, IL, TN, NC, SC, GA, and FL. Supporting shipper: Select Magazines, Inc., 229 Park Avenue, So., New York, NY 10003.

MC 48956 (Sub-1-4TA), filed December 29, 1980. Applicant: JAMES FLEMING TRUCKING, INC., East Street, Suffield, CT 06078. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Contract Carrier,* irregular routes, *such merchandise as is dealt in by wholesale, retail and chain grocery stores, and equipment, supplies and materials used to conduct such businesses,* between CT and NJ, on the one hand, and, on the other, ME, MA, NY, RI and VT, under contract to Hunt Wesson Foods, Inc., Rossford, OH. Supporting shipper: Hunt Wesson Foods, Inc., P.O. Box 127, Rossford, OH 43460.

MC 112750 (Sub-1-10TA), filed December 29, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch, 3333 New Hyde Park Road, New Hyde Park, NY 11042. *Contract carrier:* irregular routes: *Commercial papers, documents and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions,* between Atlanta, GA, on the one hand, and, on the other, points in NC. Supporting shipper: Federal Home Loan Bank of Atlanta, 280 Peachtree St., P.O. Box 56527, Atlanta, GA 30343.

MC 105369 (Sub-1-1TA), filed December 29, 1980. Applicant: N.Y. AND N.J. FREIGHTWAYS, INC., 47–10 Grand Avenue, Maspeth, NY 11378. Representative: Bruce J. Robbins, Esq., Robbins & Newman, P.C., 118–21 Queens Blvd., Forest Hill, NY 11375. *Such commodities as are dealt in by door-to-door sale, catalogue sale, and mail order houses (except commodities in bulk)* (1) between Dayton, NJ, on the one hand, and, on the other, the facilities of N.Y. & N.J. Freightways, Inc. in the commercial zones of New York, NY and

Philadelphia, PA, and (2) between points named in (1) above, on the one hand, and, on the other, points in CT, ND, VA, WV and DC. Supporting shipper: Amway Corporation, Monmouth Junction Road, Box 900, Dayton, NJ 08810.

MC 45414 (Sub-1-1TA), filed December 29, 1980. Applicant: HUB BUS LINES, INC., 100 Boylston Street, Boston, MA 02116. Representative: Bikofsky, Walker & Tuttle, 281 Pleasant Street, Framingham, MA 01701. *Passengers and their baggage in the same vehicle* between Logan Airport, Boston, MA, on the one hand, and on the other hand, Worcester, MA, Springfield, MA, and Hartford, CT. Supporting shippers: There are 10 statements in support which may be examined at ICC Regional Office, Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 142824 (Sub-II-1TA), filed December 22, 1980. Applicant: CENTURY MOTOR FREIGHT, INC., 162 Columbus Road, Mt. Vernon, OH 43050. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular: glass containers and materials, equipment and supplies* used in the manufacture and distribution of glass containers between points in Knox County, OH, on the one hand, and, on the other, points, in NC, SC, GA, and MD under continuing contracts with Chattanooga Glass Co of Chattanooga, TN for 270 days. Supporting shipper: Chattanooga Glass Co., 400 W. 45th St., Chattanooga, TN 37410.

MC 110563 (Sub-II-5TA), filed December 22, 1980. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Sidney, OH 45365. Representative: Victor J. Tambascia (same address as applicant). *Frozen bakery goods, NOI and foodstuffs, materials and supplies used in the processing or distribution of foodstuffs,* between the fac. of Mrs. Smith's Frozen Foods Co., on the one hand, and, on the other, all points in the U.S., for 270 days. Supporting shipper: Mrs. Smith's Frozen Foods Co., P.O. Box 298, Pottstown, PA 19464.

MC 153286 (Sub-II-1TA), filed December 22, 1980. Applicant: RICHARD G. CONAWAY, R.D. No. 1, Box 106, Frenchville, PA 16836. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. (1) *Coal,* from the facilities of Waroquier Coal, Inc. in Clearfield Co., PA to Niagara Falls and Buffalo, NY, (2) *Machinery and parts,* from Buffalo, NY to points in Clearfield Co., PA. An underlying ETA seeks 120 days authority. Supporting shippers: Waroquier Coal, Inc., 133 W. 5th St., Clearfield, PA 16830; J. E. Hoffman Coal, Co., Inc., d.b.a. Hoffman Equipment, Karthaus, PA 16845.

MC 8842 (Sub-II-1TA), filed December 22, 1980. Applicant: DAWSON BUS SERVICE, INC., 405 East Camden-Wyoming Ave., Camden, DE 19934. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Passengers and their baggage, in the same vehicle with passengers, in round-trip and one-way charter operations,* between points in DE on the one hand, and, on the other, pts. in and east of MN, IA, MO, AR and LA. An underlying ETA seeks 120 days authority. Supporting shipper(s): University of Delaware, Delaware Field House, Newark, DE 19711; Bank of Delaware, 901 Market St., P.O. Box 2413, Wilmington, DE 19899; Eastern Ski Tours, Inc., 821 West St., Wilmington, DE 19891.

MC 153287 (Sub-II-1TA), filed December 22, 1980. Applicant: DRESSER TRANSPORTATION SERVICES, INC., 400 W. Wilson Bridge Rd., Worthington, OH 43085. Representative: Frank W. Whiteside (same as applicant). Contract, irregular: *clay, NOI, crushed, ground, or pulverized, TL in packages or in bulk and sand, NOI, crushed, ground, or pulverized, TL in packages or in bulk,* from Kosse, TX, Waco, TX, Ft. Worth, TX, Houston, TX, to Huron, OH, Columbus, OH, Memphis, TN, Buffalo, NY, Chicago, IL, Trenton, NJ, Baltimore, MD, Jamica, NY, Mt. Vernon, IL, Kansas City, KY, Elk Ridge, MD, Belle Meade, NJ, Pennsauken, NJ, Salem, NJ, Greensboro, NC, and their commercial zones for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Texas Industrial Minerals Co., Rt. 7, P.O. Box 98, Kosse, TX 76653.

MC 140889 (Sub-II-10TA), filed December 22, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Contract, Irregular; *Absorbent cotton and synthetic fibers in packages* from facilities in Cuyahoga County, OH to points in LA, TX, AZ, CA, OR, WA, FL, GA, and NJ; under a continuing contract or contracts with Megas Manufacturing, Inc., of Brooklyn Hts., OH., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Megas Manufacturing, Inc., 4800 Van Epps Rd., Brooklyn Hts., OH 44131.

MC 150522 (Sub-II-7TA), filed December 22, 1980. Applicant: VIRGINIAN ELECTRIC CO., d.b.a. VIRGINIAN POWER TRANSPORT, 530 29th St., Parkersburg, WV 26101. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Malt beverages and used containers,* Between Franklin County, OH; Kenton County, KY; and Atlantic County, NJ, on the one hand, and, on the other, Belmont County, OH for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper(s): Muxie Distributor, 50th and Guernsey Sts., Bellaire, OH 43906.

MC 153269 (Sub-II-1TA), filed December 19, 1980. Applicant: JAMES BURKE, dba, BURKE TRUCKING, 1945 Willow Run Rd., Grove City, OH 43123. Representative: E. H. van Deusen, P.O. B. 97, 220 W. Bridge St., Dublin, OH 43017. *Waste sludge, in dump vehicles,* from Hilliard, OH to point in Wayne County, MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Systech Liquid Treatment Corp., 245 N. Valley Rd., Xenia, OH 45385.

MC 150511 (Sub-II-6TA), filed December 17, 1980. Applicant: BETTER HOMES DELIVERIES, INC., 3700 Park East Drive, Cleveland, OH 44122. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Contract carrier, irregular: *Such merchandise as is dealt in by retail department stores, and equipment, materials and supplies used in the conduct of such business,* between Tempe, AZ, on the one hand, and, on the other, Albuquerque, NM and Las Vegas, NV, under continuing contract(s) with Broadway Southwest Division of Carter-Hawley-Hale Stores, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Broadway Southwest, Division of Carter-Hawley-Hale Stores, Inc., 4000 Fiesta Mall, Mesa, AZ 85202.

MC 60253 (Sub-II-1TA), filed December 22, 1980. Applicant: ARLINGTON TRUCK COMPANY, 524 Oregon Rd., Northwood, OH 43619. Representative: Richard A. Chase, 525 Security Bldg., Toledo, OH 43604. Contract, irregular: *Glass and glass products, materials, supplies and equipment used in the manufacture, sale and distribution thereof,* except in bulk, from the facilities of Libbey-Owens-Ford at Todedo, OH, on the one hand, and, on the other, points in the United States (except AK and HI), for 270 days. Supporting shipper: Libbey-Owens-Ford Co., 811 Madison Ave., Toledo, OH 43695.

MC 135556 (Sub-II-1TA), filed December 24, 1980. Applicant: CARPENTER BROTHERS TRUCKING, INC., 3282 R.S. 98 Bucyrus, OH 44820.

Representative: Gerald P. Wadkowski, 85 E. Gay St., Columbus, OH 43215. Contract, irregular: *Rubber and plastic hose, clay, plastic resin, and crude synthetic rubber,* having a prior or subsequent movement by rail, between pts. in OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Swan Hose Div., Amerace Corp., P.O. Box 311, Bucyrus, OH 44820.

MC 151264 (Sub-II-1TA), filed December 29, 1980. Applicant: CHESAPEAKE & NORTHERN TRANSPORTATION CORP., 5604 Capelle Rd., Portsmouth, VA 23703. Representative: James Riffe (same address as applicant). Contract, irregular: *Passengers and baggage in the same vehicle with passengers,* from Elizabeth City, NC and Exmore, Cape Charles, Virginia Beach, Norfolk, Portsmouth, Chesapeake, Suffolk, Franklin, Smithfield, Windsor, Wakefield, Surry, Newport News, Hampton, Williamsburg, Emporia, Petersburg, Richmond, and Poquoson, VA to pts. in WV, MD, PA, NC, NY, VT, NH, FL, TN, LA, NJ, MI, DE, CA, GA, SC, DC & AL, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper: The American Travel Club, 429 Villnovia Ave., Chesapeake, VA 23324.

MC 99408 (Sub-II-2TA), filed December 29, 1980. Applicant: CITY DELIVERY SERVICE, INC., 1 Passan Dr., Laflin Borough, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *General Commodities, (except Classes A and B Explosives, commodities in bulk, and those requiring special handling and equipment),* Between the facilities of Valley Distributing & Storage Company located at Scranton and Wilkes-Barre, PA, on the one hand, and, on the other, points in the US (except AK, HI, MI, OH, CT, MA, VA, NJ, IL and MD). Restriction: Restricted to transportation originating at or destined to Valley Distributing & Storage Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Valley Distributing & Storage Co., 1 Passan Dr., Laflin Borough, PA 18702.

MC 139583 (Sub-II-1TA), filed December 29, 1980. Applicant: DEDICATED FREIGHT SYSTEMS, INC., 5800 Grant Ave., Cleveland, OH 44105. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Contract, irregular: *Automotive parts and materials, accessories and supplies used in the manufacture of automotive parts and automotive vehicles,* between Commercial Zone of Detroit, MI and Commercial Zones of Dallas and Houston, TX, New Orleans, LA and Kansas City, KS; between Commercial Zone of Kansas City, KS and Commercial Zones of Dallas and Houston, TX and St. Louis, MO; from Commercial Zone of Dallas, TX to Commercial Zone of New Orleans, LA, under continuing contract(s) with Ford Motor Company, Dearborn, MI, for 270 days. Supporting shipper: Ford Motor Co., One Parkland Boulevard, Ste. 200 Parkland Twrs. E, Dearborn, MI 48126.

MC 123405 (Sub-II-4TA), filed December 29, 1980. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Contract, irregular: *Non-exempt food or kindred products,* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in AL, GA, MS, TN, SC, NC, FL, LA, PA, NJ and VA, for 270 days, restricted to transportation to be performed under a continuing contract with Heinz USA, Division of H. J. Heinz Company. An underlying ETA seeks 120 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 113666 (Sub-II-15TA), filed December 23, 1980. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood (same address as applicant). *Xanthate,* except in bulk, from ports of entry on the U.S.-Canada International Boundary Line located in MI and NY, to points in NM and ID. An underlying ETA seeks 120 days authority. Supporting shipper: Cyanamid Canada, Inc., 2255 Sheppard Avenue, East, Willowdale, Ontario, M2J 4Y5.

MC 133133 (Sub-II-1TA), filed December 24, 1980. Applicant: FULLER MOTOR DELIVERY CO., 802 Plum St., Cincinnati, OH 45202. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. *Salt* from Uhrichsville, OH to points in IN, KY, PA (on and East of U.S. Highway 15) and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440.

MC 2788 (Sub-1TA), filed December 18, 1980. Applicant: GLOVER TRUCKING CORP., P.O. Box 7206, Holland Station, Suffolk, VA 23437. Representative: Charles Ephraim, Suite 406, 918 16th Street NW., Washington, DC 20006. *Waste paper,* from Grifton, NC to Norfolk, VA and its Commercial Zone restricted to traffic in containers having a subsequent movement via water. An underlying ETA seeks 120 days authority. Supporting shipper: Europam Paper Co., 923 Dixie Terminal Bldg., Cincinnati, OH.

MC 146856 (Sub-II-7TA), filed December 22, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 So. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli, 820 So. Oldham St., Baltimore, MD 21224. *(1) automotive hand tools,* and (2) *those commodities used in the manufacturing and distribution of automotive hand tools* between Anaheim, CA, Norcross, GA, Dorsey, MD, Lancaster, PA, Sparks, NV, Walterboro, SC and Arlington, TX under a continuing contract(s) with K–D Manufacturing Co., Lancaster, PA, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: K–D Manufacturing Co., Lancaster, PA.

MC 153123 (Sub-II-1TA), filed December 18, 1980. Applicant: W. P. JOHNSON, d.b.a. W. P. JOHNSON EQUIPMENT AND MATERIALS Star Route 24E (Bedford-County), Vinton, VA 24179. Representative: David Earl Tinker, Esq., 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036. *Chemicals, and materials, equipment, and supplies used in the manufacture and/or distribution of chemicals,* between points in the United States, under continuing contract(s) with Wen-Don Corporation of Roanoke, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Wen-Don Corporation, 326 Albermarle Ave., Roanoke, VA 24013.

MC 147311 (Sub-II-1TA), filed December 22, 1980. Applicant: T & S TRANSPORTATION, INC., 7420 Ranco Road, Richmond, VA 23228. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Contract:* irregular routes, transporting: *Malt beverages* (except in bulk), from Winston-Salem, NC, to the facilities of Howard Distributing Company, Inc., at or near Greendale, VA, restricted to the transportation of shipments on a continuing contract or contracts with Howard Distributing Company, Inc. for 270 days. Supporting shipper(s): Howard Distributing Company, Inc., P.O. Box 9409, Richmond, VA 23229.

MC 61825 (Sub-II-13TA), filed December 22, 1980. Applicant: ROY STONE TRANSFER CORPORATION, V.C. DRIVE, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same as applicant). *Furniture parts,* from Grand Rapids, MI to Verona, MS. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper:

Sackner Products, Inc., 901 Ottawa NW., Grand Rapids, MI 49503.

MC 115078 (Sub-II–2TA), filed December 23, 1980. Applicant: SINDALL TRANSPORT, INC., 102 N. Custer Ave., New Holland, PA 17557. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733 Investment Bldg., Washington, DC 20005. *Lumber,* from (1) points in ME, including ports of entry on U.S. Canada Boundary Line; and (2) from ports of entry on U.S. Canada Boundary Line in NY, to points in PA, NY, DE, NJ, MD, VA, and WV, restricted in (2) to traffic moving in foreign commerce originating at facilities of Empire Wholesale Lumber Co., at Niagara Falls, Ontario, Canada for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Empire Wholesale Lumber Co., P.O. Box 249, Akron, OH 44309.

MC 153271 (Sub-II–1TA), filed December 19, 1980. Applicant: PRUDENTIAL ASSOCIATES, INC., d.b.a. UNITED STATES MESSENGER SYSTEMS, INC., 4825 Tuckerman Lane, Suite #204, Potomac MD 20854. Representative: Arthur M. Kravetz (same as applicant). *Classified material and documents* produced by the United States Government and by private companies that have contracted with the United States Government on an as needed basis, between Washington, DC; the MD counties of Montgomery, Frederick, Prince Georges, Howard, and Anne Arundel, MD and Baltimore City, MD; and the VA counties of Arlington and Fairfax and all inclusive cities and jurisdictions lying within, cities of Alexandria, Falls Church, and the town of Vienna, Dulles International Airport, and the United States Marine Corps Reservation, Quantico, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Singer Company, 11800 Tech Rd, Silver Spring, MD 20904.

MC 150954 (Sub-II–9TA), filed December 29, 1980. Applicant: TRAVIS TRANSPORTATION, Inc., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Aloe vera juice, in drums or glass containers, in packages,* between Santa Rosa (Cameron County), TX on the one hand and on the other, Tempe, AZ and Los Angeles, CA, for 270 days. Underlying ETA seeks 120 days operating authority. Applicant intends to interline within the scope of operations of Alamo Express, Inc., MC 107727. Supporting shipper: The Golden Aloe Co., Inc., P.O. Drawer C, Santa Rosa, TX 78593.

MC 65941 (Sub-II–6TA), filed December 29, 1980. Applicant: TOWER LINES, INC., 3rd & Warwood Ave., Wheeling, WV 26003. Representative: James R. Stevick (same as applicant). (1) *Glass containers, glass container tops, and corrugated boxes,* and (2) *equipment, materials and supplies used in the manufacture of the commodities named in (1) above,* between Danville, VA and Clarion County, PA on the one hand and Gerber Products Co at or near Asheville, NC on the other for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gerber Products Co., P.O. Box 2689, Asheville, NC 28802.

MC 117565 (Sub-II–10TA), filed December 22, 1980. Applicant: MOTOR SERVICE CO., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *Paper and Paper board Products,* between points in IL, KY, MI, NC, TN and all points North and East thereof, for 270 days. Supporting shipper: Arco Trading Corp., 615 Iron City Dr., Pittsburgh, PA 15205.

MC 145018 (Sub-II–4TA), filed December 29, 1980. Applicant: NORTHEAST DELIVERY, INC. P.O. Box 127, Taylor, PA 18517. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Rubber and Plastic Articles and Tennis Balls,* From Mercer County, NJ to St. Louis, MO; Kansas City, KS; Denver, CO; Casper, WY; Salt Lake City, UT; Sacramento, San Francisco, & Los Angeles, CA; Atlanta, GA; Jacksonville, Miami, Tampa, FL; Houston, TX; and New Orleans, LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Goodall Rubber Co., P.O. Box 8237, Trenton, NJ 08650.

MC 117565 (Sub-II–11TA), filed December 22, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Truck Equipment, Truck bends, Truck bodies, accessories and component parts, and (2) Accessories and supplies used in the manufacture, maintenance, installation and distribution of (1) above,* Between Galion, OH, Durant, OK, Winesburg, OH, Mt. Vernon, OH and Huntington Beach, CA on the one hand, and on the other, points in the U.S. for 270 days. Supporting shipper: Peabody International Corp., P.O. Box 607, Galion, OH 44833.

MC 153290 (Sub-II–1TA), filed December 22, 1980. Applicant: E. R. POSEY, d.b.a. POSEY TRUCKING, 9911 E. Idlewood Dr., Twinsburg, OH 44087. Representative: Ralph R. Roberts, 8506 Garfield Blvd., Cleveland, OH 44125. *Contract; irregular: Aluminum and Iron/Steel Plate and Sheet* between Cleveland, OH; Bristol, PA; and Houston, TX for 270 days. Supporting shipper: Childers Products Co. 23350 Mercantile Rd., Beachwood, OH 44122.

MC 139638 (Sub-II–2TA), filed December 22, 1980. Applicant: N. L. MONTGOMERY, INC., P.O. Box 628, Rocky Mount, VA. Representative: D. R. Beeler, 1261 Columbia Ave., Franklin, TN 37064. *Oil and grease absorbants and clay products* from the facilities of Aiken Chemical Co. at Pinewood, SC and Wrens, GA to points in VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Aiken Chemical Co., Box 1904, Greenville, SC 29602.

MC 126551 (Sub-II–1TA), filed December 23, 1980. Applicant: PHILBORO COACH CORP., 1065 Belvoir Rd., Norristown, PA 19401. Representative: William P. Jackson, Jr. Post Office Box 1240, Arlington, VA 22210. *Passengers and their baggage,* in round trip charter operations, beginning and ending at points in Montgomery and Delaware Counties, PA, and extending to points in the US (except AK and HI) for 180 days. Supporting shipper: There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 95304 (Sub-II–1TA), filed December 29, 1980. Applicant: NORTHERN NECK TRANSFER, INC., Box 168 King George, VA 22485. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Iron and steel articles, and materials, equipment and supplies used in the manufacture, distribution and sales of such articles,* between Middlesex County, NJ, on the one hand, and, on the other, pts. in NC, VA, DE, MD, PA, and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Raritan River Steel Co. P.O. Box 309 Perth Amboy, NJ 08862.

MC 150339 (Sub-2–26TA), filed December 29, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Lawn furniture,* from Peoria, IL, and Pine Bluff, AR to points in AL, AR, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, NH, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, and DC, under a continuing contract(s) with Jordan Manufacuring Co., Inc., 1625 W. Altorfer Dr., Peoria, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Jordan

Manufacturing Co., 1625 W. Altorfer Dr., Peoria, IL 61615.

MC 147751 (Sub-II–1TA), filed December 24, 1980. Applicant: NIGHT HAWK MOTOR TRANSPORT, INC., 738 Ohio Pike, Cincinnati, OH 45245. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. *(1) Such commodities as are used in the manufacture or distribution of automobiles,* between the facilities of BGS Warehousing, Inc, at or near Dayton, OH; Flint, MI; and Indianapolis, IN on the one hand, and, on the other, point in IL, IN, KY, MD, MI, NJ, NY, OH and PA; and *(2) such merchandise as is dealt in by wholesale or retail food business houses, foodstuffs, materials, equipment and supplies used in the conduct of such business,* between Chicago, IL, on the one hand, and, on the other, points in OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): BGS Warehousing, Inc., 3265 Dryden Rd., Dayton, OH 45439; Topco Associates, Inc., 7711 Gross Point, Skokie, IL 60077.

MC 107012 (Sub-II–123TA), filed December 31, 1980. Applicant: NORTH AMERICAN VAN LINES, INC. 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Parts, materials, supplies, and accessories used in the manufacture of furniture* between the facilities of Lullabye Corp. at or near Stevens Point, WI, on the one hand, and, on the other, South Range, MI; High Point, NC; and Los Angeles, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lullabye Corp., Division of Questor 1017 3rd St. Stevenes Point, WI 54481.

Note.—Common control may be involved.

MC 107012 (Sub-II–122TA), filed December 19, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. HWY. 30 WEST, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Boats and parts and accessories for boats* from Valdosta, GA to points in the US (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: North American marketing Corp., d.b.a. Bass Hunter Boats, 2224 Cypress St., P.O. Box 1514, Valdosta, GA 31601.

Note.—Common control may be involved.

MC 152230 (Sub-2–1TA), filed December 18, 1980. Applicant: THEODORE F. MILLER, d.b.a. T. & L. MILLER, 36 West Eighth St., Bloomsburg, PA 17815. Representative: David C. Venable, Suite 805, 666 11th St., N.W., Washington, DC 20001. *Canned foodstuffs* from Northumberland and Palm, PA, to points in FL, GA, SC, and NC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Furman Canning Co., RD 2, Northumberland, PA 17857.

MC 148859 (Sub-II–2TA), filed December 17, 1980. Applicant: MID-STATE TRADING CO., P.O. Box 3275, 2525 Trenton Ave., Williamsport, PA 17701. Representative: Sander M. Bieber, Ninth Floor, 1100 Connecticut Ave., N.W., Washington, DC 20036. *Contract irregular: Industrial chemical wastes,* between the facilities of Mack Trucks, Inc., at Allentown, PA; TRW, Inc., at Danville, PA; and Ceco Corp., at New Columbia, PA, and points. in NY, OH, DE, MD, and NJ under continuing contract(s) with Mack Trucks, Inc., TRW, Inc., and Ceco Corp. for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Mack Truck, Inc., 2100 Mack Boulevard, Allentown, PA 18105; TRW, Inc., 601 East Market St., Danville, PA 17821; Ceco Corp., P.O. Box 31, New Columbia, PA 17856.

MC 14702 (Sub-II–2TA), filed December 17, 1980. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Such commodities as are manufactured, distributed or sold by food and drug manufacturers or distributors (except commodities in bulk)* between facilities owned or used by Beecham Products Co. at or near Clifton, NJ; Morrisville, Charleroi and Belle Vernon, PA; Rockwood, MI; Milwaukee, WI; Minneapolis, MN; and Chicago, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Beecham Products Co., P.O. Box 1467, Pittsburgh, PA 15230.

MC 107012 (Sub-II–120TA), filed December 17, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Evaporative coolers and parts and accessories for evaporative coolers* from Phoenix, AZ to Salt Lake City, UT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Phoenix Manufacturing, Inc., 415 S. 7th St., Phoenix, AZ 85036.

Note.—Common control may be involved.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 31675 (Sub-3–32TA), filed December 24, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same address as above). *Chemicals, textile softeners, beverage stabilizing or chill proofing compounds, bread making compounds, drugs or medicines, rennet extract, calcium chloride, yeast extract and products related to the production, packaging and transportation of the foregoing* between Kingstree, S.C. and points in the U.S. except AK and HI. Supporting shipper(s): G. B. Fermentation Industries, Inc., P.O. Box 5000, Kingstree, S.C. 29556.

MC 135760 (Sub-3–2TA), filed December 24, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue, NW, Washington, DC 20006. *Contract* carrier: irregular: *Foodstuffs (except in bulk) and materials, equipment, and supplies used in the manufacturing, packaging, and distribution of foodstuffs* between points in the U.S. (restricted to facilities of and public warehouses used by William Underwood Company), under continuing contract or contracts with William Underwood Company. Supporting shipper: William Underwood Company, One Red Devil Lane, Westwood, MA 02090.

MC 75840 (Sub-3–37TA), filed December 24, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a processor of clay,* between the facilities of Filtrol Corporation, at or near Jackson, MS, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, KY, LA, MD, MA, MS, NY, NJ, NC, OH, PA, RI, SC, TN, TX, VA, WV, and DC. Supporting shipper: Filtrol Corporation, 600 East McDowell Road, Jackson, MS 39204.

MC 121811 (Sub-3–3TA), filed December 24, 1980. Applicant: McCLELLAN'S ENTERPRISES, INC., Highway 41 South, Tifton, Georgia 31794. Representative: Arthur L. McClellan (same address as above). *Lumber and Plywood* from points in GA to points in AL, FL, NC, SC, and TN. Supporting shippers: Woodkraft—Division of Georgia Kraft Company, P.O. Box 2489, Peachtree City, GA 30269; Griffin Lumber Company, Inc., P.O. Box 237, Cordele, GA 31015; Trammel Lumber Company, P.O. Box 428, LaGrange, GA.

MC 114334 (Sub-3–16TA), filed December 24, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from Jewett, TX to points in AR, TN and AL, on the one hand, and, on the other, from Houston, TX to points in AR, TN and AL. Supporting shipper: Barg Steel & Pipe, Inc., P.O. Drawer 1057, Forrest City, AR 72335.

MC 144082 (Sub-3-15TA), filed December 24, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt A. Smith (same as above). *Contract carrier,* irregular routes; *Televisions, citizen band radios, car radios, land mobile radios, communication equipment,* from Kansas City, MO to points in NC, SC, GA, MN, IL, IN, WI, MD, VA, OH, restricted to service performed under a continuing contract(s) with Midland Electronics. Supporting shipper: Midland Electronics, 1690 North Topping Avenue, Kansas City, MO 64120.

MC 144082 (Sub-3-16TA), filed December 24, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt A. Smith (same as above). *Contract carrier,* irregular routes; *Envelopes,* from Kansas City, MO to points in NC, SC, GA, MN, IL, IN, WI, MD, VA, OH, restricted to service performed under a continuing contract(s) with Tension Envelope, Inc. Supporting shipper: Tension Envelope, Inc., 819 East 19th Street, Kansas City, MO 64108.

MC 128520 (Sub-3-TA), filed December 24, 1980. Applicant: THE ROBINSON FREIGHT LINES, INC., P.O. Box 10234, Knoxville, TN 37919. Representative: Glen L. Gissing (same as above). *Lime, limestone and limestone products,* between Union County, and Knox County, TN and points in AL, FL, GA, KY, MS, NC, OH, SC, VA and WV. Supporting shipper: Tenn-Luttrell Lime Company, P.O. Box 69, Luttrell, TN 37779 and Williamson Lime Mfg. Co., Inc., 3534 Island Home Pike, Knoxville, TN 37920.

MC 148016 (Sub-3-2TA), filed November 19, 1980. Republication—Originally published in **Federal Register** of 12-01-80, page 79604, volume 45, No. 232. Applicant: McWHORTER-GRAY ENTERPRISES, INC., 1010 Highway 15, North, Ripley, MS 38663. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Contract carrier,* irregular routes; *Hazardous waste materials,* from Braintree, MA to Emelle, AL, under a continuing contract or contracts with Recycling Industries, Inc. Supporting shipper: Recycling Industries, Inc., 385 Quincy Ave., Braintree, MA 02184.

MC 98039 (Sub-3-1TA), filed October 3, 1980. Republication—Originally published in **Federal Register** of 11-25-80, page 78252, volume 45, No. 229. Applicant: LENOIR TRANSFER COMPANY, INC., P.O. Box 696, Lenoir, NC 28645. Representative: C. Douglas Woods (same as above) *New furniture, parts and materials and supplies used in the manufacturing of furniture and furniture parts (except commodities in bulk),* from points in NC to Caldwell and Catawba Counties, NC, for subsequent movement in interstate commerce. Supporting shippers: Cook's Transfer & Storage Co., Inc., Lenoir, NC; Terminal Freight Cooperative Assoc., 1430 Branding Lane, Lane-Downers Grove, IL 60515 and Singer Furniture Co., P.O. Box 5337, Roanoke, VA 24012.

Note: Applicant intends to interline with other carriers at Caldwell and Catawba Counties, NC.

MC 121654 (Sub-3-12TA), filed October 6, 1980. Republication—Originally published in **Federal Register** of 11-25-80, page 78253, volume 45, No. 229. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd. NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities in bulk in tank vehicles),* between points in the states of AL, AR, CT, DE, LA, NH, NC, FL, GA, MD, MA, MS, NJ, NY, OH, PA, RI, SC, TN, TX, VT, VA, WV and DC. Restricted to transportation of shipments originating at or destined to facilities of Owens-Corning Fiberglas Corporation. Supporting shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 146343 (Sub-3-3TA), filed October 27, 1980. Republication—Originally published in **Federal Register** of 11-17-80, page 75791, volume 45, No. 223. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano, FL 33062. Representative: S. Christopher Stowe, Jr., 2028 Warwick Ave., Warwick, RI 02889. *Contract carrier,* irregular routes: *Vegetable shortening, refined lard, salad oils, refined beef shortening, machinery, equipment and supplies and related materials incidental to the manufacture and distribution of the commodities listed above,* between Pawtucket, RI and points in AR, AL, CT, DC, DE, FL, GA, IA, IN, IL, KY, LA, MA, ME, MD, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI and WV. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract or contracts with Colfax, Inc., a RI corporation. Supporting shipper: Colfax, Inc., 38 Colfax Street, Pawtucket, RI 02860.

MC 144303 (Sub-3-7TA), filed December 15, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Henry B. Stockinger (same address as above). *Contract carrier:* irregular; (1) *Fibres, synthetic, NOI, staple or other than staple; Tops, synthethic fibre; Waste, processed synthethic staple fibre, synthetic fibre or synthetic fibre yarn or mixture thereof; Yarn, synthetic fibre, NOI, or synthetic fibre mixed with cotton, the synthetic content to exceed 50 percent or more by weight; having a density of 15 pounds or more per cubic foot;* and (2) *materials, equipment* and *supplies used in the manufacture or distribution of the commodities in (1),* between Escambia and Santa Rosa Counties, FL on the one hand, and, on the other, points in the US, under continuing contract(s) with American Cyanamid Company. Supporting shipper: American Cyanamid Company, Wayne, NJ 07470.

MC 31675 (Sub-3-31TA), filed December 16, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same as above). *Native Faced Plywood and products used in the manufacture thereof* between Charlotte, NC, and points in and east of ND, SD, NE, KS, OK and TX. Supporting shipper(s): Vanply Inc., P.O. Box 668289, Charlotte, NC 28266.

MC 75840 (Sub-3-22TA), filed December 15, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Royce Glass, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham, AL 35222. *Crushed and Ground Stone Products,* between Pickens County, GA, on the one hand, and, on the other, points in the state of TX. Supporting shipper: Georgia Marble Company, 2575 Cumberland Parkway NW., Atlanta, GA 30339.

MC 146369 (Sub-3-3TA), filed December 15, 1980. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron Brown Building, Charlotte, NC 28204. *Contract carrier:* irregular: *transformers* *and related accessories, and parts, supplies and equipment used in the manufacturing of transformers,* between points in Catawaba County, NC, on the one hand, and, on the other, points in WI, OH, MI, IN, and IL under continuing contract with General Electric Company. Supporting shipper: General Electric Company, P.O. Box 2188, Hickory, North Carolina 28601.

MC 138308 (Sub-3-16TA), filed December 16, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Prepared frozen foods* from the facilities of Chef's Pantry, Inc. at or near Caryville, TN to points in the U.S. (except AK, HI, MT, ND, SD, and WY). Supporting shipper: Chef's Pantry, Inc., 1031 Pierce Street, Sandusky, OH 44870.

MC 144303 (Sub-3-8TA), filed December 16, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Henry B. Stockinger (same address as above). *Contract Carrier;* irregular; (1) *Beverages, Carbonated, Flavored or Phosphated, Non-Alcoholic; in glass or metal cans, in barrels, boxes, cartons or crates, and* (2) *materials, equipment and supplies used in the manufacture or distribution of (1),* from Orlando, FL to Asheville, NC, under continuing contract(s) with Seven Up Asheville Company, Inc. Supporting shipper: Seven Up Asheville Company, Inc., Asheville, NC 28813.

MC 75840 (Sub-3-23TA), filed December 16, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or utilized by a manufacturer of fertilizer (except in bulk),* between the facilities of Vertac Chemical Company, at or near Vicksburg, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Vertac Chemical Company, Post Office Box 3, Vicksburg, MS 39180.

MC 75840 (Sub-3-24TA), filed December 16, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, dealt in or distributed by a manufacturer of cans (except in bulk),* between the facilities of Independent Can Company, at or near Baltimore, MD, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Independent Can Company, 1001 South Lakewood Avenue, Baltimore, MD 21224.

MC 144303 (Sub-3-9TA), filed December 16, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Henry B. Stockinger (same address as above). *Contract Carrier:* irregular; (1) *Clothing, Home Fashions and Recreational Materials; in bales, boxes or canvas hampers; and,* (2) *materials, equipment and supplies used in the manufacture or distribution of the commodities* in (1), between points in the United States under continuing contract(s) with Ashley Outlet Store Group, a Division of Kellwood Company. Supporting shipper: Ashley Outlet Store Group, Kellwood Company, 118 Industrial Road, New Haven, MO 63068.

MC 115841 (Sub-3-33TA), filed December 15, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same as above). *General Commodities (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities of unusual value), having a prior or subsequent movement by water,* between Charleston, SC and Savannah, GA on the one hand, and, on the other, points in SC, VA, NC, GA, FL, TN, and AL. There are nine statements in support to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 115841 (Sub-3-34TA), filed December 15, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same as above). *Electroless nickel solution in drums, steel and plastic tanks in crates,* from Nashville, TN to points in AZ, IL, IN, MN, NV, NY, OH, OK, PA, RI and TX. Supporting shipper: Elnic, Inc., 657 Massman Drive, Nashville, TN 37210.

MC 139822 (Sub-3-4TA), filed December 15, 1930. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, GA 31402. Representative: Edward G. Villalon, Suite 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, DC 20004. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and articles requiring special equipment,* between the facilities of Transales Corporation at Atlanta, GA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, KS, OK and TX. Supporting shipper: Savannah Foods & Industries, Inc., P.O. Box 339, Savannah, GA 31402.

MC 153189 (Sub-3-1TA), filed December 15, 1980. Applicant: T-90 TRUCKS, INC., P.O. Box 7917, Louisville, KY 40207. Representative: Paul Lynch, Sr., 209 So. 5th St., Suite 400, Louisville, KY 40217. *Iron or Steel, and items or products thereof, machines, machinery and parts for machines, material, equipment, and supplies used in the manufacture, processing or distribution of the above commodities,* between Clark County, IN and Jefferson County, KY and points in the US (except AK and HI). Supporting shipper: Eagle Machine Company, Inc., 2737 Helm Street, Louisville, KY 40209.

MC 128436 (Sub-3-84TA), filed December 12, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Contract:* Irregular—*Automotive axle assemblies and materials, equipment and supplies used in the production or distribution thereof* between the plantsite of A. O. Smith Corporation at or near Milan, TN on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK and TX, under contract or continuing contract(s) with A. O. Smith Corporation of Milwaukee, WI. Supporting shipper: A. O. Smith Corporation, P.O. Box 529, Milan, TN 38358.

MC 138157 (Sub-3-38TA), filed December 12, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above) *Carpeting and materials, equipment, and supplies used in the manufacture, production, and distribution of carpeting* between Mobile and Escambia Counties, AL and Whitfield County, GA on the one hand and, on the other, points in the U.S. Restricted against the transportation of commodities in bulk and further restricted to traffic moving for the account of C. H. Masland & Sons. Supporting shipper: C. H. Masland & Sons, P.O. Box 11467, Mobile, AL 36611.

MC 138635 (Sub-3-5TA), filed December 15, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). *Such* *merchandise as is dealt in by food business houses and materials, ingredients and supplies used in their manufacture and distribution* between points in the states of OH and SC, on the one hand, and, on the other, points in the states of AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, ID, KY, LA, MA, MD, ME, MS, MT, NC, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, and WY restricted to traffic originating at or destined to the facilities of Stouffer Foods Corporation. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 140389 (Sub-3–19TA), filed November 18, 1980. Republication—Originally Published in **Federal Register** of 12–3–80, Page 80198, Volume 45, No. 234. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* from the facilities of Can Go Shippers Warehouse, Seattle, WA, to points in CO, ID, MT, OR, UT, WA, and WY. Supporting shipper(s): Can Go Shippers Warehouse, 1701 First Avenue, South Seattle, WA 98234.

MC 128720 (Sub-3–14TA), filed November 18, 1980. Republication—Originally Published in **Federal Register** of 12–1–80, Page 79603, Volume 45, No. 232. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Drive, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *General Commodities (except those of unusual value, classes A&B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Simpson County, KY, on the one hand, and points in MI, on the other. *Note:* Applicant intends to tack with its existing authority under MC–128720 and subs at Simpson County, KY and interline at Memphis, Nashville, Chattanooga, and Knoxville, TN; and Detroit, Saginaw, Grand Rapids, Muskegon, Port Huron, Traverse City, Kalamazoo, and other points in MI. Supporting shippers: There are 30 certificates of support submitted with this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 153112 (Sub-3–1TA), filed December 11, 1980. Applicant: KENNETH L. HORTON, 30 Peach Tree Drive, Spartanburg, SC 29303. Representative: P. Bradley Morrah, Jr., 300 E. Coffee Street, Greenville, SC 29601. *Contract carrier,* irregular routes; *iron and steel articles,* between points in SC and points and places in the U.S. lying East of the Mississippi River and South of New York State. Supporting shipper: Edgcomb Metals Company, 1 White Horse Road, Greenville, SC.

MC 138157, (Sub-3–37TA), filed December 12, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chatanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Materials, equipment, and supplies used in the manufacture, production, and distribution of refrigerated bottle and can vending machines* from points in IA, IL, MI, and OH to Chattanooga, TN. Restricted to traffic destined to the facilities of Cavalier Corp. Supporting shipper: Cavalier Corp., 1100 E. 11th Street, Chattanooga, TN, 37403.

MC 153132 (Sub-3–1TA), filed December 11, 1980. Applicant: TOW–LO EXPRESS, INC., One Notre Dame Drive, Greenville, SC 29609. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Textiles and textile products; power tools; automobile passenger tires and truck tires; home furnishings; and material; equipment and supplies* used in the manufacture and distribution of the above between pts. in Greenville, Pickens, Anderson, Spartanburg, Lexington, and Greenwood Counties, SC. Restricted to transportation of trafic having immediate prior or subsequent movement by mail. Supporting shippers: Michelin Tire Corp., P.O. Box 2846, Greenville, SC; J. P. Stevens and Company, Inc., Whitehore Road Industrial Park, Greenville, SC; commercial Affiliates, Inc., P.O. Box 3707, Greenville, SC; Woodside Division, Dan River, Inc., P.O. Box 6126, Station B, Greenville, SC; and Singer Manufacturing Corp., Pickens, SC.

MC 75840 (Sub-3–21TA), filed December 12, 1980. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in and distributed by a manufacturer of aluminum and aluminum articles (except in bulk),* from the facilities of Republic Foil, a unit of National Aluminum Corporation, at or near Salisbury, NC, to points in the United States in and east of the states of MN, IA, MO, AR and TX. Supporting shipper: National Aluminum Corporation, 2800 Grant Building, Pittsburgh, PA 15219.

MC 113528 (Sub-3–3TA), filed December 12, 1980. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36633. Representative: Joy Stephenson (same address as applicant). *Common* carrier, regular routes: *General commodities (with the usual exceptions),* serving all points in Hinds and Rankin Counties, MS as intermediate and off route points in connection with carrier's otherwise authorized regular route operation. Applicant intends to tack, and interline at Jackson, MS. Supporting shipper: Sweetheart Cup Corp. of Texas, 4444 West Ledbetter Dr., Dallas, TX.

MC 145375 (Sub-3–1TA), filed December 12, 1980. Applicant: H. D. EDGAR TRUCKING, INC., Route 1, Box 48, Opp, AL 36467. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, D.C. 20005. *Trailer axles and component parts,* from Montgomery, AL to points in TX, NM, CO, UT, CA, OR and WA. Supporting shipper: Dana Corporation, 2250 Selma Hwy., Montgomery, AL 36190.

MC 115840 (Sub-3–6TA), filed December 12, 1980. Applicant: COLONIAL FAST FREIGHT LINES, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same address as above). *Iron and steel articles,* between Charlotte and Oakboro, NC, on the one hand, and, on the other, Jacksonville and Tampa, FL; Eufaula and Mobile, AL; Alcoa and Jackson, TN; New Haven and Bridgeport, CT; New Castle, DE; and points in GA, VA, SC, and PA. Supporting shippers: Flame Refractories, Inc., P.O. Box 24, Oakboro, NC 28219 and Marmon Keystone, P.O. Box 7447, Charlotte, NC 28217.

MC 75840 (Sub-3–20TA), filed December 12, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by a manufacturer of water and air treatment chemicals and equipment (except in bulk),* between the facilities of Calgon Corporation, at or near Hawthorne, NJ; Frisco and Pittsburgh, PA; Huntington, WV; Catlettsburg, KY; and Bayport, TX, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230.

MC 121821 (Sub-3–6TA), filed January 2, 1981. Applicant: TENNESSEE MOTOR LINES INC., P.O. Box 100363, Nashville, TN 37210. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. *(1) Covers, cabinets or shelves for duplicating and business machines, computers, typewriters and fuse boxes and (2) materials, equipment and supplies used in the manufacture of the commodities described in (1) above* between points in the U.S., restricted to traffic originating at or destined to facilities owned or used by the EX-CELL-O Corporation. Supporting shipper: EX-CELLO-O Corporation, P.O. Box 909, Athens, TN 37303.

MC 153272 (Sub-3-1TA), filed January 2, 1981. Applicant: S & H CONTRACTORS, INC., Box 186, Walton, KY 41094. Representative: Rudy Yessin, 113 West Main Street, Frankfort, KY 40601. *Machinery, contractors' materials and supplies, and commodities the transportation of which by reason of size and weight require the use of special equipment:* Between all points and places in the Continental United States. Supporting shippers: There are 111 shippers. Their statements may be examined at the Atlanta Regional Office.

MC 124306 (Sub-3-8TA), filed January 2, 1981. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. *Plastic pellets,* from Kingsport, TN to Columbia, SC. Supporting shipper: In Con, 10109 Two Notch Road, Columbia, SC 29206.

MC 75840 (Sub-3-40TA), filed January 2, 1981. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, Alabama 35202. Representative: Raymond Hamilton, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham, Alabama 35222. *Floor Coverings and Materials and Supplies used in the installation thereof,* from the plantsite and storage facilities of Congoleum Corporation, from Mercer County, NJ and Delaware County, PA to points in the state of TX. Supporting shipper: Congoleum Corporation, 195 Belgrove Drive, Kearney, NJ 07032.

MC 118561 (Sub-3-2TA), filed January 2, 1981. Applicant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *(1) Foodstuffs, prepared frozen foods and frozen meat products, and (2) Materials, equipment and supplies used in the manufacture, sale and distribution of commodities in (1) above* between points in TN, on the one hand, and, on the other, points in the United States in and east of the states of ND, SD, NE, KS, OK, and TX. Supporting shipper: Chef's Pantry, Inc.; 1031 Pierce Street; Sandusky, OH 44870.

MC 146782 (Sub-3-9TA), filed January 2, 1981. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: STEPHEN L. EDWARDS 806 Nashville Bank & Trust Building, Nashville, TN 37201. *(1) iron and steel articles; wire, wire products, fencing, and other fencing materials and, (2) materials, equipment, and supplies used in the manufacture of (1) above (except commodities in bulk)* between points in Crawford County, AR, on the one hand, and, on the other, points in and east of MN, IA, MO, AR and TX.

MC 109026 (Sub-3-6TA), filed January 2, 1981. Applicant: MANNING MOTOR EXPRESS, INC., P.O. Box 685, Glasgow, KY 42141. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *General Commodities (except Classes A and B explosives and household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points in Barren County, KY on the one hand, and on the other, points in U.S. except AK and HI. Supporting Shipper(s): There are 15 certificates of support submitted with this application that can be reviewed at the Atlanta, GA regional office. Applicant intends to tack with its existing authority under MC-109026 and subs at Barren County, KY and interline at all authorized points.

MC 105813 (Sub-3-7TA), filed January 2, 1981. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 270, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Alcoholic Beverages and Wines* from Jacksonville, FL and New Orleans, LA to points in IL, IN, MN and WI. Supporting shipper: Wine and Spirits Shippers Association, Inc., 11800 Sunrise Valley Drive, Reston, VA 22091.

MC 75840 (Sub-3-41TA), filed January 2, 1981. Applicant: MALONE FREIGHT LINES, INC., Post Office Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are used, manufactured or distributed by a manufacturer of chemicals (except in bulk),* between the facilities of Neville Chemical Corporation, located at or near Pittsburgh, PA, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL, AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: Neville Chemical Corporation, Neville Island, Pittsburgh, PA 15225.

MC 124154 (Sub-3-12TA), filed January 2, 1981. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate, P.O. Box 645, Albany, GA 31703. *Home care products; Food and beverage preparations; Animal health and feed products; Health and beauty aids; Advertising material* between Winona, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Watkins Incorporated, 150 Liberty Street, Winona, MN 55987.

MC 124154 (Sub-3-11TA), filed January 2, 1981. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate, P.O. Box 645, Albany, GA 31703. *General commodities (except Classes A and B explosives and household goods as defined by the Commission),* between points in the U.S. (except AK and HI) restricted to shipments originating at or destined to United Freight, Inc.'s warehouses, customers and suppliers. Supporting shipper: United Freight, Inc., 1260 Southern Road, Morrow, GA 30260.

MC 124154 (Sub-3-10TA), filed January 2, 1981. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate, P.O. Box 645, Albany, GA 31703. *Clay, in bags, materials, supplies and equipment used in their processing* between points at or near Quincy and Havana, FL and Ochlocknee, GA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: The Floridin Company, Berkeley Springs, WV 25411.

MC 112617 (Sub-3-13TA), filed January 2, 1981. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Larry W. Thompson (same address as applicant). *Oxidized asphalt, in bulk, in tank vehicles equipped with propane burners,* from Exxon Company, USA at or near Baton Rouge, LA to Ennis, TX. Supporting shipper: Exxon Company USA, P.O. Box 2180, Houston, Texas 77001.

MC 31675 (Sub-3-34TA), filed January 2, 1981. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same address as above). *Barium Carbonate, Barium Chloride, Barium Sulfide, Sodium Silicate (Dry), Sodium Sulfide, Strontium Carbonate* from Catersville, GA to LA. Supporting shipper(s): Chemical Products

Corporation, P.O. Box 449, Cartersville, GA 30120.

MC 31675 (Sub-3–33TA), filed January 2, 1981. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same address as above). *Aluminum, Brass, Bronze, Copper or Lead Scrap* between all points in the U.S. except AK and HI, restricted to traffic moving for the account of Continental Commodities Inc. Supporting shipper(s): Continental Commodities, Inc., 8 Woodlawn Green, Suite 227, Charlotte, NC. 28210.

MC 145541 (Sub-3–4TA), filed January 2, 1981. Applicant: SUNWAY CORPORATION, 118 West Main Street, Thomasville, NC 27360. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract carrier:* irregular: *new furniture and such other products as are purchased, sold, distributed or dealt with by Levitz Furniture Corporation (except those requiring special equipment),* between all points in the United States, under continuing contract with Levitz Furniture Corporation. Supporting shipper: Levitz Furniture Corporation, 1317 NW 167th St., Miami, FL.

MC 145274 (Sub-3–2TA), filed January 2, 1981. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, Tennessee 37701. Representative: J. Greg Hardeman, 618 United American Bank Building, Nashville, TN 37219. *Containers and container closures and materials and supplies used in the manufacture and distribution of these commodities* between Chattanooga, TN, on the one hand, and points in and east of WI, IL, KY, TN, and MS, on the other. Supporting shipper: Cumberland Corporation, P.O. Box 1446, Chattanooga, Tennessee 37401.

MC 153380 (Sub-3–1TA), filed January 2, 1981. Applicant: ROWAN FREIGHT CO., INC., P.O. Box 1571, Salisbury, NC 28144. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *General commodities (except those in bulk or those requiring special equipment),* having a prior or subsequent interstate movement, between points in Mecklenburg and Rowan Counties, NC, on the one hand, and, on the other, points in NC. NOTE—Applicant intends to interline at Rowan and Mecklenburg Counties, NC. Supporting shipper: Arkansas Best Freight, 5104 N. Graham St., Charlotte, NC.

MC 153180 (Sub-3–1TA), filed January 2, 1981. Applicant: M & T DRUM SERVICE, INC., Route 4, Box 1230, Huntersville, NC 28078. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Chemical waste materials (hazardous and non-hazardous),* from points in VA, NC, and SC to Emelle, AL. There are twenty-one statements of support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 153379 (Sub-3–1TA), filed January 2, 1981. Applicant: FRANK LACKEY TRUCKING, Route 4, Tuscumbia, AL 35674. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Contract; irregular, *dry granular fertilizer* from the facilities of International Minerals & Chemicals Corp., at points in AL to points in TN and MS under continuing contract with International Minerals & Chemical Corp. Supporting shipper: International Minerals & Chemical Corp., P.O. Box 158, Florence, AL 35630.

MC 144300 (Sub-3–1), filed January 2, 1981. Applicant: J & D TRUCKING, INC., P.O. Box 1187, Marietta, GA 30061. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *Electrical appliances, equipment, parts, supplies and materials used in the manufacture, sale and distribution of electrical appliances;* between the facilities of Gibson-Metallux, located in or near Americus, GA and Eufaula, AL on the one hand and on the other all points in the U.S. Supporting shipper: Gibson-Metallux, Southerfield Road, Americus, GA 31709.

MC 153379 (Sub-3–1TA), filed January 2, 1981. Applicant: G. M. DURRANCE TRUCKING INC., Route No. 1, Box 143, Lake City, FL 32055. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Contract:* irregular: *Equipment used by wholesale and retail grocery chains and materials and supplies used in the manufacture thereof,* between Jacksonville, FL, on the one hand, and on the other, points in GA, NC, SC, VA, WV, MD, DE, NJ, PA, CT, AL, MS, TN, IN, IL, OH, NH, LA, AR, TX, MN, and NM. Supporting shipper: Load King Manufacturing Co., 1357 W. Beaver St., Jacksonville, FL 32203.

MC 153376 (Sub-3–1TA), filed January 2, 1981. Applicant: THOMAS HEADRICK, d.b.a., HEADRICK TRUCKING, Route One, Crandall, GA 30711. Representative: Thomas Headrick (same as above). *Contract carrier,* irregular routes; *crushed limestone rock,* from Chattanooga, TN Hwy. 153 to I–75 to Hwy. 41 to Dalton, GA, then east on Hwy. 76 to Chatsworth, GA (50 miles). Supporting shipper: Latex Filler & Chemical Co., Inc., P.O. Box 1546, Dalton, GA 30720; Georgia Talc Company, P.O. Box 370, Chatsworth, GA 30705; H & S Industries, Inc., P.O. Box 601, Dalton, GA 30720.

MC 152427 (Sub-3–3TA), filed December 30, 1980. Applicant: NASHVILLE & ASHLAND CITY TRUCK LINE, INC., 2400 Heiman Street, Nashville, TN 37208. Representative: William Prentice Cooper, 18th Floor, Third National Bank Bldg., Nashville, TN 37219. *General commodities, with usual exceptions, in trailers or containers,* between Memphis, TN and points in Caldwell, Christian, Jefferson, Simpson, Trigg and Warren Counties, KY, and in Anderson, Bedford, Blount, Bradley, Cheatham, Coffee, Cumberland, Dickson, Giles, Hamilton, Hawkins, Henderson, Hickman, Knox, Lawrence, Lewis, Madison, Marion, Marshall, Maury, Montgomery, Perry, Putnam, Robertson, Rutherford, Sullivan, Sumner, Trousdale, Warren, White, Williamson and Wilson Counties, TN; restricted to the transportation of shipments having a prior or subsequent movement of rail. Supporting shippers: Metro Shippers, Inc., 600 Higgens Road, Park Ridge, IL 60068 and Sunbelt Consolidators, Inc., P.O. Box 201044, Dallas, TX 75220.

MC 138157 (Sub-3–40TA), filed January 2, 1981. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC, d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which by reason of size or weight require the use of special equipment)* from points in the United States to King and Pierce Counties, WA. Restricted to traffic moving for the account of A&D Transco. Supporting shipper: A&D Transco, 1762 6th Street, Suite 123, Seattle, WA 98134.

MC 121667 (Sub-3–1TA) filed January 2, 1981. Applicant: SMALLEY TRANSPORTATION COMPANY, P.O. Box 5175, Tampa, FL 33675. Representative: Ansley Watson, Jr., P.O. Box 1531, Tampa, FL 33601. *Common* carrier: regular routes: *General commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment, commodities in vehicles equipped with mechanical refrigeration, household goods as defined by the Commission, and building and construction materials in truckload lots on flatbed trailers):* (1) between Key West, FL, and junction U.S. Hwy 1 and S.W. 184th St., south of

Miami, FL, over U.S. Hwy 1, serving all intermediate points; (2) between Perry, FL, and Pensacola, FL, over U.S. Hwy 98, serving all intermediate points; (3) between Inglis, FL, and Tallahassee, FL, from Inglis over Hwy 9 to Capps, FL, then over U.S. Hwy 27 to Tallahassee and return, serving all intermediate points; (4) between Ocala, FL, and Lake City, FL, over U.S. Hwy 441, serving all intermediate points; (5) between Jacksonville, FL, and Pensacola, FL, over Interstate Hwy 10, serving all intermediate points; (6) between Jacksonville, FL, and Tallahassee, FL, over U.S. Hwy 90, serving all intermediate points; (7) between Tallahassee, FL, and Pensacola, FL, over U.S. Hwy 90, serving all intermediate points; (8) between Ocala, FL, and junction Interstate Hwys 75 and 10 near Lake City, FL, over Interstate Hwy 75, serving all intermediate points; (9) between Tallahassee, FL, and Panama City, FL, from Tallahassee over FL Hwy 20 to junction U.S. Hwy 231, then over U.S. Hwy 231 to Panama City and return, serving all intermediate points; (10) between Jacksonville, FL, and Sanford, FL, over U.S. Hwy 17, serving all intermediate points; and (11) serving all points in Florida not served on a regular route as off-route points. All regular routes sought to be served are to be joined or tacked to other routes sought to be served and to all regular routes presently authorized to be served, at common points, to provide through service. Applicant intends to interline at Pensacola, and Jacksonville, FL. There are 8 supporting shipper statements attached to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 151375 (Sub-3-2TA), filed January 2, 1981. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 3914 Shirley Dr., SW., Atlanta, GA 30336. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, DC 20036. *Duplicating machines, computers, typewriters, x-ray equipment, and similar instruments, and parts and supplies used in connection with the foregoing commodities,* between points in AL, FL, GA, MS, SC and TN. Supporting shippers: There are six (6) supporting statements which can be examined in the offices of the Commission at Atlanta, GA.

MC 115841 (Sub-3-8TA), filed January 2, 1981. Applicant: COLONIAL REFRIGERATED TRANSPORATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (Same address as above). *Particle board panels (finished and/or unfinished),* between Mocksville, NC on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MA, MD, MI, MN, MO, MS, NJ, NY, OH, OK, PA, SC, TN, TX, VA, and WI. Supporting Shipper: Funder America, Inc., P.O. Box 907, Mocksville, NC 27028.

MC 151894 (Sub-3-3TA), filed January 2, 1981. Applicant: VENTURE EXPRESS, INC., P.O. Box 100300, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *General commodities (except household goods and classes A&B explosives)* between the facilities sof Ozburn-Hessey Storage Co., In Davidson County, TN, on the one hand, and, on the other, points in the U.S. Supporting Shipper(s): Ozburn-Hessey Storage Co., 402 Murfreesboro Road, Nashville, TN 37210.

MC 115841 (Sub-3-36TA), filed January 2, 1981. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same as above). *Sucker sticks* from Cattaraugus, NY to Covington, TN. Supporting Shipper: Charms Company, Halls Mill Road, Freehold, NJ 07728.

MC 115840 (Sub-3-7TA), filed January 2, 1981. Applicant: COLONIAL FAST FREIGHT LINES, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same as above). *Coiled sheet steel* from Hainesport, NJ to Gastonia, NC. Supporting Shipper: Doolan Steel Corporation, 303 Harper Drive, Moorestown, NJ 08057.

MC 152286 (Sub-3-2TA), filed January 2, 1981. Applicant: ABC EXPRESS, INC., 300 Sunrise Circle, Mt. Juliet, TN 37122. Representative John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Bartow, Catoosa, Clayton, Cobb, De Kalb, Douglas, Fulton, Gordon, Gwinnett, Rockdale and Whitefield Counties, GA, on the one hand, and, open the other, points in KY and TN. NOTE: Applicant intends to interline at Atlanta, GA and points within its commercial zone. Supporting shippers: There are 15 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 115841 (Sub-3-35TA), filed January 2, 1981. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same as above). *Dry bread crumbs in fifty pound bags,* from Jacksonville, FL to points in DE, MD, NJ, NY, and PA. Supporting shipper: Duval Bakery Products, 1733 Evergreen Avenue, Jacksonville, FL 32206.

MC 145555 (Sub-3-1TA), filed January 2, 1981. Applicant: WALKER'S INC., Route 1, Box 86, Greenville, FL 32331. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Building and Construction Materials, Fertilizer and Fertilizer Materials, Hardware and Pallets (except commodities in bulk, and lumber and wood by-products between points in FL and GA),* between points in FL, GA, AL and SC. Supporting shippers: There are twenty-nine (29) statements in support which may be examined at the I.C.C. Regional Office in Atlanta, GA.

MC 116254 (Sub-3-26TA), filed January 2, 1981. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *1. Scrap Metals, Ferrous and Non-Ferrous; 2. Metal Products,* between all points in the United States in and east of MN, IA, MO, AR, and LA. Supporting shipper: There are 40 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 153361 (Sub-3-1TA), filed January 2, 1981. Applicant: TCX, INC., 1797 Florida Street, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *General Commodities (with the usual exceptions)* between Memphis, TN and its commercial zone, and Davidson County, TN, on the one hand, and, on the other, points in CA, WA, OR, AZ, NM and TX; restricted to the handling of traffic delivered to or received from a rail carrier moving in trailer-on-flat-car service. Applicant proposes to interline at Memphis, TN; Nashville, TN; Dallas-Ft. Worth, TX; Albuquerque, NM; Phoenix, AZ; Los Angeles, CA; San Francisco, CA; Portland, OR; and Seattle, WA. There are 10 statements of support which may be examined at the I.C.C. Regional Office in Atlanta, GA.

MC 150942 (Sub-3-2TA), filed January 2, 1981. Applicant: STAGE COACH LEASING CO., INC., d.b.a., STAGE COACH CHARTERING SERVICES CO., 3536 Windermere Drive, Hephzibah, GA 30815. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree Street NE., Atlanta, GA 30309. *Passengers and their baggage, in charter and special operations,* extending, in round-trip service, from points in Richland County, SC to points in the United States in and east of MN, IA, MO, AR and LA. Supporting shipper(s): There are seven statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 143059 (Sub-3–29TA), filed January 2, 1981. Applicant: MERCER TRANSPORTATION CO., 1128 W. Main St., P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor (same as above). *General commodities, usual exceptions,* between Houston, TX (and its respective commercial zone) and points in WA, CA, WY, CO, NM, ND, SD, NE, KS, OK, AR, LA, IL, MS, MI, IN, KY, AL, FL, NY, MA, OH, PA, WV, VA, NC and SC. Supporting shipper(s): Krueger Engineering & Manufacturing Company, P.O. Box 11308, Houston, TX 77016.

MC 152544 (Sub-3–7TA), filed January 2, 1981. Applicant: CYPRESS TRUCK LINES, INC., 1748 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission, classes A and B explosives, liquid and petroleum products and liquid chemicals, in bulk), as described in Item 51 of the Standard Transportation Commodity Code Tariff, restricted to traffic originating or terminating at the facilities of C & C Bulk Liquid Transfer, Inc.,* between Jacksonville, FL on the one hand, and, on the other, points in the U.S. (except HI). Supporting shipper: C & C Bulk Liquid Transfer, Inc., 401 Bryan Street, Jacksonville, FL 32202.

MC 75840 (Sub-3–38TA), filed January 2, 1981. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or utilized by a distributor of chemicals (except in bulk),* between the facilities of or utilized by J.F. Henry Chemical Co., Inc., at or near East Rutherford, Newark, Fairfield, Paterson, and Hawthorne, NJ, Brooklyn, NY, and Orlando, FL, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, GA, FL. AL, KY, NC, SC, VA, DE, MD, WV, OH, PA, NY, NJ, RI, CT, MA, and DC. Supporting shipper: J.F. Henry Chemical Co., Inc., 245 Park Avenue, East Rutherford, NJ 07073.

MC 151204 (Sub-3–1TA), filed January 2, 1981. Applicant: 321 EQUIPMENT LEASING CO., 712 West Airline Avenue, Gastonia, NC 28052. Representative: Rebecca P. Dalton (same address as above). *(1) Such commodities as are dealt in or used by department store business houses, and (2) materials, equipment and supplies used in the manufacturing, sale and distribution of the commodities listed in (1) above (except in bulk),* between points in AL, AR, CT, DE, DC, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shippers: Cato Corporation, 8100 Denmark Road, Charlotte, NC 28210, Family Dollar Stores, Inc., P.O. Box 25800, Charlotte, NC 28212, Pic N' Pay Stores, Inc., P.O. Box 3400, Charlotte, NC 28205, Savannah Wholesale Co., 102 Fahm St., P.O. Box 2407, Savannah, GA 31402.

MC 146402 (Sub-3–10TA), filed January 2, 1981. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (address same as applicant). *Structural wall panels, agriculture building panels and racketball court wall panels of fiberglass, aluminum, aspenite, and polystyrene and materials and supplies used in the manufacture, sales and distribution thereof.* Between the facilities of Pantek Corp. at Dayton, OH on the one hand, and, on the other, points in AL, AR, IL, IN, KY, MI, MS, MO, PA, TN, and WV. Supporting shipper: Pantek Corporation, P.O. Box 93, Dabel Station, Dayton, OH 45420.

MC 75840 (Sub-3–39TA), filed January 2, 1981. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham, AL 35222. *Roofing materials and supplies,* between Birmingham (Jefferson County), AL, on the one hand, and, on the other, points in the State of FL. Supporting shipper: Jim Walter Corporation on behalf of Celotex Corporation, P.O. Box 22601, Tampa, FL 33622.

MC 125037 (Sub-3–5TA), filed January 2, 1981. Applicant: DIXIE MIDWEST EXPRESS, INC., P.O. Box 372, Greensboro, AL 36744. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* from Winona, MN to points in the U.S. Supporting shipper: Watkins Incorporated, 150 Liberty, Winona, MN 55987.

MC 125037 (Sub-3–6TA), filed January 2, 1981. Applicant: DIXIE MIDWEST EXPRESS, INC., P.O. Box 372, Greensboro, AL 36744. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *Milk food liquid, plastics and rubber articles in straight or mixed shipments* from Sturgis, MI; Columbus, OH, and Altavista, VA, to all points in and east of TX, OK, KS, NE, SD, and ND and CA. Supporting shipper: Ross Laboratories, Division of Abbott Laboratories, 625 Cleveland Avenue, Columbus, OH 43216.

MC 125037 (Sub-3–7TA), filed January 2, 1981. Applicant: DIXIE MIDWEST EXPRESS, INC., P.O. Box 372, Greensboro, AL 36744. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *Glass products, the materials, equipment and supplies used in the manufacture, sale and distribution of glass products (except in bulk)* between points in the U.S., restricted to shipments originating at or destined to the facilities of Guardian Industries Corporation, Corsicana, TX. Supporting shipper: Guardian Industries Corporation, P.O. Box 10001, Corsicana, TX 75110.

MC 111839 (Sub-3–2TA), filed January 2, 1981. Applicant: BEE LINE EXPRESS, INC., Post Office Box 388, Albertville, AL 35950. Representative: Mr. Don Upton, Bee Line Express, Inc., Post Office Box 388, Albertville, AL 35950. *Common carrier,* regular routes: *General commodities* (except explosives and commodities requiring special equipment) (1) between Huntsville, AL and Birmingham, AL: (a) From Huntsville over US Hwy 231 to Junction of AL Hwy 79, thence over AL Hwy 79 to Brimingham, and return over the same route: (b) from Huntsville over US Hwy 231 to junction of AL Hwy 160, then over AL Hwy 160 to the junction of US Hwy 231, thence over US Hwy 231 to Birmingham, and return over the same route; (c) from Huntsville over US Hwy Alt 72 and/or I/S 565 to junction of I/S Hwy 65, thence over I/S 65 to Birmingham, and return over the same route serving no intermediate points; (2) between Scottsboro, AL and Birmingham, AL: From Scottsboro over US Hwy 72 to Huntsville, thence over US Hwy 231 to the Junction of AL Hwy 79, thence over AL Hwy 79 to Birmingham, AL and return over the same route; (3) Between Chattanooga, TN and Birmingham, AL: From Chattanooga over I/S 59 and/or US Hwy 11 to Birmingham, and return over the same route serving the intermediate point of Gadsden, AL; (4) Between Chattanooga, TN and Huntsville, AL: From Chattanooga over US Hwy 72 to Huntsville, and return over the same route: (5) Between Albertville, AL and Arab, AL: From Albertville over US Hwy 431 to the junction of AL Hwy 69; thence over AL Hwy 69 to Arab, and return over the same route. Applicant intends to interline at Birmingham, Chattanooga and Huntsville, and to tack with its existing authority at Scottsboro, Collinsville, Ft. Payne, and Albertville, AL. Applicant presently holds authority between Birmingham, AL and Chattanooga, TN; and authority in intrastate commerce between Birmingham, Huntsville, and Gadsden, AL. Supporting shippers: There are 45 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 151528 (Sub-3-4TA), filed December 30, 1980. Applicant: TRIAD TRANSPORTATION SERVICES, INC., P.O. Box 20714, Greensboro, NC 27420. Representative: Jerald A. Honeycutt (same address as applicant), *Contract*, irregular routes: *Paper products and materials, supplies and equipment used in the manufacture and distribution of paper products, except in bulk,* between Guilford County, NC and Delaware County, PA, on the one hand, and, on the other points in the US except AK and HI, under a continuing bilateral contract(s) with Mathias Paper Corporation 460 Penn St.; Yeadon, PA. Supporting shipper: Mathias Paper Corp., 460 Penn St., Yeadon, PA.

MC 150883 (Sub-3-3TA), filed December 30, 1980. Applicant: PDR TRUCKING, INC., P.O. Box 609, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Plastic products, and materials and supplies used in the manufacture, distribution and sale thereof,* between points in the U.S., restricted to traffic originating at or destined to the facilities of Robintech, Inc. Supporting shipper: Robintech, Inc., 1900 II Tandy Center, Ft. Worth, TX 76101.

MC 146251 (Sub-3-4TA), filed December 30, 1980. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, Suite 3100, One IBM Plaza, Chicago, IL 60611. (1) *Malt beverages and related advertising materials; and (2) Equipment, materials, and supplies used in the sale, manufacture and distribution of malt beverages,* (1) From Detroit, MI and Fostoria, OH to points in GA, NC and SC; (2) From points in GA, NC and SC to Detroit, MI and Fostoria, OH. Supporting shipper: Stroh Brewing Co., One Stroh Dr., Detroit, MI 48226.

The following protests were filed in Region 4. Send protests to: CONSUMER ASSISTANCE CENTER, INTERSTATE COMMERCE COMMISSION, 219 SOUTH DEARBORN STREET; ROOM 1304, CHICAGO, IL 60604.

MC 142204 (Sub-4-3TA), filed December 30, 1980. Applicant: GUNVILLE TRUCKING, INC., d.b.a. GUNVILLE TRUCKING, P.O. Box 74, Niagara, WI 54151. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Foundry furnace/cupola dust* from Kingsford, MI to Germantown, WI. Supporting shipper(s): Grede Foundries, Inc., P.O. Box 26499, Milwaukee, WI 53226.

MC 142204 (Sub-4-2TA), filed December 30, 1980. Applicant: GUNVILLE TRUCKING, INC., d.b.a. GUNVILLE TRUCKING, P.O. Box 74, Niagara, WI 54151. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Such commodities as are dealt in or used by foundries* between points in Reno and Sedgwick Counties, KS; Dickinson County, MI; Milwaukee, Sauk and Waukesha Counties, WI on the one hand, and, on the other, points in AL, GA, FL, IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, OH, PA, SC, SD, TN, WV and WI restricted to traffic originating at or destined to the facilities of Grede Foundries, Inc. Supporting shipper: Grede Foundries, Inc., P.O. Box 26499, Milwaukee, WI 53226.

MC 145636 (Sub-4-7TA), filed December 30, 1980. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, 128½ Plaza East, P.O. Box 676, Winona, MN 55987. *Plywood and particleboard* moving in temperature controlled equipment from Rocklin, CA; Columbia Falls, MT; Missoula, MT; Elgin, OR; La Grande, OR; and Klamath Falls, OR to Arcadia, WI. Supporting shippers: Ashley-Arcadia Furniture Company, Arcadia, WI.

MC 151048 (Sub-4-2TA), filed December 29, 1980. Applicant: MODERN EXPRESS, INC., 2091 Kasota Ave., St. Paul, MN 55108. Representative: David R. St. Croix, 2328 Kings Circle, Woodbury, MN 55125. *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those which because of size or weight require the use of special equipment) between all points and places in MN, WI, ND, SD, MI (Upper Peninsula), IL (No. of Hwy 70), MO (No. of Hwy 70), IA, and NE (East of Hwy 81). Supporting shippers There are 34 statements of support attached.

MC 125708 (Sub-4-19), filed December 22, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road; P.O. Box 5216, Lake Station, IN 46405. Representative: A. C. Goebel, 109 Velma, South Roxana, IL 62087. *Steel Pipe* from Pine Bluff, AR to points in OK, TX, NM, AZ, LA, NE, CO, WY, MO, and IL. An underlying ETA seeks 120 days authority. Supporting shipper(s): SRL Metals of Texas, Inc., 1530 Lee Trevino, Suite B, El Paso, TX 79936.

MC 149546 (Sub-4-6), filed December 24, 1980. Applicant: D & T TRUCKING CO., INC., 498 First Street N.W., New Brighton, MN 55112. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *General commodities* (except household goods as described by the Commission and Class A and B explosives), between points located in the states of NY, IL, MN and WI. Supporting shipper: Eastman Kodak Company, Rochester, NY.

MC 55896 (Sub-4-11TA), filed December 29, 1980. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same as applicant). *Shipping drums, fiberboard and metal combined, tops and bottoms,* from Darlington, PA to points in OH. Supporting shipper: Greif Bros. Corporation, P.O. Box 341, Darlington, PA 16115.

MC 112801 (Sub-4-3TA), filed December 30, 1980. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: David C. Venable, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Corn syrup,* in bulk, in tank vehicles, from Cleveland,OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, and VA. An underlying ETA seeks 120 days authority. Supporting shipper: A. E. Staley Manufacturing Co., P.O. Box 151, Decatur, IL 62525.

MC 127187 (Sub-4-1TA), filed December 30, 1980. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, MN 55378. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *(1) Non-exempt animal and poultry feed and animal and poultry feed ingredients;* and *(2) pet food and pet supplies, and (3) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) and (2) above,* between the United States' facilities of Hubbard Milling Company, on the one hand, and, on the other, points in the U.S. Supporting shipper: Hubbard Milling Company, 524 North Front Street, Mankato, MN 56001.

MC 115651 (Sub-4-13TA), filed December 30, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: E.

Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., N.W., Washington, D.C. 20001. *Liquefied petroleum gas,* in bulk, in tank vehicles, from Iowa City, IA to points in IL, WI, and MN. Supporting shipper: Petrolane, Inc., P.O. Box 410, St. Charles, IL 60174.

MC 84273 (Sub-4-1TA), filed December 29, 1980. Applicant: JONES TRUCKING CO., INC., 3020 Bay View Dr., Green Bay, WI 54301. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Contract;* Irregular; *Such commodities as are dealt in or used by wholesale, retail, and chain grocery stores (except commodities in bulk)* between points in WI on the one hand, and, on the other, points in the U.S. (except AK and HI) under a continuing contract(s) with Topco Associates, Inc. A underlying ETA seeks 120 days authority. Supporting shipper: Topco Associates, Inc., 7711 Gross Point Rd., Skokie, IL 60077.

MC 144293 (Sub-4-4TA), filed December 29, 1980. Applicant: DUANE McFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Thomas J. Beener, 67 Wall Street, New York, NY 10005. *Such commodities as is dealt in by food business houses, and materials, ingredients and supplies used in their manufacture and distribution* between points in OH on the one hand and on the other points in IA, IL, IN, KS, MI, MN, MO, ND, NE, SD, OH and WI. Restricted to traffic originating at or destined to the facilities utulized by the Stouffer Corporation. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 119583 (Sub-4-1TA), filed December 29, 1980. Applicant: L. E. BOLING, INC., 710 Commercial Street, Kewanee, IL 61443. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Contract: Irregular: Boilers and Parts and Accessories used in the manufacture thereof* between the facilities of Kewanee Boiler Corporation, Kewanee, IL, on the one hand, and, on the other, points in the U.S. (Except AK and HI). Supporting shipper: Kewanee Boiler Corporation, 101 Franklin Street, Kewanee, IL 61443.

MC 133689 (Sub-4-58TA), filed December 29, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, N.E., Blaine, MN 55434. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *General commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* from the facilities of Allied Shippers & Receivers Association at Chicago, IL to points in OH. An underlying ETA seeks 120 days authority. Supporting shipper: Allied Shippers & Receivers Association, 2029 West Hubbard Street, Chicago, IL.

MC 52680 (Sub-4-3TA), filed December 29, 1980. Applicant: D. A. EXPRESS, INC., 11937 S. Page Avenue, Calumet Park, IL 60643. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Metals and metal products,* between points in IL, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, OH, PA, TN, VA, WV, WI, and DC. Supporting shipper: Metalock Corporation, 4640 W. Fifth Avenue, Chicago, IL 60644.

MC 111812 (Sub-4-21TA), filed December 29, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant) *Alcoholic beverages* (*except commodities in bulk*), from Jacksonville, FL to Minneapolis/St. Paul, MN. An underlying ETA seeks 120 days authority. Supporting shippers: Griggs Cooper & Co., Inc. & Eagle Wine Co., 489 North Prior Avenue, St. Paul, MN 55104; The Liquor House, 259 North 9th Avenue, Minneapolis, MN 55401; Old Peoria Co., Inc., 7125 Sanburg Road, Minneapolis, MN 55422; Ed Phillips & Sons Co., 2345 N.E. Kennedy, Minneapolis, MN 55413.

MC 19945 (Sub-4-2TA), filed December 23, 1980. Applicant: BEHNKEN, TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Representative: Joseph R. Behnken (same as applicant). *Ammonium Nitrate,* in bulk from Seneca, IL to Universal, Jasonville, Dugger, Carlisle, Lynville, IN and Boonville, TN. Supporting shipper: Peabody Coal Co., 301 North Memorial Drive, St. Louis. MO.

MC 145842 (Sub-4-7TA), filed December 23, 1980. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Fresh meat* suspended and/or in boxes, from West Fargo, ND, to points in CA, IL, KS, MI, MN, OH, OK and WI. Supporting shipper: Held Beef Industries, Stockyards Road, West Fargo, ND 58078.

MC 142310 (Sub-4-7TA), filed December 23, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper and paper products* from points in Portage and Wood Counties, WI to points in MN. Supporting shipper: Consolidated Papers, Inc., 231 N. 1st Ave. So., Wisconsin Rapids, WI 54494.

MC 149170 (Sub-4-22TA), filed December 29, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Meat, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (Except hides and commodities in bulk)* Between all points in the U.S. (Except AK, HI, ID, MT, WA and WY), restricted to traffic originating at or destined to the facilities of John Morrell & Company. Supporting shipper: John Morrell & Co., 208 South LaSalle, Chicago, IL 60604.

MC 149170 (Sub-4-23TA), filed December 29, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *General Commodities (Except Commodities in Bulk, Classes A and B Explosives & Household Goods as Defined by the Commission)* Between Mattoon, IL, on the one hand, and, on the other, all points in the U.S. (Except AK & HI), restricted to traffic originating at or destined to the facilities of R. R. Donnelley & Sons Company. Supporting shipper: R. R. Donnelley & Sons Company, North Route 45, Mattoon, IL 61938.

MC 143002 (Sub-4-16-TA), filed December 30, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract irregular general commodities* between points and places in the U.S. except AK and HI under contract to Outboard Marine Corporation and its subsidiaries. Supporting shipper: Outboard Marine Corporation, 100 Sea-Horse Drive, Waukegan, IL 60085.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 35320 (Sub-5-41), filed January 2, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives* between all points in the United States, (except AK. and HI.), restricted to traffic originating at or destined to the facilities of Warehouse Services, Inc. Supporting shipper: Warehouse Services, Inc., Jackson, MS.

Note.—Applicant intends to tack and interline.

MC 107496 (Sub-5-51TA) filed January 2, 1981. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Petroleum and petroleum products,* (a) From Natrona County, WY to Decker, MT; (b) From Billings, MT to Decker, MT; (c) From Sheridan County, WY to Decker, MT. Supporting shipper: Peter Kiewit Sons' Company, 1000 Kiewit Plaza, Omaha, NE 68131.

MC 109818 (Sub-5-6TA), filed January 2, 1981. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Foodstuffs,* from the facilities of or used by Ragu' Foods, Inc. at or near Atlanta, GA, to points in AL, FL, and SC. Supporting shipper: Ragu Foods, Inc., 33 Benedict Place, Greenwich, CT 06830.

MC 115724 (Sub-5-3TA), filed January 2, 1981. Applicant: J. W. PHILLIPS, INC., 4500 North Sewell, Suite No. 5, Oklahoma City, OK 73154. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Contract; irregular. *(1) Air handling equipment and (2) equipment, materials and supplies used in the manufacture of (1),* between points in the U.S. Supporting shipper: Temtrol, Inc., 15 East Oklahoma, Okarche, OK 73762.

MC 123993 (Sub-5-28TA), filed January 2, 1981. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. *General commodities* (*except household goods as defined by the Commission and Class A & B explosives*), between points in the U.S. (except AK and HI), restricted to traffic having prior or subsequent movement by rail or water. Supporting shipper: Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, LA 70130.

MC 136553 (Sub-5-4TA), filed January 2, 1981. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *General commodities, except classes A and B explosives,* between Dubuque, IA, and points in the Dubuque commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Dubuque Hydraulic & Industrial Supply Company, P.O. Box 1250, Dubuque, IA 52001; The Adams Company, 100 East 4th Street, Dubuque, IA 52001; William C. Brown Company, 2460 Kerper Blvd., Dubuque, IA 52001; and Theisen Distributing Company, Inc., 280 Dodge Street, Dubuque, IA 52001.

MC 138469 (Sub-5-32TA), filed January 2, 1981. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Lift trucks and related articles, parts racks, bins and shelving,* (1) From Chicago, IL; Cleveland, Oh; Dallas, TX; Greenville, NC; Horsham, PA; Northeast, PA; Philadelphia, PA; Salem, VA; Sioux City, IA; Waco, TX and points in their commercial zones to points in OK, TX and NM (2) From Oklahoma City and Tulsa, OK to points in TX and NM. Restricted in (1) and (2) to shipments originating at or destined to the facilities of Medley Material Handling, Inc., or its suppliers. Supporting shipper: Medley Material Handling, Inc., 4201 Will Rogers Parkway, Oklahoma City, OK 73108.

MC 141255 (Sub-5-1TA), filed January 2, 1981. Applicant: TANDY TRANSPORTATION, INC., 2560 E. Long Avenue, Fort Worth, TX 76111. Representative: Roy Beans, 2560 E. Long Avenue, Fort Worth, TX 76111. Contract; Irregular. *Alcoholic Beverages and Malt Beverages (except commodities in bulk),* between Evansville, IN and Belleville, IL, on the one hand, and on the other, Fort Worth, TX and Dallas, TX, and their commercial zones. Supporting shipper: B & S Distributing Company, 1401 Northpark, Fort Worth, TX 76102.

MC 141865 (Sub-5-15TA), filed January 2, 1981. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75050. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Paper and paper products and materials, equipment and supplies used in the manufacture and distribution of paper and paper produts,* between points in the U.S. (except AK and HI). Restricted to the transportation of traffic either originating at or destined to the facilities of Manville Forest Products Corporation. Supporting shipper: Manville Forest Products Corporation, P.O. Box 488, West Monroe, LA 71291.

MC 142716 (Sub-5-1TA), filed January 2, 1981. Applicant: C & L TRUCKING, INC., 1609 27th Street, N.W., Cedar Rapids, IA 52405. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. *Meat by-product commodities as are dealt in or used by meat packinghouses, in bulk, in tank-type vehicles,* from Estherville, and Sioux City, IA, and Sioux Falls, SD, to points in AR, IL, KS, LA, MN, MO, NE, OK, SD, TX, and WI. Supporting shipper: John Morrell & Co., 208 S. LaSalle, Chicago, IL 60604. Representative:

MC 144246 (Sub-5-1TA), filed January 2, 1981. Applicant: LARSEN TRUCKING, INC., 7703 Sunset Drive, Ralston, NE 68127. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Foodstuffs,* from the facilities of PVO International Inc., St. Louis, MO to points in MN, IA, ND, SD, NE, KS, and CO. Supporting shipper: PVO International Inc., 3400 No. Wharf Street, St. Louis, Mo 63147.

MC 145032 (Sub-5-2TA), filed January 2, 1981. Applicant: NATIONAL TRANSPORTATION SERVICES, INC., P.O. Box 3291, Lubbock, TX 79410. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *(1) Trailers, trailer chassis, and containers (except those designed to be drawn by passenger automobiles), in truckaway service, and (2) Parts for the commodities named in (1) above,* between Macon, GA and South Hill, VA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Watkins Manufacturing Co., Inc., Box 370, South Hill, VA 23970.

MC 146051 (Sub-5-3TA), filed January 2, 1981. Applicant: WITTENBURG TRUCK LINE, INC., Box 98, Readlyn, IA 50668. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Chemicals in containers* from CA, IL, NV, and WY, to points in IA, MN and WI and from Sumner, IA, to points in MN, NE, SD and WI. Supporting shipper: Overton Chemical Sales, Inc., Box 297, Sumner, IA 50674.

MC 150999 (Sub-5-3TA), filed January 2, 1981. Applicant: GENE F. LACAEYSE, d.b.a. G. F. LACAEYSE TRANSPORT, R.F.D. Box 110, Montezuma, IA 50171. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses,* (except commodities in bulk), from Marshall County, IA, to points in NC, SC, FL, MS, and TX. Supporting shipper: Tama Meat Packing Corporation, P.O. Box 209, Tama, IA 52339.

MC 151637 (Sub-5-5TA), filed January 2, 1981. Applicant: LARRY BREEDEN TRUCKING, INC., Post Office Box 1065, Fayetteville, AR 72956. Representative: Don Garrison, Esq., 1301 Fayetteville Road, Van Buren, AR 72701. *Such commodities as are dealt in by chain grocery and food business houses* *(except in bulk, in tank vehicles)*—From points in CA To Van Buren, AR. Supporting shipper: Griffin Wholesale Grocery Dist., Post Office Box 126, Van Buren, AR 72956.

MC 152021 (Sub-5-13TA), filed January 2, 1981. Applicant: IMPALA TRANSPORTATION SERVICES, INC., 1705 E. Irving Blvd., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin, President, 1705 E. Irving Blvd., P.O. Box 678, Irving TX 75060. Contract: Irregular. *Caulking Compounds Class 55 Materials,* between Dallas, TX and all points in the continental U.S. Supporting shipper: H. B. Fuller Company, 10212 Denton Drive, Dallas, TX 75220.

MC 152921 (Sub-5-1TA), filed January 2, 1981. Applicant: HOU-TEX TRANSPORTATION, INC., P.O. Box 38591, Houston, TX 77088. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. *Machinery, equipment materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas, and petroleum and their products and by-products,* Between points in Harris, Brazoris, Nueces, Calhoun, Aransas, Matagorda, Galveston, Polk and Colorado Counties, TX, on the one hand, and, on the other, points in LA, OK and NM. Supporting shippers: There are six.

MC 153392 (Sub-5-1TA), filed January 2, 1981. Applicant: CENTRAL TRACTOR FARM & FAMILY CENTER, INC., 1515 East Euclid, Des Moines, IA 50316. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Materials and supplies used in the manufacture of dairy products,* from points in the U.S. to Waterloo and Cedar Rapids, IA. Supporting shipper: Mississippi Valley Milk Producers Association, Inc., 325 Washington Street, Waterloo, IA 50701.

MC 153393 (Sub-5-1TA), filed January 2, 1981. Applicant: T.B.S. TRUCKING, INC., 3008 East Grauwyler Road, Irving, TX 75061. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, TX 75237. *Magazines and books,* From Dallas, TX to points in AR, LA, MS, OK, and TX. Supporting shipper: Lone Star Magazine Shipping Association, 3008 East Grauwyler Road, Irving, TX 75061; and Curtis Circulation Company, 841 Chestnut Street, Philadelphia, PA 19105.

MC 153394 (Sub-5-1TA), filed January 2, 1981. Applicant: FULLER BROS., INC., 3912 Oakbrook Drive, Oklahoma City, OK 73115. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Petroleum and Petroleum Products, in bulk and in packages,* Between points in OK, on the one hand, and on the other, West Memphis, AR; Roxana, IL; Kansas City, KS; New Orleans, LA; Kansas City and St. Louis, MO; Dallas, Houston and Port Arthur, TX. Supporting shippers: Tex-T Liquid Gas Co., Inc., P.O. Box 378, Pauls Valley, OK 73075; Tulco Oils, Inc., P.O, Box 51375, Tulsa, OK 74151; T & J Oil Products, Inc., 531 N. Portland, Oklahoma City, OK 73147.

MC 153395 (Sub-5-1TA), filed January 2, 1981. Applicant: CHAR-LINE CORPORATION, 816 E. Funston, Wichita, KS 67211. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Plastic articles and materials and supplies used in the manufacture of such items,* Between points and places in AR, KS, OK and TX. Supporting shipper(s): Ritricia Plastic Corporation, 816 E. Funston, Wichita, KS 67211.

MC 5227 (Sub-5-13TA) filed December 29, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. *Malt beverages,* from Shelby County, TN to Denver, CO and pts in its commercial zone. Supporting shipper: Murray Bros. Distributing Co., 1505 West 3rd Avenue, Denver, CO 80223.

MC 29910 (Sub-5-75TA) filed December 29, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Iron or steel articles (except in bulk),* between Oakland, CA; Los Angles, CA; Portland, OR; Seattle, WA; Tacoma, WA; on the one hand, and, on the other, points in and west of MN, IA, MO, OK, and TX. Supporting shipper: Sumitomo Corporation of America, 1 California St., San Francisco, CA

MC 29910 (Sub-5-76TA) filed December 29, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Roofing, building materials and supplies (except in bulk),* between Tuscaloosa, AL; Phillipsburg, KS; Denver, CO; Frederick, MD; Joplin and Kansas City, MO; Omaha, NE Tulsa, OK and Knoxville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Tamko Asphalt Products, Inc., 220 West 4th Street, Joplin, MO 64801

MC 29910 (Sub-5-77TA) filed December 29, 1980. Applicant: ABF FREIGHT SYSTEM, INC., P.O. Box 48, Fort Smith, AR 72902. Representative: Joseph K. Reber (address same as above applicant). Common, Regular. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Phoenix and Tucson, AZ over Interstate Highway 10, serving all intermediate points and all intermediate and off-route points in Pima, Graham, Greenlee, Pinal, Gila, Maricopa, Cochise and Santa Cruz Counties, AZ. Applicant intends to tack and interline. Supporting shipper: 10 supporting shippers.

MC 41116 (Sub-5-30TA) filed December 29, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman; P.O. Box 1504; Crowley, LA 70526. Contract; Irregular, *(1) Paper and paper products (except in bulk), (2) materials, equipment and supplies used in manufacture or sale of (1) (except in bulk),* between pts in the U.S. (except AK & HI) under continiuing contract(s) with Angleboard, Inc. Supporting shipper: Angleboard, Inc., 8901 Blue Ash Road, Cincinnati, OH 45242.

MC 61396 (Sub-5-11TA), filed December 29, 1980. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Kiln dust, in bulk,* between points in TX, LA, OK, MS, and AR. Supporting shipper(s): Solididust, Inc., 8114 Misty Vale, Houston, TX 77075.

MC 67234 (Sub-5-12TA), filed December 29, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, 314-727-0777. *Machinery and Supplies* between points and places in the U.S. Supporting shipper(s): Packaging Machinery Division of F.M.C. Corporation, 975 Lumbardi Avenue, Green Bay, WI 54305; Minster Machine Company, 240 West Fifth Street, Minster, OH 45865; Oliver Instrument Company, 1406 East Maumee, P.O. Box 189, Adrian, MI 49221; Ram Sag Machinery Sales Corp., and Seaberg Precision Rebuilding Corp., 165 Field Street, West Babylon, NY 11704.

MC 88368 (Sub-5-11TA), filed December 29, 1980. Applicant: CARTWRIGHT VAN LINES, INC., 11901

Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Steward (same address as applicant). *Conveyor systems, including parts and accessories,* from Grandview, MO to Borger, TX. Supporting shipper: Industrial Bearing and Transmission, Inc., 2450 Summit St., Kansas City, MO 64141.

MC 99919 (Sub-5–1TA), filed December 29, 1980. Applicant: FREMONT EXPRESS, INC., 620 E. Factory Street, Fremont, NE 68025. Representative: Scott T. Robertson, P.O. Box 94748, Lincoln, NE 68509. *Tires, electric motors, motor controls, and materials and supplies used in the manufacture, sale and distribution thereof* from Conshohoken and Frazer, PA; Elsah and Batavia, IL; McMinnville and Memphis, TN; Grafton and Wausau, WI; Kansas City, KS; Denver, CO; Dallas, TX; Minneapolis, MN; and Des Moines, IA, and points in their respective commercial zones, to the facilities of Fremont Tire Co. or P & H Electric, Inc. at or near Fremont, NE, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Fremont Tire Co., R.R. No. 5, Fremont, NE; and P & H Electric, Inc., 1210 17th Street, Fremont, NE.

MC 107064 (Sub-5–3TA), filed December 29, 1980. Applicant: STEERE TANK LINES, INC., P.O. Box 220998, Dallas, TX 75222. Representative: Hugh T. Matthews, 555 Griffin Square, Ste. 850, Dallas, TX 75202. *Chemicals,* in bulk, between Galveston and Brazoria Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Schenectady Chemicals, Inc., P.O. Box 2830, Freeport, TX 77541; Chemical Processing and Production, Inc., 625 Sixth St. N., Texas City, TX 77590.

MC 107496 (Sub-5–48TA), filed December 29,, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Oil,* from Tulsa, OK to Trinidad, CO. Supporting shipper: Amato Bros., 224 Godding, Trinidad, CO.

MC 107496 (Sub-5–49TA), filed December 29, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Methyl alcohol, in bulk,* from Baltimore, MD to Golden, CO. Supporting shipper: Jay T. Knutson, 8637 W..75th Way, Arvada, CO 80005.

MC 110581 (Sub-5–2TA), filed December 29, 1980. Applicant: G & H MOTOR FREIGHT LINES, INC., P.O. Box 239, Greenfield, IA 50349. Representative: Mr. Russell H. Wilson, 4400 Merle Hay Road, Des Moines, IA 50310. (1) *glass,* from Greenfield, IA, and Bayport and Minneapolis, MN, to points in the us (except AK and HI) *(2) materials, equipment and supplies used in the manufacture and distribution of glass (except commodities in bulk)* between points in the U.S. (except AK and HI.) Supporting shipper: Cardinal Insulated Glass Co., P.O. Box 99, Highway 25 North, Greenfield, IA 50849.

MC 111401 (Sub-5–27TA), filed December 29, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic, (same address as applicant). *Lubricating oil, in bulk, in tank vehicles,* from Wichita, KS to Truro, IA. Supporting shipper: Universal Motor Oils, P.O. Box 4449, Wichita, KS, 67204.

MC 114273 (Sub-5–38TA), filed December 29, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Corporate Counsel. Same as above. *(1) Drugs, medicines, chemicals, agricultural feed supplements, toilet preps, plastic materials, and related commodities (except in bulk); (2) materials, equipment and supplies used in the sale, distribution and manufacture of commodities in (1) above,* from Chicago, IL to Columbus, OH; Indianapolis, IN: Grand Rapids, MI; Milwaukee, WI; and Minneapolis, MN (including points in their respective commercial zones). Restricted to traffic originating at or destined to the facilities of American Cyanamid Company. Supporting shipper: American Cyanamid Co., 859 Berdan Ave., Wayne, NJ 07470.

MC 118959 (Sub-5–11TA), filed December 29, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Cleaning and washing compounds, and liquids, soap and soap products, textile softeners, food products, toilet preparations and mouthwash, and materials, equipment and supplies used in the manufacture, sale or distribution thereof,* between the facilities of Lever Brothers Company at or near St. Louis, MO; Hammond, IN; Clearing, IL, on the one hand, and, on the other, points in CA, CO, FL, GA, IL, IN, LA, MD, MI, MN, MO NJ, NY, NC, OH, OR, RI and TX. Supporting shipper: Lever Brothers Company, Lever House, 390 Park Ave., New York, NY 10022.

MC 121718 (Sub-5–1TA), filed December 29, 1980. Applicant: MURPHY BONDED WAREHOUSE, INC., 4002 Mansfield Road, P.O. Box 3722, Shreveport, LA 71103. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. *General Commodities, in trailer loads.* Between the railroad ramps in Shreveport, LA and points within 125 miles of Shreveport, LA, not served by ramps, restricted to traffic having a prior or subsequent movement by rail in Interstate Commerce. Supporting shipper: Illinois Central Gulf Railroad, 233 N. Michigan, Chicago, IL 60601.

MC 124174 (Sub-5–35TA), filed December 29, 1980. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 "L" Street, Omaha, NE 68137. *(1) Pipe, wire, cable, cord sets, plastic materials and equipment and supplies used in the manufacture of such commodities; and (2) Insulated electric copper and aluminum wire and cable,* from (1) Los Angeles, San Francisco, and Pittsburg, CA to pts in the USA and (2) between Santa Maria, CA; Passaic, Paterson and North Brunswick, NJ; and Richmond, KY, on the one hand, and pts in the USA (except HI), on the other hand. Restricted to the traffic of the supporting shippers. Supporting shipper(s): Triangle PWC, Inc., 1666 Willow Pass Road, Pittsburg, CA 94565; The Okonite Company, 100 Hilltop Road, Ramsey, NJ 07446.

MC 126118 (Sub-5–45TA), filed December 29, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, same as applicant. *Paper and paper products,* from Little Falls, MN and its commercial zone to pts in the US (except AK and HI). Supporting shipper: Hennepin Paper Company, Jay Bailey, Shipping Supervisor, Second Street, S.W., Little Falls, MN 56345.

MC 126118 (Sub-5–46TA), filed December 29, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, same as applicant. *Plastic and steel articles, equipment, and supplies,* between pts in CO, GA, IN, and KS, on the one hand, and, on the other, pts in the US (except AK and HI). Supporting shipper: Hoover Universal, Inc., Thomas E. Gould, Corporate Traffic Manager, Route 2, Tri Port Road, Georgetown, KY 40324.

MC 126822 (Sub-5–42TA), filed December 29, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Iron and Steel, and iron and steel products* between Clay

County, MO on the one hand, and points in the U.S. on the other, restricted to traffic moving for the account of Arrowhead Grating and Metalworks. Supporting shipper: Arrowhead Grating and Metalworks, 411 East 10th Avenue, N. Kansas City, MO.

MC 133194 (Sub-5–7TA), filed December 29, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Road, P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr., Airport Road, P.O. Box 1047, Russellville, AR 72801. Common; Regular. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) Between Dardanelle, AR and Danville, AR; From Dardanelle, AR, over U.S. Hwy 27 to the Junction of U. S. Hwy 10, then to Danville, AR, and return over the same route serving all intermediate points. (2) Between Dardanelle, AR and Rover, AR; From Dardanelle, AR, over U. S. Hwy 7 to Junction of U. S. Hwy 28, over Hwy 28 to the Junction of U. S. Hwy 27, then over Hwy 27 to Rover, AR, and return over the same route serving all intermediate points. (3) Between Ola, AR and Danville, AR; From Ola, AR over U. S. Hwy 10 to Danville, AR, and return over the same route serving all intermediate points. Applicant intends to tack and interline. 7 Supporting shippers.

MC 134134 (Sub-5–8TA), filed December 29, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman, P.O. Box 7439, Omaha, NE 68107. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Alcoholic beverages (except in bulk)* from pts in the states of NY, NJ, MI, KY, MD, IL, IN to (a) the facilities of Peter Hauptman Co., Inc., at or near St. Louis, MO; (b) the facilities of Manhatten Distributing Company, at or near Maryland Heights, MO; and (c) the facilities of Missouri-Conrad Liquor Company, at or near Kansas City, MO. Supporting shippers: Peter Hauptman Co., Inc., 2340 59th Street, St. Louis, MO 63110; Manhattan Distributing Company, Inc., 11675 Fairgrove Industrial Drive, Maryland Heights, MO 63043; and Missouri-Conrad Liquor Company, 1512 Atlantic, North Kansas City, MO 64116.

MC 134134 (Sub-5–9TA), filed December 29, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman, P.O. Box 7439, Omaha, NE 68107. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Alcoholic beverages (except in bulk)* between the facilities of Montebello Brands, Inc., at or near Baltimore, MD, on the one hand, and, on the other pts in the states of PA, WV, MI, OH, IL, WI, MN, KS, MO, TX and NE; and (2) from the facilities of Majestic Distilling Co., Inc., at or near Lansdowne, MD, to points in AR, CO, IL, KS, MN and MO. Supporting shippers: Montebello Brands, Inc., Bank Street and Central Avenue, Baltimore, MD 21202 and Majestic Distilling Company, Inc., P.O. Box 7372, Baltimore, MD 21227.

MC 135007 (Sub-5–11TA), filed December 29, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 CharterBank Center, 920 Main Street, P.O. Box 19251, Kansas City, MO 64141. *Contract,* irregular: *Such commodities, materials and supplies dealt in, used and sold by retail building material stores,* Between pts in the U.S., Supporting shipper: Payless Cashways Inc., 3100 Broadway, Kansas City, MO 64111.

MC 141197 (Sub-5–4TA), Filed December 29, 1980. Applicant: APPLICANT-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068.

Coal in bulk in dump vehicles, from Labette County, KS to Springfield, MO. Supporting shipper: Cherokee Coal Company, 5200 S. Yale Ave., Tulsa, OK 74135.

MC 141523 (Sub-5–1TA), Filed December 29, 1980. Applicant: C. R. KIDD PRODUCE, INC., P.O. Box 364, Springdale, AR 72764. Representative: Connie R. Kidd, P.O. Box 364, Springdale, AR 72764. *Such commodities as are dealt in or used by wholesale and retail discount and variety stores, (except in bulk),* between points in AL, AR, IL, KS, KY, LA, MO, MS, OK, TN and TX. Restricted to traffic originating at or destined to the facilities of Wal-Mart Stores, Inc. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 141865 (Sub-5–14TA), Filed December 29, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Garand Prairie, TX 75050. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Such commodities as are dealt in or used by manufacturers and distributors of paint, chemicals and related articles,* between points in the U.S. Supporting shipper: The Sherwin-Williams Company, 2802 West Miller, Garland, TX 75040.

MC 144186 (Sub-5–5TA), Filed December 29, 1980. Applicant: BILL STARR TRUCKING, INC., 1041 S. Vista Dr., Independence, MO 64056. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. *Contract;* Irregular. *Toilet preparations and other articles moving in mixed loads with toilet preparations,* Between Kansas City, MO, on the one hand, and, on the other, Denver and Boulder, CO and their respective commerical zones. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 64141.

MC 144603 (Sub-5–34TA), Filed December 29, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Chemicals or allied products (except commodities in bulk, in tank vehicles)* between points in St. Louis, MO; St. Louis, St. Charles and Jefferson Counties, MO; Madison and St. Clair Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Simmler Inc., 3755 Forest Park, St. Louis, MO 63108.

MC 145384 (Sub-5–11TA), filed December 29, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Millwork and moulding,* from Corning, CA to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper(s): Corning Moulding Corporation, P.O. Box 187, Corning, CA 96021.

MC 145441 (Sub-5–38TA), filed December 29, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Rock, AR 72119. *Shelving, Steel and Wood combined and Hardware accessories thereof* from Jacksonville, IL to points in the U.S. Supporting shipper: Lundia, Myers Industries, Inc., Distribution Manager, 600 Capitol Way, Jacksonville, IL 62650.

MC 145526 (Sub-5–1TA), filed December 29, 1980. Applicant: CTC TRANSPORTATION, INC., 514 North Clairborne Avenue, New Orleans, LA 70112. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission), in containers or trailers having an immediately prior or subsequent movement by water,* between Savannah, GA, Jacksonville, FL and Charleston, SC, on the one hand, and, on the other, points in FL, GA and SC, and between New Orleans, LA, on the one hand, and, on the other, points in LA, MS and TX. Supporting shippers: 8.

MC 146055 (Sub-5–10TA), filed December 29, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: Mr. James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats, and packinghouse products,* between the facilities used by W & G Marketing Co., Inc., Sidney Sheep and Lamb Division, Fremont and Polk Counties, IA and Douglas County, NE, on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: W & G Marketing Co., Inc., P.O. Box 236, Sidney, IA 51652

MC 149235 (Sub 5–4TA), filed December 29, 1980. Applicant: C. MAXWELL TRUCKING CO., INC. 9108 Reeds Dr., Overland Park, KS 66207. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., St. 600, Kansas City, MO 64105. *Contract;* Irregular. *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between Wyandotte County, KS, on the one hand, and, on the other, points in CO. Supporting shipper: Procter & Gamble Distributing Co., P.O. 599, Cincinnati, OH 45201.

MC 150102 (Sub-5–6TA), filed December 29, 1980. Applicant: MUSTANG TRANSPORTATION, INC., 1101 Rue Corton, Slidell, LA 70458. Representative: Albert T. Riddle (same as applicant). Contract—Irregular: *Rubber articles and materials and clay* between Natchez MS and all pts in LA and TX. Supporting shipper: The Armstrong Rubber Company, 500 Sargent Drive New Haven, CT 06507.

MC 150578 (Sub-5–20TA), filed December 29, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey, 2944 Motley Drive, Suite 302, Mesquite, TX 75150. *Alcoholic beverages and wine, in packages* between pts in OH, CT, and SC, on the one hand, and, on the other, pts in TX, AR, LA, and AZ. Supporting shipper: Glazer's Wholesale Drug Co., Inc., 508 Park Avenue, Dallas, TX 75201.

MC 150578 (Sub-5–21TA), filed December 29, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey 2944 Motley Drive, Suite 302, Mesquite, TX 75150. *Such merchandise as is dealt in by wholesale and retail department stores* from Dallas, TX to pts in the U.S. (except AK, HI, and TX). Supporting shipper: Lumar Quilting, Inc., 153 Leslie Street, Dallas, TX.

MC 151649 (Sub-5–2TA), filed December 29, 1980. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. Contract, irregular; *Commodities distributed by retail stores,* from IA, MN, NE & SD to Polk County, IA. Supporting shipper: Super Valu Stores, Des Moines Div., 3919–109th St.; Des Moines, IA 50322.

MC 152942 (Sub-5–1TA), filed December 29, 1980. Applicant: TOGO TRUCKING CO., Route 3, St. Joseph, MO 64505. Representative: James H. Counts, 320 Robidoux Center, St. Joseph, MO 64501. Contract, irregular: *Corn flour (non-edible) for gypsum binder glue,* from: Krause Milling Co., St. Joseph, MO to: Gypsum, OH, East Chicago, IN, Shoals, IN. Supporting shipper: Krause Milling Co., P.O. Box 1156, Milwaukee, WI 53201.

MC 153319 (Sub-5–1TA), filed December 29, 1980. Applicant: C F C TRANSPORT, INC., 339 S.W. 6th Street, Des Moines, IA 50309. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Contract, Irregular: *general commodities (except explosives and commodities in bulk),* between pts in the U.S. under continuing contracts with Continental Fiberglass Corp., Ameron, Inc., and Gore Creek Distributing Co. Supporting shippers: Continental Fiberglass Corp., 339 S.W., 6th Street, Des Moines, IA 50309; Gore Creek Distributing Co., 101 E., 2nd, Des Moines, IA 50309; Ameron, Inc., P.O. Box 9610, Little Rick, AR.

MC 16334 (Sub-5–1TA), filed December 29, 1980. Applicant: DEBRICK TRUCK LINE COMPANY, R.R. #2, Paola, KS 66071. Representative: D. L. Debrick (same as applicant). *Pre-cast concrete manholes* from Miami, OK, to points in AR, IA, KS, MO, NE, and TX. Supporting shipper: Hardwall Fabricators, Inc., P.O. Box 257, N. Miami, OK 74358.

MC 52460 (Sub-5–24TA), filed December 31, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga, 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. *Such commodities as dealt in by cold storage houses,* between points in AL, AR, FL, KS, LA, MS, MO, OK, NE, TN and TX. Supporting shipper: York Cold Storage—Commerce St. & Division Ave.—York, NE 68467.

MC 100666 (Sub-5–11), filed December 31, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Roofing and roofing products* from Joplin, MO and Phillipsburg, KS to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. Supporting shipper: TamKo Asphalt Products, Inc., 220 West 4th Street, Joplin, MO 64801.

MC 107496 (Sub-5–50TA), filed December 31, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Grain products,* between points in Towner County, ND, on the one hand, and, on the other, points in the U.S. Supporting shipper: Noodles by Leonardo, Cando, ND 58324.

MC 112713 (Sub-5–25TA), filed December 31, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr., P.O. Box 7270, Overland Park, KS 66207. Common; Regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8),* serving Kissimee and St. Cloud, FL, as off-route points in connection with carrier's otherwise authorized operations. Applicant intends to tack the authority sought with its authority in MC–122713. Supporting shipper: Yellow Forwarding Co., 10990 Roe Avenue, Overland Park, KS 66207.

MC 118959 (Sub-5–13TA), filed December 31, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Pulpboard and fibreboard boxes and such commodities as are manufactured, distributed or dealt in by manufacturers or convertors of paper and paper products (except commodities in bulk or hazardous materials),* from Hattiesburg, MS, to Pineville, LA. Supporting shipper: Inland Container Corporation, 151 N. Delaware St., Indianapolis, IN 46206.

MC 119399 (Sub-5–39), filed December 31, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, Missouri 64801. Representative: Thomas P. O'Hara (address same as applicant). *(1) Paper and Paper Products; (2) Equipment,*

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materials and supplies used in the manufacture of such commodities (except in bulk) between the facilities of Containers Corporation of America at Muskogee, OK on the one hand, and, on the other, points in AR, KS, MO, LA, TX, FL, AL and UT. Supporting shipper: Container Corporation of America, Fort Worth, TX 76102.

MC 119399 (Sub-5-40), filed December 31, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *(1) Corrugated fiberboard partitions, KDF; (2) Materials and Supplies used in the manufacture of such commodities;* (1) from the facilities of Four-M Corporation at North Kansas City, MO to Omaha and Kearney, NE and Tulsa, OK; (2) from Tulsa, OK to the facilties of Four-M Corporation at North Kansas City, MO. Supporting shipper: Four-M Corporation, North Kansas City, Mo.

MC 119988 (Sub-5-30TA), filed December 31, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Kenneth W. Haskins, P.O. Box 1384, Lufkin, TX 75901. *Corrosion-resistant products (except in bulk): pipe, piping, hand rails, duct, coatings, grating, tanks, scrubbers, and plastics.* Between Los Angeles, CA; New Orleans, LA; Houston, TX; and Nashville, TN, on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper(s): Corrosion Specialties, Inc., 1412 N. Batania Avenue, Orange, CA 92667.

MC 143594 (Sub-5-7TA), filed December 31, 1980. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. (1) *Sodium dichromate* from Amarillo, TX to Chandler and Sacaton, AZ; and (2) *Sulfuric acid* from Hayden, AZ to Amarillo, TX. Supporting shipper: Wayne Chemical Corp., 546 S. Water St., Milwaukee, WI 53204

MC 144622 (Sub-5-66TA), filed December 30, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Charcoal briquettes and the materials, equipment, and supplies used in the manufacture and distribution thereof* from Cotter, AR to points in TX. Supporting shipper: Cotter Charcoal Company, P.O. Box 100, Cotter, AR 72626.

MC 146675 (Sub-5-1TA), filed December 31, 1980. Applicant: KINCAID COACH LINES, INC., 5639 Merriam Drive, Merriam, KS 66203. Representative: Mike Kincaid, 5639 Merriam Drive, Merriam, KS 66203. Contract, irregular; *passengers and baggage of passengers for charter operations* beginning and ending at Wichita, Topeka, Emporia and Cheney, KS and extending to Vail, Breckenridge, Steamboat, Crested Butte, Dillin and Winterpark, CO. Supporting shipper: Education Overland II, Inc., P.O. Box 4309, Wichita, KS 67204.

MC 147552 (Sub-5-5TA), filed December 30, 1980. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., Suite 130, 10575 Katy Freeway, Houston, TX 77024. Representative: C. Neal Carson, Suite 130, 10575 Katy Freeway, Houston, TX 77024. *Commodities in bulk, in tank vehicles,* between Jefferson County, TX and Lake Charles, LA. Restriction: The above authority is restricted to the transportation of commodities having a subsequent movement via water. Supporting shipper: Texaco International Trader Inc., P.O. Box 52332, Houston, TX 77052.

MC 148843 (Sub-5-1TA), filed December 31, 1980. Applicant: B. G. HOOKER TRANSPORT COMPANY, East Highway 84 (P.O. Box 428), Tenaha, TX 75947. Representative: Jack L. Coke, Jr., Phinney, Hallman, Pulley & Coke, 4555 First National Bank Building, Dallas, TX 75202. *Liquefied Petroleum Gases, Pentanes, Natural Gasoline, Butadiene, Butenes and Liquefied Petroleum Gas Mixtures, in bulk, in tank vehicles,* between all points in TX on the one hand, and on the other, all points in LA. Supporting shippers: Petro-Tex Chemical Corporation, 8600 Park Place Boulevard, Houston, TX 77017; United L.P. Gas Marketing, Inc., 2829 West Northwest Highway, Suite 227, Dallas, TX 75220; Firestone Synthetic Rubber & Latex Co., Louisiana Highway 108—P.O. Drawer 1361, Lake Charles, LA 70602; Sergeant Oil & Gas Company, Inc., 3813 Buffalo Speedway, Houston, TX 77001; Olympia Petroleum, Inc., 1700 West Loop South, Suite 930, Houston, TX 77027.

MC 150578 (Sub-6-22TA), filed December 31, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey, 2944 Motley Drive, Suite 302, Mesquite, TX 75150. *Meat, meat products, and meat by-products* between points in the U.S. in and east of TX, OK, KS, IA, and WI. Restricted to traffic originating at or destined to facilities of Galaxy International, Inc. Supporting shipper: Galaxy International, Inc., 1717 Penn Avenue, Pittsburgh, PA 15221.

MC 150578 (Sub-5-23), filed December 31, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey, 2944 Motley Drive, Suite 302, Mesquite, TX 75150. *General Commodities (except commodities in bulk) between pts in the U.S. restricted to traffic originating at or destined to Long Mile Rubber Co. Supporting shipper: Long Mile Rubber Co., 155 South Court—Exchange Park, Dallas, TX 75245.*

MC 150578 (Sub-5-24TA), filed December 31, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey, 2944 Motley Drive, Suite 302, Mesquite, TX 75150. *Bananas* from Galveston, TX and Gulfport, MS to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, TN, KY, IN, OH, and MI. Supporting shipper: Castle & Cooke Foods, 2900 Veterans Blvd., Metairie, LA 70002.

MC 150783 (Sub-5-27TA), filed December 31, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Animal foods and animal by-products.* El Paso, TX and Muscatine, IA to the 48 States, restricted to traffic for Star Kist Foods, Inc. Supporting shipper: Star Kist Foods, Inc., 582 Tuna Street, Terminal Island, CA 90731.

MC 150783 (Sub-5-28TA), filed December 31, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Candy, confectionery, and display and advertising materials relating thereto.* From the facilities of Tootsie Roll Industries, Inc., at or near Chicago, IL to Dallas, TX.; Atlanta, GA; Boston, MA; Birmingham, AL; Buffalo, NY; Charlotte, NC; Cleveland, OH; Cincinnati, OH; Balitmore, MD; Denver, CO; Des Moines, IA; Detroit, MI; Grand Rapids, MI; Jacksonville, FL; Jersey City, NJ; Kansas City, MO; Los Angeles, CA; Memphis, TN; Nashville, TN; New Orleans, LA; Omaha, NE; Pittsburgh, PA; Salt Lake, UT; San Francisco, CA and points in their respective commercial zones. Supporting shipper: Tootsie Roll Industries, Inc., 7401 South Cicero Avenue, Chicago, IL 60629.

MC 153137 (Sub-5-1TA), filed December 30, 1980. Applicant: G&H TRANSPORTATION, INC., 711 Pearl, Houston, TX 77029. Representative:

Charles H. Grindstaff (same address as applicant). *Plastic granules in bags or in bulk,* between Brazoria County, TX, on the one hand; and Harris and Galveston Counties, TX, on the other. Supporting shipper: Shintech, Inc., 5618 E. Highway 332, Freeport, TX 77541.

MC 153334 (Sub-5-1TA), filed Decembr 30, 1980. Applicant: JOHN NEWTON STONE d.b.a., SOUTHWESTERN EXPRESS, 9335 Ronda Lane, Houston, TX 77074. Representative: Timothy J. Herman, Attorney at Law, 522 First Federal Plaza, Austin, TX 78701. *Machinery and Supplies, moving in one ton trucks and less,* between points in Harris County, TX, on the one hand, and, on the other, points in LA. Supporting shippers: Nine (9).

MC 153341 (Sub-5-1TA), filed December 31, 1980. Applicant: CUSTOM BUS LEASING, INC., 645 Highway 1378, Wylie, TX 75098. Representative: Robert O. Stanton, 3800 Republic Bank Tower, Dallas TX. 75201.*Passengers and their luggage on sleeper buses; round trip pleasure tours and charter operations and proposed,* between pts within Dallas and Tarrant Counties, TX, on the one hand, and, on the other, pts within Taos, Lincoln and Colfax Counties, NM and pts within Summit County, CO. Supporting shippers: 5.

The following applications were filled in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 110689 (Sub-6-2TA), filed December 23, 1980. Applicant: AIRWAY TRUCKING CO., 4239 Newton Rd., Stockton, CA 95204. Representative: Bobbie F. Albanese, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Glass and glass products and commodities used in the distribution thereof,* between Lathrop, CA, on the one hand, and, on the other, points in CO, NM, TX, and UT for 270 days. Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 152671 (Sub-6-4 TA), filed December 23, 1980. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O.B. 837, Boise, ID 83701. Representative: David E. Wishney, P.O.B. 6699, Boise, ID 83707. *Contract carrier,* irregular routes; *petroleum products,* except liquid commodities in bulk, from points in CA, Portland, OR, Seattle, WA and Denver, CO, and the commercial zones thereof, to the facilities utilized by Cowboy Oil Company at or near Boise, ID, Pocatello, ID and Salt Lake City, UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cowboy Oil Company, P.O. Box L, Pocatello, ID 83201.

MC 153299 (Sub-6-1TA), filed December 22, 1980. Applicant: AMITCO, INC., 1731 Old Hwy. S., Mount Vernon, WA 98273. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: (1) *fabricated and non-fabricated iron and steel articles* between U.S.-Canada ports of entry on the one hand, and points in WA, OR, CA, and AZ on the other hand; and (2) *lumber and wood products* from Bellingham, WA, to points in NE, KA, WY, CO, UT, AZ, and CA, for 270 days. Supporting shippers: Fincraft Fabricators Ltd., 2538 Barnet Hwy., Coquitlam, B.C., Canada V3H 1W3; Frank Brooks Mfg., Co., P.O.B. 7, Bellingham, WA 98225.

MC 153312 (Sub-6-1TA), filed December 23, 1980. Applicant: BAMFORD LAND COMPANY, P.O. Box 215, Haxtun, CO 80731. Representative: J. Kent Bamford, Route #2, Haxtun, CO 80731. *Contract carrier,* irregular routes: *Dry potash compounds, boron compounds, and other dry liquid fertilizers,* from points in Eddy and Lea Counties, NM; Douglas County, NE; and Woodbury County, IA; to points in Phillips, Logan, Sedgwick, and Yuma Counties, CO; for the account of Dudden Elevator Co., Venango, NE; and Kenton Agri Service, Haxtun, CO, for 270 days. Supporting shippers: Dudden Elevator Co., Venango, NE; and Kenton Agri Service, Haxtun, CO.

MC 148158 (Sub-6-12TA), filed December 22, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M St. NW., Washington, D.C. 20036. *Contract,* irregular; *general commodities (except household goods as defined by the Commission and Classes A and B explosives)* between UT, on the one hand, and, on the other, CA, ID, IL, NV, OR, WA under continuing contract(s) with National Distribution Systems, Inc., of Clearfield, UT, for 270 days. Supporting shipper: National Distribution Systems, Inc., 1051 South Industrial Parkway, Clearfield, UT 84015.

MC 152115 (Sub-6-3TA), filed December 29, 1980. Applicant: G. K. DISTRIBUTING CO., 13924 Maryton, Santa Fe Springs, CA 90670. Representative: George Kuiphof (same address as applicant). *Water heaters; solar collectors; steel pipe; pipe fittings and other parts and equipment necessary or incidental to the operation or installation of water heaters or solar collectors* between points in the Los Angeles Commercial Zone, CA and points in AZ and NV for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Rheem Manufacturing Company, 7600 S. Kedzie, Chicago, IL 60652.

MC 153300 (Sub-6-1TA), filed December 22, 1980. Applicant: DONALD W. HENDERSON d.b.a. HENDERSON TRUCKING, 942 Kenston Drive, Clayton, CA 94517. Representative: Donald W. Henderson, (same address as applicant). *General Commodities* (except those of unusual value, Class A and B explosives, commodities in bulk and those requiring special equipment), between points in the Los Angeles and Oakland, CA commercial zones (as defined by the Commission) on the one hand, and, on the other, points in OR and WA. Restriction: Restricted to traffic moving on bills of lading of freight forwarders operating under 49 U.S.C., Section 10102(8) and further restricted to traffic moving on bills of lading of Rocky Mountain Express, Inc. Supporting shipper: Rocky Mountain Express, Inc., 730 11th Ave., Oakland, CA 94606.

MC 33641 (Sub-6-5TA), filed December 22, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). *Common Carrier,* Regular routes: *General Commodities (except those of unusal value, Classes A and B explosives, household goods as defined by the Commission,* commodities in bulk, and those requiring special equipment), serving Freeport Gold Mine Site (Jerritt Canyon) located in Elko County, NV as an off-route point in connection with carrier's authorized regular route operations, for 270 days. Applicant intends to tack and interline. Supporting shippers: Freeport Gold Co., P.O. Box 1132, Elko, NV 89801; Davy McKee Corporation, 2700 Campus Dr., San Mateo, CA 94403.

MC 119639 (Sub-6-4TA), filed December 17, 1980. Applicant: INCO EXPRESS, INC., 3600 S. 124th St., Seattle, WA 98168. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Furniture and rattan products,* from points in CA to points in WA, OR, NV, AZ, and UT, for 270 days. Supporting shipper: Paul Marshall Products, 2131 West Willow St., Long Beach, CA 90810.

MC 134599 (Sub-6-46TA), filed December 29, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier:*

Irregular routes: (1) *Candy and confectionery* (except in bulk), from Ft. Worth and Dallas, TX, and points in their commercial zones, to Centralia, IL; Los Angeles, CA; Atlanta, GA and Edison, NJ and points in their commercial zones, under continuing contract(s) with Hollywood Brands Candy for 270 days. Supporting shippers: Hollywood Brands Candy, 836 S. Chestnut St., Centralia, IL 62801.

MC 139906 (Sub-6-50TA), filed December 24, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127 Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Locks, lock sets and parts* (except in bulk) between San Francisco, CA and Rocky Mt., NC and points in their respective commercial zones, restricted to shipments origninating at or destined to the facilities of Schlage Lock Co. a division of Ingersoll-Rand Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ingersoll-Rand, 277 Park Avenue, New York, NY 10017.

MC 147832 (Sub-6-6TA), filed December 29, 1980. Applicant: JIM EDDLEMAN, d.b.a. J & J CATTLE COMPANY, 3395 Wright St., Wheat Ridge, CO 80033. Representative: Truman A. Stockton, Jr., 1365 Logan St., Suite 100, Denver, CO 80203. *Frozen bakery goods, NO, and foodstuffs, materials and supplies* used in the processing or distribution of foodstuffs between the plants and distribution warehouses of Mrs. Smith's Frozen Foods Co. at or near Pottstown, Philadelphia, Fogelsville and Lake Winola, PA, Blue Anchor and Jersey City, NJ, San Jose, San Francisco and Los Angeles, CA, McMinnville and Portland, OR, Atlanta, GA, Zeeland, MI, Syracuse, NY, Tampa, FL, Dallas, TX, Lyons, IL and Denver, CO and points in U.S. for 270 days. Supporting shipper: Mrs. Smith's Frozen Foods Co., Box 298, Pottstown, PA 19464.

MC 153325 (Sub-6-1TA), filed December 29, 1980. Applicant: LOUNGE CAR TOURS CHARTER COMPANY, INC., 21133 Victory Blvd., Suite 205, Canoga Park, CA 91303. Representative: Earl Glantz, 76 Freeport Mall, Freeport, NY 11520. *Passengers and their baggage* in the same vehicle with passengers over irregular routes, between points in CA on one hand, and, on the other, points in AZ, NV and UT for 270 days. Supporting shipper: California Touring, Inc., 5710 Hannum Avenue, Culver City, CA 90230.

MC 153314 (Sub-6-1TA), filed December 22, 1980. Applicant: M & D TRANSPORTATION, INC., 6538 North 57th Avenue, Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. (1) *Floor coverings* from Los Angeles, CA and Phoenix, AZ to points in the U.S.; (2) *shower doors, fiberglass shower units, and fiberglass products* from Tempe, AZ to points in the U.S.; and (3) *sealing compound,* from Sparks, NV, to points in the U.S., and, on return, *equipment, materials and supplies used in the manufacture and distribution of sealing compound;* and (4) *insulation* from Phoenix, AZ to points in CA, CO, NM, NV, and UT, and, on return, *chemicals* (except in bulk) from points in CA to Phoenix, AZ, for 270 days. Supporting shippers: Adams Bros. Interiors, 2711 North 24th Street, Phoenix, AZ 85008; Weathercheck Insulation of Arizona, Inc., 1908 East Buchanan Street, Phoenix, AZ 85034; Superior Products Co., 445 Coney Island Drive, South, Sparks, NV 89431; Venus Mfg. Co., 2424 West University, Tempe, AZ 85281.

MC 153314 (Sub-6-2TA), filed December 22, 1980. Applicant: M & D TRANSPORTATION, INC., 6538 North 57th Avenue, Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Paper and paper products* from points in AL, AR, CA, LA, MI, MN, NC, OH, OR, TX, WA, and WI to points in AZ, and from Phoenix, AZ to points in CA, for 270 days. Supporting shippers: Butler Paper Co., 2841 West Clarendon, Phoenix, AZ 85017 and Carpenter/Offutt Paper, Inc., 1919 North 22nd Avenue, Phoenix, AZ 85009.

MC 153314 (Sub-6-3TA), filed December 22, 1980. Applicant: M & D TRANSPORTATION, INC., 6538 North 57th Avenue, Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Chemicals* (except in bulk), (1) from Phoenix, AZ to points in the U.S., (2) from Boron, CA to Phoenix, AZ, and (3) from Baltimore, MD; Bakerstown and Wilkes-Barre, PA; Conley, GA; and Castlehayne, NC to Newark, CA, for 270 days. Supporting shippers: Jones-Hamilton Co., 8400 Enterprise Drive, Newark, CA 94560; HJH Chemicals, Inc., 2229 East Magnolia, Phoenix, AZ 85034; International United Chemical Co., Inc., 645 East 60th Street, Los Angeles, CA 90001.

MC 153314 (Sub-6-4TA), filed December 22, 1980. Applicant: M & D TRANSPORTATION, INC., 6538 North 57th Avenue, Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. (1) *Such commodities as are dealt in or used by manufacturers or distributors of spas, pool products, plastic products and refuse containers* between Phoenix, AZ and Tustin and Union City, CA, on the one hand, and, on the other points in the U.S.; (2) *aluminum and aluminum products, and steel conduit* from Los Angeles, CA to points in the U.S., and, on return, *equipment, material and supplies* to the named origin; and (3) *material handling equipment* (a) from Philadelphia, PA; Greenville, NC; Salem, VA; LaGrange, GA; Oakland, CA; and points in FL, IL, IN, LA, and OH, to points in Maricopa and Pima Counties, AZ and (b) from the destinations in (a) to points in CA, for 270 days. Supporting shippers: ALFLEX Corp., 2830 El Presido Street, Long Beach, CA 90810; Kern Products, Inc., 2802 Dow Avenue, Tustin, CA 92626; Heil Rotomold, Inc., 108 East Pioneer Street, Phoenix, AZ 85040; and Thayer Corporation, 522 East Buckeye Road, Phoenix, AZ 85306.

MC 144953 (Sub-6-3 TA), filed December 22, 1980. Applicant: MULLEN TRUCKING LTD., 6204-A Burbank Rd., S.E., Calgary, Alberta, Canada T2H 2C2. Representative: John T. Wirth, 717—17th St., Ste. 2800, Denver, CO 80202. *Oil field commodities,* from ports of entry on the International Boundary between the U.S. and Canada located in MT to points in MT and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Wilson Oil Field Supply, 5240 1A St., SE, Calgary, Alberta, Canada T2h 1J1; Nomac Oil Well Equipment Ltd., 6217 C, 31st St. SW, Calgary, Alberta, Canada T2C 1H9; Shelby Drilling, Inc., 400, 1550—5th SW, Calgary, Alberta, Canada T2R 1K3; and, Baltic Drilling (1979) Ltd., 901, 7015 Macleod Trail SW, Calgary, Alberta, Canada.

MC 146464 (Sub-6-2TA), filed December 29, 1980. Applicant: NEVADA GENERAL TRANSPORTATION, INC., P.O. B. 1181, Lamoille, NV 89828. Representative: David E. Wishney, P.O. B. 837, Boise, ID 83701. *Mining equipment, materials, supplies, ore and barite,* between points in UT on the one hand, and on the other, points in AZ, CA, CO, ID and WY, for 270 days, an underlying ETA seeks 120 days authority. Supporting shippers: Petro-Chem, Inc., 543 S 2165 W, Salt Lake City, UT 84104; Uni-Chem Minerals, Inc., 230 W 4th S, Salt Lake City, UT 84101.

MC 143144 (Sub-6-1TA), filed December 29, 1980. Applicant: PACIFIC DUMP TRUCKS, INC., 1507 E. Illinois, Bellingham, WA 98225. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: (1)

Wine, from points in CA to Bellingham, WA, (2) *sanitary paper products and lignin pitch,* from Bellingham, WA, to points in CA for 270 days. Supporting shippers: Bell-Rainier Distributors, Inc., 2007 Iowa, Bellingham, WA 98225; Georgia Pacific Corporation POB 1236, Bellingham, WA 98225.

MC 134201 (Sub-6-4TA), filed December 22, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717—17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Oilfield exploration, drilling and production machinery and equipment,* from points in Brown, Marathon and Rock Counties, WI to points in TX, OK, WY, NE, ND, SD, MT, ID, KS, CO, NM and UT under a continuing contract(s) with Central Fabricators, Inc. of Rothschild, WI, for 270 days. Supporting shipper: Central Fabricators, Inc., P.O. B. 96, Rothschild, WI 54474.

MC 134201 (Sub-6-5TA), filed December 24, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717—17th St., Ste. 2600, Denver, CO 80202. *Contract Carrier,* irregular routes: *Lumber and wood products,* from points in ID, MT, OR and WA to points in AR, IA, IL, KS, MO and OK under a continuing contract(s) with Broadview Lumber Co., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Broadview Lumber Co., Inc., P.O.B. 816, Carthage, MO 64836.

MC 143060 (Sub-6-1TA), filed December 29, 1980. Applicant: PENN-PACIFIC, INC., 20815 Currier Road, Walnut, CA 91789. Representative: William, J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Such commodities as are utilized by fast-food restaurants,* between points in the U.S., restricted to traffic destined to the facilities used by Burger King Corporation and its affiliates, for 270 days. Supporting shipper: Burger King Corporation, P.O. Box 520843, Miami, FL 33152.

MC 138875 (Sub-6-39TA), filed December 24, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Meat, meat products, meat by-products and related products* distributed by meat packing houses (except commodities in bulk), from Philadelphia and West Chester, PA to points in CT, IL, IN, MA, MI, NH, NY, OH, RI and WI. Restricted to the facilities used by Gagliardi Brothers, Inc., for 270 days. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707.

MC 138875 (Sub-6-40TA), filed December 24, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Brick, stone, lime, lime products and masonry materials and supplies* (except commodities in bulk), from Box Elder, Weber, Salt Lake and Tooele Counties, UT to ID in and south of Adams, Lemhi and Valley Counties and Malheur and Baker Counties, OR, for 270 days. Supporting shipper: The Masonry Center, Inc., P.O. Box 7825, Boise, ID 83707.

MC 138875 (Sub-6-41TA), filed December 24, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *(1) Canned goods* (except in bulk); (2) materials and supplies used in the selling, distribution and manufacture of canned goods, from the facilities used by Joan of Arc Company at Princeville and Hoopeston, IL to points in AZ, CA, CO, ID, NV, OR, UT and WA, and from the facilities used by Joan of Arc at Belledeau and St. Francisville, LA to points in AZ, CA on and south of Highway 50, CO, NV and UT, for 270 days. Supporting shipper: Joan of Arc Company, 2231 W. Altorfer, Peoria, IL 61615.

MC 153097 (Sub-6-1TA), filed December 29, 1980. Applicant: SHULTZ TRUCKING, INC., 7695 Aumsville Highway S.E., Salem, OR 97301. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Foodstuffs,* in vehicles equipped with mechanical refrigeration, from points in WA to points in OR. An underlying ETA seeks 120 days authority. Supporting shipper: Crown Brokerage Co., 49 S.E. Clay, Portland, Or 97214.

MC 148737 (Sub-6-10TA), filed December 29, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27043, Salt Lake City, UT 84125. Representative: Carl I. Sundeaus (same as applicant). *Canned goods* from Madera, Modesto, Stockton, Turlock and Volta CA to NJ, for 270 days. Supporting shipper: Tri-Valley Growers, Inc., 100 California St., San Francisco, CA 94106.

MC 148737 (Sub-6-11TA), filed December 29, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27043, Salt Lake City, UT 84125. Representative: Carl I. Sundeaus (same as applicant). *General commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission) between Chicago, IL, Philadelphia, PA and Secaucus, NJ on the one hand, and points in the U.S. on the other, restricted to traffic moving on freight forwarder bills, for 270 days. Supporting shipper: West-Coast Shippers Association, 2000 South 71st St., Philadelphia, PA 19142.

MC 153313 (Sub-6-1TA), filed December 23, 1980. Applicant: TROJAN TRANSPORTATION, INC., 6280 Artesia Blvd., Buena Park, CA 90620. Representative: Milton W. Flack, 8363 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. (1) *Building materials,* and (2) *Materials, equipment and supplies* used in the sale and distribution of commodities in (1) above (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in AZ, NV and TX, restricted to traffic originating at or destined to the facilities of Modern Materials, Inc., for 270 days. Supporting shipper: Modern Materials, Inc., 6280 Artesia Blvd., Buena Park, CA, 90620.

MC 146577 (Sub-6TA), filed December 23, 1980. Applicant: UNITED HAULING CORPORATION, 3rd and Railroad, Caldwell, ID 83605. Representative: David E. Wishney, P.O. B. 837, Boise, ID 83701. *Contract carrier,* irregular routes; *such commodities as are dealt in or used by manufacturers of mobil homes or prefabricated housing,* from points in CA, OR and WA to points in ID under continuing contract(s) with Idaho Western, Inc., for 270 days. Supporting shipper: Idaho Western, Inc., P. O. Box 5185, Boise, ID 83705.

MC 140313 (Sub-6-5TA), filed December 24, 1980. Applicant: VIKING INTERNATIONAL, INC., 1434 S.W. 137th, Seattle, WA 98166. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Furnaces, furnace fittings and parts, air conditioners and air conditioner parts,* between points in OH, on the one hand, and points in the U.S., on the other hand, for 270 days. Supporting shipper: Williamson & Company, 3500 Madison Rd., Cincinnati, OH 45209.

MC 152833 (Sub-6-1TA), filed December 24, 1980. Applicant: JOHN GILLINGHAM JR., d.b.a. WESTERN REFUSE, 1805–4th ST., Cheney, WA. 99004. Representative: R. John Gillingham, Jr. (same as above). *Chrome hydroxide sludge,* from Spokane Co., WA to Gillian Co., OR., for 270 days. An underlying E.T.A. seeks 120 days authority. Supporting shipper: Kaiser Aluminum & Chemical Corp., P.O. Box 15108, Spokane, WA 99215.

MC 141738 (Sub-6-1TA), filed December 29, 1980. Applicant: PORTER TRUCK LINES, INC., P.O. Box 313, McMinnville, OR 97128. Representative:

John A. Anderson, Suite 1600—One Main Place, 101 SW Main St., Portland, OR 97204. *Contract carrier,* irregular routes: (1) *foodstuffs* and (2) *materials, equipment and supplies used in the manufacture and distribution of foodstuffs,* between points in the U.S. under continuing contract(s) with Mrs. Smith's Frozen Foods Co., Pottstown, PA, for 270 days. Supporting shipper: Mrs. Smith's Frozen Foods Co., POB 298, Pottstown, PA 19464.

MC 148158 (Sub-6-12TA), filed December 29, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., 1800 United California Bank Bldg., Los Angeles, CA 90017. *Dehydrated potatoes, onions, and garlic* from the facilities of Ampco Foods, Inc., located throughout points in the US, except AL & HI, on the one hand, and, on the other, all points in the US except AL & HI, for 270 days. Supporting shipper: Rogers Potato, Division of Ampco Foods, Inc., P.O. Box 2200, Idaho Falls, ID 83401.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-996 Filed 1-9-81; 8:45 am]

BILLING CODE 7035-10-M

FOUNDATION FOR THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

January 7, 1981.

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-563, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

Date: January 27, 1981.

Time: 12 noon to 5 p.m.

Room: 1134.

Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after March 15, 1981.

The proposed meeting are for the purpose of Panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose,

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 81-900 Filed 1-9-81; 8:45 am]

BILLING CODE 7536-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0145]

Frontenac III Corp.; License Surrender

Notice is hereby given that Frontenac III Corporation, 208 South La Salle Street, Chicago, Illinois 60604, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Frontenac III Corporation was licensed by the Small Business Administration on December 31, 1979.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 29, 1980, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 6, 1981.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1034 Filed 1-9-81; 8:45 am]

BILLING CODE 8025-01-M

Schedule for Awarding Senior Executive Service Bonuses

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service Bonuses at least 14 days prior to the date on which the awards will be paid. The Small Business Administration intends to award Senior Executive Service Bonuses for the performance rating cycle of March 1, 1980, through September 30, 1980, with payouts scheduled by January 25, 1981.

Dated: January 6, 1981.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-678 Filed 1-9-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

Active Beacon Collision Avoidance System (BCAS) Conference

The Department of Transportation hereby announces the Active Beacon Collision Avoidance System (BCAS) Conference. This 2-day conference will commence at 9 a.m. on January 27, 1981, at the Dulles Marriott Hotel, Dulles International Airport, Washington, D.C. 20041.

The purpose of this conference is to describe the system—through presentation, demonstrations, and general discussion—and aid the aviation community in the preparation of comments on the recently published National Aviation Standard for Active BCAS. This standard was issued October 27, 1980, with its objective to receive comments from the aviation community. The comment period closes February 27, 1981.

Active BCAS uses air-air transmissions for the purpose of aircraft separation assurance in low-to-medium density airspace. It is intended to satisfy the operational need for an airborne separation assurance service and to ensure compatibility with all elements of the National Airspace System. Its operation does not depend upon the existence of any of these other elements except Air Traffic Control Radar Beacon System (ATCRBS) transponders with altitude encoders or Discrete Address Beacon System (DABS) transponders with altitude encoders in other aircraft. The Standard defines the system including technical parameters of its subsystems.

The first session will include FAA discussions on the background, history and description of BCAS as well as an overview of what is involved in implementation of a system like BCAS. The first afternoon session will include discussions of the technical and operational performance of Active BCAS. The second day of the conference will provide an overview of Active BCAS system architecture, a description of its surveillance and collision threat processing and a summary of test results to date.

Although the meeting is open to the public (space permitting) the hotel levies a registration fee of $18 which covers refreshments for the 2-day conference and a luncheon on the first day.

Further information concerning the conference may be obtained from the Federal Aviation Administration, Systems Research and Development Service, Executive Staff, ARD–10, Washington, D.C. 20591, telephone 202–426–3548.

Neal A. Blake,

Deputy Associate Administrator for Engineering and Development, AED–1.

[FR Doc. 81–660 Filed 1–9–81; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-81-1]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 2, 1981.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 2, 1981.

John H. Cassady,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
21145	Air Transport Association	14 CFR 121.424	Petitioner requests an exemption from the night landing and takeoff requirements for SIC pilots upgrading to PIC in the same airplane type and for SIC pilots transitioning to another type airplane.
21168	Executive Air Fleet	14 CFR 135.297(a)	To permit petitioner's pilots after receiving an annual instrument proficiency check, to train to proficiency in an approved airplane simulator in lieu of the next 6-month proficiency check.
21108	Sunstrand Data Control	14 CFR 91.7	To allow non-pilot engineering personnel to occupy the copilot seat during portions of test and deomonstration flights conducted in connection with various flight safety and guidance systems manufactured by Sunstrand.
20866	International Air Services Co	14 CFR 135.261	To allow petitioner's pilots to operate when they may not be able to meet the 10-consecutive hours of rest required in any 24-hour period due to possible delays at the turn-around point or at intermediate stops.
21063	Denver Jet, Inc	14 CFR 135.243(a)	To allow Mr. Leasing to serve as pilot-in-command for Denver Jet without holding an airline transport pilot certificate. Mr. Leasing has not reached his 23d birthday.
19694	USAir	14 CFR 141.55	Petitioner requests an extension of Exemption No. 2916 to extend the expiration date beyond February 28, 1981. Exemption No. 2916 permits USAir to submit a course of training, for approval under Part 141 that does not meet the minimum curriculum for that course prescribed in the appropriate appendix of Part 141.
12227	National Business Aircraft Association	14 CFR 91.169, 121, 123, 129, 135, and 137.	To reconsider Exemption No. 1637H, a partial denial, in view of the additional information presented by NBAA.
19910	Canadian Warplane Heritage, Inc	14 CFR 91.27(a)(1)	To enable certain Canadian-registered aircraft that do not hold an airworthiness certificate to attend various airshows in the U.S. during the Calendar Year 1981.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20845	Braniff Airways	14 CFR 121	To allow petitioner to conduct training and checking as permitted in a Phase II simulator as described in Appendix H of Part 121 if the simulator meets all the Phase II requirements except the continuous field of view. *Granted 12/1/80.*
20313	Bell Helicopter	14 CFR 29.1323 (c)(1) and (c)(2)	To permit the following: For multi-engine rotorcraft, the airspeed error of the installation, excluding the airspeed indicator instrument error, may not exceed three percent or five knots, whichever is greater, throughout the speed range in level flight at forward speeds equal to the minimum power required speed and above; and ten knots throughtout the speed range from 30 knots to the speed for minimum power, and throughout the speed range in climb from 10 knots below takeoff safety speed to 10 knots above the best rate of climb speed. *Granted 12/18/80.*

Dispositions of Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20585	Cochise Airlines, Inc	14 CFR 121.291(a)(1)	To permit petitioner to operate Convair 440 aircraft configured with 47 passenger seats without first conducting a full seating capacity emergency evacuation demonstration. *Granted 12/18/80.*
21061	Air Methods, Inc	14 CFR 135.261(b)	To allow petitioner to assign a flight crewmember and to permit a flight crewmember to accept an assignment, without compliance with the 10 consecutive hour rest period requirement during the 24-hour period preceding the planned completion of the assignment. *Granted 12/24/80.*
20523	Cochise Airlines	14 CFR 121.313(d)	To permit two Convair 440 aircraft to operate without a means of indicating the adequacy of the power being supplied to the gyroscopic turn and bank indicators and the gyroscopic direction indicators. *Withdrawn 12/18/80.*
20817	United States Parachute Association	14 CFR 105.43	To allow foreign participants to utilize and repack parachutes which do not comply with the equipment and packing requirements during the period of October 25, 1980, to January 10, 1981, at Zephyrhills Municipal Airport. *Granted 12/17/80.*
20816	Zephyrhills Parachute Center	14 CFR 91.47	To allow petitioner to have a total of 43 persons aboard DC-3/C-47 airplanes and 23 persons aboard L-18 airplanes for parachute jump operations. *Granted 12/17/80.*
20408	Lockheed-California Co	14 CFR 21.183, 21.305, 25.1303(c)(1), 25.631, and 25.1581.	To permit the two Lockheed aircraft leased to Gulf Air to remain in CAA/UK configuration to match the rest of the four purchased aircraft in their fleet. (Aircraft are to be on U.S. registry.) *Granted 12/12/80.*
17324	Gulf Air	14 CFR Parts 61 and 63	Requests an amendment to Exemption No. 2468, as amended. The exemption covers petitioner's airmen obtaining U.S. airmen certificates and maintenance of leased aircraft. *Granted 12/9/80.*
[illegible]	Mr. Gene E. Humphrey	14 CFR 135.243 (b)(2) and (c)(2)	To allow him to serve as a pilot-in-command (PIC) for VFR and IFR operations without meeting the minimum flight time requirements. *Denied 12/16/80.*
19650	North States Aviation, Inc	14 CFR 91.33(d)(3)	To permit the petitioner to install an R. C. Allen electric bank and pitch indicator with inclinometer to replace the standard turn coordinator in a Piper Aerostar 601P airplane. *Denied 12/16/80.*
20845	Pilgrim Airlines	14 CFR 121.360	To permit petitioner to operate a Fokker F27-100 aircraft until Feb. 15, 1981, without a ground proximity warning system installed. *Granted 12/1/80.*
[illegible]	Terry Henson	14 CFR 63.37(b)(4)	To permit a substitution of simulator or CPT training time for required airplane flight time. *Denied 12/12/80.*
[illegible]	Falcon Jet	14 CFR 21.185	Issuance of experimental Certificates for Market Survey to other than a U.S. Manufacturer. *Granted 12/15/80.*
18104	Flight Safety International (FSI)	14 CFR 61.57(a)(1)	Amendment of Exemption No. 2592B, to delete the specific simulator type designation and allow future types as they become operational and approved. Exemption 2592B permits pilots to complete their biennial flight review in specified motion base visual simulators. *Granted 12/18/80.*
20422	Sun Land Airlines	14 CFR 121.291	Amendment to Exemption No. 3008 to permit petitioner to commence service in a DC-8-31 aircraft in a 183 passenger seat configuration without conducting a full-seating capacity ditching demonstration. *Granted 12/19/80.*
[illegible]	Continental Airlines	14 CFR 121.310(e)	Extension of the December 1, 1980 compliance date until March 6, 1981, to install required flashlights. *Withdrawn 12/22/80.*
20634	American Airlines	14 CFR 121.291	To allow the operation of petitioner's aircraft with 168 passengers without first conducting a full-seating capacity emergency evacuation and ditching demonstration. *Granted 12/18/80.*
20478	S.B.S. Aero Center	14 CFR 141.27(c)(2)	To permit petitioner to obtain a provisional pilot school certificate in less than 180 days after the date of their previously expired certificate. *Denied 12/29/80.*
13199	American Airlines Training Corp	14 CFR 61.63	Requests renewal of Exemption No. 2064C which allows the substitution of check requirements when testing private and commercial pilots for a CE-500 type rating. *Granted 12/29/80.*
20583	Tenneco, Inc	14 CFR 61.58(c)	To permit petitioner's pilots to complete their entire 24-month proficiency checks in an approved simulator. (This request would apply to those pilots who are current in the aircraft at the time of pilot-in-command check.) *Granted 12/29/80.*
21170	Air California	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985—16 B-737's. *Granted 12/24/80.*
21171	Piedmont Airlines	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985—12 B-737's; and until not later than January 1, 1988—9 B-737's. *Granted 12/24/80.*
21172	Republic Airlines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—53 DC-9's. *Granted 12/24/80.*
21173	Handlingair Estab.	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—1 DC-9. *Granted 12/24/80.*
21151	Eastern Air Lines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—58 DC-9's. *Granted 12/24/80.*

Dispositions of Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
21175	Ozark Air Lines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—42 DC-9's. *Granted 12/24/80.*
21174	Texas International Airlines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985—6 DC-9's; and until not later later than January 1, 1988—18 DC-9's. *Granted 12/24/80.*
21191	Republic Airlines West, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—42 DC-9's. *Granted 12/24/80.*
21223	Evergreen International Airlines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—3 DC-9's. *Granted 12/24/80.*
21224	United Air Lines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985—49 B-737's. *Granted 12/24/80.*

[FR Doc. 81-746 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP80-14; Notice 1]

Dunlop Tire and Rubber Corporation; Receipt of Petition for Determination of Inconsequential Noncompliance

The Dunlop Tire and Rubber Corporation of Buffalo, New York has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. 1381, *et seq.*) for an apparent noncompliance with 49 CFR 575.104, Uniform Tire Quality Grading Standards. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgment concerning the merits of the petition.

Paragraph (d)(1)(i)(B) of the Uniform Tire Quality Grading (UTQG) Standards requires that each passenger car tire subject to the regulation, other than an original equipment tire, have affixed to the tire tread surface a label containing the tire's UTQG grades and other information. Paragraphs (d)(1)(i)(A) and (d)(1)(ii) require that the applicable grades be molded on the tire sidewall and be indicated in printed materials available to prospective purchasers at the point of sale. Dunlop states in its petition that, due to a change in the Temperature Resistance grade assigned to its Dunlop Gold Seal Radial, Remington Cushion-Aire Radial and Centennial Radial 78 lines, approximately 41,210 tires of these lines were inadvertantly affixed with tread labels bering a Temperature Resistance grade of "B", when the correct grade for those tires is "C". The correct Temperature Resistance grade of "C" was molded on the tires' sidewall and is used in Dunlop's point of sale information.

Dunlop contends that this use of erroneous Temperature Resistance grade on tread labels is inconsequential as it relates to motor vehicle safety, since accurate information is supplied on both the tire sidewall of the improperly labeled tires and printed materials available where the tires are offered for sale. Dunlop argues that consumers are more likely to rely on point of sale materials in making a purchasing decision, rather than on tread labels or sidewall molding, which may be accessible only in the storage area of the tire store. Dunlop also contends that no practical means exist for replacing the incorrect labels, since the tires in question are scattered throughout its distribution system.

Interested persons are invited to submit written data, views, and arguments on the petition of Dunlop Tire and Rubber Corporation described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 11, 1981.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: January 5, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-703 Filed 1-9-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 81-8; Customs Delegation Order No. 62]

Order Establishing an Order of Succession of Persons to Act as Commissioner of Customs

January 6, 1981.

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 FR 2875), it is hereby ordered that the following officers of the U.S. Customs Service in the order of succession enumerated, shall act as Commissioner of Customs, in the event of an enemy attack or during the absence or disability of the Commissioner of

Customs, or when there is a vacancy in such office:

1. The Deputy Commissioner of Customs.
2. The Assistant Commissioner (Border Operations).
3. The Assistant Commissioner (Commercial Operations).
4. Comptroller.
5. Assistant Commissioner (Management Integrity).

By virtue of authority vested in me by said Treasury Department Order No. 129 (Revision No. 2), and Treasury Department Order No. 165, Revised (T.D. 53654; 19 FR 7241), there is hereby delegated to the regional commissioners of Customs, district directors of Customs, and port directors of Customs, in the event of an enemy attack on the continental United States, authority to perform any function of the Commissioner of Customs which is necessary to insure continuous performance of essential functions otherwise assigned to such officers. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

This order supersedes Customs Delegation Order No. 60, dated February 7, 1980 (T.D. 80-75).

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 81-845 Filed 1-9-81; 8:45 am]

BILLING CODE 4810-22-M

[521854]

Extension of Time for Comments Concerning Proposed Change of Practice Relating to the Classification of Three-Wheel All-Terrain Vehicles

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the period of time permitted for the submission of comments in response to the recent proposed change of practice relating to the classification of three-wheel all-terrain vehicles. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before February 27, 1981.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations and Information Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5558).

SUPPLEMENTARY INFORMATION:

Background

On November 28, 1980, the Customs Service published in the **Federal Register** (45 FR 79221), notice that the Service is reviewing a uniform and established practice concerning the classification of three-wheel all-terrain vehicles. The Customs Service currently classifies the subject vehicles under the provision for other motor vehicles (except motorcycles) for the transport of persons or articles in item 692.10, Tariff Schedules of the United States (TSUS). The proposed change of practice would result in the reclassification of these vehicles under the provisions for motorcycles in item 692.50 (TSUS).

Comments

Customs has received a request for a motor vehicle manufacturer to extend the period of time for the submission of comments in order to prepare a more detailed response. Therefore, the period of time for submission of comments is extended to February 27, 1981.

Dated: December 22, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 81-846 Filed 1-9-81; 8:45 am]

BILLING CODE 4810-22-M

Veterans Administration

Privacy Act of 1974; Additional Routine Use Statement

Notice is hereby given that the Veterans Administration is considering adding a new routine use statement to the following system of VA records set forth on page 49739 of the **Federal Register** of September 27, 1977.

24VA136 Patient Medical Records—VA.

It has been the policy of the VA to recognize next-of-kin for the purpose of giving substituted consent for disclosure of medical information on behalf of incompetent patients. The Privacy Act specifies that a legal guardian may give consent on behalf of individuals who have been declared incompetent by a court of competent jurisdiction. It does not, however, specify that any other individuals may give substituted consent. Many VA patients have not been declared legally incompetent, but have been determined medically to be unable to give an informed consent to disclose information from his/her record. Thus, in the absence of a Privacy Act exception or applicable routine use, there is no authority for a spouse, adult child, or parent to act or give substituted consent on behalf of a non-judicially declared incompetent patient. Accordingly, this routine use statement is proposed for inclusion in the system of records named above.

Interested persons are invited to submit comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before February 11, 1981 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays), until February 23, 1981. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

If no public comment is received during the thirty-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the new routine use statement included herein is effective January 5, 1981.

Approved: January 5, 1981.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In the system identified as 24VA136, "Patient Medical Records—VA," appearing at 42 FR 49739, the following routine use statement is added to read as follows:

24VA136

SYSTEM NAME:

Patient Medical Records—VA.

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

20. Any medical data concerning a nonjudicially declared incompetent patient may be disclosed by appropriate VA personnel to a third party upon the written authorization of the patient's next of kin in order for the patient, or, consistent with the best interest of the patient, a member of the patient's family, to receive a benefit to which the patient or family member is entitled, or, to arrange for the patient's discharge from a VA medical facility. Sufficient data to make an informed determination will be made available to such next of kin by appropriate VA personnel. If the patient's next of kin are not reasonably accessible, disclosure of medical data for these purposes may be made by the Chief of Staff, Director, or designee of the VA medical facility where the records are maintained.

* * * * *

[FR Doc. 81-1018 Filed 1-9-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 7
Monday, January 12, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Tennessee Valley Authority 4

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 13, 1981.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE DISCUSSED: Open to the public:

1. Freedom of Information Act Appeal No. 80-12-FOIA-566, concerning documents from an Age Discrimination in Employment Act file.
2. ADEA Case Processing Procedures * * * 90 Day Notice.
3. EPA Case Processing Procedures * * * 90 Day Notice.
4. Proposed Guidelines on Employment Discrimination and Reproductive Hazards.
5. Final Rule: Apprenticeship Programs Under the Age Discrimination in Employment Act.
6. Section 501 Transition Year Accomplishment Report.
7. Proposed Joint EEOC and Department of Justice Regulations on Procedures Concerning Complaint of Employment Discrimination Filed Against Recipients of Federal Funds.
8. Report on Commission Operations by the Executive Director.

Closed to the public:

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Decision, Charge No. TAT42101.
3. OFCCP Final Regulations, 41 CFR 60-1.11.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 6, 1981.

[S-34-81 Filed 1-8-81; 11:43 am]
BILLING CODE 6570-06-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

January 7, 1981.

TIME AND DATE: 10 a.m., January 14, 1981.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed n the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—476th Meeting, January 14, 1981, Regular Meeting (10 a.m.)

CAP-1. Project No. 120, Southern California Edison Co.
CAP-2. Project No. 2990, Ohio Edison Co.; Project No. 3218, City of Orrville, Ohio
CAP-3. Project No. 3005, W.P.B. Power, Inc.; Project No. 3139, Northern Wasco County People's Utility District
CAP-4. Docket No. ER76-320, Connecticut Light & Power Co.
CAP-5. Docket No. EL80-5, Town of Springfield, Vermont

Miscellaneous Agenda—476th Meeting, January 14, 1981, Regular Meeting

CAM-1. Docket No. QF81-4, Dickerson Lumber Co.
CAM-2. Docket No. RA80-31, George's Chevron Service
CAM-3. Docket No. RA80-51, Alameda Texaco
CAM-4. Docket No. GP81-6-000, Alternative fuel price ceilings for November

Gas Agenda—476th Meeting, January 14, 1981, Regular Meeting

CAG-1. Docket Nos. RP75-73 (AP79-4); TA80-1-17 (PGA80-2, IPR80-2, DCA80-1 and LaFUT80-1); and TA80-1-17 (AP80-2), RP75-73 (AP79-4); TA80-1-17 (PGA80-1, IPR80-2, DCA80-1, AP80-1 and LaFUT80-1), Texas Eastern Transmission Corp.
CAG-2. Docket No. RP80-75, Southern Natural Gas Co.
CAG-3. Docket Nos. RP74-89 and RP73-75 (AP76-1), RP73-35 and RP74-89 (PGA76-1 and AP76-2), RP73-35 and RP74-89 (PGA76-3 and AP76-3), Trunkline Gas Co.
CAG-4. Docket No. RP75-84 and RP72-91 (phase II), Southern Natural Gas Co.
CAG-5. Docket No. RP74-97 (PGA78-1), Montana-Dakota Utilities Co.
CAG-6. Docket No. CI81-12-000, Union Oil Co. of California; Docket No. CI80-519, Amoco Production Co.; Docket Nos. CI80-510, CI80-508 and CI80-509, Kerr-McGee Corp.; Docket No. CI80-440, Pogo Producing Co.; Docket Nos. CI80-441 and CI80-444, Pennzoil Oil & Gas, Inc.; Docket No. CI80-446, Pennzoil Producing Co.; Docket No. CI80-449, Pogo Producing Co.; Docket No. G-7144, Gulf Oil Corp.; Docket No. CI80-49, Mobil Oil Exploration & Producing Southeast, Inc.; Docket Nos. G-17412 and G-6169, the Superior Oil Co.; Docket Nos. CS71-659, et al., the Kilroy Co., a partnership and W. S. Kilroy, et al. (Kilroy Properties and W. S. Kilroy), et al.; Docket No. CI78-882, Exxon Corp.; Docket Nos. CI75-538 and CI76-734, Mobil Oil Exploration & Producing Southeast, Inc.; Docket No. CI81-3-000, Texoma Production Co.; Docket No. CI79-282, Tenneco Exploration, Ltd., et al.; Docket No. CI80-528, Texaco Inc.; Docket No. CI80-402, Quintana Oil & Gas Corp.; Docket No. CI80-371, Fin Oil, Inc.; Docket No. CI78-208, Chevron U.S.A. Inc.; Docket No. CI80-526, the Offshore Co.; Docket No. CI80-527, Sonat Exploration Co.; Docket No. CI81-5-000, Cities Service Co.
CAG-7. (A) Docket Nos. CI79-552 and CI79-553, Exxon Corp.; (B) Docket Nos. CI78-758, CI78-759, CI78-882, CI78-981, CI78-816 and CI78-1191, Exxon Corp.
CAG-8. Rate Schedule No. 45, Superior Oil Co.
CAG-9. Docket No. CP80-274, Mountain Fuel Supply Co. and Mountain Fuel Resources, Inc.; Docket No. CP80-275, Mountain Fuel Supply Co.; Docket No. CI80-233, Wexpro Co. and Celsius Energy Co.
CAG-10. Docket Nos. CP66-111, et al., Great Lakes Gas Transmission Co.
CAG-11. Docket No. CP79-432, Northern Natural Gas Co.
CAG-12. Docket No. CP80-457, East Tennessee Natural Gas Co.
CAG-13. Docket No. CP80-402, United Gas Pipe Line Co.
CAG-14. Docket No. CP80-460, United Gas Pipe Line Co.
CAG-15. Docket No. CP80-544, Natural Gas Pipeline Co. of America and Transcontinental Gas Pipe Line Corp.
CAG-16. Docket No. CP80-478, Transwestern Pipeline Co.
CAG-17. Docket No. CP81-27-000, Columbia Gas Transmission Corp.
CAG-18. Docket No. CP80-435, Alaskan Northwest Natural Gas Transportation Co.

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CAG-19. Docket Nos. CP78-123, et al., Alaskan Northwest Natural Gas Transportation Co.

Power Agenda—476th Meeting, January 14, 1981, Regular Meeting

I. Licensed Project Matters

P-1. Reserved

II. Electric Rate Matters

ER-1. Docket No. ER81-132-000, Cincinnati Gas & Electric Co.
ER-2. Docket Nos. E-8586 and E-8587 (remand), Public Service Co. of Indiana, Inc.
ER-3. Docket Nos. ER76-149 and E-9537, Public Service Co. of Indiana, Inc.
ER-4 Docket No. ID-1818, George Fabian Brewer

Miscellaneous Agenda—476th Meeting, January 14, 1981, Regular Meeting

M-1. Docket No. RM79-39, regulations governing applications for license of major unconstructed and major modified projects
M-2. Docket No. RM81- , procedural and correctional revisions to regulations governing preliminary permits and licenses
M-3. Docket No. RM81- , regulations governing applications for license of minor water power projects and major water power projects 5 MW or less
M-4. Reserved
M-5. Reserved
M-6. Docket No. RM80-33, final rules for part 270, subpart B, sections 270.201, 270.202 and 270.204
M-7 (A). Docket No. RM79-76 (Texas—3), high-cost gas produced from tight formations; (B). Docket No. RM79-76 (Texas—4), high-cost gas produced from tight formations; (C). Docket No. RM79-76 (Texas—5), high-cost gas produced from tight formations

Gas Agenda—476th Meeting, January 14, 1981, Regular Meeting

I. Pipeline Rate Matters

RP-1. Reserved

II. Producer Matters

CI-1. Docket Nos. RI74-188 and RI75-21, Independent Oil and Gas Association of West Virginia

III. Pipeline Certificate Matters

CP-1. Docket No. RP75-79 (phase II), Lehigh Portland Cement Co. v. Florida Gas Transmission Co.; Docket No. CP77-44, Abitibi Corp. v. Florida Gas Transmission Co.
CP-2. Docket Nos. CP75-140, et al., Pacific Alaska LNG Co., et al.; Docket Nos. CP74-160, et al., Pacific Indonesia LNG Co., et al.; Docket No. CI78-453, Pacific Lighting Gas Development Co.; Docket No. CI78-452, Pacific Simpco partnership

Kenneth F. Plumb,

Secretary.

[S-33-81 Filed 1-8-81; 11:17 am]

BILLING CODE 6450-01-M

3

FEDERAL HOME LOAN BANK BOARD:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No 46, Issue No. 3, Page No. 1394, January 6, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, January 8, 1981.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING:

SMSA Branching comment period
Amendments relating to officers and directors of Federal associations

No. 439, January 8, 1981.

[S-32-81 Filed 1-8-81; 10:08 am]

BILLING CODE 6720-01-M

4

[Meeting No. 1259]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m., e.s.t., Thursday, January 15, 1981.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

Action Items

A—Project Authorizations

1. Project Authorization No. 3546—Installation of sampling equipment in the turbine building at the Browns Ferry Nuclear Plant.

B—Purchase Awards

1. Req. No. 626513—Indefinite quantity term contract for genuine C. S. Johnson mixing plant repair parts, all models.

2. Req. No. 54114-2—Amendment to contract with Babcock and Wilcox Company for nuclear steam supply systems for Bellefonte Nuclear Plant.

3. Req. No. 827908—Construction of a railroad track and accessories at Yellow Creek Nuclear Plant.

C—Power Items

1. Bill of Sale and Quitclaim Deed covering conveyance to the City of Jackson, Tennessee, a 12.4-mile section of the South Jackson-Humboldt 46-kV Transmission Line and a 6.5-mile section of the South Jackson-Morris 46-kV Transmission Line.

2. Deed and Bill of Sale covering conveyance to the City of Fayetteville, Tennessee, complete 46-kV circuit breaker installation No. 474 and 2.01-mile section of TVA's Fayetteville District-Lynchburg 46-kV Transmission Line.

D—Personnel Items

1. Personal services contract with Dertbick and Henley, Architects, Chattanooga, Tennessee, for architectural and engineering services in connection with the Chattanooga Office Complex project. Requested by the Office of Engineering Design and Construction.

2. Renewal of consulting contract with Jack E. Gilleland, Signal Mountain, Tennessee, for advice and assistance in connection with TVA's power and energy-related programs. Requested by the Office of Power.

E—Real Property Transactions

1. Filing of eleven (11) condemnation suits.

F—Unclassified

1. Additional cost-of-living adjustment for Retirement System retirees and beneficiaries and amendment to Retirement System rules and regulations relating to election of Retirement Board members.

2. Agreement between TVA, South Atlantic Division, U.S. Army Corps of Engineers, and Southeastern Federal Regional Council; and agreement between TVA and Tennessee-Tombigbee Project Area Council covering the development and implementation of a project for the development of the area surrounding the Tennessee-Tombigbee Waterway.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to request for information about this meeting. Call (615) 632-3247, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: January 8, 1981.

[S-35-81 Filed 1-8-81; 3:24 pm]

BILLING CODE 8120-01-M

5

NATIONAL LABOR RELATIONS BOARD.

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 2:30 p.m., Tuesday, January 13, 1981.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Consideration of applicants qualified for appointment to Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION: Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated: Washington, D.C., January 8, 1981.

By direction of the Board.

Robert Volger,

Acting Executive Secretary.

[S-36-81 Filed 1-8-81; 8:45 am]

BILLING CODE 7545-01-M

federal register

Monday
January 12, 1981

Part II

Environmental Protection Agency

Hazardous Waste Management System: Addition of General Requirements for Treatment, Storage and Disposal Facilities (40 CFR Part 264); Amendment of Interim Status Standards Respecting Closure and Post-Closure Care and Financial Responsibility (40 CFR Part 265); and Conforming Amendments to the Permitting Requirements (40 CFR Part 122)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 264, and 265

[SWH-FRL 1673-7a]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Consolidated Permit Regulations

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: The Environmental Protection Agency is amending its regulations for the management of hazardous waste by: adding significant new sections to the standards applicable to the owners and operators of waste management facilities; adding financial requirements and amending closure and post-closure care requirements during the interim status periods for such facilities; and amending the permit regulations to comply with the facility regulations being published today.

Under the Resource Conservation and Recovery Act (RCRA) the Agency is required to establish a Federal hazardous waste management system. The first phase of that system was promulgated earlier this year. Today's publication, by setting forth requirements for location, closure and post-closure care, financial requirements, use and management of containers, and storage and treatment of hazardous waste in tanks, surface impoundments, and waste piles, will significantly improve the regulatory program by providing necessary standards around which permits may be granted for many treatment and storage operations. The additions to the permit regulations are necessary to enable the Agency's permitting officials to evaluate facility compliance with these regulations. The additions and changes to the interim status closure, post-closure care, and financial requirements were made to complete the interim status control program and in response to some public comments.

These regulations do not include the Part 264 requirements for ground-water monitoring, land treatment, landfills, incinerators, chemical, physical, and biological treatment units, thermal treatment facilities, injection wells, or the provisions for surface impoundments or waste piles used for disposal. These are still under preparation and will be issued at a later date.

DATES: Effective Date: These regulations, in the form published today, complete EPA's initial rulemaking on the subjects covered. They become effective on July 13, 1981, which is six months from the date of promulgation as RCRA Section 3010(b) requires.

Comment dates: EPA will accept public comments on these regulations as follows:

Deadline for Submission of Comments

All of these requirements are issued on an interim final basis. Comments on these regulations will be accepted until March 13, 1981. Comments in response to Requests in the Preamble will also be accepted until March 13, 1981.

ADDRESSES: Comments should be sent to Docket Clerk [Docket No. 3004], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Docket: The public docket for these regulations is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays. Among other things, the docket contains background documents which explain, in more detail than the preamble to this regulation, the basis for many of the provisions in this regulation.

Copies of Regulations: Single copies of these regulations will be available approximately 30 days after publication from Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, Ohio 45268 (513) 684-5362. Multiple copies will be available from the Superintendent of Documents, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA hazardous waste hotline, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (phone 800/424-9346, or in Washington, D.C., 554-1404).

For information on implementation of these regulations, contact the EPA regional offices below:

Region I

Dennis Huebner, Chief, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5775

Region II

Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264-0503

Region III

Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0980

Region IV

James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308 (404) 881-3016

Region V

Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6148

Region VI

R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767-2645

Region VII

Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3307

Region VIII

Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-2221

Region IX

Arnold R. Den, Chief, Hazardous Materials Branch, 215 Freemont Street, San Francisco, California 94105 (415) 556-4606

Region X

Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101 (206) 442-1260

SUPPLEMENTARY INFORMATION:

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  c. Wetlands
  d. Endangered and Threatened Species and Critical Habitats

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b. Maintaining Copies at the Facility (§§ 265.112(a) and 265.118(a))
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I. Authority

These regulations are issued under the authority of Sections 1006, 2002(a), 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, and 6925.

II. Structure of Subtitle C

Subtitle C of RCRA creates a "cradle-to-grave" management system assuring that hazardous waste is safely stored, treated or disposed. Subtitle C creates a manifest system which is designed to track the movement of hazardous waste. Under regulations established by the Administrator of EPA, hazardous waste generators and transporters, as well as owners and operators of hazardous waste treatment, storage and disposal facilities are required to discharge certain responsibilities that insure the effective operation of the manifest system. In addition, owners and operators of treatment, storage and disposal facilities must comply with standards that "may be necessary to protect human health and the environment," which are established by EPA under Section 3004 of RCRA. These standards are generally implemented through permits, issued by EPA or authorized states, to owners and operators of hazardous waste treatment, storage and disposal facilities.

Section 3004 standards become effective 6 months after their promulgation by EPA. Under Section 3005(a), on the effective date of the Section 3004 standards, all treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit which implements the Section 3004 standards. Recognizing that not all permits would be issued within six months of the promulgation of Section 3004 standards, Congress created "interim status" in Section 3005(e) of RCRA. Owners and operators of existing hazardous waste treatment, storage and disposal facilities who qualify for interim status will be treated as having been issued a permit until EPA takes final administrative action on their permit application. Interim status does not relieve a facility owner or operator of complying with Section 3004 standards. The privilege of carrying on operations in the absence of a permit carries with it the responsibility of complying with appropriate portions of the Section 3004 standards (contained in 40 CFR Part 265).

To implement the various sections of Subtitle C EPA has issued several sets of regulations:

Part 260: Hazardous Waste Management System: general
Part 261: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
Part 262: Standards for Generators of Hazardous Waste
Part 263: Standards for Transporters of Hazardous Waste
Part 264: Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
Part 265: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
Parts 122–125: Consolidated Permit Regulations (including permit regulations for hazardous waste facilities)

III. Status of the Subtitle C Rulemaking

The development of the hazardous waste regulations has been one of the most complicated rulemakings EPA has ever attempted. To give the reader an appreciation of the context surrounding today's promulgation it is useful to summarize EPA's rulemaking efforts of the last year:

1. Section 3010 Notice—This Notice was issued on February 26, 1980.

2. *Part 260*—This portion of the regulation, which includes general definitions used in the regulations and

procedures for petitioning EPA, was promulgated on May 19, 1980.

3. *Part 261*—Part 261, which defines through lists and characteristics the wastes which are considered hazardous under the program, was first promulgated on May 19, 1980. Many of the listings of wastes in the May 19 rulemaking were in "interim final" form. Final versions of those listings were completed in regulations issued on November 12, 1980 (45 FR 74884–74894) and November 25, 1980 (45 FR 532–78544). Another "interim final" and proposed list of hazardous wastes was issued on July 16, 1980 (45 FR 47832–47836). Additional amendments have been made to Part 261 to clarify issues raised by the May 19 regulations and to resolve problems concerning specific waste listings.

4. *Parts 262 and 263*—Portions of Part 262, which contains standards for generators of hazardous waste, and Part 263, which contains standards for transporters of hazardous waste, were issued on February 26, 1980 (45 FR 12722.) The remainder of Parts 262 and 263 were promulgated in the May 19, 1980 set of regulations. Additional modifications have been made to those regulations to clarify issues raised in the May 19 regulations.

5. *Part 264*—Portions of the Part 264 regulations, the standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities, were issued on May 19, 1980. Specifically Subparts A (General), B (General Facility Standards), C (Preparedness and Prevention), D (Contingency Plan and Emergency Procedures) and E (Manifest System, Recordkeeping and Reporting) were issued at that time. In that package, § 264.12 (Required Notices) was issued in "interim final" form. All of the other 264 Subparts were issued in final form.

6. *Part 265*—On May 19 EPA promulgated regulations applicable to facilities operating under interim status. Specifically it promulgated Subparts A (General), B (General Facility Standards), C (Preparedness and Prevention), D (Contingency Plan and Emergency Procedures), E (Manifest System, Recordkeeping and Reporting), F (Ground-Water Monitoring), G (Closure and Post-Closure), H (Financial Requirements), I (Containers), J (Tanks), K (Surface Impoundments), L (Piles), M (Land Treatment), N (Landfills), O (Incinerators), P (Thermal Treatment), Q (Chemical, Physical and Biological Treatment), and R (Underground Injection). Some subsections were in final form while others were in "interim final" form.

Two major proposed rules accompanied the May 19 set of regulations. One proposed significant additions to Subpart H, the financial responsibility requirements, while the other proposed significant additions to Subpart R, the requirements for underground injection. The proposed rules would have modified both Parts 265 and 264.

7. *Parts 122–125*—The Consolidated Permit Regulations, which set forth the permit regulations for several EPA programs including the hazardous waste program, were issued on May 19, 1980. All portions of those regulations affecting the hazardous waste program were issued in final form.

IV. Scope of Rulemaking

The regulations that EPA is issuing today comprise additions to Part 264. Subparts G–L are also being added to Part 264 for the first time. Location standards are being added to Subpart B of Part 264 as well. All the 264 regulations are being issued in "interim final" form.

Limited changes are being made to Part 265. Subpart H of Part 265 is being modified to accord with the Part 264 financial requirements. These modifications to Part 265, Subpart H are "interim final". Certain elements of Part 265, Subpart G were issued as "interim final" in the May 19 regulations. Some modifications based on comments are being made today, again on an interim final basis.

EPA is not finalizing any of the "interim final" portions of the Part 265 regulations. Moreover it is not yet adding Subparts F, M, N, O, P, Q or R to Part 264. The following chart summarizes the status of the various portions of Parts 264 and 265, based on the May 19 regulations, the regulations issued today, and recent amendments.

Regulatory Status

Part 264—General Standards

Subpart	Section	Action	Action date
A	264.1	Final	5/19/80
		Amended	11/17/80
		Amended	11/19/80
	264.3	Final	5/19/80
	264.4	Final	5/19/80
B	264.10	Final	5/19/80
		Amended	
	264.11	Final	5/19/80
	264.12	Interim Final	5/19/80
	264.13	Final	5/19/80
		Amended	
	264.14	Final	5/19/80
	264.15	Final	5/19/80
		Amended	
	264.16	Final	5/19/80
	264.17	Interim Final	
	264.18	Interim Final	
C	264.30	Final	5/19/80
	264.31	Final	5/19/80
	264.32	Final	5/19/80
	264.33	Final	5/19/80
	264.34	Final	5/19/80
	264.35	Final	5/19/80
	264.36	Final	5/19/80
		Reserved	
	264.37	Final	5/19/80
D	264.50	Final	5/19/80
	264.51	Final	5/19/80
	264.52	Final	5/19/80
	264.53	Final	5/19/80
	264.54	Final	5/19/80
	264.55	Final	5/19/80
	264.56	Final	5/19/80
		Amended	
E	264.70	Final	5/19/80
	264.71	Final	5/19/80
	264.72	Final	5/19/80
	264.73	Final	5/19/80
		Amended	
	264.74	Final	5/19/80
	264.75	Final	5/19/80
		Amended	
	264.76	Final	5/19/80
	264.77	Final	5/19/80
		Amended	
G	264.110	Interim Final	
	264.111	Interim Final	
	264.112	Interim Final	
	264.113	Interim Final	
	264.114	Interim Final	
	264.115	Interim Final	
	264.116	Interim Final	
	264.117	Interim Final	
	264.118	Interim Final	
	264.119	Interim Final	
	264.120	Interim Final	
H	264.140	Proposed	5/19/80
		Interim Final	
	264.141	Proposed	5/19/8
		Interim Final	
	264.142	Interim Final	
	264.143	Proposed	5/19/80
		Interim Final	
	264.44	Interim Final	
	264.45	Proposed	5/19/80
		Interim Final	
	264.146	Proposed	5/19/80
		Interim Final	
	264.147	Proposed	5/19/80
		Interim Final	
	264.145	Interim Final	
	264.149	Proposed	5/19/80
		Interim Final	
	264.150	Interim Final	
	264.151	Interim Final	
I	264.170	Interim Final	
	264.171	Interim Final	
	264.172	Interim Final	
	264.173	Interim Final	
	264.174	Interim Final	
	264.175	Interim Final	
	264.176	Interim Final	
	264.177	Interim Final	
	264.178	Interim Final	
J	264.190	Interim Final	
	264.191	Interim Final	
	264.192	Interim Final	
	264.194	Interim Final	
	264.197	Interim Final	
	264.198	Interim Final	
	264.109	Interim Final	
	264.200	Proposed	
K	264.220	Interim Final	
	264.221	Interim Final	
	264.222	Interim Final	
	264.223	Interim Final	
	264.226	Interim Final	
	264.227	Interim Final	
	264.228	Interim Final	
	264.229	Interim Final	
	264.230	Interim Final	
L	264.250	Interim Final	

Regulatory Status—Continued

Part 264—General Standards

Subpart	Section	Action	Action date
	264.251	Interim Final	
	264.252	Interim Final	
	264.253	Interim Final	
	264.254(a)	Interim Final	
	264.254 (b+c)	Proposed	
	264.255	Interim Final	
	264.256	Interim Final	
	264.257	Interim Final	
	264.258	Interim Final	

Regulatory Status

Part 265—Interim Status Standards

Subpart	Section	Action	Action date
A	265.1	Final	5/19/80
		Amended	11/17/80
		Amended	11/19/80
	265.4	Final	5/19/80
B	265.10	Final	5/19/80
	265.11	Final	5/19/80
	265.12	Interim Final	5/19/80
	265.13	Final	5/19/80
	265.14	Final	5/19/80
	265.15	Final	5/19/80
	265.16	Final	5/19/80
	265.17	Interim Final	5/19/80
C	265.30	Final	5/19/80
	265.31	Final	5/19/80
	265.32	Final	5/19/80
	265.33	Final	5/19/80
	265.34	Final	5/19/80
	265.76	Final	5/19/80
	265.77	Final	5/19/80
D	265.50	Final	5/19/80
	265.51	Final	5/19/80
	265.52	Final	5/19/80
	265.53	Final	5/19/80
	265.54	Final	5/19/80
	265.55	Final	5/19/80
	265.56	Final	5/19/80
E	265.70	Final	5/19/80
	265.71	Final	5/19/80
	265.72	Final	5/19/80
	265.73	Final	5/19/80
	265.74	Final	5/19/80
	265.75	Final	5/19/80
F	265.90	Interim Final	5/19/80
	265.91	Interim Final	5/19/80
	265.92	Interim Final	5/19/80
	265.93	Interim Final	5/19/80
	265.94	Interim Final	5/19/80
G	265.110	Final	5/19/80
	265.111	Interim Final	5/19/80
		Final	
	265.112	Interim Final	5/19/80
		Amended	10/30/80
		Amended	
	265.113	Interim Final	5/19/80
		Amended	
	265.114	Final	5/19/80
	265.115	Final	5/19/80
	265.117	Interim Final	5/19/80
	265.118	Interim Final	5/19/80
	265.119	Final	5/19/80
		Proposed Amendment	
	265.120	Final	5/19/80
		Proposed Amendment	
H	265.140	Final	5/19/80
	265.141	Proposed	5/19/80
		Interim Final	
	265.142	Final	5/19/80
		Amended	10/30/80
	265.143	Proposed	5/19/80
		Interim Final	
	265.144	Final	5/19/80
		Amended	10/30/80
	265.145	Proposed	5/19/80
		Interim Final	
	265.146	Proposed	5/19/80
		Interim Final	
H	265.147	Proposed	5/19/80
		Interim Final	
	265.148	Interim Final	
	265.149	Proposed	5/19/80
		Interim Final	
	265.150	Interim Final	
	265.151	Interim Final	
I	265.170	Final	5/19/80

Regulatory Status—Continued

Part 264—General Standards

Subpart	Section	Action	Action date
	265.171	Final	5/19/80
	265.172	Final	5/19/80
	265.173	Final	5/19/80
	265.174	Final	5/19/80
	265.176	Interim Final	5/19/80
	265.177	Final	5/19/80
J	265.190	Final	5/19/80
	265.192	Final	5/19/80
	265.193	Final	5/19/80
	265.194(a)	Final	5/19/80
	265.194(b)	Proposed	
	265.197	Final	5/19/80
	265.198	Interim Final	5/19/80
	265.199	Final	5/19/80
K	265.220	Final	5/19/80
	265.222	Final	5/19/80
	265.223	Final	5/19/80
	265.225	Final	5/19/80
	265.226	Final	5/19/80
	265.228	Interim Final	5/19/80
	265.229	Final	5/19/80
	265.230	Final	5/19/80
L	265.250	Final	5/19/80
	265.251	Interim Final	5/19/80
	265.252	Interim Final	5/19/80
	265.253	Interim Final	5/19/80
	265.254	Proposed	
	265.256	Interim Final	5/19/80
	265.257	Interim Final	5/19/80
M	265.270	Final	5/19/80
	265.272	Interim Final	5/19/80
	265.273	Interim Final	5/19/80
	265.276	Interim Final	5/19/80
	265.278	Interim Final	5/19/80
	265.279	Final	5/19/80
	265.280	Interim Final	5/19/80
	265.281	Final	5/19/80
	265.282	Final	5/19/80
N	265.300	Final	5/19/80
	265.302	Final	5/19/80
	265.309	Final	5/19/80
	265.310	Interim Final	5/19/80
	265.312	Final	5/19/80
	265.313	Final	5/19/80
	265.314	Interim Final	5/19/80
	265.315	Interim Final	5/19/80
O	265.340	Final	5/19/80
	265.343	Interim Final	5/19/80
	265.345	Interim Final	5/19/80
	265.347	Interim Final	5/19/80
	265.351	Interim Final	5/19/80
P	265.370	Final	5/19/80
	265.373	Interim Final	5/19/80
	265.375	Interim Final	5/19/80
	265.377	Interim Final	5/19/80
	265.381	Interim Final	5/19/80
	265.382	Interim Final	5/19/80
Q	265.400	Final	5/19/80
	265.401	Final	5/19/80
	265.402	Final	5/19/80
	265.403	Final	5/19/80
	265.404	Final	5/19/80
	265.405	Interim Final	5/19/80
	265.406	Final	5/19/80
R	265.430	Interim Final	5/19/80

EPA had hoped to issue today Part 264 standards for all of the major hazardous waste management options. Unfortunately EPA has not been able to do so for several reasons. First, EPA's limited resources have been severely taxed by its efforts to implement the existing regulations. Many States have been seeking "interim authorization" to implement the hazardous waste program within their borders. (See 45 FR 33386 for an explanation of interim authorization under RCRA). Review of State applications and assisting the States in the development of their programs has proved to be a time-consuming task for EPA. Moreover EPA has had to devote substantial resources to explaining the complexities of the hazardous waste program to the public.

Second, EPA has had to face substantial legal challenge to its existing program. Approximately 52 petitions for review were filed on the May 19 regulations by various corporations, trade associations and environmental groups. Preliminary discussions with the petitioners have indicated that they may wish to negotiate modifications to some of the Part 265 regulations, particularly those involving some of the land disposal regulations. EPA has not yet decided to make *any* changes in Part 265 as a result of discussions with the petitioners. However, EPA is willing to explore with the petitioners, at least for some reasonable time period, the issues and regulatory options which they might suggest. Under these circumstances EPA believes that it should temporarily delay final promulgation of those Part 265 regulations, and the analogous elements of Part 264, that might be affected by the negotiations with the petitioners. This avoids the prospect of promulgating final regulations now which might have to be modified a few months later in further rulemaking.

Third, several of the Subparts which have not been included in today's promulgation will be affected by the Agency's decisions on the use of the "best engineering judgment" (BEJ) approach to hazardous waste permitting under RCRA. As indicated in the Preamble to the May 19 regulations (45 FR 33166), the BEJ approach is, in part, an effort to make EPA's regulations more adaptable to the wide range of wastes and management scenarios subject to the hazardous waste program. Essentially the BEJ approach relies on basic performance standards and a set of relevant technical factors that relate to those performance standards. Permitting authorities (EPA or the States) would then use these performance standards and technical factors as a structure for exercising their discretion on the acceptability of particular facilities, based on a thorough knowledge of the wastes managed at the facility, the facility design and the environment in which the facility is located.

In developing its regulations EPA is considering the use of several types of performance standards that will guide the BEJ analysis. For example, the Agency may use operational performance standards (*e.g.* 99.99% destruction and removal efficiency for organic constituents in incinerators), specific ambient health and environmental performance standards (*e.g.* assuring maintenance of water quality levels contained in the National Interim Primary Drinking Water Regulations in the ground water downgradient from a land disposal facility), and non-narrative health and environmental performance standards (*e.g.* assuring no adverse effects on human health due to carcinogenicity, acute toxicity or mutagenicity). Currently EPA intends to employ a mix of these types of performance standards.

On October 8, 1980 EPA published a Supplemental Notice of Proposed Rulemaking (45 FR 66817–66823), which outlined its intended BEJ approach for assuring ground water protection at land disposal facilities. EPA received over 100 comments on the Notice, many of which raised substantial objections. In order to fully analyze and address the issues raised by those comments, EPA will have to take more time to promulgate the land disposal regulations. Moreover the Agency is currently considering whether to propose the key elements of these BEJ regulations.

Due to these considerations EPA decided to focus its limited resources on promulgating those portions of the 264 regulations which were not substantially affected by the pending litigation and the development of its BEJ strategy for land disposal. This approach allows for careful consideration and efficient promulgation of the remaining standards. At the same time this approach allows for the prompt permitting of a large number of hazardous waste management facilities. EPA estimates, for example, that there are over 13,000 facilities that store hazardous waste. Such facilities can begin to receive permits once the regulations promulgated today become effective.

EPA will make every effort to finalize the remaining portions of the Parts 264 and 265 regulations as soon as possible. As part of its finalization of the interim final portions of Part 264 that are issued today EPA will also finalize the Part 265 analogs of those provisions. The next major portion of the Part 264 standards will be the incinerator standards (Subpart O). EPA intends to issue those regulations in January of 1981. The land disposal regulations will be promulgated some time thereafter. At this time EPA is considering proposing the key elements of the BEJ land disposal regulations in January as well.

In its rulemaking on the hazardous waste regulations EPA has provided many opportunities for public comment. EPA will be responding to the major comments received on those proposed hazardous waste regulations of December 18, 1978 (43 FR 58982–59016) that concerned the Subparts being promulgated today. In addition EPA has responded to some of the comments submitted on the interim final portions of the Part 265 regulations issued on May 19. Such comments are discussed when they are directly related to decisions made on the Part 264 regulations.

V. Effect on Permitting

Once the regulations promulgated today become effective EPA will be able to issue permits for many hazardous waste management facilities. Specifically EPA, or authorized states, will be able to issue permits to owner and operators of container, tank, surface impoundment and pile facilities. In keeping with § 122.9 of EPA's Consolidated Permit Regulations, EPA will generally issue 10 year permits for these facilities. However, in appropriate situations the Director may establish shorter term permits. As will be discussed later, EPA expects that the regulations being issued today will be undergoing substantial refinement in the next few months. Modifications which are made promptly will be used as a basis for setting conditions in the first round of permits.

While these regulations will allow EPA to issue permits for most container, and tank, and many surface impoundment and pile facilities, certain limited types of storage facilities will not be covered by these regulations. For example, Section 264.190 excludes covered underground tanks from these regulations. As will be discussed later, EPA is seeking further information on this type of storage facility and thus is not ready to regulate such facilities at this time. Therefore no permits may be issued to such facilities until that component of the tank regulations has been issued.

In the case of surface impoundments and piles, the regulations give a choice to the permittee. Where impoundments and piles are to be used for "storage," namely the holding of waste for a temporary period, the permittee may seek and obtain a permit under the regulations issued today. Likewise EPA may call up and act on a permit for storage surface impoundments or piles under these regulations. However, if the permittee intends to leave the waste in place at closure, the facility must be treated for regulatory purposes as a disposal facility. For the reasons discussed earlier, EPA is not yet ready to issue its BEJ Standards for land disposal. Therefore, permits for surface impoundments and piles which discharge or that are not emptied at closure will have to await finalization of the remainder of the surface impoundment regulations.

EPA intends to issue the remaining portion of the surface impoundment and pile regulations as soon as possible, and it does not expect that the delay will present undue hardship for the regulated community. Owners and operators of new facilities will be able to receive permits allowing storage of hazardous waste for up to ten years. Those facilities which will eventually be seeking permits under the land disposal regulations can seek short-term permits. Moreover existing facilities that have properly qualified for interim status will be able to continue to operate providing that they comply with the interim status standards. Owners and operators of such facilities who intend to use their surface impoundments and piles for storage may receive a permit under these regulations. Those owners and operators who will be using existing surface impoundments and piles as the ultimate repositories of hazardous waste will be allowed to continue operation (providing that they comply with interim status standards) until the land disposal standards are promulgated.

It should also be pointed out that the regulations being issued today do not distinguish between new and existing facilities. While EPA clearly has authority to make such a distinction in setting Section 3004 standards, EPA does not believe that it is appropriate to distinguish between new and existing storage facilities. As will be discussed later, EPA believes that all storage facilities should be designed to essentially contain hazardous waste constituents. Disposal facilities may be regulated in a somewhat different manner, however, and it may be appropriate to draw distinctions between new and existing facilities in that context.

VI. Regulation of Storage and Treatment Facilities

Subparts I–L of these regulations establish the requirements for container, tank, surface impoundment and pile facilities, the principal facilities used to store hazardous waste.

As indicated in Section 1004(33) of RCRA,

> The term "storage", when used in connection with hazardous waste, means the containment of hazardous waste, *either on a temporary basis or for a period of years*, in such a manner as not to constitute disposal of such hazardous waste.

In defining the term storage in the regulations EPA emphasized the manner in which the waste is managed. EPA defined "storage" in § 260.10(a)(66) as

> the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

EPA believes that this is an appropriate way to define storage for purposes of the hazardous waste management program. This definition focuses on how the owner or operator intends to use the facility. Knowing whether the facility will be used to hold the waste for a set period of time or whether it will be used as the ultimate repository of the waste is a basic element of sound waste management. EPA believes, therefore, that this definition directs the owner or operator's attention toward a key factor that can and should be known about the facility at the time of permit issuance.

The reasonableness of this approach is demonstrated by contrasting it with a definition that uses the environmental effects of the facility as a means of distinguishing between storage and disposal. Disposal is defined in Section 1004(3) as

> * * * the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

The definition of storage in Section 1004(33) specifically indicates that storage is "containment * * * in such a manner as not to constitute disposal of such hazardous waste." These definitions pose the question of how to classify a storage facility which leaks, causing disposal of hazardous waste. For example, is a leaky container a storage facility that violates its storage requirements or has it suddenly been redefined as a disposal facility?

EPA believes that the definitions of storage and disposal facilities for purposes of Subtitle C permitting should not depend on whether the facility does in fact leak. Such a distinction would not be useful in determining what kinds of requirements should be placed in an initial permit for the facility. The question of whether a facility will leak depends on the conditions placed in a permit, and it would be impossible to know before such conditions are established whether leakage from the facility would occur. Thus it is more appropriate to focus on how the owner or operator intends to manage a facility (i.e., either to hold the hazardous waste for a temporary period, prior to treatment, disposal or storage elsewhere, or to permanently hold the waste at the facility) when establishing its status for hazardous waste facility permitting.

A. Regulatory Approach to Storage

Once it is clear what distinguishes storage facilities from disposal facilities it is necessary for EPA to formulate a regulatory strategy for storage facilities. After further consideration of the information available to it, EPA has decided that the requirements for storage facilities should be aimed at *containment* of the hazardous waste during the storage period.

This approach is an outgrowth of a general policy which EPA believes is appropriate for the storage, treatment and disposal of hazardous waste. EPA believes that it is unwise to allow the *uncontrolled* release of hazardous waste constituents into the environment. Certainly the entire structure of the hazardous waste program under RCRA reflects a Congressional intent that the general random release of hazardous waste constituents into the environment must be curtailed. The entire thrust of the "cradle to grave" manifest system and the permit program for storage, treatment and disposal facilities indicates a Congressional intent that the *indiscriminate* release of hazardous wastes, which has characterized so much of hazardous waste management in the past, would no longer be tolerated. Under this scheme significant releases of hazardous waste would only occur under *controlled* conditions where the facility owners and operators, EPA, the states and ultimately the public could be assured that human health and the environment would be protected. Thus where such releases are inevitable the hazardous waste program would assure, through facility design, operating conditions, monitoring provisions and emergency response measures, that only those releases which the environment can safely accommodate would be allowed.

The implications of this philosophy for regulation of storage facilities becomes clearer after considering some of the characteristics of these facilities. First, by definition, wastes are held at storage facilities only temporarily. Secondly, there are a great number of storage facilities. Third, waste storage facilities are often adjuncts to other types of industrial facilities which are not primarily engaged in waste management activities.

Under these circumstances, EPA believes that, as a national policy, owners and operators of storage facilities can more easily comply with a containment philosophy than properly implement the complex design, operational, monitoring and response permit conditions which will be necessary to responsibly manage controlled releases (e.g., as a result of proper disposal) of hazardous waste into the environment. Similarly, EPA can more easily implement a regulatory program for storage which requires containment than a program which requires analysis of risk of releases from thousands of storage facilities.

Since storage facilities are often ancillary to the main activity at a facility and are often temporary in nature, it cannot be expected that the owner or operator has sufficient knowledge to assure that any releases from the facility will be properly controlled now and in the future. Moreover, it would be inefficient for an owner or operator to commit the resources necessary to achieve such assurance in most cases for simple storage activities.

Likewise EPA is well aware that the available scientific resources (expertise, equipment, etc.) that are necessary for sound hazardous waste management are quite limited. Thus the best use of available resources requires that EPA limit the number of site-specific situations where a release of hazardous waste constituents would be allowed under controlled conditions.

Thorough analyses of hydrogeologic environments and of how particular wastes migrate in those environments simply cannot be done at every storage, treatment and disposal facility in this country. Wholly apart from the question of administrative convenience in permitting, an attempt to perform such analyses at all such facilities would spread the available resources for analysis and management too thin, forcing facility owners or operators, and EPA to compromise on the care with which such analyses are done.

EPA, therefore, concludes that the question of whether controlled releases are allowed should only be considered when such releases are inevitable, such as releases from disposal facilities (e.g., landfills) and, air emissions (from treatment facilities). Responsible use of available scientific resources requires that some limits be placed. EPA believes that it is appropriate to preclude management of controlled releases at storage facilities because of the large number of those facilities, the relative lack of knowledge about hazardous waste management among many owners and operators of such facilities, the substantial likelihood that the owner or operator has not made a long-term commitment to the management of that facility and the feasibility of containing wastes which are held only temporarily. Therefore EPA has concluded that the requirements for storage facilities should be aimed at containment of the waste for the term of storage.

However, air emissions cannot currently be completely contained at most storage facilities. Air emissions from storage tanks holding certain types of waste are not technologically avoidable. Venting is often necessary for example to prevent pressure build up. (However, in some cases, even these emissions can be controlled. Elsewhere in today's **Federal Register**, proposed § 264.200 would grant the Regional Administrator authority to impose appropriate requirements to control air emissions.) Similarly, the Agency has to date been unable to develop a successful strategy to control air emissions from volatile wastes in surface impoundments. (See 45 FR 33166.) Again, some air emissions from some waste piles are probably unavoidable, although these will be minimized through compliance with § 264.251, promulgated today.

The containment approach used in the storage regulations, therefore, focuses on prevention of releases to the soil and to ground and surface waters. This approach is not mandated by the mention of the word "containment" in the statutory definition of "storage," although that definition certainly indicates that EPA's regulatory approach for storage is consistent with the Act. EPA, however, could have taken a different regulatory approach to storage facilities, just as it could have established a containment approach for disposal facilities. Ultimately, then, EPA's selection of the containment approach, embodied in the regulations issued today, is based on a policy decision about how best to accomplish the statutory goal of protecting human health and the environment.

The containment strategy for storage devices, (container storage, tanks, piles, and surface impoundments) has been translated into a regulatory approach which requires a primary containment device designed to prevent leakage and overflow as long as the wastes will remain there. An inspection program is also required to monitor deterioration in the primary containment system so that repairs or replacement can be made before release of any contents to the environment; or failing that, to detect leaks before they become major or result in significant contamination. Thirdly, where the primary containment devices are easily damaged and/or where inspection is difficult, secondary containment devices have been required. The specific requirements vary for the various facility types, i.e., tanks, piles, etc. These are discussed in detail later in this Preamble.

The reader should note that EPA does not assert that surface impoundments and piles cannot be used for (permanent) disposal rather than (temporary) storage. EPA will soon be proposing regulations that would allow such disposal facilities to be permitted, where appropriate, based upon the detailed analyses and subject to stringent requirements appropriate to disposal facilities.

B. Regulatory Approach to Treatment

The facility specific regulations promulgated today cover not only storage operations, but also many treatment facilities. Treatment operations are defined in RCRA Section 1004(34) as follows:

> * * * any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume * * *

The statutory definition of treatment does not depend on whether hazardous wastes are held at the facility only temporarily prior to treatment, disposal, or storage elsewhere, or whether they are permanently retained on site. Thus a surface impoundment used to treat hazardous waste would be a storage facility if all hazardous wastes (which may include treatment residues or sludges—see § 261.3(c)(2) is removed from the site at closure. If all hazardous waste is not removed, the impoundment would be a disposal facility. A similar analysis pertains to those waste piles in which treatment may occur. Thus, a determination that a facility is a "treatment" facility is not relevant to a determination of whether it is, on one hand, a storage facility, or, on the other hand, a disposal facility. Rather, the criteria outlined earlier in this preamble determines whether a treatment facility is a storage or disposal facility. If a tank, waste pile, or surface impoundment used for treatment meets the regulations definition of storage, it is a storage facility and may be permitted under Part 264, subpart J, K, or L.

Treatment facilities subject to the storage requirements may present hazards which either do not occur or occur less frequently at storage facilities. Some of these hazards (emissions, ignition, or reactions) are regulated under § 264.17, which requires certain precautions to be taken to prevent uncontrolled releases. EPA is developing additional standards for chemical, physical and biological (C/P/B) treatment (Part 264, Subpart Q) facilities; some or all of which may be applicable to treatment in tanks, waste piles, and surface impoundments. However, the storage standards in Part 264, Subpart J, K, and L provide baseline protection (through the storage containment philosophy) to prevent releases to the soil and ground and surface waters.

VII. Analysis of Rules

The following sections of this Preamble consider the major issues and present the rationale for the specific regulations promulgated today. These are arranged in a section-by-section sequence for reference ease.

A. Subpart B—General Facility Standards; Subpart C—Preparedness and Prevention; Subpart E—Manifest System, Recordkeeping, and Reporting

Subpart B of Part 264 contains general requirements for waste treatment, storage, and disposal facilities including requirements regarding identification numbers, required notices, waste analysis, security at facilities, inspection of facilities, and personnel training. Subpart B of Part 265 contains comparable interim status standards for those facilities. The general requirements contained in Part 264 were promulgated in final form on May 19, 1980 with one exception: § 264.12 required notices.

The May 19, 1980 Part 264 regulations did not include standards for location of facilities, and those standards are being promulgated today on an interim final basis. In addition, the May 19, 1980 regulations included only partial standards in Part 264 for managing ignitable, reactive and incompatible wastes (§ 264.36). Those standards are being promulgated today (moved from § 264.36) in § 264.17 and expanded. The expansion incorporates provisions from § 265.17(b) as promulgated on May 19, 1980. Those standards are also promulgated on an interim final basis.

In addition, the Agency is today promulgating a number of interim final amendments to Part 264, Subparts B, C, and E, which conform to the additional standards being promulgated today in Subparts G, H, I, J, K, and L. These amendments are as follows:

- A new section, § 264.10(b) is being added which states that § 264.18(b) (requirements for facilities locating in floodplains) is applicable to facilities subject to regulation under Part 264, Subparts I, J, K, and L. As additional facility standards are promulgated in the future, the Agency will amend

§ 264.10(b) when it is determined that the regulations under § 264.18(b) should apply to those new Subparts.

- A new section, § 264.13(b)(6) is being added which requires that waste analysis plans include the methods which will be used to meet the waste analysis requirements for ignitable waste in § 264.17.
- A comment is being added to § 264.14 to direct the reader to § 264.117(b) for further discussion of security requirements during the post-closure care period.
- A new requirement is being added to § 264.15 which states that inspection schedules must include at a minimum, the frequencies called for in the inspection requirements for containers, tanks, piles, and surface impoundments.
- A comment is being added to § 264.16(a) which refers to a provision of Part 122, Subpart B, requiring that Part B of the permit application include an outline of the training program at the facility and how it is designed to meet actual job tasks.
- Section 264.36 is being deleted and reserved because its provisions are covered by § 264.17.
- A new requirement is being added to § 264.73 which states that operating records must include the additional analysis required by § 264.17 and the closure and post-closure cost estimates required under §§ 264.142 and 144.
- A new requirement is being added to § 264.75 which states that the annual report must include the most recent closure and post-closure cost estimates required under §§ 264.142 and 144.
- Section 264.77 is being amended to require that facility closure be reported.

The amendments to §§ 264.73, 264.75, and 264.77 are made to include requirements resulting from promulgation today of Part 264 standards for closure and post-closure. Section 264.12 is not being finalized today. It will be promulgated in final form at a later date.

1. *General Requirements for Ignitable, Reactive or Incompatible Wastes* (§ 264.17, § 265.17). Section 265.17(a) of the Interim Status Standards and § 264.36 of the General Standards required the owner or operator to take precautions to prevent accidental ignition or reaction of ignitable or reactive waste and protect this waste from sources of ignition. Section 265.17(b) also required the owner or operator to treat, store, or dispose of ignitable, reactive or incompatible waste so that it does not ignite or explode, emit toxic gases, damage the containment structure or through other like means threaten human health or the environment.

The Agency is today promulgating requirements for ignitable, reactive and incompatible wastes in the Part 264 General Standards (§ 264.17). These requirements include those previously promulgated in § 264.36 (identical to § 265.17(a)), and those previously promulgated only in § 265.17(b), but now included in § 264.17(b) as well. Since the § 264.17(a) requirements are identical to the requirements of § 264.36, Section 264.36 is being deleted and reserved. The Agency did not include the requirements of § 265.17(b) in the Part 264 standards promulgated on May 19, 1980 since it was considering developing a general approach for regulating air emissions through the permit process on the basis of the toxicity and concentration of vapors released. However, the Agency now realizes, as discussed below, that much additional work is necessary before such an approach will be feasible, and believes that the § 264.17 requirement will provide some control over air emissions (as well as other hazards) resulting from treatment, storage or disposal.

A minor change was made to the language of § 265.17(b) upon its incorporation as § 264.17(b). Some commenters pointed out that § 265.17(b) was a "result determinative" standard in that if a fire or other incident occurred, the facility was automatically in violation despite the taking of precautions to prevent such a fire. In response to this comment, the language was changed to require the owner or operator to "take precautions" when ignitable, reactive or incompatible wastes are stored, treated or disposed.

A new § 264.17(c) was also included. This section requires that those owners or operators who must meet the requirements of § 264.17(a) or (b), document their compliance. This documentation may take the form of references to scientific or engineering literature or data derived from experience with similar wastes, in similar equipment, using similar processes, under similar operating conditions. This paragraph replaces individual requiements in each process specific section (i.e., tanks, surface impoundments, etc.). Requiring documentation will ensure that the necessary research work is carried out and makes it clear how the determinations can be made.

The Agency is promulgating all of § 264.17 as interim final and will accept comments on these provisions. The requirements of § 265.17 which were promulgated as interim final on May 19, 1980 will be finalized at a later date.

In the preamble to the Part 265 General Facility Standards (p. 33183), EPA asked for comments on the issue of expanding the classes of incompatible wastes to include pairs of waste that when exposed to each other would mobilize a hazardous waste constituent thereby increasing the rate at which it would be leached to groundwater. An example included placing organic solvents in landfill cells receiving either PCB wastes or organic pesticide wastes. Another example was the addition of acidic solutions to neutralized metalic wastes, resulting in solution of the metals.

Commenters stated that a landfill or surface impoundment equipped with a liner and leachate collection system adequately protects the environment from mobile wastes. Commenters also stated that organic solvents are routinely used to clean PCB containing equipment and this practice is recognized by EPA's Toxic Substances regulations. Commenters also believed that the suggestion that acid solutions mobilize metals was too broad since only highly acidic solutions will mobilize metals.

The Agency recognizes these comments as legitimate concerns. However, the Agency still believes that a requirement to limit the mixing of wastes, when such mixing would mobilize hazardous constituents, is necessary in some situations. Although solubility will not be added to the determination of incompatible wastes at this time, the Agency plans to propose this concept in a modified form at a future date.

2. *Volatile Wastes.* The Agency has examined several alternatives for defining and controlling volatile waste. However, attempts to develop a precise definition of volatile waste or a general regulatory strategy for its control have thus far been unsuccessful. Several of the interim status and general standards will act to reduce air emissions. However, the Agency believes that the control offered by these requirements is not sufficiently comprehensive.

The Agency requested comments and data on the issue of volatile wastes in the Preamble to the May 19 regulations (45 FR at 33166). The comments the Agency received recommended that the Clean Air Act rather than RCRA be used for the control of air emissions.

The Clean Air Act (CAA) is not well suited to the control of volatile emissions from hazardous waste facilities. Current CAA regulations address only a fraction of the potential emissions from a hazardous waste facility. The Clean Air Act is oriented toward control of emissions on a pollutant-by-pollutant basis. Current regulations are focused largely on widespread large volume, pollutants (particulates, NO_x, SO_x etc.). In contrast the pollutants which could be emitted from hazardous waste facilities are more numerous and diverse. RCRA provides the authority to control emissions broadly through performance standards and direct operating and design standards. In those cases where Clean Air Act regulations apply to storage of volatile wastes, such as the Standards of Performance for New Stationary Sources which pertain to volatile emissions from tanks, EPA will coordinate its efforts under the two Acts.

3. *Location Standards* (§ 264.18). In December of 1978 EPA proposed standards for the location of facilities in active fault zones, regulatory floodways, coastal high hazard areas, 500-year floodplains, wetlands, critical habitats of endangered and threatened species, recharge zones of sole source aquifers, and, for the location of active portions of facilities with respect to the facility's property line. The Agency received extensive comments on these proposed standards and has undertaken additional research. Specific responses to comments received and additional research data are available to the public in the Background Document entitled "40 CFR Part 264, Subpart B—General Facility Standards, Section 264.18 Location Standards" and accompanying technical documents.

The hazard which a facility presents to human health and the environment may be increased by locating the facility in certain areas. The location standards are designed to reduce these additional risks. Of the eight location standards proposed, two were retained, but in modified form. These two, seismic considerations and floodplains, are now found at § 264.18. Consideration of coastal high hazard areas is incorporated into the floodplain standard where this hazard is known to exist. EPA is reserving judgment on a separate coastal high hazard area standard while it further researches the need for such a standard. The substance of three proposed standards—critical habitats, sole source aquifers, and buffer zone—is covered under other Federal environmental statutes, and/or other requirements of Part 264. A location standard for wetlands is being deferred. Considerable protection to wetlands is already provided by the Section 404 and 402 Clean Water Act regulations when combined with the specific facility requirements in Section 264. EPA, however, is still considering the appropriateness of a separate Section 264.18 wetland standard to cover situations not regulated by either Sections 404 or 402. The regulatory floodway standard is the only proposed standard that was deleted.

Each of the proposed site location standards is discussed below. The discussions include responses to major comments, and the rationale for the final standard, or for deletion or deferral of the standard.

a. *Seismic Considerations* (§ 264.18(a)).

Earthquakes present a threat to public safety and welfare in a significant portion of the United States. Damage and loss of life in earthquakes occur as a result of surface displacement along faults (surface faulting), ground motion (shaking), as well as secondary effects of the shaking such as ground or soil failure. The proposed regulation addressed the first one of these hazards, surface faulting. The standard promulgated today also addresses only surface faulting.

The proposed standard prohibited location relative to active fault zones. The standard which EPA promulgates today is similar in concept, but more specific with respect to restricted locations relative to faults. It prohibits the location of new facilities within 200 feet of faults which have moved in the recent geologic past, called Holocene faults. The standard is designed to protect facilities from such deformation (i.e., bending and warping of the earth's surface) and displacement (i.e., the relative movement of any two sides of a fault measured in any direction) of the earth's surface which occur when the fault moves.

Surface faulting is a permanent displacement of the ground surface along a fault which can take one of three forms—strike-slip fault displacement, normal-slip fault displacement, and reverse-slip fault displacement. Each form describes a different type of movement of one side of the fault relative to the other, and each subjects a structure to different types of forces, e.g., compression, extension, and deformation, as well as displacement. Displacement along a fault can be horizontal, vertical, or a combination of both and can be on the order of a few feet (1–10) to several tens of feet (10–30). The intersection of the fault with the earth's surface is called a fault trace.

Seismically active areas usually do not contain only one fault, but a number of faults grouped together. These faults are grouped within a well defined width or zone. Such a grouping is commonly referred to as a "fault zone" since it consists of a zone (a width) with several individual faults. The regulation promulgated today deals with all faults which have had displacement in time. Such faults may be found in a fault zone.

The general fault zone usually can be divided into a main fault zone, a branch fault zone, and a secondary fault zone. The spatial relationship of individual faults in the fault zone has resulted in this classification system. The main fault zone contains the main fault (i.e., the fault with the greatest displacement, length, and continuity) and closely associated faults. The width of the main zone of faulting has been reported to range up to 3,000 feet, but in most of the cases (71%) (reported by Bonilla, 1967) the width was less than 1,600 feet and for half (50%) the width was less than 550 feet. Occasionally, faults diverge from and extend well beyond the main zone of faults and are referred to as branch faults. Secondary faults are completely separate spatially from the main fault and sometimes form several hundred feet to a few miles from the main fault. Associated with main, branch, or secondary faults are often small, subsurface faults evident as fault planes in a geologic investigation. These planes run parallel to the fault and typically are considered a part of that fault.

Adjacent to the fault rupture is commonly found a zone of deformation. This is an area where the ground has been bent or warped as a consequence of the two surface planes moving relative to one another. Surface deformation is frequently reported within a zone of several tens to several hundred feet wide. Structures located within this zone are subject to distortion and are likely to be subject to damage.

Structures located across a fault at the time of surface faulting will be subjected to fault displacement. The amount of and direction of displacement and deformation will depend upon the type of fault (strike-slip, normal slip, or reverse-slip) and amount of displacement (a few inches or feet to as much as 20 feet). At the present time it is generally not practicable to design most structures to withstand serious damage under the stress of surface fault rupture. Mitigating measures are available for lifelines (pipelines, electrical lines, roads, canals, etc.) and earthen structures (dams, embankments, fills, etc.) which must cross a fault subject to displacement. The best protection, however, for hazardous waste facilities is to avoid faults subject to displacement. Consequently, the regulation promulgated today prohibits location of portions of a facility where treatment, storage, or disposal of hazardous waste will be conducted within a distance (200 feet) of the fault.

This distance typically covers the zone of deformation.

Standards relative to ground motion and ground failure have not been promulgated. Ground motion pertains to the energy released by the earthquake, expressed in terms of intensity and duration, as transmitted through the ground. Ground motion is fundamentally different than displacement and deformation for damage in the former is only secondarily related to distance from the fault. Thus the impact that ground motion has upon structures is a function of the energy characteristics of the earthquake as well as the characteristics of the ground located between the facility and the epicenter of the earthquake; and the design of the structure. A facility may be located adjacent to or hundreds of miles away from the displacement fault and still be damaged by the resulting ground motion.

There has been some attention given to the design of earthquake resistant structures. Perhaps the most significant efforts to date have been by the Nuclear Regulatory Commission, and the study by the Applied Technology Council entitled "Tentative Provisions for the Development of Seismic Regulations for Buildings" (National Bureau of Standards, U.S. Department of Commerce, 1978). However, few data exist that relate ground motion dynamics to adequacy of engineering design for various types of hazardous waste facilities. Thus, EPA is not presently prepared to set a ground motion standard until it can determine which components of ground motion (e.g., acceleration, velocity, significant duration) should be the subject of design for different operational units (e.g., tanks, surface impoundments, incinerators) at facilities. This requires an analysis of data on (1) probability of occurrence of different magnitudes of earthquakes, (2) types of construction needed to protect against the different magnitudes of earthquakes, and (3) the feasibility and costs of such construction. Such analysis is needed for each type of hazardous waste facility. In order to resolve these uncertainties, it is apparent that information from the fields of geology and engineering which could be utilized in designing hazardous waste facilities for seismic considerations must be gathered and analyzed by the engineering community.

Because of these uncertainties, EPA invites public comment on ground motion issues specifically to include:

(1) What ground motion parameters should be considered for the full range of operational units at hazardous waste facilities;

(2) What is the magnitude of ground motion which is critical for the different operational units found at facilities;

(3) What types of structural designs would adequately protect facilities at different magnitudes of ground motion; and

(4) What are the costs of designing facilities to withstand earthquakes at different magnitudes.

Ground failure occurs when the energy characteristics of an earthquake cause a particular piece of ground to loose its qualities of support. This may occur in several different forms to include landsliding, liquefaction, settlement, and lurching. While the cause of damage due to ground failure originates with ground motion, actual damage to a facility results because of the failure of the ground in or near the facility. It is common for earthquake-triggered landslides to occur as renewed movements of deposits resulting from previous landslides. Areas subject to slope instability and strong earthquakes could be subject to earthquake-triggered landslides.

Liquefaction occurs when granular, essentially cohesionless soils undergo small to complete losses of their supporting strength. When the loss in strength is low to moderate, partial liquefaction may cause ground settlement and associated ground cracking. However, when liquefaction is complete, the soil can behave as a fluid, and catastrophic failures, including soil flows and landslides, have occurred as a result.

Seismic settlement is also typically associated with cohesionless soil deposits but can occur in poorly placed or uncompacted manmade fill. The strong ground shaking that occurs during earthquakes will densify loose granular soils. The rate of the resulting ground subsidence depends upon the location of the soil with respect to the groundwater table. Above the water table, ground subsidence will occur rapidly. Below the groundwater table, the pore water pressures that have developed during the shaking must begin to dissipate before a decrease in soil volume can occur and, as a result, settlement occurs at a rate commensurate with the flow of water from the cohesionless soil layer.

Lurching may be generally defined as the development of all types and sizes of irregular ground fractures, cracks, and fissures associated with ground motion, settling, and the passage of surface wave phases during earthquakes. More specifically, lurching involves the seismically induced lateral movement and spreading of ground toward a "free face," together with the development of associated tension cracks in the ground behind the free face.

As in the case of ground motion, EPA does not have sufficient data relating ground failure risks to hazardous waste facility siting and design. Therefore, EPA does not at present include a ground failure standard; although the Agency plans to propose such a standard in the future. To assist EPA in this regard, the Agency seeks data on the various issues relating to a ground failure standard to include:

(1) Is it necessary to distinguish between hazardous waste facility types when setting a standard?

(2) Should the standard involve a prohibition from locating facilities in areas of possible failure or should the standard allow location of facilities in such areas if properly designed?

(3) What types of ground and soil conditions are reasonably part of a standard?

(4) What types of tests would be definitive for demonstrating compliance?

Public Comments on the Proposed Standard

In the proposed rules, EPA prohibited all hazardous waste facilities from locating in an active fault zone because damage to a facility during a serious earthquake could not be prevented with practicable engineering means. Active fault zone was defined as a land area which, according to the weight of geologic evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste facility would be damaged and thereby pose a threat to human health and the environment.

Numerous comments were received. One group of comments reflected concern about the precision of the standard. Questions were raised as to the appropriate definition of faults and whether we should be concerned with all faults or the ones most recently formed. Should the standard be pegged to the magnitude of the earthquake? What did EPA mean by "weight of geologic evidence", and "reasonable probability of being affected by movement along a fault" in the definition of active fault zone? Other questions centered on whether facilities should be allowed within the active fault zone if they are designed to withstand the expected seismic activity.

EPA has not pegged the standard to the magnitude of the earthquake. EPA recognizes that damage to facilities can result from fault displacement and associated deformation, ground motion or ground failure. As discussed above, EPA's data are sufficient only to establish a ground faulting standard. For this standard, proximity to the fault and zone of deformation are the relevant factors, not magnitude of the earthquake. Magnitude will be fully considered when standards for ground motion and failure are proposed.

As for precision of definition, EPA agrees that the proposed standard left many situations unclear. Therefore, EPA has provided a specific definition of what types of faults are of concern. Once those faults are identified, the standard prohibits placement of a facility within 200 feet of such faults thereby eliminating the concept of active fault zone.

The intent of EPA's proposed standard was to ban the placement of a facility on or near faults that were likely to experience displacement in the future. The geological evidence indicates that faults which have moved in recent times are the ones most likely to move in the future. The data also indicate that such faults are the ones that either were created in or experienced displacement in Holocene times. Therefore, the ambiguous phrase "weight of geologic evidence" is replaced by the more specific reference to faults which have had displacement in Holocene time.

The Holocene is a geologic time period which extends from the end of the Pleistocene to the present; it includes approximately the last 11,000 years. Displacements during historic times in the United States have occurred along Holocene faults. Faults which have had displacement in Holocene time are easier to identify and date in the field than older faults. The Holocene produced recognizable geological deposits, and erosion and deposition surfaces. Thus, Holocene faults are identifiable by fault scarps, offset streams, mole tracks, furrows, and fault traces on young surfaces with groundwater barriers marked by spring alignments and vegetation contrasts.

While many areas of the United States have Holocene deposits and landforms of significant extent such that evaluation of fault presence and activity can be achieved, there are areas where Holocene deposits and landforms are scarce. For example, in certain areas glacial activity has stripped the surfical ground cover and left highly resistant rock, such that inspection of Holocene deposits and landforms will not yield enough evidence to conclusively determine the recency of faulting activity. In situations of this sort, reference to seismic epicenter plots and historic records must be utilized, as well as identification and close examination of possible fault related features expressed in Pleistocene and older deposits.

The U.S. Geological Survey mapped the location of Holocene faults in the United States that were so identified in 1978. (See "Preliminary Map of Young Faults in the United States as a Guide to Possible Fault Activity" by Howard and others, 1978.) Maps of identified Holocene faults in the United States are also available from the States of California and Nevada.

To further clarify the standard, EPA defined fault generally so that it includes the various forms of faults (i.e., main, branch, or secondary). This definition includes both faults which appear at the surface and those which do not have surface expression (including the small fault planes associated with surface faults). It is important to note, however, that only faults which have experienced displacement in Holocene time are of concern in this standard. Thus a subsurface or surface fault which has not disturbed the Holocene deposits is not included in the standard.

The concept of an active fault zone was also ambiguous in the proposed regulation. The breadth of this zone varies with the type of fault (e.g., normal, strike-slip and reverse-slip) as well as with the unique characteristics of the specific fault involved. Moreover, the area of deformation (which often includes fault planes) also varies with the type of fault. Finally, prohibiting location in a fault zone is an overly restrictive approach to addressing the potential damages associated with faulting. For example, even though a fault zone may extend as far as 3000 feet from the main fault (due to a single secondary fault 3000 feet from the main fault) there may be locations within that zone that are safe for location of a facility because they are outside the zone of deformation of any individual fault (main, branch, or secondary). The more relevant consideration is the specific distance of the facility from a fault, i.e., the distance associated with the zone of deformation. In the regulation promulgated today the concept of a fault zone is incorporated only as a relevant zone of study in investigating the specific location of faults. (See information requirements in § 122.25(a)(11).)

The standard promulgated today prohibits new facilities from locating within 200 feet of a fault which has had displacement in Holocene time. By expressing the standard in terms of faults, rather than fault zones, the standard is less restrictive, but equally protective.

Data available to the Agency indicate that the effects of deformation drop off rapidly as distance increases from the fault. Since the greatest degree of deformation occurs along the fault with the greatest displacement (usually the main fault), the further away the facility is from the main fault, the less likely it will be affected by deformation. Based upon available data it appears that most deformation occurs within two to three hundred feet of faults which have had displacement in Holocene time. Most of the data is taken from studies of main fault traces. Since the 200 foot set-back is measured from any fault, not just the main fault trace, EPA concludes that a 200 foot distance from any Holocene fault (surface or subsurface) gives ample protection against the effects of deformation.

Commenters suggested that facilities should be allowed to locate in fault zones if the facility is designed and constructed to withstand the effects of displacement and deformation. EPA does not have data to show that proven technology exists to design a critical structure to withstand serious damage under the stress of displacement and deformation. While there are design standards for such structures as pipe lines which cross faults, there is no systematic design information for structures which would accommodate hazardous waste facilities. States with seismic standards, like California, prohibit construction within close proximity to faults. Thus, EPA has elected the conservative approach of prohibiting the placement of those portions of new facilities where treatment, storage, or disposal of hazardous waste will be conducted within 200 feet of a fault which has had displacement in Holocene time.

Not all areas of the country are affected by Holocene faulting. To require an analysis for this standard in areas known not to have faults which have had displacement in Holocene time would impose an unnecessary regulatory burden and cost upon the owner or operator. Thus, the standard is specified to apply only to those facilities proposed to be located within political jurisdictions (e.g., counties, townships) which have some historical evidence of faulting or potential for such faulting. Analyses by the Applied Technology Council and the U.S. Geological Survey (identified above) provide a basis for identifying those areas within which seismic activity has occurred, and thus warrant application of the standard. These political jurisdictions are listed in Appendix VI to Part 264.

Because a demonstration of compliance with the seismic standard is made as part of the permit application, Part 122, Subpart B, § 122.25(a) contains procedures which must be followed to adequately demonstrate compliance with the standard. The permit applicant is provided with serveral alternative study approaches because site-specific conditions will vary considerably due to type of faults, geologic structure of the area, and the existence of published data. The information developed during the study must be of sufficient quality to be acceptable to geologists experienced in identifying and evaluating seismic activity.

Study approaches may include a review of published geological data, an aerial reconnaissance, an analysis of aerial photographs, a geological reconnaissance of the site, or trenching. EPA intends to require these studies to be carried out to different distances from the facility. The distances which EPA has chosen are generally accepted within the geologic profession as distances which must be investigated to conclusively make the demonstrations required. These distances are also based on results of geological studies, the most important of these is by M. G. Bonilla (1967) which analyzes historic surface faulting in the continental United States and adjacent parts of Mexico. Bonilla has indicated that the maximum distance from the centerline of the main zone of surface faulting to the outer edge of that zone is on the order of 3,000 feet. Bonilla also found that some branch and secondary faults do appear within this zone. Therefore, if an area within 3,000 feet of the site is studied and there is no evidence of Holocene faulting, EPA is confident that the facility is not located within a main fault zone where the large-scale damage due to displacement and deformation occurs.

The other study distance is five miles. Regional studies include a review of published geological data and an aerial reconnaissance to cover an area within a five mile radius of the site. Five miles is specified here because surface faulting data (Bonilla, 1967) indicate that the majority (81%) of branch and secondary faults associated with the main Holocene fault zone occur within five miles from the centerline of the main zone. This distance is also accepted as a regional study distance by the Nuclear Regulatory Commission for siting nuclear power plants and by the State of California Public Utilities Commission for siting of liquefied natural gas facilities.

The level of effort which will be required to make the demonstration to comply with the standard will depend upon the amount of evidence which indicates that Holocene faulting is likely or unlikely. For example, if Holocene faults have been mapped within one mile of the facility the owner or operator may want to trench at the outset because, even though the other procedures are followed through, the data may indicate that trenching must be done to conclusively make the demonstration. On the other hand, if no published data indicate faulting within (for example) 5 to 10 miles of the site, an aerial reconnaissance may be all that is required to sufficiently demonstrate lack of faulting activity. A guidance manual will be available shortly which will provide greater detail on the study procedures identified in Part 122.

Commenters on the proposed standard expressed concern that large areas of the western United States would be impacted by the proposed standard because of the prevalence of faulting in that region. It is true that the Western part of the U.S. will be more heavily impacted, but this impact is necessary in order to protect human health and the environment. The impact of the seismic standard is somewhat reduced because state regulations, such as those of California, already have restrictions on siting near faults. Further, the standard promulgated today restricts location within 200 feet of a fault, rather than in an entire fault zone. Finally, the standard applies only to new facilities.

The decision to apply the standard only to new facilities was made with several considerations in mind, and is an issue on which the Agency is requesting comment. First, given the relative infrequency of seismic activity, the Agency believes that there is a relatively low potential for an earthquake occurring at an existing facility before those facilities close at the end of their normal lifetime. Thus, the probable environmental impacts of not applying the standard to existing facilities are likely to be low. Second, the Agency is concerned about the practicability of moving existing facilities and about the impact of possible facility closure on hazardous waste capacity.

Since the Agency was unable to include provisions in the standard for designing facilities to withstand the effects of surface faulting, closure or moving would be the only alternatives for existing facilities. Moving or closing existing facilities may be impractical in some cases. For example, on-site storage or treatment facilities may be associated with existing manufacturing operations which must store or treat wastes as an integral part of their operations. Movement or closure of these storage facilities might imply movement or closure of the manufacturing facility. The Agency does not have sufficient data to determine the extent of such impacts, or to justify them at this time.

Off-site storage facilities can be closed or moved, but this would impact existing hazardous waste capacity, possibly in areas where shortages already exist. Since storage typically is associated with other hazardous waste management facilities, such as incinerators, the impact would go beyond storage alone. Should this standard be applied to incineration and land disposal facilities in the future (when further standards under Part 264 are promulgated for these facilities), the impact on capacity would be more direct. Further, in the case of existing landfills, closing a facility (with the waste in place) would not significantly reduce the potential for damage associated with faulting.

Nevertheless, EPA is not fully convinced that the standard should not apply at least to existing storage facilities (or incinerators) and is requesting comment on this issue. In particular, the Agency wishes comment on the number of existing facilities currently located in areas restricted by this standard, and the impact this restriction would have on those facilities and on capacity in the area where they are located. After reviewing this information the Agency will reconsider whether this standard should apply to existing facilities.

Comments were received on the proposed standard which indicated that restricting facilities in active fault zones should be based on the degree of hazard of the waste being managed at the facility and the particular treatment, storage, or disposal method used at the facility. It seems plausible to EPA that some facilities may be able to locate at some distance within 200 feet from a Holocene fault and not pose a threat to human health and the environment in the event of fault displacement. EPA requests comment on what may be appropriate set-back distances from Holocene faults for facilities which contain different operational units and, if variable set-back distances would be justified on the basis of the nature and quantity of waste managed at the facility. EPA also requests that commenters specify their reasoning and justify distances which are suggested with technical data to the degree possible.

b. *Floodplains* (§ 264.18(b)).

The location of hazardous waste management facilities on floodplains

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could have several significant adverse effects on human health and the environment. EPA's primary concern involves waste washing out or being carried in flood waters from the active portion of the facility, thereby exposing surface water, ground water, aquatic life, soils, and human health to potential contamination through direct contact with the waste. Wastes can be washed out of surface impoundments, piles, and containers. Tanks, incinerators and other treatment units exposed to flood waters may not be constructed to withstand the hydrostatic and hydrodynamic loads exerted by a flood and could be damaged enough to allow waste leakage or be completely removed from the disposal site.

Various technologies have been developed to deal with flooding problems. Some technologies are designed to protect the facility from flood waters (i.e., not allow flood waters to reach the facility). The most common method of flood protection is the construction of levees, dikes, or flood walls around or along a side of the facility subject to flooding. Such measures would be particularly suited for landfills, surface impoundments, land treatment, and waste piles. Another approach would be flood proofing, i.e., allowing flood waters to come into contact with structures, but preventing damage to these structures. Technologies here would involve proper elevation of structures with appropriate construction of the foundations to withstand the flood water effects, anchoring of storage containers, and the use of permeable fencing that allows passage of flood waters but not objects and debris that would damage the facility.

These techniques have been in common use. Treatment of hydraulic conditions is within the knowledge of qualified engineers. Federal agencies require use of such techniques. Most common are the Army Corps of Engineer programs and the National Flood Insurance Program. The Corps of Engineers issues handbooks on various construction techniques. Similarly, the Federal Insurance Administration which administers the National Flood Insurance Program also provides guidance. Because they deal with conventional structures, many of their techniques deal with flood proofing.

EPA proposed a location standard that would prohibit the placement of a hazardous waste management facility in a 500-year floodplain unless the owner or operator demonstrated that the facility would be designed, constructed, operated and maintained to withstand inundation by a 500-year flood. In response to comments, EPA has revised the floodplain standard. The standard promulgated today addresses the 100-year floodplain rather than the 500-year floodplain. It requires that facilities located in the 100-year floodplain be designed, constructed, operated and maintained so as to prevent washout of hazardous waste from the active portion of the facility. A variance to this standard is allowed where the applicant can demonstrate that procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to the flood.

Comments on the Proposed Standard

Of the proposed location standards, the flood standard received greatest comment. While these comments are treated in greater detail in the Background Document on Location Standards, they can be summarized into the following general areas of concern:

1. Many commenters questioned the reasonableness of using the 500-year flood as the flood of concern.

2. Numerous comments focused on whether the standard should prohibit facilities from locating within the floodplain of concern or whether the standard should presume that facilities can safely locate within such floodplain if they are properly built.

3. Some comments raised questions about the appropriateness of allowing facilities to be located within the floodplain of concern only upon a showing that no inundation would occur.

4. Numerous comments focused on whether the flood of concern should vary depending upon the degree of hazard presented by the types and quantities of hazardous waste involved.

5. Some commenters pointed out the difficulties of finding maps demarking the 500-year floodplain and the difficulty of obtaining data on floods to cover a 500-year period.

6. Commenters felt that the standard, if applied to existing facilities, would force the closing of many facilities now located at industrial sites.

Each of these areas of comment is discussed below.

Many commenters stated that the probability of a 500-year flood occurring is too remote to justify the expense and limitation placed on otherwise available sites, and suggested the use of the 100-year flood as the hazard against which facilities should be protected. Most commenters suggested that EPA use the 100-year floodplain for the following reasons: (1) 100-year flood level information is available and verified in many cases, and thus (2) there would be less of a margin for debate in boundary determinations (compared to the 500-year floodplain); (3) it is consistent with the degree of restriction necessary to protect human health and the environment; (4) more land would be available for siting new facilities; (5) it is economically justifiable, and (6) it is consistent with Executive Order 11988—Floodplain Management.

EPA agrees with many of these comments. While the Agency recognizes that a 500-year standard would afford a higher level of protection, at present the Agency does not have sufficient information that would justify a need for the added level of protection over that provided by the 100-year floodplain standard. The 100-year flood is the most widely used standard in various Federal and state programs addressing the hazards associated with flooding. Of twenty four states that regulate floodplains, eighteen use the 100-year flood as the regulatory standard. The Federal Insurance Administration, Federal Emergency Management Agency, and the U.S. Army Corps of Engineers have adopted the 100-year flood as their standard on which to base floodplain management measures.

Until other data are presented to the Agency indicating the need for a different flood level, the 100-year flood has been selected as the minimum flood for this rule. However, EPA does not conclude that this level necessarily is sufficient protection for human health and the environment for all hazardous waste management facility situations. EPA is currently considering issuance of a proposed rule that would allow the Regional Administrator to require more stringent standards where circumstances would so warrant. Such a change though is not part of this rulemaking.

A few commenters questioned whether facilities should be allowed to locate in floodplains at all. Other commenters stated that a ban on location in floodplains would result in the closure of a majority of existing facilities. In the case of on-site facilities, they said that such a ban would result in these industries having to transport their waste some distance from the generation site.

EPA recognizes that hazards may be associated with increased transport of hazardous waste and that a reduction in hazardous waste management capacity could result from a ban on locating in floodplains. Reduced capacity would lead to an increased potential for illegal dumping and stockpiling of waste. Available information has led the

Agency to conclude that technology is available to protect hazardous waste management facilities from washout. Therefore the standard allows for the placement of facilities within the 100-year floodplain, but only after the applicant has made the necessary demonstration that the technologies used at the facility will prevent the washout of hazardous waste.

The proposed standard would have allowed the placement of a facility within a 500-year floodplain if the applicant would demonstrate that no inundation by flood waters would result. Protection from inundation is not the only method of protecting the environment and the public from the effects of flooding. Other measures involve flood proofing, which allows the waters to inundate the facility, but prevents the hazardous waste from leaving the facility. Proper anchoring or elevation of containers may in fact be less expensive than the construction of dikes or flood walls while the same level of protection would be provided. Thus, the inundation provision was dropped in favor of the washout provision with the effect of expanding the means by which owners or operators could comply with the standard.

A number of commenters proposed that the flood standard should vary depending upon the types and of quantities of waste involved. Instead of a 100-year standard a lesser, perhaps a 50-year flood standard, would be appropriate. EPA does not have sufficient data at present to promulgate a standard that differentiates between individual wastes. To arrive at such a standard would also require an analysis of the risk associated with each waste at different degrees of flooding in order to arrive at a unique floodplain standard for each waste.

Availability of Floodplain Maps

Commenters noted the relative scarcity of maps which delineate the 500-year floodplain. They were concerned that such a lack of maps would force owners and operators to conduct their own studies (which they claimed were costly and time-consuming) to determine whether their facilities were within the 500-year floodplain. EPA agrees that the availability of maps may constitute a problem for some facilities, but that problem is now minimized because the standard is for the 100-year floodplain.

The 100-year flood is used as the minimum flood of concern by most State and Federal agencies. This common use has resulted in a steadily growing pool of 100-year floodplain maps. the Federal Insurance Administration is the largest single source of floodplain maps. Maps are available for nearly all flood prone communities which provide either 100-year flood elevations (the Flood Insurance Rate Map) or the boundaries of the 100-year floodplain (the Flood Hazard Boundary Map) from which 100-year flood elevations can be determined.

In areas mapped by the Federal Insurance Administration, delineation of the 100-year floodplain will be determinative as to whether a facility is located within or outside the 100-year floodplain. FIA, when specifying the boundaries of the 100-year floodplain, may omit areas of the floodplain that are less than 200 feet wide. Such areas are considered within the 100-year floodplain for purposes of complying with § 264.18(b)(1). In areas not mapped by the FIA, either the FIA mapping procedure or other equivalent mapping procedures may be used to determine whether the facility is located within the 100-year floodplain.

Some commenters were concerned that the standard would force closure of many industrial facilities. EPA anticipates that although the floodplain standard may require extensive retrofitting of some facilities, closure can be avoided in most cases. If possible, EPA encourages affected facilities to prepare to meet the floodplain standard during the interim status period. It should be noted that this standard only applies to facilities securing permits under Subpart B of Part 122. This means that facilities under interim status need not comply with this standard. Existing facilities receiving permits will be provided schedules in the facility's permit for either compliance with the standards or closure of the facility. These schedules will accomodate existing facilities by allowing operation in accordance with the terms of their permit until the facility can be retrofitted or closed. In the case of facilities that must close, this schedule will prevent abrupt decreases in hazardous waste management capacity and will provide generators with time to find other facilities which are designed to manage their wastes.

c. *Wetlands.*

EPA has actively sought to protect wetland resources because the nation's coastal and inland wetlands are vital natural resources of great hydrological, ecological, economic, and social importance. There are three aspects of facility contruction and operation which should be considered for wetland locations. The first is the impact, without regard to the nature of wastes handled by the facility, that the construction and actual presence of the facility will have upon the wetland environment. The second is the impact of planned discharges from the facility and the third is the potential impact of accidental and unplanned discharges of hazardous waste into the wetland environment.

The proposed location standard for wetlands prohibited facilities from locating in wetlands. A variance to this standard was contained in an accompanying note. Facilities would be allowed to site in wetlands if the owner or operator obtained an NPDES permit and, if dredging or filling of the wetland was associated with the facility, a Section 404 permit. Even though the wetland provision does not appear in the part 264 rules at this time, facilities will be required to obtain NPDES and Section 404 permits under the Clean Water Act if it is appropriate for them to do so. These programs operate independently of RCRA.

In reviewing the proposed rule and comments on it, EPA considered not promulgating a wetland location standard under RCRA, but rather just ensuring that the permit applicant had obtained permits under the NPDES and Section 404 programs if they were required to do so under the Clear Water Act. EPA previously determined that these existing programs adequately protected wetlands from the adverse impacts of the construction and actual presence of the facility, and adverse impacts from planned discharges from the facility. In the later stages of developing the location standards promulgated today, it became apparent that EPA could not go forth with such an approach for three fundamental problems exist. One, the U.S. Army Corps of Engineers (COE) and EPA had not come to an agreement on the appropriate scope of the definition of "fill material". Until this is resolved, the exact set of circumstances under which the owner or operator of a hazardous waste facility would be required to obtain NPDES or Section 404 permits is not known. Two, not all wetlands are "waters of the United States" and therefore, they are not under the jurisdiction of the Clean Water Act. EPA could not rely on either the NPDES or the Section 404 program for these wetlands. The third problem relates to a COE policy of issuing general or nationwide Section 404 permits for some wetlands and certain activities in wetlands, rather than issuing individual Section 404 permits. These wetlands and activities are permitted by class and each action is not scrutinized individually. EPA believes that the suitability of a wetland for siting of a

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hazardous waste facility must be determined on a case-by-case basis.

EPA is deferring specific regulation of the siting of facilities in wetlands until it is clear to EPA what the extent of coverage of the NPDES and Section 404 programs will be. EPA expects, however, to retain the presumption against siting facilities in wetlands which was expressed in the proposed rule, and to promulgate standards as necessary to address situations not covered by NPDES and Section 404 programs. EPA will consider determinations made under the NPDES and Section 404 programs so that duplication will be minimized.

EPA believes that in the interim wetlands will be sufficiently protected against the unintentional discharge of hazardous waste through facility compliance with the Part 264 standards. Examples of Part 264 requirements that would protect wetlands in the vicinity of facilities include maintenance of freeboard at surface impoundments, controls to prevent overfilling of tanks, diversion of run-on and collection of run-off for piles, land treatment facilities, and landfills. Forthcoming regulations to protect ground water and surface water from the adverse effects of land disposal facilities will also protect wetlands. The Part 264 requirements are more fully described elsewhere in this preamble along with the rationale for their selection.

d. *Endangered and threatened species and critical habitats.*

Locating, constructing, and operating hazardous waste facilities, if not adequately regulated, can lead to reductions in populations of endangered and threatened species. Possible impacts include removal of critical habitat, restricting the movement of species, and degrading the environment near the facility (e.g., increasing siltation of rivers, degrading air quality). Thus, EPA believes that it is important to evaluate effects on endangered and threatened species and their critical habitats when a hazardous waste facility is being located or when an existing facility is applying for a permit.

The proposed standard prohibited hazardous waste facilities from locating in areas where they would be likely to jeopardize the continued existence of endangered and threatened species, or where the facility would destroy or adversely modify their critical habitat. Very few comments were received on this provision. One commenter indicated that a separate requirement in RCRA was unnecessary since individuals had to comply with the Endangered Species Act independently of RCRA. Several other commenters questioned EPA's use of the term "is likely to jeopardize". Finally, one commenter proposed that facilities not be prohibited from locating within a critical habitat.

EPA is obligated under Section 7 of the Endangered Species Act to ensure that permitted facilities (not just those permitted under RCRA) are not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. Therefore, EPA must take some action with regard to its permitting activities. This has been done through § 122.12(c) of the RCRA regulations. (45 FR 33428, May 19, 1980) This provision specifies that permits shall contain conditions consistent with the requirements of the Endangered Species Act of 1973.

The term "is likely to jeopardize" comes directly from the statute. Thus, the commenter's concern that EPA is exceeding the statutory mandate is not well founded.

In response to the final comment: Facilities are not prohibited from locating in critical habitats. If EPA, in consultation with the Department of the Interior or Commerce, determines that no impact associated with the facility will alter the habitat so that the likelihood of the survival or recovery of endangered and threatened species is appreciably diminished, the facility will be permitted to locate in the critical habitat. Since such facilities must meet RCRA standards, the risks of damage to the environment are substantially reduced.

e. *Sole source aquifers.*

The proposed standard prohibited hazardous waste facilities from locating in the recharge zone of a sole source aquifer. These aquifers, designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974, are the sole or principal drinking water supply to a large percentage of a populated area. The "Note" to the proposed standard provided for a discretionary approval of location in the recharge zone of a sole source aquifer if it could be demonstrated (at the time of permit issuance) that the facility is located, designed, constructed, operated, maintained, and monitored to prevent endangerment of the sole source aquifer.

A number of comments were received on this proposed standard. Some commenters advocated not only a ban against facilities locating within the recharge zone of a sole source aquifer, but also a ban against any facility locating over the recharge zone of any aquifer. Other commenters approved of the variance provide through the note on the assumption that facilities could be built and managed so that no harmful discharges would occur.

EPA concludes that all sources of water for drinking, irrigation, industry, and agriculture should be protected against contamination by hazardous waste facilities. Further, EPA believes that these sources of water should be provided an equal degree of protection. However, a separate location standard is not deemed necessary at this time because the Part 264 standards and the forthcoming regulations for land disposal facilities provide positive assurances for protection of all water sources. The standards promulgated today are intended to prevent any discharge that could potentially contaminate groundwater.

f. *Buffer zone.*

The proposed standard required that active portions of hazardous waste facilities be located at a minimum of 60 meters (200 feet) from the facility property line. Lesser distances would have been allowed if it could be demonstrated that unexpected releases or discharges of hazardous waste could be controlled before they crossed the facility property boundary.

EPA has reevaluated the need for a buffer zone at hazardous waste facilities in light of the numerous comments received on the proposed standard and a subsequent comparison of the protection afforded by the proposed standard and that provided by the standards in Parts 264 and 265.

Commenters on the proposed standard were concerned that instituting a 200 foot buffer zone at existing facilities would be impossible if additional land were not available or it would result in an undue hardship and increased hazard if surface impoundments and landfills were in violation of the standard and the contained wastes had to be moved back from the property line. Many commenters pointed out that a specific distance is too arbitrary and inflexible to be universally applicable and, therefore, it would be excessive in some cases and insufficient in others.

EPA agrees that it is difficult to specify a single buffer zone distance that is appropriate for, and feasible to institute, at all facilities. Thus, EPA has elected to incorporate needed protective standards into the specific facility standards found in Parts 264 and 265, and not to promulgate a separate buffer zone location standard.

EPA's facility standards published today are designed to prevent and mitigate the effects of fires and explosions which might occur in managing ignitable, reactive, and incompatible wastes. General requirements for the management of ignitable, reactive and incompatible wastes are specified in Subpart B of this Part. In addition, specific procedures for managing these wastes in piles, containers, tanks, and surface impoundments are included. According to these rules, containers which hold ignitable or reactive waste must be at least 15 meters (50 feet) from the facility's property line, and covered tanks which hold ignitable or reactive waste must be in compliance with the National Fire Protection Association's buffer zone requirements. These standards also provide for separation of piles, open tanks, surface impoundments, and containers if they contain incompatible wastes or materials. Further elaboration on these decisions is found elsewhere in this preamble under sections pertaining to the specific facility standards.

The purpose of the proposed buffer zone standard with respect to spills was to provide room to bring the hazardous waste into control before it crossed the facility's property boundary. Similarly, the proposed buffer zone was to provide a region within which underground leaks can be detected and dissipated or controlled before crossing the property line. The Subtitle C rules have made designation of a location buffer zone standard unnecessary. Spill prevention and containment rules and the current approach to groundwater protection have eliminated the need for a separate buffer zone.

g. *Regulatory Floodway.*

Regulatory floodway was defined in the proposed rules as the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the flood elevation more than a designated height. Regulatory floodways are designated at the discretion of communities participating in the National Flood Insurance Program (NFIP) managed by the Federal Emergency Management Agency (FEMA).

The proposed standard prohibited hazardous waste facilities from locating in a regulatory floodway because the facility would impede the flood waters thereby increasing the elevation of flood waters and expanding the area flooded. The proposed standard further specified that where regulatory floodways were not designated by FEMA, an owner or operator would have to obtain an analysis using FEMA-approved methods to determine whether the facility would be located within the regulatory floodway if such boundaries had in fact been mapped.

Commenters were divided on the necessity for a regulatory floodway standard. While some thought that the protection provided was desirable, others critized the use of the standard as being too stringent. Others pointed to the lack of information as to the location of regulatory floodways and one commenter stated that this was a concern of the NFIP, not of EPA.

EPA concludes that a regulatory floodway standard would have been appropriate if no other RCRA standards or other governmental regulations provided appropriate protection. The "no washout" 100-year flood standard under § 264.18(b) provides the same level of protection as that achievable by the proposed regulatory floodway standard. Not only must a facility be designed, constructed, operated and maintained to prevent washout from a 100-year flood, in so designing the facility the owner or operator must take into account the effects of increased flood levels at the facility due to the placement of the facility itself. Control of development in regulatory floodways is a responsibility of local government. Since the NFIP requires local controls in these areas if the locality is to participate in the NFIP, EPA considers that any additional action on its part would be unnecessary.

h. *Coastal High Hazard Areas.*

The proposed standard prohibited hazardous waste facilities from locating in coastal high hazard areas. Coastal high hazard areas are those areas subject to high velocity waters including, but not limited to hurricane wave wash or tsunamis as designated by FEMA on Flood Insurance Rate Maps (FIRM) as Zone VI–30. However, a facility could locate in a coastal high hazard area if the owner or operator could demonstrate that measures had been taken to ensure that the facility would not be inundated by high velocity waters.

Because coastal high hazard areas are within the 100-year floodplain, facilities located in these areas are required by the floodplain standard to be protected against washout of hazardous waste by a 100-year flood.

A limited number of comments were received on this standard. Some questioned the need for a uniform standard and proposed either no standard or one that accounts for the degree of hazard involved for each facility. Other commenters supported the opposite position—a complete ban of facilities from areas designated as coastal high hazard. Most commenters pointed to the lack of information for designating areas as coastal high hazard. They proposed that the standard only apply to areas specifically designated by FEMA.

All coastal high hazard areas, whether mapped or not, are within the 100-year floodplain. To the extent that information is available on wave action, the principal additional factor of concern in areas subject to coastal storms, this factor is to be considered when designing, constructing, maintaining and operating a facility to protect against washout. Thus some protection will exist for areas already mapped.

More restrictive standards for facilities located in these areas might be warranted; however EPA does not, at this time have sufficient information to reach this conclusion and to specify the nature of the additional restrictions so warranted. Nor is there sufficient information to justify a ban on the placement of facilities in these areas. Thus, facilities in these areas are subject to the no washout provision of the 100-year floodplain standard.

Because of the lack of information, EPA is requesting comment on the coastal high hazard standard. EPA requests comment on whether facilities should be allowed to locate in coastal high hazard areas and why, and whether a distinction should be made between new and existing facilities in this regard. If commenters believe that the hazards associated with facilities locating in coastal high hazard areas can be adequately reduced by proper design and construction, EPA requests information on what additional parameters need to be considered in the design and construction of the different facility types and the technology which is available to design or mitigate for them. EPA additionally requests information on the number of existing facilities in mapped coastal high hazard areas and to what extent either new or existing facilities are restricted from locating in these areas by other Federal, State, or local statutes.

EPA plans to continue work in this area and may promulgate a final standard at a later date.

i. *Permafrost areas.*

In the preamble to the proposed rules, EPA recognized that permafrost areas are fragile ecosystems with a significant potential for erosion and ground-water contamination. As such, the Agency stated that these areas should be protected from the uncontrolled siting of hazardous waste facilities. However, becasue the only State where permafrost areas are found is Alaska, EPA reasoned that it might be appropriate for the State of Alaska to determine what measures are needed to protect these areas. Comment was requested on the Agency's intent not to promulgate national standards for siting of hazardous waste facilities in permafrost areas.

EPA received little comment on the issue of who should write a standard for locating in permafrost areas, EPA or the State of Alaska. At present the Alaska Department of Environmental Conservation has no standards regulating siting of hazardous waste facilities in permafrost areas. According to State officials, the Alaska Department of Environmental Conservation is awaiting the completion of studies on permafrost being conducted by the University of Alaska at Fairbanks before considering how such a standard should be written.

EPA recognizes permafrost as an important site condition which warrants a standard. However, the Agency does not have sufficient background information at present to justify a standard and believes that the State of Alaska may be in a better position to develop such a standard. Should Alaska promulgate an adequate standard as part of its State program, EPA will probably not promulgate a standard.

B. Subpart G—Closure and Post-Closure Care

The purpose of the Part 264 and 265 closure and post-closure standards is to ensure that all hazardous waste management facilities are closed in a manner that, to the extent necessary to protect human health and the environment, (1) minimizes the need for post-closure maintenance, and (2) controls, minimizes or eliminates post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall, or waste decomposition products to ground or surface waters or to the atmosphere. There are two types of closure and post-closure requirements: (1) general requirements, which are contained in Subpart G; and (2) particular requirements which are specific to surface impoundments; incinerators; tanks; and other types of facilities. The specific standards are contained in the Subparts for each of these types of facilities and are discussed, in the preamble sections for those Subparts. This section of the preamble discusses the Subpart G general closure and postclosure requirements.

(1.) *Interim Status Regulations (Part 265).* On May 19, 1980, EPA promulgated §§ 265.111 (Closure performance standard); § 265.112 (Closure plan; amendment of plan); § 265.113 (Time allowed for closure); § 265.117 (Post-closure care and use of property; period of care); and § 265.118 (Post-closure plan; amendment of plan) as interim final regulations. The other sections of Subpart G were promulgated as final. Some minor language changes to the interim final regulations have been made to clarify their intent. The discussion below covers only the substantive changes.

a. *Deadline for submission of closure and post-closure plans (§§ 265.112(a) and 265.118(a)).*

The interim final regulations required owners and operators to prepare facility closure and post-closure plans by November 19, 1980. Many commenters contended that this date did not provide enough time to prepare plans and asked for extensions. Other commenters argued that EPA should not require owners or operators to prepare closure plans until they are ready to close their facilities. Still others argued that EPA should not require plans in interim status at all, but only when EPA issues a permit. In rsponse to these comments, EPA extended the deadline to May 19, 1981 (§§ 265.112(a) and 265.118(a)). To notify the regulated community prior to the original November 19, 1980 deadline, this time extension was promulgated separately on October 30, 1980 (45 FR 72039–72040).

EPA believes that the May 19, 1981 date is reasonable. First, owners and operators will have had one year from the promulgation on May 19, 1980 to develop closure and post-closure plans. Furthermore, since the proposed requirements for closure and post-closure plans were published on December 18, 1978 (proposed § 250.43–7), owners and operators will have had 2½ years to consider and reduce to writing appropriate measures for closing their facilities and providing post-closure care for land disposal facilities.

Second, closure and post-closure plans entail procedures which responsible owners and operators should have already thought through in operating their facilities. For example, for container storage facilities which periodically ship the containers off-site for disposal, the closure plan would anticipate a similar shipment procedue at the time of closure. For a landfill, an understanding of how the facility will be closed (e.g., final cover and vegetation) and then maintained and monitored is essential to the efficient and economic placement of wastes and monitoring wells during the landfill's active life. In fact, since many landfills are operated on a cell-by-cell basis, with several cells filled and closed in sequence, the appropriate procedures for closure will not only have been thought through but will also have been implemented at least in part.

EPA is also convinced that the May 19, 1981 date is necessary. First, development of closure and post-closure plans will force owners and operators to analyze their future closure responsibilities as well as their present operating practices as they affect closure and post-closure procedures. Thus, the sooner the plans are developed, the sooner present operating procedures consistent with closure will be developed. Second, since many facilities partially close on an ongoing basis (e.g., close one cell of a landfill at a time), there is a significant present need for closure plans which will assure that these partial closures are properly done. Third, closure and post-closure plans are presently needed because they provide the basis for making the cost estimates which are the foundation for the financial responsibility requirements of Subpart H. Thus closure and post-closure plans are needed now to assure that owners or operators develop sufficient funds to properly close their facilities.

b. *Keeping copies of plans at the facility (§§ 265.112(a) and 265.118(a)).*

The interim final regulations required the owner or operator to keep closure and post-closure plans at his facility. The final regulations retain this requirement (§§ 265.112(a) and 265.118(a)). One commenter, pointing out the importance of plans, questioned whether EPA could ensure that owners and operators prepare plans properly if plans are only kept on facilities' premises. The commenter suggested two different solutions to the problem: EPA could require the plans to be certified by a professional engineer, or it could require the plans to be submitted to the Agency for its review.

EPA has rejected the commenter's proposed solutions. First, EPA lacks the resources to review more than a sample of plans. Thus, requiring submission of plans to EPA would not assure their adequacy. Second, the Agency does not accept the argument that requiring a professional engineer to certify the plans would necessarily improve plans. Many of the most important aspects of plans depend on the owner's or operator's intent and these are not certifiable. For example, the estimate of maximum inventory of waste, which is a major factor in developing closure cost estimates, is not certifiable by an engineer.

EPA has arrived at a different solution to the problem than that suggested by the commenter. Under § 265.74(a) of the final regulation, the Regional Administrator may, at his discretion, require the owner or operator to send in his closure plan to EPA. In addition, EPA staff may review closure plans when performing on-site inspections.

The Agency intends to use these means to review a small random sample of plans and, from this sample, determine the proportion of adequate plans. If a large proportion of reviewed closure plans are inadequate in several Regions, EPA will have to decide whether to devote more resources to address the problem. To address specific problems more immediately, EPA could require the owner or operator of a facility with a poor plan either to submit a modified plan or to submit Part B of the permit application and modify the plan through the permitting process.

c. *Closure plan; amendment of plan (§ 265.112).*

In addition to extending the effective date of closure plan requirements by six months (discussed in paragraph (a) above), EPA made several changes to this section.

The interim final requirement of paragraph (a)(4) that closure plans contain schedules of actual dates for various events has been deleted and replaced, in response to comments, by a more flexible requirement for a schedule showing the time needed to close the facility and to perform intervening closure activities which will allow tracking of the progress of closure.

Paragraph (b), which requires the owner or operator to amend the closure plan whenever "changes in operating plans or facility design affect the closure plan", has been modified to require plan amendment within 60 days of those changes. This will assure conformance of closure plans to changes in actual design and operation as soon as reasonably possible.

The interim final version of paragraph (c) has been modified in several ways. First, the procedures whereby the Regional Administrator approves closure plans have been expanded to allow greater opportunity for both the owner or operator and the public to participate. This includes opportunity for a public hearing (see the more detailed discussion on procedures in paragraph (f) below).

Second, the grounds for the Regional Administrator's approval, modification or disapproval of plans are now explicitly based upon the substantive criteria for closure contained in Part 265.

Third, the regulations specify more fully when closure plans must be submitted to the Regional Administrator. Generally, as the interim final regulations also required, they must be submitted 180 days before the owner or operator "expects to begin closure." This latter phrase is now interpreted in a comment to the regulation to be "within 30 days after the date on which he expects to receive the final volume of waste." The Agency expects that this regulatory interpretation, together with the dates for completing closure once it has begun (§ 265.113), will help eliminate environmental problems caused by inactive but unclosed sites. In addition, the regulation now specifies that a closure plan must be submitted within 15 days after termination of interim status or an order under section 3008 of RCRA that the facility cease receiving wastes or close. This provision, which covers situations where closure may not be anticipated 180 days in advance, will assure expeditious closure of facilities which are inadequately operated. (See also § 265.143(a)(10), which provides that EPA may direct the trustee to pay money out of the trust fund to pay for closure activities in these situations.)

d. *Closure; time allowed for closure (§ 265.113).*

Section 265.113(a) of the interim final regulations required that owners or operators treat, dispose of on-site, or remove from the site all hazardous wastes within 90 days after receiving the final volume of waste.

Several commenters said that it was often impossible to complete treatment of all wastes within a 90 day period. Others said that unexpected events might make it impossible to remove the waste from the site before the end of the allowed time period. EPA agrees with the commenters. The Regional Administrator is therefore authorized by the final regulations to approve a period longer than 90 days provided that "(1) the required or planned activities will, of necessity, take him longer than 90 days to complete, and (2) he has taken all steps to eliminate any significant threat to human health and the environment." This modified language parallels that of paragraph (b), which allows 180 days for closure but also allows a variance.

EPA had rejected suggestions to delete the 90 and 180 days requirements and require the Regional Administrator to determine appropriate time periods on case-by-case basis. First, these time periods are achievable in the majority of cases. Second, the adopted approach minimizes the need for interaction between the Regional Administrator and the owner or operator. It is most efficient to set uniform time periods which are reasonable and generally achievable and to allow variances on a case-by-case basis when these periods are not achievable.

EPA has made one other change to both paragraphs (a) and (b). EPA anticipates that in some instances, an owner or operator may desire to close a facility for economic or other reasons, and begin closure activities, at which time another person may wish to assume operation of the facility. Rather than require the current owner or operator to close the facility in a manner incompatible with continued operation of the site (e.g., closing a half-filled landfill cell), the regulations allow the Regional Administrator to delay completion of closure if there is a "reasonable likelihood that a person other than the owner or operator will recommence operation of the site." An example of "reasonable likelihood" is the submission by the person of a complete permit application to the Regional Administrator plus an indication by the owner or operator of a willingness to transfer ownership or operation to that person.

e. *Post-closure care and use of property (§ 265.117).*

The final § 265.117 differs from the interim final version primarily in that the procedures formerly in paragraph (d) are now located (and considerably rationalized and expanded) in § 265.118.

The major issue raised by commenters with respect to this Section was the establishment of a uniform 30-year post-closure care period, subject to a variance. Various commenters expressed concern that the period was either too long or too short. This concern presumably arose out of a concern that the variance would not provide sufficient flexibility. The expanded procedures for obtaining variances and the more carefully delineated grounds for granting variances spelled out in § 265.118 should allay such concerns. (See section (f) below.)

The Agency has retained the 30-year period as the initial requirement because it may take as long as 30 years for material leaching from hazardous wastes to migrate to the groundwater. Indeed, proper land disposal practice often includes an initial containment period, so that, if properly operated, the facility does not begin to leach into the groundwater for an extended period. For this reason, it is appropriate to set a 30-year period initially to assure that adequate post-closure financial responsibility is assumed by owners or operators.

Of course, if after 30 years of post-closure care, it is demonstrated that additional groundwater monitoring or other care is necessary to protect human health and the environment, the procedures under § 265.118 allow the period to be extended. Similarly, if at any time during the post-closure period it is demonstrated that further care is not necessary to protect human health and the environment, the period may be shortened.

f. *Post-closure plan; amendment of plan (§ 265.118).*

The variance procedures for post-closure requirements and from the 30-year post-closure period have been substantially revised. The interim final regulations contained the following provisions: allowed variances to the 30-year post-closure period only at certain times to certain people, provided only for written comments to the Agency, did not apply to security requirements in § 265.117(b) or to disturbance of containment systems' integrity in § 265.117(c), did not fully articulate the bases for the Regional Administrator's decisionmaking, and, in one respect, asserted an overbroad basis for requiring post-closure care beyond 30 years. Based on several public comments and a careful reanalysis of the regulations, the Agency made the changes discussed below.

The final regulations afford equal opportunity to both owners or operators and the public to participate in the initial approval of the post-closure plan and any subsequent modification of the plan post-closure security requirements, post-closure disturbance of the containment system, or the post-closure period. They also allow petitions for modification to be submitted not at 5-year intervals only (as provided for in the interim final regulations) but rather at any time that relevant information is submitted. This approach eliminates the arbitrary ban on such requests at most times but prevents repetitious nuisance petitions which are not based on new facts.

The final regulations clarify the procedures for approval and modifications of post-closure plans. Before approving a plan,-the Regional Administrator not only will allow the submission of written comments but also will hold a public hearing if the hearing might clarify one or more issues concerning the plan. (This procedure has also been added to § 265.112(d) for approval of closure plans.) The same procedures apply to the modification of a post-closure plan or post-closure period after the post-closure period has already begun. Furthermore, the regulations now specify that if any person petitions the Regional Administrator to modify the post-closure plan or period and the Regional Administrator denies the petition, he will send the petitioner a brief written response giving a reason for the denial.

One commenter on the interim final regulations (which, as noted above, provided for written comments but not for public hearings) argued that "variances on closures, shortening of a post-closure period or reopening of a closed disposal facility should be preceded by hearings using the 'substantial evidence' test." EPA disagrees with the implication of this comment that an evidentiary hearing should be required in these situations. As EPA has explained at length in connection with the Consolidated Permit regulations (44 FR 34264–65, June 14, 1979 and 45 RF 33409–11, May 19, 1980), neither RCRA nor the Administrative Procedure Act requires formal hearings for permit issuances. The arguments presented there, that the requirements of due process are flexible and that the procedures may be adapted to the nature of the problem being addressed, apply with equal force to the approval and modification of closure and post-closure plans during interim status. The expansion of procedures in final §§ 265.112 and 265.118 (including situations for which the commenter did not request expanded procedures) to provide an opportunity for a public hearing, rather than an evidentiary hearing, satisfies the fundamental requirement of due process and should allay the concern expressed by the commenter for procedural protection.

Final § 265.118(c) and (e) clarify the grounds on which the Regional Administrator will decide to approve, disapprove or modify a post-closure plan or to modify the post-closure period. EPA has accepted the comment that "noncompliance with any applicable standards or requirements" (interim final § 265.117(d)) is not an appropriate basis for extending the post-closure period. An extension should be based only on relevant environmental factors, and the final regulations reflect this philosophy. Of course, if noncompliance with certain requirements creates physical conditions which in turn create the need for extension of the post-closure period, the period may be extended under the final regulations.

g. *Notice to local land authority and notice in deed to property (§§ 265.119 and 265.120).*

These regulations were finalized on May 19, 1980. However, elsewhere in today's **Federal Register**, changes to these Sections are proposed to conform to §§ 264.119 and 264.120, which are being promulgated today as interim final. The Part 264 closure and post-closure care requirements are discussed next.

2. *General (Permitting) Regulations (Part 264).* These regulations contain the same substantive requirements as the Interim Status regulations. However, the procedures differ to reflect the fact that plans will be submitted as part of the permit application (40 CFR 122.25) and approved and modified through the permit procedure (40 CFR Part 124) rather than through the less formal procedures of Part 265, Subpart G.

The reader should refer to Part 124 to determine most of the procedures governing these regulations. The Part 124 procedures apply to the following: approval of closure and post-closure plans in § 264.112(a) modifications of these plans in § 264.112(b), approval of longer periods than 90 days and 180 days for performing two stages of closure activities in § 264.113 (a) and (b); modification of the 30-year post closure period in § 264.117(a); continuation of security requirements during the post-closure period in § 264.117(b); and disturbance of the integrity of the containment system during the post-closure period in § 264.117(c).

Certain modifications of plans or requirements may be routinely required during the life of the facility and are of a minor nature. These include changes in estimates of maximum inventory in § 264.112(a)(2); changes in estimates of expected year of closure or schedule for final closure in § 264.112(a)(4); extensions of the 90-day deadline in § 264.113(a); and extensions of the 180-day deadline in § 264.113(b). The Agency believes that the procedures of Part 124 need not apply to these modifications. Accordingly, they have been designated as "minor modifications" in 40 CFR 122.17, and appropriate comments have been inserted in Part 264, Subpart G to alert the reader of this regulation that these modifications are not covered by Part 124.

Since the closure and post-closure plans will be approved when the permit is issued, the owner or operator of a facility is not required (as in Part 265) to submit his plans to the Regional Administrator for approval prior to closure. However, he must notify the Regional Administrator 180 days before he expects to close. This will afford the Regional Administrator an opportunity to assess the need for a permit modification prior to final closure of the facility.

The recently enacted Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly referred to as "Superfund") contains certain provision which relate to the post-closure care and liability requirements of §§ 264.117 and 264.118 for permitted facilities. Section 107(k)(1) provides that the liability established by Superfund "or any other law" for a permitted facility "shall" be transferred to and assumed by the Post-closure Liability Fund five years after closure provided that the facility meets certain conditions. (The major condition is proper operation of the facility and proper post-closure care in compliance with the facility's permit.) Section 107(k)(3) provides that the Fund "may" be used to pay costs of post-closure care, for facilities which meet the conditions noted above after the period of monitoring required by the RCRA regulations. Neither of these provisions implies that the 30-year post closure period in § 264.117 must be revised. However, in developing regulations under Superfund, EPA will be reviewing § 264.117 to determine whether any modification of the 30-year period or the procedures for a variance of the period should be amended.

Sections 264.119 and 264.120 (Notice to local land authority and Notice in deed to property) are modified somewhat from the Part 265 versions. However, elsewhere in today's **Federal Register**, EPA is proposing changes to §§ 265.119 and 265.120 to conform them to §§ 264.119 and 264.120, which are being promulgated as interim final. Both the Part 264 and the revised Part 265 versions will be finalized together after consideration of any comments submitted.

Reference in § 265.119 to "local land authority" has been clarified in § 264.119 to mean "local zoning authority or the authority with jurisdiction over local land use." In addition, the Part 264 regulations require that after the survey plat and record of wastes are filed, subsequent changes (e.g., as a result of reopening a cell or opening a new cell) must also be submitted.

In § 264.120, two changes from the interim status standards have been made. First, the notice in the deed must state that the survey plat and record of wastes disposed of have been filed with the appropriate local authority. Prospective purchasers of the property may then check the filed records to learn the precise location of wastes buried at the site.

Second, if the wastes and contaminated materials are removed from the site, the notation on the deed may be removed or, if that is not allowed by local authority, a notation may be added indicating removal of the waste. EPA is particularly interested in public comment on this issue. Would prospective purchasers of property want to know that hazardous wastes were once buried on the property even if the wastes were later removed? Would such information affect the market price and, if so, to what extent? If removal of the notation were undesirable, would that imply that even storers and treaters of hazardous wastes should be required to place notices in deeds?

C. Subpart H—Financial Requirements

Section 3004(6) of RCRA requires EPA to establish financial responsibility standards applicable to owners and operators of hazardous waste management facilities as may be necessary or desirable to protect human health and the environment. EPA has concluded that, at a minimum, financial responsibility performance standards are necessary and desirable to assure (1) that funds will be available for proper closure of facilities that treat, store, or dispose of hazardous waste and for post-closure care of hazardous waste disposal sites; and (2) that a pool of funds will be available during the operating life of the facility from which third parties can seek compensation for injuries to people and property resulting from operation of the facilities. In these regulations the Agency is establishing various requirements which are designed to meet those performance standards. Other needs in financial responsibility related to hazardous waste management are addressed by the recently passed "Superfund" law, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510 (December 11, 1980).

The need for assurance of financial responsibility for closure and post-closure care is indicated by the many instances of environmental damage resulting from abandonment of hazardous waste facilities and other failures by owners and operators to provide adequately for closure and post-closure care. (Several such cases are described in the Background Document for the financial requirements.) The likelihood of such a failure is increased by the fact that the economic value of the facility is either at a minimum or nonexistent when closure and post-closure care are expected to commence. For most disposal facilities, post-closure care must extend for 30 years beyond the operating life of the facility. EPA believes that a significant number of owners and operators will lack the ability to provide for adequate closure and post-closure care unless effective requirements for financial assurance are established.

Assurance that a pool of funds will be available from which third parties injured by the operation of a hazardous waste management facility can seek compensation is necessary and desirable, in the Agency's view, because of the potential for injury arising from the operation of those facilities. As discussed in detail in the Background Document, there are numerous instances in which third parties have suffered personal injury and property damage caused by the operation of hazardous waste management facilities. Consequently, the Agency is establishing a requirement that owners and operators must secure a liability insurance policy which covers both personal injuries and property damage resulting from their facilities. Moreover, the inherent risks associated with hazardous waste indicate that such a requirement is desirable.

The Agency has carefully considered numerous alternative financial responsibility mechanisms in developing these requirements. Their development involved a proposal of regulations in December 1978, a reproposal in May 1980, public hearings on the proposals, analyses of the many comments from the public, and a number of investigations of issues raised by commenters and by the Agency itself.

Under the first proposal, issued December 18, 1978 (43 FR 58995, 59006-7), the trust fund was the only means of assuring that funds would be available for closure and post-closure care. The closure trust fund had to be fully funded when established. The post-closure fund, however, was to be funded over the life of the facility or 20 years, whichever was shorter. The owner or operator was to estimate the amounts of the closure and post-closure funds based upon required plans for closure and post-closure care of the facility. The financial assurance provisions were essentially the same for general standards (to be used in issuing permits) in Part 264 and for interim status standards (which apply to existing facilities awaiting final disposition of their permit applications) in Part 265. Only trust funds were allowed because the Agency believed that only by setting money aside in a trust fund could owners and operators adequately assure availability of funds.

The Agency's first proposal also included liability requirements as general standards but not as standards for existing facilities with interim status. EPA based that decision on its belief at the time that insurance would not be available for facilities without permits. The amounts of required liability coverage were $5 million per sudden accident, and, for nonsudden accidents, $5 million per occurrence with a $10 million annual aggregate. In addition to insurance, self-insurance and "other evidence of financial responsibility" were allowed to satisfy the proposed requirement.

Many of the commenters on the original proposal said requiring the closure trust fund to be fully funded when established was so costly it could put them out of business. A number of commenters also said that other financial mechanisms in addition to trust funds should be allowed. Some commenters thought the amount of the required liability insurance coverage greatly exceeded the level of risk associated with their facilities.

EPA reanalyzed these and other issues and developed a new proposal which was published May 19, 1980 (45 FR 33260–78). In this reproposal, the closure trust fund was allowed to build over the operating life of the facility or 20 years, whichever was shorter, because the Agency believed that requiring owners or operators to fully fund the closure trust immediately could cause some smaller firms to go out of business, and this would contribute to an expected capacity shortage in hazardous waste management. Consequently, both the closure and post-closure trust funds, had a pay-in period of up to 20 years. The reproposal also permitted owners and operators to use the following mechanisms other than trust funds to provide assurance of financial responsibility: surety bonds; letters of credit; a financial test; guarantees of the closure and post-closure obligations of an owner or operator by another entity which meets the financial test, a revenue test for municipalities, and State assumption of responsibility for closure and post-closure care or funding of these obligations. Also, if a State required specific financial assurance mechanisms for closure and post-closure care, the owner or operator could use those mechanisms to meet the Federal requirements as long as the State mechanisms were substantially equivalent to mechanisms specified by EPA.

The reproposed requirements for financial assurance for closure and post-closure care thus contained a range of options, all of which had been suggested by commenters on the first proposal. The principal consideration in selecting the mechanisms and determining their specifications was the effectiveness of the mechanism in assuring availability of sufficient funds when needed for closure and post-closure care. The Agency recognized, however, that in certain circumstances it may be necessary or desirable to balance other considerations against ready access to funds. As noted above, the Agency proposed a 20-year pay-in period for closure and post-closure trust funds because it believed that the environmental risk associated with a capacity shortage in hazardous waste management was greater than that associated with those instances in which there are insufficient funds for closure because the owner or operator is either bankrupt or has abandoned the site before the trust fund was paid up. The Agency also considered avoidance of unnecessary costs to the regulated community, the desirability of allowing flexibility in meeting the requirements, administrative burden on the Agency, and availability of the mechanisms.

The reproposal also included a requirement that owners or operators obtain liability insurance during interim status. Coverage for sudden accidents amounting to $1 million per occurrence with a $2 million annual aggregate was proposed. The Agency added this requirement because, contrary to EPA's previous belief that insurance would not be available for facilities without permits, further investigation showed that many of those firms which followed good business management practices already possessed liability insurance covering sudden accidents, and that it was readily available to other firms. The Agency did not propose requiring coverage for nonsudden accidents because its investigation indicated limited availability of such coverage to firms managing hazardous wastes prior to obtaining permits. (Comments were invited, however, on the desirability of requiring coverage for nonsudden accidents during interim status.) The lower level of coverage for sudden accidents (compared with the previous proposal) was based on a review of damage cases, typical levels of coverage, and State insurance requirements for hazardous waste facilities. As with financial assurance for closure and post-closure care, the reproposal allowed owners and operators to use State-required mechanisms and State guarantees to meet EPA liability requirements to the extent that the State mechanisms were substantially equivalent to EPA-specified mechanisms.

The originally proposed general standard for liability coverage was not included in the reproposal but the period of public comment on it was reopened.

At the same time that the reproposal was published (May 19, 1980), EPA issued final regulations, 40 CFR 265.140, 142, and 144 (45 FR 33243–44), which established interim status standards for estimating the costs of closure and post-closure care. (The effective date for these standards was changed from November 19, 1980, to May 19, 1981, by an amendment promulgated October 30, 1980 (45 FR 72040).) The final regulations exempted State and Federal governments from financial requirements imposed on owners and operators of hazardous waste management facilities. These regulations are discussed in the Background Document entitled Financial Requirements and in the Preamble to the May 19, 1980, publication. They are not discussed again here.

The following sections address the major issues and comments associated with the financial responsibility standards promulgated today.

1. *Financial Assurance for Closure and Post-Closure Care (Major Issues).* In the final regulations, as in the reproposal, the owner or operator of each hazardous waste treatment, storage, or disposal facility must establish financial assurance for its closure. The owner or operator of a disposal facility must also provide financial assurance for post-closure care. He may use one or more of the several mechanisms allowed by the regulations to meet those requirements. The amount of funds assured must at least equal the adjusted cost estimates.

For existing facilities, financial assurance must be established by the effective date of the Part 265 financial assurance requirements. For new facilities, assurance must be established as specified in Part 264 at least 60 days before hazardous waste is first received at the facility for treatment, storage, or disposal.

Commenters raised the following general issues:

a. *Compliance proceedings.*

Commenters said that EPA should be able to direct the use of funds from trusts, surety bonds, letters of credit, and guarantees only after a final judicial determination of a violation or after agreement between EPA and the owner or operator, and that EPA should not be able to call in a bond or draw on a letter of credit after a notice of nonrenewal or cancellation unless a court order is obtained. These limitations are needed, commenters said, to protect the owner's or operator's right of appeal and his credit standing and to ensure that EPA does not expend funds improperly.

The procedures to be used for enforcing compliance with regulations under Subtitle C of RCRA, including Subpart H, are prescribed in Section 3008 of RCRA, which authorizes the Administrator to determine when violations of RCRA and the regulations have occurred and to issue compliance orders. Pursuant to Section 3008 an opportunity for a public hearing is provided before a compliance order or suspension or revocation of a permit becomes final.

The final regulations have clarified procedures relating to cancellation of financial assurance devices. Although continuous availability of funds is a basic consideration of EPA in developing requirements for financial assurance for closure and post-closure care, the Agency recognizes the desire of financial institutions and surety companies for means of terminating letters of credit and bonds issued on behalf of owners and operators. Consequently the final regulations include provisions for cancellation under limited circumstances. However, the owner or operator will be deemed to be without financial assurance and in violation of these regulations upon receipt by EPA of a notice of cancellation or nonrenewal, and EPA thereupon will begin compliance proceedings under Section 3008 of RCRA. In the event the owner or operator cannot satisfy a compliance order requiring alternate financial assurance, EPA will require funding of a standby trust (described below) by the surety or issuer of the letter of credit.

In order to assure that funds will be available for closure and post-closure care, and that initiation of compliance proceedings does not immediately precipitate termination of surety bonds and letters of credit, all such instruments must provide that no termination shall occur while compliance proceedings are pending, irrespective of the subject matter of the compliance proceedings.

b. *Standby trust fund.*

The final regulation requires that owners and operators who obtain letters of credit or surety bonds to provide the required financial assurance must also establish a standby trust fund at the same time. Under the terms of the letter of credit or surety bond, any funds drawn under those instruments are to be placed directly into the trust fund by the institution making the payment. The Agency is imposing this requirement because without such a depository mechanism any funds drawn under those instruments which are payable to the Regional Administrator would have to be paid into the U.S. Treasury and could not be used specifically to pay for closure and post-closure care of the facility (see 31 U.S.C. § 484). EPA plans to seek authority from Congress to directly receive and disburse funds derived from financial assurance mechanisms under RCRA. If EPA obtains that authority, owners and operators would no longer be required to establish standby trust funds. In the reproposal of May 19, 1980, the Agency allowed both trust funds and escrows to be used to hold funds drawn on letters of credit and surety bonds (escrows for closure funds, trusts for post-closure funds), and they did not have to be established before the time they were needed. Further analysis indicates that trusts are preferable to escrow accounts (see discussion of escrows in section 8 below) for this purpose and that they must be established when the letter of credit or surety bond is obtained to assure that the necessary depository mechanism is available if needed.

c. *Equity among mechanisms.*

Several commenters said that, from an equity standpoint, EPA should allow all mechanisms, not just trust funds, to be built over 20 years.

EPA is allowing owners or operators to select from a variety of financial mechanisms to meet the requirements of these regulations. It is doing so to minimize their cost. Since an owner or operator is free to choose from among the devices, he may select that alternative which seems most advantageous. Thus there is no inequity created.

d. *Restricting means of financial assurance.*

Several commenters said that EPA should not limit owners and operators to the specified mechanisms but instead should allow them to demonstrate financial assurance by any appropriate means. The Agency has decided not to adopt that approach because the implementation of such an open-ended regulation would impose an intolerable administrative burden on the Agency, especially in light of its limited experience and resources in the area of evaluating financial mechanisms. The Agency expects that a large number of owners or operators might seek to demonstrate financial assurance by alternative mechanisms if they are allowed to do so. The Agency believes that in such an event, mechanisms that do not adequately assure that funds will be available in a timely manner will inadvertently be accepted. This will result in inadequate protection of human health and the environment and, in addition, an inconsistent and possibly inequitable administration of these requirements. Consequently, the Agency concluded that it must require specific mechanisms for financial assurance and has allowed those to be used which adequately provide financial assurance and are feasible. EPA will continue to be receptive to proposed additions to these mechanisms and may add to, subtract from, or alter the currently allowed mechanisms after it examines such suggestions and its experience in implementing these regulations.

Some commenters suggested that requiring standard language for trusts and other instruments is a mistake, since financial institutions have different informational requirements. EPA believes that standard language is necessary for the same reasons that standard mechanisms are needed. The Agency simply does not have the resources or expertise to review every trust or other instrument to determine whether it adequately assures the availability of funds for closure or post-closure care. The Agency believes that the mechanisms allowed by the final regulation will be acceptable to most, if not all, financial institutions. They were developed in consultation with the American Banking Association, the Surety Association of America, other trade associations, financial institutions, and other financial experts.

2. *Trust Funds.* The trust provisions of the final regulation include several changes from the provisions of the reproposal. The most significant change is a redesign of the funding sequence.

As described above, under the first proposal issued December 1978 the Agency required that the closure trust fund be fully funded when established. The Agency selected the fully funded trust to provide financial assurance whether closure takes place as planned or closure becomes necessary prematurely due to economic difficulty or as a result of a government agency's order based on problems associated with the operation or maintenance of the facility. Immediate full funding of the trust fund represents a significant financial burden to the regulated community, however, in that it requires the owner or operator to set aside a large sum of capital at one time. This burden assumes an added significance under current tax laws, which do not allow payments into these trusts to be considered a deductible business expense because no expense occurs in a tax sense until the funds are used for closure.

The environmental impact of this economic burden might be substantial. It could tend to drive companies out of hazardous waste management and discourage new companies from entering the field, thus reducing the national capacity for hazardous waste disposal at a time when we may be short of sites which are acceptable from a health and environmental standpoint.

The Agency responded to this problem in the reproposal of May 19, 1980, by allowing a pay-in period of 20 years or facility life, whichever is shorter, for both closure and post-closure trust funds. Also, as already noted, several alternative mechanisms were allowed which are expected to be substantially less costly to the regulated community.

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In the final regulation for interim status, EPA continues to allow both closure and post-closure trust funds to build over 20 years or facility life, whichever is shorter. Interim status is supposed to be a period of transition for hazardous waste facilities from no Federal hazardous waste regulation to fairly complex Federal hazardous waste regulation. As such, EPA wants the transition to be gradual. The Agency has set the buildup period for trust funds to prevent the dislocations and capacity problems that might occur from a faster buildup of trust funds.

For interim status facilities which become permitted, the owner or operator must fund the balance of the trust funds over the term of the initial permit (a maximum of 10 years under § 122.9 of this Chapter). At the end of this term, the Agency may decide not to renew the permit. Based on that consideration, the Agency decided to establish a pay-in period equal to the term of the permit. The Agency does not want to be in the position of having to consider whether to allow a poorly managed site to remain in operation so that it could continue to build its trust funds to afford closure and post-closure care. The trust should therefore be fully funded at the end of the term of the permit to assure that proper closure and post-closure care can be carried out.

EPA will require that trust funds for new facilities also be built over the life of the permit. New facilities, like existing facilities, present a potential for premature closure during the fund buildup period. Again, an apparent simple solution is full funding up front. The Agency need not be concerned about dislocations induced among new facilities by too stringent a pay-in requirement as it does with existing facilities. A decision for immediate full funding, however, sets up a significant differential in RCRA compliance costs between new and existing facilities whose owners or operators need to use trusts to meet the financial requirements. EPA believes it may be counterproductive to establish an immediate pay-in requirement for new facilities, especially when old facilities can build trusts over time. This would encourage the continued use of existing facilities and discourage the building of new sites conforming to current technical standards.

The 20-year pay-in period, which was in the reproposal and is now allowed only during interim status, was criticized by some commenters. They pointed out that the public might have to bear a significant portion of total closure and post-closure costs over that time due to the failures of firms. With a faster buildup, however, there are also closure and post-closure obligations which would fall to the public from firms which close immediately when faced with the higher costs. The Agency believes that some closure and post-closure costs will be borne by the public regardless of the pay-in period.

In an analysis prompted by the comments on the pay-in period, EPA found that, because of uncertainties in the expected normal business failure rate for firms that will be getting trust funds and the expected rates of closure induced by different pay-in periods, the optimum pay-in period could be anywhere from 5 to 20 years. If the Agency required a buildup rate during interim status faster than 5 percent a year, and subsequent evidence of bankruptcy rates showed that the annual 5 percent buildup was, in fact, justified by the data, it would be too late to prevent induced closures by reducing the pay-in rate. On the other hand, if EPA chose the 5-percent rate and bankruptcy data showed a higher rate to be more appropriate, the Agency could adjust the buildup rate at little cost. Moreover, the Agency estimates that the amount of closure and postclosure expenses to be paid for by the public does not vary greatly from a 5 percent per year pay-in rate to a 20 percent per year rate, but the additional cost to the regulated community is substantial for the higher rate. This analysis, then, is consistent with the Agency's decision to allow slower pay-in period during interim status at this time.

EPA recognizes that full assurance of funds for closure and post-closure care will not be provided through the trust fund in the event of premature closure. EPA is presently studying a variety of private sector and governmental programs, including mutual and pooled fund approaches, which will address this problem. The Agency welcomes comments in this regard. It is likely that EPA will request legislation in this area from the Congress in the near future. In the event a legislative, administrative, or private sector remedy to the problem of premature closure is not forthcoming, it is likely that EPA will review the present trust fund mechanism and require a significantly shorter pay-in period.

Among the other changes from the reproposal was the addition of qualifications for trustees. In the reproposal, a "bank or other financial institution" could serve as the trustee. In the final regulation, trustees must be banks or other financial institutions that have authority to act as trustees and whose trust operations are regulated and examined by Federal or State agencies. EPA made this change because institutions that are examined and regulated by Federal or State agencies must meet certain standards that should increase the reliability and security of trustee institutions.

In the reproposal, the Agency did not establish certain specific requirements regarding the trust agreement (for instance, how monies in the trust fund were to be invested) because it believed that these issues would either be covered by State trust law or were best resolved by agreement between the owner or operator and the trustee.

Some commenters strongly objected to this approach and said that financial institutions would not act as trustees for these trusts if the trust instrument did not contain provisions specifying the responsibilities and rights of the trustees. The Agency developed a standard trust agreement which incorporated the necessary provisions with the assistance of the American Bankers Association and other commenters. One of the clauses which was amended was the investment clause. In developing this clause, the Agency's primary concern was protection of the corpus of the fund. A secondary concern was to allow the trustee to invest the funds to earn a rate of return that will at least keep up with inflation. This concern is especially important for the post-closure period. In the final regulation the trust agreement prohibits investment in the securities of the owner or operator and their affiliates, but otherwise generally allows investments in accordance with a "prudent man" rule. The rule requires the trustee to invest with the judgment and care that persons of prudence would exercise in managing an enterprise of like character and aims. Investment in certificates of deposit or other time or demand deposits with the trustee institution is specifically allowed to the extent they are insured by an agency of the State or Federal government. EPA added this last provision because it believes that financial institutions may be more willing to accept small trust funds if the owner or operator agrees to such an investment.

EPA's concern about the willingness of financial institutions to act as trustees of small trust funds was based on comments by many of the larger banks in the country. Some closure cost estimates will be under $10,000. Many of the larger banks said they would not act as trustees for funds containing only small amounts and quoted acceptable minimums which ranged from $20,000 to $5 million. Small trust funds, in their view, are not worthwhile because their administrative costs and potential legal expenses outweigh potential profits. However, some of the smaller banks said they would accept small trust funds and believe they are comparable to the Individual Retirement Accounts (IRA) and Keogh accounts that are established to provide retirement income. The Agency was informed that more banks would be willing to act as trustees for the smaller trust funds if the funds could be commingled for investment purposes but that such commingling might not be consistent with Federal securities laws. To encourage financial institutions to act as trustees for small trusts, EPA requested the Securities and Exchange Commission to issue a "no action" letter concerning commingling. The Agency received such a letter from SEC dated October 20, 1980.

3. *Surety Bonds.* In the May 19, 1980, proposal, three types of surety bonds were allowed. They guaranteed performance of closure, or payment of a lump sum into a post-closure trust fund at the time of closure, or performance of post-closure care. It was intended that such bonds would be allowed for both interim status and general standards. It has become apparent, however, that performance bonds are not appropriate for interim status. Performance bonds are intended to guarantee performance of a specified duty. During interim status, closure and post-closure plans will not normally be closely examined by the Regional Offices until shortly before closure. The Regional Administrator at such time may find that major changes are called for in the closure or post-closure plans. The actual required performance for the particular facility therefore may not be specified in any detail during most of the term of the bond. Consequently in the final regulations for interim status only surety bonds that guarantee payment into standby trust funds for closure and post-closure care are allowed. In the general standards, performance as well as financial guarantee bonds are allowed since the closure and post-closure plans will be reviewed as part of the permitting process.

Surety companies and other commenters identified two features of the closure and post-closure obligations that will discourage sureties from writing the bonds: the obligations are for terms much longer than surety bonds have traditionally been written for, and the costs are not set—they will shift with inflation and changes in the closure and post-closure plans. The Agency has not found a way to structure the bonds so as to reduce the effects of these basic conditions without jeopardizing the adequacy of financial assurance provided by the bonds.

Under the cancellation provisions in the reproposal, the surety could cancel a bond only if at least 90 days' advance notice is given. If during the first 30 days after the notice the owner or operator failed to establish other financial assurance, the Regional Administrator could order closure of the facility, thus triggering the bond guarantee. The surety could therefore cancel successfully only if the owner or operator could establish other financial assurance.

In the final regulations, the cancellation provisions have been revised: (1) The bond cannot be cancelled while a compliance procedure is pending. (2) Nonconformance with the financial assurance regulations is deemed to commence whenever continuity of financial assurance is threatened due to impending cancellation of the bond by the surety (i.e., upon receipt of a cancellation notice from the surety). (3) The role of Section 3008 procedures in regard to compliance orders, closure orders, and collection of the penal sum after noncompliance has been clarified. In particular, if the owner or operator fails to establish financial assurance in the period allowed by the compliance order, the surety must deposit the amount of the penal sum into the standby trust fund established by the owner or operator. The latter change was made so that financial assurance can be maintained without the need to require closure.

As these bonds represent a new risk experience for the surety companies, availability will be limited at first, with economically stronger companies more likely to receive coverage. As surety experience with these facilities and bonds increases, availability may increase as well.

4. *Letters of Credit.* A letter of credit is an agreement by the institution issuing the letter that it will make available to the beneficiary a specific sum of money during a specific time period on behalf of its customer. The beneficiary can draw on the credit by presenting to the issuing institution the documents specified in the letter. In the final regulation, an owner or operator may satisfy the financial assurance requirement by obtaining the issuance of a letter of credit, addressed to the Regional Administrator, in the amount which equals or exceeds the closure or post-closure cost estimate. The term of the letter of credit must be at least 1 year, and it must contain a clause which provides for automatic extensions. The issuing institution may terminate the letter only by sending a notice of nonrenewal to the Regional Administrator and to the owner or operator at least 90 days prior to the automatic renewal date. Like the surety bond, the letter of credit can be drawn on if the Regional Administrator determines that the owner or operator has failed to meet closure or post-closure requirements or following a notice of nonrenewal and a Section 3008 determination that the owner or operator is in violation of the financial requirements. By the terms of the instrument, the letter cannot be cancelled while a compliance procedure against the owner or operator is pending.

The issues raised regarding letters of credit were, for the most part, the same as those for surety bonds. Some commenters suggested that the term is too long, that the owner's or operator's obligations are subject to increases thus requiring frequent changes in the letter of credit, and that such letters of credit are rarely if ever written. As with the bonds, it appears that only large, highly creditworthy firms may be able to obtain these instruments on an unsecured basis.

In the reproposal, letters of credit could be used to assure funds for closure, assure payment of a lump sum into a post-closure trust fund at the time of closure, or assure availability of funds during the post-closure period. The reproposal contained a separate set of requirements for each of these uses. In the final regulation the letter of credit may be used for the same purposes, but one set of requirements covers both instances in which letters of credit are used to assure funds for post-closure care.

Numerous commenters said that the letter of credit form in the reproposal should be simplified. They suggested that detailed references to the regulations be eliminated because they were concerned that the references might be interpreted to impose a responsibility on the issuing institution to assure that the owner or operator complies with the regulations. Many bankers also suggested that EPA delete from the letter all references to the escrow account into which funds drawn under the instrument would be deposited. With the aid of the American Bankers Association, other institutions, and a legal expert on letters of credit, the Agency developed a less complex letter of credit and eliminated from it most references to the regulations.

While the letter contains a reference to the standby trust into which funds paid under the letter will be deposited (rather than the escrow account specified in the reproposal), this was done to ensure a direct transfer into the owner's or operator's trust fund and to avoid problems associated with the requirements of 31 U.S.C. 484.

Under the reproposal, only letters of credit issued by Federal Reserve System (FRS) banks would be accepted by the Agency. EPA proposed this restriction because it believed that FRS banks had greater stability and reliability and that only member banks could issue letters of credit for periods longer than 1 year. The Agency learned, however, that nonmember banks can issue letters of credit for more than 1 year. Moreover, there appears to be no significant difference in stability and reliability between FRS banks and other financial institutions which are examined and regulated. Consequently, in the final regulation, letters of credit from any financial instititution which has authority to write letters of credit and whose letter-of-credit operations are regulated and examined by Federal or State authorities are acceptable.

5. *Revenue Test for Municipalities.* In the reproposal, municipalities, as defined in RCRA, could demonstrate financial assurance by passing a revenue test. A municipality passed the test by having annual general tax revenues which were 10 times the cost estimates to be covered. The test was intended to identify those local governments which have a tax base sufficient to readily support the costs of closure and post-closure care.

The proposed revenue test was the subject of numerous comments. While some commenters thought it was a reasonable approach, others felt that municipalities should be required to provide the same forms of assurance that other entities must provide. They cited the delays in funding of closure that could occur if cities failed to plan adequately for meeting closure costs.

Several commenters thought that a test which requires a local government to have only 10 times the cost estimates was inadequate. They contended that many cities would find it extremely difficult to reallocate in any year 10 percent of their budget to cover closure and post-closure costs. One commenter suggested that the multiple be increased to 20.

Several commenters objected to the test because it limited revenues to be counted to the property, income, and sales taxes. They suggested that fees, contract payments, and any other income should be included. Other commenters suggested alternatives to the test be allowed, including municipal bond ratings, bond pledges, annual audits, and requirements for enterprise accounting.

Because of the complexity of the issues regarding the revenue test, the Agency could not analyze them adequately in time for this promulgation. The Agency expects to announce its decision on whether it will promulgate the revenue test within the next few months. At the same time the Agency will also announce its decisions regarding the financial test and self-insurance, which are described below. The Agency decided to proceed with today's promulgation of financial responsibility standards despite the fact that these key decisions are yet to be made because of the need to begin assuring financial responsibility for hazardous waste management and also the need to meet the court-ordered schedule for issuing RCRA regulations. In planning how they will meet the financial responsibility requirements promulgated today, owners and operators should not consider the revenue test, financial test, or self-insurance as available or imminently available options at this time.

6. *Financial Test and Guarantee.* The proposed financial test allowed firms to meet the financial assurance requirement by demonstrating they had more than $10 million in net worth in the U.S., a ratio of total liabilities to net worth not greater than 3 to 1, and net working capital in the U.S. of at least two times the value of all their closure and post-closure cost estimates. An entity meeting the financial test could also guarantee closure and post-closure obligations of another entity. The Agency received many comments on this issue. They included suggestions that the test was too stringent, that it was too lenient, and that the criteria were either inappropriate or arbitrary. They suggested different values for the criteria and numerous alternative criteria such as bond ratings, a cash flow test, positive net income, the ratio of quick assets to current liabilities, and fixed assets in the U.S. (rather than net worth or working capital in the U.S.). Many commenters also raised questions about the proposed requirements for establishing that the test criteria were met. As with the revenue test, the Agency could not complete its study of the issues in time for this promulgation. As noted above, the Agency's decisions regarding the financial test and the guarantee based on the financial test will be announced at the same time as the decision on the revenue test.

7. *Variations in Use of Mechanisms.* The reproposal allowed owners and operators to use more than one type of mechanism to provide financial assurance for a facility, to use one mechanism to cover multiple facilities, and to use one mechanism to cover both closure and post-closure care. A number of commenters expressed approval of these provisions because of possible savings in costs to the regulated community. The final regulations allow these variations with some qualifications and clarifications.

An owner or operator using multiple instruments may include a surety bond guaranteeing payment but not a surety bond guaranteeing performance of closure or post-closure care. The latter type of bond is excluded because of the potential complexity of combining the performance option in the bond with funds from other instruments in case of default.

The final regulation states that if an owner or operator uses a trust fund and a letter of credit or surety bond, he may use the trust fund in place of the standby trusts required for letters of credit and surety bonds. If an owner or operator uses only letters of credit of surety bonds, only one standby trust fund is required for all instruments. Requiring a separate standby trust for each instrument means added costs for the owner or operator and added administrative burden for the Agency.

A letter of credit may not be used to cover the facilities in more than one Region because increases and decreases in the coverage of the credit, even if they concern only one of the facilities covered, would in some cases depend on the consent by all the Regional Administrators who are addressees of the letter. Such procedures are likely to delay the change in the credit amount and could add to the administrative burden of the Regional staff. The restriction to one Region does not apply to the other instruments, since only the approval by the Regional Administrator for the Region in which the affected facility is located need be obtained in order to decrease the coverage, and increases may be made without prior approval or return of existing instruments.

Combining financial assurance for closure and post-closure care in one instrument is allowed for the letter of credit and the trust fund but not for surety bonds. Unlike the other instruments, the surety bonds must, in order to specify the conditions of the guarantees, differentiate between what is to be done to assure closure and post-closure care. The Agency believes that combining the closure and post-closure language in one bond form would add to its complexity and risk confusion.

8. *Other Mechanisms.* EPA believed that escrow agreements might be useful and therefore actively solicited information about them. Most of the commenters said there is little difference between trust funds and escrows and therefore there is little point in offering both. Trust funds appear to be preferable because the law of trusts places obligations upon trustees to protect the interests of the beneficiary (i.e., EPA in this case). An escrow agent is responsible only for what is specified in the escrow agreement. The Agency believes it would be extremely difficult to draft an escrow agreement that adequately specifies all the actions that the Agency would want the escrow agent to take in all situations to assure that the instrument serves its intended purpose. Some commenters said that if the escrow agreement is carefully worded escrowed funds could be safer from creditors' claims than trust funds, but other commenters and the Agency's analysis indicated that trust assets are better protected. Under trust law, legal title to property in a trust is transferred from the grantor to the trustee. With an escrow agreement legal title is not transferred to the escrow agent; since the grantor retains legal title while property is in escrow, such property is more likely to be subject to creditor's claims than property in a trust. Some commenters said fees for escrow accounts tend to be lower than for trusts, but other commenters said that, if an escrow agreement were written to be comparable to the trust agreement, the fees would also be comparable. Based on the information obtained, EPA believes trust funds are preferable to escrows and has decided not to add the escrow agreement as an option.

Commenters' suggestions for other financial assurance mechanisms included allowing owners and operators to deposit funds, certificates of deposit, or other property with EPA. EPA currently lacks authority, however, to directly receive and spend funds for closure and post-closure care.

9. *Liability Requirements.* The final interim status and general standard liability regulations require owners or operators of hazardous waste treatment, storage, and disposal facilities to demonstrate financial responsibility for claims arising from sudden accidents. In addition, owners or operators of surface impoundments, landfills, and land treatment facilities will be required, over a 3-year phase-in period, to demonstrate financial responsibility for claims arising from nonsudden or gradual occurrences.

Several important changes are incorporated into the final liability requirements as a result of comments received and further analysis by the Agency. First, EPA is modifying its approach to nonsudden liability coverage by extending the requirement for nonsudden coverage to interim status facilities, limiting the initial applicability of this requirement to impoundments, landfills, and land treatment facilities only, and phasing in the nonsudden requirement over 3 years. Second, EPA is reducing the amount of liability insurance required to $1 million per occurrence with a $2 million annual aggregate for sudden events and to $3 million per occurrence with a $6 million annual aggregate for nonsudden liability coverage. Third, EPA is adding a variance procedure to the final requirements to allow owners or operators who can demonstrate that the levels of required coverage are not consistent with the degree and duration of risks at their facilities to seek an adjusted level of required coverage. Finally, EPA is including provisions to allow the Regional Administrator to increase the level of required coverage if the degree and duration of risks at a facility or group of facilities warrants a higher level of coverage and to extend the nonsudden requirement to treatment and storage facilities that pose risks of nonsudden damage.

Many of these changes reflect EPA's commitment to rely to the extent possible on the insurance industry to provide liability coverage for hazardous waste management facilities. EPA believes that liability insurance is the most appropriate mechanism for assuring the public that there will be a pool of funds available from which third parties can seek compensation for claims arising from the operations of hazardous waste management facilities. On the other hand, EPA recognizes that liability coverage for these facilities, particularly for nonsudden occurrences, poses special problems to the insurance industry because of the lack of experience with a regulated waste management industry and the potential hazards associated with managing hazardous wastes. These problems may jeopardize the wide availability of liability insurance to the regulated community.

By phasing in the nonsudden requirement over 3 years, starting initially with larger firms which the Agency believes can more readily obtain nonsudden coverage, and by requiring a minimum level of coverage that EPA believes will protect human health and the environment and allow smaller insurers to provide the required coverage, EPA is seeking to encourage a broad market for nonsudden liability coverage. EPA intends to monitor the implementation of the nonsudden insurance requirement during the phase-in period, and will consider steps to increase the availability of nonsudden coverage or alternatives to an insurance requirement if it appears that the insurance industry is unable to provide the required coverage.

The changes in these final regulations also reflect EPA's wish to extend protection to the public during the interim status period. EPA had not previously included a nonsudden liability requirement in the interim status standards since it believed that liability insurance for nonsudden events during interim status would not be available. Recent discussions with the insurance industry indicate that nonsudden coverage will be offered to interim status facilities, but it will take several years for the industry to respond fully to the demand for this coverage. The insurance industry has indicated that several of the larger waste management firms already have nonsudden coverage, and that larger firms will, in general, be able to obtain this coverage more readily than smaller firms.

EPA believes that the benefits of requiring nonsudden coverage during interim status are substantial. Many commenters pointed out that interim status facilities pose risks of nonsudden accident that are the same or even greater than that posed by permitted facilities. Other commenters argued that the insurance industry, through its routine inspection and monitoring practices, would provide valuable oversight of hazardous waste management facilities during the interim status period, when EPA itself will be devoting the bulk of its resources to issuing facility permits. EPA agrees with these comments.

In preparing these final liability requirements, EPA has reconsidered both the amount and type of coverage required for hazardous waste management facilities in its effort to tailor regulations consistent with the degree and duration of risks associated with the ownership and operation of these facilities. Many commenters objected to EPA's initial proposal of $5 million liability coverage per occurrence, arguing that this amount was too high and did not reflect the risks posed by their operations. Other

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commenters stated that their storage or treatment operations posed no risk of nonsudden accident.

EPA's analysis of damage cases involving waste management facilities confirms that $5 million coverage may be too high in many instances, and that surface impoundments, landfills, and land treatment facilities pose the greatest threat of nonsudden accident. These final regulations require $1 million per occurrence coverage for sudden events and $3 million per occurrence coverage for nonsudden events, and limit the nonsudden requirement to surface impoundments, landfills, and land treatment facilities (e.g., the same facilities for which ground-water monitoring is required). The Agency believes that the degree and duration of risks associated with waste management facilities, with very few exceptions, necessitates at least the amount of liability coverage required by these regulations. Hence, while EPA has included a variance in both the interim status and general standards for owners or operators who demonstrate that the level and type of required coverage are inconsistent with the degree and duration or risks associated with their facilities, EPA expects that very few facilities will be eligible for such a variance. The burden of proving that such a variance is warranted will be on the owner or operator requesting it. To some extent, variations in degree and duration of risk will be reflected in the premiums charged by insurance companies.

The Agency recognizes that many facilities may pose risks that warrant higher levels of liability coverage than the minimum level required. Also, some treatment and storage facilities may pose nonsudden risks. The final regulations therefore allow the Regional Administrator to make upward adjustments of the level of required coverage and to extend the nonsudden requirement to a treatment or storge facility. In making these adjustments, the Regional Administrator will take into consideration factors such as the type of wastes being handled at the facility, the nature of the treatment, storage, or disposal operation, the proximity of the facility to population centers, the quantity and use of ground water underlying the facility, and the number of facilities covered by one insurance policy. Furthermore, EPA intends to evaluate the level of coverage as experience with a regulated waste management industry accumulates. The Agency believes the $1 million/$2 million level for sudden accidents and $3 million/$6 million for nonsudden accidents are proper starting points but may consider revising the required levels if experience or inflation seem to warrant such revisions.

Several other changes are also incorporated into the final liability requirements. EPA had previously proposed limiting the allowable deductible in an owner's or operator's insurance policy. The final regulations set no limit on the deductible but instead require an agreement by the insurer, through an EPA-approved policy endorsement, that the insurer will pay honored claims within the limits of the policy. This allows the insurer and the insured to negotiate a deductible under which the insured will reimburse the insurer for claims paid but assures the public that "first-dollar" coverage will be available regardless of the financial condition of the insured.

EPA had also previously proposed self-insurance requirements for permitted facilities which limited self-insurance to 10 percent of equity; no self-insurance provisions were included in the proposed interim status liability requirements. EPA reevaluated these proposals and is now considering self-insurance provisions for inclusion in both the interim status and general standards. EPA expects to decide whether to add self-insurance provisions to the liability requirements within several months. If self-insurance provisions are adopted, EPA intends to adjust their effective date to make it conform to the effective date of the liability reqirements published today.

Finally, the Agency requests comments on several potential issues in the liability requirements. These issues concern the limits of coverage of liability policies as defined by the exclusions in the policies. EPA has reviewed several insurance policies which could be used to satisfy the requirements of these regulations and finds that the policies typically exclude certain events or damages from coverage. These exclusions may include liability respecting genetic damage and liability arising from noncompliance (either knowing or unknowing) with applicable laws, rules, or regulations. The Agency is concerned that these exclusions may significantly limit the scope of coverage of the policies, and requests comments on whether EPA should allow such exclusions in policies obtained to satisfy the requirements of these regulations.

10. *Incapacity of Issuing Institutions.* A section was added to the final regulations (§§ 264.148 and 265.148) to make clear what must be done by the owner or operator when the institution issuing a bond, letter of credit, or insurance policy goes bankrupt or is otherwise incapacitated. The owner or operator is required to obtain other financial assurance or liability coverage within 60 days.

11. *Applicability of State Financial Requirements.* The Agency recognizes that differences between State and Federal financial responsibility requirements might result in duplication and unnecessary costs to owners and operators. In those States that receive authorization to operate a hazardous waste regulatory program in lieu of the Federal program, there will be no duplication since only the State's requirements would apply. However, in those States which have not obtained Federal authorization, the owners and operators would be subject to Federal hazardous waste regulations and also to any State hazardous waste regulations that are in effect. To avoid unnecessary duplication and costs, the Agency included a section in the reproposed regulations (§ 265.149) that allows owners or operators to use State mechanisms to meet the Federal financial requirements if such mechanisms provide assurances that are substantially equivalent to those of mechanisms specified in the Federal requirements.

The Agency has retained this provision in the final regulations with several changes. Where the owner or operator was allowed to use "State-authorized" mechanisms, the term has been changed to "State-required." This means that the owner or operator may use a State mechanism if that is required by the State; if he has the option to meet the State requirements by using mechanisms specified in these regulations, he must use that option. This change will reduce the burden upon EPA to evaluate various mechanisms allowed by States to determine their equivalence to Federal mechanisms. Another change was the addition of a requirement that evidence of the establishment of a State-required mechanism be sent to the Regional Administrator so that the Agency could review the adequacy of these mechanisms. Inclusion of a reporting requirement was overlooked in the reproposal. A third change was substitution of "equivalent to or greater than" for "substantially equivalent" in referring to the financial assurance that the State mechanisms must provide. The Agency intends that they should not be less effective than the EPA-specified mechanisms and has decided that the revised wording better conveys this intent.

12. *State Assumption of Reponsibility.* In the May 19, 1980, proposal, if a State assumed legal responsibility for an owner's or operator's compliance with the closure or post-closure requirements or liability requirements or assured that funds would be available to cover such requirements, the owner or operator would be in compliance with the requirements if the State's assurances were substantially equivalent to meeting the requirements. The owner or operator had to send a letter to the Regional Administrator describing such guarantees and citing the State regulations providing for the guarantees. These provisions were part of the section covering applicability of State financial requirements. Since the State guarantee is potentially an important mechanism, and does not belong under the heading for State financial requirements, the State guarantee provisions have been put into a separate section (§§ 264.150 and 265.150). In the final regulations, the notification to EPA that the facility is coverd by a State guarantee must be signed by the State agency rather than the owner or operator, to save the need for verification by EPA. "Substantially equivalent" has been changed to "equivalent to or exceed" to make it clear that the degree of assurance should be no less than that provided by the other mechanisms allowed by these regulations.

D. Subpart I—Containers

The container management regulations promulgated on May 19, 1980 included only interim status rules. The general requirements promulgated today include the same requirements as the interim status regulations. The rationale for their inclusion is as discussed in the May 19, 1980 Preamble and in the Background Document published in support of the May 19 regulations. Some minor changes have been made in the course of making the interim status standards part of the general requirements. In some cases, the Agency plans to make the same changes to the interim status requirements.

In addition to counterparts to the interim status standards, the general regulations include containment requirements and a closure provision. These are discussed in the following paragraphs in the same sequence they appear in the regulations.

1. *Applicability* (§ 264.170). On November 25, 1980 the Agency amended the Part 261 requirements (45 FR 78524–78529) to clarify when and to what extent empty containers are hazardous wastes. This was done largely by incorporating what had been widely scattered provisions into a new § 261.7. Basically, this amendment says that the residues left in a container, when it has been emptied in accordance with specified procedures, are not considered to be hazardous wastes. Thus, these residues and the containers (drums, etc.) which hold them are not subject to these Part 264 requirements.

The interim status requirements published May 19, 1980 contained a comment referring to the provisions of Part 261. It was located at the end of § 265.173 on the management of containers. The Part 264 counterpart of that requirement has been modified to reference the new § 261.7 and it has been located in § 264.170, the applicability section. Since it discusses a limit on which containers the Subpart I regulations are effective, it belongs more appropriately in the applicability section. The Agency plans to make similar changes to the interim status comment currently in § 265.173.

2. *Condition of Containers* (§ 264.171). This regulation requires that hazardous wastes be taken out of leaking or corroding containers and that they be recontainerized or otherwise appropriately handled. This is designed to avoid releases to the environment.

EPA believes that a design standard for containers would be a useful addition to or replacement for this performance standard. The present regulation is general which may lead to inconsistent interpretations of the term "good condition". A design standard should be easier to interpret.

The Agency believes also that the requirements for design of containers specified in the Department of Transportation regulations for transportation of hazardous materials may be appropriate for purposes of waste storage as well (See 49 CFR 171 through 179). Some of these DOT requirements are already incorporated in the hazardous waste packaging requirements (§ 262.30) for generators who will ship wastes offsite. Before applying the DOT requirements for containers to permitted storage facilities, however, EPA wishes to examine more closely the appropriateness of the various DOT requirements for containers which will not be transported.

EPA invites comments on the suitability of the current standard, on the concept of replacing it with appropriate DOT requirements, on the applicability of the various DOT requirements, and on any other suggestions for improving this requirement.

3. *Containment* (§ 264.175). As discussed in the "General Issues" of this Preamble (Section III B), the regulations for storage facilities, of which container storage areas are one type, require a primary containment device, an inspection program where practical to detect leaks and deterioration, and where primary containment devices are easily damaged or difficult to inspect, a secondary containment system. In container storage, the container itself provides primary containment, i.e., it holds the waste, preventing escape. In this regard it serves the same purpose as a tank, the liner to a surface impoundment, and the concrete pad or other device underlying a pile. Secondly, it is practical to inspect container storage areas to detect leaks, excessive corrosion, or damage to containers so that wastes can be recontainerized before the damaged container fails, or, failing that, the escaped wastes can be cleaned up before they disperse widely into the environment.

In comparison to a tank, however, it is relatively easy to damage drums and most other kinds of containers. Containers are relatively thin-walled, can be punctured by fork lift trucks, and are prone to break open when dropped or knocked over. They tend to corrode or otherwise deteriorate relatively rapidly both from the inside as a result of reaction with the waste, and from the outside as a result of exposure to the environment. The Agency believes therefore, that it is prudent to require a secondary containment system under container storage areas. The containment system will catch leaks, spills, container failures, and precipitation which becomes contaminated, and hold it while its hazardousness can be determined.

Specifically, the containment system must have a base underlying the containers which is sufficiently impervious and continuous to hold spilled or leaked wastes or accumulated rainfall until it can be removed. Typically, the Agency believes this base will be constructed of concrete or asphalt but latitude has been incoporated to allow for other materials of construction. The important consideration is that the containment system in its entirety be capable of collecting and holding escaped wastes and contaminated precipitation.

EPA believes it unwise to allow drums or other containers to stand in accumulated rainfall, or leaked or spilled wastes. This leads to accelerated deterioration of the containers and interferes with inspections. The containment regulations therefore require that the base be sloped or otherwise designed to drain to a collection system so that one hour after a leak or storm, no standing liquid (puddles) will remain on the base in contact with the container. Typical construction consists of gentle sloping, often with grooves, to facilitate drainage to gutters or trenches which serve either to hold the liquids or conduct them to a sump or tank where they are held until they can be tested to determine if they are a hazardous waste. The Agency realizes, however, that it is common practice, especially in small storage areas, to place containers on pallets so that the containers do not sit directly on the base. In this case, since the containers do not sit in the accumulated liquid, a drainage and external collection system is not necessary. This alternative is allowed provided of course that the liquids collected on the base would not rise to contact the containers. This constitutes a simpler type collection system in which liquids accumulate directly on the base, normally contained by a concrete curb. Of course, some provision must be made for removing the collected liquids from time to time.

Whether the collection system is external to the base or part of it, it must have sufficient capacity equal to ten percent of the capacity of the maximum number of containers holding liquids which may be stored at the facility at any one time. In the case of a few large containers, the capacity must equal the largest container. The Agency does not believe it necessary to provide containment capacity for all or even nearly all of the many containers which may be present. Short of a major disaster, it is unlikely that more than a few would be damaged at once or simultaneously begin to leak. This does not of course hold true where only a few or perhaps only one container is present. Since the rupture of only one container could be more than the required 10% of capacity, the containment device must be designed to hold the contents of the largest container. The Agency will be monitoring the adequacy of the 10% rule and, if it should prove to be insufficiently protective, will propose modifications as may be warranted by experience.

The regulations also require that precipitation drainage (run-on) into the containment system be prevented, unless the collection system has the excess capacity to handle it. The purpose of this requirement is to minimize overload of the secondary containment system and containment overflow. In addition, any spilled or leaked waste and accumulated precipitation is required to be removed from the collection area as quickly as is necessary to prevent overflow. Overflow of the containment system is simply not permissible unless it has been determined that the overflow is not a hazardous waste. Whether run-on may enter the containment area depends on the capacity of the collection system, the frequency at which the waste can be removed, the magnitude of rainfall events, and the geography of the drainage area. Where an owner or operator desires to allow run-on, a judgement will be made during permit application review concerning the capability of the collection system to handle it.

The proposed requirements of December 18, 1978 stipulated that each storage area have an impervious and continuous base (§ 250.44(e)), and that container storage areas be equipped with a spill confinement structure (§ 250.44–2(c)). The proposed standards also stated that the Regional Administrator could require ground-water monitoring if he determined there was a potential for discharge (§ 250.44(d)).

In response to comments, the Agency has deleted the proposed ground-water monitoring requirement from the General Standards. The Agency believes that the performance standard of § 264.171, the inspection standard of § 264.174, and the containment system of § 264.175, which requires that base and collection system be sufficiently impervious to contain the waste, will prevent leakage to the groundwater making a ground-water monitoring program superfluous.

Commenters suggested an exemption from the containment requirement for existing facilities claiming that it is unpractical to construct containment structures under existing containers. The Agency believes that since containers are portable and can be moved while a base is constructed, the requirement does not place an unreasonable technical or economic burden on existing facilities. Therefore, no exemptions for existing facilities have been provided.

Several commenters argued that containment was unnecessary since containers are constructed of sturdy "impermeable" material. The Agency believes that spills and leaks due to corrosion or damage in handling will occur at most container storage areas. The Agency knows of many instances where leaking and damaged containers have been stored with apparent disregard for the impact of such practices. Compliance with Subpart I should mitigate these practices. Without secondary containment, such leaks and spills runoff to surface waters or trickle through permeable soil to ground-water.

4. *Compatibility* (§§ 264.172 and 264.177). A new paragraph (c) has been to the § 264.17 basic compatibility requirements which is in addition to the comparable interim status requirements of Part 265. It requires that owners and operators have documentation that they are complying with the compatibility requirements of § 264.17 (a) and (b). It also indicates that trial tests, waste analyses, literature reviews and similar activities my be necessary to develop this documentation.

A comment has been added to § 264.177 alerting the reader to the documentation requirement of § 264.17(c). A similar comment will be added to § 265.177 when a new companion section is issued (§ 265.17(c)) for interim status.

Both §§ 264.172 and 264.177 deal with incompatibility—both the incompatibility of a waste with a container which can cause accelerated corrosion and premature failure and the incompatibility of wastes with each other which can cause dangerous emissions, violent reactions, fires, explosions, and other undesirable and uncontrolled reactions. A number of commenters asked for clarification, pointing out that all materials corrode or undergo only mild reactions at reduced concentrations, and so on. These commenters wanted to know the limits—how rapid must corrosion be before it is too rapid, how violent a reaction is too violent.

The Agency has not been able to place numerical limits on incompatibility; there are too many variables. Thus, some judgment is involved. In considering the incompatibility of wastes with containers, it is the Agency's intent that the waste not react with the materials of construction of the container at a rate which would cause the container to fail before the waste is scheduled for removal. This is not only a variable situation but is difficult to predict. The Agency believes, however, that with common sense and a little elementary chemistry, most people can avoid serious incompatibility problems which would lead to rapid failure. It is these noticeable and dangerously accelerated reactions that the Agency is addressing in § 264.172.

With regard to two or more incompatible wastes, the situation is also not clear cut. As concentrations diminish, for example, the reaction rates decrease until it is questionable whether a hazard is posed. By reference to § 264.17(b), § 264.177 refers to the generic requirement for ignitable, reactive, and incompatible wastes. By using the terms "extreme," "violent," and "uncontrolled," § 264.17(b) indicates unusual or severe reactions. By use of the term "threaten human health," § 264.177(b) indicates that the reaction must, to some real extent, pose a hazard. In the gray areas, the exercise of judgment is unavoidable.

The Agency is developing guidance which will provide assistance to the permitting officials and the regulated community in assessing waste compatibility.

5. *Closure*. No specific closure standard under Subpart I (Part 265) was promulgated on May 19, 1980. The general closure standard (Part 265, Subpart G) is applicable, however. It requires that wastes be removed from storage facilities at closure and that structures and equipment be disposed of or decontaminated (§ 265.114). However, for purposes of clarification and to be consistent with the closure requirements of tanks (Subpart J), for which specific closure requirements were promulgated on May 19, closure standard specific to container facilities has been added to Part 264. The Agency plans to add the same specific requirements to Part 265 as well.

The rules promulgated today require that all hazardous wastes and hazardous waste residues be removed from the containment system. If any liners, bases or any other areas of the containment system cannot be decontaminated, they must be removed. In addition, any contaminated soil surrounding or in the vicinity of the containment system must also be removed or decontaminated.

E. Subpart J—Tanks

In December 1978, EPA proposed rules for storage of hazardous waste in tanks. In May 1980, EPA promulgated interim status regulations for treatement and storage of hazardous waste in tanks (Part 265, Subpart J). Today, EPA is promulgating general (permit) standards for tanks (Part 264, Subpart J). The interim status requirements for tanks will be finalized later. The Agency is currently working to develop general standards for chemical, physical and biological (C/P/B) treatment. Several of the Part 264 C/P/B treatment requirements may be applicable to treatment in tanks.

The following preamble discussion explains the Part 264 requirements for tanks in the order that they appear in Subpart J. All of Subpart J is being promulgated as an interim final rule and comments are requested. In addition, throughout this section of the preamble comments are requested on major issues and proposals. For example, the Agency is requesting comments on a ban on underground tanks, options for secondary containment, options for requiring cathodic protection, and a proposal for banning the use of tanks located in the ground water. The Agency requests that comments include adequate information, data, and explanations to support positions taken.

1. *Applicability* (§ 264.190). The general standards for tanks being promulgated today (Part 264, Subpart J) do not apply to facilities that treat or store hazardous waste in covered underground tanks that cannot be entered for inspection. The requirements do apply to partially or fully below-ground tanks which can be entered for inspection from the surface. EPA is considering a complete ban on treating or storing hazardous waste in underground tanks which cannot be entered for inspection. The Agency knows of several damage cases where leaks in underground tanks have remained undetected for years. In another damage case, the rupture of an underground tank resulted in the release of over 100,000 gallons of sodium cyanide to the surrounding area contaminating nearby surface and ground water. The Agency knows of no sure method for preventing such disasters in underground tanks that cannot be entered for inspection. The Agency solicits comment on the option of banning the use of such tanks for storage or treatment of hazardous waste. EPA requests that commenters opposed to such a ban provide evidence that adequate methods exist for protecting underground tanks from corrosion or erosion, inspecting underground tanks, and detecting and containing leaks from underground tanks. EPA also solicits information on the current use of underground tanks to treat and store hazardous waste and the means used to ensure ground-water protection. Until the Agency promulgates a final rule pertaining to underground tanks, hazardous waste facilities with existing underground tanks may continue to operate under interim status, but existing and new covered underground tanks cannot receive RCRA permits.

2. *Design of tanks* (§ 264.191). The Agency has adopted a three part strategy for regulating hazardous waste storage: (1) proper design and operation for primary containment, (2) inspections to assure the integrity of primary containment, and (3) secondary containment. The following discussion relates to the § 264.191 design requirements for tanks. Operating requirements, inspections, and secondary containment will be addressed later in this preamble.

The RCRA standards for storage in tanks proposed in December 1978 included a requirement that tanks be of sturdy and leak-proof construction in accordance with the Occupational Safety and Health Administration regulations for storage of flammable and combustible liquids (29 CFR § 1910.106). Commenters stated that OSHA's requirements applied only to storage of flammable and combustible liquids and hence EPA's application of the requirements to other hazardous materials was inappropriate. In addition, EPA's current definition of tanks includes concrete and fiberglass tanks whereas the OSHA requirements are oriented toward steel tanks. EPA agrees with the comment that a requirement for "leak-proof" construction is vague and unrealistic given the effects of long term corrosion and erosion. Therefore, the requirement has been substantially revised.

The current standard states that tanks must have sufficient shell strength and, for closed tanks, pressure controls (e.g., vents) to assure that they do not collapse or rupture. The Regional Administrator will establish a minimum tank shell thickness in the permit which must be maintained by the owner or operator. In establishing this requirement, the Regional Administrator will consider available information, which in most cases will include published industrial design standards. The Regional Administrator will also use design standards in evaluating the overall design of the tank. The Regional Administrator will evaluate such items as the foundation and structural support of the tank, pressure controls (e.g., vents), and tightness of seams. The owner or operator will submit information as to the design used (or to be used) in constructing the tank as part of the permit application. He may do so by reference to a published design standard. Design standards for steel tanks have been published by the American Petroleum Institute, Underwriters Laboratories, and American Society of Mechanical Engineers. Design specifications for concrete tanks have been published by the American Concrete Institute. When a design standard is not available, the Regional Administrator will rely on any other available engineering information in establishing a minimum thickness for the tank shell and in evaluating the design of the tank. In making such determinations, the Regional Administrator will consider the height,

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width, and materials of construction of the tank and the specific gravity of the waste which will be placed in the tank in establishing a minimum thickness. These factors are normally specified in industrial design standards.

The owner or operator is expected to maintain the minimum shell thickness specified by the Regional Administrator throughout the operating life of the tank. There are several options from which the owner or operator can choose for maintaining shell thickness:

(1) Design the tank with shell thickness in excess of that specified by the Regional Administrator and monitor any wall thinning to ensure that the original margin for corrosion or erosion is not exceeded,

(2) Line, coat or otherwise protect the tank in a manner which would prevent wall thinning due to corrosion or erosion, or

(3) Place only those wastes or materials in the tank which will not corrode, erode, or abrade the walls of the tank.

Regardless of the option chosen by the owner or operator, periodic inspections are required to under § 264.194(b) to verify compliance with the § 264.191 requirements.

3. *General operating requirements* (§ 264.192). In May 1980, EPA requested comments on the propriety of including the general operating requirements (§ 265.192) as interim status standards. Comments were received on both the § 265.192(b) compatibility requirement and the § 265.192(c) freeboard requirement.

Commenters stated that the requirement that wastes and treatment reagents not corrode the tank (§ 265.192(b)) was unreasonable since some corrosion was expected in the normal use of the tank. In response to these comments, EPA has substantially reworded the comparable § 264.192 requirement to clarify that incompatible reactions (such as accelerated corrosion) or other type of deterioration (such as erosion of concrete tanks) are to be prevented through the use of coatings, liners or other means of protection (§ 264.192(a)).

Comments stated that the 2 foot freeboard requirement for uncovered tanks (§ 265.192(c)) was too inflexible and, in some instances, unnecessary. In response to these comments, the Agency has revised the comparable § 264.192 requirement to stipulate that the owner or operator must maintain sufficient freeboard to prevent overtopping due to wind or wave action or precipitation. In addition, the interim status requirement for waste feed cutoff or by-pass systems (§ 265.192(d)) has been reworded to become a general requirement for prevention of overfilling (§ 264.192(b)).

The May 1980 interim status requirement that treatment and storage of hazardous waste in tanks be in compliance with § 265.17(b) has not been included in Part 264 since it was redundant with the §§ 264.198 and 264.199 requirements.

EPA intends to make similar revisions to the § 265.192 requirements later.

4. *Waste analysis and trial tests.* In May 1980, EPA requested comment on the propriety of including the waste analysis and trial test requirement (§ 265.193) in the interim status standards. Commenters stated that the requirement was too inflexible in that it required trial tests whenever a new waste was stored or treated, or a new treatment process used, if documented information on similar treatment or storage was not available. Commenters felt engineering judgment should be used in deciding whether trial tests are necessary.

The Agency disagrees that engineering judgment alone is sufficient in such cases. EPA has concluded, however, that detailed waste analysis could provide enough information to make trial tests unnecessary in some cases. Therefore, the Agency has not included a specific waste analysis and trial test requirement in the Part 264 tank standards. Rather a requirement has been included in the § 264.17 standard for treatment, storage, and disposal of ignitable, reactive, and incompatible wastes which require documentation, waste analyses, or trial tests as necessary to assure compliance with that Section. In addition, § 264.13 requires that the owner or operator conduct sufficient waste analyses to obtain all information needed to comply with the requirements of Part 264. Comments have been added to §§ 264.198 and 264.199 to remind the reader of the §§ 264.13 and 264.17 requirements. EPA intends to make similar revisions to Part 265, Subpart J, at a future date.

5. *Inspections* (§ 264.194). The general standard for routine inspections (§ 264.194)(a)) is nearly identical to the § 265.194(a) interim status requirement. However, several technical revisions have been made to provide consistency with the § 264.192 operating requirements. The words "discharge control equipment" found in § 265.194(a)(1) have been changed to "overfilling control equipment" to reflect the fact that discharge control equipment is not mentioned in § 264.192. The § 265.194(a)(5) requirements for inspection of discharge containment structures has been reworded in § 264.194(a) to require inspections of areas immediately surrounding the tank, since discharge confinement structures are not mentioned in § 264.192.

The Agency has clarified that the § 264.194(a)(4) requirement for inspection of the tank applies only to above-ground portions of the tank. The Agency intends to make similar revisions to the § 265.194 requirements in the future.

In addition, a more detailed new requirement has been added to ensure that owners and operators periodically assess the condition of their tanks to locate leaks and cracks not detectable through a routine inspection of the exterior of the tank and to assure compliance with the tank design requirement (§ 264.191). As part of these comprehensive inspections, the owner or operator will measure the thickness of the tank at representative points. These measurements can be made using a variety of ultrasonic devices which are currently on the market. In most cases, the tank must be emptied for internal inspection. The frequency of these inspections is to be based on the owner's or operator's determination as to the rate of possible deterioration of the tank. As specified in the requirement, the material of construction of the tank, type of corrosion or erosion protection used, and the characteristics of the waste being stored are the factors to be considered in making this determination. The Regional Administrator will review the schedule and procedures for these comprehensive inspections as part of the inspection schedule required under § 264.15(b).

Paragraph (c) of § 264.194 requires that the owner or operator specify in the contingency plan required under Subpart D of Part 264 procedures and timing for expenditious removal of leaked or spilled waste and repair of the tank. The paragraph (c) requirement is necessary to assure that owners or operators are prepared and able to respond to tank spills and leakage in a manner which will minimize human health and environmental damage.

A comment has been added to § 264.194 which notifies the reader that § 264.15(c) requires that all deficiencies detected during inspections be remedied.

A standard which is similar to the § 264.194(b) requirement is proposed elsewhere in today's **Federal Register** for interim status.

6. *Closure* (§ 264.197). The interim status requirement for closing tank facilities (§ 265.197) was promulgated as a final rule on May 19, 1980. An identical

standard has been incorporated in the general standards for tanks (§ 264.197). The rationale for its inclusion in the Part 264 general standards is the same as the rationale presented on May 19, 1980 for inclusion in the interim status standards.

7. *Ignitable, Reactive, and Incompatible Wastes* (§§ 264.198 & 264.199). The interim status requirements for treatment and storage of ignitable and reactive wastes in tanks (§ 265.198) were promulgated as an interim final rule on May 19, 1980; no comments were received.

Requirements identical to those contained in §§ 265.198 and 265.199 for ignitable, reactive, and incompatible wastes have been included in the general standards (§§ 264.198 and 264.199). The rationale for their inclusion in the Part 264 general standards is the same as the rationale presented on May 19, 1980 for inclusion in the interim status standards. Comments have been added under §§ 264.198 and 264.199 notifying the reader that waste analyses or trial tests must be conducted under §§ 264.13 and 264.17 to ensure compliance with requirements pertaining to ignitable, reactive, and incompatible wastes, or documented evidence must be provided on similar storage or treatment of similar wastes. As required by the § 264.73 operating record requirements, results of waste analyses and trial tests and documented information must be placed in the operating record.

EPA intends to amend §§ 265.198 and 265.199 with similar comments at a future date.

8. *Secondary Containment.* The standards proposed on December 18, 1978 included requirements that storage areas have impervious, continuous bases (§ 250.44(e)) and that above-ground tanks be equipped with spill confinement structures (e.g., diking systems) (§ 250.44–1(b)).

Several commenters stated that a secondary containment system with an impervious base is unnecessary since tanks are constructed of sturdy, impermeable materials.

In response to these comments, the Agency knows of numerous damage cases which show that tanks are subject to leaks, caused by stress cracks, corrosion or erosion, and spills caused by careless addition of waste to the tank or plumbing misconnections and failures. The Agency has specified tank design, operating, and inspection requirements as the first line of defense against discharges from tanks. However, EPA believes that secondary containment for tanks may also be necessary to adequately protect human health and the environment in some circumstances.

EPA is not promulgating secondary containment requirements today. However, EPA is currently considering several options for secondary containment for tanks. These options are discussed below. EPA requests comments on the need for and effectiveness of each of these options in protecting human health and the environment, on their technical and economic feasibility, and on other alternatives. Based on the comments received, EPA intends to propose secondary containment requirements for tanks as an addition to Part 264 in the future. The options are:

(1) Complete containment. Under this option, the secondary containment system would consist of an impervious base underlying the tank(s) in the storage area. The system would be required to have adequate capacity to contain the volume of the largest tank in the storage area. The purpose of this system would be to completely contain all spills and leaks until they are removed. This option is similar to the requirements proposed in December 1978, and applies primarily to above-ground tanks. Complete containment for partially or fully buried tanks would consist of a double shell, or a liner and leachate detection, collection, and removal system under the tank.

(2) Variable containment. Under this option the owner or operator would submit a plan for secondary containment which would provide varying levels of containment based on the likelihood of a spill or leak in any given area of the facility. Such a plan would normally provide for impervious ground areas in the vicinity of valves, pumps, and pipe attachments, and in some situations, around the base of the tank. An impervious base underlying the tank would not normally be a part of such a plan. The purpose of this option would be to contain the large majority of spills and leaks which are most likely to occur around valves, pumps, and plumbing fixtures. However, this option would not provide containment of spills caused by tank rupture or of leaks occurring through tanks bottoms or below-ground portions of tank shells. This option could, however, be required in conjunction with option 3 to provide increased protection.

(3) Run-off collection for containment of catastrophic failures. The secondary containment system would consist of a diking or drainage system with the capacity to contain the volume of the largest tank in the storage area. The system would not include an impervious base and would not protect ground water from leaks and spills. The purpose of this system would be to prevent waste spilled in a major tank failure from traveling across the surface to surrounding areas or surface waters.

9. *Tanks in the Water Table.* EPA is considering a ban on the storage or treatment of hazardous waste in tanks placed in the water table. Past experience demonstrates that leaks caused by corrosion or erosion occur with much higher frequency in tanks placed in the ground water. Internal inspection of tanks placed in the ground water is nearly impossible since a tank so placed will often float when emptied. In addition, the risk of significant ground-water contamination due to a leak is substantially increased if waste is being discharged directly to the ground water. EPA believes there is no compelling reason why hazardous waste storage or treatment tanks should be placed in the water table.

Comments are requested on this issue. The Agency particularly requests comments pertaining to the impact of this approach in geographical areas with water tables close to the land surface. EPA suggests that commenters opposed to the ban provide human health and environmental justifications, as well as economic justifications, for their position. EPA further suggests that actual examples be used, when possible, to support comments on this issue.

10. *Cathodic Protection.* Two general systems of cathodic protection for steel tanks are currently in use. In the sacrificial anode system a magnesium anode is connected in circuit with the structure which hence becomes the cathode. Since the loss of metal ions (corrosion) occurs at the anodic area, the structure is protected. Sacrificial anode systems are useful in protecting coated tanks but are limited by their low driving voltage and hence may not be effective in protecting uncoated tanks. Impressed current (or rectifier) systems use a power supply to cause current to flow through the soil to the structure. Impressed current systems require substantially higher initial expenditures than sacrificial anode systems.

Corrosion protection through coatings and cathodic protection is generally used only when structures are subject to corrosive conditions. Soils are generally considered corrosive if they possess a resistivity of less than 10,000 ohm-cm. Other factors, such as pH, moisture content, and sulfide content, also affect corrosivity.

EPA is considering requiring cathodic protection for steel tanks which are partially buried in corrosive soil. The Agency requests information on: (1) cathodic protection systems which have proven effective for partially buried tanks, (2) specific criteria to be used in determining when such systems are necessary, and (3) design standards for cathodic protection systems and for tanks equipped with cathodic protection.

11. *Air Emissions.* A proposed requirement for controlling air emissions from tanks (§ 264.200) is discussed in a separate part of this **Federal Register.**

F. Subpart K—Surface Impoundments

Today's publication of regulations for surface impoundments under Subpart K of Part 264 is applicable to a limited sub-set of the facilities which are defined as surface impoundments in § 260.10. That sub-set is those surface impoundments which are or have been designed to prevent discharge into the land and ground water, and to surface waters (except discharges authorized by an NPDES permit). Additional regulations will be published in the future to cover surface impoundments which may discharge into the land and ground water, and surface impoundments which are to be closed with waste left in place. The scope of the coverage of these regulations is explained in the discussion of § 264.220, Applicability. Owners and operators of new surface impoundments that are not designed to prevent discharge into the land to comply with this Subpart cannot obtain a RCRA permit, and existing surface impoundments that are not brought into compliance with these regulations must remain on interim status subject to Subpart K of Part 265 until amendments are published in the future.

These regulations are the basis for permits to be issued by the Agency to owners and operators of surface impoundments who apply by filing Part B of the RCRA permit application in accordance with § 122.25.

On May 19, 1980, the Agency published interim status standards for surface impoundments as Subpart K of Part 265. Comments received on that promulgation have been useful in preparing these regulations and will be referenced as appropriate. Comments received on the initial regulations proposed on December 18, 1978 (43 FR 58982–59016) are also discussed. Additional discussions of the regulation and the comments are contained in the background documents.

1. *Regulatory Approach.* Surface impoundments (also known as pits, ponds, or lagoons) are designed to hold liquid wastes and wastes containing free liquids. Leakage to ground water generally poses the most serious threat to human health and the environment from impoundments, but air emissions from volatile wastes and surface water contamination as a result of overtopping the impoundment or dike failure can also be serious problems.

Today's promulgation addresses ground water and surface water concerns. The general approach, as discussed earlier in the preamble, is to require primary containment and inspection, and where inspections cannot be readily or reliably performed, a secondary containment system. The Agency is still working on a regulatory approach to air emissions from surface impoundments.

Surface water concerns are addressed by standards which prohibit overtopping the impoundment, require maintenance of a specified freeboard, require that the structural integrity of dikes be certified by a qualified engineer and preserved by protection from perennial woody plants and burrowing mammals and by protective cover, and require inspections at specified frequencies. In addition, the regulations require a device or method to shut off waste flow into the impoundment, and the diversion of run-on away from impoundments. Above ground secondary containment is not required and inspection is used to ensure that actual or potential discharge is readily identified and corrected.

Ground water concerns are addressed by standards which require: a primary liner system in contact with the waste which is designed to prevent discharge from the impoundment during the life (i.e., active life and closure period) of the facility, which meets certain performance requirements, and which is inspected and tested as appropriate during construction and installation. A leachate detection, collection, and removal system beneath the primary liner system is also required to detect failure of the primary liner system and to prevent discharge into the land. This system must be inspected at least once each operating day and operated to remove any liquids which accumulate in it. A containment system evaluation and repair plan to be implemented in the event of a liner failure or evidence of a possible liner failure must also be prepared.

2. *Applicability* (§ 264.220) The substance of this section has been discussed in previous paragraphs. In Part 264, EPA has decided to address surface impoundments in two separate promulgations: (1) surface impoundments which are used for storage, or storage and treatment, and (2) surface impoundments which are disposal facilities. In the context of this discussion the terms storage and disposal are used with respect to the land. A surface impoundment used "to treat or store hazardous waste" might discharge to the air or the surface waters (if authorized by an NPDES permit), but may not discharge into the land or through the land into ground water.

This distinction is being made in Part 264 in order to facilitate the permitting and regulation of the nonleaking impoundments which are functionally equivalent to tanks (and basins). The regulation of land disposal facilities is more complex than storage facilities, especially with respect to ground water protection and monitoring, post-closure care, and closure and post-closure financial responsibility. The Agency is actively working on the Part 264 regulations to address disposal into the land.

3. *General Design Requirements* (§ 264.221). This section of the regulations addresses the design requirements for (1) freeboard, (2) waste in-flow shut off systems, and (3) liners and leachate detection, collection, and removal systems. The first and third requirements are discussed later in the preamble under sections with these titles.

The purpose of the waste in-flow shut off system is to enable the flow of waste into the impoundment to be immediately stopped in the event of overtopping or liner failure, as required in § 264.227(c)(1). The method or device available for flow control depends on how wastes are deposited in the impoundment. For example, if the flow is by batch delivery, then the cessation of furthur deliveries is sufficient. If the flow is by gravity flow or via an automatic feed system, whether continuous or intermittent (e.g., pipes, open channels, hoses, conveyors, or other similar conveyance systems), then a cut-off device (e.g., a valve or gate) must be available to immediately cut off flow into or divert flow from the impoundment.

4. *General Operating Requirements* (§ 264.222). This section of the regulation addresses operating requirements for (1) overtopping and freeboard, (2) leachate detection, collection, and removal systems, (3) protection of earthen dikes, and (4) run-on diversion. The first two requirements are discussed later in the preamble.

Many perennial woody plants have root systems which displace earthen materials and can weaken dikes or berms. Of particular concern are woody plants (bushes and trees) which may be uprooted because of wind, snow, or saturated soil conditions, thereby destroying sections of the dike. Burrowing mammals (e.g., rats, moles, woodchucks, and ground hogs) can also displace earthen materials upon which the structural integrity of the dike is dependent, or create channels through which liquid wastes or leachate can escape or leak, or rainwater can be channeled causing further erosion and weakening of the dike. For earthen dikes with grass covers, mowing is one of the most effective means of controlling woody plants. Mowing also makes the presence of burrowing mammals obvious so that they can be controlled and eliminated by trapping or poisoning. If burrowing mammals are controlled on a continuing basis, they will not have the opportunity to create large burrows which would require extensive remedial action to ensure the integrity of the dike. A requirement for weekly inspection of dikes and berms is included in § 264.226(b)(2).

Paragraph (e) requires that run-on be diverted away from surface impoundments. Some surface impoundments are excavated into the ground and therefore do not have raised dikes for structural support. If this is the case and the surrounding topography is such that run-on may flow into the impoundment; culverts, ditches, or other devices such as berms must be built and maintained to divert run-on away from the impoundment. Where dikes are used they can serve to divert run-on, but they must be protected from erosion.

5. *Containment Systems* (§ 264.223). This Section of the regulations addresses requirements for (1) earthern dikes and (2) liners and leachate detection, collection, and removal systems. These are discussed later in this preamble.

As in the Part 265 regulations, earthen dikes must have a protective cover to minimize wind and water erosion and to preserve the structural integrity of the dike. Three examples of materials (i.e. grass, shale, or rock) that could be used as a protective cover are suggested in the regulation.

6. *Inspections and Testing* (§ 264.226). This Section of the regulations addresses inspections of (1) liner systems during installation or construction (including testing), (2) overtopping, freeboard, liner, and leachate detection systems at least once each operating day at facilities which contain free liquids, (3) dikes and berms at least once a week, and (4) the structural integrity of any dike prior to the impoundment being placed or returned to service in terms of the ability of the dike to withstand liquid pressures and the weakening effect of earthen materials being scoured due to leakage.

Since the liner system in contact with waste is the primary containment device, and since the effective operation of the leachate detection, collection, and removal system is dependent on the liner beneath it, it is very important that liner systems be inspected and tested during construction and installation to ensure that they are properly installed and are free of damage and imperfections. Such quality control has proven invaluable in identifying or ensuring against liner problems at numerous installations. Items such as holes, cracks, thin spots, foreign materials, seams and joints, and tears or blisters can be identified by visual inspection during construction or installation. Testing for thin spots, foreign materials, and seams and joints may also be necessary depending on the type of liner installed or constructed. Earth material liners must be tested after emplacement for compaction density, moisture content, and permeability. Such testing may have to be repeated before the impoundment is placed in service to ensure that the materials will function as expected. An example would be a clay liner system. Clay is quite impermeable when it is saturated with water, but is pervious and tends to crack when dry. These items, which are listed in the regulations, have all been frequently identified as critical factors in determining how well various types of liner systems perform as containment devices. They, as well as additional installation and construction concerns, are discussed in detail in the EPA report "Lining of Waste Impoundment and Disposal Facilities", SW/870, September 1980. This report also references other sources of information including that available from the manufacturers of liner materials.

As in the Part 265 regulations, inspections must be performed to check for adequate freeboard to avoid overtopping, and for evidence of overtopping at least once each operating day. This inspection is only required in Part 264 when the impoundment contains free liquids. Impoundments which contain liquids or sludges containing free liquids or which are exposed to precipitation all contain free liquids at least part of the year. Facilities protected from precipitation and which do not contain liquids or sludges containing free liquids, empty facilities, or facilities located in high evaporation and low rainfall areas may not contain free liquids during portions of the year.

Part 264 also requires daily inspection of the leachate detection, collection, and removal system for the free flowing condition of the collection system and for the presence of liquids which could indicate liner failure. Failure to maintain a free flowing condition in the collection system by removing leachate or other liquids that collect in the system as they accumulate could create backwater in the collection system. Backwater, or the creation of hydraulic head above the liner beneath the collection system, would impair the efficiency of the containment system. The presence of liquids in the collection system could indicate primary liner system failure, or other impoundment failure such as ground water entering the leachate detection, collection, and removal system. If liquids do appear in the leachate detection, collection, and removal system, it must be determined whether or not that appearance is an indication of a failure of the containment system. The means by which this will be determined must be defined in the containment system evaluation and repair plan required by paragraph (d) of § 264.227.

As in the Part 265 regulations, the impoundment including dikes and vegetation surrounding the dike must be inspected at least once a week. Berms has been added in Part 264 to the listing of the types of structures which must be inspected. A requirement for inspections "after storms" has also been added. This provision for inspections after storms is considered necessary since storm events could place additional stress on the dikes, berms, and vegetative cover. In addition, the phrase "to detect any leaks, deterioration, or failures in the impoundment" has been modified in Part 264 to read "to detect any evidence of or potential for leaks from the impoundment and erosion of dikes." Often, one of the first indications of a leak from an impoundment is a change in the character of the surrounding vegetation (flourishing or dying plants) resulting from additional moisture, nutrients, or phytotoxic elements in contact with the root zone. This type of change is observable and can be recognized as evidence of a potential leak long before the leak itself is observable. Dikes and berms are also to be inspected at least once a week for evidence of perennial woody plants and burrowing mammals (i.e., for compliance with § 264.222(d)). One of the most effective inspection techniques for grass covered earthen dikes and berms is a mowing program which automatically controls woody plants and makes the presence of burrowing mammals apparent.

Although the liner system provides for primary containment in a surface impoundment, the support (base) for the liner provides the structural integrity. For those impoundments which are not excavated in the ground, dikes are required to support the liner on the sides of the impoundment. An earthen dike, since it serves to impound the liquid behind it, is structurally and functionally equivalent to an earthen dam.

The design of earthen dams is a well developed art within the practice of engineering. The main elements of design to prevent structural failure are based on the resistance provided by the mass of the dike to the force exerted by the pressure head of the liquid behind the dike and the systems provided in the dike to avoid weakening of the dike due to scouring caused by the passage of liquids through it.

Paragraph (c) of this Section calls for a certification of the structural integrity of dikes by a qualified engineer. Such a certification would require the engineer to be familiar with the design and construction of the dike.

The required certification must establish that the structural integrity of the dike will be maintained even in the absence of a liner system and if the liner were breached. Both of these conditions could arise in an impoundment, and it would be under such circumstances that a dike would be most prone to massive failure.

Earthen dikes in direct contact with the liquid they impound cannot be constructed to be perfectly tight (i.e., impervious) and under such circumstances, liquid will seep through all earthen dikes. This seepage, unless carefully controlled by design, will tend to scour the downgradient face of the dike structure causing it to slough. If the velocity of the escaping liquid is sufficient to dislodge and carry soil grains away, channels of flow will develop (called piping). Liner leakage resulting in scouring and piping could lead to massive failure.

The elements of design and construction to avoid scouring and piping involve the type and placement of materials used to construct the dike. The interior of the dike (the core) and the lowermost exterior portion of the dike (the toe) may be constructed of different materials or with different methods of placement. Cores may be present or absent depending on the size of the dike and the forces it must withstand. Cores are often designed to be less pervious than the bulk of the dike to control the pattern of seepage flow. Cut-off walls (i.e., a core emplaced or extended into the natural base beneath the dike) are also sometimes used to direct seepage flow within the dike or base.

There are a number of techniques which are commonly used to reduce the flow velocity of escaping liquids at the toe of a dam or dike (where flow lines tend to merge increasing flow velocity) below that which could scour the materials of which the impounding structure is constructed. One of the most common is to use rock to construct the toe. Flow net analysis is usually used to estimate flow velocity through the dike taking into account the relative perviousness of the dike structure and core, the base on which it is built, and the toe design.

The initial certification may require extensive analysis for large dikes or be quite simple for small dikes. It requires professional attention. Once the initial certification has been made, recertification (even of large dikes) should be quite simple requiring only a verification that changes have not occurred. Certification is required at the time of permit issuance or reissuance and in the event of a "positive indication" of a failure requiring the surface impoundment to be removed from service.

7. *Containment System Repairs: Contingency Plans* (§ 264.227). This Section requires remedial action in the event a surface impoundment containment system fails or seems likely to fail. Action may be initiated by observations during inspections, testing of liner materials, or known occurrences which could compromise the integrity of the system. Appropriate remedial action will vary with circumstances, and the regulation requires that a containment system evaluation or repair plan be prepared and submitted with Part B of the RCRA permit application, as part of the contingency plan required by Subpart D.

Two types of remedial response are required. The first is a maintenance type of response, which must be detailed in the plan, that is to be initiated in the event of any indication of a possible failure or a situation which could be expected to cause or lead to a failure. The second is an emergency response to a positive indication of a failure. The regulation requires the impoundment to be removed from service upon a positive indication of a failure.

The appearance of liquids in the system does not necessarily mean failure of the liner. With some designs (e.g. soil liners), some liquid can be expected to appear in the system. The amount and characteristics of the liquid which would indicate failure would depend on the liner system design. Expected amounts and quality of liquids over time, and levels which would indicate failure, must be described in the remedial action plan.

In the regulation, a distinction is made between liquids and waste. The term waste is used to describe the appearance of liquids which are derived from the waste (leachate) and waste which is not attenuated by passage through the liner system. If leachate appears in the detection system, it is an indication that the containment life of the system has expired and the impoundment must be removed from service. If unattenuated waste appears in the system, it would be a positive indication of liner system failure and emergency response would be triggered.

Liquids which appear in the detection system may not be leachate (i.e., not derived from the waste). Liquids could appear as they are displaced from the primary liner system as waste (leachate) migrates through the liner. Liquids could also appear as a result of ground water migrating through the bottom liner below the leachate detection, collection, and removal system. This could occur in some circumstances even if the ground water table did not rise above the liner. Liquid could also enter the system laterally and derive from rainwater infiltration. The distinction between liquids and waste is not precise as a matter of regulatory language, and the distinction must be established by testing any liquids which do appear. The testing program, which can be expected to vary with the type of waste being handled, must be specified in the containment system evaluation and repair plan.

Once an impoundment has been removed from service, the regulation requires a complete repair and a certification by a qualified engineer that the system has been restored to meet the approved design specifications.

8. *Closure* (§ 264.227). Since these regulations address only those surface impoundments which will not discharge into the land (i.e., those which treat or store hazardous waste) closure logically requires the removal of hazardous waste and hazardous waste residues. Most of the comments received on proposed § 250.45–3(e) are applicable to surface impoundments which discharge into the land, and will, therefore, be addressed when regulations applicable to impoundments which may leak are promulgated. Some relevant comments were received regarding the impracticality of removing waste and waste residues from large impoundments, and the proposed requirement to fill emptied impoundments with inert material.

Although a large impoundment may present special problems (e.g., machinery may have to be placed on the impoundment liner at closure) the

Agency believes that these problems are not insurmountable and that the inherent benefits which accrue by removing all waste and waste residues is justified for surface impoundments used for storage and treatment. Since all hazardous wastes and residues must be removed at closure, the requirement for inert fill material has been dropped in these regulations.

Section 264.228 specifically requires the removal of all hazardous waste and hazardous waste residues at closure from the impoundment, containment systems components, and appurtenant equipment and structures. This means the above mentioned system components and appurtenant equipment and structures must be either decontaminated or removed and handled as a waste which is presumed to be hazardous unless it is established that it is not.

Closure with wastes left in the impoundment is not allowed in the regulations promulgated today, but will be addressed in surface impoundment regulations yet to be promulgated by the Agency.

9. *Special Requirements for Ignitable or Reactive Waste.* (§ 264.229). Section 264.229 prohibits the placement of ignitable or reactive wastes in a surface impoundment, unless the waste is made non-ignitable or non-reactive as defined in §§ 261.21 and 261.23 while also complying with § 265.17(b). An exception provided for in the regulations is an impoundment that is used solely for emergencies. In addition, § 264.229 allows the placement of ignitable or reactive waste in a surface impoundment if the waste is protected from ignition or reaction.

Ignitable or reactive wastes require continuing protection from conditions which would cause them to ignite or react. One important factor is that in a surface impoundment mixing of wastes is inherent. Unless such wastes are rendered non-ignitable or non-reactive, the operator of a surface impoundment may find it difficult to properly manage such wastes in a surface impoundment. Reactive wastes may be especially difficult to manage since surface impoundments are directly exposed to the environment. Some surface impoundments are operated to concentrate and collect floating oils that may be ignitable. Such practices are acceptable in protected surface impoundments when ignition sources will not be present. Consequently, the Agency will allow the management of ignitable or reactive wastes in surface impoundments that are protected from any material or conditions which may cause them to ignite or react.

10. *Special Requirements for Incompatible Wastes.* (§ 264.230). This Section of the regulation is identical to § 265.230 promulgated on May 19, 1980. The potential dangers from the mixing of incompatible wastes include extreme heat, fire, explosion, violent reaction, production of toxic mists, fumes, dusts, or gases, and damage to the structural integrity of the surface impoundment. Clearly the potential impacts on human health or the environment which could result from such conditions must be avoided.

11. *Freeboard.* Section 264.221 requires that a surface impoundment be designed to provide at least 60 centimeters (2 feet) of freeboard, or a specified amount of freeboard of other than 60 centimeters, if this specified amount is documented to be sufficient to prevent overtopping. The amount of freeboard provided must prevent overtopping under all conditions of operation and be specified in the permit by the Regional Administrator.

The strong trend towards the use of a 2-foot freeboard in designing surface impoundments is demonstrated by the fact that this requirement is included in at least six State regulations and in several engineering texts and handbooks as recommended practice. The Agency received numerous comments on the May 19, 1980 regulations concerning freeboard and thus has reconsidered the issue of freeboard. The Agency has decided that, in some cases, surface impoundments with less than 60 centimeters of freeboard would not be overtopped and thereby be in compliance with the objective of the regulation.

Some of the factors that may reduce the likelihood of overtopping and justify an alternative to the 60 centimeters freeboard requirement for surface impoundments are: size and shape which reduces susceptible to significant wind action; strength and direction of wind and the amounts of precipitation (average and maximum) at the location of the surface impoundment; depth and shape of the edge of impoundment, which influence wave action; and the presence of interior baffles to minimize the effect of wind and waves. These types of factors may be addressed in documenting the adequacy of freeboard under the alternative in § 264.221(a)(2). In applying for a permit specifying a freeboard of other than 60 centimeters, the owner or operator must document the adequacy of the alternative by engineering calculations which address the factors specified in § 264.222(a). As mentioned in the May 19 preamble (45 FR 33202), the Agency feels level controls should be used in conjunction with, not in place of, minimum freeboard to assure no overtopping. The Agency still maintains this attitude.

The Agency believes that not preventing the overtopping of surface impoundments and relying on an above ground secondary containment system to collect liquid which overtops a dike is undesirable and unnecessary. Control problems associated with overtopping and secondary containment devices include: the random locations where overtopping could occur due to wind action necessitating peripheral collection systems around the entire facility rather than at the location of discrete pipes or weirs; splashing of overtopping liquids; potential adverse impact due to erosion caused by overtopping liquids on the structural integrity of the dike; and the difficulty of ensuring that a secondary containment device is of adequate capacity and would be sufficiently impermeable to collect and contain all overtopping.

12. *Liners and Leachate Detection, Collection, and Removal Systems.* Liner systems are the key element necessary to achieve containment. Liner systems are required both above and beneath the leachate detection, collection, and removal system. These systems must be collectively designed, operated, and maintained in a manner which will prevent any discharge of waste or leachate into the land during the life of the impoundment. The design life of the primary liner system must exceed the period of time that hazardous wastes and hazardous waste residues will remain in the impoundment. Since wastes and residues must be removed from the impoundment at closure, this means the life of the impoundment ends when wastes are removed at closure. In designing the primary liner system and applying for a permit, the owner or operator must state the estimated life of the impoundment (i.e., the year when all wastes and residues will be removed from the impoundment) as part of the closure plan and demonstrate that the liner will contain the wastes (i.e., prevent waste leakage or discharge) for that period. For soil liners or admixed liners (e.g., Portland cement concrete, bituminous concrete, soil cement, etc.) this means predicting the flow rate through the material. Since impoundments contain liquid wastes, this prediction must be based on saturated flow. Such a prediction can be made according to Darcy's law. Darcy's law was derived to express the relationship between the hydraulic gradient and the velocity of water flowing through uniform sands. As

applied to evaluate liner systems, it is a function of three measurable factors: the thickness of the liner, the saturated permeability of the liner (which will vary with the viscosity of the waste), and the hydraulic head of the waste. Although not applicable to surface impoundments containing free liquids, predictions may also be made for leachate migration due to capillary action under unsaturated conditions. When synthetic membrane liners are used, which cannot be evaluated by application of Darcy's law, the owner or operator must provide test data or documented information to show long-term stability of the liner under the conditions to which they will be exposed. The resistence of membrane liners to deterioration depends on their compatibility with the waste or leachate and other conditions (e.g., ultraviolet or sunlight exposure). Design information is available in two EPA reports. They are SW/870, "Lining of Waste Impoundment and Disposal Facilities"; and SW/869 "Landfill and Surface Impoundment Performance Evaluation".

The liner systems must meet some general performance standards specified in § 264.223(c). These standards are a departure from the detailed design specifications contained in the December 18, 1978, proposed regulations (43 FR 59011–13). In response to comments, the Agency has developed regulations which are performance rather than design oriented in order to provide flexibility. Advancement in the state-of-the-art evidenced by the above referenced publications indicate that design flexibility and performance oriented standards are an appropriate approach.

The leachate detection, collection, and removal system must be located above the water table. The primary purpose of the system is to detect and contain leachate which migrates through or breaches the primary liner. The system includes a liner system beneath the collection system to ensure that the system will function effectively and prevent discharge into the land. The system therefore functions as a secondary containment system in the event the primary containment system fails. The system must be located above the water table to protect the integrity of the liner beneath the collection system which could be breached or floated (displaced) by ground water and to ensure that large volumes of ground water will not enter the detection system and mask the presence of leachate. This type of system will allow the detection of leachate or waste due to liner failure early enough to enable early repair or emptying of the impoundment and the prevention of discharge into the land. The Agency believes this is a good general design to meet the objective of hazardous waste storage or treatment and storage in surface impoundments.

The standard prohibiting wastes which react adversely with the liner(s) uses the plural parenthetically to refer to reactivity with all liners used in the containment system.

13. *Waste Analysis and Trial Tests.* As discussed in the preamble to the May 19, 1980 regulations, the purpose of the waste analysis requirements for surface impoundments (§ 265.225) was the same as for tanks (§ 265.193). That purpose is described as being to prevent accidents and haphazard experimentation with new wastes or new treatment techniques. The commenters on the May 19, 1980 promulgation regarded the requirements as too detailed while also being redundant with § 265.13. The Agency agrees with respect to the general standards and believes that the addition of § 264.17(c), coupled with the general waste analysis requirements of § 264.13, adequately cover this matter. Thus, as is the case with waste piles and tanks, a specific waste analysis provision for surface impoundments used for storage or treatment is now redundant, and no such provision is included in the Part 264 general standards.

G. Subpart L—Waste Piles

Since the proposed RCRA Subtitle C regulations of December 1978 contained no specific requirements for waste piles, the Part 265, Subpart L, interim status standards published in May of 1980 were promulgated on an interim final basis, with the exception of § 265.250, Applicability. Comments were therefore solicited on the waste pile regulations, but few were received. No comments were received on the requirements respecting protection from wind (§ 265.251), waste analysis (§ 265.252), ignitable or reactive waste (§ 265.256), and incompatible wastes (§ 265.257). Accordingly, the Agency intends to finalize §§ 265.251, 265.256, and 265.257 without change. Section 265.252 will be deleted as discussed below.

Most of the interim status requirements are being adopted as general standards in Part 264. The rationale for their inclusion is the same as for the interim status regulations as discussed in the May 19, 1980 publication and associated background documents. Some changes were made to the containment requirements (§ 264.253), and requirements for general design (§ 264.251), general operation (§ 264.252), base inspections during installation (§ 264.254), containment system repairs (§ 264.255), and closure (§ 264.258) have been added. In addition, regulations specifically relating to periodic inspections of piles are being proposed separately as an addition to the general standards and the interim status standards (§§ 264.254 and 265.254).

The regulations for which comments were received, or which were added or modified, are discussed below. A discussion of the proposed periodic inspection standards for waste piles is given elsewhere in this Federal Register.

1. *Applicability* (§ 264.250). The general standard for applicability of the waste pile requirements (§ 264.250) is similar to the interim status provision, except that the alternative for managing a pile of hazardous waste as a landfill under Subpart N has been deleted. This alternative was deleted because: (1) the Part 264, Subpart N, landfill standards are not being promulgated at this time, and (2) the Agency wants to emphasize that these Part 264, Subpart L, regulations deal only with storage and treatment practices in waste piles, and thus that such waste piles require containment.

A comment to this section points out, however, that the Agency intends to supplement these regulations in the future to address other types of waste piles including piles that are not designed and operated to prevent discharge and piles that are closed with waste left in place. The Agency believes these types of waste piles constitute disposal rather than storage or treatment, and are best dealt with under an engineering analysis approach. Meanwhile, until additional regulations are promulgated, all waste piles that are authorized by permit must comply with the Part 264, Subpart L, regulations promulgated today.

The interim status standard for applicability of the waste pile requirements (§ 265.250) was promulgated as a final rule, and no comments were solicited. Nonetheless, some comments on this rule were received.

Commenters maintained that since some waste piles are very small and are held for very short periods of time (frequently less than two weeks), both inside and outside buildings, that these piles should be exempt from the requirements of Subpart L of Part 265, and from the permit requirements of RCRA Subtitle C or at a minimum that these piles should be conditionally exempt just as containerized or tanked waste stored for less than 90 days is conditionally exempt under § 262.34 (Accumulation Time).

The Agency disagrees with the commenters' position that the volume, location or length of storage of waste piles merits an exemption from the requirements of Subpart L. The volume or location of hazardous waste treated, stored, or disposed is not a factor in the applicability of any of the RCRA Subtitle C treatment, storage, or disposal standards unless the waste is produced by a small quantity generator. There is no environmental basis for making such a distinction that is not inherently arbitrary.

The Agency continues to believe that short-term accumulation of hazardous waste in piles is fundamentally different than similar accumulation in containers or tanks. Section 262.34 specifies that hazardous wastes stored for less than ninety days may be exempt from the permit requirements of RCRA Subtitle C if they are containerized, among other things. This containerization controls release of hazardous substances and allows for relatively easy inspection for leaks. Piles do not provide this same level of protection. Even though it might initially appear that piles stored inside buildings might be "containerized" and therefore not subject to such impacts as wind dispersal, precipitation, and run-on, this is not necessarily the case. For example, a "building" may not be fully enclosed—it may not have a roof or may only have three sides. A pile stored in such a "building" would, therefore, be subject to both wind dispersal and precipitation. In addition, the ventilation systems of many buildings might allow waste that is in a particulate form to be picked up from the pile and circulated throughout the building. This could present a hazard to worker health and to the environment.

Further, the Agency feels that waste stored in piles could result in leaching or run-off of hazardous waste, hazardous waste constituents, or hazardous waste by-products from decomposition even in the absence of precipitation and run-on, and regardless of waste pile location or duration of storage.

Finally, the Agency sees no need for the exemption from RCRA Subtitle C permits, as requested. The commenters may have assumed that a separate permit would be required for each pile. However, this is not the case. All storage locations at a given facility can be covered with a single permit. Thus, the permit requirements are not burdensome, as was claimed by the commenters.

2. *Objectives and Organization.* In keeping with the storage concept (as discussed earlier in this preamble), the Agency believes that storage or treatment of hazardous waste in piles authorized by permit should be conducted in a manner that prevents discharge into the land, surface water, and ground water during the life of the pile. Hazardous waste, hazardous waste constituents, or hazardous waste by-products from decomposition can be discharged from a waste pile into the land, surface water, or ground water via (1) wind dispersal, (2) water erosion caused by precipitation or run-on, (3) leachate or run-off entering the soil beneath or around a pile, or (4) leachate or run-off moving along the land surface. The first two discharge mechanisms are addressed by general design and operating requirements (§§ 264.251, and 264.252). The last two discharge mechanisms are specifically addressed by containment systems requirements (§ 264.253). Thus, these Part 264 waste pile regulations are structured somewhat differently than the comparable interim status standards in order to clarify the objectives of the regulations, and also to improve their consistency with other Subparts.

3. *General Design Requirements* (§ 264.251). The Part 264 general design requirements for waste piles state the objectives to be achieved by the pile design. These objectives are (1) to control dispersal of the waste by wind, where necessary, or by water erosion (e.g., by windstorms, precipitation, or run-on), and (2) to prevent discharge into the land, surface water, or ground water during the life of the pile.

The Agency anticipates that the owner or operator of a waste pile will design the pile to meet these requirements, and submit the design information to the Regional Administrator with Part B of his permit application for review, modification as necessary, and final determination as part of the permit process. For example, the owner or operator must, where necessary, include wind dispersal controls (such as enclosing the pile in a shed) in the waste pile design. Every waste pile design must include provisions for controlling dispersal of waste by precipitation, run-on, or other water erosion (e.g., a wall, berm, or dike). The second design requirement is to be achieved by use of a containment system as specified in § 264.253 (see discussion on "Containment Systems" below).

As noted earlier, the Agency intends to supplement these waste pile design requirements in the future to address other types of waste piles including piles that are not designed to prevent discharge and piles that are closed with waste left in place.

4. *General Operating Requirements* (§ 264.252). The Part 264 general operating requirements for waste piles are: (1) to control wind dispersal of waste where necessary, (2) to divert run-on away from the pile, and (3) to collect and control leachate and run-off from the pile. Two of these operating requirements were included in other sections of the interim status standards and are merely transferred. The control of wind dispersal (§ 264.252(a)) is comparable to the interim status requirement for protection from wind (§ 265.251), but worded differently because the Agency anticipates that the Regional Administrator will impose specific control practices (e.g., cover or frequent wetting) as permit conditions, where necessary. The requirement to divert run-on away from a waste pile (§ 264.252(b)) is required for either option in the interim status containment provision (§ 265.253).

The operating requirement that leachate and run-off from a waste pile must be collected and controlled (§ 264.252(c)) derives from the containment objective of these Part 264 standards. Although there may be rare situations where the leachate or run-off from a pile of hazardous waste is not itself a hazardous waste and thus where uncontrolled discharges from the pile may be allowed, or situations where hazardous leachate or run-off may be discharged in a manner that protects human health or the environment, such cases are properly the subject of the supplemental Part 264 waste pile regulations to be issued in the future, as mentioned earlier. Until these additional regulations are promulgated, all waste piles that are authorized by permit must collect and control leathate and run-off from the pile. The owner or operator must then determine whether or not the leachate or run-off is a hazardous waste and manage it accordingly.

5. *Containment Systems* (§ 264.253). Under these Part 264 rules, storage and treatment of hazardous waste in both new and existing piles requires both primary containment designed to prevent discharges into the land, surface water, or ground water during the life of the pile and inspection to ensure integrity of the primary containment. The Agency believes that secondary containment is not necessary for waste piles on the premise that free liquids do not typically or routinely impose a significant hydraulic head on the primary containment system. The potential for major discharge through the primary containment system is, therefore, significantly reduced.

The specific requirements for containment in piles are to collect and control leachate and run-off prior to their removal, and to place the pile on a base that will prevent leachate and run-off from entering the soil beneath or around a pile. Two options are provided for the pile base, as discussed below.

Commenters on the interim final Part 265 waste pile containment rule (§ 265.253) aruged that the prevention of run-on should not be required if leachate and run-off are collected. The Agency disagrees. The Agency continues to feel that it is important to prevent run-on to waste piles even if leachate and run-off are collected, in order to ensure that leachate or run-off collection systems will not be overloaded and that the pile will not be washed out in the event of a major storm. It is probable in any event that part of the leachate and run-off collection system (i.e., the curb, wall, or dike) will also prevent run-on, thereby minimizing the cost of preventing run-on.

The first waste pile base option requires a sturdy base underlying and in contact with the waste pile that is made of a liner (or liners) that will prevent discharge into the land, surface water, or ground water during the life of the pile. To comply with this requirement, the base material(s) and design must be based on the liner(s) thickness, the permeability of the liner(s), and the characteristics of the waste or leachate to which the liner(s) will be exposed. Further, the liner(s) must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile, or to clean and expose the liner surface for inspection.

The material(s) and design for this waste pile base option have not been specified in order to provide flexibility to the pile owner or operator. The major difference between this base option and the alternate discussed below is the ability of the base to accommodate periodic removal of the waste pile to allow inspection of the liner surface. Given that heavy equipment (e.g., bulldozers or front-end loaders) may have to be used for waste pile removal, the Agency expects that in many cases this base option will consist of reinforced concrete with appropriate coating(s) or synthetic membrane liner(s), to prevent leachate seepage. The Agency does not believe that natural or compacted soil liners provide an adequate base for hazardous waste piles. A compacted clay liner, for example, must be saturated to provide waste containment. In a waste pile, a clay liner would not be in contact with liquids at all times, as it would be in a surface impoundment, and thus would be likely to dry out, crack, and lose its containment properties.

The second waste pile base option is included primarily to accommodate those situations where it is impractical to remove the waste periodically to allow inspection of the liner surface. The base in contact with waste must be designed to prevent discharge as in the first option, but a leachate detection, collection, and removal system is also required beneath the base to detect, contain, collect, and remove any discharge from the base. The leachate detection, collection, and removal system is not intended to be part of the primary containment system, but rather a substitute for periodic inspection of the base. Further discussion of liners coupled with a leachate detection, collection, and removal system can be found in the preamble section on surface impoundments.

Section 264.253(b) amplifies the requirements for waste pile base materials and specifies that the base foundation must be capable of supporting the loads placed or moving on the base to prevent failure of the liner(s) due to settlement or compression.

Section 264.253(c) specifies that the waste pile containment system (including the base and the leachate and run-off control system) must be protected from plant growth (such as woody plants or trees) which could puncture any component of the system, and thereby provide an avenue for discharge.

Lastly, § 264.253(d) specifies that a containment system must have a containment life equal to or greater than the life of the pile. Given that many waste piles may be removed periodically for inspecting the base or for other purposes, the Agency intends that components of the containment system, such as the base coating(s) or liner(s), can be replaced during the life of the pile if this is necessary.

6. *Inspections and Testing* (§ 264.254). Inspection of the primary containment system for piles was not included in the RCRA Subtitle C rules proposed in December 1978, nor specifically included in the Part 265, Subpart L, requirements promulgated on May 19, 1980. The Agency believes periodic inspection and testing requirements for waste pile containment systems should be specified explicitly, since neither a secondary containment system nor ground-water monitoring is required for waste piles. Periodic inspection and testing of the waste pile base necessarily involves removing the waste from the base. This would be a significant new regulatory requirement. Therefore, the Agency has proposed these rules elsewhere in todays **Federal Register** for both Parts 264 and 265.

The Agency also believes that the waste pile base should be inspected during its construction or installation to detect imperfections and damage, and, for manufactured liner materials, to ensure tight seams and joints, so that the base will in fact contain waste when placed on it. While such an inspection makes sense and is commonly done, the Agency believes the requirement should be made explicit in the regulations due to its importance. Further, the Agency believes this requirement for inspecting the waste pile base during construction or installation is not burdensome. Therefore, the requirement is being promulgated in Part 264 as an interim final rule under § 264.254(a). The Agency solicits comment on this rule, and on its potential inclusion in the Part 265 interim status standards.

7. *Containment System Repairs: Contingency Plans* (§ 264.255). In addition to inspecting the waste pile base during its construction or installation, and periodic inspections of the containment system, the Agency believes the containment system should be inspected whenever there is any indication of its possible failure. Further, whenever there is a positive indication of containment system failure, the waste pile should be removed from service, and its containment system should be repaired immediately, or the waste pile should be closed.

Consequently, the Agency has included a requirement for remedial action (§ 264.255) in accordance with a previously prepared contingency plan whenever a waste pile containment system fails or seems likely to fail. This requirement for waste piles is a direct analog to a similar requirement for surface impoundment containment systems (§ 264.227), and the same rationale and conditions generally apply. Therefore, the reader is directed to the discussion of § 264.227 in the preamble section of Subpart K, surface impoundments, for futher explanation of this requirement.

8. *Closure* (§ 264.258). Under interim status, there are no specific regulations for the closure of waste pile facilities, although the topic was discussed in the preamble to Subpart L. The general closure standard (Part 265, Subpart G) requiring that wastes be removed from storage facilities at closure (§ 265.113(a)), was applicable. This fact was perhaps not obvious to the regulated community. For purposes of clarification, a closure requirement specific to waste piles (§ 264.258) has now been added to the Part 264 general

standards. The new provision explicitly requires the removal of waste piles and pile residues at closure. Any component of the containment system containing or contaminated with hazardous waste or residues must be decontaminated or removed. The Agency intends to include a similar provision in the interim status standards.

9. *Waste Analysis.* As noted in the preamble to the May 19, 1980 rule, the basic purpose of the interim status standard for waste analysis for waste piles (§ 265.252) is to prevent inadvertent mixing of incompatible wastes in piles and to assure that ignitable or reactive wastes are protected from sources of ignition. The Agency believes that the addition of § 264.17(c), coupled with the general waste analysis requirements under § 264.13, adequately covers this matter. Thus, a specific waste analysis provision for piles is now redundant, and no such provision is included in the Part 264 general standards. EPA intends to delete § 265.252 from the interim status standards for the same reasons.

H. Permitting Requirements

EPA is promulgating changes to the consolidated permit regulations under 40 CFR Part 122, Subpart B. The changes reflect today's promulgation of facility standards under Part 264. The revisions to the Part 122 regulations are issued on an interim final basis. Public comment is solicited on the provisions of these regulations.

Most of the modifications included in this publication are in § 122.25 which deals with the information which must be submitted on Part B of the permit application. But minor changes have also been made to other sections of Part 122.

1. *Permit Modification.* (§§ 122.15 and 122.17). Section 122.15 has been modified by the addition of several grounds for permit modification which correspond to new closure and post-closure requirements in Part 264, Subpart G and new financial liability requirements in Part 264, Subpart H. Sections 264.112(b) and 264.118(b) require modification of closure plans whenever facility design or operator changes would effect closure or post-closure activities. The Director may determine under § 264.147(d) that a downward variance in the level of financial responsibility is applicable or under § 264.147(e) that an upward adjustment of the level of financial responsibility is required. In addition, prior to closure, an opportunity is provided in §§ 264.113 and 264.117 (a), (b), and (c) for the Director to extend the time allowed to close a facility to modify the post-closure period (which is 30 years unless modified by the Director), continue security requirements (which do not apply to the post-closure period unless explicitly made applicable, or allow disturbance of the integrity of the containment system. Several of these permit modifications have been designated in revised § 122.17(e) as minor modifications. See today's preamble discussion of Part 264, Subparts G and H for further information.

2. *Application Requirements for Part B* (§ 122.25). The proposed December, 1978 regulations identified six general information categories for inclusion in Part B of the permit application. These included a master plan for the facility, geological data, hydrological data, a description of the climate at the site, a list of position or job descriptions, and a list of performance bonds and other financial instruments.

The general approach created a great deal of confusion. Many commenters thought the Part B application requirements were vague and that costs to prepare Part B's will be excessive because they contain a lot of irrelevant information. There were comments questioning EPA's authority to request some of the information and recomendations that EPA better define which information items are required for specific types of facilities (e.g., incinerators).

EPA agreed with these comments and restructured the Part B information requirements. Each Part B information requirement is now tied to a standard in Part 264. Further, the structure of the Part B requirements now parallels the structure of the technical standards in that Section. The Part B requirements are structured into general requirements that apply to all facilities and specific requirements for individual types of facilities (e.g., tanks, piles, incinerators).

On May 19, 1980, EPA published a list of general Part B information requirements. The Part B information requirements being promulgated today include these requirements, expand the list of general information requirements, add specific information requirements for the types of facilities covered by the Part 264 standards being promulgated today. The Part B information requirements will be amended in the future as necessary to reflect additional standards in Part 264 at the time these standards are promulgated.

The proposed regulation indicated that the Part B information items listed in the regulation would be the minimum information that would be required in a Part B application. Commenters suggested that the regulation be amended to make it clear that the Part B items listed are all the information that is required and not minimum requirements. EPA agrees with the suggestion. Since the Part B requirements are now tailored to the Part 264 standards the information items listed in the regulation cover only those items necessary for EPA to determine whether the facility complies with those standards. Commenters also suggested that requests for additional information be limited to situations where the Agency needs additional information to clarify information previously submitted. The Agency agrees with this point. Section 124.3 provides that the Agency will limit requests for additional information to those situations where this additional information is essential for the Agency to complete its review of the permit application. For some of the Part 264 standards EPA will not be able to determine the extent of additional information that is needed until after it has reviewed the applicant's initial submittal. For example, where the Director finds that a facility did not use recognized design standards for tanks containing hazardous waste, as required under § 264.191, then the applicant may be required to provide additional information on the design, construction, operation, and maintenance of the tank.

One comment held that EPA can only request in Part B the more general information listed in Section 3005(b) of RCRA. The Agency disagrees. More detailed information is needed for the Agency to assess compliance with the Part 264 standards.

The proposed regulation required a topographic map with a scale of one inch equal to not more than 200 feet and a contour interval not greater than five feet for the area within one thousand feet of the boundaries of the facility. Commenters raised two points on this requirement. First, the regulations should be amended to allow flexibility in the contour intervals used. It was pointed out that in some areas, such as steep mountain areas, larger intervals should be used, otherwise the topographic map will be a solid black line. Second, a scale of one inch equals 200 feet is unreasonable for large facilities. The Agency agrees with the first point and the final regulations allow applicants to use reasonable contour levels in mountain areas. On the second point, one inch equal to not more than 200 feet has been retained as the general standard scale because the Agency believes this scale will provide a reasonable size map for most facilities. The Agency will allow the use of other scales on a case by case basis.

Recognizing that site specific conditions may vary, the regulations provide alternative means of demonstrating compliance with the location standards in § 264.18. For example, § 122.25(a)(11) may require information about the seismic activity of a site ranging from 3,000 feet from the site to a radius of five miles from the site. EPA intends to shortly make available a guidance/permitting manual which will provide greater detail on the study procedures identified.

In terms of floodplain data, comments suggesting the wide availability of maps showing the 100 year floodplain and the growing expertise in designing for the 100 year flood were factors that influenced EPA's decision to require, as a minimum, information about the 100 year floodplain rather that the 500 year floodplain as originally proposed. (For a more detailed discussion of the changes in the § 264.18 location standards see Section VII A–3 of this preamble).

There was a comment recommending that the Part B application be expanded to cover a discussion of alternative sites considered by the applicant, since some sites are clearly preferable to others. There is no specific requirement in RCRA for an analysis of alternative sites; rather EPA will pass judgment on the acceptability of proposed sites. EPA believes that its Part 122 and Part 264 regulations provide adequate protection for human health and the environment and that Agency analyses of alternative sites is neither within that Agency's mandate nor would it provide additional protection.

Section 122.12 requires that all permits be issued in a manner that is consistent with other Federal laws, such as the Endangered Species Act and the Coastal Zone Management Act. The Acts cited in § 122.12 place an affirmative duty on EPA to insure that the goals of each of the statutes, if applicable, are complied with in issuing RCRA permits. EPA believes that the best source of information to insure compliance with these Acts will be the permit applicant in many cases. Thus, the Part B information requirements include a provision [§ 122.25(a)(20)] that applicants may be required to submit information as may be necessary to enable EPA to carry out its duties to uphold other Federal laws. It is in the best interest of the applicant (1) to consider the potential impact of the facility on these special environmental areas, and (2) to provide, in the permit application, information on these environmental areas as stipulated in pertinent statutes, regulations, or guidance documents.

Commenters recommended that EPA require that the Part B application be prepared by or under the supervision of a registered professional engineer. EPA believes that this requirement is unnecessary since much of the information required in Part B does not warrant preparation or review of a registered professional engineer (for example, financial information, training information, and waste analysis plans). Rather, the final regulations have been amended to only require that certain technical data be certified by a registered professional engineer. The Agency expects, however, that many applicants will use a registered professional engineer to prepare or review the other Part B items even though it is not required by the regulations.

The proposed regulation contained provisions for the Director to waive certain Part B application requirements if the information was not applicable to the facility and was not needed to establish compliance with the Part 264 standards. The Agency received numerous comments and recommendations on how the waiver provision should be administered. Because the Part B requirements are now tailored to the Part 264 standards they become applicable only when the companion Part 264 standards are applicable. The Agency believes the waiver provision is no longer needed and it has been deleted from the final regulation.

The Agency recognizes there may be cases where applicants will not be able to provide all the Part B information that is required for their type of facility. For example, design plans and specifications or construction plans may be incomplete or non-existent for some existing facilities. Applicants must make a good faith effort to supply all of the necessary information. Applicants should explain why certain information cannot be supplied. In reviewing permit applications, EPA will take into account situations as described above in reaching a judgment as to whether the permit application is complete.

Several commenters expressed concern that six months might not be enough time to prepare and file some Part B information. There were other comments suggesting that EPA set time frames for submitting part B on a case by case basis and that time waivers for filing Part B be granted where there is good cause. Neither the proposed or final regulations limit the time for submitting Part B information. Both regulations provide for applicants to have at least six months to prepare their Part B. The Agency has reviewed each of the information requirements in the Part B information list and feels that none of the items should take longer than six months to prepare. The Agency will use six months as a general rule of thumb for preparation of Part B. Any applicant can explain in the permit application why it may take longer to submit certain pieces of information. EPA will allow extensions on a case by case basis. (EPA will be reluctant to allow extensions in cases where facilities are suspected of causing harm to human health or the environment).

One comment recommended that facilities be able to incorporate by reference information contained in permit applications for other facilities, where such facilities are substantially similar in design or operation. The Agency will allow applicants to do this on a case by case basis and only where the applicant demonstrates that the information to be referenced is available to the Agency and relevant to the facility under review.

Commenters suggested that EPA should articulate in the regulations the specific standards it will use in determining when a facility should file its Part B application. Commenters suggested that one of those standards should be the hazard posed by the facility. The Agency will use the following general priority policy for processing permit applications: potentially high risk existing facilities (i.e. those suspected of causing harm, located in sensitive areas, handling highly hazardous materials, or of suspect or novel design) and new facilities will be given the highest priority; the next priority will be existing facilities with potential for consolidated permits; followed by exemplary existing facilities (i.e. those thought to be in full compliance), and then all other existing facilities. Because there must be flexibility in this scheme to allow for adjustments based on the timing of the promulgation of the technical standards, Regional Office and State needs and problems, and resources or other factors, EPA probably will stray from strict implementation of this policy. Therefore, the Agency does not think the priority should be published as part of the regulation.

3. Permit Conditions (§ 122.29). Section 122.29 has been expanded to require that each RCRA permit specify the wastes or classes of wastes to be handled at the facility, a description of how they will be handled (i.e. what processes, methods, or units will be utilized), and the design capacities of each treatment, storage and disposal unit. Section 122.24 (f) and (g) already requires that the applicant submit this information in Part A of the RCRA permit application. This amendment clarifies that the Director, when issuing a permit, specify these conditions in the permit. This specifically permits or allows the permittee to manage the wastes and quantities by the methods set forth in the application. The permit may, however, contain different wastes or amounts or methods of handling from those set forth in the application, based upon the Director's determinations, under the Parts 264 and 266 standards of acceptable practices.

Unlike tanks, land disposal facilities, and incinerators, containers may be adequately regulated without permit restrictions on the types of wastes to be handled in each particular container. Provided that the permittee complies with basic requirements such as the controls on mixing incompatible wastes and containers, he may, under the permit, store any waste in any containers. Section 122.29 requires only that the classes of wastes generally stored in containers at the facility be identified. This information will be useful in cases of emergencies.

VIII. Regulatory Analysis

In support of the regulations promulgated on May 19, 1980, the Agency prepared draft economic and environmental impact statements, a Reports Impact Anslysis, an Operations Resources Impact Analysis, and an Evaluation Plan. All covered only the interim status regulations (except the Operations Resources Impact Analysis which covered the entire program) and each was based on preliminary drafts of the regulations. Final revisions of the interim status economic and environmental impact statements will soon be available and revised versions of the Operations Resources Impact Analysis and the Evaluation Plan have been developed. Evaluation of the regulations will include analysis of the effectiveness of the required reports.

Because of the accelerated schedule on which the regulations promulgated today were produced, it has not been possible to develop the extensive background materials which accompanied the previous promulgation. Before work can commence in earnest on these analyses, reasonably complete and reasonably final drafts of the regulations must be available. Such drafts only became available within six weeks of the publication of these regulations. Nevertheless, the Agency has conducted analyses of the costs of the general standards for new treatment and storage surface impoundments, tanks, and piles. Additionally, EPA is writing a draft Environmental Impact Statement which is scheduled for completion in April 1981. The Reports Impact Analysis has been combined with the OMB Reports Clearance Application and will be submitted to the Office of Management and Budget for review.

Except for the Evaluation Plan, copies of these documents are, or will soon be, available for review in the EPA regional office libraries and at the EPA headquarters library, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The Evaluation Plan is available for review only at the EPA headquarters library.

A. Economic Analysis

The economic evaluations indicate that there are both costs and benefits associated with the RCRA Subtitle C regulatory program.

1. *Benefits.* The Subtitle C regulatory program will reduce the damage to human health and the environment from improper management of hazardous waste. The following is a brief list of some of the many expected improvements:

- Ground-water pollution from leaching of toxic pollutants from improperly designed and managed tanks, waste piles, landfills, and surface impoundments will be reduced.
- Poisoning and injury due to direct contact with randomly dumped wastes will be reduced.
- Pollution of surface waters from hazardous waste stored or disposed of in fields and on riverbanks will be reduced.
- Illicit dumping of waste in farm fields, wooded areas, along roadsides, and in ditches and streams will be reduced.
- Emission of toxic gases from improperly run incinerators will be reduced.
- Accidents, mistakes, and malfunctions at hazardous waste management facilities, which could affect people near the site, will be reduced in number and in severity, due to improved training of personnel, monitoring and inspections, and required emergency equipment.
- Contingency plans will spell out procedures to ensure rapid and effective responses to emergencies to minimize any danger to off-site residents and the environment.
- Facilities will be decontaminated or otherwise secured at closure, and disposal sites will be monitored and maintained after closure, to reduce the possibility of future adverse impacts on human health or the environment.

The Agency believes these improvements will be substantial and noticeable. The expected improvements are not easily quantifiable, however, since records of past practices and problems are extremely limited. In addition to the major economic benefits expected from decreases in human health problems and in pollution of our air, land, and water, EPA expects an improvement in economic efficiency and equity, and substantial direct savings from avoiding clean up costs in the future.

An economy functions efficiently and equitably when the price of goods produced in the society reflects the actual social and private costs of production (i.e., when the costs are internalized). Until now, in most States, firms could dispose of wastes in environmentally unsafe ways at a cost substantially less than that for adequate disposal. Thus, the price of goods often did not reflect the full social cost of production.

These Pre-RCRA practices for managing hazardous waste created economic inequities. The true costs of disposal often fell randomly on individuals affected by improper management or on the public at large, since tax revenues were used to clean up inadequate facilities. It would be more equitable for the costs of adequate hazardous waste management to fall on the consumers and producers of the products which generate the hazardous waste.

Pre-RCRA management practices also caused economic inefficiencies. Because the price of goods did not reflect the cost of properly managing the waste produced as part of the manufacturing process, these goods were priced too low relative to other goods. Because prices were lower than the true social cost of producing the product, consumers were able to buy more of these goods than they could if proper waste management costs were included in the product price. Thus, companies manufactured and sold more of these products and generated more hazardous waste than was economically efficient. Furthermore, because companies did not have to either pay the cost of proper waste management or pass it along to customers, the incentives to develop technology and process changes to lessen the quantity of hazardous waste generated or to recover the waste as a useful material were weaker than if proper waste management were required. Additionally, companies which properly managed their wastes were at a competitive disadvantage to competitors who did not.

The RCRA Subtitle C regulations will ensure that those generating hazardous waste will pay appropriately for their safe management. Most of this incremental cost will be passed on to consumers, while some may be borne by the generator, particularly where price increases are held down in some way (e.g., by foreign competition or competition with other products). In either case, the economy will be more efficient and equitable because those receiving the benefits will also pay the incremental costs, and prices will serve as a more efficient allocator of resources.

In recent years, with increasing frequency, society has been forced to properly dispose of waste that was previously disposed of haphazardly. The best known example of this is Love Canal in New York, where 20,000 tons of waste were buried over a period of years. A severe health hazard in the area due to wastes seeping into house basements and surfacing in backyards caused society to take remedial action. The cost to the State and Federal governments is currently about $36 million for clean up, relocating residents, health and environmental testing services, and other expenses associated with the disaster, and the figure is still increasing. Thus, society is spending about $1,800 per ton in its effort to clean up waste improperly disposed of, and more will be spent before the area is returned to normal. Further, the $1,800 per ton figure excludes human health costs and suffering, which might easily outweigh actual dollar costs. Given that average disposal costs after the entire RCRA regulatory program is in place will be much less than $1,800 per ton, it clearly pays to do the job right in the first place.

Given that damages from improper hazardous waste management often take decades to surface, society may be paying dearly for past waste mismanagement for many years to come. Further, without a regulatory program, new problem sites would continue to be developed. Ultimately, clean up of all of these sites could cost billions of dollars.

2. *Costs and Impacts.* The Agency has not yet been able to estimate incremental costs and impacts of the Part 264 general standards for treatment and storage surface impoundments, tanks, and the other management methods promulgated today. This results from the fact that most hazardous wastes can be managed satisfactorily in a variety of ways. For example, wastes from chlorine production from the diaphragm cell process are amenable to resource recovery, chemical treatment, landfilling, and deep well injection. The methods chosen by a given company will depend to a major extent on the cost of each option; the costs, in turn, directly depend on the regulations governing each option. Thus, until the regulations covering all waste management options are available, the total incremental cost and impacts on any one method cannot be determined. At present, regulations governing the general (permit) standards for the land disposal options (surface impoundments, land treatment, and landfills) have not been developed and, thus, the total incremental costs and impacts of the regulations promulgated today cannot be determined.

Although total costs and impacts cannot be determined yet, EPA is building the model which allows these determinations. Inputs to this model are quantities of waste by waste stream and industry, unit costs of waste management, lists of feasible management methods for each waste stream, and capacity for existing management processes. The output from the model is the total incremental cost of the regulation.

The incremental costs over current practice of managing hazardous waste are now being determined. These are the incremental costs of treating (or storing or disposing) of waste by a given method (e.g., in a tank, or in a surface impoundment) which is in compliance with the regulations. Preliminary costs have been developed for tanks, treatment and storage surface impoundments, and waste piles. In the following analyses these costs are presented on an incremental annualized basis. Because they are incremental, they represent the additional cost of waste management imposed by the Part 264 general status regulations (over and above the costs imposed by the Part 265 interim status standards) on those owners or operators required to obtain a RCRA permit for storage or treatment of hazardous waste. Because they are annualized, they represent the cost (in 1980 dollars) the owner or operator would incur if he incurred the same cost each year.

a. *Tanks.* The Part 264, Subpart J general regulations will cause the cost of treating and storing hazardous wastes in tanks under a RCRA permit to increase slightly over and above the costs imposed by the interim status regulations. The sections of the regulations that cause the additional cost require the owner or operator to develop a schedule and procedure to assess the condition of tanks, and require that tanks meet industrial design standards where these are available. The incremental cost will be higher if the tank must be recoated to comply with the design standards, or if the tank must be decontaminated to be inspected. The Agency believes that most tanks will not have to be recoated to comply with design standards or decontaminated for inspections. The following table shows the annualized incremental cost of complying with the regulations (Part 264, Subpart J) for tanks of various sizes at facilities with various numbers of tanks, under a RCRA permit.

Table I.—*Annualized incremental cost per tank of compliance with part 264, subpart J for tanks*

[Annualized incremental cost]

	No recoating		Recoating decontamination
	No decontamination	Decontamination	
1 tank per facility (gallons):			
10,000	$176	$1,176	$1,860
20,000	176	1,476	2,553
50,000	176	2,376	4,359
5 tanks per facility (gallons):			
10,000	58	1,058	1,742
20,000	58	1,358	2,435
50,000	58	2,258	4,241
10 tanks per facility (gallons):			
10,000	44	1,044	1,727
20,000	44	1,344	2,420
50,000	44	2,244	4,226
50 tanks per facility (gallons):			
10,000	32	1,032	1,715
20,000	32	1,332	2,408
50,000	32	2,232	4,215

b. *Surface Impoundments.* As a result of the treatment and storage surface impoundment regulations issued today, (Subpart K of Part 264), the cost of treating and storing hazardous wastes in surface impoundments under a RCRA permit will increase in most cases. Over and above the interim status regulations, these regulations may cause additional cost by requiring the owner or operator, if he is required to have a RCRA permit under Part 264, Subpart K, to remove all hazardous waste and contaminated liners from the impoundment at closure; to manage all dredged wastes in a permitted facility; to build impoundments with a liner and leachate detection, collection, and removal system; to operate the system to remove leachate; to divert surface water and run on away from the impoundment (although most diked facilities already comply with this requirement); and in the event of failure of the containment system, to repair the system before using the impoundment.

Although the impacts of these requirements cannot yet be estimated for reasons discussed earlier, at first glance it would appear that they will be substantial. Such is probably *not* the case. These regulations apply only to storage and treatment impoundments (i.e., to those which are designed to contain the wastes). Regulations covering disposal impoundments (i.e., those that discharge into the land or ground water) will be promulgated later. Since few existing impoundments are designed for containment, few are expected to seek permits as storage and treatment impoundments and only those that do would be subjected to the regulations. Many new facilities may also choose to meet the requirements of disposal impoundments when they are promulgated. The only facilities which will have to design to the standards promulgated today are those which must be designed and built prior to the effective date of the disposal impoundment regulations. This is expected to be a small group.

Major parameters affecting the cost of compliance with these Part 264 regulations for surface impoundments are the size of the impoundment, the rate at which sludge accumulates on the bottom, and the type of liner (membrane or clay). The following table summarizes the annualized (over 20 years) incremental costs of compliance with Part 264, Subpart K, for treatment and storage surface impoundments with clay liners and membrane liners, based on the assumption that either no sludge accumulates on the bottom of the impoundment, or that the sludge that accumulates is not a hazardous waste.

Table II.—*Annualized incremental cost of compliance with Part 164, Subpart K, for treatment and storage surface impoundments without hazardous sludge accumulation*

[Annualized incremental cost in thousands of dollars]

Impoundment size	Clay liner	Membrane liner
Acres:		
1	8	14
5	31	56
10	61	107
25	145	255

If sludge does accumulate, and if the sludge is a hazardous waste, then annualized incremental cost of compliance with the regulation will be larger. Table III shows the annualized incremental cost of compliance for impoundments with different sludge accumulation rates.

Table III.—*Annualized incremental cost of compliance with Part 264, Subpart K, for treatment and storage surface impoundments with hazardous sludge accumulation*

[Annualized incremental Cost [1] in thousands of dollars]

Impoundment size	Sludge accumulation rate		
	Low	Medium	High
Acres:			
1	63	100	136
5	307	584	851
10	613	1,208	1,778
25	1,509	2,977	4,407

[1] All costs assume an owner or operator will use a trust fund to comply with the financial requirements. This assumption increases the costs considerably. For example, if an owner or operator used a letter-of-credit to meet the financial requirement, the entry for the 25 acre impoundment with a high sludge accumulation rate would be $3,104. These costs also assume that the sludge is a hazardous waste, and that its disposal has an incremental cost of $50 per ton. EPA made this assumption for analytical purposes. After the EPA promulgates Part 264 landfill regulations, the incremental cost of landfilling might well be less than $50 per ton. These cost also include the costs shown in Table II.

The impoundment with a low sludge accumulation rate has an influent with 125 milligrams of solids per liter of influent, that with a medium rate has 250 milligrams per liter, and that with high rate has 500 milligrams per liter.

Over the 20 year life of a 5 acre impoundment with a medium sludge accumulation rate, about 250,000 tons of sludge accumulate, are dredged; and are disposed of; the corresponding sludge quantity for the 25 acre impoundment with a high accumulation rate is almost 2 million tons. Thus, the costs presented in Table III are large because the analysis assumes that the tremendous quantities of sludge which accumulate at the bottom of treatment and storage surface impoundments, must be managed as a hazardous waste when it is periodically dredged. The cost of managing dredged sludge drives these estimates. For treatment and storage impoundments in which little or no sludge is produced, the incremental costs are very much less.

Table IV presents the incremental cost per ton of storing or treating hazardous waste in a surface impoundment with sludge accumulation under a RCRA permit, in compliance with the Part 264, Subpart K regulations issued today. Because these unit costs explicitly account for the quantity of sludge, they do not appear so large. Unit costs for surface impoundments without hazardous sludge accumulation are very much less.

Table IV.—*Incremental Unit Costs of Compliance with Part 264, Subpart K for Treatment and Storage Surface Impoundment With Hazardous Sludge Accumulation*

[Cost per ton [1]]

Impoundment size	Sludge accumulation rate		
	Low	Medium	High
Acres:			
1	$67.43	$50.70	$40.53
5	60.34	45.35	36.59
10	78.40	44.76	36.15
25	78.01	44.42	36.02

[1] All costs assume an owner or operator will use a trust fund to comply with financial requirements. This assumption increases the cost considerably.

c. *Waste Piles.* The Part 264, Subpart L general regulations will also cause the cost of storing or treating waste in piles under RCRA permit to increase over and above the cost of storage or treatment under the interim status regulations. Under the general regulations a waste pile must have a waste containment system. The containment system must be either sufficiently strong to support equipment so that the waste may be moved to inspect the liner (sturdy impermeable base design) or the system must have a liner and leachate collection, detection, and removal system (liner design). The incremental cost of compliance with Part 264, Subpart L, under a RCRA permit for each type of waste pile containment system is shown in Table V for different sized waste piles.

Table V.—*Annualized Incremental Cost Per Pile of Compliance With Part 264, Subpart L, for Waste Piles*

Size of pile	Sturdy impermeable base	Liner and leachate system
Metric tons:		
340	$493	$875
850	812	1,232
1,700	1,194	1,646
3,400	1,756	2,508

B. Reports Analysis

At the time of promulgation (May 1980), the Agency analyzed the paperwork burden imposed by the Phase I requirements on the regulated community. The estimated burden for those requirements was 1,424,000 hours initially, and 2,322,000 hours on an annual basis, including planning, recordkeeping, and reporting activities. The Phase I requirements were designed to contain most of the information gathering requirements which are necessary. They are applicable during both the interim status period and after permits are granted.

There are, however, some additional planning, recordkeeping, and reporting activities associated with the Phase II requirements promulgated today. The Agency is analyzing the added burden of these new regulations and will have a summary available soon in the EPA regional and headquarters libraries. Preliminary estimates have been summarized as follows:

Table VI.—*Information Burden Requirements*

Requirement	Hours			
	Phase I (May 1980)		Phase II (December 1980)	
	Initial	Recurring	Initial	Recurring
Subpart B (location)			10,219	
Subpart G (closure and post-closure)			29,500	
Subpart H (financial)			97,295	24,555
Subparts I, J, and L (storage)			4,252	24,506
Other	1,424,000	2,322,000		
Total	1,424,000	2,322,000	143,378	74,480

Most of the additional information burden of the general (Part 264) regulations is associated with preparation of Part B of the permit application (§ 122.25).

No burden has been estimated for the surface impoundment requirements (Subpart K) promulgated today. This stems from the Agency's belief that few existing surface impoundments and only a small group of new facilities will seek permits under these regulations. Thus the aggregate burden is very small on a national basis.

IX. Relationship to Polychlorinated Biphenyl Management

In the Preamble to the RCRA promulgation of May 19, 1980 (45 FR 33173), the Agency indicated its intent to incorporate the polychlorinated biphenyl (PCB) disposal regulations issued under the authority of the Toxic Substances Control Act (TSCA) into the RCRA hazardous waste regulations. The Agency has been working on this task, but it has turned out to be more difficult than expected. The PCB requirements are largely design and management oriented standards which lay down specific requirements. The RCRA regulations on the other hand, are more performance oriented and thus are made up largely of more general operating objectives rather than specific management requirements. EPA has not completed integration of the two regulatory programs but plans to do so in the near future. In the interim, the management of PCB's remains under the TSCA PCB regulations promulgated on February 17, 1978 (43 FR 7150) and May 31, 1979 (44 FR 31514).

X. OMB Review

Under the Federal Reports Act of 1942, the Office of Management and Budget (OMB) reviews reporting requirements in proposed forms and regulations in order to minimize the reporting burden on respondents and the cost to government. Although EPA has initiated discussions with the staff of OMB, time has prevented the completion and submission to OMB of the reporting requirements, and supporting materials, contained in these regulations. These regulations, pursuant to Section 3010(b) of the Act, do not take effect until six months after their promulgation. EPA anticipates that OMB review will be completed well before the reporting requirements take effect.

XI. Supporting Documents

The Agency has developed or will prepare two sets of documents in conjunction with the facility standards.

A. Background Documents

Seven background documents support these regulations, providing response to public comments and rationale for how and why the regulations have come to be written the way they are. In conjunction with the references listed in them, these documents provide the basis for and defense of the promulgated regulations.

For the most part, they are the same background documents issued in support of the May 19, 1980, promulgation, but they have been expanded to include: (a) summaries and responses to comments on the May 19 interim final, interim status regulations; (b) summaries and responses to comments on the propriety of certain May 19 regulations as interim status requirements; (c) summaries and responses to comments on the proposed (December 1978) general standards; and (d) rationale for the general standards promulgated today. The following documents directly support the regulations promulgated today.

Background Documents

General Facility and Location Standards
Closure and Post-Closure Care
Financial Requirements
Storage, Containers, and Piles
Tanks and Chemical, Physical, and Biological Treatment
Surface Impoundments

Copies of these documents are available for review in the EPA regional office libraries and at the EPA headquarters library, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

B. Guidance Documents

These regulations and those issued May 19, 1980, provide a complete set of requirements for managing hazardous wastes in many types of facilities. However, reliance on performance standards and the incorporation of case-by-case consideration of many factors provide considerable flexibility to accommodate new technologies, special needs of specific locations, and variations in waste characteristics.

To assist both owners and operators of facilities and regulatory officials, EPA is preparing a series of design and operation manuals. These will not have the effect of regulations, but will provide guidance on how facilities may be designed and operated to meet the standards. Other manuals will also provide guidance on what modifications and variations are likely to be effective under the variance procedures. They will be organized to correspond closely to the regulations and will be based on the collective knowledge of the Agency, the literature, and experts throughout the world. Manuals will also be prepared for testing, training, and monitoring.

EPA is preparing the following manuals in support of the entire hazardous waste regulatory program.

RCRA Guidance Manuals

Waste Analysis Plans
Contingency Plans
Ground-water Assessment Plans
Operating Records
Variance to Security Requirements
Variance to Ground-Water Monitoring Requirements
Variance to Post-Closure Care Requirements
Demonstration for Growing Food Chain Crops
Guidance for Subpart G, Closure and Post-Closure Care
Guidance for Subpart H, Financial Requirements

Personnel Training Guidance Manual
Permit Writers Guidance Manual: Containers
Permit Writers Guidance Manual: Tanks
Permit Writers Guidance Manual: Piles
Permit Writers Guidance Manual: Chemical, Physical and Biological Treatment
Permit Writers Guidance Manual: Thermal Treatment
Permit Writers Guidance Manual: Incineration
Permit Writers Guidance Manual: Site Selection
Permit Writers Guidance Manual: Waste Compatibility
Permit Writers Guidance Manual: Ground-Water Monitoring
Engineering Handbook for Hazardous Waste Incineration
Evaluating Cover Systems for Solid and Hazardous Waste
Hydrologic Simulation on Solid Waste Disposal Sites
Landfill and Surface Impoundment Performance Evaluation
Lining of Waste Impoundment and Disposal Facilities
Management of Hazardous Waste Leachate
Guide to the Disposal of Chemically Stabilized and Solidified Wastes
Closure of Hazardous Waste Surface Impoundments
Design and Management of Hazardous Waste Land Treatment Facilities
Soil Permeability Test Manual
Leachate quality from a Hazardous Waste Facility
Landfill Closure Manual
Ground-Water Monitoring for Owners or Operators of Treatment, Storage or Disposal Facilities

Dated: December 31, 1980.

Douglas M. Costle,
Administrator.

Title 40 CFR Parts 264, 265, and 122 are amended as set forth below.

The following sections are being promulgated on an interim final basis (see Preamble for discussion):

PART 264

Subpart B—General Facility Standards

264.17 General requirements for ignitable, reactive, or incompatible wastes.
264.18 Location standards.

Subpart G—Closure and Post-Closure

264.110 Applicability.
264.111 Closure performance standard.
264.112 Closure; Plan; amendment of plan.
264.113 Closure; time allowed for closure.
264.114 Disposal or decontamination of equipment.
264.115 Certification of closure.
264.117 Post-closure care and use of property.
264.118 Post-closure plan; amendment of plan.
264.119 Notice to local land authority.
264.120 Notice in deed to property.

Subpart H—Financial Requirements

264.140 Applicability.
264.141 Definitions.
264.142 Cost estimate for facility closure.
264.143 Financial assurance for facility closure.
264.144 Cost estimate for post-closure monitoring and maintenance.
264.145 Financial assurance for post-closure monitoring and maintenance.
264.146 Use of a mechanism for financial assurance of both closure and post-closure care.
264.147 Liability requirement.
264.148 Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies.
264.149 Applicability of State financial requirements.
264.150 State assumption of responsibility.
264.151 Wording of the instruments.

Subpart I—Use and Management of Containers

264.170 Applicability.
264.171 Condition of containers.
264.172 Compatibility of waste with container.
264.173 Management of containers.
264.174 Inspections.
264.175 Containment.
264.176 Special requirements for ignitable or reactive waste.
264.177 Special requirements for incompatible wastes.
264.178 Closure.

Subpart J—Tanks

264.190 Applicability.
264.191 Design of tanks.
264.192 General operating requirements.
264.194 Inspections
264.197 Closure.
264.198 Special requirements for ignitable or reactive waste.
264.199 Special requirements for incompatible wastes.

Subpart K—Surface Impoundments

264.220 Applicability.
264.221 General design requirements.
264.222 General operating requirements.
264.223 Containment systems.
264.226 Inspections and testing.
264.227 Containment system repairs; contingency plans.
264.228 Closure.
264.229 Special requirements for ignitable or reactive waste.
264.230 Special requirements for incompatible wastes.

Subpart L—Waste Piles

264.250 Applicability.
264.251 General design requirements.
264.252 General operating requirements.
264.253 Containment systems.
264.254 Inspections and testing.
264.255 Containment system repairs; contingency plans.
264.256 Special requirements for ignitable or reactive waste.
264.257 Special requirements for incompatible wastes.
264.258 Closure.
Appendix V—Examples of potentially incompatible waste.
Appendix VI—Political jurisdictions in which compliance with § 264.18(a) must be demonstrated.

PART 265

Subpart G—Closure and Post-Closure

265.112 Closure plan; amendment of plan.
265.113 Closure; time allowed for closure.
265.117 Post-closure care and use of property.
265.118 Post-closure plan; amendment of plan.

Subpart H—Financial Requirements

265.141 Definitions.
265.143 Financial assurance for facility closure.
265.145 Financial assurance for post-closure care.
265.146 Use of a mechanism for financial assurance of both closure and post-closure care.
265.147 Liability requirement.
265.148 Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies.
265.149 Applicability of State financial requirements.
265.150 State assumption of responsibility.
265.151 Wording of the instruments.

Part 122

122.15 Modification or revocation and reissuance of permits. (Paragraph (a)(7) only.)
122.17 Minor modifications of permits. (Pararaph (e)(2) only.
122.25 Contents of Part B. (All except Paragraphs 9a)(1)-(a)(10).)
122.29 Establishing RCRA permit conditions. (Paragraph (a) only.)

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

a. Amend Table of Contents as follows:

1. Add to Subpart B—General Facility Standards:

Sec.
264.17 General requirements for ignitable, reactive, or incompatible wastes.
264.18 Location standards.

2. Revise § 264.36 in Subpart C—Preparedness and Prevention:

264.36 [Reserved]

3. Add the following:

Subpart G—Closure and Post-Closure

264.110 Applicability.
264.111 Closure performance standard.
264.112 Closure plan; amendment of plan.
264.113 Closure; time allowed for closure.
264.114 Disposal or decontamination of equipment.
264.115 Certification of closure.
264.116 [Reserved]
264.117 Post-closure care and use of property.
264.118 Post-closure plan; amendment of plan.
264.119 Notice to local land authority.
264.120 Notice in deed to property.

Subpart H—Financial Requirements

Sec.
264.140 Applicability.
264.141 Definitions.
264.142 Cost estimate for facility closure.
264.143 Financial assurance for facility closure.
264.144 Cost estimate for post-closure monitoring and maintenance.
264.145 Financial assurance for post-closure monitoring and maintenance.
264.146 Use of a mechanism for financial assurance of both closure and post-closure care.
264.147 Liability requirement.
264.148 Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies.
264.149 Applicability of State financial requirements.
264.150 State assumption of responsibility.
264.151 Wording of the instruments.

Subpart I—Use and Management of Containers

264.170 Applicability.
264.171 Condition of containers.
264.172 Compatibility of waste with container.
264.173 Management of containers.
264.174 Inspections.
264.175 Containment.
264.176 Special requirements for ignitable or reactive waste.
264.177 Special requirements for incompatible wastes.
264.178 Closure.

Subpart J—Tanks

264.190 Applicability.
264.191 Design of tanks.
264.192 General operating requirements.
264.193 [Reserved]
264.194 Inspections.
264.195 [Reserved]
264.196 [Reserved]
264.197 Closure.
264.198 Special requirements for ignitable or reactive waste.
264.199 Special requirements for incompatible wastes.

Subpart K—Surface Impoundments

264.220 Applicability.
264.221 General design requirements.
264.222 General operating requirements.
264.223 Containment systems.
264.224 [Reserved]
264.225 [Reserved]
264.226 Inspections and testing.
264.227 Containment system repairs; contingency plans.
264.228 Closure.
264.229 Special requirements for ignitable or reactive waste.
264.230 Special requirements for incompatible wastes.

Subpart L—Waste Piles

264.250 Applicability.
264.251 General design requirements.
264.252 General operating requirements.
264.253 Containment systems.
264.254 Inspections and testing.
264.255 Containment system repairs; contingency plans.
264.256 Special requirements for ignitable or reactive waste.

Sec.
264.257 Special requirements for incompatible wastes.
264.258 Closure.
Appendix I—Recordkeeping instructions.
Appendix II—EPA report form and instructions.
Appendix III–IV [Reserved]
Appendix V—Examples of potentially incompatible wastes.
Appendix VI—Political jursidictions in which compliance with § 264.18(a) must be demonstrated.

b. Revise Subpart B—General Facility Standards as follows:

1. Revise § 264.10, to read as follows.

§ 264.10 Applicability.

(a) The regulations in this Subpart apply to owners and operators of all hazardous waste facilities, except as provided in § 264.1 and in paragraph (b) of this Section.

(b) Section 264.18(b) is applicable only to facilities subject to regulation under Part 264, Subparts I, J, K, and L.

2. In § 264.13, revise the comment to paragraph (b)(3) and add paragraph (b)(6) as follows.

§ 264.13 General water analysis.

* * * * *

(b) * * *

(3) * * *

[*Comment:* See § 260.21 of this Chapter for related discussion.]

* * * * *

(6) Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in § 264.17.

3. Add the following comment at the end of § 264.14.

§ 264.14 [Amended]

[*Comment:* See § 264.117(b) for discussion of security requirements at disposal facilities during the post-closure care period.]

4. Add the following sentence to § 264.15, paragraph (b)(4);

§ 264.15 [Amended]

* * * * *

(b) * * *

(4) * * *

At a minimum, the inspection schedule must include the terms and frequencies called for in §§ 264.174, 264.194, 264.226, and 264.254, where applicable.

5. Add the following comment at the end of § 264.16(a).

§ 264.16 [Amended]

(a) * * *

[*Comment:* Part 122, Subpart B, of this Chapter requires that owners and operators submit with Part B of the RCRA permit application, an outline of the training program used (or to be used) at the facility and a brief description of how the training program is designed to meet actual job tasks.]

6. Add the following new §§ 264.17 and 264.18, which are issued as interim final rules:

§ 264.17 General requirements for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other Sections of this Part, the owner or operator of a facility that treats, stores or disposes ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, must take precautions to prevent reactons which:

(1) Generate extreme heat or pressure, fire or explosions, or violent reactions;

(2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(4) Damage the structural integrity of the device or facility;

(5) Through other like means threaten human health or the environment.

(c) When required to comply with paragraphs (a) or (b) of this Section, the owner or operator must document that compliance. This documentation may be based on references to published scientific or engineering literature, data from trial tests (e.g., bench scale or pilot scale tests), waste analyses (as specified in § 264.13), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

§ 264.18 Location standards.

(a) *Seismic considerations.* (1) Portions of new facilities where treatment, storage, or disposal of hazardous waste will be conducted must not be located within 61 meters (200 feet) of a fault which has had displacement in Holocene time.

(2) As used in paragraph (a)(1) of this Section:

(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side.

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(iii) "Holocene" means the most recent epoch of the Quarternary period, extending from the end of the Pleistocene to the present.

[*Comment:* Procedures for demonstrating compliance with this standard in Part B of the permit application are specified in § 122.25(a)(11). Facilities which are located in political jurisdictions other than those listed in Appendix VI of this Part, are assumed to be in compliance with this requirement.]

(b) *Floodplains.* (1) A facility located in a 100-year floodplain must be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood *unless* the owner or operator can demonstrate to the Regional Administrator that procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters.

[*Comment:* The location where wastes are moved must be a facility which is either permitted by EPA under Part 122 of this Chapter, authorized to manage hazardous waste by a State with a hazardous waste management program authorized under Part 123 of this Chapter, or in interim status under Parts 122 and 265 of this Chapter.]

(2) As used in paragraph (b)(1) of this Section:

(i) "100-year floodplain" means any land area which is subject to a one percent or greater chance of flooding in any given year from any source.

(ii) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.

(iii) "100-year flood" means a flood that has a one percent chance of being equalled or exeeded in any given year.

[*Comment:* (1) Requirements pertaining to other Federal laws which affect the location and permitting of facilities are found in § 122.12 of this Chapter. For details relative to these laws, see EPA's manual for SEA (special environmental area) requirements for hazardous waste facility permits. Through EPA is responsible for complying with these requirements, applicants are advised to consider them in planning the location of a facility to help prevent subsequent project delays.]

§ 264.36 [Reserved]

c. Amend Subpart C by removing and reserving § 264.36.

d. Revise Subpart E as follows:

1. In § 264.73, add the following comment after paragraph (b)(2), revise paragraphs (b)(3) through (b)(6) and add (b)(7) to read as follows:

§ 264.73 [Amended]

* * * * *

(b) * * *

(2) * * *

[*Comment:* See § 264.119 for related requirements.]

(3) Records and results of waste analyses performed as specified in §§ 264.13 and 264.17;

(4) Summary reports and details of all incidents that require implementing the contingency plan as specified in § 264.56(j);

(5) Records and results of inspections as required by § 264.15(d) (except these data need be kept only three years);

(6) For off-site facilities, notices to generators as specified in § 264.12(b); and

(7) All closure cost estimates under § 264.142, and, for disposal facilities, all post-closure cost estimates under § 264.144.

2. In § 264.75, revise paragraphs (e) and (f) and add paragraphs (g) and (h) to read as follows:

§ 264.75 [Amended]

* * * * *

(e) The method of treatment, storage, or disposal for each hazardous waste;

(f) [Reserved]

(g) The most recent closure cost estimate under § 264.142, and, for disposal facilities, the most recent post-closure cost estimate under § 264.144; and

(h) The certification signed by the owner or operator of the facility or his authorized representative.

3. Revise § 264.77 to read as follows:

§ 264.77 Additional reports.

In addition to submitting the annual report and unmanifested waste reports described in §§ 264.75 and 264.76, the owner or operator must also report to the Regional Administrator:

(a) Releases, fires, and explosions as specified in § 264.56(j);

(b) [Reserved]; and

(c) Facility closure as specified in § 264.115.

e. Add new Subparts G, H, I, J, K, and L to Part 264 as follows; these Subparts are issued as interim final rules:

Subpart G—Closure and Post-Closure

§ 264.110 Applicability.

Except as § 264.1 provides otherwise:

(a) Sections 264.111–264.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections 264.117–264.120 (which concern post-closure care) apply to the owners and operators of all hazardous waste disposal facilities.

§ 264.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to prevent threats to human health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall, or waste decomposition products to the ground or surface waters or to the atmosphere.

§ 264.112 Closure plan; amendment of plan.

(a) The owner or operator of a hazardous waste management facility must have a written closure plan. The plan must be submitted with the permit application, in accordance with § 122.25(a)(13) of this Chapter, and approved by the Regional Administrator as part of the permit issuance proceeding under Part 124 of this Chapter. In accordance with § 122.29 of this Chapter, the approved closure plan will become a condition of any RCRA permit. The Regional Administrator's decision must assure that the approved closure plan is consistent with §§ 264.111, 264.113, 264.114, 264.115 and the applicable requirements of §§ 264.178, 264.197, 264.228, and 264.258. A copy of the approved plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with § 264.115. The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include, at least:

(1) A description of how and when the facility will be partially closed, if applicable, and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility, and how the requirements of §§ 264.111, 264.113, 264.114, 265.115, and the applicable closure requirements of

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§§ 264.178, 264.197, 264.228, and 264.258 will be met;

(2) An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility. (Any change in this estimate is a minor modification under § 122.17);

(3) A description of the steps needed to decontaminate facility equipment during closure; and

(4) An estimate of the expected year of closure and a schedule for final closure. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure activities which will allow tracking of the progress of closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.)

(b) The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.) The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time (see § 124.5(a)). If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within 60 days after the change in plans or design occurs.

[*Comment:* Changes in estimates of maximum inventory and of the estimated year of closure under § 264.112(a) (2) and (4) may be made as minor permit modifications under § 122.17(e)]

(c) The owner or operator must notify the Regional Administrator at least 180 days prior to the date he expects to begin closure.

[*Comment:* The date when he "expects to begin closure" should be within 30 days after the date on which he expects to receive the final volume of wastes. If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or compliance order under Section 3008 of RCRA, to cease receiving wastes or to close, then the requirement of this paragraph does not apply. However, the owner or operator must close the facility in accordance with the deadlines established in § 264.113]

§ 264.113 Closure; time allowed for closure.

(a) Within 90 days after receiving the final volume of hazardous wastes, the owner or operator must treat, remove from the site, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Regional Administrator may approve a longer period if the owner or operator demonstrates that:

(1)(i) The activities required to comply with this paragraph will, of necessity, take longer than 90 days to complete; or

(ii)(A) The facility has the capacity to receive additional wastes;

(B) There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(C) Closure of the facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment.

(b) The owner or operator must complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes. The Regional Administrator may approve a longer closure period if the owner or operator demonstrates that:

(1)(i) The closure activities will, of necessity, take longer than 180 days to complete; or

(ii)(A) The facility has the capacity to receive additional wastes;

(B) There is reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(C) Closure of the facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility.

[*Comment:* Any extension of the 90 or 180 day period in this Section may be made as a minor modification under § 122.17. Under paragraphs (a)(1)(ii) and (b)(1)(ii) of this Section, if operation of the site is recommenced, the Regional Administrator may defer completion of closure activities until the new operation is terminated.]

§ 264.114 Disposal or decontamination of equipment.

When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all hazardous waste and residues.

§ 264.115 Certification of closure.

When closure is completed, the owner or operator must submit to the Regional Administrator certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan.

§ 264.116 [Reserved]

§ 264.117 Post-closure care and use of property.

(a)(1) Post-closure care must continue for 30 years after the date of completing closure and must consist of at least the following:

(i) Ground-water monitoring and reporting as applicable.

(ii) Maintenance of monitoring and waste containment systems as applicable.

(2)(i) During the 180-day period preceding closure (see § 264.112(c)) or at any time thereafter, the Regional Administrator may reduce the post-closure care period to less than 30 years if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure).

(ii) Prior to the time that the post-closure care period is due to expire, the Regional Administrator may extend the post-closure care period if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of waste at levels which may be harmful to human health and the environment).

(b) The Regional Administrator may require, at closure, continuation of any of the security requirements of (§ 264.14 during part or all of the post-closure period after the date of completing closure when:

(1) Wastes may remain exposed after completion of closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

(c) Post-closure use of property on or in which hazardous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the Regional Administrator finds that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in § 264.118.

§ 264.118 Post-closure plan; amendment of plan.

(a) The owner or operator of a disposal facility must have a written post-closure plan. The plan must be submitted with the permit application, in accordance with § 122.25(a)(13) of this Chapter, and approved by the Regional Administrator as part of the permit issuance proceeding under Part 124 of this Chapter. In accordance with § 122.29 of this Chapter, the approved post-closure plan will become a condition of any permit issued. A copy of the approved plan and all revisions to the plan must be kept at the facility until the post-closure care period begins. This plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(1) A description of the planned ground-water monitoring activities and frequencies at which they will be performed;

(2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(i) the intergrity of the cap and final cover or other containment structures where applicable; and

(ii) the function of the facility monitoring equipment and

(3) The name, address, and phone number of the person or office to contact about the disposal facility during the post-closure period. This person or office must keep an updated post-closure plan during the post-closure period.

(b) The owner or operator may amend his post-closure plan at any time during the active life of the disposal facility or during the post-closure care period. The owner or operator must amend his plan whenever changes in operating plans or facility design, or events which occur during the active life of the facility or during the post-closure period, affect his post-closure plan. He must also amend his plan whenever there is a change in the expected year of closure.

(c) When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design, modification of the post-closure plan must be requested at the same time (see § 124.5(a)). In all other cases, the request for modification of the post-closure plan must be made within 60 days after the change in operating plans or facility design or the events which affect his post-closure plan occur.

§ 264.119 Notice to local land authority.

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the Regional Administrator a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in § 264.117(c). In addition, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the Regional Administrator a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept. Any changes in the type, location, or quantity of hazardous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the Regional Administrator.

§ 264.120 Notice in deed to property.

(a) The owner of the property on which a disposal facility is located must record, in accordance with State law, a notation on the deed to the facility property—or on some other instrument which is normally examined during title search—that will in perpetuity notify any potential purchaser of the property that:

(1) The land has been used to manage hazardous wastes;

(2) Its use is restricted under § 264.117(c); and

(3) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility required in § 265.119 have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Regional Administrator of the Environmental Protection Agency.

(b) If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search, or he may add a notation to the deed or instrument indicating the removal of the waste.

[*Comment:* On removing the waste and waste residues, the liner, if any, and the contaminated soil, the owner or operator, unless he can demonstrate in accordance with § 261.3(d) of this Chapter that any solid waste removed is not a hazardous waste, becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262–266 of this Chapter.]

Subpart H—Financial Requirements

§ 264.140 Applicability.

(a) The requirements of §§ 264.142, 264.143, and 264.146–151, apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in § 264.1.

(b) The requirements of §§ 264.144 and 264.145 apply only to owners and operators of disposal facilities.

(c) States and the Federal government are exempt from the requirements of this Subpart.

§ 264.141 Definitions.

(a) When used in this Subpart, the following terms have the meanings given below:

"Compliance procedure" means any proceedings instituted pursuant to RCRA or regulations issued under authority of RCRA which seeks to require compliance or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a compliance order or notice of intention to terminate a permit pursuant to Section 3008 of RCRA or Part 124 of this Chapter, or an application in the United States district court for appropriate relief pursuant to Sections 3008, 7002, or 7003 of RCRA. For the purposes of this Subpart, a compliance procedure is considered to be pending from the time an order or notice of intent to terminate is issued or judicial proceedings are begun until the Regional Administrator notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Standby trust fund" means a trust fund which must be established by an owner or operator who obtains a letter of credit or surety bond as specified in these regulations. The institution issuing the letter of credit or surety bond will deposit into the standby trust fund any drawings by the Regional Administrator on the credit or bond.

(b) The following terms are used in the liability requirements. The definitions suggest what EPA believes are the common meanings of the terms as they are generally used in the insurance industry; the definitions are not intended to limit the meanings in a way that conflicts with general usage.

"Claims-made policy" means an insurance policy that provides coverage for an occurrence if a claim is filed during the term of the policy.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Nonsudden accident" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

§ 264.142 Cost estimate for facility closure.

(a) The owner or operator must have a written estimate of the cost of closing the facility in accordance with the requirements in §§ 264.111–264.115 and applicable closure requirements in §§ 264.178, 264.197, 264.228, and 264.258. The owner or operator must keep this estimate, and all subsequent estimates required in this Section, at the facility. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan [see § 264.112(a)].

[*Comment:* For example, the closure cost estimate for a particular landfill may be for the cost of closure when its active disposal operations extend over 20 acres, if at all other times these operations extend over less than 20 acres. The estimate would not include costs of partial closures that the closure plan schedules before or after the time of maximum closure cost.]

(b) The owner or operator must prepare a new closure cost estimate whenever a change in the closure plan affects the cost of closure.

(c) On each anniversary of the date on which the first estimate was prepared as specified in paragraph (a) of this Section, the owner or operator must adjust the latest closure cost estimate using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its *Survey of Current Business*. The inflation factor must be calculated by dividing the latest published annual Deflator by the Deflator for the previous year. The result is the inflation factor. The adjusted closure cost estimate must equal the latest closure cost estimate (see paragraph (b) of this Section) times the inflation factor.

[*Comments:* The following is a sample calculation of the adjusted closure cost estimate: Assume that the latest closure cost estimate for a facility is $50,000, the latest published annual Deflator is 152.05, and the annual Deflator for the previous year is 141.70. The Deflators may be rounded to the nearest whole number. Dividing 152 by 142 gives the inflation factor, 1.07. Multiply $50,000 by 1.07 for a product of $53,500—the adjusted closure cost estimate.

The closure cost estimate must be submitted to the Regional Administrator with Part B of the permit application under § 122.25 of this Chapter, and modification may be required as a condition of the permit.]

§ 264.143 Financial assurance for facility closure.

An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from among the following options:

(a) *Closure trust fund.* (1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund which conforms to the requirements of this paragraph and by sending an originally signed duplicate of the trust agreement to the Regional Administrator by certified mail. An owner or operator of a new facility must send the originally signed duplicate of the trust agreement to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 264.151(a)(1) and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see § 264.151(a)(2)).

(3) Payments to the trust fund must be made annually by the owner or operator over the term of the initial RCRA permit. The payments to the closure trust fund must be made as follows:

(i) For a new facility, as defined in § 260.10, the first payment must be made when the trust fund is established. The first payment must be at least equal to the closure cost estimate (see § 264.142), except as provided in paragraph (g) of this Section, divided by the number of years in the term of the permit. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by performing the following calculation:

$$\text{Next payment} = \frac{ACE - CV}{Y}$$

where ACE is the adjusted closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the term of the permit.

[*Comment:* The following is a sample calculation of subsequent payments: Assume that the adjusted closure cost estimate is $50,000, the current value of the trust is $35,000 and there are 3 years remaining in the term of the permit. Subtract $35,000 from $50,000, leaving $15,000. Divide $15,000 by 3. The result, $5,000, is the amount of the next payment to the trust fund. All amounts may be rounded to the nearest dollar.]

(ii) If an owner or operator established a trust fund as specified in Part 265, and the value of the trust fund does not equal the adjusted closure cost estimate when a permit is awarded for the facility, the amount of the adjusted closure cost estimate still to be paid into the trust fund must be paid in over the term of the permit. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to Part 265. The amount of each payment must be determined by performing the following calculation:

$$\text{Next payment} = \frac{ACE - CV}{Y}$$

where ACE is the adjusted closure cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the term of the permit.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in paragraphs (a)(1) and (3) of this Section.

(5) If the owner or operator establishes a closure trust fund after having initially used one or more alternate mechanisms specified in this Section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments made as specified in paragraph (a)(1) and (3) of this Section.

(6) After the term of the initial RCRA permit is completed, whenever the adjusted closure cost estimate changes the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund (described in Section 10 of the trust agreement). If the value of the fund is less than the amount of the new estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in this Section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the adjusted closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the adjusted closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in the trust fund which is greater than the amount required as a result of such substitution.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a)(7) or (8) of this Section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) After beginning final closure, an owner or operator or any other person authorized to conduct closure may request reimbursement for closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for closure activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the closure expenditures are in accordance with the closure plan or otherwise justified.

[*Comment:* Ordinarily, the Regional Administrator will approve reimbursements only up to 80 percent of the value of the closure trust fund; the remaining 20 percent will be returned to the owner or operator or any other person authorized to perform closure upon satisfactory certification of closure as noted in paragraph (i) of this Section.]

(11) The Regional Administrator will agree to termination of the trust when:

(i) The owner or operator substitutes alternate fianancial assurance for closure as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (i) of this Section, that he is no longer required by this Section to maintain financial assurance for closure of the facility.

(b) *Surety bond guaranteeing payment into a closure trust fund.* (1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this paragraph and by having the bond delivered to the Regional Administrator by certified mail. An owner or operator of a new facility must have the surety bond delivered to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The surety bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

[*Comment:* Circular 570 is published in the **Federal Register** annually on July 1; interim changes in the Circular are also published in the **Federal Register**.]

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust fund must meet the requirements specified in paragraph (a) of this Section, except that:

(i) An orginally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the surety bond; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required until the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond at least 60 days prior to the expected date of the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure in accordance with Subpart G of this Part is issued by the Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of RCRA, or within 15 days after issuance of a notice of termination of the permit pursuant to Part 124 of this Chapter; or

(iii) Provide alternate financial assurance as specified in this Section within 30 days after receipt by the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted closure cost estimate (see § 264.142) except as provided in paragraph (g) of this Section.

(7) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator must, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the adjusted closure cost estimate decreases, the penal sum may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the penal sum must be sent to the Regional Administrator by certified mail within 60 days after the change.

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(8) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation cannot occur, however:

(i) During the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator as shown on the signed return receipt; or

(ii) While a compliance procedure is pending, as defined in § 264.141.

(9) The surety bond no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice of cancellation of the surety bond. Upon receipt of such notice the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternative financial assurance within 30 days after issuance of the compliance order, the Regional Administrator may direct the surety to place the penal sum of the bond in the standby trust fund.

(10) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on receipt of evidence of alternate financial assurance as specified in this Section.

(11) The Regional Administrator will notify the surety when the owner or operator funds the standby trust fund in the amount guaranteed by the surety bond or if he provides alternate financial assurance as specified in this Section.

(c) *Surety bond guaranteeing performance of closure.*

(1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this paragraph and by having the bond delivered to the Regional Administrator by certified mail. An owner or operator of a new facility must have the surety bond delivered to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The surety bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

[*Comment:* Circular 570 is published in the **Federal Register** annually on July 1; interim changes in the Circular are also published in the **Federal Register.**]

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(c).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust must meet the requirements specified in paragraph (a) of this Section, except that:

(i) An orginally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the surety bond; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required unless the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The bond must guarantee that the owner or operator will:

(i) Perform final closure in accordance with the closure plan and other requirements in the permit for the facility; or

(ii) Perform final closure in accordance with Subpart G of this Part following an order to begin closure issued by the Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of RCRA, or following issuance of a notice of termination of the permit pursuant to Part 124 of this Chapter; or

(iii) Provide alternate financial assurance as specified in this Section within 30 days after receipt by the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted closure cost estimate (see § 264.142).

(7) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator must, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the adjusted closure cost estimate decreases, the penal sum may be reduced to the amount of the adjusted closure cost estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the penal sum must be sent to the Regional Administrator by certified mail within 60 days after the change.

(8) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation cannot occur, however:

(i) During the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator as shown on the signed return receipt; or

(ii) While a compliance procedure is pending, as defined in § 264.141.

(9) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure in accordance with the closure plan and other permit requirements or closure order; as an alternative the surety may deposit the amount of the penal sum into the standby trust fund.

(10) The surety bond no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice of cancellation of the surety bond. Upon receipt of such notice the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days after issuance of the compliance order, the Regional Administrator may direct the surety to place the penal sum of the bond in the standby trust fund.

(11) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on receipt of evidence of alternate financial assurance as specified in this Section.

(12) The Regional Administrator will notify the surety if the owner or operator provides alternate financial assurance as specified in this Section.

(13) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the owner or operator has been notified by the Regional Administrator, in accordance with paragraph (i) of this Section, that he is no longer required by

this Section to maintain financial assurance for closure of the facility.

(d) *Closure letter of credit.* (1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and by having it delivered to the Regional Administrator by certified mail. An owner or operator of a new facility must have the letter of credit delivered to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 264.151(*f*).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund by the time the letter of credit is obtained. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited promptly and directly by the issuing institution into the standby trust fund. The standby trust fund must meet the requirements of the trust fund specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the letter of credit; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required unless the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year. If the issuing institution decides not to extend the letter of credit beyond the then current expiration date it must, at least 90 days before that date, notify both the owner or operator and the Regional Administrator by certified mail of that decision. The 90-day period will begin on the date of receipt by the Regional Administrator as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending as defined in § 264.141.

(5) The letter of credit must be issued for at least the amount of the adjusted closure cost estimate (see § 264.142), except as provided in paragraph (g) of this Section.

(6) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the credit the owner or operator must, within 60 days of the increase, cause the amount of the credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this Section to cover the increase. Whenever the adjusted closure cost estimate decreases the letter of credit may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the amount of the credit must be sent to the Regional Administration by certified mail within 60 days of the change.

(7) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed, when required to do, to perform closure in accordance with the closure plan or other permit requirements, the Regional Administrator may draw on the letter of credit.

(8) The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the compliance order, the Regional Administrator may draw on the letter of credit.

(9) The Regional Administrator will return the original letter of credit to the issuing institution for termination when:

(i) The owner or operator substitutes alternate financial assurance for closure as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (i) of this Section, that he is no longer required by this Section to maintain financial assurance for closure of the facility.

(e) and (f) [Reserved].

(g) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a closure trust fund, and letters of credit. The mechanisms must be as specified in paragraphs (a), (b), and (d), respectively, of this Section, except that it is the combination of mechanisms, rather than each single mechanism, which must provide financial assurance for an amount at least equal to the adjusted closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, he may use the trust fund as the standby trust fund for the bond or letter of credit. If the multiple mechanisms include only surety bonds and letters of credit, a single standby trust may be established for all these mechanisms. The Regional Administrator may invoke use of any or all of the mechanisms, in accordance with the requirements of paragraphs (a), (b), and (d) of this Section, to provide for closure of the facility.

(h) *Use of a financial mechanism for multiple facilities.* (1) An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility of which he is the owner or operator. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. If the list is changed by addition or subtraction of a facility or by an increase or decrease in the amount of funds assured for closure of one or more facilities, a corrected list must be sent to the Regional Administrator within 60 days of such change. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.

(2) A letter of credit may not be used to assure funds for facilities in more than one Region. If other financial mechanisms specified in this Section cover facilities that are located in more than one Region, the regional Administrators for all Regions in which the facilities are located must be involved in all transactions that involve the Regional Administrator, except when the transactions involve only those facilities in one Region.

(i) *Release of the owner or operator from the requirements of this Section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan (see § 264.115), the Regional Administrator will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for closure of the particular facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the closure plan.

[*Comment:* The notice releases the owner or operator only from requirements for financial assurance for closure of the facility; it does not release him from legal responsibility for meeting the closure standards.]

§ 264.144 Cost estimate for post-closure monitoring and maintenance.

(a) The owner or operator of a disposal facility must have a written estimate of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 264.117–264.120. The owner or operator must keep this estimate, and all subsequent estimates required in this Section, at the facility.

(b) The owner or operator must prepare a new annual post-closure cost estimate whenever a change in the post-closure plan affects the cost of post-closure care [see § 264.118(b)]. The latest post-closure cost estimate is calculated by multiplying the latest annual post-closure cost estimate by the number of years of post-closure care required in the latest post-closure plan approved for the facility by the Regional Administrator.

(c) On each anniversary of the date on which the first estimate was prepared as specified in paragraph (a) of this Section, during the operating life of the facility, the owner or operator must adjust the latest post-closure cost estimate using the inflation factor calculated in accordance with § 264.142(c). The adjusted post-closure cost estimate must equal the latest post-closure cost estimate (see paragraph (b) of this Section) times the inflation factor.

[*Comment:* The post-closure cost estimate must be submitted to the Regional Administator with Part B of the permit application under § 122.25 of this Chapter, and modification may be required as a condition of the permit.]

§ 264.145 Financial assurance for post-closure monitoring and maintenance.

An owner or operator of each disposal facility must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility. He must choose from among the following options:

(a) *Post-closure trust fund.* (1) An owner or operator may satisfy the requirements of this Section by establishing a post-closure trust fund which conforms to the requirements of this paragraph and by sending an originally signed duplicate of the trust agreement to the Regional Administrator by certified mail. An owner or operator of a new facility must send the originally signed duplicate of the trust agreement to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 264.151(a)(1) and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see § 264.151(a)(2)).

(3) Payments to the trust fund must be made annually by the owner or operator over the term of the initial RCRA permit. The payments to the post-closure trust fund must be made as follows:

(i) For a new facility, as defined in § 260.10, the first payment must be made when the trust fund is established. The first payment must be at least equal to the post-closure cost estimate (see § 264.144), except as provided in paragraph (g) of this Section, divided by the number of years in the term of the permit. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by performing the following calculation:

$$\text{Next payment} = \frac{ACE - CV}{Y}$$

where ACE is the adjusted post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the term of the permit.

[*Comment:* The following is a sample calculation of subsequent payments: Assume that the adjusted post-closure cost estimate is $50,000, the current value of the trust fund is $35,000 and there are 3 years remaining in the term of the permit. Subtract $35,000 from $50,000, leaving $15,000. Divide $15,000 by 3. The result, $5,000, is the amount of the next payment to the trust fund. All amounts may be rounded to the nearest dollar.]

(ii) If an owner or operator established a trust fund as specified in Part 265, and the value of the fund does not equal the adjusted post-closure cost estimate when a permit is awarded for the facility, the amount of the adjusted post-closure cost estimate still to be paid into the fund must be paid in over the term of the permit. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to Part 265. The amount of each payment must be determined by performing the following calculation:

$$\text{Next payment} = \frac{ACE - CV}{Y}$$

where ACE is the adjusted post-closure cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the term of the permit.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in paragraphs (a)(1) and (3) of this Section.

(5) If the owner or operator establishes a post-closure trust fund after having initially used one or more alternate mechanisms specified in this Section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments made as specified in paragraphs (a)(1) and (3) of this Section.

(6) After the term of the initial RCRA permit is completed, whenever the adjusted post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund (described in Section 10 of the trust agreement). If the value of the fund is less than the amount of the new estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other

financial assurance as specified in this Section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the adjusted post-closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the adjusted post-closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in the trust fund which is greater than the amount required as a result of such substitution.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a)(7) or (8) of this Section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) An owner or operator or any other person authorized to conduct post-closure may request reimbursement for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the post-closure expenditures are in accordance with the post-closure plan or otherwise justified.

(11) The Regional Administrator will agree to termination of the trust when:

(i) The owner or operator substitutes alternate financial assurance for post-closure as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (i) of this Section, that he is no longer required by this Section to maintain financial assurance for post-closure care of the facility.

(b) *Surety bond guaranteed payment into a post-closure trust fund.*

(1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which confirms to the requirements of this paragraph and by having the bond delivered to the Regional Administrator by certified mail. An owner or operator of a new facility must have the surety bond delivered to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for disposal. The surety bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

[*Comment:* Circular 570 is published in the **Federal Register** annually on July 1; interim changes in the Circular are also published in the **Federal Register**.]

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(d).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust fund must meet the requirements specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the surety bond; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required until the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond by the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure in accordance with Subpart G of this Part is issued by the Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of RCRA, or within 15 days after issuance of a notice of termination of the permit pursuant to Part 124 of this Chapter; or

(iii) Provide alternate financial assurance as specified in this Section within 30 days after receipt by the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted post-closure cost estimate (see § 264.144) except as provided in paragraph (g) of this Section.

(7) Whenever the adjusted post-closure cost estimate increases to an amount greater than the penal sum of the bond the owner or operator must, within 60 days after the increase cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the adjusted post-closure cost estimate decreases the penal sum may be reduced to the amount of the new cost estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the penal sum must be sent to the Regional Administrator by certified mail within 60 days after the change.

(8) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation cannot occur, however:

(i) During the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator as shown on the signed return receipt; or

(ii) While a compliance procedure is pending, as defined in § 264.141.

(9) The surety bond no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice of cancellation of the surety bond. Upon receipt of such notice the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days after issuance of the compliance order, the Regional Administrator may direct the surety to place the penal sum of the bond in the standby trust fund.

(10) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this Section.

(11) The Regional Administrator will notify the surety when the owner or operator funds the standby trust fund in the amount guaranteed by the surety bond or if he provides alternate financial assurance as specified in this Section.

(c) *Surety bond guaranteeing performance of post-closure care.*

(1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this paragraph and by having the bond delivered to the Regional Administrator by certified mail. An owner or operator of a new facility must have the surety bond

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delivered to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for disposal. The surety bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of Treasury.

[*Comment:* Circular 570 is published in the **Federal Register** annually on July 1; interim changes in the Circular are also published in the **Federal Register**.]

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(e).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited into the standby trust fund. This trust fund must meet the requirements specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the surety bond; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required unless the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The bond must guarantee that the owner or operator will:

(i) Perform post-closure care in accordance with the post-closure plan and other requirements of the permit; or

(ii) Provide alternate financial assurance within 30 days of receipt by the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the adjusted post-closure cost estimate (see § 264.144).

(7) Whenever the adjusted post-closure cost estimate increases to an amount greater than the penal sum of the bond during the operating life of the facility, the owner or operator must, within 60 days after the increase in the estimate, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the adjusted post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the penal sum must be sent to the Regional Administrator by certified mail within 60 days after the change.

(8) During the period of post-closure care, the Regional Administrator may approve a decrease in the penal sum of the surety bond if the owner or operator demonstrates to the Regional Administrator that the amount exceeds the remaining cost of post-closure care.

(9) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation cannot occur, however:

(i) During the 90 says beginning on the date of receipt of the notice of cancellation by the Regional Administrator as shown on the signed return receipt; or

(ii) While a compliance procedure is pending, as defined in § 264.141.

(10) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the post-closure plan and other permit requirements, under the terms of the bond the surety will perform post-closure care in accordance with the post-closure plan and other permit requirements or deposit the amount of the penal sum into the standby trust fund.

(11) The surety bond no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice of cancellation of the surety bond. Upon receipt of such a notice the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days after issuance of the compliance order, the Regional Administrator may direct the surety to place the penal sum of the bond in the standby trust fund.

(12) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent, based on his receipt of evidence of alternate financial assurance as specified in this Section.

(13) The Regional Administrator will notify the surety if the owner or operator provides alternate financial assurance as specified in this Section.

(14) The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the owner or operator has been notified by the Regional Administrator, in accordance with paragraph (i) of this Section, that he is no longer required by this Section to maintain financial assurance for post-closure care of the facility.

(d) *Post-closure letter of credit.* (1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and by having it delivered to the Regional Administrator by certified mail. An owner or operator of a new facility must have the letter of credit delivered to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 264.151(f).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund by the time the letter of credit is obtained. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited promptly and directly by the issuing institution into the standby trust fund. The standby trust fund must meet the requirements of the trust fund specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the letter of credit; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required unless the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year. If the issuing institution decides not to extend the letter of credit beyond the then current expiration date

it must, at least 90 days before that date, notify both the owner or operator and the Regional Administrator by certified mail of that decision. The 90-day period will begin on the date of receipt by the Regional Administrator as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending as defined in § 264.141.

(5) The letter of credit must be issued for at least the amount of the adjusted post-closure cost estimate (see § 264.144), except as provided in paragraph (g) of this Section.

(6) Whenever the adjusted post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility the owner or operator must, within 60 days of the increase, cause the amount of the credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this Section to cover the increase. Whenever the adjusted post-closure cost estimate decreases during the operating life of the facility, the letter of credit may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the amount of the credit must be sent to the Regional Administrator by certified mail within 60 days of the change.

(7) During the period of post-closure care, the Regional Administrator may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Regional Administrator that the amount exceeds the remaining cost of post-closure care.

(8) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed, when required to do so, to perform post-closure in accordance with the post-closure plan or other permit requirements, the Regional Administrator may draw on the letter of credit.

(9) The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the commpliance order, the Regional Administrator may draw on the letter of credit.

(10) The Regional Administrator will return the original letter of credit to the issuing institution for termination when:

(i) The owner or operator substitutes alternate financial assurance for post-closure care as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (i) of this Section, that he is no longer required by this Section to maintain financial assurance for post-closure of the facility.

(e) and (f) [Reserved].

(g) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a post-closure trust fund, and letters of credit. The mechanisms must be as specified in paragraphs (a), (b), and (d), respectively, of this Section, except that it is the combination of mechanisms, rather than each single mechanism, which must provide financial assurance for an amount at least equal to the adjusted post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, he may use the trust fund as the standby trust fund for the bond or letter of credit. If the multiple mechanisms include only surety bonds and letters of credit, a single standby trust may be established for all these mechanisms. The Regional Administrator may invoke use of any or all of the mechanisms, in accordance with the requirements of paragraphs (a), (b) and (d) of this Section, to provide for post-closure care of the facility.

(h) *Use of a financial mechanism for multiple facilities.* (1) An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility of which he is the owner or operator. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. If the list is changed by addition or subtraction of a facility or by an increase or decrease in the amount of funds assured for post-closure care of one or more facilities, a corrected list must be sent to the Regional Administrator within 60 days of such change. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.

(2) A letter of credit may not be used to assure funds for facilities located in more than one Region. If other financial mechanisms specified in this Section cover facilities that are located in more than one Region, the Regional Administrators for all Regions in which the facilities are located must be involved in all transactions that involve the Regional Administrator, except when the transactions involve only those facilities in one Region.

(i) *Release of the owner or operator from the requirements of this Section.* When an owner or operator has completed, to the satisfaction of the Regional Administrator, all post-closure care requirements for the period of post-closure care specified in the permit for the facility or the period specified by the Regional Administrator after closure, whichever period is shorter, the Regional Administrator will, at the request of the owner or operator, notify him in writing that he is no longer required by this Section to maintain financial assurance for post-closure care of the particular facility.

[*Comment:* The notice releases the owner or operator only from requirements for financial assurance for post-closure care of the facility; it does not release him from legal responsibility for meeting the post-closure standards.]

§ 264.146 Use of a mechanism for financial assurance of both closure and post-closure care.

An owner or operator may use one of the following financial assurance mechanisms to provide financial assurance for both closure and post-closure care of one or more facilities of which he is the owner or operator:

(a) A trust fund that meets the specifications of both § 264.143(a) and § 264.145(a), or

(b) A letter of credit that meets the specifications of both § 264.143(d) and § 264.145(d).

The amount of funds available under the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care of each facility.

§ 264.147 Liability requirements.

(a) An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for claims arising from the operations of each such facility or group of facilities from sudden and accidental occurrences that cause injury to persons or property. An owner or operator must have and maintain liability insurance for sudden occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. As evidence of this liability insurance, an owner or operator must deliver an originally signed duplicate of the insurance policy to the Regional Administrator, or Regional Administrators if the facilities are in more than one Region, by certified mail. An owner or operator of a new facility must send the originally signed duplicate of the insurance policy to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. Each policy must be for limits of liability not less than the minimum amounts required by this paragraph and each policy must be amended, in order to comply with the requirements of this regulation, by attachment of the Hazardous Waste Facility Liability Endorsement. The wording of the endorsement must be identical to the wording specified in § 264.151(g).

(b) An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for claims arising from the operations of each such facility or group of facilities from nonsudden and accidental occurrences that cause injury to persons or property. An owner or operator must have and maintain liability insurance for nonsudden occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. As evidence of this liability insurance, an owner or operator of an existing surface impoundment, landfill, or land treatment facility must deliver an originally signed duplicate of the insurance policy to the Regional Administrator, or Regional Administrators if the facilities are in more than one Region, by certified mail. However, such insurance will not be required of an existing facility before the following dates:

(1) For an owner or operator with annual sales in the last calendar year preceding the effective date of these regulations totaling $10 million or more; 6 months after the effective date of these regulations.

(2) For an owner or operator with annual sales in the last calendar year preceding the effective date of these regulations greater than $5 million but less than $10 million; 18 months after the effective date of these regulations.

(3) All other owners or operators; 30 months after the effective date of these regulations.

An owner or operator of a new surface impoundment, landfill, or land treatment facility must send an originally signed duplicate of the insurance policy to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. For both existing and new facilities, each policy shall be for limits of liability not less than the minimum amounts required by this paragraph and each policy must be amended, in order to comply with the requirements of this regulation, by attachment of the Hazardous Waste Facility Liability Endorsement. The wording of the endorsement must be identical to the wording specified in § 264.151(g).

(c) If an owner or operator elects to comply with paragraphs (a) and (b) of this Section through one insurance policy covering both sudden and nonsudden occurrences, this policy must be in the amount of at least $4 million per occurrence with an annual aggregate of at least $8 million, exclusive of legal defense costs.

(d) If an owner or operator can demonstrate to the satisfaction of the Regional Administrator that the levels of financial responsibility required by paragraphs (a) or (b) of this Section are not consistent with the degree and duration of tasks associated with the treatment, storage, or disposal at each facility or group of facilities, the owner or operator may obtain a variance from the Regional Administrator. The request for a variance must be submitted to the Regional Administrator as part of the permit application under § 122.25 of this Chapter for a facility that does not have a permit, or pursuant to the procedures for permit modification under § 124.5 of this Chapter for a facility that has a permit. The variance shall take the form of an adjusted level of required liability coverage, such level to be based on the Regional Administrator's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of facilities. The Regional Administrator may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the Regional Administrator to determine a level of financial responsibility other than that required by paragraphs (a) or (b) of this Section. Any request for a variance for a permitted facility shall be treated as a request for a permit modification under §§ 122.15 (a)(5) and 124.5 of this Chapter.

(e) If the Regional Administrator determines that the levels of financial responsibility required by paragraphs (a) or (b) of this Section are not consistent with the degree and duration of risks associated with treatment, storage, or disposal at any facility or group of facilities, the Regional Administrator may adjust the level of financial responsibility required under paragraphs (a) or (b) of this Section as may be necessary to protect human health and the environment, such adjusted level to be based on the Regional Administrator's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of such facilities. The Regional Administrator may also require an owner or operator of a treatment or storage facility or group of facilities to comply with paragraph (b) of this Section if the Regional Administrator determines that there is a significant risk to human health and the environment from nonsudden and accidental occurrences from the operations of such facility or group of facilities. Any adjustment of the level of required coverage for a facility that has a permit shall be treated as a permit modification under §§ 122.15(a)(5) and 124.5 of this Chapter.

[*Comment:* Under § 122.25 of this Chapter, an owner or operator of a new facility must include in Part B of his permit application the amounts of liability coverage meeting the requirements of § 264.147(a) and, if applicable, § 264.147(b) that he plans to establish prior to initial receipt of hazardous waste at the facility for treatment, storage, or disposal.]

§ 264.148 Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies.

An owner or operator who fulfills the requirements of §§ 264.143, 264.145, or 264.147 by obtaining a letter of credit, surety bond, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy, insolvency, or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance or liability coverage within 60 days of such events.

§ 264.140 Applicability of State financial requirements.

(a) For a facility located in a State whose hazardous waste regulations include liability requirements or requirements for financial assurance for closure and post-closure care, an owner or operator may use State-required financial mechanisms to meet the requirements of §§ 264.143, 264.145, and 264.147 if the State mechanisms provide assurance or liability coverage equivalent to or greater than that provided by the mechanisms of §§ 264.143, 264.145, and 264.147. Evidence of the establishment of such a mechanism must be delivered by certified mail to the Regional Administrator. The submittal must include, or have attached to it, the following information: the facility's EPA Identification Number, name, address, and the amounts of liability coverge or funds for closure or post-closure care assured by the mechanism. An owner or operator of a new facility must deliver such evidence to the Regional Administrator or by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The mechanism must be effective before this initial receipt of hazardous waste.

(b) The owner or operator must obtain an additional financial assurance mechanism for closure or for post-closure care, as specified in §§ 264.143 and 264.145 or additional liability insurance as specified in § 264.147, if the amount of funds available from the State mechanism is less than that required by this Subpart. The amounts of funds available through the State and Federal mechanisms must equal at least the amounts required in §§ 264.143, 264.145, and 264.147.

§ 264.150 State assumption of responsibility.

(a) If a State either assumes legal responsibility for an owner's or operator's compliance with the closure, post-closure, or liability requirements of these regulations *or* assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with requirements of this Subpart if the State's assurances are equivalent to or exceed the assurances provided by the requirements of this Subpart. The owner or operator must deliver by certified mail to the Regional Administrator a letter from the State describing the nature of the State's responsibility regarding the closure, post-closure, and liability requirements so covered. The letter must include, or have attached to it, the following information: the facility's EPA Identification Number, name, address, and the amounts of liability coverage or funds for closure or post-closure care that are assured by the State. An owner or operator of a new facility must deliver the letter to the Regional Administrator by certified mail at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The guarantee must be effective before this initial receipt of hazardous waste.

(b) The owner or operator must obtain an additional financial assurance mechanism for closure or for post-closure care, as specified in §§ 264.143 and 264.145 or additional liability insurance as specified in § 264.147, if the amount of funds available through State guarantees is less than that required by this Subpart. The amounts of funds available through the State guarantees and Federal mechanisms must equal at least the amounts required in §§ 264.143, 264.145, and 264.147.

§ 264.151 Wording of the instruments.

(a)(1) A trust agreement for a trust fund as specified in §§ 264.143(a) or 264.145(a) must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Trust Agreement

Trust agreement, the "Agreement", entered into as of [date] by and between [name of the owner or operator], a [State] [corporation, partnership, association, proprietorship], the "Grantor", and [name of corporate trustee], a [State corporation] [national bank], the "Trustee".

Whereas, the United States Environmental Protection Agency, "EPA", an agency of the United States Government, has established certain regulations applicable to the Grantor, requiring that the owner or operator of a hazardous waste management facility must provide assurance that funds will be available when needed for closure and/or post-closure care of the facility.

Whereas, the Grantor has elected to establish a trust to provide such financial assurance for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "fiduciary" means any person who exercises any power of control, management, or disposition or renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of this trust fund, or has any authority or responsibility to do so, or who has any authority or responsibility in the administration of this trust fund.

(b) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(c) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to [for each facility insert the EPA Identification Number, name, and address, and the adjusted closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund" for the benefit of the EPA. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule A attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund will be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee undertakes no responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments to discharge any liabilities of the Grantor established by the EPA.

Section 4. Payment for Closure and Post-Closure Care. The Trustee will make such payments from the Fund as the EPA Regional Administrator will direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee will reimburse the Grantor or other persons as specified by the Regional Administrator from the Fund for closure and post-closure expenditures in such amounts as the Regional Administrator will direct, in writing. The Trustee will notify the Regional Administrator when 20 percent of the amount allocated for closure of the facility remains in the Fund, and will not make further reimbursements for closure expenditures unless the Regional Administrator identifies reimbursements that may be made out of the remaining 20 percent. In addition, the Trustee will refund to the Grantor such amounts as the EPA Regional Administrator specifies in writing. Upon refund, such funds will no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund will consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee will invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with investment guidelines and objectives communicated in writing to the Trustee from time to time by the Grantor, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee or any other fiduciary will discharge his duties with respect to the trust fund solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; *except that:*

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a–2.(a), will not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein. To the extent of the equitable share of the Fund in any such commingled trust, such commingled trust will be part of the Fund;

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. §§ 80a–1 et seq., or one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by private contract or at public auction. No person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee will at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund will be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee will be paid from the Fund.

Section 10. Annual Valuation. The Trustee will annually, at the end of the month coincident with or preceding the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate EPA Regional Administrator a statement confirming the value of the Trust. Any securities in the Fund will be valued at market value as of no more than 30 days prior to the date of the statement. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EPA Regional Administrator will constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee will be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee will be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. Upon the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator, the Trustee may resign or the Grantor may replace the Trustee. In either event, the Grantor will appoint a successor Trustee who will have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of the appointment by the successor trustee, the Trustee will assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee and the date on which he assumes administration of the trust will be specified in writing and sent to the Grantor, the EPA Regional Administrator, and the present and successor trustees by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section will be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests and instructions by the Grantor to the Trustee will be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee will be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests, and instructions by the EPA Regional Administrator to the Trustee will be in writing, singed by the EPA Regional Administrators of the Regions in which the facilities are located, and the Trustee will act and will be fully protected in acting in accordance with such orders, requests and instructions. The Trustee will have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the EPA hereunder has occurred. The Trustee will have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or the EPA, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee will notify the Grantor and the appropriate EPA Regional Administrator, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed the Trustee is not required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate EPA Regional Administrator, or by the Trustee and the appropriate EPA Regional Administrator if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust will be irrevocable and will continue until terminated at the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator, or by the Trustee and the EPA Regional Administrator if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, will be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee will not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EPA Regional Administrator issued in accordance with this Agreement. The Trustee will be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement will be administered, construed and enforced according to the laws of the State of *[State]*.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this agreement will not affect the interpretation or the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 40 CFR 264.151(a)(1).

[Signature of Grantor]
By [Title]
Attest:
[Title]
[Seal]
[Signature of Trustee]
By
Attest:
[Title]
[Seal]

(2) This is an example of the certification of acknowledgment, which must accompany the trust agreement for a trust fund as specified in §§ 264.143(a) and 264.145(a):

State of ————————
County of ————————

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[*Comment:* As required in §§ 264.143(a)(2) and 264.145(a)(2), the trust agreement must be accompanied by a formal certification of acknowledgment. This is an example only. State requirements may differ on the proper content of this acknowledgment.]

(b) A surety bond guaranteeing payment into a closure trust fund, as specified in § 265.143(b), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Financial Guarantee Bond for Closure

Date bond executed: ————————
Effective date: ————————
Principal: [legal name and business address]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: ————————
Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, and address of each facility and, if more than one facility is covered by this bond, the amount of the penal sum for each facility: ————
Total penal sum of bond: $ ————————

Know all men by these presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have an EPA permit or permits, or interim status, in order to own or operate the hazardous waste management facility(ies) identified above, and

Whereas said Principal is required to provide financial assurance for closure of the facility(ies) as a condition of the permit(s) or interim status, and

Whereas said Principal shall establish a standby trust fund as specified by 40 CFR 264.143 or 40 CFR 265.143,

Now, therefore the conditions of the obligation are such that if the Principal shall faithfully, for the facility(ies) identified above, at least 60 days before the beginning of final closure, fund the standby trust fund in an amount equal to the penal sum,

Or, if the Principal shall fund the standby trust fund in such an amount within 15 days after an order to begin closure in accordance with Subpart G of 40 CFR Parts 264 and 265 is issued by an EPA Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of the Resource Conservation and Recovery Act, as amended, or within 15 days after a notice of termination of the permit(s) or interim status pursuant to 40 CFR Part 124,

Or, if the Principal shall provide alternate financial assurance as specified in 40 CFR 264.143 or 40 CFR 265.143 within 30 days after the date notice of cancellation is received by a Regional Administrator, then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount of the penal sum into the standby trust fund as directed by the EPA Regional Administrator.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending written notice of cancellation to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation cannot occur: (1) during the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator(s) as shown on the signed return receipt(s); or (2) while a compliance procedure is pending, as defined in 40 CFR 264.141 or 40 CFR 265.141.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it equals the adjusted closure cost estimate(s), provided that the amount of the cost estimate(s) does do not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Regional Administrator(s).

In witness whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 265.151(b).

Principal

Signature(s): ————————
Name(s) and title(s) [typed] ————————
Corporate seal:

Corporate Surety(ies)

Name and address: ————————
State of incorporation: ————————
Liability limit: $ ————————
Signature(s): ————————
Name(s) and title(s) [typed]: ————————
Corporate seal:

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ ————————

(c) A Surety bond guaranteeing performance of closure, as specified in § 264.143(c), must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Performance Bond for Closure

Date bond executed: ———
Effective date: ———
Principal: [legal name and business address]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: ———
Surety(ies): [name(s) and business address(es)]
EPA Identification Number, name, address, and adjusted closure cost estimate for each facility: ———
Total penal sum of bond: $ ———

Know all men by these presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have a permit or permits from EPA in order to own or operate the hazardous waste management facility(ies), identified above, and

Whereas, said Principal is required to provide financial assurance for closure of the facility(ies) as a condition of the permit(s), and

Whereas said Principal shall establish a standby trust fund as specified by 40 CFR 264.143,

Now, therefore the conditions of this obligation are such that if the Principal shall faithfully perform closure of the facility(ies) identified above in accordance with the closure plan(s) submitted to receive said permit(s) and other requirements of said permit(s) as such plan(s) and permit(s) may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulatons may be amended,

Or, if the Principal shall faithfully perform closure in accordance with 40 CFR 264, Subpart G, following an order to begin closure issued by an EPA Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of the Resource Conservation and Recovery Act, as amended, or following a notice of termination of the permit pursuant to Part 124 of this Chapter,

Or, if the Principal shall provide alternate financial assurance as specified in 40 CFR 264.143 within 30 days of the date notice of cancellation is received by a Regional Administrator, then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has been found in violation of 40 CFR 264.143 in an order made pursuant to Section 3008 of the Resource Conservation and Recovery Act, as amended, the Surety(ies) must place funds in the amount of the adjusted closure cost estimate(s) into the standby trust fund as directed by an EPA Regional Administrator. Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the closure requirements of 40 CFR Part 264, the Surety(ies) must either perform closure in accordance with the closure plan(s) and other permit requirements or place the amount of the adjusted closure cost estimate(s) in the standby trust fund. Upon notification by an EPA Regional Administrator that the Principal has been found in violation of an order to begin closure, the Surety(ies) must either perform closure in accordance with the closure order or place the amount of the adjusted closure cost estimate(s) in the standby trust fund.

The Surety(ies) hereby waives notification of amendments to the closure plan(s), permit(s), applicable laws, statutes, rules and regulations and agrees that no such amendment(s) shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or successon of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending written notice of cancellation to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation cannot occur: (1) during the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator(s) as shown on the signed return receipt(s); or (2) while a compliance procedure is pending, as defined in 40 CFR 264.141.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it equals the adjusted closure cost estimate(s), provided that the amount of the cost estimate(s) does (do) not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Regional Administrator(s).

In witness whereof, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 264.151(c).

Principal

Signature(s): ———
Name(s) and title(s) [typed]: ———
Corporate seal:

Corporate Surety(ies)

Name and address: ———
State of incorporation: ———
Liability limit: $ ———
Signature(s): ———
Name(s) and title(s) [typed]: ———
Corporate seal:
[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: $ ———

(d) A surety bond guaranteeing payment into a post-closure trust fund, as specified in § 264.145(b), must be worded as follows, except that instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Financial Guarantee Bond for Post-Closure Care

Date bond executed: ———
Effective date: ———
Principal: [legal name and business address]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: ———
Surety(ies): [name(s) and business address(es)]
EPA Identification Number, name, and address of each facility and, if more than one facility is covered by this bond, the amount of the penal sum for each facility:
Total penal sum of bond: $ ———

Know all men by these presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have an EPA permit or permits, or interim status, in order to own or operate the hazardous waste management facility(ies) identified above, and

Whereas said Principal is required to provide financial assurance for post-closure care of the facility(ies) as a condition of the permit(s) or interim status, and

Whereas said Principal shall establish a standby trust fund as specified by 40 CFR 264.145 or 40 CFR 265.145, Now, therefore the conditions of the obligation are such that if the Principal shall faithfully, for the facility(ies) identified above, by the beginning of final closure, fund the standby trust fund in an amount equal to the penal sum,

Or, if the Principal shall fund the standby trust fund in such an amount within 15 days after an order to begin closure in accordance with Subpart G of 40 CFR Parts 264 and 265 is issued by the Regional Administrator or a U.S. district court pursuant to Section 3008, 7002, or 7003 of the Resource Conservation and Recovery Act, as amended, or within 15 days after a notice of termination of the permit(s) or interim status pursuant to 40 CFR Part 124,

Or, if the Principal shall provide alternate financial assurance as specified in 40 CFR 264.145 or 40 CFR 265.145 within 30 days after the date notice of cancellation is received by a Regional Administrator, then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) must place funds in the amount of the penal sum into the standby trust fund as directed by an EPA Regional Administrator.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending written notice of cancellation to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation cannot occur: (1) during the 90 days beginning on the date of the receipt of the notice of cancellation by the Regional Administrator(s) as shown on the signed return receipt(s); or (2) while a compliance procedure is pending, as defined in 40 CFR 264.141 or 40 CFR 265.141.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located. [The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it equals the adjusted post-closure cost estimate(s), provided that the amount of the cost estimate(s) does (do) not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Regional Administrator(s).

In witness whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 265.151(d).

Principal

Signature(s): ————————
Name(s) and title(s) [typed]: ————————
Corporate seal:

Corporate Surety(ies)

Name and address: ————————
State of incorporation: ————————
Liability limit: $ ————————
Signature(s): ————————
Name(s) and title(s) [typed]: ————————
Corporate seal: ————————

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ ————————

(e) A surety bond guaranteeing performance of post-closure care, as specified in § 264.145(c), must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Performance Bond for Post-Closure Care

Date bond executed: ————————
Effective date: ————————
Principal: [legal name and business address]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: ————————
Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, address, and adjusted post-closure cost estimate for each facility: ————
Total penal sum of bond: $ ————————

Know all men by these presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bond ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have a permit or permits from EPA in order to own or operate the hazardous waste management facility(ies) identified above, and

Whereas, said Principal is required to provide financial assurance for post-closure care of the facility(ies) as a condition of the permit(s), and

Whereas said Principal shall establish a standby trust fund as specified by 40 CFR 264.145,

Now, therefore the conditions of this obligation are such that if the Principal shall faithfully perform post-closure care of the facility(ies) identified above in accordance with the post-closure plan(s) and other requirements of the permit(s), as such post-closure plan(s) and permit(s) may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in 40 CFR 264.145 within 30 days of the date notice of cancellation is received by a Regional Administrator, then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has been found in violation of 40 CFR 264.145 in an order made pursuant to Section 3008 of the Resource Conservation and Recovery Act, as amended, the Surety(ies) must place funds in the amount of the adjusted post-closure cost estimate(s) into the standby trust fund as directed by an EPA Regional Administrator. Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the post-closure requirements of 40 CFR Part 264, the Surety(ies) must perform post-closure care in accordance with the post-closure plan and other requirements of the permit or place the amount of the adjusted post-closure cost estimate(s) into the standby trust fund.

The Surety(ies) hereby waives notification of amendments to closure plan(s), permit(s), applicable laws, statutes, rules and regulations and agrees that no such amendment(s) shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the Surety's(ies') obligation hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending written notice of cancellation to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation cannot occur: (1) during the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator(s) as shown on the signed return receipt(s); or (2) while a compliance procedure is pending, as defined in 40 CFR 264.141. [The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it equals the adjusted post-closure cost estimate(s), provided that the amount of the cost estimate(s) does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Regional Administrator(s).

In witness whereof, the Principal and Surety(ies) have executed this Performance

Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 264.151(e).

Principal

Signature(s): ———
Name(s) and title(s) [typed]: ———
Corporate seal:

Corporate Surety(ies)

Name and address: ———
State of incorporation: ———
Liability limit: $ ———
Signature(s): ———
Name(s) and title(s) [typed]: ———
Corporate seal:

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ ———

(f) A letter of credit as specified in §§ 264.143(d) and 264.145(d) must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

[Regional Administrator]

Dear Sir or Madam: We hereby establish our Irrevocable Letter of Credit No. ——— in favor of the Regional Administrator for Region ——— of the United States Environmental Protection Agency, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars $———, available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No. ———, together with

(2) your signed statement declaring that the amount of the draft is payable pursuant to regulations issued under the authority of the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended.

The following amounts are included in the amount of this letter of credit: [For each facility, insert the EPA Facility Identification Number, name and address, and the adjusted closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this letter of credit].

This letter of credit is effective as of [date] and will expire on [date at least 1 year later], but such expiration date will be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 90 days before the current expiration date, we notify you and [owner or operator's name] by certified mail that we decide not to extend the Letter of Credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit will be available upon presentation of your sight draft for 90 days after the date of receipt by you as shown on the signed return receipt or while a compliance procedure is pending as defined in 40 CFR 264.141, whichever is later.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we will duly honor such draft upon presentation to us, and we will deposit the amount of the draft promptly and directly into the standby trust fund of [owner's or operator's name] held in trust by [name and address of corporate trustee].

I hereby certify that I am authorized to execute this letter of credit on behalf of [issuing institution] and that the wording of this letter of credit is identical to the wording specified in 40 CFR 264.151(f).

Attest:

[Signature and title of official of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce", or "the Uniform Commercial Code"].

(g) A hazardous waste facility liability endorsement as required in § 264.147 must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Hazardous Waste Facility Liability Endorsement

It is agreed that:

1. The certification of the policy, as proof of financial responsibility under the provisions of [insert § 264.147(a)(1) and/or (b)(1), 40 CFR] amends the policy to provide insurance in accordance with the provisions of such regulations to the extent of coverage and limits of liability required thereby at [list EPA Identification Number, name, and address for each facility]. Within the limits of liability provided it is understood that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the Company from liability hereunder or from the payment of any such final judgement, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the Company, and the insured agrees to reimburse the Company for any payment made by the Company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the Company would not have been obligated to make under the provisions of the policy except for the agreement contained in the endorsement.

2. Whenever requested by the Regional Administrator, the company agrees to furnish to the Regional Administrator a duplicate original of said policy and all endorsements thereon.

3. This endorsement may not be canceled without cancellation of the policy to which it is attached. Such cancellation may only be effected by the Company or the insured giving sixty (60) days' notice in writing to the Regional Administrator, such sixty (60) days' notice to commence to run from the date the notice is actually received by the Regional Administrator.

4. Notwithstanding any other provision of this policy, if this endorsement or policy is on a claims-made basis, cancellation or termination may not be effected within 120 days of any fire, explosion, or unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water.

Attached to and forming part of policy No. ——— issued by [name of Company], herein called the Company, of [address of Company] to [name of insured] of [address]. Dated at——— this——— day of———, 19———.

Countersigned by———, authorized Company representative.

Subpart I—Use and Management of Containers

§ 264.170 Applicability.

The regulations in this Subpart apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as § 264.1 provides otherwise.

[*Comment:* Under § 261.7 and § 261.33(c), if a hazardous waste is emptied from a container the residue remaining in the container is not considered a hazardous waste if the container is "empty" as defined in § 261.7. In that event, management of the container is exempt from the requirements of this Subpart.]

§ 264.171 Condition of containers.

If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of this Part.

§ 264.172 Compatibility of waste with containers.

The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

§ 264.173 Management of containers.

(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

(b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

[*Comment:* Reuse of containers in transportation is governed by U.S. Department of Transportation regulations including those set forth in 49 CFR 173.28.]

§ 264.174 Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[*Comment:* See §§ 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.]

§ 264.175 Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills, leaks, and precipitation. The containment system must:

(1) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed;

(2) Be designed for efficient drainage so that standing liquid does not remain on the base longer than one hour after a leakage or precipitation event unless the containers are elevated or in some other manner are protected from contact with accumulated liquids; and

(3) Have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater.

(b) Run-on into the containment system must be prevented, unless the Regional Administrator waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in paragraph (a)(3) of this Section to accommodate any run-on which might enter the system.

(c) Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

[*Comment:* If the collected material is a hazardous waste under Part 261 of this Chapter, it must be managed as a hazardous waste in accordance with all applicable requirements of Parts 262–266 of this Chapter. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of Section 402 of the Clean Water Act, as amended.]

§ 264.176 Special requirements for ignitable or reactive waste.

Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line.

[*Comment:* See § 264.17(a) for additional requirements.]

§ 264.177 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials (see Appendix V for examples), must not be placed in the same container, unless § 264.17(b) is complied with.

(b) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.177. Also, § 264.17(c) requires wastes analyses, trial tests or other documentation to assure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

(c) A storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

[*Comment:* The purpose of this Section is to prevent fires, explosions, gaseous emission, leaching, or other discharge of hazardous waste or hazardous waste constituents which could result from the mixing of incompatible wastes or materials if containers break or leak.]

§ 264.178 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed.

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate in accordance with § 261.3(d) of this Chapter that the solid waste removed from the containment system is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262–266 of this Chapter].

Subpart J—Tanks

§ 264.190 Applicability.

(a) The regulations in this Subpart apply to owners and operators of facilities that use tanks to treat or store hazardous waste, except as § 264.1 and paragraph (b) of this Section provide otherwise;

(b) The regulations in this Subpart do not apply to facilities that treat or store hazardous waste in covered underground tanks that cannot be entered for inspection.

§ 264.191 Design of tanks.

(a) Tanks must have sufficient shell strength and, for closed tanks, pressure controls (e.g., vents) to assure that they do not collapse or rupture. The Regional Administrator will review the design of the tanks, including the foundation, structural support, seams and pressure controls. The Regional Administrator shall require that a minimum shell thickness be maintained at all times to ensure sufficient shell strength. Factors to be considered in establishing minimum thickness include the width, height, and materials of construction of the tank, and the specific gravity of the waste which will be placed in the tank. In reviewing the design of the tank and establishing a minimum thickness, the Regional Administrator shall rely upon appropriate industrial design standards and other available information.

[*Comment:* Design standards for certain types of tanks are published by the American Petroleum Institute, Underwriter's Laboratories, the American Concrete Institute, and several other organizations.]

§ 264.192 General operating requirements.

(a) Wastes and other materials (e.g., treatment reagents) which are incompatible with the material of construction of the tank must not be placed in the tank unless the tank is protected from accelerated corrosion, erosion or abrasion through the use of:

(1) An inner liner or coating which is compatible with the waste or material and which is free of leaks, cracks, holes or other deterioration; or

(2) Alternative means of protection (e.g., cathodic protection or corrosion inhibitors).

(b) The owner or operator must use appropriate controls and practices to prevent overfilling. These must include:

(1) Controls to prevent overfilling (e.g., waste feed cutoff system or by-pass system to a standby tank); and

(2) For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or by precipitation.

§ 264.193 [Reserved]

§ 264.194 Inspections.

(a) The owner or operator must inspect:

(1) Overfilling control equipment (e.g., waste feed cut-off systems and by-pass

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systems) at least once each operating day to ensure that it is in good working order;

(2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) where present, at least once each operating day to ensure that the tank is being operated according to its design;

(3) For uncovered tanks, the level of waste in the tank, at least once each operating day, to ensure compliance with § 264.192(b)(2);

(4) The construction materials of the above-ground portions of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and

(5) The area immediately surrounding the tank, at least weekly, to detect obvious signs of leakage (e.g., wet spots or dead vegetation).

(b) As part of the inspection schedule required in § 264.15(b) and in addition to the specific requirements of paragraph (a) of this Section, the owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, corrosion or erosion which may lead to cracks or leaks, or wall thinning to less that the thickness required under § 264.191. Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.

(c) As part of the contingency plan required under Subpart D of Part 264, the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank.

[*Comment:* As required in § 264.15(c), the owner or operator must remedy any leak, crack, or wall thinning in violation of § 264.191, or equipment or process malfunction in violation of § 264.192, which he discovers during inspection. See 29 CFR § 1910.94(d)(11) for Occupational Safety and Health Administration requirements relating to entry of tanks for inspection.]

§§ 264.195–264.196 [Reserved]

§ 264.197 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures.

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate in accordance with § 261.3(d) of this Chapter that the solid waste removed from his tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262–266 of this Chapter.]

§ 264.198 Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in a tank unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that (i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this Chapter, and (ii) § 264.17(b) is complied with; or

(2) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(3) The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the National Fire Protection Association's (NFPA's) buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the "Flammable and Combustible Code—1977".

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.198. Section 264.17(a) contains additional requirements for ignitable and reactive wastes. Also, § 264.17(c) requires waste analysis, trial tests, or other documentation to ensure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

§ 264.199 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless § 264.17(b) is complied with.

(b) Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless § 264.17(b) is complied with.

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.199. Also, § 264.17(c) requires waste analyses, trial tests, or other documentation to ensure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

Subpart K—Surface Impoundments

§ 264.220 Applicability.

The regulations in this Subpart apply to owners and operators of facilities that use surface impoundments to treat or store hazardous waste, except as § 264.1 provides otherwise.

[*Comment:* This Subpart currently applies only to surface impoundments that are used for storage or treatment of hazardous waste and are designed and operated to prevent discharge into the land and ground water, and the surface water (except discharges authorized by an NPDES permit issued pursuant to Section 402 of the Clean Water Act, as amended). The Agency intends to supplement this regulation to address other types of surface impoundments including impoundments that are not designed and operated to prevent discharge and impoundments that are closed with wastes left in place. Until additional regulations are promulgated, all surface impoundments which are authorized by permit must comply with this Subpart.]

§ 264.221 General design requirements.

(a) A surface impoundment must be designed to provide:

(1) At least 60 centimeters (2 feet) of freeboard; or

(2) An amount of freeboard other than 60 centimeters based on documentation, acceptable to the Regional Administrator, that the specified amount of freeboard will prevent overtopping.

[*Comment:* The amount of freeboard approved by the Regional Administrator shall be specified in the permit.]

(b) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(c) A surface impoundment must be designed to prevent discharge into the land and ground water, and to surface water (except discharges authorized by an NPDES permit) during the life of the impoundment by use of a containment system which complies with § 264.223.

[*Comment:* The Regional Administrator shall include the design of the containment system as a term and condition of the permit.]

(d) Dikes must be designed with sufficient structural integrity to prevent massive failure without dependence on any liner system included in the surface impoundment design.

(e) A leachate detection, collection, and removal system must be designed so that liquid will flow freely from the collection system to prevent the creation of pressure head within the collection system in excess of that necessary to cause the liquid to flow freely.

§ 264.222 General operating requirements.

(a) A surface impoundment must be operated to prevent any overtopping due to wind and wave action, overfilling precipitation, or any combination thereof.

(b) A surface impoundment must be operated to maintain at least the amount of freeboard specified by the Regional Administrator in the permit.

(c) A leachate detection, collection, and removal system installed to comply with § 264.223(b) must be operated so that leachate flows freely from the collection system and is removed as it accumulates or with sufficient frequency to prevent backwater within the collection system.

(d) Earthen dikes must be kept free of:

(1) Perennial woody plants with root systems which could displace the earthen materials upon which the structural integrity of the dike is dependent; and

(2) Burrowing mammals which could remove earthen materials upon which the structural integrity of the dike is dependent or create leaks through burrows in the dike.

(e) Run-on must be diverted away from a surface impoundment.

§ 264.223 Containment systems.

(a) Earthen dikes must have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve the structural integrity of the dike.

(b) A liner system designed to prevent discharge into the land during the life of the surface impoundment must:

(1)(i) Be constructed with a highly impermeable liner system in contact with the waste which will prevent discharge of the waste or leachate through the liner(s) during the life of the surface impoundment based on the liner(s) thickness, the saturated permeability of the liner(s) and the pressure head or waste or leachate to which the liner(s) will be exposed; and

[*Comment:* The liner system in contact with the waste (i.e., the top liner system) includes any protective cover over the liner(s).]

(ii) A leachate detection, collection, and removal system beneath the liner(s) in contact with the waste to detect, contain, collect, and remove any discharge from the liner system in contact with the waste; and

[*Comment:* A highly impermeable liner beneath the drainage layer (i.e., the bottom liner) is a necessary part of a leachate detection, collection, and removal system.]

(2) Be constructed above the water table to ensure the detection of any discharge of waste or leachate through the liner system in contact with the waste; prevent the discharge of ground water to the leachate detection, collection, and removal system; and to protect the structural integrity of the liner(s).

[*Comment:* The ground water table may be controlled to comply with this requirement.]

(c) A containment system must have a containment life equal to or greater than the life of the surface impoundment.

[*Comment:* See "Landfill and Surface Impoundment Performance Evaluation", EPA, SW/869, September 1980 for methods to evaluate the containment life and effectiveness of a containment system.]

(d) Liner systems must be constructed:

(1) Of materials which have appropriate chemical properties and strength and of sufficient thickness to prevent failure due to pressure head, physical contact with the waste or leachate to which they are exposed, climatic conditions, and the stress of installation; and

(2) On a foundation capable of providing support to the liner(s) and resistance to pressure head above the liner(s) to prevent failure of the liner(s) due to settlement or compression.

[*Comment:* See "Lining of Waste Impoundment and Disposal Facilities", EPA/870, September 1980 for data and discussions of liner system materials, design, construction, operation, and maintenance.]

§ 264.224–§ 264.225 [Reserved]

§ 264.226 Inspections and testing.

(a) (1) During construction or installation, liner systems must be inspected for uniformity, damage, and imperfections (e.g. holes, cracks, thin spots, and foreign materials).

(2) Earth material liner systems must be tested for compaction density, moisture content, and permeability after placement.

(3) Manufactured liner materials (e.g. membranes, sheets, and coatings) must be inspected to ensure tight seams and joints and the absence of tears or blisters.

(b) The owner or operator must inspect:

(1) A surface impoundment which contains free liquids at least once each operating day to ensure compliance with § 264.222(a), (b) and (c), and to detect any leaks or other failures of the impoundment.

(2) Each surface impoundment, including dikes, berms, and vegetation surrounding the dike, at least once a week and after storms to detect any evidence of or potential for leaks from the impoundment, erosion of dikes, and to ensure compliance with § 264.222(d).

[*Comment:* As required by § 264.15(c), the owner or operator must remedy any deterioration or malfunction found.]

(c) The structural integrity of any dike, including that portion of any dike which provides freeboard, must be certified against massive failure by a qualified engineer prior to the issuance or reissuance of a permit; or if the impoundment is not in service, prior to being placed in service and after construction or prior to being returned to service.

(1) In certifying the structual integrity of the dike it must be established that the dike will withstand:

(i) The stress of the pressure head of liquids placed into the impoundment;

(ii) The weakening effect of earth materials being scoured due to leakage from the impoundment through and under the dike without relying on any liner system; and

(iii) The weakening effect of earth materials being scoured due to leakage from the impoundment through and under the dike assuming leaks develop in the liner system.

§ 264.227 Containment system repairs; contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by paragraph (d) of this Section. Indications of possible failure of the containment system include at least an unplanned and non-sudden drop in liquid level in the impoundment, liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the dike, erosion of the dike, apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials, any mishandling of wastes placed in the impoundment, and foreign objects in the impoundment,

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(b) Whenever there is a positive indication of a failure of the containment system, the impoundment must be removed from service. Indications of positive failure of the containment system include an unplanned sudden drop in liquid level in the impoundment, waste detected in the leachate detection system, active leakage through the dike, or a breach (e.g., a hole, tear, crack, or separation) in the liner system.

(c) If the surface impoundment must be removed from service as required by paragraph (b) of this Section, the owner or operator must:

(1) Immediately shut off the flow of or stop the addition of wastes into the impoundment;

(2) Immediately contain any leakage which has occured or is occurring;

(3) Immediately cause the leak to be stopped; and

(4) If the leak cannot be stopped by any other means, empty the impoundment.

[*Comment:* See § 264.56(j) for recordkeeping and reporting requirements.]

(d) As part of the contingency plan required in Subpart D, the owner or operator must specify:

(1) A procedure for complying with the requiremnents of paragraph (c) of this Section; and

(2) A containment system evaluation and repair plan describing testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(e) No surface impoundment that has been removed from service in accordance with paragraph (b) of this Section may be restored to service unless:

(1) The containment system has been repaired; and

(2) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A surface impoundment that has been removed from service in accordance with paragraph (b) of this Section and that is not being repaired must be closed in accordance with § 264.228.

[*Comment:* All wastes removed from the impoundment must be managed as a hazardous waste in compliance with all applicable requirements of Parts 262–266 of this Chapter. Any point source discharge to waters of the United States is subject to the requirements of Section 402 of the Clean Water Act, as amended. Spills may be subject to Section 311 of that Act.]

§ 264.228 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from the impoundment. Any component of the containment system or any appurtenant structures or equipment (e.g., discharge platforms and pipes, and baffles, skimmers, aerators, or other equipment) containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed.

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate in accordance with § 261.3(d) of this Chapter that the solid waste removed from the surface impoundment is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262–266 of this Chapter.]

§ 264.229 Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this Chapter; and

(2) § 264.17(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.229. Also, § 264.17(c) requires waste analyses, trial tests, or other documentation to assure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

§ 264.230 Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials (see Appendix V for examples) must not be placed in the same surface impoundment, unless § 264.17(b) is complied with.

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.230. Also, § 264.17(c) requires waste analyses, trial tests, or other documentation to assure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

Subpart L—Waste Piles

§ 264.250 Applicability.

The regulations of this Subpart apply to owners and operators of facilities that store or treat hazardous waste in piles, except as § 264.1 provides otherwise.

[*Comment:* This Subpart currently applies only to waste piles that are used for storage or treatment of hazardous waste and are designed and operated to prevent discharge into the land, surface water, and ground water. The Agency intends to supplement this regulation to address other types of waste piles including piles that are not designed and operated to prevent discharge and piles that are closed with waste left in place. Until additional regulations are promulgated, all waste piles that are authorized by permit must comply with this Subpart.]

§ 264.251 General design requirements.

(a) A waste pile must be designed to control dispersal of the waste by wind, where necessary, or by water erosion.

(b) A waste pile must be designed to prevent discharge into the land, surface water, or ground water during the life of the pile by use of a containment system which complies with § 264.253.

§ 264.252 General operating requirements.

(a) The Regional Administrator shall specify control practices (e.g., cover or frequent wetting) where necessary to ensure that wind dispersal of hazardous waste from piles is controlled.

(b) Run-on must be diverted away from a waste pile.

(c) Leachate and run-off from a waste pile must be collected and controlled.

[*Comment:* If the collected leachate or run-off is a hazardous waste under Part 261 of this Chapter, it must be managed as a hazardous waste in accordance with all applicable requirements of Parts 262–266 of this Chapter. If collected leachate or run-off is discharged through a point source to waters of the United States, it is subject to the requirements of Section 402 of the Clean Water Act, as amended.]

§ 264.253 Containment systems.

(a) A containment system must be designed, constructed, maintained, and operated to prevent discharge into the land, surface water, or ground water during the life of the waste pile. The system must consist of:

(1) A leachate and run-off collection and control system; and either

(2) A base underlying and in contact with the waste pile that is made of a liner (or liners) which will prevent discharge into the land, surface water, or ground water during the life of the pile based on the liner(s) thickness, the permeability of the liner(s), and the characteristics of the waste or leachate to which the liner(s) will be exposed. The liner(s) must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile, or to clean and expose the liner surface for inspection; or

(3) A base as in paragraph (a)(2) of this Section, except that the liner(s) need not be of sufficient strength and thickness to prevent failure due to physical damage from equipment used to clean and expose the liner surface for inspection, and a leachate detection, collection, and removal system beneath the base to detect, contain, collect, and remove any discharge from the base. The leachate detection, collection, and removal system must be placed above the water table to ensure the detection of any discharge through the base; to prevent the discharge of ground water into the leachate detection, collection, and removal system; and to protect the structural integrity of the base.

[*Comment:* A highly impermeable liner beneath the drainage layer is a necessary part of a leachate detection, collection, and removal system. The ground water table may be controlled to comply with this requirement.]

(b) A waste pile base must be constructed:

(1) Of materials that have appropriate chemical properties and strength and of sufficient thickness to prevent failure due to pressure of and physical contact with the waste to which they are exposed, climatic conditions, and the stress of installation; and

(2) On a foundation capable of providing support to the liner(s) and to loads placed or moving above the liner(s) to prevent failure of the liner(s) due to settlement or compression.

(c) A containment system must be protected from plant growth which could puncture any component of the system.

(d) A containment system must have a containment life equal to or greater than the life of the pile.

[*Comment:* See "Landfill and Surface Impoundment Performance Evaluation", EPA, SW/869, September 1980 for methods to evaluate the containment life and effectiveness of a liner system. See "Lining of Waste Impoundment and Disposal Facilities", EPA/870, September 1980 for data and discussions of liner system materials, design, construction, operation, and maintenance.]

§ 264.254 Inspections and testing.

(a) During construction or installation of the waste pile base:

(1) Liner systems must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, and foreign materials); and

(2) Manufactured liner materials (e.g., membranes, sheets, and coatings) must be inspected to ensure tight seams and joints and the absence of tears or blisters.

§ 264.255 Containment system repairs; contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by paragraph (d) of this Section. Indications of possible failure of the containment system include liquid detected in the leachate detection system (where applicable), evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system (where applicable), or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by paragraph (b) of this Section, the owner or operator must:

(1) Immediately stop adding wastes to the pile;

(2) Immediately contain any leakage which has or is occuring;

(3) Immediately cause the leak to be stoppped; and

(4) If the leak cannot be stopped by any other means, remove the waste from the base.

[*Comment:* See § 264.56(j) for recordkeeping and reporting requirements.]

(d) As part of the contingency plan required in Subpart D, the owner or operator must specify:

(1) A procedure for complying with the requirements of paragraph (c) of this Section; and

(2) A containment system evaluation and repair plan describing testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service.

(e) No waste pile that has been removed from service in accordance with paragraph (b) of this Section may be restored to service unless:

(1) The containment system has been repaired; and

(2) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service in accordance with paragraph (b) of this Section and that is not being repaired must be closed in accordance with § 264.258.

[*Comment:* All wastes removed from the waste pile must be managed as a hazardous waste in compliance with all applicable requirements of Parts 262–266 of this Chapter. Any point source discharge to waters of the United States is subject to the requirements of Section 402 of the Clean Water Act, as amended.]

§ 264.256 Special requirements for ignitable or reactive waste.

(a) Ignitable or reactive waste must not be placed in a pile, *unless:*

(1) Addition of the waste to an existing pile (i) results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this Chapter, and (ii) complies with § 264.17(b); or

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

[*Comment:* As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.256. Also, § 264.17(c) requires waste analyses, trial tests, or other documentation to assure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial test, and any documented information, in the operating record of the facility.]

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§ 264.257 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials (see Appendix V for examples), must not be placed in the same pile, unless § 264.17(b) is complied with.

(b) A pile of hazardous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device.

[*Comment*: The purpose of this is to prevent fires, explosions, gaseous emissions, leaching, or other discharge which could result from the contact or mixing of incompatible wastes or materials.]

(c) Hazardous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with § 264.17(b).

[*Comment*: As required by § 264.13, the waste analysis plan must include analyses needed to comply with § 264.257. Also, § 264.17(c) requires waste analyses, trial tests, or other documentation to assure compliance with § 264.17(b). As required by § 264.73, the owner or operator must place the results of each waste analysis and trial tests, and any documented information, in the operating record of the facility.]

§ 264.258 Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from the pile. Any component of the containment system containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed.

[*Comment*: At closure, as throughout the operating period, unless the owner or operator can demonstrate in accordance with § 261.3(d) of this Chapter that the solid waste removed from the waste pile is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262—266 of this Chapter.]

f. In Part 264, Appendices III and IV are reserved and new Appendices V and VI are added to read as follows: these Appendices are issued as interim final rules:

Appendix V—Examples of Potentially Incompatible Waste

Many hazardous wastes, when mixed with other waste or materials at a hazardous waste facility, can produce effects which are harmful to human health and the environment, such as (1) heat or pressure, (2) fire or explosion, (3) violent reaction, (4) toxic dusts, mists, fumes, or gases, or (5) flammable fumes or gases.

Below are examples of potentially incompatible wastes, waste components, and materials, along with the harmful consequences which result from mixing materials in one group with materials in another group. The list is intended as a guide to owners or operators of treatment, storage, and disposal facilities, and to enforcement and permit granting officials, to indicate the need for special precautions when managing these potentially incompatible waste materials or components.

This list is not intended to be exhaustive. An owner or operator must, as the regulations require, adequately analyze his wastes so that he can avoid creating uncontrolled substances or reactions of the type listed below, whether they are listed below or not.

It is possible for potentially incompatible wastes to be mixed in a way that precludes a reaction (e.g., adding acid to water rather than water to acid) or that neutralizes them (e.g., a strong acid mixed with a strong base), or that controls substances produced (e.g., by generating flammable gases in a closed tank equipped so that ignition cannot occur, and burning the gases in an incinerator).

In the lists below, the mixing of a Group A material with a Group B material may have the potential consequence as noted.

Group 1–A

Acetylene sludge
Alkaline caustic liquids
Alkaline cleaner
Alkaline corrosive liquids
Alkaline corrosive battery fluid
Caustic wastewater
Lime sludge and other corrosive alkalies
Lime wastewater
Lime and water
Spent caustic

Group 1–B

Acid sludge
Acid and water
Battery acid
Chemical cleaners
Electrolyte, acid
Etching acid liquid or solvent
Pickling liquor and other corrosive acids
Spent acid
Spent mixed acid
Spent sulfuric acid

Potential consequences: Heat generation; violent reaction.

Group 2–A

Aluminum
Beryllium
Calcium
Lithium
Magnesium
Potassium
Sodium
Zinc powder
Other reactive metals and metal hydrides

Group 2–B

Any waste in Group 1–A or 1–B

Potential consequences: Fire or explosion; generation of flammable hydrogen gas.

Group 3–A

Alcohols
Water

Group 3–B

Any concentrated waste in Groups 1–A or 1–B
Calcium
Lithium
Metal hydrides
Potassium
SO_2Cl_2, $SOCl_2$, PCl_3, CH_3SiCl_3
Other water-reactive waste

Potential consequences: Fire, explosion, or heat generation; generation of flammable or toxic gases.

Group 4–A

Alcohols
Aldehydes
Halogenated hydrocarbons
Nitrated hydrocarbons
Unsaturated hydrocarbons
Other reactive organic compounds and solvents

Group 4–B

Concentrated Group 1–A or 1–B wastes
Group 2–A wastes

Potential consequences: Fire, explosion, or violent reaction.

Group 5–A

Spent cyanide and sulfide solutions

Group 5–B

Group 1–B wastes

Potential consequences: Generation of toxic hydrogen cyanide or hydrogen sulfide gas.

Group 6–A

Chlorates
Chlorine
Chlorites
Chromic acid
Hypochlorites
Nitrates
Nitric acid, fuming
Perchlorates
Permanganates
Peroxides
Other strong oxidizers

Group 6–B

Acetic acid and other organic acids
Concentrated mineral acids
Group 2–A wastes
Group 4–A wastes
Other flammable and combustible wastes

Potential consequences: Fire, explosion, or violent reaction.

Source: "Law, Regulations, and Guidelines for Handling of Hazardous Waste." California Department of Health, February 1975.

Appendix VI—Political Jurisdictions[1] in Which Compliance With § 264.18(a) Must Be Demonstrated

Alabama

None

Alaska

Aleutian Islands
Anchorage
Bethel
Bristol Bay
Cordova-Valdez
Fairbanks-Fort Yukon
Juneau
Kenai-Cook Inlet
Ketchikan-Prince of Wales
Kodiak
Lynn Canal-Icy Straits
Palmer-Wasilla-Talkeena
Seward
Sitka
Wade Hampton
Wrangell Petersburg
Yukon-Kuskokwim

Arizona

Cochise
Graham
Greenlee
Yuma

Arkansas

Arkansas
Clay
Cleburne
Craighead
Crittenden
Cross
Fulton
Greene
Independence
Izard
Jackson
Lawrence
Lee
Lonoke
Mississippi
Monroe
Phillips
Poinsett
Polk
Prairie
Randolf
Sharp
St. Francis
Stone
White
Woodruff

California

All

Colorado

Archuleta
Conejos
Hinsdale
Mineral
Rio Grande
Saguache

Connecticut

All

Delaware

None

Florida

None

Georgia

Banks
Barrow
Bartow
Bryan
Bulloch
Burke
Candler
Catoosa
Chatham
Chattooga
Cherokee
Clarke
Cobb
Columbia
Dade
Dawson
De Kalb
Effingham
Elbert
Emanuel
Fannin
Floyd
Forsyth
Franklin
Fulton
Glascock
Gilmer
Gordon
Greene
Gwinnett
Habersham
Hall
Hancock
Hart
Jackson
Jasper
Jefferson
Jenkins
Johnson
Lincoln
Lumpkin
Madison
McDuffie
Morgan
Murray
Newton
Oconee
Oglethorpe
Pickens
Putnam
Rabun
Richmond
Rockdale
Screven
Stephens
Talaferro
Towns
Treutlen
Union
Walker
Walton
Warren
Washington
White
Whitfield
Wilkes

Hawaii

Hawaii
Honolulu
Maui

Idaho

Bannock
Bear Lake
Bingham
Bonneville
Caribou
Cassia
Clark
Franklin
Fremont
Jefferson
Madison
Oneida
Power
Teton

Illinois

Alexander
Bond
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
Douglas
Edgar
Edwards
Effingham
Fayette
Franklin
Gallatin
Hamilton
Hardin
Jackson
Jasper
Jefferson
Jersey
Johnson
Lawrence
Macoupin
Madison
Marion
Massac
Monroe
Montgomery
Moultrie
Perry
Pope
Pulaski
Randolf
Richland
Saline
Shelby
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

Indiana

Gibson
Knox
Posey
Sullivan
Vanderburgh

Iowa

Fremont
Mills
Page

Kansas

Anderson
Atchison
Brown
Coffey
Doniphan
Douglas
Franklin
Geary
Jackson
Jefferson
Johnson
Leavenworth
Linn
Lyon
Marshall
Miami
Morris
Nemaha
Osage
Pottawatomie
Riley
Shawnee
Wabaunsee
Washington
Wyandotte

Kentucky

Ballard
Bell
Caldwell
Calloway
Carlisle
Crittenden
Fulton
Graves
Harlan
Henderson
Hickman
Letcher
Livingston
Lyon
Marshall
McCracken
Trigg
Union
Webster

Louisiana

None

Maine

All

Maryland

None

Massachusetts

All

Michigan

None

Minnesota

None

Mississippi

None

Missouri

Bollinger
Butler
Cape Girardeau
Carter
Crawford
Dent
Dunklin
Franklin
Howell
Iron
Jefferson
Madison
Mississippi
New Madrid
Oregon
Pemiscot
Perry
Reynolds
Ripley
Scott
Shannon
St. Charles
Ste. Genevieve
St. Francois
St. Louis
St. Louis City
Stoddard
Texas
Washington
Wayne

Montana

Beaverhead
Broadwater
Cascade
Deer Lodge
Flathead
Gallatin
Granite
Jefferson
Lake
Lewis and Clark
Madison
Meagher
Missoula
Park
Powell
Sanders
Silver Bow
Stillwater
Sweet Grass
Teton
Wheatland

Nebraska

Cass
Gage
Jefferson
Johnson
Lancaster
Sarpy
Otoe
Nemaha
Pawnee
Richardson

Nevada

All

New Hampshire

All

New Jersey

Bergen
Essex
Hudson
Hunterdon
Mercer
Middlesex
Monmouth
Morris
Passaic
Somerset
Sussex
Union
Warren

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[1] These include counties, city-county consolidations, independent cities, and, in the case of Alaska, election districts.

New Mexico

Bernalillo
Catron
Grant
Hidalgo
Los Alamos
Rio Arriba
Sandoval
Santa Fe
Sierra
Socorro
Taos
Torrance
Valencia

New York

Albany
Bronx
Clinton
Columbia
Delaware
Dutchess
Erie
Essex
Franklin
Fulton
Genesee
Greene
Hamilton
Herkimer
Jefferson
Kings
Lewis
Montgomery
Nassau
New York
Niagara
Oneida
Orange
Orleans
Otsego
Putnam
Queens
Rensselaer
Richland
Richmond
Rockland
Saratoga
Schenectady
Schoharie
St. Lawrence
Suffolk
Sullivan
Ulster
Warren
Washington
Westchester
Wyoming

North Carolina

Alexander
Alleghany
Anson
Ashe
Avery
Buncombe
Burke
Cabarrus
Caldwell
Catawba
Cherokee
Clay
Cleveland
Gaston
Graham
Haywood
Henderson
Iredell
Jackson
Lincoln
Macon
Madison
McDowell
Mecklenburg
Mitchell
Polk
Richmond
Rowan
Rutherford
Stanly
Surry
Swain
Transylvania
Union
Watauga
Wilkes
Yancey

North Dakota

None

Ohio

None

Oklahoma

Atoka
Bryan
Carter
Choctaw
Cleveland
Coal
Creek
Garvin
Grady
Haskell
Hughes
Johnston
Latimer
Le Plore
Lincoln
Marshall
McClain
McCurtain
McIntosh
Murray
Muskogee
Okfuskee
Oklahoma
Okmulgee
Pittsburg
Pontotoc
Pottawatomie
Pushmataha
Seminole
Stephens
Tusla

Oregon

None

Pennsylvania

Berks
Bucks
Carbon
Chester
Lackawanna
Lancaster
Lebanon
Lehigh
Luzurne
Monroe
Montgomery
Northampton
Pike
Schuylkill
Susquenhanna
Wayne
Wyoming

Rhode Island

All

South Carolina

All

South Dakota

None

Tennessee

Anderson
Bledsoe
Blount
Bradley
Campbell
Carroll
Carter
Claiborne
Cocke
Crockett
Cumberland
Dyer
Fayette
Gibson
Grainger
Greene
Hamblen
Hamilton
Hancock
Hardeman
Hawkins
Haywood
Henry
Jefferson
Johnson
Knox
Lake
Lauderdale
Loudon
Madison
McMinn
Meigs
Monroe
Morgan
Obion
Polk
Rhea
Roane
Scott
Sequatchie
Sevier
Shelby
Sullivan
Tipton
Unicoi
Union
Washington
Weakley

Texas

None

Utah

Beaver
Box Elder
Cache
Carbon
Davis
Duchesne
Emery
Garfield
Iran
Juab
Millard
Morgan
Piute
Rich
Salt Lake
Sanpete
Sevier
Summit
Tooele
Utah
Wasatch
Washington
Wayne
Weber

Vermont

All

Virginia

Bland
Buchanan
Carroll
Craig
Dickenson
Floyd
Giles
Grayson
Lee
Montgomery
Pulaski
Roanoke
Russell
Scott
Smyth
Tazewell
Washington
Wise
Wythe

Washington

Chelan
Clallam
Clark
Cowlitz
Douglas
Ferry
Grant
Gray Harbor
Jefferson
King
Kitsap
Kittitas
Lewis
Mason
Okanogan
Pacific
Pierce
San Juan Islands
Skagit
Skamania
Snohomish
Thurston
Wahkiakum
Whatcom
Yakima

West Virginia

Mercer
McDowell
Monroe
Summers

Wisconsin

None

Wyoming

Fremont
Lincoln
Park
Sublette
Teton
Uinta
Yellowstone National Park

Territories of the United States

American Samoa: All
Commonwealth of the Northern Mariana Islands: All
Guam: All
Puerto Rico: All
U.S. Virgin Islands: All

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

a. Amend Table of Contents as follows:

1. Revise Subpart G—Closure and Post-Closure to read as follows:

Subpart G—Closure and Post-Closure

Sec.
265.110 Applicability.
265.111 Closure performance standard.
265.112 Closure plan; amendment of plan.
265.113 Closure; time allowed for closure.
265.114 Disposal or decontamination of equipment.
265.115 Certification of closure.
265.116 [Reserved]
265.117 Post-closure care and use of property.
265.118 Post-closure plan; amendment of plan.
265.119 Notice to local land authority.
265.120 Notice in deed to property.

2. Revise Subpart H—Financial Requirements to read as follows:

Subpart H—Financial Requirements

Sec.
265.140 Applicability.
265.141 Definitions.
265.142 Cost estimate for facility closure.
265.143 Financial assurance for facility closure.
265.144 Cost estimate for post-closure monitoring and maintenance.
265.145 Financial assurance for post-closure monitoring and maintenance.

265.146 Use of a mechanism for financial assurance of both closure and post-closure care.
265.147 Liability requirements.
265.148 Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies.
265.149 Applicability of State financial requirements.
265.150 State assumption of responsibility.
265.151 Wording of the instruments.

b. Revise Subpart G to read as follows; sections 265.112, 265.113, 265.117, and 265.118 are issued as amended interim final rules:

Subpart G—Closure and Post-Closure

§ 265.110 Applicability.

Except as § 265.1 provides otherwise:

(a) Sections 265.111–265.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections 265.117–265.120 (which concern post-closure care) apply to the owners and operators of all hazardous waste disposal facilities.

§ 265.111 Closure performance standard.

The owner or operator must close his facility in a manner that:

(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall, or waste decomposition products to the ground or surface waters or to the atmosphere.

§ 265.112 Closure plan; amendment of plan.

(a) By May 19, 1981, the owner or operator must have a written closure plan. He must keep a copy of the closure plan and all revisions to the plan at the facility until closure is completed and certified in accordance with § 265.115. This plan must identify the steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include, at least:

(1) A description of how and when the facility will be partially closed, if applicable, and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility, and how the requirements of §§ 265.111, 265.113, 265.114, and 265.115 and the applicable closure requirements of §§ 265.197, 265.228, 265.280, 265.310, 265.351, 265.381, and 265.404 will be met;

(2) An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility;

(3) A description of the steps needed to decontaminate facility equipment during closure; and

(4) An estimate of the expected year of closure and a schedule for final closure. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure activities which will allow tracking of the progress of closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.)

(b) The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.) The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure of the facility. The plan must be amended within 60 days of the changes.

(c) The owner or operator must submit his closure plan to the Regional Administrator at least 180 days before the date he expects to begin closure. The owner or operator must submit his closure plan to the Regional Administrator no later than 15 days after:

(1) termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status; or

(2) issuance of a judicial decree or compliance order under Section 3008 of RCRA to cease receiving wastes or close.

[*Comment:* The date when closure commences should be within 30 days after the date on which the owner or operator expects to receive the final volume of wastes.]

(d) The Regional Administrator will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan within 30 days of the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Regional Administrator will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.) The Regional Administrator will approve, modify, or disapprove the plan within 90 days of its receipt. If the Regional Administrator does not approve the plan, the owner or operator must modify the plan or submit a new plan for approval within 30 days. The Regional Administrator will approve or modify this plan in writing within 60 days. If the Regional Administrator modifies the plan, this modified plan becomes the approved closure plan. The Regional Administrator's decision must assure that the approved closure plan is consistent with §§ 265.111, 265.113, 265.114, and 265.115 and the applicable requirements of §§ 265.197, 265.228, 265.280, 265.310, 265.351, 265.381 and 265.404. A copy of this modified plan must be mailed to the owner or operator. If the owner or operator plans to begin closure before November 19, 1981 he must submit the closure plan by May 19, 1981.

§ 265.113 Closure; time allowed for closure.

(a) Within 90 days after receiving the final volume of hazardous wastes, or 90 days after approval of the closure plan, if that is later, the owner or operator must treat, remove from the site, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Regional Administrator may approve a longer period using the procedures under § 265.112(d) if the owner or operator demonstrates that:

(1)(i) The activities required to comply with this paragraph will, of necessity, take him longer than 90 days to complete; or

(ii)(A) The facility has the capacity to receive additional wastes;

(B) There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(C) Closure of the facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment.

(b) The owner or operator must complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes or 180 days after approval of the closure plan, if that is later. The Regional Administrator may approve a longer closure period using the procedures under § 265.112(c) if the owner or operator demonstrates that;

(1)(i) The closure activities will, of necessity, take him longer than 180 days to complete; or

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(ii)(A) The facility has the capacity to receive additional waste;

(B) There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site;

(C) Closure of the facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility.

[*Comment:* Under paragraphs (a)(1)(ii) and (b)(1)(ii), of this Section, if operation of the facility is recommenced, the Regional Administrator may defer completion of closure activities until the new operation is terminated.

§ 265.114 Disposal or decontamination of equipment.

When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all hazardous waste and residues.

§ 265.115 Certification of closure.

When closure is completed, the owner or operator must submit to the Regional Administrator certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan.

§ 265.116 [Reserved]

§ 265.117 Post-closure care and use of property.

(a) Post-closure care must continue for 30 years after the date of completing closure and must consist of at least the following:

(1) Ground-water monitoring and reporting in accordance with the requirements of Subpart F, and

(2) Maintenance of monitoring and waste containment systems as specified in §§ 265.91, 265.223, 265.228, 265.280, and 265.310, where applicable.

(b) The Regional Administrator may require continuation of any of the security requirements of § 265.14 for 30 years after the date closure has been completed when:

(1) Wastes may remain exposed after completion of closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

In extending any of these requirements the Regional Administrator will use the procedures of § 265.118(c).

(c) Post-closure use of property on or in which hazardous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the owner or operator can demonstrate to the Regional Administrator, either in the post-closure plan or by petition, through the procedures in § 265.118(c) or (f), as appropriate, that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities must be performed in accordance with the provisions of the approved post-closure plan as specified in § 265.118.

§ 265.118 Post-closure plan; amendment of plan.

(a) By May 19, 1981, the owner or operator of a disposal facility must have a written post-closure plan. He must keep a copy of the post-closure plan and all revisions to the plan at the facility until the post-closure care period begins. The post-closure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(1) A description of the planned ground-water monitoring activities and frequencies at which they will be performed to comply with Subpart F during the post-closure period;

(2) A description of the planned maintenance activities and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment structures as specified in §§ 265.223, 265.228, 265.280, and 265.310, where applicable; and

(ii) The function of the facility monitoring equipment as specified in § 265.91; and

(3) The name, address, and phone number of the person or office to contact about the disposal facility during the post-closure care period. This person or office must keep an updated post-closure plan during the post-closure care period.

(b) The owner or operator may amend his post-closure plan at any time during the active life of the disposal facility. The owner or operator must amend his plan any time changes in operating plans or facility design, or events which occur during the active life of the facility, affect his post-closure plan, The plan must be amended within 60 days after the changes or events occur.

(c) The owner or operator of a disposal facility must submit his post-closure plan to the Regional Administrator at least 180 days before the date he expects to begin closure. The date when he "expects to begin closure" should be immediately after the date on which he expects to receive the final volume of wastes. The owner or operator must submit his closure plan to the Regional Administrator no later than 15 days after:

(1) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(2) issuance of a judicial decree or compliance order under Section 3008 of RCRA to cease receiving wastes or close.

[*Comment:* The date when closure commences should be within 30 days after the date on which the owner or operator expects to receive the final volume of wastes.]

(d) The Regional Administrator will provide the owner or operator and the public through a newspaper notice the opportunity to submit written comments on the plan and request modifications of the plan including modification of the 30 year post-closure period required in § 265.117 within 30 days of the date of the notice. He may also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Regional Administrator will give the public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined.) The Regional Administrator will approve, modify, or disapprove the plan within 90 days of its receipt. If the Regional Administrator does not approve the plan, the owner or operator must modify the plan or submit a new plan for approval within 30 days. The Regional Administrator will approve or modify this plan in writing within 60 days. If the Regional Administrator modifies the plan, this modified plan becomes the approved post-closure plan. The Regional Administrator must base his decision upon the criteria required of petitions under paragraph (f)(1)(i) of this Section. A copy of this modified plan must be mailed to the owner or operator. If an owner or operator plans to begin closure before November 19, 1981, he must submit the post-closure plan by May 19, 1981.

(e) The owner or operator may amend his post-closure plan during the post-closure care period. The owner or operator must amend his plan any time changes in monitoring or maintenance plans or events which occur during the post-closure care period affect the post-closure plan. The owner or operator must petition the Regional Administrator within 60 days of the changes or events, under the procedures of paragraph (f) of this section, to allow the plan to be modified.

(f) The post-closure plan (or period) may be modified during the post-closure care period or at the end of the post-closure care period in either of the following two ways:

(1) The owner or operator or any member of the public may petition the Regional Administrator to extend or reduce the post-closure care period based on cause, or alter the requirements of the post-closure care period based on cause.

(i) The petition must include evidence demonstrating that:

(A) The secure nature of the facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure), or

(B) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment.

(ii) These petitions will be considered by the Regional Administrator only when they present new and relevant information not previously considered by the Regional Administrator. Whenever the Regional Administrator is considering a petition, he will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Regional Administrator will give the public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined.) After considering the comments, he will issue a final determination, based upon the criteria set forth in subparagraph (1).

(iii) If the Regional Administrator denies the petition, he will send the petitioner a brief written response giving a reason for the denial.

(2) The Regional Administrator may tentatively decide to modify the post-closure plan if he deems it necessary to prevent threats to human health and the environment. He may propose to extend or reduce the post-closure care period based on cause or alter the requirements of the post-closure care period based on cause.

(i) The Regional Administrator will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in subparagraph (a)(1)(ii) of this Section. After considering the comments, he will issue a final determination.

(ii) The Regional Administrator will base his final determination upon the same criteria as required for petitions under paragraph (f)(1)(i) of this Section.

[*Comment:* A modification of the post-closure plan may include where appropriate the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the Regional Administrator would then determine whether the requirement(s) should be permanently discontinued or reinstated to prevent threats to human health and the environment.]

§ 265.119 Notice to local land authority.

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the local land authority and to the Regional Administrator a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local land authority must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in § 265.117(c). In addition, the owner or operator must submit to the Regional Administrator and to the local land authority a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. The owner or operator must identify the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept.

§ 265.120 Notice in deed to property.

The owner of the property on which a disposal facility is located must record, in accordance with State law, a notation on the deed to the facility property—or on some other instrument which is normally examined during title search—that will in perpetuity notify any potential purchaser of the property that: (1) the land has been used to manage hazardous waste, and (2) its use is restricted under § 265.117(c).

c. Revise Subpart H to read as follows; except for §§ 265.140, 265.142 and 265.144, all Sections are issued as interim final rules:

Subpart H—Financial Requirements

§ 265.140 Applicability.

(a) The requirements of §§ 265.142, 265.143, and 265.146–151 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this section or in § 265.1.

(b) The requirements of §§ 265.144 and 265.145 apply only to owners and operators of disposal facilities.

(c) States and the Federal Government are exempt from the requirements of this Subpart.

§ 265.141 Definitions.

(a) When used in this Subpart, the following terms have the meanings given below:

"Compliance procedure" means any proceedings instituted pursuant to RCRA or regulations issued under authority of RCRA which seeks to require compliance or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a compliance order or notice of intention to terminate a permit or interim status pursuant to Section 3008 of RCRA or Part 124 of this Chapter, or an application in the United States district court for appropriate relief pursuant to Sections 3008, 7002, or 7003 of RCRA. For the purposes of this Subpart, a compliance procedure is considered to be pending from the time an order or notice of intent to terminate is issued or judicial proceedings are begun until the Regional Administrator notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Standby trust fund" means a trust fund which must be established by an owner or operator who obtains a letter of credit or surety bond as specified in these regulations. The institution issuing the letter of credit or surety bond will deposit into the standby trust fund any drawings by the Regional Administrator on the credit or bond.

(b) The following terms are used in the liability requirements. The definitions suggest what EPA believes are the common meanings of the terms as they are generally used in the insurance industry; the definitions are not intended to limit the meanings in a way that conflicts with general usage.

"Claims-made policy" means an insurance policy that provides coverage for an occurrence if a claim is filed during the term of the policy.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Nonsudden accident" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

§ 265.142 Cost estimate for facility closure.

(a) On May 19, 1981, each facility owner or operator must have a written estimate of the costs of closing the facility in accordance with the requirements in §§ 265.111–265.115 and applicable closure requirements in §§ 265.197, 265.228, 265.280, 265.310, 265.351, 265.381, and 265.404. The owner or operator must keep this estimate, and all subsequent estimates required in this Section, at the facility. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see § 265.112 (a)).

[*Comment:* For example, the closure cost estimate for a particular landfill may be for the cost of closure when its active disposal operations extend over 20 acres, if at all other times these operations extend over less than 20 acres. The estimate would not include costs of partial closures that the closure plan schedules before or after the time of maximum closure cost.]

(b) The owner or operator must prepare a new closure cost estimate whenever a change in the closure plan affects the cost of closure.

(c) On each anniversary of the effective date of these regulations, the owner or operator must adjust the latest closure cost estimate using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its *Survey of Current Business.* The inflation factor must be calculated by dividing the latest published annual Deflator by the Deflator for the previous year. The result is the inflation factor. The adjusted closure cost estimate must equal the latest closure cost estimate (see paragraph (b) of this Section) times the inflation factor.

[*Comment:* The following is a sample calculation of the adjusted closure cost estimate: Assume that the latest closure cost estimate for a facility is $50,000, the latest published annual Deflator is 152.05, and the annual Deflator for the previous year is 141.70. The Deflators may be rounded to the nearest whole number. Dividing 152 by 142 gives the inflation factor, 1.07. Multiply $50,000 by 1.07 for a product of $53,500—the adjusted closure cost estimate.]

§ 265.143 Financial assurance for facility closure.

By the effective date of these regulations, an owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from among the following options:

(a) *Closure trust fund.* (1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund which conforms to the requirements of this paragraph and by sending an originally signed duplicate of the trust agreement to the Regional Administrator by certified mail. The trustee must be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 265.151(a)(1) and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see § 265.151(a)(2)).

(3) Payments to the trust fund must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan (§ 265.112(a)) or over the 20 years beginning with the effective date of these regulations, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments to the closure trust fund must be made as follows:

(i) The first payment must be made by the effective date of these regulations, except as provided in paragraph (a)(5) of this Section. The first payment must be at least equal to the closure cost estimate (see § 265.142), except as provided in paragraph (f) of this Section, divided by the number of years in the pay-in period.

(ii) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by performing the following calculation:

Next payment = ACE − CV/Y

where ACE is the adjusted closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

[*Comment:* The following is a sample calculation of subsequent payments: Assume that the adjusted closure cost estimate is $50,000, the current value of the trust fund is $35,000 and there are 3 years remaining in the pay-in period. Subtract $35,000 from $50,000, leaving $15,000. Divide $15,000 by 3. The result, $5,000, is the amount of the next payment to the trust fund. All amounts may be rounded to the nearest dollar.]

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in paragraph (a)(3) of this Section.

(5) If the owner or operator establishes a closure trust fund after having initially used one or more alternate mechanisms specified in this Section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments made as specified in paragraph (a)(3) of this Section.

(6) After the pay-in period is completed, whenever the adjusted closure cost estimate changes the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund (described in Section 10 of the trust agreement). If the value of the fund is less than the amount of the new estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in this Section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the adjusted closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the adjusted closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in the trust fund which is greater than the amount required as a result of such substitution.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a)(7) or (8) of this Section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for closure activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the closure expenditures are in accordance with the closure plan or otherwise justified.

[*Comment:* Ordinarily, the Regional Administrator will approve reimbursements only up to 80 percent of the value of the closure trust fund; the remaining 20 percent will be returned to the owner or operator or reimbursed to any other person authorized to perform closure upon satisfactory certification of closure as noted in paragraph (h) of this Section.]

(11) The Regional Administrator will agree to termination of the trust when:

(i) The owner or operator substitutes alternate financial assurance for closure as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (h) of this Section, that he is no longer required by this Section to maintain financial assurance for closure of the facility.

(b) *Surety bond guaranteeing payment into a closure trust fund.* (1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this paragraph and by having the bond delivered to the Regional Administrator by certified mail. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

[*Comment:* Circular 570 is published in the **Federal Register** annually on July 1; interim changes in the Circular are also published in the **Federal Register**.]

(2) The wording of the surety bond must be identical to the wording specified in § 265.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited into the standby trust fund. This trust fund must meet the requirements specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the surety bond; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required until the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond at least 60 days prior to the expected date of the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure in accordance with Subpart G of this Part is issued by the Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of RCRA, or within 15 days after issuance of a notice of termination of interim status pursuant to Part 124 of this Chapter; or

(iii) Provide alternate financial assurance as specified in this Section within 30 days after receipt by the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted closure cost estimate (see § 265.142), except as provided in paragraph (f) of this Section.

(7) Whenever the adjusted closure cost estimate increases to an amount greater than the penal sum of the bond, the owner or operator must, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the adjusted closure cost estimate decreases, the penal sum may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the penal sum must be sent to the Regional Administrator by certified mail within 60 days after the change.

(8) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation cannot occur, however:

(i) During the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator as shown on the signed return receipt; or

(ii) While a compliance procedure is pending, as defined in § 265.141.

(9) The surety bond no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice of cancellation of the surety bond. Upon receipt of such notice the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days after issuance of the compliance order, the Regional Administrator may direct the surety to place the penal sum of the bond in the standby trust fund.

(10) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on receipt of evidence of alternate financial assurance as specified in this Section.

(11) The Regional Administrator will notify the surety when the owner or operator funds the standby trust fund in the amount guaranteed by the surety bond or if he provides alternate financial assurance as specified in this Section.

(c) *Closure letter of credit.* (1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and by having it delivered to the Regional Administrator by certified mail. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 265.151(d).

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(3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund by the time the letter of credit is obtained. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited promptly and directly by the issuing institution into the standby trust fund. The standby trust fund must meet the requirements of the trust fund specified paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the letter of credit; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required unless the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year. If the issuing institution decides not to extend the letter of credit beyond the then current expiration date it must, at least 90 days before that date, notify both the owner or operator and the Regional Administrator by certified mail of that decision. The 90-day period will begin on the date of receipt by the Regional Administrator as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending as defined in § 265.141.

(5) The letter of credit must be issued for at least the amount of the adjusted closure cost estimate (see § 265.142), except as provided in paragraph (f) of this Section.

(6) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the credit the owner or operator must, within 60 days of the increase, cause the amount of the credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this Section to cover the increase. Whenever the adjusted closure cost estimate decreases the letter of credit may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the amount of the credit must be sent to the Regional Administrator by certified mail within 60 days of the change.

(7) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed, when required to do so, to perform closure in accordance with the closure plan or other interim status requirements, the Regional Administrator may draw on the letter of credit.

(8) The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the compliance order, the Regional Administrator may draw on the letter of credit.

(9) The Regional Administrator will return the original letter of credit to the issuing institution for termination when:

(i) The owner or operator substitutes alternate financial assurance for closure as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (h) of this Section, that he is no longer required by this Section to maintain financial assurance for closure of the facility.

(d) and (e) [Reserved]

(f) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism. The mechanisms are limited to trust funds, surety bonds, and letters of credit. These mechanisms must be as specified in paragraphs (a), (b), and (c), respectively, of this Section, except that it is the combination of mechanisms, rather than each single mechanism, which must provide financial assurance for an amount at least equal to the adjusted closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, he may use the trust fund as the standby trust fund for the bond or letter of credit. If the multiple mechanisms include only surety bonds and letters of credit, a single standby trust may be established for all these mechanisms. The Regional Administrator may invoke use of any or all of the mechanisms in accordance with the requirements of paragraphs (a), (b), and (c) of this Section, to provide for closure of the facility.

(g) *Use of a financial mechanism for multiple facilities.* (1) An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility of which he is the owner or operator. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. If the list is changed by addition or subtraction of a facility or by an increase or decrease in the amount of funds assured for closure of one or more facilities, a corrected list must be sent to the Regional Administrator within 60 days of such change. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.

(2) A letter of credit may not be used to assure funds for facilities in more than one Region. If other financial mechanisms specified in this Section cover facilities that are located in more than one Region, the Regional Administrators for all Regions in which the facilities are located must be involved in all transactions that involve the Regional Administrator, except when the transactions involve only those facilities in one Region.

(h) *Release of the owner or operator from the requirements of this Section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan (see § 265.115), the Regional Administrator will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for closure of the particular facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the closure plan.

[*Comment:* The notice releases the owner or operator only from requirements for financial assurance for closure of the facility; it does not release him from legal responsibility for meeting the closure standards.]

§ 265.144 Cost estimate for post-closure monitoring and maintenance.

(a) On May 19, 1981, each facility owner or operator of a disposal facility must have a written estimate of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 265.117–265.120, 265.228, 265.280, and 265.310. The owner or operator must keep this estimate, and all subsequent estimates required in this Section, at the facility.

(b) The owner or operator must prepare a new annual post-closure cost estimate whenever a change in the post-closure plan affects the cost of post-closure care (see § 265.118(b)). The latest post-closure cost estimate is calculated by multiplying the latest annual post-closure cost estimate by 30.

(c) On each anniversary of the effective date of these regulations, during the operating life of the facility, the owner or operator must adjust the latest post-closure cost estimate using the inflation factor calculated in accordance with § 265.142(c). The adjusted post-closure cost estimate must equal the latest post-closure cost estimate (see paragraph (b) of this Section) times the inflation factor.

§ 265.145 Financial assurance for post-closure monitoring and maintenance.

By the effective date of these regulations, an owner or operator of each disposal facility must establish financial assurance for 30 years of post-closure care of the facility. He must choose from among the following options:

(a) *Post-closure trust fund.* (1) An owner or operator may satisfy the requirements of this Section by establishing a post-closure trust fund which conforms to the requirements of this paragraph and by sending an originally signed duplicate of the trust agreement to the Regional Administrator by certified mail. The trustee must be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 265.151(a)(1) and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see § 265.151(a)(2)).

(3) Payments to the trust fund must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan (§ 265.112(a)) or over the 20 years beginning with the effective date of these regulations, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments to the post-closure trust fund must be made as follows:

(i) The first payment must be made by the effective date of these regulations, except as provided in paragraph (a)(5) of this Section. The first payment must be at least equal to the post-closure cost estimate (see § 265.144), except as provided in paragraph (f) of this Section, divided by the number of years in the pay-in period.

(ii) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by performing the following calculation:

Next payment = ACE − CV/Y

where ACE is the adjusted post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

[*Comment:* The following is a sample calculation of subsequent payments: Assume that the adjusted post-closure cost estimate is $50,000, the current value of the trust fund is $35,000 and there are 3 years remaining in the pay-in period. Subtract $35,000 from $50,000, leaving $15,000. Divide $15,000 by 3. The result, $5,000,—the amount of the next payment to the trust fund. All amounts may be rounded to the nearest dollar.]

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in paragraph (a)(3) of this Section.

(5) If the owner or operator establishes a post-closure trust fund after having initially used one or more alternate mechanisms specified in this Section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments made as specified in paragraph (a)(3) of this Section.

(6) After the pay-in period is completed, whenever the adjusted post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund (described in Section 10 of the trust agreement). If the value of the fund is less than the amount of the new cost estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in this Section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the adjusted post-closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the adjusted post-closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in the trust fund which is greater than the amount required as a result of such substitution.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a) (7) or (8) of this Section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) An owner or operator or any other person authorized to conduct post-closure may request reimbursement for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure activities, the Regional Administrator will instruct the trustee to make reimbursement in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the post-closure expenditures are in accordance with the post-closure plan or otherwise justified.

(11) The Regional Administrator will agree to termination of the trust when:

(i) The owner or operator substitutes alternate financial assurance for post-closure as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (h) of this Section, that he is no longer required by this Section to maintain financial assurance for post-closure of the facility.

(b) *Surety bond guaranteeing payment into a post-closure trust fund* (1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this paragraph and by having the bond delivered to the Regional Administrator by certified mail. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

[*Comment:* Circular 570 is published in the **Federal Register** annually on July 1; interim changes in the Circular are also published in the **Federal Register**.]

(2) The wording of the surety bond must be identical to the wording specified in § 265.151(c).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund by the time the bond is obtained. Under the terms of the

surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust fund must meet the requirements specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the surety bond; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required until the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond by the expected date of the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure in accordance with Subpart G of this Part is issued by the Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of RCRA, or within 15 days after issuance of a notice of termination of interim status pursuant to Part 124 of this Chapter; or

(iii) Provide alternate financial assurance as specified in this Section within 30 days after receipt by the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted post-closure cost estimate (see § 265.144), except as provided in paragraph (g) of this Section.

(7) Whenever the adjusted post-closure cost estimate increases to an amount greater than the penal sum of the bond, the owner or operator must, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the adjusted post-closure cost estimate decreases, the penal sum may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the penal sum must be sent to the Regional Administrator by certified mail within 60 days after the change.

(8) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation cannot occur, however:

(i) During the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator as shown on the signed return receipt; or

(ii) While a compliance procedure is pending, as defined in § 265.141.

(9) The surety bond no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice of cancellation of the surety bond. Upon receipt of such notice the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days after issuance of the compliance order, the Regional Administrator may direct the surety to place the penal sum of the bond in the standby trust fund.

(10) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on receipt of evidence of alternate financial assurance as specified in this Section.

(11) The Regional Administrator will notify the surety when the owner or operator funds the standby trust fund in the amount guaranteed by the surety bond or if he provides alternate financial assurance as specified in this Section.

(c) *Post-closure letter of credit.* (1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and by having it delivered to the Regional Administrator by certified mail. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 265.151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund by the time the letter of credit is obtained. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited promptly and directly by the issuing institution into the standby trust fund. The standby trust fund must meet the requirements of the trust fund specified in paragraph (a) of this Section, except that:

(i) An originally signed duplicate of the trust agreement must be delivered to the Regional Administrator with the letter of credit; and

(ii) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in paragraph (a) of this Section are not required unless the standby trust fund is funded pursuant to the requirements of this paragraph.

(4) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year. If the issuing institution decides not to extend the letter of credit beyond the then current expiration date it must, at least 90 days before that date, notify both the owner or operator and the Regional Administrator by certified mail of that decision. The 90-day period will begin on the date of receipt by the Regional Administrator as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending as defined in § 265.141.

(5) The letter of credit must be issued for at least the amount of the adjusted post-closure cost estimate (see § 265.144), except as provided in paragraph (f) of this Section.

(6) Whenever the adjusted post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator must, within 60 days of the increase, cause the amount of the credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this Section to cover the increase. Whenever the adjusted post-closure cost estimate decreases during the operating life of the facility, the letter of credit may be reduced to the amount of the new estimate following written approval by the Regional Administrator. Notice of an increase or decrease in the amount of the credit must be sent to the Regional Administration by certified mail within 60 days of the change.

(7) During the period of post-closure care, the Regional Administrator may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Regional Administrator that the amount exceeds the remaining cost of post-closure care.

(8) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed, when required to do so, to perform post-closure in accordance with the post-closure plan or other interim status requirements, the Regional Administrator may draw on the letter of credit.

(9) The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the Regional Administrator will issue a compliance order pursuant to Section 3008 of RCRA, unless the owner or operator has demonstrated alternate financial assurance as specified in this Section. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the compliance order, the Regional Administrator may draw on the letter of credit.

(10) The Regional Administrator will return the original letter of credit to the issuing institution for termination when:

(i) The owner or operator substitutes alternate financial assurance for post-closure care as specified in this Section, or

(ii) The Regional Administrator notifies the owner or operator, in accordance with paragraph (h) of this Section, that he is no longer required by this Section to maintain financial assurance for post-closure care of the facility.

(d) and (e) [Reserved].

(f) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism. The mechanisms are limited to trust funds, surety bonds, and letters of credit. These mechanisms must be as specified in paragraphs (a), (b), and (c), respectively, of this Section, except that it is the combination of mechanisms, rather than each single mechanism, which must provide financial assurance for an amount at least equal to the adjusted post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, he may use the trust fund as the standby trust fund for the bond or letter of credit. If the multiple mechanisms include only surety bonds and letters of credit, a single standby trust may be established for all these mechanisms. The Regional Administrator may invoke use of any or all of the mechanisms, in accordance with the requirements of paragraphs (a), (b), and (c) of this Section, to provide for post-closure of the facility.

(g) *Use of a financial mechanism for multiple facilities.* (1) An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility of which he is the owner or operator. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. If the list is changed by addition or subtraction of a facility or by an increase or decrease in the amount of funds assured for post-closure care of one or more facilities, a corrected list must be sent to the Regional Administrator within 60 days of such change. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.

(2) A letter of credit may not be used to assure funds for facilities in more than one Region. If other financial mechanisms specified in this Section cover facilities that are located in more than one Region, the Regional Administrators for all Regions in which the facilities are located must be involved in all transactions that involve the Regional Administrator, except when the transactions involve only those facilities in one Region.

(h) *Release of the owner or operator from the requirements of this Section.* When the owner or operator has completed, to the satisfaction of the Regional Administrator, all post-closure care requirements for 30 years of post-closure care or the period specified by the Regional Administrator after closure, whichever period is shorter, the Regional Administrator will, at the request of the owner or operator, notify him in writing that he is no longer required by this Section to maintain financial assurance for post-closure care of the particular facility.

[*Comment:* The notice releases the owner or operator only from requirements for financial assurance for post-closure care of the facility; it does not release him from legal responsibility for meeting the post-closure standards.]

§ 265.146 Use of a mechanism for financial assurance of both closure and post-closure care.

An owner or operator may use one of the following financial assurance mechanisms to provide financial assurance for both closure and post-closure care of one or more facilities of which he is the owner or operator:

(a) A trust fund that meets the specifications of both § 265.143(a) and § 265.145(a); or

(b) A letter of credit that meets the specifications of both § 265.143(c) and § 265.145(c).

The amount of funds available under the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care of each facility.

§ 265.147 Liability requirements.

(a) By the effective date of these regulations, an owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for claims arising from the operations of each such facility or group of facilities from sudden and accidental occurrences that cause injury to persons or property. An owner or operator must have and maintain liability insurance for sudden occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. As evidence of this liability insurance, an owner or operator must deliver an originally signed duplicate of the insurance policy to the Regional Administrator, or Regional Administrators if facilities are located in more than one Region, by certified mail. Each policy must be for limits of liability not less than the minimum amounts required by this paragraph and each policy must be amended, in order to comply with the requirements of this regulation, by attachment of the Hazardous Waste Facility Liability Endorsement. The wording of the endorsement must be identical to the wording specified in § 265.151(e).

(b) An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for claims arising from the operations of each such facility or group of facilities from nonsudden and accidental occurrences that cause injury to persons or property. An owner or operator must have and maintain liability insurance for nonsudden occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator must have this insurance by the following dates:

(1) For an owner or operator with annual sales in the last calendar year preceding the effective date of these regulations totaling $10 million or more: 6 months after the effective date of these regulations.

(2) For an owner or operator with annual sales in the last calendar year preceding the effective date of these regulations greater than $5 million but less than $10 million: 18 months after the effective date of these regulations.

(3) All other owners or operators: 30 months after the effective date of these regulations.

As evidence of this liability insurance, an owner or operator must deliver an originally signed duplicate of the insurance policy to the Regional Administrator, or Regional Administrators if facilities are located in more than one Region, by certified mail. Each policy must be for limits of liability not less than the minimum amounts required by this paragraph and each policy must be amended, in order to comply with the requirements of this regulation, by attachment of the Hazardous Waste Facility Liability Endorsement. The wording of the endorsement must be identical to the wording specified in § 265.151(e).

(c) If an owner or operator elects to comply with paragraphs (a) and (b) of this Section through one insurance policy covering both sudden and nonsudden occurrences, this policy must be in the amount of at least $4 million per occurrence with an annual aggregate of at least $8 million, exclusive of legal defense costs.

(d) If an owner or operator can demonstrate to the satisfaction of the Regional Administrator that the levels of financial responsibility required by paragraphs (a) or (b) of this Section are not consistent with the degree and duration of risk associated with the treatment, storage, or disposal at each facility or group of facilities, the owner or operator may obtain a variance from the Regional Administrator. The request for a variance must be submitted by certified mail to the Regional Administrator. The variance shall take the form of an adjusted level of required liability coverage, such level to be based on the Regional Administrator's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of facilities. The Regional Administrator may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the Regional Administrator to determine a level of financial responsibility other than that required by paragraphs (a) or (b) of this Section. The Regional Administrator shall process a variance request as if it were a permit modification request under § 122.15(a)(5) of this Chapter and subject to the procedures of § 124.5 of this Chapter. Notwithstanding any other provision, the Regional Administrator shall hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to grant a variance.

(e) If the Regional Administrator determines that the levels of financial responsibility required by paragraphs (a) or (b) of this Section are not consistent with the degree and duration of risks associated with treatment, storage, or disposal at any facility or group of facilities, the Regional Administrator may adjust the level of required financial responsibility required under paragraphs (a) or (b) of this Section as may be necessary to protect human health and the environment, such adjusted level to be based on the Regional Administrator's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of such facilities. The Regional Administrator may also require an owner or operator of a treatment or storage facility or group of facilities to comply with paragraph (b) of this Section if the Regional Administrator determines that there is a significant risk to human health and the environment from nonsudden and accidental occurrences resulting from the operations of such facility or group of facilities. The owner or operator must furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator requests to determine whether cause exists for such adjustments of level or type of coverage. The Regional Administrator shall process an adjustment of the level of required coverage as if it were a permit modification under § 122.15(a)(5) of this Chapter and subject to the procedures of § 124.5 of this Chapter. Notwithstanding any other provisions, the Regional Administrator shall hold a public hearing only at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to adjust the level or type of required coverage.

§ 265.148 Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies.

An owner or operator who fulfills the requirements of §§ 265.143, 265,145, or 265.147 by obtaining a letter of credit, surety bond, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy, insolvency, or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance or liability coverage within 60 days of such events.

§ 265.149 Applicability of State financial requirements.

(a) For a facility located in a State whose hazardous waste regulations include liability requirements or requirements for financial assurance for closure and post-closure care, an owner or operator may use State-required financial mechnisms to meet the requirements of §§265.143, 265.145, and 265.147 if the State mechanisms provide assurance or liability coverage equivalent to or greater than that provided by the mechanisms of §§ 265.143, 265.145, and 265.147. Evidence of the establishment of such a mechanism must be delivered by certified mail to the Regional Administrator. The submittal must include, or have attached to it, the following information: the facility's EPA Identification Number, name, address, and the amounts of liability coverage or funds for closure or post-closure care assured by the mechanism.

(b) The owner or operator must obtain an additional financial assurance mechanism for closure or for post-closure care, as specified in §§265.143 and 265.145, or additional liability insurance as specified in § 265.147, if the amount of funds available from the State mechanism is less than that required by this Subpart. The amounts of funds available through the State and Federal mechanisms must equal at least the amounts required in §§ 265.143, 265.145, and 265.147.

§ 265.150 State assumption of responsibility.

(a) If a State either assumes legal responsiblity for an owner's or operator's compliance with the closure, post-closure, or liabaility requirements of these regulations *or* assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with requirements of this Subpart if the State's assurances are equivalent to or exceed the assurances provided by meeting the requirements of this Subpart. The owner or operator must deliver by certified mail to the Regional Administrator a letter from the State describing the nature of the State's responsibility regarding the closure, post-closure, and liability requirements so covered. The letter must include, or have attached to it, the following information: the facility's EPA Identification Number, name, address, and the amounts of liability coverage or funds for closure or post-closure care that are assured by the State.

(b) The owner or operator must obtain an additional financial assurance mechanism for closure or for post-closure care, as specified in §§265.143 and 265.145 or additional liability insurance as specified in § 265.147, if the amount of funds available through the State guarantees is less than that required by this Subpart. The amounts of funds available through the State guarantees and Federal mechanisms must equal at least the amounts required in §§ 265.143, 265.145, and 265.147.

§ 265.151 Wording of the instruments.

(a)(1) A trust agreement for a trust fund as specified in §§ 265.143(a) or 265.145(a) must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Trust Agreement

Trust agreement, the "Agreement", entered into as of [date] by and between [name of the owner or operator], a [State] [corporation, partnership, association, proprietorship], the "Grantor", and [name of corporate trustee], a [State corporation] [national bank], the "Trustee".

Whereas, the United States Environmental Protection Agency, "EPA", an agency of the United States Government, has established certain regulations applicable to the Grantor, requiring that the owner or operator of a hazardous waste management facility must provide assurance that funds will be available when needed for closure and/or post-closure care of the facility,

Whereas, the Grantor has elected to establish a trust to provide such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "fiduciary" means any person who exercises any power of control, management, or disposition or renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of this trust fund, or has any authority or responsibility to do so, or who has any authority or responsibility in the administration of this trust fund.

(b) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(c) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to [for each facility insert the EPA Identification Number, name, and address, and the adjusted closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund", for the benefit of the EPA. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule A attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund will be held by the Trustee, in trust, as hereinafter provided. The Trustee undertakes no responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments to discharge any liabilities of the Grantor established by the EPA.

Section 4. Payment for Closure and Post-Closure Care. The Trustee will make such payments from the Fund as the EPA Regional Administrator will direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee will reimburse the Grantor or other persons as specified by the Regional Administrator from the Fund for closure and post-closure expenditures in such amounts as the Regional Administrator will direct, in writing. The Trustee will notify the Regional Administrator when 20 percent of the amount allocated for closure of the facility remains in the Fund, and will not make further reimbursements for closure expenditures unless the Regional Administrator identifies reimbursements that may be made out of the remaining 20 percent. In addition, the Trustee will refund to the Grantor such amounts as the EPA Regional Administrator specifies in writing. Upon refund, such funds will no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund will consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee will invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with investment guidelines and objectives communicated in writing to the Trustee from time to time by the Grantor, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee or any other fiduciary will discharge his duties with respect to the trust fund solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; *except that:*

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2.(a), will not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein. To the extent of the equitable share of the Fund in any such commingled trust, such commingled trust will be part of the Fund;

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., or one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such share in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by private contract or at public auction. No person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee will at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund will be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee will be paid from the Fund.

Section 10. Annual Valuation. The Trustee will annually, at the end of the month coincident with or preceding the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate EPA Regional Administrator a statement confirming the value of the Trust. Any securities in the Fund will be valued at market value as of no more than 30 days prior to the date of the statement. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EPA Regional Administrator will constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee will be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee will be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. Upon the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator, the Trustee may resign or the Grantor may replace the Trustee. In either event, the Grantor will appoint a successor Trustee who will have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of the appointment by the successor trustee, the Trustee will assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee and the date on which he assumes administration of the trust will be specified in writing and sent to the Grantor, the EPA Regional Administrator, and the present and successor trustees by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section will be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests and instructions by the Grantor to the Trustee will be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee will be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests, and instructions by the EPA Regional Administrator to the Trustee will be in writing, signed by the EPA Regional Administrators of the Regions in which the facilities are located, and the Trustee will act and will be fully protected in acting in accordance with such orders, requests and instructions. The Trustee will have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the EPA hereunder has occurred. The Trustee will have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or the EPA, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee will notify the Grantor and the appropriate EPA Regional Administrator, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee is not required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate EPA Regional Administrator, or by the Trustee and the appropriate EPA Regional Administrator if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust will be irrevocable and will continue until terminated at the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator, or by the Trustee and the EPA Regional Administrator if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, will be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee will not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EPA Regional Administrator issued in accordance with this Agreement. The Trustee will be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement will be administered, construed and enforced according to the laws of the State of [*State*].

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement will not affect the interpretation or the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 40 CFR 265.151(a)(1).

[Signature of Grantor]
By [Title]
Attest:
[Title]
[Seal]
[Signature of Trustee]
By
Attest:
[Title]
[Seal]

(2) This is an example of the certification of acknowledgement, which must accompany the trust agreement for a trust fund as specified in §§ 265.143(a) and 265.145(a):

STATE OF ______
COUNTY OF ______

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[*Comment:* As required in §§ 265.143(a)(2) and 265.145(a)(2), the trust agreement must be accompanied by a formal certification of acknowledgement. This is an example only. State requirements may differ on the proper content of this acknowledgement.]

(b) A surety bond guaranteeing payment into a closure trust fund, as specified in § 265.143(b), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Financial Guarantee Bond for Closure

Date bond executed: ______
Effective date: ______
Principal: [legal name and business address]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: ————

Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, and address of each facility and, if more than one facility is covered by this bond, the amount of the penal sum for each facility: ————

Total penal sum of bond: $ ————

Know all men by these presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have a EPA permit or permits, or interim status, in order to own or operate the hazardous waste management facility(ies) identified above, and

Whereas said Principal is required to provide financial assurance for closure of the facility(ies) as a condition of the permit(s) or interim status, and

Whereas said Principal shall establish a standby trust fund as specified by 40 CFR 264.143 or 40 CFR 265.143,

Now, therefore the conditions of the obligation are such that if the Principal shall faithfully, for the facility(ies) identified above, at least 60 days before the beginning of final closure, fund the standby trust fund in an amount equal to the penal sum,

Or, if the Principal shall fund the standby trust fund in such an amount within 15 days after an order to begin closure in accordance with Subpart G of 40 CFR Parts 264 and 265 is issued by an EPA Regional Administrator or by a U.S. district court pursuant to Section 3008, 7002, or 7003 of the Resource Conservation and Recovery Act, as amended, or within 15 days after a notice of termination of the permit(s) or interim status pursuant to 40 CFR Part 124,

Or, if the Principal shall provide alternate financial assurance as specified in 40 CFR 264.143 or 40 CFR 265.143 within 30 days after the date notice of cancellation is received by a Regional Administrator, then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount of the penal sum into the standby trust fund as directed by the EPA Regional Administrator.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending written notice of cancellation to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation cannot occur: (1) during the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator(s) as shown on the signed return receipt(s); or (2) while a compliance procedure is pending, as defined in 40 CFR 264.141 or 40 CFR 265.141.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it equals the adjusted closure cost estimate(s), provided that the amount of the cost estimate(s) does (do) not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Regional Administrator(s).

In witness whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 265.151(b).

Principal

Signature(s): ————

Name(s) and title(s) [typed]: ————

Corporate seal:

Corporate Surety(ies)

Name and address: ————

State of incorporation: ————

Liability limit: $ ————

Signature(s): ————

Name(s) and title(s) [typed]: ————

Corporate seal:

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ ————

(c) A surety bond guaranteeing payment into a post-closure trust fund, as specified in § 265.145(b), must be worded as follows, except that instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Financial Guarantee Bond for Post-Closure Care

Date bond executed: ————

Effective date: ————

Principal: [legal name and business address]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: ————

Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, and address of each facility and, if more than one facility is covered by this bond, the amount of the penal sum for each facility:

Total penal sum of bond: $ ————

Know all men by these presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have an EPA permit or permits, or interim status, in order to own or operate the hazardous waste management facility(ies) identified above, and

Whereas said Principal is required to provide financial assurance for post-closure care of the facility(ies) as a condition of the permit(s) or interim status, and

Whereas said Principal shall establish a standby trust fund as specified by 40 CFR 264.145 or 40 CFR 265.145,

Now, therefore the conditions of the obligation are such that if the Principal shall faithfully, for the facility(ies) identified above, by the beginning of final closure, fund the standby trust fund in an amount equal to the penal sum,

Or, if the Principal shall fund the standby trust fund in such an amount within 15 days after an order to begin closure in accordance with Subpart G of 40 CFR Parts 264 and 265 is issued by the Regional Administrator or a U.S. district court pursuant to Section 3008, 7002, or 7003 of the Resource Conservation and Recovery Act, as amended, or within 15 days after a notice of termination of the permit(s) or interim status pursuant to 40 CFR Part 124,

Or, if the Principal shall provide alternate financial assurance as specified in 40 CFR 264.145 or 40 CFR 265.145 within 30 days after the date notice of cancellation is received by a Regional Administrator, then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) must place funds in the amount of the penal sum into the standby trust fund as directed by an EPA Regional Administrator.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending written notice of cancellation to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation cannot occur: (1) during the 90 days beginning on the date of receipt of the notice of cancellation by the Regional Administrator(s) as shown on the signed return receipt(s); or (2) while a compliance procedure is pending, as defined in 40 CFR 264.141 or 40 CFR 265.141.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it equals the adjusted post-closure cost estimate(s), provided that the amount of the cost estimate(s) does (do) not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Regional Administrator(s).

In witness whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 265.151(c).

Principal

Signature(s): ——————————
Name(s) and title(s) [typed]: ——————————
Corporate seal:

Corporate Surety(ies)

Name and address: ——————————
State of incorporation: ——————————
Liability limit: $ ——————————
Signature(s): ——————————
Name(s) and title(s) [typed]: ——————————
Corporate seal:
[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: $ ——————————

(d) A letter of credit as specified in §§ 265.143(c) and 265.145(c) must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

[Regional Administrator]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. ——— in favor of the Regional Administrator for Region ——— of the United States Environmental Protection Agency, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars $——, available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No. ———, together with

(2) your signed statement declaring that the amount of the draft is payable pursuant to regulations issued under the authority of the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended.

The following amounts are included in the amount of this letter of credit: [For each facility, insert the EPA Facility Identification Number, name and address, and the adjusted closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this letter of credit].

This letter of credit is effective as of [date] and will expire on [date at least 1 year later], but such expiration date will be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 90 days before the current expiration date, we notify you and [owner or operator's name] by certified mail that we decided not to extend the Letter of Credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit will be available upon presentation of your sight draft for 90 days after the date of receipt by you as shown on the signed return receipt or while a compliance procedure is pending as defined in 40 CFR 265.141, whichever is later.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we will duly honor such draft upon presentation to us, and we will deposit the amount of the draft promptly and directly into the standby trust fund of [owner's or operator's name] held in trust by [name and address of corporate trustee].

I hereby certify that I am authorized to execute this letter of credit on behalf of [issuing institution] and that the wording of this letter of credit is identical to the wording specified in 40 CFR 265.151(d).

Attest:

[Signature and title of official of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(e) A hazardous waste facility liability endorsement as required in § 265.147 must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Hazardous Waste Facility Liability Endorsement

It is agreed that:

1. The certification of the policy, as proof of financial responsibility under the provisions of [insert § 265.147 (a)(1) and/or (b)(1), 40 CFR] amends the policy to provide insurance in accordance with the provisions of such regulations to the extent of coverage and limits of liability required thereby at [list EPA Identification Number, name, and address for each facility]. Within the limits of liability provided it is understood that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the Company from liability hereunder or from the payment of any such final judgment, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the Company, and the insured agrees to reimburse the Company for any payment made by the Company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the Company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

2. Whenever requested by the Regional Administrator, the Company agrees to furnish to the Regional Administrator a duplicate original of said policy and all endorsements thereon.

3. This endorsement may not be canceled without cancellation of the policy to which it is attached. Such cancellation may only be effected by the Company or the insured giving sixty (60) days' notice in writing to the Regional Administrator, such sixty (60) days' notice to commence to run from the date the notice is actually received by the Regional Administrator.

4. Notwithstanding any other provision of the policy, if this endorsement or policy is on a claims-made basis, cancellation or termination may not be effected within 120 days of any fire, explosion, or unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water.

Attached to and forming part of policy No. —— issued by [name of Company], herein called the Company, of [address of Company] to [name of insured] of [address] this —— day of ———, 19——.

Countersigned by ———————, authorized Company representative.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

a. Amend Subpart A as follows:

1. Amend § 122.15(a) by adding new paragraph (7) as an interim final rule to read as follows:

§ 122.15 [Amended]

(a) * * *

(7) *for RCRA only,* the Director may modify a permit:

(i) When modification of a closure plan is required under §§264.112(b) or 264.118(b).

(ii) After the Director receives the notification of expected closure under

§ 264.113, when the Director determines that extension of the 90 or 180 day periods under § 264.113, modification of the 30-year post-closure period under § 264.117(a), continuation of security requirements under § 264.117(b), or permission to disturb the integrity of the containment system under § 264.117(c) are unwarranted.

(iii) When the permittee has filed a request under § 264.147(d) for a variance to the level of financial responsibility or when the Director demonstrates under § 264.147(e) that an upward adjustment of the level of financial responsibility is required.

2. Revise § 122.17(e) to read as follows:

§ 122.17 [Amended]

* * * * *

(e) *For RCRA only:*

(1) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan; or

(2)(i) Change estimates of maximum inventory under § 264.112(a)(2);

(ii) Change estimates of expected year of closure or schedules for final closure under § 264.112(a)(4); or

(iii) Approve periods longer than 90 days or 180 days under 264.113(a) and (b).

(b) Amend Subpart B as follows:

1. Revise § 122.25 to read as follows: all paragraphs except paragraphs (a)(1)-(a)(10) are issued as an interim final rule:

§ 122.25 Contents of Part B.

(Applicable to State RCRA programs, see §123.7)

Part B information requirements presented below reflect the standards promulgated in 40 CFR Part 264. These information requirements are necessary in order for EPA to determine compliance with the Part 264 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can *not* be provided to the extent required, the Director *may* make allowance for submission of such information on a case by case basis. Information required in Part B shall be submitted to the Director and signed in accordance with requirements in § 122.6. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. Part B of the RCRA application includes the following:

(a) *General information requirements.* The following information is required for all HWM facilities, except as § 264.1 provides otherwise:

(1) A general description of the facility.

(2) Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with Part 264.

(3) A copy of the waste analysis plan required by § 264.13(b) and, if applicable, § 264.13(c).

(4) A description of the security procedures and equipment required by § 264.14, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(5) A copy of the general inspection schedule required by § 264.15(b); *Note:* Include, where applicable, as part of inspection schedule, specific requirements in §§ 264.174, 264.194, 264.226, and 264.254.

(6) A justification of any request for a waiver(s) of the preparedness and prevention requirements of Part 264, Subpart C.

(7) A copy of the contingency plan required by Part 264, Subpart D. *Note:* Include, where applicable, as part of the contingency plan, specific requirements in §§ 264.227 and 264.255.

(8) A description of procedures, structures, or equipment used at the facility to:

(i) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(ii) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(iii) Prevent contamination of water supplies;

(iv) Mitigate effects of equipment failure and power outages; and

(v) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing).

(9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with § 264.17 including documentation demonstrating compliance with § 264.17(c).

(10) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(11) Facility location information:

(i) In order to determine the applicability of the seismic standard [§ 264.18(a)] the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

[*Comment:* If the county or election district is *not* listed in Appendix VI of Part 264, no further information is required to demonstrate compliance with § 264.18(a).]

(ii) If the facility is proposed to be located in an area listed in Appendix VI of Part 264, the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

(A) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

(*1*) published geologic studies,

(*2*) aerial reconnaissance of the area within a five-mile radius from the facility,

(*3*) an analysis of aerial photographs covering a 3,000 foot radius of the facility, and

(*4*) if needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility, or

(B) If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass with 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility, data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of any faults found.

[*Comment:* The Guidance Manual for the Location Standards provides greater detail on the content of each type of seismic investigation and the appropriate conditions under which each approach or a combination of approaches would be used.]

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where a FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

[*Comment:* Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.]

(iv) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

(A) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood.

(B) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout.

(C) If applicable, and in lieu of paragraphs (A) and (B) above, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

(*1*) timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility,

(*2*) a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under Parts 122 through 124 and 264 through 266 of this Chapter,

(*3*) the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use,

(*4*) the potential for accidental discharges of the waste during movement.

(v) *Existing facilities NOT* in compliance with § 264.18(b) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(12) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with § 264.16. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in § 264.16(a)(3).

(13) A copy of the closure plan and, where applicable, the post-closure plan required by §§ 264.112 and 264.118.

Note.—Include, where applicable, as part of the plans, specific requirements in §§ 264.178, 264.197, 264.228, and 264.258.

(14) For existing facilities, documentation that a notice has been placed in the deed or appropriate alternate instrument as required by § 264.120.

(15) The most recent closure cost estimate for the facility prepared in accordance with § 264.142 plus a copy of the financial assurance mechanism adopted in compliance with § 264.143.

(16) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with § 264.144 plus a copy of the financial assurance mechanism adopted in compliance with § 264.145.

(17) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of § 264.147. For a new facility, documentation showing the amount of insurance meeting the specification of § 264.147(a) and, if applicable, § 264.147(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in § 264.147(d).

(18) Where appropriate, proof of coverage by a State financial mechanism in compliance with §§ 264.149 or 264.150.

(19) A topographic map showing a distance of 1000 feet around the facility at a scale* of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(i) Map scale and date.

(ii) 100-year floodplain area.

(iii) Surface waters including intermittant streams.

(iv) Surrounding land uses (residential, commercial, agricultural, recreational).

(v) A wind rose (i.e., prevailing wind-speed and direction).

(vi) Orientation of the map (north arrow).

(vii) Legal boundaries of the HWM facility site.

(viii) Access control (fences, gates).

(ix) Injection and withdrawal wells both on-site and off-site.

(x) Buildings; treatment, storage, or disposal operations; or other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.)

(xi) Barriers for drainage or flood control.

(xii) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

Note.—For large HWM facilities, the Agency will allow the use of other scales on a case by case basis.

(20) Applicants may be required to submit such information as may be necessary to enable the Regional Administrator to carry out his duties under other Federal laws as required in § 122.12 of this Part.

(b) *Specific information requirements.* The following additional information is required from owners or operators of specific types of HWM facilities that are used or to be used for storage or treatment:

(1) For facilities that store *containers* of hazardous waste, except as otherwise provided in § 264.170.

(i) A description of the containment system to demonstrate compliance with § 264.175. Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction.

(B) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system.

(C) Capacity of the containment system relative to the number and volume of containers to be stored.

(D) Provisions for preventing or managing run-on.

(E) How accumulated liquids can be analyzed and removed to prevent overflow.

(ii) Sketches, drawings, or data demonstrating compliance with § 264.176 (location or buffer zone and containers holding ignitable or reactive wastes) and § 264.177(c) (location of incompatible wastes), where applicable.

(iii) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with §§ 264.177 (a) and (b), and 264.17 (b) and (c).

(2) For facilities that use *tanks* to store or treat hazardous waste, except as otherwise provided in § 264.190, description of design and operation procedures which demonstrate compliance with the requirements of §§ 264.191, 264.192, 264.198 and 264.199 including:

(i) References to design standards or other available information used (or to be used) in design and construction of the tank.

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance).

(iii) Tank dimensions, capacity, and shell thickness.

(iv) A diagram of piping, instrumentation, and process flow.

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents).

(vi) Description of procedures for handling incompatible ignitable, or reactive wastes, including the use of buffer zones.

(3) For facilities that store or treat hazardous waste in *surface impoundments*, except as otherwise provided in § 264.220, the owner or operator must submit detailed plans and specifications accompanied by an engineering report which must collectively include the information itemized in paragraphs (i) through (x). For new facilities, the plans and specifications must be in sufficient detail to provide complete information to a contractor hired to build the facility even if the owner or operator intends to construct the facility without hiring a contractor. For existing facilities, comparable detail must be provided, but the form of presentation need not assume contractor construction except to the extent that the facility will be modified.

(i) A statement of the minimum freeboard to be maintained at the facility and the basis of the design to demonstrate compliance with freeboard requirements of §§ 264.221(a) and 264.222 (a) and (b). For flow through facilities include a hydraulic profile.

(ii) Detailed drawings of the structure which is or will be provided to immediately stop flow into the impoundment to comply with § 264.221(b); or, if no structure is needed to comply with § 264.227(c)(1), a description of the means by which waste additions will be stopped.

(iii) Detailed drawings of any dikes which exist or will be constructed.

(iv) A basis of design and design analysis of any dikes to comply with §§ 264.221(d) and 264.223(a). The design analysis must show that any dike will meet the requirements of § 264.226(c)(1).

(v) Detailed design drawings and specifications of the liner(s) and the leachate detection, collection, and removal system and the basis of design and design analysis to comply with §§ 264.221(c), 264.221(e), and 264.223 (b), (c), and (d).

(vi) Liner installation instructions to comply with the requirements of § 264.226(a). For existing facilities, when the owner or operator proposes to rely on existing liners, a description of the installation procedures used.

(vii) Design details of the leachate removal system, the basis of design, and a description of the operating procedures to be used to ensure free flow from the collection system in accordance with § 264.222(c).

(viii) Design plans and specifications and basis of design of any structures needed to comply with § 264.222(e).

(ix) A description of the maintenance and repair procedures proposed to comply with §§ 264.222(d) and 264.15(c).

(x) A description of the operating procedures that will ensure compliance with §§ 264.229 and 264.230.

(xi) A certification by a qualified engineer which complies with § 264.226(c). The owner or operator of a new facility must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications.

(4) For facilities that store or treat hazardous waste in *waste piles*, except as otherwise provided in § 264.250.

(i) A description of practices to control wind dispersal (e.g., cover or frequent wetting) of hazardous waste in piles so that the Director, where necessary, can specify appropriate control measures.

(ii) A detailed engineering description of the facility design including:

(A) A description of measures to divert run-on away from the pile;

(B) A description of the leachate and run-off collection and control system;

(C) A description of the foundation supporting the base;

(D) Design specifications of the pile base and liner (or liners) including the estimated containment life of the base and the permeability of the liner(s);

(E) Estimated life of the hazardous waste pile; and

(F) If applicable under § 264.253(a)(3), a description of the leachate detection, collection, and removal system including the system's relation to the water table and a description of any efforts to control the water table.

(iii) A detailed description of the facility operating procedures which demonstrate compliance with §§ 264.252, 264.253, 264.256 (ignitable or reactive waste), and 264.257 (incompatible waste) including:

(A) A description of efforts to protect the containment system from plant growth which could puncture any component of the system;

(B) A description of design and operating procedures to properly manage and dispose of any leachate that is a hazardous waste;

(C) A description and listing of all equipment and procedures used to place the waste in or on the pile or to clean and expose the liner surface; and

(D) A description of efforts to separate hazardous waste that is incompatible with any waste or material stored nearby including the design specifications of any dike, berm, wall, or other device used to separate the materials.

(c) [Reserved]

Note.—Requirements set forth in § 122.25 (a) and (b) reflect the Part 264 regulations promulgated on May 19, 1980 and today. Additional permit application requirements including those for other treatment and disposal facilities will be promulgated when the remaining portions of Part 264 are promulgated.

2. Revise § 122.29 to read as follows; paragraph (a) is issued as an interim final rule:

§ 122.29 Establishing RCRA Permit Conditions.

(Applicable to State RCRA programs, see § 123.7)

In addition to the conditions established under § 122.8(a), each RCRA permit shall include:

(a) A list of the wastes or classes of wastes which will be treated, stored, or disposed of at the facility, and a description of the processes to be used for treating, storing, and disposing of these hazardous wastes at the facility including the design capacities of each storage, treatment, and disposal unit. Except in the case of containers, the description must identify the particular wastes or classes of wastes which will be treated, stored, or disposed of in particular equipment or locations (e.g., "Halogenated organics may be stored in Tank A", and "Metal hydroxide sludges may be disposed of in landfill cells B, C, and D"), and

(b) Each of the applicable requirements specified in 40 CFR Parts 264 and 266.

[FR Doc. 81-468 Filed 1-9-81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[SWH–FRL 1673–7b]

Closure, Tank, and Waste Pile Standards for Owners and Operators of Hazardous Waste Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: The Environmental Protection Agency is proposing to amend the Part 265 interim status standards promulgated on May 19, 1980, (45 FR 33153–33258). Amendments are being proposed to the §§ 265.119 and 265.120 standards requiring notification of the local land authority of hazardous waste disposal activities and placement of a notice of such activities in the deed. In addition, EPA is proposing to amend the interim status requirements for tank and waste pile facilities (Part 265, Subparts J and L) to stipulate that periodic comprehensive inspections are required.

EPA is proposing these amendments to the Part 265 interim status standards because they involve substantive changes to interim status requirements promulgated in May 1980.

The Agency is also proposing to amend the Part 264 general (permit) standards promulgated today. The proposed amendments include requirements for controlling air emissions from tank facilities (§ 264.200) and inspecting waste pile containment systems (§ 264.254).

EPA is proposing these additions to the Part 264 general standards, because they are major changes from the proposed rules published on December 18, 1978 (43 FR 58982–59028).

DATES: Comments are due on or before April 13, 1981. A public hearing will be held March 18, 1981.

ADDRESSES: Comments should be addressed to Deborah Villari, Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460. Comments should identify the regulatory docket as follows: "Docket No. 3004, Proposed Amendments".

The official record for this rulemaking is available at Room 2711, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:30 p.m., Monday through Friday excluding holidays.

A public hearing will be held at Room 3906, Waterside Mall, 401 M St. S.W. in Washington, D.C. on March 18, 1981. Anyone wishing to make a statement at the hearing should notify in writing Ms. Geraldine Wyer, Public Participation Officer, Office of Solid Waste (WH–562), U.S. EPA 401 M Street, S.W., Washington, D.C. 20460.

Oral and written comments may be submitted at the public hearing. Persons who wish to make oral presentations must restrict their presentations to 10 minutes and are encouraged to have written copies of their complete comments for inclusion in the official record.

FOR FURTHER INFORMATION CONTACT: John P. Lehman, Office of Solid Waste (WH–565) U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755–9185.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background
III. Detailed Discussion of Proposals
A. Tank Air Emissions
B. Waste Pile Inspections
C. Notification of Land Authority and Notice in Deed
D. Tank Inspections
IV. Supporting Documents

I. Authority

This regulation is proposed under the authority of Sections 1006, 2002(a) and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6905, 6912(a), and 6924.

II. Background

Early this year EPA began issuing regulations which comprise the Subtitle C hazardous waste management system. On February 26, 1980, it promulgated standards for generators and transporters of waste (Parts 262 and 263, respectively). On May 19, 1980, EPA promulgated the interim status standards for hazardous waste treatment, storage, and disposal facilities (Part 265), the initial portion of the general standards for permitted facilities (Part 264), and consolidated permit and State program regulations (Parts 122–124). Today, EPA promulgated Part 265 interim status standards for financial responsibility and revised Part 265 rules for closure and post-closure; promulgated Part 264 general standards for treatment and storage of hazardous waste and for closure and financial responsibility; and amended the Part 122 permit requirements.

III. Detailed Discussion of Proposals

The following sections on tank air emissions and waste pile inspections discuss proposed Part 264 general (permit) standards which were not included in the proposed requirements for hazardous waste management facilities published on December 18, 1978 (43 FR 58982–59022). The section on waste pile inspections also includes discussion of a proposed interim status standard (Part 265).

The sections on tank inspections and post-closure notification and deed amendments discuss proposed amendments to the Part 265 interim status standards.

A. Tank Air Emissions

A requirement for the control of air emissions from tank facilities (§ 264.200) is being proposed for inclusion in the general standards for tanks (40 CFR, Part 264, Subpart J).

On December 18, 1978 the Agency proposed several requirements pertaining to the control of air emissions from tanks. The proposed requirements stipulated that all storage tanks were to be covered. The proposed § 150.44–1(a) stated that storage tanks which contain volatile waste could not be vented directly to the atmosphere. The proposed § 250.42–3 requirement stated that all facilities must be designed and operated in such a manner as to prevent air emissions in violation of regulations promulgated pursuant to Sections 110, 111, and 112 of the Clean Air Act (CAA). The proposed § 250.44(f) requirement added that if the Regional Administrator determined that open storage of a waste could result in a violation of the Clean Air Act regulations, the waste must be stored in a closed tank.

Commenters stated that the requirements should be based more directly on the quantity and concentration of harmful vapors emitted, or alternatively that the requirements should be deleted and authority deferred to the Clean Air Act. The Agency has stated in the preamble to the May 19, 1980 regulation that RCRA authority is a more efficient vehicle for controlling air emissions from hazardous waste facilities than is the Clean Air Act. EPA agrees with commenters, however, that the regulation of such emissions should be based on the quantity and concentrations of harmful vapors and their impact on human health and the environment. Regulations under the Clean Air Act to address in part the problem of air emissions from tanks may be promulgated in the near future. EPA has developed and distributed to the public, preproposal drafts of "Standards of Performance for New Stationary Sources—Volatile Organic Liquid Storage Vessels." The requirement would be proposed under the authority of Section 111 of the Clean Air Act, and would include storage of volatile organics in tanks.

The draft regulation for volatile organic liquid storage vessels does not, by itself, adequately control air emissions from hazardous waste facilities. While the draft CAA regulation would apply to hazardous waste storage tanks containing over 15,000 gallons of volatile organic liquids, the regulation would not control potentially hazardous air emissions from hazardous waste treatment processes conducted in tanks. EPA is particularly concerned with cyanide destruction processes and with precipitation and chromium reduction processes involving the use of bisulfide. Process upsets, such as pH fluctuation, at facilities using these processes can result in emissions of toxic HCN or H_2S gases which can threaten not only workers but surrounding communities. Therefore, a RCRA regulation, which complements and is not inconsistent with existing and proposed CAA regulations, is necessary for the control of air emissions from hazardous waste facilities.

The proposed approach would require the owner or operator to evaluate the potential for hazardous air emissions at his facility and to establish adequate treatment process controls, emission controls, and safety or emergency procedures as are necessary to protect human health and the environment. Both the evaluation as to potential hazards from air emissions and the controls established to protect human health and the envoronment will be subject to review by the Regional Administrator during the permit process.

Several alternatives to the proposed requirement were considered by EPA. Each is discussed below:

(1) Defer to CAA authority. As discussed above, the CAA regulations do not control emissions from treatment processes or treatment process upsets. The Agency is concerned with a large variety of treatment processes including cyanide destruction, chromium reduction, precipitation, steam stripping, physical agitation and others. To regulate each of these potential sources through CAA authority would be extremely cumbersome.

(2) Process specific requirements. The Agency considered developing controls which would be specific to each type of treatment process (e.g. require automatic pH control systems at cyanide destruction facilities). However, in view of the large number of processes used for hazardous waste treatment and the large variation between facilities in technologies used for a given process, the Agency decided that process specific controls would be both inflexible and unwieldy.

EPA requests comments on the proposed rule, the alternatives considered, and on other regulatory options for the control of air emissions for hazardous waste treatment and storage tanks.

B. Waste Pile Inspections and Testing

When the Part 265, Subpart L, interim status requirements for hazardous waste pile facilities were promulgated on May 19, 1980, there were no specific requirements for the inspections of piles other than the General Inspection Requirements of § 265.15. EPA now proposes to amend the interim status regulations for waste pile facilities by adding § 265.254, a requirement for the periodic inspection of the piles. The Agency also proposes to add this periodic inspection requirement to the general standards in § 264.254, as an adjunct to the final General Inspection Requirements of § 264.15 and § 264.254(a).

Storage and treatement of hazardous waste in both new and existing piles requires both primary containment designed to prevent discharges and inspection and testing to ensure integrity of the primary containment. This proposed inspection and testing requirement stipulates that the devices for controlling precipitation and run-on, and the waste pile base and run-off control devices, where these are required for containment of a pile, must be periodically inspected and tested. Where a waste pile base is required, the waste pile must be removed at regular intervals in order to inspect the base. This requirement is necessary to ensure that long-term degenerative processes which could result in failure of the containment system are detected. These processes include settling and cracking of dikes and foundations and corrosion, puncture, or deterioration of liners.

Since neither secondary containment nor ground-water monitoring are required for waste pile facilities, it is doubly important to utilize inspections as a means to ensure the integrity of the waste pile containment system. Waste or leachate can be released through cracks or holes in a base or diking system and improper functioning of precipitation, run-on, and leachate and run-off control devices can lead to emission of waste as well. Once released, the waste, leachate, or run-off may contaminate soil, ground water, or surface water. In order to prevent such contamination, it is important to monitor the condition of the waste pile base and diking system and precipitation, run-on, and leachate and run-off control equipment at regular intervals so that any corrosion, punctures, cracks, or other failure can be detected before it leads to failure of the containment system and subsequent release of the waste.

The Agency has considered the technical problem of the method of inspection of a waste pile base and has concluded that the best way to detect any deterioration is to visually examine and test the condition of the base. This necessitates the removal of the pile from its base periodically.

The Agency understands, however, that it may be impractical in some cases to remove the waste pile from its base for visual examination and testing of the base because of the size of the pile or because of the type of base used. For example, if a synthetic membrane is used as a base, it could be damaged by material handling equipment during waste removal. Accordingly, the proposed inspection requirement allows the owner or operator to omit the periodic waste pile base inspection from his inspection plan in such cases, *provided* that there is an alternative means for detecting failure of the primary containment system (the base). The Agency believes the best method to accomplish leak detection in a waste pile is to require that a leachate detection, collection, and removal system, as specified in § 264.253(a)(3), be placed under the waste pile base.

EPA requests comment on the proposed rule and other alternatives for inspecting waste pile bases.

C. Notification of Land Authority and Notice in Deed

Section 265.119 of the final Part 265, Subpart G, interim status standards promulgated on May 19, 1980 requires that within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the local land authority and to the Regional Administrator a survey plat indicating the location and dimensions of landfill cells or other disposal areas. This plat, certified by a professional land surveyor, must contain a note stating the owner's or operator's obligation to restrict disturbance of the site as specified in § 265.117(c) of the post-closure regulations. The owner or operator is also required to submit to the local land authority and to the Regional Administrator a record of the type, location, and quantity of wastes disposed of within each cell or area of the facility.

EPA is reproposing this final regulation in slightly altered form in order to clarify the intent of the requirement. Aware that the term "local land authority" might have different connotations in different localities, EPA has changed the references to such an authority to the "local zoning authority or the authority with jurisdiction over local land use" in the reproposed interim status standards. The Agency believes this terminology will specify more accurately the type of local authority to which survey plats and waste disposal records must be submitted.

EPA also recognizes that under certain conditions (e.g., cleanup of an environmental problem at a disposal facility) the type, location, or quantity of hazardous wastes disposed of within a particular cell or area of the facility may change. Therefore, the reproposed § 265.119 requires the owner or operator to report any changes in the type, location, or quantity of hazardous waste disposed of within each area or cell of the facility, to the local zoning authority or to the authority with jurisdiction over local land use and to the Regional Administrator.

EPA is also reproposing § 265.120 of the final Part 265, Subpart G, interim status standards in order to strengthen the assurance that a future owner or operator of property on which a disposal facility once operated will have full knowledge of previous uses of the land.

In addition to requiring a notation on the deed to the facility property indicating the land has been used to manage hazardous wastes and that its use is restricted under § 265.117(c), as in the final regulation, the reproposed regulation requires the notation to indicate that a survey plat and record of the type, location, and quantity of hazardous waste disposed of within each cell or area of the facility have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Regional Administrator.

Although this section was promulgated as final on May 19, 1980, EPA received one comment recommending that the Agency allow removal of the notation from the deed if the owner removes the contents of a disposal site or can demonstrate the secure nature of the facility under § 265.117. EPA agrees with this commenter that the notation may be removed, if certain conditions are met.

The Agency considered two alternative ways of enacting this provision. One alternative allows removal of the notation only if all hazardous waste is removed from the site. The other alternative requires the owner or operator of a treatment or storage facility, as well as a disposal facility, to attach a notation to the deed which may then be removed if the conditions outlined above are met.

EPA has opted for this first alternative and, consequently, is reproposing this section of the final regulation to permit an owner or operator or any subsequent owner of the land upon which a hazardous waste disposal facility was located to remove the notation from the deed or any other instrument normally examined during title search, if he removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil. The reproposed regulation also states that an owner or operator who removes the above components, unless he can demonstrate that any solid waste removed is not a hazardous waste, becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262; 263; and 264 or 265.

Since this section of the regulation was issued as a final rule on May 19, 1980, it is being reproposed to allow for public comment. The Agency expects that when § 264.120 of the general standards, today being promulgated as an interim final rule, becomes final, it will parallel whatever version of § 265.120 interim status standards is adopted as a final rule.

EPA requests comments on all aspects of the reproposed §§ 265.119 and 265.120. These rules as promulgated on May 19, 1980, remain in effect until amended final rules are promulgated.

D. Tank Inspections

The Part 265, Subpart J, interim status standards for hazardous waste treatment and storage tanks contain requirements in § 265.194 for inspections of monitoring equipment, discharge control and safety equipment, and the construction materials of the tank and discharge confinement structures surrounding the tank.

EPA is proposing to amend § 265.194 by adding a paragraph (b) requiring that owners and operators periodically conduct a comprehensive inspection to ensure that any corrosion, leaks, or cracks not detectable through routine visual inspection of the exterior of the tank will be discovered. In most cases, tanks must be emptied and the interior of the tank inspected for cracks, weak spots, and corrosion. However, in some cases, such as with underground tanks, emptying the tank and inspecting the interior is not a reasonable means of inspection. In these cases, alternative means may be used for inspecting the tank and detecting leaks. An example of such alternative means would be testing for leaks hydrostatically or through precisely measuring changes in the level of liquids in the tank over a 2–3 hours period.

The proposed rule specifies factors upon which a determination as to the frequency of these inspections must be based. These factors are to be used by the owner or operator in making a determination as to potential rate of deterioration as required by § 265.15(b). The frequency of inspection must be based on this determination.

EPA requests comment on proposed § 265.194(b) and other alternatives for inspecting tanks. Section 265.194(a) remains in effect.

IV. Supporting Documents

1. Background Documents

Copies of the Background Documents used in support of these proposed rules are available for review in all EPA Regional Offices libraries and in EPA headquarters library (Public Information Reference Unit) Room 2404, Waterside Mall, 401 M Street SW., Washington, D.C.

2. Economic, Environmental, and Regulatory Impacts

In accordance with Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107, EPA policy as stipulated in 39 FR 37419, October 21, 1974, and Executive Order 12044, respectively, analyses of the economic, environmental, and regulatory impacts are being performed for the entirety of Subtitle C, Hazardous Waste Management. Copies of the draft documents are available for review in the EPA libraries noted above. The impacts of this proposal are not covered in the present drafts but will be covered in subsequent drafts.

Dated: December 31, 1980.

Douglas M. Costle,
Administrator.

PART 264—STANDARD FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. It is proposed to amend 40 CFR Part 264 by adding § 264.200 to Subpart J and § 264.254 (b) and (c) to Subpart L as follows:

Subpart J—Tanks

§ 264.200 Air Emissions.

All tanks must have such treatment process controls, emission controls, and safety or emergency procedures as are necessary to protect human health and the environment from toxic or otherwise harmful fumes, mists, or gases resulting from:

(a) Volatilization of wastes stored or treated in the tank;

(b) Chemical reactions in the tank, either routine or resulting from process upsets; or

(c) Physical agitation or other forms of treatment conducted in the tank.

Subpart L—Waste Piles

§ 264.254 Inspections and testing.

* * * * *

(b) Except as otherwise provided in paragraph (c) of this Section, the owner or operator of a waste pile must include in the inspection plan required under § 264.15 a schedule of inspection of the devices for controlling wind dispersal (where required) and run-on, and the waste pile containment system under § 264.253. The inspection schedule must include periodic removal of the waste pile and testing of the underlying base to ensure that it has not deteriorated to the point where it is no longer capable of containment, is already leaking, or is otherwise in disrepair.

(c) If it is impractical to remove the waste pile and test the underlying base periodically because of the size of the pile or the type of base used (e.g., a synthetic membrane which could be damaged during waste removal), the owner or operator may omit the pile base inspection from his inspection plan, *provided* that the waste pile has a leachate detection, collection, and removal system as specified in § 264.253(a)(3).

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

2. It is proposed to amend 40 CFR Part 265 by revising §§ 265.119 and 265.120 in Subpart G, adding paragraph (b) to § 265.194 in Subpart J, and adding § 265.254 to Subpart L, as follows:

Subpart G—Closure and Post-Closure

§ 265.119 Notice to local land authority.

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the Regional Administrator a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in § 265.117(c). In addition, the owner or operator must submit to the Regional Administrator and to the local zoning authority or the authority with jurisdiction over local land use a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept. Any changes in the type, location, or quantity of hazardous waste disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed must be reported within 30 days to the local zoning authority or the authority with jurisdiction over local land use and to the Regional Administrator.

§ 265.120 Notice in deed to property.

(a) The owner of the property on which a disposal facility is located must record, in accordance with State law, a notation on the deed to the facility property—or on some other instrument which is normally examined during title search—that will in perpetuity notify any potential purchaser of the property that:

(1) The land has been used to manage hazardous wastes;

(2) Its use is restricted under § 265.117(c); and

(3) The survey plat and record of the type, location, and quantity of hazardous waste disposed of within each cell or area of the facility required in § 265.119 have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Regional Administrator of the Environmental Protection Agency.

(b) If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search.

[*Comment:* On removing the waste and waste residues, the liner, if any, and the contaminated soil, the owner or operator, unless he can demonstrate, in accordance with § 261.3(d) of this Chapter, that any solid waste removed is not a hazardous waste, becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Parts 262–266 of this Chapter.]

Subpart J—Tanks

§ 265.194 Inspections.

* * * * *

(b) As part of the inspection schedule required in § 265.15(b), and in addition to the specific requirements of paragraph (a) of this Section, the owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, and corrosion which may lead to cracks or leaks. Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion of the tank sides and bottoms. In those cases where emptying the tank is an ineffective procedure for inspection (e.g., underground tanks), alternative means (e.g., hydrostatic testing or other leak tests) may be used to assess the condition of the tank. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion protection used, and the characteristics of the waste being treated or stored.

[*Comment:* As required in § 265.15(c), the owner or operator must remedy any leak or crack, or equipment or process malfunction in violation of § 265.192 which he discovers during inspection. As part of the contingency plan required under Subpart D of Part 264, the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and timing for expenditious removal of leaked or spilled waste and repair of the tank. See 29 CFR 1910.94(d)(11) for Occupational Safety and Health Administration requirements relating to entry of tanks for inspection.]

Subpart L—Waste Piles

§ 265.254 Inspections and testing.

(a) Except as otherwise provided in paragraph (b) of this Section, the owner or operator of a waste pile must include in the inspection plan required under § 265.15 a schedule of inspection of the devices for controlling precipitation and run-on, and the waste pile base and devices for controlling run-off, where these are required for containment of the pile under § 265.253. Where a waste pile base is required, the inspection schedule must include, at a minimum, periodic removal of the waste pile and testing of the base to ensure that it has not deterioriated to the point where it is no longer capable of containment, is already leaking, or is otherwise in disrepair.

(b) If it is impractical to remove the waste pile and test the underlying base periodically because of the size of the pile or the type of base used (e.g., synthetic membrane which could be damaged during waste removal), the owner or operator may omit the pile base inspection from his inspection plan, *provided* that the waste pile has a leachate detection, collection, and removal system as specified in § 264.253(a)(3) of this Chapter.

[FR Doc. 81-464 Filed 1-9-81; 8:45 am]

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Monday
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Part III

Department of Agriculture

Farmers Home Administration

Environmental Program; General

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1901 and 1940

Environmental Program; General

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Proposed Rulemaking, Review of Existing Regulations under E.O. 12044.

SUMMARY: The Farmers Home Administration (FmHA) is proposing to amend its regulations for implementing the National Environmental Policy Act. These amendments are necessary in order to comply with the Council on Environmental Quality's (CEQ) "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act". The intended effect of these amendments is to make FmHA's regulation consistent with CEQ's as well as serve as a reference point for those environmental laws, Executive Orders and regulations applicable to FmHA's programs.

DATES: Comments must be received on or before March 13, 1981.

On February 19, 1981, at 10:00 a.m., a public information meeting will be held for the purpose of discussing this proposed rule as well as considering comments and questions of interested parties.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers, Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

The public information meeting on February 19, 1981 will be held in Room 330 of the GHI Building, 500 12th Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Hansel (Environmental Specialist), telephone (202) 447–3395, Farmers Home Administration, U.S. Department of Agriculture, Room 6309, South Agriculture Building, Washington, D.C. 20250.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Joseph H. Linsley, Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250, telephone (202) 447–4057.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant". The FmHA programs and projects which are affected by this instructions are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H. The affected programs are as follows: FCDA No. 10.405, Farm Labor Housing Loans and Grants; 10.409, Irrigation Drainage, and other Soil and Water Conservation Loans, 10.411, Rural Housing Site Loans; 10.414, Resource Conservation and Development Loans; 10.418, Water and Waste Disposal Systems for Rural Communities; 10.419, Watershed Protection and Flood Prevention Loans, 10.420, Rural Self-Help Housing Technical Assistance, 10.422, Business and Industrial Loans; 10.423, Community Facility Loans, 10.424, Industrial Development Grants; 10.426, Area Development Assistance Planning Grants; 10.427, Rural Rental Assistance Payments; 10.430, Energy Impacted Area Development Assistance Programs; and 10.431, Technical and Supervisory Assistance Grants; and 10.432, Biomass Energy and Alcohol Fuels Loans and Loan Guarantees.

FmHA proposes to revise and redesignate Subpart G of Part 1901 to a new Subpart G, Part 1940, Chapter XVIII, Title 7, Code of Federal Regulations. This proposed rule updates FmHA's environmental impact review requirements. Like the existing requirements it affects all of the Agency's financial assistance programs but these revisions provide more specific guidance in how to complete environmental reviews. This is particularly true with respect to smaller projects, housing projects of less than 20 units for example, which are exempt from formal review under FmHA's existing requirements. Such an exemption is not permitted under the CEQ regulations.

This proposed rule also adopts the concept being utilized by many other federal agencies and encouraged by CEQ of using the environmental impact assessment, and when necessary the environmental impact statement, as the basic mechanism for completing and demonstrating compliance with other major federal environmental laws, regulations and policies. Additionally, the proposed rule provides specific procedures for implementing Secretary's Memorandum No. 1827, Revised, "Statement on Land Use Policy".

This document has been reviewed in accordance with Part 1901, Subpart G, "Environmental Impact Statement" of this Chapter. It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Dated: December 29, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

PART 1901 [AMENDED]

Therefore, it is proposed that Subpart G of Part 1901 be removed and reserved and a new Subpart G, Part 1940, be added to read as follows:

PART 1940—GENERAL

* * * * *

Subpart G—Environmental Program

Sec.
1940.301 Purpose.
1940.302 General policy.
1940.303 Special policy.
1940.304 Policy implementation.
1940.305 Environmental responsibilities within National Office.
1940.306 Environmental responsibilities within State Office.
1940.307 Responsibilities of State Environmental Officer.
1940.308 Environmental responsibilities at the district and county office levels.
1940.309 Responsibilities of the prospective applicant.
1940.310 Categorical exclusions from NEPA reviews.
1940.311 Environmental assessments for Class I actions.
1940.312 Environmental assessments for Class II actions.
1940.313 Actions that normally require the preparation of an environmental impact statement (EIS).
1940.314 Criteria for determining a significant environmental impact.
1940.315 Timing of the environmental review process.
1940.316 Responsible officials for the environmental review process.
1940.317 Methods for ensuring proper implementation of categorical exclusions.
1940.318 Completing environmental assessments for Class II actions.
1940.319 Completing environmental assessments for Class I actions.
1940.320 Preparing environmental impact statements.
1940.321 Use of completed EIS.
1940.322 Record of decision.
1940.323 Preparing supplements to EISs.
1940.324 Adoption of EIS and environmental assessment prepared by other Federal agency.
1940.325 FmHA as a cooperating agency.
1940.326 FmHA as a lead agency.
1940.327 Tiering.
1940.328 State Environmental Policy Acts.
1940.329 Commenting on other agencies' EISs.

1940.330 Monitoring.
1940.331 Public involvement.
1940.332 Emergencies.
1940.333 Applicability to planning assistance.
1940.334 Direct participation of State agencies in the preparation of FmHA EISs.
1940.335 Environmental review of FmHA proposals for legislation.
1940.336 Contracting for consulting services.
1940.337–1940.350 [Reserved]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Exhibits

A. Secretary's Memorandum No. 1827, Revised, *Statement on Land Use Policy*

B. Form FmHA 1940-20, "Request For Environmental Information"

C. Timing of FmHA Environmental Impact Review Process

D. Form FmHA 1940-21, "Environmental Assessment for Class I Actions"

E. Environmental Assessment for Class II Actions

F. Form FmHA 1940-22, "Environmental Checklist For Categorical Exclusions"

G. Finding of No Significant Environmental Impact

Subpart G—Environmental Program

§ 1940.301 Purpose.

(a) This Subpart establishes the major environmental policies of the Farmers Home Administration (FmHA). It also provides the procedures and guidelines for preparing the environmental impact analyses required for a series of federal laws, regulations, and Executive Orders within one environmental document. The timing and use of this environmental document within the FmHA decision-making process is also outlined.

(b) This Subpart is intended to be consistent with the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA), 40 CFR Parts 1500–1508. CEQ's Regulations are incorporated by reference as part of this Subpart. CEQ's Regulations will not be repeated in this Subpart except when essential for clarification of important procedural or substantive points. Otherwise, citations to applicable sections of the Regulations will be provided. The Regulations will be available at all FmHA offices.

(c) This Subpart is designed to integrate the requirements of NEPA with other planning and environmental review procedures required by law or by Agency practice so that all such procedures run concurrently rather than consecutively. The environmental document which results from the implementation of this Subpart provides on a project basis a single reference point for the Agency's compliance and/or implementation of the following requirements and policies:

(1) The National Environmental Policy Act, 42 U.S.C. 4321

(2) Safe Drinking Water Act—Section 1424(e), 42 U.S.C. 300h

(3) Endangered Species Act, 16 U.S.C. 1531

(4) Wild and Scenic Rivers Act, 16 U.S.C. 1271

(5) Fish and Wildlife Coordination Act, 16 U.S.C. 662

(6) The National Historic Preservation Act, 16 U.S.C. 470 (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures.)

(7) Archaeological and Historic Preservation Act, 16 U.S.C. 469 (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures.)

(8) Coastal Zone Management Act—Section 307(c) (1) and (2), 16 U.S.C. 1456

(9) Executive Order 11593, Protection and Enhancement of the Cultural Environment (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures.)

(10) Executive Order 11514, Protection and Enhancement of Environmental Quality

(11) Executive Order 11988, Floodplain Management

(12) Executive Order 11990, Protection of Wetlands

(13) Office of Management and Budget Circular A-95 (See Subpart H of Part 1901 of this Chapter for more specific implementation procedures.)

(14) Title 7, Part 3100, Code of Federal Regulations, Department of Agriculture's National Environmental Policy Act; Final Policies and Procedures

(15) Title 7, Part 3100, Code of Federal Regulations, Department of Agriculture's Enhancement, Protection, and Management of the Cultural Environment (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures.)

(16) Secretary's Memorandum No. 1827, Revised, Statement on Land Use Policy (See Exhibit A.)

(d) The primary objectives of this Subpart are for the Agency to make better decisions by taking into account potential environmental impacts of proposed projects and by working with FmHA applicants, other federal agencies, Indian tribes, state and local governments, and interested citizens and organizations in order to formulate actions that both advance our program goals and protect, enhance, and restore environmental quality. To accomplish these objectives, the identification of potentially significant impacts on the human environment is mandated to occur early in the Agency's planning and decision-making processes. Important decision points are identified. The completion of the environmental review process is coordinated with these decision points and this review must be completed prior to the Agency's first major decision on whether or not to participate in the proposal. This early availability of the results of the environmental review process is intended to insure that Agency decisions are based on an understanding of their environmental consequences, as well as the consequences of alternative courses of action.

(e) Reducing delays, duplication of effort and superfluous analyses is provided for in the Subpart. FmHA environmental documents are to be supported by accurate analyses and will concentrate on the issues that are timely and relevant to the action in question rather than amassing needless detail. Such documents and their preparation and review will be coordinated with other federal or state agencies jointly participating in proposed actions or related actions in order to avoid duplication of effort and to achieve a coordinated and timely response.

(f) Public involvement is desirable and to facilitate public involvement, environmental documents will be available to interested citizens as early in the decision-making process as possible and before decisions are made. Provisions are included for citizens or interested-parties to express their views and any concerns.

(g) The FmHA officials responsible for the environmental review process are identified.

§ 1940.302 General policy.

(a) FmHA shall consider environmental quality as equal with economic, social, and other relevant factors in program development and decision-making processes. Implementing the requirements of this Subpart will serve as the method for ensuring that a proper balance between program objectives and environmental quality is achieved. This balance will also be pursued by the allocation of necessary FmHA resources, both money and human resources, to carry out the policies, objectives, and requirements of this Subpart.

(b) In assessing the potential environmental impacts of its actions, FmHA shall consult early with appropriate federal, state, and local agencies and other organizations to provide decision-makers with both the technical and human aspects of environmental planning. Broad public participation in defining environmental

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quality objectives at the local level shall be encouraged as discussed in Section 1940.331.

(c) When adverse environmental impacts are identified, either direct or indirect, a thorough examination shall be made of alternative courses of action, including their potential environmental impacts. The objective of the environmental review shall be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal shall also be considered particularly with respect to the need for the proposal. For the purposes of this Subpart, the term indirect impacts means those reasonably foreseeable environmental impacts that result from the additional public facility, residential, commercial, or industrial development or growth that a federally financed project may cause, induce or accommodate. Consequently, indirect impacts often occur later in time than the construction of the federal project and can be removed in distance from the construction site. For example, a water transmission line may be designed to serve additional residential development. The environmental impacts of that residential development represent an indirect impact of the federally funded water line. Those indirect impacts which deserve the greatest consideration include changes in the patterns of land use, population density or growth rate and the corresponding changes to air and water quality and other natural systems.

(d) If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts shall be included in the proposal. Examples of mitigation measures include, but are not limited to: (1) architectural and engineering redesigns, (2) the dedication of environmentally sensitive portions of project sites as natural areas, (3) soil erosion and sedimentation plans to control runoff during land disturbing activities, (4) the establishment of vegetative buffer zones between project sites and adjacent land uses, and (5) zoning.

(e) The performance of environmental reviews and the consideration of alternatives shall occur as early as possible in the FmHA decisionmaking processes. In this manner, the Agency will be in the most flexible and objective position to deal with these considerations; applicants will be made aware from the start of the environmental policies of the Agency; and potential delays in the subsequent approval and construction processes should be avoided or minimized.

§ 1940.303 Special policy.

(a) *Important Land Resources.*

(1) FmHA recognizes that its specific mission of assisting rural areas, composed of farms and rural towns, goes hand in hand with protecting the environmental resources upon which these systems are dependent. Basic resources necessary to both farm and rural settlements include important farmlands and forestlands, prime rangelands, wetlands, and floodplains. The definitions of these areas are contained in the Appendix to the Secretary of Agriculture's Memorandum No. 1827, Revised, *Statement on Land Use Policy,* which is included as Exhibit A. Given the importance of these resources as emphasized in the Secretary's Memorandum and Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands," it is FmHA's policy not to approve or fund any proposals that as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that (i) there is no practicable alternative to the proposed action, (ii) the proposal conforms to the planning criteria identified in paragraph (a)(2) of this Section, (iii) the proposal includes all practicable measures for reducing the adverse impacts and the amount of conversion/encroachment, and (iv) the requirements of the Executive Orders pertaining to wetland and floodplain protection have been fully met. For purposes of this Subpart, the term practicable alternative means an alternative (involving either a different project location, different project design, no action or a different project with similar benefits) that can be attained within the confines of relevant constraints. The test of practicability, therefore, depends upon the particulars of the situation under consideration of those constraints imposed by environmental, economic, legal and technological parameters.

(2) It is also recognized that unless carefully reviewed, some proposals designed to serve the needs of rural communities can adversely affect the existing economic base and settlement patterns of the community, as well as create development pressures on land and environmental resources essential to farm economies. An example of such a proposal might be the extension of utilities and other types of infrastructure beyond a community's existing settlement pattern and into important farmlands for the purpose of commercial or residential expansion, even though there is available space within the existing settlement pattern for such expansion. Not only may the loss of important farmlands unnecessarily result, but the community may be faced with the economic costs of providing public services to outlying areas, as well as the deterioration of its central business or commercial area; the latter may not be able to compete with the newer, outlying commercial establishments. These results are undesirable and to avoid their occurrence, projects designed to meet rural community needs (i.e., residential, industrial, commercial, and public facilities) will not be approved unless the following conditions are met:

(i) The project is planned and sited in a manner consistent with the land use policies of this Section and Department of Agriculture Secretary's Memorandum No. 1827;

(ii) There is clear evidence of alternatives to the proposal having been carefully considered, and no evidence that feasible alternatives having less community disruption or adverse socio-economic impacts were rejected;

(iii) If such a plan exists, the proposal conforms to a comprehensive and enforceable plan to guide growth which reflects a realistic strategy for protecting natural resources including important agricultural lands. (If no such plan exists, there is no FmHA requirement that one be prepared and adopted, as further specified below in paragraph (a)(3) of this Section.)

(iv) The project will encourage long-term, economically viable public investment by fostering or promoting development patterns that insure compact community development, that is development that is limited to serving existing settlement patterns or is located in existing settlement patterns, e.g., the rehabilitation and renovation of existing structures, systems and neighborhoods; infilling of development; the provision of a range of moderate to high residential densities appropriate to local and regional needs. When these development patterns or types are not practicable, the development must be contiguous with the existing settlement pattern and provide for a range of moderate to high residential densities appropriate to local and regional needs.

(3) The conditions specified in paragraph (a)(2) of this Section should not be construed as advocating excessive densities, congestion, or loss of open space amenities within rural communities. Desirable living conditions can be obtained under these objectives,

along with economic and social benefits for the community and the surrounding farm operations. Additionally, these conditions should not be construed as requiring localities to develop plans which contain the conditions or to so amend existing plans to incorporate the conditions. Such action is encouraged, however. In any instance in which these planning conditions or criteria do not exist within the project area, project reviews will not be postponed until the criteria are adopted. Rather, projects shall be reviewed and funding decisions made in light of a project's consistency with the contents of this Subpart (excluding item (iii) of paragraph (a)(2) of this Section, which would not be applicable).

(b) *Endangered Species.* FmHA shall not authorize, fund, or carry out any proposal or project that is likely to (1) jeopardize the continued existence of any plant or wildlife species listed by the Secretary of Interior or Commerce as endangered or threatened; or (2) destroy or adversely modify the habitats of listed species when such habitats have been determined critical to the species' existence by the Secretary of Interior or Commerce unless FmHA has been granted an exemption for such proposal by the Endangered Species Committee pursuant to subsection (h) of Section 7 of the Endangered Species Act.

(c) *Wild and Scenic Rivers.* FmHA shall not provide financial assistance or plan approval for any water resource project that would have a direct and adverse effect on the values for which a river has been either included in the National Wild and Scenic Rivers System or is designated for potential addition. Additionally, FmHA shall not approve or assist developments (commercial, industrial, residential, farming or community facilities) located below or above a wild, scenic or recreational river area or on any stream tributary thereto which will invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area. The definition of a water resource project includes any type of construction which would result in any change in the free-flowing characteristics of a particular river to include physical, chemical and biological characteristics of the waterway. This definition encompasses construction projects within and along the banks of rivers, as well as projects involving withdrawals from and discharges into such rivers. Projects which require Corps of Engineer's dredge and fill permits are also water resource projects.

(d) *Historic and Cultural Properties.* At the earliest stages of consideration of an application, FmHA shall identify any properties that are listed in or may be eligible for listing in the National Register of Historic Places and are located within the project's area of potential environmental impacts. Consultations will be undertaken with State Historic Preservation Officers and the Advisory Council on Historic Preservation, through the implementation of Subpart F of Part 1901, in order to determine the most appropriate course of action for protecting such identified properties or mitigating potential adverse impacts to them.

(e) *Reuse of the Built Environment.* FmHA supports the rehabilitation, adaptive reuse, the renovation of existing structures, systems, and neighborhoods where consistent with statutory requirements. These alternatives will be encouraged rather than new construction whenever there is a basis for cost savings, energy conservation, community or neighborhood cohesion, historic preservation, or resource conservation. When cost savings are not apparent, reuse will be encouraged by the approving official when these other benefits outweigh the additional cost.

(f) *Scenic Resources.* Section 101(b) of the National Enviornmental Policy Act states that it is one of the continuing responsibilities of the federal government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate its plans, functions, and programs to the end that all Americans are assured aesthetically and culturally pleasing surroundings. Additionally, Secretary's Memorandum No. 1827, Revised, directs all USDA agencies to advocate the conservation of natural and man-made scenic resources.

Accordingly, FmHA shall encourage the conservation of natural and man-made scenic resources in all of its funding programs in order to protect and enhance the visual quality of the rural landscape.

(g) *Barrier Islands.*

(1) As part of the President's Environmental Message of 1979, the President declared several major initiatives in the area of national coastal protection. One of these involves the protection of significant coastal resources such as wetlands, estuaries, beaches, dunes, barrier islands, coral reefs and fish and wildlife. The Executive Orders dealing with the protection of floodplains and wetlands protect many of these coastal areas by prohibiting construction in floodplains and wetlands unless there is no practicable alternative. These Executive Orders directly affect construction on barrier islands since much of the land areas of these islands is classified as floodplains and wetlands. Because of the recognized important natural and protective values that barrier islands provide to coastal areas and the mandate of Executive Order 11514, "Protection and Enhancement of Environmental Quality," that federal agencies "Shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals," FmHA shall not consider barrier islands as desirable areas in which to promote development. Assistance provided within these areas will be limited to meeting the health and safety needs of existing inhabitants of the project service area at the time of application.

(2) When the Agency is requested to fund projects geared to serving additional population and development needs particularly those which address the tourism and recreational elements of some barrier island economies, FmHA will work with prospective applicants to attempt to locate such facilities at inland sites having existing, convenient access to the recreational opportunities of the barrier island.

(3) Any financial assistance provided under paragraph (g) (1) or (2) of this Section shall be provided in a manner consistent with the floodplain management and wetland protection Executive Orders.

(h) *Energy Conservation.* FmHA shall encourage the conservation of energy in the development of its programs and policies and shall encourage applicants to incorporate all feasible energy saving features and designs within their proposals.

(i) *Water Conservation.* FmHA shall encourage the conservation of water in the development of its programs and policies and shall encourage applicants for financial assistance to incorporate all feasible water conservation features and designs within their proposals. Particular emphasis will be placed on this policy in arid areas and areas where there is a history of or strong potential for water shortages.

(j) *Intergovernmental Initiatives on Important Land Resources.*

(1) On a broader scale, FmHA shall advocate in coordination with other USDA agencies (through the USDA Land Use Committee System) the retention of important farmlands and forestlands, prime rangeland, wetlands and floodplains or other land resources designated important by State or local governments whenever conversions are

(i) caused or encouraged by actions or programs of a Federal agency, (ii) licensed by or require approval by a Federal agency, or (iii) inconsistent with local or State government plans.

(2) FmHA staff may, as FmHA resources permit, also assist, when requested, local and State governments, planning and development organizations or agencies, citizen groups, and individual landholders in identifying and defining their growth development and environmental needs, selecting and choosing among alternatives to meet these needs and implementing projects or programs to satisfy those needs.

§ 1940.304 Policy implementation.

(a) The implementation of the environmental impact analysis requirements described in this Subpart serves as the primary mechanism for FmHA (1) incorporating environmental quality considerations into our program and decision-making processes, (2) obtaining the views of the public and government agencies on potential environmental impacts associated with FmHA projects, and (3) developing methods for avoiding or mitigating adverse environmental impacts.

(b) Training and guidance in the implementation of this Subpart shall be provided to FmHA decision-makers and technical support staff by the Environmental and Technology Staff (ETS).

(c) *Natural Resource Management.*

(1) The State Director shall develop a natural resource management policy. This policy will serve as an essential mechanism for implementing Section 1940.303 of this Subpart, and, therefore, the policy must be consistent with and reflect the objectives and policies contained in Section 1940.303. At the same time, however, it must be tailored to take into account important State, regional, and local natural resource management objectives. The basic purposes and uses of the policy are enumerated in this Section and can be summarized as follows.

(i) The policy shall serve as a mechanism for assembling an inventory of the locations within the State of those natural resources, land uses, and environmental factors that have been specified by Federal, State and local authorities as deserving some degree of protection or special consideration;

(ii) The policy shall summarize the various standards or types of Federal, State, or local protection that apply to the natural resources, land uses, and environmental factors listed in the inventory;

(iii) The contents of the policy, particularly the inventory, shall be considered by the State Director in deciding how FmHA's various program funds will be generally allocated across the State, on a fiscal year basis; and

(iv) Applications for individual projects must be reviewed for consistency with the policy.

(2) The State Director shall complete the natural resource management policy within twelve months from the effective date of this Subpart. The policy shall be prepared in draft form and be provided to USDA agencies, appropriate Federal and State agencies, State and regional clearinghouses, as well as interested localities, groups, and citizens for review and comment. Also at least one public information meeting shall be held on the draft. Public notification of this meeting shall be made in the same manner as the notification process for a scoping meeting. (See Section 1940.320(c)). Additionally, the public shall be informed that copies of the draft policy will be made available from the State Office upon request. After completion of this public review, the draft will be revised as necessary in light of the comments received and provided as a final draft to the Administrator for review and approval. The appropriate Area Coordinator shall be responsible for coordinating and developing the Administrator's comments. Primary responsibility for ensuring the technical adequacy of the document shall rest with ETS. Any concerns and comments of the Administrator will then be addressed by the State Director and the policy statement completed. Upon the Administrator's approval, and the fulfillment of the requirements of paragraph (c)(4) of this Section, the natural resource management policy shall then become part of any program investment plans or strategies developed by the State Director for the purpose of addressing the rural needs of the State. Although a twelve-month period has been established for the completion of a natural resource management policy, this deadline is not to be construed as curtailing or postponing the implementation of existing environmental laws, regulations, Executive Orders or the Secretary's Memorandum with respect to individual project reviews.

(3) The natural resource management policy needs to be developed in full recognition of its role as an Agency planning tool and with sensitivity to the need for consistency between it and the elements of the State Director's program investment strategies. The basic purpose of this policy then is to establish a mechanism which focuses the Agency's state-wide investment strategies in an internally consistent manner which is likewise consistent with the resource management objectives contained in Section 1940.303. The adequacy of the natural resource management policy will be judged on its ability to meet this goal.

(4) After the Administrator approves the natural resource management policy, it will become effective four months from that date. This interim period shall be used to inform local, State and Federal agencies, localities, organizations, and interested citizens of the content of the policy. In this manner, those parties intending to seek FmHA assistance or to coordinate FmHA assistance programs with their own programs will be able to gain for their planning needs an understanding of our investment strategies. The number of requests for financial assistance from these parties that are inconsistent with FmHA's resource management objectives should, thereby, be substantially reduced.

(5) Completed natural resource management policies shall be reviewed annually and updated by the State Director to reflect newly identified geographical areas of concern or policy revisions at the national, state, regional or local level. They will also be revised, as necessary, through appropriate guidance from the Administrator. Annual revisions will be completed so that they are available prior to the development of new program investment strategies. These revisions shall be transmitted to the Administrator and shall be considered approved if either no comments are raised by the Administrator within 30 days of receipt of the State Director's transmittal letter or the Administrator specifically approves them before the 30 days expire. Public review of an annual revision will not be required. However, if in the opinion of the State Director the proposed revision will substantially change the previously adopted natural resource management policy, a public review shall be conducted of the revision in the same manner as that described in paragraph (c)(2) of this Section for the development of the original policy. Such review shall occur prior to the transmittal of the revision to the Administrator. If the State Director believes that in any particular fiscal year there is no need to update the policy, a statement to this effect shall be filed with the Administrator.

(6) The foundation for the natural resource management policy is the identification of the types of land uses or environmental factors deserving attention and their geographical location

within the state. An inventory shall be developed, therefore, of the important land uses within the state. This inventory will be accomplished by assembling existing data and information, and at a minimum shall consist of documents, listings, maps, or graphic materials describing the location of the following land uses and environmental factors:

(i) National Register of Historic Places to include monthly supplements as designated by the Department of the Interior (DOI), and the State Historic Preservation Plan;

(ii) Rivers designated as part of the Wild and Scenic Rivers System and rivers under study for inclusion in the System, as published by (DOI);

(iii) Important farmlands;

(iv) Prime rangelands;

(v) Prime forestlands;

(vi) Wetland inventory;

(vii) Floodplain inventory as issued by the Federal Insurance Administration;

(viii) Endangered Species and Critical Habitats as designated by DOI;

(ix) Sole source aquifer recharge areas as designated by the Environmental Protection Agency (EPA);

(x) Air Quality Control Regions as designated by EPA;

(xi) State inventories or planning documents identifying important land uses, particularly those not covered by the above items, such as wildlife refuges, important habitats, and areas of high water quality, or scenic or recreational value;

(xii) Agricultural districts or other similar zoning classifications for agricultural land protection; and

(xiii) Coastal Zone Management Areas.

(7) The National Office Environmental and Technology Staff (ETS) shall be responsible for assisting State directors in obtaining listings and inventories of resources protected by federal statutes and regulations. The State director has the responsibility for assembling documents on important environmental resources or areas identified in state and sub-state laws, regulations, plans, and policies.

(8) Development of the inventory by the State director will require consultation and assistance from a variety of agencies and experts. This consultation should begin with Department agencies and be accomplished through the State Land Use Committee and Rural Development Committee. The objective should be to determine the land classification data that has already been compiled and that which is in the process of being compiled either by USDA agencies or their counterparts at the state-level. The Memorandum of Agreement executed in May 1979 between the Soil Conservation Service (SCS) and FmHA should be utilized as the basis for seeking SCS's assistance in this data collection effort. (See FmHA Instruction 2000–D, Exhibit A which is available in any FmHA office.) Direct contacts should then be made with state agencies, in particular with the appropriate office of state planning, to determine the availability of state inventories and state land use policies and priorities. Similar discussions should be held with sub-state regional planning agencies and clearinghouses with assistance being provided in this effort by District Directors. County Supervisors shall be responsible for being familiar with and for providing to the State Office similar inventories, land use policies or protective requirements developed by the local government agencies within the Supervisor's territorial jurisdiction.

(9) Another important element of the natural resource management policy shall be the examination of any major environmental impacts on the state or a sub-state area resulting from the cumulative effects of FmHA assisted projects over the last several years. In this examination, particular emphasis should be given to the cumulative impacts of water resource projects such as irrigation systems. This should be done in consultation with experts within the appropriate state agencies and the U.S. Geological Survey. The housing programs should also be given a particular emphasis with respect to their cumulative impacts. More detailed guidance on the accomplishment of this cumulative impact section of the natural resource management policy, as well as the overall content of the policy, shall be provided by ETS. In preparing the State's natural resource management policy and in assembling inventories of critical resources, Agency staff should not lose sight of the basic purposes of this effort. The development of lengthy and complex policies and the amassing of huge inventories is not our goal. In the end, the material must be usable and serve as a tool for better decision-making. The basic purposes of this policy and inventory, then, are to provided a basis for developing comprehensive, state-wide, rural development investment strategies that (i) do not conflict with federal, state, and local mandates to preserve and protect important land and environmental resources, (ii) that do not create short or long-term development pressures which would lead to the unnecessary conversion of these resources, and (iii) which effectively support and enhance federal, state, and local plans to preserve these resources.

(d) *Intergovernmental Initiatives.* National Office staff and State Directors shall inform their counterparts in federal and state agencies of the contents of this FmHA natural resource management policy as well as the State Office policies. Area Coordinators shall inform other federal agencies at the Federal Regional Council level to ensure their awareness, input, and participation in the implementation of the State Office policies. When commenting on proposed federal actions subject to environmental impact statements, FmHA commentors will focus on the consistency of these actions with our national and appropriate state natural resource management policy. A similar focus or element shall be addressed in FmHA's review of the Environmental Protection Agency's 201 Wastewater Management Plans.

(e) *Endangered Species.*

(1) FmHA shall implement the consultation procedures required under Section 7 of the Endangered Species Act as specified in 50 CFR 402. It is important to note that these consultation procedures apply to all FmHA applications for financial assistance and subdivision approval, including those applicants which are exempt from environmental impact assessments. (See Section 1940.310). Unless repeated in this paragraph, the definitions for the terms utilized are found in 50 CFR 402.02.

(2) In order to effectively implement the consultation procedures, State Directors shall ensure that State, District, and County Offices maintain current publications of listed species as well as critical habitats found in their respective States.

(3) Each application for financial assistance or sudivision approval shall be reviewed by the FmHA official responsible for completing environment assessment within the reviewing office (See Section 1940.316) in order to determine if the proposal will jeopardize the continued existence of a listed species or result in the destruction or adverse modification of a critical habitat. For applications subject to environmental impact assessments, this review shall be accomplished as part of the assessment. For those applications that are excluded from an environmental impact assessment, this review shall be documented as part of Exhibit F, Environmental Checklist, and shall be accomplished as early as possible after receipt of the application and prior to approval of the application. To jeopardize the continued existence of a species means to engage in a project

which reasonably would be expected to reduce the reproduction, numbers, or distribution of a listed species to such an extent as to appreciably reduce the likelihood of the survival and recovery of that species in the wild. The level of reduction necessary to constitute jeopardy would be expected to vary among listed species. The destruction or adverse modification of a critical habitat means a direct or indirect alteration of critical habitat which appreciably diminishes the value of that habitat for survival and recovery of a listed species. Such alterations include but are not limited to those diminishing the following requirements for:

(i) Space for individual and population growth and for normal behavior;

(ii) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(iii) Cover or shelter;

(iv) Sites for breeding, reproduction, or rearing of offspring; and

(v) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

(4) In completing the determinations specified in paragraph (e)(3) of this Section, the reviewer should consider the type of project and the nature of the environment in which it is proposed to be located. For all projects, the list of species and critical habitats shall be examined to determine the potential for impacts. Projects planned within established communities will probably not affect endangered species or their critical habitat. Projects to be located in remote areas, heavily forested areas and/or previously undisturbed areas may affect listed species. For projects located in such areas the reviewer shall, at a minimum, discuss the project's potential impact on endangered species with officials of the appropriate state wildlife protection agency or the Regional Office of the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), as appropriate. The latter organization generally has responsibility for marine species. The specific list of species under NMFS's jurisdiction can be found at 50 CFR 222.23(a) and 227.4. Such discussions shall be considered as informal consultations and are not a substitute for the required consultation process outlined below.

(5) Whenever the reviewer formally determines that the proposal will have no effect on an endangered species or its critical habitat, these review procedures are completed, unless new information comes to light as discussed in paragraph (e)(11) of this Section, or consultation is requested by the appropriate Regional Director of FWS or NMFS.

(6) If the reviewer determines there may be an effect on a species or a critical habitat or is unable to make a clear determination, the reviewer shall so inform the State Environmentalist (assuming the reviewer is not the State Environmentalist). The latter shall either (i) convey a written request for consulation, along with available information to the appropriate Regional Director for the federal region where the proposal will be carried out or (ii) request ETS to perform such consultation. FmHA shall initiate this formal consultation process and not the applicant. Until the consultation process is completed, as outlined in 50 CFR 402.04, FmHA shall not approve the application. Should the need for consultation be indentifed after application approval, FmHA shall refrain from making any irreversible or irretrievable commitment of resources which would foreclose the consideration of modifications or alternatives to the identified activity or program.

(7) If the Regional Director informs FmHA that insufficient information exists to conclude the consultation process, the State Environmentalist, with assistance as feasible from the Regional Director and state sources of expertise, shall then obtain additional information and conduct, as needed, biological surveys or studies to determine how the proposal may affect listed species or their critical habitat. The cost and performance of such studies shall be handled in the same manner as in the preparation of an Environmental Impact Statement (see Section 1940.335).

(8) Whenever the results of the consultation process include recommendations by the Regional Director for modifications to the project which would enhance the conservation and protection of a listed species or its critical habitat, the State Director shall review these recommendations and require that they be incorporated into the project as either design changes or special conditions to the offer of assistance. If the State Director does not believe the Regional Director's recommendations can be so adopted, the Administrator shall be requested, through ETS, to review the recommendations and to assist in the further resolution of the matter.

(9) Whenever the appropriate Regional Director determines that the proposal is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of its critical habitat, the FmHA applicant shall be so informed and the project denied on this basis. However, if the State Director believes that funding or approval of the application is (i) of national, regional, or great local significance and (ii) that there are no reasonable and prudent alternatives to avoiding the endangered species impact, the State Director can request the Administrator, through ETS, to review the proposal and the results of the consultation process. Based upon this review, the Administrator shall either inform the State Director that a request for an exemption from Section 7 of the Endangered Species Act is not warranted and the application shall be denied or if the Administrator believes it is warranted, shall request an exemption from the Endangered Species Committee established by Section 7(e) of the Act. No action shall be taken by the State Director on the application until the Administrator informs the State Director of the results of the exemption request.

(10) When an application to FmHA involves financial assistance or permit approval from another federal agency(s), the FmHA reviewer shall work with the other agency to determine a lead agency for the consultation process. When FmHA is not the lead agency, the reviewer shall ensure that the lead agency informs the appropriate Regional Director of FmHA's involvement.

(11) Once completed, the consultation process shall be reinitiated by FmHA or upon request of the Regional Director if:

(i) New information or modification of the proposal reveals impacts that may affect listed species or their habitats; or

(ii) A new species is listed that may be affected by the proposal.

(f) *Wild and Scenic Rivers.*

(1) Each application for financial assistance or subdivision approval shall be reviewed to determine if it will affect a river or portion of it which is either included in the National Wild and Scenic Rivers System, designated for potential addition to the System, or identified in the Nationwide Inventory prepared by the Heritage Conservation and Recreation Service (HCRS) in the Department of the Interior. The Nationwide Inventory identifies those river segments that, after preliminary review, appear to qualify for inclusion in the System. (For purposes of this Section, river segments in the Nationwide Inventory shall be treated the same as segments within the System with the exception of paragraph (f)(8).) For applications subject to environmental impact assessments, the review shall be accomplished as part of the assessment. For applications that are excluded from an environmental impact assessment, this review shall be

documented as part of Exhibit F, Environmental Checklist, within the reviewing office and shall be accomplished as early as possible after receipt of the application and prior to approval of the application. The FmHA official responsible for completing the environmental assessment shall accomplish this review. (See Section 1940.316.)

(2) In order to effectively implement this review, State Directors shall ensure that State, District, and County Offices maintain current listings of rivers within their respective states that are included in or designated for potential addition to the System as well as those identified in the Nationwide Inventory prepared by HCRS.

(3) For applications for water resources projects, as defined in Section 1940.303(c) of this Subpart, the purpose of this review shall be to determine whether the proposal would have a direct and adverse effect on the values which served as the basis for the river's inclusion in the System or designation for potential addition. For other applications, the purpose of the review shall be to determine if the proposal would invade the river area or unreasonably diminish the scenic recreational, and fish and wildlife values present in the area. To make these determinations the reviewer shall consult with the appropriate regional office of HCRS if the proposal (i) would be located within one-quarter mile of the banks of the river, (ii) involves withdrawing water from the river, or discharging water to the river via a point source, or (iii) would be visible from the river. The appropriate regional office of the Forest Service (FS) shall be contacted under similar circumstances when the affected river is on FS lands. Consultation shall be initiated by a written request for comments on the potential impacts accompanied by a description of the project and its location. The reviewer shall consult in other instances when the likelihood of an impact on a river in the system is identified as part of the environmental review. When the reviewer determines there is no potential impact on such a river, the documentation of this determination concludes the review process, unless reinitiation is required under paragraph (f)(10) of this section. In all other cases, the review is concluded as specified below in paragraphs (f)(4) through (9) of this section.

(4) If the reviewer is at the County or District Office level, the reviewer can request the State Environmental Officer (See Section 1940.306) to perform the above consultation. The State Environmental Officer can in turn make a similar request of ETS. If not requested to perform the consultation for applications approvable at the County and District Office levels, the State Environmental Officer shall be informed whenever HCRS or FS advises that there is a potential for an adverse impact on a river within the System or that protective measures need to be included or designed into the proposal. In all cases, consultation shall be initiated by FmHA and not the applicant. Until consultation is complete, FmHA shall not approve the application. Should the need for consultation be identified after application approval, FmHA shall, if still within its power at the time of identification, refrain from making any irreversible or irretrievable commitments of resources which would foreclose the consideration of modification or alternatives to the project.

(5) If HCRS or FS advises there is no potential for an adverse effect as described in paragraph (f)(3) of this Section, this review process is concluded, unless the need to reinitiate arises (See paragraph (f)(10) of this Section.)

(6) Whenever the results of the consultation process include recommendations by HCRS or FS to modify the proposal in order to avoid an adverse effect, as described in paragraph (f)(3) of this Section, the State Director shall review these recommendations and require that they be incorporated into the project as either design changes or special conditions to the offer of assistance. If the State Director does not believe that the Regional Director's recommendations can be so adopted, the Administrator shall be requested, through ETS, to review the recommendations and to assist in the further resolution of the matter.

(7) If HCRS or FS advises that the proposal will have an unavoidable adverse effect, as described in paragraph (f)(3) of this Section, on a river segment which is either included in the National Wild and Scenic Rivers System or designated for potential addition to the System, the FmHA applicant will be informed by the reviewing office and the application denied on this basis. However, if the State Director disagrees with this determination, the State Director can request the Administrator through ETS, to review the proposal and attempt to further resolve the matter. The specific reasons for disagreement along with supporting documentation must be included in such a request. Based upon a review of this request, the Administrator shall either inform the State Director that no further consultation is warranted and the application shall be denied, or shall request the headquarters staff of HCRS or FS to further review the matter. No action shall be taken by the State Director on the application until the Administrator informs the State Director of the results of this further review and consultation.

(8) If HCRS or FS advises that the proposal will have an adverse effect, as described in paragraph (f)(3) of this Section, on a river segment identified in the Nationwide Inventory, the reviewer shall further consult with HCRS or FS in order to formulate adequate measures or modifications to avoid or mitigate the potential adverse effect. The propose of such measures or modifications is to ensure that the proposal does not effectively foreclose the designation of a wild, scenic, or recreational river segment. Once concurrence is reached and documented with HCRS or FS regarding modifications, the State Director shall require that they be incorporated into the proposal as either design changes or special conditions to the offer of assistance. If the State Director is not able to reach an agreement with HCRS or FS on appropriate modifications, the Administrator shall be requested, through ETS, to assist in the further resolution of the matter.

(9) If an application involves financial assistance or permit approval from another federal agency, the FmHA reviewer shall work with the other agency(s) to determine a lead agency for the consultation process. When FmHA is not the lead agency, the reviewer shall ensure that the lead agency informs HCRS or FS of FmHA's involvement.

(10) Once completed, the consultation process shall be reinitiated by FmHA if new information or modification of the proposal reveals impacts to a river within the System or National Inventory.

(g) *Historic and Cultural Properties.*

(1) At the earliest stages of consideration of an application, FmHA shall identify any properties that are listed in or may be eligible for listing in the National Register of Historic Places and located within the area of potential environmental impact. Identification shall consist of consulting the published lists of the National Register and formally contacting and seeking the comments of the appropriate State Historic Preservation Officer (SHPO). In addition, it may be necessary for FmHA to consult public records and other

individuals and organizations, such as university archeologists, local historical societies, etc., to determine if historic and cultural properties are present within the area. When insufficient information exists to document the presence or absence of potentially eligible National Register properties, and where the potential for previously unidentified properties is recognized by FmHA, the SHPO, or other interested parties, FmHA shall conduct the necessary investigations to determine if such properties are present within the area of potential environmental impact. FmHA will involve the SHPO in the planning and formulation of any historic, cultural, architectural or archeological testing, studies or surveys conducted to investigate the presence of such properties.

(2) If the information obtained as a result of the consultation and investigation conducted by FmHA indicates the presence of historic and cultural properties within the area of potential environmental impact that, in the opinion of the SHPO or FmHA, appear to meet the National Register Criteria (36 CFR 60.0), FmHA shall request a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR 63. Consultations shall be initiated with the SHPO and the Advisory Council on Historic Preservation in accordance with 36 CFR 800, through the implementation of Subpart F of Part 1901 of this Chapter, "Procedures for the Protection of Historic and Archeological Properties" to determine the most appropriate course of action to protect all National Register and eligible properties within the area of potential environmental impact.

(3) Further instructions detailing the procedures to be followed in considering and protecting historic and cultural properties and the responsible Agency officials are contained in Subpart F of Part 1901 of this Chapter. These procedures shall be followed whenever a proposal considered by FmHA has the potential to affect National Register or eligible properties.

(h) *Reuse of the Built Environment.* In the review of applications for construction projects, it shall be FmHA's policy that reuse of existing structures and systems will be the preferred alternative whenever such reuse meets the applicant's basic need and results in a cost-savings. In those instances in which there is not a cost savings, the additional cost of reuse shall be measured against any potential benefits derived from resource conservation, historic preservation, community or neighborhood cohesion, and energy conservation. If, in the judgment of the approving official, the additional cost is reasonable in light of these benefits to be derived, reuse will be the preferred alternative. The benefits of reuse will be given particularly great weight in the case of properties that are listed on the National Register of Historic Places or may be eligible for listing.

(i) *Scenic resources.* The protection and enhancement of the rural landscape will be accomplished on a project basis by considering this factor in the environmental assessment process.

(j) *Energy conservation.* Energy conservation shall be incorporated at both the program and project level. All practical means will be used to incorporate energy saving features and designs within construction and siting requirements. ETS can provide expertise in this area. At the project level, energy utilization and methods for conserving energy will be addressed as part of the environmental assessment.

(k) *Water conservation.*

(1) FmHA shall continue to encourage the cost-effective design of sewer and water systems and in this effort shall identify and reduce the potential for such systems to include excessive design capacities. Applicants for new water systems or major extensions to existing systems shall be required to provide water meters, as specified in Subpart A of Part 1942, Section 1942.18(c)(3)(vii) of this Chapter, and to establish realistic water rates which properly reflect all water system amortization, operation, maintenance, and appropriate replacement costs.

(2) FmHA shall shall also encourage the use of low-cost conservation measures within all funding programs. ETS shall be cognizant of new technologies in this area and shall develop implementation methods, in coordination with affected program offices, for incorporating such measures into these programs.

§ 1940.305 Environmental Responsibilities Within the National Office.

ETS shall be responsible for carrying out the requirements of this Subpart at the National Office level. These responsibilities are as follows:

(a) Provide for the Agency an interdisciplinary approach to environmental impact analysis and problem resolution as required by the CEQ regulations.

(b) Provide the leadership and technical expertise for the implementation of the Agency's environmental policies with special emphasis being placed on those policies relating to natural resource management, energy conservation, community cohesion and reuse of the built environment.

(c) Coordinate the implementation of this Subpart with affected program offices.

(d) Provide policy direction and advice on the implementation of this Subpart to Agency staff, particularly to the program support staff within State Offices (architects, engineers, and environmental officers).

(e) Consult and coordinate as needed or upon request with the Department's Office of Environmental Quality in the implementation of this Subpart and the resolution of difficult environmental issues.

(f) Monitor the Agency's record in complying with this Subpart and report, at least annually, to the Administrator on the status of compliance and the need, if any, for revisions or other measures to resolve an identified problem.

(g) Provide training programs and materials for the Agency staff assigned the functions identified in this Subpart.

(h) Review, as necessary, the Agency's activities and program involvements and recommend approval, disapproval, or modification of these activities and involvements by the Administrator based upon the balancing of anticipated adverse environmental impacts against the anticipated benefits of the project and upon the fulfillment of the requirements of this Subpart.

(i) Develop and direct Agency procedures for complying with other environmental legislation, Executive Orders, and regulations, including, but not limited to the following:

(1) Environmental Quality Improvement Act, 42 U.S.C. 4371;

(2) National Environmental Policy Act, 42 U.S.C. 4321;

(3) National Historic Preservation Act, 16 U.S.C. 470;

(4) Archaeological and Historic Preservation Act, 16 U.S.C. 469;

(5) Clean Air Act, 42 U.S.C. 7401;

(6) Federal Water Pollution Control Act, 33 U.S.C. 1251;

(7) Endangered Species Act, 16 U.S.C. 1531;

(8) Wild and Scenic Rivers Act, 16 U.S.C. 1271;

(9) Safe Drinking Water Act, 42 U.S.C. 300f;

(10) Coastal Zone Management Act, 16 U.S.C. 1451;

(11) Fish and Wildlife Coordination Act, 16 U.S.C. 662;

(12) Executive Order 11593, Protection and Enhancement of the Cultural Environment;

(13) Executive Order 11988, Floodplain Management;

(14) Executive Order 11990, Protection of Wetlands;

(15) Executive Order 11514, Protection and Enhancement of Environmental Quality;

(16) Office of Management and Budget Circular A-95;

(17) Title 7, Part 3100, Code of Federal Regulations, Department of Agriculture; National Environmental Policy Act, Final Policies and Procedures;

(18) Title 7, Part 3100, Code of Federal Regulations, Department of Agriculture's Enhancement, Protection and Management of the Cultural Environment; and

(19) Secretary's Memorandum No. 1827, Revised, Statement on Land Use Policy.

(j) Contain a position identified as the Senior Environmental Specialist (hereafter called the Environmental Specialist) having the following duties:

(1) Act as principal advisor to the Administrator in environmental affairs;

(2) Serve as the responsible Agency official under the National Environmental Policy Act of 1969 (NEPA);

(3) Serve as the responsible Agency official under the Advisory Council on Historic Preservation's regulations entitled "Protection of Historic and Cultural Properties," hereafter referred to as the Advisory Council;

(4) Serve as the point of coordination and contact for State Environmental Officers as well as provided them, when requested, technical assistance in the proper implementation of this Subpart.

(5) Coordinate the Agency's environmental program with the environmental programs of local, state, and other federal agencies, which become involved with FmHA programs;

(6) Represent the Administrator at conferences, meetings, and public hearings, and on interagency committees dealing with environmental matters;

(7) Maintain liaison on environmental matters with interested public groups and local, State, and other federal agencies;

(8) Consult and coordinate as needed or upon request with the Department's Office of Environmental Quality in the implementation of this Subpart and the resolution of difficult environmental issues;

(9) Review and evaluate legislative and administrative proposals in terms of their environmental impact;

(10) Assist in resolving questions of lead agency determination;

(11) Provide direction in resolving post approval environmental matters; and

(12) Serve as the focal point for developing and coordinating the Agency's procedures for the requirements listed in paragraph (i) of this Section.

§ 1940.306 Environmental Responsibilities Within the State Office.

(a) The State Director shall appoint one individual to serve as the State Environmental Office. Thereafter, the State Environmental Officer shall report directly to the State Director on the environmental matters contained in this Subpart. The State Director shall normally appoint to this position the State Architect or State Engineer, or one of the architects or engineers in those State Offices have more than one. The State Director may, however, in consultation with the Environmental Specialist, appoint a staff member having education or experience as or more appropriate than an engineer's or architect's for performing environmental impact analyses. Such areas of education or experience would include: water resource, land use, environmental or urban/regional planning; natural resource management; biology; ecology; hydrology; and implementing knowledge of environmental regulations.

(b) The State Director shall also be responsible for ensuring that governmental agencies, prospective applicants and interested groups and citizens are made aware of the requirements of this Subpart especially at conferences and meetings scheduled to acquaint these groups with FmHA programs.

§ 1940.307 Responsibilities of the State Environmental Officer.

The State Environmental Officer shall be a member of the State Office's program support staff which shall serve as the interdisciplinary team at the State level. The State Environmental Officer shall:

(a) Act as advisor to the State Director on environmental matters;

(b) Serve as the State Office's responsible official and coordinate the requirements of this Subpart;

(c) Review those Agency actions which are not exempt from this Subpart and which require the approval and/or clearance of the State Director and recommend to the State Director project approval, disapproval, or modification based upon the balancing of anticipated adverse environmental impacts against the anticipated benefits of the project, and upon the fulfillment of this Subpart's requirements;

(d) Represent the State Director at conferences and meetings dealing with environmental matters of a State Office nature;

(e) Maintain liaison on State Office environmental matters with interested public groups and local, state, and other federal agencies;

(f) Serve as the State Director's alternate on the USDA Land Use Committee;

(g) Solicit, whenever necessary, the expert advice and assistance of other professional staff members within the State Office in order to adequately implement this Subpart;

(h) Provide technical assistance as needed on a project by project basis to the District and County staff;

(i) Develop controls for avoiding or mitigating adverse environmental impacts and monitor their implementation;

(j) Provide assistance in resolving post approval environmental matters at the State Office level;

(k) Maintain a records management system for those actions required by this Subpart;

(l) Coordinate for the State Director the development of the State Office natural resource management policy;

(m) Provide direction and training to State, District, and County Office staff on the requirements of this Subpart; and

(n) Perform such other assignments of an administrative or operational nature as may be requested by the State Director or the Environmental Specialist in the performance of the latter's functions as identified in Section 1940.305.

§ 1940.308 Environmental Responsibilities at the District and County Office Levels.

(a) The District Director shall be responsible for carrying out the actions required by this Subpart to be completed at the District Office level.

(b) The County Supervisor shall be responsible for carrying out the actions required by this Subpart to be completed at the County Office level.

(c) When carrying out their environmental responsibilities, the point of contact and coordination within the State Office for the District Director and County Supervisor shall be the State Environmental Officer.

(d) In discussing FmHA assistance programs with potential applicants, District Directors and County Supervisors shall inform them of the Agency's environmental requirements as well as the environmental information needs and responsibilities that FmHA applicants are expected to address (See Section 1940.309).

§ 1940.309 Responsibilities of the Prospective Applicant.

(a) FmHA expects prospective applicants (and in the case of the loan

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guarantee programs, prospective borrowers) to consider the potential environmental impacts of their requests at the earliest planning stages and to develop proposals that minimize the potential to adversely impact the environment. Prospective applicants should contact County Supervisors or District Directors, as appropriate, to determine FmHA's environmental requirements as soon as possible after they decide to pursue FmHA financial assistance.

(b) Applicants for FmHA assistance shall be required to provide information necessary to FmHA to evaluate their proposal's potential environmental impacts and alternatives to them. For example, the applicant shall be required to provide a complete description of the project elements and the proposed site(s) to include location maps, topographic maps, and photographs when needed. The applicant shall also be required to provide data on any expected gaseous, liquid, and solid wastes to be produced, and all permits and/or correspondence issued by the appropriate local, state, and federal agencies which regulate such disposal practices.

(c) Form FmHA 1940–20, "Request for Environmental Information," (Exhibit B) shall be used for obtaining environmental information from applicants whose proposals require an environmental assessment under the requirements of this Subpart. These same applicants must notify the appropriate State Historic Preservation Officer of the filing of the application and provide a detailed project description as specified in item 2 of Form FmHA 1940–20 and its accompanying instructions.

(d) Applicants shall ensure that all required materials are current, sufficiently detailed and complete and are submitted directly to the FmHA office processing the application. Incomplete materials or delayed submittals may seriously jeopardize consideration or postponement of a proposed action by FmHA.

(e) During the period of application review and processing, applicants shall not take any actions with respect to their proposed undertakings which are the subject of the application and which would have an adverse impact on the environment or limit the range of alternatives. This requirement does not preclude development by applicants of preliminary plans or designs or performance of other work necessary to support an application for federal, state, or local permits or assistance. However, the development of detailed plans and specifications is discouraged when the costs involved inhibit the realistic consideration of alternative proposals.

(f) Applicants are required to provide public notification and to fully cooperate in holding public information meetings as described in Sections 1940.318(e), 1940.320 (c) and (g), and 1940.331 (c) and (f) of this Subpart.

(g) Any applicant that is directly and adversely affected by an administrative decision made by FmHA under this Subpart may appeal that decision under the provisions of Subpart B of Part 1900 of this Chapter.

§ 1940.310 Categorical Exclusions from NEPA Reviews.

(a) The following actions have been determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. They will not be subject to environmental assessments or impact statements. It must be emphasized that even though these actions are excluded from further environmental reviews under NEPA, they are not excluded from either the policy considerations contained in Sections 1940.302–1940.304, or from compliance with other applicable local, State, or federal environmental laws. Also, the actions preceded by an asterisk (*) are not excluded from environmental reviews when located in or potentially affecting (1) a floodplain, (2) a wetland, (3) important farmlands, forestlands or prime rangelands, (4) a listed species or critical habitat for an endangered species, (5) a property that is listed on or may be eligible for listing on the National Register of Historic Places, (6) an area with an approved state coastal zone management program, or (7) a river or portion of a river included in, or designated for potential addition to the Wild and Scenic Rivers System. When one or more of these conditions is present, the action must be reviewed under the requirements of Section 1940.311. This requirement serves to implement Section 1508.4 of the CEQ Regulations which requires federal agencies to detect extraordinary circumstances in which a normally excluded action may have a significant environmental effect. Further guidance on the use of these exclusions is contained in Section 1940.317.

(b) *Housing Assistance.*

*(1) The provision of financial assistance for construction of a single family dwelling or a multi-family project serving no more than four families, i.e. units;

*(2) The approval of an individual building lot that is located on a scattered site and not part of a subdivision;

*(3) Rehabilitation and renovation of any existing housing units, with no expansion in the number of units;

(4) Self-Help Technical Assistance Grants;

*(5) The approval of a subdivision that consists of four or fewer lots and is not part of, or associated with, building lots or subdivisions;

(6) Technical Supervisory Assistance Loans and Grants;

(7) Weatherization of any existing housing unit(s) unless the property is listed in the National Register of Historic Places or may be eligible for listing, or is located in a listed or potentially eligible historic district, in which case the application shall fall under Class I as defined in Section 1940.311.

(8) The financing of housing construction or the approval of lots in a previously approved FmHA subdivision provided that (i) the action is consistent with all previously adopted stipulations for the multifamily housing project or subdivision; and (ii) the environmental impact review that was previously completed for the original application is still current with respect to the environmental conditions present at the site and it assessed the lots or expansion for which approval is being requested;

(9) Loan closing and servicing activities; and

(10) Appraisals of non-farm tracts and small farms for rural housing loans.

(c) *Business and Industry Assistance.*

*(1) Financial assistance directed to existing businesses and/or structures that does not involve new construction and does not result in the increased production of gaseous, liquid, or solid wastes, or a change in the type or content of such wastes;

(2) Amendments to approved projects which meet the criteria of item (f)(2) of this Section; and

(3) Loan closing and servicing activities.

(d) *Community Programs.*

*(1) Applications that solely involve the acquisition, construction, reconstruction, or installation of facilities or structures for replacement purposes with minimal change in use, size, capacity, purpose or location from the original facility (e.g., replacement in-kind of water or sewer lines, reconstruction of curbs and sidewalks, street repaving, and building modification and improvements);

(2) Construction management actions for approved projects, such as approval for issuing an invitation for bids, the award of construction contracts, and the actual physical commencement of construction activities;

(3) Applications solely for the purchase of office equipment or health or safety equipment such as fire trucks, ambulances, or hospital equipment;

(4) Amendments to approved projects meeting the criteria of item (f)(2) of this section; and

(5) Loan closing and servicing activities.

(e) *Farm Programs.*

(1) Financial assistance for the purchase of livestock, an existing farm or an enlargement to one, provided no shifts in land use are proposed beyond the limits stated in paragraphs (e)(8), (9) and (10) of this Section;

(2) Financial assistance for the purchase of essential farm equipment including crop storing and drying equipment provided such equipment is not to be used to accommodate shifts in land use beyond the limits stated in paragraphs (e)(8), (9) and (10) of this Section;

(3) Financial assistance for (i) the payment of annual operating expenses which does not cover activities specifically addressed in this Section or Sections 1940.311 or 1940.312; (ii) family living expenses, and (iii) refinancing debts;

*(4) Financial assistance for the construction of essential farm dwellings and service buildings of modest design and cost, as well as repairs and improvements to them;

(5) Financial assistance for on-site water supply facilities to serve a farm dwelling, farm buildings, and livestock needs;

(6) Financial assistance for the installation, rehabilitation, or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate less than 80 acres, provided that neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected (if a wetland is affected the application shall fall under Class II as defined in Section 1940.312. Potential effects to an historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I action as defined in Section 1940.311.)

(7) Financial assistance for the development of farm ponds, fish ponds, or lakes of no more than 2 acres in size, provided that neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected (if a wetland is affected the application shall fall under Class II as defined in Section 1940.312. Potential effects to an historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I action as defined in Section 1940.311.)

*(8) Financial assistance for land clearing or tree harvesting operations of no more than 10 acres;

(9) Financial assistance for the conversion of no more than 160 acres of land in agricultural production to pastures or forests; and

(10) Financial assistance for the conversion of no more than 160 acres of pasture to forests or agricultural production, provided that in a conversion to agricultural production no wetlands are affected, in which case the application shall fall under Class II as defined in section 1940.312; and

(11) Loan closing and servicing activities.

(f) *General Exclusions.*

(1) The award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses;

(2) Amendments and revisions to approved projects including the provision of additional financial assistance or their approval documents that do not alter the purpose, operation, location, or design of the project as originally approved;

(3) The issuance of regulations and instructions, as well as amendments to them, whose purpose is to describe administrative and financial procedures for processing, approving, and implementing the Agency's financial assistance programs;

(4) Procurement activities for goods and services, routine facility operations, personnel actions, and other such management activities related to the operation of the Agency; and

(5) Reduction in force or employee transfers resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar circumstances.

§ 1940.311 Environmental assessments for Class I actions.

The Agency's proposals and projects that are not identified in Section 1940.310 of this Subpart as categorical exclusions require the preparation of an environment assessment in order to determine if the proposal will have a significant impact on the environment. If there is a potential for a significant impact, an environmental impact statement (EIS) must be prepared. (In situations when there is clearly a potential for a significant impact, the EIS may be initiated directly without the preparation of an assessment.) It is recognized that many of the applications funded annually by FmHA involve small scale projects having limited environmental impacts. However, because on occasion they have the potential to create a significant impact, each must be assessed to determine the degree of impact. The scope and level of detail of an assessment for a small scale action, though, need only be sufficient to determine whether the potential impacts are minimal and no further study is required or the potential impacts are substantial and further analysis is necessary. Therefore, for the purpose of implementing NEPA, FmHA has classified its smaller scale approval actions as Class I Actions. The format which shall be used for accomplishing the environmental assessment of a Class I action is provided in Exhibit D as Form FmHA 1940–21, "Environmental Assessments for Class I Actions." An important aspect of this classification method is that it allows FmHA's environmental review staff to concentrate most of its time and efforts on those actions having the potential for more serious or complex environmental impacts. Following is a listing of Class I Actions. Additional guidance on the application of NEPA to Class I Actions is provided in Section 1940.319.

(a) *Housing Assistance.* If either of the following actions is an expansion of a previously approved FmHA housing project, see Section 1940.310(a)(8) to determine if it meets the requirements for a categorical exclusion. If an expansion and an environmental assessment was not done for the original FmHA project, the size of the proposal for assessment purposes is determined by adding the number of units in the original project(s) to those presently being requested.

(1) Financial assistance for a multifamily housing project including labor housing which comprises at least 5 units, but no more than 25 units; and

(2) Financial assistance for or the approval of a subdivision, as well as the expansion of an existing one which involves at least 5 lots but no more than 20 lots.

(b) *Farm Programs.*

(1) Financial assistance for the installation, rehabilitation or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate at least 80 acres, but no more than 160 acres and provided that no wetlands are to be drained, in which

case the application shall fall under Class II as defined in Section 1940.312;

(2) Financial assistance for the development of farm ponds, fish ponds, or lakes of more than 2 acres in size, but no more than 10 acres, provided that no wetlands are innundated, in which case the application shall fall under Class II as defined in section 1940.312;

(3) Financial assistance for land clearing or tree harvesting operations encompassing over 10 acres, but no more than 25 acres;

(4) Financial assistance for the conversion of more than 160 acres of land in agricultural production to pastures or forests; but no more than 320 acres;

(5) Financial assistance for the conversion of more than 160 acres of pasture to forests or agricultural production, but no more than 320 acres provided that in a conversion to agricultural production no wetlands are affected, in which case the application shall fall under Class II as defined in Section 1940.312;

(6) Financial assistance to grazing associations;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or non-farm enterprises utilizing no more than 10 acres; and

(8) Financial assistance for a livestock holding facility or feedlot having a capacity for at least one-half of those listed in Section 1940.312(d)(9). (If the facility is located near a populated area, it shall be treated as a Class II action as required by Section 1940.312(d)(10).)

(c) *General.*

(1) Any action which is defined in Section 1940.310 as a categorical exclusion but is controversial for environmental reasons or is the subject of an environmental complaint raised by a government agency, interested group, or citizen; and

(2) Amendments and revisions to all approved actions listed in this Section which do not meet the criteria for a categorical exclusion pertaining to amendments as defined in Section 1940.310(f)(2) or (f)(3).

§ 1940.312 Environmental assessments for Class II actions.

Class II Actions are basically those which exceed the thresholds established for Class I Actions and, consequently, have the potential for resulting in more varied and substantial environmental impacts. A more detailed environmental assessment is, therefore, required for Class II actions in order to determine if the action requires an environmental impact statement. The format that shall be used for completing this assessment is included as Exhibit E. Further guidance on Class II actions is contained in Section 1940.318. Class II actions are defined as follows:

(a) *Housing Assistance.* If either of the following actions is an expansion of a previously approved FmHA housing project, see Section 1940.310(b)(8) to determine if it meets the requirements for a categorical exclusion, otherwise it is a Class II action.

(1) Financial assistance for a multi-family housing project, including labor housing, which comprises more than 25 units; and

(2) Financial assistance for or the approval of a subdivision, as well as the expansion of an existing one, which involves more than 20 lots; and

(b) *Business and Industry Assistance.* Any request for financial assistance which either does not meet the criteria for a categorical exclusion as stated in Section 1940.310, or does not involve a livestock holding facility or feedlot meeting the criteria for a Class I action as defined in Section 1940.311(b)(8).

(c) *Community Programs.* Any request for financial assistance which does not meet the criteria for a categorical exclusion as stated in Section 1940.310.

(d) *Farm Programs.*

(1) Financial assistance for the installation, rehabilitation, or enlargement or irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers either designed to irrigate more than 160 acres, or serving any amount of acreage that involves the drainage of or withdrawal from a wetland for irrigation purposes;

(2) Financial assistance for the development of farm ponds, fish ponds, or lakes either larger than 10 acres in size, or for any smaller size that would innundate a wetland;

(3) Financial assistance for land clearing or tree harvesting operations encompassing more than 25 acres;

(4) Financial assistance for the conversion of more than 320 acres of land in agricultural production to pastures or forests;

(5) Financial assistance for the conversion of more than 320 acres of pasture to forests or agricultural production or for any smaller conversion of pasture to agricultural production that affects a wetland;

(6) Financial assistance to an individual farmer or an association of farmers for soil conservation and water control facilities, such as dikes, terraces, detention reservoirs, stream channels, ditches, and other special land stabilization or structures;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or non-farm enterprises utilizing more than 10 acres;

(8) Financial assistance for drainage of land.

(9) Financial assistance for a livestock holding facility or feedlot located in a sparsely populated farming area having a capacity as large or larger than one of the following capacities: 1,000 slaughter steers and heifers; 700 mature dairy cattle (whether milkers or dry cows); 2,500 swine; 10,000 sheep; 55,000 turkeys; 30,000 laying hens or broilers; 500 horses; and 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine, and sheep; and

(10) Financial assistance for a livestock holding facility or feedlot located near a town or collection of rural homes which could be impacted by the facility, particularly with respect to noise, odor, water quality, visual, or transportation impacts and having a capacity of at least one-half of those listed in paragraph (9) of this Section.

(e) *General.*

(1) Any action which meets the numerical criteria or other restriction for a Class I action contained in Section 1940.311 but is controversial for environmental reasons. If the action is the subject of isolated environmental complaints, or any questions/concerns that are raised focus on a single impact, air quality for example, the analysis of such a complaint or questions can be handled under the assessment format (Exhibit D) for a Class I action, as explained in Section 1940.319. When several potential impacts are questioned, however, the assessment format (Exhibit E) for a Class II action must be used to address these questions;

(2) Amendments and revisions to all approved actions listed in this Section that alter the purpose, operation, location, or design of the project as originally approved;

(3) The approval of plans and State Investment Strategies for Energy Impacted Areas, designated under Section 601 Energy Impacted Area Development Assistance Program, as well as the applications for financial assistance (excluding the award of planning funds) for Energy Impact Areas;

(4) Proposals for legislation as defined in CEQ's Regulations, Section 1508.17; and

(5) The issuance of regulations and instructions, as well as amendments to these, that describe either the entities, proposals and activities eligible for FmHA financial assistance or the manner in which such proposals and activities must be located, constructed, or implemented.

§ 1940.313 Actions that normally require the preparation of an Environmental Impact Statement (EIS).

The environmental assessment process will be used, as defined in this Subpart, to identify on a case by case basis those actions for which the preparation of an EIS is necessary. Given the variability of the types and locations of actions taken by FmHA, no groups or set of actions can be identified which in almost every case would require the preparation of an EIS.

§ 1940.314 Criteria for determining a significant environmental impact.

(a) Environmental Impact Statements (EIS) shall be done for those actions that are determined to have a significant impact on the quality of the human environment. The criteria for determining significant impacts are contained in Section 1508.27 of the CEQ Regulations.

(b) In utilizing the criteria for a significant impact, the cumulative impacts of other FmHA actions planned or recently approved in the proposal's area of environmental impact, other related or similarly located federal actions, and non-federal related actions must be given consideration. This is particularly relevant for frequently recurring FmHA actions that on an individual basis may have relatively few environmental impacts but create a potential for significant impacts on a cumulative basis. Housing assistance is one such example. Consequently, in reviewing proposals for subdivisions and multi-family housing sites, consideration must be given to the cumulative impacts of other federally assisted housing in the area, including FmHA's. The boundaries of the area to be considered should be based upon such factors as common utility or public service districts, common watersheds, and common commuting patterns to central employment or commercial areas. Additionally, the criteria for significant impacts utilized by the other involved housing agency(s) (VA and HUD, for example) must be reviewed when there is a potential for cumulative impacts. FmHA shall consult with HUD for determining a significant impact whenever the total of HUD and FmHA housing units being planned within a common area of environmental impact exceeds the HUD thresholds listed in its NEPA regulations (see Table 1, 44 FR 12857).

(c) Because the environmental values and functions of floodplains and wetlands are of critical importance to man and because these areas are often extremely sensitive to man-induced disturbances, actions which affect wetlands and floodplains will be considered to have a significant environmental impact whenever one or more of the following criteria are met:

(1) The public health and safety are identifiably affected. That is, whenever the proposed action may potentially result in a change in stream classification or affect any standards promulgated under the Safe Drinking Water Act (52 USC 300 f–j–9) or similar state authority.

(2) The preservation of natural systems is identifiably affected. That is, whenever the proposed action or related activities may potentially create or induce changes in the existing habitat that may affect species diversity and stability (both flora and fauna and over the short and long term) or affect ecosystem productivity over the long term.

(3) The proposal, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. Examples of such actions include facilities which produce, use, or store, highly volatile, toxic, or water reactive materials or facilities which contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events, (i.e., hospitals, nursing homes, schools).

§ 1940.315 Timing of the environmental review process.

(a) The FmHA office to which a potential applicant would go to seek program information and request application materials shall notify the applicant of the major aspects of the Agency's environmental program applicable to the type of assistance being sought. Special emphasis should be placed on describing FmHA's natural resource management policies, the nature and purpose of the environmental impact assessment process, and the permissible actions of the applicant during this process. Additionally, when prospective applicants, interest groups, and government officials are invited to attend briefing sessions on FmHA programs, the environmental programs and policies shall also be described.

(b) When a pre-application is either filed by the applicant or required by FmHA in order to determine if the proposal is sufficiently feasible to warrant the applicant putting forth the time and effort to complete a full application, Form FmHA 1940–20 "Request for Environmental Information" (Exhibit B), shall be required to be completed as part of the pre-application review. FmHA will not authorize the completion of the application until (1) the applicant has properly completed the Form and (2) the environmental impact review (whether an environmental assessment or EIS) is completed by FmHA staff. In this manner, there will be as much flexibility as possible to consider alternatives to the project and to develop methods for mitigating identified adverse environmental impacts. Exhibit C, item I, contains the list of those programs or actions to be processed in this manner.

(c) When a pre-application is not filed, the prospective applicant shall be required to complete Form FmHA 1940–20, "Request for Environmental Information" at the earliest possible time after FmHA is contacted for assistance, but no later than when the application is filed with the appropriate FmHA office. For these programs or actions, FmHA shall not consider the application to be complete, until FmHA staff have completed the environmental impact review (whether an assessment or EIS). Exhibit C, item II, lists programs and actions to be processed in this manner.

(d) For those applications that meet the requirements of a categorical exclusion, Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," (Exhibit F) shall be completed by FmHA as early as possible after receipt of the application. The application shall not be considered complete until either the Checklist is successfully completed or the need for any further environmental review is identified and completed.

(e) For those actions which are initiated within FmHA and subject to an environmental review, such as proposed regulations or legislation, the review process shall be initiated as early as feasible in consultation with ETS. The process shall be completed prior to the initiating office making its recommendation on the action and releasing it to the next level of Agency review.

§ 1940.316 Officials responsible for the environmental review process.

(a) The FmHA official responsible for executing the environmental impact determination and environmental findings for a Class I or Class II action shall be the official having approval authority for the action as specified in Subpart A of Part 1901 of this Chapter. When that official is the State Director, the State Environmental Officer shall complete the environmental assessment and provide the recommendations contained in either D or E, depending on whether the action is Class I or II. When the District Director is the approving official, the District Director shall perform both the tasks of preparing the assessment and completing the environmental findings and impact determination. The County Supervisor shall have similar responsibilities when acting as approving official.

(b) When either (1) the appropriate official is the County Supervisor or the District Director but the project must be forwarded to the State Director for concurrence or (2) the application process is initiated at the County or District Office but the State Director is the approving official, a preliminary assessment shall be prepared by the District Director. The State Environmental Officer shall be responsible for the completion and content of the assessment. The District Director shall also ensure that the applicant properly completes Form FmHA 1940–20, "Request for Environmental Information," and shall assist, upon request, the State Environmental Officer in assembling additional information and performing coordination at the local level. Identical responsibilities and working relationships shall exist between the County Supervisor and District Director when the former forwards a project to the District Director for either concurrence or approval.

(c) When the State Director must forward a project to the Administrator for concurrence and the project requires the assistance of ETS in completing the assessment, ETS shall be provided a copy of the State Office's preliminary assessment as early as possible and consistent with the timing requirements for completing the environmental review process, as contained in section 1940.315 of this Subpart.

(d) It is recognized that in some instances, all of the necessary expertise may not exist at the level of the approving official to adequately assess the environmental impacts. All approving officials below the Administrator, therefore, have the responsibility to recognize when this situation exists and to forward the environmental review to the next level of authority for completion. That is, County and District offices will forward such actions to the State Environmental Officer for completion of the environmental review. In so doing, County Supervisors and District Directors have a continuing responsibility to assist the State Environmental Officer with data collection and any necessary coordination at the local level, as determined by the State Environmental Officer. Similarly, the State Environmental Officer will forward all actions which are too difficult for analysis at that level to the Environmental Specialist. The final reviewer, whether the State Environmental Officer or Environmental Specialist, shall complete the assessment and the recommended environmental findings and impact determination and forward them to the approving official for review and a final decision.

(e) The EST shall serve as the environmental reviewer for actions initiated at the National Office level. The office initiating the action shall be responsible for providing data and evaluations needed for the assessment process.

(f) Whenever the staff member performing the environmental review and the approving official do not concur on the environmental impact determination and/or the environmental findings, the action shall be forwarded to the next level for resolution between the responsible environmentalist and the approving official. Resolution of such a disagreement occurring at the State level shall be coordinated by the Environmental Specialist with the appropriate Assistant Administrator. Failure of these parties to resolve the matter shall require a final decision by the Administrator.

(g) The Administrator reserves the right to request a State Director to forward to the National Office for review and approval any action which is highly controversial for environmental reasons, involves the potential for unique or extremely complex environmental impacts or is of national, regional, or great local significance.

§ 1940.317 Methods for ensuring proper implementation of categorical exclusions.

(a) The use of categorical exclusions is provided for in Section 1508.4 of CEQ's Regulations. This authority, however, only excludes properly defined actions or proposals from the review requirements of NEPA. It does not mean that such proposals are likewise excluded from the requirements of other environmental laws, regulations or Executive Orders. Each proposal must be reviewed to determine the applicability of other environmental requirements. Also, although a given type of proposal may be defined as a categorical exclusion, it does not automatically follow that all similar type proposals are excluded from a NEPA review. Section 1508.4 of CEQ's Regulations state that "any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect." For example, an application for approval of a subdivision of four lots is normally excluded from a NEPA review (See Section 1940.310(b)(5)) but is not exempt from the requirements of Executive Order 11990, "Protection of Wetlands." In the processing of this application, FmHA must determine if a wetland is to be impacted. Assuming that the development of the proposed subdivision site necessitates the filling of two acres of wetland, such a potential wetland impact, under the requirements of the introductory paragraph of Section 1940.310, represents an extraordinary circumstance that causes the application to lose its categorical exclusion. An environmental assessment for a Class I action must then be initiated. This assessment serves the purposes of providing for the extraordinary circumstance by analyzing the degree of potential impact and the need for further study as well as completing and documenting FmHA's compliance with the Executive Order. In this particular example, unless an alternative site could not be readily located and the approving official wanted to further pursue consideration of the application, the environmental assessment would determine that there was a significant impact and an EIS would be required. (See Section 1940.314, Criteria for Determining a Significant Environmental Impact.)

(b) The approving official for an action shall be responsible for insuring that no action which requires an environmental assessment is processed as a categorical exclusion. In order to fulfull this responsibility, Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," (Exhibit F) shall be completed for each application for financial assistance or subdivision approval that would normally be categorically excluded. In completing this Checklist, if any block is checked "yes" an environmental assessment for a Class I action must be prepared under the requirements of Section 1940.319. If all blocks are checked "no", the Checklist is filed with the application and serves as FmHA's documentation of compliance with the environmental laws, regulations and Executive Orders listed on the Checklist. The Checklist shall be completed by the person who is responsible for completing environmental reviews within the approving office. If the approving official is the State Director or the Administrator, the FmHA office where the processing of the application was initiated is responsible for providing sufficient site and project information to the environmental reviewer in order to complete the Checklist.

(c) The Environmental Checklist (Exhibit F) shall be used for all categorical exclusions, e.g., the approval of financial assistance, subdivisions, or amendments to these which meet the requirements of Section 1940.310. The Checklist shall not be completed for loan closing and servicing activities, construction management activities, or the general exclusions listed in Section 1940.310(f). For proposed regulations and instructions that are normally excluded, ETS shall be responsible as part of its existing review and clearance responsibilities for these proposals, to ensure that any categorical exclusion is warranted.

(d) In applying the definition of a categorical exclusion to a project activity, the environmental reviewer must consider the following two elements in addition to the specific project elements for which approval is requested.

(1) If the application represents one of several phases of a larger proposal, the application shall undergo the environmental review required for the elements or the size of the total proposal. For example, if approval of a four-lot subdivision is requested and the application evidences or the reviewer knows that additional phases are planned and will culminate in a sixteen-lot subdivision, the categorical exclusion does not apply and an environmental assessment for a Class I action must be initiated and must address the impact of developing sixteen lots. Should the applicant subsequently apply for approval of any of these additional phases, no further environmental assessment shall be required (See Section 1940.310(b) as long as the original assessment still accurately reflects the environmental conditions found at the project site.

(2) If the application represents one segment of a larger project being funded by private parties or other government agencies, the size and elements of the entire project are used in determining the proper level of environmental assessment to be conducted by FmHA. If an environmental assessment is required, it shall address the environmental impacts of the entire project.

§ 1940.318 Completing environmental assessments for Class II actions.

(a) The first step for the environmental reviewer (as defined in Section 1940.316), is to examine the environmental data submitted by the applicant to determine if it is complete, consistent, signed and dated. (See Exhibit B) If not, it shall be returned to the applicant with a request for necessary clarifications or additional data.

(b) Once adequate data has been obtained, the assessment shall be initiated in the format and manner described in Exhibit E, FmHA Environmental Assessment for Class II Actions. In so doing, appropriate experts from state and federal agencies, universities, local and private groups shall be contacted for their views, as well as the Environmental Specialist when necessary. The environmental reviewer should communicate with these agencies or parties in the most appropriate and expeditious manner possible depending upon the seriousness of the potential impacts and the need for formal documentation. When correspondence is exchanged it shall be appended to the assessment. Oral discussions should be documented in the manner indicated in Exhibit E.

(c) At the earliest possible stage in the assessment process, the environmental reviewer shall identify the federal, state, and local parties which are carrying out related activities, either planned or under way. Discussions with the applicant and FmHA staff familiar with the project area should assist in this identification effort. If there is a potential for cumulative impacts, the reviewer shall consult with the involved federal agencies to determine the nature, timing and results of their environmental analysis. These consultations shall be documented in the assessment and considered or adopted when making the environmental impact determination. (See Section 1940.324 of this Subpart concerning adoption of assessments.) If it is determined that the cumulative impacts are significant, the environmental reviewer shall further contact the involved federal agencies and attempt to determine the lead federal agency as discussed in Sections 1940.320(b) and 1940.326.

(d) Consultations similar to those discussed in paragraph (c) of this Section shall also be undertaken with those federal and state agencies which are directly involved in the FmHA action, either through the provision of financial assistance or the review and approval of a necessary plan or permit. For example, a construction permit from the U.S. Army Corps of Engineers may be required for a project. In such an instance, the environmental assessment cannot be completed until the environmental reviewer has either reviewed the other agency's completed environmental analysis or consulted with the other agency and is reasonably sure of the scope, content and expected environmental impact determination of the forthcoming analysis and has so documented for the FmHA assessment this understanding. If the other agency believes that the project will have a significant impact, a joint or lead impact statement shall be prepared. If the other agency does not believe a significant impact will occur, the environmental reviewer shall consider this finding and its supporting analysis in completing the FmHA environmental impact determination.

(e) For actions having a variety of complex or interrelated impacts that are difficult for the environmental reviewer to assess, consideration should be given to holding a public meeting in the manner described in Section 1940.320(c). Such meetings should not be assumed as being limited to projects for which EISs are being prepared. Such a meeting can serve a useful purpose in better defining and identifying complex impacts, as well as locating expertise with respect to them. The results of a public meeting and the follow-up from it can also serve as a valuable tool in reaching an early understanding on the potential need for an EIS. When identified impacts are difficult to quantify (such as odor and visual and community impacts) or controversial, a public information meeting should be held near the project site in order to reach a better understanding of the magnitude of the impact and the local area's concern about it. Whenever held, it should be announced and organized in the manner described in Section 1940.320(g). However, a transcript of the meeting need not be prepared but the environmental reviewer shall make detailed notes for incorporation in the assessment (See Section 1940.311(f)).

(f) Throughout this assessment process, the environmental reviewer shall keep in mind the criteria for determining a significant environmental impact. If at any time in this process it is determined that a significant impact would result, the reviewer shall so notify the approving official and those actions specified in Section 1940.320 shall be initiated, unless the approving official disagrees with the reviewer's recommended determination in which case further review of the determination is required as explained in Section 1940.316(e) of this Subpart. As soon as possible after the need for an EIS is determined, the applicant shall also be advised of this in writing, as well as reinformed of the limitations on its actions during the period that the EIS is being completed (See Section 1940.309(e)). The applicant's failure to comply with these limitations shall be considered as grounds for postponement

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of further consideration of the application until such problem is alleviated.

(g) Similarly, throughout the assessment process, consideration shall be given to incorporating mechanisms into the proposed action for reducing, mitigating or avoiding adverse impacts. Examples of such mechanisms which are commonly referred to as mitigation measures include (1) the deletion, relocation, redesign or other modifications of the project elements, (2) the dedication of environmentally sensitive areas which would otherwise be adversely affected by the action or its indirect impacts, (3) soil erosion and sedimentation plans to control runoff during land disturbing activities, (4) the establishment of vegetative buffer zones between project sites and adjacent land uses, (5) protective measures recommended by environmental agencies having jurisdiction or special expertise regarding the action's impacts, and (6) zoning. Mitigation measures must be tailored to fit the specific needs of the action, and they must also be practical and enforceable. Mitigation measures which will be taken must be documented in the assessment (Item XV of Exhibit E) and placed in the offer of financial assistance as special conditions, or in the implementation requirements when the action does not involve financial assistance. These measures shall be consistent with the basic goal of the proposed action and developed in consultation with the appropriate program office.

(h) As part of the assessment process, the reviewer shall initiate the consultation and compliance requirements for the environmental laws, regulations, and Executive Orders specified in the assessment format. The assessment cannot be completed until compliance with these laws and regulations is appropriately documented. The project's failure to meet the requirements specified in time 9b. of Exhibit D for a Class I action and item XVII b. of Exhibit D for a Class I action and item XVII b. of Exhibit E for a Class II action shall result in postponement of further consideration of the application until such problem is alleviated.

(i) When the environmental reviewer has completed the assessment, the related materials and correspondence utilized shall be attached. The environmental reviewer shall then either recommend to the approving official that the action has the potential for significantly affecting the quality of the human environment or shall recommend that the action does not have this potential and, therefore, the preparation of an EIS is not necessary. (Item 9 a. of Exhibit D for Class I action and item XVII a. of Exhibit E for a Class II action) The recommended environmental findings shall also be completed. (Item 9 b. of Exhibit D for a Class I action and item XVII b. of Exhibit E for a Class II action.) Whenever the environmental reviewer is unable to make a recommendation either because the project's environmental impacts are of a complex or unique nature and consequently require additional expertise to analyze, or such impacts verge on the threshold of significance and consequently uncertainty exists, the environmental reviewer shall so inform the approving official; and the environmental file shall be forwarded to the next level of environmental review (either from the County or District Office to the State Environmental Officer or from the latter to ETS). The environmental reviewer completing the assessment shall then report the conclusions to the approving official, and the further applicable requirements of this Subpart shall be implemented based upon the approving official's position regarding the assessment.

(j) For those actions for which the environmental reviewer is able to make recommendations, the approving official shall review the environmental file and recommendations. The official shall then execute the environmental impact determination and findings. If the conclusions reached are that there is no significant impact and there is compliance with the listed requirements, the format contained in Exhibit G, Finding of No Significant Environmental Impact, will be used. If a significant impact is determined, the steps specified in Section 1940.320 shall be initiated for the preparation of the EIS. If a determination is made that the action does not comply with the listed requirements and there are no feasible alternatives or modifications which could comply, the action shall be denied or disapproved. If the approving officer's determination or findings differ from those of the environmental reviewer, this difference shall be resolved in the manner specified in Section 1940.316.

(k) When there is no need for further review as discussed in paragraph (j) of this Section and findings of compliance and a determination of no significant impact are reached, the assessment process is conditionally concluded. The applicant shall then be requested to provide public notification of these results as indicated in Section 1940.331(c). The approving official shall not approve the pending application for at least 15 days from the date the notification is last published. If comments are received as a result of the notification, they shall be included in the environmental assessment and considered. Any necessary changes resulting from this consideration shall be made in the assessment, impact determinations, and findings. If the changes require further implementation steps, such as the preparation of an EIS, they shall be undertaken. If there are no changes in the findings and determinations, the approving official may continue to process the application. The environmental documents i.e., the assessment, related correspondence, Form FmHA 449-10, and the finding of no significant impact, shall be included with the approval documents which are assembled for review and clearance within the approving office.

(1) When comments are received after the action has been approved, the approving official will consider the environmental importance of the comments and the necessity and ability to amend both the action with respect to the issue raised and the action's stage of implementation. The Environmental Specialist should be consulted to assist in determining whether there are any remaining environmental requirements which need to be met under the specific circumstances. A similar procedure shall be followed when new or changed information is received after project approval. Amendments and revisions to actions will be handled as specified in Sections 1940.310 to 1940.313.

§ 1940.319 Completing environmental assessments for Class I actions.

(a) As stated previously, a main purpose of Form FmHA 1940-21, "Environmental Assessment for Class I Actions," (Exhibit D) is to provide a mechanism for reviewing actions with normally minimal impacts and for documenting a finding or no significant impact, as well as compliance determinations for other applicable environmental laws, regulations, and policies. The second major purpose is to serve as a screening tool for identifying those Class I actions which have more than minimal impacts and which, therefore, require a more detailed environmental review.

(b) The approach to reviewing a Class I action under the assessment format of Exhibit D is exactly environmental reviewer (as defined in Section 1940.316) must become the same as for a Class II action. The familiar with the elements of the action, the nature of the environment to be affected, the relationship to any other federal actions or related non-federal actions, and the applicable environmental laws and regulations.

(c) The data submission requirements placed on the applicant for a Class I action are not as extensive as for a Class II action. The requirements are limited to completing the face of Form FmHA 1940-20, Exhibit B, as well as categories (1), (2), (13), (15), (16), and (17) of Item 1b of the instructions to the form whenever a previously completed environmental analysis covering these categories is not available. Should it later be determined that the magnitude of the Class I action's impact warrants a more detailed assessment, the applicant shall be required to submit the remaining items of the data request.

(d) The environmental reviewer must ensure that the data received from the applicant is complete, consistent, signed and dated before initiating the assessment. If it is not, the applicant shall be required to make the necessary changes and clarifications. The reviewer must also ensure that the application properly meets the definition of a Class I action. Phased or segmented projects, as discussed in Section 1940.317(d) shall be identified and the elements and the size of the entire project used to classify the action.

(e) An important element of this assessment is to determine if the action affects an environmental resource which is the subject of a special federal consultation or coordination requirement. Such resources are listed in the assessment format, Exhibit D, and include wetlands, floodplains, and historic properties, for example. If one of the listed resources is to be affected, the reviewer must demonstrate the required compliance by accomplishing the review and coordination requirements for that resource. Documentation of the steps taken and coordination achieved shall be attached. However, if more than one listed resource is to be affected, this shall be viewed as the action having more than minimal impacts and the environmental assessment format for a Class II action shall be initiated.

(f) Similarly in completing item 3, General Impacts of Exhibit D, the assessment format for a Class II action must be initiated if more than one category of impacts cannot be checked as minimal. If there is a single category which needs analysis, this can be accomplished by attaching an appropriate exhibit addressing the questions and issues for that impact, as specified in the environmental assessment format for a Class II action.

(g) The comments of the state and regional clearinghouses shall be incorporated into the assessment, if this review applies to the action. The receipt of negative comments of an environmental nature shall warrant the initiation of a more detailed assessment under the format for a Class II action, Exhibit E. Also, the issue of controversy must be addressed, and if the action is controversial for environmental reasons, the environmental assessment format for a Class II action, Exhibit E shall be completed. However, if the action is the subject of isolated environmental complaints or any questions or concerns that are raised focus on a single impact, air quality for example, the analysis of such a complaint or questions can be handled under the assessment format for a Class I action. This analysis shall then be provided by the approving official to the party or parties which raised the matter with FmHA. When several potential impacts are questioned, however, the more detailed assessment format shall be accomplished to address these questions.

(h) The potential cumulative impacts of this action, particularly as it relates to other FmHA actions recently approved in the area or planned, shall be analyzed. If the cumulative impact is not minimal, and for example, cumulatively exceeds the criteria and thresholds discussed in paragraphs (e), (f) and (g) of this Section, the environmental assessment format for a Class II action shall be completed. The actions of other federal agencies and related non-federal actions must also be assessed on this basis. When there is a federal action involved, the environmental review conducted by that agency shall be requested and, if it sufficiently addresses the cumulative impact, can be utilized by the environmental reviewer as the FmHA assessment, assuming the impacts are not significant. (See Section 1940.324 of this Subpart.) If the other agency is doing or planning an EIS, the environmental reviewer shall inform that agency of our action and request to be a cooperating agency.

(i) The environmental reviewer shall have the responsibility of initiating the assessment format for a Class II action, Exhibit E, whenever the need is identified. This should be done as early as possible in the review process. The reviewer should not complete the assessment for a Class I action when it is obvious that the assessment format for a Class II action will be needed. The reviewer shall simply start the more detailed assessment and inform the applicant of the additional data requirements.

(j) Public notification of the environmental finding completed as part of Exhibit D shall not be required. All other procedural requirements of the assessment process, such as the timing of the assessment and the limitations on the applicant's actions, do apply, however.

§ 1940.320 Preparing Environmental Impact Statements (EIS).

(a) *Responsibility.*

Whenever the District or County Supervisor determine there is a need to prepare an EIS, the State Environmental Officer shall be notified and shall assume responsibility for preparing it. The State Environmental Officer shall in turn notify the Environmental Specialist and the appropriate Assistant Administrator of these EISs as well as those needed EISs identified by a State Office review. EISs will be prepared in accordance with the following paragraphs. The ETS will take responsibility for preparing EISs on applicable actions initiated at the National Office and for issuance by the Administrator. The State Environmental Officer shall have the preparation responsibility for actions initiated within the state. However, in so doing the State Environmental Officer shall consult with the Environmental Specialist to determine that the document meets the requirements of NEPA. State Directors shall be responsible for issuing such EISs, however, unless delegated authority by the Administrator, based upon a demonstrated capability and experience in preparing EISs, the State Director shall not issue the EIS until reviewed and approved by the Administrator.

(b) *Organizing the EIS Process.*

Prior to initiating the scoping process outlined below, the environmental reviewer shall take several organizational steps to ensure that the EIS is properly coordinated and completed as efficiently as possible. To accomplish this, the below listed parties need to be preliminary identified; the list should be expanded as familiarity with the project increases. Those parties falling within the first four groups should be formally requested to serve as cooperating agencies. If any of these agencies appear to be a more appropriate lead agency than FmHA (using the criteria contained in Section 1501.5(c) of the CEQ Regulations), consultations should be initiated with that agency to determine the lead agency. If difficulties arise in completing this determination the Environmental Specialist shall be consulted for assistance. All of the parties identified below shall be sent a copy of the notice of intent to prepare the EIS and an invitation to the scoping meeting, as discussed in paragraph (c) of this Section.

(1) All federal and state agencies that are being requested to provide financial assistance for the project or related projects;

(2) All federal agencies that must provide a permit for the project should it be approved;

(3) All federal agencies that have a specific environmental expertise in the major environmental issues identified to date;

(4) The agency responsible for the implementation of the state's environmental impact analysis requirement, if one has been enacted or promulgated by the state;

(5) All federal, state, and local agencies that will be requested to comment on the draft EIS;

(6) All individuals and organizations that have expressed an interest in the project; and

(7) National, regional, or local environmental organizations whose particular area of interest corresponds to the major impacts identified to date.

(c) *Scoping Process.* As soon as possible after a decision has been made to prepare an environmental impact statement, the following process shall be initiated by the State Environmental Officer for identifying the major issues to be addressed in the EIS and for developing a coordinated government approach to the preparation and review of the EIS.

(1) The first step in this process shall be the publication of a notice of intent to prepare the EIS. The notice will indicate that an EIS will be prepared and will briefly describe the proposed action and possible alternatives, state the name, address, and phone number of the environmental reviewer, indicating that this person can answer questions about the proposed action and the EIS, list any cooperating agencies, and include the date and time of the scoping meeting. If the latter information is not known at the time the notice of intent is prepared, it shall be incorporated into a special notice, when available, and published and distributed in the same manner as the notice of intent. It shall be the responsibility of the environmental reviewer to inform ETS of the need to publish a notice of intent. ETS will coordinate the publication of the notice in the **Federal Register**. The applicant shall be requested to publish a copy of the notice in the newspaper of greatest circulation in the vicinity of the proposed action and in any local or community oriented newspapers within the proposed action's area of environmental impact. The notice shall be published in easily readable type in the nonlegal section of the newspaper(s). It shall also be bilingual if the affected area is largely non-English speaking or bilingual. Individual copies of the notice shall be sent by the applicant to the appropriate regional EPA office, the state and regional A-95 clearinghouse, the State Historic Preservation Officer, local radio stations and other news media, any state or federal agencies planning to provide financial assistance to this or related actions or required to review permit applications for this action, any potentially affected Indian Tribe, any individuals, groups, local, state, and federal agencies known to be interested in the project, owners and occupants of nearby or affected property and to any other parties that the State Environmental Officer has identified to be so notified. It shall also be posted at a readable location on the project site. The applicant shall provide FmHA with a copy of the notice as it appeared in the newspaper(s), the date(s) published, and a list of all parties receiving an individual notice. Publication and individual transmittal of the notice for the scoping meeting shall be accomplished at least 14 days prior to the date of the meeting.

(2) To the extent possible, the scoping meeting should be integrated with any other early planning meetings of the Agency or other involved agencies. The scoping meeting shall be chaired by the environmental reviewer and shall be organized to accomplish the following purposes.

(i) Invite the participation of affected federal, state, and local agencies, any affected Indian Tribe, the proponent of the action, and any interested parties including those who may disagree with the action for environmental reasons;

(ii) Determine the scope and the significant issues to be analyzed in depth in the environmental impact statement;

(iii) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere;

(iv) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement;

(v) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration;

(vi) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement;

(vii) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule;

Minutes of the scoping meeting to include the major points discussed and decisions made shall be prepared and retained by the environmental reviewer as part of the environmental file. The environmental reviewer shall also offer, during the scoping meeting, to send copies of the minutes to any interested party upon written request.

(d) *Using an Interdisciplinary Approach.* The EIS shall be prepared using an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. The disciplines of the preparers shall be appropriate to address the potential environmental impact associated with the project. This can be accomplished both in the information collection stage and the analysis stage by communication and coordination with environmental experts at local, state, and federal agencies (particularly cooperating agencies) and universities near the project site. When needed information or expertise is not readily available, these needs should be met through procurement contracts with qualified consulting firms. Consulting firms can be utilized to prepare the entire EIS or portions of it as specified in Section 1940.336.

(e) *Content and Format of EIS.* The EIS shall be prepared in the format and manner described in Part 1502 of the CEQ Regulations. There is a great deal of specific guidance in that Part which will not be repeated here.

(f) *Circulation of the EIS.* FmHA shall circulate for review and comment the draft and final EIS as broadly as possible. Therefore, it will be necessary for the environmental reviewer to have sufficient copies printed or reproduced for this purpose. In identifying the parties to receive a draft EIS, the same process should be utilized as is employed for inviting participants to the scoping meeting (see paragraph (b) above). Special emphasis should be given to transmitting the draft to those agencies with jurisdiction or expertise on the proposed action's major impacts, as well as those parties who have expressed an interest in the action. The final EIS shall be provided to all parties that commented on the draft EIS.

(g) *Public Information Meetings.* A public information meeting shall be held near the project site to discuss and receive comments on the draft EIS. It shall be scheduled no sooner than 15 days after the release of the draft EIS. It shall be announced in the same manner as the scoping meeting and the list of parties receiving an individual notification should also be developed in the same manner. The meeting shall be chaired by the environmental reviewer and shall be fully recorded so that a transcript can be produced. The applicant shall be requested to assist in obtaining a facility for holding the meeting. To the extent possible, this meeting shall be combined with public meetings required by other involved agencies.

(h) *Response to Comments.* The environmental reviewer shall respond to comments on the draft EIS as required by Part 1503.4 of the CEQ Regulations. The major and most frequently raised issues during the public information meeting shall also be identified and addressed.

(i) *Timing of Review.* The environmental reviewer shall be responsible for ensuring that the timing requirements for FmHA actions and the review periods for draft and final EISs are fully met (part 1506.10 of CEQ Regulations).

§ 1940.321 Use of completed EIS.

(a) The final EIS shall be a major factor in the Agency's decisionmaking process. Agency staff making recommendations on the action and the approving official shall be familiar with the contents of the EIS and its conclusions and shall consider these in formulating their respective positions with respect to the action. The final EIS and all comments received on the draft shall accompany the proposal through the FmHA decisionmaking and clearance process. The alternatives considered by the approving official shall be those addressed in the final EIS.

(b) As part of this review process, the environmental reviewer shall complete the recommendations listed in Item XVII, b and c of Exhibit E and provide them to the approving official prior to a final decision.

§ 1940.322 Record of decision.

Upon completion of the EIS and its review within FmHA and before any action is taken on the decision reached on the proposal, the office within FmHA responsible for processing the application shall prepare, in consultation with the environmental reviewer, a concise record of the decision which will be available for public review. The record shall:

(a) State the decision reached;

(b) Certify that the timing requirements for the EIS process have been fully met;

(c) Identify all alternatives considered in reaching the decision specifying the alternative or alternatives that were considered to be environmentally preferable and discuss the relevant factors (environmental, economic, technical, statutory mission and, if applicable, national policy) that were considered in the decision;

(d) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why not; and

(e) If any mitigation measures have been adopted, specify the monitoring and enforcement program that will be utilized.

§ 1940.323 Preparing supplements to EIS.

(a) FmHA shall prepare supplements to either draft or final EISs if:

(1) A substantial change or changes occur in the proposed action and such changes are relevant to the environmental impacts previously presented; and

(2) Significant new circumstances or information arise which are relevant to environment concerns and bear on the proposed action or its impacts.

(b) If the environmental reviewer determines that the changes or new circumstances referenced in paragraph (a) of this Section do not require the preparation of a supplemental EIS, the reviewer shall prepare an environmental assessment for a Class II action which shall document the reasons for this determination.

(c) The environmental reviewer shall be responsible for advising the approving official of the need for a supplement.

(d) All of the requirements of this Subpart that apply to the completion of an initial EIS apply to the completion of a supplement with the exception of the scoping process, which is optional. Additionally, if the approving official believes that the circulation of a draft supplement is not necessary, the concurrence of the Department's Office of Environmental Quality and the approval of CEQ must be obtained before eliminating this step. The Environmental Specialist shall coordinate the request with CEQ. The final supplement shall be included in the project file or docket and shall be used in the Agency's decisionmaking process in the same manner as a final EIS (See Section 1940.321).

§ 1940.324 Adoption of EIS and Environmental assessment prepared by other Federal agency.

(a) FmHA may adopt an EIS or portion thereof prepared by another federal agency after completion of the following:

(1) An independent review of the document is conducted by the environmental reviewer and it is concluded that the EIS meets the requirements of the CEW Regulations and this Subpart.

(2) If the actions covered in the EIS are substantially the same as those proposed by FmHA and the environmental conditions in the project area have not substantially changed since its publication, FmHA will recirculate the EIS as a "final." The final EIS will contain an appropriate explanation of the FmHA involvement and will be sent to all parties who would typically receive a draft EIS published by FmHA. If there are differences between the actions or the environmental conditions as discussed in the original EIS, that EIS shall be updated to cover these differences and recirculated as a draft EIS. From that point, it shall be reviewed and processed in the same manner as any other FmHA EIS.

(b) If the adopted EIS is not final within the agency that prepared it, or if the action it assesses is the subject of a referral under Part 1504 of the CEQ Regulations, or if the statement's adequacy is the subject of a judicial action which is not final, FmHA must so specify and provide an explanation in the recirculated EIS.

(c) After recirculated (whether as a draft or final), the EIS shall be reviewed and processed in the same manner as any other FmHA EIS.

(d) FmHA may also adopt all or part of environmental assessments prepared by other Federal agencies. In this case paragraphs (b) and (c) of this Section do not apply, nor the recirculation requirement in paragraph (a).

§ 1940.325 FmHA as a cooperating agency.

(a) FmHA shall serve as a cooperating agency when requested to do so by the lead agency for an action in which FmHA is directly involved or for an action which is directly related to a proposed FmHA action. An example of the latter would be a request from EPA to participate in an EIS covering its sewage treatment plans for a community, as well as the community's water system plans pending before FmHA. The State Environmental Officer shall coordinate FmHA's participation as a cooperating agency for an action at the state level. ETS shall have the same responsibility at the National Office level.

(b) When requested to be a cooperating agency on a basis other than that discussed above, the environmental reviewer at the level receiving the request shall consider the expertise which FmHA could add to the particular EIS process in question and existing workload commitments. If a decision is made on either of these two basis not to participate as a cooperating agency, a copy of the letter so informing the lead agency shall be sent to CEQ.

(c) As a cooperating agency, FmHA shall participate in the development and implementation of the scoping process; if requested by the lead agency, provide the lead agency with staff support and descriptive materials with respect to the analyses of the FmHA portion of the action(s) to be covered; review and comment on all preliminary draft materials prior to their circulation for public review and comment; and attend and participate in public meetings called by the lead agency concerning the EIS.

(d) The State Director shall request the lead agency to fully identify the Agency's involvement in all public documents and notifications.

(e) FmHA shall use the EIS as its own as long as (1) FmHA's comments and concerns are adequately addressed by the lead agency and (2) the final EIS is considered to meet the requirement of CEQ's Regulations and this Subpart. It shall be the responsibility of the environmental reviewer to formally advise the approving official on these two points. The failure of the lead agency's EIS to meet either of these stipulations shall require FmHA to follow the steps outlined in Section 1940.324, *Adoption of an EIS*, prior to the approving official's decision on the FmHA action.

§ 1940.326 FmHA as a lead agency.

(a) When other federal agencies are involved in an FmHA action or related actions that require the preparation of an EIS, the environmental reviewer shall consult with these agencies to determine a lead agency for preparing the EIS. The criteria for making this determination shall be those contained in Part 1505.5 of the CEQ Regulations. If there is a failure to reach a determination within a reasonably short time after consultation is initiated, the Environmental Specialist shall be contacted. The assistance of the Department's Office of Environmental Quality and CEQ shall then be requested by the Administrator in order to conclude the determination of a lead agency.

(b) When acting as lead agency, the FmHA environmental reviewer shall request other federal and state agencies to serve as cooperating agencies on the basis of the guidance provided in Section 1940.320(b).

§ 1940.327 Tiering.

To the extent possible, FmHA shall use the concept of tiering in the preparation of its EIS. Tiering refers to the coverage of general matters in broader environmental impact statements, such as one done for a national program or regulation, with subsequent narrower statements or environmental analyses incorporating by reference the broader matters and concentrating on the issues specific to the action under consideration. Tiering can be used when the sequence of analysis is from the program level to site-specific actions taken under that program or from an initial EIS to a supplement which discusses the issues requiring supplementation.

§ 1940.328 State Environmental Policy Acts.

(a) Numerous states have enacted environmental policy acts or regulations similar to NEPA, hereafter referred to as State NEPA's. It is important that FmHA staff have an understanding of which states have such requirements and how they apply to applicant's proposals. It shall be the responsibility of each State Environmental Officer to determine the applicable state requirements and to establish a working relationship with the state personnel responsible for their implementation.

(b) In processing projects located within states having State NEPA's the environmental reviewer shall determine as early as possible in the assessment process whether the project falls under the requirements of the State NEPA. If it does, one of the following cases will exist and the appropriate actions specified shall be taken.

(1) The applicant has complied with the State's NEPA and it was determined under the State's requirements that the proposed project would not result in sufficient potential impacts to warrant the preparation of an impact statement or other detailed environmental report required by the State NEPA. This finding or conclusion by the state shall be considered in the FmHA's review and any supporting information used by the state shall be requested. However, the state's finding can never be the total basis for FmHA's environmental impact determination. An independent and thorough review in accordance with the requirements of this Subpart must be conducted by the environmental reviewer.

(2) The applicant has complied with the State NEPA and it was determined under its implementing guidelines that a significant impact will result. This fact shall be given great weight in the Agency's environmental determination. However, the state's definition of significant environmental impact may encompass a much lower threshold of impacts compared to FmHA's. In such a case, if the State Environmental Officer does not believe that a significant impact will result under Agency guidelines for determining significant impacts, the environmental assessment should be prepared and include a detailed discussion with supporting information as to why the environmental reviewer's recommendation differs from that of the state's. However, the assessment cannot be completed until the state's impact statement requirements have been fulfilled by the applicant and the resulting impact statement has been reviewed by the environmental reviewer. An environmental impact determination shall then be executed based upon the assessment and the statement.

(c) It should be emphasized that at no time does the completion of an impact statement under the requirements of a State NEPA obviate the requirement for FmHA to prepare an impact statement. Consequently, as soon as it is clear to the State Environmental Officer that the Agency will have to prepare a statement, every attempt should be made to accomplish the statement simultaneously with the state's. Coordination with state personnel is necessary so that data and expertise can be shared. In this manner, duplication of effort and of the review periods for the separate statements can be minimized. This process clearly requires a close working relationship with the appropriate state personnel.

§ 1940.329 Commenting on other agencies' EISs.

(a) State Directors are authorized to comment directly on EISs prepared by other federal agencies. In so doing, comments should be as specific as possible. Any recommendations for the development of additional information or analyses should indicate why there is a need for the material.

(b) Comments should concentrate on those matters of primary importance to FmHA and on areas of Agency expertise, such as rural planning and development. Any potential conflicts with FmHA programs, plans, or actions should be clearly identified. Special attention should be given to the relationship of the alternatives under study to the State Office's natural resource management policy and the objectives of the Secretary's land use memorandum (Exhibit A). Copies of comments addressing land use questions should be provided to the appropriate Chairman of the USDA State Land Use Committee.

(c) Whenever a State Director has serious concerns over the acceptability of the anticipated environmental impacts, the Director may recommend to the Administrator that the matter be handled under Part 1504 of the CEQ regulations, Predecision Referrals to the Council of Proposed Federal Actions Determined to be Environmentally Unsatisfactory. A copy of this recommendation shall be provided to the appropriate Chairman of the USDA State Land Use Committee. The Environmental Specialist shall then coordinate this recommendation with the Department's Office of Environmental Quality.

(d) Commenting at the National Office level shall be handled under the same guidelines, with the Environmental Specialist serving as the point of coordination.

§ 1940.330 Monitoring.

(a) FmHA staff who normally have responsibility for the post-approval inspection and monitoring of approved projects shall ensure that those measures which were identified in the pre-approval stage and required to be undertaken in order to reduce adverse environmental impacts are effectively implemented.

(b) This staff shall review the action's approval documents and consult with the environmental reviewer prior to making site visits or requesting project status reports in order to determine if there are environmental requirements to be monitored.

(c) The environmental reviewer should directly monitor actions containing difficult or complex environmental special conditions.

(d) Before certifying that conditions contained within offers of financial assistance have been fully met, the responsible monitoring staff shall obtain the position of the environmental reviewer for those conditions developed as a result of the environmental review.

(e) Whenever non-compliance with an environmental special condition is detected by FmHA staff, the environmental reviewer shall be immediately informed. The approving official shall then take appropriate steps, in consultation with the responsible program office and environmental reviewer, to bring the action into compliance.

§ 1940.331 Public involvement.

(a) The basic objective of FmHA's public involvement process is three-fold. It is to ensure that interested citizens (1) can readily obtain knowledge of the environmental review status of FmHA's funding applications, (2) have the opportunity to input into this review process before decisions are made, and (3) have access to the environmental documents supporting FmHA decisions.

(b) For projects that undergo the preparation of an environmental impact statement, public participation will be accomplished as specified in Section 1940.320 of this Subpart.

(c) For projects that are determined not to have a significant environmental impact, the Agency will require the applicant to publish a notification of this determination. This notice shall be published in the newspaper of greatest circulation in the vicinity of the proposed action and in any local or community-oriented newspapers within the proposed action's area of environmental impact. This notice shall appear for at least three consecutive days if published in a daily newspaper or otherwise in two consecutive publications and shall be published in easily readable type in the nonlegal section of the newspaper(s). All notices shall be bilingual if the affected area is largely non-English speaking or bilingual. Individual copies of the notice shall be sent by the applicant to the appropriate regional EPA office, the state and regional A-95 clearinghouse, any state or federal agencies planning to provide financial assistance for this or related projects or required to review permit applications for this project, any individuals, groups, local, state, and federal agencies known to be interested in the environmental aspects of the project, and to any other parties that the State Environmental Officer has identified to be so notified. The applicant shall provide FmHA with a copy of this notice, the date(s) the notice was published, and a list of all parties receiving an individual notice.

(d) The above notification procedure will not apply to actions reviewed solely on the basis of Exhibit D.

(e) FmHA officials shall promptly provide to interested parties, upon request, copies of environmental documents, including environmental assessments, draft and final environmental impacts statements, and records of decision. Interested parties can request these materials from the appropriate State Director for project activities and from the Administrator on other activities subject to environmental review.

(f) Public information meetings shall be held for an action undergoing environmental impact statements as specified in Section 1940.320. Such meetings may also be held in the completion of environmental assessments as indicated in Section 1940.318. Whenever a public information meeting is held as part of the preparation of an environmental assessment, as compared to an environmental impact statement, a completed transcript of the meeting shall not be required. However, a summary of the meeting to include the major issues raised shall be prepared by the environmental reviewer.

§ 1940.332 Emergencies.

When an emergency circumstance makes it necessary to take an action with significant environmental impact without observing the provisions of this Subpart or the CEQ Regulations, the Administrator shall be so notified. If possible, the Administrator shall consult with the Department's Office of Environmental Quality and CEQ about alternative arrangements before the proposed action is taken. It must be recognized that CEQ's Regulations limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. For purposes of this Subpart, an emergency circumstance is defined as one involving an immediate or imminent danger to public health or safety.

§ 1940.333 Applicability to planning assistance.

(a) The award of grant funds for the purpose of providing technical assistance or planning assistance shall not be subject to any environmental review. However, grantees shall be expected to consider in the developmet of their plans and to generally document within their plans (1) the exisiting environmental quality and the important environmental factors within the planning area and (2) the potential environmental impacts on the planning area of the plan as well as the alternative planning strategies that were reviewed. The ETS shall work with the responsible program office(s) in order to develop and transmit environmental planning guidance to grantees.

(b) In accomplishing plan evaluations, the grantee's ability to incorporate environmental considerations into local plans and technical assistance projects

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shall be analyzed by the responsible program office.

§ 1940.334 Direct participation of State agencies in the preparation of FmHA EISs.

The National Environmental Policy Act was amended on August 9, 1975, for the purpose of permitting appropriate state agencies to participate in the preparation of environmental impact statements sponsored by a federal counterpart agency. Pursuant to the amended portion of the Act, FmHA may be assisted by a state agency in the preparation of an environmental impact statement subject to the conditions indicated below. (At no time, however, is FmHA relieved of its responsibilities for the scope, objectivity, and content of the entire statement or any other responsibility under NEPA.)

(a) The FmHA applicant for financial assistance is a state agency having statewide jurisdiction and responsibility for the proposed action;

(b) FmHA furnishes guidance to the state agency as to the scope and content of the impact statement and participates in the preparation;

(c) FmHA independently evaluates the statement and rectifies any major deficiencies prior to its circulation by the Agency as an EIS;

(d) FmHA's provides, early in the planning stages of the project, notification to and solicits the views of any land management entity (state or federal agency responsible for the management or control of public lands) concerning any portion of the project and its alternatives which may have significant impacts upon such land management entities; and

(e) If there is any disagreement on the impacts addressed by the review process outlined in paragraph (d) of this Section, FmHA prepares a written assessment of these impacts and the views of the land management entities for incorporation into the draft impact statement.

§ 1940.335 Environmental review of FmHA proposals for legislation.

(a) As stated in Section 1940.312 (e)(4), all FmHA proposals for legislation shall receive an environmental assessment. The definition of such a proposal is contained in Section 1508.17 of the CEQ Regulations. It shall be the responsibility of the Agency staff that is developing the legislation to inform ETS of the proposal as early as possible in the development stage. The general content of the proposal shall be discussed with ETS and early drafts provided, as completed, so that the assessment process can run concurrently with the development of the legislation. Also, the initiating staff shall assist ETS in the preparation of the assessment by providing necessary background information and evaluations on the proposed legislation's potential program impacts.

(b) The environmental assessment shall be prepared by ETS along with a recommendation as to whether an EIS is needed and provided to the Adminstrator for a final decision.

(c) If an EIS is required, it shall be prepared in accordance with the requirements of Section 1506.8 of the CEQ Regulations.

§ 1940.336 Contracting for consulting services.

(a) Assistance from outside experts and consultants can be secured for the purpose of completing environmental impact statements, assessments or portions of them. Such assistance shall be secured in accordance with the Agency's contract procurement procedures.

(b) The contractor shall be selected by FmHA in consultation with any cooperating agencies. In order to avoid any conflict of interest, contractors bidding for the work shall be required to execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project.

(c) The Environmental Specialist shall provide the State Director with a proposed scope of work for use in securing such consulting services.

(d) Applicants of subsequently disapproved projects shall not be required to pay the costs of these consulting services. However, if an application that requires consulting services for environmental reviews is subsequently approved, the cost of the consulting services shall be included in the project cost if the applicant is an identifiable beneficiary of the consulting services other than the general public, for example, a private business in receipt of a Business and Industry loan guarantee. The cost assessed to the approved project shall not exceed the cost to FmHA of the consulting services. Additionally, required consulting expenses incurred to serve some independent public interest will not be charged against the approved project. An example of this latter category is an FmHA grant or loan for a community facility.

§§ 1940.337—1940.500 [Reserved]

Attachments:

Exhibit A

U.S. Department of Agriculture, Office of the Secretary,
Washington, D.C., October 30, 1978.

Secretary's Memorandum No. 1827, Revised

Statement on Land Use Policy

1. *Purpose.* This memorandum establishes a departmental policy to promote attainment of land use objectives that are responsive to the needs of the people. This policy is supportive of the constitutional responsibilities of State and local governments for making and implementing public policy regarding land use. This policy is designed to contribute to improved social and economic well-being and to protect the quality of the environment. In formulating and implementing this policy, it is the intent of the Department to (a) assist local and State governments and individual landholders in defining and meeting needs for growth and development; (b) protect the natural environment; and (c) assure adequate supplies of high-quality food, fiber, wood, and water.

The policy is supportive of the President's Urban Policy, Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Floodplain Management, and is consistent with responsibilities assigned the Secretary under the provisions of 7 U.S.C. 1010 and 7 U.S.C. 2204.

2. *Background.* Environmental, economic, and social needs and related land use decisions are matters of concern to the Department of Agriculture. Decisions concerning land use arise from needs to maintain and stimulate economic development, maintain and enhance agricultural, rangeland, and forest production capabilities; provide or improve community services, facilities, and living space; to preserve the natural environment and associated wildlife and recreational values; and to assure adequate supplies of high-quality water. These needs are highly interdependent and often competitive for the limited supply of available and suitable land. Responsible levels of Government must encourage and facilitate the use of our Nation's land resources with wisdom and foresight.

The Department of Agriculture has numerous programs, and makes decisions, that affect the use and availability of land in public and private ownership. To help carry out these programs, the Department has established a program delivery capability at the local level and cooperative arrangements with State and local governments. The Department has the organizational structure, leadership capability, and the professional and technical skills essential to advise and assist local and State governments and private landholders in matters dealing with the Nation's land resources. In accordance with the authority contained in 7 U.S.C. 1010 and 7 U.S.C. 2204 and consistent with 7 CFR 2.19(f), the Department sets forth this statement of policy on land use. This statement reflects the Department's concern with the serious challenges the Nation faces in retaining an adequate natural resource base and in meeting environmental, social, and economic needs.

3. *Policy.* The Department will:

A. Continue to recognize and respect the rights and responsibilities of landholders in making private land use decisions, and the rights and responsibilities of State and local governments in developing public policies regarding non-Federal land use.

B. Implement this policy in the administration of its public lands consistent with legislative authorities controlling their use. They will be administered in such manner as to demonstrate leadership in meeting short- and long-term needs for growth and development; to protect the natural environment; and to assure adequate supplies of food, fiber, wood, and water.

C. Manage USDA-administered lands with a sensitivity to the effect which their management will have on adjacent private and public land. Whenever logical, the management of these lands should be coordinated with the management of adjacent private and other public lands.

D. Make decisions and manage its land use-related programs to contribute to the Nation's short- and long-range needs for protecting the natural environment; assuring adequate supplies of food, fiber, wood, and water; and providing for economic growth and development, energy and other facilities and services, and living space in our communities.

E. Assist local and State governments, planning and development organization or agencies, citizens' groups, and individual landholders in identifying and defining their growth, development, and environmental needs; selecting and choosing among alternatives to meet those needs; and implementing projects or programs to satisfy those needs.

F. Advocate the retention of Important Farmlands and Forestlands, Prime Rangeland, Wetlands, or other lands designated by State or local governments whenever proposed conversions are: (1) caused or encouraged by actions or programs of a Federal agency; (2) licensed by or require approval by a Federal agency; or (3) inconsistent with local or State government plans. Provisions will be sought to assure that such lands are not irreversibly converted to other uses unless other national interests override the importance of preservation or otherwise outweigh the environmental benefits derived from their protection. In addition, the preservation of farmland in general provides the benefits of open space, protection of scenery, wildlife habitat and, in some cases, recreation opportunities, and controls on urban sprawl.

G. Advocate actions that reduce the risk of flood loss, minimize impacts of floods on human safety, health, welfare, and restore and preserve the natural and beneficial functions and values of flood plains.

H. Advocate and assist in the reclamation of abandoned surface-mined lands and in planning for the extraction of coal and other nonrenewable resources in such manner as to facilitate restoration that will reestablish the prior productivity of the land, as mining is completed in defined areas or sites.

I. Advocate the protection of threatened and endangered animal and plant species and their habitats, designated archeological, historic, and cultural sites, and designated ecosystems.

J. Advocate the conservation of natural and man-made scenic resources, improve the technical ability of agencies to identify and evaluate scenic resources, and assure that its agencies protect and enhance the visual quality of the landscape.

4. *Implementation.*

A. Each agency of the Department having programs or actions that may cause or encourage irreversible conversions of Important Farmlands and Forestlands, Prime Rangeland, and Wetlands, as defined in the Appendix, or that may cause or encourage encroachments on flood plains, will review such programs or actions and related administrative rules, regulations, bulletins, and practices. Within one year these agencies will make such changes as are necessary to bring agency programs or actions into compliance with the provisions of this Memorandum.

Agencies will assure that their actions, investments, and programs on non-Federal lands are consistent with State and local land use plans and programs to the extent practicable.

In carrying out the above, agencies will:

(1) cooperate to establish a coordinated land use data base and coordinated data collection systems for use within the Department and by the Federal, State, and local governments;

(2) attempt to integrate departmental and State and local land use policies and programs;

(3) identify and minimize to the extent practicable adverse environmental, economic, and social effects of agency projects and programs;

(4) provide landholders and other concerned people information about the alternatives to, and the associated environmental, social, and economic implications of proposed actions;

(5) refrain from converting or enabling others to irreversibly convert these lands or encroaching or enabling other encroachments on flood plains unless there are no practicable alternatives.

B. The Department will intercede, consistent with the policy contained in this Memorandum, in decisionmaking by other Federal agencies where conversions of Important Farmlands and Forestlands, Prime Rangeland, and Wetlands, are caused or enabled by an agency of the Federal Government, or where conversions require Federal licensing or approval. Intercession will be through participation in the planning of projects when invited and through review and comment on draft environmental impact statements or proposals for actions of Federal agencies consistent with authorized administrative review procedures for Federal or Federally assisted actions.

C. The Department will encourage State and local governments and individual landholders to retain Important Farmlands and Forestlands, Prime Rangeland, and Wetlands, and avoid encroachment on flood plains.

The Department will:

(1) generate and disseminate information and provide organizational, leadership, planning, and technical assistance in the application of knowledge useful to local or State officials, groups, or individual landholders in understanding the social, economic, and environmental implications of converting such lands;

(2) provide assistance to State, area-wide, and local planning and development groups, citizens groups, and individual landholders in evaluating alternative uses for land. Evaluations will consider soil suitability based on physical and chemical characteristics, site (location and adjacent uses), and other environmental, economic, and social factors;

(3) cooperate with others in defining, inventorying, evaluating, and publishing descriptions of the Nation's lands, including wetlands and flood plains, consistent with legislative and administrative authorities;

(4) provide decisionmakers and the general public with information on the kind, extent, location, ownership, and current status of the Nation's lands;

(5) conduct multidisciplinary land use research that is responsive to identified State, local, and national needs;

(6) conduct educational programs on land use and land use research findings;

(7) encourage and facilitate public participation in land use planning and decisionmaking;

(8) cooperate with local, State and other Federal agencies in locating and evaluating sites for:

a. extracting minerals and nonrenewable energy resources and the reclamation of surface mined lands;

b. energy-producing facilities;

c. economic growth and development;

d. facilities and services in local communities;

to limit adverse environmental impacts of these activities or to find alternatives to the conversion of Important Farmlands and Forestlands, Prime Rangeland, and Wetlands;

(9) cooperate with area-wide and State clearinghouses designated under the provisions of OMB Circular A-95 in the review of Federally aided projects with potential impacts on Important Farmlands and Forestlands, Prime Rangeland, and Wetlands.

D. The USDA Land Use Committee, created under Secretary's Memorandum No. 1807, Revised, dated December 14, 1977, will provide Department-wide leadership for the implementation of this policy statement. The Committee will encourage and monitor USDA agency responses and coordinate with other Federal agencies to carry out the provisions of this Memorandum. The Committee will advise the Secretary annually as to progress in the implementation of this policy.

This Memorandum supersedes Secretary's Memorandum No. 1827, dated Octover 26, 1973, and Supplement No. 1, dated June 21, 1976.

Bob Bergland,

Secretary of Agriculture.

Appendix

Definitions

The following definitions apply to the provisions of Secretary's Memorandum No. 1827, Revised.

Important Farmlands[1]

Prime Farmlands

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water).

In addition to the criteria above, for purposes of this policy statement, site (location and adjacent uses) and other economic and social factors will be given due consideration.

Unique Farmland

Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops are citrus, tree nuts, olives, cranberries, fruit, and vegetables.

Additional Farmland of Statewide Importance

This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies.

Additional Farmland of Local Importance

In some local areas, there is concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned.

Prime Forestlands[2]

Because of the multiple-use of forested lands, several categories, i.e., timber, wildlife, and recreation may be developed. For purposes of this Memorandum only, the following timberland definitions will apply.

Prime Timberland

Prime timberland is land that has soil capable of growing wood at the rate of 85-cubic feet or more/acre/year culmination of mean annual increment (site 3 or better) in natural stands and is not in urban or built-up land uses or water. Generally speaking, this is land currently in forest, but does not exclude qualifying lands that could realistically be returned to forest.

Unique Timberland

Unique timberlands are lands which do not qualify as prime timberland on the basis of producing less than 85-cubic feet/acre/year, but are growing sustained yields of specific high value species or species capable of producing specialized wood products under a silvicultural system that maintains soil productivity and protects water quality.

Timberland of Statewide Importance

This is land, in addition to prime and unique timberlands, that is of Statewide importance for the growing of wood. Criteria for defining and delineating these lands to be determined by State forestry planning committees or appropriate State organizations.

Timberland of Local Importance

In some local areas, there is concern for certain additional forest lands for the growing of wood even though these lands are not identified as having national or Statewide importance. Where appropriate, these lands are to be identified by a local agency or agencies concerned.

Prime Rangeland[3]

Prime rangeland is rangeland which because of its soil, climate, topography, vegetation, and location has the highest quality or value for grazing animals. The (potential) natural vegetation is palatable, nutritious, and available to the kinds of herbivores common to the area.

Because of the kind, quality, or seasonal characteristics of the forage produced on it, prime rangeland makes a significant contribution to the range livestock industry of the area and exerts a profound influence on well-being of local communities. Prudent grazing can be accomplished without significant degradation of the environment.

Wetland[4]

Wetlands means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetable or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mudflats, and natural ponds.

Other Farm, Forest, Range, or Wetlands Designated for Protection by State or Local Governments

Those lands, defined and identified by State or local jurisdictions or regional governing bodies which are of substantial importance to them. The importance might stem from the lands siting, economic, environmental, open space, or other values.

Other Terms

Flood Plains[5]

The term "flood plain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore island, including at a minimum, that area subject to a one-percent or greater chance of flooding in any given year.

Food, Fiber, and Wood

Food, fiber, and wood are the production of food, feed, forage, fiber, oilseed, ornamental plant materials, and wood for all purposes, including seed production and planting stock.

United States Department of Agriculture

Office of the Secretary, October 30, 1978.

Secretary's Memorandum No. 1827, Revised Supplement No. 1

Implementation of Executive Orders 11988, Flood Plain Management and 11990, Protection of Wetlands

BACKGROUND

Two Executive Orders were issued in May of 1977 as important components of the President's message on the environment. These Orders require all executive agencies to avoid disrupting wetlands or flood plains wherever there are practicable alternatives in delivering their programs and to minimize any environmental harm that might be caused by Federal actions where no practicable alternatives exist. The Orders require executive agencies to establish procedures for compliance. Specifically, executive agencies are required to issue or amend program regulations and procedures and to incorporate the provisions of the Executive Orders into agency planning and decisionmaking. Executive agencies are required to assure that consideration for wetlands and flood plains will be part of existing programs and will not cause unnecessary duplication or delay in government operations.

Scope of USDA Programs Covered

Land use-related programs of the following Administrations and Services are subject to the Orders' directives: Soil Conservation Service; Science and Education Administration; Rural Electrification Administration; Forest Service; Farmers Home Administration; Agricultural Stabilization and Conservation Service; and the Economics, Statistics, and Cooperatives Services.

Directives

1. The Soil Conservation Service, the Agricultural Stabilization and Conservation Service, the Forest Service, the Rural Electrification Administration, and the Farmers Home Administration will identify and review, and make necessary changes in their respective regulations and rules for all programs that may cause conversions of wetlands or which might enable others to convert wetlands to alternative uses, or that may cause or enable others to cause the construction of encroachments on flood plains. Such changes as necessary to comply with Executive Orders 11988 and 11990 shall be made by November 1, 1978.

2. Those services and administrations listed above, together with the Science and Education Administration, and the Economics, Statistics, and Cooperatives Service will identify and review and make necessary changes in those programs that may indirectly affect flood plains or wetlands

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[1] USDA's Important Farmland Inventory, 7 CFR, Part 657.5.

[2] Prime Forest Land Definition and Criteria, USFS, May 28, 1977.

[3] Draft USDA Definitions (for intra-departmental use only).

[4] Executive Order 11990, Protection of Wetlands, May 24, 1977

[5] Executive Order 11988, Floodplain Management, May 24, 1977

by influencing decisions made by local and State government officials, planning and development organizations or agencies, or individual firms and landholders. In conducting these programs, increased attention will be given to:

A. Generating and disseminating knowledge and providing technical assistance in the application of knowledge that may be useful to local and State government officials, planning and development groups or agencies, or individual firms and landholders in understanding the natural and beneficial functions and values of wetlands and flood plains and in preserving and utilizing such lands.

B. Assisting State and local governing officals, planning and development groups or agencies, and individual firms and landholders to identify and study the feasibility of, and to implement, alternatives to converting or encroaching on flood plains in meeting their growth and development needs.

3. All affected services and administrations will utilize the systematic, interdisciplinary approach for the identification of environmental impacts of all actions on or affecting wetlands as contained in the National Environmental Protection Act of 1969, Section 102(2)(c). To the extent practicable, the decisionmaking process contained in part II, *Floodplain Management Guidelines for Implementing Executive Order 11988* (43 FR 6030, dated February 10, 1978) will be utilized.

4. All affected services and administrations will identify, define, specify, and propose remedies for any legal, legislative, or other constraints that limit the agency's capacity to comply fully with the provisions of these Executive Orders.

5. The Department of Agriculture's Land Use Committee, created under the provisions of Secretary's Memorandum No. 1807, Revised, will provide interagency leadership for bringing the Department into compliance with the spirit and intent of Executive Orders 11988 and 11990.

6. The Office of Environmental Quality Activites will monitor actions and progress of the Department in complying with Executive Orders 11988 and 11990.

Bob Bergland,

Secretary of Agriculture.

BILLING CODE 3410-07-M

Exhibit B

Form FmHA 1940-20

Request For Environmental Information

Item 1a. Has a Federal, State, or Local Environmental Impact Statement or Analysis been prepared for this project?

☐ Yes ☐ No ☐ Copy attached as EXHIBIT I -A

b. If "No," provide the information requested in instructions as EXHIBIT I.

☐ *EXHIBIT I* *attached*

Item 2. The State Historic Preservation Officer (SHPO) has been provided a detailed project description and has been requested to submit comments to the appropriate FmHA Office. ☐ Yes ☐ No

Date description submitted to SHPO ______________________

Item 3. Are any of the following land uses or environmental resources either to be affected by the proposal or located within or adjacent to the project site(s)? *Check appropriate box for every item of the following checklist.*

	YES	NO	UNKNOWN
1. Industrial	☐	☐	☐
2. Commercial	☐	☐	☐
3. Residential	☐	☐	☐
4. Agricultural	☐	☐	☐
5. Grazing	☐	☐	☐
6. Mining, Quarrying	☐	☐	☐
7. Forests	☐	☐	☐
8. Recreational	☐	☐	☐
9. Transportation	☐	☐	☐
10. Parks	☐	☐	☐
11. Hospitals	☐	☐	☐
12. Schools	☐	☐	☐
13. Open spaces	☐	☐	☐
14. Aquifer Recharge Area	☐	☐	☐
15. Steep Slopes	☐	☐	☐
16. Wildlife Refuge	☐	☐	☐
17. Shoreline	☐	☐	☐
18. Beaches	☐	☐	☐
19. Dunes	☐	☐	☐
20. Estuary	☐	☐	☐
21. Wetlands	☐	☐	☐
22. Floodplain	☐	☐	☐
23. Wilderness *(designated or proposed under the Wilderness Act)*	☐	☐	☐
24. Wild or scenic river *(proposed or designated under the Wild and Scenic Rivers Act)*	☐	☐	☐
25. Historical, Archeological Sites *(Listed on the National Register of Historic Places or which may be eligible for listing)*	☐	☐	☐
26. Critical Habitats endangered/threatened species	☐	☐	☐
27. Wildlife	☐	☐	☐
28. Air Quality	☐	☐	☐
29. Solid Waste Management	☐	☐	☐
30. Energy Supplies	☐	☐	☐

Item 4. Are any facilities under your ownership, lease, or supervision to be utilized in the accomplishment of this project, either listed or under consideration for listing on the Environmental Protection Agency's List of Violating Facilities?

☐ Yes ☐ No

Date: ____________________

Signed: ____________________

Applicant

____

Title

Perjury warning in Title 18 U.S.C. to be added

BILLING CODE 3410-07-C

Instructions

Federal Agencies are required by law to independently assess the expected environmental impacts associated with proposed Federal actions. It is extremely important that the information provided be in sufficient detail to permit FmHA to perform its evaluation. Failure to provide sufficient data will delay agency review and a decision on the processing of your application.

This information request is designed to obtain an understanding of the area's present environmental condition and the project's elements that will affect the environment. Should you believe that an item does not need to be addressed for your project, consult with the FmHA office from which you received this Form before responding. In all cases when it is believed that an item is not applicable, explain the reasons for this belief.

It is important to understand the comprehensive nature of the information requested. Information must be provided for (a) the site(s) where the project facilities will be constructed and the surrounding areas to be directly and indirectly affected by its operation and (b) the areas affected by any primary beneficiaries of the project. The amount of detail should be commensurate with the complexity and size of the project, and the magnitude of the expected impact. Some examples:

A small community center project may not require detailed information on air emissions, meteorological conditions and solid waste management.

A water resource, industrial development, or housing development project will require detailed information.

Item 1a—Compare the Environmental Impact Statement or Analysis that was previously prepared with the information requested in the instructions for Item 1b below to be sure that every point in the information request is covered in the Environmental Impact Statement or Analysis. If any of the requested information is not covered, attach to the Environmental Impact Statement or Analysis a supplemental document that corrects any deficiencies or omissions.

Item 1b—Provide responses to the following items in the order listed and attach as *exhibit I* (In order to understand the full scope of the land uses and environmental factors that need to be considered in responding to these items, it may be helpful to complete Item 3 of the Form before completing these narrative responses).

(1) *Primary Beneficiaries.*—Identify any existing businesses or major developments that will benefit from the proposal, and those which will expand or locate in the area because of the project. These businesses or major developments hereafter will be referred to as primary beneficiaries.

(2) *Area Description.*—(a) Describe the size, terrain, and present land uses as well as the adjacent land uses of the areas to be affected. These areas include the site(s) of construction or project activities, adjacent areas, and areas affected by the primary beneficiaries.

(b) For each box checked "Yes" in item 3, describe the nature of the effect on the resource. If one or more of boxes 17 through 21 is checked "Yes" or "Unknown," contact FmHA for instructions relating to the requirements imposed by the Floodplain Management and Wetland Protection Executive Orders.

(c) Attach as *Exhibit II* the following: (1) a U.S. Geological Survey "15 minute" ("7½ minute" if available) topographic map which clearly delineates the area and the location of the project elements; (2) the Department of Housing and Urban Development's floodplain map(s) for the project area; (3) site photos; and (4) if available, an aerial photograph of the site. If a floodplain map is not available, contact FmHA for additional instructions relating to the requirements imposed by the Floodplain Management Executive Order.

(3) *Air Quality.*—(a) Provide available air quality data from the monitoring station(s) either within the project area or, if none exist, nearest the project area.

(b) Indicate the types and quantities of air emissions to be produced by the project facilities and its primary beneficiaries. If odors will occur, indicate who will be affected.

(c) Indicate if topographical or meteorological conditions hinder the dispersal of air emissions.

(d) Indicate the measures to be taken to control air emissions.

(4) *Water Quality.*—(a) Provide available data on the water quality of surface or underground water in or near the project area.

(b) Indicate the source, quality, and available supply of raw water and the amount of water which the project is designed to utilize.

(c) Describe all of the effluents or discharges associated with the project facilities and its primary beneficiaries. Indicate the expected composition and quantities of these discharges prior to any treatment processes that they undergo and also prior to their release into the environment.

(d) Describe any treatment systems which will be used for these effluents and indicate their capacities and their adequacy in terms of the degree and type of treatment provided. Indicate all discharges which will not be treated. Describe the receiving waters and their uses (e.g., recreational) for any sources of treated and untreated discharge.

(e) If the treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates.

(f) Describe how surface runoff will be handled if not discussed in (d) above.

(5) *Solid Waste Management.*—(a) Indicate the types and quantities of solid wastes to be produced by the project facilities and its primary beneficiaries.

(b) Describe the methods for disposing of these solid wastes plus the useful life of such methods.

(c) Indicate if recycling or resource recovery programs are or will be used.

(6) *Transportation.*—(a) Briefly describe the available transportation facilities serving the project area.

(b) Describe any new transportation patterns which will arise because of the project.

(c) Indicate if any land uses, such as residential, hospitals, schools or recreational, will be affected by these new patterns.

(d) Indicate if any existing capacities of these transportation facilities will be exceeded. If so, indicate the increased loads which the project will place upon these facilities, particularly in terms of car and truck traffic.

(7) *Noise.*—(a) Indicate the major sources of noise associated with the project facilities and its primary beneficiaries.

(b) Indicate the land uses to be affected by this noise.

(8) *Historic/Archeological Properties.*—(a) Identify any known historic/archeological resources within the project area that are either listed on the National Register of Historic Places or considered to be of local and state significance and perhaps eligible for listing in the National Register.

(b) Attach as *EXHIBIT III* any historical/archeological survey that has been conducted for the project area.

(9) *Wildlife and Endangered Species.*—(a) Identify wildlife resources located in the project area or its immediate vicinity.

(b) Indicate whether any endangered or threatened species have been identified in the project area or its immediate vicinity.

(10) *Energy.*—(a) Describe the energy supplies available to the project facilities and the primary beneficiaries.

(b) Indicate what portion of the remaining capacities of these supplies will be utilized.

(11) *Construction.*—Describe the methods which will be employed to reduced adverse impacts from construction, such as noise, soil erosion and siltation.

(12) *Toxic Substances.*—(a) Describe any toxic, hazardous, or radioactive substances which will be utilized or produced by the project facilities and its primary beneficiaries.

(b) Describe the manner in which these substances will be stored, used, and disposed.

(13) *Public Reaction.*—(a) Describe any objections which have been made to the project.

(b) If a public hearing has been held, attach a copy of the transcript as *EXHIBIT IV*. If not, certify that a hearing was not held.

(c) Indicate any other evidence of the community's awareness of the project such as through newspaper articles or public notification.

(14) *Alternatives to the Proposed Project:*—Provide a description of any of the following types of alternatives which were considered:

(a) Alternative locations.

(b) Alternative designs.

(c) Alternative projects having similar benefits.

(15) *Mitigation Measures.*—Describe any measures which will be taken to avoid or mitigate any adverse environmental impacts associated with the project.

(16) *Permits.*—(a) Identify any permits of an environmental nature which are needed for the project.

(b) Indicate the status of obtaining each such permit and attach as *EXHIBIT V* any that have been received.

(17) *Other Federal Actions.*—Identify other federal programs or actions which are either

related to this project or located in the same geographic area and for which you are filling an application, have recently received approval, or have in the planning stages.

Item 2—Applicants are required to provide the State Historic Preservation Officer (SHPO) with (a) a narrative description of the project's elements and its location, (b) a map of the area surrounding the project which identifies the project site, adjacent streets and other identifiable objects, (c) line drawings or sketches of the project and (d) photographs of the affected properties if building demolition or renovation is involved. This material must be submitted to the SHPO no later than submission of this Form to FmHA. Additionally, the SHPO must be requested to submit comments on the proposed project to the FmHA office processing your application.

Item 3—Self-explanatory.

Item 4—Self-explanatory.

Timing of FmHA Environmental Impact Review Process

Item I—Whenever a pre-application is either filed or required under the following programs, completion of the environmental impact review process shall be required prior to the authorization of an application.

Business and Industry Guaranteed and Insured Loans
Multi-Family Housing Programs
Water and Waste Disposal Loan and Grant Program
Community Facilities Loan Program
Industrial Development Grant Program
Watershed Loan Program
Resource, Conservation and Development Loan Program
Financial Assistance for Energy Impact Areas (excluding the award of planning funds)
Biomass Energy and Alcohol Fuels Loans and Loan Guarantees Program

Item II—For the following programs and actions, completion of the environmental impact review process shall be required prior to the application being considered complete.

Farm Programs
Single Family Housing Financial Assistance
Request for Subdivision Feasibility Analysis

Environmental Assessment For Class I Actions

1. Description:

a. Name of Project:

b. Project Number:

c. Location:

2. Protected Resources:

The following land uses or environmental resources will either be affected by the proposal or are located within the project site (Check appropriate box for every item of the following checklist. If more than one item is checked "yes" the environmental assessment format for a Class II action must be completed. The reviewer should not initiate the Assessment for a Class I action when it is obvious that the assessment format for a Class II action will be required).

a. Wetlands	___	___
b. Floodplains	___	___
c. Wilderness (designated or proposed under the Wilderness Act)	___	___
d. Wild or Scenic River (proposed or designated under the Wild and Scenic Rivers Act)	___	___
e. Historical, Archeological Sites (Listed on the National Register of Historic Places or which may be eligible for listing)	___	___
f. Critical Habitats endangered/threatened species	___	___
g. Important Farmlands	___	___
h. Important Forestlands	___	___
i. Prime Rangeland	___	___

For an item checked "yes", I have attached as Exhibit 1 both the necessary documentation to demonstrate compliance with the Agency's requirements for the protection of the resource and a discussion setting forth the reasons why the potential impact on the resource is not considered to be significant. If item e. is checked "no", the results of the consultation process with the State Historic Preservation Officer is also attached.

3. General Impacts

I have reviewed the environmental data submitted, dated and signed by the applicant as well as any previously completed environmental impact analysis and conclude the following:

(a) The project, the project area, and the primary beneficiaries are adequately identified;

(b) No incompatible land uses will be created nor direct impacts to parks, beaches, dunes, barrier islands, or important wildlife habitats or recreational areas; and

———Air Quality
———Water Quality
———Solid Waste Management
———Transportation
———Noise
———Wildlife
———Energy
———Construction Impacts
———Secondary Impacts

An analysis of an item which cannot be checked, therefore having a potential for more than minimal impacts, is attached as Exhibit——. (If more than one item is unchecked, the environmental assessment format for a Class II action must be completed).

4. Clearinghouse Comments

☐ yes ☐ no This project is subject to review by State and Regional Clearinghouses.

If yes is checked, complete (a) or (b) or (c) (If negative environmental comments have been received, the environmental assessment format for a Class II action must be completed).

a.———The review period has expired and no comments were received.

b.———No negative comments of an environmental nature were received and the review period is complete, with the comments attached.

c.———Negative comments of an environmental nature have been received.

5. Controversy

☐ yes ☐ no This action is controversial for environmental reasons or is the subject of an environmental complaint.

If yes, check one of the following:

———The action is the subject of isolated environmental complaints or questions have been raised which focus on a single impact. Attached as Exhibit —— is an analysis of the complaint or questions, and no further analysis is considered necessary.

———The environmental assessment format for a Class II action is required to analyze the relevance of the issues raised.

6. Cumulative Impacts

☐ yes ☐ no The cumulative impacts of this action nd other FmHA actions, other federal actions, or related non-federal actions exceed the criteria for a Class I action; or the action represents a phase or segment of a larger project, the latter which exceeds the criteria for a Class I action. (If yes, the environmental assessment format for a Class II action must be prepared).

7. Need For The Project And Alternatives To It

Attached as Exhibit —— is a brief statement of FmHA's position regarding the need for the project. Also, briefly discussed are (a) the alternatives which have been considered by the applicant and FmHA and (b) the environmental impacts of these alternatives. Alternatives include alternative locations, alternative designs, alternative projects having similar benefits, and no action.

8. Measures to Avoid or Mitigate Adverse Environmental Impacts

☐ yes ☐ no Mitigation measures are required. Attached as Exhibit —— is a description of the site or design changes that the applicant has agreed to make as well as the mitigation measures that will be placed as special conditions within the offer of financial assistance or subdivision approval.

9. Environmental Determinations

The following recommendations shall be completed and the environmental reviewer shall sign the assessment in the space provided below.

a. Based on an examination and review of the foregoing information and such supplemental information attached hereto, I recommend that the approving official determine that this project:

( ) will have a significant effect on the quality of the human environment and an Environmental Impact Statement must be prepared;

( ) will not have a significant effect on the quality of the human environment,

( ) will require further analysis through completion of the assessment format for a Class II action.

b. I recommend that the approving official make the following compliance determinations for the below listed environmental requirements.

Not in compliance	In compliance	
___	___	Clean Air Act.
___	___	Federal Water Pollution Control Act.

Not in compliance	In compliance	
———	———	Safe Drinking Water Act—Section 1424(e).
———	———	Endangered Species Act.
———	———	Coastal Zone Management Act-Section 307 (c) (1) and (2).
———	———	Wild and Scenic Rivers Act.
———	———	Fish and Wildlife Coordination Act.
———	———	National Historic Preservation Act.
———	———	Archeological and Historic Preservation Act.
———	———	Executive Order 11988, Floodplain Management.
———	———	Executive Order 11990, Protection of Wetlands.
———	———	Secretary's Memorandum No. 1827, Revised, Statement on Land Use.
———	———	State Office Natural Resource Management Policy.

c. I have reviewed and considered the types and degrees of adverse environmental impacts identified by this assessment. I have also analyzed the proposal for its consistency with FmHA environmental policies, particularly those related to land use, and have considered the potential benefits of the proposal. Based upon a consideration and balancing of these factors, I recommend from an environmental standpoint that the project.

——— be approved.

——— not be approved because of the attached reasons (see Exhibit ——).

Date ———

Signature of Prepared [1] ———

Title ———

Environmental Assessment for Class II Actions

In completing this assessment, it is important to understand the comprehensive nature of the impacts which must be analyzed. Consideration must be given to all potential impacts associated with the construction of the project, its operation and maintenance, the operation of all identified primary beneficiaries, and the attainment of the project's major objectives, whether they be an increased housing stock, community improvement, economic development, or greater agricultural productivity. This last category, the attainment of the project's major objectives, often induces or supports changes in population densities, land uses, community services, transportation systems and resource consumption. The scope of the assessment is broadened even further when there are related activities involved. The impacts of these activities must also be assessed.

The State Environmental Officer or the environmental reviewer, when the assessment is completed at the District or County Office level, shall consult with appropriate experts from federal, state, and local agencies, universities, and other organizations or groups whose views could be helpful in the assessment of potential impacts. In so doing, each discussion which is utilized in reaching a conclusion with respect to the degree of an impact shall be summarized in the assessment as accurately as possible and include the name, title, phone number, and organization of the individual contacted, plus the date of contact. Related correspondence should be attached to the assessment.

The FmHA environmental assessment shall be prepared in the following format. It shall address the listed items and questions and contain as attachments the indicated descriptive materials, as well as the environmental information submitted by the applicant, Form FmHA 1940-20.

The assessment has been designed to cover the wide variety of projects and environments with which the Agency deals. Consequently, not every issue or potential impact raised in the assessment may be relevant to each project. The purpose of the format is to give the preparer an understanding of a standard range of impacts, environmental factors, and issues which may be encountered. In preparing an assessment, each topic heading identified by a roman numeral and each environmental factor listed under topic heading IV, such as air quality for example, must be addressed.

The amount of analysis and material that must be provided will depend upon the type and size of the project, the environment in which it is located and the range and complexity of the potential impacts. The amount of analysis and detail provided, therefore, must be commensurate with the magnitude of the expected impact. The analysis of each environmental factor (i.e. water quality) must be taken to the point that a conclusion can be reached and supported concerning the degree of the expected impact with respect to that factor.

For example, a small community center may not require detailed information on air emissions or solid waste management, but an industrial facility would. Similarly, an irrigation project for a farming operation would concentrate on such factors as water quality and fish and wildlife, rather than land use changes. The extension of a water or sewer system or the approval of a subdivision on the other hand, would have to give close attention to all factors, with potential land use changes being a particularly important one.

I. Project Description and Need

Identify the name, project number, location, and specific elements of the project along with their sizes, and, when applicable, their design capacities. Indicate the purpose of the project, FmHA's position regarding the need for it, and the extent or area of land to be considered as the project site.

II. Primary Beneficiaries and Related Activities

Identify any existing businesses or major developments that will benefit from the project and those which will expand or locate in the area because of the project. Specify by name, product, service, and operations involved.

Identify any related activities which are defined as interdependent parts of a FmHA action. Such undertakings are considered interdependent parts whenever they either make possible or support the FmHA action or are themselves induced or supported by the FmHA action or another related activity. These activities may have been completed in the very recent past and are now operational or they may reasonably be expected to be accomplished in the near future. Related activities may or may not be federally permitted or assisted. When they are, identify the involved federal agency(s).

In completing the remainder of the assessment, it must be remembered that the impacts to be addressed are those which stem from the project, the primary beneficiaries, and the related activities.

III. Description of Project Area.

Describe the project site and its present use. Describe the surrounding land uses; indicate the directions and distances involved. The extent of the surrounding land to be considered depends on the extent of the impacts of the project, its related activities, and the primary beneficiaries. Unique or sensitive areas must be pointed out. These include residential, schools, hospitals, recreational, historical sites, beaches, lakes, rivers, parks, floodplains, wetlands, dunes, estuaries, barrier islands, unstable soils, steep slopes, aquifer recharge areas, important farmlands and forestlands, prime rangelands, endangered species habitats, or other delicate or rare ecosystems.

Attach adequate location maps of the project area, as well as (1) a U.S. Geological Survey "15 minute" ("7½ minute" if available), topographic map which clearly delineates the area and the location of the project elements, (2) the Department of Housing and Urban Development's floodplain map(s) for the project area, (3) site photos, and (4) if available, an aerial photograph of the site. When necessary for descriptive purposes or environmental analysis, include land use maps or other graphic information. All graphic materials shall be of high quality resolution.

IV. Environmental Impact

1. Air Quality—Discuss, in terms of the amounts and types of emissions to be produced all aspects of the project including beneficiaries' operations and known indirect effects (such as increased motor vehicle traffic) which will affect air quality. Indicate the existing air quality in the area. Indicate if topographical or meteorological conditions hinder or affect the dispersal of air emissions. Evaluate the impact on air quality given the types and amounts of projected emissions, the existing air quality, and topgraphical and meteorological conditions. Discuss the project's consistency with the state's air quality implementation plan for the area, the classification of the air quality control region within which the project is located, and the status of compliance with air quality standards within that region. Cite any contacts with appropriate experts and agencies which must issue necessary permits.

2. Water Quality—Discuss in terms of amounts and types of effluents all aspects of the project, including primary beneficiaries' operations and known indirect effects which will affect water quality. Indicate the existing water quality of surface and/or underground water to be affected. Evaluate the impacts of

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[1] See Section 1940.316 for listing of officials responsible for preparing assessment.

the project on this existing water quality. Indicate if an aquifer recharge area is to be adversely affected. If the project lies within or will affect a sole source aquifer recharge area as designated by EPA, contact the appropriate EPA regional office to determine if its review is necessary. If it is, attach the results of its review.

Indicate the source and available supply of raw water and the extent to which the additional demand will affect the raw water supply. Describe the wastewater treatment system(s) to be used and indicate their capacity and their adequacy in terms of the degree of treatment provided. Discuss the characteristics and uses of the receiving waters for any sources of discharge. If the treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates. Compare such dates to the completion date of the FmHA project. Analyze the impacts on the receiving water during any estimated period of inadequate treatment.

Discuss the project's consistency with the water quality planning for the area, such as EPA's Section 208 areawide waste treatment management plan. Describe how surface runoff is to be handled and the effect of erosion on streams.

Evaluate the extent to which the project may create shortages for or otherwise adversely affect the withdrawal capabilities of other present users of the raw water supply, particularly in terms of possible human health, safety, or welfare problems.

For projects utilizing a groundwater supply, evaluate the potential for the project to exceed the safe pumping rate for the aquifer to the extent that it would (1) adversely affect the pumping capability of present users, (2) increase the likelihood of brackish or saltwater intrusion, thereby decreasing water quality, or (3) substantially increase surface subsidence risks.

For projects utilizing a surface water supply, evaluate the potential for the project to (1) reduce flows below the minimum required for the protection of fish and wildlife or (2) reduce water quality standards below those established for the stream classification at the point of withdrawal or the adjacent downstream section.

Cite contacts with appropriate experts and agencies that must issue necessary permits.

3. Solid Waste Management—Indicate all aspects of the project including primary beneficiaries' operations, and known indirect effects which will necessitate the disposal of solid wastes. Indicate the kinds and expected quantities of solid wastes involved and the disposal techniques to be used. Evaluate the adequacy of these techniques especially in relationship to air and water quality. Indicate if recycling or resource recovery programs are or will be used. Cite any contacts with appropriate experts and agencies that must issue necessary permits.

4. Land Use—Given the description of land uses as previously indicated, evaluate (a) the effect of changing the land use of the project site and (b) how this change in land use will affect the surrounding land uses and those within the project's area of environmental impact. Describe the existing land use plan and zoning restrictions for the project area. Evaluate the consistency of the project and its impacts with these plans.

5. Transportation—Describe available facilities such as highways and rail. Discuss whether the project will result in an increase in motor vehicle traffic and the existing roads' ability to safely accommodate this increase. Indicate if additional traffic control devices are to be installed. Describe new traffic patterns which will arise because of the project. Discuss how these new traffic patterns will affect the land uses described above, especially residential, hospitals, schools, and recreational. Describe the consistency of the project's transportation impacts with the transportation plans for the area and any air quality control plans. Cite any contact with appropriate experts.

6. Natural Environment—Indicate all aspects of the project including construction, beneficiaries' operations, and known indirect effects which will affect the natural environment including wildlife, their habitats, and unique natural features. Cite contacts with appropriate experts.

7. Human Population—Indicate the number of people to be relocated and arrangements being made for this relocation. Discuss how impacts resulting from the project such as changes in land use, transportation changes, air emissions, noise, odor, etc. will affect nearby residents and their lifestyles or users of the project area and surrounding areas. Cite contacts with appropriate experts.

8. Construction—Indicate the potential effects of construction of the project on air quality, water quality, noise levels, solid waste disposal, soil erosion and siltation. Describe the measures that will be employed to limit adverse effects. Give particular consideration to erosion, stream siltation, and clearing operations.

9. Energy Impacts—Indicate the project's and its primary beneficiaries' effects on the area's existing energy supplies. This discussion should address not only the direct energy utilization, but any major indirect utilization resulting from the siting of the project. Describe the availability of these supplies to the project site. Discuss whether the project will utilize a large share of the remaining capacity of an energy supply or will create a shortage of such supply. Discuss any steps to be taken to conserve energy.

10. Discuss any of the following areas which may be relevant: noise, vibrations, safety, seismic conditions, fire prone locations, radiation, and aesthetic considerations. Cite any discussion with appropriate experts.

V. Coastal Zone Management Act

Indicate if the project is within or will impact a coastal area defined as such by the state's approved Coastal Zone Management Program. If so, consult with the state agency responsible for the Program to determine the project's consistency with it. The results of this coordination shall be included in the assessment and considered in completing the environmental impact determination and environmental findings (Item XVII below.)

VI. Compliance With Advisory Council on Historic Preservation's Regulations.

In this section, the environmental reviewer shall detail the steps taken to comply with the above regulations as specified in FmHA Instruction 1901–F. First, indicate that the National Register of Historic Places, including its monthly supplements, has been reviewed and whether there are any listed properties located within the area to be affected by the project. Second, indicate the steps taken such as historical-archeological surveys to determine if there are any properties eligible for listing located within the affected area. Summarize the results of the consultation with the State Historic Preservation Officer (SHPO) and attach appropriate documentation of the SHPO's views. Discuss the views of any other experts contacted. Based upon the above review process and the views of the SHPO, state whether or not an eligible or listed property will be affected.

If there will be an effect, discuss all of the steps and protective measures taken to complete the Advisory Council's regulations. Describe the affected property and the nature of the effect. Attach to the assessment the results of the coordination process with the Advisory Council on Historic Preservation.

VII. Compliance With the Wild and Scenic Rivers Act

Indicate whether the project will affect a river or portion of it which is either included in the National Wild and Scenic Rivers System or designated for potential addition to the System. This analysis shall be conducted through discussions with the appropriate regional office of the Hertiage Conservation and Recreation Service or the Forest Service when its lands are involved, as well as the appropriate state agencies having implementation authorities. See Section 1940.304(f) for specific implementation instructions for this Act. A summary of discussions held or any required formal coordination shall be included in the assessment and considered in completing the environmental impact determination and environmental findings (Item XVII below).

VIII. Compliance With the Endangered Species Act

Indicate whether the project will adversely affect a "critical habitat" for an endangered or threatened species or jeopardize the continued existence of an endangered or threatened species. This analysis shall be conducted in consultation with the Fish and Wildlife Service and the National Marine Fisheries Service, when appropriate. See Section 1940.304(e) for specific implementation instructions for this Act.

The results of any required coordination shall be included in the assessment and considered in completing the environmental impact determination.

IX. State Environmental Policy Act

Indicate if the proposed project is subject to a state environmental policy act or similar regulation. Summarize the results of compliance with these requirements and attach available documentation. (See Section 1940.328 for further guidance.)

X. Clearinghouse Comments

Attach the comments of the State and Regional Clearinghouses (if this review process is required for the project) and respond to all comments that deal with the subject matters discussed in this assessment format or are otherwise of an environmental nature.

XI. Environmental Analysis of Participating Federal Agency

Indicate if another federal agency is participating in the project either through the provision of additional funds, a companion project, or a permit review authority. Summarize the results of the involved agency's environmental impact analysis and attach available documentation. (See Section 1940.318(d) for further guidance.)

XII. Reaction to Project

Discuss any negative comments or public views raised about the project and the consideration given to these comments. Indicate whether a public hearing or public information meeting has been held either by the applicant or FmHA to include a summary of the results and any objections raised. Indicate any other examples of the community's awareness of the project, such as newspaper articles or public notifications.

XIII. Cumulative Impacts

Summarize the cumulative impacts of this project and the related activities. Give particular attention to land use changes and air and water quality impacts. Summarize the results of the environmental impact analysis done for any of these related activities and/or your discussion with the sponsoring agencies. Attach available documentation of the analysis.

XIII. Adverse Impact

Summarize the potential adverse impacts of the proposal as pointed out in the above analysis.

XIIV. Alternatives

Discuss the feasibility of alternatives to the project and their environmental impacts. These alternatives should include (a) alternative locations, (b) alternative designs, (c) alternative projects having similar benefits, and (d) no project.

XV. Mitigation Measures

Describe any measures which will be taken or required by FmHA to avoid or mitigate the identified adverse impacts. Such measures shall be included as special requirements or provisions to the offer of financial assistance.

XVI. Consistency With FmHA Environmental Policies

For those which are applicable, discuss the project's consistencies and inconsistencies with the Agency's environmental policies regarding important farmlands and forestlands, prime rangelands, wetlands, barrier islands, floodplains, community planning criteria, reuse of the built environment, scenic resources, energy conservation, and water conservation. See Sections 1940.303 and .304 for a discussion of these policies.

XVII. Environmental Determinations

The following recommendations shall be completed:

a. Based on an examination and review of the foregoing information and such supplemental information attached hereto, I recommend that the approving official determining that this project will have ( ) a significant effect on the quality of the human environment and an Environmental Impact Statement must be prepared. Will not have ( ) a significant effect on the quality of the human environment.

b. I recommend that the approving official make the following compliance determinations for the below listed environmental requirements.

Not in compliance	In compliance	
———	———	Clean Air Act.
———	———	Federal Water Pollution Control Act.
———	———	Safe Drinking Water Act—Section 1424(e).
———	———	Endangered Species Act.
———	———	Coastal Zone Management Act—Section 307(c) (1) and (2).
———	———	Wild and Scenic Rivers Act.
———	———	Fish and Wildlife Coordination Act.
———	———	National Historic Preservation Act.
———	———	Archeological and Historic Preservation Act.
———	———	Executive Order 11988, Floodplain Management.
———	———	Executive Order 11990, Protection of Wetlands.
———	———	Secretary's Memorandum No. 1827, Revised, Statement on Land Use.
———	———	State Office National Resource Management.

c. I have reviewed and considered the types and degrees of adverse environmental impacts identified by this assessment. I have also analyzed the proposal for its consistency with FmHA environmental policies, particularly those related to land use, and have considered the potential benefits of the proposal. Based upon a consideration and balancing of these factors, I recommend from an environmental standpoint that the project.

——— be approved.

——— not be approved because of the attached reasons.

Date ———

Signature of Preparer* ———

Title ———

Form FmHA 1940-22

Exhibit F.—Environmental Checklist For Categorical Exclusions

1. Description:
   a. Name of Project:
   b. Project Number:
   c. Location:
2. Protected Resources

The following land use or environmental resources will either be affected by the proposal or are located within the project site. (Check appropriate box for every item of the following checklist. If one item is checked "yes" the environmental assessment for a Class I action must be completed). For phases of a project or a segmented project, the entire project must be considered.

	Yes	No
a. Wetlands	———	———
b. Floodplains	———	———
c. Wilderness (designated or proposed under the Wilderness Act).	———	———
d. Wild or Scenic River (proposed or designated under the Wild and Scenic River Act).	———	———
e. Historical, Archeological Sites (Listed on the National Register of Historic Places or which may be eligible for listing).	———	———
f. Critical Habitats endangered/threatened species.	———	———
g. Important Farmlands	———	———
h. Important Forestlands	———	———
i. Prime Rangeland	———	———
j. Approved Coastal Zone Management Area.	———	———

3. Finding

This proposal meets, in terms of its size and components, the critera for a categorical exclusion as difined in Sections 940.310 and 1940.317. As indicated in item 2 above, the proposal does not affect any important environmental resources that would subject it to disqualification as a categorical exclusion. Finally, the proposal is neither a phase or segment of a project that when viewed in its entirely would not meet the requirements of a categorical exclusion per Section 1940.317(d).

Date ———

Signature of Preparer* ———

Title ———

FmHA Instruction 1940-G

Exhibit G

Subject: Finding of No Significant Environmental Impact and Necessary Environmental Findings for (insert name, location and any identification number of project)

To: Project File

The attached environmental assessment has been completed for the subject proposal by the FmHA environmental reviewer. After reviewing the assessment and the supporting materials attached to it, I find that the subject proposal will not significantly affect the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

I also concur with the environmental findings made by the reviewer with respect to the environmental laws and policies referenced in the assessment.

———

Insert signature and title of approving official

[FR Doc. 81-883 Filed 1-9-81; 8:45 am]
BILLING CODE 3410-07-M

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* See Section 1940.316 for listing of officials responsible for preparing assessment.

*See Section 1940.316 for listing of officials responsible for preparing environmental reviews.

V46/7 JA 12 81

federal register

Monday
January 12, 1981

Part IV

Environmental Protection Agency

Coil Coating Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 465

[WH-FRL 1671-8]

Coil Coating Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes regulations to limit effluent discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from facilities engaged in coil coating. The purpose of this proposal is to provide effluent limitations guidelines for "best practicable technology," "best available technology," and "best conventional technology," and to establish new source performance standards and pretreatment standards under the Clean Water Act. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted on or before March 13, 1981.

ADDRESS: Send comments to: Mr. Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: EGD Docket Clerk, Proposed Coil Coating Rules (WH-552). The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. Ernst P. Hall, at the address listed above, or call (202) 426-2726. The economic analysis may be obtained from Ms. Renee Rico, Economic Analysis Staff (WH-586), Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460, or call (202) 755-2484.

SUPPLEMENTARY INFORMATION:

Overview

The Supplementary Information section of this preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. That section also summarizes comments on a draft technical document circulated on September 20, 1979, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

This proposed regulation is supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Coil Coating Point Source Category.* The Agency's economic analysis is found in *Economic Analysis of Proposed Effluent Standards and Limitations for the Coil Coating Industry.*

Organization of This Notice

I. Legal Authority
II. Background
  A. The Clean Water Act
  B. Prior EPA Regulations
  C. Overview of the Industry
III. Scope of this Rulemaking and Summary of Methodology
IV. Data Gathering Efforts
V. Sampling and Analytical Program
VI. Industry Subcategorization
VII. Available Wastewater Control and Treatment Technology
  A. Status of In-Place Technology
  B. Control Technologies Considered
VIII. Best Practicable Technology (BPT) Effluent Limitations
IX. Best Available Technology (BAT) Effluent Limitations
X. New Source Performance Standards (NSPS)
XI. Pretreatment Standards for Existing Sources (PSES)
XII. Pretreatment Standards for New Sources (PSNS)
XIII. Best Conventional Technology (BCT) Effluent Limitations
XIV. Regulated Pollutants
XV. Pollutants and Subcategories Not Regulated
XVI. Monitoring Requirements
XVII. Costs, Effluent Reduction Benefits, and Economic Impacts
XVIII. Non-Water Quality Aspects of Pollution Control
XIX. Best Management Practices (BMPs)
XX. Upset and Bypass Provisions
XXI. Variances and Modifications
XXII. Relationship to NPDES Permits
XXIII. Summary of Public Participation
XXIV. Solicitation of Comments
XXV. Appendices:
  A–Abbreviations, Acronyms and Other Terms Used in this Notice
  B–Toxic Pollutants Considered for Specific Limitations
  C–Toxic Pollutants Not Detected
  D–Toxic Pollutants Detected Below the Nominal Quantification Limit
  E–Toxic Pollutants Detected in Environmentally Insignificant Amounts

I. Legal Authority

The regulations described in this notice are proposed under authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, P.L. 95-217) (the "Act"). These regulations are also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.,* v. *Train,* 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833.

II. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practical control technology currently available" ("BPT"), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable * * * which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTWs") were subject to pretreatment standards under Sections 307(b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and Bat. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with it emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for non-toxic pollutants. Instead of BAT for "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, fecal coliform and pH), the new Section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge from publicly owned treatment works (Section 304(b)(4)(B)). For non-toxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these proposed regulations is to provide effluent limitations guidelines for BPT, BAT and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA has not previously promulgated regulations for the coil coating point source category.

C. Overview of the Industry

The coil coating industry is not specifically included within any of the U.S. Department of Commerce Census Standard Industrial Classifications; however, it could possibly be considered as part of SIC 3479.

"Coil coating" is a term generally used to describe the combination of processing steps involved in converting a coil—a long thin strip of metal rolled into a coil—into a coil of painted metal ready for further industrial use. Three basis materials are commonly used for coil coating: steel, galvanized (steel), and aluminum. Additionally, there is some minor coating of other material such as brass, galvalum and coated steels. There are three major groups or standard process steps used in manufacturing coated coils: (1) cleaning to remove soil, oil, corrosion, and similar dirt; (2) chemical conversion coating in which a coating of chromate, phosphate or complex oxide materials is chemically formed in the surface of the metal; and (3) the application and drying of one or more coats of organic polymeric material such as paint.

Water is used throughout the coil coating processes. The cleaning processes for removing oil and dirt usually employ water-based alkaline cleaners, and acid pickling solutions are sometimes used to remove oxides and corrosion. Water is used to rinse the strip after it has been cleaned. Most of the chemical conversion coating processes are water based and water is used to rinse excess and spent solutions from the strip. After painting, the strip is baked in an oven to dry the paint and then chilled with water to prevent burning or charring of the organic coating. The characteristics of the wasterwater generated by coil coating may vary depending on the basis material and the process options selected for cleaning and chemical conversion coating.

The most important resulting pollutants or pollutant parameters are: (1) toxic pollutants—chromium, zinc, nickel, lead, copper, cyanide; (2) conventional pollutants—suspended solids, pH, and oil and grease, and (3) unconventional pollutants—iron, aluminum, phosphorous, and fluoride. Toxic organic pollutants were not found in large quantities. Because of the amount of toxic metals present, the sludges generated during wastewater treatment generally contain substantial amounts of toxic metals.

EPA estimates that there are more than 75 coil coating plants in the United States, operating over 125 coil coating lines. Sixty-five percent of the coil coating lines are located in six states: Alabama, California, Illinois, Michigan, Ohio, and Pennsylvania. The remaining plants are distributed geographically throughout the United States. Coil coating as a process originated in the mid-1930's and has shown substantial and rapid progress since that time. Because it is an efficient and low cost way of applying a high quality coating to sheet metal, its use is continuing to increase, and there appears to be a high probability of new and enlarged plants in both the merchant and captive segments of the industry.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of a new chapter in water pollution control requirements. For most industries the 1973–1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, that technology level represented the average of the best existing performances of well known technologies for control of familiar (i.e., "classical") pollutants.

In this round of rulemaking EPA's emphasis is directed toward insuring the achievement by July 1, 1984, of the best available technology economically achievable (BAT) which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, this technology level represents the very very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In its 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainly when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under Section 307(a) of the Act. The "priority" pollutants have been relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience dealing with these pollutants. Additionally, these pollutants often appear (and have toxic effects) at concentrations which severely tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances.

In developing this regulation, EPA studied the coil coating category to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments (or subcategories) of the industry. This study included the identification of raw waste and treated effluent characteristics, including the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters. Such analysis enabled EPA to determine the presence and concentration of priority pollutants in wastewater discharges.

EPA also identified both actual and potential control and treatment technologies (including both in-plant and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance of these technologies, including the performance, operational limitations, and reliability. In addition, EPA considered the non-water quality environmental impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency then estimated the costs of each control and treatment technology using a computer program developed using standard engineering cost analysis. EPA derived unit process costs for each of 58 plants using data and characteristics (production and flow) applied to each treatment process (i.e., hexavalent chromium reduction, metals precipitation, sedimentation, multi-media filtration, etc.). These unit process costs were added to yield total cost at each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates to treatment system costs supplied by the industry, the Agency evaluated the economic impacts of these costs.

On the basis of these factors, EPA identified various control and treatment technologies as BPT, BAT, BCT, NSPS, PSES and PSNS. The proposed regulation, however, does not require the installation of any particular technology. Rather, it requires achievement of effluent limiatations equivalent to those achieved by the proper operation of these or equivalent technologies.

Except for pH requirements, the effluent limitations for BPT, BAT, BCT and NSPS are expressed as mass limitations—a mass of pollutant per unit of production (mg/m^2). They were calculated by combining three figures: (1) treated effluent concentrations determined from analysis of control technology performance data; (2) wastewater flow for each subcategory; and (3) any relevant process or treatment variability factor (e.g., mean vs. maximum day). This basic calculation was performed for each regulated pollutant or pollutant parameter and for each subcategory of the industry.

Pretreatment standards—PSES and PSNS—are also expressed as mass limitations rather than concentration limits to assure achieving the benefits of quantification of pollutant reduction.

IV. Data Gathering Efforts

The data gathering program is described in brief summary in Section III and in substantial detail in Section V of the Development Document. At the start of the study, the National Coil Coaters Association was contacted and meetings were held with their technical committee and others to review the data collection program and gain from the experience and insight of the industry. A data collection portfolio (dcp) was developed to collect information about the industry and was mailed, under the authority of section 308, to each company known or believed to perform coil coating in the United States. The list of companies was developed from Dunn & Bradstreet listings, from a previous unpublished study done for the Agency, and from discussions with the industry association. Data were received from 73 plants representing about 125 coil coating lines. In addition to previous studies and the data collection effort for this study, supplemental data were obtained from NPDES permit files and engineering studies on treatment technologies used in coil coating and other categories with similar wastewater characteristics. The data gathering effort solicited all known sources of data and all available pertinent data were used in developing these limitations.

V. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until a few years ago, and only on rare occasions had these unusual pollutants been regulated. Nor had industry monitored or developed methods to monitor most of these pollutants. As a result, analytical methods for many of the toxic pollutants under section 304(h) of the Act are not commonly available and the toxic organics can be monitored only using state-of-the-art analytical procedures.

Faced with these problems, EPA developed a sampling and analytical protocol. This protocol is set forth in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants" revised April, 1977. Methods promulgated under section 304(h) (40 CFR Part 136) were available and were used to analyze most toxic metals, pesticides, cyanides, and phenols. Thus the new and relatively untried chemical analysis methods applied largely to toxic organics. At the outset of the study EPA expected that the pollutants of greatest concern in coil coating would be toxic metals rather than organics. This has been borne out by the findings of the study.

The sampling and analysis program was carried out in two stages. First, screen sampling was performed at one plant in each subcategory, and this sample was analyzed (screened) for the presence and magnitude of each of the 129 specific toxic pollutants plus conventional and selected non-conventional pollutants. Second, additional (or verification) samples at the same and other plants were analyzed to determine more precisely the magnitude, presence and process source of pollutants determined to be present or believed to be present on the basis of screening analysis and engineering evaluations. Three plants were analyzed for screening and a total of 13 plants were sampled and analyzed during verification. Full details of the sampling and analysis program and the water and wastewater data derived from that program are presented in Section V of the Development Document.

Analysis for the toxic pollutants is both expensive and time consuming, costing between $650 and $1,000 per sample for a complete analysis. The cost in dollars and time tended to limit the amount of sampling and chemical analysis performed. Although EPA fully believes that the available data support the limitations proposed, the Agency would, of course, have preferred a larger data base and will continue to seek additional data. EPA will periodically review these limitations as required by the Act and make any revisions supported by new data.

VI. Industry Subcategorization

In developing this regulation, it was necessary to determine whether different effluent limitations and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in identifying subcategories included: waste characteristics, basis material used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, non-water quality characteristics, and unique plant characterists. Section IV of the Development Document contains a detailed discussion of the factors considered and the rationale for subcategorization.

EPA has subcategorized the coil coating industry based on the basis material coated. The subategories are defined as coil coating on: (1) steel, (2) galvanized (zinc-coated steel either hot dipped or electrolytically coated), and (3) aluminum (including aluminum coated steel). The galvanized subcategory includes copper, (including copper alloys such as brass) and galvalum, a zinc-aluminum alloy. The steel subcategory includes chromium, nickel and tin-coated steels.

In addition to the direct coil coating subcategories, the Agency is considering including limitations and standards for can making as a separate subcategory of coil coating. The reason for this consideration is the very substantial similarity of processes and wastewater generation between coil coating and the production of large volumes of drawn beverage containers. Comments are requested on this possibility.

VII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

Current wastewater treatment practices in the coil coating category range from no treatment to a high level of physical chemical treatment combined with water conservation practices. Of the 73 plants for which data is available, about 15 percent of the plants employ no treatment, 56 percent employ some from of chemical reduction, 59 percent have sedimentation or clarification devices, 54 percent have alkaline pH adjust systems, and 35 percent have acid pH adjust systems. There is no apparent difference between direct or indirect dischargers in the nature or degree of treatment employed.

B. Control Technologies Considered

The control and treatment technologies available for this category include both in-process and end-of-pipe treatments. In-process treatment includes a variety of water flow reduction steps and major process changes such as: cascade rinsing (to reduce the amount of water used to remove unwanted materials from the product surface); cooling and recycling of quench water; and substitution of non-wastewater generating conversion coating processes (no-rinse conversion coating). End-of-pipe treatment includes: cyanide oxidation or precipitation; hexavalent chromium reduction; chemical precipitation of metals using hydroxides, carbonates, or sulfides; and removal of precipitated metals and other materials using settling, sedimentation, filtration, and combinations of these technologies. Because the amount of priority organic materials in the wastewater is small, no specific organic removal wastewater treatment except oil removal has been considered. Similarly, because of high energy costs and low product recovery values, distillation has not been seriously considered as an end-of-pipe treatment.

The effectiveness of these treatment technologies has been evaluated and established by examining the performance of these technologies on coil coating and other similar wastewaters. The data base for hydroxide precipitation-sedimentation technology is a composite of data drawn from EPA sampling and analysis of copper and aluminum forming, battery manufacturing, porcelain enameling, electroplating, metal finishing and coil coating. These wastewaters are judged to be similar in all material respects for treatment because they contain a range of dissolved metals which can be removed by precipitation and solids removal. Similarly precipitation-sedimentation and filtration technology performance is based on the performance of full scale commercial systems treating multicategory wastewaters which also are essentially similar to coil coating wastewaters. This is discussed fully in Section VII of the development document.

VIII. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the process employed, non-water quality environmental impacts (including energy requirements) and other factors the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train* (540 F.2d 1188, 4th Circ. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g., *American Iron and Steel Institute* v. *EPA*, 526 F.2d 1027 (3rd Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle*, 11 ERC 2149 (D.C. Cir. 1978).

In developing the proposed BPT limitations, the Agency first considered the amount of water used per unit area of material coated by each plant which supplied usable dcp data. This data was used to determine the median water use for each subcategory. Next, the treatment technology which appeared to be appropriate for BPT level treatment and which was practiced in some plants throughout the industry was selected. This treatment consists of: hexavalent chromium reduction; oil skimming; pH adjustment; sedimentation to remove the resultant precipitate and other suspended solids and cyanide destruction where cyanides are used. Sludge from the settling tank is concentrated to facilitate landfill disposal. The effluent which would be expected to result from the application of these technologies was evaluated against the known performance of some of the best plants in the subcategory. From this examination, the Agency found that there is uniformly inadequate performance due to improper operating practices throughout the industry. This finding is detailed in Sections 7 and 9 of the development document.

The BPT technology outlined above applies to all of the coil coating subcategories and the final effluent concentrations resulting from the application of the technology are identical for all three subcategories. However, the mass limitations for each subcateogry vary due to different water uses among the subcategories and the absence of some pollutants in some subcategories. Also, certain treatment technologies and limitations such as cyanide oxidation may not be required in all subcategories since cyanides are used in only one subcategory.

Thirty-two plants would incur additional costs to comply with the BPT limitations. EPA estimates that total capital investment would be $3.5 million and that annual costs would be $1.6 million, including interest and depreciation. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of this effluent limitation.

IX. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements) and the costs of applying such technology (Section 304(b)(2)(B)). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls, even when not common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution. The coil coating process discharges over twenty different toxic pollutants and EPA has selected among three available BAT technology options which will reduce this toxic pollution by a significant amount.

The Agency has considered three major sets of technology options which might be applied at the BAT level. Each of these options would substantially reduce the discharge of toxic pollutants. These options, were set forth in a draft development document and presented to the technically interested public for preliminary comment. They are described in detail in Section X of the Development Document and are outlined below.

Option 1—BAT Option 1 utilizes the same in-process wastewater flow control and all of the end-of-pipe treatment technology required for BPT. In addition, a polishing filter such as a mixed media filter is added to remove additional metals and incidentally remove more suspended solids from the clarifier overflow.

Thirty-two direct dischargers would incur additional costs to comply with this option. EPA estimates that total capital investment would be $6.2 million and that annual costs would be $2.5 million, including interest and depreciation. Nine plants responded that they had both direct and indirect discharged status and are included in the above total investment and annual costs. EPA expects no plant closures, unemployment, or changes in production capacity as a result of this option.

Option 2—BAT Option 2 as originally outlined would combine the end-of-pipe treatment system of BAT Option 1 with in-process control technology to substantially reduce the flow of wastewater and reduce the generation of pollutants. These in-process technology changes would include:

1. recirculation and reuse of quench water;
2. counter-current rinsing to reduce the amount of process wastewater generated by rinsing the coil; and
3. substitution of no rinse conversion coating for the present phosphate or chromate coatings; or
4. the use of cyanide-free treatment chemical systems.

Thirty-two direct dischargers would incur additional costs to comply with this option. EPA estimates that total capital investment (above equipment now in place) would be $5.9 million and that annual costs would be $2.4 million, including interest and depreciation. Nine plants responded that they had both direct and indirect discharge status and are included in the above total investment and annual costs. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of this option.

The capital costs of BAT Option 2 are less than BAT Option 1. This is caused by the savings in reduced treatment equipment size when wastewater flows are substantially reduced. This is a direct economic benefit from water reuse.

Option 3—BAT Option 3 builds on BAT Option 2, substituting an ultrafilter system in place of the end-of-pipe mixed media filter to enhance the removal of metals and incidentally remove more suspended solids.

Thirty-two dischargers would incur additional costs to comply with this option. EPA estimates that total capital investment would be $14.9 million and that annual costs would be $6.3 million, including interest and depreciation. Nine plants responded that they had both direct and indirect discharge status, and are included in the above total investment and annual costs. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of this option.

The effectiveness and costs of the BAT options were evaluated and considered in making a selection of

BAT. BAT-2 reduces wastewater generation from an estimated 7,647 million liters per year (raw waste basis) (2,020 million gal) to 2,814 million 1/yr (743 million gal/yr), and removes substantial amounts of toxic metals. With no treatment (raw waste) 361 metric tons of toxic metals would be released (annually) from coil coating. BPT would remove 352.7 metric tons of toxic metals per year and the BAT Options 1, 2 (as modified, see below) and 3 would remove 357.9, 359.7 and 360.0 metric tons, respectively.

The development of these costs is detailed in Section VIII of the development document and treatment effectiveness is displayed in Section X. The high cost of BAT Option 3 plus the low additional removal of toxic metals contributed to the EPA decision that BAT Option 3 was inappropriate.

BAT SELECTION AND DECISION CRITERIA—EPA has selected a modified Option 2 as the basis for proposed BAT effluent limitations. This option was selected because it removes significant amounts of the toxic pollutants of concern in this category (primarily toxic metals) by in-plant control, pretreatment, and end-of-pipe treatment. Although the Act does not require a balancing of costs against effluent reduction benefits, the Agency considered the costs of the technology options (see Section X of the Development Document for detailed discussion). A modified version of BAT Option 2 was selected for technical reasons. This choice was confirmed by industry comments and further Agency analysis indicating that Option 1 does not achieve as high a level of effluent control as is achievable at a reasonable cost through Option 2.

A careful examination of Option 2 indicates that some aspects of it may not be implementable at this time. Specifically, the total cost of installing either counter current rinsing or no rinse conversion coating cannot be adequately estimated. The cost of equipment and mechanical work can be estimated; however, the installation of this equipment would require almost a complete rebuilding of each process line and would require each line to be shut down for substantial periods with resultant production loss and costs. This loss of production and related costs cannot, in the Agency's opinion, be adequately estimated for existing plants at this time. Thus these technology options are ot further considered for existing sources.

The Agency considered a requirement which would essentially ban the use of cyanide chemical systems for processing. This was reconsidered, however, because of comment that the non-cyanide coating systems operate at substantially reduced production speeds and produced reduced quality products. The Agency cannot adequately evaluate these claims at this time. For these reasons, the Agency has revised Option 2 to allow the continued use of cyanide containing metal treatment chemical systems. The Agency believes that this limitation can best be met by changing to non-cyanide chemical systems and expects most if not all coil coating establishments to meet the cyanide requirement by changing chemical systems rather than by effluent treatment.

The Agency is also establishing limitations on oil and grease as an indicator to control polynuclear aromatic hydrocarbons and certain organic solvents. The use of indicators is discussed below under regulated pollutants and in Section X of the development document.

The Agency rejected Option 3 because it is relatively unproven and because it has a far greater cost with little environmental gain. Further development of this kind of process water treatment to remove metals and to promote recycle could possibly allow its requirement at some later revision of this regulation.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design the best and most efficient coil coating processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, inplant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible. EPA considered three options for selection of NSPS technology.

Originally, NSPS Options 1 and 2 were identical to BAT options 2 and 3 and NSPS option 3 added more sophisticated final filtration. As discussed under BAT Option 2, some of the requirements appear to be infeasible as BAT because of the costs of required major modifications and downtime to existing plants. These costs are not a factor in a new plant under construction. The greater benefits and operability of NSPS options 2 and 3 have not been adequately demonstrated. Hence, the Agency has selected NSPS Option 1 (equivalent to unmodified BAT Option 2) as the best available demonstrated technology. This option relies upon the achievement of no discharge of process wastewater pollutants from conversion coating through the use of no rinse conversion coating technique.

EPA estimates that for NSPS Option 1, the average plant investment cost is $200,000. This level of cost comprises 1.3 percent of the estimated equipment costs for one new coil coating line. This proportion of capacity expansion costs accounted for by NSPS Option 1 is not on the order of magnitude that should cause significant adverse impact on the addition of new lines. For NSPS Option 2, the average plant investment cost is $450,000. This level of cost comprises 3.0 percent of the estimated equipment costs for one new coil coating line.

XI. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing indirect dischargers (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs. The Clean Water Act of 1977 adds a new dimension by requiring pretreatment for pollutants, such as toxic metals, that pass through the POTW in amounts that would violate direct discharge effluent limitations or limit POTW sludge management alternatives, including the beneficial use of sludges on agricultural lands. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations (40 CFR Part 403), which served as the framework for these proposed pretreatment standards for coil coating, can be found at 43 FR 27736 (June 26, 1978).

The four pretreatment options considered are parallel to BPT and to the BAT 1, 2, and 3 options previously described. Most of the pollutants regulated are toxic metals wich are not degraded in POTW. These metals either pass through a POTW or are concentrated in the sludge, thereby limiting sludge management alternatives. The small amount of toxic organic pollutants present are not regulated. The combination of incidental oil and grease removal in the treatment train for metals and further oil and grease removal in the POTW, provides effluent loadings equal to or less than BAT. Pretreatment Option 0 (BPT) does not provide reasonable protection of the environment. The rationale for rejection of BAT Option 1 as preteatment, the modification of BAT Option 2 which was seleced as pretreatment, and the rejection of BAT Option 3 as pretreatment are identical to the rationale set forth in the BAT Options discussion.

The equipment required for the selected preteatment option is of reasonable size, appropriate for installation within an urban plant which discharges to POTW. The mass limitations set forth for BAT Option 2 have been presented here as the only method of designating pretreatment standards because the water flow reductions specified at BAT are major features of the treatment and control system. To regulate on the basis of concentration only is not adequate because it will not adequately control the release of persistent toxics to POTW. The Agency has considered the possible complications which mass based limitations might cause when applied as pretreatment standards. Since coil coating facilities are usually separate rather than part of a larger complex and since production records are routinely maintained the complications of applying a mass based standard appear to be minimal. Therefore, the policy that concentration be used to express pretreatment standards (40 CFR Part 403.6(c); and Appendix A, B.2.e) as it applies to PSES in this part is set aside. The Agency is considering establishing minimum requirements for monitoring to insure compliance with the standards, but no requirements are proposed at this time.

Thirty-eight indirect dischargers would incur additional costs to comply with the preteatment options. EPA estimates that for the pretreatment option parallel to BPT (pretreatment Option O), total capital investment would be $5.7 million and that annual costs would be $1.7 million, including interest and depreciation. EPA estimates that for pretreatment Option 1, total capital investment would be $9.3 million and that annual costs would be $2.5 million, including interest and depreciation. For pretreatment Option 2, the additional total investment and annual costs would be $9.0 million and $2.5 million, respectively. EPA estimates that for pretreatment Option 3, total capital investment would be $17.9 million and that annual costs would be $5.1 million. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of any of the pretreatment options.

XII. Pretreatment Standards For New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect discharges will produce wastes having the same pass through problems that existing discharge have. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

The PSNS treatment options considered are identical to the NSPS options. As in the case of existing sources, the majority of pollutants regulated are toxic metals which are not degraded in a POTW. The small amount of toxic organic pollutants present are not regulated. The combination of incidental oil and grease removal in the treatment train for metals, and further oil and grease removal in the POTW, provides effluent loadings equal to or less than BAT. Option 1 of NSPS is selected as the most appropriate pretreatment technoloy option for PSNS. This option encourages new plants to treat their own wastewaters, thereby reducing the hydraulic loading on POTW and limiting the amount of toxic metals which would be introduced to a POTW.

The mass limitations set forth as NSPS Option 1 are presented here as the only method of designating pretreatment standards. The water flow reductions specificed at NSPS are the major features of the treatment and control system. Therefore, to regulate on the basis of concentration only is not adequate because it will not adequately control the release of persistent toxics to POTW. The requirement that concentration be used to express pretreatment standards (40 CFR Part 403.6(c); and Appendix A, B.2.e) as it applies to PSNS in this part is set aside for the reasons discussed in Section XI, above. The Agency is considering establishing minimum requirements for monitoring to insure compliance with the standards, but no requirements are proposed at this time.

EPA estimates that for PSNS Option 1, the average plant investment cost is $200,000, which comprises 1.3 percent of the estimated equipment cost for one new coil coating line. This order of magnitude should not create significant negative impact on the construction of new lines. For PSNS Option 2, the average plant investment cost is $45,000. This level of cost comprises 3.0 percent of the estimated equipment costs for one new coil coating line.

XIII. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added Section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(b)(4)—BOD, TSS, fecal coliform and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1979, EPA added oil and grease to the conventional pollutant list (44 FR 44501).

BCT is not an additonal limitation, but replaces BAT for the control of conventional pollutants. BCT requires that each limitation for conventional pollutants be assessed in light of a new "cost reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works with the cost and level of reduction of such pollutants from a class or category of industrial source. In its review of BAT for "secondary" industries, the Agency promulgated BCT levels based on a methodology described at 44 FR 50732 (Aug. 29, 1979). A BCT option will be considered "cost reasonable" under this methodology if its incremental cost (dollars per pound of pollutant measuring BPT to BCT) is less than or equal to the costs for an average POTW. In 1978 dollars the POTW comparison figure is $1.27 per pound.

Only three conventional pollutant parameters—pH, TSS and oil and grease—were considered under the BCT limitation. They were assessed at levels that are achievable through the use of technology analyzed for modified BAT Option 2. The limitation on oil and grease has been established as an indicator at BAT to limit the amount of PAH's discharged and is considered to be an indicator of the probable effectivenesss of technology in removing polynuclear aromatic hydrocarbon (PAH) compounds. The pH limitations at BCT is the same as at BPT.

Inasmuch as the technology would be installed and operated to meet other requirements, it can be argued that BCT limitations in fact have no cost. However, EPA has taken a more generous approach in its BCT methodology. The total cost of adding technology beyond BPT to meet BCT is calculated and assessed against the amount of suspended solids and oil and grease removed by that technology. When this is done, the CCT costs for the steel subcategory are $0.54 per pound of conventional pollutant removed. $0.05

for the galvanized subcategory, and $1.43 for the aluminum subcategory. These apparently erratic costs are numerically correct. The unusual pattern is caused by the effect of the BAT flow reductions on the size of equipment needed for the end-of-pipe part of the treatment technology.

The cost of removal of conventional pollutants by BCT does meet the cost test for the steel and galvanized subcategories. Therefore, the BCT limitations for the steel and galvanized subcategories will be equal to BAT. Since the aluminum subcategory fails the cost test the BCT limitations based on BAT technology will not be applied. Since the intermediate technology standards assessed as BAT Option 1 are even less cost-efficient, they too cannot be applied. EPA therefore will set the BCT limit for the aluminum subcategory at performance standards achievable with BPT technology. However the oil and grease limitation for the alumunim subcategory is independently set under BAT since it is used as an indicator of control for organic toxics regulated under BAT.

XIV. Regulated Pollutants

The basis upon which the controlled pollutants were selected, as well as the general nature and environmental effects of these pollutants, is set out in Sections V, VI, IX and X of the Development Document. Some of these pollutants are designated toxic under Section 307(a) of the Act, and no evidence has been found to warrant removal of any pollutant from the toxics list.

A. BPT—The pollutants controlled by the BPT limitations are aluminum, cadmium, chromium, copper, cyanide, iron, lead, nickel, zinc, TSS, oil and grease, and pH. Not all of these pollutants are controlled in all subcategories; regulation is established only where the pollutant appears in significant concentration in the raw waste. The discharge is controlled by maximum daily and monthly average mass effluent limitations stated in milligrams of each pollutant per square meter of metal processed (lbs/1,000,000 sq ft).

B. BAT and NSPS—The pollutants specifically limited by BAT and NSPS are the same as those limited by BPT. There are, however, different rationales for limiting these pollutants.

C. BCT—The pollutants specifically limited by BCT are pH, TSS and oil and grease.

D. PSES and PSNS—The pollutants regulated at PSES and PSNS are the same as those limited by BAT and NSPS respectively except that iron, aluminum, TSS, and oil and grease are not limited in pretreatment.

1. Toxic Pollutants—The toxic pollutants expressly controlled for direct dischargers in each subcategory are cadmium, chromium, copper, cyanide, lead, nickel and zinc. These toxic pollutants represent the highest concentrations of toxic materials in each of the subcategories. There are a number of other pollutants in the raw waste which are present at low concentrations but which might be considered for control through the use of other pollutants used as indicators. The Agency is soliciting comments on the monitoring of selected pollutants to indicate compliance or the determination of requiring plants to monitor each pollutant. Should each plant be able to make its own choice about this?

2. Indicator Pollutants—The difficulties of analyses for many toxic organic pollutants have prompted EPA to propose a new method of regulating certain toxic pollutants. For toxic pollutants for which historical data is limited and relatively inexpensive analytical methods are not well developed, EPA is proposing numerical limitations on an "indicator" pollutant—oil and grease. The coil coating data available to EPA generally show that when this "indicator" pollutant is controlled, the concentrations of toxic organic pollutants is significantly lower than when the "indicator" pollutant is present in high concentrations. This may be due to the preferential solubility of many toxic organics in oil and grease. While the relationships between "indicator" pollutants and toxic pollutants are not quantifiable on a one-to-one basis, control of an "indicator" will reasonably assure control of toxics with similar physical and chemical properties responsive to similar treatment mechanisms. This method of toxics regulation obviates the difficulties, high costs, and delays of monitoring and analyses that would result from limitations solely on the toxic pollutants.

Appendix B to this notice contains a tabulation for each subcategory of the toxic pollutants which were considered for specific limitation. EPA concludes that the not-specifically regulated group of these toxic organic pollutants will be effectively controlled by limitation of the "indicator" pollutant even though these toxics are not expressly regulated by numerical limitations.

The toxic pollutants regulated by indicator pollutants include volatile (purgeable) organics and polynuclear aromatic hydrocarbon (PAH) compounds. Toxic pollutants such as PAH compounds and phthalate esters are partially treated by oil-water separation because they are immiscible in water. Thus, control of oil and grease as an "indicator" will provide control of these toxic pollutants.

The Agency also considered using TSS as an indicator for the control of low levels of toxic metals but is not proposing this at this time. Instead, limits have been proposed on all toxic metals not eligible for exclusion under Paragraph 8. The use of TSS as an indicator would eliminate the need for analysis of some metals in each subcategory. Also the use of TSS plus some metals rather than all of the metals listed of control has been considered for possible use as an alternate control procedure on a permit by permit basis. EPA invites comments on this issue.

XV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been re-written in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods of other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed for each subcategory in Appendix C to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent in only trace quantities and not likely to cause toxic effects. Appendix D to this notice lists the toxic pollutants in each subcategory which were detected in the effluent in trace amounts, at or below the nominal limit of analytical quantification, which are not likely to cause toxic effects and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent in only trace amounts and not likely to cause toxic effects. Appendix E to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only one plant, and are uniquely related to that plant, are not related to the manufacturing process under study, are not treatable using technologies considered or which were found in environmentally insignificant amounts and which therefore are excluded from regulation.

No subcategories or subsets of the coil coating industry meet these criteria for the absence of toxic pollutants. Thus none are excluded from this regulation.

XVII. Costs, Effluent Reduction Benefits, and Economic Impacts

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analyses of certain regulations. 43 FR 12661 (March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annualized compliance costs of $100 million or meeting other specified criteria. 44 FR 30988 (May 29, 1979). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives. The proposed regulations for the coil coating industry do not meet these criteria and thus do not require a formal Regulatory Analysis. Nonetheless, this proposed rulemaking satisfies the formal Regulatory Analysis requirements.

EPA's economic impact assessment is set forth in Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Coil Coating Industry, May 1980, EPA. This report details the capital investment and annual costs for the industry as a whole and for the subcategories covered by the proposed coil coating regulation. The report also assesses the impact of compliance costs in terms of plant closures, production changes, price change, employment effects, community impacts and balance of trade effects.

EPA estimates that the total capital investment costs for the coil coating industry will be $14.9 million and that the annual compliance costs will be $4.9 million. This level of annual compliance costs is 0.7 percent of industry revenues and will be responsible for minimal industry-wide price and quantity changes of 0.8 percent and 0.4 percent, respectively. No plant closures are projected for either the baseline (without this regulation) or for the proposed regulation. Other impacts on the coil coating industry such as product substitution, foreign trade effects and changes in discharge status are negligible. Also, secondary impacts on employment and the community are not anticipated.

The economic analysis basically utilizes plant-specific production data and compliance costs estimated by EPA for 58 sample plants to determine the impact of the proposed regulation. However, the first step of the analytical procedure was to determine the industry-wide price change and resulting quantity change at each compliance level. Those estimates served as the basis for the screening analysis which identified plants that may potentially incur significant costs and economic impacts. The criterion for determining high impact potential plants was a significant decrease in their profit margins after compliance with the regulation. The screening analysis identified fifteen coil coating plants (twenty-six percent of the sample) as potentially facing adverse economic impact.

The potentially vulnerable plants were then subjected to further financial analysis to quantify the level of anticipated impact and to assess the likelihood of plant closure. Financial profiles were developed and subsequently used to calculate financial ratios in order to analyze plant profitability and the magnitude of capital investment requirements. The plant-specific ratios were compared to threshold values established at levels at which closures became likely. The plant closure threshold values differed among three categories developed for the economic analysis: (1) toll coaters, which coat customer-owned metal on a service basis; (2) captive operations, which coat metal as part of a proprietary product manufacturing process; and (3) adjunct operations, which are performed in plants with rolling mills on the plant site. The differences in the threshold levels were established to account for differences in the financial characteristics of the plants within the three sectors. However, in general, the conclusions of the study are relatively insensitive to the economic categorization.

BPT—EPA estimates that the BPT effluent limitation will cause the coil coating industry to incur additional total capital investment and annual compliance costs (including interest and depreciation) of $3.5 million and $1.6 million, respectively. The economic analysis based on the profitability and capital investment requirement ratios, indicates that the plants will not face noticeable reductions in profitability, therefore no plant closures are estimated.

BAT—EPA estimates that the coil coating industry will incur additional capital investment and annual compliance costs of $5.9 million and $2.4 million, respectively. These figures were extrapolated from the plant-specific cost data for 27 direct dischargers to the projected universe of 32 plants. The costs reflect the original treatment level, not the revised proposed regulation. The proposed regulation requires fewer in-process technology changes than the BAT Option 2 studied in the economic report. The compliance costs for the proposed regulation will be approximately 20 to 25 percent less than the figures cited above. These lower costs will be analyzed for economic impacts during the period between proposal and promulgation of the regulation.

The economic analysis based on the profitability and capital investment requirement ratios indicates that a few coil coating plants may incur noticeable decreases in profitability but will not face closure. The projected price increases resulting from compliance costs were found to be minimal for direct discharging coil coating plants. Therefore, other impacts upon this segment of the industry such as product substitution, foreign trade effects and changes in discharge status will be negligible.

PSES—EPA estimates that the indirect discharging segment of the coil coating industry will incur additional capital investment and annual compliance costs of $9.0 million and $2.5 million, respectively. These figures were extrapolated from the plant-specific cost data for 31 indirect dischargers to the projected universe of 38 plants. As with the costs for the BAT limitations, the above figures reflect the original treatment level, not the modified treatment option. The proposed regulation requires fewer in-process technology changes than the option analyzed in the economic study. The compliance costs will be approximately 20 to 25 percent less than the figures cited above. These lower costs will be assessed for economic impacts during the period between proposal and promulgation.

The economic analysis based on the profitability and capital investment requirement ratios indicates that three indirect discharging plants may incur noticeable decreases in profitability but will not face closure. The projected price increases resulting from compliance costs were found to be minimal for this segment of the industry. Therefore, other impacts such as product substitution, foreign trade effects and changes in discharge status will be negligible.

NSPS—PSNS—The coil coating industry experienced strong growth in the period from 1962 to 1978 and this trend is forecast to continue through 1985. EPA estimates that the industry will require $400 million to $800 million of capital investment in coil coating equipment (not including the plant site or building construction costs) to provide the expected increase in production from 1980 through 1985. For comparison, the average plant investment cost for complying with the proposed regulation will be $200,000. This amount represents 1.3 percent of the estimated equipment costs for one new line. Because of this high growth rate and the relatively low capital investment required by the NSPS and PSNS regulation, the construction of new coil coating lines is not expected to be adversely impacted. The competitive advantages of coated coil over other products combined with the forecasted growth and expanded end-product uses through 1985 shoud allow the plants to earn a level of profits sufficient to attract needed capital funding.

Economic Impact: The Agency estimates that total capital investment to bring 70 existing coil coating plants into compliance with the proposed BAT limitations will be $14.9 million. The annual costs of compliance may reach $4.9 million, including depreciation and interest. This level of annual costs represents 0.7 percent of industry revenues and may be responsible for minimal industry-wide price and quantity changes of 0.8 percent and 0.4 percent, respectively. No plant closures are projected as a result of complying with proposed regulation. Other impacts on the coil coating industry status are negligible. Also, secondary impacts on employment and the community are not anticipated.

This proposed regulation does not require a regulatory analysis because annual compliance costs are less $100 million and the other criteria for performing a regulatory analysis are not met. This determination is in accordance with the Agency's procedures for improving environmental regulations, published in 44 FR 30988 (May 29, 1979). Nevertheless, this proposed regulation satisfies the formal regulatory analysis requirements.

XVIII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is always difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulations:

A. Air Pollution—Imposition of BPT, BAT, BCT, NSPS, PSES, and PSNS will not create any substantial air pollution problems.

B. Solid Waste—EPA estimates that coil coating facilities generate 43,900 metric tons of solid wastes (wet basis) per year (1976). These wastes were comprised of treatment system sludges containing toxic metals, including chromium, copper, lead, nickel and zinc.

EPA estimates that the proposed BPT limitations will contribute an additional 45,700 metric tons per year of solid wastes. Proposed BAT and PSES will increase these wastes by approximately 8,100 metric tons per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants.

On the other hand, EPA estimates that implementation of proposed pretreatment standards will result in POTW sludges having commensurately lesser quantities and concentrations of toxic pollutants. POTW sludges will become more amenable to a wider range of disposal alternatives, possibly including beneficial use on agricultural lands. Moreover, disposal of these vastly greater quantities of adulterated POTW sludges would be significantly more difficult and costly than disposal of smaller quantities of wastes generated at individual plant sites.

These wastewater treatment sludges may furthermore be identified as hazardous under the regulations implementing subtitle C of the Resource Conservation and Recovery Act (RCRA). Under those regulations, generators of these wastes must test the wastes to determine if the wastes meet any of the characteristics of hazardous waste (see 40 CFR § 262.11, 45 FR 33142–33143 (May 19, 1980)). The Agency may also list these sludges as hazardous pursuant to 40 CFR § 261.11 (45 FR at 33121 (May 19, 1980), and is likely to do so based upon high concentrations of cadmium in these wastes and the large quantity of wastes generated.

If these wastes are identified as hazardous, they come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulations from the point of generation to point of final disposition. EPA's generator standards would require generators of coil coating wastes to meet containerization, labeling, recordkeeping and reporting requirements; if they dispose of wastes off-site, coil coaters would have to prepare a manifest which will track the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. See 45 FR 33143 (May 19, 1980). The transporter regulations require transporters of coil coating wastes to comply with the manifest system to assure that the wastes are delivered to a permitted facility. See 45 FR 33151–33152 (May 19, 1980). Finally, RCRA regulations establish standards for hazardous waste treatment, storage and disposal facilities allowed to receive such wastes. Final standards for permitted hazardous waste disposal are expected to be promulgated during the fall of 1980. See 45 FR 33154 (May 19, 1980).

Even if these wastes are not identified as hazardous, they still must be disposed of in compliance with the subtitle D open dumping standards, implementing § 4004 of RCRA. See 44 FR 53438 (Sept. 13, 1979).

EPA's Office of Solid Waste recently completed a pilot analysis of the solid waste management and disposal cost required for coil coating to comply with RCRA. The costs of compliance with proposed RCRA regulations were not specifically included in the economic impact analysis for these proposed regulations. However, EPA considered estimated RCRA compliance costs for coil coating when it selected the technology options for these proposed regulations.

C. Consumptive Water Loss—Treatment and control technologies which require extensive recycling and reuse of water may, in some cases, require cooling mechanisms. Where evaporative cooling mechanisms are used, water loss may result and contribute to water scarcity problems, a concern primarily in arid and semi-arid regions. This proposed regulation envisions the evaporative cooling and recycling of relatively small quantities of cooling water. For the average size coil coating plant, this could result in evaporative loss of about 2000 gal/day of water. This is an insignificant quantity of water which does not constitute a significant consumptive water loss.

D. Energy Requirements—EPA estimates that the achievement of proposed BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 0.55 million kilowatt-hour per year. Proposed BCT and BAT limitations are projected to add another 2.84 million kilowatt-hours to electrical energy consumption. To achieve the proposed BPT, BCT and BAT effluent limitations, a typical direct discharger will increase total inergy consumption by less than one percent of the energy consumed for production purposes.

The Agency estimates that proposed PSES will result in a net increase in electrical energy consumption of approximately 3.84 million kilowatt-hours per year. To achieve proposed PSES, a typical existing indirect discharger will increase energy consumption less than one percent of the total energy consumed for production purposes.

The energy requirements for NSPS and PSNS are estimated to be similar to energy requirements for BAT. However, this can only be quantified in kwh/year after projections are made for new plant construction.

XIX. Best Management Practices (BMP)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMP"), described under Authority and Background. EPA intends to develop BMPs which: 1) are applicable to all industrial sites; 2) are applicable to a designated industrial category; and 3) offer guidance to permit authorities in establishing MBMPs required by unique circumstances at a given plant.

EPA is not now considering promulgating BMP specific to coil coating.

XX. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra*, and *Corn Refiners Association, et al.* v. *Costle*, No. 78-1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits, and has recently promulgated NPDES regulations which include upset and bypass permit provisions. See 40 CFR 122.60. 45 FR 33290 (May 19, 1980). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. Permittees in coil coating will be entitled to the general upset and bypass provisions in NPDES permits. Thus these proposed regulations do not address these issues.

XXI. Variances and Modifications

Upon the promulgation of final regulations, the numerical effluent limitations for the appropriate subcategory must be applied in all federal and state NPDES permits thereafter issued to coil coating direct dischargers. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

For the BPT and BCT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra; EPA* v. *National Crushed Stone Association, et al.* ——— U.S. ——— (No. 79-770, decided Dec. 2, 1980). This variance recognizes that there may be factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. This variance clause was originally set forth in EPA's 1973-1976 industry regulations. It now will be included in the general NPDES regulations and will not be included in the coil coating or other specific industry regulations. See the NPDES regulation, 40 CFR 125, Supart D, 44 FR 32854, 32893 (June 7, 1979) and 45 FR 33512 (May 19, 1980) for the text and explanation of the "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations *for non-toxic and nonconventional pollutants* are subject to modifications under Sections 301(c) and 301(g) of the Act. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 43 FR 40859 (Sept. 13, 1978). Under Section 301(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants. Likewise, limitations on nonconventional pollutants used as "indicators" for toxic pollutants are not subject to Section 301(c) or Section 301(g) modifications.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs. See 40 CFR §§ 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR § 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont* v. *Train, supra*.

XXII. Relationship to NPDES Permits

The BPT, BAT, BCT, and NSPS limitations in this regulation will be applied to individual coil coating plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of these regulations and NPDES permits.

One matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations, guidelines and standards Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of this regulation and before June 30, 1981 must include a "re-opener clause," providing for permits to be modified to incorporate "toxics" regulations when they are promulgated. Permits issued after June 30, 1981 must meet the requirements of Section 301(b)(2) of the Clean Water Act whether or not applicable effluent limitations guidelines have been promulgated. See 40 CFR 122.62(c), 45 FR 33290, 33339, May 19, 1980. At one time EPA had a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. While EPA continues to encourage EPA and state permit writers to issue short term permits to primary industry dischargers until June 30, 1981, EPA has changed its policy to allow more flexibility. See 45 FR 33340, May 19, 1980. EPA permit writers may issue long-term permits to primary industries even if guidelines have not yet been promulgated provided that the permits require BAT and BCT and contain reopener clauses. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis on consideration of the statutory factors. See *U.S. Steel Corp.* v. *Train*, 556 F. 2d 822, 844, 854 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. See 44 FR 32854, June 7, 1979).

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit issuing authorities. The promulgation of this regulation does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the intiation of enforcement proceedings by EPA is discretionary (*Sierra Club vs Train*, 557 F 2nd 485, 5th Circ. 1977). EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

XXIII. Summary of Public Participation

On September 7, 1979, EPA circulated a draft technical development document to a number of interested parties, including the National Coil Coaters Association and several member firms, the Natural Resources Defense Council (NRDC), and affected state and municipal authorities. This document did not include recommendations for effluent limitations and standards, but rather presented the technical basis for this proposed regulation. A meeting was held in Washington, D.C. on October 23, 1979, for public discussion of comments on this document. A brief summary of these comments follows.

1. Comment: Numerous comments were received indicating that many parts of the draft development document were difficult to follow and understand. Many typographical and minor errors were pointed out as well.

Response: The Agency has substantially modified the development document to improve its clarity and to present technical data and information in a logical and understandable fashion. Many changes were made to correct typographical and the minor errors, and are not addressed specifically in this summary of comments.

2. Comments: Commentors indicated that the capital costs estimates for effluent treatment systems were substantially below the actual costs for constructing waste treatment systems.

Response: The Agency has revised the development document to more clearly state the costing methodology used. Additionally, the Agency has requested detailed information on the example installation cited by comments so that costing allowances and specific costs can be compared to identify specific differences.

3. Comment: One commenter pointed out that the cost of land for a treatment system is not included in the cost estimates.

Response: The amount of land required for treatment systems in the flow range needed for coil coating is quite small and can be made extremely small by appropriate engineering design. Because the minimum area required for treatment is so small, the Agency believes that most, if not all, coil coaters will be able to install the necessary equipment within their present available space.

4. Comment: One commenter questioned the validity of the Agency's assumption that higher influent pollutant loading will not alter the effluent concentration of pollutants achieved by a treatment system.

Response: The Agency examined its records of sampled wastewater treatment performance and studied long-term data for treatment system effluent for two industrial plants with wastewater characteristics similar to coil coating wastewaters. These data, shown in Section VII of the development document, support the Agency's position that achieved effluent concentration for metals is relatively independent of influent concentration.

5. Comment: The practicality of using ultrafiltration and membrane filtration in advanced treatment systems was questioned in view of the reported operational difficulties of using these technologies for solids removal.

Response: The Agency is not proposing the use of these technologies for BAT or NSPS and the development document reflects the changes.

6. Comment: A commenter pointed out that Figure 10-1, the diagram for BAT Levels I and II, did not indicate provision for return of backwash from the polishing filter to the system. The commenter asked if provisions for additional capacity for the backwash had been made in the cost of the system.

Response: The errant diagram for the proposed BAT treatment system has been corrected to show proper handling of backwash. The need to allow additional treatment capacity for backwash is recognized and an allowance for handling backwash is included in costing of the system.

7. Comment: One commenter stated that the discussion of environmental hazards of cyanide does not apply to the coil coating industry because the form used is a complex ferricyanide. Also it was stated that "free" cyanide rather than total cyanide, should be the control parameter for cyanide, based on the Water Quality Criteria publication which selects free cyanide as the criteria pollutant.

Response: EPA recognizes that cyanide complexed as ferricyanide is the form used in some conversion coating formulations for coil coating aluminum. Under exposure to ultraviolet light (i.e. sunlight) the complex cyanide forms decompose to release cyanide ion. Such a process occurring in open waters receiving complexed cyanides will produce the environmentally hazardous cyanide ion. Therefore, the Agency is proposing regulation of total cyanide.

Comment: Two commenters noted that the discussion of polishing filters to be used in BAT Levels I and II, called for achieving 3.8 mg/1 TSS for polishing filters, without satisfactory justification.

Response: EPA's response is incorporated in Section VII of the revised Development Document. The TSS concentrations upon which proposed BAT, TSS mass discharge limitations are based, have been set at 10 mg/1 average and 20 mg/1 maximum.

9. Comment: Commenters questioned the median predicted level of 3.8 mg/1 for suspended solids which was set forth at page 340 of the draft development document.

Response: Section VII of the development document to support this proposed regulation contains data on the operation of five industrial wastewater filtration systems. These data have a mean TSS concentration of 2.6 mg/1 and form the basis of technology performance for the BAT limitations.

10. Comment: One commenter contended that the effluent predicted quality is "ideal" and not predictably achieved.

Response: The limitations proposed in this regulation are based primarily on empirical performance data for the technologies suggested. This empirical data and the variation of regulatory levels is displayed in section VII of the development document.

11. Comment: One commenter questioned the requirement for no-rinse conversion coating at BAT Level II on the grounds that retrofitting existing plants for this process will require extensive replacement of existing equipment at very high capital cost.

Response: The Agency recognized that undetermined production losses would be incurred during retrofitting of the no-rinse system to existing lines. Therefore, this pollutant reduction technology has been eliminated from the proposed BAT system. It is retained in the proposed BDT (NSPS) system for new sources where installation as original design equipment will not impose the burden of production loss.

12. Commenters stated that complex cyanides are used only in conversion coating formulations applied to some aluminum strip and no cyanide is used in cleaning or treating steel or galvanized strip. A commenter stated that the presence of cyanide in raw wastewaters from steel and galvanized lines must be due to analytical methods.

Response: Analytical data from thirteen different laboratories established the presence of cyandie in samples from coil coating facilities. In only one coil coating facility was cyanide detected in inlet water. The presence of cyanide in other facilities is attributed to crossover or carryover of cyanides from aluminum processing solutions to rinse waters used in common for steel and alumiunm or galvanized and aluminum processing. Therefore, provision for cyanide treatment is made only for the aluminum subcategory, but cyanide is regulated in all subcategories to assure that discharges of cyanide from multiple subcategory facilities are limited.

13. Comment: One commenter questioned the impact of no-rinse conversion coating on industrial hygiene contending that it introduces the potential of toxic, fugitive dust in the work place; pointed out that the process has not been FDA approved for use in sanitary coating containers; and contended that the process is not proven and must be further developed.

Response: The Agency has reviewed the chemicals used in no-rinse conversion coating formulations and finds that they are essentially identical to the kinds of chemicals used in conventional conversion coating formulations. Hence it appears that there is no more likelihood of potential, toxic, fugitive dust in the work place from no-rinse conversion coating than from conventional conversion coating solutions. EPA does not expect that there will be problems in obtaining FDA approval when application is made for such approval. The no-rinse process is being used in three commercial plants in the United States leaving little doubt about its commercial availability and development.

14. Comment: Commenters stated that many technologies discussed such as starch xanthate, ion exchange, evaporation and chromium regeneration are not usable technologies in coil coating.

Response: Although these (and several other technologies) are discussed the Agency has not relied upon them as a basis for this proposed regulations even though they are discussed in the development document. These technologies are discussed in the development document because they may have some merit and applicability in specific or special situations.

15. Comment: One commenter contended that the oil removal techniques, as described, are incomplete and that they do not include the techniques of acid cracking and polyelectrolite addition to remove emulsified oils.

Response: On the bases of sampling data collected from coil coating plants it appears that oil skimming in conjunction with other chemical treatments will adequately remove oil to meet the limitations. If however a particular plant chooses to use a special or unusual oil, appropriate technology, such as deemulsification, may need to be applied at the plant to meet the effluent standards.

16. Comment: Industry comments contend that the application of water conserving techniques do not achieve the water rates used as a basis for limitations.

Response: As discussed in Sections IX and X the water use rates on which these limitations are based are the median water flows for each subcategory as taken from the industry supplied data. This means that half of the plants in the industry are presently meeting the overall water use on which BPT is based. Further the BAT water flow is based on recirculation and reuse of the quench water stream. This reduces the wastewater discharge potential by 60 to 70 percent without reducing the amount of water which is used for cleaning and conversion coat rinses.

17. Comment: One commenter stated that dissolved metals should be regulated rather than total metals. The basis for this statement was that all discussions in the report deal with dissolved salts of the metals rather than the metals themselves.

Response: The Agency recognizes that dissolved metal ions are environmentally hazardous entities. However, the metallic elements and the undissolved compounds of these elements are subject to different sets of conditions after they leave the treatment system. Most metallic particles readily oxidize in the oxygen-containing waters of receiving water bodies. In receiving waters, the oxidized metal particles and undissolved metal compounds dissolve to produce the more environmentally hazardous ionic species. Only a few metals, such as gold, would not oxidize in usual receiving water bodies, but even gold compounds could dissolve. Thus, total metals are regulated.

18. Comment: It was suggested that special (presumably less stringent) limitations be established to facilitate treatment of coil coating wastewaters with other process wastewaters in large integrated facilities.

Response: The Agency does not object to the joint treatment of compatible wastewaters when appropriate. The Agency does insist that the treatment afford wastewaters treated jointly be such that the amount of pollutants discharged from joint treatment be not greater than allowed by the sum of the individual discharge limitations.

XXIV. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be specifically addressed and particularly asks that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

The Agency is now considering regulating the production of two piece beverage type cans (either aluminum or steel) as a subcategory of the coil coating category. Some can making processes were originally projected to be part of the aluminum forming category. Information gathered under the aluminum forming data collection effort indicated that can making does not correspond to any other aluminum forming operation. However, the can making process is very similar to the coil coating process and would fit in better as a subcategory in the coil coating category. Both industries prepare the metal by cleaning baths and rinsing, apply a chemical conversion coat, and each may paint the product. Both processes are done on a continuous motion basis. Coil coating uses a continuous strip moving through the process steps, while can making uses a continuous web of cans. Similar treatment of the wastewaters would be probable due to the similarities in the processes. The Agency recognizes that factors are somewhat different in can making than in coil coating and is soliciting comments on the general issue of adding can making to the coil coating category and on the applicability of three specific items: the coil coating regulatory methodology, the treatment methods recommended, and the production normalizing factor.

The Agency is continuing to seek additional data to support these proposed limitations. The Agency specifically solicits long term sampling data which will help to better define the operability of the treatment technologies relied upon for regulation.

In order to determine the economic impact of this regulation, the Agency has calculated the cost of installing BPT, BAT, PSES, NSPS, and PSNS for each coil coating facility for which data was available. The cost of BCT for the steel and galvanized subcategories is the same as BAT; the cost for aluminum is the same as BPT. The details of the cost estimations are outlined in the Technical Development Document. Based on these estimates, the Agency has determined that no adverse economic burden will result from these regulations. Informal review of the Draft Technical Development Document by industry revealed that industry considers the cost estimates are too low. The Agency invites comments on this issue and requests that commenters submit any relevant cost data to the Agency.

The treatment effectiveness data set forth in the Technical Development Document is based on results of Agency sampling of the raw wastewaters and treated effluents from a broad range of plants generating similar wastewaters. The Agency invites comments on the treatment effectiveness, and requests data (especially paired raw wastewater-effluent data) from plants having well operated BPT or BAT treatment systems.

The Agency considered regulating TSS as an indicator for removal of small amounts of metals, and oil and grease as an indicator for removal of small amounts of organics. As proposed, the regulation will use oil and grease as an indicator, but will not use TSS as an indicator. The Agency invites comments on this approach and suggestions for alternative approaches.

The Agency is considering adding an alternative regulatory strategy. The proposed regulatory strategy calls for meeting numerical limits for each of several specific metals and other pollutants. The additional alternative would require control of a few (two or three) metals plus close control of pH and total suspended solids (TSS). Such an alternative could reduce analytical costs of monitoring. The Agency invites comments on the inclusion of such optional alternative in the regulations.

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

Appendix A.—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act

Agency—The U.S. Environmental Protection Agency

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act

BDT—The best available demonstrated control technology processes, operating methods, or other alternatives, including where practicable, a standard permitting no discharge of pollutants under section 306(a)(1) of the Act.

BMP—Best management practices under Section 304(e) of the Act

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Public Law 95-217)

Direct discharger—A facility which discharges pollutants into waters of the United States

Indirect discharger—A facility which introduces pollutants into a publicly owned treatment works

NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act

NSPS—New source performance standards under Section 306 of the Act

POTW—Publicly owned treatment works

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act

PSNS—Pretreatment standards for new sources of direct discharges under Section 307 (b) and (c) of the Act

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, as amended.

Appendix B.—Toxic Pollutants Considered for Specific Limitation

(a) Subpart A—Steel Basis Material Subcategory

039 Fluoranthene
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzo-pyrene)
074 3-4Benzofluoranthene (benzo(b)fluoranthene
075 11,12-benzofluoranthene (benzo(b)fluoranthene
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene)
083 Indeno(1,2,3-cd) pyrene (2,3,-o-pheynylene pyrene)
084 Pyrene
087 Trichloroethylene
118 Cadmium
119 Chromium
121 Cyanide, Total
122 Lead
124 Nickel
128 Zinc

(b) Subpart B—Galvanized Basis Material Subcategory

039 Fluoranthene
072 1,2,-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzo-pyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene

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081 Phenanthrene
082 1,2,5,6-dibenzanthracene (dibenzo(,h)anthracene)
083 Indeno(1,2,3-cd) pyrene 2,3-o-pheynylene pyrene)
084 Pyrene
087 Trichloroethylene
118 Cadmium
119 Chromium
120 Copper
121 Cyanide, Total
122 Lead
124 Nickel
128 Zinc

(c) Subpart C—Aluminum Basis Material Subcategory

118 Cadmium
119 Chromium
120 Copper
121 Cyanide, Total
122 Lead
128 Zinc

Appendix C.—Toxic Pollutants Not Detected

(a) Subpart A—Steel Basis Material Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
023 Chloroform (trichloromethane)
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis (2-chloroisopropyl) ether
043 Bis (2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
048 Dichlorobromomethane
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachloromyclopentadiene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB-1242 (Arochlor 1242)
107 PCB-1254 (Arochlor 1254)
108 PCB-1221 (Arochlor 1221)
109 PCB-1232 (Arochlor 1232)
110 PCB-1248 (Arochlor 1248)
111 PCB-1260 (Arochlor 1260)
112 PCB-1016 (Arochlor 1016)
113 Toxaphene
116 Asbestos
117 Beryllium
125 Selenium
127 Thallium
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(b) Subpart B—Galvanized Basis Material Subcategory

001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
013 1,1-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
023 Chloroform (trichloromethane)
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4,-demethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis (2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
044 Methylene chloride (dichloromethane)
045 Methyl chloride (dichloromethane)
046 Methyl bromide (Bromomethane)
047 Bromoform (tribromomethane)
048 Dichlorobromomethane
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachloromyclopentadiene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
065 Phenol
085 Tetrachloroethylene
086 Toluene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB-1242 (Arochlor 1242)
107 PCB-1254 (Arochlor 1254)
108 PCB-1221 (Arochlor 1221)
109 PCB-1232 (Arochlor 1232)
110 PCB-1248 (Arochlor 1248)
111 PCB-1260 (Arochlor 1260)
112 PCB-1016 (Arochlor 1016)
113 Toxaphene
114 Antimony
115 Arsenic
116 Asbestos
117 Beryllium
123 Mercury
125 Selenium
126 Silver
127 Thallium
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(c) Subpart C—Aluminum Basis Material Subcategory

001 Acenaphthene

002 Acrolein
003 Acrylonitrile
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
011 1,1,1-trichlorethane
012 Hexachloroethane
013 1,1-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
023 Chloroform (trichloromethane)
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis (2-chloroisopropyl) ether
043 Bis (2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
048 Dichlorobromomethane
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053Hexachloromyclopentadiene
054 Isophorone
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
065 Phenol
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-poly-chlorinated biphenyls)
106 PCB-1242 (Arochlor 1242)
107 PCB-1254 (Arochlor 1254)
108 PCB-1221 (Arochlor 1221)
109 PCB-1232 (Arochlor 1232)
110 PCB-1248 (Arochlor 1248)
111 PCB-1260 (Arochlor 1260)
112 PCB-1016 (Arochlor 1016)
113 Toxaphene
114 Antimony
115 Arsenic
116 Asbestos
117 Beryllium
123 Mercury
125 Selenium
126 Silver
127 Thallium
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix D.—Toxic Pollutants Detected Below the Nominal Quantification Limit

(a) Subpart A—Steel Basis Material Subcategory

004 Benzene
038 Ethylbenzene
044 Methylene chloride (dichloromethane)
071 Dimethyl phthalate
085 Tetrachloroethylene
086 Toluene
123 Mercury

(b) Subpart B—Galvanized Basis Material Subcategory

069 Di-n-octyl phthalate
071 Dimethyl phthalate

(c) Subpart C—Aluminum Basis Material Subcategory

004 Benzene
039 Fluoranthene
044 Methylene chloride (dichloromethane)
055 Naphthalene
069 Di-n-octyl phthalate
085 Tetrachloroethylene
086 Toluene
087 Trichloroethylene

Appendix E.—Toxic Pollutants Detected in Environmentally Insignificant Amounts

(a) Subpart A—Steel Basis Material Subcategory

011 1,1,1-trichlorethane
013 1,1-dichloroethane
034 2,4-dimethylphenol
054 Isophorone
055 Naphthalene
065 Phenol
066 Bis(2-ethylhexyl)phthalate
067 Butyl benzyl phthalate
068 Di-N-Butyl Phthalate
069 Di-n-octyl phthalate
070 Diethyl Phthalate
114 Antimony
115 Arsenic
120 Copper
126 Silver

(b) Subpart B—Galvanized Basis Material Subcategory

011 1,1,1-trichlorethane
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
054 Isophorone
055 Naphthalene
066 Bis(2-ethylhexyl)phthalate
067 Butyl benzyl phthalate
068 Di-N-Butyl Phthalate
070 Diethyl Phthalate

(c) Subpart C—Aluminum Basis Material Subcategory

066 Bis(2-ethylhexyl)phthalate
067 Butyl benzyl phthalate
068 Di-N-Butyl Phthalate
070 Diethyl Phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4,benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene (dibenzo(,h)anthracene)
083 Indeno(1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)
084 Pyrene
124 Nickel

EPA proposes to add Part 465 to Title 40 of the Code of Federal Regulations to read as follows:

PART 465—COIL COATING POINT SOURCE CATEGORY

General Provisions

Sec.
465.01 Applicability
465.02 General definitions
465.03 Monitoring and reporting requirements [Reserved]

Subpart A—Steel Basis Material Subcategory

465.10 Applicability; description of the steel basis material subcategory.
465.11 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
465.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
465.13 New source performance standards (NSPS).
465.14 Pretreatment standards for existing sources (PSES).
465.15 Pretreatment standards for new sources (PSNS).
465.16 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

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Subpart B—Galvanized Basis Material Subcategory

465.20 Applicability; description of the galvanized basis material subcategory.
465.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
465.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
465.23 New source performance standards (NSPS).
465.24 Pretreatment standards for existing sources (PSES).
465.25 Pretreatment standards for new sources (PSNS).
465.26 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart C—Aluminum Basis Material Subcategory

465.30 Applicability; description of the aluminum basis material subcategory.
465.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
465.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
465.33 New source performance standards (NSPS).
465.34 Pretreatment standards for existing sources (PSES).
465.35 Pretreatment standards for new sources (PSNS).
465.36 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (The "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 465.01 Applicability.

This part applies to any coil coating facility which discharges a pollutant to waters of the United States or which introduces pollutants to a publicly owned treatment works.

§ 465.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Coil" means a strip of basis material rolled into a roll for handling.

(b) "Coil coating" means the process of converting basis material strip into coated stock. Usually cleaning, conversion coating, and painting are performed on the basis material. This regulation covers processes which perform any two or more of the three operations.

(c) "Basis material" means the coiled strip which is processed.

(d) "Area processed" means the area actually exposed to process solutions. Usually this includes both sides of the metal strip.

(e) "Steel basis material" means cold rolled steel, hot rolled steel, and chrome, nickel and tin coated steel which are processed.

(f) "Galvanized basis material" means zinc coated steel, galvanized, brass and other copper base strip which is processed in coil coating.

(g) "Aluminum basis material" means aluminum, aluminum alloys and aluminum coated steels which are processed in coil coating.

(h) "BPT" means the best practicable control technology currently available under Section 304(b)(1) of the Act.

(i) "BAT" means the best available technology economically achievable under Section 304(b)(2)(B) of the Act.

(j) "NSPS" means new source performance standards under Section 306 of the Act.

(k) "PSES" means pretreatment standards for existing sources, under Section 306(b) of the Act.

(l) "PSNS" means pretreatment standards for new sources, under Section 306(c) of the Act.

(m) "BCT" means the best conventional pollutant control technology, under Section 304(b)(4) of the Act.

§ 465.03 [Reserved]

Subpart A—Steel Basis Material Subcategory

§ 465.10 Applicability; description of the steel basis material subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from coil coating of steel basis material coils.

§ 465.11 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

Subpart A

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m^2 (lb/1,000,000 ft^2) of area processed	
Cadmium	0.18 (0.036)	0.089 (0.018)
Chromium	5.42 (1.11)	1.95 (0.40)
Copper	5.78 (1.18)	2.34 (0.48)
Cyanide, Total	0.65 (0.13)	0.27 (0.056)
Lead	0.30 (0.061)	0.15 (0.03)
Nickel	4.27 (0.87)	3.23 (0.66)
Zinc	4.44 (0.91)	1.93 (0.39)
Iron	6.43 (1.32)	2.19 (0.45)
Oil and Grease	59.2 (12.1)	29.6 (6.07)
TSS	104. (21.2)	74.1 (15.2)

pH—Within the range of 7.5 to 10.0 at all times.

§ 465.12 Effluent limitations representiong the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR §§125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

Subpart A

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/μ^2 (lb/1,000,000 ft^2) of area processed	
Cadmium	0.050 (0.010)	0.024 (0.005)
Chromium	.33 (.067)	.12 (.025)
Copper	1.59 (.33)	64. (.13)
Cyanide, Total	.17 (.035)	.073 (.015)
Lead	.12 (.025)	.054 (.011)
Nickel	.78 (.16)	.35 (.072)
Zinc	.84 (.17)	.37 (.075)
Iron	2.64 (.54)	.90 (.18)
Oil and Grease	12.2 (2.49)	12.2 (2.49)

§ 465.13 New source performance standards.

Any new source subject to this subpart must achieve the follwoing performance standards:

(a) There shall be no discharge of wastewater pollutants from conversion coating operations.

(b) The discharge of wastewater pollutants from all coil coating operations other than conversion coating operations shall not exceed the values set forth below:

Subpart A

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/µ² (lb/1,000,000 ft²) of area processed	
Cadmium	0.014 (0.003)	0.007 (0.001)
Chromium	.094 (.019)	.035 (.007)
Copper	.46 (.094)	.19 (.038)
Cyanide, Total	.052 (.01)	.021 (.004)
Lead	.035 (.007)	.015 (.003)
Nickel	.22 (.046)	.1 (.021)
Zinc	.24 (.049)	.11 (.021)
Iron	.75 (.15)	.26 (.053)
Oil and Grease	3.49 (.72)	3.49 (.72)
TSS	5.24 (1.07)	3.49 (.72)
pH—Within the range of 7.5 to 10.0 at all times.		

§ 465.14 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR § 403.13, an existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The provision of 40 CFR Part 403.6(c) and Appendix A, B.2.e requiring that pretreatment standards be established as concentration is set aside for this subpart. The mass wastewater pollutants in coil coating process wastewater introduced into a POTW shall not exceed the following values:

Subpart A

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/µ² (lb/1,000,000 ft²) of area processed	
Cadmium	0.050 (0.010)	0.022 (0.005)
Chromium	.33 (.067)	.12 (.025)
Copper	1.59 (.33)	.64 (.13)
Cyanide, Total	.18 (.037)	.073 (.015)
Lead	.12 (.025)	.054 (.011)
Nickel	.78 (.16)	.35 (.072)
Zinc	.84 (.17)	.37 (.075)

§ 465.15 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The provision of 40 CFR Part 403(c) and Appendix A, B.2.e. requiring that pretreatment standards be established as concentration is set aside for this subpart. The mass wastewater pollutants in coil coating process watewater introduced into a POTW shall not exceed the following values:

Subpart A

Pollutant of pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.014 (0.003)	0.007 (0.001)
Chromium	.094 (.019)	.035 (.007)
Copper	.46 (.094)	.19 (.004)
Cyanide, Total	.052 (.01)	.021 (.004)
Lead	.035 (.007)	.015 (.003)
Nickel	.22 (.046)	.1 (.021)
Zinc	.24 (.049)	.11 (.021)

§ 465.16 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representating the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

Subpart A

Pollutant of pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Oil and Grease	12.2 (2.49)	12.2 (2.49)
TSS	18.2 (3.73)	12.2 (2.49)
pH—Within of 7.5 to 10.0 at all times.		

Subpart B—Galvanized Basis Material Subcategory

§ 465.20 Applicability; description of the galvanized basis material subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from coil coating of galvanized basis material coils.

§ 465.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practical control technology currently available:

Subpart B

Pollutant of pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.2 (0.041)	0.1 (0.021)
Chromium	6.13 (1.26)	2.21 (.45)
Copper	6.53 (1.34)	2.65 (.54)
Cyanide, Total	.74 (.15)	.3 (.062)
Lead	.34 (.069)	.17 (.034)
Nickel	4.82 (.99)	3.66 (.75)
Zinc	5.02 (1.03)	2.18 (.45)
Iron	7.27 (1.49)	2.48 (.51)
Oil and Grease	67.0 (13.7)	33.5 (6.86)
TSS	117.2 (24.)	83.7 (17.1)
pH—Within of 7.5 to 10.0 at all times.		

§ 465.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subject must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

Subpart B

Pollutant of pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.049 (0.010)	0.022 (0.005)
Chromium	.33 (.067)	.12 (.025)
Copper	1.56 (.32)	.64 (.13)
Cyanide, Total	.17 (.035)	.072 (.015)
Lead	.12 (.025)	.053 (.011)
Nickel	.77 (.16)	.35 (.072)
Zinc	.83 (.17)	.36 (.074)
Iron	2.61 (.53)	.88 (.18)
Oil and Grease	12.1 (2.47)	12.1 (2.47)

§ 465.23 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards.

(a) There shall be no discharge of wastewater pollutants from conversion coating operations.

(b) The discharge of wastewater pollutants from all coil coating operations other than coversion coating operations shall not exceed the values set forth below:

Subpart B

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.018 (0.004)	0.009 (0.002)
Chromium	.12 (.024)	.043 (.009)
Copper	.56 (.12)	.23 (.047)
Cyanide, Total	.06 (.012)	.026 (.005)
Lead	.043 (.009)	.019 (.004)
Nickel	.28 (.056)	.12 (.026)
Zinc	.3 (.061)	.13 (.026)
Iron	.93 (.19)	.32 (.065)
Oil and Grease	4.29 (.088)	4.29 (.88)
TSS	6.44 (1.32)	4.29 (.88)

pH—Within the range of 7.5 to 10.0 at all times.

§ 465.24 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR § 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The provision of 40 CFR Part 403.6(c) and Appendix A, B.2.e requiring that pretreatment standards be established as concentration is set aside for this subpart. The mass wastewater pollutants in coil coating process wastewater introduced into a POTW shall not exceed the following values:

Subpart B

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.049 (0.010)	0.022 (0.005)
Chromium	.33 (.067)	.12 (.025)
Copper	1.56 (.32)	.64 (.13)
Cyanide, Total	.18 (.035)	.072 (.015)
Lead	.12 (.025)	.053 (.011)
Nickel	.77 (.16)	.35 (.072)
Zinc	.83 (.17)	.36 (.074)

§ 465.25 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The provision of 40 CFR Part 403(c) and Appendix A, B.2.e requiring that pretreatment standards be established as concentration is set aside for this subject. The mass wastewater pollutants in coil coating process waste water introduced into a POTW shall not exceed the following values:

Subpart B

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.018 (0.004)	0.008 (0.002)
Chromium	.12 (.024)	.043 (.009)
Copper	.56 (.12)	.23 (.047)
Cyanide, Total	.06 (.012)	.026 (.005)
Lead	.043 (.009)	.019 (.004)
Nickel	.28 (.056)	.12 (.026)
Zinc	.3 (.061)	.13 (.026)

§ 465.26 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

Subpart B

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	mg/m² (lb/1,000,000 ft²) of area processed	
Oil and Grease	12.1 (2.47)	12.1 (2.47)
TSS	18.1 (3.70)	12.1 (2.47)

pH—Within the range of 7.5 to 10.0 at all times.

Subpart C—Aluminum Basis Material Subcategory

§ 465.30 Applicability; description of the aluminum basis material subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from coil coating of aluminum basis material coils.

§ 465.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT)

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

Subpart C

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m² (lb/1,000,000 ft²) of the area processed	
Cadmium	0.17 (0.035)	0.086 (0.018)
Chromium	5.24 (1.07)	1.89 (.39)
Copper	5.58 (1.14)	2.25 (.46)
Cyanide, Total	.63 (.13)	.26 (.053)
Lead	.29 (.059)	.14 (.029)
Nickel	4.12 (.84)	3.12 (.64)
Zinc	4.29 (.88)	1.86 (.38)
Aluminum	1.83 (.38)	.74 (.15)
Iron	6.21 (1.27)	1.86 (.38)
Oil and Grease	57.3 (11.7)	28.6 (5.86)
TSS	100.0 (20.5)	71.6 (14.7)

pH—Within the range of 7.5 to 10.0 at all times.

§ 465.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

Subpart C

Pollutant or pollutant property	BAT effluent limitations	Average of daily values for 30 consecutive sampling days
	Maximum for any 1 day	
	Mg/m² (lb/1,000,000 ft²) of the area processed	
Cadmium	0.040 (0.008)	0.02 (0.004)
Chromium	.26 (.054)	.097 (.02)
Copper	1.27 (.26)	.52 (.11)
Cyanide, Total	.14 (.028)	.058 (.012)
Lead	.097 (.02)	.043 (.009)
Nickel	.62 (.13)	.28 (.058)
Zinc	.67 (.14)	.29 (.06)
Aluminum	.44 (.09)	.18 (.036)
Iron	2.11 (.43)	.72 (.15)
Oil and Grease	9.73 (1.99)	9.73 (1.99)

§ 465.33 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards.

There shall be no discharge of waste water pollutants from conversion coating operations.

The discharge of wastewater pollutants from all coal coating operations other than conversion coating operations shall not exceed the values set forth below:

Subpart C

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.015 (0.003)	0.008 (0.002)
Chromium	.1 (.021)	.038 (.008)
Copper	.5 (.1)	.2 (.041)
Cyanide, Total	.057 (.012)	.023 (.005)
Lead	.038 (.008)	.017 (.003)
Nickel	.24 (.05)	.11 (.023)
Zinc	.26 (.053)	.11 (.023)
Aluminum	.17 (.035)	.068 (.014)
Iron	.82 (.17)	.26 (.05)
Oil and Grease	3.78 (.77)	.378 (.77)
TSS	5.67 (.116)	.378 (.77)

pH—Within the range of 7.5 to 10.0 at all times.

§ 465.34 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The provision of 40 CFR Part 403.6(c) and Appendix A, B.2.e requiring that pretreatment standards be established as concentration is set aside for this subpart. The mass wastewater pollutants in coil coating process wastewater.

Subpart C

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.040 (0.008)	0.02 (0.004)
Chromium	.26 (.054)	.097 (.02)
Copper	1.27 (.26)	.52 (.11)
Cyanide, Total	.14 (.028)	.058 (.012)
Lead	.097 (.02)	.043 (.009)
Nickel	.62 (.13)	.28 (.058)
Zinc	.67 (.14)	.29 (.06)

§ 465.35 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The provision of 40 CFR Part 403(c) and Appendix A, B.2.e requiring that pretreatment standards be established as concentration is set aside for this subpart. The mass wastewater pollutants in coil coating process wastewater introduced into a POTW shall not exceed the following values:

Subpart C

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m² (lb/1,000,000 ft²) of area processed	
Cadmium	0.015 (0.003)	0.008 (0.002)
Chromium	.1 (.021)	.038 (.008)
Copper	.5 (.1)	.2 (.041)
Cyanide, Total	.057 (.012)	.023 (.005)
Lead	.038 (.008)	.017 (.003)
Nickel	.24 (.05)	.11 (.023)
Zinc	.26 (.053)	.11 (.023)

§ 465.36 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

Subpart C

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive sampling days
	Mg/m² (lb/1,000,000 ft²) of area processed	
Oil and Grease	9.73 (1.99)	9.73 (1.99)

pH—Within the range of 7.5 to 10.0 at all times.

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January 12, 1981

Part V

Department of Energy

Economic Regulatory Administration

Reports on Major Electric Utility System Emergencies

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. FRA-R-80-04A]

Reports on Major Electric Utility System Emergencies

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues rules to implement reporting of major electric utility system emergencies pursuant to sections 202(a) and 311 of the Federal Power Act. Section 202(a) of the Federal Power Act authorized the Federal Power Commission (FPC) to take such action as necessary to assure an abundant supply of electric energy throughout the country. Section 311 of the Federal Power Act authorized and directed the FPC to collect data for the purpose of reporting the problems and developments of the electric power industry to the Congress. The DOE Organization Act transferred the responsibilities under sections 202(a) and 311 of the Federal Power Act to the Secretary of Energy. ERA has been delegated authority by the Secretary to receive reports of incidents affecting the reliability of the electric power supply system.

DATES: Effective: January 1, 1981.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Comments and DOE Response.
III. The Final Regulations.
IV. Other Matters.

I. Background

On March 27, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gave notice of a proposed rulemaking pursuant to sections 202(a) and 311 of the Federal Power Act (45 FR 20109) and invited public comments and requests for a public hearing on the proposed rules. On the basis of the many comments received and an intra-agency review of the regulations as initially proposed, ERA determined that the proposed regulations should be revised and reissued. On May 9, 1980, ERA ordered the comment period on the original regulations extended and a public hearing to be held after issuance of the revised proposal.

On August 5, 1980, the ERA issued a revised proposal for regulations covering the reporting of major electric utility system emergencies (45 FR 51833). A public hearing on these proposed regulations was held on September 3, 1980. The DOE received 13 written comments on the proposed regulations. The commenting parties made several suggestions, resulting in some changes in the regulations issued today.

II. Discussion of Comments and DOE Response

The following is a discussion of comments received and the DOE's response to these comments.

A. General Comments

Duke Power Company commented that the proposed rule does not discuss the role of distribution systems and, therefore, problems occurring on the distribution system should not be reported. DOE points out that §§ 205.351 (c) & (e) require a report when the specified amount of firm load is affected regardless of where on the system the problem occurs. Further, § 205.351(f) requires a report when the specified number of customers experience an outage of three hours or longer. In these cases, problems occurring on the distribution system which meet the specified criteria are to be reported.

The Edison Electric Institute commented that the proposed reporting requirements, the information collected, and the type of Federal emergency assistance that can be provided do not contribute to the continuity of service to customers. DOE disagrees with this comment. Federal assistance may, in fact, be able to speed restoration activities following a disruption. Reports of this tpe also assist in insuring the continuity of government functions. Further, DOE believes that there have been tangible benefits to system reliability as a result of detailed investigations conducted into the causes of reported disturbances.

The Edison Electric Institute also questioned the DOE finding that the proposed rule is nonsignificant, since they estimate that it may as much as double the reporting effort and associated costs. DOE estimates that the number of reports will increase by up to 50 percent. However, even if the reporting does increase by 100 percent, DOE finds that the incremental costs would still not be in excess of $100 million per year. Therefore, DOE still finds this rule to be nonsignificant within the meaning of the DOE procedures implementing Executive Order 12044, "Improving Government Regulations."

B. General Purpose § 205.350

Duke Power Company commented that this section did not address DOE's emergency powers under section 202(c) of the Federal Power Act or wartime situations. They therefore suggested that DOE review this rule in its entirety to determine if this proposed action is within DOE's authority.

The Federal emergency response measures referred to in § 205.350 involve making government resources available (e.g., aircraft, trucks, portable electric generators, etc.) that may be of assistance in service restoration efforts following a major interruption. DOE's emergency authorities under section 202(c) of the Federal Power Act or wartime situations are contained in separate regulations. This proposed reporting rule is implemented pursuant to DOE's responsibilities under sections 202(a) and 311 of the Federal Power Act.

C. Reporting Requirements § 205.351

1. General.—The Edison Electric Institute suggested that all the reporting times be changed to within three days, or as soon thereafter as practicable. Carolina Power & Light Company suggested a uniform reporting time of one month following the incident except for data needed to alert other utilities of an impending emergency or when DOE assistance was required.

DOE reviewed all the reporting times and made some changes as discussed under the comments received on specific subsections. However, DOE feels that, due to a need for the Federal government to be promptly informed of certain critical events that occur on the electric energy supply system, it is not possible to make all reporting times uniform.

2. Subsection (a), Conservation Appeals.—The Southern Company suggested that interruptible loads should be excluded from this subsection. The same suggestion was also received from the Southwest Power Pool, Florida Power & Light Company and the Florida Electric Power Coordinating Group.

DOE was persuaded by these comments and this subsection has been changed to exclude interruptible customers except when they are requested to reduce their use of electricity for reasons of maintaining the continuity of service of the bulk electric power supply system.

3. Subsection (b), Voltage Reductions.—The Edison Electric Institute suggested that voltage reductions of less than five percent and load reductions of less than 20 percent not be reportable. They further suggested that voltage reductions be reported when done for reasons of insufficiencies in generating capacity rather than for maintaining the continuity of service. Florida Power & Light Company and the Florida Electric Power Coordinating Group suggested that only intentional voltage reductions be reported.

The amount of load reduction attributable to reducing system voltage is difficult to quantify. Voltage is an important element in the quality of electric service. Variation of the system voltage levels can cause abnormal and excessive flows on certain transmission lines. To accommodate the comments and reduce the reporting burden, this subsection was changed to specify only intentional voltage reductions of three percent or greater.

4. Subsection (c), Load Shedding.—The Southern Company questioned whether reduction of load to a customer under provisions of an interruptible contract would, in some instances, be counted toward the 100 MW limit. DOE intends the phrase "firm customers" to exclude any service under the provisions of an interruptible contract.

The Southwest Power Pool suggests that this subsection be changed to distinguish between "load shedding" and automatic tripping of particular circuit elements. DOE has changed the wording of this subsection to eliminate the phrase "by manual switching, automatic devices, or other means" to clarify this point. Also, the incident is only reportable when done to maintain the continuity of service on the bulk electric power system. This would preclude emergency lockout of a device so as to protect that particular element.

The Southwest Power Pool suggested that the 100 MW limit in this subsection be raised to 200 MW. Gulf States Utilities also requested the raising of this limit to 200 MW but only for utilities with a peak load during the prior year of 3,000 MW or greater. DOE feels that the necessity of shedding 100 MW of load to maintain continuity of service of the bulk power system is a serious enough action to require reporting regardless of the size of the system. Therefore, the limit of 100 MW has been retained.

Florida Power & Light Company and the Florida Electric Power Coordinating Group suggested that load shedding actions only be reported if they affect over 100 MW for 15 minutes or longer. DOE does not agree that incidents lasting for less than 15 minutes are not significant, particularly if there is a trend toward repeated short interruptions. Therefore, no time limit was added to this requirement.

5. Subsection (d), Hazard Reporting.—All of the comments received on this subsection addressed the examples provided. DOE again stresses that these are examples only and are not intended to be an exhaustive list. The judgment of the operating management of the utility is the key element in ascertaining those situations that may represent a hazardous condition on their system. However, the comments were helpful and these examples have been reworded to clarify our intent as discussed below.

The Southwest Power Pool, Florida Power & Light Company, Gulf States Utilities and the Florida Electric Power Coordinating Group all pointed out that large quantities of energy are often transferred into an area on a routine basis without constituting a threat to system reliability, especially for a period as short as one hour. DOE agrees with this point and has reworded example (1) to indicate unscheduled deliveries to supply the load for longer than three consecutive hours.

The Southwest Power Pool commented on example (2) that increases in natural gas or distillate oil use may be a normal occurrence when this is a primary fuel. They also recommended changing the phrase (replacement fuel) "may be a problem" to "is not assured." DOE has changed this example to say "any fuel for generating equipment" rather than just natural gas or distillate oil. The wording "may be a problem" was maintained since this subsection relies on the judgment of the utility and DOE does not want to dictate what would constitute a problem.

Duke Power Company recommended that we define "acts of sabotage" in example (3). This example was changed to read "acts of physical sabotage" and again relies on the judgment of the utility management.

Illinois Power Company suggested that example (4) be modified so that frequency declines resulting in system separation and loss of over 50 MW of firm load should be reported. Florida Power & Light Company and the Florida Electric Power Coordinating Group suggested adding "for 15 minutes or more" to the example. DOE does not feel adopting either of these suggestions would clarify the example. Again, this subsection relies on the judgment of the utility management and DOE experience has been that this judgment has been used in a proper and expeditious manner.

As a result of its own review of the proposed rule and in response to the general comments received, DOE has changed the reporting time under this subsection to the next business day from the three hours originally proposed.

6. Subsection (e), Major Outages.—The Southwest Power Pool commented that only interruptions lasting for over eight hours be reported and that large utilities be defined as those having a prior year peak load of 2000 MW instead of 3000 MW. Commonwealth Edison suggested that this subsection may be redundant with subsection (f) and, if maintained, should require reporting within the same time frame as (f). The Edison Electric Institute (EEI) agreed with Commonwealth Edison that the reporting time was too short. EEI further commented that reportable losses of load due to weather conditions happen so frequently that utilities and DOE would be unduly burdened by this requirement. Therefore, EEI suggested that weather-related outages be excluded, a similar comment also received from the Florida Electric Power Coordinating Group.

Outages affecting 100 MW of load are felt to be significant when they last for over 15 minutes and DOE has not changed this time limit. Further, DOE is not persuaded that the proposed definition of a large utility should be changed and the 3000 MW peak load limit was maintained. While some outages would be reportable under both this subsection and subsection (f), there are other incidents that fall into only one category. Therefore, both subsections have been retained. The reporting time was left at three hours since DOE cannot effectively coordinate any appropriate Federal response or insure the continuity of government unless it receives timely notice. Under the current regulations, weather related outages of 100 MW or greater are reported to DOE and are not so numerous as to be an undue burden. Since some of these outages are reported by large utilities, the new rule should actually decrease the number of these reports. DOE believes that outages caused by weather can cause significant public discomfort and possible injury. They are, therefore, of interest to the Federal government. The requirement for reporting these incidents is retained.

7. Subsection (f), Widespread Outages.—The Edison Electric Institute commented that it is often impossible to determine when the number of customers reaches the threshold since storms interrupt small numbers of

customers in different geographic locations of the same utility's service area. The Florida Electric Power Coordinating Group again suggested that weather-related outages not be reported. The Southwest Power Pool suggested that the time of a reportable outage be raised from three to eight hours and the number of customers be increased from 50,000 to 100,000. The Virginia Electric & Power Company (VEPCO) also suggested that 50,000 customers was too few and recommended changing this to 10 percent of the system's customers. VEPCO further requested clarification of whether this meant the same customers sustaining a continuous three-hour outage of different groups averaging 50,000 customers for three hours. Finally, the company questioned whether there was any reason to report these outages to DOE. Public Service Electric & Gas Company also questioned the need for reporting these occurrences and commented that 50,000 customers was too few.

DOE feels that this reporting criteria is reasonable due to the possibility of significant public socio-economic consequences from such outages. The use of Federal government resources to mitigate the impacts could be appropriate. The final rule has been changed to clarify that only significant incidents affecting the same 50,000 customers continuously for three hours are reportable. The limit of 50,000 customers was maintained but clarified to emphasize that this refers to meters or delivery points rather than number of persons. Since the average residential meter serves two or more people, such an outage would affect at least 100,000 people. This number of citizens is of such significance that the reporting requirement is retained.

8. Subsection (g), Ordered Operating Limitations.—The Florida Electric Power Coordinating Group suggested that only significant deratings or restrictions be reported. Illinois Power Company agreed with this comment and suggested reporting only when the order affected 400 MW of capacity. Commonwealth Edison made the same suggestion as Illinois Power Company with the further stipulation that the lost capacity be necessary to maintain continuity of service. Virginia Electric & Power Company agreed that only shutdowns or limitations that jeopardize the reliability or adequacy of the bulk power supply system should be reported. The Southwest Power Pool suggested that only units representing 20 percent of the system's capacity or 500 MW for more than 10 days be reportable.

DOE agrees with these commentors that only significant restrictions should be reported. The final rule has been changed to require reporting only when the order affects 25 percent or more of the unit's capability. The unit size was left at 400 MW since this constitutes a significant unit on most systems. The final rule was further changed to require an initial report when the limitation is a long-term one based on ambient environmental conditions with further reports required only when a change in the order occurs.

D. Fuel Emergencies § 205.353

The Southwest Power Pool (SPP) commented that this section did not recognize that the downward trend in fuel stocks or hydro storage may be appropriate or desired by the utility. SPP suggested rewording factor (2) to alleviate this problem.

DOE intends (1) and (2) to be general guidelines only. The key phrase in this section is ". . . at a level which would threaten the reliability or adequacy of electric service." Therefore, a downward trend that is desired by the utility would not be reportable. DOE has not changed this section in the final rule.

III. The Final Regulations

The Economic Regulatory Administration of the Department of Energy (DOE) hereby gives notice of the issuance of regulations under the provisions of sections 202(a) and 311 of the Federal Power Act. In accordance with section 202(a) of the Federal Power Act, DOE is responsible for encouraging actions to assure an abundant supply of electric energy throughout the country. Under section 311 of the Federal Power Act, DOE is authorized and directed to collect information regarding the generation, transmission and distribution of electric energy and to report the problems and developments of the electric utility industry to Congress.

The regulations are adopted as proposed except for the modifications described above, and other minor clarifying and conforming modifications.

IV. Other Matters

The DOE has determined that this rulemaking is nonsignificant as that term is used in Executive Order 12044 and DOE Order 2030. The rule is not considered likely to have a major impact as defined by Executive Order 12044, as amplified in DOE Order 2030. Accordingly, no regulatory analysis has been performed.

Section 404 of the Department of Energy Organization Act (DOE Act) requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary proposes to prescribe rules, regulations and statements of policy of general applicability in the exercise of functions transferred to him under sections 301 and 306 of the DOE Act. The FERC was notified of these regulations on July 17, 1980, and requested to make the necessary determination regarding impact on any function within its jurisdiction. FERC notified ERA on September 11, 1980, that it would not take referral of these regulations.

In consideration of the foregoing, Chapter II of Title 10, Code of Federal Regulations, is amended by establishing sections 205.350–205.355 as set forth below.

Issued in Washington, D.C., on January 5, 1981.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Sections 205.350–205.355 are added to Subpart W of Part 205 to read as follows:

Subpart W—Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions

* * * * *

Report of Major Electric Utility System Emergencies

Sec.

205.350 General purpose.
205.351 Reporting requirements.
205.352 Information to be reported.
205.353 Fuel emergencies.
205.354 Special investigations and reports.
205.355 Contingency planning reports.

Authority: Department of Energy Organization Act, Pub. L. No. 95–91, Stat. 565 (42 U.S.C. Section 7101), Federal Power Act, Pub. L. 66–280, 41 Stat. 1063 (16 U.S.C. Section 792) *et seq.*, Department of Energy Delegation Order No. 0204–4 (42 FR 60726).

Subpart W—Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions

Report of Major Electric Utility System Emergencies

§ 205.350 General Purpose.

The purpose of this rule is to establish a procedure for the Economic Regulatory Administration (ERA) to maintain current information regarding the status of the electric energy supply systems in the United States so that appropriate Federal emergency response measures are implemented in a timely and effective manner. This data also may be utilized in developing legislative recommendations and other reports to the Congress.

§ 205.351 Reporting Requirements.

For the purpose of this section, a report or a part of a report may be m jointly by two or more entities. Every electric utility or other subject entity engaged in the generation, transmiss or distribution of electric energy shall report promptly to the DOE/ERA Electric Power Monitoring Center (EPMC) any events as described in subparagraphs (a) through (g) of this section:

(a) The issuance of any pubic or private request to any customer or the general public to reduce the use of electricity for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. Requests to a customer(s) served under provisions of an interruptible contract are not a reportable action unless the request is made for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ERA shall be notified as soon as practicable, but no later than 24 hours after the issuance of such a request.)

(b) Any intentional reduction of system voltage by 3 percent or greater for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ERA shall be notified as soon as practicable, but no later than 24 hours after the initiation of the action.)

(c) Any load shedding action that results in the reduction of over 100 megawatts (MW) of firm customer load for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. The routine use of load control equipment that reduces firm customer load is not considered to be a reportable action. (ERA shall be notified within three hours after such action is taken if practicable, or as soon thereafter as practicable.)

(d) Any electric power supply equipment or facility failure or other event that, in the judgment of the reporting entity, constitutes a hazard to the current or prospective adequacy and/or reliability of the reporting entity's bulk electric power supply system. (ERA shall be notified as soon as practicable; however reports are expected within one business day after such determination.) Examples of situations which *may* be reportable under this provision could be ones which:

(1) Cause the operating area to be dependent upon neighboring utilities for large quantities of unscheduled electricity deliveries to supply the operating area's loads for longer than three consecutive hours;

(2) Cause a signficant increase in the use of a fuel for generating equipment, such that replacement of this fuel may be a problem;

(3) Are caused by a suspected act of physical sabotage;

(4) A power system frequency decline to 59.7 Hz or lower that results in the loss of any firm customer load.

(e) Any outage that extends for greater than 15 minutes and affects firm loads totaling over 100 MW, or more than 50 percent of the total load being supplied by the reporting entity's system immediately prior to incident, whichever is less. However, utilities with a peak load in the prior year of over 3000 MW are only to report those losses of service to firm loads totaling over 200 MW for greater than 15 minutes. (ERA shall be notified as soon as practicable without unduly interfering with service restoration and, in any event, within three hours after the beginning of the interruption.)

(f) Any significant incident on an electric utility system which results in a continuous outage of three hours or longer to over 50,000 customers (meters, delivery points) or more than one half of the reporting entity's total customers, whichever is less. (ERA shall be notified within 24 hours of the occurrence if practicable, or as soon thereafter as practicable.)

(g) The ordered shutdown or operating limitation by any Federal, State or local government agency of any generating unit with a nameplate rating greater than 400 MW which results in a reduction exceeding 25 percent of the nameplate rating. Long-term limitations based on ambient environmental conditions should be reported initially and thereafter only when a change occurs. (ERA shall be notified as soon as practicable after the issuance of such an order, but not later than the next working day.)

§ 205.352 Information to be Reported.

The power supply data shall be supplied to the EPMC in accordance with the current DOE pamphlet on reporting procedures. The initial report should include the utility name; the area affected; the time of occurrence of the initiating event; the duration or an estimate of the likely duration; an estimate of the number of customers and amount of load involved; and whether any known critical services such as hospitals, military installations, pumping stations, or air traffic control systems, were or are interrupted. To the extent known or suspected, the report shall include a description of the events initiating the disturbance. The ERA may require further clarification during or after restoration of service.

§ 205.353 Fuel Emergencies.

Utilities shall notify the EPMC by telephone whenever a utility or other subject entity determines that a fuel supply emergency exists or is projected to occur. A fuel supply emergency exists when supplies of fuels or hydroelectric storage for generation are at a level or projected to be at a level which would threaten the reliability of adequacy of electric service. The following factors should be taken into account to determine that a fuel emergency exists: (a) Fuel stocks or hydro storage levels are 50 percent or less of normal for that particular time of the year and; (b) a continued downward trend in fuel stocks or hydro storage levels is projected. (ERA shall be notified as soon as practicable, but no later than three days after the determination is made.)

§ 205.354 Special Investigations and Reports.

If directed by ERA's Director of the Division of Power Supply and Reliability in writing and noticed in the **Federal Register**, a utility or other subject entity experiencing a condition described in § 205.351 above shall submit a full report of the technical circumstances surrounding the power system disturbance, including the restoration procedures utilized. The report shall be filed at such time as may be directed by the Director, Division of Power Supply and Reliability.

§ 205.355 Contingency Planning Reports.

(a) When incidents and emergency situations occur, utilities or other subject entities may be required to continue operating with power supply deficiencies or interruptions.

(b) Each electric utility and its appropriate regional Reliability Council or subgroup should prepare and maintain contingency plans for emergency operations including load reductions and curtailments, and should coordinate such procedures with those of neighboring utilities. Such plans should be in a format acceptable to the appropriate State or local government authority. A copy of these plans should be filed with the ERA.

(c) If these plans or procedures contain proprietary information which the utility believes should not be released to the general public, the submitting entity must so state and explain, in writing, the reasons for the requested proprietary treatment.

(d) Because the contingency plans affect consumers and other utilities, and may require local, State or Federal government response, utilities should make their contingency plans available for review by local government emergency action officials.

[FR Doc. 81-908 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

federal register

Monday
January 12, 1981

Part VI

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment and Instruction of Inmates; Proposed Rulemaking and Requests for Comments

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 524, 544, 545 and 547

Control, Custody, Care, Treatment and Instruction of Inmates; Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: The Bureau of Prisons is proposing a set of rules for the management of inmates in Federal correctional institutions. This proposal is part of the Bureau's program to publish in the Federal Register, and subsequently in the Code of Federal Regulations, Bureau rules relating to the control, custody, care, treatment, and instruction of inmates. This installment encompasses the Bureau of Prisons' proposed rules on (1) Classification and Program Review of Inmates, (2) Inmate Library Services, (3) Scholarship Program, and (4) Introduction into Institutions of Special Food or Meals from Outside Sources.

DATE: Comments must be received on or before March 16, 1981.

ADDRESS: Submit comments to Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the **Federal Register** its proposed rules on:

(1) Classification and Program Review of Inmates;

(2) Inmate Library Services;

(3) Scholarship Program; and

(4) Introduction into Institutions of Special Food or Meals from Outside Sources.

The rule on classification and program review of inmates ensures that each inmate receives an initial classification and, thereafter, periodic program reviews. The rule on inmate library services requires inmates be provided library services necessary for educational, cultural, and leisure activity. The rule on Federal Prison Industry's scholarship program is intended to provide an interested inmate with the opportunity to take courses or programs related to that inmate's industrial assignment. The rule on introduction into institutions of special foods or meals from outside sources specifies that special food or meals prepared for and/or served to any group(s) of inmates must ordinarily also be served to that insitution's entire inmate population. The proposed rules are not considered to meet the definition of significant regulations as given in Executive Order 12044.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534. Comments received on or before March 16, 1981 will be considered before final action is taken. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to amend Subchapter B and Subchapter C of 28 CFR, Chapter V as follows: in Subchapter B, add Subpart B to Part 524; in Subchapter C, add Subpart K to Part 544; a new Part 545; and Subpart C to Part 547.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

1. By adding Subpart B to Part 524 to read as follows:

PART 524—CLASSIFICATION OF INMATES

* * * * *

Subpart B—Classification and Program Review of Inmates

Sec.
524.10 Purpose and scope.
524.11 Classification team.
524.12 Procedures for initial classification.
524.13 Program reviews.
524.14 Unscheduled reviews.
524.15 Appeals procedure.
524.16 Study and observation cases.

* * * * *

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart B—Classification and Program Review of Inmates

§ 524.10 Purpose and scope

It is the policy of the Bureau of Prisons to classify each newly committed inmate within four weeks of the inmate's arrival at the institution designated for service of sentence. Subsequent program reviews for each inmate shall be conducted at least once every 90 days. The Warden shall establish procedures to ensure that a newly committed inmate is promptly assigned to a classification team.

§ 524.11 Classification team.

The Warden shall ensure that each department within the institution has the opportunity to contribute to the classification process.

(a) At a minimum, each classification team shall include the unit manager, a casemanager, correctional counselor, and education representative. Where the institution does not have unit management, the classification team shall include a casemanager, correctional counselor, and education representative.

(b) Each member of the classification team shall individually interview the newly arrived inmate within five working days of the inmate's assignment to that team.

§ 524.12 Procedures for initial classification.

(a) The Warden or designee shall ensure that each newly committed inmate is scheduled for initial classification within four weeks of the inmate's arrival at the designated institution.

(b) Staff shall notify an inmate at least 48 hours prior to that inmate's scheduled appearance befor the classification committee. The inmate is expected to attend the initial classification meeting. If the inmate refuses to appear, staff shall document in the record of the meeting the inmate's refusal and, if known, the reasons for refusal.

(c) Staff shall prepare a classification packet on each inmate scheduled to appear before the classification committee. This packet ordinarily shall include information on the apparent needs of the inmate, and shall offer a correctional program designed to meet those needs. With the exception of a work assignment, and as provided in Part 544, Subpart H (Optional Programming), the inmate may choose not to participate in the offered program.

(d) Staff shall complete a program review report at the inmate's initial classification. The inmate is to be provided and sign for a copy of this report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal shall place a signed statement to this effect on the report. Staff shall place a copy of the program review report in the inmate's central file.

(e) Within five working days of the initial classification meeting, staff shall prepare a staff summary, discussing those facts which were available at the time of the initial classification. The staff summary is to include information on the inmate's current offense and prior record, social situation, recommended programs, and community resources. A copy of the staff summary is provided to the inmate, upon the inmate's request.

§ 524.13 Program reviews.

(a) Staff shall conduct a program review for each inmate at least once every 90 days.

(b) Staff shall prepare a program review report to document each program review. The inmate is to sign for and receive a copy of this report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal shall place a signed statement to this effect on the report.

(c) Staff shall notify an inmate of the scheduled program review at least 48 hours prior to a staff originated meeting. An inmate may elect not to attend the program review. If this occurs, staff shall indicate the refusal, and if known, the reasons for refusal on the program review report. An inmate who elects not to appear for a program review is to be provided, and is to sign for, a copy of the program review report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal shall place a signed statement to this effect on the report.

§ 524.14 Unscheduled reviews.

Staff may establish a schedule to ensure that inmates are provided program reviews as required by this rule. Upon request of either the inmate or staff, and with the concurrence of the team chairman, and advanced or previously unscheduled program review may occur.

§ 524.15 Appeals procedure.

An inmate may appeal, through use of the Administrative Remedy Procedure, a decision made at initial classification or at a program review.

§ 524.16 Study and observation cases.

Inmates committed to the custody of the U.S. Attorney General for purposes of study and observation are excluded from the provisions of this rule.

* * * * *

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

2. By adding Subpart K to Part 544 to read as follows:

PART 544—EDUCATION

* * * * *

Subpart K—Inmate Library Services

Sec.
544.100 Purpose and scope.
544.101 Procedures.

Authority: 5 USC 301; 18 USC 4001, 4042, 4081, 4082, 5015, 5039; 28 USC 509, 510; 28 CFR 0.95–0.99.

* * * * *

Subpart K—Inmate Library Services

§ 544.100 Purpose and scope.

The Bureau of Prisons provides inmates within each of its institutions with library services necessary for educational, cultural, and leisure activity. The Warden shall ensure that the institution's inmate library offers an inmate a variety of reading material, to include material which is current and up-to-date.

§ 544.101 Procedures.

(a) The Warden shall designate a staff member (normally the Supervisor of Education) with responsibility for the inmate library.

(b) The inmate library shall offer an inmate a variety of current and up-to-date reading materials, including, but not limited to, periodicals, newspapers, fiction, non-fiction, and reference books.

(c) Where the population of an institution includes inmates of foreign origin, staff shall attempt to provide reading materials in the inmates' language.

(d) The inmate library shall have hours sufficient to provide access by all inmates within the institution. Inmate library services shall also be made available to inmates in special housing units.

3. By adding Part 545 to read as follows:

PART 545—WORK AND COMPENSATION

Subpart A–D—[Reserved]

Subpart E—Scholarship Program

Sec.
545.40 Purpose and scope.
545.41 Eligibility.
545.42 Selection.
545.43 Limitations.

Authority: 5 USC 301; 18 USC 4001, 4042, 4081, 4082, 4126, 5015, 5039; 28 USC 509, 510; 28 CFR 0.95–0.99.

Subpart A–D—[Reserved]

Subpart E—Scholarship Program

§ 545.40 Purpose and scope.

Federal Prison Industries, Inc. (UNICOR) annually awards post-secondary scholarships to selected inmates assigned to FPI, Inc. These scholarships provide an interested inmate with an opportunity to take courses or programs related to the inmate's industrial assignment while still employed by FPI, Inc.

§ 545.41 Eligibility.

(a) The Superintendent of Industries at each institution shall develop application procedures to include, at a minimum, the following considerations.

(1) The inmate shall be assigned as a full-time worker of Federal Prison Industries, Inc.

(2) The inmate shall have received a favorable recommendation from the inmate's immediate industrial supervisor.

(b) The inmate must be accepted by the institution of higher learning where the course or program is to occur.

(c) The inmate meets the relevant institutional requirements (for example custody) for participation.

§ 545.42 Selection.

Scholarship selections shall be made by a three person committee comprised of the Superintendent of Industries, the Supervisor of Education, and the affected Industrial Department head.

§ 545.43 Limitations.

(a) Federal Prison Industries, Inc. may grant up to 150 scholarships annually.

(b) Scholarship amounts may not exceed $200 per semester or quarter.

(c) An inmate may receive no more than three scholarships in any one year.

4. By adding Subpart C to Part 547, to read as follows:

PART 547—FOOD SERVCE

* * * * *

Subpart C—Introduction Into Institutions of Special Food or Meals From Outside Sources

Sec.
547.20 Policy.

Authority: 5 USC 301; 18 USC 4001, 4042, 4081, 4082, 5015, 5039; 28 USC 509, 510; 28 CFR 0.95–0.99.

Subpart C—Introduction Into Institutions of Special Food or Meals From Outside Sources

§ 547.20 Policy

Except as provided in paragraphs (a)-(d) of this section, the Bureau of Prisons requires that special foods or meals prepared for and/or served to any group(s) of inmate also be served to the institution's entire inmate population.

(a) The Warden may exempt from this requirement food which does not enter into the living and functional areas of the institution, but is restricted to the controlled environment of a designated visiting area(s).

(b) Food items sold in the institution's commissary are exempt from the provisions of this rule.

(c) Meals served in accordance with the provision of Part 548, Subpart B (Religious Beliefs and Practices of Committed Offenders) are exempt from the provisions of this rule.

(d) Special foods (e.g., Kosher food, food for medical diet) purchased by food service staff to augment main line foods are exempt from the provisions of this rule.

Dated: January 5, 1981.

Norman A. Carlson,

Director.

[FR Doc. 81-926 Filed 1-9-81; 8:45 am]

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federal register

Monday
January 12, 1981

Part VII

Department of Transportation

Federal Aviation Administration

Airspace Designations; Compilation of Regulations; Correction

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71, 73, 75

[Airspace Docket No. 80-AWA-18]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Establishment of Jet Routes and Area High Routes; Compilation of Regulations

Correction

In FR Doc. 80-40450, appearing at page 402 in the issue of Friday, January 2, 1981, the table of contents on page 403 contains incorrect page numbers. That page is reprinted below with the correct page references.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the Federal Register 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

81203 12-10-80 / TV broadcast stations in Mansfield and Marion, Ohio, changes in table of assignments

INTERIOR DEPARTMENT

Geological Survey—

81562 12-11-80 / Oil, gas, and sulphur operations in the Outer Continental Shelf, lease royalty requirements

Surface Mining Reclamation and Enforcement Office—

82084 12-12-80 / Blasters and members of blasting crews; training and certification programs;

JUSTICE DEPARTMENT

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82154 12-15-80 / Contracts with transportation lines; irregularly operated charter flights

81732 12-12-80 / Right to representation regulations

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81725 12-12-80 / Reduction in force regulations; clarification of policies

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81556 12-11-80 / Filing of disclosure requirements relating to beneficial ownership

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration—

81574 12-11-80 / Adjudicative procedures

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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federal register

Tuesday
January 13, 1981

Highlights

3029 **Alpha-Fetoprotein** HHS/FDA extends deadline for comments to 2-20-81, on the proposed rule to restrict the sale, distribution and use of alpha-fetoprotein test kits and denies request to reschedule hearing scheduled for 1-15-81

2974 **Consumer Protection** FTC releases rule for using energy cost and consumption information used in labeling and advertising of consumer appliances; effective 4-13-81

3034 **Consumer Protection** CPSC proposes to withdraw proposed ban of benzene as currently used in consumer products with certain exceptions; comments by 3-13-81

3194 **Food Stamps** USDA/FNS amends requirements for verifying information in determining household eligibility for benefits; effective 1-13-81 (Part VII of this issue)

2976 **Unemployment Compensation** Labor/ETA alters regulations for Federal-State Unemployment Compensation Program by revising method of computing national and State "on" and "off" indicators for the Extended Benefit Program; effective 2-3-80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

3017 **Grant Programs** EPA prints class deviation from provision of regulations to redefine "nonexpendable personal property"; effective for new awards after 1-14-81

2998 **Excise Taxes** Treasury/IRS provides final rules relating to tax-free sales of articles to be used for, or resold for, further manufacture

2974 **Banking** FRS creates an exception for overdraft credit plans by implementing the Electronic Fund Transfer Act; effective 1-15-81

3073 **Continental Shelf** Interior/GS publishes notices of receipt of proposed development and production plans (3 documents)

2975 **Natural Gas** DOE/FERC stays effective date of 1-1-81, regarding the reimbursement of State severance taxes in the case of first sales of natural gas subject to certain sections of the Act

3077 **Motor Carriers** ICC describes implementation program to increase the participation of minorities in the industry; effective 2-12-81

3037 **Air Rates and Fares** CAB releases order establishing a standard industry fare level

3033 **Environmental Protection** EPA reopens for comment until 2-2-81, the matter of guidelines establishing test procedures for the analysis of pollutants

3136 **Environmental Protection** EPA proposes regulations to limit effluent discharges to waters of the United States from coal mining and coal preparation facilities; comments by 3-16-81 (Part II of this issue)

2977 **Labeling** HHS/FDA stays effective date regarding requirements for designating manufacturer's name on a drug product's label; effective 1-13-81; comments by 3-16-81

3061 **Privacy Act Document** FTC

3107 **Sunshine Act Meetings**

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3136 **Part II, EPA**
3162 **Part III, Commerce/PTO**
3178 **Part IV, Interior/FWS**
3184 **Part V, Interior/FWS**
3188 **Part VI, Interior/FWS**
3194 **Part VII, USDA/FNS**

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Rules and Regulations

Federal Register
Vol. 46, No. 8
Tuesday, January 13, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department; Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The delegations of authority for the Department of Agriculture are revised to reflect the dissolution of the Management Staff and the transfer of the functions performed by that Staff to the Office of Personnel and the Office of Operations and Finance.

EFFECTIVE DATE: January 13, 1981.

FOR FURTHER INFORMATION CONTACT: John W. Fossum, Director, Office of Personnel, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3585.

SUPPLEMENTARY INFORMATION: Responsibility for the Department's management program activities has been transferred to the Office of Personnel and the Office of Operations and Finance. It has been determined that this action will improve the coordination of these activities with existing administrative activities and avoid fragmentation and dilution of effort. Responsibility for organization reviews and analysis, delegations of authority and committee management has been transferred to the Office of Personnel. Responsibility for all other management programs previously delegated to the Management Staff has been transferred to the Office of Operations and Finance. Since this rule relates to internal agency management, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, Improving Government Regulations, and, thus, does not require the preparation of a regulatory impact analysis.

Accordingly, 7 CFR Part 2 is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries and the Director of Economics, Policy Analysis and Budget

1. Section 2.25 is amended by revising paragraph (c)(1), by removing and reserving paragraphs (c)(2) and (c)(5), and by adding new paragraphs (e)(12) through (e)(14) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(c) *Related to management.* (1) Administer the Department's management improvement program including the provision of assistance to agencies through management studies and planning review; review the management and operating policies and processes; search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness and operation of the Department's programs.

(2) [Reserved]

* * * * *

(5) [Reserved]

* * * * *

(e) *Related to personnel.* * * *

(12) Maintain, review and update departmental delegations of authority.

(13) Authorize organizational changes which occur in:

(i) Departmental organizations:

(a) Service or office.

(b) Division (or comparable component).

(c) Branch (or comparable component in departmental centers, only).

(ii) Field organizations:

(a) First organizational level.

(b) Next lower organizational level—required only for those types of field installations where the establishment, change in location, or abolition of same, requires approval in accordance with 1 AR 673.

(14) Formulate and promulgate departmental organizational objectives and policies.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

2. Section 2.75 is amended by adding new paragraphs (a)(20) through (a)(25) and by revising paragraph (a) as follows:

§ 2.75 Director, Office of Operations and Finance.

(a) *Delegations.* Pursuant to § 2.25 (b), (c), and (d), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Operations and Finance:

* * * * *

(20) Administer the Department's management improvement program including the provision of assistance to agencies through management studies and planning review; review the management and operating policies and processes; search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness and operation of the Department's programs.

(21) Administer the Department's management review program. This authority includes the development and promulgation of departmental directives regulating the management review function.

(22) Develop, design, install, and revise systems, processes, work methods, and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(23) Exercise authority under the Department's Acquisition Executive to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in OMB Circular No. A-109, Major Systems Acquisitions. This delegation includes the authority to:

(i) Insure that OMB Circular No. A-109 is effectively implemented in USDA and that the management objectives of the Circular are realized.

(ii) Review the program management of each major system acquisition.

(iii) Review any departmental acquisition for designation as a major system acquisition under A-109.

(24) Formulate and promulgate Department management policies, procedures and regulations.

(25) Promulgate departmental policies, standards, techniques, and procedures for the conduct of reviews and analysis of the utilization of the resources of state and local governments, other Federal agencies and of the private sector in domestic program operation; maintain the departmental inventory of government commercial or industrial activities resulting from such review in accordance with the Office of Management and Budget Circular A-76.

* * * * *

3. Section 2.77 is hereby removed and reserved as follows:

§ 2.77 [Removed and Reserved]

4. Section 2.78 is amended by adding new paragraphs (a)(16) through (a)(18) and a paragraph (b) as follows:

§ 2.78 Director, Office of Personnel.

(a) *Delegations.* * * *

(16) Maintain, review and update departmental delegations of authority.

(17) Authorize organizational changes which occur in:

(i) Departmental organizations:

(*a*) Service or office.

(*b*) Division (or comparable component).

(*c*) Branch (or comparable component in departmental centers, only).

(ii) Field organizations:

(*a*) First organizational level.

(*b*) Next lower organizational level—required only for those types of field installations where the establishment, change in location, or abolition of same requires approval in accordance with 1 AR 673.

(18) Formulate and promulgate departmental organizational objectives and policies.

(b) *Reservations.* The following authority is reserved to the Assistant Secretary for Administration:

(1) Authorize organizational changes occurring in a Department service or staff office which affect the overall structure of that service or office; i.e., require a change to that service or office's overall organization chart.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subpart C:

Dated: January 5, 1981.

Jim Williams,

Acting Secretary of Agriculture.

For Subpart J:

Dated: January 5, 1981.

Joan S. Wallace,

Assistant Secretary for Administration.

[FR Doc. 81-1133 Filed 1-12-81; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

7 CFR Part 722

1981 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to proclaim the result of the national marketing quota referendum with respect to the 1981 crop of extra long staple cotton held during the period December 8-11, 1980, each inclusive. The Agricultural Adjustment Act of 1938, as amended, requires that the result of the referendum be proclaimed within thirty days after the referendum. This rule is needed to satisfy this statutory requirement.

EFFECTIVE DATE: January 7, 1981.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, telephone 202-447-7873. This action was anticipated under the provisions of 7 CFR 722.558-561 and was specifically considered in the Final Impact Statement prepared for these actions. The Final Impact Statement describing the options considered and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's memorandum Number 1955 to implement Executive Order 12044 and has been classified "not significant."

The title and number of the federal assistance program that this final rule applies to are: Title—Cotton Production Stabilization; Number 10.052, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

In accordance with Section 343 of the Agricultural Adjustment Act of 1938, as amended (1938 Act), a referendum with respect to marketing quotas for extra long staple (ELS) cotton was conducted by the Agricultural Stabilization and Conservation Service (ASCS) during the period December 8-11, 1980, to determine whether farmers were in favor of or opposed to the marketing quota proclaimed by the Secretary of Agriculture for the 1981 crop of ELS cotton.

It is essential that this rule be made effective as soon as possible since the proclamation of the result of the referendum is required by Section 343 of the 1938 Act to be made not later than thirty days after the referendum. Accordingly, it is hereby found and determined that compliance with any further rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in this section remains in full force and effect as to the crop to which it was applicable.

Final Rule

Accordingly, 7 CFR 722.564 and the title of the subpart preceding 7 CFR 722.564 are amended to read as follows:

Subpart—1981 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

§ 722.564 Result of the national marketing quota referendum for the 1981 crop of extra long staple cotton.

(a) *Referendum period.* The national marketing quota referendum for the 1981 crop of extra long staple cotton was held by mail ballot during the period December 8 to 11, 1980, each inclusive, in accordance with § 722.561 (45 FR 66911) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 854 farmers engaged in the production of the 1980 crop of extra long staple cotton voted in the referendum. Of those voting, 733 farmers, or 85.8 percent, favored the 1981 national marketing quota, and 121 farmers, or 14.2 percent, opposed the 1981 national marketing quota.

(c) *1981 national marketing quota continues in effect.* The national marketing quota for the 1981 crop of extra long staple cotton of 195,000 bales proclaimed in § 722.558 (45 FR 68911) shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended (7 U.S.C. 1343)).

Signed at Washington, D.C., on January 7, 1981.

Weldon Denny,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-1008 Filed 1-7-81; 4:17 pm]

BILLING CODE 3410-05-M

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7 CFR Part 725

[Amendment 13]

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973-74 and Subsequent Marketing Years

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Correction of final rule.

SUMMARY: This document corrects a previous **Federal Register** document relating to the lease and transfer of tobacco marketing quotas appearing at page 13431 in the issue for Friday, February 29, 1980, by including a citation of authority for its issuance.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, Washington, D.C. 20013, (202) 447-7935.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-6181 appearing at page 13431 in the Federal Register of Friday, February 29, 1980, the authority citation for this document was inadvertently omitted. Accordingly, a citation of authority is added to the document appearing at page 13431 in the **Federal Register** (FR Doc. 80-6181) of Friday, February 29, 1980, immediately preceding the signature of the approving official.

Citation of Authority

Authority: Secs. 301, 313, 314, 316, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1054, as amended, secs. 106-112, 125, 70 Stat. 191, 195, 198 as amended, section 16(e), 70 Stat. 606; (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372, 1377, 1378, 1421, 1813, 1824, 1838), (16 U.S.C. 590p(e)).

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-907 Filed 1-12-81; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A to issue revised Bulletin 345-60, REA Specification for Coaxial Drop and Coaxial Service Entrance Cable, PE-73. This revision reflects improvements in state of the art production and will provide uniform requirements for the production of the cable. Use of this specification will permit REA borrowers to provide the best, most cost-effective CATV possible using state of the art technology.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3827. The Final Impact Analysis describing the options considered in developing this rule and the impact of implementing it is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby issues REA Bulletin 345-60, REA Specification for Coaxial Drop and Coaxial Service Entrance Cable, PE-73. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified not significant. This program is listed in the Catalog of Federal Domestic Assistance as 10.853 Community Antenna Television Loans and Loan Guarantees.

A Notice of Proposed Rulemaking was published in the **Federal Register** on September 19, 1980. However, no public comments were received in response to the notice.

Dated: January 5, 1981.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 81-1126 Filed 1-12-81; 8:45 am]

BILLING CODE 3410-15-M

Office of Environmental Quality

7 CFR Ch. XXXI

Cultural and Environmental Quality; Change of Chapter Head

AGENCY: Office of Environmental Quality, United States Department of Agriculture.

ACTION: Correction of chapter head.

SUMMARY: On Wednesday, September 26, 1979, the Office of Environmental Quality, U.S. Department of Agriculture, published at 44 FR 55327 "Change of Chapter and Part Names." In that Federal Register entry, United States Department of Agriculture was inadvertently left off of the Chapter head. It should be corrected to read as follows:

Chapter XXXI, Office of Environmental Quality, Department of Agriculture.

EFFECTIVE DATE: January 13, 1981.

FOR FURTHER INFORMATION CONTACT: Barry R. Flamm, Director, Office of Environmental Quality, USDA, Washington, D.C. 20250. Phone (202) 447-3965.

Dated: January 7, 1981.

F. T. Holt,

Acting Director, Office of Environmental Quality.

[FR Doc. 81-1279 Filed 1-12-81; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF ENERGY

Office of the Assistant Secretary for Environment

10 CFR Parts 712 and 1020

Grand Junction Remedial Action Criteria; Redesignation of Part and Nomenclature Change

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is amending its regulations to reflect nomenclature changes in the regulations. Executive Order 12044 sets forth a program of regulatory reform to be followed by all executive departments. One element of that program is periodic review of existing regulations. The Department of Energy is committed to review all of its existing

regulations within five years, on a schedule set forth in the **Federal Register** for May 6, 1980, 45 F. Reg. 30448.

DATES: This regulation is effective March 16, 1981.

ADDRESSES: Communications procedures should be addressed to: Dr. William E. Mott, Director, Environmental and Safety Engineering Division, Office of Environment, EV-14, U.S. Department of Energy, Washington, D.C. 20545 (301) 353-3016.

FOR FURTHER INFORMATION CONTACT:

Dr. William E. Mott, Director, Environmental and Safety Engineering Division, Office of Environment, EV-14, U.S. Department of Energy, Washington, D.C. 20545.

Mr. Steven Miller, Office of General Counsel, Forrestal Building, GC-34, 1000 Independence Avenue, N.W., Washington, D.C. 20585, (202) 252-6947.

SUPPLEMENTARY INFORMATION: As part of the commitment, the Department has reexamined the regulations contained in 10 CFR Part 712. These regulations deal with the Department's activities to clean up radiation-emitting mill tailings in the vicinity of Grand Junction, Colorado. This program is expected to continue until 1987. Two minor changes are necessary to remove certain inaccuracies in Part 712 contained in the May 31, 1979, revision. That revision, for example, incorrectly defines the "administrator of Energy Research and Development" rather than the "Secretary of Department of Energy." Due to organization changes, DOE is amending 10 CFR Part 712 to require communication procedures to be addressed to the responsible official rather than the "Director, Division of Safety, Standards, and Compliance, U.S. Department of Energy, Washington, D.C. 20545."

In consideration of the foregoing, Part 712 of Chapter III of Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below:

Issued in Washington, D.C., January 6, 1981.

Ruth C. Clusen,

Assistant Secretary for Environment.

PART 1020—GRAND JUNCTION REMEDIAL ACTION CRITERIA

1. The Authority for these amendments is Section 203, Pub. L. 92-314, 86 Stat. 226.

2. Part 712 is redesignated as new Part 1020 of Chapter X, with §§ 712.1 through 712.10 newly designated as §§ 1020.1 through 1020.10.

3. Section 1020.3(a) (formerly § 712.3(a)) is revised to read as follows:

§ 1020.3 Definitions.

(a) "Secretary" means the Secretary of Energy or his duly authorized representative.

* * * * *

4. Section 1020.4 (formerly § 712.4) is revised to read as follows:

§ 1020.4 Interpretations.

Except as specifically authorized by the Secretary in writing, no interpretation of the meaning of the regulation in this part by an office or employee of DOE other than a written interpretation by the General Counsel will be recognized to be binding upon DOE.

5. Section 1020.5 (formerly § 712.5) is revised to read as follows:

§ 1020.5 Communications.

Except where otherwise specified in this part, all communications concerning the regulations in this part should be addressed to the Director, Environmental and Safety Engineering Division, U.S. Department of Energy, Washington, D.C. 20545.

6. References in § 1020.8 and § 1020.9 (formerly § 712.8 and § 712.9) to "§ 712.7" are changed to refer to "§ 1020.7".

[FR Doc. 81-1123 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R-0326]

Electronic Fund Transfers; Exemptions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form an amendment to Regulation E, which implements the Electronic Fund Transfer Act. The amendment, which was published for comment in proposed form on October 6, 1980 (45 FR 66348), exempts overdraft credit plans from Section 913(1) of the act. That section prohibits a creditor from conditioning an extension of credit on repayment by means of preauthorized debits. The amendment creates an exception for overdraft credit plans, which have historically included an automatic payment feature.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation, contact John C. Wood, Senior Attorney, or Beth Morgan, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412). Regarding the economic impact analysis, contact: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2584).

SUPPLEMENTARY INFORMATION: (1) *General.* Under § 205.3(d) of Regulation E, which implements the Electronic Fund Transfer Act, certain electronic fund transfers that are intra-institutional and that have been preauthorized by the consumer to occur automatically are exempt from the requirements of the act and regulation. This exemption applies to loan payments made from the consumer's account to the financial institution; the financial institution remains subject, however, to Section 913(1) of the act—the "compulsory use" provision. That provision prohibits the conditioning of an extension of credit on the borrower's repayment of the credit by preauthorized electronic fund transfers.

On October 6, 1980, the Board proposed an amendment to the regulation that would create an exception with respect to overdraft credit plans. Under such plans an automatic advance from the financial institution to the consumer's account will occur when the consumer's account is overdrawn. Reciprocally, the plans almost universally have provided for the automatic debiting of a minimum payment during a cycle in which a credit balance is owed by the consumer.

(2) *Comments on proposal.* The Board received approximately 140 comments. All but two supported adoption of the proposed amendment.

A Congressman commented that the impact of permitting preauthorized debits pursuant to an overdraft checking plan is not unduly onerous on consumers. However, he believes that the act unambiguously forbids such a requirement, and that the Board lacks the statutory authority to implement the change. If there is compelling need for such a change, he believes the appropriate course would be for the Board to recommend that the Congress amend the law so that overdraft checking plans are exempt.

The comments in support of the proposal noted some of the benefits that accrue to consumers from overdraft checking plans generally. These include a reduction in charges paid by consumers for returned items or for overdrafts, the ability to obtain credit as it is needed and in smaller increments than might otherwise be available from the institution, and protection against the inconvenience and embarrassment of having items returned for insufficient funds.

With regard to the automatic payment feature, the commenters believe that consumers benefit from the convenience of having minimum payments made automatically, from reduced finance charges since payments are always made on the due dates, and from the absence of late payment charges that characterize many non-automatic payment systems. They assert that under a non-automatic system, delinquencies are generally higher if for no other reason than that consumers forget to mail payments. This likely to occur in cases where consumers are accustomed to having payments take place automatically.

Commenters believe a requirement that financial institutions provide an option for non-automatic payment (if the amendment were not adopted) could lead to the termination of overdraft service, particularly in cases where the added expense of maintaining a dual payment system of automatic and external payments means that the overdraft service cannot be cost-justified. In other cases, again because of cost justification, overdraft service could become unavailable to consumers who now qualify for relatively small credit lines.

Commenters noted that financial institutions benefit from automatic debiting because automatic payments minimize delinquencies, collection costs, and time spent in processing check payments. Providing a different payment option, on the other hand, means setting up a billing program, printing coupons or other payment reminders, special encoding, processing of additional paperwork, and increased collection efforts.

Some institutions reported that they had already implemented a nonautomatic payment option. They find that processing of non-automatic payments is time consuming if done manually, yet expensive to do by computer. These institutions strongly support the amendment because they find that few customers are opting for non-automatic payments, the institution would need to expend additional thousands of dollars to make the dual payment system more efficient, and operation of a non-automatic payment option means continuing costs for them. One bank modified its overdraft plan at a cost estimated between $4,000 and $12,000 and has yet to have a customer request the nonautomated means of payment.

(3) *Economic impact.* Overdraft protection is a service that financial institutions have been providing to consumers at little or no extra cost beyond the cost of the protected account. The cost has been low *in part* because the service is highly automated. The financial institution's computer keeps track of the consumer's balance and credit limit, automatically advancing funds to cover any overdrafts. The computer also automatically debits the consumer's account according to a prearranged schedule to repay the loan.

Under section 904 of the act, setting forth the Board's authority to prescribe regulations, the Board is directed to consider the cost and benefits to consumers and financial institutions and, to the extent practicable, to demonstrate that the consumer protections provided by the regulations outweigh the compliance costs imposed on consumers and financial institutions.

The Board believes that the cost of providing and maintaining a non-automatic payment option is substantial and that it could have an adverse impact on consumers. There is general agreement that the cost could lead to higher service charges or reduced service levels for consumers. In some cases, it could lead to the termination of the overdraft service altogether—to the detriment of consumers. In others, the service could become unavailable to consumers who now qualify for overdraft checking but who might not qualify if an institution adopted stricter standards or set higher minimums for overdraft credit lines.

(4) *Regulatory provision.* After careful consideration of the issues raised, the Board is adopting the amendment as proposed. The Board believes that it has the legal authority to adopt this exception under section 904(c) of the act, which expressly authorizes the Board to provide adjustments and exceptions for any class of electronic fund transfer that in the Board's judgment are necessary or proper to carry out the purposes of the act or to facilitate compliance.

Although the language of section 913(1) appears unequivocal, the Board notes that there is legislative history indicating that exceptions may exist. The Senate report (95th Congress, 2d Session, Report No. 95–915) expressly permits creditors to offer incentives to induce the election of automatic payments. In the case of overdraft credit, the Board believes that the incentives relate in part to the benefits that consumers derive from the availability of overdraft checking. Further, there is little evidence of consumer complaints. It is arguable that the popularity of overdraft credit plans, which almost universally have involved an automatic payment feature is some indication of the acceptability of automatic debiting in the narrow circumstances to which the exception applies.

As adopted, the amendment creates an exception to the compulsory use prohibition with respect to credit extensions under overdraft credit plans, or plans in which an extension of credit occurs automatically to maintain an agreed-upon minimum balance in the consumer's account.

The wording and format of the amendment differ from the proposal that was published in October. The references to sections 913, 915, and 916 have been deleted from the text of § 205.3(d) (2) and (3) and incorporated in a new footnote numbered 1a. This change permits the exception applicable to overdraft credit plans to be stated in a more straightforward, less cryptic manner than was possible under the previous format. The revision to § 205.3(d) is purely editorial, with no change in substance.

A number of commenters noted that under some plans, overdraft extensions of credit are charged to the same open-end account as extensions of credit that the consumer may obtain in other ways. For example, cash advances may be debited directly to the credit line, without going through a checking account. The exemption applies to such plans; it does not seem practicable to try to distinguish between extensions of credit that are triggered under such plans because of the overdraft mechanism and those that are advanced to the consumer by other means.

(5) Pursuant to the authority granted in 15 U.S.C. 1693b, the Board amends Regulation E, 12 CFR Part 205, effective January 15, 1981, by redesignating footnote 1 as footnote 1b and by revising § 205.3(d)(2) and (3) to read as follows:

§ 205.3 Exemptions.

* * * * *

(d) Certain automatic transfers.* * *

(2) Into a consumer's account by the financial institution, such as the crediting of interest to a savings account;[1a]

[1a] The financial institution remains subject to section 913 of the act regarding compulsory use of electronic fund transfers. A financial institution may, however, require the automatic repayment of credit that is extended under an overdraft credit plan or that is extended to maintain a specified minimum balance in the consumer's account. Financial institutions also remain subject to sections 915 and 916 regarding civil and criminal liability.

(3) From a consumer's account to an account of the financial institution, such as a loan payment; *

* * * * *

By order of the Board of Governors, January 8, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-1146 Filed 1-12-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 341

Registration of Transfer Agents

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") has adopted an amendment to its transfer agent registration rule. The amendment eliminates the requirement that transfer agents registered with the FDIC file annual amendments to Item 7 (which includes Schedule B) of their registration form, Form TA-1. The requirement to file annual amendments is being eliminated in anticipation of a comprehensive revision of Form TA-1, which is expected to be published for comment during 1981.

EFFECTIVE DATE: January 13, 1981.

FOR FURTHER INFORMATION CONTACT: John F. Harvey, Trust Section Chief, Division of Bank Supervision, phone 202/389-4295.

SUPPLEMENTARY INFORMATION: The FDIC today adopted an amendment to 12 CFR § 341.2 under the Securities Exchange Act of 1934 (the "Act") to eliminate the requirement that transfer agents registered with the FDIC file annual amendments to Item 7 (which includes Schedule B) of their registration form, Form TA-1.

A. Background

§ 341.2 requires a transfer agent for which the FDIC is the appropriate regulatory agency to apply for registration with the FDIC on, and in accordance with the instructions contained in, Form TA-1.[1] Among other things, § 341.2 requires that Item 7 of Form TA-1 (which includes Schedule B)[2] must be updated within thirty days following the close of any calendar year during which the information has become inaccurate, misleading or incomplete.[3]

B. Statutory Basis, Competitive Considerations and Effective Date

The FDIC, acting pursuant to Sections 2, 17, 17A, and 23(a) of the Act, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a), hereby adopts amendments to paragraph (c) of 12 CFR § 341.2.

In doing so, the FDIC finds that eliminating the requirement that transfer agents file annual amendments to Schedule B reduces the reporting burden on transfer agents registered with the FDIC. The FDIC also finds that the notice and public procedure requirements of Section 553(b)(B) of the Administrative Procedure Act. (5 U.S.C. 553(b)(B)) are impracticable, unnecessary, and contrary to the public interest in this situation and that good cause exists for making these amendments effective immediately upon publication in the **Federal Register** in accordance with Section 553(d) of the Administrative Procedure Act (5 U.S.C. 553(d)).

C. Certain Factors

1. *Competition.* As required by Section 23(a)(2) of the Act, the FDIC has specifically considered the impact which the proposed amendment would have on competition. The FDIC concludes that the amendment would impose no significant burden on competition.
2. *Alternatives Considered.* The alternative considered was to wait until a full revision of Form TA-1 could be completed. The FDIC believes it is preferable to relieve a burden immediately.
3. *Reporting and Recordkeeping.* The amendment eliminates a reporting requirement. It adds no new requirements.
4. *Cost-Benefit Analysis.* The amendment can only reduce the costs to a bank. Therefore, a cost-benefit analysis was not prepared.

By order of the Board of Directors.

Dated: January 5, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

12 CFR Part 341 is amended as follows:

1. The authority citation for Part 341 is revised to read as follows:

Authority: The provisions of this Part 341 and Form TA-1 issued under secs. 2, 17, 17A and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78).

2. In Part 341, § 341.2(c) is revised to read as follows:

§ 341.2 Application for registration as transfer agent.

* * * * *

(c) Within twenty-one calendar days following the date on which any information reported at Items 1-6 of Form TA-1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA-1 correcting the inaccurate, misleading or incomplete information.

* * * * *

[FR Doc. 81-913 Filed 1-12-81; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission appliance labeling rules require that the table in § 305.9 which sets forth the representative average unit energy costs for seven categories of appliances be revised periodically on the basis of updated information provided by the Department of Energy.

This rule revises the Table to incorporate the latest figures for average unit energy costs as published in the **Federal Register** on December 1, 1980, by the Department of Energy.

EFFECTIVE DATE: This revision is effective on April 13, 1981.

FOR FURTHER INFORMATION CONTACT: James Mills, 202-724-1491 or Lucerne D. Winfrey, 202-724-1453, attorneys, Federal Trade Commission, 414 11th Street, N.W., Washington, D.C. 20580

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule that requires the disclosure of energy efficiency or cost information on labels and in retail sales catalogs for seven categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures. The Rule also requires a general disclosure on certain point-of-sale promotional materials of the availability of energy cost of energy efficiency rating information, and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on results of the standardized test procedures. The information obtained by following the test procedures is derived by using representative average unit energy costs provided by the Department of Energy.

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[1] The Securities and Exchange Commission ("SEC"), the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System have adopted a similar registration rule and an identical registration form for transfer agents registered with those agencies.

[2] Registrants are required to list on Schedule B certain securities for which they perform transfer agent functions, the capacities in which they act for those securities, as well as other information.

[3] Section 341.2 also requires Items 1-6 of Form TA-1 to be amended twenty-one calendar days following the date on which the information contained in those items becomes inaccurate, misleading or incomplete. Items 1-6 of Form TA-1 request information regarding registrant's identity and the nature of its transfer agent activities.

Table I, in § 305.9 of the rule, sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in § 305.9(b), the table is intended to be revised periodically on the basis of updated information provided by the Department of Energy.

On December 1, 1980, the Department of Energy published (45 FR 79575) its latest figures for representative average unit energy costs, to be effective January 1, 1981. Consequently, Table I must be updated in order to reflect these most recent cost figures. Accordingly, Table I is revised as follows:

Table 1[1]

	Electricity	Oil	Natural gas	Propane gas
Line:				
1	$0.0564 per kWh	8.9×10^{-6} per Btu	4.26×10^{-6} per Btu	8.62×10^{-6} per Btu.
2	5.64¢ per kWh	124.0¢ per gal	42.6¢ per therm (100 ft ^{3})	78.4¢ per gal.

[1] These figures are based on DOE calculations for 1981 and are subject to change.

Issued: By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1049 Filed 1-12-81; 8:45 am]

BILLING CODE 3610-16-M

FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 271

[Docket No. RM80-21]

Natural Gas First Sale Regulations; Conditional Stay of Effective Date and Granting of Rehearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule; conditional stay of effective date.

SUMMARY: On November 14, 1980, The Federal Energy Regulatory Commission (Commission) issued a final rule in this docket (Order No. 108) (45 FR 76664, November 20, 1980.) That rule amended the Commission's regulations regarding the reimbursement of state severance taxes in the case of first sales of natural gas subject to sections 105 and 106(b) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301–3432, and was to become effective January 1, 1981. This action, issued by order on December 24, 1980, stays the effective date of the amendment pending the issuance of an order granting or denying rehearing of Order No. 108. The stay is subject to conditions described below.

DATE: The effective date of January 1, 1981, is stayed. The effective date of the stay is January 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Scott Koves, Office of General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357–8317

Teresa Ponder, Office of General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357–8151

SUPPLEMENTARY INFORMATION:

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

Issued December 24, 1980.

A. Background

On November 14, 1980, the Federal Energy Regulatory Commission (Commission) issued in Order No. 108 [1] final rules respecting the treatment of State severance taxes in the case of first sales of natural gas subject to sections 105 and 106(b) of the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301, *et seq.* (NGPA).

Order No. 108 amended § 271.1102 of the Commission's Regulations to provide that, except in the case of State severance taxes increased by State law enacted after November 9, 1978, the maximum lawful price for sales under existing and successor intrastate contracts subject to section 105 of the NGPA and intrastate rollover contracts subject to section 106(b) of the NGPA is presumed to recover all State severance taxes borne by the seller. Order No. 108 also clarified that the term "price" in the definitions of "contract price" and "price under the terms of the existing contract" in § 271.504 of the Commission's Regulations was intended to incorporate all amounts paid by the purchaser even if earmarked as State severance tax reimbursements.

The amendments to §§ 271.504 and 271.1102 were issued as final rules effective for natural gas delivered on or after Janaury 1, 1981. The effect of Order No. 108 is to disallow the collection of State severance tax payments in addition to the ceiling price under section 105 and 106(b) of the NGPA. Accordingly, it is likely that many first sale prices subject to these sections must be reduced effective January 1, 1981, unless stay is granted.

B. Applications

On December 12, 1980, in separate pleadings, Delhi Gas Pipeline Corporation (Delhi) and Indicated Producers, consisting of Shell Oil Company and others (Indicated Producers), filed applications for Stay of Order No. 108 pursuant to § 286.101 of the Commission's Regulations.

Also on December 12, 1980, Delhi, Indicated Producers, and Mobile Gas Service Corporation and Clarke-Mobile Counties Gas District, Alabama (Mobile) separately filed Applications for Rehearing of Order No. 108 pursuant to § 286.102 of the Commission's regulations.[2] Houston Oil & Minerals Corporation filed "Comments" in addition to Indicated Producer's Application in a pleading filed December 15, 1980. On December 15, 1980, the following persons filed Applications for Rehearing of Order No. 108: Amoco Production Company (Supplement to Application of Indicated Producers); Damson Oil Corporation, *et al.*; Isaac Arnold, Jr.; Lone Star Gas Company; Terra Resources, Inc.; Texas Gas Exploration Corporation; Undersigned Companies (Supplemental Application for Rehearing of certain of the Indicated Producers; and Valero Transmission Company.

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[1] Final Rule, Regulations Under Sections 110, 105 and 106(b) of the Natural Gas Policy Act of 1978, Docket No. RM80-21 (45 FR 76664; November 20, 1980).

[2] Mobile filed pursuant to § 1.34 of the Commission's Rules of Practice and Procedure.

C. Discussion

1. Rehearing

In view of the restrictive time frame during which action must be taken on the subject applications for rehearing,[3] the significant monetary impact that Order No. 108 will have on sellers, purchasers, and consumers of natural gas, and the complexity of the issues involved, the Commission finds good cause to grant rehearing solely for further consideration of the subject applications for rehearing.

2. Stay

In their applications for stay of Order No. 108, Indicated Producers and Delhi each rely on the criteria for granting court-ordered stays set forth in *Virginia Petroleum Jobbers Ass'n* v. *FPC* [4] and assert that these criteria are met.

But the Commission has much broader discretionary power to stay its own orders,[5] and is not bound by the criteria respecting court-ordered stays. Here, the applications raise no procedural or substantive arguments that compel a stay of Ordered No. 108. Indeed, the possibility of irreparable harm to gas consumers who would be required to continue to bear the cost of excessive State severance payments militates against granting an unconditional stay. On the other hand, Delhi does raise the spectre of irreparable harm to intrastate pipelines if stay is not granted.[6]

Upon consideration of the equities here, the Commission finds that good cause exists to fashion a pragmatice remedy. The Commisson will grant stay, but only until such time as it takes further action on the applications for rehearing, and only upon the conditions set forth below which are designed to provide an element of protection to consumers. The Commission wishes to emphasize that the conditional stay granted here will be of a limited duration in that the Commission plans to act on the subject applications for rehearing in the near future.

The Commisson orders:

(A) The Applications for Stay of Order No. 108 filed by Delhi and Indicated Producers are granted and the effective date of the amendments of §§ 271.504 and 271.1102 promulgated by Order No. 108 is stayed pending issuance of a order granting or denying rehearing of Order No. 108 upon further consideration, *subject, however,* to the following conditions:

(1) that, unless otherwise specifically ordered by the Commission, all payments in a first sale of natural gas subject to this proceeding which are made for deliveries of natural gas on or after January 1, 1981, are subject to refund, with interest, in accordance with § 270.101(e) of the Commission's regulations, to the extent such payments exceed the applicable maximum lawful price, *and,*

(2) that all amounts refunded pursuant to clause (1) of this ordering paragraph are to be passed on, dollar-for-dollar, to the customers of the recipient of such refunds.

(B) The Applications for Rehearing of Order No. 108 noted in the text above are granted solely for purposes of further consideration.

By the Commission.

Kenneth F. Plumb,

Acting Secretary.

[FR Doc. 81-1124 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 615

Federal-State Unemployment Compensation Program, Extended Benefits; Amendments of Regulation

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends regulations for the Federal-State Unemployment Compensation Program. The amendments in this document revise the method of computing National and State "on" and "off" indicators for the Extended Benefit Program. The amendments are required by a court decision invalidating amendments to these regulations which were adopted on January 3, 1980, with an effective date of February 3, 1980. These amendments reinstate the regulations as in force prior to February 3, 1980, and provide that weeks claimed for extended benefits and for State additional benefits will be included in calculating the rate of insured unemployemnt for purposes of the Extended Benefit Program. The amendments adopted on January 3, 1980, excluded claims for extended benefits and State additional benefits from that calculation.

EFFECTIVE DATE: February 3, 1980.

FOR FURTHER INFORMATION CONTACT: William B. Lewis, Administrator, Unemployment Insurance Service, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 (Phone 202-376-7032).

SUPPLEMENTARY INFORMATION: The Federal-State Extended Unemployment Compensation Act of 1970 (Pub. L. 91-373, Title II; 26 U.S.C. 3304 note) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who exhaust their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when unemployment in a State (State indicator) or in all States collectively (National indicator) reaches the high levels set in the Act. The Act and all State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when unemployment both in the State and in all States collectively is no longer at the high levels set in the Act.

National and State "on" and "off" indicators are triggered by the National or State "rate of insured unemployment," a term which is defined in section 203(f)(1) of the Act as meaning the percentage arrived at by dividing (A) the average weekly number of individuals filing claims for weeks of unemployment with respect to a 13-week period by (B) the average monthly covered employment for the same period.

Under 20 CFR 615.12 as in force prior to February 3, 1980, claims for Extended Benefits and for State additional benefits, as well as claims for regular compensation, were included in the calculation of the rate of insured unemployment. As experience in the administration of the Act accumulated, however, the Department of Labor concluded that inclusion of Extended Benefit claims and State additional benefit claims in the calculation of the rate rendered use of the rate inadequate as an economic indicator and also tended to define the level of employment differently for "on" and "off" triggers. Accordingly, on June 15, 1979, at 44 FR 34512, the Department published a proposed revision of 20 CFR 615.12 in order to change the method of calculating the rate of insured unemployment. This proposal omitted Extended Benefit claims and State additional benefit claims from the calculation of the rate. On January 3, 1980, at 45 FR 797, the Department adopted the proposed rule as a final rule, effective on February 3, 1980.

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[3] Section 286.102(d)(3) provides that unless the Commission acts upon the application within 30 days after it is filed (January 12, 1981), such application shall be considered to have been denied.

[4] 259 F. 2d 921, 925 (D.C. Cir. 1958).

[5] *See,* 5 U.S.C. § 705.

[6] For example, Delhi asserts that they and other intrastate pipelines may suffer irreparable harm because they might not be able to recover reimbursement from their customers (which are not subject to the Commission's jurisdiction) for make-up payments to producers.

The AFL-CIO subsequently filed an action against the Secretary of Labor challenging the validity of 20 CFR 615.12 as amended. In *AFL-CIO* v. *Marshall*, No. 80-1360 (D.D.C., August 7, 1980), the United States District Court for the District of Columbia held that the language of section 203(f)(1) of the Act referring to "individuals filing claims for weeks of unemployment" included individuals filing claims for Extended Benefits and State additional benefits as well as claims for benefits under the "regular" unemployment compensation program, and ruled that 20 CFR 615.12 as amended was inconsistent with the Act. This decision requires the Department of Labor to rescind the amendments to 20 CFR 615.12, and to reissue 20 CFR 615.12 as it existed prior to the amendments. This document is intended to comply with the Court's decision.

Since the amendments made herein are required by a judicial decision, the Department of Labor has determined that compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rule making, opportunity for public participation, and delay of effective date is unnecessary and impracticable, and that good cause therefore exists for adopting these amendments in final form upon publication, with an effective date of February 3, 1980.

Note.—The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis within the meaning of Executive Order 12044, Secretary's Order 6-79 (May 30, 1979), and the Department's guidelines published at 44 FR 5570.

This document has been prepared under the direction and control of William B. Lewis, Administrator, Unemployment Insurance Service, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 (Phone: 202-376-7032).

Accordingly, 20 CFR Part 615 is amended as follows:

PART 615 [AMENDED]

1. The authority citation for Part 615 reads as follows:

Authority: Title II, Pub. L. 91-373 (84 Stat. 695, 708); secs. 116, 212, and 311 of Pub. L. 94-566 (90 Stat. 2667, 2672, 2677, 2678); 5 U.S.C. 553; Secretary's Order No. 4-75 (40 FR 18515).

2. In Part 615, § 615.12(d)(2) and (e)(2) and (e)(3) are revised to read as follows:

§ 615.12 Determination of "on" and "off" indicators.

* * * * *

(d) *Computation of national insured unemployment rates.*

* * * * *

(2) *Method of computing the national indicator rate.* The seasonally adjusted weekly average number of weeks claimed in all States is computed in the following manner:

(i) The number of weeks claimed for regular compensation reported by all State agencies is compiled for the current week and for each of the preceding 12 weeks.

(ii) The national total of unadjusted weeks claimed for each week in the 13-week period obtained in paragraph (d)(2)(i) of this section is seasonally adjusted, using the applicable seasonal adjustment factor or factors developed and published by the Bureau of Labor Statistics of the U.S. Department of Labor.

(iii) To these seasonally adjusted weekly volumes of insured unemployment (weeks claimed) are added weeks claimed for additional compensation and for Extended Benefits for which there are no seasonal factors.

(iv) The resulting weekly totals are added for the 13 weeks and divided by 13 to obtain the average weekly volume for the 13-week period.

* * * * *

(e) *Computation of State insured unemployment rates.*

* * * * *

(2) *Method of computing the State indicator rates.* The unadjusted weekly average number of weeks claimed in the State is computed in the following manner:

(i) The number of weeks claimed for regular compensation, additional compensation, and Extended Benefits are added for the current week and for each of the preceding 12 weeks.

(ii) The weekly totals obtained in paragraph (e)(2)(i) of this section are added for the 13 weeks and divided by 13 to obtain the average weekly volume for the 13-week period.

(3) *Rates for preceding 2 years.* Determinations of State rates for the corresponding 13-week periods in the preceding two years shall be made in the same manner as provided in paragraph (e)(4) of this section.

* * * * *

Signed at Washington, D.C., on December 31, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 81-1186 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 78N-0320]

Labeling; Requirements for Designating Manufacturer's Name on a Drug Product's Label; Stay of Effective Date and Request for Comment on Petition

AGENCY: Food and Drug Administration.

ACTION: Stay of effective date of final rule and request for comment.

SUMMARY: The Food and Drug Administration (FDA) announces that certain provisions of the regulation are stayed pending consideration of a petition by the Pharmaceutical Manufacturers Association (PMA) to amend the requirements for designating manufacturer's name on a drug product's label to permit a firm to claim to have manufactured products actually made by a corporately related firm under common ownership and control. The agency seeks public comment on the petition to assist in its deliberations. The agency also announces the availability of the petition.

DATES: The final rule becomes effective on April 10, 1981, the stay is effective on January 13, 1981. Comments on the PMA petition should be submitted by March 16, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 15, 1980 (45 FR 25760), FDA issued a final regulation, § 201.1, amending the requirements for designating the manufacturer's name on drug product labels. The regulation specifies the conditions under which a person may be identified on the label of a drug product as its manufacturer. The regulation is scheduled to become effective April 10, 1981. The regulation is primarily intended to end the "man-in-the-plant" practice. Under that practice some drug firms have claimed to have made drug products on the basis of having placed quality control staff in the plants of subcontractor firms that actually made the products. The part of the regulation that will end the "man-in-the-plant" practice is not affected by this notice.

The regulation contains several provisions that govern the kind of manufacturing claim that can be made on a drug product label when two or more corporately related drug firms are involved in the manufacture or marketing of a product. Section 201.1(g) provides, among other things, that the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of a particular division. That section also states that a separately incorporated subsidiary shall use its actual corporate name and not the name of its parent company. Section 201.1(f) provides that the name of the person represented as manufacturer must be the same as the name of the establishment under which that person is registered at the time the labeled product is produced. Thus, under the regulation, if two or more divisions of a parent company make a product, the product, by whatever division it is made, can be labeled as manufactured by the parent company. However, if separately incorporated subsidiaries of the parent company manufacture the product, different labels would be required for each subsidiary.

Responding to those provisions affecting what firm in a corporately related family of firms can claim to have made a drug product, PMA (a trade association representing many of the largest drug companies) requested a meeting with FDA officials to discuss the impact of the regulation on PMA's member firms. A meeting between representatives of FDA and PMA was held September 30, 1980. At the meeting, representatives of PMA described some of the problems posed for certain drug firms by those provisions that would prevent a parent company from claiming to be a drug product's manufacturer when the product was actually made by a separately incorporated subsidiary of the parent company. According to the industry's representatives, these provisions create various labeling and marketing difficulties for diversified corporate structures. PMA indicated that it intended to submit a citizen petition to amend the regulation.

On October 10, 1980, PMA submitted a petition to amend the regulation. PMA requested that § 201.1(g) be amended to read as follows:

> The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. The actual corporate name may be either the name of the parent, subsidiary and/or affiliate company where there exists an ownership and control relationship between the companies and the parent, subsidiary and/or affiliate company either individually or jointly qualified as a manufacturer. Abbreviations for "Company", "Incorporated", etc. may be used and "The" may be omitted. In the case of an individual partnership, or association, the name under which the business is conducted shall be used.

The petition agreed that there may be valid justification for the primary goal of the regulation—to end the "man-in-the-plant" practice—and the petition stated that it did not seek to amend that aspect of the regulation. However, the petition argued that economic, legal, and tax considerations may encourage an enterprise to structure its organization so that one or more incorporated subsidiaries manufacture products for a common parent company. The petition conceded that "technically speaking, a subsidiary is a separate entity," but contended that "it is owned and controlled by another corporation that ultimately is responsible for its activities and the relationship between the parent/subsidiary is similar to the one existing between a corporate parent and a division or other operating unit within a corporation." The petition concluded that no regulatory problem or consumer confusion could be attributed to a provision permitting a parent company or any other company in a corporate family from claiming to have made products made by any other member of the corporate family and argued, to the contrary, that "use of an unknown or lesser known subsidiary could well be less informative due to lack of recognition than would be the use of the parent name or the more well known subsidiary."

A representative of a family of firms also commented on the regulation as it affects label claims made by individual corporate members of the family. The Proctor and Gamble Co., in a letter to FDA dated August 27, 1980, asked that it be permitted to continue to use the abbreviated name "Proctor and Gamble" for products either made or distributed by companies that use Proctor and Gamble in the corporate name, i.e., the Proctor and Gamble Company, the Proctor and Gamble Manufacturing Company, and the Proctor and Gamble Distributing Company. The letter stated that "[L]iteral compliance with § 201.1 (f) and (g) would produce trivial, insignificant changes of absolutely no benefit whatsoever to anybody and would present an unreasonable logistical and very expensive burden * * *." A copy of this letter has been placed on file in the Dockets Management Branch, address above.

To assist the agency in its consideration of the issues raised by the petition, FDA is requesting comments on the petition from interested persons. Although comments on all aspects of the petition are welcome, FDA is particularly interested in the following issues:

1. What benefits would result in retaining the current regulatory distinction between the parent corporation and the separately incorporated subsidiary?

2. What are the benefits and costs of permitting a drug company to claim to have made products actually made by a corporately related firm?

3. In the event that the agency finds merit in the petition, should the agency amend the regulation to permit a corporately related firm to be identified as the manufacturer in place of the actual manufacturer or retain the present regulation and permit individual drug firms to request waivers on a case by case basis? If the agency decides to review waiver requests on an individual basis, what principles should be consulted in assessing the merits of an individual request?

Copies of the petition are available on request from the Dockets Management Branch (HFA-305), Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

The regulation is scheduled to become effective April 10, 1981. The agency notes that many of the purported problems associated with the provisions requiring disclosure of the actual corporate name stem from the drug industry's initial compliance costs. Therefore, because the agency will probably not be able to consider and resolve the issues raised by the petition by the effective date, the agency is staying the effective date of that part of the regulation in § 201.1(g) which requires a separately incorporated subsidiary to use its actual corporate name and not the name of its parent company. The agency is also staying that part of § 201.1(f) which requires that the name of the person represented as manufacturer under § 201.1(b) or (c) must be the same as the name of the establishment under which that person is registered at the time the labeled product is produced, provided that the person identified on the label is the parent or subsidiary of the person in whose name the establishment is registered, and provided that no more than one person is represented as manufacturer of a specific product manufactured in that establishment. These provisions are stayed pending the agency's consideration of the PMA petition. All other parts of the regulation go into effect on April 10, 1981.

Interested persons may submit written comments on the petition by March 16, 1981, to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. FDA will consider these comments in determining whether further amendment to the regulation or other action is warranted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 701(a), 52 Stat. 1050-1051 as amended, 1055 (21 U.S.C. 352, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the amendments to § 201.1 as described below are stayed until further notice.

Dated: January 6, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

§ 201.1 [Amended]

The following two provisions are stayed pending agency consideration of the PMA petition: (1) The provision in § 201.1(g) (21 CFR 201.1(g)), which requires a separately incorporated subsidiary to use its actual corporate name and not the name of its parent company; and (2) the provision in § 201.1(f) requiring that the name of the person represented as manufacturer (under § 201.1(b) or (c)) must be the same as the name of the establishment under which that person is registered at the time the labeled product is produced, provided that the person identified on the label is the parent or subsidiary of the person in whose name the establishment is registered and that no more than one person claims to have manufactured a drug product produced at that establishment; * * *.

[FR Doc. 81-1147 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 430, 436 and 444

[Docket No. 80N-0294]

Antibiotic Drugs for Human Use; Cyclacillin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new antibiotic drug, cyclacillin. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 12, 1981; comments by February 11, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic drug, cyclacillin. The agency concludes that the data supplied by the manufacturer on cyclacillin are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 440 (21 CFR Parts 430, 436, and 440) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 430, 436, and 440 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In § 430.5 by adding new paragraphs (a)(67) and (b)(67) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(67) *Cyclacillin.* The term "cyclacillin working standard" means a specific lot of a cyclacillin that is designated by the Commissioner as the standard of comparison in determining the potency of the cyclacillin working standard.

(b) * * *

(67) *Cyclacillin.* The term "cyclacillin master standard" means a specific lot of homogeneous preparation of cyclacillin.

b. In § 430.6 by adding paragraph (b)(69) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(69) *Cyclacillin.* The term "microgram" applied to cyclacillin means the cyclacillin activity (potency) contained in 1.01 micrograms of the cyclacillin master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In § 436.33(b) by alphabetically inserting a new item into the table as follows:

§ 436.33 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 436.31)	Test dose		Route of administration as described in paragraph (c) of this section
		Concentration in milligrams units or of activity per milliliter	Volume in milliliters to be administered to each mouse	
*	*	*	*	*
Cyclacillin	9	20 mg	0.5	Intravenous.
*	*	*	*	*

* * * * * * *

b. In § 436.105(a) and (b) by alphabetically inserting a new item into the respective tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

* * * * * * *

(a) * * *

Antibiotic	Media to be used (as listed by medium number in § 436.102(b))		Milliliters of media to be used in the base and seed layers		Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation temperature for the plates
	Base layer	Seed layer	Base layer	Seed layer			
						Milliliters	*Degrees C.*
*	*		*	*		*	*
Cyclacillin	11	11	21	4	C	0.5	35-37.5
*	*		*	*		*	*

* * * * * * *

(b) * * *

Antibiotic	Working standard stock solutions					Standard response line concentrations	
	Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
*	*	*	*		*	*	*
Cyclacillin	Not dried		Distilled water		1 mg 1 day	3	0.64, 0.80, 1.0, 1.25, 1.56 µg. (Prepare the standard response line simultaneously with the sample solution.)
*	*	*	*		*	*	*

* * * * * * *

c. In § 436.204(b)(1) and (2) by alphabetically inserting a new item into the respective tables, as follows:

§ 436.204 Iodometric assay.

* * * * * * *

(b) * * *
(1) * * *

Antibiotic	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration in units or milligrams of activity per milliliter of standard solution
*	*	*	*
Cyclacillin	None	Distilled water	1.0 mg.
*	*	*	*

(2) * * *

Antibiotic	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration in units or milligrams of activity per milliliter of sample
*	*	*	*
Cyclacillin	None	Distilled water	1.0 mg.
*	*	*	*

* * * * * * *

d. In § 436.205 (b) and (c) by alphabetically inserting a new item into the respective tables, as follows:

§ 436.205 Hydroxylamine colorimetric assay.

* * * * *

(b) * * *

Antibiotic	Diluent (solution number as listed in § 436.101(a))	Final concentration in milligrams per milliliter of standard solution
*	*	*
Cyclacillin	Distilled water	1.25
*	*	*

* * * * *

(c) * * *

Antibiotic	Diluent (solution number as listed in § 436.101(a))	Final concentration in milligrams per milliliter of sample
*	*	*
Cyclacillin	Distilled water	1.25
*	*	*

* * * * *

e. In § 436.213(c) by alphabetically inserting two new items into the table as follows:

§ 436.213 Nonaqueous titrations.

* * * * *

(c) * * *

Antibiotic	Weight in milligrams of sample	Solvent
*	*	*
Cyclacillin-acid titration	100	20 milliliters dimethylsulfoxide and 30 milliliters methyl alcohol.*
Cyclacillin-base titration.	100	50 milliliters glacial acetic acid.
*	*	*

* * * * *

f. By adding new § 436.327 to read as follows:

§ 436.327 Thin layer chromatographic identity test for cyclacillin.

(a) *Equipment*—(1) *Chromatography tank.* Use a rectangular tank approximately 23 x 23 x 9 centimeters, with a glass solvent trough on the bottom and a tight-fitting cover.

(2) *Plates.* Use 20 x 20 centimeter thin layer chromatography plates coated with Silica Gel G or equivalent to a thickness of 250 microns.

(b) *Reagents*—(1) *Developing solvent.* One percent ammonium formate aqueous solution.

(2) *Spray solution.* Dilute starch iodide paste TS (U.S.P. XIX) with an equal volume of water. Mix diluted starch iodide paste, glacial acetic acid, and 0.1*N* iodine in volumetric proportions of 50:3:1, respectively.

(c) *Assay solutions*—(1) *Preparation of working standard solution.* Accurately weigh an amount of cyclacillin working standard and dissolve the material with sufficient 0.1*N* sodium hydroxide to obtain a solution containing 1 milligram per milliliter. Allow the solution to stand for 15 minutes before using.

(2) *Preparation of sample solution.* Using the sample solution prepared as described in the section for the antibiotic to be tested, proceed as described in paragraphs (d) and (e) of this section.

(d) *Procedure.* Pour the developing solvent into the bottom of the chromatography tank. Cover and seal the tank. Allow it to equilibrate. Prepare a plate as follows: On a line 2 centimeters from the base of the thin layer chromatography plate and at intervals of 2 centimeters, spot 5 microliters each of the working standard solution and sample solution. Dry the spots throughly with a stream of dry air. Place the plate in the trough in the chromatography tank. Cover and seal the tank. Allow the solvent front to travel about 15 centimeters from the starting line and then remove the plate from the tank. Dry the plate by heating for 30 minutes at 80° C in a circulating air oven. Visualize the spots by applying the spray solution.

(e) *Evalution.* Measure the distance the solvent front traveled from the starting line, and the distance the spots are from the starting line. Divide the latter by the former to calculate the R_f value. The sample and standard should appear as white spots against a blue background at an R_f of approximately 0.6. The test is satisfactory if the R_f value of the sample compares with that of the working standard.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. In Subpart A by adding new § 440.17 to read as follows:

§ 440.17 Cyclacillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cyclacillin is 6-(1-aminocyclohexanecarboxamido)-3,3-dimethy-7-oxo-4-thia-1-azabicyclo[3.2.0] heptane-2-carboxylic acid. It is a white to off-white powder. It is so purified and dried that:

(i) It contains not less than 900 micrograms and not more than 1,050 micrograms of cyclacillin per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not more than 1.0 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 4.0 and not more than 6.5.

(v) Its cyclacillin content is not less than 90 percent on an anhydrous basis.

(vi) The acid-base titration concordance is such that the difference between the percent cyclacillin content when determined by nonaqueous acid titration and nonaqueous base titration is not more than six. The potency-acid titration concordance is such that the difference between the potency value divided by 10 and the percent cyclacillin content of the sample determined by the nonaqueous acid titration is not more than six. The potency base titration concordance is such that the difference between the potency value divided by 10 and the percent cyclacillin content of the sample determined by the nonaqueous base titration is not more than six.

(vii) It is crystalline.

(viii) It gives a positive identity test for cyclacillin.

(2) *Labeling.* In addition to the labeling requirements of § 432.5 of this chapter, each package shall bear on its outside wrapper or container and the immediate container the following statement, "For use in the manufacture of nonparenteral drugs only."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, cyclacillin content, concordance, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by any of the following methods; however, the results obtained from the iodometric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to give a stock solution containing 1 milligram of cyclacillin per milliliter (estimated). Further dilute an aliquot of the stock solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of cyclacillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 436.205 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Cyclacillin content.* Proceed as directed in § 436.213 of this chapter, using both the titration procedures described in paragraph (e)(1) and (2) of that section. Calculate the percent cyclacillin content as follows:

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(*i*) Acid titration.

$$\text{Percent cyclacillin content} = \frac{(A-B)\ (\text{normality of lithium methoxide reagent})(341.4)(100)(100)}{(\text{Weight of sample in milligrams})(100-\underline{m})}$$

Where:

A = Milliliters of lithium methoxide reagent used in titrating the sample;

B = Milliliters of lithium methoxide reagent used in titrating the blank;

$\underline{m}$ = Percent moisture content of the sample.

Calculate the difference between the potency and the cyclacillin content as follows:

$$\text{Difference} = \frac{\text{Potency in micrograms per milligram}}{10} - \text{percent cyclacillin content.}$$

(ii) Base titration.

$$\text{Percent cyclacillin content} = \frac{(A-B)\,(\text{normality of perchloric acid reagent})(341.4)(100)(100)}{(\text{Weight of sample in milligrams})(100-\underline{m})}$$

Where:

A = Milliliters of perchloric acid reagent used in titrating the samples;

B = Milliliters of perchloric acid reagent used in titrating the blank;

$\underline{m}$ = Percent moisture content of the sample.

Calculate the difference between the potency and the cyclacillin content as follows:

$$\text{Difference} = \frac{\text{Potency in micrograms per milligram}}{10} - \text{percent cyclacillin content.}$$

BILLING CODE 4110-03-C

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(7) *Identity.* Proceed as directed in § 436.211 of this chapter, using a 1-percent potassium bromide disc prepared as described in paragraph (b)(1) of that section.

b. In Subpart B by adding new §§ 440.117, 440.117a, and 440.117b to read as follows:

§ 440.117 Cyclacillin oral dosage forms.

§ 440.117a Cyclacillin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cyclacillin tablets are composed of cyclacillin with one or more suitable and harmless diluents, lubricants, colorings, and disintegrants. Each tablet contains 250 or 500 milligrams of cyclacillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cyclacillin that it is represented to contain. Its moisture content is not more than 5 percent. The tablets disintegrate within 15 minutes. It gives a positive identity test for cyclacillin. The cyclacillin used conforms to the standards prescribed by § 440.17(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cyclacillin used in making the batch for potency, safety, moisture, pH, cyclacillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency, moisture, disintegration time, and identity.

(ii) Samples required:

(*a*) The cyclacillin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Use any of the following methods; however, the results obtained from the iodometric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of cyclacillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample solution as follows: Place a representative number of tablets in a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except prepare the working standard and sample solutions and calculate the potency of the sample as follows:

(*a*) *Preparation of working standard solution.* Dissolve and dilute an accurately weighed portion of the cyclacillin working standard in sufficient distilled water to obtain a concentration of 1.25 milligrams of cyclacillin per milliliter.

(*b*) *Preparation of sample solution.* Place one tablet into a high-speed glass blender jar and add sufficient distilled water to obtain a concentration of 1.25 milligrams of cyclacillin per milliliter. Blend for 3 to 5 minutes. Filter, if necessary.

(*c*) *Calculations.* Calculate the cyclacillin content in milligrams per tablet as follows:

$$\text{Milligrams of cyclacillin per tablet} = \frac{A_u \times P_a \times d}{A_s \times 1{,}000}$$

Where:

A_u = Absorbance of sample solution;

P_a = Potency of working standard in micrograms per milliliter;

A_s = Absorbance of working standard solution;

d = Dilution factor of the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the procedure in paragraph (e)(1) of that section, except do not use discs.

(4) *Identity.* Proceed as directed in § 436.327 of this chapter, preparing the sample as follows: Dissolve a representative portion of finely powdered tablets with sufficient 0.1*N* sodium hydroxide to obtain a solution containing 1 milligram of cyclacillin per milliliter. Allow the same solution to stand for 15 minutes before using.

§ 440.117b Cyclacillin for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cyclacillin for oral suspension is a mixture of cyclacillin with one or more suitable and harmless colorings, flavorings, buffer substances, sweetening ingredients, preservatives, and suspending agents. When reconstituted as directed in the labeling, it contains either 25 milligrams, 50 milligrams, or 100 milligrams of cyclacillin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cyclacillin that it is represented to contain. Its moisture content is not more than 1.5 percent. When reconstituted as directed in the labeling, its pH is not less than 4.5 and not more than 6.5. It gives a positive identity test for cyclacillin. The cyclacillin used conforms to the standards prescribed by § 440.17(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the

requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cyclacillin used in making the batch for potency, safety, moisture, pH, cyclacillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency, moisture, pH, and identity.

(ii) Samples required:

(*a*) The cyclacillin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of seven immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by any of the following methods; however, the results obtained from the iolometric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured representative portion of the sample into a suitable volumetric flask and dilute to volume with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a convenient concentration. Mix well. Further dilute an aliquot with solution 3 to the reference concentration of 1.0 microgram of cyclacillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask and dilute to volume with 1 percent potassium phosphate buffer, pH 6.0 (solution 1). Mix well. Further dilute with solution 1 to the prescribed concentration.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except prepare the working standard and sample solutions and calculate the potency of the sample as follows:

(*a*) *Preparation of working standard solution.* Dissolve and dilute an accurately weighed portion of the cyclacillin working standard in sufficient distilled water to obtain a concentration of 1.25 milligrams of cyclacillin per milliliter.

(*b*) *Preparation of sample solution.* Reconstitute the sample as directed in the labeling. Place an accurately measured aliquot of the sample into an apprrpriate-sized volumetric flask and dilute to volume with distilled water to yield a concentration of 1.25 milligrams of cyclacillin per milliliter. Mix well. Filter, if necessary.

(*c*) *Calculations.* Calculate the cyclacillin content as follows:

$$\text{Milligrams of cyclacillin per 5 milliliters of sample} = \frac{\underline{A_u} \times \underline{P_a} \times \underline{d}}{\underline{A_s} \times 1{,}000}$$

Where:

$\underline{A_u}$ = Absorbance of sample solution;

$\underline{P_a}$ = Potency of working standard in micrograms per milliliter;

$\underline{A_s}$ = Absorbance of working standard solution;

$\underline{d}$ = Dilution factor of the sample.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the drug reconstituted as directed in the labeling.

(4) *Identity.* Proceed as directed in § 436.327 of this chapter, preparing the sample as follows: Dilute an accurately measured representative portion of the reconstituted suspension with 0.1*N* sodium hydroxide to obtain a solution containing 1 milligram of cyclacillin per milliliter. Allow the sample solution to stand 45 minutes before using.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register** (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 16, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order, with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: January 6, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-1000 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 430, 436, and 444

[Docket No. 80N-0292]

Antibiotic Drugs for Human Use; Sisomicin Sulfate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for certification of a new antibiotic drug, sisomicin sulfate. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 13, 1981; comments by February 11, 1981.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic drug, sisomicin sulfate. The agency concludes that the data supplied by the manufacturer on sisomicin sulfate are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 444 (21 CFR Parts 430, 436, and 444) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 430, 436, and 444 are amended to read as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In § 430.4 by adding paragraph (a)(47) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(47) *Sisomicin.* A specific one of the antibiotic substances produced by the growth of *Micromonospora inyoensis*, and the same substance produced by any other means, is a kind of sisomicin.

* * * * *

b. In § 430.5 by adding paragraphs (a)(69) and (b)(69) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(69) *Sisomicin.* The term "sisomicin master standard" means a specific lot of sisomicin that is designated by the Commissioner as the standard of comparison in determining the potency of the sisomicin working standard.

(b) * * *

(69) *Sisomicin.* The term "sisomicin working standard" means a specific lot of a homogeneous preparation of sisomicin.

* * * * *

c. In § 430.6 by adding paragraph (b)(71) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(71) *Sisomicin.* The term "microgram" applied to sisomicin means the sisomicin activity (potency) contained in 1.00 microgram of the sisomicin master standard expressed on an anhydrous basis.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In § 436.33(b) by alphabetically inserting a new item in the table to read as follows:

§ 436.33 Safety test.

* * * * *

(b) * * *

Antibiotic drug	(Diluent diluent number as listed in § 436.31)	Test dose		Route of administration as described in paragraph (c) of this section
		Concentration in units or milligrams of activity per milliliter	Volume in milliliters to be administered to each mouse	
*	*	*	*	*
Sisomicin sulfate	4	0.6 mg	0.5	Intravenous.
*	*	*	*	*

* * * * *

b. In § 436.105 (a) and (b) by alphabetically inserting a new item in the respective tables to read as follows:

V. 46/8 JA 13 81 UMI

§ 436.105 Microbiological agar diffusion assay.

* * * * *

(a) * * *

Antibiotic	Media to be used (as listed by medium number in § 436.102(b))		Milliliters of media to be used in the base and seed layers		Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation temperature for the plates
	Base layer	Seed layer	Base layer	Seed layer			
•	•		•	•		•	•
Sisomicin	11	11	21	4	D	0.03	36-37.5
•	•		•	•		•	•

* * * * *

(b) * * *

Antibiotic	Working standard stock solutions					Standard response line concentrations	
	Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent	Final concentrations, units or micrograms of antibiotic activity permilliliter
•	•	•	•	•	•	•	•
Sisomicin [4]	Not dried		3	1 mg	14 days	3	0.064, 0.080, 0.100, 0.125, 0.156 μg.
•	•	•	•	•	•	•	•

* * * * *

[4] Working standard should be stored below minus 20° C under an atmosphere of nitrogen. Sisomicin is hygroscopic and care should be exercised during weighing.

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

3. Part 444 is amended:

a. In Subpart A by adding new § 444.62 to read as follows:

§ 444.62 Sisomicin sulfate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sisomicin sulfate is the sulfate salt of *O*-3-deoxy-4-*C*-methyl-3-(methylamino)*β*-L-arabinopyranosyl(1→4)-*O*-[2,6-diamino-2,3,4,6-tetradeoxy-α-D-*glycero*-hex-4-enopyranosyl(1→6)-2-deoxy-L-streptamine. It is a hygroscopic powder. It is so purified and dried that:

(i) Its potency is not less than 580 micrograms of sisomicin per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 15.0 percent.

(iv) Its pH in an aqueous solution containing 40 milligrams per milliliter is not less than 3.5 and not more than 5.5.

(v) Its residue on ignition is nor more than 1.0 percent.

(vi) Its specific rotation in an aqueous solution containing 10 milligrams per milliliter at 25° C is not less than +100° and not more than +110°.

(vii) It gives a positive identity test for sisomicin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, residue on ignition, specific rotation, and identity.

(ii) Samples required: 12 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay.* Sisomicin is hygroscopic and care should be exercised during storage and weighing of samples.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of sisomicin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(c) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 40 milligrams of sisomicin per milliliter.

(5) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(6) *Specific rotation.* Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 10 milligrams per milliliter. Proceed as directed in § 436.210 of this chapter, using a 1.0 decimeter polarimeter tube and calculate the specific rotation on an anhydrous basis.

(7) *Identity.* Proceed as directed in § 436.318 of this chapter, except:

(i) Prepare sample and standard solutions containing 10 milligrams of sisomicin per milliliter;

(ii) Use 5 microliters of the solutions to spot the chromatographic plates;

(iii) Remove the plate from the tank after 3 hours; and

(iv) The compound appears as a brown spot.

b. In Subpart C by adding new § 444.262 to read as follows:

§ 444.262 Sisomicin sulfate injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sisomicin sulfate injection is an aqueous solution of sisomicin sulfate and one or more suitable buffers, chelating agents, and preservatives. Each milliliter contains sisomicin sulfate equivalent to 50 milligrams of sisomicin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of sisomicin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its pH is not less than 2.5 and not more than 5.5. The sisomicin sulfate used conforms to the standards prescribed by § 444.62(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The sisomicin sulfate used in making the batch for potency, safety, loss on drying, pH, residue on ignition, specific rotation, and identity.

(*b*) The batch for potency, sterility, pyrogens, safety, and pH.

(ii) Samples required:

(*a*) The sisomicin sulfate used in making the batch: 12 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 vials.

(*2*) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) Potency. Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the product with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of sisomicin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 10 milligrams of sisomicin per milliliter.

(4) *Safety test.* Proceed as directed in § 436.33 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register** (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 16, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order, with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: January 6, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-1006 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 436

[Docket No. 80N-0296]

Erythromycin Ethylsuccinate-Sulfisoxazole Acetyl for Oral Suspension

AGENCY: Food and Drug Adminstration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new antibiotic drug, erythromycin ethylsuccinate-sulfisoxazole acetyl for oral suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 13, 1981. Comments by February 12, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic drug, erythromycin ethylsuccinate-sulfisoxazole acetyl for oral suspension. The agency concludes that the data supplied by the manufacturer on erythromycin ethylsuccinate-sulfisoxazole acetyl for oral suspension are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 436 and 452 (21 CFR Parts 436 and 452) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979, 44 FR 71742), that this action is of a type that does not individualy or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 436 and 452 are amended as follows:

1. Part 436 is amended by adding new § 436.328 to read as follows:

§ 436.328 High pressure liquid chromatographic assay for sulfisoxazole acetyl content.

(a) *Equipment.* A suitable high pressure liquid chromatograph, such as a Waters Associates Model 244[1] or equivalent equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection;

(5) A 30-centimeter column having an inside diameter of 4.0 millimeters and packed with a suitable reverse phase packing such as: Waters Associates, Micro-Bondapak C18;[1] and

(6) A suitable integrator.

(b) *Reagents*—(1) *Mobile phase.* Mix acetonitrile (high pressure liquid chromatography grade): water (40:60). Filter the mobile phase through a suitable glass fiber filter or equivalent which is capable of removing particulate contamination to 1 micron in diameter. De-gas the mobile phase just prior to its introduction into the chromatograph pumping system.

(2) *Internal standard solution.* Dissolve 0.33 milligram of benzanilide per milliliter in acetonitrile (high pressure liquid chromatography grade). Filter the solution through a suitable glass fiber filter or equivalent which is capable of removing particulate contamination to 1 micron in diameter.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 1.2 milliliters per minute. Use a detector sensitivity setting that gives a peak height for reference standard that is at least 50 percent of scale. The mimimum between peaks must be no more than 2 millimeters above the baseline.

(d) *Preparation of the working standard and sample solutions*—(1) *Working standard solution.* Prepare a solution containing 1.0 milligram per milliliter of sulfisoxazole acetyl in the internal standard solution.

(2) *Sample solution.* Reconstitute the sample as directed in the labeling. Allow to stand for 1 hour. Shake gently and transfer 5.0 milliliters of the sample to a separatory funnel. Extract the suspension three times with 75-milliliter portions of chloroform. Collect the chloroform layers in a 250-milliliter volumetric flask. Dilute the flask to volume with chloroform and mix. Filter a portion of the solution through a suitable glass fiber filter or equivalent which is capable of removing particulate contamination to 1 micron in diameter. Transfer a 4.0-milliliter aliquot of the filtrate into a 25-milliliter glass-stoppered flask and evaporate to dryness under a stream of dry air. Dissolve the residue in 10.0 milliliters of the internal standard solution, stopper, and mix.

(e) *Procedure.* Using the equipment, reagents, and operating conditions listed in paragraph (a), (b), and (c) of this section, inject 5 microliters of sample or working standard solution prepared as described in paragraph (d) of this section, into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of expected components. The elution order is void volume, sulfisoxazole acetyl and benzanilide.

(f) *Calculations.* Calculate the sulfisoxazole content as follows:

$$\text{Milligrams of sulfisoxazole per milliliter of sample} = \frac{A \times \text{concentration of the standard solution in milligrams per milliliter} \times 125 \times 0.864}{B}$$

where:

AA = Area of sample peak (at a retention time equal to that of the standard) divided by the area of the internal standard peak;

BB = Area of the standard peak divided by the area of the internal standard peak;

0.864 = The molecular weight of sulfisoxazole divided by the molecular weight of sulfisoxazole acetyl.

2. Part 452 is amended by adding new § 452.125e to read as follows:

§ 452.125e Erythromycin ethylsuccinate-sulfisoxazole acetyl for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Erythromycin ethylsuccinate-sulfisoxazole acetyl for oral suspension is a dry mixture of erythromycin ethylsuccinate and sulfisoxazole acetyl with suitable and harmless flavorings, buffers, surfactants, colorings, and suspending agents. When reconstituted as directed in the labeling, each milliliter will contain erythromycin ethylsuccinate equivalent to 40 milligrams of erythromycin and sulfisoxazole acetyl equivalent to 120 milligrams of sulfisoxazole. Its erythromycin ethylsuccinate content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of erythromycin that it is represented to contain. Its sulfisoxazole acetyl content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of sulfisoxazole that it is represented to contain. Its loss on drying is not more than 1.0 percent. When reconstituted as directed in the labeling, its pH is not less than 5.0 and not more than 7.0. The erythromycin ethylsuccinate used conforms to the standards prescribed by § 452.25(a)(1). The sulfisoxazole acetyl used conforms to the standards prescribed by the U.S.P.

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[1] Available from: Waters Associates, Inc., Maple Street, Milford, MA 01757.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The erythromycin ethylsuccinate used in making the batch for potency, safety, moisture, pH, residue on ignition, identity, and crystallinity.

(*b*) The sulfisoxazole acetyl used in making the batch for all U.S.P. specifications.

(*c*) The batch for erythromycin content, sulfisoxazole content, loss on drying, and pH.

(ii) Samples required:

(*a*) The erythromycin ethylsuccinate used in making the batch: 10 packages each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Erythromycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Allow to stand for 1 hour. Shake gently and transfer 5 milliliters of the well-shaken suspension into a high-speed glass blender jar containing 195 milliliters of methyl alcohol. Blend for 3 to 5 minutes. Further dilute an aliquot with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

(2) *Sulfisoxazole acetyl content.* Proceed as directed in § 436.328 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the suspension reconstituted as directed in the labeling.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's become effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register**. However, interested persons may, on or before (insert date 30 days after date of publication in the **Federal Register**), submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 16, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order, with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: January 6, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81–1089 Filed 1–12–81; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 442

[Docket No. 80N–0305]

Cepha Antibiotic Drugs; Cefadroxil Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new strength of cefadroxil capsule. The manufacturer has supplied sufficient data and information to establish the drug's safety and efficacy.

DATES: Effective January 13, 1981. Comments by February 12, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new strength (250 milligrams) of cefadroxil capsule. The agency concludes that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 442 (21 CFR Part 442) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 442 is amended in § 442.106 by revising the second sentence after the heading in paragraph (a)(1) to read as follows:

§ 442.106 Cefadroxil capsules.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* * * * Each capsule contains either 250 or 500 milligrams of cefadroxil. * * *

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the Federal Register (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or bfore February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 13, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday and Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: January 6, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-1002 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 442

[Docket No. 80N-0371]

Cepha Antibiotic Drugs; Cefadroxil Monohydrate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new antibiotic dosage form, cefadroxil monohydrate tablets. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 13, 1981. Comments by February 12, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic dosage form, cefadroxil monohydrate tablets. The agency concludes that the data supplied by the manufacturer concerning cefadroxil monohydrate tablets are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 442 (21 CFR Part 442) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 442 is amended by redesignating § 442.106 as § 442.106a and adding new § 442.106 and § 442.106b, to read as follows:

§ 442.106 Cefadroxil monohydrate oral dosage forms.

§ 442.106a Cefadroxil monohydrate capsules.

* * * * *

§ 442.106 Cefadroxil monohydrate tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefadroxil monohydrate tablets are composed of cefadroxil monohydrate and one or more suitable and harmless binders and lubricants. Each tablet contains cefadroxil monohydrate equivalent to 1,000 milligrams of cefadroxil. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cefadroxil that it is represented to contain. Its moisture content is not more than 8.0 percent. The tablets disintegrate within 15 minutes. The cefadroxil monohydrate used conforms to the standards prescribed by § 442.6(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cefadroxil monohydrate used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, moisture, and disintegration time.

(ii) Samples required:

(*a*) The cefadroxil monohydrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 20 micrograms of cefadroxil per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except prepare the working standard and sample solutions and calculate the cefadroxil content as follows:

(*a*) *Preparation of working standard solution.* Dissolve and dilute an accurately weighed portion of the cefadroxil working standard in sufficient distilled water to a final concentration of 1 milligram of cefadroxil per milliliter.

(*b*) *Preparation of sample solution.* Blend a representative number of tablets in a high-speed glass blender jar with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of this solution with distilled water to a concentration of 1 milligram of cefadroxil per milliliter (estimated).

(*c*) *Calculations.* Calculate the cefadroxil content as follows:

$$\text{Milligrams per tablet} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000 \times n}$$

where:

A_u = Absorbance of sample solution;
P_s = Potency of working standard in micrograms per milligram;
d = Dilution factor for sample;
A_s = Absorbance of working standard solution;
n = Number of tablets in the sample assayed.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the procedure described in paragraph (e)(1) of that section.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register** (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 13, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: December 19, 1980.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-1064 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 444

[Docket No. 80N-0299]

Gentamicin Sulfate Injection

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to (1) provide for the certification of a new strength of gentamicin sulfate injection for intrathecal administration and (2) provide for the use of nonsterile bulk drug in the manufacture of gentamicin sulfate injection to reflect current certification practices. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of gentamicin sulfate injection for intrathecal use.

DATES: Effective January 13, 1981; comments by February 12, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new strength (2 milligrams) of gentamicin sulfate injection for intrathecal administration. The agency concludes that the data supplied by the manufacturer concerning this antibiotic drug product are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 444 (21 CFR Part 444) to provide for its certification. In addition, Part 444 is amended in § 444.220 to provide for the use of nonsterile bulk drug in the manufacture of gentamicin sulfate injection. This change will result in a more accurate and usable regulation that reflects current certification practices.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979, 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 444 is amended in § 444.220 by revising paragraphs (a)(1), (a)(3)(i)(*a*), (a)(3)(ii) (*b*)(*1*), and (b)(4) to read as follows:

§ 444.220 Gentamicin sulfate injection.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Gentamicin sulfate injection is an aqueous solution of gentamicin sulfate with or without one or more suitable buffers, sequestering agents, tonicity agents, or preservatives. Each milliliter contains gentamicin sulfate equivalent to either 2.0 milligrams, 10.0 milligrams, or 40.0 milligrams of gentamicin. Its potency is satisfactory if it contains not less than 90 percent nor more than 125 percent of the number of milligrams of gentamicin that it is represented to contain. It is sterile. It passes the safety test. It is nonpyrogenic. Its pH is not less than 3.0 nor more than 5.5. The gentamicin sulfate used conforms to the standards prescribed by § 444.20(a)(1).

* * * * *

(3) * * *

(i) * * *

(*a*) The gentamicin sulfate used in making the batch for potency, safety, loss on drying, pH, specific rotation, content of gentamicins C_1, C_{1a}, C_2, and identity.

* * * * *

(ii) * * *

(*b*) * * *

(*1*) For all tests except sterility: A minimum of 40 containers if each milliliter contains the equivalent of 2.0 milligrams or 10.0 milligrams of gentamicin or a minimum of 12 containers if each milliliter contains the equivalent of 40.0 milligrams of gentamicin.

* * * * *

(b) * * *

(4) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 10.0 milligrams of gentamicin per milliliter, except if it is intended for intrathecal administration, use 5.0 milliliters of the undiluted solution.

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register** (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (FDA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 16, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order, with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: December 10, 1980.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-1086 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 452

[Docket No. 80N-0298]

Macrolide Antibiotic Drugs; Erythromycin Topical Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new antibiotic dosage form, erythromycin topical solution. The manufacturers have supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 13, 1981; comments by February 12, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic dosage form, erythromycin topical solution. The agency concludes that the data supplied by the manufacturers on erythromycin topical solution are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 452 (21 CFR Part 452) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979, 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 452 is amended by adding new § 452.510b to read as follows:

§ 452.510b Erythromycin topical solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Erythromycin topical solution contains in each milliliter 15.0 or 20.0 milligrams of erythromycin. It may also contain one or more suitable and harmless solvents, surfactants, buffer substances, diluents, and perfumes. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of erythromycin that it is represented to contain. If it contains 15.0 milligrams of erythromycin per milliliter, its moisture content is not more than 5.0 percent. If it contains 20.0 milligrams of erythromycin per milliliter, its moisture content is not more than 6.0 percent. Its pH is not less than 8.0 and not more than 10.5. The erythromycin used conforms to the standards prescribed by § 452.10(a)(1), except safety and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The erythromycin used in making the batch for potency, moisture, pH, residue on ignition, identity, and crystallinity.

(*b*) The batch for potency, moisture, and pH.

(ii) Samples required:

(*a*) The erythromycin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Using a suitable hypodermic needle and syringe, remove an accurately measured representative portion of the sample and dilute with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using a 1:1 dilution of the sample with distilled water.

This regulation announces standards that FDA has accepted in a request for approval of antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register** (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 16, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies identified with the docket number appearing in the heading of this order, with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: January 6, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81–1061 Filed 1–12–81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 453

[Docket No. 80N–0302]

Lincomycin Antibiotic Drug; Clindamycin Phosphate Topical Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new antibiotic dosage form, clindamycin phosphate topical solution. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 13, 1981; comments by February 12, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic dosage form, clindamycin phosphate topical solution. The agency concludes that the data supplied by the manufacturer concerning this antibiotic drug product are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 453 (21 CFR Part 453) to provide for the drug's certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 453 is amended as follows:

1. In Subpart A by adding new § 453.22 to read as follows:

§ 453.22 Clindamycin phosphate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clindamycin phosphate is a water-soluble ester of clindamycin and phosphoric acid. It occurs as a white to off-white powder. It is so purified and dried that:

(i) Its clindamycin content is not less than 758 micrograms of clindamycin per milligram calculated on an anhydrous basis.

(ii) Its microbiological activity is not less than 758 micrograms of clindamycin per milligram calculated on an anhydrous basis.

(iii) It passes the safety test.

(iv) Its moisture content is not more than 6.0 percent.

(v) Its pH in an aqueous solution containing 10 milligrams per milliliter is not les than 3.5 and not more than 4.5.

(vi) It is crystalline.

(vii) It passes the identity test for clindamycin phosphate.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for clindamycin content, microbiological activity, safety, moisture, pH, crystallinity, and identity.

(ii) Samples required: 10 packages, nine containing approximately 300 milligrams and one containing 1.5 grams.

(b) *Tests and methods of assay*—(1) *Clindamycin content (vapor phase chromatography).* Proceed as directed in § 436.304 of this chapter.

(2) *Microbiological activity (microbiological agar diffusion assay).* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Accurately weigh approximately 12 milligrams of the clindamycin phosphate sample into a 50-milliliter glass-stoppered centrifuge tube. Pipet 25 milliliters of the pH 9.0 borate buffer into the centrifuge tube. Add 10 milliliters of chloroform and shake vigorously for 15 minutes. Centrifuge the resulting mixture and pipet a 20-milliliter aliquot of the aqueous phase into a 35-milliliter centrifuge tube. Add a weighed amount of intestinal alkaline phosphatase equivalent to 50 units of activity[1] and allow the solution to stand until the enzyme has completely dissolved. Place the tube into a water bath at 37° C ±2° C for 2.5 hours. After the 2.5-hours hydrolysis, allow the solution to cool. Further dilute an aliquot of the solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of clindamycin per milliliter (estimated).

(3) *Safety.* Proceed as directed in § 436.33 of this chapter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

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[1] Defined such that 50 units hydrolyzes at least 20 micromoles of a clindamycin phosphate authentic sample under the assay conditions described in this section.

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(7) *Identity.* Proceed as directed in § 436.211 of this chapter, using the sample preparation method described in paragraph (b)(2) of that section, except dry the sample for 2 hours at 100° C and allow to equilibrate with the atmosphere for 1 hour.

2. By reserving Subparts D and E and adding new Subpart F to read as follows:

Subpart D and E [Reserved]

Subpart F—Dermatologic Dosage Forms

§ 453.522 Clindamycin phosphate topical solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clindamycin phosphate is a solution of clindamycin phosphate in a suitable and harmless vehicle. Each milliliter contains 10 milligrams of clindamycin activity. Its clindamycin content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of clindamycin that it is represented to contain. Its pH is not less than 4.0 and not more than 7.0. The clindamycin phosphate used conforms to the standards prescribed by § 453.22(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The clindamycin phosphate used in making the batch for clindamycin content, microbiological activity, moisture, pH, crystallinity, and identity.

(*b*) The batch for clindamycin content and pH.

(ii) Samples required:

(*a*) The clindamycin phosphate used in making the batch: 6 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Clindamycin content (vapor phase chromatography).* Proceed as directed in § 436.304 of this chapter, except prepare the sample for assay and calculate the clindamycin content as follows:

(i) *Preparation of the sample.* Accurately transfer a volume of sample equivalent to approximately 20 milligrams of clindamycin activity to a 50-milliliter volumetric flask. Evaporate the sample to near dryness under a stream of nitrogen. Dilute to 50 milliliters with pH 9.0 borate buffer and mix well. Place 25.0 milliliters of this solution into a 50-milliliter stoppered centrifuge tube. Add 10 milliliters of chloroform. Shake vigorously for 15 minutes and centrifuge to obtain adequate phase separation of the chloroform and aqueous phase. Transfer 20 milliliters of the aqueous phase from the tube into a 35-milliliter stoppered centrifuge tube. Add to the tube a weighed amount of intestinal alkaline phosphatase equivalent to 50 units of activity[2] and allow to stand until the phosphatase has dissolved completely. Place the centrifuge tube into a water bath at 37° C ± 2° C for 2.5 hours. After the 2.5-hours hydrolysis, allow the solution to cool.

(ii) *Calculations.* Calculate the clindamycin content as follows:

$$\text{Clindamycin content per milliliter} = [(R_u)(W_s)(d)(f)]/[(R_s)(V)]$$

where:

R_u = Area of clindamycin sample peak/Area of internal standard;
R_s = Area of clindamycin standard peak/Area of internal standard;
W_s = Weight of clindamycin working standard in milligrams;
d = Dilution factor;
f = Potency of clindamycin working standard in milligrams of clindamycin per milligram;
V = Volume of sample in milliliters.

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted drug.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register** (January 13, 1981). However, interested persons may, on or before February 12, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 12, 1981, a written notice of participation and request for hearing, and (2) on or before March 16, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order, with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 13, 1981.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: January 6, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81–1080 Filed 1–12–81; 8:45 am]

BILLING CODE 4110–03–M

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[2] Defined such that 50 units hydrolyzes at least 20 micromoles of a clindamycin phosphate authentic sample under the assay conditions described in § 436.304 of this chapter.

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Chorionic Gonadotropin

Correction

In FR Doc. 80-37892, published at page 81037, in the issue of Tuesday, December 9, 1980 make the following correction:

In § 522.800 (c), in the table under (2), in the first column of page 81038, the columns were inadvertently transposed. The entry should read:

(2) * * *

Drug labeler code	*Firm name and address*
* *	* * *
000469	Lypho-Med, Inc., 4020 W. Division St., Chicago, Il. 60651
* *	* * *

BILLING CODE 1505-01-M

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21 CFR Part 601

[Docket No. 80N-0377]

Licensing; Sale of Biological Products Under Development

Correction

In FR Doc. 80-34463, appearing at page 73922 in the issue of Friday, November 7, 1980, the second line of the second full paragraph in column two on page 73923 should read, "Act (5 U.S.C. 553 (b) and (d)) and 21" and the date in the eleventh line of the same paragraph should read, "January 6, 1981".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[T.D. 7753]

Manufacturers and Retailers Excise Taxes; Tax-Free Sales of Articles To Be Used for, or Resold for, Further Manufacture

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to tax-free sales of articles to be used for, or resold for, further manufacture. The regulations clarify the existing excise tax law with respect to sanctions applicable to a taxpayer who purchases parts tax free without intending to use them for an exempt purpose. The regulations affect manufacturers who buy or sell parts intended to be used for, or resold for, further manufacture.

DATE: The regulations are effective for sales in calendar quarters beginning after January 13, 1981.

FOR FURTHER INFORMATION CONTACT: Robert B. Coplan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1980, the **Federal Register** published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4221 of the Internal Revenue Code of 1954 (45 FR 44965). The amendments were proposed to clarify the excise tax regulations dealing with the tax-free sale of truck parts which are to be used for, or resold for, further manufacture. A public hearing was held on October 28, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

In General

Under § 48.4221-2, articles that would otherwise be subject to the manufacturers excise tax may be sold by the manufacturer free of tax for use by the purchaser for further manufacture or for resale by the purchaser to a second purchaser for use by the second purchaser in further manufacture. Generally, purchasers who intend to use articles in further manufacture must comply with the registration requirements under § 48.4222(a)-1. Section 48.4221-1(c)(1) of the existing regulations also requires such purchasers to certify to the manufacturer the exempt purpose for which the articles are being purchased as evidence in support of a tax-free sale. A manufacturer who accepts such a certification in good faith will be relieved from liability for the manufacturers excise tax under section 4221(c) of the Code.

Changes Made in Response to Comments Received

The proposed regulations attempted to clarify the good faith standard under section 4221(c) by amending § 48.4221-2(a)(1) to provide that a manufacturer may not sell parts tax free if the circumstances of the sale indicate that some or all of the parts are intended for resale as replacement parts or for some other non-exempt use. The proposed regulations mentioned individual packaging of parts and identifiable coding of parts based on the purchaser's intended use as two examples of circumstances indicating that parts are intended for use as replacement parts.

A few comments from parts manufacturers expressed concern that the proposed regulations would impose an obligation on them (1) to determine the validity of a purchaser's certification that the parts are intended for use in further manufacture, and (2) to verify that the parts are actually used for the stated purpose. One comment stated that individually packaged parts are sometimes used in further manufacture, especially in warranty repair, and that the extent of such use by the purchaser cannot be foreseen by the manufacturer. Another comment suggested that the Internal Revenue Service should use its authority under section 4222(c) of the Code to revoke or suspend the registration of any purchaser who submits improper certificates in order to purchase parts tax free.

In response to these comments, the final regulations contain a cross-reference to the standards in § 48.4222(c)-1 for revoking or suspending a person's registration in place of the material contained in the notice of proposed rulemaking. In addition, a new paragraph (b) has been added to § 48.4222(c)-1 to provide that a purchaser who buys articles tax free without intending at the time of purchase to use them for an exempt purpose may have its registration revoked or suspended. The regulations provide that a purchaser who has a practice of purchasing articles tax free without regard to a reasonable estimate of the quantity of such articles it needs for exempt purposes such as further manufacture, may have its registration revoked or suspended under section 4222(c) and § 48.4222(c)-1.

One comment expressed concern that the proposed regulations would place an additional burden on truck manufacturers to maintain separate inventories for parts purchased tax paid and those either purchased tax free or manufactured by the truck manufacturer. However, the Code and the existing regulations do not permit a manufacturer to submit a certificate in support of a tax-free purchase of parts if the quantity of parts purchased tax free exceeds a reasonable estimate of the quantity of such parts it needs for the exempt purpose stated in the certificate.

Drafting Information

The principal author of these proposed regulations is Robert B. Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 48 is amended as follows:

Paragraph 1. Paragraph (a)(1) of § 48.4221-2 is amended by adding a new sentence at the end thereof to read as set forth below:

§ 48.4221-2 Tax-free sales of articles to be used for, or resold for, further manufacture.

(a) *Further manufacture*—(1) *In general.* * * * See § 48.4222(c)-1 for circumstances under which a person's registration and its right to sell or purchase articles tax free under this section may be revoked or suspended.

* * * * *

Par. 2. Section 48.4222(c)-1 is amended by inserting paragraph designation "(a)" and a heading immediately before the first sentence, and by adding a new paragraph (b) after newly designated paragraph (a) to read as set forth below:

§ 48.4222(c)-1 Revocation or suspension of registration.

(a) *In general.* * * *

(b) *Purchaser's improper use of registration.* A purchaser's registration and right to buy articles tax free may be revoked or suspended under paragraph (a) of this section if it buys articles tax free without intending at the time of purchase to use them for an exempt purpose. Revocation or suspension may be imposed even though the purchaser intends to pay, and actually pays, the manufacturer's excise tax when it uses the articles for a non-exempt purpose. A purchaser will be considered to have intended to use articles for an exempt purpose if it bases its orders on a reasonable estimate of the quantity of articles it will use for exempt purposes. However, a purchaser who has a practice of purchasing articles tax free without regard to a reasonable estimate of its needs for exempt purposes, may, in addition to other penalties, have its registration revoked or suspended under this section.

(Secs. 4222 (72 Stat. 1284; 26 U.S.C 4222) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: December 19, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 81-1141 Filed 1-12-81; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 70, 240, 245, 250, 270, and 275

[T.D. ATF-77; Notice No. 341]

Electronic Fund Transfer for Certain Alcohol and Tobacco Products Excise Taxpayments and Other Provisions

AGENCY: The Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Final regulation (Treasury decision).

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is publishing a final regulation that would require alcohol and tobacco products excise taxpayers, who pay a net amount of five million dollars or more in excise taxes in a fiscal year (large taxpayers), to pay these taxes by electronic fund transfer. This electronic fund transfer will provide the U.S. Treasury with immediate credit of funds and made them available for use on the actual date the excise taxes are due rather than several days later. Taxpayment by electronic fund transfer is in the public interest because the new requirement provides the most expeditious method of collecting alcohol and tobacco products excise taxpayments into the Treasury Account. The Federal Government will gain three or four days of use of this money whereas before the use of this money was delayed due to checks or other acceptable forms of payment being cleared through the banks.

This final regulation is classified as major and is supplemented by a final regulatory analysis.

EFFECTIVE DATE: June 1, 1981.

ADDRESS: For a copy of the final regulatory analysis, write to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington,

FOR FURTHER INFORMATION CONTACT:

For information on the final regulations, contact Armida N. Stickney or James A. Hunt at 202/566-7626. For information on the regulatory analysis, contact Cliff A. Mullen at 202/566-7531.

SUPPLEMENTARY INFORMATION:

Discussion of Proposed Regulations

This Treasury decision is the result of a notice of proposed rulemaking published in the **Federal Register** on June 6, 1980 (Notice No. 341; 45 FR 38256). Notice No. 341 proposed that those taxpayers who paid five million dollars or more in alcohol or tobacco products excise taxes during the previous fiscal year use electronic fund transfers for the payment of their excise taxes. The taxpayments would be made to the Account of the U.S. Treasury at the Federal Reserve Bank of New York.

The proposal is in response to recommendations made in 1978 by the President's Reorganization Project regarding cash management initiatives within Government operations. The net effect of the proposal is improved cash management by reducing the length of time between excise taxpayments from the alcohol and tobacco products industry and the use of those funds by the Federal Government. As a result, the Office of Management and Budget (OMB) and the U.S. Department of Treasury adopted a policy of reducing interest lost on excise taxes due but not received through the use of improved methods of collection—i.e., electronic fund transfer.

Public Participation

Interested persons were afforded an opportunity of 90 days to comment on the proposed amendments to 27 CFR Parts 19, 70, 240, 245, 250, 270, and 275; and due consideration was given to the 51 comments received in response to the notice. As a result of comments received, some changes were made to the proposed amendments. The Director determined that a public hearing was not necessary.

Discussion of Issues Raised by Comments

The majority of the commenters to Notice No. 341 opposed the proposal. A few commenters offered suggestions. Major issues raised by the commenters are briefly discussed as follows:

Taxpayer as tax collector. Assertions were made that the distiller, manufacturer of tobacco products, winemaker, and brewer are tax collectors for the Federal Government and should be allowed a benefit for performing this tax service.

The laws and regulations covering these taxpayers, however, view them solely as taxpayers and do not provide for them to receive any economic or financial benefit for these collections. The taxpayer collects excise taxes as a part of the cost of the product. In reviewing the legislative history of the Internal Revenue Code of 1954, ATF found no indication that Congress established the tax return system as a form of benefit or compensation to the alcohol and tobacco products industries in return for performing a tax collection service for the Federal Government.

"Taxes not due and payable until the income giving rise to the taxes is earned." It was argued that a basic tenet of the Federal taxation system is that taxes ordinarily are payable upon accrual or on a pay-as-you-go basis. That is to say, most of the Federal tax revenue is paid immediately upon the payment of income that gives rise to the taxes. The examples used to exemplify this basic tenet involved such taxes as income tax withholdings and FICA tax from wages and salaries and are not analogous to alcohol and tobacco products excise taxes. Moreover, the industry practice of extending credit and payment terms to their customers is not mandated by law. This practice is of its own choosing. Improvement of cash management by both the industry and the Federal Government can be achieved by expediting receipts to the greatest extent possible.

Against the intent of the Trade Agreements Act of 1979. It was also asserted that the new requirement is contrary to the intent of the Congress in the passage of the Trade Agreements Act of 1979, in particular, the portion dealing with the Distilled Spirits Tax Revision Act of 1979 which repealed the wine gallon and proof gallon provisions of 26 U.S.C. 5001. In an effort to give the domestic distilled spirits industry relief over a law that otherwise would have favored imported bottled distilled spirits, the Congress amended 26 U.S.C. 5061 to increase the deferral time for tax payment by five additional days in 1980, 10 additional days in 1981, and 15 additional in 1982 and subsequent years. Some commenters asserted that the new requirement would take away or, at least, lessen the relief granted by Congress.

Contrary to this assertion, the extended deferral periods for the entire domestic distilled spirits industry remain unchanged; thus, the new requirement is not contrary to the stated intent of the Congress, nor the provisions of 26 U.S.C. 5061. Noteworthy is the legislative history of the Trade Agreements Act of 1979 on the additional deferral period which stresses that the granting of the additional time dealt with "unique circumstances" and was not "precedent for any other area".[1] The Administration and the Congress, therefore, did not intend that the additional deferral period be interpreted as meaning anything other than the time periods established by that law. As noted above, the new requirement does not alter the time periods established.

Small taxpayer versus large taxpayer. Another matter raised in opposition was that small taxpayers also should be required to pay their excise taxes by electronic fund transfer; otherwise, the proposal is discriminatory. When the President's Reorganization Project team recommended the use of electronic transfer, they decided that the five-million-dollar figure was sufficiently equitable in establishing a class of taxpayers.

Unemployment. A few commenters indicated that there could be loss of employment. Sufficient information was not made available to ATF to determine the precise impact, if any, on the employment situation of the affected industry. For a discussion on the employment impact of electronic fund transfer, refer to the material entitled, "Impact on the General Economy," of the final regulatory analysis.

Inflationary impact. ATF agrees that, because of accelerated taxpayments by electronic fund transfer, some segments of the affected industries would incur costs to finance these taxes. This would increase the cost of doing business and could possibly result in product price increases.

Reversal of tax policy. Several commenters felt the new requirement is a complete reversal of tax policy that has been in motion for the past 25 years. However, ATF believes that the collection of tax on the date due is not a reversal of tax policy; and also the technology of electronic fund transfer has not become of age. Electronic fund transfer is a method of collecting the tax within existing tax policy.

Advantage of importers over domestic taxpayers. ATF is aware that importers will continue to enjoy the benefits of delayed tax transmittals whereas the domestic large taxpayers would have a cost disadvantage until the U.S. Customs Service adopts a similar method for the payment of excise taxes on the same products. Therefore, the effective date of this rule has been deferred to June 1, 1981, to allow the U.S. Customs Service to proceed to develop a comparable requirement for electronic fund transfer to be imposed on parties which pay tobacco and alcohol excise taxes through the U.S. Customs Service.

Other issues raised by commenters are discussed in the regulatory analysis.

Discussion of Changes to the Proposed Regulations

For purposes of clarity and to avoid possible confusion in the banking community, the following changes have been made to the proposed amendatory language in Notice No. 341:

(1) The titles of 27 CFR 19.523a, 240.591a, 245.117a, 250.112a, 270.165a, 175.115a have been entitled, "Payment of tax by electronic fund transfer".

(2) The paragraph entitled, "Other cross references", in the above-cited sections has been deleted.

(3) The definitions for "bank", "electronic fund transfer or EFT", and "Treasury Account" have been revised.

(4) The definitions for "authorized commercial bank", "Government depositaries", and "nonmember clearing banks" have been dropped in favor of the term "commercial bank". The term "Government depositaries" was specifically deleted so that many commercial banks which can effect electronic fund transfers would not be excluded.

(5) Taxpayments shall be considered as made when a large taxpayer "unconditionally" directs his bank to immediately effect an electronic fund transfer in accordance with the established procedures by the bank. As a result, paragraph (c)(3) of each of the above-cited sections has been clarified to show that the large taxpayers should not be held liable for failures beyond their control in a system they are required to use for the benefit of the Government. Conversely, the banking institution should not be held responsible for taxpayments not received from the taxpayer in the manner prescribed by regulations and within the time limit established by the banking institution.

(6) Instead of prescribing a notice form as proposed in 27 CFR 19.523b, 240.591b, 245.117b, 250.112c, 270.165b, and 275.115b, the regulations prescribed the issuance of an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF Publication 5000.8). This procedure will provide specific information and instructions on how to make the taxpayment by electronic fund transfer and depicts a facsimile of the information a large taxpayer must give to his bank.

(7) When a large taxpayer will discontinue remitting the excise tax by electronic fund transfer, he will notify ATF and the director of the service center or the Office-in-Charge, as the

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[1] House Report No. 96-317, 96th Cong. 1st Session 169 (1979).

case may be, by means of a written notification attached to his tax return in lieu of an information return.

(8) Prepayment of alcohol and tobacco products excise taxes by a large taxpayer in Puerto Rico will not be remitted by electronic fund transfer. It is administratively unfeasible to require prepayment of the tax. In the case of alcoholic beverages, the Office-in-Charge has to certify receipt of the tax payment prior to the removal of the alcoholic beverages and forward the certification to the revenue agent of the Commonwealth of Puerto Rico. In the case of tobacco products, the prepayment of tax by electronic fund transfer would result in the tax being paid before actually due.

Other amendment are editorial in nature.

Drafting Information

The principal author of this final rule is A. N. Stickney of the Research and Regulations Branch, ATF. Other personnel of ATF and other offices of the Department of the Treasury participated in developing this final regulation, both as to matters of substance and style.

Compliance with Executive Order 12044

In compliance with Executive Order 12044, a final regulatory analysis has been prepared to accompany this final regulation. This regulatory analysis reflects the economic consequences to the large taxpayers and the benefit to the Federal Government. Copies of the regulatory analysis are available upon request, and a copy is available for public inspection during normal business hours at the ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Authority and Adoption of Amendments to the Regulations

The Director is issuing this Treasury decision under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Accordingly, 27 CFR Parts 19, 70, 240, 245, 250, 270, and 275 are amended by adopting, subject to the foregoing changes, the amendatory language proposed in Notice No. 341 in the **Federal Register** on June 6, 1980 (45 FR 38256).

PART 19—DISTILLED SPIRITS PLANTS

1. The table of sections to 27 CFR Part 19 is amended to read as follows:

Subpart O—Transfers and Withdrawals

* * * * *

19.523a Payment of tax by electronic fund transfer.

* * * * *

2. Section 19.11 is amended to read as follows:

§ 19.11 Meaning of terms.

* * * * *

ATF officer. * * *

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

CFR. * * *

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

District director. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

Fiduciary. * * *

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Secretary. * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Transfer in bond. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

3. Section 19.519 is revised to read as follows:

§ 19.519 Methods of taxpayment.

The tax on spirits shall be paid pursuant to a return on Form 5110.35, filed as provided in § 19.523 or § 19.523(a) and § 19.524. Except for remittance to be effected by electronic fund transfer under § 19.523(a), remittance for the tax in full shall accompany the return and may be in any form which the district director is authorized to accept under the provisions of 26 CFR 301.6311-1 (Payment by check or money order) and which is acceptable to him. However, where a check or money order tendered in payment for taxes is not paid on presentment, or where the taxpayer is otherwise in default in payment, any remittance made during the period of such default, and until the regional regulatory administrator finds that the revenue will not be jeopardized by the acceptance of a personal check (if acceptable to the district director), shall be in cash or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or a money order, as provided in 26 CFR 301.6311-1. Checks and money orders shall be made payable to "Internal Revenue Service".

(Act of August 16, 1954, Ch. 736, 68A Stat. 777, as amended (26 U.S.C. 6311); Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 19.523 [Amended]

4. Section 19.523 is amended by changing the prepositional phrase, "with remittance", wherever it appears, to read "and remittance as required by § 19.523a or § 19.524".

5. Section 19.523a is new. As added, § 19.523a reads as follows:

§ 19.523a Payment of tax by electronic fund transfer.

(a) *General.* Notwithstanding any provision of §§ 19.522 and 19.523, except as provided by this section, a proprietor who pays an amount of five million dollars or more in excise taxes during a fiscal year shall use a commerical bank in making payment of the tax on spirits for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a proprietor already remitting the tax by EFT, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator of that fact, in writing, and that the remittances for the current fiscal year will be effected by EFT.

(2) The proprietor shall, for each return period, direct his bank to effect a transfer of funds to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer

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of funds to be effected to the Treasury Account by no later than the time for filing returns as provided in § 19.523. The request shall take into account any time limit established by the bank.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 19.524. During the first return period in which the proprietor chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory administrator by attaching a written notification to Form 5110.32 or Form 5110.35, stating that no taxes are due by EFT, because the amount of taxes paid during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, will be filed with the district director.

(c) *Remittance.* (1) Each proprietor shall show on the return, Form 5110.32 or 5110.35, information about remitting the tax for that return period by EFT and shall file the return with the director of the service center.

(2) The proprietor shall direct his bank to effect an EFT message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(3) Remittances shall be considered as made when the proprietor unconditionally directs his bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

(d) *Failure to request an EFT message.* For provisions relating to the penalty for failure to request an EFT message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional regulatory administrator will issue to the proprietor an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF P 5000.8). This publication outlines the procedure a proprietor is to follow when preparing returns and remittances and when instructing the bank to effect an EFT.

(f) *Effective date.* In the case of the fiscal year which begins after September 30, 1980, any proprietor who paid an amount of five million dollars or more in excise tax during October 1, 1979, and September 30, 1980, shall begin paying the remittances by EFT, as required by this section, for the tax return period beginning June 1, 1981.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37))

6. Section 19.524 is amended by adding a new sentence at the end of paragraph (a) and reads as follows:

§ 19.524 Manner of filing returns.

(a) * * * All returns on Form 5110.32 and Form 5110.35 that require remittances to be effected by electronic fund transfer under § 19.523a shall be filed with the director of the service center.

* * * * *

PART 70—PROCEDURE AND ADMINISTRATION

1. The table of sections to 27 CFR Part 70 is amended by adding a new subpart, Subpart D—Use of Commercial Banks—and by listing a new section pertaining to this new subpart. As amended, the table of sections reads as follows:

Subpart D—Use of Commercial Banks

Sec.
70.51 Use of commercial banks.

* * * * *

2. Section 70.1 is revised to read as follows:

§ 70.1 General.

This part sets forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for—

(a) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers; and

(b) The use of commercial banks for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

3. Section 70.11 is amended to read as follows:

§ 70.11 Meaning of terms.

* * * * *

CFR. * * *

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Director. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a taxpayer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

Special agent in charge. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

4. Subpart D and § 70.51 are added to 27 CFR Part 70 and read as follows:

Subpart D—Use of Commercial Banks

§ 70.51 Use of commercial banks.

For provisions relating to the use of commercial banks and electronic fund transfer of taxpayment to the Treasury Account, see the regulations relating to the particular tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

PART 240—WINE

1. The table of sections to 27 CFR Part 240 is amended to read as follows:

Subpart AA—Tax Payment of Wine

* * * * *

240.591 Payment of tax by check, cash, or money order.
240.591a Payment of tax by electronic fund transfer.

* * * * *

240.594 Prepayment of tax; general.

* * * * *

240.595 Prepayment of tax; proprietor in default.

* * * * *

2. Section 240.10 is amended to read as follows:

§ 240.10 Meaning of terms.

* * * * *

ATF officer. * * *

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Bonded wine cellar. * * *

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in a particular State in which a claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal

Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

Effervescent wine. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor's commercial bank, either directly or though a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

Exception. * * *

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Same kind of fruit. * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Total solids. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

§ 240.590a [Amended]

3. Paragraph (b) of § 240.590a is amended by changing the prepositional phrase, "with remittances", wherever it appears, to read "and remittances as required by § 240.591 or § 240.591a,".

4. The title to § 240.591 and the first sentence of paragraph (a) are amended to read as follows:

§ 240.591 Payment of tax by check, cash, or money order.

(a) *General.* The tax on wine shall (unless prepaid) be paid by semimonthly return on Form 2050, which shall be filed with remittance, for the full amount of tax due as shown on the return in a manner authorized under 26 CFR 301.6311-1 (Payment by check or money order). * * *

5. Section 240.591a is new. As added, § 240.591a reads as follows:

§ 240.591a Payment of tax by electronic fund transfer.

(a) *General.* Notwithstanding any provision of § 240.591, except as provided in this section, a proprietor who pays an amount of five million dollars or more in wine excise taxes during a fiscal year shall use a commercial bank in making payment of the tax on wine for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a proprietor already remitting the tax by EFT, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be effected by EFT.

(2) The proprietor shall, for each return period, direct his bank to effect a transfer of funds to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be effected to the Treasury Account by no later than the third calendar day next succeeding the last day of each return period. The request shall take into account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 240.590a, shall file returns and shall remit the tax by EFT, for each return period, not later than the last day of the return period next succeeding that period.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, the proprietor may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 240.591. During the first return period in which the proprietor chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory adminstrator by attaching a written notification to Form 2050, stating that no taxes are due by EFT, because the amount of taxes paid during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* (1) Each proprietor shall show on the return, Form 2050, information about remitting the tax for that return period by EFT and shall file the return with the director of the service center.

(2) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(3) Remittances shall be considered as made when a proprietor unconditionally directs the bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an EFT message within the prescribed time, see the provisions in § 240.593.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional regulatory administrator will issue to the proprietor an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF P 5000.8). This publication outlines the procedure a proprietor is to follow when preparing returns and remittances and when instructing the bank to effect an EFT.

(f) *Effective date.* In the case of the fiscal year which begins after September 30, 1980, any proprietor who paid an amount of five million dollars or more in excise tax during October 1, 1979, and September 30, 1980, shall begin paying the remittances by EFT, as required by this section, for the tax return period beginning June 1, 1981.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37))

5. Section 240.594 is revised to read as follows:

§ 240.594 Prepayment of tax; general.

(a) A proprietor shall, before removal of the wine for consumption or sale, file with the district director a wine tax return, Form 2052, with remittance, where (1) he is required to prepay tax under § 240.595, (2) his tax deferral bond (or bonds), Form 2053, is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of such bond by more than $100, or (3) he does not have an approved tax deferral bond, Form 2053, and the total amount of tax unpaid at any one time exceeds $100. The return, with remittance, shall be filed by forwarding or delivering it to the district director. For the purpose of complying with this section, the term "forwarding" shall mean deposit in the U.S. mail, properly addressed to the district director.

(b) However, when a proprietor is required by § 240.591a to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by (1) completing the return, Form 2052, and by mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator and (2) by directing the proprietor's bank to effect an EFT.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 5302))

6. Section 240.595 is revised to read as follows:

§ 240.595 Prepayment of tax; proprietor in default.

When a payment of taxes on wine is not made on presentment of check or money order tendered, or when the proprietor is otherwise in default in payment of the tax under § 240.591 or § 240.591a, no wine shall be removed for consumption or sale until the tax has been paid as provided in § 240.594, for the period of the default and until the regional regulatory administrator finds the revenue will not be jeopardized by deferred payment of the tax as provided in § 240.591 or § 240.591a. Any remittance made during the period of the default shall be in cash, or shall be in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or in the form of a money order, as provided in 26 CFR 301.6311-1 (Payment by check or money order), or in the form of an electronic fund transfer.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 5302))

7. Section 240.596 is revised to read as follows:

§ 240.596 Date of mailing and delivering of returns.

(a) When the proprietor sends the tax return, Form 2052 or Form 2050, as the case may be, by U.S. mail, with remittance to the office of the district director or without remittance to the director of the service center, the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. When the postmark on the cover is illegible, the proprietor shall prove when the postmark was made.

(b) When the proprietor sends the tax return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the tax return and, if accompanied, of the remittance.

8. Section 240.901 is amended to read as follows:

§ 240.901 Form 2050.

* * * Form 2050, as instructed on the form, shall be prepared and filed with the district director as provided in § 240.591 or with the director of the service center if taxpayment is made by electronic fund transfer as provided in § 240.591a; and, at the same time, a copy of Form 2052 shall be forwarded to the regional regulatory administrator.

9. Section 240.902 is revised to read as follows:

§ 240.902 Form 2052.

(a) When the proprietor is required to prepay tax, as provided in §§ 240.594(a) and 240.595, the proprietor shall first prepare Form 2052, as instructed on the form, in an amount sufficient to cover the tax on the quantity of wine proposed to be removed that day. Form 2052 shall be delivered to the district director or deposited in the U.S. mail properly addressed to the district director, together with a remittance as provided in § 240.594(a), prior to removal of the wine. At the same time, a copy of Form 2052 shall be forwarded to the regional regulatory administrator.

(b) In the case of a prepayment of tax by electronic fund transfer as provided in §§ 240.594(b) and 240.595, the proprietor shall (1) prepare Form 2052, as instructed on the form, in an amount sufficient to cover the tax on the quantity of wine proposed to be removed that day; (2) file Form 2052 with the director of the service center and, at the same time, a copy shall be forwarded to the regional regulatory administrator; and (3) direct his bank to effect an EFT.

(c) Form 2052 will be serially numbered by the proprietor, commencing with "1" on January 1 of each year. Form 2052 shall be executed by the proprietor under penalties of perjury. Credit for the amount prepaid on Form 2052 will be taken on the tax return, Form 2050, covering all removals for consumption or sale for the period covered by the return.

PART 245—BEER

1. The table of sections to 27 CFR Part 245 is amended to read as follows:

Subpart N—Tax on Beer

* * * * *

245.112 Method of tax payment.

* * * * *

245.117 Semimonthly return.
245.117a Payment of tax by electronic fund transfer.
245.117b ATF Publication 5000.8, Payment of Tax by Electronic Fund Transfer.
245.117c Brewer in default; tax to be prepaid.
245.117d Prepayment of tax.
245.117e Employer identification number.
245.117f Application for employer identification number.
245.117g Execution of Form SS-4.

* * * * *

2. Section 245.5 is amended to read as follows:

§ 245.5 Meaning of terms.

* * * * *

ATF officer. * * *

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Cereal beverage. * * *

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

District director. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a brewer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Executed under penalties of perjury. * * *

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Secretary. * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

This chapter. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

§ 245.110b [Amended]

3. Paragraph (a) of § 245.110b is amended by changing (1) the section citation "§ 245.117a" to read "§ 245.117 or § 245.117a" and (2) the section citation "§ 245.117c" to read "§ 245.117d".

4. Section 245.112 is amended to read as follows:

§ 245.112 Method of tax payment.

The tax on beer shall be paid by return on Form 2034, as provided in §§ 245.117, 245.117a, 245.117c, and 245.117d. The tax shall be paid by remittance at the time the tax return is rendered. The remittance shall be made in cash, by check or money order made payable to the "Internal Revenue Service" and delivered to the district director; or shall be effected by an electronic fund transfer.* * *

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); sec. 201, Pub. L. 85–859, 72 Stat. 1335 (26 U.S.C. 5061))

§ 245.117a [Redesignated as § 245.117]

5. Section 245.117a is redesignated as § 245.117 and is amended by changing in paragraph (a) the section citation "§ 245.117c" to read "§ 245.117d" and by changing in paragraph (e) the prepositional phrase, "with remittance" to read ", and remittance as required by this section or § 245.117a,". Moreover, paragraph (f) is revised to read as follows:

§ 245.117 Semimonthly return.

* * * * *

(f) *Timely filing.* (1) When the brewer sends the semimonthly return by U.S. mail, with remittance as required by this section to the office of the district director or without remittance as required by § 245.117a to the director of the service center, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the return and, if accompanied, the date of delivery of the remittance. When the postmark on the cover is illegible, the brewer shall prove when the postmark was made.

(2) When the brewer sends the semimonthly return with or without remittance by registered mail or by certified mail, the date of registery or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the semimonthly return and, if accompanied, of the remittance.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85–859, 72 Stat. 1335 (26 U.S.C. 5061))

6. The provisions of § 245.117a are new. As added, § 245.117a reads as follows:

§ 245.117a Payment of tax by electronic fund transfer.

(a) *General.* Notwithstanding any provision of § 245.117, except as provided in this section, a brewer who pays an amount of five million dollars or more in excise taxes on beer during a fiscal year (including a brewer who is eligible to pay at the reduced rate of tax under § 245.110a) shall use a commercial bank in making payment of the tax for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a brewer already remitting the tax by EFT, each brewer who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year shall be delivered by EFT.

(2) The brewer shall, for each return period, direct his bank to effect a transfer of funds to the Treasury Account as provided in § 245.117b. The request shall be made to the bank early enough for the transfer to be effected to the Treasury Account by no later than the close of the last full calendar day of the return period next succeeding that period. The request shall take into account any time limit established by the bank.

(3) If a brewer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed in § 245.117. During the first return period in which the brewer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the brewer shall notify the director of the service center and the regional regulatory administrator by attaching a written notification to Form 2034 (5130.7), stating that no taxes are due by EFT, because the amount of taxes paid during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* (1) Each brewer shall show on the return, Form 2034 (5130.7), information about remitting the tax and shall file the return with the director of the service center for that return period by EFT.

(2) The brewer shall direct his bank to effect an EFT message as required by paragraph (b)(2) of this section. The brewer will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(3) Remittances shall be considered as made when the brewer unconditionally directs his bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

(d) *Failure to request an EFT message.* For provisions relating to the penalty for failure to request an EFT message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Effective date.* In the case of the fiscal year which begins after September 30, 1980, any brewer who paid an amount of five million dollars or more in excise tax during October 1, 1979, and September 30, 1980, shall begin paying the remittances by EFT, as required by this section and by § 245.117b, for the tax return period beginning June 1, 1981.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37))

§ 245.117b [Redesignated as § 245.117c]

7. Section 245.117b is redesignated as § 245.117c and is revised to read as follows:

§ 245.117c Brewer in default; tax to be prepaid.

(a) When a remittance in payment of taxes on beer is not paid on presentment of check or money order tendered, or when the brewer is otherwise in default in payment of tax under § 245.117 or § 245.117a, no beer shall be removed for consumption or sale or taken from the brewery for removal for consumption or sale until the tax has been prepaid as provided in § 245.117d. The brewer shall continue to prepay during the time that he is in default and thereafter until the regional regulatory administrator finds the revenue will not be jeopardized by deferred payment of tax under the provisions of this subpart.

(b) Any remittance made while the brewer is required to prepay under this section shall be in cash, in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or in the form of a money order, as provided in 26 CFR 301.6311–1 (Payment by check or money order), or shall be effected in the form of an electronic fund transfer as provided by §§ 245.117a and 245.117b.

8. The provisions of § 245.117b is new. As added, § 245.117b reads as follows:

§ 245.117b ATF Publication 5000.8, Payment of Tax by Electronic Fund Transfer.

Upon the notification required under § 245.117a(b)(1), the regional regulatory administrator will issue to the brewer an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF P 5000.8). This publication outlines the procedure a brewer is to follow when preparing returns and remittances and when instructing the bank to effect an EFT.

§ 245.117c [Redesignated as § 245.117d]

9. Section 245.117c is redesignated as § 245.117d and is revised to read as follows:

§ 245.117d Prepayment of tax.

(a) *General.* When a brewer is required to prepay tax under § 245.117c, or when the penal sum of the bond(s), form 1586, is insufficient for deferral of payment of tax on beer to be removed for consumption or sale, or when a brewer is not entitled to defer the tax under the provisions of this subpart, the brewer shall prepay the tax before any beer is removed for consumption or sale, or taken out of the brewery for removal for consumption or sale.

(b) *Method of prepayment.*

(1) Prepayment shall be made by forwarding or delivering to the district director a tax return, Form 2034 (5130.7), with remittance, covering the tax on beer. The word "Prepayment" shall be prefixed to the title of the return.

(2) However, if a brewer is required by § 245.117a to effect Payment of Tax by Electronic Fund Transfer, the brewer shall prepay the tax before any beer can be removed for consumption or sale by completing the return and by delivering or forwarding it to the director of the service center and by delivering or forwarding a copy to the regional regulatory administrator. At the same time, the brewer shall direct his bank to effect an EFT.

(3) For the purposes of complying with paragraph (b) of this section, the term "forwarding" means depositing in the U.S. mail, properly addressed to the district director, director of the service center, on the regional regulatory administrator, as the case may be.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); sec. 201, Pub. L. 85–859, 72 Stat. 1335 (26 U.S.C. 5061))

§§ 245.117d–245.117f [Redesignated as §§ 245.117e–245.117g]

10. Sections 245.117d, 245.117e, and 245.117f are redesignated as §§ 245.117e, 245.117f, and 245.117g, respectively.

11. Section 245.227 is revised to read as follows:

§ 245.227 Beer tax return; Form 2034 (5130.7).

All entries in the return, Form 2034 (5130.7), shall be fully supported by accurate and complete records. The brewer shall file the copy returned to him by the director of the service center or the district director as a part of his records at the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, 1390, 1395 (26 U.S.C. 5061, 5415, 5555))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

1. The table of sections to 27 CFR Part 250 is amended to read as follows:

Subpart E—Taxpayment of Liquors and Articles in Puerto Rico

* * * * *

Payment of Tax by Return

* * * * *

250.112a Payment of tax by electronic fund transfer.

* * * * *

2. Section 250.11 is amended by adding several new definitions. As amended, § 250.11 reads as follows:

§ 250.11 Meaning of terms.

* * * * *

ATF officer. * * *

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Chief, Puerto Rican Operations. * * *

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

District director of customs. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Executed under penalties of perjury. * * *

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Taxpaid. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

3. Section 250.112(e) is revised to read as follows:

§ 250.112 Taxes to be collected by returns for semimonthly periods.

* * * * *

(e) *Filing.* The original and two copies of returns on Forms 5110.52, 2927, or 2929, with remittance covering the full amount of the tax, shall be filed with the Officer-in-Charge not later than the last day for filing as prescribed by paragraph (f) or (g) of this section. The tax shall be paid in full by remittance at the time the return is rendered, except as prescribed in § 250.112a.

The remittance may be in any form the Officer-in-Charge is authorised to accept under the provisions of 26 CFR 301.6311–1 (Payment by check or money order) and which is acceptable to the Officer-in-Charge. The remittance by check or money order, accompanying the return, shall be made payable to the "Internal Revenue Service". When the return and remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be treated as the date of delivery. If the last day for filing a return under this paragraph falls on a Saturday, Sunday, or legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of the return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

* * * * *

4. Section 250.112a is new. As added, § 250.112a reads as follows:

§ 250.112a Payment of tax by electronic fund transfer.

(a) *General.* Notwithstanding any provision of § 250.112, except as provided in this section, a proprietor who pays an amount of five million dollars or more in excise taxes during a fiscal year shall use a commercial bank in making payment of the tax on distilled spirits, wine, and beer for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a proprietor already remitting the tax by EFT, each proprietor who paid an amount fo five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for deferred taxes on Form 5110.52, 2927, or 2929 for the current fiscal year will be effected by EFT.

(2) The proprietor shall, for each return period, direct his bank to send an EFT message, as provided in paragraph (e) of this section, to the Treasury Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury Account by no later than the last day for filing the return as prescribed in § 250.112 (f) and (g). The request shall take into account any time limit established by the bank.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 250.112. During the first return period in which the proprietor chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return, the proprietor shall notify the Officer-in-Charge and the regional regulatory administrator by attaching a written notification to Form 5110.52, 2927, or 2929, stating that no taxes are due by EFT, because the amount of taxes paid during the preceding fiscal year was less than five million dollars and that the remittance shall accompany the tax return.

(c) *Remittances.* (1) Each proprietor shall show on the return, Form 5110.52, 2927, or 2929, information about remitting the tax for that tax period by EFT and shall file the return with the Officer-in-Charge.

(2) The proprietor shall direct his bank to effect an EFT message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(3) Remittances shall be considered as made when the proprietor unconditionally directs his bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

(d) *Failure to request an EFT message.* For provisions relating to the penalty for failure to request an EFT within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional regulatory administrator will issue to the proprietor an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF P 5000.8). This publication outlines the procedure a proprietor is to follow when preparing returns and remittances and when instructing the bank to effect an EFT.

(f) *Effective date.* In the case of the fiscal year which begins after September 30, 1980, any proprietor who paid an amount of five million dollars or more in excise tax during October 1, 1979, and September 30, 1980, shall begin paying the remittances by EFT, as required by this section, for the tax return period beginning June 1, 1981.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37))

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

1. The table of sections to 27 CFR Part 270 is amended to read as follows:

Subpart H—Operations by Manufacturers

* * * * *

270.165a Payment of tax by electronic fund transfer.

* * * * *

2. Section 270.11 is amended to read as follows:

§ 270.11 Meaning of terms.

* * * * *

ATF officer. * * *

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Cigarette. * * *

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank in New York.

* * * * *

Director. * * *

Director of the service center. The Director, Internal Revenue Service Center, in any of the Internal Revenue regions.

District director. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a manufacturer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

* * * * *

Factory. * * *

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Removal or remove. * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Tobacco products. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

3. Section 270.162(a) is revised to read as follows:

§ 270.162 Semimonthly tax return.

(a) *Requirement for filing.* Every manufacturer of tobacco products shall file, for each of his factories, a semimonthly tax return on Form 3071 for each return period, including any period during which a manufacturer begins or discontinues business. Except when the tax is paid by EFT, the return shall be filed, as instructed on the form, with the district director of the internal revenue district in which the factory is located. When the tax is paid by EFT, the return shall be filed, as instructed on the form, with the director of the service center serving the factory location; and a copy shall be sent to the regional regulatory administrator. The manufacturer shall file the return at the time specified in § 270.165 regardless of whether cigars or cigarettes are removed or whether tax is due for that particular return period. However, when the manufacturer requests by letter, in duplicate, and the regional regulatory administrator grants specific authorization, the manufacturer need not during the term of such authorization file a tax return for any period for which tax is not due or payable. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director or the director of the service center.

* * * * *

4. Section 270.165 is amended by revising paragraph (c) to read as follows:

§ 270.165 Times for filing semimonthly returns.

* * * * *

(c) *Definitions, etc.* When the manufacturer sends the tax return by U.S. mail with the remittance to the director or the district director or without remittance to the director of the service center, the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. When the postmark is illegible, the manufacturer shall prove when the postmark was made. When the proprietor sends the tax return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the tax return and, if accompanied, of the remittance. As used in this section, the term "business day" means any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the return is required to be filed. If the last day for filing a return under this section falls on Saturday, Sunday, or a legal holiday in the District of Columbia, or on a statewide legal holiday in the State wherein the return is required to be filed, the filing of the tax return and remittance required with the return shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

5. Sections 270.165a is new. As added, § 270.165a reads as follows:

§ 270.165a Payment of tax by electronic fund transfer.

(a) *General.* Notwithstanding any provision of § 270.168, except as provided in this section, a manufacturer of tobacco products who pays an amount of five million dollars or more in tobacco products excise taxes for his factory during a fiscal year shall use a commercial bank in making payment of the tax on cigars and cigarettes for the next succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a manufacturer already remitting the tax by EFT, each manufacturer who paid an amount of five million dollars or more in tobacco products excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be effected by EFT.

(2) The manufacturer shall, for each return period, direct his bank to effect a transfer of funds to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be effected to the Treasury Account by not later than the third business day following the last day of each return period prescribed in § 270.163. The request shall also take into account any time limit established by the bank. However, a manufacturer who is qualified for extended deferral, as provided in § 270.165(b), shall file returns and send remittances by EFT, for each return period, not later than the last day of the next succeeding return period.

(3) If a manufacturer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 270.168. During the first return period in which the manufacturer chooses to discontinue remitting the tax by EFT and to begin remitting the tax with the tax return to the district director, the manufacturer shall notify the director of the service center and the regional regulatory administrator by attaching a written notification to Form 3071, stating that no taxes paid are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittances.* (1) Each manufacturer shall show on the return, Form 3071, information about remitting the tax for that return period by EFT and shall file the return with the director of the service center.

(2) The manufacturer shall direct his bank to effect an EFT message as required by paragraph (b)(2) of this section. The manufacturer will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(3) Remittances shall be considered as made when the manufacturer unconditionally directs his bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the established procedures of the bank.

(d) *Failure to request an EFT message.* For provisions relating to the penalty for failure to request an EFT message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional regulatory administrator will issue to the manufacturer an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF P 5000.8). This publication outlines the procedure a manufacturer is to follow when preparing returns and remittance and when instructing the bank to effect an EFT.

(f) *Effective date.* In the case of the fiscal year which begins after September 30, 1980, any manufacturer who paid an amount of five million dollars or more in excise tax during October 1, 1979, and September 30, 1980, shall begin paying the remittance by EFT, as required by this section, for the tax return period beginning June 1, 1981.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37))

6. Section 270.166 is amended to read as follows:

§ 270.166 Default, prepayment of tax required.

* * * Any remittance made during the period of a default shall be in cash, or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or in the form of a U.S. postal money order or other money order, and defined in 26 CFR 301.6311-1 (Payment by check or money order), or shall be delivered in the form of an electronic fund transfer message as provided in § 270.165a.

(Aug. 16, 1954, ch. 736, 68A Stat. 707 (26 U.S.C. 5703); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311))

7. Section 270.167 is amended by (1) redesignating the existing text of the section as paragraph (a); (2) adding a new paragraph (b); and (3) updating the citation of authority. As amended, § 270.167 reads as follows:

§ 270.167 Prepayment tax return.

(a) * * *

(b) However, if a manufacturer is required by § 270.165a to pay the tax by electronic fund transfer, the manufacturer shall prepay the tax before any cigars or cigarettes can be removed for consumption or sale by completing the return and filing it, as instructed on the return, with the director of the service center and by forwarding a copy to the regional regulatory administrator. At the same time, the manufacturer shall direct his bank to effect an EFT.

(Sec. 202, Pub. L. 85-859, 68A Stat. 1417 (26 U.S.C. 5703); sec. 202, Pub. L. 85-859, 72 Stat.

1423, as amended (26 U.S.C. 5741); (Aug. 16, 1954, ch. 736, 68 Stat. 775, as amended (26 U.S.C. 6302)))

8. Section 270.168 is amended to read as follows:

§ 270.168 Remittance with return.

Except when an electronic fund transfer has been made under § 270.165a for the full amount of tax due, the tax on cigars and cigarettes shown to be due and payable on any return shall be paid by remittance in full with the tax return. The remittance may be in the form which the district director is authorised to accept under 26 CFR 301.6311–1 (Payment by check or money order) and which is acceptable to him, except as otherwise specified in § 270.166. Checks and money orders shall be made payable to the "Internal Revenue Service". * * *

(Aug. 16, 1954, ch. 736, 68A Stat. 707, as amended (26 U.S.C. 5703))

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

1. The table of sections to 27 CFR Part 275 is amended to read as follows:

Subpart G—Puerto Rican Cigars, Cigarettes, and Cigarette Papers and Tubes Brought Into the United States

* * * * *

275.115a Payment of tax by electronic fund transfer.

* * * * *

2. Section 275.11 is amended to read as follows:

§ 275.11 Meaning of terms.

* * * * *

ATF officer. * * *

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Cigarette tube. * * *

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank in New York.

* * * * *

District director of customs. * * *

Electronic fund transfer or EFT. Any transfer of funds effected by a bonded manufacturer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Factory. * * *

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Tobacco products. * * *

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

3. Section 275.114 is revised to read as follows:

§ 275.114 Time of filing.

(a) Every semimonthly tax return under this subpart shall be filed by the bonded manufacturer not later than the third business day succeeding the last calendar day of the return period. However, if a bonded manufacturer is qualified for extended deferral, as provided in § 275.114a, he shall file tax returns, for each return period, not later than the last day of the next succeeding return period. The tax shall be paid in full by remittance at the time the return is rendered as prescribed in § 275.115 or § 275.115a.

(b) If the return, and remittance as the case may be, are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return, and remittance as the case may be, were mailed shall be treated as the date of delivery.

(c) If the last day for filing a return under this section falls on a Saturday, Sunday, or legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of the return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

(d) The Officer-in-Charge will transmit a receipted copy of the semimonthly tax return to the bonded manufacturer who filed the return and paid the tax, retain one copy, and forward one copy to the Regional Regulatory Administrator, New York, N.Y. 10008.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302))

4. Section 275.115 is amended to read as follows:

§ 275.115 Remittance with return.

Remittance of the full amount of internal revenue tax computed during the return period shall accompany the return, except as prescribed in § 275.115a. Such remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of 26 CFR 301.6311–1 (Payment by check or money order) and which is acceptable to that officer. * * *

5. Section 275.115a is new. As added, § 245.115a reads as follows:

§ 275.115a Payment of tax by electronic fund transfer.

(a) *General.* Notwithstanding any provision of § 275.115, except as provided in this section, a bonded manufacturer of cigars or cigarettes who pays an amount of five million dollars or more in tobacco products excise taxes during a fiscal year shall use a commercial bank in making payment of the tax on tobacco products for the next succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a bonded manufacturer already remitting the tax by EFT, each bonded manufacturer who paid an amount of five million dollars or more in tobacco products excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for deferred payment of taxes on Form 2988 for the current fiscal year will be effected by EFT.

(2) The bonded manufacturer shall, for each return period, direct his bank to effect a transfer of funds to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be effected to the Treasury Account by not later than the third business day succeeding the last calendar day of the return period. The request shall take into account any time limit established by the bank. However, a bonded manufacturer who is qualified for extended deferral, as provided in § 275.114a, shall file returns and send remittances by EFT, for each return period, no later than the last day of the next succeeding return period.

(3) If a bonded manufacturer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 275.115. During the first return period in which the bonded manufacturer chooses to discontinue sending his remittance by EFT and to begin sending his remittance with the tax return, the

bonded manufacturer shall notify the Officer-in-Charge and the regional regulatory administrator by attaching a written notification to Form 2988, stating that no taxes are due by EFT, because the amount of taxes paid during the preceding fiscal year was less than five million dollars and that the remittance shall accompany the tax return.

(c) *Remittance.* (1) Each bonded manufacturer shall show on the return, Form 2988, information about remitting the tax for that return period by EFT and shall file the return with the Officer-in-Charge.

(2) The bonded manufacturer shall direct his bank to effect an EFT message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(3) Remittances shall be considered as made when the bonded manufacturer unconditionally directs his bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the procedure established by the bank.

(d) *Failure to request an EFT message.* For provisions relating to the penalty for failure to request an EFT message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional regulatory administrator will issue to the bonded manufacturer an ATF procedure entitled, Payment of Tax by Electronic Fund Transfer (ATF P 5000.8). This publication outlines the procedure a bonded manufacturer is to follow when preparing returns and remittances and when instructing the bank to effect an EFT.

(f) *Effective date.* In the case of the fiscal year which begins after September 30, 1980, any bonded manufacturer who paid an amount of five million dollars or more in excise tax during October 1, 1979, and September 30, 1980, shall begin paying the remittances by EFT, as required by this section, for the tax return period beginning June 1, 1981.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37))

Signed: November 14, 1980.

G. R. Dickerson,
Director.

Approved: January 8, 1981.

Richard J. Davis,
Assistant Secretary (Enforcement and Operations)

[FR Doc. 81-1177 Filed 1-9-81; 10:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 541

Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity (Including any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Elementary or Secondary Schools), or in the Capacity of Outside Salesman"

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This final rule increases the salary levels used to determine eligibility for a special exemption under the Fair Labor Standards Act (FLSA). Section 13(a)(1) of the FLSA provides an exemption from the minimum wage and overtime compensation protections of the Act for "any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary of Labor * * *.)." The regulations provide that in order to be exempt as a bona fide executive, administrative or professional employee, an individual must meet certain tests of job duties and responsibilities and must be compensated at no less than a specified amount on a salary basis. The current salary tests were adopted on an interim basis effective April 1, 1975. They are no longer high enough to be even a rough guide to exempt status, because employees at this time who satisfy the tests for duties and responsibilities are generally paid much higher salaries than the current salary test levels.

The new salary tests required for exemption under section 13(a)(1) will be:

	Executive and administrative	Professional	"Upset" salary test[1]
Effective:			
2/13/81	$225	$250	$320
2/13/83	250	280	345

	Executive and administrative	Professional	"Upset" salary test[1]
For employees in Puerto Rico, the Virgin Islands or American Samoa, the corresponding new tests will be:			
Effective:			
2/13/81	190	225	260
2/13/83	200	250	285

[1] Employees who meet the higher "upset" salary test level are not required to meet as many of the duties and responsibilities tests in order to be classified as exempt.

The special compensation test for employees in the motion picture producing industry will be $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983.

DATE: These salaries shall become effective beginning on February 13, 1981 or February 13, 1983, as stated in the summary section above.

FOR FURTHER INFORMATION CONTACT: James L. Valin, Director, Division of Minimum Wage and Hour Standards, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-7043.

SUPPLEMENTARY INFORMATION:

Classification:

This final rule is not classified as a "significant" regulatory action under the Department of Labor's procedures for implementing Executive Order 12044, "Improving Government Regulations." Although not required under the Department of Labor's procedures, a regulatory analysis has been prepared.

Regulatory Analysis

The Regulatory Analysis examines the various alternatives that the Department considered in preparing this rule, considers the cost and program implications of the alternatives, and explains the Department's reasons for making the choices resulting in the final rule. It is added as an appendix to this final rule.

Background

Section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. 213 (a)(1)) provides an exemption from minimum wage and overtime protection for "any employee employed in a bona fide executive, administrative or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary of Labor, subject to the provisions of the Administrative Procedure Act. * * *)"

Under regulations which have been in force virtually since the enactment of the FLSA in 1938, employees are considered to be exempt as bona fide executive, administrative or professional employees if they meet specified test of duties and responsibilities and if they are paid a salary of at least a stated amount. Where the salary is above a higher, so-called "upset" level, fewer duties and responsibilities tests need to be met in order for the exemption to apply.

The purpose of the salary test has always been to prevent evasion of the FLSA by the designation of an excessive number of workers as executives, administrators or professionals, with minimal or nominal duties designed to barely meet the duties and responsibilities requirements of the exemption.

As explained by the presiding officer at one of the first hearings on the regulations, if an employer asserts that particular employees are bona fide executive, administrative or professional employees, the best single test of the employer's good faith in attributing importance to the employees' service is the amount he pays for them. See *"Executive, Administrative, Professional * * * Outside Salesman" Redefined* (Report and Recommendations of the Presiding Officer at Hearings Preliminary to Redefinition), U.S. Department of Labor, Wage and Hour Division, Washington, D.C., 1940, p. 19 ("Stein Report").

These salary tests have to be increased periodically to take into account the higher salary levels that occur with each passing year and are in fact paid to bona fide executive, administrative and professional employees. The current salary tests were adopted effective April 1, 1975, more than 5½ years ago, on an interim basis. Under these tests, in order to qualify as a bona fide executive or administrative employee, an employee must be paid at a rate of not less than $155 per week on a salary basis ($130 per week if employed in Puerto Rico, the Virgin Islands or American Samoa). The requirement may also be met by an administrative employee who is compensated on a fee basis of not less than this stated amount. In order to qualify as a bona fide professional, an employee must be paid at a rate of not less than $170 per week on a salary or fee basis ($150 per week if employed in Puerto Rico, the Virgin Islands or American Samoa). These regulations also contain a special high salary, or "upset" salary test of $250 per week or more ($200 per week in Puerto Rico, the Virgin Islands or American Samoa).

In addition, the special compensation test for employees in the motion picture producing industry is $250 per week. Under 29 CFR 541.5a, an employee in the motion picture producing industry, even if not paid on a salary basis, is nevertheless classified as exempt if he or she meets the duties and responsibilities tests and is compensated at a "base rate" of at lease $250 per week. This is explained more fully in 29 CFR 541.601.

On April 7, 1978, notice of proposed rulemaking and hearing thereon was published in the **Federal Register** (43 FR 14688) to increase the salary test levels described above. The interim salary tests established in April 1975 had become obsolete, as a result of the higher salary levels that were in fact being paid to executive, administrative and professional employees who met the duties and responsibilities tests necessary for exempt status.

It was, therefore, proposed that the salary test in § 541.1(f) and § 541.2(e) be increased to $225 for executive and administrative employees ($200 a week if employed in Puerto Rico, the Virgin Islands or American Samoa), and that the salary test in § 541.3(e) be increased to $250 a week for professional employees ($225 a week if employed in Puerto Rico, the Virgin Islands or American Samoa). It was further proposed that the upset salary test in § 541.1(f), § 541.2(e) and § 541.3(e) be increased to $350 per week ($300 per week if employed in Puerto Rico, the Virgin Islands or American Samoa), and that the special "base rate" test for the motion picture industry in § 541.5a be increased to $350 per week.

These proposed increases, as stated in the preamble to the proposed regulation, were based on an analysis of increases in the Consumer Price Index, increases in the average weekly earnings of production and non-supervisory employees, increases in the average weekly earnings of selected white-collar employees, and legislated increases in the FLSA minimum wage.

Comments Received on Proposal

The hearing on the proposed rule was held May 8, 9, and 10, 1978. Twenty-two witnesses representing employers, employer associations, unions, and professional employee groups gave oral testimony on the proposed increase in the salary tests. In addition, sixty-two written statements were placed into the record during the three-day hearing. These written statements came from individuals, business firms, hospitals, colleges, and employer and employee organizations and associations. One hundred twenty-seven written comments were received from similar sources between the close of the oral proceedings and June 10th, when the record was closed. Numerous comments received after June 10th were also given consideration.

The many written and oral comments can be conveniently divided into two general categories. First, there were comments relating to the appropriate economic index or indices and the appropriate base year on which to calculate increases in the salary test levels. For example, both employer and employee representatives relied on the *National Survey of Professional, Administrative, Technical and Clerical Pay* ("PATC Survey"), an annual survey by the Bureau of Labor Statistics, as an appropriate indicator of the salaries in fact paid to employees whose duties and reponsibilities would qualify them for the exemption.

On the basis of their analysis of the PATC Survey, the employer representatives tended to assert that the Department's proposed salary test levels were too high, whereas the employee representatives stated that the proposed levels were too low. Other commenters stated that the increase in salary levels should not exceed the increase in the Consumer Price Index (CPI) since the salary test was last changed in April 1975. Still other commenters stated that the proposed salary levels were lower than the average hourly wages paid in many industries to nonexempt employees. Several commenters stated that it would be inappropriate to use the CPI or hourly wage indices, because these measures did not necessarily reflect salaries actually paid to exempt employees.

Apart from comments about the methodology by which to adjust the levels of the salary tests, there were also comments predicting the impact of changing the salary test levels. Some employers, particularly those with fixed or declining revenues, stated that they would have no option but to lay off some of their employees, if the levels

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[1] Title 29 of the Code of Federal Regulations specifies a $200 "base rate" in § 541.5a and a $250 "base rate" in § 541.52. The correct rate, as originally proposed on August 16, 1974 (39 FR 29603) and adopted on February 19, 1975 (40 FR 7091), is $250. However, as a result of a typographical error at the time of adoption, the $250 rate was incorrectly included in § 541.52, rather than in § 541.5a. When the $250 rate was codified in the Code of Federal Regulations, it was added as an entirely new section, rather than replacing § 541.5a. That error is corrected in this final rule, which eliminates § 541.52 altogether and establishes the proper "base rate" in § 541.5a.

were raised. Other comments from employer representatives were to the effect that higher salary tests would increase employer costs; these increases, it was asserted, coupled with increases in energy, materials, and Social Security payroll tax costs, would impose too great a burden.

Employee representatives, in commenting on the impact of salary test adjustments, suggested only a slight impact, in view of the level of average hourly wages paid to nonexempt employees. In many industries, according to the commenters, average hourly wages were significantly higher than the salary tests being proposed. Inasmuch as exempt employees are generally paid more than nonexempt employees, these comments suggested that many exempt employees were already being paid more than the salary test levels proposed at that time.

As a result of comments and data received, and intensive review was undertaken of the methodology used for arriving at the higher salary tests proposed in April 1978, and of the likely impact of any increase in the salary tests. On the basis of this review, the Department has reached several conclusions.

First, of the various indices mentioned in the preamble to the April 1978 proposal, the Department has decided that the most appropriate is the increase in average weekly earnings of selected white-collar employees. The most reliable measure of such earnings is the PATC Survey. As indicated previously, the hearing record shows that several commenters, both labor and management, used PATC data as a reliable indicator of salaries paid executive, administrative, and professional employees and the changes in such salaries. The reasons why the PATC Survey is the most appropriate index, and the manner in which it has been used in this regulation, are explained more fully in the appended Regulatory Analysis.

Second, the Department has decided, after full consideration in light of the comments received, that the appropriate base year from which to measure the increase in average PATC Survey earnings is 1970 and not 1975. The salary tests adopted in 1970 were an accurate reflection of salaries actually being paid at that time to those employees who minimally met the duties and responsibilities tests necessary for exempt status. The 1975 salary test levels, on the other hand, did not fully reflect post-1970 increases in salaries that were being paid to such employees; hence the tests were adopted on an interim basis. Accordingly, in order for the salary test established by this regulation to be at the proper level, 1970 must be used as the base year. In this connection, also see the Regulatory Analysis.

Third, the Department has decided that although some of the salary tests adopted herein to take effect on February 13, 1983 are higher than those originally proposed in April 1978, there is no need to reissue the higher tests in proposed form and invite comments thereon. The reason for this conclusion is in part the fact that this final regulation is a logical outgrowth of the original proposal. When the proposed increase in the salary test levels was published for comment in April 1978, it was anticipated that those levels (or depending on the comments, some roughly equivalent levels) would be adopted and published in the latter part of 1978. As a result of unexpected delays, no final decision has been made to raise the salary tests until now. In the meantime the salary levels in the PATC Survey (and indeed all of the economic indices considered in the 1978 salary test proposal) have generally increased. For this reason, some of the salary test levels established by this regulation are higher than those originally proposed. Moreover, a significant number of commenters on the April 1978 proposal advocated higher salary tests than those proposed by the Department. Accordingly, there was adequate notice to affected parties that the final salary levels adopted by the Department could well be higher than the levels originally proposed.

The other reason why reissue of the salary tests in proposed form is not necessary is that any comments on the new salary levels would not be likely to differ significantly from the comments made on the original proposal in 1978. The original comments on the proper methodology by which to compute an appropriate increase in the salary test levels were extensive and thorough. In view of this fact, the Department does not believe that further opportunity for comment would result in any significantly new methodological approaches to adjustments in the salary test levels. The various approaches were fully discussed in 1978.

Nor does the Department believe that the original comments on the predicted impact of the salary test levels proposed in 1978 would be significantly different if the new salary test levels were to be subjected to comments today. The 1978 comments on impact, insofar as they opposed the increase proposed at that time, are similar to comments that have historically been made when increases in the salary tests have been suggested. Predictions by employers of substantially increased compensation costs and of the dangers of having to lay off some workers tend to ignore the level of salaries actually being paid to employees who meet the duties and responsibilities tests, and also misconstrue the application of the exemption.

The salary tests have generally been raised every four or five years, rather than on an annual basis. During the four or five years between increases, the actual salary levels of employees who satisfy the duties and responsibilities tests have generally gone up. As a result, most employees who meet the duties and responsibilities tests are already paid at the higher salary test levels which the Department periodically adopts. Accordingly, the Department does not believe that comments on the impact of these new salary test levels would be significantly different from the 1978 comments.

The FLSA does not require any employer to pay employees at the salary level established here. Only employers who wish to take advantage of the exemption need to pay such salaries. This misconception about the exemption was particularly true of those commenters who asserted that the salary increases proposed in 1978 were too high. The prevalence of this misconception suggests that if comments were solicited on the salary tests here adopted, many of the comments would reflect the same misunderstanding as in 1978.

As for those comments in 1978 which advocated even higher salary test levels than those proposed by the Department at that time, there is no reason to believe that new comments on the impact of still higher salary tests than those here established would be significantly different today.

The new salary test levels adopted by this final rule are being implemented in two phases with part of the increase scheduled to take effect on February 13, 1981 and the remainder on February 13, 1983. This policy has been adopted to take into account the nearly six years which have elapsed since the last change in the salary test levels and the magnitude of the change required as a result of the increase in salary levels since that time. The two-phase approach will give those employers who wish to claim the exemption a full two-year period to adapt their pay practices to the final salary test levels to become effective on February 13, 1983.

Accordingly, the Department of Labor, having reached its conclusions in light of the comments as described above, hereby increases the salary levels necessary for exempt status. Specifically, the 1970 salary test levels have been increased by the percentage changes since 1970 in average salaries paid in the selected PATC Survey categories, as shown in the 1980 PATC Survey. This computation yields the salary test levels shown in the last line of Table 1 of this preamble. Those levels have been rounded up to the nearest dollar amount divisible by five in order to establish the new salary test levels. The interim salary test levels to be effective February 13, 1981 and the final salary test levels to be effective February 13, 1983 are as follows:

	Executive and administrative	Professional	"Upset" salary test
Effective:			
2/13/81	$225	$250	$320
2/13/83	250	280	345
For employees in Puerto Rico, the Virgin Islands or American Samoa, the corresponding new tests will be:			
Effective:			
2/13/81	180	225	260
2/13/83	200	250	285

The special compensation test for employees in the motion picture producing industry will be $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983.

The final salary test levels calculated using this methodology appear reasonable when compared to actual entry-level salaries paid employees in professional and administrative occupations as indicated by the 1980 PATC Survey. In fact, the final test levels are below the entry rates for these categories. See Table 2.

Table 1.—*Salary Tests of March 1970 Projected to March 1980 on the Basis of Increases in Average Salaries of Professional, Administrative and Technical-Support Occupations*

Date	Percent increase in average salaries from prior year[1]	$125 executive and administrative	$140 professional
March:			
1970			
1971	6.7	$133	$149
1972	5.5	140	157
1973	5.4	148	165
1974	6.3	157	175
1975	8.3	170	190
1976	6.7	181	203
1977	7.1	194	217
1978	8.3	210	235
1979	7.7	226	253
1980	9.3	247	277

[1] PATC Surveys have been conducted in March of each year since 1972. The 1970 and 1971 surveys were conducted in June.

Source: U.S. Department of Labor, Bureau of Labor Statistics, National Survey of Professional, Administrative, *Technical, and Clerical Pay, March 1979,* Bulletin 2045, p. 3; and Press Release 80–416, July 1, 1980, *White-Collar Salaries, March 1980.*

Table 2.—*Average Entry-Level Salaries of Employees in Selected White-Collar Occupations in Private Establishments, March 1980*

Occupation and level	Average monthly salary	Weekly equivalent salary[1]
Accountants I	$1,262	$291
Auditors I	1,238	286
Public accountants I	1,247	288
Chief accountants I	2,362	545
Attorneys I	1,743	402
Buyers I	1,257	290
Job analysts I	1,338	309
Directors of personnel I	2,060	476
Chemists I	1,350	312
Engineers I	1,618	374

[1] The weekly equivalent salary is computed by multiplying the monthly salary by 12 in order to compute an annual salary, and then dividing the annual salary by 52.

Source: U.S. Department of Labor, Bureau of Labor Statistics, Press Release 80–416, July 1, 1980, *White-Collar Salaries, March 1980.*

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor.

For the reasons set out in the preamble and the appended Regulatory Analysis, 29 CFR Part 541 is amended to read as follows:

PART 541—DEFINING, AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN ELEMENTARY OR SECONDARY SCHOOLS), OR IN THE CAPACITY OF OUTSIDE SALESMAN"

1. Paragraph (f) of § 541.1 is revised to read as follows:

§ 541.1 Executive.

The term "employee employed in a bona fide executive . . . capacity" in section 12(a)(1) of the act shall mean any employee:

* * * * *

(f) Who is compensated for his services on a salary basis at a rate of not less than $225 per week beginning February 13, 1981 and $250 per week beginning February 13, 1983 (or $180 per week beginning February 13, 1981 and $200 per week beginning February 13, 1983, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities: *Provided,* That an employee who is compensated on a salary basis at a rate of not less than $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 (or $260 per week beginning February 13, 1981 and $285 per week beginning February 13, 1983, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands or American Samoa), exclusive of board, lodging, or other facilities, and whose primary duty consists of the management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

2. Paragraph (e) of § 541.2 is revised to read as follows:

§ 541.2 Administrative.

The term "employee employed in a bona fide . . . administrative . . . capacity" in section 13(a)(1) of the act shall mean any employee:

* * * * *

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $225 per week beginning February 13, 1981 and $250 per week beginning February 13, 1983 ($180 per week beginning February 13, 1981 and $200 per week beginning February 13, 1983, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment, or institution by which employed: *Provided,* That an employee who is compensated on a salary or fee basis at a rate of not less than $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 ($260 per week beginning February 13, 1981 and $285 per week beginning February 13, 1983, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

3. Paragraph (e) of § 541.3 is revised to read as follows:

§ 541.3 Professional.

The term "employee employed in a bona fide . . . professional capacity" in section 13(a)(1) of the act shall mean any employee:

* * * * *

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $250 per week beginning February 13, 1981 and $280 per week beginning February 13, 1983 ($225 per week beginning February 13, 1981 and $250 per week beginning February 13, 1983 if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities: *Provided,* That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further,* That an employee who is compensated on a salary or fee basis at a rate of not less than $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 (or $260 per week beginning February 13, 1981 and $285 per week beginning February 13, 1983 if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa) exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a)(1) or (3) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section.

4. § 541.5a is revised to read as follows:

§ 541.5a Special provision for motion picture producing industry.

The requirement of §§ 541.1, 541.2, and 541.3 that the employee be paid "on a salary basis" shall not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 (exclusive of board, lodging, or other facilities).

§ 541.52 [Removed]

5. § 541.52 is removed in its entirety.

6. Paragraphs (a) and (b) of § 541.117 are revised to read as follows:

§ 541.117 Amount of salary required.

(a) Except as otherwise noted in paragraph (b) of this section, compensation on a salary basis at a rate of not less than $225 per week beginning February 13, 1981 and $250 per week beginning February 13, 1983, exclusive of board, lodging, or other facilities, is required for exemption as an executive. The $225 a week or $250 a week may be translated into equivalent amounts for periods longer than 1 week. For example, based on $250 a week, the requirement will be met if the employee is compensated biweekly on a salary basis of $500, semimonthly on a salary basis of $541.67 or monthly on a salary basis of $1083.33. However, the shortest period of payment which will meet the requirement of payment "on a salary basis" is a week.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an "executive" is $180 per week beginning February 13, 1981 and $200 per week beginning February 13, 1983 for other than an employee of the Federal Government.

* * * * *

7. Paragraph (b) of § 541.118 is revised to read as follows:

§ 541.118 Salary basis.

* * * * *

(b) *Minimum guarantee plus extras.* It should be noted that the salary may consist of a predetermined amount constituting all or part of the employee's compensation. In other words, additional compensation besides the salary is not inconsistent with the salary basis of payment. The requirement will be met, for example, by a branch manager who receives a salary of $250 or more a week and in addition, a commission of 1 percent of the branch sales. The requirement will also be met by a branch manager who receives a percentage of the sales or profits of the branch, if the employment arrangement also includes a guarantee of at least the minimum weekly salary (or the equivalent for a monthly or other period) required by the regulations. Another type of situation in which the requirement will be met is that of an employee paid on a daily or shift basis, if the employment arrangement includes a provision that the employee will receive not less than the amount specified in the regulations in any week in which the employee performs any work. Such arrangements are subject to the exceptions in paragraph (a) of this section. The test of payment on a salary basis will not be met, however, if the salary is divided into two parts for the purpose of circumventing the requirement of payment "on a salary basis". For example, a salary of $300 in each week in which any work is performed, and an additional $55 which is made subject to deductions which are not permitted under paragraph (a) of this section.

* * * * *

8. Section 541.119 is revised to read as follows:

§ 541.119 Special proviso for high salaried executives.

(a) Except as otherwise noted in paragraph (b) of this section, § 541.1 contains an upset or high salary proviso for managerial employees who are compensated on a salary basis at a rate of not less than $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 exclusive of board, lodging, or other facilities. Such a highly paid employee is deemed to meet all the requirements in paragraphs (a) through (f) of § 541.1 if the employee's primary duty consists of the management of the enterprise in which employed or of a customarily recognized department or subdivision thereof and includes the customary and regular direction of the work of two or more other employees therein. If an employee qualifies for exemption under this proviso, it is not necessary to test that employee's qualifications in detail under paragraphs (a) through (f) of § 541.1 of this Part.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the proviso of § 541.1(f) applies to those managerial employees (other than employees of the Federal Government) who are paid on a salary basis at a rate of not less than $260 per week beginning February 13, 1981 and $285 per week beginning February 13, 1983.

(c) Mechanics, carpenters, linotype operators, or craftsmen of other kinds are not exempt under the proviso no matter how highly paid they might be.

9. Paragraphs (a) and (b) of § 541.211 are revised to read as follows:

§ 541.211 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than $225 per week beginning February 13, 1981 and $250 per week beginning February 13, 1983,

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exclusive of board, lodging or other facilities, is required for exemption as an administrative employee. For example, based on $250 a week, the requirement will be met if the employee is compensated biweekly on a salary basis of $500 semimonthly on a salary basis of $541.67 or monthly on a salary basis of $1083.33.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an administrative employee is $180 per week beginning February 13, 1981 and $200 per week beginning February 13, 1983 for other than an employee of the Federal Government.

* * * * *

10. Section 541.214 is revised to read as follows:

§ 541.214 Special proviso for high salaried administrative employees.

(a) Except as otherwise noted in paragraph (b) of this section, § 541.2 contains a special proviso including within the definition of "administrative" an employee who is compensated on a salary or fee basis at a rate of not less than $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983, exclusive of board, lodging, or other facilities, and whose primary duty consists of either the performance of office or nonmanual work directly related to management policies or general business operations of the employer or the employer's customers, or the performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein, where the performance of such primary duty includes work requiring the exercise of discretion and independent judgment. Such a highly paid employee having such work as his or her primary duty is deemed to meet all the requirements in § 541.2(a) through (e). If an employee qualifies for exemption under this proviso, it is not necessary to test the employee's qualifications in detail under § 541.2(a) through (e).

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the proviso of § 541.2(c) applies to those administrative employees other than an employee of the Federal Government who are compensated on a salary or fee basis of not less than $260 per week beginning February 13, 1981 and $285 per week beginning February 13, 1983.

11. Paragraphs (a) and (b) of § 541.311 are revised to read as follows:

§ 541.311 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than $250 per week beginning February 13, 1981 and $280 per week beginning February 13, 1983, exclusive of board, lodging or other facilities, is required for exemption as a "professional employee." For example, based on $280 a week, an employee will meet this requirement if paid a biweekly salary of $560, a semi-monthly salary of $606.67 or a monthly salary of $1,213.33.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the salary test for exemption as a "professional" for other than employees of the Federal Government is $225 per week beginning February 13, 1981 and $250 per week beginning February 13, 1983.

* * * * *

12. Paragraphs (c) and (d) of § 541.313 are revised to read as follows:

§ 541.313 Fee basis

* * * * *

(c) Examples of the adequacy of certain fee payments follow. For example, whether a fee payment amounts to payment at a rate of not less than $280 per week to a professional employee or at a rate of not less than $250 per week to an administrative employee can ordinarily be determined only after the time worked on the job has been determined. In determining whether payment is at the rate specified in the regulations in Subpart A of this part the amount paid to the employee will be tested by reference to a standard workweek of 40 hours. Thus compliance will be tested in each case of a fee payment by determining whether the payment is at a rate which would amount to a least $280 per week to a professional employee or at a rate of not less then $250 per week to an administrative employee if 40 hours were worked.

(d) The following examples will illustrate the principle stated above:

(1) A singer receives $50 for a song on a 15-minute program (no rehearsal time is involved). Obviously the requirement will be met since the employee would earn $280 at this rate of pay in far less than 40 hours.

(2) An artist is paid $150 for a picture. Upon completion of the assignment, it is determined that the artist worked 20 hours. Since earnings at this rate would yield the artist $300 if 40 hours were worked, the requirement is met.

(3) An illustrator is assigned the illustration of a pamphlet at a fee of $180. When the job is completed, it is determined that the employee worked 60 hours. If the employee worked 40 hours at this rate, the employee would have earned only $120. The fee payment of $180 for work which required 60 hours to complete therefore does not meet the requirement of payment at a rate of $280 per week and the employee must be considered nonexempt. It follows that if in the performance of this assignment the illustrator worked in excess of 40 hours in any week, overtime rates must be paid. Whether or not the employee worked in excess of 40 hours in any week, records for such an employee would have to be kept in accordance with the regulations covering records for nonexempt employees (Part 516 of this chapter).

13. Section 541.315 is revised to read as follows:

§ 541.315 Special proviso for high salaried professional employees.

(a) Except as otherwise noted in paragraph (b) of this section, the definition of "professional" contains a special proviso for employees who are compensated on a salary or fee basis at a rate of at least $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983, exclusive of board, lodging, or other facilities. Under this proviso, the requirements for exemption in § 541.3 (a) through (e) will be deemed to be met by an employee who receives the higher salary or fees and whose primary duty consists of the performance of work requiring knowledge of an advanced type in a field of science or learning, or work as a teacher in the activity of imparting knowledge, which includes work requiring the consistent exercise of discretion and judgment, or consists of the performance of work requiring invention, imagination, or talent in a recognized field of artistic endeavor. Thus, the exemption will apply to highly paid employees employed either in one of the "learned" professions or in an "artistic" profession and doing primarily professional work. If an employee qualifies for exemption under this proviso, it is not necessary to test the employee's qualifications in detail under § 541.3 (a) through (e).

(b) In Puerto Rico, the Virgin Islands, and American Samoa the second proviso of § 541.3(c) applies to those "professional" employees (other than employees of the Federal government) who are compensated on a salary or fee basis of not less than $260 per week beginning February 13, 1981 and $285 per week beginning February 13, 1983.

14. Section 541.601 is revised to read as follows:

§ 541.601 Special provision for motion picture producing industry.

Under § 541.5a, the requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 (exclusive of board, lodging, or other facilities. Thus, an employee in this industry who is otherwise exempt under §§ 541.1, 541.2, or 541.3 and who is employed at a base rate of at least $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 is exempt if he is paid at least prorata (based on a week of not more than 6 days) for any week when he does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if he is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and his daily base rate would yield at least $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 if 6 days were worked; or (b) the employee is in a job category having a weekly base rate of at least $320 per week beginning February 13, 1981 and $345 per week beginning February 13, 1983 and his daily base rate is at least one-sixth of such weekly base rate.

The higher minimum salary test will be effective on February 13, 1981, and February 13, 1983, respectively.

(Sec. 13, 52 Stat. 1067, as amended; 29 U.S.C. 213; Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 comp. p. 1004); Secretary's Order No. 16–75, 40 FR 55913, December 2, 1975; and Employment Standards Order No. 78–1, 43 FR 51469, November 3, 1978)

Signed at Washington, D.C. on this 9th day of January 1981.

Donald Elisburg,

Assistant Secretary for Employment Standards Administration.

Regulatory Analysis for the Department of Labor's Decision To Increase the Salary Tests for Executive, Administrative and Professional Employees Under the Fair Labor Standards Act

Statement of the Problem

The Fair Labor Standards Act (FLSA) provides minimum wage and overtime protection for workers. While most nonsupervisory workers are subject to the Act, executive, administrative and professional (EAP) employees are statutorily exempt. This exemption stemmed from the recognition that such personnel have special work responsibilities, compensatory privileges and benefits which are superior to those of other employees. Exempt EAP employees are defined by a series of regulations (29 CFR 541) that specify their duties and responsibilities combined with a supporting salary test.

Because the salary test levels are not indexed, they must be periodically adjusted to reflect increases in the average salaries of EAP employees. The latest (interim) adjustment in the salary test levels was made in 1975 and did not fully reflect the increases in various economic indices that had occurred subsequent to the 1970 increase in these levels. Subsequent increases in actual salaries paid have seriously outdated these interim levels. The resulting ineffectiveness of the salary test in demarcating EAP personnel has caused serious administrative and legal problems in enforcing the Act.

The salary test levels have long provided employers desirous of complying with the law with clear guidelines as to the appropriate demarcation between EAP employees and other workers. Formerly, employers could rely on the salary test as a good indicator of whether an employee was likely to be exempt or not. Now that the test levels are lagging so far behind actual salaries, employers who do so could be misled into inadvertent noncompliance with the FLSA. As the gap between salary test levels and actual EAP salaries widens, greater emphasis must be put on the time-consuming and more complex "duties and responsibilities" portion of the regulations. The duties-and-responsibilities provisions and the salary tests serve as complementary standards in defining EAP employees.

Description of the Parties Affected

The major parties affected by this proposed regulatory change are: employers, employees and their representatives, a number of federal agencies including the Department of Labor, the National Labor Relations Board, and the Office of Personnel Management. State and local governments frequently utilize these test levels as guidelines for their personnel policies.

Major Alternative Regulatory Action Considered

(A) *Continue to use the 1975 interim salary test levels.*

The growing gap between salary test levels and actual salaries paid EAP employees has made the salary test virtually useless as a guide for employers and the Department of Labor in determining FLSA exemption status. A policy of doing nothing at this time would only magnify the increasingly adverse effects on the administration of the FLSA.

(B) *Update the salary test levels by applying the percentage increase in the CPI since 1970.*

We believe that the salary tests should more appropriately be indexed to a wage series that reflects conditions in EAP labor markets. Also, the CPI approach would result in salary test levels above those determined by most wage series, which would impose an unnecessary additional cost burden on employers.

(C) *Set the salary test levels at the entry levels for the various professional and administrative occupational classifications in the National Survey of Professional, Administrative, Technical, and Clerical Pay (PATC) survey.*

The PATC survey is restricted to only 10 professional and administrative occupations and the sample size is relatively small within *some* of the individual categories such as specific entry level occupations. Also, the sample is restricted to larger establishments, generally those with 100 employees or more. For these reasons, we do not believe that the *entry-level data* are sufficiently representative of EAP employees to be used in determining the new salary test levels.

(D) *Set the salary test levels in two phases using the data on the increase in the average salaries paid to employees in the relevant PATC categories using March 1970 data as the base for computations for the final salary test levels.*

Averages of the range of salaries paid in each category are more representative of the broad trends in actual EAP salaries.

This method most closely reflects relative changes in the actual salaries paid EAP employees as determined by supply and demand conditions. The salary test levels calculated using this methodology appear reasonable when compared to actual entry-level salaries paid employees in professional and administrative occupations as indicated by the latest PATC survey. In fact, the test levels are below the entry rates for these categories.

The two-phased approach will allow employers who choose to claim the exemption two full years in which to adapt their pay practices to the new salary test levels.

(E) *Set the salary test levels using the PATC percentage increases from March 1975 to March 1980 with 1975 as the base.*

The 1975 levels were not permanent but only modest interim adjustments, which did not fully reflect increases in EAP salaries through that time. The PATC percentage increases applied to them would result in substantially lower salary test levels thus failing to narrow sufficiently the gap between the test levels and actual salaries being paid to EAP employees.

Proposed Option and Economic Consequences

Selected Option. Reviewing the administrative, procedural, and economic consequences of each option leads us to select Option D—*Set final salary test levels in two phases using the data on the increases in the average salaries paid to employees in the relevant PATC categories.* The final salary test levels, effective February 13, 1983, calculated using Option D are:

—$250 per week for executive and administrative employees.

—$280 per week for professional employees.

(In Puerto Rico, the Virgin Islands and American Samoa, the new salary test levels are $200 per week for executive and administrative employees, and $250 per week for professional employees.)

Cost Impacts. The costs of the increases in the salary test levels can be estimated with appropriate assumptions on the number of EAP employees affected by a change in exemption status and the likely magnitude of their pay increases. It is estimated that only 0.8 percent of EAP employees would receive a salary increase of $53 million (on an annual basis) as of February, 1981, or a rise of .03 percent in the aggregate EAP salary bill and of .01 percent in total wages and salaries for all workers (Table 1). The salary test levels effective February, 1983, will not require an increase in the annual wage and salary bill for EAP employees. This is a result of the expected increase in salary levels that will have occurred by February, 1983.

It is assumed that employers will raise an EAP employee's salary to the proposed new test level *only* if the resulting cost would be no more than paying this worker on an hourly basis with premium pay for overtime. The choice that an individual employer will make depends on the economic position of the firm and the relative costs of complying with FLSA provisions. The cost estimates for the selected option are based on the data collected by the BLS in a nationwide survey of salaries and hours of exempt EAP employees.

Other options produced salary test levels as indicated in Table 2.

Description of assumptions and Basic Source Material Assumptions

(1) The 1970 salary test levels accurately reflected the general level of EAP salaries paid to employees at that point in time.

(2) The PATC survey is an accurate representation of the salaries of EAP employees.

(3) The firm will raise an employee's salary to the new test level only if the resulting cost would be no more than paying the worker on an hourly basis with premium pay for overtime.

Source Material. (1) U.S. Department of Labor, Bureau of Labor Statistics, *National Survey of Professional, Administrative, Technical, and Clerical Pay,* March 1979, Bulletin 2045, p. 3; and Press Release 80–416, July 1, 1980, *White Collar Salaries, March 1980.*

Table 1.—*Impact of Salary Tests of $225 a Week for Executive and Administrative Employees and $250 a Week for Professional Employees on Feb. 13, 1981, and $250 and $280 a Week, Respectively, on Feb. 13, 1983*

First phase: $225 for executive and administrative employees and $250 for professional employees on Feb. 13, 1981.

	Annual Amount (in millions)	As a percent of total annual EAP salary bill	As a percent of total annual wage and salary bill	Percent of employees affected
All industries	$53	0.03	0.01	0.8
Retail	20	.10	.02	4.0
Services	11	.03	.01	1.1
Other	22	.02	(¹)	.1

¹ Indicates less than 0.005.

Second phase: $250 or executive and administrative employees and $280 for professional employees on Feb. 13, 1983.

Based on expected changes in salary levels, the salary tests under the second phase will not increase the total wage and salary bill in 1983.

Table 2.—*Possible Options for Setting Weekly Salary Test Levels for Executive, Administrative, and Professional Employees*

Option	Salary level	
	Executive and administrative	Professional
A. Do nothing—continue existing levels	$155	$170
B. Base adjustments on changes in the CPI from March 1970 to March 1980	265	295
C. Base adjustments on current PATC entry rates in Professional and Administrative categories, March 1980 (10 entry levels)	305	335
D. Base adjustments on the percentage changes in the average salaries paid in Professional, Administrative, and Technical support categories of the PATC Survey using the 1970 salary test base. New salary test levels will be effective in two phases, from March 1970 to March 1980	¹ 250	¹ 280
E. PATC percentage increases from March 1975 to March 1980 using the 1975 salary test base.	200	250

¹ Option adopted by Department of Labor.

[FR Doc. 81–536 Filed 1–12–81; 8:45 am]

BILLING CODE 4510–27–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[AS FRL 1724–6]

General Grant Regulations and Procedures; Class Deviation

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

SUMMARY: EPA is issuing a class deviation from a provision of its general grant regulations to redefine "nonexpendable personal property". On October 1, 1980, the Office of Management and Budget issued a memorandum allowing all Federal

agencies to use the definition of "nonexpendable personal property" in Circulars A–21 and A–122 for grantees governed by Circulars A–102 and A–110. EPA is implementing the change by class deviation. The class deviation is published with this document.

DATE: The class deviation is effective for new awards after January 14, 1981. Grantees who were awarded grants after October 1, 1980, and before this deviation was signed may apply the new definition if they desire.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Pippen, Jr., Director, Grants Administration Division (PM–216), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 755–0850.

Dated: January 5, 1981.

C. William Carter,

Assistant Administrator for Planning and Management (PM–208).

United States Environmental Protection Agency

Date: January 5, 1981.

Subject: Class Deviation from 40 CFR 30.810–1(d).

From: Harvey Pippen, Jr., Director, Grants Administration Division (PM–216).

To: Regional Administrators.

Action

I am approving a class deviation from 40 CFR 30.810–1(d) to redefine "nonexpendable personal property" as property with a useful life of at least two years and an acquisition cost of $500 or more. This deviation will standardize the definition of nonexpendable personal property. It will permit grantees to classify more property as expendable, thus reducing their record keeping.

This deviation is effective for new awards after January 14, 1981. Grantees who were awarded grants after October 1, 1980, and before this deviation was signed may apply the definition if they desire.

Background

On October 1, 1980, the Office of Management and Budget (OMB) issued a memorandum allowing all Federal agencies to use the definition of "nonexpendable personal property" in Circulars A–21 and A–122 for grantees governed by Circulars A–102 and A–110. OMB has expanded the definition of "nonexpendable personal property" in Circulars A–21 and A–122 to include property with a useful life of two or more years and acquisition cost of $500 or more. Circulars A–102 and A–110 limit the property useful life to one year and a cost of $300. OMB is planning to revise the definitions in Circulars A–102 and A–110 to make them the same as Circulars A–21 and A–122.

Dated: January 5, 1981.

Concur:

C. William Carter,

Assistant Administrator for Planning and Management (PM–208).

[FR Doc. 81–1117 Filed 1–12–81; 8:45 am]

BILLING CODE 6560–36–M

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40 CFR Part 180

[OPP–260039; PH–FRL 1725–6]

Tolerance for Pesticide Residues in Rotational and Follow-Up Crops, Meat, Milk, Poultry and Eggs, and for Other Indirect or Inadvertent Residues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending 40 CFR 180.29 to announce a general statement of policy, a statutory interpretation, and certain procedural rule changes, all relating to the establishment of tolerances for pesticide residues under sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. sec. 346a(e), in cases where the residue does not result from use of the pesticide to produce, store, or transport the commodity in question.

EFFECTIVE DATE: This Final Rule Becomes effective on February 12, 1981.

FOR FURTHER INFORMATION CONTACT: James W. Akerman, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202/755–1806).

SUPPLEMENTARY INFORMATION: The notice announces the Agency's interpretation that tolerances for residues not resulting from the use of the pesticide to produce, store or transport the commodity in question, can be issued only under FFDCA sec. 408(e), and not under sec. 408(d). The notice also states the Agency's interpretation that present 40 CFR 180.29(a) is inconsistent with FFDCA sec. 408(e) in that it forbids registrants and applicants under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. sec. 136, from requesting the issuance of tolerances under FFDCA sec. 408(e).

The notice also states that EPA will follow a general policy of responding to requests by setting tolerances, at appropriate levels, under FFDCA sec. 408(e) for pesticide residues resulting from certain crop rotation or crop replacement practices.

Finally, this notice announces procedural changes designed to allow the interpretations and policy just discussed to be implemented.

Background

Sections 402 and 408 of the FFDCA provide that unless a tolerance [a regulation describing the maximum permissible pesticide residue level on a raw agricultural commodity (RAC) or unprocessed food] or an exemption from the requirement of a tolerance has been established, the presence of a pesticide residue at any level in or on the RAC renders the RAC adulterated and subject to seizure.[1] Any person who introduces any adulterated food (including a RAC bearing unauthorized pesticide residues) into interstate commerce may be subject to criminal penalties. Registration under FIFRA authorizes marketing of pesticides in the United States. Among the conditions necessary to obtain registration are adequate labeling and prior establishment of appropriate tolerances for pesticide residues in food or feed items which would result from the pesticide's use. Adequate directions on the label include restrictions on timing of pesticide applications as well as harvesting and/or grazing limitations needed to ensure that the tolerance limits would not be exceeded.

Not all pesticide residues on raw agricultural commodities result from the use of the pesticide to control pests on, or regulate the growth of, the commodity in question. Use of a pesticide in the production or storage of one agricultural commodity can cause the presence of pesticide residues in or on other agricultural commodities. This can occur because of persistence of the pesticide in soil used for growing crops. For example, an insecticide may be applied to growing corn to control a pest that attacks only corn. During the next growing season the farmer might wish to plant soybeans in the same field; but if the corn insecticide is still present in the soil, the soybeans may be found to contain measurable residues of the corn insecticide. Similar results could occur if, because of crop failure, a second (different) crop is planted in the same field during the same growing season.

Meat, milk, poultry, and eggs are also considered raw agricultural commodities. The consumption by meat animals, dairy animals, or poultry of animal feed or forage which bears residues of the pesticide used in producing or storing that feed or forage can lead to pesticide residues in the meat, milk, or eggs from those animals or poultry.

In all such cases the presence of pesticide residues in the raw agricultural commodity would render the commodity "adulterated" under the FFDCA unless a tolerance or exemption for that pesticide in or on that commodity has been established.

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[1] There is an exception in the case of pesticides which are "generally recognized as safe for use." See FFDCA sec. 408(a) and 40 CFR 180.2.

Two methods could be used to avoid the major problem for farmers, food processors, consumers, and pesticide registrants that could result if raw agricultural commodities bearing inadvertent or indirect pesticide residues were regarded as "adulterated." First, FIFRA label instructions could be used to forbid agricultural practices which could lead to adulteration of commodities for which appropriate tolerances have not been established.

For instance, to avoid pesticide residues in rotational or replacement crops, pesticide users could be prohibited by the FIFRA pesticide label from planting such crops in a treated field until enough time had passed for the pesticide in the soil to degrade to the point where the rotational or replacement crop would contain no pesticide residues. To avoid meat, milk, poultry or egg adulteration, the FIFRA label could impose preharvest intervals, preslaughter intervals, or grazing restrictions, or could prohibit use of the treated commodity (or its byproducts such a cotton forage) for animal feed purposes.

The second means of dealing with the problem of indirectly or inadvertently caused pesticide residues is for EPA to establish tolerances authorizing the presence of those residues on the raw agricultural commodity, after examining data concerning toxicity and residue levels.

Until now, EPA has attempted to deal with the problem of pesticide residues in rotational and replacement crops by means of FIFRA label restrictions alone, and has not used its statutory authority to set tolerances for residues on such crops.

Label statements, in some cases, have been so restrictive as to preclude normal agricultural practices and thus could impose a significant economic impact on growers. For example, it is not uncommon for residues resulting from an application to an agricultural crop to remain in the soil at detectable levels for a period greater than 12 months. When rotational crop uptake studies show that other crops would be expected to contain residues as a result of the carryover of the residue in the soil, a label restriction such as "Do not rotate other crops within 18 months of application of this product" has been required. Under normal agricultural practices, however, crops often are rotated at intervals of less than 18 months. Thus, a pesticide product with the 18 month crop rotation restriction may have very limited legal use, and may be subject to misuse.

Another problem associated with this type of restriction arises when a user is forced to replant his field to a different crop after his initial planting results in a poor crop stand. An example might involve planting soybeans after adverse weather conditions had affected the cotton stand. If the grower had applied a pre-emergent cotton herbicide and the label for the pre-emergent herbicide contained a restriction against replanting (other than cotton) within 6 months, the grower could not legally replant the field to soybeans.

In addition to the economic difficulties label restrictions on rotational or replacement crops can cause, label restrictions also may effectively discourage or preclude farmers from using crop rotation to improve soil quality and reduce the need for chemical fertilizers. Because crop rotation can also lessen the need for pesticide use in some situations, crop rotation is a prime component of many integrated pest management programs.

Policy

EPA has determined that from now on its general policy will be to establish tolerances, when requested, for pesticide residues on replacement or rotational crops where the residues result from carryover in soil of pesticide residues from treatment of previous crops. Such tolerances will be set at levels found appropriate after examination of toxicity and residue data submitted to the Agency by the person(s) requesting establishment of the tolerance.

The Agency's past practice with respect to preventing potentially illegal pesticide residues on meat, milk, poultry and eggs has been somewhat different. EPA has used various label restrictions to prevent agricultural practices which could allow the use of pesticides to result in unauthorized residues in meat, milk, poultry or eggs; but in many cases EPA has also issued tolerances authorizing pesticide residues in such commodities which result from pesticide use in growing or storing animal feed commodities. In the past such tolerances have been issued under FFDCA sec. 408(d); for the reasons discussed below, in the future FFDCA sec. 408(e) will be used instead, because EPA's legal authority for issuing such tolerances under sec. 408(e) is much clearer.

FFDCA sec. 408 provides two different mechanisms for the granting of tolerances. Under sec. 408(d), a person who is a FIFRA registrant (or registration applicant) may petition EPA for the issuance of a tolerance regulation. Under FFDCA sec. 408(e), EPA may itself propose a tolerance, either on its own initiative or at the request of "any interested person."

A prerequisite of issuance of a tolerance or exemption under sec. 408(d) is a finding by EPA under sec. 408(l) that the pesticide chemical in question "is useful for the purpose for which [the] tolerance or exemption is sought," sec. 408(l)(1). EPA interprets this phrase and its legislative history as requiring a finding that the pesticide "is useful in controlling insects or other pests which affect specified raw agricultural commodities for which the tolerance or exemption is sought." [2] Thus, a sec. 408(d) tolerance cannot be issued to authorize pesticide residues on a RAC other than the commodity intended to be treated with the pesticide.

FFDCA sec. 408(e), however, does not refer to the need for a finding of usefulness as a prerequisite to the proposal of a tolerance or exemption by the Agency. Accordingly, EPA legally may propose and issue tolerances under sec. 408(e) authorizing pesticide residues in or on raw agricultural commodities other than those to which the pesticide is intentionally applied, including such cases as:

1. Crops with "carryover" pesticide residues resulting from application of pesticides to other crops grown earlier in the same location;
2. Meat, milk, poultry or eggs with pesticide residues resulting from the consumption by meat or dairy animals or poultry of feed bearing pesticide residues resulting from preharvest or feed-storage application of pesticides to the feed; and
3. Raw agricultural commodities bearing residues resulting from treatment of structures and other indirect or inadvertent mechanisms.

Sec. 408(e) also may be used to issue tolerances for residues resulting from intentional treatment of the crop or commodity to which the tolerance relates; user groups, states, the IR-4 program, federal agencies, and others who cannot petition under sec. 408(d) (because they are not FIFRA registrants or applicants) can request issuance of sec. 408(e) tolerances for such purposes.

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[2] S. Rep. No. 1635, Senate Comm. on Agriculture and Forestry, 83rd Cong., 2 Sess. (1954) reprinted in 1954 U.S. Code Cong. and Adm. News 2626, 2636. See also Hearing on H.R. 4277, House Comm. on Interstate and Foreign Commerce, 83rd Cong., 1st Sess. (July 14, 1953), at 66,74 (statement of L. S. Hitchner, representing National Agricultural Chemicals Association).

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Revisions of Procedural Regulations

The Agency expects that in most cases the person requesting issuance of a tolerance of the type discussed in the last paragraph will be a FIFRA registrant, or applicant for registration, of a product containing the pesticide chemical in question. Since pesticide registrants are often the person most able (and with the most economic incentive) to generate the required data, and since it is now the Agency's policy to consider requests for tolerances of this type, it is important to remove arbitrary procedural barriers to requests by FIFRA registrants or applicants for FFDCA sec. 408(e) tolerances.

Although FFDCA sec. 408(e) clearly allows "any interested person" to request that EPA propose and issue a tolerance, the current regulation implementing that statutory authorization under 40 CFR 180.29 severely restricts that broad grant by excluding from the class of persons who can make such requests anyone who is a registrant (or registration applicant) under FIFRA. EPA has concluded that the clear words of FFDCA sec. 408(e) are at variance with this restriction. 40 CFR 180.29 also fails to state clearly that the Administrator may initiate a sec. 408(e) action on his or her own initiative, although the statute itself is clear on this subject as well.

Accordingly, the Agency is taking steps to modify 40 CFR 180.29 by deleting the exclusion of registrants and applicants from the class of "interested persons," by stating clearly in the regulation that tolerances may be proposed on the Administrator's own initiative, and by stating that any petition for a sec. 408(d) tolerance or exemption will be treated as a request for a sec. 408(e) tolerance if, under the interpretation of sec. 408(l) announced today, the "certification of usefulness" requirement could not be met because the pesticide is not used directly to aid in producing or storing the commodity in question.

As a result of the statement of policy, statutory interpretation, and procedural regulation amendments announced in this document, any interested person will be able to request the issuance of a tolerance for residues which may occur in or on any raw agricultural commodity as the indirect or inadvertent result of legal use of a pesticide in the production or storage of other commodities, or for other legal pesticide uses where the tolerance commodity is not directly benefited by the pesticide's use. All such tolerances will be processed in a manner which is consistent with and clearly authorized by law. No changes will be made by this document in the kind or amount of data required for a tolerance.

With respect to rotational or replacement crops, EPA will continue to insist an FIFRA label restrictions sufficient to guard against foreseeable pesticide residues not permitted by tolerances. Under this new approach it often will be possible to lessen or even remove such use restrictions, if the registrant chooses to generate and submit data sufficient to enable EPA to authorize the resulting residues by issuing a sec. 408(e) tolerance. If the registrant chooses the latter course, he would identify the rotational (including replacement) crops in question. As tolerances for such crops are established, the label for the pesticides can be amended to identify the rotational crops that can be planted in treated fields, the remaining restrictions (if any) on planting those crops, and the restrictions on planting other rotational crops for which tolerances have not yet been established.

Regarding pesticide residues in meat, milk, poultry or eggs, if the pesticide is applied to or fed to the animals or poultry for pesticidal purposes, sec. 408(d) normally will be used to set meat, milk, poultry or egg tolerances. For example, chemicals being applied directly to livestock or poultry to control insects such as fleas, lice or chicken mites would be considered a pesticidal purpose and thus, 408(d) will normally be used to set the tolerance for meat, milk, poultry or eggs. When pesticide residues result in meat, milk, poultry or eggs as a result of the presence of residues in or on feed, then sec. 408(e) will be used to set such tolerances. In an instance where both purposeful and inadvertent residues would result in meat, milk, poultry or eggs, then only one tolerance, the higher tolerance, will be established. If any pesticide's use might foreseeably cause unauthorized pesticide residues in meat, milk, poultry or eggs, FIFRA label use restrictions will be required to prevent unauthorized residues, just as is now the case. Also, if residues concentrate, such as in soybean fractions (soybean oil, soapstock), an appropriate food additive tolerance(s) will be established under section 409 of FFDCA. The "rotational" crop tolerances will be distinguished in the **Federal Register** from other pesticide tolerances which imply a registered use.

With respect to data requirements, the residue chemistry and toxicology data required to support a petition for tolerance in rotational crops will be the same as those required for a conventional tolerance.

Rotational crop tolerances will be considered to contribute to the total residue burden for a given pesticide. The theoretical maximal residue concentration (TMRC) and acceptable daily intake (ADI) calculations will be required just as for conventional tolerances.

Under the Administrative Procedure Act, 5 U.S.C. sec. 553(b), the Agency need not use notice-and-comment procedures to promulgate rules which are interpretative rules, general statements of policy, or rules of agency procedure or practice. The changes of 40 CFR 180.29 announced by this notice all belong to one or more of those categories; accordingly, these amendments will become effective February 12, 1981.

These amendments to 40 CFR 180.29 are made under the authority granted by FFDCA sec. 701(a), 21 U.S.C. sec. 371, and Reorganization Plan No. 3 of 1970.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA calls these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: January 5, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

In 40 CFR 180.29, paragraph (a) is revised to read as follows:

§ 180.29 Adoption of tolerance on initiative of Administrator or on request of an interested person.

(a) Upon the Administrator's own initiative, or at the written request of any interested person furnishing reasonable grounds therefor and such fees or deposits as are prescribed by § 180.33, the Administrator may propose, under sec. 408(e) of the Federal Food, Drug, and Cosmetic Act, the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance. As used in the preceding sentence, "reasonable grounds" shall include a statement describing the nature of the requestor's interest in issuance of such a tolerance or exemption, and adequate data on subjects outlined in sec. 408(d)(1) (A) through (F) of the Federal Food, Drug, and Cosmetic Act. Any petition received by the Agency which requests establishment of a tolerance or exemption for pesticide residues in or on a raw agricultural commodity that result from any pesticide use not directly associated with producing, storing, or transporting that commodity, will be treated by the Agency as a request for issuance of the tolerance or exemption under sec. 408(e) of that Act. (As the Agency interprets that Act, the certification of usefulness which is a prerequisite of issuing a regulation under sec. 408(d) can only be made with respect to pesticides used to help produce, store, or transport the commodity for which the tolerance or exemption is sought.) Requests shall be submitted in duplicate to: Registration Division (TS-767), Environmental Protection Agency, Washington, D.C. 20460. If any part of the request or supporting data is in a language other than English, it must be accompanied by a complete and accurate English translation. If the Administrator decides that a request does not warrant a proposal for the issuance of a regulation, he shall so inform the requestor and state the reasons for his decision.

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[FR Doc. 81-1156 Filed 1-12-81; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 257

[SWH-FRL 1725-3]

Criteria for Classification of Solid Waste Disposal Facilities and Practices; Interim Final Regulations

AGENCY: Environmental Agency.

ACTION: Extension of comment period.

SUMMARY: On November 18, 1980 (45 FR 76147), EPA made available for public review and comment the following two documents describing the factors affecting accumulation of cadmium by food chain crops grown on land amended with solid waste containing cadmium:

(1) Effects of Sewage Sludge on the Cadmium and Zinc Content of Crops, Council for Agricultural Science and Technology (CAST), Report No. 83, September 1980 (SW-881);

(2) Report from the Western Regional Committee, W-124, Science and Education Administration-Cooperative Research (SEA-CR) Technical Research Committee, January 1980 (SW-882).

The comment period for the above two documents was to close on January 2, 1981. EPA received a request for an extension of the public comment period for thirty (30) days, until February 2, 1981. The Agency believes such an extension is warranted because of the technical nature of the information in the documents, and because the comment period spanned the Thanksgiving, Christmas and New Year's holidays, thus reducing the effective working time available to review the two documents.

DATES: Comments on these documents are due no later than February 2, 1981.

ADDRESSES: Comments should be addressed to Robert J. Tonetti, Docket 4004.1, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9120.

Copies of these documents are available from Ed Cox, Solid Waste Information, U.S. EPA, 26 W. Saint Clair Street, Cincinnati, Ohio 45268, (513) 684-5362. Please use the SW number when requesting copies. If available copies run out, the Agency may charge $0.20 per page for photocopying.

FOR FURTHER INFORMATION CONTACT: Robert J. Tonetti, (202) 755-9120.

SUPPLEMENTARY INFORMATION: These documents are made available to the public to solicit comments on the accuracy of the data presented and the validity of the conclusions reached. This is not to be construed as a reopening of the comment period on the Agency's interim final regulations, and commenters should limit their comments accordingly.

Dated: January 8, 1981.

Steffen W. Plehn,

Deputy Assistant Administrator.

[FR Doc. 81-1125 Filed 1-12-81; 8:45 am]

BILLING CODE 6560-30-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

41 CFR Ch. 101

[FPMR Temp. Reg. D-65, Supp. 2]

Federal Employee Parking; Temporary Regulations

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: To continue the Federal employee parking program pending resolution of a recent U.S. district court ruling, this supplement extends indefinitely the expiration date of FPMR Temporary Regulation D-65.

DATES: Effective date: January 13, 1981. Expiration date: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Paul H. Herndon III, Director, Space Management Division, Office of Space Management (202-566-1875).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purpose of Executive Order 12044. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, this temporary regulation is added to the end of Subchapter D.

January 2, 1981.

Federal Property Management Regulations; Temporary Regulation D-65, Supplement 2

To: Heads of Federal agencies

Subject: Federal employee parking

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation D-65.

2. *Effective date.* This regulation is effective January 13, 1981.

3. *Expiration date.* This regulation expires on December 31, 1981.

4. *Explanation of changes.* Pending resolution of legal issues raised as a result of the recent U.S. district court ruling regarding the Federal employee parking program, the expiration date in paragraph 3 of FPMR Temporary Regulation D-65 is extended.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 81-1143 Filed 1-12-81; 8:45 am]

BILLING CODE 6820-23-M

Automated Data and Telecommunications Service

41 CFR Ch. 101

[FPMR Temp. Reg. F-497]

Hardware and Data Transmission Standards; Temporary Regulations

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Temporary regulations.

SUMMARY: This regulation provides standard terminology to be used in solicitation documents and guidance regarding the application of Federal Information Processing Standards Publication (FIPS PUB) 71, Advanced Data Communications Control Procedures (ADCCP), and Federal Standard (FED-STD) 1003, Synchronous Bit-Oriented Data Link Procedures (Advanced Data Communication Control Procedures). The publication of FIPS PUB 71 and FED-STD 1003, both addressing the same technical area yet not published as a joint FIPS PUB/FED-STD, created the need for this action. The intent of this regulation is to

provide a uniform basis upon which agencies can determine which standard to apply.

DATES: Effective date: February 12, 1981. Expiration date: September 30, 1982. Comments due on or before: April 13, 1981.

ADDRESS: Comments should be addressed to: General Services Administration (CPEP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: David R. Mullins, Procurement Policy and Regulations Branch (CPEP), Policy and Analysis Division (202-566-0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the Appendix at the end of Subchapter F to read as follows:

January 6, 1981.

Federal Property Management Regulations; Temporary Regulation F-497

To: Heads of Federal agencies
Subject: Hardware and data tramsmission standards

1. *Purpose.* This regulation provides standard terminology to be used in solicitation documents and guidance regarding application of Federal Information Processing Standards Publication (FIPS PUB) 71, Advanced Data Communications Control Procedures (ADCCP), and Federal Standard (FED-STD) 1003, Synchronous Bit-Oriented Data Link Procedures (Advanced Data Communication Control Procedures).

2. *Effective date.* This regulation is effective February 12, 1981, but may be observed earlier.

3. *Expiration date.* This regulation expires September 30, 1982.

4. *Background.* a. The publication of FIPS PUB 71 and FED-STD 1003, both addressing the same technical area yet not published as a joint FIPS PUB/FED-STD, created the need for this action. The intent of this regulation is to provide a uniform basis upon which agencies can determine which standard to apply; both standards are intended to reduce costs of data transmission networks and ensure interoperability.

b. FIPS PUB 71 establishes data link control procedures for data processing systems, equipment, and services using synchronous, bit-oriented data communications. FED-STD 1003 specifies the frame structure, elements of procedure, and classes of procedure for data communications systems that transmit synchronous binary data. The two standards are technically consistent, except that FED-STD 1003 contains additional requirements necessary to ensure interoperability with National Communications System (NCS) component networks.

c. The Department of Commerce plans to issue FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures (ADCCP). This FIPS PUB will contain guidance regarding the planning, acquisition, and operation of ADCCP.

5. *Explanation of changes.* Two new sections are added to Subpart 101-36.13:

a. A new subsection is added to FPMR section 101-36.1304 as follows:

§ 101-36.1304-X FIPS PUB 71, Advanced Data Communications Control Procedures

(a) FIPS PUB 71 provides that it shall be applied in the design and procurement of all ADP systems, ADP terminal equipment, and ADP services that are to be employed in computer networking or teleprocessing environments that use bit-oriented synchronous data communications. Requirements for interoperability with telecommunications networks embodying National Communications System (NCS) facilities are not provided for in FIPS PUB 71. Therefore, FED-STD 1003 (and not FIPS PUB 71) should be used in the design and procurement of data communications systems and equipment using bit-oriented link control procedures when an agency determines that NCS interoperation requirements are needed.

(b) Applicability wavier authority for FIPS PUB 71 is vested in the Secretary of Commerce rather than in the agency having the ADP requirement. Therefore, each egency should be aware that if waivers are considered appropriate, requests should be initiated early in the agency requirements determination process to avoid delay.

Note.—When bit-oriented data link control procedures are not used, FIPS PUB 71 is not applicable; therefore, waiver procedures do not apply.

(c) In determining interoperability requirements, an agency should recognize the requirements of Presidential Directive/NSC-53, dated November 15, 1979, regarding national security telecommunications policy.

(d) Before the acceptance of applicable ADP equipment or service required to conform to FIPS PUB 71, this conformance shall be verified by demonstration or other means acceptable to the Government.

(e) The standard terminology for use in solicitation documents is:

Unless a waiver is granted following the procedures specified in FIPS PUB 71 or unless the Government's requirements include interoperation with the component networks of the National Communications System (NCS), all ADP systems, equipment, and services that are to be employed in computer networking or teleprocessing environments using bit-oriented synchronous data communications, offered as a result of this solicitation, will implement the class(es) of procedures specified in FIPS PUB 71 as stated therein.

Note.—FED-STD 1003 (and not FIPS PUB 71) is applicable when (1) the system, equipment, or services offered as a result of this solicitation use bit-oriented synchronous data link control procedures; (2) the Government determines that it has a requirement for interoperability with NCS component networks; and (3) the equipment is not being procured as replacement for, or extension to, existing systems that do not use bit-oriented data link control procedures.

b. A new subsection is added to FPMR section 101-36.1308 as follows:

§ 101-36.1308-X FED-STD 1003, Synchronous Bit-Oriented Data Link Control Procedures (Advanced Data Communication Control Procedures)

(a) FED-STD 1003, shall be applied in the design and procurement of systems and equipment by the Federal Government that use synchronous bit-oriented data link control procedures and that are determined by the requiring agency to require interoperability with the component networks of the National Communications System (NCS). The standard also provides that its application is not mandatory for equipment that is being procured as a complete or partial replacement for, or extension to, existing systems that do not use bit-oriented data link control procedures.

(b) In determining interoperabilility requirements, an agency should recognize the requirements of Presidential Directive/NCS-53, dated November 15, 1979, regarding national security telecommunications policy.

(c) The standard terminology for use in solicitation documents is:

All data communications systems and equipment using bit-oriented data link control procedures, offered as a result of this solicitation, will implement the class(es) of procedure specified in FED-STD 1003 as stated therein unless the Government determines that it does not have a requirement for interoperability with National Communications System

(NCS) facilities or unless the requipment is being procured as replacement for, or extension to, existing systems that do not use bit-oriented data link control procedures.

Note.—When the Government does not have a requirement for interoperation with NCS facilities, FIPS PUB 71 (and not FED-STD 1003) shall apply to all ADP systems, equipment, and services that are to be employed in computer networking or teleprocessing environments offered as a result of this solicitation.

6. *Comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be forwarded to the General Services Administration (CPEP), Washington, DC 20405, on or before April 13, 1981.

7. *Effect on other directives.* This temporary regulation supplements 41 CFR Chapter 101, Subchapter F (Part 101-36).

Ray Kline

Acting Administrator of General Services.

[FR Doc. 81-1144 Filed 1-12-81; 8:45 am]

BILLING CODE 6820-25-M

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41 CFR Part 101-38

[FPMR Amdt. G-50]

Motor Equipment Management; Revised Policies and Procedures for the Preparation and Control of Standard Form 149, U.S. Government National Credit Card

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides revised policy and procedures concerning the acquisition and use of Standard Form 149, U.S. Government National Credit Card. Additional instructions and information have been incorporated in the Federal Supply Schedule FSC 75, Part VII, to simplify the preparation procedures for ordering and replacing U.S. Government National Credit Cards and to assist in maintaining an accurate data file at the embossing contractor.

EFFECTIVE DATE: This regulation is effective August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell A. Stockdale, Director, Federal Fleet Management Division, Transportation and Public Utilities Service (202-275-1021).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Subpart 101-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

1.Section 101-38.1200 is revised to read as follows:

§ 101-38.1200 General.

(a) Standard Form 149, U.S. Government National Credit Card, is authorized for use by Federal agencies to obtain services and supplies at service stations dispensing items provided by contractors listed in the Defense Fuel Supply Center publication "Government Vehicle Operators Guide—Your Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSC H 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC:OD, Cameron Station, Alexandria, VA 22314.

(b) Procedures for obtaining Standard Form 149, U.S. Government National Credit Card, are found in § 101-26.406-5 and the current Federal Supply Schedule 75, Part VII.

2. Section 101-38.1201 is revised to read as follows:

§ 101-38.1201 Billing code.

The billing code is a 10-digit number and is embossed on the first line of the Standard Form 149.

(a) The first nine digits shall be assigned by the using agency in accordance with the following instructions:

(1) The first three digits of the billing code shall always be 000 for all Federal agencies other than the General Services Administration, the Department of Agriculture, and the Department of Defense. The Department of Defense shall use 002, and the Department of Agriculture and the General Services Administration shall use 003.

(2) The fourth digit may be used by civilian agencies to designate the vehicle class or for other purposes to meet the agency's requirements. If not used for any designation, the fourth digit shall be 0. Components of the Department of Defense shall use the following in the fourth position: 1, Navy; 2, Army; 3, Air Force; 4, Marine Corps; 7, Defense Logistics; and 0, all independent Department of Defense agencies.

(3) The fifth and sixth digits for all civilian agencies shall be the agency code, unless otherwise authorized by GSA. Agency codes are shown in the Department of the Treasury booklet "Federal Account Symbols and Titles." For all Department of Defense activities, the fifth through the ninth digits shall be the station accounting number for the particular activity authorized to use the credit card.

(4) For civilian agencies, the seventh, eighth, and ninth digits indicate the agency billing address code number, unless otherwise authorized by GSA. Each agency shall assign its own billing address code numbers when the seventh, eighth, and ninth digits are used for that purpose.

(b) The tenth digit is the validation number for use in automated billing operations of the petroleum contractors. This number is not assigned by the agency, but will be determined by the embossing contractor listed in the Federal Supply Schedule, FSC 75 Part VII. The validation number will be computed in accordance with American Standard X4.13-1971, section 5.3.

3. Section 101-38.1201-1 is revised to read as follows:

§ 101-38.1201-1 Billing address.

The billing address is the name of the agency and the address to which petroleum contractors should send statements or invoices covering the purchase of supplies and services by the user of Standard Form 149, U.S. Government National Credit Card. The billing address will not be embossed on the Standard Form 149, but shall be maintained on file by the contractor providing the credit cards and by the petroleum contractors listed in the Defense Fuel Supply Center publication "Government Vehicle Operators Guide—Your Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSC H 4280.1).

(a) Agency identifier. The agency identifier is a one-line entry of a maximum of 22 characters embossed on the third line of the Standard Form 149. (The second line of the card is blank). It identifies the agency or agency department which is authorized to use the Standard Form 149. No Government employee's name will be embossed on the card.

(b) [Reserved]

4. Section 101-38.1202 is revised to read as follows:

§ 101-38.1202 Administrative control of credit cards.

(a) It is essential that Federal agencies ensure that supplies and services procured with Standard Form 149, U.S. Government National Credit Card, are for the official use of the agency involved and that administrative control is maintained to prevent unauthorized use of credit cards. Administrative control shall include the following as a minimum:

(1) The license tag number of the vehicle, a sequential series number, or other identification shall be embossed on the fourth line of the credit card. These data, which shall be limited to a maximum of nine characters (exclusive of the prefix), shall be preceded by one of the following prefixes: "TAG" for the vehicle license tag number; "SER" for a card in a series sequence; or "ID" for other appropriate identification. Alpha or numeric characters, or a combination thereof, may be used but it is a mandatory requirement that the maximum of nine characters (exclusive of the prefix) not be exceeded. When a license tag number is embossed on the fourth line, the card is to be used to procure supplies and services for that vehicle only. If a series number or ID designation is embossed on the card, the credit card may be used to obtain supplies and services for any properly identified U.S. Government vehicle, boat, small aircraft, nonvehicular equipment, or motor vehicle that is leased or rented for 60 continuous days or more and is officially identified in accordance with § 101-38.305-1; and

(2) A replacement code will be embossed on the fifth line at the extreme right side to indicate the number of times a credit card has been replaced as a result of being reported lost or stolen (e.g., R-1).

(b) Agencies shall establish procedures to provide for the following:

(1) Prompt written notification to the credit card contractor of lost or stolen cards (notification shall include the date each card was initially reported lost or stolen). This notification is mandatory to enable the contractor to purge the data file if the credit card is not replaced. If a replacement card is requested, the contractor will so annotate the files.

(2) Prompt written notification to the credit card contractor of changes or deletions to billing account numbers and/or addresses; and

(3) Notification to the contractor of any cards that have to be removed from the system. (Note: When a card reaches its expiration date, it is automatically invalid and removed from the system). The removal codes are as follows: "L" = Lost, "S" = Stolen, "B" = Broken, "D" = Debossed, "E" = Expiring (use only if a replacement is needed and the card has not passed its expiration date), and "A" = All Other Reasons (such as a vehicle removed from the fleet). The schedule provides the necessary formats and allows for replacement cards, if needed.

(4) Prompt and positive destruction of all credit cards that have been replaced for any reason, and of lost or stolen credit cards recovered after being reported and/or replaced; and

(5) Destruction of credit cards bearing an expiration date that has passed or credit cards bearing an invalid license tag number, series, or identification designation; e.g., the number of a tag that has been replaced or destroyed.

5. Section 101-38.1202-1 is revised to read as follows:

§ 101-38.1202-1 Expiration date.

At the time the Standard Form 149, U.S. Government National Credit Card, is embossed, an expiration date (month, day, year) of not more than 2 years shall be embossed on the extreme right side of the fourth line of the credit card by the contractor. An expiration date of less than 2 years may be requested by the ordering agency. If an expiration date is not furnished by the agency, the contractor will emboss an expiration date of 2 years from the date of the request.

6. Section 101-38.1203 is revised to read as follows:

§ 101-38.1203 Centralized administrative control of credit cards.

(a) GSA will provide centralized management and control of the Standard Form 149, U.S. Government National Credit Card program. Inquiries concerning the policy and administration of the program shall be directed to GSA (TMM), Washington, D.C. 20406.

(b) Agency requests for credit cards shall be submitted directly to the contractor and shall conform to the requirements of this regulation. Changes in billing codes and addresses shall also be furnished promptly to the contractor so that there will be proper control of the billing procedures.

(c) After the determination has been made that the billing code(s) and the billing address(es) submitted are correct and are not duplicates, the contractor will process the request and emboss and issue the cards.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: January 2, 1981.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 81-1142 Filed 1-12-81; 8:45 am]

BILLING CODE 6820-AM-M

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41 CFR Part 101-26

[FPMR Amdt. E-244]

Procurement Sources and Programs; Use of U.S. Government National Credit Card for Obtaining Service Station Deliveries and Services

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides revised policy and procedures concerning the acquisition and use of Standard Form 149, U.S. Government National Credit Card for obtaining service station deliveries and services. Additional instructions and information have been incorporated in the Federal Supply Schedule FSC 75, Part VII, to simplify the preparation procedures for ordering and replacing U.S. Government National Credit Cards and to assist in maintaining an accurate data file at the embossing contractor.

EFFECTIVE DATE: This regulation is effective August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell A. Stockdale, Director, Federal Fleet Management Division, Transportation and Public Utilities Service (202-275-1021).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

1. The table of contents for Part 101-26 is amended by adding the following entry:

Sec. 101-26.406-6 Controlled Shipment of U.S. Government National Credit Cards.

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

2. Section 101-26.406.1 is revised to read as follows:

§ 101-26.406-1 General.

(a) Standard Form 149, U.S. Government National Credit Card (illustrated in § 101-26.4901-149), is authorized for use by Federal agencies to obtain authorized services and supplies at service stations dispensing items provided by contractors listed in the Defense Fuel Supply Center publication "Government Vehicle Operators Guide—Guide to Service Stations for Gasoline, Oil, and

Lubrication" (DFSC H 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC:OD, Cameron Station, Alexandria, VA 22314.

(b) Standard Form 149 is the only Government-wide credit card approved for use by Federal agencies for the procurement of gasoline and services at service stations dispensing items provided by the contractors listed in the Defense Fuel Supply Center publication referenced in paragraph (a) of this section. However, agencies need not use Standard Form 149 for motor vehicles used for purposes in which identification as Government vehicles would interfere with the performance of the functions for which the vehicles were acquired and are used. (See § 101-38.602.)

(c) Information concerning billing data, expiration dates to be embossed on Standard Form 149, and administrative control of the credit card program is in Subpart 101-38.12 and the Federal Supply Schedule FSC 75, Part VII.

3. Section 101-26.406-5 is revised to read as follows:

§ 101-26.406-5 Methods of obtaining Standard Form 149, U.S. Government National Credit Card.

(a) All agency requests for embossed Standard Form 149 shall be forwarded to the contractor in the format specified in Federal Supply Schedule 75, Part VII. Requests should be submitted with a GSA Form 300, Purchase Order; DD 1155, Order for Supplies or Service, Request for Quotation; or the purchase order normally used by the ordering agency. Unembossed or partially embossed Standard Forms 149 shall not be provided. Specific ordering instructions are in the Federal Supply Schedule FSC 75, Part VII; however, the following information will assist agencies ordering embossed Standard Form 149.

(1) Any order that does not include all of the required data elements or that contains inaccurate information will be returned to the sender. Cards ordered for replacement must be in the exact format and contain the exact information as the original card, including spaces, punctuation, and character field.

(2) The contractor will bill the ordering agency directly for embossing services and mailing charges.

(3) The type of format to be used when embossing Standard Form 149 shall conform with the requirements of the Federal Supply Schedule FSC 75, Part VII.

(4) Agencies are encouraged to use the blanket purchase arrangement (BPA), thus eliminating the costly processing of individual purchase orders. Credit cards can then be ordered against the BPA by letter, giving complete embossing information and referencing the BPA number.

(5) Instructions for requisitioning Standard Form 149 by means of electronic data transmission will be made available upon request to the Federal Fleet Management Division (TMM), General Services Administration, Washington, DC 20406.

4. Section 101-26.406-6 is added to read as follows:

§ 101-26.406-6 Controlled shipment of U.S. Government National Credit Cards.

Because the embossing contractor is required to maintain, on file, a receipt for all credit card shipments, each shipment of credit cards shall be made using "return receipt" procedures. Costs incurred by the embossing contractor in ensuring the safe, controlled shipment of all credit cards shall be paid by the ordering agency.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: January 2, 1981.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 81-1173 Filed 1-12-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final rule.

SUMMARY: This regulation implements one of two conservation recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) at its sixth annual regular meeting (Madrid, November 14-20, 1979). The effective conservation measure is a limitation on the catch or landing of bigeye tuna less than seven pounds. The second conservation measure, an international port inspection scheme for tunas under regulation by ICCAT, was published as proposed regulations (45 CFR 68412) but has not been formally approved by the required number of ICCAT member countries. If approved, final regulations will be published in the **Federal Register.**

The International Commission adopted the same size limit for both bigeye tuna and yellowfin tuna, two species similar in appearance, thereby eliminating any advantage to identifying yellowfin tuna as bigeye tuna. Conservation measures for bigeye tuna are now the same as those for yellowfin tuna. Economic impact on the U.S. fleet will be minimal as only a small amount of bigeye tuna less than seven pounds are landed by the U.S. fleet.

EFFECTIVE DATE: Minimum size restriction on bigeye tuna effective February 12, 1981.

FOR FURTHER INFORMATION CONTACT:
J. Gary Smith, (Chief, Fisheries Management Division), 213-548-2518.

SUPPLEMENTARY INFORMATION: At its sixth regular meeting ICCAT adopted two conservation measures: (1) that member countries take the necessary measures to limit the taking and landing of bigeye tuna (*Thunnus obesus*) weighing less than seven pounds (3.2 kg.) until December 31, 1983, and (2) that an international port inspection scheme be implemented for tuna under regulation by ICCAT. Proposed rulemaking was published on pages 68412-68414 of the **Federal Register** of October 15, 1980, and invited comments for 30 days ending November 14, 1980. Public hearings were held on October 22, 1980 at the National Marine Fisheries Service Conference, Room 300 South Ferry Street, Terminal Island, California 90731, and at the National Marine Fisheries Service Conference Room, 14 Elm Street, Gloucester, Massachusetts 01930. Comments were not received on the proposed regulations for the size restriction on tunas.

The size limit on bigeye tuna has been approved by the Commission and will become effective immediately.

The Assistant Administrator of the National Marine Fisheries Service has determined that these regulations do not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. As an amendment to an existing significant regulation, this final rulemaking does not require separate regulatory analysis for purposes of Executive Order 12044.

Signed at Washington, D.C. this 6th day of January 1981.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Atlantic Tunas Convention Act of 1975, Pub. L. 94-70, 16 U.S.C. 971-971h).

For the reasons set out in the preamble, 50 CFR Part 285—Atlantic Tuna Fisheries, is amended as follows:

1. The title of Subpart C is amended to read as follows:

Subpart C—Yellowfin Tuna (Thunnus albacares) and Bigeye Tuna (Thunnus obesus)

2. Section 285.50 is revised to read as follows:

§ 285.50 is Authorized fishing.

Except as provided in § 285.52, fishing in the regulatory area by persons or fishing vessels subject to the jurisdiction of the United States is authorized only for yellowfin or bigeye tuna that weigh seven pounds round weight (3.2 kg.) or more. The prohibition against fishing for bigeye tuna less than seven pounds is to remain in effect until December 31, 1983.

3. Section 285.52 is revised to read as follows:

§ 285.52 Incidental catch.

Persons or fishing vessels subject to the jurisdiction of the United States may take yellowfin tuna or bigeye tuna or both that weigh less than seven pounds round weight incidental to authorized fishing in the regulatory area for yellowfin tuna or bigeye tuna with the following provision. Landing of incidental catch shall not exceed 3 percent by weight per trip of all yellowfin tuna and bigeye tuna weighing seven pounds or more.

4. Subpart D, § 285.81 is revised to read as follows:

§ 285.81 Species subject to regulation.

The species of tuna currently subject to regulation by recommendation of the Commission within the meaning of Section 6(c) are yellowfin tuna, bigeye tuna, and Atlantic bluefin tuna.

[FR Doc. 81-1151 Filed 1-12-81; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 8
Tuesday, January 13, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins, Bulletin 345-52, REA Standards PC-5A, Service Entrance and Station Protector Installations and PC-5B, Station Installations

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins to issue a revised Bulletin 345-52 to include the newly completed PC-5B, Station Installation, as a portion of this document. This completes the action published as a Final Rule in the Federal Register on January 22, 1980, revising Bulletin 345-52 to issue the PC-5A, Service Entrance and Station Protector Installations.

DATE: Public comments must be received by REA no later than March 13, 1981.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3827. The Draft Impact Analysis Statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised Bulletin 345-52 to include the existing PC-5A, Service Entrance and Station Protector Installations and the newly developed PC-5B, Station Installations. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified not significant.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851 Rural Telephone Loans and Loan Guarantees.

REA, in its effort to assure the best, most cost-effective telecommunications service for rural America, proposes to revise Bulletin 345-52 to include the newly prepared PC-5B. This action will provide REA borrowers, contractors, engineers, and other interested parties with detailed information on station installation practices. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, at the above address.

Dated: December 19, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 81-802 Filed 1-12-81; 8:45 am]

BILLING CODE 3410-15-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 7

Contract Market Rules; Disapproval and Alteration

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Rule.

SUMMARY: The Commission is publishing notice of its proposed disapproval of the Chicago Board of Trade's ("CBT" or "Exchange") proposed rules which restrict the ability of customers to arbitrate Exchange-related claims and its proposed alteration of the Exchange's arbitration rules to assure the participation of Exchange members and employees thereof in Exchange arbitration proceedings. The Commission is acting because the CBT has failed to make such amendments in response to the Commission's request under Section 8a(7) of the Commodity Exchange Act ("Act"). If the Commission alters the CBT's arbitration rules, those rules would require Exchange members and their employees to participate in Exchange arbitration proceedings when customers choose that forum, as required under Section 5a(11) of the Act and implemented under Part 180 of the Commission's regulations thereunder.

DATE: Comments must be received on or before February 12, 1981.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; Attention: Office of the Secretariat.

FOR FURTHER INFORMATION CONTACT: Christine A. Rock, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: By letter dated July 8, 1980, the Commission requested, pursuant to Section 8a(7) of the Act,[1] that the CBT alter or supplement its arbitration regulations. The Commission acted because the CBT's existing regulations governing the arbitration of Exchange-related claims do not provide for the mandatory participation of members of the Exchange or employees thereof in arbitration proceedings initiated by customers, as required by Section 5a(11) of the Act[2] and implemented by the Commission's regulations thereunder, 17 CFR Part 180 (1980). The Commission stated in its letter that if the CBT did not submit new proposed regulations to the Commission under Section 5a(12) of the Act[3] within 60 days of the date of the letter, the Commission would, pursuant to Section 8a(7) of the Act, consider whether it would be necessary or appropriate to alter or supplement the Exchange's regulations relating to arbitration proceedings invoked by customers. Further, the Commission advised the CBT that if the Exchange failed to amend its rules as requested, the Commission would consider whether proposed regulations 620.01(B) and 640.04, as initially submitted by the Exchange, should be disapproved pursuant to Section 5a(12) of the Act.[4]

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[1] 7 U.S.C. 12a(7) (1976).

[2] 7 U.S.C. 7a(11) (1976). (Supp. III 1979).

[3] 7 U.S.C. 7a(12) (1979) (Supp. III 1979).

[4] Proposed regulations 620.01(B) and 640.04 initially were submitted to the Commission in a letter dated February 3, 1977, from Gerald Beyer.

Footnotes continued on next page

Proposed regulations 620.01(B) and 640.04, as interpreted by the CBT, would permit members of the Exchange or employees thereof to refuse to participate in proceedings initiated by customers.[5]

To date, the CBT has failed to amend its rules governing arbitration proceedings as requested by the Commission and required by Section 5a(11) of the Act and implemented by Part 180 of the Commission's [6] regulations. Accordingly, the Commission is proposing to disapprove CBT proposed regulations 620.01(B) and 640.04 which, as interpreted by the CBT, would not require members or their employees to participate in arbitration proceedings initiated by customers. In addition, the Commission is proposing to alter and supplement existing CBT rules concerning Exchange arbitration procedures so that a customer will have an opportunity, as set forth in Section 5a(11) of the Act, to require a member or its employee to participate in an Exchange-sponsored arbitration proceeding. The reasons for the Commission's action are stated in its letter to the CBT, by which the Commission requested that these alternations be made. The text of that letter is as follows:

July 8, 1980.

Re: Customer Arbitration; Request Pursuant to Section 8a(7) of the Commodity Exchange Act.

Mr. Thomas R. Donovan,
Secretary, Chicago Board of Trade, 141 West Jackson Boulevard, Chicago, Illinois 60606.

Dear Mr. Donovan: The Commission has reviewed proposed regulations 620.01(B) and 640.04 (formerly proposed regulations 1705(B) and 1725 respectively) of the Chicago Board of Trade ("Exchange"). These proposed regulations were submitted for Commission approval, pursuant to Section 5a(12) of the Commodity Exchange Act, as amended ("Act").

As part of its examination of these new regulations, the Commission has considered the information provided by the Exchange in letters dated March 11, 1977, October 27, 1978, and March 6, 1979. Based on that information, the Commission understands that these regulations, as interpreted by the Exchange, would permit a member of the Exchange or an employee of a member to refuse to submit to arbitration of claims even if a customer chooses that forum. The Commission believes that proposed regulations 620.01(B) and 640.04, as so interpreted, may violate certain provisions of the Act and be contrary to the public interest. For the following reasons, the Commission does not believe that the Exchange's justification of these proposed new regulations is persuasive.

Section 5a(11) of the Act

Section 5a(11) of the Act places an affirmative duty on a contract market to provide customers with a "fair and equitable procedure" for the settlement of their claims. Part 180 of the Commission's regulations sets forth minimum requirements to be followed by a contract market when adopting a customer claim and grievance procedure. These requirements would be meaningless and of no effect if exchanges did not require contract market members to participate in arbitration proceedings initiated by customers.

Section 5a(11)(i) of the Act

The provision in Section 51(11)(i) of the Act that "the use of such procedure by a customer shall be voluntary" refers specifically to customers, not members or employees of a contract market. In the absence of that language, Section 5a(11) would require the contract market to establish an arbitration procedure which either customers or members of the Exchange could invoke and enforce against each other as a matter of right. By specifically providing that the use of arbitration by customers shall be voluntary, the Commission does not believe that Congress intended members to be able to refuse to be subject to exchange arbitration proceedings. As further evidence of this intent, the Commission notes that the term "parties" is used in Section 5a(11)(iii) of the Act where Congress clearly intended to adopt a standard equally applicable to both customers and members.

Section 5a(11)(iii) of the Act

The Commission is aware that Section 5a(11)(iii) of the Act provides that the arbitration procedure established by the contract market "shall not result in any compulsory payment except as agreed upon between the parties." Section 5a(11) would have little purpose or meaning if proviso (iii) were interpreted to permit members or employees to refuse to participate in an arbitration proceeding brought by a customer. The reference in proviso (iii) to any "compulsory payment" resulting from "the procedure" refers to a payment other than or in addition to the award rendered on the merits of a claim or grievance—payments involving, for example, counterclaims which are beyond the subject of the original claim.

* * * * *

Pursuant to Section 8a(7), the Commission hereby requests that the Exchange alter or supplement its arbitration regulations to require members to submit to customer arbitration and, within sixty days of the date of this letter, file with the Commission new proposed regulations under Section 5a(12) of the Act. Attached are proposed regulations which the Commission believes would comply with the Act and applicable Commission regulations.

If the Exchange fails to file such a submission, the Commission will, pursuant to Section 8a(7) of the Act, consider whether it would be necessary or appropriate to alter or supplement the Exchange's rules relating to arbitration with respect to requiring members to submit to arbitration proceedings invoked by customers to protect persons trading, and to insure fair dealing, in commodities traded on the Chicago Board of Trade and consider whether regulations 620.01(B) and 640.04, as submitted and interpreted by the Exchange, should be disapproved pursuant to Section 5a(12) of the Act.

Very truly yours,

Jane K. Stuckey,
Secretary of the Commission.

As noted in the letter, the Commission attached proposed language by which the Exchange could amend regulations 620.01 and 640.04 in a manner consistent with the concerns expressed in the Commission's letter. The Commission has set forth below the changes in the CBT's proposed regulations which it believes are necessary to respond to those concerns. The Commission notes that, upon further consideration of the language of these proposed regulations, it is suggesting one additional language change (discussed below) which it believes is necessary to assure Arbitration Committee or Mixed Panel

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Footnotes continued from last page
then Secretary of the CBT, to the Executive Secretariat of the Commission.

[5] In a series of letters to the Commission and its staff, the CBT took the position that Section 5a(11), as implemented under 17 CFR Part 180, does not require members of the Exchange to submit to the arbitration of claims when a customer initiates such a proceeding. Letters from Bernard F. Doyle, Jr., then House Counsel of the CBT, to John G. Gaine, General Counsel of the Commission, dated March 6, 1979; to William F. Teuting, then Associate Director of the Division of Trading and Markets, dated October 27, 1978; to Barbara Salmanson, then Staff Attorney of the Division of Trading and Markets, dated March 11, 1977; and to the Executive Secretariat of the Commission, dated March 7, 1977. All other exchanges have submitted arbitration rules which, in accordance with Section 5a(11) of the Act and implemented by Part 180 of the Commission's regulations, require their members to participate in arbitration proceedings initiated by customers, and the Commission has approved all such rules.

[6] The CBT responded to the Commission's request with letters dated August 29, and September 15, 1980, by which it submitted, pursuant to Section 5a(12) of the Act, revised versions of proposed regulations 620.01(B) and 640.04 as well as proposed amendments to regulation 603.01(B). As required by Commission regulation 1.41(b)(2), the CBT represented in its August 29 and September 15 submissions that its Board of Directors had approved the prpoosals pursuant to CBT rule 132.00 and that such approval constituted final Exchange action upon the proposals. Contrary to its earlier representation that all necessary Exchange action on the proposals had been completed, the CBT later determined that a membership vote on the new proposals was required and, by letter dated October 21, 1980, the CBT requested withdrawal of its submission of the revised version of proposed regulations 620.01(B), 640.04 and the amendments to regulation 603.01(B). On November 25, 1980, the CBT's membership voted 411 to 229 4/6 against the revised version of the CBT's proposed customer arbitration regulations. The CBT's initial proposal, as submitted in 1977, remains pending before the Commission and is the subject of this proposed disapproval action.

jurisdiction over all customer-initiated claims.[7]

CBT regulation 620.01 as currently proposed by the Exchange requires all parties to an arbitration proceeding to sign an arbitration agreement as a condition for initiating an Exchange arbitration proceeding. In addition to altering the CBT's arbitration regulations explicitly to require that members or employees thereof submit to a customer-initiated arbitration proceeding, the Commission would also alter the CBT's regulations to assure that the refusal of a member or an employee thereof to sign an arbitration submission agreement would not deprive the Arbitration Committee or a Mixed Panel of jurisdiction to arbitrate a customer's claim. The text of the Commission's proposed alterations of the CBT's arbitration regulations follows:

§ 7.201 Regulation 620.01(B).

Customers' Claims and Grievances. The Arbitration Committee and Mixed Panels constituted pursuant to Regulation 1706 have jurisdiction to arbitrate all customers' claims and grievances not in excess of $15,000 against any member or employee thereof which have arisen prior to the date the customer's claim is asserted. If the customer elects to initiate an arbitration proceeding of any customer claim or grievance, the member shall submit to arbitration in accordance with these Arbitration Rules and Regulations. The arbitration shall be initiated by delivery to the Administrator of (1) a Statement of Claim and a "Chicago Board of Trade Arbitration Submission Agreement for Customers' Claims and Grievances" signed by the customer or (2) a Statement of Claim and another arbitration agreement between the parties, which agreement conforms in all respects with any applicable requirements prescribed by the Commodity Futures Trading Commission. The refusal of any member or employee to sign the "Chicago Board of Trade Arbitration Submission Agreement for Customers' Claims and Grievances" shall not deprive the Arbitration Committee or a Mixed Panel constituted pursuant to Regulation 1706 of jurisdiction to arbitrate customers' claims under these Arbitration Rules and Regulations. The Committee and Mixed Panels have jurisdiction to arbitrate a counterclaim asserted in such an arbitration, but only if it arises out of the transaction or occurrence that is the subject of the customers' claim or grievance, does not require for adjudication the presence of essential witnesses, parties or third persons over whom the Association does not have jurisdiction, and is not for an amount in excess of $15,000. Other counterclaims are subject to arbitration by the Committee, or a Mixed Panel, only if the customer agrees to the submission after the counterclaim has arisen, and if the aggregate monetary value of the counterclaim is capable of calculation and does not exceed $15,000.

§ 7.202 Regulation 640.04.

Arbitrators may decline jurisdiction in any case, except as may be asserted by a customer under regulation 620.01(B) or as provided by law. The Arbitrators may at any time during the proceeding, other than a proceeding initiated by a customer pursuant to regulation 620.01(B) or as provided by law, and shall, upon joint request of the parties, dismiss the proceeding.

In view of the foregoing, the Commission hereby gives notice of its proposal to alter or supplement, pursuant to Section 8a(7) of the Act, the arbitration regulations of the CBT and to consider disapproval, pursuant to Section 5a(12) of the Act, of proposed regulations 620.01(B) and 640.04 as submitted by the Exchange. Any person interested in submittting written data, views and arguments on this matter should submit such comments by February 12, 1981, to Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington D.C., on January 7, 1981, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-1106 Filed 1-12-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16, 20, and 866

[Docket No. 80N-0002]

Alpha-Fetoprotein Test Kits; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is granting requests to extend the time for submission of comments on the proposed rule to restrict the sale, distribution, and use of alpha-fetoprotein test kits and is denying requests to reschedule to a later date the hearing on this proposal.

DATE: The deadline for written comments is extended until February 20, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 7, 1980 (45 FR 74158), FDA published for public comment a proposed rule that would, if published as a final rule, restrict the sale, distribution, and use of alpha-fetoprotein test kits. The proposed rule was subject to a 60-day comment period which was scheduled to close January 6, 1981, and a public hearing to be held on January 15, 1981. FDA has received several requests to extend the comment period and to reschedule the public hearing, because of the complexity of the proposal and the intervening holiday period.

FDA agrees that the proposal is complex and potentially far-reaching and believes that it is in the public interest to grant additional time for the preparation and submission of meaningful comments. The Commissioner of Food and Drugs, therefore, finds in accordance with section 520(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

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[7] The Commission notes that the objective of this proceeding under Section 8a(7) of the Act is not to alter the CBT's regulations with particular language, but rather to assure that the objective of an Exchange forum for customer-initiated arbitration proceedings is assured. The Commission notes further that in suggesting proposed language for the alteration of the CBT's arbitration regulations, it essentially has taken language proposed by the CBT, amending that language only to assure the objectives of Section 5a(11) of the Act, as implemented by Part 180 of the Commission's regulations. The Commission will consider alternative language proposed by commentators by which the CBT's regulations could provide equal assurance of an unimpeded opportunity for the arbitration of customer claims against members or employees thereof.

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360j(d)(2)) that good cause exists to grant, and is granting, a 45-day extension of the comment period to February 20, 1981.

The request to reschedule the public hearing to a later date is denied because all arrangements have been made and FDA has already received over 40 notices of participation from persons planning to attend the hearing as scheduled.

Dated: January 5, 1981.

Joseph P. Hile

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-938 Filed 1-7-81; 3:05 pm]

BILLING CODE 4110-03-M

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21 CFR Parts 16, 20, 899

[Docket No. 80N-0002]

Alpha-Fetoprotein Test Kits

Correction

In FR Doc. 80-34052, appearing at page 74158 in the issue of Friday, November 7, 1980, the following changes should be made:

1. On page 74159, second column, the ninth line of the first complete paragraph should read, "under section 520(e) of the act (21 U.S.C.".

2. On page 74160, first column, between the first and second words in the third line of the first complete paragraph, insert the words, "on which FDA particularly seeks comments. In addition to these questions".

3. On page 74169, third column, the fourth and fifth lines of the first complete paragraph should read, "given to funding participation in formal evidentiary public hearings under Part 12".

BILLING CODE 1505-01-M

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21 CFR Part 310

[Docket No. 80N-0357]

Hair Grower and Hair Loss Prevention Drug Products for Over-the-Counter Human Use

Correction

In FR Doc. 80-34724, appearing at page 73955 in the issue of Friday, November 7, 1980, the third line of the paragraph beginning, "For Further Information Contact:" should read, "(HFD-510), Food and Drug".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 114

[Docket No. R-81-903]

Prohibitions Against Discrimination; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would describe HUD's interpretation of the Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968, including; the scope of coverage of Title VIII, the types of complaints which will be accepted for investigation, the standards HUD will use in determinating whether an alleged discriminatory housing practice has occurred, and the conduct made unlawful by Title VIII in matters relating to Sales and Rental/Steering, Financing, Property Insurance, and Appraisal activities.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document: 24 CFR Part 114, Subparts A through I—Prohibitions Aganist Discrimination.

(Sec. 7(o), Department of HUD Act, 42 U.S.C. 3535(o); sec. 324 Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. January 8, 1981.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 81-1145 Filed 1-12-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Surface Coal Mining and Reclamation and Enforcement Under Federal Program for Kentucky

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of intent to prepare Federal Program, Suspension of Kentucky schedule for State program resubmission, and Notice of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) was advised by the State of Kentucky of the existence of an restraining order issued on October 31, 1980, by the Martin Circuit Court for Martin County, Kentucky, enjoining the State from submitting or resubmitting a State program to the Department of the Interior. Accordingly, the Secretary of the Interior is temporarily suspending the Kentucky schedule for resubmission and is initiating action to prepare a Federal program for the regulation of surface coal exploration, mining and reclamation on non-Federal and non-Indian lands in Kentucky. The Federal program will not be implemented before December 22, 1981, unless the restraining order ends or is no longer determined effective under Section 503(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* In any event, Kentucky will be given the opportunity to resubmit a state program before a Federal program is implemented. If Kentucky does resubmit, the program will be reviewed in accordance with the Secretary's regulations. A Federal program will be implemented only if the State fails to resubmit, or if the resubmitted program is disapproved. Public comment is also being sought on the preparation of a Federal program for Kentucky and on Kentucky's actions under the interim program.

DATE: Public comments must be received by OSM by 5:00 p.m., February 12, 1981.

ADDRESS: Information and comments should be sent to: Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, OSM, State and Federal Programs, 1951 Constitution Avenue, N.W., U.S.

Department of the Interior, Washington, D.C. 20240, (202) 343–4225.

SUPPLEMENTARY INFORMATION: Under the Surface Mining Control and Reclamation Act of 1977, a State which seeks to regulate surface coal mining and reclamation operations within its border may apply to the Secretary of the Interior for approval of a State program. In order for a program to be approved, a State must develop a program that contains laws and regulations which are consistent with the Act and the regulations of the Secretary of the Interior. The Act says that once a State makes a program submission, the Secretary of the Interior has six months in which to consider the State's application. At the end of that six-month period, the Secretary has to decide whether to approve, conditionally approve, approve in part and disapprove in part, or completely disapprove the State program submission. If the Secretary only partially or completely disapproves the State program submission, the State, under normal conditions, has sixty days to revise and resubmit its program. The statute then gives the Secretary sixty days to consider the resubmitted program and to make a final decision. If, after the end of this ten month period, the Secretary is unable to approve or conditionally approve the State program, he is required to promulgate a Federal program.

As announced in the October 22, 1980, **Federal Register** notice, 45 FR 69940, the Secretary of the Interior reviewed the State of Kentucky's initial program submission and partially approved and partially disapproved that program. Kentucky had until December 22, 1980, to resubmit a revised program.

By letter on November 6, 1980, Elmore C. Grim, Commissioner of Kentucky's Bureau of Surface Mining Reclamation and Enforcement, informed the Office of Surface Mining that the Kentucky Department for Natural Resources and Environmental Protection was enjoined on October 31, 1980, by the Martin Circuit Court of Martin County, Kentucky, from submitting to the Secretary of the Interior a State program for the regulation of surface coal mining and reclamation operations. The Restraining Order by the Martin Circuit Court remains in effect until further order of the court. Kentucky did not resubmit a program by the December 22, 1980, deadline.

Section 503(d) of the Surface Mining Control and Reclamation Act provides:

> . . . [T]he inability of State to take any action, the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result * * * in the imposition of a Federal program. Regulations of the surface coal mining and reclamation operations covered or to be covered by the State program subject to an injunction shall be conducted by the State pursuant to Section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of Section 503 and 504 shall again be fully applicable.

The Secretary has completed all the actions in the review of the Kentucky State program that can be done without further participation by the State of Kentucky. Because the Secretary of the Interior has received notification that the State of Kentucky is enjoined from taking further formal action, the Secretary is temporarily suspending the State program approval process for Kentucky as of October 31, 1980, (the date of the restraining order), which was the 9th day of the 60 days that Kentucky had for resubmission.

The effect of this action is that federal enforcement of the interim program requirements, e.g., two federal inspections per year of each mine or regulated facility, will continue until the restraining order is lifted, expires, or is determined not to invoke the operation of Section 503(d). Since the Act allows the State access to its reserved portion of the Abandoned Mine Land Fund only after it has achieved regulatory primacy, Kentucky's access to the Fund must be delayed. The amount currently reserved for Kentucky is $43,102,928.35.

The Secretary has considered various options in rescheduling Kentucky's State program approval process. First, because the 60 day resubmission period expired on December 22, 1980, and because the restraining order gives Kentucky more time than the 60 days normally allowed, Kentucky could be required to resubmit its State program on the day the restraining order is lifted. However, an immediate deadline for resubmission after the restraining order is lifted appears abrupt and would ignore the fact that Kentucky still had 51 days remaining in its 60-day resubmittal period when the restraining order was issued. Second, Kentucky could be given 60 days after the lifting of the restraining order to resubmit its State program. However, 60 additional days appears excessive, because (1) Kentucky has already had 9 days to develop its resubmission, (2) it would be unfair to other States which only had 60 days to resubmit and (3) the operation of the restraining order has already given Kentucky considerably more time than the normal 60 days to develop an acceptable program. Third, Kentucky could be given the amount of time it had remaining to resubmit its program, 51 days. This would take into account the time Kentucky already had for resubmission, would be fair to other States involved in the process, and would be a reasonable deadline for the State to meet.

The Secretary has chosen the third option. Beginning on October 31, 1981, or, if the restraining order is lifted or determined to be ineffective before that date, then on the date when the restraining order is lifted or determined ineffective, Kentucky will have 51 days to resubmit an acceptable program. In any event, the deadline for Kentucky's resubmission will not be later than December 22, 1981. The Secretary will make every effort to notify Kentucky by letter prior to that date for resubmission in order to assist Kentucky in meeting the deadline.

The legislative history of Section 503(d) indicates that its purpose is to avoid penalizing States which make good faith efforts to comply with the Act but are prevented by court action from achieving full compliance. Where, however, attendant circumstances lead the Secretary to determine that an injunction does not invoke the operation of Section 503(d), or that the State has failed to make a good faith effort to comply with the Act, the Secretary will not suspend the statutory timetable for State programs beyond the date of such determination. The Secretary has not yet determined, at this time, whether Section 503(d) is applicable in Kentucky. The Secretary is reviewing the circumstances under which the restraining order was entered and the jurisdictional competence of the State court to hear the matter. The Secretary believes that the delay and relief available under Section 503(d) is limited to those States which are seeking in good faith to prepare and adopt a permanent surface coal mining and reclamation program. Section 503 is not meant to be used as an artifice or device to avoid the requirements of the Surface Mining Act. Section 503(d) does not provide general authority to extend the statutory timetable established under that Act. Accordingly, the Secretary requests public comment on the issues bearing upon the applicability of Section 503(d) in Kentucky. If, after review, the Secretary determines that Section 503(d) is inapplicable to Kentucky under the circumstances, Kentucky will have 51 days from the date of such determination within which to resubmit an acceptable State program. If it fails to do so, the Secretary will implement a Federal program for Kentucky in accordance with Section 504 of the Act. Until a determination is made, the Secretary will presume that Section 503(d) applies, and thus will suspend the running of the resubmission period provided by Section 503(c). However, the Secretary expressly reserves the right to take appropriate action if he concludes that the circumstances surrounding the entry of the injunction warrant doing so.

Section 503(d) also requires a State which is subject to an injunction prohibiting resubmission of a State program to regulate surface coal mining and reclamation operations pursuant to Section 502 of the Act (the interim program) until such time as the injunction terminates or until one year after the injunction is entered, whichever comes first. The Secretary construes Section 503(d) of the Act to authorize implementation of a Federal program if a State fails to implement Section 502 during the term of an injunction. Thus, while the Secretary fully endorses the intent of Congress to have the State assume regulatory primacy under the Act, he also is required to implement a Federal program in cases where that becomes necessary because of a State's failure to carry out its responsibilities under Section 502.

Consequently, the Secretary is also examining the compliance by the State of Kentucky with Section 502 of the Surface Mining Control and Reclamation Act and the interim program regulations issued by the Department of the Interior related to Section 502 (42 FR 62639, December 13, 1977). Within the next three months and after receipt of public comments and completion of this preliminary analysis, the Secretary will decide what further steps are necessary and should be taken. At that time, he may conclude that there is no basis for further examination because the State of Kentucky is adequately enforcing the requirements of Section 502 of the Act; alternatively, he may decide that there is the need for a public hearing or additional public comment. If the Secretary ultimately determines there is a lack of compliance, he will recommence the State program review process after appropriate notice to Kentucky.

One additional effect of the restraining order, if it runs a full year, is to delay the permanent program in Kentucky for a period of approximately eight to twelve months beyond that applicable to most other States in the country. In addition, if Kentucky is ultimately unsuccessful in obtaining approval of its program, the Secretary will then have to adopt a Federal program for that State. This could cause an additional delay of six months or more if the process for adoption of the Federal program were delayed until after the injunction is lifted.

To reduce the potential dely in the application of the permanent surface coal mining reclamation program in Kentucky if a Federal program becomes necessary, the Secretary has decided to begin preparation of a Federal program for Kentucky within the next three months. This action is considered necessary both to reduce the time during which the environmental objectives established by Congress are not fully achieved because a permanent program has not been implemented and to reduce the potential for competitive economic disadvantages among States because implementation of permanent programs in the different States are unlikely to be concurrent. The Secretary will not actually implement this program until Kentucky either fails to meet the 51 day deadline to resubmit its program or resubmits but fails to obtain approval of its program.

In the meantime, the Secretary has instructed the Director of the Office of Surface Mining to make every effort during the period of the restraining order to accomplish the following: (1) work with the State toward correcting the remaining deficiencies in its proposed program to the extent the State can participate in such an effort, given the existence of the restraining order; (2) ensure that the Federal enforcement program under Section 502 is diligently pursued in order to obtain compliance with the provisions of the Act and the interim program regulations; and (3) determine whether Kentucky is adequately carrying out its responsibilities under Section 502 of the Act.

A major purpose of this notice is to seek public comment on preparing a Federal program in Kentucky and to receive specific suggestions for how the Secretary of the Interior ought to adopt or modify the permanent program regulations to meet the local conditions in the State of Kentucky. Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the topography soils, climate and biological, chemical, geological, hydrological, agronomic and other physical conditions of the State involved. For important information, the reader is referred to "General Background on the Permanent Program" and "Criteria for Promulgating Federal programs" previously published in the **Federal Register** on May 16, 1980 (45 FR 32328). That notice explains how the Secretary will consider unique conditions in a State, how existing State laws will be considered, and what standards will be used in adopting regulations. The reader should also refer to the Secretary's decision concerning the Kentucky program published in the **Federal Register** on October 22, 1980. (45 FR 69940 *et seq.*)

This action of proposing the preparation of a contingent Federal program for Kentucky is not significant under the criteria of Executive Order 12044 and 43 CFR Part 14 and does not require preparation of regulatory analysis, nor is this action a major Federal action significantly affecting the environment under the National Environmental Policy Act.

Public Comment Period: the comment period announced in this notice will extend until February 12, 1981. All written comments must be received at the address given above by 5:00 p.m. on the date.

Comments on the preparation of a Federal program received after that hour will not be considered in drafting the proposed Federal program; they will be considered to the extent applicable in subsequent actions under that program.

Dated: January 6, 1981.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 81-1163 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS 00020; TSH-FRC 1724-4]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94-569). The meeting will be open to the public.

DATES: The meeting will be held from 9:15 a.m. to 5:00 p.m. on Thursday, January 29, 1981, and from 8:30 a.m. to 12:45 p.m. on Friday, January 30, 1981.

ADDRESS: The meeting will be held in: Environmental Protection Agency, Rm. 3906-Rm. 3908, Waterside Mall, 401 M Street SW., Washington, D.C.

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FOR FURTHER INFORMATION CONTACT: Marsha Ramsay, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS-777), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, (202-755-4854).

SUPPLEMENTARY INFORMATION: The Thursday agenda includes a presentation and discussion of "Supporting Innovation: A Policy Study," which was prepared under the direction of Professor Nicholas Ashford of the Massachusetts Institute of Technology. At the Thursday afternoon session, time will be set aside for study group work sessions. On Friday, January 30, an update on the implementation of the Toxic Substances Control Act will be presented.

The meeting will be open to the public and time will be set aside for public comments concerning the work of the Committee. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact Ms. Marsha Ramsay at the address or phone number listed above.

Dated: January 6, 1981.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 81-1111 Filed 1-12-81; 8:45 am]

BILLING CODE 6560-31-M

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40 CFR Part 61

[AD-FRL 1725-1]

National Emission Standards for Hazardous Air Pollutants; Test Methods—Revisions and Addition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Public Comment Period.

SUMMARY: The public comment period for the proposed revisions to test Methods 101 and 102, and the addition of test Method 111, to the National Emission Standards for hazardous air pollutants has been extended 60 days to allow sufficient time for interested parties to review and comment. The extension is being made due to delay in distributing copies of the Federal Register notice.

DATES: *Comments.* Written comments (in duplicate if possible) must be postmarked no later than February 13, 1981.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-79-45, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: On October 15, 1980, EPA proposed in the **Federal Register** (45 FR 68514) revisions to Methods 101 and 102 and addition of Method 111. Methods 101 and 102 are used to determine mercury emissions from chlor-alkali plants and Method 111 is used to determine mercury emissions from sewage sludge incinerators.

Today's notice extends the public comment period for the proposed revisions and addition.

Dated: January 6, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-1168 Filed 1-12-81; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 136

[RD-FRL 1724-5]

Guidelines Establishing Test Procedures for the Analysis of Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of Comment Period on Proposed Rulemaking.

SUMMARY: EPA is today making available for public comment the transcript of a meeting held on January 5, 1981 between EPA staff personnel and representatives of the Analytical Task Group of the Chemical Manufacturing Association. EPA is also making available certain documents which were mentioned or discussed at that meeting. EPA invites the public to review these materials and comment on them. The comment period is hereby reopened until 20 days from the date of publication of this notice to allow comments on these materials.

DATES: Comments on these reports are due no later than February 2, 1981.

ADDRESSES: Comments should be addressed to Dr. Robert B. Medz, Monitoring Technology Division, Office of Research and Development, Environmental Protection Agency (RD-680) 401 M St. SW., Washington, D.C. 20460. Copies of the meeting transcript and other documents described in this notice are available for reading at the EPA Public Information Reference Unit (Room 2404) at 401 M St. SW., Washington, D.C. and at all EPA Regional Office libraries during the hours of 9 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Robert B. Medz at the address listed above or call (202) 426-4727.

SUPPLEMENTARY INFORMATION: On December 3, 1979 EPA proposed to amend its lists of approved analytical techniques by adding test procedures for 113 organic toxic pollutants, a procedure for carbonaceous BOD, and requirements for sample preservation and holding times (44 FR 69464 et seq. December 3, 1979). All comments were due on or before February 1, 1980. The comment period was thereafter extended to April 28, 1980. Subsequently, at the request of the Analytical Task Group of the Chemical Manufacturers Association, a meeting was held at EPA headquarters upon January 5, 1980, to afford the Task Group an opportunity to make further comments on the proposal. Comments received at this meeting were limited entirely to technical issues relating to the proposed test methods. The transcript of that meeting and materials discussed at the meeting are hereby made available for public review and comment, and the comment period is reopened for a 20 day period for this purpose.

Dated: January 6, 1981.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

[FR Doc. 81-1169 Filed 1-12-81; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 763

[OPTS-61004A; TSH-FRC 1725-2]

Friable Asbestos-Containing Materials in Schools; Proposed Identification and Notification; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: In the Federal Register issue of September 17, 1980 (45 FR 61966), EPA issued a proposed rule to reduce risks of exposure to asbestos-containing materials in schools. This notice corrects the numbering assignment of sections in Subpart F of Part 763.

FOR FURTHER INFORMATION CONTACT: John Richards, Chief, Federal Register Staff (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. EB-42, 401 M St. SW., Washington, DC 20460 (202-426-2432).

SUPPLEMENTARY INFORMATION: On September 17, 1980 (45 FR 61966), EPA issued a proposed rule to reduce risks of exposure to asbestos-containing materials in schools. The numbering assignments of section in Subpart F of Part 763 of the proposal were incorrect. Accordingly, the section numbers in FR Doc. 80–28624, appearing at page 61966 are corrected wherever they appear, to read as follows:

New No.	Subject	Old No
763.100 ...	Scope and purpose	763.1
763.103....	Definitions	763.2
763.105...	Inspection for friable materials	763.3
763.106....	Sampling friable materials	763.4
763.107....	Analyzing friable materials	763.5
763.113...	Warnings and notification	763.6
763.116....	Recordkeeping	763.7
763.117....	Optional recording form for schools	763.8
763.118....	Compliance	763.9
763.119....	Exemptions	763.10

Dated: January 8, 1981.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 81–1110 Filed 1–12–81; 8:45 am]

BILLING CODE 656[illegible]-31-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1307

Benzene-Containing Consumer Products; Proposed Withdrawal of Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposal to withdraw proposed ban.

SUMMARY: Based on information indicating that benzene, as currently used in consumer products, does not present a significant risk to consumers, the Commission proposes to withdraw its proposed ban of consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. The proposed ban was published on May 19, 1978. January 13, 1981 is the date on which the Commission is now obligated to either publish a final banning rule or withdraw the proposal to ban. Since the Commission wishes to obtain public comments on withdrawal of the proposed ban before the effective date of the withdrawal, the Commission extends its decision date from January 13, 1981 to May 13, 1981.

DATE: Comments, preferably in five copies, are due on or before March 13, 1981. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments on this proposal to withdraw the proposed ban should be addressed to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Copies of the staff briefing packages and related materials on benzene are available at the Office of the Secretary, 1111 18th St., N.W., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Rory Sean Fausett, Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6984.

SUPPLEMENTARY INFORMATION:

Background

On May 19, 1978, the Commission proposed a ban under section 8 of the Consumer Product Safety Act (CPSA) of all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. (See 43 FR 21838.) Based on the information discussed in the proposal, the Commission had preliminarily concluded that benzene-containing consumer products present an unreasonable risk of injury to the public because benzene inhalation can cause blood disorders, chromosomal abnormalities, and leukemia. The Commission also preliminarily concluded that no feasible safety standard could adequately protect the public from these risks.

The Commission received a total of 44 written comments as well as 6 oral presentations concerning the proposed ban. Many of the comments criticized the proposal and raised complex scientific and technical issues, including the claim that there is no evidence that low levels of exposure to benzene constitute a health hazard, the assertion that the Commission's risk assessment was inadequate, and the claim that the proposed contamination level is neither justified nor commercially feasible. In order to address these comments adequately and to obtain and evaluate additional scientific and economic data, the Commission, on October 10, 1978 (43 FR 47197), on April 16, 1979 (44 FR 22499), on April 15, 1980 (45 FR 25409), and on October 16, 1980 (45 FR 68662) extended the time in which it must publish a final rule or withdraw the proposal. This time currently expires on January 13, 1981.

It should also be noted that on July 1, 1980, the Commission issued a general order (see 45 FR 44554) requiring any firms which have manufactured, imported, or labeled any consumer products, except gasoline, containing benzene as an intentional ingredient since January 1, 1979 to provide the Commission with specified information concerning such products. In addition, firms are required to update the information or report new uses of benzene as an intentional ingredient in consumer products for a one year period. The Commission received six responses to the general order, all indicating no use of benzene as an intentional ingredient in consumer products.

Economic Information

At the time the regulation was proposed, information available to the Commission indicated that there were only two classes of consumer products which contained benzene as an intentional ingredient: paint strippers and rubber cements. Four producers of these products were known at that time to be using benzene as an intentional ingredient. Contact with these firms by Commission staff in September, 1978 revealed that all of the firms, including one other firm that repackaged pure benzene, had stopped buying benzene and would be out of benzene inventories by the end of 1978. This information is consistent with the conclusion of a report prepared for the Commission by Battelle, Columbus Laboratories, that benzene is no longer used intentionally in consumer products. (See "Analysis of Technical and Economic Feasibility of a Ban on Consumer Products Containing 0.1 Percent or More Benzene," December, 1978. Copies of this report are available in the Office of the Secretary of the Commission.) The information is also consistent with the responses to the benzene general order, discussed above, all of which indicated that benzene is not currently used as an intentional ingredient in consumer products. Based on this information, the Commission staff has concluded that it is likely that only a very small and diminishing amount of products containing benzene as an intentional ingredient remain available for sale at the retail level.

The proposed banning regulation noted that there were some consumer products which contained benzene as a contaminant at a level of 0.1 percent or greater and which would be affected by the ban. However, the ban was not expected to be burdensome to manufactures or consumers since supplies of solvents with low benzene contamination levels were sufficiently available for consumer product needs. Subsequent to the proposal, the Battelle report, cited above, concluded that, except for stove and lantern fuel and engine oil flush, consumer products were being or easily could be formulated to contain less than 0.1 percent benzene contaminant. The report also noted that the benzene levels of the commercially available hydrocarbon solvents that typically contain contaminant benzene (i.e., toluene, hexane, heptane, rubber solvent, lacquer diluent) vary from less than 0.1 to greater than one percent benzene.

In early 1980, the Commission staff conducted a limited market survey of selected consumer products to determine their benzene content. Thirteen product classifications, including penetrating oils, carburetor cleaners, contact cements, model cements and paints, stove and lantern fuels, paint brush cleaners, lacquer thinners, oil-base wood stains, leather stains, paint removers, rubber cements, cigarette lighter fluids, and leather waterproofing agents, were analyzed for their benzene content. The data obtained from this limited survey indicated that benzene is not an intentional ingredient in these products. Approximately 10 percent of the products surveyed contained over 0.1 percent benzene; these products were in four classes: stove and lantern fuel, brush cleaners, lacquer thinners, and rubber cements. However, none of the products contained over 0.25 percent benzene. (See "Benzene Analysis of Consumer Products (STI 80-0034)", CPSC staff memo from Doris Hodgkins, March 11, 1980, on file at the Office of the Secretary.)

Exposure and Risk Assessment

The proposed banning regulation summarized the adverse health effects associated with benzene inhalation. The major health effects observed have been reductions in the cellular elements of the blood (anemias and pancytopenia), reductions of hematopoietic precursor (bloodforming) cells in the bone marrow (aplastic anemia), and various leukemias.

Subsequent to the proposal, a study was conducted to obtain precise information on the extent of the risk to consumers from exposure to consumer products with typical levels of benzene. This study of benzene air levels resulting from the use of paint removers in a controlled atmosphere exposure chamber was conducted for the Commission at the Army Chemical Systems Laboratory (ACSL). From the results of the study, the Commission staff has concluded that consumer exposures to benzene in a range from one to 10 parts per million (ppm), five hour time-weighted-average (TWA), could occur if the product contains at least 0.1 percent benzene, sixteen ounces or more of which are used in a poorly ventilated, enclosed room (8′ x 11′ x 8′), and the product is spread over a large surface area.[4] The Commission staff further concluded that five hour TWA exposures of up to 10 ppm could be expected from paint and lacquer products, paint removers, and contact cements if they contained over 0.1 percent benzene, since all of these products are intended to be applied to large surface areas. Products such as penetrating oils, cigarette lighter fluids, model cements and paints, rubber cements, stove and lantern fuels, and paint brush cleaners are believed to be used infrequently, in small quantities, on limited surface areas, or outdoors by the general consumer. Thus, use of these products would be unlikely to result in 5 hour TWA exposures of 10 ppm of benzene vapor. (See "An Assessment of Potential Human Exposure to Benzene," CPSC staff memo from Warren Porter, November 10, 1980, on file at the Office of the Secretary.)

Using the test conditions from the Edgewood exposure study, and epidemiological data on benzene from occupational populations, the CPSC staff have calculated an excess lifetime incidence of leukemia deaths of 0.7 (range 0.2 to 2.7) per million quart uses of paint remover containing 0.1 percent benzene. Although experimental exposure data are not available for other classes of consumer products, if it is assumed that the use patterns of the other products are similar to that of paint removers and if they contain greater than 0.1 percent benzene, Commission staff estimates that the increased lifetime risk would not be more than twice that projected for paint removers. Of the products analyzed in the market survey, one rubber cement which contained 0.23 percent benzene was estimated to result in 1.6 (range 0.5 to 6.2) excess lifetime deaths per million quart uses. The size of typical retail units of rubber cement (about 4 ounces) indicates that the projected 1.6 excess incidence of lifetime deaths due to leukemia is probably high for the general population, but may reflect a risk for certain hobbyists and artists. The Commission staff further believes that the risk from the other consumer products analyzed in the market survey, if used under the ACSL exposure criteria, would be less than the above estimates. These estimates were made assuming a benzene content of 0.1 percent, whereas the market survey may indicate benzene content of less than 0.1 percent in 90 percent of the products. (See "Benzene Risk Assessment", CPSC staff paper from White, Cohn, and Porter, on file at the Office of the Secretary).

Conclusion

The Commission has reviewed the most recent economic and risk data on current benzene use in consumer products, discussed above. Based on this information, the Commission has decided to propose to withdraw its proposed ban of consumer products containing benzene as an intentional ingredient and as a contaminant at level of 0.1 percent or greater by volume.

The Commission notes that since the proposal of the ban, benzene use as an intentional ingredient in consumer products has ceased. Furthermore, information available to the Commission appears to indicate that approximately 90 percent of current benzene contaminated products are at or below the proposed 0.1 percent level. The market survey also indicated that those products which do not meet the 0.1 percent level are primarily products such as stove and lantern fuel, brush cleaners, and rubber cements that are generally used in small quantities rather than intended to be spread over large surface areas. The Commission, therefore, concludes that a ban of benzene-containing consumer products is not reasonably necessary at this time to eliminate or reduce an unreasonable risk of injury associated with such products.

The Commission, however, remains concerned about the possible reintroduction into commerce of selected products intended to be used on large surface areas that contain benzene at or above 0.1 percent.

The Commission has instructed the staff to continue to monitor the marketplace for benzene use in these products so that the Commission may respond in an expeditious fashion to any need for future regulation in this area.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), the Commission certifies that this proposed rule withdrawing the proposed benzene ban will not, if promulgated, have a

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[4] It should be noted that the current maximum permissible occupational exposure level for benzene, averaged over an 8 hour day, is 10 ppm. On February 10, 1979, the Occupational Safety and Health Administration (OSHA) issued a permanent standard for the regulation of benzene which lowered the maximum permissible exposure level in the workplace from 10 ppm of airborne benzene, averaged over an eight-hour period, to 1 ppm. (43 FR 5917). The U.S. Supreme Court subsequently upheld the Fifth Circuit Court of Appeals which had overturned this standard and the current permissible level remains at 10 ppm. (See *Industrial Union Dept., AFL-CIO* v. *American Petroleum Institute et al., Secretary of Labor* v. *American Institute, et al.*, 100 S. Ct. 2844 (1980)).

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significant economic impact on a substantial number of small entities. In contrast with a final rule setting requirements that are being or will be enforced, the proposed ban which is proposed to be withdrawn at this time is not binding, creates no obligations, and has no legal impact. Thus, any action to withdraw the proposed ban will also not have a significant impact on small entities.

Accordingly, pursuant to section 9(a)(1)(B) of the CPSA, the Commission proposes to withdraw proposed Part 1307 and solicits public comment on this proposal. The Commission also proposes to withdraw its proposed rule, issued at the same time as the banning regulation, to regulate consumer products containing benzene under the CPSA (16 CFR 1145.6; see 43 FR 21838) as well as its proposed amendments to rules under the Federal Hazardous Substances Act (FHSA) and the Poison Prevention Packaging Act of 1970 (PPPA) concerning benzene. The amendments would have exempted from the FHSA and PPPA rules products covered by the benzene ban. (16 CFR 1500.14(b)(3)(iv) and 16 CFR 1700.14(a)(15); see 43 FR 21838.)

In order to receive and evaluate comments on this proposal, the Commission for good cause as an administrative matter extends from January 13, 1981 to May 13, 1981, the period in which it must either publish a final benzene banning rule or withdraw the proposal.

Dated: January 12, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-1351 Filed 1-12-81; 11:17 am]

BILLING CODE 6355-01-M

Notices

Federal Register
Vol. 46, No. 8
Tuesday, January 13, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Economics and Statistics Service

Changes in Fresh Market Vegetable Estimating Program

Notice is hereby given that effective with the January 8, 1981 *Vegetable* report, the Economics and Statistics Service (EES) is implementing a revised vegetable estimating program. Input received from data users in response to requests for reaction to proposed revamping of the vegetable program indicates that the effects of day-to-day economic situations and weather can best be evaluated by utilizing planted acreage as a base in making marketing decisions. Basic program changes are: (1) discontinuing *forecasts* of harvested acres and production for most fresh market vegetables, (2) publishing planted acreages by area within selected States, and (3) discontinuance of current May *forecast* of onion production in California and Arizona. Consequently, quarterly acreage *estimates* will be confined to planted acreage for fresh market snapbeans, broccoli, cabbage, cantaloups, carrots, cauliflower, sweet corn, cucumbers, eggplant, escarole/endive, honeydew melons, lettuce, green peppers, spinach, tomatoes, and watermelons. Planted acres will be published by "deal" or area in major States having a demonstrated industry need and local capability for producing estimates at less than State totals. Quarterly estimates of planted acres will be published in January, April, July, and October, along with usual harvest dates associated with those acres. The current May, August, and November *forecasts* of harvested acreage, yield, production and value would be discontinued and be replaced by *estimates* of harvested acres, yield and production published in July and December for the preceding six month period. Estimates for fresh and processed vegetables will remain unchanged.

Done at Washington, D.C., this 8th day of January 1981.

William E. Kibler,

Acting Administrator.

[FR Doc. 81-1134 Filed 1-12-81; 8:45 am]

BILLING CODE 3410-18-M

CIVIL AERONAUTICS BOARD

[Docket 35955]

Global International Airways Corporation; Fitness Investigation

Reassignment of Proceeding

This proceeding has been reassigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., January 7, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-1129 Filed 1-12-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39106]

ICB International Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 12, 1981, at 10:00 a.m. (local time) in Room 1003, Hearing Room "B", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and two copies to the judge of (1) proposed statements of issues (2) proposed stipulations, (3) proposed requests for information and evidence, (4) proposed procedural dates, and (5) proposals for expediting this proceeding.

The Bureau of International Aviation shall deliver its material on or before January 27, 1981 and any other party shall deliver its material on or before February 6, 1981. The submissions of other parties shall be limited to points on which they differ with BIA, and shall follow the numbering and lettering used by BIA to facilitate cross referencing. Dates specified herein are dates of *delivery.*

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-1130 Filed 1-12-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39106]

ICB International Airlines Fitness Investigation

Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., January 7, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-1131 Filed 1-12-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36115]

South Pacific Island Airways Fitness Investigation

Reassignment of Proceeding

This proceeding has been reassigned to Administrative Law Judge William A. Pope, II. Future communications should be addressed to Judge Pope.

Dated at Washington, D.C., January 8, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-1132 Filed 1-12-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-12-96; Docket 31290]

Establishment of the Interim Standard Industry Fare Level; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of December 1980.

The Airline Deregulation Act of 1978 (ADA) requires that the Board compute a "standard industry fare level" (SIFL) based upon the fare level in effect on July 1, 1977, and, not less than semiannually, update the SIFL by increasing or decreasing it by the percentage change in actual operating costs per available seat-mile (ASM) for interstate and overseas transportation combined. Once computed, the SIFL becomes the benchmark for measuring the statutory zone of reasonableness.

The Board has periodically adjusted the SIFL on July 1, September 1, and November 1, 1979, January 1, March 1, May 1 and July 1, 1980. The September and November adjustment reflected changes caused by the rapid inflation in fuel expenses solely. With the January 1, 1980 adjustment (Order 79–12–162) we adopted the policy of adjusting non-fuel costs on a bi-monthly basis as well. The bi-monthly SIFL adjustments for fuel costs were adopted because of the rapid escalation in fuel prices which were being experienced during this period. (See Order 79–8–184). Subsequently, however, with our last SIFL order, because of lessened volatility in fuel costs and current policies of interim expanded fare flexibility, we returned to the six-month SIFL adjustment period set forth in Section 1002(d)(6)(B) of the ADA for both fuel and non-fuel cost adjustments.

We note, however, that fuel prices have recently moderated and over the past four months have actually declined from the high of 88.69¢ reached in July. As a result of fuel prices holding relatively constant, our current SIFL computation of anticipated fuel costs is substantially overstated. We projected fuel costs of 98.21 cents per gallon as of October 1, 1980, whereas actual October fuel costs were only 87.59 cents. We are concerned, however, that future fuel costs could be understated, particularly in view of pending OPEC increases, if we were to continue our normal fuel projection using a four-month moving average for projecting fuel costs for the next six months. We have decided, therefore, to project the SIFL effective January 1, 1981, for three months, instead of the usual six. This will permit us to keep a closer watch on fuel price changes and to make appropriate adjustments should fuel costs increase within this period.

Applying our methodology to the year ended September 1980 financial data and October 1980 fuel costs [1] and projecting fuel and non-fuel costs to February 15, 1981, the midpoint of the January-March period results in a cost escalation factor of 1.5450 over July 1, 1977 or a reduction below the last SIFL adjustment of about 3.68 percent. (See Appendix) [2]

This reduction in the SIFL adjustment factor also necessitates a revision in our Statements of General Policy, 14 CFR Part 399, covering upward flexibility in connection with the zone of limited suspension for domestic passenger fares. Section 399.32(d)(1) provides flexibility up to 30 percent above the sum of the SIFL plus $15. These regulations also provide that each time the Board adjusts the SIFL for cost increases, it will adjust the $15 figure by the same percentage rounded to the nearest whole dollar. Consequently, the revised constant amount will be $14.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 1002:

1. We set the cost adjustment factor for the Standard Industry Fare Level effective January 1, 1981, to be 1.5450; and

2. The $15 figure appearing in 14 CFR 399.32(d)(1) as adopted by PS–98, 45 FR 70431, October 24, 1980, is adjusted in accordance with that section to $14.

3. We set the Standard Industry Fare Level formula effective January 1, 1981, as follows:

Terminal Charge, $24.97: Plus .1366/mile (0–500 miles); .1041/mile (501–1,500 miles); .1001/mile (over 1,500 miles).

Trunk and Local Service Carrier Scheduled Service Fuel Price Calculation

[Amounts in cents]

Month	Price per gallon	Change from prior month
July 1980	88.69	.87
August	88.64	(.05)
September	87.43	(1.21)
October	87.59	.16

This order shall be served on the Air Transportation Association of America, all certificated carriers, and shall be published in the **Federal Register**.

All Members concurred.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–1128 Filed 1–12–81; 8:45 am]

BILLING CODE 6320–01–M

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[1] Our methodology projects the average change in price over the last four months to the chosen future date, then adds the projected change to the current fuel price. In this case, we projected an average reduction of .13 cents per month for four months (to February 15, 1981), then subtract this .52 cents from the October price—projecting a cost of 87.07 cents per gallon as of February 15, 1981:

[2] Appendix—Methodology for Determining Change in Operating Expense Per Available Seat-Mile, is filed with the original document.

CIVIL RIGHTS COMMISSION

Connecticut Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on February 5, 1981, at the Lord Cromwell Inn, Route 72, Cromwell, Connecticut. The purpose of the meeting is discussion of the 1980 SAC reports on civil rights developments in Connecticut.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. John Rose, Jr., P.O. Box 3216, Hartford, Connecticut 06103, (203) 525–4700, or the New England Regional Office, 55 Summer Street, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 8, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–1102 Filed 1–12–81; 8:45 am]

BILLING CODE 6335–01–M

New Hampshire Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30 p.m., and will end at 9:30 p.m., on February 18, 1981, at the Federal Building, Conference Room, 275 Chestnut Street, Manchester, New Hampshire. The purpose of the meeting is discussion of the 1980 SAC reports on civil rights developments in New Hampshire.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Sylvia F. Chaplain, 7 Wendover Way, Bedford, New Hampshire 03102, (603) 625–5335, or the New England Regional Office, 55 Summer Street, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 8, 1981.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 81–1103 Filed 1–12–81; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes With Cryosystems

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes with cryosystems pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR) (See especially Section 301.11(e).)

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket Number 80–00158. Applicant: University of Pennsylvania School of Medicine, 36th and Hamilton Walk, Philadelphia, PA 19104. Article: Ultramicrotome Model LKB 2088 Ultrotome V and Cryokit. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: See Notice on page 27970 in the **Federal Register** of April 25, 1980. Advice submitted by: Department of Health and Human Services, June 6, 1980. Article ordered: December 9, 1979.

Docket Number 80–00214. Applicant: University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Dr., San Antonio, TX 78284. Article: Cryoultramicrotomy System. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: See Notice on page 27462 in the **Federal Register** of April 23, 1980. Advice submitted by: Department of Health and Human Services, July 17, 1980. Article ordered: June 14, 1979.

Comments: No comments have been received in regard to either of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides a specimen temperature control accuracy of ± 0.2 degrees Centigrade (°C). The MT 5000 ultramicrotome manufactured by the Dupont/Sorvall Division of the DuPont Company (Sorvall) became available on April 24, 1979. However at the time each foreign article was ordered the MT 5000 was not available with a cryosystem. Therefore at the time each foreign article was ordered the most closely comparable domestic instrument was Sorvall's Model MT–2B ultramicrotome with its cryosystem. The Department of Health and Human Services (HHS) advises in its respectively cited memoranda that (1) the specimen temperature control accuracy of ± 0.2° C is pertinent to the purposes for which each foreign article is intended to be used and (2) the domestic Sorvall MT–2B with its cryosystem did not provide the pertinent features at the time each foreign article was ordered.

For these reasons, we find that the Sorvall Model MT–2B ultramicrotome with its cryosystem was not of equivalent scientific value to the foreign articles to which each of the foregoing applications relate, for such purposes as these articles are intended to be used, at the time each foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article to which the foregoing applications relate, for such purposes as these articles are intended to be used which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81–1090 Filed 1–12–81; 8:45 am]

BILLING CODE 3510–25–M

Minnesota Department of Health; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket Number 80–00140. Applicant: Minnesota Department of Health, 717 Delaware Street, S.E., Minneapolis, Minnesota 55440. Article: Tilting Stage for Electron Microscope. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for studies of microparticulates including asbestos and other mineral fiber particles. The experiments to be conducted will include: enumeration and identification of fibrous mineral particulates in environmental samples, differentiation of structure between true asbestos, and mechanically derived microfibers and identification of various microparticles in the occupational setting. The objective enumeration and identification of fibrous mineral particulates in environmental samples is to determine exposure levels of the people of the state. This information will be used in conjunction with on-going epidemiological studies to determine the health significance of these exposures.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The article is being manufactured by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the National Bureau of Standards in its memorandum dated July 11, 1980 and the Department of Health and Human Services in its memorandum dated May 7, 1980 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic article.

The Department of Commerce knows of no similar accessory manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81–1089 Filed 1–12–81; 8:45 am]

BILLING CODE 3510–25–M

National Aeronautics and Space Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importatation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket Number 80–00284. Applicant: National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035. Article: Double-Tilt Specimen Holder, X-Ray Mode Unit, and Microdiffraction Unit. Manufacterer: Hitachi Corporation, Japan. Intended use of article: See Notice on page 47896 in the **Federal Register** of July 17, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to compatible accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-1086 Filed 1-12-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Gebruder Knie, Knie's Kinderzoo.

b. Address: 8640 Rapperswil, Switzerland.

2. Type of Permit: Public display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus)—1.

4. Type of take: To capture and export from the United States for public display.

5. Location of Activity: West Coast of Florida.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 12, 1981. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Division of International Traffic and Animal Welfare of Switzerland have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 8, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-1152 Filed 1-12-81; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Schedule for Awarding Bonuses to Members of the Senior Executive Service; Submission

AGENCY: Commodity Futures Trading Commission.

ACTION: The Commission's schedule for awarding bonuses to its Senior Executive Service ("SES") members.

SUMMARY: Based upon the recommendations of the Commission's Performance Review Board concerning the performance of Commission SES members, the Commission plans to award bonuses to three of its career Senior Executives. These three Senior Executives will receive, respectively, and additional 14%, 10% and 10% of their basic salary as a bonus. All three of them were rated highly successful in their jobs. There are currently fifteen Senior Executives in the Commission of whom thirteen are careerists.

FOR FURTHER INFORMATION CONTACT: Fidelma Donahue, Personnel Section, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 (202) 254-3131.

Issued in Washington, D.C., on January 7, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-1089 Filed 1-12-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[OFC Case No. 55288-9176-02-81]

J. P. Stevens and Co., Inc.; Termination of Prohibition Order Proceeding Under the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice Of Intent Not to Proceed With Prohibition Order Proceeding Pursuant To Sections 302 And 701 Of The Powerplant And Industrial Fuel Use Act of 1978.

SUMMARY: On July 19, 1980, pursuant to Sections 302(a) and 701(b) of the

Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) published in the **Federal Register** (45 FR 47906) notice of the issuance of proposed prohibition orders to J. P. Stevens and Co., Inc. (Stevens). The orders would, if finalized, prohibit the use of petroleum or natural gas as a primary energy source in two major fuel burning installations (MFBI's), identified as Boilers NO. 1 and No. 2, located at Stevens' Delta Finishing Plant in Wallace, South Carolina. ERA Hereby gives notice, pursuant to ERA rules implementing FUA, that it does not intend to proceed with the prohibition order proceeding instituted against Stevens.

FOR FURTHER INFORMATION CONTACT:

Willian L. Webb, Office of Public Information Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

R. James Caverly, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 653-4501.

Douglas F. Mitchell, Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6B-178, Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: ERA rules pertaining to prohibition order proceedings are codified at 10 CFR Part 501, Subpart E. In accordance with Section 501.51(b), publication of the notice and issuance of the proposed prohibition orders to Boilers No. 1 and No. 2 at Stevens' Delta Finishing Plant began a three-month comment period, during which Stevens' and any other interested person could submit comments and evidence relating to the findings ERA must make under Section 302(a) of FUA in order to prohibit the use of petroleum or natural gas as a primary energy source in an existing MFBI. The comment period ended on October 13, 1980. On October 23, 1980, Steven's advised ERA that it had negotiated a contract with the pipeline company supplying natural gas to Stevens which, commencing October 15, 1980, enables Stevens to burn coal as the primary energy fuel in Boilers No. 1 and No. 2. Stevens also advised ERA that it intended to burn coal rather than natural gas in these boilers except in emergency situations.

Subsequent to the end of the first three-month comment period provided for in ERA rules, ERA is required to issue a notice of whether it intends to proceed with the prohibition order proceeding. 10 CFR 501.50(b)(4). In addition, Section 501.51(b)(9) provides that ERA may terminate a prohibition order proceeding at any time prior to the date a final order shall become effective. A material change in circumstances has occured since ERA issued a proposed prohibition order to Stevens in this case. The company no longer is contractually prohibited from burning fuels other than natural gas in Boilers No. 1 and No. 2 when natural gas is available. As a result, Stevens has voluntarily committed to use coal as a primary energy source in these boilers, both of which have present coal burning capability. In view of these changed circumstances, ERA has decided to terminate, and hereby gives notices that it has terminated, the prohibition order proceeding against Stevens' Delta Finishing Plant Boilers No. 1 and No. 2.

The public file containing a copy of this notice and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, N.W., Washington, D.C., Monday through Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C. on January 7, 1981.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-1078 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3427]

Cascade Waterpower Development Corp.; Application for Preliminary Permit

January 6, 1981.

Take notice that Cascade Waterpower Development Corporation (Applicant) filed on September 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3427 to be known as McKay Hydroelectric Facility located on McKay Creek in Umatilla County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: David Holzman, P.O. Box 246, June Lake, California 93529. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) a 825-foot long penstock with a 52-inch diameter built through the Water and Power Resource Service's McKay Dam; (2) a powerhouse with two 1.6 MW generating units; and (3) a 1-mile transmission line.

The Applicant estimates that the average annual energy output would be 8.4 GWh.

Purpose of Project.—The power developed by the proposed project would be sold to Pacific Power and Light Company.

Proposed Scope and Cost of Studies under Permit.—The Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would conduct environmental, hydraulic, power generation, construction, economic investigations and consult with appropriate Federal, State, and local agencies. The cost of these activities is estimated by the Applicant to be $45,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before March 12, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (C) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 12, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3427. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1186 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3684-000]

Chesdin Development Ltd.; Application for Preliminary Permit

January 6, 1981.

Take notice that Chesdin Development Ltd. (Applicant) filed on November 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3684 to be known as the Locks Dam Project located on the Appomattox River in Dinwiddle and Chesterfield Counties, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Kenneth Lever, Chesdin Development Ltd., 6566 France Avenue South, Minneapolis, Minnesota 55435. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing 300-foot long and 10-foot high diversion dam; (2) an existing 1.2 mile long intake canal; (3) a proposed powerhouse with an estimated installed generating capacity of 4,500 kW; (4) an existing 5-acre reservoir having 50 acre-feet of storage capacity; (5) an existing 40-foot high overflow spillway at the downstream terminus of the canal; and (6) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 24,100 MWh.

Purpose of Project—Chesdin Development Ltd. proposes to develop the hydroelectric potential of the site and sell the power output to Virginia Electric Power Company.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated and assessed to support an investigation decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 12, 1981 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 12, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS, NOTICE OF INTENT TO FILE COMPETING APPLICATION," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3684. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to:

Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–1137 Filed 1–12–81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER81–31–000, ER80–458]

Green Mountain Power Corp., Order Accepting for Filing and Suspending Proposed Increased Rates, Imposing Condition With Respect to Acceptance for Certain Customers, Granting Waiver of Filing Requirements, Denying Waiver of Notice Requirements, Requiring Refunds, Granting Intervention, Providing for Hearing, and Establishing Procedures

Issued: December 12, 1980.

On October 14, 1980, Green Mountain Power Corporation (GMP) submitted for filing proposed changes in transmission rates and metering charges for transmission service to seven wholesale customers.[1] The proposed changes would result in an increase in revenues of approximately $53,527 (27.1%) for the twelve month period ending December 31, 1979. GMP requests waiver of the filing requirements currently in effect under section 35.13 of the Commission's regulations, and permission to use the revised abbreviated filing format which was adopted by Commission Order No. 91, Docket No. RM79–64, issued June 27, 1980. Further, GMP requests waiver of the notice requirements of section 35.11 to permit the proposed rates to become effective May 1, 1980. GMP asserts that each customer has been assessed and has paid the proposed increased charges as of June 1980, which billing period reflected the start of the summer power period that commenced May 1, 1980.

Notice of the filing was issued on October 21, 1980, with response due on or before November 10, 1980. On November 10, 1980, the Water and Light Departments of the Villages of Stowe and Morrisville, the Electric Departments of the Villages of Northfield and Hardwick, and the Washington Electric Cooperative, Inc., filed a joint protest, petition to intervene, opposition to GMP's request for waiver, and request for a maximum suspension of the proposed increased rates. In support of their petition to intervene, petitioners state that each purchases transmission service from GMP and that, with the exception of the Villages of Readsboro and Jacksonville, they respresent all of the customers affected by the proposed increases.

Discussion

The Commission finds that participation in this proceeding by each of the petitioners may be in the public interest. Accordingly, we shall grant their petition to intervene.

In its filing, GMP has utilized the abbreviated filing requirements adopted by the Commission in Order No. 91, and has sought waiver of the current section 35.13 filing requirements. The data submitted by GMP are sufficient for the Commission to conduct a preliminary analysis of GMP's rate proposal. Further, the Commission has encouraged utilities to adopt the revised filing requirements during the period prior to the effective date of the regulations, *i.e.*, December 27, 1980. Accordingly, GMP's request for waiver with respect to filing requirements will be granted.

In support of its requests for waiver of the 60-day notice requirements and for an effective date of May 1, 1980, GMP states that these requests would permit the company to bill the increased charges coincidentally with the start of the power period as stated in its applicable transmission contracts. GMP assets that the belated filing was due to the press of business primarily caused by a lengthy and complex retail rate proceeding, which involved key technical personnel.

Petitioners oppose the requested waivers stating that the requests are not compatible with existing contract provisions for rate changes. The contractual language to which petitioners refer provides, *inter alia*, that the ". . . revised charges per kilowatt will become effective *after notice* . . ." (emphasis added). Additionally, petitioners argue that GMP has unlawfully collected the increased rates without having first tendered those rates to the Commission for filing. As a result, petitioners contend that GMP should be ordered to refund with interest all amounts already collected in excess of the filed rates.

We shall deny GMP's request for waiver of the 60-day notice requirement. GMP has not shown good cause for such waiver. The Commission agrees that GMP has unlawfully departed from its filed rate schedules in contravention of the express provisions of the Federal Power Act.[2] Any internal administrative burdens which GMP might have encountered in submitting a timely rate change filing do not excuse such unlawful conduct. Accordingly, in addition to denying waiver of notice, we shall direct GMP to refund with interest the unauthorized amounts, which have been collected since June 1980.

Our analysis indicates that GMP's proposed rates have not been shown to be just and reasonable and that they may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as conditioned below, and suspend them as ordered below.

In a number of suspension orders,[3] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. However, we note that the contracts here state that any revised charges will take effect to coincide with a power period of the New England Power Pool. Petitioners recognize that provision and suggest that, in lieu of a full five month suspension period, they would consent to a suspension until May 1, 1981, the commencement of the next effective power period, rather than until May 13, 1981. We believe that petitioners' suggestion is well taken and will advance the public interest. Accordingly, we shall suspend the rates until May 1, 1981, when they shall become effective subject to refund.

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[1] Villages of Hardwick, Morrisville, Northfield, Stowe, Readsboro, and Jacksonville, Vermont, and Washington Electric Cooperative, Inc. *See* Attachment A for rate schedule designations.

[2] 16 U.S.C. § 824d. *See Montana-Dakota Utilities Co. v. Northwestern Public Service Co.*, 341 U.S. 246 (1951).

[3] *E.g., Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80–506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating, Co.*, Docket No. ER80–466 (August 22, 1980) (one day suspension).

With respect to the proposed increased rates to Readsboro and Jacksonville, we note that the underlying transmission contracts for that service were tendered for filing by GMP on June 16, 1980, in Docket No. ER80–458. That filing, however, was declared deficient by letters to GMP dated August 7, 1980, and November 17, 1980. To date, GMP has not completed its prior submittal. Nonetheless, GMP's letter of transmittal in the instant docket states that "service is being rendered to [Readsboro and Jacksonville] under FERC rate schedule [sic] filed under . . . Docket No. ER80–458. . . ." GMP has thus been serving these two customers under transmission rate schedules which have never become lawfully effective and GMP now seeks to increase the rates contained in the non-effective rate schedules. Because the current submittal, insofar as it applies to Readsboro and Jacksonville, is premised upon the prior filing in Docket No. ER80–458, and is therefore dependent upon the Commission's resolution of any issues presented by the earlier filing, we shall condition our acceptance for filing of GMP's proposed rate changes for these two customers upon the requirement that GMP complete its filing in Docket No. ER80–458 within thirty days of the issuance of this order. Upon such completion, the currently proposed rates for Readsboro and Jacksonville shall remain subject to the outcome of any proceedings that may be initiated in Docket No. ER80–458. In the event that this condition is not met, GMP's proposed rate changes for Readsboro and Jacksonville shall be deemed rejected.

The Commission orders:

(A) GMP's requests for waiver of the 60-day notice provision of section 35.3 of the Commission's regulations and a May 1, 1980 effective date for its proposed increased rates are hereby denied. Within thirty days of this order, GMP shall refund to each of the affected wholesale customers, together with interest computed in accordance with section 35.19a of the regulations, all amounts collected under the currently proposed rates which are hereby found to be in excess of those produced by the lawfully effective rates during that period. Within thirty days after such refunds have been made, GMP shall submit a refund summary and compliance report.

(B) GMP's request for waiver of the current filing requirements of section 35.13 of the regulations is hereby granted.

(C) With the exception of the rates applicable to the Villages of Readsboro and Jacksonville, the proposed rates filed by GMP in this docket are hereby accepted for filing and suspended to become effective May 1, 1981, subject to refund.

(D) With respect to the Villages of Readsboro and Jacksonville, GMP's proposed rate increases are hereby conditionally accepted for filing, and suspended to become effective May 1, 1981, subject to refund. Such acceptance shall be conditioned upon the requirement that GMP complete its filing in Docket No. ER80–458 within thirty (30) days of the date of this order; if the condition is not met, then GMP's instant submittal shall be deemed rejected with respect to Jacksonville and Readsboro upon expiration of the thirty (30) day period.

(E) The petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commisson; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petition to intervene; and, *Provided, further,* that the admission of each intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of the rates proposed herein by GMP.

(G) The Commission staff shall serve top sheets in this proceeding on or before December 18, 1980.

(H) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within twenty (20) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates, including dates for the filling of testimony and a case in chief if settlement is not reached at the ordered conference, and to rule on all motions (except motions to consolidate, sever, or dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

Green Mountain Power Corp., Docket No. ER81-31-000, Rate Schedule Designations

Designation	Other party	Description
Supplement No. 3 to Rate Schedule FERC No. 60 (Supersedes Supplement No. 1).	Village of Hardwick	Transmission Service Rate
Supplement No. 4 to Rate Schedule FERC No. 60 (Supersedes Supplement No. 2).	do	Metering Charge.
Supplement No. 3 to Rate Schedule FERC No. 64 (Supersedes Supplement No. 1).	Village of Northfield	Transmission Service Rate
Supplement No. 4 to Rate Schedule FERC No. 64 (Supersedes Supplement No. 2).	do	Metering Charge.
Supplement No. 3 to Rate Schedule FERC No 66 (Supersedes Supplement No. 1).	Village of Stowe	Transmission Service Rate
Supplement No. 4 to Rate Schedule FERC No. 66 (Supersedes Supplement No. 2).	do	Metering Charge.
Supplement No. 3 to Rate Schedule FERC No. 68 (Supersedes Supplement No. 1).	Washington Electric Cooperative, Inc.	Transmission Service Rate
Supplement No. 4 to Rate Schedule FERC No. 68 (Supersedes Supplement No. 2).	do	Metering Charge.
Supplement No. 3 to Rate Schedule FERC No 62 (Supersedes Supplement No. 1).	Village of Morrisville	Transmission Service Rate
Supplement No. 4 to Rate Schedule FERC No. 62 (Supersedes Supplement No. 2).	do	Metering Charge.

[FR Doc. 81-1158 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3716-000]

Mitchell Energy Co. Inc.; Application for Preliminary Permit

January 6, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 10, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3716 to be known as the Keechelus Dam Hydroelectric Project located on Yakima River in Kittitas County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be located at the existing U.S. Water and Power Resources Service's Keechelus Dam and would consist of a power plant with a rated capacity of 3 MW. The Applicant estimates that the average annual energy output would be 8 million kWhs.

Purpose of Project—Applicant states that during the permit period a power purchase agreement with a local utility will be negotiated.

Proposed Scope and Cost of Studies under Permit—Applicant seeks a preliminary permit for a period of 24 months during which it would conduct environmental engineering and economic studies to determine the feasibility of constructing and operating the proposed project. Applicant estimates that the cost of the feasibility studies would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 11, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980). This application was filed as a competing application to the Kittitas County Public Utility District No. 1 and the City of Ellensburg's application for the Kachess Hydroelectric Project No. 3488, filed September 18, 1980.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 11, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, cometing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition To Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3716. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies requried by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1189 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3733-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 6, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3733 to be known as Hiram M. Chittenden Locks Project located on Lake Washington Ship Canal in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing government dam owned by the United States Corps of Engineers and would consist of a powerhouse with a total installed capacity of 5 MW.

The Applicant estimates that the average annual energy output would be 23,047,500 kWh.

Purpose of Project—Power generated by the project would be sold to the Puget Sound Power and Light Company or another local utility.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a

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study of environmental impacts. Based on the results of the studies, Applicant would decide to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates the cost of the studies to be performed under the preliminary permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 11, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 11, 1981.

Filing and Service Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3733. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1180 Filed 1-12-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3505-000]

Pacific Northwest Generating Co.; Application for Preliminary Permit

January 8, 1981.

Take notice that Pacific Northwest Generating Company (Applicant) filed on September 26, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3505 to be known as Jackson Lake Project located on the Snake River in Teton County, Wyoming, within Teton National Park. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: David E. Piper, Pacific Northwest Generating Company, 8383 N.E. Dandy Blvd., Suite 330, Portland, Oregon 97220. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Water and Power Resources Service Jackson Lake Dam and would consist of: (1) a new gated intake structure leading to (2) a new penstock integral with (3) a new powerhouse, in the right dam embankment adjacent to the existing concrete spillway, containing generating units having a total rated capacity of 8,600 kW; (4) a tailrace; (5) a new transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 30,000,000 kWh.

Purpose of Project—Project energy would be used to meet the needs of the Pacific Northwest Generating Company's members which number 18 at the present.

Proposed Scope and Cost of Studies under Permit—Applicant seek issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an aplication for an FERC license. Applicant estimates the cost of the studies under the permit would be $59,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 13, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 12, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 13, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3505. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1101 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-181-000]

Bangor Hydro-Electric Co. Tariff Change

December 31, 1980.

The filing company submits the following:

Take notice that Bangor Hydro-Electric Company, on December 22, 1980, tendered for filing proposed changes in the following FERC Electric Service Rate Schedules:

FERC No. 1 (Stonington and Deer Isle Power and Light Company)
FERC No. 4 (Lubec Water and Electric District)
FERC No. 5 (Union River Electric Cooperative, Inc.)
FERC No. — (Swan's Island Electric Cooperative)

The proposed changes, to be effective February 20, 1981, would increase revenues from jurisdictional sales and service by $194,136.00 based on the 12-month period ending December 31, 1979.

The proposed increase is required to reflect the increased cost of service since the Bangor Hydro-Electric Company's last rate change.

Copies of the filing were served upon the affected customers and upon the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-632 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-188-000]

Central Maine Power Co.; Tariff Change

January 2, 1981.

The filing company submits the following:

Take notice that Central Maine Power Company (Central Maine) on December 23, 1980, tendered for filing as a supplement to existing FERC Electric Tariff, 3rd Revised Volume No. 1, Tariff Schedule W-3 as a noncontract rate for Madison Electric Works (MEW).

Central Maine states that Tariff Schedule W-3 is filed to allow MEW a fixed base for purchasing capacity and energy while allowing MEW to purchase their excess capacity and energy from other sources. The charges for fixed capacity and energy purchases are at the same rate as Tariff Schedule W-1 accepted by the Commission in Docket No. ER79-539. There is no increase to MEW in costs of electric service for capacity and energy up to the levels established in MEW's service contract with Central Maine which expired on September 30, 1980. Tariff Schedule W-3 established excess capacity and energy charges based on the cost of capacity and energy at Central Maine's William F. Wyman Unit No. 4, plus wheeling charges from Unit No. 4 to the MEW system.

Central Maine requests an effective date for Tariff Schedule W-3 of February 21, 1981, under statutory procedure.

Central Maine states that acceptance of Tariff Schedule W-3 will have no effect on any purchases by any other wholesale customer of Central Maine.

Central Maine further states that copies of the filing were served upon the Chairman and Superintendent of Madison Electric Works.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-633 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-113]

Central Telephone and Utilities Corp.; Filing

December 31, 1980.

The filing company submits the following:

Take notice that on or about November 18, 1980, Central Telephone and Utilities Corporation (CTU) submitted for filing a letter indicating that it received no revenues in excess of those approved by the Commission in its letter order, issued October 24, 1980. Consequently, CTU maintains that refunds are not necessary and that a refund report need not be filed.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before January 15, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-534 Filed 1-12-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-165-000]

Connecticut Light & Power Co.; Filing of Tariff Change

December 31, 1980.

The filing company submits the following:

Take notice that The Connecticut Light and Power Company (the "Company") on December 11, 1980, tendered for filing a proposed "Rider B" to its FPC Electric Tariff Resale Service Rate R-4. The Company proposes that the tariff change become effective on January 15, 1981, and that billings pursuant to Rider B commence on the date upon which the Mt. Tom generating plant commences to burn coal as its primary fuel, which the Company estimates to be in January 1982.

The Company states that its charge to wholesale customers under its R-4 Rate reflect the fuel costs at the Mt. Tom plant, through the Company's participation in the Northeast Utilities Generation and Transmission Agreement. The Company states that conversion of he Mt. Tom plant from burning oil to burning coal is expected to result in lower fuel adjustment costs charges and that the proposed change to the R-4 Rate would add a temporary oil conservation adjustment "OCA" charge to permit payment of the Mt. Tom fuel conversion costs. The Company anticipates that conversion of the Mt. Tom plant can be partially accomplished in January 1982, and that the Mt. Tom plant can thereafter commence the use of coal as its primary fuel. The Company estimates that the proposed change to the R-4 Rate would produce revenues of approximately $289,000 during the twelve-month period following the date upon which the Mt. Tom plant commences burning coal as its primary fuel. However, during the same twelve-month period, operation of the R-4 Rate's fuel adjustment clause will reduce change to customers and the Company estimates that the net effect will be a rate reduction during the twelve-month period.

The Company has requested waiver of the requirements of § 35.3 of the Commission's regulations to permit its filing to be made more than 120 days prior to the date when charges are first proposed to be made and fewer than sixty days prior to the proposed effective date of January 15, 1981. Each of the customers to be served under the R-4 Rate at the time when the Company proposes to collect the OCA charges has submitted a statement supporting the proposed amendment.

The Company states that copies of the filing were served upon each of the Company's jurisdictional customers and the Connecticut Division of Public Utility Control.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropirate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-536 Filed 1-12-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-183-000]

Consolidated Edison Co., of New York, Inc.; Filing of Tariff Changes

January 2, 1981.

The filing company submits the following:

Take notice that on December 22, 1980, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing proposed changes in its rate schedule for transmission service to the Power Authority of the State of New York ("PASNY"), Con Edison Electric Rate Schedule FPC No. 42. The proposed Supplement No. 7 would increase revenues from jurisdictional service to PASNY by $10,375,952 annually.

The proposed increase represents the transmission charges for PASNY's proportionate share of rate increases now being sought by Con Edison before the New York Public Service Commission.

A copy of the filing has been served upon PASNY.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1981. Protests will be considered taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-537 Filed 1-12-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-165-000]

Holyoke Power & Electric Co.; Filing of Rate Schedule Change

December 31, 1980.

The filing company submits the following:

Take notice that Holyoke Power and Electric Company (the "Company") on December 11, 1980, tendered for filing "Rider A" which supplements the rate schedule under which it sells a portion of the output of the Mt. Tom electric generating station to New England Power Company ("NEPCO") (the Company's FPC No. 1). The Company proposes that Rider A become effective on January 15, 1981, and that billings pursuant thereto commence on the date upon which the Mt. Tom generating plant commences to burn coal as its primary fuel, which the Company estimates to be in January 1982.

The Company states that its charges to NEPCO reflect the fuel costs at the Mt. Tom plant. The Company states that conversion of the Mt. Tom plant from burning oil to burning coal is expected to result in lower fuel cost charges and that the proposed Rider A would add a temporary oil conservation adjustment "OCA" charge to permit payment of the Mt. Tom fuel conversion costs. The Company anticipates that conversion of the Mt. Tom plant can be partially accomplished in January 1982, and that the Mt. Tom plant can thereafter commence the use of coal as its primary fuel. The Company estimates that Rider A would produce revenues of approximately $6,928,000 during the twelve-month period following the date upon which the Mt. Tom plant commences burning coal as its primary fuel. However, during the same twelve-month period, fuel cost savings realized at Mt. Tom will reduce charges to NEPCO and the Company estimates that the net effect will be a rate reduction during the twelve-month period.

The Company has requested waiver of the requirements of § 35.3 of the Commission's regulations to permit its filing to be made more than 120 days prior to the date when charges are first proposed to be made and fewer than sixty days prior to the proposed effective date of January 15, 1981. NEPCO has submitted a statement approving the proposed amendment.

The Company states that copies of the filing were served upon NEPCO and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-539 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-165-000]

Holyoke Power & Electric Co.; Filing of Rate Schedule Change

December 31, 1980.

The filing company submits the following:

Take notice that Holyoke Power and Electric Company (the "Company") on December 11, 1980, tendered for filing a proposed "Rider A" to its Electric Service Agreement with the Town of South Hadley, Massachusetts (the Company's FPC No. 4). The Company proposes that Rider A become effective on January 15, 1981, and that billings pursuant to Rider A commence on the date upon which the Mt. Tom generating plant commences to burn coal as its primary fuel, which the Company estimates to be in January 1982.

The Company states that its charges to South Hadley under the rate Schedule reflect fuel costs at the Mt. Tom plant, through the Company's participation in the Northeast Utilities Generation and Transmission Agreement. The Company states that conversion of the Mt. Tom plant from burning oil to burning coal is expected to result in lower fuel adjustment charges and that the proposed change to the rate Schedule would add a temporary oil conservation adjustment "OCA" charge to permit payment of the Mt. Tom fuel conversion costs. The Company anticipates that conversion of the Mt. Tom plant can be partially accomplished in January 1982, and that the Mt. Tom plant can thereafter commence the use of coal as its primary fuel. The Company estimates that the proposed change to the rate schedule would produce revenues of approximately $56,000 during the twelve-month period following the date upon which the Mt. Tom plant commences burning coal as its primary fuel. However, during the same twelve-month period, operation of the rate Schedule's fuel adjustment clause will reduce charges to South Hadley and the Company estimates that the net effect will be a rate reduction during the twelve-month period.

The Company has requested waiver of the requirements of § 35.3 of the Commission's regulations to permit its filing to be made more than 120 days prior to the date when charges are first proposed to be made and fewer than sixty days prior to the proposed effective date of January 15, 1981. South Hadley has submitted a statement supporting the proposed amendment.

The Company states that copies of the filing were served upon South Hadley and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-540 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-165-000]

Holyoke Water Power Co.; Filing of Rate Schedule Change

December 31, 1980.

The filing company submits the following:

Take notice that Holyoke Water Power Company (the "Company") on December 11, 1980, tendered for filing a proposed "Rider A" to its Resale Service Rate CD-1 under which it serves the City of Chicopee, Massachusetts. The Company proposes that Rider A become effective on January 15, 1981, and that billings pursuant to Rider A commence on the date upon which the Mt. Tom generating plant commences to burn coal as its primary fuel, which the Company estimates to be in January 1982.

The Company states that its charges to Chicopee under its CD-1 Rate reflect the fuel costs at the Mt. Tom plant, through the Company's participation in the Northeast Utilities Generation and Transmission Agreement. The Company states that conversion of the Mt. Tom plant from buning oil to burning coal is expected to result in lower fuel adjustment cost charges and that the proposed change to the CD-1 Rate would add a temporary oil conservation adjustment "OCA" charge to permit payment of the Mt. Tom fuel conversion costs. The Company anticipates that conversion to the Mt. Tom plant can be partially accomplished in January 1982, and that the Mt. Tom plant can thereafter commence the use of coal as its primary fuel. The company estimates that the proposed change to the CD-1 Rate would produce revenues of approximately $137,000 during the twelve-month period following the date upon which the Mt. Tom plant commences burning coal as its primary fuel. However, during the same twelve-month period, operation of the CD-1 Rate's fuel adjustment clause will reduce charges to Chicopee and the Company estimates that the net effect will be a rate reduction during the twelve-month period.

The Company has requested waiver of the requirements of § 35.3 of the Commission's regulations to permit its filing to be made more than 120 days prior to the date when charges are first proposed to be made and fewer than sixty days prior to the proposed effective date of January 15, 1981. Chicopee has submitted a statement approving the proposed amendment.

The Company states that copies of the filing were served upon Chicopee and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-539 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER80-520 and EL80-8]

Montaup Electric Co.; Order Accepting Revised Interim Rates for Filing

Issued January 2, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

The proceeding in Docket No. ER80-520 was initiated on July 11, 1980, when Montaup Electric Company (Montaup) submitted for filing revised rates applicable to six wholesale customers. At that time, Montaup also had pending before the Commission, in Docket No. EL80-8, an application to include construction work in progress (CWIP) in rate base. Prior to Commission action on Montaup's increased rate filing, Montaup advised the Commission by several letters that settlement discussions had been undertaken and that Montaup's proposed effective date for the revised rates should be deferred. On September 9, 1980, Montaup reported that a settlement in principle had been reached between the company and its affected customers. As a result, Montaup requested authorization to collect an interim settlement rate in lieu of the originally filed rate for the month of October. Montaup further stated that in the event that a final settlement was not forthcoming by October 31, 1980, the company would submit revised rates to become effective November 1, 1980.

By order issued September 30, 1980, the Commission, *inter alia*, accepted for filing and suspended the originally proposed rates, consolidated Docket Nos. ER80-520 and EL80-8, and allowed Montaup to collect its proposed interim rates from October 1, 1980, until new rates were filed consistent with the terms of the interim settlement agreement and the Commission's summary disposition of one issue.

On December 17, 1980, Montaup submitted revised interim rates, together with a request to collect such rates, subject to refund, as of December 1, 1980. Montaup now states that a final settlement in principle has been reached and that a document memorializing that agreement is currently being prepared. According to Montaup, the settlement agreement will provide that the interim settlement rate which became effective subject to refund on October 1, 1980, will become the final rate for the period October 1, 1980, through November 30, 1980. Under the agreement, the rates submitted on December 17, 1980, are then to become effective as of December 1, 1980. If the parties are unsuccessful in finalizing the anticipated settlement, Montaup has reserved the right to submit yet another revised rate to be collected as of February 1, 1981.

Discussion

In view of the unanimous customer consent [1] to the revised interim rate proposal, we believe it reasonable to authorize Montaup to implement the settlement rates on an interim basis. This is particularly true in view of the fact that the proposed settlement rates are lower than the previously accepted interim rates. Accordingly, we shall permit Montaup to collect the settlement rates tendered on December 17, 1980, subject to refund, from December 1, 1980, until such time as the Commission acts on the anticipated settlement agreement. If the agreement is disapproved, the originally filed rates as modified by the September 30, 1980 summary disposition, or such other rates as Montaup may submit in accordance with its December 17 memorandum of agreement, shall beome effective prospectively only and subject to refund from the date upon which the Commission's order rejecting the settlement becomes final. In the event that no settlement agreement is, in fact, submitted, the interim rates accepted for filing by this order shall remain in effect, subject to refund, pending the submittal of an alternative rate prior to February 1, 1981, and acceptance of such rate for filing, or a final decision on the merits in these dockets.

The Commission orders:

(A) Waiver of the requirements of §§ 35.3 and 35.1(e) of the Commission's regulations is hereby granted.

(B) Montaup is hereby authorized to collect the interim settlement rates submitted on December 17, 1980, subject to refund, beginning on December 1, 1980, and continuing until such time as the Commission acts on the anticipated settlement agreement. If the agreement is disapproved, or if no such agreement is forthcoming, the provisos contained in the body of this order shall apply.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-541 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-180-000]

Montaup Electric Co.; Rate

December 31, 1980.

The filing utility represents the following:

Take notice that on December 19, 1980 Mantaup Electric Company ("Montaup") tendered for filing rate schedule revisions providing a new rate "M-6" for firm power at 115 kV. Montaup is a generating and transmission company chartered in Massachusetts and responsible for the bulk power supply requirements of the two retail subsidiaries of Eastern Utilities Associates ("EUA"), a public utility holding company. These subsidiaries are Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island. Eastern Edison owns all of Montaup's securities.

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[1] Montaup indicates that it has been unable to contact a representative of the Rhode Island state intervenors. As we noted in our order of September 30, 1980, in these dockets, our acceptance of the interim rate proposal will not affect the non-customer intervenors' right to oppose any final settlement agreement which may be filed.

The customers affected by this filing are Blackstone and Eastern Edison and four non-affiliated customers: Newport Electric Corporation, Pascoag Fire District, the Town of Middleborough, and the Tiverton Division of the Naragansett Electric Company. With the Exception of Middleborough, which is a Massachusetts municipality, each of Montaup's non-affiliated customers is located in Rhode Island.

The M-6 rate would increase Montaup's total revenue by $8,982,804 or by 4.3% above the level of the M-5 settlement rate. The increase is based on a cost of service for calendar year 1981 (Period II).

The filing is intended to recover cost increases which have eroded Montaup's return under the M-5 rate. Based on Montaup's Period II cost of service study, the M-5 settlement rate yields an overall rate of return of 9.15% and a return on common equity of 4.62%.

Montaup states that the M-6 rate increase is urgently needed to reverse a deterioration in earnings and enable the EUA System to raise capital for Montaup's construction program. Montaup requests that the filing be assigned an effective date of February 18, 1981 and suspended for one day.

Included with Montaup's filing are rate schedule revisions to increase the return on equity in agreements under which Blackstone and Eastern Edison rent 115 kV transmission facilities to Montaup and in an agreement under which Montaup rents certain transformers and substation facilities to Eastern Edison.

According to Montaup, copies of its filing have been served on the affected customers and, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-518 Filed 1-12-81: 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-186-000]

New Bedford Gas and Edison Light Co. Filing of Unit Power Sale Rate Schedule January 2, 1981.

The filing company submits the following:

Take notice that on December 23, 1980, New Bedford Gas and Edison Light Company ("New Bedford") filed a rate schedule governing the sale by New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Company's Unit No. 2 ("the Unit"). Said filing was made pursuant to § 35.12 of the Commission's Regulations.

By the provisions of the tendered rate schedule, New Bedford proposes to sell to Massachusetts Municipal Wholesale Electric Company 7.5702% of the Few Capability of the Unit (as defined at Article III of the tendered rate schedule) plus the energy related thereto for a six month period beginning November 1, 1980.

New Bedford requests that the Commission's notice requirements be waived pursuant to Section 35.11 of the Commission's Regulations in order to allow said filing to become effective November 1, 1980.

A copy of this filing has been served upon Massachusetts Municipal Wholesale Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-519 Filed 1-12-81: 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-59-002]

Northern Natural Gas Co.; Filing Substitute Tariff Sheets

January 2, 1981.

Take notice that on December 22, 1980, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1

Substitute Twenty-Fourth Revised Sheet No. 4a.

Substitute Fourteenth Revised Sheet No. 4b.

Original Volume No. 2

Substitute Twenty-Fourth Revised Sheet No. 1c.

Such tariff sheets were filed in substitution for the tariff sheets filed by Northern in Docket No. TA81-01-59 by letter dated October 27, 1980.

This filing is being made in order to revise the base tariff rates in the October 27 filing to reflect the settlement rates agreed to in Docket No. RP80-88. The rates set forth on the tariff sheets filed herewith include, as base tariff rates, the Docket No. RP80-88 settlement rates, filed under letter dated December 9, 1980, to be effective October 27, 1980, as decreased by .01¢/Mcf for the R&D Tracker, plus the cumulative PGA adjustment reflected on the tariff sheets. The PGA, GRI and LFUT adjustments reflected on the attached tariff sheets are the same as those included in the original October 27 filing.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 13, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-320 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER77-5, E-8152]

Otter Tail Power Co.; Filing

December 31, 1981.

The filing party submits the following:

Take notice that on December 9, 1980, Otter Tail Power Company (Otter Tail) submitted for filing a compliance report pursuant to Commission Opinion No. 93, as amended by the order issued October 8, 1980, in the above referenced proceedings.

Otter Tail states that it has obtained signed agreements from the following municipalities:

1. Badger, South Dakota.
2. Bainesville, Minnesota.
3. Big Stone City, South Dakota.
4. Breckenridge, Minnesota.
5. Benson, Minnesota.
6. Detroit Lakes, Minnesota.
7. Lake Park, Minnesota.
8. Newfolden, Minnesota.
9. Nielsville, Minnesota.
10. Shelly, Minnesota.
11. Stephen, Minnesota.

Otter Tail further states that it has been unsuccessful in its attempts to secure signed agreements from the following municipalities:

1. Alexandria, Minnesota.
2. Elbow Lake, Minnesota.
3. Henning, Minnesota.
4. Ortonville, Minnesota.
5. Warren, Minnesota.

In order to make available additional time for action by these five municipalities, Otter Tail requests an extension of time pursuant to §§ 1.12 and 1.13 of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before January 15. 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-521 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA81-3-000]

Peoples Natural Gas Company, Division of InterNorth, Inc.; Application for Adjustment and Request for Interim Relief

January 2, 1981.

On October 14, 1980, Peoples Natural Gas Company, Division of InterNorth, Inc., (Peoples) filed with the Federal Energy Regulatory Commission (Commission) an Application for Adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432. Peoples seeks relief from Part 282 of the Commission's incremental pricing regulations insofar as they apply to its sales on its Texas Panhandle System. Peoples also requests interim relief pending determination of the Application.

Sections 282.601-.603 of the Commission's regulations require the filing of appropriate tariff sheets to implement the incremental pricing provisions of Title II of the NGPA, together with certain supplemental information and monthly reports. Peoples states that it has no non-exempt industrial boiler fuel facilities served directly or indirectly by its Texas Panhandle System and that it does not anticipate the addition of any such customers in the foreseeable future. For this reason, Peoples contends that the requirements of §§ 282.601-.603 are burdensome and unnecessary and it therefore requests an exemption from such requirements in order to prevent a special hardship associated with compliance with the requirements.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a Petition to Intervene in accordance with the provisions of § 1.41. All petitions to intervene must be on file on or before January 28, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-522 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-409]

Philadelphia Electric Co.; Filing

January 2, 1981.

The filing company submits the following:

Take notice that on December 22, 1980, Philadelphia Electric Company submitted for filing a compliance report pursuant to the Commission's order of October 23, 1980, in the above-referenced proceeding.

A copy of this filing has been sent to the Borough of Lansdale, Pennsylvania and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before January 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-523 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-187-000]

Public Service Company of New Mexico; Change in Rate Schedule

January 2, 1981.

The filing company submits the following:

Take notice that Public Service Company of New Mexico (PNM), on December 23, 1980, tendered for filing proposed changes in rates to four wholesale customers, namely, Plains Electric Generation and Transmission Cooperative, Inc., Community Public Service Company, Department of Energy (DOE)-Los Alamos, and City of Farmington, New Mexico. The proposed changes would increase revenues from the sales and services by $13,121,000 on the basis of PNM's sales during Period II when compared to the settlement rates in Docket ER80-313.

The Company estimates it overall rate of return under presently effective rates during Period II would be 7.524 percent. This rate of return is not adequate to enable the Company to generate funds sufficient to meet its current construction program that is required to provide for substantial growth.

Copies of the filing were served upon the public utility's jurisdictional customers being served under these rate schedules and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-524 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EF80-4031]

Southwestern Power Administration; Order Confirming and Approving Federal Rates

Issued January 2, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., George R. Hall and J. David Hughes.

By letter filed June 9, 1980, the Assistant Secretary for Resource Applications (AS/RA) of the Department of Energy on behalf of the Southwestern Power Administration (SWPA), submitted a request for final confirmation and approval of an extension of rates for power marketed by SWPA from the Narrows Dam Project, for the period July 1, 1980, through August 2, 1981.[1] By Rate Order No. SWPA-5, dated June 6, 1980, AS/RA confirmed and approved the rate extension on an interim basis.

Notice of AS/RA's filing was published in the **Federal Register** on June 18, 1980, with protests or petitions to intervene due on or before July 7, 1980. No responses have been received.

The Narrows Dam Project, which is located on the Little Missouri River in Arkansas, is a multipurpose Corps of Engineers reservoir project. The power output from this project is marketed by SWPA as an isolated project. All such power is currenty purchased by Tex-La Electric Cooperative, Inc. (Tex-La), an organization of distribution cooperatives in eastern Texas and Louisiana.

The current contract rate was approved by the FPC for a period extending through June 30, 1980. However, the SWPA-Tex-La contract limits changes in the applicable rates to once every five years. Thus, under the contract, the existing rates would remain unchanged through August 2, 1981.

Discussion

Prior to the formation of the Department of Energy, the function of confirming and approving or disapproving SWPA's rates rested with the Federal Power Commission. After formation of the DOE, this function passed to the Secretary of Energy. By Delegation Order Number 0204-33, the Secretary of Energy delegated to this Commission the authority to confirm and approve on a final basis or to disapprove such rates. In accordance with the standards established in the Flood Control Act of 1944, the rates are to "encourage the most widespread use [of project power and energy] at the lowest possible rates to consumers consistent with sound business principles," and to recover "the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years."[2]

The Commission finds it to be appropriate and in the public interest to approve and confirm the requested rate extension. The rates to be charged during the additional time period were previously approved by the FPC, and such extension will allow the rates to be consistent with the terms of the SWPA-Tex-La contract. As set out in AS/RA Rate Order No. SWPA-5, the additional time will "allow time to develop studies necessary for review of the present power rate and to undertake a public participation process in the event the rate requires adjustment."

These considerations, as well as the relatively short duration of the rate schedule and the lack of any protests to the rates, lead us to conclude that the proposed rates should be confirmed and approved.

The Commission orders

(A) The extension of rates charged by SWPA from the Narrows Dam Project for the period July 1, 1980 through August 2, 1981, as submitted by AS/RA on behalf of SWPA, is hereby confirmed and approved.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-525 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

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[1] These rates were previously approved by this Commission's predecessor, the Federal Power Commission, on August 3, 1976, in Docket No. E-6943.

[2] Section 5, Flood Control Act of 1944

[Docket No. RA81-29-000]

Start Oil Co.; Filing of Petition for Review

Issued January 2, 1981.

Take notice that Start Oil Company on December 4, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 16, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 16, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-526 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-63]

Tower Park; Filing of Petition for Review

Issued January 2, 1981.

Take notice that Tower Park on June 5, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 16, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 16, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-527 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-185-000]

Utah Power & Light Co.; Tariff Change

January 2, 1981.

The filing Company submits the following:

Take notice that Utah Power and Light Company (Utah Power), on December 19, 1980, tendered for filing a proposed cancellation of a service agreement with Lincoln Service Corporation (Lincoln), dated May 15, 1967 on file with the Federal Energy Regulatory Commission (FERC) as part of Utah Power's FERC Electric Tariff, Volume No. 1.

For a number of years, Lincoln Service has purchased its energy at wholesale from Utah Power under FERC Rate Schedule RS-2. Under an Agreement of Purchase and Sale between the parties, Utah Power will purchase the Lincoln properties and operate them as part of its interconnected system.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-513 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-24-000]

Viacom Cablevision; Filing of Petition for Review

January 2, 1981.

Take notice that Viacom Cablevision on November 24, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 19, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 19, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-514 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-184-000]

West Texas Utilities Co.; Filing

January 2, 1981.

The filing company submits the following:

Take notice that on December 17, 1980, West Texas Utilities Company (WTU) submitted for filing a notice of cancellation of the Service Agreement between WTU and the City of Baird, Texas, under WTU's FERC Rate Schedule TR-1.

The Agreement between the City of Baird, Texas and WTU was cancelled because, as of October 9, 1980, WTU acquired the City's distribution system, and thus the city no longer serves its retail customers. Those customers are now served by WTU.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-516 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-165-000]

Western Massachusetts Electric Co.; Filing of Tariff Change

December 31, 1980.

The filing company submits the following:

Take notice that Western Massachusetts Electric Company (the "Company") on December 11, 1980, tendered for filing a proposed "Rider A" to its FPC Electric Tariff Resale Service Rate RS-1 (FPC No. RS-1). The Company proposes that the tariff change become effective on January 15, 1981, and that billings pursuant to Rider A commence on the date upon which the Mt. Tom generating plant commences to burn coal as its primary fuel, which the Company estimates to be in January 1982.

The Company indicates that charges to wholesale customers under the RS-1 Rate reflect fuel costs at the Mt. Tom plant, through the Company's participation in the Northeast Utilities Generation and Transmission Agreement. The Company states that conversion of the Mt. Tom plant from burning oil to burning coal would result in lower fuel adjustment cost charges and that the proposed change to the RS-1 Rate adds a temporary oil conservation adjustment "OCA" charge to permit payment of the Mt. Tom fuel conversion costs. The Company anticipates that conversion of the Mt. Tom plant can be partially accomplished in January 1982, and that the Mt. Tom plant can thereafter commence the use of coal as its primary fuel. The Company estimates that the proposed change to the RS-1 Rate will produce revenues of approximately $10,125 during the twelve-month period following the date upon which the Mt. Tom plant commences burning coal as its primary fuel. However, during the same twelve-month period, operation of the RS-1 Rate's fuel adjustment clause will reduce charges to customers and the Company estimates that the net effect will be a rate reduction during the twelve-month period.

The Company has requested waiver of the requirements of § 35.3 of the Commission's regulations to permit its filing to be made more than 120 days prior to the date when charges are first proposed to be made and fewer than sixty days prior to the proposed effective date of Januay 15, 1981. Each of the customers to be served under the RS-1 Rate at the time when the proposed amendment is proposed to become effective has submitted a statement approving the proposed amendment.

The Company states that copies of the filing were served by it upon each of the Company's jurisdictional customers and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-515 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-165-000]

Western Massachusetts Electric Co.; Filing of Rate Schedule Change

December 31, 1980.

The filing company submits the following:

Take notice that Western Massachusetts Electric Company (the "Company ") on December 11, 1980, tendered for filing a proposed "Rider A" to its Resale Service Rate CD-1. The company proposes that Rider A become effective on January 15, 1981, and that billings pursuant to Rider A commence on the date upon which the Mt. Tom generating plant commences to burn coal as its primary fuel, which the Company estimates to be in January 1982.

The Company states that its charges to wholesale customers under the CD-1 Rate reflect fuel costs at the Mt. Tom plant, through the Company's particiaption in the Northest Utilities Generation and Transmission Agreement. The Company states that conversion of the M. Tom plant from burning oil to burning coal is expected to result in lower fuel adjustment cost charges and that the proposed change to the CD-1 Rate would add a temporary oil conservation adjustment "OCA" charge to permit payment of the Mt. Tom fuel conversion costs. The Company anticipates that coversion of the Mt. Tom plant can be partially accomplished in January 1982, and the the M. Tom plant can thereafter commerce the use of coal as its primary fuel. The Company estimates that the proposed change to the CD-1 Rate would produce revenues of approximately $76,000 during the twelve-month period following the date upon which the Mt. Tom plant commences burning coal as its primary fuel. However, during the same twelve-month period, operation of the CD-1 Rate's fuel adjustment clause will reduce charges to customers and the Company estimates that the net effect will be a rate reduction during the twelve-month period.

The Company has requested waiver of the requirements of § 35.3 of the Commission's regulations to permit its filing to be made more than 120 days prior to the date when charges are first proposed to be made and fewer than sixty days prior to the proposed effective date of January 15, 1981. Each of the customers to be served under the CD-1 Rate at the time when the proposed amendment is proposed to become effective has submitted a statement approving the proposed amendment.

The Company states that copies of the filing were served upon the City of Westfield, Massachusetts, the only jurisdictional customer served under the CD-1 rate, and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–817 Filed 1–12–81; 8:45 am]

BILLING CODE 6450–85–M

Office of Hearings and Appeals

Cases Filed; Week of November 7 through November 14, 1980

During the week of November 7 through November 14, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 7, 1981.

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 7 through Nov. 14, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 7, 1980	Bon Wier Producing Company, Monroe, La	BEL–0067 to 0069.	Request for Temporary Exception. If granted: Bon Wier Producing Company would receive a temporary exception which would permit the firm to sell the crude oil produced from the Inman A–2, Inman B–1, and B–2 Wells located in Newton County, Texas, at upper tier ceiling prices.
Nov. 7, 1980	BYS, Inc. (Humble-Dody Fee Lease),	BXE–1524	Price Exception. If granted: BYS, Inc. would be permitted to sell the crude oil produced from the Humble-Dody Fee Lease located in Duval County, Texas, at upper tier ceiling prices.
Nov. 7, 1980	Fulbright & Jaworski, Washington, D.C.	BFA–0518	Appeal of a Information Request Denial. If granted: The October 6, 1980, Information Request Denial issued to Fulbright and Jaworski by the Office of Special Counsel would be recinded, and the firm would receive access to certain DOE materials.
Nov. 7, 1980	General Petroleum Products, Inc., Merrillville, Ind.	BRH and BRD 1319.	Request for Evidentiary Hearing and Motion for Discovery. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by General Petroleum Products, Inc. in response to the Proposed Remedial Order (Case No. BRO–1319) issued to the firm.
Nov. 7, 1980	Navajo Refining Company, Houston, Tex.	BEN–0073 to 0076.	Request for Interim Order. If granted: Navajo Refining Company would receive exception relief on an interim basis pending a final determination on its Application for Exception and Supplemental Order (Case Nos. BEE–0247, BEX–0014, 0131, and DEX–0122.)
Nov. 7, 1980	Navajo Refining Company Washington, D.C.	BEL–0070	Request for Temporary Exception from the Entitlements Program. If granted: Navajo Refining co. would receive a temporary exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
Nov. 7, 1980	Tenneco Oil Company, Houston, Tex	BER–0073	Request for Modification/Recission. If granted: The September 24, 1980, Proposed Decision and Order issued to Tenneco Oil Co. (Case No. BEE–1401) regarding the pass-through costs of the Connecticut gross receipt tax liability would be modified.
Nov. 10, 1980	Duncan, Allen & Mitchell (Ortman), Washington, D.C.	BFA–0520	Appeal of an Information Request Denial. If granted: The October 8, 1980, Information Request Denial issued by the Office of General Counsel would be rescinded and Duncan, Allen & Mitchell would receive access to information relating to the Proposed Delegation to FERC of Rate Confirmation Authority for DOE's Power Marketing Agencies.
Nov. 10, 1980	Johnson Oil Company, Salt Lake City, Utah	BFA–0519	Appeal of an Information Request Denial. If granted: The October 3, 1980, Information Request Denial issued by the Deputy General Counsel for Enforcement and Litigation would be rescinded, and Johnson Oil Co. would receive access to certain DOE materials.
Nov. 12, 1980	Allied Materials Corporation, Washington, D.C.	BEG–0038	Petition for Special Redress. If granted: Allied Materials Corporation would receive restitution for losses incurred in their participation in the Crude Oil Buy/Sell Program relating to the January 11, 1980, Decision and Order issued by the Economic Regulatory Administration.
Nov 12, 1980	Blum & Nash, Washington, D.C.	BFA–0512	Appeal of an Information Request Denial. If granted: The October 14, 1980, Information Request Denial issued by the Office of Enforcement would be rescinded and Blum & Nash would receive access to information regarding the exchanges of crude oil product.
Nov. 12, 1980	Chevron U.S.A./Somerset Refining, Inc.,	BEJ–0159	Motion for Protective Order. If granted: Chevron U.S.A. would enter into a Protective Order with Somerset Refining, Inc. regarding the release of proprietary information to Chevron in connection with Somerset Refining's Application for Exception (Cases No. BEE–1500).
Nov 13, 1980	Mobil Oil Corporation, Washington, D.C.	BEA–0522	Appeal of the Canadian Crude Oil Allocation Notice. If granted: The August 29, 1980, Canadian Crude Oil Allocation Notice issued by the Economic Regulatory Administration would be modified regarding Mobil Oil Corporation's participation in the program.
Nov 14, 1980	Vic & Lou's Union, San Francisco, Calif	BRR–0074	Request for Modification/Recission. If granted: The June 18, 1980, Remedial Order (Case No. BRO–0090) issued to Vix & Lou's Union would be modified regarding the firm's restitution of overcharges.

Notices of Objection Received

[Week of Nov. 1[illegible], 1980 to Nov. 14, 1980]

Date	Name and location of applicant	Case No.
11/7/80	Sunflower Fuel Alcohol Inc., Houston, Tex.	BEE–0935
11/7/80	Dean Oil Co., Cleveland, Ohio	BEE–0996
11/7/80	Art's Auto Sale, Malden, Mass	BEE–0607
11/10/80	McCall Marketing Co., Schaumburg, Ill.	BEE–1280
11/13/80	Lucia Lodge ARCO, Monterey, Calif.	BEE–5531
11/14/80	Energy Cooperative, Inc., Washinton, D.C.	BEE–0508

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Nov. 7, 1980 to Nov. 14, 1980]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No., date	State
L. H. Smith Oil Corp.	BEE–1523, 11/13/80	Indianapolis, IN

[FR Doc. 81–1077 Filed 1–12–81; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of December 1 through December 5, 1980

During the week of December 1 through December 5, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,
Director, Hearings and Appeals.

January 7, 1981.

Proposed Decisions and Orders

Mosinee Alcohol Inc., Mosinee, Wisconsin, BEE–0906, gasohol

Mosinee Alcohol Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Mosinee to be assigned a base period supplier of motor gasoline and a base period volume of motor gasoline for the express purpose of producing denatured anhydrous alcohol to be used in blending gasohol. On December 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Purity Oil Co., Tulsa, Oklahoma, BEE–0894, gasohol

Purity Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. On December 4, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Wolff Development, Inc., La Grande, Oregon, BEE–1498, gasohol

Wolff Development, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Wolff to receive an allocation of unleaded gasoline for the purpose of alcohol production and gasohol blending. On December 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exceptions from the provisions of the DOE Mandatory Petroleum Allocation Regulations. The exception request, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number and Location

Oklahoma Refining Co., DEE–5901, Washington, D.C.
Yellow Cab of Fort Lauderdale, BXE–1413, Washington, D.C.

The following firm filed an Application for Exception from the provisions of the DOE Mandatory Petroleum Allocation Regulations. The exception request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Company Name, Case Number, Location

Heather Hills Texaco, BEE–0800, Indianapolis, IN

[FR Doc. 81–1076 Filed 1–12–81; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed; Week of December 1 through December 5, 1980

During the week of December 1 through December 5, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding conducted by the Department of Energy concerning the remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR § 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

January 7, 1981.

George B. Breznay,
Director, Office of Hearings and Appeals.

Claypool Hill Exxon, Claypool Hill, Virginia, BRO–1339, motor gasoline

On December 3, 1980, Claypool Hill Exxon, Route No. 3, Box 64, Claypool Hill, Virginia, filed a Notice of Objection to a Proposed Remedial Order that the DOE Southeast District Office of Enforcement issued to the firm on November 3, 1980. In the PRO the Southeast District found that during the period August 1, 1979 to June 17, 1980, Claypool had committed pricing violations with respect to sales of motor gasoline.

According to the PRO the Claypool violation resulted in $15,289.26 of overcharges. This Notice of Objection has been transferred to the Southeast Regional Center of the Office of Hearings and Appeals for analysis.

Don's Texaco, Omaha, Nebraska, BRO–1340, motor gasoline

On December 4, 1980, Don's Texaco, 4420 Leavenworth, Omaha, Nebraska 68105, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on September 28, 1979. In the PRO the Central Enforcement District found that during the period August 1, 1979 to September 28, 1979, Don's Texaco committed pricing violations with respect to sales of motor gasoline in the State of Nebraska.

According to the PRO, the firm's violation resulted in $13.35 of overcharges. This Notice of Objection has been transferred to the Central Regional Center of the Office of Hearings and Appeals for analysis.

Koch Industries, Inc., Wichita, Kansas, BRO–1341

On December 5, 1980, Koch Industries, Inc., P.O. Box 2256, Wichita, Kansas filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Refiner District Office of Special Counsel for Compliance issued to the firm on October 15, 1980. In the PRO, the Southwest Refiner District found that Koch Industries failed to supply West Side Distributing Company with its motor gasoline allocation during the period February through April 1979. The PRO would require Koch to supply this gasoline to West Side at the prices in effect at the time the gasoline should have been supplied.

[FR Doc. 81-1075 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 24 through November 28, 1980

During the week of November 24 through November 28, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Requests for Exception

Big K. Inc., Toledo, Ohio, BEO-1063, Motor Gasoline

Big K. Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious hardship, gross inequity, or unfair distribution of burdens. Accordingly, exception relief was denied.

Calaveras Transit Co., Vallecito, California, DEE-6797, Motor Gasoline

Calaveras Transit Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not provided any evidence that its current allocation is inadequate to meet its needs or that it would experience any difficulty in obtaining additional gasoline at retail outlets should its allocation prove insufficient for its needs. Accordingly, exception relief was denied.

Chouteau Oil Company, El Paso, Texas, DEE-7637, Motor Gasoline

The Chouteau Oil Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

City of Long Beach, California, Long Beach, California, BXE-1410, Crude Oil

The City of Long Beach, California filed an Application for Extension of exception relief from the provisions of 10 C.F.R., Part 212, Subpart D. Exception relief was granted to permit Long Beach to sell at upper tier ceiling prices 77.78 percent of its working interest share of the crude oil produced from the Fault Block III Unit from November 1, 1980 to April 30, 1981. During this same period of time, Long Beach shall be permitted to sell 97.79 and 97.11 percent of the crude oil produced from the Fault Block III Unit at upper tier ceiling prices for the benefit of the other integrated and independent working interests, respectively.

Dollar Rent-A-Car, Frisco, Colorado, DEE-7215, Motor Gasoline

Dollar Rent-A-Car filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary in order to prevent the firm from experiencing a gross inequity. Accordingly, exception relief was granted.

Dr. Hooper Oil & Royalty Co., Houston, Texas, BEE-1116, Crude Oil

Dr. Hooper Oil & Royalty Company filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. Exception relief was granted which permits Dr. Hooper to sell 53.91 percent of the working interest share of the crude oil produced from the McComb Lease at market price levels.

Spring Creek Stores, Globe, Arizona, DEE-7533, Motor Gasoline

Spring Creek Stores filed an Application for Exception from the provisions of 10 C.F.R., § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to show that the motorists in its market area were experiencing an unfair distribution of burdens as a result of an unusual shortage of motor gasoline in the community. The firm also claimed that an increase in its base period allocation of motor gasoline was justified in order to permit it to realize the intended benefits of an investment it had made. In considering that claim, the DOE found that the firm had made its investment after the updating of the base period for motor gasoline. Therefore, any difficulties which the firm might be experiencing were the result of its own discretionary business decisions and were not attributable to the DOE allocation regulations. Accordingly, exception relief was denied.

Texas Oil Marketers Association, Austin, Texas, BEE-0436, Motor Gasoline

The Texas Oil Marketers Association (TOMA) filed an Application for Exception from the provisions of 10 C.F.R., § 212.93 in which the association sought an increase in its members' maximum allowable prices for motor gasoline to reflect increased non-product costs. In considering the request, the DOE found that TOMA members who were resellers or reseller-retailers had already received the requested relief by virtue of regulatory amendments and that there was no showing that exception relief continues to be necessary for these members of TOMA as a class. The DOE also determined that TOMA had failed to present sufficient information to support the approval of exception relief for its consignee members. Accordingly, the TOMA Application for Exception was denied. Finally, the DOE determined that, although temporary exception relief had been warranted when approved in December 1979, the regulatory amendments had eliminated the need for a continuation of that relief. Therefore, the temporary exception relief was terminated.

United Telephone Company of Kansas, Inc., Junction City, Kansas, BEO-0816, Temperature Restrictions

The United Telephone Company of Kansas, Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 490 in which the firm sought relief from the 65 degrees F heating restriction. In considering the request, the DOE determined that the firm failed to show that it was experiencing a special hardship, inequity, or unfair distribution of burdens as a result of the heating restriction. Accordingly, exception relief was denied.

Requests for Temporary Exception

Asamera Oil (U.S.) Inc., Washington, D.C., BEL-0071, crude oil

Asamera Oil (U.S.) Inc. filed an Application for Temporary Exception from the provisions of 10 CFR 211.67 in which the firm sought an increase in its entitlements sales obligation by an amount sufficient to bring the firm's post-entitlement crude oil costs into substantial parity with those of other refiners. In considering the request, the DOE found that in the absence of temporary exception relief the firm would suffer an irreparable injury. Accordingly, temporary exception relief was granted.

Monoco Oil Company, Rochester, New York, BEL-0066, crude oil

Monoco Oil Company filed an Application for Temporary Exception from the provisions of 10 CFR, 211.67 in which the firm sought permission to earn entitlements with respect to its purchases of residual fuel oil. In considering the request, the DOE found that the firm was not likely to succeed on the merits of its exception application because the firm's difficulties were not the result of a DOE regulatory program. In addition, the DOE concluded that Monoco would not suffer an irreparable injury in the absence of immediate relief. Accordingly, temporary exception relief was denied.

Requests for Stay

Alliance Oil and Refining Company, Houston, Texas, BRS-0114, crude oil

Alliance Oil and Refining Company filed an Application for Stay of the provisions of an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Office of Enforcement issued to the firm on October 24, 1980. In considering the Application, the DOE determined that the provision of the IROIC which requires Alliance to certify as "lower tier" all crude oil obtained pursuant to an exchange transaction and resold by the firm when the firm does not know the exact regulatory category of the crude oil to be purchased to complete the exchange transaction, if implemented immediately, would cause Alliance to suffer irreparable financial injury and would not be in the public interest. Alliance's stay request was therefore granted in part.

Refinery Associates Oil-Tex Petroleum, Inc., San Antonio, Texas, BES-0018, BES-0019, crude oil

Refinery Associates and Oil-Tex Petroleum, Inc. filed Applications for Stay of the provisions of 10 CFR § 212.185(d) which require crude oil resellers to refund possible overcharges in resales of crude oil no later than November 30, 1980. In considering the requests, the DOE found that Refinery Associates and Oil-Tex would be unable to complete the refund process prior to November 30, 1980. Accordingly, the firm were granted a stay of the refund requirement until December 31, 1980.

Remedial Orders

Circle Service, San Francisco, California, BRO-1223, motor gasoline

Circle Service objected to a Proposed Remedial Order that the Office of Enforcement of the DOE issued to the firm on April 29, 1980. In the Proposed Remedial Order, the Office of Enforcement found that the Circle Service had charged prices higher than those permitted by 10 CFR § 212.93(a) (2) and had violated 10 CFR § 210.62(d)(1) by charging a cents-per-gallon fee for services associated with the sale of motor gasoline. The Office of Enforcement also found that the firm refused to make records available for inspection upon the request of the DOE in violation of 10 CFR § 210.92(b). After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should be issued as a final Remedial Order. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR § 212.93(a)(2); and (ii) the procedural and substantive validity of 10 CFR § 210.62(d)(1).

Exeter Shell Service, Inc., Exeter, N.H., BRO-0820, motor gasoline

Exter Shell Service, Inc. objected to a proposed Remedial Order which the Office of Enforcement, Northeast District (Northeast Enforcement) issued to the firm on December 20, 1979. In the Proposed Remedial Order, Northeast Enforcement found that Exeter Shell charged prices for motor gasoline in excess of its maximum lawful levels during the period November 1, 1973 through April 30, 1974. In considering the firm's objections, the DOE found that Exeter Shell failed to demonstrate that Northeast Enforcement had erred in calculating the service station's overcharges or that the DOE had violated Exeter Shell's constitutional rights in the enforcement proceeding. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

Supplemental Order

Warrior Asphalt Co. of Alabama, Inc., Washington, D.C. DEX-0093, crude oil

The Department of Energy conducted a year-end review of the exception relief from entitlement purchase obligations granted to Warrior during its fiscal year 1978. On the basis of the actual financial and operating data that Warrior submitted, the DOE found the firm had received excess relief in the amount of $416,834 during fiscal year 1978. The DOE ordered Warrior to refund the excess relief through entitlement purchases pursuant to the first Entitlements Notice published following the issuance of this Decision and Order

Petition Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted

Company Name, Case No., and Location

B&J Standard, BEO-0988, Riverview, MI.

The following firm filed an Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be denied.

Company Name, Case No., and Location

Howard O. Miller Co., DEE-3615, Pocatello, ID.

The following firm filed an Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be dismissed without prejudice to a refiling at a later date.

Company name, Case No., and Location

Farris Pasadena Free-WAY Shell, DEO-0336, Pasadena, TX.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, Case No.

Baltimore Gas & Electric Co., DEA-0225.
City of Midland, Tex., BEO-1064.
Diamond Shamrock Corp., DEA-0469.
Exxon Co., U.S.A., BSG-0031.
J. J. Stafford & Sons, BEE-1533.
Oklahoma Publishing Co., BFA-0512.
Petrochemical Energy Group, DEA-0227.
Stephen M. Shaw, BFA-0529.
Werner Oil Co., BEE-0572.
Westate Oil Co., DEE-4076.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

January 7, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 81-1074 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

PF-211; PH-FRL 1725-4

Certain Pesticide Chemicals; Filing of Pesticide and Food Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish a food additive regulation and a pesticide tolerance.

ADDRESS: Written comments to: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-305, 401 M St. SW., Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the agency. The comments are to be identified by the document control number "[PF-211]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office form 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby (202-755-2562).

SUPPLEMENTARY INFORMATION: EPA gives notice that the following food additive petition and pesticide petition have been submitted to the agency to establish a food additive regulation and pesticide tolerance on certain raw agricultural commodities in accordance with the Federal Food, Drug, an Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

FAP 1H5281. BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054, proposes amending 21 CFR Part 193 by establishing a regulation permitting the residues of the fungicide 2,6-dimethyl-4-tridecylmorpholine on the commodity dried tea at 50 parts per million.

PP OE2393. Mobay Chemical Corp., Box 4913, Kansas City, MO 64120, proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of 1–(4–cholorphenoxy)–3,3–dimethyl–1–(1H–1,2,4–triazol–1–yl)–2–butanone and its metabolite beta–(4–chlorophenoxy–alpha–1,1–dimethylethyl)–1H–1,2,4–triazole–1–ethanol in or on the raw agricultural commodities cucumbers at 0.1 part per million, and tomatoes, whole fresh at 0.2 part per million (both for imported commodities only). The proposed analytical method for determining residues is gas-liquid chromatography utilizing a nitrogen-specific detector.

(Secs. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: January 6, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–1104 Filed 1–12–81; 8:45am]

BILLING CODE 6560-32-M

[OPP–50508A; PH–FRL 1725–5]

Fisons Inc.; Issuance of Experimental Use Permit; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a document that appeared in the **Federal Register** of November 26, 1980 (45 FR 78795), FR Doc. 80–36850. The pesticide and pesticide mixture appeared incorrectly.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Federal Register Staff (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. EB–42, 401 M St. SW., Washington, D.C. 20460, (202–426–2432).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of November 26, 1980 (45 FR 78795) that Fisons Inc. had been issued an experimental use permit for use of 2,300 pounds of the pesticide Nortron.

Please correct the 2nd column, 20th line to read: "Nortron in the following mixtures: Nortron Flowable— . . ."

(Sec. 5, 92 Stat. 819, as amended (21 U.S.C. 136))

Dated: January 6, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–1004 Filed 1–12–81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B–17]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: January 8, 1981.

Cut-Off Date: February 19, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with any application listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on February 19, 1981. Any application previously accepted for filing and in conflict with any application listed in the attached appendix may also be amended as a matter of right not later than the close of business on February 19, 1981. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment.

BPCT–801121KE (new), Tucson, Arizona, Roman Catholic Church of the Diocese of Tucson, Channel 18, ERP: Vis. 1196 kW; HAAT: 3717 feet

BPCT–801121KF (new), Tucson, Arizona, Alden Communications Corp., Channel 18, ERP: Vis. 3810 kW; HAAT: 2012 feet

BPCT–801121KG (new), Tucson, Arizona, National Group Telecommunications of Tucson, Inc., Channel 18, ERP: Vis. 692 kW; HAAT: 2001 feet

BPCT–801121KH (new), Hollywood, Florida, Family Television 69, Inc., Channel 69, ERP: Vis. 1775 kW; HAAT: 1026 feet

BPCT–801121KI (new), Hollywood, Florida, Golden East Broadcaster, Inc., Channel 69, ERP: Vis. 2670 kW; HAAT: 1016 feet

BPCT–801121KJ (new), Hollywood, Florida, Christian Media of Florida, Inc., Channel 69, ERP: Vis. 5000 kW; HAAT: 978 feet

BPCT–801206KF (new), Oklahoma City, Oklahoma, TV 52 Broadcasting, Inc., Channel 52, ERP: Vis. 531 kW; HAAT: 1518 feet

[FR Doc. 81–1064 Filed 1–12–81; 8:45 am]

BILLING CODE 6712-01-M

[Gen. Docket No. 80–739; Report No. 16065]

Inquiry on Implementation of 1979 WARC Final Acts

November 26, 1980.

The Commission has adopted a first inquiry notice seeking public comment concerning proposed revisions to the FCC Table of Frequency Allocations (§ 2.106 of the rules) for the portion of the radio spectrum below 28 MHz. Comment is also sought on associated provisions of Part 2, Subpart B—Allocation, Assignment and Use of Radio Frequencies.

The inquiry notice was adopted in preparation for implementing the Final Acts of the 1979 World Administrative Radio Conference which become effective internationally on January 1, 1982, for those administrations which ratify the treaty, and will have the force of law in the United States.

The 1979 WARC was held in Geneva, Switzerland, between September 24 and December 6, 1979, to revise, as necessary, the international Radio Regulations. Of the 154 member nations of the International Telecommunication Union (ITU), 150 participated in the 1979 conference. Over 15,000 individual proposals dealing with numerous aspects of world telecommunications were considered by the conference. More than 900 of these were submitted by the United States, and most of the U.S. proposals were attained, either in entirety or in substantial part.

The Commission said its effort here was to compare the results of WARC and its in-going proposals in order to develop an appropriate domestic Table of Frequency Allocations. Therefore it is seeking comments on the proposed table, adding that the existing as well as the proposed table are set out in detail as Appendix A of the inquiry notice.

Comment dates will be announced later.

For further information contact Bill Torak, (202) 632–7025.

In an effort to minimize publishing costs, the entire text of this document will not be printed in the **Federal Register**. However, copies of the document in its entirety may be obtained from the Public Information Office, Room 202, 1919 M St., N.W., Washington, D.C. 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81–1063 Filed 1–12–81; 8:45 am]

BILLING CODE 6712-01-M

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FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Lousiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 2, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statements should indicate that this has been done.

Agreement No.: 57–117.

Filing Party: Edward D. Ransome, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco 94111.

Summary: Agreement No. 57–117, among the member lines of the Pacific Westbound Conference, would extend the presently approved intermodal authority of the Conference for an unlimited period beyond the present expiration date of March 20, 1981, and reduce, from 60 to 30 days, the notice required for the member lines to take independent action on intermodal matters.

Agreement No. 9968–3.

Filing Party: Paul B. Thornquist, U.S. Representative, IAFC Puerto Rico and U.S. Virgin Islands Area, 17 Battery Place, Suite 801, New York, New York 10004.

Summary: Agreement No. 9968–3 amends Article 19 of the basic agreement of the Inter-American Freight Conference—Puerto Rico and U.S. Virgin Islands Area to require members to pay a penalty for failure to pay Conference expenses within 30 days of assessment.

Agreement No. 9968–4.

Filing Party: Paul B. Thornquist, U.S. Representative, IAFC Puerto Rico and U.S. Virgin Islands Area, 17 Battery Place, Suite 801, New York, New York 10004.

Summary: Agreement No. 9968–4 amends Article 18 of the basic agreement of the Inter-American Freight Conference—Puerto Rico and U.S. Virgin Islands Area to comply with the annual reporting under General Order 14, as revised, effective June 4, 1980.

Agreement Nos. 10045–4, 10105–2 and 10045–5, 10105–3.

Filing Party: Donald J. Brunner, Esquire, Ragan & Mason, 900 Seventeenth Street, N.W., Washington, D.C. 20006.

Summary: Agreement Nos. 10045–4, 10105–2 and 10045–5, 10105–3 will, respectively, permit the parties to the U.S. South Atlantic and Gulf/Panama and Costa Rica Rate Agreement and the U.S. South Atlantic and Gulf/Guatemala, Honduras and El Salvador Rate Agreement to (1) discuss and agree upon credit rules and to take telephone, telegraph or other telecommunication polls; and (2) discuss and agree upon brokerage and forwarders' compensation.

Agreement No. 10128–3.

Filing Party: Kenneth N. Tice, Secretary, Florida/Curacao, Aruba & Bonaire, Rate Agreement, Post Office Box 59–3037, AMF, Miami, Florida 33159.

Summary: Agreement No. 10128–3 amends the basic agreement of the Florida/Curacao, Aruba and Bonaire Rate Agreement to accomplish the following:

(1) Correction of typographical errors.

(2) Authority to appoint a neutral body for self-policing.

(3) Authority to adopt a cargo inspection program.

(4) Renumbering of agreement provisions.

By Order of the Federal Maritime Commission.

Dated: January 8, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81–1066 Filed 1–12–81; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 81–2]

Port Authority of New York and New Jersey v. Trans Freight Line, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by The Port Authority of New York and New Jersey against Trans Freight Line, Inc. was served January 6, 1981. Complainant alleges that respondent has filed tariff supplements which apply rates on commodities to and from certain North Atlantic Ports that are different from rates it applies on the same commodities to and from other North Atlantic Ports.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 81–1162 Filed 1–12–81; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Privacy Act of 1974; Modification of Systems of Records

As required by the Privacy Act, 5 U.S.C. § 552a(e)(4), the Federal Trade Commission ("Commission") amends the system notice for Commission record system FTC–23, Financial Management System, to reflect a change in the routine use of the records maintained in the system. The most recent notice for the system appeared at 45 FR 1274 (1980). The revised notice is published below.

FTC–23

SYSTEM NAME:

Financial Management System–FTC

SYSTEM LOCATION:

Division of Budget and Finance, Federal Trade Commission, 6th Street and Pennsylvania Ave., N.W., Washington, D.C. 20580.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FTC personnel who travel, receive salary compensation or who otherwise might be involved in reimbursement of expenses situations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name and employee number, or, in some cases, social security number of FTC personnel involved in incurring expenses to the Commission or otherwise reimbursed for expenses conducted in the performance of official duties of the FTC. Information relates to salary, travel and miscellaneous expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. and section 665; 5 U.S.C. Chapter 57; 15 U.S.C. and section 41 et seq.; OMB Circulars A–11 and A–34.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Recording and retrieving information relating to expenses incurred by FTC personnel in the performance of official duties, including summarized costing of employee activity reports for use in financial management reports by Commission managers.

Disclosure may be made to a congressional office from the record of an individual only when the congressional office makes the request on behalf of the private citizen.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Used by personnel of the Division of Budget and Finance in the performance of official duties.

STORAGE:

Computer hardcopy listings; computer tape files.

RETRIEVABILITY:

Indexed by name, employee number and, in some cases, social security numbers.

SAFEGUARDS:

Records are maintained in division files and computer files; access limited to Budget and Finance personnel.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Budget and Finance (same address as System Location).

NOTIFICATION PROCEDURE:

Records in this system are generally exempt from mandatory disclosure under 5 U.S.C. § 552a(k)(2). However, some individual records may be disclosable, and access to them may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Ave., N.W., Washington, D.C. 20580.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

FTC personnel and individuals on whom the record is maintained involved in travel reimbursement or salary payments.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. section 552a(k)(2), records in this system generally are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. section 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 CFR section 4.13(m).

By direction of the Commission dated January 5, 1981

Carol M. Thomas,

Secretary.

[FR Doc. 81-1048 Filed 1-12-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Interstate Federal Savings & Loan Association is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Metropolis Federal Savings & Loan Association. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Interstate Federal Savings & Loan Association. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1037 Filed 1-12-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules:

SUMMARY: Kennecott Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Curtiss-Wright Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Kennecott. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antiturst Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1036 Filed 1-12-81; 8:45 am]

BILLING CODE 7820-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Joe L. Allbritton is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain voting securities of the Riggs National Bank of Washington, D.C. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Joe L. Allbritton. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1039 Filed 1-12-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Seibels Bruce Group, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Rathbone, King & Seeley, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1040 Filed 1-12-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Swissair, Swiss Air Transport Co., Ltd. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Loews Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 24, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580; (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1041 Filed 1-12-81; 8:45 am]

BILLING CODE 6750-01-M

GREAT LAKES BASIN COMMISSION

Intent To Prepare Draft Environmental Impact Statement (DEIS) for an Element of the Great Lakes Basin Plan

AGENCY: Great Lakes Basin Commission.

ACTION: Notice of Intent to Prepare Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. The proposed element is a policy plan of the joint state-federal commission that is regional in scope, and consists of policy guidance for federal, state, local and private sectors in the Great Lakes basin. This element of the plan will develop and evaluate policy options which can guide decisionmakers in the funding of transportation improvements to enhance the efficiency and capability of the Great Lakes transportation system to meet the region's economic needs.

2. Alternatives will be considered including a no action plan.

3. (a) Scoping will be done with the Commission's Standing Committee on Transportation. This committee consists of member agencies used during the planning process include: (1) further coordination with appropriate individuals, industries, interest groups, and government agencies, (2) distribution of DEIS's to the public and agencies for their review and comment.

(b) Significant issues requiring in-depth analysis: none.

(c) Environmental review and consultation will be in accordance with the National Environmental Policy Act of 1969. The DEIS will be circulated for review and all comments will be considered in preparing the final environmental impact statement.

4. A scoping meeting will not be held, however activities as addressed in 3a will be considered.

5. The DEIS will be available during Phase II of the study which will begin in November, 1981.

ADDRESS: Requests for additional information or questions concerning this notice should be directed to the Great Lakes Basin Commission, Attn: Transportation Study Manager, Post Office Box 999, Ann Arbor, Michigan 48106, 313/668-2300.

DATED: December 30, 1980.

Lee Botts,

Chairman.

[FR Doc. 81-1112 Filed 1-12-81; 8:45 am]

BILLING CODE 8415-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 78N-0200; DESI 10029]

Combination Drugs Containing Hydrocortisone and Coal Tar for Topical Use; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

Correction

In FR Doc. 80-37888, published at page 81122, in the issue of Tuesday, December 9, 1980, make the following corrections:

1. On page 81123, first column, the first word in the first line now reading "lace" should read "lack".

2. In the same column, in the next paragraph, under **DATES**, the date for a hearing request in the second line, now reading "January 7, 1981" should read "January 8, 1981. In the last line of that paragraph, the date for supporting information, now reading "February 6, 1981" should read "February 9, 1981".

3. In the same column, under **FOR FURTHER INFORMATION CONTACT**, the second name in the next line now reading "Berstenzang" should read "Gerstenzang".

4. On the same page, third column, first full paragraph, in the third line from the bottom of the paragraph, the cite "3414.111(a)(5)(ii)(*C*)" should read "314.111(a)(5)(ii)(*c*)".

5. On page 81125, first column, second full paragraph, in the third line from the end of the paragraph;, "section 17(c)" should read "section 107(c)".

6. In the same column last paragraph, the date in the fourth line now reading "January 7, 1981" should read "January 8, 1981". The date in the seventh line now reading "February 6, 1981" should read "February 9, 1981".

BILLING CODE 1505-01-M

[Docket No. 80N-0467]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for public hearing on the safety of bioflavonoids, enzyme-modified edible fats, activated carbon (charcoal), and smoke flavoring solutions to determine whether they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be postmarked on or before Feburary 12, 1981.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-355), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1973 (38 FR 20053), FDA issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee) about the safety of ingredients used in food to determine whether they are GRAS or subject to a prior sanction.

The agency now announces that the Select Committee is prepared to conduct a public hearing on bioflavonoids, enzyme-modified edible fats, activated carbon (Charcoal), and smoke flavoring solutions for use as direct food ingredients. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present to the Select Committee scientific data, information and views on safety of these substances, in addition to those previously submitted in writing under notices published in the **Federal Register** of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 28, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the food ingredients listed above and has reached one of the following five tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. (This finding does not apply to the substances covered by this notice.)

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted.

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion.

The Select Committee willl evaluate the information received at the public hearing and use it in reaching its conclusion.

The following table lists the ingredients, the Select Committee's tentative conclusions (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

Substance	Select committee tentative conclusion	Order No., price code, price [1]		
		Scientific literature review	Animal study report	Other information
Bioflavonoids:				
Naringin	1	PB 289-600; A06; $9.00	1. A study of the effect of bioflavonoids on mouse fertility, 1954, by Primorganics, Inc.	1. Memorandum, April 7, 1980, F.R. Senti, FASEB, Bethesda, MD
Hesperidin	1			
Citrus bioflavonoid extracts	3			

Substance	Select committee tentative conclusion	Order No., price code, price [1]		
		Scientific literature review	Animal study report	Other information
			2. Acute oral toxicity of hesperidin in rats, 1955, by Primorganics, Inc.. 3. Acute Oral toxicity of lemon bioflavonoid complex in rats, 1956, by Primogranics, Inc. 4. Acute oral toxicity of lemon-orange flavonate glycoside in rats, 1956, by Primorganics, Inc.	2. Committee on GRAS list Survey—Phase III. The 1977 survey of industry on the use of food additives. (PB 80-113418; E19; $50.50) 3. Letter, April 25, 1980, D.B. Nelson, Sunkist Growers, Ontario, CA, to F.R. Senti, FASEB, Bethesda, MD. 4. Letter, May 9, 1980, D. B. Nelson, Sunkist Growers, Ontario, CA, to F.R. Senti, FASEB, Bethesda, MD 5. Letter, June 4, 1980, D. B. Nelson, Sunkist Growers, Ontario, CA, to F.R. Senti, FASEB, Bethesda, MD. 6. Subcommittee on Review of the GRAS List—Phase II. A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS). (PB 221-921 through PB 221-949 or PB 221-920 for the set; E99, $173.00). 7. Letter, September 4, 1946, L. H. Van Buskirt, Columbus, OH, to G. H. Palmer, California Fruit Growers Exchange, Corona, CA. 8. Letter, April 7, 1961, E. T. Wulfsberg, FDA, Washington, DC, to R.C. Bruner, Sunkist Growers, Inc., Ontario, CA. 9. Letter, April 28, 1961, E. T. Wulfsberg, FDA, Washington, DC, to E. Gunsberg, U.S. Vitamin & Pharmaceutical Corp., Yonkers, NY.
Enzyme-modified edible fats	1	PB 267-763, A03; $6.00	1. Mutagenic evaluation of compound 124-07-2 caprylic acid (75-38), by Litton Bionetics, Inc., under FDA contract (PB 257-872; A03; $6.00).	1. Letter, March 22, 1960, F.A. Cassidy, FDA, Washington, DC, to M.G. Farnham, Dairyland Food Laboratories, Inc., Waukesha, Inc. 2. Letter, April 21, 1964, F.A. Cassidy, FDA, Washington, DC, to J.H. Nelson, Dairyland Food Laboratories, Inc., Waukesha, WI. 3. Committee on GRAS List Survey—Phase III. 1975 Resurvey of the annual poundage of food chemicals generally recognized as safe (GRAS). (PB 228-081/AS; A03; $6.00). 4. "LBO" lipase modified butterfat products. Technical Bulletin No. 5101 (1980), Dairyland Food Laboratories, Inc., Waukesha, WI. 5. "LBO" products in coffee whiteners. Technical Bulletin No. 5121 (1980), Dairyland Food Laboratories, Inc., Waukesha, WI. 6. "LBO" products in typical candy formulas. Technical Bulletin No. 5141 (1980), Dairyland Food Laboratories, Inc., Waukesha, WI. 7. "Mil-Lait" enzyme modified whole milk powder. Technical Bulletin No. 51001 (1980), Dairyland Food Laboratories, Inc., Waukesha, WI. 8. Memorandum, February 11, 1980, F.R. Senti, FASEB, Bethesda, MD. 9. Letter, April 2, 1964, J.H. Nelson, Dairyland Food Laboratories, Inc., Waukesha, WI, to F.A. Cassidy, FDA, Washington, DC 10. Evaluation of the health aspects of tallow, hydrogenated tallow, stearic acid and calcium stearate as food ingredients (SCOGS-54) (PB 261-661, A02; $5.00). 11. Evaluation of the health aspects of sodium oleate and sodium palmitate as substances migrating to food from paper and paper-board used in food packaging (SCOGS-66) (PB 276-414; A02, $5.00) 12. Evaluation of the health aspects of coconut oil peanut oil, and oleic acid as they may migrate to food from packaging materials, and linoleic acid as a food ingredient (SCOGS-65) (PB 274-475; A02; $5.00)
Activated carbon (charcoal):				
Part of committee	1	PB 280-129/AS, A03; $6.00		1. Norit activated carbon. Bulletin No PW-1-79 (1979), American Norit Co., Inc., Jacksonville, FL. 2. Committee on GRAS List Survey—Phase III. 1975 Resurvey of the annual poundage of food chemicals generally recognized as safe (GRAS). (PB 228-081/AS, A03, $6.00). 3. Letter, July 13, 1979, S. T. Cross, ICI Americas, Inc., Wilmington, DE, to F. R. Senti, FASEB, Bethesda, MD. 4. Letter, May 21, 1979, J. A. T. de Muynk, American Norit Co., Jacksonville, FL, to F. R. Senti, FASEB, Bethesda, MD. 5. Memorandum, Feburary 24, 1978, L. Larsen, FDA, Washington, DC. 6. Letter, March 9, 1960, A. J. Lehman, FDA, Washington, DC, to O. F. Anstead, Ltd., Essex, England 7. Operational aspects of granula activated carbon adsorption treatments (1978). O. T. Love and J. M. Symons, EPA, Municipal Environmental Research Laboratory, Cincinnati, OH. 8. Letter, February 9, 1979, J. H. Mahon, Calgon Corp., Pittsburgh, PA, to F. R. Senti, FASEB, Bethesda, MD.
Part of committee	5			

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Substance	Select committee tentative conclusion	Order No., price code, price [1]		
		Scientific literature review	Animal study report	Other information
				9. Letter, April 20, 1967, J. McLaughlin, FDA, Washington, DC, to T. Hughes, Keller and Heckman, Washington, DC 10. Letter, June 8, 1979, J. P. Modderman, FDA, Washington, DC, to F. R. Senti, FASEB, Bethesda, MD. 11. An evaluation of activated carbon for drinking water treatment (1960). NRC, Subcommittee on Absorption of the Safe Drinking Water Committee, Washington, DC. 12. Introduction to activated carbon. Technical Bulletin (1979), Norit-Clydesdale Co., Ltd., Jacksonville, FL. 13. Subcommittee on Review of the GRAS List—Phase II. A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS). (PB 221-921 through PB 221-949 or PB 221-920 for the set; E99; $173.00). 14. Current industrial reports, inorganic chemicals (1977). Bureau of the Census, Department of Commerce, Washington, D.C. (M28A(77)-14). 15. Grade 209: beverage and food process water purification. Technical Bulletin No. W-2 (1979), Activated Carbon Division, Witco Chemical Corp., Houston, TX
Smoke flavoring solutions and smoked yeast flavoring				
Smoked flavoring solutions	3	PB 280-130; A04; $7.00	1. "Liquid smoke" flavor safety evaluation by oral administration to rats for 90 days. J.W. Johnson, G. Woodward, and M.T.I. Cronin, 1963, Woodward Research Corp.	1. Letter, February 26, 1964, O.L. Bennett, USDA, Washington, DC, to H.S. Weeks, Old Hickory Products Co., Woodstock, GA 2. Letter, December 2, 1970, O.L. Bennett, USDA, Washington, DC, to C.M. Hollenbeck, Red Arrow Products Co., Manitowoc, WI. 3. Letter, January 26, 1979, J. Brudnak, Red Arrow Products Co., Manitowoc, WI, to F.R. Senti, FASEB, Bethesda, MD. 4. Letter, February 15, 1960, F.A. Cassidy, FDA, Washington, DC, to R.A. Kellerman, First Spice Mixing Co., Inc., San Francisco, CA. 5 Letter, June 8, 1960, F.A. Cassidy, FDA, Washington, DC, to C.M. Hollenbeck, Wisconsin Malting Co., Manitowoc, WI. 6. Letter, March 15, 1962, F.A. Cassidy, FDA, Washington, DC, to M. Feller, Feller Laboratories, Chicago, IL 7. Letter, December 16, 1964, F.A. Cassidy, FDA, Washington, DC, to C.M. Hollenbeck, Red Arrow Products Co., Manitowoc, WI. 8. Letter, October 12, 1959, A.A. Checchi, FDA, Washington, DC, to H.S. Weeks, Atlanta, GA. 9 Letter, October 16, 1959, A.A. Checchi, FDA, Washington, DC, to G.N. Friedman, Florasynth Laboratories, Inc., Chicago, IL. 10. Committee on GRAS List Survey—Phase III. 1975 Resurvey of the annual poundage of food chemicals generally recognized as safe (GRAS). (PB 228-081/AS; A03, $6.00). 11. Committee on GRAS List Survey—Phase III. The 1977 survey of industry on the use of food additives. (PB 80-113418; E19; $50.50). 12. Letter, March 7, 1979, D.E. Crace, Hickory Specialties, Inc., Crossville, TN, to F.R. Senti, FASEB, Bethesda, MD 13. Letter, March 1, 1979, J.N. Czarnecki, Griffith Laboratories, Alsip, IL, to F.R. Senti, FASEB, Bethesda, MD. 14. Letter, July 17, 1978, C. Dame, Stange Co., Chicago, IL, to F.R. Senti, FASEB, Bethesda, MD. 15. Letter, May 1, 1979, C. Dame, Strange Co., Chicago, IL, to F.R. Senti, FASEB, Bethesda, MD. 16. Interaction of wood smoke components and foods. H. Daun, presented at the annual meeting of the Institute of Food Technologists, June 4-7, 1978, Dallas, TX. 17. Biological examination of food additives. Final report no. A-675 (1963), A.B. Eschenbrenner, Engineering Experiment Station, Georgia Institute of Technology, Atlanta, GA. 18. Letter, April 30, 1974, C.L. Ettinger, USDA, Washington, DC, to W.A. Brittin, Stange Co., Chicago, IL. 19. Letter, May 16, 1979 and September 2, 1980, R. A. Ford, Flavoring Extract Manufacturers' Association, Washington, DC, to C.I. Miles, FDA, Washington, DC. 20. Griffith Royal Smoke Codes AA, A, B, SF-12, SF-40. Technical Bulletin (1977). Griffith Laboratories, Alsip, IL.
Smoked yeast flavoring	5			

Substance	Select committee tentative conclusion	Order No., price code, price [1]		
		Scientific literature review	Animal study report	Other information
				21. Liquid smoke flavorings—status of development. C.M. Hollenbeck, presented at the annual meeting of the Institute of Food Technologists. June 4–7, 1978, Dallas, TX. 22. Mutagenicity evaluation of natural hickory smoke flavor—code 402 in the Ames salmonella/microsome plate test. D.R. Jagannath and D.J. Brusik, 1978, Litton Bionetics, Inc., Kensington, MD 23. Report on Analysis of polynuclear aromatic hydrocarbons in "Char-sol" (liquid smoke). R. Lechnir, 1977, WARF Institute, Inc., Madison, WI 24. Report on benzo(a)pyrene analysis in "Royal Smoke". R. Lechnir 1978, WARF institute, Inc., Madison, WI. 25. Report on determination of polynuclear aromatic hydrocarbons in aqueous liquid smoke flavors. R. J. Lechnir and R. M. Luskin 1978, Raltech Scientific Services, Inc., Madison, WI. 26. Report on liquid smoke. R. H. T. Mattan, 1978, AGRI Laboratories, Inc., Los Angeles, CA. 27. Ames mutagenesis test: "charsol" (liquid smoke). W. J. Nitzke, 1977, WARF Institute, Inc., Madison, WI. 28. Letter, January 3, 1980, R. J. Pecore, Bakon-Yeast, Inc., Rhinelander, WI, to F. R. Senti, FASEB, Bethesda, MD. 29. Letter, March 26, 1980, R. J. Pecore, Bakon-Yeast, Inc., Rhinelander, WI, to F. R. Senti, FASEB, Bethesda, MD. 30. "Char-sol" assay report. R. Prier, 1961, WARF Institute, Inc., Madison, WI. 31. "Charsol" technical directory (1979). Red Arrow Products Co., Manitowoc, WI. 32. Letter, February 20, 1979, L. Sair, Griffith Laboratories, Chicago, IL, to F. R. Senti, FASEB, Bethesda, MD. 33. Analysis of "charsol" liquid C10 for nitrosamine. J. S. Scheidler, 1978, WARF Institute, Inc., Madison, WI. 34. Letter, September 21, 1971, C. H. Schroeder, WARF Institute, Inc., Madison, WI, to R. J. Pecore, Bakon-Yeast Inc., Rhinelander, WI. 35. Letter, January 4, 1980, C. G. Schultz, Lake States Division, Monarch Paper Corp., Rhinelander, WI, to F. R. Senti, FASEB, Bethesda, MD. 36. Subcommittee on Review of the GRAS List—Phase II. A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS). (PB 221-921 through PB 921-949 or PB 921-920 for the set: E99, $173.00). 37. Trace metal determination in liquid smoke products. J. B. Thompson, 1977, Trace Metal Research Laboratory, Homewood, IL. 38. Composition of wood smoke and application of liquified smoke. H. E. Wistreich, presented at the annual meeting of the Institute of Food Technologists, June 4–7, 1978, Dallas, TX.

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[1] Price subject to change

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, its reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the **Federal Register** of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on bioflavonoids, enzyme-modified edible fats, activated carbon (charcoal), and smoke flavoring solutions are available for review at the office of the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Dockets Management Branch.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the time required to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall inform the Select Committee in writing addressed to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each request shall be sent to the Dockets Management Branch (address above). All requests will be placed on public display in that office. Any such request must be received by or postmarked on or before February 12, 1981. Requests shall state the substance(s) on which an opportunity to present oral views is requested and how much time is being requested for the presentation. Requests should specify the docket number found in brackets on the heading of this notice. As soon as possible after the request deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that has been requested will be published in the **Federal Register**.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views, identified with the docket number found in brackets in the heading of this notice, shall be addressed to the Select Committee at the address noted above and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Dockets Management Branch, Food and Drug Administration, and will be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will be placed on public display in the office of the Dockets Management Branch (HFA-305), Food and Drug Administration.

Dated: January 6, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-909 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0468]

Abbott Laboratories; Premarket Approval of Abbott Carcinoembryonic Antigen (CEA) Enzyme Immunoassay (EIA) Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Abbott carcinoembryonic antigen (CEA) enzyme immunoassay (EIA) kit (Abbott CEA-EIA kit) sponsored by Abbott Laboratories, North Chicago, IL. After reviewing the recommendation of the Immunology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 12, 1981.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Abbott Laboratories, North Chicago, IL, submitted to FDA on March 31, 1978 an application for premarket approval of the Abbott carcinoembryonic antigen (CEA) enzyme immunoassay (EIA) kit (Abbott CEA-EIA kit). This device is an in vitro diagnostic product used as an aid in the management of cancer in humans. In the **Federal Register** of September 5, 1980 (45 FR 58964) FDA announced that biological in vitro diagnostic products used as aids for the detection and management of cancer in humans are now considered medical devices, and that the responsibility for regulating them has been transferred from the Bureau of Biologics to the Bureau of Medical Devices. The application was reviewed by the Immunology Device Section of the Immunology and Microbiology Devices Panel, and FDA advisory committee, which recommended approval of the application. On October 15, 1980 FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)), authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 12, 1981, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-910 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0469]

Abbott Laboratories; Premarket Approval of Abbott Carcinoembryonic Antigen (CEA) Radioimmunoassay (RIA) Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for

premarket approval under the Medical Device Amendments of 1976 of the Abbott carcinoembryonic antigen (CEA) radioimmunoassay (RIA) kit (Abbott CEA–RIA kit) sponsored by Abbott Laboratories, North Chicago, IL. After reviewing the recommendation of the Immunology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 12, 1981.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Abbott Laboratories, North Chicago, IL, submitted to FDA on March 31, 1978 an application for premarket approval of the Abbott carcinoembryonic antigen (CEA) radioimmunoassay (RIA) kit (Abbott CEA–RIA kit). This device is an in vitro diagnostic product used as an aid in the management of cancer in humans. In the **Federal Register** of September 5, 1980 (45 FR 58964) FDA announced that biological in vitro diagnostic products used as aids for the detection and management of cancer in humans are now considered medical devices, and that the responsibility for regulating them has been transferred from the Bureau of Biologics to the Bureau of Medical Devices. The application was reviewed by the Immunology Device Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 15, 1980 FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

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Petitioners may, at any time on or before February 12, 1981, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81–911 Filed 1–12–81; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0461]

Pelvimetry X-Ray Examination; Availability of Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Bureau of Radiological Health of the Food and Drug Administration (FDA) is making available a report developed by a panel of physicians on the utility of pelvimetry x-ray examination. This report contains background information and a statement on the appropriate use of pelvimetry.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Phyllis Segal, Bureau of Radiological Health (HFX–76), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4600.

SUPPLEMENTARY INFORMATION: FDA's Bureau of Radiological Health is making available a report entitled "The Selection of Patients for X-Ray Examinations: The Pelvimetry Examination," HHS Publication (FDA) 80–8128. This report, developed by a panel of obstetricians and radiologists convened by FDA, contains background material and a statement on the use of pelvimetry, based on the scientific and clinical literature on the utility of pelvimetry x-ray examinations.

This panel approach to developing referral criteria was endorsed by participants in the National Conference on Referral Criteria for X-Ray Examinations, held in October 1978. The American College of Radiology and the American College of Obstetricians and Gynecologists have reviewed the pelvimetry statement, and both have endorsed its use as a "guide for clinical studies and, if affirmed, a model for good radiological practice." FDA has published this report to stimulate additional research, elicit comment, and to provide information on the latest clinical consensus on the utility of pelvimetry x-ray examinations.

The report and a related document, "The Selection of Patients for X-Ray Examinations," HEW Publication (FDA) 80–8104, which provides general information on patient selection, are available for public examination in FDA's Dockets Management Branch. Written requests for single copies of the report and the related document may be sent to the Food and Drug Administration, Bureau of Radiological Health, Publications Service (HFX–28), 5600 Fishers Lane, Rockville, MD 20857.

The agency invites and encourages additional data or clinical studies resulting from the use of the pelvimetry statement. Interested persons may submit written comments on the report to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. FDA will refer any such comments to the pelvimetry panel for consideration in determining whether changes in the report are warranted. Comments should be in four copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. The report and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-912 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-03-M

Health Resources Administration

Health Systems Agency Application Information; Arizona Health Service Area I

Pursuant to section 1515 of the Public Health Service Act notice is hereby given that application materials are available in DHHS Regional Office IX for entities interested in applying for designation as the Health Systems Agency (HSA) for Arizona Health Service Area 1. This health systems agency will be responsible for health planning for the health service area and for the promotion of the development of health services, manpower and facilities which meet identified needs, reduce documented inefficiencies and implement the health plans of the agency. See generally, 42 CFR Part 122.

There presently is a fully designated health systems agency, a private non-profit entity, for this health service area. However, this agency is precluded by Arizona law from assisting the State Health Planning and Development Agency in the review of New Institutional Health Services as required by section 1513(f) of the Public Health Service Act. Since the current agency is unable to perform this function, we have concluded that it cannot comply with the provisions of its designation agreement. Consequently we have decided not to renew the agency's designation agreement on June 1, 1981.

Those entities interested in applying for designation must file a letter of intent to apply for such designation with DHHS Regional Office IX by January 29, 1981 and an application by April 1, 1981.

Application materials and further information may be obtained from the Regional Health Administrator, DHHS Regional Office IX, 50 United Nations Plaza, San Francisco, California 94102. Interested parties are encouraged to request application materials at the earliest possible date.

Once the health systems agency is designated it will be entitled to receive a planning grant under section 1516 of the Act. The amount of the planning grant will be determined in accordance with a formula set forth in the regulations governing this program (42 CFR Part 122, Subpart C), and will be based, in part, upon a determination by the Secretary of the population of the health service area. Section 122.204 of the governing regulations provides that the Secretary will determine the populations of such areas based upon the latest available estimate from the Department of Commerce and will publish annually in the **Federal Register** a list of all health service areas and their populations.

Dated: January 7, 1981.

Karen Davis,

Administrator.

[FR Doc. 81-1054 Filed 1-12-81; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-40]

Cottonwood Development; Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Cottonwood Development, Douglas County, Colorado.This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a"cooperating agency."

Issued at Washington, D.C., December 30, 1980.

Francis G. Haas,

Director, Office of Environmental Quality.

Appendix

EIS on the Cottonwood Development, Douglas County, Colorado

The HUD Area Office in Denver, Colorado, intends to prepare an EIS on the Cottonwood Development described below, and requests information and comments for consideration in the EIS.

Description. Approximately 1,752 dwelling units (single-family and multi-family) will be constructed in Douglas County, Colorado, in the northern portion of Douglas County along Parker Road.

Need. An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives. The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or rejection of participation in the development.

Scoping. A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This notice will also appear in a paper of local circulation in Douglas County, Colorado.

Comments. Comments should be forwarded within 21 days following publication of this Notice in the **Federal Register** to Mr. Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development/Area Office, 1405 Curtis Street, Executive Tower Inn, Denver, Colorado 80202. The commercial telephone number of this office is (303) 833-3102 and the FTS number is 327-3102.

[FR Doc. 81-1122 Filed 1-12-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Boise, Idaho, District Grazing Advisory Board; Meeting

In accordance with the Federal Advisory Committee Act, and the Federal Land Policy and Management Act, notice is given that the Boise, Idaho, District Grazing Advisory Board will meet on February 9 and 10, 1981.

The meeting will begin at 9:00 a.m. in the Boise District Conference Room at 3948 Development Avenue, in Boise.

The agenda for the meeting will include:

(1) Election of Officers.

(2) Review 1980 Range Betterment Projects.

(3) Discuss and recommend use of 1981 range betterment funds.

(4) Review 1980 Advisory Board Projects.

(5) Discuss 1981 Advisory Board fund expenditures.

(6) Update on Owyhee Grazing EIS Decisions and Allotment Management Plan Preparation.

(7) Committee Report on Pipeline Maintenance.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 3:00 p.m. on February 10, 1981, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, BLM, 3948 Development Avenue, Boise, Idaho 83705 by February 2, 1981. Depending on the number of statements, a person time limit may be established.

Minutes of the Board meeting will be maintained in the District Office and will be available for the public inspection within 30 days following the meeting.

James Gabettas,

Acting District Manager.

[FR Doc. 81-1106 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-84-M

Boise District Advisory Council; Idaho; Meeting

In accordance with the Federal Advisory Committee Act and the Federal Land Policy and Management Act, notice is given that the Boise District Advisory Council will meet on February 12, 1981. The meeting will begin at 9:00 A.M. in the Boise District Conference Room at 3948 Development Avenue, Boise, Idaho. The agenda will include:

(1) Presentation by new District Manager on future direction in district and Idaho BLM proposed reorganization.

(2) Election of officers.

(3) Identification of issues for future recommendation by Council.

(4) Update on land use planning for Bruneau-Kuna and Jarbidge and public participation methods.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:00 P.M. and 2:00 P.M. Written statements may also be filed for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by February 2, 1981. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

James Gabettas,

Acting District Manager.

[FR Doc. 81-1109 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-84-M

[INT DES 81-2]

UTAH; Availability of Draft Environmental Impact Statement on Proposed Moon Lake Power Plant Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management and the Department of Agriculture, Rural Electrification Administration, have prepared a Draft Environmental Impact Statement for the proposed Moon Lake Power Plant Project, Units 1 and 2, Uintah County, Utah.

DATE: Written comments on the Draft EIS will be accepted until March 3, 1981.

ADDRESS: Written comments should be sent to: State Director (U-910), Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Gregory F. Thayn, Team Leader, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, Telephone (801) 524-5645, FTS 588-5645 or Frank W. Bennett, Director, Power Supply Division, USDA-REA, South Agriculture Bldg., Room 5831, Washington, D.C. 20250, Telephone (202) 447-6183 or FTS 447-6183.

SUPPLEMENTARY INFORMATION: The Draft EIS addresses the proposal by Deseret Generation and Transmission Cooperative (Deseret) to construct two 400 megawatt (MW) generating units northwest of Bonanza, Utah in Uintah County. The proposal involves piping of up to 17,470 acre-feet of water over approximately 19 miles from a collector well system located beside the Green River to the proposed Bonanza site. The proposed project would require up to 2.7 million tons of coal annually. Coal would be delivered to the site by a 35-mile-long electric railroad from a proposed underground coal mine northeast of Rangely, Colorado.

The electricity generated by Unit 1 of the proposed plant would be distributed by one 345-kilovolt (kV) alternating current (a.c.) line to a UP&L proposed substation near Mona, Utah in Juab County, and by three 138-kV a.c. lines to existing substations near Upalco, Utah in Duchesne, County; Vernal, Utah in Uintah County; and Rangely, Colorado, in Rio Blanco County. If Unit 2 were constructed, a second 345-kV line would be built from the plant site to the existing UP&L Ben Lomond substation near Ogden, Utah or to the oil shale fields in Utah and Colorado depending upon power demands. Several alternatives, including the proposed project and "no action" are discussed in the Draft EIS.

Notice is also hereby given that oral and/or written comments regarding the adequacy of the Draft EIS will be received at the following locations:

February 17, 1981, 7:00 p.m., Room 220, Salt Palace, Salt Lake City, Utah
February 18, 1981, 7:00 p.m., Courtroom, Uintah County Courthouse, Vernal, Utah
February 19, 1981, 7:00 p.m., Auditorium, Rangely High School, Rangely, Colorado

Requests to testify at the hearings should go to: State Director (U-910), Bureau of Land Management, Salt Lake City, Utah 84111, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111

Copies of the Draft EIS are available for review at the following locations:

Rural Electrification Administration, South Agriculture Bldg., Room 5831, Washington, D.C. 20250
Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111
Richfield District Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701
Craig District Office, Bureau of Land Management, 455 Emerson, Craig, Colorado 81625
Washington Office (WO-332), Bureau of Land Management, 18th and C Streets N.W., Washington, D.C. 20240
Vernal District Office, Bureau of Land Management, 170 South 5th East, Vernal, Utah 84078
Colorado State Office, Bureau of Land Management, 1600 Broadway, Room 700, Denver, Colorado 80202

A limited number of copies are available upon request from the addresses listed above.

Ed Hastey,

Associate Director.

Approved: December 31, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 81-1118 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Proposed Guidelines for Handling Petitions To List Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: A petition process whereby the public can request that species be added to or removed from the list of Endangered and Threatened species is provided for by the Endangered Species Act. The December 28, 1979, Amendments to the Endangered Species Act of 1973 require the Secretary to establish and publish in the **Federal Register** agency guidelines on the procedures for recording the receipt and disposition of petitions submitted. The 1979 Amendments also require that the criteria for making findings on the petitions be published. These proposed guidelines may be adopted by the Service after public comment. The public is urged to comment and offer suggestions on these guidelines.

DATES: Comments from the public must be received by March 16, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

ADDRESSES: Comments and materials concerning this proposal should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Office of Endangered Species, 1000 N. Glebe Road, Fifth Floor, Arlington, Viriginia.

BACKGROUND:

The Endangered Species Act of 1973, as amended, provides for a petition process whereby the public can request species be added to or removed from the list of Endangered and Threatened species.

Section 4(c)(2) provides the following:

> (2) The Secretary shall, within 90 days of the receipt of the petition of an interested person under subsection 553(e) of title 5, United States Code, conduct and publish in the **Federal Register** a review of the status of any listed or unlisted species proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review. Such review and finding shall be made and published prior to the initiation of any procedures under subsection (b)(1).

The rules for listing Endangered and Threatened species and designating Critical Habitat are codified at 50 CFR Part 424 and further explain the Service's handling of petitions.

Petitions: Additional Procedures

Based on the requirements outlined in the Act and the implementing rules the Service handles petitions as outlined in the following steps.

1. Receipt of a petition is recorded in the Office of Endangered Species petition log where all actions involving the petition are also recorded.

2. Petitioner is notified (by the Director) within 30 days by the Director that the petition was received by the Service.

3. The petition is evaluated by biologists in the Office of Endangered Species and Regional offices, as appropriate.

4a. If substantial evidence to support the requested measure has not been provided, the Director shall so inform the petitioner within 90 days.

4b. If substantial evidence to support the requested measure has been provided then the Director shall (1) promptly publish a notice in the **Federal Register** announcing this determination; (2) conduct and publish in the **Federal Register** a status review of the species that is the subject of the petition within 90 days of receipt of the petition and (3) indicate at the time the status review is published how the Service intends to proceed with respect to the listing, delisting, or reclassifying of the species.

Petitions: Evaluation Criteria

The criteria for making the findings required by Section 4(c)(2) on petitions are listed in the rules for listing Endangered and Threatened species in 50 CFR 424.14(b) (45 FR 1310, February 27, 1980).

Public Comments Solicited

The Director intends that the guidelines finally adopted will be as efficient and effective as possible in dealing with petitions on Endangered and Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these guidelines are hereby solicited.

Final development of these guidelines will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final guidelines that differ from these proposed.

Author

These guidelines are being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884). The primary author of these proposed guidelines is Ms. E. LaVerne Smith, Washington Office of Endangered Species (703/235-1975).

Dated: January 2, 1981.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 81-1002 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Known Recoverable Coal Resource Area; Warrior Basin, Alabama; Revision

Under authority contained in Section 2 (a)(1) and 32 of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 189, 201) and the Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351-359), and delegations of authority in 220 Departmental Manual 4.1i, Geological Survey Manual 220.2.4, and Conservation Division Supplement (Geological Survey Manual) 220.2.1i, Federal lands within the state of Alabama have been determined to be subject to the coal leasing provisions of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(1) Alabama

Revised Warrior Basin (Alabama) Known Recoverable Coal Resource Area (KRCRA); November 6, 1980; 8960 acres were added. total area now defined for leasing is 171,360 acres. A plat showing the revised boundary and acreage has been filed with the appropriate land office of the Bureau of Land Management. Copies of the plat and the land description may be obtained from the Regional Conservation Manager, Eastern Region, U.S. Geological Survey, Washington, D.C. 20006.

Dated: December 30, 1980.

John A. Lees

Acting Regional Conservation Manager, Eastern Region.

[FR Doc. 81-1121 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that C&K Petroleum, Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2880, Block 237, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 5, 1981.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 81–1149 Filed 1–12–81; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Davis Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4194, Block 199, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 5, 1981.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 81–1150 Filed 1–12–81; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ANR Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 3469 and 4554, Blocks 504 and 501, Brazos Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Lousiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4740, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 5, 1981.

E. A. Marsh,

Staff Assistant for Operations.

[FR Doc. 81–1148 Filed 1–12–81; 8:45 am]

BILLING CODE 4310–31–M

National Earthquake Prediction Evaluation Council; Notice of Public Meeting

Pursuant to Public Law 92–463, effective January 5, 1973, notice is hereby given that an open meeting will be held beginning at 9:00 a.m. (local time) on Monday, January 26, 1981, and continuing through Tuesday, January 27, 1981. The Council will meet at the U.S. Geological Survey Building on the campus of the Colorado School of Mines, Golden, Colorado.

(1) *Purpose.* To evaluate the prediction of a major earthquake off the coast of Peru.

(2) *Membership.* The Council is chaired by Dr. Clarence R. Allen and is composed of scientists from the academic and government institutions.

(3) *Agenda.* Presentation, discussion, and evaluation of the theory, data, and interpretations on which the prediction of a major earthquake off the coast of Peru in 1981 have been based.

For more detailed information about the meeting, please call Dr. John R. Filson, Chief, Office of Earthquake Studies, Reston, Virginia 22092 (703) 860–6471.

H. William Menard,

Director, U.S. Geological Survey.

[FR Doc. 80–1333 Filed 1–12–81; 8:45 am]

BILLING CODE 4310–31–M

Heritage Conservation and Recreation Service

U.S. World Heritage Nomination Process

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

V 46/8 JA 13 81 UMI

ACTION: Interpretive guidelines and request for public comment.

SUMMARY: The Department of the Interior, through the Heritage Conservation and Recreation Service, announces its interpretive guidelines for implementing the World Heritage Convention in accordance with Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515). The notice also sets forth the process that will be used in calendar 1981 to identify and prepare United States nominations to the World Heritage List. The Department solicits comments on the interpretive guidelines, as well as suggestions of properties for consideration as potential U.S. World Heritage nominations. The notice identifies minimum requirements that properties must satisfy to be considered as potential nominations. In addition, the notice lists the World Heritage criteria, and the 85 cultural and natural properties currently included on the World Heritage List.

DATES: Suggestions of cultural and natural properties for consideration as potential U.S. World Heritage nominations will be received until March 15, 1981. To ensure full consideration, suggestions should discuss in detail how the recommended property satisfies the World Heritage criteria. Comments on the interpretive guidelines will be received until March 15, 1981. Potential U.S. World Heritage nominations for 1982 will be selected by the Department and published in the **Federal Register** on or before April 15, 1981, with a request for public comment. Comments on the potential U.S. nominations will be received until May 15, 1981. A final list of proposed U.S. World Heritage nominations for 1982 will be published in the **Federal Register** on or before July 1, 1981. In November 1981, a Federal interagency panel for World Heritage will review the accuracy and completeness of the draft 1982 U.S. nominations, and will make recommendations to the Secretary of the Interior. The Secretary or his designee will then transmit any nominations(s) on behalf of the United States to the United Nations Educational, Scientific and Cultural Organization, through the Department of State, by December 1, 1981, for evaluation by the World Heritage Committee in 1982.

ADDRESS: Comments or suggestions should be sent to the Director, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (Attn: Division of State Heritage Programs).

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Acting Associate Director for Natural Programs, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (202-343-4278).

SUPPLEMENTARY INFORMATION: The guidelines set forth the interpretation that will be used by the Department of the Interior to implement Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515). Over the next year, the Department intends to promulgate formal rules to implement more fully the World Heritage responsibilities mandated by this new legislation. However, because other Federal agencies, State and local governments, and private organizations and individuals are in immediate need of definitive guidance for identifying and preparing U.S. nominations to the World Heritage List during 1981, these guidelines are to be considered effective immediately, consistent with Departmental policy as provided by 43 CFR 14.5(c), pending publication of formal program rules. Public comments concerning these interpretive rules (guidelines) will be considered at the formal rulemaking stage.

The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 52 other Nations as of this date, establishes a means by which natural and cultural properties of outstanding universal value to mankind may be recognized and protected.

Sites are identified and nominated by participating Nations for inclusion on the World Heritage List, which currently includes 85 properties. The 21-member Nation World Heritage Committee then judges the nominations against established criteria, which are listed below.

It is the policy of the Department of the Interior to implement its responsibilities under the World Heritage Convention in accordance with the statutory mandate of Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515), which reads as follows:

Title IV—International Activities and World Heritage Convention

Sec. 401 (a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other Nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

Sec. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

In particular, the following clarify certain policy aspects of Title IV that relate to its implementation by the Department of the Interior:

(a) *"No property may be so nominated unless it has previously been determined to be of national significance."* For the purposes of this title, "national significance" refers to properties designated as National Historic Landmarks (36 CFR 1205) or National Natural Landmarks (36 CFR 1212) by the Secretary of the Interior under provisions of the 1935 Historic Sites Act (Pub L. 74–292; 49 Stat. 666; 16 U.S.C. 461 et seq.), or areas of national significance as established by the Congress of the United States.

(b) *"Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection)."* To ensure that U.S. nominations to the World Heritage List represent the full range of internationally significant properties in this country, Federal, State, local, and/or private properties are considered eligible for consideration as nominations. The United States has an obligation, however, to ensure the preservation of the property and environment of all U.S. sites that are nominated and approved for the World Heritage List, regardless of ownership. At this time, in the case of properties owned or controlled by Federal, State, and/or local governments, such evidence of legal protection must include reference to all legislation establishing or preserving the area, and all existing and proposed administrative measures that would ensure continued satisfactory maintenance and preservation of the property in perpetuity. In the case of properties owned or controlled by private organizations or individuals, such evidence must include a written covenant prohibiting, in perpetuity, any use that is not consistent with, or which threatens or damages the property's universally significant values, or other trust or legal arrangement which has that effect; the opinion of counsel on the legal status and enforcement of such a prohibition, including, but not limited to, enforceability by the Government or by interested third parties; and a right of first refusal for the Federal government to acquire the property in the event of any proposed sale, succession, voluntary or involuntary transfer, or in the event that the covenant proves to be inadequate to ensure preservation of the property's outstanding universal values.

It is recognized that some privately owned properties may possess universally significant cultural and/or natural values. However, until provisions of a protective agreement for private property are formally developed and adopted, U.S. World Heritage nominations will be limited to properties owned or controlled by Federal, State, and/or local governments.

(c) *"No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination."* In the case of properties owned or controlled by Federal, State, and/or local governments, a letter from the agency official(s) responsible for administering the property would demonstrate concurrence. In the case of private properties, the protection agreement outlined in (b) above would satisfy the requirement for owner concurrence.

A Federal interagency panel makes recommendations to the Secretary on proposed United States nominations. The panel includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the Heritage Conservation and Recreation Service, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; and the Department of State.

These policies shall guide the preparation of United States nominations to the World Heritage List during 1981, and the development of formal rules for implementing the Department's World Heritage mandate in accordance with Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515).

I. Suggestions for U.S. World Heritage Nominations

Any agency, organization, or individual wishing to recommend a property for consideration as a potential U.S. World Heritage nomination should submit a detailed discussion on how the property relates to and satisfies one or more of the World Heritage criteria listed below. This information will help provide the basis for evaluating the World Heritage potential of a particular cultural or natural property. In order for a United States property to be considered for nomination to the World Heritage List, it must satisfy the requirements set forth earlier, i.e., (a) it must have been previously determined to be of national significance, (b) its owner must concur in writing to such nomination, and (c) for 1981, the property must be owned or controlled by Federal, State, and/or local governments.

II. Criteria for World Heritage Properties

The following criteria are used by the World Heritage Committee in evaluating the World Heritage potential of cultural and natural properties nominated to it:

Criteria for the Inclusion of Cultural Properties on the World Heritage List

A monument, group of buildings or site—as defined in Article I of the Convention—which is nominated for inclusion on the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria *and* the test of authenticity. Each property nominated should therefore:

(a)(i) represent a unique artistic achievement, a masterpiece of the creative genius; or

(ii) have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or town-planning and landscaping; or

(iii) bear a unique or at least exceptional testimony to a civilization which has disappeared; or

(iv) be an outstanding example of a type of structure which illustrates a significant stage in history; or

(v) be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) be directly and tangibly associated with events or with ideas or beliefs of outstanding universal significance; and

(b) meet the test of authenticity in design, materials, workmanship or setting.

The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List: (a) The state of preservation of the property should be evaluated relatively, that is, it should be compared with other property of the same type dating from the same period both inside and outside the country's borders; and (b) Nominations of immovable property which is likely to become movable will not be considered.

Criteria for the Inclusion of Natural Properties on the World Heritage List

A natural heritage property—as defined in Article 2 of the Convention—which is submitted for inclusion on the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

(i) be outstanding examples representing *the major stages of the earth's evolutionary history.* This category would include sites which represent the major "eras" of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; or

(ii) be outstanding examples representing significant ongoing *geological processes, biological evolution, and man's interaction with his natural environment.* As distinct from the periods of the earth's development, this focuses upon ongoing processes in the development of communities of plants and animals, landforms, and marine and fresh water bodies. This category would include for example (a) as geological processes, glaciation and volcanism, (b) as biological evolution, examples of biomes such as tropical rainforests, deserts and tundra, (c) as interaction between man and his natural environment, terraced agricultural landscapes; or

(iii) contain *superlative natural phenomena, formations or features or areas of exceptional natural beauty,* such as superlative examples of the most important ecosystems, natural features, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) *contain the most important and significant natural habitats where threatened species of animals or plants of outstanding universal value* from the points of view of science or conservation still survive.

In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in (i) above should contain all or most of the key interrelated and interdependent elements in their natural relationships; for example, an "ice age" area would be expected to include the snow field, the glacier itself and samples of cutting patterns, deposition and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in (ii) above should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in topography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in (iii) above should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in (iv) above should be of sufficient size and contain necessary habitat requirements for the survival of the species.

(v) In the case of migratory species, seasonable sites necessary for their survival, wherever they are located, should be adequately protected. The Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their full life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

The natural property should be evaluated relatively, that is, it should be compared with other properties of the same type both inside and outside a country's borders, within a biogeographic province, or in a migratory pattern.

III. WORLD HERITAGE LIST

The following 85 cultural and natural properties, arranged alphabetically by country, have been approved by the World Heritage Committee for inscription on the World Heritage List:

Algeria: Al Qal'â of Ben Hammad;
Brazil: Historic Town of Ouro Preto;
Bulgaria: Boyana Church; Madara Rider; Rock-hewn Churches of Ivanovo; and Thracian Tomb of Kazanlak;
Canada: Burgess Shale Site; Dinosaur Provincial Park; L'Anse aux Meadows; and Nahanni National Park;
Cyprus: Paphos;
Ecuador: Galapagos National Park; and Historic Center of Quito;
Ethiopia: Aksum; Fasil Ghebbi, Gondar Region; Lower Valley of the Awash; Lower Valley of the Omo; Rock-hewn Churches of Lalivela; Simien National Park; and Tiya;
Egypt: Abu Mena; Ancient Thebes with its Necropolis; Islamic Cario; Memphis and its Necropolis-the Pyramid Fields from Giza to Dahshur; and Nubian Monuments from Abu Simbel to Philae;
Federal Republic of Germany: Aachen Cathedral;
France: Chartres Cathedral; Decorated Grottoes of the Vezere Valley; Mont St. Michel and its Bay; Palace and Park of Versailles; and Vezelay, Church and Hill;
Ghana: Ashante Traditional Buildings; and Forts and Castles, Volta Greater Accra;
Guatemala: Antigua; and Tikal National Park;
Honduras: Maya Site of Copan;
Iran: Meidan-e Sha, Esfahan; Persepolis; and Tchogha Zanbil;
Italy: Church and Dominican Convent of Santa Maria delle Grazie with "The Last Supper" by Leonardo da Vinci; Historic Center of Rome; and Rock Drawings in Valcamonica;
Malta: City of Valetta; Ggantija Temples; and Hal Saflieni Hypogeum;
Nepal: Kathmandu Valley; and Sagarmatha National Park;
Norway: Bryggen; Roros; and Urnes Stave Church;
Pakistan: Archeological Ruins at Mohenjodaro; Buddhist Ruins at Takht-i-Bahi and Neighboring City Remains at Sahr-i-Bahlol; and Taxila;
Panama: Fortifications on the Caribbean side of Panama-Portobelo San Lorenzo;
Poland: Auschwitz Concentration Camp; Bialowieza Naional Park; Historic Center of Cracow; Historic Center of Warsaw; and Wieliczka Salt Mines;
Senegal: Island of Goree;
Syrian Arab Republic: Ancient City of Bosra; Ancient City of Damascus; and Site of Palmyra;
Tanzania: Ngorongoro Conservation Area;
Tunisia: Amphitheatre of El Djem; Archeological Site of Carthage; Ichkeul National Park; and Medina of Tunis;
United States of America: Everglades National Park; Grand Canyon National Park; Independence Hall, Mesa Verde National Park; Redwood National Park; and Yellowstone National Park;
Yugoslavia: Durmitor National Park; Historical Complex of Split with the Palace of Diocletian; Natural and Cultural-Historical Region of Kotor; Ohrid Region with its Cultural and Historical Aspects and its Natural Environment; Old City of Dubrovnik; Plitvice Lakes National Park; and Stari Ras and Sopocani;
Zaire: Garamba National Park; Kahuzi-Biega National Park; and Virunga National Park; and
International Canada/U.S.: Kluane National Park-Wrangell/St. Elias National Monument.

Dated: January 7, 1981.

David F. Hales,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-1042 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-56F)]

Illinois Central Gulf Railroad Co.; Abandonment Near Kevil and Barlow in Ballard and McCracken Counties, KY

Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by an administratively final decision decided December 11, 1980, the Commission found that, the public convenience and necessity permitted the abandonment by the Illinois Central Gulf Railroad Company of its line of railroad extending from milepost 239.5 near Kevil, KY, to milepost 251.59 near Barlow, KY, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than January 23, 1981; and

(2) it is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1093 Filed 1-12-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-150]

Minority Participation in the Motor Carrier Industry

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: Consistent with the mandate of the National Transportation Policy, 49 U.S.C. § 10101(a)(7)(g), the Commission is committed to the goal of increasing minority participation in the interstate motor carrier industry. This action is taken to affirm that policy and to set forth the cornerstone of the Commission's implementation program.

EFFECTIVE DATE: February 12, 1981.

FOR FURTHER INFORMATION CONTACT: Bernard Gaillard or Lee Alexander, (202) 275-7597.

SUPPLEMENTARY INFORMATION: The Motor Carrier Act of 1980 became effective on July 1, 1980. Among several new objectives, it is now a goal of the National Transportation Policy to promote greater participation by minorities in the motor carrier industry.

In order to meet this overall objective, the Commission is establishing a system to identify and measure minority firms involved in surface transportation. The names compiled from the identification system will constitute a register which will serve as a useful means of communicating with minority firms already in or interested in entering the trucking business. This information will be available to the Commission and the Congress, as well as other agencies and organizations, to assist in designing and delivering programs to address the specific needs of these firms. To measure and identify existing minority carriers, a questionnaire will be mailed to all ICC regulated carriers. Only minority carriers will be asked to respond. A questionnaire will also be mailed to each *new* applicant for authority. This latter step will enable the Commission to update the information generated by the one-time mailing and will enable us to measure the change in minority participation since enactment of the Motor Carrier Act of 1980.

In addition, the level of participation in the regulated motor carrier industry by females and owner-operators is of equal concern to this agency. Specifically, the Commission will identify three classes of holders of ICC authority: *Minorities* (Black, Spanish origin, Asian American, American Indian, Aleutian, Other), *Females,* and *Owner-Operators* (those who own and operate their own vehicle). For purpose of definition, the classification of "minorities," "females," and owner-operators" means those firms where the identified group owns more than 50 percent of the company.

Through contacts with other agencies and organizations, the Commission will also identify minority-and female-owned carriers which do not hold ICC authority. These may involve, for example, intrastate or exempt carriers. This listing will be used as a reference source for the Commission's outreach efforts to increase minority participation in the interstate motor carrier industry.

Any available information concerning the identity of minority-or female-owned surface transportation businesses will assist the Commission's program in this area. Persons or firms in the described category are invited to forward their name, address, telephone number, and motor carrier number (if any) to: Interstate Commerce Commission, Lee Gardner, Room 7359, Washington, DC 20423.

Since participation in this data collection program is voluntary and since promulgation of no rule is contemplated, notice and comment are unnecessary and are not required under section 553 of the Administrative Procedure Act. 5 U.S.C. 553.

This action will have no effect on the human environment or conservation of energy resources.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10101 and 10321.

Dated: December 22, 1980

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1098 Filed 1-12-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP2-138]

Motor Carrier Permanent Authority, Decision-Notice

Decided: December 19, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Enegy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before Feburary 27, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. (Member Hill not participating).

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 125433 (Sub-456F), filed December 11, 1980. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *general commodities,* between Minter City, MS, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 150432 (Sub-12F), filed December 8, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 and 70, London, OH 43140. Representative: Owen B. Katzman, Suite 1111, 1828 L Street, NW, Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, betweem points in the U.S.

MC 150602 (Sub-2F), filed December 9, 1980. Applicant: CHARLES A. McCAULEY, INC., 100 Industrial Way, Hawthorn, PA 16230. Representative: Larry D. McCauley (same address as applicant). Transporting (1) *general commodities,* between Bridgetown, Cheviot, Covedale, Dent, Homewood, Miami, and Willeys, OH, and Alum Rock, Blairs, Dudley, Jefferson, Ritts, St. Petersburg, Turkey, and Worthington, PA, on the one hand, and, on the other, points in the U.S., and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Note.—The purpose of part (1) of this application is to substitute motor carrier service for abandoned rail carrier service.

[FR Doc. 81-1097 Filed 1-12-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Vol. No. OP4-393]

Motor Carrier Permanent Authority; Decision-Notice

Decided: January 6, 1981.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for perfoming that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before February 12, 1981, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 124887 (Sub-75F), filed February 22, 1979, previously published in the **Federal Register** issue of July 19, 1979, and republished this issue. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *building and construction materials*, between points in AL, FL, GA, LA, MS, NC, SC, and TN.

Note.—The purpose of this republication is to remove the restriction.

[FR Doc. 81-1095 Filed 1-12-81; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS:

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before February 27, 1981, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-141

Decided: December 29, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Member Jones not participating.)

MC 146403 (Sub-3F), filed December 10, 1980. Applicant: ROGER LOVE, d.b.a. ROGER LOVE TRUCKING, Route 3, East Grand Forks, MN 56721. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP4-180

Decided: January 7, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 153317F, filed December 16, 1980. Applicant: VINCE ZAMPINO, d.b.a. CARRIERS SERVICE, P.O. Box 1021, Sebring, FL 33870. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. As a *broker* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5-102

Decided: December 30, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Fortier not participating.)

MC 142368 (Sub-34F), filed December 16, 1980. Applicant: DANNY HERMAN TRUCKING, INC., 1415 E. 9th St., Pomona, CA 91766. Representative: John Ruggles, P.O. Box 3048, City of Industry, CA 91744. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 147868 (Sub-1F), filed December 16, 1980. Applicant: OKLAHOMA WESTERN LINES, INC., Route 2, Box 73, Checotah, OK 74426. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 153218F, filed December 17, 1980. Applicant: UNITED OHIO CORPORATION, 35300 Lakeland Blvd., Eastlake, OH 44094. Representative:

Richard A. Zellner, 800 National City—East 6th Bldg., Cleveland, OH 44114. To engage in operations as a broker arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1009 Filed 1-12-81: 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP2-139]

Motor Carrier Permanent Authority Decision-Notice

Decided: December 19, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed February 27, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. (Member Hill not participating).

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 37203 (Sub-13F), filed December 10, 1980. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, OK 74003. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *household goods* as defined by the Commission, between points in KS, OK, and TX, on the one hand, and, on the other, points in NV, WA, OR, UT, ID, SD, ND, MN, CA, and WI.

MC 71593 (Sub-79F), filed December 12, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson (same as applicant). Transporting (1) *food and kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment and supplies* dealt in or used by restaurants, between points in the U.S., (except AK and HI), restricted to traffic originating at or destined to the facilities of the Burger King Corporation.

MC 99463 (Sub-1F), filed December 4, 1980. Applicant: SHIMA TRANSFER CO., a corporation, 74 Mission Rock St., San Francisco, CA 94107. Representative: Charles A. Webb, Suite 1111, 1828 L St. NW., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), (1) between points in Alameda, Contra Costa, Fresno, Monterey, Placer, Sacramento, San Francisco, San Joaquin, Santa Clara, Stanislaus, and Yuba Counties, CA, and (2) between the points named in (1) above, on the one hand, and, on the other, points in Butte, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mendicino, Merced, Modoc, Napa, Nevada, Plumas, San Benito, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Tulare, and Yolo Counties, CA, restricted to traffic having a prior or subsequent movement by rail or water.

MC 99623 (Sub-5F), filed December 4, 1980. Applicant: JAMES E. GRIFFIN & SONS, INC., P.O. Box 1194, West Hanover, MA 02339. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Transporting *new furniture,* from Baldwinville, MA, to points in Atlantic, Burlington, Camden, Cumberland, Gloucester, and Salem Counties, NJ, and points in PA and DE.

MC 107012 (Sub-628F), filed December 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *metal articles,* from St. Louis, MO, to points in the U.S.

MC 107882 (Sub-49F), filed December 16, 1980. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Rd., Trenton, NJ 08638. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *blank security paper,* between points in the U.S., under continuing contract(s) with Crane & Company, Inc., of Dalton, MA.

MC 108703 (Sub-1F), filed December 16, 1980. Applicant: LEE & EASTES TANK LINES, INC., 2418 Airport Way South, Seattle, WA 98134. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *commodities* in bulk, between points in CA, ID, MT, OR, and WA.

MC 111812 (Sub-749F), filed December 12, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same address as applicant). Transporting (1) *Foods or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities used by Stokely-Van Camp, Inc., in CA, FL, IL, IN, MN, NJ, OR, TX, WA, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114552 (Sub-258F), filed December 11, 1980. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting

general commodities (except those of unusual value) household goods, as defined by the Commission, and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of United States Gypsum Company, at its subsidiaries.

MC 118803 (Sub-25F), filed December 16, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Rd., Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *printed matter,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between points in the U.S., under continuing contract(s) with Time, Incorporated, of Chicago, IL.

MC 123392 (Sub-91F), filed December 9, 1980. Applicant: JACK B. KELLEY, INC., Rte. 1, Box 400, Amarillo, TX 79106. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *commodities,* the transportation of which, because of size or weight requires the use of special equipment, between points in Potter and Randall Counties, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NE, NM, OK, and TX.

MC 125433 (Sub-457F), filed December 11, 1980. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *commodities* the transportation of which because of size or weight requires the use of special equipment or special handling, (2) *self-propelled articles,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in Troup County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128343 (Sub-69F), filed December 9, 1980. Applicant: C-LINE, INC., 303 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M St. NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with L.I.G. of England, Ltd., of Providence, RI.

MC 128742 (Sub-2F), filed December 16, 1980. Applicant: HALLWAY, INC., 700 W. North St., P.O. Box 2480, Springfield, IL 62705. Representative: Steven J. Rosenberg, 111 W. Washington St., Chicago, IL 60602. Transporting *liquid fertilizer and fertilizer ingredients,* from points in IL to points in IA, WI, IN, MO, KY, and AR.

MC 129032 (Sub-129F), filed December 16, 1980. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th E Ave., Tulsa, OK 74145. Representative: Jerry Garland (same address as applicant). Transporting (1) *alcoholic liquors,* and (2) *materials, equipment, and suppliers* used in the manufacture and distribution of alcoholic liquors, between points in IL, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 135152 (Sub-46F), filed December 9, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 2, P.O. Box 327. Representative: Jack B. Josselson, 700 Atlas Bank Bldg, 524 Walnut St., Cincinnati, OH 45202. Transporting (1) *agricultural implements* and *parts and accessories* for agricultural implements, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above between Troy and Waterford, NY and Burlington and Charlotte, VT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 136432 (Sub-5F), filed December 8, 1980. Applicant: DAVID C. RICHARD, d.b.a. D & M EXPRESS, Rte. 19, Evans City, PA 16033. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. Transporting (1) *railway car and locomotive brakes shoes* and *parts* for brake shoes, (2) *grade crossings,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, and (4) *railroad car wheels and rolled steel rings,* between points in the U.S., under continuing contract(s) with Railroad Friction Products Corporation, of Wilmerding, PA, and Edgewater Steel Company, of Oakmont, PA.

MC 139482 (Sub-184F), filed December 5, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting (1) *lumber and wood products,* (except furniture), *fiberboard, glass and glass products, and building materials and supplies,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Newark, NJ, Norfolk, VA, Philadelphia, PA, New Orleans, LA, and points in Charleston County, SC, New Hanover and Brunswick Counties, NC, Chatham County, GA, Bristol County, TN, Westmoreland County, PA, and Harrison and Mason Counties, WV, on the one hand, and, on the other, those poins in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 139583 (Sub-2F), filed December 15, 1980. Applicant: DEDICATED FREIGHT SYSTEMS, INC., 5800 Grant Ave., Cleveland, OH 44105. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *motor vehicles and trailers,* between points in the U.S., under continuing contract(s) with Jartran, Inc., of Coral Gables, FL.

MC 139843 (Sub-14F), filed December 9, 1980. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203. Transporting *clay,* from points in Tippah County, MS, to points in AL, AZ, AR, FL, GA, IL, IN, LA, MO, NM, OK, TN, and TX.

MC 140033 (Sub-94F), filed December 10, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *foodstuffs* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in the U.S., restricted to traffic originating at or destined to the facilities of Campbell Taggart, Inc., and its subsidiaries.

MC 140612 (Sub-66F), filed December 11, 1980. Applicant: ROBERT F. KAZIMOUR, 1200 Norwood Drive, SE, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting *general commodities* (except those of unusual-value, classes A and B explosives, household goods as defined by the Commission, commodites in bulk, and those requiring special equipment), between points in the U.S.

MC 142603 (Sub-37F), filed December 8, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *pulp, paper and allied products* as described in Item 26 of the Standard Transportation Code Tariff and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

MC 144452 (Sub-22F), filed December 9, 1980. Applicant: ARLEN LINDQUIST, d.b.a. ARLEN E. LINDQUIST

TRUCKING, 9172 Davenport St. NE., Minneapolis, MN 55434. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting *lawn, garden, and landscaping materials,* from points in IA, IL, GA, and WY to points in MN, ND, SD, WI, and IA.

MC 144572 (Sub-46F), filed December 10, 1980. Applicant: MONFORT TRANSPORTATION COMPANY, P.O.B. G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th St., Ste 2600, Denver, CO 80202. Transporting *foodstuffs* (except in bulk), from points in FL to Pueblo and Denver, CO.

MC 146083 (Sub-3F), filed December 16, 1980. Applicant: AIRFREIGHT TRANSPORTATION CORP. OF NEW JERSEY, 333 North Henry St., Brooklyn, NY 11222. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with LeeWards Creative Crafts, Inc., of Elgin, IL.

MC 146643 (Sub-64F), filed December 8, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with (a) Fedders Corporation, of Edison, NJ, (b) Motorola, Inc., of Schaumburg, IL, and (c) Belden Corporation, of Geneva, IL.

MC 149072 (Sub-1F), filed November 25, 1980. Applicant: ROBERT L. BELL, Skaar Route, Box 264, Sidney, MT 59270. Representative: David L. Jackson, 203 North Ewing St., Helena, MT 59601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Roosevelt, Richland, McCone, Dawson, Prairie, and Wibaux Counties, MT.

MC 149282 (Sub-1F), filed December 4, 1980. Applicant: CLIFFORD A. PARKHURST, 1229 Dakota North, Huron, SD 57350. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment and supplies* used in the production and distribution of the commodities in (1) above, between points in Brown and Eau Claire Counties, WI, and Beadie County, SD, on the one hand, and, on the other, points in the U.S. Condition: Issuance of this certificate is subject to prior or coincidental cancellation at applicant's written request of authority in MC–149282F.

MC 150953 (Sub-1F), filed December 10, 1980. Applicant: SEVERS YARN EXPRESS, INC., Suite 724, 3450 Drummond St., Montreal, Quebec, CD H3G 1Y2. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. Transporting (1) *textiles and textile products,* and (2) *materials and supplies* used in the manfacture of the commodities in (1) above, AL, GA, SC, NC, and VA, on the one hand, and, on the other, ports of entry on the International boundary line between the United States and Canada in NY.

Note.—The person or person who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343 or submit an affadavit indicating why such approval is unnecessary.

MC 151173 (Sub-1F), filed December 8, 1980. Applicant: HAR-BET, INC., 7209 Tara Blvd., Jonesboro, GA 30236. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd. NE., Atlanta, GA 30326. Transporting *foodstuffs,* between points in Peoria and Vermilion Counties, IL, on the one hand, and, on the other, points in Fulton, DeKalb, Clayton, and Cobb Counties, GA.

MC 151433 (Sub-1F), filed December 11, 1980. Applicant: ZILA'S TRANSPORTATION CO., INC., 55 Caven Point Rd., Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *petroleum products and lube oil additives,* in bulk, in tank vehicles, from Marcus Hook and Philadephia, PA, to Edison, Elizabeth, and East Rutherford, NJ.

MC 151583 (Sub-1F), filed December 16, 1980. Applicant: UTF CARRIERS, INC., Benson Rd., Middlebury, CT 06749. Representative: William Q. Keenan, 7 Corporate Park Dr., Suite 109, White Plains, NY 10604. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with (a) Uniroyal, Inc. and (b) USCO Services, Inc., both of Middleburg, CT. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 151772 (Sub-1F), filed December 12, 1980. Applicant: TWH, INC., 221 S. Hayes St., Tehachapi, CA 93561. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting (1) *cement,* in bulk, from points in Kern County, CA, to points in Clark, Lincoln, Esmeralda, and Nye Counties, NV, and (2) *gypsum and fluorspar,* in bulk, in the reverse direction.

MC 151943 (Sub-1F), filed December 12, 1980. Applicant: STRICKLAND UNLIMITED SERVICE, 3072–22nd Avenue, Oakland, CA 94602. Representative: James E. Strickland (same as applicant). Transporting (1) *such commodities* as are dealt in or used by hardware stores, drug stores, discount houses, grocery and food business houses (except frozen commodities and commodities in bulk), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract(s) with the Clorox Company, of Oakland, CA.

MC 152133 (Sub-1F), filed December 4, 1980. Applicant: THE JOHN R. TRUCKING CO., INC., 321 E. Wyoming Ave., Lockland, OH 45219. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Transporting *roofing materials,* (except in bulk), between Cincinnati, OH, on the one hand, and, on the other, points in the KY and IN.

MC 152582 (Sub-1F), filed December 9, 1980. Applicant: DAVID E. PROPST, d.b.a. PROPST DISTRIBUTING COMPANY, Route 2, Box 795, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. Transporting *furniture or fixtures* as described in Item No. 25 of The Standard Transportation Commodity Code Tariff, between points in the U.S. under continuing contract(s) with Southern Furniture Company, of Conover, Inc.

MC 153153F, filed December 12, 1980. Applicant: DIXIE CAROLINA EXPRESS, INC., P.O. Box 924, Douglasville, GA 30133. Representative: David L. Capps (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in Douglas, Gwinnett, Rockdale, Clayton, Cobb, DeKalb and Fulton Counties, GA, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, TN, and VA.

MC 153162F, filed December 10, 1980. Applicant: PAUL H. HERSHEY, 121 Field Crest Lane, Gordonville, PA 17529.

Representative: John W. Metzger, Esquire, 49 North Duke Street, Lancaster, PA 17602. Transporting *agricultural limestone* (a) from points in Lancaster County, PA, to points in NY, NJ, DE, MD, and VA, and (b) from Viola and Laurel, DE, to points in MD and VA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1098 Filed 1-12-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or juridictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 2, 1981, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of and effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-140

Decided December 24, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce and Jones. (Member Joyce not participating.)

MC 2202 (Sub-640F) (Correction), filed October 23, 1980, published in the **Federal Register**, issue of December 17, 1980, and republished, as corrected, this issue. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), I. *Regular routes:* (1) between Sacramento, CA and Marysville, CA, over CA Hwy 70; (2) between Sacramento, CA and Yuba City, CA, over CA Hwy 99; (3) between Sacramento, CA and Roseville, CA, over Interstate Hwy 80; (4) between San Rafael, CA and junction CA Hwys 29 and 37: from San Rafael over U.S. Hwy 101 to junction CA Hwy 128, then over CA Hwy 128 to junction CA Hwy 29, then over CA Hwy 29 to junction CA Hwy 37, and return over the same route; (5) between Napa, CA and junction CA Hwys 121 and 37, over CA Hwy 121 to junction CA Hwy 37; (6) between Monte Rio, CA and junction CA Hwys 12 and 121: from Monte Rio over CA Hwy 116 to junction CA Hwy 12, then over CA Hwy 12 to junction CA Hwy 121, and return over the same route; (7) between Merced, CA and Fresno, CA: from Merced over CA Hwy 140 to junction CA Hwy 33, then over CA Hwy 33 to junction CA Hwy 180, then over CA Hwy 180 to Fresno, and return over the same route. (8) between Swanton, CA and Carmel Valley, CA: from Swanton over CA Hwy 1 to junction CA Hwy G16, then over CA Hwy G16 to Carmel Valley, and return over the same route. (9) between the junction CA Hwys 152 and 156 and junction CA Hwys 152 and 1: from junction CA Hwys 152 and 156 over CA Hwy 152 to junction CA Hwy 1, and return over the same route. (10) between CA Hwy 156 and 152 and junction CA Hwys 129 and 152: from junction CA Hwy 156 and 152 over CA Hwy 156 to junction CA Hwy 129, then over CA Hwy 129 to junction CA Hwy 152, and return over the same route. (11) between Visalia, CA and junction CA Hwys 190 and 99: from Visalia over CA Hwy 198 to junction CA Hwy 65, then over CA Hwy 65 to junction CA Hwy 190, then over CA Hwy 190 to junction CA Hwy 99, and return over the same route. (12) between junction CA Hwy 1 and U.S. Hwy 101 near Gavista, CA and Los Alamos, CA: from junction CA Hwy 1 and U.S. Hwy 101 near Gavista, over CA Hwy 1 to junction CA Hwy 135, then over CA Hwy 135 to Los Alamos, and return over the same route; (13) between junction CA Hwy 111 and Interstate Hwy 10 near White Water, CA and junction CA Hwy 111 and Interstate Hwy 10 near Indio, CA: from junction CA Hwy 111 and Interstate Hwy 10 near White Water, over CA Hwy 111 to junction Interstate Hwy 10 near Indio, and return over the same route; (14) between Escondida and Oceanside, CA: from Escondida over CA Hwy S6 to junction CA Hwy 76, then over CA Hwy 76 to Oceanside, and return over the same route: (15) between murrieta and Escondida, CA, over Interstate Hwy 15; (16) between junction CA Hwy S13 and Interstate Hwy 15 and CA Hwys S13 and 76: from junction CA Hwy S13 and Interstate Hwy 15 over CA Hwy S13 to junction CA Hwy 76, and return over the same route: (17) between Pueblo and Colorado Springs, CO: from Pueblo over U.S. Hwy 50 to Canon City, then over CO Hwy 120 to junction CO Hwy 115, then over CO Hwy 115 to Colorado Springs, and return over the same route: (18) between Ontario and Nyssa, OR, over OR Hwy 201. Applicant intends to serve all intermediate points in parts (1) through (18).

II. *Irregular routes:* between points in Sacramento County, CA; Boulder, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo, Teller, and Weld Counties, CO: Ada, Bannock, Bingham, Bonneville, Canyon, Cassia, Gem, Gooding, Jefferson, Jerome, Kootenai, Latah, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Fayette, Power, Twin Falls, and Washington Counties, ID; Deer Lodge, Jefferson, Lewis & Clark, Powell, and Silverbow Counties, MT; Clark and Storey Counties, NV; Benton, Clarkamas, Clatsap, Columbia, Douglas, Jackson, Josephine, Lane, Linne, Marion, Multnomah, Polk, Washington, and Yamhill Counties, OR; Box Elder, Cache, Davis, Juab, Morgan, Salt Lake, Tooele, Utah and Weber Counties, UT; Asoitin, Benton, Clark, Chelan, Cowlitz, Franklin, Garfield, Grays Harbor, Island, King, Kitsap, Kittitas, Lewis, Mason, Pierce, Skagit, Snohomish, Spokane, Thurston, Walla Walla, Chatcom, and Yakima Counties, WA: and Albany, Laramie, and Natrona Counties, WY. Applicant intends to tack the authority in II above, with its existing authority, at all common points.

Note.—The purpose of this republication is to correct the territorial description.

MC 99123 (Sub-9F), filed December 5, 1980. Applicant: QUAST TRANSFER, INC., P.O. Box 7, Winsted, MN 55395. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Minneapolis and Eden Valley, MN, over MN Hwy 55, (2) between Minneapolis and Litchfield, MN, over U.S. Hwy 12, (3) between Minneapolis, MN and junction MN Hwys 7 and 22, over MN Hwy 7, (4) between Minneapolis and Stewart, MN, over U.S. Hwy 212, (5) between Minneapolis and Norwood, MN, over MN Hwy 5, (6) between Eden Valley, MN and junction MN Hwys 22 and 15, over MN Hwy 22, (7) between Kimball, MN and junction MN Hwy 15 and U.S. Hwy 212, over MN Hwy 15, (8) between Howard Lake, MN and junction MN Hwy 261 and U.S. Hwy 212: from Howard Lake over Wright and McLeod County Road 6 to junction MN Hwy 261, then over MN Hwy 261 to junction U.S. Hwy 212, and return over the same route, and (9) in connection with routes (1) through (8) above, serving (a) all intermediate points and (b) Green Isle and Fairhaven, MN, points in McLeod and Carver Counties, MN, those in Wright and Hennepin Counties, MN on and south of MN Hwy 55, and those in Meeker County, MN on and south of MN Hwy 55 and on and east of MN Hwy 22, as off-route points.

Note.—Applicant intends to tack the authority sought herein with its existing authority.

MC 107403 (Sub-1343F), filed December 15, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting (1) *anhydrous ammonia,* between points in Grand Forks and McHenry Counties, ND, and Pine Bend and Pope Counties, MN, on the one hand, and, on the other, points in SD, (2) *lime,* in bulk, from Shelby County, AL, to points in GA, NC, SC, and TX, and (3) *ground limestone,* in bulk, from talladega County, AL, to points in CT, NY, NJ, PA, MD, DE, WV, VA, NC, WI, IL, OH, MI, KY, and DC.

MC 121342 (Sub-1F), filed December 4, 1980. Applicant: GALLO CONSTRUCTION CO., INC., 845 Sandwich Rd., P.O. Box 443, Sagamore, MA 02561. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *salt, in bulk,* between points in MA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, and CT, and (2) *general commodities* (except classes A and B explosives), between points in MA.

Note.—The purpose of part (2) is to convert its existing certificate of registration. Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate No. MC-121342 Sub 1F, issued October 5, 1966.

MC 127922 (Sub-1F), filed December 15, 1980. Applicant: NELLO PISTORESI & SON, INC., P.O. B. 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions In Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in the U.S., under continuing contract(s) with (a) Washington Beef Producers, Inc., (b) Worrell Meat Co., Inc., both of Yakima, WA, and (c) Schaake Packing Co., of Ellensburg, WA.

MC 141532 (Sub-105F), filed December 17, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy., Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting (1) *primary metal products;* including galvanized, except coating or other allied processing, (2) *fabricated metal products,* except ordnance, and (3) *machinery,* except electrical, as described in Items 33, 34, and 35, respectively, of the Standard Transportation Commodity Code Tariff, between points in Madera and Fresno Counties, CA, on the one hand, and, on the other, points in the U.S.

MC 150383 (Sub-2F), filed December 17, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, North 6th St. Rd., Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy, Ave., Park Ridge, IL 60068. Transporting (1) *meats, meat products, and meat by-products, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *materials, equipment, and supplies,* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Wilson Foods Corporation, of Oklahoma City, OK.

MC 151703 (Sub-4F), filed December 18, 1980. Applicant: NORSUB, INC., R.D. No. 1, Box 317, Evans City, PA 16033. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *such commodities* as are dealt in or used by manufacturers of steel and aluminum, between points in the U.S., restricted to traffic originating at or destined to the facilities used by S. H. Bell Company and Derby & Co., Inc.

MC 153132 (Sub-1F), filed December 15, 1980. Applicant: TOW-LO EXPRESS, INC., One Notre Dame Dr., Greenville, SC 29609. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in SC, restricted to traffic having a prior or subsequent movement by rail.

MC 153143F, filed December 9, 1980. Applicant: GEORGE L. POWELL, 356 Dale Rd., Beaverton, MI 48612. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *such commodities* as are dealt in or used by manufacture of laminated product, between points in the U.S., under continuing contract(s) with Michigan Maple Block Company, of Petoskey, MI.

MC 153183F, filed December 15, 1980. Applicant: GUILLERMO GUILLEN, d.b.a. GUILLEN & SON TRUCKING, 1811 South Seventh St., San Jose, CA 95112. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from points in Santa Clara and San

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Benito Counties, CA, to points in NM and TX.

MC 153232F, filed December 16, 1980. Applicant: DAVID D. SALKA, d.b.a. DAVID D. SALKA FREIGHT LINES, 59 Valley View Drive, Meriden, CT 06450. Representative: John E. Fay, Esq., 663 Maple Avenue, Hartford, CT 06114. Transporting *such commodities* as are dealt in or used by manufactures of non-alcoholic beverages between Meriden, CT, on the one hand, and, on the other, points in MA, RI, NH, VT, ME, NY, NJ, PA, and MD, under continuing contract(s) with Conn. Seven Up Bottling Co., Inc., of Meriden, CT.

Volume No. OP2-142

Decided: December 29, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce and Jones. (Member Jones not participating.)

MC 110053 (Sub-1F), filed December 1, 1980. Applicant: ILLINOIS STATE MOTOR SERVICE, INC., 1800 W. 31st St., Chicago, IL 60608. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting *iron and steel articles* (1) between points in Putnam County, IL and points in MI, and (2) between Chicago, IL, on the one hand, and, on the other, points in Rock Island County, IL, and Scott County, IA.

MC 130453 (Sub-1F), filed December 11, 1980. Applicant: CRAWFORD TOURS, INC., 5418 William Flynn Hwy., Rte. 8, Gibsonia, PA 15044. Representative: Jerry Purcell, 16 Chatham Square, Pittsburgh, PA 15219. As a *broker*, at Gibsonia, PA, to arrange for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in the U.S. (except OH, PA, and WV), and extending to points in the U.S. (including AK and HI).

MC 139083 (Sub-10F), filed December 8, 1980. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington Courthouse, OH 43160. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006.Transporting (1) *buildings, (2) iron and steel articles, (3) plastic and fiberglass pipe and (4) materials, equipment, and supplies* used in the manufacture, distribution, and sale of the commodities in (1) through (3) above, between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, PA, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 142603 (Sub-38F), filed December 9, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY Transporting *asbestos and asbestos fibre, and materials, equipment, and supplies* used in the manufacuture, sale and distribution of asbestos and asbestos fibre, between points in the U.S., under continuing contract(s) with Vermont Asbestos Group, Inc., of Morrisville, VT.

MC 150943 (Sub-2F), filed December 10, 1980. Applicant: F. H. SMITH TRANSPORT CO., INC., Rt. A, Box 83, Yellville, AR 72687. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Marion County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151383 (Sub-2F), filed December 10, 1980. Applicant: NICKELL TRUCKING CO., a corporation, 4901 West 51st St., Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East 4th St., Tulsa, OK 74103. Transporting (1) *light poles, traffic signals, electrical substations, and iron and steel articles*, under continuing contract(s) with Jem Engineering and Manufacturing Company, Inc., of Tulsa, OK, (2) *machinery and pipe, and iron and steel articles*, under continuing contract(s) with Phennix & Scisson, Inc., of Tulsa, OK, (3) *commodities*, the transportation of which, because of size or weight, requires the use of special equipment, under continuing contract(s) with Gaffey, Inc., of Tulsa, OK, and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, between points in the U.S., under continuing contract(s) with the shippers named in (1), (2), and (3) above.

Volume No. OP5-100

Decided: December 30, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Fortier not participating.)

MC 52858 (Sub-126F), filed November 20, 1980. Applicant: CONVOY COMPANY, a corporation, 3900 NW Yeon Ave., P.O. Box 10185, Portland, OR 97210. Representative: Raymond A. Greene, Jr., 100 Pine Street, Ste 2550, San Francisco, CA 94111. Transporting *automobiles and trucks*, in secondary movements, in a truckway service, between points in CO and NM.

Note.—The person or persons who appear to be engaged in common control with applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit indicating why such approval is unnecessary.

MC 80498 (Sub-11F), filed December 2, 1980. Applicant: EARL C. SMITH, INC., 1720 Dove St., Port Huron, MI 48060. Representative: Leo Shimsky, 6464 Strong Ave., Detroit, MI 48211. Over regular routes, transporting *general commodities* (except classes A and B explosives) (1) between Detroit, MI and Port Huron, MI over Interstate Hwy 94. (2) Between Detroit, MI and Flint, MI over Interstate Hwy 75. (3) Between Detroit, MI and junction of Interstate Hwy 94 and U.S. Hwy 12 at or near Ypsilanti, MI over Interstate Hwy 94. (4) Between Detroit, MI and Flint, MI over Interstate Hwy 96 to junction U.S. Hwy 23, then over U.S. Hwy 23 to Flint. (5) Serving all intermediate points on the routes in paragraphs 1–4 above. (6) Serving as off-route points the facilities of the General Motors Corporation at or near Ypsilanti, MI. Condition: Issuance of certificates in this proceeding are subject to the coincidental cancellation at appliant's written request, of its Certificates of Registration in MC-80498 Subs 4, 8, and 9.

Note.—The purpose of this application is to convert applicant's Certificate of Registration in MC-80498 Sub Nos. 4, 8, and 9 to Certificates of Public Convenience and Necessity.

MC 93318 (Sub-20F), filed December 17, 1980. Applicant: JOE D. HUGHES, INC., P.O. Box 96469, Houston, TX 77013. Representative: J. Marshall Forsyth (same address as applicant). Transporting I (1)*machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; (3) *earth drilling machinery and equipment* and *machinery, equipment and supplies and pipe* incidental to, used in, or in connection with; (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of

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commodities into or from holes or wells, between points in AL, CO, CT, DE, FL, GA, KS, LA, ME, MD, MA, MS, MT, NH, NJ, NM, NY, NC, OK, RI, SC, TX, UT, VA, and WY, and II (1) *machinery, equipment, materials and supplies* used in, or in connection with, the drilling of water wells, *machinery and equipment* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of sulpher and its products, and (2) *materials and supplies* (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, between points in AL, CO, FL, GA, KS, LA, MS, MT, NM, OK, TX, UT, and WY. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation at applicant's written request, of its Certificate of Public Convenience and Necessity in MC 93318 Sub-Nos. 7, 8, 9, 11, 13, 14, and 18 and gateway elimination "E1" authority.

MC 99848 (Sub-5F), filed December 16, 1980. Applicant: J. F. LUX TRANS CO., INC., 232 Ash Street, Reading, MA 01867. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *general commodities* between points in CT and points in Hillsboro, Merrimack, Rockingham and Stafford Counties, NH; MA, and RI.

MC 10639 (Sub-1090F), filed December 17, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *fabricated metal products; except ordnance,* as described in Item 34 of the Standard Transportation Commodity Code Tariff, between Tulsa, OK, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 10981 (Sub-92F), filed December 16, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *frozen foods,* between points in Webster County, IA, on the one hand, and, on the other, points in CO, KS, MN, MO, NE, ND, SD, WI, and FL.

MC 11911 (Sub-67F), filed December 5, 1980. Applicant: MC CURDY TRUCKING, INC., P.O. Box 388, Latrobe, PA 15650. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Transporting (1) *malt beverages,* in containers, and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1), (a) between points in Butler County, OH, on the one hand, and, on the other, Alexandria, VA, and points in Lehigh County, PA, and Prince Georges County, MD, (b) between points in Lehigh County, PA, on the one hand, and, on the other, points in Chautauqua County, NY, (c) between Baltimore, MD, and points in Campbell County, KY, and Saginaw County, MI, on the one hand, and, on the other, Norfolk, VA, and points in Vanderburgh County, IN, and (d) between points in Evansville County, IN, on the one hand, and, on the other, Norfolk, VA.

MC 124109 (Sub-20F), filed December 16, 1980. Applicant: B.F.C. TRANSPORTATION, INC., P.O. Box 985, Cedar Rapids, IA 52406. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *materials, equipment, and supplies* used by processors of grain products and popcorn, between points in the U.S., under continuing contract(s) with National Oats Company, Inc., of Cedar Rapids, IA.

MC 128796 (Sub-8F), filed December 16, 1980. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Rd., Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Transporting (a) *such commodities* as are dealt in by department stores, and (b) *materials, equipment, and supplies* used in the conduct of such business, between points in the U.S., under continuing contract(s) with Federated Department Stores, Inc., of Cincinnati, OH.

MC 135598 (Sub-51F), filed December 15, 1980. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with American Cyanamid Company, of Wayne, NJ, its affiliates and subsidiaries.

Volume No. OP5–101

Decided: December 30, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill (Member Fortier not participating.)

MC 142059 (Sub-147F), filed December 16, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley, (same address as applicant). Transporting *furniture,* and *materials, equipment, and supplies* used in the manufacture and distribution of furniture, between points in Alexander County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144678 (Sub-25F), filed December 15, 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving those points in that part of FL on, north, and west of a line beginning at Cedar Keys, FL and extending along FL Hwy 24 to Baldwin, FL, then over U.S. Hwy 90 to Jacksonville, FL, and then along FL Hwy 10 to Atlantic Beach, FL, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 145108 (Sub-36F), filed December 5, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Ave., Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *construction materials,* between points in the U.S., under continuing contract(s) with Dur-O-Wal, Inc., of Baltimore, MD.

MC 145149 (Sub-10F), filed December 1, 1980. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, Wichita, KS 67201. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *butane, propane, natural gasoline,* and *molten sulfur,* between points in McKenzie County, ND, and Richland County, MT, on the one hand, and, on the other, points in CO, MT, MN, ND, SD, and WY. Condition: To the extent any certificate in this proceeding authorizes the transportation of propane or butane, it shall be limited to a period expiring 5 years from date of issuance.

MC 145359 (Sub-29F), filed December 16, 1980. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *drugs, toilet preparations, and chemicals,* between Elkhart, IN and Dayton, OH, on the one hand, and, on the other, points in the U.S.

MC 150699 (Sub-2F), filed December 15, 1980. Applicant: RST INDUSTRIES, LTD., P.O. Box 1316, 225 Thorne Ave., St. John, New Brunswick, Canada E2L 4H8. Representative: Fritz R. Kahn, Suite 1100, 1660 L St. NW., Washington, DC 20036. In foreign commerce only, transporting *gasoline, petroleum and petroleum products, chemicals and hazardous materials,* between points in the U.S., under continuing contract(s) with Irving Oil Limited, of St. John, New Brunswick, Canada.

MC 151849 (Sub-1F), filed December 9, 1980. Applicant: CALDWELL TRUCKING SERVICE, INC., P.O. Box 316, Imboden, AR 72434. Representative: James Caldwell (same address as applicant). Transporting *fertilizer ingredients,* in bulk in dump trucks, between points in the U.S., under continuing contract(s) with Frit Industries, Inc., of Ozark, AL.

MC 153028F, filed December 4, 1980. Applicant: DANIEL L. BOGARD, d.b.a. BOGARD DISTRIBUTING, P.O. Box 807, Greenwood, IN 46142. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN. 46240. Transporting *general commodities* (except A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Hoover Universal, Inc., of Georgetown, KY.

MC 153208F filed December 16, 1980. Applicant: AUG. DEIKE TRANSFER, INC., P.O. Box 727, Mankato, MN 56001. Representative: Timothy H. Butler, 4200 IDS Center, 80 South 8th St., Minneapolis, MN 55402. Transporting (1) *pulp, paper, or allied products* as described in Item 26 of the Standard Transportation Commodity Code, (2) *rubber, or miscellaneous plastics products* as described in Item 30 of the Standard Transportation Commodity Code, and (3) *machinery, except electrical,* as described in Item 35 of the Standard Transportation Commodity Code, between points in MN and points in WI.

MC 153219F filed December 17, 1980. Applicant: TIM'S TRANSFER, INC., 2250 Occidental Ave. So., Seattle, WA 98124. Representative: James T. Johnson, 1610 IMB Bldg., Seattle, WA 98101. Transporting *general commodities,* (except used household goods, commodities requiring special equipment, commodities in bulk, classes A and B explosives, and commodities requiring temperature control) between points in the U.S. under continuing contract(s) with Pacific Progress Shippers Association, Inc. of Seattle, WA.

Volume OP4-186

Decided: January 6, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

Mc 150406 (Sub-1F), filed November 13, 1980, previously published in the **Federal Register** issue of December 11, 1980 as MC 150404 (Sub-1F), and republished this issue. Applicant: MOTOR DRAYAGE CO., INC., 5215 Salem Hills Ln., Cincinnati, OH 45230. Representative: Ronald J. Denicola, 901 Fifth & Race Tower, Cincinnati, OH 45202. Transporting *valve, valve parts, rough castings, metal scraps, tools, and machinery,* between points in the U.S., under continuing contract(s) with Wm. Powell Company, of Cincinnati, OH.

Note.—The purpose of this republication is to correct applicant's Docket Number.

MC 151916 (Sub-1E), filed November 12, 1980, previously published in the **Federal Register** issue of December 10, 1980, republished this issue. Applicant: BARON TRANSPORT, INC., One Perimeter Way, Suite 455, Atlanta, GA 30339. Representative: Bill R. Davis, Suite 101, Emerson Center, Atlanta, GA 30339. Transporting *frozen bakery products,* between points in Carroll County, GA on the one hand, and, on the other, points in Rutherford County, TN.

MC 152056 (Sub-1E), filed December 8, 1980. Applicant: RHETT BUTLER TRUCKING, INC., Rt. 6, Box 83, Andalusia, AL 36420. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code and (2) *materials, supplies and ingredients,* between points in Morgan County, IL, on the one hand, and, on the other, points in AL, FL, GA, KY, MS, NC, SC, TN, LA and TX.

MC 152726 (Sub-1F), filed November 24, 1980, and noticed in the **Federal Register** issue of December 16, 1980, republished this issue. Applicant: CENTRAL VALLEY TRANSPORTATION, INC., P.O. Box 125, Howard, PA 16841. Representative: Andrew Lipman, 1776 F. St., NW., Washington, DC 20006. Transporting *coal,* from points in Centre and Clearfield Counties, PA, to points in NY.

Note.—The purpose of this republication is to correctly reflect the commodity description.

Volume No. OP4-187

Decided: January 7, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 70557 (Sub-42F), filed December 19, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 So. LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by this Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Union Camp Corporation.

MC 108587 (Sub-33E), filed December 16, 1980. Applicant: SCHUSTER EXPRESS, INC., 48 Norwich Ave., Colchester, CT 06415. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Springfield, MA, on the one hand, and, on the other, points in ME, NH, and VT within 110 miles of Boston, MA.

Note.—Applicant states it intends to tack this authority with its existing authority at Springfield, MA.

MC 143257 (Sub-2F), filed December 19, 1980. Applicant: CHAMBERS, LTD., 405 So. DeKalb St., Corydon, IA 50060. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *cosmetic body care products,* (2) *health food products,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Sasco Cosmetics, Inc., at or near Dallas, TX, on the one hand, and, on the other, points in the U.S.

MC 147547 (Sub-12F), filed December 16, 1980. Applicant: R & D TRUCKING COMPANY, INC., Church Rd., Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37217. Transporting (1) *pulp, paper, and allied products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Champion International Corporation, at or near Courtland, AL, on the one hand, and, on the other, points in AZ, CA, NM, OR, UT, CO, and WA.

MC 151017 (Sub-2F), filed December 18, 1980. Applicant: DEATON, INC., 317 Ave. W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Weyerhaeuser Company, of Hot Springs, AR.

MC 153357F, filed December 30, 1980. Applicant: COX MOTOR TRANSPORT, INC., 622 No. Broadway, Muncie, IN 47303. Representative: Edward B. Sanderson (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Central Union Warehouses, Inc., of Indianapolis, IN.

Volume No. OP4–188

Decided: January 7, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 19917 (Sub-1F), filed December 16, 1980. Applicant: E. R. JARRELL TRUCKING CO., a corporation, 1422 Smallman St., Pittsburgh, PA 15222. Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Heinz U.S.A., Division of H. J. Heinz Company, of Pittsburgh, PA.

MC 46007 (Sub-1F), filed December 18, 1980. Applicant: J. W. BROWNETT, INCORPORATED, 70 Canal St., Jersey City, NJ 07302. Representative: Nicholas J. Peckio, (same address as applicant). Transporting (1) *petroleum and petroleum products*, between points in the U.S., under continuing contract(s) with Texaco, Incorporated, of Bayonne, NJ, and (2) *animal fat and vegetable oils*, between points in the U.S., under continuing contract(s) with Standard Tallow Corporation, of Newark, NJ.

MC 58637 (Sub-1F), filed December 30, 1980. Applicant: TEEPLE TRUCK LINES, INC., Box 310, Decatur, IN 46733. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), serving those points in OH on and west of Interstate Hwy 75, those in IN on and north of Interstate Hwy 74 and on and east of U.S. Hwy 31, those in and those in MI on and east of U.S. Hwy 131, and south of Interstate Hwy 94, as off-route points in connection with carrier's presently authorized regular route operations between Richmond and Fort Wayne, IN over U.S. Hwy 27.

MC 107757 (Sub-1F), filed December 30, 1980. Applicant: M.C. SLATER, INC., P.O. Box 369, Granite City, IL 62060. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1) *iron and steel articles*, and (2) *commodities*, which because of size or weight, require special equipment, between St. Louis, MO, on the one hand, and, on the other, points in IL.

MC 123407 (Sub-657F), filed December 30, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: Sterling W. Hygema (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building materials (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Donn Corporation.

MC 136786 (Sub-238F), filed November 12, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Edina, MN 55435. Transporting (1) *such commodities* as are dealt in or used by department, hardware, drug and grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in U.S.

MC 143406 (Sub-2F), filed December 19, 1980. Applicant: MICHEL PROPERTIES, INC., Stenersen Lane, Cockeysville, MD 31030. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with The R. T. French Company, of Rochester, NY, Kal Kan Foods, Inc., of Vernon, CA, Airwick Industries, Inc., of Carlstadt, NJ, and Standard Brands, Incorporated, of New York, NY.

MC 147186 (Sub-2F), filed December 16, 1980. Applicant: TEUFEL BROTHERS, INC., Inman Ave., Avenel, NJ 07001. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *petroleum and petroleum products*, between points in the U.S., under continuing contract(s) with Amerada Hess Corporation, of Woodbridge, NJ.

MC 148737 (Sub-7F), filed December 19, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27043, Salt Lake City, UT 84125. Representative: Earl I. Sundeaus (same address as applicant). Transporting *chemicals* (except in bulk), from points in CT, MA, NJ, PA, and VA, to points in AZ, CA, IL, IN, OR, TN, TX, and WA.

MC 148737 (Sub-8F), filed December 19, 1980. Applicant: SUNSET EXPRESS CORPORATION, P.O. Box 27043, Salt Lake City, UT 84125. Representative: Earl I. Sundeaus (same address as applicant). Transporting *canned goods*, from points in CA, to points in CT, DE, IL, IN, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC.

MC 151716 (Sub-1F), filed December 18, 1980. Applicant: AMERICAN CARGO EXPRESS, INC., 747 Glasgow Ave., Inglewood, CA 90301. Representative: Miles L. Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Handy Dan Home Improvement Centers, of Los Angeles, CA.

MC 151766 (Sub-1F), filed December 19, 1980. Applicant: DIAMOND K TRUCKING CO., INC., 23 Terminal Rd., Lyndhurst, NJ 07071. Representative: Richard Kasten (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in NY, CT, RI, MA, PA, WV, VA, NC, and DC.

MC 152016 (Sub-1F), filed December 17, 1980. Applicant: CHICAGO AREA TRANSPORT, INC., 9517 South Merton, Oak Lawn, IL 60453. Representative: Roy Warner (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, WI, MN, IA, MO, IN, MI, and OH, restricted to traffic having a prior or subsequent movement by air, rail, or water.

Volume No. OP4–190

Decided: January 7, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 133917 (Sub-10F), filed December 8, 1980. Applicant: CARTHAGE FREIGHT LINE, INC., P.O. Box 315, Carthage, TN 37030. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Nashville, TN, and Valdosta, GA, from Nashville over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Valdosta, and return over the same route, serving the intermediate point of Chattanooga, TN, and all intermediate and off-route points in GA.

Note.—Applicant intends to tack with its existing authority.

Volume No. OP5-96

Decided: December 29, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 5888 (Sub-55F), filed December 11, 1980. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth St., Kansas City, MO 64105. Representative: Tom Zaun (same address as applicant). Transporting *metal products*, between Chicago, IL, on the one hand, and, on the other, points in AR and TX.

MC 35628 (Sub-439F), filed November 29, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation; 110 Ionia Ave. NW., P.O. Box 175, Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant). Over *regular* routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) between the District of Columbia, and Savannah, GA, from the District of Columbia over Interstate Hwy 395 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 16, then over Interstate Hwy 16 to Savannah, and return over the same route, (2) between Canton, OH, and Charleston, SC, from Canton over Interstate Hwy 77 to junction West Virginia Turnpike (near Charleston, WV), then over West Virginia Turnpike to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 26, then over Interstate Hwy 26 to Charleston, and return over the same route, (3) between Harrisburg, PA, and Amarillo, TX, from Harrisburg over U.S. Hwy 11 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Amarillo, and return over the same route, (4) between Lexington, KY, and Norfolk, VA, (a) from Lexington over Interstate Hwy 64 to Norfolk, and return over the same route, and (b) from Lexington over U.S. Hwy 60 to Norfolk, and return over the same route, and (5) between Wheeling, WV and Parkersburg, WV, over WV Hwy 2, (6) between Washington, PA, and junction U.S. Hwy 19 and the West Virginia Turnpike (just west of Beckley, WV) from Washington over Interstate Hwy 79 to junction U.S. Hwy 19, then over U.S. Hwy 19, to its junction with the West Virginia Turnpike and return over the same route, (7) between Columbus, OH and junction U.S. Hwy 33 and Interstate Hwy 77 (near Ripley, WV) over U.S. Hwy 33, (8) between Columbus, OH and Waycross, GA, from Columbus over U.S. Hwy 23 to Asheville, NC, then over U.S. Hwy 25 to Augusta, GA, then over U.S. Hwy 1 to Waycross, and return over the same route, (9) between Cincinnati, OH and Huntington, WV, from Cincinnati over OH Hwy 125 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Huntington, and return over the same route, (10) between junction Interstate Hwy 77 and Interstate Hwy 79 (near Charleston, WV) and the junction of Interstate Hwy 79 and U.S. Hwy 19, over Interstate Hwy 79, (11) between Petersburg, VA and San Antonio, TX, (a) from Petersburg over Interstate Hwy 85 to Montgomery, AL, then over Interstate Hwy 65 to junction Interstate Hwy 10, then over Interstate Hwy 10 to San Antonio, and return over the same route, and (b) from Petersburg over Interstate Hwy 85 to Montgomery, AL, then over Interstate Hwy 65 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 10, then over Interstate Hwy 10 to San Antonio and return over the same route, (12) between Knoxville, TN and Columbia, SC, from Knoxville over Interstate Hwy 40 to junction Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 126, then over Interstate Hwy 126 to Columbia, and return over the same route, (13) between Lexington, KY and Moorehead City, NC, from Lexington over U.S. Hwy 60 to Winchester, then over KY Hwy 15 to junction U.S. Hwy 119, then over U.S. Hwy 119 to Jenkins, KY, then over U.S. Hwy 23 to Kingsport, TN, then over U.S. Hwy 11W to Bristol, TN, then over U.S. Hwy 421 to Greensboro, NC, then over U.S. Hwy 70 to Moorehead City, and return over the same route, (14) between Corbin, KY, and Newport, TN, over U.S. Hwy 25E, (15) between Columbia, SC and Fort Worth, TX, from Columbia over Interstate Hwy 126 to junction Interstate Hwy 20, then over Interstate Hwy 20 to Fort Worth, and return over the same route, (16) between Amarillo, TX, and Savannah, GA, from Amarillo, TX, over U.S. Hwy 287 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Montgomery, AL, then over U.S. Hwy 80 to Macon, GA, then over Interstate Hwy 16 to Savannah, and return over the same route, (17) between Montgomery, AL and Dothan, AL, over U.S. Hwy 231, (18) between Atlanta, GA, and Valdosta, GA, over Interstate Hwy 75, (19) between Montgomery, AL and Jonesboro, AR, from Montgomery over Interstate Hwy 65 to Birmingham, then over U.S. Hwy 78 to Memphis, TN, then over U.S. Hwy 63 to Jonesboro, and return over the same route, (20) between Dothan, AL and junction Interstate Hwy 85 and Interstate Hwy 185, from Dothan over U.S. Hwy 431 to Phoenix City, then over U.S. Hwy 27 to junction Interstate Hwy 185, then over Interstate Hwy 185 to junction Interstate Hwy 85, and return over the same route, (21) between junction Interstate Hwy 20 and Interstate Hwy 77 (near Columbia, SC) and the junction of Interstate Hwy 20 and Interstate Hwy 95, over Interstate Hwy 20, (22) between junction U.S. Hwy 17 and Interstate Hwy 95 (near Rocataligo, SC) and Norfolk, VA, over U.S. Hwy 17, (23) between Memphis, TN, and New Orleans, LA, from Memphis, over Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, (24) between Jackson, MS and Mobile, AL, from Jackson, over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Mobile, and return over the same route, (25) between Meridian, MS, and New Orleans, LA, from Meridian over Interstate Hwy 59 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, (26) between Savannah, GA and Waco, TX, from Savannah over U.S. Hwy 17 to junction U.S. Hwy 82 then over U.S. Hwy 82 to Waycross, GA, then over U.S. Hwy 84 to Waco, and return over the same route, (27) between Evansville, IN, and Memphis, TN, from Evansville over U.S. Hwy 41 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 641, then over U.S. Hwy 641 to junction Interstate Hwy 24, then over Interstate Hwy 24 to the junction of the Kentucky Purchase Parkway Toll Road, then over the Kentucky Purchase Parkway Toll Road to junction U.S. Hwy 51, then over U.S. Hwy 51 to Memphis, and return over the same route, (28) between Lexington, KY, and junction Interstate Hwy 24 and U.S. Hwy 641, from Lexington over U.S. Hwy 60 to the junction of the Kentucky Bluegrass Parkway, then over the Kentucky Bluegrass Parkway to the junction of the Western Kentucky Parkway, then over the Western Kentucky Parkway to junction Interstate Highway 24, then over Interstate Hwy 24 to junction U.S. Hwy 641 and return over the same route, (29) between Montgomery, AL and Meridian, MS, over U.S. Hwy 80, (30) between San Antonio, TX and Tulsa, OK, (a) from San Antonio, TX over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to Dallas, then over U.S. Hwy 75 to Tulsa, OK and return over the same route, and (b) from San Antonio, TX over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35W to Fort Worth, TX, then over Interstate Hwy 20 to Dallas, TX, then over U.S. Hwy 75 to Tulsa, OK, and return over the same route, (31) between Houston, TX and Oklahoma City, OK, (a) from Houston over Interstate Hwy 45 to Dallas, TX, then over Interstate Hwy 35E to junction Interstate Hwy 35, then over Interstate Hwy 35 to Oklahoma City, and return over the same route, and (b) from Houston over Interstate Hwy 45 to Dallas TX, then over Interstate Hwy 20 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to junction Interstate Hwy 35, then over Interstate Hwy 35 to Oklahoma City, and return over the same route, (32) between Little Rock, AR and Dallas, TX, over Interstate Hwy 30, (33) between Houston, TX and Texarkana, TX, over U.S. Hwy 59, (34) between Lake Charles, LA and Shreveport, LA, over U.S. Hwy 171, (35) between Baton Rouge, LA and Fayetteville, AR, from Baton Rouge over U.S. Hwy 190 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Fayetteville, and return over the same route, (36) between Taxarkana, TX, and junction U.S. Hwy 79 and Interstate Hwy 35 (near Georgetown, TX), from Texarkana over U.S. Hwy 59 to Carthage, then over U.S. Hwy 79 to junction Interstate Hwy 35 and return over the same route, (37) between Houston, TX, and Waco, TX, from Houston over U.S. Hwy 290 to Giddings, then over U.S. Hwy 77 to Waco, and return over the same route, (38) between Fort Worth, TX and Henrietta, TX, over U.S. Hwy 287, (39) between Little Rock, AR, and Baton Rouge, LA, from Little Rock over U.S. Hwy 65 to Ferriday, then over U.S. Hwy 84 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Baton Rouge, and return over the same route, (40) between Memphis, TN, and junction of U.S. Hwy 165 and Interstate Hwy 10, from Memphis over U.S. Hwy 61 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 165, then over U.S. Hwy 165 to junction Interstate Hwy 90 and return over the same route, (41) between Amarillo, TX, and Denver, CO, over U.S. Hwy 87, (42) between Wilmington, NC and junction U.S. Hwy 220 and Interstate Hwy 81, from Wilmington over U.S. Hwy 74 to Rockingham, then over U.S. Hwy 220 to junction Interstate Hwy 81 and return over the same route, (43) between Norfolk, VA, and Middlesboro, KY, over U.S. Hwy 58, (44) between Oklahoma City, OK and Wichita Falls, TX, (a) from Oklahoma City, over U.S. Hwy 277 to Wichita Falls, and return over the same route, and (b) from Oklahoma City over the Oklahoma H. E. Bailey Turnpike to the OK–TX State line, then over U.S. Hwy 277 to Wichita Falls, and return over the same route, (45) between Bowie, TX, and Lawton, OK, from Bowie over U.S. Hwy 81 to junction Oklahoma Hwy 7, then over Oklahoma Hwy 7 to Lawton, and return over the same route, (46) between Beaumont, TX, and Denison, TX, over U.S. Hwy 69, (47) between Mobile, AL, and Tupelo, MS, from Mobile over U.S. Hwy 45 to junction Alternate U.S. Hwy 45, then over Alternate U.S. Hwy 45 to Tupelo, and return over the same route, (48) between Cincinnati, OH, and the District of Columbia, over U.S. Hwy 50, and (49) serving in routes (1) through (48) above all intermediate points, and points in AL, AR, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA, as off route points.

MC 72069 (Sub-32F), filed December 9, 1980. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: R. Emery Clark, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005. Transporting (1) *foodstuffs* and (2) *materials, equipment, and supplies* used in the manufacture of foodstuffs between points in DE, and those points in MD and VA (except Salisbury, MD), located east of the Chesapeake Bay and South of the Chesapeake and Delaware Canal, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 98478 (Sub-9F), filed December 25, 1980. Applicant: ROBBINS TRUCK LINE, INC., Route #1, Hardinsburg, KY 40143. Representative: Rudy Yessin, 113 West Main Street, Frankfort, KY 40601. Over *regular* routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction KY Hwy 56 and U.S. Hwy 60 and Cincinnati, OH, from junction KY Hwy 56 and U.S. Hwy 60, over U.S. Hwy 60 to junction U.S. Hwy 31W, then over U.S. Hwy 31W to junction Interstate Hwy 65, then over Interstate Hwy 65 to Louisville, then over Interstate Hwy 71 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Cincinnati, and return over the same route, serving points in Union, Webster, Henderson, McLean, Daviess, Hancock, Breckinridge, Meade, Hardin, Bullitt, Jefferson, Oldham, Trimble, Henry, Carroll, Gallatin, Boone, Kenton, and Campbell Counties, KY and Hamilton County, OH, as off-route points.

MC 99569 (Sub-7F), filed December 8, 1980. Applicant: STOTT & DAVIS MOTOR EXPRESS, INC., 18 Garfield St., Auburn, NY 13021. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), (1) between points in NY, PA, and NJ, and (2) between points in NJ, CT, MA, RI, and NY.

MC 120368 (Sub-2F), filed December 10, 1980. Applicant: DIXIE TRUCKING COMPANY, INC., 4901 Sunset Road, Charlotte, NC 28213. Representative: K. D. Shaver, Sr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Alamance, Anson, Beaufort, Bladen, Cabarrus, Catawba, Chowan, Cleveland, Columbus, Craven, Cumberland, Durham, Edgecombe, Forsyth, Gaston, Granville, Guilford, Halifax, Harnett, Hertford, Hoke, Lee, Mecklenburg, Montgomery, Moore, New Hanover, Pasquotank, Randolph, Richmond, Robeson, Rockingham, Scotland, Stanly, Union, Vance, Wake, Wayne, Wilson, Alexander, Brunswick, Caswell, Chatham, Davidson, Davie, Franklin, Iredell, Johnston, Lincoln, Nash, Orange, Person, Rowan, Warren, and Yadkin Counties, NC, and Cherokee, Chester, Chesterfield, Fairfield, Greenville, Kershaw, Lancaster, Laurens, Newberry, Richland, Spartanburg, Union and York Counties, SC.

Note.—Applicant seeks to convert its Certificate of Registration MC–120368.

MC 123048 (Sub-490F), filed December 10, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same address as applicant). Transporting *such commodities* as are dealt in or used by dealers and manufacturers of agricultural and industrial equipment, between points in the U.S.

MC 144678 (Sub-24F), filed December 8, 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in KY, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 145018 (Sub-18F), filed December 8, 1980. Applicant: NORTHWEST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Daniel W. Krane, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Over *regular* routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cleveland, OH and Newark, NJ, from Cleveland over OH Hwy 84 to junction OH Hwy 46, then over OH Hwy 46 to Ashtabula, OH, then over U.S. 20 to junction NY Hwy 78, then over NY Hwy 78 to junction NY Hwy 33, then over NY Hwy 33 to Batavia, NY, then over NY Hwy 5 to Albany, NY, then over NY Hwy 9J to junction U.S. Hwy 9, then over U.S. Hwy 9 to Newark, NJ, and return over the same route, serving all intermediate points (2) *general commodities* (except those of unusual value, classes A and B explosives, and those requiring special equipment) between New York, NY and Atlantic City, NJ, from New York over U.S. Hwy 9 to junction NJ Hwy 34, then over NJ Hwy 34 to junction NJ Hwy 79, then over NJ Hwy 79 to junction U.S. Hwy 9, then over U.S. Hwy 9 to junction U.S. Hwy 40 at Pleasantville, NJ, then over U.S. Hwy 40 to Atlantic City, and return over the same route, serving all intermediate points and off-route points on and north of U.S. Hwy 40, and (3) as alternate routes for operating convenience only, (a) between Cleveland, OH, and Philadelphia, PA, from Cleveland over Interstate Hwy 77 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 76, then over Interstate Hwy 76 to Philadelphia and return over the same route, (b) between Cleveland, OH, and New York, NY, (i) from Cleveland over Interstate Hwy 77 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 280 at or near Troy Hills, NJ, then over Interstate Hwy 280 to Newark, NJ, then over U.S. Hwy 9 to New York, and return over the same route, (ii) from Cleveland over Interstate Hwy 77 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 95 at or near Palisades Park, NJ, then over Interstate Hwy 95 to New York, and return over the same route, (c) between Philadelphia, PA and New York, NY, over U.S. Hwy 1.

Note.—The purpose of this application is to remove restrictions against serving intermediate points on the routes in (1) and (2) above and to provide alternate routes for operating convenience only, in (3) above.

Volume No. OP5–99

Decided: December 30, 1980.

By the Commission, Review Board No. 3, Members. Parker, Fortier, and Hill. (Member Fortier not participating).

MC 488 (Sub-20F), filed December 8, 1980. Applicant BREMAN'S EXPRESS COMPANY, a Corporation, 318 Haymaker Road, Monroeville, PA 15146. Representative: Joseph E. Breman, 700 Fifth Avenue Bldg., Fifth Floor, Pittsburgh, PA 15219. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Pittsburgh, PA, on the one hand, and, on the other, points in Armstrong, Beaver, Butler, Cameron, Clearfield, Elk, Fayette, Greene, Indiana, Jefferson, Lawrence, Washington, and Westmoreland Counties, PA.

MC 31389 (Sub-316F), filed December 15, 1980. Applicant: McLEAN TRUCKING COMPANY, a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27102. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between Kennewick, Pasco, and Spokane, WA, over U.S. Hwy 395, serving no intermediate points and serving Kennewick and Pasco, WA for purposes of joinder only.

Note.—Applicant intends to tack.

MC 113459 (Sub-142F), filed December 4, 1980. Applicant: H. J. JEFFRIES TRUCK LINES, INC., 4720 South Shields Blvd., Oklahoma City, OK 73143. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Transporting (A) *commodites* which, because of their size or weight, require the use of special equipment, and *related parts* when their transportation is incidental to the transportation of commodities, which by reason of size and weight require the use of special equipment, and *parts* of size and weight commodities when transported as separate and unrestricted shipments; (B) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection with them; and (C) *primary metal products*; including galvanized; except coating and other allied processing, fabricated metal products; except ordnance, *machinery* except electrical; and *transportation equipment*, in Items 33, 34, 35, and 37 respectively, as described in the Standard Transportation Commodity Code, between points in OK and TX, on the one hand, and, on the other, points in CA.

Note.—The sole purpose of this application is to substitute single-line of for joint-line service.

MC 119689 (Sub-33F), filed December 8, 1980. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad St., Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of American Cyanamid Company, its affiliates and subsidiaries.

MC 124328 (Sub-140), filed December 4, 1980. Applicant: BRINK'S INC., Thorndale Circle, P.O. Box 1225, Darien, CT 06820. Representative: Richard H. Streeter, 1729 H Street, NW., QAH Washington, DC 20006. Transporting *coin, currency, securities, food stamps, and such commercial papers, documents and written instruments* for the account of banks, banking and financial institutions, between points in the U.S., under continuing contract(s) with South Carolina National Bank, of Columbia, SC, and the National Bank of South Carolina, of Columbia, SC.

MC 127739 (Sub-8F), filed November 24, 1980. Applicant: BOYCE BRUCE TRUCKING CO., INC., 517 N. Metts St., Louisville, MS 39339. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. Transporting (1) *lumber* from points in Choctaw and Oktibbeha Counties, MS, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, NC, ND, NE, NM, OH, OK, PA, SC, SD, TN, TX, VA, WI, and WV, and (2) *poles, piling, lumber, cross-ties, cross-arms, and timbers* (a) from points in AL, FL, LA, and TN to points in Winston County, MS, and (b) from points in Winston County, MS, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, NC, ND, NE, NM, OH, OK, PA, SC, SD, TN, TX, VA, WI, and WV.

MC 138469 (Sub-259F), filed December 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission and classes A and B explosives), between points in AZ and Ca, on the one hand,

and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of The Price Company.

MC 144678 (Sub-23F), filed December 8, 1980. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). Over regular routes transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving points in TN as off-route points in connection with carrier's otherwise authorized regular route operations.

MC 147208 (Sub-1F), filed November 29, 1980. Applicant: BLUE RIDGE LINES, LTD., P.O. Box 5692, 33 Foxfire Drive, Asheville, MC 28813. Representative: Kingsland Hobein, Jr. (same address as applicant). Over *regular* routes, transporting *passengers and their baggage, express, mail and newspapers in the same vehicle with passengers,* (1) between Johnson City, TN, and Bristol, VA, (a) from Johnson City over TN Hwy 137 to Kingsport, then over U.S. Hwy 11W to Bristol, and return over the same routes, (b) from Johnson City over junction TN Hwy 137 and TN Hwy 93, over TN Hwy 93 to junction TN Hwy 93 and U.S. Hwy 11W, then over U.S. Hwy 93 to Bristol, and return over the same routes, (2) between Boone, NC, and junction U.S. Hwy 19 and U.S. Hwy 23, from Boone over NC Hwy 105 to Linville, then over U.S. Hwy 221 to junction U.S. Hwy 221 and NC Hwy 194, then over NC Hwy 194 to Ingalls, then over U.S. Hwy 19E to junction U.S. Hwy 19E and U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. 19 and U.S. Hwy 23, and return over the same routes, serving Banner Elk, NC as an off-route point, (3) between Johnson City, TN, and Elizabethton, TN, over U.S. Hwy 321, (4) between Johnson City, TN, and Bluff City, TN, over U.S. Hwy 19W, (5) between Asheville, NC, and Black Mountain, NC, (a) from Asheville over U.S. Hwy 70 to Black Mountain, and return over the same route, and (b) from Asheville over Interstate Hwy 240 to junction Interstate Hwy 240 and Interstate Hwy 40, then over Interstate Hwy 40 to Black Mountain and return over the same routes, (6) between Asheville, NC, and Greenville-Spartanburg Airport, SC, (a) from Asheville over Interstate Hwy 240 to junction Interstate Hwy 240 and Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 26 and U.S. Hwy 64, then over U.S. Hwy 64 to Hendersonville, then over U.S. Hwy 176 to Landrum, SC, then over SC Hwy 14 to junction SC Hwy 14 and Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 85 and Airport Access Road (Exit 57), then over Airport Access Road to Greenville-Spartanburg Airport, and return over the same routes, (b) from Asheville over Interstate Hwy 240 to junction Interstate Hwy 240 and Interstate Hwy 26, then over Interstate Hwy 26 to junction Interstate Hwy 26 and Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 85 and Airport Access Road (Exit 57), then over Airport Access Road to Greenville-Spartanburg Airport, and return over the same routes, (7) between Hendersonville, NC, and Greenville-Spartanburg Airport, SC, from Hendersonville over U.S. Hwy 25 to junction U.S. Hwy 25 and SC Hwy 290, then over SC Hwy 290 to Greer, SC, then over SC Hwy 14 to junction SC Hwy 14 and Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 85 and Airport Access Road (Exit 57), then over Airport Access Road to Greenville-Spartanburg Airport, and return over the same routes, (8) between junction U.S. Hwy 70 and NC Hwy 208, and Knoxville, TN, (a) from junction U.S. Hwy 70 and NC Hwy 208, then over U.S. Hwy 70 to junction U.S. Hwy 70 and Interstate Hwy 40, then over Interstate Hwy 40 to Knoxville, and return over the same routes (b) from junction U.S. Hwy 70 and NC Hwy 208, then over U.S. Hwy 70 to Newport, TN, then over U.S. Hwy 411 to junction U.S. Hwy 441, then over U.S. Hwy 441 to Knoxville, and return over the same routes, (9) serving in routes (1) through (8) above all intermediate points. Over *irregular* routes, transporting *passengers and their baggage,* in charter or special operations beginning and ending at points in Cook, Seviler, Knox, Carter, Washington, and Sullivan Counties, TN, Washington County, VA, Buncombe, Madison, Yancey, Avery, Watauga, Henderson, Polk, and Transylvania Counties NC, and Greenville and Spartanburg Counties, SC, and extending to points in the U.S. (including AK but excluding HI).

MC 147749 (Sub-3F), filed December 12, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99S., Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. under continuing contract(s) with Rulston Purina Company, of St. Louis, MO.

MC 151448 (Sub-2F), filed December 10, 1980. Applicant: BERNS TRANSPORTATION, INC., 4565 South Harding St., Indianapolis, IN 46217. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting (1) *such commodities* as are dealt in by manufacturers of pharmaceutical, cosmetic, packaging, and agricultural products, and (2) *materials and supplies* used in the manufacture of the commodities in (1) between the facilities of Eli Lilly and Company and its suppliers at points in Vermillion, Marion, and Tippecanoe Counties, IN, on the one hand, and, on the other, points in Randolph County, MO, and points in GA.

MC 151599 (Sub-1), filed December 8, 1980. Applicant: J. L. McCOY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except HI), under continuing contract(s) with Volkswagen of America, Inc., of Warren, MI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1089 Filed 1-12-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal Advisory Council on Unemployment Insurance; Meeting

A meeting of the Federal Advisory Council on Unemployment Insurance will be held on February 5, 1981, from 9 a.m. to 5 p.m. and on February 6, from 8:30 a.m. to 12:30 p.m. The meeting will be held in Room S-4215 A&B, Frances Perkins Labor Building, which is located at 200 Constitution Avenue NW., Washington, D.C.

Major topics that will be considered by the Council are the comprehensive final report of the National Commission on Unemployment Compensation, to the President and the Congress, particularly those matters impacting on present Administration policy and plans, and current unemployment insurance legislative activity.

Members of the public are invited to attend the proceedings. Written data, views, or arguments pertaining to the business before the Council must be received by the Council's Coordinator prior to the meeting date. Twenty duplicate copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to: Bob Johnston, Coordinator for the Federal Advisory Council on Unemployment Insurance, Room 7000, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone No. 202/376-7035.

Signed in Washington, D.C., this 7th day of January, 1981.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 81-1135 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-30-M

Federal Committee on Apprenticeship; Reestablishment

Notice is given that after consultation with the General Services Administration, it has been determined the the Federal Committee on Apprenticeship, whose charter expired January 5, 1981, is hereby reestablished for the period January 6, 1981, to July 1, 1982, this action is necessary and in the public interest.

The Committee will advise the Secretary of Labor on such matters as to be an effective and active advisory Committee which would be of considerable assistance to the Secretary of Labor and the Assistant Secretary for Employment and Training in carrying out their program responsibilities in the apprenticeship and journeyman training areas.

The Committee will consist of 10 representatives of employers, 10 representatives of organized labor, and 5 representatives of the public, including one or more educators.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the reestablishment of the Federal Committee on Apprenticeship. Such comments should be addressed to: Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, 601 D Street, N.W. (Room 5434), Washington, D.C. 20013.

Signed at Washington, D.C., this 8th day of January 1981.

Ernest G. Green,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 81-1136 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period December 29-31, 1980.

In order for an affirmative determination to be made and a certification of elgibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-8060; Hanimex Manufacturing, Inc., Jackson, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8127; Inland Tool Mfg. Co., Inc., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-11,207; Metokote Corp., Rushville, IN

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8338; Johnson Pattern and Model, Inc., Warren, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8329; Mechanical Services, Inc., Fraser, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-11,428 & 11,429; CAM 2, Detroit, MI and Southfield, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8294; Kean Mfg. Corp., Dearborn Heights, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of pierce nuts are negligible.

TA-W-8067 & 8251; MTG Industries, Inc. and Mustang Clothing Co., Inc., Philadelphia, PA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,881; E&R Welding and Press Repair, Inc., Lake Orion, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-10,950; John Barnett, Inc., St. Clair, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8822; Red Kap Ind., Plant #1, Dickson, TN

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8715; Baylock Manufacturing Corp., Leonard, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,454 [illegible] Tool Corp., Detroit, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tools and dies are negligible.

TA-W-11,058; Lomaco Motors, Inc., Portland, OR

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-11,090; City Car Terminal, Inc., Melvindale, MI

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8707A-C & 10,301; American Safety Equipment Corp., Pacoima, CA, Fresno, CA. San Fernando, CA, and Palmyra, MO

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W- 9654 and 9654A; Johnson Bronze Co., New Castle, PA and Summerville, SC

A certification was issued covering all workers of the New Castle Plant separated on or after July 16, 1979.

A certification was issued covering all workers of the Summerville Plant separated on or after March 16, 1980.

TA-W-7803; Zimmer Manufacturing Industries, Inc., Detroit, MI

A certification was issued covering all workers of the firm separated on or after April 2, 1979.

I hereby certify that the aforementioned determinations were issued during the period December 29-31, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, during normal working hours or will be mailed to persons who write to the above address.

Dated: January 6, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-1137 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7360]

New Haven Foundry, New Haven, Mich.; Negative Determination on Reconsideration

On July 9, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing automobile component parts at the New Haven Foundry, New Haven, Michigan.

In the petitioner's application for reconsideration he claimed that cylinder heads and engine blocks are cast in a foreign country and machined in the U.S. for one of their customers. The petitioner also claimed that imported automobiles are equipped with products which the New Haven Foundry manufactures.

The Department's review showed that workers at New Haven Foundry did not meet the "contributed importantly" test of the Trade Act of 1974. The Departmental survey showed that customers of New Haven Foundry do not purchase imported automobile component parts like or directly competitive with those purchased from the New Haven Foundry. Customers attributed the decline in purchases to the decline in the production of automobiles.

On reconsideration, the Department contacted additional customers representing nearly all of New Haven Foundry's 1979 sales. The results of this survey generally confirmed the earlier survey's results conducted by the Department. One customer imported cylinder head castings. In 1979, however, while it increased imports it also increased its own in-house production and its purchases from other domestic sources. In the first part of 1980 compared to the same period in 1979 it decreased its imports.

Further, increased auto imports cannot be used as a basis for certifying employees of independent auto component manufacturers producing automobile component parts. The Department has previously determined that component parts are not like or directly competitive with the finished article. This position has been supported by the courts.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers at the New Haven Foundry, New Haven, Michigan.

Signed at Washington, D.C., this 6th day of January 1981.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 81-1128 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7696]

Olympic Cedar Products, Inc., Amanda Park, Wash.; Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

On December 16, 1980, the Department reopened an investigation on behalf of workers and former workers producing cedar shakes at Olympic Cedar Products, Inc., Amanda Park, Washington. The Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers of Olympic Cedar Products was published in the **Federal Register** on September 9, 1980, (45 FR 59452).

The Department's review of the original decision to deny certification of the workers producing cedar shakes was based on the finding that the "contributed importantly" test was not met. In reaching its determination, the Department took into account responses received in a survey of several of Olympic Cedar Products' customers.

In its reopened investigation the Department found that data regarding an important customer of Olympic Cedar Products which had been received in the original investigation had been incorrect. New information revealed that this customer's purchases of imports of cedar shakes had increased substantially while it had decreased its purchases from the subject firm.

Conclusion

It is, therefore, concluded that a significant number or proportion of the workers of Olympic Cedar Products, Inc., Amanda Park, Washington, were totally or partially separated from employment and that increaded imports of cedar shakes contributed importantly to their separations and to the declines in production. The determination, therefore, is revised to certify all workers at Olympic Cedar Products, Inc., Amanda Park, Washington.

The revised determination applicable to TA-W-7696 is hereby issued as follows:

> All workers of Olympic Cedar Products, Inc., Amanda Park, Washington, who became totally or partially separated from employment on or after December 1, 1979, are

eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of January 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-1139 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,138]

This 'n That Sportswear, Limited, New York, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980 in response to a worker petition received on July 7, 1980 which was filed by the International Ladies' Garment Workers' Union on behalf of workers at This 'n That Sportswear, Limited, New York, New York.

During the course of the investigation, it was established that all production workers of This 'n That Sportswear, Limited, were separated from employment in February 1979. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is June 30, 1980 and, thus, workers terminated prior to June 30, 1979 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, the investigation has been terminated.

Signed at Washington, D.C., this 6th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-1140 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-5; Exemption Application No. D-1780]

Exemption From the Prohibitions for Certain Transactions Involving the Carpenters Retirement Trust of Western Washington, Located in Seattle, Wash.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) the issuance of commitments by the Carpenters Retirement Trust of Western Washington (the Plan) to certain financial institutions obligating the Plan to purchase mortgage loans originated by such financial institutions when the loans are secured by industrial and commercial buildings constructed by persons who are contributing employers with respect to the Plan; and (2) the purchase of mortgage loans from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 8, 1980, notice was published in the **Federal Register** (45 FR 52950) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the above described transactions.

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the reuested exemption to the Department. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the notice.

The Department received three comments to the notice of proposed exemption. All of the comments received supported the granting of the exemption request. In addition, the commentators offered their own views about certain aspects of mortgage investment by employee benefit plans which were unrelated to the proposed exemption. Accordingly, the Department has determined to grant the exemption as proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

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(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason to section 4975(c)(1) (A) through (D) of the Code, shall not apply to the issuance by the Plan through its Investment Committee of commitments to certain financial institutions, in accordance with guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans originated by such financial institutions, when the loans are secured by industrial and commercial buildings constructed by persons who, as contributing employers, are parties in interest or disqualified persons with respect to the Plan; and shall not apply to the purchase of mortgage loans, which meet the criteria of the guidelines and procedues set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they have previously sold to the Plan. The foregoing exemption will be applicable only if the following conditions are met:

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arm's-length transactions between unrelated parties;

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan, records are lost or destroyed prior to the end of the 6-year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained, or not available for examination as required by paragraph (c) below;

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any Trustee of the Plan or any duly authorized employee or representative of such Trustee;

(3) The Plan's investment manager(s) or any duly authorized employee or representative of such investment manager(s);

(4) Any employer of Plan participants;

(5) Any employee organization or duly authorized representative of such organization, whose members are covered by the Plan; and

(6) Any participant or beneficiary of the Plan or any duly authorized employee or representative of such participant or beneficiary.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 7th day of January 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-1101 Filed 1-12-81; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (81-4)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC) Informal Executive Subcommittee; Meeting

ACTION: Notice of meeting

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of committee: NAC AAC Informal Executive Subcommittee.
Date and time: February 6, 1981, 8:30 a.m. to 4:30 p.m.
Address: NASA Headquarters, 600 Independence Ave., Room 625, Washington, DC.
Type of meeting: Open.
Agenda: February 6, 1981.
8:30 a.m.—Chairperson's Remarks
9:00 a.m.—Discussion of June 16-17, 1980 Meeting
10:00 a.m.—Subcommittee Chairperson's Reports
12:30 p.m.—Report from ad hoc Subcommittee on Commuter Aircraft Transport Technology
1:30 p.m.—Discussion of potential ad hoc Program Plan Review Subcommittee
4:30 p.m.—Adjourn

FOR FURTHER INFORMATION CONTACT: Mr. C. Robert Nysmith, Executive Secretary of the Subcommittee, National Aeronautics and Space Administration, Code R, Washington, DC 20546 (202/755-3238).

SUPPLEMENTARY INFORMATION: The Informal Executive Subcommittee was established to provide overall guidance and direction to the discipline and vehicle class oriented activities of the Aeronautics Advisory Committee. The Subcommittee, chaired by Dr. Robert Loewy, is comprised of six members.

The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

January 6, 1981.

[FR Doc. 81-1073 Filed 1-12-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-2)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC) and Space Systems and Technology Advisory Committee (SSTAC), Meeting

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting.

Name of committee: NAC Joint AAC and SSTAC Informal Advisory Subcommittee on Research.
Date and time: February 5, 1981, 8:30 to 4:00 p.m.
Address: NASA Headquarters, 600 Independence Ave., Room 625, Washington, D.C.
Type of meeting: Open.
Agenda: February 5, 1981
8:30 a.m.—Introduction
8:45 a.m.—Discussion of Subcommittee Objectives
10:15 a.m.—Basic Research in OAST
1:00 p.m.—Identification and Discussion of Future Activities
4:00 p.m.—Adjourn

FOR FURTHER INFORMATION CONTACT: Dr. Ellis E. Whiting, Executive Secretary of the Subcommittee, National Aeronautics and Space Administration, Code RT-6, Washington, D.C. 20546 (202/755-3280).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Research was established to assess and strengthen the basic research elements of the NASA aeronautics and space technology programs in the Office of Aeronautics and Space Technology (OAST). The Subcommittee evaluates the adequacy of current and planned basic research activities in terms of scope, balance, quality, and in-house/out-of-house interactions and recommends program modifications to strengthen the total research program. The Subcommittee, chaired by Dr. Robert G. Loewy, is comprised of thirteen members.

The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

January 6, 1981.

[FR Doc. 81-1071 Filed 1-12-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-3)]

NASA Advisory Council, Historical Advisory Committee; Meeting

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of committee: NASA Advisory Council, Historical Advisory Committee.

Date and time: February 6, 1981, 9:15 a.m.-12:00 noon.

Address: Yale University, Lewis Seminar Room, Calhoun College, 189 Elm Street, New Haven, CT 06520.

Type of meeting: Open—except for a closed session as noted in the agenda below.

Agenda: February 6, 1981

9:15 a.m. The history program in 1980.
10:15 a.m. History at Johnson Space Center.
10:45 a.m. Preparation of report.
11:30 a.m. Evaluation of proposals (closed session).
12:00 noon Adjourn.

FOR FURTHER INFORMATION CONTACT: Monte D. Wright, Director NASA History Office, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-3612).

SUPPLEMENTARY INFORMATION: The Committee was established to advise NASA through the NASA Advisory Council on the accomplishments and plans of the NASA History Program including review of historical archives, official NASA histories and historical reports, historical service to NASA and Government, and the program's relation to academic and public activities.

This meeting will be closed to the public from 11:30 a.m. to 12:00 noon on February 6 for the committee to consider and make recommendations on candidates for undertaking various NASA historical activities. The committee will also recommend individuals to fill an anticipated vacancy on the committee. The personal and professional qualifications of the candidates, who are not members of the committee, will be candidly discussed and appraised. Public discussion of these matters would invade the privacy of the committee session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the session will be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room, which is about 20 persons.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

January 7, 1981

[FR Doc. 81-1072 Filed 1-12-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-1)]

NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Agriculture Land Cover and Hydrology; Meeting

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of Committee: NAC Space and Terrestrial Applications Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology.

Date and time: January 28-29, 1981, 8:30 a.m.-4:30 p.m.

Address: National Aeronautics and Space Administration, Room 226A, Federal Building 10B, 600 Independence Avenue SW, Washington, DC 20546.

Type of meeting: Open.

Agenda: January 28, 1981

8:30 a.m. Chairperson's remarks.
9:00 a.m. Status of committee recommendations.
10:30 a.m. Status of Fundamental Research Program.
12:30 p.m. Agriculture and resource Inventory Surveys Through Aerospace Remote Sensing (AgRISTARS) technical review summary.
2:30 p.m. Applications Pilot Test Program evaluation.
4:30 p.m. Adjourn.

January 29, 1981

8:30 a.m. Status of Renewable Resources Research Plan.
9:30 a.m. Status of Water resources Research Plan.
10:30 a.m. Status of Land Resources Research Plan.
12:30 p.m. Summary, conclusions, and recommendations.
3:00 p.m. Adjourn.

FOR FURTHER INFORMATION CONTACT: Dr. Howard Hogg, National Aeronautics and Space Administration, Code ERL-2, Washington, DC 20546 (202/755-4450).

SUPPLEMENTARY INFORMATION: This Sucommittee, comprised of eleven members of the NAC-STAAC, including the Chairperson, Dr. Robert Ragan, reviews status and plans of the NASA Renewable Resources Remote Sensing Program. Members of the public will be admitted to the meeting on a first-come, first-served basis and will be required to sign a visitor's register. The seating capacity of the room is 35 persons.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

January 7, 1981.

[FR Doc. 81-1070 Filed 1-12-81; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (AFI/Review); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (AFI/Review) to the National Council on the Arts will be held on January 29-30, 1981, from 9:00 a.m. to 5:30 p.m. at the William Morris Agency, 151 El Camino Drive, Beverly Hills, CA 90212.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-1113 Filed 1-12-81; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Painting Fellowships); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Painting Fellowships) to the National Council on the Arts will be held February 2-6, 1981, from 9:00 a.m. to 5:30 p.m., in room 1422, of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-1114 Filed 1-12-81; 8:45 am]

BILLING CODE 7537-01-M

POSTAL RATE COMMISSION

[Order No. 366, Docket No. MC81-1]

Mail Classification Schedule—Second-Class Mail Eligibility Requirements, 1981; Order Instituting Proceeding and Designating Officer of the Commission

Issued January 8, 1981.

Before Commissioners: A. Lee Fritschler, Chairman; Simeon M. Bright, Vice-Chairman; James H. Duffy; Clyde S. DuPont; Janet D. Steiger

The Postal Rate Commission, pursuant to 39 U.S.C. 3623(b), hereby institutes a mail classification proceeding. The evidentiary record to be developed in this proceeding will provide the basis for a recommended decision on the desirability of upholding, modifying or abolishing the four times per year mailing requirement now in effect for second-class mail eligibility.[1]

I. Background

On July 7, 1980, Professor Mark S. Monmonier[2] filed a petition with the Commission, requesting that we institute a mail classification proceeding pursuant to section 3623(b) of the Postal Reorganization Act. The substance of Professor Monmonier's proposal is that second-class eligibility requirements should be modified in order to permit a publisher having one publication now qualifying for second-class rates, to obtain second-class qualification for other of his publications which would qualify for second-class except for the minimum four times per year publication requirement. Specifically, Monmonier proposes that an "associated publication" be permitted to be mailed at second-class rates if (i) it meets all requirements for second-class rates except for the four times per year requirement, (ii) it is mailed to all addressees receiving the more frequently issued publication, (iii) indicates that it is an associated publication of the primary publication, (iv) contains all of the statements required for the primary publication, and (v) is administered by the same office of publication as the primary publication.

Notice of Professor Monmonier's petition was published in the **Federal Register** on August 1, 1980.[3] The Officer of the Commission[4] (OOC), the editor-in-chief of Atlas and Map Publications of Rand McNally and Company, the associate publisher of the Mercury Group Publications, the editor of The American Cartographer the Associate Executive Director for Publishing of the American Library Association, the Executive Vice President of the National Association of College and University Business Officers and the President of the Council for the Advancement and Support of Education, all filed responses in favor of institution of a mail classification proceeding.

The United States Postal Service opposes the initiation of a mail classification proceeding for several reasons: (1) the proposal would undermine eligibility requirements for second-class mail, (2) that the proposal, as offered, would discriminate among users in that it would apply only to publications issued by an institution or society, (3) that revenue would be lost through diversion to second-class from first and third class, and (4) increased administrative costs would result because of the difficulty of verifying mail qualifying under the proposed new requirements.

On October 16, 1980, in an attempt to clarify certain aspects of Professor Monmonier's petition, the Commission issued a notice of inquiry requesting Professor Monmonier to provide specific answers to seven questions concerning his proposed changes. In brief, the questions involved the number of times of publication, segregation of material by topic, the numbering system to be utilized, the format of the title page, the need for the proposed change and whether mailing lists for each publication were identical.

On November 28, 1980, the Service responded to Monmonier's answers with continued opposition to the proposal on the grounds that two separate publications would, in fact, result and that processing and administrative problems, as well as diminished second-class mail revenues, would result. The Service has requested that the Commission not institute a proceeding in this matter.

Under the discretion granted to us by Section 3623(b) of the Act,[5] the Commission has determined to institute a proceeding to explore the mail classification issues raised by Mr. Monmonier's petition. As subsequently discussed in this order, we believe that Professor Monmonier's petition raises legitimate mail classification issues involving second-class eligibility requirements. Furthermore, we point out that this petition represents a case of first impression for the Commission insofar as the question of the appropriateness of the four times per year mail requirement for second-class mail has not before been addressed by the Commission.

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[1] Section 2000.0101 of the Domestic Mail Classification Schedule (DMCS) provides that "[s]econd-class matter must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively."

[2] Mr. Monmonier is a professor of geography at Syracuse University and Chairman of the Publication Committee of the American Congress on Surveying and Mapping (ACSM).

[3] 45 FR 51321.

[4] The Officer of the Commission is a Commission staff member designated to represent the interests of the general public in rate and classification proceedings before the Commission. 39 U.S.C. 3624(a) (1970).

[5] 39 U.S.C. 3623(b).

II. Issues To Be Addressed

From the outset, we wish to make clear that this proceeding will address only those questions involving strictly mail classification issues;[6] strictly operational aspects of second-class mailings will not be considered. Therefore, this proceeding will consider only those issues which bear upon the Domestic Mail Classification Schedule provisions which relate to second-class mail eligibility.[7] Accordingly, the scope of this proceeding will be limited to the following two issues:

1. Is the four times per year frequency of issue criterion an appropriate requirement for second-class eligibility.
2. Should an exception to the four times per year requirement be created in the case of an "associated publication."

Furthermore, we will address these two issues only in general terms, that is, as they pertain to all potential mailers, rather than to any individual mailer or specific class of mailers.[8]

III. Procedural Steps

In addition to Professor Monmonier, the OOC and the Postal Service, all persons who have filed written comments upon Mr. Monmonier's petition will be made participants in this docket. Participants have been listed in Appendix A. Other persons desiring to participate in this proceeding should file a petition to intervene or a request to be heard as a limited participator. Persons listed in Appendix A who do not desire to participate in this proceeding should file a written request to withdraw.

The Officer of the Commission (OOC) designated to represent the interest of the general public in this proceeding will be Stephen L. Sharfman. During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor such personnel will participate in or advise as to any Commission decision in this case.[9] The OOC will supply, for the record, at the appropriate time the names of all Commission personnel assigned to assist him in this case. In this proceeding, the OOC shall be separately served with three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by § 10(c) of the rules of practice.[10]

At this juncture, we wish to point out that we find it necessary in this case to deviate somewhat from our usual practice of establishing at least a tentative hearing schedule. Accordingly, dates for a prehearing conference, hearings or other procedural matters will not be promulgated at this time. Simply, we are delaying moving forward in this proceeding because of the severe time constraints[11] imposed upon the Commission and its staff and resources by the pending general rate proceeding, Docket No. R80-1. Until our opinion and recommended decision in the rate proceeding issues, on or about February 20, 1981, the Commission will not be able to devote its full attention and energies to the present mail classification proceeding. Therefore, we shall hold in abeyance, until after our rate case opinion is issued, the establishment of a specific procedural schedule in this new docket.

However, the current state of the "pleadings" in this matter indicates that there is ample opportunity for informal attempts at agreements by the interested parties. For example, the filings to date indicate that there is a potential factual issue whether or not Professor Monmonier's proposal would result in greater administrative or mail processing costs for the Postal Service.[12] We believe that this and other issues of fact potentially arising in this proceeding ought to be explored by the parties with a view toward reaching a stipulation of facts to be presented to the Commission once formal hearing have commenced. We are actively encouraging parties to undertake a clarification of factual disputes for two primary reasons: (1) it will permit informal progress to be made in the docket during the period in which formal hearings are held in abeyance, and (2) it will permit the ultimate resolution of the issues to be accomplished more expeditiously after formal hearings commence.

Along these lines, we note, with approval, that the filings of the parties to date have evidenced a desire to effectuate a compromise of at least some of the areas which will be disputed in this proceeding.

The Commission Orders:

(A) The United States Postal Service and the Officer of the Commission are joined as parties to this docketed proceeding initiated pursuant to 39 U.S.C. 3623(b), and each of the persons identified in Appendix A to this order is hereby made an intervenor or a limited participator in this proceeding. Any person so designated in Appendix A not wishing to participate in this proceeding should file a request with the Secretary to withdraw.

(B) Petitions for leave to intervene by persons other than those listed in Appendix A must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268, on or before January 27, 1981, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to § 3001.20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner request a hearing or, in lieu thereof, a conference; and further, whether or not petitioner intends to participate actively in the hearing. Alternatively, these persons may seek limited participation, if they do not wish to become parties any may do so, on or before January 27, 1981, by filing a written request for leave to be heard as a "limited participator," pursuant to § 19(a) of the Commission's rules of practice (39 CFR § 3001.19(a)). In addition, persons wishing to express their views informally and not desiring to become a party or limited participant, may file comments pursuant to § 19(b) of the Commission's rules (39 CFR 3001.19(b)).

(C) The participants shall serve copies of all documents, including prepared direct evidence, upon representatives of the Postal Service, the OOC, intervenors and limited participators. For purposes of such service, where service upon more than one representative has been requested in a petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

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[6] 39 U.S.C. 3624, the Commission's jurisdiction pertains only to rates and fees and mail classification matters. Operational matters are strictly within the purview of the Postal Service. While Professor Monmonier's proposal is specifically addressed toward modification of the Domestic Mail Manual (DMM), which sets forth operational regulations governing domestic mail services, we are treating Monmonier's petition as relating to the Commission's jurisdiction over the DMCS. *See* 45 FR 51322 (August 1, 1980). Additionally, in comments filed on September 11, 1980, Professor Monmonier has indicated his awareness that the Commission's jurisdiction is limited to matters involving the DMCS.

[7] *See* Section 200 of the DMCS.

[8] Professor Monmonier's petition used the language "institution or society" in referring to an "associated publication." As pointed out earlier in the order, the Postal Service has taken exception to the discriminatory aspect of this language. However, Professor Monmonier subsequently indicated that he would be willing to have the "institution or society" language deleted from his petition.

[9] *See* 39 CFR 3001.8.

[10] *Id.*, § 3001.10(c).

[11] Under 39 U.S.C. 3624(c), the Commission must issue its opinion and recommended decision in a rate case not later than 10 months after receiving a request from the Postal Service. The rate case now pending before the Commission was filed on April 21, 1980, and, therefore, must be transmitted to the Governors not later than February 20, 1981.

[12] In a written follow-up, filed on December 15, 1980, to the Postal Service's response to his answers to the Commission's Notice of Inquiry, Mr. Monmonier apparently questions the Service's assertion of increased administrative expenses. Moreover, he alleged that any such increased cost would be offset by cost savings from less frequent mail pieces of subsidized mail.

(D) Stephen L. Sharfman is hereby designated as the Officer of the Commission (OOC) to represent the general public in this proceeding. Service of documents upon the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

(E) A procedural schedule in this docket or the dates for a prehearing conference or formal hearings in this docket will not be established until after the Commission's Opinion and Recommended Decision in the general rate proceeding now pending before the Commission (Docket No. R80-1) has issued.

By the Commission.

David F. Harris,

Secretary.

Appendix A.—Service List

[Docket No. MC81-1]

Mail Classification Schedule—Second-Class Mail Eligibility Requirements, 1981

Name:

Mark S. Monmonier, Professor of Geography, Syracuse University and Chairman, ACSM Publication Committee, Syracuse, New York 13210. United States Postal Service.

Jon M. Leverenz, Editor-in-chief, Atlas and Map Publications, Rand McNally and Company, 8255 North Central Park Avenue, Skokie, Illinois 60076

Donald E. Stewart, Associate Executive Director for Publishing, American Library Association, 50 East Huron Street, Chicago, Illinois 60611.

Judy M. Olson, Editor, The American Cartographer, Department of Geography, Boston University, Boston, Massachusetts 02215.

John A. Kuett, Associate Publisher, Mercury Group Publications, 12230 Wilkins Avenue, Rockville, Maryland 20852.

Representative: Robert E. Michelson, Esq., U.S. Postal Service, 475 L'Enfant Plaza, West, SW., Washington, D.C. 20260.

Name:

D. F. Finn, Executive Vice President, National Association of College and University Business Officers (NACUBO), One Dupont Circle, Suite 510, Washington, D.C. 20036.

James L. Fisher, President, Council for the Advancement and Support of Education (CASE), One Dupont Circle, Suite 500, Washington, D.C. 20036.

Officer of the Commission, Postal Rate Commission, Stephen L. Sharfman, Esq.

Representative: Maynard H. Dixon, Jr., Attorney, Postal Rate Commission, 2000 L Street, NW., Suite 500, Washington, D.C. 20268.

[FR Doc. 81-1087 Filed 1-12-81; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6263]

AAR Corp.; Application to Withdraw From Listing and Registration

January 6, 1981.

In the Matter of AAR Corp., Common Stock, $1 Par Value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of AAR Corp. (the "Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on November 13, 1980, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE, and believes that dual listing would fragment the market for its common stock.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interted person may, on or before January 28, 1981, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-1053 Filed 1-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11534, 812-4733]

Bullock Fund, Ltd., et al.; Application Filing

In the Matter of Bullock Fund, Ltd., Bullock Tax-Free Shares, Inc., Canadian Fund, Inc., Dividend Shares, Inc., High Income Shares, Inc., Money Shares, Inc., Monthly Income Shares, Inc., Nation-Wide Securities Company, Inc., and Calvin Bullock, Ltd., One Wall Street, New York, New York 10005.

January 5, 1981.

Notice is hereby given that Bullock Fund, Ltd., Canadian Fund, Inc., Dividend Shares, Inc., Monthly Income Shares, Inc., and Nation-Wide Securities Company, Inc. (collectively, the "Funds"), High Income Shares, Inc., ("High Income"), Bullock Tax-Free Shares, Inc. ("Tax-Free"), and Money Shares, Inc., ("Money Shares"), each registered as a diversified, open-end, management investment company under the Investment Company Act of 1940 ("Act"), and Calvin Bullock, Ltd. ("Bullock"), principal underwriter for the Funds, High Income, Tax-Free and Money Shares (the Funds, High Income, Tax-Free, Money Shares and Bullock are hereinafter referred to collectively as "Applicants"), filed an application on September 9, 1980, for an order: (1) pursuant to Section 11(a) of the Act, (a) to permit the Funds and Bullock to offer shares of the Funds in exchange for shares of High Income, on a basis other than their relative net asset values per share at the time of the exchange ("Relative Net Asset Value"), (b) to permit the Funds and Bullock to offer shares of the Funds in exchange for shares of Tax-Free on a basis other than Relative Net Asset Value, such shares of Tax-Free having been acquired in a prior exchange at Relative Net Asset Value, for shares of High Income, (c) to permit the Funds and Bullock to offer shares of the Funds in exchange for shares of Money Shares on a basis other than Relative Net Asset Value, such shares of Money Shares having been acquired in a prior exchange, at Relative Net Asset Value, for shares of High Income, (d) to permit the Funds and Bullock to offer shares of the Funds in exchange for shares of Money Shares on a basis other than Relative Net Asset Value, such shares of Money Shares having been acquired in a prior exchange, at Relative Net Asset Value, for shares of Tax-Free which in turn had been acquired in a prior exchange at Relative Net Asset Value, for shares of High Income, (e) to permit High Income and Bullock to offer shares of High Income in exchange for shares of Tax-Free, on a basis other than Relative Net

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Asset Value, and (f) to permit High Income and Bullock to offer shares of High Income in exchange for shares of Money Shares (which had been acquired in a Prior exchange at Relative Net Asset Value for shares of Tax-Free) on a basis other than Relative Net Asset Value; and (2) pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 22(d) of the Act in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Bullock maintains a continuous public offering of shares of the Funds, High Income, Tax-Free and Money Shares, and that (i) shares of each of the Funds are offered to the public at their respective net asset values plus a sales load which varies from 8.50 percent of the offering price on purchases of less than $10,000, to 1.00 percent of the offering price on purchases of $1 million or more; (ii) shares of High Income are offered to the public at net asset value plus a sales load which varies from 7.25 percent of the offering price on purchases of less than $25,000, to 1.00 percent of the offering price on purchases of $1 million or more; and (iii) shares of Tax-Free are offered to the public at net asset value plus a sales load which varies from 4.75 percent of the offering price on purchases of less than $100,000 to 1.00 percent of the offering price on purchases of $1 million or more. According to the application, Bulock maintains a continuous public offering of shares of Money Shares at net asset value, without the imposition of a sales load.

Applicants represent that certian exchanges of shares at Relative Net Asset Values are permitted under Section 11(a) of the Act and are currently available to shareholders of the Funds, High Income, Tax-Free and Money Shares. In general, Applicants state that shares of each of the Funds, High Income and Tax-Free may be offered in exchange for shares of any of the other investment companies that have an equal or lower sales load. For purposes of subsequent Relative Net Asset Value exchanges, Applicants state that shares acquired in exchange for shares of a company having a higher sales load are treated as if they had been purchased at the higher load. Further, shares of the Funds, High Income, Tax-Free or Money Shares acquired through reinvestment of dividends and capital gains distributions may be exchanged for shares of any of the Funds, High Income, Tax-Free or Money Shares on the basis of Relative Net Asset Value. Applicants further state that shares of Money Shares purchased for cash may not be exchanged for shares of any of the Funds, High Income or Tax-Free, and that a shareholder of Money Shares wanting to exchange shares acquired for cash would be required to redeem such shares of Money Shares and purchase shares of one of the Funds, High Income or Tax-Free for cash at the current offering price described in the prospectus of such investment company. Applicants also state that shares of Money Shares acquired through a Relative Net Asset Value exchange of shares of the Funds, High Income or Tax-Free and shares obtained from reinvestment of dividends or capital gains distributions be thereon may be reexchanged as if they had been acquired by paying the load applicable to the shares for which the Money Shares shares were originally exchanged.

Applicants state that, pursuant to an order of the Commission (Investment Company Act Release No. 9676, March 14, 1977), shares of Tax-Free acquired otherwise than in exchange for shares of the Funds or through reinvestment of dividends or capital gains distributions may be exchanged for shares of any of the Funds at Relative Net Asset Value plus a sales load equal to the difference between the sales load described in the prospectus of each of the Funds and the sales load originally paid on the purchase of the Tax-Free shares being exchanged. Applicants further state that, pursuant to another order of the Commission (Investment Company Act Release No. 10724, June 11, 1979), the Funds and Bullock are permitted to offer shares of the Funds, on a basis other than Relative Net Asset Value, in exchange for shares of Money Shares which were acquired in exchange for shares of Tax-Free at Relative Net Asset Value.

According to the application, in the case of each of the exchanges described above and the proposed exchanges, (i) the shares being exchanged must have a net asset value of at least $500 or the minimum initial amount required for investment, whichever is greater, and (ii) a service charge of $5.00 is deducted by Bullock to cover its clerical and other expenses.

Applicants seek exemptive relief to permit the following offers of exchange, each of which involves the inclusion of shares of High Income at some level in the overall transaction: (1) shares of High Income may be exchanged for shares of any of the Funds at Relative Net Asset Values, plus a sales load equal to the difference between the sales load described in the Funds' prospectuses and that originally paid on the purchase of High Income; (2) shares of Tax-Free (which were acquired in exchange for shares of High Income) may be exchanged for shares of any of the Funds at Relative Net Asset Value, plus a sales load equal to the difference between the sales load described in the Funds' prospectuses and that originally paid on the purchase of High Income; (3) shares of Money Shares (which were acquired in exchange for shares of High Income) may be exchanged for shares of any of Funds at Relative Net Asset Value, plus a sales load equal to the difference between the sales load described in the Funds' prospectuses and that originally paid on the purchase of High Income; (4) shares of Money Shares (which were acquired in exchange for shares of Tax-Free which in turn were acquired in exchange for shares of High Income) may be exchanged for shares of any of the Funds at Relative Net Asset Value, plus a sales load equal to the difference between the sales load described in the Funds' prospectuses and that originally paid on the purchase of High Income; (5) shares of Tax-Free may be exchanged for shares of High Income at Relative Net Asset Value plus a sales load equal to the difference between the sales load described in the High Income prospectus and that originally paid on the purchase of Tax-Free; and (6) shares of Money Shares (which were acquired in exchange for shares of Tax-Free) may be exchanged for shares of High Income at Relative Net Asset Value plus a sales load equal to the difference between the sales load described in the High Income prospectus and that originally paid on the purchase of the Tax-Free shares. Applicants assert that the sales loads payable on the proposed exchanges will be received by Bullock as principal underwriter for the Funds and High Income, and a portion of such sales loads may be reallowed to dealers.

Applicants state that the exchanges they propose would be on a basis other than Relative Net Asset Value because a shareholder would be required to pay the difference in sales load between those imposed on purchases of High Income and Tax-Free and those imposed on purchases of shares of the Funds and High Income, respectively. Applicants further state that the sales loads described in the prospectuses of each of the Funds and High Income differ from the sales loads which would be applicable to the proposed exchange offers.

Applicants state that in the event a shareholder desires to exchange for shares of High Income (i) shares of Tax-Free or Money Shares which were acquired in exchange for shares of any of the Funds or High Income or through reinvestment of dividends on any shares of Tax-Free or High Income however acquired, or (ii) shares of Tax-Free not acquired through an exchange of shares of Money Shares which were acquired in exchange for shares of Tax-Free, those shares which may be exchanged at Relative Net Asset Value without sales load will be exchanged first, and the remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales load.

Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make, or cause to be made, an offer to the holder of a security in the same or another such investment company to exchange that security for a security of the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issues by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request an order, pursuant to Section 11(a) of the Act, permitting the proposed offers of exchange on a basis other than Relative Net Asset Value, and pursuant to Section 6(c) of the Act, exempting such exchanges from the provisions of Section 22(d) of the Act to the extent necessary to permit the proposed exchanges.

Applicants state that the proposed exchange offers are designed to permit a shareholder of High Income, Tax-Free or Money Shares to satisfy his changing investment objectives by changing his investment to another investment company with different investment objectives without paying the full sales load otherwise applicable. Applicants submit that an exchange offer of one of the Funds to shareholders of High Income or of High Income to Tax-Free at the Relative Net Asset Value of the Funds or High Income, respectively, would inequitably benefit such shareholders who would have paid substantially less sales loads on their initial investments in shares of Tax-Free or High Income than similarly situated investors in High Income and the Funds, respectively.

Applicants submit that if shares of the Funds or of High Income could be acquired at net asset value in the proposed exchanges, such exchanges would be in violation of Section 22(d) of the Act and not within any of the exemptions therefrom provided in Rule 22d-1 under the Act since an investor would be able to purchase such shares of one of the Funds or of High Income at a sales load other than that described in its prospectus merely by purchasing shares in an investment company with a lower sales load and exchanging those shares for shares of an investment company with a higher sales load. Applicants further submit that (i) the proposed exchange offers are fair and equitable to shareholders of the Funds, High Income, Tax-Free and Money Shares, and give such shareholders flexibility in their financial planning, and (ii) that the granting of the order requested would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 30, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-1089 Filed 1-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6729; 19-78]

Ernst & Whinney Pension Plans; Application Filing

January 7, 1981.

Notice is hereby given that Ernst & Whinney ("Applicant" or "Firm"), 1300 Union Commerce Building, Cleveland, Ohio 44115 an Ohio partnership engaged in the practice of accountancy, has by letter dated May 27, 1980 applied for an exemption from the registration requirements of the Securities Act of 1933 ("Act") for interests or participations issued in connection with (a) Ernst & Whinney Partnership Pension Plan (Amended and Restated as of July 1, 1976), as amended by Amendments No. 1, 2 and 3 thereto, and Ernst & Whinney Pension Plan for former Partners of S. D. Leidesdorf & Co., as amended by Amendment No. 1 thereto, which constitutes a part of such Ernst & Whinney Partnership Pension Plan but is limited to former partners of S. D. Leidesdorf & Co., an accounting firm which was merged into Applicant on July 6, 1978 (the "Partners' Plan") and (b) Pension Plan for Employees of Ernst & Whinney (as Amended and Restated as of July 1, 1976), as amended by Amendments Nos. 1, 2 and 3 thereto and Ernst & Whinney Pension Plan for former employees of S. D. Leidesdorf & Co., as amended by Amendment No. 1

thereto, which constitutes a part of the Pension Plan for Employees of Applicant but is limited to former employees of S. D. Leidesdorf & Co. (the "Employees' Plan"). The Partners' Plan and the Employees' Plan are hereinafter collectively referred to as "Plan." All interested persons are referred to the application, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

All Pensioners, terminated employees and qualifying Partners and employees may become participants in the Plan if they are at least 25 years of age and have completed one year of eligibility service with Ernst & Whinney with certain limitations. As of May 27, 1980, the Partners' Plan covered about 650 active partners with deferred vested benefits; the Employees' Plan covered approximately 4,130 active employees and 1,280 retired employees or terminated employees with rights to deferred vested benefits.

The Partners' Plan is a defined contribution plan of a type commonly referred to as a "Keogh" plan, which covers persons (in this case, the Firm's Partners and former Partners of S. D. Leidesdorf & Co.), who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"). The Employees' Plan is a defined benefit plan which covers persons (in this case, the Firm's principals who are individuals deemed qualified by education and experience but do not hold certificates or licenses), who are "employees" within the meaning of Section 401(c)(1) of the Code. Because of these features of the Plans and related Trusts, the exemption provided by Section 3(a)(2) of the Act would appear to be applicable to interests in the Plan.

In relevant part, Section 3(a)(2) provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plans

Applicant represents that the Partners' Plan became effective September 1, 1966, but was amended and restated as of July 1, 1976. Applicant further represents that the Employees' Plan became effective July 1, 1953, but was restated as of July 1, 1976. By letters dated January 31, 1980 and February 15, 1980, the Internal Revenue Service ("IRS") determined that the Partners' Plan and the Employees' Plan, as amended and restated, constitute qualified plans under Section 401 of the Code. Both are subject to the full reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 ("ERISA"). Also, both Plans are funded through trusts maintained under Agreements between the Firm and certain Partners of the Firm as Trustees. Voluntary employee contributions under the Plans will be held in a third Trust under which a large corporate fiduciary will be the Trustee.

Both Plans have mandatory Firm contribution features and voluntary participant contribution features, all based on a percentage of compensation. Under the Partner's Plan, the Firm contributes annually, subject to certain IRS requirements, 7.5% of each active Partner's earnings up to $100,000 for his benefit to the Partners' Trust, which amounts are held in a separate account which, subject to certain vesting requirements, will be paid to him on his retirement or other termination of his membership in the Firm or to his beneficiary on his death. With respect to the Employees' Plan, the Firm makes annual contributions to the Employees' Trust, in amounts determined by its actuary, which are required to fund the defined benefits provided by such Plan. In addition, each of the Plans permits voluntary employee contributions by participants in an amount equal to 10% of each Participant's compensation while he is or was a participant in such Plan subject to certain IRS requirements and limitations.

Applicant will exercise substantial administrative responsibilities with respect to the Plans. A committee of four of the Firm's Partners serves as Trustee under the Plans. The Partner-Trustees also compose the Pension Committee under each such Plan, which may establish several investment funds which could be an Annuity Fund, Fixed Income Fund, Equity Fund or Short-Term Investment Fund among others. Except to the extent that particular responsibilities are assigned or delegated to other fiduciaries pursuant to the Plans, the Pension Committee is responsible for administration of the Plans and for interpreting their provisions.

The assets of the Plans are presently invested through the two Trusts maintained under the Plans, the assets of which are in the custody of corporate fiduciaries and managed by Investment Managers. The Pension Committee presently intends to establish an Equity Fund and a Fixed Income or Annuity Fund. Until one or more of such Funds are established, voluntary employee contributions will be held in a common fund with other assets of each Trust. Afterwards, such contributions will be held in a third Trust as described above. Participants will have the right to select the investment fund or funds into which their voluntary employee contributions are to be placed and will have the opportunity to change investments from time to time pursuant to rules to be established by the Pension Committee. Actuarial matters relating to the Employees' Plan will continue to be subject to the advice of outside actuarial experts engaged by the Firm.

Applicant contends that were it a corporation rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant also maintains that were the Firm's Partners not permitted to participate in the Plan, the interests or participations issued in connection with such Plan, would be exempt under Section 3(a)(2) since no other persons covered by such Plan would be "employees" within the meaning of Section 401(c)(1) of the Code. Applicant argues that there is no valid basis for a contrary result merely because the Plan also covers Partners in the Firm.

Applicant also states that it is engaged in furnishing services which involve finanacially sophisticated and complex matters, exercises administrative control over the Plan, and believes that it is able to represent adequately its own interests and those of its Partners and employees without the protection of the registration requirement of the Act. Applicant believes that the rigorous disclosure requirements of ERISA and the fiduciary standards and duties imposed thereunder are adequate to provide full protection to Plan participants.

Finally, Applicant argues that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in Section 3(a)(2); of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Applicant argues that its Plan is distinguishable from multi-employer plans or uniform prototype plans designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons and that these latter plans are the type of plans Congress intended to exclude from the Section 3(a)(2) exemption. Applicant states that the Amended Plan will cover Partners and employees of a single firm and will not be a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons.

For all of the foregoing reasons, Applicant believes that the Commission should issue an order finding that an exemption from the provisions of Section 5 of the Act for interests or participations issued in connection with the Plan is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 2, 1981 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following February 2, 1981 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-1052 Filed 1-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17422; File No. SR-NSCC-80-36]

National Securities Clearing Corporation; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 14 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 29, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change makes permanent the procedures which describe how National Securities Clearing Corporation (NSCC) currently effects borrowing of securities to meet system needs and the formula which NSCC currently uses to determine the order in which it will borrow securities made available by participants.

The proposed rule change would make permanent, effective January 24, 1981, SR-NSCC-79-18 which had previously become effective on January 24, 1980 for a one year period of time, and SR-NSCC-80-8, which had previously become effective on March 3, 1980, which filing contained a "sunset provision" which by its own terms will terminate the rules on January 24, 1981.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change makes permanent the procedures and formula attendant to the automated borrowing of securities to meet system needs including borrowing for the Order Out Service (Section VI of the SCC Division Procedures) and CNS buy-ins (Section 7 of Rule 11 of the SCC Division).

The proposed rule change relates to NSCC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible by providing specific procedures to be followed and the formula to be utilized in connection with NSCC borrowing securities, under existing authority, to meet the needs of the NSCC system for clearance and settlement.

No comments on the proposed rule change or the formula used have been received.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by February 3, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 7, 1981.

[FR Doc. 81-1051 Filed 1-12-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 1-A; Revision 9]

Line of Succession to the Administrator; Delegation of Authority

Delegation of Authority No. 1-A (Revision 8) (45 FR 43918) is hereby revised to read as follows:

I. Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, the Small Business Investment Act of 1958, 72 Stat. 689, as amended, authority is hereby delegated to the following officials in the following order:

1. Assistant Administrator for Programs
2. Assistant Administrator for Support Services
3. Assistant Administrator for Policy, Planning and Budgeting
4. Associate Administrator for Minority Small Business and Capital Ownership Development
5. General Counsel

to perform, in the event of the absence or incapacity of the Administrator and the Deputy Administrator, any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under Section 7(a)(6), 9(d) and 11 of the Small Business Act, as amended.

II. Officials designated as acting in one of the positions listed above will not be included in the line of succession.

III. This delegation is not in derogation of any authority residing in the above listed officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not specifically cited as revoked or revised herein.

Effective date: January 13, 1981.

Dated: January 5, 1981.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1047 Filed 1-12-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1980)) for approval of a conflict of interest transaction.

Grocers proposes to loan $100,000 to Wai Wu and Ken Louie d/b/a Cathay Market (Cathay), 9121 Bolsa Ave., Westminister, California 92683. The proceeds of the loan will be used to purchase restaurant equipment from Grocers Equipment Company (G.E.C.). All of Grocers' stock is owned by subsidiaries of Certified Grocers of California, Ltd. (Certified), a retailer-owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations. As a result, Grocers financing of Cathay falls within the purview of § 107.1004(b) (5) of the SBA Regulations. Grocers loan to Cathay requires prior written approval of SBA.

Notice is hereby given that any person may not later than January 28, 1981, submit written comments to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW, Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Domestic Assistance Programs No. 59.001, Small Business Investment Companies)

Dated January 6, 1981.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1044 Filed 1-12-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-5110]

NIA Corp.; Application for Transfer of Control of a Licensed Section 301(d) Licensee

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR Section 107.701 (1980)), for transfer of control of NIA Corporation (NIA), 2400 South Michigan Avenue, Chicago, Illinois 60606, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

NIA was licensed on February 12, 1976, with an initial private capital of $196,709. NIA is wholly owned by the National Insurance Association. It is proposed that ownership of the Licensee be acquired by:

Central Venture Capital Corporation (CVCC); 1739 St. Bernard Avenue, New Orleans, Louisiana 70116

CVCC is owned equally by Mr. Harold E. Doley, Jr. and Mr. Louis A. Gerdes, Jr. It is proposed to change the name of the Licensee to Central Venture Capital Corporation and move its office to 1739 St. Bernard Avenue, New Orleans, Louisiana 70116.

The proposed transfer of control is subject to the approval of SBA. If such approval is given, the officers and directors of the Licensee will be:

Louis A. Gerdes, Jr., 7230 Briarheath Drive, New Orleans, Louisiana 70127: President, Director
Harold E. Doley, Jr., 2419 General Taylor Street, New Orleans, Louisiana 70115: Vice President, Secretary, Treasurer, Director
Michael A. Starks, 4900 Nottingham Drive, New Orleans, Louisiana 70127: Director

There will be no significant changes in the operations of the Licensee.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and shareholders, and the probability of successful operations of CVCC under their management, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than January 28, 1981, submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published by CVCC in a newspaper of general circulation in New Orleans, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: January 6, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1045 Filed 1-12-81; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 10/10-0174]

Peoples Small Business Investment Corp.; Application for a License To Operate as a Small Business Invesment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (CFR 107.102(1980)), under the name of People Small Business Investment Corporation, 1414 Forth Avenue, Seattle, Washington 98171, for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (act) and the Rules and Regulations promulgated thereunder.

The Proposed officers, directors and stockholders are as follows:

Name and Title

J. G. Cairns, Jr., 7233 West Mercer Way, Mercer Island, Washington 98040; President and Director

E. M. Anderson, 3333 S.W. Manning Street, Seattle, Washington 98116; Executive Vice President, and Director
Charles Riley, 960 Federal Avenue East, Seattle, Washington 98102; Executive Vice President and Director
Donald Greenfield, 7245—29th Avenue N.E., Seattle, Washington 98115; Senior Vice President, and Director
L. M. Riley, 412—160th Avenue N.E., Bellevue, Washington 98004; Secretary-Treasurer, and Director
A. L. Tollefsen, 3108 N.W. 93rd Street, Seattle, Washington 98117; Assistant Secretary
Joshua Green III, 1932 Blenheim Drive East, Seattle, Washington 98112; Director

The Applicant which is a Washington Corporation, proposes to commerce operations with a capitalization of $1,000,000 derived from the sale of 10,000 shares of common stock to the Peoples National Bank of Washington (located at the same address as the proposed Licensee) for $100 per share.

The only direct record holders of more than ten percent of the Peoples Bank outstanding Common Stock are the estates of Joshua Green—Laura T. Green, 11.25 percent; and the Joshua Green Corporation, 10.67 percent.

All of the Licensee's officers and directors are also officers and in some cases Directors of the Applicant's parent.

The Applicant will conduct its operations principally in the State of Washington. However it is contemplated that business will be conducted in all eleven western states where it appears that the services of the Applicant are needed by deserving small concerns.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than January 28, 1981, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 6, 1981.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1040 Filed 1-12-81; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council located in the geographical area of Birmingham, will hold a public meeting at 9:30 a.m., on Friday, February 27, 1981, at the South Twentieth Building, 908 South 20th Street, Room 202, (2nd Floor), Birmingham, Alabama, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Room 202, Birmingham, Alabama, telephone (205) 254-1341.

Dated: January 6, 1981.

Michael B. Kraft,

Director, Office of Advisory Councils.

[FR Doc. 81-1043 Filed 1-12-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0191]

Issuance of License; Servico Business Investment Corp.; West Palm Beach, FL

On June 19, 1980, a Notice was published in the **Federal Register** (45 FR 41561), stating that Servico Business Investment Corporation located at 2000 Palm Beach Lakes Blvd., West Palm Beach, Florida 33409 filed an application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980) for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business July 7, 1980, to submit their written comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information the SBA has issued License No. 04/04-0191 to Servico Business Investment Corporation on December 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: January 6, 1981.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1083 Filed 1-12-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 40-80]

Treasury Bonds; Interest Rate on Bonds of 2001, January 7, 1981

The Secretary announced on January 6, 1981, that the interest rate on the bonds designated Bonds of 2001 described in Department Circular—Public Debt Series—No. 40-80 dated December 23, 1980, will be 11¾ percent. Interest on the bonds will be payable at the rate of 11¾ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-1127 Filed 1-12-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 16, 1981.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-81-38 Filed 1-9-81; 10:45 am]

BILLING CODE 6351-01-M

2

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 2246. January 8, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, January 14, 1981.

PLACE: 1700 G Street NW., board room, Sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The meeting previously scheduled for Wednesday, January 14, 1981 has been changed to Friday, January 16, 1981.

[S-81-40 Filed 1-9-81; 3:53 am]

BILLING CODE 6720-01-M

3

[NM-81-2]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Wednesday, January 21, 1981.

PLACE: NTSB board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first five items on the agenda will be open to the public; the sixth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Air Pennsylvania 501, Piper PA-350, N5MS, Philadelphia, Pennsylvania, July 25, 1980.
2. *Aircraft Accident Report*—Scenic Air Lines, Inc., Cessna 404, N28635, near Grand Canyon National Park Airport, Tusayan, Arizona, July 21, 1980.
3. *Highway Accident Report*—Central Texas Bus lines, Inc., Charter Bus Run Off Roadway, Arkansas State Route 7, near Jasper, Arkansas, June 5, 1980.
4. *Safety Effectiveness Evaluation* of Rail Rapid Transit Safety.
5. *Recommendation* to the Federal Aviation Administration regarding Standards for Fuel Dispensing Systems at Public Use Airports not Certificated Under 14 CFR Part 139.
6. *Opinion and Order—Administrator v. Gossman, Modes, and Morgan, Dockets SE-4591, SE-4592, and SE-4593; disposition of respondents' appeals.*

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

January 9, 1981.

[S-81-39 Filed 1-9-81; 10:45 am]

BILLING CODE 4910-58-M

4

SYNTHETIC FUELS CORPORATION.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date, and place specified below. The Chairman of the Board may entertain a motion during the meeting to close a portion thereof insofar as it relates to matters specified in Section 116(f) (A through C) of the United States Synthetic Fuels Corporation Act of 1980, Pub. L. 96-294.

TIME AND DATE: 2 p.m. on January 23, 1981.

PLACE: Jefferson Ballroom-West, Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C. 20009.

PERSON TO CONTACT FOR MORE INFORMATION: Katherine McG. Sullivan, United States Synthetic Fuels Corporation, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20586 (202) 653-4345.

January 8, 1981.

United States Synthetic Fuels Corporation.

John C. Sawhill,

Chairman of the Board.

[S-81-37 Filed 1-9-81; 8:45 am]

BILLING CODE 6450-01-M

V 46/8 JA 13 81 UMI

federal register

Tuesday
January 13, 1981

Part II

Environmental Protection Agency

Coal Mining Point Source Category; Effluent Limitations Guidelines for Existing Sources, Standards of Performance for New Sources and Pretreatment Standards

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 434

[WH-FRL 1642-5]

Coal Mining Point Source Category; Effluent Limitations Guidelines for Existing Sources, Standards of Performance for New Sources and Pretreatment Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Regulation.

SUMMARY: EPA proposes regulations to limit effluent discharges to waters of the United States from coal mining and coal preparation facilities. The purpose of this proposal is to provide effluent limitations guidelines based on "best practicable control technology currently available," "best available technology economically achievable," and "best conventional pollutant control technology," and to establish new source performance standards under the Clean Water Act. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted within 60 days from the date of availability of the technical development document. A Notice of Availability will be published in the **Federal Register** on or about February 2, 1981.

ADDRESS: Send comments to: Mr. William A. Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: EGD Docket Clerk, Coal Mining. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. William A. Telliard, at the address listed above, or call (202) 426-2724. The economic analysis document may be obtained from Mr. Harold Lester, Office of Analysis and Evaluation, (WH-586), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426-2617.

SUPPLEMENTARY INFORMATION:

Overview

The Supplementary Information section of this preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. The abbreviations, acronyms, and other terms used in the preamble are defined in Appendix A to this notice.

These proposed regulations are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*. EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Coal Mining Point Source Category*. The Agency's economic analysis is found in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Coal Mining Point Source Category*.

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I. Legal Authority

The regulations described in this notice are proposed under authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). These regulations are also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833, 1841.

II. Background

(a) The Clean Water Act. The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available," (BPT), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants," (BAT), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards (NSPS), based on best available demonstrated technology (BADT); and new and existing dischargers to publicly owned treatment works (POTW) were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although Section 402(a)(1) of the 1972 act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups and, in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833, 1841.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 classes of toxic pollutants (subsequently defined by the Agency as 129 specific "priority pollutants") which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added Section 304(e) to the Act, authorizing the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revised the control program for nontoxic pollutants. Instead of BAT for "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH), the new Section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT). The factors considered in assessing BCT for an industry include a comparison of the costs of attaining conventional pollutant reduction and the effluent reduction benefits associated with the candidate technology to the costs and effluent reduction benefits from the treatment of effluents in a publicly owned treatment works (Section 304(b)(4)(B)). For non-toxic, non-conventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this rulemaking is to propose certain amendments to the existing BPT regulations and to propose revised effluent limitations guidelines for new and existing sources based upon application of BCT, BAT, and BADT (NSPS). Pretreatment standards are not proposed for the coal mining category since no known indirect dischargers exist nor are any known to be planned. Coal mines are located in rural areas, generally far from a POTW. EPA expects that the cost of pumping coal mine wastewater to a POTW would be prohibitive in most cases, and on-site treatment is more cost effective in virtually every instance.

(b) Prior EPA Regulations.

On October 17, 1975, EPA proposed regulations adding Part 434 to Title 40 of the Code of Federal Regulations (40 FR 48830). These regulations, with subsequent amendments, established effluent limitations guidelines based on the use of the best practicable control technology currently available (BPT) for existing sources in the coal mining point source category. These were followed, on April 26, 1977, by final BPT effluent limitations guidelines for this category (42 FR 21380).

On September 19, 1977, the Agency published proposed standards of performance for new sources (NSPS) within this industrial category based on application of the best available demonstrated control technology (42 FR 46932). On January 12, 1979, EPA promulgated final NSPS for this industry (44 FR 2586).

Both the BPT and NSPS regulations contained an exemption from otherwise applicable requirements during and immediately after catastrophic precipitation events. These storm exemptions were re-examined, subjected to further public comment and ultimately revised on December 28, 1979 (44 FR 76788).

Moreover, the NSPS regulations contained a definition of "new source coal mine" which was challenged by petitioners in *Pennsylvania Citizens Coalition et al.* vs. *EPA*. See 14 ERC 1545 (3rd Cir. 1980). In response to the Court's decision in that case, the Agency amended its definition of a "new source coal mine" on June 27, 1980 (45 FR 43413).

The effluent limitations guidelines being proposed today include amendments to the BPT requirements, effluent limitations guidelines based upon BCT and BAT, and new source performance standards.

(c) Overview of the Industry. The coal mining industry currently operates in 26 states in Appalachia, the Midwest, and the Mountain and Pacific regions. There were 6,075 mines in 1976, of which 2,566 exhibited acid mine drainage and 3,509 exhibited alkaline mine drainage. Of the total, 5, 976 mines were located in the eastern United States and 99 in the western United States. There are currently about 650 coal preparation plants using wet coal cleaning methods in the country.

Total coal production in the United States in 1978 was 656,100,000 short tons. It is projected to increase by 916,030,000 short tons by 1987.[1]

In the 1920's underground mining accounted for nearly 100 percent of all coal production, and surface mining accounted for virtually none. By 1978, underground mining accounted for only 36 percent of all domestic production, with surface mining accounting for the rest.[1] This rapid growth of surface mining was made possible by improved machinery and mining methods, the general geology of the coal fields, and the rapid expansion of the western, surface-mined, coal fields. The 6,075 mines in the United States are controlled by approximately 3,800 companies. The majority of these mines are small operations, with individual production less than 50,000 short tons per year.[2]

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[1] Nielsen, George, ed., *1979 Keystone Coal Industry Manual*, McGraw-Hill, New York, New York, 1979.

Water is not used in, and in fact interferes with, the mining of coal. The major sources of wastewater in the coal mining industry are: (1) surface runoff and groundwater discharged from the active mine area; (2) wastewater generated by the removal of impurities from raw coal in preparation plants; (3) precipitation-induced runoff in preparation plant associated areas; and (4) runoff generated from reclamation areas and discharges from underground mines after mining ceases. Coal mine wastewater flows range from zero to over 12,000,000 gallons per day, with an average discharge flow of approximately 1,000,000 gallons per day.

Process water used for coal cleaning can be correlated with production for any given preparation plant. However, most facilities commingle preparation plant wastewater with runoff from the associated areas, making correlation of wastewater flows with production infeasible for purposes of an effluent regulation.

Current technologies employed to achieve BPT limitations for wastewater treatment typically include:

Acid Mines.—Neutralization; aeration (where required); flocculation (where required); sedimentation.

Alkaline Mines.—Aeration (where required); flocculation (where required); sedimentation.

Preparation Plants and Associated Areas.—Neutralization (where required); flocculation (where required); sedimentation.

Neutralization is the addition of lime or another alkaline chemical to counteract the acidity. The resulting increase in pH (a measure of the acidity) causes the metal ions to chemically react and form a solid which can be settled from the wastewater. Aeration involves the turbulent introduction of air into the wastewater to cause a series of reactions that result in enhanced precipitation (formation of solids). Settling involves containing the wastewater in a tank or basin for a sufficient amount of time to allow the solids to sink to the bottom. Flocculation is the addition of a compound that enhances agglomeration of solids, thus increasing their settling rate.

III. Scope of This Rulemaking and Summary of Methodology

These proposed regulations reflect an expanded approach to the development of water pollution control requirements for the coal mining industry. In EPA's 1973–1976 round of rulemakings, emphasis was placed on the achievement of best practicable control technology currently available (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of pollutants of traditional concern.

In this rulemaking, EPA's efforts are directed toward ensuring the achievement of limitations based upon the best available technology economically achievable (BAT) by July 1, 1984, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. As a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a list of toxic substances.

In the 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under Section 307(a) of the Act. The "priority" pollutants have been relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience dealing with these pollutants. Additionally, these pollutants can often appear and can have toxic effects at concentrations which severely tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure, and regulate these substances.

EPA's implementation of the Act required a complex development program described in this section and succeeding sections of this notice. Initially, because in many cases no public or private agency had done so, EPA had to develop analytical methods for toxic pollutant detection and measurement, which are discussed in the next section. EPA then gathered technical and cost data about the industry, which are summarized below and discussed in the next section. These data formed the basis for development of the proposed regulations.

First, EPA studied the coal mining industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments (termed "subcategories") of the industry. This study included the identification of raw waste and treated effluent characteristics, including: (1) the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant; and (2) the constituents of wastewaters, including toxic pollutants. EPA then identified the constituents of wastewaters which should be considered for effluent limitations guidelines and standards of performance.

Next, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or capable of being used in the coal mining industry. The Agency compiled and analyzed historical data and newly generated data on the effluent quality resulting from the application of these technologies. The long-term performance and operational limitations of each of the treatment and control technologies were also identified. In addition, EPA considered the non-water quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, and energy requirements.

The Agency then estimated the costs of each control and treatment technology from unit cost curves developed by standard engineering analysis as applied to coal mining wastewater characteristics. This was done by generating capital and annual costs of each of the candidate treatment systems (e.g., flocculant addition equipment) and components as a function of wastewater flow rates. This provided a uniform basis to compare the various candidate existing and new source treatment alternatives. The accuracy of the model plant treatment costs were then verified by developing site-specific costs for a number of active mine sites around the country. The Agency evaluated the industry-wide economic impacts of the costs to determine the economic achievability of each candidate technology. (Costs and economic impacts are discussed in detail in Section XVI of this notice.)

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[2] Department of the Interior, Bureau of Mines, "Coal—Bituminous and Lignite in 1975," Washington, D.C., 1976.

Based on these factors, EPA identified various control and treatment technologies as BCT, BAT, and BADT. The proposed regulations do not require the installation of any particular technology. Rather, they require achievement of effluent limitations representative of the proper design, construction, and operation of these technologies or equivalent technologies.

The effluent limitations for BPT, BAT, BCT, and NSPS are expressed as concentration limitations (mass per volume of wastewater). Mass-based limitations (*e.g.*, g/kg of product) are not feasible for purposes of applying a national regulation because mine water flows cannot be correlated with associated coal production.

IV. Data Gathering Program

(a) Analytical Methods. As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until only a few years ago, and only on rare occasions has EPA regulated or has industry monitored or even developed methods to monitor these pollutants.

Section 304(h) of the Act, however, requires the Administrator to promulgate guidelines establishing test procedures for the analysis of toxic pollutants. As a result, EPA scientists, including staff of the Environmental Research Laboratory in Athens, Georgia and staff of the Environmental Monitoring and Support Laboratory in Cincinnati, Ohio, conducted a literature search and initiated a laboratory program to develop analytical protocols. The analytical techniques used in this rulemaking were developed concurrently with the development of general sampling and analytical protocols and were incorporated into the protocols ultimately adopted for the study of other industrial categories. See *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April 1977.

Because Section 304(h) methods were available for most toxic metals, pesticides, cyanide, and phenol, the analytical effort focused on developing methods for sampling and analyses of organic toxic pollutants. The three basic analytical approaches considered by EPA were infra-red spectroscopy (IR), gas chromatography (GC) with multiple detectors, and gas chromatography/mass spectrometry (GC/MS). Evaluation of these alternatives led the Agency to propose analytical techniques for 113 toxic organic pollutants (see 44 FR 69464, December 3, 1979, amended 44 FR 75028, December 18, 1979) based on: (1) GC with selected detectors, or high performance liquid chromatography (HPLC), depending on the particular pollutant; and (2) GC/MS. In selecting among these alternatives, EPA considered the sensitivity, laboratory availability, costs, applicability to diverse waste streams from numerous industries, and capability for implementation within the statutory and court-ordered time constraints of EPA's program. The rationale for selection of the proposed analytical protocols may be found in the December 3, 1979, **Federal Register.**

In EPA's judgement, the test procedures used in this rulemaking represent the best state-of-the-art methods for toxic pollutant analyses available when this study was begun.

EPA is aware of the continuing evolution of sampling and analytical procedures. Resource constraints, however, prevented the Agency from reworking completed sampling and analysis efforts to keep up with this constant evolution. As state-of-the-art technology progresses, future rulemakings to evaluate, and, if necessary, to incorporate these changes, will be initiated.

Before proceeding to analyze coal mining and coal preparation wastes, EPA concluded that definition of specific toxic pollutants and methods of analyses were required. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants, and the expenditure of resources in government and private laboratories would be overwhelming if analyses were attempted for all of these pollutants. Therefore, in order to make the task more manageable, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for selection of these 129 pollutants included frequency of occurrence in water, chemical stability and structure, amount of the chemical produced, availability of chemical standards for measurement, and other factors.

(b) Data Gathering Effort. The data gathering effort for the coal mining industry includes an extensive collection of information, as follows:

(1) screening and verification sampling and analysis programs
(2) engineering site visits
(3) supporting data from regional state offices
(4) preparation plant industry survey
(5) preparation plant sampling and analysis program
(6) acid mine drainage treatability studies
(7) 308 self-monitoring survey
(8) industry and government research programs.

A data collection effort was instituted during 1974 and 1975 for the development of BPT effluent standards. These data included results from a sampling and analysis program conducted by the Agency at 153 mines and 65 preparation plants and associated areas, as well as assimilation of a large amount of historical data supplied by the industry, the Bureau of Mines, and other sources. This information characterized wastewaters from coal mining operations, with the primary focus on acidity, alkalinity, total suspended solids, pH, sulfate, iron, and manganese. However, little information on other parameters such as toxic metals and organics was available from industry or government sources. Therefore, in 1977, the Agency began a second sampling and analysis program that was conducted in two phases (screening and verification). This sampling program established the quantities of toxic, conventional, and non-conventional pollutants in coal mine drainage and preparation plant effluents. Screening and verification sampling visits were made to 28 mines and 18 coal preparation plant and associated areas. The facilities were selected to be representative of the location and type of existing mine facilities, current BPT treatment technology used in this industry and the type of coal being extracted and processed.

The primary objective of the screening phase of sampling was to obtain samples of wastewater to determine presence, absence, and relative concentrations of toxic pollutants. Screening sampling consisted of 24-hour composites to determine the presence and level of concentration of toxic pollutants in the wastewater samples. The second phase of the program is known as verification sampling. In this phase, 24-hour composites were collected for three consecutive days to verify and quantify results from the screening sampling effort.

To augment these programs, the Agency conducted a number of additional sampling projects. Engineering site visits were carried out primarily to collect site specific cost and engineering data for verifying and supplementing model treatment costs developed for the coal mining industry. Wastewater samples were collected during each site visit to supplement the data base for wastewater characteristics and treatment. Fourteen mines, some with associated preparation plants, were contacted and visited in the fall of

1979. Grab samples of raw and treated effluents were collected for analysis of TSS, iron, manganese, pH, turbidity, alkalinity, settleable solids and the 13 toxic metals. The metals were analyzed by inductively coupled plasma-optical emission spectrometry (ICP) and atomic absorption spectrometry.

EPA Region 8 (Denver, Colorado) instituted a sampling effort to assess the water treatment configurations and effluent qualities characteristic of the western coal-producing region. Several mines were visited during the spring of 1979 to assess the effect of snowmelt and rainfall on treatment facility performance. However, an unusually mild winter and dry spring in the west hampered efforts to collect these kinds of samples; in fact, only two miles were found to have a discharge that could be sampled. Additionally, EPA Region 4 (Atlanta, Georgia) conducted sampling at one mine in southern Appalachia.

A preparation plant sampling and analysis program was instituted to further characterize preparation plant wastewaters. Another purpose was to compare wastewater generated in total recycle systems with wastewater discharged from partial recycle and "once-through" systems. Grab samples were collected at three preparation plants and associated areas. Site-specific cost and wastewater engineering data were collected simultaneously to augment present data and to permit further evaluation of the feasibility of achieving the BAT and NSPS options.

Pursuant to Section 308 of the Act, 12 mining companies are conducting a self-monitoring program at two sedimentation ponds per company. The purpose of this study, which began in October 1979 and will continue through October 1980, is to supplement the data base to develop effluent limitations for treatment of runoff from mining areas undergoing reclamation and alternate limitations during precipitation events. One sample per week of influent and effluent is collected to estblish base flow conditions, with additional samples taken during and after rainfall events. The results of these sample analyses, coupled with key design specifications submitted with the data for each pond, permit identification of the wastewater characteristics and treatment effectiveness of these ponds during dry weather and precipitation. The limitations contained in today's proposal for reclamation areas and storm provisions are based on seven of the eventual twelve months' data from this self-monitoring program. Upon completion of this sampling program, the remaining data will be analyzed to detremine whether changes in today's proposal are appropriate.

A second major sampling program to characterize runoff from reclamation areas and storm provisions has been commissioned by EPA and the Office of Surface Mining Reclamation and Enforcement in the Department of the Interior. Approximately thirty-nine mine sites have been chosen from major coal-producing regions of the country for a survey of reclamation and sediment control techniques to establish the relationship of those techniques to effluent water quality. Detailed, daily information on the physical and chemical quality, flow, and sediment load of drainage from eight sites will also be collected during the study. Where possible, an hourly record will be taken during precipitation events to document drainage quality and sediment pond efficiency during runoff periods at these eight sites. This study is expected to be completed in early to mid-1981. These data will also be analyzed to determine if changes in today's proposal may be appropriate.

Other information was compiled from industry surveys. A preparation plant industry survey was conducted with the cooperation of the National Coal Association (NCA) to assess water usage and treatment in coal preparation plants. Eighty-eight member producer companies of the NCA which operate approximately 292 preparation plants were mailed a questionnaire requesting information on the following: facility profile information, water balance around the preparation facility, makeup water sources, discharge points and quantities, water treatment practices employed, water management procedures, information on the preparation plant associated areas and effluent quality data. One hundred fifty-two plants responded to the survey, representing about 24 percent of the coal preparation plants in the industry. The industry responses were used primarily to determine the number of plants operating a total recycle system and the requirements for modifying current treatment configurations to such a system, and to determine runoff treatment strategies for areas ancillary to the preparation plant.

Discharge monitoring reports (DMR) required under the NPDES program were collected from EPA regional offices located in the major United States coal-producing areas. DMRs contain data which help to identify the variation in flow and pollutant characteristics associated with mine drainage. This information was used to evaluate compliance with existing monthly average and daily maximum effluent limitations.

A number of treatability studies have been conducted by the Agency to determine the performance of advanced treatment technologies on coal mine wastewaters. An acid mine drainage treatability study evaluating flocculant addition was conducted at four separate Appalachian and Midwest mines during the summer of 1979. Jar and pilot-scale settling tests with various chemical and polymer dosages were performed on acid mine drainage. In some tests, solutions containing priority metals were added to the untreated acid drainage to elevate levels of these substances. This "spiking" procedure permitted the determination of treatment removal and effectiveness.

A second treatability study was instituted primarily to evaluate organics reduction technologies. This study was conducted near Morgantown, West Virginia, at the Crown Mine Drainage Treatability Site during 1978. Technologies examined for organics removal included neutralization, aeration, ozonation, carbon adsorption and sand filtration. Organic compounds were added to untreated mine water at various concentrations to assess the performance of the different technologies. Using BPT technology (aeration, neutralization, and settling), over 90 percent reduction of the spiked organic compounds was achieved. In no case was the final effluent concentration of any organic detected at levels greater than 39 μg/l. In most instances, reductions to below 10 μg/l were achieved. The remaining technologies evidenced highly variable removals (*i.e.*, 0 to over 99 percent). The study concluded that if such organics were present, BPT technology was effective in reducing them to values at or near their detection limit.

Dual granular media filtration technology was investigated at two acid mine drainage treatment plants located in Appalachia. The tests were performed in the spring of 1980 on effluent treated by neutralization, aeration, and settling. Eight-hour and longer test runs were attempted to determine filter performance and backwash requirements. The potential for gypsum fouling of the filtration system was investigated at one of the mine sites. This compound can form when lime is the chemical used to neutralize the acidity of mine drainage. This substance will deposit on surfaces throughout the treatment system including the filter media. Should this occur, the passage of wastewater through the filter can be inhibited or stopped. Results from the treatability study show that some shortening of the normal filter test runs (from 20 to 30 percent) can be caused by gypsum deposition on the filter.

(c) Sample Analysis. In the sampling programs, analyses for toxic pollutants were performed. Organic toxic pollutants included volatile (purgeable), base-neutral and acid extractable pollutants, total phenols, and pesticides. Inorganic toxic pollutants included metals, cyanide, and asbestos.

The primary method used in screening and verification of the volatiles, base-neutral, and acid organics was gas chromatography (GC) with confirmation and quantification of all priority pollutants by gas chromatography/mass spectrometry (GC/MS). Total phenols were analyzed by the 4-AAP method. GC was employed for analysis of pesticides with limited MS confirmation. The Agency analyzed the toxic heavy metals by either atomic absorption spectrometry (AAS), with flame or graphite furnace atomization with appropriate emission spectrometry and appropriate digestion or by inductively coupled plasma optical emission spectrometry (ICP). Samples were analyzed for cyanides by a colorimetric method, with sulfide previously removed by distillation. Analysis for asbestos was accomplished by microscopy and fiber presence reported as chrysotile fiber count. Analyses for applicable conventional pollutants (TSS and pH) and non-conventional pollutants were accomplished using "Methods for Chemical Analysis of Water and Wastes," (EPA 625/6–74–003).

The high costs, slow pace, and limited laboratory capability for toxic pollutant analyses posed certain difficulties. This cost to analyze each sample for organic toxic pollutants ranges between $650 and $1,700, excluding sampling costs (based upon quotations recently obtained from a number of analytical laboratories). Even with unlimited funding, however, time and laboratory capability would have posed additional constraints. Although efficiency has been improving, when this study was initiated, a well trained technician using the most sophisticated equipment could perform only one complete organic analysis in an eight-hour workday. Moreover, when this rulemaking study began, there were only about 15 commercial laboratories in the United States with sufficient capability to perform these analyses. Currently, there are about 50 commercial laboratories known to EPA which have the capability to perform these analyses, and the number is increasing as the demand for such capability also increases.

In planning data generation for this rulemaking, EPA considered requiring dischargers to perform analyses for toxic pollutants pursuant to Section 308 of the Act. The Agency refrained from using this authority in developing these regulations, except for the self-monitoring program described above for areas under reclamation. It would have required substantial resources and time to train mine operators to conduct the required screening and verification programs and to properly analyze for the presence and quantities of organic compounds and metals. Further, few coal mines presently have the laboratory capability for toxic pollutant analyses. In contrast, the Agency already had such sampling and analytical capabilities.

By sampling and analyzing wastewater at representative facilities throughout the industry, the Agency has gained an accurate assessment of wastewater characteristics while avoiding the imposition of substantial additional burdens on the regulated community.

EPA will continue to seek new data and review these proposed regulations in light of additional data, as required by the Act, and make any necessary revisions.

V. Industry Subcategorization

Variations from plant-to-plant exist in all industries with respect to raw materials or other factors which can influence wastewater characteristics and choice of wastewater treatment technology. EPA has evaluated these differences in the coal mining industry to determine whether, and how, to subdivide it for purposes of today's regulations.

The Agency's previous BPT and NSPS regulations established effluent requirements for three subcategories: coal preparation plants and associated areas, mines exhibiting acid drainage, and mines exhibiting alkaline drainage. For acid and alkaine mine drainage, the effluent requirements were made applicable only to "active mining areas" as defined in the regulations, except when water from active mining areas is commingled with water from other areas. Thus, drainage from surface areas on which reclamation had begun or was completed, as well as drainage from underground mines where active mining operations had ceased, was not subject to the regulations if segregated from active mine drainage. The NSPS regulations established a separate subcategory for surface areas undergoing reclamation, but effluent limitations for that subcategory were reserved pending the collection of additional data.

The prior regulations also accorded special treatment to western coal mines; the BPT limitations did not apply to mines located in six specified states (e.g., 40 CFR 434.32 (a)), and the NSPS requirements created a subcategory for "Western Coal Mines," defined as mines located west of the 100-degree meridian (40 CFR 434.60). NSPS requirements for this subcategory, like those for surface areas under reclamation, were reserved.

On the basis of its review of data collected for today's proposed rules, the Agency has decided to modify the existing subcategorization scheme in several respects.

First, western mines will not comprise a separate subcategory. Data collected by EPA indicate that, although western mines discharge less frequently than facilities located in the midwest and east, the effluent characteristics of discharges considered for regulation from western mines are very similar to discharges from mines in other geographic regions. Therefore, today's proposal would apply to all coal mines wherever located in the United States. (It should be noted, however, that where western mines have been subject to more stringent requirements under NPDES permits, they may, under certain conditions, continue to be subject to those requirements under 40 CFR 122.62(1) and 40 CFR 123.7.

Second, the subcategorization of coal preparation plants and associated areas would be modified for new sources under today's proposal. Under previous regulations, coal preparation plants and their associated areas—e.g., raw materials, refuse disposal storage piles, adjacent haul roads and disturbed areas—were subject to the same effluent limitations, largely because it is common industry practice to combine wastewater from these two sources for treatment. However, as discussed elsewhere in this notice, the Agency has determined that new source—but not existing source—preparation plants should be required to achieve zero discharge of process wastewater pollutants, exclusive of associated area drainage. Consequently, today's proposed NSPS regulations address coal preparation plants and coal preparation plant associated areas separately. Requirements for existing sources, however, will remain unchanged from prior regulations.

Third, with respect to post-mining discharges, the Agency is creating a new subcategory for these discharges, which is further subdivided with respect to surface and underground areas (see Section VII).

The Agency considered, but ultimately rejected, several other changes to the existing subcategories. Consideration was given to subdividing active mines as surface or underground. Many surface mines are more suited to mobile treatment systems that can be easily installed, operated, dismantled and moved as the mining front progresses. Conversely, at deep mines, fixed or permanent treatment facilities can be installed at the portal for treatment of underground mine drainage. However, this distinction has been rendered academic for purposes of this rulemaking because the levels of toxic metals which the Agency has found in BPT-treated effluents at both surface and deep mines are so low that no further treatment beyond BPT will be required. (It should be noted, however, that under today's proposal, discharges from surface areas will be treated differently than discharge from underground workings for purposes of the catastrophic storm exemption and treatment of post-mining discharges (see Section VIII).)

The Agency also considered establishing a separate subcategory for anthracite mines. A thorough study was conducted to assess whether these mines exhibit any unique wastewater characteristics. The results indicate that a separate subcategory for anthracite mines is not warranted.

VI. Available Wastewater Control and Treatment Technology

(a) Status of In-Place Technology

BPT regulations for the coal mining industry have been in effect since 1977. The level of treatment required to meet these standards varies somewhat among the industry's subcategories.

(1) Acid Mine Drainage. Mines exhibiting raw acidic drainage generally employ wastewater treatment which includes: chemical precipitation/pH adjustment, aeration, and settling. Many facilities have raw water holding ponds which serve as "equalization basins." These basins reduce variations in flow and pollutant concentrations to provide a more uniform influent to the treatment system. Neutralization and chemical precipitation technology consists of the addition of an alkaline reagent to acid mine drainage to raise the pH to between 6 and 9. This pH change also causes the solubilities of positively charged metal ions to decrease and thus precipitate (leave solution as an insoluble compound). In general, three types of reactions occur as a result of pH adjustment: neutralization, oxidation, and precipitation. The precipitates are, in most cases, metal hydroxides. One of four reagents are commonly used to effect the above reactions: hydrated lime ($Ca(OH)_2$), calcined or quick lime (CaO), caustic soda ($NaOH$), or soda ash (Na_2CO_3).

Aeration is often accomplished by allowing the water to simply flow or cascade down a staircase-like trough or sluiceway. This causes turbulence that increases oxygen transfer and, therefore, the oxidation reaction. In other cases, the air or oxygen may be supplied by a mechanical type of aerator. The presence of dissolved oxygen supplied by the aerating technique oxidizes ferrous ions causing the formation of essentially insoluble ferric hydroxide ($Fe(OH)_3$). This compound is more easily settled than ferrous hydroxide ($Fe(OH_2)$. Temperature, pH, flow, dissolved oxygen content, and initial concentration are all important performance parameters.

The process of sedimentation removes the suspended solids, which includes the insoluble precipitates. Sedimentation can be accomplished in a settling pond or clarifier (a settling tank). The settling pond can be created by excavating a depression. The extent of solids removal depends upon surface area, retention time, flow patterns, settling characteristics of influent suspended solids, climatology, and other operating parameters of a particular installation. A settling pond operates on the principle that, as the sediment-laden water passes through the pond, the particles will settle to the bottom instead of being discharged. Some of the factors affecting the settling velocity of a particle include water viscosity, temperature, and the density, size and shape of the particle. Clarifiers are mechanical settling devices which can be used where insufficient land exists for construction of a pond. Clarifiers operate on essentially the same principles as a sedimentation pond. The most significant advantage of a clarifier is that closer control of operating parameters such as retention time and sludge removal can be maintained, while problems such as runoff from precipitation and short-circuiting can be avoided.

(2) Alkaline Mine Drainage. Mines exhibiting raw alkaline drainage (which account for the majority of U.S. coal mines) have raw wastewaters which are at or above pH 6.0 and contain total iron levels of less than 10 mg/l. Alkaline mine drainage generally requires treatment only for suspended solids removal. Typical treatment may include settling ponds or clarifiers where adequate land is not available for sedimentation ponds. Many alkaline mines require no treatment at all to meet BPT limitations.

(3) Preparation Plants. Typical treatment for preparation plant wastewaters includes sedimentation in a settling pond or clarifier. In addition, many facilities recycle all or a portion of their clarified wastewater for reuse in the preparation plant.

(4) Preparation Plant Associated Areas. Associated areas include coal and refuse storage piles and other areas ancillary or adjacent to the preparation plant. Runoff from these areas can become acidic and often requires neutralization and settling prior to discharge. At many facilities, the preparation plant wastewater is combined with associated area runoff for treatment.

(5) Post-Mining Discharges. Studies performed in support of this rulemaking indicate that post-mining discharges from surface areas under reclamation exhibit levels of toxic metals (when present) very near or at their limit of analytical detection. Iron and manganese in reclamation area wastewaters were detected at levels only slightly above their detection limits. Total suspended solids levels are typically at higher levels than found in active acid or alkaline mine drainage, while pH was always found to be above 6.0 unless drainage is commingled with acidic wastewaters. Toxic organics are not present because no sources of such compounds exist in surface areas under reclamation. These wastewater characteristics suggest treatment by settling in a sedimentation structure. Installation of this technology is already required by OSM regulations (30 CFR 816.42). Data from the studies indicate that settleable solids are consistently reduced in a properly designed and operated pond, whereas wide variation exists in removal of total suspended solids.

Post-mining discharges from underground mines exhibit wastewater characteristics similar to those found in active mine drainage. Thus, current treatment technology for these wastewaters includes BPT technology to control acidity, iron, manganese (if necessary), and total suspended solids.

(b) Control Technologies Considered for Use in This Industry

EPA initially identified a variety of candidate technologies for control of the pollutants discharged by the coal mining industry. These included: flocculant addition, granular media filtration, activated carbon, ion exchange, reverse osmosis, electrodialysis, ozonation, and sulfide precipitation. Of these additional technologies, only two were found to be potentially feasible and adaptable for this industry's wastewaters: flocculant addition and granular media filtration. Additionally, total recycle was also investigated as an in-process control for preparation plants. Because water is not intentionally introduced in the mining process and must be removed from the mine when encountered, recycle is not an appropriate control technology for mine drainage. A detailed discussion of the reasons for rejecting the other technologies as BAT, BCT or NSPS is presented in the technical Development Document.

(1) Flocculant Addition. This technology involves the addition of chemical coagulants prior to sedimentation ponds, clarifiers, or filter units, to enhance the efficiency of solids agglomeration. EPA has conducted treatability studies which indicate that flocculant addition effectively reduces certain toxic metals (if they are present in substantial concentrations) as well as suspended solids.

(2) Granular Media Filtration. Filtration is used as a suspended solids and metals removal technology. Filter systems are usually located downstream of primary gravity settlers, lime precipitation units, and polymer addition equipment. Filtration is accomplished by the passage of water through a physically restrictive medium with resulting entrapment of suspended particulate matter. Granular media filtration uses a variety of mechanisms including straining, interception, impaction, and adsorption for suspended solids removal. Filters are most often classified by flow direction and type of filter bed. Downflow, multimedia filters would probably find the widest application to both acid and alkaline coal mine wastewaters. In such a system, influent is piped to the top of the filter and by gravity or external pressure percolates through the bed before discharge or further treatment. This technology is proven in both industrial and municipal applications and is cost effective in relation to other technologies when reductions to 10 mg/l TSS or less are required.

(3) Zero Discharge. Recycle and reuse of preparation plant wastewaters is a demonstrated technology in this industry. Data from a survey conducted with the cooperation of the National Coal Association in early 1980 were used to establish the water treatment configurations presently used at coal preparation plants as discussed in Section IV. This procedure identified four general categoris of wastewater treatment practices.

The first category includes an estimated 42 facilities that are currently achieving zero discharge by recycling water from a clarifier and dewatering the thickened solids removed from the base of the clarifier by vacuum or pressure filtration. The filtrate from this process is recycled to the preparation plant.

The second category contains about 181 facilities that operate essentially on a total recycle basis. Because these facilities use sedimentation ponds for treatment, intermittent discharges occur during rainfall periods. Installation of ditching and diking around the ponds to divert storm runoff would be required to achieve total recycle.

The third category contains approximately 65 facilities. These plants use clarifiers and recycle the clean water to the preparation plant.

The fourth category includes approximately 382 facilities which currently discharge at least a portion of their wastewater. Many of these facilities, however, do recycle varying percentages of the treated wastewater for reuse in the plant. Therefore, requirements for achieving total recycle at these facilities vary widely from site-to-site.

Each of these categories includes facilities from a wide variety of geographical and topographical areas.

(c) Cost Development

The costs of applying these technologies were developed through compilation of cost data supplied by equipment manufacturers and by application of standard engineering data and cost estimation techniques.

None of the technologies studied in the development of these regulations is considered to be innovative. All of the in-plant controls described in this preamble and in greater detail in the technical Development Document have either been used or investigated for use in this industry and do not represent major process changes. The end-of-pipe treatment technologies have also been applied in this industry or other industries.

VII. Substantive Changes From Prior Regulations

The regulations proposed today contain several substantive changes with respect to both existing and new source coal mines.

(a) Western Mines. As discussed in Section V, western mines will not be placed in a separate subcategory.

(b) Storm Exemption. Today's proposal would significantly revise the nature and scope of the storm exemption. Under prior regulations, both surface and underground coal mines were exempt from all otherwise applicable requirements if: (1) the treatment facility was designed, constructed, and maintained to contain or treat the 10-year, 24-hour storm volume; and (2) the facility experienced an overflow, increase in volume of a discharge or discharge from a bypass system as a result of a precipitation event (*e.g.*, 40 CFR § 434.22(c)). If these prerequisites were met, then the operator could discharge without regard to effluent quality during the exemption period. The rationale for affording coal mines relief during precipitation events is set forth in detail in the Agency's preamble dated December 28, 1979 (44 FR 76788), and is summarized below.

A sediment pond operates on the principle that as sediment-laden water passes through the pond, the solid particles will settle to the bottom and be trapped. Generally, small particles will settle out more slowly than large solids; therefore, in order to meet a given effluent quality of total suspended solids (TSS), the sediment pond must be designed so that all particles requiring removal will be detained in the pond long enough to settle.

However, a number of site-specific factors make it extremely difficult to predict, on a generic basis, what TSS effluent concentrations can be expected from a sediment pond of a given size and design. The most significant factor is the variation in particle size distribution of the solids entering a sediment pond at different sites, and at the same site, during the course of a storm. A state-of-the-art computer simulation, discussed in the December 28, 1979 preamble, tended to confirm that TSS concentrations in the effluent from optimally designed sediment ponds will vary widely from site-to-site, and at the same site, during a given storm.

For these reasons, the Agency has always considered it appropriate to afford relief from the effluent requirements during storm conditions, provided that the treatment facility is properly designed and operated. However, since the Agency lacked data as to what effluent limitations were feasible during storms, the exemption permitted a discharge without regard to effluent quality.

The Agency has, however, engaged in a data collection effort with industry participation under Section 308 of the Act to characterize the effluent quality during and immediately after storm events from 22 sediment ponds across the country. The results compiled thus far confirm the conclusion of the previous computer simulation—well designed and operated sediment ponds will achieve consistently low concentrations of settleable (*i.e.*, suspended particles that will settle to the bottom in one hour) solids, but the concentrations of total suspended solids vary widely and unpredictably during and after storms because of the continual variation in particle size distributions of the influent TSS. Accordingly, the Agency proposes to exempt surface area discharges from the TSS limitations during storms provided that the sediment pond is properly designed and maintained, but to require such ponds to achieve a settleable solids limitation during the precipitation event.

The data also demonstrate that concentrations of the toxic metals and iron and manganese in drainage from these areas are at or very near limits of analytical detection which makes national regulation unnecessary. Therefore, properly designed and operated ponds treating surface runoff will also be exempt from the limitations on iron and manganese under the storm exemption proposed today. However, results from the industry pond sampling program described above indicate that a pH within the range of 6 to 9 can be maintained at all times; accordingly, there will be no relief granted from the pH requirement under today's proposed storm exemption.

In contrast to the previous exemption, today's proposed exemption would not apply to discharges from the underground workings at underground coal mines. (The exemption will apply, however, to drainage from the surface area of underground mines.) This is because the flow of mine drainage from underground workings should not be affected by precipitation (in contrast to surface areas), and storm events, therefore, should not pose the potential of inundating properly designed facilities which treat only underground mine drainage.

It should also be noted that there will be no storm exemption granted for new source preparation plants, which will be required to meet zero discharge of process wastewater pollutants. The exemption will apply, however, to new source preparation plant associated areas, whose wastewater is comprised almost exclusively of storm water runoff.

Several technical changes have been made to the design criteria for sedimentation ponds which are prerequisite to obtaining the storm exemption. The prior regulation states that, to obtain an exemption, the facility must be designed to "contain or treat" the 10-year, 24-hour storm volume. The intention of this language was to require the pond to be built to a design capacity—the 10-year, 24-hour storm volume—and to be operated at maximum efficiency during storms. However, the use of the phrase "or treat" has caused unnecessary confusion. The phrase was intended to refer to those few facilities in the coal mining industry which utilized chemical flocculants to enhance settling of solids (as distinct from the common use of lime to neutralize acid drainage, which may also cause flocculation). However, the phrase did not specify to what effluent quality and under what circumstances mine drainage would have to be treated in order to qualify for the exemption. Furthermore, if the facility was required to treat to the effluent limitations under some storm conditions, then there would be no need for the exemption.

Questions have also been raised as to how one designs a flocculation system to treat a volume of water such as the 10-year, 24-hour storm. These systems are designed for a *flow rate* rather than a volume. And again, if the exemption were construed to require that the maximum flow from a 10-year, 24-hour storm be "treated" to the effluent limitations, then an exemption during storms of that magnitude and smaller would be unnecessary.

For these reasons, the phrase "or treat" has been removed from the storm exemption (*e.g.*, § 434.63(c)). The proposed regulations make clear the design criteria for obtaining an exemption: First, the facility must be designed, constructed and operated to *contain* the runoff from the 10-year, 24-hour storm. This is a design volume criterion. Second, the facility must be designed, constructed and operated to achieve the effluent limitations during base-flow (dry weather) conditions. Thus, if a facility has continuously or recurrently failed to achieve the effluent limitations during base-flow conditions due to a deficiency in design, construction or operation, it will not be entitled to an exemption when it rains. On the other hand, it is not intended that a single or occasional violation of the effluent limitations during base-flow conditions due, for example, to malfunctions will preclude an exemption during storm conditions. This requirement provides an effective check to ensure that relief during storms will be accorded only to those operators who optimize their wastewater treatment systems.

Third, the facility must maintain the pH in the effluent between 6 and 9 at all times. As discussed previously, the Agency believes that it is feasible to do so, and an operator who fails to met this minimal requirement should not obtain the benefit of the storm exemption.

(c) **Post-Mining Discharges.** The issue of post-mining discharges has been the focus of substantial public comment and litigation in past rulemaking efforts. *Consolidation Coal Company* v. *Costle*, 13 ERC 1289 (4th Cir. 1979); *Commonwealth of Pennsylvania* v. *EPA* (3rd Cir. 1980). Post-mining discharges refer to the discharge of pollution-bearing wastewaters from a mining area after active mining operations cease. The concept applies to both surface an underground mines. A surface mining operation will move from one discrete area to another; as the next area is excavated and mined, the previously mined area will be restored to approximate original contour and reclaimed—that is, seeded, planted, and otherwise restored for suitable post-mining uses. If properly reclaimed, storm runoff from these inactive areas generally will be of acceptable quality; however, in the absence of proper reclamation, runoff from these post-mining areas can contain unacceptable levels of solids and metals, and be highly acidic, during reclamation and for years thereafter.

Historically, post-mining discharges from underground mines have contributed even more seriously than surface mines to water quality degradation. In the past, it was common practice for underground mine operators, particularly in Appalachia, simply to "walk away" from the mine after extracting all recoverable coal, without properly sealing and otherwise closing the mine. The results have been devastating; it has been estimated that 78 percent of all acid mine drainage in Appalachia is caused by post-mining discharges. *Commonwealth* v. *Barnes & Tucker*, 472 Pa. 115, 125, n. 10 (1976). According to a study prepared for EPA in connection with this rulemaking, even if all present and future mines were to incorporate extremely advanced treatment for their waste streams, the water quality of many watersheds would not be substantially improved because of the large contributions of acid drainage from abandoned mines. (Frontier Technical Associates, Inc., *Inventory of Anthracite Coal Mining Operations, Wastewater Treatment and Discharge Practices* (1980)).

As many studies have documented, and as many commenters have pointed out to EPA in prior rulemaking proceedings, successful control of post-mining water pollution is largely dependent on the pre-mining planning and active mining practices employed.

Thus, the mining process is increasingly viewed as integrated from planning to closure rather than as a series of unrelated, independent steps.

In order to address the environmental problems associated with coal mining in a comprehensive fashion, and in keeping with the notion that pre-mining planning and post-mining uses are interdependent, Congress enacted the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* ("SMCRA"). Title V of this statute gave the Office of Surface Mining Reclamation and Enforcement ("OSM") broad authority to regulate specific management practices before, during and after mining. Title IV of that statute addresses the problem of presently abandoned mines by authorizing and funding abandoned mine reclamation projects.

OSM has promulgated comprehensive regulations under Title V of SMCRA to control both surface coal mining and the surface effects of underground coal mining (30 CFR Parts 700 *et seq.).* Implementation of these requirements should lead to significant improvements in mining practices and should serve to adequately control post-mining discharges of water pollution.

On the other hand, it will necessarily be years before empirical data are collected regarding the effectiveness of OSM's program. Further, the establishment of effluent limitations for post-mining discharges will likely encourage coal mine operators to plan and conduct their mining activities in an environmentally sound manner; given the choice between incorporating such practices into the mining plan or incurring the costs of treating polluted mine drainage indefinitely, a rational operator would likely choose the former course.

Thus, effluent limitations guidelines for post-mining discharges should be coordinated with, and complement, the comprehensive regulatory scheme initiated by OSM under SMCRA. This is the clear intent of Congress as reflected in SMCRA, which requires EPA to cooperate "to the greatest extent practicable" with the Secretary of the Interior. 30 U.S.C. 1292(c). SMCRA's legislative history states Congress' view that "it is imperative that maximum coordination be required and that any risk of duplication or conflict be minimized." H.R. Rep. No. 45, 94th Cong., 1st Sess. 134 (1975). The United States Court of Appeals for the Fourth Circuit has held that EPA's regulation of post-mining discharges "must be consistent with the Secretary's enforcement and administration of SMCRA." *Consolidation Coal Company* v *Costle,* 13 ERC 1289, 1299 (4th Cir. 1979).

SMCRA requires coal mines to post bond securing their performance with the requirements of the Act. Under section 509 of SMCRA, liability under the bond remains for at least five years after the last year of augmented seeding, fertilizing, irrigation and other reclamation work (and for at least ten years after that time in those regions of the country where the average annual precipitation is twenty-six inches or less).

Under OSM's implementing regulations, liability under performance bonds continues for as long as necessary to achieve compliance with all requirements of SMCRA and the regulations. Under 30 CFR 816.42, runoff from the disturbed areas of a surface mine must be passed through a sedimentation pond or treatment facility until the disturbed area has been restored, revegetation requirements have been met and the quality of the drainage *without* treatment "meets the applicable State and Federal water quality standard requirements for the receiving stream." Thus, bond will not be fully released until all these conditions are met—that is, until the SMCRA regulatory authority is satisfied that the mine operator has successfully met all reclamation requirements and that the untreated drainage from the area meets Federal and State requirements.

OSM's requirements for underground mines are similar. Surface drainage from the disturbed area must be passed through a sedimentation pond or treatment facility for the same period as required for surface mines. However, drainage from the underground workings must be passed through a sediment pond or treatment facility until either the discharge continuously meets effluent limitations promulgated by OSM without treatment or until the discharge has permanently ceased. 30 CFR 817.42. Thus, bond liability with respect to underground mines will be released only when the SMCRA regulatory authority is satisfied that reclamation of the disturbed surface area is successful, and that the underground workings have been properly sealed and closed.

Given the regulatory scheme that is now being initiated by OSM and by states which have been delegated SMCRA programs by OSM, EPA believes that the goals of both SMCRA and the Clean Water Act are best harmonized at this time by applying effluent limitations until full release of the performance bond under OSM regulations. The release of bond by the appropriate SMCRA authority signifies that the coal mine operator has carried out its responsibilities under SMCRA, and that post-mining pollution problems are therefore abated and can be reasonably expected not to recur.

Present evidence indicates that the most serious potential for post-mining water pollution at surface mines occurs within the first two years after cessation of active mining operations—that is, during the period when reclamation activities may not be complete and the treatment of erosion remains high. This problem is largely resolved, however, by the fact that under SMCRA, liability under the performance bond cannot be released for at *least* five years (and at least ten years in western states) after completion of reclamation work. Thus, under today's proposal, effluent limitations will remain in effect during the period when post-mining water pollution problems are expected to occur at surface coal mines.

It should also be recognized that post-mining discharges at surface mines constitute point sources subject to effluent limitations guidelines primarily because OSM requires the collection of drainage from disturbed areas in sedimentation ponds or treatment facilities. 30 CFR 816.42. This drainage generally would otherwise diffuse non-point source runoff. Thus, once OSM authorizes removal of the sedimentation pond or treatment facility, and the performance bond is fully released, there generally will be no basis to apply EPA effluent limitations because there will generally be no point source.

The Agency recognizes that in isolated instances, runoff from inactive surface mine areas might constitute a point source discharge, even if it is not collected in a wastewater treatment facility. See *Sierra Club* v. *Abston Construction Co.* 14 ERC 1984 (5th Cir. 1980). It is also possible that drainage from surface mine areas once reclamation has been successfully completed may, in rare cases, be acidic or otherwise warrant treatment. However, there is no evidence that point source discharges from surface mines after SMCRA bond release will pose a pervasive or significant water pollution problem on a national scale sufficient to warrant effluent limitations guidelines. It should be emphasized that, in the rare instance where such a point source discharge occurs, the appropriate permitting authority may require treatment under section 402(a)(1) of the Clean Water Act, even in the absence of national guidelines. In such instances, the post-mining effluent limitations proposed today would be appropriate from the standpoint of wastewater treatment methods and technology.

With respect to underground mines, point source discharges of pollution may occur years after mine closure and sealing, depending on site-specific factors (such as geology and hydrology). However, there is no way to ascertain at this stage how pervasive this problem is likely to be in the wake of SMCRA's requirements. The Commonwealth of Pennsylvania has reported that seals on twenty percent of all its deep mines closed since 1966 have subsequently failed. It is reasonable to anticipate that this figure would decrease as mine closure technology advances and as OSM requirements are implemented.

In short, EPA is aware that OSM requirements do not, and cannot, guarantee that pollution will never occur after bond release. It is impossible to achieve that goal with absolute certainty since, for example, technology does not exist to ensure that a discharge from an underground mine will cease forever. All that can be known at this time is that OSM requirements represent state-of-art management practices, and should reverse the legacy of abandoned mine acid drainage.

However, EPA is initiating a data collection effort which will help to assess systematically: (1) the likelihood and severity of pollution discharges at coal mines after release of SMCRA bond; and (2) the cost-effectiveness and economic impacts of establishing effluent limitations after release of bond. The investigation will have two parts. One part of this study will address the financial ability of currently active coal mines to prepare for the possibility of a catastrophic event involving the hydrological balance of the area. The data for this analysis will consist of responses to a questionnaire mailed to a simple random sample of mines startified by size of production and geographic region. The sample frame for this selection will be the most current MSHA listing of active mines. The questionnaire will be limited to these items: (1) current yearly production; (2) identification of market (contract or spot); (3) estimated remaining life of the mine; (4) estimated total capacity; (5) type and amount of the reclamation bond; (6) type of wastewater treatment technology currently in place; (7) age of the mine; (8) total operating costs; and (9) F.O.B. price per short ton of coal.

At the same time, EPA intends to evaluate the successfulness of SMCRA requirements in preventing post-mining discharges. In consultation with OSM, EPA will identify a set of mines engaged in reclamation activities under OSM regulations and those mines which have undergone reclamation procedures prior to the OSM regulations. The primary focus will be to measure the success of reclamation under OSM regulations in solving water pollution problems without resorting to pollution control technology. This evaluation will consist of an examination of the reclamation procedures used at the mine and whether a discharge occurred afterwards. This sample will be used to estimate the proportion and types of mines which could be expected to fail in attempts to prevent polluting discharges after mining ceases. This evaluation will also investigate monitoring data during and after reclamation and closure activities in order to quantify pollutant discharges. These mines will be administered a questionnaire similar to those described above.

It is expected that this survey will provide the Agency with a basis for assessing the appropriateness and feasibility of establishing national regulations applicable after bond release. This survey is now proceeding and is expected to be completed by July, 1981.

(d) Definition of "New Source Coal Mine". The NSPS regulations promulgated on January 12, 1979, defined a "new source coal mine" as a coal mine which:

(1) was not assigned the applicable Mining Safety and Health Administration (MSHA) identification number under 30 CFR Part 82 *prior to the promulgation date* of these new source performance standards and which, at such date, had no contractual obligation to purchase unique facilities or equipment as defined in Appendix A of 40 CFR Part 6, Guidance on Determining a New Source, or

(2) is determined by the Regional Administrator to constitute a "major alteration" in accordance with 40 CFR Part 6 Appendix A (even if the applicable MSHA identification number is assigned prior to the *promulgation date* of new source performance standards). In making this determination, the Regional Administrator shall take into account the occurrence of one or more of the following events, in connection with the mine for which the NPDES permit is being considered, *after the date of promulgation* of applicable new source performance standards:

(i) A mine operation initiates extraction of a coal seam not previously extracted by that mine;

(ii) a mine operation discharges into a drainage area not previously affected by wastewater discharges from the mine;

(iii) a mine operation causes extensive new surface disruption;

(iv) a mine operation initiates construction of a new shaft, slope, or drift;

(v) a mine operation makes significant capital investment in additional equipment or additional facilities;

(vi) such other factors as the Regional Administrator deems relevant (emphasis added).

Subsequently, in accordance with the Court's decision in *Pennsylvania Citizens Coalition et al.* v. *EPA*, 14 ERC 1545 (3rd Cir. 1980), the Agency amended the definition, changing the reference date for determining new source coal mines to the date of NSPS proposal, rather than the date of final NSPS promulgation. See 45 FR 43413 (June 27, 1980).

In addition, the first portion of the new source test was challenged in *Begay et al.* v. *Costle*, No. 79-1690 (10th Cir.). Petitioners in that case argued that the obtaining of a MSHA identification number bears no necessary relationship to the date of commencement of construction, which is the statutory test for determining new sources. This case was voluntarily dismissed by all parties. However, because reliance on the MSHA criteria has engendered substantial controversy in the past, the Agency believes it prudent not to rely on that test for the purpose of today's proposed new source performance standards. Instead, the first portion of the "new source" test tracks section 306(a)(2) of the statute, and defines a new source coal mine as one which commences construction after the date of publication of today's proposed regulations. Interested persons are referred to the Agency's consolidated permit regulations for elaboration as to when a new source commences construction, 45 FR at 33452, § 122.66(b)(3) (May 19, 1980).

The applicability of today's proposal and the prior new source regulations requires clarification. Generally, the NSPS regulations promulgated on January 12, 1979, apply to all new source coal mines as defined in those regulations (as amended on June 27, 1980) and today's proposed NSPS regulations apply to new sources as defined in this proposal. However, it is theoretically possible for a facility to qualify as a "new source" under both definitions. For example, if a facility did not have any contractual commitments and did not obtain a MSHA identification number before September 19, 1977, but obtained a MSHA number on September 1, 1980, it would fall within the definition of a new source coal mine under the prior NSPS regulations. However, if it did not enter into any construction within the meaning of today's proposal until after today, then it would also be a new source within the meaning of today's definition. In this situations, the coal mine would be subject to today's proposed NSPS requirements, rather than those promulgated on January 12, 1979. By definition, the mine would qualify as a new source under today's proposal, and it will not suffer any prejudice by being subject to these NSPS requirementrs since it has not entered into any construction prior to today.

If a mine obtained a MSHA number prior to September 19, 1977, then under the prior NSPS regulation it qualified as an existing source; however, in the unlikely event that that mine had not commenced construction until after today, then it would qualify as a new source under today's definition. In this case, the facility will also be treated as a new source subject to today's proposed NSPS requirements, since, by definition, it will not suffer any prejudice as a result of the changed definition.

VIII. BAT Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements), and the costs of application of such technology (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. Where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT considers costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges before and after application of BAT, the general environmental effects of the pollutants, the technical feasibility of implementing the technology, and the costs and economic impacts of the candidate pollution control levels.

The Agency considered a number of options for regulation of existing sources subject to the BAT requirement and new sources subject to the NSPS requirement. The BAT options are detailed below. New source options are discussed in Section X.

(a) BAT Options Considered

(1) Option One—Require effluent limitations equivalent to those promulgated under BPT. For acid drainage mines and coal preparation plants and associated areas the limitations are based on the application of neutralization, aeration, and settling technologies. For alkaline mines and reclamation areas, limitations are based upon application of settling technology.

Post-mining discharge limitations and the modified storm exemption discussed in Section VII would also apply here.

(2) Option Two—Require compliance for active mine drainage and preparation plants and associated areas wastewater with effluent limitations based upon flocculant addition technology as an end-of-pipe treatment supplementing existing technology.

Post-mining discharge limitations and the modified storm exemption discussed in Section VII would also apply here.

(3) Option Three—Require effluent limitations based on the application of granular media filtration technology as an end-of-pipe treatment after BPT for active mining area and coal preparation plant wastewaters.

Post-mining discharge limitations and the modified storm exemption discussed in Section VII would also apply here.

(4) Option Four—Require no discharge of process wastewater pollutants from existing preparation plants, with one of the above options selected for mine drainage and coal preparation plant associated area runoff. Associated area drainage, which includes runoff from coal and refuse storage piles and other areas adjacent to the preparation plant, would be segregated from the preparation plant water circuit for separate treatment. Total recycle of preparation plant circuit water would be necessary, with ditching or diking installed around the treatment facilities to divert storm and other surface runoff. Associated area drainage would have to be neutralized and settled in a separate facility. The modified storm exemption discussed in Section VII would apply to the associated area drainage treatment system but not to the preparation plant water circuit.

(b) BAT Selection and Decision Criteria. EPA has selected Option One as the basis for proposed BAT effluent limitations. This conclusion is based on four factors: (1) the toxic metals were found at levels very near or at concentrations considered to be the detection limit by state-of-the-art analytical techniques; (2) treatability studies, pilot plant studies, and statistical analyses indicated very low, if any, additional reductions of toxic metals are achievable beyond BPT levels; (3) it is infeasible to implement the BAT candidate technologies throughout the industry based upon by technical and cost considerations (*e.g.*, providing power, access, and security for filtration water treatment of remote discharges in Appalachia); and (4) toxic organics that were detected in BPT—treated effluents occurred at levels too low to effectively treat, were uniquely related to only a few facilities or were attributable to sampling or analytical contamination.

In the sampling programs conducted, toxic metals appeared in BPT-treated effluent at concentrations of 0.2 mg/l and above in only 15 of 1,755 toxic metal analyses and at only nine of 74 facilities sampled. Furthermore, each metal was detected at these concentrations at very few mines, thus indicating that national regulations are unwarranted. It is recognized that a metal may occasionally be present in high concentrations. For example, zinc was detected 11 times at concentrations of 0.5 mg/l and above (all 11 times at one of the 74 facilities sampled). Concentrations might be relatively high in treated wastewaters from areas where zinc was deposited simultaneously with the plant organisms during coal formation or as a mineral in surrounding strata. In this event, permit writers have the authority to establish a specific limitation for the particular pollutant in question. The Development Document presents detailed information on the frequency of occurrence and concentrations of toxic pollutants in raw and treated wastewaters in this industry.

To assess the effectiveness of certain technologies in reducing toxic metal pollutants, the Agency instituted a number of treatability studies at various mine sites. Technologies investigated include flocculant addition, granular media filtration, carbon adsorption, ion exchange, and reverse osmosis. In general, these treatment options showed effective reductions of toxic metals concentrations when these species were introduced as soluble salts (e.g., $CuCl_2$ or $Zn(NO_3)_2$). This procedure is termed "spiking." Spiking was performed because it was not possible to find BPT-treated mine water with enough naturally occurring toxic metals in quantities sufficient to perform meaningful treatability studies. When BPT-treated wastewater was used as influent to the pilot treatment unit with no spiking solutions added, the metals reductions achieved were marginal and could not be quantified with precision because the influent levels were so near the detection limits.

As a result of the above factors, the Agency has selected Option One as the appropriate alternative for the BAT regulations.

Option Four, for existing preparation plants, was not selected because of the high retrofit expenditures ($291 million capital, $52.6 million annual; 1980 dollars) and small additional pollutant removals achievable.

IX. BCT Effluent Limitations

The 1977 amendments added Section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(b)(4)—BOD, TSS, fecal coliform, and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1978, EPA designated oil and grease as a conventional pollutant (44 FR 44501).

BCT is not an addtional limitation; rather it replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works (POTW) to the cost and level of reduction of such pollutants from a class or category of industrial sources. As a part of its review of BAT for certain "secondary" industries, the Agency has promulgated a methodology for this cost test (44 FR 50732, August 29, 1979). The Agency compares the costs and levels of removal in a subcategory with those of an "average" POTW with a flow of 2 mgd. If the costs per pound of removal in the industrial subcategory are equal to or less than the cost per pound to the POTW ($1.51 per pound; 1979 dollars), then the costs are considered reasonable.

As discussed in Section VIII, the Agency has determined that BAT technology is equivalent to BPT for the coal mining industry. The technologies considered for treatement of conventional pollutants are the same as those considered for treatment of toxic pollutants. Accordingly, by definition, BCT for this industry meets the BCT cost test because there is no incremental cost to remove conventional pollutants beyond BPT.

X. New Source Performance Standards (NSPS)

Under Section 306 of the Act, new source performance standards (NSPS) are to be based on application of the best available demonstrated technology. New mining facilites have the opportunity to implement the best and most efficient coal mining processes and wastewater treatment technologies. Congress, therefore, directed EPA to consider the best demonstrated process changes and end-of-pipe treatment technologies capable of reducing pollution to the maixmum extent feasible.

(a) NSPS Options Considered. The Agency considered the following NSPS options:[3]

(1) Option One—Require NSPS in each subcategory to be based on BPT technology.

(2) Option Two—Require achievement of performance standards based on flocculant addition to supplement BPT treatment for mine drainage and preparation plant and associated area drainage.

(3) Option Three—Require achievement of performance standards based on granular media filtration as end-of-pipe treatment to existing technology for mine drainage and preparation plant and associated area drainage, as per BAT Option Three.

(4) Option Four—Require no discharge of process wastewater pollutants from new source preparation plants, with one of the above options selected for mine drainage and preparation plant associate areas. Associated area drainage would be segregated from the preparation plant process wastewater. Under this option, no storm exemption is provided for the coal preparation plant water circuit.

(b) NSPS Selection and Decision Criteria. EPA has selected Options One and Four as the basis for proposed new source performance standards. The rationale for selecting Option One is identical to that described in Section VIII, and the reader is referred there for additional detail. EPA has selected Option Four as the basis for NSPS in the preparation Plant subcategory because zero discharge is a demonstrated technology for these facilities. Many existing facilities are practicing total recycle of preparation plant wastewaters. Further, this option is feasible for new sources, which can plan wastewater treatment and management practices at the design stage, thereby avoiding costly retrofit which would be required by the majority of existing sources.

XI. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMP's") to control "plant site runoff, spillage or leaks, sludge or waste disposal, and drainge from raw material storage." However, the Administrator may prescribe BMP's only where he finds that they are needed to prevent "significant amounts" of toxic or hazardous pollutants from entering navigable waters.

In contrast to this limited authority, Congress, through SMCRA, directed OSM to prescribe a range of management practices for coal mines. SMCRA and OSM's implementions regulations can be viewed as a BMP program tailored for coal mines, reflecting Congress' awareness that a comprehensive regulatory scheme is needed to remedy the host of environmental degradations caused by past mining practices.

Therefore, it is not EPA's intention at this time to propose BMP's for coal mining under the Clean Water Act. Rather, it is anticipated that today's proposed regulations governing point source discharges, coupled with OSM's program, will provide a coherent and complementary framework for the regulation of this industry. The two agencies have worked closely on this rulemaking and related rulemaking by OSM to ensure the duplication and conflict in federal regulation is minimized. If, in the future, it appears the BMP's under the Clean Water Act are necessary to supplement OSM's program, EPA will propose them as appropriate.

XII. Variances and Modifications

Both BAT and BCT effluent limitations are subject to EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours and Co. v. Train* 430 U.S. 1112 (1977), *Weyerhaeuser Co. v. Costle, supra.* This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it will now be included only by reference in the coal mining and other industry regulations. See the final NPDES regulations, 40 CFR Part 125, Subpart D, 44 FR 32854, 32893 (June 7, 1979), for the text and explanation of the "fundamentally different factors" variance.

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[3] Options One, Two, and Three include post-mining discharge limitations and the modified storm exemption as discussed in Section VIII.

The BAT limitations in these regulations also are subject to EPA's "fundamentally different factors" variance. BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 43 FR 40859 (Sept. 13, 1978).

New source performance standards are not subject to modification through EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *du Pont* v. *Train*, *supra*.

XIII. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" of "by pass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset prtovision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion.

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance in emergency situations during which waste treatment facilities are circumvented. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both explicit upset and bypass provisions should be included in NPDES permits and has promulgated NPDES regulations which include upset and bypass permit provisions. See 45 FR 33448, § 122.60(g) and (h) (May 19, 1980). The upset provision establishes an upset as an affirmative defense to prosecution for violation of a technology-based effluent limitation. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage.

The Agency has received several inquiries concerning the relationship between the general upset and bypass provisions set forth in the consolidated permit regulations and the storm exemption contained in the BPT and NSPS regulations for coal mining. The storm exemption discussed in Section VII of this notice supersedes the generic upset and bypass provisions with respect to precipitation events; that is, an operator wishing to obtain relief from effluent requirements due to precipitation events must comply with the prerequisites of the rainfall exemption provision. However, the upset and bypass provisions are available to coal mines in all other applicable situations.

XIV. Pollutant Parameter Selection

The revised Settlement Agreement described in Sections I and II of this notice authorizes the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. Data collected and received by EPA were used in making decisions not to regulate specific toxic pollutants. EPA has not selected any toxic pollutants for control by national regulation in discharges from the coal mining industry. Specific effluent limitations are being established for TSS, pH, iron, manganese, and settleable solids.

Paragraph 8(a)(iii) of the revised Settlement Agreement allows the Adminsitrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. This provision includes pollutants not detected at levels above EPA's nominal detection limit (10 ug/1) for toxic organics and those pollutants whose presence is due to contamination during sampling, sample transport, and analysis. For coal mining, sixty-seven toxic organic pollutants were not detected. Ten toxic organic pollutants are believed to be present due to sampling or analytical contamination. Paragraph 8(a)(iii) also allows the Adminsitrator to exclude from regulation any pollutant detected in only a small number of sources within the category or subcategory and uniquely related to only those sources. Twenty-three toxic organics were detected in the effluent of only one or two mines and always below 10 ug/1.

Paragraph 8(a)(iii) allows for the exclusion of pollutants which were detected in amounts too small to be effectively reduced by technologies known to the Administrator. Fourteen of the toxic organics were detected in amounts too small to be effectively reduced. Of the thirteen toxic metals, five (antimony, beryllium, cadmium, silver and thallium) were detected in the effluents of two or more mines at concentrations virtually at the detectable limits. Therefore, technologies more advanced than BPT are not known to the Adminsitrator which effectively reduce the concentration of these pollutants in the effluent.

Paragraph 8(a)(iii) also provides for exclusion of pollutants if these pollutants are already effectively controlled by technologies upon which other effluent limitations and guidelines are based. Eight toxic metal pollutants (arsenic, chromium, copper, lead, mercury, nickel, selenium, and zinc) were excluded from BAT regulation under this criterion. As discussed in Section VIII, these metals are generally found in BPT-treated effluents at such low concentrations that BPT technology effectively controls these metals when present in wastewater.

Cyanide was detected in six treated effluents, although at or below the accepted level of analytical precision. Therefore, additional treatment for cyanide reduction cannot be evaluated. Chrysotile asbestos was detected at concentrations considered to be slightly above background levels. At the levels reported, the analytical method used to measure asbestos is imprecise. As the method continues to be refined, the Agency will, if necessary, re-examine the levels of chrysotile asbestos in coal mining wastewaters and determine whether regulation is necessary.

The 114 organic pollutants excluded from regulation are listed in Appendices B, C, D and E of this notice.

XV. Nonwater Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of its regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption.

While it is difficult to balance pollution problems against each other and against energy utilization and economic constraints, EPA is proposing regulations which it believes best serve competing national goals.

This proposal was circulated to and reviewed by EPA personnel responsible for nonwater quality environmental programs. The following are the nonwater quality environmental aspects (including energy requirements) associated with the proposed regulations.

Air Pollution. Imposition of BAT, BCT, and NSPS standards will not create any additional air pollution problems.

Solid Waste. Some of the solid waste production associated with the coal mining industry is generated by current treatment systems installed primarily to treat wastewater. Imposition of BAT and NSPS standards will not measurably increase the solid waste production for the industry. BAT standards will add no additional solid waste since BAT limitations would be equivalent to the BPT requirement in all subcategories. The Agency is proposing requirements for areas under reclamation and for sites where mining has ceased; however, sediment control for these areas is already required by other federal regulations, and thus no additional solid waste would result.

The same is true for NSPS, with the exception of the coal preparation plant subcategory. The Agency is proposing that new source preparation plants will be required to achieve zero discharge of process wastewater pollutants. The additional solid waste production associated with implementation of zero discharge would be minimal. This is demonstrated by examining concentrations of suspended solids at different points in the preparation plant treatment system. The average concentration of total suspended solids in the raw wastewater is 34,100 mg/l. BPT technology reduces this to 35 mg/l or less. Therefore, the vast majority of solid waste would be generated from the BPT requirement, with relatively small additional amounts produced by the NSPS requirement.

On October 21, 1980, the President signed into law the Solid Waste Disposal Act Amendments of 1980 which amend the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 4901 *et seq.* Section 2(c) of this law transfers to the Secretary of the Interior exclusive responsibility for implementing the requirements of Subtitle C of RCRA with respect to coal mining wastes or overburden for which a surface coal mining and reclamation permit has been issued or approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Within 90 days after enactment of the amendments, the Administrator of EPA is directed to review regulations promulgated by the Secretary under SMRCA and to determine whether these regulations are adequate to implement Subtitle C of RCRA. The Secretary is directed to promulgate regulations which may be necessary to carry out this mandate, after obtaining the Administrator's concurrence. In addition, the amendments provide that any permit covering coal mine wastes or overburden under SMRCA shall be deemed a permit issued under section 3005 of RCRA with respect to the treatment, storage, or disposal of such wastes or overburden (Sec. 11). The amendments exempt coal mine wastes and overburden from regulations promulgated by the Administrator under Subtitle C of RCRA (Sec. 11).

As a result of these amendments, the coal mining industry will incur no costs under existing Subtitle C requirements with respect to the treatment, storage and disposal of coal mining wastes and overburden. Further, it is too early to know whether the requirements of SMRCA will be considered adequate to carry out the goals of RCRA, or whether it will be necessary for the Secretary to promulgate additional regulations. This is particularly the case since a determination as to whether these wastes are hazardous within the meaning of Subtitle C has not yet been made, and such determinations may vary from site to site. Consequently, the costs, if any, of complying with solid waste disposal requirements beyond those presently required under SMRCA are uncertain, and have not been included in the Agency's baseline economic analysis for this industry.

Energy Requirements. Achievement of BAT and NSPS effluent limitations will not result in a significant net increase in energy requirements because these standards are equivalent to BPT effluent limitations, with the exception of the NSPS requirement of zero discharge for coal preparation plants. The zero discharge standard may mandate installation of additional pump equipment and, in a few cases, chemical addition equipment to provide recycle water of adequate quality to be reused in the plant. However, the energy requirements for recycle pump operation, for instance, will be offset to a great extent by decreased fresh-water-makeup pump energy requirements. Thus, the incremental amount of energy associated with these techniques, beyond the BAT requirement, is insignificant.

XVI. Costs and Economic Impact

Executive Order 12044 requires EPA and other agencies to perform a Regulatory Analysis of certain regulations (43 FR 12661, March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annual compliance costs of $100 million or meeting other specified criteria (43 FR 298891, July 11, 1978). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and evaluation of regulatory alternatives. The proposed regulations for the coal mining industry do not meet the proposed criteria which require a formal Regulatory Analysis. Nonetheless, this proposed rulemaking satisfies the formal Regulatory Analysis requirements.

EPA's impact assessment entitled *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Coal Mining Point Source Category,* assesses the impact of compliance costs in terms of facility closures, production changes, price changes, employment changes, local community impacts, and balance of trade effects. Controls for new mines and preparation plants and existing mines and preparation plants were examined.

The estimated economic impact of the regulatory alternatives considered for this rulemaking were obtained through the simulation of supply and demand in the spot and contract coal markets in 1984. Regional supplies and costs are forecast for 1984 in the steam (spot and contract) and metallurgical coal markets, incorporating differentials in coal prices due to differing production, transportation and coal utilization costs. These estimates are used in the coal market simulation model to evaluate the economic impact of the alternatives in 1984. The impact is measured as the difference in levels of production, employment, wages and investment requirements for pollution control between the base case and alternative levels of treatment. The base case incorporates the compliance costs of the BPT limitations. The economic impacts associated with the promulgated BPT guidelines were analyzed previously (See 42 FR 21380) and are not discussed in the analysis.

Two alternative treatment levels were examined for further control at existing and new source mines: flocculant addition and granular media filtration. It is estimated that the maximum required investment in pollution control equipment with flocculant addition would be $95 million. However, the analysis indicates that there would not be any price changes in the spot or contract coal markets, nor would there be a decrease in production of coal. Thus, no mine closures, employment losses or community impacts are predicted for this option. The analysis shows that the maximum required investment with granular media filtration will be $301 million. The direct effects of this control technology concentrate the negative impact of the filtration option in Northern Appalachia. Production is estimated to decline by 3 percent with concomitant employment losses of about 1,600 jobs result from 53 mine closures. The ultimate increase in the annual cost of energy would be $332 million (1978 dollars). The Agency has elected to propose limitations which require no additional treatment technology to that already required by BPT, and therefore no additional costs or impacts are projected to result from this regulation.

No additional costs or impacts are expected due to the post-mining discharge limitations for acid and alkaline mines under the amended BPT regulations, the BAT regulations and NSPS regulations. OSM already requires that when mine drainage occurs at an inactive mine it must be treated until the discharge ceases or meets OSM limitations. The OSM limitations are identical to EPA's proposed limitations. Therefore, any capital and operating costs resulting from compliance with the proposed EPA regulation are already incurred as a result of compliance with OSM regulations. There will not be any incremental impact for this extended coverage.

The BAT limitations proposed today for existing source coal preparation plants and associated areas do not require any additional treatment technology beyond that already needed to meet promulgated BPT standards. Therefore, no additional costs or impacts are projected to result from this proposal for these existing sources.

However, the requirement of no discharge for new source coal preparation plants is different than that currently required for existing sources. It is estimated that these requirements will potentially increase the cost of coal cleaning by up to 3.5 percent. No change is expected in the demand for coal preparation as a result of requiring zero discharge for new coal preparation plants. Further, even in the absence of the Clean Water Act, new source preparation plants generally would design total recycle systems for cost and management reasons. The zero discharge requirement is not expected to cause a decrease in the number of plants entering the industry in the near term.

XVII. Relationship to NPDES Permits

The BAT, BCT, and NSPS limitations in these regulations will be applied to individual coal mines and preparation plants through NPDES Permits issued by EPA or approved state agencies, under section 401 of the Act. Upon the promulgation of final regulations, the numerical effluent limitations must be applied in all federal NPDES permits thereafter issued to coal mining direct dischargers. Permits issued by states with NPDES authority may contain more stringent limitations than those proposed here.

On September 25, 1979, EPA and OSM Published a proposed Memorandum of Understanding ("MOU") to coordinate the issuance and enforcement of NPDES permits and permits issued under SMCRA (45 FR 55322). Public comments on the proposed MOU have been received and the agencies expect to sign a final MOU, and propose implementing regulations, in the future.

The previous section discussed the availability of variances and modifications from national limitations, but there are other issues relating to the interaction of these regulations and NPDES permits. One matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of these regulations and before June 30, 1981, must include a "re-opener clause," providing for permits to be modified to incorporate "toxics" regulations when they are promulgated. See 40 CFR 122.62(c), 45 FR 33449 (May 19, 1980). At one time, EPA had a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. While EPA continues to encourage EPA and State permit writers to issue short-term permits to primary industry dischargers until June 30, 1981, EPA has changed its policy to allow more flexibility. See 40 CFR 122.62(c), 122.64, 45 FR 33340 (May 19, 1980). EPA permit writers may issue long-term permits to primary industries even if guidelines have not yet been promulgated provided the permits require BAT and BCT and contain re-opener clauses. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis, on consideration of the statutory factors. See *U.S. Steel Corp. v. Train*, 556 F. 2d 822, 844, 854 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. See 45 FR 33290 (May 19, 1980).

The promulgation of these regulations does not restrict the power of any permit-issuing authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, the fact that these regulations do not control a particular pollutant does not preclude the permit issuer from limiting that pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or federal law require limitation of pollutants not covered by these regulations (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

With respect to monitoring requirements, the Agency is considering establishing a regulation requiring permittees to conduct additional monitoring when they violate permit limitations. The provisions of such monitoring requirements will be specific for each permittee and may include analysis for some or all of the toxic pollutants and the use of biomonitoring techniques. The additional monitoring is designed to determine the cause of the violation, necessary corrective measures, and the identity and quantity of toxic pollutants discharged. Each violation will be evaluated on a case-by-case basis by the permitting authority. A more lengthy discussion of this requirement appears at 45 FR 33290 (May 19, 1980).

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing these regulations. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

XVIII. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record supporting this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data or other relevant information.

For the purpose of clarity, the entire BPT regulation is being published as part of today's notice. However, a substantial portion of the BPT

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requirements remain unaffected by today's proposal and are not being reproposed today; accordingly, comments addressed to these requirements are not appropriate to this rulemaking. EPA solicits comments only on those portions of BPT which change the prior BPT regulation—that is, the proposals covering post-mining discharges, the revised storm provision and the inclusion of western mines.

EPA is particularly interested in receiving comments and data on the following issues:

(1) Industry and other sources are invited to submit any data from pilot or commercial scale studies of the performance of flocculant addition or granular media filtration, particularly on the effectiveness of toxic metals removal. Although the Agency has undertaken a variety of treatability studies to address these technologies, EPA is aware of the possible variation of technology performance given the diverse characteristics of raw wastewaters extant in the coal mining industry.

(2) The Agency solicits comments on its proposal to establish national regulations until bond release, and on the appropriateness and necessity of establishing national regulations for existing and new mines beyond bond release.

(3) The Agency invites comments concerning the proposed requirements covering storm events.

XIX. Small Business Administration (SBA) Financial Assistance

There are two SBA programs that can be important sources of financing for the Coal Mining Point Source Category. They are the SBA's Economic Injury Loan Program and the Pollution Control Financing Bond Guarantees.

Section 8 of the Clean Water Act Amendments of 1977 amended section 7 of the Small Business Act, 5 U.S.C. 636, to authorize the SBA through its Economic Injury Loan Program to make loans to assist small business concerns in effecting additions to or alterations in equipment, facilities, or methods of operation in order to meet water pollution control requirements under the CWA if the concern is likely to suffer a substantial economic injury without such assistance. This program is open to small business firms as defined by the Small Business Administration. Loans can be made either directly by SBA or through a bank using an SBA guarantee. The interest on direct loans depends on the cost of money to the Federal Government and is currently set at 8⅛ percent. Loan repayment periods, depending on the ability of the firm to repay the loan may extend up to thirty years but will not exceed the useful life of the equipment.

Firms in the Coal Mining Point Source Category may be eligible for direct or indirect SBA loans. For further details on this Federal loan program write or telephone any of the following individuals at EPA headquaters or in the ten EPA regional offices:

Headquarters—Ms. Frances Desselle, Office of Analysis and Evaluation (WH-586), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426-7874.
Region I—Mr. Ted Landry, Enforcement Division, Environmental Protection Agency, J.F. Kennedy Federal Building, Boston, MA 02203, Telephone: (617) 223-5061.
Region II—Mr. Gerald DeGartano, Enforcement Division, Room 432, Environmental Protection Agency, 26 Federal Plaza, New York, NY 10007, Telephone: (212) 264-4711.
Region III—Mr. Bob Gunter, Environmental Protection Agency, Curtis Building, 3IR20, 6th and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597-2564.
Region IV—Mr. John Hurlebaus, Grants Administrative Support Section, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, GA 30308, Telephone: (404) 881-4491.
Region V—Mr. Arnold Leder, Water and Hazardous Material, Enforcement Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, IL 60605, Telephone: (312) 353-2114.
Region VI—Ms. Jan Horn, Enforcement Division, Environmental Protection Agency, 1st International Building, 1201 Elm Street, Dallas, TX 75270, Telephone: (214) 729-2760.
Region VII—Mr. Paul Walker, Water Division, Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, MO 64108, Telephone: (816) 374-2725.
Region VIII—Mr. Gerald Burke, Office of Grants, Water Division, Environmental Protection Agency, 1860 Lincoln Street, Denver CO 80203, Telephone: (303) 327-4579.
Region IX—Ms. Linda Powell, Permits Branch, Enforcement Division (E-4), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 556-3450.
Region X—Mr. Danforth Bodien, Enforcement Division, Environmental Protection Agency, 1200 6th Avenue, Seattle, WA 98101, Telephone: (206) 442-1352.

Interested person may also contact the Assistant Regional Administrators for Financial Assistance in the Small Business Administration Regional offices for more details on federal loan assistance programs. For further information, write or telephone any of the following individuals:

Region I—Mr. George H. Allen, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 60 Batterymarch, 10th Floor, Boston, MA 02110, Telephone: (617) 223-3891.
Region II—Mr. John Axiotakis, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 26 Federal Plaza, New York, NY 10007, Telephone: (212) 264-1452.
Region III—Mr. David Malone, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 231 St. Asaphs Road, West Lobby, Suite 646, Bala Cynwyd, PA 19004, Telephone: (215) 596-5906.
Region IV—Mr. Merritt Scoggins, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1375 Peachtree Street N.E., Atlanta, GA 30367, Telephone: (404) 881-2009.
Region V—Mr. Howard Bondruska, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 219 South Dearborn Street, Chicago, IL 60604, Telephone: (312) 353-4534.
Region VI—Mr. Till Phillips, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1720 Regal Row, Suite 230, Dallas, TX 75202, Telephone: (214) 767-7873.
Region VII—Mr. Richard Whitley, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 911 Walnut Street, 23rd Floor, Kansas City, MO 64016, Telephone: (816) 374-3210.
Region VIII—Mr. James Chuculate, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1405 Curtis Street, Executive Tower Building, 22nd Floor, Denver, CO 80202, Telephone: (303) 837-3686.
Region IX—Mr. Larry J. Wodarski, Deputy Assistant Regional Administrator for Financial Assistance, Small Business Administration, 450 Golden Gate Avenue, San Francisco, CA 94102, Telephone: (415) 556-7782.
Region X—Mr. Jack Welles, Regional Administrator, Small Business Administration, 710 2nd Avenue, Dextor Horton Bldg., 5th Floor, Seattle, WA 98104, Telephone: (206) 442-1455.

In addition to the Economic Injury Loan Program, the Small Business Investment Act, as amended by P.L. 94-305, authorizes SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution facilities when the financing is provided through tax-exempt revenue or pollution control bonds. This program is open to all eligible small businesses as defined by the Small Business Administration. Bond financing with SBA's guarantee of the payments makes available long term (20–30 years), low interest (7 percent) financing to small businesses. For further details on this program write to the SBA, Pollution Control Financing Division, Office of Special Guarantees, 1815 North Lynn Street, Magazine Bldg., Rosslyn, VA 22209, (703) 235-2900.

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Abbreviations, Acronyms and Units Used in This Notice

Act—The Clean Water Act.

Agency—The United States Environmental Protection Agency.

BADT—Best Available Demonstrated Technology under Sections 304(c) and 306 of the Act.

BAT (BATEA)—The Best Available Technology Economically Achievable, under Section 304(b)(2)(B) of the Act.

BCT (BCPCT)—The Best Conventional Pollutant Control Technology, under Section 304(b)(4) of the Act.

BMP—Best Management Practices under Section 304(e) of the Act.

BOD—Biochemical Oxygen Demand.

BPT (BPCTCA)—The Best Practicable Control Technology Currently Available, under Section 304(b)(1) of the Act.

CPE (BFR)—Catastrophic Precipitation Event.

CWA—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

FWPCA—Federal Water Pollution Control Act.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New Source Performance Standards under Section 306 of the Act.

OSM—Department of Interior, Office of Surface Mining Reclamation and Enforcement.

POTW—Publicly Owned Treatment Works.

PSES—Pretreatment Standards for Existing Sources of indirect discharges, under Section 307(b) of the Clean Water Act.

PSNS—Pretreatment Standards for New Sources of indirect discharges, under Section 307(b) and (c) of the Clean Water Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waste Disposal Act.

SMCRA—Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*).

TSS—Total Suspended Solids.

UNITS g/kg—grams per kilogram; gpd—gallons per day; mgd—million gallons per day; mg/l—milligram(s) per liter; ug/l microgram(s) per liter; ml/l—milliliters per liter.

Appendix B—Priority Organics Not Detected in Treated Effluents of Screening and Verifcation Samples

1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzidine
5. carbon tetrachloride (tetrachloromethane)
6. chlorobenzene
7. 1,2,4,-trichlorobenzene
8. hexachlorobenzene
9. 1,1-dichloroethane
10. 1,1,2-trichloroethane
11. chloroethane
12. bis(chlormethyl) ether
13. bis(2-chloroethyl) ether
14. 2-chloroethyl vinyl ether (mixed)
15. 2-chloronaphthalene
16. 2,4,6-trichlorophenol
17. parachlorometa cresol
18. 2-chlorophenol
19. 1,3-dichlorobenzene
20. 2,4-dichlorophenol
21. 1,2-dichloropropane
22. 1,2-dichloropropylene (1,3-dichloropropene)
23. 2,4-dimethylphenol
24. 2,4-dinitrotoluene
25. 2,6-dinitrotoluene
26. 1,2-diphenylhydrazine
27. bis(2-chloroisopropyl) ether
28. 4-chlorophenyl phenyl ether
29. 4-bromophenyl phenyl ether
30. methyl chloride (chloromethane)
31. methyl bromide (bromomethane)
32. bromoform (tribromomethane)
33. dichlorobromomethane
34. dichlorodifluoromethane
35. chlorodibromomethane
36. hexachlorobutadiene
37. hexachlorocyclopentadiene
38. isophorone
39. nitrobenzene
40. 2-nitrophenol
41. 4-nitrophenol
42. dimethyl phthalate
43. N-nitrosodimethylamine
44. N-nitrosodiphenylamine
45. N-nitrosodi-n-propylamine
46. benzo(a)pyrene
47. 3,4-benzofluoranthene
48. benzo(k)fluoranthane(11,12-benzofluoranthene)
49. acenaphthylene
50. vinyl chloride (chloroethylene)
51. dieldrin
52. chlordane (technical mixture and metabolites)
53. 4,4′-DDE (p,p′-DDX)
54. a-endosulfan-Alpha
55. b-endosulfan-Beta
56. endosulfan sulfate
57. endrin
58. endrin aldehyde
59. PCB 1242 (Arochlor 1242)
60. PCB 1254 (Arochlor 1254)
61. PCB 1221 (Arochlor 1221)
62. PCB 1232 (Arochlor 1232)
63. PCB 1248 (Arochlor 1248)
64. PCB 1260 (Arochlor 1260)
65. PCB 1016 (Arochlor 1016)
66. toxaphene
67. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix C—Priority Organics Detected in Treated Effluents at One or Two Mines Always at Levels Below 10 μg/l

1. 1,2-dichloroethane
2. hexachloroethane
3. 1,1,2,2-tetrachloroethane
4. 1,4-dichlorobenzene
5. 3,3′-dichlorobenzidine
6. fluoranthene
7. bis(2-chloroethoxy) methane
8. 2,4-dinitrophenol
9. 4,6-dinitro-o-cresol
10. pentachlorophenol
11. di-n-octyl phthalate
12. benzo(a)anthracene
13. chrysene
14. anthracene
15. fluorene
16. phenanthrene
17. pyrene
18. benzo(g,h,i)perylene
19. aldrin
20. 4,4′-DDT
21. 4,4′-DDD
22. heptachlor
23. heptachlor epoxide

Appendix D—Priority Organics Detected But Present Due to Contamination of Screening and Verification Samples by Sources Other Than Those Sampled

1. benzene
2. chloroform
3. methylene chloride
4. phenol
5. bis(2-ethylhexyl) phthalate
6. butyl benzyl phthalate
7. di-n-butyl phthalate
8. diethyl phthalate
9. toluene
10. tetrachloroethylene

Appendix E—Priority Organics Detected But Present in Amounts Too Small To Be Effectively Reduced

1. 1,1,1-trichloroethane
2. 1,1-dichloroethylene
3. 1,2-trans-dischloroethylene
4. ethylbenzene
5. trichlorofluoromethane
6. trichloroethylene
7. 1,2-dichlorobenzene
8. napthalene
9. dibenzo (a,h) anthracene
10. indeno (1,2,3-c,d) pyrene
11. BHC-Alpha
12. BHC-Beta
13. BHC-Gamma
14. BHC-Delta.

It is hereby proposed to revise Part 434 of Title 40 as follows:

PART 434—COAL MINING POINT SOURCE CATEGORY BPT, BAT, BCT, LIMITATIONS AND NEW SOURCE PERFORMANCE STANDARDS

Subpart A—General Provisions

Sec.
434.10 Applicability.
434.11 General Definitions.

Subpart B—Coal Preparation Plants and Coal Preparation Plant Associated areas

434.20 Applicability.
434.21 [Reserved].
434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available [BPT].
434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable [BAT]
434.24 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [BCT].

434.25 New Source Performance Standards (NSPS).

Subpart C—Acid or Ferruginous Mine Drainage

434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.
434.31 [Resered].
434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
434.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
434.35 New Source Performance Standards (NSPS).

Subpart D—Alkaline Mine Drainage

434.40 Applicability; description of the Alkaline Mine drainage subcategory.
434.41 [Reserved].
434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
434.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
434.45 New Source Performance Standards (NSPS).

Subpart E—Post Mining Areas

434.50 Applicability
434.51 [Reserved].
434.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
434.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
434.54 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
434.55 New Source Performance Standards (NSPS).

Subpart F—Miscellaneous Provisions

434.60 Applicability.
434.61 Commingling of Waste Streams.
434.62 Alternate Effluent Limitations for pH.
434.63 Effluent Limitations During Precipitation Events.

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977), (the "Act"); 33 United States. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

Subpart A—General Provisions

§ 434.10 Applicability.

This part applies to discharges from any coal mine at which the extraction of coal is taking place or is planned to be undertaken.

§ 434.11 General definitions.

(a) The term "acid or ferruginous mine drainage" means mine drainage which, before any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or more than 10 mg/l.

(b) The term "active mining area" means the areas, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas and post-mining areas.

(c) The term "alkaline mine drainage" means mine drainage which, before any treatment, has a pH equal to or more than 6.0 and a total iron concentration of less than 10 mg/l.

(d) The term "bond release" means the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing and abandonment procedures) has been satisfactorily completed.

(e) The term "coal preparation plant" means a facility where coal is crushed, screened, sized, cleaned, dried, or otherwise prepared and loaded for transit to a consuming facility.

(f) The term "coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

(g) The term "coal preparation plant water circuit" means all pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.

(h) The term "mine drainage" means any drainage, and any water pumped or siphoned, from an active mining area or a post-mining area.

(i) The abbreviation "ml/l" means milliliters per liter.

(j) The term "new source coal mine" means a coal mine (excluding coal preparation plants and coal preparation plant associated areas):

(1) The construction of which is commenced after January 13, 1981; or

(2) Which is determined by the EPA Regional Administrator to constitute a "major alteration." In making this determination, the Regional Administrator shall take into account the occurrence of one or more of the following events, in connection with the mine for which the NPDES permit is being considered, after the date of proposal of applicable new source performance standards:

(i) A mine operation initiates extraction of a coal seam not previously extracted by that mine;

(ii) A mine operation discharges into a drainage area not previously affected by wastewater discharges from the mine;

(iii) A mine operation causes extensive new surface disruption;

(iv) A mine operation initiates construction of a new shaft, slope, or drift;

(v) A mine operation acquires additional land or mineral rights;

(vi) A mine operation makes significant capital investment in additional equipment or additional facilities; and

(vii) Such other factors as the Regional Administrator deems relevant.

(k) The term "post-mining area" means: (1) a reclamation area or (2) the underground workings of an underground coal mine after the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond release.

(l) The term "reclamation area" means the surface area of a coal mine which has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.

(m) The term "settleable solids" is that matter measured by the volumetric method specified in the Appendix.

(n) The term "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in ten years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.

(o) The terms "treatment facility" and "treatment system" means all structures which contain, convey, and as necessary, chemically treat coal mine drainage, coal preparation plant process wastewater, or drainage from coal preparation plant associated areas, which remove pollutants regulated by this Part from such waters. This includes all pipes, channels, ponds, basins, tanks and all other equipment serving such structures.

Subpart B—Coal Preparation Plants and Coal Preparation Plant Associated Areas

§ 434.20 Applicability.

The provisions of this subpart are applicable to discharges from coal preparation plants and coal preparation plant associated areas, as indicated, including discharges which are pumped, siphoned, or drained from the coal preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.21 [Reserved]

§ 434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from such point sources normally exhibit a pH of less than 6.0 prior to treatment:

BPT Effluent Limitations

[Concentration in μg/1]

Pollutant of pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35

pH—Within the range of 6.0 to 9.0 at all times.

(b) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.63 of this part the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BPT Effluent Limitations

[Concentration in μg/1]

Pollutant of pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
TSS	70	35

pH—Within the range of 6.0 to 9.0 at all times.

§ 434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.63 of this part the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best available technology economically achievable if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BPT Effluent Limitations

[Concentration in μg/1]

Pollutant of pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0

(b) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.63 of this part the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best available technology economically achievable if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BPT Effluent Limitations

[Concentration in μg/1]

Pollutant of pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5

§ 434.24 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 (in the case of discharges normally exhibiting a pH of less than 6.0 prior to treatment), and § 434.63, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best conventional pollutant control technology (BCT):

BPT Effluent Limitations

[Concentration in μg/1]

Pollutant of pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS	70	35

pH—Within the range 6.0 to 9.0 at all times.

§ 434.25 New source performance standards (NSPS).

The following new source performance standards (NSPS) shall be achieved by any new source coal preparation plant and coal preparation plant associated areas, as indicated:

(a) For new source coal preparation plants, there shall be no discharge of process wastewater pollutants from the coal preparation plant water circuit to surface waters.

(b) Except as provided in §§ 434.61, 434.62 and 434.63 of this part, the following new sources performance standards shall apply for discharges from new source coal preparation plant associated areas:

NSPS Effluent Limitations

[Concentration in μg/1]

Pollutant of pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese	4.0	2.0
TSS	70	35

pH—Within the range 6.0 to 9.0 at all times.

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Subpart C—Acid or Ferruginous Mine Drainage

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategroy.

The provisions of this subpart are applicable to acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.31 [Reserved]

§ 434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

BPT Effluent Limitations

[Concentration in μ/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times		

§ 434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology currently available (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

BAT Effluent Limitations

[Concentration in μg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0

§ 434.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology (BCT):

BCT Effluent Limitations

[Concentration in μg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times		

§ 434.35 New source performance standards (NSPS).

(a) Except as provided in §§ 434.61, 434.62, and with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following new source performance standards shall be achieved for any discharge from a new source subject to this subpart:

NSPS Effluent Limitations

[Concentration in μg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

Subpart D—Alkaline Mine Drainage

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.41 [Reserved]

§ 434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

BPT Effluent Limitations

[Concentration in μg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

§ 434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology currently available (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, § 434.61 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

BAT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5

§ 434.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32, § 434.61 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology (BCT):

BCT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

§ 434.45 New source performance standards (NSPS).

(a) Except as provided in § 434.61 and, with respect to mine drainage from surface areas of a coal mine but not drainage from the underground workings of underground mines, § 434.63 of this part, the following new source performance standards shall be achieved for any discharge from a new source subject to this subpart:

BCT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

Subpart E—Post-Mining Areas

§ 434.50 Applicability.

The provisions of this subpart are applicable to discharges from post-mining areas.

§ 434.51 [Reserved]

§ 434.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) *Reclamation Areas.* The limitations in this subsection apply to discharges from reclamation areas until bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and § 434.61 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best practicable control technology available:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Settleable solids	0.5 ml/l	
pH—Within the range 6.0 to 9.0 at all times.		

(2)(i) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations instead of the limitations set forth in paragraph (a)(1):

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH—Within the range 6.0 to 9.0 at all times.		

(ii) The alternate limitations provided in paragraph (a)(2)(i) shall apply only if:

(A) The treatment facility is designed, constructed, operated and maintained to contain the volume of water which would drain into the treatment facility during a 10-year, 24-hour or larger precipitation event (or snowmelt or equivalent volume);

(B) The treatment facility is designed, constructed, operated and maintained to achieve the effluent limitations set forth in paragraph (a)(1) at all times except during precipitation events greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume); and

(C) The pH in the final effluent remains in the range of 6.0 to 9.0 during the precipitation event (or snowmelt). The operator shall have the burden of proof that the preceding conditions have been met in order qualify for the alternate limitations in paragraph (a)(2)(i).

(b) *Underground Mine Drainage.* The limitations in this subsection apply to discharges from the underground workings of underground mines until bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.62 of this part, the following limitations establish the concentration or quality of pollutants in acid or ferruginous mine drainage subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

(2) Except as provided in 40 CFR 125.30–125.32, and § 434.61 of this part, the following limitations establish the concentration or quality of pollutants in alkaline mine drainage subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

§ 434.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) *Reclamation Areas.* The limitations of this subsection apply to discharges from reclamation areas until bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and § 434.61 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day (µl/l)	Average of daily values for 30 consecutive days
Settleable solids	0.5	
pH—Within the range 6.0 to 9.0 at all times.		

(2)(i) Any overflow, increase in volume of a discharge from a bypass system caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations instead of the limitations set forth in paragraph (a)(1) of this section:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH—Within the range 6.0 to 9.0 at all times.		

(ii) The alternate limitations provided in paragraph (a)(2)(i) shall apply only if:

(A) The treatment facility is designed, constructed, operated and maintained to contain the volume of water which would drain into the treatment facility during a 10-year, 24-hour or larger precipitation event (or snowmelt of equivalent volume);

(B) The treatment facility is designed, constructed, operated and maintained to achieve the effluent limitations set forth in paragraph (a)(1) at all times except during precipitation events greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume); and

(C) The pH in the final effluent remains in the range of 6.0 to 9.0 during the precipitation event (or snowmelt). The operator shall have the burden of proof that the preceding conditions have been met in order to qualify for the alternate limitations in (a)(2)(i).

(b) *Underground Mine Drainage.* The limitations in this subsection apply to discharges from the underground workings of underground mines until bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.62 of this part, the following limitations establish the concentration or quality of pollutants in acid or ferruginous mine drainage subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of ge a13ge2 f30 daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0

(2) Except as provided in 40 CFR 125.30–125.32, and § 434.61 of this part, the following limitations establish the concentration or quality of pollutants in alkaline mine drainage subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT Effluent Limitations

[Concentration in µg/l]

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5

§ 434.54 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) *Reclamation Areas.* The limitations of this subsection apply to discharges from reclamation areas through bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and § 434.61 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best conventional pollutant control technology (BCT):

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH—Within the range 6.0 to 9.0 at all times.		

(b) *Underground Mine Drainage.* The limitations of this subsection apply to discharges from the underground working of underground mines until bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.62 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best conventional pollutant control technology:

BCT Effluent Limitations

Concentration in µg/1

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS	70.0	35.0
pH—Within the range 6.0 to 9.0 at all times.		

§ 434.55 New source performance standards (NSPS).

The following new source performance standards shall apply to the post-mining areas of all new source coal mines:

(a) *Reclamation Areas.* The standards of this subsection apply to discharges from reclamation areas at new source coal mines until bond release.

(1) Except as provided in § 434.61 of this part, the following new source performance standards shall be achieved for a discharge subject to the provisions of this subsection:

NSPS Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day (ml/l)	Average of daily values for 30 consecutive days
Settleable solids	0.5	
pH—Within the range 6.0 to 9.0 at all times.		

(2)(i) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within a 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations instead of the limitations set forth in paragraph (a)(1):

NSPS Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH—Within the range 6.0 to 9.0 at all times.		

(ii) The alternate limitations provided in paragraph (a)(2)(i) shall apply only if:

(A) The treatment facility is designed, constructed, operated and maintained to contain the volume of water which would drain into the treatment facility during a 10-year, 24-hour or larger precipitation event (or snowmelt of equivalent volume);

(B) The treatment facility is designed, constructed, operated and maintained to achieve the effluent limitations set forth in paragraph (a)(1) at all times except during precipitation events greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume); and

(C) The pH in the final effluent remains in the range of 6.0 to 9.0 during the precipitation event (or snowmelt).

The operator shall have the burden of proof that the preceding conditions have been met in order to qualify for the alternate limitations in paragraph (a)(2)(i).

(b) Underground Mine Drainage

The standards in this subsection apply to discharges from the underground workings of new source underground mines until bond release.

(1) Except as provided in §§ 434.61 and 434.62 of this part, the following new source performance standards shall be achieved for the discharge of any acid or ferruginous mine drainage subject to this subsection:

NSPS Effluent Limitations

Concentration in μg/1

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

(2) Except as provided in § 434.61 of this part, the following new source performance standards shall be achieved for the discharge of any alkaline mine drainage subject to this subsection:

NSPS Effluent Limitations

Concentration in μg/1

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
TSS	70	35
pH—Within the range 6.0 to 9.0 at all times.		

Subpart F—Miscellaneous Provisions

§ 434.60 Applicability.

The provisions of this subpart F apply to this Part 434 as specified in subparts B, C, D and E.

§ 434.61 Commingling of waste streams.

Where waste streams from any facility covered by this Part are combined for treatment or discharge with waste streams from another facility, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

§ 434.62 Alternate effluent limitation for pH.

Where the application of neutralization and sedimentation treatment technology results in inability to comply with the otherwise applicable manganese limitations, the permit issuer may allow the pH level in the final effluent to exceed 9.0 to a small extent in order that the manganese limitations can be achieved.

§ 434.63 Effluent limitations during precipitation events.

(a) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations instead of the otherwise applicable limitations:

Effluent Limitations During Precipitation

Pollutant or pollutant property	Maximum for any 1 day (ml/l)	Average of daily values for 30 consecutive days
Settleable solids	0.5	
pH—Within the range of 6.0 to 9.0 at all times.		

(b) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) shall comply with the following limitations instead of the otherwise applicable limitations:

Effluent Limitations During Precipitation

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH—Within the range of 6.0 to 9.0 at all times.		

(c) The alternate limitations provided in subsections (a) and (b) shall apply only if:

(1) The treatment facility is designed, constructed, operated and maintained to contain at a minimum the volume of water which would drain into the treatment facility during the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume);

(2) The treatment facility is designed, constructed, operated and maintained to consistently achieve the effluent limitations set forth in subsections (a) and (b) during periods of no precipitation (or snowmelt); and

(3) The pH in the final effluent remains in the range of 6.0 to 9.0 during the precipitation event (or snowmelt).

The operator shall have the burden of proof that the preceding conditions have been met in order to qualify for the alternate limitations in subsections (a) and (b).

Appendix—Determination of Settleable Solids

The following procedure is used to determine settleable solids:

Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating materials occurs, do not include the floating material in the reading.

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Tuesday
January 13, 1981

Part III

Department of Commerce

Patent and Trademark Office

Reexamination and Inter Partes Protest Proceeding

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

Reexamination and Inter Partes Protest Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to amend the rules of practice in patent cases to provide procedures for the reexamination of patents and also to provide for inter partes protest proceedings between patent applicants and members of the public. The proposed rules provide regulations for the reexamination procedure provided for in Public Law 96-517. The inter partes protest procedure is proposed in view of a need for such a procedure having become apparent from experience under the revised reissue rules. The proposed changes are intended to improve the quality of United States patents.

DATES: Comments must be submitted on or before April 16, 1981; public hearing, April 16, 1981, 9:30 am; requests to present oral testimony should be received on or before April 9, 1981.

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The hearing will he held in Room 11C24 of Building 3, Crystal Plaza, located at 2021 Jefferson Davis Highway, Arlington, Virginia. Written comments and a transcript of the public hearing will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. R. Franklin Burnett by telephone at (703) 557-3054 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This proposed rule change relates to two, somewhat distinct, procedures for determining and improving the quality and reliability of United States patents. They are (1) a procedure for reexamination of patents as provided for in Public Law 96-517, section 1 of which relates to reexamination and becomes effective on July 1, 1981, and (2) a procedure providing for inter partes protest proceedings in a patent application between the patent applicant and a member (or members) of the public who has (have) access to the application file.

The two procedures permit a patent owner to choose between alternative routes for reconsideration of patented subject matter by the Patent and Trademark Office. If ex parte reconsideration on the basis of patents or printed publications is desired, in which any requestor may only reply to the patent owner's initial statement, then reexamination would be requested. If however, the patent owner desires an essentially inter partes procedure, with one or more protestors actively involved, the patent owner could file a reissue application in which all issues of patentability would be considered. The inter partes procedure would provide the patent owner's competitors or others with an opportunity to protest and seek participation via inter partes protest proceedings.

While a patent owner may choose either the reexamination or inter partes protest procedure, the only procedure open to a party other than the patent owner is to request reexamination. These alternative procedures should serve to significantly improve the quality and reliability of United States patents. Either alternative procedure would normally be less expensive than litigation in the Courts. Under the reexamination procedure, the patent owner, especially a small patent owner, could not be forced into the possibly more expensive inter partes protest proceedings in a reissue application in the Patent and Trademark Office.

Reexamination Procedure

The rules relating to reexamination proceedings are directed to the procedures set forth in Chapter 30 of Public Law 96-517, Title 35 of the United States Code (35 U.S.C. §§ 301-307). This Chapter provides for the citation of prior art in patents, filing of requests for reexamination, decisions on such requests, reexamination and appeal from reexamination decisions, and the issuance of a certificate at the termination of the reexamination proceedings.

Present rules 1.1, 1.5, 1.11, 1.21, 1.26, 1.33, 1.34, 1.36, 1.104, 1.107, 1.109, 1.111, 1.112, 1.113, 1.115, 1.116, 1.121, 1.191, 1.192, 1.231, 1.247, 1.248, 1.301, and 1.303 are proposed to be amended to provide for reexamination procedures. A new "Subpart D—Reexamination of Patents" is proposed which would include proposed new rules 1.501, 1.510, 1.515, 1.520, 1.525, 1.530, 1.535, 1.540, 1.550, 1.552, 1.555, 1.560, 1.565, and 1.570. Paragraph (b) of § 1.291, relating to prior art citations in patents, would be deleted, since provisions therefor would appear in proposed § 1.501.

Section 1.1, if amended as proposed, would provide for communications relating to reexamination proceedings to be marked "Box Reexam" to speed internal Office mail processing.

Section 1.5, if amended as proposed, would provide for all letters relating to reexamination proceedings to be identified by patent number and reexamination control number.

Section 1.11, if amended as proposed, would provide for all papers made of record in reexamination proceedings to be open to inspection and copying by the public.

Section 1.21, if amended as proposed, would provide a new paragraph (x) establishing a fee of $1,500.00 to be paid with any request for reexamination.

Section 1.26, if amended as proposed, would provide for a refund of $1,200.00, if the request for reexamination is refused.

Section 1.33, if amended as proposed, would have a new paragraph (c) relating to which address communications for the patent owner will be sent and who may sign papers filed.

Section 1.34, if amended as proposed, would provide for the appointment of an attorney or agent in a reexamination proceeding.

Section 1.36, if amended as proposed, would provide for the revocation and withdrawal of powers of attorney in a reexamination proceeding.

Section 1.104, if amended as proposed, broadens the present rule to also include reexamination.

Section 1.107, if amended as proposed, would provide for the citation of prior art by the examiner in a reexamination proceeding. The proposed rule would also refer to foreign published applications, as well as patents.

Section 1.109, if amended as proposed, would provide for the examiner to supply reasons for allowance in a reexamination proceeding if the examiner believes that the record does not make clear the reasons for allowing a claim or claims.

Section 1.111, if amended as proposed, would provide for replies by the patent owner in a reexamination proceeding.

Section 1.112, if amended as proposed, would provide for reexamination and reconsideration of the patent under reexamination after response by the patent owner.

Section 1.113, if amended as proposed, would provide for a final rejection or action in a reexamination proceeding.

Section 1.115, if amended as proposed, would provide for amendments by the patent owner in a reexamination proceeding.

Section 1.116, if amended as proposed, would provide for amendments after final action in a reexamination proceeding.

Section 1.121, if amended as proposed, would contain a new paragraph (f) which would require a complete copy of any new or amended claim when presented during reexamination proceedings.

Section 1.191, if amended as proposed, would provide for appeal to the Board of Appeals by the patent owner from any decision adverse to patentability, in accordance with 35 U.S.C. 306.

Section 1.192, if amended as proposed, would provide one month from the date of the Notice of Appeal for the patent owner to file an appeal brief in a reexamination proceeding.

Section 1.231(a)(1) if amended as proposed, would provide for a motion that a patent claim is unpatentable in an interference proceeding where reexamination thereof has also been requested.

Paragraph (b) of Section 1.247, if amended as proposed, would not contain any reference to proof of service since proof of service is included in the proposed amendments to § 1.248.

Section 1.248, if amended as proposed, would include a new paragraph (b) relating to methods of serving papers and proof of service.

Section 1.301, if amended as proposed, would provide for appeal by the owner of a patent in reexamination proceedings to the U.S. Court of Customs and Patent Appeals.

Section 1.303, if amended as proposed, would provide for remedy by civil action under 35 U.S.C. 145 for the owner of a patent in reexamination proceedings.

Proposed § 1.501 would provide a system for citation of information to the Patent and Trademark Office, for placement in the patent file by any person during the term of the patent in accordance with 35 U.S.C. 301.

Proposed § 1.510 would set forth procedures for any person to request reexamination in accordance with 35 U.S.C. 302.

Proposed paragraph (a) of § 1.510 would limit the period for such request to the period of enforceability of the patent for which the request is filed and require payment of the reexamination fee.

Proposed paragraph (b) of § 1.510 would require that each request for reexamination include the following:

(1) A statement pointing out what is considered to be a substantial new question of patentability.

(2) An explanation of the pertinency and manner of applying prior patents or printed publications to every patent claim for which reexamination is requested.

(3) A Copy of ever patent or printed publication referred to and an English translation of any necessary and pertinent portons thereof.

(4) A Copy of the entire specification (including claims) and drawings of the patent for which reexamination is requested in the form of cut-up copies of the original printed patent.

(5) A certification that a copy of the request, if not filed by the patent owner, has been served on the patent owner.

Proposed paragraph (c) of § 1.510 would indicate under which conditions a request for reexamination would be considered.

Proposed paragraph (d) of § 1.510 would indicate which date would be considered to be the date of the request for reexamination.

Proposed paragraph (e) of § 1.510 would cover amendments which a patent owner could propose. Such amendments could accompany a request for reexamination by the patent owner.

Proposed § 1.515 would relate to the determination as to whether the request has presented a substantial new queston of patentability under 35 U.S.C. 303.

Proposed paragraph (a) of § 1.515 would require that the determination be made within 3 months of the filing date of the request.

Proposed paragraph (c) of § 1.515 would provide for review by petition to the Commissioner of any decision refusing reexamination.

Proposed § 1.520 would provide for reexamination at the initiative of the Commissioner under the provisions of the last sentence of paragraph (a) of 35 U.S.C. 303.

Proposed § 1.525 would provide for ordering reexamination where a substantial new question of patentability has been found pursuant to §§ 1.515 or 1.520.

Proposed § 1.525 also would provide for publication of the notice of the order for reexamination in the Official Gazette if the order is returned to the Office undelivered. The proposed rules do not provide for publication of all orders for reexamination in the Official Gazette in view of the increased costs that would involve. However, the Office could undertake this service at some future date at additional expense if desired.

Proposed § 1.530 would relate to the statement and proposed amendments provided for in the second sentence of 35 U.S.C. 304. Amendments submitted by the patent owner cannot enlarge the scope of a claim in the patent. Amendments will not be effectively entered into the patent until the certificate under § 1.570 and 35 U.S.C. 307 is issued.

Proposed § 1.535 would provide for reply by the reexamination requestor to the statement under § 1.530 of the patent owner and for service on the patent owner of any such reply.

Proposed § 1.540 would relate to the consideration of statements under § 1.530 and replies under § 1.535.

Proposed § 1.550 would cover the basic items relating to the conduct of reexamination proceedings. These proceedings will basically follow the procedures used for examining patent applications. The patent owner will be required to serve the reexamination requestor with any response to the Office, in order to remove the necessity of the requestor having to continuously monitor the file wraper.

Proposed § 1.552 would cover the scope of reexamination in a reexamination proceeding. The Office intends that the reexamination in a reexamination proceeding be of a high quality. While it is not intended that the examiners will routinely completely research patents when conducting reexamination the examiners will be free to, and will, conduct additional searches and cite and apply additional prior patents and publicatons when it is appropriate and beneficial to do so. Insofar as the actual examination is concerned, the examination as to original patent claims would be on the basis of patents or printed publications. However, narrowed amended or new claims limited to the original disclosure would be examined for compliance with other ections of he statute (35 U.S.C. §§ 112 and 132) which are necessary in order to ensure that any amended or new claims are supported, valid, and do not introduce new matter.

Proposed § 1.552 would also provide that questions relating to matters other than those identified in paragraphs (a) and (b) of the section would merely be noted by the examiner as being an open question in the record. Patent owners could then file a reissue application if they wish such questions to be resolved.

Proposed § 1.555 would cover the duty of disclosure by a patent owner in a reexamination proceeding involving the owner's patent.

Proposed § 1.560 would relate to the conduct of interviews in reexamination proceedings.

Proposed § 1.565 would provide for the Commissioner to determine which, if any, proceedings should be stayed or suspended, if concurrent proceedings involving the patent under reexamination are instituted.

Proposed § 1.570 would concern the issuance of the reexamination certificate under 35 U.S.C. 307 after conclusion of reexamination proceedings. The certificate would cancel any patent claims determined to be unpatentable, confirm any patent claims determined to be patentable, and incorporate into the patent any amended or new claim determined to be patentable.

Inter Partes Protest Proceedings

The rules relating to the proposed inter partes protest proceedings are set forth in the proposed amendments to § 1.1 (d) and (e), § 1.8(a)(xii), § 1.21 (y), (z) and (aa), § 1.26(d), § 1.56(e), and § 1.291. Proposed new §§ 1.360–1.380 are directed to the details of the inter partes proceedings. Section 1.292, directed to Public use proceedings, is proposed to be deleted since such proceedings may be conducted under the proposed inter partes protest procedure.

Section 1.1 if amended as proposed, would provide for communications relating to inter partes protest proceedings and reissue applications to be specially marked to speed internal Office processing.

Section 1.8, if amended as proposed, would contain a new paragraph (a)(xii) which would normally exclude the filing of papers in inter partes protest proceedings from the Certificate of Mailing Practice.

Proposed new paragraphs (y) and (z) to § 1.21 would provide the same fees for filing a notice of appeal (review), and for filing an appeal (review) brief by the protestor in an inter partes protest proceeding as currently required for patent applicants filing an appeal. Proposed paragraph (aa) would set the fee which is required to accompany a petition to have an inter partes protest proceeding declared a contested case.

If the petition to have an inter partes protest proceeding declared a contested case is not granted, section 1.26(d), if amended as proposed, would provide a refund of $400.

Proposed new paragraph (e) to § 1.56 would provide for a member of the public to file a petition to strike an application from the files in the Office pursuant to § 1.56(d).

Section 1.292 is proposed to be deleted since questions concerning public use or sale could be processed under the proposed inter partes protest procedure.

Proposed § 1.360 would provide for any member of the public filing a petition to have protest proceedings declared inter partes.

Proposed § 1.361 would provide for addition of parties to inter partes protest proceedings.

Proposed § 1.362 would provide for serving every paper filed in an inter partes protest proceeding on all the other parties involved in the proceeding.

Proposed § 1.363 would provide the various time periods for filing papers during inter partes protest proceedings.

Proposed § 1.364 would provide that all interviews in inter partes protest proceedings relating to matters of substance would normally be held only if applicant's representative is in attendance.

Proposed § 1.365 would provide for the Office to require parties to answer specific questions, to supply evidence, to supply information or documents material to the examination, or to explain evidence already of record.

Proposed § 1.366 would permit any party to file a petition to have an inter partes protest proceeding declared a contested case so that testimony may be taken. Any such petition must include the fee proposed in paragraph (aa) of § 1.21 and the items set forth in paragraphs (a) (2)–(8) of § 1.366. Other parties to the inter partes protest proceeding will be given 21 days to join or oppose the petition. After expiration of this time period, the Office will render its decision. In deciding to grant or deny a petition to have an inter partes protest proceeding declared a contested case the Office presently plans to take into consideration the burdens which would be placed upon the parties and the necessity for, or benefits from, a contested case proceeding. If it appears that the burden on one or more of the parties clearly outweighs any benefits which are likely to be obtained or there are alternatives (such as an examiner requirement for information) for obtaining necessary information or evidence to resolve issues, the petition would be denied.

Proposed § 1.367 would provide for the assignment of times for the taking of testimony if a petition under § 1.366 is granted.

Proposed § 1.368 would refer to §§ 1.271–1.286 for the procedure for taking testimony.

Proposed § 1.369 would provide for the filing of the certified transcript of the testimony, executed copies of affidavits, stipulated testimony or facts, and exhibits.

Proposed § 1.370 would provide for the filing of briefs after the close of the period for testimony.

Proposed § 1.371 would provide for requesting an oral hearing or interview following submission of briefs relating to the testimony.

Proposed § 1.372 would provide for the issuance of a notice indicating the final disposition of the claims and setting of the time for filing an appeal.

Proposed § 1.373 would provide for an appeal to the Board of Appeals by any party from the decision of the examinier in an inter partes protest proceeding.

Proposed § 1.374 would provide details of an appeal by the applicant to the Board of Appeals.

Proposed § 1.375 would provide details of an appeal by a party other than the applicant to the Board of Appeals.

Proposed § 1.376 would provide that the examiner will not ordinarily participate in any appeal since the issues would normally be fully covered in the briefs of the parties.

Proposed § 1.377 would provide for an oral hearing before the Board of Appeals upon request of any party.

Proposed § 1.378 would provide for the decision of the Board of Appeals.

Proposed § 1.379 would provide that any action following the Board of Appeals decision be in accordance with § 1.197.

Proposed § 1.380 would provide that any reopening after the Board of Appeals decision be in accordance with § 1.198.

Classification: Under the regulations of the Department of Commerce the proposed regulations are deemed to be significant for the purposes of Executive Order 12044.

Regulatory Analysis: The Patent and Trademark Office has determined that this rulemaking has no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044.

Environmental Impact Statement: This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

The following table of contents indicates the contents of the proposal and the location of the proposed Subparts and section headings.

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1.5 Identification of application, patent or registration.
1.8 Certificate of Mailing.

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Records and Files of the Patent and Trademark office

1.11 files open to the public.

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Fees and Payment of Money

Sec.
1.21 Patent and miscellaneous fees and charges.

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Subpart B—National Processing Procedures

Prosecution of Application and Appointment of Attorney or Agent

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1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.
1.34 Recognition for representation.
1.36 Revocation of power of attorney or authorization; withdrawal of attorney or agent.

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The Application

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1.56 Duty of disclosure; striking of applications.

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Examination of Applications

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1.104 Nature of examination; examiner's action.

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1.107 Citation of references.

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1.109 Reasons for allowance.

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Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. §§ 6 and 41, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations as set forth below.

In the text of the proposed amendments, additions are indicated by arrows and deletions are indicated by brackets.

It is proposed to amend 37 CFR, Chapter I, as follows:

1. Section 1.1 is proposed to be revised to read as follows:

§ 1.1 All communications to be addressed to Commissioner of Patents and Trademarks.

►(a)◄ All letters and other communications intended for the Patent and Trademark Office must be addressed to "Commissioner of Patents and Trademarks," Washington, D.C. 20231. When appropriate, a letter should also be marked for the attention of a particular officer or individual.

►(b)◄ Letters and other communications relating to international applications during the international stage and prior to the assignment of a national serial number should be additionally marked "Box PCT."

►(c) Letters and other communications relating to reexamination proceedings and requests for such reexamination should be marked "Box Reexam."

(d) Letters and other communications relating to inter partes protest proceedings should be marked "Box Protest."

(e) Letters and other communications filed after receipt of the serial number of a resissue application and relating thereto should be marked "Box Reissue."◄

2. Section 1.5 is proposed to be amended by adding a new paragraph (d) to read as follows:

§ 1.5 Identification of application, patent or registration.

* * * * *

►(d) A letter relating to a reexamination proceeding should identify it as such by patent number undergoing reexamination and the reexamination control number assigned to such proceeding.◄

3. Section 1.8 is proposed to be amended by adding a new paragraph (a)(xii) to to read as follows:

§ 1.8 Certificate of mailing.

(a) * * *

►(xii) The filing of papers in inter partes protest proceedings involving patent applications, unless the Commissioner specifically authorizes its use in the proceeding.◄

* * * * *

4. Section 1.11 is proposed to be amended by adding a new paragraph (c) to read as follows:

§ 1.11 Files open to the public.

* * * * *

►(c) All papers or copies thereof relating to a reexamination proceeding which have been entered of record in the patent or reexamination file are open to inspection by the general public, and copies may be furnished upon paying the fee therefor.◄

5. Section 1.21 is proposed to be amended by adding new paragraph (x), (y), (z), and (aa):

§ 1.21 Patent and miscellaneous fees and charges.

* * * * *

►(x) Reexamination—$1,500.00.

(y) For filing request for review under § 1.373 by inter partes protestor—$50.00

(z) For filing brief in support of review by inter partes protestor—$50.00

(aa) For filing petition to have an inter partes protest proceeding declared a contested case—$500.00.◄

6. Section 1.26 is proposed to be revised to read as follows:

§ 1.26 Refunds.

►(a)◄ Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application or to withdraw an appeal, will not entitle a party to demand such a return. ►Amounts of fifty cents or less will not be returned unless specifically demanded within a reasonable time, nor will the payer be notified of such amount; amounts over fifty cents but less than one dollar may be returned in postage stamps, and other amounts by check or, if requested, by credit to a deposit account.◄

►(b)◄ Refund of a portion of any international search fee paid to the Patent and Trademark Office may be made where the prior art search made during the subsequent examination of a national application is wholly or partly based on the earlier international search made in the international application for which the search fee was paid. The amount of the refund will be as determined by the examiner according to the value of the prior international search made by the Patent and Trademark Office as an International Searching Authority, as 90 percent, 45 percent, or 0 percent of the international search fee. If the amount of the refund is not a multiple of $5, it will be rounded to the next higher multiple of $5. (Note § 1.446 for refund of the search fee in an international application.) [Amounts of ten cents or less will not be returned unless specifically demanded within a reasonable time, nor will the payer be notified of such amount; amounts over ten cents but less than $1 may be returned in postage stamps, and other amounts by check.]

►(c) If the Commissioner decides not to institute a reexamination proceeding, a refund of $1,200.00 will be made to the requestor of the proceeding. Reexamination requestors should indicate whether any refund should be made by check or by credit to a deposit account.

(d) If the Commissioner refuses to declare an inter partes protest proceeding a contested case pursuant to a petition filed under § 1.366, or refuses to permit the petitioner to join in a contested case, a refund of $400.00 will be made to the petitioner whose petition is denied. Petitioners should indicate whether any refund should be made by check or by credit to a deposit account.◄

7. Section 1.33 is proposed to be amended by revising the title and adding a new paragraph (c) to read as follows:

§ 1.33 Correspondence respecting patent applications►, reexamination proceedings,◄ and ►other◄ proceedings.

* * * * *

►(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the attorney or agent of record in the patent file (see § 1.34(b)), or, if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record in the patent file. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a). Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken. If more than one attorney or agent is of record and a correspondence address has not been specified, correspondence will be held with the last attorney or agent made of record.◄

8. Section 1.34 is proposed to be revised to read as follows:

§ 1.34 Recognition for representation.

(a) When a registered attorney or agent acting in a representative capacity appears in person or signs a paper in practice before the Patent and Trademark Office in a patent case, his ►or her◄ personal appearance or signature shall constitute a representation to the Patent and Trademark Office that under the provisions of this part and the law, he ►or she◄ is authorized to represent the particular party in whose behalf he ►or she◄ acts. In filing such a paper, the attorney or agent should specify his ►or her◄ registration number with his ►or her◄ signature. Further proof of authority to act in a representative capacity may be required.

(b) When an attorney or agent shall have filed his ►or her◄ power of attorney, or authorization, duly executed by the person or persons entitled to prosecute ►an◄ [the] application ►or a patent involved in a reexamination proceeding,◄ he ►or she◄ is a principal attorney of record in the case. A principal attorney or agent, so appointed, may appoint an associate attorney or agent who shall also then be of record.

9. Section 1.36 is proposed to be revised to read as follows:

§ 1.36 Revocation of power of attorney or authorization; withdrawal of attorney or agent.

A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner. An attorney or agent, except an associate attorney or agent whose address is the same as that of the principal attorney or agent, will be notified of the revocation of his ►or her◄ power of attorney or authorization, and the applicant ►or patent owner◄ will be notified of the withdrawal of the attorney or agent. An assignment will not of itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of his own selection.

10. Section 1.56 is proposed to be amended by adding a new paragraph (e) to read as follows:

§ 1.56 Duty of disclosure; striking of applications.

* * * * *

►(e) Any member of the public may seek to have an application stricken from the files pursuant to paragraph (d) of this section by filing a petition to strike the application from the files. Any such petition specifically identifying the application to which the petition is directed will be entered in the application file and, if timely submitted, will be considered. Any such petition and any accompanying papers must either (1) be served upon applicant in accordance with § 1.248; or (2) be filed with the Office in duplicate in the event service is not possible. Any such petition filed by an attorney or agent must be in compliance with § 1.346.◄

11. In 1.104 paragraphs (a) and (b) are proposed to be revised to read as follows:

§ 1.104 Nature of examination; examiner's action.

(a) On taking up an application for examination ►or a patent in a reexamination proceeding◄, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the ►claimed◄ invention [sought to be patented]. The examination shall be complete with respect both to compliance of the application ►or patent under reexamination,◄ with the ►applicable◄ statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

(b) The applicant ►, or in the case of a reexamination proceeding, both the patent owner and the requestor,◄ will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated and such information or references will be given as may be useful in aiding the applicant ►, or in the case of a reexamination proceeding, the patent owner◄ to judge [of] the propriety of continuing the prosecution [of his application].

* * * * *

12. Section 1.107 is proposed to be revised to read as follows:

§ 1.107 Citation of references.

►(a)◄ If domestic patents [be] ►are◄ cited ►by the examiner,◄ their numbers and dates, ►and◄ the names of the patentees, and the classes of inventions must be stated. If foreign ►published applications or◄ patents ►are◄ [be] cited, their nationality or country, numbers and dates, and the names of the patentees must be stated, and such other data must be furnished as may be necessary to enable the applicant ►, or in the case of a reexamination proceeding, the patent owner,◄ to identify the ►published applications or◄ patents cited. In citing foreign ►published applications or◄ patents, in case only ►a◄ part of the ►document is◄ [patent be] involved, the particular pages and sheets containing the parts relied upon must be identified. If printed publications ►are◄ [be] cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy can be found, shall be given.

►(b)◄ When a rejection ►in an application◄ is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

13. Section 1.109 is proposed to be revised to read as follows:

§ 1.109 Reasons for allowance.

If the examiner believes that the record of the prosecution as a whole does not make clear his ►or her◄ reasons for allowing a claim or claims, the examiner may set forth such reasoning. This shall be incorporated into an Office action rejecting other claims of the application ►or patent under reexamination◄ or be the subject of a separate communication to the applicant ►or patent owner◄. The applicant ►or patent owner◄ may file a statement commenting on the reasons for allowance within such time as may be specified by the examiner. Failure to file such a statement shall not give rise to any implication that the application ►or patent owner◄ agrees with or acquiesces in the reasoning of the examiner.

14. Section 1.111 is proposed to be revised to read as follows:

§ 1.111 Reply by applicant ►or patent owner◄.

(a) After the office action, if adverse in any respect, the applicant ►or patent owner◄, if he ►or she◄ persist ►s◄ in his ►or her◄ application for a patent ►or reexamination proceeding◄, must reply thereto and may request reexamination or reconsideration, with or without amendment.

(b) In order to be entitled to reexamination or reconsideration, the applicant ►or patent owner◄ must make request therefor in writing, and [he] must distinctly and specifically point out the supposed errors in the examiner's action; the applicant ►or patent owner◄ must respond to every ground of objection and rejection in the prior office action (except that request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated), and the applicant's ►or patent owner's◄ action must appear throughout to be a bona fide attempt to advance the case to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) In amending [an application] in response to a rejection ►in an application or reexamination proceeding◄, the applicant ►or patent owner◄ must clearly point out the patentable novelty which he ►or she◄ thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He ►or she◄ must also show how the amendments avoid such references or objections. (See §§ 1.135 and 1.136 for time for reply.)

15. Section 1.112 is proposed to be revised to read as follows:

§ 1.112 Re-examination and reconsideration.

After response by applicant ►or patent owner◄ (§ 1.111) the application ►or patent under re-examination◄ will be re-examined and reconsidered, and the applicant ►or patent owner◄ will be notified if claims are rejected, or objections or requirements made, in the same manner as after the first examination. Applicant ►or patent owner◄ may respond to such Office action, in the same manner provided in § 1.111, with or without amendment, but any amendments after the second Office action must ordinarily be restricted to the rejection or to the objections or requirements made, and the application will be again considered, and so on repeatedly, unless the examiner has indicated that the action is final.

16. Section 1.113 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.113 Final rejection or action.

(a) On the second or any subsequent examination or consideration the rejection or other action may be made final, whereupon applicant's ►or patent owner's◄ response is limited to appeal in the case of rejection of any claim

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(§ 1.191), or to amendment as specified in § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each claim so rejected and, if any claim stands allowed, compliance with any requirement or objection as to form.

* * * * *

17. Section 1.115 is proposed to be revised to read as follows:

§ 1.115 Amendment [by applicant].

The applicant may amend before or after the first examination and action and also after the second or subsequent examination or reconsideration as specified in § 1.112 or when and as specifically required by the examiner. ►The patent owner may amend in accordance with §§ 1.510(e) and 1.530(b), and after examination in accordance with §§ 1.112 and 1.116.◄

18. Section 1.116 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 1.116 Amendments after final action.

(a) After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made, and amendments presenting rejected claims in better form for consideration on appeal may be admitted; but the admission of any such amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application ►or patent under reexamination◄ from its condition as subject to appeal or to save [it] ►the application◄ from abandonment under § 1.135

(b) If amendments touching the merits of the application ►or patent under reexamination are◄ [be] presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

* * * * *

19. Section 1.121 is proposed to be amended by adding a new paragraph (f) to read as follows:

§ 1.121 Manner of making amendments.

* * * * *

►(f) Proposed amendments presented in patents involved in reexamination proceedings must be presented in the form of a full copy of the text of each claim to be amended. Matter deleted from the patent claim shall be placed between brackets and matter added shall be underlined. Copies of the printed claims from the patent may be used with any additions being indicated by insert lines.◄

20. Section 1.191 is proposed to be revised to read as follows:

§ 1.191 Appeal to Board of Appeals.

(a) Every applicant for a patent or for reissue of a patent, ►or every owner of a patent under reexamination,◄ any of the claims of which have been twice rejected, or who has been given a final rejection (§ 1.113), may, upon the payment of the fee required by law, appeal from the decision of the [primary] examiner to the Board of Appeals within the time allowed for response.

(b) The appeal ►in an application◄ must identify the rejected claim or claims appealed, and must be signed by the applicant or [his] duly authorized attorney or agent. [(See § 3.41)] ►An appeal in a reexamination proceeding must identify the rejected claim or claims appealed, and must be signed by the patent owner or duly authorized attorney or agent.◄

(c) Except as otherwise provided by § 1.206, ►an◄ appeal when taken must be taken from the rejection of all claims under rejection which ►the◄ applicant ►or patent owner◄ proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

21. Section 1.192 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.192 Appellant's brief.

(a) The appellant shall, within 2 months from the date of the ►notice of◄ appeal ►under § 1.191 in an application or reissue application or within 1 month from the date of the notice of appeal under § 1.191 in a reexamination proceeding◄ or within the time allowed for response to the action appealed from, if such time is later, file a brief in triplicate, accompanied by the requisite fee, of the authorities and arguments on which [he] ►the appellant◄ will rely to maintain [his] ►the◄ appeal, including a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved, at the same time indicating if [he desires] an oral hearing ►is desired◄. Upon a showing of sufficient cause, the Commissioner may grant extensions of time for filing the brief. The determination of such requests may be delegated by the Commissioner to appropriate Patent and Trademark Office officials. All requests for extensions must be filed prior to the expiration of the period sought to be extended. ►The filing of a request for extension of time does not stay any period unless and until granted.◄

* * * * *

22. Section 1.231 is proposed to be amended by revising paragraph (a)(1) to read as follows;

§ 1.231 Motions before the primary examiner.

(a) Within the period set in the notice of interference for filing motions any party to an interference may file a motion seeking:

(1) To dissolve as to one or more counts, except that such motion based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications will not normally be considered [, and when one of the parties to the interference is a patentee, no motion to dissolve on the ground that the subject matter of the count is unpatentable to all parties or is unpatentable to the patentee will be considered, except that a motion to dissolve as to the patentee may be brought which is limited to such matters as may be considered at final hearing (§ 1.258)]. ►When one of the parties is a patentee, a motion to dissolve will not be considered if it would necessarily result in the conclusion that the claims of the patent which correspond to the counts are unpatentable to the patentee on a ground which is not ancillary to priority, except that a motion to dissolve on the ground that such claims are unpatentable over patents or printed publications will be considered through reexamination if it complies with the requirements of § 1.510(b) and is accompanied by the reexamination fee set in § 1.21(x).

Where a motion to dissolve is based on prior art, service on opposing parties must include copies of such prior art. A motion to dissolve on the ground that there is no interference in fact will not be considered unless the interference involves a design or plant patent or application or unless it relates to a count which differs from the corresponding claim of an involved patent or of one or more of the involved applications as provided in §§ 1.203(a) and 1.205(a).

* * * * *

23. Section 1.247 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.247 Service of papers.

* * * * *

(b) The specification in certain sections that a designated paper must be served does not imply that other papers, not excepted above need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other designated papers which need not ordinarily be served. [Proof of service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service.]

24. Section 1.248 is proposed to be revised to read as follows:

§ 1.248 Service of papers; manner of service ►; proof of service◄.

►(a)◄ Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in ►any◄ [either] of the following ways:

►(1)◄ [(a)] By delivering a copy of the paper to the person served;

►(2)◄ [(b)] By leaving a copy at the usual place of business of the person served with someone in this employment;

►(3)◄ [(c)] When the person served has no usual place of business, by leaving a copy at his residence, with a member of his family over 14 years of age and of discretion;

►(4)◄ [(d)] Transmission by first class mail which may also be certified or registered. When service is by mail the date of mailing will be regarded as the date of service.

►(5)◄ Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the Official Gazette.

►(b) Papers filed in the Patent and Trademark Office which are required to be served shall contain proof of service. Proof of service may appear on or be affixed to papers filed. Proof of service shall include the date and manner of service. In the case of personal service, proof of service shall also include the name of any person served, certified by the person who made service. Proof of service may be made by (1) an acknowledgement of service by or on behalf of the person served or (2) a statement signed by the attorney or agent containing the information required by this section.◄

25. Section 1.291 is proposed to be amended by revising the title, removing paragraph (b) and revising paragraph (c) to read as follows:

§ 1.291 Protests [and prior art citations] by public.

* * * * *

[(b) Citations of prior art and any papers related thereto may be entered in the patent file after a patent has been granted, at the request of a member of the pubic or the patentee. Such citations and papers will be entered without comment by the Patent and Trademark Office.]

►(b)◄ [(c)] Protests [and prior art citations] by the public and any accompanying papers should either (1) reflect that a copy of the same has been served upon the applicant ►in accordance with § 1.248◄ [or patentee or upon his attorney or agent of record]; or (2) be filed with the Office in duplicate in the event service is not possible.

26. Section 1.292 is proposed to be removed.

[§ 1.292 Public use proceedings.

(a) When a petition for the institution of public use proceedings, supported by affidavits or declarations is filed by one having information of the pendency of an application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by §§ 1.271 to 1.286. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompanying papers should either (1) reflect that a copy of the same has been served upon the applicant or upon his attorney or agent of record; or (2) be filed with the Office in duplicate in the event service is not possible. The petition and accompanying papers, or a notice that such a petition has been filed, shall be entered in the application file.]

27. Section 1.301 is proposed to be revised to read as follows:

§ 1.301 Appeal to U.S. Court of Customs and Patent Appeals.

Any applicant ►or owner of a patent involved in a reexamination proceeding◄ dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Patent Interferences, may appeal to the U.S. Court of Customs and Patent Appeals. The appellant must take the following steps in such an appeal: (a) In the Patent and Trademark Office give notice to the Commissioner and file the reasons of appeal (see §§ 1.302 and 1.304); (b) in the court, file a petition of appeal and a certified transcript of the record within a specified time after filing the reasons of appeal, and pay the fee for appeal, as provided by the rules of the court. The transcript will be transmitted to the Court by the Patent and Trademark Office on order of and at the expense of the appellant. Such order should be filed with the notice of appeal, but in no case should it be filed later than 15 days thereafter.

28. Section 1.303 is proposed to be revised to read as follows:

§ 1.303 Civil action under 35 U.S.C. 145, 146.

(a) Any applicant ►or owner of a patent involved in a reexamination proceeding◄ dissatisfied with the decision of the Board of Appeals, and any party dissatisfied with the decision of the Board of Patent Interferences, may, instead of appealing to the U.S. Court of Customs and Patent Appeals (§ 1.301), have remedy by civil action under 35 U.S.C. 145 ►or◄ [and] 146 ►as appropriate◄ [respectively]. Such civil action must be commenced within the time specified in § 1.304.

(b) If an applicant in an ex parte case ►or an owner of a patent involved in a reexamination proceeding◄ has taken an appeal to the U.S. Court of Customs and Patent Appeals, he ►or she◄ thereby waives his ►or her◄ right to proceed under 35 U.S.C. 145.

(c) If a defeated party to an interference proceeding has taken an appeal to the U.S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (§ 1.302), file notice with the Commissioner that he ►or she◄ elects to have all further proceedings conducted as provided in 35 U.S.C. 146, certified copies of such notices will be transmitted to the U.S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in § 1.248.

29. A new section 1.360 is proposed to be added which reads as follows:

►§ 1.360 Petition for inter partes protest proceedings.

A petition to have protest proceedings declared inter partes may be filed by (a)

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an applicant against whose application a petition has been filed under § 1.56(e) or a protest has been filed under § 1.291(a); or (b) any member of the public having or obtaining access to an application who submits a petition under § 1.56(e) or a protest in accordance with the second sentence of § 1.291(a). Normally a properly filed petition based on information material to the examination of the application as defined in § 1.56(a) will be granted and further proceedings will be conducted in accordance with §§ 1.361–1.380.◄

30. A new section 1.361 is proposed to be added which reads as follows:

►§ 1.361 Addition of parties to inter partes proceedings.

Any member of the public having or obtaining access to an application in which protest proceedings have been declared inter partes may file a timely petition to join in such proceedings. Such petition to join must be accompanied by a petition under § 1.56(e), or a protest in accordance with the second sentence of § 1.291(a), if not filed previously.◄

31. A new section 1.362 is proposed to be added which reads as follows:

►§ 1.362 Service of papers in inter partes protest proceedings.

(a) Every paper filed in an inter partes protest proceeding must be served upon the other parties in the manner provided in § 1.248. Proof of service must be made before the paper will be considered in the proceeding by the Office. A signed certificate of service attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made, will be accepted as prima facie proof of service.

(b) Correspondence from the Office will be mailed to all parties to the proceeding. The papers will be mailed to the attorney or agent of the party if there be such or to the party if there is no attorney or agent.◄

32. A new section 1.363 is proposed to be added which reads as follows:

►§ 1.363 Time for filing papers in inter partes protest proceedings.

(a) Unless notified otherwise by the Office, any response by applicant to a petition under § 1.56(e) or a protest under § 1.291(a) is due one month from the date of service.

(b) Unless notified otherwise by the Office, any comments or response to an Office communication by a protestor must be filed within the period set for any response by applicant.

(c) Unless notified otherwise by the Office, protestor will be permitted to comment on any response to an Office communication by applicant within twenty-one calendar days from the date of service of the response.

(d) Unless notified otherwise by the Office, applicant will be permitted to file a rebuttal to protestor's comments under paragraph (c) of this section within twenty-one calendar days from the date of service of protestor's comments.

(e) Except where prohibited by statute, the times set forth in this section may be extended by stipulation of the parties, subject to approval by the Office, or on request of a party showing sufficient cause for such extension. Any request for extension must reflect the results of an attempt to obtain a stipulation of the parties and must be filed on or before the day on which the paper is due.

(f) Unless otherwise directed by the Office, § 1.8 does not apply to papers filed in inter partes protest proceedings and the Office may require such papers to be filed in the appropriate location in the Office.

(g) Papers filed late or other than as expressly authorized above will normally be refused consideration except upon a showing, under oath or in the form of a declaration (§ 1.68), of sufficient cause as to why such paper was late or why it should be considered even though not expressly authorized. The parties should endeavor to make their first submission with regard to a specific issue as complete as possible in order to avoid the necessity to file multiple papers since papers subsequent to the first submission on an issue on behalf of a party may be refused consideration. The strict requirements on the filing of papers are intended to permit the rapid disposition of these proceedings and the Office intends to act upon applications in these proceedings normally within one month of the date of their availability for action.◄

33. A new section 1.364 is proposed to be added which reads as follows:

►§ 1.364 Interviews in inter partes protest proceedings.

After a protest proceeding has been declared inter partes all parties will have an equal opportunity to request an inter partes interview pursuant to § 1.133, but no such interview relating to matters of substance will be held without representation on behalf of applicant except in special circumstances as the Commissioner or the Commissioner's designee may direct. All interviews will be conducted in accordance with such guidelines as the Office may establish.◄

34. A new section 1.365 is proposed to be added which reads as follows:

►§ 1.365 Requirements for information.

(a) Any party to the inter partes protest proceeding may be required by the Office to answer specific questions, supply evidence, or information or documents material to the examination as defined in § 1.56(a), or to explain or supplement evidence already of record. If the applicant fails to respond fully and in a timely fashion, the application may be regarded as abandoned. If any party other than the applicant fails to respond fully or in a timely fashion, that party's further participation in the proceeding may be terminated or the matter in question may be decided adversely to such party.

(b) Any requirement for information must, to the extent possible, be answered by the person having direct knowledge of the facts. If the person having direct knowledge of the facts cannot respond, the person answering the requirement must provide the information requested and explains why the person having direct knowledge is not responding.

(c) Any answers or materials supplied by an attorney or agent authorized to practice before the Patent and Trademark Office in patent cases may be over the attorney or agent's signature as provided for in § 1.346. Any answers or materials supplied by persons other than an attorney or agent authorized to practice before the Patent and Trademark Office in patent cases must be in the form of an affidavit or a declaration.◄

35. A new section 1.366 is proposed to be added which reads as follows:

►§ 1.366 Petition to have inter partes protest proceeding declared a contested case for the purpose of taking testimony.

(a) Any party may petition to have the inter partes protest proceeding declared a contested case for the purposes of taking testimony. Any such petition must include:

(1) A fee as specified in § 1.21(aa).

(2) A specific identification of the issue(s) upon which the party seeks to take testimony.

(3) A showing that the information cannot be obtained or authenticated by the parties or the Office except through testimony and that the information sought by petitioner is, or is likely to be, material to the examination of the application as defined in § 1.56(a).

(4) A description of the nature and content of the expected testimony to the extent that such is then known to petitioner.

(5) An explanation of the relevance of the expected testimony to the issue(s) under consideration.

(6) The names and addresses of all persons whom petitioner intends to call as witnesses indicating the relationship of each person to the issue(s).

(7) An identification and listing of each document in the possession, custody, or control of petitioner upon which petitioner intends to rely together with an offer to serve on all other parties a copy of each such document.

(8) An identification and listing of each thing in petitioner's possession, custody, or control upon which petitioner intends to rely together with a proffer of reasonable access to such things.

(b) Unless notified otherwise by the Office, each party other than the petitioner under paragraph (a) of this section will have twenty-one calendar days from the date of service of the petition within which to join or oppose the petition. Any request to join the petition must likewise comply with paragraph (a) of this section and must particularly point out any additions to, or differences from, the initial petition. Any opposition to the petition must set forth the specific and complete reasons advanced in opposition thereto. If any request to join the petition is filed by a party other than applicant and contains additions to, or differences from, the initial petition, applicant will be permitted an additional twenty-one calendar days from the date of service of the request within which to join or oppose the petition. No other papers relating to the petition will be considered prior to decision thereon except as provided in § 1.363(g), unless expressly required by the Office.

(c) After expiration of the time periods set forth in paragraph (b) of this section the Office will render its decision on the petition. Oral hearings will not be held except when considered necessary by the Office. If an oral hearing on the petition is held it will be conducted in accordance with such guidelines as the Office may establish. Any party may request reconsideration within twenty-one calendar days of the mailing date of the decision on the petition. The parties will not be heard further on this matter, and no appeal will lie from the decision on reconsideration.

(d) Any petitions to have an inter partes protest proceeding declared a contested case filed subsequent to an Office decision denying a first such petition in an application will be dismissed as untimely except upon a showing, under oath or delcaration, of sufficient cause as to why such petition is necessary and was not earlier presented.◄

36. A new § 1.367 is proposed to be added which reads as follows:

►§ 1.367 Assignment of times for taking of testimony.

If the petition under § 1.366 is granted, the decision on petition will ordinarily require and set a period for service of any documents referred to in § 1.366(a), and will also set a period for access to things upon which a petitioner intends to rely. The decision will likewise set times for taking testimony and for filing and serving the copies required by § 1.369. The order in which the parties take testimony will ordinarily be set in the decision on petition. Where applicant is not a petitioner, petitioners in opposition to the grant of the patent will ordinarily complete their testimony in chief and applicant may then take rebuttal testimony. If applicant is a petitioner, applicant will ordinarily complete testimony in chief after which petitioners in opposition to the grant of the patent will take their testimony with applicant being permitted to take rebuttal testimony thereafter.◄

37. A new § 1.368 is proposed to be added which reads as follows:

►§ 1.368 Manner of taking testimony.

Testimony shall be taken as provided in §§ 1.271 to 1.286.◄

38. A new § 1.369 is proposed to be added which reads as follows:

►§ 1.369 Copies of the testimony.

(a) The certified transcript of the testimony (§§ 1.275 to 1.278) or executed copies of affidavits or stipulated testimony or facts (§ 1.272), and the exhibits, must be filed in the Office. One true copy must be served upon each of the other parties. If an inter partes oral hearing or interview is granted in accordance with § 1.371, or if any party appeals pursuant to § 1.373, two additional copies, without the exhibits, may be required by the Office.

(b) The copies of the testimony required in paragraph (a) of this section may be submitted either in printed form in accordance with § 1.253(e) or in typewritten form in accordance with § 1.253(f).

(c) The copies, whether printed or typewritten, must include the testimony presented by the party filing the same, an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the exhibits, briefly describing their nature and giving the pages at which they are identified and offered in evidence. The pages must be serially numbered throughout the entire record of testimony and the names of the witnesses must appear at the top of the pages over their testimony.

(d) The copies of the testimony for each party must be filed and served on all other parties by the date specified in the decision on petition pursuant to § 1.367 or such extensions thereof as may be granted.

(e) The testimony filed in the Office by each party must reflect service on all other parties and the testimony of any party failing to properly serve another party may be refused consideration by the Office.◄

39. A new section 1.370 is proposed to be added which reads as follows:

►§ 1.370 Briefs relating to the testimony.

Unless otherwise directed by the Office, a party in opposition to the grant of the patent may file a brief relating to the testimony within one month of the date on which the copies of the last testimony must be filed and served under § 1.369(d). Applicant's brief is due within two months of the date on which the copies of the last testimony must be filed and served under § 1.369(d), unless otherwise directed by the Office. No further reply briefs will be considered.◄

40. A new § 1.371 is proposed to be added which reads as follows:

►§ 1.371 Inter partes oral hearing or interview following submission of briefs relating to the testimony.

The brief, or a paper accompanying the brief, of any party may request an oral hearing or interview. If such an oral hearing or interview is granted all the parties will be offered an opportunity to be present and participate. No oral hearing or interview shall be granted as a matter of right.◄

41. A new § 1.372 is proposed to be added which reads as follows:

►§ 1.372 Final decision by the examiner.

The examiner will conclude consideration of an inter partes protest proceeding by the issuance of a notice to the parties indicating the final disposition of the claims and setting forth the time for filing an appeal by any of the parties.◄

42. A new § 1.373 is proposed to be added which reads as follows:

►§ 1.373 Appeal from the decision of the examiner in an inter partes protest proceeding.

Any party to an inter partes protest proceeding may appeal to the Board of Appeals from the examiner's final disposition of the claims within the time set by the examiner for such appeal. A party other than the applicant may appeal by the filing of a request for review by the Board of Appeals within the time set by the examiner.

Any appeal by the applicant must be accompanied by the fee required by law

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and a request for review must be accompanied by the fee required by § 1.21(y).◄

43. A new § 1.374 is proposed to be added which reads as follows:

►**§ 1.374 Appeal by applicant.**

(a) If an appeal is filed by applicant, applicant shall, within two months from the date of the appeal, file a brief in triplicate, accompanied by the requisite fee, of the authorities and arguments on which applicant will rely to maintain the appeal, including a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved, at the same time indicating if applicant desires an oral hearing.

(b) Where applicant has filed an appeal and a brief, any party who wishes to participate in the appeal must file, within one month from the date of service of applicant's brief, a response to applicant's brief. If the party has filed a timely notice of a request for review by the Board of Appeals, the response to applicant's brief should also cover all matters for which review was requested and must be accompanied by the fee required by § 1.21(z). The response by any party must be filed in triplicate and must indicate if an oral hearing is desired.◄

44. A new § 1.375 is proposed to be added which reads as follows:

►**§ 1.375 Request for review.**

(a) If an appeal has been filed by a party other than the applicant and no appeal has been filed by the applicant, the brief in support of review, accompanied by the fee required by § 1.21(z), must be filed in triplicate within two months from the date of the appeal and must indicate if an oral hearing is desired.

(b) Any brief filed in support of review must include a copy of the claims upon which review is sought and must include the authorities and arguments on which the party will rely. If applicant has not filed a brief, the brief in support of review must also include a concise explanation of the invention, which should refer to the drawing by reference characters.

(c) Within one month from the latest date of service of briefs in support of review, applicant may file a rebuttal in triplicate.◄

45. A new § 1.376 is proposed to be added which reads as follows:

►**§ 1.376 Examiner's participation in the appeal.**

(a) The examiner will not ordinarily participate in the appeal since the issues will normally by adequately treated by the brief and responses of the parties. However, if the issues are determined not to be adequately treated by the brief and responses of the parties, the examiner may furnish, or be requested by the Board of Appeals to furnish, a written statement relating to the same.

(b) Any written statement furnished by the examiner may be responded to by any participating party within one month of the mailing date of the statement.◄

46. A new § 1.377 is proposed to be added which reads as follows:

►**§ 1.377 Oral hearing before Board of Appeals.**

The Board of Appeals will hold an oral hearing upon request of any party. The order in which the parties will be heard and the time for oral argument will be set by the Board prior to the hearing date. Any participating party other than the applicant who does not make a timely request to be heard may be present, but may not be heard unless permitted by the Board.◄

47. A new § 1.378 is proposed to be added which reads as follows:

►**§ 1.378 Decision by the Board of Appeals in inter partes protest proceeding.**

The decision by the Board of Appeals will treat each of the issues properly raised by the parties and will render a decision thereon. The decision of the Board will be made in accordance with § 1.196, except that its decision will extend to all issues properly raised by the parties.◄

48. A new § 1.379 is proposed to be added which reads as follows:

►**§ 1.379 Action following decision by the Board of Appeals.**

Action following the decision of the Board of Appeals will be in accordance with § 1.197.◄

49. A new § 1.380 is proposed to be added which reads as follows:

►**§ 1.380 Reopening after decision by the Board of Appeals.**

Reopening after decision by the Board of Appeals will be in accordance with § 1.198.◄

50. A new § 1.501 is proposed to be added which reads as follows:

►**§ 1.501 Citation of information in patents.**

(a) At any time during the period of enforceability of a patent, any person may cite in writing to the Patent and Trademark Office information, including patents or printed publications, which that person states to be pertinent and applicable to the patent and believes to have a bearing on the patentability of any claim of a particular patent. All such citations will be entered in the patent file. If the person making the citation wishes his or her identify to be excluded from the patent file and kept confidential, the citation papers must be submitted without any identification of the person making the submission.

(b) Citation of information by the public in patents should either (1) reflect that a copy of the same has been mailed to the patent owner as provided in § 1.33(c); or (2) be filed with the Office in duplicate in the event service is not possible.◄

51. A new § 1.510 is proposed to be added which reads as follows:

►**§ 1.510 Request for reexamination.**

(a) Any person may, at any time during the period of enforceability of a patent, file a request for reexamination by the Patent and Trademark Office of any claim of the patent on the basis of prior art patents or printed publications cited under § 1.501. The request must be accompanied by the reexamination fee set in § 1.21(x).

(b) Any request for reexamination must include the following parts:

(1) A statement pointing out each substantial new question of patentability based on prior patents and printed publications.

(2) An indentification of every claim for which reexamination is requested, and a detailed explanation of the pertinency and manner of applying the cited prior art to every claim for which reexamination is requested. If appropriate the party requesting reexamination may also point out how claims distinguish over cited prior art.

(3) A copy of every patent or printed publication relied upon or referred to in paragraphs (1) or (2) of this subsection accompanied by an English language translation of all the necessary and pertinent parts of any non-English language patent or printed publication.

(4) The entire specification (including claims) and drawings of the patent for which reexamination is requested must be furnished in the form of cut-up copies of the original patent with only a single column of the printed patent securely mounted on one side of a separate paper. A copy of any disclaimer, certificate of correction, or reexamination certificate issued in the patent must also be included.

(5) A certification that a copy of the request filed by a person other than the patent owner has been served in its entirety on the patent owner at the address provided in § 1.33(c). The name and address of the party served must be indicated. If service was not possible, a duplicate copy must be supplied to the Office.

(c) If the request does not include the reexamination fee or all of the parts required by paragraph (b) of this section, the person identified as requesting reexamination will be so notified and given an opportunity to complete the request within a specified time. If the reexamination fee has been paid but the defect in the request is not corrected within the specified time, the determination whether to institute reexamination will be made on the request as it then exists. If the reexamination has not been paid, no determination will be made and the request will be placed in the patent file.

(d) The filing date of the request is: (1) the date on which the complete request including the reexamination fee and all of the parts required by paragraph (b) of this section is received in the Patent and Trademark Office; or (2) the date on which the last part completing or correcting such request is received; or (3) the date on which the response under paragraph (c) of this section is due.

(e) If the request is filed by the patent owner, a proposed amendment may be included, in accordance with § 1.121(f). Claims must not be renumbered and the numbering of the claims added for reexamination must follow the number of the highest numbered patent claim. No amendment may enlarge the scope of the claims of the patent. No new matter may be introduced into the patent.◄

52. A new § 1.515 is proposed to be added which reads as follows:

►§ 1.515 Determination of the request for reexamination.

(a) within three months following the filing date of a request for reexamination, a reexamination examiner will consider the request and determine whether a substantial new question of patentability affecting any claim of the patent is raised by the request and the prior art cited therein, with or without consideration of other patents or printed publications. The reexamination examiner's determination will become a part of the official file of the patent and will be given or mailed to the patent owner at the address provided in § 1.33(c) and to the person requesting reexamination.

(b) Where no substantial new question of patentability has been found, a refund of a portion of the reexamination fee will be made to the requestor in accordance with section 1.26(c).

(c) The requestor may seek review by a petition to the Commissioner under § 1.181(a)(3) within one month of the mailing date of the reexamination examiner's determination refusing reexamination. Any such petition must comply with § 1.181(b). If no petition is timely filed or if the decision on petition is that no substantial new question of patentability has been raised, the determination shall be final and nonappealable.◄

53. A new § 1.520 is proposed to be added which reads as follows:

►§ 1.520 Reexamination at the initiative of the Commissioner.

The Commissioner, at any time during the period of enforceability of a patent, may determine, or may designate other appropriate Patent and Trademark Office officials to determine, whether a substantial new question of patentability is raised by patents or printed publications which have been brought to the Commissioner's attention even though no request for reexamination has been filed in accordance with § 1.510. The Commissioner may initiate reexamination without a request for reexamination pursuant to § 1.510 or delegate such authority to appropriate Patent and Trademark Office officials. Normally requests from outside the Patent and Trademark Office that the Commissioner undertake reexamination on his own initiative will not be considered. Any determination to initiate reexamination under this section will become a part of the official file of the patent and will be given or mailed to the patent owner at the address provided in § 1.33(c).◄

54. A new § 1.525 is proposed to be added which reads as follows:

►§ 1.525 Order to reexamine.

(a) If a substantial new question of patentability is found pursuant to §§ 1.515 or 1.520, the determination will include an order for reexamination of the patent for resolution of the question. If the order for reexamination resulted from a petition pursuant to § 1.515(c), the reexamination will ordinarily be conducted by a reexamination examiner other than the reexamination examiner responsible for the initial determination under § 1.515(a).

(b) If the order for reexamination of the patent mailed to the patent owner at the address provided in § 1.33(c) is returned to the Office undelivered, notice of the order for reexamination shall be published in the Official Gazette.◄

55. A new § 1.530 is proposed to be added which reads as follows:

►§ 1.530 Statement and amendment by patent owner.

(a) No statement or other response by the patent owner shall be filed prior to the determinations made in accordance with §§ 1.515 or 1.520. If a premature statement or other response is filed by the patent owner it will not be acknowledged or considered in making the determination.

(b) The order for reexamination will set a period not less than two months from the date of the order within which the patent owner may file a statement on the new question of patentability including any proposed amendments the patent owner wishes to make. If publication of the order for reexamination in the Official Gazette is required pursuant to § 1.525(b) a period of not less than two months from the date of publication will be set within which the patent owner's statement may be filed.

(c) Any statement filed by the patent owner shall clearly point out why the subject matter as claimed is not anticipated or rendered obvious by the prior art patents or publications, either alone or in any reasonable combinations. Any statement filed must be served upon the reexamination requestor in accordance with § 1.248.

(d) The proposed amendments must be made in accordance with § 1.121(f). No amendment may enlarge the scope of the claims of the patent or introduce new matter. No amended or new claims may be proposed for entry in an expired patent. Moreover, no amended or new claims will be incorporated into the patent by certificate issued after the expiration of the patent.

(e) Although the Office actions will treat proposed amendments as though they have been entered, the proposed amendments will not be effective until the reexamination certificate is issued.◄

56. A new § 1.535 is proposed to be added which reads as follows:

►§ 1.535 Reply by requestor.

A reply to the patent owner's statement under § 1.530 may be filed by the reexamination requestor within two months from the date of service of the patent owner's statement. Any reply by the requestor must be served upon the patent owner in accordance with § 1.248.◄

57. A new § 1.540 is proposed to be added which reads as follows:

►§ 1.540 Consideration of responses.

The failure to timely file or serve the documents set forth in § 1.530 or in § 1.535 may result in their being refused consideration. No submissions other than the statement pursuant to § 1.530 and the reply by the requestor pursuant to § 1.535 will be considered prior to examination. If the patent owner does not file a statement under § 1.530, no

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reply or other submission from the reexamination requestor will be considered.◄

58. A new § 1.550 is proposed to be added which reads as follows:

►§ 1.550 Conduct of reexamination proceedings.

(a) After issuance of the reexamination order and the time for submitting any responses thereto, the examination will be conducted in accordance with §§ 1.104–1.119 and will result in the issuance of a reexamination certificate under § 1.570.

(b) The patent owner will be given a period of not less than 30 days to respond to any Office action. Such response may include further statements in response to any rejections and/or proposed amendments or new claims to place the patent in a condition where all the claims, if amended as proposed, would be patentable.

(c) The time for reply set in paragraph (b) of this section will be extended only for sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension.

(d) If the patent owner fails to file a timely and appropriate response to any Office action, the reexamination proceeding will be terminated and the Commissioner will proceed to issue a certificate under § 1.570.

(e) The reexamination requestor will be sent copies of Office actions issued during the reexamination proceeding. Any document filed by the patent owner must be served on the requestor in the manner provided in § 1.248. The document must reflect service or the document may be refused consideration by the Office. The active participation of the reexamination requestor ends with the reply pursuant to § 1.535, and no further submissions on behalf of the reexamination requestor will be acknowledged or considered. Further, no submissions on behalf of any third parties will be acknowledged or considered unless such submissions are in accordance with § 1.510. Accordingly, such additional submissions should not be filed.◄

59. A new § 1.552 is proposed to be added which reads as follows:

►§ 1.552 Scope of reexamination in a reexamination proceeding.

(a) Original patent claims will be reexamined on the basis of patents or printed publications.

(b) Amended or new claims presented during a reexamination proceeding must not enlarge the scope of the claims of the patent and will be examined on the basis of patents or printed publications and also for compliance with the requirements of 35 U.S.C. 112 and the new matter prohibitions of 35 U.S.C. 132.

(c) Questions other than those indicated in paragraphs (a) and (b) of this section will not be resolved in a reexamination proceeding. If such questions are raised or discovered during a reexamination proceeding, the existence of such questions will be noted by the examiner in which case the patent owner may desire to consider the advisability of filing a reissue application to have such questions considered and resolved.◄

60. A new § 1.555 is proposed to be added which reads as follows:

►§ 1.555 Duty of disclosure in reexamination proceedings.

If the owner of a patent involved in a reexamination proceeding is aware, or becomes aware, of patents or printed publications material to the reexamination which have not been previously made of record in the patent file, the patent owner must bring such patents or printed publications to the attention of the Office by filing a prior art statement as provided in § 1.98 within two months of the date of the order for reexamination, or as soon thereafter as possible.◄

61. A new § 1.560 is proposed to be added which reads as follows:

►§ 1.560 Interviews in reexamination proceedings.

(a) Interviews in reexamination proceedings pending before the Office between examiners and the owners of such patents or their attorneys or agents of record must be had in the Office at such times, within office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews for the discussion of the patentability of claims in patents involved in reexamination proceedings will not be had prior to the first official action thereon. Interviews should be arranged for in advance. Requests that reexamination requestors participate in interviews with examiners will not be granted.

(b) In every instance of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the patent owner. An interview does not remove the necessity for response to Office actions as specified in § 1.111.◄

62. A new § 1.565 is proposed to be added which reads as follows:

►§ 1.565 Concurrent Office proceedings.

(a) In any reexamination proceeding before the Office, the patent owner shall call the attention of the Office to any prior or concurrent proceedings in which the patent is or was involved such as interferences, reissue, reexaminations, or litigation and the results of such proceedings.

(b) If a patent in the process of reexamination becomes involved in interference proceedings or a reissue application is filed for the patent, or litigation is instituted, the Commissioner shall determine whether or not to stay the reexamination, reissue or interference proceeding. If reexamination is stayed for the conduct of a reissue proceeding, the reissue proceeding shall take into account prior art provided by the requestor for reexamination and the reexamination requestor will be granted at least the same degree of participation in the reissue proceeding which the requestor would have had in the reexamination proceeding. Any reexamination proceeding stayed for the conduct of a reissue proceeding shall be terminated by the grant of the reissued patent.◄

63. A new § 1.570 is proposed to be added which reads as follows:

►§ 1.570 Issuance of reexamination certificate after reexamination proceedings.

(a) Upon the conclusion of reexamination proceedings, the Commissioner will issue a certificate under 35 U.S.C. 307 indicating the results of the reexamination proceeding and the content of the patent following the reexamination proceeding.

(b) A certificate will be issued in each patent in which a reexamination proceeding has been ordered under § 1.525. Any statutory disclaimer filed by the patent owner will be made part of the certificate.

(c) The certificate will be mailed on the day of its date to the patent owner as provided in § 1.33(c). A copy of the certificate will also be mailed to the requestor of the reexamination proceeding.

(d) If a certificate has been issued which cancels all of the claims of the patent, no further Office proceedings will be conducted with regard to that patent or any reissue applications or reexamination requests relating thereto.

(e) If the reexamination proceeding is terminated by the grant of a reissued patent as provided in § 1.565(b), the reissued patent will constitute the reexamination certificate required by this section and 35 U.S.C. 307.

(f) A notice of the issuance of each certificate under this section will be published in the Official Gazette on its date of issuance.◀

Dated: December 29, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Dated: December 31, 1980.

Approved:

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 81-1013 Filed 1-12-81; 8:45 am]

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federal register

Tuesday
January 13, 1981

Part IV

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Listing of Hawaiian (Oahu) Tree Snails of the Genus Achatinella as Endangered Species

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing the Hawaiian (Oahu) Tree Snails of the Genus Achatinella, as Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines all species of the genus *Achatinella* to be Endangered. The Service was petitioned by Mr. Alan D. Hart to review the status of the genus. A review was published in the **Federal Register** (44 FR 54011) on September 17, 1979. The Service proposed Endangered status for all species of the genus *Achatinella* on June 26, 1980 (45 FR 43358–43360). The Oahu tree snails, genus *Achatinella*, occur only on Oahu in the State of Hawaii. This action is being taken because of the decline of the genus resulting from habitat destruction, excessive collecting, and predation by introduced animals. The rule provides protection to wild populations of this genus.

DATES: This rule becomes effective on February 12, 1982.

ADDRESSES: Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials related to the rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1980, the Service published a proposed rule in the **Federal Register** (45 FR 43358–60) advising that sufficient evidence was on file that the Oahu tree snails, genus *Achatinella*, were Endangered species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). That proposal summarized the factors thought to be contributing to the likelihood that these snails are Endangered. *Achatinella* is highly vulnerable to human activities because the various species have (1) small geographical ranges, (2) a low reproductive rate, (3) virtually no defense mechanisms, and (4) a dependency on relatively intact native forest conditions. Owing to extensive deforestation and other human-induced alterations of Oahu's native environment, more than half of the species in the genus may be recently extinct.

The proposed rule also specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from interested persons. Included in this proposal was a summary of comments in response to the notice of review as well as a summary of the status of these species.

A letter was sent to Governor Ariyoshi of the State of Hawaii on July 1, 1980 notifying him of the proposed Endangered status for the Oahu tree snails. On June 30, 1980, letters were sent to appropriate Federal agencies, local governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions. Official comments were received from Governor Ariyoshi of Hawaii; the Department of the Army, Washington, D.C.; and Headquarters, United States Army Support Command, Hawaii.

Summary of Comments and Recommendations

Section 4(b)(1) of the Act requires that a summary of all comments and recommendations be published in the **Federal Register** prior to adding any species to the List of Endangered Wildlife and Plants. All interested parties were invited in the proposed rule to submit factual reports or information which might contribute to the formulation of a final rule.

All written public comments received during the period June 26, 1980 through September 24, 1980 were considered. These comments are summarized below along with comments offered by 9 individuals at a public meeting on the proposal held in Honolulu on August 19, 1980.

In addition to the comments received from Governor Ariyoshi and the Army, written comments were received from 13 individuals and representatives of various organizations.

Governor Ariyoshi commented that despite the lack of biological information on *Achatinella*, the genus should be accorded protective status.

The Department of the Army commented that further dramatic reductions in the native forests are unlikely because of the relative inaccessibility and ruggedness of the terrain where the remaining forest are found. The Army also stated that measures have been taken to minimize the threat of accidental forest fires caused by training activities to the native forest habitats of *Achatinella*. The Army concurred with the Service decision not to designate Critical Habitat for the genus because it would make these animals more vulnerable to collection. The Army stated that listing may contribute to the further decline of the genus by promoting collecting and that public education would provide greater protection for the species than listing. The Service notes that the existence of and threats to *Achatinella* have been widely discussed in popular periodicals (Hart, 1975, 1978) and newspapers (Whitten, 1980) and the further publicity that might accompany listing is unlikely to stimulate additional collecting. The Service acknowledges the great value of public education for the conservation of any species and notes that among the benefits of listing is the publication and distribution of educational materials on Endangered and Threatened species. For example, a series of educational leaflets on some listed Endangered and Threatened Hawaiian birds has been produced under a Service contract by the Cooperative Extension Service of the University of Hawaii (Leaflets 212 through 215). Similar materials may be developed for *Achatinella* as a result of listing of the genus.

All 13 of the written comments from individuals and organizations supported the listing of the genus *Achatinella* as Endangered. Most comments identified various forms of habitat destruction as major factors in the decline of the genus. Most comments cited various threats to the genus that the Service had previously identified in the proposed rule. These threats include taking, introduced predatory snails and rodents, and habitat destruction resulting from fires, introduced plants, and feral mammals.

Nine comments identified the exotic predatory snail *Euglandina rosea* as a threat to *Achatinella*. *Euglandina* was introduced into Hawaii for biological control of the giant African snail, an introduced pest. Some of the comments contained personal observations of *Euglandina rosea* predation on *Achatinella*, the extirpation of *Achatinella* populations corresponding with the arrival of *Euglandina rosea* in their habitat, and recent expansions in the range of *Euglandina rosea* that threaten remaining *Achatinella* populations.

Two comments suggested that the increase in *Euglandina rosea* may increase populations of the predatory flatworm *Geoplana* sp. The increased numbers of these native flatworms could pose an additional threat to *Achatinella*.

Predation by rats, probably the roof rat (*Rattus rattus*), was cited in four comments as a threat to *Achatinella*.

The dependence of *Achatinella* on native forest plant species was cited in seven comments, although two of these comments noted that certain species of *Achatinella* may be found on a few introduced plants. The Service recognizes that the destruction of native vegetation by human activities and encroachment by introduced plants, notably *Clidemia hirta*, is a threat to *Achatinella*.

The destructive activities of feral mammals, mostly pigs and goats, was identified by four commentors as a threat to *Achatinella* forest habitat.

Six comments noted the scientific value of *Achatinella* and expressed a need for more research, especially on the biological requirements of these species. One of these comments expressed the concern that listing as Endangered might curtail needed research on the genus. The Service responds that, although listing as Endangered would protect *Achatinella* from collecting, the Service may grant special permits for scientific purposes or to enhance the propagation or survival of a species.

Comments from two scientific societies, two conservation organizations, and one private individual requested that Critical Habitat be designated for the genus *Achatinella*. They suggested that this Critical Habitat should be large enough and described in general enough terms, such as all forest areas above a certain elevation, that *Achatinella* localities are not pinpointed and thereby made vulnerable to collecting. Current criteria for designating Critical Habitat (50 CFR Part 424.12) do not provide for including areas outside of a species' range in Critical Habitat as a means of obscuring the exact location of populations. The Service believes that, given these restrictions on the area that may be designated Critical Habitat, it is best not to designate Critical Habitat for *Achatinella* for the reasons given below in the Critical Habitat section of this rule. Even though Critical Habitat is not being designated for *Achatinella*, these species still receive the full protection as Endangered species under the Endangered Species Act of 1973, as amended.

The Service notes that there is a widespread and erroneous belief that a Critical Habitat designation is somewhat akin to the establishment of a wildlife refuge. This is not the case. Critical Habitat applies only to Federal activities and is an official notification to the agencies that their responsibilities under Section 7 of the Endangered Species Act are applicable in a certain area.

Two comments stated that lack of Critical Habitat designation does not provide means for the elimination of such threats to *Achatinella* as introduced plants and animals. The Service notes that measures to eliminate these threats can be incorporated into a recovery plan for *Achatinella* whether or not Critical Habitat is designated.

One comment agreed with the Service's decision not to designate Critical Habitat because publication of maps would call the attention of collectors to the remaining populations.

One comment listed collecting as one of the continuing threats to *Achatinella*. Three comments stated that commercial taking no longer appears to be a factor in the continuing decline of the genus. The Service agrees that commercial activity in *Achatinella* is limited. The Service notes, however, that cash offers for *Achatinella* shells are still made (Hawaiian Shell News: June, 1980; page 11) and indicate a persistent demand by collectors.

The impacts of the recreational pursuits of hiking, camping, and hunting were discused in three comments. Two of these comments stated that the impacts of these activities on *Achatinella* and its habitats was minor, but a third comment stated that these impacts can be expected to increase. All three of these comments agreed that hunting would be of benefit to the Hawaiian tree snails and their habitat by controlling populations of introduced mammals, such as rats and feral pigs and goats, that are destructive to the snails or their habitat.

Three comments identifed the U.S. Department of Agriculture's proposed Tri-fly Eradication Program as a potential new threat to the Hawaiian tree snails. These comments expressed the fear that pesticides, especially malathion, will be applied to native forests without prior toxicity studies on native snails. The Service notes that any federally funded or authorized plan to apply pesticides on *Achatinella* habitat would require consultation with the Service.

One comment suggested that firebreaks be built around military firing areas and that manuevers using live ammunition be curtailed during droughts to protect remaining *Achatinella* habitat from accidental fires. These measures are among those that the Army has agreed to implement to protect native forests.

One comment identified the potential threat of placing powerline towers or helicopter pads on mountains ridgetops, where much of the remaining native forest habitat of *Achatinella* is found. The Service notes that such projects, if federally funded or authorized, would be subject to consultation with the Service to insure that they are not likely to jeopardize the continued existence of any species of *Achatinella*.

Among his comments supporting the listing of the genus *Achatinella* as Endangered, Yoshio Kondo of the Bernice P. Bishop Museum noted that the lists of Hawaiian tree snail species published in the **Federal Register** (42 FR 57492 and 43 FR 44806–44808) were modified from Kondo (1970). The Service recognizes and is grateful for Dr. Kondo's contributions to mollusk conservation and regrets the inadvertent omission of the citation of that work.

John K. Obata submitted comments describing findings from his field work on *Achatinella* and supporting their listing as Endangered. He estimates that the following nine species exist in numbers less than 20 individuals each: *Achatinella bellula, A. bulimoides, A. byronii, A. fulgens, A. leucorraphe, A. lorata, A. swiftii, A. taeniolata*, and *A. turgida*. Mr. Obata indicates that the remaining extant species are declining rapidly and suffer from collection by hikers. He estimates that there are less than 50 remaining individuals each of *A. concavospira* and *A. pulcherrima;* less than 100 remaining individuals of *A. pupukanioe* and *A. fuscobasis;* less than 200 remaining individuals each of *A. curta, A. decipiens,* and *A. lila;* and less than 400 remaining individuals each of *A. mustelina* and *A. sowerbyana*. Based on his observation of this genus over the last 20 years, Mr. Obata estimates that present population levels are only 5 to 10% of those existing in 1960 and that they continue to decline. He stated that predation by the introduced predatory snail *Euglandina rosea* is a factor in the decline of these species, especially of *A. sowerbyana*.

Dr. Michael G. Hadfield of the University of Hawaii summarized the results of a six-year study of a population of *A. mustelina*, in which he participated. The study involved the field tagging and measurement of individual snails in the Waianae Mountains. *Achatinella mustelina* grows at a rate of only a 2 mm increase in shell length per year and is estimated to reach sexual maturity in 6 to 7 years. *Achatinella mustelina* was abundant at the study site in 1974. *Euglandina rosea*, an introduced predatory snail, was found near the study site in 1978. by

August, 1979 shells of *Euglandina rosea* were abundant at the study site but no living individuals of *Achatinella* could be found. Dr. Hadfield concluded that, since *Achatinella mustelina* has a low growth rate and fecundity and matures late, populations are highly vulnerable to the removal of adults.

The public meeting held on the proposed Endangered status for the genus *Achatinella* was attended by Service representatives and eleven other individuals. Nine of these individuals presented comments on or asked questions about the proposal or the consequences of listing. These comments and questions are summarized below.

Three comments asked questions concerning the effect of listing *Achatinella* on research on the genus and how permits may be obtained for such research. The Service may grant special permits to individuals or organizations for scientific purposes or to enhance the propagation or survival of a species. Ongoing and new research that fits these criteria will be granted permits. A recovery team may make specific recommendations for further research. Federal funds for research on *Achatinella* could be made available through a future cooperative agreement with the State of Hawaii.

Several questions were asked concerning the meaning of Critical Habitat and why it was not designated for *Achatinella*. The reasons that the Service is not designating Critical Habitat for *Achatinella* are discussed below in the Critical Habitat section of this rule. If at some future time the Service determines that it would be prudent to designate Critical Habitat for *Achatinella*, such a designation would be made according to the requirements of the species as set forth in § 424.12 of Title 50 of the Code of Federal Regulations. Among the possibile requirements that may be included in Critical Habitat is space for individual and population growth. The Service notes that, even though Critical Habitat is not being determined at this time, *Achatinella* will still receive the full protection of Section 7 of the Act. Current distribution records can also be made available to the Army and other agencies so that their activities can be planned so that they are unlikely to jeopardize remaining *Achatinella* populations.

Two commentors were concerned about how the Tri-fly Eradication program might affect *Achatinella* and what protection is available for this genus under the Endangered Species Act. The Act requires Federal agencies to confer with the Service on any of their activities that are likely to jeopardize a species proposed for Endangered or Threatened status. The genus *Achatinella*, by being listed as Endangered, would recieve full protection of Section 7 as described below under "Effect of this Rule."

One comment asked what could be done about the threat to *Achatinella* by the introduced predatory snail *Euglandina rosea*. The Service responds that any Federal effort to expand the range of *Euglandina rosea* on Oahu would require consultation with the Service. Programs to limit or eliminate *Euglandina rosea* on Oahu may be considered in developing a recovery plan for *Achatinella*.

One individual asked who determines that a recovery team will be formed. The Service responds that recovery teams are appointed by the Director of the Service with input from the appropriate regional and area offices. These teams are appointed for listed species in the order of the species' recovery priority.

After a thorough review and consideration of all available information, the Director has determined that all existing species of the genus *Achatinella* are in danger of becoming extinct throughout all or a portion of their range due to one or more of the factors described in Section 4(a) of the Act. These factors and their application to *Achatinella* are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Botanical literature and subfossil deposits indicate that native forests covered much of Oahu in the prehuman era. By 1978, approximately 85% of the original forest cover had been destroyed or radically altered. Most remaining native forest occurs at an altitude above 1,200 feet at the heads of ravines and upper valleys and above 1,500 feet on most ridges of the Koolau and Waianae Mountain ranges. Widespread deforestation followed the arrival of non-native settlers during the 1800's. Most woodlands below 1,200 feet were cleared. The *Achatinella* in these forests disappeared.

The false staghorn fern (uluhe), *Dicranopteris linearis* is forming dense thickets in the Koolau range, smothering the native forest and impacting the snails. In healthy native wet forest ecosystems, uluhe is present but inconspicuous. The overgrowth of uluhe very likely stems from human disturbance. Fires have opened up lower ridge areas to the fern. In higher regions, feral mammals (especially pigs) have rooted up and opened up portions of understory, allowing invasion by exotics.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Excessive human collection of *Achatinella* snails for their beautiful, varied and often rare shells has contributed to the decline of these species. The most intense period of collecting was from 1830 to 1940. Since each shell is unique in shape, size, color and pattern, collectors took many of each variety. Probably millions of snails were collected for their shells. Two private collections made at the turn of the century contain more than 100,000 shells. Many private collections of *Achatinella* exist in Honolulu alone.

Some species of *Achatinella* (*A. papyracea, A. juncea, A. buddii*) were rare even in the 1930's while other species (*A. lehuiensis, A. thaanumi, A. spaldingi*) were extremely rare when discovered and became extinct soon afterwards. The days of *Achatinella's* widespread abundance are gone. It is now believed that only 19 of the 41 *Achatinella* species still exist. People are still collecting live *Achatinella* for shell leis and other non-scientific purposes. A limited number of hiking trails are accessible to the general public in Oahu's mountains. Remnant colonies of *Achatinella* exist near some of these trails. Since the popularity of hiking is increasing, so is *Achatinella's* exposure to more people and would-be collectors.

3. *Disease or predation.* Prior to man's arrival on Oahu, *Achatinella* had few predators among the native terrestrial fauna. Within the past 100 years, two types of human-introduced predators have become major threats to *Achatinella's* existence—rodents and the carnivorous land snail, *Euglandina rosea.*

Of the three species of introduced rats in Hawaii, the arboreal roof rat (*Rattus rattus*) poses the greatest problem. It is found throughout the dense wet forests. Many rat-killed shells are found throughout the Waianae range.

Euglandina rosea is a carnivorous snail that was imported to Oahu from Florida to control *Achatina fulica*, the giant African snail. The giant African snail had become an uncontrollable pest in the lowland regions shortly after its introduction by a private individual. *Euglandina* established itself, increased dramatically in numbers and migrated from the dry, lower elevations to the mountain forests where it has decimated a substantial portion of Oahu's native land snail fauna. In areas where *Euglandina* is long established, living *Achatinella* are usually very rare or absent.

4. *The inadequacy of existing regulatory mechanisms.* These species

occur within State Forest Reserves and Conservation Districts. The State's Department of Land and Natural Resources/Division of Forestry administers the regulations that apply to these lands.

Listing these species as Endangered pursuant to the Endangered Species Act may give them added protection. Private landowners whose lands occur within a conservation district may apply to the Department of Land and Natural Resources for a permit to change from current land use. If Endangered species are within the area under consideration, the Department of Land and Natural Resources should consider this point in reviewing these applications. This consideration could result in the snails' habitat remaining intact.

5. *Other natural or man-made factors affecting its continued existence.* Oahu's growing human population is causing problems for *Achatinella.* Approximately 80% of the State's population lives on Oahu. Increasing numbers of people will use the island's limited forest reserves which are managed using a multiple-use concept. Activities such as military exercises and artillery practice, hiking and hunting, as well as forestry will continue to exert pressure on remnant native ecosystems.

Critical Habitat

Section 4(a)(1) states "The Secretary shall by regulation determine whether any species is an endangered species or a threatened species . . . At the time any such regulation is proposed, the Secretary shall also by regulations, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat."

As previously stated in this proposed rule, collecting is one of the reasons for the decline and/or extinction of *Achatinella.* The highly variable colored shells of *Achatinella* have been and are prized by collectors. Publication of detailed location maps delineating Critical Habitat would make these species more vulnerable to taking. For this reason, a decision has been made that Critical Habitat determination for *Achatinella* would not be prudent, since it would further jeopardize these species.

Effect of This Rule

Endangered Species regulations published in Title 50 § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species.

With respect to the genus *Achatinella,* all known living species of the genus have the same status and are subject to the protection of the Endangered Species Act of 1973, as amended. The available data indicate that each component species of this genus is either extinct or in danger of extinction. The species of this genus which are believed to be extinct are:

Achatinella abbreviata

A. buddii
A. caesia
A. casta
A. cestus
A. decora
A. dimorpha
A. elegans
A. juddii
A. juncea
A. lehuiensis
A. livida
A. papyracea
A. phaeozona
A. rosea
A. spaldingi
A. stewartii
A. thaahumi
A. valida
A. viridans
A. vittata
A. vulpina

The species thought to be in danger of extinction are:

Achatinella apexfulva

A. bellula
A. bulimoides
A. byronii
A. concavospira
A. curta
A. decipiens
A. fulgens
A. fuscobasis
A. leucorraphe
A. lila
A. lorata
A. mustelina
A. pulcherrima
A. pupukanioe
A. sowerbyana
A. swiftii
A. taeniolata
A. turgida

Since these snails' habitats are found in rugged, inaccessible terrain, it is possible that some individuals of those species thought to be extinct may still exist. If any individuals of these species are found alive, they would automatically be protected, since the entire genus is Endangered.

With respect to all species of the genus *Achatinella,* all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate or foreign commerce in the course of a commercial activity, or sell or offer to sell those species in interstate or foreign commerce. It would also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken, imported or exported. Certain exceptions would apply to agents of the Service and State conservation agencies for limited purposes.

Regulations published in the **Federal Register** of September 26, 1975, (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 7(a) of the Act provides in part, that:

> (1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act. (2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available. (3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. This rule requires Federal agencies to insure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of *Achatinella.*

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file at Suite 500, 1000 North Glebe Road, Arlington, Virginia, and

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may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Note.—The Service has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

References

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Kondo, Y. 1970. Extinct land molluscan species. Colloquium on Endangered Species of Hawaii.

Van der Schalie, H. 1969. Man meddles with nature—Hawaiian style. *The Biologist* 51:136–146.

Whitten, H. 1980. Endangered Hawaiian tree snail. Honolulu Star Bulletin, July 14, p. A-16.

Young, G. 1979. Which way Oahu? *National Geographic Magazine* 156(5):652–679 (November issue).

Regulation Promulgation

Accordingly, § 17.11 of Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as set forth below.

1. Section 17.11 is amended by adding, in alphabetical order under "SNAILS," the following to the list of Endangered and Threatened wildlife:

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Achatinella all species	Snails: Snails, Oahu tree.	Hawaii	E	2-12-81	NA	NA

Dated: January 2, 1981.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 81-1116 Filed 1-12-81; 8:45 am]

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federal register

Tuesday
January 13, 1981

Part V

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; determination of Callirhoë scabriuscula to be an Endangered Species

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Callirhoë Scabriuscula To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines a plant, *Callirhoë scabriuscula* (Texas poppy-mallow), to be an Endangered species under the authority contained in the Endangered Species Act. This plant occurs in Texas and is threatened by taking, trampling and possible sand mining within its habitat. This determination of *Callirhoë scabriuscula* to be an Endangered species implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: This rule becomes effective on February 12, 1981.

ADDRESSES: Questions concerning this action may be addressed to Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (703/235–2771).

SUPPLEMENTARY INFORMATION: *Callirhoë scabriuscula* (Texas poppy-mallow) was first collected by Dr. Sutton Hayes in the late 1800's on the Colorado River of Texas. This member of the mallow family is an erect, simple or basally branched perennial herb which averages 2 to 4 feet in height. The five wine-purple petals form an erect partially open cup about 1½ inches in diameter, with a dark maroon red inside center ring. *Callirhoë scabriuscula* is limited in distribution to a small area of deep sandy soil blown from alluvial deposits along the Colorado River; this soil type is highly susceptible to wind erosion (Wiedenfeld *et al.* 1970). The continued existence of this plant and the fragile habitat in which it occurs are being threatened by taking, sand mining, grazing, and other factors. This rule determines *Callirhoë scabriuscula* to be Endangered and implements the protection provided by the Endangered Species Act of 1973, as amended. The following paragraphs further discuss the actions to date involving this plant, the threats to the plant, and effects of the action.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Callirhoë scabriuscula* was included in the Smithsonian report, the 1975 notice of review, and the 1976 proposal. General comments on the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A one year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal, which expired November 10, 1980, along with four other proposals which had expired. A status report on this species was compiled on October 31, 1979 and then submitted to the Service in late 1979. This report was not received in time to be used before the November 10, 1980, expiration. Observations by Soil Conservation Service (USDA) personnel and Texas botanists in 1980 provided additional sufficient current biological and economic information. Based on this sufficient new information the Service reproposed *Callirhoë scabriuscula* (45 FR 41321) on June 18, 1980.

The regulations to protect Endangered and Threatened plant species appear at 50 CFR 17 and establish the prohibitions and a permit procedure to grant exceptions, under certain circumstances to the prohibitions.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Summary of Comments and Recommendations

In the June 18, 1980, **Federal Register** proposed rule (45 FR 41321) and associated notifications and press releases, all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. Letters were sent to the Governor of Texas, the Soil Conservation Service (USDA), and local governments notifying them of the proposed rule and soliciting their comments and suggestions. All comments received during the period from June 18, 1980, through September 16, 1980, were considered and these are discussed below.

The Governor of Texas commented on the possible effects and conflicts of listing *Callirhoë scabriuscula* as an Endangered species. The letter stated that no conflicts between protecting *Callirhoë scabriuscula* and the State's wildlife resources exist. The State also commented that the proposed Stacey Reservoir should not impact this plant or its habitat. The State also pointed out that maintaining the highway right-of-ways in this area is a State responsibility and not a Federal one as stated in the proposal. This has been corrected in this final rule. The Service has checked on these points and agrees that no conflicts are expected.

The Texas State Conservationist of the Soil Conservation Service (USDA), commented that the information presented in the June 18, 1980, proposal was consistent with their knowledge of *Callirhoë scabriuscula*. They noted recent farm activity in the area where the *Callirhoë scabriuscula* occurs and also an increased harvest of its seeds.

The Garden Club of America commented that they support the listing of *Callirhoë scabriuscula*. They noted that this conspicuously beautiful plant is one of the most beautiful wild flowers of Texas and cited past decline of the species. The Alamo Heights-Terrell Hills Garden Club and the Garden Club of Houston concur with the listing.

Conclusion

After a thorough review and consideration of all information available, the Director has determined that *Callirhoë scabriuscula* Robins (Texas poppymallow) is in danger of extinction throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Callirhoë scabriuscula* are as follows:

1. *Present or threatened destruction, modification, or curtailment of its habitat or range.* Much of the natural habitat of *Callirhoë scabriuscula* has been disturbed. The present range is limited to one Texas county, much of which is no longer suitable habitat for the plant. The actual area covered by the plant is very small. The range is dissected by a four-lane divided highway (Highway 67) and two frontage roads. All of the land on which the plants now occur is in private ownership. Cultivation, establishment of rural residences, and development of roads and a railway have reduced the range and the size of the populations. An imminent threat to all existing populations is commercial sand mining within the plant's habitat (Amos, 1979).

2. *Overutilization for commercial, sporting, scientific or educational purposes.* If exact localities were published, the plant's conspicuous and showy blooms could cause it to be threatened by amateur gardeners, wildflower enthusiasts, and commercial horticultural collecting. Since all the populations occur on privately owned land, taking of these attractive plants could not be prohibited.

3. *Disease or predation* (including grazing). Numbers of individuals in areas under grazing pressure observed during the past three seasons have been steadily declining and there has been a marked reduction in plant vigor. The erect habit and the single main stem of the plant make it particularly susceptible to trampling by grazing animals. Because of the short flowering and fruiting period of the species, the plants which are trampled do not recover in time to produce seeds in that season.

4. *The inadequacy of existing regulatory mechanisms.* The taxon is not protected under any current Texas state law. The Endangered Species Act would offer needed protection for the species.

5. *Other natural or man-made factors affecting its continued existence.* Restriction to a very specialized and localized soil type and total range which is geographically limited to a small area tend to intensify any adverse effects occurring in the habitat of this plant.

Critical Habitat

Section 4(a)(1) of the Endangered Species Act provides in part that: "At the time any such regulation (to determine whether a species is Endangered or Threatened) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat."

Callirhoë scabriuscula is threatened by taking, an activity not prohibited by the Endangered Species Act of 1973 with respect to plants. Publication of Critical Habitat maps would make this species more vulnerable. After recovery and protection plans have been developed for this plant, Critical Habitat may be beneficial and may be proposed in the future. However, it would not be prudent to determine Critical Habitat at this time.

Effects of the Rule

In addition to the effects discussed above, the effects of this rule will include, but will not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373) set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. All of those prohibitions and exceptions also apply to any Threatened species, unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened plants, are found at Sections 17.61 and 17.71, of 50 CFR and are summarized below.

With respect to *Callirhoë scabriuscula* all prohibitions of Section 9(a)(2) of the Act, as implemented by Section 17.71 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR Section 17.71 also provide for the issuance of permits to carry out prohibited activities involving Endangered and Threatened species under certain circumstances. International and interstate commercial trade in *Callirhoë scabriuscula* does not exist at present. It is anticipated that few permits involving plants of wild origin would ever be issued, since this plant is not common in the wild or in cultivation. Additional paperwork and permits required for the public would be minimal in the case of *Callirhoë scabriuscula*.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered or Threatened. This protection will now accrue to *Callirhoë scabriuscula*. Provisions for Interagency Cooperation implementing Section 7 are codified at 50 CFR Part 402. These require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the contained existence of *Callirhoë scabriuscula*, but also to insure that their actions are not likely to result in the destruction or adverse modification of any Critical Habitat which may be determined at some future date by the Director.

The known populations of *Callirhoë scabriuscula* occur on privately owned lands. The Soil Conservation Service Field Office in Ballinger, Texas is aware of the significance and location of this plant. No permits are required for sand mining and the SCS has no involvement in this activity. No other Federal involvement is foreseeable at this time.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined during regular business hours, by appointment. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Authors

This rule is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; 87 Stat. 884). The primary authors of this rule are Ms. E. LaVerne Smith and Mr. Tom Strekal, Washington Office of Endangered Species (703/235–1975).

Literature Cited

Amos, B. 1979. Determination of *Callirhoë scabriuscula* Robins, as an endangered species. Prepared for U.S. Fish and Wildlife Service. October 31, 1979.

Gould, F. S. 1975. Texas plants, a checklist and ecological summary. College Station, Texas: Texas A&M University System, The Texas Agricultural Experiment Station.

Wiedenfeld, C. C., L. J. Barnhill, and C. J. Novosad. 1970. Soil survey of Runnels County, Texas. Washington, D.C.: Soil Conservation Service.

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Regulations Promulgation

Accordingly, § 17.12 of Part 17 of chapter I of Title 50 of the U.S. Code of Federal Regulations is amended, as set forth below.

1. Section 17.12 is amended by adding, in alphabetical order, the following plant:

§ 17.12 Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Malvaceae—Mallow family:						
Callirhoe scabriuscula	Texas poppy-mallow	U.S.A. (Texas)	E	....	NA	NA

Dated: January 2, 1981.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 81-1115 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-55-M

federal register

Tuesday
January 13, 1981

Part VI

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for Astragalus montii (Heliotrope milk-vetch)

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for Astragalus montii (Heliotrope milk-vetch)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Astragalus montii* (Heliotrope milk-vetch) to be an Endangered species. Only one small population of this plant is known, about 400 plants in approximately 80 acres of alpine meadow. Grazing by sheep and recreational activity are adversely modifying the limited habitat of this milk-vetch. The Heliotrope milk-vetch occurs at an elevation of approximately 3350 meters on Heliotrope Mountain in Sanpete County, Utah, in the Manti-LaSal National Forest. Critical Habitat is included with the proposed rule. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended.

DATES: Comments must be received by April 13, 1981. A public meeting on the proposal will be held on February 18, 1981.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Regional Director (SE), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials relating to this proposal are available for public inspection by appointment during normal business hours at the Service's Regional Endangered Species Office, 134 Union, Fifth Floor, Lakewood, Colorado. The public meeting on this proposal will be held at the courtroom of the County Courthouse, 5 South Main Street, Nephi, Utah, being at 7 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Regional Botanist, Endangered Species Office, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, 303-234-2496.

SUPPLEMENTAL INFORMATION: *Astragalus montii* (Heliotrope milk-vetch) is a member of the pea family (Fabaceae). This family includes garden peas, alfalfa, locoweed, and some southwestern desert trees, and is the second largest plant family in the United States. *Astragalus montii* is a small perennial (about 5 cm tall) with pink-purple flowers tipped with white. The tiny plant is part of a meadow community at timberline on Heliotrope Mountain. Flowers bloom soon after snowmelt starting in early July and form fruit within 3 weeks, producing bladdery-inflated pods.

Managed by the U.S. Forest Service, the Heliotrope Mountain area is used for recreation and limited sheep grazing. Motorcyclists (off-road vehicles) have done some damage to the plant's habitat but trampling by sheep is the principal threat to the species (Mutz, 1980).

Background

Astragalus montii had not previously been reviewed or proposed for Endangered status, until it was included in a general notice of review in the December 15, 1980, **Federal Register** (45 FR 82490). The species was not discovered until 1976. It was first described and recommended for Endangered status in 1978 by S. L. Welsh (Welsh, 1978). The Utah Native Plant Society gave the Heliotrope milk-vetch its highest priority for listing at their December 1979 workshop.

Note.—The Department has determined that this proposed listing does not meet the criteria for significance in the Department regulations implementing Executive Order 12044 (43 CFR Part 14) or require the preparation of a regulatory analysis.

Summary of Factors Affecting the Species

Section 4(a) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in that section. This authority has been delegated to the Director. These factors and their application to *Astragalus montii* Welsh (Heliotrope milk-vetch) are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Limited sheep use of the Heliotrope Mountain area threatens to destroy the milk-vetch's habitat. Motorcycle tracks have been observed at the summit but frequency of use and degree of damage to the species by off-road vehicles has not been evaluated.

2. *Overutilization for commercial, sporting, scientific or educational purposes.* Not applicable to this species.

3. *Disease or predation* (including grazing). Heliotrope milk-vetch is adversely affected by trampling from grazing animals, but it is not actually eaten by sheep.

4. *The inadequacy of existing regulatory mechanisms.* There is some existing protection for this species because it is on the Forest Service's official "sensitive plants" list. This list regulates use of this species and its habitat. U.S. Forest Service policy (Title 2600 Chapter 2670.3(2)) is to:

> Protect habitats of listed and sensitive species from adverse modifications or destruction, and protect individual organisms from harm or harassment as appropriate.

Heliotrope milk-vetch could also benefit from the additional conservation measures provided by the Endangered Species Act.

5. *Other natural or manmade factors affecting its continued existence.* Members of an alpine plant community are subjected to harsh environmental conditions. These species are characteristically slow growing and well adapted to such conditions, and highly intolerant of habitat disturbance. Damaged alpine areas are slow to recover. As a member of this high altitude association, *Astragalus montii* is probably very sensitive to minor habitat disturbances.

Critical Habitat

The Act defines "Critical Habitat" to include (i) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species, and which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat for *Astragalus montii* is proposed as follows: Utah. Sanpete County. T. 19 S., R. 4 E., parcel in southwest portion of Section 34; 80 acres of rocky snowdrift slopes around the south edge of the Big Flat meadow area, on the southernmost portion of the top of Heliotrope Mountain, bounded by the 10,800-foot contour on the south.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or those Federal actions which may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect all of the activities mentioned below, as Critical Habitat designation only affects

Federal agency activities through Section 7 of the Act.

Since the habitat of *Astragalus montii* is relatively remote, few activities are likely to adversely modify it. Sheep grazing and recreation, particularly with off-road vehicles, are currently damaging the species' habitat. The proposed Critical Habitat of *Astragalus montii* is administered by the U.S. Forest Service. Forest Service management plans for grazing and recreation in the Heliotrope Mountain area may require modification. Consultation with the Fish and Wildlife Service under Section 7 of the Act should provide management alternatives to protect the species.

The Service is required by Section 4(b)(4) of the Act to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are not significant for the foreseeable future. Grazing benefits derived from this small area are very low, less than 400 sheep days per year.

The Service has notified the Forest Service, the Federal agency that has jurisdiction over the land under consideration in this proposed action. This Federal agency and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of preparing a final rule, and will use that document as partial basis for its decision as to whether or not to exclude any area from Critical Habitat for the Heliotrope milk-vetch.

Effect of this Proposal

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered. Agencies are required under Section 7(a)(3) to confer with the Service on any action that is likely to jeopardize this species or adversely modify its proposed Critical Habitat. If published as a final rule, this action would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Heliotrope milk-vetch, and also would require them to insure that their actions are not likely to result in the destruction or adverse modification of any Critical Habitat which had been designated by the Director. Provisions for Interagency Cooperation are codified at 50 CFR Part 402, and new proposed regulations to implement Section 7 amendments are in preparation. As the Federal land managing agency, the USDA Forest Service would be responsible for carrying out the intentions of the Endangered Species Act on this land, which is in keeping with their own policy for this "sensitive species."

The Act and implementing regulations published in the June 24, 1977, Federal Register (42 FR 32373–32381) set forth a series of general trade prohibitions and exceptions which apply to all Endangered plant species. The prohibitions are found at Section 17.61 of 50 CFR and are summarized below.

With respect to the Heliotrope milk-vetch, all prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import, export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered plant species, under certain circumstances. No such trade in this species is known. It is anticipated that few permits involving the species would ever be requested.

If this plant is listed as an Endangered species and its Critical Habitat designated, certain conservation authorities would become available and protective measures may be undertaken for it. These could include increased management of the species and its habitat, the provision of two-thirds Federal (and one-third State) funds for the species should Utah qualify for a cooperative agreement under Subsection 6(c)(2) of the Act, and the development of a recovery plan for the species as specified in Subsection 4(g).

If listed under the Act, the Service will review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Regional Endangered Species Office, 134 Union, Lakewood, Colorado. A decision will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (40 CFR Parts 1500–1508).

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of each Endangered species.

Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;
2. The location of any habitat of this species and the reasons why it should or should not be designated as Critical Habitat;
3. Additional information concerning the range and distribution of this species;
4. Current or planned activities in the subject area and the probable impact of such activities on the area designated as Critical Habitat; and
5. The foreseeable economic and other impacts of the Critical Habitat designation on Federally funded or authorized projects or Federal activities.

Final promulgation of the regulations on *Astragalus montii* will take into consideration any comments and additional information received by the Director, and such communications may lead him to adopt a final rule that differs from this proposal.

Public Meeting

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information relating to the public meeting is set out below:

Place, Date, Time, and Subject

Courtroom, County Courthouse, 5 South Main Street, Nephi, Utah; February 18, 1981; 7:00 p.m.; Heliotrope milk-vetch

This proposal is published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*, 87 Stat. 884, 92 Stat. 3751, 93 Stat. 1225). The primary authors of this proposed rule are Dr. James L. Miller, U.S. Fish and Wildlife Service, Denver, Colorado and Ms. Rosemary Carey, U.S. Fish and Wildlife Service, Office of Endangered Species, Washington, D.C. Dr. Bruce MacBryde of the Service's Washington Office served as editor. Dr. Stanley L. Welsh and Mr. Robert Thompson prepared the status reports.

References Cited

Mutz, K. M. 1980. Draft Environmental Assessment. Proposed determination that *Astragalus montii* Welsh (Heliotrope milk-vetch) is an endanged species . . . U.S. Fish and Wildlife Service, Washington, D.C., Nov. 19, 1980

Welsh, S. L. 1978. Endangered and threatened plants of Utah: a reevaluation. Great Basin Natur. 38(1):11

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations as set forth below.

1. Section 17.12 is proposed to be amended by adding, in alphabetical order, the following plant:

§ 17.12 Endangered and threatened plants.

*****

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
Astragalus montii	Heliotrope milk-vetch.	U.S.A. (Utah)	E	NA	17.96(a)	NA

2. It is further proposed that § 17.96(a) be amended by adding Critical Habitat of *Astragalus montii* before that of Fabaceae (*Astragalus yoder-williamsii*) as follows:

§ 17.96(a) [Amended]

Fabaceae

Astragalus montii

Heliotrope milk-vetch

Utah, Sanpete County. T. 19S., R.4E., parcel in SW portion of Section 34. 80 acres of rocky snowdrift slopes on the southernmost portion of the top of Heliotrope Mountain, above the 10,800-foot contour line. It is believed that the factors critical to the continued survival of this plant are:

1. alpine conditions
2. snowdrift slopes where moisture is available
3. soil pockets.

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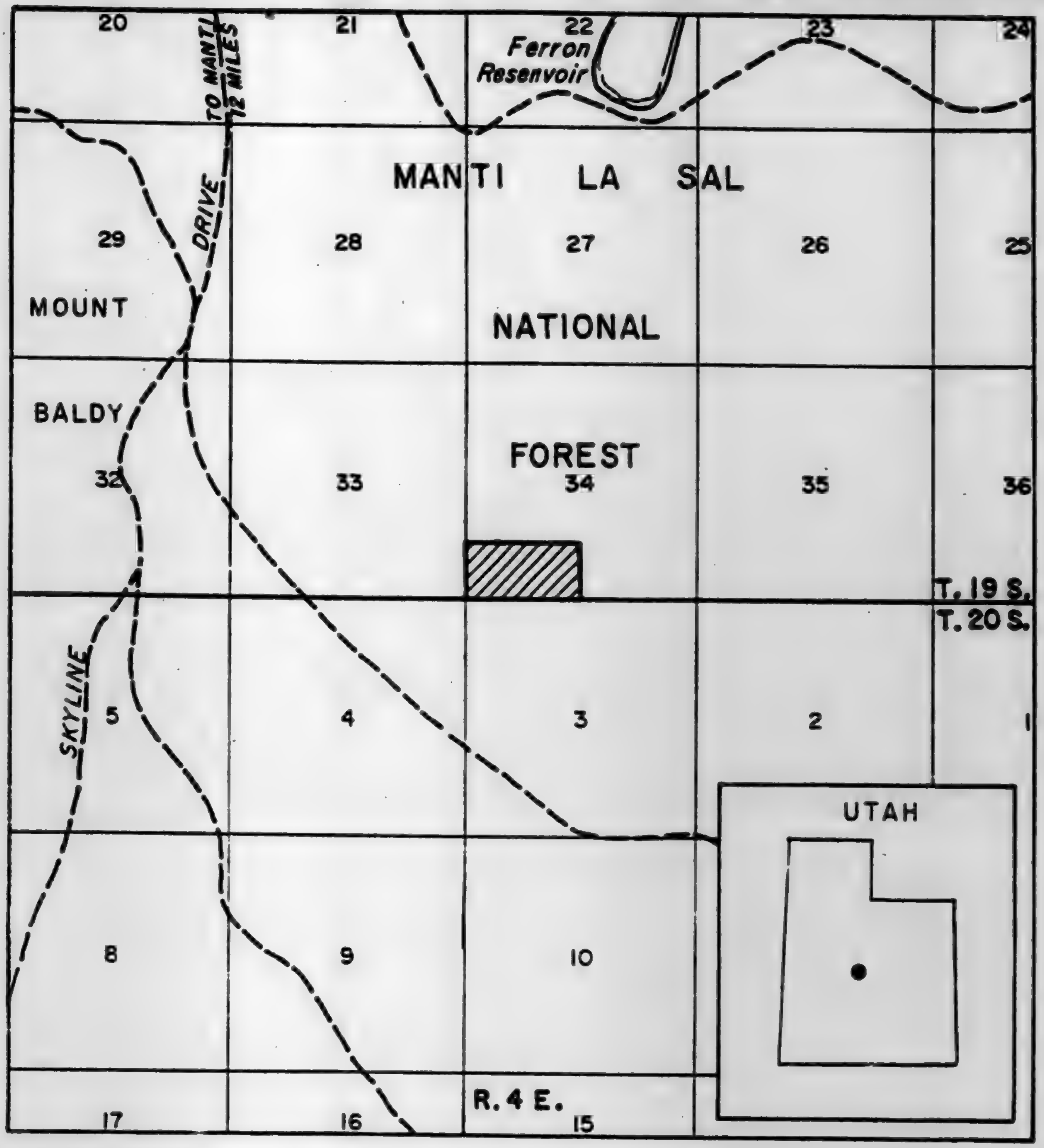
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Dated: November 9, 1980.

Robert B. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 81-1164 Filed 1-12-81; 8:45 am]

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V46/8 JA 13 81 UMI

federal register

Tuesday
January 13, 1981

Part VII

Department of Agriculture

Food and Nutrition Service

Food Stamp Program Verification Requirements

V 46 / 8 JA 13 81 UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amendment No. 179]

Food Stamp Program Verification Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking implements amendments to the Food Stamp Program regulations published October 17, 1978 (43 FR 47846) concerning the requirement for verifying information in determining household eligibility for food stamp benefits. These amendments will increase State agencies' authority to verify information in a number of areas. Proposed regulations on these provisions were published on August 12, 1980 (45 FR 53792). The provisions in this final rule include amendments that resulted from the 1980 Food Stamp Amendments signed into law on May 26, 1980. The purpose of this final rule is to improve program integrity without creating barriers to households with a legitimate need of food assistance.

EFFECTIVE DATE: These rules are effective January 13, 1981.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, Washington D.C. 20250, Phone (202) 447–9075. The final impact statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Mr. Carnes.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

This preamble articulates the basis and purpose behind major changes which have been made from the proposed rulemaking. The reasons supporting those provisions of the proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal (August 12, 1980, 45 FR 53792) should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

The rulemaking sets forth procedures by which information may be verified in determining household eligibility for food stamp benefits as authorized by Section 116 of Pub. L. 96–24, 94 Stat. 357, May 26, 1980. The section amended the Food Stamp Act of 1977 (Title XIII of Pub. L. 95–113, 91 Stat. 958) to enable States to verify prior to certification, whether questionable or not, the size of any applicant household. The State may also verify any factors of eligibility involving households that fall within the State agency's error-prone household profiles. These profiles are developed by the State agency from the quality control program undertaken pursuant to section 16 of the Act and must be approved by the Secretary (94 Stat. 361).

This rulemaking also contains other revisions to the verification requirements which respond to concerns to strengthen program integrity. The rule provides State agencies more discretion in a number of areas in determining which eligibility factors to verify. A total of 126 comment letters were received on the proposed amendments to the verification requirement. There were 21 comment letters received from State agencies, 46 from public interest groups, 14 from local agencies, two from other government agencies, five from FNS regional offices, and 38 from the general public. There were several technical comments relating to regulation references, word changes, etc. These technical comments are not specifically addressed in this preamble.

Decision To Modify Verification Rules

Ninety-one letters commented on whether there was a need to revise verification procedures. One group of commentors, consisting of 33 public interest groups, 29 individuals, two State agencies, and one local agency, opposed any changes in current verification requirements not mandated by law. This group specifically opposed the proposals for expanded State options to verify certain eligibility factors. Those generally supporting the proposed changes consisted of eleven State agencies, eight local agencies, four individuals, two public interest groups and one regional office.

Those objecting to those aspects of the proposed rules that provide expanded State options generally stated that the primary reason for these proposals was an attempt to increase accountability and reduce error rates, but that in the absence of evidence linking increased verification with decreased error rates, the proposals were not supportable.

The Department has carefully considered the arguments raised by the commentors but has opted to proceed with the changes. The Department believes that State agencies should have more control over the manner in which cases are processed because their accountability for the quality of case actions has increased.

The increase in State agency accountability stems from Pub. L. 96–249 (94 Stat. 357; May 26, 1980) which expands a quality control based fiscal incentive system and establishes a quality control based fiscal sanction system. Since, as a result of this law, the amount of federal dollars allotted to State agencies for administrative purposes will be based directly on the quality of the State's administration of the Food Stamp Program, the Department believes it is important to give State agencies more administrative flexibility.

In addition, given the increasing cost of the Food Stamp Program, efforts to reduce losses due to error are particularly important. There is a considerable body of opinion among program administrators that expanded verification options may help in reducing errors.

The determination that verification requirements should be modified is, therefore, based on the State's increased accountability, on the need to incorporate the State options established by Pub. L. 96–249 (error-prone profiles and household size), and on the belief that these rules have the potential to contribute to reduced errors.

As a result, the final rules are substantially similar to the proposed rules. While some minor changes and clarifications have been made in response to comments, the basic aspects of the proposed rule remain unchanged.

Implementation

The proposed rules would have allowed States to implement the rules as soon as possible, but no later than 90 days after publication. Commentors raised two principal objections to this.

Some commentors objected that 90 days did not allow States enough time to implement the rules, and requested that more time be allowed. Other commentors were concerned because they believed that if States were permitted to implement the new rules in less than 90 days, some States might implement the rules without providing for adequate staff training at the local level, proper revisions of State manuals, and other necessary actions.

The Department never intended that State agencies be allowed to implement early regardless of whether or not staff had been trained, and certification materials had been revised. The Department wishes to clarify that State agencies are always required to accomplish the necessary training and revisions to written materials prior to implementation of any new rule. This is routine procedure.

In order to allow State agencies more time for implementation, however, the final rules establish that the new verification procedures mandated in sections 273.2 and 273.8 be implemented within 120 days following publication of the final rule.

The final rule allows State agencies to implement those options specified in Section 273.2(f)(3) at any time provided that certification manuals have been revised and FNS-approved, and staff have been adequately trained. In addition, if the State agency exercises an option at the project area level(s), and not Statewide, the State agency must first obtain FNS approval. This is explained later in the preamble.

Mandatory Verification

With regard to mandating verification of residency for those households processed under the regular application process, nine commentors were in favor while eight opposed the requirement. Nine commentors favored mandating verification of identity while four were opposed.

In general, those opposed felt that mandating verification of these two items was unnecessary since this information is normally captured as part of the regular verification process. Several commentors saw these requirements as barriers to participation and an opportunity for eligibility workers to request unnecessary verification. Those supporting the verification of residency and identity saw the proposed provisions as a needed and welcomed clarification.

As stated in the preamble to the proposed rule, the Department sees a need for specifically mandating verification of residency and identity in the regular application process, but regards this more as a clarification than as the imposition of a new requirement. This is not intended to result in a change in procedure or need for additional verification. Documents that are used to verify other factors of eligibility should normally suffice to confirm identity and residency. The proposed regulatory language has been revised, however, to accommodate those instances where it is impossible to accomplish verification in this fashion.

Commentors suggested the proposed language be modified to clarify that verification of residency can be done either through a collateral contact or readily available documentary evidence. This would be consistent with the expedited service rules for verifying residency. The Department has incorporated this suggestion. This change should alleviate the concerns of some commentors who felt that if documentary evidence had to be relied on as the principal means to verify residency, this could in some circumstances delay a household's certification.

In recognition of the fact that verification of residency may be impossible to obtain in some circumstances, the rules have been modified to allow flexibility in certain unique situations. Some commentors noted that some households, such as migrant farmworkers and persons newly arrived in an area, may find it impossible to provide documentary proof of residency. Such persons may be living at campsites or in cars. Some of these persons may have no person or organization that can be turned to as a reliable collateral contact. The Department believes that such circumstances arise only infrequently. However, the Department does not wish to deny these persons benefits if they are genuinely in need. In such instances, if the State agency and the applicant have made reasonable efforts to verify residence and it has proved impossible, these rules provide for the State agency to proceed with certification, and not to deny the household.

The final rule also establishes that no specific document may be required to verify residency. Any document establishing residency would be accepted in accordance with § 273.2(f)(4) and (5).

The provision on identity remains basically unchanged; that is, identity must be verified prior to certification. This is, of course, necessary to protect Program integrity. The final rule does clarify, however, that it is the identity of the person being interviewed that must be verified.

Optional Verification

General

The section on State agency options was supported by seven commentors, including five State agencies, and was opposed by 17 commentors, including ten public interest groups. Those supporting this section welcomed the authority and flexibility to determine when to verify eligibility factors other than those verified on a mandated basis or when questionable. One of the major concerns of the commentors opposed to this section was the provisions allowing project area variations in verification rules.

Primary among the reasons for opposing project area variations was the confusion such variations could cause among people who move from project area to project area and are confronted with different rules in each one. This, according to the commentors, could become a barrier to participation. A second objection was that project areas would attempt to implement unwarranted verification rules and that FNS would not have the resources to prevent it from occurring. This, again, could result in verification becoming a barrier to participation. Commentors were also concerned that both States and public interest groups would have difficulty monitoring local compliance with verification rules if the rules varied from project area to project area.

Project area variations were proposed because the Department realized that there could be wide differences among project areas within a State; differences which could result in different verification "needs". For instance, the characteristics of cases that are found in New York City may be very different from the cases found in Putnam County, New York. These differences could be such that the verification procedures appropriate for New York City would be inappropriate in Putnam County and vice versa. By allowing variations in verification policy within New York State, different verification "needs" can be accounted for.

Nevertheless, the Department believes that the commentors have raised some legitimate concerns. The Department did not intend for project area variations to be indiscriminately used, and the Department agrees that having a patchwork of varying verification procedures scattered across a State would be undesirable. The proposal was intended primarily to allow for expanded verification in major metropolitan areas, where error rates are generally higher, without requiring caseworkers and recipients all over the State to be subjected to unnecessary procedures. The proposal was also intended to provide for use of expanded verification in a project area only in response to an actual need for additional verification in that project area.

As a result, the final rulemaking retains the option for State agencies to implement verification rules on a project area basis, while restricting use of this option to situations where the State agency can demonstrate that there are dollar losses in a project area resulting from problems which may be lessened by implementing verification rules specific to that project area. In this way, project areas that have legitimate needs for unique verification procedures will be able to utilize them. At the same time, by requiring State agencies to justify project area variations, FNS and State agencies will be better able to prevent the imposition of unwarranted and costly verification rules at the local level, and to limit intra-State variations to those cases where modification in the basic State verification rules have been shown to be appropriate.

In this same vein, the Social Security Administration (SSA) stated that it would not be practical for offices to be familiar with verification guidelines that could vary by county. This is of particular concern to SSA because Section 273.2(k) provides that households in which all members are SSI recipients can apply for food stamps at SSA offices. Language has been added to the final rule which excludes the application of State agency options to SSA offices. The State agency, however, may negotiate with the SSA offices to expand verification.

The preamble to the proposed rule clarified how the provision on State options is intended to work. The preamble noted that a State could establish its own standard for the use of verification, so long as its standard is at least as comprehensive as the Department's "questionable information" standard and does not allow discrimination. Comment on this clarification was generally favorable; some commentors asked that it be incorporated into the final rule. Accordingly, this statement is now part of the final rule.

Various commentors were opposed to allowing State agencies to adopt verification of both optional items and items identified through an error-prone profile. The general feeling of these commentors was that State agencies should only be allowed to verify those items identified through an error-prone profile as being statistically subject to high error rates. As stated in the preamble to the proposed rule, however, the true effectiveness of error-prone profiles cannot be determined at this early stage. The options are necessary as an interim measure until the results of the use of error-prone profiles are analyzed. Furthermore, some potential errors might be avoided or reduced through the exercise of a State agency verification option. Such potential errors might not show up on an error-prone profile that was constructed after the options had been implemented. To eliminate such verification options simply because the factors being verified were not shown on the error-prone profile to be associated with a high incidence of errors would not necessarily be a wise application of the profile. The lack of errors could reflect either the success of the expanded verification or the lack of "error proneness" in this particular area. Given these various uncertainties regarding error prone profiles, and the lack of extensive experience with these profiles, the Department has determined that both the provisions expanding State options and the provisions on error-prone profiles should be retained.

Resources

With regard to liquid resources, one commentor contended that some eligibility workers are requiring clients to empty their pockets and pocketbooks so as to ascertain the amount of "case on hand". The Department is not aware that this is occurring, but does wish to state that this practice should not be used. The practice is of no value for determining whether a household satisfies the resource test, and violates the basic principle of treating clients with dignity.

Continuing Shelter Charges

The proposed rule allowed, as an option, verification of shelter expenses (other than utilities) and dependent care costs only if allowing the expense would actually result in a deduction. Commentors pointed out that this option entails staff time for computing a household's budget to determine whether a claimed deduction could be verified. The final rule therefore revises these provisions to permit verification if allowing the expense could potentially result in a deduction. This revised language does not permit the verification of each and every shelter and dependent care cost; there must exist a strong indication that the expense could result in a deduction.

Utility Expenses

The provision allowing State agencies the option of determining when to verify that a household incurs a utility expense and is entitled to the utility standard has been revised in the final rule. Commentors noted this option was administratively complex (specifically the need to verify the existence of two utility expenses for State agencies with separate standards). The final rule allows State agencies with either a single standard or separate standards to verify the existence of one utility, preferably a major utility such as a heating or cooling utility. The State agency would only verify more than that one utility if the household's statement about incurring utility costs is questionable. For example, if the State agency determines that the utility expense it elected to verify actually was not incurred by the household, the other utility expenses claimed by the household may be deemed to be questionable.

Household Size

The provision for verifying household size received many requests for clarification. Commentors were unsure as to how household size and household composition differed. Several requested that the State agency be allowed to verify size and composition simultaneously.

Household size is not synonymous with household composition, as some commentors believed. Household size is the number of persons who live in the household. It may be verified through such means as school records, birth certificates, and the like. One commentor stated that verification in documentary form of household size may be difficult or impossible to obtain in some cases (e.g., migrants) and that trying to obtain such verification in documentary form may also delay benefits. The final rule is revised to specify that verification of household size may be accomplished through a collateral contact or readily available documentary evidence. The final rule also specifies that the State agency cannot require a household to produce one specific type of verification to verify household size. Any document or collateral contact establishing identity would be accepted in accordance with § 273.2(f)(4) and (5).

Household composition involves factors such as whether persons do or do not purchase food and prepare meals in common, or whether one or more persons pays compensation to others for meals. Household composition, basically, is verified through a household's statement, unless this is questionable. The House Committee Report on the 1977 Act (House Report No. 95-464, 95th Cong., 1st Session, p. 144) directs this type of verification: "If a group of persons sharing living quarters state they do purchase food and prepare meals together and do not pay compensation for the meals, they should be treated as a household (of if they state they do not meet all of these criteria, they should be treated as a separate household), without any significant burden of proof required, unless the case worker has good cause to believe the applicants are misrepresenting the facts". The clear directive provided by the House Report reflects the considerable difficulty of verifying household composition. It is far more difficult to verify than household size. In addition, the issue of household composition arises far less frequently than the issue of household size, since questions regarding household composition are limited to those circumstances where persons residing in the same dwelling unit do not constitute a single food stamp household.

Error-Prone Profiles

The proposed provision on the use of error-prone profiles was supported by 15 commentors, consisting of seven State agencies, six local agencies, and two public interest groups. Six commentors, consisting of two public interest groups, three individuals, and one local agency, opposed the use of error-prone profiles.

Those opposed were concerned that verification based on error-prone profiles could result in inadvertent discrimination. As noted in the preamble to the proposed rule, the House Committee Report on the 1980 Amendments (House Rpt. No. 96–788, 96th Cong., 2nd Sess., p. 97) states: "Each State's profile would . . . have to be approved by the Secretary in order to prevent inadvertent discrimination. . . ." Language has been added to the final regulatory language to prevent any future misunderstanding.

Error-prone profiles are closely linked to the collection, analysis, and use of quality control data. Quality control data is gathered by the State on a regular basis from sample cases reviewed by the State's Food Stamp Quality Control Program. This review entails the verification of every eligibility factor so as to determine the accuracy of the State agency's determination of household eligibility and basis of issuance and to ensure that decisions to deny or terminate household participation are correct. State agencies may use quality control data to develop an error-prone profile which identifies the categories of households in which high rates of error occur and the types of eligibility factors that are most likely to result in error.

Because of the variations in resource availability, staff and data processing capabilities, error-prone profiles will vary from State to State. One State's error-prone profile may be very basic (e.g., it can only identify households with earned income and households with no earned income) while another may be more sophisticated (e.g., West Virginia's system is structured to establish selective case actions for each case). In States where an error-prone profile can only generate broad classifications, a more comprehensive analysis would have to be performed in order to better identify specific problem areas from which to develop verification guidelines. Due to the variation in States' capabilities to generate error-prone profile, FNS is developing a system which will generate error-prone profiles for all States from State-supplied food stamp quality control data. This system should be of considerable benefit to many States.

If a State agency opts to utilize the error-prone profile in the manner described by the final rule, the State agency's error-prone profile would have to be approved by FNS. Some commenters asked for the final rule to include standards for FNS approval of error-prone profiles. Because of the variation in State caseload characteristics, administrative requirements, and statistical capabilities, a variety of methods for generating error-prone profiles may be acceptable. The final rules provide that a State agency's error-prone profile must either meet the standard computer package developed by FNS, or an alternate method approved by FNS. The FNS computer package is presently being developed and will be available in 1981. FNS will provide assistance upon request to State agencies in developing the statistical methodology to construct an error-prone profile.

The final rules also provide that an approvable error-prone profile shall identify error concentrations with both statistical and practical significance. Given the variability of the quality control sample data, consideration needs to be given to the statistical significance of differences between groups which are identified by the profile. Corrective actions taken as a result of differences which have occurred purely as the result of random variations are not likely to be especially productive. Statistical significance alone, however, does not guarantee that something important or even meaningful has been found. Practical significance is also important. If an error-prone profile produces a statistically significant result, but the result identifies a group of recipients for whom it is not practicable to modify verification policies, little has been gained. Therefore, error-prone profiles must also be constructed to make distinctions with practical significance.

An error-prone profile should provide detailed classification of errors within error-prone groups. The nature of specific corrective actions will be dependent on the type of errors which occur most frequently within error-prone groups. The detail of errors will normally be limited to the information which is coded in the quality control review schedule (FNS–245) or other data collection. Examples of items captured on the FNS–245 include income, resources, and deductions.

An error-prone profile should also provide sufficient information to establish priority in addressing corrective actions to multiple error-prone groups. Primary factors when setting priorities may include, but are not limited to the dollar loss involved, the probability of error, the geographic extent of the deficiency, and the number of households involved.

An error-prone profile should identify concentrations of errors or household types with a propensity for large dollar losses as well as a large case error rate.

In addition to approving the error-prone profile, FNS will approve the application of profile results in establishing verification variances in States. FNS review and approval will follow the approach prescribed by the House Committee Report (Report No. 96–788) on the Food Stamp Amendments of 1980. The Committee Report directs that error-prone profiles be used to help effectuate the most efficient use of administrative resources in reducing error rates and ensuring that benefits are correctly issued to eligible households, while also directing that the Department may not approve "the creation of overly broad profiles casting the verification net so widely as to cover most eligibility factors affecting a majority of applicant households." The Report further states that "the error-prone profile concept is intended to be a selective tool for error control and not a trigger for universal verification." (H.R. Rep. 96–788, p. 97.)

Sources of Verification

Seven commenters recommended that the regulations prohibit the use of a collateral contact without the express written consent of the household. Section 273.2(f)(5)(ii) clearly states that the State agency must rely on the household to provide the name of a collateral contact. The Department believes this is sufficient, and has not adopted the recommendation that there must be a written release document. Requiring State agencies to obtain written authorization for each collateral contact could conceivably delay a household's certification since the local agency would need to obtain the household's written authorization before using a collateral contact not designated before. For example, if a State agency could not reach a collateral contact needed to verify a household's eligibility item, certification could be delayed since the household would need to provide written authorization either by mail or in person.

The proposed rule granted State agencies the ability to use a collateral contact or home visit whenever documentary evidence is judged insufficient to make a firm determination of eligibility or benefits, as well as whenever documentary evidence cannot be obtained. Many comments received on home visits were opposed to any use of home visits at all except in rare instances, and opposed the language of the proposed rules. However, the Department believes that current rules regarding use of collateral contacts and home visits should be made somewhat more flexible, and has retained the language as proposed. The Department notes that this language does not abrogate a household's rights. Specifically, home visits would still need to be scheduled in advance, as directed by the House Committee Report (the House Report, H.R. Rep. 96–788, p. 98, cited a recent Federal court decision disallowing unannounced home visits without advance notice or arrangement for purposes of investigating welfare cases). Both parties (i.e., the local agency and the household), would need to agree on a specific date for which the home visit would be made. There is no evidence this approach has resulted in improper use or the imposition of excessive requirements on households.

Recertification

In the proposed rule, the section on recertification was revised basically for the sake of organization and clarification; no substantive changes were made.

Several commentors objected, however, to the provision that allows State agencies, at their option, to verify income, medical expenses or actual utility expenses which are unchanged or have changed by $25 or less. This provision was established in regulations published October 17, 1978 (43 FR 478476) in response to State agencies who requested more discretion as to what to verify at recertification. This provision was intended to aid States in helping to maintain program integrity and has, therefore, been retained.

Expedited Service

Section 273.2(i)(4)(i) was revised and restructured to clarify the verification requirements regarding expedited service. Some commentors believed that the proposed language would cause delays in household certification; others wanted to expand the proposed provisions so as to require verification of all eligibility factors prior to household certification. There was also confusion as to whether or not households could be certified at the initial interview or if the State agency was required to utilize the full two day timeframe to obtain verification. Several commentors also felt that verification of residency should not be required prior to certification under expedited rules.

The final rule clarifies that the State agency may certify households at the initial interview if it is unlikely that missing verification which is not mandated can be obtained within the two days. The Department wants to emphasize that certification cannot be delayed beyond the expedited timeframes if verification, except that which is mandated, is missing. Mandating verification of all eligibility factors would defeat the purpose of expedited service; that is, to provide prompt service to households in the greatest need of food assistance.

The proposed rules addressed the submission of work registration forms in expedited service cases. Some commentors believed, incorrectly, that the rule required the State agency to obtain completed work registration forms for all household members prior to certification and several State agencies objected to this.

The final rules clarify that the State agency must register the applicant, unless the applicant is either exempt or is the household's authorized representative. The State agency may attempt to register all nonexempt household members by having the applicant fill out forms for other nonexempt household members. However, benefits are not to be delayed if this cannot be accomplished. The provision that allows the applicant to fill out forms for other household members is addressed in detail in the Work Registration/Job Search Requirements rule that will be published in the near future. That rule allows the applicant or any household member to fill out the work registration forms for other persons provided the person completing the form is knowledgeable about the registrant's circumstances. This approach would enable many households to be processed without further inconveniences. Consequently, suggestions made by some commentors to prohibit such a practice were not incorporated.

Changes Resulting in Increased Benefits

The proposed rule allowed State agencies the option of verifying reported changes that would result in a benefit increase prior to effecting the change. Fourteen commentors, consisting of eight State agencies, four local agencies, and two regional offices, supported this provision. Twenty commentors, consisting of 15 public interest groups, two State agencies, two local agencies, and one individual, opposed the rule.

Those supporting the provision felt it strengthened and protected program integrity. The majority of those opposed felt that the 10-day timeframe would adversely affect households reporting changes at the end of the month.

For purposes of program integrity, the Department has chosen to retain this option. The Department, in response to commentors, wishes to clarify how the timeframe is supposed to work.

If a household provides the required verification within ten days after the change was reported to the State agency, the State would continue to meet current timeliness standards for reflecting the increased benefits in the household's allotment, as prescribed in § 273.12(c)(1). If the verification is provided in an untimely manner, the timeframes specified in § 273.12(c)(1) would begin with the date the verification was provided, rather than the date the change was reported.

The Department recognizes that for State agencies to comply with timeliness requirements for acting on changes, the number of supplemental ATP's may increase somewhat. For example, if a household reports a change on the 17th of May, currently the State agency would have ten days to effect the change so that it would be reflected in the household's June allotment. If the State agency chose to require verification and the household provided it, for example, on the 28th of May, the State agency may not be able to adjust the ATP normally issued for June benefits. A supplementary ATP would then have to be issued in order to increase the household's June allotment.

Additional Issues

In the preamble to the proposed verification rule, the Department requested comments on the feasibility of providing households in writing, at the conclusion of the interview, with information on what verification is needed to make an eligibility determination. The majority of the commentors reacted favorably; a number of State and local agencies reported that they are already providing such information.

The Department did not actually propose such a requirement, and is not formally mandating it at this time. However, the Department strongly encourages all State agencies to provide such a list in a manner of their own choosing. The Department may propose to make this a requirement at a later date.

The Department had also requested comments on student verification requirements. These will be addressed in the final rulemaking on students to be published shortly.

For the reasons set out in the preamble, Parts 272 and 273 of Title 7, Code of Federal Regulations, are amended as set forth below.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (22) is added to paragraph (g) as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(22) Amendment 179. State agencies shall implement those verification procedures mandated in § 273.2 and § 273.8 no later than the first of the month 120 days following publication of final regulations. State agencies may implement those provisions allowed at State agency option in § 273.2 and § 273.12, once the options have been approved by FNS and the State certification manuals have been revised to incorporate the options.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. In § 273.2:

a. New paragraphs (vi) and (vii) area added to paragraph (f)(1).

b. Paragraphs (f)(2) and (f)(2)(i) are revised and (f)(2)(iii) is removed.

c. Paragraph (f)(3) is revised and new paragraphs (i) through (vi) are added.

d. Paragraphs (f)(4)(i) is revised. Language is added to the end of paragraph (f)(4)(ii). Paragraphs (f)(4)(iii), (f)(5) and (f)(6) are revised.

e. Paragraph (f)(9)(i) is revised.

f. Paragraph (i)(4)(i) is revised.

The revisions are as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification* * * *

(1) *Mandatory verification* * * *

(vi) *Residency.* The residency requirements of § 273.3 shall be verified, except in unusual cases (such as some migrant farmworker households or households newly arrived in a project area) where verification of residency cannot reasonably be accomplished. Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity. If verification cannot be accomplished in conjunction with the verification of other information, then the State agency shall use a collateral contact or other readily available documentary evidence. Documents used to verify other factors of eligibility should normally suffice to verify residency as well. Any documents or collateral contact which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed. No durational residency requirement shall be established.

(vii) *Identity.* The identity of the person making application shall be verified. Where an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school ID, an ID for health benefits or for another assistance or social services program, a voter registration card, wage stubs, or a birth certificate. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document, such as a birth certificate, may be imposed.

(2) *Verification of questionable information.* With the exception of those items specified in paragraph (3) of this section which the State agency has opted to verify, State agencies shall verify all other factors of eligibility prior to certification only if they are questionable as indicated in this paragraph and affect a household's eligibility or benefit level. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the State agency. When determining if information is questionable, the State agency shall base the decision on each household's individual circumstances. A household's report of expenses which exceed its income prior to deductions may be grounds for a determination that further verification is required. Additionally, a household reporting no income prior to deductions, while still managing its financial affairs, could, in some instances, justify the requirement for additional verification. However, these circumstances shall not, in and of themselves, be grounds for a denial. If warranted, the State agency shall, instead, explore with the household how it is managing its finances, whether the household receives excluded income or has resources, and how long the household has managed under these circumstances. Procedures described below shall apply when information concerning one of the following eligibility requirements is questionable.

(i) *Household composition.* State agencies shall verify factors affecting the composition of a household such as boarder status, if questionable. However, due to the difficulty involved in verifying whether or not a group of individuals customarily purchases and prepares meals together and, therefore, constitutes a household, State agencies shall generally accept the household's statement regarding food preparation and purchasing.

* * * * *

(3) *State agency options.* The State agency may elect to mandate verification of one or more of the following items within the State or a specific project area(s). However, if the State agency does not choose to mandate verification of a particular item, that item must be verified if it is questionable as defined in paragraph (2) of this section. If a State agency elects to verify any or all of these factors on a project area basis as opposed to Statewide, the State agency shall first obtain FNS approval. To obtain approval, the State agency must demonstrate that significant Program dollar loss in a particular project area(s) is attributable to the factor(s) for which the State agency proposes to use an option for expanded verification, and that the loss is likely to be decreased by expanded verification.

The State agency may establish its own standards for the use of verification, provided that the standard is at least as comprehensive as the standard prescribed under paragraph (f)(2) of this section (i.e., at a minimum, all questionable factors must be verified in accordance with paragraph (f)(2)) and that such standards do not allow for inadvertent discrimination. For example, no standard may be applied which prescribes variances in verification based on race, religion, ethnic background or national origin, nor may a State standard target groups such as migrant farmworkers or American Indians for more intensive verification than other households. The options specified in § 273.2(f)(3), including verification resulting from a State's error-prone profile, shall not

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apply in those offices of the Social Security Administration (SSA) which, in accordance with paragraph (k) of this section, provide for the food stamp certification of households containing recipients of Supplemental Security Income (SSI) and social security benefits. The State agency, however, may negotiate with those SSA offices with regard to mandating verification of these options. If a State agency opts to verify a deductible expense and obtaining the verification may delay the household's certification, the State agency shall advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. This provision also applies to the allowance of medical expenses as specified in paragraph (f)(1)(iv) of this section. Shelter costs would be computed without including the unverified components. The standard utility allowance shall be used if the household is entitled to claim it and has not verified higher actual costs. If the expense cannot be verified within 30 days of the date of application, the State agency shall determine the households eligibility and benefit level without providing a deduction of the unverified expense. If the household subsequently provides the missing verification, the State agency shall redetermine the household's benefits, and provide increased benefits, if any, in accordance with the timeliness standards in § 273.12 on reported changes. The household shall be entitled to the restoration of benefits retroactive to the month of application, as a result of the disallowance of the expense, only if the expense could not be verified within the 30-day processing standard because the State agency failed to allow the household sufficient time, as defined in paragraph (h)(1) of this subsection, to verify the expense. If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in paragraph (h) of this section.

(i) *Liquid resources and loans.* The State agency may verify liquid resources and whether monies received by households are loans. When verifying whether income is exempt as a loan, a legally binding agreement is not required. A statement signed by both parties which indicates that the payment is a loan and must be repaid shall be sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, the State agency may also require that the provider of the loan sign a statement which states that repayments are being made or that payments will be made in accordance with an established repayment schedule.

(ii) *Continuing shelter charges.* The State agency may verify those shelter costs as specified in § 273.9(d)(5), other than utilities, if allowing the expense could potentially result in a deduction. For example, for those households subject to the ceiling of the shelter deduction, rent would not be verified if the household's child care expenses exceeded the limit on the combined dependent care/shelter deduction since the amount of the rent could not alter the amount of the deduction. This option is permitted on a one-time basis unless the household has moved, reported an increase in the amount of its individual shelter costs that would potentially affect the level of the deduction (in which case only those changed individual costs could be reverified), or unless questionable as defined in paragraph (f)(2) of this section.

(iii) *Utility expenses.* For those households entitled to claim either the single standard utility allowance or the separate standard utility allowances as specified in § 273.9(d)(6), the State agency may verify that the household actually incurs a utility expense, although there is no need for the State agency to verify the amount of the expense. The State agency may not verify more than one utility unless questionable in accordance with § 273.2(f)(2). This option is permitted on a one-time basis unless the household has moved or changed its utilities or unless questionable as defined in paragraph (f)(2) of this section.

(iv) *Dependent care costs.* For those households claiming dependent care cost as specified in § 273.9(d)(4), the State agency may verify that the household actually incurs the costs and the actual amount of the costs, if allowing the expense could potentially result in a deduction. This option is permitted on a one-time basis unless the provider has changed, the amount has changed and the change would potentially affect the level of the deduction, or unless questionable as defined in paragraph (f)(2) of this section.

(v) *Household size.* State agencies may verify household size. Factors involving household composition such as boarder status or whether or not a particular group of individuals customarily purchases and prepares meals together shall not be verified unless questionable in accordance with paragraph (f)(2) of this section or with prior FNS approval in accordance with paragraph (vi) of this section. Verification shall be accomplished through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, school records, draft cards, census records, marriage records, or those examples listed in paragraph (f)(1)(vii). Any documents which reasonably establish household size must be accepted and no requirement for a specific type of document, such as a birth certificate, may be imposed.

(vi) *Error-prone profiles.* The State agency may, with prior FNS approval, require additional verification of other eligibility factors as indicated by error-prone household profiles developed and based on statistically valid data derived from the State agency's quality control review, audits, or other special reviews in accordance with § 275.15(a)(2). These expanded verification requirements would be applied only to those particular eligibility factors and/or households identified as being error-prone, and would apply only on a uniform basis statewide or in one or more project areas. In addition, if the State agency's error-prone household profiles demonstrate that verification of particular eligibility factors (other than gross nonexempt income, declared alien status, and social security numbers) mandated under § 273.2(f)(1) is not needed for particular categories of households, the State agency may, with prior FNS approval, appropriately reduce mandatory verification. If error-prone profiles are used to alter verification requirements in one or more project areas (but not statewide), the data on which the modifications in verification requirements are based must be statistically valid for those particular project areas. (A) FNS must approve the statistical methodology by which a State's error-prone profile is constructed. To be approved the profile must: either meet the standard computer package developed by FNS or an alternate method approved by FNS; identify error concentrations with both statistical and practical significance; provide classification of errors within error-prone household categories; provide sufficient information to establish priorities in addressing corrective action to household categories prone to more than one type of error (primary factors in setting priorities should include such factors as the probability of error, the dollar losses, the number of households involved, and the geographic extent of the error); identify error concentrations with significant dollar losses; and meet other standards that FNS may prescribe.

(B) FNS must also approve the State agency's proposed use of the profile in determining where to apply more intensive (and/or less intensive) verification. To be approved, the State agency shall demonstrate that proposed modifications in verification changes are likely to be cost-effective, and meet other standards that FNS may prescribe. FNS shall not approve proposed verification policies that result in discrimination based on race, religion, ethnic group, or national origin. For example, an error-prone profile may not be used to target particular racial minorities, or groups such as migrant farmworkers or American Indians, to more intensive verification than other households. Error-prone profiles shall be used in a selective manner in modifying verification requirements.

(4) *Sources of Verification.*

(i) *Documentary evidence.* State agencies shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers that appear to be falsified.

(ii) *Collateral contacts.* * * *

Systems of records to which the State agency has routine access are not considered collateral contacts and, therefore, need not be designated by the household. Examples are the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) and records of another agency where a routine access agreement exists (such as records from the State's unemployment compensation system).

(iii) *Home visits.* Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, and the home visit is scheduled in advance with the household.

* * * * *

(5) *Responsibility for obtaining verification.*

(i) The household has primary responsibility for providing documentary evidence to support its income statement and to resolve any questionable information. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The State agency shall accept any reasonable documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application. If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner or the household has presented insufficient documentation, the State agency shall either offer assistance to the household in obtaining the documentary evidence, except as otherwise stated in this section, or shall use a collateral contact or home visit. The State agency shall not require the household to present verification in person at the food stamp office.

(ii) Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, the State agency may require a collateral contact or a home visit. The State agency shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the State agency shall either ask the household to designate another collateral contact or substitute a home visit. The State agency is responsible for obtaining verification from acceptable collateral contacts.

(6) *Documentation.* Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. Where verification was required to resolve questionable information, the State agency shall document why the information was considered questionable, or at a minimum indicate where in the casefile the inconsistency exists, and what documentation was used to resolve the questionable information. The State agency shall document (except where a collateral contact is used to verify residency or household size) the reason why an alternate source of verification, such as a collateral contact or home visit, was needed. The State agency shall also document the reason a collateral contact was rejected and an alternate requested.

* * * * *

(9) *Verification subsequent to initial certification.*

(i) *Recertification.* (A) At recertification the State agency shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last verification was accomplished. State agencies may verify income, medical expenses or actual utility expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section.

(B) Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in §273.2(f)(1)(v).

(C) Unchanged information, other than income, medical expenses, and actual utility expenses shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section. Changes in items other than income, medical expenses or actual utility expenses shall be subject to the same verification procedures as at initial certification. For example, dependent care cost (unless questionable) may be reverified at State agency option only if the care provider has changed, or the amount has changed and the change could potentially affect the level of the deduction. Shelter costs other than utilities may (if not questionable) be reverified only if the household has moved, or has reported a change in the amount of individual shelter cost components and the change could potentially affect the level of the deduction. (If the household reports a change in the cost of particular shelter components, only those components that have changed may be reverified). A household's eligibility to claim the standard utility allowance may be reverified (unless questionable) only if the household has moved or changed utilities.

* * * * *

(i) *Expedited Service.* * * *

(4) *Special procedures for expediting service.*

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f) except that (A) in all cases, the applicant's identity (i.e., the identity of the person making the application) and whenever possible, the household's residency shall be verified through a collateral contact or readily available documentary evidence as specified in paragraph (f)(1) of this section, and (B) all reasonable efforts shall be made to verify the household's income statement (including a statement that the household has no income) within the expedited processing standards, through collateral contacts or readily available documentary evidence. However, benefits shall not be delayed beyond the delivery standards prescribed in paragraph (i)(3) of this section, solely because income has not been verified. State agencies also may verify factors other than identity, residency, and income provided that verification can be accomplished within expedited processing standards. State agencies should attempt to obtain as much additional verification as possible during the interview, but should not delay the certification of households entitled to expedited service for the full timeframes specified in paragraph (i)(3) of this section when the State agency has determined it is unlikely that other verification can be obtained within these timeframes. Households entitled to expedited service may be asked to furnish or apply for a social security number, but shall not be required to do so until after they have received their first allotment. However, those households shall be required to furnish a SSN before their next issuance in accordance with subdivision (iii) of this paragraph. Those households unable to provide the required SSN's or who do not have one prior to their next issuance shall be allowed 90 days to obtain the SSN, in accordance with § 273.6(a)(2). With regard to the work registration requirements specified in § 273.7, the State agency shall, at a minimum, require the applicant to register (unless exempt or unless the household has designated an authorized representative to apply on its behalf in accordance with § 273.1(f)). The State agency may attempt to register other household members but shall postpone the registration of other household members if it cannot be accomplished within the expedited service timeframes. The State agency may attempt registration of other household members by requesting that the applicant complete the work registration forms for other household members to the best of his or her ability. The State agency may also attempt to accomplish work registration for other household members in a timely manner through other means, such as calling the household. The State agency may attempt to verify questionable work registration exemptions, but such verification shall be postponed if the expedited service timeframes cannot be met.

* * * * *

2. In § 273.8, a new sentence is added to the end of paragraph (g) and reads as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(g) *Fair market value of licensed vehicles.* * * * If a new vehicle is not yet listed in the blue book, the State agency shall determine the wholesale value through some other means (e.g., contacting a car dealer which sells that make of vehicle).

* * * * *

3. In § 273.12, paragraph (c)(1)(iii) is revised as follows:

§ 273.12 Reporting changes.

* * * * *

(c) *State agency action on changes.* * * *

(1) *Increase in benefits.* * * *

(iii) The State agency may elect to verify changes which result in an increase in a household's benefits in accordance with the verification requirements of § 273.2(f)(9)(ii), prior to taking action on these changes. If the State agency elects this option, it must allow the household 10 days from the date the change is reported to provide verification required by § 273.2(f)(9)(ii). If the household provides verification within this period, the State shall take action on the changes within the timeframes specified in paragraphs (i) and (ii) of this paragraph. The timeframes shall run from the date the change was reported, not from the date of verification. If, however, the household fails to provide the required verification within 10 days after the change is reported but does provide the verification at a later date, then the timeframes specified in paragraphs (i) and (ii) for taking action on changes shall run from the date verification is provided rather than from the date the change is reported. If the State agency does not elect this option, verification required by § 273.2(f)(9)(ii) must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If in these circumstances the household does not provide verification, the household's benefits will revert to the original benefit level. Whenever a State agency increases a household's benefits to reflect a reported change and subsequent verification shows that the household was actually eligible for fewer benefits, the State agency shall establish a claim for the overissuance in accordance with § 273.18. In cases where the State agency has determined that a household has refused to cooperate as defined in § 273.2(d), the State agency shall terminate the household's eligibility following the notice of adverse action.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10.551 Food Stamps)

Dated: January 8, 1981.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 81–1154 Filed 1–12–81; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

LABOR DEPARTMENT

Occupational Safety and Health Administration—

75618 11-14-81 / Guarding of low-pitched-roof perimeters during the performance of built-up roofing work.

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federal register

Wednesday
January 14, 1981

Highlights

3264, 3265, 3378, 3387	**Grant Programs—Refugee Education** ED issues final regulations (Part VI of this issue) (2 documents) and invites applications from State agencies by 2-16-81, for grants under the Educational Services for Cuban and Haitian Entrant Children Program and the Transition Program for Refugee Children (2 documents)
3206	**Grant Programs—Handicapped Education** ED issues selection criteria for Educational Media Research, Production, Distribution, and Training Grants under the Instructional Media for the Handicapped Program
3263	**Grant Programs—Education** ED invites applications by 4-21-81, for new projects under the Experimental Program for Opportunities in Advanced Study in Research in Education
3394	**Grant Programs—Education** ED issues final regulations for the Graduate and Professional Study Fellowships Program (Part VIII of this issue) and requests comments by 3-16-81 (2 documents)
3263	**Grant Programs—Education** ED corrects grants application, regulations for Arts in Education Program
3205	**Grant Programs—Education** ED formalizes procedures for selection and promulgation of annual funding priorities

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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3309	**Automobile Calendar** U.S. Regulatory Council announces publication and availability
3368	**Petroleum** DOE/ERA establishes procedures for obtaining crude oil for storage in the Strategic Petroleum Reserve by exchange of Naval Petroleum Reserves crude oil and other means; effective 2-13-81 (Part V of this issue)
3309	**Wind Energy** Treasury/Sec'y initiates Class Life Asset Depreciation Range System study of property used in converting to electricity or other useful forms
3242	**Surface Mining** Interior/OHA proposes procedures for adjudicative proceedings for permanent regulatory program covering coal operations; comments by 2-13-81
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority; Correction

AGENCY: Department of Agriculture.

ACTION: Final rule: correction.

SUMMARY: In FR Document 80–32745 appearing at page 69405 in Federal Register of October 21, 1980, the reference to "(15) thru (27)" was incorrectly used. The reference should read "(16) thru (27)" in the ninth line of paragraph (a) of § 2.68. The purpose of this document is to correct that error.

EFFECTIVE DATE: January 14, 1981.

FOR FURTHER INFORMATION CONTACT: Charles E. Soisson, Personnel Programs, Personnel Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, 447–7073.

(5 U.S.C. 301 of Reorganization Plan #2 of 1953)

Issued at Washington, D.C. this 8th day of January 1981.

Bob Bergland,

Secretary.

[FR Doc. 81–1300 Filed 1–13–81; 8:45 am]

BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 27

Cotton Classification Under Cotton Futures Legislation; Action To Rescind Removal of Augusta, Georgia, From the List of Bona Fide Spot Cotton Markets

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: A notice published August 6, 1979 (44 FR 45917) deferred the effective date for the removal of Augusta, Georgia, from the list of bona fide spot cotton Markets in § 27.93 of the Regulations for Cotton Classification Under Cotton Futures Legislation (7 CFR Part 27) from August 1, 1979 to August 1, 1981. This two-year deferral provided additional time to further evaluate the market information needs in the state of Georgia and to allow development of a responsive program to meet those needs. During this interim period the quotations functions of the Augusta market were strengthened to the extent that it now meets the criteria for bona fide spot cottom markets, and evaluation indicated that continuing to publish August spot market quotations would be an asset to the cotton market news program. The action to remove Augusta is rescinded.

EFFECTIVE DATE: February 13, 1981.

FOR FURTHER INFORMATION CONTACT: Loyd Frazier, Marketing Services Branch, Cotton Division, Agricultural Marketing Service, Washington, D.C. 20250 (202/447–2147).

SUPPLEMENTARY INFORMATION: The U.S. Cotton Futures Act (90 Stat. 1841–46; 7 U.S.C. 15b) requires the Secretary of Agriculture to designate bona fide spot markets which may be used to establish settlement differences for futures contracts. The previous action taken to delete Augusta from the list of designated bona fide spot markets (42 FR 56949) was based upon the lack of information supporting the ability of the Augusta market to meet the criteria for such designation.

Since August 1979, Augusta spot quotations have been strengthened by additional participation of members of the Augusta Cotton Exchange who were not active in the spot cotton quotations and related market news work two years ago. This has improved the quality of Augusta quotations by increasing the amount of market information with which the quotations committee has to work. Analysis and evaluation have found that with this increased participation, the Augusta market meets the criteria for designated spot markets. It is with the expectation that this level of participation will continue that the removal order is rescinded. USDA remains responsible for the validity of all designated spot cotton quotations and will continue to monitor all bona fide spot markets to determine that each continues to meet the criteria for designation.

USDA views the continuation of Augusta as a designated spot cotton market as a contribution to the overall cotton market news program which serves the needs of the state of Georgia.

Note.—This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." It has been determined that no impact would result as (i) the continuation of Augusta as a designated spot cotton market will not require that any new or additional requirements be met by members of the private sector currently participating in the spot quotations program; (ii) the cotton market information published for public benefit will not be altered; and (iii) no additional procedures will be required of USDA at public expense.

§ 27.93 [Amended]

Accordingly, § 27.93 of the regulations (7 CFR 27.93) governing cotton classification under cotton futures legislation will continue to list Augusta, Georgia in the list of bona fide spot cotton markets and the prior determination for removal of Augusta, Georgia, from the list, effective Agusut 1, 1981, is rescinded.

Dated: January 8, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81–1296 Filed 1–13–81; 8:45 am]

BILLING CODE 3410-02-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1512

Correction of Amendments to Bicycle Regulation; Retroreflective Rims

AGENCY: Consumer Product Safety Commission.

ACTION: Correction of final amendment.

SUMMARY: This document corrects two errors that appeared in the document amending the Commission's bicycle safety regulation, published December 16, 1980 (45 FR 82625). The first correction adds a decimal point to the metric equivalent of an English measurement. The second correction replaces an incorrect word in the title of a table.

SUPPLEMENTARY INFORMATION:

§ 1512.18 [Corrected]

Section 1512.18(r)(3)(v) is corrected to read: (v) The abrader shall be a cup brush having bristles that are 0.005 in. (approx. 0.13 mm) diameter * * *.

The title of table 3 is corrected to read: Table 3—*Minimum acceptable values for the quantity A defined in the retroreflective tire and rim test procedure.*

Dated: January 8, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-1326 Filed 1-13-81; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-17424]

Interpretive Release Concerning Distribution of Proxy Materials to Beneficial Shareowners

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation of rules.

SUMMARY: The Securities and Exchange Commission today authorized the Division of Corporation Finance (1) to remind issuers of their obligations with respect to the distribution of proxy materials to the beneficial shareowners of securities held in the name of a broker-dealer ("street name"), bank or other nominee and the distribution of annual reports to security holders, and (2) to remind brokers of their obligations to respond to issuer inquiries concerning the beneficial owners of the issuer's securities and to forward promptly proxy and other material to such beneficial owners. This information is being published because of serious concerns regarding compliance with these aspects of the proxy rules.

DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Gregory H. Mathews, (202) 272-2589, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In September 1980, the Commission authorized publication of the *Staff Report on Corporate Accountability* ("Staff Report") [1] in which the staff of the Division of Corporation Finance addresses a number of issues relating to the operation of Regulation 14A (the "proxy rules"), including the process by which issuers communicate with beneficial owners of securities registered in street or other nominee name. With respect to the dissemination of proxy materials to beneficial shareowners, the Staff Report found, among other things, that many issues fail to comply with Rule 14a-3(d).[2]

Rule 14a-3(d) requires that if an issuer knows that voting securities are held of record by a broker, dealer, bank, voting trustee, or a nominee of such person, the issuer shall inquire of such intermediaries to determine whether other persons beneficially own such securities, and, if so, the number of copies of the proxy, annual report to security holders and other soliciting material needed by the intermediary in order to supply such material to all beneficial owners. Customarily, this inquiry is made by means of a "search card." If certain of the issuer's securities are registered in the name of a clearing agency or depository, the inquiry must initially be made to the agency or depository and thereafter to its participants who hold securities on behalf of beneficial owners.[3] Issuers must make the Rule 14a-3(d) inquiry at least ten days before the record date for the meeting of security holders.[4]

As noted earlier, it has come to the Division's attention that many issuers are not making the inquiry required by Rule 14a-3(d). Nearly 30 percent of all equity securities are not registered in street or other nominee name,[5] and it is expected that such registration will continue to grow. The efficacy of street and other nominee registration is beyond dispute. However, any practice which may delay or prevent receipt of proxy materials by beneficial shareowners is inconsistent with Section 14(a) of the Securities Exchange Act of 1934 ("Exchange Act"), which is designed to assure fair corporate suffrage.[6] The Division, therefore, reminds issuers of their obligation to make the inquiry required by Rule 14a-3(d).

Rule 14a-3(d) not only assures that issuers make timely distribution of proxy material to all beneficial shareholders, but also assists issuers in obtaining necessary quorums and votes. As a practical matter, non-compliance with Rule 14a-3(d) can make it impossible for broker-dealers to vote the uninstructed proxies of their customers pursuant to the rules of the New York Stock Exchange [7] and the American Stock Exchange.[8] Ultimately, it may be difficult or impossible to obtain a quorum for the meeting of security holders or to generate the votes needed to act on important matters to be considered at the meeting if beneficial owners do not receive proxy materials.

A companion rule to Rule 14a-3(d) is Rule 14b-1, which requires a broker registered pursuant to Section 15 of the Exchange Act, to "(a) respond to an inquiry made in accordance with Rule 14a-3(d) * * * by promptly indicating, by means of a search card or otherwise, the approximate number of its customers who are beneficial owners of the issuer's securities * * *, and (b) upon receipt of the proxy, other proxy soliciting material, and/or annual report to security holders and of assurance that its reasonable expenses shall be paid by the issuer, forward such materials promptly to such customers." [9] Accordingly, the Division reminds brokers of their obligations pursuant to this rule quickly to respond to issuers' search cards and to send out proxy and other materials.

The Division also reminds issuers of their obligation to comply with Rule 14a-3(b). Rule 14a-3(b) provides that when an issuer's solicitation relates to a meeting at which directors are to be elected, the proxy statement furnished to shareholders must be accompanied or preceded by an annual report to security holders. The staff has received information indicating that in some instances annual reports have been furnished to beneficial owners after the proxy statement has been distributed. In view of the requirement of the rule, the Division notes that it is inappropriate for issuers to mail proxy statements to security holders prior to mailing annual reports.

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[1] Division of Corporation Finance, Securities and Exchange Commission, Printed for the use of the Senate Committee on Banking, Housing and Urban Affairs, 96th Cong. 2d Sess. (September 4, 1980).

[2] Adoption of Rule 14a-3(d) was announced in Securities Exchange Act Release No. 11617 (August 25, 1975), 40 FR 42219. Amendments of Rule 14a-3(d) were announced in Securities Exchange Act Release No. 13719 (July 5, 1977), 42 FR 35953.

[3] Securities Exchange Act Rule 17Ad-8 requires registered clearing agencies to provide issuers, upon request, with a list of their participants' respective positions in the issuer's securities. *See* Securities Exchange Act Release No. 16443 (December 20, 1979), 44 FR 76774.

[4] Rather than waiting until ten days before the record date to commence the inquiry, issuers are urged in a proxy solicitation manual jointly prepared by the American Society of Corporate Secretaries, the New York Stock Exchange, American Stock Exchange, National Association of Securities Dealers and the Securities Industry Association, to inquire "as far in advance of the record date as possible." *Manual for Proxy Solicitation of Stock in Broker, Bank and Other Nominee Name* 1 (1978).

[5] New York Stock Exchange, *1975 Shareownership* 20 (1975).

[6] H.R. No. 1383, 73d Cong. 2d Sess. 13 (1934).

[7] Rule 452 *CCH New York Stock Exchange Guide* ¶ 2452.

[8] Rule 756 *CCH American Stock Exchange Guide* ¶ 9528.

[9] Adoption of Rule 14b-1 was announced in Securities Exchange Act Release No. 13719 (July 5, 1977), 42 FR 35953.

The staff will continue to monitor the operation of Rule 14a-3(d) and Rule 14a-3(b) and, if necessary, will make further recommendations, including enforcement recommendations where appropriate, to the Commission as necessary in order to achieve the purposes for which these rules were adopted.

Accordingly, 17 CFR Part 241 is amended by adding this release thereto.

By the Commission.

George A. Fitzsimmons,
Secretary.

January 7, 1981.

[FR Doc. 81-1244 Filed 1-13-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 75

Education Department General Administrative Regulations (EDGAR); Annual Funding Priorities

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: These final regulations formalize the procedures for the selection and promulgation of annual funding priorities for Department of Education programs. The regulations will provide concerned parties with a common vocabulary and inform applicants about current procedures.

EFFECTIVE DATE: These final regulations are expected to take effect forty-five days after they are transmitted to the Congress. Regulations are usually transmitted to the Congress several days before they are published in the **Federal Register.** The effective date is changed if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Kenneth Depew, Office of the General Counsel, Division of Regulations Management, U.S. Department of Education, Room 2134 FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-7091.

SUPPLEMENTARY INFORMATION: A variety of procedures are currently used in the Department of Education to set or implement annual program priorities. Annual priorities are announcements that a program will, for one fiscal year, investigate certain topics, serve certain populations, or otherwise focus the program. The program may accomplish this objective by inviting applications that meet a priority or by using some or all of its appropriations in a fiscal year to fund applications that meet a priority. Some program regulations list a variety or "menu" of possible priorities and state that the Secretary may choose one or more from the list each year. In other cases, priorities are established on a case-by-case basis. This regulation lists the implementation techniques that may be used to establish priorities in the Department of Education. Placing this list of techniques in EDGAR will give applicants, staff offices, and program officials a common vocabulary and inform applicants about current procedures.

This rule also codifies the Department's position on the occasions when priorities must be published for public comment. Although many program offices find that their priority announcements generate little controversy, it is expected that increased use of priorities will generate greater public interest in them. Three exceptions to publication of proposed annual priorities for public comment are listed in the regulations.

Currently, the Secretary announces competitions for program funds through an application notice published in the **Federal Register.** This notice provides information about each program competition. Under the procedures established by this amendment to EDGAR, proposed priorities will generally be published for public comment a few months before publication of a program's application notice. Final priorities will usually be published in the program's annual application notice. Annual priorities included within the three exceptions to public comment procedures will only be published in the application notice.

Publication of these regulations for public comment is unnecessary. They are procedural and do not authorize any administrative actions not possible now.

A citation of statutory or other legal authority is placed in parentheses after each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance number not applicable)

Dated: January 9, 1981.

Shirley M. Hufstedler,
Secretary of Education.

The Secretary amends part 75 of Title 34 of the Code of Federal Regulations as follows:

1. Section 75.101(a) is amended by striking the word "and" following paragraph (9), redesignating paragraph (10) as paragraph (11), and adding a new paragraph (10), to read as follows:

§ 75.101 Information in the application notice that helps an applicant apply.

(a) * * *

(10) Any priorities established by the Secretary for the program for that year and the method the Secretary will use to implement the priorities (Cross-reference: See § 75.105 Annual priorities); and

(11) * * *

* * * * *

2. A new § 75.105 is added to read as follows:

§ 75.105 Annual priorities.

(a) *What programs are covered by this section?* This section applies to any program for which the secretary establishes priorities for selection of applications in a particular fiscal year.

(b) *How does the Secretary establish annual priorities?*

(1) The Secretary establishes final annual priorities by publishing the priorities in a notice in the **Federal Register,** usually in the application notice for that program.

(2) The Secretary publishes proposed annual priorities for public comment, unless—

(i) The final annual priorities will be implemented only by inviting applications that meet the priorities (Cross-reference: See 34 CFR § 75.105(c)(1));

(ii) The final annual priorities are chosen from a list of priorities already established in the program's regulations; or

(iii) Publishing proposed annual priorities would seriously interfere with an orderly, responsible grant award process or would otherwise be impracticable, unnecessary, or contrary to the public interest.

(c) *How does the Secretary implement an annual priority?*

The Secretary may choose one or more of the following methods to implement an annual priority:

(1) *Invitations.* The Secretary may simply invite applications that meet a priority. If the Secetary chooses this method, an application that meets the priority receives no competitive or absolute preference over applications that do not meet the priority.

(2) *Competitive preference.* The Secretary may give one of the following kinds of competitive preference to applications that meet a priority.

(i) If a program uses weighted selection criteria, the Secretary may award selection points to an application that meets the priority. These points are in addition to any points the applicant earns under the selection criteria (see § 75.200(b)). The notice states the number of additional points that the

Secretary will award to applications that meet the priority in a particularly effective way.

(ii) The Secretary may select an application that meets a priority over an application of comparable merit that does not meet the priority.

(3) *Absolute preference.* The Secretary may give an absolute preference to applications that meet a priority for a program. The Secretary establishes an absolute preference by reserving all or part of a program's funds solely for applications that meet the priority. The Secretary may establish the amount reserved for applications that meet the priority either—

(i) In the application notice; or

(ii) After determining the number of high quality applications received.

(20 U.S.C. 3474)

[FR Doc. 81-1100 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

34 CFR Part 332

Instructional Media for the Handicapped

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations governing the selection criteria for Educational Media Research, Production, Distribution, and Training Grants under the Instructional Media for the Handicapped Program authorized by Part F of the Education for the Handicapped Act. This criteria will govern grants that promote the educational advancement of handicapped persons through the use of media.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. They are transmitted to Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Malcolm J. Norwood, Department of Education, 400 Maryland Avenue, S.W. (Room 4821, Donohoe Building), Washington, D.C. 20202, telephone (202) 472-4840.

SUPPLEMENTARY INFORMATION: On August 5, 1980, the Secretary of Education published in the **Federal Register** (45 FR 52132–52133) final regulations governing the Educational Media Research, Production, Distribution, and Training Program. Those regulations, published as 45 CFR Part 121q, contained final selection criteria applicable to fiscal year 1980 awards only. On that same date, the Secretary published a proposed regulation which would establish selection criteria for the program for fiscal year 1981 and subsequent fiscal years (45 FR 52136–52137). Interested persons were given 60 days to comment on the proposed regulation. No comments were received.

This final regulation contains no changes from the proposed selection criteria. These final weighted selection criteria conform to the requirements of the Educaton Division General Administrative Regulations (EDGAR) and require that applications be evaluated on the basis of point scores.

Please not that on November 21, 1980, the Secretary of Education published a final regulation in the **Federal Register** (45 FR 77368–77370) which redesignated, and transferred the former 45 CFR Part 121q (which governed the Educational Media Research, Production, Distribution, and Training Program) to Title 34 of the CFR as the new Part 332. This change reflects no substantive change in the regulations governing the program.

Applicable Regulations

The Educational Media Research, Production, Distribution and Training Program is subject to the following regulations:

(1) EDGAR Direct Project Grant and Contract Programs regulations (34 CFR Part 75);

(2) EDGAR General Regulations (34 CFR Part 77); and

(3) The applicable program regulations (34 CFR Part 332).

In addition to the final regulation contained in this document, final regulations governing this program were published in the **Federal Register** on August 5, 1980 (45 FR 52132–52133).

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

Dated: January 9, 1981.

Shirley M. Hufstedler,
Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.026, Instructional Media Services for the Handicapped)

The Secretary amends Title 34 of the Code of Federal Regulations Part 332 by revising § 332.32 to read as follows:

*   *   *   *   *

§ 332.32 What selection criteria does the Secretary use?

(a) *Plan of Operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally under represented, such as—

(A) Handicapped persons;

(B) Members of racial or ethnic minority groups;

(C) Women; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under represented, such as—

(A) Handicapped persons;

(B) Members of racial or ethnic minority groups;

(C) Women; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (15 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources for the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need.* (20 points)

(1) The Secretary reviews each application for information that shows the need for the project.

(2) The Secretary looks for information that shows—

(i) The need for the proposed activity with respect to the handicapping condition served or to be served by the applicant;

(ii) The potential for using the results in other projects or programs.

(g) *Marketing and dissemination.* (5 points)

(1) The Secretary reviews each application for information that shows adequate provisions for marketing or disseminating results.

(2) The Secretary looks for information that shows—

(i) The provisions for marketing or otherwise disseminating the results of the project; and

(ii) Provisions for making materials and techniques available to the populations for whom the project would be useful.

(20 U.S.C. 1451, 1452)

[FR Doc. 81-1337 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

34 CFR Part 408

Correction Notice; Nomenclature and Technical Amendments

AGENCY: Department of Education.

ACTION: Correction of final regulations.

SUMMARY: This document corrects an error in the final regulations making nomenclature and technical amendments published at 45 FR 86296 (December 30, 1980). The nomenclature and technical amendments made changes in the regulations transferred to Title 34 of the Code of Federal Regulations by the Department of Education.

EFFECTIVE DATE: December 30, 1980.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland Avenue, S.W., Room 2129, Washington, D.C. 20202. Telephone: (202) 245-7091.

SUPPLEMENTARY INFORMATION: An error was made in item number 69 (45 FR 86301) of the nomenclature and technical amendments published on December 30, 1980. The sections transferred to 34 CFR Part 408 were incorrectly identified. This notice is published to correctly list the sections transferred to Part 408.

PART 408—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

The sections in former 45 CFR Part 105 which were redesignated as 34 CFR Part 408 are renumbered as follows:

Old Sections	*New Sections*
105.1–105.506 (Appendices A, B)	408.1–408.506 (Appendices A, B)

(Catalog of Federal Domestic Assistance No. Not applicable)

Dated: January 8, 1981.

Steward A. Baker,

Deputy General Counsel for Legislation and Regulations.

[FR Doc. 81-1190 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SWH-FRL 1724-8]

Oklahoma: Phase I Interim Authorization of the State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region 6.

ACTION: Approval of a State program.

SUMMARY: The purpose of the notice is to grant Phase I Interim Authorization to the State of Oklahoma for its hazardous waste management program.

In the May 19, 1980, **Federal Register** (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to protect human health and the environment from the improper management of hazardous wastes. Included in these regulations, which became effective 6 months after promulgation, were provisions for a transitional stage in which states could be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

On October 17, 1980, the State of Oklahoma applied to EPA for Phase I interim authorization of its hazardous waste management program. On October 23, 1980, EPA issued in the **Federal Register** (45 FR 70287) a notice of the public comment period on the State's application. An additional 30 day comment period was noticed by Region 6 in the **Federal Register** on November 20, 1980 (45 FR 76715) to solicit comments on additional material received in connection with the State's application. All comments received during these comment periods have been noted and considered, as discussed below.

The State of Oklahoma is hereby granted interim authorization to operate the RCRA Subtitle C hazardous waste management program in accordance with section 3006 (c) of RCRA and implementing regulations found in 40 CFR Part 123 Subpart F.

EFFECTIVE DATE: January 14, 1981.

FOR FURTHER INFORMATION CONTACT: Don Walker, Solid Waste Branch, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2645.

SUPPLEMENTARY INFORMATION: On August 25, 1980, the State of Oklahoma submitted to EPA its draft application for Phase I Interim Authorization under RCRA. This draft application reflected a hazardous waste management program which was operated by the State for four years before the RCRA regulations were published in the Federal Register. During our review of the Oklahoma draft application, we realized that the number of problems identified in the Oklahoma draft application resulted from the fact that the State's program predated the RCRA regulatory scheme for hazardous waste management and represented a different approach toward regulating this problem. EPA wishes to commend the State of Oklahoma for the effort expended on its final application and the cooperative spirit with which it worked with EPA to reshape its program into one which is substantially equivalent to the Federal Program. Through this effort and the spirit of cooperation, Oklahoma has made a significant State contribution to the realization of an effective national hazardous waste management program.

In our comments on the Oklahoma draft application, we identified major problems within each of the major components of the State's application. We indicated that the Program Description lacked sufficient information to demonstrate: (1) Adequacy of existing resources to meet the staffing requirements for the State program as established in EPA's "RCRA State Authorization Guidance Manual" (RCRA Guidance); (2) Formal enforcement procedures to be followed for violations of State program requirements which satisfy the standards established in the RCRA Guidance; and (3) Compliance monitoring schedules and protocols which meet the standards of the RCRA Guidance.

Our comments pointed out that the Oklahoma regulations, defining the scope of their hazardous waste management program, were not substantially equivalent to the Federal regulations in the following areas: (1) Control over a universe of hazardous waste nearly identical to 40 CFR Part 261; (2) Control over generator, transporter and manifest requirements substantially equivalent to 40 CFR Parts 262 and 263; and (3) Standards for treatment, storage and disposal facilities which were substantially equivalent in scope and application to these in 40 CFR Part 265.

The Attorney General's Statement (AG's Statement) did not provide information sufficient to certify that the laws and regulations of the Oklahoma program met the requirements of 40 CFR Part 123, Subpart F in the areas of: (1) Universe of hazardous wastes; (2) Standards for generators, transporters and manifesting of hazardous wastes; (3) Standards for treatment, storage and disposal of hazardous wastes; (4) Authority for inspections to insure compliance with State Program requirements; (5) Public participation in the enforcement process; and (6) Authority to share State program information with EPA without restriction.

The Memorandum of Agreement (MOA) submitted with the Oklahoma draft application did not meet the requirements established in the Region 6 Model MOA. The Oklahoma draft MOA did not provide: (1) Appropriate State enforcement procedures; (2) Acceptable criteria for determining major facilities; (3) Access without restriction by EPA to State program information; and (4) Unlimited ability by EPA to respond to imminent hazards.

The Authorization Plan did not meet the requirements of 40 CFR 123.125. For Phase I, EPA required the State to amend its statutory postclosure bonding period to equal that of the Federal program. In addition it did not detail the statutory and regulatory changes which the State must make to qualify for Phase II and Final Authorization. Schedules for drafting, introducing and publishing proposed legislative and regulatory changes were not included. In addition, the plan failed to include a projection of resources which would be available and a plan for obtaining those necessary to meet the requirements for Phase II and Final Authorization.

On October 17, 1980, Oklahoma submitted to me its final application for Phase I Interim Authorization. In response to EPA's comments on the draft application, the State Agency proposed extensive amendments to its existing regulations. These amendments were passed by the Oklahoma Board of Health as emergency regulations on October 9, 1980, and became effective on October 30, 1980. In the State's application they have provided a schedule for converting these emergency regulations into final regulations following applicable State procedural requirements. If the emergency regulations are not finally adopted before they expire, the State agrees, in the Memorandum of Agreement (MOA) to voluntarily return the program to EPA.

The regulations included in the Oklahoma final application eliminated all problems raised in EPA comments on the regulations and the Attorney General's Statement included in the drafts. The Oklahoma regulatory scheme is now substantially equivalent to the Federal Program for Phase I and this has been clarified and certified in the final AG's Statement. Consequently, there is no longer any question of the substantial equivalence of Oklahoma's control over the universe of hazardous wastes, generator and transporter requirements, the operation of the manifest system, and the immediate enforceability of interim status standards equivalent in scope to the Federal standards for treatment, storage and disposal facilities.

In addition, the AG's Statement resolved all problems concerning public participation in the State's enforcement process and the authority of the State to share its program information with EPA without restriction. Assurances were given by the AG that the State program would comply with Federal requirements by receiving and responding to citizen complaints, by not opposing permissive intervention, and by publishing notice of proposed settlements of State enforcement actions and permitting a 30 day public comment period on the terms of the settlements. The AG also certified to EPA's satisfaction that new regulations provided unlimited access by EPA to State program information.

The MOA submitted with Oklahoma's final application incorporated the required provisions of the Region 6 model MOA. The major problems identified in the draft MOA were thereby resolved.

The Authorization Plan submitted in the Oklahoma final application also underwent substantial revision. These revisions covered details for state regulatory and legislative changes necessary for Phase II and Final Authorization. The revisions also covered a plan to seek legislative amendment of the State post-closure monitoring statute to be equivalent to the Federal program requirement. This revision is to occur before the effective date of the EPA Phase I requirement. EPA, through its oversight of State program commitments, will monitor to insure that this program change occurs and becomes effective by the same time as its federal counterpart. Necessary information on resource projections and future budget submissions were also included in the revised Authorization Plan. With the addition of these new materials, questions on the sufficiency of the State's Authorization Plan were resolved.

While the Program Description, included as part of the Oklahoma final application contained considerable new information, it was still found deficient in the areas of adequate resources, formal enforcement procedures, and compliance monitoring inspection authority and procedures. On November 20, 1980, a notice appeared in the **Federal Register** announcing that Oklahoma had submitted amendments to its final application, the substance of which addressed the deficiencies in the State's Program Description included in its final application. These amendments were considered substantial additions to the final application and the notice provided for an additional 30 day public comment period to give the public ample opportunity to comment on the new material.

The amendments to the Program Description submitted by the State resolved all remaining deficiencies in the Oklahoma final application. New material demonstrated that the State did meet the resource requirements established in the RCRA Guidance and provided a schedule to insure that allocated, but vacant staff positions would be filled by the time the State is authorized. A revised description of formal procedures to be followed in the enforcement of the State program requirements provided the necessary detail to insure that the State would meet the RCRA Guidance standards for program enforcement. Authority to perform inspections, procedures and schedules for compliance monitoring were described in a manner which satisfied Federal program requirements. These amendments completed the process through which Oklahoma reshaped its hazardous waste management program, in its final application, into one which could be found to be substantially equivalent to the Federal Program.

Because the Oklahoma final application, as amended, now meets all the requirements established under RCRA Section 3006 and 40 CFR, 123 Subpart F, we find that the State of Oklahoma should be granted Phase I Interim Authorization to operate its hazardous waste managment program in lieu of the Federal program in the State.

Responsiveness Summary

On October 23, 1980, a notice was published in the **Federal Register** which invited public comment on the Oklahoma Application for Phase I Interim Authorization of the State's hazardous waste management program at a public hearing to be conducted by Region 6 on November 25, 1980, in Oklahoma City, Oklahoma. The notice also invited written comments on the Oklahoma application if received in Region 6 by December 2, 1980. After this notice appeared in the **Federal Register**, EPA received amendments to the application from the State. In order to provide an opportunity for public comment on these amendments, a second notice was published in the **Federal Register** on November 20, 1980, which invited written public comment on the additional information by December 22, 1980.

A public hearing was conducted by Region 6 on the evening of November 25, 1980 in Oklahoma City, Oklahoma. Seven commenters made presentations at this hearing. In addition, Region 6 received written comments on the Oklahoma application between October 23, 1980, the beginning of the first comment period and December 22, 1980, the close of the second comment period. All comments, if they complied with the time restraints of the **Federal Register** notices, were reviewed and considered in reaching a decision on the Oklahoma Application for Interim Authorization.

Of the sixteen public comments received by Region 6 (seven at the hearing and nine in writing) on the Oklahoma Application for Phase I Interim Authorization, ten commenters favored granting Phase I authorization to the State, one commenter favored granting Phase I authorization to the State with specific conditions, and five commenters neither favored nor opposed granting authorization to the State. The subject matter of the comments ranged from general to extremely specific. To simplify summary of the comments and responses to them, similar comments are grouped together for one response, and, when one commenter addressed more than one issue, the comment is responded to according to the subject matter of the issue. As a result, a commenter raising several issues will find the response to each issue in the section covering that issue, and not in a single section covering all of his or her issues.

The summary is presented generally in the order of subjects receiving the most comments first. However, this format is adhered to loosely to permit related comments to be presented in sequence.

Comment: Eight commenters endorsed State authorization because they found the Oklahoma hazardous waste management program, set forth in the State's application for Phase I Interim Authorization, to be substantially equivalent to the Federal program under RCRA and the regulations published in 40 CFR 123, Subpart F.

Response: Section 3006(c) of the Resource Conservation and Recovery Act (RCRA) states "The Administrator shall, if the evidence submitted (in a State application) shows the existing State program to be substantially equivalent to the Federal program under this subtitle, grant interim authorization to the State to carry out such a program in lieu of the Federal program * * *" The intent of Congress as manifested in this section was twofold: First, Congress wished to maximize State participation in the Federal hazardous waste program; Second, Congress wished to allow the States a period of time to develop a program which was equivalent and consistent with the Federal program. Consequently, it created a unique status of temporary authorization which permits a State to operate the Federal program while at the same time it is furthering the development of that program for final authorization.

Nevertheless, to receive interim authorization, a State must demonstrate the "substantial equivalence" of its program to the Federal program. Once a state has demonstrated substantial equivalence "the Administrator shall grant interim authorization", applying this standard, as elaborated in 40 CFR Part 123 Subpart F. EPA has concluded that Oklahoma has met the test of substantial equivalence and should receive Phase I interim authorization.

Comment: Two commenters stated that the State should be granted interim authorization based on its past performance in impartial, firm, and fair administration of the Oklahoma Controlled industrial Waste Disposal Act and regulations. One of those commenters emphasized that the State government was the appropriate jurisdiction to run the hazardous waste management program.

Response: The primary basis for EPA's decision to authorize a State's hazardous waste program for Phase I is not past effectiveness, but substantial equivalence with the Federal program. EPA had suggested, in its proposed regulations for evaluating State programs, that past performance or track record be used as a criterion for approval. That proposal was deleted from the final regulations governing the interim authorization approval process because EPA believes that future program effectiveness is more important than track record. While past performance can be considered in support of the decision to grant Phase I authorization, EPA has taken the position that the approval decision must be primarily concerned that the program perform in an effective and comprehensive manner in the future. EPA agrees that Oklahoma has demonstrated the capacity to operate a State hazardous waste management program. However, EPA's decision to authorize Oklahoma is based first on the substantial equivalence of the Oklahoma program to the Federal program. EPA also agrees that if the State meets the standards for State program requirements under RCRA, the appropriate division of labor for effective national hazardous waste management, is for the State to operate the program and for EPA, through its oversight responsibilities, to supervise the State to assure compliance with the laws, regulations and policies of the Federal program.

Comment: One commenter stated that he neither favored nor opposed authorization but urged EPA to maintain an active oversight role.

Response: EPA's primary concern in evaluating a State's application for Phase I authorization must be that the State has the authority and capacity to carry out a program which is substantially equivalent to the Federal program, including the authority and capability of a State to enforce this program.

EPA believes that the Program Description, Memorandum of Agreement, and the State's regulations set forth in the Oklahoma application for authorization, outline a State enforcement program which meets Federal requirements for Phase I authorization. However, EPA believes that through its statutory oversight responsibility, it has the obligation to insure that Oklahoma meets the terms set forth in the State's application to actively enforce its regulations.

The MOA and the RCRA grant-in-aid entered into by the State and EPA, establish the procedure for oversight and the terms of the State's accountability for compliance monitoring and enforcement. These agreements enable EPA to track the State's enforcement process and determine if the State is meeting specific commitments which it agreed to accomplish. The RCRA grant-in-aid awarded to the State will function like a contract between the State and EPA. EPA agrees to pay the State if the State performs certain program activities. If through EPA's oversight and grant review it is determined that the State is not meeting its commitments, funding and authorization can be withdrawn. Also, under RCRA Section 3008(a)(2) EPA can commence enforcement actions for violations of RCRA in authorized States.

Comment: One commenter questioned whether the State Health Department could implement a hazardous waste program which was not unduly biased by local, influential, special interest groups.

Response. The Federal hazardous waste management scheme, set forth in RCRA and detailed in Federal regulations, includes a system of checks and balances designed to insure the fair administration of the program. The RCRA regulations defining Phase I of the program apply even handedly to all who are subject to its purview without opportunity for variance. In order to become authorized, a State must adopt a program which is substantially equivalent to the Federal program in approach, as well as scope. Consequently, a State cannot be authorized if it allows exceptions to its regulatory scheme not permitted by the Federal program.

RCRA, through the Authorization process, envisioned a division of labor between the States and the Federal government whereby the States would operate the Federal program and EPA, through oversight, would supervise to insure that the intent of the statute, regulations and policies were carried out by the States. If an authorized State fails to carry out the Federal mandate, then the program can be withdrawn and EPA would have to operate it. Through this division of labor, State program decisions are subject to scrutiny for fairness, as well as scope of application. For example, EPA regulatory oversight includes a review of all major permits issued by the State and requires the State to respond in detail to all EPA comments. As a result, EPA will have ongoing review of the standards applied by the State in issuing each major permit and will be able to quickly determine exceptions which may not be fairly granted.

In addition, RCRA provides a system of financing State hazardous waste programs through State-Federal matching funds. This funding mechanism broadens the base of funding sources for the State agency and provides it with less dependence on a single funding source. In the RCRA system of checks and balances, it is anticipated that the need for both sources of funding will be an incentive for the State program to operate in a fashion which would not jeopardize either.

Finally, RCRA emphasizes public participation in the hazardous waste management program as an important means of insuring fair and scrupulous adherence to Federal program requirements. The statute provides for citizen suits against EPA, a State, a municipality, or any person to enforce any provisions of RCRA. The Federal statute also provides for citizen intervention in any Federal enforcement action. In addition, the Federal regulations require that authorized State programs meet minimum requirements for public participation in the State enforcement process. The Oklahoma application for Phase I Authorization meets the Federal regulatory requirements by providing for receipt of and response to citizen complaints, non-opposition intervention in State enforcement actions when permitted by State law, and public notice and opportunity for the public to comment on proposed settlements of State enforcement actions. All of these mechanisms combine to form a system of checks and balances to insure equitable and comprehensive hazardous waste management by both the State and Federal governments.

Comment: One commenter was concerned that the public participation program described in the Oklahoma application was not adequately staffed. The commenter believed that only one employee of the Solid Waste Division, the designated public participation specialist, would be responding to all citizen complaints and notifications regarding program enforcement and emergency spill response activities of the Division.

Response. The designated public participation specialist will be responsible for the traditional public information and education activities, not for the kinds of follow-up and field investigations associated with citizen complaints or inquiries about enforcement actions or responses to spills and other emergencies. While it is true that the Division encourages citizen complaints or reports of possible violations, and that it has stated that these will receive the highest investigative priority, this function is the responsibility of the Industrial Waste Division Director and other staff assigned to handle this function rather than the public participation specialist.

Comment: One commenter, while supporting interim authorization of the State program, questioned whether adequate funds where being provided to the State program. This commenter specifically addressed the need for funds to pay for site inspections and monitoring.

Response: EPA has required a State applying for interim authorization to demonstrate the amount of funding and staff available for operation of the program. This information is part of the State application and is a major factor to be evaluated by EPA in reaching a decision whether or not to authorize a State program. In order to apply a uniform national standard for evaluating the adequacy of State funds committed to hazardous waste management, EPA has published in its "Guidance Manual on Interim Authorization" an estimate of the staffing requirements necessary for each State program to operate a Federal program in their State. These staffing projections were based on the size of the State and the amount of waste generated in the State. They were also divided into separate projections for Phase I programs and Phase II programs.

Under EPA's criteria for adequate staffing, it is estimated that the State of Oklahoma should have 15 positions to operate a Phase I program. The Oklahoma State Department of Health presently has 14.6 of these positions filled and has undertaken to add 3 additional positions in order to enhance the effectiveness of its hazardous waste program. The State is actively recruiting for these additional positions. EPA also believes that Oklahoma has demonstrated in its application that it will provide the necessary funding to support EPA's staffing requirements for Phase I program management. Also, it will be EPA's responsibility in the exercise of its oversight role to insure that after the State is authorized, it will maintain the required funding and staffing to adequately operate the program according to the commitments made in the application.

Comment: One commenter, who neither supported or rejected State authorization, questioned whether the State program, as expanded in its application would require the addition of substantial State tax dollars to operate. This commenter suggested that if the cost to the State was great, it should consider deferring to the Federal government and have EPA operate the program in the State.

Response: Oklahoma indicates in its application, in the Program Description and Authorization Plan, that additional State funds will be required to match Federal funds to operate an authorized State program. Additional State tax dollars are an important consideration in evaluating the advisability of State authorization. However, the increased commitment of funds must be weighed with the critical need for effective hazardous waste management in the State and nation. EPA believes that additional funds provided by the State and Federal governments to hazardous waste management is essential to begin to control this serious threat to public health and the environment.

Comment: One commenter believed the State small generator exclusion of 100 kilograms per month was more effective than the 1000 kilograms per month exclusion set forth in the Federal regulations.

Response: RCRA Section 3009 grants the States the authority to require standards which are more stringent than Federal standards. To the extent that State standards are more stringent, they are beyond the purview of the Phase I authorization process.

Comment: Two commenters questioned the substantial equivalence of the Oklahoma statutory bonding limit of 10 years to that of the Federal program, which requires bonding for 30 years, for post-closure monitoring of hazardous waste facilities.

Response: EPA requires post-closure monitoring for a minimum of 30 years with the provision to extend the period if it is deemed necessary. While EPA regulations do require 30 year post-closure bonding, on October 30, 1980, EPA amended its regulations, effective November 19, 1980, and suspended until May 19, 1981, the requirement that owners and operators of hazardous waste facilities prepare closure and post-closure plans. Oklahoma, in its Authorization Plan, has stated that within this same 6 month period it will seek to have its statutory post-closure bonding period amended to be equivalent to the Federal regulation. Oklahoma regulations incorporate the Federal regulatory requirement of 180 days notice before a facility can commence closure in accord with its closure plan. This notice period remains in effect. Consequently, under the Federal and State regulatory plan no facility will be allowed to close before May 19, 1981. On or before that time Oklahoma should have eliminated this difference from its program. EPA, through oversight, will monitor this process to see that Oklahoma meets its commitments.

Comment: One commenter spoke to the need for research efforts to evaluate and develop improved technologies for treatment of hazardous wastes and asked whether the Federal program recognized this need.

Response: Section 8001 of RCRA provides for research in improved technology for the disposal of hazardous waste. However, Congress has not appropriated funds for this program. EPA's Office of Research and Development has an existing program which is exploring the development of technologies for treatment and disposal of hazardous wastes. EPA believes that this program and additional research efforts are much needed in this field and looks forward to an enlarged research program when and if Congress provides additional funds.

Comment: One commenter stated that dumping hazardous wastes into municipal sewer systems should be prohibited because it would become a problem for treatment facilities.

Response: While some hazardous waste will be placed on Publicly Owned Treatment Works (POTW), EPA believes that the treatment process, dilution, and compliance with the POTWs' discharge permit, will mitigate effects on human health and the environment. Nevertheless, POTW sludges are not excluded from EPA regulations and must be analyzed to determine whether they contain hazardous waste characteristics and if they do they must be stored and disposed of in full compliance with Federal program requirements. POTW's are also eligible for construction grants from EPA to improve their wastewater treatment processes. EPA believes that this is the best and most economical way to deal with the mixed waste streams treated by POTW's.

Comment: One commenter was concerned with the State's lack of incentives to recycle, reuse, reclaim, or use hazardous waste materials.

Response: The purpose of the Resource Conservation and Recovery Act of 1976, was to encourage the conservation and recycling of natural resources. Reduction and reuse of wastes generated, rather then treatment and disposal of hazardous wastes, were envisioned by Congress as the means through which this purpose would be accomplished. Although RCRA does not specifically set forth incentives to fulfill its purpose, EPA believes that the added cost of hazardous waste treatment, storage, and disposal which result from the RCRA program provides the incentive to spark industry's efforts to effectively reclaim many hazardous wastes. The State program, substantially equivalent to the Federal program, encompasses the same added costs and, consequently the same incentives to industry to reuse or reclaim its hazardous wastes.

Dated: January 8, 1981.

Frances E. Phillips,

Acting Deputy Regional Administrator.

[FR Doc. 81-1290 Filed 1-13-81; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-5969]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plan management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Jefferson	Brownsville, city of	010270A	Sept. 18, 1975, emergency, Jan. 15, 1981, regular, Jan. 16, 1981, suspended.	Aug. 15, 1975	Jan. 16, 1981.
Do	do	Midfield, city of	010127	Apr. 11, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 14, 1974 Jan. 2, 1976	Do.
Connecticut	Middlesex	Deep River, town of	090062B	Mar. 30, 1973, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Dec. 28, 1973 Dec. 3, 1976	Do.
Do	Fairfield	Stamford, city of	090051B	Mar. 10, 1972, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Aug. 2, 1974 May 23, 1975	Do.
Florida	Wakulla	Unincorporated areas	120315A	May 21, 1973, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Feb. 14, 1975	Do.
Illinois	Cook	Broadview, village of	170067B	Mar. 7, 1975, emergency, Jan. 15, 1981, regular, Jan. 16, 1981, suspended.	Mar. 22, 1974 June 4, 1976	Do.
Do	Champaign	Champaign, city of	170026B	June 6, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 3, 1974 Dec. 26, 1975	Do.
Do	Cook and Du Page	Hinsdale, village of	170105B	Apr. 22, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Feb. 1, 1974 Feb. 20, 1976	Do.
Do	Cook	Palos Hills, city of	170143C	Sept. 4, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 22, 1974 Mar. 5, 1976 July 7, 1978	Do.
Do	do	Richton Park, village of	170149B	Dec. 6, 1973, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Apr. 12, 1974 Oct. 31, 1975	Do.
Do	Champaign	Urbana, city of	170035B	Feb. 3, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 3, 1974 Mar. 26, 1976	Do.
Do	Du Page	Westmont, village of	170220B	Apr. 23, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 17, 1974 Aug. 15, 1975	Do.
Do	Lake	Zion, city of	170399B	May 24, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 29, 1974 June 4, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Indiana	Delaware	Muncie, city of	180053B	Apr. 4, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 18, 1974 June 4, 1976	Do.
Iowa	Sioux	Hawarden, city of	190252C	Sept. 23, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 24, 1974 July 30, 1976 July 26, 1977	Do.
Do	Clay	Spencer, city of	190071A	June 26, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	July 16, 1976	Do.
Do	Story	Story City, city of	190259B	June 25, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 31, 1974 Apr. 9, 1976	Do.
Kansas	Shawnee	Auburn, city of	200332B	Nov. 28, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Oct. 25, 1974 Nov. 7, 1975	Do.
Do	Douglas	Eudora, city of	200089B	June 12, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 9, 1974 July 16, 1976	Do.
Do	Jackson	Holton, city of	200141B	Dec. 27, 1976, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Feb. 22, 1974 Oct. 24, 1975	Do.
Maryland	Dorchester	Cambridge, city of	240096B	Aug. 12, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Oct. 18, 1974 Sept. 26, 1975	Do.
Do	do	Hurlock, town of	240112B	Sept. 18, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 21, 1977	Do.
Michigan	Genesee	Fenton, city of	260075A	Aug. 30, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Oct. 1, 1976	Do.
Do	do	Fenton, township of	260394B	Mar. 24, 1976, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Apr. 1, 1977	Do.
Do	Ottawa	Grand Haven, township of	260270B	Oct. 9, 1973, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Aug. 2, 1974 July 2, 1976	Do.
Do	Muskegon	White River, township of	260299A	June 21, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Oct. 8, 1976	Do.
Minnesota	Marshall	Alvarado, city of	270267A	Apr. 15, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 16, 1981	Do.
Do	Hennepin	Corcoran, city of	270155C	Sept. 8, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	June 7, 1974 May 28, 1976 May 20, 1977	Do.
Missouri	Pemiscot	Caruthersville, city of	290275B	Mar. 27, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 29, 1974 Feb. 20, 1976	Do.
Do	Reynolds	Ellington, city of	290312B	Jan. 23, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 29, 1974 Nov. 7, 1975	Do.
Do	St. Francois	Farmington, city of	290323C	June 25, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 1, 1974 Oct. 24, 1975 Apr. 2, 1976	Do.
Do	St. Louis	Kinloch, city of	290361B	July 18, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 9, 1974 June 18, 1976	Do.
Do	do	Oakland, city of	290373B	June 5, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Nov. 1, 1974 June 11, 1976	Do.
Do	do	Shrewsbury, city of	290386B	Dec. 19, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 29, 1974 July 9, 1976	Do.
Nebraska	Douglas	Unincorporated areas	310073B	Nov. 15, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	July 26, 1974 Aug. 2, 1977	Do.
Do	Sarpy	Papillion, city of	315275D	July 2, 1971, emergency, Aug. 18, 1972, regular, Jan. 16, 1981, suspended.	Aug. 18, 1972 July 1, 1974 Apr. 11, 1975 Oct. 10, 1975	Do.
New Jersey	Warren	Phillipsburg, town of	340493B	Jan. 28, 1972, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Apr. 13, 1973 Nov. 20, 1976	Do.
Do	Passaic	Wanaque, borough of	340409B	Aug. 12, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 14, 1974	Do.
Do	Monmouth	West Long Branch, borough of	340234B	Nov. 1, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Aug. 24, 1973 Aug. 20, 1976	Do.
Do	Passaic	West Milford, township of	340411B	Apr. 28, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	July 9, 1974 May 28, 1976	Do.
Nevada	Clark	North Las Vegas, city of	320007B	Aug. 8, 1973, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Feb. 15, 1974 Feb. 4, 1977	Do.
Ohio	Summit	Barberton, city of	390524C	Sept. 13, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 24, 1974 July 30, 1976 June 22, 1979	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Cuyahoga	Brecksville, city of	390096B	July 11, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Feb. 8, 1974 July 16, 1976	Do.
Do	Erie	Unincorporated areas	390183B	Feb. 20, 1976, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 31, 1975 Nov. 5, 1976	Do.
Do	Lake	Willoughby, city of	390322A	June 12, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Nov. 30, 1973 June 11, 1976	Do.
Pennsylvania	Lancaster	Bart, township of	421761B	June 10, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Sept. 6, 1974 May 14, 1976	Do.
Do	do	Colerain, township of	421765B	Sept. 17, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Sept. 20, 1974 May 28, 1976	Do.
Do	Susquehanna	Harmony, township of	422082B	Feb. 2, 1976, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	June 10, 1977	Do.
Do	Allegheny	Oakmont, borough of	420060B	July 26, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 8, 1974 May 28, 1976	Do.
Do	Lancaster	Sadsbury, township of	421782B	July 30, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Sept. 20, 1974 June 4, 1976	Do.
Do	do	Quarryville, borough of	[illegible]	Sept. 25, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Jan. 9, 1974 Jan. 9, 1976	Do.
Do	Allegheny	Verona, borough of	422611B	Dec. 13, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 31, 1976 June 4, 1976	Do.
Do	Luzerne	Wright, township of	420632B	May 10, 1973, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Mar. 8, 1974 Oct. 1, 1976	Do.
Vermont	Chittenden	Essex, town of	500034B	July 8, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	Sept. 20, 1974 Dec. 3, 1976	Do.
Do	Windsor	Royalton, town of	500153B	July 24, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	June 19, 1974 Aug. 27, 1976	Do.
Do	Rutland	Wallingford, town of	500103B	Sept. 13, 1974, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 31, 1974 July 16, 1976	Do.
West Virginia	Mingo	Williamson, city of	540136B	Apr. 2, 1975, emergency, Jan. 16, 1981, regular, Jan. 16, 1981, suspended.	May 31, 1974 Sept. 24, 1976	Do.
Wisconsin	Lacrosse	Lacrosse, city of	555562	Dec. 4, 1970, emergency, Jan. 15, 1971, regular, Jan. 16, 1981, suspended.	Jan. 15, 1971 July 1, 1974 May 14, 1976	Do.

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[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: December 29, 1980.

Charles M. Plaxico, Jr.,
Acting Federal Insurance Administrator.

[FR Doc. 81-1119 Filed 1-13-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA-5970]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final Rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impractible and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Contra Costa	Antioch, city of	060026A	Dec. 2, 1980, suspension withdrawn	June 28, 1974 and Oct. 24, 1975.
Do	Orange	Brea, city of	060214A	do	May 24, 1974 and Nov. 4, 1975.
Do	San Bernardino	Ontario, city of	060278A	do	Aug. 9, 1974 and Nov. 12, 1976.
Florida	Polk	Davenport, town of	120410A	do	Mar. 4, 1977.
Georgia	Ware	Unincorporated areas	130184	do	Dec. 17, 1976.
Idaho	Clearwater	Orofino, city of	160047B	do	Dec. 10, 1976, May 28, 1976, and Nov. 23, 1973.
Illinois	Cook	Hazel Crest, village of	170102C	do	June 28, 1974 and July 11, 1975.
Do	Lake	Winthrop Harbor, village of	170396A	do	Mar. 24, 1975 and Oct. 10, 1975.
Iowa	Cerro Gordo	Mason City, city of	190060	do	Mar. 1, 1974.
Kentucky	Boyd	Unincorporated areas	210016	do	Dec. 13, 1974 and Dec. 2, 1977.
Do	Hardin	Elizabethtown, city of	210095A	do	Aug. 23, 1974 and Apr. 16, 1976.
Michigan	Genesee	Genesee, township of	260078A	do	May 24, 1974 and Aug. 6, 1976.
Missouri	Grundy	Trenton, city of	290153A	do	Feb. 15, 1974 and Dec. 26, 1975.
Nebraska	Wayne	Wayne, city of	310231A	do	Mar. 22, 1974 and Feb. 27, 1976.
Oklahoma	Cleveland	Moore, city of	400044A	do	June 7, 1974 and Apr. 16, 1976.
Pennsylvania	Lycoming	Wolf, township of	420663	do	July 1, 1977.
South Carolina	Greenville	Unincorporated areas	450089	do	Nov. 19, 1976.
Vermont	Franklin	Montgomery, township of	500056A	do	June 21, 1974 and Aug. 13, 1976.
West Virginia	Mingo	Unincorporated areas	540133A	do	Dec. 20, 1974 and Aug. 5, 1977.
Texas	Collin	Prosper, town of	480141A	Dec. 2, 1980, emergency	June 21, 1974 and Jan. 30, 1976.
North Carolina	Catawba	Unincorporated areas	370050B	Oct. 24, 1973, emergency, Sept. 3, 1980, regular, Sept. 3, 1980, suspended, Dec. 2, 1980, reinstated.	June 10, 1977.
New York	Greene	Windham, town of	361401B	Dec. 5, 1980, emergency	Jan. 17, 1974, Nov. 4, 1977, and Oct. 27, 1978.
Pennsylvania	Bradford	Smithfield, township of	421104	do	Oct. 29, 1976.
Texas	Atascosa	Jourdanton, city of	480703	do	Aug. 13, 1976.
Iowa	Calhoun	Rockwell City, city of	190343	Dec. 8, 1980, emergency	Mar. 26, 1976.
South Carolina	Horry[1]	Unincorporated areas	450104	do	Oct. 20, 1978.
Tennessee	Tipton	Mason, city of	470191	do	Oct. 1, 1976.
Maine	Oxford	Hiram, town of	230094A	July 30, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended, Dec. 10, 1980, reinstated.	Jan. 3, 1973.
California	Stanislaus	Unincorporated areas	060384A	Dec. 27, 1973, emergency, Aug. 1, 1980, regular, Aug. 1, 1980, suspended, Dec. 12, 1980, reinstated.	Aug. 1, 1980.
Pennsylvania	Cambria	Chest, township of	422604A	Dec. 15, 1980, emergency	Jan. 10, 1975 and May 30, 1980.
Wisconsin	Vernon and Crawford	De Soto, village of	550069A	do	Jan. 9, 1974 and May 14, 1976.

[1] Does not include Grand Strand Flood District.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: December 29, 1980.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 81-1120 Filed 1-13-81; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fifteenth Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, William M. Gibbons, Trustee

AGENCY: Interstate Commerce Commission.

ACTION: Fifteenth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., January 10, 1981, and continuing in effect until 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: January 8, 1981.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Fifteenth Revised Service Order No. 1473 modifies Appendix A of the previous order as follows:

1. In Item 6.A., the authority of the Fort Worth and Denver Railway Company (FWD) is extended to Groom and Adrian, Texas.

2. In Item 24.A., the authority of The La Salle and Bureau County Railroad Company (LSBC) is extended 3.66 miles northward to milepost 0.60 at Chicago, Illinois.

3. In Item 26, authority is granted to The Atchison, Topeka and Santa Fe Railway Company (ATSF) at Alva, Oklahoma, in order to provide continued service inasmuch as ATSF's directed service authority under Section 104 of RITEA has expired.

Appendix B of Fourteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B of this order.

It is the opinion of the Commission that an emergency exits requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Fifteenth Revised Service Order No. 1473

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

1. The authority contained in Item 5(E) of Appendix A of this order, previously operated by the Union Pacific Railroad Company (UP) between Colby and Caruso, Kansas (milepost 387.8 to 429.3), is conditioned upon the assumption by Burlington Northern, Inc. (BN) of the negotiated agreement between UP and the Rock Island Trustee with regard to the compensation to be paid the Trustee for that line segment until a new agreement is reached between the Trustee and the BN.

(d) Interm operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers, as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

1. The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., January 10, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):* A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchinson, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

C. Limon, Colorado.

4. *Toledo, Peoria and Western Railroad Company (TP&W):*

A. Keokuk, Iowa.

B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Burlington Northern, Inc. (BN):*

A. Burlington, Iowa (milepost 0 to milepost 2.06).

B. Fairfield, Iowa (milepost 275.2 to milepost 274.7).

C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (mileposts 1.55 to 6.62).

D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9).

E. CBQ Junction, Kansas (milepost 325.9) to Seibert, Colorado (milepost 487).

6. *Fort Worth and Denver Railway Company (FW&D):*

*A. From Groom (milepost 718.9) to Adrian, Texas (milepost 809.5), including terminal trackage at Amarillo, and approximately (3) three miles northerly along the old Liberal Line.

B. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

7. *Chicago and North Western Transportation Company (C&NW):*

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. From Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9).

K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. From Newton (milepost 320.5) to Earlham, Iowa (milepost 368.6).

P. Sibley, Iowa.

Q. Worthington, Minnesota.

R. Altoona to Pella, Iowa.

S. Carlisle, Indianola, Iowa.

T. Omaha, Nebraska (between milepost 502 to milepost 504).

U. Earlham, (milepost 368.6) to Dexter, Iowa (milepost 393.5).

8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*

A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. Washington, Iowa.

C. From Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

9. *Davenport, Rock Island and North Western Railway Company (DRI):*

A. Davenport, Iowa.

B. Moline, Illinois.

C. Rock Island, Illinois, including 29th Street yard.

D. From Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island industrial complex.

E. From East Moline to Silvis, Illinois.

F. From Davenport to Iowa City, Iowa.

G. From Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal.

10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana.

11. *St. Louis Southwestern Railway Company (SSW):*

A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. At North Topeka, Kansas.

12. *Little Rock & Western Railway Company:* From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

13. *Missouri Pacific Railroad Company:* From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

14. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*

A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth.

B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.0 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas.

C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma.

D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas.

E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only.

F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the

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Wichita Terminal Association, all located in Wichita, Kansas.

G. Rock Island right to use interchange tracks to interchange with the Great Southwest Railroad Company located in Grand Prairie, Texas.

H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 496.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.

I. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.

J. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

15. *The Denver and Rio Grande Western Railroad Company:*

A. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

16. *Norfolk and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Exressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

17. *St. Louis-San Francisco Railway Co.:*

A. At Okeene, Oklahoma.

B. At Lawton, Oklahoma.

18. *Southern Railway Company:*

A. At Memphis, Tennessee.

19. *Cadillac and Lake City Railroad:*

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

20. *Baltimore and Ohio Railroad Company:*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

21. *Louisiana Midland Railway Company:*

A. From Hodge, Louisiana (milepost 173.3) to Alexandria, Louisiana (milepost 247.8), which includes assumption of RI's trackage rights over the Louisiana and Arkansas Railway Company between Winnfield, Louisiana, and Alexandria, Louisiana, and the RI's track and yard in Alexandria, Louisiana.

22. *Cedar Rapids and Iowa City Railway Company (CIC):*

A. From the west intersection of Lafayette Street and South Capitol Street, Iowa City, Iowa, southward for approximately 2.2 miles, terminating at the intersection of the RI tracks and the southern line of Section 21, Township 79 North, Range 6 West, Johnson County, Iowa, including spurs of the main trackage to serve various industry; and to effect interchange with the Davenport, Rock Island and North Western Railway Company.

23. *Keota Washington Transportation Company:*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

24. *The La Salle and Bureau County Railroad Company:*

*A. From Chicago (milepost 0.60) and Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island Illinois.

25. *Fordyce and Princeton Railroad Company (FP):*

A. From Fordyce to Crossett, Arkansas, which includes assumption of RI's trackage rights over the Ashley, Drew and Northern Railway Company between Whitlow Junction and Crossett, Arkansas.

†† 26. *The Atchison, Topeka and Santa Fe Railway Company:*

A. At Alva, Oklahoma.

[FR Doc. 81-1219 Filed 1-13-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Sport Fishing; Special Regulations

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in the states of Oklahoma and Texas is compatible with the objectives for which these areas were established, will utilized a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming sport fishing seasons.

DATES: January 1, 1981 through December 31, 1981.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address and/or telephone number listed below in the body of these Special Regulations.

SUPPLEMENTARY INFORMATION:

General conditions

Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following special regulations. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. No vehicle travel is permitted except on designated maintained roads and trails. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 300 E. 8th Street, Room G-121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge area.

Sport fishing is permitted on the following areas:

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*Changed.

†† Added.

Oklahoma

Salt Plains National Wildlife Refuge, Route 1, Box 76, Jet, Oklahoma 73749, telephone 405-626-4794. Special conditions: (1) The open season for sport fishing on the refuge extends from April 15, 1981 through October 15, 1981, in Great Salt Plains Lake, as posted; in Sand Creek; the three main channels of Salt Fork River; and north of the right-of-way of Oklahoma State Highway 11, as posted. (2) It is illegal to take game fish by any means other than hook and line. Trotlines must be removed from waters at the close of the fishing season.

Sequoyah National Wildlife Refuge, P.O. Box 695, Vian, Oklahoma 74962, telephone 918-773-5251. Special conditions: (1) The open season for sport fishing on the refuge extends from January 1, 1981 through December 31, 1981, except for an area of approximately 2,200 acres south of Vian Creek and east of the refuge tour road, as posted, to be closed during the periods January 1, 1981 through March 15, 1981, and from October 1, 1981 through December 31, 1981, and for an area of approximately 200 acres known as the Hog Pen, west of Moody Ramp shall be posted as closed during the period April 1, 1981 through May 31, 1981. (2) some refuge roads leading to waters open to fishing may be closed, as posted, from January 1, 1981 through March 5, 1981, and from October 1, 1981 through December 31, 1981.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, telephone 405-371-2402. Special conditions: (1) Sport fishing is permitted in all waters of the Tishomingo National Wildlife Refuge during the period of March 1, 1981 through September 30, 1981. (2) Trotlines, juglines, throwlines, and similar fishing equipment may be used only in Lake Texoma and the Washita River and must be removed from these waters for the periods January 1, 1981 through February 29, 1981, and October 1, 1981 through December 31, 1981. (3) For the periods of January 1, 1981 through February 28, 1981, and October 1, 1981 through December 31, 1981, bank fishing is permitted in the immediate area of the Rufuge headquarters boat launching ramp, Big Sandy, Bell, Rock Creeks, and Dick's Pond, except that all Refuge waters are closed to fishing during the special fall deer hunt as posted. (4) Night fishing will be premitted in the refuge headquarters area with a free annual fishing permit to be issued at the refuge headquarters. (5) All fishing must be in accordance with Oklahoma Department of Wildlife Conservation sport fishing regulations.

Washita National Wildlife Refuge, Route 1, Box 68, Butler, Oklahoma 73625, telephone 405-473-2205. Special conditions: (1) The open season for sport fishing on the refuge extends from March 5, 1981 through October 14, 1981, except that the eastern shoreline of Foss Reservoir from the Lakeview Recreation Area to the Pitts Creek Recreation Area and the eastern bank of Pitts Creek itself shall be open to year-round bank fishing. (2) Access is permitted only from designated recreation areas, namely: McClure, Riverside, Owl Cove, Pitts Creek and Lakeview and by boat from Foss Reservoir. (3) Seining is prohibited in all refuge waters. (4) Trotlines must be removed from all refuge waters on or before October 14, 1981. (5) Boats and other flotation devices are prohibited in all refuge waters from October 15, 1980 through March 14, 1981.

Wichita Mountains Wildlife Refuge, P.O. Box 448, Cache, Oklahoma 73527, telephone 405-429-3222. Special conditions: (1) The open season for sport fishing is permitted in all waters in the public use area except areas closed by sign and in marked swimming areas from January 1, 1981 through December 31, 1981. (2) Fish may be taken only with closely attended poles and lines, or rods and reels. Possession or use of trotlines, set lines, limblines, or juglines is prohibited. (3) Fishermen may use one-man inner tube-type fishing floaters, lifejackets or buoyant vests to take fish in all waters open to fishing. Wading is permitted when fishing. (4) Fishermen may use hand-powered boats on Jed Johnson, Rush, Quanah Parker, and French Lakes. (5) The taking of frogs by any means is prohibited. (6) Gigs, spears or similar devices (but not including bow and arrows) containing not more than 3 points with no more than 2 barbs may only be used in Elmer Thomas Lake to take non-game fish. (7) Obtaining or using any type of bait from refuge lands or waters is prohibited.

Texas

Anahuac National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514, telephone 713-267-3337. Special conditions: (1) Boats and floating devices may not be used for fishing on inland waters. Boats may be launched from the refuge into East Bay. (2) In inland waters, fishing is permitted only by ordinary pole and line, rod and reel, or hand-held line. Trotlines, set lines, bow and arrows, gigs and spears may not be used in inland waters.

Aransas National Wildlife Refuge, P.O. Box 100, Austwell, Texas 77950, telephone 512-286-3559. Special conditions: (1) Access on foot to the bays is permitted only at entry points designated by the Refuge Manager or referenced in leaflets available at refuge headquarters near Austwell, Texas, and from the Area Manager, U.S. Fish and Wildlife Service, 300 East 8th Street, Austin, Texas 78701. (2) Fishing access is permitted from April 15, 1981 through October 14, 1981, during daylight hours. (3) Upon entering the refuge, fishermen are required to register for fishing at refuge headquarter. (4) Boat launching from refuge land is not permitted. (5) Any designated fishing access area or portion thereof may be immediately closed to fishing by the refuge manager if it is determined that fishing activities are significantly disturbing any species of wildlife.

Brazoria National Wildlife Refuge, P.O. Box 1088, Angleton, Texas 75515, telephone 713-849-6062. Special condition: (1) Fishing is not permitted on interior waters except Nicks Lake, Salt Lake and Lost Lake.

Buffalo National Wildlife Refuge, P.O. Box 228, Umbarger, Texas 79091, telephone 806-499-3382. Due to lack of water in Buffalo Lake, the refuge is closed to fishing for Calendar Year 1981.

Hagerman National Wildlife Refuge, P.O. Box 123, Sherman, Texas 75090, telephone 214-786-2826. Special conditions: (1) Fishing and frogging is permitted from April 1, 1981 through September 30, 1981. Frogs may be taken by dip net, hands, and gigging only. (2) Trotlines are permitted but must be removed when fishing is completed. (3) Boating is permitted during fishing season. Fishermen are cautioned to be alert for submerged logs, pipelines, stumps and abandoned trotlines. (4) Fishing from bridges is prohibited. (5) Overnight camping and firearms are prohibited. (6) Swimming and waterskiing are prohibited.

Laguna Atascosa National Wildlife Refuge, P.O. Box 450, Rio Hondo, Texas 78583, telephone 512-748-3607. Special conditions: (1) Fishing with trotlines is not permitted. (2) The refuge officer-in-charge may at his discretion close the fishing area for public safety, to protect wildlife, or to protect government property.

McFaddin Marsh National Wildlife Refuge, P.O. Box 278, Anahuac, Texas 77514, telephone 713-287-3337. Special conditions: (1) In inland waters, fishing is permitted only by ordinary pole and line, rod and reel or hand-held line. Trotlines, net lines, bow and arrows, gigs and spears may not be used in inland waters. (2) Airboats are limited in size to no more than ten horsepower.

Muleshoe National Wildlife Refuge P.O. Box 549, Muleshoe, Texas 79347, telephone 806–946–3341. Due to lack of water in the lakes, the refuge is closed to fishing for Calendar Year 1981.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OBM Circular A–107.

W. Ellis Klett,

Area Manager.

[FR Doc. 81–1324 Filed 1–13–81; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 46, No. 9
Wednesday, January 14, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

[Amdt. No. 2]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Cotton Crop Insurance Regulations to include additional cotton counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Cotton Crop Insurance Regulations in accordance with the provisions of 7 CFR 421.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which cotton crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which cotton crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 421, Appendix B.

It has been determined that this action to amend the list of counties where cotton crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Cotton Crop Insurance Regulations (7 CFR Part 421) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Cotton Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75371-75372).

Appendix B

Counties Designated for Cotton Crop Insurance—7 CFR Part 421

In accordance with the provisions of 7 CFR 421.1, the following counties have been designated for cotton crop insurance:

Alabama

Autauga
Barbour
Blount
Calhoun
Cherokee
Chilton
Coffee
Colbert
Covington
Cullman
Dallas
De Kalb
Elmore
Escambia
Etowah
Franklin
Greene
Hale
Jackson
Lamar
Lauderdale
Lawrence
Limestone
Lowndes
Macon
Madison
Marengo
Monroe
Montgomery
Morgan
Perry
Pickens
Russell
Shelby
Talladega
Tuscaloosa
Wilcox

Arizona

Cochise
Graham
Maricopa
Pima
Pinal
Yuma

Arkansas

Arkansas
Ashley
Chicot
Clay
Craighead
Crittenden
Conway
Cross
Desha
Drew
Greene
Jackson
Jefferson
Lafayette
Lawrence
Lee
Lincoln
Lonoke
Miller
Mississippi
Monroe
Phillips
Poinsett
Prairie
Pulaski
Randolph
St. Francis
Woodruff

California

Fresno
Imperial
Kern
Kings
Madera
Merced
Riverside
Tulare

Florida

Santa Rosa

Georgia

Bartow
Ben Hill
Bleckley
Brooks
Burke
Calhoun
Clay
Colquitt
Cook
Crisp
Decatur
Dodge
Dooly
Early
Emanuel
Houston
Irwin
Jefferson
Laurens
Lee
Macon
Miller
Mitchell
Pulaski
Randolph
Screven
Sumter
Terrell
Thomas
Tift
Turner
Washington
Worth

Kentucky

Fulton

Louisiana

Acadia
Avoyelles
Bossier
Caddo
Caldwell
Catahoula
Concordia
East Carroll
Evangeline
Franklin
Lafayette
Madison
Morehouse
Natchitoches
Ouachita
Pointe Coupee
Rapides
Red River
Richland
St. Landry
Tensas
West Carroll

Mississippi

Adams
Alcorn
Attala
Benton
Bolivar
Calhoun
Carroll
Chickasaw
Coahoma
De Soto
Grenada
Hinds
Holmes
Humphreys
Issaquena
Itawamba
Lafayette
Lee
Leflore
Lowndes
Madison
Marshall
Monroe
Montgomery
Noxubee
Panola
Pontotoc
Prentiss
Quitman
Rankin
Sharkey
Sunflower
Tate
Tallahatchie
Tippah
Tunica
Union
Warren
Washington
Webster
Yalobusha
Yazoo

Missouri

Butler
Dunklin
Mississippi
New Madrid
Pemiscot
Scott
Stoddard

New Mexico

Chaves
Dona Ana
Eddy
Lea
Luna
Quay
Roosevelt

North Carolina

Anson
Cleveland
Edgecombe
Halifax
Hoke
Nash
Northampton
Robeson
Scotland
Union

Oklahoma

Beckham
Caddo
Custer
Comanche
Cotton
Grady
Greer
Harmon
Jackson
Kiowa
Tillman
Washita

South Carolina

Aiken
Allendale
Anderson
Bamberg
Barnwell
Calhoun
Chester
Chesterfield
Clarendon
Darlington
Dillon
Dorchester
Edgefield
Florence
Hampton
Kershaw
Laurens
Lee
Lexington
Marion
Marlboro
Orangeburg
Spartanburg
Sumter
Williamsburg
York

Tennessee

Carroll
Chester
Crockett
Dyer
Fayette
Franklin
Gibson
Giles
Hardeman
Haywood
Henderson
Lake
Lauderdale
Lawrence
Lincoln
McNairy
Madison
Obion
Shelby
Tipton
Weakley

Texas

Andrews
Armstrong
Austin
Bailey
Baylor
Bee
Bell
Borden
Bosque
Brazos
Briscoe
Burleson
Caldwell
Calhoun
Cameron
Castro
Childress
Cochran
Coleman
Collin
Collingsworth
Concho
Coryell
Cottle
Crosby
Dallas
Dawson
Deaf Smith
Delta
Denton
Dickens
Donley
Ellis
El Paso
Falls
Fannin
Fisher
Floyd
Foard
Fort Bend
Frio
Gaines
Garza
Glasscock
Gray
Grayson
Guadalupe
Hale
Hall
Hardeman
Haskell
Hidalgo
Hill
Hockley
Howard
Hudspeth
Hunt
Jackson
Jim Wells
Johnson
Jones
Kaufman
Kent
Kleberg
Knox
Lamar
Lamb
Limestone
Live Oak
Lubbock
Lynn
Martin
Matagorda
McCulloch
McLennan
Midland
Milam
Mitchell
Motley
Navarro
Nolan
Nueces
Parmer
Pecos
Presidio
Reagan
Red River
Reeves
Refugio
Robertson
Runnels
San Patricio
Scurry
Starr
Stonewall
Swisher
Tarrant
Taylor
Terry
Throckmorton
Tom Green
Travis
Uvalde
Victoria
Wharton
Wheeler
Wichita
Wilbarger
Willacy
Williamson
Yoakum
Zavala

Virginia

Southampton

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on December 17, 1980

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Everett S. Sharp,
Acting Manager.

[FR Doc. 81–1233 Filed 1–13–81; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 424

[Amdt. No. 2]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Rice Crop Insurance Regulations to include additional rice counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Corp Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Rice Crop Insurance Regulations in accordance with the provisions of 7 CFR 424.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which rice crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which rice crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 424, Appendix B.

It has been determined that this action to amend the list of counties where rice crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Rice Crop Insurance Regulations (7 CFR Part 424) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Rice Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75372).

Appendix B

Counties Designated for Rice Crop Insurance—7 CFR Part 424

In accordance with the provisions of 7 CFR 424.1, the following counties have been designated for rice crop insurance:

Arkansas

Arkansas
Ashley
Chicot
Clark
Clay
Conway
Craighead
Crittenden
Cross
Desha
Drew
Faulkner
Greene
Independence
Jackson
Jefferson
Lafayette
Lawrence
Lee
Lincoln
Lonoke
Miller
Monroe
Poinsett
Prairie
Pulaski
Randolph
St. Francis
White
Woodruff

California

Butte
Colusa
Fresno
Gleen
Kern
Merced
Sacramento
San Joaquin
Stanislaus
Sutter
Tulare
Yolo
Yuba

Louisiana

Acadia
Allen
Beauregard
Calcasieu
Cameron
East Carroll
Evangeline
Jefferson Davis
Lafayette
Morehouse
Ouachita
Richland
St. Landry
Vermilion

Mississippi

Bolivar
Leflore
Sunflower
Washington

Missouri

Butler
Ripley
Stoddard

Texas

Austin
Brazoria
Calhoun
Chambers
Colorado
Fort Bend
Galveston
Harris
Jackson
Jefferson
Lavaca
Liberty
Matagorda
Victoria
Waller
Wharton

(Secs. 506, 516, P.L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Dated: January 7, 1981.

Doris H. Gips,
Assistant Secretary.

Everett S. Sharp,
Acting Manager.

[FR Doc. 81–1200 Filed 1–13–81; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 425

[Amendment No. 2]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Peanut Crop Insurance Regulations to include additional peanut counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Peanut Crop Insurance Regulations in accordance with the provisions of 7 CFR 425.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which peanut crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which peanut crop insurance may be offered. This proposed rule is intended to update the list of these counties as contained in 7 CFR Part 425, Appendix B.

It has been determined that this action to amend the list of counties where peanut crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary' Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Peanut Crop Insurance Regulations (7 CFR Part 425) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Peanut Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75372–75373).

Appendix B

Counties Designated for Peanut Crop Insurance—7 CFR Part 425

In accordance with the provisions of 7 CFR 425.1, the following counties are designated for peanut crop insurance:

State and County and Type(s) of Peanuts Insured

Alabama:	
Barbour	Runner, Southeast Spanish, Virginia.
Bullock	Do.
Coffee	Do.
Conecuh	Do.
Covington	Do.
Crenshaw	Do.
Dale	Do.
Escambia	Do.
Geneva	Do.
Henry	Do.
Houston	Do.

State and County and Type(s) of Peanuts Insured—Continued

Pike	Do.
Russell	Do.
Florida:	
Alachua	Runner, Southeast Spanish, Virginia.
Calhoun	Do.
Columbia	Do.
Jackson	Do.
Gadsden	Do.
Levy	Do.
Santa Rosa	Do.
Suwannee	Do.
Washington	Do.
Georgia:	
Baker	Runner, Southeast Spanish, Virginia.
Ben Hill	Do.
Berrien	Do.
Bleckley	Do.
Bulloch	Do.
Calhoun	Do.
Candler	Do.
Clay	Do.
Coffee	Do.
Colquitt	Do.
Cook	Do.
Crisp	Do.
Decatur	Do.
Dodge	Do.
Dooly	Do.
Early	Do.
Grady	Do.
Houston	Do.
Irwin	Do.
Laurens	Do.
Lowndes	Do.
Miller	Do.
Mitchell	Do.
Montgomery	Do.
Randolph	Do.
Seminole	Do.
Stewart	Do.
Sumter	Do.
Taylor	Do.
Tattnall	Do.
Telfair	Do.
Terrell	Do.
Thomas	Do.
Tift	Do.
Toombs	Do.
Turner	Do.
Wilcox	Do.
Worth	Do.
New Mexico: Roosevelt	Valencia.
North Carolina:	
Bertie	Runner, Virginia.
Bladen	Virginia.
Chowan	Do.
Edgecombe	Runner, Virginia.
Gates	Virginia.
Halifax	Runner, Virginia.
Hertford	Virginia.
Martin	Runner, Virginia.
Nash	Virginia.
Northampton	Runner, Virginia.
Pender	Do.
Pitt	Virginia.
Washington	Do.
Oklahoma:	
Bryan	Southwest Spanish.
Commanche	Do.
Caddo	Do.
Grady	Do.
Jackson	Do.
Muskogee	Do.
South Carolina:	
Allendale	Virginia.
Barnwell	Do.
Florence	Do.
Hampton	Do.
Leo	Do.
Sumter	Do.
Texas:	
Atascosa	Southwest Spanish, Runner.
Austin	Do.
Bexar	Do.
Brown	Do.
Callahan	Do.
Commanche	Do.
Cook	Do.
Duval	Do.
Eastland	Do.
Erath	Do.
Fannin	Southwest Spanish.
Fayette	Southwest Spanish, Runner.
Frio	Do.
Gaines	Southwest Spanish.
Grayson	Do.
Guadalupe	Do.
Hood	Southwest Spanish, Runner.
Johnson	Do.
Jones	Do.
Lamar	Do.
Lee	Southwest Spanish.
Medina	Do.
Milam	Do.
Motley	Do.
Waller	Do.
Wilson	Southwest Spanish, Runner.
Virginia:	
Dinwiddie	Virginia.
Greensville	Do.
Isle of Wight	Do.
Prince George	Do.
Southampton	Do.
Suffolk City	Do.
Surrey	Do.
Sussex	Do.

(Secs. 506, 516, P.L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1238 Filed 1–13–81; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 427

[Amendment No. 3]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Oat Crop Insurance Regulations to include additional oat counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.),* the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Oat Crop Insurance Regulations in accordance with the provisions of 7 CFR 427.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which oat crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which oat crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 427, Appendix B.

It has been determined that this action to amend the list of counties where oat crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (U.S.C. 1501 *et seq.),* the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Oat Crop Insurance Regulations (7 CFR Part 427) as Amendment No. 3, and (2) to supersede Amendment No. 1 to the Oat Crop Insurance Regulations appearing in the Federal Register on December 20, 1979 (44 FR 75373).

Appendix B

Counties Designated for Oat Crop Insurance—7 CFR Part 427

In accordance with the provisions of 7 CFR 427.1, the following counties have been designated for oat crop insurance:

California

Modoc

Illinois

Bureau
Carroll
Henry
Jo Daviess
Ogle
Stephenson

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Poweshiek
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Kansas

Dickinson
Marion

Michigan

Barry
Calhoun
Clinton
Eaton
Huron
Ionia
Isabella
Kent
Lapeer
Montcalm
St. Clair
Sanilac
Tuscola

Minnesota

Anoka
Becker
Beltrami
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago
Clay
Clearwater
Cottonwood
Crow Wing
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Hubbard
Isanti
Jackson
Kanabec
Kandiyohi
Kittson
Lac qui Parle
Lake of the Woods
Le Sueur

Lincoln

Lyon
McLeod
Mahnomen
Marshall
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
Otter Tail
Pennington
Pine
Pipestone
Polk
Pope
Red Lake
Redwood
Renville
Rice
Rock
Roseau
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Montana

Phillips
Valley

Nebraska

Antelope
Boone
Boyd
Cedar
Dakota
Dixon
Gage
Knox
Pierce
Platte
Thurston
Wayne

New York

Cattaraugus
Cayuga
Erie
Genesee
Jefferson
Madison
Monroe
Montgomery
Oneida
Onondaga
Orleans
Otsego
Tompkins
Wayne

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McLean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Ohio

Ashtabula
Columbiana
Coshocton
Holmes
Lorain
Mahoning
Mercer
Portage
Stark
Trumbull
Wayne

Oregon

Klamath

Pennsylvania

Armstrong
Bedford
Berks
Bradford
Butler
Cambria
Centre
Chester
Columbia
Crawford
Cumberland
Dauphin
Indiana
Juniata
Lawrence
Lehigh
Lycoming
Mercer
Northumberland
Perry
Schuylkill
Snyder
Somerset
Tioga
Union
Westmoreland

South Dakota

Aurora
Beadle
Bennett
Bon Homme
Brookings
Brown
Brule
Buffalo
Butte
Campbell
Charles Mix
Clark
Clay
Codington
Corson
Davison
Day
Deuel
Dewey
Douglas
Edmunds
Faulk
Grant
Gregory
Hamlin
Hand
Hanson
Harding
Hughes
Hutchinson
Hyde
Jerauld
Kingsbury
Lake
Lincoln
Lyman
McCook
McPherson
Marshall
Mellette
Miner
Minnehaha
Moody
Perkins
Potter
Roberts
Sanborn
Spink
Stanley
Sully
Todd
Tripp
Turner
Union
Walworth
Yankton
Ziebach

Texas

Colorado
Cottle
Fisher
Harris

Wisconsin

Barron
Brown
Buffalo
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Door
Dunn
Eau Claire
Fond du Lac
Grant
Green
Green Lake
Iowa
Jackson
Jefferson
Juneau
Kenosha
Kewaunee
La Crosse
Lafayette
Langlade
Manitowoc
Marathon
Marinette
Marquette
Monroe
Oconto
Outagamie
Ozaukee
Pepin
Pierce
Polk
Portage
Racine
Richland

Rock
Rusk
St. Croix
Sauk
Shawano
Sheboygan
Taylor
Trempealeau
Vernon
Walworth
Washington
Waukesha
Waupaca
Waushara
Winnebago
Wood

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)).

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1201 Filed 1–13–81; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 431

[Amendment No. 3]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Soybean Crop Insurance Regulations to include additional soybean counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Soybean Crop Insurance Regulations in accordance with the provisions of 7 CFR 431.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which soybean crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which soybean crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 431, Appendix B.

It has been determined that this action to amend the list of counties where soybean crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Soybean Crop Insurance Regulations (7 CFR Part 431) as Amendment No. 3, and (2) to supersede Amendment No. 1 to the Soybean Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75374–75375).

Appendix B

Counties Designated for Soybean Crop Insurance—7 CFR Part 431

In accordance with the provisions of 7 CFR 431.1, the following counties have been designated for soybean crop insurance:

Alabama

Autauga
Baldwin
Bullock
Butler
Calhoun
Cherokee
Coffee
Colbert
Conecuh
Covington
Crenshaw
Cullman
Dallas
De Kalb
Elmore
Escambia
Etowah
Franklin
Geneva
Greene
Hale
Henry
Houston
Jackson
Lamar
Lauderdale
Lawrence
Limestone
Lowndes
Macon
Madison
Marengo
Marion
Marshall
Mobile
Monroe
Montgomery
Morgan
Perry
Pickens
Pike
Russell
Shelby
Sumter
Talladega
Wilcox

Arkansas

Arkansas
Ashley
Chicot
Clark
Clay
Conway
Craighead
Crawford
Crittenden
Cross
Desha
Drew
Faulkner
Greene
Independence
Jackson
Jefferson
Lafayette
Lawrence
Lee
Lincoln
Little River
Lonoke
Miller
Mississippi
Monroe
Phillips
Poinsett
Prairie
Pulaski
Randolph
St. Francis
White
Woodruff

Delaware

Kent
New Castle
Sussex

Florida

Alachua
Calhoun
Columbia
Escambia
Gadsden
Gilchrist
Hamilton
Holmes
Jackson
Jefferson
Levy
Madison
Okaloosa
Santa Rosa
Suwannee
Washington

Georgia

Appling
Atkinson
Bacon
Baker
Bartow
Ben Hill
Berrien
Bleckley
Brooks
Bulloch
Burke
Calhoun
Candler
Coffee
Colquitt
Cook
Crawford
Crisp
Decatur
Dodge
Dooly
Dougherty
Early
Effingham
Emanuel
Evans
Floyd
Grady
Hart
Houston
Irwin
Jeff Davis
Jefferson
Jenkins
Johnson
Laurens
Lee
Lowndes
Macon
Marion
Miller
Mitchell
Montgomery
Peach
Pierce
Pulaski
Randolph
Screven
Seminole
Stewart
Sumter
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
Treutlen
Turner
Washington
Wayne
Webster
Wheeler
Wilcox
Worth

Illinois

Adams
Alexander
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Campaign
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
De Kalb
De Witt
Douglas
Du Page
Edgar
Edwards
Effingham
Fayette
Ford
Franklin
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Henry
Iroquois
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kane
Kankakee
Kendall
Knox
Lake
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Massac
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Perry
Piatt
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
St. Clair
Saline
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Union
Vermilion
Wabash
Warren
Washington
Wayne
White
Whiteside
Will
Williamson
Winnebago
Woodford

Indiana

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Carroll
Cass
Clark
Clay
Clinton
Daviess
Dearborn
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
Lagrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Martin
Miami
Montgomery
Morgan
Newton
Noble
Orange
Owen
Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Balck Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry.
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Michell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Kansas

Allen
Anderson
Atchison
Bourbon
Brown
Butler
Cherokee
Clay
Coffee
Crawford
Dickinson
Doniphan
Douglas
Edwards
Franklin
Greenwood
Harvey
Jackson
Jefferson
Johnson
Kiowa
Labette
Leavenworth
Linn
Lyon
McPherson
Marion
Marshall
Miami
Montgomery
Nemaha
Neosho
Osage
Pottawatomie
Sedgwick
Shawnee
Sumner
Wabaunsee
Wilson
Woodson

Kentucky

Allen
Ballard
Breckenridge
Butler
Caldwell
Calloway
Carlisle
Christian
Crittenden
Fulton
Graves
Grayson
Hancock
Hardin
Henderson
Hickman
Hopkins
Larue
Livingston
Logan
McCracken
Marshall
Meade
Muhlenberg
Nelson
Ohio
Shelby
Simpson
Taylor
Todd
Trigg
Trimble
Union
Warren
Webster

Louisiana

Acadia
Allen
Avoyelles
Beauregard
Bossier
Caddo
Calcasieu
Caldwell
Cameron
Catahoula
Concordia
East Carroll
Evangeline
Franklin
Iberville
Jefferson Davis
Lafayette
Madison
Morehouse
Natchitoches
Ouachita
Pointe Coupee
Rapides
Red River
Richland
St. Landry
St. Martin
Tensas
Vermilion
West Carroll

Maryland

Caroline
Carroll
Cecil
Charles
Dorchester
Kent
Queen Annes
St. Marys
Somerset
Talbot
Wicomico
Worcester

Michigan

Berrien
Branch
Calhoun
Cass
Clinton
Eaton
Genesee
Gratiot
Hillsdale
Huron
Ionia
Isabella
Lenawee
Macomb
Midland
Monroe
Montcalm
Saginaw
St. Clair
St. Joseph
Sanilac
Shiawassee
Tuscola
Van Buren
Washtenaw

Minnesota

Anoka
Becker
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago
Clay
Cottonwood
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Isanti
Jackson
Kandiyohi
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman

Olmsted
Otter Tail
Pipestone
Pope
Redwood
Renville
Rice
Rock
Scott
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

Adams
Alcorn
Attala
Benton
Bolivar
Calhoun
Carroll
Chickasaw
Claiborne
Clay
Coahoma
De Soto
George
Grenada
Hinds
Holmes
Humphreys
Issaquena
Itawamba
Lafayette
Lee
Leflore
Lowndes
Madison
Marshall
Monroe
Montgomery
Noxubee
Panola
Pearl River
Pontotoc
Prentiss
Quitman
Rankin
Sharkey
Sunflower
Tallahatchie
Tate
Tippah
Tunica
Union
Warren
Washington
Webster
Yalobusha
Yazoo

Missouri

Adair
Andrew
Atchison
Audrain
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Dade
Davis
De Kalb
Dunklin
Franklin
Gentry
Grundy
Harrison
Henry
Holt
Howard
Jackson
Jasper
Johnson
Knox
Lafayette
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mercer
Mississippi
Moniteau
Monroe
Montgomery
New Madrid
Nodaway
Osage
Pemiscot
Perry
Pettis
Pike
Platte
Putnam
Ralls
Randolph
Ray
Ripley
St. Charles
St. Clair
Ste. Genevieve
Saline
Schuyler
Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Warren
Worth

Nebraska

Antelope
Boone
Buffalo
Burt
Butler
Cass
Cedar
Colfax
Cuming
Dakota
Dixon
Dodge
Douglas
Gage
Knox
Lancaster
Madison
Nemaha
Otoe
Pierce
Platte
Richardson
Sarpy
Saunders
Seward
Stanton
Thurston
Washington
Wayne

New Jersey

Burlington
Cumberland
Gloucester
Hunterdon
Mercer
Monmouth
Salem

North Carolina

Alamance
Anson
Beaufort
Bertie
Bladen
Brunswick
Cabarrus
Camden
Chowan
Cleveland
Columbus
Craven
Cumberland
Currituck
Davidson
Duplin
Edgecombe
Franklin
Gates
Granville
Greene
Guilford
Halifax
Harnett
Hertford
Hoke
Hyde
Iredell
Johnson
Jones
Lenoir
Martin
Nash
Northampton
Onslow
Pamlico
Pasquotank
Perquimans
Pender
Pitt
Randolph
Robeson
Rowan
Sampson
Scotland
Stanly
Tyrrell
Wake
Warren
Washington
Wayne
Wilson
Yadkin

North Dakota

Grand Forks

Ohio

Adams
Allen
Ashland
Auglaize
Brown
Butler
Champaign
Clark
Clermont
Clinton
Crawford
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Huron
Knox
Licking
Logan
Lorain
Lucas
Madison
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Ottawa
Paulding
Pickaway
Preble
Putnam
Richland
Ross
Sandusky
Seneca
Shelby
Stark
Trumbull
Union
Van Wert
Warren
Wayne
Williams
Wood
Wyandot

Oklahoma

Craig
Grady
Hughes
McCurtain
Mayes
Muskogee
Ottawa
Wagoner

Pennsylvania

Berks
Bucks
Montgomery
Northampton

South Carolina

Aiken
Allendale
Anderson
Bamberg
Barnwell
Berkeley
Calhoun
Chesterfield
Clarendon
Colleton
Darlington
Dillon
Dorchester
Edgefield
Florence
Georgetown
Greenville
Hampton
Horry
Kershaw
Laurens
Lee
Lexington
Marion
Marlboro
Newberry
Orangeburg
Richland
Saluda
Spartanburg
Sumter
Williamsburg
York

South Dakota

Bon Homme
Brookings
Charles Mix
Clay
Deuel
Grant
Hamlin
Hutchinson
Kingsbury
Lake
Lincoln
McCook
Minnehaha
Moody
Roberts
Turner
Union
Yankton

Tennessee

Bedford
Benton
Carroll
Cheatham
Chester
Coffee
Crockett
Decatur
Dryer
Fayette
Franklin
Gibson
Giles
Hardeman
Hardin
Haywood
Henderson
Henry
Lake
Lauderdale
Lawrence
Lincoln
McNairy
Madison
Maury
Montgomery
Obion
Robertson
Rutherford
Shelby
Sumner
Tipton
Warren
Weskley
Williamson

Texas

Brazoria
Chambers
Colorado
Delta
Fort Bend
Floyd
Galveston
Hale
Harris
Jackson
Jefferson
Lamar
Lamb
Liberty
Lubbock
Matagorda
Red River
Swisher
Walller
Wharton

Virginia

Accomack
Amelia
Brunswick
Carolina
Chesapeake
Dinwiddie
Essex
Greensville
Hanover
Isle of Wight
King and Queen
King Willian
Mecklenburg
Northampton
Northumberland
Pittsylvania
Prince George
Richmond
Southampton
Suffolk City
Surry
Sussex
Virginia Beach
Westmoreland

Wisconsin

Buffalo
Columbia
Dane
Dunn

Jackson
Jefferson
Kenosha
Pepin
Pierce
Polk
Racine
Rock
St. Croix
Trempealeau
Walworth
Waukesha
Winnebago

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation

Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1198 Filed 1–13–81; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 432

[Amendment No. 2]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Corn Crop Insurance Regulations to include additional corn counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Corn Crop Insurance Regulations in accordance with the provisions of 7 CFR 432.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which corn crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which corn crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 432, Appendix B.

It has been determined that this action to amend the list of counties where corn crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Corn Crop Insurance Regulations (7 CFR Part 432) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Corn Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75375–75376).

Appendix B

Counties Designated for Corn Crop Insurance—CFR Part 432

In accordance with the provisions of 7 CFR 432.1, the following counties have been designated for corn crop insurance:

Alabama

Autauga
Baldwin
Barbour
Bullock
Butler
Calhoun
Cherokee
Coffee
Conecuh
Covington
Crenshaw
Cullman
Dale
De Kalb
Elmore
Escambia
Etowah
Franklin
Geneva
Greene
Henry
Houston
Jackson
Lamar
Lawrence
Lowndes
Madison
Macon
Marengo
Marion
Marshall
Mobile
Monroe
Montgomery
Perry
Pike
Russell
Sumter
Talladega
Wilcox

Arizona

Cochise
Graham

Arkansas

White

California

Butte
Fresno
Glenn
Kern
Kings
Merced
San Joaquin
Stanislaus
Sutter
Tulare
Yuba

Colorado

Adams
Baca
Bent
Boulder
Cheyenne
Crowley
Kit Carson
Larimer
Logan
Morgan
Otero
Phillips
Prowers
Pueblo
Sedgwick
Washington
Weld
Yuma

Delaware

Kent
New Castle
Sussex

Florida

Alachua
Calhoun
Columbia
Escambia
Gadsden
Gilchrist
Hamilton
Holmes
Jackson
Jefferson
Levy
Madison
Okaloosa
Santa Rosa
Suwannee
Washington

Georgia

Appling
Atkinson
Bacon
Baker
Barton
Ben Hill
Berrien
Bleckley
Brooks
Bulloch
Burke
Calhoun
Candler
Coffee
Colquitt
Cook
Crawford
Crisp
Decatur
Dodge
Dooly
Dougherty
Early
Effingham
Emanuel
Evans
Grady
Hart
Houston
Irwin
Jeff Davis
Jefferson
Jenkins
Johnson
Laurens
Lee
Lowndes
Macon
Marion
Miller
Mitchell
Montgomery
Peach
Pierce
Pulaski
Randolph
Screven
Seminole
Stewart
Sumter
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
Treutlen
Turner
Washington
Wayne
Webster
Wheeler
Wilcox
Worth

Idaho

Canyon
Cassia
Elmore
Jerome
Lincoln
Minidoka
Owyhee
Twin Falls

Illinois

Adams
Alexander
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Campaign
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
De Kalb
De Witt
Douglas
Du Page
Edgar
Edwards
Effingham
Fayette
Ford
Franklin
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Henry
Iroquois
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kane
Kankakee
Kendall
Knox
Lake
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Mason
Massac
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Olge
Peoria
Piatt
Perry
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
St. Clair
Saline
Sagamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Union
Vermilion
Wasbash
Warren
Washington
Wayne
White
Whiteside
Will
Williamson
Winnebago
Woodford

Indiana

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Carroll
Cass
Clark
Clay
Clinton
Daviess
Dearborn
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
Lagrange
Lake
Lawrence
La Porte
Madison
Marion
Marshall
Martin
Miami
Montgomery
Morgan
Newton
Noble
Orange
Owen
Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Subuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceloa
Page
Palo Alto
Plymouth
Pochontas
Polk
Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Kansas

Atchison
Bourbon
Brown
Butler
Cheyenne
Clay
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
Finney
Ford
Franklin
Gove
Grant
Gray
Greeley
Hamilton
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearny
Kiowa
Lane
Leavenworth
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
Morton
Nemaha
Ness
Osage
Pawnee
Pottawatomie
Pratt
Rawlins
Republic
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita

Kentucky

Allen
Ballard
Barren
Breckenridge
Butler
Caldwell
Calloway
Carlisle
Christian
Crittenden
Daviess
Graves
Grayson
Hancock
Hardin
Henderson
Hickman
Hopkins
Larue
Livingston
Logan
McCracken
McLean
Marshall
Meade
Muhlenberg
Nelson
Ohio
Shelby
Simpson
Taylor
Todd
Trigg
Trimble
Union
Warren
Webster

Louisiana

Beauregard
Iberville
Pointe Coupee
Richland

Maryland

Baltimore
Caroline
Carroll
Cecil
Charles
Dorchester
Frederick
Hartford
Kent
Montgomery
Queen Annes
St. Marys
Somerset
Talbot
Washington
Wicomico
Worcester

Michigan

Allegan
Arenac
Barry
Bay
Berrien
Branch
Calhoun
Cass
Clinton
Eaton
Genesee
Gratiot
Hillsdale
Huron
Ingham
Ionia
Isabella
Jackson
Kalamazoo
Kent
Lapeer
Lenawee
Livingston
Macomb
Mecosta
Midland
Monroe
Montcalm
Newaygo
Ottawa
Saginaw
St. Clair
St. Joseph
Sanilac
Shiawassee
Tuscola
Van Buren
Washtenaw

Minnesota

Anoka
Becker
Beltrami
Benton
Big Stone
Blue Earth
Brown
Carver

Chippewa
Chisago
Clay
Clearwater
Crow Wing
Cottonwood
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Hubbard
Isanti
Jackson
Kanabec
Kandiyohi
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
Otter Tail
Pine
Pipestone
Polk
Pope
Redwood
Renville
Rice
Rock
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

Attala
Calhoun
Claiborne
Clay
George
Itawamba
Lafayette
Lowndes
Marshall
Montgomery
Noxubee
Pearl River
Rankin
Tate
Webster
Yalobusha

Missouri

Adair
Andrew
Atchison
Audrain
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Dade
Daviess
De Kalb
Dunklin
Franklin
Gentry
Grundy
Harrison
Henry
Holt
Howard
Jackson
Jasper
Johnson
Knox
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mercer
Mississippi
Moniteau
Monroe
Montgomery
New Madrid
Nodaway
Osage
Pemiscot
Perry
Pettis
Pike
Platte
Putnam
Ralls
Randolph
Ray
St. Charles
St. Clair
Ste. Genevieve
Saline
Schuyler
Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Warren
Worth

Montana

Big Horn
Carbon
Custer
Dawson
Lake
Prairie
Richland
Rosebud
Stillwater
Treasure
Yellowstone

Nebraska

Adams
Antelope
Banner
Boone
Box Butte
Boyd
Brown
Buffalo
Burt
Butler
Cass
Cedar
Chase
Cheyenne
Clay
Colfax
Cuming
Custer
Dakota
Dawson
Deuel
Dixon
Dodge
Douglas
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Garden
Gosper
Greely
Hall
Hamilton
Harlan
Hayes
Hitchcock
Holt
Howard
Jefferson
Johnson
Kearney
Keith
Knox
Lancaster
Lincoln
Madison
Merrick
Morrill
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Perkins
Phelps
Pierce
Platte
Polk
Red Willow
Richardson
Rock
Saline
Sarpy
Saunders
Scotts Bluff
Seward
Sheridan
Sherman
Sioux
Stanton
Thayer
Thurston
Valley
Washington
Wayne
Webster
Wheeler
York

New Jersey

Burlington
Cumberland
Hunterdon
Mercer
Monmouth
Salem
Warren

New Mexico

Curry
Lea
Luna
Roosevelt
Union

New York

Cattaraugus
Cayuga
Chautauqua
Chenango
Columbia
Erie
Genesee
Jefferson
Livingston
Madison
Monroe
Montgomery
Niagara
Oneida
Onondaga
Ontario
Orleans
Otsego
St. Lawrence
Seneca
Steuben
Tompkins
Wayne
Wyoming
Yates

North Carolina

Alamance
Alleghany
Anson
Beaufort
Bertie
Bladen
Craven
Cumberland
Currituck
Davidson
Duplin
Edgecombe
Franklin
Gates
Granville
Greene
Guilford
Halifax
Harnett
Hertford
Hoke
Hyde
Iredell
Johnston
Jones
Lenoir
Martin
Nash
Brunswick
Cabarrus
Camden
Chowan
Cleveland
Columbus
Northampton
Onslow
Pamlico
Pasquotank
Pender
Perquimans
Pitt
Randolph
Robeson
Rowan
Sampson
Scotland
Stanly
Surry
Tyrrell
Union
Wake
Warren
Washington
Wayne
Wilson
Yadkin

North Dakota

Burleigh
Cass
Dickey
Dunn
Emmons
Grand Forks
La Moure
Morton
Ransom
Richland
Sargent
Traill

Ohio

Admas
Allen
Ashland
Ashtabula
Auglaize
Brown
Butler
Champaign
Clark
Clermont
Clinton
Columbiana
Coshocton
Crawford
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Holmes
Huron
Knox
Licking
Logan
Lorain
Locus
Madison
Mahoning
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Muskingum
Ottawa
Paulding
Pickaway
Portage
Preble
Putnam
Richland
Ross
Sandusky
Seneca
Shelby
Stark
Trumbull
Tuscarawas
Union
Van Wert
Warren
Wayne
Williams
Wood
Wyandot

Oklahoma

Cimarron
Grant
Harmon
Mayes
Texas

Pennsylvania

Adams
Armstrong
Bedford
Berks
Blair
Bradford
Bucks
Butler
Cambria
Centre
Chester
Columbia
Crawford
Cumberland
Dauphin
Erie
Franklin
Huntingdon
Indiana
Juniata
Lancaster
Lawrence
Lebanon
Lehigh
Lycoming
Mercer

Mifflin
Montgomery
Northampton
Northumberland
Perry
Schuylkill

Snyder
Somerset
Tioga
Union
Westmoreland

South Carolina

Allendale
Anderson
Bamberg
Barnewell
Berkeley
Calhoun
Chesterfield
Clarendon
Colleton
Dillon
Edgefield
Florence
Georgetown

Greenville
Hampton
Horry
Laurens
Newberry
Orangeburg
Richland
Saluda
Spartanburg
Sumter
Williamsburg
York

South Dakota

Aurora
Beadle
Bennett
Bon Homme
Brookings
Brown
Brule
Buffalo
Butte
Campbell
Charles Mix
Clark
Clay
Codington
Corson
Davison
Day
Deuel
Dewey
Douglas
Edmunds
Faulk
Grant
Gregory
Hamlin
Hand
Hanson
Harding

Hughes
Hutchinson
Hyde
Jerauld
Kingsbury
Lake
Lincoln
McCook
McPherson
Marshall
Mellette
Miner
Minnehaha
Moody
Perkins
Potter
Roberts
Sanborn
Spink
Stanley
Sully
Todd
Tripp
Turner
Union
Walworth
Yankton

Tennessee

Bedford
Benton
Carroll
Cheatham
Coffee
Crockett
Decatur
Dyer
Franklin
Gibson
Giles
Hardin
Henderson

Henry
Lawrence
Lincoln
McNairy
Maury
Montgomery
Robertson
Rutherford
Sumner
Warren
Weakley
Williamson

Texas

Armstrong
Atascosa
Austin
Bailey
Bee
Bell
Bexar
Brazoria
Caldwell
Calhoun
Cameron
Carson
Castro
Colorado
Dallam

De Witt
Donely
Duval
Falls
Fayette
Floyd
Fort Bend
Frio
Gray
Guadalupe
Hale
Hansford
Harris
Hartley
Hidalgo

Deaf Smith
Jim Wells
Karnes
Lamb
Lavaca
Lee
Limestone
Live Oak
Lubbock
Medina
Milam
Moore

Jackson
Parmer
San Patricio
Sherman
Swisher
Uvalde
Victoria
Waller
Wharton
Williamson
Wilson
Zavala

Utah

Box Elder

Utah

Virginia

Accomack
Amelia
Brunswick
Carolina
Chesapeake City
Culpeper
Dinwiddie
Essex
Fauquier
Greensville
Halifax
Isle of Wight
King and Queen
King William

Loudoun
Mecklenburg
Northampton
Northumberland
Pittsylvania
Prince George
Richmond
Southampton
Suffolk City
Surry
Sussex
Virginia Beach
Westmoreland

Washington

Franklin

Yakima

Wisconsin

Adams
Barron
Brown
Buffalo
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Door
Dunn
Eau Claire
Fond du Lac
Grant
Green
Green lake
Iowa
Jackson
Jefferson
Juneau
Kenosha
Kewaunee
La Crosse
Lafayette
Langlade
Manitowoc
Marathon

Marinette
Marquette
Monroe
Oconto
Outagamie
Ozaukee
Pepin
Pierce
Polk
Portage
Racine
Richland
Rock
Rusk
St. Croix
Sauk
Shawano
Sheboygan
Taylor
Trempealeau
Vernon
Walworth
Washington
Waukesha
Waupaca
Waushara
Winnebago
Wood

Wyoming

Goshen

Platte

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)).

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation

Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1197 Filed 1–13–81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 433

[Amendment No. 2]

Dry Bean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Dry Bean Crop Insurance Regulations to include additional dry bean counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant.".

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Dry Bean Crop Insurance Regulations in accordance with the provisions of 7 CFR 433.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which dry bean crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which dry bean crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 433, Appendix B.

It has been determined that this action to amend the list of counties where dry bean crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Dry Bean Crop Insurance Regulations (7 CFR Part 433) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Dry Bean Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75376).

Appendix B

Counties Designated for Dry Bean Crop Insurance—7 CFR Part 433

In accordance with the provisions of 7 CFR 433.1, the following counties have been designated for dry bean crop insurance:

Colorado

Boulder
Kit Carson
Larimer
Logan
Morgan
Phillips
Pueblo
Sedgwick
Washington
Weld
Yuma

Idaho

Ada
Canyon
Cassia
Gooding
Jerome
Lincoln
Minidoka
Owyhee
Twin Falls

Kansas

Sherman

Michigan

Arenac
Bay
Clinton
Eaton
Genesee
Gratiot
Huron
Ionia
Isabella
Lapeer
Midland
Montcalm
Saginaw
St. Clair
Sanilac
Shiawassee
Tuscola

Nebraska

Banner
Box Butte
Chase
Cheyenne
Deuel
Garden
Keith
Kimball
Morrill
Perkins
Scotts Bluff
Sheridan
Sioux

North Dakota

Grand Forks
Traill

Washington

Adams
Franklin
Grant

Wyoming

Big Horn
Goshen
Park
Platte

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1202 Filed 1–13–81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 434

[Amendment No. 1]

Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Tobacco (Dollar Plan) Crop Insurance Regulations to include additional tobacco counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tobacco (Dollar Plan) Crop Insurance Regulations in accordance with the provisions of 7 CFR 434.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which the dollar plan of tobacco crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which tobacco (dollar plan) crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 434, Appendix B.

It has been determined that this action to amend the list of counties where tobacco (dollar plan) crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434) as Amendment No. 1.

Appendix B

Counties Designated for Tobacco (Dollar Plan) Crop Insurance—7 CFR Part 434

In accordance with the provisions of 7 CFR 434.1, the following counties have been designated for tobacco (dollar plan) crop insurance:

State and county	Type(s)
Alabama: Butler	14
Florida:	
Gadsden	14
Gilchrist	14
Levy	14
Georgia:	
Appling	14
Atkinson	14
Bacon	14
Ben Hill	14
Berrien	14
Brantley	14
Brooks	14
Bulloch	14
Candler	14
Coffee	14
Colquitt	14
Cook	14
Decatur	14
Dodge	14
Effingham	14
Emanuel	14
Evans	14
Grady	14
Irwin	14
Jeff Davis	14
Lanier	14
Laurens	14
Lowndes	14
Mitchell	14
Montgomery	14
Pierce	14
Tattnall	14
Telfair	14
Thomas	14
Tift	14
Toombs	14
Treutlen	14
Turner	14
Ware	14
Wayne	14
Wheeler	14
Wilcox	14
Worth	14
Kentucky:	
Allen	35
Butler	35
Caldwell	22, 35
Calloway	23, 35
Carlisle	23, 35
Christian	22, 35
Daviess	36
Graves	23, 35
Hancock	36
Henderson	36
Hopkins	36
Logan	22, 35
McCracken	23, 35
McLean	36
Marshall	23, 35
Muhlenburg	22, 35
Ohio	36
Simpson	22, 35
Todd	22, 35
Trigg	22, 35
Warren	35
Webster	35
North Carolina:	
Alamance	11a
Alexander	11a
Beaufort	12
Bertie	12
Bladen	13
Brunswick	13
Carteret	12
Caswell	11a
Chatham	11b
Chowan	12
Columbus	13
Craven	12
Cumberland	13
Davidson	11a
Davie	11a
Duplin	12
Durham	11b
Edgecombe	12
Forsythe	11a
Franklin	11b
Gates	12
Granville	11b
Greene	12
Guilford	11a
Halifax	12
Harnett	11b
Hertford	12
Hoke	13
Iredell	11a
Johnston	12
Jones	12
Lee	11b
Lenoir	12
Martin	12
Montgomery	11b
Moore	11b
Nash	12
Northampton	12
Onslow	12
Orange	11b
Pamlico	12
Pender	12
Person	11a
Pitt	12
Randolph	11a
Richmond	11b
Robeson	13
Rockingham	11a
Sampson	12
Scotland	13
Stokes	11a
Surry	11a
Vance	11b
Wake	11b
Warren	11b
Washington	12
Wayne	12
Wilkes	11a
Wilson	12
Yadkin	11a
South Carolina:	
Berkeley	13
Colleton	13
Tennessee:	
Cheatham	22, 35
Dickson	22
Henry	23, 35
Macon	35
Montgomery	22
Robertson	22, 35
Stewart	22
Sumner	22, 35
Weakley	23, 35
Virginia:	
Amelia	11a, 21
Appomattox	11a, 21
Brunswick	11a, 21
Campbell	11a, 21
Caroline	37
Charlotte	11a, 21
Cumberland	11a, 21
Dinwiddie	11a, 21
Franklin	11a
Greensville	11a
Halifax	11a
Henry	11a
Lunenburg	11a, 21
Mecklenburg	11a
Nottoway	11a, 21
Patrick	11a
Pittsylvania	11a
Prince Edward	11a, 21
Prince George	11a
Southampton	11a
Suffolk City	11a
Sussex	11a
Wisconsin:	
Columbia	54
Crawford	56
Dane	54
Jefferson	54
La Crosse	55
Monroe	55
Richland	55
Rock	54
Trempealeau	55
Vernon	55

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A-95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Doris H. Gips,
Assistant Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Everett S. Sharp,
Acting Manager.

[FR Doc. 81-1228 Filed 1-13-81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 435

[Amendment No. 1]

Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Tobacco (Quota Plan) Crop Insurance Regulations to include additional tobacco counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix

B to the Tobacco (Quota Plan) Crop Insurance Regulations in accordance with the provisions of 7 CFR § 435.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which the quota plan of tobacco crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which tobacco (quota plan) crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 435, Appendix B.

It has been determined that this action to amend the list of counties where tobacco (quota plan) crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR Part 435) as Amendment No. 1.

Appendix B

Counties Designated for Tobacco (Quota Plan) Crop Insurance—7 CFR Part 435

In accordance with the provisions of 7 CFR 435.1, the following counties have been designated for tobacco (quota plan) crop insurance:

State and county	Type(s)
Florida:	
Alachua	14
Columbia	14
Hamilton	14
Madison	14
Suwannee	14
Indiana:	
Clark	31
Dearborn	31
Franklin	31
Harrison	31
Jefferson	31
Jennings	31
Ripley	31
Scott	31
Spencer	31
Switzerland	31
Washington	31
Kentucky:	
Adair	31
Allen	31
Anderson	31
Ballard	31
Barren	31
Bath	31
Boone	31
Bourbon	31
Boyle	31
Bracken	31
Breckinridge	31
Butler	31
Caldwell	31
Carlisle	31
Carroll	31
Casey	31
Christian	31
Clark	31
Daviess	31
Fayette	31
Fleming	31
Franklin	31
Garrard	31
Grant	31
Graves	31
Grayson	31
Green	31
Hancock	31
Hardin	31
Harrison	31
Hart	31
Henderson	31
Henry	31
Hopkins	31
Jessamine	31
Larue	31
Lewis	31
Lincoln	31
Logan	31
McCracken	31
Mclean	31
Madison	31
Marion	31
Marshall	31
Mason	31
Meade	31
Mercer	31
Metcalfe	31
Montgomery	31
Muhlenburg	31
Nelson	31
Nicholas	31
Ohio	31
Owen	31
Pendleton	31
Pulaski	31
Robertson	31
Russell	31
Scott	31
Shelby	31
Simpson	31
Spencer	31
Taylor	31
Todd	31
Trigg	31
Trimble	31
Warren	31
Washington	31
Wayne	31
Webster	31
Woodford	31
Missouri:	
Buchanan	31
Platte	31
North Carolina:	
Alleghany	31
Ashe	31
Avery	31
Buncombe	31
Haywood	31
Madison	31
Mitchell	31
Watauga	31
Yancey	31
Ohio:	
Adams	31
Brown	31
Clermont	31
Highland	31
South Carolina:	
Chesterfield	13
Clarendon	13
Darlington	13
Dillon	13
Dorchester	13
Florence	13
Georgetown	13
Horry	13
Kershaw	13
Lee	13
Marion	13
Marlboro	13
Orangeburg	13
Sumter	13
Williamsburg	13
Tennessee:	
Anderson	31
Bedford	31
Blount	31
Carter	31
Claiborne	31
Cocke	31
De Kalb	31
Dickson	31
Franklin	31
Giles	31
Grainger	31
Greene	31
Hamblen	31
Hancock	31
Hawkins	31
Jackson	31
Jefferson	31
Johnson	31
Knox	31
Lawrence	31
Lincoln	31
Loudon	31
McMinn	31
Macon	31
Marshall	31
Maury	31
Monroe	31
Montgomery	31
Putnam	31
Robertson	31
Rutherford	31
Sevier	31
Smith	31
Stewart	31
Sullivan	31
Sumner	31
Trousdale	31
Unicoi	31
Warren	31
Washington	31
White	31
Williamson	31
Wilson	31
Virginia:	
Lee	31
Russell	31
Scott	31
Smyth	31
Washington	31

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation.

(Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81-1229 Filed 1-13-81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 436

[Amendment No. 1]

Tobacco (Guaranteed Production) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Tobacco (Guaranteed Production) Crop Insurance Regulations to include additional tobacco counties approved by its Board of Directors. The purpose of this proposed amendment is to notify producers in these additional counties that they will be eligible to participate in the program if the proposed rule is adopted.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tobacco (Guaranteed Production) Crop Insurance Regulations in accordance with the provisions of 7 CFR 436.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which the guaranteed production plan of tobacco crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which tobacco (guaranteed production) crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 436, Appendix B.

It has been determined that this action to amend the list of counties where tobacco (guaranteed production) crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tobacco (Guaranteed Production) Crop Insurance Regulations (7 CFR Part 436) as Amendment No. 1.

Appendix B

Counties Designated for Tobacco (Guaranteed Production) Crop Insurance—7 CFR Part 436

In accordance with the provisions of 7 CFR 436.1, the following counties have been designated for tobacco (guaranteed production) crop insurance:

State and county	Type(s)
Maryland:	
Charles	32
St. Marys	32
Pennsylvania: Lancaster	41

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on January 7, 1981.

Dated: January 7, 1981.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1230 Filed 1–13–81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 437

[Amendment No. 1]

Canning and Freezing Sweet Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Canning and Freezing Sweet Corn Crop Insurance Regulations to include additional sweet corn counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Corp Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Canning and Freezing Sweet Corn Crop Insurance Regulations in accordance with the provisions of 7 CFR 437.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which sweet corn crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which canning and freezing sweet corn crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 437, Appendix B.

It has been determined that this action to amend the list of counties where canning and freezing sweet corn crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Canning and Freezing Sweet Corn Crop Insurance Regulations (7 CFR Part 437) as Amendment No. 1.

Appendix B

Counties Designated for Canning and Freezing Sweet Corn Insurance—7 CFR Part 437

In accordance with the provisions of 7 CFR 437.1, the following counties are designated for canning and freezing sweet corn crop insurance:

Minnesota

Faribault
Goodhue
Martin
McLeod
Renville

Wisconsin

Adams
Brown
Columbia
Dane
Dodge
Fond du Lac
Green Lake
Jefferson
Marinette
Outagamie
Ozaukee
Portage
Rock
St. Croix
Sauk
Sheboygan
Walworth
Washington
Waushara
Winnebago

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Everett S. Sharp,

Acting Manager.

[FR Doc. 81–1238 Filed 1–13–81; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. 80–20]

Assessment of Fees: National Banks; District of Columbia Banks

AGENCY: Comptroller of the Currency.

ACTION: Notice of proposed rulemaking; clarification.

SUMMARY: This document clarifies a notice of proposed rulemaking concerning the revision of trust examination fees that appeared at page 85045 in the **Federal Register** of Wednesday, December 24, 1980 (45 FR 85045). The action is necessary to fully and accurately describe the method of billing for trust examinations and the method of calculating the hourly fee.

DATE: Comments on the proposed rule must be received no later than February 23, 1981.

ADDRESS: Comments should be directed to—Docket No. 80–20, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, S.W., 3rd Floor, Washington, DC 20219, Attention: Marie Giblin, (202) 447–1800.

FOR FURTHER INFORMATION CONTACT:
David Nebhut, Financial Economist, Banking Research and Economic Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219, (202) 447–1825; or
Jerome Edelstein, Attorney, Legal Advisory Services Division, Office of the Comptroller of the Currency, Washington, DC 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: Certain amendments to the notice of proposed rulemaking are being made to clarify the procedure proposed for billing for trust examinations and for calculating the hourly rate. The proposed hourly rate of $32.44 was arrived at by dividing projected trust examination expenses by the number of hours projected to be spent by trust examiners in conducting trust examinations. This includes hours spent by trust examiners in the performance of the examination while they are on and off the premises of the institution being examined. The charge for each trust examination is that hourly rate multiplied by the number of hours examiners spend in the performance of the examination on and off the premises of the institution being examined. This is the current practice and no change is contemplated. However, certain portions of the notice of proposed rulemaking indicated that the projected number of billable hours and the charge for trust examinations were based only on the amount of hours spent on site in conducting examinations.

Accordingly, the following amendments are made in FR Doc. 80–40095 appearing on page 85045 in the issue of December 24, 1980:

1. On page 85046 at the top of column two, on the fourteenth line, "As is the current practice, banks will be charged according to the number of hours an examiner spends in the bank conducting the examination", is amended to read "As is the current practice, banks will be charged according to the number of hours an examiner spends in performance of the examination".

2. On page 85047, the end of the first full paragraph under the table in column one, "The hourly fee for a given year will be calculated by dividing trust examination expenses projected in the budget for that year by the projected number of on-site billable trust examination hours in that year", is amended to read "The hourly fee for a given year will be calculated by dividing trust examination expenses projected in the budget for that year by the projected number of billable trust examination hours in that year".

3. On page 85047, the first full paragraph under the table in column two, "Billable hours are projected based on historical growth in on-site examination hours," is amended to read, "Billable hours are projected based on historical growth in examination hours".

4. On page 85048, at the bottom of column one, the second sentence of proposed 12 CFR 8.7(c) which reads "The total fee for a trust examination is the hourly fee multiplied by the number of hours examiners spend on site in performing the trust examination", is amended to read, "The total fee for a trust examination is the hourly fee multiplied by the number of hours examiners spend in performing the trust examination".

5. On page 85048, at the bottom of column two, the first sentence of proposed 12 CFR 8.7(d)(2) which reads "(2) Projected number of billable hours is the total number of hours projected to be spent by trust department examiners at on-site examinations during the year for which the hourly fee is being set", is amended to read "(2) Projected number of billable hours is the total number of hours projected to be spent by trust department examiners in the performance of examinations during the year for which the hourly fee is being set."

Dated: January 8, 1981.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 81–1250 Filed 1–13–81; 8:45 am]

BILLING CODE 4810–33–M

V46/9 JA 14 81 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Permanent Regulatory Program Submission From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977; Additional Comment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of additional comment concerning the Illinois Proposed Permanent Regulatory Program.

SUMMARY: On October 31, 1980, the Secretary of the Interior announced his decision approving in part and disapproving in part the proposed regulatory program submitted by the State of Illinois under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). 45 FR 72468. On November 10, 1980, OSM sent to the State of Illinois further comments on its proposed regulatory program. The availability of these comments is being announced today.

ADDRESSES: Copies of the Illinois program and the Administrative Record on the Illinois program are available for public inspection and copying during business hours at:

Office of Surface Mining—Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. (202) 343–4728

Office of Surface Mining—Reclamation and Enforcement, Region III, Fifth Floor, Room 510, Federal Building & U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204. (317) 269–2609

Department of Mines & Minerals, Division of Land Reclamation, 227 South 7th Street, Suite 204, Springfield, Illinois 62706

Department of Mines & Minerals, Division of Land Reclamation, Southern District Field Office, Route 6, Box 140A, Marian, Illinois 62959

FOR FURTHER INFORMATION CONTACT: Mr. J. M. Furman, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone (317) 269–2629

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Illinois submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA. Administrative Record Number (ARN) I11–003. On July 30, 1980, the last day of the public comment period on the program, Illinois submitted to OSM a substantial body of additional material relating to its proposed program. OSM considered this material as it related to the systems, procedures and operating plans of the State in the Secretary's findings regarding the State program. The Secretary's decision and findings on the proposed Illinois program were published on October 31, 1980. 45 FR 72468.

During a meeting between OSM and representatives of the State on October 31, 1980 (ARN: I11–0231), State representatives expressed concern that some issues had been identified in the Secretary's findings that would be resolved by a more thorough analysis of material submitted to OSM on July 30, 1980. OSM agreed to again review certain portions of the material and advise the State by letter of any issues which might be considered resolved subject to additional public comments when the State's program proposal is resubmitted.

On November 10, 1980, OSM provided the State with additional comments concerning Volume 10 (ARN: I11–0175) of the July 30, 1980, submission. These additional comments state whether material submitted on July 30, 1980, (1) appears to resolve OSM concerns, (2) does not appear to address OSM concerns, or (3) addresses OSM concerns, but does not resolve them. These additional comments have been placed in the Administrative Record (ARN: I11–0233) at the places listed under "addresses."

The State of Illinois has been enjoined from resubmitting its proposed program until June 11, 1981, by the Seventh Judicial Circuit Court of Illinois, Sangamon County, *Illinois Coal Association* v. *Illinois Department of Mines and Minerals*, No. 80–CH–303. Upon resubmission of the Illinois proposed program, a **Federal Register** notice will be published notifying the public of the receipt of the submission and setting the date, time, and place of the public hearing, and the public comment period.

Dated: January 8, 1981.

Walter N. Heine,

Director, Office of Surface Mining.

[FR Doc. 81–1352 Filed 1–13–81; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 918

Public Disclosure Comments Received From Federal Agencies on the Utah State Permanent Program Submitted Under Public Law 95–87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Public Disclosure of Comments on the Utah Program Resubmission.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(A) or resubmitted under Section 530(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal Agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies and is today announcing their public disclosure with regard to the Utah State Permanent Program.

ADDRESS: Copies of comments are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement; Brooks Towers, Room 5010, 2020 28th Street, Denver, Colorado 80202, Telephone (303) 837–5421

Office of Surface Mining, Department of the Interior, Room 153, South Building, 1951 Constitution Avenue N.W., Washington, D.C. 20240, Division of Oil, Gas and Mining, West North Temple, Salt Lake City, Utah

FOR FURTHER INFORMATION CONTACT: Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 or Mr. Carl C. Close, Assistant Director State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior approved in part and disapproved in part the initial Utah program submission on October 16, 1980. Comments on the initial submission were solicited from the Federal agencies listed below and the disclosure of their comments appeared on the **Federal Register** on August 20, 1980 (45 CFR 44577).

The Secretary is now considering the resubmitted Utah program for approval in accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1). The resubmitted Utah program may not be approved until the Secretary has solicited and public disclosed the views of the Administrator of the Environmental Protection Agency, the

Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on this resubmitted Utah Program:

- Department of Agriculture
  - USDA State Land Use Committee
  - Soil Conservation Service
  - Forest Service
  - Farmers Home Administration
  - Scientists and Educational Administration-Agricultural Research
  - Agricultural Stabilization and Conservation Service
- Advisory Council on Historic Preservation
- Council on Environment Quality
- Department of Labor
  - Mine Safety and Health Administration
- U.S. Environmental Protection Agency
- Water Resources Council
- Department of Energy
- Department of the Interior
  - Bureau of Indian Affairs
  - Bureau of Land Management
  - Bureau of Mines
  - Heritage Conservation and Recreation Service
- Water and Power Resources Service (Formerly Bureau of Reclamation)
  - Fish and Wildlife Service
  - National Park Service
- U.S. Geological Survey
- Upper Colorado River Basin Commission
- U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from:

- U.S. Environmental Protection Agency
- Department of the Interior
  - Bureau of Land Management
  - U.S. Geological Survey

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: January 9, 1981.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 81-1280 Filed 1-13-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 649

Graduate and Professional Study Fellowships

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking: Cross-reference.

SUMMARY: The Secretary proposes regulations for Graduate and Professional Study Fellowship Program in Title 34 of the Code of Federal Regulations: The Secretary invites comments on these proposed regulations. The text of the regulations on which the Secretary invites comments are published in the Rules and Regulations section of this issue of the **Federal Register**. They have been adopted as final regulations and will govern these programs until the Secretary issues new regulations based on public comment.

DATES: All comments, suggestions, or objections must be received on or before March 16, 1981.

ADDRESS: Comments should be addressed to Mr. Donald N. Bigelow, Chief, Graduate Training Branch, Division of Training and Facilities, (Room 3060, ROB-3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Donald N. Bigelow, Telephone: (202) 245-2347.

Invitation to comment: For additional details on how to comment, see the Preamble of the final regulations for this programs published in this issue of the **Federal Register.**

Dated: January 9, 1981.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.094, Graduate and Professional Study Fellowship)

[FR Doc. 81-1336 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101-11

Records Management; Technical Assistance Program

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the description of technical assistance to more accurately reflect the concept of records and information management. A provision has been added which requires Federal agencies to document and provide to NARS on request any savings or benefits resulting from NARS technical assistance recommendations. These followup procedures will allow NARS to monitor the effectiveness of the technical assistance program.

DATE: Comments must be received on or before February 13, 1981.

ADDRESS: Comments should be addressed to: General Services Administration (NR), Attn: John H. Gant, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John H. Gant (202-376-8836).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, GSA proposes to amend 41 CFR Part 101-11 as follows:

PART 101-11—RECORDS MANAGEMENT

1. The table of contents for Part 101.11 is amended by revising all entries for Subpart 101-11.10 as follows:

Subpart 101-11.10—Technical Assistance

Sec.
101-11.1000 Scope.
101-11.1001 Services available.
101-11.1002 Studies.
101-11.1003 Requests for service.
101-11.1004 Followup procedures.

Authority: Sec. 205(c), 63 Stat. (40 U.S.C. 486(c)).

Subpart 101-11.10—Technical Assistance

2. Subpart 101-11.10 is revised to read as follows:

§ 101-11.1000 Scope.

This subpart contains information and procedures pertaining to the furnishing of technical assistance by the National Archives and Records Service (NARS), General Services Administration. Technical assistance is provided, usually on a reimbursable basis, to help Federal agencies establish and benefit from records and information management programs, as authorized by sections 3101-3106 of title 44, United States Code.

§ 101-11.1001 Services available.

Federal agencies may obtain from NARS the following technical assistance services:

(a) Advice on and training for instituting records and information management activities described in the Part 101-11.

(b) Studies involving one or more of the records and information management areas described in this Part 101-11.

§ 101-11.1002 Studies.

Records and information system studies determine requirements for effective and efficient system management and operation, develop procedures for meeting those requirements, and recommend new or improved record systems. These studies cover all records creation and use processes and operating procedures, whether or not automated data processing (ADP) equipment is involved. Where ADP is involved, studies will include (a) manual and machine steps from the initiation of the process to the prescription of outputs and of valid inputs and (b) the adequacy of outputs and their use. Studies will not result in the design of ADP software nor determine hardware requirements. For information about assistance in ADP systems design, see § 101-32.801-2.

§ 101-11.1003 Requests for service.

Agencies desiring NARS technical assistance should contact the Records and Information Management Division in their GSA regions. For studies conducted on a reimbursable basis, an interagency agreement shall be negotiated specifying the study requirements and the amount of reimbursement.

§ 101-11.1004 Followup procedures.

When a technical assistance study results in recommendations to an agency, the agency shall document any resulting savings or other benefits and, on request, shall provide to NARS this information or the reasons for not implementing any recommendation. NARS will conduct followup reviews to assess the degree of implementation and benefits of the studies.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 29, 1980.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 81-1304 Filed 1-13-81; 8:45 am]

BILLING CODE 6820-26-M

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41 CFR Part 101-11

Records Management; Interagency Reports Management Program

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: Evaluations of agency interagency reports management programs and clearance requests for new, revised, and extended interagency reporting requirements reflect a need to provide improved standards and guidance for the development and approval of interagency reporting requirements. This regulation is reorganized and expanded to provide clearer procedures to agencies for evaluating and requesting clearance of their interagency reporting requirements.

DATE: Comments must be received on or before March 16, 1981.

ADDRESS: Submit comments to: Gerry Whiting, General Services Administration (NRS), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Jr., Interagency Operating Programs Branch, Information Systems Division, Office of Records and Information Management (202-376-8914).

SUPPLEMENTAL INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, GSA proposes to amend Part 101-11 as follows:

PART 101-11—RECORDS MANAGEMENT

1. The table of contents for Part 101-11 is amended by revising all entries for Subpart 101-11.11 as follows:

Subpart 101-11.11—Interagency Reports

Sec.
101-11.1100 Scope of subpart.
101-11.1101 Authority.
101-11.1102 Objectives.
101-11.1103 Definitions.
101-11.1103-1 Report.
101-11.1103-2 Interagency report.
101-11.1103-3 Agency.
101-11.1103-4 Interagency Reports Coordinator.
101-11.1104 Agencies' responsibilities.
101-11.1105 Establishing or revising interagency reporting requirements.
101-11.1106 Extension of interagency reporting requirements.
101-11.1107 Delegation of interagency reports approval.
101-11.1108 Discontinuance of interagency reporting requirements.
101-11.1109 Justification for interagency reporting requirements.
101-11.1110 Cost estimates.
101-11.1111 Special provisions.
101-11.1111-1 Exemptions.
101-11.1111-2 Waivers.
101-11.1111-3 Appeal procedure.
101-11.1111-4 Classified reporting requirements.
101-11.1112 Coordination with other clearance authorities.
101-11.1112-1 Interagency/public reporting requirements.
Sec.
101-11.1112-2 Interagency reporting coordination with Standard and Optional forms approved by NARS.
101-11.1113 Procurement of forms.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Subpart 101-11.11 is revised to read as follows:

Subpart 101-11.11—Interagency Reports

§ 101-11.1100 Scope of subpart.

This subpart prescribes procedures to be followed by agencies to obtain approval for proposed interagency reporting requirements.

§ 101-11.1101 Authority.

The provisions of this subpart are issued under the Federal Records Act (44 U.S.C. Chapters 29 and 31) and Office of Management and Budget (OMB) Circular A-40, revised, dated May 3, 1973. The Interagency Reports Management Program is administered by the National Archives and Records Service (NARS) of the General Services Administration (GSA).

§ 101-11.1102 Objectives.

The objectives of the Interagency Reports Management Program are the:

(a) Establishment of cost-effective practices and procedures for managing interagency reporting requirements; and

(b) Approval of interagency reporting requirements based on a valid need and compliance with applicable laws and regulations (i.e., Freedom of Information Act (5 U.S.C. 552); the Privacy Act of 1974 (5 U.S.C. 552a); and Federal Information Processing Standards (FIPS) (40 U.S.C. 759(f); 15 CFR 6; and Executive Order 11717, dated May 9, 1973)).

§ 101-11.1103 Definitions.

For the purposes of this subpart, the following definitions apply.

§ 101-11.1103-1 Report.

(See § 101-11.207-2(a).)

§ 101-11.1103-2 Interagency report.

A reporting requirement imposed by an agency on one or more other agencies.

§ 101-11.1103 Agency.

Any executive department, agency, or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

§ 101-11.1103-4 Interagency Reports Coordinator.

The official designated by an agency to: (a) Serve as the liaison between agency components, other agency components, other agencies, and NARS on interagency reporting matters; (b) clear and evaluate each agency request for a new, revised, or extended interagency report before signing and submitting Standard Form 360, Request for Clearance of an Interagency Reporting Requirement (§ 101-11.4922); (c) coordinate the agency response to requests from other requiring agencies for cost estimates for new or revised interagency reports; and (d) maintain the official agency records on interagency reporting requirements.

§ 101-11.1104 Agencies' responsibilities.

Each agency shall:

(a) Designate officials to serve as Interagency Report Coordinator and Alternate. The names, titles, organizational locations, and telephone numbers of the designees shall be submitted to: General Services Administration (NR), Washington, DC 20408. Each change of designation shall be submitted within 30 calendar days to the above address.

(b) Provide to NARS a copy of the agency's internal instructions for interagency reports management.

(c) Develop new and revised interagency reporting requirements in accordance with the provisions of this subpart.

(d) Obtain NARS approval for each new, revised, or extended interagency reporting requirement at the earliest practicable opportunity.

(e) Provide responding agencies with the opportunity to comment on each proposed new or revised interagency reporting requirement. Whenever the estimated reporting costs for a new or substantially revised requirement exceed $500,000, the requiring agency shall conduct a pilot test of the system, after obtaining NARS approval.

(f) Review the NARS' Inventory of Approval Interagency Reports to determine if a proposed reporting requirement can be met with a currently approved report.

(g) Establish and implement procedures for reviewing proposed reporting requirements to determine if the information is available in the agency.

(h) Review existing interagency reporting requirements for possible improvements when submitting requests for extensions of clearance.

(i) Reply within 3 weeks to other agencies' written requests for cost estimates for responding to their current or proposed interagency reporting requirements.

(j) Respond to approved interagency reporting requirements as specified in prescribing instructions.

(k) Not respond to interagency reporting requirements that have not been approved by NARS and inform NARS of these requirements.

§ 101-11.1105 Establishing or revising interagency reporting requirements.

(a) Except as provided by § 101-11.1107, the requiring agency shall consult with NARS on proposed new or revised interagency reporting requirements before submitting Standard Form 360, Request for Clearance of an Interagency Reporting Requirement. NARS will (1) verify the need; (2) ensure that the requirement will not result in duplicate reporting; (3) recommend sampling measures where applicable; and (4) assess the impact on respondents. Following discussions with NARS, the requiring agency shall justify the proposed requirement and estimate reporting costs in accordance with the criteria in §§ 101-11.1109 and 101-11.1110 and submit a Standard Form 360 and supporting documentation to NARS through the agency's designated Interagency Reports Coordinator.

(b) If the requirement is approved, NARS will assign it an Interagency Report Number and an expiration date and return the approved Standard Form 360 to the Interagency Reports Coordinator of the requiring agency.

(c) The requiring agency shall notify responding agencies of approved reporting requirements by formal directive or correspondence. The document promulgating the requirement shall include the following information: (1) Purpose; (2) report title; (3) Interagency Report Number; (4) report format; (5) preparation instructions; (6) responding agencies; (7) frequency; (8) number of copies; (9) mailing address; (10) due date; and (11) whether negative submissions are required. If a form is required for data collection, the Interagency Report Number shall be placed on the form, preferably in the upper right corner.

§ 101-11.1106 Extension of interagency reporting requirements.

NARS will notify requiring agencies at least 90 calendar days in advance when an approved reporting requirement is scheduled to expire. A request for an extension shall be made in the same manner prescribed for new and revised reports (§ 101-11.1105 or 101-11.1107). Extension requests that require NARS approval shall be submitted at least 60 calendar days in advance of the expiration date.

§ 101-11.1107 Delegation of interagency reports approval.

Upon review of an agency's internal procedures for managing interagency reports, NARS may delegate to the agency the authority to approve, revise, or extend reporting requirements whose total annual estimated reporting costs are $5,000 or less. Within 5 workdays after each action taken under this delegated authority, the agency will submit to NARS an original and one copy of Standard Form 360 and a justification statement. Under item 7, enter "Approved under NARS delegation of authority." NARS will assign an Interagency Report Number to each new reporting requirement, assign an initial or new expiration date, and return a copy of the form to the requiring agency. Agency approved reports shall be implemented in the same manner described in § 101-11.1105(c).

§ 101-11.1108 Discontinuance of interagency reporting requirements.

When an interagency reporting requirement is no longer needed, the requiring agency shall notify NARS and all responding agencies. Approval of existing interagency reporting requirements will be discontinued by NARS on their expiration dates unless a request for an extension or agency approved Standard Form 360 is submitted in accordance with § 101-11.1106 or § 101-11.1107.

§ 101-11.1109 Justification for interagency reporting requirements.

A justification statement, signed by the official who initiated the reporting requirements, shall be attached to Standard Form 360. The justification statement shall:

(a) Describe specifically why the information from the proposed report is needed and how it will be used.

(b) Describe the expected benefits from using the information. Determine the benefits in terms of a dollar value to the extend possible and assess the probability that these benefits will be realized.

(c) Describe the consequences of not obtaining the information.

(d) Identify any responding agencies that participated in designing, testing, and cost estimating the proposed report.

(e) Identify agencies that agree and agencies that do not agree with the proposed report. Summarize the reasons cited by the responding agencies.

(f) Explain how the estimate of reporting costs (§ 101-11.1110) shown on the Standard Form was derived. Attach Optional Form 101, Summary Worksheet for Estimating Reporting Costs, to provide the data submitted by each agency that participated in the estimating process.

(g) Describe the consideration that was given to alternative reporting plans in regard to each of the following: Frequency of reporting, use of exception reporting, use of sampling techniques, selection of respondents, amount of detail, format of report, and method of transmission.

§ 101-11.1110 Cost estimates.

(a) Cost estimates shall be developed for each new, revised, or extended reporting requirement as prescribed in the "Guide to Estimating Reporting Costs," published by NARS.

(b) Estimated reporting costs for other than one-time reporting requirements shall be verified by the requiring agency not later than 1 year after initiation of each report. If the verification indicates a variance of more or less than 10 percent of the current estimated reporting costs, a revised Standard Form 360 reflecting the new estimates shall be forwarded to NARS. Under item 7, enter "Submitted under FPMR 101-11.1110(b)."

(c) When the requiring agency anticipates that the cost estimating process for a reporting requirement will exceed one-half of anticipated reporting costs, the reporting burden may be estimated in workhours instead of dollar values in item 9 of the Standard Form 360. An explanation for using this method shall be included in the justification statement.

§ 101-11.1111 Special provisions.

§ 101-11.1111-1 Exemptions.

(a) the following interagency reporting requirements are exempted from the clearance provisions of Subpart 101-11.11; however, interagency reporting requirements designed to respond to an exempted requirement are subject to the clearance provisions of this subpart. Exempted requirements are: (1) Legislative requirements or congressional committee requests; (2) judicial branch requirements in court orders or other judicial determinations; (3) Executive Office requirements in Presidential directives; and (4) OMB budgetary, program review and coordination, and legislative clearance requirements.

(b) Questions concerning the applicability of these exemptions shall be directed to NARS.

§ 101-11.1111-2 Waivers.

The justification and cost-estimating requirements specified in §§ 101-11.1109 and 101-11.1110 may be waived by NARS upon receipt of a written request explaining the need for the report and the waiver. All waiver requests shall include a summary cost estimate in item 9 of the Standard Form 360.

§ 101-11.1111-3 Appeal procedure.

If NARS cannot resolve differences between requiring and responding agencies concerning an interagency reporting requirement, a requiring or responding agency may appeal the NARS decision. Appeals shall be stated in writing and sent to NARS for forwarding to the Office of Management and Budget along with NARS' recommendation.

§ 101-11.1111-4 Classified reporting requirements.

Security classification of an interagency reporting requirement does not exempt it from the provisions of this subpart. NARS shall be advised of classified requirements so that appropriate procedures will be followed to safeguard the classified information.

§ 101-11.1112 Coordination with other clearance authorities.

§ 101-11.1112-1 Interagency/public reporting requirements.

Interagency reporting requirements that also require approval by the Office of Management and Budget (OMB) as public use reports under 44 U.S.C. 3509 shall first be submitted to OMB with an original and two copies of both Standard Form 360 and Standard Form 83, Clearance Request and Notice of Action. Upon completion of its review, OMB shall forward these requests to NARS for review.

§ 101-11.1112-2 Interagency reporting coordination with Standard and Optional forms approved by NARS.

As described in Subpart 101-11.8, NARS is responsible for approving Standard and Optional forms. Accordingly, when an agency plans to use new or revised Standard or Optional forms in conjunction with a proposed interagency reporting requirement, the agency shall also submit a Standard Form 152, Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms.

§ 101-11.1113 Procurement of forms.

The forms required by this subpart may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office that provides support for the requesting activity.

Dated: December 31, 1980.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 81-1331 Filed 1-13-81; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Special Rules Applicable to Surface Coal Mining Hearings and Appeals

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rules.

SUMMARY: These proposed rules add procedures for adjudicative proceedings for the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977. These proposed rules are necessary to set forth the contents, time and place for filing, and other matters concerning legal documents and proceedings involved in administrative review of decisions under the permanent regulatory program. These proposed rules will supplement existing rules in this subpart governing hearings and appeals under the Surface Mining Act.

DATE: Comments must be received at the address below on or before February 13, 1981.

ADDRESS: Written comments may be mailed or hand delivered to: Board of Surface Mining and Reclamation Appeals, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Bruce R. Harris, Board of Surface Mining and Reclamation Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203. 703-557-9037.

SUPPLEMENTARY INFORMATION: Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (Act), 30 U.S.C. 1254 (Supp. II 1978), provides for the implementation of a Federal program in a State which fails to submit a State program covering surface coal mining and reclamation operations; which fails to resubmit an acceptable State program after initial disapproval of a proposed State program; or which fails to implement, enforce, or maintain its approved State program as provided in the Act. The Secretary is required by section 523 of the Act, 30 U.S.C. 1273, to implement a Federal lands program applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands, except Indian lands, which, to the extent they are covered by the Act, are governed by section 710, 30 U.S.C. 1300.

The Secretary has promulgated regulations to implement both Federal programs and a Federal lands program. These regulations are found in 30 CFR Parts 733, 736, and 740 through 745. The Act contains various references to the necessity for hearings to review actions taken pursuant to statutory mandates. In addition, the regulations make numerous references to proceedings which shall be conducted in the Office of Hearings and Appeals pursuant to procedures set forth in 43 CFR Part 4. These proposed regulations have been developed to provide procedures for the administrative proceedings required by the Act and the permanent program regulations.

The public is invited and encouraged to comment on these proposed regulations in order that the Department may consider suggested changes before promulgating the final regulations.

A brief discussion of the major parts of the proposed regulations follow:

Sections 4.1350–4.1356 set forth the procedues for obtaining review of a preliminary finding by the Office of Surface Mining Reclamation and Enforcement (OSM) that the permit applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of the Act, State or Federal laws or regulations, or individual permit conditions.

Sections 4.1360–4.1369 embrace the rules for obtaining review of a decision by OSM to approve or disapprove a permit application, in whole or in part.

Sections 4.1370–4.1379 set forth the methods for seeking review of OSM permit modification orders, or decisions of OSM approving or disapproving applications for permit revisions, permit renewals, or the transfer, assignment, or sale of rights granted under permits.

Sections 4.1380–4.1386 outline the rules for obtaining review, pursuant to 30 CFR 776.14(b), of a decision of OSM to approve or disapprove a coal exploration permit, in whole or in part.

Sections 4.1390–4.1395 set out the procedures for seeking review of a decision of OSM to approve or disapprove, in whole or in part, an application for release of a performance bond for surface coal mining and reclamation operations.

Sections 4.1400–4.1405 contain the rules for obtaining review of a decision of OSM requiring forfeiture of all or part of a performance bond, as a result of the permittee's failure to meet a condition or conditions of the bond.

Sections 4.1410–4.1414 provide for review of a determination of OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or not exist on the date of enactment of the Act, on lands where operations are prohibited or limited by section 522(e) of the Act, 30 U.S.C. 1272(e).

Review of a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations

Section 4.1351 provides that during the permit application review process OSM must make a preliminary determination concerning the demonstrated pattern question. If OSM finds no pattern, it continues its permit application review process. On the other hand, if OSM determines that there is a pattern, it must issue a notice of intent to deny the permit based on such preliminary finding and the opportunity for a hearing must be provided, as required by section 510(c) of the Act, 30 U.S.C. § 1260(c).

Section 4.1352(b) allows the applicant or operator specified in the application to file with the Hearings Division, Office of Hearings and Appeals, a request for hearing on OSM's preliminary finding. Failure to make a timely filing will constitute a waiver of the opportunity for a hearing prior to a final finding by OSM on the pattern question. Section 4.1354 indicates that the administrative law judge should act quickly to schedule a hearing and issue a decision and that the definitions found in 30 CFR 786.5 are applicable to these proceedings. Section 4.1355 establishes that OSM has the burden of going forward to establish a prima facie case for the existence of a pattern. The ultimate burden of persuasion that no pattern exists shall rest with the person requesting the hearing. Any party aggrieved by the decision of the administrative law judge may appeal to the Board pursuant to the established procedures in 43 CFR 4.1271.

Review of Permit Application Approval or Disapproval

The scope section, 4.1360, indicates that these rules apply to all applications for new permits, including new permits required under 30 CFR 788.12(d); 788.13(b); 788.14(b)(2); and 788.19(b)(1). These sections relate generally to circumstances involving extension of the boundary lines of the permit area.

Section 4.1362(a) provides that the applicant or any person with an interest which is or may be adversely affected by OSM's decision on a permit application may file a request for review with the Hearings Division. It also allows 30 days from receipt of the decision for any person served with a copy of the decision to file a request for review. While section 514(c) of the Act, 30 U.S.C. § 1264(c) provides that the request should be made "[w]ithin thirty days after the applicant is notified of the final decision of the regulatory authority on the permit application," it allows the applicant or any person having an interest which is or may be adversely affected to make the request. In addition, 30 CFR 741.21(a)(4)(iii) and 30 CFR 786.23(e)(1)(i) require OSM to provide simultaneous notice of such decisions to each person and governmental official who filed a written objection or comment concerning the application. Therefore, it appears that the most workable system is to allow a request for review to be filed within 30 days from receipt by any person served with a copy of the decision. Any person not served with a copy of the decision would have 40 days from the date of the issuance of the written decision within which to file.

Section 4.1364 implements the statutory mandate of section 514(c), 30 U.S.C. 1264(c), that the hearing be held within 30 days of the date of the filing of the request and that interested parties received notice of the hearing.

Section 4.1365 attempts to clarify the status of the approval of a permit application, if review of the approval decision is sought.

Section 514(c) of the Act, 30 U.S.C. § 1264(c) states that "[i]f an application is approved, the permit shall be issued." Issuance of the permit could effectively moot any review of the approval decision, and the same section of the Act specifically allows for review of the decision. Therefore, this section provides for a stay of the issuance pending administrative review proceedings.

However, the permit applicant may seek dissolution of the stay by requesting temporary relief pursuant to 4.1367. If all the requirements of 4.1367(e) are met, the administrative law judge may dissolve the stay and provide that OSM's approval or any part of it be in full force and effect immediately.

If the permit applicant is seeking review of a disapproval, section 4.1366(a) provides that OSM shall have the burden of going forward to establish a prima facie case of a failure to comply with the applicable requirements of the Act or regulations. Pursuant to section 510 of the Act, 30 U.S.C. § 1260, the permit applicant would have the ultimate burden of persuasion to show entitlement to the permit. Under section 4.1366(b), the person seeking review of an approval must bear both the prima facie and ultimate burden of persuasion that the permit application fails in some manner to comply with the requirements of the Act or regulations.

Whenever review has been requested pursuant to section 4.1362, any party may request temporary relief at any time prior to decision by an administrative law judge. If the decision sought to be reviewed disapproved the permit application, the relief sought cannot be issuance of the permit in whole or in part. Section 4.1367(e) sets forth the statutory criteria of section 514(d) of the Act, 30 U.S.C. § 1264(d), for granting temporary relief. One additional criterion has been added and it must also be satisfied where the relief sought is the dissolution of the stay imposed under section 4.1365.

Section 4.1367(f) allows appeals from temporary relief decisions to be appealed to the Board or it allows an aggrieved party to go directly to Federal court.

Sections 4.1368 and 4.1369 are an attempt to implement the statutory requirement of section 514(d), 30 U.S.C. § 1264(d), that a decision on a permit application be issued within 30 days after the hearing.

The Office of Hearings and Appeals has interpreted the language of that section to require the final administrative decision within 30 days after the hearing. Section 4.1368 allows the administrative law judge 10 days from the date the hearing record is closed to issue a written decision.

Section 4.1369 grants the parties 2 working days from receipt of the decision in which to file an appeal with the Board. The remainder of the 30 days is available to the Board in arriving at the final decision.

Review of OSM Permit Modification Orders, and OSM Decisions on Applications for Permit Revisions, Permit Renewals, or the Transfer, Assignment or Sale of Rights Granted Under a Permit

Sections 506(d), 510 and 511 of the Act, 30 U.S.C. 1256(d), 1260, and 1261, respectively, and 30 CFR Parts 788 (Federal program) and 30 CFR 741 (Federal lands program) require administrative review of OSM permit modification orders, and OSM decisions on permit revisions, permit renewals, or the transfer, assignment or sale of rights granted under a permit. The applicant, permittee, or any person having an interest which is or may be adversely affected by an OSM order or decision issued pursuant to the above-listed sections of the Act or regulations may file a request for review of that order or decision with the Hearings Division within 30 days of receipt of a copy of the order or decision. Any person not served with a copy shall have 40 days from the date of issuance of the decision in which to file a request.

The Act and regulations indicate that for permit revision and permit renewal proceedings a hearing must be held within 30 days of the date of the filing of the request for review. Therefore, 4.1374 provides that the administrative law judge shall hold a hearing within 30 days of the filing of a request for review of approval or disapproval or a permit revision or permit renewal. No time limit is established for hearings in the other two types of proceedings because neither the Act nor regulations require it.

Section 4.1375 provides that pending review an OSM permit modification order shall be stayed. As discussed, *supra,* for permit approvals, issuance of a permit following OSM approval of an application for permit revisions, permit renewals, or the approval of an application for the transfer, assignment, or sale of rights granted under permits is also stayed. However, dissolution of that stay is available, pursuant to a request for temporary relief under § 4.1377, if the requirements of section 4.1377(e) are met.

Dissolution of the permit modification order stay in not available. Under § 4.1376(a) in permit modification order proceedings, OSM must establish a prima facie case that the permit should be modified. The ultimate burden or persuasion in such a proceeding rests with the person seeking review.

Section 4.1376(b) was drafted in response to section 506(d)(1) of the Act, 30 U.S.C. 1256(d)(1), which clearly indicates that in a permit renewal proceeding those parties opposing renewal should have the burden of going forward and the ultimate burden of persuasion that the renewal application should be disapproved. In permit revision proceedings and proceedings involving review of OSM decisions on applications for transfer, assignment, or sale of rights, § 4.1376(c) provides that if the applicant is seeking review, OSM has the burden of going forward to establish a prima facie case and the applicant has the ultimate burden of persuasion. If any other person is seeking review, that person has the burden of going forward and the ultimate burden of persuasion.

As in permit approval or disapproval proceedings, temporary relief is available in these proceedings. However, where an application has been disapproved in whole or in part, the relief sought may not be issuance of a permit in whole or in part. Appeals of temporary relief decisions may be taken to the Board or, in the alternative, judicial review may be sought.

The Office of Hearings and Appeals has determined that for permit revisions and renewals the same statutory deadline for decision applies as is applicable for new permit approvals or denials. Therefore, §§ 4.1378 and 4.1379 incorporate the same time periods as set forth in the §§ 4.1368 and 4.1369. However, the statutory time limit is not applicable for decisions in permit modification order proceedings or in transfer, assignment, or sale of right proceedings because there is no indication in the Act or regulations that such a time limit should be imposed in these proceedings.

Review of Approval or Disapproval of a Coal Exploration Application

Sections 4.1380–4.1386 are only applicable for explorations of more than 250 tons because 30 CFR 776.14 restricts hearings to applications for more than 250 tons. Pursuant to §§ 4.1381 and 4.1382, the applicant or any other person having an interest which is or may be adversely affected by a decision of OSM to approve or disapprove a coal exploration application may seek review of that decision by filing a request for review with the Hearings Division.

If the OSM decision is to approve the application and a request for review is filed, § 4.1384 provides that approval is stayed pending the outcome of any administrative proceeding resulting from the OSM decision.

The burden of proof in this review proceeding is the same as that in a proceeding reviewing permit approval or disapproval, described above.

Review of Approval or Disapproval of a Performance Bond Release Application

Section 4.1391 provides that the permittee or any affected person, as that term is defined in 30 CFR 807.11(c), may file a request for review of a decision by OSM to approve or disapprove, in whole or in part, an application for release of a performance bond. Affected person is defined in 30 CFR 807.11(c) as:

> (1) Any person with a valid legal interest which might be adversely affected by bond release; and
>
> (2) The responsible officer or head of any Federal, State or local government agency which—
>
> (i) Has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved, or
>
> (ii) Is authorized to develop and enforce environmental standards with respect to surface coal mining and reclamation operations.

The request for review must be filed within 30 days of receipt of OSM's written decision, except any affected person not served with a copy of OSM's written decision must file a request within 40 days of the date of issuance of the written decision. Section 4.1394 makes it clear that a performance bond shall not be released, in whole or in part, during the pendency of any review proceeding resulting from approval of such release.

Review of Performance Bond Forfeiture

Under § 4.1401, the permittee or, where applicable, the surety may request review of a determination by OSM to require forfeiture of all or part of a performance bond. Review of a forfeiture determination by OSM shall stay the effect of that determination and OSM shall be restricted from taking collection pending the outcome of review proceedings.

OSM shall have the burden of going forward to establish a prima facie case for forfeiture of the performance bond. The ultimate burden of persuasion that the performance bond not be forfeited shall rest with the permittee or surety.

Review of OSM Determination of Issues Under 30 CFR 761.12(h)

Pursuant to section 522(e) of the Act, 30 U.S.C. 1272(e), and 30 CFR 761.12(h), section 4.1411 provides that the permit applicant or any person with an interest which is or may be adversely affected by a determination of OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, may file a request for review of that determination.

The request shall be filed within 30 days of receipt by the permit applicant of a copy of OSM's written determination, or within 30 days of publication of the determination in the **Federal Register**, whichever is later.

Section 4.1413(a) provides that if the permit applicant is seeking review, OSM will have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion will rest with the permit applicant. Under § 4.1413(b) if any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that a person holds or does not hold a valid existing right, or that surface coal mining operations did not exist on the date of enactment of the Act.

Drafting information: The principal authors of these proposed regulations are Bruce Harris, Office of Hearings and Appeals, Department of the Interior, and Michael Kurman, Office of the Solicitor, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Exec. Order No. 12044 and 43 CFR Part 14.

Wm. Philip Horton,
Acting Director, Office of Hearings and Appeals.

December 12, 1980.

For the reasons set forth in the preamble, Subpart L of Part 4 of Title 43 of the Code of Federal Regulations is proposed to be amended by adding §§ 4.1350–4.1414 as follows:

Request for Hearing on a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations Under Section 510(c) of the Act, 30 U.S.C. § 1260(c) (Federal Program, Federal Lands Program)

Sec.
4.1350 Scope.
4.1351 Preliminary finding by OSM.
4.1352 Who may file; where to file; when to file.
4.1353 Contents of request.
4.1354 Determination by administrative law judge.
4.1355 Burden of proof.
4.1356 Appeals.

Request for Review of Approval or Disapproval of Applications for Permits (Federal Program; Federal Lands Program)

4.1360 Scope.
4.1361 Who may file.
4.1362 Where to file; when to file.
4.1363 Contents of request.
4.1364 Time for hearing.
4.1365 Status of permit approvals pending review by the Office of Hearings and Appeals.
4.1366 Burden of proof.
4.1367 Request for temporary relief from a decision to approve or disapprove a permit application in whole or in part.
4.1368 Determination by the administrative law judge.
4.1369 Appeals.

Requests for Review Concerning Permit Modification Orders, and Applications for Permit Revisions, Renewals and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program, Federal Lands Program)

4.1370 Scope.
4.1371 Who may file; where to file.
4.1372 When to file.
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Request for Review of Approval or Disapproval of a Performance Bond Release Application Under Section 519 of the Act, 30 U.S.C. § 1269 (Federal Program, Federal Lands Program)

4.1390 Scope.
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4.1392 Where to file; when to file.
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Request for Review of Performance Bond Forfeiture (Federal Program, Federal Lands Program)

4.1400 Scope.
4.1401 Who may file; where to file; when to file.
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4.1403 Status of forfeiture proceedings pending review by the Office of Hearings and Appeals.
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Request for Review of OSM Determination of Issues Under 30 CFR 761.12(h) (Federal Program, Federal Lands Program)

4.1410 Scope.
4.1411 Who may file; where to file; when to file.
4.1412 Contents of request.
4.1413 Burden of proof.
4.1414 Appeals.

Authority: Sec. 201, P.L. 95–87, 91 Stat. 445 (30 U.S.C. 1201, et seq.)

Request for Hearing on a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations Under Section 510(c) of the Act, 30 U.S.C § 1260(c) (Federal Program, Federal Lands Program)

§ 4.1350 Scope.

These rules set forth the procedures for obtaining review under a partial or complete Federal program for a State (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) of a preliminary finding by OSM, prior to approval or disapproval of a permit application, that the applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of the Act, State or Federal laws or regulations, or individual permit conditions.

§ 4.1351 Preliminary finding by OSM.

If OSM determines during review of the permit application that the applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply, OSM shall issue the applicant or operator a notice of intent to deny the permit on the basis of such preliminary finding. A copy of such notice of intent shall be issued simultaneously to each person who filed a written comment or objection with respect to the application, and shall be made available for public inspection at the public office where the applicant filed a copy of the permit application.

§ 4.1352 Who may file; where to file; when to file.

(a) The applicant or operator may file a request for hearing on OSM's preliminary finding of a demonstrated pattern of willful violations.

(b) The request for hearing shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days of receipt by the applicant or operator of the notice of intent to deny the permit.

(c) Failure to make a timely filing of the request shall constitute a waiver of the opportunity for a hearing prior to a final finding by OSM concerning a demonstrated pattern of willful violations which results in the disapproval of the permit application.

§ 4.1353 Contents of request.

The request for hearing shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's preliminary finding; and

(c) Any other relevant information.

§ 4.1354 Determination by administrative law judge.

(a) The administrative law judge shall act expeditiously to set a time and place for the hearing and to issue a decision.

(b) The definitions found at 30 CFR 786.5 shall apply to these proceedings.

§ 4.1355 Burden of proof.

(a) OSM shall have the burden of going forward to establish a prima facie case as to the existence of a demonstrated pattern of willful violations of the Act, State of Federal laws or regulations, or individual permit conditions, which are of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply.

(b) The ultimate burden of persuasion shall rest with the person requesting a hearing.

§ 4.1356 Appeals.

Any party aggrieved by the decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart.

Request for Review of Approval or Disapproval of Applications for Permits (Federal Program, Federal Lands Program)

§ 4.1360 Scope.

These rules set forth the procedures for obtaining formal review pursuant to § 514 of the Act, 30 U.S.C. § 1264, of a decision by OSM under a partial or complete Federal program for a State (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) to approve or disapprove a permit application, in whole or in part. Permit applications subject to these rules shall include all applications for new permits, including those new permits required under 30 CFR 788.12(d), 788.13(b), 788.14(b)(2), and 788.19(b)(1).

§ 4.1361 Who may file.

The applicant or any person having an interest which is or may be adversely affected by a decision of OSM to approve or disapprove a permit application, in whole or in part, may file a request for review of that decision.

§ 4.1362 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days of receipt of a copy of OSM's written decision approving or disapproving the permit application, in whole or in part.

(b) Any person not served with a copy of OSM's written decision shall file the request for review within 40 days of the date of the issuance of the written decision.

§ 4.1363 Contents of request.

The request for review shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's decision;

(c) A request for specific relief;

(d) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1364 Time for hearing.

(a) The administrative law judge shall hold a hearing within 30 days of the date of the filing of the request for review and shall notify all interested parties of the time and place of such hearing.

(b) The administrative law judge may grant an extension of time for the hearing only if all parties to the hearing agree to such extension.

§ 4.1365 Status of permit approvals pending review by the Office of Hearings and Appeals.

The issuance of a permit following OSM approval of a permit application shall be stayed during the pendency of any administrative review proceeding resulting from such approval. However, the administrative law judge, pursuant to a request for temporary relief under § 4.1367, may, if the requirements of § 4.1367(e) are met, dissolve the stay and provide that OSM's approval or any part of it shall be in full force and effect immediately.

§ 4.1366 Burden of proof.

(a) If the permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with the applicable requirements of the Act or the regulations, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the permit application fails in some manner to comply with the applicable requirements of the Act or the regulations.

§ 4.1367 Request for temporary relief from a decision to approve or disapprove a permit application in whole or in part.

(a) Where review is requested pursuant to § 4.1362, any party may file a request for temporary relief at any time prior to decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved, in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the application shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(c) The applications shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the application.

(e) The administrative law judge shall expeditiously issue an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows that there is a substantial likelihood of prevailing on the merits of the final determination of the proceeding;

(3) Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources; and

(4) If such relief is the dissolution of the stay imposed under § 4.1365, the party requesting dissolution must establish that the public interest will not be adversely affected by such action.

(f) Appeals of temporary relief decisions.

(1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board, or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276, of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1368 Determination by the administrative law judge.

The administrative law judge shall issue a written decision within 10 days of the date the hearing record is closed by the administrative law judge.

§ 4.1369 Appeals.

(a) Any party aggrieved by the decision of the administrative law judge shall have 2 working days from receipt of the decision within which to file a notice of appeal with the Board. A copy of the notice of appeal must simultaneously be filed with the administrative law judge.

(b) The Board shall act immediately to issue an expedited briefing schedule.

(c) The decision of the Board shall be issued within 30 days of the date the hearing record is closed by the administrative law judge.

Requests for Review Concerning Permit Modification Orders, and Applications for Permit Revisions, Renewals and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program, Federal Lands Program)

§ 4.1370 Scope.

These rules set forth the procedures for obtaining formal review under a partial or complete Federal program for a state (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) of a final decision by OSM concerning permit modification orders, and applications for permit revisions, permit renewals, or the transfer, assignment or sale of rights granted under permits.

§ 4.1371 Who may file; where to file.

The applicant, permittee, or any person having an interest which is or may be adversely affected by a final decision of OSM ordering modification of a permit, or approving or disapproving applications for permit revisions, permit renewals, or the transfer, assignment or sale of rights granted under permits, may file a request for review of that decision with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

§ 4.1372 When to file.

(a) The request for review shall be filed within 30 days of receipt of a copy of OSM's written order or decision.

(b) Any person not served with a copy of OSM's written order or decision shall file the request for review within 40 days of the date of the issuance of the written order or decision.

§ 4.1373 Contents of request.

The request for review shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's decision;

(c) A request for specific relief;

(d) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1374 Time for hearing.

(a) The administrative law judge shall hold a hearing within 30 days of the date of the filing of the request for review of the approval or disapproval of a permit revision or permit renewal and shall notify all interested parties of the time and place of such hearing.

(b) The administrative law judge shall act expeditiously to order a hearing on a request for review of a permit modification order or the approval or disapproval of the transfer, assignment or sale of rights granted under a permit.

(c) The administrative law judge may grant an extension of time for the hearing only if all parties to the hearing agree to such extension.

§ 4.1375 Status of OSM order or decision pending review by the Office of Hearings and Appeals.

(a) The terms and effect of a permit modification order shall be stayed during the pendency of any administrative review proceeding resulting from that order.

(b) The issuance of a permit following OSM approval of applications for permit revisions or permit renewals, or the approval of an application for the transfer, assignment, or sale of rights granted under permits, shall be stayed during the pendency of any administrative proceeding resulting from such approval. However, the administrative law judge, pursuant to a request for temporary relief under 4.1377, may, if the requirements of 4.1377(e) are met, dissolve the stay and provide that OSM's approval or any part of it shall be in full force and effect immediately.

§ 4.1376 Burden of proof.

(a) In proceedings involving permit modification orders, OSM shall have the burden of going forward to establish a prima facie case. The ultimate burden of persuasion shall rest with the person seeking review of the order.

(b) In proceedings involving permit renewal decisions, those parties opposing renewal shall have the burden of going foreward to establish a prima facie case and the ultimate burden of persuasion that the renewal application should be disapproved.

(c) In proceedings involving OSM decisions on applications for permit revisions and on applications for the transfer, assignment, or sale of rights granted under permits—

(1) If the applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with applicable requirements of the Act or the regulations, and the applicant requesting

review shall have the ultimate burden of persuasion as to entitlement to approval of the application; and

(2) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the application fails in some manner to comply with the applicable requirements of the Act and the regulations.

§ 4.1377 Request for temporary relief.

(a) Where review is requested pursuant to 4.1371, any party may file a request for temporary relief at anytime prior to decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where an application has been disapproved, in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the application shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(c) The application shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceedings; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the application.

(e) The administrative law judge shall expeditiously issue an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows that there is a substantial likelihood of prevailing on the merits of the final determination of the proceeding;

(3) Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources; and

(4) If such relief is the dissolution of the stay imposed under 4.1375(b), the party requesting dissolution must establish that the public interest will not be adversely affected by such action.

(f) Appeals of temporary relief decisions.

(1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1378 Determination by the administrative law judge.

(a) The administrative law judge shall issue a written decision on a request for review of a permit revision or permit renewal decision within 10 days of the date the hearing record is closed by the administrative law judge.

(b) The administrative law judge shall act expeditiously to issue a written decision on a request for review of an OSM permit modification order or an OSM decision on an application for the transfer, assignment or sale of rights granted under a permit.

§ 4.1379 Appeals.

(a) Any party aggrieved by the decision of the administrative law judge on a request for review of a permit revision or permit renewal decision shall have 2 working days from receipt of the decision within which to file a notice of appeal with the Board. A copy of the notice of appeal must simultaneously be filed with the administrative law judge.

(1) The Board shall act immediately to issue an expedited briefing schedule.

(2) The decision of the Board shall be issued within 30 days of the date the hearing record is closed by the administrative law judge.

(b) Any party aggrieved by the decision of the administrative law judge on a request for review of an OSM permit modification order or an OSM decision on an application for the transfer, assignment or sale of rights granted under a permit may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart.

Request for Review of Approval or Disapproval of a Coal Exploration Application (Federal Program, Federal Lands Program)

§ 4.1380 Scope.

These rules set forth the procedures for obtaining formal review, pursuant to 30 CFR 776.14(b), of a decision by OSM under a partial or complete Federal program for a State (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) to approve or disapprove a coal exploration application, in whole or in part.

§ 4.1381 Who may file.

The applicant or any person having an interest which is or may be adversely affected by a decison of OSM to approve or disapprove a coal exploration application, in whole or in part, may file a request for review of that decision.

§ 4.1382 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days of receipt of OSM's written decision approving or disapproving the coal exploration application.

(b) Any person not served with a copy of OSM's written decision shall file the request for review within 40 days of the date of issuance of the written decision.

§ 4.1383 Contents of request.

The request for review shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's decision;

(c) A request for specific relief;

(d) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1384 Status of approvals pending review by the Office of Hearings and Appeals.

The approval of a coal exploration application shall be stayed during the pendency of any administrative review proceeding resulting from such approval.

§ 4.1385 Burden of proof.

(a) If the coal exploration applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with the applicable requirements of the Act or the regulations, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the approval.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the application fails in some manner to comply with the applicable requirements of the Act or the regulations.

§ 4.1385 Appeals.

Any party aggrieved by the decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart.

Request for Review of Approval or Disapproval of a Performance Bond Release Application Under Section 519 of the Act, 30 U.S.C. § 1269 (Federal Program, Federal Lands Program)

§ 4.1390 Scope.

These rules set forth the procedures for obtaining formal review pursuant to section 519 of the Act, 30 U.S.C. 1269, and 30 CFR 807.11, of a decision by OSM under a partial or complete Federal program for a State (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) to approve or disapprove, in whole or in part, an application for release of a performance bond for surface coal mining and reclamation operations.

§ 4.1391 Who may file.

The permittee or any affected person, as that term is defined in 30 CFR 807.11(c), may file a request for review of a decision by OSM to approve or disapprove, in whole or in part, an application for release of a performance bond.

§ 4.1392 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days of receipt of OSM's written decision approving or disapproving in whole or in part, an application for release of a performance bond.

(b) Any affected person not served with a copy of OSM's written decision shall file the request for review within 40 days of the date of issuance of the written decision.

§ 4.1393 Contents of request.

The request for review shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's decision;

(c) A request for specific relief;

(d) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1394 Status of performance bond release pending review by the Office of Hearings and Appeals.

OSM shall not release a performance bond, in whole or in part, during the pendency of any review proceeding resulting from the approval of such release.

§ 4.1395 Appeals.

Any party aggrieved by the decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart.

Request for Review of Performance Bond Forfeiture (Federal Program, Federal Lands Program)

§ 4.1400 Scope.

These rules set forth the procedures for obtaining formal review under a partial or complete Federal program for a State (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) of a determination by OSM to forfeit all or part of a performance bond, as a result of the permittee's failure to meet the conditions upon the bond.

§ 4.1401 Who may file; where to file; when to file.

(a) The permittee or surety, if applicable, may file a request for review of a determination by OSM to forfeit all or part of a performance bond.

(b) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days of receipt of OSM's written determination.

§ 4.1402 Contents of request.

The request for review shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's decision;

(c) A request for specific relief;

(d) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1403 Status of forfeiture proceedings pending review by the Office of Hearings and Appeals.

The filing of a request for review with the Office of Hearings and Appeals shall automatically stay OSM from taking collection action after a forfeiture determination.

§ 4.1404 Burden of proof.

OSM shall have the burden of going forward to establish a prima facie case for forfeiture of the performance bond. The ultimate burden of persuasion that the performance bond not be forfeited shall rest with the permittee or surety, if applicable.

§ 4.1405 Appeals.

Any party aggrieved by the final decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart.

Request for Review of OSM Determination of Issues Under 30 CFR 761.12(h) (Federal Program, Federal Lands Program)

§ 4.1410 Scope.

There rules set forth procedures for obtaining formal review pursuant to 30 CFR 761.12(h) of a determination by OSM under a partial or complete Federal program for a State (30 CFR Parts 733, 736) or a Federal lands program (30 CFR Chapter VII, Subchapter D) that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, on lands where operations are prohibited or limited by section 522(e) of the Act, 30 U.S.C. 1272(e).

§ 4.1411 Who may file; where to file; when to file.

(a) The permit applicant or any person with an interest which is or may be adversely affected by a determination of OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, may file a request for review of that determination with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(b) The request for review shall be filed within 30 days of receipt by the applicant of a copy of OSM's written determination, or within 30 days of publication of the determination in the **Federal Register**, whichever is later.

§ 4.1412 Contents of request.

The request for review shall include—

(a) A clear statement of the facts entitling that person to administrative relief;

(b) An explanation of the alleged errors in OSM's decision;

(c) A request for specific relief;

(d) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1413 Burden of proof.

(a) If the permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case. The ultimate burden of persuasion shall rest with the person seeking review of the determination.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that a person holds or does not hold a valid existing right, or that surface coal mining operations did not exist on the date of enactment of the Act.

§ 4.1414 Appeals.

Any party aggrieved by the decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart.

[FR Doc. 81-1256 Filed 1-12-81; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[Docket No. 80-48]

Appeals of Denials of Requests for Information

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proceeding.

SUMMARY: The Commission has determined to discontinue Docket No. 80-48 without issuing a rule. A change in the present system of processing of appeals from denials of requests for information under the Freedom of Information and Government in the Sunshine Acts is considered unnecessary.

DATES: Effective January 14, 1981.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Room 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: By notice published in this proceeding (45 FR 48172; July 18, 1980), the Federal Maritime Commission proposed to amend its rules regarding appeals from a denial by the Secretary of certain requests submitted pursuant to the Freedom of Information and Government in the Sunshine Acts. At present, § 503.34 of 46 CFR provides that such appeals are made to the Chairman. The proposed amendment would have the appeals addressed to the entire Commission where they involve a request for transcripts of closed Commission meetings and "other documents which have been prepared through joint action or effort of a quorum of Commissioners."

In response to the notice, comments were received from The Adherence Group; a number of conferences in the North European trades; the "8900" Lines, a number of conferences in the Latin American trades; Sea-Land Service, Inc.; and the firm of Kominers, Fort, Schlefer and Boyer.

The Commission has considered the comments in this proceeding and reviewed its experience over the years with respect to appeals of denials of requests and concluded that a change in the current procedure is unnecessary. Appeals are made in relatively few circumstances and appeals of the type contemplated in this proposed rulemaking are extremely rare. The present procedure of appeal to a single authority, viz., the Chairman of the Commission is efficient and fair. Accordingly, this proceeding is discontinued.

By the Commission.[1]

Francis C. Hurney,

Secretary.

[FR Doc. 81-1330 Filed 1-13-81; 8:45 am]

BILLING CODE 6730-01-M

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[1] Dissenting Opinion of Vice Chairman Kanuk is filed with the Office of the Federal Register as part of the original document.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 80-584; RM-3304]

Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Agency.

ACTION: Notice of Proposed Rulemaking; Extension of comment and reply period.

SUMMARY: This order extends the time for filing comments and reply comments in CC Docket No. 80-584 (RM-3304) relating to policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska.

DATE: Initial comments are now due on or before January 28, 1981, and reply comments on or before March 1, 1981.

FOR FURTHER INFORMATION CONTACT: Pamela Wisne, Domestic Facilities Division, Common Carrier Bureau, 202-632-5930.

In the matter of policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska, CC Docket No. 80-584, (RM-3304).[1]

Adopted December 24, 1980.

Released: January 2, 1981.

1. On December 18, 1980, the Rural Development Council of Alaska (the Council) filed a request for an extension of time to file comments to the Commission's *Notice of Proposed Rulemaking* in CC Docket No. 80-584, FCC 80-550 (released October 29, 1980).

2. In support of its request, the Council claims it was not apprised of the above-captioned rulemaking proceeding until December 5, 1980. It states that an extension of time is needed in order for it to participate in the above-captioned proceeding.

3. In the interests of establishing a full record, we will grant a short extension of time. Accordingly, it is ordered, pursuant to Sections 4(i), 5(d)(1) and 303(f) of the Communications Act of 1934, as amended, and § 0.291 of the Commission's Rules, that the dates for filing comments in response to the *Notice of Proposed Rulemaking* is extended to and including January 28, 1981, and the date for filing reply comments is extended to and including March 2, 1981.

Federal Communications Commission.

James R. Keegan,

Chief, Domestic Facilities Division.

[FR Doc. 81-1301 Filed 1-13-81; 8:45 am]

BILLING CODE 6712-01-M

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[1] See 45 FR 71384, October 28, 1980.

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Waimanalo Watershed, Hawaii; Intent To Prepare Environmental Impact Statement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Jack P. Kanalz, State Conservationist, Soil Conservation Service, Room 4316, Prince Kuhio Federal Building, 300 Ala Moana, P.O. Box 50004, Honolulu, Hawaii 96850, telephone 808-546-3165.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Waimanalo Watershed, City and County of Honolulu, Hawaii.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Jack P. Kanalz, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection, flood prevention, and irrigation.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Jack P. Kanalz, State Conservationist.

Dated: January 2, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

[FR Doc. 81-1275 Filed 1-13-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 38606]

Application of Air Florida, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Grant of certificate authority.

SUMMARY: The Board proposes to approve the following application. Applicant: Air Florida, Inc. Application Date: August 5, 1980. Docket 38606. Authority: Amendment of Route 197-F to read as follows: "Between a point or points in the United States (other than Sarasota/Bradenton, Orange County and West Palm Beach) and a point or points in the Bahamas Islands."

OBJECTIONS: Since the Board is granting Air Florida authority which is broader than that requested; *i.e.*, granting authority from all points in the U.S. except Sarasota/Bradenton, Orange County and West Palm Beach, to all points in the Bahamas, rather than merely adding New York and Governors Harbour as co-terminal points on its Route 197-F, we are granting all interested persons having objections to the Board's attached order the right to file NO LATER THAN January 30, 1981, a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 38606, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicant, the Departments of State and Transportation and the Ambassador of the Bahamas Islands in Washington, D.C.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other such supporting evidence.

If no objections are filed, the Secretary of the Board will submit to the President the attached order which will, subject to his disapproval, issue the proposed certificate authority.

FOR FURTHER INFORMATION CONTACT: Parlen L. McKenn (212) 673-5153 Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 8, 1981.

Phyllis T. Kaylor,

Secretary.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of January 1981.

Application of Air Florida, Inc. for an amendment of its certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act, as amended.

Order Establishing Simplified Procedures and Issuing an Amended Certificate

On August 15, 1980, Air Florida, Inc. filed an application requesting an amendment of its certificate to permit it to add New York as a United States coterminal point and Governors Harbour as a Bahamas Islands coterminal point to its Route 197-F. Air Florida requested that its application be processed by nonhearing procedures pursuant to Subpart Q. Additionally, in support of its application Air Florida submitted an illustrative schedule and a fuel estimate.

No answer to Air Florida's application have been filed.[1]

We have decided that an oral evidentiary hearing or a show cause proceeding is unnecessary since there are no material, determinative issues of fact requiring such procedures for their resolution; and that we should proceed directly to a final decision and grant the application.[2] We find the grant of the application is consistent with the public convenience and necessity and with our decision in the U.S.-Bahamas Service Investigation.[3] We incorporate by reference the findings and conclusions made in that proceeding where we found, *inter alia*, that multiple awards should be authorized in the U.S.-Bahamas docket.

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[1] The public was informed of Air Florida's application by notice in the *Federal Register* on August 25, 1980 (45 FR 56377). The notice described the authority sought, advised the public that expedited procedures might by used to process the application, and gave interested persons an opportunity to submit evidence and objections to the award of the requested authority.

[2] *See* Rule 29(b) and Rule 1750(a)(3). Also see Order 80-7-207, June 6, 1980.

[3] Order 79-8-68.

The International Air Transportation Competition Act of 1979 (IATCA) amends section 401(e) of the Act to authorize the Board to license U.S. airlines for foreign air transportation to/from a point or points in the United States, without specifying terminal and intermediate points as was previously required. A broadly described route description gives carriers greater flexibility to tailor services to demand, is consistent with the Act's competitive mandate, and eliminates the costs and other burdens that are generally associated with requests for changes in operating authority. In this connection it is significant to note that in recent weeks Air Florida has found it necessary to seek other changes to its Bahamas authority. While each of the carrier's requests was granted, a broadly different route description would have made them unnecessary in the first instance.[4] Therefore, we have decided that the authority granted to Air Florida in this proceeding should be described in the certificate as "between a point or points in the United States and a point or points in the Bahamas Islands", so that it will have greater flexibility in reacting to changes in market conditions, thus allowing it to better serve the public.[5]

Air Florida holds a certificate of public convenience and necessity authorizing it to perform scheduled interstate, overseas, and foreign air transportation of persons, properly and mail over Routes 197 and 197–F. On the basis of officially noticeable,[6] we find that Air Florida is a citizen of the United States and is fit, willing, and able to perform properly the proposed foreign air transportation and to conform to the requirements of the Act and our rules, regulations and requirements.[7] We have analyzed Air Florida's fuel submission and conclude that the grant of the application would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975.[8]

Accordingly,

1. We amend the certificate of public convenience and necessity of Air Florida, Inc. for Route 197–F, as shown in the appendix;

2. We are serving this order on Air Florida, the United States Departments of State and Transportation and the Ambassador of the Bahamas Islands in Washington, D.C.;

3. This order will be submitted to the President, unless there are objections filed by January 30, 1981, in which case resolution of the case will await further order. If submitted to the President, unless disapproved by him under section 801(a) of the Federal Aviation Act of 1958, as amended,[9] the certificate attached to this order shall become effective on the 61st day after such submission, or upon the date of receipt of advice from the President that he does not intend to disapprove this order under that section, whichever is earlier;[10] and

4. We will publish notice of this order in the **Federal Register**.

All Members concurred.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Certificate Amendment

Air Florida, Inc. for Route 197–F

Amend the route description to read as follows:

"Between a point or points in the United States (other than Sarasota/Bradenton, Orange County and West Palm Beach) and a point or points in the Bahamas Islands.

This authority is permissive.

The continuing effectiveness of this authority is subject to timely payment by the holder of such license fees as the Board may prescribe.

[FR Doc. 81–1329 Filed 1–13–81; 8:45 am]

BILLING CODE 6320-01-M

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[4] For example, see Order 80–9–87.

[5] We will, however, exclude authority between the Bahamas and Sarasota/Bradenton, Orange County, and West Palm Beach, pending finalization of our environmental studies of these points. See Order 80–4–121, April 16, 1980; Order 79–5–17, May 1, 1979; Order 80–2–16, February 5, 1980.

[6] Officially noticeable data consists of that material filed under Rule 24(m) of our Procedural Regulations.

[7] We note that Air Florida was recently awarded Transatlantic certificate authority by Order 80–7–179, June 10, 1980. Additionally, since we are granting Air Florida broader authority than it requested and in order to make sure that all interested persons have received sufficient notice, we will publish a copy of this order in the Federal Register and will not submit this award to the President for three weeks after the date of service of this order so that such persons may make their veiws known. If objections are filed, this order will not be submitted to the President pending further Board order.

[8] Air Florida expects to consume approximately 6.6 million gallons of fuel annually.

[9] 49 U.S.C. 1461.

[10] This order was submitted to the President on ————. The 61st day is ————.

The Sea Airmotive Kodiak-Bush Points Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show-cause (Order 81–1–35).

SUMMARY: The Board is instituting the Sea Airmotive Kodiak-Bush Points Subpart Q Proceeding and is proposing to grant unrestricted authority between the terminal point Akhiok, Alaska, the intermediate points Alitak, Amook, Iliamna, Karluk, Kitoi, Kodiak, Kokhanok Bay, Larsen Bay, Moser Bay, Nondalton, Old Harbor, Olga Bay, Ouzinkie, Parks, Pedro Bay, Pope Vanon, Port Alsworth, Port Bailey, Port Lions, Port Williams, Seal Bay, Terror Bay, Uganik, Uyak, and West Point, Alaska, and the terminal point Zachar Bay, Alaska, to Sea Airmotive under the expedited procedures of Subpart Q of its Procedural Regulations. Tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATE: All interested persons having objections to the Board issuing the proposed authority shall file and serve upon all persons listed below, no later than February 11, 1981, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESS: Objections should be filed in Docket 38930, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Peter Bonanno, Jr., Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5009.

SUPPLEMENTARY INFORMATION: Objections should be served upon Sea Airmotive, the Alaska Transportation Commission, Civic Officials of Akhiok, Amook, Iliamna, Karluk, Kitoi, Kodiak, Kokhanok Bay, Larsen Bay, Moser Bay, Nondalton, Old Harbor, Olga Bay, Ouzinkie, Parks, Pedro Bay, Pope Vanon, Port Alsworth, Port Bailey, Port Lions, Port Williams, Seal Bay, Terror Bay, Uganik, Uyak, West Point and Zachar Bay, Alaska, and the airport manager of the Kodiak Airport. The complete text of Order 81–1–35 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81–1–35 to that address.

By the Civil Aeronautics Board: January 8, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-1330 Filed 1-13-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of Federal Statistical Policy and Standards

Revised Statistical Policy Directive on Compilation and Release of Principal Federal Economic Indicators

AGENCY: Office of Federal Statistical Policy and Standards, U.S. Department of Commerce.

ACTION: Notice of adoption of a revised Statistical Policy Directive providing for timely compilation and prescheduled release of principal economic indicator statistics produced by Federal agencies.

SUMMARY: The revised Directive combines two previous Directives that were entitled "Guidelines for the Release of Principal Federal Economic Indicators" and "Prompt Compilation and Release of Statistical Information". Responsibility has also been added for designation of which economic data series should be considered as principal economic indicators subject to this Directive.

Introduction

The revised Directive replaces Statistical Policy Directives No. 3 and 4 dated May 4, 1978. The major policies of encouraging timely compilation of important economic information, or requiring prescheduled public release, and of preventing premature release of information are continued. These practices are conducive to the proper management of both private and public economic affairs.

The revised Directive is nearly the same as a draft revision that was published in the **Federal Register** on July 17, 1980 for comment. Some small changes have been made to accommodate comments received. The final Directive was approved by the Statistical Policy Coordination Committee on October 16, 1980.

Statistical Policy Directive No. 3 [1]

Compilation and Release of Principal Federal Economic Indicators

The purpose of this Directive is to ensure that the principal economic indicators issued by Federal agencies to the public are released without unnecessary delay and that the release dates for the principal weekly, monthly, and quarterly indicators are made publicly available in advance. Such prompt release of official statistics on a regular schedule is conducive to the proper management of both private and public economic affairs.

1. Designation of Principal Indicators.

Determination of which economic data series are to be classified as principal Federal economic indicators and covered by this Directive will be made by the Director, Office of Federal Statistical Policy and Standards, after consultation with the heads of agencies producing the data series. This designation will be reviewed at least annually.

2. Prompt Release.

The shortest practicable interval should exist between the date or period to which the data refer and the date when compilation is completed. Prompt public release of the figures should be made after compilation. The goal is to accomplish compilation and release to the public within 20 working days or less for series that are issued quarterly or more frequently.

3. Release Schedule.

Agencies should schedule release dates for series that are issued quarterly or more frequently that can be met and that will also insure prompt release of the series as specified in this Directive. The schedule of release dates established by agencies will be issued each month by the Office of Federal Statistical Policy and Standards and will appear in the Office's publication, *Statistical Reporter.*

Agencies should establish and maintain one or two designated times of day for the release of their principal economic indicators. Each indicator should be released consistently at one of the designated times and changes to a new designated release time should be announced 30 days in advance.

4. Release Procedure.

Initial release of principal economic indicators should be made by the statistical agency in a press release or other type of printed report. A press release should be issued if it would significantly speed up the release of data to the public. A news conference may be scheduled to permit discussion of important technical features of the data being released.

Except for authorized distribution of principal economic indicators described in this paragraph, there shall be no provision of information or data estimates prior to official public release. The President will receive pre-released information when available through the Chairman of the Council of Economic Advisers. Principal economic indicators information should be made available to principal economic policymakers at the same time a press release is provided to the press. The principal economic policymakers who may receive the information are the Chairman of the Council of Economic Advisers, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Director of the Council on Wage and Price Stability, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Labor.

Each statistical agency is responsible for establishing procedures to assure that there will be no premature release of information or data estimates during the period of time required for preparation and duplication of materials used for the public release. This includes the protection of public use data banks which should not receive data until officially released. All employees of the Executive Branch who receive pre-release distribution of information and data estimates as authorized above are responsible to assure that there will be no release prior to the public release. Employees of the Executive Branch should also observe a one-hour period after the public release of data by the statistical agency before making related public commentary, except for necessary technical explanation by appropriate professional staff of the issuing Department.

5. Granting of Exceptions.

Exceptions to the provisions in sections 2, 3 and 4 of this directive may be authorized by the Director, Office of Statistical Policy and Standards.

6. Preliminary Estimates and Revisions.

Decisions on the release of principal economic indicators may require balancing timeliness against accuracy and also controlling frequency of revisions. It is not intended that vital information important for making current policy decisions be withheld merely to reduce frequency of revisions, nor that stringent accuracy considerations result in delaying the issuance of important statistical information. Broad guidelines to use in helping achieve a balance are:

a. In general, not more than two estimates for a principal economic indicator should be issued within 60 days after the end of the reference period.

b. Preliminary estimates for series that represent principal aggregates should not be issued until the agency is reasonably confident that the difference between preliminary and final figures will be small relative to average period-to-period change. More relaxed standards may be applied, if necessary, to subaggregations.

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[1] Supersedes Directive Nos. 3 and 4 issued May 4, 1978.

c. If revisions in preliminary estimates tend to occur significantly more frequently in one direction than another, efforts should be made to reduce bias, or, if this is not feasible, adjustments for bias in the preliminary figures should be developed.

d. Irregularity in each series resulting from sampling error and measurement error should be reduced as much as budgetary and time constraints allow.

It is also desirable to limit the frequency of revisions for the same data series because of the uncertainty and confusion that may be created for users. To the extent possible the following procedures should be used to help minimize confusion for users:

a. Preliminary and revised figures should be clearly identified as such. For principal aggregate figures, revisions should be accompanied by the previous figures to facilitate comparison.

b. Revisions occurring for various reasons, such as benchmark revisions, updating of seasonal factors, and replacement of preliminary by revised figures, should be consolidated and released simultaneously.

c. Revisions occurring for reasons other than routine and regular replacement of preliminary by revised figures because of new data should be accompanied by a brief explanation at the time of release.

Source: Office of Federal Statistical Policy and Standards, U.S. Department of Commerce.

Dated: January 8, 1981.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 81-1194 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

Foreign-Trade Zones Board

[Docket No. 1-81]

Foreign-Trade Zone No. 62, Cameron County, Texas (Brownsville Customs Port of Entry); Application for Expansion

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Brownsville Navigation District (BND), a Texas public corporation and grantee of Foreign-Trade Zone No. 62, requesting authority to expand its zone to include two additional sites in Cameron County, within the Brownsville Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 5, 1981. The applicant is authorized to make this proposal under Senate Bill No. 1105, Texas Legislature, signed June 13, 1979.

The application is a reactivation of a previous request for zone status for sites 3 and 4 in BND's original application filed October 31, 1979. While the Board granted BND authority to establish a foreign-trade zone at several sites within the port complex in Cameron County on October 20, 1980, it denied approval for sites 3 and 4 because the application contained no clearances from the Department of Energy (DOE). BND has since then contacted DOE and at the suggestion of that agency has resubmitted its proposal.

The proposed sites embrace the operations of two independent crude oil refineries, each with a 10,000 barrel per day capacity: Vedette Oil Refinery, Inc. (Site 3); and, Petraco Valley Oil Refining Corporation (Site 4). Both sites are located within the Port of Brownsville, east of the intersection of State Highway 48 and FM 511.

The application contains information concerning the economic rationale for granting zone status to the refineries. Both now process foreign crude oil for the domestic market. Zone procedures will permit the refineries to use excess capacity to refine additional foreign crude under processing agreements for re-export. BND feels that this could have a favorable effect on the U.S. balance of trade, increase U.S. value added, lower consumer prices through increased efficiency, and provide stability in the supply of crude oil.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Director (Inspection and Control), Region VI, U.S. Customs Service, Suite 1240, 500 Dallas Street, Houston, Texas 77002; and Colonel James M. Sigler, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77443.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 6, 1981.

A Copy of the application is available for public inspection at each of the following locations:

Administrative Offices, Brownsville Navigation District, Port of Brownsville, Highways 48 and 511, Brownsville, Texas 78520

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Streets, N.W., Room 2006, Washington, D.C. 20230

Dated: January 9, 1981.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 81-1278 Filed 1-13-81; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Certain Footwear From India; Countervailing Duties; Clarification of Final Countervailing Duty Determination

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Clarification of final countervailing duty determination.

SUMMARY: This notice is to advise the public that the Department of Commerce is clarifying the "Final Countervailing Duty Determination" on certain footwear from India by providing a more accurate product description of the previous exemptions to the final determination.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-3460).

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination and Suspension of Liquidation," T.D. 79-275, was published in the Federal Register of October 26, 1979 (44 FR 61586). The notice stated that the Treasury Department had determined that the Government of India had given bounties or grants on the manufacture, production, or exportation of certain footwear (specifically leather shoes and leather uppers), within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act").

Following the determination countervailing duties were levied on imports of leather shoes and certain leather uppers. However, under section 303(a)(2) of the Act, countervailing duties may be imposed on duty-free merchandise only if the International Trade Commission ("the ITC") makes an affirmative injury determination. Therefore, Treasury suspended liquidation of entries of unlasted leather footwear uppers pending an ITC injury determination. On March 28, 1980, the ITC published a notice of no injury (45 FR 19678) regarding such leather uppers which effectively terminated the proceeding in regard to unlasted leather footwear uppers meeting the requirements for duty-free entry and so entered. Accordingly, such merchandise is not subject to the collection of countervailing duties.

The final determination also reiterated the preliminary determination that the 5% cash rebate upon export of "leather sandals" did not constitute a bounty or grant and therefore, such products were not subject to countervailing duties. This notice clarifies this excluded category of products based on further information received by the Department. The term sandal refers to footwear generally consisting of a sole held to the foot by uppers, composed of thongs or straps, with heel height of not over one inch, or without heels.

The Department excludes exports of leather sandals, slippers, huaraches and chappals from India from the coverage of the final affirmative determination regarding certain footwear from India.

The Department will instruct Customs officers to proceed with liquidation of all entries, or withdrawals from warehouse, for consumption of unlasted leather uppers entered free of duty and all entries of leather sandals, slippers, huaraches, and chappals without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to such entries. All other entries of footwear from India covered by the final determination of October 26, 1979 remain subject to countervailing duties.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

January 9, 1981.

[FR Doc. 81-1281 Filed 1-13-81; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Colombia; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has preliminarily determined that the Government of Colombia has given manufacturers, producers, and exporters of leather apparel benefits that constitute bounties or grants within the meaning of the countervailing duty law. We will make a final determination by March 24, 1981.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Anne Hamilton, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377-3963.

SUPPLEMENTARY INFORMATION: On November 12, 1980, we published a notice of initiation of countervailing duty investigation in the **Federal Register** (45 FR 74742), in response to a petition submitted on behalf of the domestic industry on October 14, 1980. The petitioner, Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, alleges that the Government of Colombia provides to manufacturers, producers, or exporters of leather wearing apparel certain subsidies that are bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (93 Stat. 190, 19 U.S.C. 1303) (hereafter referred to as "the Act"). The merchandise covered by this investigation is leather wearing apparel currently classified in item number 791.76 of the Tariff Schedules of the United States (TSUS). This merchandise includes men's, boys', women's and girls' leather coats, jackets, and other leather apparel (such as vests, pants, and skirts), as well as parts and pieces thereof. Because Colombia is not a "country under the Agreement," within the meaning of section 701(b) of the Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation. Therefore, the Department of Commerce has not referred this case to the United States International Trade Commission for a preliminary determination of material injury to a domestic industry.

Program Under Investigation

The petitioner alleges that the Government of Colombia provides subsidies in the form of payment of negotiable tax certificates (CATs) at a fixed percentage of the value of export transactions for the purpose of rebating all indirect taxes paid. The Treasury Department (the responsible agency for the administration of the countervailing duty law before January 1, 1980) investigated the CAT program as part of an earlier countervailing duty investigation, initiated in January 1978, on men's and boys' textile products from Colombia. On November 16, 1978, Treasury made a final affirmative determination (43 FR 53525) that leather wearing apparel producers received a benefit in the form of CAT certificates valued at 12 percent of the domestic value-added content of the export (12 percent of a 75 percent domestic value-added content, yielding an effective CAT rate of 9 percent). In estimating a "net" subsidy of 5.94 percent (later revised to 6.18 percent (44 FR 3599)), Treasury reduced the amount of the CAT by the indirect taxes that could have been, but were not, rebated on the export of leather apparel. The Treasury Department revoked this positive determination (44 FR 28992) when Colombian leather apparel manufacturers certified they would renounce the "net" bounty, voluntarily relinquishing negotiable tax certificates (CATs) valued in this amount on men's and boys' leather apparel exports to the United States on or after March 1, 1979.

The petitioner has requested that the Department of Commerce reinvestigate the CAT program because since the previous case the countervailing duty law has been amended to restrict the use of offsets in calculating countervailing duties. Section 771(6) of the Act defines net subsidy to be the gross subsidy minus only the following amounts, if applicable: (1) any application, fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the subsidy; (2) any loss in the value of the subsidy resulting from its deffered receipt, if the deferral is mandated by Government order; and (3) export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

However, the Senate Report on the Trade Agreements Act of 1979 (S. Rep. No. 96-249, 96th Cong., 1st Sess. 84-85 (1979)) states quite clearly that the limitations on offsets contained in section 771(6) of the Act:

> Are not intended to prohibit the administering authority from determining that export payments are not subsidies, if those payments are reasonably calculated, are specifically provided as non-excessive rebates of indirect taxes within the meaning of Annex A of the Agreement and are directly related to the merchandise exported.

The Department of Commerce published Administrative Guidelines (19 CFR 355, Annex 1, paragraph 2, 45 FR 4949) for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its

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components is not a subsidy. These guidelines were recently applied in the investigations involving textile and textile mill products (45 FR 55502) and certain iron metal fasteners (45 FR 64611) from India.

Preliminary Affirmative Determination

The Government of Columbia has not submitted information that would allow us to apply these guidelines with regard to the CAT program. Until such information is provide, we have no alternative but to preliminarily determine that, under the CAT program, the Government of Columbia makes available a subsidy to exporters of leather wearing apparel for the full amount of the payment. As there are no indication of changed circumstances since the previous investigation, described above, we have relied on information submitted during that investigation as the best information available on the CAT program. On the basis of that information, we estimate the gross subsidy to be 9 percent of the f.o.b. value of exports, i.e., the amount the Government of Columbia actually makes available on exports of leather wearing apparel.

Administrative Procedures

In accordance with Section 703(d) of the Act (19 U.S.C. 1671b(d)), Customs officers will be directed to suspend liquidation of all entires, or withdrawals from warehouse, for consumption of the CAT payments and has entered into negotiations with the Department of Commerce for a suspension agreement, we have preliminarily determined not to order the posting of a cash deposit or bond on entries of the subject merchandise by this exporter. The renunciation is in the full amount of the subsidy on exports to the Unites States on or after January 1, 1981, of all merchandise currently classified under TSUS 791.76.

The negotiations are being conducted under the provisions of section 704 of the Tariff Act of 1930 (19 U.S.C. 1671c) and section 355.31 of the Commerce Regulations (19 CFR 355.31). In the event the negotiations are terminated or the renunciation is rescinded, the Department will adjust the cash deposit or bond rate according to the investigative results.

Confecciones Amazones Orinoco is the only Colombian leather apparel producer of appreciable size, the other facilities being small family shops. By value exports of leather apparel from Columbia amounted to $1.7 million in 1979, and are expected to drop to aroumd $1 million in 1980 (representing, in both years, less that 1 percent of total U.S. imports of the subject merchandise). According to the Government of Columbia, Confecciones Amazonas Orinoco is currently the only Colombian exporter of leather apparel to the United States.

However, should any new Colombian exporters of the subject merchandise enter the U.S. market, we will require that a cash deposit, bond, or other security be posted in the amount of 9 percent of the f.o.b. value of the imported merchandise.

In accordance with the Commerce Department Regulations (19 CFR 355.34, 45 FR 4946), interested parties may submit information or written views concerning this proceeding. Submissions should be sent in at least 10 copies no later than February 12, 1981, to the Deputy Assistant Secretary for Import Administration, Room 2800, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Department will also afford interested parties an opportunity to present oral views in accordance with section 355.35 of the Commerce Department Regulations. If requested, this hearing will be held at 10:00 a.m. on February 11, 1981, in Room 3817 of the Commerce Department. Interested parties should submit a request for such a conference to the Office of the Deputy Assistant Secretary for Import Administration at the address shown above. These requests should contain (1) the name, address, and telephone number of the requester; (2) the number of participants; and (3) a statement outlining the issues to be discussed. The Deputy Assistant Secretary must receive the requests no later than January 23, 1981.

Interested parties must submit prehearing briefs no later than February 4, 1981, to the Office of the Deputy Assistant Secretary at the address noted above. Oral presentations by persons submitting prehearing briefs will be limited to those issues raised in the briefs.

We will issue a final determination no later than March 24, 1981.

This determination is published in accordance with section 703(f) of the Act (19 U.S.C. 1671b(f)).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

January 9, 1981.

[FR Doc. 81-1282 Filed 1-13-81; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Mexico; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Preliminary countervailing duty determination.

SUMMARY: The U.S. Department of Commerce has made a preliminary determination that the government of Mexico grants manufacturers, producers or exporters of leather wearing apparel certain benefits that are subsidies within the meaning of the countervailing duty law. A final determination will be made no later than March 24, 1981.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann, Jr., Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C., 20230, (202) 377-4198.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the U.S. Department of Commerce received a petition in satisfactory form from Ralph Edwards Sportswear, Inc., in Cape Girardeau, Missouri. The petitioner alleges that the government of Mexico provides manufacturers, producers, and exporters of leather wearing apparel certain benefits that are bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, (93 Stat. 190, 19 U.S.C. 1303) (hereafter referred to as "the Tariff Act"). Because Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation.

The petitioner claims that massive imports of this apparel over a relatively short period of time have created critical circumstances within the meaning of section 703(e) of the Tariff Act (93 Stat. 154, 19 U.S.C. 1671b(e)). However, since Mexico is not a "country under the Agreement" and leather wearing apparel is dutiable, this provision does not apply (Section 103(b), Trade Agreements Act of 1979, 93 Stat. 190).

In response to this petition and in accordance with Section 303 of the Tariff Act, as amended (19 U.S.C. 1303), we initiated a countervailing duty investigation and a notice of our investigation was published in the **Federal Register** on November 12, 1980 (45 FR 74734).

Product Description

The merchandise covered by this investigation is leather wearing apparel currently classified in item number 791.76 of the Tariff Schedules of the United States TSUS). This merchandise includes men's, boys', women's and girls' leather coats, jackets, and other leather apparel (such as vests, pants, and skirts), as well as parts and pieces thereof.

Import Profile

According to U.S. Department of Commerce statistics, leather wearing apparel (791.76 TSUS) exports to the United States from Mexico were valued at $26,260,857 from January 1, 1979, through May 31, 1980. Analysis of this total reveals the following:

1. $9,436,060 (36%) entered the U.S. under TSUS 807 (U.S. made/foreign assembled). Of this figure, dutiable content was $7,966,513 (value added in foreign assembly) while the nondutiable content was $1,469,547 (value of U.S. components). Analysis of 807 entries by U.S. Customs District shows 42% entered through El Paso, Texas, 41% through Nogales, Arizona and 17% through San Diego, California. The largest source of these imports are large *maquiladora* (in-bond assembly) operations along the border in Mexico that have ties with U.S. firms.

2. $13,920,475 (53%) entered the U.S. wholly under the most-favored-nation tariff rate of 6%. By U.S. Customs District, 55% of these goods entered through San Diego, 27% through El Paso, 12% through Savannah, Georgia and 4% through Nogales.

3. $2,904,322 (11%) entered the U.S. duty free under the General Schedule of Preference (GSP), which expired March 1, 1979.

The Program Investigated

Leather wearing apparel from Mexico was one of the products included in an earlier countervailing duty investigation by the Treasury Department (44 FR 41003–4). That investigation concluded that the net benefit derived from government programs was *de minimis* and that, therefore, benefits paid or bestowed by the government of Mexico toward the manufacture and exportation of leather wearing apparel did not involve subsidies within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

The petitioner, Ralph Edwards Sportswear, Inc., however, alleges that the offset of indirect taxes permitted in the earlier investigation is inconsistent with the Department's Administrative Guidelines (19 CFR 355, Annex 1, paragraph 2, 45 FR 4949). The Department uses these guidelines to determine whether or not the payment of a lump sum calculated and identified as a rebate of an indirect tax on an exported product or its components is a subsidy. The guidelines were most recently applied to investigations involving textiles and textile mill products (45 FR 55502) and of certain iron metal fasteners (45 FR 64611) from India.

The Government of Mexico (GOM) program that the petitioner alleges to be a subsidy to the leather apparel industry is the CEDI tax rebate certificate program. The CEDI was originally designed to offset the cascade effect of the turnover taxes levied at all stages in the production process. However, with the introduction of the Value Added Tax on January 1, 1980, which incorporated most of the indirect tax burden previously used to calculate the CEDI rebate, the GOM revised the CEDI program.

A January 8, 1980, GOM decree entitled: "Decree which enables the granting of encouragement to export products manufactured in the country," outlines the basics of the new CEDI program. Generally, to obtain a CEDI benefit, the exported products: (1) should not be subject to export tax; (2) should not be products imported for repair, conditioning or nonsubstantial transformation; and (3) should contain at least 30% national content. The Mexican Secretary of Commerce is responsible for publishing lists of the articles that qualify for this incentive, as well as the percentage rebate of indirect taxes applicable in each case. Percentages will be applied to the product's FOB value or its CIF value if national insurance and transportation companies are used. The revised CEDI program offers two types of benefits: (1) a payment equivalent to the indirect tax burden that affects the cost of the exported product and its component goods and services, and (2) the return of import duties paid on materials and parts included in the exported products. The refund or payment is granted in the form of tax rebate certificates (CEDIS) that may be used in payment of all federal taxes that are not for a specific purpose. These certificates are not transferable and are valid for five years from their dates of issue.

It should also be noted that according to Article 7 of the GOM decree, the Mexican Secretary of Commerce has the authority to waive any of the qualifying conditions for this program in the case of products that (1) increase exports, (2) open new markets, (3) promote the consumption of national raw material, or (4) increase employment.

Preliminary Determination

It appears from GOM submissions that the CDEI program exists to give exporters rebates designed to compensate for indirect taxes borne in the manufacturing process. While it is true that in previous countervailing duty investigations of Mexican exports to the United States the CEDI rebates were determined not to exceed the indirect taxes charged on items physically incorporated into the final product, the Department cannot logically extend that conclusion to this investigation. The introduction of the VAT and its net effect upon the scope and intent of the revamped CEDI program dictates that this investigation analyze the indirect tax burden which the GOM claims is reimbursable under this program. The information provided by the GOM in its initial response to this investigation is insufficient in depth to allow such an analysis at this time.

The 1979 Trade Act imposes new requirements on the treatment of export payments in countervailing duty investigations. For countries such as Mexico that compensate for their indirect tax burden by giving the exporter tax rebate certificates, the Act requires satisfactory evidence, officially authorized by the Government concerned, that, (1) quantifies the degree of indirect tax incidence on the exported item, (2) shows the clear relationship between the tax and the export payment received, and (3) demonstrates clearly that such payment is for the stated purposes of compensating for indirect taxes. The Department cannot consider such an analysis if it was prepared principally in response to a countervailing duty investigation. Accordingly, such tax studies would be considered only if undertaken pursuant to historical government policy requiring justification of indirect tax incidence as the basis for an export rebate. The evidence presented should include a detailed inventory of all taxes used as a basis for determining the export payment, as well as the incidence each such tax bears to the exported product. Again there is insufficient information in the GOM submissions to determine if the CEDI program meets these criteria.

To the extent that evidence thus far submitted by the GOM does not allow us to rule otherwise, we hereby determine that the CEDI program is a subsidy with the meaning of the U.S. countervailing duty law (19 U.S.C. 1303). Based on figures supplied by the GOM, which indicated, on a weighted average basis that the actual CEDI rebates paid on leather wearing apparel in 1980 amounted to 5.2%, we preliminarily determine the subsidy to be fixed at 5.2% ad valorem on export to the United States.

Administrative Procedures

In accordance with 355.34 of the Commerce Department Regulations (19 CFR 355.34, 45 FR 4946), interested parties may submit information or written views concerning this proceeding. Submissions, consisting of at least 10 copies, should be sent not later than February 12, 1981, to the Office of Investigations, International Trade Administration, Room 2111, Department of Commerce, Washington, D.C. 20230.

The Department will also afford interested parties an opportunity to present oral views in accordance with section 355.35 of the Commerce Department Regulations. If requested, this hearing is scheduled to be held at 10:00 a.m. on February 13, 1981, at the U.S. Department of Commerce, in Room 3817, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Interested parties who wish to have such a conference should submit a written request by January 23, 1981, to the Office of the Deputy Assistant Secretary for Import Administration, Room 2800, at the address shown above. These requests should contain (1) the name, address, and telephone number of the requester; (2) the number of participants; and (3) a statement outlining the issues to be discussed.

Interested parties to this hearing must submit pre-hearing briefs no later than February 10, 1981, to the Office of the Deputy Assistant Secretary at the address noted above. Oral presentations by persons submitting pre-hearing briefs will be limited to those issues raised in the briefs.

In accordance with section 703(d) of the Act (19 U.S.C. 1671b(d)), Customs officers will be advised to suspend liquidation on all U.S. entries, or withdrawals from U.S. warehouses, for consumption of the subject merchandise on or after the date of publication of this notice in the **Federal Register**. This suspension of liquidation will remain in effect until further notice. The posting of a cash deposit, bond, or other security in the amount of 5.2 percent *ad valorem*, will be required as of that date.

We will issue a final determination no later than March 24, 1981. This detemination is published in accordance with section 703(f) of the Act (19 U.S.C. 1671b(f)).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

January 9, 1981.

[FR Doc. 81-1203 Filed 1-13-81; 8:45 am]

BILLING CODE 3510-25-M

Natural Menthol From the People's Republic of China; Antidumping—Preliminary Determination of Sales at Less Than Fair Value and Suspension of Liquidation

AGENCY: U.S. Department of Commerce.

ACTION: Preliminary determination of sales at less than fair value and suspension of liquidation.

SUMMARY: The U.S. Department of Commerce has reached a preliminary determination that natural menthol from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less then fair value within the meaning of section 731 of the Tariff Act of 1930, as amended. Liquidation of entries (or withdrawals from warehouses) for consumption is being suspended. A cash deposit, bond, or other security in an amount equal to the estimated dumping margin of 13.5% will be required at the time of each entry or withdrawal from warehouse.

To date this investigation raises two important issues:

(1) The circumstances that determine whether the economy of the PRC is state-controlled to an extent that sales of natural menthol in the home market do not permit a fair value determination under normal standards, and

(2) The choice of a surrogate market for a fair value comparison when a home market is found to be state-controlled.

We have, in this preliminary determination, found the economy of the PRC to be state-controlled to the extent that sales of menthol in the PRC do not provide an appropriate basis for fair value comparison. Accordingly, we have selected sales from a surrogate market at a stage of economic development comparable to that in the PRC—sales of natural menthol from Paraguay to the United States—for purposes of determining fair value.

EFFECTIVE DATE: January 14, 1981.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-5496).

SUPPLEMENTARY INFORMATION:

Procedural Background

On June 11, 1980, the Department of Commerce received an antidumping petition from counsel representing Haarmann & Reimer Corporation, Springfield, New Jersey. After reviewing the petition as required by section 732 of the Tariff Act of 1930, as amended (19 U.S.C. 1673a) (the Act), we determined that there were sufficient grounds to initiate an antidumping investigation and published a notice of the initiation in the **Federal Register** on July 2, 1980 (45 FR 44976).

On July 28, 1980, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United Stated is being materially injured, or is threatened with material injury, by reason of imports of natural menthol from the People's Republic of China allegedly sold at less than fair value. The ITC published a notice of that determination in the **Federal Register** on August 6, 1980 (45 FR 52273).

Pursuant to section 733(c) of the Act (19 U.S.C. 1673b(c)), the Department concluded that the parties were cooperating and that this case is extraordinarily complicated because it presents the novel issue of the extent of state controls in the PRC. Accordingly, we extended the period for preliminary analysis until January 7, 1981. Notice to this effect was published in the **Federal Register** on October 8, 1980 (45 FR 66835).

Production Description

This determination covers natural menthol, which is classifiable in the Tariff Schedules of the United States under item number 437.64. Natural menthol is used in cigarettes, confections, dentrifices, analgesic balms, mouthwashes, flavorings, and perfume.

State-Control of the Economy of the People's Republic of China

The overriding issue in the preliminary stage of this investigation has been whether the economy of the PRC is state-controlled "to an extent that sales or offers of sales of [menthol in the PRC] or to countries other than the United States do not permit a determination of foreign market value" by normal standards. If we find this condition to exist, section 773(c) of the Tariff Act of 1930, as amended (19 USC 1677(b)) requires us to use prices or costs from a producer in a non-state-controlled economy for our foreign market value in deciding whether the imports are being sold at less than fair value. Counsel for both respondent and petitioner have submitted extensive materials addressing this issue.

A threshold question is raised by respondent's contention that the special rules of section 773(c) apply only if the effects of state economic controls on the *particular sector* in question are such that a fair value determination under normal procedures cannot be made. Respondent finds support for its position in the language of the statute, which is drafted in terms of whether an exporting country being state-controlled "to an extent that sales or offers of sales of *such or similar merchandise*" (emphasis added) do not permit normal foreign market value calculations. Respondent also finds support for its position in a number of antidumping determinations by the Treasury Department in the 1960's.

Counsel for petitioner contends that the statutory language quoted above, when read in light of its legislative history, requires the administering authority to apply the special provisions of section 773(c) whenever a determination is made that the economy of a country is *generally* state controlled. Under this interpretation, sectoral analysis of the impact of state controls is unnecessary.

In reaching our conclusion in this preliminary determination, we have examined (and discuss below) both the degree of control exercised by the State over the PRC economy generally and the impact of state control on the production and sale of menthol. Since our conclusion would be the same under either petitioner's or respondent's interpretation of the statute, we need not specifically decide the issue at this time. We do, however, note that in our view, respondent has raised arguments which would have to be given very careful consideration where different conclusions would have resulted depending upon the approach taken.

In reaching our preliminary determination, we have reviewed extensive data on the development of China's economy since the early 1950s and the structure of the economy as its exists today. Since menthol is a direct derivative of the peppermint plant, we have concentrated on the role of the state in agricultural production and distribution.

There are no set criteria for judging whether, in a particular case, the degree of state control over an economy is such as to make home market prices inappropriate for purposes of foreign market value. Neither the language of the statute nor the legislative history offers anything more than the most general guidance.[1] Each case must be decided upon an analysis of the particular economic factors involved. Summarized below are the more important factors leading to our conclusion that the PRC's economy is state-controlled to the extent that home market prices of menthol do not provide an appropriate basis for foreign market value.

The economy of the PRC is that of a huge developing country in which the government has considerable control over the composition of inputs and the distribution of outputs. The State Planning Commission sets output targets and prices, allocates commodities and production, and establishes overall guidelines for the economy. Most capital goods and consumer necessities are subject to "unified distribution," the Chinese sysem for licensing and rationing. There is, therefore, little question that judged on the basis of the role of the state in the economy overall, the PRC is a state controlled economy country.

However, the degree of direct control varies both geographically and across product lines. For at least two decades, the central government has maintained a planning system with categories of goods. Category I includes those products considered most important in the economy. The major agricultural products included in this group are grains, oil seeds, and cotton. For these products the State Planning Commission sets targets for purchase, sale, export, import, and stockpiling. Category II goods are less controlled, although the State Planning Commission sets interprovince transfer and export levels. Subordinate ministries and provincial governments may add further controls (including controls on price). Goods which are not in Categories I and II, e.g., menthol, are not subject to either of these major formal systems of control, but are variably subject to miscellaneous controls. Thus, natural menthol is subject to very little direct regulation.

Respondent has presented persuasive evidence showing that the *purchases and sales* of menthol in the PRC essentially are based on market considerations. Transaction prices appear to be largely based on negotiations between buyer and seller within the PRC. In purchasing menthol for resale to foreign markets, respondent must compete with purchasers in the PRC who intend to use menthol domestically.

Further, there appear to be no direct controls (e.g. production quotas or special production incentives) on the production of menthol or peppermint oil (the primary raw material used in producing menthol). The difficulty in accepting PRC home market prices for menthol as the measure of fair value is not a function of the presence or absence of direct controls over the production and distribution of menthol. Rather, it results from *general limitations* on the transferability of land and labor in the PRC and from the indirect effects that pervasive controls on other agricultural products necessarily have on menthol production.

The two most important factors in the production of menthol are the land and labor needed to grow peppermint. While respondents have presented evidence indicating that "quasi-markets" exist for both (e.g. the use of surplus land and labor can be traded to neighboring production units), we cannot conclude, based on the information we have reviewed, that there is a genuine market for either. The extent of "quasi-market" transactions appears to be small and, even where they occur, land cannot be sold and the restrictions on labor mobility remain substantial. Without an active market for land and labor, it is difficult to find that production and pricing decisions reflect market forces and accurate valuation of inputs.

Furthermore, and also importantly, the pervasiveness of state planning and control of major agricultural products substantially limits the autonomy of production units and distorts the incentives that would be developed by a freely operating market.

The most severe limitation on production unit autonomy is the imposition of mandatory quotas on major agricultural products, which requires production units to grow specified amounts of particular crops and deliver these crops to the state at a set price. While these "Category I" crops are few in number, they include the most important agricultural products: grains, oil seeds, and cotton. The resulting limitation on production unit autonomy is substantial, because quotas can cover a large proportion of that part of the units' production. In addition, most agricultural units are required to meet their own subsistence needs, further limiting the volume of crops which can be grown for profit.

In addition to the impact which production quotas have on land and labor available for the production of non-quota goods, the pricing and distribution system which exists in the PRC for major agricultural products also has an unavoidable effect on production team decisions to produce or not to produce crops such as menthol. If, for example, the price set for cotton is too low, there is a clear incentive to produce alternative crops such as peppermint which is grown on similar types of land. This, obviously, has a significant affect on the supply of menthol.

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[1] The Report of the Senate Finance Committee states that, in determining the applicability of the State-controlled economy provision currently section 773(c)), the administering authority should look to see if ". . . the supply and demand forces do not operate to produce prices either in the home market or in third countries which can be relied upon for comparison purposes." (Trade Reform Act of 1974: Report of the Senate Finance Committee on H.R. 10710, 93rd Cong., 2d Sess. 174 (1974).

There are other factors in the PRC's agricultural sector which limit the freedom of production teams to choose their output mix. These include the requirement to pay agricultural taxes in kind and restraints on the free marketing of Category I goods. The marketing restraints seem to create barriers to specialization and economic crops by making it difficult to procure Category I goods freely.

A number of reforms designed to give greater play to market forces in the production and distribution of agricultural products have been introduced. We understand that efforts have been made to relax taxes in kind, enforced regional grain self-sufficiency, and quota production. Further, the PRC is allowing greater freedom to sell above-quota production in rural markets. However, our evidence suggests that these reforms are, as yet, tentative and limited.

In summary, we believe, that the PRC remains state-controlled both in the aggregate and the agricultural sector. Further, the production and therefore the pricing of menthol is affected by the framework of state-control to the extent that both home market and export menthol prices in the PRC may not be used as evidence of fair value. We recognize the recent tempering of the role of centralized planning in the PRC's economy. However, at this time these reforms seem to us as too new and too limited to have altered the fundamental nature of the PRC's economy and its effects on the production of menthol.

Fair Value Comparisons

Since all sales to unrelated U.S. customers were concluded prior to the importation of the menthol, we used purchase price, as defined in section 772(b) of the Act (19 U.S.C. 1677a(b)), to determine the United States price. We calculated the purchase price on the basis of the C & F price unrelated U.S. purchasers with deductions for a discount, ocean freight and home market inland freight. We determined the purchase price for all contracts made with unrelated U.S. purchasers in the period of January 1 through June 30, 1980.

Foreign Market Value

Since, for the reasons set forth above, we have concluded that the PRC home market or export prices for natural menthol are not an appropriate measure of fair value, we have, in accordance with the provisions of section 773(c) of the Act, calculated the foreign market value on the basis of sales of natural menthol from a non-state-controlled economy country—Paraguay—to the United States (19 CFR 353.8). The prices we have used were based on quotations received from a U.S. purchaser for prices from Paraguay to the United States during the period January 1 through June 30, 1980. The prices were quoted in U.S. dollars on an f.o.b. basis. No adjustments were made to these prices. These prices were used since they were the only prices of natural menthol produced in Paraquay which were available. We are pursuing the possibility of obtaining further price data on home market sales in and export sales from Paraquay.

We have been focusing on prices of natural menthol from Paraguay since the level of economic development of Paraquay appears to be closer to that of the PRC than do the levels of other major producers of natural menthol. In addition, Paraguay appears to be the only major non-state-controlled natural menthol producer which produces all its own raw material (peppermint).

Results of Fair Value Comparison

Using the above criteria, we found that the purchase price was lower than the foreign market value. The margins ranged from 12.56 to 14.85 percent and the weighted-averaged margin was 13.5 percent.

Critical Circumstance Determination

On November 25, 1980, the petitioner amended its petition under section 733(e)(1) of the Act (19 U.S.C. 1673b(e)(1) to assert that there are "critical circumstances" with respect to imports of menthol from the PRC. In order to determine that critical circumstances exist, the Department must find that there is a reasonable basis to believe that (1) there is a history of dumping of menthol in the United States or elsewhere, or (2) importers knew or should have known that the exporter was selling menthol at less than fair value, and (3) there have been massive imports of menthol over a relatively short period.

The Department is not aware of any other dumping investigation or determination concerning menthol from the PRC. The fact that the petitioner has alleged "significant estimated margins" of dumping from 1977 through 1979 and provided evidence of "consistent underselling by the PRC of menthol from other sources" does not establish a history of dumping by the respondent.

The petitioner contends that it has presented sufficient evidence of dumping and price cutting for the Department to find that importers of menthol from the PRC knew or should have known that the PRC exporter was selling at less than fair value. The petitioner's evidence of dumping, however, is based on the price of menthol in the home markets of Brazil or Japan. The respondent and the importers contend that the Department should rely on the home market price of menthol in the PRC. If that argument is rejected, the respondents and importers urge that the Department rely on the price from the PRC to a third country, preferably the United Kingdom.

The Department does not have a reasonable basis to believe that importers knew, or should have known, from the petitioner's information, that the PRC exporter was selling menthol in the United States at les than fair value because the importers have no reason to believe that the petitioner's analysis is accurate or reasonable. Moreover, price cutting in a declining market alone is not sufficient to warrant a conclusion that merchandise is being dumped. There is no reason to believe that there is a history of dumping of menthol or that importers should have known that CNEC was selling menthol at less than fair value. Therefore, since one of the statutory bases for critical circumstances has not been met, I conclude that critical circumstances do not exist. Accordingly, liquidations will not be suspended retroactively.

Verification

Although no information has been verified to date, all information relied on in making the final determination will be verified in accordance with section 776 of the Act (19 U.S.C. 1677e).

Preliminary Determination

Based on a comparison between United States prices and prices to the United States from Paraguay we have preliminarily determined that there is a reasonable basis to believe or suspect that exports of natural menthol from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673). The weighted average margin preliminarily found was 13.5 percent.

The Department will afford interested parties an opportunity to present oral views in accordance with § 353.47, Commerce Regulations (19 CFR 353.47). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, room 4830, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, beginning at 10:00 a.m., February 11, 1981. Interested parties who desire such a conference should provide a written request for a conference to the Office of the Deputy Assistant Secretary for Import Administration, room 2800, at the address shown above. This request should contain: (1) the name, address, and telephone number of the party requesting the conference; (2) the number of participants; and (3) a list of the issues to be discussed. All requests must be received by the Deputy Assistant Secretary no later than 10 days after publication of this notice. Any written views filed in accordance with §353.46(a), Commerce Regulations (19 CFR 353.46(a)) should be filed at the address indicated above, in at least 10 copies. Any written views should be filed not later than 30 days from the publication of this notice.

In accordance with section 753(d)(1) and (2) of the Act (19 U.S.C. 1673b(d)(1) and (2)), the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise on or after the date of publication of this notice, shall be suspended. The posting of a cash deposit, bond, or other security in the amount of 13.5 percent of the f.o.b. value of natural menthol from the PRC will be required as of that date. This suspension of liquidation shall remain in effect until further notice.

This case is being referred to the International Trade Commission for a determination concerning material injury or a threat of material injury. This determination is published in accordance with § 353.39(a)(2), Commerce Regulations (19 CFR 353.39(a)(2)).

January 7, 1981.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-1192 Filed 1-13-81; 8:45 am]

BILLING CODE 3510-24-M

Optic Liquid Level Sensing Systems from Canada; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the countervailing duty order on optic liquid level sensing systems from Canada manufactured by Honeywell Limited. The review covers the period January 8, 1979 through December 31, 1979. As a result of this review, the Department has preliminarily determined to assess countervailing duties, equal to the calculated value of the net subsidy, of 12 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 13, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-2104).

SUPPLEMENTARY INFORMATION:

Procedural Background

On January 8, 1979, a notice of "Final Countervailing Duty Determination and Suspension of Liquidation," T.D. 79-09, was published in the **Federal Register** (44 FR 1728). The notice stated that the Department of the Treasury had determined that exports of optic liquid level sensing systems from Canada, manufactured by Honeywell Limited, benefited from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act"). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Act, the Department has conducted an administrative review of the order on optic liquid level sensing systems from Canada, manufactured by Honeywell Limited.

Scope of the Review

Imports covered by this review are optic liquid level sensing systems (OLLS), including components as well as complete systems, manufactured in Canada by Honeywell Limited. They are used primarily to prevent the overfilling of tank trucks and storage tanks in the petroleum industry. Such imports are currently classifiable under item 685.90, Tariff Schedules of the United States.

The review covers the period January 8, 1979 through December 31, 1979, and the review is limited to the benefits received by Honeywell Limited under the Canadian Government's Program for the Advancement of Industrial Technology (PAIT), which was the only program found countervailable in the Final Determination.

Analysis of Program

Honeywell used the PAIT funds to defray certain costs incurred in the commercial introduction of two types of OLLS based on its patented concepts. Honeywell requested and received the maximum allowable PAIT grant, which was to finance 50 percent of the costs that it estimated it would incur in bringing the OLLS to full commercial production. Actual costs exceeded Honeywell's estimate and, as a consequence, the net effect of the grant was to cover something less than 50 percent of total product development costs. The Treasury Department concluded that only the portion of the grant which went to subsidize the product that was eventually marketed should be used in calculating the net value of the grant subject to countervailing duties. Since the grant was of a non-recurring nature, calculation of the *ad valorem* value of the grant consists of amortizing the grant applicable to this product over a period of years and then ascertaining the total value of production it has benefitted on a yearly basis.

In the application for the grant, Honeywell estimated the useful life of the technology developed to be a minimum of 10 years. The contract between Honeywell and PAIT provided that for 10 years the recipient of the funds would not produce the product being developed outside Canada without the express permission of the Canadian authorities. Consequently, we have calculated the *ad valorem* value by taking the portion of the grant applicable to the development of the device marketed, amortizing it on a straight-line basis over a ten-year period (beginning in 1976) and then dividing by the value of estimated total production in 1979, both domestic and foreign.

Preliminary Results of the Review

As a result of our calculations, we preliminarily determine that the net subsidy conferred by the PAIT grant on OLLS is 12 percent *ad valorem* of the f.o.b. invoice price.

Interested parties may submit written comments on these preliminary results on or before February 12, 1981, and may request disclosure and/or a hearing on or before January 28, 1981. The Department will publish the final results of the administrative review after analysis of issues raised in written comments or at a hearing. The Department intends to instruct the Customs Service to assess countervailing duties of 12 percent *ad valorem* of the f.o.b. invoice price on all unliquidated entries of optic liquid level sensing systems from Canada manufactured by Honeywell Limited entered, or withdrawn from warehouse, for consumption between January 8, 1979, and December 31, 1979.

Further, as required by § 355.36(c) of the Commerce Regulations, a cash deposit of estimated countervailing duties of 12 percent *ad valorem* shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, a deposit of estimated duties of 9 percent of the f.o.b. invoice price shall continue to be required on each entry, or withdrawal from warehouse, for consumption of the subject merchandise, and liquidation shall continue to be suspended.

This administrative review and notice publication are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

January 8, 1981.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-1193 Filed 1-13-81; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Toxicological Advisory Board; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting: Toxicological Advisory Board.

SUMMARY: This notice announces a meeting of the Toxicological Advisory Board on Tuesday, February 3, 1981 from 8:30 a.m. to 5:00 p.m. and Wednesday, February 4, 1981 from 8:30 a.m. to 3:00 p.m. The meeting, which is open to the public, will be held in Room 456 at 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Barbara Rosenfeld, Director, Office of Public Participation, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, DC 20207, (202) 254-6241.

SUPPLEMENTARY INFORMATION: The Toxicological Advisory Board is a nine-member advisory committee which advises the Commission on precautionary labeling for acutely toxic household substances and on instructions for first aid treatment labeling. In addition, the Board reviews labeling requirements that have been issued under the Federal Hazardous Substances Act and recommends revisions it considers appropriate. The Toxicological Advisory Board was created on November 10, 1978, under the authority of Section 10 of the 1978 CPSC Authorization Act (Pub. L. 95-631).

This meeting will be devoted to the review of labeling advice for metal salts, certain amines, alcohols, aldehydes, ketones, esters and miscellaneous compounds.

For a complete list of topics to be discussed or for information on the schedule, please call the number listed above.

The two-day meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Toxicological Advisory Board should notify the Office of the Secretary (see address above) by Friday, January 23, 1981.

The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the appropriate time requested. Time permitting, these presentations and other statements from the audience to members of the Board may be allowed by the presiding officer. Requesters will be informed of the decision before the meeting.

Dated: January 7, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-1325 Filed 1-13-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the committee: Army Science Board (ASB)
Dates of meeting: 3-4 February 1981
Place: Room 2E271, The Pentagon, Washington, DC
Time: 0830-1700 hours, 3-4 February 1981 (Closed)
Proposed agenda: The ASB 1981 Summer Study participants will receive classified briefings and hold discussions on "Equipping the Army in 1990-2000". Specifically, items to be presented will provide information to address these Terms of Reference:

1. What existing and emerging technologies could be exploited to significantly enhance the fighting capability of Army forces in the 1990's with emphasis given to exploiting those technologies in which the United States excels.

2. In an era of decreasing potential military manpower, how might technology be applied to produce a more manpower-economical force structure with increased combat potential? Which technologies appear to offer the highest payoff in hardware/people trade offs?

3. Considering each level of Army forces (e.g., Division, Battalion) as a mission oriented system, what weapons, support, and netting C^3 contribute most to efficient, integrated combat capability with desired characteristics of deployability, survivability, flexibility, and sustainability?

This meeting will be closed to the public in accordance with Section 553b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Helen Pipon,

Administrative Officer.

[FR Doc. 81-1277 Filed 1-13-81; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Ethnic Heritage Studies; Meeting

AGENCY: National Advisory Council on Ethnic Heritage Studies.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forth-coming meeting of the National Advisory Council on Ethnic Heritage Studies. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:
January 28, 1981, 9:00 a.m. to 4:30 p.m.
January 29, 1981, 9:00 a.m. to 4:30 p.m.
January 30, 1981, 9:00 a.m. to 1:30 p.m.

ADDRESS: Federal Office Building 6, Room 3000 (large conference room) 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence E. Koziarz, Director Ethnic Heritage Studies Program, ROB-3, Room 3928, 202-245-9506.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Ethnic Heritage Studies is established under Section 956 of the Elementary and Secondary Education Act of 1965 as added by the Education Amendments of 1972 (Pub. L. 92-319) and amended by the Education Amendments of 1978 (Pub. L. 95-561). The Council is established to advise the Secretary and the Assistant Secretary for Education Research and Improvement on the implementation of Part E of Title IX of the Elementary and Secondary Education Act of 1965 in order to provide assistance designed to afford students the opportunity to learn about their own cultural heritage and the contributions of the other ethnic groups of the Nation.

The Council shall advise concerning matters of general policy, arising from the administration of programs authorized by Part E of Title IX, of the Elementary and Secondary Education Act of 1965, and shall perform specific functions as follows: (a) make recommendations to the Secretary and the Assistant Secretary regarding the collection of data to facilitate program planning and evaluation; e.g., recommend a survey of needs to determine to modify program priorities, or suggest national or regional reviews of intercultural curriculum and personnel development; (b) suggest innovations to meet program needs or otherwise improve ethnic heritage studies; (c) suggest promising areas of inquiry to give direction to research; e.g., recommended ethnographic studies as required for substantial intercultural curriculum materials development; (d) provide such administrative and legislative proposals as may be appropriate; and (e) not later than June 30 of each year, submit to Congress, a report of its activities, findings, and recommendations.

The proposed agenda includes:

January 28, 1981

Introduction of New Members
Swearing In of New Members
Council Business
Exploration of the Relationship of Multi-Ethnic Education to Multicultural Ed.
Ethnic Studies—A Budget View
Presentation Regarding Intergenerational Ethnic Studies
Ethnic Studies in the Office of School Improvement

January 29, 1981

Evaluation of Ethnic Studies Materials
Ethnic Studies—The National Ethnic Studies Assembly View
Ethnic Studies—The Legislature's View

January 30, 1981

Committee Meetings
Reports by Committees
Agenda for March Meeting

Records are kept of all Council proceedings, and are available for public inspection at the Office of the National Advisory Council on Ethnic Heritage Studies, ROB-3, Room 3928, 7th and D Streets SW., Washington, D.C. 20202

Signed in Washington, D.C., on January 9, 1981.

Lawrence E. Koziarz,

Director, Ethnic Heritage Studies Program.

[FR Doc. 81-1218 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

Grants for Arts in Education Program; Correction

AGENCY: Department of Education.

ACTION: Correction to Application Notice.

The application notice published in the **Federal Register** on October 7, 1980 (45 FR 66607) is corrected to add the following information to subparagraph (a) of the section entitled, "Applicable Regulations."

If substantive changes are made in the Final Regulations for the Arts in Education Program, applicants will be given an opportunity to amend their applications.

Probable changes include the broadening of the definition of the "rural or small community" category to include all applicants not in the State or urban categories; the elimination of the requirement for cooperation or collaboration, although these are still considered among the selection criteria; the judging of approaches, methods or materials to be developed in projects based upon their "usefulness and effectiveness" to other potential users rather than the provisions for dissemination; the deletion of the requirement that project results be "new or innovative;" the removal of the prohibition against "stipends" and the authorization of payments to teachers for inservice training; the removal of the 5% limitation on equipment costs; the substitution of "arts integration" for "comprehensiveness" as a selection criterion; and the elimination of the Secretary's 20 optional points for priority funding.

Applicants to the Arts in Education Program will need to refer to the preamble to the Final Regulations that are expected to be published on or about January 19, 1981.

FURTHER INFORMATION: Further information may be obtained from Dr. Harold Arberg, Director, Arts and Humanities Staff, U.S. Department of Education (Room 3728 Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 472-7793.

Dated: January 8, 1981.

F. James Rutherford,

Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Number 84.084, formerly 13.566 Elementary and Secondary Education in the Arts)

[FR Doc. 81-1216 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

Experimental Program for Opportunities in Advanced Study and Research in Education

AGENCY: Department of Education.

ACTION: Application notice for new projects under the experimental program for opportunities in advanced study and research in education, National Institute of Education.

Grant applications are invited for new projects under the Experimental Program for Opportunities in Advanced Study and Research in Education. Authority for this program is contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

Under this program the Secretary may award grants to colleges, universities, State or local educational agencies, public or private non-profit or for-profit agencies or organizations, or any combination of these. A for-profit grantee is required to forego any profits and to cost-share to the same extent that is required of a non-profit grantee.

New grants will be awarded in Fiscal Year 1981 for Institutional Projects and Special Projects that carry out experimental activities to explore and demonstrate effective ways to (1) increase the participation of minorities and women in educational research and development (R&D); (2) enhance equality of opportunity within the education R&D workforce; (3) increase the relevance and credibility of education R&D through greater inclusion of contributions and perspectives from these previously underrepresented groups; and (4) improve the overall quality of education R&D by increased utilization of the talent that is available.

Closing date for transmittal of applications: An application for a grant for either an Institutional Project or a

Special Project must be mailed or hand delivered by April 21, 1981.

Applications delivered by mail: An application sent by mail must be addressed to the Proposal Clearinghouse, Mail Stop 1, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. The lower left-hand corner of the package should display the type of project: "Institutional Project" or "Special Project."

The applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing applied by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, neither of the following is acceptable to the Secretary as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should specifically request that a dated postmark be affixed by its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street, N.W., Washington, D.C. The Proposal Clearinghouse will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Preapplications: Preapplications are not being invited or required.

Application instructions: Persons who wish to receive a copy of the application information package (also referred to as the program announcement) may request one by sending a self-addressed mailing label to the Experimental Program for Opportunities in Advanced Study Team, DIP, Mail Stop 29, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. Those who have requested that their names be placed on the mailing list need not send a mailing label. The announcement gives further information on program objectives, eligibility and review criteria, ineligible activities, and application instructions.

Program information: The program covers two types of projects: Institutional Projects and Special Projects. Institutional Project grants will average $90,000 for a 12 month budget period. If an application is for a multi-year project, the project may be continued to a maximum of three years through noncompetitive continuation awards that are contingent upon satisfactory performance and availability of funds. Activities should be designed to discover and demonstrate effective ways by which institutions and organizations can remove barriers to participation of minorities and women in educational R&D. Such activities should provide to participants information on the availability of training and employment opportunities for minorities and women, thus creating and maintaining an environment in which the participation of these populations is the norm rather than the result of special efforts.

Special Project grants will average $45,000 for a 12 month budget period. If the application is for a multi-year project, the project may be continued for a maximum of three years through noncompetitive continuation awards, contingent upon satisfactory performance and availability of funds. Special Project activities are normally of a shorter duration than those of Institutional Projects. Activities focus directly on training, professional development, and information needs of minorities and women in educational R&D. Multi-year support is limited to those projects that offer a sequence of short-term activities that ar recurrent or intermittent.

Available funds: $800,000 is available in fiscal year 1981 for new awards. These funds will support 6–8 grants for Institutional Projects and 4–6 grants for Special Projects. All awards will be made by July 1981.

These funding estimates do not bind the U.S. Department of Education to a specific number of grants nor to the awarding of grants for a specific amount. The total amount of funding available to support these grants may be increased or decreased by the Secretary.

Applicable regulations: The regulations applicable to this program are the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77), published in the **Federal Register** on April 13, 1980, 45 FR 22494, and the regulations for the Experimental Program for Opportunities in Advanced Study and Research in Education (34 CFR Part 703), published in the **Federal Register** as a Notice of Proposed Rulemaking concurrently with this Notice. If substantive changes are made in the final regulations, applicants will be given an opportunity to amend their applications.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Z. Alejandro, Minorities and Women's Program, DIP, NIE, OERI, 1200 19th Street, N.W., Washington, D.C., telephone (202) 254–8827.

(20 U.S.C. 1221e)

Dated: January 7, 1981.

F. James Rutherford,

Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development; formerly 13.950)

[FR Doc. 81–1217 Filed 1–13–81; 8:45 am]

BILLING CODE 4000-01-M

Office of Bilingual Education and Minority Languages Affairs

Transition Program for Refugee Children

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Transmittal of Applications.

Applications are invited for grants under the Transition Program for Refugee Children.

Authority for this program is contained in Section 412(d)(1) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980 (Pub. L. 96–212).

(8 U.S.C. 1522(d)).

Eligible applicants are State educational agencies.

This program supports educational activities designed to meet the special needs of eligible refugee children and to enhance their transition into American society.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 16, 1981.

Applications delivered by mail: An application sent by mail must be addressed to Mr. James H. Lockhart, Acting Director of the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 505, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as a proof of mailing:

(1) a private metered postmark, or

(2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, Room 505, Reporters Building, 300 7th Street, S.W., Washington, D.C.

The Refugee Children Assistance Staff will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary announces January 19, 1981, as the date on which State educational agencies shall count the number of children eligible for assistance under the Transition Program for Refugee Children. A grant is made to a State educational agency based on the number of eligible children enrolled in public and nonprofit private schools in the State, following application of the formula in § 538.31(d) of the program regulations using the weighting factors announced in this notice. Using the same formula, the State educational agency awards subgrants to local educational agencies in its State that propose to serve eligible children within their jurisdictions. When a local educational agency does not apply to serve its eligible children, the State educational agency provides services directly to those children or arranges for provision of services to those children through subgrants, contracts, and cooperative agreements with other public and private nonprofit organizations, agencies, and institutions. Awards under this program are to provide educational services to eligible children during the current school year (1980–1981).

Weighting factors: Section 538.31 of the program regulations authorizes the Secretary to announce the weighting factors to be used in distributing funds under this program. For the award of fiscal year 1980 funds, the Secretary will use the weighting factors presented in the table in § 538.31(d) of the program regulations.

Available funds: It is expected that approximately $23 million will be available for grants to State educational agencies. These funds are a fiscal year 1980 supplementary appropriation and have extended availability until March 31, 1981.

It is estimated that these funds will provide approximately $300 of assistance per eligible child. However, the approximate amount of funds available per eligible child may increase or decrease depending on the total number of eligible children that States report and the Secretary's application of the formula in § 538.31 of the program regulations using the weighting factors announced in this notice.

These estimates, however, do not bind the U.S. Department of Education to specific numbers of grants or to the amount of any grant.

Application forms: Application forms and instructions will be mailed to all State educational agencies. Additional forms may be obtained by writing to the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 505, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed ten pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Transition Program for Refugee Children (34 CFR Part 538) published in Part 6 of this issue of the **Federal Register**.

(2) Regulations governing the Refugee Resettlement Program (45 CFR Part 400) published on September 9, 1980 (45 FR 59618).

(3) Education Division General Administrative Regulations (EDGAR) (34 CFR Parts 76 and 77) published on April 3, 1980 (45 FR 22494), except as otherwise provided in 34 CFR Part 538.

Further information: For further information contact Mr. James H. Lockhart, Acting Director of the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 505, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. Telephone (202) 472–7177. (8 U.S.C. 1522(d)).

Dated: January 8, 1981.

Josue M. Gonzales,

Director, Office of Bilingual Education and Minority Languages Affairs.

(Catalog of Federal Domestic Assistance Number 84.146, Transition Program for Refugee Children.)

[FR Doc. 81–1248 Filed 1–13–81; 8:45 am]

BILLING CODE 4000–01–M

Educational Services for Cuban and Haitian Entrant Children Program

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Transmittal of Applications.

Applications are invited for grants under the Educational Services for Cuban and Haitian Entrant Children Program.

Authority for this program is contained in Section 303 of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978 (Pub. L. 95–561).

(20 U.S.C. 2943)

Eligible applicants are State educational agencies.

This program supports educational activities designed to meet the special needs of Cuban and Haitian entrant children and to enhance their transition into American society.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 16, 1981.

Applications delivered by mail: An application sent by mail must be addressed to Mr. James H. Lockhart, Acting Director of the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 505, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

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(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as a proof of mailing:

(1) a private metered postmark, or

(2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, Room 505, Reporters Building, 300 7th Street, S.W., Washington, D.C.

The Refugee Children Assistance Staff will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary announces January 19, 1981, as the date on which State educational agencies shall count the number of children eligible for assistance under the Educational Services for Cuban and Haitian Entrant Children Program. A grant is made to a State educational agency based on the number of eligible children enrolled in public and nonprofit private schools in the State, following application of the formula in § 539.31(d) of the program regulations using the weighting factors announced in this notice. Using the same formula, the State educational agency awards subgrants to local educational agencies in its State that propose to serve eligible children within their jurisdictions. When a local educational agency does not apply to serve its eligible children, the State educational agency provides services directly to those children or arranges for provision of services to those children through subgrants, contracts, and cooperative agreements with other public and private nonprofit organizations, agencies, and institutions. Awards under this program are to provide educational services to eligible children during the current school year (1980–1981).

Weighting factors: Section 539.31 of the program regulations authorizes the Secretary to announce the weighting factors to be used in distributing funds under this program. For the award of fiscal year 1980 funds, the Secretary will weight all eligible children equally, regardless of the recency of their arrival in the United States.

Available funds: It is expected that approximately $7.7 million will be available for grants to State educational agencies. These funds are a fiscal year 1980 supplementary appropriation and have extended availability until December 31, 1981.

It is estimated that these funds will provide approximately $300 of assistance per eligible child. However, the approximate amount of funds available per eligible child may increase or decrease depending on the total number of eligible children that States report.

These estimates, however, do not bind the U.S. Department of Education to specific numbers of grants or to the amount of any grant.

Application forms: Application forms and instructions will be mailed to all State educational agencies. Additional forms may be obtained by writing to the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 505, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed ten pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Educational Services for Cuban and Haitian Entrant Children Program (34 CFR Part 539) published in Part 6 of this issue of the **Federal Register**.

(2) Education Division General Administrative Regulations (EDGAR) (34 CFR Parts 76 and 77) published on April 3, 1980 (45 FR 22494), except as otherwise provided in 34 CFR Part 539.

Further information: For further information contact Mr. James H. Lockhart, Acting Director of the Refugee Children Assistance Staff, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 505, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. Telephone (202) 472-7177.

(8 U.S.C. 1522(d))

(Catalog of Federal Domestic Assistance Number 84.138, Educational Services for Cuban and Haitian Entrant Children)

Dated: January 8, 1981.

Josue M. Gonzalez,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 81-1249 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Conduct of Employees; Waiver of Post-Employment Restrictions

Section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95–91, hereinafter the "Act") authorizes the Secretary of Energy to waive the post-employment restrictions of section 605(a)(1) of the Act for a former supervisory employee with outstanding scientific or technological qualifications in connection with a particular matter in a scientific or technological field, where it has been determined that the national interest would be served by the participation of the former employee in the matter.

It has been established to my satisfaction that William Wegner, Murray E. Miles, Richard W. Bass, and Robert S. Brodsky, former employees in the Department of Energy's Naval Reacator Programs, have outstanding scientific and technological qualifications in the fields of nuclear reactor plant design, construction, operation, and maintenance, and that it serves the national interest for them to be able to carry out their full responsibilities under a subcontract between Basic Energy Technology Associates, Inc., (BETA) and Westinghouse Electric Corpration, a prime contractor of DOE which operates the Hanford Engineering Development Laboratory at Richland, Washington, and subsequently under a subcontract with the Sandia Corporation (Albuquerque, New Mexico), another DOE prime contractor. Under the subcontracts, BETA has been providing technical support and management assistance to the DOE Nuclear Facility Personnel Qualification and Training (NFPQT) Committee by developing guidelines for conducting onsite field assessments of nuclear reactor plant operations; participating in selected onsite field assessments of DOE-owned reactors; and assisting in the preparation of the Committee's Assessment Reports. Therefore, effective January 21, 1980, I have waived the post-employment appearance and communications prohibitions of section 605(a)(1) of the Act for Messrs. Wegner, Miles, Bass, and Brodsky in connection with their duties under the subcontracts.

Dated: November 26, 1980.

Charles W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 81-1127 Filed 1-13-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of the United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows:

From Switzerland to the United Kingdom (THORP facility) for the ultimate purpose of reprocessing, 70 irradiated fuel assemblies containing 21,830 kilograms of uranium, enriched to 0.82% U-235, and 204 kilograms of plutonium from the Beznau-1 Nuclear Power Plant owed by Nordostschweizerische Kraftwerke AG (NOK). This subsequent arrangement is designated as RTD/EU(SD)-30.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored at the reprocessing facility and will not be transferred from that facility, nor put to any use, without the prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: January 8, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-1170 Filed 1-13-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131.a.(2) (G) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval to the transfer within France of 70.6 kilograms of plutonium from the COGEMA reprocessing facility at La-Hague to the COGEMA fuel fabrication facility at Cadarache and finally to Creys-Malville for loading into the Super Phenix Breeder reactor, a joint French-Italian-German demonstration program. The plutonium was recovered from spent nuclear power reactor fuel of U.S. origin transferred from Switzerland to France for reprocessing with U.S. approval in 1976. When we granted that approval, it was conditioned on the understanding with the Swiss Government that any subsequent transfer and/or use of the recovered plutonium would be subject to prior U.S. approval. The Swiss have now requested that we approve the use of the recovered plutonium as part of the fuel for Super Phenix.

This transfer is designated as a "subsequent arrangement" under the Nuclear Non-Proliferation Act of 1978.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, after careful and comprehensive analysis, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: January 8, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-1171 Filed 1-13-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to France (the COGEMA facility) for the purpose of reprocessing, 68 irradiated fuel assemblies containing 12,498 kilograms of uranium, enriched to 0.96% U-235, and 96 kilograms of plutonium from the Muhleberg Power Plant, owned by the Bernische Kraftwerke AG. This subsequent arrangement is designated as RTD/EU(SD)-31.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored at the reprocessing facility and will not be transferred from that facility, nor put to any use, without the prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: January 8, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-1172 Filed 1-13-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-TA-80-09]

Allegheny Production Co.; Issuance of Proposed Decision and Order

Notice is hereby given that the Economic Regulatory Administration has issued to Allegheny Production Company (Allegheny) a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78(c) of the Tertiary Enhanced Recovery Program. Under the provisions of 10 CFR 205.98, such a Proposed Decision and Order must be published in the **Federal Register**. Interested parties have thirty calendar days from the date of publication to submit objections or comments. Upon review of any matters submitted, we may issue a final Decision and Order in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or coments will be notified of the action taken and will be furnished a copy of that action. Objections or comments should cite the docket number and be addressed to: Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461, Attention: Manager, Tertiary Enhanced Recovery Program.

A copy of the text of the Proposed Decision and Order together with a copy of the application filed by Allegheny Production Company is available in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays) and the Department of Energy Reading Room, Room 1E-190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays).

Issued in Washington, D.C., on January 7, 1981.

Paul T. Burke,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-1173 Filed 1-13-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-09]

Allegheny Production Co., Inc.; Proposed Decision and Order Under the Tertiary Incentive Program

To: Allegheny Production Company, Inc., Clarksburg, West Virginia.

Subject: Designation of Allowed Expenses for Zavala County Heavy Oil Project (Docket Number ERA-TA-80-09).

I. Introduction

On March 31, 1980, the Allegheny Production Company (Allegheny), of Clarksburg, West Virginia, a subsidiary of the Allegheny Land and Mineral Company, Incorporated, submitted an application pursuant to § 212.78(e)(2) of the Department of Energy's Tertiary Incentive Program for an order which would designate it as a qualified producer with respect to a project employing an oil recovery technique which is not self-certifiable pursuant to § 212.78(c) of the regulations. The requested order also would set forth the allowed expenses that Allegheny would be permitted to recover with respect to that project. Allegheny withdrew this application following discussions with the Economic Regulatory Administration (ERA) concerning the EOR technique that Allegheny proposed to employ. On July 24, 1980, Allegheny submitted a discussion of a modified version of the EOR (Enhanced Oil Recovery) technique described in its application of March 31, 1980, and requested that ERA assume consideration of its application of March 31, 1980, as modified by this submission.

II. Background

On August 21, 1979, the Economic Regulatory Administration (ERA) amended to 10 CFR 212.78 to establish the Tertiary Incentive Program. In general, this program permits producers which are engaged in EOR projects to recover a portion of the costs associated with such projects.

Section 212.78(e)(2) authorizes ERA to issue an order designating a producer as a qualified producer with respect to a particular project which does not employ a self-certifiable EOR technique, but nevertheless involves high levels of risk and cost, and setting forth what the allowed expenses will be with respect to that project. An allowed expense is seventy-five percent of an environmental expense (as defined in § 212.78(c)), seventy-five percent of an engineering and laboratory expense (as defined in § 212.78(c)), or seventy-five percent of an expense listed in the Appendix to Section 212.78. As provided in ERA's General Guidelines on Tertiary Enhanced Recovery Project Review (Guidelines), when applying for issuance of an order pursuant to § 212.78(e)(2), a producer must demonstrate that it is employing an EOR technique which involves high levels of risk and cost, and that the offset of certain costs is necessary to make the use of that technique an attractive investment opportunity.

The Allegheny application concerns a project which will use an electrical technique which is not self-certifiable under § 212.78(c). Therefore, Allegheny has requested an order from ERA under § 212.78(e)(2) designating it as a qualified producer engaged in the initiation of a tertiary project that involves high levels of risk and cost and setting forth what the allowed expenses will be in respect to that project.

III. Findings and Analysis

The Allegheny application concerns an oil recovery project to be undertaken on a certain lease in Zavala County, Texas. Allegheny proposes to use an electrothermic process at the Zavala County project site.

The basic element in an electrothermic process is the placement of electrodes in off-setting well bores opposite the producing horizon. An electric current is passed through the earth between these electrodes. Allegheny plans to use alternating current in the 400 to 500 volt range. The frequency to be used has apparently not been established but modifications of the conventional 60 cycle per second rate are mentioned.

Allegheny states that the application of electricity through the well bores in this manner heats the reservoir adjacent to the well bore and thus increases the effective well bore radius. Allegheny also states that the electrothermic process will heat the interwell area, improve the oil mobility in the reservoir, and increase reservoir pressures due to thermal expansion.[1]

Before issuing an order finding a producer to be a qualified producer engaged in a tertiary project and allowing the offset of certain project costs, § 212.78 requires that ERA must determine that:

1. the producer has an interest in the properties on which the project is located;
2. the producer contributes to the initiation or expansion of the project which is the subject of the application;
3. the producer employs a tertiary enhanced recovery technique;
4. the application of that technique involves high levels of risk and cost; and
5. the offset of certain costs is required to make the project an attractive investment opportunity.

A threshold test in the consideration of an application of an order is whether the application concerns a project that employs a tertiary enhanced recovery technique. If this test is not met, then the application for an order must be rejected.

In prior orders, this test has been met by a showing that the technique in question was a variation of one of the self-certifiable EOR techniques set forth in § 212.78(c). We agree with Allegheny's assertions that the flow of electric current through the oil reservoir will increase the temperature of the reservoir, and consequently, the mobility of the oil in the reservoir and the reservoir pressure.

All thermal oil recovery techniques seeks the same goal, namely, an increase in reservoir temperature. Those thermal oil recovery techniques which are included in the definition of a "self-certifiable EOR technique," however, provide heat to reservoirs through injectants by phase change, oxidation or to a lesser degree, by sensible heat in the injected fluid, with the result that the displacement energy to force oil to producing wells is supplied concurrently with the heating mechanism. In addition, the heat is confined to the oil reservoir (excluding the normal losses by condition to the overburden and underlying sediments) since the injected fluids are confined to the reservoir. In contrast, the electrothermic process supplies a negligible amount of displacement energy. Moreover, the heating effects of electricity cannot be confined to the oil reservoir. Consequently, we cannot find the electrothermal process to be a variation of a self-certifiable EOR technique.

A production stimulation technique can also qualify as a tertiary enhanced oil recovery technique if it represents a technological innovation that results in significantly increased production from the reservoir. No showing has been made that the electrothermic process represents a technological innovation that will result in significantly more production than would otherwise be realized by the use of existing well heating and other production stimulation techniques for increasing the well bore radius.

Moreover, Allegheny has not differentiated the electrothermic process from other well bore heating techniques. Well bore heating and other techniques for increasing effective well bore radii (as well as techniques for literally increasing well bore radius) are generally accepted production stimulation techniques that have a long history of use. The lack of risk associated with this method of production stimulation is one of the primary reasons that it was not included as a self-certifiable EOR technique. Accordingly, use of the electrothermic process by Allegheny in connection with this project does not involve high levels of risk and cost within the meaning of § 212.78(e).

For the above stated reasons, we find that the electrothermic process proposed to be used by Allegheny does not qualify as a tertiary enhanced oil recovery technique within the context of the tertiary incentive program of Section 212.78, and that Allegheny is not a qualified producer with respect to the use of this process at the Zavala County project site. Accordingly, we must deny this application.

IV. Comment Procedures

10 CFR 205.98 requires this Proposed Decision and Order to be published in the **Federal Register** and sets forth the procedures for filing objections or comments on this Proposed Decision and Order. Objections or comments must be received by the designated office in the ERA within thirty calendar days from the date of publication in the **Federal Register** of the Proposed Decision and Order. All submissions with respect to this application will be available for public inspection in the DOE Reading Room, Room 1E-190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

V. Order

1. The request by Allegheny Production Company, Inc. of Clarksburg, West Virginia, to be a qualified producer with respect to the Zavala County property located in Zavala County, Texas, is hereby denied.

2. This Order is based on the presumed validity of statements, assertions, and documentary materials submitted by Allegheny. This Order may be revoked or modified upon a determination that the factual basis underlying the Order is incorrect.

Issued in Washington, D.C., on January 7, 1981.

Paul T. Burke,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-1174 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 53146-3004-04-82]

Virginia Electric and Power Company; Powerplant and Industrial Fuel Use Act of 1978; Intention To Proceed With Prohibition Order Proceedings

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of its intention to proceed with the pending Prohibition Order Proceedings relating to a powerplant owned by Virginia Electric and Power Company of Richmond, Virginia (VEPCO) and located near Dumfries, Virginia, and identified as Possum Point No. 4.

Pursuant to Sections 301(b) and 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 USC 8301 *et seq.*, a proposed prohibition order for Possum Point No. 4 was issued by ERA on January 17, 1980, and published in the Federal Register on January 23, 1980 (45 FR 5365).

Description of Prohibition Order Proceedings

In accordance with 10 CFR 501.51, the proposed prohibition order commenced an initial public comment period, during which period VEPCO was given an opportunity to challenge ERA's initial finding that Possum Point No. 4 has or previously had the technical capability to burn an alternate fuel (coal) as a primary energy source. VEPCO chose not to do so. The utility must also have identified, during this period, any exemptions for which the powerplant may qualify, but need not have submitted evidence attempting to demonstrate entitlement to an exemption.

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[1] Increasing the temperature of reservoir oil does little to provide displacement energy. As Allegheny points out, an increase in temperature will cause thermal expansion, increasing reservoir pressure and providing energy to force oil into producing wells. However, the effect is so small (about 0.00005 F°) as to be a minor consideration.

The publication of this Notice of Intention to Proceed commences a second three-month period during which VEPCO may present evidence to demonstrate that the powerplant would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second three-month period ERA will, if it intends to issue a final prohibition order, prepare and publish a notice of availability of a Tentative Staff Analysis concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by Section 301(b) of FUA, are: (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of Section 701(d) of FUA and 10 CFR 501.33 afford any interested person an opportunity to request a public hearing on the proposed prohibition order. Interested persons wishing a hearing must make their request, in writing, no later than 45 days after publication of the Notice of Availability of the Tentative Staff Analysis. If a hearing is requested, the hearing will be held in accordance with Subpart C of 10 CFR Part 501. Interested persons may also submit written comments during this 45-day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Order

During the initial comment period, comments on the proposed prohibition order were received from VEPCO. These comments indicate that VEPCO believes that ERA can make the findings necessary to issue a final order for Possum Point No. 4, that the unit was designed to burn coal and has burned coal in the past and that the capability to burn coal could be restored without substantial physical modification or significant derating. VEPCO also anticipates that the conversion of this unit would be financially feasible. VEPCO's comments are based on the assumption that the only major capital expenditure associated with the conversion would be the acquisition and installation of a new electrostatic precipitator.

During this period, neither VEPCO nor any other interested persons submitted any information contrary to ERA's initial finding that Possum Point No. 4 has or previously had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with 10 CFR 501.51, VEPCO also submitted evidence relating to the other findings that ERA is required to make under Section 301(b) of FUA, and identified, in their response dated February 11, 1980, those exemptions for which Possum Point No. 4 may qualify. The temporary exemptions authorized by Section 311 of the Act, which VEPCO identified are: (1) site limitations, (2) inability to comply with applicable environmental requirements, (3) public interest; and (4) reliability of service. In addition, VEPCO identified the following permanent exemptions for which Possum Point No. 4 may qualify as authorized by Section 312 of the Act: (1) site limitations, (2) inability to comply with applicable environmental requirements and (3) state or local requirements.

For further information contact:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Steven Frank, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3302, Washington, D.C. 20461, (202) 653-4184.

James Renjilian, Office of General Counsel, Department of Energy, Forrestal Building, Room 6B-178, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., January 8, 1981.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-1176 Filed 1-12-81; 8:45 am]

BILLING CODE 6450-01-M

Allocation for Wholesale Purchaser Consumers and End-Users Who Are Bulk Purchasers

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Rescission of Bulk Purchaser Guidelines and Issuance of Guidance on Allocation for Ultimate Consumers.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that the guidelines issued to ERA regional offices in September 1979 for the evaluation of applications for new bulk purchasers for assignment of base period use and suppliers of motor gasoline under 10 CFR Section 211.12(e)(3) have been rescinded. A brief description of procedure and criteria to be used in processing applications under existing regulations is also included.

DATE: Effective immediately.

FOR FURTHER INFORMATION PLEASE CONTACT:

Charles R. McCrea, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104, 2000 M Street, N.W., Washington, D.C. 20461, Telephone: (202) 653-4472.

Joel M. Yudson, Office of General Counsel, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: (202) 252-6744.

SUPPLEMENTARY INFORMATION. On September 26, 1979, the Economic Regulatory Administration (ERA) issued guidelines for the evaluation of applications filed by new bulk purchasers seeking the assignment of a supplier and/or the assignment of a base-period use of motor gasoline (44 FR 59269, October 15, 1979).

These guidelines were precipitated by the motor gasoline shortage which existed during the spring and summer of 1979, and the expectation that supplies would continue to be short during the fall of 1979. The guidelines generally limited the assignment of base period volumes and suppliers for new bulk purchasers to those firms which are entitled to a first priority allocation level pursuant to 10 CFR 211.103(b). The guidelines also provided for assignments to firms entitled to a second priority allocation level who either had purchased or obtained motor gasoline and received delivery of that product into a storage tank substantially under the control of that firm at a fixed location prior to March 1, 1979 (or to firms that had purchased or installed storage tanks, or had entered into a written contract to purchase or install storage tanks prior to March 1, 1979).

Subsequent to the issuance of the guidelines, the supply situation in the United States for crude oil, motor gasoline and other finished products began to improve significantly over the supply levels of the corresponding period of 1979. Currently, motor gasoline inventories are high, demand is down, many prime suppliers are reporting to ERA allocation fractions of 1.0, and surplus product is abundant.

In recognition of this continued improvement in the supply situation and in keeping with the objectives of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), as amended, the ERA is rescinding the guidelines.

In the future, applications for assignments for wholesale purchaser-consumers and end-users that are bulk purchasers of motor gasoline will be handled under the existing regulations as described herein.

Allocations for Ultimate Consumers

Ultimate consumers are eligible to receive an assignment of motor gasoline only if they qualify as bulk purchasers. A bulk purchaser as defined in 10 CFR 211.102 means "any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either: (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location; or (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm."[1]

Bulk purchasers are divided into two categories, end-users and wholesale-purchaser consumers,[2] each of which is treated separately under the allocation regulations.

End-Users that are Bulk Purchasers

Pursuant to 10 CFR 211.12(f), suppliers may agree to supply new end-users of motor gasoline where the supplier serves the purchaser in accordance with its normal business practices. The volume allocated must be normal and reasonable for its intended use. If the end-users had located a supplier who is willing to supply it and if the volume is normal and reasonable for its intended use, *no application need be filed with ERA*. The amount the supplier agrees to supply will establish the base period volume and the allocation rights of the end-users will be the same as that established by an ERA assignment order. Willing suppliers will be obligated to supply the agreed-upon volume pursuant to 10 CFR 211.10(b)(2). However, it would be to the advantage of an end-users bulk purchaser to obtain written confirmation of the supply agreement to preclude subsequent dispute between suppliers and purchasers over agreed-upon volumes.

An end-user that is a bulk purchaser is only eligible for an assignment of a base period volume if the gasoline will be used for an activity for which an allocation level is provided under 10 CFR 211.103(b) or (c).[3] If such a firm cannot, after a diligent effort, locate a willing supplier or if the purchaser and the supplier cannot agree on the volume to be supplied, an application for ERA assignment of a supplier and a base-period volume may be filed. All applications filed by new end-users should be filed in accordance with Subpart Q or Part 205 with the state energy office located in the state in which the product will be physically delivered. Prior to submitting an application for an assignment, to qualify as a bulk purchaser, the firm must have a storage tank at a fixed location substantially under its control. All volumes requested must be for ultimate consumption on behalf of the firm. No volume will be allocated under 10 CFR 211.12 (f) for purposes of resale.

The regulations, in 10 CFR 205.216, require state energy offices to evaluate end-user bulk purchaser applications and to recommend to ERA in writing those applications for assignment that they determine warrant the issuance of an assignment order.

Upon receipt of the state's recommendation, ERA will determine whether an assignment should be made. Mid-level marketers assigned to supply the base period volumes for end-user bulk purchasers may not receive adjustments to their own base period uses under the current provisions of 10 CFR 211.13(c) or 211.12(d). Therefore, unless mid-level marketers are able to supply additional end-users without an adjustment, assignments to end-user bulk purchasers will generally be made to refiner-suppliers delivering product into the States in which the end-user are located. The supplier selected shall supply the end-user bulk purchaser by such means as it deems appropriate in accordance with its normal business practices. For example, a prime supplier may make the product available through the use of substitute suppliers including marketers in its existing distribution system.

A supplier's reluctance to assume additional obligations does not, in and of itself, constitute a suficient basis for not making an assignment. However, an unwilling supplier ordinarily should not be assigned by ERA if the quantity of motor gasoline to be delivered is so low that it is not consistent with normal business practices for bulk deliveries in the market area.

Wholesale Purchaser-Consumers

Pursuant to 10 CFR 211.12(e)(1), wholesale purchaser-consumers without a base period supplier are encouraged to make mutually acceptable arrangements with suppliers. Suppliers are encouraged to accept wholesale purchase-consumers as new purchasers. When a wholesale purchaser-consumer has located a willing supplier and a volume has been agreed upon, the supplier shall notify the appropriate ERA Regional Office within 10 days of making the mutual arrangement.

Under 10 CFR 211.12(e)(1)(ii), following notification of ERA, the supplier may comment interim deliveries of the proposed base period volumes. No upward certification by the supplier is permitted until an assignment is made. The agreed-upon volume is subject to adjustment by ERA, and ERA may also assign the wholesale purchaser-consumer to another supplier.

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[1] For the purpose of defining an end-usér or wholesale purchaser-consumer, a "firm" is defined in 10 CFR 211.11(b)(1) as all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers, including all sites, storage tanks and other facilities or entities of the end-user or wholesale purchaser-consumer that utilize or store allocated products. Under 10 CFR 211.11(b)(3), the ERA may, in considering applications by end-users and wholesale purchaser-consumers for assignments, treat as a separate firm any part of the parent or other entity that it controls, including any separate site or facility.

[2] Wholesale purchaser-consumer is defined in 10 CFR 211.521 as "any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either: (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more mult-family residences; or (c) purchased or obtained more than 84,000 gallons of the allocated product in any completed calendar year subsequent to 1971." End-users are those ultimate consumers that do not qualify as wholesale purchaser-consumers.

[3] Priority uses set forth in 10 CFR 211.103 (b) and (c) are as follows: Department of Defense; Agricultural production; Emergency services; Energy production; Sanitation services; Telecommunications services; Passenger transportation services; Cargo and freight hauling by truck and mail hauling; Aviation ground support vehicles and equipment; Industrial use; Commercial use; Government use; and Social service agency use.

In general, ERA will issue assignment orders for wholesale purchaser-consumers that have located willing suppliers where the volume requested is normal and reasonable for the intended use. The use must be one for which an allocation level is provided under 10 CFR 211.103(b) or (c).

Any wholesale purchaser-consumer which needs gasoline for an activity that is entitled to an allocation level pursuant to 10 CFR 211.103(b) or (c), and which cannot locate a willing supplier, may file an application for the assignment of a supplier and a base-period volume. All applications filed by wholesale purchaser-consumers should be filed in accordance with Subpart C of Part 205 with the appropriate ERA regional office.

Prior to submitting an application for assignment, new wholesale purchaser-consumers must have a storage tank at a fixed location which is substantially under control of the firm. All volumes requested must be for ultimate consumption by the firm, and no volume will be allocated to wholesale purchaser-consumers for purposes of resale. ERA regional offices will evaluate wholesale purchaser-consumer applications in accordance with 10 CFR 205.35 of Subpart C.

Pursuant to 10 CFR 211.13(c) an assignment order issued by ERA to a wholesale purchaser-reseller (mid-level marketer) to supply a wholesale purchaser-consumer may be certified upward to the ultimate supplier and may become an adjustment to the base period use of the wholesale purchaser-reseller. Under 10 CFR 211.13(c), the reseller may certify to its supplier volumes it is assigned to supply to a particular facility of a firm whose aggregate usage qualifies it as a wholesale purchaser-consumer although the usage at the single facility may not so qualify it.

Under 10 CFR 205.36, prior to issuance of assignment orders for wholesale purchaser-consumers or end-users that are bulk purchasers, the ERA shall notify aggrieved persons, including proposed suppliers (including refiner-suppliers) for the purpose of determining the accuracy of the facts upon which ERA intends to base the proposed assignment order and the impact such order may have upon the proposed suppliers' operations, and to give such firms a reasonable opportunity to comment on the proposed order.

Accordingly, for the reasons set forth above, the ERA rescinds its bulk purchases guidelines.

Issued in Washington, D.C., on the 8th day of January 1981.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 81–1328 Filed 1–13–81; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Research and Development Panel; Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Research and Development Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and time: January 26, 1981, 9:00 am to 5:00 pm.

Place: TRW Inc., Building 52, Lobby 4, 23555 Euclid Avenue, Cleveland, Ohio 44117.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F–032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda: Discussion of Methodology for Evaluating Energy R&D Priorities.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting: Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 am and 4:00 pm Monday through Friday, except Federal Holidays.

Issued at Washington, D.C., on January 8, 1981.

Edward Frieman,

Director of Energy Research.

[FR Doc. 81–1183 Filed 1–13–81; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

Science Advisory Board

[SA–FRL 1726–1]

Ecology Committee; Task Group on Marine Ecosystem Monitoring; Open Meeting

Under Public Law 92–463, Notice is hereby given that a meeting of the Task Group on Marine Ecosystem Monitoring of the Ecology Committee, Science Advisory Board will be held on February 2, 3, 4, 1981 beginning at 9:00 a.m., Hall of States A Conference Room, Skyline Inn, South Capitol and I Streets, SW, Washington, D.C.

This is the third meeting of the Task Group on Marine Ecosystem Monitoring. The Task Group was established to examine marine ecosystem monitoring and the utility of data gathered to the mandates of the Environmental Protection Agency (EPA). The Agenda includes discussions on monitoring localities and site selection criteria for the designation of these localities, parameters to be monitored and the methods of monitoring, the model issue, the handling of acquired data, and the legal aspects of monitoring. It is anticipated that some time will be devoted to discussed of the preparation of the report and report writing.

The meeting is open to the public. Because of limited seating capacity of the meeting room, all members of the public must register no later than January 27, 1981, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Science Advisory Board, or Ms. Anita Najera, 202–472–9444.

Dated: January 8, 1981.

Harry Torn,

Acting Staff Director, Science Advisory Board.

[FR Doc. 81–1254 Filed 1–13–81; 8:45 am]

BILLING CODE 6560–34–M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 80–720; File No. BRCT–533 et al.]

City of New York, Municipal Broadcasting System and True Witness Ministries, Inc.; Applications

Adopted: November 6, 1980.

Released: November 25, 1980.

In re Applications of city of New York, Municipal Broadcasting System; (BC Docket No. 80–720 File No. BRCT–533): For Renewal of License of Station

WNYC-TV, New York, New York; and True Witness Ministries, Inc., New York, New York; (BC Docket No. 80-721 File No. BPCT-5178); for a construction permit.

By the Commission: Commissioner Jones concurring and issuing a statement.

1. The Commission has before it for consideration the renewal application of the City of New York, Municipal Broadcasting System, for television station WNYC-TV, New York, New York, and the application of True Witness Ministries, Inc. (TWM) for a construction permit for a television station on Channel 31 in New York City. The applications are mutually exclusive and must be designated for a comparative hearing.

2. *The TWM application.* Applicants for new broadcast stations are required by 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in 73.3580(h) of the Rules. We have no evidence that TWM published the required notice. To remedy this deficiency, TWM will be required to publish local notice of its application and to file a statement of publication with the presiding Administative Law Judge.

3. Analysis of the financial information submitted by TWM reveals that $73,450 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$41,000
Legal Costs	[illegible],000
Engineering and Installation Costs	[illegible],000
Operating Costs	27,450
Total	$73,450

TWM's costs reflect the fact that it already owns equipment valued at $105,000, a building and studio facilities. However, the applicant states that the rental price for its proposed antenna and transmitter site on the World Trade Center is $100 per month. TWM has provided no documentation to verify this amount and, based on our experience, it appears low.

4. Moreover, the applicant has not shown the availability of sufficient funds to construct and operate as proposed. No loan or purchase agreements have been submitted to verify a $50,000 loan and $45,000 equipment credit. Donations of $50,000 are not substantiated by pledges and balance sheets from the donors showing their willingness and financial capacity. TWM proposes substantial advertising revenues, but such revenues may not be relied upon to establish an applicant's financial qualifications. *Financial Qualifications Standards,* 72 FCC 2d 784 (1979). Nor can TWM rely on existing capital of $40,000, since the "miscellaneous loans and exchanges" valued at $18,000 are not sufficiently identified to show their liquidity and, at any rate, its balance sheet shows current liabilities exceed current assets by $76,000. Additionally, TWM's balance sheet was not current when submitted (dated at least within 90 days of the filing of application). *See* FCC Form 301, Part III, Paragraph 2(a). Financial issues will therefore be specified.

5. TWM has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650 (1971). TWM's demographic information, concerning New York and its significant groups and organizations is inadequate. In particular, the applicant has failed to provide information on the minority, racial or ethnic breakdown of New York as well as its economic and govenmental activities and public service organizations. In the absence of sufficient demographic information, it is not possible to determine whether TWM has interviewed leaders of all significant groups in New York City. *See* Questions and Answers 9 and 10 of the *Primer.* Moreover, not all of the community leader consultations were done by principals or prospective management-level employees of TWM, and it is unclear how many of the interviews were conducted in person. See Question and Answer 11(a) of the *Primer.* The general public survey was not conducted by employees, prospective employees or a professional survey service, and the date of the survey is not stated. Ascertainment must be completed within six months of filing the applications. See Questions and Answers 11(b) and 15 of the *Primer.* In addition, TWM has failed to comply with the program proposal requirements by not listing the anticipated time segment, duration and frequency of broadcast of the programs intended to meet the needs of the community. See Question and Answer 29 of the *Primer.* Finally, the applicant has not made clear whether it is undertaking to serve communities outside New York City, nor has it detailed ascertainment efforts in these areas. This is especially relevant in view of the New Jersey service obligation of all New York area stations, including the current licensee. *See State of New Jersey Television Service,* 59 FCC 2d 1388, 1406 (1976). In light of these serious deficiencies, we are unable to conclude that TWM has substantially complied with the *Primer's* requirements and a general ascertainment issue will be specified.

6. *The City of New York's Renewal Application.* Examination of the City of New York's application indicates that it is legally, financially and technically qualified to operate as proposed. However, since its proposal is mutually exclusive with that of TWM, both applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, It is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

A. To determine with respect to TWM:

(1) Whether applicant has accurately estimated its costs for antenna and transmitter site rental;

(2) The source and availability of funds to finance construction and operation of its proposed station; and

(3) Whether, in light of the evidence adduced pursuant to (1) and (2) above, TWM is financially qualified to construct and operate the proposed station.

B. To determine the efforts made by TWM to ascertain the problems, needs and interests of the area to be served and the means by which the applicant proposes to meet those problems, needs and interests.

C. To determine which of the proposals would, on a comparative basis, better serve the public interest.

D. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That, TWM shall publish local notice of its application and shall file a statement of publication with the Presiding Administrative Law Judge within 40 days after this Order is published in the **Federal Register**.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to

Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give local notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

11. It is further ordered, That the Secretary of the Commission shall send, by Certified Mail, Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Anne P. Jones in Which Commissioner Abbott Washburn Joins

In Re: Application for Renewal of WNYC–TV, New York, Designated for Hearing with Competing Application.

November 14, 1980.

I concur in the decision to designate these applications for hearing *only* because I am advised that TWM's application meets our normal standards for acceptance as "substantially complete." I suggest, however, that it may be time to re-examine those standards.

As noted in paragraph 6 of our Memorandum and Order, examination of the City of New York's application indicates that it is fully qualified to operate as proposed. Its renewal application could therefore be granted routinely were it not for the competing application filed by True Witness Ministries. It is not, on the other hand, possible to determine from TWM's application whether it is qualified to operate as it proposes. It appears that TWM may have grossly underestimated its costs for antenna and transmitter site rental, and it has failed to document adequate financial ability to operate as proposed. Presumably, the initial stage of the hearing will concentrate on determining whether TWM is a credible application, because if it is not there is no justification for imposing on the City of New York the cost of participation in this hearing.

The fact that WNYC–TV is a noncommercial station brings into sharp relief the question whether an application should be subjected to the cost of a comparative hearing by the filing of an obviously defective competing application. The recent financial problems of the City of New York are well known, and it is no secret that many other noncommercial licensees must struggle to meet their financial requirements. I cannot see how it serves the public interest to permit the filing of a clearly inadequate competing application to subject such licensees to the cost and aggravation of a comparative hearing.

I therefore suggest that we develop an intermediate step in comparative hearings. An application as deficient as this should be disqualified—or amended to complete any deficiencies—before comparative hearings begin. Certainly such an intermediate step should be required before dragging a noncommercial licensee through the cost of a hearing—and such a step should be considered for commercial applications as well. As an initial step in this direction, I propose that we give serious consideration to careful delineation of mininal standards for acceptance for filing, with more refined processing guidelines prior to inception of comparative hearings with their great expense to applicants, incumbent licensees, and this Commission.

[FR Doc. 81-1236 Filed 1-13-81; 8:45 am]

BILLING CODE 6712-01-M

Common Carrier Action AT&T Filing for Revised Depreciation Rates for Terminal Equipment

On September 22, 1980, the American Telephone and Telegraph Company, in behalf of the Operating Telephone Companies and the Long Line Department (Companies), filed for proposed changes in depreciation rates for Accounts 231, Station Apparatus, and 234, Large Private Branch Exchange. In the filing AT&T proposes to (1) reduce service lives below those underlying currently prescribed depreciation rates; (2) allocate portions of the overall book reserve (Account 171) to accounts corresponding with Accounts 231 and 234; and (3) calculate depreciation rates on a remaining life basis effective January 1, 1981.

AT&T states that recent technological developments, changes in customer needs and demands, and competitive activities necessitate reduction in average services lives below those currently prescribed. Further, they contend that the continued use of the straight line whole life depreciation procedure will result in a substantial shortfall in capital recovery for terminal equipment. As a result, they propose the use of the remaining life depreciation procedure to enable them to depreciate the unrecovered investment in terminal equipment over its life. AT&T's proposal, if accepted, would result in a significant increase in revenue requirements during the next few years. For 1981 alone, this proposal would increase the operating companies' overall depreciation accruals by over $470 million.

In FCC Docket No. 20188, released December 5, 1980, the Commission determined that corrective measures were necessary in order to match the recovery of the costs of existing assets with their service lives. The staff was directed to develop remaining-life rates for existing plant investments. Recognizing, however, that some companies do not maintain book reserves in sufficient detail to calculate such rates, the Commission directed the staff first to determine the most reasonable allocation of their current book reserves to plant categories. In a separate action the staff will determine the most appropriate allocation of the depreciation reserves by plant category. To undertake here either to allocate a portion of the book reserve to accounts 231 and 234 or to calculate depreciation rates for equipment in these accounts on a remaining life basis would intefere with that action because it would split into two proceedings our consideration of the appropriate amount of the reserve to be allocated to each category of asset. For this reason we shall consider here only the first issue raised by AT&T: the proposed reduction of terminal equipment service lives.

To assist us in our investigation, we are requesting comments concerning the proposal to revise depreciation rates. It would be helpful if those commenting would address the following issues:

(1) The Companies' future life estimates.
(2) The product life cycle approach which the Companies have used to estimate future lives.
(3) The Companies' future net salvage estimates.
(4) The studies and detail in support of the Companies' future estimates, both life and salvage.
(5) The effective dates for the implementation of the proposed rates.

This filing will be coordinated with implementation efforts related to the Second Computer Inquiry, FCC Docket #20828.

On December 19, 1980, we requested additional retirement and salvage data as well as life indications for each of the companies. AT&T response to our request is due by January 31, 1981. Copies of the filing and supporting data and studies as well as their response to our data request will be available for inspection at 1919 M Street NW., Washington, D.C., in room 535.

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[1] See attached statement of Commissioner Jones.

Interested persons may file comments regarding these filings by March 2, 1981. Reply comments are due by April 1, 1981.

Questions regarding this matter should be brought to the attention of Mr. Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 632-6056.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-1225 Filed 1-13-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-339 et al.]

ITT World Communications, Inc. et al; Memorandum Opinion and Order

Adopted: December 16, 1980;

Released: December 22, 1980.

In the Matter of ITT World Communications, Inc. (CC Docket No. 80-339); RCA Global Communications, Inc. (Transmittal Nos. 258, 2259, 2260, 2280); TRT Telecommunications Corporation (Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636); Western Union International, Inc. (Transmittal Nos. 909, 910, 911) Western Union International Caribbean, Inc. (Transmittal No. 224) FTC Communications, Inc. (Transmittal Nos. 69, 77) Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service.

By the Deputy Chief, Common Carrier Bureau

1. Before the Bureau are several procedural motions. Western Union International, Inc. and Western Union International Caribbean, Inc. (collectively, WUI) request an extension from December 8, to December 10, 1980 in which to file their direct cases in Docket No. 80-339. FTC Communications, Inc. asks that the filing of its direct case be postponed until mid January, 1981. In addition, TRT Telecommunications Corporation moves that the Commission accept as timely its direct case filed on December 10, 1980.

2. In their requests, WUI and TRT each explain that the extra two days have been required to properly collate and reproduce the proferred material. FFTC's problem is somewhat different. This carrier explains that the only person available to oversee the preparation of its direct case is the company treasurer, and that he also has a number of other responsibilities. It adds that the task of providing the information has proven greater than expected.

3. We find that a grant of an additional two days' time to WUI and a late acceptance of TRT's filing will not significantly delay the outcome of the proceeding, and is thus not contrary to the public interest. In the case of FTCC, we recognize that the situation is somewhat unique. Initially, FTCC has had to obtain from France much of the data necessary to comply with the Commission's designation order. Additionally, because of its small size, FTCC has had to compile the information by hand rather than computer. The process has proven significantly more time consuming than anticipated. In view of the above, we find that a grant to FTCC of the requested extension of time would not be contrary to the public interest.

4. Accordingly, It is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 CFR § 0.291, that the requests for an extension of time filed by Western Union International, Inc. and FTC Communications, Inc. are granted.

5. It is further ordered, that the direct case filed by TRT Telecommunications Corporation is accepted for filing.

6. It is further ordered, that FTC Communications, Inc. shall submit its direct case on or before January 16, 1981.

7. It is further ordered, that this Order shall be published in the **Federal Register.**

Federal Communications Commission.

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 81-1227 Filed 1-13-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and request for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 6, 1981.

A. *Federal Reserve Bank of Boston* (Richard E. Randall , Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

1. INDUSTRIAL NATIONAL CORPORATION, Providence, Rhode Island (financing activities; Oklahoma): to engage through its indirect subsidiary, Kensington Mortgage and Finance Corp., in the origination and sale of loans for the purchase of mobile homes and servicing of mobile home loans. These activities would be conducted from existing office in Dallas, Texas, servicing the State of Oklahoma. Comments on this application must be received by January 27, 1981.

2. OLD STONE CORPORATATION, Providence, Rhode Island (insurance activities; Alabama, Florida, Georgia, and Ohio): to engage, through its subsidiary, American Standard Insurance Agency, in the sale of casualty insurance for the protection of property mortgaged in connection with extensions of credit made or brokered by certain affiliated bank holding company subsidiaries. These activities would be conducted from existing offices of certain of Old Stone Corporations subsidiaries: DAC Corporation of Alabama, Mobile; DAC Corporation of Florida, Bradenton, Clearwater, Daytona Beach, Fort Lauderdale, Jacksonville, Lakeland, Melbourne, Ocala, Orlando, Pensacola, Tallahassee, Tampa, and West Palm Beach; Unimortgage Corporation of Ohio, Columbus, and from a proposed office of Unimortgage Corporation of Ohio in Cincinnati. Comments on this

application must be received by February 9, 1981.

B. *Federal Reserve Bank of New York* (A Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

BARCLAYS BANK LIMITED and its subsidiary, BARCLAYS BANK INTERNATIONAL LIMITED, London, England (commercial finance—northeastern United States): to engage through their subsidiary, BarclaysAmerican/Business Credit, Inc., In commercial finance, i.e., making secured loans to small and medium sized businesses. This activity would be conducted from offices in Princeton, New Jersey, New York, New York and Melville (Long Island), New York, each such office serving customers in the state in which such office is located and surrounding regions.

C. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. MELLON NATIONAL CORPORATION, Pittsburgh, Pennsylvania (mortgage banking and insurance activities; Texas): to engage through its subsidiary, Carruth Mortgage Corporation, in mortgage banking activities, including acting as insurance agent with respect to the sale of Credit Life Insurance and/or mortgage redemption insurance. These activities will be conducted from an office located in Angleton, Texas, serving Brazoria County, Texas.

2. AMERICAN BANCORPORATION, Marietta, Ohio (leasing activities; Ohio): to engage through its subsidiary, American Bancleasing, Inc., in general leasing activities, acquiring leases for its own account and the account of others, and servicing such leases for applicant's affiliate banks, as well as for others. These activities would be conducted from an office in Marietta, Ohio, serving the Ohio counties in which applicant's subsidiary banks are located and contiguous counties in Ohio. Comments on this application must be received by January 28, 1981.

D. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

FIRST RAILROAD & BANKING COMPANY OF GEORGIA, Augusta, Georgia (consumer finance and insurance activities): through its wholly owned finance subsidiary CMC Group, Inc., Charlottee, North Carolina, to engage do novo in the following activities: make consumer installment loans secured by note, household goods, and first or second mortgages on real estate up to $15,000; to purchase installment sales contracts up to $1,500; to underwrite credit life and accident and health insurance; and to sell as agent property insurance in connection with its loan and installment sales contracts. In conjunction with this de novo entry CMC would acquire certain assets of Confidential Loan and Finance Corporation, Whiteville, North Carolina. Such activities will be conducted at a location to be selected in Whiteville, North Carolina, covering a service area encompassing Columbus County. Comments on this application must be received by January 23, 1981.

E. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

UNION PLANTERS CORPORATION, Memphis, Tennessee (management consulting activities; continental United States): to engage through its subsidiary, Union Planters Risk Management Company, in providing to nonaffiliated banks management consulting services consisting primarily of advice concerning: the filing, documentation, and prosecutuion of claims against insurance companies, particularly regarding claims involving fidelity bonds (excluding legal advice), and the identification and resolution of the customer's exposure to risk. These activities would be conducted from an office in Memphis, Tennessee, serving the continental United States. Comments on this application must be received by January 27, 1981.

F. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. HYDRO BANCSHARES, INC., Hydro, Oklahoma, (acquiring loans; Oklahoma): to engage in the activity of obtaining loans from an unrelated banking institution. This activity would be conducted from an office in Hydro, Oklahoma, serving the State of Oklahoma.

2. UNITED MISSOURI BANCSHARES, INC., Kansas City, Missouri (mortgage banking activities; Missouri): to enagage through its subsidiary, United Missouri Mortgage Company, in mortgage banking activities. These activities would be conducted from an office in Ferguson, Missouri, serving St. Charles County, Missouri.

G. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

U.S. BANCORP, Portland, Oregon (lending thrift company, and credit insurance activities; Utah): to engage, through its indirect subsidiary, State Finance and Thrift Company, Inc., in making, acquiring, and servicing loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, including, but not limited to, commercial, rediscount, and installment sales contracts; to issue thrift certificates and passbooks; and to act as insurance agent with regard to credit life and disability insurance solely in connection with its extensions of credit. These activities would be conducted from offices of Applicant's subsidiary in Orem and American Fork, Utah, serving Utah County, Utah.

H. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1203 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 9, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, vice president), 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (consumer finance and insurance activities; California): to relocate an existing office of its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc., from College Grove Center, 229A the Mall, San Diego, California 92115 to a new location at 362 West Mission Avenue, Suite 104, Escondido, California 92025. The following previously approved activities will be conducted at the new location: purchasing for its own account and servicing sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., and to the extent permissible under applicable state insurance laws and regulations. The new location will serve the counties of Riverside, Orange, San Diego and Imperial. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc.

2. CITICORP, New York, New York (consumer finance and insurance activities; California): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc., in conducting the following activities: purchasing for its own account and servicing sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; and the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. These activities would be conducted from a de novo office in Walnut Creek, California, serving Contra Costa and Alameda counties.

3. BARCLAYS BANK LIMITED, BARCLAYS BANK INTERNATIONAL LIMITED, London, England (lease financing activities; North Carolina, Virginia, and West Virginia): to engage, through their subsidiary Barclays American/Leasing, Inc., in lease financing of personal property by means of leases that meet the standards of section 225.4(a)(6) of Regulation Y. These activities would be conducted from an office in Greensboro, North Carolina, serving the eastern part of North Carolina and the states of Virginia and West Virginia. The application is for the relocation of activities for which prior approval has been granted.

4. CITICORP, New York, New York (consumer finance and insurance activities; Oklahoma): to relocate an existing office of its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc., from 5310 East 31st Street, Tulsa, Oklahoma 74135 to 6733 South Yale, Tulsa, Oklahoma 74136. The following activities will continue to be conducted in the previously approved service area: purchasing for its own account and servicing sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related property and casualty insurance protecting real and personal proprty subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., and to the extent permissible under applicable state insurance laws and regulations. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc.

5. CITICORP, New York, New York (consumer finance and insurance activities; Oklahoma): to expand the activities of an existing office of its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc., to include the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., and to the extent permissible under applicable state insurance laws and regulations. The new activity would be conducted in the previously approved service area comprised of the entire state of Oklahoma. The following previously approved activites will continue to be conducted at the office: the purchasing for its own account and servicing sales finance contracts; the sale of credit related life and accident and health, decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the making of loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than person, family or household usage; and the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person, Inc.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 7, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1204 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corporation; Acquisition of Bank

Banc One Corporation, Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire at least 66⅔ per cent of the voting shares of the successor by merger to Lake National Bank, Painesville, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 29, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

V 46/9 JA 14 81 UMI

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1205 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Cass County State Co.; Formation of Bank Holding Company

Cass County State Company, Plattsmouth, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97 percent or more of the voting shares of The Cass County State Bank, Plattsmouth, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1206 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp, Inc.; Acquisition of Bank

First Bancorp, Inc., Corsicana, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of First Greenville Bancshares, Inc., Greenville, Texas, and thereby acquire indirect control of First Greenville National Bank, Greenville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1207 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

First National Financial Corp. of Martinsville; Formation of Bank Holding Company

First National Financial Corp. of Martinsville, Martinsville, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88.57 percent or more of the voting shares of First National Bank, Martinsville, Martinsville, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 3, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 7, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1208 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

The Fischer Corp.; Acquisition of Bank

The Fischer Corporation, Lewiston, Minnesota, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 98 percent or more of the voting shares of First State Bank of Wykoff, Wykoff, Minnesota. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than Febraury 6, 1981.

Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1209 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Grant County State Bancshares, Inc.; Formation of Bank Holding Company

Grant County State Bancshares, Inc., Swayzee, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Grant County State Bank, Swayzee, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1210 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Merchants Financial Corp.; Formation of Bank Holding Company

Merchants Financial Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Merchants State Bank, Dallas, Texas.

The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1211 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Merchants International Bank; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Merchants International Bank, Miami, Florida. Merchants International Bank, Miami, Florida, would operate as a subsidiary of Merchants National Bank & Trust Company, Indianapolis, Indiana. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR § 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1212 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

National Bank of Canada; Proposed Retention of Laurentide Financial Corp., Ltd. and Laurentide Financial Realty Corp.

National Bank of Canada, Montreal, Quebec, Canada, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain voting shares of Laurentide Financial Corporation, Ltd., Vancouver, British Columbia, Canada, and its subsidiary, Laurentide Financial Realty Corporation (Western) Ltd., Vancouver, British Columbia.

Applicant states that the subsidiaries would engage in the activities of making or acquiring loans and other extensions of credit secured by interests in real property. These activities would be performed from an office of Applicant's indirect subsidiary in Seattle, Washington, and the geographic area to be served is the State of Washington. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 30, 1981.

Board of Governors of the Federal Reserve System, December 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1213 Filed 1-3-81; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorp., Inc.; Proposed Acquisition of Assets of Family Financial Services, Inc.

Southern Bancorporation, Inc., Greenville, South Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirectly through its subsidiary, World Acceptance Corporation, all of the assets of Family Financial Services, Inc., Fort Valley, Georgia.

Applicant states that the subsidiary would engage in the activities of making direct loans to individuals, and acting as agent for the sale of credit life and accident insurance and credit property insurance directly related to extensions of credit by the subsidiary. These activities would be performed from offices of Applicant's subsidiary in Fort Valley, Georgia, and the geographic area to be served includes the town of Fort Valley and the immediate surrounding area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 30, 1981.

Board of Governors of the Federal Reserve System, December 31, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1214 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

First Guthrie Bancshares, Inc.; Acquisition of 8.1 Percent of the Voting Shares of First Union Corporation, Stillwater, Oklahoma

First Guthrie Bancshares, Inc., Guthrie, Oklahoma, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 8.1 percent of the voting shares of First Union Corporation, Stillwater, Oklahoma, and thereby of its subsidiary, First National Bank and Trust Company, Stillwater, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 3, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 9, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1317 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Deposit Guaranty Corp.; Proposed Acquisition of Assets of Mid-State Mortgage Company

Deposit Guaranty Corp., Jackson, Mississippi, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire assets of Mid-State Mortgage Company, Jackson, Mississippi.

Applicant states that its subsidiary, Deposit Guaranty Mortgage Company, would continue to engage in the activity of servicing loans and other extensions of credit by the purchase of the servicing portfolio of permanent loans of Mid-State Mortgage Company; and would acquire stock of the Federal National Mortgage Association held by Mid-State Mortgage Company. These activities would be performed from offices of Applicant's subsidiary in Jackson, Mississippi, and the geographic area to be served is the State of Mississippi. Such activities have been specified by the Board § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 3, 1981.

Board of Governors of the Federal Reserve System, January 9, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1313 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp of War, Inc., Formation of Bank Holding Company, Correction

This notice corrects a previous Federal Register document (FR Doc. 80-40733) published at page 158 of the issue for January 2, 1981. The name of the city in the first line is corrected so that the first sentence reads of follows:

First Bancorp of War, Inc. Welch, West Virginia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 85.2 per cent or more of the voting shares of The Bank of War, War, West Virginia.

Board of Governors of the Federal Reserve System, January 7, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1315 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

First National Bancshares, Inc., Formation of Bank Holding Company

First National Bancshares, Inc., Little Rock, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to the The First National Bank in Little Rock, Little Rock, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in ieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 8, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1316 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Finlayson Bancshares, Inc.; Formation of Bank Holding Company

Finlayson Bancshares, Inc., Finlayson, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 97.2 per cent of the voting shares of First State Bank of Finlayson, Finlayson, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 9, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1314 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Gulf Coast Bancshares, Inc.; Formation of Bank Holding Company

Gulf Coast Bancshares, Inc., Alvin, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of First National Bank of Alvin, Alvin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 8, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1319 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Iowa-Grant Bancshares, Inc.; Formation of Bank Holding Company

Iowa-Grant Bancshares, Inc., Cobb, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Cobb State Bank, Cobb, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 8, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1320 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

Middle Georgia Corp.; Formation of Bank Holding Company

Middle Georgia Corporation, Ellaville, Georgia, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.39 percent of the voting shares of Bank of Ellaville, Ellaville, Georgia. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 8, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1321 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

First Guthrie Bancshares, Inc.; Proposed Acquisition of 8.1 Percent of the Voting Shares of First Union Corporation, Stillwater, Oklahoma

First Guthrie Bancshares, Inc., Guthrie, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permissin to acquire 8.1 percent of the voting shares of First Union Corporation ("First Union") and thereby of its subsidiaries, First Union Financial Services, Inc. ("Services"), and (indirectly) through First Union Company, a Massachusetts business trust) of First Union Insurance Agency, Inc. ("Agency"), both in Stillwater, Oklahoma.

Applicant states that the subsidiaries of First Union would continue to engage in the activities of a finance company, making auto, consumer, tuition and mortgage loans ("Services") and of an insurance agent or broker ("Agency") for credit life, accident, and health insurance directly related to extensions of credit by First Union's subsidiaries, Services, and the First National Bank and Trust Company, Stillwater, Oklahoma. These activities would be performed from offices located in Stillwater, Oklahoma and the geographic area to be served is the City of Stillwater, Oklahoma. Such activities have been specified by the Board in §225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 3, 1981.

Board of Governors of the Federal Reserve System, January 9, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-1316 Filed 1-13-81; 8:45 am]

BILLING CODE 6210-01-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Advisory Committees; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the establishment of the following committees by the Secretary, Department of Health and Human Services.

Behavioral Medicine Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to various aspects of behavioral medicine.

Bio-Organic and Natural Products Chemistry Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to bio-organic chemistry and natural products chemistry.

Experimental Cardiovascular Sciences Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health, and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to various aspects of clinical and basic research in cardiovascular, renal, and pulmonary physiology and pharmacology.

Experimental Immunology Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to the basic and clinical immunobiology and immunochemistry of humoral and cellular immune reactions involved in autoimmune and immune complex diseases, phagocytosis and antibody synthesis, and in the diagnosis, monitoring and therapy of experimental and clinical cancer, using immunological techniques.

Physical Biochemistry Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to various areas of biochemistry with an orientation toward physical biochemistry and *in vitro* research.

Authority for these Study sections shall terminate on December 9, 1982, unless the Secretary, HHS, formally determines that continuance is in the public interest.

Dated: January 6, 1981.

Donald S. Fredrickson,

Director, NIH.

[FR Doc. 81-1178 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-08-M

Breast Cancer Task Force Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Breast Cancer Task Force Committee, National Cancer Institute, February 23-24, 1981, Lister Hill National Center, Building 38A, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. on February 23 through adjournment on February 24, for a Workshop on Tumor Stem Cell Assays and the Treatment of Human Breast Cancer. Attendance by the public will be limited to space available.

Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meetings and rosters of committee members, upon request.

Dr. D. Jane Taylor, Executive Secretary, National Cancer Institute, Landow Building, Room 8C09D, 7910 Woodmont Avenue, Bethesda, Maryland 20205 (301/496-6718) will furnish substantive program information.

Dated: January 6, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 81-1179 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-08-M

Communicative Disorders Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institutes of Health, February 27, 1981, in Conference Room 4, Building 31, 9000 Rockville Pike, Rockville, Maryland 20205.

The meeting will be open to the public from 8:30 a.m. until 10:30 a.m. on February 27th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 27th from 10:30 a.m. to adjournment on that day, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and roster of committee members.

Dr. Ernest J. Moore, Executive Secretary, NINCDS, NIH, Federal Building, Room 9C14, Bethesda, MD 20205, telephone 301/496-9223, will furnish substantive program information.

Dated: January 5, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 81-1180 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources, February 5-6, 1981, Conference Room 6, Bldg. 31, National Institutes of Health, Bethesda, MD 20205.

The meeting will convene on February 5, at 9:00 a.m., in open session, for the regular conduct of Council business; a report by the Acting Director, DRR; Review of Council Operating Procedures; a report on the DRR Five-Year Plan; and reports by the Animal Resources and Biotechnology Resources

Programs. The meeting will continue from approximately 10:30 a.m. to approximately 2:30 p.m. as follows: Animal Resources Program Work Group, Conference Room 6; Biotechnology Resources Program Work Group, Room 5B03; Biomedical Research Support Program Work Group, Room 6A23; General Clinical Research Centers Program Work Group, Room 7A24; and Minority Biomedical Support Program Work Group, Room 8A28. The meeting will reconvene on February 6, in Conference Room 6, from 8:30 a.m. to approximately 12:00 Noon for staff reports from the Biomedical Research Support Program, General Clinical Research Centers Program, and Minority Biomedical Support Program; for a report by a member of the Council on the NIH Director's Advisory Committee Meeting of October, 1980; and Program Work Group Reports and Recommendations to Council for discussion and action.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 5 from approximately 2:30 p.m. to recess, and on February 6 from approximately 1:00 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, 301–496–5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Acting Director, Division of Research Resources, National Institutes of Health, Room 5B03, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, 301–496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

Dated: January 5, 1981.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Support; National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

[FR Doc. 81-1181 Filed 1-13-81; 8:45 a.m.]

BILLING CODE 4110-08-M

National Cancer Advisory Board, Ad Hoc Subcommittee, Diet, Nutrition, and Cancer Program; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Ad Hoc Subcommittee, Diet, Nutrition, and Cancer Program, National Cancer Institute, January 29, 1981, Building 31, Room 11A10, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., for program review and advice on the Diet, Nutrition, and Cancer Program. Attendance by the public will be limited to space available.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Diane J. Fink, Executive Secretary, National Cancer Institute, Building 31, Room 11A33, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1316) will furnish substantive program information.

Dated: January 6, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 81-1182 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-08-M

National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 5, 6, 7, 1981, National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland 20205.

This meeting will be open to the public on February 5 from 9:00 a.m. to approximately 3:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be February 4, 1981 at 8:00 p.m. in Building 31, Conference Rooms 9 and 10 respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on February 5 from 3:00 p.m. until recess and on February 6 from 9:00 a.m. to adjournment on February 7 for the review, discussion, and evaluation of individual grant applications. The meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. to adjournment on February 4, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the Council members.

Kathleen S. Holcombe, Executive Secretary of the Council, Westwood Building, Room 7A–15, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7548, will furnish substantive program information.

Dated: January 5, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

[FR Doc. 81-1183 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-08-M

Neurological Disorders Program Project Review A Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program Project Review A Committee, National Institutes of Health, February 14, 15 and 16, 1981, at the Marriott Inn, 13480 Maxella Ave., Marina Del Ray, California 90291.

V 46/9 JA 14 81 UMI

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on February 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 15th from 8:30 a.m. to adjournment on February 16th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and roster of committee members.

Dr. Leon Jack Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14, Bethesda, MD 20205, telephone 301/496–9223, will furnish substantive program information.

Dated: January 5, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program No. 13.852, Neurological Disorders Program, National Institute of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 81–1184 Filed 1–13–81; 8:45 am]

BILLING CODE 4110–08–M

Neurological Disorders Program—Project Review B Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review B Committee, National Institutes of Health, February 20, 21, 1981, in Conference Room 8, Building 31, Bethesda, Maryland 20205.

The meeting will be open to the public from 8:00 a.m. until 9:00 a.m. on February 20th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 20th from 9:00 a.m. to adjournment on February 21st, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and roster of committee members.

Dr. Ellen G. Archer, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, Neurological Disorders Program, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: January 5, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 81–1185 Filed 1–13–81; 8:45 am]

BILLING CODE 4110–08–M

Population Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 12–13, 1981, in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 12 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 12 from 10:30 a.m. to adjournment on March 13 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Dinesh C. Sharma, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 6C03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will furnish other information.

Dated: January 5, 1981.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

[FR Doc. 81–1186 Filed 1–13–81; 8:45 am]

BILLING CODE 4110–08–M

Office of the Secretary

Deputy Under Secretary for Intergovernmental Affairs; Statement of Organization, Functions and Delegation of Authority

Part A, Chapter ABC, Deputy Under Secretary for Intergovernmental Affairs (DUSIGA) Statement of Organization, Functions and Delegation of Authority, 43 FR 4680–82 dated February 3, 1978 is amended to include the functions for the Office of Veterans Affairs. The May 21, 1980 Reorganization Order for the Office of Human Development Services omitted the functions for the Office of Veterans Affairs pending a decision within the Department to determine OVA's future location. This amendment to DUSIGA functional statement establishes OVA as an organizational unit within the Department under the general guidance of a senior-level official; and provides veterans affairs with greater visibility, accessibility to, and support from all Department programs.

1. At the end of Section ABC.00 *Mission*, insert the following:

Provide general guidance and direction to the Office of Veterans Affairs.

2. At the end of section ABC.20 *Functions*, insert the following:

11. The Office of Veterans Affairs will serve as the focus of veterans' concerns for HHS and provide continuity of services to the White House Veterans

Federal Coordinating Committee, the Under Secretary's Task Force on Veterans, and veteran service organizations and associations; assist the Secretary in her role as a member of the Cabinet in its deliberation of veterans issues; develop initiatives within HHS to improve services to veterans, especially handicapped, psychologically maladjusted, disadvantaged, and incarcerated Vietnam era veterans; develop recommendations to improve channels of communication between levels of government to facilitate information dissemination, improve identification of needs and delivery of services to meet the needs of veterans and their families; evaluate current HHS programs as they relate to veterans' participation; assess procedures already implemented by the agency pertaining to how service delivery personnel related to veteran clients; review agency personnel offices be insure that veterans are given proper consideration for employment; and review monitoring procedures concerning implementation of regulations governing veteran hiring practices of grantees and contractors.

Dated: December 31, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 81-1258 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-10-M

Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health and Human Services on the impact of the policies, programs and activities of the Department on the status of women will meet on Friday, February 27, 1981, from 9:30 a.m to 5:00 p.m. in Room 339-A, Hubert Humphrey Building, 200 Independence Ave., SW, Washington, D.C. The agenda will include women health and social services issues.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone: 202-245-8454. This meeting is open to the public.

Dated: January 8, 1981.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 81-1259 Filed 1-13-81; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Coal Lease Application C-30168]

Land in Jackson County, Colorado; Public Hearing; Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on February 3, 1981 at 7:00 p.m. in the Soil Conservation District Building, Basement Room, 5th and Logan Street, Walden, Colorado. Application has been made by Wyoming Fuel Company to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the February 3, 1981 public hearing should be received at the Craig District Office, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81625, prior to the close of Business February 2, 1981. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Craig District Office at the above address, prior to close of business on February 17, 1981. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, and to the Deputy Conservation Manager, Conservation Division, (RE), C/R, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than February 17, 1981.

The coal resource to be offered is limited to 1,212,800 tons of coal recoverable by surface mining methods from the Sudduth coal seam and any overlying coal seams in the following lands located approximately 12 miles east of the town of Walden, Colorado:

T. 8 N., R. 78 W., 6th P.M.
  Sec. 3: Lots 9, 15, 16, 17, 18
  Sec. 10: W½NE¼NE¼, NW¼NE¼, NW¼, S½NE¼
  463.53 Acres

The coal quality is as follows: Btu—9,500; Sulfur—0.26%; Ash—10.2%; Moisture—16.58%; and averages 13.4 feet in thickness.

The draft Environmental Assessment will be available for review in the Craig District Office. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environment Assessment, the case file and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Colorado State Office, Bureau of Land Management at the address set out above.

Rodney A. Roberts,

Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 81-1281 Filed 1-13-81; 8:45 am]

BILLING CODE 4310-84-M

Protests on New Mexico Wilderness Inventory

December 23, 1980.

AGENCY: Bureau of Land Management.

ACTION: Notice of Protests on Final Intensive Wilderness Inventory Decisions.

SUMMARY: The purpose of this notice is to identify which of the New Mexico State Director's final intensive wilderness inventory decisions are under protest. The final wilderness inventory decisions were published in the November 14, 1980, **Federal Register**, pages 75590–75593, and a 30-day protest period followed

During the protest period which end on December 15, 1980, protests were received for the 31 inventory units listed below. Those inventory decisions which were not protested are now final. Those units dropped from the Wilderness Review Process on November 14, 1980 which were not protested are no longer protected by interim management restrictions.

The following units are under protest and will continue to be protected by interim management stipulations until the State Director issues his final decision on the protests.

1. Protest of decision to identify unit, or portions thereof, as a Wilderness Study Area:

District	Name	Number	Acreage affected
Socorro	Rimrock	NM-020-007	29,430
Socorro	Sand Canyon	NM-020-008	8,320
Socorro	Little Rimrock	NM-020-009	9,540
Socorro	Pinyon	NM-020-010	13,160
Socorro	Veranito	NM-020-035	7,450
Socorro	Sierra Las Canas	NM-020-038	2,000
Socorro	Stallion	NM-020-040	22,000
Socorro	Continental Divide	NM-020-044	70,000
Las Cruces	Cowboy Spring	NM-030-007	6,710
Las Cruces	Gila Box	NM-030-023	7,960
Las Cruces	Blue Creek	NM-030-026	13,584
Las Cruces	Cooke Range	NM-030-031	19,870
Las Cruces	Big Hatchet Mountains	NM-030-035	65,950
Las Cruces	Alamo Hueco Mountains	NM-030-038	12,840
Las Cruces	Cedar Mountains	NM-030-042	18,880
Las Cruces	West Potrillo Mountains	NM-030-053	143,145
Las Cruces	Mount Riley	NM-030-052C	7,400
Las Cruces	Aden Lava Flow	NM-030-053	24,725
Las Cruces	Robledo Mountains	NM-030-063	11,640
Las Cruces	Las Uvas Mountains	NM-030-065	10,880
Las Cruces	Organ Mountains	NM-030-074	7,200
Roswell	Letchuguilla Canyon	NM-060-803	[1]1,167
Roswell	Mudgetts	NM-060-819	[1]2,726
Roswell	Mudgetts	NM-060-819A	[1]213
Roswell	Fawn Valley	NM-060-820	[1]700

[1] Deferred decisions.

2. Protest of decision concluding that unit, or portions thereof, lacked wilderness characteristics:

District	Name	Number	Acreage affected
Socorro	Rimrock	NM-020-007	(1)
Socorro	Sand Canyon	NM-020-008	(1)
Socorro	Little Rimrock	NM-020-009	(1)
Socorro	Pinyon	NM-020-010	(1)
Socorro	Sierra Ladrones	NM-020-016	5,000
Socorro	Presilla	NM-020-037	9,600
Socorro	Continental Divide	NM-020-044	2,500
Socorro	Antelope	NM-020-053	20,800
Las Cruces	Redrock	NM-030-025	4,040
Las Cruces	Cooke Range	NM-030-031	11,000
Las Cruces	Florida Mountains	NM-030-034	15,360
Las Cruces	Big Hatchet Mountains	NM-030-035	(2)
Las Cruces	Cedar Mountains	NM-030-042	54,000
Las Cruces	West Potrillo Mountains	NM-030-052	13,000
Las Cruces	Robledo Mountains	NM-030-063	4,500
Roswell	Mescalero Sands	NM-060-501	10,800

[1] Division into four units by roads.

[2] Division into three units by roads.

Two additional letters were received which protested the deferred status for Florida Mountains (NM-030-034) and Mescalero Sands (NM-060-501) and stated that these units should be dropped from further consideration as wilderness. These units were dropped from the Wilderness Review Program, but were listed as deferred due to a printing error in the November 14, 1980, **Federal Register** Notice.

The State Director will announce his decisions on these protests on or about January 15, 1981. If the State Director does not change his intensive inventory decisions, the protestant(s) will be advised of the decision by letter and his or her right of appeal will be explained in the letter. Should the State Director change the decision, the public will be notified of its right to appeal and the appeals period will begin upon publication of the protest decision in the **Federal Register.**

Larry L. Woodward,

Acting State Director.

[FR Doc. 81-1276 Filed 1-13-81; 8:45 am]

BILLING CODE 4310-84-M

California Desert Plan; Approval

Notice is hereby given that the California Desert Conservation Area Plan was approved by Guy Martin, Assistant Secretary of the Interior for Land and Water Resources, on December 17, 1980. Secretary of the Interior Cecil D. Andrus concurred in Assistant Secretary Martin's approval of the plan on December 19, 1980.

This action constitutes the final administrative decisions necessary to comply with Section 601(d) of the Federal Land Policy and Management Act (43 U.S.C. 1781), and the Bureau of Land Management will now begin plan implementation.

An original copy of the Decision/Record of Decision for the Final Plan as approved is on file in the office of the California Desert District, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

Copies of the final plan will be printed and available for public distribution approximately March 15, 1981.

Dated: December 24, 1980.

James B. Ruch,

State Director.

[FR Doc. 81-1286 Filed 1-13-81; 8:45 am]

BILLING CODE 4310-84-M

Water and Power Resources Service

Yuma Division Flood Control Project; Yuma, Arizona; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement on flood control in the Yuma Division of the Colorado River. There is an increasing danger of flood damage due to the significant increase in agriculture and economic development in the levee protected valleys. In the area of Yuma, Arizona, from Prison Hill downstream approximately 2 miles, vegetation has encroached into the flood plain, and it is very unlikely that the present levees could contain the levee design floodflows in this area.

The following alternatives to aid in alleviating potential flooding have been developed so far: (1) Dredge channel sufficient to pass floodflows without over-topping the levee; (2) Total clearing of vegetation in the flood plain; (3) Partial selective vegetation clearing by dredging sufficient to pass floodflows; (4) Partial selective clearning by land based equipment sufficient to pass floodflows; (5) Raise levees sufficient to pass floodflows; (6) No action; and (7) Nonstructural. This alternative would involve the purchase of the land in the flood plain to prevent flood damage.

Two meetings have been held with the public to receive input on the project.

No scoping meetings as such will be held, but a work group, composed of representatives of interested governmental, agricultural, and environmental organizations, was formed at the last public meeting to assist in developing alternatives and determining significant issues. The group will meet periodically to discuss the issues and to help prepare the environmental impact statement. The first meeting with the work group was held December 10, 1980, at the Yuma Projects Office in Yuma, Arizona.

The draft environmental statement is scheduled to be available for public review in March 1982. The final environmental statement is scheduled for completion in October 1982.

Interested public entities and individuals may obtain information on the project and provide input to the environmental impact statement.

Any questions regarding this project should be directed to Mr. Paul E. Strauss, Water and Power Resources Service, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293-8464.

Dated: January 8, 1981.

Clifford I. Barrett,

Assistant Commissioner, Water and Power Resources.

[FR Doc. 81-1292 Filed 1-13-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539. For Compliance, procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes, and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisidictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title, 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action signficantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 2, 1981 (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 16, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol No. OP1-113

Decided: December 31, 1980.

By the Commission, Review Board. No.1, Members Carleton, Joyce, and Jones. Member Jones not participating.

MC 93840 (Sub-58F), filed December 22, 1980. Applicant: GLESS BROS. INC., P.O. Box 219; Blue Grass, IA 52726. Representative: Larry D. Knox; 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 153261F, filed December 19, 1980. Applicant: SADLER TRUCKING, INC., Route 30, Kansas City, MO 64149. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP1-115

Decided: December 31, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 153131F, filed December 11, 1980. Applicant: BILL FISHER BROKERAGE, P.O. Box 28989, 4825 E. Hwy 80, Dallas, TX 75228. Representative: Bill Fisher, 3907 San Mateo Dr., Plano, TX 75023. As a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 153195F, filed December 11, 1980. Applicant: R. T. TRANSPORTATION, INC., 3501 West 75th Place, Chicago, IL 60652. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. As a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 153201F, filed December 16, 1980. Applicant: GTL TRANSPORT CO., INC., 110 Dill Road, Suffolk, VA 23434. Representative: D. S. Glover (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2-144

Decided: December 31, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman. (Member Chandler not participating.)

MC 8973 (Sub-77F), filed December 10, 1980. Applicant: METROPOLITAN TRUCKING, INC., 75 Broad Ave., Fairview, NJ 07022. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2-149

Decided: January 2, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman. (Member Liberman not participating.)

MC 149402 (Sub-2F), filed December 19, 1980. Applicant: R. A. P. T. CORPORATION, 3159 South 1900 West, Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. *General commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, betweeen points in the U.S.

Volume No. OP2-147

Decided: January 5, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 30653 (Sub-2F), filed December 29, 1980. Applicant: HAWK OF CONNECTICUT, INC., Outlook St., Stamford, CT 06902. Representative: Piken & Piken, Esqs., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1284 Filed 1-13-81; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. 392]

Motor Carrier Permanent Authority Decisions

Decided: December 30, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before February 13, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before February 13, 1981 or the application shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 115793 (Sub-31F), filed October 4, 1979. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620, Lenoir, NC 28645. Representative: C. Douglas Woods (same address as applicant). Transporting *new furniture* from points in TN and MO, to points in NC.

MC 125433 (Sub-323F), filed September 30, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). Transporting *shelving* from Fremont, CA to points in the U.S. (excluding AK and HI), restricted to traffic originating at the facilities of Hussman, Inc.

MC 125433 (Sub-334F), filed October 4, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). Transporting *cable on reels*, from points in Douglas County, NE to Dallas and Houston, TX.

MC 141313 (Sub-1F), filed July 23, 1979. Applicant: PERMISIONARIOS DE EXPRESS, Y CARGA, S.A. DE C. V., Mar Kara 325, Col. Aleman, Tijuana, B. C. Mexico. Representative: Pedro Moreno Viramontes (same address as applicant). In foreign commerce only, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between ports of entry on the international boundary line between the U.S. and the Republic of Mexico, on the one hand, and, on the other, points in the U.S.

[FR Doc. 81-1224 Filed 1-13-81; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

January 9, 1981.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 29, 1981.

No. 43892 Southwestern Freight Bureau Agent (No. B-108), increased rates by 7 percent on fibreboard, paperboard and pulpboard, from Stations in Michigan, Minnesota and Wisconsin, to Stations in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas. Rates are published in Supplement No. 148 to tariff ICC SWFB 4571. Grounds for relief—Additional revenues.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1220 Filed 1-13-81; 8:45 a.m.]

BILLING CODE 7035-01-M

Office of Proceedings

Motor Carriers Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 2, 1981, (or, if the application later becomes unopposed)appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 16, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol. No. OPI–III

Decided: December 31, 1980.

By the Commission, Review Board No. 3. Members Parker, Fortier, and Hill.

MC 35320 (Sub-825F), filed December 12, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving New Johnsonville, TN, as an intermediate point in connection with carrier's otherwise authorized regular routes operations, restricted to traffic originating at or destined to the facilities of Matheson Division of G.D. Searle Medical Products, U.S.A., Inc.

MC 47171 (Sub-195F), filed December 16, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by The Richardson Company, its divisions and subsidiaries.

MC 52480 (Sub-301F), filed December 16, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Thies Packing, Inc., at or near Great Bend, Topeka, and Wichita, KS, to points in AL, AR, CA, CO, FL, GA, IL, IA, KY, LA, MS, MO, NE, NM, NC, OK, SC, TN, and TX.

MC 59640 (Sub-89F), filed December 9, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam (same address as applicant). Transporting (1) *health-care products,* (2) *surgical and hospital supplies and equipment,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) (except commodities in bulk), between points in the U.S., under continuing contract(s) with C. R. Bard, Inc., of Murray Hill, NJ.

MC 113751 (Sub-40F), filed December 11, 1980. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Sts., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *charcoal, charcoal briquettes,* and *equipment and supplies* used in the manufacture of charcoal and charcoal briquettes, between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 115391 (Sub-1F), filed December 16, 1980. Applicant: GENSIMORE TRUCKING, INC., P.O. Box L, Pleasant Gap, PA 16823. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting *chemicals or allied products,* as described in Item 28 of the Standard Transportation Commodity Code, between points in the U.S., under continuing contract(s) with Foote Mineral Company, of Exton, PA.

MC 115730 (Sub-90F), filed December 8, 1980. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting *iron and steel articles,* between Plymouth, UT, points in IL, IN, TX, and Santa Clara County, CA, on the one hand, and, on the other, points in the U.S.

MC 118610 (Sub-35F), filed December 16, 1980. Applicant: GEORGE PARR TRUCKING SERVICE, INC., P.O. Box 1308, Owensboro, KY 42301. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. Transporting (1) *aluminum and aluminum products,* and (2) *materials, equipment, and supplies* used in the manufacture, processing, and distribution of the commodities in (1) above (except commodities in bulk), between Torrance, CA, The Dalles, OR, Cliffs, WA, and points in Hancock County, KY, on the one hand, and, on the other, points in the U.S.

MC 119741 (Sub-286F), filed November 18, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *canned goods and frozen foodstuffs,* from Lyndonville and Brockport, NY, to points in IL, IN, KY, MI, MO, OK, and WI.

MC 136500 (Sub-16F), filed December 8, 1980. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., Box 162, Mattoon, IL 61932. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *firebrick shapes, clay and graphite stopperheads, graphite crucibles and bonding mortar,* between points in the U.S., under continuing contract(s) with Calderwood Corporation of Charleston, IL.

MC 142470 (Sub-2F), filed December 8, 1980. Applicant: FLEET TRANSIT, INC., 3225 Tate St., Baltimore, MD 21226. Representative: Marie Loepp Hasson, 927 15th St., Suite 306, Washington, DC 20005. Transporting *petroleum, petroleum products, chemicals, and chemical products,* between points in MD, DE, NJ, NC, PA, VA, WV and DC.

MC 146891 (Sub-3F), filed December 16, 1980. Applicant: A & G EXPRESS, INC., 4807 Millbrooke Road, Albany, GA 31701. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *agricultural chemicals*, and (2) *materials and supplies* used in the manufacture and distribution of agriculture chemicals, between points in the U.S., under continuing contract(s) with Helena Chemical Company, of Memphis, TN.

MC 148050 (Sub-1F), filed December 16, 1980. Applicant: L & J MOTOR LINES, INC., PO Box 7267, High Point, NC 27264. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *insulating materials*, from Barrington, NJ, to points in NC and SC.

MC 150321 (Sub-1F), filed December 8, 1980. Applicant: BRADFORD TRUCK SERVICE, PO Box 128, Park Street, Bradford, TN 38316. Representative: Larry McCartney (same address as applicant). Transporting *office and industrial equipment*, between points in the U.S., under continuing contract(s) with Tennsco Corporation, of Dickson, TN.

MC 150330 (Sub-1F), filed December 10, 1980. Applicant: BELCO, INC., 2101 West Main St., Jacksonville, AR 72076. Representative: Ron Harvey (same address as applicant). Transporting (1) *aluminum ventilation products, roof louvers, turbines and shutters*, and (2) *parts and accessories* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Lomanco, Inc., of Jacksonville, AR.

MC 150700 (Sub-5F), filed December 16, 1980. Applicant: OLIN WOOTEN TRANSPORT CO., INC., PO Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *containers, container closures, and packaging products*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between Hubbard, OH, Chicago, and Elgin, IL, on the one hand, and, on the other, points, in AL, FL, GA, KY, NC, SC, and TN.

MC 151741 (Sub-2F), filed December 16, 1980. Applicant: D. E. WILLOUGHBY TRUCKING, R.R. No .7—Box 393, Columbus, IN 47201. Representative: S. Willoughby (same address as applicant). Transporting *pressure vessels, iron and steel fittings, and iron and steel brackets*, between points in the U.S., under continuing contract(s) with Brunner Engineering & Mfg., Inc., of Bedford, IN.

MC 153170F, filed December 16, 1980. Applicant: THE TRAVEL COMPANY OF MICHIGAN, d.b.a. THE TRAVEL COMPANY OF OHIO, 4900 Reed Road, Columbus, OH 43220. Representative: Barbara Grabill (same address as applicant). As a *Broker* at Columbus, OH, in arranging for the transportation of passengers and their baggage, in the same vehicle with the passengers, beginning and ending at points in MI, OH, IN, WV, and PA, and extending to points in the U.S.

Vol. No. OP1-112

Decided: December 31, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones, Member Jones not participating.

MC 28990 (Sub-10F), filed December 16, 1980. Applicant: SEYMOUR TRANSFER LINES, INC., 800 East Factory St., Seymour, WI 54165. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Over *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Iron Mountain, MI, and junction U.S. Hwy 141 and WI Hwy 22 at or near Stiles, WI, over U.S. Hwy 141, (2) between Iron Mountain and Vulcan, MI, Over U.S. Hwy 2, between Quinnesec, MI, and junction U.S. Hwys 8 and 141 at or near Niagara, WI, over U.S. Hwy 8, (4) between Iron Mountain, MI, and Aurora, WI, from Iron Mountain, over MI Hwy 95 to junction WI Hwy 95, then over WI Hwy 95 to Aurora, and return over the same route, (5) between Aurora and Niagara, WI, over WI Hwy N, (6) between Oconto, WI, and Menominee, MI, over U.S. Hwy 41, (7) between Marinette, WI, and junction U.S. Hwy 141 and WI Hwy 180 at or near Wausaukee, WI, over WI Hwy 180, (8) between Marinette, WI, and junction WI Hwys 64 and 32 at or near Mountain, WI, over WI Hwy 64, (9) between Suring, WI, and junction WI Hwys 64 and 32 at or near Mountain, WI, over WI Hwy 32, (10) between Crivitiz, WI, and junction WI Hwys 64 and W at or near Mountain, WI, over WI hwy W, (11) between Pickett and Ripon, WI, over WI Hwy 44, (12) between Fond du Lac and Berlin, WI, from Fond du Lac over WI Hwy 23 to junction WI Hwy 49, then over WI Hwy 49 to Berlin, and return over the same route, (13) between junction WI Hwys 13 and 73 at or near Pittsville, and Wisconsin Rapids, WI, over WI Hwys 13 and 73, (14) between junction U.S. Hwy 41 and WI Hwy 26 at Vandyne, WI, and junction U.S. Hwy 151 and WI Hwy 26, at or near Waupun, WI, over WI Hwy 26, and (15) between Fond du Lac and Beaver Dam, WI, over U.S. Hwy 151, serving all intermediate points in routes (1) through (15) above, and points in Brown, Calumet, Fond du Lac, Marinette, Oconto, Outagamie, Portage, Waupaca, Waushara, Winnebago, and Wood Counties, WI, as off-route points.

MC 33641 (Sub-157F), filed December 15, 1980. Applicant: IML FREIGHT, INC., 10 Exchange Place, Salt Lake City, UT 84111. Representative: Eldon E. Bresee (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving points in Spokane County, WA as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 58851 (Sub-5F), filed December 16, 1980. Applicant: RUDOLF EXPRESS CO., a corporation, 1650 Armour Rd., Bourbonnais, IL 60914. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Chicago, IL, and Milwaukee, WI, over U.S. Hwy 41, serving all intermediate points and the off-route point of Kenosha, WI.

Note.—Applicant intends to tack the above requested authority with its existing authority.

MC 58851 (Sub-6F), filed December 16, 1980. Applicant: RUDOLF EXPRESS CO., a corporation, 1650 Armour Road, Bourbonnais, IL 60914. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission and classes A and B explosives), between those points in IA on and east of U.S. Hwy 61 and on and south of U.S. Hwy 30.

Note.—Applicant proposes to tack this authority with this existing authority at Davenport, IA.

MC 135410 (Sub-117F), filed December 15, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th St., Rd., P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of The Quaker Oats Company.

MC 142941 (Sub-74F), filed December 15, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same address as applicant). Transporting (1) *charcoal and charcoal briquettes,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodites in (1), between Branson, MO, Dickinson, ND, Pachuta, MS, Scotia, NY, and White City, OR, on the one hand, and, on the other, points in the U.S.

MC 151741 (Sub-3F), filed December 16, 1980. Applicant: D. E. WILLOUGHBY TRUCKING, R. R. No. 7—Box 393, Columbus, IN 47201. Representative: S. Willoughby (same address as applicant). Transporting *electric motors and parts for electric motors,* between points in the U.S., under continuing contract(s) with A.O. Smith Corporation, of Mt. Sterling, KY.

MC 152480 (Sub-1F), filed December 16, 1980. Applicant: J. JACK WILMOTH, d.b.a. WILMOTH TRUCKING 1518 NW 1st St., Oklahoma City, OK 73106. Representative: J. Jack Wilmoth (same address as applicant). Transporting *iron and steel articles,* from Oklahoma City, OK to Houston, TX, and points in Lake County, CO, Mineral County, MT, and Santa Barbara County, CA.

Vol. No. OPI–11[illegible]

Decided: December 31, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 29910 (Sub-315F), filed December 22, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Magnolia, AR, as an off-route point in connection with applicant's otherwise authorized regular-route operations.

Note.—Applicant intends to tack this authority with its existing authority.

MC 78400 (Sub-97F), filed December 16, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Earnest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *containers and materials and supplies* used in the manufacture of containers, between those points in the U.S. in and east of ID, UT, and AZ.

MC 103490 (Sub-86F), filed December 16, 1980. Applicant: PROVAN TRANSPORT CORP. 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *petroleum products and chemicals,* in bulk, between points in ME, NH, VT, CT, MA, RI, NY, NJ, PA, DE, and MD, on the one hand, and, on the other, points in the U.S.

MC 111231 (Sub-329F), filed December 22, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between the facilities of MTD Products, Inc., at or near Brownsville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142310 (Sub-31F), filed December 15, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *foundry products* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foundry products, between Marinette and Waupaca, WI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, NE, KS, OK and TX.

MC 143300 (Sub-7F), filed December 15, 1980. Applicant: J. C. WOOLDRIDGE, INC., Route 7, Box 43, Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *new furniture,* between points in Henry County, Va, on the one hand, and, on the other, points in Nassau, New York, Queens, and Westchester Counties, NY, and Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union Counties, NJ.

MC 145441 (Sub-133F), filed December 16, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *alcoholic beverages* (except in bulk), between points in KY, TN, CA, MI and NJ.

MC 145890 (Sub-2F), filed December 16, 1980. Applicant: EUGENE W. BELL, d.b.a. BELL TRUCKING, 525 Florida Avenue, Reading, PA 19605. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting (1) *primary metal products and fabricated metal products,* as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Carpenter Technology Corporation, of Reading, PA.

MC 151731 (Sub-1F), filed November 4, 1980. Applicant: CTJ TRANSFER, INC., 5912 Murray Ave., Bethel Park, PA 15102. Representative: John C. Fudesco, 1333 New Hampshire Ave., NW., Suite 960, Washington, DC 20036. Transporting *such commodities* as are dealt in or used by manufacturers of cosmetics, between points in the U.S., under continuing contract(s) with Avon Products, Inc., of Newark, DE.

MC 153281 (Sub-1F), filed December 19, 1980. Applicant: SADLER TRUCKING, INC., Route 30, Kansas City, MO 64149. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *steel coils,* between points in the U.S., under continuing contract(s) with Slitco Steel Corporation, of Kansas City, KS.

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Decided: January 5, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 145593 (Sub-10F), filed December 24, 1980. Applicant: HAROLD SHULL TRUCKING, INC., P.O. Box 1533, Hickory, NC 28601. Representative: Fran Finley, 1050 21st Ave., NW #31, Hickory, NC 28601. Transporting (1) *furniture and furniture parts,* from points in Buncombe County, NC, to points in OH and MI, (2) *equipment, materials and supplies* used in the manufacture of furniture and furniture parts (except commodities in bulk), in the reverse direction, and (3)(a) *such commodities* as are dealt or used by grocery and food business houses (except commodities in bulk), from Urbana, OH to Charlotte, NC, and Atlanta, GA.

MC 147833 (Sub-3F), filed December 29, 1980. Applicant: FLASH TRANSPORTATION & LEASING COMPANY, INC., 82 Landon Street, Buffalo, NY 14208. Representative: Charles C. Flagg (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in NY, on the one hand, and, on the other, points in IL.

MC 151333 (Sub-1F), filed December 24, 1980. Applicant: PASCUZZO & HONEYMAN TRUCKING, INC., 5127 S. Maywood Ave., Maywood, CA 90270. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general*

commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading issued by freight forwarders, as defined in 49 U.S.C. Section 10102(8) of the Interstate Commerce Act, between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA and WY.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1222 Filed 1-13-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-143]

Motor Carriers; Permanent Authority Decisions

Decided: December 19, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before March 2, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before March 16, 1981 applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 76262 (Sub-5F), filed December 8, 1980. Applicant: WEIR-COVE MOVING & STORAGE CO., a corporation, 4224 Freedom Way, Weirton, WV; 26062. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219.Transporting (1) *iron and steel articles,* (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (3) commodities requiring special equipment (except commodities in bulk), between points in WV, OH, PA, those points in MD north of U.S. Hwy 40, those points in MI south of MI Hwy 55, and those points in NY north of a line beginning at the NY–CT State line and extending along U.S. Hwy 44 to Kerhonkson, NY, then along U.S. Hwy 209 to Wurtsboro, NY, then along NY Hwy 17 to Monticello, NY, and then along NY Hwy 17B to junction NY Hwy 52, then along NY Hwy 52 to NY Hwy 97, then along NY Hwy 97 to Narrowsburg, NY.

[FR Doc. 80-1223 Filed 1-13-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-86

The following applications were filed in region 2: Send protests to: ICC, Federal Reserve Bank Building, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 8958 (Sub-II-10TA), filed December 18, 1980. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 West Federal Street, Youngstown, OH 44501. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. Transporting (1) *Metals, metal products* (except metal containers used in the food and beverage industry), *machinery and machinery parts*, except commodities in bulk; (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, except commodities in bulk; and (3) *contractors' and builders' materials, equipment and supplies*, except commodities in bulk, between points in AL, FL, GA, IL, IN, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA and WV for 270 days. An underlying ETA seeks 120 days authority.
Supporting shipper(s):1. Bethlehem Steel Corp., Bethlehem, PA 18016; 2. Van Huffel Tube Corp., Dietz Rd., Warren,

OH 44483; 3. SKF Industries, Inc., Happy Valley Rd., Glasgow, KY 42141; 4. Worthington Steel Co., 1127 Dearborn Dr., Columbus, OH 43085; 5. Columbus Auto Parts Co., P.O. Box 2005, Columbus, OH 43211; 6. Perfection Cobey Co., Div. Harsco Corp., 644 Grove St., Galion, OH 44833; 7. Hobart Bros. Co., 600 W. Main St., Troy, OH 45373; 8. Birdsboro Corp., Birdsboro, PA 19508; 9. Commercial Shearing, Inc., 1775 Logan Ave., Youngstown, OH 44505; 10. Columbus Steel Supply Co., 1000 Bonham Ave., Columbus, OH 43211; 11. Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230; 12. Lukens Steel Co., Coatsville, PA 19330; 13. Custom Mill Products, P.O. Box 20348. Columbus, OH 43220; 14. Marion Power Shovel, Div. Dresser Industries, Inc., P.O. Box 505, Marion, OH 43302; 15. Oglebay Norton Co., 1200 Hanna Bldg., Cleveland, OH 44115; 16. Price Bros. Co., 367 West Second St., Dayton, OH 45401; 17. MTD Products, Inc., 5965 Grafton Rd., Cleveland, OH; 18. Peabody Galion Div., Peabody International Corp., 500 Sherman St. Galion, OH 44833; 19. Nucor Steel Div., Nucor Corp., P.O. Box 525, Darlington, SC 29532; 20. Midwest Materials, 3667 Shepard Rd., Perry OH 44081; 21. Syro Steel Co., 1170 W. State St., Girard, OH 44420; 22. Mahoning Metals Co., 8624 Deer Creek Ln., N.E., Warren, OH 44484; 23. Sthenia Steel, 714 Clifton Ave., Clifton, NJ 07015; 24. American Spring Wire Corp., 26300 Miles Rd., Bedford, OH; 25. Dykerhoff & Widmann Co., Beaver Brook Rd., Lincoln Park, NJ 07035; 26. Demsey & Associates, 23611 Chagrin Blvd., Beachwood, OH 44122; 27. National Rolling Mills, Inc., Malvern, PA; 28. Cleveland Metal Abrasive, Inc., 26250 Euclid, Ave., Euclid, OH 44132; 29. Bliss & Laughlin Steel, 900 West Smith Rd., Medina, OH 44256; 30. Eaton Corp., 100 Erieview Plaza, Cleveland, OH 44114; 31. Servisteel Corp., 4920 French Creek Rd., Lorain, OH.

MC 143559 (Sub-II–1TA), filed December 31, 1980. Applicant: MODERN TRANSPORATION SERVICES, INC., 8192 Newington Rd., Newington, VA 22122. Representative: Joan Pascavage (same as applicant). *Household goods as defined by the Commission* between pts. in AL, CT, DE, DC, FL, GA, KY, MD, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, and WV for 270 days. Supporting shipper(s): Department of Defense, Joint Personal Property Shipping Office, Cameron Station, Alexandria, VA 22314.

MC 151707 (Sub-II–8TA), filed December 31, 1980. Applicant: PIONEER TRUCKING, INC., 1105 N. Market St. (15th Floor), Wilmington, DE 19801. Representative: Dennis Kupchik (same as applicant). *Carbonated Beverages and Materials and Supplies used in the manufacture thereof* between Detroit, MI, and St. Louis, MO, on the one hand, and on the other, points in and east of KS, MN, NE, OK, SD, and TX, under continuing contract(s) with Faygo Beverages, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Faygo Beverages, Inc., 3579 Gratiot Ave., Detroit, MI 48207.

MC 151707 (Sub-II–7TA), filed January 2, 1981. Applicant: PIONEER TRUCKING, INC., 1105 N. Market St., (15th Floor), Wilmington, DE 19801. Representative: Dennis Kupchik (same as applicant). *Compounds, Disinfectants, Softeners, Insecticides, Materials, Supplies, and Equipment used in the manufacture and distribution thereof* between points in the US under continuing contract(s) with Texize, Division of MortonNorwich for 270 days. Shipper: Texize, Division of MortonNorwich, P.O. Box 368, Greenville, SC 29602.

MC 136077 (Sub-II–5TA), filed December 31, 1980. Applicant: REBER CORP., 2216 Old Arch Rd., Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Bldg., 100 S. Broad St., Phila., PA 19110. *Flyash,* from the terminals of National Minerals Corp. at Westmoreland County, Indiana County and Berks County, PA to pts. in OH, VA, and WV for 270 days. Applicant intends to tack authority sought herein with authority held under MC–136077. Supporting shipper(s): National Minerals Corp., R.D. No. 4, Box 189–B, Indiana, PA 15101.

MC 121372 (Sub-II–4TA), filed December 29, 1980. Applicant: EXPRESS TRANSPORT CO., 1217 Dalton St., Cincinnati, OH 45203. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. *(1) Iron and Steel Articles and (2) materials used in the manufacture, processing, sale and distribution of the commodities named in (1) above,* from Darlington and Georgetown, SC to points in KY, MI, OH, PA, TN, WV, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Frederick Steel Co., 200 W. Northbend Rd., Cincinnati, OH 45216.

MC 21664 (Sub-II–1TA), filed December 29, 1980. Applicant: CHARLES E. DANBURY CO., 292 S. 5th St., Williamsburg, OH 45176. Representative: Gordon A. Fenner, P.O. Box 8402, 6000 Gum Springs Rd., Longview, TX. 75607. Contract; Irregular: *Commercial motor vehicle trailers and related commodities,* between the facilities of Lufkin Industries, Inc., Lufkin Trailer Div on the one hand; and all pts. In the continental US on the other hand, for 270 days. Applicant intends to tack. An underlying ETA seeks 120 days authority. Supporting shipper: Lufkin Industries, Inc., Lufkin Trailer Div, P.O. Box 848, Lufkin, TX. 75901.

MC 152509 (Sub-II–1TA), filed January 2, 1981. Applicant: CONTRACT TRANSPORTATION SYSTEMS, CO., 1370 Ontario St., Cleveland, OH 44101. Representative: Leonard A. Jaskiewicz, Suite 501, 1730 M St., NW., Wash., DC 20036. Contract, Irregular: *General commodities (except household goods as defined by the Commission and Classes A and B explosives)* under continuing contracts with the Sherwin-Williams Co. and United Freight, Inc., between pts. in the US, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Freight, Inc., 1260 Southern Rd., Morrow, GA 30260; The Sherwin Williams Co., P.O. Box 6875, Cleveland, OH 44115.

MC 116763 (Sub-II–51TA), filed December 29, 1980. Applicant: CARL SUBLER TRUCKING, INC., NORTH WEST ST., VERSAILLES: OH 45380. Representative: Gary J. Jira (same as applicant). *General Commodities* (except household goods, as defined by the Commission and Classes A & B explosives), and commodities in bulk, in tank vehicles) (Standard Transportation Commodity Code No. 51), between all points in the United States (except AK and HI). Restricted to traffic originating at or destined to the facilities utilized by Ray-O-Vac, a Corporation of Inco Electro-Energy, for 270 days. Supporting shipper(s): Ray-O-Vac, a corporation of Inco Electro-Energy, 101 East Washington Ave., Madison, WI 53703.

MC 116763 (Sub-II–50TA), filed December 29, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Foodstuffs* (except commodities in bulk, in tank vehicles), from New Orleans, LA, to all points in the US in and east of MN, IA, MO, OK and TX. Restricted to traffic originating at the facilities utilized by Sampco, Inc., for 270 days. Supporting shipper(s): Sampco, Inc., 221 North La Salle St., Chicago, IL 60601.

MC 150954 (Sub-II–10TA), filed December 29, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Processed foodstuffs,* from the facilities of Supreme Meals, Inc., McAllen, TX to Los Angeles, CA;

Chicago, IL; New Orleans, LA and New York, NY, for 270 days. Underlying ETA seeks 120 days operating authority. Supporting shipper(s): Eric Diaz, Supreme Meals, Inc., 2801 Zinna Street, McAllen, TX 78501.

MC 153336 (Sub-II-1TA), filed December 30, 1980. Applicant: GEORGE SNYDER TRUCKING CO., INC., P.O. Box 13 Hibernia Rd., Brandamore, PA 19316. Representative: Rolfe C. Marsh, 295 South Newtown Street Rd., Benson Bldg., Site 1001, Newtown, Square, PA 19073. *Non-woven, material and accessory products used in the manufacturing of,* between Chester County, PA and MD, DE, NJ and New York City and Long Island, NY for 270 days. Supporting shipper(s): Irving Textile Products Inc., Valley Ave., Atglen, PA 19310.

MC 2041 (Sub-II-2TA), filed January 5, 1981. Applicant: RIVER BEND TRANSPORT COMPANY, Sunset Ave., North Bend, OH 45052. Representative: David F. Boehm, 2208 Central Trust Tower, Cincinnati, OH 45202. *Non-ferrous metals* between Cincinnati, OH commercial zone and points in KY, IL, IN, OH, MI, and WV, for 270 days. Supporting shipper(s): ASARCO Inc., 611 Olive St., Suite 1755, St. Louis, MO 63101.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 63101 (Sub-4-2), filed December 31, 1980.Applicant: KEENE'S TRANSFER, INC., 1019 East Avenue, Tomah, WI 54660.Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Common; irregular; *automotive parts and supplies* from the Minneapolis/St. Paul, MN, Commercial Zone to points in WI. Restriction: Restricted to shipments originating at the facilities of Carquest, d.b.a. General Trading Company. An underlying ETA seeks 120 days authority. Supporting shipper: Carquest, d.b.a. General Trading Company, 475 North Prior Avenue, St. Paul, MN 55104.

MC 69901 (Sub-4-3TA), filed December 31, 1980.Applicant: COURIER-NEWSOM EXPRESS, INC., 2820 N. National Road, Box 270, Columbus, IN 47201.Representative: Joel H. Steiner, 39 South LaSalle St., Suite 600, Chicago, IL 60603.*Common carrier:* Regular route; *Electric Motors and Electric Motor Parts,* serving points in Kent County, MI as off-route point in connection with applicant's existing regular route operations. Note: Applicant intends to tack the above authority with its existing operating authorities.Supporting shipper: Athens Products Corp., Division White Westinghouse, P.O. Box 130, Athens, TN 37303.

MC 143291 (Sub-4-3TA), filed December 31, 1980.Applicant: RAYLS BROTHERS TRANSFER, INC., Route 1 North, Box 342, Hoopseton, IL 60942.Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521.*Contract,* Irregular *General commodities* (except classes A and B explosives, commodities in bulk, commodities which because of size or weight require special equipment and household goods as defined by the Commission), from the facilities of Dry Storage Corp. in the Chicago, IL Commercial Zone, to points and places in IN, OH and MI.Supporting shipper: Dry Storage Corp., 2005 West 43rd Street, Chicago, IL 60609.

MC 115651 (Sub-4-14), filed January 2, 1981.Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105.Representative: E. Stephen Heisley, Ames, Hill & Ames, P.C., 805 McLachen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001.*Common,* irregular, *liquid and dry fertilizer,* in bulk, from Crescent City, IL to all points and places in IN, OH, MI, and WI.Supporting shipper: Chevron Chemical Co., P.O. Box 282, Ft. Madison, IA 52627.

MC 124221 (Sub-4-1TA), filed December 30, 1980. Applicant: HOWARD BAER, an individual, P.O. Box 47, Morton, IL 61550. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. *Meat, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Cincinnati and Springdale, OH, to points in IL and MO. Supporting shipper: John Morrell & Co., Chicago, IL 60604.

MC 150133 (Sub-4-3TA), filed December 31, 1980. Applicant: DDI TRANSPORT, INC., Suite 501, 651 E. Butterfield Rd., Lombard, IL 60148. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *(1) Printed matter, and (2) materials, products and supplies used or distributed by producers and distributors of printed matter,* between points in the U.S. Supporting shipper: There are 15 supporting shipper.

MC 138493 (Sub-4-2TA), filed December 31, 1980. Applicant: JAKUM TRUCKING INC., Rural Route 2, Miley Road, Sheboygan Falls, WI 53085. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Contract;* irregular; *Alcoholic beverages* from points in CA to Fond du Lac, WI under a continuing contract(s) with Badger Liquor Co. Inc. An underlying ETA seeks 120 days authority. Badger Liquor Co. Inc., 650 South Morris Street, Fond du Lac, WI 54935.

MC 128543 (Sub-4-8TA), filed December 31, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Contract;* irregular; *Lumber and forest products,* from points in OR, WA, ID, MT, and CA, to points in MI, OH, IL, IN, WI, MN, IA, and MO, under contract with AIFP Trading Group, Inc., and its subsidiary companies, under contract with AIFP Trading Group, Inc. Supporting shipper: AIFP Trading Group, Inc., 10490 S.W. Eastridge, Portland, OR 97225.

MC 148323 (Sub-4-1), filed December 30, 1980. Applicant: A. B. & K. TRUCKING, INC., 5535 Walter Avenue, Hammond, IN 46320. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract;* irregular; *Paper and paper products* from Massillon, OH to Chicago, IL. Restriction: Restricted to service to be performed under continuing contracts with Cleaners Hanger Company of Massillon, OH. Supporting shipper: Cleaners Hanger Co., 670 N.W. 17th St., P.O. Box 453, Massillon, OH 44626.

MC 6964 (Sub-4-3TA), filed December 30, 1980. Applicant: MID WEST MOTOR SERVICE COMPANY OF INDIANA, INC., 219 Maple St., Joliet, IL. 60432. Representative: Don A. Larson (same address as applicant). *General Commodities,* from, to, and between points in IL, IN, OH, PA, NY, NJ, CN, RI, MA, MD, KY, TN, GA, FL, AR, TX, OK, MO, NE, KS, MN, WI, NM, AZ, CA, OR, WA, UT, IA, AL, LA, MI. There are 16 supporting shippers.

MC 113434 (Sub-4-7TA), filed December 30, 1980. Applicant: GRA-BELL TRUCK LINE, INC., P.O. Box 1001, A5253 144th Ave., Holland, MI 49423. Representative: Roger Van Wyk, P.O. Box 1001, A5253 144th Ave., Holland, MI. 49423. Common; irregular; *plastic containers* and *accessories* from Port Clinton, OH to Franklin, KY; St. Louis, MO and Chicago, IL. An underlying ETA seeks 120 days authority. Supporting shipper: Aim Packaging, Inc., Erie Industrial Park, P.O. Box 278, Port Clinton, OH 43452.

MC 145944 (Sub-4-5TA), filed January 2, 1980. Applicant: H & N TRANSPORT, INC., P.O. Box 148, Cottage Grove, WI

53527. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* irregular; *fertilizer and fertilizer and fertilizer ingredients, materials, equipment and supplies used in the manufacture and distribution of such commodities* between points in IL, IA, IN, MI, MN and WI. Restriction: restricted to transportation performed under continuing contract(s) with Lien Oil Company, Inc. Supporting shipper: Lien Oil Company, Inc., Box 231, Highway 14 By-Pass, Janesville, WI 53545.

MC 152284 (Sub-4-2TA), filed January 2, 1980. Applicant: INDIANA HEAVY & SPECIALIZED CARRIER, INC., Route 1, Wilson Ave., Madison, IN 47250. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. *Contract,* irregular; *General commodities* (except household goods as defined by the Commission and classes A & B explosives) between points in the U.S. (except AK and HI). Restricted to traffic moving under a continuing contract with Rotary Lift, a Division of Dover Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Rotary Lift, a Division of Dover Corporation, 2700 Lanier Ave., Madison, IN 47250.

MC 153404 (Sub-4-1TA), filed January 5, 1980. Applicant: DANE'S EXPRESS LINE, INC., a Wisconsin corporation, 515 W. Pittsburgh Avenue, Milwaukee, Wisconsin 53202. Representative: Thomas G. Schober, Esq., 15525 W. National Avenue, Post Office Box 65, New Berlin, Wisconsin 53151. *General commodities* in interstate commerce between points within WI moving on a Freight-Forwarder bill of lading for Lifschultz Fast Freight, Inc. Supporting shipper: Lifschultz Fast Freight, Inc., 515 W. Pittsburgh Ave., Milwaukee, WI.

MC 106674 (Sub-4-39TA), filed January 5, 1981. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (Vice President). *Lumber* from the Ports of Entry on the International Boundary Lines between the U.S. and Canada located in MI and NY to points in DE, IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, PA, TN, VA and WV. An underlying ETA seeking 120 days authority. Supporting shipper: Green Forest Lumber Ltd., 250 Merton Street, Toronto, Ontario, CANADA M4S 2Y6.

MC 105045 (Sub-4-25), filed December 29, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania St., Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC, 20005. *Commodities, the transportation of which, because of size or weight, require the use of special equipment or special handling,* between points in CA, AZ, NV, NM, OR, WA, TX, on the one hand, and, on the other, points in IN, IL, IA, OH, WV, PA, MI, MO, WI, MD, AL, GA, and KY; (2) between points in MS, on the one hand, and, on the other AL and WI. Supporting shipper: There are no supporting shippers. The purpose of this application is to substitute direct service in lieu of a deteriorating interchange service, also to conserve energy resources, eliminate wasted mileage and provide a more economical and efficient transportation service to the public.

MC 153225 (Sub-4-1TA), filed December 31, 1980. Applicant: BRAINERD RECREATIONAL SUPPLY, INC., P.O. Box 311, Brainerd, MN 56401. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Contract* irregular: *Marine and recreational products,* from Topeka, IN to points in WI, MN, SD, and ND, under a continuing contract or contracts with Starcraft Marine & RV, a Division of Bangor Punta Corporation, Topeka, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Starcraft Marine & RV, a Division of Bangor Punta Corp., West Michigan Street, Topeka, IN 46571.

MC 108185 (Sub-4-14TA), filed December 30, 1980. Applicant: JACK COLE-DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Iron or Steel, plate or sheet, NOI, galvanized, lacquered, leaded, painted, primed, tarred or plain,* from the Plant Site of Interstate Steel Corp., Inc., at Marietta, GA to Daytona Beach, Miami and Tallevast, FL. An underlying ETA seeks 120 days authority. Supporting shipper: Interstate Steel Corp., Inc., 401 W. Touhy, Des Plaines, IL.

MC 121795 (Sub-4-1TA), filed January 2, 1981. Applicant: LAKESHORE WAREHOUSE, INC., 12010 Toepfer Road, Warren, MI 48089. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Commodities,* in bulk, between points in MI, on the one hand, and, on the other, points in IL, IN, MI, and OH. Supporting shipper: Hercules Incorporated, 814 Commerce Drive, Oakbrook, IL 60521.

MC 117165 (Sub-4-3TA), filed January 2, 1981. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 financial Center, Des Moines, IA 50309. Common carrier, irregular routes, *(1) panel products and component parts, and (2) materials and supplies used in the production and distribution of the commodities named in (1) above,* between Teutopolis, IL on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Stevens Laminated Products Division, Stevens Cabinets, Inc., 704 West Main Street, Teutopolis, IL 62467.

MC 117165 (Sub-4-4TA), filed January 5, 1981. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140 Michigan City, IN 46460. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Lumber, lumber products and millwork,* from Cadillac, MI to points in IL, IN, KY, OH, PA and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: St. Louis Freight Lines, Inc., P.O. Box 2140, Michigan City, IN 46360.

MC 106675 (Sub-4-40TA), filed January 5, 1981. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (address same as applicant). *Metal ingots* from Metropolitan Alloys Corporation at Detroit, MI to points in DE, IL, IN, KY, MD, MO, NJ, NY, NC, OH, PA, TN, VA, and WV. An underlying ETA seeks 120 day authority. Supporting shipper: Metropolitan Alloys Corporation, 17385 Ryan Road, Detroit, MI 48212.

MC 51146 (Sub-4-56TA), filed December 29, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid (same address as applicant). *Cellulose products* from the facilities of Green Bay Papers at or near Holyoke, MA to points in CT, DE, FL, GA, MD, NJ, NY, NC, PA, RI, SC, VA, and DC. Supporting shipper: Green Bay Papers, 56 Canal Street, Holyoke, MA 01040.

MC 118696 (Sub-4-31), filed December 30, 1980. Applicant: FEREE FURNITURE EXPRESS, INC., 252 Wildwood Road Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Materials, equipment and supplies used in the manufacture, sale and distribution* (except in bulk) *of reprocessed matal products,* between points in Washington County, IN; Burlington County, NJ; Sumner County, TN; Loudon County, TN; Carbon County, PA; Washington County, PA and Cambria county, PA, for 270 days. Supporting shipper; Helsel Metallurgical, Inc., P.O. Box 68, State Road 60, Campbellsburg, IN 47108.

MC 118696 (Sub-4-32), filed December 30, 1980. Applicant: FERREE

FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Electrical applicances, equipment and parts thereto; televisions, radios, stereos, tape recorders, computers and calculators, security systems, cabinet speakers and stereo speakers, and materials, equipment and supplies* used in the manufacture and distribution thereof, between Chicago, IL and its commercial zone; Green County, MO; Vanderburgh County, IN; Hidalgo County, TX; Northumberland County, PA; Edgar County, IL; and Berrien County, MI, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX, for 270 days. Supporting shipper: Zenith Radio Corporation, 1900 N. Austin, Chicago, IL 60609.

MC 108937 (Sub-4-5TA), filed December 30, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, Attorney-at-Law, P.O. Box 43640, St. Paul, MN 55164. *Common irregular: General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). Serving the states of AR, TX, VA, and WV, as off-route points in conjunction with applicant's regular route authority, restricted to traffic originating at or destined to the facilities of The Kroger Co., its affiliates or subsidiaries. Supporting shipper: The Kroger Co., 1014 Vine St., Cincinnati, OH 45201.

MC 145807 (Sub-4-2TA), filed December 31, 1980. Applicant: THOMAS A. HART and KENNETH GRAMS d.b.a. DERBY TRANSPORT, 609 First Avenue North, Box 695, Weyburn, Sask., Canada S4H 1P1. Representative: James B. Hovland, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Fertilizer* (except liquid), from ports of entry on the International Boundary Line between the U.S. and CA. located at or near Portal and Northgate, ND and Noyes, MN to points in ND, SD, NE, WI, MN, IL, MO, KS, MT and WY, for 270 days. Supporting shipper: Kalium Chemicals, a Division of PPG Industries, Canada, Ltd., P.O. Box 20623, Kansas City, MO 64195.

MC 151087 (Sub-4-6TA), filed December 31, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Contract Irregular. Iron and Steel Articles* between points in MN, WI, IL, IN, OH, MI, PA, KY, TN, IA, MO, NY, NJ, and MD, under continuing contract(s) with Viking Meterials, Inc. and its wholly-owned subsidiary, Viking/Caine Steel Corp. and Lock Joint Tube Co., for 270 days. Supporting shippers: Lock Joint Tube Co., P.O. Box 239, South Bend, IN 46624; and Viking Materials, Inc. and Viking/Caine Steel Corp. (a wholly-owned subsidiary), 5620 Smetana Drive, Suite 220, Minnetonka, MN 55343.

MC 153197 (Sub-4-1TA), filed January 2, 1981. Applicant: ILLINOIS AUTO DELIVERY, INC., d.b.a. AUTO DELIVERY CO., 706 Center Street, Des Plaines, IL 60016. Representative: Keith G. O'Brien, Wheeler & Wheeler, 1729 H. Street, N.W., Suite 200, Washington, D.C. 20006. *Common, irregular, Motor vehicles,* except those over ¾ ton capacity in secondary movements, in driveaway service between points in the U.S. There are nine (9) supporting shippers.

MC 30837 (Sub-4-9TA), filed January 5, 1981. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4314 39th Avenue, Kenosha, WI 53142. Representative: Albert P. Barber (same address as applicant). *Automobiles and trucks,* in secondary movements, in truckaway service, (a) from Howard County, MD to points in DE, DC, MD, NJ, PA, VA and WV, (b) from Albany County, NY to points in CT, ME, MA, NH, NY, RI and VT, (c) from Middlesex County, MA to points in CT, ME, MA, NH, NY, RI and VT, (d) from New Castle County, DE to points in DE, DC, MD, NJ, PA, VA and WV, restricted to the transportation of Renault vehicles manufactured or assembled in Recie Nationale Des Usines in France. Supporting shipper: American Motors Corporation, 14250 Plymouth Road, Detroit, MI 48232.

MC 117068 (Sub-4-8TA), filed December 29, 1980. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. *Non-exempt foods and kindred products,* between the facilities of, or utilized by, the George A. Hormel Co. in MN and IA, on the one hand, and, on the other, points in CO. Supporting shipper: George A. Hormel & Co., P.O. Box 800, Austin, MN 55912.

MC 29328 (Sub-4-2TA), filed December 31, 1980. Applicant: SCHIEK MOTOR EXPRESS, INC., 90 Casseday Avenue, Joliet, IL 60432. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *(1) Toilet preparations, beauty and health care products, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above* between Wilmington, IL and points in Will and Cook Counties, IL, on the one hand, and, on the other, points in MI, IN, OH, KY, MO, IA, MN, and WI restricted to the transportation of traffic originating at or destined to the facilities of Personal Product Companies. An underlying ETA seeks 120 days authority. Supporting shipper: Personal Products Company, Kankakee River Road, Wilmington, IL 60481.

MC 153346 (Sub-4-1TA), filed December 31, 1980. Applicant: HAROLD J. FUNK (an individual), d.b.a. FUNK TRANSPORT, 405 South Polk St., Lancaster, WI 53813. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* Irregular; *petroleum products* from Dubuque, IA, to Lancaster, WI. Restriction: restricted to transportation to be performed under a continuing contract(s) with People's Community Oil Co-operative. An underlying ETA seeks 120 days authority. Supporting shipper: People's Community Oil Co-operative, Highway 61, Lancaster, WI 53813.

MC 146808 (Sub-4-2TA), filed December 31, 1980. Applicant: D & B TRUCKING, INC., d.b.a. ALCO EXPRESS, 4800 W. Jefferson, Detroit, MI 48209. Representative: James A. Russo, 4800 W. Jefferson, Detroit, MI 48209. *Iron and Steel Articles,* between Detroit, MI, commercial zone and Toledo, OH and it's commercial zone as defined by the Commission. Supporting shipper: Rouge River Steel, Inc., 25180 Lasher Rd., Southfield, MI 48034.

MC 5618 (Sub-4-1TA), filed December 30, 1980. Applicant: GEM CITY TRANSFER LINE, INC., 1811 North 30th Street, Quincy, IL 62301. Representative: Douglas G. Brown, P.C., The INB Center Suite 555, One North Old Capitol Plaza, Springfield, IL 62701. *General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities, in bulk in tank vehicles) in trailers or containers having an immediate, prior to subsequent move by rail,* between points in IL, IA and MO. Supporting shippers: Knapheide Manufacturing Corp., P.O. Box 140, Quincy, IL, 62307; Speedrack, Inc., 7701 North 16th Street, Quincy, IL, 62301; Electric Wheel Company Division of Firestone Tire & Rubber, 1120 North 28th Street, Quincy, IL, 62301.

MC 133189 (Sub-4-9TA), filed December 30, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Iron and steel articles,* from points in Johnson and Wyandotte Counties, KS to points in MN. Supporting shipper: Steel Supply and Culvert, Co., 441 East Villaume, So. St. Paul, MN 55075.

MC 133689 (Sub-4–59TA), filed December 30, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs, and materials, equipment and supplies used in the manufacture of Foodstuffs (except commodities in bulk),* between the facilities of Jeno's Inc., located at Duluth, MN: Superior, WI, and Atlanta, GA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Jeno's Inc., 525 Lake Avenue South, Duluth, MN 55802.

MC 142059 (Sub-4–13), filed January 2, 1981. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60434. Representative: Jack Riley (same address as applicant). *Plastic articles and materials, equipment and supplies used in the manufacture, distribution and sale thereof (except in bulk),* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Amoco Foam Products Co. Supporting shipper: Amoco Foam Products Co., 2111 Powers Ferry Rd., N.W., Atlanta, GA 30339.

MC 142449 (Sub-4–5TA), filed December 31, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: Jo Ann Sawyer, P.O. Box 1463, South Bend, IN 46624. *General Commodities.* . . between points in IN (on the one hand) and points in IN; points in MI bounded by routes 94 and 52; and points in OH bounded by routes 109, 65, 75 and 70, (on the other.) Supporting shipper: Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, VA 24042.

MC 116519 (Sub-4–7TA), filed December 31, 1980. Applicant: FREDERICK TRANSPORT LIMITED, R.R. #6, Chatham, Ontario, Canada, N7M 5J6. Representative: Jeremy Kahn, 1511 K Street, NW., Washington, D.C. 20005. *Empty aluminum tanks* from Charlotte, NC to ports of entry on the US-Canada boundary line in MI, NY, VT, NH and ME, restricted to traffic moving in foreign commerce destined to the Canadian provinces of Ontario, Quebec and Nova Scotia. Supporting shipper: DuPont Canada Inc., Box 2200 Streetsville Postal Station, Mississauga, Ontario, Canada, L5M 2H3.

MC 142449 (Sub-4–6TA), filed December 29, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: Jo Ann Sawyer, P.O. Box 1463, South Bend, IN 46624. *Building materials and supplies and automotive parts, and materials and supplies used in the manufacture and distribution of both* between points in IL, IN, MI, and OH. Supporting shipper: Philips Industries, 2030 Main Street and 222 Collins Road, Elkhart, Indiana 46514.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 152671 (Sub-6–5TA), filed January 2, 1981. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O.B. 6699, Boise, ID 83707. Representative: Timothy R. Stivers, P.O.B. 162, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Lumber, lumber mill products and building materials,* from points in CA, ID, MT, OR, WA to points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: D.A.S.-Prowood Inc., P.O.B. 947, New Westminster, BC V7L5C3 Lumbermens Merchandising Corp., 107 N. Averdeen Ave., Wayne PA 19087.

MC 116544 (Sub-6–25TA), filed January 2, 1981. Applicant: ALTRUCK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O.B. 10061, Palo Alto, CA 94303. *(1) Foodstuffs; such commodities as are dealt in by grocery and food business houses and (2) materials, equipment and supplies used in the manufacture and distribution of commodities in (1)* above between points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mid-American Dairymen, Inc., P.O.B. 1837 S.S.S., Springfield, MO 65805.

MC 116544 (Sub-6–26TA), filed January 2, 1981. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O.B. 10061, Palo Alto, CA 94303. *Chemicals (except in bulk)* from CA and Loveloch, NV to Kansas City, KS; Omaha, NE; Davenport and Des Moines, IA: Minneapolis, MN; Oklahoma City, OK; and Dallas, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Thompson-Hayward Chemical Company, 5200 Speaker Rd., Kansas City, KS 66106.

MC 153385 (Sub-6–1TA), filed December 31, 1980. Applicant: AUTOMOBILE TRANSPORT SPECIALISTS, INC., 10403 West Colfax Ave., Suite 620, Lakewood, CO 80215. Representative: George J. Nichols III (same address as applicant). *New and used motor vehicles,* secondary movements between AZ, CO, KS, NE, IA, MI, ND, SD, MT, IL, IN, OH, MO, TX, NM, UT, CA, WY, OK, and NV, for 270 days. Supporting shipper: There are thirteen (13) supporting shippers; their statements can be examined at the regional office listed.

MC 151028 (Sub-6–2TA), filed January 2, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O.B. 3062, Portland, OR 97208. *Contract carrier,* irregular routes: *General commodities, except household goods as defined by the Commission and Classes A and B explosives),* from Harris, Fort Bend, Montgomery and Jefferson Counties, TX to points in IN, IL, MI, OH, WI, KS, and MO, for the account of Arco/Polymers, Inc., for 270 days. Supporting shipper: Arco/Polymers, Inc., 1500 Market St., P.O.B. 7258, Philadelphia, PA 19101.

MC 17745 (Sub-6–2TA), filed January 2, 1981. Applicant: CONTRACTORS CARGO COMPANY, 11100 S. Garfield Ave., South Gate, CA 90280. Representative: John H. Briggs (same as applicant). *Contract carrier,* irregular routes: *Separator Vessels* between Dallas, TX and Alameda, CA for 270 days. Supporting shipper: Peerless Manufacturing Company, 2811 Walnut Hill Lane, Dallas, TX 75220.

MC 143311 (Sub-6–1TA), filed January 2, 1981. Applicant: FAMCO TRANSPORT, INC., P.O.B. 80007 Seattle, WA 98108. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Contract carrier,* irregular routes: *Such commodities as are dealt in or used by retail and department stores,* between points in CA, NV, OR, on the one hand, and, on the other, points in ID, OR and WA, for 270 days. Supporting shipper: Modern Merchandising, Inc., 5101 Shady Oak Rd., Hopkins, MN 55343.

MC 145471 (Sub-6–1TA), filed December 29, 1980. Applicant: JOHN K. GRAY TRUCKING, 30 South "C" St., Arcata, CA 95521. Representative: John K. Gray (same as applicant). *Contract carrier,* irregular routes: *Lumber and lumber mill products; wood products; particleboard; woodpulp; paper and paper products; material and supplies used in the manufacture and distribution* thereof, between the facilities of Louisiana Pacific Corporation at San Pedro, Fort Bragg, Samoa, CA, Tillamook, OR and Tacoma, WA on the one hand, and, on the other, points in the U.S. except HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Louisiana Pacific Corporation, POB 158, Samoa, CA 95564.

MC 153409 (Sub-6–1TA), filed January 2, 1981. Applicant: THOMAS R. McROBERTS, d.b.a. H & M TRUCKING, 16758 Third Ave., Seattle, WA 98155. Representative: Thomas R. McRoberts (same as applicant). *Contract carrier*, irregular route; *Recyclable paper and paper products* between points in the U.S. under continuing contracts with Independent Paper Stock Company, Seattle, WA, for 270 days. Supporting shipper: Independent Paper Stock Company, 66 Menford St., Seattle, WA 98134.

MC 149124 (Sub-6–1TA), filed December 31, 1980. Applicant: HEDRICK SALES AND ENGINEERING, INC., 3415 Ridge Road, Cheyenne, WY 82001. Representative: Herman J. Hedrick (same address as applicant). *Contract carrier*, irregular routes: *Foods, Prepared Foods, Foodstuffs, and Food Products*, between points in the U.S. excluding AK and HI, for the account of Tortilla Manufacturing and Supply, Inc., for 270 days. Supporting shipper: Tortilla Manufacturing and Supply, Inc., 1007 S. Greeley Hwy., Cheyenne, WY 82001.

MC 145472 (Sub-6–1TA), filed December 30, 1980. Applicant: HOWARD L. AND M. ELAINE KIME d.b.a. K & K TRANSPORT, Foot of Washington, St., P.O. Box 4906, Eureka, CA 95501. Representative: M. Elaine Kime (same as above). *Contract carrier*, Irregular routes: *Lumber and Lumber Mill Products; Wood Products; Particleboard; Woodpulp; Paper and Paper Products; Materials and supplies used in the manufacturing and distribution thereof*, between the facilities of Louisiana-Pacific at San Pedro, Fort Bragg and Samoa, CA, Tillamook, OR and Tacoma, WA, on the one hand, and, on the other, points in the U.S. on return for 270 days. Supporting shipper: Louisiana-Pacific Corporation, P.O. Box 158, Samoa, California 95564.

MC 152523 (Sub-6–2TA), filed December 29, 1980. Applicant: ARLO G. LOTT, P.O.B. 174, Arco, ID 83213. Representative: Timothy R. Stivers, P.O.B. 162, Boise, ID 83701. *Lumber and lumber mill products*, from points in OR, WA, and ID to the facilities utilized by Chandler Corporation at or near Nampa, Meridian, and Boise, ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chandler Corporation, P.O.B. 2840, Boise, ID 83701.

MC 142686 (Sub-6–22TA), filed December 31, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Faizo (same as applicant). *Contract carrier*, Irregular routes: *Aluminum and Aluminum Articles*, Between Ferndale, WA, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shipper: Intalco Aluminum Corporation, P.O. Box 937, Ferndale, WA 98248.

MC 144572 (Sub-6–6TA), filed December 29, 1980. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80632. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Malt beverages* (except commodities in bulk), from Memphis, TN to the commercial zone of Denver, CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Murray Bros. Distributing Co., 1505 W. 3rd Ave., Denver, CO 80223.

MC 153397 (Sub-6–1TA), filed January 2, 1981. Applicant: RODE OF CALIFORNIA, INC., d.b.a. RODEWAY TRANSPORT CORPORATION, P.O. Box 1111, Stockton, CA 95201. Representative: Ronald Graham, 1044 Sonora Ave., Manteca, CA 95336. *Contract carrier*, irregular routes: *Bakery goods and Supplies* (except in bulk), from Alameda County (Oakland), CA to points in NM, TX, and UT for the account of Mother's Cake and Cookie Co., for 270 days. Supporting shipper: Mother's Cake and Cookie, Co., 810 81st Avenue, Oakland, CA 94621.

MC 153383 (Sub-6–1TA), filed December 30, 1980. Applicant: SIERRA RENTAL AND TRANSPORT COMPANY, INC., 1305 Kleppe Lane, Sparks, NV 89431. Representative: Mike Soumbeniotis, 402 N. Division Street, Carson City, NV 89701. *Sand, gravel, clay, concrete, glass or stone products and aggregates, decorative bark, fill, soil, topsoil, blacktop, paving materials, cinders and cinder products, construction equipment, machinery and supplies, waste or scrap materials and shipping containers, carriers or devices*, between NV and CA, for 270 days. Supporting shippers: There are six (6) supporting shippers. Their statements may be examined at the Regional Office listed.

MC 153375 (Sub-6–1TA), filed December 29, 1980. Applicant: TRANS-ARCTIC FREIGHT, INC., P.O. Box 80564, College, AK 99708. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. (1) *General Commodities* (except household goods as defined by the Commission, class A or B explosives, items of extraordinary value, or freight in bulk); (2) *Iron or Steel Articles;* (3) *Machinery, Wire, Cable, Oil and Tools;* (4) *Auto, Truck and Machinery Parts, Machinery, Compressors and Tools;* between Anchorage, AK and points in AK. Restricted to freight having a prior of subsequent movement in interstate commerce. Supporting shipper: Sheet Metal, Inc., 6130 Nielson Way, Anchorage, AK 99502; Pacific Alaska Forwarders, 1725—6th Ave., S. Seattle, WA 98124; Jackovich Tractor & Equip. Co., Inc., P.O. Box 407, Fairbanks, AK 99707; B & C Supply Corp., 443 E. 4th Ave., Anchorage, AK 99501.

MC 153384 (Sub-6–1TA), filed December 31, 1980. Applicant: JOHN C. WARD, Route 4 Box 331, Newberg, OR 97132. Representative: John C. Ward (same as applicant). *Foundry and steel mill supplies and equipment* except oversize ht. wt. & width and bulk tank. From Cleveland, OH, Chicago, IL, Linden, UT, So. CA to points in OR and WA for 270 days. Supporting shipper: Faseco Inc., 20200 Sheldon Rd., Cleveland OH.

MC 145999 (Sub-6–7TA), filed December 31, 1980. Applicant: WESTERN DRYWALL TRANSPORT INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: Norman A. Sorensen (same address as applicant). *Building Materials*, between all points in CA, OR, and WA, for 270 days. Supporting shipper: There are seven supporting shippers. Their statements may be examined at the Regional Office listed.

MC 141804 (Sub-6–93TA), filed January 2, 1981. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *General Commodities* (except those of unusual value, household goods as described by the Commission, commodities in bulk, frozen food and those requiring special equipment), between points in MN and points in the U.S. (except AK & HI), restricted to the accounts of Midwest Airfreight Shipper's Association, for 270 days. Supporting shipper: Midwest Airfreight Shipper's Association, 8068—26th Avenue South, Bloomington, MN 55420.

MC 141804 (Sub-6–94TA), filed January 2, 1981. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). Commodities of the type dealt in or used by manufacturers of *heating and cooling systems and solar energy and cooling systems,* between all 48 states (except AK & HI), for 270 days. Supporting shipper: Lennox Industries, Inc., P.O. Box 400450, Dallas, TX 75240.

MC 141804 (Sub-6-95TA), filed January 2, 1981. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Peanut combines: grain drills, cultivators; planters and fertilizers,* repair parts and other items manufactured by Lilliston, from Lilliston facilities from Albany, GA; Sioux City, IA; Waco, TX; Kansas City, KS between dealer destinations located in all 48 states, for 270 days. Supporting shipper: Lilliston Corporation, P.O. Box 3930, Albany, GA 31706.

MC 114416 (Sub-6-15TA), filed December 30, 1980. Applicant: WESTERN TRANSPORT CRANE & RIGGING, 100 Western Way, Missoula, MT 59801. Representative: Theodore F. Anno, P.O. Box 3507, Missoula, MT 59806. (1) *Commodities which because of size or weight require special handling or special equipment,* and (2) *related articles and supplies when their transportation is incidental to the transportation of the commodities in (1) above,* between points in the U.S. (except AK and HI) restricted to the transportation of shipments originating at, or destined to facilities used by Brown & Root for 270 days. Supporting shipper(s): Brown & Root, Inc., P.O. Box 3, Houston, TX 77001.

MC 99234 (Sub-6-1TA), filed December 31, 1980. Applicant: WESTWAY MOTOR FREIGHT, INC., 5601 Holly St., Commerce City, CO 80022. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. *Iron and steel articles; building materials;* and *building materials; equipment* and *supplies* between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY for 270 days. Supporting shipper(s): There are 44 shippers. Their statements may be examined at the Regional office listed.

MC 114887 (Sub-6-3TA), filed January 2, 1981. Applicant: WHITFIELD TANK LINES, INC., P.O. Box 7676, Phoenix, AZ 85011. Representative: Lee Carpenter (same address as applicant). *Liquids,* in bulk, in tank vehicles, between points in CA, on the one hand, and, on the other, the International Boundary between MX and the U.S. Supporting shipper(s): There are seven supporting shippers. Their statements may be examined at the Regional office listed.

MC 149118 (Sub-6-3TA), filed November 10, 1980. Applicant: BEST WAY TRANSPORT, INC., d.b.a. BEST TRANSPORT, INC., 3841 North Columbia Boulevard, Portland, OR 97217. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, OR 97204. (1) *Contractors equipment, materials and supplies,* and (2) *commodities which because of their size or weight require the use of special equipment (except those in (1) above)* from points in Multnomah County, OR to points in Jefferson County, OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Voest-Alpine International Corp., 60 East 42nd Street, 46th Floor, New York, NY.

MC 148018 (Sub-6-2TA), filed November 12, 1980. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Frozen foods,* from the facilities of Ore-Ida Foods, Inc., located at or near Ontario, OR; Burley, ID; Greenville, MI; Massillon, OH and Plover, WI to points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1218 Filed 1-13-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-67]

Certain Coin-Operated Audio Visual Games and Brochures for the Advertisement Thereof; Commission Request for Comments Regarding Settlement Agreement

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on proposed settlement agreement.

SUMMARY: The proposed settlement agreement would result in termination of this investigation as to respondents Universal Co., Ltd., Universal U.S.A. Inc., and Sunrise New Sound, Inc. This notice requests comments from the public on the proposed settlement agreement on or before February 13, 1981.

DATES: Comments will be considered if received on or before February 13, 1981. Comments should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On November 18, 1980, complainant Midway Mfg. Co. and respondents Universal Co., Ltd., Universal U.S.A., Inc. and Sunrise New Sound, Inc. (the importer of record for Universal Co., Ltd., and Universal U.S.A.) filed a joint motion to terminate this investigation as to those respondents on the basis of a settlement agreement. On November 24, 1980, the presiding officer recommended that the joint motion be granted.

Notice of the institution of the investment was published in the **Federal Register** of June 25, 1980, (45 FR 124).

Written Comments Requested: In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effects of terminating this investigation as to respondents Universal Co. Ltd., Universal U.S.A., Inc. and Sunrise New Sound, Inc. on (1) the public health and welfare, (2) competitive conditions in the U.S. economy (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than February 13, 1981. In addition, pursuant to 19 CFR Section 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

Additional Information: The original and 19 true copies of all written submission must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161. All comments must be filed no later than February 13, 1981. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone (202) 523-0148.

Issued: January 7, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-1206 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-87]

Certain Coin Operated Audio-Visual Games and Components Thereof; Termination of Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation as to respondent Taito America Corporation.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Taito America Corporation based upon Taito's sworn statement that it is not and has not imported the articles in controversy in this investigation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain coin operated audio-visual games and components thereof. The complainant, Midway Mfg. Co., the Commission investigative attorney, and respondent Taito America Corp. jointly moved to terminate the investigation as to Taito America on the basis of Taito America's sworn affidavit that it is not now, nor has it in the past imported the articles in controversy in this investigation.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0155.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, telephone 202-523-0148.

Issued: January 7, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-1207 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-76]

Certain Food Slicers and Components Thereof; Notice of Commission Request for Comments Regarding Licensing Agreement

AGENCY: United States International Trade Commission.

ACTION: Request for comments from the public regarding licensing agreement.

SUMMARY: The Commission is presently considering whether to terminate Investigation 337-TA-76 as to respondent Crest Industries Corp. on the basis of a licensing agreement entered into by complainant Prodyne Enterprises Inc. and Crest. Termination of Crest would not end the investigation as three other respondents would remain. This notice requests comments from the public on the licensing agreement on or before February 13, 1981.

SUPPLEMENTARY INFORMATION: This investigation, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1,337), concerns alleged unfair acts in the importation and sale in the United States of certain food slicers. The unfair act specifically complained of is the infringement of claims of U.S. Letters Patent 3, 766,817.

The Commission instituted this investigation on December 4, 1980 and published notice thereof in the **Federal Register** on December 21, 1979 (44 FR 75738). The notice named E. Mishan and Sons, Albert E. Price, Inc., Crest Industries Corp., and Taiwan Timing Trading Co. as respondents.

On August 1, 1980 complainant Prodyne Enterprises, Inc., and respondent Crest Industries Corp. entered into a licensing agreement. Pursuant to the agreement, Prodyne agreed to grant Crest a license to practice the invention covered by U.S. Letters Patent 3,766,817, and to permit Crest to import up to 10,000 food slicing devices covered by the patent per year. The license is royalty free. In return, Crest agreed to withdraw from the active defense of Investigation No. 337-TA-76.

On September 10, 1980, Prodyne and the Commission investigative attorney submitted a joint motion for summary determination against Crest and two other respondents. The Commission has determined to deny the motion for summary determination as to all three respondents.

The Commission is presently considering whether to terminate the investigation as to Crest on the basis of the licensing agreement entered into by Crest and Prodyne.

License Agreement

Agreement made as of August 1, 1980 by and between Prodyne Enterprises Inc., a corporation organized under the laws of the State of California and having its principal office at P.O. Box 212, Montclair, California 91763 (hereinafter called Prodyne) and Crest Industries Corp., a corporation organized under the laws of the State of New York and having a principal office at 593 Acorn Street, Deer Park, New York 11729 (hereinafter called Crest).

Whereas, Prodyne is the owner of and has the right to grant licenses under United States Letters Patent No. 3,766,817, issued on October 23, 1973 (hereinafter called Patent Right);

Whereas, an investigation No. 337-TA-76 by the United States International Trade Commission, Washington, D.C., directed at the importation of certain food slicers and components thereof, initiated upon a complaint by Prodyne and involving as one of the Respondents, Crest; and

Whereas, the parties desire to resolve the conflict in the International Trade Commission and it is agreed that Crest will withdraw from active defense of this investigation upon the taking of a license upon the terms and conditions hereinafter set forth;

Now, therefore, in consideration of the premises and the performance of the covenants herein contained, it is agreed;

1. Prodyne warrants that it is the owner of the entire right, title and interest in and to the Patent Right and has a right to grant the within license.

2. Prodyne grants to Crest and Crest hereby accepts from Prodyne upon the terms and conditions hereinafter specified a non-exclusive and non-assignable license to practice the invention covered by the Patent Right in the United States in the manufacture, importation, use and sale of cheese slicing devices to the full end of the term for which the Patent Right is issued, unless sooner terminated as hereinafter provided.

3. The license shall be royalty free and no payment of any kind need be made by Crest to Prodyne with respect to the granting of this license.

4. Crest shall be entitled to import within the terms of the license granted up to 10,000 cheese slicing devices covered by the Patent Right per year. Prodyne shall give authorization to allow such importation by Crest when requested to do so by Crest.

5. Crest shall keep accurate books of account containing the quantity of cheese slicers covered by the Patent Right imported per year. Said books shall be kept by Crest at its usual places

where its like books are kept and shall be open at all reasonable times for one year following the end of the calendar year to which they pertain, to the inspection by an independent certified public accountant to whom Crest shall have no reasonable objection, retained by Prodyne for the purpose of verifying Crest's importation of said cheese slicers per year.

6. This constitutes the entire agreement between the parties with respect to the subject matter hereunder and supersedes all previous communications representations and agreements, either oral or written, between the parties.

7. All notices shall be made by certified or registered mail addressed as first noted above unless written notification to the contrary shall be given.

8. This agreement shall be binding upon the successors or assigns of the parties hereto.

In witness whereof, the parties hereto have duly executed this agreement in duplicate as of the day and year first written above.

Prodyne Enterprises, Inc.
By: ______________________

Crest Industries Corp.
By: ______________________

Herbert Adler,
President.

Written Comments Requested

There will be no oral argument regarding the proposed termination of the investigation as to Crest. However, in order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effects of terminating the investigation as to Crest on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than February 13, 1981. In addition, pursuant to 19 CFR section 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service on the effects of the proposed settlement agreement.

The Licensing Agreement. A copy of the Prodyne/Crest licensing agreement follows this notice.

Additional Information

The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436; telephone (202) 523–0161. All comments must be filed no later than February 13, 1981. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the resons why the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436 telephone (202) 523–0143.

Issued: January 8, 1981.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 81–1289 Filed 1–13–81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-37 (Preliminary)]

Certain Iron-Metal Castings From India

Determination

On the basis of the record[1] developed in investigation No. 731–TA–37 (Preliminary), the Commission determines (Chairman Alberger dissenting), pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from India of certain iron-metal castings,[2] provided for in item 657.09 of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On November 19, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce each received a petition from Pinkerton Foundry, Inc., Lodi, Calif., et al., alleging that certain iron-metal castings from India are being, or are likely to be, sold in the United States at LTFV. Accordingly, the Commission instituted a preliminary antidumping investigation under section 733 of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the imports of such merchandise into the United States. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case by January 5, 1981.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the Federal Register on December 3, 1980 (45 FR 80208). The public conference was held in Washington, D.C. on December 10, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Statement of Reasons for the Affirmative Determination of Vice Chairman Michael J. Calhoun and Commissioners George M. Moore and Catherine Bedell

On the basis of the best information available in investigation No.731–TA–37 (Preliminary), we determine that there is a reasonable indication that an industry[3] in the United States is materially injured, or threatened with material injury, by reason of imports from India of certain iron-metal castings, provided for in item 657.09 of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

The following findings and conclusions, based on the record in this investigation, support our determination.

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[1] The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] The specific articles included within the scope of this investigation are manhole covers and frames, catch-basin grates and frames, and cleanout covers and frames.

[3] In our final determination in a recently concluded investigation on these same products, investigation No. 303–TA–13 (Final), some Commissioners found that the U.S. industry being injured consists of the domestic producers of these products located in the Western United States, and that these States constituted a regional market. Since we determine that there is a reasonable indication of material injury to the domestic industry as a whole, we do not reach the issue of whether it would be appropriate in this case to treat the Western U.S. producers as if they were a separate industry. The determination in the instant case does not preclude the Commission from finding injury to a regional industry in the final phase of this case, should the data so warrant that determination.

The Imported Article and the Domestic Industry

The certain iron-metal castings which are the subject of the investigation are manhole covers and frames, catch-basin grates and frames, and cleanout covers and frames. These iron-metal castings are encompassed within a larger class of articles commonly called public works castings, and are used either for drainage or access purposes to public utility, water, and sanitary systems. Therefore, we find that under the heading of public works castings, there are three domestic like products which, for all practical purposes, are identical to the three imported articles which are the subject of this investigation and that the domestic industry is composed of the producers of these public works castings.

Reasonable Indication of Material Injury

Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination . . ."

The Act further specifies in section 771(7)(B) that "the Commission shall consider, among other factors,—(i) the volume of imports of the merchandise which is the subject of the investigation, (ii) the effect of imports of that merchandise on prices in the United States for like products, and (iii) the impact of imports of such merchandise on domestic producers of like products" (19 U.S.C. 1677(7)(B)). In light of these directives, we base our decision on the preliminary findings of fact and conclusions of law discussed below.

The estimated quantity of imports of certain public works castings from India increased from 25.0 million pounds in 1977, when they accounted for 7 percent of apparent U.S. consumption, to 94.4 million pounds in 1979, when they accounted for 20 percent. Although imports from India decreased slightly in January-September 1980 compared with those in the corresponding period of 1979, they continued to increase as a share of total imports, rising from 92 to 94 percent of total imports.[4] As a share of apparent U.S. consumption, imports from India increased by 38 percent in January-March 1980, to 29 percent.[5]

Price data collected by the Commission show that the imported product from India, whether offered by producer-importers or importers, undersold that of U.S. producers in each 3-month period from January 1978 to March 1980. Margins of underselling for the importers' product ranged from a high of 42 percent to a low of 28 percent for both types of manhole assemblies examined (a 270-pound model and a 775-pound model).[6] Margins of underselling for both models decreased noticeably in January–March 1980, primarily because of a drop in the price of the U.S.-produced product. Such behavior, given increased costs,[7] is clear evidence of price depression.

After adjusting importers' price data for January–March 1980 to reflect a complete pass-through of the mean countervailing duty of 13.3 percent assessed on Indian castings, these articles still undersold U.S.-produced like products by about 25 percent.[8] These remaining margins of underselling, coupled with increased imports and import penetration, are causal links to a reasonable indication of material injury to the U.S. public works castings industry which is beyond, and entirely separate from, any injury caused by the export subsidies already found to exist on the Indian castings.

Data from 43 U.S. producers of public works castings on domestic shipments, production, capacity utilization, and employment show a uniform trend of modest increases from 1977 to 1979, followed by relatively sharp declines in January–March 1980 compared with figures for January–March 1979.[9] Likewise, producers' inventories decreased slightly from 1977 to 1979, but increased sharply in January–March 1980.[10]

Although net sales of U.S. producers increased each year from 1977 to 1979, net operating profit declined irregularly [11] by 13 percent from 1977 to 1979, and U.S. producers reported a net operating loss of $63,000 in January–March 1980. The number of firms reporting such losses increased in each period from January 1977 to March 1980, with more than one-half of those firms which responded to Commission questionnaires reporting net operating losses for January–March 1980. As a ratio of net profit (loss) to net sales, the industry rate of 7.7 percent in 1977 fell to 3.9 percent in 1978, partially recovered to 5.2 percent in 1979, and then dropped to a negative 0.3 percent in January–March 1980.[12] The lackluster performance of the domestic industry from 1977 to 1979, followed by the recent rapid decline of the industry in January–March 1980, indicate that the increased imports and import penetration of Indian castings are having a substantial impact on the domestic industry.

Supporting this conclusion is unambiguous information concerning sales lost by domestic producers to imports from India. Fifteen domestic producers submitted specific information as to sales lost to imports from India. Of 35 allegations checked by the Commission staff, 32 purchasers confirmed they had purchased imported castings from India in lieu of the domestic product. Twenty of these purchasers cited the lower price of the imported castings as the most important factor affecting their purchasing decisions.[13]

Conclusion

On the basis of the information available to the Commission at this time, we determine that there is a reasonable indication that the public works castings industry in the United States is materially injured, or threatened with material injury, by reason of imports of such articles from India, which are allegedly sold in the United States at less than fair value.

Views of Commissioner Paula Stern

My determination in the present preliminary investigation of the impact of alleged less-than-fair-value (LTFV) imports of certain iron-metal castings from India has been based on economic information identical in all essentials to that developed in the recently completed countervailing duty investigation, *Certain Iron-Metal Castings from India*, Investigation No. 303–TA–13 (Final).[14] The products in these two cases are identical, as are the standards of injury and causation in countervailing duty and dumping investigations embodied in sections 731 and 701 of the Tariff Act of 1930. In the countervailing duty case completed in September 1980, I made an affirmative determination. I will not repeat that analysis here and incorporate it by reference.[15]

This is a preliminary dumping case, which requires a showing of a "reasonable indication" of material injury due to the subject imports. In effect, preliminary cases which take only 45 days have a less stringent information requirement than final cases. But even at this preliminary stage—because of our prior experience with these imports in the countervailing duty case—the information is rather complete.

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[4] Report, p. A–10.

[5] Report, p. A–28.

[6] Report, pp. A–34 and A–35.

[7] Report, pp. A–22 and A–39 through A–44.

[8] Report, p. A–37.

[9] Report, pp. A–13, A–15, and A–18.

[10] Report, p. A–16.

[11] The financial composite of the public works castings industry is worsened considerably by exclusion of one large firm, whose anomalous behavior in 1979 accounted for more than 90 percent of total industry profits in that year. Report, p. A–21.

[12] Report, p. A–22.

[13] Report, p. A–36.

[14] USITC Pub. No. 1096 (September 1980). *Also see*, accompanying Staff Report at p. A–2.

[15] *Ibid.*, "Statement of Reasons of Commissioner Paula Stern" at pp. 18–30.

The only new issue to emerge in the current investigation centered on the respondents claim that the petition requested compensation for margins already compensated for by the countervailing duties which resulted from the Commission's previous affirmative determination.[16] After adjusting the importers' price data for January-March 1980 to reflect a complete pass-through of the mean countervailing duty of 13.3 percent assessed on Indian castings, the staff found that these articles still undersold U.S.-produced like products by about 25 percent.[17]

These remaining margins of underselling, coupled with increased imports and import penetration, are causal links to a reasonable indication of material injury to the U.S. public works castings industry which is beyond, and entirely separate from, any injury caused by the export subsidies already found to exist on the Indian castings. The alleged LFTV margins (net of the countervailing duties) of approximately 25 percent are almost twice as large as the average subsidy encountered in Investigation No. 303-TA-13 (Final). In fact, the margin of underselling (adjusted for the countervailing duty) is substantially accounted for by the alleged LTFV margins. Given the fact that the indicators of injury remain unchanged, the logic for an affirmative preliminary finding in the present case is thus even more compelling than in the previous final case.[18]

Views of Chairman Bill Alberger

On the basis of the record in investigation No. 731-TA-37 (Preliminary), I determine that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry is materially retarded by reason of imports from India of certain iron-metal castings which are allegedly sold at less than fair value (LTFV).

Petitioners allege that they are now being injured by imports believed to be sold at LTFV. The Commission staff did not, because of the recency of the agency's countervailing duty investigation concerning iron-metal castings from India (investigation No. 303-TA-13 (Final)), attempt to obtain additional data for this preliminary antidumping investigation and we have been provided no new data concerning the effect on the domestic industry of the imposition of the countervailing duty on such imports.

Although the price of domestic castings has increased from 1978 to 1979, imported castings consistently undersold the U.S. product by significant margins during that period. Staff estimates of the effect on margins of underselling of the addition of the mean countervailing duty of 13.3 percent and the dumping margin alleged in the petition, succeed only in narrowing the margin of underselling to around 25 percent on the most competitive model casting.[19] Thus, assuming that additional duty assessment costs will be passed on to customers, imported castings from India would still undersell their domestic counterparts by significant margins.

Having received no other information regarding changes in the status of the industry since the agency's countervailing duty determination, I find that there is no reasonable indication that the public works castings industry is being injured by imports from India. The complete basis for my decision regarding injury to the industry is thoroughly documented in my opinion issued in the previous countervailing duty case.[20] Therefore, I see no need to rewrite it here or to incur the additional printing costs of reproducing those views.

Issued: January 5, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-1270 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-75]

Certain Large Video Matrix Display Systems and Components Thereof; Change in Administrative Deadline

AGENCY: U.S. International Trade Commission.

ACTION: Change in deadline for recommended determination.

SUMMARY: The Comission grants the joint motion of the parties for a 30-day extension of the deadline for the presiding officer's recommendation in Investigation No. 337-TA-75, certain Large Video Matrix Display Systems and Components Thereof. The motion was approved by the presiding officer and certified to the Commission on December 8, 1980. The new deadline is March 19, 1981.

FOR FURTHER INFORMATION CONTACT: Michael B. Jennison, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E. Street, N.W., Washington, D.C. 20005 (202-523-0189).

Issued: January 7, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-1277 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-94]

Certain Wet Motor Circulating Pumps; Change of Commission Investigative Attorney

Louis S. Mastriani is designated Commission Investigative Attorney for Investigation No. 337-TA-94, Certain Wet Motor Circulating Pumps, replacing Robert M. M. Seto. The service of all papers on the Commission Investigative Attorney should henceforth be served upon Louis S. Mastriani effective January 7, 1981.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: January 7, 1981.

Talbot Lindstrom,

Chief Unfair Import Investigations Division.

[FR Doc. 81-1274 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

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[16] See "Statement of Dennis James, Jr. on Behalf of the Engineering Export Promotion Council of India in Connection with Investigation 731-TA-37," submitted at the conference (Dec. 10, 1980) at p. 4. Certain double compensation is prohibited by Article VI, paragraph 5, of the General Agreement on Tariffs and Trade (GATT).

[17] Report at pp. A-35 and A-37.

[18] The Engineering Export Promotion Council of India argues in its Post-Conference Brief (footnote at p. 6) that the imposition of the countervailing duty has not benefitted domestic foundries by working its way through the four-tiered price structure as I had suggested in my Statement of Reasons in Inv. No. 303-TA-13 (Final). Respondent concludes that Indian imports are therefore not the source of the industry's problems. Although the point is interesting, it is not persuasive. One can distinguish between general claims regarding the health of the industry and specific analysis of prevailing prices. Moreover, there is no systematic information available at this time reflecting price behavior since the imposition of the countervailing duties. Finally, there are many influences on prices other than the duties. I will welcome further information from all parties on this matter should the case return for a final determination.

[19] Report at A-37.

[20] Views of Chairman Bill Alberger, *Certain Iron-Metal Castings from India, USITC Pub. 1098, Sept. 1980, pp. 31-38.*

[Investigation No. 337-TA-94]

Certain Wet Motor Circulating Pumps and Components Thereof; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: December 31, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-1273 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

Plastic Animal Identification Tags From New Zealand; Investigation No. 303-TA-14 (Final); Rescheduled Prehearing Conference

Notice is hereby given that the prehearing conference previously scheduled for 10:00 a.m., e.s.t., on January 14, 1981 (45 FR 76553, November 19, 1980), has been rescheduled for 2:00 p.m. on that date. The prehearing conference will be held in Room 117 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. All persons desiring to appear and make oral presentations at the public hearing to be held in connection with this investigation on January 30, 1981, should attend the prehearing conference.

Issued: January 7, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-1271 Filed 1-13-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Council on the Role of Courts; Meeting

Notice is hereby given that the Council on the Role of Courts will meet in Washington, D.C., on Saturday, January 31, 1981. The meeting, which is scheduled for 9:00 a.m. to 5:30 p.m., will be held at the Federal Judicial Center, 1520 H Street, N.W., Washington, D.C.

The Council will consider several essays and studies commissioned by it that pertain to the role of specialized courts, the role of courts in housing and planning cases, and the adjudication of family and commercial disputes. Drafts of chapters of the Council's final report and the plans for a national conference will also be discussed.

The meeting will be open to the public. Minutes of the proceedings will be furnished upon request.

Additional information may be obtained from Richard B. Hoffman, Office for Improvements in the Administration of Justice, United States Department of Justice, Washington, D.C. 20530. Telephone: (202) 633-4609.

Charles F. Wellford,

Administrator, Federal Justice Research Program.

[FR Doc. 81-1282 Filed 1-13-81; 8:45 am]

BILLING CODE 4410-01-M

Guidelines for Litigation To Enforce Obligations To Submit Materials for Predissemination Review; Correction

Federal Register Document 80-40215, appearing at 45 FR 85529 (Daily ed. December 29, 1980), contained an error of omission in subparagraph II.B.2.b.ii (appearing on page 85530 in column 1). Corrected, that subparagraph reads as follows:

> ii. Whether it reasonably appears that the individual will disclose or cause to be disclosed information or material required to be submitted to an agency of the United States without submitting such material or information for predissemination review.

Dated: January 6, 1981.

Stephen J. Wilkinson,

Department of Justice, Federal Register Liaison Officer (Alternate).

[FR Doc. 81-1291 Filed 1-13-81; 8:45 am]

BILLING CODE 4410-01-M

Attorney General

[AAG/A Order No. 59-81]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act, 5 U.S.C. 552a, the Federal Bureau of Investigation, United States Department of Justice, proposes to establish a new system of records, the Security Access Control System (SACS). This system will consist of computerized records containing the names, issued badge numbers, and the dates and times of entries of individuals, including escorted visitors, who were issued access badges to the J. Edgar Hoover Building, Washington, D.C.

5 U.S.C. 552a(e) (4) and (11) require that the public be provided a 30-day period in which to comment on the proposed system; the Office of Management and Budget (OMB), which has oversight responsibility under provisions of the Act, requires a 60-day period in which to review the proposed system prior to implementation. Although a waiver of this 60-day requirement has been requested from OMB, the public, OMB and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6315, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress by March 16, 1981, the system will be implemented without further notice in the Federal Register. No oral hearings are contemplated.

Appropriate reports have been filed with the Congress and OMB.

Dated: January 5, 1981.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/FBI-013

SYSTEM NAME:

Security Access Control System (SACS)

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, both FBI employees and outside visitors, who have been granted access to the J. Edgar Hoover Building.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains computerized information concerning names, badge numbers, and the dates and times of entries of those individuals, including escorted visitors, who have been issued access badges to the J. Edgar Hoover Building.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The maintenance of this system is authorized by Executive Order 12065, the Privacy Act of 1974 (5 U.S.C. 552a(e)(10)) and Pub. L. No. 90-620, as amended (44 U.S.C. Chapters 21 and 33). Each of these two statutes, as well as the Executive Order, is directed toward security of United States Government records maintained by Federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Category of users: Federal Bureau of Investigation management officials and security personnel. The information is used to determine the status of individuals entering the building and maintain control of badges issued to individuals requiring access to the J. Edgar Hoover Building.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The automated portion of the records is maintained on a magnetic tape. Documentary records are maintained in manual file folders.

RETRIEVABILITY:

Alphabetically by last name; numerically by access badge number.

SAFEGUARDS:

Maintained in a locked room, which is manned 24 hours per day, with access limited to FBI security personnel.

RENTENTION AND DISPOSAL:

Computerized information had been maintained for 1 year with hard copy computer listings maintained for 6 months. However, pursuant to the preliminary injunction with modifications, issued by Judge Harold H. Greene, United States District Court, District of Columbia, in the Civil Action *American Friends Service Committee, et al.* v. *William N. Webster, et al.*, (U.S.D.C. D.C.) Civil Action No. 79–1655, destruction programs have been suspended. In addition, cards containing badge information are maintained indefinitely, with duplicate badges being maintained on individuals granted permanent access to the building until access is no longer required and upon separation or transfer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

See categories of individuals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81–1334 Filed 1–13–81; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

December 29, 1980.

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, N.W., Washington, DC 20506.

Date: January 29–30, 1981.
Time: 9:00 a.m. to 5:00 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Research Materials Program: Computer Panel Division of Research Programs, for projects beginning after June 15, 1981.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose,

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 81–1322 Filed 1–13–81; 8:45 am]

BILLING CODE 7536–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11541; 812–4772]

USAA Mutual Fund, Inc., USAA Capital Growth Fund, Inc., USAA Income Fund, Inc.; Filing of Application

January 7, 1981.

Notice is hereby given that USAA Mutual Fund, Inc. ("Successor"), USAA Capital Growth Fund, Inc. ("Growth") and USAA Income Fund, Inc. ("Income," collectively with Successor and Growth, "Applicants"), 9800 Fredericksburg Road, San Antonio, Texas 78288, each registered as a diversified, open-end, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on November 26, 1980, and an amendment thereto on January 5, 1981, for an order of the Commission (1) pursuant to Section 17(b) of the Act exempting Applicants from the provisions of Section 17(a) of the Act to permit Growth and Income to effect a reorganization and (2) pursuant to Section 6(c) of the Act exempting Successor from the provisions of Section 2(a)(41) of the Act and Rule 2a–4 and 22c–1 thereunder to the extent necessary to permit Successor's money market series to value its portfolio assets by use of the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Growth and Income are both no-load investment companies organized as Texas corporations and have shares registered under the Securities Act of 1933. Successor is a Maryland corporation which was organized for the purpose of succeeding to the business of Growth and Income pursuant to a proposed plan of reorganization ("Plan"). According to the application, the Plan will be submitted for approval by the shareholders of Growth and Income and is scheduled to be effective on or about January 31, 1981. The application further states that Growth and Income are, and Successor will be, managed by USAA Investment Management Company, Inc. ("Adviser").

Applicants state that the Plan will be accomplished by merger of Growth and Income into Successor, which will be organized as a series company with three separate series of shares. The application states that the three series will be: (1) "Growth Fund" series which will be issued immediately following the reorganization to holders of Growth; (2) "Income Fund" series which will be issued immediately following the reorganization to holders of Income; and (3) "Money Market Fund" ("Money") series which will represent interests in a new portfolio of securities and initially will be offered to the public following the reorganization.

Applicants state that in order to comply with certain shareholder voting requirements of the Act, prior to the reorganization, Successor will issue to Growth and Income one share of each of, respectively, Growth Fund series and Income Fund series and that the shareholders of Growth and Income will be asked to authorize Growth and Income to vote such shares to elect directors of Successor and to ratify the selection of auditors and the advisory agreement approved by Successor's directors. Applicants state as a result of such shareholdings, Growth and Income could be said to be affiliates of Successor and an affiliate of an affiliate of each other. Additionally, Applicants state, without conceding, that Income and Growth might be viewed as affiliated persons by virtue of their common investment adviser, officers and directors and that therefore it might be argued that the reorganization of Growth and Income into Successor is prohibited by Section 17(a) of the Act.

Applicants state that Money is to be a money market fund and is designed as an investment vehicle for institutional and individual investors with temporary cash balances or cash reserves. The objective of Money will be to seek as high a rate of current income as is consistent with preservation of capital and maintenance of liquidity. To achieve that objective, Applicants state that Money will invest in debt obligations consisting of marketable securities issued by or guaranteed by the United States Government or its agencies or instrumentalities, domestic bank negotiable certificates of deposit, bankers acceptances, commercial paper rated A-1 or Prime-1 and bonds with a maturity of one year or less.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell or to purchase from such registered company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company involved and with the general purposes of the Act. While Applicants do not concede that they are affiliated persons of each other, or that they are affiliated persons of such persons, they acknowledge that the view has been taken that registered investment companies having a common investment adviser are under that adviser's common control and therefore are affiliated persons of each other. Applicants have, therefore, filed this application to avoid any question being raised under Section 17(a) of the Act with respect to the proposed transaction.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value or such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the exemptions they request satisfy these standards in view of their management policies and the conditions hereinafter set forth.

In support of the order requested pursuant to Section 17(b) of the Act exempting Applicants from the provisions of Section 17(a) of the Act, Applicants state that the terms of the Plan are reasonable and fair and do not involve overreaching by any of the Applicants and are consistent with the investment policies of each Applicant as well as the general purposes of the Act. Applicants assert that, in the view of the boards of directors of Growth and Income, the creation of a single company, which is able to offer shares of different series with distinct investment objectives and policies and which is able to create new series to serve as additional investment vehicles, has both operational and marketing advantages. Applicants assert that these advantages include the ability to combine reports and prospectuses, the holding of only one annual meeting and other administrative efficiencies which should result in legal, auditing, transfer agent fees and printing costs being lower than if the series were operated as separate corporations. Applicants also state that prior to the reorganization, Successor will have only nominal assets and liabilities and will have issued shares only to Growth and Income. Additionally the assets and liabilities of Growth and Income assumed by Successor will be designated as belonging to, respectively, Growth and Income Fund; and each share of Growth and Income will be converted into the same number of shares and will have the same net asset value per share as, respectively Growth Fund and Income Fund. Thus Applicants assert that shares of each such series into which the outstanding shares of Growth and Income will be converted, will continue to represent the same economic interests after the reorganization as they presently represent. The application also states that all expenses incurred by Growth and Income in connection with the reorganization in excess of normal operating expenses will be borne by

Adviser. Normal operating expenses will be determined on the basis of the expenses incurred during the proceeding fiscal year, adjusted to reflect any significant deviation in such costs as compared with the average operating expenses incurred in the last five fiscal years. Finally, Applicants state that Growth and Income have obtained a ruling from the Internal Revenue Service that the reorganization will be a non-taxable transaction.

In support of their request for an order pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, Applicants state they believe that two features are necessary to market a "money market" fund effectively: (1) certainly of stability of principal and (2) a steady flow of predictable and competitive investment income. Applicants believe that by maintaining a portfolio of high quality, short-term money market instruments valued at amortized cost they can provide these features and the board of directors of Successor has properly determined in good faith under the provisions of the Act to value the portfolio of Money by use of the amortized cost method of valuation and that that method is in the best interests of shareholders of Money. Further, Successor's board of directors has determined in good faith that absent unusual or extraordinary circumstances, the amortized cost method of valuing the portfolio securities of Money is appropriate and will reflect the fair value of those securities.

Successor has agreed to adhere to the following conditions with respect to any order of exemption permitting the use of amortized cost valuation:

(1) In supervising Money's operations and delegating special responsibilities involving management of Money's portfolio to Successor's investment adviser, Successor's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Money's investment objectives, to stabilize Money's net asset value per share as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

(2) Included in the procedures to be adopted by the board of directors shall be the following:

(a) Review by Successor's board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of Money as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share of Money exceeds ½ of 1 per cent, a requirement that the directors will promptly consider what action, if any, should be initiated.

(c) Where Successor's board of directors believes the extent of any deviation from Money's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Money's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Successor will cause Money to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share for Money; provided, however, that Money will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

(4) Successor will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Successor will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of directors' considerations and ge actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Successor will limit the portfolio investments of Money, including repurchase agreements, to those United States dollar-denominated instruments which the directors determine present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Successor's directors.

(6) Successor will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 29, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-1191 Filed 1-13-81; 8:45 am]

BILLING CODE 8010-01-M

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[1] Successor states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value. In addition, Successor states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Money will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 17426; SR-NYSE-80-35]

New York Stock Exchange, Incorporated; Proposed Rule Change

January 7, 1981.

On September 29, 1980, the New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10041, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which clarifies the intent of Rule 326 regarding when members who carry customer accounts are required to cease expansion of or reduce its business because of the existence of conditions affecting its financial responsibility.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17285, November 12, 1980) and by publication in the **Federal Register** (45 FR 76560, November 17, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-1196 Filed 1-13-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Class Life Asset Depreciation Range System; Study of Property Used in Converting Wind Energy

The Office of Industrial Economics of the Office of the Secretary of the Treasury has initiated a Class Life Asset Depreciation Range System study of property used in converting wind energy to electricity or to other useful forms. The purpose of the study is to provide an asset depreciation guideline class, a guideline depreciation period and range, and a repair allowance percentage for the property. This study is being made in order to help keep the Class Life Asset Depreciation Range System up to date, as required by IRC Secs. 167(m) and 263(e) and Reg. Sec. 1.167(a)-11.

All persons interested in this study may submit comments in writing to the Office of Industrial Economics. Information from all interested persons is solicited. All mail concerning this study should be addressed to: Office of Industrial Economics, Wind Energy Property Project, P.O. Box 28018, Washington, D.C. 20005.

Dated: January 8, 1981.

Emil M. Sunley,

Deputy Assistant Secretary (Tax Analysis).

[FR Doc. 81-1188 Filed 1-13-81; 8:45 am]

BILLING CODE 4810-25-M

U.S. REGULATORY COUNCIL

Publication and Availability of the Automobile Calendar

AGENCY: U.S. Regulatory Council.

ACTION: *The Automobile Calendar.*—Notice of publication and availability.

SUMMARY: This notice is to inform all interested parties that the U.S. Regulatory Council plans to publish *The Automobile Calendar: Recent and Pending Federal Activities Affecting Motor Vehicles* on January 21, 1981. The *Calendar* will be available from the U.S. Regulatory Council and the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238, as stock No. 052-003-00791-6.

ADDRESS: U.S. Regulatory Council, New Executive Office Building, 726 Jackson Place, N.W., Room 5002, Washington, DC 20503, Telephone 202-395-6110.

FOR FURTHER INFORMATION CONTACT: For information about *The Automobile Calendar:*

David M. Klaus, Associate Director, U.S. Regulatory Council, New Executive Office Building, Room 5002, 726 Jackson Place, N.W., Washington, DC 20503, Telephone 202-653-7244.

For information about Regulatory Council Calendar Projects in general: Mark G. Schoenberg, Associate Director for Operations and Interagency Coordination, U.S. Regulatory Council, New Executive Office Building, Room 5002, 726 Jackson Place, N.W., Washington, DC 20503, Telephone 202-653-7240.

SUPPLEMENTARY INFORMATION: *The Automobile Calendar* provides a comprehensive review of recent and pending regulations and other Federal activities intended to affect the manufacture, sale, and use of the automobile and other motor vehicles. It is intended to be a pilot, industry specific calendar, modeled on the Council's *Calendar of Federal Regulations* which is published twice a year in May and November.

The *Automobile Calendar* is designed to promote and improve public debate of regulatory issues relating to the automobile and other motor vehicles by providing information to and facilitating the participation of trade and consumer groups, motor vehicle and motor vehicle parts manufacturers, research and academic groups, the Congress, and other government agencies. It is also intended to provide a data base for studies of the impact of regulation on the automobile. As a resource for research and academic groups, as well as others within and outside government involved in economic and regulatory policy development, the *Automobile Calendar* provides in one place important information about current regulatory activities that will be necessary to assess the impact of alternative future policies. It is a prototype of future calendars for other industries.

We will be interested in receiving public comments on the usefulness of this *Calendar* and whether similar calendars for other industries would be useful.

Dated: January 9, 1981.

Peter J. Petkas,

Director.

[FR Doc. 81-1255 Filed 1-13-81; 8:45 am]

BILLING CODE 6580-24-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 9
Wednesday, January 14, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-303 Amdt. 2, Jan. 7, 1981]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., January 8, 1981.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 6a. Docket 38863, Air Florida System, Inc.—Westgate-California Corporation Acquisition Show-Cause Proceeding (Memo 201, BDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-42-81 Filed 1-9-81: 4:53 p.m.]

BILLING CODE 6320-01-M

2

[M-303 Amdt. 3, Jan. 8, 1981]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., January 8, 1981.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 16. Procedures for Handling Section 419 Subsidy Rates at the End of the Current Subsidy Rate Periods: Request for instructions. (Memo No. 198, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-43-81 Filed 1-9-81: 4:53 pm]

BILLING CODE 6320-01-M

3

[M-303 Amdt. 1, Jan. 7, 1981]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., January 8, 1981 (closed meeting will follow the 9:30 open meeting).

PLACE: Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 21. Negotiations with Japan. (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-44-81 Filed 1-9-81: 4:53 pm]

BILLING CODE 6320-01-M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., Friday, January 23, 1981.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-45-81 Filed 1-12-81: 8:51 am]

BILLING CODE 6351-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 19, 1981, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,620-L—City and County Bank of Campbell County, Jellico, Tennessee

Memorandum re: Reducing Future Interest Expenses in Connection With Employee Transfers.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 12, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-46-81 Filed 1-12-81: 11:17 a.m.]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 19, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Truckee River Bank, a proposed new bank, to be located at 10066 Main Street, Truckee, California.

Nonotuck Savings Bank, Northampton, Massachusetts, an operating noninsured bank.

Comstock bank, a proposed new bank, to be located at the northeast corner of Stewart and Washington Streets, Carson City, Nevada.

Bank of Chapmanville, a proposed new bank, to be located at Railroad Avenue and Sixth Street, Chapmanville, West Virginia.

Request for modification of conditions imposed in granting Federal deposit insurance:

Investors Bank & Trust Company, Boston, Massachusetts.

Applications for consent to establish a branch:

Home Savings Bank of Upstate New York, Albany, New York, for consent to establish a branch on Columbia Turnpike, 200 yards southwest of Sherwood Avenue, Town of East Greenbush, New York.

The Community Savings Bank, Rochester, New York, for consent to establish a branch at the southeast corner of Muller Boulevard and Jefferson Road, Town of Henrietta, New York.

Application for consent to acquire assets and assume liabilities:

Old Stone Bank, Providence, Rhode Island, for consent to acquire the assets and assume the liabilities of Nationwide Real Estate Investors, Columbus, Ohio, a noninsured, nonbanking entity.

Notice of acquisition of control:

The Farmers State Bank of Norwich, Kansas, Norwich, Kansas.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,486-SR—American Bank & Trust Company, New York, New York
Case No. 44,603-L—Franklin National Bank, New York, New York
Case No. 44,617-L—The Drovers' National Bank of Chicago, Chicago, Illinois
Case No. 44,622-NR—United States National Bank, San Diego, California
Case No. 44,623-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552B(c)(2) and (c)(6)).

Reports of committees and officers:

Reports of the Director, Division of Liquidation:
Memorandum re: Reports Required Under Delegated Authority Sale of Real or Personal Property
Memorandum re: Reports Required Under Delegated Authority Foreclosure Bids
Memorandum re: Reports Required Under Delgated Authority Expenditures

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 12, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-49-81 Filed 1-12-81; 11:17 am]

BILLING CODE 6714-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., January 16, 1981.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Commission Deliberations Concerning an Investigation and the Agency's Participation in a Civil Action.

(2) Commission Deliberations Concerning Disposition by the Agency of a Particular Case of Formal Agency Adjudication.

(3) Commission Deliberations Concerning an Investigation and the Disposition by the Agency of a Case of Formal Agency Adjudication.

(4) Commission Deliberations Concerning an Investigation.

(5) Commission Deliberations Concerning an Investigation and the Agency's Participation in a Civil Action.

(6) Commission Deliberations Concerning the Agency's Participation in a Civil Action.

(7) Commission Deliberations Concerning an Investigation.

(8) Commission Deliberations Concerning an Investigation and the Disposition by the Agency of a Case of Formal Agency Adjudication.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[S-46-81 Filed 1-12-81; 8:58 am]

BILLING CODE 6450-85-M

8

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Monday, January 19, 1981.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Proposals relating to the building program and target budget for a new building for the Jacksonville Branch of the Federal Reserve Bank of Atlanta.
3. Proposed purchase, under competitive bidding, of computer equipment within the Federal Reserve System.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 9, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-41-81 Filed 1-9-81; 4:35 pm]

BILLING CODE 6210-01-M

9

MERIT SYSTEMS PROTECTION BOARD.

TIME AND DATE: 10:00 a.m., Wednesday, January 21, 1981.

PLACE: Room 401, U.S. Court of Customs and Patent Appeals, 717 Madison Place, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Hearing in *Acting Special Counsel v. Paul D. Sullivan,* Docket No. HQ120600018.

CONTACT PERSON FOR MORE INFORMATION: Kathy W. Semone, Director, Division of Records and Inquiries, Office of the Secretary, 202-632-4525.

Merit Systems Protection Board.

Ruth T. Prokop,

Chairwoman.

[S-47-81 Filed 1-12-81; 9:42 am]

BILLING CODE 6325-70-M

10

NUCLEAR REGULATORY COMMISSION.

DATE: Week of January 12, 1981.

PLACE: Commissioners' conference room, 1717 H Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Monday, January 12:

No Commission meetings.

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Tuesday, January 13:

2:00 p.m.: 1. Discussion of Near-Term CP Requirements (approximately 1½ hours, public meeting).

Wednesday, January 14:

10:00 a.m.: 1. Discussion and Vote on Full-Power OL for Salem (approximately 1½ hours, public meeting).

2:00 p.m.: 1. Briefing on Plan for Systematic Assessment of Currently Operating Reactors (approximately 2 hours, public meeting).

Thursday, January 15:

10:00 a.m.: 1. Briefing on Action Plan—Items due in January 1981 (approximately 1½ hours, public meeting).

2:00 p.m.: 1. Briefing on Status of Standard Review Plan (approximately 1½ hours, public meeting).

2. Affirmation Session (approximately 30 minutes, public meeting).

a. Affirmations.

1. EDO Delegations of Authority.

2. 12/19/80 Marshall memo on Waste Conf. Proceeding.

B. Discussion and Vote of above affirmation items, if required.

Friday, January 16.

No Commission Meetings.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of meeing.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S-51-81 Filed 1-12-81; 2:01 pm]

BILLING CODE 7590-01-M

11

NUCLEAR REGULATORY COMMISSION.

DATE: Week of January 12, 1981 (additional item).

PLACE: Commissioners' conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Thursday, January 15 (additional item):

4:00 p.m.: Discussion of Management-Organization and Internal Personnel Matters (Chairman's Conference Room) (approximately 30 minutes, closed—exemptions 2, 6).

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S-52-81 Filed 1-13-81; 2:10 pm]

BILLING CODE 7590-01-M

12

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:30 a.m., January 20, 1981.

PLACE: Board's meeting room, Eighth Floor, Headquarters Building, 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS: Portion open to the public.

(1) Appeal on computation of annuity, Helen G. Talbot.

Portion closed to the public:

(A) Appeal from referee's denial of disability annuity, James P. Caldwell.

(B) Appeal from referee's denial of disability annuity, Florene K. Watts.

(C) Appeal from referee's denial of claim for a "period of disability", Howard J. Nicholas.

(D) Appeal from referee's denial of disability annuity, Jack T. Lyons.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board; COM No. 312–751–4920, FTS No. 387–4920.

[S-50-81 Filed 1-12-81; 12:34 pm]

BILLING CODE 7905-01-M

federal register

Wednesday
January 14, 1981

Part II

Department of the Interior

Water and Power Resources Service

Acreage Limitation; Water and Power Rules and Regulations and Availability of Draft Environmental Statement

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 426

Acreage Limitation; Water and Power Rules and Regulations

AGENCY: Water and Power Resources Service, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Water and Power Resources Service, Department of the Interior, proposes to issue rules and regulations establishing policies and procedures to meet the responsibilities of the Secretary of the Interior in administering the acreage limitation and other provisions of Reclamation law. These proposed rules are issued in response to the order of the United States District Court for the District of Columbia in the case of National Land for People, Inc. v. the Bureau of Reclamation of the Department of the Interior (417 F. Supp. 499 (D.C.D.C. 1977)). The rules and regulations will provide uniform criteria and procedures to administer the acreage limitation provisions of law so as to assure uniform application of those provisions among all water user entities receiving irrigation water from Federal projects governed by Reclamation law. A draft environmental impact statement on acreage limitation which addresses the impacts of these proposed rules and several other alternatives for administering the acreage limitation provisions of Reclamation law has been prepared and a Notice of Availability for this statement is published separately in this issue of the **Federal Register**.

DATE: Comment period closes March 16, 1981.

ADDRESS: Comments on the proposed rules should be submitted to: Phillip T. Doe, Study Co-Team Leader, Water and Power Resources Service, Engineering and Research Center, P.O. Box 25007, D-700, Denver, CO 80225.

Comments can be incorporated with comments reviewers may wish to submit on the draft environmental impact statement on acreage limitation.

FOR FURTHER INFORMATION CONTACT: Vernon S. Cooper, Senior Staff Assistant for Special Projects, Operation and Maintenance Policy Staff, Water and Power Resources Service, Department of the Interior, Washington, DC 20240, (202) 343-2148.

SUPPLEMENTARY INFORMATION: On August 25, 1977, the Department of the Interior published proposed rules and regulations for acreage limitation in volume 42 of the **Federal Register**, pages 43044 to 43049. During the 128-day comment period on these proposed rules, the Department of the Interior received over 11,000 written comments and heard testimony from 1,075 witnesses at 17 public hearings. On December 7, 1977, during the comment period, the Department was enjoined from proceeding with the rulemaking actions by the United States District Court for the Eastern District of California, until an environmental impact statement on the proposed rules had been published. The Department revised the proposed rules, taking the comments received during the comment period into consideration and has based the draft environmental impact statement on these revised proposed rules. The principal revisions made to the proposed rules published on August 25, 1977, are as follows:

1. All owners and lessees of land that receives Federal project water must reside within 50 miles of the land. The residency requirement would be phased in gradually in that existing individual owners who acquired land prior to January 1, 1978, need not become residents. New owners acquiring land subsequent to January 1, 1978, must establish residency within 3 years to continue to receive Federal project water for the land so acquired. Non-family corporations and non-family multiple ownership would be given a 5-year period to transfer their land to eligible owners. Lessees of land receiving Federal project water would have to satisfy the residency requirement at the termination of any valid written lease in effect on January 1, 1978, or within 5 years of the effective date of the regulations, whichever is greater. New lessees would have to meet the residency requirement within 3 years.

2. The maximum acreage that an individual could irrigate with Federal project water would be 480 acres of which no more than 160 acres could be owned. Family multiple ownership arrangements could irrigate 960 acres of which no more than 640 acres could be owned. A multiple ownership composed of two unrelated adults could irrigate 960 acres of which mo more than 320 acres could be owned.

The revisions to the proposed rules were made in May 1978 under the direction of Leo Krulitz, former Solicitor of the Department of the Interior. The proposed rules, as revised, are published below.

The Department of the Interior has determined that this document is a significant rule because it will impact local governmental entities, require major record keeping by the administering agency, and may have a substantial economic effect in the areas where the rules would apply. The Department will make a determination if a regulatory analysis is required under Executive Order 12044 and 43 CFR Part 14 by April 1, 1981, and will publish an appropriate notice in the **Federal Register** when that determination has been made.

Dated: January 8, 1981.

Daniel P. Beard,

Acting Assistant Secretary—Land and Water Resources.

Part 426 is proposed to be added to read as follows:

PART 426—RULES AND REGULATIONS FOR PROJECTS GOVERNED BY FEDERAL RECLAMATION LAW

Sec.
426.1 Objectives.
426.2 Applicability.
426.3 Authority.
426.4 Definitions.
426.5 Residency.
426.6 Non-exess land, designation, price approval.
426.7 Class 1 equivalency.
426.8 Circumstances under which project water may be delivered to excess land.
426.9 Lands not eligible to receive project water.
426.10 Disposition of excess lands.
426.11 Appraisals.
426.12 Forms of ownership.
426.13 Leases.
426.14 Application of the acreage limitation.
426.15 Commingling.
426.16 Recordkeeping by districts.
426.17 Decisions and appeals.

Authority: The Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. § 552, 553, the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388, 43 U.S.C. § 371 et seq.

§ 426.1 Objectives.

The Reclamation Act policies of limiting the amount of land under control of any one person for which project water may be supplied, and requiring the person controlling the land to reside on or in the neighborhood of the land benefited, are designed:

(a) To provide opportunity for a maximum number of farmers on the land, and for deserving individuals to get a start in farming;

(b) To distribute widely the benefits from federally-subsidized reclamation projects;

(c) To promote the owner-operated family farm;

(d) To preclude the accrual of speculative gain in the disposition of reclamation-benefited land.

It deserves emphasis that reclamation law imposes no restriction on the amount of land that may be owned or controlled by an individual or group of individuals. The law restricts only the land to which federally-subsidized project water may be delivered. These regulations establish procedures and criteria to govern control and ownership of all land receiving water subject to the acreage limitation and residency portions of reclamation law, in order to provide uniform administration of those provisions. These regulations will be interpreted and enforced to carry out the Reclamation Act policies described above.

§ 426.2 Applicability.

(a) These regulations apply to all lands, situated in projects receiving water subject to the acreage limitation or residency provisions of reclamation law. This includes excess land whether under recordable contract or not, and non-excess land.

(b) In part, these regulations define, consistent with but with greater specificity than existing recordable contracts, eligible taker of excess lands and procedures to be used in disposing of excess lands. These regulations also establish uniform rules with regard to residency and acreage limitations for all those owning or leasing lands which now benefit or will benefit from the delivery of federally-subsidized reclamation project water.

(c) These regulations shall be inapplicable to existing repayment, water service and recordable contracts only to the extent there is a clear, specific and irreconcilable conflict between these regulations and provisions in existing contracts, and then only to the extent those conflicting contractual provisions are valid and consistent with reclamation law.

(d) All new repayment or water service contracts executed after the effective date of these regulations shall expressly incorporate these regulations, including any changes made in them, by reference.

(e) Specific rules on the application of the residency and acreage limitation parts of these regulations are found in section 426.5(e) and 426.14 below.

§ 426.3 Authority.

These regulations are promulgated pursuant to authority vested in the Secretary by Congress in the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. §§ 55, 553, and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388, 43 U.S.C. § 371 *et seq.* The basic acreage limitation and residency requirements of reclamation law were initially contained in the Reclamation Act of June 17, 1902. Congress has modified the reclamation law in the following situations:

(a) *Statutory Exemptions from Acreage Limitation.*

(1) Colorado-Big Thompson Project, Colorado, Act of June 16, 1938 (52 Stat. 764, 43 U.S.C. § 386).

(2) Truckee Storage and Humboldt Projects, Nevada, Act of November 29, 1940 (54 Stat. 1219).

(3) Owl Creek Unit, Missouri River Basin Project, Act of August 28, 1954 (68 Stat. 890).

(4) Santa Maria Project, California, Act of September 3, 1954 (68 Stat. 1190).

(5) Beaverhead Valley, Montana, East Bench Unit, Missouri River Basin Project, Act of July 24, 1957 (71 Stat. 309).

(6) San Felipe Division, Central Valley Project, California (North and South Santa Clara Subareas only), Section 5, Act of August 27, 1967 (81 Stat. 173, 43 U.S.C. § 616fff–5).

(7) Narrows Units, Missouri River Basin Project, Colorado, Act of August 28, 1970 (84 Stat. 830).

(b) *Statutory Modifications of Acreage Limitation.*

(1) Projects constructed pursuant to the Water Conservation and Utilization Act of August 11, 1939 (53 Stat. 1418, 16 U.S.C. § 5902(2)), as amended by the Act of October 14, 1940 (54 Stat. 1121).

(2) San Luis Valley Project, Colorado, Act of June 27, 1952 (66 Stat. 282).

(3) Nonexcess holding set at 480 irrigable acres, Kendrick Project, Wyoming, Act of September 4, 1957 (71 Stat. 608).

(c) *Congressionally-established Acreage Equivalency*

(1) Land equivalent to 120 acres of Class 1 land.

(i) Baker Project (Upper Division), Oregon, Act of September 27, 1962 (76 Stat. 634, 43 U.S.C. § 616u).

(2) Land equivalent to 130 acres of Class 1 land.

(i) East Bench Unit (bench lands only), Missouri River Basin Project, Montana, Act of July 24, 1957 (71 Stat. 309).

(3) Land equivalent to 160 acres of Class 1 land.

(i) Seedskadee Project, Wyoming, Act of August 28, 1958 (72 Stat. 963).

(ii) Savory-Pot Hook Project, Colorado-Wyoming, Act of September 2, 1964 (78 Stat. 852, 43 U.S.C. § 616jj).

(iii) Bostwick Park Project, Colorado, Act of September 2, 1964 (78 Stat. 852, 43 U.S.C. § 616jj).

(iv) Fruitland Mesa Project, Colorado, Act of September 2, 1964 (78 Stat. 852, 43 U.S.C. § 616jj).

(v) Animas-La Plata Project, Colorado-New Mexico, Act of September 30, 1968 (82 Stat. 885).

(vi) Dolores Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(vii) Dallas Creek Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(viii) San Miguel Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(ix) West Divide Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(x) Riverton Extension Unit, Missouri River Basin Project, Wyoming, Act of September 25, 1970 (84 Stat. 861).

(xi) Polecat Bench Project, Wyoming, Act of March 11, 1976 (90 Stat. 205, 43 U.S.C. § 615kkkk).

(xii) Pollock-Herried Project, South Dakota, Act of March 11, 1976 (90 Stat. 208, 43 U.S.C. § 615llll).

(xiii) Kanapolis Unit, Pick-Sloan Missouri Basin Project, Kansas, Act of September 28, 1976 (90 Stat. 1324).

(xiv) Oroville-Tonasket Unit Extension, Chief Joseph Dam Project, Washington, Act of September 28, 1976 (90 Stat. 1325).

(xv) Unitah Unit, Central Utah Project, Utah, Act of September 28, 1976 (90 Stat. 1327).

(xvi) Allen Camp Unit, Central Valley Project, California, Act of September 28, 1976 (90 Stat. 1328).

(d) *Staturtory Use of Interest Payment for Excess Lands.*

(1) Washoe Project, California-Nevada, Act of August 1, 1956 (70 Stat. 775, 43 U.S.C. § 614).

(2) Small Reclamation Projects, Act of August 6, 1956 (70 Stat. 1044, 43 U.S.C. § 422a–1), as amended.

(3) Mercedes Division, Lower Rio Grande Rehabilitation Project, Texas, Act of April 7, 1958 (72 Stat. 82).

(4) La Feria Division, Lower Rio Grande Rehabilitation Project, Texas, Act of September 22, 1959 (73 Stat. 641).

(e) *Delivery of Project Water to Certain Categories of Excess Lands Pursuant to Statute.*

(1) Involuntary acquisition of excess land (i) Act of July 11, 1956 (70 Stat. 524, 43 U.S.C. §§ 423e, 544).

(2) Surviving Spouse (i) Act of September 2, 1960 (74 Stat. 732, 43 U.S.C. § 423h).

(3) Columbia Basin Project, Washington, Act of October 1, 1962 (76 Stat. 678, 16 U.S.C. § 835–1, 835c).

(4) States, their political subdivisions and agencies thereof, Act of July 7, 1970 (84 Stat. 411, 43 U.S.C. § 425).

(5) Naval Air Station, Lemoore, California, Act of August 10, 1972 (86 Stat. 531).

(f) *Excess Land Provisions Modified by Acts of Congress Authorizing Execution of Specific Contracts Negotiated Pursuant to Section 7 of the*

Reclamation Project Act of 1939 (53 Stat. 1187, 43 U.S.C. 485f).

(1) Kittitas Reclamation District, Kittitas Division, Yakima Project, Washington, Act of May 6, 1949 (63 Stat. 64).

(2) Prosser Irrigation District, Yakima Project, Washington, Act of October 27, 1949 (63 Stat. 943).

(3) Roza Irrigation District, Yakima Project, Washington, Act of June 30, 1954 (68 Stat. 359).

(4) Vale Oregon Irrigation District, Vale Project, Oregon, Act of October 27, 1949 (63 Stat. 943).

(5) Frenchtown Irrigation District, Frenchtown Project, Montana, Act of June 23, 1952 (66 Stat. 153).

(6) Owyhee Irrigation District, Ontario-Nyssa Irrigation District, Gem Irrigation District, Ridgeview Irrigation District, Advancement Irrigation District, Payette-Oregon Slope Irrigation District, Crystal Irrigation District, Bench Irrigation District, and Slide Irrigation District, Owyhee Project, Idaho-Oregon, Act of June 23, 1952 (66 Stat. 152).

(7) Gering and Ft. Laramie Irrigation District, Goshen Irrigation District, and Pathfinder Irrigation District, North Platte Project, Nebraska-Wyoming, Act of July 17, 1952 (66 Stat. 754).

(8) Hermiston Irrigation District and West Extension Irrigation District, Umatilla Project, Oregon, Act of June 18, 1954 (68 Stat. 254).

(9) North Unit Irrigation District, Deschutes Project, Oregon, Act of August 10, 1954 (68 Stat. 679).

(10) American Falls Reservoir District No. 2, Minidoka Project, Idaho, Act of August 21, 1954 (68 Stat. 762).

(11) Black Canyon Irrigation District, Boise Project, Idaho, Act of August 24, 1954 (68 Stat. 794).

(12) Tulelake Irrigation District, Klamath Project, California-Oregon, Act of August 1, 1956 (70 Stat. 799).

§ 426.4 Definitions.

(a) *Adjoining neighbors* are eligible takers of excess land who own or lease land contiguous to the parcel which includes, in whole or in part, the excess land which is to be transferred.

(b) *Class 1 irrigable land*, is project land determined by the Secretary to be the most potentially productive, on a net income per acre basis, in a particular project. This concept is used to determine nonexcess land entitlement on those projects for which class 1 equivalency has been authorized. Class 1 equivalency allowances will be permitted only for those lower land classes where the maximum acreage allowable by law is not sufficient to provide a reasonable level of family income.

(c) *Commingled water* is water comprised of both project and nonproject water stored in or delivered by or through a common facility.

(d) *Date of unitial availability of water* shall mean the date that project water becomes available to an irrigation block (a designated portion of the irrigable land of a project) as determined by the Secretary.

(e) *Designated nonexcess land* is the land of an excess landowner which has been designated, under terms of the water service or repayment contract or as provided in these rules, to be eligible to receive project water as his or her nonexcess land.

(f) *District* shall mean any entity or individual which has a contract, lease, license or permit with the United States for a water supply for agricultural purposes.

(g) *Eligible taker* is an individual who (1) qualifies as a resident holder defined in 426.4(t) or who has under oath agreed to become, and shall become, a resident holder within three years of acquisition of the land; (2) will not, after the acquisition, be the owner of excess land as defined in 426.4(h); and (3) has met all other requirements of reclamation law and these rules.

(h) *Excess land* is irrigable land, other than exempt land, capable of being served with water from any Federal project under the reclamation law, owned or controlled by any person in excess of the maximum allowable acreage under reclamation law. In determining excess land all lands in all districts held by any one person shall be considered. Excess land refers only to the acreage limitation and not to the residency requirement; that is, a parcel of land within the maximum allowable acreage but held by a non-resident shall not be considered excess land.

(i) *Exempt land* is irrigable land in a project governed by Reclamation law to which the acreage limitation provisions do not apply. Exempt status may be based on: (1) express statutory exemptions, which include projects listed in § 426.3(a) and contracts approved by Congress which are listed in § 426.3(f); (2) implied statutory exemptions where the Solicitor has determined, in a formal indexed Memorandum Opinion, that Congress did not intend the restrictions to apply because no federal subsidy is involved in the storage or delivery of such water; i.e., the total cost to the Federal Government of such storage and delivery is recovered in full, or (3) exemptions based on a determination buy the Secretary, upon payout of construction charges over a full repayment period, that a general pattern of family-size ownership has developed (Sol. Op. M-36634, 68 I.D. 372, 400-401, Note 73 (1961)). Exemptions from the acreage limitation do not include exemptions from the residency requirements unless otherwise provided by Congress.

(j) *Family relationship* shall include persons in a direct lineal descendent relationship, siblings, and spouses. For example, brothers and sisters, their parents, grandparents, children, grandchildren and spouses are considered in a family relationship.

(k) *Irrigable land.* For the purpose of determining the areas to which acreage limitations are applicable, irrigable land is the acreage possessing irrigated crop production potential, after excluding areas occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feed lots, equipment storage yards, and similar facilities, together with dedicated roads open for unrestricted use by the public. Areas used for field roads, farm ditches and drains, tail water ponds, temporary equipment storage, and other improvements subject to change at will by the landowner, are included in the irrigable acreage.

(l) *Leasing* is a legal arrangement where the person owing the land (the leassor) relinquishes to another (the lessee) effective control operation and management of the land, in exchange for cash or other value. Contract arrangements for limited use of the land, such as for part-year livestock grazing, or for sale or use of crop residue, shall not be considered leasing.

(m) *Long-time tenants or employees* are eligible takers who have leased land from, or been employed by, the owner the excess lands being diposed of for 10 years preceding the disposal of the excess lands.

(n) *Neighborhood of the land* is an area comprised of a maximum 50-miles radius from the particular tract of land receiving water from a Federal project governed by Reclamation law. The Secretary may, after public hearing, reducing the maximum radius in particular districts, depending upon local conditions, where he determines modifications will help carry out the objectives of the law and these regulations to encourage owner-occupied family farming.

(o) *Non-excess land* is irrigable land capable of being served with project water, owned or controlled by one person, which does not exceed the maximum allowable acreage under Reclamation law.

(p) *Non-project water* is any water other than project water. Lands served by only non-project water shall not be subject to the limitations of Reclamation law.

(q) *Project water* is water that is developed or furnished under reclamation law by or through federally financed facilities to a District as defined in 426.4(f). All deliveries of project water shall be subject to the limitations of Reclamation law except to the extent the land served is exempt land as defined in 426.4(i).

(r) *Recordable contract* is an agreement by an excess landowner to sell specific excess lands upon terms and conditions satisfactory to the Secretary and at prices not to exceed those fixed by the Secretary, which renders those excess land eligible to receive project water. The contract must be recorded in the official records of the county in which the land is situated.

(s) *Repayment or water service contract* refers to any legal arrangement in which the United States agrees to supply agricultural water to particular districts, and includes any subcontracts to master agreements with particular districts.

(t) *Resident holder* is a person having a beneficial ownership interest in, or who leases, land receiving project water, who is eighteen years of age or older, who is an actual bona fide resident on or in the neighborhood of the land, and who is substantially involved in the farming operation on the land receiving project water.

(u) *Secretary or contracting officer* shall mean the Secretary of the Interior or his duly authorized representative.

§426.5 Residency.

(a) Except as provided by subsections (b), (c), (d), or (e) below, all persons who have a beneficial ownership interest in, or who lease, land receiving project water, shall be resident holders in order to maintain eligibility to receive project water.

(b) Notwithstanding subsection (a) above, the Secretary may, upon application submitted under oath by an individual showing that he or she has previously met the residency requirement while owning or controlling land receiving project water, but is no longer able to qualify as a resident because of ill-health, age, or other physical infirmity requiring the establishment of residency more than 50 miles from the land benefited, waive the residency requirement for that individual.

(c) Except as otherwise provided by subsection (d)(5), when land receiving project water is leased, both the lessor and lessee must qualify as resident holders in order for the land to remain eligible to receive project water.

(d) In recognition of the fact that the residency requirement has not been enforced for many years, and in order to avoid undue hardships that may arise if the requirement is enforced too abruptly, the following rules shall apply to allow gradual enforcement of the requirement:

(1) A taker of land after January 1, 1978 must be an eligible taker in order to maintain eligibility to receive project water on the land.

(2) Individuals who own land purchased prior to January 1, 1978, who are not now resident owners, but who otherwise qualify to receive project water on their lands, need not become resident holders. New owners taking at the first transfer of beneficial ownership, however it occurs, must be eligible takers.

(3) Where a family corporation or other form of multiple ownership comprised of individuals in a family relationship with each other, owned land eligible to receive project water prior to January 1, 1978, the individuals involved need not become resident holders to maintain their eligibility to receive project water. Transferees, by whatever means, of beneficial ownership interests in such family corporations or multiple ownerships referred to in the preceding sentence must be eligible takers.

(4) With respect to lands now owned by corporations or other entities, whose beneficial owners are not in a family relationship, a 5-year transition period shall be provided, to enable such owners to transfer their ownership to eligible takers, or to procure other supplies of water.

(5) Current lessees of lands receiving project water who are not now resident holders must become so at the termination of any valid written leases of a limited term in effect on January 1, 1978, or 5 years from the effective date of the regulations, whichever is greater.

§ 426.6 Non-excess land, designation, price approval.

(a) An owner holding only non-excess land may receive project water for that land if otherwise qualified under these rules and the district contract.

(b) An excess landowner may receive project water for his non-excess holdings only after the land is designated to receive project water as non-excess land. Such designation shall be made in accordance with provisions of the district contract with the United States or, in the absence of contract provisions, as determined by the Secretary.

(c) An excess landowner may, with the consent of the contracting officer, change the lands designated as non-excess, provided that at least an equal amount of irrigable land becomes excess by the redesignation, under the same terms and conditions as if such land had been excess at the time of the original designation.

(d) To retain its eligibility to receive project water, non-excess land originally acquired from excess status for an approved price must be sold at a price approved by the Secretary as not reflecting project benefits, if it is resold within 15 years from the date of acquisition into non-excess status. For a period after 15 years and until one-half of the total irrigation construction obligation of the district in which the lands are situated is paid in regularly scheduled installments, the Secretary shall review and approve sale prices to prevent unreasonable profit from accruing to the seller. The seller shall provide satisfactory assurance to the Secretary that the deed transferring land subject to the provisions of this section contains a covenant reflecting the need for price approval in subsequent sales.

§ 426.7 Class 1 equivalency.

(a) If Class 1 equivalency is authorized for a project, an individual's non-excess entitlement using the class 1 equivalency concept will be determined on the basis of his landholding in each land class.

(b) Class 1 land and irrigable lands in lower land classes will be determined by the Bureau of Reclamation in accordance with established procedures. Irrigable land on such a project will be classified on the basis of land productivity taking into consideration latitude, climate, land development, and farm production costs, soil type, drainage, and quality of water.

(c) Class 1 equivalency factors are determined by comparing the productive potential of class 1 land, under average management, with the productive potential of lower class land. The objective is to establish the fraction of an acre of class 1 land which is equal in net value of production to an acre of each other class of land. Equivalency factors based on physical and economic criteria shall be determined by the Secretary, unless Congress has established them by statute. Where determined by the Secretary, equivalency factors established for a district will be published in the Federal Register at least 60 days prior to their application to lands of the district.

(d) Class 1 equivalency can be used by a district only where authorized by Congress and only if its repayment or water service contract with the United States contains a provision for its use.

§ 426.8 Circumstances under which project water may be delivered to excess lands.

Project water may be delivered to excess lands only under the following circumstances:

(a) *Recordable contract.* (1) Excess land may receive project water if the owner, under terms and conditions satisfactory to the Secretary, executes a valid recordable contract for the sale of that land to an eligible taker. No excess land may become eligible to receive water by the execution of a recordable contract unless such excess land was owned, on the date of initial availability of water to the district, by the landowner requesting execution of the recordable contract. Where project water is made available to excess land through temporary diversion or withdrawal facilities, the Secretary may establish the date of initial availability of water for the land at that date, and require the execution of a recordable contract before further deliveries can be made.

(2) Land made excess because of new regulations, enforcement policies or court decisions may have been purchased at a price which reflects the availability of federally-subsidized water. Therefore, the Secretary may, in his discretion, execute contracts for such land which provide that the land may be sold under terms and at a price the Secretary deems fair and equitable considering all the circumstances, including the price at which the land was purchased. Where the Secretary decides to execute such a recordable contract, owners of such excess lands shall have one year from the effective date of these regulations to sign the recordable contract in order not to interrupt delivery of project water to such excess lands.

(3) Repayment and water service contracts executed after the date of these regulations shall include the following provisions for recordable contracts: (i) a landowner shall execute a recordable contract with respect to any excess land not later than 5 years after the date of initial availability of water; (ii) the sale price must not reflect value that can be attributed to the construction or proposed construction of the project; (iii) no recordable contract period shall extend beyond 5 years after the date of initial availability of water; (iv) if the disposition of the land is not completed by the end of the recordable contract period, irrevocable power of attorney shall vest in the Secretary as attorney in fact for the landowner to sell the lands under such conditions suitable to the Secretary; (v) prior to the end of the recordable contract period, excess land may, with approval of the contracting officer, be withdrawn from contract coverage and redesignated non-excess provided that at least an equal amount of irrigable land previously designated non-excess is substituted and becomes subject to all the terms of the recordable contract as though it were originally subject to them; (vi) recordable contracts shall remain in force until the sale of the land is consummated as approved by the Secretary; (vii) no recordable contract with respect to excess lands held in a multiple ownership arrangement will be of any force or effect unless all persons or entities having an interest in the ownership are bound by the terms of the recordable contract.

(b) *Involuntary Acquisition of Excess Land.* Project water may be delivered to lands which become excess when acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgage, by inheritance, or by devise, only in accordance with the Act of July 11, 1956 (70 Stat. 524).

(c) *Lands Acquired by Surviving Spouse.* Non-excess lands which become excess in the ownership of a surviving spouse upon the death of a husband or wife may receive project water only in accordance with the Act of September 2, 1960 (74 Stat. 732).

(d) *Excess Lands Owned by States, Political Subdivisions, and Agencies Thereof.* Such lands are eligible for project water in accordance with the Act of July 7, 1970 (84 Stat. 411).

(e) *Lands Administered or Controlled by Federal Agencies.* If project water is delivered to lessees of Federal lands for irrigated farming purposes, the lessees shall be bound by the same restrictions as the landowner unless the Solicitor has published a formal indexed Memorandum Opinion holding Congress did not intend the reclamation law to apply.

(f) *Excess Lands Subject to the Small Reclamation Project Act and Other Special Statutory Provisions.* These provisions, listed at § 426.3(d), allow for payment of interest on excess lands to allow delivery of project water.

(g) *Projects exempted by statutes.* These provisions are listed at § 426.3(a) and exempt those projects from the acreage limitation restrictions of reclamation law. The residency requirement, however, remains in effect unless and until Congress otherwise provides.

§ 426.9 Lands not eligible to receive project water.

(a) Excess lands are not eligible to receive project water except as provided by § 426.8.

(b) Land acquired into excess status after the announded date of initial availability of project water and after the effective date of these regulations is not eligible to be placed under recordable contract, except as provided in § 426.8(a)(2).

(c) Land owned or leased by individuals who do not comply with the residency requirements set forth in § 426.5 are not eligible to receive project water.

(d) Land owned or leased by corporations or multiple ownerships which do not meet the requirements set forth in section 426.12 are not eligible to receive project water.

§ 426.10 Disposition of excess lands.

(a) Except as provided in section 426.8(a)(2), in order to become eligible to receive project water in the hands of the taker, excess lands must be disposed of to an eligible taker at a price approved by the Secretary, based on their bona fide value at the date of appraisal without reference to the enhancement to the construction or proposed construction of project works.

(b) Up to one year before expiration of the recordable contract disposition period the owner of excess land can dispose of the excess land to an eligible taker of his choice provided the taker is a family relation, a long-time tenant or employee, or an adjoining neighbor of the excess landowner. When excess land under recordable contract is not sold prior to the expiration of the recordable contract period, power of attorney shall vest in the Secretary, who shall sell the land by lottery or other impartial means to an eligible taker of excess land.

(c) If the excess landowner has not sold his or her excess land to a person eligible under subsection (b) of this section by one year before power of attorney vested in the Secretary, the excess landowner shall divide his land under recordable contract into parcels of no more than 160 acres. If he or she fails to do so, the Secretary shall divide the land.

(1) When the excess landowner desires to sell his or her land other than to a person eligible under subsection (b), and in no event less than six months before the power of attorney vests in the Secretary as provided in the recordable contract, the Secretary shall publish widely a notice of availability of such land, which describes the land and its possible uses, and which includes the

expiration date of the recordable contract.

(2) All prospective eligible non-excess owners interested in the purchasing a particular parcel shall file with the Regional Director formal expression of interest which will describe their financial and other capacity to own and farm the land.

(3) When the owner of the particular parcel under recordable contract desires to sell the land other than to a person eligible under subsection (b) of this section, or when power of attorney vests in the Secretary under the recordable contract, the Secretary shall, by lottery or other impartial means, select from those expressing an interest, a purchaser of the land at the approved price.

(4) The propsective purchaser shall have ninety days to obtain financing. Extension of this period may be granted upon good cause. Such financing must comply with reasonable terms established by the owner or, if power of attorney has vested, with the terms of the district contract with the United States.

(d) Applications for excess land sale price approval and for owner or buyer eligibility determinations shall be filed with the district and the appropriate office of the Bureau of Reclamation in a form satisfactory to the Secretary.

(e) The seller will not be permitted to lease the land back from the purchaser. The seller must not retain any interest in the land sold other than a purchase money mortgage or other equivalent purchase money security instrument. The seller may retain mineral rights and rights-of-way or access to his or her remaining holdings.

(f) The purchaser shall not be required to purchase personal, nonfixture farm property as a condition to purchasing excess land. Personal nonfixture property with a value of more than $500 that the seller wishes to sell at approximately the same time as the excess land must be reported in a manner satisfactory to the Secretary for inclusion in the appraisal of the property. A full disclosure of all items to be sold, including the prices at which they are to be sold, ust be made in application for excess land sale price approval.

(g) A gift or exchange of excess land must be approved in the same manner as a bona fide sale for value, in order for the land to be eligible to receive project water.

(h) The Secretary shall have a power of attorney to sell the land of a person who has stated his intent to become a resident holder as described in § 426.4(t), but who fails to do so within the time allowed. The deed by which the excess land is conveyed shall contain this restriction for those who do not qualify as resident owners at the time of purchase.

(i) Excess land sold in violation of these regulations will not be eligible to receive project water.

§ 426.11 Appraisals.

All appraisals of excess land and non-excess land subject to the price approval requirement of § 426.5(d) shall be made as follows:

(a) Appaisals of excess land shall be made upon request of the landowners or a prospective buyer, or when power of attorney provided for in a recordable contract vests in the Secretary.

(b) Appraisals shall be based on the fair market value of the land at the time of appraisal, without reference to the enhancement attributable to the construction or proposed construction of the project.

(c) Appraisals shall be made by an appraiser(s) designated by the Secretary. The cost of the first appraisal shall be paid by the United States. The landowner or prospective buyer may request a reappraisal within 60 days of notification from the United States of the appraised value. The party requesting a reappraisal may determine whether the appraisal is to be made by a single appraiser or a panel of three appraisers approved by the Secretary. The cost of this reappraisal shall be paid by the party requesting it.

(d) The value of all improvements on excess land, including structures, wells, pumps, permanent plantings and other property that may be included with a sale of excess land consistent with section 426.10(f), shall be appraised on the basis of its fair market value in accordance with standard appraisal procedures.

(e) The Secretary will funish the appraiser with the following information about nonproject water that may be available to irrigate the parcel being appraised. The Secretary shall determine the amount of nonproject water available to the parcel being appraised, giving consideration to any lawful and vested water rights. If an unadjudicated underground water supply is involved, an allocation will be made to the land being appraised of the lawfully available nonproject groundwater as of the date of initial availability of water. The amount allocated shall be reduced by the quantity that would have been used on the basis of preproject cropping patterns up to the date of appraisal. This allocation shall then be increased by the amount of nonproject recharge available to the land being appraised. The value of the designated property must reflect the projected continuing availability or nonavailability of the nonproject water supply considering preproject cropping patterns and nonproject recharge.

(f) The Secretary shall not approve appraisals of excess lands made after the sale has been consummated, except as provided in 426.6(d).

§ 426.12 Forms of ownership.

A multiple ownership shall not own more than 160 acres for each owner, shareholder, partner, or beneficiary who is qualified to be a participant in the multiple ownership. In no event shall a multiple ownership own more that 640 acres of land served with project water. A multiple ownership may lease an amount of land which, when added to the land it owns, equals no more than 960 acres. All multiple ownerships must meet the conditions set forth below:

(a) *Individual ownership.* An individual may receive project water for his or her lands if he or she meets all the requirements of an eligible taker as defined in section 426.4(g)

(b) *Tenancies in common, joint tenancies, and tenancies by the entirety.* In order for these ownerships to hold more than the maximum acreage allowed for an individual, (1) each owner included must qualify as an eligible taker of excess land, and (2) a family relationship must exist among all the owners.

(c) *Corporations.* In order for a corporation to hold more than the maximum acreage allowed for an individual, (1) each shareholder must qualify as an eligible taker, and (2) a family relationship must exist among all the shareholders.

(d) *Partnerships.* A partnership must comply with each of the following in order to hold more than the maximum allowable acreage for an individual: (1) each partner must qualify as an eligible taker, and (2) each partner must have a right to partition or alienate his share of the property, and (3) a family relationship must exist among all the partners.

(e) *Trusts.* A trust may hold up to one nonexcess entitlement of land per beneficiary provided each of the following criteria is met:

(1) Each beneficiary qualifies as an eligible taker.

(2) The trustee is unrelated to the trustor or the beneficiaries and is not an employee of the trustor.

(3) The trust is irrevocable and constitutes a grant of all ownership, dominion, and control over a specifically described parcel of land.

(4) The trust property consists solely of the land granted;

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(5) The trust document identifies each person who is a beneficiary and prescribes the undivided interest of each in the trust property, which undivided interest in no event shall represent a share in the total corpus of the trust greater than the ratio of one non-excess entitlement to the total acreage of the trust.

(6) The trustee named receives compensation only for management services, and neither acquires any interest of a beneficiary nor transacts in his individual capacity any business with the trust. Any attempt to do either shall void the eligibility of the land in the trust to receive water.

(7) The trustee makes periodic distribution of net returns from operations to beneficiaries in proportion to their undivided interests in the trust property.

(8) If at any time the undivided interest of a beneficiary represents an area of irrigated land excess to that which he might hold as a non-excess owner, the trustee shall designate the land which is to receive water as non-excess based on § 426.5(a). In the absence of such designation all land in the trust shall be deemed excess so long as that situation continues to exist. If a beneficiary acquires other land not in the trust which, together with his beneficial interest, exceeds that which he may hold as a non-excess owner, the land not in the trust that exceeds the non-excess entitlement of the beneficiary shall be deemed excess land.

(9) Each beneficiary or guardian of a beneficiary has the right, at his option, to a partition within the trust of his interest in the trust.

(10) A family relationship exists among all the beneficiaries.

(f) *Unrelated adults.* Notwithstanding the requirements set forth in (a) through (e) above, any two eligible takers may own land in the forms of ownership in (a) through (e) above regardless of whether they are in a family relationship with each other.

(g) *Minors.* An individual under eighteen years of age may beneficially own land served by project water so long as the acreage involved is counted against the ownership entitlement of an eligible taker.

§ 426.13 Leases.

(a)(1) Each individual owner may lease an amount of land served with project water which, when added to the land served with project water he or she owns, equals no more than 480 acres. If an individual does not own land served with project water, he or she may lease up to 480 acres.

(2) A multiple ownership authorized under section 426.12 may lease an amount of land served with project water which, when added to the land served with project water it owns, equals no more than 960 acres.

(b) Except as provided in section 426.5, both the lessor and lessee must qualify as resident holders as defined in 426.4(t). If the lessor or lessee is a multiple ownership, all owners, shareholders, partners, or beneficiaries of the multiple ownership must qualify as resident owners.

(c) Each lease of lands served by project water must be filed by the lessee with the District, which shall maintain a file for public inspection and report to the Secretary annually on the number and terms of outstanding leases of lands within the District served by project water, including such specific information as the Secretary may request.

(d) This section shall not apply during the term of any valid written lease of a limited term in effect on January 1, 1978, or 5 years from the effective date of these regulations, whichever is greater.

§ 426.14 Application of the acreage limitation.

(a) The provisions of §§ 426.12 and 426.13 will apply immediately to any purchaser or lessee of lands, excess or non-excess, occurring after January 1, 1978.

(b) The acreage limitation of reclamation law shall apply to all land owned by any one individual or entity regardless of whether the lands (1) are served by more than one federal project subject to reclamation law; or (2) are located in more than one district receiving project water subject to reclamation law. Owners of land made excess by this provision shall have one year from the effective date of these regulations in which to comply with the provisions of these regulations to allow continued delivery of federally-subsidized project irrigation water.

(c) Corporations or multiple ownerships, in which all shareholders, tenants, owners, partners or beneficiaries were not in a family relationship as defined in section 426.4(j) on August 25, 1977, will have five years from the effective date of these regulations to transfer their lands receiving project water to eligible takers as defined in section 426.4(g) in order for the lands to maintain eligibility to receive project water. Recordable contracts in effect on the effective date of these regulations will, however, be honored.

§ 426.15 Commingling.

(a) Project water may be stored in or transported from, through, or by means of nonfederally constructed facilities used to convey nonproject water if, in the opinion of the Secretary, such mingling is necessary to avoid duplication of facilities. The provisions of Reclamation law and of these regulations shall be applicable only to the quantity of project water thus involved.

(b) When mingling project water with nonproject water is permitted, the contractor shall be required to take such actions, keep such records, and install and maintain such measuring devices as in the opinion of the Secretary are necessary to ensure that at no time is the quanity of water delivered to, or removed as drainage water from, lands ineligible for project irrigation benefits under Reclamation law greater than the quantity introduced from nonproject sources.

(c) Federally financed facilities constructed to replace private facilities previously used to serve private lands but destroyed, impaired or rendered inoperative by project construction, are considered non-federally constructed facilities for the purposes of this section, if the Secretary finds no additional water is made available as a result of the construction of the new facilities.

§ 426.16 Recordkeeping by districts.

In addition to specific requirements established in these regulations, the Districts shall compile and maintain residency, land ownership, and lease records and such other information and records that the Secretary determines are reasonably necessary to assist in enforcing these regulations and reclamation law. These records shall be in a form satisfactory to the Secretary and shall include, but may not be limited to: (i) identity and residence of owners and lessees of lands receiving project water, and number of acres owned or leased; and (ii) sale price of excess and formerly excess lands. Reports shall be furnished to the Secretary by the District in such form and on such dates as the Secretary may require. Subject to applicable laws and regulations, the Secretary shall have the right to examine and copy the records kept by the District.

§ 426.15 Decisions and appeals.

Unless otherwise provided by the Secretary, the Regional Director shall make any determination required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of

Reclamation within 30 days of receipt of the Regional Director's determination. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision. Pertinent addresses are shown below:

Commissioner, Water and Power Resources Service, Department of the Interior, 18th and C Street, NW., Washington, DC 20240

Regional Director, Pacific Northwest Region, Water and Power Resources Service, 550 West Fort Street, P.O. Box 043, Boise, ID 83724

Regional Director, Mid-Pacific Region, Water and Power Resources Service, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825

Regional Director, Lower Colorado Region, Water and Power Resources Service, Nevada Highway and Park Street, P.O. Box 427, Boulder City, NV 89005

Regional Director, Upper Colorado Region, 125 South State Street, P.O. Box 11568, Salt Lake City, UT 84147

Regional Director, Southwest Region, Water and Power Resources Service, 714 South Tyler, Amarillo, TX 79101

Regional Director, Upper Missouri Region, 316 North 28th Street, P.O. Box 2553, Billings, MT 59103

Regional Director, Lower Missouri Region, Water and Power Resources Service, Building 20, Denver Federal Center, P.O. Box 25247, Lakewood, CO 80225

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DEPARTMENT OF THE INTERIOR

Water and Power Resources Service

[INT-DES 81-1]

Acreage Limitation; Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement on proposed rules and regulations for administering the acreage limitation provisions of Reclamation law. The statement examines the effects of the proposed rules, as well as several alternatives, on farms in the 17 Western States which are served with federally developed water and subject to the acreage limitation provisions. Written comments may be submitted to: Phillip T. Doe, Study Co-Team Leader, Water and Power Resources Service, Engineering and Research Center, P.O. Box 25007, D-700, Denver, CO 80225, Telephone: (303) 234-2016. The closing date for written comments is March 16, 1981.

Copies of the draft environmental statement are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Water and Power Resources Service, Washington, DC 20240, Telephone: (202) 343-4991
Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, P.O. Box 25007, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234-3019
Regional Director, Pacific Northwest Region, Water and Power Resources Service, 550 West Fort Street, P.O. Box 043, Boise, ID 83724, Telephone: (208) 384-1208
Regional Director, Mid-Pacific Region, Water and Power Resources Service, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825, Telephone: (415) 916-4680
Regional Director, Lower Colorado Region, Water and Power Resources Service, Navada Highway and Park Street, P.O. Box 427, Boulder City, NV 89005, Telephone: (703) 293-7652
Regional Director, Upper Colorado Region, 125 South State Street, P.O. Box 11568, Salt Lake City, UT 84147, Telephone: (801) 234-5457
Regional Director, Southwest Region, Water and Power Resources Service, 714 South Tyler, Amarillo, TX 79101, Telephone: (806) 378-5400
Regional Director, Upper Missouri Region, 316 North 26th Street, P.O. Box 2553, Billings, MT 59103, Telephone: (406) 657-6412
Regional Director, Lower Missouri Region, Water and Power Resources Service, Building 20, Denver Federal Center, P.O. Box 25247, Lakewood, CO 80225, Telephone: (303) 234-3327

Copies will also be available for inspection at other Federal offices and public and university libraries within each region. Their location may be obtained by contacting the appropriate regional office.

Individual copies of the statement may be obtained on request to any of the offices shown above.

Public hearings on the draft environmental impact statement at locations throughout the 17 Western States and in Washington, D.C. will be scheduled. Publication of the dates and locations for these hearings will be made in a subsequent notice in the **Federal Register.**

Dated: January 7, 1981.

Cecil D. Andrews,

Secretary of the Interior.

[FR Doc. 81-1091 Filed 1-13-81; 8:45 am]

BILLING CODE 4310-09-M

federal register

Wednesday
January 14, 1981

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Comments on Proposed Red Lechwe Reclassification

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Comments on Proposed Red Lechwe Reclassification

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Omission of comments from final rule.

SUMMARY: The Service inadvertently omitted from its final rulemaking of October 1, 1980, on the reclassification of the red lechwe *(Kobus leche)*, comments received from Monitor pertaining to the proposed action. The Service regrets this oversight and herewith presents Monitor's comments and the Service's response.

FOR FURTHER INFORMATION CONTACT: John L. Paradiso, (703) 235-1975.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1979, the Service published a proposed rulemaking to reclassify the red lechwe *(Kobus leche)* from Endangered to Threatened status. Since the red lechwe is on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the reclassification would permit the importation of red lechwe sport hunting trophies. On January 23, 1980, Monitor, a Washington based environmental organization, submitted official comments pertaining to the proposed reclassification in which were presented Monitor's views in opposition. Unfortunately these comments were not received in the Office of Endangered Species and hence were not addressed in the final rulemaking which was published on October 1, 1980 (45 FR 65132). This oversight was called to the Service's attention in a letter from Monitor dated October 2, 1980. The Service regrets this oversight and herewith publishes a summary of Monitor's comments and the Service's responses.

Monitor made the following points in its communication:

(1) that thousands of miles of wetland habitat for the red lechwe have been destroyed through drought and construction of dams and reservoirs;

(2) that the Zambia and Zaire populations of the red lechwe are small, while the Botswana population remains vulnerable and endangered due to continuing loss of habitat;

(3) that permitting trophy hunting (which the reclassification does) will further deplete wild populations; and

(4) that no new scientific or biological information was submitted to support the reclassification.

The Service responds to these points as follows:

(1) although much of the once extensive habitat of the red lechwe has been destroyed, there are still thousands of square miles of original habitat remaining, which in the Service's opinion, are quite adequate to support existing populations and to provide for future increased populations of all three races of the species;

(2) in response to this comment, the Service cites from its final rulemaking of October 1, 1980 (45 FR 65132):

> Since early in this century, all subspecies have undergone marked declines in number, attributed in part to uncontrolled market and subsistence hunting and in part to a decrease in habitat. The red subspecies is still reasonably abundant in the Okavango and Chobe areas, except along the Caprivi Strip in South West Africa. It has been reported that 250 lechwe occur in the Busanga and Masozhi areas: 150 in the Luswishi River, 500 on Chisenga Island; 1,000 on the Simaraba flats and unknown numbers elsewhere in Zambia. In 1966, however, no lechwe were seen on Chisenga Island, but 600 were observed in the Lukanga Swamp. By 1971, the Busanga flats population had increased to 1,500 and to 3,000 in 1976. Other population estimates based on aerial surveys in 1976, were: Okavango Delta (Botswana), 30–40,000; Chobe River areas (Botswana), 10–15,000; and several thousand in the Okavango areas in Angola. The black subspecies was probably at its population low in the early 1950's, and since 1954, the count had not exceeded 15,000 until 1975 when Grunsdell and Bell of the Serengeti Institute reported an estimated 30,000 black lechwe in the Bangweulu Basin of Zambia (the estimate based on aerial surveys in 1976 was 20,000). The numbers of Kafue lechwe has stayed relatively stable since 1971 (90–100,000 on the Kafue flats in Zambia).

(3) trophy hunting has never at any time posed a threat to the survival of the red lechwe. A few lechwes will be taken as trophies under the new reclassification, but it will be under the control of CITES and will certainly not deplete wild populations as suggested by Monitor; and finally,

(4) the biological data that form the basis for the rulemaking were obtained from a special report prepared by Harry Goodwin titled "A Report on the Status of the Lechwe," September 1977.

Based on the above considerations, the Service finds that the comments submitted by Monitor do not warrant any change in the final determination of the lechwe as a Threatened species as published in the **Federal Register** on October 1, 1980. Again, the Service regrets that Monitor's comments were not incorporated into the final rulemaking as published on October 1, 1980. This notice was prepared by John L. Paradiso, Office of Endangered Species (703/235-1975).

Dated: January 7, 1981.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 81-1312 Filed 1-13-81; 8:45 am]

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Wednesday
January 14, 1981

Part IV

Environmental Protection Agency

Assessing the Environmental Effects Abroad of EPA Actions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[ER-FRL 1555-4]

Assessing the Environmental Effects Abroad of EPA Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 4, 1979, President Carter signed Executive Order 12114 entitled "Environmental Effects Abroad of Major Federal Actions." This Executive Order required Federal agencies to develop implementing procedures. This amendment to the EPA regulations implementing the National Environmental Policy Act under 40 CFR Part 6 sets forth general policy, criteria, and requirements to be carried out within this Agency.

DATE: These regulations will be effective on February 13, 1981.

ADDRESS: Comments submitted on the regulations may be inspected at the Public Information Reference Unit, EPA Headquarters Room 2922, Waterside Mall 401 M Street, S.W., Washington, D.C., between 8:00 am and 4:30 pm on business days.

FOR FURTHER INFORMATION CONTACT: Judith Troast, Office of Environmental Review (A-104), 401 M Street, S.W., Washington, D.C. 20460, Telephone 202-755-0780.

SUPPLEMENTARY INFORMATION: Executive Order 12114 requires Federal agencies undertaking major actions to assess the effects of such actions abroad. This includes the possibility of preparing environmental impact statements for major actions significantly affecting the global commons as well as conducting environmental reviews of major actions affecting the global commons and foreign nations as required by these procedures. This final rule adds a new Subpart J under 40 CFR Part 6.

Proposed regulations were published in the Federal Register on November 29, 1979. EPA received two comment letters on the proposed regulations. As a result of the comments and further Agency analysis, we have made a number of changes to the proposed regulations. The following is the response to the comments:

1. Focusing on where the effects occur rather than where the action takes place—One set of comments addressed EPA's interpretation of Executive Order 12114 respecting the type of federal action that should come under environmental review. In the proposed regulations, EPA focused on significant federal actions which take place outside the boundaries of the United States. The Executive Order, however, makes no distinction as to where the action takes place but rather emphasizes the need for an environmental review based upon where the effects occur. The wording in the regulations has been changed to clarify this.

2. Definitions.—Comments suggested that EPA should define what is meant by the terms "environment," "significant," and "global commons," which are used throughout the regulations. We have adopted the definitions used in the Executive Order and added them to the text. Additionally, we have added a definition for "responsible official."

3. Coordinating with the State Department.—One comment stated that the regulations should make clear the need for Agency coordination with the State Department on foreign contacts. We note that the regulations do require responsible EPA officials to work with the State Department in communicating with foreign nations. We feel nothing further needs to be addressed with respect to this.

4. Addressing considerations which could modify the environmental review.—The Executive Order lists several considerations which could modify the contents, timing, and availability of documents to other affected agencies and nations. A comment suggested that these considerations should be addressed in the regulations. We have added a discussion of this to the text.

5. Changing the term "environmental assessment."—Two sections of the draft regulations, referred to an applicant's environmental evaluation as an "environmental assessment." One comment noted the inconsistency between this term and the word used in EPA's amended NEPA regulations (40 CFR Part 6) which refers to an EPA prepared document. To avoid confusion, we have changed this term to "environmental analysis."

6. Eliminating the word "contiguous."—In Sections 6.1002(a)(3) and 6.1004(c) the word "contiguous" has been eliminated because, as one comment suggested, there could be undertakings which would affect foreign nations not contiguous to the United States.

7. Changing reference to determine significance.—In Section 6.1003(a) reference is made to the criteria discussed in 40 CFR 6.506(a) (1) through (6) and (b) in determining significant effect. One comment stated that these criteria pertained to wastewater construction grants projects and was not applicable to the many other undertakings covered by these regulations. We agree and have changed the reference to CEQ's regulations (40 CFR 1508.27) which provide clearer guidance on what constitutes a significant impact.

8. Adding a subsection on Wastewater Facility Planning.—As a result of one comment, we have added a subsection (d) on Wastewater Facility Planning to Section 6.1003. Upon examination we determined that some activities addressed in a facility plan could have impacts abroad. Consequently, the impact of these activities should be assessed in the environmental review of the project.

9. Eliminating the section on "Notification."—Several comments suggested that we eliminate from the text the section on "Notification" (previously Section 6.1004) which addresses notification requirements to foreign nations under Section 12(b) of TSCA and 17(b) of the Federal Insecticide, Fungicide and Rodenticide Act. The present regulations do not create any additional obligations under these statutes. However, the impression was given that these activities fell under the purview of these regulations. While the discussion on notification was included only for information purposes, to avoid confusion we have eliminated it from the text.

Note.—EPA has determined that because this document does not constitute a major regulation within the meaning of Executive Order 12044 preparation of a regulatory analysis is not required.

Dated: January 7, 1981.

Douglas M. Costle,
Administrator.

40 CFR Part 6 is amended by adding a new Subpart J to read as follows:

Subpart J—Assessing the Environmental Effects Abroad of EPA Actions

Sec.
6.1001 Purpose and policy.
6.1002 Applicability.
6.1003 Definitions.
6.1004 Environmental review and assessment requirements.
6.1005 Lead or cooperating agency.
6.1006 Exemptions and considerations.
6.1007 Implementation.

Authority: Executive Order 12114.

Subpart J—Assessing the Environmental Effects Abroad of EPA Actions

§ 61.001 Purpose and policy

(a) *Purpose.* On January 4, 1979, the President signed Executive Order 12114 entitled "Environmental Effects Abroad of Major Federal Actions." The purpose of this Executive Order is to enable responsible Federal officials in carrying out or approving major Federal actions which affect foreign nations or the global commons to be informed of pertinent environmental considerations and to consider fully the environmental impacts of the actions undertaken. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act (NEPA) (42 U.S.C. Sections 4321 et seq.) and the Marine Protection Research and Sanctuaries Act (MPRSA) (33 U.S.C. Sections 1401 et seq.). It should be noted, however, that in fulfilling its responsibilities under Executive Order 12114, EPA shall be guided by CEQ regulations only to the extent that they are made expressly applicable by this subpart. The procedures set forth below reflect EPA's duties and responsibilities as required under the Executive Order and satisfy the requirement for issuance of procedures under Section 2-1 of the Executive Order.

(b) *Policy.* It shall be the policy of this Agency to carry out the purpose and requirements of the Executive Order to the fullest extent possible. EPA, within the realm of its expertise, shall work with the Department of State and the Council on Environmental Quality to provide information to other Federal agencies and foreign nations to heighten awareness of and interest in the environment. EPA shall further cooperate to the extent possible with Federal agencies to lend special expertise and assistance in the preparation of required environmental documents under the Executive Order. EPA shall perform environmental reviews of activities significantly affecting the global commons and foreign nations as required under Executive Order 12114 and as set forth under these procedures.

§ 6.1002 Applicability

(a) Administrative actions requiring environmental review. The environmental review requirements apply to the activities of EPA as set forth below:

(1) Major research or demonstration projects which affect the global commons or a foreign nation.

(2) Ocean dumping activities carried out under section 102 of the MPRSA which affect the related environment.

(3) Major permitting or licensing by EPA of facilities which affect the global commons or the environment of a foreign nation. This may include such actions as the issuance by EPA of hazardous waste treatment, storage, or disposal facility permits pursuant to section 3005 of the Resource Conservation and Recovery Act (42 U.S.C. Section 6925), NPDES permits pursuant to section 402 of the Clean Water Act (33 U.S.C. Section 1342), and prevention of significant deterioration approvals pursuant to Part C of the Clean Air Act (42 U.S.C. Section 7470 et seq.).

(4) Wastewater Treatment Construction Grants Program under Section 201 of the Clean Water Act when activities addressed in the facility plan would have environmental effects abroad.

(5) Other EPA activities as determined by OER and OIA (see Section 6.1007(c)).

§ 6.1003 Definitions

As used in this subpart, "environment" means the natural and physical environment and excludes social, economic and other environments; "global commons" is that area (land, air, water) outside the jurisdiction of any nation; and "responsible official" is either the EPA Assistant Administrator or Regional Administrator as appropriate for the particular EPA program. Also, an action "significantly" affects the environment if it does *significant* harm to the environment even though on balance the action may be beneficial to the environment. To the extent applicable, the responsible official shall address the considerations set forth in the CEQ Regulations under 40 CFR 1508.27 in determining significant effect.

§ 6.1004 Environmental review and assessment requirements

(a) *Research and demonstration projects.* The appropriate Assistant Administrator is responsible for performing the necessary degree of environmental review on research and demonstration projects undertaken by EPA. If the research or demonstration project affects the environment of the global commons, the applicant shall prepare an environmental analysis. This will assist the responsible official in determining whether an EIS is necessary. If it is determined that the action significantly affects the environment of the global commons, then an EIS shall be prepared. If the undertaking significantly affects a foreign nation EPA shall prepare a unilateral, bilateral or multilateral environmental study. EPA shall afford the affected foreign nation or international body or organization an opportunity to participate in this study. This environmental study shall discuss the need for the action, analyze the environmental impact of the various alternatives considered and list the agencies and other parties consulted.

(b) *Ocean dumping activities.* (1) The Assistant Administrator for Water and Waste Management shall ensure the preparation of appropriate environmental documents relating to ocean dumping activities in the global commons under section 102 of the MPRSA. For ocean dumping site designations prescribed pursuant to section 102(c) of the MPRSA and 40 CFR Part 228, EPA shall prepare an environmental impact statement consistent with the requirements of EPA's Procedures for the Voluntary Preparation of Environmental Impact Statements dated October 21, 1974 (see 39 FR 37419). Also EPA shall prepare an environmental impact statement for the establishment or revision of criteria under section 102(a) of MPRSA.

(2) For individual permits issued by EPA under section 102(b) an environmental assessment shall be made by EPA. Pursuant to 40 CFR Part 221, the permit applicant shall submit with the application an environmental analysis which includes a discussion of the need for the action, an outline of alternatives, and an analysis of the environmental impact of the proposed action and alternatives consistent with the EPA criteria established under Section 102(a) of MPRSA. The information submitted under 40 CFR Part 221 shall be sufficient to satisfy the environmental assessment requirement.

(c) *EPA permitting and licensing activities.* The appropriate Regional Administrator is responsible for conducting concise environmental reviews with regard to permits issued under Section 3005 of the Resource Conservation and Recovery Act (RCRA permits), Section 402 of the Clean Water Act (NPDES permits), and Section 165 of the Clean Air Act (PSD permits), for such actions undertaken by EPA which affect the global commons or foreign nations. The information submitted by applicants for such permits or approvals under the applicable consolidated permit regulations (40 CFR Parts 122 and 124) and Prevention of Significant Deterioration (PSD) regulations (40 CFR Part 52) shall satisfy the environmental document requirement under Section 2-4(b) of Executive Order 12114. Compliance with applicable requirements in Part 124 of the consolidated permit regulations (40 CFR Part 124) shall be sufficient to satisfy the requirements to conduct a concise environmental review for permits subject to this paragraph.

(d) *Wastewater Treatment Facility Planning.* 40 CFR 6.507 details the environmental review process for the facilities planning under the wastewater treatment works construction grants program. For the purpose of these regulations, the facility plan shall also include a concise environmental review of those activities that would have environmental effects abroad. This shall apply only to the Step 1 grants awarded after the effective date of these regulations. Where water quality impacts identified in a facility plan are the subject of water quality agreements with Canada or Mexico, nothing in these regulations shall impose on the facility planning process coordination and consultation requirements in addition to those required by such agreements.

(e) *Review by other Federal agencies and other appropriate officials.* The responsible officials shall consult with other Federal agencies with relevant expertise during the preparation of the environmental document. As soon as feasible after preparation of the environmental document, the responsible official shall make the document available to the Council on Environmental Quality, Department of State, and other appropriate officials. The responsible official with assistance from OIA shall work with the Department of State to establish procedures for communicating with and making documents available to foreign nations and international organizations.

§ 6.1005 Lead or cooperating agency.

(a) *Lead Agency.* Section 3–3 of Executive Order 12114 requires the creation of a lead agency whenever an action involves more than one federal agency. In implementing Section 3–3, EPA shall, to the fullest extent possible, follow the guidance for the selection of a lead agency contained in 40 CFR 1501.5 of the CEQ regulations.

(b) *Cooperating Agency.* Under section 2–4(d) of the Executive Order, Federal agencies with special expertise are encouraged to provide appropriate resources to the agency preparing environmental documents in order to avoid duplication of resources. In working with a lead agency, EPA shall to the fullest extent possible serve as a cooperating agency in accordance with 40 CFR 1501.6. When other program commitments preclude the degree of involvement requested by the lead agency, the responsible EPA official shall so inform the lead agency in writing.

§ 6.1006 Exemptions and considerations.

Under section 2–5 (b) and (c) of the Executive Order, Federal agencies may provide for modifications in the contents, timing and availability of documents or exemptions from certain requirements for the environmental review and assessment. The responsible official, in consultation with the Director, Office of Environmental Review (OER), and the Director, Office of International Activities (OIA), may approve modifications for situations described in 2–5(b). The responsible official, in consultation with the Director, OER and Director OIA, shall obtain exemptions from the Administrator for situations described in section 2–5(c). The Department of State and the Council on Environmental Quality shall be consulted as soon as possible on the utilization of such exemptions.

§ 6.1007 Implementation.

(a) *Oversight.* OER is responsible for overseeing the implementation of these procedures and shall consult with OIA wherever appropriate. OIA shall be utilized for making formal contacts with the Department of State. OER shall assist the responsible officials in carrying out their responsibilities under these procedures.

(b) *Information exchange.* OER with the aid of OIA, shall assist the Department of State and the Council on Environmental Quality in developing the informational exchange on environmental review activities with foreign nations.

(c) *Unidentified activities.* The responsible official shall consult with OER and OIA to establish the type of environmental review or document appropriate for any new EPA activities or requirements imposed upon EPA by statute, international agreement or other agreements.

[FR Doc. 81–1311 Filed 1–13–81; 8:45 am]

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federal register

Wednesday
January 14, 1981

Part V

Department of Energy

Economic Regulatory Administration

Procedures for Obtaining Crude Oil for the Strategic Petroleum Reserve by Exchange of Naval Petroleum Reserves Crude Oil and Other Means; Final Rule

V 46/9 JA 14 81 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-23]

Obtaining Crude Oil for the Strategic Petroleum Reserve by Exchange of Naval Petroleum Reserves Crude Oil and Other Means

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting amendments to the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, to establish procedures for obtaining crude oil for storage in the Strategic Petroleum Reserve (SPR) by exchange of Naval Petroleum Reserves (NPR) crude oil and other means. The amendments adopted establish a new provision (§ 211.68) in the allocation regulations authorizing DOE to require the fifteen major integrated refiners and other refiners with refining capacities in excess of 175,000 barrels per day (B/D) to supply crude oil for storage in the SPR in exchange for NPR crude oil. This provision also authorizes DOE to compensate a refiner delivering oil to the SPR in cash. Also included in the amendments adopted is a provision to accord special temporary relief, through the Emergency Buy/Sell Program, for certain small refiners suffering a crude oil supply loss due to the withdrawal by the Federal Government of NPR crude oil from the market.

EFFECTIVE DATE: February 13, 1981.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Hearing Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3971

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055

Josette Maxwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202D, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3256

Jay F. Lubin (Office of Petroleum Operations), Economic Regulatory Administration, Room 6138, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3420

Harry A. Jones (Strategic Petroleum Reserve Office), Room 3G-024, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4410

Craig S. Bamberger (Office of General Counsel-Strategic Petroleum Reserve), Department of Energy, Room 5E-064, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900

William Funk or Jeffrey D. Stoermer (Office of General Counsel) Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736 or 252-6754

Peter M. Frank (Office of General Counsel—Naval Petroleum Reserves), Department of Energy, Room 6447, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8841

SUPPLEMENTARY INFORMATION:

I. Background
II. Related Rulemakings
III. Comments
  A. Support for the Rulemaking
  B. Adoption of Alternative Proposal No. 1 of Alternative Proposal No. 2
  C. Inclusion of Large Independent Refiners
  D. Exchange Ratio for NPR Crude Oil
  E. Special Temporary Relief for Small Refiners Dependent Upon NPR Crude Oil
IV. Amendments Adopted
V. Procedural Requirements
  A. Section 404 of the DOE Act
  B. National Environmental Policy Act
  C. Executive Order 12044

I. Background

On August 8, 1980, we issued a notice of proposed rulemaking (NOPR) to give notice of and obtain public comment on proposed alternative amendments to the allocation regulations to establish procedures for obtaining crude oil for storage in the SPR by exchange of NPR crude oil and other means (45 FR 54662, August 15, 1980). Two alternative amendments were proposed, each of which was designed to provide a regulatory framework under which DOE could require certain refiners to deliver crude oil to the SPR to meet the storage needs of the SPR.

The Energy Security Act ("ESA", Pub. L. 96-294, June 30, 1980) provided that unless a 100,000 B/D average annual fill rate is achieved beginning with the 1981 fiscal year, DOE may not, except in a few specific instances, sell or otherwise dispose of the Federal Government's share of crude oil from the Naval Petroleum Reserve No. 1 at Elk Hills, California other than to fill the SPR directly or by exchange for other crude oil.[*]

Shortly after issuance of the NOPR in August, the Defense Fuel Supply Center (DFSC) of the Department of Defense, on behalf, of DOE, issued a solicitation for competitively-conducted exchanges of NPR crude oil for other crude oil to be delivered to the SPR (RFP-DLA-600-80-R-0369, August 11, 1980, as reissued October 17, 1980). As a result of the DFSC solicitation, contracts now have been entered into for the delivery of crude oil to the SPR at an average rate of 100,364 B/D over the period October 1, 1980, through September 30, 1981, in exchange for NPR crude oil. In addition, a direct shipment via pipeline of 641,490 barrels of NPR oil was placed in storage in the SPR during the period October 8 through November 30, 1980. These efforts so far have been successful in achieving the 100,000 B/D minimum fill rate specified in the ESA.

In addition, subsequent to our August NOPR, the Department of Interior and Related Agencies Appropriations Act for the Fiscal Year Ending September 30, 1981 (Pub. L. 96-514, December 12, 1980) was passed. That Act provides that the President shall seek to undertake crude oil acquisition of an average of at least 300,000 B/D, or of a quantity that would fully utilize appropriated funds, for SPR storage.

The proposed regulatory amendments are being issued as a final rule at this time primarily to serve as a standby measure to be implemented in the event that the voluntary exchanges and competitive Government purchases are viewed as ineffective in procuring sufficient quantities of crude oil for the SPR, during the time the Emergency Petroleum Allocation Act ("EPAA", Pub. L. 93-159, as amended) is in effect.[1]

The first alternative amendment proposed in the August NOPR provided for a new § 211.68 in the allocation regulations to require specified refiners (termed "exchange partners") to supply crude oil suitable for storage in the SPR in exchange for NPR crude oil. In lieu of delivering NPR crude oil to an exchange partner, DOE could elect to compensate an exchange partner in cash. Under this proposal, the exchange partners would consist of the fifteen major integrated refiners that currently are classified as refiner-sellers (as defined in § 211.62) for the Buy/Sell Program, and other refiners with refining capacities in excess of 175,000 B/D (the so-called "large independent refiners"). The second alternative proposal provided for an amendment to the current Buy/Sell Program to add the SPR to the Buy/Sell

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[*] For a more detailed discussion of the ESA, as well as other background issues, see the preamble to the NOPR.

[1] The EPAA, which provides the legal authority for this regulation, is currently due to expire September 30, 1981.

List as an eligible buyer of allocated crude oil for storage in the SPR. Under this proposal, each refiner-seller's sales obligation would be increased proportionately and would consist of a portion of the total "purchase opportunity" of the SPR. A refiner-seller delivering oil to the SPR could be compensated in cash, as compensation is currently provided for under the Buy/Sell Program regulations, or at DOE's election, by delivery of NPR crude oil in exchange. The August NOPR also proposed special temporary relief through the Emergency Buy/Sell Program for small refiners experiencing a crude oil supply loss due to the withdrawal by the Government of NPR oil from the market.

II. Related Rulemakings

On August 21, 1980, we adopted, effective August 29, 1980, a final rule (45 FR 56788, August 25, 1980) amending the Entitlements Program regulations (10 CFR 211.67) so as to achieve the same effect as if lower tier crude oil were directly allocated to the Federal Government for the SPR. This rule was adopted to impelement the Congressional directive set forth in section 805(a) of the ESA. The amendments adopted provide for the issuance of entitlements to the Federal Government for upper tier and uncontrolled domestic crude oil and imported crude oil acquired for the SPR so that the Government will pay lower tier prices for such oil.

On October 23, 1980, we adopted as a final rule, effective September 24, 1980, conforming amendments to the price and allocation regulations regarding crude oil acquired for the SPR (45 FR 71764, October 30, 1980). We deleted § 212.95, which previously set forth a special pricing rule for crude oil acquired by the Federal Government for the SPR. Consequently, transactions involving crude oil sales for the SPR generally will be subject to the same rules as any other transaction. Technical provisions previously in § 212.95 concerning certifications and first sales into U.S. commerce were retained as amendments to other sections of our regulations. In addition, we amended § 211.67(a)(7)(ii) in two respects to clarify the treatment of exchanges involving crude oil acquired for the SPR. First, in a matching purchase and sale transaction in which oil is acquired for the SPR, the Government may pay, and the seller may receive, market level prices for the price-controlled crude oil involved. Second, crude oil deemed to be retained by a refiner in an exchange or matching purchase and sale is required to be included in that refiner's crude oil receipts in the month that the SPR receives such crude oil.

III. Comments

Hearings on the proposed amendments were held on August 27, 1980, in Los Angeles, California, and on September 4, 1980, in Washington, D.C. Written comments also were solicited and received through September 15, 1980. Comments and testimony from a total of 35 respondents were received, including 14 major integrated refiners, 5 large independent refiners, 12 small refiners (all of which are located in PADD V), two refiners associations, one producers association, and one public interest law firm.

The commenters addressed a number of issues that were both within and without the scope of this rulemaking. This section summarizes the major comments on the principal issues that are within the scope of this rulemaking. Our response to the public comments is set forth either in this section or in the next section of this preamble in which we discuss our reasons for selecting the alternative adopted.

A. Support for the Rulemaking

The overwhelming majority of commenters agreed that resumption of filling the SPR at a significant rate is an important and necessary national objective. A smaller majority (about 60 percent) of the commenters, including most major refiners and most small refiners, supported one of the proposed regulatory alternatives. The remaining commenters, including most of the large independent refiners, opposed any mandatory regulatory program for obtaining crude oil for storage in the SPR.

The commenters that opposed any regulatory approach generally cited, as reasons for their opposition, the greater advantages offered by a voluntary over a mandatory program. These include: (1) A voluntary program would meet the minimum fill rate required by the ESA, and would provide more than 100,000 B/D for the SPR in a crude oil market like that of the past several months; (2) the proposed regulations are too cumbersome and complex to administer when compared to the ease of administering a purely voluntary program; and (3) a voluntary program would allow the exchange ratio to be negotiated at "arms length", as is the standard industry practice.

We agree with the commenters that obtaining oil for the SPR through voluntary exchanges of NPR oil is preferable over obtaining such oil through mandatory exchanges. In accord with this view, we have solicited and received voluntary offers to deliver oil to the SPR in exchange for NPR oil. We have decided to issue this final rule, however, to ensure that a regulatory program is available, while the EPAA is in effect, if additional voluntary offers are not feasible (1) to obtain additional quantities of oil for the SPR, or (2) in the event that any of the current voluntary suppliers are unable to fully deliver oil to the SPR as contracted. Unless voluntary offers are not deemed feasible to provide these volumes of oil to the SPR, this regulatory program is not intended to be implemented, even though it will be effective on a standby basis 30 days following publication in the **Federal Register.**[2]

B. Adoption of Alternative Proposal No. 1 or Alternative Proposal No. 2

Of the commenters that expressed a preference for one of the alternative proposals, most favored the second alternative, placing the Government on the Buy/Sell List as a buyer of oil for the SPR. This preference for the Buy/Sell alternative, however, apparently was based in large part on the misconception that DOE could make cash payments for oil delivered to the SPR only under the Buy/Sell alternative. Most of the small refiners were opposed to exchanges involving NPR crude oil because of their reliance on NPR oil for their crude supplies; their preference for Alternative 2 was predicated upon payment for oil delivered to the SPR to be made strictly in cash rather than in NPR oil. Most of the large independents preferred the second alternative proposal because they would not be required to participate in that program as they would under the first proposal. Some of the commenters supported the second alternative proposal because of an erroneous impression that the second alternative proposal, but not the first alternative proposal, would expire concurrently with the EPAA on September 30, 1981.

Commenters in favor of the first alternative proposal, all major refiners, generally stated that it provided a more equitable distribution of the burden of supplying oil to the SPR, and would be less cumbersome to administer because of its independence from other regulatory programs. We generally agree with these comments and have decided to adopt the first alternative proposal, a new and separate regulatory program,

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[2] As discussed later in this preamble, the amendments adopted to provide special temporary relief through the emergency Buy/Sell Program for small refiners dependent on NPR crude oil, however, will be effective and will be implemented 30 days following publication in the **Federal Register.**

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principally for these reasons and because the Buy/Sell alternative entails significant administrative problems. Further discussion of our reasons for selecting the first alternative are discussed in the "Amendments Adopted" section.

C. Inclusion of Large Independent Refiners

As mentioned above, most of the large independent refiners preferred the second alternative proposal because it imposed an obligation to supply oil to the SPR upon only the 15 major integrated refiners. None of the large independent refiners, however, provided specific evidence of their inability to enter into the proposed exchange or sale transactions, or of any significant adverse impact of their inclusion as potential suppliers of oil for the SPR. As also mentioned above, the major refiners generally contended that including the large independent refiners as suppliers of oil for the SPR would result in a more equitable distribution of any burden associated with filling the SPR.

Because the SPR is a national program, benefiting all sectors of the refining industry, we believe that any burden associated with filling the SPR should be borne by as many refiners as reasonable. Because of the degree to which large independent refiners are familiar with and participate in large-scale crude oil acquisition and exchanges, there appears to be no basis for excluding them as potential exchange partners. This rule must be consistent, however, with the requirement in section 4(c) of the EPAA that (to the extent practicable and consistent with other EPAA objectives) each independent refiner be assured of a supply of crude oil not less than its supply during 1972. Therefore, we have decided to include the large independent refiners as exchange partners so long as their crude supplies do not fall below the 1972 level.

Our analysis and the comments we received, with respect to the ability of large independent refiners to act as exchange partners, were limited to those refiners that came within the definition of large independent refiners as of the date the NOPR was issued, August 8, 1980. Therefore, even though other refiners may qualify as large independent refiners after August 8, 1980, only those refiners meeting the definition of large independent refiners as of August 8, 1980, are included in the final rule as exchange partners.

D. Exchange Ratio for NPR Crude Oil

In the August NOPR we proposed, under either major alternative, the establishment of an exchange ratio by which to determine the quantity of NPR crude oil that would be given up by the Government in exchange for oil delivered to the SPR. Three alternative methods of calculating the exchange ratio were proposed. Under the first alternative method proposed the exchange ratio would be defined in terms of refiners' actual acquisition costs for crude oil similar in quality to the crude oils being exchanged. We requested comments as to whether the numerator of the ratio should include the estimated average delivered cost of crude oil to each refiner supplying oil to the SPR rather than the cost to all refiners. In response, commenters overwhelmingly favored the use of single refiner averages instead of the industry average. The commenters observed that using the single refiner average cost not only would be simpler administratively, but also would be a more equitable method than using an average for the entire industry, due to the wide divergence in relative costs among individual refiners. We proposed using as the denominator of the ratio the two highest posted prices for uncontrolled crude oil similar to the NPR oil being exchanged. Commenters generally supported this part of the exchange ratio proposal, and overall, commenters preferred this first method over the other two methods.

The second alternative method proposed basically would result in barrel-for-barrel exchanges of NPR crude oil for crude oil delivered to the SPR, with certain adjustments for quality (based on sulfur and gravity differences). The differential proposed for adjustments was $0.05 per barrel per 0.1 (one-tenth) degree API gravity and $0.10 per barrel per 0.1 (one-tenth) percent sulfur. No significant objections were raised to this method, but it was rejected by most refiners in favor of the first alternative method. Most commenters indicated, however, a preference for this method over the third alternative method.

The third alternative method proposed would define the exchange ratio in terms of relative crude oil values imputed from refinery product yield and wholesale product price data in a given base period. The numerator of the ratio would be the imputed value of the crude oil type being delivered to the SPR. The denominator of the ratio would be the imputed value of the NPR crude oil type being exchanged. The third alternative was unanimously rejected by refiners who made comments on the exchange ratio provision as being too complex and impossible to administer in a fair and equitable manner. Most refiners who made comments simply recommended that this method, as well as the second, receive no further consideration.

As discussed in the "Amendments Adopted" section, we have adopted an exchange ratio that is generally consistent with the preferences of the commenters for: (1) The first alternative, and (2) the use of a single refiner rather than industry average in calculating the numerator.

E. Special Temporary Relief for Small Refiners Dependent Upon NPR Crude Oil

We included a proposal in the NOPR to allow a small refiner entry into the emergency Buy/Sell Program if it could demonstrate that: (1) Its refinery has processed an amount of NPR crude oil in excess of five percent of that refinery's runs to stills during the preceding allocation period; (2) its refinery has incurred or will incur at least a fifty percent loss of its supply of such crude oil due to the Government's exchange of NPR crude oil for oil delivered to the SPR; (3) it has exhausted any opportunity to obtain NPR crude oil under the NPR Act small refiner set-aside for the period for which an allocation is sought; (4) its refinery cannot reasonably be expected to replace its lost supplies of NPR oil; and (5) its projected runs to stills for its refinery will be less than ERA's estimate of the national utilization rate for all refiners.

The small refiners that historically have used NPR crude oil submitted comments giving evidence of their dependence on NPR crude oil. Generally these small refiners opposed any regulatory program that utilized exchanges of NPR oil because of the diversion of such oil from the small and independent refiners that historically have used most of the NPR oil. If DOE did require such exchanges, however, these refiners generally supported the idea of special relief through the Buy/Sell Program. Some refiners commented that the threshold loss requirement of 50 percent of NPR crude oil is too high. We have determined, however, that the 50 percent loss threshold is reasonable and appropriate. If, for example, NPR crude oil comprised only 20 percent of a small refiner's total crude supply, and the refiner lost 50 percent of its supply of NPR oil, the refiner would suffer a net supply loss of only 10 percent, and might, under the new provision, still qualify for an allocation. On the other hand, if NPR crude oil comprised 80 percent of a small refiner's total supply, and the refiner lost only 40 percent of its NPR oil supply, the refiner would suffer a net supply loss of 32 percent of its total supply. Although the refiner would not be eligible for an allocation under the new provision, it could still qualify for an allocation under the 25 percent loss eligibility requirement of the current Emergency Buy/Sell Program. Therefore, the 50 percent loss requirement is being adopted in the final rule.

IV. Amendments Adopted

As noted above, we have decided to adopt as a final rule, substantially as proposed, the first alternative proposal, which provides in new § 211.68 a new program for requiring certain exchange partners [3] to supply oil to the SPR.

We proposed alternative ways of determining the proper amount of cash compensation under § 211.68(c)(2)(iii). Generally we have adopted the alternative that bases the regulatory prescribed amount on the weighted average landed per barrel cost of the exchange partner's imported crude oil for the month in which the oil is delivered to the SPR. Certain important changes, however, have been made. First, the amount of the cash payment will initially be determined by negotiation between the exchange partner and DOE, rather than by regulatory prescription. Only if an agreement cannot be reached within 30 days after the Exchange Notice [4] is published will the payment be required to be based on the average landed cost of imported crude oil. Second, the exchange partner's average costs will be segregated by sulfur pool, and adjustments will be allowed for transportation and gravity and sulfur content. This pricing scheme is essentially the same as that currently used to determine the sales price for crude oil sold under the Buy/Sell Program. *See* § 212.94; Special Rule No. 2 (44 FR 9372, February 13, 1979). In addition, a handling fee of 25 cents per barrel will be allowed. As mentioned in the NOPR, the weighted average landed per barrel cost of the exchange partner's imported crude oil will have to be estimated for the month of delivery, and adjusted two months later to reflect actual average cost, due to the two-month delay in availability of that information. These changes were made in response to comments which suggested that the amount of cash compensation to exchange partners should be determined (1) by free negotiation, if possible, and (2) if such negotiations fail, then by a method based on a weighted average landed cost, based on sulfur content, of imported crude oil acquired by the exchange partner in the month of delivery.

The exchange ratio for NPR crude oil, as defined in new § 211.68(f)(1), is adopted in a form essentially the same as the first method proposed, which was the method preferred by most commenters. The denominator of the ratio is determined by the two highest posted prices for uncontrolled crude oil similar to the NPR oil being exchanged. The numerator is based on the estimated weighted average delivered cost of crude oil for the month in which the NPR oil is to be delivered to the exchange partner. In response to the commenters' overwhelming preferences, the average cost used is that of the exchange partner delivering oil to the SPR, rather than an industry average. In addition, to be consistent with the determination of the amount of any cash payment under new § 211.68(c)(2)(iii), the numerator is calculated by segregating the exchange partner's average crude costs by sulfur pool, and by allowing for adjustments for transportation and gravity and sulfur content.

In the NOPR, we proposed, in new § 211.68(e)(5), a carryover of exchange/sale obligations to succeeding exchange periods, if a particular exchange partner were directed to deliver oil to the SPR in a quantity that differed from its exchange/sale obligation for that period. As an alternative, we proposed that exchange partners that were not directed to deliver oil to the SPR during an exchange period be required to reimburse the exchange partners that actually delivered oil to the SPR in that period, by sales or trades of crude oil in the volumes owed by the non-delivering exchange partner. No comments were received in regard to these alternative proposals. Because of the likelihood that there would be no more than one exchange period, we are adopting the second alternative, which requires reimbursement among exchange partners, as there would be no following period into which obligations could be carried.

Several other procedural changes have been adopted which are somewhat different than proposed under Alternative No. 1 in the NOPR. First, in response to suggestions by commenters, the period during which exchange partners could submit voluntary exchange offers (if voluntary exchanges are provided for in the Exchange Notice) under § 211.68(c)(1)(i) has been extended to 30 days, instead of 15 days, following publication of the Exchange Notice. The purpose of this change is to further encourage voluntary exchange offers that would be acceptable to DOE, thereby avoiding as much as possible the need for regulated exchanges or sales. Second, the rule requires the submission of proposed delivery schedules under § 211.68(h)(1) no later than 30 days (instead of 15 days as specified in the NOPR) after publication of the Exchange Notice, or after notification by DOE that voluntary exchanges are insufficient. An exchange partner would become obligated to the delivery schedule once notified of acceptance by DOE, but with DOE's permission the schedule could be further changed by the exchange partner up to 30 days prior to the previously scheduled delivery date. This change is made in response to comments received that indicated 15 days is an insufficient period in which to prepare and submit a reasonable delivery schedule, and that suggested changes in delivery schedules be allowed up to 30 days before delivery. Third, we are adopting as the base period runs to stills for calculating exchange/sale obligations the runs to stills for the 12 month period ending two months prior to the beginning of the exchange period. This "rolling" base period is being adopted in response to comments that favored such a period over a fixed period because it would reflect more recent changes in refiners' crude oil supplies, as well as the impact of supplying crude oil to the SPR. Lastly, the final rule requires the balancing of exchange transactions only at the end of each exchange period instead of at 90-day intervals, as was proposed in the NOPR. This change was adopted because the administrative burden of balancing accounts at 90-day intervals outweighs the expected time-value of money benefits of balancing accounts at the more frequent 90-day interval.

V. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of

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[3] The term exchange partner is used in both this preamble and the regulation to describe the refiner required to supply oil under the rule's provisions, but, as the definition of "exchange partner" makes clear in § 211.68, the use of this term does not limit this standby program to situations where oil is exchanged to fill the SPR. Under the new regulation DOE can mandate a pure sale of oil to the SPR, and the seller is still referred to as the "exchange partner."

[4] The term "Exchange Notice" is used in both this preamble and the regulation, but, as similarly noted above with respect to the term "exchange partner," this use of the word exchange does not limit the Notice to matters concerned with exchanges of crude oil for the SPR. As the substantive provisions of new § 211.68 make clear, an Exchange Notice could mandate a pure sale of oil to the SPR.

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Energy Organization Act, we have referred these amendments to the Federal Energy Regulatory Commission (FERC) for a determination whether they would significantly affect any matter within the Commission's jurisdiction. The Commission has advised us that it "has decided not to exercise its discretion to determine that the proposed rule significantly affects any function within the jurisdiction of the Commission."

B. National Environmental Policy Act

As indicated in the preamble to the NOPR, it has been determined that these amendments will not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*), and therefore neither an environmental assessment nor an environmental impact statement is required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044

1. *Waiver of 60-Day Public Comment Period and Authorization to Adopt a Final Rule on 30 Days Notice*

Section 2(c) of Executive Order 12044 imposes a 60 day comment period requirement with respect to the promulgation of proposed significant regulations. If the agency determines a 60-day comment period is not possible, it must provide a brief statement of the reasons for a shorter period. The Executive Order also requires that a regulatory analysis be prepared for all significant regulations that are likely to have a major impact.

Paragraph 12 of the DOE Order 2030.1, which implements Executive Order 12044, requires that whenever a procedural rulemaking requirement imposed by Executive Order 12044 is waived the **Federal Register** notices of both the proposed and final regulations must include an explanation of the circumstances justifying the waiver.

The Secretary granted a waiver of the normal 60-day public comment period and authorized the notice and comment period to be shortened to 30 days with respect to this rulemaking. The Secretary also waived the regulatory analysis requirement. The waiver was granted so that the amendments which are being adopted as a result of this rulemaking can be implemented as soon as possible. The same reasons discussed in the preamble to the NOPR, which justified the Secretary's decision to grant the waiver, remain applicable.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, title 10 of the Code of Federal Regulations, is amended as set forth below, effective February 13, 1981.

Issued in Washington, D.C., January 5, 1981.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 211.62 [Amended]

1. Section 211.62 is amended by adding the definitions of "Naval Petroleum Reserves (NPR)" and "NPR crude oil" in proper alphabetical order to read as follows:

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"Naval Petroleum Reserves (NPR)" means Naval Petroleum Reserve Number 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912; Naval Petroleum Reserve Number 2 (Buena Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912; Naval Petroleum Reserve Number 3 (Teapot Dome), located in Natrona County, Wyoming, established by Executive Order of the President, dated April 30, 1915.

"NPR crude oil" means crude oil produced from the Naval Petroleum Reserves.

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2. Part 211 is amended by adding a new § 211.68 to read as follows:

§ 211.68 Allocation of crude oil for the strategic petroleum reserve through exchange of NPR crude oil and other means.

(a) *Definitions.* For purposes of this section, the following definitions apply:

"Exchange partner" means any refiner that is a refiner-seller as defined in § 211.62. "Exchange partner" also means any other refiner that, on August 8, 1980, was not a small refiner as defined in § 211.62 of this part, unless the refiner's crude oil supplies for any exchange period fall below the refiner's crude oil supplies for the corresponding period in 1972.

"Exchange period" means a consecutive six-month calendar period. The first exchange period shall be established by DOE in the first Exchange Notice.

"High sulfur crude oil "means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Lower forty-eight states" means the forty-eight contiguous states of the United States.

(b) *Required delivery of crude oil to the Strategic Petroleum Reserve.* For the purpose of meeting the storage needs of the Strategic Petroleum Reserve, DOE may through publication of an Exchange Notice direct one or more exchange partners to deliver to the Strategic Petroleum Reserve crude oil of one or more suitable types in quantities determined in accordance with paragraph (e) of this section, in exchange for NPR crude oil or for compensation in cash in accordance with paragraph (c)(2)(iii) of this section.

(c) *Discharge of exchange/sale obligations.* The DOE may specify in the Exchange Notice one or more of the methods set forth in paragraphs (c)(1) and (c)(2) of this section for discharging exchange/sale obligations for each exchange period:

(1) *Voluntary exchange offers*—(i) *Submission of exchange offers.* If so stated in the Exchange Notice for any exchange period, during the 30 days following the publication of the Exchange Notice any exchange partner may submit an exchange offer to DOE. Such an exchange offer shall specify the type or types of crude oil offered to be delivered to the Strategic Petroleum Reserve, the respective volumes of each type of crude oil offered, the week or weeks during which such crude oil is offered to be delivered, the terminal or terminals of the Strategic Petroleum Reserve to which such crude oil is to be delivered, and the ratio for determining the volume of NPR crude oil that the offeror would receive in exchange.

(ii) *Acceptance of exchange offers.* At any time during the 45 days following the publication of the Exchange Notice, DOE may accept any voluntary exchange offer submitted in accordance with paragraph (c)(1)(i) of this section. The exchange/sale obligation of any exchange partner whose offer is accepted by DOE shall be reduced to the extent of the volume of oil actually delivered to the Strategic Petroleum Reserve pursuant to such offer.

(iii) *Voluntary exchanges insufficient.* In the event voluntary exchange offers of crude oil of suitable quality and sufficient quantity are not invited, offered, or accepted for any exchange period to meet the volume of total exchange/sale obligations, then DOE shall so notify the exchange partners and any remaining exchange/sale obligations shall be discharged in accordance with paragraph (c)(2) of this section.

(2) *Mandatory exchange or sale*—(i) *Delivery of oil to the Strategic Petroleum Reserve.* Each exchange partner shall deliver to the Strategic Petroleum Reserve crude oil in a quantity equal to its exchange/sale obligation for that period and of a quality satisfactory to DOE: *Provided, however,* That DOE may direct certain exchange partners to deliver suitable crude oil to the Strategic Petroleum Reserve in specified quantities, whether such quantities are equal to or more or less than the exchange partner's exchange/sale obligation for that period. In determining whether to utilize this proviso, DOE shall consider the relative capabilities of the exchange partners to consummate delivery of the type of oil needed, the volumes of oil involved, and the need to facilitate deliveries to the Strategic Petroleum Reserve. Any exchange partner required under this proviso to deliver a quantity of crude oil in excess of its exchange/sale obligation shall be reimbursed by other exchange partners pursuant to paragraph (e)(5) of this section.

(ii) *Direct exchange for NPR oil.* Each exchange partner making delivery of oil to the Strategic Petroleum Reserve under paragraph (c)(2) of this section shall be entitled to receive at the lease automatic custody transfer units a volume of NPR crude oil in exchange determined by multiplying the volume of crude oil delivered to the Strategic Petroleum Reserve by the exchange ratio specified in paragraph (f) of this section, unless DOE elects to compensate any such exchange partner under paragraph (c)(2)(iii) of this section.

(iii) *Compensation by means other than direct exchange for NPR oil.* For any exchange period DOE may make a cash payment to any exchange partner making delivery of oil to the Strategic Petroleum Reserve under paragraph (c)(2)(i) of this section. The amount of the cash payment shall be determined by negotiations between the exchange partner and DOE. If no agreement as to the amount of the cash payment is reached within 30 days after publication of the Exchange Notice, then the exchange partner shall be paid an amount equal to the exchange partner's estimated weighted average per barrel landed cost of all low sulfur or high sulfur imported crude oil (other than crude oil imported from Canada) delivered to the exchange partner in the month in which the oil is delivered to the Strategic Petroleum Reserve, depending upon whether the oil delivered to the Strategic Petroleum Reserve by that exchange partner is low sulfur or high sulfur crude oil, plus a handling fee of 25 cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in paragraphs (c)(2)(iii)(A) through (c)(2)(iii)(C) of this section. In the second month following the month of delivery an adjustment shall be made to account for any differences between the estimated and actual weighted average per barrel landed costs of the exchange partner.

(A)(*1*) The amount of the cash payment made to an exchange partner under paragraph (c)(2)(iii) of this section shall include an adjustment for transportation expenses by adding to the weighted average costs as calculated under paragraph (c)(2)(iii) of this section: (*i*) Where domestic crude oil (other than Alaskan crude oil) is delivered to the Strategic Petroleum Reserve, the actual cost of transporting the domestic crude oil from (1) the wellhead, in the event the refiner-seller owns the crude oil so delivered or (2) the point of purchase or exchange in the event the refiner-seller acquires the crude oil so delivered pursuant to a purchase or exchange, to the Strategic Petroleum Reserve terminal; (*ii*) where Alaskan crude oil is delivered, the actual cost of transporting the Alaskan crude oil from the port of entry into the lower forty-eight states to the Strategic Petroleum Reserve terminal; (*iii*) where imported crude oil is delivered, the actual cost of transporting the imported crude oil from the U.S. port of entry to the Strategic Petroleum Reserve terminal.

(*2*) The calculation of transportation adjustments under paragraph (c)(2)(iii)(A) of this section shall include pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver the domestic or imported crude oil to the Strategic Petroleum Reserve terminal.

(B) The amount of the cash payment made to an exchange partner under paragraph (c)(2)(iii) of this section shall include an adjustment for gravity differential of crude oil delivered to the Strategic Petroleum Reserve by adding to or subtracting from the weighted average costs as calculated under paragraph (c)(2)(iii) of this section three cents per barrel for each degree API (°API) that the crude oil delivered is above or below, respectively, the weighted average degree API (°API) of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the exchange partner in the month of delivery.

(C) The amount of the cash payment made to an exchange partner under paragraph (c)(2)(iii) of this section shall include an adjustment for sulfur content differential of crude oil delivered to the Strategic Petroleum Reserve by adding to or subtracting from the weighted average costs as calculated under paragraph (c)(2)(iii) of this section three cents per barrel per one tenth percent that the sulfur content by weight of the crude oil being delivered to the Strategic Petroleum Reserve is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the exchange partner in the month of delivery.

(D) To calculate the amount of the cash payment made under paragraph (c)(2)(iii) of this section where the exchange partner receives deliveries of only imported low sulfur crude oil (or only imported high sulfur crude oil) and delivers to the Strategic Petroleum Reserve high sulfur crude oil (or low sulfur crude oil) the exchange partner shall utilize its weighted average per barrel cost of imported crude oil as determined under paragraph (c)(2)(iii) of this section for the particular category of crude oil so imported, and apply the gravity and sulfur adjustments specified in paragraphs (c)(2)(iii) (B) and (C) of this section.

(d) *Exchange Notices.* Whenever the DOE determines that an allocation of crude oil for the Strategic Petroleum Reserve shall be made under this section, the DOE shall issue an Exchange Notice at least 20 days prior to the beginning of the exchange period. The Exchange Notice shall specify the total quantity of crude oil to be delivered to the Strategic Petroleum Reserve; the relative quantities of each type of crude oil and the specifications of each such type; the exchange/sale obligation of each exchange partner; which method or methods of discharging exchange/sale obligations will be required for that exchange period under paragraph (c) of this section; and any other special terms or conditions applicable to exchange/sale transactions for that exchange period.

(e) *Exchange partners' exchange/sale obligations.*—(1) *Total exchange/sale obligation.* The total exchange/sale obligation for each exchange period shall be that quantity of crude oil which the DOE determines should be acquired for the Strategic Petroleum Reserve for that exchange period by means of the regulated exchange or sale transactions provided for in this section. The total exchange/sale obligation shall be published in the Exchange Notice for each exchange period.

(2) *Calculation of exchange/sale obligation of each exchange partner.* (i) The DOE shall compute an exchange/sale obligation for each exchange partner for each exchange period as provided in paragraph (e)(3) of this section.

(ii) Upon notice to DOE, part or all of any exchange partner's exchange/sale obligation may be traded to any other firm any time prior to the beginning of or during the exchange period. Any such trade, however, shall not relieve the exchange partner of its obligation in the event the other firm fails to perform.

(3) *Computation of exchange/sale obligation.* (i) The exchange/sale obligation for each exchange partner shall consist of that exchange partner's share as calculated under paragraph (e)(3)(ii) of this section multiplied by the total exchange/sale obligation for all exchange partners for the exchange period.

(ii) An exchange partner's share is its proportionate share of the total runs to stills of all exchange partners reported during the twelve month period ending on the last day of the third month preceding the beginning of the exchange period expressed as a percentage.

(4) *Credit for oil supplied through non-regulated exchange or sale.* For each barrel of crude oil an exchange partner delivers to the Strategic Petroleum Reserve after July 1, 1980, in a sale or exchange other than pursuant to this section, the exchange partner shall receive a one-barrel credit against its exchange/sale obligations pursuant to this section.

(5) *Required adjustments among exchange partners.* If any exchange partner is directed to supply crude oil to the Strategic Petroleum Reserve in any exchange period under paragraph (c)(2)(i) of this section in an amount in excess of its exchange/sale obligation for that period then such exchange partner shall be reimbursed in that period in the amount of such excess by means of sales or trades of crude oil, or in the discretion of such exchange partner by reimbursement in cash, by those exchange partners that have not been directed to satisfy fully their exchange/sale obligations for that period. Any exchange partner that is unable to obtain such reimbursement may request, in accordance with the procedures established in Subpart G of Part 205 of this chapter, that DOE direct one or more exchange partners to provide such reimbursement by means of a sale of a suitable type of crude oil to the exchange partner making the request. Upon receipt of such a request, DOE may direct one or more exchange partners to sell crude oil to the exchange partner making the request at a price not to exceed the price those exchange partners would have received if they had supplied crude oil to the Strategic Petroleum Reserve.

(f) *Exchange ratio for NPR oil defined*—(1) *Numerator.* The numerator of the ratio shall be the exchange partner's estimated weighted average per barrel landed cost of all low sulfur or high sulfur imported crude oil (other than crude oil imported from Canada) delivered to the exchange partner in the month in which the NPR crude oil is to be delivered to the exchange partner, depending on whether low sulfur or high sulfur crude oil was delivered to the Strategic Petroleum Reserve, plus a handling fee of 25 cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in paragraphs (f)(1)(i) through (f)(1)(iii) of this section. In the second month following the month of delivery an adjustment shall be made to account for any differences between the estimated and actual weighted average per barrel landed costs of the exchange partner.

(i)(A) The numerator of the ratio shall include a positive adjustment for transportation expenses in the following amount: (*1*) Where domestic crude oil (other than Alaskan crude oil) is delivered to the Strategic Petroleum Reserve, the actual cost of transporting the domestic crude oil from (*i*) the wellhead, in the event the refiner-seller owns the crude oil so delivered or (*ii*) the point of purchase or exchange in the event the refiner-seller acquires the crude oil so delivered pursuant to a purchase or exchange, to the Strategic Petroleum Reserve terminal; (*2*) where Alaskan crude oil is delivered, the actual cost of transporting the Alaskan crude oil from the port of entry into the lower forty-eight states to the Strategic Petroleum Reserve terminal; (*3*) where imported crude oil is delivered, the actual cost of transporting the imported crude oil from the U.S. port of entry to the Strategic Petroleum Reserve terminal.

(B) The calculation of transportation adjustments under paragraph (f)(1)(i) of this section shall include pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver the domestic or imported crude oil to the Strategic Petroleum Reserve terminal.

(ii) The numerator of the ratio shall include a positive or negative adjustment for gravity differential of crude oil delivered to the Strategic Petroleum Reserve in the amount of three cents per barrel for each °API that the crude oil delivered is above or below, respectively, the weighted average °API of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the exchange partner in the month of delivery.

(iii) The numerator of the ratio shall include a positive or negative adjustment for sulfur content differential of crude oil delivered to the Strategic Petroleum Reserve in the amount of three cents per barrel per one tenth percent that the sulfur content by weight of the crude oil being delivered to the Strategic Petroleum Reserve is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the exchange partner in the month of delivery.

(iv) In calculating the numerator of the ratio where the exchange partner receives deliveries of only imported low sulfur crude oil (or only imported high sulfur crude oil) and delivers to the Strategic Petroleum Reserve high sulfur crude oil (or low sulfur crude oil), the exchange partner's weighted average per barrel cost of imported crude oil as determined under paragraph (f)(1) of this section for the particular category of crude oil so imported shall be used, and the gravity and sulfur adjustments specified in paragraphs (f)(1)(ii) and (iii) of this section shall be applied.

(2) *Denominator.* (i) For purposes of an exchange of NPR crude oil from Reserve Number 3 (Teapot Dome), the denominator of the ratio shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter of like quality produced in the State of Wyoming.

(ii) For the purposes of an exchange of NPR crude oil from Reserves Number 1 (Elk Hills) or Number 2 (Buena Vista), the denominator of the ratio shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter of like quality produced from each of at least three fields to be designated by DOE.

(iii) The posted prices used shall be those in effect at the time the NPR crude oil is to be delivered to the exchange partner. However, if subsequent to the delivery of the NPR crude oil any price is posted having a retroactive effective date encompassing the delivery date, then the exchange ratio shall be adjusted accordingly. No posted price shall be used in the computation unless an actual purchase has been completed at that price.

(g) *Post-delivery adjustments.* In any exchange transaction, if, subsequent to the time deliveries are completed, adjustments to the volumes of crude oil received and delivered by DOE are necessary to equalize the transaction, and DOE finds it impracticable to deliver or receive additional crude oil, DOE may provide such adjustments by making a cash payment to the exchange partner or by directing the exchange partner to make a cash payment to DOE.

(h) *Delivery of oil to the Strategic Petroleum Reserve.* (1) When exchange/sale obligations are required to be discharged in accordance with paragraph (c)(2) of this section, each exchange partner (unless DOE directs certain exchange partners to deliver crude oil to the SPR) shall submit a proposed delivery schedule to DOE at the address specified in the Exchange Notice as soon as practicable, but no later than 30 days after publication of the Exchange Notice. If, however, the Exchange Notice permits the submission of voluntary exchange offers for that exchange period under paragraph (c)(1) of this section, then the proposed delivery schedule shall be submitted no later than 30 days after DOE notified the exchange partners that voluntary exchanges are insufficient and that exchange/sale obligations are to be discharged by means of mandatory exchange/sale transactions in accordance with paragraph (c)(2) of this section. The proposed delivery schedule shall list, for each proposed delivery date, the types of oil to be delivered, the relative volumes of each oil type, and the exchange partner's preference regarding the terminal to which the oil is proposed to be delivered.

(2) DOE shall consider each proposed delivery schedule submitted under paragraph (h)(1) of this section in the order received and shall notify each exchange partner within five days of receipt of the proposed schedule whether the proposed schedule has been accepted or rejected in whole or in part. All ship nomination and acceptance procedures shall be in accordance with any then-current port manual of the relevant receiving terminal of the Strategic Petroleum Reserve. In determining whether to accept or reject a proposed delivery schedule, DOE shall consider the Strategic Petroleum Reserve's dock and terminal availability and capacity and prior delivery commitments. In its notice rejecting a proposed schedule in whole or in part DOE shall explain its reasons for the rejection and may propose alternative dates, volumes, and/or types of oil which would be appropriate for delivery. To account for daily receipt capabilities at the various terminals, DOE shall in all cases specify the terminal to which a particular shipment shall be delivered.

(3) Upon notice by DOE of acceptance of an exchange partner's delivery schedule, the exchange partner shall be obligated to make delivery of the type and volume of crude oil scheduled on the date scheduled, plus or minus two days. Within five days of receipt of a DOE notice rejecting an exchange partner's delivery schedule, the exchange partner shall submit an alternative proposed delivery schedule to DOE. If such proposed delivery schedule is unacceptable, DOE may specify the delivery schedule. An exchange partner may change its delivery schedule, subject to DOE approval, by giving notice of such change not later than 30 days prior to the delivery date as previously scheduled.

(4) Each exchange partner shall coordinate its deliveries of oil to the Strategic Petroleum Reserve with its receipts from the NPR in a manner such that at the end of each exchange period the exchange partner has not received a volume of NPR crude oil that is greater, multiplied times the exchange ratio, than the volume of crude oil it has delivered to the Strategic Petroleum Reserve.

3. Section 211.65 is amended by adding a new paragraph (c)(2)(iv) to read as follows:

§ 211.65 Method of allocation.

* * * * *

(c) *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency allocations.* * * *

(2) *Emergency allocations.* * * *

(iv) *Special allocation due to loss of supply of NPR crude oil.* (A) *Eligibility.* Any small refiner may apply to ERA for a special allocation of crude oil with respect to one or more of its refineries if: (*1*) The refiner has processed in the refinery for which an allocation is sought a volume of NPR crude oil in excess of five percent of such refinery's crude oil runs to stills during the allocation period that ended on September 30, 1980; (*2*) the refinery has incurred or will incur, during the period for which an allocation is sought, at least a fifty percent loss, from the volumes received in the allocation period that ended on September 30, 1980, of its supply of NPR crude oil for such refinery due to the exchange of NPR crude oil for oil delivered to the Strategic Petroleum Reserve; (*3*) the refiner has exhausted any opportunity to obtain NPR crude oil under 10 U.S.C. 7430(d), during the period for which an allocation is sought; (*4*) the refinery as a result of the loss of its supply of NPR crude oil projects that the crude oil runs to stills for such refinery during the period for which an allocation is sought will be less than the national utilization rate (as used in paragraph (c)(2)(iii) of this section) for all refiners during the second month prior to the period for which an allocation is sought; and (*5*) the refiner cannot reasonably be expected to replace its lost supplies through its own efforts.

(B) *Allocation.* In the event ERA determines that a small refiner is eligible for a special allocation with respect to one or more of its refineries, ERA may assign a maximum allocation for the eligible refinery or refineries for one or more months equal to the volume of NRP crude oil which has been lost for that period, except that no small refiner may receive a special allocation of crude oil for any of its refineries for more than two allocation periods.

* * * * *

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Wednesday
January 14, 1981

Part VI

Department of Education

Transition Program for Refugee Children and Educational Services for Cuban and Haitian Entrant Children; Final Regulations

V 46 / 9 JA 14 81 UMI

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

34 CFR Part 538

Transition Program for Refugee Children

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations to implement the Transition Program for Refugee Children under the authority of the Refugee Act of 1980 (Pub. L. 96–212). Implementation of these regulations will provide supplementary educational assistance to meet the special educational needs of refugee children and to enhance their transition into American society.

EFFECTIVE DATE: These final regulations will be effective February 13, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. James Lockhart, Office of Bilingual Education and Minority Languages Affairs, Department of Education, (Room 505, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 472–7177.

SUPPLEMENTARY INFORMATION:

I. Authority

The statutory authority for this program is the Immigration and Nationality Act, as amended by the Refugee Act of 1980, Pub. L. 96–212 (8 U.S.C. 1522(d)).

II. Background

On September 11, 1980, the Secretary of Education published a Notice of Proposed Rulemaking (NPRM) to implement the transition Program for Refugee Children. The Secretary invited the public to comment on the proposed regulations and received extensive recommendations in response to that invitation. All comments and recommendations received in the Office of Bilingual Education and Minority Languages Affairs prior to October 27, 1980 were considered in the development of those final regulations. A summary of those comments and the Secretary's responses to them are contained in the appendix to the regulations.

These regulations will govern the award of educational assistance grants to benefit eligible refugee children enrolled in elementary and secondary schools, as authorized by the Refugee Act of 1980.

III. Relationship to Other Programs Serving Refugee Children

Commenters asked for clarification on the relationship between this program and a number of other programs, regulations, and laws concerned with providing for the needs of refugee children. Commenters mentioned the following: assistance to States provided under the Refugee Act of 1980; the Educational Services for Cuban and Haitian Entrant Children Program; the Refugee Education Assistance Act of 1980; the Bilingual Education Program; and the proposed regulations governing the rights of language minority students (Nondiscrimination Under Programs Receiving Federal Financial Assistance Through the Education Department ("*Lau*") NPRM). Following is a discussion of the relation of the Transition Program for Refugee Children to each of the programs, regulations, and statutes mentioned by commenters.

1. *Assistance to States provided under the Refugee Act of 1980.* To be eligible for assistance under the Transition Program for Refugee Children, a State must meet the requirements in the Refugee Resettlement Program regulations (45 CFR Part 400) that establish conditions for receiving assistance under the Refugee Act of 1980. Those regulations require a State to submit to the Director of the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS) a plan detailing the State's program for delivering assistance and services to refugees. A State is required to identify in the plan a State Coordinator who will have the responsibility and authority to ensure coordination of resources for refugee resettlement, including the provision of educational services to eligible children.

2. *Educational Services for Cuban and Haitian Entrant Children.* In the preamble to the NPRM for Transition Program for Refugee Children, the Secretary proposed that final regulations for this program be used to administer a program of educational services for Cuban and Haitian entrant children under the Secretary's Discretionary Authority (Section 303 of the Elementary and Secondary Education Act (ESEA)). Public comment strongly supported the Secretary's proposal. Final regulations for the Educational Services for Cuban and Haitian Entrant Children Program (34 CFR Part 539) appear in this issue of the **Federal Register**. With the exception of a different definition for "eligible children" and the absence of the eligibility requirements established in the Refugee Act of 1980 and the regulations governing the Refugee Resettlement Program (45 CFR Part 400), the provisions in 34 CFR Part 539 are identical to the regulations issued in this part (34 CFR Part 538).

3. *Refugee Education Assistance Act of 1980.* Signed into law on October 10, 1980, this Act authorizes a three-year formula grant program for States. Title II of the Act authorizes assistance for local school districts to meet the basic educational needs of recently arrived Cuban and Haitian entrant children. Title III of the Act authorizes assistance for local school districts which have experienced heavy enrollments of Cuban and Haitian entrant and Indochinese refugee children to provide supplementary and basic educational services for those children. The Secretary is preparing to propose regulations to implement the two authorities. The level of funding which a State is entitled to receive under the Refugee Education Assistance Act will not be reduced because of funds made available under the Transition Program for Refugee Children or under the Educational Services for Cuban and Haitian Children Program.

To minimize the reporting burden on SEAs and LEAs eligible for assistance under the various ED programs that provide educational services to refugee and entrant children, the Secretary expects to require only one annual count of eligible refugee and entrant children that identifies whether the children are of Indochinese, Cuban or Haitian, or other origin and the recency of their arrival in the United States (in years). The Secretary believes this counting and reporting format will provide reasonable estimates of children eligible for assistance under the various programs, will simplify the reporting and administrative responsibilities and requirements for SEAs and LEAs, and will enable the Department to promptly administer the Refugee Education Assistance Act when funds are made available.

4. *Bilingual Education Program.* The differences between the Transition Program for Refugee Children and the programs authorized under Title VII of ESEA are essentially the distinctions between a formula grant program that offers a wide range of supplementary assistance exlusively to refugees (Transition Program) and discretionary grant programs that focus on a particular instruction technique, bilingual education (Title VII). Refugee children served by the Transition Program are also eligible for the educational services provided under the Title VII Basic Projects and

Demonstration Projects Program, if those refugee children are limited English proficient, and if the Title VII grant would be supplementary to the basic program of instruction offered by the school district and the educational services provided under this program. The Secretary makes grant awards under Title VII to applicants that demonstrate need for assistance and submit applications proposing high quality projects.

The Title VII support services network (i.e., the National Clearinghouse for Bilingual Education (NCBE), the Bilingual Education Service Centers (BESCs), and the Evaluation, Dissemination, and Assessment Centers (EDACs)) may also provide support for applicants, grantees, subgrantees, and others applying for assistance and serving refugee children under the Transition Program for Refugee Children and the Educational Services for Cuban and Haitian Entrant Children Program. Based on public comment, a selection criterion has been added under the Development and Dissemination Projects Program to evaluate the extent to which an applicant proposes to coordinate activities with existing resource and dissemination centers, such as the Title VII centers. An applicant desiring more information on Title VII support services should contact the person listed in the preamble.

5. *Proposed Regulations Governing Nondiscrimination Under Programs Receiving Federal Financial Assistance Through the Education Department.* On August 5, 1980, the Secretary proposed regulations in the **Federal Register** (45 FR 52052) to implement provisions in Title VI of the Civil Rights Act of 1964 that prevent school districts receiving Federal Financial assistance from denying equality of access to any student because of that student's limited proficiency in English. The proposed *"Lau"* regulations (34 CFR Part 100) are undergoing review in response to extensive public comment. One issue raised by a large number of commenters was the longstanding controversy over the effectiveness of two of the teaching approaches (bilingual education and English as a second language (ESL)) used to improve English language skills of the limited English proficient. The regulations issued here do not specifically support either technique for improving proficiency in the use of the English language. However, as stated in the Education Division General Administrative Regulations (34 CFR 75.500 and 76.500), States and local school districts receiving assistance under Education Department programs must meet the requirements of Title VI of the Civil Rights Act. If the Secretary issues final *Lau* regulations that specify requirements or appropriate methods of instruction, those regulations would apply to all recipients of Federal financial assistance. Civil rights regulations are not to be confused with regulations governing the operation of education programs assisted by the Education Department.

IV. Summary of Changes

Based on a review of the comments on the NPRM, the Secretary has made important changes in the substance and structure of the final regulations. Following is a discussion of some of the major changes in the final regulations.

Restructuring the Regulations.—In comparing the final regulations with the NPRM, the reader will notice many changes in format. Some of these changes were made in response to public comment; they will be discussed in greater detail in the appendix. Other changes resulted from the Secretary's concern that the format of the regulations be easy to understand and to follow, and that the structure of the regulations be consistent with other regulations issued by the Department.

In addition, the part number of the NPRM has been changed (from 45 CFR Part 122b to 34 CFR Part 537) as a result of the transfer of Education Department (ED) regulations from Title 45 to Title 34 in the Code of Regulations (CFR) and the subsequent redesignation of part numbers for ED regulations.

General Comments.—The Secretary particularly invited public comment on six provisions in the proposed regulations.

1. The Secretary invited comment on whether SEAs and LEAs should be required to develop comprehensive applications and compete for grants and subgrants.

The overwhelming public response suggested that this program be operated as a State-administered entitlement program with as few application requirements as possible. The final regulations provide for the award of a formula grant to a SEA and a formula subgrant to an LEA based on the number of eligible children in the State and the LEA.

2. The Secretary invited comment on whether an LEA that does not enroll a sufficient number of refugee children to meet the eligibility criteria established for State-administered subgrants should be eligible to receive a subgrant to serve eligible children enrolled in schools within its jurisdiction.

Commenters consistently rejected the proposed eligibility criteria. That approach has been eliminated. Any LEA with eligible children in schools within its jurisdiction may apply for a subgrant to serve those children.

3. The Secretary invited comment on whether the formula and weights used to distribute funds are appropriate and whether the Secretary should adjust the weights annually.

Public comment supported the concept of additional costs associated with the education of students in secondary schools and recognized that recent arrivals have greater needs which generate additional costs. Although several commenters suggested that the weights be changed from one year intervals to two year intervals, the intervals remain one year. The final regulations retain the provision whereby the Secretary may adjust the formula and the weighting factors through a notice published in the **Federal Register**. The Secretary will carefully consider the commenters' suggestions in determining whether to adjust the formula or the weights.

4. The Secretary invited comment on whether the 15 percent limit on the amount of any grant that may be used for purposes other than English language instruction was too restrictive and whether the Secretary should annually adjust the limit.

While some commenters suggested that the 15 percent limit was too low, experience with the Bilingual Education: Basic Projects Program (Title VII, ESEA) has shown that 15 percent provides more than adequate support for in-service training costs. However, the final regulations retain the provision which allows the Secretary to adjust 15 percent limit, if experience under this program demonstrates that such an adjustment is appropriate. To ensure that school districts may make the best use of a limited amount of funds, the final regulations provide that the 15 percent limit does not apply where a subgrant, contract, or cooperative agreement is made, or direct services are provided, on behalf of 40 or fewer eligible children.

5. The Secretary invited comment on whether the Secretary should annually establish priorities for the Development and Dissemination Projects Program.

Public comment strongly supported this program and the Secretary's annual announcement of program priorities.

6. The Secretary invited comment on whether the Educational Services for Cuban and Haitian Entrant Children Program should be administered under regulations similar to the regulations proposed for the Transition Program for Refugee Children.

Public comment supported the concept that regulations for that program should parallel the procedures and requirements of the regulations issued here. Regulations governing the Educational services for Cuban and Haitian Entrant Children Program (34 CFR Part 539) are published in this issue of the Federal Register.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority placed in parentheses in the line following each substantive provision of the regulations.

Dated: December 16, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Approved: January 8, 1981.

Patricia Roberts Harris,

Secretary of Health and Human Services.

(Catalog of Federal Domestic Assistance Program No. 84.146, Transition Program for Refugee Children)

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 538 to read as follows:

PART 538—TRANSITION PROGRAM FOR REFUGEE CHILDREN

Subpart A—General

Sec.
538.1 What is the transition program for refugee children?
538.2 Who is eligible to apply for financial assistance?
538.3 What regulations apply to this program?
538.4 What definitions apply to this program?

Subpart B—What Activities May the Transition Program Support?

538.10 What activities are eligible for support under State-administered program?
538.11 What activities are eligible for support under the development and dissemination projects program?

Subpart C—How To Apply for a Grant or a Subgrant Under the State-Administered Program and the Development and Dissemination Projects Program?

538.20 What documents does the State submit to receive a grant?
538.21 How is the number of eligible children determined?
538.22 To what extent must a State provide educational services to eligible children enrolled in nonprofit schools?
538.23 When does a State submit its application for a grant?
538.24 What documents must an applicant submit to an SEA to receive a subgrant?
538.25 When does an applicant submit its application?

Subpart D—How Are Grants and Subgrants Made to Applicants Under the State-Administered Program?

Sec.
538.30 How does the Secretary review an application submitted by an SEA?
538.31 What formula will be used to distribute funds to SEAs with approved applications?
538.32 How does the Secretary provide for a substantial and disproportionate increase in the enrollment of eligible children that may occur after a grant has been made?
538.33 How are the amounts available for eligible children in each LEA determined?
538.34 [Reserved]
538.35 What criteria does the Secretary use to review an application under the Development and Dissemination Projects Program?

Subpart E—How Are Funds Under the State-Administered Program To Be Spent?

538.40 What are the restrictions on costs under the State-administered program?

Authority: Immigration and Nationality Act, as amended by the Refugee Act of 1980, Pub. L. 96–212, 8 U.S.C. 1522(d).

Subpart A—General

§ 538.1 What is the transition program for refugee children?

(a) This program provides educational services to meet the special educational needs of eligible children who are enrolled in public and nonprofit private elementary and secondary schools.

(b) This program funds—

(1) Formula grants to States (under the State-Administered Program) based on the number of eligible children in the States; and

(2) Discretionary projects (under the Development and Dissemination Projects Program) designed to produce and demonstrate exemplary approaches, materials, and strategies to meet the special educational needs of eligible children.

(Sec. 412(d)(1) of the Immigration and Nationality Act, as amended)

§ 538.2 Who is eligible to apply for financial assistance?

(a) *State Administered Program.* (1)(i) A State educational agency (SEA) is eligible to apply for a grant to assist local educational agencies (LEAs) in its State in providing special educational services to eligible children, if the State has an approved plan for the administration of refugee resettlement programs in its State on file with the Director of the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS).

(ii) Requirements pertaining to submission and approval of the State plan are contained in 45 CFR Part 400 (Refugee Resettlement Program; Plan and Reporting Requirements for States).

(2) An LEA or a consortium of LEAs may apply to the SEA for a subgrant to provide services to eligible children enrolled in public and nonprofit private schools within its jurisdiction.

(3) If an LEA does not apply for a subgrant to serve eligible children in schools within its jurisdiction, an SEA—

(i) Arranges through subgrants, contracts, or cooperative agreements with public and nonprofit agencies, organizations, and institutions (including institutions of higher education (IHEs)) for the provision of services to those children; or

(ii) Provides services directly to those children.

(b) *Development and Dissemination Projects Program.* The following may apply for a Development and Dissemination project:

(1) An SEA;

(2) An LEA;

(3) An IHE; and

(4) Any other public or nonprofit public agency, organization, or institution.

(Sec. 412(a)(6); 412 (d)(1) of the Immigration and Nationality Act, as amended)

§ 538.3 What regulations apply to this program?

The following regulations apply to this program:

(a) *General.* (1) The regulations in this part 538.

(2) The Education Division General Administrative Regulations (EDGAR) 34 CFR Parts 74, 77, and 78.

(b) *State-Administered Program.* (1) The regulations in 34 CFR Part 76, except—

(i) Section 76.101(a)–(d);

(ii) Section 76.102;

(iii) Section 76.103; and

(iv) Section 76.105.

(2) The regulations in 45 CFR Part 400 (Refugee Resettlement Program; Plan and Reporting Requirements for States).

(c) *Development and Dissemination Projects Program.* The regulations in 34 CFR Part 75.

(d) If any sections or provisions of 45 CFR Part 400 or 34 CFR Parts 74–78 do not apply to this program, the inapplicability of those sections or provisions is explicitly stated in these regulations.

(20 U.S.C. 3474(a))

§ 538.4 What definitions apply to this program?

(a) The following definitions are specific to these regulations:

"Act" means the Refugee Act of 1980 (Pub. L. 96–212) as amended.

"Application" includes the terms "State plan" and "general application" as used in EDGAR 34 CFR Parts 74–78.

"Bilingual education" means instruction given in, and study of, both English and, to the extent necessary to allow the children to achieve competence in the English language, the native language of the eligible children.

"Eligible children" means children who are—

(1)(i) Admitted into the United States as refugees under the authority of the Immigration and Nationality Act, Secs. 203(a)(7) (repealed), 207, or granted asylum in the United States under the authority of Sec. 208 (8 U.S.C. 1153(a)(7)(repealed), 1157, 1158); or

(ii) Paroled into the United States as refugees under the authority of the Immigration and Nationality Act, Sec. 212(d)(5)(8 U.S.C. 1182(d)(5)); or

(iii) Allowed to remain in the United States as refugees because their deportation has been withheld under the authority of the Immigration and Nationality Act, Sec. 243(h)(8 U.S.C. 1253(h)); or

(iv) Granted asylum in the United States as refugees under the authority of 8 CFR Part 108; or

(v) Admitted into the United States as refugees under the authority of the Refugee Act of 1980, Pub. L. 96–212; and

(2) Who are within the age limits for which the applicable State is required or permitted under State law to provide free public elementary and secondary school education for students in kindergarten through grade 12.

"Indochinese children" means aliens who have fled from Cambodia, Vietnam, or Laos, and who—

(1) Have been admitted into the United States as refugees under Section 207 of the Immigration and Nationality Act;

(2) Have been paroled into the United States by the Attorney General under Section 212(d)(5) of the Immigration and Nationality Act; or

(3) Are applicants for asylum, or have been granted asylum in the United States.

(b) The following definitions in EDGAR (34 CFR Part 77) apply to these regulations:

Applicant
Application
Award
Local educational agency (LEA)
Nonprofit
Private
Project
Secretary
State
State educational agency (SEA)

(c) The following definitions in the Elementary and Secondary Education Act of 1965, as amended, apply to these regulations.

Construction
Elementary school
Secondary school

Immigration and Nationality Act, as amended, 20 U.S.C. 2943, and 20 U.S.C. 3474(a)

Subpart B—What Activities May the Transition Program Support?

§ 538.10 What activities are eligible for support under the State-administered program?

The following services may be provided:

(a) Supplemental educational services—with emphasis on instruction to improve English language skills of eligible children—to enable those children to achieve and maintain a satisfactory level of academic performance. These services include—

(1) Testing to determine the educational needs of eligible children;

(2) Special English language instruction;

(3) Bilingual education;

(4) Remedial programs of instruction; and

(5) Special materials and supplies.

(b)(1) Up to 15 percent of the award may be used to provide support services for the eligible children, including but not limited to—

(i) Inservice training for educational personnel to work with eligible children to enable them more effectively to provide services to those children;

(ii) Training for parents of eligible children to enable them to participate more effectively in the education of their children, and

(iii) School counseling and guidance services for eligible children, including referrals to appropriate social services and health agencies.

(2)(i) In a given year, the Secretary may increase or decrease the 15 percent limit in paragraph (b)(1) of this section if the Secretary determines that the need for these services is proportionately greater or less than the need to provide special educational services.

(ii) To make this determination, the Secretary considers evaluations of ongoing projects under this program and recommendations from persons experienced in educating refugee children.

(iii) The Secretary announces any change in the 15 percent limit through publication of a notice in the **Federal Register.**

(3) The restrictions in paragraph (b)(1) of this section do not apply where a subgrant, contract, or cooperative arrangement is made, or direct services are provided, on behalf of 40 or fewer eligible children.

(c)(1) An SEA may use up to one percent of the total funds it receives under the State-Administered Program—

(i) To ensure proper and efficient administration of funds under this program; and

(ii) To provide technical assistance to subgrantees and others who are providing services under this program to eligible children.

(2) The total amount of funds used by an SEA for the costs in paragraph (c)(1) of this section may not exceed $200,000.

(Sec. 412(a)(1)(B); 412(a)(6)(B); 412(d)(1) of the Immigration and Nationality Act, as amended)

§ 538.11 What activities are eligible for support under the development and dissemination projects program?

(a) The following activities are eligible for support—

(1) Development of innovative methods, strategies, curricula, instructional materials, instructional programs, personnel development, or other techniques to meet the special educational needs of eligible children, in general, or of eligible children from particular areas of the world;

(2) Examination of the extent to which various projects effectively meet the special educational needs of eligible children; or

(3) Dissemination through national or regional centers, curriculum materials or exemplary practices that meet the special educational needs of eligible children.

(b) The Secretary may, through a notice published in the **Federal Register,** select specific activities for funding from among those listed in paragraph (a) of this section to respond to the changing national needs for educating eligible children in general or for educating eligible children from particular areas of the world.

(Sec. 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

Subpart C—How Does One Apply for a Grant or a Subgrant Under the State-Administered Program and the Development and Dissemination Projects Program?

§ 538.20 What documents does the State submit to receive a grant?

To receive a grant, an SEA shall submit to the Secretary an application containing the following:

(a) A count of the number of eligible children in the State, as required in § 537.21.

(b) A program plan that includes—

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(1) A description of the SEA's method of counting children eligible for assistance under this program;

(2) A brief description of the services to be provided for those children; and

(3) A brief description of the SEA's plan for administering, monitoring, and evaluating the program.

(c) The following assurances:

(1) An assurance that the SEA will make subgrant awards to LEAs or consortia of LEAs in the State within 60 days of the receipt of the grant award.

(2) An assurance that the SEA will not disapprove in whole or in part an application submitted by an LEA for a subgrant without first affording the LEA a hearing according to the provisions in EDGAR (34 CFR 76.401(d)).

(3) The assurances required in EDGAR (34 CFR 76.101(e)).

(Sec. 412(a)(4) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 347(a))

§ 538.21 How is the number of eligible children determined?

(a) On a date specified by the Secretary through a notice published in the Federal Register, an SEA shall count the number of eligible children enrolled in public and nonprofit private schools in each LEA, who have been admitted into the United States—

(1) Less than one year;

(2) One to two years;

(3) Two to three years; or

(4) Three to four years.

(b)(1) For each category in paragraph (a) of this section, the SEA shall count the number of children enrolled at the elementary school level and the number enrolled at the secondary school level.

(2) For the purpose of this count—

(i) Children who are "enrolled at the elementary school level" means children in grades K–6; and

(ii) Children who are "enrolled at the secondary school level" means children in grades 7–12.

(c) The SEA identifies for each category in paragraphs (a) and (b) of this section the number of Indochinese children and eligible children with another national origin.

(Sec. 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 538.22 To what extent must a State provide educational services to eligible children enrolled in nonprofit private schools?

(a)(1) The SEA shall provide opportunities for eligible children enrolled in nonprofit private schools to receive educational services under this program.

(2) The requirements which must be met by an SEA with respect to eligible children enrolled in nonprofit private schools are contained in EDGAR (34 CFR 76.651–76.662).

(b) If an LEA is unwilling or unable to provide educational services to eligible children enrolled in nonprofit private elementary and secondary schools, an SEA—

(1) Arranges through a subgrant, contract, or cooperative agreement with a public or nonprofit private agency, organization, or institution for the provision of services to those children; or

(2) Provides services directly to those children.

(c) If a State is prohibited by law from providing educational services to children enrolled in nonpofit private elementary and secondary schools, or if the Secretary determines that an SEA is unwilling or has substantially failed to provide educational services on an equitable basis to eligible children enrolled in nonprofit private schools, the Secretary may—

(1) Proportionally reduce the funds granted to the State; and

(2) Arrange for other means of providing services to those children.

(20 U.S.C. 3474(a))

§ 538.23 When does a State submit its application for a grant?

To be eligible for funds, an SEA must transmit its application in accordance with the application notice published in the Federal Register that establishes a deadline for the transmittal of State applications.

(20 U.S.C. 3474(a))

§ 538.24 What documents must an applicant submit to an SEA to receive a subgrant?

To receive a subgrant, an applicant shall submit to the SEA an application containing the following information:

(a) A count of the number of eligible children in its jurisdiction, as required in § 538.21.

(b) A brief description of the educational services to be provided for the eligible children.

(c) The assurances required in EDGAR (34 CFR 76.301(c)).

(Sec. 412(a)(4) of the Immigration and Nationality Act, as amended and 20 U.S.C. 3474(a))

§ 538.25 When does an applicant submit its application?

An SEA establishes a deadline for receipt of applications for subgrants under this program.

(20 U.S.C. 3474(a))

Subpart D—How Are Grants and Subgrants Made to Applicants Under the State-Administered Program?

§ 538.30 How does the Secretary review an application submitted by an SEA?

The Secretary reviews and approves an application submitted by an SEA if the application complies with the requirements in this part.

(20 U.S.C. 3474(a))

§ 538.31 What formula will be used to distribute funds to SEAs with approved applications?

(a)(1) The most weight will be given to eligible children who have been admitted into the United States for less than one year on the date the child count was made.

(2) Eligible children in paragraph (a)(1) of this section enrolled in elementary and secondary grades will be weighted equally.

(b)(1) Less weight will be given for eligible children who have been admitted into the United States for more than one year on the date the child count was made.

(2) Eligible children in paragraph (b)(1) of this section enrolled in secondary schools will be given more weight than eligible children enrolled in elementary schools.

(c)(1) The Secretary uses the weighting factors in paragraph (d) of this section.

(2) The Secretary may increase or decrease any weighting factor by one or two points on an annual basis to respond to changing needs of eligible children.

(3) The Secretary announces the weighting factors each year through publication of a notice in the Federal Register.

(d) Weighting factors for the fund distribution formula are presented in the following table:

Recency of arrival in the United States (in years)	Weighting factors by school level	
	Elementary	Secondary
Less than 1	10	10
1 to 2	7	[illegible]
2 to 3	4	7
3 to 4	1	3
More than 4	0	[illegible]

(e) To determine the amount of a grant—

(1) The applicant's child count for each recency of arrival category is multiplied by the weighting factor for the category;

(2) The products for each category are added; and

(3) The sum of the products are multiplied by the weighted per pupil allocation.

Example: The following table presents a computation for a hypothetical LEA based on the weighting factors in paragraph (d) of this section:

Recency of arrival in the United States (in years)	a Number of eligible children	b Sample weighting factor	Weighted count (product of col. a times b)
Enrolled in Elementary Grades			
0 to 1	10	10	100
1 to 2	10	7	70
2 to 3	5	4	20
3 to 4	0	1	0
More than 4	0	0	0
Enrolled in Secondary Grades			
0 to 1	10	10	100
1 to 2	10	9	90
2 to 3	5	7	35
3 to 4	0	3	0
More than 4	0	0	0
Total	50		415

(4) In the example above, if the weighted per pupil allocation is $50, the grant award would be $20,750. As an example of how much would be paid on behalf of an individual student, if the weighted per pupil allocation is $50, the payment for a student who has been in this country less than a year would be $500; for a secondary grade student who has been in this country between 3 and 4 years, the payment would be $150.

(Sec. 412(d) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 347(a))

§ 538.32 How does the Secretary provide for a substantial and disproportionate increase in the enrollment of eligible children that many occur after a grant has been made?

(a)1) If the Secretary determines that there has been a substantial and disproportionate increase in the enrollment of eligible children, the Secretary may provide SEAs an opportunity to submit evidence of the increase of the number of eligible children enrolled in schools in the State.

(2) Through a notice published in the **Federal Register**, the Secretary invites SEAs with increased enrollments of eligible children to submit a recount of the number of eligible children enrolled in schools in the State, according to the provisions in § 538.21.

(b) Where funds are available, the Secretary may provide additional assistance to SEA based on the increase in the number of eligible children in the State, provided that the SEA submits a plan outlining how the additional funds would be spent to provide services for those children.

(c) In distributing funds under paragraph (b) of this section, the Secretary uses the weighting factors in § 538.31.

(d) The Secretary does not decrease the amount of an award to SEA where there is a decrease in the enrollment of eligible children.

(Secs. 412(a)(1)(B); 412(a)(6)(B); 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 538.33 How are the amounts available for eligible children in each LEA determined?

In determining the amounts available for eligible children in each LEA, the SEA—

(a) Subtracts from the SEA's award the costs budgeted for the administration of the SEA grant award and for technical assistance (These costs may not exceed one percent of the SEA award); and

(2) Applies the formula in § 538.31 to determine the amounts of funds available for eligible children in each LEA.

(Sec. 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

§ 538.34 [Reserved]

§ 538.35 What criteria does the Secretary use to review an application under the development and dissemination projects program?

The Secretary uses the following selection criteria worth a total of 100 points. The relative importance of each criterion is indicated next to the heading of that criterion.

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and elderly.

(b) *Quality of key personnel.* (7 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

Note.—The qualification of project personnel should relate to the population served by the project. For example, when reviewing projects that serve Indochinese refugee children, the Secretary looks for project personnel who have extensive experience or expertise in the culture and language of Indochinese populations.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that show the quality of the evaluation plan for the project. (See 34 CFR 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that show methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (3 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the appilicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Problems addressed.* (20 points)

(1) The Secretary looks for information that shows the extent to which educational problems of national significance are addressed by the project.

(2) The Secretary looks for information that shows the extent to which the project addresses needs that cannot be, or are not being, effectively addressed by State or local efforts.

(g) *Innovativeness.* (20 points)

The Secretary looks for information that shows the extent to which the project involves techniques that are new nationally but that build on current knowledge and research.

(h) *Scope.* (10 points)

The Secretary looks for information that shows the extent to which the applicant proposes a project that—

(1) Is national or regional in scope; and

(2) Provides services, or is likely to improve educational programs, for eligible children throughout the area served.

(i) *Coordination.* (10 points)

The Secretary looks for information that shows the extent to which the project coordinates activities with existing resource and dissemination centers.

(20 U.S.C. 3474(a))

Subpart E—How Are Funds Under the State-Administered Program To Be Spent?

§ 538.40 What are the restrictions on costs under the State-administered program?

(a)(1) Funds may not be used under this program for—

(i) Construction, repair, remodeling, or alteration of facilities or sites;

(ii) Payments of stipends to participants in inservice training or other workshops, including costs of participant travel, meals, or lodging associated with this training; or

(iii) Payments for the provision of health or social services.

(2) The restrictions in paragraph (a) of this section do not apply where a subgrant, contract, or cooperative arrangement is made, or direct services are provided, on behalf of 40 or fewer eligible children.

(b) Allowable costs are subject to the applicable cost principles in 34 CFR Part 74.

(Sec. 412(d)(1) of the Immigration and Nationality Act, as amended, and 20 U.S.C. 3474(a))

Note.—This Appendix is being published for informational purposes only and will not be published in Title 34 Code of Federal Regulations.

Appendix

Summary of Comments and Responses

The following is a summary of the approximately 115 comments received on the notice of proposed rulemaking (NPRM) for the Transition Program for Refugee Children. The comments are arranged in the order of the sections of the proposed regulations to which they pertain. Each set of comments is followed by a response that indicates any change that has been made to the regulations or why no change was considered appropriate.

Many of the added provisions and changes in the language and format of the final regulations are not discussed below. They were prompted by numerous commenters who expressed confusion about the meaning of certain provisions.

Part 537—Transition Program for Refugee Children

§ 122b.1 What is the transition program for refugee children?

Comment. This section and the following section of the proposed regulations generated the greatest number of comments. While commenters strongly supported the purposes and provisions governing the discretionary Development and Dissemination Projects Program, commenters uniformly opposed the dual (entitlement and competitive) nature of the State-administered grants program. Commenters suggested that assistance for refugee children should not be made contingent on the State's ability to prepare competitive proposals. The commenters feared that this competitive approach would tend to favor States that employ superior proposal writers. Commenters overwhelmingly supported an entitlement approach, where a formula grant award is made to a State based on the number of eligible children in the State for whom services are proposed.

Response. A change has been made. The final regulations eliminate the dual grant approach and provide for the award of formula grants to States based on the number of eligible children in the States for whom services are proposed under this program. When a local educational agency (LEA) does not apply to the State for a subgrant to serve the eligible children within its jurisdiction, the State educational agency (SEA) may directly provide services to those children or may arrange, through subgrants, contracts, or cooperative agreements with public and nonprofit private agencies, organizations, and institutions, for services to be provided to those children.

Based on the elimination of the competitive approach, a number of changes to the final regulations have been made. Public comment on those provisions in the proposed regulations that governed the competitive approach of the State-administered projects will not be addressed in this appendix, since that approach has been eliminated from the final regulations.

Comment. Two commenters suggested that services under this program made available to preschool-age refugees and refugee adults.

Response. No change has been made. Section 412(d) of the Refugee Act of 1980 authorizes the provision of special educational services only to refugee children in elementary and secondary schools. Refugee adults are eligible for services under the Adult Education for Immigrants and Indochinese Refugees Program and under the Adult Education Program for Cuban/Haitian Entrants (34 CFR Part 432). Refugee children enrolled in elementary and secondary schools and preschool age refugee children, if limited English porficient, are eligible for special educational services under the Bilingual Education: Basic Projects and Demonstration Projects Programs (34 CFR Parts 501 and 502) authorized under Title VII of the Elementary and Secondary Education Act (ESEA).

Comment. Several commenters requested clarification of the relationship between this program and other programs, legislation; and regulations providing for the needs of refugee and entrant children. The commenters specifically mentioned the following: assistance to States provided under the Refugee Act of 1980; the Educational Services for Cuban and Haitian Entrants Program (Secretary's Discretionary Authority, Section 303 of ESEA; the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), the Bilingual Education Program (Title VII of ESEA, Pub. L. 95–561), and the proposed regulations governing the rights of language minority students (Nondiscrimination Under Programs Receiving Federal Financial Assistance Through the Education Department) (34 CFR Part 100) published on September 11, 1980 in the **Federal Register** (45 FR 52052).

Response. The preamble to these regulations discusses the relation of this

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program to the programs, legislation, and regulations mentioned by commenters.

§ 122b.2 Who is eligible to apply for financial assistance?

Comment. A number of commenters questioned the rationale for the concentration/proportion eligibility threshold established in the proposed regulations for LEAs applying to SEAs for subgrants. Commenters feared that eligible children who were enrolled in schools in LEAs that did not meet the eligibility requirement for a subgrant, would be left unserved. Commenters recommended that all LEAs be permitted to apply for subgrants to serve eligible children in their jurisdiction, regardless of the number, concentration, or proportion of eligible children in schools in their jurisdictions.

Response. A change has been made. The eligibility threshold has been eliminated. Any LEA with eligible children enrolled in schools within its jurisdiction may apply to the SEA for a subgrant to serve those children. When an LEA does not apply either singly or in a consortium for a subgrant, an SEA may provide services directly to the eligible children or may arrange for services to those children.

Comment. One commenter asked whether there were special conditions and restrictions for LEAs that apply as a consortium for a subgrant.

Response. The Education Division General Administrative Regulations (EDGAR) establishes the requirements for eligible parties that apply as a consortium, the LEAs that submit a joint application for a subgrant (34 CFR 76.303). All the conditions in these regulations that govern an LEA that applies singly for a subgrant also govern an LEA that applies in a consortium.

Comment. One commenter asked whether a State was required by law to submit to the Director of the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS) a plan for the administration of refugee resettlement programs in its State to be eligible to apply under this program.

Response. A change has been made. The regulations now state that a State must have an approved State plan on file with the Director of ORR. Requirements pertaining to the submission of that plan are contained in 45 CFR Part 400 (Refugee Resettlement Program; Plan and Reporting Requirements for States), published on September 9, 1980 in the Federal Register (45 FR 59316).

§ 122b.3 What regulations apply to this program?

Comment. One commenter suggested that this section of the regulations should specify which provisions in EDGAR apply to applicants and grantees under the different types of programs.

Response. A change has been made. This section now specifies which provisions in EDGAR apply to the different types of programs.

§ 122b.4 What definitions apply to this program?

Comment. One commenter questioned whether a change in the status of refugee children to permanent residents affects their eligibility under this program.

Response. No change has been made. A change in the refugee status of an eligible child does not preclude that child from receiving services under this program since program eligibility is based on the authority under which the child has entered the United States and not on the current status of the child.

§ 122b.10 What are the two types of State-administered projects?

Comment. Most of the commenters on this section questioned whether the list of eligible activities was inclusive and suggested additional activities eligible for support. Commenters suggested that the list of eligible activities be expanded to include remedial programs of instruction, training for parents, and mental health counseling. Three commenters asked whether bilingual instruction under this program was transitional in nature. One commenter suggested that instruction be conducted with appreciation for the cultural heritage and ethnic background of the eligible children.

Response. A change has been made. The regulations now state that the activities eligible for support under this program include, but are not limited to, the activities listed in this section. In response to public comment, the list of eligible activities has been expanded to include remedial instruction and parent training activities. Mental health counseling is allowable to the extent that a school provides that type of service as part of its ordinary counseling and guidance services.

The regulations now state that educational services should emphasize instruction to improve the English language skills of eligible children. A definition of "bilingual education", which emphasizes the transitional nature of the bilingual instruction supported under this program, has been added to the definition section of the regulations. While it is hoped that instructional activities for refugee children would be conducted with appreciation of the cultural heritage and ethnic backgrounds of those children, these regulations do not specify particular instructional approaches, subjects, or courses of study.

Comment. Several commenters suggested that the regulations establish education or certification requirements for teachers of eligible children.

Response. No changes have been made. Establishing requirements for teachers is not authorized by statute.

Comment. Three commenters suggested that SEAs be allowed to provide technical assistance, where needed, to subgrantees and others assisting eligible children under this program. Several commenters suggested that the limit on funds spent for administration of a State grant be reduced from five percent to one percent, in line with the restrictions on administrative costs established in the Refugee Education Assistance Act of 1980.

Response. A change has been made. The regulations now state that an SEA may use up to one percent of the funds it receives in a State-administered grant for administration of the grant and for provision of technical assistance to subgrantees and others who are providing services under this program to eligible children.

§ 122b.11 What is a development and dissemination project?

Comment. One commenter asked why the format of this section did not parallel the format of the section describing eligible activities under the State-Administered Program. Another commenter asked whether development and dissemination projects would use existing centers, such as the Bilingual Education Service Centers (BESCs) funded under Title VII of ESEA, to disseminate materials and exemplary practices.

Response. A change has been made. The format of this section has been revised. The preamble to these regulations addresses the relation of the activities supported under the Transition Program for Refugee Children to the activities supported under the Bilingual Education Program. In addition, a selection criterion has been added that measures the extent to which the applicant under the Development and Dissemination Projects Program will coordinate activities with existing resource and dissemination centers.

§ 122b.20 What are the application requirements for grants under both types of State-administered projects?

Comment. Several commenters expressed confusion about the application and child count requirements for SEAs. A few commenters suggested that the SEA report in its application its plans for administering and monitoring the grant. Other commenters stated that identification of an eligible child's country of origin was burdensome. They suggested that the identification requirement either be eliminated or that a list of possible countries of origin be attached to the application to simplify the identification process.

Response. A change has been made. The section outlining application requirements has been rewritten. An SEA is now required to briefly describe its plan for administering and monitoring the program. In addition, this section cites the EDGAR provisions that govern assurances required from applicants.

To minimize the reporting burden of SEAs and LEAs eligible for assistance under the various ED programs (this program, Educational Services for Cuban and Haitian Entrant Children Program, and Titles II and III of the Refugee Education Assistance Act of 1980) that provide educational services to different refugee and entrant groups, the Secretary requires from SEAs and LEAs a single count of refugee and entrant children that identifies whether the children are of Indochinese, Cuban and Haitian, or other origin and records the recency of their arrival in the United States (in years).

The Secretary will use the counts reported under the various categories for recency of arrival in the United States to determine those Cuban and Haitian entrant children eligible under the Educational Services for Cuban and Haitian Entrant Children Program and those Cuban, Haitian, and Indochinese refugee children eligible under the Refugee Education Assistance Act of 1980 based on the date of their entry into the United States. The Secretary will use the single count to determine the amount of funds available for SEAs and LEAs under each of the refugee and entrant assistance programs. The Secretary believes this counting and reporting format will provide the best estimate of children eligible for assistance under the various programs and will greatly simplify the reporting and administrative responsibilities and requirements for SEAs.

In the event that funds are made available to implement Title II of the Refugee Education Assistance Act of 1980, the Secretary may make an additional request to States to identify those Cuban and Haitian entrant children who are enrolled in public schools, since the form recording the State's single count does not distinguish between eligible children enrolled in public or nonprofit private schools. To make awards under Title III of the Refugee Education Assistance Act of 1980 which weights the recent of arrival of eligible children in an LEA, the Secretary will compare the LEA's current count with previous counts to determine the number of children who are new arrivals.

Comment. A few commenters suggested a second child count be conducted to allow for increases in the enrollment of eligible children that may occur between the first count and the beginning of the school year for which funds are made available.

Response. A section has been added which explains how the Secretary may provide for a substantial and disproportionate increase in the enrollment of eligible children that may occur after grants have been made. If the Secretary determines that there has been such an increase in the enrollment of eligible children, the Secretary may invite SEAs with increased enrollments to submit recounts of the number of eligible children. Where funds are available, the Secretary may provide additional funds to the SEA based on the increases in the number of eligible children, using the weighting factors in the regulations.

§ 122b.21 What are the application requirements for development and dissemination projects?

Comment. A few commenters questioned how an application under this program should be developed. They asked whether the narrative should address the requirements in this section as well as the selection criteria listed in § 122b.34 or whether the requirements in the two sections are the same.

Response. A change has been made. Section 122b.21 has been deleted. An applicant under this program should develop an application that addresses the selection criteria.

§ 122b.32 How is a subgrant under a State-administered subgrant project made?

Comment. Several commenters questioned the rationale for establishing the provision whereby the Secretary may increase by up to 100 percent the amount an LEA may receive based on a high concentration of eligible children (at least four percent) in schools within the jurisdiction of the LEA. Commenters suggested that the needs of LEAs with high concentrations of refugee children were not necessarily greater than the needs of LEAs enrolling few eligible children. They recommended that this provision be eliminated from the final regulations and that, to the extent possible, funds be distributed equitably among all eligible children according to the weighted formula in the regulations.

Response. The concentration provisions have been deleted from the final regulations.

§ 122b.33 What formula will be used to distribute funds under both types of State-administered projects?

Comment. Commenters on this section generally accepted the Secretary's definition of elementary school (grades K–6) and secondary school (grades 7–12). They supported the concept of additional costs associated with the education of secondary school students and acknowledged that recent arrivals have greater needs which generate additional costs. A few commenters recommended that the weights be set at intervals of two years, instead of the one year intervals in the proposed regulations. They noted that their educational experience indicated that refugee children generally required more than a single year of special educational services to adapt to the new environment and to achieve a satisfactory level of academic performance.

Response. No change has been made to the regulations. Through a notice published in the **Federal Register** the Secretary may increase or decrease the weighting factors, if such change is deemed appropriate. The Secretary will carefully consider the comments received on this section in making that determination.

§ 122b.40 What are the restrictions on costs a grant or subgrant may support?

Comment. One commenter suggested that travel costs be allowed, as well as stipends for inservice training. A few commenters questioned the rationale for the 15 percent maximum allowed for support services, such as training and counseling activities. One commenter recommended raising the $200,000 limit on administrative costs. Several commenters suggested that a "supplement not supplant" requirement be added to this section.

Response. Under the final regulations, the restrictions on costs under this program do not apply where a subgrant, contract, or cooperative agreement is made, or direct services are provided, on behalf of 40 or fewer eligible children.

Since the anticipated level of funding for this program is low (less than $300 per eligible child) compared to the needs of the eligible children, funds must be concentrated on the provision of direct services to the children. It is expected that LEAs will assume, or find resources to cover, the travel and stipend costs for education personnel. However, it is conceivable that the best use of a limited amount of funds may be to cover the costs of sending a teacher to a workshop on the education of refugee children or providing health care for a refugee child so that the child may attend school.

A similar provision has been added to the section in the final regulations describing eligible activities that makes the 15 percent limit on the amount of funds available for support services applicable only where a subgrant, contract, or cooperative agreement is made, or direct services are provided, on behalf of more than 40 children. The Secretary believes 15 percent to be a reasonable allowance for support services under this program. Experience under the Bilingual Education: Basic Projects Program (Title VII, ESEA) indicates that 15 percent is more than adequate to cover inservice training costs. The average expenditure for inservice training is ten percent under the Basic Projects Program, which supports programs of bilingual education for children of limited English proficiency. However, the final regulations have retained a provision that enables the Secretary to decrease or increase that limit if experience indicates that a change in the limit is needed.

Provisions governing support services and administrative activities have been deleted from this section and placed in the section in the final regulations that govern eligible activities under the State-Administered Program. Many commenters believed that funds should directly benefit eligible children. As a result, the program was greatly streamlined so more funds would pass directly to LEAs. A single State administered program replaced the dual programs of direct and indirect assistance to eliminate unnecessary and costly administrative burdens. Furthermore, to increase the total amount of funds reaching children, in light of the reduced administrative burdens on the States, the maximum administrative set-aside was reduced from 5% to 1% of the total grant. The Secretary believes that a 1% limit on administrative costs is more in keeping with the amount set aside for administration under a similar program (the Refugee Education Assistance Act of 1980) and provides adequate support for State administrative costs.

The legislation does not authorize a "supplement not supplant" requirement.

§ 122b.41 To what extent must a grantee or subgrantee provide an opportunity for eligible private school students to participate in a project?

Comment. Several commenters requested clarification of the requirements pertaining to the participation of children enrolled in nonprofit private schools. A few commenters suggested that bypass provisions be added to permit an SEA to arrange for or provide services to eligible children enrolled in nonprofit private schools, if an LEA is unwilling or unable to provide services to those children and to permit the Secretary to arrange for services for eligible children enrolled in nonprofit private schools when an SEA is not permitted by law to serve those children.

Response. Bypass provisions have been added.

[FR Doc. 81-1246 Filed 1-13-81; 8:45 am]

BILLING CODE 4000-01-M

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34 CFR Part 539

Educational Services for Cuban and Haitian Entrant Children

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations to implement the Educational Services for Cuban and Haitian Entrant Children Program under the Secretary's Discretionary Authority, Section 303 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended. These regulations provide supplementary educational assistance to meet the special educational needs of Cuban and Haitian entrant children and to enhance their transition into American society.

EFFECTIVE DATE: These final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed if Congress takes certain adjournments. If you want to know the effective date of these final regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. James Lockhart, Office of Bilingual Education and Minority Languages Affairs, Department of Education, (Room 505, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 472-7177.

SUPPLEMENTARY INFORMATION:

I. Authority

The statutory authority for this program is Section 303 of ESEA, as amended, Pub. L. 95-561 (20 U.S.C. 2943).

II. Backgrounds

On September 11, 1980, the Secretary of Education published a Notice of Proposed Rulemaking (NPRM) to implement the Transition Program for Refugee Children. Since the "entrant" status of the Cuban and Haitian children preclude them from receiving services under the Transition Program for Refugee Children, the Secretary proposed in the preamble to the NPRM that a program of educational services for those children be operated under the Secretary's Discretionary Authority using regulations that parallel the final regulations for the Transition Program for Refugee Children. Public comment strongly supported the Secretary's proposal. Therefore, except for a different definition of "eligible children" and the absence of State eligibility requirements that are specific to the Transition Program for Refugee Children, the regulations issued in this part (34 CFR Part 539) are identical to those issued for the Transition Program for Refugee Children (34 CFR Part 538).

Readers should review the preamble and the appendix to the regulations governing the Transition Program for Refugee Children for a discussion of the relationship between this program and other programs and legislation providing for Cuban and Haitian entrant/refugee children and for a summary of the public comments and the Secretary's responses. The regulations for the Transition Program for Refugee Children are published in this issue of the **Federal Register**.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority placed in parentheses on the line following each substantive provision of the regulations.

Dated: December 16, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance Program No. 84.138, Educational Services for Cuban and Haitian Entrant Children)

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 539 to read as follows:

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PART 539—EDUCATIONAL SERVICES FOR CUBAN AND HAITIAN ENTRANT CHILDREN

Subpart A—General

Sec.

539.1 What is the Educational Services for Cuban and Haitian Entrant Children?
539.2 Who is eligible to apply for financial assistance?
539.3 What regulations apply to this program?
539.4 What definitions apply to this program?

Subpart B—What Activities May Be Supported under the Educational Services for Cuban and Haitian Entrant Children Program?

539.10 What activities are eligible for support under State-Administered Program?
539.11 What activities are eligible for support under the Development and Dissemination Projects Program?

Subpart C—How to Apply for a Grant or a Subgrant Under the State-Administered Program and the Development and Dissemination Projects Program?

539.20 What documents does the State submit to receive a grant?
539.21 How is the number of eligible children determined?
539.22 To what extent must a State provide educational services to eligible children enrolled in nonprofit schools?
539.23 When does a State submit its application for a grant?
539.24 What documents must an applicant submit to an SEA to receive a subgrant?
539.25 When does an applicant submit its application?

Subpart D—How Are Grants and Subgrants Made to Applicants Under the State-Administered Program?

539.30 How does the Secretary review an application submitted by an SEA?
539.31 What formula will be used to distribute funds to SEAs with approved applications?
539.32 How does the Secretary provide for a substantial and disproportionate increase in the enrollment of eligible children that may occur after a grant has been made?
539.33 How are the amounts available for eligible children in each LEA determined?
539.34 [Reserved]
539.35 What criteria does the Secretary use to review an application under the Development and Dissemination Projects Program?

Subpart E—How Are Funds Under the State-Administered Program To Be Spent?

539.40 What are the restrictions on costs under the State-Administered Program?

Authority: Secretary's Discretionary Authority, Section 303 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, Pub. L. 95–561, 20 U.S.C. 2943

Subpart A—General

§ 539.1 What is the Educational Services for Cuban and Haitian Entrant Children Program?

(a) This program provides educational services to meet the special educational needs of eligible children who are enrolled in public and nonprofit private elementary and secondary schools.

(b) This program funds—

(1) Formula grants to States (under the State-Administered Program) based on the number of eligible children in the States; and

(2) Discretionary projects (under the Development and Dissemination Projects Program) designed to produce and demonstrate exemplary approaches, materials, and strategies to meet the special educational needs of eligible children.

(20 U.S.C. 2943)

§ 539.2 Who is eligible to apply for financial assistance?

(a) *State Administered Program.* (1) A State educational agency (SEA) is eligible to apply for a grant to assist local educational agencies (LEAs) in its State in providing special educational services to eligible children.

(2) An LEA or a consortium of LEAs may apply to the SEA for a subgrant to provide services to eligible children enrolled in public and nonprofit private schools within its jurisdiction.

(3) If an LEA does not apply for a subgrant to serve eligible children in schools within its jurisdiction, an SEA—

(i) Arranges through subgrants, contracts, or cooperative agreements with public and nonprofit agencies, organizations, and institutions (including institutions of higher education (IHEs)) for the provision of services to those children; or

(ii) Provides services directly to those children.

(b) *Development and Dissemination Projects Program.* The following may apply for a Development and Dissemination project:

(1) An SEA;

(2) An LEA;

(3) An IHE; and

(4) Any other public or nonprofit public agency, organization, or institution.

(20 U.S.C. 2943)

§ 539.3 What regulations apply to this program?

The following regulations apply to this program:

(a) *General.* (1) The regulations in this part 539.

(2) The Education Division General Administrative Regulations (EDGAR) 34 CFR Parts 74, 77, and 78.

(b) *State-Administered Program.* The regulations in 34 CFR Part 76, except—

(1) Section 76.101(a)–(d);

(2) Section 76.102;

(3) Section 76.103; and

(4) Section 76.105.

(c) *Development and Dissemination Projects Program.* The regulations in 34 CFR Part 75.

(d) If any sections or provisions of 34 CFR Parts 74–78 do not apply to this program, the inapplicability of those sections or provisions is explicitly stated in these regulations.

(20 U.S.C. 3474(a))

§ 539.4 What definitions apply to this program?

(a) The following definitions are specific to these regulations:

"Application" includes the terms "State plan" and "general application" as used in the EDGAR 34 CFR Parts 74–78.

"Bilingual education" means instruction given in, and study of, both English and, to the extent necessary to allow the children to achieve competence in the English language, the native language of the eligible children.

"Eligible children" means aliens who—

(1) Are Cuban-Haitians entrants (status pending) who entered the United States on or after November 1, 1979; and

(2) Who are within the age limits for which the applicable State is required or permitted under State law to provide free public elementary and secondary school education for students in kindergarten through grade 12.

(b) The following definitions in EDGAR (34 CFR Part 77 apply to these regulations:

Applicant
Application
Award
Local educational agency (LEA)
Nonprofit
Private
Project
Secretary
State
State educational agency (SEA)

(c) The following definitions in the Elementary and Secondary Education Act of 1965, as amended, apply to these regualtions.

Construction
Elementary school
Secondary school

(20 U.S.C. 2854, and 20 U.S.C. 3474(a))

Subpart B—What Activities May Be Supported Under the Educational Services for Cuban and Haitian Entrant Children Program?

§ 539.10 What activities are eligible for support under the State-Administered Program?

The following services may be provided:

(a) Supplemental educational services—with emphasis on instruction to improve English language skills of eligible children—to enable those children to achieve and maintain a satisfactory level of academic performance. These services include—

(1) Testing to determine the educational needs of eligible children;

(2) Special English language instruction;

(3) Bilingual education;

(4) Remedial programs of instruction; and

(5) Special materials and supplies.

(b)(1) Up to 15 percent of the award may be used to provide support services for the eligible children, including but not limited to—

(i) Inservice training for educational personnel to work with eligible children to enable them more effectively to provide services to those children;

(ii) Training for parents of eligible children to enable them to participate more effectively in the education of their children, and

(iii) School counseling and guidance services for eligible children, including referrals to appropriate social services and health agencies.

(2)(i) In a given year, the Secretary may increase or decrease the 15 percent limit in paragraph (b)(1) of this section, if the Secretary determines that the need for these services is proportionately greater or less than the need to provide special educational services.

(ii) To make this determination, the Secretary considers evaluations of ongoing projects under this program and recommendations from persons experienced in educating refugee children.

(iii) The Secretary announces any change in the 15 percent limit through publication of a notice in the **Federal Register**.

(3) The restrictions in paragraph (b)(1) of this section do not apply where a subgrant, contract, or cooperative arrangement is made, or direct services are provided, on behalf of 40 or fewer eligible children.

(c)(1) An SEA may use up to one percent of the total funds it receives under the State-Administered Program—

(i) To ensure proper and efficient administration of funds under this program; and

(ii) To provide technical assistance to subgrantees and others who are providing services under this program to eligible children.

(2) The total amount of funds used by an SEA for the costs in paragraph (c)(1) of this section may not exceed $200,000.

(20 U.S.C. 2943)

§ 539.11 What activities are eligible for support under the Development and Dissemination Projects Program?

(a) The following activities are eligible for support—

(1) Development of innovative methods, strategies, curricula, instructional materials, instructional programs, personnel development, or other techniques to meet the special educational needs of eligible children, in general, or of eligible children from particular areas of the world;

(2) Examination of the extent to which various projects effectively meet the special educational needs of eligible children; or

(3) Dissemination through national or regional centers, curriculum materials or exemplary practices that meet the special educational needs of eligible children.

(b) The Secretary may, through a notice published in the **Federal Register**, select specific activities for funding from among those listed in paragraph (a) of this section to respond to the changing national needs for educating eligible children in general or for educating eligible children from particular areas of the world.

(20 U.S.C. 2943 and 20 U.S.C. 3474(a))

§ 539.21 How is the number of eligible children determined?

(a) On a date specified by the Secretary through a notice published in the **Federal Register**, an SEA shall count the number of eligible children enrolled in public and nonprofit private schools in each LEA, who have been admitted into the United States—

(1) Less than one year;

(2) One to two years;

(3) Two to three years; or

(4) Three to four years.

(b)(1) For each category in paragraph (a) of this section, the SEA shall count the number of children enrolled at the elementary school level and the number enrolled at the secondary school level.

(2) For the purpose of this count—

(i) Children who are "enrolled at the elementary school level" means children in grades K–6.

(ii) Children who are "enrolled at the secondary school level" means children in grades 7–12.

(20 U.S.C. 2943 and 20 U.S.C. 3474(a))

§ 539.22 To what extent must a State provide educational services to eligible children enrolled in nonprofit private schools?

(a)(1) The SEA shall provide opportunities for eligible children enrolled in nonprofit private schools to receive educational services under this program.

(2) The requirements which must be met by an SEA with respect to eligible children enrolled in nonprofit private schools are contained in EDGAR (34 CFR 76.651–76.662).

(b) If an LEA is unwilling or unable to provide educational services to eligible children enrolled in nonprofit private elementary and secondary schools, an SEA—

(1) Arranges through a subgrant, contract, or cooperative agreement with a public or nonprofit private agency, organization, or institution for the provision of services to those children; or

(2) Provides services directly to those children.

(c) If a State is prohibited by law from providing educational services to children enrolled in nonprofit private elementary and secondary schools, or if the Secretary determines that an SEA is unwilling or has substantially failed to provide educational services on an equitable basis to eligible children enrolled in nonprofit private schools, the Secretary may—

(1) Proportionally reduce the funds granted to the State; and

(2) Arrange for other means of providing services to those children.

(20 U.S.C. 3474(a))

§ 539.23 When does a State submit its application for a grant?

To be eligible for funds, an SEA must transmit its application in accordance with the application notice published in the **Federal Register** that establishes a deadline for the transmittal of State applications.

(20 U.S.C. 3474(a))

§ 539.24 What documents must an applicant submit to an SEA to receive a subgrant?

To receive a subgrant, an applicant shall submit to the SEA an application containing the following information:

(a) A count of the number of eligible children in its jurisdiction, as required in § 539.21.

(b) A brief description of the educational services to be provided for the eligible children and the estimated costs.

(c) The assurances required in EDGAR (34 CFR 76.301(c)).

(Sec. 412(a)(4) of the Immigration and Nationality Act, as amended and 20 U.S.C. 3474(a))

§ 539.25 When does an applicant submit its application?

An SEA establishes a deadline for receipt of applications for subgrants under this program.

(20 U.S.C. 3474(a))

Subpart D—How Are Grants and Subgrants Made to Applicants Under the State-Administered Program?

§ 539.30 How does the Secretary review an application submitted by an SEA?

The Secretary reviews and approves an application submitted by an SEA if the application complies with the requirements in this part.

(20 U.S.C. 3474(a))

§ 539.31 What formula will be used to distribute funds to SEAs with approved applications?

(a)(1) The most weight will be given to eligible children who have been admitted into the United States for less than one year on the date the child count was made.

(2) Eligible children in paragraph (a)(1) of this section enrolled in elementary and secondary grades will be weighted equally.

(b)(1) Less weight will be given for eligible children who have been admitted into the United States for more than one year on the date the child count was made.

(2) Eligible children in paragraph (b)(1) of this section enrolled in secondary schools will be given more weight than eligible children enrolled in elementary schools.

(c)(1) The Secretary uses the weighting factors in paragraph (d) of this section.

(2) The Secretary may increase or decrease any weighting factor by one or two points to respond to changing needs of eligible children.

(3) The Secretary announces the weighting factors through publication of a notice in the Federal Register.

(d) Weighting factors for the fund distribution formula are presented in the following table:

Recency of arrival in the United States (in years)	Weighting factors by school level	
	Elementary	Secondary
Less than 1	10	10
1 to 2	7	9
2 to 3	4	7
3 to 4	1	3
More than 4	0	0

(e) To determine the amount of a grant—

(1) The applicant's child count for each recency of arrival category is multiplied by the weighting factor for the category;

(2) The products for each category are added; and

(3) The sum of the products are multiplied by the weighted per pupil allocation.

Example: The following table presents a computation for a hypothetical LEA based on the weighting factors in paragraph (d) of this section:

Recency of arrival in the United States (in years)	(a) Number of eligible children	(b) Sample weighting factor	Weighted count (product of col. a times b)
Enrolled in Elementary Grades			
0 to 1	10	10	100
1 to 2	10	7	70
2 to 3	5	4	20
3 to 4	0	1	0
More than 4	0	0	0
Enrolled in Secondary Grades			
0 to 1	10	10	100
1 to 2	10	9	90
2 to 3	5	7	35
3 to 4	0	3	0
More than 4	0	0	0
Total	50		415

(4) In the example above, if the weighted per pupil allocation is $50, the grant award would be $20,750. As an example of how much would be paid on behalf of an individual student, if the weighted per pupil allocation is $50, the payment for a student who has been in this country less than a year would be $500; for a secondary grade student who has been in this country between 3 and 4 years, the payment would be $150.

(20 U.S.C. 2943 and 20 U.S.C. 3474(a))

§ 539.32 How does the Secretary provide for a substantial and disproportionate increase in the enrollment of eligible children that may occur after a grant has been made?

(a)(1) If the Secretary determines that there has been a substantial and disproportionate increase in the enrollment of eligible children, the Secretary may provide SEAs an opportunity to submit evidence of the increase of the number of eligible children enrolled in schools in the State.

(2) Through a notice published in the Federal Register, the Secretary invites SEAs with increased enrollments of eligible children to submit a recount of the number of eligible children enrolled in schools in the State, according to the provisions in § 539.21.

(b) Where funds are available, the Secretary may provide additional assistance to an SEA based on the increase in the number of eligible children in the State, provided that the SEA submits a plan outlining how the additional funds would be spent to provide services for those children.

(c) In distributing funds under paragraph (b) of this section, the Secretary uses the weighting factors in § 539.31.

(d) The Secretary does not decrease the amount of an award to an SEA where there is a decrease in the enrollment of eligible children.

(20 U.S.C. 2943 and 20 U.S.C. 3474(a)).

§ 539.33 How are the amounts available for eligible children in each LEA determined?

In determining the amounts available for eligible children in each LEA, the SEA—

(a) Subtracts from the SEA's award the costs budgeted for the administration of the SEA grant award and for technical assistance (These costs may not exceed one percent of the SEA award.); and

(2) Applies the formula in § 539.31 to determine the amounts of funds available for eligible children in each LEA.

(20 U.S.C. 2943 and 20 U.S.C. 3474(a))

§ 539.34 [Reserved]

§ 539.35 What criteria does the Secretary use to review an application under the Development and Dissemination Projects Program?

The Secretary uses the following selection criteria worth a total of 100 points. The relative importance of each criterion is indicated next to the heading of that criterion.

(a) *Plan of operation* (20 points)

(1) The Secretary reviews each application for information that shows that quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(b) *Quality of key personnel.* (7 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

Note.—The qualification of project personnel should relate to the population served by the project. For example, when reviewing projects that serve Haitian children, the Secretary looks for project personnel who have extensive experience or expertise in the culture and language of the Haitian population.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 76.590—Evaluation by the grantee)

(2) The Secretary looks for information that show methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (3 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Problems addressed.* (20 points)

(1) The Secretary looks for information that shows the extent to which educational problems of national significance are addressed by the project.

(2) The Secretary looks for information that shows the extent to which the project addresses needs that cannot be, or are not being, effectively addressed by State or local efforts.

(g) *Innovativeness.* (20 points)

The Secretary looks for information that shows the extent to which the project involves techniques that are new nationally but that build on current knowledge and research.

(h) *Scope.* (10 points)

The Secretary looks for information that shows the extent to which the applicant proposes a project that—

(1) Is national or regional in scope; and

(2) Provides services, or is likely to improve educational programs, for eligible children throughout the area served.

(i) *Coordination.* (10 points)

The Secretary looks for information that shows the extent to which the project coordinates activities with existing resource and dissemination centers.

(20 U.S.C. 3474(a))

Subpart E—How Are Funds Under the State-Administered Program To Be Spent?

§ 539.40 What are the restrictions on costs under the State-Administered Program?

(a)(1) Funds may not be used under this program for—

(i) Construction, repair, remodeling, or alteration of facilities or sites;

(ii) Payments of stipends to participants in inservice training or other workshops, including costs of participant travel, meals, or lodging, associated with this training; or

(iii) Payments for the provision of health or social services.

(2) The restrictions in paragraph (a) of this section do not apply where a subgrant, contract, or cooperative arrangement is made, or direct services are provided, on behalf of 40 or fewer eligible children.

(b) Allowable costs are subject to the applicable cost principles in 34 CFR Part 74.

(20 U.S.C. 2943 and 3474(a))

[FR Doc. 81-1247 Filed 1-13-81; 8:45 am]

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federal register

Wednesday
January 14, 1981

Part VII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

January 1, 1981.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of January 1, 1981 of 26 deferrals contained in the first two special messages for FY 1981. These messages were transmitted to the Congress on October 1, and December 2, 1980.

Deferrals (Table A and Attachment A)

As of January 1, 1981, $2,737.8 million in 1981 budget authority was being deferred from obligation and another $6.7 million in 1981 obligations was being deferred from expenditure. Attachment A shows the history and status of each deferral reported during FY 1981.

Information From Special Messages

The special messages containing information on the deferrals covered by the cumulative report are printed in the **Federal Register** of:

Monday, October 6, 1980 (Part VIII, Vol. 45, No. 195)
Friday, December 5, 1980 (Part VII, Vol. 45, No. 236)

James T. McIntyre, Jr.,
Director.

Table A—Status of 1981 Deferrals

	Amount (in millions of dollars)
Deferrals proposed by the President	4,236.1
Routine Executive releases (−1,491.6 million) and adjustments (−0−) through January 1, 1981	1,491.6
Overturned by the Congress	−0−
Currently before the Congress	[1]2,744.5

[1] This amount includes $6.7 million in outlays for a Department of the Treasury deferral (D81-19A).

Attachments.

BILLING CODE 3110-01-M

PAGE 1 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 01/03/81 17:11

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT. TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULA-TIVE OMB /AGENCY RELEASES	CONGRES-SIONALLY REQUIRED RELEASES	CUMULA-TIVE ADJUST-MENTS	AMOUNT DEFERRED AS OF 1-01-81
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military credit sales	BA	D81-23	659,250		12 2 80	-409,250			250,000
Economic support fund	BA	D81-24	1,984,500		12 2 80	-690,880			1,293,620
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D81- 1	16,481		10 1 80				16,481
Expenses, brush disposal	BA	D81- 2	37,342		10 1 80				37,342
DEPARTMENT OF AGRICULTURE TOTAL	BA		53,823						53,823
DEPARTMENT OF COMMERCE									
General Administration									
Participation in U.S. expositions	BA	D81- 3	2,867		10 1 80				2,867
National Oceanic and Atmospheric Administration									
Construction	BA	D81- 4	10,230		10 1 80	-5,230			5,000
DEPARTMENT OF COMMERCE TOTAL	BA		13,097			-5,230			7,867

PAGE 2 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 01/03/81 17:11

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-01-81
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Procurement activities	BA	D81- 5	139,700		10 1 80	-107,900			31,800
Research, Development, Test, and Evaluation									
RDT&E Activities	BA	D81- 6	46,500		10 1 80				46,500
Military Construction									
Military construction (medical facilities)	BA	D81-25	111,300		12 2 80				111,300
Military construction, all services	BA	D81- 7	6,983		10 1 80				
	BA	D81- 7A		600,344b	12 2 80	-237,537			369,790
Family Housing, Defense									
Family housing, Defense	BA	D81- 8	18,651		10 1 80	-18,651			
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			323,134	600,344		-364,088			559,390
DEPARTMENT OF DEFENSE-CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D81- 9	667		10 1 80	-136a			531
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D81-10	10,698		10 1 80				10,698
Office of Assistant Secretary for Health									

PAGE 3 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 01/03/81 17:11

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULA-TIVE OMB /AGENCY RELEASES	CONGRES-SIONALLY REQUIRED RELEASES	CUMULA-TIVE ADJUST-MENTS	AMOUNT DEFERRED AS OF 1-01-81
Special foreign currency program								
BA	D81-11	8,000		10 1 80				8,000
Human Development Services								
White House Conference on Children and Youth								
BA	D81-12	562		10 1 80				562
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
TOTAL BA		19,260						19,260
DEPARTMENT OF THE INTERIOR								
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D81-13	30,000		10 1 80				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D81-14	41		10 1 80				41
Bureau of Mines								
Drainage of anthracite mines								
BA	D81-15	765		10 1 80				765
DEPARTMENT OF THE INTERIOR								
TOTAL BA		30,806						30,806
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D81-16	15,750		10 1 80				15,750
DEPARTMENT OF TRANSPORTATION								
Federal Aviation Administration								
Facilities & equip. (Airport & airway trust fund)								

PAGE 4 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 01/03/81 17:11

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-01-81
	BA	D81-17	133,823		10 1 80				
	BA	D81-17a		240,603	12 2 80				374,426
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance fund									
	BA	D81-18	111,773		10 1 80	-1,095			110,678
	O	D81-19	5,485		10 1 80				
	O	D81-19A		5,209	12 2 80	-3,956			6,738
Bureau of the Mint									
Construction of mint facilities									
	BA	D81-20	5,730		10 1 80				5,730
DEPARTMENT OF THE TREASURY									
TOTAL BA			117,503			-1,095			116,408
TOTAL O			5,485	5,209		-3,956			6,738
OTHER INDEPENDENT AGENCIES									
Federal Emergency Management Agency									
Emergency planning, preparedness, and mobilization									
	BA	D81-21	80		10 1 80				80
Tennessee Valley Authority									
Tennessee Valley Authority fund									
	BA	D81-22	17,000		10 1 80	-17,000			
	BA	D81-26	15,800		12 2 80				15,800
OTHER INDEPENDENT AGENCIES									
TOTAL BA			32,880			-17,000			15,880
TOTAL BA			3,384,493	840,947		-1,487,679			2,737,761
TOTAL O			5,485	5,209		-3,956			6,738

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to the Congress.

[FR Doc. 81-1345 Filed 1-13-81; 8:45 am]

BILLING CODE 3110-01-C

a. This amount was released before the special message containing the deferral was transmitted to the Congress.

[FR Doc. 81-1345 Filed 1-13-81; 8:45 am]

BILLING CODE 3110-01-C

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federal register

Wednesday
January 14, 1981

Part VIII

Department of Education

Graduate and Professional Study Fellowships

DEPARTMENT OF EDUCATION

34 CFR Part 649

Graduate and Professional Study Fellowships

AGENCY: Department of Education.

ACTION: Final regulations with invitation to comment.

SUMMARY: The Secretary issues final regulations for the Graduate and Professional Study Fellowships Program. The regulations, which implement Title IX, Part B of the Higher Education Act of 1965, have been amended to reflect the statutory changes in the Education Amendments of 1980 and to reflect changes required by the Education Department General Administrative Regulations (EDGAR).

These regulations specify the selection criteria the Secretary uses in evaluating applications for fellowships for graduate and professional study, public service education, and studies in domestic mining and mineral and mineral fuel conservation. These regulations also describe application procedures, eligibility requirements, and the terms and conditions of an award.

DATES: Comments must be received on or before March 16, 1981. The regulations are expected to take effect 45 days after they are transmitted to the Congress. Regulations are usually transmitted to the Congress several days before they are published in the **Federal Register**. The effective date is changed if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

ADDRESS: Comments should be addressed to: Donald N. Bigelow, Chief, Graduate Training Branch, Division of Training and Facilities, Room 3060, ROB #3, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Donald N. Bigelow, Telephone (202) 245-2347.

SUPPLEMENTARY INFORMATION:

Waiver of Proposed Rulemaking Procedures

In accordance with Section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), it has been the practice of the Secretary to offer interested parties the opportunity to comment on these proposed regulations. The Secretary then reviews these comments and makes appropriate changes before republishing the regulations in final form.

For the reasons described in the following paragraph, the use of that practice in connection with the provisions of these regulations is impracticable and contrary to the public interest under 5 U.S.C. 553(b). However, the Secretary invites the public to comment on these final regulations and will consider appropriate comments before publishing the final regulations again.

The Secretary has waived proposed rulemaking procedures because it would be impossible to invite applications against final regulations and still make awards by April 1, 1981, which is required if institutions of higher education are to be able to recruit qualified students for the 1981–82 academic year. With the publication of proposed regulations followed by a minimum thirty-day comment period, final regulations could be issued only by mid-to-late-March. If applications were invited against the final regulations, they would not be due until early May. Review of applications would delay awards until July. For 1981-82, this would undermine the program's purpose to recruit eligible students in supported academic areas.

Issues

Several changes were made in the program by the Education Amendments of 1980. Issues related to these changes include—

1. *Level of financial need.* The statute requires that an institution, in assessing applications for fellowships, apply a measurement of financial need approved by the Secretary. The Secretary intends to provide as much flexibility as possible to institutions of higher education in determining financial need.

Under these regulations, an applicant institution shall state in its application the method it proposes to use for determining financial need. The Secretary's approval of the application constitutes approval of the method.

2. *Broader authority of the statute.* Prior to the reauthorization of the Higher Education Act of 1980, Title IX–B consisted only of Graduate and Professional Opportunities Fellowships. Under the amended legislation Title IX–B consolidates these fellowships with those previously authorized in Title IX, Parts C and D, namely fellowships for Public Service Education and Domestic Mining and Mineral and Mineral Fuel Conservation.

Under the consolidated part, Section 922(e) requires that at least as much money be spent each year on Public Service fellowships, Mining fellowships, and Graduate and Professional Opportunity fellowships, as was spent in fiscal year 1979 for each of these categories, namely, $4 million, $4.5 million, and $8 million, respectively.

The Secretary interprets the authority of the amended Title IX–B not to be exhausted by these three categories of fellowships. The statute appears to be broad enough to authorize the establishment of additional fellowship categories for graduate students in financial need. However, given the minimum funding requirement in Section 922(e) of the Act, at present, no funds are being provided for this purpose. The Secretary will regulate with respect to this broader authority if funds are made available.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before the 60th day after publication of this document will be considered in any future revision of the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3060, ROB #3, 7th and D Streets SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except for Federal holidays.

Assessment of Educational Impact

On November 14, 1980, the Secretary published a notice in the **Federal Register** of the Department's intent to publish regulations necessary to implement the Education Amendments of 1980. In that notice, the Department listed the existing regulations affected by the new law and requested comments whether those regulations required information that is already being gathered by or is available from any other agency or authority of the United States. The regulations in this document are based on regulations listed in the November 14, 1980 notice. Based on any comments received and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (Pub. L. 96-354, enacted Sept. 19, 1980) requires each Federal agency to prepare an initial regulatory flexibility analysis and a final regulatory flexibility analysis for each regulation that—

(1) Is published as a notice of proposed rulemaking after January 1, 1981, and

(2) Has a significant economic impact on a substantial number of small entities (small businesses, small organizations, or small governmental jurisdictions).

Because the Department has not yet established its own definitions of "small organization" and "small governmental jurisdiction," as contemplated by the Act, it is not possible to prepare a full initial regulatory flexibility analysis at this time. Further, since the regulations in this document are required by statute to be published in final form no later than May 31, 1981, it is impracticable to delay publication while the necessary definitions are being developed. As noted elsewhere in this preamble, it was impracticable to take public comments before publishing these regulations as final. For the same reasons, it was impracticable to delay the regulations while an initial regulatory flexibility analysis was prepared. In these circumstances, the Regulatory Flexibility Act permits a waiver or delay of the initial regulatory flexibility analysis. If it is determined that these regulations are subject to that Act, the Secretary will prepare the necessary analyses at a later date.

As an interim measure, this document, to the maximum extent possible, includes information of the kind contemplated by the Regulatory Flexibility Act, including the reasons for the regulations, the objectives and legal basis for the regulations, and any significant issues and alternatives for consideration by the public. To assist the Department in determining whether the Regulatory Flexibility Act applies to these regulations, and in complying with the Act's requirements, public comment is especially invited on the following matters:

(1) The number and kind of small entities (small businesses, small organizations, or small governmental jurisdictions) affected by the regulations;

(2) The reporting, recordkeeping, and compliance burdens imposed by the regulations on small entities;

(3) The type of professional skills necessary for preparation of any reports or records required by the regulations;

(4) Any Federal rules that may duplicate, overlap, or conflict with the regulations;

(5) Any significant alternatives that would accomplish the purposes of the applicable statute but would minimize any significant economic impact of the regulations on small entities. The Secretary is particularly interested in suggestions on alternatives such as the following:

- The establishment of differing reporting or compliance requirements or timetables that take into account the resources available to small entities.
- The clarification, consolidation, or simplification of compliance and reporting requirements for small entities.
- The use of performance rather than design standards.
- An exemption for small entities from coverage of part or all of the regulations.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provisions of these regulations.

Dated: January 9, 1981.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.094, Graduate and Professional Study Fellowships)

Part 649 of Title 34 of the Code of Federal Regulations is revised to read as follows:

PART 649—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

Subpart A—General

Sec.
649.1 Fellowships for Graduate and Professional Study.
649.2 Eligible parties.
649.3 Regulations that apply to the Fellowship Program.
649.4 Definitions.

Subpart B—How Does an Institution Apply for and Obtain Approval of its Programs?

649.10 How to apply for funds.
649.11 How does the Secretary evaluate an application?
649.12 What selection criteria does the Secretary use for Graduate and Professional Opportunity Fellowships?
649.13 What selection criteria does the Secretary use for Public Service Fellowships?
649.14 What selection criteria does the Secretary use for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships?

Subpart C—How Does a Person Apply for a Fellowship?

649.20 Application procedures.

Subpart D—How Are Fellows Selected?

Sec.
649.30 What are the criteria for selecting fellows?

Subpart E—What Conditions Must Be Met by an Institution and a Fellow?

649.40 Tenure of fellowship.
649.41 Vacated fellowships
649.42 Fellowship conditions.

Subpart F—What are the Administrative Responsibilities of the Institution?

649.50 Amount of a fellowship.
649.51 Institutional allowance.
649.52 Payment procedures.

Authority: Part B of Title I of the Higher Education Act, as amended by Pub. L. 96-374 (94 Stat. 1367, 1467; 20 U.S.C. 1134e-1134g).

Subpart A—General

§ 649.1 Fellowships for graduate and professional study.

(a) Fellowships for Graduate and Professional Study—referred to in these regulations as the Fellowship Program—provides Federal assistance to enable institutions of higher education to make available fellowship awards in post-baccalaureate education to graduate and professional students who demonstrate financial need.

(20 U.S.C. 1134d)

(b) An institution of higher education may apply for a grant under this program to award one or more of the following types of fellowships:

(1) *Graduate and Professional Opportunity Fellowships,* awarded to individuals from groups who are underrepresented in graduate or professional study;

(2) *Public Service Education Fellowships,* awarded to individuals who plan to begin or continue a career in public service;

(3) *Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships,* awarded to individuals who plan to begin advanced study in domestic mining and mineral and mineral fuel conservation, including oil, gas, coal, oil shale, and uranium.

(20 U.S.C. 1134e(e))

§ 649.2 Eligible parties.

Institutions of higher education are eligible for grants under these regulations.

(20 U.S.C. 1134e)

§ 649.3 Regulations that apply to the fellowship program.

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and Part 77 (General), except that §§ 75.116, 75.117, and 75.232

are inapplicable to this program; and §§ 75.510–.568 are inapplicable to the institutional allowances to institutions of higher education under this program.

(b) The regulations in this Part 649.

(20 U.S.C. 1221e–3)

§ 649.4 Definitions.

(a) The following terms used in this part are defined in 34 CFR Part 77 (EDGAR):

Applicant
Application
Award
Budget Period
Department
Secretary

(b) The following definitions apply specifically to this part:

"Academic area" means a professional school, academic department, or similar organizational unit within an institution of higher education.

"Academic career beyond high school" means a career as a teacher, administrator, or educational specialist at some level of postsecondary education.

"Act" means the Higher Education Act of 1965, as amended.

"Domestic mining" means the process of extracting from the earth mineral and mineral fuel resources of the United States.

"Fellow" means a fellowship recipient.

"Fellowship" means an award made by an institution of higher education to a person for graduate or professional study under Title IX–B of the Act.

"Financial need" means the difference between a student's projected costs for the year—including books, materials, suplies, room and board, and other reasonable costs—and the student's resources, including available income and other available assets.

"Independent institution" means an institution of higher education, other than one that is publicly controlled, that meets the definition of an institution of higher education in section 1201(a) of the Act.

"Internship" means a supervised administrative experience that provides a student with a practical introduction to a career in public service.

"Mineral and mineral fuel conservation" is the means by which an adequate supply of the Nation's non-renewable resources is maintained through exploration of new sources, more efficient extraction of existing reserves, or better use of already processed minerals and mineral fuels.

"Public service education" means the preparation for leadership and management careers in local, State, or national government or in nonprofit community service organizations.

"Underrepresented groups" means miniorities and other groups, including women, who are underrepresented in the specific graduate area of study or profession in which the award is made.

(20 U.S.C. 1134d–1134g)

Subpart B—How Does an Institution Apply for and Obtain Approval of Its Program?

§ 649.10 How to apply for funds.

(a) In order to apply for a grant under this part, an institution of higher education must submit an application that responds to the appropriate criteria in §§ 649.12, 649.813, and 649.14.

(b) The application must describe how the institution of higher education will select eligible individuals to receive fellowships. This description must include evidence that the selected individual—

(1) Will achieve the academic goals of the fellowship; and

(2) Can demonstrate a level of financial need based on the institution's method or methods which the Secretary approves for determining financial need. An institution may—

(i) Use its own financial need analysis system, which may or may not incorporate or adapt a more general system such as that provided by the College Scholarship Service (CSS), the American College Testing Service (ACT), or the Graduate and Professional School Financial Aid Service (GAPSFAS); or

(ii) Use exclusively one of the systems referred to in paragraph (b)(2)(i) of this section; and

(iii) Under either paragraph (b)(2) (i) or (ii) of this section, take into account—as evidence of financial need—an individual's prior receipt of fellowship assistance under this program.

(20 U.S.C. 1134f(a))

§ 649.11 How does the Secretary evaluate an application?

(a) *Funding reservations.*

(1) The Secretary reserves funds for Graduate and Professional Opportunity Fellowships, Public Service Education Fellowships, and Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships in accordance with section 922(e) of the Act (referring to the amount the Secretary is required to expend for each category of fellowships) and applicable appropriation statutes.

(20 U.S.C. 1134e(e))

(2) Before considering applications that include support for new fellowships, the Secretary provides funds to continue support for qualified students—

(i) Who were awarded fellowships under this program in a previous year; and

(ii) Who are maintaining satisfactory progress as determined by the institution.

(20 U.S.C. 1134f(b))

(3) From the sums appropriated under this program for any fiscal year, the Secretary does not make to a single institution of higher education a grant less than $75,000, except to the extent that payments are made for continuation fellowships only—without any new fellowship—and the total sum equals less than $75,000.

(20 U.S.C. 1134e(b))

(b) *Selection criteria.*

Subject to the funding reservations, the Secretary—in determining whether to select an institution of higher education for a grant and how many fellowships to authorize under the grant—assesses an application on the basis of the criteria in § 649.12 for Graduate and Professional Opportunity Fellowships; the criteria in § 649.13 for Public Service Education Fellowships; and the criteria in § 649.14 for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships.

(1)(i) In assessing applications for Graduate and Professional Opportunity Fellowships, the Secretary ranks each academic area in which an applicant proposes to award fellowships. The Secretary ranks each academic area according to the combined scores for institution-wide criteria and criteria for that area.

(ii) The Secretary awards up to 56 possible points for the institution-wide criteria (§ 649.12 (a)–(e)), and up to an additional 44 possible points for the criteria specific to the academic area submitted (§ 649.12 (f)–(k)).

(2) In assessing an application for Public Service Fellowships, the Secretary awards up to 100 possible points.

(3) In assessing an application for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships, the Secretary awards up to 100 possible points.

(4) The maximum possible score for each criterion is indicated in parentheses following the heading for that criterion.

(5) In evaluating an application from an institution that previously received a grant under this program, the Secretary assesses the extent to which the

previously funded grant achieved its objectives.

(20 U.S.C. 1134e(d) (1) and (2))

(c) *Other considerations.*

For applications of substantially equal quality, the Secretary gives priority to applications that will contribute to achieving the following:

(1) An equitable geographic distribution of grants.

(2) An equitable distribution of awards among eligible public and independent institutions of higher education.

(20 U.S.C. 1134e(b)(1))

(3) An appropriate balance of fellowships with regard to academic areas, taking account of present and projected needs for highly trained individuals in all academic careers beyond the high school level and in other than academic career fields of high national priority.

(20 U.S.C. 1124e(d))

§ 649.12 What selection criteria does the Secretary use for graduate and professional opportunity fellowships?

Institution-Wide Criteria

(a) *Institutional commitment.* (18 points)

(1) The Secretary reviews each application for information that shows the overall strength of an institution's commitment to meet the needs of the students it proposes to serve from underrepresented groups.

(2) The institution may demonstrate this commitment in such ways as the following:

(i) The provision of evidence that the institution's social and academic environment is supportive of the academic success of students from underrepresented groups on the applicant's campus.

(ii) The availability of other sources of financial aid and support mechanisms for these students.

(iii) The hiring of faculty and administrators from underrepresented groups.

(b) *Recruitment plan.* (14 points)

(1) The Secretary reviews each application for information that describes that institution's recruitment plan.

(2) The Secretary looks for information that shows:

(i) An active, aggressive, and imaginative effort to identify and attract qualified individuals from underrepresented groups.

(ii) The applicant's previous and current efforts in attracting and successfully preparing students from underrepresented groups for careers, including Graduate and Professional Opportunity Fellows, and other graduate and professional and undergraduate students.

(c) *Net increase of underrepresented students.* (8 points)

The Secretary reviews each application for information that shows that the proposed arrangements to assign the fellowships to the approved academic areas—

(1) Will result in a net increase of students from underrepresented groups in each area; and

(2) Will not result in a decrease in the amount of the institution's own financial support available for other students from underrepresented groups in the academic area and in the institution as a whole.

(d) *Program director.* (8 points)

The Secretary reviews each application for information that shows that the director has clear responsibilities, ample time, and sufficient institutional or academic authority to coordinate the overall administration of the program.

(e) *Employment opportunities.* (8 points)

The Secretary reviews each application for information that shows that the institution's educational program leads to immediate career opportunities in the graduate or professional study areas for which students from underrepresented groups have been recruited.

Academic Area Criteria

(f) *Evidence of underrepresentation.* (10 points)

The Secretary reviews each application for evidence that the students whom the institution proposes to recruit are from underrepresented groups in the proposed academic areas.

(g) *Evidence of national need.* (10 points)

The Secretary reviews each application for information that justifies the need for more highly trained individuals in academic careers beyond the high school level or in other career fields of high national priority.

(h) *Quality of academic program.* (7 points)

(1) The Secretary reviews each application for information that shows high quality of the academic program in terms of course offerings and academic requirements for students.

(2) The Secretary also looks for information that shows the appropriateness of the level of the degree to prepare the individual for an academic or professional career.

(i) *Quality of key faculty.* (7 points)

(1) The Secretary reviews each application for information that shows the qualifications of the faculty in the academic area.

(2) The Secretary looks for information that shows that the background, education, research interests, and relevant experience of the faculty qualify them to plan and implement a successful program of high academic quality.

(j) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the academic area.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment that the applicant plans to use is adequate.

(k) *Special orientations and experiences.* (5 points)

The Secretary reviews each application for information that shows the applicant plans to provide special orientations, practical experiences, and necessary assistance designed to prepare fellowship recipients for academic careers or other professional careers of high national priority.

(20 U.S.C. 1134e(e)(3))

§ 649.13 What selection criteria does the Secretary use for public service fellowships?

(a) *Program objectives.* (10 points)

The Secretary looks for information that demonstrates present and projected needs for highly trained individuals in the fields of public service, including academic careers beyond the high school level focused on public service education.

(b) *Underrepresented groups.* (10 points)

The Secretary reviews each application for information that demonstrates the extent to which the program provides public service education to individuals from underrepresented groups.

(c) *Quality of academic program.* (10 points)

(1) The Secretary reviews each application for information that shows high quality of the academic program in terms of course offerings and academic requirements for students.

(2) The Secretary also looks for information that shows the appropriateness of the level of the degree to prepare the individual for a career in public service.

(d) *Practical experiences and internships.* (15 points)

The Secretary reviews each application for information that shows the program offers opportunities for relevant, supervised practical experiences and internships.

(e) *Quality of key personnel.* (25 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use in its program of public service education.

(2) The Secretary looks for information that shows—

(i) The qualifications of the program director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the program;

(iii) The time that each person referred to in paragraph (e)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the program, as well as other information that the applicant provides.

(f) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to its program of public service education.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment that the applicant plans to use is adequate.

(g) *Cooperative arrangements.* (10 points)

The Secretary reviews each application for information that shows that the program establishes arrangements with governmental agencies or other nonprofit agencies for such activities as program development, personnel exchanges among faculty and agency staff, and field workers.

(h) *Institutional cooperation.* (5 points)

The Secretary reviews each application for information that shows that the applicant has considered and, if appropriate, entered into cooperative arrangements with other graduate units of the applicant in supportive efforts of practical benefit to public service education.

(i) *Success of graduates.* (5 points)

The Secretary reviews each application for evidence of past success of graduates of the program in achieving leadership and management positions in public service careers.

(20 U.S.C. 1134e(d))

§ 649.14 What selection criteria does the Secretary use for domestic mining and mineral and mineral fuel conservation fellowships?

(a) *Program objectives.* (15 points)

The Secretary reviews each application for information that shows the present and projected needs for highly trained individuals in the field of domestic mining and mineral and mineral fuel conservation—including academic careers beyond the high school level—in any of the following areas:

(1) The improvement of technologies for the efficient extraction and processing of nonrenewable minerals and mineral fuels including the development of—

(i) Improved systems of underground, underwater, and surface mining techniques;

(ii) Improved methods to protect the health and safety of people involved in extraction and processing operations; and

(iii) Improved methods to protect and restore the environment in extracting and processing operations.

(2) The development of ways to ensure the availability of nonrenewable minerals and mineral fuels through—

(i) Improved exploration or discovery techniques;

(ii) Optimum recovery of existing mineral and mineral fuel reserves;

(iii) Improved use of processed minerals and mineral fuels through recycling technology; and

(iv) Improved understanding of mineral economics.

(b) *Underrepresented groups.* (10 points)

The Secretary reviews each application for information that demonstrates the extent to which the program prepares individuals from underrepresented groups for careers in domestic mining or mineral and mineral fuel conservation.

(c) *Quality of academic program.* (20 points)

(1) The Secretary reviews each application for information that shows the high quality of the academic program in terms of course offerings and academic requirement for students.

(2) The Secretary also looks for information that shows the appropriateness of the level of the degree to prepare an individual for a career in domestic mining or mineral and mineral fuel conservation.

(d) *Quality of key personnel.* (25 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use in its program of domestic mining and mineral fuel conservation.

(2) The Secretary looks for information that shows—

(i) The qualifications of the program director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the program;

(iii) The time that each person referred to in paragraph (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the program, as well as other information that the applicant provides.

(e) *Adequacy of resources.* (20 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to its program of domestic mining and mineral fuel conservation.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment that the applicant plans to use is adequate.

(f) *Employment opportunities.* (10 points)

The Secretary reviews each application for information that shows that the educational program leads to immediate career opportunities in domestic mining and mineral fuel industries, including careers in teaching in those subject areas at institutions of higher education.

(20 U.S.C. 1134e(e)(2))

Subpart C—How Does a Person Apply for a Fellowship?

§ 649.20 Application procedures.

(a) A student applies directly to an institution of higher education that has received an allocation of fellowships.

(b) The student must meet all the institutional eligibility requirements for admission into one of the approved graduate or professional programs for which the institution awards fellowships.

(20 U.S.C. 1134f(a))

Subpart D—How Are Fellows Selected?

§ 649.30 What are the criteria for selecting fellows?

To receive a fellowship, a person must—

(a) Have been accepted for or be enrolled in a program of study leading to a postbaccalaureate graduate degree—such as a doctor of philosophy or doctor of arts—or to a postbaccalaureate professional degree—such as doctor of jurisprudence or master of business administration—necessary for professional practice in a given field;

(b) Have been accepted for or be enrolled in the program referred to in paragraph (a) of this section at an institution of higher education that has received a grant;

(c) Plan to pursue—

(1) An academic career or some other professional career of importance in the academic area of study approved by the Secretary;

(2) A career in public service; or

(3) A career in domestic mining or mineral fuel conservation.

(d)(1) Be a national of the United States;

(2) Be in the United States for other than a temporary purpose and intend to become a permanent resident; or

(3) Be a permanent resident of the Trust Territories of the Pacific Islands.

(e) Demonstrate financial need under an approved financial need analysis system as described in § 649.10(b).

(20 U.S.C. 1134e)

Subpart E—What Conditions Must Be Met by an Institution and a Fellow?

§ 649.40 Tenure of fellowship.

(a) A fellowship award is for a period of up to 36 months.

(b)(1) A fellow who maintains satisfactory progress in his or her course of study may have the fellowship renewed annually, subject to the availability of funds.

(2) However, no fellow may receive assistance under this fellowship for more than 36 months of support except as provided in paragraph (c) of this section.

(c)(1) Depending on the availability of funds and under special circumstances, the Secretary may provide for a fellowship extension of not more than 12 months in addition to the 36 months of support a fellow receives under this program. Generally, special circumstances would be the need for additional months to complete the doctorate or equivalent degree.

(2) A fellow who wishes to request an extension must make that request to the institution of higher education well in advance of the application closing date for the subsequent academic year.

(3) The institution of higher education must request approval for the additional support in its application and must request appropriate sums in the proposed budget.

(20 U.S.C. 1134f)

§ 649.41 Vacated fellowships.

(a)(1) If a fellow vacates a fellowship prior to the end of the first year of the award, the institution of higher education to which the fellowship is allocated may reaward the fellowship to another individual.

(2) This individual must meet the eligibility requirements stated in § 649.30 and be chosen in accordance with the institution's fellowship award procedures.

(b) A fellow awarded a vacated fellowship may apply for renewal of the fellowship for up to 36 months.

(c)(1) Second and third year continuation fellowships must be for the same individual who held the fellowship at the end of the first academic year.

(2) If a continuation fellowship is vacated after the first year, it may not be awarded to another individual. The fellowship terminates at that time.

(d) If a fellow graduates at any time during tenure of the fellowship, the fellowship terminates at that time.

(20 U.S.C. 1134f(b))

§ 649.42 Fellowship conditions.

In order to continue to receive payments under a fellowship, a fellow must:

(a) Maintain satisfactory progress as determined by the institution of higher education;

(b) Devote essentially full time to study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship, except on a part-time basis in teaching, research, or similar activities approved by the Secretary.

(20 U.S.C. 1134f(b))

Subpart F—What Are the Administrative Responsibilities of the Institution?

§ 649.50 Amount of a fellowship.

(a) The maximum stipend that an institution may award to any fellow is $4,500 for a twelve-month year. A fellow who is enrolled in the program for an entire academic year that includes summer sessions will be considered to be enrolled in the program for the full 12 months.

(b) A fellow who is enrolled in the program for fewer than 12 months shall receive a pro rata share of the stipend.

(20 U.S.C. 1134f(a))

§ 649.51 Institutional allowance.

(a) In accordance with section 922(f) of the Act, the Secretary pays an institutional allowance to an institution of higher education in the amount of $3,900 per 12-month period for each fellowship allocated to that institution.

(b) If the fellow is enrolled for fewer than 12 months, the Secretary pays the institution of higher education a pro rata share of this amount.

(c) If the institution of higher education charges a fellow for tuition or nonrefundable fees that are required by the institution as a part of the fellow's instructional program, the Secretary deducts that amount from the institutional allowance.

(d) The institutional allowance is in lieu of any administrative or other costs for an institution of higher education. The allowance is not subject to restrictions on allowable costs.

(20 U.S.C. 1134e(f))

§ 649.52 Payment procedures.

(a)(1) The Secretary pays to the institution of higher education the fellowship stipends and institutional allowances.

(2) The institution of higher education is responsible for disbursing stipends to the fellows.

(b) The institution of higher education determines the frequency with which payments of the stipend will be made to fellows, except that the institution shall make no fewer than two payments a year.

(c) If a fellow, for any reason, fails to complete the period of study for which any payment under the fellowship has been made, the institution of higher education is responsible for recovery of excess payments.

(d) If the institution of higher education does not award a vacated fellowship to another qualified student, the institution must refund to the

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Federal government the remaining pro rata share of the institutional allowance and the stipends.

(e) If an institution of higher education is unable to use all of the amounts available to it under this program, the Secretary will—on such dates each fiscal year as determined by the Secretary—reallot the amounts not needed to institutions of higher education which can use the grants authorized under this program.

(20 U.S.C. 1134e(f), 1134f(a))

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Wednesday
January 14, 1981

Part IX

Environmental Protection Agency

Agenda of Regulations

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[AS-FRL 1724-7]

Agenda of Regulations

AGENCY: Environmental Protection Agency.

ACTION: Agenda of Regulations.

SUMMARY: The Agency periodically publishes an Agenda of Regulations that summarizes significant regulations under development. The purpose is to keep interested parties informed of the progress of these regulations. The Agenda includes new regulations, existing regulations that the Agency is reviewing or revising, and also certain non-regulatory actions which the Agency believes are important enough to be listed.

FOR FURTHER INFORMATION CONTACT: For information on a regulation in the Agenda, please contact the person whose name is listed next to the regulation.

If you have suggestions for improving this publication, or need general information about the Agenda, please call or write to David Sahr, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C. 20460, (202) 287-0776.

If you want to be on the mailing list for the Agenda of Regulations, please call or write to Penelope Parker, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C. 20460, (202) 287-0783.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 12044, *Improving Government Regulations*, establishes certain procedures that executive agencies must follow in developing their regulations. One of these procedures is publishing an agenda of the significant regulations that the agency has under development. EPA published its most recent Agenda of Regulations on June 30, 1980, 45 FR 44107. EPA will publish its next Agenda in April 1981, and thereafter on a semi-annual basis. We are changing our schedule from June to April to comply with the Regulatory Flexibility Act.

Regulations Covered in the Agenda

We have attempted to include all significant regulations which the Agency is currently developing. Regulations enter this development process when the Assistant Administrator for a program office, for instance, the Office of Air, Noise and Radiation, sends a Start Action Notice (SAN) to senior management. This notice informs the rest of the Agency that the program office is starting work on a new regulation. If the Agency classifies the new regulation significant, it will appear in the Agenda.

The Agenda includes all significant regulations which are scheduled for publication as a proposal or final rule within the coming year. Where possible, it also includes regulations with scheduled actions that are more than a year away. In addition, it includes some actions which are *not* regulations, but which nonetheless represent major policy decisions, such as policy statements or Agency guidelines.

Regulations that appeared in our last Agenda but that are no longer under consideration (usually because they have been published as final regulations) appear in a separate section at the end of the Agenda. We will delete them from future Agendas.

There are 183 regulation entries in this Agenda. An additional 44 entries appear in the section of regulations to be deleted from the Agenda.

Agency Classification of Regulations

EPA's system for classifying regulations is described in detail in *Improving Environmental Regulations; Final Report Implementing Executive Order 12044*, 44 FR 30988 (May 29, 1979). The Agency assumes that all regulations are significant, unless they are:

(1) Administrative or procedural in nature;

(2) Minor amendments to existing regulations;

(3) Regulatory actions resulting from highly specific Congressional mandates that leave EPA no discretion to evaluate alternatives (e.g., deadline changes);

(4) EPA actions or regulations developed by State and local governments (such as State Implementation Plans); or

(5) Pesticide tolerances and regulations to exempt pesticides from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The Agency further divides significant regulations into routine and major regulations. Major regulations are those that are likely to have a substantial impact in any of several areas, including health, ecology, the economy, particular communities or regions, and the activities of other Federal and State agencies. Major regulations receive extra attention from the Agency's senior management. Of the regulations in this Agenda, 52 are major and 117 are routine. Five significant regulations that have just begun the development process have not yet been designated routine or major.

Important policy statements and other non-regulatory actions which appear in the Agenda are not classified as either major or routine. Instead, they are classified according to the type of action involved. The three classifications for these kinds of actions are: (1) Policy Statements, (2) Guidance and (3) Listings. The actions classified this way in the Agenda are:

- Listing of Coke Oven Emissions as a Hazardous Air Pollutant under Section 112 of the Clean Air Act
- Listing of Acrylonitrile Emissions as a Hazardous Air Pollutant under Section 112 of the Clean Air Act
- Policy and Procedures for Regulating Airborne Carcinogens
- Guidance for Occupational Radiation Exposure
- Transuranic Elements Guidance
- Environmental Criteria for Disposal of Radioactive Wastes
- Radiofrequency Radiation Guidance
- Exemption Policy under Section 4 of the Toxic Substances Control Act
- Policy on Public Participation

Explanation of Information in the Regulatory Agenda

There are four columns of information for each entry in the Agenda.

The *first* column contains the title, the Start Action Notice (SAN) number, and the docket number of the regulation. The Agency assigns the SAN number to a new significant regulation when the program office begins work on it. The SAN number prevents confusion if the title of a regulation changes, or if there are other similarly-titled regulations. For those regulations which have them, the docket number is useful in getting access to files on the regulation that are open to the public. If a bullet "•" precedes the title of the regulation, additional information on that regulation appeared in the *Calendar of Federal Regulations* published by the United States Regulatory Council in the **Federal Register** on November 24, 1980. Reprints of this Agenda, which EPA distributes directly to persons and organizations on its mailing list, include an appendix consisting of the expanded entries that appeared in the Calendar.

The *second* column contains most of the descriptive information on the regulation. It includes information under the following categories:

Description: This entry describes the problem addressed by the regulation and explains the need for the regulation.

CFR Changes: This entry identifies the part or subpart where the final regulation will appear, in volume 40 of the Code of Federal Regulations (CFR).

In some cases, it also specifies how the regulation will change an already existing subpart (revising the subpart, adding to it, or deleting from it).

Statutory Authority: This entry lists the sections of the statutes that authorize the regulation. It also lists the sections from the United States Code where the statutes are codified. (See the section below entitle "Summary of Contents" for abbreviations of the titles of the statutes.)

Classification: This entry identifies significant regulations as "major" or "routine". For those regulations that have not yet been designated major or routine, the Agenda identifies the regulation as significant. Non-regulatory actions are classified as policy statements, guidance, or listings. (For explanation of these terms see the section above on "Agency Classification of Regulations.")

Analysis: EPA prepares a standard economic analysis for *all* significant regulations. This entry indicates whether the Agency plans to perform any additional special analyses, i.e., a Regulatory Analysis, an Urban and Community Impact Analysis (UCIA), an Environmental Impact Statement (EIS), a Reporting Impact Analysis (RIA) or an Operations/Resource Impact Analysis (ORA). We have dropped this category for those regulations for which we will not prepare any of these special analyses.

The *third* column lists the person to contact for additional information on the regulation.

The *fourth* column lists documents published in the **Federal Register** in connection with the regulation, and provides the timetable for future actions. Published documents include: (i) the Advance Notice of Proposed Rulemaking, which describes the purpose of the proposed action and the issues and alternatives which the Agency will consider; (ii) the Notice of Proposed Rulemaking, which is the regulation which the Agency proposes to publish; and (iii) the Final Rule. In many cases, the timetable for future actions is only tentative.

The Agenda uses the following abbreviations:

Advance Notice of Proposed Rulemaking	ANPRM
Notice of Proposed Rulemaking	NPRM
Notice of Reproposed Rulemaking	RPRM
Interim Final Rule	IFR
Final Rule	FR

Non-regulatory actions like policy statements are not rulemakings but, for purposes of convenience, we use the same abbreviations.

Organization of the Agenda

The Agenda lists regulations by the titles we give to our major pollution control program areas, e.g., air, water quality, solid wastes. Within each program area the regulations are ordered numerically by section number of the authorizing legislation. For example, all air regulations under Section 109 of the Clean Air Act will appear before those under Section 111. The program areas and their authorizing legislative acts appear in the "Summary of Contents" below.

Summary of Contents

Program Area and Legislation

Air:
  The Clean Air Act (CAA)
  The Energy Policy and Conservation Act (EPCA)
Drinking Water: The Safe Drinking Water Act (SDWA)
Noise: The Noise Control Act (NCA)
Pesticides:
  The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
  The Food, Drug and Cosmetics Act (FDCA)
Radiation:
  The Atomic Energy Act (AEA)
  The Uranium Mill Tailings Radiation Control Act (UMTRCA)
Solid Waste: The Resource Conservation and Recovery Act (RCRA)
Toxic Substances: The Toxic Substances Control Act (TSCA)
Water:
  The Clean Water Act (CWA)
  The Marine Protection, Research, and Sanctuaries Act (MPRSA)
General: The National Historic Preservation Act and Executive Order 12114

Regulations Deleted From the Previous Agenda

After listing all significant regulations currently under consideration, the Agenda lists all the regulations that appeared in the last Agenda but that are now no longer under consideration. These regulations will not appear in our next Agenda.

The information given on these regulations is less detailed than for those still under consideration. Generally, it includes the date and **Federal Register** citation, if any, of the last action on the regulation, and explains why the Agency is deleting the regulation from the Agenda. The explanation is usually that the regulation has been completed.

Reviews of Existing Regulations

The Agency reviews many of its regulations under statutory or judicial mandate. A large proportion of the regulation entries in this Agenda are actions to satisfy these requirements. In addition, EPA is conducting a comprehensive review of existing regulations not subject to statutory or judicial mandate, as required under Executive Order 12044. These reviews comprise the Agency's Regulation Screening Project.

This Agenda includes significant regulations which EPA has begun to revise as a result of the Screening Project. Future Agendas will include other regulations which the Agency decides to revise as a result of its Screening Project. EPA's normal requirements under Executive Order 12044 will apply to these regulations.

Regulatory Flexibility Act

On September 19, 1980, the Regulatory Flexibility Act (Pub. L. No. 96–354) became law. This law requires that federal agencies take into account the impact of their regulations on "small entities," including small businesses, small governmental jurisdictions and other small organizations. Section 602 (5 USC 602) of the Act requires that federal agencies publish in April and October of every year an agenda of regulations under development that are likely to have a significant impact on a substantial number of small entities. The purpose of this requirement is to give small entities advance warning of regulations on which they may wish to comment.

EPA plans to combine the regulatory flexibility agenda with this agenda. We are changing our publication schedule from June and December to April and October to comply with the Act's requirements. Because the Act takes effect in January 1981, the Agenda we publish in April 1981 will be the first to identify those regulations that we expect will have a significant impact on small entities.

Improving the Agenda of Regulations

In response to comments received on our last two Agendas (published in the **Federal Register** on March 14 and June 30, 1980), we are considering some changes in the content and format of our Agenda. The suggestions under consideration and on which we would like public comment are:

- Instead of organizing our regulations by program area (e.g. water quality, toxic substances), should we list regulations by authorizing act (e.g. Clean Water Act, Toxic Substances Control Act)?
- In addition to listing regulations according to their statutory authority should we include an appendix that lists regulations chronologically by next expected action, i.e., according to the projected dates for NPRM, etc., that appear in the timetable section? Should we include ANPRM's NPRM's and FR's in the same list, or should we have separate lists for proposals and for final rules?

- Should we indicate the effective date for final regulations?
- For those regulations that require compliance action by affected parties before the effective date, should we identify what those steps for compliance are?

We may incorporate some changes into our next Agenda scheduled for April. We would appreciate any comments, positive or negative, that Agenda users may have on these suggestions. We would also welcome any additional suggestions. Comments should be directed to: David Sahr, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C. 20460.

Henry E. Beal,

Director, Standards and Regulations Division.

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION

AIR

The goal of The Clean Air Act is to protect the public health and welfare from the harmful effects of air pollution. To achieve the goal, EPA develops national ambient air quality standards and the States adopt State Implementation Plans (SIP)to meet these standards. States are also required, pursuant to EPA regulations, to develop plans to prevent significant deterioration of air quality in areas where the ambient standards have been attained and to enhance visibility.

EPA also develops New Source Performance Standards (NSPS) under CAA 111 and National Emission Standards for Hazardous Air Pollutants (NESHAPS) under CAA 112 to control emissions from stationary sources of air pollution.

We have already or are now developing the items below under the authority of Sections 108 and 109 of the Clean Air Act (CAA), which directs the Administrator to establish National Ambient Air Quality Standards (NAAQS). To write a NAAQS for a pollutant, we first prepare a criteria document, which contains the latest scientific knowledge on the kind and extent of public health and welfare problems caused by the pollutants in the air. If we revise the criteria document, we may find it necessary to change the NAAQS.

A National Primary Ambient Air Quality Standard defines the maximum amount of an air pollutant which in the judgment of the Administrator provides an adequate margin of safety to protect the public health. A National Secondary Ambient Air Quality Standard defines levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

Title	Summary	Contact	Timetable
• *NAAQS for Carbon Monoxide* SAN No. 1001 Docket No. OAQPS-79-7	Description: Carbon monoxide is a major source of air pollution, which endangers people with heart and central nervous system diseases, pregnant women and other people (5–12% of U.S. population in all). EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for CO. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108, 109 / 42 USC 7408, 7409 CFR Change: 40 CFR 50 – Revision Analysis: Reg. Analysis, EIS, UCIA	Joseph Padgett EPA (MD-12) Research Triangle Park, NC 27711 FTS:8-541-5204 COMM:919-629-5204	ANPRM: 43FR56250 (12/01/78) NPRM: 45FR55066 (08/18/80) FR: 03/00/81
• *NAAQS for Nitrogen Dioxide* SAN No. 1004 Docket No. OAQPS 78-9	Description: Nitrogen dioxide is a major source of air pollution, damaging the lungs and respiratory system, as well as contributing to acid rain. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for nitrogen dioxide. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108 / 42 USC 7408 CFR Change: 40 CFR 50 – Revision Analysis: EIS, UCIA, Reg. Analysis	Joe Padgett EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5204 COMM:919-541-5204	NPRM: 06/00/81
Incorporation of Lead into Part 58 Air Monitoring Regulations SAN No. 1500 Docket No. A-80-3	Description: This rule will set forth requirements and network designs for state and local stations to monitor lead in the ambient air. It applies to large urban areas as well as those areas violating prescribed levels since 1974. Classification: Routine Statutory Authority: CAA 108, 110 / 42 USC 7408, 7410 CFR Change: 40 CFR 58 – Revision Analysis: EIS	Bob Neligan EPA (MD-14) Research Triangle Park NC 27711 FTS:8-629-5447 COMM:919-541-5447	NPRM: 45FR67654 (10/10/80) FR: 04/00/81
• *NAAQS for Sulfur Oxides* SAN No. 1002 Docket No. OAQPS-79-7	Description: Sulfur oxides are a major source of ambient air pollution, aggravating respiratory diseases, irritating eyes, and helping to form acid rain. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for sulfur dioxide. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108 / 42 USC 7408 CFR Change: 40 CFR 50 – Revision Analysis: Reg. Analysis, EIS, UCIA	Joe Padgett EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5204 COMM:919-541-5204	ANPRM: 44FR56730 (10/02/79) NPRM: 06/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION

Title	Summary	Contact	Timetable
	AIR		
• *NAAQS for Particulate Matter (TSP)* SAN No. 1003 Docket No. A-79-29	Description: Particulate matter is one of the major pollutants in the ambient air. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for particulate matter. The Agency will revise the criteria document and the standards themselves when appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108 / 42 USC 7408 CFR Change: 40 CFR 50 – Revision Analysis: Reg. Analysis, EIS, UCIA	Joe Padgett EPA (MD-12) Research Triangle Park NC 27711 FTS:8–629–5204 COMM:919–541–5204	ANPRM: 44FR56730 (10/02/79) NPRM: 06/00/81
Restructure CFR Parts 51, 52 SAN No. 1503 Docket No. A-80–11	Description: This rule will update Part 51 in two phases. First, EPA will streamline the rules and improve the language and organization for greater clarity. An addition to Part 52 will show the pertinent reference number changes for that section. Phase 2 of the rule will add to Part 51 the new requirements established by the 1977 Clean Air Act amendments. Classification: Routine Statutory Authority: CAA 110 / 42 USC 7410 CFR Change: 40 CFR 51, 52 – Revision	Richard Rhoads EPA (MD-12) Research Triangle Park NC 27711 FTS:8–629–5251 COMM:919–541–5251	NPRM: 06/00/81
Continuous Monitoring SAN No. 1613 Docket No. OAQPS-79–4	Description: This regulation revises performance specifications for continuous monitors applied to air pollution sources; including monitors for opacity, sulfur dioxide, nitrogen oxide, carbon monoxide, and ozone. Classification: Routine Statutory Authority: CAA 110(a) / 42 USC 7410(a) CFR Change: 40 CFR 60 – New	Roger Shigehara EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–2237 COMM:919–541–2237	NPRM: 44FR58602 (10/10/79) RPRM: 01/00/81 FR: 12/00/81

EPA is developing performance standards to control emissions from the following industries under Section 111(b) of the CAA. This section requires that the Administrator develop and periodically update New Source Performance Standards (NSPS) for stationary sources which significantly contribute to air pollution. The NSPS are based on the best systems demonstrated to reduce emissions continually, taking into account costs and energy requirements. The standards will apply to both new sources and existing sources which are modified after approval of the regulation.

Title	Summary	Contact	Timetable
Revision of Priority List of New Source Performance Standards SAN No. 1678 Docket No. A-80–23	Description: This action will revise the priority list of major source categories for which EPA is developing new source performance standards (NSPS), by deleting 19 categories and changing the title of one. Classification: Routine Statutory Authority: CAA 111(f) / 42 USC 7411(f) CFR Change: 40 CFR 60.16 – Revision	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5421 COMM:919–541–5421	FR: 44FR49222 (08/21/79) NPRM: 02/00/81 FR: 10/00/81
NSPS: Stationary Internal Combustion Engines SAN No. 1008 Docket No. OAQPS-79–5	Description: These regulations will require the application of best available demonstrated technology to control nitrogen oxide emissions from stationary diesel and dual-fuel internal combustion engines. EPA will issue separate standards for gas and gasoline-fueled stationary I.C. engines later. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.320 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5477 COMM:919–541–5477	NPRM: 44FR43173 (07/23/79) FR: 05/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
NSPS: Non-Metallic Mineral Operations SAN No. 1009 Docket No. OAQPS-78-11	Description: This regulation will control particulate emissions from 20 different industries which process the largest amounts of non-metallic minerals. The regulation applies to various polluting processes within each plant, and to both stationary and portable facilities. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.380 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 01/00/81 FR: 12/00/81
NSPS: Organic Solvent Cleaners SAN No. 1010 Docket No. OAQPS 78–12	Description: This rule will control evaporative emissions from metal cleaning and degreasing operations. It will also require States to act under Section III(d) to control some specific solvent emissions from existing sources. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.360 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 45FR39766 (06/11/80) FR: 11/00/81
NSPS: Synthetic Organic Chemical Manufacturing-Fugitive Emissions SAN No. 1112 Docket No. A-79–32	Description: This rule will control fugitive emissions from the manufacture of volatile organic chemicals from new process units within the synthetic organic chemical manufacture industry. It requires a leak detection and repair program and the use of certain equipment to reduce emissions. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.480 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 01/05/81 FR: 01/00/82
NSPS: Industrial Surface Coating: Cans SAN No. 1113 Docket No. A-80–4	Description: These standards will limit VOC emissions from new, modified, and reconstructed two and three piece beverage can and beverage can end surface coating facilities. The standards will cover base coat, varnish, inside coat, and end-seal operations. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.490 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 45FR78980 (11/26/80) FR: 12/00/81
NSPS: Industrial Surface Coating: Pressure Sensitive Tapes and Labels SAN No. 1114 Docket No. A-79–38	Description: This regulation will establish emission standards for volatile organic compound emissions from pressure sensitive tapes and labels coating operations. It will apply to new, modified or reconstructed coating lines. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.440 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 45FR86278 (12/30/80) FR: 11/00/81
NSPS: Industrial Surface Coating: Metal Furniture SAN No. 1115 Docket No. A-79–47	Description: This regulation will establish emission standards for volatile organic compounds from surface coating of metal furniture. The "affected facility" includes applications, flash-off, and oven areas of coating line. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.310 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–514–5271	NPRM: 45FR79390 (11/28/80) FR: 11/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
NSPS: Industrial Surface Coating: Metal Coils SAN No. 1596 Docket No. A-80-5	Description: This rule will control emissions of volatile organic compounds from metal coils industrial surface coating operations. It will affect each prime coating and each finish coating operation. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.460 - New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 01/00/81 FR: 12/00/81
NSPS: Industrial Surface Coating: Large Appliances SAN No. 1599 Docket No. A-80-6	Description: This regulation will control volatile organic compound emissions from industrial surface coating operations for large appliances. It applies to each prime coat or top coat operation. The "affected facility" is application station(s), flashoff area and curing oven. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.450 - New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR85085 (12/24/80) FR: 01/00/82
NSPS: Lead-Acid Battery Manufacture SAN No. 1116 Docket No. OAQPS-79-1	Description: This regulation will establish standards for particulate lead emissions from new, modified, or reconstructured lead-acid battery manufacturing facilities that have a production capacity of at least 500 batteries per day. The affected facilities are several different processes in the production line: lead oxide production, grid casting, paste mixing, 3-process operation, lead reclamation and other lead emitting operations. Control technology is fabric filters or high energy scrubbers. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.370 - New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR2790 (01/14/80) FR: 01/00/81
NSPS: Phosphate Rock Operations SAN No. 1118 Docket No. OAQPS-79-6	Description: This regulation will control the emission of particulate matter from phosphate rock processes. It applies to new, reconstructed, or modified plants, and calls for both weight emission limits and visable emission limits of zero percent opacity in rock dryers, calciners, and grinders. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.400 - New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 44FR62914 (11/01/79) FR: 04/00/81
NSPS: Perchloroethylene Dry Cleaning SAN No. 1119 Docket No. A-79-30	Description: This regulation will control hydrocarbon emissions, including perchloroethylene, from professional and coin-operated dry cleaning establishments. It will also reduce the ambient ozone problem. The rule will limit process wastes and leaks, and will require the use of a carbon adsorber, or equivalent control device, to control emissions from exhausts and vents. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.410 - New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR78174 (11/25/80) FR: 11/00/81
NSPS: Publication Rotogravure Printing SAN No. 1120 Docket No. A-79-50	Description: This regulation will control emissions of volatile organic compounds from large-scale publication rotogravure printing presses. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.430 - New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR71538 (10/28/80) FR: 11/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
AIR—Continued			
• *NSPS: Industrial Boilers* SAN No. 1586 Docket No. A-79-02	Description: Industrial boilers are a major stationary source of sulfur dioxide particulates, and nitrogen oxide emissions. EPA is developing performance standards for industrial boilers to achieve continuous emission reduction. The Agency will base emission limits upon the best available system of control, taking costs, environmental impacts and energy requirements into account. Classification: Major Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.520 – New Analysis: Reg. Analysis, EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	ANPRM: 44FR37632 (06/25/79) NPRM: 08/00/81
NSPS: Nitrate Fertilizer Industry SAN No. 1588	Description: This rule will control particulate emissions from production of ammonium nitrate fertilizer and explosives. It will regulate only the solids production end of the process and not the liquid solution end. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 06/00/81
NSPS: Bulk Gasoline Terminals SAN No. 1589 Docket No. OAQPS-78-2	Description: This rule will control volatile organic compound (VOC) emissions from new, modified, and reconstructed gasoline tank truck loading racks at bulk gasoline terminals. It will require installation of VOC vapor collection equipment, set VOC emission limits, and restrict loadings only to gasoline tank trucks that pass an annual vapor-tight test. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.500 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR83126 (12/17/80) FR: 03/00/82
NSPS: Sodium Carbonate Manufacture SAN No. 1590 Docket No. A-79-54	Description: This regulation will control particulate emissions from production of sodium carbonate. It applies to calciners, dryers and predryers, and bleachers in the process plants; and limits emissions by mass and opacity. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.350 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR68616 (10/15/80) FR: 11/00/81
NSPS: Asphalt Roofing Manufacture SAN No. 1591 Docket No. A-79-39	Description: This rule will control particulate emissions from the manufacture of asphalt roofing. The standard applies to emissions from asphalt blowing stills and asphalt saturators, by mass and opacity. Storage and handling operations are also under opacity limits. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.470 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 45FR76427 (11/18/80) FR: 11/00/81
NSPS: Urea Production SAN No. 1592 Docket No. A-79-48	Description: This rule will control particulate emissions from the production of urea for fertilizer. It will regulate the solids production end of the process and not the liquid solution end. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5271 COMM:919-541-5271	NPRM: 06/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
NSPS: Non-Fossil Fuel Fired Boilers SAN No. 1614 Docket No. A-79-22	Description: This rule will control particulate emissions from combustion of wood, municipal solid waste, refuse derived fuels, and bagasse. It will also control particulate emissions of the above when combined with fossil fuels. The rule will set an individual control level for each non-fossil fuel addressed. EPA is considering the highest volume fuels first, but will consider others later. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.550 – New	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5421 COMM:919–541–5421	NPRM: 05/00/81
NSPS: Rubber Products Industry-Tire Manufacturing SAN No. 1615 Docket No. A-80-9	Description: This standard will control VOC (volatile organic compound) emissions from solvent application during undertread/sidewall cementing, tread end cementing, bead cementing and green tire coating in rubber tire manufacturing plants. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.540 – New	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 05/00/81
NSPS: Electric Arc Furnaces in Ferrous Foundries SAN No. 1617 Docket No. A-80-3	Description: This standard will control particulate emissions from electric arc furnaces in ferrous foundries during the melting and refining phase of the furnace operation. It sets both mass and opacity limits. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.510 – New	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 01/00/81 FR: 12/00/81
NSPS: Volatile Organic Liquids Storage SAN No. 1613 Docket No. A-80-51	Description: This standard will control volatile organic compound emissions from the storage of organic liquids. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.530 – new Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 05/00/81
NSPS: Basic Oxygen Furnace SAN No. 1671 Docket No. A-79-06	Description: This regulation will control particulate emissions from basic oxygen process furnaces in steel mills. Classification: Routine Statutory Authority: CAA 111 / 42 USC 7411 CFR Change: 40 CFR 60.140 – Revision Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 04/00/81

EPA is developing emission standards for hazardous air pollutants under section 112 of the CAA. This section requires that the Administrator develop National Emission Standards for Hazardous Air Pollutants (NESHAPS) for emissions that cause or contribute to air pollution which results in an increase in mortality or in serious or incapacitating illness. The standards will apply to both new sources and existing sources.

The 1977 amendments extended the definition of air pollution to include radioactive substances. The Agency has listed radionuclides as a hazardous air pollutant and is developing regulations for radionuclides under section 112.

Title	Summary	Contact	Timetable
NESHAPS: Benzene Fugitive Emissions SAN No. 1126 Docket No. A-79-27	Description: This regulation would limit benzene emissions from fugitive emission sources in new and existing petroleum refineries and organic chemical manufacturing plants. The standards would allow no detectable emissions due to leaks from safety/relief valves and product accumulator vessels. The standards would also require a leak detection and repair program for pipeline valves, and would require certain equipment for pumps, compressors, sampling connections, and open-ended valves. Classification: Major Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 01/05/81 FR: 01/00/82

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
NESHAPS: Maleic Anhydride Manufacture SAN No. 1127 Docket No. OAQPS 79-3	Description: This regulation will control the emission of benzene from process vents in the manufacture of maleic anhydride. Classification: Major Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 42FR26660 (04/18/80) FR: 09/00/81
NESHAPS: Ethylbenzene/Styrene Manufacture SAN No. 1128 Docket No. A-79-49	Description: This regulation will control the emission of benzene from process vents in the manufacture of ethylbenzene and styrene at new and existing plants, through the use of boilers or process heaters. Process vents account for almost 90 percent of total uncontrolled plant emissions. Excess emissions during startup/shutdown or malfunction must be controlled by smokeless flares. Classification: Major Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	NPRM: 45FR83448 (12/18/80) FR: 12/00/81
NESHAPS: Benzene Storage SAN No. 1593 Docket No. A-80-14	Description: This regulation will limit benzene emissions resulting from the storage of pure benzene. EPA will require new and existing storage tanks to meet certain structural standards (a combination of roofs and seals) and require industry to inspect the equipment periodically to ensure that it functions properly. Classification: Routine Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5279	NPRM: 45FR83952 (12/19/80) FR: 01/00/82
NESHAPS: Listing of Coke Oven Emissions as Hazardous Air Pollutant SAN No. 1594 Docket No. A-79-15; A-79-16	Description: EPA is conducting a health risk assessment of coke oven emissions. If we determine that these emissons are hazardous, we will list them as hazardous air pollutants under Section 112 and will propose emission standards. Classification: Listing Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New	Joe Padgett EPA (MD-12) Research Triangle Park NC 27711 FTS:8–629–5204 COMM:919–541–5204	Listing: 05/00/81
NESHAPS: Listing of Acrylonitrile SAN No. 1677	Description: EPA is conducting a health risk assessment of acrylonitrile emissions. If the Agency determines that these emissions are hazardous, it will list them under Section 112 and will propose emission standards. Classification: Listing Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New	Joe Padgett EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5204 COMM:919–541–5204	Listing: 01/00/81
NESHAPS: Airborne Radionuclides SAN No. 1595 Docket No. A-79-11	Description: Radionuclides are a hazardous air pollutant. EPA is determining from which source categories radionuclide emissions create a significant health risk. The Agency will issue separate standards for each source named. Classification: Major Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New	William Mills EPA (ANR-460) Washington, DC 20460 FTS:8–557–0704 COMM:703–557–0704	NPRM: 12/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
• *Policy and Procedures for Airborne Carcinogens* SAN No. 1596 Docket No. OAQPS-79-14	Description: This is a policy statement to establish the procedures the Agency uses in identifying, assessing, and regulating substances in the air which increase the risk of cancer to the general population. The policy is to: (1) determine the carcinogenicity and carcinogenic risks of air pollutants for regulatory purposes; (2) establish priorities for evaluating the need for further action; (3) specify the degree of source control required by CAA 112, and how EPA will determine the control level for individual standards; and (4) provide for greater public participation. Classification: Policy Statement Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New	Joe Padgett EPA (MD-12) Research Triangle Park NC 27711 FTS:8–629–5204 COMM:919–541–5204	ANPRM: 44FR58662 (10/10/79) NPRM: 44FR61620 (10/26/79) FR: 04/00/81
Generic Standards for Airborne Carcinogens SAN No. 1618 Docket No. A-79-13	Description: These generic standards are to reduce fugitive emissions of organic chemical carcinogens listed in the future under CAA 112. These standards will provide a quick and nonburdensome first step in regulating organic chemical air carcinogens by leak detection and repair programs. They will be proposed when a carcinogenic volatile organic chemical is listed as a hazardous air pollutant. Classification: Significant Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New	Don Goodwin EPA (MD-13) Research Triangle Park NC 27711 FTS:8–629–5271 COMM:919–541–5271	ANPRM: 44FR58662 (10/10/79)
Stack Height Regulations SAN No. 1303 Docket No. A-79-01	Description: This regulation will determine the conditions under which State Implementation Plans can use stack height in determining emission requirements for individual firms. The agency will use the standard of "Good Engineering Practices" (GEP) to determine the maximum acceptable stack height. Classification: Major Statutory Authority: CAA 123 / 42 USC 7423 CFR Change: 40 CFR 51 – New Analysis: Reg. Analysis, EIS	Richard Rhoades EPA (MD-12) Research Triangle Park NC 27711 FTS:8–629–5251 COMM:919–541–5251	NPRM: 44FR2608 (01/12/79) FR: 04/00/81
• *Prevention of Significant Deterioration: Set II Pollutants* SAN No 1306 Docket No. A-79-34	Description: This rule will protect air quality in areas which meet National Ambient Air Quality Standards from significant degradation from "Set II" pollutants. These pollutants include carbon monoxide, hydrocarbons, nitrogen oxides, ozone, and lead. Similar rules exist for control of sulfur dioxide and particulate matter (Set I pollutants). EPA will develop guidance for State plans. Classification: Major Statutory Authority: CAA 165, 166 / 42 USC 7475, 7476 CFR Change: 40_CFR_51 Analysis: Reg. Analysis, EIS	Richard Rhoades MD-12 Research Triangle Park NC 27711 FTS:8–629–5251 COMM:919–541–5251	ANPRM: 45FR3088 (05/07/80) NPRM: 08/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
Emissions Banking SAN No. 1605	Description: EPA is developing a regulation designed to introduce greater certainty and consistency into its emissions banking program. Emissions banking enables firms with lower pollution control costs to sell emission reduction credits to firms with higher control costs, or to bank their credits for future use. This regulation will establish a framework to govern revisions in state implementation plans that will incorporate emissions banking. This will lead to a more consistent set of procedures and requirements for state approval and certification of emission credits which are banked, traded, and sold. Classification: Major Statutory Authority: CAA 173 / 42 USC 7503 CFR Change: 40 CFR 51 – New Analysis: Reg. Analysis, RIA	John Hoffman EPA (PM-221) Washington, DC 20460 FTS:8-426-7422 COMM:202-426-7422	NPRM: 02/00/81 FR: 08/00/81
Conformity of Federal Actions to State Implementation Plans SAN No. 1543	Description: These regulations will ensure the conformity of all relevant federal actions in areas subject to the provisions of a state implementation plan approved, conditionally approved or promulgated by EPA. Two types of regulations are being considered: (1) requiring other federal departments to establish a process for determining the conformity of their actions with SIPs; and (2) requiring state and local review of these decisions of federal departments. Classification: Routine Statutory Authority: CAA 176(c) / 42 USC 7506(c) CFR Change: 40 CFR 51, 52, 59 – New	Cary B. Hinton EPA (ANR-445) Washington, DC 20460 FTS:8-755-0570 COMM:202-755-0570	ANPRM: 45FR21590 (04/01/80) NPRM: 03/00/81 FR: 09/00/81

The purpose of Title II of the Clean Air Act is to control emissions from moving sources of air pollution. Mobile sources (cars, trucks, motorcycles and buses) are major sources of carbon monoxide, hydrocarbons, nitrogen oxides and particulate matter. Title II also authorizes EPA to regulate fuels and fuel additives.

Title	Summary	Contact	Timetable
• *Heavy-Duty Diesel Particulate Standards* SAN No. 1310 Docket No. OMSAPC-78-3	Description: Although these standards are required by the Clean Air Act for 1981 models, development of a new heavy-duty testprocedure to be used as the basis for a standard delayed progress. Promulgation of the transient heavy-duty test procedure allows work to proceed on the standard. The agency intends to have a standard for the 1985 model year. Classification: Major Statutory Authority: CAA 202(a)(3) / 42 USC 7521(a)(3) CFR Change: 40 CFR 86 – New Analysis: Reg. Analysis, EIS	Richard Rykowski EPA Ann Arbor, MI 48105 FTS:8-374-8339 COMM:313-668-4339	NPRM: 01/07/81 FR: 11/00/81
Heavy-Duty Evaporative Emissions SAN No. 1312 Docket No. OMSAPC-79-1	Description: The Clean Air Act requires that EPA promulgate a test procedure to require measurement of evaporative emissions from vehicles. EPA is also developing standards for heavy-duty gasoline vehicles which will regulate fuel evaporation emissions beginning not earlier than model year 1984. Classification: Routine Statutory Authority: CAA 202(a) / 42 USC 7521(a) CFR Change: 40 CFR 86 – New Analysis: Reg. Analysis, EIS	Tim Mott EPA Ann Arbor, MI 48105 FTS:8-374-8462 COMM:313-668-4462	NPRM: 45FR28922 (04/30/80) FR: 05/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
AIR—Continued			
• *NOx Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines* SAN No. 1315 Docket No. OMSPAC-78-4	Description: The Clean Air Act requires EPA to establish emission standards for heavy-duty vehicles incorporating a 75% reduction in nitrogen dioxide beginning with model year 1985. EPA has developed a new test procedure for measuring exhaust emissions which will be used to measure baseline emissions. Classification: Major Statutory Authority: CAA 202 / 42 USC 7521 CFR Change: 40 CFR 86 – New Analysis: Reg. Analysis, EIS	Chet France EPA Ann Arbor, MI 48105 FTS:8-374-8447 COMM:313-668-4497	ANPRM:01/00/81
Investigation of Averaging for Heavy-Duty and Light-Duty NOx Truck Emissions SAN No. 1646 Docket No. A-80-49	Description: The Agency is developing emissions averaging of NOx applicable to heavy-duty and light-duty trucks. This regulation will allow manufacturers flexibility in setting emissions levels for individual engine families at the same time that it retains the benefits of current, non-averaging emission regulations Classification: Major Statutory Authority: CAA 202(a) / 42 USC 7521(a) CFR Change: 40 CFR 86 – New Analysis: EIS, RIA	Glenn Passavant EPA Ann Arbor MI 48105 FTS:8-374-8408 COMM:313-668-4408	ANPRM: 45FR79382 (11/28/80) NPRM: 05/00/81 FR: 12/00/81
Importation of Motor Vehicles and Motor Vehicle Engines SAN No. 1317 Docket No. EN-79-9	Description: These revised regulations allow only certified vehicles and engines to be imported except that an individual may import an uncertified version for one time only. The purpose is to improve the effectiveness and administration of EPA's present regulation. Classification: Routine Statutory Authority: CAA 203 / 42 USC 7522 CFR Change: 40 CFR 85 – Revision	Gerard C. Kraus EPA (EN-340) Washington, D.C. 20460 FTS:8-472-9413 COMM:202-472-9413	NPRM: 45FR48812 (07/21/80) FR: 08/00/81
Tampering Enforcement Regulations SAN No. 1601 Docket No. EN-80-3	Description: These regulations will clarify EPA's enforcement policy against tampering with the emission control systems of motor vehicles Classification: Routine Statutory Authority: CAA 203(a)(3), 301 / 42 USC 7522(a)(3), 7601 CFR Change: 40 CFR 85 – New	Barbara C. Giliberti EPA (EN-340) Washington, DC 20460 FTS:8-472-9350 COMM:202-472-9350	ANPRM: 02/00/81 NPRM: 12/00/81 FR: 06/00/82
Vehicle Maintenance and Use Regulations SAN No. 1517 Docket No. EN-79-11	Description: These regulations in conjunction with existing use and maintenance regulations will help ensure that manufacturers require only appropriate maintenance of emission – related components and that owners are fully informed of their maintenance burden and resulting liabilities. Classification: Routine Statutory Authority: CAA 203(a)(4), 204, 205, 206, 207(c)(3), 301(a)(1) / 42 USC 7522(a)(4), 7523, 7524, 7525, 7541(c)(3), 7601(a)(1) CFR Change: 40 CFR 85 Subpart V – New	Richard Friedman EPA (EN-340) Washington, DC 20460 FTS:8-557-7413 COMM:202-557-7413	NPRM: 04/00/81 FR: 12/00/81
1984 High Altitude Standards SAN No. 1322 Docket No. A-80-01	Description: These regulations require all vehicles to meet standards at all altitudes beginning with 1984 models. Classification: Routine Statutory Authority: CAA 206(f)(1) / 42 USC 7525(f)(1) CFR Change: 40 CFR 86 – New Analysis: Reg. Analysis, EIS	Richard Wilcox EPA Ann Arbor, MI 48105 FTS:8-374-8390 COMM:313-668-4390	

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	AIR—Continued		
Nonconformance Penalties for 1984 Model Year Heavy-Duty Engines (HDEs) SAN No. 1571	Description: This regulation will allow manufacturers of 1984 HDEs to sell their engines even though they fail to meet 1984 regulatory requirements for specific pollutants, provided that emissions do not exceed a specified maximum level and that the manufacturer pays a nonconformance penalty for each HDE sold. The penalty will remove any competitive advantage of noncompliance. Classification: Routine Statutory Authority: CAA 206(g), 301(a) / 42 USC 7525(g), 7601(a) CFR Change: 40 CFR 86 – New Analysis: Reg. Analysis, RIA	Timothy Fields EPA (EN-340) Washington, D.C. 20460 FTS:8–472–9417 COMM:202–472–9417	NPRM: 44FR9485 (02/13/79) NPRM: 03/00/81 FR: 12/00/81
Nonconformance Penalties for Light-Duty Trucks SAN No. 1632	Description: This regulation will allow manufacturers of 1984 light duty trucks over 6,000 pounds gross vehicle weight to sell their vehicles even though they fail to meet 1984 regulatory requirements for specific pollutants, provided that emissions do not exceed a specified maximum level and that the manufacturer pays a nonconformance penalty for each truck sold. The penalty will remove any competitive advantage of noncompliance. Classification: Routine Statutory Authority: CAA 206(g), 301(a) / 42 USC 7525(g), 301(a) CFR Change: 40 CFR 86 – New Analysis: RIA	Timothy Fields EPA (EN-340) Washington DC 20460 FTS:8–472–9417 COMM:202–472–9417	NPRM: 44FR40791 (07/12/79) NPRM: 03/00/81 FR: 12/00/81
Emissions Design and Defect Warranty SAN No. 1324 Docket No. MSED-78–1	Description: This regulation will insure that owners are able to take advantage of the 207(a) warranty and that dealers and manufacturers understand their liability. It will also establish uniform procedures for administering the warranty and require owners to be informed of its coverage. Classification: Routine Statutory Authority: CAA 207(a)(1), 301(a)(1), 203(a)(4) / 42 USC 7541(a)(1), 7601(a)(1), 7522(a)(4) CFR Change: 40 CFR 85 – new	Richard Friedman EPA (EN-340) Washington, DC 20460 FTS:8–557–7413 COMM:202–557–7413	ANPRM: 41FR50566 (11/16/76) NPRM: 06/00/81 FR: 11/00/81
Allowable Maintenance for Light Duty Vehicles SAN No. 1597	Description: The Clean Air Act requires that automobile manufacturers furnish to the purchaser written instructions for proper use and maintenance of new motor vehicles and engines. This regulation will determine the content of those instructions on the basis of maintenance which is likely to be performed and which is necessary. The Agency has temporarily postponed completion of this regulation. Classification: Routine Statutory Authority: CAA 207(c)(3) / 42 USC 7541(c)(3) CFR Change: 40 CFR 86 – New	Richard Rykowski EPA Ann Arbor, MI 48105 FTS:8–374–8339 COMM:313–668–4339	
• *Fuels and Fuel Additives* SAN No. 1328	Description: These protocols will help determine effects of fuel and fuel additives on public health and emission control devices. Classification: Major Statutory Authority: CAA 211 / 42 USC 7545 CFR Change: 40 CFR 79.6 – New Analysis: Reg. Analysis, EIS, RIA	Richard A. Rykowski EPA Ann Arbor, MI 48105 FTS:8–374–8339 COMM:313–668–4339	ANPRM: 04/00/81 NPRM: 01/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

AIR—Continued

Title	Summary	Contact	Timetable
Turbine Aircraft Gaseous Emissions Retrofit and Modification of 1973 Standards SAN No. 1330 Docket No. OMSAPC-78-1	Description: This regulation proposes revisions in emission standards for commercial aircraft to reduce hydrocarbons, carbon monoxide and nitrogen oxide. Classification: Major Statutory Authority: CAA 231 / 42 USC 7571 CFR Change: 40 CFR 87 – New	Richard Munt EPA Ann Arbor MI 48105 FTS:8–374–8378 COMM:313–668–4378	NPRM: 43FR12816 (03/24/78) FR: 06/00/81
Fuel Economy Data – 1982 Model Year SAN No. 1629 Docket No. A-80-32	Description: This action will revise Part 600 to incorporate several provisions intended to ensure the representativeness of data used to calculate fuel economy values. These revisions will 1) decrease the maximum allowable test vehicle system mileage accumulation, 2) redefine transmission class to differentiate between front- and rear-wheel drive, 3) require additional test data when base level fuel economy would otherwise be from a zero sales vehicle configuration, and 4) allow for more accurate and thorough reflection of the fuel economy effect of running changes. Classification: Routine Statutory Authority: EPCA 1901 CFR Change: 40 CFR 600 – Revision	Phillip Leung EPA Ann Arbor, MI 48105 FTS:8–374–8248 COMM:313–668–4248	ANPRM: 45FR64540 (09/29/80) NPRM: 01/00/81 FR: 07/00/81

DRINKING WATER

The Safe Drinking Water Act of 1974 requires EPA to establish primarey and secondary drinking water regulations to assure safe drinking water supplies for the public. Primary regulations are aimed at protecting public health. They establish maximum allowable containment levels in drinking water and provide for water treatment technologies and general criteria for water supply system operation. Secondary regulations are designed to protect public welfare and deal with taste, odor, and appearance of drinking water. The act also provides for developing regulations to protect underground sources of drinking water (aquifers) from contamination. The chief source of such contamination is the injection into the ground of various waste products as a means of disposing of them.

Title	Summary	Contact	Timetable
• *Control of Organic Chemical Contaminants in Drinking Water by Granular Activated Carbon Systems* SAN No. 1201	Description: The regulation will require use of granular activated carbon (GAC) or equivalent technology in those public water systems subject to contamination by synthetic organic chemicals. Classification: Major Statutory Authority: SDWA 1412 / 42 USC 300g-1 CFR Change: 40 CFR 141 – New Analysis: Reg. Analysis	Craig Vogt EPA (WH-550) Washington DC 20460 FTS:8–472–5030 COMM:202–472–5030	ANPRM: 41FR28991 (07/14/76) NPRM: 43FR5756 (02/09/78) NPRM: 43FR2935 (04/04/78) RPRM: 06/00/82 FR: 06/00/83
• *Maximum Contaminant Levels for Volatile Organic Chemicals Found in Ground Water* SAN No. 1567	Description: The regulation will establish the Maximum Contaminant Level (MCL) for certain organic chemicals that are most commonly found in drinking water drawn from groundwater sources and that may have adverse effects on human health. These chemicals include trichloroethylene, tetrachloroethylene, and vinyl chloride. Classification: Major Statutory Authority: SDWA 1412 / 42 USC 300g-1 CFR Change: 40 CFR 141 – Addition	Tom Thornton EPA (WH-550) Washington DC 20460 FTS:8–426–6920 COMM:202–426–6920	ANPRM: 41FR23991 (07/14/76) ANPRM: 01/00/81 NPRM: 07/00/81 FR: 07/00/82

NOISE

The Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978, authorizes EPA to promulgate regulations to protect the public health and welfare from noise pollution.

Sections 5 and 6 of the Act require that the Agency identify major sources of noise pollution and promulgate noise emission standards for newly manufactured products listed as major sources of noise that are distributed in commerce Under section 8. EPA is authqrized to require labeling of consumer products as to their noise-related characteristics. The Agency has established general labeling requirements and will expand the number of products covered under this program.

Section 17 of the Act provides for limiting noise from railroad engines, cars and facilities. These regulations are enforced by the Federal Railroad Administration of the Department of Transportation.

Title	Summary	Contact	Timetable
Noise Emission Standards for Buses SAN No. 1170 Docket No. OANC-77-6	Description: This regulation sets noise emission standards for new interstate, city, and school buses Classification: Routine Statutory Authority: NCA 5,6 / 42 USC 4904, 4905 CFR Change: 40 CFR 205 – Addition Analysis: EIS, Reg. Analysis	Francine Cannon EPA (ANR-490) Washington DC 20460 FTS:8–557–7666 COMM:202–557–7666	NPRM: 42FR45775 (09/12/77) FR: 01/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
NOISE—Continued			
Noise Emission Standards for Wheel and Crawler Tractors SAN No. 1172 Docket No. ONAC-77-2	Description: This regulation sets noise emission standards for new wheel and crawler tractors manufactured for construction applications. Classification: Major Statutory Authority: NCA 5, 6 / 42 USC 4904 CFR Change: 40 CFR 204 – Addition Analysis: EIS,Reg. Analysis	John Fuchs EPA (ANR-490) Washington, DC 20460 FTS:8-557-2710 COMM:202-557-2710	NPRM: 42FR35803 (07/11/77) FR: 12/00/82
Noise Emission Standards for Motorcycles SAN No. 1173 Docket No. OANC-77-10	Description: This regulation sets noise emission standards for new motorcycles and new motorcycle replacement exhaust systems distributed in commerce. Classification: Major Statutory Authority: NCA 5, 6 / 42 USC 4904, 4905 CFR Change: 40 CFR 205 – Addition Analysis: EIS, Reg. Analysis	Fred Newberry EPA (ANR-490) Washington, DC 20460 FTS:8-557-7666 COMM:202-557-7666	NPRM: 43FR10822 (03/15/78) FR: 45FR86694 (12/31/80)
Additional Testing Requirement for Motorcycle and Motorcycle Exhaust Systems SAN No. 1670 Docket No. ONAC 80-03	Description: This action proposes to require manufacturers to remove all easily removable components from their exhaust systems before conducting the tests necessary to show compliance with any applicable motorcycle Noise Emission Standards. Classification: Routine Statutory Authority: NCA 6,13 / 42 USC 4905,4912 CFR Change: 40 CFR 205 – Revision	Fred Newberry EPA (ANR-490) Washington, D.C. 20460 FTS:8-557-7666 COMM:202-557-7666	NPRM: 45FR86732 (12/31/80)
Low Noise Emission Products SAN No. 1177 Docket No. ONAC-77-7	Description: If a product has a low noise emission level, it may be entitled to special consideration in Federal purchasing. This regulation establishes procedures for making low level determinations. Classification: Routine Statutory Authority: NCA 15 / 42 USC 4914 CFR Change: 40 CFR 203, 204, 205 – Addition Analysis: EIS	Henry Thomas EPA (ANR-490) Washington, DC 20460 FTS:8-557-7743 COMM:202-557-7743	NPRM: 42FR27441 (05/27/77) FR: 04/00/81
Noise Emission Standards for Transportation Equipment; Interstate: Rail Carriers – Property Line Noise Standards SAN No. 1179A Docket No. ONAC 80-1	Description: This regulation establishes noise emission standards (limits) on the overall noise generated from railroad facilities (including operations and equipment noise). The DC Circuit has set January 1981 as the deadline for promulgation of the final rule. See Association of American Railroads v. Costle, CA No. 76-1353. Classification: Routine Statutory Authority: NCA 17 / 42 USC 4916 CFR Change: 40 CFR 201 – New Analysis: EIS	Robert C. Rose EPA (ANR-490) Washington, DC 20460 FTS:8-557-7744 COMM:202-557-7744	NPRM: 44FR22960 (04/17/79) NPRM: 44FR25266 (04/30/79) FR: 00/00/81
Railroad Noise Emission Standards: Special Local Determinations SAN No. 1180 Docket No. ONAC 76-11	Description: This regulation establishes procedures and criteria for State and local governments to apply for exceptions from federal rules. The Agency expects that it will only make exceptions on those rare occasions when special circumstances make the federal rules inapplicable. Classification: Routine Statutory Authority: NCA 17(c)2 / 42 USC 4916(c)(2) CFR Change: 40 CFR 201 – New	Robert C. Rose EPA (ANR-490) Washington, DC 20460 FTS:8-557-7744 COMM.202-557-7744	NPRM: 41FR52317 (11/29/76) RPRM: 00/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

PESTICIDES

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), with the cooperation of the States for certain activities, regulate the use of pesticide products in the United States. Under Section 3 of the Act all manufacturers of pesticides must register their products with EPA. The Agency is presently working on regulations (SAN Nos. 1141–1148,1619–1623) that specify the test data standards and the reporting and labeling requirements for registration applications. EPA is also simplifying procedures for registration and reregistration of pesticide products (SAN No. 1524).

Title	Summary	Contact	Timetable
• *Pesticide Registration Guidelines: Introduction* SAN No. 1141	Description: This action states the general guidelines and specifies the degree of flexibility in their requirements and in the use of interim data. It also defines terms used throughout the guidelines and sets out requirements for keeping data and test samples at laboratories. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart A – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8–557–1405 COMM:703–557–1405	NPRM: 43FR29696 (07/10/78) FR: 04/00/81
• *Pesticide Registration Guidelines: Applicability of Data Requirements* SAN No. 1619	Description: This action provides instruction for registration applicants as to expected data requirements based on product type and use pattern. It will indicate whether the requirements apply to products from basic manufacturers or formulators, and who will be required to develop the data. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40_CFR_163 Suppart B	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8–557–1405 COMM:703–557–1405	ANPRM: 04/00/81 NPRM: 12/00/81 FR: 09/00/82
• *Chemistry Requirements: Product Chemistry* SAN No. 1143	Description: This regulation covers requirements for data on formation, identification, and quantification of the ingredients and impurities in pesticide products, and on chemical and physical characteristics of the products and their components. The Agency will propose a new section on bioassays to detect unwanted contaminants and impurities. Classification: Major Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart D – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8–557–1405 COMM:703–557–1405	NPRM: 43FR29696 (07/10/78) FR: 02/00/81 NPRM(II): 02/00/81 FR(II): 09/00/81
• *Hazard Evaluations: Wildlife and Aquatic Organisms* SAN No. 1144	Description: This action covers data requirements for studies of pesticide effects on birds, wild animals, fish, and aquatic animals. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart E – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8–557–1405 COMM:703–557–1405	NPRM: 43FR29696 (07/10/78) FR: 01/00/81
• *Hazard Evaluation: Humans and Domestic Animals* SAN No. 1145	Description: This regulation specifies data requirements for studies of pesticide effects in laboratory animals for assessment of potential hazards to humans and domestic animals. The sections on mutagenicity data requirements will be promulgated in September 1981. Classification: Major Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart F – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8–557–1405 COMM:703–557–1405	NPRM: 43FR37336 (08/22/78) FR: 08/00/81
Product Performance SAN No. 1146	Description: This action specifies the data that registrants must submit to demonstrate that pesticide products will control pests as specified in label claims. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart G – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8–557–1405 COMM:703–557–1405	NPRM: 01/00/81 FR: 11/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
PESTICIDES—Continued			
• *Label Development and Improvement* SAN No. 1147	Description: This action describes all essential parts of a pesticide product label, including how labeling must comply with the requirements of FIFRA and how claims, precautions and directions must correspond to evidence developed in tests performed by or for the registration applicant. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 163(a) CFR Change: 40 CFR 163 Subpart H – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 01/00/81 FR: 11/00/81
• *Experimental Use Permits* SAN No. 1142	Description: This action specifies that data and labeling must be submitted in support of an application for an experimental use permit. It also defines procedures which must be followed to obtain a permit. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart I – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 01/00/81 FR: 09/00/81
• *Hazard Evaluation: Non-Target Plants and Micro-Organisms* SAN No. 1148	Description: This action describes data required to evaluate adverse effects on plants in nontarget areas and on desirable plants in target areas. It also provides guidance on developing data regarding spray draft. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart J – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 45FR72948 (11/03/80) FR: 09/00/81
• *Exposure Data Requirements* SAN No. 1620	Description: This action provides guidance on means to calculate the length of time required before persons can safely re-enter a pesticide-treated area, and the data requirements needed for the calculation. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart K – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 04/00/81 FR: 03/00/82
• *Hazard Evaluation: Nontarget Insects* SAN No. 1621	Description: This regulation specifies the data requirements for tests designed to reveal any potential adverse effects on bees and other useful nontarget insects. Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart L – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 01/00/81 FR: 09/00/81
• *Data Requirements for Biorational Pesticides* SAN No. 1622	Description: This action prescribes data requirements for studies conducted with pest control organisms such as bacteria, fungi, protozoa, and viruses to determine possible adverse effects to humans and other nontarget organisms in the environment. Studies with chemicals derived from organisms, such as sex attractants and insect growth regulators, are also covered by data requirements in this subpart. Classification: Major Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart M – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 01/00/81 FR: 10/00/81
• *Chemistry Requirements: Environmental Fate* SAN No. 1623	Description: This regulation specifies the data requirements to demonstrate fate of pesticides in the environment, such as through degradation, metabolism, mobility dissipation accumulation and similar routes. (This action was proposed as part of Subpart D). Classification: Routine Statutory Authority: FIFRA 3 / 7 USC 136a CFR Change: 40 CFR 163 Subpart N – New	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 43FR29696 (07/10/78) FR: 03/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	PESTICIDES—Continued		
Modification of Regulations for Pesticides Registration, Classification, and Incorporation of Generic Standards SAN No. 1524	Description: These regulations will revise procedures and requirements for the registration of new pesticide chemicals and products, the registration and reregistration of old pesticide chemicals and products, and the classification and rebuttal presumption against registration (RPAR) process. Classification: Major Statutory Authority: FIFRA 3(c)(2)(C) / 7 USC 136d CFR Change: 40 CFR 162 – Revision Analysis: Reg. Analysis	Henry Jacoby EPA (TS-767) Washington DC 20460 FTS:8-755-2562 COMM:202-755-2562	ANPRM: 44FR76311 (12/26/79) NPRM: 05/00/81 FR: 01/00/82
State Registration To Meet Special Local Needs SAN No. 1153	Description: This regulation defines the scope of state jurisdiction to register pesticides for uses that Federal registrations do not cover. It also establishes procedures for disapproval by EPA of certain State registrations, and procedures for suspension of State registration authority under certain circumstances. Classification: Routine Statutory Authority: FIFRA 24(c) / 7 USC 136v CFR Change: 40 CFR 162 Subpart D – New	Phil Gray EPA (TS-770-m) Washington DC 20460 FTS:8-472-9400 COMM:202-472-9400	NPRM: 44FR46414 (08/07/79) FR: 01/00/81
Revised Worker Protection Standards for Agricultural Pesticides SAN No. 1640	Description: This revision will clarify the authority of EPA to enforce and establish standards that protect farm families and workers from unreasonable adverse effects of agricultural pesticides. Classification: Routine Statutory Authority: FIFRA 3, 7, 25 / 7 USC 136 a, w CFR Change: 40 CFR 170 – Revision	Stanley Weissman EPA (TS 766) Washington, DC 20460 FTS:8-755-8035 COMM:703-755-8035	ANPRM: 04/00/81 NPRM: 08/00/81 FR: 01/00/82
Closed System Packing SAN No. 1523	Description: The objective of this rule is to reduce the hazards associated with the transfer mixing, and loading of pesticides. These hazards have resulted in adverse effects on pesticide mixers and loaders of certain classes of pesticides. Classification: Routine Statutory Authority: FIFRA 25(c)(3) / 7 USC 136e CFR Change: 40 CFR 162 – Addition	William Jacobs EPA (TS-767) Washington, DC 20460 FTS:8-755-4851 COMM:202-755-4851	ANPRM: 44FR54508 (09/20/79) NPRM: 04/00/81 FR: 12/00/81
State Enforcement of Pesticide Violations SAN No. 1563	Description: This interpretive rule will give the Agency interpretation of Sections 26 and 27 of FIFRA which provide for State enforcement of pesticide violations. Under Section 27(b) the Agency is writing a related specialized regulation to establish procedural rules for rescinding State enforcement primacy if the Administrator determines that a State is not carrying out its enforcement responsibility Classification: Routine Statutory Authority: FIFRA 26, 27 / 7 USC 136-W-1, W-2 CFR Change: 40 CFR 173 – New	Steve Leifer EPA (EN-342) Washington, DC 20460 FTS:8-755-0970 COMM:202-755-0970	NPRM: 02/00/81 FR: 07/00/81
Reporting Requirements for States with Enforcement Primacy SAN No. 1647	Description: This regulation details the reporting and recordkeeping requirements for States that have primacy for pesticide use enforcement. These requirements will provide EPA with the information necessary to judge the adequacy of State enforcement. Classification: Routine Statutory Authority: FIFRA 26(a)(3) CFR Change: 40 CFR 173 – New Analysis: RIA	Laura Campbell EPA (EN-342) Washington, D.C. 20460 FTS:8-755-0970 COMM:202-755-0970	ANPRM: 02/00/81 NPRM: 05/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
PESTICIDES—Continued			
Tolerance Revocation Program SAN No. 1560	Description: This regulation prescribes methods for revoking tolerance petitions when a pesticide registration is cancelled. It applies to dieldrin, aldrin, DDT, and BHC. Classification: Routine Statutory Authority: FDCA 408,409 / 21 USC 678,679 CFR Change. 40 CFR 180.147, 180.135, – Deletions 180.37, 180.140Θ	Jesse Mayes EPA (TS-767) Washington, DC 20460 FTS:8-426-9490 COMM:202-426-9490	NPRM. 03/00/81 FR 05/00/81

RADIATION

Reorganization Plan No. 3 of 1970 transferred to EPA the authorities of the Federal Radiation Council. This included authority to develop guidance for other federal agencies to follow in limiting radiation exposures. This guidance is issued by the President. Additionally, EPA was given authority, under the Atomic Energy Act, to establish generally applicable environmental standards to protect public health from exposure to radiation. The NRC, the Department of Energy, and other federal agencies are responsible for implenting and enforcing these standards.

EPA is also developing regulations for clean up and disposal of uranium mill tailingΘ;Θ piles under the Uranium Mill Tailings Radiation Control Act of 1978.

Title	Summary	Contact	Timetable
Guidance for Occupational Radiation Exposure SAN No. 1161 Docket No. A-79-46	Description: This guidance updates existing (1960) radiation occupational exposure limits for all workers except radiation exposure to uranium miners. Classification: Guidance Statutory Authority: AEA 274(h);Reorganization Plan No 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR – Revision	Luis Garcia EPA (ANR 460) Washington, DC 20460 FTS:8-557-8224 COMM:703-557-8224	ANPRM: 44FR53785 (09/17/79) NPRM: 01/00/81 FR. 01/00/82
Transuranic Elements SAN No. 1162	Description: This guidance to Federal Agencies establishes dose rate limits for people exposed to transuranic elements in the general environment. The guidance considers both human inhalation and ingestion of transuranium elements, and establishes a maximum dose rate to lungs and bones for members of the general population. This dose rate limit can be associated with an estimated maximum risk of one additional death per million persons continuously exposed at this rate per year. EPA has approved this guidance and has sent it to the President for signature. Classification: Guidance Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR	Gordon Burley EPA (ANR 460) Washington, DC 20460 FTS:8-557-0704 COMM:703-557-0704	NPRM: 42FR60956 (11/30/77) FR Pending
• *Environmental Protection Standards for High-level Radioactive Waste* SAN No. 1163	Description: EPA is developing environmental standards which state the public health and environmental requirements to be met for disposal of high-level radioactive waste. These consist of general design and site selection principles as well as numerical performance requirements for high level waste repositories. DOE and NRC will use EPA's regulation to set their standards to govern the licensing, design and operation of permanent high-level radioactive waste disposal facilities. Classification: Major Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: 40 CFR 191 – New Analysis: Reg. Analysis, EIS	Dan Egen EPA (ANR-459) Washington, DC 20460 FTS:8-557-8610 COMM:703-557-8610	ANPRM: 41FR53363 (12/06/76) NPRM: 03/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
RADIATION—Continued			
Environmental Criteria for Radioactive Wastes SAN No. 1164	Description: The criteria are general guidance to Federal agencies on definitions of radioactive wastes and factors they should consider in evaluating disposal modes and sites. Classification: Guidance Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR.	Robertson Augustine EPA (ANR-458) Washington DC 20460 FTS:8-557-8950 COMM:703-557-8950	NPRM: 43FR53262 (11/15/78) FR: 03/00/81
Radiofrequency Radiation Guidance SAN No. 1525	Description: This guidance will serve to limit exposure to radiofrequency monitoring radiation which poses a potential health risk. Classification: Guidance Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR. Analysis: EIS	David Janes EPA (ANR-461) Washington DC 20460 FTS:8-427-7604 COMM:301-427-7604	NPRM: 12/00/81
• *Remedial Action Standards for Inactive Uranium Processing Sites* SAN No. 1166 Docket No. A-79-25	Description: This regulation defines standards for the clean-up and disposal of uranium mill tailings from inactive sites. Based on the EPA standards, the Department of Energy will take remedial action. In order to expedite clean-up, the Agency is seperating the timetables for the clean-up, and disposal sections of the regulation. Classification: Major Statutory Authority: UMTRCA 206, AEA 275 / 42 USC 2022 CFR Change: 40 CFR 192 - New Analysis: EIS	Stan Lichtman EPA (ANR-458) Washington, DC 20460 FTS:8-557-8927 COMM:703-557-8927	NPRM: 45FR27370 (04/22/80) (clean-up) IFR: 45FR27366 (04/22/80) (clean-up) NPRM: 01/00/81 (disposal) FR: 11/00/81
Environmental Standards for Active Uranium Mill Processing Sites SAN No. 1166A	Description: The Administrator is required to issue generally applicable standards for protecting the public health and safety, and the environment, from certain radiological and nonradiological hazards of uranium. These are the hazards associated with processing, keeping, transfering and disposing of uranium byproduct material at sites which either (a) process the uranium ore primarily for its source material content or (b) dispose of the uranium byproduct material. Classification: Routine Statutory Authority: UMTRCA 206, AEA 275(b) / 42 USC 2022(b) CFR Change: 40 CFR 192 - New	Stan Lichtman EPA (ANR-458) Washington DC 20460 FTS:8-557-8927 COMM:703-557-8927	NPRM: 03/00/82

SOLID WASTE

The primary goals of the Resource Conservation and Recovery Act are 1) to improve the management of solid wastes in order to protect human health and the environment and 2) to conserve valuable material and energy resources. More specifically, the Act calls for State programs authorized by EPA to regulate hazardous waste management from generation through disposal, and for the States to regulate the disposal on land of all other solid wastes in accordance with minimum Federal criteria. The Act also establishes resource recovery and conservation as the preferred approach to solid waste management. The Act requires EPA to establish regulations and guidelines to achieve these objectives and to provide for financial and technical assistance to State and local governments, research and special studies, and public participation and education.

Title	Summary	Contact	Timetable
• *Identification and Listing of Hazardous Waste* SAN No. 1191 Docket No. 3001	Description: This regulation defines wastes that EPA or the States will control under the nationwide hazardous waste management program. It defines criteria for identifying characteristics of hazardous wastes based on ignitability, corrosivity, reactivity, and extract procedure toxicity. It also defines criteria for listing hazardous wastes. In March 1981 EPA will issue an interim final rule concerning wastes listed in Appendix B. Classification: Major Statutory Authority: RCRA 3001 / 42 USC 6921 CFR Change: 40 CFR 261 - New Analysis: Reg. Analysis, EIS, ORA	Alan Corson EPA (WH-565) Washington DC 20460 FTS 8-755-9187 COMM:202-755-9187	ANPRM: 42FR22332 (05/02/77) NPRM: 43FR58946 (12/18/78) FR: (05/19/80) FR: 45FR47835 (07/16/80) FR: 45FR74884 (11/12/80) IFR: 03/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	SOLID WASTE—Continued		
• *Standards Applicable to Owners and Operators of Hazardous Waste Treatment and Disposal Facilities* SAN No. 1194 Docket No. 3004	Description: This regulation requires facilities that manage hazardous waste to meet certain standards for financial responsibility, operating practices, location, and design. These standards have been set to protect the quality of air, surface-water, and groundwater. Classification: Major Statutory Authority: RCRA 3004 / 42 USC 6924 CFR Change: 40 CFR 264,265,266 - New Analysis: Reg. Analysis, EIS, ORA	John Lehman EPA (WH-565) Washington DC 20460 FTS:8-755-9185 COMM:202-755-9185	ANPRM: 42FR22332 (05/02/77) NPRM: 43FR58946 (12/18/78) FR: 45FR33154 (05/19/80) FR(II): 01/00/81
Guidelines for Federal Procurement of Cement and Concrete Containing Fly Ash SAN No. 1200 Docket No. 6002(e)	Description: These guidelines are to help Federal agencies ensure procured products contain as much recycled material as possible. Section 6002(e) of RCRA directs EPA to prepare these guidelines to help maximize the energy and materials that the Federal Government recovers from solid waste. The first of these guidelines will cover regulations for fly ash in cement and concrete. Classification: Routine Statutory Authority: RCRA 6002(e) / 42 USC 6962(e) CFR Change: 40 CFR 249 - New	John Heffelfinger EPA (WH-565) Washington DC 20460 FTS:8-755-9206 COMM:202-755-9206	NPRM: 45FR76906 (11/20/80) FR: 07/00/81
Guidelines for Federal Procurement for Recycled Paper Products SAN No. 1200A	Description: RCRA directs EPA to prepare guidelines to help maximize energy and materials recovered from solid waste. This guideline gives advice to Federal purchasing agencies concerning purchasing practices which will increase the percentage of recycled paper products bought. Classification: Routine Statutory Authority: RCRA 6002(e) / 42 USC 6962(e) CFR Change: EPA will assign a CFR part to this regulation.	Frank Smith EPA (WH-563) Washington, D.C. 20460 FTS:8-755-9140 COMM:202-755-9140	NPRM: 12/00/81

TOXIC SUBSTANCES

EPA is writing regulations under four sections of the Toxic Substances Control Act (TSCA): under Section 4, standards for the development of test data and rules that require the testing of specific chemical substances and mixtures; under section 5, premanufacture notification rules and premanufacture testing guidance; a series of specific control actions under Section 6, including chemical hazard labeling warnings; and under Section 8, reporting and recordkeeping requirements

Title	Summary	Contact	Timetable
Health Test Standards for Chemical Substances and Mixtures SAN No. 1130 Docket No. OTS-046003	Description: This regulation establishes general provisions and requirements for testing. It covers the scope, purpose, authority and applicability of testing requirements. It offers appropriate definitions, and it deals with confidentiality of public access to information, compliance and revision, and modification of test standards. Classification: Major Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 771 - New	Sarah Robinson EPA (TS-792) Washington DC 20460 FTS:8-755-4894 COMM:202-755-4894	NPRM: 44FR27334 (05/09/79) FR: 08/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
TOXIC SUBSTANCES—Continued			
• *Test Rules for Chloromethanes and Chlorinated Benzenes* SAN No. 1131 Docket No. OPTS 47002	Description: This regulation may require chemical manufacturers and processors to test chloromethanes and chlorinated benzenes for specified health and environmental effects. EPA is acting under Section 4 of TSCA, which specifies that if a substance may present an unreasonable risk of injury, or there may be substantial human exposure, and if data on effects are inadequate and testing is necessary to obtain it, EPA may require testing. This is EPA's first rule under Section 4 requiring testing of specific chemicals. Classification: Major Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 771 – New Analysis: Reg. Analysis	Steven Newburg-Rinn EPA (TS-792) Washington, DC 20460 FTS:8-557-5781 COMM:202-557-5781	NPRM: 45FR48524 (07/18/80) FR: 10/00/81
Test Rule for Nitrobenzene, Dichloromethane and 1, 1, 1-Trichloroethane SAN No. 1668	Description: This regulation may require chemical manufacturers and processors to test nitrobenzene, dichloromethane and 1,1,1-trichloroethane for specified health and environmental effects. This is the second of EPA's rules issued under Section 4 to require testing of specific chemicals. Classification: Major Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 771 – New	Steven Newberg-Rinn EPA (TS-792) Washington, D.C. 20460 FTS:8-557-5781 COMM:202-557-5781	NPRM: 06/00/81
Test Rules SAN No. 1667	Description: This is the third of EPA's rules issued under Section 4 to require testing of specific chemicals. Eight of the following sixteen chemicals will be acted on in this rulemaking: Acetonitrile, alkyl, phthalates, antimony, antimony trioxide, antimony sulfide, aryl phosphates, benzidine dyes, chloroparaffins, chlorinated naphthalenes, cresols, dianisidine dyes, hexachloro-1,3,-butadiene, 4,4-methylene-dianile, o-tolidine dyes, thenylene-dianines, and polychlorinated terphenyls. Classification: Major Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 771 – New	Steven Newburg-Rinn EPA (TS-792) Washington, D.C. 20460 FTS:8-557-5781 COMM:202-557-5781	NPRM: 12/00/81
Standards for Development of Chronic Health Effects Data SAN No. 1132	Description: This regulation sets standards for testing for oncogenic and non-oncogenic chronic effects and good laboratory practices for health effects testing. The chemical specific test rules will refer to these standards. Classification: Major Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New	Diane Beal EPA (TS-796) Washington, DC 20460 FTS:8-755-2890 COMM:202-755-2890	NPRM: 44FR27334 (05/09/79) FR: 08/00/81
Standards for Development of Test Data SAN No. 1461	Description: This regulation sets standards for tests to determine health effects including acute and sub-chronic toxicity, mutagenicity, teratogenicity and reproductive effects. The chemical specific test rules will refer to these standards. Classification: Routine Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New	Diane Beal EPA (TS-796) Washington, DC 20460 FTS:8-755-2890 COMM:202-755-2890	NPRM: 44FR44054 (07/26/79) FR: 08/00/81
Environmental Effects Test Standards for Development of Test Data SAN No. 1462	Description: This regulation proposes standards for tests to determine environmental effects, including (I) fish acute toxicity, fish embryo larval tests and arian diet and reproduction, (II) bioconcentration tests, and (III) invertebrate acute toxicity, invertebrate chronic toxicity, algal bioassay, and plant toxicity. Classification: Routine Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New	James Gilford EPA (TS-796) Washington, DC 20460 FTS:8-755-0300 COMM:202-755-0300	NPRM(I): 02/00/81 NPRM(II): 03/00/81 NPRM(III): 05/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
TOXIC SUBSTANCES—Continued			
Section 4 Exemption Policy SAN No. 1669	Description: This is a final notice of the policies EPA will use to grant exemption from testing under Section 4(c) of TSCA. Section 4(c) requires EPA to exempt applicants from testing if the chemical they manufacture or process is equivalent to one which is already being tested or if testing by applicants for exemptions would duplicate data already submitted to EPA. Classification: Policy Statement Statutory Authority: TSCA 4(c) / 15 USC 2603(c) CFR Change: 40 CFR 773 – New	Steven Newberg-Rinn EPA (TS-792) Washington D.C. FTS:8-557-5781 COMM:202-557-5781	NPRM: 45FR48512 (07/18/80) FR: 10/00/81
• *Premanufacture Notification Requirements and Review Procedures* SAN No. 1134 Docket No. OPTS-50019	Description: This regulation establishes procedures for chemical manufacturers to submit notices to EPA prior to manufacturing new chemical substances for commercial purposes. Notice forms will stipulate the data that manufacturers must submit and the format for their submissions. Classification: major Statutory Authority: TSCA 5 / 15 USC 2604 CFR Change: 40 CFR 720 – New	Joe DeSantis EPA (TS-792) Washington, DC 20460 FTS:8-426-8493 COMM:202-426-8493	NPRM: 44FR2242 (01/10/79) RPRM: 44FR59764 (10/16/79) Interim Policy: 45FR74378 (11/07/80) FR: 02/00/81
Follow-up of new chemical substances SAN No. 1531 Docket No. OPTS-50012	Description: This rule will establish procedures and data reporting requirements to be used in issuing significant new use rules (SNUR) and follow-up reporting rules related to new chemical substances. Classification: Major Statutory Authority: TSCA 5(a)(2), TSCA 8a / 15 USC-2604(a)(2), 2607a CFR Change: 40 CFR 722 – New	Joe DeSantis EPA (TS-792) Washington, DC 20460 FTS:8-426-8493 COMM:202-426-8493	ANPRM: 01/00/81 NPRM: 07/00/81
Asbestos-Containing Materials in School Buildings – Identification and Notification (Part I) SAN No. 1519A Docket No. OPTS-61004	Description: The purpose of this regulation is to protect school children and employees from unreasonable risks of exposure to asbestos. Part I will require local education agencies for some 109,000 public and private school buildings to inspect and identify friable asbestos-containing materials in their buildings and notify employees and parent-teacher associations of the presence of such materials. EPA is coordinating this program with the Department of Education, which will require educational agencies to notify the States under the School Asbestos Act. Part II will require corrective action to remove unreasonable risks. Classification: Major Statutory Authority: TSCA 6(a)(3) / 15 USC 2605 CFR Change: 40 CFR 765 – New	Larry Longanecker EPA (TS-794) Washington, DC 20460 FTS:8-755-5600 COMM:202-755-5600	ANPRM: 44FR54676 (09/20/79) NPRM: 45FR61966 (08/17/80) FR(I): 02/00/81 NPRM(II): 05/00/81 FR(II): 07/00/82
Asbestos-Containing Materials in Commercial Buildings SAN No. 1550	Description: This regulation will reduce unreasonable risks of exposure to asbestos in commercial buildings. Classification: Major Statutory Authority: TSCA 6 / 15 USC 2605 CFR Change: EPA will later assign a CFR Part to this regulation. Analysis: Reg. Analysis	Larry Dorsey EPA (TS-792) Washington, DC 20460 FTS:8-755-6660 COMM:202-755-6660	ANPRM: 11/00/81 NPRM: 11/00/82
• *Rules Restricting the Commercial and Industrial Use of Asbestos Fibers* SAN No. 1627	Description: The Agency is investigating regulation of the commercial and industrial use of asbestos. Among the options under consideration are: (1) prohibiting the non-essential uses of asbestos; (2) establishing quotas for the use of asbestos; and (3) requiring the labeling of asbestos and asbestos-containing products. Classification: Major Statutory Authority: TSCA (6) / 15 USC 2605 CFR Change: 40 CFR 763 – New Analysis: Reg. Analysis	Peter Principe EPA (TS-794) Washington, DC 20460 FTS:8-755-8023 COMM:202-755-8023	ANPRM: 44FR60056 (10/17/79) NPRM: 09/00/81 FR: 09/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	TOXIC SUBSTANCES—Continued		
Proposed Production Restriction for Chlorofluorocarbons SAN No. 1644 Docket No. OPTS-62009	Description: This action will restrict growth in the production and use of chlorofluorocarbons (CFC's) in order to prevent degradation of the stratospheric ozone layer and to encourage international action on the problem. Classification: Major Statutory Authority: TSCA 6(c), CAA 157 / 15 USC 2605(c), 42 USC 7450–7459 CFR Change: EPA will assign a CFR number to this regulation. Analysis: Reg. Analysis, EIS	Gordon Olson EPA (TS-794) Washington, DC 20460 FTS:8–755–1260 COMM:202–755–1260	ANPRM: 45FR66726 (10/07/80) NPRM: 03/00/81 FR: 10/00/81
Preliminary Assessment Information SAN No. 1137 Docket No. OTS-082004	Description: This rule is the first in a series of reporting regulations designed to obtain information for pre-regulatory assessment on toxic substances. The rule would apply to manufacturers of 2300 chemicals requiring them to fill out a short form on general production, use and exposure. Additional chemicals will be subject to this rule in later amendments. Classification: Routine Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712 – New	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8–755–2778 COMM:202–755–2778	ANPRM: 44FR37517 (06/27/79) NPRM: 45FR13646 (02/29/80) FR: 04/00/81
General Assessment Information Reporting 8(a) SAN No. 1551	Description: This rule will require chemical manufacturers and processors to supply information on their products including exposures, byproducts and toxicity. EPA and other Agencies will use the information to identify chemicals for possible regulation. Classification: Routine Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712 – New	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8–755–2778 COMM:202–755–2778	NPRM: 07/00/81 FR: 07/00/82
Detailed Assessment Reporting 8(a) SAN No. 1553	Description: This is the third in a series of reporting regulations to obtain preregulatory assessment information. This rule will help provide detailed information on chemicals for which regulatory controls are being developed. The rule will apply to chemical manufacturers and processors. Classification: Routine Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712(D) – New	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8–755–2778 COMM:202–755–2778	ANPRM: 01/00/81
Standards for Excluding Small Manufacturers and Processors from TSCA 8(a) SAN No. 1529	Description: This rule will establish a general standard which the Administrator can use under most section 8(a) rules to specify which manufacturers qualify as "small" for the purpose of exemptions. Classification: Routine Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712 – New	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8–755–2778 COMM:202–755–2778	ANPRM: 45FR66180 (09/06/80) NPRM: 04/00/81 FR: 04/00/82
Asbestos Use and Substitutes Reporting SAN No. 1552 Docket No. OPTS 84004	Description: This rule will use the reporting authority of Section 8(a) to obtain information on the industrial and commercial uses of asbestos fiber. EPA will use this information to support regulation of asbestos under TSCA Section 6. The rule will require information on quantities of asbestos used in various processes, employee exposure and monitoring, and waste disposal and pollution control. It will apply to asbestos manufacturers, importers, and processors. Classification: Routine Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 763 – New Analysis: RIA	Suzanne Rudzinski EPA (TS-778) Washington DC 20460 FTS:8–755–5851 COMM:202–755–5851	ANPRM: 44FR60061 (10/17/79) NPRM: 01/00/81 FR: 08/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
TOXIC SUBSTANCES—Continued			
Records and Reports of Allegations of Significant Adverse Reactions to Health or the Environment SAN No. 1138 Docket No. OPTS-083001	Description: This regulation will establish procedures for recording and reporting allegations of adverse effects on health or the environment. Classification: Routine Statutory Authority: TSCA 8(c) / 15 USC 2607(c) CFR Change: 40 CFR 717 – New	Suzanne Rudzinski EPA (TS-778) Washington, DC 20460 FTS:8-755-8851 COMM:202-755-5851	ANPRM: 42FR56686 (03/11/77) NPRM: 45FR47008 (07/11/80) FR: 08/00/81
Health and Safety Data Reporting SAN No. 1139 Docket No. OTS-084003	Description: This rule would require chemical manufacturers, processors, distributors, and others who possess health and safety studies on specifically listed chemicals to submit them to EPA. EPA will use these studies to assess the health and environmental effects of the chemicals and to determine what kind of testing rules the agency should promulgate under section 4(a) of TSCA. EPA will amend this rule from time to time by adding to the list of chemicals subject to this rule. Classification: Routine Statutory Authority: TSCA 8(d) / 15 USC 2607(d) CFR Change: 40 CFR 716 – New	Suzanne Rudzinski EPA (TS-778) Washington DC 20460 FTS:8-755-5851 COMM:202-755-5851	NPRM: 44FR77470 (12/31/79) FR: 03/00/81

WATER QUALITY

The goal of the Clean Water Act is to achieve fishable and swimmable water quality in the Nation's waters by 1983. The Act defines two major strategies for reaching this goal: 1) limitations on effluent discharges from industrial and municipal sources and 2) adoption by the States of water quality standards for specific bodies of water. EPA is presently working on regulations which involve both strategies. Under Sections 301, 304, 306, and 307 of the Act, the Agency is developing regulations to control the discharge of toxic and other substances from different industries. Under Sections 303 and 304, the Agency is revising the program under which States adopt water quality standards.

In addition, the Act requires that EPA address spills of oil and hazardous substances under Section 311, that it develop guidelines for permissable dumping of dredged and fill material under Section 404, and that it develop guidelines for land disposal of sewage sludge under Section 405.

Section 402 requires dischargers to apply for permits from the State or EPA before they can discharge pollutants. EPA has set up the National Pollutant Discharge Elimination System (NPDES) in order to fulfill this requirement. NPDES permits are the main enforcement mechanism provided for in the Act.

The basic structure of the Act was created by the Federal Water Pollution Control Act of 1972. The 1977 amendments changed the name to the Clean Water Act and supplied the impetus for most of the regulations now under development.

Title	Summary	Contact	Timetable
Requirements for Application for 301(c) Variances SAN No. 1404	Description: Section 301(c) of the Clean Water Act provides for waivers on economic grounds of the strict requirements of BAT controls for non-toxic, non-conventional pollutants. This regulation will establish application ground rules and national criteria for granting variances from BAT requirements. Classification: Routine Statutory Authority: CWA 301(c) / 33 USC 1311(c) CFR Change: 40 CFR 125 – Addition	Tom Laverty EPA (EN-336) Washington, DC 20460 FTS:8-426-7010 COMM:202-426-7010	NPRM: 03/00/81 FR: 09/00/81
Waivers from BAT for Nonconventional Pollutants under 301(g) SAN No. 1634	Description: Section 301(g) allows NPDES permit applicants to request a waiver from BAT effluent limitations for nonconventional pollutants whenever the application can show that a less stringent permit limit will not interfere with the attainment or maintenance of water quality and will not endanger human health or the environment. This regulation will establish guidelines for evaluating waiver applications Classification: Routine Statutory Authority: CWA 301(g) / 33 USC 1311(g) CFR Change: 40 CFR 125 Subpart F – New	Robert Cantilli EPA (EN-336) Washington, DC 20460 FTS:8-426-7010 COMM:202-426-7010	NPRM: 04/00/81 FR: 11/00/81
Innovative Technology for Industrial Discharge SAN No. 1608	Description: Section 301(k) allows NPDES permit applicants to request an extension of the compliance date for BAT until July 1, 1987 if they will install an innovative technology. This technology must be either (1) superior to BAT or (2) equivalent to BAT and allow significant cost savings. Classification: Routine Statutory Authority: CWA 301(k) / 33 USC 1311(k) CFR Change: 40 CFR 125 – New Analysis: RIA	Tom Laverty EPA (EN-336) Washington, DC 20460 FTS:8-426-7010 COMM:202-426-7010	ANPRM: 45FR62509 (09/19/80) NPRM: 02/00/81 FR: 08/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable

WATER QUALITY—Continued

The Clean Water Act and a modified consent decree in *NRDC v. Costle*, 12 ERC 1833(D.D.C. 1979), require that EPA develop guidelines to control toxic substances in industrial effluents. Section 307(a) of the Act identifies 65 toxic pollutants; they are listed in Table 1 of the Committee Print 95–30 of Committee on Public Works and Transportation, House of Representatives.

Section 304 requires that EPA determine the best available technology (BAT) to control toxic pollutants from existing point sources. BAT will consist of the most effective technology which can still be economically achieved by the affected industries. EPA will also determine best conventional technology (BCT) which industries can use on conventional pollutants which do not require BAT.

Under Section 306 of the Act, EPA is establishing new source performance standards (NSPS) for new plants. Under Section 307(b) and 307(c), EPA will set pretreatment standards for both existing and new sources which discharge into municipal waste treatment systems. These sets of standards will in most cases require technologies equivalent to BAT

Major issues raised in setting effluent guidelines are:

(1) Identification of the major pollutants discharged to and from treatment systems;
(2) Determination of the major technology options to control pollutants;
(3) Determination of the capital and annual costs of the technology options; and
(4) Determination of the resulting economic impacts.

EPA is developing guidelines for each of the industries listed below.

Title	Summary	Contact	Timetable
Effluent Guidelines for Petroleium Refining SAN No. 1406	Description: The Agency is developing BAT and BCT for 182 direct discharges and pretreatment standards for 48 indirect discharges. Major pollutants are chromium, zinc, phenol, and polynuclear aromatic hydrocarbons. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 419 – Revision	John Lum EPA (WH-552) Washington DC 20460 FTS:8–426–4617 COMM:202–426–4617	NPRM: 44FR75926 (12/21/79) FR: 11/00/81
• *Effluent Guideline for Iron and Steel Manufacturing* SAN No. 1405	Description: The Agency is developing BPT, BCT BAT, NSPS and pretreatment standards for industry. The steel industry's approximately 650 plants process more than 6 billion gallons of water per day. Major toxic discharges include zinc, chromium, lead, naphthalene benzene, and cyanide. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 420 – Revision Analysis: Reg. Analysis	Edward Dulaney EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 01/00/81 FR: 07/00/81
• *Effluent Guidelines for Steam Electric Power Plants* SAN No. 1408	Description: The steam electric power industry consists of 1000 plants which produce about 80% of the United States energy supply. The Agency is proposing BAT limitations for total residual chlorine, chromium, copper and zinc. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 423 – Revision Analysis: Reg. Analysis	John Lum EPA (WH-522) Washington, DC 20460 FTS:8–426–4617 COMM:202–426–4617	NPRM: 45FR68328 (10/14/80) FR: 04/00/81
Effluent Guidelines for Timber Products Processing SAN No. 1407	Description: The timber industry is a diverse group of manufacturing plants whose primary raw material is wood; products range from finished lumber and other wood products to hardboard and preserved wood. It is composed of thousands of industrial operations. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 429 – Revision	Richard E. Williams EPA (WH-552) Washington, DC 20460 FTS:8–426–2554 COMM:202–426–2554	NPRM: 44FR62810 (10/31/79) FR: 01/00/81
Effluent Guidelines for Leather Tanning and Finishing SAN No. 1409	Description: The leather tanning industry consists of 170 indirect and 18 direct discharges. The Agency has proposed BPT, BAT, NSPS and pretreatment standards for seven subcategories. Major pollutants of concern are chromium and phenol. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 425 – Revision	Donald F. Anderson EPA (WH-552) Washington, DC 20460 FTS:8–426–2707 COMM:202–426–2707	NPRM: 44FR38746 (07/02/79) FR: 06/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	WATER QUALITY—Continued		
Effluent Guidelines for Nonferrous Metals Manufacturing SAN No. 1410	Description: The nonferrous metals industry includes 700 direct and indirect discharges divided into 58 subcategories. EPA is developing BAT and other standards for subcategories that account f for 90% of the discharges. Major pollutants include thallium, selenium, copper, zinc, lead, silver, cadmium, nickel and mercury. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 421 – Revision	Patricia E. Williams EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	FR(BPT): 45FR44926 (07/02/80) NPRM: 06/00/81 FR: 02/00/82
Effluent Guidelines for Paint Formulation SAN No. 1411	Description: The Agency is developing BAT, NSPS, and pretreatment standards for the caustic water wash subcategory and pretreatment standards for the solvent wash subcategory of the paint formulating industry Toxic pollutants of concern are chromium, copper, nickel, lead, zinc, and mercury. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 446 – Revision	Ben Honaker EPA (WH-552) Washington, DC 20460 FTS:8–426–2554 COMM:202–426–2554	NPRM: 45FR912 (01/03/80) FR: 12/00/81
Effluent Guidelines for Ink Formulation SAN No. 1411A	Description: EPA is developing BAT, NSPS, and pretreatment standards for the caustic-water wash subcategory and pretreatment standards for the solvent wash subcategory. Toxic pollutants of concern include lead, zinc, copper, and chromium. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 447 – Revision	James Berlow EPA (WH 552) Washington, DC 20460 FTS:8–426–2554 COMM:202–426–2554	NPRM: 45FR928 (01/03/80) FR: 12/00/81
Effluent Guidelines for Ore Mining and Dressing SAN No. 1413	Description: The Agency is developing BAT and NSPS for seven subcategories of the ore mining industry. Toxic pollutants of concern are copper, lead, zinc, and nickel. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 434 – Revision	B. Matthew Jarrett EPA (WH-552) Washington, DC 20460 FTS:8–426–4617 COMM:202–426–4617	NPRM: 03/00/81 FR: 11/00/81
Effluent Guidelines for Coal Mining SAN No. 1414	Description: The Agency is revising BPT and NSPS and proposing BAT and BCT for runoff and wastewater discharge from coal mines. Toxic pollutants of concern are manganese and iron. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 434 – Revision	Dennis Ruddy EPA (WH-552) Washington, DC 20460 FTS:8–426–2707 COMM:202–426–2707	NPRM: 01/00/81 FR: 08/00/81
Effluent Guidelines for Organic Chemicals SAN No. 1415	Description: The Agency is developing BPT, BAT, NSPS, and pretreatment standards for the organic chemicals industry. Major pollutants include aromatic chlorinated hydrocarbons, phenolic compounds, and metals. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 44 – Revision Analysis: UCIA	Maria Irizarry EPA (WH-552) Washington, DC 20460 FTS:8–426–2497 COMM:202–426–2497	NPRM: 06/00/81 FR: 04/00/82
Effluent Guidelines for Inorganic Chemicals SAN No. 1416	Description: The Agency is developing BPT for seven industrial subcategories, BCT for two subcategories, and BAT for eleven subcategories. In addition, the Agency is developing NSPS and pretreatment standards. Major toxic pollutants include cyanide, lead, mercury, chromium, zinc, nickel, and cadmium. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 415 – Revision Analysis: Reg. Analysis	Elwood Martin EPA (WH-552) Washington DC 20460 FTS:8–426–2582 COMM:202–426–2582	NPRM: 45FR49450 (07/24/80) FR: 03/00/81

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	WATER QUALITY—Continued		
Effluent Guidelines for Textile Mills SAN No. 1417	Description: The Agency is developing BAT, BCT, NSPS and pretreatment standards for nine subcategories of the industry. Major toxic pollutants include total phenols, chromium, copper, and zinc. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 410 – Revision	James Barlow EPA (WH-552) Washington DC 20460 FTS:8–426–2554 COMM:202–426–2554	
Effluent Guidelines for Plastics and Synthetics SAN No. 1418	Description: This industry consists of 396 dischargers divided into 24 subcategories. The Agency is developing BAT, BPT, and other standards. Major toxic pollutants include phenol, benzene, acrylonitrile, acrolein, ethylbenzene, toluene, and vinyl chloride. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 416 – Revision	H.E. Wise EPA (WH-552) Washington DC 20460 FTS:8–426–2497 COMM:202–426–2497	NPRM: 10/00/81 FR: 04/00/82
• *Effluent Guidelines for Pulp, Paper, and Paperboard* SAN No. 1419	Description: The Agency is proposing BAT, BCT, NSPS and pretreatment standards for this industry. Pulp, paper and paperboard plants discharge approximately 4.2 billion gallons per day of wastewater. Pollutants of concern are BOD, chloroform, zinc, resin acids, and chlorinated phenols. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 430, 431 – Revision Analysis: Reg. Analysis	Robert Dellinger EPA (WH-552) Washington, DC 20460 FTS:8–426–2554 COMM:202–426–2554	NPRM: 01/00/81 FR: 10/00/81
Effluent Guidelines for Rubber Processing SAN No. 1420	Description: EPA has proposed to withdraw BAT and substitute limits equivalent to BPT for mine subcategories of the rubber manufacturing industry because BPT treatment is effective in removing toxic pollutants. Additional studies are underway for two subcategories. EPA is re-examining the lead limit in those subcategories whdre it is now regulated. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 428 – Revision	J.S. Vitalis EPA (WH-552) Washington DC 20460 FTS:8–426–2497 COMM:202–426–2497	NPRM: 44FR75016 (12/18/79) NPRM: 06/00/81 FR: 12/00/81
Effluent Guidelines for Auto and Other Laundries SAN No. 1422	Description: EPA is developing BAT and other standards for industrial and linen laundries Toxic pollutants of concern are zinc, lead, copper and chromium. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 444 – New	David Pepson EPA (WH-552) Washington, DC 20460 FTS:8–426–2582 COMM:202–426–2582	NPRM: 02/00/81 FR: 09/00/81
Effluent Guidelines for Adhesives and Sealants SAN No. 1423	Description: The Agency is preparing a Guidance Document in lieu of establishing specific numerical regulations for this category. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 456 – Revised	E.H. Forsht EPA (WH-552) Washington, DC 20460 FTS:8–426–2497 COMM:202–426–2497	

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—*Continued*

Title	Summary	Contact	Timetable
	WATER QUALITY—*Continued*		
Effluent Guidelines for Gum and Wood SAN No. 1425	Description: The Agency has proposed BPT limitations for one industrial subcategory, sulfate turpentine, and BCT limitations for four subcategories: sulfate turpentine, wood rosin, tall oil, and rosin derivatives. In addition, BAT and pretreatment standards have been proposed to control the discharge of zinc, copper, and nickel. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 454.7 – Revision	Arthur Shattuck EPA (WH-552) Washington, DC 20460 FTS:8–426–2554 COMM:202–426–2554	NPRM: 44FR68710 (11/29/80) FR: 06/00/81
Effluent Guidelines for Pesticides SAN No. 1426	Description: EPA is developing BAT controls for manufacturers of pesticide and other products. Technological options under consideration are activated carbon adsorption, hydrolysis, steam stripping, chemical oxidation, metals separation, and biological oxidation. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 455 – New	George Jett EPA (WH-552) Washington DC 20460 FTS:8–426–2497 COMM:202–426–2497	NPRM: 03/00/81 FR: 10/00/81
Effluent Guidelines for Metal Finishing SAN No. 1428	Description: Metal finishing concerns 45 different industrial processes, including electroplating, machining, anodizing and painting. The Agency is developing BPT, BAT, NSPS, and pretreatment standards for the metal finishing industry, based on the characteristics of wastewater. Major toxic effluents are heavy metals and organic solvents. This regulation combines Electroplating (SAN 1428) and Mechanical Products (SAN 1430). Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 413 – New Analysis: UCIA	Dwight Hlustick EPA (WH-552) Washington DC 20460 FTS:8–426–2582 COMM:202–426–2582	NPRM: 45FR45322 (Pretreatment) (7/03/80) NPRM: 05/00/81 FR: 12/00/81
Effluent Guidelines for Electrical and Electronic Products SAN No. 1431	Description: Industries producing electrical and electronic components include 2000 direct and 8000 indirect dischargers of pollutants. The Agency is currently working on BAT, NSPS, and pretreatment standards for two subcategories of the electronics industry, semi-conductors and electronic crystals. Toxic pollutants of concern are organic chemicals, nickel, and chromium. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307 / 33 USC 1311, 1314, 1316, 1317 CFR Change: 40 CFR 469 – New	Frank Hund EPA (WH-552) Washington DC 20460 FTS:8–426–2582 COMM:202–426–2582	NPRM: 06/00/81 FR: 01/00/82
Effluent Guidelines for Metal Moulding and Casting Foundries SAN No. 1432	Description: The Agency is developing BPT, and BAT and other standards for six subcategories. Major toxic pollutants include zinc, copper, lead, and phenolic compounds. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 464 – New	John Williams EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 03/00/81 FR. 09/00/81
Effluent Guidelines for Copper Forming SAN No. 1433	Description: The Agency is developing BPT, BAT, and other standards for six subcategories of the copper forming industry. Pollutants of concern include copper, lead, zinc and nickel. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 468 – New	John Williams EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 08/00/81 FR: 03/00/82

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SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	WATER QUALITY—Continued		
Effluent Guidelines for Battery Manufacturing SAN No. 1434	Description: The Agency is developing BAT and other standards for ten subcategories of the battery manufacturing industry. Toxic pollutants of concern are mercury, lead, cadmium, phenols, nickel, zinc, and copper. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 461 – New	Mary Belefski EPA (WH-552) Washington, DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 07/00/81 FR: 03/00/82
Effluent Guidelines for Coil Coating SAN No. 1435	Description: The Agency is proposing BPT, BAT, NSPS and pretreatment standards. Toxic pollutants of concern are chromium, cyanide, copper, lead, nickel, and zinc. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 465 – New	Rex Reges EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 01/00/81 FR: 06/00/81
Effluent Guidelines for Plastics Moulding and Forming SAN No. 1436	Description: Many producers of plastic products use water which they discharge into streams and rivers. EPA is developing BAT and other control standards for several toxic pollutants, including lead, cadmium, chromium, PCB, and phenols. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 463 – New	Robert W. Hardy EPA (WH-552) Washington; DC 20460 FTS:8–426–2586 COMM:202–426–2586	
Effluent Guidelines for Porcelain Enameling SAN No. 1437	Description: Producers of porcelain enameled products include 26 direct and 88 indirect dischargers. The Agency is preparing BAT and other control standards for the steel, cast iron, aluminum and copper subcategories. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 466 – New	Catherine M. Lowry EPA (WH-552) Washington, DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 02/00/81 FR: 10/00/81
Effluent Guidelines for Alcohol Fuels SAN No. 1659	Description: EPA is developing new source performance and pretreatment standards for plants that manufacture fuel from alcohol. Classification: Significant Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: EPA will select a CFR part for this regulation.	Wendy Smith EPA (WH-552) Washington, DC 20460 FTS:8–426–4617 COMM:202–426–4617	NPRM: 06/00/81 FR: 12/00/81
Effluent Guidelines for Aluminum Forming SAN No. 1438	Description: The aluminum forming industry consists of 49 direct and 52 indirect dischargers. Pollutants of concern are chromium, zinc, and lead. EPA is developing BPT, BAT, and other standards. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 467 – New	Janet Goodwin EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 05/00/81 FR: 11/00/81
Effluent Guidelines For Nonferrous Metals Forming SAN No. 1568	Description: The Agency is developing BAT and other standards for the nonferrous metals forming industry, which covers forming of nonferrous metals other than copper and aluminim. Pollutants of concern are toxic heavy metals. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 471 – New	Patricia Williams EPA (WH-552) Washington DC 20460 FTS:8–426–2586 COMM:202–426–2586	NPRM: 44FR62204 (10/29/79) FR: 07/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
WATER QUALITY—Continued			
Effluent Guidelines For Fruits And Vegetables SAN No. 1569	Description: The Agency is reviewing BCT/BAT effluent limitations for the fruits and vegetables industry. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 407 – Revision	Gary Kassoka EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 12/00/81 FR: 07/00/82
Effluent Guidelines For Poultry SAN No. 1602	Description: The Agency is reviewing BCT controls for poultry operations Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501/33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 432 – Revision	Daniel Lent EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 09/00/81 FR: 04/00/82
Effluent Guidelines for Dairy Processing SAN No. 1573	Description: EPA is reviewing existing BCT for seven subcategories of the dairy industry and developing new BCT for five subcategories. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 316/33 USC 1311, 1314, 1316, 1317, 1326 CFR Change: 40 CFR 405 – Revision	Mark L. Mjoness EPA (WH-552) Washington DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 09/00/81 FR: 04/00/82
Effluent Guidelines for Meat Packing SAN No. 1574	Description: EPA is reviewing BCT controls for the meat packing industry. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 316/33 USC 1311, 1314, 1316, 1317, 1326 CFR Change: 40 CFR 432 – Revision	Daniel Lent EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 09/00/81 FR: 04/00/82
Effluent Guidelines for Beet Sugar Processing SAN No. 1575	Description: Beet sugar is a subcategory of the sugar processing industry. EPA is reviewing existing BCT controls. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 316/33 USC 1311, 1314, 1316, 1317, 1326 CFR Change: 40 CFR 409 – Revision	Mark L. Mjoness EPA (WH-552) Washington DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 11/00/81 FR: 06/00/82
Effluent Guidelines for Grain Mills SAN No. 1576	Description: EPA is reviewing the existing BCT controls for the corn wet milling subcategory. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 316/33 USC 1311, 1314, 1316, 1317, 1326 CFR Change: 40 CFR 406 – Revision	Mark L. Mjoness EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 06/00/81 FR: 01/00/82
Effluent Guidelines for Cane Sugar Refining SAN No. 1577	Description: Cane sugar refining is a subcategory of the sugar processing industry. EPA is reviewing existing BCT controls. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 316/33 USC 1311, 1314, 1316, 1317, 1326 CFR Change: 40 CFR 409 – Revision	Mark L. Mjoness EPA (WH-552) Washington DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 09/00/81 FR: 04/00/82
Effluent Guidelines for Seafood Processing SAN No. 1625	Description: The Agency is reviewing BCT for the seafood processing industry. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307/33 USC 1311, 1314, 1316, 1317 CFR Change: 40 CFR 408 – Revision	Daniel Lent EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 07/00/81 FR: 02/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	WATER QUALITY—Continued		
Effluent Guidelines for Pharmaceuticals SAN No. 1427	Description: EPA is developing BAT and other standards for four subcategories, i.e. fermentation products, biological and natural extraction products, chemical synthesis products and formulation products. Major toxic pollutants discharged by the pharmaceutical industry include benzene, carbon tetrachloride, chloraform, ethylbenzene, methylene chloride, phenol, toluene and heavy metals, e.g. mercury and zinc. Classification: Routine Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 439 – Revision	Joe Vitalis EPA (WH-552) Washington, DC 20460 FTS:8–426–2497 COMM:202–426–2497	NPRM: 05/09/81 FR: 12/28/81
Effluent Guidelines for Coal Gasification SAN No. 1650	Description: EPA is developing BAT and NSPS controls for low-BTU, medium-BTU, and high-BTU gasification industries. Classification: Significant Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: EPA will assign a CFR part to this regulation.	William Telliard EPA (WH-552) Washington, DC 20460 FTS:8–426–4617 COMM:202–426–4617	NPRM: 02/00/82 (low-BTU) FR 08/00/82
Effluent Guidelines for Offshore Oil and Gas Industry SAN No 1649	Description: In 1975 the Agency proposed BAT, NSPS, and BPT for offshore oil and gas drilling operations. EPA published a final rule for BPT in 1979 but took no action on the NSPS and BAT standards. Under a settlement agreement with NRDC, the Agency is withdrawing the 1975 NSPS proposal and must develop a new proposal for NSPS standards. Classification: Significant Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 435 – New	Teresa Wright EPA (WH-552) Washington, DC 20460 FTS:8–426–4617 COMM:202–426–4617	NPRM 11/30/81 FR 08/31/82
Modified pH Standard for Effluent Guideline Limitations SAN No 1655	Description: This regulation would adjust effluent guideline limitations for pH values on a monthly basis for industrial discharges whose NPDES permits require continuous monitoring. It would also limit the duration of individual excursions exceeding the range set forth in the applicable effluent guidelines. Classification: Routine Statutory Authority: CWA 301, 304 / 33 USC 1311, 1314 CFR Change: 40 CFR 401 – Revision	Russell Roegner EPA (WH 586) Washington DC 20460 FTS:8–755–3624 COMM:202–755–3624	NPRM 45FR81180 (12/09/80) FR 02/00/81
• *Water Quality Standards Regulations* SAN No. 1441	Description: EPA is revising its regulations governing the adoption, revision and approval of state water quality standards. The regulation will describe the environmental and economic evaluations necessary to change designated uses of surface waters, e.g. aquatic protection, recreation, public water supply. It will also describe the process for determining where criteria should be developed for toxic pollutants listed under section 307(a). Classification: Major Statutory Authority: CWA 303 / 33 USC 1313 CFR Change: 40 CFR 35.1550.120 – Revision Analysis: RIA, ORA	John Cross EPA (WH-585) Washington DC 20460 FTS:8–245–3042 COMM:202–245–3042	ANPRM 43FR29588 (07/10/78) NPRM: 04/01/81 FR 11/28/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	WATER QUALITY—Continued		
Wasteload Allocation Requirements SAN No. 1656	Description: When technology-based discharge controls are not adequate to protect the water quality of the receiving waters, wasteload allocation among dischargers is one means of protecting water quality. This regulation will define EPA's wasteload allocation policy. Classification: Routine Statutory Authority: CWA 303(d) / 33 USC 1313(d) CFR Change: EPA will assign a CFR part number for this regulation – New Analysis: RIA	Tim Stuert EPA (WH-553) Washington, DC 20460 FTS:8-426-7766 COMM:202-426-7766	NPRM: 05/22/81 FR: 04/23/82
Amendment to Secondary Treatment Regulations SAN No. 1657	Description: The secondary treatment regulations require municipalities to achieve one of two standards of removal efficiency for conventional pollutants. They must comply with the more stringent of the following two standards: maximum amounts of TSS or 5 day BOD of 30g/liter or 85% removal of BOD or TSS. The purpose of these amendments is to consider (1) adjustments to the 85% removal requirement and (2) use of a test for carbonaceous BOD5 in addition to the standard BOD5 test. Classification: Significant Statutory Authority: CWA 304(d)(1) / 33 USC 1314(d)(1) CFR Change: 40 CFR 133 – Revision	Lam Lim EPA (WH-547) Washington, D.C. 20460 FTS:8-426-8976 COMM:202-426-8976	ANPRM: 02/00/81
Amendments to General Pretreatment Regulations SAN No. 1502	Description: These amendments, written under a settlement agreement with industry plaintiffs who sued EPA, clarify the existing General pretreatment Regulations (43FR27736 – June 26, 1978). Classification: Routine Statutory Authority: CWA 307 / 33 USC 1317 CFR Change: 40 CFR 403 – Revision	William R. Diamond EPA (EN-336) Washington DC 20460 FTS:8-755-0750 COMM:202-755-0750	NPRM: 44FR62260 (10/29/79) NPRM: 45FR3063 (01/16/80) FR: 01/00/81
Centralized Waste Treatment Facilities SAN No. 1676	Description: This regulation would control discharge from Centralized Waste Treatment Facilities (CTFs) into publicly owned treatment plants. CTFs receive and treat effluent waste streams from industrial users. The ANPRM will solicit comments from the public on the different options EPA is considering. Classification: Routine Statutory Authority: CAA 307 / 33 USC 1317 CFR Change: EPA will assign a CFR number to this regulation.	Peter Hansel EPA (PM-220) Washington, D.C. 20460 FTS:8-287-0736 COMM:202-287-0736	ANPRM: 02/00/81

CWA 311 requires that EPA address the problem of spills of oil and hazardous substances by (1) identifying the substances which are hazardous and establishing reporting requirements for spills of these substances, (2) setting liability limits for storage facilities, and (3) setting requirements for spill prevention plans.

Reportable Quantities of Oil Discharge SAN No. 1579	Description: This revision will extend reporting requirements for oil discharges from 12 miles to 200 miles offshore and will provide for statutory exemptions. Classification: Routine Statutory Authority: CWA 311(b) / 33 USC 1321(b) CFR Change: 40 CFR 110 – Revision	Hans Crump-Wiesner EPA (WH-548) Washington, DC 20460 FTS:8-245-3045 COMM:202-245-3045	NPRM: 03/00/81 FR: 07/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	WATER QUALITY—Continued		
Designation of Carcinogens as Hazardous Substances SAN No. 1580	Description: This regulation identifies substances which pose a threat of cancer to people who drink from water sources which contain discharges of hazardous substances. In conjunction with CFR Part 117, it makes possible prompt discovery and clean-up of discharges. Classification: Routine Statutory Authority: CWA 311(b)(2)(A) / 33 USC 1321(b)(2)(A) CFR Change: 40 CFR 116 – Addition	Joseph Lewis EPA (WH-585) Washington, DC 20460 FTS:8-245-0581 COMM:202-245-0581	ANPRM: 44FR10270 (02/16/79) NPRM: 45FR46094 (07/09/80) FR 01/00/81
Determination of Reportable Quantities for Carcinogenic Hazardous Substances SAN No. 1582	Description: This regulation provides the reporting requirements necessary under Section 311 for substances designated in CFR Part 116 as hazardous. Classification: Routine Statutory Authority: CWA 311(b)(4) / 33 USC 1321(b)(4) CFR Change: 40 CFR 117 – Addition	Joseph Lewis EPA (WH-585) Washington DC 20460 FTS:8-245-0581 COMM:202-245-0581	ANPRM: 44FR10271 (02/16/79) NPRM: 45FR46097 (07/09/80) FR: 01/00/81
Hazardous Substances Pollution Prevention for Facilities Subject to Permitting Requirements of Section 402 SAN No. 1451	Description: This regulation's purpose is to prevent spills of hazardous substances. It sets forth requirements for the Spills Prevention Control and Countermeasure Plans for Facilities which (a) are not related to transportation, (b) which handle hazardous substances, and (c) are subject to NPDES permits. Classification: Routine Statutory Authority: CWA 311(j)(1)(C) / 33 USC 1321(j)(1)(C) CFR Change: 40 CFR 151 – New	Thomas Charlton EPA (WH-548) Washington DC 20460 FTS:8-245-3045 COMM:202-245-3045	NPRM: 43FR39276 (09/01/78) FR. 06/00/81
Oil Pollution Prevention Regulation SAN No. 1584	Description: This revision to 40 CFR 112 will extend EPA's oil pollution authority from three miles to two hundred miles offshore. Classification: Routine Statutory Authority: CWA 311(j)(1)(C) / 33 USC 1321(j)(1)(C) CFR Change: 40 CFR 112 – Revision	Thomas Charlton EPA (WH-548) Washington DC 20460 FTS:8-245-3045 COMM:202-245-3045	NPRM: 45FR33814 (05/20/80) FR 02/00/81
Guidelines for Specification of Disposal Sites for Dredged or Fill Material (Revision of Chemical and Biological Testing and Mixing Zone Determinations) SAN No. 1585	Description: This rulemaking will revise part of the section 404(b)(1) guidelines: (1) to bring the 1975 Interim Final Guidelines up-to-date in the light of new research and management information on testing procedures, and (2) to provide a format for the testing procedure; which will be clearer for both applicants and permitting officials. Statutory Authority: CWA 404(b)(1) / 33 USC 1344(b)(1) CFR Change: 40 CFR 230 – Revision	William Davis EPA (WH-585) Washington DC 20460 FTS:8-472-3400 COMM:202-472-3400	NPRM: 45FR85360 (12/24/80) FR: 05/00/81
• *Sewage Sludge Disposal Regulations* SAN No. 1459 Docket No. 405	Description: The regulations will provide guidelines for the disposal and use of wastewater treatment plant sludge. Publicly owned treatment works generate annually 5 million dry tons of sludge. The first proposal will apply to the distribution and marketing of fertilizers and soil conditioners derived from sewage sludge. Additional proposals on landfilling, incineration, surface impoundments, thermal processing, and ocean disposal will come later. Classification: Major Statutory Authority: CWA 405 / 33 USC 1345 Analysis: Reg. Analysis, EIS	Robert Tonetti EPA (WH-564) Washington DC 20460 FTS:8-755-9120 COMM:202-755-9120	NPRM 02/00/81 FR 12/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
WATER QUALITY—Continued			
Revision of Ocean Dumping Criteria SAN No. 1604	Description: This action opens ocean dumping criteria for possible revision based on public comment, new research information and operating experience. Classification: Major Statutory Authority: MPRSA / 33 USC 1401 et seq. CFR Change: 40 CFR 220-29	T. A. Wastler EPA (WH-548) Washington DC 20460 FTS:8-472-2836 COMM:202-472-2836	ANPRM: 02/00/81 NPRM: 06/00/82 FR: 04/00/83
GENERAL			
Assessing the Environmental Effects of EPA Actions Abroad SAN No. 1565	Description: Executive Order 12114 requires each Federal agency to publish procedures for assessing the effects of its activities outside the United States. EPA has complied by integrating these procedures with the existing NEPA/EIS regulations, which already provide for assessing the effects of EPA activities. Classification: Routine Statutory Authority: E.O. 12114 CFR Change: 40 CFR 6 Subpart J – Revision	Judith Troast EPA (A-104) Washington, DC 20460 FTS:8-755-0780 COMM:202-755-0780	NPRM: 44FR68776 (11/29/79) FR: 01/00/81
Historic Preservation Regulations SAN No. 1566	Description: On January 30, 1979, the Advisory Council on Historic Preservation promulgated regulations that direct Federal agencies to establish procedures for implementing historic preservation requirements. EPA will comply by adding a new subpart to the NEPA regulations. Classification: Routine Statutory Authority: NHPA 6 CFR Change: 40 CFR 6 Subpart K – Revision	Judith Troast EPA (A-104) Washington, DC 20460 FTS:8-755-0780 COMM:202-755-0780	ANPRM: 45FR67396 (10/10/80) NPRM: 02/00/81 FR: 06/00/81
Policy on Public Participation SAN No. 1626	Description: In order to enhance the ability of EPA to manage programs and make decisions in the public interest, the agency is preparing a formal policy for public participation. A degree of standardization in procedures will make it easier for citizens to know what they expect when they deal with the agency. Classification: Policy Statement Statutory Authority: EO 12044, CAA, CWA, FIFRA, TSCA, RCRA CFR Change: This action will not be codified in CFR – New	Sharon Francis EPA (A-100) Washington DC 20460 FTS:8-245-3066 COMM:202-245-3066	NPRM: 44FR28911 (04/30/80) FR: 01/00/81

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REGULATIONS DELETED FROM THE PREVIOUS AGENDA

Title and SAN(#)	Statutory Authority/CFR	Reason Deleted	Date & Cite of Last Action	
Minimum Requirements for Stationary Air Operating Permits SAN No. 1520	CAA 110(a)(2)(D)/40 CFR 51	Canceled		
NSPS: Glass Manufacturing SAN No. 1007	CAA 111/40 CFR 60.290	Completed	FR:	45FR66742 (10/07/80)
NSPS: Ammonium Sulfate Production SAN No. 1587	CAA 111/40 CFR 60.420	Completed	FR:	45FR74846 (11/12/80)
NSPS: Beverae Can Surface Coating Industry SAN No. 1616	CAA 111/40 CFR 60	Same as SAN No. 1113	FR:	45FR60085 (07/28/80)
NSPS: Industrial Surface Coating: Automobile Assembly Plants SAN No. 1111	CAA 111/40 CFR 60.390	Completed	FR:	45FR85410 (12/24/80)
Primary nonferrous smelter orders SAN No. 1301	CAA 119/40 CFR 57	Completed	FR:	45FR42514 (06/24/80)
Noncompliance Penalties SAN No. 1302	CAA 120/40 CFR 66, 67	Completed		
Visibility Protection Requirements SAN No. 1307	CAA 165, 169(a)/40 CFR 51	Completed	FR:	45FR80084 (12/02/80)
Requirements to Build Demonstration Cars Meeting 0.4 gram/mile Nox Standard SAN No. 1308	CAA 202(b)(7)/40 CFR 85	Completed	FR:	45FR67578 (10/10/80)
Emission Regulations for 1983 and later model year Light-duty Trucks SAN No. 1313	CAA 202(a)/40 CFR 86	Completed	FR:	45FR63734 (09/25/80)
Interim High Altitude Requirements SAN No. 1316	CAA 202(a)(f)/40 CFR 86	Completed	FR:	45FR66984 (10/08/80)
Amendments to Entry and Access Provisions of EPA Regulations Controlling Air Pollution from Mobile Sources SAN No. 1521	CAA 203, 206, 208, 301/40 CFR 80, 85, 86	Completed	FR:	45FR63774 (09/25/80)
Regulations Defining Certificate of Conformity SAN No. 1318	CAA 206(a)/40 CFR 86	Postponed Indefinitely	NPRM:	39FR44246 (12/23/74)
Selective Enforcement Auditing of Motorcycles SAN No. 1319	CAA 206(a), 208, 301/40 CFR 86	Postponed Indefinitely	ANPRM:	43FR1108 (01/06/78)
Aftermarket Parts Certification SAN No. 1325	CAA 207(a)(2), 301/40 CFR 85	Completed	FR:	45FR78448 (11/25/80)

REGULATIONS DELETED FROM THE PREVIOUS AGENDA

Title and SAN(#)	Statutory Authority/CFR	Reason Deleted	Date & Cite of Last Action
High Altitude Performance Adjustments SAN No. 1329	CAA 215/40 CFR 86	Completed	FR: 45FR66984 (10/08/80)
Regional Consistency SAN No. 1331	CAA 301/40 CFR 56	Completed	FR: 45FR85400 (12/24/80)
Technical Amendments to the National Primary Drinking Water Regulations SAN No. 1202	SDWA 1412/40 CFR 141	Completed	FR: 45FR57332 (08/27/80)
Underground Injection Control Program Regulations SAN No. 1205	SDWA 1421(a)/40 CFR 146	Completed	FR: 45FR42472 (06/24/80)
Technical Amendments to the Implementation Regulations for the Interim Primary Drinking Water Regulations and the State Public Water System Supervision Program Grants SAN No. 1549	SDWA 1413–1416, 1443, 1445/40 CFR 142, 35	Specialized regulation	
Noise Labeling Program SAN No. 1606	NCA 8/40 CFR 211	ANPRM Canceled	
Importation of Noise Emitting Products SAN No. 1178	NCA 9/40 CFR 208	Not an EPA regulation	
Administrative Hearing Procedures SAN No. 1176	NCA 11/40 CFR 210	Specialized Regulation	IFR: 43FR34132 (08/03/78)
Other Regulatory Restrictions SAN No. 1558	FIFRA 3(d)(1)(C)(ii)/40 CFR 162.11	Canceled	
Proposed Reform of Pesticide RPAR Procedures and Hearing Regulations SAN No. 1609	FIFRA 25/40 CFR 162, 164	Specialized regulation	NPRM: 45FR52628 (08/07/80)
Protective Action Guidance for Accidental Airborne Releases of Radioactivity SAN No. 1514 Docket No. A-79-11	AEA 274	Canceled	
Chemical Hazard Warning Labels SAN No. 1530	TSCA 6(a)(3)/40 CFR 780, 781	Postponed Indefinitely	
Exports of Toxic Substances: Notification of Exports Under Section 12(b) SAN No. 1624	TSCA 12(b)/40 CFR 707	Specialized regulation	NPRM: 44FR56856 (10/22/79)
Effluent Guidelines for Soap and Detergent Manufacturing SAN No. 1421	CWA 301, 304, 307/40 CFR 417	Canceled under vvvparagraph 8 of NRDC Consent Decree	
Effluent Guidelines for Explosives Manufacturing SAN No. 1424	CWA 301, 304, 307/40 CFR 457	Canceled under paragraph 8 of NRDC Consent Decree	

REGULATIONS DELETED FROM THE PREVIOUS AGENDA

Title and SAN(#)	Statutory Authority/CFR	Reason Deleted	Date & Cite of Last Action
Effluent Guidelines for Photographics SAN No. 1429	CWA 301, 306, 307/40 CFR 459	Canceled under paragraph 8 of NRDC Consent Decree	
Effluent Guidelines for Beverages SAN No. 1603	CWA 301, 306, 307/40 CFR 438	Postponed Indefinitely	
Effluent Guidelines for Mechanical Products SAN No. 1430	CWA 301, 306, 307/40 CFR 433	Combined with SAN No 1428	
Statewide 208 Dredge or Fill Regulatory Programs SAN No 1401	CWA 208(b)(4)/40 CFR 35.1500	Canceled	
Ambient Water Quality Criteria SAN No 1442	CWA 304	Completed	FR: 45FR79318 (11/28/80)
Addition of Ammonia to the Toxic Pollutant List SAN No. 1578	CWA 307(a)	Withdrawn	FR: 45FR79692 (12/01/80)
Biological Toxicity Testing Requirements in the NPDES Permits Program SAN No. 1628	CWA 308, 402(a)(1)/40 CFR 125	Postponed Indefinitely	
Designation of Human Acute Toxicants as Hazardous Substances SAN No. 1581	CWA 311(b)(2)(A)/40 CFR 116	Canceled	
Determination of Reportable Quantities for Human Acute Toxicants SAN No 1583	CWA 311(b)(4)/40 CFR 117 – Addition	Canceled	
Liability Limits for Small Onshore Hazardous Substances Storage Facilities SAN No 1512	CWA 311(f)(2)/40 CFR 113	Canceled	
Maximum Clean-Up Liabilities for Discharges of Oil and Hazardous Substances from Land-Based Facilities SAN No. 1447	CWA 311(q)/40 CFR 113	Canceled	
Gray Water Discharges from Commercial Vessels on the Great Lakes SAN No. 1448	CWA 312(c)(2)(B) / 33 USC 1322(c)(2)(B) 40 CFR 140 – New	Canceled	
Ocean Discharge Criteria SAN No 1454	CWA 403(c)/40 CFR 220 27	Completed	FR: 45FR65942 (10/3/80)
Guidelines for Specification of Disposal Sites for Dredged or Fill Material SAN No 1455	CWA 404(b)(1)/40 CFR 230	Completed	FR: 45FR85336 (12/24/80)

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Appendix I—Calendar of Federal Regulations

Detailed descriptions of selected major EPA regulations appear in the Regulatory Council's *Calendar of Federal Regulations*. In order to make these descriptions more accessible to users of EPA's *Agenda of Regulations*, we are reprinting them here as an appendix. In addition to a general description of the regulation, these entries:

(1) Describe the options under consideration;

(2) Discuss the sectors of society which will be affected by the regulation;

(3) Identify related regulations; and

(4) Identify support documents available from the Agency contact.

The major criterion for including a regulation in the *Calendar of Federal Regulations* is the Agency's judgment that it will impose costs of one-hundred million dollars or more on the economy in any one year following promulgation. Some regulations which do not meet this criterion are included because of the Administrator considers them to raise especially important policy issues.

The *Calendar of Federal Regulations* from which these descriptions are taken appeared in the **Federal Register** on November 24, 1980 at 45 FR 77702.

The regulations appear in the following order:

Prevention of Significant Deterioration from Set II Pollutants (SAN No. 1306)
Review of NAAQS for Carbon Monoxide (SAN No. 1001)
Review of NAAQS for Nitrogen Dioxide (SAN No. 1004)
Review of NAAQS for Particulate Matter (SAN No. 1003)
Review of NAAQS for Sulfur Oxides (SAN No. 1002)
Performance Standards for Industrial Boilers (SAN No. 1586)
Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy Duty Engines (SAN No. 1315)
Heavy-Duty Diesel Particulate Regulations (SAN No. 1310)
Effluent Guidelines for Pulp, Paper and Paperboard Mills (SAN No. 1419)
Effluent Guidelines for Iron and Steel Plants (SAN No. 1405)
Effluent Guidelines for Steam Electric Power Plants (SAN No. 1408)
Water Quality Standards Regulations (SAN No. 1441)
Environmental Radiation Protection Standards for Management and Disposal of High-Level Radioactive Wastes (SAN No. 1163)
Policy and Procedures for Airborne Carcinogens (SAN No. 1596)
Remedial Action Standards for Inactive Uranium Processing Sites (SAN No. 1166)
Fuels and Fuel Additives (SAN No. 1326)
Chemical Hazard Warning Labels (SAN No. 1530)
Test Rules for Chemical Substances and Mixtures—Chloromethane and Chlorinated Benzenes (SAN No. 1131)
Pesticide Registration Guidelines (SAN No's. 1141–1148, 1619–1623)
Premanufacture Notification Requirements and Review Procedures (SAN No. 1134)
Rules Restricting the Commercial and Industrial Use of Asbestos Fibers (SAN No. 1627)
Control of Organic Chemicals in Drinking Water (SAN Nos. 1201 and 1567)
Hazardous Waste Regulations to Control Hazardous Solid Waste from Generation to Final Disposal (SAN No's. 1191, 1194)
Sewage Sludge Disposal Regulations (SAN No. 1459)

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead) (40 CFR 51.24* and 52.21*)

Legal Authority

The Clean Air Act, as amended, § 166, 42 U.S.C. § 7476.

Reason for Including This Entry

The regulation, when developed and promulgated, is likely to impose siting restrictions on air pollution sources because of limitations on areawide emission totals. This could have a significant effect on industry.

Statement of Problem

The purpose of this program is to provide for adequate representation of the public interest where the Nation's clean air resources are threatened by increases in concentrations of Set II pollutants (hydrocarbons, carbon monoxide, nitrogen oxides, ozone, and lead). The present Prevention of Significant Deterioration (PSD) regulations administered by the Environmental Protection Agency (EPA) require the use of "best available control technology" (BACT) on all new or modified major sources of all pollutants covered by the Clean Air Act. In addition the present program also limits increases in areawide concentrations of sulfur dioxide and particulate matter through an air quality increment system, which limits the amount of emission increases based on air quality impact. The present program, however, does not similarly limit areawide emission levels or air quality impacts of Set II pollutants and, therefore, cannot protect against the degradation of air quality up to the National Ambient Air Quality Standards (NAAQS). (i.e., those levels of air quality set to prevent health and welfare effects). The Clean Air Act, as amended in 1977, requires EPA to respond to this problem (42 U.S.C. 7476).

Alternatives Under Consideration

EPA is now reviewing a range of regulatory alternatives which appear to be most reasonable at this time. These alternatives include the following:

(A) Existing Emissions Controls Only—This system would rely primarily on the requirements for best available control technology (BACT) on major new stationary sources and the Federal standards for motor vehicle emissions. Control requirements under this system would not vary as a function of ambient pollutant concentrations or of the proximity of other sources, as long as the National Ambient Air Quality Standards were not violated.

(B) Ambient Air Quality Allocation.

Ambient Air Quality Increments—This approach would call for the States to develop an area classification system establishing numerical limits for allowable degradation of ambient air quality. This system would be similar to that already in effect for particulate matter and sulfur dioxide.

(C) Emission Allocation.

(1) Emission Density Zoning (EDZ)—An EDZ system would set theoretical ambient air quality increments to serve only as a guideline for establishing limits on maximum allowable emissions per unit land area. Once EPA established these emissions density limits, the appropriate State or local air pollution control agency would base preconstruction review of new and modified sources on the emission density limits rather than on ambient air quality.

(2) Inventory Management—This system would require State and local agencies to develop and maintain detailed emission inventories, with the provision for mandatory periodic public review whenever the local emission inventory increased by a pre-established quantity or percentage. The system would require this public review before allowing any further incremental increase in emissions, and could include an environmental analysis, a community environmental education program, a public hearing, and a vote by elected officials from the potentially affected areas.

(D) Empirical Criteria.

(1) Co-location of hydrocarbon (HC) and nitrogen oxide (NO$_x$) Sources (Avoidance of Juxtaposed Major Sources of Hydrocarbons and Nitrogen Oxides)—We would design this approach to prevent significant deterioration in air quality from high ozone levels (ozone results when HC and NO$_x$ combine). Such a program would focus special attention on the hydrocarbon/nitrogen dioxide ratio and would prevent the location of major sources within a certain fixed distance of each other.

(2) Transportation BACT—This alternative would require means to reduce emissions associated with motor vehicle—related sources. These means could involve specifications for road systems or performance standards for public transportation systems, such as specified levels of service for public transportation. EPA also could consider additional criteria for existing transportation processes and inspection and maintenance.

(3) Indirect Source Review for Federally Funded Projects—The Clean Air Act precludes EPA from requiring states to perform indirect source reviews of non-federally funded projects; therefore, this alternative would require indirect source review for Federally owned, funded or assisted projects. These projects could include airports, highways, sport complexes, and other projects constructed with Federal grants.

EPA is also investigating economic allocation schemes to use in conjunction with the above described regulatory alternatives. The specific programs we are considering at this time are emission fees and marketable permits.

The final regulation may include parts of several control methodologies in conjunction with empirical criteria and/or economic allocation schemes, or may present several options from which a State would choose its specific program.

Summary of Benefits

Sectors Affected: The general public.

Areas of the country which are presently attaining the NAAQS for carbon monoxide, nitrogen dioxide, ozone, and lead will have a program to prevent significant air quality deterioration from those pollutants. In addition, regulations will provide special protection to national parks, national wilderness areas, and other Class I areas.

These regulations are at such an early stage of development that we cannot yet quantify benefits and costs. The benefits will vary depending on the alternative or alternatives we select. The regulations are unlikely to impose additional direct emission control requirements on air pollution sources, but they may impose siting restrictions because of limitations on areawide emission totals. Once we complete the Regulatory Analysis, we will have a better estimate of the benefits and costs associated with this regulation.

Summary of Costs

Sectors Affected: Industries emitting Set II pollutants, including: transportation, electric services, and manufacturing (particularly the petroleum refining and the primary metal industries).

We do not anticipate that the regulation will affect small businesses disproportionately. The Regulatory Analysis will, however, specifically address this problem.

As we noted above, we will assess the costs of implementing these regulations as a part of the Regulatory Analysis. We already require the affected sources under the present PSD regulations to install the best available control technology (40 CFR 51.24 and 40 CFR 42.21). Therefore, the costs (decline in economic growth, regional costs, etc.) resulting from this regulation alone will be related only to site location.

Related Regulations and Actions

Internal: EPA has developed and currently administers regulations for the prevention of significant deterioration of air quality resulting from emissions of particulate matter and sulfur dioxide (40 CFR 51.24). The same regulations also require best available control technology on the sources potentially affected by this regulation.

External: The regulation will require each State to develop regulations to implement this program. These regulations will require EPA review and approval.

Active Government Collaboration

EPA has formed an interagency work group to assist it in the development and review of these regulations. The following are members of the workgroup: Department of Transportation, Department of Energy, Department of Interior (National Park Service, Fish and Wildlife Service, and Bureau of Land Management), Department of Commerce, Department of Housing and Urban Development, Department of Agriculture, and Council on Environmental Quality. In addition, we have solicited and received cooperation from State governments through the State and Territorial Air Pollution Program Administrators, and local agencies through the Association of Local Air Pollution Control Officers.

Available Documents

"Program to Prevent Significant Deterioration of Carbon Monoxide, Ozone, Hydrocarbons, Nitrogen Dioxide and Lead," (EPA report number EPA-450/2-80-071, March 1980) available from NTIS Accession No. PB80-221260.

"Community Environmental Education: Three Models of Organization for PSD Set II," (report for public review, June 1980), available from Nancy Mayer, Control Programs Development Division, MD-15, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

EPA has established a docket (EPA, Central Docket Section A-79-34) for review of the PSD Set II regulations.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d)(1) of the Clean Air act as amended directs EPA to review existing national ambient air quality standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and welfare. EPA set the original carbon monoxide (CO) standards (April 30, 1971, 36 FR 8186) at 9 parts per million (ppm) averaged over an 8-hour period and 35 ppm for a 1-hour period. On August 18, 1980 (45 FR 55066), the Agency proposed to retain the 9 ppm 8-hour standard and lower the 1-hour standard to 25 ppm. At that time, EPA also proposed to modify the form of the two standards to a daily maximum interpretation for exceedances of the standard.

The incidence of adverse health effects in the general population resulting from human exposure to carbon monoxide has not been completely quantified. However, there are several population groups that are particularly sensitive to carbon monoxide exposure, such as people with coronary heart disease (e.g., angina pectoris), peripheral vascular disease, cerebrovascular disease, or chronic obstructive pulmonary disease; pregnant women and their fetuses; and people with anemia. These sensitive population segments range from 5 to 12 percent of the U.S. population. Thus, between 11 million and 27 million persons in the United States with cardiovascular, pulmonary, and central nervous system diseases can have these conditions aggravated by exposure to carbon monoxide.

Alternatives Under Consideration

The Agency considered the following alternative standards prior to the August 18, 1980 Proposal:

1-hr averaging time	8-hr averaging time
15 ppm	7 ppm
25 ppm	9 ppm
35 ppm	12 ppm

EPA originally selected the 8-hour averaging time because most people achieve equilibrium or near-equilibrium levels of carboxyhemoglobin (COHb) in the blood after an 8-hour exposure to carbon monoxide. In addition, most people are exposed to carbon monoxide in roughly 8-hour blocks of time. We uncovered no evidence during the review process resulting in the August 18, 1980 NPRM that indicated that the 8-hour averaging time should be changed.

As a result of the review and revision of the health criteria, EPA proposes to retain the existing primary 8-hour standard at 9 ppm and to lower the primary 1-hour standard to 25 ppm. The change in the 1-hour standard is being proposed because of the more rapid accumulation of blood carboxyhemoglobin in moderately exercising sensitive persons compared to resting individuals. The impact of exercise, which is greater for short-duration exposures, was not considered in the original standard.

We are investigating no new Federal regulatory techniques in the CO NAAQS review process. State governments use their own discretion in taking regulatory actions to meet EPA's national ambient air quality standards. The States are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory compliance dates.

Summary of Benefits

Sectors Affected: Persons with cardiovascular or pulmonary disease; pregnant women and fetuses; and anemics.

The newly proposed CO NAAQSs should result in a greater assurance that persons with cardiovascular heart disease will not experience deleterious health effects due to high ambient concentrations of carbon monoxide. Specifically, the two standards are

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intended to keep 99 percent of the sensitive population affected by cardiovascular heart or peripheral vascular disease below a COHb level of 2.1 percent.

Summary of Costs

Sectors Affected: Manufacturing of motor vehicles and motor vehicle equipment; administration of State and local transportation programs; the driving public; EPA; and State air pollution control agencies.

In its regulatory impact analysis, EPA estimated the 1987 annualized costs of various CO control strategies for the three 8-hour alternatives; the total nationwide cost in 1979 dollars is approximately $2.8 billion for the 9 ppm proposed standard. It is $2.9 billion for the 7 ppm alternative and $2.6 billion for the 12 ppm alternative. Costs for alternative 1-hour standards were not developed because control strategies needed to attain any of the three alternative 8-hour standards investigated automatically attain all of the 1-hour standards that EPA analyzed.

Related Regulations and Actions

Internal: The newly proposed CO NAAQSs will not affect any other Agency program since there is no change in the controlling 8-hour standard. Emission standards for moving sources will not be affected since they are established under Title II of the Clean Air Act (42 U.S.C. § 7501 *et seq.*).

External: The newly proposed CO NAAQSs will not alter any on-going or planned State, local, or private industry control program since there is no change in the controlling 8-hour standard.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the standard include the Departments of Transportation, Energy, and Health and Human Services. In addition, EPA has contacted the Interagency Regulatory Liaison Group (IRLG) and will involve them in the Standard review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Available Documents

ANPRM—"Review of the Carbon Monoxide Air Quality Standard," 43 FR 56250, December 1, 1978.

NPRM—"Carbon-Monoxide. Proposed Revisions to the NAAQS," 45 FR 55066, August 18, 1980.

"Air Quality Criteria for Carbon Monoxide" (External Review Draft, April 1979); it is available from the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

U.S. Environmental Protection Agency Science Advisory Board Clean Air Scientific Advisory Committee, Subcommittee on Carbon Monoxide, "Transcript of Proceedings" for January 30 and 31, 1979 and June 14–16, 1979.

Public hearing record and public comments (comment period open until November 10, 1980).

The following reports are available from the U.S. EPA Library (MD–35), Research Triangle Park, NC 27711. Telephone: (919) 541–2777 (FTS: 629–2777).

"Control Techniques for Carbon Monoxide Emissions," EPA-450/3–79–006, June 1979.

"Regulatory Impact Analysis of the National Ambient Air Quality Standards for Carbon Monoxide," April 2, 1980.

"Proposed National Ambient Air Quality Standards for Carbon Monoxide: Draft Environmental Impact Statement," July 1980.

"Estimated Exposure to Ambient Carbon Monoxide Concentrations Under Alternative Air Quality Standards (Draft)," August 1980.

"Preliminary Assessment of Adverse Health Effects from Carbon Monoxide and Implications for Possible Modifications of the Standard (Draft)," June 1, 1979.

"Sensitivity Analysis of Coburn Model Predictions of COHb levels Associated with Alternative CO Standards (Draft)," July 1, 1980.

"Significant Harm Levels for Carbon Monoxide (Draft)," July 1980.

EPA has established a docket (EPA, Central Docket Section OAQPS–79–7) for review of this standard. The docket is available for investigation between 9:00 a.m. and 4:00 p.m. on weekdays in the Section Office: Room 2903B, 401 M Street, S.W., Washington, DC.

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EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, §§ 109(c) and 109(d), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(c) of the Clean Air Act, as amended, directs EPA to promulgate a short-term nitrogen dioxide (NO_2) standard unless there is no significant scientific evidence that such a standard is needed to protect public health. Section 109(d)(1) of the Act requires EPA to review the scientific basis of existing National Ambient Air Quality Standards (NAAQS) every 5 years. (Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and safety. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQS.) This review includes the existing NO_2 annual average standard promulgated by EPA on April 30, 1971 (36 FR 8186). The standard is 100 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean (40 CFR 50.11). The Agency has combined possible proposal of a short-term NO_2 standard with review of the annual average NAAQS into one rulemaking process (see 45 FR 6959, January 31, 1980). After review of scientific bases for the standards (the air quality criteria), EPA will decide whether to propose a short-term NO_2 standard and change or reaffirm the existing annual NO_2 NAAQS.

Public exposure to NO_2 can result in impairment of pulmonary (lung) function and can increase susceptibility to respiratory infection. NO_2 or other nitrogen oxide compounds in the ambient air can adversely affect crops, visibility, and materials, and can cause acid rainfall. Acid rainfall adversely affects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

Based on revised air quality criteria, EPA may decide to keep the existing annual standard without change, or make some modification to the allowable air concentration of nitrogen dioxide, the period over which the concentration is measured or the number of times States will be allowed to exceed the standards. The Agency may also decide to propose a short-term NO_2 standard.

We are investigating no new regulatory techniques in the NO_2 NAAQS review/standard-setting process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdictions. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory attainment dates.

Summary of Benefits

Sectors Affected: The general public, particularly those persons suffering from respiratory disease; agriculture; and the aquatic ecosystem.

Revision of air quality criteria and review of the existing ambient air standard will result in greater assurance that the standard which EPA reaffirms or newly promulgates will protect public health and welfare, crops, materials, and aquatic ecosystems.

Summary of Costs

Sectors Affected: Industries emitting nitrogen oxides, such as manufacturing, electric services, and natural gas pipelines; manufacturing of motor vehicles and motor vehicle equipment; regulation and administration of transportation programs; EPA; and State air pollution control agencies.

We will assess the costs and economic effects of controlling oxides of nitrogen for alternative short-term and annual standards at the time we propose a revised standard. In addition, EPA will also assess the impact on State air pollution control agencies of developing and modifying control programs to attain and maintain a possible short-term and annual NO_2 standard. The Agency will publish these assessments in a regulatory impact analysis that will be issued simultaneously with the NPRM.

The costs may exceed $100 million annual impact on the economy.

If the Agency's NO_2 activities result in a new regulatory action, the regulation could affect the level of control for sources of nitrogen oxides emissions, such as power plants, industrial boilers, and natural gas pipeline stations. We currently are controlling mobile source emissions under existing emissions limits for motor vehicles; however, a stringent short-term NO_2 standard could result in the need for community-wide inspection and maintenance programs for automobile and truck emissions.

Related Regulations and Actions

Internal: Changes to the current ambient standard may affect EPA's regulations for nitrogen oxides emissions from motor vehicles and EPA regulations for new source review.

External: Modifications in the existing standard may require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary. A new short-term standard would require States to assess ambient air quality data, and if concentrations exceed the standard, develop a State implementation plan to control NO_2 emissions.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the nitrogen dioxide standards are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services, and the Tennessee Valley Authority. In addition, we have informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Available Documents

"Air Quality Criteria for Nitrogen Dioxide" (external review draft, annotated version, June 1980), available from the Environmental Criteria and Assessment Office (ECAO), U.S. Environmental Protection Agency, MD-52, Research Triangle Park, NC 27711.

U.S. Environmental Protection Agency, Science Advisory Board, Clean Air Scientific Advisory Committee, Committee Meeting on Air Quality Criteria for Oxides of Nitrogen, "Transcript of Proceedings" conducted in Washington, DC on January 29 and 30, 1979; available from ECAO.

"Control Techniques for Nitrogen Dioxide Emissions" (draft, January 1978), available from Emission Standards and Engineering Division, U.S. Environmental Protection Agency, MD-13, Research Triangle Park, NC 27711.

"National Ambient Air Quality Standards: Establishment of Standard Review Docket for Nitrogen Dioxide," 45 FR 6958, January 31, 1980.

EPA has established a docket (EPA Central Docket Section OAQPS-78-9) for review of the NO_2 standard. Reports in the docket are available for inspection between 8 a.m. and 4 p.m. on weekdays at the Docket Section Office, Room 2903B, 401 M Street, S.W., Washington, DC.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs EPA to review the existing National Ambient Air Quality Standards NAAQS) every 5 years. Ambient air quality standards define the level of pollutant concentrations in the ambient air that are allowed while still protecting public health and safety. The current primary standard for particulate matter (to protect public health) is 75 micrograms per cubic meter ($\mu g/m^3$), annual geometric mean, and 260 $\mu g/m^3$, maximum 24-hour concentrations, not to be exceeded more than once per year. The current secondary standard for particulate matter (to protect public welfare, e.g., effects on soils, vegetation, man-made materials, visibility, economic values, etc.) is 150 $\mu g/m^3$, maximum 24-hour concentration, not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQSs.

EPA will review the scientific basis of the primary and secondary standards (the air quality criteria), as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Exposure to airborne particulate matter (PM) aggravates asthma and other respiratory disorders, as well as cardiovascular diseases, and can impair pulmonary function; this exposure can also increase coughing and chest discomfort. PM may also increase the adverse health effects of gaseous air pollutants, such as sulfur dioxide. Depending on their chemical composition, specific types of PM may have more serious toxic or carcinogenic effects than others. Elevated PM levels result in increased soiling of exposed materials and impair visibility.

Alternatives Under Consideration

On the basis of the revised air quality criteria, EPA may decide to keep the existing standards without change or, alternatively, may decide to change the allowable air concentration of particulate matter, the period over which the concentration is measured, or the number of allowable exceedances of the standards. EPA is also considering standards based on the size of the particulate as well as its concentration. This consideration is based on evidence that smaller particles penetrate deeper into the lung and evidence that when elevated concentrations of particulate matter occur in combination with elevated levels of sulfur oxides, adverse health effects may be more pronounced.

EPA is not investigating new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments, which are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQSs by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases and cardiovascular diseases.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adequately protect health and welfare of the general public, including those groups within the general public most sensitive to adverse health effects of PM.

Summary of Costs

Sectors Affected: Industries emitting particulate matter, including (1) electric, gas, and sanitary services, (2) the non-ferrous metal industry, and (3) those industries that use or supply large quantities of fossil fuels; and State air pollution control agencies.

EPA will complete a study of costs and economic impacts of controlling particulate matter under alternative standards when it issues the NPRM. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs to accommodate revisions to the existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards for particulate matter may affect EPA's regulations for new source review.

External: Modifications in the existing standards would require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are actively involved in reviewing the standards for particulate matter are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG coordinates the regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Available Documents

ANPRM—"National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 192, October 2, 1979.

"Air Quality Criteria for Particulate Matter," AP-49, January 1969, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Health Effects Considerations for Establishing a Standard for Inhalable Particles," July 1978, available from the Health Effects Research Laboratory, Environmental Protection Agency, Research Triangle Park, NC 27701.

"Airborne Particles," National Academy of Sciences, 1977, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide (40 CFR Part 50")

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs the EPA to review the existing National Ambient Air Quality Standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are allowed while still protecting public health and welfare. The present primary standard for sulfur oxides measured as sulfur dioxide (set to protect public health) is 80 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean, and a maximum 24-hour concentration of 365 $\mu g/m^3$, not to be exceeded more than once per year. The current secondary standard for sulfur oxides measured as sulfur dioxide (to protect public welfare e.g., effects on soils, vegetation, man-made materials, visibility, economic values, etc.) is 1300 $\mu g/m^3$, with the maximum 3-hour concentration not to be exceeded more than once per year. The

States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQSs.

EPA will review the scientific basis of the standards (the air quality criteria), as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Sulfur oxides in the air, working alone or in combination with other pollutants, aggravate respiratory diseases such as asthma, chronic bronchitis and emphysema, and also irritate the eyes and respiratory tract. Sulfur oxides also cause impaired visibility and help form acid rain, which adversely affects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

On the basis of the revised air quality criteria, EPA may decide to keep the existing standards without change or, alternatively, may alter the air concentration of sulfur dioxide or the period over which the concentration is measured.

EPA is investigating no new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQSs by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases; and agriculture.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adquately protect the health and welfare of the general public, including those most sensitive to adverse health effects of sulfur oxides.

Summary of Costs

Sectors Affected: Industries emitting sulfur dioxides, including (1) electric, gas, and sanitary services industries, (2) the non-ferrous metal industry, (3) the petroleum refining industry, and (4) those industries that supply or use large quantities of fossil fuel; and State air pollution control agencies.

A study of costs and economic impacts of controlling sulfur oxides under alternative standards will be completed by EPA when the NPRM is issued. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs in order to accommodate any revisions to existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards may affect EPA's regulations for new source review.

External: Modifications in the existing standards would require States to reassess their current implementation control programs, and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are actively involved in reviewing the sulfur oxide standards are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG coordinates certain regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Available Documents

ANPRM—"National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 56730, October 2, 1979.

"Air Quality Criteria for Sulfur Oxides," AP-50, January 1969—available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Sulfur Oxides," National Academy of Sciences, 1978—available from the National Academy of Sciences, Printing and Publication Office, 2101 Constitution Avenue, Washington, DC 20418.

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EPA-OANR

Standards of Performance to Control Atmospheric Emissions from Industrial Boilers (40 CFR Part 60*)

Legal Authority

The Clean Air Act, as amended, § 111, 42 U.S.C. § 7411.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this rule would be important because it would affect many industries, address a major air polluter, namely industrial boilers, and minimize emissions in the face of increased industrial use of coal. The impact of this regulation on industry would approach $100 million per year for additional capital and annualized costs by 1990.

Statement of Problem

Combustion of coal, oil, and gas in industrial boilers results in the emission of significant quantities of particulate matter, sulfur dioxide, and nitrogen oxides to the atmosphere. Because of the large number of boilers and the associated emission rates, industrial boilers contribute significantly to air pollution in the United States. In 1975, emissions from industrial boilers were estimated to include 2.77 million tons of particulate matter, 3.25 million tons of sulfur dioxide, and 2.01 million tons of nitrogen oxides or approximately 17, 11, and 8 percent of total national emissions of these pollutants. The projected growth rate of the use of industrial boilers, coupled with the emphasis on shifting fuel from gas and oil to coal, will increase the potential for emissions. These air pollutants affect the health and welfare of most of our urban-dwelling citizens by contributing to respiratory disease in people and animals, reducing visibility in the atmosphere, damaging vegetation, and soiling and deteriorating real estate. Failure to provide more effective control of emissions from industrial boilers will increase exposure to the undesirable effects of these pollutants and will expand the portions of the country that exceed EPA's ambient standards for these pollutants. This rule will apply to new and modified industrial boilers. Only the largest industrial boilers are presently covered by § 111 standards; these apply only to new and modified units. Existing industrial boilers are required to meet State and local regulations which usually limit sulfur dioxide and particulate emissions. Section 111 regulations are expected to incorporate limits for nitrogen oxides and limits for sulfur dioxide and particulate that are more stringent than State and local regulations.

Alternatives Under Consideration

The 1977 Clean Air Act requires that EPA adopt standards of performance for stationary sources of air pollution that are fired by fossil fuels. EPA is gathering information on eight technologies for reducing boiler emissions of three pollutants: (1) oil cleaning and use of existing clean oil, (2) coal cleaning and existing clean coal, (3) synthetic fuels, (4) fluidized bed combustion (a relatively new technology applicable only to large coal-fired boilers), (5) particulate control, (6) flue gas desulfurization, (7) nitrogen oxides combustion modification, and (8) nitrogen oxides flue gas treatment.

We are examining several control alternatives which include different levels of control for three pollutants being studied. Computer modeling is being used to determine the cost impacts, emission impacts, effects upon fuel consumption, overall energy impacts, and other environmental effects on a regional and national basis.

Summary of Benefits

Sectors Affected: Manufacturing industries; and the general public.

This rule will apply to new and modified industrial boilers used in a large number of manufacturing industries, particularly energy-intensive industries, such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281), and will affect people in urban and rural areas who are subject to pollution emissions from these industries.

Installing equipment that represents the best available control technology at new and modified industrial boiler facilities will help lessen air pollution in already affected areas and preserve clean air in as yet unpolluted areas of the country. Since only a small fraction of the industrial boiler population is replaced or modified annually, the short term impact on air quality will be only nominal. However, annual reductions in emissions will be cumulative resulting in significant betterment of air quality over the long term. Equipping new boilers with best available control technology will reduce the need for using the "cleanest" fuels, which can be diverted to existing plants in which new add-on controls are less cost effective.

A regulation that requires more stringent controls on new and modified industrial boilers will allow industrial expansion and economic growth without an accompanying assault on ambient air quality.

Summary of Costs

Sectors Affected: Manufacturing industries; and users of products produced by these industries.

Energy intensive industries such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281) are the specific industries that this rule would affect most.

Cost estimates for applying the control technology required by a regulation governing emissions from industrial boilers would be determined by the number, sizes, and types of sources we regulate and the degree of control we require. EPA estimates that by 1990, annual added capital costs of control will approach $200 million and annualized costs will approach $100 million (1978 dollars). These estimates are necessarily very tentative at this time. Consumers may pay higher prices for products manufactured by energy-intensive industries.

Related Regulations and Actions

Internal: We have issued water pollution regulations in the form of "Best Practical Technology Currently Available" and "Best Available Technology Economically Achievable." Industrial boilers are also subject to requirements of the Resource Conservation and Recovery Act, Part 261, Subpart C.

External: Industrial boilers are subject to the Power Plant and Industrial Fuel Use Act and associated regulations established by the Department of Energy.

Active Government Collaboration

Because emissions from industrial boilers come from the combustion of fossil fuels, EPA is working closely with the Department of Energy to share information and stimulate advances in technology.

EPA works closely with State and local governments in developing and implementing these rules.

Available Documents

ANPRM—40 CFR 60 (44 FR 37632, June 28, 1979).

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EPA–OANR–Office of Mobile Source Air Pollution Control

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines (40 CFR Part 86*)

Legal Authority

The Clean Air Act, as amended, § 202, 42 U.S.C. § 7521.

Reason for Including this Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we expect it will have an annual economic impact of more than $100 million.

Statement of Problem

The Clean Air Act Amendments of 1977 require EPA to establish regulations which require a reduction (from the uncontrolled state) of heavy-duty engine or vehicle emissions of 90 percent for hydrocarbon (HC) and carbon monoxide (CO) in 1983 and 75 percent for oxides of nitrogen (NO_x) in 1985. These amendments also provide EPA with options to either temporarily revise or change the standards under certain conditions. As defined in the Act, heavy-duty vehicles include those trucks over 6,000 pounds gross vehicle weight (GVW); excluded are off-road vehicles, such as farm tractors and construction equipment. This definition overlaps two truck categories as used by EPA. These are light-duty trucks (LDTs), which EPA defines as trucks up to 8,500 pounds GVW and heavy-duty vehicles (HDVs) which include the 8,500 pounds GVW over trucks. We published regulations implementing the mandated reductions in HC and CO emissions for HDVs on January 21, 1980 (45 FR 4136) and for LDTs on September 25, 1980 (45 FR 63734). This entry concerns the regulations implementing the mandated reduction in NO_x.

During high temperature combustion in internal combustion engines, atmospheric nitrogen reacts to form nitric oxide (NO) and a comparatively small amount of nitrogen dioxide (NO_2). In the atmosphere, the NO is converted to NO_2 by direct reaction with oxygen and by photochemical processes. NO_2 in the atmosphere causes visibility restrictions and brownish coloration. Elevated NO_2 levels are also associated with both long-term and short-term health effects on the respiratory system.

Based upon the present annual standard of 0.05 parts per million, EPA has identified several (8 or less) Air Quality Control Regions which are currently exceeding acceptable levels.

EPA's analysis of future oxides of nitrogen (NO_x) emissions indicates that current light-duty and heavy-duty vehicle NO_x control strategies will produce some overall NO_x reductions through the mid-1980s, after which annual growth of vehicle sales, industry, and other sources contributing to pollution will begin to dominate. Thus, to even maintain the status quo, further NO_x controls will be needed. Heavy-duty vehicles and light-duty trucks, representing approximately 40 percent of mobile source NO_x emissions, constitute one area where further NO_x control is available on a cost-effective basis. Mobile sources themselves constitute about 30 percent of total NO_x emissions.

Alternatives Under Consideration

In the development of the NO_x standard, EPA will consider the following alternatives:

(A) Implement an NO_x standard that reflects the Clean Air Act's mandated 75 percent reduction.

(B) Implement an oxides of nitrogen standard that is either less stringent or more stringent than the 75 percent reduction required by the Clean Air Act.

EPA is currently evaluating the advantages and disadvantages of both alternatives. The Clean Air Act (as amended August 1977) directs EPA to set an NO_x standard that reflects a 75 percent reduction (from uncontrolled levels), applicable for the 1985 model year. However, Congress incorporated provisions in the Act allowing EPA either to set more stringent standards or less stringent standards. EPA can make such revisions to the standard if it finds that the emission standards cannot be achieved by available technology at reasonable cost. Of course, as standards are made more stringent, more benefits will accrue. Likewise, as standards become more stringent, costs of compliance will generally increase. The task confronting EPA is one of determining technological capabilities, and balancing costs and benefits.

At the present time, the Agency considers alternative (A) as the most likely option to propose. However, we will continue to address issues such as technological capability and cost as we develop the final rule. It is possible that after analyzing manufacturers' comments, EPA will reconsider alternative (B).

EPA had considered the additional alternative of emission averaging, but has decided to pursue averaging as a separate rulemaking. Under an averaging approach, a manufacturer could achieve compliance to an emission standard by averaging its aggregate fleet emissions. The manufacturer could design some engines to be below the standard and others above it. Conceptually, this approach could increase a manufacturer's flexibility from both a technological and an economic standpoint. Averaging will require a major effort to incorporate the concept into the existing regulations. Since the Clean Air Act requires EPA to promulgate the NO_x rulemaking swiftly, and since we believe the averaging concept will need lengthy analysis and discussion between EPA and the industry and public, we will pursue averaging and NO_x as separate rulemakings. We expect to publish an ANPRM for the averaging concept during the fall of 1980 and will attempt to complete the averaging rulemaking as close as possible to the time of the NO_x final rule.

Summary of Benefits

Sectors Affected: The general public, especially urban populations and persons particularly susceptible to respiratory disease.

Although a thorough and detailed benefit analysis has not been performed yet, we can roughly estimate the environmental impact. A proposed NO_x standard representing a 75 percent reduction from uncontrolled levels would reduce lifetime emissions of an average light-duty truck by 500 pounds, and of an average heavy-duty vehicle by approximately 1 ton and 7 tons for gas and diesel, respectively (compared to vehicles sold under present regulations). These reductions will yield improvements in excess of 10 percent in average NO_x air quality by 1995.

Summary of Costs

Sectors Affected: Manufacturers of heavy-duty engines and vehicles and light-duty trucks; and purchasers and users of heavy-duty engines and vehicles and light-duty trucks.

This regulation will require the addition of engine emission control hardware and/or engine modifications in order to comply with the proposed NO_x standard. Consequently, to cover the cost of any new hardware or engine modifications, manufacturers will have to increase the price of their products. Although precise cost estimates are not available at this time, we project that the average initial price increase of a light-duty truck will be roughly $150, while the average initial price increases of heavy-duty vehicles will be roughly $280 for gasoline engines and $300 for diesel engines (in 1980 dollars).

Related Regulations and Actions

Internal: Current emission standards for light-duty trucks and heavy-duty engines can be found in "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86. Regulations implementing the Department of Transportation light-duty truck fuel economy standards are found in "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

EPA has recently finalized standards and measurement procedures for the control of particulate emissions for diesel-fueled light-duty trucks ("Standard for Emission of Particulate Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks," 45 FR 14496, March 5, 1980). Other related regulations recently finalized are HC and CO emission regulations for 1984 and later model year heavy-duty engines and for 1984 and later light-duty trucks ("Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines," 45 FR 4136, January 21, 1980, and "Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks," 45 FR 63734, September 25, 1980).

In addition to the existing regulations above, EPA is in the process of developing particulate regulations for heavy-duty diesel engines.

External: Light-duty vehicle and light-duty truck fuel economy standards are found in the Department of Transportation "Passenger Automobile Average Fuel Economy Standards," 41 CFR Part 351.

Active Government Collaboration

Department of Transportation, Council on Wage and Price Stability, and Department of Commerce.

Available Documents

None at this time.

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EPA-OANR-OMSAPC

Heavy-Duty Diesel Particulate Regulations (40 CFR Part 86 *)

Legal Authority

The Clean Air Act, as amended, §§ 202, 206, 207, and 301, 42 U.S.C. §§ 7521, 7525, 7541, and 7601.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have an annual effect of $100 million or more on the economy.

Statement of Problem

Despite significant gains made in the control of particulate emissions, there are still many regions of the United States that are not able to meet the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP). To help improve this situation, Congress required EPA (through the Clean Air Act Amendments of 1977) to prescribe standards for the emission of particulate matter from 1981 model year heavy-duty diesel vehicles. EPA must base this standard on the lowest emission rates that we find technologically feasible at the time the standard will take effect, while also taking cost, noise, energy, and safety into consideration.

Diesel engines already power one-third of the heavy-duty vehicles sold in this country. By 1995, EPA expects this figure to increase to over two-thirds, primarily because of the fuel economy advantage of diesel engines over gasoline engines. These diesels emit 40 to 100 times the particulate matter emitted by catalyst-equipped vehicles operated on unleaded gasoline. (EPA expects that most gasoline-fueled heavy-duty vehicles will require catalysts and unleaded gasoline beginning in 1984 due to stringent standards for the emissions of hydrocarbons and carbon monoxide (see 45 FR 4136, January 21, 1980)). Heavy-duty diesel vehicles, if left uncontrolled, would emit 218,000–266,500 metric tons per year of particulate matter to the atmosphere by 1995. Urban areas would be the most seriously affected by these emissions. Ambient particulate levels from heavy-duty diesels alone would reach 2 to 7 micrograms per cubic meter (annual geometric mean) in cities such as Chicago, Los Angeles, New York, and Dallas. Somewhat smaller levels of 2 to 5 micrograms per cubic meter (annual geometric mean) would occur in smaller cities such as St. Louis, Denver, and Phoenix. These levels would occur over large-scale areas within these cities. Additional diesel particulate levels of 5 to 6 micrograms per cubic meter (annual geometric mean) would be expected in localized areas within 90 meters of very busy roadways. If controls are not applied, these ambient impacts would hinder the efforts of many urban air quality control regions to meet the primary NAAQS for TSP of 75 micrograms per cubic meter. EPA set this NAAQS at a level to protect the public health; many areas of the country are currently exceeding the standard.

Diesel particulate is a particular health concern because of its chemical nature. Diesel particulate contains polycyclic organic matter, which is believed to be carcinogenic, and carbon, which can synergistically increase the effects of other pollutants. The extractable organic fraction of diesel particulate has been shown to be mutagenic (causing genetic damage) in short-term bioassays. EPA is currently performing a health assessment to determine the carcinogenic risk (if any) to human health.

Diesel particulate is also extremely small in size, allowing it to penetrate deeply into the lungs. Over 95 percent of diesel particulate is fine (aerodynamic diameter of less than 2.5 micrometers). Fine particles, such as these, have the greatest potential health impact as they have the longest contact with the most sensitive areas of the respiratory tract. Particulate emitted from diesels also has a greater relative exposure impact than that from many stationary sources because it is emitted at ground level in areas where people live and work.

Alternatives Under Consideration

EPA will consider the following alternatives when proposing a standard for particulate emissions from heavy-duty diesel vehicle engines:

(A) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply additional controls to particulate emissions from stationary sources. Control of particulate emissions from stationary sources may be less costly than controlling particulate emissions from heavy-duty diesel vehicles. But these stationary source controls may not be able to provide the necessary improvements in air quality which are available from the control of heavy-duty diesel vehicles.

(B) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply more stringent controls to particulate emissions from other classes of motor vehicles. Controls placed on these other vehicle classes, however, do not at this time appear to be as cost effective as heavy-duty diesel controls. Also, controls placed on these other vehicle classes may not be able to provide the same improvement in air quality as the regulation of emissions from heavy-duty diesels.

(C) Prescribe a heavy-duty diesel particulate standard and examine alternative levels of control along with alternative dates of implementation. It is likely that the different alternatives examined will have different costs and effectiveness and one may prove to be significantly better than the others, while still complying with Congressional mandates.

We currently regard alternative (C) as the most desirable alternative. Additional particulate controls available for stationary sources and other mobile sources do not appear able to reduce particulate emissions enough to remove the need for regulation of particulate emissions from heavy-duty diesel engines.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas or near busy roadways, and those who are especially susceptible to respiratory disease; and States containing areas currently in violation of the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP).

EPA estimates that this regulation will reduce particulate emissions from heavy-duty diesel vehicles by 50 to 75 percent. This reduction would begin to appear with those new vehicles produced in the 1985 model year. By 1995, emissions of particulate matter from these vehicles would be reduced from 218,000–266,500 metric tons per year (depending on the number of diesels on the road) to 78,000–95,000 metric tons per year. Urban levels of heavy-duty diesel particulate in the atmosphere would be reduced from 2–7 micrograms per cubic meter to 1–3 micrograms per cubic meter. Roadside levels would be reduced similarly. These reductions will help many areas of the country meet the primary NAAQS for TSP (75 micrograms per cubic meter) which EPA set at a level to protect the public health. Because diesel particulate is highly respirable, these reductions should provide an added benefit in the area of public health.

Also, because diesel particulate is very small (average diameter of 0.07 to 0.2 micrometer) and is primarily made up of carbon, it is very effective in reducing visibility. Thus, any reduction in diesel-particulate concentration should improve visibility, particularly in urban areas.

Summary of Costs

Sectors Affected: Manufacturers of

heavy-duty diesel engines and vehicles; and purchasers and users of heavy-duty diesel vehicles.

This regulation probably will require the addition of emission control devices to heavy-duty diesel engines, though the actual devices used and their cost could vary from manufacturer to manufacturer and engine to engine. Manufacturers of these engines and of the vehicles equipped with these engines will have to raise prices to recover their increased investment. While this increase could be substantial, roughly a one-time purchase price increase of $500–$650 (1980 dollars), EPA does not expect this to adversely affect sales. This increase only represents a 1 to 3 percent increase in the price of a heavy-duty diesel vehicle.

EPA does not expect this regulation to increase the operating costs of heavy-duty diesel vehicles; in fact, a decrease may actually be possible. Because operating costs comprise 90 to 95 percent of the total cost of owning and operating heavy-duty diesel vehicles, this regulation should have a negligible impact (less than 0.5 percent) on the cost of hauling freight in these vehicles. Thus, neither those whose business is hauling freight nor those who have their freight hauled should be adversely affected. Small, independent haulers should experience no disproportionate effect.

The regulation could have an annual effect on the economy of $100 million or more.

Related Regulations and Actions

Internal: "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86.

EPA is also in the process of revising the standard for the emissions of nitrogen oxides from both gasoline-fueled and diesel heavy-duty engines.

External: None.

Active Government Collaboration

None.

Available Documents

ANPRM—42 FR 61287, December 2, 1977, EPA docket A–80–18.

All documents available for review at the EPA, Central Docket Section A–130, West Tower Lobby, Gallery 1, Attn: Docket No. A–80–18, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 4:00 p.m., or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA—Office of Water and Waste Management

Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants From Pulp, Paper, and Paperboard Mills Into Navigable Waterways (40 CFR Parts 430* and 431*)

Legal Authority

The Clean Water Act, §§ 301, 304, 306, 307, 308, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, and 1361.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it will have an annual effect of $100 million or more on the economy.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to develop technology-based effluent limitations guidelines and standards for discharges of pollutants into navigable waterways and the introduction of pollutants into publicly owned treatment works (POTWs), and to review such guidelines and standards at least every 5 years. EPA promulgated effluent limitations guidelines reflecting the best practicable control technology currently available (BPT) and the best available technology economically achievable (BAT) and new source performance standards (NSPS) for six subcategories of the industry on May 9 and 29, 1974 (39 FR 16578, 40 CFR Part 431; and 39 FR 1672, 40 CFR 430). EPA promulgated BPT guidelines for the 16 remaining subcategories of the industry on January 6, 1977 (42 FR 1398, 40 CFR Part 430).

The Clean Water Act of 1977 requires industry to achieve by July 1, 1984 effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under § 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve by July 1, 1984 "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-coventional" and are subject to regulation under BAT.

EPA expects to publish proposed effluent limitations guidelines for BAT, BCT, and NSPS, and pretreatment standards for existing and new sources (PSES, PSNS) for the pulp, paper, and paperboard and the builders' paper and board mills point source categories in the **Federal Register**, in November 1980.

EPA estimates that there are 706 operating pulp, paper, and paperboard mills in the United States which discharge about 4.2 billions gallons per day of wastewater. Toxic and non-conventional pollutants of concern detected in the industry's wastewaters during an EPA sampling program were 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, chloroform, ammonia, and zinc. Chloroform, pentachlorophenol, trichlorophenolic ammonia, and zinc can be toxic to aquatic organisms. Chloroform and trichlorophenol are known carcinogens. Conventional pollutants routinely monitored in discharges from pulp, paper, and paperboard mills include biochemical oxygen demand, suspended solids, and pH. Excessive discharge of conventional pollutants may cause a depletion of the dissolved oxygen in streams, which can result in fish kills.

Alternatives Under Consideration

The Agency is considering various wastewater treatment technologies for controlling toxic, non-conventional, and conventional pollutant discharges from the pulp, paper, and paperboard industry to the Nation's waterways. We will regulate toxic and non-conventional pollutants under the best available technology economically achievable (BAT), new source performance standards (PSNS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS). We will regulate conventional pollutants under the best conventional pollutant control technology (BCT) and new source performance standards (NSPS).

In evaluating the options for development of regulations, the Agency considers several important factors, including the quantity and type of pollutants each wastewater source discharges, treatment technologies that are available for the control of these wastewaters, the air pollution and solid wastes that the wastewater treatment systems may produce, and the cost of these systems.

The Agency, through its sampling and data gathering efforts, has determined that existing biological treatment systems are very effective in removing most toxic pollutants found in pulp, paper, and paperboard industry wastewaters. Several toxic pollutants were detected with sufficient frequency and/or at sufficient levels to concern us and we are considering them as candidates for control under BAT and pretreatment regulations. The pollutants of concern and the options being considered to ensure their control under BAT are described below.

Pentachlorophenol, 2,4,5-trichlorophenol, and 2,4,6-trichlorophenol (toxic pollutants) are present in treated effluents in many subcategories of the industry. These compounds are present in certain of the slimicide and fungicide formulations used in the pulp, paper, and paperboard industry. The best and least expensive method for control of these pollutants is the substitution of these slimicides and fungicides with formulations that do not contain pentachlorophenol, 2,4,5-trichlorophenol, or 2,4,6-trichlorophenol.

Chloroform (a toxic pollutant) is present in very high concentrations (up to 10 milligrams per liter) in raw wastewaters from mills producing bleached pulps. Biological treatment systems are capable of removal of chloroform to low levels (less than 0.1 milligrams per liter). The Agency is considering establishing BAT effluent limitations guidelines and NSPS based on those levels of chloroform attained through the application of biological treatment.

Zinc (a toxic pollutant) is present in wastewaters from facilities using zinc hydrosulfite as a bleaching chemical. The Agency is considering establishing BAT effluent limitations guidelines, NSPS, and pretreatment standards based on the substitution of zinc hydrosulfite with sodium hydrosulfite.

Ammonia (a non-conventional pollutant) is discharged from facilities using ammonia-based pulping processes. The Agency is considering establishing BAT effluent limitations and NSPS based on either a substitution to a different chemical base or on the application of additional end-of-pipe treatment.

Conventional pollutants currently regulated include: biochemical oxygen demand (BOD), total suspended solids (TSS), and pH. The Agency is considering three alternatives under BCT to reduce the discharge of BOD and TSS from pulp, paper, and paperboard mills:

Alternative (A) includes the addition of in-plant production process controls to reduce raw wastewater flow and BOD to the existing BPT treatment system.

Alternative (B) includes the reduction of BOD and TSS to levels typical of best performing mills. This option may require expansion or upgrading of existing end-of-pipe treatment systems at many mills in the pulp, paper, and paperboard industry.

Alternative (C) includes the application of chemically assisted clarification in addition to the technology considered as the basis of Alternative (A).

The Agency is still developing information on the costs and capabilities of the three technology options.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the proposed rule will be the reduction or elimination of toxic, non-conventional, and conventional pollutant discharges from pulp, paper, and paperboard mills. The discharge of 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, and zinc would be virtually eliminated and the discharge of chloroform and ammonia would be greatly reduced.

The discharges of BOD and TSS from pulp, paper, and paperboard mills will be substantially reduced by the following amounts dependent upon the option selected as the basis of BCT regulations:

BOD: Alternative (A)—18 percent, Alternative (B)—40 percent, Alternative (C)—50 percent.

TSS: Alternative (A)—18 percent, Alternative (B)—45 percent, Alternative (C)—80 percent.

The current discharge of one million pounds per day of BOD from pulp, paper, and paperboard mills accounts for about 45 percent of the total industrial contribution of BOD. Therefore, these additional reductions represent a significant portion of current conventional pollutant discharge to the Nation's waterways.

Summary of Costs

Sectors Affected: Pulp, paper, and paperboard mills; and users of pulp, paper, and paperboard products.

The Agency is currently refining cost data for the various technology options. We expect that, with the exception of ammonia removal options, the BAT, PSES, and PSNS technology options will have an insignificant impact on the pulp, paper, and paperboard industry. It is likely that large capital expenditures will be necessary at the nine pulp mills using ammonia-based cooking liquors, should we establish limitations for the control of ammonia.

The Agency has made preliminary estimates of the capital costs (1978 dollars) for all U.S. pulp, paper, and paperboard mills to attain levels of BOD and TSS associated with the BCT technology alternatives. They are: Alternative (A)—$.83 billion, Alternative (B)—$1.2 to 1.9 billion, and Alternative (C)—$2.2 billion.

These costs may result in price increases ranging from zero to 11.5 percent.

These regulations should not require additional resources of EPA or State permit authorities.

Related Regulations and Actions

Internal: Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the cost of installation and operation of various wastewater treatment technologies.

External: None.

Active Government Collaboration

The Department of Commerce has provided assistance by reviewing materials.

Available Documents

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Unbleached Kraft and Semichemical Pulp Segment of the Pulp, Paper, and Paperboard Mills Point Source Category, EPA, May 1974, National Technical Information Service (NTIS) Number PB-238833.

Development Document for Effluent Limitations Guidelines (BPCTCA) for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink, and Non-integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Category, EPA December 1976 (available for review at EPA Headquarters Library, 401 M St., S.W., Washington, DC 20460).

Preliminary Data Base for Review of BATEA Effluent Limitations Guidelines, NSPS, and Pretreatment Standards for the Pulp, Paper, and Paperboard Point Source Category, prepared for the U.S. Environmental Protection Agency by the

Edward C. Jordan Co., Inc., Portland, Maine, June 1979 (Available for review at EPA Headquarters and Regional Libraries only).

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EPA—OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works (40 CFR Part 420*)

Legal Authority

The Clean Water Act as amended, §§ 301, 304, 306, 307, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, and 1351.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this regulation is important because it will provide control of discharges into the water from the largest metal manufacturing industry in the United States. We expect it will have annual effect on the economy of more than $100 million.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to promulgate regulations to control the discharge of pollutants into navigable waters and the introduction of pollutants into publicly owned treatment works (POTWs). These regulations must include effluent limitations representing the best practicable technology (BPT), the best conventional technology (BCT), the best available technology (BAT), new source performance standards (NSPS), and pretreatment standards for facilities introducing wastewaters into POTWs.

The Clean Water Act of 1977 requires industry to achieve, by July 1, 1984, effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve, by July 1, 1984, "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-conventional" and are subject to regulation under BAT.

Initially, we promulgated regulations for the iron and steel manufacturing industry on June 28, 1974 (Phase I or steelmaking operations), and on March 29, 1976 (Phase II or forming, finishing, and specialty steel segments). The U.S. Court of Appeals for the Third Circuit remanded the regulations for several reasons, including the Agency's failure to consider adequately (1) the impact of plant age on the cost or feasibility of retrofitting, (2) site-specific costs, (3) consumptive water use, (4) the economic condition of the industry, and (5) the achievability of certain limitations. *(AISI et al. v. EPA)* 526 F.2d 1027 (3d Cir. 1975) and *AISI et al. v. EPA* 568 F.2d 284 (3d Cir. 1977).

We are developing a new BPT regulation to replace the regulations remanded by the court. This regulation will reflect new information from industry surveys and sampling and will remedy the deficiencies found by the court. In addition, we are developing BCT and BAT regulations to control conventional and toxic pollutants, as required by the 1977 amendments to the Clean Water Act. We expect to publish an NPRM in the **Federal Register** in December 1980 which will include effluent limitations and standards for the manufacturing operations covered by the 1974 and 1976 regulations.

The iron and steel manufacturing category (Standard Industrial Classification Codes 3312, 3315, 3316, 3317, and parts of 3313 and 3479) is comprised of approximately 650 manufacturing facilities nationwide. The amount of process water used by these facilities is estimated to be 6,272 million gallons per day. Because of these large flows, the quantity of pollutants discharged is very large, even though the concentration of pollutants in a waste stream sometimes may be relatively small. The October 1979 Draft Development Document presented the concentration and load data available at that time.

During its sampling program, EPA detected, in iron and steel manufacturing wastewaters, significant levels of copper, chromium, cyanide, iron, nickel, lead, zinc, oil and grease, ammonia, sulfide, fluoride, and suspended solids. Additionally, the Agency found a wide variety of organic materials including benzene, phenols, and aromatic compounds in wastewaters from coke manufacturing, from blast furnaces which use the coke, and in cold rolling operations. The heavy metals may produce cumulative toxic effects and many of the organic compounds are known or suspected carcinogens. Ammonia, a "non-conventional" pollutant, is proposed for control because of its high aquatic environment impact at the high concentrations present in wastes from some operations in this industry.

Alternatives Under Consideration

The Agency is evaluating the capabilities and costs of various wastewater treatment technologies for controlling pollutant discharges from iron and steel manufacturing facilities. A primary focus of this effort is to promulgate regulations to control the discharge, and to prevent "pass through" etc., of toxic pollutants.

The technologies for the control of wastewater pollutants include both end-of-pipe treatment and methods to reduce water usage. End-of-pipe treatment, best applied after recycle to reduce wastewater volumes, includes, where appropriate, cyanide oxidation, hexavalent chromium reduction, metals precipitation, oil removal, suspended solids (including precipitated metals) removal, and chemical and biological destruction of ammonia and toxic organic materials. The applicability of these technologies is dependent on the type of waste generated by the subcategory or segment; i.e., not all of the listed technologies are applicable to all sources. However, within each subcategory or segment, the appropriate technologies in the alternatives outlined below are generally applicable to all iron and steel manufacturing facilities within that segment.

Alternative (A) includes in-process controls to reduce water flows, metals precipitation (if not already required by BPT), and filtration. This option also includes extended biological treatment of coke plant wastes. This alternative achieves approximately a 90 percent reduction in the BPT effluent loads.

Alternative (B) includes sulfide precipitation of metals prior to filtration. Coke plants would add powdered activated carbon (PAC) to the extended biological treatment system. This alternative further reduces toxic metal discharges at modest additional cost. The PAC treatment assures reduced discharges of toxic organic compounds, but would require significant additional costs.

Alternative (C) includes advanced treatments such as evaporation to achieve zero discharge, and chemical oxidation of sinter plant and blast furnace wastewaters to reduce discharges of ammonia and organic pollutants. Evaporative treatments generally provide the maximum protection of the environment but at considerable cost in most cases. Chemical oxidation of sinter and blast furnace process water provides control of the large loads of toxic organic and "non-conventional" pollutants that would otherwise be discharged.

In evaluating options for this regulation now under development, we considered all of the important factors, including the quantity and type of pollutants generated by each wastewater source; the treatment technologies available for application to that wastewater source; air, solid waste, energy, and other non-water quality environmental aspects of the proposed regulation; and the cost and economic impact of applying each of the several options.

We are still gathering additional information on costs and on the availability and effectiveness of technologies. We have not at this time selected the alternatives we will propose, although we think that alternatives which reduce the discharge of water to the maximum extent are the most environmentally acceptable.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the regulation we will propose will be the reduction of toxic pollutant discharges from iron and steel manufacturing facilities. The quantity of pollutants removed from discharges to the environment under this regulation will vary depending on the various options selected. The Agency estimates that through compliance with the BPT regulation the industry will remove approximately 3.4 million pounds per year of toxic organics, 5.8 million pounds per year of toxic metals, and 176 million pounds per year of suspended solids, oil and grease, ammonia, and other pollutants. Alternatives (A), (B), or (C) will reduce BPT process wastewater volumes from about 2,600 million gallons per day (mgd) to about 300 mgd. Alternative (A) will reduce PBT pollutant discharge loads by about 85 percent to 90 percent. Alternatives (B) and (C) will provide additional, but less dramatic, removals of pollutants. BCT limitations will be achieved by the BPT or BAT systems; i.e. no additional costs will be incurred specifically to achieve BCT limitations.

Summary of Costs

Sectors Affected: Manufacturing of iron and steel products; and users of these products.

We are continuing to refine the cost data for BPT remaining to be installed and for the various BAT options. We are also evaluating the cost effectiveness of the different BAT levels of treatment for the various operations. As an approximation of the cost of compliance, the capital investment (in millions of 1978 dollars) for the BPT remaining to be installed and the BAT regulatory options likely to be selected are as follows:

BPT	417.8
BAT	444.1
NSPS	159.5
Total	1021.4

These costs exclude Consent Decree commitments and anticipated shutdowns through July 1, 1984.

Under the current and projected 1981 to 1990 economic environments, it is doubtful that the industry will be able to raise all of the funds necessary to finance the capital requirements of this regulation plus the capital necessary to maintain production facilities and still maintain high enough bond ratings to ensure ready access to debt capital markets. The industry will face excess capacity as it attempts to recover from the current recession and will face continued competition from foreign steel. Throughout the 1980s both these factors will probably prevent the industry from raising prices to levels that would enable them to recover the annual costs associated with this regulation. Consequently, we project that this regulation will probably contribute somewhat to (1) a gradual decline in productive capacity, (2) a gradual loss in the industry's share of the domestic steel market, and (3) a gradual decline in steel industry employment. However, we also project that major changes in U.S. industrial policy towards industry in general, and the steel industry in particular, could enable the industry to finance all its projected productive capital requirements as well as this regulation without serious adverse economic effects. Such policy changes might include major tax reform, a return to "fair value" steel import prices, and full latitude for the industry to increase prices in accordance with market conditions.

Although our projected baseline economic impact is pessimistic, this regulation is only a proposal at this time. Further analysis of the economic impact will be completed before the regulation is promulgated.

Related Regulations and Actions

Internal: The Agency is reviewing the interaction between this regulation and air pollution and solid waste disposal requirements. As an example, we are evaluating the possible disposal of blowdown from blast furnace wastewater recycle systems by evaporation in slag pits. We are coordinating this with the Office of Research and Development and with air programs.

In addition, in evaluating wastewater treatment alternatives, the Agency is considering, to the extent possible, the requirements and costs for the management of solid wastes under the Resource Conservation and Recovery Act.

External: This regulation will set minimum requirements on a national level which supersede less stringent State or local regulations. However, all levels of government may require more stringent limitations in specific instances if water quality criteria or other requirements so justify.

Active Government Collaboration

None.

Available Documents

The applicable documents currently available are:

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Steelmaking Segment of the Iron and Steel Manufacturing Point Source Category, June 1974; EPA–440/1–74–024–a.

Development Document for Proposed Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Volumes 1 through 9, October 1979; EPA 440/1–79/024–a.

Copies of the June 1974 report are available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161. The accession number is PB 238–837 and the cost is $24.80 per copy. The October 1979 report may be obtained through the EPA contact designated below.

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EPA—OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants From Steam Electric Power Plants (40 CFR Part 423*)

Legal Authority

The Clean Water Act, §§ 301, 304, 305, 306, 307, 311, 402, and 504, 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1316, 1321, 1364, 1346.

Reason for Including This Entry

The Environmental Protection Agency is including this entry because of the high public interest in these regulations and because they may have an annual effect on the economy of $100 million or more.

Statement of Problem

The Environmental Protection Agency (EPA), in its efforts to control water pollution under the Clean Water Act, is required to develop technology-based effluent limitations guidelines and standards to control pollutant discharges from the steam electric power generating industry, and review these regulations once every 5 years. We initially promulgated effluent limitations guidelines for this industry on October 8, 1974 that reflected the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT), new source performance standards (NSPS), and pretreatment standards for new sources (PSNS). The U.S. Court of Appeals for the Fourth Circuit remanded parts of the guidelines (*Appalachian Power* v. *Train*, 545 F. 2d 1351 (4th Cir. 1976)). The court found the record insufficient with respect to various technical aspects and non-water quality considerations (especially cost data and ultimate disposal of wastes).

We have reviewed the 1974 regulations to reflect updated information and remedy the deficiencies pointed out by the Fourth Circuit Court of Appeals. In addition to the pollutants examined in the previous regulations, we expanded the review to include toxic substances cited in the June 8, 1976 Consent Decree, *Natural Resources Defense Council et al.* v. *Train*, 8 ERC 2120 (D.D.C. 1976). The NPRM was published in the **Federal Register** on October 14, 1980. We did not include guidelines for thermal discharges in these regulations. The Agency is still considering various thermal options in light of *Appalachian*.

The steam electric generating industry is composed of approximately 850 generating plants nationwide. These plants have extremely large discharge flows, therefore the quantity of pollutants they discharge may be substantial even though the concentration is relatively low. The average discharge flow from a steam electric power plant is 210 million gallons per day. Discharges from the Steam Electric power industry constitute about 15 percent of the total flow in the United States rivers and streams. Pollutants detected in the wastewaters of steam electric plants during an EPA sampling program were total residual chlorine, copper, zinc, nickel, chromium, arsenic, and trihalomethanes.

Alternatives Under Consideration

The Agency considered several wastewater treatment technologies for controlling pollutant discharges from steam electric plants to the Nation's waterways. The primary focus of this effort was to assess the potential control of discharges of toxic substances. In this review of effluent regulations, we focused our efforts on cooling water and ash transport water as the major wastestreams because of their large flows. Over 95 percent of the volume of water used in an average power plant is used as cooling water.

Cooling Water—All steam electric power plants circulate large volumes of water through their condensers in order to condense steam in the turbines. The thermal efficiency of the steam cycle can be greatly reduced if biological growth occurs in the condensers. Plants using chlorine to control biological growth have the potential to discharge total residual chlorine (TRC) and chlorinated compounds into the navigible waters. TRC is a pollutant that has been studied extensively and is known to adversely affect aquatic life.

For regulatory purposes, the Agency separated those power plants with a recirculating cooling tower and those discharging the cooling water without recirculation. The waste streams produced as a result of these operations are cooling tower blowdown and once-through cooling water discharges.

In addition to TRC discharges, plants with cooling towers have the potential to discharge toxic pollutants through chemicals added for cooling tower maintenance.

The technologies that the Agency evaluated for control of pollutants from cooling water included 1) chlorine minimization, 2) dechlorination, 3) alternative chemicals, and 4) mechanical antifouling devices.

Chlorine minimization is a program designed to insure the most efficient use of chlorine and reduce the amount of TRC discharged. Plant personnel conduct a series of tests to determine the minimum amount of chlorine necessary to control biological growth in the condensors. Many plants undergoing such a program find that chlorine doses can be reduced significantly. Chlorine minimization programs are difficult to conduct at plants with cooling towers since chlorine may also be used for cooling tower maintenance.

Dechlorination is chemical treatment that removes a significant amount of TRC from the cooling water discharge. Although dechlorination reduces the amount of TRC, it does not eliminate it.

Alternatives to chlorine were explored for use in both cooling tower blowdown and once-through cooling water discharges. While adequate substitutes for chlorine were found, they were not viable in all cases, and could not be applied on a national basis. Alternative chemicals were also evaluated for use in cooling towers because other chemicals (besides chlorine) are commonly added to prevent scaling and corrosion in the cooling tower. Many of these chemicals contain priority pollutants. For example, high levels of chromium and zinc are present in cooling tower blowdown only if they were added for cooling tower maintenance. Alternatives to these chemicals were found to be available.

Some plants use mechanical antifouling devices to control biological growth in the condensers. Two types of methods are used. One uses sponge rubber balls that are forced through the tubes under water pressure and then recycled. The second method uses brushes that are installed on the inside of each tube. Although this method eliminates chlorine use, it is expensive to install on existing sources. Furthermore, mechanical antifouling devices are not always adequate substitutes for chlorine.

For plants with once-through cooling water, the Agency has chosen to combine a chlorine minimization program with a maximum limit for TRC of .14 milligrams per liter (mg/1) and dechlorination, if that limit can not be met through minimization only. In this way the Agency assures proper use of chlorine, as well as limiting the addition of dechlorination chemicals.

For plants with cooling towers, the Agency did not require chlorine minimization technique, because it would be unduly complex for this waste stream since chlorine may also be used for cooling tower maintenance. The proposed regulations instead limit the discharge of TRC to .14 mg/l based on dechlorination technology. For control of toxic pollutants discharged from cooling towers, the Agency has chosen alternative chemicals as the best technology to eliminate toxic pollutant discharges. These alternative chemicals effectively and economically protect cooling towers from scaling, corrosion, and biological growth.

Ash Transport Water—For ash transport water (defined below), the Agency was concerned about the presence of inorganic toxic substances. However, the data on fly ash ponds did not demonstrate a consistent pattern of pollutant concentration, and were considered to be statistically inconclusive. Pollutant concentrations in bottom ash transport water were typically lower than those in fly ash transport water.

These pollutants can enter the water because coal or oil that is burned in a steam electric plant's boiler produces varying amounts of ash that require periodic collection and disposal. The relatively fine and light-weight ash is carried from the boiler with the flue gases and collected with air pollution control equipment. This type of ash is called "fly ash." The relatively bulky and heavy ash that settles at the bottom of the boiler's furnace is called "bottom ash." These two types of ash can be transported wet or dry to their ultimate or temporary disposal sites. (Only those plants that transport their ash using water would be affected by effluent regulations.)

The Agency did not propose any further controls for existing sources of fly ash transport water beyond the current regulation. EPA seriously considered proposing no discharge of fly ash transport water but EPA concluded that the extremely high costs to the industry ($3.2 billion in capital costs for 1980–1985) could not be justified in view of the inconclusive nature of the available data regarding the degree of pollutant reduction. The technology base for achieving this option was the use of transport methods that do not require the use of water (dry transport). EPA did not feel that it would be responsible to impose such costly additional requirements in the face of such uncertainty. The Agency is considering further sampling to clarify wastewater characteristics of ash pond discharges. However, the Agency is proposing to prohibit the discharge of fly ash water for all new plants. This is because the technology is clearly demonstrated and available, since about half of the industry already uses dry methods of transport. Moreover, the costs for installing a dry fly ash handling system are not appreciably different than costs to install a wet ash sluicing system in a new plant. We do not anticipate any new sources to discharge their fly ash water to a publicly owned sewage treatment plant.

Bottom Ash—The need to control pollutant discharges from bottom ash transport water was not demonstrated based on the sampling data, since at most plants sampled, the concentrations of pollutants detected in the bottom ash pond were less than the concentrations detected in the plant's inlet water. In addition, the concentrations of these pollutants were not only lower than those detected in fly ash ponds, but also exhibited a greater variability. Thus, we have proposed to withdraw the current BAT requirement for partial recycle of bottom ash sluice water, since the sampling data suggests that adequate controls are already imposed by the effective BPT technology of settling ponds.

Summary of Benefits

Sectors Affected: The general public; manufacturing of antipollution equipment; and the aquatic environment.

The major benefit of the proposed rule is the improvement of the aquatic environment through the reduction and/or elimination of discharges from steam electric generating facilities. The review found that the chlorine controls were not sufficiently stringent. In addition, toxic pollutant additives were virtually banned from use in cooling towers. Preliminary estimates indicate that the proposed regulations will result in the following reduction or elimination of pollutants by waste stream types:

1. Once Through Cooling Water: 17.4 million pounds per year of total residual chlorine.

2. Cooling Tower Blowdown: a. 30,000 pounds per year of total residual chlorine.

b. 157,000 pounds per year of toxic pollutants (chromium, zinc, chlorinated phenolics, etc.).

Manufacturers of anti-pollution equipment would find increased demand for their products.

Summary of Costs

Sectors Affected: Establishments engaged in the generation, transmission and/or distribution of electric energy for sale (electric services); and users of the electric energy.

On a national basis an estimate of the total capital expenditures required to bring existing plants into compliance with the proposed regulations for the period 1980–1985 equals $120 million (1980 dollars). This represents about 0.05 percent of the total anticipated capital expenditures for the industry during the same period. With the addition of operation and maintenance costs, this means that the average electric bill for consumers would increase by approximately 0.04 percent. The estimated capital expenditures for plants coming on line between 1985 to 1995 are $80 million. None of these requirements is expected to cause plant closings; furthermore, the economic impact is minimal.

Related Regulations and Actions

Internal: The scrubber systems used to comply with air pollution regulations may discharge contaminated water. The proposed requirements of the New Source Performance Standards under § 111 of the Clean Air Act will increase the number of facilities with scrubber systems in the future.

Section 316(b) of the Clean Water Act authorizes the Agency to require the best available technology in the location, design, construction, and capacity of intake structures for cooling water, to minimize adverse environmental impact.

Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the economic and environmental factors associated with various wastewater treatment technologies.

External: The recent emphasis on converting oil-fired power plants to other fuel types and the problems associated with nuclear waste disposal will affect the distribution of generating capacity by fuel types in the industry and, therefore, the amount of pollutants that would be discharged and controlled.

Active Government Collaboration

The Nuclear Regulatory Commission, the Department of Interior, and the Department of Energy have provided assistance by supplying the Agency with information and/or reviewing materials.

Available Documents

Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category (EPA 440/1-80/029-b, September 1980).

NPRM—45 FR 68327, October 14, 1980.

Regulatory Analysis—October 1980.

Economic Analysis of Proposed

Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category (EPA, August 1980).

Copies of the above reports can be obtained from NTIS or the EPA contact designated below.

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EPA—OWWM

Water Quality Standards Regulations (40 CFR Part 35.1550*)

Legal Authority

The Clean Water Act, 33 U.S.C. § 1314(a).

Reason for Including This Entry

This regulation proposes significant new policies and procedures in the development and implementation of water quality standards.

Statement of Problem

The existing Water Quality Standards Regulation (40 CFR Part 35.1550) does not provide the guidance needed by States to develop and implement an effective State program which will meet the water quality goals set forth in the Clean Water Act. Guidance is lacking in the areas of defining what stream uses are attainable and how standards may be adapted to specific local environmental conditions. This proposed regulation seeks to establish a clearer, more flexible process for States and EPA to use in formulating water quality standards; conducting water quality analyses; establishing wasteload allocations to distribute the total daily load of pollutants that a stream segment can assimilate and maintain to achieve standards; and implementing a control program regulating point source discharges through issuance of permits (either by the States or EPA) based on State water quality standards. In some cases, application of previous policies and regulatory provisions have resulted in setting unreasonably high standards, forcing the imposition of costly treatment controls with little environmental improvement.

The water quality standards program will continue to consist of three components: (1) designation of uses for segments of surface water bodies, such as swimming, aquatic protection, and public water supply (2) development of criteria, primarily by EPA, designed to achieve and maintain designated uses; and (3) application of uses and criteria by the States to specific streams. The 1972 amendments to the Clean Water Act (CWA) established the 1983 goal of achieving, wherever attainable, aquatic protection and recreation for the Nation's waters, including both fresh and marine waters. Congress recognized that progress toward meeting or reassessing the attainability of this goal would be incremental in that different levels of treatment are required at different times, and treatment beyond technology-based requirements may, in some cases, be necessary to meet water quality standards. Progress depends on such variables as the effectiveness of municipal and industrial treatment technologies in meeting water quality standards and the economic impact on municipalities and industries of attaining standards. The development and implementation of standards requires periodic review and adjustment of control measures or standards by the States and EPA, as appropriate.

This proposed regulation revises and consolidates the existing regulations governing water quality standards: 40 CFR 35.1550 and 40 CFR 120. No change is envisioned in the Act's direction that States adopt water quality standards, subject to EPA review and approval. EPA is revising these regulations to:

(1) provide more detail on policies and procedures for determining the attainability of uses applied to water bodies or segments thereof;

(2) establish a stronger water quality standards program for control of toxic pollutants; and

(3) improve the public's understanding of the process by providing more specific guidance on the development of State water quality standards and implementation.

Alternatives Under Consideration

EPA gave public notice of its intent to revise this regulation in an ANPRM (43 FR 29588, July 10, 1978). In that notice, EPA identified and requested public comment on a number of possible policy alternatives dealing with the establishment and revision of beneficial stream uses, the adoption of water quality criteria published by EPA, the application of the criteria for toxic pollutants developed by EPA, economic impact considerations, and a number of other program issues.

Since the public responded to the ANPRM, the Agency has prepared drafts of a water quality standards program strategy and a series of option papers based on the public's reaction to the policy alternatives proposed in the ANPRM. These papers dealt with the subjects of use attainability, options for State adoption of criteria for toxic pollutants, program definitions, economic guidance on stream downgradings, and other subjects. These papers have been reviewed by various parties outside the Agency, such as the States, and various industrial and environmental groups.

The proposed regulation is a result of the analyses, discussions, and public comments on the ANPRM and subsequent documents. The regulation itself is subject to further public comment.

Summary of Benefits

Sectors Affected: The States; and through their regulatory controls based on water quality standards, the general public; publicly owned treatment works; all types of industries discharging into surface waters; and EPA.

Use designation for many stream segments need reappraisal for a number of reasons. States initially established many water quality standards without sufficient site-specific analysis of waterway conditions affecting the attainability of the designated use, and the criteria necessary to support these uses. In addition, States and EPA lacked sufficient information regarding the effectiveness of technology-based controls in implementing these water quality standards. The review of advanced waste treatment projects mandated by the Congressional Appropriations Committee in FY 1980 also uncovered a number of instances where use classifications needed review.

The proposed regulation provides much more detailed guidance on how States may reassess their stream use classifications in order to meet the "where attainable" water quality goal of the Act. It will provide public officials with more adequate information on the environmental, economic, and technological impacts of their actions which they can consider in making their decisions. The overall benefit will be the establishment of environmentally and economically attainable standards and the prevention of setting arbitrarily high standards, forcing unnecessary, costly treatment controls.

Summary of Costs

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Sectors Affected: State government.

The net result of the increased flexibility for establishing site-specific, attainable water quality standards will be to reduce the costs to municipalities and industries of meeting water quality-based regulatory controls by assuring that more prudent decisions are made. There may be an increase in State costs to generate and analyze the data necessary to establish attainable uses, but much existing information is available and the analyses will be done either by EPA or the States on a priority basis only where advanced waste treatment decisions are pending, thus lessening the impact on the States. EPA is now attempting to estimate the costs to States. Our belief, however, is that these increased administrative costs will more than be offset from savings in reducing or eliminating treatment levels not required to meet water quality standards.

Regulated Regulations and Actions

Internal: All regulations designed to achieve water quality standards would be indirectly related, including: National Pollutant Discharge Elimination System, construction grants requirements, and water quality management regulations.

External: All State regulations dealing with water quality regulations.

Active Government Collaboration

The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) is assisting EPA on this regulation. The U.S. Department of the Interior is also providing assistance.

Available Documents

ANPRM—43 FR 29588, July 10, 1978, "Water Quality Standards."

Water Quality Standards Strategy, EPA, September 1980.

Water Quality Use Designation Changes and Justification for Advanced Waste Treatment Installations, EPA, February 7, 1980.

Draft Economic Guidance for Water Quality Standard Downgrading, EPA, April 22, 1980.

Environmental, Technological, and Economic Evaluation of Water Quality Standards Attainability, EPA, April 23, 1980.

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes (40 CFR Part 191)

Legal Authority

Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(b).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because it is a critical step towards developing disposal methods for high-level and other long-lived radioactive wastes which could pose serious health problems to current and future generations of people. In addition, we estimate that the annual cost for implementing these standards could exceed $100 million (1978 dollars).

Statement of Problem

It is important to ensure proper management and disposal of high-level radioactive wastes because they represent a significant health risk to the population of the United States. Large quantities of these wastes already exist, and national defense programs, commercial nuclear power plants, and research reactors are producing more. At present, the Department of Energy (DOE) stores 70 million gallons of high-level defense wastes in various liquid and solid forms on three Federal reservations in the States of Idaho, South Carolina, and Washington. Owners of commercial nuclear power plants are temporarily storing about 6,000 tons of spent fuel (i.e., fuel removed from a reactor after having generated electrical power) in holding ponds at the various plant sites. Over the next few years, reactors currently licensed to operate are expected to produce an additional 600 tons a year of spent fuel. EPA estimates that these proposed standards will limit cancer deaths resulting from disposal of these wastes to less than 10 per 100 years over the first 10,000 years after disposal. Waste disposal is a future activity and no present basis for risk comparison exists.

Our program to develop these standards began in 1976 as part of an interagency effort to speed up development and demonstration of a high-level waste repository. President Ford announced this program as part of his Nuclear Waste Management Plan on October 27, 1976. President Carter established an Interagency Review Group (IRG) on Waste Management in March 1978 to review existing programs and recommend new policies where necessary. After holding several public hearings on its draft report, the IRG prepared a final report to the President in March 1979. This report recommended that EPA accelerate its programs to set standards for nuclear waste management and disposal activities. President Carter approved this recommendation as part of his Program on Radioactive Waste Management, which he announced on February 12, 1980.

If EPA took no action, this would further delay the Federal waste management program and could have significant environmental consequences. Delay in developing disposal methods results in longer storage of existing wastes in surface facilities requiring human control. Such storage is not necessarily a danger under normal conditions. The wastes, however, are more vulnerable to accidental release in surface storage than they would be in disposal facilities. The chances for environmental damage are greater the longer the wastes are stored in existing sites. Furthermore, the lack of a solution to this problem has caused serious uncertainty about the future use of nuclear energy in the United States. This uncertainty makes both national and local energy policy more difficult and has many indirect adverse economic and environmental effects.

Alternatives Under Consideration

The disposal system for high-level radioactive waste has yet to be designed and demonstrated by DOE. As a result, we are evaluating two basic types of environmental protection standards, and a third option which combines certain aspects of both.

Alternative(A)—We could develop a standard establishing general principles to govern disposal methods without setting quantitative standards. These principles would specify broad design requirements for disposal systems such as: (1) designing multiple manmade barriers and using natural barriers to prevent release of the wastes, (2) disposing of the wastes so that future generations could recover and relocate them, if necessary, and (3) designing disposal systems to reduce potential releases to the lowest levels reasonably achievable. Such requirements would reduce some of the uncertainties of the disposal systems to be developed which must work for very long times. However, they would not place any clear limit on expected environmental effects.

Alternative (B)—We could set numerical performance requirements for disposal systems without using general principles like those discussed in Alternative (A). These environmental protection standards would then be compared by the Nuclear Regulatory Commission (NRC) against the predicted performance of a proposed disposal system to determine whether the system should be approved. Such an approach would allow complete flexibility in meeting the objectives; however, it would rely upon predictions over very long time periods and such predictions involve many uncertainties.

Alternative (C)—Combine both types of standards discussed above. This will require long-term predictions of disposal system performance to determine if environmental protection objectives are met. The general principles will require conservative design approaches which will protect the environment as much as possible even if these long-term predictions are wrong.

We believe that Alternative (C) provides the most reliable protection of the general population and the environment.

Summary of Benefits

Sectors Affected: The general public.

The primary benefit of these standards is the protection of human health. Because the Federal Government has yet to design and demonstrate the disposal system, we are unable to accurately determine the health impact resulting from these standards. We estimate that the number of premature cancer deaths that would be caused by disposal in compliance with our standards would not exceed 1,000 over the first 10,000 years after disposal of the wastes. This is an average of one death every 10 years. Because our estimates are conservative, there is a good chance that actual disposal systems would result in fewer cancer deaths than we estimate.

Many sectors of society, especially environmental groups, State governments, and Members of Congress, have stated that nuclear power should not continue to be used while the problem of high-level radioactive waste disposal remains unsolved. Nuclear power now provides approximately 13 percent of the Nation's power supply. While EPA is neither for nor against nuclear power, we believe that these standards are the first step towards involving the problem of disposing of high-level radioactive wastes, so that the Nation can decide whether or not nuclear power will continue to be part of our energy system.

Summary of Costs

Sectors Affected: Commercial nuclear power plants; consumers of electricity supplied by nuclear power; Federal defense waste management programs; and NRC.

The high-level radioactive waste disposal program will be initially financed by the Federal Government. According to the provisions of President Carter's spent fuel policy, utilities will pay a one-time full cost recovery charge to the Federal Government for the transfer of spent fuel. Military-produced wastes are to be managed and disposed of by the Federal Government.

We calculated the cost impact of these standards by estimating the cost of the additional steps the Federal Government would have to take to be in compliance. Based largely on data and analyses performed by the Department of Energy (DOE), we estimate that in the year 1990 (the year we assume the waste program will be established) these standards will result in an incremental annual cost of commercial waste management of no more than $600 million (1978 dollars). This cost impact amounts to less than a one percent increase in national average electricity rates.

We also estimated that the standards would cause an increase of less than $1.7 billion (1978 dollars) over the total cost of the reference defense waste management program (assuming on-site disposal of high-level waste in geological repositories as the reference program), which is estimated to cost about $3.7 billion (1978 dollars).

The NRC is responsible for implementing these standards.

Related Regulations and Actions

Internal: We have coordinated the part of these standards that covers normal waste management operations with our Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR Part 190) to provide consistent exposure standards for all uranium fuel cycle operations.

External: The Nuclear Regulatory Commission (NRC) is responsible for implementing these standards. To accomplish this, NRC is currently developing regulations for Disposal of High-Level Radioactive Wastes in Geologic Repositories (10 CFR Part 60); NRC describes these proposed regulations in this edition of the Calendar.

Active Government Collaboration

We established an interagency working group to help us develop these standards. The agencies represented are the Nuclear Commission, the Department of Energy, and the United States Geological Survey.

Available Documents

ANPRM—41 FR 235, December 6, 1976.

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EPA-OANR

Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer (40 CFR Part 61)

Legal Authority

The Clean Air Act, as amended, §§ 111,112, and 301(a), 42 U.S.C. §§ 7411, 7412, and 7601(a).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this policy is important because it will set a precedent in establishing how EPA will regulate airborne carcinogens under the Clean Air Act, and include risk assessment and economic analysis in the regulatory process.

Statement of Problem

Cancer is the second leading cause of death in the United States. One American in four is expected to contract some form of cancer in his or her lifetime, and one in five is expected to die from the disease. The most recent statistics show a continued increase in the total incidence of cancer, resulting principally from increases in lung cancer.

Studies of human cancer rates and their worldwide geographical variations, and observations of incidence rates in migrant populations, have revealed that factors in the human environment are probably responsible for a large proportion of cancers. "Environmental factors" in the broad sense include chemcial exposures from smoking, diet, occupation, drinking water, and air pollution; various forms of radiation, including sunlight; and some forms of severe physical irritation. Although the uncertainties are great, estimates by the World Health Organization, other prominent institutions, and individual experts suggest that these factors may cause 60 to 90 percent of all human cancers.

Although airborne carcinogens may induce cancer at a number of areas in the body, lung cancer is thought to be the principal form of cancer related to air pollution. While cigarette smoking is probably the most important cause of lung cancer in the United States, many scientists believe that various air pollutants increase the risk of cancer from smoking and other carcinogenic insults. Available estimates also indicate that occupational exposures to chemcials are responsible for a significant portion of the incidence of lung cancer in the United States.

Through preliminary examination of industries producing chemicals and radioactive materials, and of air sampling results, EPA has identified over 50 known or potential chemical carcinogens and numerous radioactive materials which may be emitted into the atmosphere. Many of these substances are synthetic organic chemicals that have been in commercial use only since the 1930s. Because cancer induced by exposures to small amounts of airborne carcinogens may not appear for 15 to 40 years after exposure, it is still too early to detect the full effects of these chemicals on human health. Thus, it is both prudent and, in view of the large number of people potentially affected, important to reduce or contain emissions of known or suspected atmospheric carcinogens in order to prevent future problems before we actually observe them.

We have, since 1971, listed three airborne carcinogens (asbestos, vinyl chloride, benzene) as hazardous pollutants under § 112, "National Emission Standards for Hazardous Air Pollutants," of the Clean Air Act. As required by § 112, we have developed and are continuing to develop emission standards for significant sources of these pollutants. In addition, we are evaluating a number of other potentially carcinogenic substances to determine whether action under § 112 is appropriate. We have found our actions on airborne carcinogens to be hampered by the lack of a policy, developed with public participation, that would guide our use of § 112 to control airborne carcinogens.

Specifically, we need publicly stated, legally binding policies and regulatory mechanisms to: (1) determine the carcinogenicity and carcinogenic risks of air pollutants for regulatory purposes, (2) establish priorities for evaluating the need for and implementing additonal regulatory action, (3) specify the degree of source control required in general under § 112 and indicate how we will determine that level of control in setting individual standards, and (4) provide more extensive public involvement in the Agency's decisionmaking on the regulation of airborne carcinogens.

Alternatives Under Consideration

We describe a number of alternatives in the proposal document (44 FR 58642, October 10, 1979). Beyond that, the principal alternative is to have no formal policy. Under this alternative, EPA would continue with a case-by-case approach for regulating airborne carcinogens under § 112 of the Clean Air Act. This strategy would allow the Agency maximum regulatory flexibility, but would not give either the general public or the regulated industry sufficient information to enable them to participate fully in the rulemaking process. In addition, the alternative of no policy would not resolve the difficulties which EPA has encountered in the listing of airborne carcinogens and in the subsequent development of emissions regulations. It also does not recognize the need for procedures to ensure that available resources are allocated to the most important or tractable problems on a priority basis.

Under the policy, we will list under § 112 those airborne substances identified as high probability human carcinogens which present a significant carcinogenic risk to public health as a result of air emissions from one or more categories of stationary sources. Where applicable, we will propose generic standards (low-cost, good housekeeping-type standards for the control of fugitive emissions) for control of fugitive emissions from industrial sources. We will submit these standards concurrently with the listing to expedite reductions in emissions which can be achieved through good housekeeping practices in the manufacturing, handling, or use of hazardous materials. We will use risk assessments to determine priorities for further regulation of significant source catagories and in the evaluation of residual risk (the risk remaining after the application of best available technology).

At a minimum, the policy requires new and existing sources which present or would present significant cancer risks to apply best available technology (BAT) to control emissions of listed airborne carcinogens. BAT for new sources represents the most advanced level of control adequately demonstrated, considering economic, energy, and environmental effects. For existing sources, the determination of BAT also considers the impacts and technological problems associated with the retrofitting of control equipment. Controls more stringent than BAT may be imposed if the risk remaining after the application of BAT is unreasonable, or, for new sources, if EPA's criteria for risk avoidance associated with plant siting cannot be met.

Our proposed policy contains no reporting requirements.

In most cases, emission standards we establish pursuant to our proposed policy will be in the form of performance standards, rather than specific design standards. Design, operating, or equipment standards will be used only when performance standards are not practical.

In addition, the new source-siting provisions of the policy allow a new source owner to use an emission offset mechanism to locate a new source of airborne carcinogens in an area where other such sources exist or where the owner has difficulty in meeting emission requirements for the new source.

Summary of Benefits

Sectors Affected: The general public, particulary people living and working in densely populated urban areas and areas with a high concentration of chemical manufacturing industries; EPA; State and local regulatory authorites.

Generic and emission standards that we develop for sources of airborne carcinogens under the proposed policy will reduce cancer risks for large segments of the U.S. population exposed to airborne carcinogens in the ambient air. The greatest benefits will be to individuals who live in the immediate vicinity of characteristic source types.

While low levels of potentially carcinogenic substances have been detected in many parts of the country, the areas of greatest concern are densely populated urban centers and areas with a high concentration of chemcial manufacturing industries. In the latter case, the proposal would benefit populations in the Gulf Coast (Louisiana and Texas), the Kanawha Valley (West Virginia), and Northern New Jersey.

The proposed policy will significantly improve EPA's regulatory effort in identifiying and controlling airborne carcinogens. Proposing generic standards for certain categories or sources concurrent with listing under § 112 will provide significant reduction in emissions pending development of final § 112 standards.

A mechanism for establishing regulatory priorities will ensure that we address the most important or tractable problems first. The policy also provides for increased public understanding of and participation in EPA's actions and allows EPA to give earlier notice of its findings and regulatory intent to State and local regulatory authorities and to industries.

Summary of Costs

Sectors Affected: Source types emitting carcinogenic substances into the atmosphere, including petroleum refining and establishments which mine or manufacture minerals, inorganic chemicals, radioactive substances and byproducts, and synthetic organic chemicals; and users of these products.

Our preliminary analyses have identified a number of source types which may emit carcinogenic substances into the atmosphere. Most of these types fall into one of the following six broad groups: (1) mining, smelting, refining, manufacture, and end-use of minerals and other inorganic chemicals; (2) combustion processes, coke ovens, incinerators, power plants, etc; (3) petroleum refining, distribution, and storage; (4) synthetic organic chemical industries and end-use applications and waste disposal; (5) mining, processing, use, and disposal of radioactive substances and radioactive by products; and (6) sources of noncarcinogenic emissions which are chemcially transformed into carcinogens in the atmosphere.

We intend the proposed rule only to guide the Agency in identifying and controlling airborne carcinogens. In its present form, we cannot assess its regulatory effects quantiatively. This policy will, however, provide a basis for impact assessments in subsequent regulatory actions that are taken in accord with its provisions.

Related Regulations and Actions

Internal: Other offices within EPA which are also in the process of developing carcinogen control programs include the Office of Pesticides and Toxic Substances, the Office of Water and Waste Management, and the office of Mobile Source Air Pollution Control. A program is also underway to develop an agencywide cancer policy.

External: Related external efforts include the development of a national cancer policy by the member agencies of the U.S. Regulatory Council; the recent report by the Risk Assessment Work Group of the Interagency Regulatory Liaison Group (IRLG) on the identification of carcinogens and the quantitative assessment of risks; a staff paper by the White House Office of Science and Technology Policy on the identification, characterization, and control of potential human carcinogens; and a report to the President by the Interagency Toxic Substances Strategy Committee.

Other regulatory agencies that are involved in this area include the Occupational Safety and Health Administration, which published a final policy for regulating occupational exposure to carcinogens on January 2, 1980 (45 FR 5002), the Food and Drug Administration, and the Consumer Product Safety Commission. Nongovernmental groups which have expressed interest in or made recommendations on the control of carcinogens include the Environmental Defense Fund, the American Industrial Health Council, and the Natural Resources Defense Council.

Active Government Collaboration

The Agency has presented testimony at the public hearings held after the Occupational Safety and Health Adminstration proposed its carcinogen policy. We have also provided information briefings for the Interagency Regulatory Liaison Group and members of the President's Council on Environmental Quality, the Council on Wage and Price Stability, Congressional staff, and interested State air pollution agencies. We have participated in the proposed policy regulating chemical carcinogens issued by the Regulatory Council on October 17, 1979 (44 FR 60038).

Available Documents

"Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer," NPRM, October 10, 1979, 44 FR 58642.

"National Emission Standards for Hazardous Air Pollutants—Generic Standards," ANPRM, October 10, 1979, 44 FR 58662.

"Summary of Responses and Proposals—Testimony and Written Submissions," EPA Public Hearings on Regulation of Carcinogenic Air Pollutants, Washington, DC, March 23, 1978.

Testimony presented at public hearings in Washington, DC, Boston, MA, and Houston, TX the week of March 10, 1980 as well as the written comments received.

Copies of written comments received during the public comment period.

These documents as well as others referenced in the proposed policy are available in public rulemaking docket number OAQPS 79-14. The docket is open for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at: Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W. Washington, DC 20460.

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EPA—OANR

Remedial Action Standards for Inactive Uranium Processing Sites (40 CFR Part 192*)

Legal Authority

Uranium Mill Tailings Radiation Control Act of 1978, § 206, 42 U.S.C. § 2022.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks these standards are important because the Federal and State governments cannot undertake the remedial actions Congress authorized until we have promulgated standards for them. People who live or work near tailings areas, primarily in the Rocky Mountain States and Pennsylvania, are very interested in all aspects of the remedial action program.

Statement of Problem

The soils and rocks which make up the earth's crust contain radioactive uranium and thorium isotopes (radionuclides). Almost all human activities that involve removing and processing materials from the earth's crust can result in the release of some of these radioactive materials into the atmosphere. These releases can become potentially hazardous when:

1. The activity involves handling materials that contain concentrations of these radionuclides significantly above

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the average concentrations in soil;

2. These radionuclides are concentrated during processing to a level significantly above the average concentrations in soil; or

3. The radioactive material is redistributed from its place in nature into a pathway where humans can be exposed to it.

Uranium mining operations involve removing large quantities of ore containing uranium and its radioactive decay products in concentrations up to 1,000 times greater than are normally found in the natural terrestrial environment. After mining, the ores are shipped to uranium mills for separation of the uranium from the other materials in the ore. After the mill crushes and grinds the ore, the uranium is dissolved, precipitated, dried, and packaged as "yellow cake" (U_3O_8). The residues of the process, normally in the form of a wet sand (tailings), are discharged to a disposal area where the liquids are evaporated or partially recycled.

The tailings disposal area consists of a pond and a dry beach area. The size of each component depends on the amount of water that is recycled, the rate of evaporation, and the amount of raw ore being milled. In areas of high evaporation, large dry beach areas are exposed. Radioactive emissions from these areas result from wind erosion of the tailings and diffusion of radioactive radon gas out of the tailings. In addition, radioisotopes and other toxic substances may seep into ground water. The release of radon gas from piles of uranium mill tailings exposes people in the immediate vicinity of the tailings site to radioactivity and, to a lesser extent, exposes more distant populations. Windblown radioactive particulates from tailings sites and direct gamma radiation constitute secondary sources of radiation exposure. If the tailings are uncontrolled, EPA estimates that approximately 200 premature deaths per century could occur in the national population from radiation-induced lung cancer resulting from emissions from these sources. These effects would be divided approximately equally between people who live within 5 miles of the inactive tailings piles and those in the rest of the country. Health effects from potential contamination of ground water resources are not included in this estimate. The radioactive components in the tailings will remain hazardous for hundreds of thousand of years.

In addition to the hazards posed by tailings piles are those of tailings which have been removed from the piles. In source areas, tailings have been used in construction, often as fill under buildings. Radioactive gas from the tailings may then enter the buildings and raise indoor radioactivity well above normal levels.

Congress recognized that unless it acted, tailings from inactive processing sites might pose a continuing health hazard. Therefore, with the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Congress authorized a joint Federal and State program to perform remedial actions for inactive uranium processing sites according to standards EPA would set. Under the terms of UMTRCA, the Department of Energy (DOE) has designated 25 eligible inactive processing sites. Tailings piles at these sites contain more than 26 million tons of residual radioactive materials on more than 1,030 acres of land. In addition, DOE is working to designate additional lands and buildings which are affected by tailings from these sites. However, UMTRCA also provides that no remedial actions may be undertaken until EPA has promulgated standards.

Alternatives Under Consideration

EPA's standards for uranium mill tailings will be standards of general application. They are standards which define environmental radiation conditions which must not be exceeded, but they do not specify the means of remedying existing excesses. UMTRCA requires DOE to conduct the remedial action program. We are developing the standards based on currently available knowledge of the potential harmful effects of uranium mill tailings and the technology and costs of avoiding them. With regard to the form and content of the standards, we are considering the following alternatives:

(A) Disposal Standards—EPA is considering an entire range of options from no control to virtually complete control of releases of radioactivity and of non-radioactive toxic substances from tailings. We find that means of providing long-term control of radon releases are available. We are examining the health benefits and costs of controlling these releases to alternative levels which are (a) significantly above the radon release rates characteristic of undisturbed land areas, (b) within the normal range of release from undisturbed lands, or (c) significantly below average rates from such lands.

We currently favor alternative (b) because it avoids nearly all the harmful effects of radon releases and appears to be technically and economically feasible to achieve. Alternative (c) is neither needed nor is it clear that it is reasonably achievable.

We are also considering whether we should prohibit releases of radioactive and non-radioactive toxic substances from tailings to water, or limit releases to levels which preserve water quality for potential uses, including drinking and agriculture. Although information is very limited, we currently believe that a standard prohibiting any releases may be very difficult to implement, and is not clearly needed. We prefer standards for uranium mill tailings disposal that prohibit degrading the existing quality of underground and surface water bodies.

The health protection the disposal system ultimately affords depends on the control levels and the time over which they are maintained. We are examining the technical and economic reasonability of requiring effective control for (a) several hundred years, (b) hundreds to thousands of years, and (c) longer than tens of thousands of years. We currently believe it reasonable to apply the disposal standards for at least 1,000 years. Applying them for very much longer periods would be impractical for general application.

(B) Cleanup Standards for Contaminated Open Land—We are considering alternative standards for cleanup of contaminated open land as follows:

(a) Standards that would reduce residual radiation levels to local natural background levels.

(b) Standards that would limit the residual radioactivity to levels that may be above local background, but are still within a common natural range of values.

(c) Standards that limit residual radiation to levels significantly above normal background.

Alternative (a) would be unreasonable because the measurements required to distinguish small elevations above background radioactivity would be unproductively expensive. We believe alternative (b) is technically and economically reasonable, and the residual risk will be very small in practice. Therefore, we feel alternative (c) is not warranted.

(C) Cleanup Standards for Buildings—Tailings have sometimes been used as construction materials for buildings. This can cause elevated indoor radioactivity and increased risk of lung cancer for occupants who breathe radioactive particles in the air. In developing remedial action standards for this condition, we are considering earlier recommendations by the U.S. Surgeon General for a similar situation at Grand Junction, Colorado, and guidance provided by EPA to the State of Florida regarding indoor radioactivity. We are also considering alternative standards which take account of this earlier guidance, and which reflect current assessments of the health effects of the indoor radioactivity. The standards will take the form of "action levels," i.e., specifications that, if exceeded, will require remedial action.

We could set action levels in terms of the total indoor radioactivity concentrations, or as an increment above average natural background levels. We prefer to express the indoor radon decay product action level in terms of total radon decay concentration, because background levels cannot be determined separately in practice. Indoor gamma radiation levels are much more easily determined, however, so we prefer to express the gamma radiation standard as a increment above background. In all cases, the standards will apply to radiation that may reasonably be attributed to tailings, not to other causes.

Summary of Benefits

Sectors Affected: People living or working near inactive uranium mill tailings sites designated by DOE for remedial actions under UMTRCA which are located in Arizona, Colorado, Idaho, New Mexico, North Dakota, Oregon, Texas, Pennsylvania, Utah, and Wyoming; individuals who live or work in contaminated buildings; and the general public.

The disposal standards will avoid virtually all detrimental effects of uranium mill tailings for as long as the standards apply. Based on current population distributions, we estimate about 200 lung cancer deaths per century due to radon emissions from tailings piles will be avoided. The number may be larger if populations increase, or if population centers develop near piles that are now remote from people. Furthermore, surface and ground water will be protected from degradation by the tailings. Individuals who live or work in contaminated buildings will benefit from application of the cleanup standards. Finally, applying the cleanup standards for open land will result in conditions that do not require further control. This could make several thousand acres of land available for use, and avoid a potential future administrative burden.

Local economies could benefit from decreased unemployment and increased business activity associated with performing the remedial actions to comply with the standards. The remedial actions would also virtually eliminate the inequitable distribution of risk associated with the tailings, which is now greater for people who live or work near the piles or in contaminated buildings than for the general population. After disposal, the radiation risk for such people will be within the normal range of natural background values.

Summary of Costs

Sectors Affected: Federal Government; affected States; and people living near inactive uranium mill tailings sites designated by DOE for remedial action.

The Federal Government will bear 90 percent of the costs of the remedial action program and the 10 affected States will bear 10 percent. The Federal Government will bear all the costs of remedial actions on Indian lands.

The costs of meeting the disposal standards of all the tailings piles eligible under UMTRCA are difficult to estimate, primarily because methods should be chosen on a site-specific basis. We estimate the average one-time cost of meeting the standards we currently propose to be about $1 million to $6 million (1978 dollars) per site if the existing site is suitable, and $6 million to $13 million (1978 dollars) per site otherwise. Total disposal costs for all sites, spread over the 7 years Congress authorized for the remedial action program, would therefore be about $21 million to $273 million. More restrictive standards, which would limit radon releases from tailings to well below release rates from normal soils, could require much costlier methods of disposal.

A DOE contractor (Ford Bacon and Davis, Utah Inc.), using interim cleanup criteria, previously estimated that cleanup costs for open lands and buildings would be about $10 million (1978 dollars). Even allowing for increased costs under the cleanup standards we now prefer, which are very difficult to estimate, tailings disposal is still by far the largest cost component of the remedial action program.

During the performance of the remedical actions, localities will be subjected to increased traffic, dust, and other side-effects of earth-moving and construction operations. Disposal operations may require large quantities of clay and soil for covering the tailings. Contaminated open land will be subjected to scraping and digging by the cleanup operations. The environmental effects of these land disturbances will vary with the site.

Related Regulations and Actions

Internal: Radiation protection guidance for remedial actions on residences on Florida phosphate lands (44 FR 38664).

Draft proposed standard for high-level radioactive waste (in development).

Proposed standards for treatment, storage, and disposal of hazardous wastes under the Resource Conservation and Recovery Act (40 CFR Parts 260–265).

Draft Clean Air Act Standards for radioactive materials (in development).

Proposed Environmental Protection Criteria for Radioactive Wastes, and applicable Federal Radiation Protection Guidance.

Clean Water Act regulations (40 CFR Subchapter D, Part 100 *et seq.*).

National Interim Primary Drinking Water standards (41 FR 133, 40 CFR Part 142).

EPA Air Carcinogen Policy (NPRM—44 FR 58642).

Resource Conservation and Recovery Act (42 U.S.C. §§ 6905, 6912(a), 6921–27, 6930, and 6974).

External: Under UMTRCA, the responsibility for selecting and performing remedial actions that satisfy EPA's standards is given to the Department of Energy. Any States that share the cost must fully participate, and the Nuclear Regulatory Commission must concur. Any affected Indian tribe and the Department of Interior must be consulted when Indian lands are involved. In addition, the Department of Justice has responsibilities related to determining the responsibility, if any, of any private parties for remedial actions.

Active Government Collaboration

The President's Energy Coordinating Committee has formed a subcommittee to oversee Federal implementation of UMTRCA. The subcommittee is chaired by the Administrator of the Environmental Protection Agency. Other participating agencies are the Nuclear Regulatory Commission and the Departments of Energy, Justice, and Interior. These agencies, which all have responsibilities under UMTRCA, have formed a staff level working group which plans necessary interagency coordination and reviews draft documents as appropriate.

Available Documents

From the Congress—House Document Room, H—226 Capitol, Washington, DC 20515. P.L. 95-604, Uranium Mill Tailings Radiation Control Act (UMTRCA); House Report No. 95-2480, Pt. I, Committee on Interior and Insular Affairs; House Report No. 95-1480, Pt. II, Committee on Interstate and Foreign Commerce.

From DOE—Technical Library, Bendix Field Engineering Corp., P.O. Box 1569, Grand Junction, Colorado, 81502—"Phase II, Title I, Engineering Assessment of Inactive Uranium Mill Tailings Sites" by Ford, Bacon and Davis, Utah Inc. (Microfiche copy only, nominal charge per report).

From EPA/ORP-OANR—"EPA Development of Standards for Uranium Mill Tailings and Uranium Report on Mining Wastes—Call for Information and Data," **Federal Register** notice, 44 FR 33433, June 11, 1979.

"EPA Indoor Radiation Exposure Due to Radium-226 in Florida Phosphate Lands—Radiation Protection Recommendations and Request for Comment," **Federal Register** notice, 44 FR 38664-38670, July 2, 1979.

"Interim Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 27366-27368, April 22, 1980.

"Proposed Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 27370-27375, April 22, 1980.

EPA documents listed above are available at 401 M Street, S. W., Washington, DC 20460.

Additional documents, when they become available, will be placed in Docket No. A-79-25, which is located in the EPA, Central Docket Section, Room 2902, 401 M Street, S.W., Washington, DC 20460.

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EPA-OANR—Office of Mobile Source Air Pollution Control

Fuels and Fuel Additives (40 CFR Part 79*)

Legal Authority

The Clean Air Act, as amended, § 211, 42 U.S.C. § 7545.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have a marked effect on the way private industry develops and markets fuels and fuel additives, and because of its potentially beneficial public health effects. While this rule may not have an annual impact of $100 million or more, the potential growth in the use of synthetic fuels and fuel additives in the future, as the Nation attempts to lessen its dependence on foreign oil, makes it a rulemaking worthy of attention.

Statement of Problem

In 1977, Congress amended the Clean Air Act, adding § 211(e), which requires EPA to develop regulations to test the environmental and health effects of fuels and fuel additives. Section 211(e)(2) of the Act itself establishes deadlines by which the manufacturer must provide the requisite information to the EPA Administrator. Section 211(e)(3) authorizes the Administrator to: (1) exempt small businesses from the regulations, (2) provide for sharing of testing costs among manufacturers who desire to register identical compounds, and (3) exempt businesses from duplicative testing requirements.

The present registration regulation requires that manufacturers submit certain information on the chemical composition and the toxicity of fuels and fuel additives to the extent this information is known by the manufacturer as the result of testing conducted for reasons other than fuel registration (40 CFR 79.31(c)).

The proposed action may require the manufacturer to perform certain physical, chemical, and biological testing fuels and fuel additives before registration.

On August 29, 1978 EPA published an ANPRM in the **Federal Register** (43 FR 38607) requesting comments on the types of health effects and emissions test methods to be used, small business criteria, and cost sharing provisions. In response to this request, the Agency received over 22 submittals of comments from the interested public. These regulations will consider all comments received from the interested individuals and organizations.

Alternatives Under Consideration

Our preferred alternative is to require health effects and emissions testing by manufacturers on a tier basis. This approach would require manufacturers to report the chemical composition of all candidate fuels and fuel additives. If, based on chemical composition, EPA can make a determination that the environmental and health impacts are insignificant, further testing may not be required. However, if the initial and subsequent data present a cause for concern, further testing will be required until the concern is alleviated.

The second alternative would require full testing by manufacturers for all fuels and fuels additives with no exemptions. Approximately 2,000 fuels and fuel additives could require full environmental and health testing by their current manufacturers. This alternative would be unnecessarily costly, as many fuels and fuel additives whose environmental impact we can predict to be small or negligible will have to be tested.

The third alternative would be to require manufacturers to submit test data demonstrating the effect of their fuel or fuel additive on regulated pollutants only (oxides of nitrogen, carbon dioxide, hydrocarbons) before registration, but not to require health or environmental testing. This is the present system as required by 40 CFR Part 79, but which the Congress required be improved via these regulations.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas where the concentration of vehicles is greatest; and those people who live near or work in plants which produce fuels or fuel additives.

The benefit we expect from this regulation is the protection of public health. Those fuels and fuel additives and the products of their combustion, which may be harmful to public health, will be identified and eliminated from the marketplace, where appropriate.

We cannot estimate the economic benefits, in terms of reduction in respiratory and other diseases, at this time. However, because of the current cost of medical services and because of the generally accepted view that prevention is preferable to treatment of diseases, the expected economic and social benefits, although they are not quantifiable at this time, should be significant.

Summary of Costs

Sectors Affected: Petroleum refining; and users of motor vehicles or their services.

There are over 2,000 fuels and fuel additives currently registered under § 211 of the Clean Air Act. We roughly estimate that approximately 200 of these will require some degree of testing by the manufacturers. The cost to the industry of implementing these tests could total as high as $90 million to $120 million (1979 dollars). These costs will be incurred over the first 3 years of regulation, because by law, all fuels and fuel additives must meet the testing requirements within 3 years of the date of promulgation of this regulation. Small businesses would be exempt from the most costly tests. Users of motor vehicles will share these costs to the extent they are passed on by the petroleum refiners.

Related Regulations and Actions

Internal: Fuels and Fuel Additives Registration, 40 CFR Part 79.

Proposed Guidelines for Registration of Pesticides, 40 CFR Parts 161, 162, and 163.

Toxic Substances Control Act, § 4, Carcinogen Protocols and Chronic Toxicity Protocols, 40 CFR Part 772.

Ambient Air Quality Standards, 40 CFR Part 50.

External: None.

Active Government Collaboration

Health-testing protocols will be submitted to the Interagency Regulatory Liaison Group (IRLG) for screening before the regulation is promulgated.

Available Documents

Testing for Health Effects on Fuels and Fuel Additives, Gause, et al., Environmental Monitoring Systems Laboratory, Research Triangle Park, NC 27711.

Test Plan to Study the Effect of MMT on Emissions Control Performance (unpublished draft); Protocol to Characterize Gaseous Emissions as a Function of Fuel and Additive Composition, EPA-600/2-750048, September 1975.

ANPRM—43 FR 38607, August 29, 1978, EPA Docket ORD-78-1.

All documents available for review at the EPA, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 5:00 p.m., or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA—Office of Pesticides and Toxic Substances

Chemical Hazard Warning Labels (40 CFR Parts 780 and 781)

Legal Authority

Toxic Substances Control Act, 15 U.S.C. §§ 2605 (a)(3) and (c)(1); 15 U.S.C. §§ 2607(a)(1) (A) and (B), 15 U.S.C. § 2625(c).

Reason for Including This Entry

These regulations may have a significant impact on at least some segments of the chemical industry and may cause the industry initial costs of $100 million or more.

Statement of Problem

Workers are exposed in their jobs to a large number of chemical substances and mixtures, many of which present health or safety hazards. U.S. companies produce or import approximately 55,000 substances for commercial purposes. This number only accounts for *substances;* far more of the chemical products manufactured or imported for commercial purposes are *mixtures* composed of combinations of these substances. Existing data indicate that as many as 25 percent of these substances present health and/or safety hazards. Exactly how many of the estimated 300,000 chemical products—counting both substances and mixtures—are hazardous is not known.

Manufacturing industries employ approximately 20.5 million people; the chemical industry alone employs approximately 1.1 million, including professionals (such as chemists and chemical engineers) and a variety of production, maintenance and repair, and janitorial workers.

During production there are many opportunities for workers to be exposed to hazardous chemicals. Exposure may occur as workers maintain and repair industrial systems; as they handle raw materials, intermediates, and finished products; or as a result of breakdowns, leaks, and spills. Workers also may be exposed continously to fumes and vapors from hazardous chemicals.

In 1977 the National Institute for Occupational Safety and Health published the National Occupational Hazard Survey. The results indicated that approximately 7.5 million workers were exposed to trade-name products containing at least one of approximately 400 substances that the Occupational Safety and Health Administration (OSHA) then regulated. Workers who were exposed experienced, on the average, exposures to seven hazards simultaneously (the survey recorded exposures to different substances or exposure to the same substance through different routes (e.g. inhalation and skin contact) as distinct exposures).

The Bureau of Labor Statistics (BLS) reported approximately 168,000 new cases of occupational illness in 1976, and 162,000 in 1977. But under-reporting of occupational illness is a major problem, in part because the chemical causes of many acute and chronic occupational illnesses remain unrecognized. These BLS data indicate that 91,900, or 54.7 percent, of occupational illnesses in 1976 and 93,800, or 57.9 percent, of occupational illnesses in 1977, other than malignant or benign tumors, were caused directly by exposure to chemicals.

To deal with this problem, EPA is planning to promulgate a rule that will require manufacturers and importers of chemical substances and mixtures which present acute health or safety hazards to label containers of these chemicals with warning statements and precautions for use. The Agency will simultaneously promulgate a rule that will require similar labeling for containers of carcinogenic substances and mixtures.

Some chemical manufacturers and importers already place hazard warning labels on containers of their products. EPA has reviewed a sample of labels that industry currently uses voluntarily and has found that many provide clear and comprehensive hazard information. In some cases, indeed, labels provide extensive information. However, many companies use labels that are internally inconsistent, inaccurate, or provide less information than EPA believes is necessary. These rules will make mandatory an activity that is now voluntary, and, in doing so, will ensure that all workers who are exposed to chemical hazards have access to information about these hazards and about the precautions they can take against them.

Alternatives Under Consideration

The Agency has decided to require container labeling because it provides an immediate source of hazard information at the site of exposure to chemicals in the workplace, at a relatively low cost. This approach has the same focus as current industry practice, and workers are familiar with systems of labeling on which the proposed rules are based. Alternatives that did not involve labeling (such as requiring training programs) have been rejected because they would not provide hazard information relating to specific chemicals at the time and place of potential worker exposure.

The principal alternatives to this rule that the Agency is considering are (A) taking no regulatory action and (B) limiting the scope of the labeling rules in some way.

Alternative A, taking no regulatory action at this time, theoretically could produce the same benefits as the proposed rule, assuming that the industry continued with existing voluntary labeling programs and that these programs were successful. However, to the extent that the benefits of voluntary labeling were equal to the benefits of the proposed rule, the costs would also be equal. EPA has rejected this alternative, because it believes that current voluntary labeling is insufficient, particularly when it comes to warning for cancer hazards. There is no appropriate body to police the industry's labeling practices, and there are insufficient incentives for industry to improve labeling practices in the absence of regulatory action.

Alternatives for the rules' scope of applicability are to have them apply to (a) all hazardous chemicals distributed in commerce, (b) chemical substances but not mixtures, (c) large volume chemicals only.

Alternative (a), applying the rules to all hazardous chemicals distributed in commerce, is the Agency's choice. Alternative (b) has the advantage that it could reduce the costs that manufacturers and importers would incur in determining whether their products were hazardous. It would eliminate the difficulties of determining the hazards of mixtures, and it would apply to a much smaller set of chemicals. Current voluntary industry standards already cover far more chemical products than would be covered by rules with such a narrowed scope; this approach would represent a backward step in hazard warning labeling. To restrict the scope in this way would significantly reduce the benefits of the rules. It would also cause confusion among workers, because a hazardous substance would be labeled, while a mixture with the same hazards would not. This kind of inconsistency would lead workers to wonder whether any hazard warning label was meaningful. For these reasons, the Agency believes that to narrow the scope of the rules in this way would result in virtually meaningless rules.

Alternative (c) is to have the rules apply only to large volume chemicals. This alternative theoretically could reduce the costs of the rules. But there presently is no recognized definition of a "large volume" chemical. Because different companies often produce the same substances or mixtures under different trade names, EPA would need to require extensive confidential formulation information, recordkeeping, and reporting in order to identify "large volume" products. The cost of developing an accurate and specific list of "large volume" chemicals would be so high that this alternative would be unlikely to produce significant cost savings.

The same alternatives apply to the rule on cancer hazard warning. In addition, there is an alternative to the approach the Agency has taken to cancer hazard warning in the proposed rule. EPA intends to promulgate along with the rule a list of substances that the Administrator has designated as carcinogens. Manufacturers would have to label as carcinogens these substances and any mixtures containing them.

Alternatively, EPA could publish a set of criteria by which manufacturers and importers would determine whether their products were carcinogenic. There are, however, no criteria that would make it easy for a manufacturer or importer routinely to evaluate products for carcinogenicity. In the interests of reducing controversy and preventing duplications of effort that could result in large expenditures of resources, EPA has chosen to promulgate a list of designated carcinogens instead of a set of criteria.

The proposed rules as they are presently written provide substantial flexibility, so that companies which are essentially in compliance now need not redesign their labels. Compliance will be on a phased schedule, so that the industry may take advantage of information it develops for substances in developing information for mixtures. Since mixtures are composed of combinations of substances, the rules will require manufacturers and importers of substances to comply earlier than manufacturers and importers of mixtures. The rules will require no recordkeeping or reporting.

These rules require the disclosure of information, and in this respect employ an innovative regulatory technique. When information about the hazards of chemicals in the workplace is widely available to workers and to occupational health specialists, they may modify their behavior accordingly and thus eliminate the necessity, in some cases, for more restrictive forms of regulatory action.

Summary of Benefits

Sectors Affected: Workers and establishments in all industries which produce, use, or otherwise place workers in contact with hazardous chemicals, particularly manufacturing industries.

The primary benefit of these labeling regulations will be to provide information to industrial workers, through labels supplied by the manufacturers and importers of hazardous chemicals, about the hazards to which their work exposes them. The Agency expects that workers will use this information to protect themselves from injury and illness that may result from exposure to hazardous chemicals. The knowledge so gained should result in reduced exposure to chemical hazards and reduced occurrences of occupational injury and illness that result from such exposure. A Regulatory Analysis is in progress. Even when it is complete, however, the benefits of these rules will not be altogether quantifiable.

The indirect benefits of the labeling regulations may be great. Once workers have adequate hazard information, they can work with management to control or eliminate most hazardous exposures. Companies that use chemicals may stop using the most hazardous, thereby creating incentives for the development of safer substitutes and/or better exposure controls for specific uses.

Summary of Costs

Sectors Affected: The chemical industry, particularly small firms.

Chemical companies will incur initial costs for developing information and designing labels. Ongoing costs will include the costs of producing the necessary number of labels for a given year's production and of developing new labels when new information reveals that a product has a hazard that was previously unrecognized. The Agency's preliminary estimate is that initial costs will range from $50 million to $150 million and ongoing costs from $6 million to $16 million. To some extent, the impact will be greater on small companies than large ones, primarily because small firms' expertise in locating and evaluating hazard information is limited. To assist such firms, the Agency will provide guidance on information sources. A Regulatory Analysis is being prepared.

Related Regulations and Actions

Internal: None.

External: The Occupational Safety and Health Administration (OSHA) of the Department of Labor will be proposing a rule requiring that labels on containers of hazardous chemicals in the workplace disclose the chemical identity of the contents.

Active Government Collaboration

EPA and the Occupational Safety and Health Administration have been coordinating the development of their respective labeling rules and plan to propose them in the **Federal Register** simultaneously.

Available Documents

None Yet.

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EPA—OPTS

Chloromethane and Chlorinated Benzene Proposed Test Rule; Amendment to Proposed Health Effects Standards (40 CFR Part 773)

Legal Authority

Toxic Substances Control Act, §§ 4 and 26, 15 U.S.C. §§ 2603 and 2625.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we need data to assess the risk of injury to human health caused by exposure to the chemicals chloromethane and chlorinated benzenes. This rule is also significant because it is the first rule the Agency has proposed under § 4 of the Toxic Substances Control Act (TSCA) which will require manufacturers and processors of chemical substances to perform testing to assess the health effects of toxic substances.

Statement of Problem

Section 4 of TSCA gives the Environmental Protection Agency the authority to require that manufacturers and/or processors of chemicals test these chemicals for possible adverse effects on human health or the environment. To implement § 4, we are in the process of developing, proposing, and promulgating test standards and test rules. A test standard is a description of the scientific methodology and analysis to be used in testing for an effect. A test rule is a regulation requiring manufacturers and processors of specific chemicals to test these substances for certain effects according to appropriate test standards. The Agency established a reasonable timetable in which industry must complete the development of the test data.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to make recommendations to the EPA Administrator, in the form of a list, regarding chemical substances that should receive priority consideration in the Agency's development of test rules. For the most part, chemicals to be included in test rules come from the semiannual recommendations made by the ITC. The Committee's eight members represent the Council on Environmental Quality, the Department of Commerce, the Environmental Protection Agency, the National Science Foundation, the National Institute of Environmental Health Sciences, the National Institute for Occupational Safety and Health, the National Cancer Institute, and the Occupational Safety and Health Administration (OSHA).

The ITC in its Initial Report (42 FR 55026, October 12, 1977), recommended that chloromethane be tested for carcinogencity, mutagenicity, teratogenicity, and other chronic effects and emphasized its concern about chloromethane's effects on the central nervous system, liver, kidney, bone marrow, and the cardiovascular system.

We have completed our analysis of data on the health effects of and levels of exposure to chloromethane. Approximately 300 to 500 million pounds of choromethane are manufactured annually in the United States.

Almost all chloromethane is used as a chemical intermediate in the manufacture of materials such as silicones and tetramethyl lead. Because of chloromethane's almost exclusive use in chemical and allied product manufacture and processing, the greatest potential for human exposure during its life cycle occurs for workers engaged in the manufacture, processing, and use of the chemical.

Our analysis of studies showing gene mutations in bacteria, chromosomal changes in plant cells, neurotoxicity, birth defects, embryo and fetal toxicity in test animals, and other data indicate that exposure to chloromethane may cause cancer and structural birth defects in humans. Hence, we believe that the level of human exposure to chloromethane during manufacturing, processing, and use may pose an unreasonable risk to human health. Because of these findings and the estimated levels of human exposure, we are proposing requirements for industry to test for the health effects of chloromethane in our first test rule.

Monochlorobenzene and dichlorobenzene were also contained in the ITC's initial report. The ITC recommended the development of rules that would require industry to test these chlorinated benzenes for potential to cause cancer, gene mutation and chromosomal aberration, structural birth defects, other chronic effects, and environmental effects and also recommended requiring an epidemiological study. The ITC's third report (43 FR 50630, October 30, 1978) added the higher chlorinated benzenes, (tri-, tetra-, and penta-) to the priority list and recommended testing requirements for the same effects.

Our investigation of the chlorinated benzenes indicates that the annual domestic production volume ranged from over one million pounds of pentachlorobenzene to 325 million pounds of monochlorobenzene. Exposure to the liquid chlorobenzenes is due to their use as a functional fluid in transformers, process solvents, solvents in formulated products, and synthetic intermediates, while exposure to the solid forms results from their use as synthetic intermediates and pesticides. Workers are exposed to chlorinated benzenes during manufacture, processing, and use; consumers are exposed to certain chlorobenzenes in the use of formulated products such as toilet bowl cleaners, drain cleaners, space deodorants, and moth conrol agents; and the general population may be exposed from environmental concentrations resulting from manufacture, processing, use, and disposal of the substances.

Our analysis shows that exposure to the chlorinated benzenes may present an unreasonable risk of cancer, structural birth defects, and reproductive and subchronic/chronic effects (effects from longer term exposure periods of 90 days to 2 years). These conclusions are based on (1) their chemical structural similarity to known carcinogens and teratogens; (2) the tumor-promoting activities of chlorinated benzene metabolities (chemicals to which chlorinated benzenes may be converted by processes in the human body); (3) studies showing, among other things, mutagenic effects, birth defects, embryo- and feto-toxic (toxic to the fetus) responses, and reproductive effects in amimals; and (4) reports of adverse effects on human livers and blood production. Because of these findings and the potential for human exposure, we are proposing health effects testing requirements for the chlorobenzenes in the first test rule.

EPA is also assessing other ITC chemicals as candidates for future § 4 test rules. Nitrobenzene, 1,1,1-trichloroethane, and dichloromethane are actively being assessed at the present time. EPA anticipates proposing two test rules in 1981.

Alternatives Under Consideration

The alternatives available to us are quite limited. Under TSCA, if EPA finds that (1) a chemical may present an unreasonable risk of injury to human health or the environment or a chemical may enter the environment in substantial quantities or result in significant human exposure, and (2) there are insufficient data or experience to characterize its effects on health or the environment, and (3) testing is necessary to develop such data, we must require industry to conduct testing and there is no alternative to issuing a test rule. However, we will encourage industry to begin testing of a chemical before a test rule is proposed. If such testing is satisfactory, it could obviate the need for a test rule.

Another alternative is to conduct testing in governmental facilities or under contract to the Government. We will take this approach where it would be inappropriate or infeasible to require testing by the chemical industry, but heavy reliance on this approach would be in direct conflict with TSCA, which states that the development of data on health and environmental effects "should be the responsibility of those who manufacture and those who process chemical substances and mixtures."

EPA considered a proposal to require alternative health effects tests to those chemicals selected, but rejected these alternatives for a number of reasons. Some alternative types of testing which were not selected were excluded because under the § 4(a)(1)(A)(i) finding, EPA must be able to show that the chemical may have the propensity to cause an effect before testing that effect can be required. Other testing was rejected because the choice of tests must reflect the § 4(a)(1)(A)(ii) finding that existing data are insufficient to determine the effects of the chemical. For example, in the instance of two of the chlorinated benzenes, because oncogenicity (cancer) testing is already under way through the National Cancer Institute, EPA is not proposing additional oncogenicity testing for these two chemicals at this time. A third reason for not selecting an alternative type of testing is that elements of the test methodology were not available, or their development would have caused a delay in the proposal of the rule.

EPA selected the chlorinated benzenes and chloromethane for this test rule rather than alternative chemicals on the ITC Priority List. The selection of chemicals for this test rule was based on the following strategy. Because the ITC has designated all chemicals on the Priority List as having equal priority, EPA has, in general, attempted to evaluate the ITC chemicals in the order that they were presented to the Agency. This order is also influenzed by the availability of information and difficulty of assessment. In addition, as is the case with the two chlorinated benzenes groups, the Agency may evaluate together several recommendations proposed by the ITC at different times.

EPA also considered an alternative approach to the reporting deadlines. This approach would have established dates only for the beginning of the testing period rather than dates for reporting during and at the end of the testing period. This alternative was rejected because § 4(b)(1)(C) of TSCA requires EPA to specify the time period within which persons subject to a test rule must submit test data. In addition, EPA believes that it is not necessary to consider size or production capacity of the manufacturers or processors subject to the rule when establishing reporting deadlines because this is not specifically required in the Act, because it is difficult to predict exactly who will bear the testing responsibility, and because EPA expects manufacturers and processors to coordinate their testing efforts.

Summary of Benefits

Sectors Affected: Workers in establishments manufacturing chloromethane, chlorinated benzenes, and products produced with these chemicals, and workers otherwise exposed to these chemicals; consumers of formulated products containing chlorinated benzenes, such as toilet bowl cleaners, drain cleaners, space deodorants, and moth control agents; the general public; EPA; OSHA; and State and local governments.

The data generated from the testing required by this rule would permit EPA to assess the risk to human health of manufacturing, processing, and use of chloromethane and the manufacturing, processing, use, and disposal of the chlorinated benzenes. If the Agency finds this risk to be unreasonable, it may take action to reduce human exposure under one of its authorities or recommend regulation by another agency, such as OSHA.

The testing required by this rule could potentially benefit individuals who may be exposed to these chemicals. This would include potentially 50,000 workers who may be exposed to chloromethane and potentially 3 to 4 million workers who may be exposed to the chlorinated benzenes. In addition, consumers exposed to products containing the chlorinated benzenes and the general population exposed to any of these chemicals via dissemination throughout the environment may also derive benefits from the test rule on these chemicals. The benefits from future regulations which are based on data obtained through the test rule would include reduced illnesses among workers, consumers, or the general population; this would potentially result in reductions of absenteeism at work, higher productivity levels, and savings of health costs.

The data generated by this test rule will also result in benefits to Federal agencies such as EPA and OSHA and State and local governments. These data will serve to alert government agencies to potential risk from these chemicals and will also obviate the need for these agencies to expend resources to search for data on these chemicals when assessing their risks.

Summary of Costs

Sectors Affected: Manufacturing of chlorinated benzenes, including some manufacturers and processors of industrial solvents, dyes, organic intermediates, pesticides, and solvent-carrying chemicals; and manufacturing of chloromethane, including manufacturers and processors of some silicone products, chlorinated hydrocarbons, butyl rubber products, herbicides, and lubricating greases and oils; and consumers of products produced with these chemicals.

EPA esimates the annualized costs of complying with these rules to be $144,000 to $267,000 (1979 dollars) for manufacturers and processors of chloromethane and $371,000 to $1,016,000 for manufacturers and processors of the chlorinated benzenes. These costs might conceivably be passed on to processors of these chemicals who have not contributed money towards the cost of testing through reimbursement procedures (i.e., manufacturers using these chemicals in their manufacturing processes), or to consumers of products produced with these chemicals.

Related Regulations and Actions

Internal: We proposed health effects test standards for various effects on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054) and standards for Good Laboratory Practices for Health Effects on May 9, 1979 (44 FR 27362).

EPA will publish final health effects standards in early 1981. EPA also plans to propose standards for various ecological toxicology tests in early 1981 and standards for environmental fate (tests which determine the transport and persistence of a chemical in the environment) in late 1980.

We also published a proposed rule under TSCA § 8(d) that would require persons to submit all unpublished health and safety studies concerning all chemicals recommended for testing by the Interagency Testing Committee (44 FR 77470, December 31, 1979).

Simultaneously with our publication of this first rule, we (1) published a Proposed Statement of Exemption Policy and Procedure relating to the granting of exemptions from § 4 testing, and (2) announced our tentative decision not to require health effects testing for acrylamide, a compound suspected of entering surface water and ground water through its use as a chemical grout, a wastewater treatment chemical, and other industrial applications. The conclusion is based on animal studies that demonstrate the consistent induction of nervous system disorders at very low exposure levels, and we believe that any further information gained through testing would not affect regulatory actions designed to reduce human exposure to acrylamide. Acrylamide was included in the ITC's second list of chemicals (43 FR 16684, April 19, 1978) to be considered by EPA for test rule development.

External: Under the aegis of the Interagency Regulatory Liaison Group, the EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission are jointly developing guidelines describing test methods that will meet all four agencies' needs.

Active Government Collaboration

Other Federal agencies that have been or will be consulted include the Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, National Cancer Institute, and National Institute of Environmental Health Sciences.

Available Documents

Chloromethane and Chlorinated Benzenes Proposed Test Rule, Proposed Health Effects Standards Amended, 45 FR 48524, July 18, 1980.

Acrylamide: Response to the Interagency Testing Committee, 45 FR 48510, July 18, 1980.

Exemptions from Test Rules: Proposed Statement of Policy and Procedures, 45 FR 48512, July 18, 1980.

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules: Proposed Good Laboratory Practice Standards for Health Effects, 44 FR 44054, July 26, 1979.

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules, 44 FR 27334, May 9, 1979.

The Interagency Testing Committee established under TSCA has issued six reports making recommendations on chemicals to be covered by TSCA testing rules:

First Report 42 FR 55026, October 12, 1977.
Second Report 43 FR 16684, April 19, 1978. OTS Docket 040004.
Third Report 43 FR 50630, October 30, 1978. OTS Docket 04005.
Fourth Report 44 FR 31866, June 1, 1979. OTS Docket 41001.
Fifth Report 44 FR 70664, December 7, 1979. OTS Docket 41001.
Sixth Report 45 FR 35897, May 28, 1980. OPTS Docket 41002A.

Public Comments received during the comment period, which ended October 31, 1980, are available for inspection in the OPTS Reading Room (Room 407 East Tower, 401 M Street, S.W., Washington, DC 20460) between the hours of 8:00 a.m. and 4:00 p.m. on working days (Docket number 80T-127).

Transcripts of public meetings held on October 15, October 21, October 24, October 30, and October 31, 1980, are also available for inspection in the OPTS Reading Room.

The following Proposed Support Documents are also available in the OPTS Reading Room: 1) Chloromethane Support Document, 2) Chlorinated Benzenes Support Document, 3) Exposure Support Document, and 4) Economic Analysis Support Document.

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EPA—OPTS

Pesticide Registration Guidelines (40 CFR Part 163, Subparts A–P)

Legal Authority

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136a(c)(2)(A), 136f, and 136w.

Reason for Including This Entry

The Environmental Protection Agency (EPA) estimates that the cost to chemical companies and other registrants whose products are registered with EPA or who apply for registration of their products to meet the Guidelines' requirements will be approximately $1.4 billion over the next 10 years.

Statement of Problem

With certain limited exceptions, EPA must, in accordance with FIFRA, register all pesticides before legal sale and distribution by manufacturers and formulators can occur in the United States. The purpose for requiring registration of a pesticide is to permit EPA to determine if: (A) the composition of the pesticide is such as to warrant the proposed claims for it; (B) the labeling and other material required to be submitted comply with the requirements of the Act; (C) the pesticide will perform its intended function without unreasonable adverse effects on the environment; and (D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

Before the development of the Guidelines, registration actions and review were undertaken on a case-by-basis. Such a procedure obviously led to much confusion, many inefficiencies, and a great deal of inconsistency. With some 35,000 currently-registered pesticide products (several thousand registered each year), the need for an improved procedure was obvious to Congress when it required the Agency to develop Guidelines, at FIFRA § 3(c)(2)(A). Without these Guidelines, the following problems would inevitably result: registration applications would often be incomplete or inadequate; applications would spend unnecessary time and money because requirements were not delineated or clarified; and EPA would not be able to perform registration reviews efficiently. These are the problems that existed before the proposed Guidelines were first published.

The Guidelines specify the kinds of information required to support a registration application. Such information encompasses data required for health and safety evaluation for humans, domestic animals, wildlife, aquatic organisms, and nontarget plants and insects. It also includes chemistry data concerning characteristics of pesticidal ingredients and the pesticide product, and dealing with residues and environmental fate of pesticides. In addition, information on registration procedures, labeling, product efficacy, exposure analysis, and product disposal are required. The Guidelines also specify the kinds of information of each type mentioned above that would be required for pesticides to be tested under an experimental use permit, and for pesticides categorized as biorational pesticides (pheromones, bacteria, viruses, etc.).

Prospective registrants (primarily pesticide manufacturers and formulators) are responsible for both testing and submittal of test results to the Agency to support their registration applications. In addition, FIFRA requires that currently registered pesticides be re-registered expeditiously. In many cases, the registrants of these pesticides will now have to submit health and safety data that meet FIFRA requirements, either because they had not previously submitted the data or because they had submitted inadequate data.

Alternatives Under Consideration

Section 3(c)(2)(A) of FIFRA requires that "The Administrator shall publish guidelines specifying the kinds of information required to support the registration of a pesticide and shall revise such guidelines from time to time." Therefore, we are not considering alternatives to publication of the Guidelines. The Agency is analyzing public comments on the portions already proposed (see "Available Documents") and is considering these comments to improve the nature and clarity of the proposed data and testing requirements.

Summary of Benefits

Sectors Affected: Pesticide and agricultural chemical manufacturing and formulating; chemical/biological testing laboratories; EPA; users of and those exposed to pesticides, especially farmers and farm laborers; and the general public.

The Guidelines will give prospective registrants the benefit of knowing precisely what kinds of data the Agency requires (though there are some provisions for waiving some requirements under some circumstances). Manufacturers and formulators therefore will be able to plan their research and development programs with greater certainty and thereby save money and time. (For example, if a product of moderately-wide potential use can be marketed 2 years sooner—which is likely, if the applicant can use the Guidelines properly—$4 million profit for those 2 years can be had.) The chemical/biological testing industry (comprising 90 to 100 businesses at present, but still expanding) will also benefit from increased business due to some additional requirements now in the Guidelines and due to the standardized requirements that improve planning and efficiency. The Guidelines will benefit the Agency by improving the quality of data available for making decisions, and by allowing for more efficient processing of applications. Farmers and the public will benefit generally from having safer pesticides available.

Summary of Costs

Sectors affected: Pesticide and agricultural chemical manufacturing and formulating; and users of pesticides, particularly farmers.

To meet the Guidelines' requirements over the next 10 years, EPA estimates that the cost (in 1980 dollars) to registrants will be approximately $470 million for the data call-in program, $382 million for the remaining data needed to meet for registration standards, $840 million for the data needed to support new registrations, and about $210 million for the data to be required by those subparts of the Guidelines yet to be proposed. Approximately half of the costs would be applied to re-registration, and the rest to new registration; however, the costs for re-registration would be principally in the "data call-in" and "remaining data" categories.

The annual cost would be higher (starting at $200 million) during the first 5 years and then decline (to about $100 million) during the latter 5 years. Current (1980) pesticide industry research and development expenditures are $365 million; of this total, approximately $100 million are used to meet registration requirements. The additional costs imposed by these Guidelines would thus add 30 to 55 percent to the total research and development expenditures. In relation to sales, these costs amount to 4 to 6 percent of the income at the basic producers level ($3 billion), or 2 to 3 percent of the income at the retail level ($5.8 billion).

The projected cost due to the Guidelines represents expenditures for conducting laboratory and field testing, and developing the reports of such tests. While registrants will initially bear the costs, we expect that the cost will be passed on to the pesticide users. The per-farm costs was estimated in 1980 to be $63 to $70 per year, including $21 due to costs of new requirements in the Guidelines.

We do not expect these Guidelines to have any significant effect on employment in the pesticide industry, or to have any other nationally significant economic effects. We do expect producers of some pesticides of small economic significance to withdraw their products from the market rather than go to the expense of developing the required data. In this situation, we expect consumers to choose other available pesticides.

Related Regulations and Actions

Internal: EPA is also developing testing standards for chemical substances and mixtures under the Toxic Substances Control Act (TSCA). As far as possible, EPA will make the pesticide testing methods prescribed by the Guidelines consistent with the TSCA test standards. The Good Laboratory Practice standards we are developing under TSCA and FIFRA, which prescribe uniform standards of performance for toxicological testing, will also be consistent.

External: Under the aegis of the Interagency Regulatory Liaison Group, five Federal agencies (EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and the Department of Agriculture) are jointly developing guidelines describing test methods and standards that will meet all five agencies' needs.

For guidelines on toxicology testing, the Agency is also working with the Organization for Economic Coöperation and Development (OECD). This group is developing international testing standards, and has the cooperative imput of 24 other countries besides the United States. In published form, our toxicology guidelines (Subpart F) will be consistent with the international standards.

Active Government Collaboration

FIFRA §§ 25(a) and (d) requires the Administrator of EPA to provide copies of draft proposed and final regulations to the Department of Agriculture, the Committee on Agriculture in the House of Representatives, the Committee on Agriculture and Forestry in the Senate, and the FIFRA Scientific Advisory Panel. Reviews by these groups provide technical, legal, and scientific oversight to the guidelines at stages near publication in the **Federal Register**.

Agencies and other Government groups that we have consulted or that have provided assistance in Guidelines development include members of the Interagency Regulatory Liaison Group, the National Cancer Institute, the Department of the Interior, and the Department of Agriculture. The latter department is required by FIFRA to comment on proposed and final regulatory documents.

Available Documents

An economic impact analysis based on those portions of the Guidelines already published in 1978 was prepared for public comment on September 6, 1978 (43 FR 39644). Its title is "Economic Impact Analysis of Guidelines for Registering Pesticides in the U.S." This analysis covered the cost of Subparts B, D, E, and F that would be responsible for 90 percent of the total costs of the Guidelines. With the publication of each subsequent subpart, we intend to make available brief analyses set in the context of the incremental and total costs of the Guidelines. Following or concurrent with the publication of most subparts as final rules we will publish an overall Regulatory Analysis for the entire Guidelines.

We have published the following portions of the Guidelines as NPRMs:

Subpart B—Introduction, 43 FR 29696, July 10, 1978. (This subpart will become Subpart A when published final.)

Subpart D—Chemistry Requirements, 43 FR 29696, July 10, 1978. (This subpart will be divided into five subparts when published final: D—Chemistry Requirements: Product Chemistry; K—Exposure Data Requirements: Reentry; N—Chemistry Requirements: Environmental Fate; O—Residue Chemistry; and P—Data to Support Disposal Instructions.)

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms, 43 FR 29696, July 10, 1978.

Subpart F—Hazard Evaluation: Humans and Domestic Animals, 43 FR 37336, August 22, 1978.

Subpart F—Hazard Evaluation: Humans and Domestic Animals (two additional general sections on good laboratory practices for toxicology testing) 45 FR 26373, April 18, 1980. (This proposal will be separated from Subpart F when developed into a final rule.)

Subpart I—Experimental Use Permits (publish November 1980).

Subpart J—Hazard Evaluation: Nontarget Plants and Microorganisms (publish November 1980).

Subpart L—Hazard Evaluation: Nontarget Insects (publish November 1980).

Subpart M—Data Requirements for Biorational Pesticides (we will publish in December 1980).

We have published or will publish the following portions of the Guidelines as final rules:

Subpart C—Registration Procedures (interim final), 40 FR 41788, September 9, 1975.

Subpart D—Chemistry Requirements: Product Chemistry (November 1980).

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms (November 1980).

Subpart N—Chemistry Requirements: Environmental Fate (we will publish in December 1980).

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EPA-OPTS

Premanufacture Notification Requirements and Review Procedures (40 CFR Part 720) (44 FR 2242, January 10, 1979, 44 FR 59764, October 16, 1979)

Legal Authority

Toxic Substances Control Act (TSCA), § 5, 15 U.S.C. § 2604.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because the regulations may have a substantial impact on the chemical industry.

Statement of Problem

To prevent public health risks and environmental contamination before potentially toxic substances are widely used and dispersed, Congress included a section on premanufacture notification in the Toxic Substances Control Act (TSCA). This section requires a manufacturer to notify EPA of his intent to manufacture or import a new chemical substance, and to submit information concerning that substance which the Agency can use to assess the risks associated with its manufacture, processing, distribution in commerce, use, or disposal. On the basis of this assessment and evaluation of economic considerations and other relevant factors, EPA will make decisions concerning the reasonableness of any risk, and will take appropriate action to obtain more information or data; regulate production or use; or require reporting by manufacturers, processors, or distributors of chemicals once the substance is in commerce. If EPA does not regulate the substance during the premanufacture notification period, the manufacturer may begin production (subject to regulation under any other laws).

To implement the notification process, EPA proposed a set of premanufacture notification rules and forms for public comment on January 10, 1979. In October, EPA reproposed the forms and certain portions of the rule. The rules, when final, will clarify the statutory obligations of manufacturers and importers of new chemical substances to provide information on the substances, and will also clarify the Agency's procedures for reviewing the information. The forms will provide a detailed specification of the information they must submit and the formats in which they should supply the information. The manufacturers are responsible for assembling the information. EPA must decide, generally within 90 days of receiving the information, whether the substance in question presents an unreasonable risk to human health or the environment, and if so, what action to take.

Alternatives Under Consideration

There are several significant issues to be resolved in this rulemaking. Among them are the scope and the level of detail of information it should require; the identification of chemical substances for which industry must submit premanufacture notification to EPA; policies regarding the confidentiality of information submitted; the extent to which the submitter must contact prospective customers to obtain relevant data; supplemental reporting; and whether and how EPA determines that submissions meet its requirements. EPA is considering other approaches to resolving these and related issues based on the comments received from individual and public interest groups which suggested alternatives to the initial proposal (see "Available Documents," NPRM for Proposed Rules and Other Issues—44 FR 59764, October 16, 1979.)

Summary of Benefits

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Sectors Affected: Establishments and employees in the chemical industry; importing of chemical products; the general public; and the environment.

The premanufacture review process will benefit public health and the environment by preventing the production, use, or disposal of new chemicals which present unreasonable risks. By preventing potential hazards at an early stage, EPA can minimize economic dislocation, especially that which would result if a chemical is in full production and use is withdrawn. Adverse employment effects and the obsolescence of plant equipment will be substantially reduced by early regulation. Preventing toxic chemicals from entering the environment also will decrease lost work days and hospitalization costs that result from worker exposure to toxic chemicals.

Summary of Costs

Sectors Affected: The chemical industry; and importing of chemical products.

EPA is conducting an in-depth study of the premanufacture notification requirements to determine with a greater degree of confidence the nature of the costs and economic effects of this rulemaking. These effects will include the effect on research and development programs; industry sales, growth, and profitability; and the structure of the chemical industry. EPA will use the results of this study in making final decisions on how to implement the premanufacture notification program. Preliminary results of this analysis estimated that the notice form proposed on January 10, 1979 would cost between $2,500 and $22,500 to complete for each submitter, in current dollars. Estimates for the October 16 reproposed shortened form indicated that completion of the revised form would cost between $1,155 and $8,925 in current dollars. It has also been estimated that approximately 400 notices would be submitted per year. Therefore, the total cost of providing the notice forms in a typical year would be between $462,000 and $3,570,000. October 16 cost estimates also included costs of between $0 and $6,400 for asserting and substantiating claims of confidential business information in connection with the notice submission.

The fiscal year 1981 EPA operating plan for implementing the premanufacture notification program is $5,720,000.

Related Regulations and Actions

None.

Active Government Collaboration

Other Federal agencies that have been involved in this rulemaking include the Consumer Product Safety Commission, the Occupational Safety and Health Administration, the Food and Drug Administration, the Department of Transportation, and the Bureau of the Census.

Available Documents

Public Comments.

NPRM for Premanufacture Notification Requirements and Review Procedures—44 FR 2242, January 10, 1979 (Docket number OTS 050002).

Discussion of Premanufacture Testing Policy and Technical Issues—44 FR 16240, March 16, 1979 (Docket number OTS 050002).

Interim Policy Statement—44 FR 28558, May 15, 1979 (Docket number OTS 050002).

NPRM for Proposed Processor Requirements, Premanufacture Review Program—45 FR 54642, August 15, 1980 (Docket number OTS 050002).

These documents are available from the Agency Contact listed below.

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EPA-OPTS

Title

Rules Restricting the Commercial and Industrial Use of Asbestos Fibers (40 CFR Part 763)

Legal Authority

Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 and 2605.

Reason for Including This Entry

The Environmental Protection Agency (EPA) has included this action because of its potential economic impact on the asbestos industry. The economic cost of the rule will probably exceed $100 million. We may prohibit a large portion of the domestic production and importation of asbestos-containing products into the United States.

Statement of Problem

Epidemiological studies have established that exposure to asbestos fibers can contribute to increased risk of lung damage (asbestosis) and human cancer of several kinds.

EPA is concerned that in spite of past governmental regulation of asbestos, millions of Americans may be exposed to levels of asbestos that significantly increase the risk of contracting asbestos-related diseases. (Past regulations are cited below under Related Regulations and Actions.) Currently, more than two million workers are exposed to asbestos fibers (at levels higher than background) in their places of employment. In addition, the 159 million Americans who live in urban areas may be exposed to asbestos fiber levels that significantly increase the risk of contracting asbestos-related diseases. EPA is concerned that asbestos fiber emissions from the mining, milling, processing, or distribution of asbestos or from the use, misuse, or disposal of asbestos-containing products might cause significant pollution of urban air.

It is difficult to estimate the number of people who will contract asbestos-related diseases at current exposure levels. Data on mortality rates are available for workers who are exposed to asbestos fiber levels considerably higher than general population exposures. EPA will extrapolate to predict risks for the general population.

EPA is conducting this regulatory program because the Agency is not convinced that existing regulations have adequately protected the public. These regulations have focused on limited aspects of the asbestos exposure problem, such as worker exposures, air emissions from manufacturing facilities, and some consumer products. Regulation under the Toxic Substances Control Act (TSCA) would eliminate unreasonable human health risks from all asbestos-related activities. The comprehensive mandate of TSCA enables EPA to reduce health risk from sources that are difficult to control through medium-specific or source-specific regulation authorized under other Federal authorities. Under TSCA, EPA is currently investigating the cumulative effects of exposure to asbestos throughout its life cycle in commercial and industrial products from mining and milling through processing, product manufacturing, use, and disposal. Our preliminary studies indicate substantial continuing exposure of millions of people to the ever growing inventory of asbestos sources. As a result of this study, the Agency expects to promulgate rules to prevent and reduce any unreasonable risks that are identified.

Alternatives Under Consideration

EPA is considering the following alternative actions: (A) prohibiting the manufacture, processing, distribution in commerce, and importation of asbestos for all nonessential asbestos uses; (B) restricting the quantity of fibers that could be mined and imported, or processed annually in the United States, thus allowing the marketplace to determine which products and uses to eliminate; (C) developing other marketplace regulatory strategies; (D) requiring labeling of asbestos containing products; (E) regulating under laws other than TSCA; and (F) taking no regulatory action.

EPA's choice of a regulatory program will depend on the seriousness of the risks and the identification of the major sources of exposure. EPA suspects that much of the asbestos to which the public is exposed comes from emissions caused by mining, milling, and processing asbestos fibers; emissions resulting from the use of asbestos-containing products may not be as significant. In that case, EPA would want to reduce risks from mining, milling, and processing as much as possible (alternative A). A disadvantage of alternative A would be that both the affected industry and EPA would be involved in extensive exemption proceedings.

Alternative B is a possible substitute for alternative A. The allocation of quotas could be a very difficult process and could result in some inequities within the industry. Further, at this time it is not clear that the economic impact of such an approach would be any less than alternative A. The major advantage of alternative B over alternative A is that the marketplace would decide which uses of asbestos should continue.

Alternative C involves developing other marketplace strategies. A disadvantage of both alternatives B and C is that since they have never been attempted before, the implementation problems are unknown. Also, there would be no guarantee of eliminating products that present a particularly high health risk. For example, if a product with fibers that are easily released commands a relatively high price, it might remain in the marketplace much longer than if it were regulated specifically. However, if necessary, a market strategy could be modified to eliminate this problem.

EPA is considering imposing a labeling requirement (alternative D) either in addition to or in lieu of other requirements. A labeling rule would have considerably less economic impact than alternatives A, B, or C, and it would also provide less direct protection to public health. Alternative D, if implemented alone, would increase awareness of the hazards of asbestos and would increase recognition of products that can cause these health risks. However, it would not force any reduction in exposure to asbestos fibers.

EPA is considering either regulating under other Federal laws administered by EPA or not regulating in deference to other Federal agencies (alternative E). Several comments on the ANPRM (44 FR 60056, October 17, 1979) indicated that industry does not consider TSCA to be appropriate authority for regulating asbestos and that further Federal regulation, if needed, should be implemented under other laws, particularly the Occupational Safety and Health Act (OSH Act). Although the Occupational Safety and Health Administration (OSHA) has announced its intention to lower its workplace standard to 0.1 fiber per cubic centimeter, OSHA lacks the legislative mandate to address the problem of asbestos exposure outside of the workplace. EPA action to restrict production and importation of products containing asbestos may be necessary to complement the OSHA workplace standard for airborne asbestos.

Any action by the Consumer Product Safety Commission (CPSC) would not affect production of industrial asbestos-containing products, and these production processes may cause significant fiber emissions.

A combination of EPA actions under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, and other laws might significantly reduce asbestos-related risks. However, the EPA Administrator might find that it is in the public's interest to regulate under TSCA because the limited mandate of these other laws results in continued risk from asbestos.

Alternative F, taking no regulatory action, would benefit the asbestos industry since it would incur no costs. However, there would also be no reduction in the exposure to asbestos in the United States.

Summary of Benefits

Sectors Affected: Establishments and workers in the asbestos industry (including asbestos mining and asbestos product manufacturing); the general public; and establishments that manufacture asbestos substitutes.

At this early stage of development of EPA's rule, it is difficult to estimate benefits in quantitative terms. Regulation will decrease the incidence of asbestosis and lung cancer in the United States, thereby decreasing the number of worker-days lost due to worker sickness, increasing space available in hospitals, and decreasing costs due to illness and premature death.

EPA regulation of asbestos should increase demand for substitutes such as fiberglass, ceramic fibers, polyvinylchloride, and ductile iron pipe. Therefore, manufacturers and distributors of substitutes should benefit from regulation.

Summary of Costs

Sectors Affected: Establishments and workers in the asbestos industry (including asbestos mining and asbestos product manufacturers); and their suppliers; importers of asbestos and asbestos products; and users of asbestos products.

Because EPA has not completed its analysis of economic effects, cost estimates are not available. Asbestos mines and asbestos processors will be forced to reduce production, and many processors will be forced out of the asbestos business. EPA plans to regulate in a manner that will allow asbestos processors time to convert to substitutes. Small businesses may seek aid from the Small Business Administration to obtain capital to convert. It is too early to predict the effect of regulation on employment. EPA hopes that jobs lost from the asbestos industry will be offset by jobs gained in the substitutes industries. Substitute products generally cost more than asbestos-containing products, and these costs will be passed on to consumers.

Related Regulations and Actions

Internal: EPA has established National Emission Standards for Hazardous Air Pollutants for several asbestos sources under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* EPA is developing effluent guidelines regulating wastewater discharges of asbestos under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, as amended in 1972 and 1977. It is also considering additional regulation of asbestos in drinking water under the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*

The Agency is developing a rule to require surveys to determine whether asbestos hazards are present in public schools because of deteriorating insulation. EPA is also considering requiring appropriate corrective measures where it finds hazards (see 44 FR 54676, September 20, 1979). Other existing asbestos sources that the Agency may control in the future include public buildings where asbestos was used as an insulation or decorative material and merchant ships where asbestos is widely used as insulation.

EPA regulations directed specifically to asbestos are found in 40 CFR Part 61 (air) and Parts 129 and 427 (water).

External: EPA and CPSC both published ANPRMs on October 17, 1979 in the **Federal Register** (44 FR 60053). These ANPRMs were prefaced by a Joint Statement of Cooperation signed by the EPA Administrator and the CPSC Chairman. The statement indicated how the two agencies will cooperate and direct their regulatory efforts to minimize reporting requirements and other burdens on industry, and to improve overall public health. EPA is planning to promulgate a rule under § 8(a) of TSCA to require manufacturers and processors of asbestos fibers to submit economic and exposure information. EPA has proposed a rule under § 8(d) of TSCA requiring industry to submit unpublished health and safety studies relating to asbestos. CPSC is planning to issue a general order requiring manufacturers and private labelers of some categories of consumer products to submit information on the use of asbestos in those products. CPSC will not require the submission of information already submitted to EPA.

OSHA plans to lower its workplace standard for asbestos exposure (8-hour time-weighted average) from 2 f/cc (fibers per cubic centimeter) to 0.1 f/cc. This action is in response to a recommendation in April 1980 by the joint National Institute for Occupational Safety and Health (NIOSH)–OSHA Asbestos Work Group that "a new occupational standard be promulgated which is designed to eliminate nonessential asbestos exposures, and which requires the substitution of less hazardous and suitable alternatives where they exist."

Asbestos regulations promulgated in the past by other agencies are as follows:

CPSC—16 CFR Parts 1145, 1304, and 1305; OSHA—29 CFR Part 1910; FDA—21 CFR Parts 121, 128, 133, and 191; DOT—49 CFR Parts 170–189; MSHA—30 CFR Parts 55, 57, and 71.

Active Government Collaboration

To maximize the effectiveness of this proposed rule, EPA is coordinating either directly or through the Interagency Regulatory Liaison Group (IRLG) with the Occupational Safety and Health Administration (OSHA), the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), the Mine Safety and Health Administration (MSHA), and the Department of Transportation (DOT).

In July, 1980, EPA and the Consumer Product Safety Commission (CPSC) cooperated in sponsoring and organizing a 3-day workshop on substitutes for various uses of asbestos in commercial and industrial products. About 500 persons attended the workshop, which was designed to increase industry's awareness of substitutes for asbestos and to expand EPA's and CPSC's data base. EPA was the lead agency in coordinating the workshop.

Available Documents

ANPRM for Asbestos-Containing Materials in School Buildings, 44 FR 54676, September 20, 1979.

ANPRM for Commercial and Industial Use of Asbestos Fibers, 44 FR 60056, October 17, 1979.

Comment period extended, 44 FR 73127, December 17, 1979.

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EPA—Office of Water and Waste Management

Control of Organic Chemicals in Drinking Water (40 CFR Part 141*)

Legal Authority

The Safe Drinking Water Act, as amended, § 1412, 42 U.S.C. § 300(f) *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) includes this regulation because it is likely to impose compliance costs of over $100 million.

Statement of Problem

Recent technological developments in sophisticated analytical measurement techniques have resulted in the identification of numerous organic contaminants in drinking water that may pose a health risk to consumers. For example, chloroform, a suspected human carcinogen, is only one of many synthetic organic chemicals known to be present in drinking water. Chloroform is representative of a class of chemicals known as trihalomethanes (THMs), whose presence in drinking water was controlled by rules finalized at 44 FR 68624 on November 29, 1979. Future measures to control organic chemicals in drinking water are proceeding through two related approaches:

I. Treatment Technique Requirement for the Control of Synthetic Organic Chemicals—reproposal under consideration.

II. Control of volatile organics in drinking water; ANPRM late December 1980.

I. *Treatment Technique Requirement: Synthetic Organic Chemicals.*

Synthetic organic chemicals are chemicals which enter sources of drinking water as a result of industrial discharges, spills, sewage discharge, and non-point sources, such as urban and rural rainwater run-off. Some of these organic chemicals are either known or suspected carcinogens. The list of synthetic organic chemical contaminants that have been found at least once in drinking water has grown to over 1,000. Because of the technical infeasibility of controlling every synthetic organic contaminant individually by setting a maximum contaminant level (MCL), EPA is evaluating if control of a broad spectrum of organic chemicals by a treatment technique (filtering water through granular activated carbon) or equivalent technology would be appropriate in certain locations where substantial risk of contamination exists. The intent of applying a treatment technique at certain water supplies would be to improve the quality of drinking water at the tap and reduce the health risk to the public from long term exposures to synthetic organic chemicals in drinking water. EPA proposed regulations on February 9, 1978 (43 FR 5756), which would have required granular activated carbon (GAC) treatment to be installed at public water systems vulnerable to contamination by synthetic organic chemicals. Since the proposal, further information has become available regarding the performance of GAC; EPA is also conducting additional studies and will evaluate all of the available data to assess the appropriate regulatory action. If it is determined that the regulations should be reproposed, the reproposal would become one portion of the National Revised Primary Drinking Water Regulations which will apply to all public water systems in the United States.

Alternatives Under Consideration

The alternatives being considered include requirements for community water systems to install granular activated carbon treatment (GAC), or its equivalent, if they use sources of drinking water which are vulnerable to contamination by synthetic organic chemicals. The reproposed regulations will consider, among other possibilities, changes in the application of the GAC technology, as the required treatment might be achieved by replacing sand with GAC in existing filter beds. The frequency of reactivation (i.e., the process whereby adsorbed chemicals are removed from the GAC, restoring its capacity for adsorption) could be specified in the regulation. Reactivation frequencies under consideration range from 6 months to 1 year. On-going work being performed by EPA's Office of Research and Development is expected to broaden significantly our knowledge in this area; further, a survey is being conducted by EPA's Office of Drinking Water of water treatment systems in the U.S. that currently use GAC. This survey should provide information regarding the effectiveness of GAC for control of organic chemicals.

The criteria set forth in the original proposal for determining which public water systems are vulnerable to contamination by synthetic organic chemicals are currently being reevaluated; the reproposed regulations may specify rivers or stream segments that we consider to be subject to contamination by synthetic organic chemicals. These water sources would be chosen after an evaluation of the number and type of industrial/municipal discharges upstream of drinking water intakes, an estimate of the transportation of industrial and agricultural chemicals on the waterway and a review of the potential for contamination from non-point sources.

Summary of Benefits

Sectors Affected: The general public; municipally and privately owned public water systems; all segments of the water supply industry, including consulting sanitary engineers, analytical chemists, plant operators, and equipment manufacturers and suppliers.

A reproposed treatment technique for control of synthetic organic chemicals would provide protection to a larger population at a lower per capita cost (upwards of 80 percent of the American population at a per capita cost of $2.60 to $7.10) than would the original proposal (52 percent of the population and $7.10 to $28.10, respectively). The reproposed technique would provide broad spectrum protection from synthetic organic contaminants and could be implemented 2 to 3 years earlier than the original proposal.

Summary of Costs

Sectors Affected: State and local government; municipal and privately owned public water systems; and consumers in communities installing GAC facilities.

The estimated total national capital cost to implement a reproposal is $333 million over 3 years (in 1980 dollars). It is estimated that such expenditures would increase local water rates by an average of approximately $5 per year per family of three in those communities whose water supply system would install GAC facilities.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contamination of water would be indirectly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, and Water Quality Criteria.

External: State programs would deal with decisions on variances and exemptions from the regulations, and would provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of the proposed regulation requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food and Drug Administration. Also, we have gained data supporting development of criteria to determine if public water systems are vulnerable to contamination by synthetic organic chemicals through cooperation with the Coast Guard, Department of Transportation, and the Department of Commerce.

Available Documents

ANPRM—41 FR 28991, July 14, 1976.

NPRM—43 FR 5766, February 9, 1978

"Drinking Water and Health," National Academy of Sciences, 1977.

"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975.

"National Organics Monitoring Survey," EDA, Office of Drinking Water.

"Statement of Basis and Purpose for an Amendment to the National Interim Primary Drinking Water Regulations on a Treatment Technique for Synthetic Organic Chemicals," EPA, Office of Drinking Water, 1977.

"Economic Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," EPA, Office of Drinking Water, 1977.

"Draft Interim Treatment Guide for the Control of Synthetic Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, 1978.

"Revised Economic Impact Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," EPA, Office of Drinking Water, 1978.

"Operational Aspects of Granular Activated Carbon Adsorption Treatment," EPA, Municipal Environmental Research Laboratory, 1978.

National Academy of Sciences Study on Granular Activated Carbon, 1979.

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II. *Control of Volatile Organics in Drinking Water.*

Recent information indicates that a number of volatile organic chemicals exist in both raw and finished drinking waters, particularly in ground water supplies which have been contaminated by improper waste disposal practices. Accordingly, an ANPRM will be published that will set forth current considerations in the development of maximum contaminant levels (MCLs) for certain volatile organic chemicals in the Revised Primary Drinking Water. At this time, contamination of drinking water by volatile organics has been found to be most serious in ground waters in urbanized and industrial areas. The levels of occurrence, coupled with the suspected carcinogenicity and toxicity of several identified compounds, appear to support the setting of MCLs for the following compounds:

- Trichloroethylene
- Carbon tetrachloride
- Tetrachloroethylene
- 1,2-Dichloroethane
- 1,1,1-Trichloroethane
- cis-1,2-Dichloroethylene
- trans 1,2-Dichloroethylene

- 1,1-Dichloroethylene
- Methylene chloride
- Vinyl chloride
- Benzene

If EPA takes no action with regard to the above chemicals, a possible health risk to the public will continue to exist and the overall quality of drinking water will be suspect in those groundwater areas. Most of these chemicals are suspected carcinogens, while certain of them are known mutagens and/or teratogens.

Alternatives Under Consideration

Specific options are being developed and alternatives will be separately evaluated for each contaminant. MCLs will be proposed only after careful evaluation of the best available evidence in the areas of epidemiology, toxicology, analytical methods, quality assurance, monitoring requirements, feasibility and efficiency of competing treatment methods, and economic impacts.

Summary of Benefits

Sectors Affected: The sectors affected include the American public in general; municipally and privately owned public water supply systems; and all segments of the water supply industry, including consulting sanitary engineers, analytical chemists, plant operators, and equipment manufacturers and wholesalers.

These MCLs will have their greatest impact on small water supply systems which currently employ little or no treatment. The public served by such systems will, in particular, realize the benefits of this proposal.

It is impossible at this time to assign direct monetary values to the benefits to be realized under this proposal. Such benefits include a lessening of public exposure to toxic substances in drinking water and a consequential safeguarding of public health.

Summary of Costs

Sectors Affected: General public; State and local governments; and public water systems (both privately and publicly owned).

The public in general will be the principal group affected by this proposal, since the users will undoubtedly bear the costs of any necessary modifications to their water supply system. This will be true particularly for users of small water supply systems that currently employ little or no treatment.

No estimates of the economic impact are available at this time.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contaminants of water are indirectly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, Water Quality Criteria, Hazardous Waste Disposal Controls, and Underground Injection Control.

External: State programs would be expected to deal with decisions on variances and exemptions from the regulations and to provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of any regulation requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Product Safety Commission, and the Food and Drug Administration. In addition, the National Academy of Sciences and the National Drinking Water Advisory Council will be consulted during the development of MCLs.

Available Documents

"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975.

"National Organics Monitoring Survey," EPA, Office of Drinking Water.

"Interim Treatment Guide for Controlling Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, January 1978.

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EPA—OWWM

Hazardous Waste Regulations: Phase I and II Regulations to Control Hazardous Solid Waste from Generation to Final Disposal (40 CFR Parts 260, 261, 262, 264, 265, and 266)

Legal Authority

Resource Conservation and Recovery Act of 1976 (RCRA), as amended, §§ 3001, 3002, and 3004, 42 U.S.C. §§ 6921, 6922, and 6924.

Reason for Including This Entry

These regulations are important because they initiate, for the first time on a national level, management of hazardous solid waste from generation to final disposal. The Environmental Protection Agency (EPA) includes them in the Calendar to inform the regulated community and the general public of EPA's continuing actions to implement a national hazardous solid waste program.

Statement of Problem

EPA estimates that more than 54 million metric tons of hazardous waste is generated annually in the United States. Hazardous waste includes toxic chemicals, pesticides, acids, caustics, flammables, and explosives. Of this hazardous waste, EPA estimates that 90 percent has been managed by practices that will not meet the new Federal standards. A variety of health and environmental damages result from improper management practices. The most frequent are damages resulting from direct contact with toxic waste; fire and explosions; groundwater contamination by leachate; surface water contamination through runoff or overflow; air pollution by open burning, evaporation, and wind erosion; and poisoning through the food chain. The amount of hazardous waste will increase by 30 percent in the next decade, primarily because other environmental laws have curtailed emissions into the air, waterways, and oceans.

EPA has information on more than 400 cases of damage to human health or the environment due to improper hazardous waste management. One such case, Love Canal in Niagara Falls, New York, occurred because the hazardous waste facility was not properly monitored after it was closed. This resulted in the evacuation of 239 local families at relocation costs of approximately $10 million, projected clean-up costs of over $30 million, and health problems, including possible increases in birth defects, miscarriages, and liver and respiratory disorders. With as many as 30,000 hazardous waste disposal sites posing potential public health and environmental threats, hundreds of millions of dollars in damages and remedial costs could result if the problem is left unattended.

Alternatives Under Consideration

We studied a number of alternatives during the development of the final regulations. Several significant changes to the regulations required reproposal, partial promulgation, or promulgation of interim final rules for parts of §§ 3001 and 3004 of the Resource Conservation and Recovery Act of 1976 (RCRA). Consequently, rules that were not ready for promulgation by May 19, 1980 will be issued in late 1980 and early 1981 as Phase II regulations. In the preamble to the rules issued May 19, 1980 as Phase I, EPA discusses in detail the alternatives considered and the reasons for their selection or rejection.

To achieve a better balance between the often competing goals of regulatory specificity and broad standards, EPA has promulgated specific standards where appropriate and used broader ones or exceptions or variances where more flexibility is required. EPA has issued a notice of intent to issue regulatory amendments and interpretive guidance where situations of inappropriate results from application of the standards occur.

EPA promulgated the initial phase of RCRA § 3001 regulations on May 19, 1980. It identified four characteristics of hazardous waste (ignitable, corrosive, reactive, or toxic) to be used by persons handling solid waste to determine if that waste is hazardous. In addition, it listed 85 process wastes as hazardous wastes and approximately 400 chemicals as hazardous wastes if they are discarded. This regulation also set forth the criteria used by EPA to identify characteristics of hazardous wastes and to list hazardous wastes. Because of limited resources, we have tried to prioritize our efforts to deal with the most serious environmental problems first and to finalize those portions of the proposed regulations of December 18, 1978, which we must issue if a core hazardous waste management program is to be implemented.

We deferred until Phase II final action on a number of aspects of the proposed regulation, including integrating regulating polychlorinated biphenyls ("PCBs") under RCRA and the Toxic Substances Control Act ("TSCA"); fully regulating wastes that are used, re-used, reclaimed, or recovered; infectious wastes; radioactive wastes; and a number of proposed listed wastes. We expect to finalize regulations for the first three of these and for uranium and phosphate radioactive wastes by the end of 1980. Congressional action on the RCRA reauthorization bill deferred regulation of uranium and phosphate radioactive wastes until 6 months after a study is completed. However, EPA plans to promulgate regulations regarding the use of these wastes in building materials for habitable structures. The other waste streams we deferred from final action included those wastes which EPA intends to list as hazardous but for which revised background documents could not be completed by May 19, wastes for which more information was needed to determine that they were hazardous, wastes which available data suggested are not hazardous, and wastes which are no longer produced. On July 16, EPA listed 18 wastes from this first category and proposed that seven more be listed. We plan to finalize these last seven wastes by late 1980. As significant health effects information on other wastes becomes available, these too will come under control.

RCRA § 3002, which outlines the standards for generators of hazardous waste, was promulgated February 26, 1980 and clarified May 19, 1980. Generators must prepare manifests for all shipments of hazardous waste that are sent to off-set treatment, storage, or disposal facilities, where personnel also fill out the manifest form. This form traces the hazardous waste from generation to ultimate disposal. Generators are also required to keep records, report those shipments which do not reach the facility designated on the manifest, and submit an annual summary of their activities to EPA. The May 19, 1980 changes included requiring a generator to designate a facility, or accept the waste if it cannot be delivered to the designated or alternate facility; expanding the requirements for accumulation of hazardous wastes in tanks; and requiring that generators develop contingency plans.

The regulations adopted a system which tiers special requirements for hazardous waste produced by small generators: low quantity (1 to 100 kilograms per month) exclusion limits for certain extremely hazardous wastes; and an initial general exclusion limit for generators of less than 1,000 kilograms per month of other hazardous wastes in combination with disposal conditions. The second exclusion assumed that small amounts of hazardous waste will be disposed of in land disposal facilities approved under RCRA Subtitle D and, therefore, will not pose a hazard to human health or the environment. This approach should allow EPA and the States to focus limited enforcement and implementation resources on those generators producing over 95 percent of all hazardous waste.

On May 19, 1980, EPA issued a revision of part of its proposed rule of December 18, 1978 under RCRA § 3004, outlining the requirements for financial responsibility which owners and operators of hazardous waste management facilities must meet. Under this revised proposal, as in the original, EPA would require these owners or operators to provide assurance that funds will be available when needed for properly closing the facility and, in the case of a disposal facility, for maintaining and monitoring it after closure. We proposed the revised provisions for financial assurance for inclusion both in the general standards to be used in permitting (Part 264) and in the standards for facilities in interim status (Part 265). The revised proposal includes a new requirement for liability insurance for facilities in interim status. EPA reproposed this rule because of the many new and revised provisions which have not been subject to public review. The changes have resulted from further analyses by the Agency in response to public comment on the original proposal. We are now examining the comments on the revised proposal and considering them in writing our final regulations, which we expect to promulgate in November 1980, as part of the Phase II regulations.

The revised proposal allows a number of options in providing financial assurances, while the original proposal had only one option, trust funds. We believe that expanding these options will enable facilities to choose the method most feasible for their situation. The options include a surety bond, a letter of credit, a financial test and guarantee, and a revenue test. A trust fund is established by the owner or operator of a hazardous waste facility and held by a financial institution as a trustee, with fiduciary responsibility to carry out the terms of the trust, to be specified in the regulation. A surety bond is a contract by which a surety company engages to be answerable for the default or debt by the owner or operator of a hazardous waste facility on responsibilities relating to closure or post-closure care of that facility and agrees to satisfy these responsibilities, if the owner or operator does not satisfy them, in accordance with the terms to be specified in the regulation. A letter of credit is an irrevocable engagement by an issuing financial institution, at the request of an owner or operator of a hazardous waste facility. The institution will honor demands for payment made by EPA, for the period of the letter of credit and under the terms to be specified in the regulation. The financial test and guarantee refers to those requirements to be specified in the regulation which private sector organizations must meet to be considered financially responsible. This could include requirements such as enough capital to cover closure and post-closure care of such facilities. The revenue test refers to those requirements to be specified in the regulation which municipalities must meet to be considered financially responsible. This could include requirements such as enough revenues from taxes and other sources to cover closure and post-closure of hazardous waste facilities for which the municipalities are responsible.

The proposed RCRA § 3004 standards of December 18, 1978 were intended to ensure the proper design, construction, and operation of hazardous waste management facilities. Lacking information on long-term experience in advanced waste management technologies, EPA deferred promulgation of nationally applicable technical standards. Accordingly, these standards are being promulgated and implemented in phases.

The Phase I standards are minimum requirements, primarily administrative, appropriate for all wastes during the Interim Status Period. Other general technical requirements, e.g., waste analysis, training, and contingency plans, provide flexibility for inclusion of facility-specific factors.

To issue permits protecting human health and the environment, in the absence of the detailed national technical standards, EPA must evaluate the technical capabilities of specific facilities to manage hazardous wastes. Phase II of the RCRA § 3004 regulations will be a set of technical regulations allowing permits to be issued based on the Agency's best engineering judgment of the technical requirements to be met by individual facilities. These regulations will allow permits to be processed by evaluating such facilities for both site-specific factors and characteristics of the waste the facility will manage. At a minimum, these regulations will contain a set of factors (e.g., distance to groundwater and waste mobility) which must be considered. Where available, the regulations will also contain models, formulas, and performance standards to provide a standardized method of analysis. To determine whether a facility will adequately safeguard human health and the environment, EPA will apply best engineering judgment to data which the permit applicant submits concerning these factors. This approach is appropriate because the possible combinations of types of wastes and management scenarios are almost infinite. We expect to issue these technical regulations in November 1980.

Phase III of the regulatory program will involve the promulgation of more definitive counterparts of the Phase II standards, superceding them and making permitting a more straightforward process. The Phase III standards will include both standards for specific types of facilities such as tanks, surface impoundments, piles, landfills, and incinerators, as well as standards for specific industries and wastes requiring special management standards. All standards for Phases I, II, and III allow variances to selected individual standards if an equivalent degree of protection or performance can be demonstrated.

Summary of Benefits

Sectors Affected: The general public; all industries handling hazardous waste, especially manufacturing; EPA; and financial institutions.

By issuing these regulations, EPA is creating a framework for the control of hazardous wastes which would otherwise contaminate groundwater, surface waters, and soils; poison humans and animals; and cause air pollution, fires, and explosions. These regulations are part of a series of seven required by Subtitle C of RCRA to initiate hazardous waste management nationally. The regulatory program will reduce the incidence of damage to human health and the environment and save hundreds of millions of dollars in the costs associated with clean-up, emergency response, and health and environmental damages.

The expected improvements are not quantifiable, however, since records of past practices and problems are extremely limited. Also, it is difficult or impossible to quantify benefits derived from reduced adverse impacts on health or the environment. In addition, EPA expects an improvement in economic efficiency and equity, and substantial direct savings from avoiding clean-up costs in the future. Pre-RCRA practices for managing hazardous waste created economic inequities as the cost of disposal often fell randomly on individuals due to improper management or on the public at large, since tax revenues were used to clean up inadequate facilities. Pre-RCRA industry management practices also created economic inefficiency as the prices of goods did not include the cost of properly managing the waste produced. Under RCRA, Subtitle C, the economy will be more efficient and equitable because those receiving the benefits will also pay the costs, and prices will serve as a more efficient allocator of resources.

Comprehensive regulatory controls over the generation, movement, storage, and treatment of hazardous wastes may also help reduce opposition to the siting of hazardous waste management facilities. Overcoming the barrier of local opposition will allow siting of management facilities at environmentally secure sites and further reduce the possibility of damages to health and the environment.

Benefits to financial institutions, EPA, and the facilities handling hazardous waste from increased options in providing financial assurances (RCRA § 3004), include the following:

This approach gives the facilities increased flexibility in meeting the financial requirements, by allowing them to select the one option most suited to their situation. As the trust fund will be completely funded by the owner or operator of the hazardous waste facility, he can obtain a rate of return from investing this amount, which would not be possible otherwise. Those large companies whose financial condition is such that they do not have to fully collateralize their surety bonds or letters of credit will merely have to pay an annual fee (representing about 1 to 5 percent of the fully collateralized amount) and can invest the rest.

To help all these facilities, their financial institutions, and EPA itself, we have designed standard forms for each of these options. This will reduce the reporting and recordkeeping burden on the facilities, enable their financial institutions to process their requests for financial assurance more expeditiously, and reduce the staff time EPA needs to monitor the process and gather the information it needs.

Summary of Costs

Sectors Affected: All industries generating hazardous waste, especially manufacturing; consumers of goods manufactured by these industries; public and private waste management; and Federal, State, and local governments.

Although these regulations affect most industries throughout the country, the Agency focused its Economic Impact Analysis (EIA) on major hazardous waste generating segments within the following industries: textile mill products, industrial inorganic chemicals, plastic materials, drugs, paints, industrial organic chemicals, explosives, agricultural chemicals (including pesticides), petroleum refining, lubricating oil and greases, rubber products, leather tanning and finishing, primary metal industries, plating and polishing of metals, special industrial machinery, electronic components, and batteries. Eight sectors are likely to experience some plant closures and job losses. These sectors include electroplating; wool fabric dyeing and finishing; mercury cell chlorine; leather finishing; mercury smelting and refining; and secondary copper, secondary lead, and secondary aluminum smelting. Overall, we do not find substantial price increases resulting from the regulation of products from these industries, except for projected price increases for electroplating job shops (6.6 percent) and cattlehide non-chrome tanneries (1 to 3 percent).

The estimated annual compliance cost attributed to the Interim Status Standards part of the Phase I RCRA hazardous waste regulations is $510 million. Of this, $303 million (1979 dollars) is associated with closure/post-closure liability requirements, $57 million is attributable to treatment and disposal, and $15 million is associated with recordkeeping and reporting. Monitoring and testing, administration, training, and contingency planning account for the remaining $135 million. The total annual cost represents less than 0.2 percent of the annual value of sales for those affected industries examined.

The regulations will also affect the public and private hazardous waste management industry. In all, some 380,000 generators, transporters, treaters, storers, and disposers of hazardous wastes will be brought into the regulatory program. The affected industrial segments will probably pass on the increased costs to the public, resulting in a nominal increase in prices of selected consumer items.

Industries which presently dispose of hazardous waste at their own facilities may begin to ship their waste to off-site facilities rather than incur the costs of upgrading their disposal facilities to comply with the regulations. This is likely to cause a short-run shortage of disposal capacity, increasing the demand for new sites. This capacity shortage and the rigorous standards for facilities may result in a nominal increase in the cost of disposal.

We estimate the governmental costs associated with implementation and maintenance of the hazardous waste management program at $20 million to $35 million per year (1979 dollars) 1979 dollars. We currently estimate that 39 States and territories will assume the program while EPA operates a Federal program in the remaining 17, by January 1982.

Because Texas, Ohio, Pennsylvania, Louisiana, Michigan, Indiana, Illinois, Tennessee, West Virginia, and California generate 65 percent of all hazardous waste produced nationally, these States will probably be affected to a greater degree than others.

Related Regulations and Actions

Internal: Proposed and final rules linked with RCRA §§ 3001, 3002, and 3004 in creating the RCRA Subtitle C regulatory framework are:

(1) Authorization of State Hazardous Waste Programs; Advance Notice of Final Regulation, 45 FR 6752, January 29, 1980.

(2) Notification of Hazardous Waste Activity; Public Notice, 45 FR 12746, February 26, 1980.

(3) Standards for Transporters of Hazardous Waste; Final Rule, 45 FR 33150, May 19, 1980.

(4) Final Consolidated Permit Regulations, 45 FR 33290; and Consolidated Permit Application Form, 45 FR 33516, May 19, 1980 (final rule and application forms, respectively).

On August 19, 1980, EPA announced a notice of its intent to issue amendments to, interpretations of, and answers to questions on its February 26, and May 19, 1980, hazardous waste regulations in 45 FR 55386.

EPA issued rules regarding the disposal of polychlorinated biphenyls (PCBs) under the Toxic Substances Control Act, § 6(e), 15 U.S.C. § 2605. Regulations issued under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 135 *et seq.*) address the disposal of pesticides and pesticide containers. Rules under the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. § 1401 *et seq.*) control incineration or dumping of hazardous waste at sea.

External: The Department of Transportation (DOT) has developed hazardous materials transportation regulations (49 CFR Parts 171–173 and 178–179) controlling containerization and labeling of waste by generators using transporters engaged in interstate or foreign commerce. EPA published the final rule, Standards Applicable to Transporters of Hazardous Waste, in 45 FR 12737, February 26, 1980. This incorporated DOT's rules on labeling, marking, packaging, placarding, and discharge reporting.

DOT, in its final rule of May 22, 1980, 45 FR 34560, incorporated EPA's manifest requirements and expanded its list of hazardous materials to include hazardous wastes which require a manifest. Through implementation of certain record-handling requirements, this regulation ensures that these wastes are delivered to predetermined, designated facilities. DOT's regulation applies to inter- and intrastate transportation of hazardous wastes.

Active Government Collaboration

The Department of Defense, Occupational Safety and Health Administration, Department of Energy, Food and Drug Administration, Soil Conservation Service, Water Resources Council, the Center for Disease Control of the Department of Health and Human Services, Department of Transportation, and the Interstate Commerce Commission cooperated with EPA during development of the regulations.

Available Documents

Phase II Final Rules—Those wastes proposed as hazardous on July 16, 1980, the RCRA § 3001 Interim Final Rules issued May 19, 1980, and RCRA § 3004 Technical Standards and financial requirements for owners and operators of hazardous waste management facilities, were finalized November 19, 1980.

Phase I Final Rules—Regulations affecting hazardous waste generators became effective November 19, 1980. Regulations for identification and listing of hazardous waste promulgated on May 19, 1980 became effective November 19, 1980. Regulations promulgated May 19, 1980 affecting owners or operators of hazardous waste treatment, storage, or disposal facilities became effective November 19, 1980.

Advance Notice of Final Rule, 45 FR 6752, January 29, 1980.
Public Notice, 45 FR 12746, February 26, 1980.
Final Rule, 45 FR 12722, February 26, 1980.
Final Rule, Interim Final Rule, 45 FR 33084, May 19, 1980.
Proposed Rule, 45 FR 33136, May 19, 1980.
Final Rule, 45 FR 33140, May 19, 1980.
Final Rule, Interim Final Rule, 45 FR 33154, May 19, 1980.
Revision of Proposed Rule, 45 FR 33260, May 19, 1980.
Interim Final Rule, 45 FR 47832, July 16, 1980.
Proposed Rule, 45 FR 47835, July 16, 1980.

The EPA Office of Solid Waste Docket

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(Room 2711, EPA, 401 M Street, S.W., Washington, DC 20460) maintains the following documents for public review:

- Background documents for interim status standards
- Final background documents
- Resource Requirements Summary
- Regulatory Analysis
- Public comments
- Summaries of ex parte contacts
- Public hearing transcripts
- Studies and reports on hazardous waste and hazardous waste management
- References for background documents

Copies of the following documents are also available from Edward Cox, Solid Waste Information Office, 26 West St. Clair, Cincinnati, OH 45260:

- Draft Environmental Impact Analysis
- Draft Integrated Impact Assessment of Hazardous Waste Management Regulations
- Studies and reports on hazardous wastes and hazardous waste management

Agency Contact

Criteria for Identifying and Listing Hazardous Waste (RCRA § 3001):
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Standards Applicable to Generators of Hazardous Waste (RCRA § 3002).
Rolf Hill
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Office of Solid Waste (WH–563)
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Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (RCRA § 3004):
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EPA—OWWM

Sewage Sludge Disposal Regulations (40 CFR Part 258)

Legal Authority

Clean Water Act, § 405(d), 33 U.S.C. § 1345.

Reason for Including This Entry

These regulations are important because they will provide requirements for the disposal and use of wastewater treatment plant sludge. Initial regulations will include requirements for the landspreading of sludge as well as for the distribution and marketing of fertilizers and soil conditioners derived from sludge. Ultimately, the impact on the regulated community of all the sewage sludge disposal regulations is expected to exceed $100 million total cost.

Statement of Problem

The Environmental Protection Agency (EPA) estimates that approximately 5 million dry tons of municipal sewage sludge from publicly owned treatment works (POTWs) alone are generated annually in the United States. Sewage sludge is a broad term for the solids removed from wastewater as it goes through a municipal treatment plant and is cleaned up for discharge. Sludge can be disposed of—or used—in a liquid form or it can be concentrated by dewatering processes. These can be mechanical, heat drying, or outdoor drying beds or lagoons. The end product can be a liquid, a thick slurry, a wet cake, a dry cake, a compost product, or a dried powder. The end product needs to be regulated to prevent its uncontrolled or indiscriminate use, which could lead to potential environmental and public health problems. Documented cases of damage incidents indicate that some of the sludge-based fertilizer and soil conditioner products have been found to contain potentially harmful levels of heavy metals, toxic organics, and pathogens.

Sludge volume is expected to double in the next 10 years, due to an increase in the volume of sewage to be treated and the implementation of advanced wastewater treatment systems, which will treat such wastewater more completely. Currently, the major disposal methods of sewage sludge are landspreading (31 percent), landfilling (24 percent), incineration (21 percent), and ocean disposal (18 percent). Composted sludge is produced by adding wood chips or other organic refuse to dewatered sludge to produce a humus-like material with soil-conditioning and nutrient value. When composted properly, this material is essentially ordorless and pathogen-free.

Over the years, EPA has issued several regulations protecting single environmental media, such as air, water, or land, from degradation. In the area of sludge disposal, this sequential, rather than comprehensive approach, has often resulted in shifting the problem from one environmental medium to another (e.g., from the ocean to land). A comprehensive approach will enable risk assessment to be conducted across all environmental media, rather than transferring risk from one medium to another.

Alternatives Under Consideration

As mentioned above, EPA believes that promulgation of a comprehensive regulation will be preferable to assorted or no regulations. Therefore, EPA is considering a new approach by incorporating all regulations affecting sewage sludge disposal into a comprehensive sludge management regulation. The most important beneficial result of this approach would be to encourage a complete environmental and economic assessment of sludge management alternatives at the local level. Other benefits will include an easier understanding of sludge disposal requirements by the public and better coordination of sludge management programs at the State and local levels.

Since complete issuance of a comprehensive sewage sludge regulation would take several years, EPA intends to develop these regulations in a phased program. This allows the Agency to both address the various methods of sewage sludge disposal according to perceived priorities and to expand the scientific data base.

All land disposal of non-hazardous sludges, which includes landfilling, disposal in surface impoundments, and landspreading (both on food-chain crop land and non-food-chain land; food-chain crop land is used for growing crops for direct human consumption or for feeding animals whose products will be used for direct human consumption; non-food-chain land is that land used for other purposes and which does not contribute to the human food chain) is currently regulated by the requirements of the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 44 FR 53438, issued on September 13, 1979 (the Criteria). These regulations were issued by EPA under authority of the Resource Conservation and Recovery Act (RCRA) Subtitle D and the Clean Water Act (CWA) § 405. The next regulatory proposal will include an amendment to the Criteria by specifying certain recordkeeping requirements for the land application of sewage sludge.

EPA expects to propose regulations for the distribution and marketing of sludge products under its sewage sludge disposal regulations in December 1980 and to finalize them in December 1981. Distribution and marketing of sludge-derived fertilizers and soil conditioners is the next candidate for regulation because EPA perceives an immediate need in this area for several reasons. First, the land application of sludge products is currently unregulated except in a few States. Second, use of this method is expected to increase as ocean disposal is being phased out as an alternative, thus increasing the health hazards as the amount of heavy metals, toxic organics, and pathogens in the soil is increased.

We will reserve several other parts of the comprehensive sewage sludge regulations for future completion and will incorporate and update some of the regulations described below under "Related Regulations and Actions." These may include landfilling, incineration, surface impoundments, thermal processing, and ocean disposal. EPA does not yet have a timetable for completion of these parts of the regulations.

Summary of Benefits

Sectors Affected: Public and privately owned sewerage systems; EPA; State and local governments; manufacturing and distributing of fertilizers and soil conditioners derived from sludge; and the general public.

Although the costs of these regulations are not known at present, EPA feels that the benefits to be gained are important enough to justify writing these regulations. The Agency will discuss the benefits and costs more fully in its Regulatory Analysis, which will be completed at the time of the proposal for the distribution and marketing regulations. Benefits include aiding the State and local governments to select the most effective sludge management approach for their individual situations, promoting better coordination of sludge management programs among jurisdictions within a regional area (such as would be needed for the Potomac River, which travels through Maryland, Virginia, and the District of Columbia), and providing the public and the sludge disposal organizations (both private and public) with advice on the safe and proper methods for disposing of sewage sludge. Documented cases of damage incidents indicate the potential environmental and public health problems relating to the uncontrolled or indiscriminate use of sludge-based fertilizer and soil conditioner products. Although some of these products have been found to contain potentially harmful levels of heavy metals, toxic organics, and pathogens, they are often distributed and marketed without the public knowing about their chemical or biological constituents or the proper manner of application to the soil. Over time, repeated application of such products can result in accumulation of contaminants in the soil, which will affect future use of the site.

We are preparing an Environmental Impact Statement/Economic Impact Analysis at the present time; it will be completed at the time of the proposal for the distribution and marketing regulations.

Summary of Costs

Sectors Affected: EPA; State and local governments; and public and privately owned sewerage systems.

As mentioned in "Summary of Benefits," the Agency will address the costs fully in its upcoming Regulatory Analysis.

Related Regulations and Actions

Internal: Of the incineration methods of sewage sludge disposal, both new stationary sources or air emissions and hazardous pollutants are regulated by the Clean Air Act (CAA). Polychlorinated biphenyls (PCBs) are regulated by the Toxic Substances Control Act (TSCA), and hazardous wastes by RCRA Subtitle C. Ocean dumping is regulated by the Marine Protection, Research and Sanctuaries Act (MPRSA).

External: None.

Active Government Collaboration

In developing the pre-proposal and the proposal drafts of the distributing and marketing of sewage sludge, EPA is working with the Food and Drug Administration, the Consumer Product Safety Commission, and the U.S. Department of Agriculture.

Available Documents

Final Rule for air emission and hazardous pollutants is in 40 FR 46259, October 6, 1975 and 40 FR 48302, October 14, 1975.

Final Rule for ocean dumping is in 42 FR 2462, January 11, 1977.

Final, Interim Final, and Proposed Rules for the Criteria for classification of solid waste disposal facilities and practices are in 44 FR 53438, September 13, 1979.

Final Rule for polychlorinated biphenyls is in 44 FR 31514, May 31, 1979.

Final, Interim Final, and Proposed Rules for hazardous waste are in 45 FR 33066, May 19, 1980.

Pre-proposal draft of the distribution and marketing of sewage sludge, May 6, 1980. Available free from the Public Information & Participation Branch, U.S. EPA, Office of Solid Waste (WH-562), 401 M Street, S.W., Washington, DC 20460.

Public comments concerning sludge requirements contained in the Criteria and the pre-proposal draft of the distribution and marketing of sewage sludge are available for review in the Solid Waste Docket, Room 2711A, U.S. EPA, Office of Solid Waste (WH-562), 401 M Street, S.W., Washington, DC 20460.

After the regulation is proposed, background documents and the Environmental Impact Statement/Economic Impact Analysis will be available for review in the Solid Waste Docket at the above address.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Economic Regulatory Administration—

82586 12–15–80 / Motor gasoline allocation revision

Deadlines for Comments On Proposed Rules for the Week of January 18 through January 24, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

1279 1–6–81 / Milk in the Southern Michigan Marketing Area; recommended decision and opportunity to file written exceptions on proposed amendments to tentative marketing agreement and to order; comments by 1–21–81

80535 12–5–80 / Wheat and wheat foods research and nutrition education; comments by 1–19–81

Animal and Plant Health Inspection Service—

76689 11–20–80 / Importation of animals; procedures for withdrawal or denial of approval of commercial bird quarantine station; comments by 1–19–81

Commodity Credit Corporation—

85041 12–24–80 / Cooperative Marketing Associations; Eligibility requirements for price support; comments by 1–23–81

Farmers Home Administration—

76089 11–18–80 / Clarification of economic emergency loans (final rule); comments by 1–19–81

77036 11–21–80 / Community facility loans and development grants for community domestic water and waste disposal systems; comments by 1–21–81

76440 11–19–80 / Supervised bank accounts; loan and grant disbursement; comments by 1–19–81

Food and Nutrition Service—

77258 11–21–80 / Federal sanctions and State agency liabilities; comments by 1–21–81

Food Safety and Quality Service—

77037 11–21–80 / Grading of shell eggs, rabbits, and poultry, and inspection of eggs and egg products; comments by 1–21–81

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM—

77080 11–21–80 / Workshop responsibilities and specification changes; comments by 1–20–81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

76661 11–20–80 / Deep seabed mining; pre-enactment explorers; comments by 1–19–81

80847 12–8–80 / Tanner crab off Alaska; Amendment to fishery management plan and proposed regulation; comments by 1–18–81

CONSUMER PRODUCT SAFETY COMMISSION

76447 11–19–80 / Voluntary standards activities; modification of policy; comments by 1–19–81

EDUCATION DEPARTMENT

84950 12–23–80 / College Library Resources Program (Title 11–A HEA); comments by 1–22–81

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

84823 12–23–80 / Availability of revised supplementary information and extension of the time period for public comment; comments by 1–23–81

80273 12–4–80 / Maximum lawful price for natural gas from stripper wells; comments by 1–23–81

2036 1–8–81 / Natural gas; incremental pricing; adoption of revised alternative fuel price ceilings for State of Kentucky; comments by 1–23–81

85779 12–30–80 / Proposed designation of a tight formation in Texas; comments by 1–21–81

ENVIRONMENTAL PROTECTION AGENCY

77464 11–24–80 / Air quality, Arizona, California, Hawaii, and Nevada; ambient surveillance provisions; comments by 1–23–81

85101	12-24-80 / Air quality attainment designations, Maryland redesignation for carbon monoxide for Cumberland and Hagerstown; comments by 1-23-81
84098	12-22-80 / Approval and promulgation of implementation plan for Illinois; comments by 1-21-81
77054	11-21-80 / Approval and promulgation of implementation plans; proposed revision to the New York State implementation plan; comments by 1-21-81
77052	11-21-80 / Approval and promulgation of implementation plans: State of Iowa; State implementation plan for lead; comments by 1-21-81
84099	12-22-80 / Approval and promulgation of State implementation plans: State of Missouri; comments by 1-21-81
83546	12-19-80 / Colorado State Implementation Plan; alternative emission reduction for Coors Container Facility; comments by 1-19-81
85101	12-24-80 / Diphenamid, proposed tolerance of herbicide on raspberries; comments by 1-23-81
85102	12-24-80 / Fluchloralin; proposed tolerances of herbicide on peanuts, peanut forage, and peanut hay; comments by 1-23-81
77435	11-24-80 / Hazardous waste listings; wastes from wood preserving industry; re-opening of comment period; comments by 1-23-81 [*See also* 45 FR 33123 and 33136, 5-19-80]
76618, 76620, 76624, 76626	11-19-80 / Hazardous waste management system; interim rules; comments by 1-19-81 (4 documents)
80561	12-5-80 / Hazardous Waste management system; used oil burned as fuel report; comments by 1-19-81
80316	12-4-80 / Intent to promulgate a maintenance of pay provision as part of the Idaho State Implementation Plan; comments by 1-19-81
85105	12-24-80 / 2,4-*D* isopropyl ester; proposed tolerance on citrus fruits; comments by 1-23-81
85103	12-24-80 / Methidathion; proposed tolerances of insecticide on mangos; comments by 1-23-81
76346	11-18-80 / National emission standards for the hazardous air pollutant vinyl chloride; comments by 1-19-81
77353	11-21-80 / Physical, chemical, persistence, and ecological effects testing; proposed good laboratory practice standards; comments by 1-21-81
77332	11-21-80 / Proposed environmental test standards; comments by 1-21-81
84827	12-23-80 / Proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk of cancer; comments by 1-22-81
76404	11-18-80 / Proposed standards to limit atmospheric emissions of particulate matter from new, modified, and reconstructed asphalt blowing stills, asphalt saturators, asphalt storage tanks, and mineral handling and storage operations in the asphalt processing and roofing manufacturing industry; comments by 1-19-81
76209	11-18-80 / Redesignation of Linn County, Iowa (Cedar Rapids), from nonattainment to attainment regarding ozone ambient air quality standards; comments by 1-19-81
76427	11-18-80 / Standards of performance for new stationary sources; priority list; comments by 1-19-81
81074	12-9-80 / Steam electric power generating point source category effluent limitation guidelines; pretreatment standards and new source performance standards; comments by 1-19-81
85104	12-24-80 / Terbacil; proposed tolerance of herbicide on aparagus; comments by 1-23-81

FEDERAL COMMUNICATIONS COMMISSION

73719	11-6-80 / FM broadcast station in Andrews and Pawley's Island, S.C., proposed changes in table of assignments; reply comments by 1-19-81
78735	11-28-80 / FM broadcast station in Los Lunas, N. Mex.; changes in table of assignments; reply comments by 1-19-81
73720	11-6-80 / FM broadcast station in North Las Vegas, Nevada, proposed changes in table of assignments; reply comments by 1-19-81
73980	11-7-80 / FM broadcast station in St. Johnsbury, Vt.; changes in table of assignments; reply comments by 1-19-81

FEDERAL MARITIME COMMISSION

84832	12-23-80 / Exemption of collective bargaining agreements; proposed revocation; comments by 1-22-81

FEDERAL RESERVE SYSTEM

80648	12-5-80 / Truth in lending; Regulation Z; proposed complete revision; comments by 1-19-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service—

76212	11-18-80 / Hospitals and medical facilities construction and modernization and health professional personnel teaching facilities; loan guarantees; use of notes as collateral for tax-exempt financing; comments by 1-19-81

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of Assistant Secretary—

76376	11-18-80 / Changes in mortgage amounts under HUD's single family mortgage insurance programs; (interim rule); comments by 1-19-81

INTERIOR DEPARTMENT

Fish and Wildlife Service—

70198	10-22-80 / Proposed determination of critical habitat for the Hawksbill Sea Turtle in Puerto Rico; comments by 1-21-81
70192	10-22-80 / Proposed listing with endangered status and critical habitat for the Monito Gecko; comments by 1-21-81

Land Management Bureau—

84390	12-22-80 / Oil and gas leasing, and leasing of minerals other than oil and gas; special acts; comments by 1-21-81

National Park Service—

84997	12-24-80 / Demonstrations and special events; 1981 inauguration; comments by 1-23-81
84390	12-22-80 / Oil and gas leasing, and leasing of minerals other than oil and gas; Special Acts; comments by 1-21-81

INTERSTATE COMMERCE COMMISSION

80370	12-4-80 / Coal rate guidelines nationwide; comments by 1-19-81
80150	12-3-80 / Railroad revenue adequacy standards; comments by 1-19-81

JUSTICE DEPARTMENT

Prisons Bureau—

75125	11-13-80 / Control, custody, care, treatment, and instruction of inmates; incoming publications; interim rule; comments by 1-19-81

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LABOR DEPARTMENT

83998 12–19–80 / Procurement; grants and contracts; cost principles and procedures; comments by 1–19–81

PERSONNEL MANAGEMENT OFFICE

76097 11–18–80 / Civil service retirement program and Federal employees health benefits program; definition of child eligible for survivor annuity benefits and health benefits coverage; interim rule; comments by 1–19–81

76183 11–18–80 / Regulations to govern promotion of Administrative Law Judges (ALJs); comments by 1–19–81

POSTAL SERVICE

84060 12–22–80 / Annual presort First-class Mailing fee; comments by 1–23–81

84826 12–23–80 / Centralized delivery mail receptacles; comments by 1–21–81

SECURITIES AND EXCHANGE COMMISSION

78158 11–25–80 / Revisions of investment company current report forms; comments by 1–23–81

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

76868 11–20–80 / Export airworthiness approvals; comments by 1–19–81

76691 11–20–80 / Summary of petitions received and dispositions of petitions denied; comments by 1–19–81

Federal Highway Administration—

77455 11–24–80 / Buy-America requirements; use of domestic steel construction materials; comments by 1–23–81

[Corrected at 45 FR 80836, 12–8–80]

63535 9–25–80 / Elimination of the first aid kit in buses operating in interstate or foreign commerce; comments by 1–22–81

70288 10–23–80 / Inspection, repair, and maintenance—inspection requirements for leased vehicles; comments by 1–21–81

63535 9–25–80 / Parts and accessories necessary for safe operation; comments by 1–22–81

[Corrected at 45 FR 65261, 9–25–80]

76705 11–20–80 / Use and disposition of property acquired by States for modified or terminated highway projects; comments by 1–19–81

National Highway Traffic Safety Administration—

84108 12–22–80 / Passenger automobile average fuel economy standards; proposed decision to grant exemption; comments by 1–21–81

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

76191 11–18–80 / Amendments to explosive materials regulations; comments by 1–19–81

Customs Service—

76449 11–19–80 / Examination of merchandise; amendments to regulations; comments by 1–19–81

Internal Revenue Service—

76450 11–19–80 / Indirect foreign tax credit for domestic corporations required to include amounts in gross income with respect to certain third-tier corporations under section 951; comments by 1–19–81

VETERANS ADMINISTRATION

77050 11–21–80 / Privacy Act exemptions; comments by 1–21–81

Deadlines for Comments On Proposed Rules for the Week of January 25 through January 31, 1981

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

78699 11–26–80 / Wool, hair and bristles; import restrictions; comments by 1–26–81

Commodity Credit Corporation—

85039 12–24–80 / 1981 Peanut program; Proposed determinations regarding a loan and purchase program for the 1981 crop of peanuts; comments by 1–30–81

78622 11–26–80 / Export Credit Guarantee Program (GSM–102); guarantee against defaults by foreign banks; comments by 1–26–81

CIVIL AERONAUTICS BOARD

73087 11–4–80 / Classification and exemption of air taxi operators; dual authority; reply comments by 1–26–81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

85769 12–30–80 / Advance notice of proposed rulemaking for improving coastal management in the United States; comments by 1–31–80

74178 11–7–78 / Shrimp fishery of Gulf of Mexico; comments by 1–31–81

[Corrected at 79126, 11–28–80]

COMMUNITY SERVICES ADMINISTRATION

85485 12–29–80 / Environmental protection; comments by 1–28–81

EDUCATION DEPARTMENT

78962 11–28–80 / Bilingual Education Training Program; comments by 1–25–81

86312 12–30–80 / Library Research and Demonstration Program (Title II–BHEA) provisions; comments by 1–29–81

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

85810 12–29–80 / Grant programs for schools and hospitals and for buildings owned by units of local government and public care institutions; comments by 1–28–81

Federal Energy Regulatory Commission—

84814 12–23–80 / Gathering allowances and compression allowances under section 110 of the Natural Gas Policy Act of 1978; Inquiry; comments by 1–30–81

1743 1–7–81 / Proposed elimination of requirement of Federal entities to file reports pursuant to § 141.1; comments by 1–29–81

ENVIRONMENTAL PROTECTION AGENCY

86506 12–31–80 / Air quality, Pennsylvania; revision of State Implementation Plan; alternative emission reduction option for Minnesota Mining and Manufacturing Company (3m) in Bristol, Pa., comments by 1–30–81

78174 11–25–80 / Standards of performance for new stationery sources—perchloroethylene dry cleaners; comments by 1–26–81

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72719 11–3–80 / Direct broadcast satellites; satellite-to-home television transmission; comments by 1–31–81

81215 12–10–80 / FM broadcast station in Lahaina, Maui, Hawaii; changes in table of assignments; comments by 1–27–81

81080 12–9–80 / FM broadcast station in Romney, West Va.; proposed changes in table of assignments; comments by 1–27–81

81078 12–9–80 / FM broadcast station in Millersburg, Ohio; proposed changes in table of assignments; comments by 1–27–81

71384 10–28–80 / Policies governing ownership and operation of domestic satellite earth stations in Alaska Bush communities; reply comments by 1–29–81

73979 11–7–80 / Provisions for one-way paging stations in the domestic public land mobile radio service; reply comments by 1–30–81

82283 12–15–80 / TV broadcast station in Middleton, Mass.: proposed changes in table of assignments; comments by 1–30–81

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79002 11–28–80 / Additional standards for human blood and blood products; source plasma (human); comments by 1–27–81

111 1–2–81 / Diagnostic X-Ray systems and their mjaor components; proposed amendment to performance standard; comments by 1–29–81

79091 11–28–80 / Erythromycin enteric—coated tablets; disintegration standard; comments by 1–27–81

79089 11–28–80 / Radioactive drugs; reduction of reserve sample retention requirements; comments by 1–27–81

78162 11–25–80 / Tests and methods of assay of antibotic and antibotic containing drugs; revised standard response line concentrations; comments by 1–26–81

[Corrected at 46 FR 1298, 1–6–81]

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79453 12–1–80 / Collection of unpaid Medicare premiums; comments by 1–30–81

79658 12–1–81 / Withholding of payments for practitioners, providers, and suppliers of services; comments by 1–30–81

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79501 12–1–80 / Federal old-age, Survivors, and disability insurance and supplemental security income for the aged, blind, and disabled; Representative payment; comments by 1–30–81

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78508 11–25–80 / Nondiscrimination in programs and activities receiving assistance under Title I of the Housing and Community Development Act of 1979; comments by 1–26–81

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78164 11–25–80 / Coinsurance provision; comments by 1–26–80

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86511 12–31–80 / Service and forfeiture procedures; increased value of seized property and posting of notices; comments by 1–30–81

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86738 12–31–80 / Tariffs; intermodal carriers; authority to enter into international joint rates with nonvessel operating common carriers; comments by 1–30–81

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79496 12–1–80 / Definition of social disadvantage: Minority group inclusion; comments by 1–30–81

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81607 12–11–80 / San Juan Harbor, seaplane restricted area; comments by 1–26–81

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83252 12–18–80 / Special air traffic rules and airport traffic patterns slot allocation at Washington National Airport; reply comments by 1–26–81

71236 10–27–80 / Washington National Airport; special air traffic rules and airport patterns; allocation of hourly number of instrument flight operations; reply comments by 1–26–81

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78167 11–25–80 / Treatment, for tax proposes, of expenditures for attempts to influence legislation; comments by 1–26–81

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81083 12–9–80 / Coronado National Forest Grazing Advisory Board, Tucson, Ariz. (open), 1–20–81

79520 12–1–80 / San Juan National Forest Grazing Advisory Board, Durango, Colo. (open), 1–23–81

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79132 11-28-80 / Computer Systems Technical Advisory Committee, Washington, D.C. (partially open), 1-22-81

[Changed at 45 FR 80654, 12-8-80]

79133 11-28-80 / Hardware Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (closed), 1-21-81

[Changed at 45 FR 80655, 12-8-80]

79525 12-1-80 / Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (open), 1-21-81

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83306 12-18-80 / Emergency Striped Bass Study, Washington, D.C. (open), 1-19-81

85806 12-30-80 / Western Pacific Fishery Management Council's Spring Lobster Subpanel, Honolulu, Hawaii (open), 1-23-81

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82966 12-17-80 / USAF Scientific Advisory Board, Space Division Advisory Group, Los Angeles, Calif. (closed), 1-22 and 1-23-81

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85812 12-30-80 / DOD Advisory Group on Electron Devices, Working Group A, New York, N.Y. (closed), 1-22-81

85813 12-30-80 / DOD Advisory Group on Electron Devices, Working Group C, San Diego, Calif. (closed), 1-21 and 1-22-81

78194 11-25-80 / Wage Committee, Wash., D.C. (partially open), 1-20-81

83650 12-19-80 / Water in Southwest Asia Task Force, Defense Science Board, Arlington, Va. (closed), 1-21 and 1-22-81

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84118 12-22-80 / Search Committee of the Intergovenmental Advisory Council on Education, Tallahassee, Fla. (closed), 1-21-81

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1337 1-6-81 / Radio Technical Commission for Marine Services, Washington, D.C. (open), 1-21-81

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86812 12-31-80 / Adoption assistance and child welfare services; foster care; State eligibility requirements for additional payments; Denver, Colo. 1-19-81; Philadelphia, Pa., 1-23-80 (both sessions open)

85124 12-24-80 / Foster care maintenance and adoption assistance; child welfare services. Denver, Colo.; 1-19-81; Philadelphia, Pa., 1-23-81 (both sessions open)

86817 12-31-81 / Foster care maintenance and adoption assistance, child welfare services; Federal financial particiaption; Denver, Colo., 1-19-81; Philadelphia, Penn., 1-23-81; (both sessions open)

85831 1-30-80 / White House Conference on Aging, Technical Committee on Creating an Age-Integrated Society: Implications for Education, Ann Arbor, Mich. (open), 1-19 and 1-20-81

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83675 12-19-80 / Environmental Health Sciences National Advisory Council, Research Triangle Park, N.C. (partially open), 1-19-81

83675 12-19-80 / Eye National Advisory Council, Bethesda, Md. (partially open), 1-18 through 1-21-80

83676 12-19-80 / General Medical Sciences National Advisory Council, Bethesda, Md. (partially open), 1-19-81

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84157 Proposed disposition and administration of lands declared excess by the U.S. Navy on the island of Culebra and Culebrita in Puerto Rico, Culebra Island and San Juan, Puerto Rico (open), 1-21 and 1-22-81 respectively

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83333 12-18-80 / Fairbanks District Advisory Council, Minerals Subcommittee, W. Wainwright, Alaska (open), 1-20-81

83333 12-18-80 / Fairbanks District Advisory Council, Utility Corridor Subcommittee, W. Wainwright, Alaska (open), 1-22-81

83332 12-18-80 / Las Cruces District Grazing Advisory Board, Las Cruces, N. Mex. (open), 1-22-81

85527 12-29-80 / Medford District Advisory Council, Medford, Ore. (open), 1-23-81

77147 11-21-80 / Proposed outer continental shelf oil and gas lease sale, Newark N.J., 1-20-81; Norfolk, Va., 1-22-81

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84159 12-22-80 / Santa Monica Mountains National Recreation Area Advisory Commission, (open) Santa Monica, Calif., 1-19-81; Los Angeles, Calif., 1-20-81; Ventura, Calif., 1-21-81; and Woodland Hills, Calif., 1-22-81

86558 12-31-80 / Statue of Liberty national Monument, general management planning; Brooklyn, N.Y. 1-20-80; Jersey City, N.J. 1-21-80; Manhattan, N.Y., 1-22-80 (all sessions open)

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83069 12–17–80 / Physiology, Cellular, and Molecular Biology Advisory Committee, Cell Biology Subcommittee, Washington, D.C. (closed), 1–21 through 1–23–81

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1379 1–6–81 / Reactor Safeguards Advisory Committee, AC/DC Power Systems Reliability Subcommittee, Washington, D.C. (open), 1–22–81

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85610 12–29–80 / Grant programs for schools and hospitals and for buildings owned by units of local government and public care institutions, San Francisco, Calif., 1–20–81

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83126 12–17–80 / Air pollution, performance standards for limiting emissions of volatile organic compounds from gasoline tank truck loading racks of bulk gasoline terminals, Research Triangle Park, N.C. 1–21–81

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83032 12–17–80 / Pick-Sloan Missouri Basin Program, O'Neill Unit, environmental impact statement, O'Neill, Nebr., 1–21–81

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83290 12–18–80 / Tankerman requirements, St. Louis, Mo., 1–21–81

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82742 12–15–80 / Establishment of proposed viticultural areas, Santa Cruz Mountains, Calif., 1–19–81; Lime Kiln Valley, Calif., 1–21–81; Santa Maria Valley, Calif., 1–23–81

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

A complete listing for the second session of the 96th Congress is published in the **Reader Aid** section of the issue of January 7, 1981

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

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1644 1–6–81 / HHS—Requirements and procedures applicable to appeals before the Departmental Grants Appeals Board; comments by 3–9–81

1321 1–6–81 / HHS/Child Support Enforcement Office—Child Support Enforcement Program; requests for collection by Secretary of the Treasury; comments by 3–9–81

1319 1–6–81 / HHS/Child Support Enforcement Office—Child Support Enforcement Program; withholding of advance funds for not reporting; comments by 3–9–81

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2374 1–9–81 / Commerce/MBDA—Financial Assistance Application Announcement; apply by 2–11–81

2375 1–9–81 / Commerce/MBDA—Financial Assistance Application Announcement; correction; apply by 1–15–81

2159 1–8–81 / Commerce/MBDA—General Business Services Program; project to serve New York County (Manhattan), N.Y.; apply by 1–29–81

2389 1–9–81 HUD/CPD—Community Development Block Grant Program; apply by 1–12–81

1355 1–6–81 / Interior/BIA—Indian Child Welfare Act; grant funds distribution formula; apply by 2–9–81

1628 1–6–81 / USDA/SEA—Plant biology and human nutrition grants; apply by 2–13, 2–20, and 2–27–81

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1351 1–6–81 / HHS/NIH—Dental Research National Advisory Council, Bethesda, Md. (partially open), 1–29 and 1–30–81

1351 1–6–81 / HHS/NIH—National Library of Medicine, Board of Regents (partially open):

Full Board meeting, Bethesda, 1–29 and 1–30–81

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Lister Hill Center and National Medical Audiovisual Center Subcommittee, 1–28–81

2222 1–8–81 / NFAH—Humanities Panel: Residental Fellowship for College Teachers in English and Composition, Chicago Ill.; and Residental Followships for College Teachers in Sociology, Washington, DC: 1–19–81 (both meetings closed)

2222	1-8-81 / NFAH—Theatre Panel, Washington, DC. (partially open), 1-22 and 1-23-81
	OTHER ITEMS OF INTEREST
2166	1-8-81 / CSA—Accidental hypothermia prevention, training and technical assistance in energy-related programs for grantees already funded
1552	1-6-81 /HHS/HDSO—Guidelines for development of State Child Welfare Services Plan
2572	1-9-81 /Justice/OJARS—Planning and Coordination Grants to Develop and Support Model Comprehensive Programs for High-Risk Youths
2566	1-9-81 / Justice/OJJDP—Policy and Criteria for de minimis exceptions to full compliance with deinstitutionalization requirement of the Juvenile Justice and Delinquency Prevention Act in 1974, as amended
2331	1-19-81 / USDA/FNS—Food Distribution Program
2329	1-9-81 / USDA/FNS—National School Nutrition Programs; exclusion of Job Corp Centers

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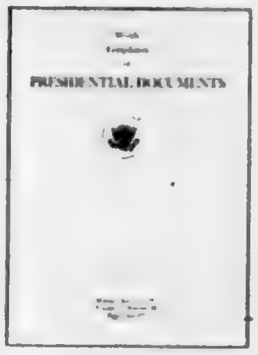

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federal register

Thursday
January 15, 1981

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

3489 **Continuation of Emergency Building Temperature Restrictions** Presidential proclamation

3491 **Eligibility of Bangladesh to purchase defense articles and services** Presidential determination

3589 **Grant Programs—Education** ED invites applications for new projects under the Law-Related Education Program for fiscal year 1981; apply by 4-24-81

3547 **Foreign Service** State provides significant new benefits for spouses and former spouses of participants in the Foreign Service Retirement and Disability System; comments by 2-17-81

3503 **Loan Program** HUD amends regulations of the Section 312 Rehabilitation Loan Program; effective 2-15-81

3577 **Natural Gas** Office of the Federal Inspector for the Alaska Natural Gas Transportation System approves affirmative action plan

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

3504	**Income Tax** Treasury/IRS publishes regulations relating to self-insured medical reimbursement plans and the withholding of income tax under these plans; effective for taxable years beginning after 12-31-79
3794	**Medical Services** HHS/HCFA proposes regulations providing program approval of a facility that furnishes training and support services for self-dialysis and/or home dialysis; comments by 3-16-81 (Part IV of this issue)
3633	**Solar Energy** EPA announces release of the 1980 Section 11 Report on review of the Department of Energy's Conservation and Solar Energy Program; comments by 2-15-81
3501	**Highway Projects** DOT/FHWA revises regulations which provides policies and procedures for the reimbursement of public employees working on Federal Aid highway projects; effective 2-17-81
3527	**Child Welfare** HHS/Sec'y publishes time limits for States to file claims; comments 3-16-81
3584, 3585	**Grant Programs** Commerce/MBDA announces soliciting applications under General Business Services Program to operate projects in certain counties in Virginia, Pennsylvania and Maryland; apply by 2-20-81 (2 documents)
3493	**Aliens** Justice/INS amends regulations relating to adjustment of nonimmigrant aliens to status of permanent resident and the change of nonimmigrant classification of aliens in the United States for Iranians; effective 1-15-81
3714	**Hazardous Materials** DOT/RSPA has requirement to establish cost sharing demonstration projects to develop hazardous materials accident prevention and emergency response programs
3782	**Security Regulations** DOT/FAA revises and consolidates security regulations for scheduled passenger and public charter operations (Part III of this issue)

Privacy Act Document

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3509	Justice
3723	**Sunshine Act Meetings**

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3782	**Part III, DOT/FAA**
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Federal Register
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Thursday, January 15, 1981

Presidential Documents

Title 3—

The President

Proclamation 4813 of January 13, 1981

Second Continuation of Emergency Building Temperature Restrictions

By the President of the United States of America

A Proclamation

I find that continued implementation of the Emergency Building Temperature Restrictions, Energy Conservation Plan No. 2, is required in the national interest. This Plan was transmitted by me to the Congress on March 1, 1979, and approved by resolution of each House of Congress in the manner provided by law.

This Conservation Plan was implemented by me approximately eighteen months ago because it was clear in view of the unstable world production of crude oil that we could not rely on imports to meet our normal demand. On April 15, 1980, I continued this Plan in effect because of the decline in worldwide crude oil production compared to the previous year, the prohibition on imports of Iranian oil, and the threat to the stability of commerce in the countries of the oil-producing Persian Gulf resulting from tensions between Iran and Iraq and the Soviet Union's actions in Afghanistan.

Since then, war has broken out between Iran and Iraq, substantially interrupting crude oil production in those countries. This disruption is of significant scope and is likely to be of substantial duration. New worldwide crude oil production is now and is likely to continue to be at least two million barrels a day less than consumption through the first quarter of 1981. This shortage has resulted in increased petroleum prices, and the combined effects of the shortage and present and future price increases resulting from it may have a major adverse impact on the national economy. The war between Iran and Iraq, as well as border tensions between Syria and Jordan and the Soviet actions in Afghanistan, have also greatly increased the threat to other sources of petroleum supplies in the Middle East. Should other disruptions result, they are likely to be of an emergency nature and to further disrupt the Nation's economy.

Because of these events, the risk to the Nation from our reliance on insecure oil imports is greater than when the Plan was renewed approximately nine months ago, as well as when the Plan was implemented approximately eighteen months ago. Under applicable law, the findings that a shortage of energy supply requires implementation of the Plan must be considered anew every nine months. I therefore renew the findings and determination contained in Proclamation No. 4667 of July 10, 1979, and renewed in Proclamation No. 4750 of April 15, 1980, under sections 201(b) and 3(8) of the Energy Policy and Conservation Act (42 U.S.C. Sections 6261(b) and 6202(8)).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including section 201(b) of the Energy Policy and Conservation Act (42 U.S.C. 6261(b)), do hereby proclaim that:

1-101. The finding and determination under sections 3(8) and 201(b) of the Energy Policy and Conservation Act (42 U.S.C. 6202(8) and 6261(b)) contained in Proclamation No. 4667 of July 10, 1979, and renewed in Proclamation No. 4750 of April 15, 1980, are hereby renewed.

1–102. This Proclamation shall be transmitted to the Congress.

1–103. The provisions of the Emergency Building Temperature Restrictions, Energy Conservation Contingency Plan No. 2 (44 FR 12911 of March 8, 1979) and the regulations thereunder, or any amendments thereto, shall continue in effect until October 16, 1981, unless earlier rescinded.

1–104. In accordance with the provisions of this Plan and the regulations thereunder, the Secretary of Energy is hereby authorized to continue the administration of the program in all respects.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 81-1046
Filed 1-13-81; 3:37 pm]
Billing code 3195-01-M

Editorial Note: The President's message to the Congress, dated Jan. 13, 1981, transmitting Proclamation 4813, is printed in the Weekly Compilation of Presidential Documents (vol. 17, no. 3).

Presidential Documents

Presidential Determination 81-1 of December 30, 1980

Eligibility of Bangladesh To Purchase Defense Articles and Defense Services Under the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 3(a)(1) of the Arms Export Control Act, I hereby find that the sale of defense articles and defense services to the Government of Bangladesh will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding, which amends Presidential Determination No. 73–10 of January 2, 1973 (38 FR 7211), as amended by Presidential Determinations No. 73–12 of April 26, 1973 (38 FR 12799), No. 74–9 of December 13, 1973 (39 FR 3537), No. 75–2 of October 29, 1974 (39 FR 39863), No. 75–21 of May 20, 1975 (40 FR 24889), No. 76–1 of August 5, 1975 (40 FR 37205), No. 76–11 of March 25, 1976 (41 FR 14163), No. 76–12 of April 14, 1976 (41 FR 18281), No. 77–5 of November 5, 1976 (41 FR 50625), No. 77–17 of August 1, 1977 (42 FR 40169), No. 77–20 of September 1, 1977 (42 FR 48867), No. 79–5 of February 6, 1979 (44 FR 12153), No. 79–11 of June 21, 1979 (44 FR 38437), No. 80–12 of March 3, 1980 (45 FR 16995), and No. 80–14 of March 13, 1980 (45 FR 19211), shall be published in the **Federal Register** .

Jimmy Carter

The White House,
Washington, December 31, 1980.

[FR Doc. 81-1714
Filed 1-13-81; 4:21 p.m.]
BILLING CODE 3195-01-M

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Rules and Regulations

Federal Register
Vol. 46, No. 10
Thursday, January 15, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 504, Amdt. 1; Navel Orange Regulation 505]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 16–22, 1981, and increases the quantity of such oranges that may be so shipped during the period January 9–15, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective January 16, 1981, and the amendment is effective for the period January 9–15, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on January 13, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is improving.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 907.805 is added as follows:

§ 907.805 Navel Orange Regulation 505.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 16, 1981, through January 22, 1981, are established as follows:

(1) District 1: 1,246,000 cartons;
(2) District 2: 126,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: 28,000 cartons.

(b) As used in this section, "Handle," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

2. Paragraph (a)(1)–(4) in § 907.804 Navel Orange Regulation 504 (46 FR 2025), is hereby revised to read:

§ 907.804 Naval Orange Regulation 504.

(a) * * *

(1) District 1: 1,261,000 cartons;
(2) District 2: 54,509 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: 39,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 14, 1981.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–1813 Filed 1–14–81; 12:48 pm]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 245 and 248

Iranian Nationals; Adjustment of Status to That of Person Admitted for Permanent Residence, Revision of the Categories of Who May Be Adjusted to Permanent Resident Status; and Change of Nonimmigrant Classification, Revision of Categories of Whose Nonimmigrant Classification May Be Changed

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service relating to the adjustment of nonimmigrant aliens to the status of permanent resident and the change of nonimmigrant classification of aliens in the United States. The changes are necessary in order to make the regulations consistent with Department of State policy in the issuance of immigrant and nonimmigrant visas to nationals of Iran and to grant the benefits when it has been determined to be in the national interest.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT:
For general information—Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633–3048

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For specific information—Stanley E. Davis, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633–5014

SUPPLEMENTARY INFORMATION: As a result of the Iranian Government's failure to resolve the international crisis it created by the unlawful detention of American citizens in the United States Embassy in Tehran and the break in diplomatic relations with that country on April 7, 1980, it was determined to be in the national interest to place appropriate limitations and restrictions on those Iranian nationals who were then in the United States. By amendments to 8 CFR 245.1(d) and 248.2 published April 10, 1980, the adjustment to permanent resident status and the change of nonimmigrant classification of Iranian nationals were limited to those who were in specified categories. A subsequent amendment to 8 CFR 245.1(d) published April 22, 1980 expanded the categories of Iranian nationals who were eligible for adjustment to permanent residence. The previously published amendments do not provide for the adjustment of status to permanent resident or the change of nonimmigrant classification of Iranian nationals when it has been determined to be in the national interest. This is inconsistent with the Department of State's practice which provides for the issuance of immigrant and nonimmigrant visas to nationals of Iran when it is determined to be in the national interest. In order to correct this inconsistency and to give the Immigration and Naturalization Service the necessary authority to grant these benefits when it has been determined by the Department of State to be in the national interest, the following amendment to Chapter I of Title 8 of the Code of Federal Regulations are made. Because the rule confers a benefit, the notice of proposed rulemaking requirement of 5 U.S.C. 553 is not required.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

In § 245.1, paragraph (d) is revised to read as follows:

§ 245.1 [Amended]

* * * * *

(d) *Immediate relatives under section 201(b) and preference aliens under section 203(a)(1) through 203(a)(6).* An applicant who claims immediate relative status under section 201(b) or preference status under section 203(a)(1) through 203(a)(6) of the Act is not eligible for the benefits of section 245 of the Act unless he/she is the beneficiary of a valid unexpired visa petition filed in accordance with Part 204 of this chapter and approved to accord him/her such status. A nonimmigrant alien who is an Iranian national is not eligible for the benefits of section 245 of the Act unless (1) he/she claims immediate relative status under section 201(b) or preference status under section 203(a)(1), (2), (4) or (5) of the Act and is also the beneficiary of a valid visa petition filed in accordance with Part 204 of this chapter and approved to accord him/her such status, (2) he/she has applied for or has been granted asylum in the United States, or (3) such benefit has been determined to be in the national interest by the Department of State.

* * * * *

(Secs. 103 and 245; 8 U.S.C. 1103 and 1255)

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

Section 248.2 is revised to read as follows:

§ 248.2 Ineligible classes.

An alien admitted in immediate and continuous transit through the United States without a visa pursuant to section 238(d) of the Act, or an alien classified as a nonimmigrant under section 101(a)(15) (D) or (K) of the Act is not eligible for any change of nonimmigrant classification under section 248 of the Act. An alien classified as a nonimmigrant under section 101(a)(15)(C) of the Act is not eligible for any change of nonimmigrant classification other than a change to classification under section 101(a)(15) (A) or (G) of the Act. An alien classified as a nonimmigrant under section 101(a)(15)(J) of the Act is not eligible for any change of nonimmigrant classification other than a change to classification under section 101(a)(15) (A) or (G) of the Act, or, if he is not subject to the foreign residence requirement of section 212(e) of the Act or has been granted a waiver thereof, a change to classification under section 101(a)(15) (H) or (L) of the Act, if otherwise qualified. A nonimmigrant alien who is an Iranian national is ineligible for any change of nonimmigrant classification other than a change to classification under section 101(a)(15)(G) of the Act unless such change is determined to be in the national interest by the Department of State.

(Secs. 103 and 248; U.S.C. 1103 and 1258)

Dated: January 9, 1981.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-1361 Filed 1-14-81; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 19831; Amdt. No. 21-53]

Type Certification Procedures for Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides a revision to the procedural rules for the type certification of gliders (including sailplanes) to permit equivalency findings with respect to the applicable airworthiness standards as is now permitted in the type certification of other aircraft. These procedural rules would also be applicable to the type certification of fixed-wing, self-launching (powered) gliders. This updating of the Federal Aviation Regulations eliminates an inconsistency in the regulations and, without any derogation of safety, an unnecessary economic burden which was previously imposed on this segment of sport aviation.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Marvin Walker, Regulatory Review Branch (AVS–22), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 755–8714.

SUPPLEMENTARY INFORMATION: This amendment is based on Notice 80–17 which was published in the **Federal** Register on October 14, 1980 (45 FR 67677) and revises the procedural rules in § 21.23 of the Federal Aviation Regulations (FAR) for the type certification of gliders.

Section 21.23 of the Federal Aviation Regulations (FAR) provided that an applicant is entitled to a type certificate for a glider if the applicant submits the type design, test reports, and computations necessary to show that the glider meets the applicable regulations and there is no unsafe feature of characteristic of the glider. The applicable regulations were defined in § 21.23(a) to be those airworthiness requirements of Part 23 or Part 27 of the FAR that the Administrator finds to be (1) appropriate for gliders and (2) applicable to the applicant's specific type design. No provisions were made for gliders which may not meet all of the applicable airworthiness requirements of Part 23 or Part 27, although the provisions not complied with are compensated for by factors in the glider's type design that provide an equivalent or greater level of safety. The procedural requirements for the type certification of gliders were unique in this respect. The type certification procedures applicable to all other aircraft specifically provide for such equivalency, and there did not appear to be any justification for the restriction against the use of designs which provide an equivalent level of safety with respect to certification of basically sport aircraft operated for pleasure and not for compensation or hire.

Accordingly, the FAA proposed to amend § 21.23(a) to permit the issuance of type certificates for gliders (including sailplanes), including fixed-wing, self-launching (powered) gliders, that comply with either the applicable airworthiness requirements of Part 23 or 27 of the Federal Aviation Regulations or such other airworthiness criteria that provide an equivalent level of safety to those requirements.

Specifically, this amendment permits the development and use of comprehensive and detailed criteria for the type certification of gliders, provided the Administrator finds that to the extent the criteria does not meet the applicable airworthiness requirements of Part 23 or Part 27, it provides an equivalent level of safety to those requirements. Simultaneous with the issuance of this amendment, the FAA is issuing new Advisory Cicular (AC) No. 21.23-1 to approve two comprehensive and detailed criteria, but not the only criteria, that may be used by an applicant for the type certification of fixed-wing gliders (sailplanes), including self-launching gliders. A draft of AC 21.23-1 was published in the Federal Register (45 FR 67818) for comment on October 14, 1980, along with NPRM 80-17.

AC 21.23-1 identifies the European Joint Airworthiness Requirements (JAR-22) for Sailplanes and Powered Sailplanes, when supplemented by certain FAA criteria, as acceptable criteria for the type certification of gliders pursuant to § 21.23 as amended. This amendment, together with the issuance of AC 21.23-1, is reponsive to a petition for rulemaking filed by the Soaring Society of America requesting FAA to adopt JAR 22.

Discussion of Comments

All commenters expressed agreement with the proposals contained in Notice 80-17. Many commenters simultaneously commented on the draft AC 21.23-1. Comments on the AC were outside the scope to Notice 80-17, but were considered in the development of the final AC.

One commenter questions the reference to Part 27 in § 21.23(a). Section 21.23(a) previously referenced Part 27 to provide a basis to type certificate rotary wing gliders and the reference is retained in new § 21.23(a) for that purpose.

Planned Glider Engine and Propeller Rule Making

The preamble of NPRM 80-17 stated that Part 33 and 35 of the regulations contains the certification requirements for engines and propellers, to be installed in gliders, i.e., self-launching (powered) gliders. New AC 21.23-1 provides criteria for approving engines and propellers as an integral part of the glider. This criteria has been found by the FAA to meet the applicable requirements of Parts 33 and 35 or to provide an equivalent level of safety to those requirements not complied with when approved as an integral part of a glider that meets the criteria in the AC. Such an approval does not constitute certification of the engine or propeller for installation on other gliders. The FAA plans to initiate rule making in the near future to add new Subparts to both Part 33 and Part 35 to establish specific requirements for the general type certification of glider engines and propellers. JAR 22, Subparts H and J, will be used as the basis for the proposed rule making.

Adoption of the Amendment

Since this rule imposes no burden on any person, allows alternate methods of compliance with established airworthiness standards and is in consonance with the spirit of Executive Order 12044, I find that good cause exists to make these amendments effective immediately. Accordingly, Part 21 of the Federal Aviation Regulations is amended as follows, effective January 15, 1981.

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

By revising § 21.23 to read as follows:

§ 21.23 Issue of type certificate: Gliders (including sailplanes), including fixed-wing, self-launching (powered) gliders.

An applicant is entitled to a type certificate for a glider if the applicant submits the type design, test reports, and computations necessary to show, and the Administrator finds that—

(a) The glider complies either with those airworthiness requirements of Part 23 or Part 27 of this chapter found by the Administrator to be appropriate for gliders and applicable to the specific type design or with such other airworthiness requirements as the Administrator may find provide an equivalent level of safety to those Parts; and

(b) There is no unsafe feature or characteristic of the glider.

(Secs. 313(a), 314, 601, 603, 604, 610, and 611 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1424, 1430, and 1431); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR Part 11)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified above under the caption: "For Further Information Contact." Moveover, it has been determined that this rule will not have a significant economic impact on a substantial number of small entities.

This rule is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, DC on January 12, 1981.

Langhorne Bond,

Administrator.

[FR Doc. 81-1402 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-41-AD; Amdt. 39-4017]

Airworthiness Directives; Puritan-Bennett Aero Systems Co. P/N 174039, 174010-01, 174010-03, and ZMR100 Series Oxygen Masks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

V 46/10 JA 15 81 UMI

SUMMARY: This amendment adopts an Airworthiness Directive (AD) that requires replacement of a regulator diaphram on Puritan-Bennett Aero Systems Company (PBASCo) oxygen masks. The AD is needed to prevent the regulator inlet valve from either leaking, causing depletion of the oxygen supply, or developing positive pressure within the facecone, making it difficult to breathe.

DATES: Effective March 20, 1981.

Compliance required within one hundred twenty (120) days after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Puritan-Bennett Aero Systems Company, 111 Penn Street, El Segundo, California 90245.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW, Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring replacement of the oversized diaphragm in certain PBASCo oxygen masks P/N 174039, 174010-01, 174010-03, and ZMR100 series was published in the Federal Register at 45 FR 59904. The proposal was prompted by an FAA determination that certain regulators on PBASCo oxygen masks P/N 174039, 174010-01, 174010-03, and ZMR100 series contain oversized diaphragms. Under certain conditions, an oversized diaphragm can cause the regulator inlet valve either to leak or to develop positive pressure within the facecone. Although the regulator may work properly in normal usage, it can develop one of the above conditions without warning. There is no reliable field test method for determining when or where the mask will develop the problems. Since this condition is likely to exist or develop on other oxygen masks of the same type design, the proposed AD would require replacement of the oversized diaphragm in certain PBASCo oxygen masks P/N 174039, 174010-01, 174010-03, and ZMR100 series.

Interested persons have been afforded the opportunity to participate in the making of this amendment. No objections were received. Accordingly, the proposal is adopted with minor wording change in paragraph (c) for clarity.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Puritan-Bennett Aero Systems Company: Applies to Puritan-Bennett Aero Systems Company oxygen masks P/N 174039, 174010-01, 174010-03, and ZMR100 series as listed below.

S/N for P/N 174039

0001 through 0012

S/N for P/N 174010-01 and 174010-03

00100 through 00144
146, 147, 149, 00150 through 00194
195 through 259
261 through 273
275 through 292

S/N for P/N ZMR100 Series

6603 through 7234

Compliance required as indicated, unless already accomplished.

To prevent the regulator inlet valve from causing either leakage or positive pressure within the facecone, accomplish the following:

(a) Within 120 days from the effective date of this Airworthiness Directive, remove diaphragm assembly P/N F334-1001-1 and install diaphragm assembly P/N F334-1001-1 modified to include diaphragm and plate assembly P/N F334-1003-1, Revision E.

(b) After modification per paragraph (a) of this AD, permanently mark letter "M" at the end of or beneath the mask serial number. This serial number is located under the face cushion on the left-hand side of the hardshell on the 174039 and ZMR100 series masks, and on the back surface of the head harness on the 174010-01 and 174010-03 masks.

(c) The modified diaphragm replacement of paragraph (a) of this AD shall be accomplished by returning the mask to Puritan-Bennett Aero Systems Company, 111 Penn Street, El Segundo, California 90245. However, this replacement in the ZMR100 series masks listed below may be accomplished in the field in accordance with the following Puritan-Bennett Aero Systems ATA Component Maintenance Manuals:

35-10-25 for the ZMR100 mask
31-10-27 for the ZMR129 mask
35-10-28 for the ZMR129-1 mask
35-10-29 for the ZMR118 mask

Note.—Puritan-Bennett Aero Systems Company Service Bulletin No. 1, dated April 15, 1980, pertains to the subject of this Airworthiness Directive.

(d) Alternate inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

This amendment becomes effective March 20, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, California on January 2, 1981.

H. C. McClure,
Acting Director, FAA Western Region.

[FR Doc. 81-1079 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NE-43; Amdt. 39-4018]

Airworthiness Directives; Sikorsky S-76A Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: On October 24, 1980, a telegraphic airworthiness directive (AD), T80-22-55, was issued requiring visual and dye penetrant inspections for cracks in the piston rods of main rotor dampers and the removal from service of these dampers if cracks are found. On November 21, 1980, an emergency AD (air mail) revision to the AD, T80-22-55 R1, was issued to add requirements for a one-time dye penetrant inspection for cracks and inspections for main rotor damper bearing wear. This revised AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations.

DATES: Effective date—This amendment becomes effective January 15, 1981 for all persons except those to whom it was made effective immediately by telegram dated October 24, 1980, and air mail letter dated November 21, 1980.

Comments must be received on or before March 16, 1981.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 12, New

England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: William E. Garlock, ANE–212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7336.

The applicable Sikorsky publication may be obtained from Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. Copies of the service bulletins are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

Because of recent fatigue failures and the separation of the piston rods of main rotor dampers, a telegraphic AD, T80–22–55, was issued on October 24, 1980, requiring visual inspections and, if any indication of a crack was found, dye penetrant inspections of the piston rods. The AD also required that the dampers be removed from service if a crack was found. Subsequent to the issuance of the telegraphic AD, engineering research and tests have shown that the wear and metal-to-metal contact within the damper spherical bearings can increase the loads sustained by the damper piston rods and therefore contribute to the fatigue failure of these rods. There has also been an additional failure of a piston rod in service. Therefore, emergency AD T80–22–55 R1 was issued on November 21, 1980, effective November 28, 1980, to revise the AD with additional requirements for a one-time dye penetrant inspection of all damper piston rods, based upon time in service and previous replacement of bearings, and repetitive inspections of the damper rod end bearings for wear.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately to all known United States operators of Sikorsky Model S–76A helicopters by individual telegrams dated October 24, 1980.

These conditions still exist, and the AD, as revised, is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations.

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by the addition of the following AD:

Sikorsky Aircraft. Applies to S–76A series helicopters certificated in all categories.

To prevent operation with cracked or separated main rotor damper rods accomplish the following:

1. On Damper piston rods with more than 500 hours time in service: Within 10 hours time in service, after the effective date of this AD, and thereafter at intervals not to exceed 10 hours time in service, perform a visual inspection for cracks in the piston rods of P/N 76106–08000 main rotor dampers with the dampers in their fully extended position. Using extreme care not to damage the tip cap or trim tab, grasp the main rotor blade at the tip end and move it in the direction of rotation until it is in the full lead position. If any indication of a crack in the chromium plate is found, conduct a dye penetrant inspection of the piston rod for cracks in accordance with specification MIL–I–6866, Type II, Method C. Protect piston seals and rod end bearings from cleaning and inspection fluids. If the presence of a crack, as described in Sikorsky Alert Service Bulletin 76–65–19, is confirmed, replace the piston rod prior to further flight with a serviceable piston rod.

2. Within the next 25 hours time in service, after the effective date of this AD, unless already accomplished, conduct a dye penetrant inspection, in accordance with the specification in paragraph 1, for cracks in the piston rods for dampers with more than 500 hours time in service and dampers which have had the damper spherical bearings replaced. If a crack is found, replace the piston rod prior to further flight with a serviceable piston rod.

3. On damper spherical bearings with more than 100 hours time in service: Within the next 25 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 15 hours time in service, conduct a bearing wear inspection of the damper spherical bearings in accordance with paragraph 9 of the Temporary Revision 5–23 of Sikorsky S–76 Maintenance Manual No. SA4047–76–2. When a damper spherical bearing fails to meet the wear criteria of this inspection, conduct a dye penetrant inspection, in accordance with the specification in paragraph 1, of the damper piston rod for cracks. If a crack is found, replace the piston rod prior to further flight with a serviceable piston rod.

The Sikorksy "Telexed" Alert Service Bulletin No. 76–65–19, dated November 17, 1980, to all S–76A operators pertains to the subject matter of this directive.

Other methods of compliance with this directive must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Report any descrepancies found and associated main rotor blade damper times in service to the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region, 12, New England Executive Park, Burlington, Massachusetts 01803.

Reporting approved by the Office of Management and Budget Under OMB No. 04–40174.

Upon submittal of substantiating data by an operator, an FAA Maintenance Inspector, subject to prior approval by the Chief, Engineering and Manufacturing Branch FAA New England Region, may adjust the inspection intervals of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602.

These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, SW, Washington, D.C.

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective January 15, 1981 for all persons except those to whom it was made effective immediately by telegram dated October 24, 1980, and air mail letter dated November 21, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under Executive Order 12044, as amended, on June 27, 1980, by Executive Order 12221, as implemented by

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DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION."

Issued in Burlington, Massachusetts, on January 2, 1981.

John B. Roach,

Acting Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 81-1080 Filed 1-14-81, 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NE-42; Amdt. 39-4019]

Airworthiness Directives; Sikorsky S-76A Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: On November 7, 1980, the FAA issued a telegraphic airworthiness directive (AD), T80-23-51, effective upon receipt, which required an initial and repetitive inspection of the main rotor blade spar for cracks.

The AD is hereby published in the Federal Register to make it effective to all persons.

DATES: Effective date—This amendment becomes effective January 15, 1981 for all persons except those to whom it was made effective immediately by telegram dated November 7, 1980.

Comments must be received on or before March 10, 1981.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 12, New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Stephen Soltis, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

This notice publishes telegraphic AD T80-23-51, which was issued November 7, 1980, and which currently requires an initial and a 300 hour repetitive inspection of the main rotor blade spar for cracks. This action was initiated because of a recent main rotor blade fatigue crack at the root end attachment hole area found in service.

FAA engineering evaluation of the service crack and all current data indicated that more restrictive inspection requirements for the main rotor blade spars were appropriate, and thus, TAD T80-23-51 was issued. Additional testing and analysis of the main rotor blade root end attachment hole area are being performed to investigate new inspection procedures.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately to all known United States operators of Sikorsky Model S-76A helicopters by individual telegrams dated November 7, 1980.

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule.

When the coment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Sikorsky Aircraft. Applies to S-76A series helicopters certificated in all categories.

To prevent operation with a cracked main rotor spar, accomplish the following:

Applies to main rotor blades, P/Ns 76150-09000 or 76150-09100, with more than 600 hours time in service. Compliance required within the next 25 hours time in service after the effective date of this AD, unless previously accomplished within the last 100 hours time in service, and thereafter at intervals not to exceed 300 hours time in service.

1. Inspect the main rotor blade spar for cracks in accordance with the Sikorsky S-76 composite materials manual, SA 4047-76-5, paragraph 2-7.

2. If a spar crack is found, replace the main rotor blade with a new or serviceable component.

3. Report within 24 hours any discrepancies found during the inspections required herein, including the main rotor blade time in service, to the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602.

These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C.

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective January 15, 1981, for all persons except those to whom it was made effective immediately by telegram dated November 7, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044, as amended, on June 27, 1980, by Executive Order 12221, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on January 2, 1981.

John B. Roach,

Acting Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 81-1081 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 81-AWA-1]

Prohibited Areas P-65 Pacific Palisades, Calif., and P-66 Rancho del Cielo, Goletta, Calif.

AGENCY: Federal Aviation Administration (FAA), (DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment establishes prohibited area airspace over the residence of the President of the United States for the purpose of enhanced security. This action prohibits aircraft flight within the designated prohibited areas.

DATES: Effective date—January 20, 1981.

Comments must be received by February 17, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 81-AWA-1, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591: telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to establish Prohibited Areas P-65 Pacific Palisades, Calif., and P-66 Rancho del Cielo, Goletta, Calif. These areas are established as requested by the Department of Treasury, United States Secret Service, to enhance the level of security provided the President by prohibiting unauthorized flights of aircraft over and in the immediate vicinity of presidential residences. The vertical and lateral limits of the areas have been designed to impose minimum burden upon the public and still provide acceptable security restraints. Because of the obvious need to effect reasonable and immediate security precautions for the protection of the President, I find that notice and public procedure are unnecessary and that there is good cause for publication of the rule less than 30 days prior to its effective date. However, comments are invited on the rule. When the comment period closes, the FAA will use the comments and any other available information to review the regulation.

The Rule

This amendment to §73.87 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) designates Prohibited Areas P-65 Pacific Palisades, Calif., and P-66 Rancho del Cielo, Goletta, Calif. Flight within the designated prohibited areas is prohibited unless permission is obtained from the using agency. Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was republished in the **Federal Register** on January 2, 1981 (46 FR 832).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, §73.87 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 832) is amended, effective 0901 GMT, January 20, 1981, by adding:

"P-65 Pacific Palisades, Calif.
Boundaries. That airspace within a 1 mile radius of Lat. 34°03'15"N., Long. 118°29'30"W.
Designated altitudes. Surface to 1,000 feet AGL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D.C.
P-66 Rancho del Cielo, Goletta, Calif.
Boundaries. That airspace within a 1 mile radius of Lat. 34°31'00"N., Long. 120°05'08"W.
Designated altitudes. Surface to 1,000 feet AGL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D.C."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 12, 1981.

Shelomo Wugalter,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-1461 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 93 and 159

[Docket No. 19946; Amendment Nos. 93-41 and 159-23]

Metropolitan Washington Airports

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rulemaking amends the regulations pertaining to the new operating policy for Washington National and Dulles International Airports which were to become effective on January 5, 1981, and will now become effective on April 26, 1981. This amendment changes the dates referenced in the regulation to make them consistent with the new effective date. It also makes other clarifying changes of an editorial nature.

DATE: The amendment becomes effective on April 26, 1981.

FOR FURTHER INFORMATION CONTACT: Edward S. Faggen, Legal Counsel, AMA-7, Metropolitan Washington Airports, Washington National Airport, Washington, D.C. 20001, Telephone: (703) 557-8123.

BACKGROUND INFORMATION: On September 15, 1980, the Federal Aviation Administration issued Amendment Nos. 93-37 and 159-20 to the Federal Aviation Regulations. (45 FR 62406, September 18, 1980) The amendments were to become effective on January 5, 1981, and are now scheduled to be effective on April 26, 1981. (45 FR 71251, October 27, 1980). As a result of the original January 5, 1981, effective date, several of the regulations as amended contain the phrase "after January 4, 1981."

Due to the delay in the effective date of the implementing regulations, these phrases should be changed. This amendment changes the phrase "after January 4, 1981" wherever it appears in Amendments 93-37 and 159-20 to "after April 25, 1981".

In addition, Amendment No. 159-20 amended § 159.59 by redesignating paragraphs "(a)", "(b)", and "(c)" as "(c)", "(d)", and "(e)" and by adding new paragraps (a) and (b). Former paragraph (c), now (e), contained references to former paragraphs (a) and (b) which, due to oversight, were not changed to reflect their new designations as (c) and (d). This amendment corrects this oversight by amending new § 159.59(e) by deleting references to the old paragraphs and substituting the reference to the correct paragraphs.

Since these amendments are clarifying and editorial in nature, I find that notice and public comment are not necessary or practical. This amendment will become effective at the same time as Amendments 93–37 and 159–20. The effective date for those amendments is April 26, 1981.

Adoption of the Amendments

Accordingly, Subpart K of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) and Subpart C of Part 159 of the Federal Aviation Regulations (14 CFR 159) are amended, effective April 26, 1981, as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

PART 159—NATIONAL CAPITAL AIRPORTS

§§ 93.123, 159.40, 159.59, 159.60 [Amended]

1. By removing the phrase "after January 4, 1981", wherever it appears in new §§ 93.123(c); 159.40(a); 159.40(b); 159.40(c); 159.59(b) and 159.60, and substituting in each of these sections the phrase "after April 25, 1981".

§ 159.59 [Amended]

2. By revising new § 159.59(e) to read as follows:

* * * * *

(e) Nothwithstanding paragraphs (c) and (d) of this section, an aircraft that has wings and tail higher than five feet from the ground and does not have adequate brakes may not be taxied on the airport under any conditions, and must be towed if it is necessary to move it.

(Secs. 103.307(a), (b) and (c), 313(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348 and 1354); secs. 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 688 as amended by 61 Stat. 94; sec. 4 of the Second Washington Airport Act, 64 Stat. 770; sec. 6 of the Department of Transportation Act (49 U.S.C. 1655))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an amendment which is corrective and editorial in nature, the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 6, 1981.

Langhorne Bond,
Administrator.

[FR Doc. 81-1062 Filed 1-14-81; 8:45 am]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231 and 161

[Release Nos. 33-6279; 39-605]

Simplified Form of Trust Indenture

AGENCY: Securities and Exchange Commission.

ACTION: Interpretative release.

SUMMARY: The Commission is issuing this release to call attention to a new simplified form of trust indenture that may be used in connection with offerings of debt securities requiring a qualified indenture under the Trust Indenture Act of 1939.

FOR FURTHER INFORMATION CONTACT: Norman Schou at (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Recently, the Commission's Division of Corporation Finance ("Division") was asked to qualify an indenture under the Trust Indenture Act of 1939 [15 U.S.C. 80a et seq.] that was prepared on a novel, simplified format. In the interest of reducing the burden of registration on issuers of debt securities, the Division wishes to draw attention to the unusual features of this indenture.

The new indenture, between Navco Corp. and the Boatmen's National Bank of St. Louis, Trustee, was filed under the Securities Act of 1933 [15 U.S.C. 77a et seq.] as an exhibit to registration statement no. 2-69424 in connection with an offering of sinking fund debentures. This type of indenture was suggested in a recent article by counsel for Union Carbide Corporation. See McDaniel, *The Review of Securities Regulation*, Vol. 13, No. 16 (Sept. 24, 1980). The advantage of this indenture is that it incorporates by reference many of the provisions of the Trust Indenture Act required to be included in qualified indentures, instead of physically incorporating such provisions in the language of the indenture itself, in the traditional complex manner. The Navco Corp. indenture is simple and straightforward and, with incorporation by reference, only 35 pages long. Other shortcuts in indenture draftsmanship which contribute to speedier processing of registration statements were discussed by the staff in Release No. 33-6090 (July 11, 1979) [44 FR 43466].

Copies of the indenture may be obtained from the Commission's Public Reference Section by referring to the Navco Corp. file number.

Accordingly, 17 CFR Parts 231 and 261 are amended by adding reference to this release thereto.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-1515 Filed 1-14-81; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Chains and Parts Thereof, of Cast Iron, Iron or Steel From Italy; Correction of Notice of Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Correction of notice of revocation of countervailing duty order.

SUMMARY: This notice is to advise the public that the Department of Commerce is correcting its notice revoking the countervailing duty order on chains and parts thereof from Italy to provide that entries, or withdrawals from warehouse, for consumption made before January 14, 1980, are subject to countervailing duties.

EFFECTIVE DATE: January 15, 1981. The correct effective date for the refund is January 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 2128, Washington, D.C. 20230 (202-377-1770).

SUPPLEMENTARY INFORMATION: A notice entitled "Chains and Parts Thereof, of Cast Iron, Iron or Steel from Italy; Revocation of Countervailing Duty Order" was published in the Federal Register on November 7, 1980 (45 FR 73921). The notice incorrectly stated the effective date for the refund of any estimated countervailing duties collected with respect to entries of the merchandise. The correct date is January 14, 1980 rather than April 3, 1980. Entries, or withdrawals from warehouse, for consumption, made before January 14, 1980 are subject to countervailing duties as set forth in T.D. 77-249 and as modified by T.D. 79-20.

The Department of Commerce is instructing Customs officers to proceed with liquidation of entries of the subject merchandise in accordance with this notice.

This correction of revocation and notice publication are in accordance with section 104(b)(4)(B) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-1470 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 140

Payroll and Related Expense of Public Employees; General Administration and Other Overhead; and Cost Accumulation Centers and Distribution Methods

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This is a revision of an existing regulation which provides policies and procedures for the reimbursement of public employees working on Federal Aid highway projects. This rewrite of the regulation is a part of FHWA's effort to reduce redtape and to make the regulations easier to understand and to comply with.

EFFECTIVE DATE: February 17, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey C. Wood, Office of Fiscal Services, 202-426-0563, or Thomas P. Holian, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce redtape and to make its regulations easier to understand and comply with, the FHWA is revising 23 CFR Part 140, Subpart G to clarify the regulation and facilitate compliance with it.

The revision meets the standards of 23 U.S.C. 101(e) (minimization of redtape) and the recommendations of the FHWA's Regulations Reduction Review Task Force (43 FR 10578) for brevity and clarity.

The revised regulation only restates existing policies and procedures for the reimbursement of public employees on Federal-aid projects, often referred to as "force account" work. No new or additional economic or other burdens are expected to be placed upon the economy, the private sector, consumers, or Federal, State, or local governments. The revision is neither costly nor controversial. For these reasons, the FHWA has determined that publication of the revised regulation for notice and comment could not reasonably be anticipated to result in the receipt of useful information.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The impact of this rule is so minimal that it does not warrant the preparation of a regulatory evaluation.

In consideration of the foregoing, Subpart G of Part 140 of Chapter I, Title 23, Code of Federal Regulations, is amended to read as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: January 7, 1981.

John S. Hassell, Jr.,

Federal Highway Administrator.

Subpart G of Part 140 is revised to read as follows:

PART 140—REIMBURSEMENT

Subpart G—Payroll and Related Expense of Public Employees; General Administration and Other Overhead; and Cost Accumulation Centers and Distribution Methods

Sec.
140.701 Purpose.
140.703 Reimbursable costs.
140.705 Salaries and wages.
140.707 Travel and transportation.
140.709 Employee leave and holidays.
140.711 Social security, retirement, and other payroll benefits.
140.713 General administration and other overhead.
140.715 Use of cost accumulation centers and cost distribution methods.

Authority: 23 U.S.C. 101(e), 114(a), 315; 49 CFR 1.48(b).

Subpart G—Payroll and Related Expense of Public Employees; General Administration and Other Overhead; and Cost Accumulation Centers and Distribution Methods

§ 140.701 Purpose.

To prescribe policies and procedures for reimbursing a State highway agency (SHA) for the costs of salaries, wages, and related costs incurred by its employees or by those of a county, city, or other local public agency (LPA) for the benefit of a federally participating highway project.

§ 140.703 Reimbursable costs.

The costs of salaries, wages, and related costs may be reimbursable for the following activities:

(a) *Preliminary engineering.* Location, design, and related work preparatory to the advancement of a project to physical construction.

(b) *Construction engineering.* The supervision and inspection of construction activities; additional staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.

(c) *Acquisition of rights-of-way.* The preparation of right-of-way plans; making economic studies and other related preliminary work; appraisal for parcel acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishing of relocation advisory assistance; and other related labor expenses.

(d) *Highway planning.* The orderly and continuing assembly and analysis of information about highways, such as the history of development and their extent, dimensions and conditions, use, economic and social effects, costs, and future needs.

(e) *Research and development.* The search for more complete knowledge of the characteristics of the highway system and the translation of the results of research into practice.

(f) *Administrative settlement costs-contract claims.* Services related to the review and defense of claims against Federal-aid projects, as provided for in Subpart E of Part 140 of this title, Administrative Settlement Costs-Contract Claims.

(g) *Miscellaneous functions.* Costs incurred for other activities which are properly attributable to, and for the benefit of, Federal-aid projects but are not assignable to any of the previously defined functions.

§ 140.705 Salaries and wages.

(a) Subject to appropriate authorization requirements, Federal funds may participate in the cost of salaries, wages, and related payroll expenses incurred for periods of time public employees are actively engaged, either directly or indirectly, in project-related activities.

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(b) Salaries, wages, and related payroll expenses of an SHA for maintenance, general administration, supervision and other overhead are not eligible for reimbursement except as provided for in paragraph (b) of § 140.713.

§ 140.707 Travel and transportation.

(a) Federal funds may participate in the cost of commercial transportation, privately owned automobiles, and per diem or subsistence which is essential to the prosecution of the project and is performed in accordance with prescribed procedures.

(b) Reimbursement may be made for use of privately owned automobiles and per diem or subsistence which is incurred in conformance with established reimbursement policy of the SHA or LPA.

§ 140.709 Employee leave and holidays.

(a) An SHA or LPA may claim reimbursement for the costs of leave, i.e., annual, sick, military, jury, etc., that is earned, accounted for, and used in accordance with established procedures. The cost of such leave must be a liability of the SHA or LPA, must be equitably distributed to all activities, and the pro rata costs distributed to a Federal-aid project must be representative of the amount that is earned and accrued while working on the project.

(b) Compensatory leave granted by an SHA or LPA in lieu of payment of overtime to eligible employees may be claimed for reimbursement if accrued and granted under established policies on a uniform basis. Such leave costs must meet the criteria discussed in paragraph (a) of this section.

(c) Costs for other leave of a similar nature which may be peculiar to a specific SHA or LPA may also be reimbursed provided it meets the criteria set forth in paragraph (a) of this section.

§ 140.711 Social security, retirement, and other payroll benefits.

(a) Federal funds may participate in allocable costs incurred for social security, retirement, group insurance premiums, and similar items applicable to salaries and wages of public employees engaged in work in Federal-aid projects.

(b) The costs for such benefits must be a liability of the SHA or LPA and must meet the criteria set forth in paragraph (a) of § 140.709.

§ 140.713 General administration and other overhead.

(a) General administration, supervision, and other unallowable overhead costs of an SHA are those considered necessary for the management, supervision, and administrative control of a suitably equipped, staffed and operational SHA. Examples of such unallowable costs may include, but are not limited to, the following types of personnel, related payroll benefit costs, and other administrative or support services;

(1) Directors, department heads, legal, accounting, budgeting, internal auditing, personnel, and procurement units.

(2) Related clerical, secretarial, and other support services for officials and personnel listed in paragraph (a)(1) of this section.

(3) Management, supervision, and administrative overhead costs incurred by other units or departments of State, county, or city governmental organizations.

(b) Costs incurred for services rendered by employees generally classified as administrative may, however, be considered eligible for reimbursement for:

(1) A highway planning unit and a research and development unit, in the ratio of time spent on the participating portion of work in the unit to the total unit's working hours, and

(2) Other operating units if such employees are assigned for specific identifiable periods of time to perform project-related activities in the same manner as other operating personnel.

§ 140.715 Use of cost accumulation centers and cost distribution methods.

(a) Cost accumulation centers, i.e., cost centers, cost pools, or other acceptable cost accumulation methods, may be used to capture related types of costs for later distribution to all projects or other benefitting activities for which work was performed during the accounting period. The accounting and cost distribution procedures must be in accordance with paragraph (b) of this section for types of costs incurred under the following general criteria.

(1) Salaries, wages and related payroll benefit costs may be incurred during a payroll accounting period which affects a number of projects and, therefore, may not be easily adaptable to charging directly to individual projects due to such factors as (i) incompatibility of time increments for individual projects, (ii) an inordinate amount of time or additional number of documents to provide separate project coding, or (iii) a documented reduction of overhead costs in the elimination of processing source and coding required, increased electronic data processing applications, and additional accounting requirements.

(2) Small items of costs may be incurred which affect several projects and would result in a disproportionate amount of time and number of documents for separate project accounting in relation to the amount of costs involved.

(3) Items of costs may otherwise be eligible for reimbursement but, due to their nature and the small amounts involved, they are not being claimed for reimbursement, since the additional overhead costs required for separate project coding and effective internal controls are not cost beneficial in relation to separate project reimbursable amounts.

(4) The items of costs must be directly attributable to and properly allocable to the projects to which they are distributed. They must not lose their identity, i.e., type, amount, purpose for which incurred, whether federally participating, input source, etc.

(b) The use of separate cost accumulation centers for comparably related types of costs is a prerequisite to the use of percentages, or other acceptable distribution methods, for cost distribution to benefitting projects or other activities. The accounting procedures and methods of distribution used must have prior concurrence of the Federal Highway Administration, be representative of average actual costs, and must assure that (1) costs are uniformly and equitably distributed to all projects and activities for which work was performed during the accounting period irrespective of source of funds, (2) provisions are established for an adequate segregation of costs and separate distribution methods for similarly related types of costs, (3) actual costs and liabilities are fully accounted for and controlled, and (4) that reviews are made periodically, and the rates or other distribution methods are adjusted at least once annually by any over or under-distributed accumulated costs from the cost accumulation center for the preceding accounting period.

(c) Percentages representative of average actual costs may be used to distribute leave, social security, and other payroll benefits. Such rates are based on prior cost experience adjusted by anticipated known factors which will affect overall costs during the current year, i.e., scheduled salary increases, changes anticipated in insurance premiums, etc.

[FR Doc. 81-1841 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 510

[Docket No. R-81-893]

Section 312 Rehabilitation Loan Program

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The Secretary is amending the regulations for the Section 312 Rehabilitation Loan Program as a result of changes made in the program by the Housing and Community Development Act of 1980. Congress has changed the maximum loan amount for residential properties from $27,000 to $33,500 per dwelling unit and has included provisions making the maximum loan amounts for congregate dwelling properties and single room occupancy properties $25,000 and $15,000 per dwelling unit respectively. In addition, this Final Rule further limits refinancing to those cases deemed by the Secretary to be necessary and appropriate, based on a provision of the 1980 Act which states that this authority may not be delegated to any agency or organization outside the Department. This Final Rule is needed immediately to implement these important program changes. This Final Rule applies to the Section 312 Rehabilitation Loan Program, listed as No. 14.220 in the Catalog of Federal Domestic Assistance (CFDA).

EFFECTIVE DATE: February 15, 1981.

FOR FURTHER INFORMATION CONTACT: Craig S. Nickerson, Office of Urban Rehabilitation and Community Reinvestment, Room 7162, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone: 202/755-5970. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The 1980 legislative amendments change the maximum loan amount for residential property from $27,000 to $33,500 per dwelling unit; this requires amendment of § 510.36(a)(1) of the present regulations. In the present regulations, other requirements were tied to this loan limit and, therefore, several sections are being revised to reflect the new statutory loan limit. In addition, the definition of dwelling unit § 510.4(g)) is being revised to refer specifically to dwelling units in congregate housing properties and single room occupancy properties, and the maximum loan amounts for these properites of $25,000 and $15,000 per dwelling unit, respectively, are being inserted in § 510.36(a), in order to implement the amended maximum loan amounts for these categories of properties. Finally, one technical correction of existing § 510.36(a)(3) (renumbered § 510.36(a)(5) in these amendments) is being made to eliminate inconsistency with § 510.74. Section 510.74 does not require as-is appraisals for loans under $33,500 (as amended). Similarly, therefore, the requirement in § 510.36(a)(5) for a loan limit based on an as-is value calculation is being eliminated.

To implement the provisions of the 1980 legislation restricting approval of refinancing to Departmental officials, § 510.40 of the regulations is also being amended to provide that the locality or LPA must submit any loan application involving refinancing to the HUD Area Office for review and approval based on a judgment that refinancing is necessary and appropriate. Based on this new statutory requirement, § 510.72 of the regulation on local loan approval is also being revised to prohibit a locality or LPA from approving loans involving refinancing.

Other Information

The Department has determined that an environmental impact statement is not required with this rule. A copy of the Finding of No Significant Environmental Effect is available for inspection in the Office of the Rules Docket Clerk at the address provided above.

This rule only includes changes to the Section 312 Final Rule, 24 CFR Part 510, published September 10, 1980, that are necessary to implement legislative amendments in the Housing and Community Development Act of 1980, except for the single technical correction in § 510.36 mentioned above. None of the amendments included in this rule are subject to Departmental regulatory interpretation. Therefore, public comment on this rule is not being requested. These changes will become effective February 15, 1981; the same date that the Section 312 Final Rule, 24 CFR 510, becomes effective.

This rule is not listed in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12221.

A waiver of Congressional review requirements of Section 7(o)(4) of the Housing and Urban Development Act has been received.

Accordingly, 24 CFR Part 510 is amended as follows:

1. Section 510.4 is amended by removing the second sentence of paragraph (g) of § 510.4 and inserting in lieu thereof:

§ 510.4 [Amended]

* * * * *

(g) * * * However, a dwelling unit in a congregate housing property need not contain a kitchen area if the property contains or is connected to a central dining facility where meals can be served to the occupants of the dwelling units, and a dwelling unit in a single room occupancy property need not contain a bathroom or a kitchen.

2. Section 510.36 is amended by removing paragraph (a) and inserting in lieu thereof:

§ 510.36 [Amended]

(a) *Residential.* The maximum loan amount for a Section 312 rehabilitation loan on a single-family or multifamily property shall not exceed the lesser of:

(1) $33,500 per dwelling unit; or

(2) $25,000 per dwelling unit in a congregate housing property; or

(3) $15,000 per dwelling unit in a single room occupancy property; or

(4) The total cost of rehabilitation (plus the cost of refinancing as defined in § 510.40 of this Part if applicable); or

(5) For loans over $33,500, an amount which when added to the outstanding indebtedness related to the property, creates a total indebtedness which does not exceed 97 percent of the sum of the as-is value of the property and the actual cost of rehabilitation.

3. Section 510.40 is amended by removing paragraph (c) of § 510.40 and inserting in lieu thereof:

§ 510.40 [Amended]

* * * * *

(c) *Procedure for Approval.* The LPA shall include in the loan file documentation supporting its opinion that refinancing meets the criteria in this Section and shall refer the loan to the HUD Area Office for a determination that refinancing is necessary and appropriate and for loan approval.

4. Section 510.72(a)(2) is amended by removing the period, substituting a comma, and adding the following:

§ 510.72 [Amended]

(a) * * *

(2) * * * and it shall prohibit the locality or LPA from approving loans involving refinancing pursuant to § 510.40.

§§ 510.39, 510.44, 510.74, 510.78, 510.80 [Amended]

5. The figure "$27,000" is changed to "$33,500" wherever it appears in §§ 510.39(a), 510.44(b)(1) and (2), 510.74(a) and (b), 510.78(b)(1) and (2) and 510.80(b)(2) of this Part.

(Sec. 312 of the United States Housing Act of 1964, as amended (42 U.S.C. 1452(b), and Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. (d))

Issued at Washington, D.C., November 26, 1980.

Walter G. Farr, Jr.,

Deputy Assistant Secretary for Office of Community Planning and Development.

[FR Doc. 81-1531 Filed 1-14-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[T.D. 7754; EE-167-78]

Income and Employment Taxes; Self-Insured Medical Reimbursement Plans

AGENCY: Internal Revenue Service.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to self-insured medical reimbursement plans and the withholding of income tax under these plans. Changes to the applicable law were made by the Revenue Act of 1978 and the Technical Corrections Act of 1979. These regulations provide necessary guidance to the public for compliance with the law and affect both employers who maintain self-insured medical reimbursement plans and certain employees who receive medical benefits under these plans.

DATES: The regulations are effective for taxable years beginning after December 31, 1979. However, transitional rules are provided for plan years beginning in 1979 and ending in 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Wickersham of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention:CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1980, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 105(h) of the Internal Revenue Code of 1954 (45 FR 13123). The amendments were proposed to conform the regulations to section 366 of the Revenue Act of 1978 (92 Stat. 2855). Section 103(a)(13) of the Technical Corrections Act of 1979 (94 Stat. 213), as enacted April 1, 1980, made clarifying amendments to section 366 of the Act and added section 3401(a)(20) to the Internal Revenue Code of 1954. A public hearing was held on June 24, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. In addition, a provision is added to the Employment Tax Regulations (26 CFR Part 31) concerning the withholding of income tax for payments under self-insured medical reimbursement plans.

Definition of Self-Insured Plan

The final regulations provide that a medical reimbursement plan underwritten by a policy of insurance issued by a licensed insurance company, or a qualifying prepaid health care plan, that does not involve the shifting of risk is considered self-insured. This test is unchanged from the proposed regulations.

Several commentators suggested that the absence of a shifting of risk is an inappropriate standard for self-insured reimbursement plans and should be eliminated. The commentators requested that the standard should be whether a plan is underwritten by a policy of insurance or a prepaid health care arrangement with a licensed insurance company.

The final regulations retain the shifting of risk standard for determining whether a plan is self-insured. An economic shifting of risk is a necessary element of insurance. The final regulations make it clear that if a specific policy or arrangement provides no shifting of risk it will be considered self-insured and subject to the rules of this regulation. Further, the final regulations make it clear that a policy or arrangement whereby an insured portion is added to what is essentially an administrative services arrangement will not cause the part which involves no shifting of risk to be considered as insured and therefore not subject to the section 105(h) rules.

Part-Time And Seasonal Employees

The final regulations provide rules that relate to the exclusion of part-time and seasonal employees from eligibility to participate in a self-insured medical reimbursement plan. The final regulations provide that if the employer has other employees in similar work the determination of whether an employee is part-time or seasonal is made by comparing the customary employment of such other employees in similar work to the employees described as part-time or seasonal. For employers that do not have other employees performing work similar to the employees described as part-time or seasonal, the determination will be made by comparing other employees in similar work in the same industry and location. Further, a safe harbor is provided whereby an employer may treat employees whose customary employment is less than 25 hours a week or 7 months a year as part-time or seasonal employees.

Health Maintenance Organization Participants

A provision is added to the final regulations to provide rules for employers maintaining a self-insured medical reimbursement plan that are required by law to offer employees the option of joining a health maintenance organization. For purposes of satisfying the eligibility requirements and for other purposes, employees who elect to participate in a health maintenance organization are considered to be benefited under the self-insured plan provided certain criteria are satisfied.

Medical Diagnostic Procedures

The final regulations provide an exception from the nondiscrimination requirements applicable to self-insured medical reimbursement plans for medical diagnostic procedures. Under the final regulations the exception is limited to only medical diagnostic procedures for employees. The exception is not expanded as requested by several commentators to include programs of preventive medicine and general health improvement. In addition, the exception for diagnostic procedures has been revised to include only transportation expenses that are otherwise allowed as medical deductions under section 213.

Multiple Plans

The final regulations add clarifying provisions that allow an employer with two or more self-insured medical reimbursement plans to aggregate two or more plans into a single plan for purposes of satisfying the nondiscrimination requirements. The regulations also make it clear that one plan document can be used for more than one separate plan of an employer if the employer establishes which plans are separate.

Withholding Tax

The final regulations add § 31.3401(a)(20)-1 to the Employment Tax Regulations (26 CFR Part 31) to provide rules under section 3401(a)(20), which was added by the Technical Corrections Act of 1979. The final regulations make it clear that amounts reimbursed to an employee for medical care under a self-insured medical reimbursement plan even though

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includible in gross income are not "wages" under section 3401. Consequently, such reimbursements are not subject to withholding under section 3402.

Drafting Information

The principal author of this regulation is Kevin W. Cobb of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Parts 1 and 31 are hereby adopted as set forth below:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.105–11 is added immediately after § 1.105–10 to read as follows:

§ 1.105–11 Self-insured medical reimbursement plan.

(a) *In general.* Under section 105(a), amounts received by an employee through a self-insured medical reimbursement plan which are attributable to contributions of the employer, or are paid by the employer, are included in the employee's gross income unless such amounts are excludable under section 105(b). For amounts reimbursed to a highly compensated individual to be fully excludable from such individual's gross income under section 105(b), the plan must satisfy the requirements of section 105(h) and this section. Section 105(h) is not satisfied if the plan discriminates in favor of highly compensated individuals as to eligibility to participate or benefits. All or a portion of the reimbursements or payments on behalf of such individuals under a discriminatory plan are not excludable from gross income under section 105(b). However, benefits paid to participants who are not highly compensated individuals may be excluded from gross income if the requirements of section 105(b) are satisfied, even if the plan is discriminatory.

(b) *Self-insured medical reimbursement plan*—(1) *General rule*—(i) *Definition.* A self-insured medical reimbursement plan is a separate written plan for the benefit of employees which provides for reimbursement of employee medical expenses referred to in section 105(b). A plan or arrangement is self-insured unless reimbursement is provided under an individual or group policy of accident or health insurance issued by a licensed insurance company or under an arrangement in the nature of a prepaid health care plan that is regulated under federal or state law in a manner similar to the regulation of insurance companies. Thus, for example, a plan of a health maintenance organization, established under the Health Maintenance Organization Act of 1973, would qualify as a prepaid health care plan. In addition, this section applies to a self-insured medical reimbursement plan, determined in accordance with the rules of this section, maintained by an employee organization described in section 501(c)(9).

(ii) *Shifting of risk.* A plan underwritten by a policy of insurance or a prepaid health care plan that does not involve the shifting of risk to an unrelated third party is considered self-insured for purposes of this section. Accordingly, a cost-plus policy or a policy which in effect merely provides administrative or bookkeeping services is considered self-insured for purposes of this section. However, a plan is not considered self-insured merely because one factor the insurer uses in determining the premium is the employer's prior claims experience.

(iii) *Captive insurance company.* A plan underwritten by a policy of insurance issued by a captive insurance company is not considered self-insured for purposes of this section if for the plan year the premiums paid by companies unrelated to the captive insurance company equal or exceed 50 percent of the total premiums received and the policy of insurance is similar to policies sold to such unrelated companies.

(2) *Other rules.* The rules of this section apply to a self-insured portion of an employer's medical plan or arrangement even if the plan is in part underwritten by insurance. For example, if an employer's medical plan reimburses employees for benefits not covered under the insured portion of an overall plan, or for deductible amounts under the insured portions, such reimbursement is subject to the rules of this section. However, a plan which reimburses employees for premiums paid under an insured plan is not subject to this section. In addition, medical expense reimbursements not described in the plan are not paid pursuant to a plan for the benefit of employees, and therefore are not excludable from gross income under section 105(b). Such reimbursements will not affect the determination of whether or not a plan is discriminatory.

(c) *Prohibited discrimination*—(1) *In general.* A self-insured medical reimbursement plan does not satisfy the requirements of section 105(h) and this paragraph for a plan year unless the plan satisfies subparagraphs (2) and (3) of this paragraph. However, a plan does not fail to satisfy the requirements of this paragraph merely because benefits under the plan are offset by benefits paid under a self-insured or insured plan of the employer or another employer, or by benefits paid under Medicare or other Federal or State law or similar foreign law. A self-insured plan may take into account the benefits provided under another plan only to the extent that the type of benefit subject to reimbursement is the same under both plans. For example, an amount reimbursed to an employee for a hospital expense under a medical plan maintained by the employer of the employee's spouse may be offset against the self-insured benefit where the self-insured plan covering the employee provides the same type of hospital benefit.

(2) *Eligibility to participate*—(i) *Percentage test.* A plan satisfies the requirements of this subparagraph if it benefits—

(A) Seventy percent or more of all employees, or

(B) Eighty percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all employees are eligible to benefit under the plan.

(ii) *Classification test.* A plan satisfies the requirements of this subparagraph if it benefits such employees as qualify under a classification of employees set up by the employer which is found by the Internal Revenue Service not to be discriminatory in favor of highly compensated individuals. In general, this determination will be made based upon the facts and circumstances of each case, applying the same standards as are applied under section 410(b)(1)(B) (relating to qualified pension, profit-sharing and stock bonus plans), without regard to the special rules in section 401(a)(5) concerning eligibility to participate.

(iii) *Exclusion of certain employees.* Under section 105(h)(3), for purposes of this subparagraph (2), there may be excluded from consideration:

(A) Employees who have not completed 3 years of service prior to the beginning of the plan year. For purposes of this section years of service may be determined by any method that is reasonable and consistent. A

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determination made in the same manner as (and not requiring service in excess of how) a year of service is determined under section 410(a)(3) shall be deemed to be reasonable. For purposes of the 3-year rule, all of an employee's years of service with the employer prior to a separation from service are not taken into account. For purposes of the 3-year rule, an employee's years of service prior to age 25, as a part-time or seasonal employee, as a member of a collective bargaining unit, or as a nonresident alien, as each is described in this subdivision, are not excluded by reason of being so described from counting towards satisfaction of the rule. In addition, if the employer is a predecessor employer (determined in a manner consistent with section 414(a)), service for such predecessor is treated as service for the employer.

(B) Employees who have not attained age 25 prior to the beginning of the plan year.

(C) Part-time employees whose customary weekly employment is less than 35 hours, if other employees in similar work with the same employer (or, if no employees of the employer are in similar work, in similar work in the same industry and location) have substantially more hours, and seasonal employees whose customary annual employment is less than 9 months, if other employees in similar work with the same employer (or, if no employees of the employer are in similar work, in similar work in the same industry and location) have substantially more months. Notwithstanding the preceding sentence, any employee whose customary weekly employment is less than 25 hours or any employee whose customary annual employment is less than 7 months may be considered as a part-time or seasonal employee.

(D) Employees who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Commissioner finds to be a collective bargaining agreement, if accident and health benefits were the subject of good faith bargaining between such employee representatives and such employer or employers. For purposes of determining whether such bargaining occurred, it is not material that such employees are not covered by another medical plan or that the plan was not considered in such bargaining.

(E) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(b) and the regulations thereunder) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3) and the regulations thereunder).

(3) *Nondiscriminatory benefits*—(i) *In general.* In general, benefits subject to reimbursement under a plan must not discriminate in favor of highly compensated individuals. Plan benefits will not satisfy the requirements of this subparagraph unless all the benefits provided for participants who are highly compensated individuals are provided for all other participants. In addition, all the benefits available for the dependents of employees who are highly compensated individuals must also be available on the same basis for the dependents of all other employees who are participants. A plan that provides optional benefits to participants will be treated as providing a single benefit with respect to the benefits covered by the option provided that (A) all eligible participants may elect any of the benefits covered by the option and (B) there are either no required employee contributions or the required employee contributions are the same amount. This test is applied to the benefits subject to reimbursement under the plan rather than the actual benefit payments or claims under the plan. The presence or absence of such discrimination will be determined by considering the type of benefit subject to reimbursement provided highly compensated individuals, as well as the amount of the benefit subject to reimbursement. A plan may establish a maximum limit for the amount of reimbursement which may be paid a participant for any single benefit, or combination of benefits. However, any maximum limit attributable to employer contributions must be uniform for all participants and for all dependents of employees who are participants and may not be modified by reason of a participant's age or years of service. In addition, if a plan covers employees who are highly compensated individuals, and the type or the amount of benefits subject to reimbursement under the plan are in proportion to employee compensation, the plan discriminates as to benefits.

(ii) *Discriminatory operation.* Not only must a plan not discriminate on its face in providing benefits in favor of highly compensated individuals, the plan also must not discriminate in favor of such employees in actual operation. The determination of whether plan benefits discriminate in operation in favor of highly compensated individuals is made on the basis of the facts and circumstances of each case. A plan is not considered discriminatory merely because highly compensated individuals participating in the plan utilize a broad range of plan benefits to a greater extent than do other employees participating in the plan. In addition, if a plan (or a particular benefit provided by a plan) is terminated, the termination would cause the plan benefits to be discriminatory if the duration of the plan (or benefit) has the effect of discriminating in favor of highly compensated individuals. Accordingly, the prohibited discrimination may occur where the duration of a particular benefit coincides with the period during which a highly compensated individual utilizes the benefit.

(iii) *Retired employees.* To the extent that an employer provides benefits under a self-insured medical reimbursement plan to a retired employee that would otherwise be excludible from gross income under section 105(b), determined without regard to section 105(h), such benefits shall not be considered a discriminatory benefit under this paragraph (c). The preceding sentence shall not apply to a retired employee who was a highly compensated individual unless the type, and the dollar limitations, of benefits provided retired employees who were highly compensated individuals are the same for all other retired participants. If this subdivision applies to a retired participant, that individual is not considered an employee for purposes of determining the highest paid 25 percent of all employees under paragraph (d) of this section solely by reason of receiving such plan benefits.

(4) *Multiple plans, etc.*—(i) *General rule.* An employer may designate two or more plans as constituting a single plan that is intended to satisfy the requirements of section 105(h)(2) and paragraph (c) of this section, in which case all plans so designated shall be considered as a single plan in determining whether the requirements of such section are satified by each of the separate plans. A determination that the combination of plans so designated does not satisfy such requirements does not preclude a determination that one or more of such plans, considered separately, satisfies such requirements. A single plan document may be utilized by an employer for two or more separate plans provided that the employer designates the plans that are to be considered separately and the applicable provisions of each separate plan.

(ii) *Other rules.* If the designated combined plan discriminates as to eligibility to participate or benefits, the amount of excess reimbursement will be determined under the rules of section

105(h)(7) and paragraph (e) of this section by taking into account all reimbursements made under the combined plan.

(iii) *H.M.O. participants.* For purposes of section 105(h)(2)(A) and paragraph (c)(2) of this section, a self-insured plan will be deemed to benefit an employee who has enrolled in a health maintenance organization (HMO) that is offered on an optional basis by the employer in lieu of coverage under the self-insured plan if, with respect to that employee, the employer's contributions to the HMO plan equal or exceed those that would be made to the self-insured plan, and if the HMO plan is designated in accordance with subdivision (i) with the self-insured plan as a single plan. For purposes of section 105(h) and this section, except as provided in the preceding sentence, employees covered by, and benefits under, the HMO plan are not treated as part of the self-insured plan.

(d) *Highly compensated individuals defined.* For purposes of section 105(h) and this section, the term "highly compensated individual" means an individual who is—

(1) One of the 5 highest paid officers,

(2) A shareholder who owns (with the application of section 318) more than 10 percent in value of the stock of the employer, or

(3) Among the highest paid 25 percent of all employees (including the 5 highest paid officers, but not including employees excludable under paragraph (c)(2)(iii) of this section who are not participants in any self-insured medical reimbursement plan of the employer, whether or not designated as a single plan under paragraph (c)(4) of this section, or in a health maintenance organization plan).

The status of an employee as an officer or stockholder is determined with respect to a particular benefit on the basis of the employee's officer status or stock ownership at the time during the plan year at which the benefit is provided. In calculating the highest paid 25 percent of all employees, the number of employees included will be rounded to the next highest number. For example, if there are 5 employees, the top two are in the highest paid 25 percent. The level of an employee's compensation is determined on the basis of the employee's compensation for the plan year. For purposes of the preceding sentence, fiscal year plans may determine employee compensation on the basis of the calendar year ending within the plan year.

(e) *Excess reimbursement of highly compensated individual*—(1) *In general.* For purposes of section 105(h) and this section, a reimbursement paid to a highly compensated individual is an excess reimbursement if it is paid pursuant to a plan that fails to satisfy the requirements of paragraph (c)(2) or (c)(3) for the plan year. The amount reimbursed to a highly compensated individual which constitutes an excess reimbursement is not excludable from such individual's gross income under section 105(b).

(2) *Discriminatory benefit.* In the case of a benefit available to highly compensated individuals but not to all other participants (or which otherwise discriminates in favor of highly compensated individuals as opposed to other participants), the amount of excess reimbursement equals the total amount reimbursed to the highly compensated individual with respect to the benefit.

(3) *Discriminatory coverage.* In the case of benefits (other than discriminatory benefits described in subparagraph (2)) paid to a highly compensated individual under a plan which fails to satisfy the requirements of paragraph (c)(2) relating to nondiscrimination in eligibility to participate, the amount of excess reimbursement is determined by multiplying the total amount reimbursed to the individual by a fraction. The numerator of the fraction is the total amount reimbursed during that plan year to all highly compensated individuals. The denominator of the fraction is the total amount reimbursed during that plan year to all participants. In computing the fraction and the total amount reimbursed to the individual, discriminatory benefits described in subparagraph (2) are not taken into account. Accordingly, any amount which is included in income by reason of the benefit's not being available to all other participants will not be taken into account.

(4) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). Corporation M maintains a self-insured medical reimbursement plan which covers all employees. The plan provides the following maximum limits on the amount of benefits subject to reimbursement: $5,000 for officers and $1,000 for all other participants. During a plan year Employee A, one of the 5 highest paid officers, received reimbursements in the amount of $4,000. Because the amount of benefits provided for highly compensated individuals is not provided for all other participants, the plan benefits are discriminatory. Accordingly, Employee A received an excess reimbursement of $3,000 ($4,000 – $1,000) which constitutes a benefit available to highly compensated individuals, but not to all other participants.

Example (2). Corporation N maintains a self-insured medical reimbursement plan which covers all employees. The plan provides a broad range of medical benefits subject to reimbursement for all participants. However, only the 5 highest paid officers are entitled to dental benefits. During the plan year Employee B, one of the 5 highest paid officers, received dental payments under the plan in the amount of $300. Because dental benefits are provided for highly compensated individuals, and not for all other participants, the plan discriminates as to benefits. Accordingly, Employee B received an excess reimbursement in the amount of $300.

Example (3). Corporation O maintains a self-insured medical reimbursement plan which discriminates as to eligibility by covering only the highest paid 40% of all employees. Benefits subject to reimbursement under the plan are the same for all participants. During a plan year Employee C, a highly compensated individual, received benefits in the amount of $1,000. The amount of excess reimbursement paid Employee C during the plan year will be calculated by multiplying the $1,000 by a fraction determined under subparagraph (3).

Example (4). Corporation P maintains a self-insured medical reimbursement plan for its employees. Benefits subject to reimbursement under the plan are the same for all plan participants. However, the plan fails the eligibility tests of section 105(h)(3)(A) and thereby discriminates as to eligibility. During the 1980 plan year Employee D, a highly compensated individual, was hospitalized for surgery and incurred medical expenses of $4,500 which were reimbursed to D under the plan. During that plan year the Corporation P medical plan paid $50,000 in benefits under the plan, $30,000 of which constituted benefits paid to highly compensated individuals. The amount of excess reimbursement not excludable by D under section 105(b) is $2,700.

$$\left(\$4,500 \times \frac{30,000}{50,000}\right).$$

Example (5). Corporation Q maintains a self-insured medical reimbursement plan for its employees. The plan provides a broad range of medical benefits subject to reimbursement for participants. However, only the five highest paid officers are entitled to dental benefits. In addition, the plan fails the eligibility test of section 105(h)(3)(A) and thereby discriminates as to eligibility. During the calendar 1981 plan year, Employee E, a highly compensated individual, received dental benefits under the plan in the amount of $300, and no other employee received dental benefits. In addition, Employee E was hospitalized for surgery and incurred medical expenses, reimbursement for which was available to all participants, of $4,500 which were reimbursed to E under the plan. Because dental benefits are only provided for highly compensated individuals, Employee E

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received an excess reimbursement under paragraph (e)(2) above in the amount of $300. For the 1981 plan year, the Corporation Q medical plan paid $50,300 in total benefits under the plan, $30,300 of which constituted benefits paid to highly compensated individuals. In computing the fraction under paragraph (e)(3), discriminatory benefits described in paragraph (e)(2) are not taken into account. Therefore, the amount of excess reimbursement not excludable to Employee E with respect to the $4,500 of medical expenses incurred is $2,700

$$\left(\$4,500 \times \frac{\$30,000}{\$50,000}\right),$$

and the total amount of excess reimbursements includable in E's income for 1981 is $3,000.

Example (6). (i) Corporation R maintains a calendar year self-insured medical reimbursement plan which covers all employees. The type of benefits subject to reimbursement under the plan include all medical care expenses as defined in section 213(e). The amount of reimbursement available to any employee for any calendar year is limited to 5 percent of the compensation paid to each employee during the calendar year. The amount of compensation and reimbursement paid to Employees A–F for the calendar year is as follows:

Employee	Compensation	Reimbursable amount paid
A	$100,000	$5,000
B	25,000	1,250
C	15,000	750
D	10,000	500
E	10,000	500
F	8,000	400
		8,400

(ii) Because the amount of benefits subject to reimbursement under the plan is in proportion to employee compensation the plan discriminates as to benefits. In addition, Employees A and B are highly compensated individuals. The amount of excess reimbursement paid Employees A and B during the plan year will be determined under paragraph (e)(2). Because benefits in excess of $400 (Employee F's maximum benefit) are provided for highly compensated individuals and not for all other participants, Employees A and B received, respectively, an excess reimbursement of $4,600 and $850.

(f) *Certain controlled groups.* For purposes of applying the provisions of section 105(h) and this section, all employees who are treated as employed by a single employer under section 414 (b) and (c), and the regulations thereunder (relating to special rules for qualified pension, profit-sharing and stock bonus plans), shall be treated as employed by a single employer.

(g) *Exception for medical diagnostic procedures*—(1) *In general.* For purposes of applying section 105(h) and this section, reimbursements paid under a plan for medical diagnostic procedures for an employee, but not a dependent, are not considered to be a part of a plan described in this section. The medical diagnostic procedures include routine medical examinations, blood tests, and X-rays. Such procedures do not include expenses incurred for the treatment, cure or testing of a known illness or disability, or treatment or testing for a physical injury, complaint or specific symptom of a bodily malfunction. For example, a routine dental examination with X-rays is a medical diagnostic procedure, but X-rays and treatment for a specific complaint are not. In addition, such procedures do not include any activity undertaken for exercise, fitness, nutrition, recreation, or the general improvement of health unless they are for medical care as defined in section 213(e). The diagnostic procedures must be performed at a facility which provides no services (directly or indirectly) other than medical, and ancillary, services. For purposes of the preceding sentence, physical proximity between a medical facility and nonmedical facilities will not for that reason alone cause the medical facility not to qualify. For example, an employee's annual physical examination conducted at the employee's personal physician's office is not considered a part of the medical reimbursement plan and therefore is not subject to the nondiscrimination requirements. Accordingly, the amount reimbursed may be excludable from the employee's income if the requirements of section 105(b) are satisfied.

(2) *Transportation, etc. expenses.* Transportation expenses primarily for an allowable diagnostic procedure are included within the exception described in this paragraph, but only to the extent they are ordinary and necessary. Transportation undertaken merely for the general improvement of health, or in connection with a vacation, is not within the scope of this exception, nor are any incidental expenses for food or lodging; therefore, amounts reimbursed for such expenses may be excess reimbursements under paragraph (e).

(h) *Time of inclusion.* Excess reimbursements (determined under paragraph (e)) paid to a highly compensated individual for a plan year will be considered as received in the taxable year of the individual in which (or with which) the plan year ends. The particular plan year to which reimbursements relate shall be determined under the plan provisions. In the absence of plan provisions reimbursements shall be attributed to the plan year in which payment is made. For example, under a calendar year plan an excess reimbursement paid to A in 1981 on account of an expense incurred and subject to reimbursement for the 1980 plan year under the terms of the plan will be considered as received in 1980 by A.

(i) *Self-insured contributory plan.* A medical plan subject to this section may provide for employer and employee contributions. See § 1.105–1(c). The tax treatment of reimbursements attributable to employee contributions is determined under section 104(a)(3). The tax treatment of reimbursements attributable to employer contributions is determined under section 105. The amount of reimbursements which are attributable to contributions of the employer shall be determined in accordance with § 1.105–1(e).

(j) *Effective date.* Section 105(h) and this section are effective for taxable years beginning after December 31, 1979 and for amounts reimbursed after December 31, 1979. In determining plan discrimination and the taxability of excess reimbursements made for a plan year beginning in 1979 and ending in 1980, a plan's eligibility and benefit requirements as well as actual reimbursements made in the plan year during 1979, will not be taken into account. In addition, this section does not apply to expenses which are incurred in 1979 and paid in 1980.

(k) *Special rules*—(1) *Relation to cafeteria plans.* If a self-insured medical reimbursement plan is included in a cafeteria plan as described in section 125, the rules of this section will determine the status of a benefit as a taxable or nontaxable benefit, and the rules of section 125 will determine whether an employee is taxed as though he elected all available taxable benefits (including taxable benefits under a discriminatory medical reimbursement plan). This rule is illustrated by the following example:

Example. Corporation M maintains a cafeteria plan described in section 125. Under the plan an officer of the corporation may elect to receive medical benefits provided by a self-insured medical reimbursement plan which is subject to the rules of this section. However, the self-insured medical reimbursement plan fails the nondiscrimination rules under paragraph (c) of this section. Accordingly, the amount of excess reimbursement is taxable to the officer participating in the medical reimbursement plan pursuant to section 105(h) and this section. Therefore, the self-insured medical reimbursement plan will be considered a taxable benefit under section 125 and the regulations thereunder.

(2) *Benefit subject to reimbursement.* For purposes of this section, a benefit subject to reimbursement is a benefit described in the plan under which a claim for reimbursement or for a payment directly to the health service provider may be filed by a plan participant. It does not refer to actual claims or benefit reimbursements paid under a plan.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Par. 2. There is added immediately before § 31.3401(b)–1 the following new section § 31.3401(a)(20)–1 to read as set forth below. Section 31.3401(a)(19)–1 is reserved.

§ 31.3401(a)(19)–1 [Reserved]

§ 31.3401(a)(20)–1 Reimbursements under a self-insured medical reimbursement plan.

Amounts reimbursed to or on behalf of an employee after December 31, 1979, as a medical care reimbursement under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6)) do not constitute wages and hence are not subject to withholding even though such reimbursement is includible in the gross income of an employee. For rules with respect to self-insured medical reimbursement plans, see section 105(h) and § 1.105–11 of this Chapter (Income Tax Regulations).

This Treasury decision is issued under the authority contained in section 105(h) and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2855, 68A Stat. 917; 26 U.S.C. 105(h) and 7805).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: January 2, 1981.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 81–1540 Filed 1–13–81; 11:20 pm]

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DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 58–81]

Production or Disclosure of Material or Information; Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice, Office of Professional Responsibility.

ACTION: Final rule.

SUMMARY: Pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5), on February 5, 1980, the Department of Justice issued in the Notice Section of the **Federal Register** a notice of intent to exempt a new system of records from the access provisions of 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f) and (g). On the same day the Department issued in the Proposed Rules Section a proposed rule to effect the exemption. The subject system is entitled Office of Professional Responsibility Record Index System (JUSTICE/OPR–001). Exemption was proposed in those cases where a request for access to a complaint file is made prior to administrative resolution of the complaint. The exemption is needed to ensure unhampered investigatory and disciplinary efforts during the complaint and discipline process and to protect the identity of confidential sources.

DATES: The rule will be effective January 15, 1981.

ADDRESS: Administrative Counsel, Justice Management Division, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202–633–3452).

SUPPLEMENTARY INFORMATION: The proposed rule published in the **Federal Register** on February 5, 1980, set forth plans to exempt a new system of records from certain access provisions of the Privacy Act. No comments have been received regarding the proposed rule. Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5) and delegated to me by Attorney General Order No. 793–78, the proposed rule is adopted as set forth below.

Dated: January 2, 1981.

William D. Von Stavoren,

Acting Assistant Attorney General for Administration.

Section 16.80 is added to 28 CFR to read as follows:

§ 16.80 Exemption of Office of Professional Responsibility System—limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f) and (g):

(1) Office of Professional Responsibility Record Index (JUSTICE/OPR–001).

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of the disclosure accounting would enable the subject of an investigation to gain information concerning the existence, nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsections (c)(4), (d), (e)(4)(G) and (H), (f) and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations, reveal confidential informants and constitute unwarranted invasions of the personal privacy of third persons who provide information in connection with a particular investigation.

(3) From subsections (e)(1) and (5) because the collection of information during an investigation necessarily involves material pertaining to other persons or events which is appropriate in a thorough investigation, even though portions thereof are not ultimately connected to the person or event subject to the final action or recommendation of the Office of Professional Responsibility.

(4) From subsection (e)(2) because collecting the information from the subject would thwart the investigation by placing the subject on notice of the investigation.

(5) From subsections (e)(3) and (e)(8) because disclosure and notice would provide the subject with substantial information which could impede or compromise the investigation. For example, an investigatory subject occupying a supervisory position could, once made aware that a misconduct investigation was ongoing, put undue pressure on subordinates so as to preclude their cooperation with investigators.

[FR Doc. 81–1344 Filed 1–14–81; 8:45 am]

BILLING CODE 4410–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits contains the interest rates and factors for the period beginning

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February 1, 1981. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 *as amended by* the Multiemployer Pension Plan Amendments Act of 1980 (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after February 1, 1981, and enables the PBGC to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes a notice revising them.

EFFECTIVE DATE: February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974 *as amended by* the Multiemployer Pension Plan Amendment Act of 1980 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before December 1, 1980. (29 CFR Part 2610 (1979), 44 FR 42180, 44 FR 58908, 45 FR 2026, 45 FR 21228, 45 FR 43164, 45 FR 64907, 45 FR 75658).

On November 14, 1980, the PBGC published the first set of prospective interest rates for plans that terminate on or after December 1, 1980 (45 FR 75209). Those rates are in effect for plans that terminate during December, 1980. Subsequently, the PBGC published rates for plans that terminate on or after January 1, 1981 (45 FR 82172). Those rates will be in effect for plans that terminate on or after January 1, 1981 and before February 1, 1981.

Appendix B is amended by this document to add a set of interest rates and factors for plans that terminate on or after February 1, 1981. These rates and factors will remain in effect until such time as PBGC publishes another notice which changes the rates.

As a rule, these rates will be in effect for at least one month. If these new rates are to be changed for the month of March, 1981, PBGC will publish a notice to that effect no later than the 15th of February. If no change is to be made, no notice will be published, and the February, 1981 rates will remain in effect at least through the month of March, 1981.

Because the Multiemployer Pension Plan Amendments Act of 1980 established a new insurance program for multiemployer plans, we note that the rates and factors added by this publication are applicable to non-multiemployer plans only.

Because of the need to determine and issue new interest rates and factors within a very tight time frame, so that the rates can be as accurate as possible and issued on a prospective basis, the PBGC finds that notice of and public comment on this amendment are impracticable and contrary to the public interest. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after February 1, 1981, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the interim regulation effective less than 30 days after publication.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by revising the heading of Table XXII and by adding a new Table XXIII to Appendix B, as follows:

Appendix B—Interest Rates and Quantities Used To Value Benefits

* * * * *

XXII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after January 1, 1981 and before February 1, 1981.*

* * * * *

XXIII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after February 1, 1981.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 9¾ percent shall be used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities:

(1) $k_1=1.09$
(2) $k_2=1.0775$
(3) $k_3=1.04$
(4) $n_1=7$
(5) $n_2=8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029, (1974), as amended by Secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, (1980))

Issued at Washington, D.C., on this 9th day of January 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-1357 Filed 1-14-81; 8:45 am]

BILLING CODE 7709-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 79-126]

Procedure for Exemption From the Requirement for Segregated Ballast Tanks, Dedicated Clean Ballast Tanks or a Crude Oil Washing System for Existing Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document adds to the rules for tank vessels carrying oil in bulk a procedure for exemption from the requirements for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT) or crude oil washing (COW) systems. This rule implements subsection (7)(N) of section 5 of the Port and Tanker Safety Act of 1978 which allows the exemption if shore-based reception facilities are a preferred method of handling dirty ballast. This

rule recognizes that in certain trades where existing tank vessels have set loading locations, it is as effective to use shore-based reception facilities for the treatment of oil residues as it is to use SBT, CBT or COW.

EFFECTIVE DATE: This amendment is effective on February 17, 1981.

ADDRESSES: Copies of the combined final regulatory evaluation and environmental assessment and of the finding of no significant impact relating to this amendment are available for examination or copying at the Marine Safety Council (G–CMC/24), Room 2148, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, D.C. 20593. These documents are available between the hours of 7:00 a.m. and 5:00 p.m. Monday through Thursday.

Copies of COMMANDANT INSTRUCTION 16601.3, "Policy and Procedure for Public Consultation in Port and Tanker Safety Act Rulemaking", are available from the Marine Safety Council (G–CMC/24) at the address indicated above.

FOR FURTHER INFORMATION CONTACT: LCDR Alan E. Spackman, Merchant Marine Technical Division (G–MMT–1/13), Room 1308, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, D.C. 20593 (202–426–4431).

SUPPLEMENTARY INFORMATION: On May 22, 1980 the Coast Guard published a proposal in the **Federal Register** (45 FR 34306) to provide a procedure for the exemption of certain existing U.S. tank vessels from the requirements for segregated ballast tanks, dedicated clean ballast tanks or crude oil washing systems. Notice of availability of the combined draft regulatory evaluation and draft environment assessment was provided at the same time. Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal and the related documents until July 7, 1980. Two comments were received regarding the draft regulatory evaluation and draft environmental assessment. Comments on the proposed regulations were received from a total of 13 commenters. A discussion of the comments received is contained in the following paragraphs.

Drafting Information

The principal persons involved in the drafting of this rule are LCDR Alan E. Spackman, Project Manager, Office of Merchant Marine Safety and Mr. Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Final regulations implementing portions of the equipment and construction standards contained in subsection 7 of section 5 of the Port and Tanker Safety Act of 1978 (PTSA) (92 Stat. 1480, 1484; 46 U.S.C. 391a) were published in the **Federal Register** of June 30, 1980 (45 FR 43705). These regulations are consistent with the equipment and construction standards developed at the International Conference on Tanker Safety and Pollution Prevention (TSPP) as adopted in the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973* (MARPOL Protocol). The proposed rules for exemption were promulgated to implement section 5(7)(N) of the PTSA in a manner that would be consistent with the equipment and construction standards of the MARPOL Protocol. Under Regulation 13C of the MARPOL Protocol exemptions from the equipment and construction standards may be granted only to tank vessels engaged in three types of trade. These vessels are: Those which engage in trades wherein their voyages are wholly between ports or terminals within a flag state (country); those whose trade consists of voyages that are entirely within a "Special Area"; and, those whose voyages are within other limits to be designated by the Inter-Governmental Maritime Consultative Organization (IMCO).

The first of these trades was addressed by the proposed regulations. Resolution 16 to the MARPOL Protocol calls for further study by IMCO with regard to the consequences, including the environmental effects, of extension of the exemptions into the latter two areas. The Marine Environment Protection Committee (MEPC) of IMCO has tentatively scheduled discussion on Regulation 13C and Resolution 16 for its sixteenth session (November 1981). While it may be argued that the exemption provision of the PTSA provides authority for the exemption of the vessels engaged on voyages in these latter two areas (a position not held by the Coast Guard) the Coast Guard feels that it would be inappropriate to undertake unilateral action that would tend to foreclose future options in areas which, when the MARPOL Protocol enters into force, will require further international action.

Two commenters suggested that the exemption be made available to vessels operating through the transshipment facility in Panama arguing that the movement of Alaskan Oil in this trade is considered, for other purposes, domestic trade. While this may be the case, this trade is not limited to voyages wholly between ports or terminals within the United States. As discussed in the previous paragraph, under the provisions of Regulation 13C(1)(b)(ii) and 13C(2)(b) positive action by the governments of the United States and Panama, as well as IMCO, would be required before U.S. vessels that use the Panama transshipment facility could be exempted.

One commenter questioned the applicability of the exemption to a foreign flag vessel, presumably engaged in voyages wholly between U.S. ports. Under Regulation 13C(2)(b) of the MARPOL Protocol, the vessel's flag state issues the exemption. Further, under the Protocol, agreement would have to be reached between the vessel's flag state and the United States before an exemption could be granted to a foreign vessel on voyages between U.S. ports. To date there have been no moves to institute any such agreement.

Subsections (7)(E) and (7)(H) of section 5 of the PTSA require CBT, SBT and COW systems on existing tankers of 20,000 DWT or greater but less than 40,000 DWT, which are 15 years old or older, not later than January 1, 1986. Two commenters suggested that the scope of the exemption be expanded to include these vessels. Since there are no regulations requiring SBT, CBT or COW systems on existing tankers in this size range at this time, there is no need to provide an exemption. One commenter suggested that vessels in this size range be required to use shore-based reception facilities until January 1, 1986. Both suggestions are outside the scope of the proposed rulemaking. Subsections (7)(E) and (7)(H) of section 5 of the PTSA will be the subject of future action by the Coast Guard.

Two commenters questioned the need for cargo oil monitors on vessels operating under the exemption. 33 CFR 157.37(a)(6) which requires that a vessel have in operation an approved automatic oil discharge monitoring and control system is not being enforced by the Coast Guard pending the issuance of final regulations providing specifications for the equipment and compliance dates. A notice of proposed rulemaking proposing the specification was originally published in the **Federal Register** on June 27, 1977 (CGD 76–088b, 42 FR 32684). A supplemental notice of proposed rulemaking is currently being prepared and is expected to be published in the near future. These comments will be included in docket CGD 76–088b for consideration.

Two commenters questioned the need for monitoring and control systems for machinery spaces on exempted vessels.

The regulatory proposal for this equipment is concomitant to the regulatory proposal for cargo oil discharge monitoring and control systems discussed in the previous paragraph. These comments will be included in the docket of that proposal for consideration. The requirement in 33 CFR 157.39(b)(4) for this equipment is not being enforced pending the issuance of final regulations providing the specification for the equipment and compliance dates.

Three commenters suggested that the listing of ports other than the cargo loading ports, as proposed in § 157.302(b)(2), is unnecessary. The Coast Guard agrees and is deleting the requirement and changing §§ 157.302(b) and 157.310(a) accordingly. The intent of the proposal was to ensure that the applicant fully understood that ports of call would be limited to ports or places within the United States, its territories, or its possessions. The standards in §§ 157.300(a) and 157.310 should be sufficient to accomplish this end.

Two commenters suggested that proposed § 157.302(b)(4)(i) could be improved by indicating either the name or the title of that person to contact. The Coast Guard agrees and the change has been made accordingly.

One commenter indicated that proposed § 157.302 should be changed in a manner that would permit loading in ports without reception facilities where ballast was retained on board or where a partial cargo yields a safe operating condition. The effect of the suggested change would be to eliminate the requirement that reception facilities be available at each cargo loading port. Regulation 13C(b)(2) of the MARPOL Protocol was intended to provide the exemption only when the ports or terminals where cargo is loaded are provided with reception facilities. The Coast Guard's intent is to provide exemptions in a manner consistent with the MARPOL Protocol. The suggestion is, therefore, rejected.

The Coast Guard's principal areas of concern with respect to reception facilities to service exempted vessels are that the facility be capable of receiving, storing and processing in an environmentally sound manner the ballast discharges of an exempted vessel and that reception facilities remain available to other users, especially those marine users unable to otherwise dispose of oil or oil residues in accordance with 33 CFR 157.38. Eleven comments were directed to these areas of concern.

One commenter felt that the requirement proposed in § 157.304(b) for facility capacity did not recognize instances where either more or less ballast would have been carried by the vessel. Another felt that the requirement was redundant because of the proposal in § 157.302(b)(4) that the facility owner attest to the capability of his facility to handle the applicant's vessel. The 30% of the deadweight value that was chosen is admittedly a nominal, but reasonable, value that should ensure that a facility will be capable of receiving the ballast discharges of an exempted vessel under normal conditions. Ballast in excess of the facility's storage capabilities will obviously have to be retained on board or, as one commenter suggested, transferred for storage to another vessel. The requirement is not redundant since § 157.302(b)(4) (now designated as § 157.302(b)(3)) concerns the capability of the facility to process, rather than receive and store, the vessel's ballast discharges.

One commenter suggested that proposed § 157.302(b)(5) be changed so that in lieu of receiving a copy of the NPDES permit the Coast Guard would be supplied with a statement that the facility holds such a permit and the number of that permit. Since, once identified, the necessary information from the permit is available to the Coast Guard from other governmental agencies, the Coast Guard is accepting this suggestion and changing the proposal accordingly (now numbered § 157.302(b)(4)). Applicants should be aware that the Coast Guard does intend to ensure that proposed facilities are capable of servicing the applicant's vessel, and that consideration of the application will probably be delayed until the Coast Guard has obtained any necessary information from the NPDES permit.

Two commenters suggested that proposed § 157.304(a) be changed to allow the Coast Guard to accept environmental documents other than NPDES permits. Such a change is only necessary if the exemption is broadened to include ports or places not within the United States, its territories or possessions. As previously discussed this expansion has been rejected.

One commenter suggested that the requirement in proposed § 157.302(b)(4)(ii) for the owner of a facility to verify that the facility can service the applicant's vessel "without adversely affecting the service of the facility of current users" be dropped, arguing that the Act requires only that the facility be readily available to those vessels seeking the exemption. The Coast Guard disagrees. The MARPOL Protocol recognizes the need for reception facilities to be available for vessels which cannot otherwise discharge oily water. Until the development of regulations to assure availability of reception facilities, the Coast Guard does not wish to take any action, such as these exemptions, which would render currently available facilities incapable of meeting the needs of their current users. To ensure that consideration is given to the current facility users, the commenter's suggestion is rejected.

Two commenters suggested that the Coast Guard monitor compliance on the part of the shore-based reception facilities. Compliance on the part of shore-based reception facilities is monitored by the Environmental Protection Agency under the NPDES program.

One commenter suggested that the regulations include the means to be used by the Coast Guard in monitoring the status of the NPDES permits at listed reception facilities. The Coast Guard has concluded that such monitoring would be best accomplished administratively between government agencies and need not be addressed in these regulations.

One commenter suggested that proposed §§ 157.304(b) and 157.310 be modified to include clean ballast as well as segregated ballast. Since Regulation 13C(2)(a) of the MARPOL Protocol specifically calls for clean ballast water to be retained on board for treatment at a reception facility, the suggestion is rejected.

One commenter questioned whether or not the Coast Guard considered the burden the regulations would impose on port owners and operators in providing reception facilities. As discussed in the combined draft regulatory evaluation and draft environmental assessment, the Coast Guard does not anticipate these regulations to impose such a burden. The regulations do not require that new facilities be provided, but, rather, allow an exemption when they are available. Due to the short time period before the vessel requirements come into effect, the Coast Guard does not feel that it is possible to construct new facilities or expand existing facilities specifically to accommodate exempted vessels. The majority of the vessels expected to be granted exemptions are operating in Trans-Alaska Pipeline service where a reception facility is already available and is used for the discharge of oily ballast water. The other vessels that are expected to operate under the exemption are expected to use existing reception facilities which are essentially under the control of the vessel's owner or operator or the terminal handling the vessel's cargo. Section 157.302(b)(3)(ii) is intended to minimize the impact on any other facility which may be listed.

One commenter questioned whether a VLCC which is lightered could serve as the reception facility for a lightering vessel. This would not be acceptable because the PTSA specifically requires shore-based reception facilities. This is not to say that a second vessel cannot be used as a means of transporting ballast water from an exempted vessel to an acceptable shore-based reception facility.

Four commenters suggested that proposed §§ 157.302(c), 157.302(a), 157.306(a) and 157.310(a), (b) and (c) be changed in various ways to provide additional flexibility to the vessel's trading routes, or allow the vessel to move into or out of exempted trade. Additional commenters suggested that the proposal be changed to allow the Officer in Charge, Marine Inspection (OCMI) to modify the exemption so as to provide more rapid processing. The exemption, as envisioned in the MARPOL Protocol, is to apply to vessels engaged in specific trades where the vessels involved have set loading locations. The exemption is not intended to provide an exempted vessel the same operational flexibility as a non-exempt vessel. One argument set forth by several of the commenters, that the additional flexibility is necessary in order for the vessel to compete, is one of the possible disadvantages which must be considered before making the decision to operate a vessel as an exempted vessel. Presumably an exempted vessel will enjoy a competitive advantage in some trades where adequate cargoes are available because it will not be required to fit CBT, SBT or COW. From a practical standpoint there are a limited number of loading ports in the U.S. servicing vessels of this size. Nothing precludes a vessel operator from making the necessary contacts and listing all the potential loading ports for an individual vessel. The Coast Guard feels that with proper forethought on the part of vessel owners there will be little need for modification of exemptions. Due to the limited number of vessels involved, the Coast Guard feels that the procedure for handling modifications, as proposed, would be more expeditious than handling these modifications by the OCMI. For an extraordinary situation, such as an emergency shipyard entry, the provisions of § 157.310(a) would permit a one-time determination of the acceptability of a non-listed reception facility by the OCMI.

Seven commenters addressed the subject of delay to non-exempt vessels caused by the use of a facility by an exempted vessel. Most indicated that they felt that a delay restriction is a matter that should not be regulated but should be determined by the reception facility operator as a commercial matter. One commenter agreed with the principle that the use of reception facilities by exempted vessels should not unreasonably interfere with their use by non-exempted vessels. One agreed that this was a laudable objective but questioned whether there might be overriding terminal management considerations. One commenter suggested that tank barges could be used to provide temporary storage for discharges from either exempt or non-exempt vessels and thus ameliorate the potential problem. In light of the comments received, the lack of a definite problem, financial considerations which tend to preclude the problem, and the existence of plausible alternatives, such as discharge to tank barges for temporary storage, the Coast Guard will not impose a delay standard at this time. If, in the future, this proves to be a problem, the Coast Guard will pursue remedial administrative or regulatory action.

Two commenters addressed the combined draft regulatory evaluation and draft environmental assessment. One commenter provided general support. The second commenter questioned the Coast Guard's reasoning in choosing to perform an environmental assessment (EA) rather than prepare an Environmental Impact Statement (EIS). The commenter noted that the regulations implementing the TSPP results were considered a major federal action and were accompanied by an EIS, and suggested that since the proposal would provide exemptions to the requirements stemming from TSPP, it too should be considered a major federal action. As was discussed in the draft EA, the Coast Guard could identify no significant impact resulting from the proposed action. Lacking a significant effect the proposed action cannot be considered a major federal action (see 40 CFR 1508.18 and 1508.27). Recognizing the relationship of this rulemaking to the previous rulemaking action and its EIS, this action is assessed by a statement that is "tiered" to the TSPP EIS, in accordance with 40 CFR 1502.20.

In response to additional statements made by one commenter the combined regulatory evaluation and environmental assessment has been modified by including a discussion of the differences between the surveys which were conducted by the Maritime Administration and the Coast Guard to identify potential exempted vessels and by adding an appendix which provides the supporting calculations.

One commenter suggested that consultation provided other federal agencies was not that which is intended under subsection (6) of Section 5 of the PTSA. The Coast Guard has followed its current procedures for consultation in the preparation of this rulemaking. There has been some criticism of these procedures in response to this rulemaking and other rulemaking issued under the PTSA, and the Coast Guard subsequent to this rulemaking has revised those procedures. The new procedures are contained in COMMANDANT INSTRUCTION 16601.3 which can be obtained as indicated under "ADDRESSES".

In consideration of the foregoing, the proposed rules published in the May 22, 1980 issue of the **Federal Register** (45 FR 34306) are hereby adopted with the changes described above and set forth below. The Coast Guard has evaluated this rule under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A combined final regulatory evaluation and environmental assessment has been prepared that contains a finding of no significant impact. This document is available as indicated above in "ADDRESSES".

Accordingly, Subchapter O of Chapter I of Title 33, Code of Federal Regulations is amended as follows: 1. By adding a new Subpart F to read as follows:

Subpart F—Exemptions from § 157.10a

Sec.
157.300 Qualifications for exemptions under this part.
157.302 Applying for an exemption or requesting modification of an exemption.
157.304 Shore-based reception facility: Standards.
157.306 Granting, denying, or modifying an exemption.
157.308 Revocation of exemption: procedure and appeals.
157.310 Exempted vessels: operations.

Authority: 92 Stat. 1483 (Subsection 6 of Sec. 5, Port and Tanker Safety Act of 1978; 46 U.S.C. 391a); 49 CFR 1.46(n)(4).

Subpart F—Exemptions From § 157.102

§ 157.300 Qualifications for exemptions under this part.

(a) Each U.S. tank vessel under § 157.10a of this part may qualify for an exemption from the requirements of § 157.10a of this part if—

(1) The vessel loads and discharges cargo only at ports or places within the

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United States, its territories, or its possessions; and

(2) The application for exemption meets § 157.302.

(b) Except where the owner can show good cause, a vessel is not granted an exemption under this subpart if a previous exemption for the vessel has been revoked by the Coast Guard under § 157.308(a)(1) or § 157.308(a)(2).

§ 157.302 Applying for an exemption or requesting modification of an exemption.

(a) Each application for an exemption or modification must be in writing and submitted to the Commandant (G-MMT/13), U.S. Coast Guard, Washington, D.C. 20593.

(b) Each application for exemption must include the following: (1) The name and official number of the vessel for which the exemption is requested.

(2) A list of each port or place where the vessel would load cargo.

(3) The name, address, and telephone number for each shore-based reception facility at each port listed under paragraph (b)(2) of this section where the vessel would discharge its ballast water and cargo residues, including—

(i) The name or title of the person at each facility who should be contacted for information concerning the operation of the reception facility; and

(ii) A statement from the facility owner disclosing whether or not, based on current operating conditions, the facility has the capability of processing the anticipated volume and type of discharges from the vessel without adversely affecting the service of the facility to current users.

(4) The number of the permit under the National Pollutant Discharge Elimination System (NPDES permit) issued to each listed shore-based reception facility.

(5) A list of each type of oil cargo that the vessel would load.

(6) A description of the method by which the vessel would discharge ballast water and cargo residues to each listed shore based reception facility.

(c) Each request for modification to an exemption must include the following:

(1) The name and official number of the vessel for which the modification to the exemption is requested.

(2) The reason for requesting modification of the exemption.

(3) Any additional information which is pertinent to the modification.

§ 157.304 Shore-based reception facility: standards.

No shore-based reception facility may be listed to meet § 157.302(b)(3) unless that reception facility has—

(a) A valid NPDES permit which allows it to process the ballast water and cargo residues of the vessel for which the exemption is being requested; and

(b) The capacity to receive and store a volume of dirty ballast water equivalent to 30 percent of the deadweight, less the segregated ballast volume, of the vessel for which the exemption is being requested.

§ 157.306 Granting, denying, or modifying an exemption.

(a) The Chief, Office of Merchant Marine Safety issues a written decision concerning the grant or denial of each exemption or modification requested under § 157.302.

(b) If the exemption or request for modification is denied, the decision under paragraph (a) of this section includes the reasons for the denial.

(c) Any person directly affected by, and not satisfied with, a decision made under paragraph (a) of this section may appeal that decision, in writing, to the Commandant, U.S. Coast Guard, Washington, D.C., 20593. The appeal may contain any supporting documentation or evidence that the appellant wishes to have considered.

(d) The Commandant, U.S. Coast Guard issues a ruling after reviewing the appeal submitted under paragraph (c) of this section. This ruling is final agency action.

§ 157.308 Revocation of exemption: procedure and appeals.

(a) The Officer in Charge, Marine Inspection may consider the revocation of the exemption granted under this subpart when—

(1) Requested by the vessel's owner;

(2) There is evidence that the vessel's owner, operator, or master has failed to comply with the requirements of this subpart; or

(3) There have been changes to the NPDES permit of a reception facility listed to meet § 157.304(b)(3) that would adversely affect the ability of that facility to process the vessel's discharges.

(b) The Officer in Charge, Marine Inspection, of the zone in which an occurrence under paragraphs (a)(2) or (a)(3) of this section takes place notifies the owner, operator, and master of the exempted vessel of the specific reasons for considering the revocation of the exemption.

(c) Evidence or arguments for the retention of the exemption that are submitted to the Officer in Charge, Marine Inspection within thirty days of receipt of the notice under paragraph (b) of this section will be considered before a ruling is made.

(d) If the owner is not satisfied with the ruling made under this section by the Officer in Charge, Marine Inspection, that ruling may be appealed under the procedure in § 157.06 of this part.

§ 157.310 Exempted vessels: operations.

The owner, operator, and master of each vessel that has been granted an exemption under this subpart must ensure that—

(a) The vessel trades only between ports or places within the United States, its territories or possessions;

(b) The vessel loads cargo only at ports or places listed in the exemption;

(c) Except as allowed under § 157.41 (a) and (b) of this part, any ballast water, except segregated ballast discharged in accordance with § 157.43(b) of this part, and any tank washing or cargo residues are—

(1) Retained on board; or

(2) Transferred to a shore-based reception facility that is listed in the application for exemption, or in the case of an emergency or a shipyard entry, an alternative acceptable to the cognizant Officer in Charge, Marine Inspection;

(d) The vessel loads only those cargoes listed in the exemption; and

(e) The letter under § 157.306 that grants the exemption is on board the vessel; or

(f) The certificate of inspection bearing the following endorsement is on board the vessel.

Exempted under 33 CFR 157.306 from the requirements of 33 CFR 157.10a. This vessel may not discharge cargo in any foreign port, nor may it load cargo in a port other than the following: (a list of ports listed in the application that is accepted by the Coast Guard for the exempted vessel will be inserted here).

(92 Stat. 1483 (46 U.S.C. 391a); 49 CFR 1.46(n)(4))

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

December 23, 1980.

[FR Doc. 81-1516 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 181 and 183

[CGD 79-137]

Outboard Motors; Start-In-Gear Protection Devices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a rule requiring outboard motors capable of developing a static thrust of 115 pounds or more to be equipped with start-in-gear protection

devices. These devices will prevent a motor from being started when its controls are set to attain or exceed that thrust level. This requirement will reduce accidents that may result when an outboard motor is started in gear, producing a sudden movement of the boat which causes its occupants to either fall inside the boat or be thrown overboard.

EFFECTIVE DATE: This regulation is effective on August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Lars E. Granholm, Office of Boating, Public, and Consumer Affairs (G-BBT/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426-4027.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking concerning this amendment was published in the **Federal Register** on March 24, 1980 (45 FR 18987). Interested persons were invited to submit comments on the proposal by July 24, 1980. Nine comments were received. Three favored adoption of the rule as proposed. The remainder suggested modifications that could be made in it, as discussed below.

The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this amendment. The transcript of the meeting of the National Boating Safety Advisory Council at which time this amendment was discussed is available for examination in Room 4224, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. The minutes of the meeting are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BA/42), U.S. Coast Guard Washington, D.C. 20593.

Drafting Information

The principal persons involved in drafting this rule are Mr. Lars E. Granholm, Project Manager, Office of Boating, Public, and Consumers Affairs and Mr. Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Two comments stated that the problem of boat occupants falling overboard could only be fully addressed if this rulemaking were expanded to require the installation of "kill switches" as well as a start-in-gear protection (SIGP) devices. A "kill switch" provides a means for stopping a boat's engine when the operator is thrown overboard or otherwise leaves the controls when the boat is under way. Its function is entirely different from that of a SIGP device, which is only employed to prevent faulty starting procedures. Because of the dissimilarity in the nature and purpose of these two devices, the Coast Guard does not consider it advisable to include them within the same rulemaking action. The Coast Guard is exploring the need for "kill switches" as a separate issue. If this need is demonstrated, these devices may be the subject of a future rulemaking action.

One comment questioned why start-in-gear protection was only being proposed for outboard motors, instead of inboards and outboards alike. Extension of the proposal to cover inboard motors was not considered necessary, as the majority of these motors already are installed with SIGP devices.

One comment objected to the provision that would allow start-in-gear protection to be provided in remote starting controls rather than outboard motors. This was described as a "loophole" that will allow manufacturers to avoid compliance with the regulations. The possibility of an unqualified person installing together an outboard motor and starting controls that both lacked start-in-gear protection was cited as a conceivable consequence. The Coast Guard has not adopted the comment's recommendation that start-in-gear protection be required exclusively within the outboard motor. It would be impractical to impose such a requirement, as all electrical starting components for some outboards are located entirely within the remote starting control unit. The labeling that will be required under the regulations, as well as the obligation they impose on manufacturers, distributors, and dealers to match compatible units, should substantially reduce the possibility of starting controls and outboard motors that lacked start-in-gear protection being installed together.

The final comment recommended that horsepower rather than static thrust be used to identify outboard motors requiring start-in-gear protection, because horsepower is more readily understood by the boating public. The comment also noted that various methods are employed for measuring static thrust, producing inconsistent results. As stated in the notice of proposed rulemaking, static thrust was chosen instead of horsepower because it bears a closer relationship to rapid acceleration, the condition which start-in-gear protection is intended to prevent. Inconsistencies were also detected in the measurement of horsepower owing to variations in measuring techniques. Any difficulty the public may have in understanding the concept of static thrust should have slight consequence, as only manufacturers will be obligated to identify those motors requiring start-in-gear protection.

The Coast Guard is making one change in these final rules resulting from its own review of the proposal. This corrects an incomplete citation to the Code of Federal Regulations in the language proposed for the tags and labels that will be required under the rules.

This amendment has been reviewed and determined to be nonsignificant under the Department of Transportation's Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). A final evaluation has been prepared and included in the public docket. This may be obtained from the Marine Safety Council (G-CMC/24), Coast Guard Headquarters, Washington, D.C. 20593 (202) 755-4901.

In consideration of the foregoing, Parts 181 and 183 of Title 33, Code of Federal Regulations are amended as set forth below:

PART 181—MANUFACTURER REQUIREMENTS

1. By adding a new paragraph (c) to § 181.11 in Part 181 to read as follows:

§ 181.11 Exceptions to labeling requirement.

* * * * *

(c) This subpart does not only apply to any outboard motor or starting control to which § 183.710 of this chapter applies.

PART 183—BOATS AND ASSOCIATED EQUIPMENT

2. By adding a new Subpart L to Part 183 to read as follows:

Subpart L—Start-in-Gear Protection

Sec.	
183.701	Applicability.
183.705	Definitions.
183.710	Start-in-gear protection required.
183.715	Exception.

Authority: 46 U.S.C. 1454, 49 CFR 1.46(n)(1).

Subpart L—Start-in-Gear Protection

§ 183.701 Applicability.

This subpart applies to outboard motors and starting controls manufactured after August 1, 1982, and to manufacturers, distributors or dealers installing such equipment after that date.

§ 183.705 Definitions.

For the purposes of this subpart—

(a) "Outboard motor" means a self-contained propulsion system of any

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horsepower rating designed to be installed on, and removable from the transom of a boat.

(b) "Static thrust" means the forward or backward thrust developed by an outboard motor and associated propulsion unit while stationary.

(c) "Starting control" means the motor throttle, shift and starting control mechanisms located at a position remote from the outboard motor.

(d) "Local starting" means operating a mechanical or electrical starting device built into the outboard motor.

(e) "Distributor" means any person engaged in the sale and distribution of boats or associated equipment for the purpose of resale.

(f) "Dealer" means any person who is engaged in the sale and distribution of boats or associated equipment to purchasers who the seller in good faith believes to be purchasing any such boat or associated equipment for purposes other than resale.

§ 183.710 Start-in-gear protection required.

(a) Any outboard motor which is capable of developing a static thrust of 115 pounds or more at any motor operating speed with any propeller or jet attachment recommended for or shipped with the motor by the manufacturer, must be equipped with a device to prevent the motor being started when controls are set so as to attain that thrust level, as follows: (1) Outboard motors designed for local starting must have a built-in start-in-gear protection device.

(2) Outboard motors designed for remote starting must have either a built-in start-in-gear protection device or be installed with remote starting controls containing this device. An outboard motor designed for remote starting that does not have a built-in start-in-gear protection device must, at the time of sale, have a tag or label attached at the location of the control connection, containing the following information: "Starting controls installed with this motor must comply with USCG requirements for start-in-gear protection in 33 CFR Part 183, Subpart L." The letters and numbers on the tag or label must be at least ⅛ inch high.

(b) Starting controls must have a tag or label with the following information to indicate whether or not they have been equipped with a start-in-gear protection device: "This control will (or will not) provide start-in-gear protection meeting USCG requirements of 33 CFR Part 183, Subpart L." The letters and numbers on the tag or label must be at least ⅛ inch high.

(c) Any manufacturer, distributor or dealer installing an outboard motor displaying the label described in § 183.710(a)(2) above must properly match it with a compatible starting control that contains a start-in-gear protection device.

§ 183.715 Exception.

Outboard motors designed to be equipped for remote starting, but which also have a provision for local starting in emergencies, need not comply with § 183.710 for their local starting system. However, the following information must be displayed on the motor: "Warning—Ensure shift control is in neutral before starting motor". This information must be clearly visible to a person using the emergency starting device.

(46 U.S.C. 1454; 49 CFR 1.46(n)(1))

Dated: January 7, 1981.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public, & Consumer Affairs.

[FR Doc. 81-1517 Filed 1-14-81; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1714-7]

Revision to the State Implementation Plan (SIP) for the State of Rhode Island

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Revisions to the State Implementation Plan (SIP) for the State of Rhode Island were submitted to EPA on January 8, 1980 by the Director of the Department of Environmental Management. Those revisions included a comprehensive air quality monitoring plan intended to meet the requirements of 40 CFR Part 58.

On June 26, 1980 the Regional Administrator published in the **Federal Register** (45 FR 43231) a Notice of Proposed Rulemaking for this revision to the Rhode Island SIP, to approve the comprehensive air quality monitoring plan. No comments were received during the 30-day comment period. EPA is taking final action approving the revision.

EFFECTIVE DATE: These regulations take effect on or before February 17, 1981.

FOR FURTHER INFORMATION CONTACT: Donald P. Porteous, Air Section, EPA, Region I, 60 Westview Street, Lexington, Massachusetts 02173, (617) 861-6700.

SUPPLEMENTARY INFORMATION: On May 10, 1979 (44 FR 27558) pursuant to the requirements of Sections 110(a)(2)(C), 319, 313, and 127 of the Clean Air Act, EPA promulgated ambient air quality monitoring, data reporting, and surveillance provisions, establishing a new Part 58 in 40 CFR, entitled Ambient Air Quality Surveillance.

Rhode Island has submitted a Comprehensive Air Quality Monitoring Plan designed to meet the requirements of Part 58. EPA has found that the Rhode Island submittal meets the applicable regulations. EPA proposed approval of the Comprehensive Air Quality Monitoring Plan in a notice of proposed rulemaking (45 FR 43231). No comments were received during the 30-day comment period. EPA is now granting final approval of the Rhode Island plan.

After evaluation of the state's submittal, the Administrator has determined that the Rhode Island revision meets the requirements to the Clean Air Act and 40 CFR Part 58. Accordingly, this revision is approved as a revision to the Rhode Island State Implementation Plan.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this SIP revision is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate ciricuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA refers to these other regulations as "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110(a), 301, Clean Air Act, as amended, (42 U.S.C. 7401 and 7601).)

Dated: January 6, 1981.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1980.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart OO—Rhode Island

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Under § 52.2070, *Identification of Plan*, add paragraph (c)(11) as shown below:

§ 52.2070 Identification of Plan.

* * * * *

(c) * * *

(11) A comprehensive air quality monitoring plan, intended to meet requirements of 40 CFR Part 58, was submitted by the Rhode Island Department of Environmental Management Director on January 8, 1980.

[FR Doc. 81-1824 Filed 1-14-81; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 123

[SW-1-FRL 1726-5]

Vermont Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Approval of State hazardous waste management program.

SUMMARY: The purpose of this Notice is to grant Phase I interim authorization to the State of Vermont for its hazardous waste management program.

In the May 19, 1980, Federal Register (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to protect human health and the environment from the improper management of hazardous wastes. Included in these regulations, which become effective 6 months after promulgation, were provisions for a transitional stage in which states could be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two phases in which the underlying Federal program will take effect.

On October 10, 1980, the State of Vermont applied to EPA for Phase I interim authorization of its hazardous waste management program. On November 5, 1980, EPA issued in the **Federal Register** (45 FR 73521) a notice of public hearing and public comment period on the State's application. All comments received during this period have been considered and are discussed below.

The State of Vermont is hereby granted interim authorization to operate the RCRA Subtitle C hazardous waste management program in accordance with Section 3006(c) of RCRA and implementing regulations found in 40 CFR 123 Subpart F.

EFFECTIVE DATE: January 8, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara L. Walsh, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775).

SUPPLEMENTARY INFORMATION: The State of Vermont submitted a draft application for Phase I interim authorization on August 15, 1980. In the comments to the State on the draft application, EPA identified issues in the Program Description, MOA, Attorney General's Statement, and Authorization Plan which required further clarification or amendment. Although most of these issues were addresed in the final application submitted to EPA on October 10, 1980, the application relied upon proposed regulations for coverage of several important wastes and facility standards. Thus, the application was not determined to be complete until October 31, 1980 when the proposed regulations were adopted. The following issues were not resolved in the complete application but were either later addressed by the State in minor amendments to the application or eliminated after further consideration of additional information:

1. Coverage of waste economic poisons (pesticides);
2. Coverage of State hazardous waste activities;
3. Lack of detailed description of delisting procedures;
4. Lack of detailed description and opportunity for EPA to comment on variances:
5. Lack of specific assurance that the State will continue to share confidential information with EPA;
6. Limits on public participation in enforcement actions;
7. The provision for excessively long prior notice to the State in cases where EPA will issue a notice of violation or compliance order; and
8. Lack of breadth and detail in the Authorization Plan.

The discussion below indicates specifically how each issue was resolved.

1. *Coverage of Waste Economic Poisons.* Because the Vermont Agency of Environmental Conservation (AEC) lacks the authority to regulate waste economic poisons under its hazardous waste program, the Agency demonstrated in the Program Description that only a small amount of the pesticides and herbicides used in Vermont actually become wastes so that the AEC does meet the requirement of 123.128(a) that "the State program must control a universe of wastes generated, transported, treated, stored, and disposed of in the State which is nearly identical to that which would be controlled by the Federal program under 40 CFR Part 261." Furthermore, the State has committed in the Authorization Plan to make those changes in the Department of Agriculture (DOA) statute and regulations needed for final authorization.

In addition, EPA requested further information on the coverage of waste economic poisons in Vermont in the **Federal Register** Notice of Public Hearing, November 5, 1980, and also consulted with Vermont DOA officials, but received no evidence to dispute the figures presented in the Program Description. Those commenting at the Public Hearing on the coverage of waste economic poisons felt that the issue was a minor one and expressed support for the Vermont DOA's current efforts to develop comprehensive regulations for waste economic poisons by Spring, 1981. EPA, therefore, believes that the State program does control a universe of wastes in the State which is nearly identical to that which would be controlled by the Federal program.

2. *Coverage of State Hazardous Waste Activities.* EPA was concerned about the ability of the Vermont AEC to regulate any State hazardous waste activities since the term "State" is not included in the statutory definition of person in 10 VSA 6602(6). In response, the State has provided additional information on State hazardous waste activities in addenda to the Program Description and Attorney General's statement that demonstrate that the only "State" entity to notify of hazardous waste activities was the University of Vermont and that the University is a corporation which is regulated by the Vermont hazardous waste program under the present definition of person. In addition, EPA solicited but did not receive evidence at the public hearing to dispute the notification data. EPA, therefore, believes that the State program does adequately control all State hazardous waste activities.

3. *Delisting Procedures.* The lack of detailed description of the Vermont delisting procedure in the final application caused concern about the substantial equivalence of the State's procedure with the Federal procedure at

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40 CFR 260.20 and 40 CFR 260.22. Vermont has satisfied our concern by submitting an addendum to the Program Description of the final application. The addendum describes the delisting procedure in detail and specifically states that the Secretary will use the Federal regulations as guidance in making listing or delisting decisions and that all such procedures are consistent and equivalent with those specified in 40 CFR §§ 260.20 and 261.11. Furthermore, Vermont has added to the MOA "the delisting of any waste or generic class of waste" as an example of a program change that will be considered substantial and will require notification of the Regional Administrator.

4. *Variances.* The lack of detailed description of the variance procedure at 10 VSA 6613 and lack of opportunity for EPA to comment prior to issuance of variances caused EPA to question the continued substantial equivalence of the Vermont program. Vermont responded satisfactorily to our request for additional information by adding a section to the Program Description which further describes the Variance Board procedures including the requirement for a public hearing, emphasizes the statutory constraints on Board decisions, and recounts previous positive experiences with the Board under the Air program. In addition, Vermont has assured EPA in the MOA that it will notify the Regional Administrator prior to the issuance of any variance so that EPA will have the opportunity to review and comment on any variance request.

5. *Sharing Confidential Information.* Although the Vermont Attorney General concluded in the final application that Vermont had shared confidential information with Federal agencies in the past as a matter of custom, and would continue to do so, EPA requested explicit assurance that the custom would continue during interim authorization. Vermont has since amended Part II C 3 of the MOA to give that assurance.

6. *Public Participation in Enforcement Actions.* EPA requested that Vermont amend the MOA to delete several phrases that might limit the opportunity for public participation and secure the agreement of the Attorney General to meet the relevant requirements of 40 CFR 123.128(f)(2)(ii). Vermont has amended Sections II B 2 f 1 and 3 of the MOA to remove the limiting phrases and in addition the Vermont Attorney General has, by letter to EPA Regional Administrator, William R. Adams, Jr., agreed to meet the relevant requirements of 40 CFR 123.128(f)(2)(ii).

7. *Notification Prior to Issuance of NOV's and Compliance Orders.* EPA could not accept the constraints imposed on the Federal enforcement effort by the MOA provision for notification of the State 30 days prior to issuance of an NOV or Compliance Order. In response, Vermont has satisfied EPA's concern by amending the MOA to provide for a 7-day prior notice period.

8. *Authorization Plan.* In our review of Vermont's final application, EPA indicated that the Authorization Plan lacked detail such as specific information about Vermont's legislative procedures and commitment to address several issues affecting the program's equivalency for final authorization. In response to our comment, Vermont has submitted an addendum to the Authorization Plan which provides the additional detail and addresses all of the additions and modifications known to be necessary for the State Program to qualify for final authorization.

In the **Federal Register** notice of November 5, 1980 (45 FR 73521), EPA gave the public until December 10, 1980 to comment on Vermont's application. EPA also held a public hearing in Montpelier, Vermont on December 5, 1980.

EPA received three oral comments at the public hearing from speakers representing Vermont industrial and civic groups. All three commenters spoke in favor of the interim authorization of the Vermont program.

Two of the speakers responded to the two following issues raised by EPA in the **Federal Register** notice: (1) The coverage of waste economic poisons and (2) the coverage of State activities under the definition of person. Neither speaker felt these issues were major deficiencies. Both speakers expressed support of the Vermont Department of Agriculture's current efforts to develop comprehensive regulations for waste economic poisons by Spring, 1981. One speaker also expressed the opinion that the exclusion of the term "State" in the definition of "person" was an oversight in wording which the State is committed to rectify.

EPA also received two written comments. The first written comment received did not express an opinion on the interim authorization of the Vermont program but did express concern that the Vermont Hazardous Waste program's reduction of the small generator exclusion would unfairly regulate many retailers and that there is no list of hazardous wastes that are covered by Vermont regulations.

The coverage of retailers as a class was an issue considered by EPA when the Federal regulations were promulgated on May 19, 1980. As stated in the preamble to those regulations (FR, 5/19/80, p. 33103), commenters on the proposed Federal regulations pointed out that some retailers may generate extremely hazardous wastes and that others, such as large hardware or garden stores, may generate substantial quantities of hazardous waste. Thus, in the final Federal regulations, retailers who generate hazardous waste are subject to the same requirements as any other generator.

Similarly, the Vermont Hazardous Waste program does not exempt retailers who generate hazardous waste from coverage by the regulation. The State program does, however, have a lower small generator limit than the Federal limit of 1000 kg/month for hazardous wastes. The State small generator limit is 100 kg/month. Vermont's lower small generator limit is clearly permitted by Federal regulation (40 CFR 123.121 g) and is consistent with EPA's goal to expand Subtitle C coverage of generators to include hazardous waste generators of over 100 kg/month (FR 5/19/80, p. 33104).

A list of generic wastes that the Vermont Agency of Environmental Conservation has determined to be hazardous can be found in Section 6-602 (2). In addition, the Secretary may, upon petition or his or her own motion, make a determination that a particular waste meets the statutory definition of hazardous waste at 10 VSA Section 6602(4). EPA has determined that the Vermont list of generic wastes is substantially equivalent to the Federal list at 40 CFR Part 261 for those wastes existing in Vermont.

The second written comment received by EPA expressed support of the opinions presented at the public hearing and urged EPA to grant interim authorization to the Vermont Hazardous Waste program.

Dated: January 8, 1981.

William R. Adams, Jr.,

Regional Administrator.

[FR Doc. 81-1454 Filed 1-14-81; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 1

[FPR Temp. Reg. 57]

Purchases Under the Trade Agreements Act of 1979; Temporary Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation prescribes policies and procedures applicable to the procurement of supplies and services which involve offers from foreign business concerns. The regulation is based on the Trade Agreements Act of 1979 and the related Agreement on Government Procurement. The intended effect is to eliminate the discriminations practiced by the United States and foreign Governments in the procurement of products and supplies.

DATE: Effective date: This regulation is effective for all solicitations issued on and after January 1, 1981, as follows:

a. When solicitations involve negotiated procurements, do not reflect the provisions of this regulation, and have not resulted in awards prior to January 21, 1981, the solicitation shall be amended to include the requirements in § 1–6.1611.

b. When solicitations involve formal advertising, do not reflect the provisions of this regulation, and the closing date for the submission of offers is prior to January 21, 1981, awards may be made without regard to this regulation.

c. When solicitations involve formal advertising, do not reflect the provisions of this regulation, and the closing date for the submission of offers is after January 21, 1981, but the solicitation was issued before that date, the solicitation shall be amended to include the requirements in § 1–6.1611.

d. All solicitations issued after January 21, 1981, shall comply fully with the provisions of this regulation.

Expiration date: This regulation will continue in effect until January 1, 1983.

Comment date: Comments due by March 23, 1981. Time did not permit the solicitation of comments prior to the issuance of this regulation. However, comments from interested parties would be welcomed.

ADDRESS: General Services Administration (VR), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Aquisition Policy (703–557–8947).

SUPPLEMENTARY INFORMATION: The Buy American Act, subject to certain exclusions, has been waived by the President for eligible products originating in designated countries meeting the requirements under section 301(b) of the Trade Agreements Act of 1979. The waiver is effective when the total price paid for a product is equal to or more than the dollar threshold specified by the U.S. Trade Representative (now $196,000). The Buy American Act continues to apply to procurements which are less than the dollar limitation and to countries that are not parties to the Agreement.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Chapter 1, the following temporary regulation is listed in the Appendix at the end of the chapter.

[Federal Procurement Regs.; Temporary Reg. 57]

Purchases Under the Trade Agreements Act of 1979

January 12, 1981.

1. *Purpose.* This FPR temporary regulation implements the provisions of the Trade Agreements Act of 1979 and Executive Order 12260, December 31, 1980.

2. *Effective date.* This regulation is effective for all solicitations issued on and after January 1, 1981, as follows: a. When solicitations involve negotiated procurements, do not reflect the provisions of this regulation, and have not resulted in awards prior to January 21, 1981, the solicitation shall be amended to include the requirements in § 1–6.1611.

b. When solicitations involve formal advertising, do not reflect the provisions of this regulation, and the closing date for the submission of offers is prior to January 21, 1981, awards may be made without regard to this regulation.

c. When solicitations involve formal advertising, do not reflect the provisions of this regulation, and the closing date for the submission of offers is after January 21, 1981, but the solicitation was issued before that date, the solicitation shall be amended to include the requirements in § 1–6.1611.

d. All solicitations issued after January 21, 1981, shall comply fully with the provisions of this regulation.

3. *Expiration date.* This regulation will continue in effect until January 1, 1983.

4. *Background.* a. New Subpart 1–6.16 implements the Agreement on Government Procurement, which is a part of the trade agreements negotiated in the Tokyo Round of the Multilateral Trade Negotiations. The agreements were entered into in Geneva on April 12, 1979, pursuant to section 102 of the Trade Act of 1974. The authority to implement the Agreement is provided by the Trade Agreements Act of 1979 (Pub. L. 96–39, 19 U.S.C. 2511–2518), Executive Order 12260, December 31, 1980 (46 FR 1653, January 6, 1981), and Determinations by the U.S. Trade Representative, December 31, 1980 (46 FR 1657, January 6, 1981).

b. The Agreement requires the administration of certain procurement programs so that eligible products and suppliers of eligible products from designated countries are treated no less favorably than domestic products and suppliers. It also requires that there be no discrimination with respect to eligible products or suppliers from designated countries.

c. The Buy American Act, subject to certain exclusions, has been waived by the President for eligible products originating in designated countries meeting the requirements under section 301(b) of the Act. The waiver is effective when the total price paid for a product is equal to or more than the dollar threshold specified by the U.S. Trade Representative (now $196,000). The dollar limitation may be modified from time to time. The Buy American Act continues to apply to procurements which are less than the dollar limitation and to countries that are not parties to the Agreement.

5. *Explanation of changes.*

a. Section 1–1.1003–7 is amended to add new paragraph (b)(10) as follows:

§ *1–1.1003–7 Preparation and transmittal.*

* * * * *

(b) * * *

(10) *Trade Agreements Act of 1979—eligible products.* For the procurement of an eligible product from a designated country when the total estimated price of the product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)), each synopsis sent to the Commerce Business Daily, in addition to other requirements of this § 1–1.1003–7(b), shall indicate: (i) The nature and quantity of the products to be supplied, or envisaged to be purchased in the case of contracts of a recurring nature;

(ii) Whether the purchase is open (competitive) or sole source;

(iii) Any delivery date requirements;

(iv) The address and final date for submitting an application to be invited to offer or for receiving offers;

(v) That offers must be submitted in the English language and in U.S. dollars;

(vi) The address of the activity that will award the contract and any information necessary for obtaining specifications and other documents;

(vii) Any economic and technical requirements, financial guarantees, and information required from suppliers that is stated in the solicitation; and

(viii) The amount and terms of payment of any sum required in order to obtain the solicitation documentation, if any.

b. Section 1–2.202 is amended to add new paragraph (d) to § 1–2.202–1 and to add a new § 1–2.202–7, as follows:

§ *1–2.202 Miscellaneous rules for solicitation of bids.*

§ *1–2.202–1 Bidding time.*

* * * * *

(d) *Trade Agreements Act of 1979—eligible products.* When a solicitation involves eligible products under the Trade Agreements Act of 1979, and the total estimated price of a product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)), the solicitation shall specify at least a 30-day bidding time from the date of issuance of the solicitation (see § 1–6.1605–1(b)(4)).

* * * * *

§ *1–2.202–7 Trade Agreements Act of 1979—eligible products.*

When a solicitation involves eligible products and the total estimated price of a product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)), the solicitation shall require that offers be submitted in the English language and in U.S. dollars (see § 1–6.1605–1(b)(6)).

c. Section 1–2.203–4 is amended to designate the existing paragraph as (a) and to add a new paragraph (b) as follows:

§ *1–2.203–4 Synopses of invitations for bids.*

(a) * * *

(b) The synopsis of a proposed procurement of an eligible product from designated countries, when the total estimated price of the product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)), shall state that offers must be in the English language and in U.S. dollars (see § 1–6.1605–1(b)(6)).

d. Section 1–2.402 is amended to add paragraph (d) as follows:

§ *1–2.402 Opening of bids.*

* * * * *

(d)(1) When offers involving eligible products from a designated country are opened, offerors or their representatives or an appropriate and impartial witness not connected with the acquisition shall be present.

(2) The name of the impartial witness, if any, shall appear on the abstract of offers.

e. Section 1–2.408 is amended to redesignate the present text as § 1–2.408–1 and to add a new § 1–2.408–2 as follows:

§ *1–2.408 Information to bidders.*

§ *1–2.408–1 Rejection of offers (general).*

* * * * *

§ *1–2.408–2 Rejection of offers under the Trade Agreements Act of 1979.*

(a) Contracting officers shall notify unsuccessful offerors in writing within seven working days after the award of a contract (or contracts) that their offers were not accepted when an offer involves an eligible product from a designated country, and the total price paid (sum of all contracts for a product under a solicitation) for the product is equal to or more than the specified dollar threshold (see §§ 1–6.1601(e) and 1–6.1608).

(b) Additional information requested by an unsuccessful offeror of an eligible product from a designated country shall be provided by an official above the level of the contracting officer (see § 1–6.1608(b)).

f. Section 1–3.105 is added as follows:

§ *1–3.105 Trade Agreements Act of 1979—eligible products.*

§ *1–3.105–1 Time for the submission of offers.*

When solicitations involve eligible products under the Trade Agreements Act of 1979 and the total estimated price of a product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)), the solicitation shall specify at least 30 days for the submission of offers (see § 1–6.1605–1(b)(4)).

§ *1–3.105–2 English language and U.S. dollars.*

When a solicitation involves eligible products and the total estimated price of a product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)), the solicition shall require that offers are to be submitted in the English language and in U.S. dollars (see § 1–6.105–1(b)(6)).

§ *1–3.105–3 Opening offers.*

(a) When offers involving eligible products from designated countries are opened, offerors or their representatives or an appropriate and impartial witness not connected with the acquisition shall be present. However, there shall be no disclosure of the offers.

(b) The name of the impartial witness, if any, shall appear on the abstract of offers (see §§ 1–2.402 and 1–3.811).

§ *1–3.105–4 Notification of nonacceptance of offer.*

(a) Contracting officers shall notify unsuccessful offerors in writing within seven working days after the award of a contract (or contracts) that their offers were not accepted when an offer involves an eligible product from a designated country and the total price paid (sum of all contracts for a product under a solicitation) for the product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)).

(b) Additional information requested by an unsuccessful offeror of an eligible product from a designated country shall be provided by an official above the level of the contracting officer (see § 1–6.1608(b)).

g. Subpart 1–6.16 is added as follows:

Subparts 1–6.11—1–6.15 [Reserved]

Subpart 1–6.16 Purchases under the Trade Agreements Act of 1979.

§ *1–6.1600 Scope.*

This subpart implements the Agreement on Government Procurement (hereafter referred to as the Agreement) which is a part of the trade agreements negotiated in the Tokyo Round of the Multilateral Trade Negotiations. The Agreements were entered into in Geneva on April 12, 1979, pursuant to section 102 of the Trade Act of 1974. The authority to implement the Agreement is provided by the Trade Agreements Act of 1979 (Public Law 96–39, 19 U.S.C. 2511–2518) and Executive Order 12260, December 31, 1980, (46 FR 1653, January 6, 1981) and Determinations by the U.S. Trade Representative, December 31, 1980, (46 FR 1657, January 6, 1981).

§ *1–6.1601 Definitions.*

The terms used in this subpart have meanings as follows: (a) "Designated country" means a country or instrumentality designated by the President or the U.S. Trade Representative under section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511). Designated countries are listed at § 1–6.1612. Additions will be announced in later FPR changes.

(b) "Eligible product" means, with respect to any designated country, a product of that country which is covered by the Agreement for purposes of acquisition. This includes services (other than transportation) incidental to the supply of products if the value of those incidental services does not exceed the value of the products themselves. It does not include service contracts. For the

United States, all products are eligible, except to the extent that they are excluded by reason of the absence of an agency from the list of agencies in § 1-6.1613.

(c) "Product" means a line item in a solicitation. However, if two or more line items carry identical stock numbers or other identification, this situation shall be deemed to constitute a single line item.

(d) "Rule of Origin" means that an article is a product of a designated country if (1) it is wholly the growth, product, or manufacture of that country, or (2) in the case of an article which consists in whole or in part of materials from another country, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed (see § 1-6.1609).

(e) "Dollar threshold" means $196,000 or such other dollar amount as may be specified by the U.S. Trade Representative, from time to time.

§ *1-6.1602 Policy.*

(a) Offers of eligible products from designated countries shall be solicited and evaluated in the same manner as offers of products from the United States. Designated countries are listed in § 1-6.1612.

(b) When the country of origin is not listed in § 1-6.1612, the Buy American Act (see Subpart 1-6.1) and the Balance of Payments Program (see Subpart 1-6.8) are applicable. In addition, those subparts apply if the total price paid for an eligible product is less than the specified dollar threshold (see § 1-6.1601(e)).

(c) The Buy American Act; i.e., the preference for U.S. products in the award of contracts, is, or may be, waived (subject to a number of exclusions; see § 1-6.1603) for purchases specifically covered by the Agreement.

(d) Countries that benefit from open competition for contracts awarded by the Government are required to offer reciprocal competitive opportunities to U.S. products and suppliers. The Agreement prohibits discrimination against U.S. suppliers in procurements by foreign governments. It also requires nondiscrimination and open and transparent application of required procurement procedures.

§ *1-6.1603 Applicability.*

(a) The policies in this subpart apply only (1) if the total price paid for an eligible product (not two or more different eligible products) from a designated country is equal to or more than the specified dollar threshold, and (2) to the agencies listed in § 1-6.1613.

(b) If a contracting officer determines that an individual requirement for the acquisition of a product or products of the same type; e.g., an indefinite quantity type contract, may result in payments during the fiscal year which are equal to or more than the specified dollar threshold, the policies in this subpart shall apply.

(c) No acquisition of an eligible product shall be subject of more than one solicitation for the purpose of reducing the value of the resulting offers to amounts less than the specified dollar threshold.

(d) When a solicitation for an eligible product results in two or more contract awards for the product, the provisions of this Subpart 1-6.16 apply if the total amount of the contracts is equal to or more than the specified dollar threshold.

(e) The policies in this subpart do not apply to: (1) Purchases under small business set-aside programs or minority business programs (see § 1-6.1604);

(2) Purchases of arms, ammunititon, or war materials, or purchases indispensible for national security or national defense purposes, subject to policies established by the U.S. Trade Representative;

(3) Construction contracts;

(4) Service contracts (but services other than transportation incidental to the purchase of eligible products are covered by the Agreement, provided that the value of the service is not greater than the value of the product);

(5) Research and development contracts;

(6) Purchases for resale purposes;

(7) Purchases relating to the products of handicapped persons, of philanthropic institutions, or of prison labor;

(8) Leases or rentals of any item;

(9) Purchases for agencies not subject to the Agreement;

(10) Tied-aid procurements under AID foreign assistance programs; or

(11) Purchases by State and local governments, including purchases by State and local authorities with Federal funds.

§ *1-6.1604 Labor surplus area set-asides.*

(a) Total labor surplus area set-asides which are not limited to small business shall not be made for procurements covered by this Subpart 1-6.16.

(b) Total or partial set-asides for small and minority businesses, whether or not combined with a labor surplus area set-aside (see section 117(e) of Pub. L. 96-302), are not covered by the Agreement (see § 1-6.1603).

§ *1-6.1605 Procedures for the purchase of eligible products from designated countries.*

§ *1-6.1605-1 Solicitation procedures under this subpart.*

When the estimated price of an eligible product included in a solicitation is equal to or more than the specified dollar threshold (see § 1-6.1601(e)), the following solicitation procedures are applicable. However, if the offer received for an eligible product which is the basis for the award is less than the dollar threshold, this subpart does not apply (see § 1-6.1603).

(a) *Publicizing proposed purchases.* When the estimated price of an eligible product is equal to or more than the specified dollar threshold (see § 1-6.1601(e)), a notice of proposed purchase shall be published in the Commerce Business Daily, in accordance with the requirements in § 1-1.1003-7(b)(10).

(b) *Solicitation of eligible products from designated countries.* (1) Sources offering eligible products from designated countries shall be included, upon request by these sources, on bidders mailing lists and comparable source lists, in accordance with the procedures in § 1-2.205.

(2) Solicitations for eligible products shall be sent directly to the sources for the products which appear on appropriate bidders mailing lists. When solicitations will be sent outside the United States, international airmail shall be employed (see §§ 1-2.202-1 and 1-2.203-1).

(3) Solicitations involving eligible products shall be made available, on request, to the embassy or other designated place or representative of a designated country.

(4) At least 30 days from the date of a solicitation shall be provided, consistent with the nature of and requirements for supplies or services, for the submission of offers involving eligible products from designated countries (see §§ 1-2.202-1 and 1-3.105-1).

(5) No technical requirements may be imposed solely for the purpose of precluding the acquisition of eligible products from designated countries.

(6) Solicitations shall require that offers involving eligible products from designated countries be submitted in the English language and in U.S. dollars (see §§ 1-2.201(a)(33), 1-2.202-7, and 1-3.105-2).

§ *1-6.1606 Opening of offers.*

(a) When offers involving eligible products are opened, offerors or their representatives or an appropriate and impartial witness not connected with the acquisition shall be present (see §§ 1–2.402 and 1–3.105–3).

(b) The name of the impartial witness, if any, shall appear on the abstract of offers (see §§ 1–2.403 and 1–3.811).

§ 1–6.1607 *Evaluation of offers.*

Offers of eligible products from designated countries which are equal to or more than the specified dollar threshold (see § 1–6.1601(e)), shall be evaluated without regard to the Buy American Act or Balance of Payments Program, except as provided in § 1–6.1603.

§ 1–6.1608 *Information to unsuccessful offerors.*

(a) Contracting officers shall notify unsuccessful offerors in writing within seven working days after the award of a contract (or contracts) that their offers were not accepted (see §§ 1–2.408–2(a) and 1–3.105–4(a)) when an offer involves an eligible product from a designated country and the total price paid (sum of all contracts for a product under a solicitation) for the product is equal to or more than the specified dollar threshold (see § 1–6.1601(e)).

(b) Subsequent to the notice, if additional information is requested by an unsuccessful offeror, it shall be provided by an official above the level of the contracting officer (see §§ 1–2.408–2(b) and 1–3.105–4(b)).

§ 1–6.1609 *Certificate of eligible product.*

(a) Contracting officers shall rely on certificates by the offeror for purposes of satisfying the Rule of Origin. The following certificate shall be inserted in all solicitations for eligible products when the estimated price is equal to or more than the specified dollar threshold (see § 1–6.1603).

Certificate of Eligible Product

(a) The offeror hereby certifies that each eligible product, as provided in 41 CFR 1–6.1601, which is delivered in accordance with any contract resulting from this solicitation is from a country designated by the President or the U.S. Trade Representative pursuant to section 301 of the Trade Agreements Act of 1979.

(b) Offerors are encouraged to obtain advance decisions from the Commissioner of Customs regarding the origin of eligible products as provided in 19 CFR Part 177. Decisions rendered by the Commissioner should accompany the offer.

(b) The reliance of the contracting officer on the certification for award purposes shall not be affected by a failure of an offeror to obtain an advance decision and to furnish a copy of the decision with its offer.

(c) Any question regarding the validity of a certification which the Contracting Officer receives from another offeror shall be referred to the Commissioner of Customs for consideration by the offeror whose certification is challenged. It shall not be treated as a basis for holding up an award. However, failure of a challenged offeror to refer the matter to the Commissioner of Customs, upon the request of the Contracting Officer, will result in rejection of the offer.

(d) If a certification subsequently is determined by the Commissioner of Customs to be invalid, the imposition of penalties as authorized by law shall be considered, e.g., criminal penalty for false representation under 18 U.S.C. 1001.

§ 1–6.1610 *Reporting requirements.*

The reporting requirements of the Trade Agreements Act of 1979 will be satisfied by Individual Agency Procurement Action Reports.

§ 1–6.1611 *Buy American Act clause.*

When an eligible product is involved, the clause prescribed by § 1–6.104–5 and by Standard Forms 32 and 147 shall be amended by adding an addendum to the solicitation which provides for the incorporation of a parenthetical phrase following the title of the clause as follows:

(This Buy American Act clause is not applicable to contracts involving eligible products from designated countries when the award price for the product is $(*insert prescribed amount*) or more)

§ 1–6.1612 *Designated countries.*

Austria; Bangladesh; Belgium; Benin; Bhutan; Botswana; Burundi; Canada; Cape Verde; Central African Republic; Chad; Comoros; Denmark; Federal Republic of Germany; Finland; France; Gambia; Guinea; Haiti; Hong Kong; Ireland; Italy; Japan; Lesotho; Luxembourg; Malawi; Maldives; Mali; Nepal; Netherlands; Niger; Norway; Rwanda; Singapore; Somalia; Sweden; Switzerland; Western Samoa; Sudan; Tanzania U.R.; Uganda; United Kingdom; Upper Volta; Yemen AR.

§ 1–6.1613 *Agencies covered by the Agreement.*

ACTION
Administrative Conference of the United States
American Battle Monuments Commission
Board for International Broadcasting
Civil Aeronautics Board
Commission on Civil Rights
Commodity Futures Trading Commission
Community Services Administration
Consumer Product Safety Commission
Departments of—Agriculture;[1] Commerce; Defense;[2] Education; Health and Human Services; Housing and Urban Development; Interior;[3] Justice; Labor; State; Treasury.
Environmental Protection Agency
Equal Employment Opportunity Commission
Executive Office of the President
Export-Import Bank of the United States
Farm Credit Administration
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Trade Commission
General Services Administration[4]
Inter-State Commerce Commission
Merit Systems Protection Board
National Aeronautics and Space Administration
National Credit Union Administration
National Labor Relations Board
National Mediation Board
National Science Foundation
National Transportation Safety Board
Nuclear Regulatory Commission
Office of Personnel Management
Overseas Private Investment Corporation
Panama Canal Commission
Railroad Retirement Board
Securities and Exchange Commission
Selective Service System
Smithsonian Institution
United States Arms Control and Disarmament Agency
United States International Communication Agency
United States International Development Cooperation Agency
United States International Trade Commission
Veterans Administration

§ 1–6.1614 *Ineligibility to participate in U.S. procurement.*

No purchase which is equal to or more than the specified dollar threshold may be made by an agency listed in § 1–6.1613 of an eligible product subject to the Agreement from countries listed in this § 1–6.1614. However, this limitation may be waived in the national interest in accordance with policies established by the U.S. Trade Representative.

Greece

6. *Agency action.* Pending the issuance of a permanent amendment to the Federal Procurement Regulations, agencies shall follow the policies and procedures in this temporary regulation.

7. *Submission of comments.* Time did not permit the solicitation of comments prior to the issuance of this regulation. However, comments from interested

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[1] The Agreement on Government Procurement does not apply to the procurement of agricultural products made in furtherance of agricultural support programs or human feeding programs.

[2] Excludes Corps of Engineers.

[3] Excludes the Bureau of Reclamation.

[4] Excludes purchases by the National Tool Center. and the Region 9 Office (San Francisco, California).

parties would be welcomed. ADDRESS: General Services Administration (VR), Washington, DC 20406.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-1547 Filed 1-14-81; 8:45 am]

BILLING CODE 6820-61-M

Public Buildings Service

41 CFR Part 101-20

[FPMR Amdt. D-77]

Rules and Regulations Governing Public Buildings and Grounds

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation revises the GSA rules and regulations governing public buildings and grounds. It encourages the public to exercise its right to use these buildings and grounds but ensures GSA of its responsibility to safely and efficiently operate and maintain the public buildings and grounds under its charge and control.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent L. Crivella, Legal Counsel, Public Buildings Division, Office of General Counsel (202 566-0495).

SUPPLEMENTARY INFORMATION:

(a) Background

The Public Buildings Cooperative Use Act of 1976 (Pub. L. 94-541), among other things, encourages the use of auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings by persons, firms, or organizations engaged in cultural, educational, or recreational activities that will not disrupt the operation of the buildings. GSA recognizes that once these areas had been designated by the Congress as public fora, consideration must be given to the constitutional guarantees of freedom of speech, free exercise of religion, and the right to peaceable assembly. GSA may not prohibit persons, firms, or organizations from occasionally using these areas of public buildings solely on the basis of the content of the activity.

These regulations have been established to promote the occasional use of public buildings under the charge and control of GSA for cultural, educational, and recreational activities, as well as activities protected by the First Amendment. GSA has determined that this regulation will not impose unnecessary burdens on the economy or on individuals, and therefore, is not significant for the purposes of Executive Order 12044.

(b) Comments Received

On February 15, 1980, a notice of proposed rulemaking was published in the **Federal Register** (45 FR 10379) concerning the procedures to be followed in permitting the occasional use of public buildings and grounds under the charge and control of GSA. Interested parties were given an opportunity to submit comments on or before April 15, 1980. All comments were considered. GSA received eight comments on the proposed rule. Comments were received from Government agencies who occupy GSA-controlled buildings, religious organizations, and organizations concerned about the preservation of civil liberties. Organizations representing artists who desire to display art in public buildings also submitted comments. Many of these comments focused on significant constitutional issues relevant to the GSA proposal. The comments received have been helpful and the legal issues raised by the comments have prompted further revisions to the proposal. In the final rule GSA has endeavored to be attentive to the First Amendment rights of individuals who desire to use areas of public buildings as a forum for the expression of ideas, advocacy of causes, and solicitation of funds, as well as responsive to GSA's duties to safely and efficiently maintain and operate these public buildings.

(c) Specific Comments

The following is a categorized summary of the major issues which were commented on and the actions taken:

Permitted activities. Two commenters criticized the regulations because they did not describe all of the activities which will be allowed in the public areas of public buildings. The Public Buildings Cooperative Use Act of 1976 (Cooperative Use Act) specifically permits the use of public areas of public buildings for cultural, educational, and recreational activities. "Cultural," "educational," and "recreational" activities are defined in the Cooperative Use Act and those definitions have been incorporated into these regulations in § 101-20.701 (h), (i), and (j).

GSA recognizes that persons or organizations engaging in activities constitutionally protected by the First Amendment must be afforded access to public areas of public buildings. However, GSA does not believe that it is necessary, or possible, to list in these regulations all activities protected by the First Amendment. Modifications have been made to the proposed regulations which should lead greater specificity to this area. For example, § 101-20.702 has been revised to require persons or organizations desiring to use a public area of a public building or its grounds for the purpose of soliciting funds to submit one of the three statements listed in § 101-20.702(c), (1), (2), or (3). Through this revision GSA intends to clarify that it will permit solicitation by all those persons and organizations to which the statements in § 101-20.702(c) would refer, if the proposed solicitation would otherwise be in accord with the provisions of Subpart 101-20.7. That is, with the exception of those types of solicitation proscribed by § 101-20.308, solicitation of funds is an activity permitted in accordance with the provisions of Subpart 101-20.7. Examples of permissible forms of solicitation would be the solicitation of funds for religious purposes and the solicitation of funds for tax-exempt organizations. Distribution of literature is another example of an activity clearly stated to be permissible in public areas of public buildings. § 101-20.309 provides for this activity. GSA does not intend the above-mentioned examples to be a limitation on the extent of activities permitted in public areas of public buildings.

Public areas. One commenter criticized the definition of the term "public area" as being overly vague. The commenter suggested that GSA specify in the regulations which areas were to be available for public use and how many permits would be allowed for each area. GSA is aware that other agencies have issued regulations which list the specific areas available and the maximum number of permits for those areas. However, there exists a practical difference between other agencies' regulations and GSA's. Other agencies' regulations usually apply to only a small number of facilities. For example, the Federal Aviation Administration has recently issued regulations (45 FR 35314, May 27, 1980) which apply to only two facilities, Washington National Airport and Dulles Airport. GSA's regulations, however, would apply to thousands of public buildings under the charge and control of GSA. Because of the lack of similarity of most of the buildings with regard to their construction, design, and physical layout, it would not be possible to issue regulations listing the specific areas of each public building available for use. Nor would it be possible to specify the maximum number of permits which could be issued for these areas. GSA believes that the definition of the

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term "public area" set forth in these regulations specifies, to the extent practicable, those areas of public buildings available for use. It is not intended that the examples listed in §101-20.701(b) (that is, lobbies, courtyards, meeting rooms, and auditoriums) be a limitation on the areas in a specific building that are available for use under these regulations. The fact that the Cooperative Use Act lists lobbies, courtyards, meeting rooms, and auditoriums as available for use is evidence that these areas are appropriate places for the exercise of certain First Amendment expressions. Whether areas other than lobbies, courtyards, meeting rooms, and auditoriums are "public areas" depends upon the purpose or use of the area. An area that is open to members of the public to visit or transact Government business does not necessarily convert that area into a "public area" for purposes of this regulation. However, if such an area has been made available to members of the public for expression of their First Amendment rights, whatever form that may take, then the area would be a "public area."

Permit system. Several commenters criticized the provision which required that an application for a permit be submitted at least 30 days but no more than 90 days in advance of the proposed use as being too restrictive. GSA agrees. The final regulations will require that a decision on the issuance of a permit be made promptly and not later than 10 days of receipt of a completed application. Three commenters criticized the requirement in §101-20.702(a) that applicants for a permit provide information regarding their identity. The commenters asserted that applicants desiring to distribute literature have a right to anonymity that would be violated by §101-20.702(a). The commenters cite the case of Talley vs. California, 362 U.S. 60 (1960) in support of their argument. GSA respectfully disagrees. The regulations in the Talley vs. California case are distinguishable from the present regulations. In that legal case persons seeking to distribute literature (leaflettors) were required to place their name, address, and the organization they represented on the literature itself. By complying with this requirement, the leaflettor's identity was known to the person receiving the literature. It was feared that revealing the leaflettor's identity to the person receiving the literature might deter peaceable discussion of public matters of importance and therefore have a chilling effect on the leaflettor's First Amendment right to distribute this literature. Under GSA's regulations, a leaflettor is not required to place his or her name, address, and the organization represented on the literature. The identity of the leaflettor would not be known to the person receiving this literature and there would be no deterrent to the peaceable discussion between the parties of public matters of importance.

Restrictions on behavior. Several commenters also criticized the requirement contained in §101-20.707(a)(5) that all permittees wear identification badges while conducting the activities. The commenters expressed the same above-mentioned concern; i.e., the leaflettors' right to anonymity would be violated. GSA agrees in part. The regulations have been modified to require that only those permittees engaging in the solicitation of funds not prohibited by §101-20.308 would be required to wear an identification badge.

Several commenters also criticized the requirement contained in §101-20.707(a)(6) that donations be accepted only at solicitation booths. This requirement has been deleted from the final regulations. All comments have been considered. Modifications have been made to the proposed regulations as set forth below.

Accordingly GSA amends 41 CFR Part 101-20 as follows:

Subpart 101-20.3—Conduct on Federal Property

1. Section 101-20.302 is revised to read as follows:

§ 101-20.302 Admission to property.

Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or portions thereof for activities authorized by Subpart 101-20.7. During normal working hours, property shall be closed to the public only when situations require this action to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Occupant Emergency Program after consultation with the buildings manager and the ranking representative of the Federal Protective Service Division responsible for protection of the facility or the area. This requirement does not preempt the authority of the Regional Director, Federal Protective Service Division, or any other authorized GSA official to effect a security alert of a facility in accordance with GSA Order, Physical Security of Buildings Alert Guidelines (PBS 5930.16), dated February 20, 1976. This action shall be coordinated with the designated official. The designated official is defined in § 101-20.504-3(f) as the highest ranking official of the primary occupant agency, or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials. When property, or a portion thereof, is closed to the public, admission to this property, or a portion, will be restricted to authorized persons who shall register upon entry to the property and shall, when requested display Government or other identifying credentials to the Federal Protective Officers or other authorized individuals when entering, leaving, or while on the property. Failure to comply with any of the above applicable provisions is a violation of these regulations.

2. Section 101-20.303 is revised to read as follows:

§ 101-20.303 Preservation of property.

The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or at a building or the climbing upon statues, fountains, or any part of the building, is prohibited.

3. Section 101-20.307 is revised to read as follows:

§ 101-20.307 Alcoholic beverages and narcotics.

Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine is prohibited. This prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing. The head of the responsible agency or his or her designee shall provide a copy of all exemptions granted to the buildings manager who shall inform the Federal Protective Officer, or other authorized officials, responsible for the security of the property.

4. Section 101-20.308 is revised to read as follows:

§ 101-20.308 Soliciting, vending, and debt collection.

Soliciting alms, commercial or political soliciting, and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts on GSA-controlled property is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service," issued by the U.S. Office of Personnel Management under Executive Order 10927 of March 18, 1961, and sponsored or approved by the occupant agencies; (b) concessions or personal notices posted by employees on authorized bulletin boards; (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95-454); and (d) lessee, or its agents and employees, with respect to space leased for commercial, cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 [40 U.S.C. 490(a)(16)]. Public areas of GSA-controlled property may be used for other activities permitted in accordance with Subpart 101-20.7.

5. Section 101-20.309 is revised to read as follows:

§ 101-20.309 Distribution of handbills.

Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101-20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in the public areas of the property as defined in § 101-20.701(b), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the buildings manager under Subpart 101-20.7 and shall conduct distribution in accordance with the provisions of Subpart 101-20.7. Failure to comply with those provisions is a violation of these regulations.

6. The captions in Subpart 101-20.7, the table of contents and two new sections are added. Thus Subpart 101-20.7 is revised as follows.

Subpart 101-20.7—Occasional Use of Public Areas in Public Buildings

Sec.

101-20.700 Scope of subpart.
101-20.701 Definitions.
101-20.702 Permits.
101-20.703 Disapproval of application or cancellation of permit.
101-20.704 Appeals from disapproval of application or cancellation of permit.
101-20.705 Schedule of use.
101-20.706 Services and costs.
101-20.707 Restrictions on behavior.
101-20.708 Posting of notices and information bulletins.
101-20.709 Nonaffiliation with the Government.

Subpart 101-20.7—Occasional Use of Public Areas in Public Buildings

§ 101-20.700 Scope of subpart.

The Public Buildings Cooperative Use Act of 1976 (Pub. L. 94-541), among other things, encourages the occasional use of public areas of public buildings and grounds for cultural, educational, and recreational activities. The purpose of these regulations is to create rules and procedures to be followed in permitting the occasional use of public buildings and grounds for these and other activities authorized by this subpart.

§ 101-20.701 Definitions.

(a) "Public building" shall mean any building and its grounds, or part thereof, under the charge and control of the General Services Administration.

(b) "Public area" shall mean any area of a public building or its grounds ordinarily open to members of the public, such as lobbies, courtyards, auditoriums, meeting rooms, and any other area not specifically leased by any lessee of the public building.

(c) "Buildings manager" shall mean the employee of GSA designated to supervise the implementation of the occasional use provision of the Public Buildings Cooperative Use Act within a particular public building and its grounds.

(d) "Regional officer" shall mean the regional director of the Buildings Management Division of GSA designated to supervise the implementation of the occasional use provision of the Public Buildings Cooperative Use Act within those regions that GSA may from time-to-time create.

(e) "Applicant" shall mean any person or organization who applies for a permit to use a public area within a public building or its grounds.

(f) "Permittee" shall mean any person or organization who has been granted a permit to use a public area within a public building or its grounds.

(g) "Recognized labor organization" shall mean a labor organization recognized under Title VII of the Civil Service Reform Act of 1978 (Pub. L. 95-454) governing labor management relations.

(h) "Cultural activities" shall mean activities, including but not limited to films, dramatics, dances, and musical presentations, and fine are exhibits, whether or not these activities are intended to make a profit.

(i) "Educational activities" shall mean activities, including but not limited to the operation of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(j) "Recreational activities" shall mean activities, including but not limited to the operation of gymnasiums and related facilities.

(k) "Commercial activities" shall mean activities undertaken for the primary purpose of obtaining a profit for the benefit of an individual or organization organized for profit, as opposed to activities whose purpose is the expression of ideas or advocacy of causes, whether of a religious, artistic, political, charitable, educational, or cultural nature, where the commercial aspects involved are incidental to the purpose of the activity.

§ 101-20.702 Permits.

(a) Application. Any person or organization desiring to use a public area of a public building or its grounds shall first obtain a permit from the buildings manager. To obtain this permit, a copy, sample, or description of any material or item proposed for distribution or display and a written statement shall be submitted setting forth the following:

(1) The full name, mailing address, and telephone number of the applicant;

(2) The full name, mailing address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activity;

(3) The full name, mailing address, and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed activity;

(4) A description of the proposed activity;

(5) The proposed dates and hours during which the activity is to be carried out; and

(6) The approximate number of persons to be engaged in this activity, if known.

(b) Applicants authority. If the applicant claims to represent an organization, a letter or other documentation is required showing that

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the applicant has authority to represent that organization.

(c) Applications for permit to solicit contributions. Any person or organization desiring to use a public area of a public building or its grounds for purposes of soliciting funds not prohibited by § 101–20.308 shall, in addition to the above requirements, submit a statement signed by the applicant that the:

(1) Applicant represents and will be soliciting funds for the sole benefit of a religion or religious group;

(2) Applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501 (c)(3), (c)(4), or (c)(5); or

(3) Applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501 (c)(3), (c)(4), or (c)(5), and that the IRS has not yet issued a final administrative ruling or determination of this status.

(d) Failure to complete application. Failure to submit the information required by paragraphs (a), (b), and (c), of this section shall result in denial of a permit.

(e) Filing. Applications shall be filed during regular working hours in the buildings manager's office or such other place as he or she may designate. Applications may be submitted by mail or in person.

(f) Permit issuance. A single permit shall be issued within 10 days following receipt of the completed application by the buildings manager.

(1) Each permit shall authorize the permittee to conduct the activity for the period of time requested; provided that a permit shall not be issued for a period of time in excess of 30 calendar days, unless specifically approved by the regional officer. After the expiration of the permit, a new permit may be issued to the former permit holder upon submission of a new application. In such a case, applicants may be permitted to incorporate by reference any required information or documentation filed with a previous application.

(2) If permits are requested for the same public area for the same time period, the buildings manager will issue permits on a first-come-first-served basis.

§ 101–20.703 Disapproval of application or cancellation of permit.

(a) Grounds for disapproval or cancellation. The buildings manager shall disapprove any application or cancel an issued permit for use of a public area if the proposed use:

(1) Is a commercial activity as defined in § 101–20.701(k);

(2) Obstructs the free ingress and egress of the users of the public area;

(3) Damages the public building or any property within the public building;

(4) Disrupts the official business of the agency or agencies occupying the public buildings;

(5) Interferes with a tenant's quiet enjoyment of their leasehold;

(6) Interferes with a previously approved use of the public area by another member, or members, of the public;

(7) Is obscene within the meaning of obscenity in 18 U.S.C. 1461–65;

(8) Pertains to any judicial proceeding then pending in the public building and this use is intended to influence or impede the judicial proceeding;

(9) Is in violation of the prohibition against political solicitations in 18 U.S.C. 603; or

(10) Is being conducted with a permit issued in response to an intentionally false or incomplete application.

(b) Notice of disapproval of application or cancellation of permit. Upon disappproving an application or canceling an issued permit for any of the above reasons, the buildings manager shall:

(1) Notify promptly the applicant or permittee in writing of disapproval or cancellation and the reasons for this action; and

(2) Inform the applicant of his or her right to appeal the disapproval or cancellation to the regional officer under § 101–20.704.

§ 101–20.704 Appeals from disapproval of application or cancellation of permit.

(a) Time for appeal. Within 5 calendar days of notification of the buildings manager's decision to disapprove any application or cancel an issued permit under § 101–20.703, the applicant or permittee may appeal the buildings manager's determination to the regional officer by notifying the regional officer, in writing, that he or she desires to appeal.

(b) Record. Although a trial-type hearing or presentation is not required, the applicant or permittee and the buildings manager shall have the opportunity to orally state the reasons that the application or cancellation should or should not be approved. Written materials and documents may also be submitted. The regional officer shall affirm or reverse the buildings manager's determination based on this information.

(c) Time for review. The regional officer shall affirm or reverse the buildings manager's determination within 10 days of the date on which the regional officer received the applicant or permittee's notification of his or her desire to appeal. If the regional officer does not rule within this period, the application will be considered to be approved or the permit validly issued.

(d) Notification. Upon reaching a decision on an appeal taken under § 101–20.704, the regional office shall promptly notify the applicant or permittee and the buildings manager of the decision and the reasons therefore.

§ 101–20.705 Schedule of use.

(a) Schedule. Nothing in these regulations shall prevent the buildings manager from:

(1) Reserving certain times of the year for use of public areas of the public buildings for official Government business;

(2) Setting aside certain days or time for maintenance, construction, or repair; or

(3) Preempting an approved use of a public area for official Government business.

(b) Time. Public areas made available may be used during or after the regular working hours of Federal agencies, provided this afterhour use will not interfere with the conduct of Government business. When public areas are used by permittees under Subpart 101–20.7 after normal working hours, all adjacent areas not approved for afterhours usage shall be locked, identified by signs, or physically barricaded, as appropriate, to restrict the participants' movements to only that space or areas(s) approved for usage.

§ 101–20.706 Services and costs.

(a) Costs. The space to be provided under these regulations is furnished free of charge. Services normally provided at the building in question, such as security, cleaning, heating, ventilating, and air-conditioning, shall also be provided free of charge by GSA. The applicant shall be requested to reimburse GSA for services over and above those normally provided. If the applicant desires to provide services, such as security and cleaning, this request must be approved by the regional officer. The Regional Administrator may provide the services free of charge if the cost is insignificant and if it is in the public's interest.

(b) Alteration of public area. Generally, there shall be no alteration to public areas used under these regulations by persons, firms, or organizations, unless it is determined by the Regional Administrator that changes should be made in a public building to encourage and aid in the proposed use.

The permittee must make adequate provisions for the:

(1) Protection of the safety of an user of the public area; and

(2) Prevention of injury or damage to the public building.

(c) Program requirements. The furnishing of any item necessary for the proposed activity, such as tickets, audiovisual equipment, etc., shall be the responsibility of the permittee.

§ 101–20.707 Restrictions on behavior.

(a) General. The permittee shall be subject to the rules and regulations governing public buildings and grounds in Subpart 101–20.3. In addition, a permittee shall:

(1) Not misrepresent his or her identity to the public;

(2) Not distribute any item for which the prior approval of the buildings manager or his or her representative has not been obtained, under § 101–20.702(d) of these regulations;

(3) Not leave leaflets or other material unattended at any place on GSA-controlled property;

(4) Not conduct any activities in a misleading or fraudulent manner;

(5) Not discriminate on the basis of race, creed, color, sex, or national origin, in conducting the permitted activities; and

(6) Not engage in activities that would interfere with the preference afforded the blind licensees under the Randolph-Sheppard Act (20 U.S.C. 107).

(b) Identification badges. Permittees engaging in the solicitation of funds not prohibited by § 101–20.308 shall wear an identification badge at all times on GSA-controlled property containing the following:

(1) Name;

(2) Address;

(3) Telephone number; and

(4) Name of group or organization.

§ 101–20.708 Posting of notices and information bulletins.

Only the following types of notices or information bulletins may be posted on bulletin boards in nonpublic areas of the public building:

(a) Official business notices of the occupant agency;

(b) Request for funds for welfare, health, and other purposes, approved by the head of the occupant agency;

(c) Notices to Federal employees by concessionaries and agency employees of groups or organizations recognized by the occupant agency;

(d) Personal notices of agency employees, such as the sale of an employee's home, requests for carpool participation, etc.; and

(e) Recognized labor organization notices and issuances on space provided by the agency under agreement between the agency and the recognized labor organization.

§ 101–20.709 Nonaffiliation with the Government.

The General Services Administration reserves the right to advise the public through signs or announcements of the presence of any permittees and of their nonaffiliation with the Federal Government.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 5, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 81–1339 Filed 1–14–81; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 95

Time Limits for States To File Claims

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule with a comment period.

SUMMARY: HHS will pay a State the Federal share of a State expenditure, under a State plan approved under any of several titles of the Social Security Act, only if the State files a claim with HHS for that expenditure within 2 years (15 months in some cases) after the calendar quarter in which the State made the expenditure. This rule implements section 306 of the "Adoption Assistance and Child Welfare Act of 1980."

EFFECTIVE DATE: January 1, 1981.

COMMENT DATE: Your comments will be considered if we receive them no later than March 16, 1981.

ADDRESSES: Send your written comments to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Governmental Affairs, Social Security Administration, Department of Health and Human Services, Room 1212, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: For financial assistance programs under Titles I, IV–A, X, XIV and XVI (AABD): Kent Dickson—(202) 245–2056. For child support enforcement programs under Title IV–D: Pera P. Daniels—(301) 443–2910. For child welfare services programs under title IV–B and foster care and adoption assistance programs under Title IV–E: Jim Rich—(202) 755–7583. For social services programs under Titles I, IV–A, X, XIV, XVI (AABD) and XX: Bettye Mobley—(202) 472–3075. For medical assistance programs under Title XIX: Miles McDermatt—(301) 594–5728. For general legal questions: Richard K. Wulff—(202) 245–6733.

SUPPLEMENTARY INFORMATION:

Regulatory Procedural Requirements

We have determined that under E.O. 12044 these regulations are significant but no Regulatory Analysis is required.

We are publishing them as a final rule without prior Notice of Proposed Rulemaking (NPRM) and opportunity for public comment because they are necessary to implement section 306 of Pub. L. 96–272, which imposes a deadline of December 31, 1980 for States to file certain claims. Public Law 96–272 was enacted June 17, 1980, leaving insufficient time for us to publish an NPRM, allow time for public comment, consider the comments, and publish final regulations before January 1, 1981. Therefore, we find that notice and comment on these regulations before they take effect would be impracticable and contrary to the public interest.

Nonetheless, we wish to have the advantage of the information and opinions we may receive through public comments, and we will consider any comments we receive by the stated date. After we consider any comments we receive, we will make changes in these regulations as we deem appropriate.

We also find good cause for issuing these regulations with an effective date less than 30 days after issuance, because the statutory effective date is January 1, 1981.

Because this regulation applies only to States and imposes no conditions and requirements on small entities, the Secretary certifies that the regulation will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354.

Statutory Basis

Section 306 of Pub. L. 96–272, the "Adoption Assistance and Child Welfare Act of 1980," adds a new section 1132 to the Social Security Act (the Act). Its intent is to enable HHS to know the total amounts of its obligations for each fiscal year within a reasonable time after the end of the year. The provision prohibits HHS from paying Federal financial participation (FFP) for a State expenditure made after September 30, 1979, under a State plan approved under certain titles of the Act,

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unless the State files a claim with HHS for that expenditure within 2 years after the calendar quarter in which the State made the expenditure. For State expenditures made before October 1, 1979, section 306(b) of Pub. L. 96–272 requires the State to file the claim before January 1, 1981. However, in accordance with the provisions of the attached regulations, we are waiving the January 1, 1981 filing date and extending it to May 15, 1981, without States having to request a waiver. We find good cause for this waiver because States will need additional time to comply with these regulations.

The law applies these time limits to State expenditures under State plans approved under the following titles of the Act: I, IV, V, X, XIV, XVI, XIX and XX. The law also applies these time limits to State expenditures under any other provision of the Act which may be enacted in the future that provides, on an entitlement basis, for FFP in expenditures made under State plans or programs.

The law provides four exceptions to the time limits: (1) Adjustments to prior year costs;

(2) Audit exceptions;

(3) Court-ordered retroactive payments; and

(4) Any claim for which the Secretary decides there was good cause for the State's not filing it within the time limit. Lateness of a claim attributable to a State's neglect or administrative inadequacies is not considered good cause. When the Secretary decides there was good cause for not filing within the time limit, the time for filing will be extended only for the time period the State reasonably needs.

Programs Not Affected by the Regulations

The list of titles contained in section 306 of Pub. L. 96–272 includes Titles V and XVI. However, not all of the programs funded under these titles are affected by the requirements of section 306.

Title XVI "Supplemental Security Income for the Aged, Blind and Disabled" (SSI) is a Federal income maintenance program and does not have a State plan requirement. Consequently, the SSI program is not affected by section 306 or the regulations contained herein. Title XVI (AABD), however, is covered by the statutory provision and our regulations.

The Supplemental Security Income/Disability Children's Program and Vocational Rehabilitation Program established under SSI does contain a State plan requirement as does the Title V "Maternal and Child Health and Crippled Children's Services" program. However, these programs are formula grant programs that operate in the following manner. Once the State plan is approved, funds are made available to States in advance of expenditures on the basis of a predetermined formula. Claims are not made against the Federal program for reimbursement of expenditures. Consequently, we do not believe that the provisions of section 306 have an impact on these programs and we have not included them in our regulations.

The programs funded under Title IV are covered by section 306, i.e., Titles IV–A, IV–B, IV–C, IV–D and IV–E. These regulations apply to all except the Title IV–C program. The Work Incentive (WIN) program established under section 402(a)(19)(G) and Title IV–C of the Act involves coordination between this Department and the Department of Labor. We have decided to prepare a separate regulation under section 306 for the WIN program to allow full consideration by both Departments.

Administrative Interpretations and Rules

These regulations contain the following provisions—

(1) "Claim" is a request for FFP in the manner and format required by our program regulations, and instructions or directives issued thereunder;

(2) "Adjustment to prior year costs" is an adjustment in the amount of a particular cost item that was previously claimed under an interim rate concept and for which it is later determined that the cost is greater or less than that originally claimed;

(3) "Audit exception" is a proposed adjustment by the responsible Federal agency to any expenditure claimed by a State by virtue of an audit;

(4) "Court-ordered retroactive payment" is either a retroactive payment a State makes to an assistance recipient or other individual, under a Federal or State court order, or a retroactive payment we make to a State under a Federal court order. While we will accept claims based on Court-ordered retroactive payments as timely, we do not necessarily agree to be bound by a State or Federal decision when we were not a party to the action.

An "adjustment to prior year's costs" is limited to claims for services or medical assistance based on interim rates that subsequently are determined to be higher or lower than originally claimed. It has been our experience that in these areas subsequent adjustments are unforeseen and unavoidable. Consequently, we believe they should not be subject to the time limits. We believe that a broader exception would render the statutory provision a nullity. However, we would welcome comments based upon the actual experience of the commenters as to the desirability of expanding this exception.

"Good cause" for late filing in these regulations is lateness due to circumstances beyond the control of the State. We specifically exclude from these circumstances, neglect or administrative inadequacies of the State legislature, as well as by offices of the State's executive branch and local agencies as appropriate. We have included examples of "good cause" i.e., acts of God or documented action or inaction of the Federal government. We believe that these examples constitute valid instances of "good cause" for a late claim that are beyond the State's control, but we recognize that there may be other situations that are equally valid. The regulation is sufficiently flexible to accommodate these situations. Nonetheless, we would welcome comments on the desirability of expanding examples based upon the actual experience of the commenters.

The State programs under the affected titles of the Act are administered at the Federal level by four different agencies of HHS: the Health Care Financing Administration, the Office of Child Support Enforcement, the Office of Human Development Services, and the Social Security Administration. A State that wants to request waiver of the time limit for "good cause" ordinarily should file its request with the appropriate HHS agency. When a request affects the programs of more than one of these agencies, the submission should be sent to the Director, Division of Cost Allocation in the appropriate HHS Regional Office. The decision whether to grant or deny the waiver request will be made by the Secretary.

Part 95 of Subtitle A of 45 CFR is amended as follows:

1. The authority citation for Part 95 is revised to read as follows:

Authority: Sec. 452(a), 88 Stat. 2351, 42 U.S.C. 652(a); sec. 1102, 49 Stat. 647, 42 U.S.C. 1302; sec. 7(b), 68 Stat. 658, 29 U.S.C. 37(b); sec. 139, 84 Stat. 1323, 42 U.S.C. 2577b; sec. 144, 81 Stat. 529, 42 U.S.C. 2678; sec. 1132, 94 Stat. 530, 42 U.S.C. 1320b–2; sec. 306(b), 94 Stat. 530, 42 U.S.C. 1320b–2 note.

2. A new Subpart A is added to read as follows:

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE)

Subpart A—Time Limits for States To File Claims

Sec.

95.1 Scope.
95.4 Definitions.
95.7 Time limit for claiming payment for expenditures made after September 30, 1979.
95.10 Time limit for claiming payment for expenditures made before October 1, 1979.
95.13 In which quarter we consider an expenditure made.
95.19 Exceptions to time limits.
95.22 Meaning of good cause.
95.25 When to request a waiver for good cause.
95.28 What a waiver request for good cause must include.
95.31 Where to send a waiver request for good cause.
95.34 The decision to waive the time limit for good cause.

* * * * *

Subpart A—Time Limits for States To File Claims

§ 95.1 Scope.

(a) This subpart establishes a two year time limit (15 months in some cases) for a State to claim Federal financial participation in expenditures under State plans approved under the following titles of the Social Security Act:

Title I—Grants to States for Old-Age Assistance and Medical Assistance for the Aged.

Title IV–A—Grants to States for Aid and Services to Needy Families with Dependent Children (except for Section 402(a)(19)(G) of the Act).

Title IV–B—Child Welfare Services.

Title IV–D—Child Support and Establishment of Paternity.

Title IV–E—Foster Care and Adoption Assistance.

Title X—Grants to States for Aid to the Blind.

Title XIV—Grants to States for Aid to the Permanently and Totally Disabled.

Title XVI—Grants to States for Aid to the Aged, Blind, or Disabled (AABD), or for Such Aid and Medical Assistance for the Aged.

Title XIX—Grants to States for Medical Assistance Programs.

Title XX—Grants to States for Services.

(b) This subpart also applies to claims for Federal financial participation by any State which are based on any provision of the Act that is enacted after issuance of these regulations and that provides, on an entitlement basis, for Federal financial participation in expenditures made under State plans or programs.

(c) This subpart explains under what conditions the Secretary may decide to extend the time limit for filing claims when a State believes it has good cause for not meeting the time limit.

§ 95.4 Definitions.

In this subpart—

Adjustment to prior year costs means an adjustment in the amount of a particular cost item that was previously claimed under an interim rate concept and for which it is later determined that the cost is greater or less than that originally claimed.

Audit exception means a proposed adjustment by the responsible Federal agency to any expenditure claimed by a State by virtue of an audit.

Claim means a request for Federal financial participation in the manner and format required by our program regulations, and instructions or directives issued thereunder.

Court-ordered retroactive payment means either a retroactive payment the State makes to an assistance recipient or an individual, under a Federal or State court order or a retroactive payment we make to a State under a Federal court order. Although we may accept these claims as timely, this provision does not mean that we necessarily agree to be bound by a State or Federal decision when we were not a party to the action.

Federal financial participation means the Federal government's share of an expenditure made by a State agency under any of the programs listed in § 95.1.

State agency for the purposes of expenditures for financial assistance under title IV–A and for support enforcement services under title IV–D means any agency or organization of the State or local government which is authorized to incur matchable expenses; for purposes of expenditures under title XIX, means any agency of the State, including the State Medicaid agency, its fiscal agents, a State health agency, or any other State or local organization which incurs matchable expenses; for purposes of expenditures under all other titles, see the definitions in the appropriate program's regulations.

State means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa and the Trust Territories of the Pacific.

The Act means the Social Security Act, as amended.

We, our, and *us* refer to HHS's Health Care Financing Administration, Office of Child Support Enforcement, Office of Human Development Services, or the Social Security Administration, depending on the program involved.

§ 95.7 Time limit for claiming payment for expenditures made after September 30, 1979.

Under the programs listed in § 95.1, we will pay a State for a State agency expenditure made after September 30, 1979, only if the State files a claim with us for that expenditure within 2 years after the calendar quarter in which the State agency made the expenditure. Section 95.19 lists the exceptions to this rule.

§ 95.10 Time limit for claiming payment for expenditures made before October 1, 1979.

Under the programs listed in § 95.1, we will pay a State for a State agency expenditure made before October 1, 1979, only if the State filed or files a claim with us for that expenditure before January 1, 1981. Section 95.19 lists the exceptions to this rule.

§ 95.13 In which quarter we consider an expenditure made.

In this subpart—

(a) We consider a State agency's expenditure for assistance payments under title I, IV–A, IV–E, X, XIV, or XVI (AABD) to have been made in the quarter in which a payment was made to the assistance recipient, his or her protective payee, or a vendor payee, even if the payment was for a month in a previous quarter.

(b) We consider a State agency's expenditure for services under title I, IV–A, IV–B, IV–D, IV–E, X, XIV, XVI (AABD) or XIX to have been made in the quarter in which any State agency made a payment to the service provider.

(c) For purposes of title XX, the date of expenditure is governed by 45 CFR § 1396.52(d).

(d) We consider a State agency's expenditure for administration or training under title I, IV–A, IV–B, IV–D, IV–E, X, XIV, XVI (AABD), or XIX to have been made in the quarter payment was made by a State agency to a private agency or individual; or in the quarter to which the costs were allocated in accordance with the regulations for each program. We consider a State agency's expenditure under these titles for non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of any State agency in accordance with generally accepted accounting principles.

§ 95.19 Exceptions to time limits.

The time limits in §§ 95.7 and 95.10 do not apply to any of the following—

(a) Any claim for an adjustment to prior year costs.

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(b) Any claim resulting from an audit exception.

(c) Any claim resulting from a court-ordered retroactive payment.

(d) Any claim for which the Secretary decides there was good cause for the State's not filing it within the time limit.

§ 95.22 Meaning of good cause.

(a) Good cause for the late filing of a claim is lateness due to circumstances beyond the State's control.

(b) Examples of circumstances beyond the State's control include:

(1) Acts of God;

(2) Documented action or inaction of the Federal government.

(c) Circumstances beyond the State's control do not include neglect or administrative inadequacy on the part of the State, State agencies, the State legislature or any of their offices, officers, or employees.

§ 95.25 When to request a waiver for good cause.

The State should request a waiver in writing as soon as the State recognizes that it will be unable to submit a claim within the appropriate time limit.

§ 95.28 What a waiver request for a good cause must include.

The State's request for waiver must include a specific explanation, justification or documentation of why the claim is or will be late. This request must establish that the lateness in filing the claim is for good cause as defined in § 95.22 and not due to neglect or administrative inadequacy. If the claim has not been filed, the State must also tell us when the claim will be filed.

§ 95.31 Where to send a waiver request for good cause.

(a) A request which affects the program(s) of only one HHS agency (the Health Care Financing Administration, or the Office of Child Support Enforcement, or the Office of Human Development Services, or the Social Security Administration) and does not affect the programs of any other agency or Federal Department should be sent to the appropriate HHS agency.

(b) A request which affects programs of more than one HHS agency or Federal Department should be sent to the Director, Division of Cost Allocation in the appropriate HHS Regional Office.

§ 95.34 The decision to waive the time limit for good cause.

The Secretary will make a decision after reviewing the State's request for waiver. If the Secretary decides that good cause exists, the State will be notified of the extended due date. If the Secretary decides that good cause does not exist or that the request for waiver does not provide enough information to make a decision, the State will be so advised.

(Catalog of Federal Domestic Assistance Program Nos. 13.642, Social Services for Low Income and Public Assistance Recipients; 13.644, Social Services Training Grants—Title XX; 13.645, Child Welfare Services—State Grants; 13.679, Child Support Enforcement; 13.714, Medical Assistance Program; 13.775, State Medicaid Fraud Control Units; 13.777, State Health Care Providers Survey Certification; 13.808, Assistance Payments—Maintenance Assistance (State Aid); and 13.810, Assistance Payments—State and Local Training)

Dated: January 2, 1981.

Joan Z. Bernstein,

General Counsel.

Approved: January 9, 1981.

Patricia Roberts Harris,

Secretary of Health and Human Services.

[FR Doc. 81-1548 Filed 1-14-81; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-67; RM-3297]

Radio Broadcast Services; FM Broadcast Station Anchorage, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action substitutes Channel 281 for Channel 280A at Anchorage, Alaska, in response to a request from Sourdough Broadcasters, Inc., licensee of Station KKLV (Channel 280A). The license was also modified to specify Channel 281.

EFFECTIVE DATE: February 16, 1981

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: December 17, 1980.

Released: December 29, 1980.

In the Matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Anchorage, Alaska).

By the Chief, Broadcast Bureau:

1. The Commission has before it the *Notice of Proposed Rulemaking* 45 FR 13145, published February 28, 1980, inviting comments on a proposal to substitute Class C FM Channel 281 for FM Channel 280A at Anchorage, Alaska. The *Notice* was issued in response to a petition submitted by Sourdough Broadcasters, Inc. ("petitioner"), licensee of FM Station KKLV, Anchorage, Alaska, which requested the substitution described above so that it could upgrade its broadcast facilities. Petitioner filed supporting comments in which it reiterated its intention to use the channel, if assigned.

2. Anchorage (population 124,542)[1] is located on the southern coast of Alaska, approximately 480 kilometers (300 miles) from the Canadian border. It is presently served by six full-time AM stations and 5 commercial FM stations (three Class C and two Class A) and one noncommercial station.

3. Channel 281 can be assigned to Anchorage in conformity with the minimum distance separation requirements. Preclusion would occur on Channels 280A, 281, 282, 283, and 284. Palmer (population 1,140) and Valdez (population 1,005), Alaska are the two communities of population greater than 1,000 without local aural service that would be precluded from use of the aforementioned channels. However, petitioner has shown that alternative channels are available for assignment to these communities.[2] Petitioner indicated that in upgrading its present Class A station to a Class C, it would better serve Anchorage and the surrounding areas. It points to the fact that prior to 1965 the City of Anchorage comprised 14 square miles. After that period, the City of Anchorage merged with the Greater Anchorage Area Borough into a 160-square mile entity known simply as Anchorage.

4. Since the change in the assignment could enable petitioner to provide service to a substantially larger area and it has been shown that there are alternate channels available for assignment to precluded communities without local aural service, we believe the public interest would be served by the proposal.

5. The *Notice* stated that, if no other party expressed an interest in the proposed assignment of Channel 281 to Anchorage, the license of Station KKLV could be modified to the Class C channel.[3] No other party has done so, thus the license of Station KKLV has been modified herein.

6. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of

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[1] Population figures are taken from the 1970 U.S. Census.

[2] Petitioner indicated that Channel 285A is available for assignment to Palmer and Channel 296A is available at Valdez.

[3] *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (197

the Commission's Rules, it is ordered, That effective February 16, 1981, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended with respect to the following community:

City	Channel No.
Anchorage, Alaska	263, 267, 271, 281, 288A

7. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Sourdough Broadcasters, Inc. for Station KKLV, Anchorage, Alaska, is modified, effective February 16, 1981, to specify operation on Channel 281 instead of Channel 280A. The licensee shall inform the Commission in writing no later than February 16, 1981, of its acceptance of this modification. Station KKLV may continue to operate on Channel 280A for one year from the effective date of this action or until it is ready to operate on Channel 281, or the Commission sooner directs, subject to the following conditions.

(a) At least 30 days before commencing operation on Channel 281, the licensee of Station KKLV shall submit to the Commission the technical information normally requested of an applicant for Channel 281.

(b) At least 10 days prior to commencing operation on Channel 281, the licensee of Station KKLV shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station KKLV shall not commence operation on Channel 281 without prior Commission authorizations.

8. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-1580 Filed 1-14-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-142; RM-3446]

FM Broadcast Station in Elkins, West Virginia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: This action assigns a first commercial FM channel to Elkins, West Virginia, in response to a petition filed by Garry L. Bowers, Eleanor I. Freed, and Richard H. McGraw, a joint venture.

EFFECTIVE DATE: March 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 653-7586.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: December 31, 1980.

Released: January 12, 1981.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations. (Elkins, West Virginia)

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 45 FR 25414, published April 15, 1980, in response to a petition filed by Garry L. Bowers, Eleanor I. Freed and Richard H. McGraw, a joint venture ("petitioner"), proposing the assignment of FM Channel 237A to Elkins, West Virginia. Supporting comments were filed by petitioner in which it incorporated by reference the information in its petition and reaffirmed its intention to apply for the channel if assigned, and to build a station if licensed. Comments in support of the *Notice* were also filed by Marja Broadcasting Corp., licensee of fulltime AM Station WDNE in Elkins.[1] The National Radio Astronomy Observatory and Naval Research Laboratory filed comments stating all prospective applicants for the channel should be aware of the requirements of § 73.1030 of the Commission's Rules, which require notification of the proposed facilities in the "quite zone."

2. Elkins (pop. 8,287),[2] in Randolph County (pop. 24, 596), is located approximately 168 kilometers (105 miles) northeast of Charleston, West Virginia. It is served locally by fulltime AM Station WDNE and noncommercial educational FM Station WCDE, Channel 212.

3. Petitioner states that Elkins, the county seat of Randolph County, is a growing community with much of the economy based on coal, lumber, health services, and government. Petitioner has submitted persuasive information with respect to Elkins and its need for a first commercial FM assignment.

4. We have given careful consideration to the proposal and believe that Channel 237A should be assigned to Elkins, West Virginia. Interest has been shown for its use and the assignment would provide the community with its first commercial FM assignment.

5. Because the assignment is located in a radio "quite zone," all applicants for Channel 237A in Elkins should be aware of the Commission's notice requirements as set forth in § 73.1030 of the Commission's Rules.

6. Canadian concurrence in the assignment has been obtained.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

8. In view of the foregoing, IT IS ORDERED, That effective March 2, 1981, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows:

City	Channel No.
Elkins, West Virginia	237A

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 653-7586.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-1490 Filed 1-14-81; 8:45 am]

BILLING CODE 6712-01-M

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[1] Marja also indicates that Elkins can support additional assignments and states that it is filing a petition for rule making to assign FM Channel 244A to Elkins, which has since been accepted as RM-3716. Marja requests that we consolidate these two proceedings. Because we see no need to postpone the instant assignment which can be granted regardless of the merits of a second assignment for Elkins, Marja's request is denied.

[2] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

[BC Docket No. 80-132; RM-3437]

FM Broadcast Station in Memphis, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein assigns a Class A FM channel to Memphis, Missouri, in response to a petition filed by Samuel Berkowitz. The assigned channel could provide Memphis with its first local aural broadcast service.

EFFECTIVE DATE: March 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

V 46 / 10 JA 15 81 UMI

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: December 30, 1980.

Released: January 12, 1981.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Memphis, Missouri):

1. The Commission has before it a *Notice of Proposed Rule Making,* 45 FR 24214, published April 9, 1980, proposing the assignment of Channel 244A to Memphis, Missouri, as its first FM assignment. The *Notice* was issued in response to a petition filed by Samuel Berkowitz ("petitioner"). Supporting comments were filed by the petitioner in which he reaffirmed his intent to apply for the channel, if assigned.

2. Memphis (pop. 2,081),[1] seat of Scotland County (pop. 5,499), is located approximately 109 kilometers (68 miles) northwest of Hannibal, Missouri. It has no local aural broadcast service.

3. As stated in the *Notice,* Memphis and the surrounding area is primarily dependent on agriculture. Petitioner submitted sufficient data to demonstrate the need for an FM assignment, noting that the only local news medium is a weekly newspaper. He stated that he will apply for a license on the channel if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 244A to Memphis, since it would provide the community with an opportunity for its first local broadcast service.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, It is ordered, that effective March 2, 1981, the FM Table of Assignments § 73.202(b) of the Commission's Rules) IS AMENDED with regard to the community listed below:

City	Channel No.
Memphis, Missouri	244A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

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[1] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-1486 Filed 1-14-81; 8:45 am]

BILLING CODE 6712-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 845

Accident/Incident Hearings and Reports

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment to the Board's existing procedural rules applicable to accident hearings and reports serves to allow an oral presentation to be made to the Board, upon a showing by the petitioner of the need therefor, as a supplement to the submission of a written request for reconsideration or modification of the Board's accident report. The amendment incorporates into the rules a procedure which, to date, has been utilized on an *ad hoc* basis.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594 (202–472–6033).

SUPPLEMENTARY INFORMATION: Since its inception in 1967, the Safety Board has received a relatively small number of requests, from parties to an investigation or hearing, to make on oral presentation to the Board as a supplement to a written request for reconsideration or modification. With a single exception, these requests have been denied, primarily on the basis of a lack of showing of the need for an oral presentation.

The Board desires to add to § 845.41 of its Rules of Practice, which governs requests for reconsideration and modification, a subsection providing that, while oral presentation is not normally permitted, it may be allowed where a party or person can demonstrate, to the Board's satisfaction, the need for an oral presentation as a supplement to a written request for reconsideration or modification. The addition of this provision does not signal a change in the Board's substantive policy, but rather is a recognition of the fact that parties who participate, or persons who have a direct interest, in the Board's investigations and hearings should have an equal awareness of the Board's posture toward a procedure which, to date, has been treated on an *ad hoc* basis rather than by regulation.

Since this is an amendment to the Board's procedural rules that expands the opportunity for public participation in one phase of the Board's functions and does not impose a burden on any segment of the public, the Board finds that notice and public procedure are unnecessary and that the amendment may become effective January 15, 1981.

Accordingly, Part 845 of Title 49, Chapter VIII of the Code of Federal Regulations is amended by adding a new § 845.41(c) to read as follows:

§ 845.41 Requests for reconsideration or modification.

* * * * *

(c) Oral presentation before the Board normally will not be held in proceedings under this part. However, the Board may permit oral presentation where a party or person makes an affirmative showing that the written request for reconsideration or modification is insufficient as a means of presenting that party's or person's position to the Board. Where oral presentation is allowed, the Board will specify the issues to be addressed and all parties to the investigation or hearing will be given notice and the opportunity to participate.

(49 U.S.C. 1903(b))

Signed at Washington, D.C. on January 12, 1981.

James B. King,

Chairman.

[FR Doc. 81-1519 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-58-M

INTERSTATE COMMERCE COMMISSION

49 CFR 1011

[Ex Parte No. MC-142 (Sub-No. 1)]

Removal of Restrictions From Authorities of Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: On January 8, 1981, the Interstate Commerce Commission voted to establish a Special Restriction Removal Employee Board. This Board has been delegated the functions set forth in new 49 CFR 1011.6(1), which is adopted in this decision and notice. Under the delegated authority, the Board will decide applications seeking to remove operating restrictions or to broaden unduly narrow authority in

outstanding certificates or permits, filed under the new procedures adopted by the Commission in this proceeding on December 24, 1980, published at 45 FR 86747, December 31, 1980, and codified at 49 CFR part 1137. The following employees have been designated to serve as members of the new Board for terms of six months each: Howell I. Sporn, Chairman, Jane Alspaugh, and Mark S. Shaffer.

EFFECTIVE DATE: January 8, 1981.

Comments: Since this is a final action taken to revise internal organization matters, provisions for formal comments are unnecessary under 5 U.S.C. 553(b)(A).

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, (202) 275-7440 or Edward E. Guthrie, (202) 275-7691.

Summary

We are adopting the procedural rule set forth in the appendix.

This action is taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: January 8, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

Appendix

49 CFR 1011 is amended by adding 49 CFR 1011.6(l) as follows:

§ 1011.6 Employee boards.

* * * * *

(l) *Restriction Removal Board.* Determination of applications filed under Part 1137 to remove operating restrictions or to broaden under narrow authorizations in outstanding certificates or permits.

[FR Doc. 81-1523 Filed 1-14-81; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1370, Amdt. 1]

Car Service; Burlington Northern Inc., Authorized To Operate Over Tracks of Union Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1370.

SUMMARY: Service Order No. 1370 authorized Burlington Northern Inc., to operate over tracks of Union Pacific Railroad Company at Zillah, Washington. With the enactment of the Staggers Rail Act of 1980, this amendment establishes an expiration date to provide conformity with current Commission policy.

EFFECTIVE: 12:01 a.m., January 15, 1981, and continuing in effect until 11:59 p.m., July 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

Decided: January 9, 1981.

Upon further consideration of Service Order No. 1370, (44 F.R. 20438), and good cause appearing therefor:

It is ordered, § 1033.1370 Service Order No. 1370 Burlington Northern Inc. authorized to operate over tracks of Union Pacific Railroad Company is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 12:01 a.m., January 15, 1981.

This action is taken under authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1520 Filed 1-14-81; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1368, Amdt. 1]

Car Service; Indiana Eastern Railroad and Transportation, Inc. d.b.a. the Hoosier Connection Authorized To Operate Over Tracks Leased From the Penn Central Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to service order No. 1368.

SUMMARY: Service Order No. 1368 authorized the Indiana Eastern Railroad and Transportation, Inc., to operate over tracks leased from the Penn Central Corporation between Emporia and Carthage, Indiana, and between Shirley and Wilkinson, Indiana. With the enactment of the Staggers Rail Act of 1980, this amendment establishes an expiration to provide conformity with current Commission policy.

EFFECTIVE DATE: 12:01 a.m., January 15, 1981, and continuing in effect until 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

Decided: January 9, 1981.

Upon further consideration of Service Order No. 1368, (44 FR 18228), and good cause appearing therefor:

It is ordered, § *1033.1368 Service Order No. 1368* (Indiana Eastern Railroad and Transportation, Inc. d.b.a. the Hoosier Connection authorized to operate over tracks leased from the Penn Central Corporation) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 12:01 a.m., January 15, 1981.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Associaton of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1521 Filed 1-14-81; 8:45 am]
BILLING CODE 7035-01-M

V46/10 JA15 81 UMI

49 CFR Part 1033

[Service Order No. 1374, Amdt. 2]

Car Service; Auto-Train Corporation, Debtor (Murray Drabkin, Trustee), Authorized To Transport Automobiles Between Alexandria (Lorton), Virginia, and Sanford, Florida

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to service order No. 1374.

SUMMARY: Service Order No. 1374 authorized Auto-Train Corporation to transport automobiles between Alexandria (Lorton), Virginia, and Sanford, Florida. This amendment establishes an expiration date for the order, pursuant to the enactment of the Staggers Rail Act of 1980, and current Commission policy.

EFFECTIVE: 12:01 a.m., January 15, 1981, and continuing in effect until 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

Decided: January 9, 1981.

Upon further consideration of Service Order No. 1374 (44 FR 23086 and 29078), and good cause appearing therefor:

It is ordered, § *1033.1374 Service Order No. 1374 (Auto-Train Corporation authorized to transport automobiles between Alexandria (Lorton), Virginia, and Sanford, Florida)* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 12:01 a.m., January 15, 1981.

This action is taken under authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1522 Filed 1-14-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

Fishermen's Contingency Fund

Correction

In FR Doc. 81-685 appearing at page 2302 in the issue for Thursday, January 8, 1981, make the following correction:

On page 2303, in the third column, in paragraph d. which amends § 296.8(c)(1), in the first line, of the amendatory language, the word "property" should have read "properly".

BILLING CODE 1505-01-M

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50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Emergency amendment to the regulations.

SUMMARY: Regulations governing the surf clam and ocean quahog fisheries in the Atlantic Ocean fishery conservation zone are amended by emergency action taken under the authority of Section 305(e)(2) of the Fishery Conservation and Management Act of 1976 (FCMA). This action, while effective, constitutes an amendment to the fishery management plan (FMP) for the surf clam and ocean quahog fisheries. The amendment constitutes a change in the criteria which must be present before a surf clam vessel operator may claim a make-up period for fishing time lost to bad weather. The change would allow the operator to claim a make-up period based on his own evaluation of weather and sea conditions. This would replace the present procedure which allows make-ups only when small craft warnings are posted in the vessel's fishing area.

EFFECTIVE DATE: These emergency regulations take effect January 18, 1981. They will continue in effect for 45 days, until March 4, unless terminated earlier. They may be continued for an additional 45 day period.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930, (617) 281-3600.

SUPPLEMENTARY INFORMATION: When the FMP was amended in late 1979 (44 FR 68872), effective January 1, 1980, a provision was added allowing a make-up period for fishing time lost to inclement weather during the four winter months December through March. That make-up period was to be granted only if small craft warnings were posted in one of the two ports which were associated with the major surf clam fishing areas. Implementation experience during January, February, and March of 1980 indicated that the use of small craft warnings was not a realistic or reliable indicator of the weather and sea conditions which permit or prohibit fishing for surf clams during the winter months. Although the small craft warning requirement was incorporated to provide an index of weather severity and to prevent misuse of the make-up provisions, it is clear that continued use of the small craft test could place unreasonable demands upon fishermen, the National Weather Service, the Coast Guard, and the National Marine Fisheries Service and could result in jeopardy to fishermen. Determination of the severity and suitability of weather and sea conditions for fishing operations during those months when a make-up period can be claimed should be left to the individual vessel operator.

The FMP regulates the surf clam fishery primarily through restrictions on effort. In practice, fishermen select in advance those days of the week during which they will conduct fishing operations for surf clams. During periods of bad weather many vessels lose significant amounts of fishing time if their selection of fishing periods coincides with unfit weather conditions.

Fishing for surf clams is generally not possible while small craft warnings are posted. However, it is also not possible on many occasions when the weather is bad, but not severe enough to meet the requirements for the posting of small craft warnings.

Small craft warnings are posted for, and reflect, coastal weather conditions. Surf clam vessels, which work offshore, may encounter severe weather on the fishing grounds even though small craft warnings are not posted. On many occasions in 1980 when the make-up provision was in effect, vessels were unable to fish and also unable to claim a make-up period because small craft warnings were not in effect.

Throughout most of 1980, the national economy has had a serious depressing effect on the market for many fishery products, including those derived from surf clams. Many vessel operators have large mortgages which float several points above the prime interest rate, which now stands at 21 percent. Since the market for clams is depressed, vessels are not able to pass increased costs, such as mortgage payments and fuel, along to their customers. The result is severe pressure on the operator to take every possible fishing opportunity, in some cases regardless of hazard.

Three surf clam vessels have been lost at sea in the last three months. Unless vessel operators are allowed more latitude to work around bad weather, the pressure to meet financial obligations will likely lead to errors or bad judgment, which could result in additional loss of vessels. This change in the criterion for claiming make-up periods provides fishermen more direct control over their fishing strategies and will allow them to fish more safely and efficiently while at sea.

Section 305(e)(2) of the FCMA permits the Secretary, upon finding that an emergency exists involving any fishery resource, to promulgate emergency regulations to amend any regulations which implement an existing fishery management plan. Such regulations remain in force up to 45 days and, while effective, constitute amendments to the plan. They may be repromulgated for an additional 45 day period.

The Assistant Administrator for Fisheries, acting on behalf of the Secretary of Commerce, has determined that an emergency exists with respect to the surf clam fishery. This emergency warrants an immediate change in the regulation to allow a make-up period to be claimed when, in the opinion of the operator, weather or sea conditions would prevent effective fishing or endanger the vessel or crew.

While in effect, this amendment to the regulations amends Section XIII-4 of the FMP. Paragraph 5 of that section would be revised to eliminate the requirement that small craft warnings be posted as a criterion for claiming a make-up fishing period.

Executive Order 12044 and National Environmental Policy Act

The Assistant Administrator for Fisheries, NOAA, has determined that this revision of a regulation does not constitute a significant action under Executive Order 12044 and, therefore, a regulatory analysis will not be prepared. The Assistant Administrator has determined that this amendment does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended, since it is within the scope of another action for which an Environmental Impact Statement was previously prepared and does not significantly change the context or intensity of the impacts. Therefore, according to NOAA Directive 02-10, an Environmental Impact Statement will not be prepared.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C. this 8th day of January, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 652 is amended by emergency regulations as follows:

In § 652.22, paragraph (a)(7) is revised and redesignated to read as follows:

§ 652.22 Effort restrictions.

(a) * * *

(7) During the months of December, January, February, and March, fishermen may claim a make-up period if, in the opinion of the vessel operator, weather or sea conditions would prevent effective fishing or endanger the vessel or crew.

(i) To claim the make-up period, the vessel owner or operator must contact the NMFS *before* the scheduled authorized fishing period starts. The Regional Director will notify each vessel owner or operator in writing as to the procedure to follow in contacting NMFS.

(ii) The make-up period shall be equal in length to the scheduled authorized fishing period, and shall begin 24 hours after the scheduled beginning of said period, except that if the make-up period could not then be completed before the end of the fishing week on Thursday at 5:00 p.m., then the make-up period shall begin 96 hours after the beginning of the scheduled authorized fishing period.

(iii) Before using this make-up provision, each vessel owner must notify the Regional Director, in writing, of the port from which the vessel fishes. If that port changes, the vessel owner shall promptly notify the Regional Director of the change, in writing.

(iv) Any vessel which uses a make-up period without claiming it under this procedure, or which fishes during a scheduled authorized fishing period for which it has claimed a make-up period, shall be liable to forfeit its use of the make-up provision in the future; the vessel and its owner or operator also may be subject to other penalties as prescribed in § 652.9 of these regulations.

* * * * *

[FR Doc. 81-1356 Filed 1-14-81 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 10
Thursday, January 15, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 411

[Amdt No. 1]

Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Grape Crop Insurance Regulations to include additional grape counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Grape Crop Insurance Regulations in accordnace with the provisions of 7 CFR 411.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which grape crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which grape crop insurance may be offered. This proposed rule is intended to update the list of those countries as contained in 7 CFR Part 411, Appendix B.

It has been determined that this action to amend the list of counties where grape crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Grape Crop Insurance Regulations (7 CFR Part 411) as Amendement No. 1.

Appendix B

Counties Designated for Grape Crop Insurance—7 CFR Part 411

In accordance with the provisions of 7 CFR 411.1, the following counties are designated for grape crop insurance:

California

Fresno
Kern
Kings
Madera
Merced
San Joaquin
Stanislaus
Tulare

New York

Chautauqua
Niagara
Ontario
Schulyer
Seneca
Steuben
Yates

Ohio

Ashtabula

Pennsylvania

Erie

Washington

Benton
Franklin
Yakima

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 81–1231 Filed 1–14–81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 420

[Amdt. No. 2]

Grain Sorghum Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Grain Sorghum Crop Insurance Regulations to include additional counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Grain Sorghum Crop Insurance Regulations in accordance with the provisions of 7 CFR § 420.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which grain sorghum crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which grain sorghum crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 420, Appendix B.

It has been determined that this action to amend the list of counties where grain sorghum crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Grain Sorghum Crop Insurance Regulations (7 CFR Part 420) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Grain Sroghum Crop Insurance Regulations appearing in the **Federal Register** on December 20, 1979 (44 FR 75370–75371).

Appendix B

Counties Designated for Grain Sorghum Crop Insurance—7 CFR Part 420

In accordance with the provisions of 7 CFR 420.1, the following counties have been designated for grain sorghum crop insurance:

Alabama

Autauga
Baldwin
Coffee
Dale
Geneva
Henry
Houston
Lowndes
Perry
Pike

Arizona

Cochise
Graham
Maricopa
Pima
Pinal
Yuma

Arkansas

Clay
Conway
Faulkner
Greene
Independence
Lafayette
Lawrence
Lincoln
Little River
Miller
Randolph
White

California

Butte
Colusa
Fresno
Glenn
Imperial
Kern
Kings
Madera
Merced
Sacramento
San Joaquin
Solano
Stanislaus
Sutter
Tulare
Yolo
Yuba

Colorado

Baca
Bent
Crowley
Kiowa
Kit Carson
Otero
Prowers
Pueblo
Yuma

Georgia

Calhoun
Decatur
Early
Miller
Randolph
Seminole
Worth

Illinois

Franklin
Johnson
Massac
Pulaski
Union

Kansas

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Cherokee
Cheyenne
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Gove
Graham
Grant
Gray
Greeley
Greenwood
Hamilton
Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearny
Kingman
Kiowa
Labette
Lane
Leavenworth
Lincoln
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosho
Ness
Norton
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Rawlins
Reno
Republic
Rice
Riley
Rooks
Rush
Russell
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson

Kentucky

Ballard
Butler
Carlisle
McCracken

Louisiana

Richland

Mississippi

Noxubee

Missouri

Atchison
Audrain
Barton
Bates
Benton
Bollinger
Butler
Carroll
Cass
Cooper
Dade
Franklin
Henry
Jasper
Johnson
Moniteau
Monroe
New Madrid
Osage
Pettis
Platte
Ripley
St. Clair
Scott
Stoddard
Vernon
Warren

Nebraska

Adams
Antelope
Boone
Boyd
Buffalo
Butler
Cass
Clay
Colfax
Dodge
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Gosper
Greeley
Hall
Hamilton
Harlan
Hitchcock
Jefferson
Johnson
Kearney
Knox
Lancaster
Madison
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Platte
Polk
Red Willow
Richardson
Saline
Saunders
Seward
Thayer
Thurston
Valley
Webster
York

New Mexico

Curry
Lea
Luna
Quay
Roosevelt
Union

North Carolina

Alamance
Cabarrus
Cleveland
Davidson
Granville
Guilford
Halifax
Pasquotank
Randolph
Stanly
Union
Warren

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Oklahoma

Beaver
Beckham
Caddo
Cimarron
Comanche
Cotton
Craig
Delaware
Grady
Grant
Harmon
Hughes
Jackson
Kay
McCurtain
Mayes
Muskogee
Nowata
Ottawa
Texas
Wagoner
Washita

South Carolina

Anderson
Newberry
Spartanburg
York

South Dakota

Aurora
Bennett
Bon Homme
Buffalo
Butte
Charles Mix
Davidson
Douglas
Gregory
Hanson
Hughes
Hutchinson
Hyde
Lyman
McCook
Mellette
Minnehaha
Sanborn
Stanley
Sully
Todd
Tripp

Tennessee

Henry
Maury
Obion

Texas

Andrews
Armstrong
Atascosa
Austin
Bailey
Baylor
Bee
Bell
Bexar
Borden
Bosque
Brazoria
Brazos
Briscoe
Brown
Burleson
Caldwell
Calhoun
Callahan
Cameron
Carson
Castro
Cochran
Coleman
Collin
Collingsworth
Colorado
Concho
Cooke
Coryell
Cottle
Crosby
Dallam
Dallas
Deaf Smith
Delta
Denton
De Witt
Dickens
Donley
Duval
Ellis
Erath
Falls
Fannin
Fayette
Fisher
Floyd
Fort Bend
Frio
Gaines
Glasscock
Gray
Grayson
Guadalupe
Hale
Hamilton
Hansford
Hartley
Haskell
Hidalgo
Hill
Hockley
Howard
Hunt
Hutchinson
Jackson
Jim Wells
Jones
Johnson
Karnes
Kaufman
Kent
Kleberg
Knox
Lamar
Lamb
Lavaca
Lee
Limestone
Live Oak
Lubbock
Lynn
McCulloch
McLennan
Martin
Matagorda
Medina
Milam
Mitchell
Moore
Motley
Navarro
Nolan
Nueces
Ochiltree
Oldham
Parmer
Randall
Reagan
Red River
Refugio
Robertson
Runnels
San Patricio
Scurry
Sherman
Starr
Swisher
Tarrant
Taylor
Terry
Throckmorton
Tom Green
Travis
Uvalde
Victoria
Wharton
Wheeler
Wichita
Willacy
Williamson
Wilson
Yoakum
Zavala

Virginia

Amelia
Pittsylvania

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 81–1232 Filed 1–14–81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 422

[Amdt. No. 1]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Potato Crop Insurance Regulations to include additional potato counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Potato Crop Insurance Regulations in accordance with the provisions of 7 CFR 422.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which potato crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which potato crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 422, Appendix B.

It has been determined that this action to amend the list of counties where potato crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Potato Crop Insurance Regulations (7 CFR Part 422) as Amendment No. 1.

Appendix "B"

Counties Designated for Potato Crop Insurance—7 CFR Part 422

In accordance with the provisions of 7 CFR 422.1, the following counties are designated for potato crop insurance:

Idaho

Canyon

North Dakota

Grand Forks

Walsh

Washington

Grant

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A-95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 81-1234 Filed 1-14-81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 423

[Amdt. No. 1]

Flax Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Flax Crop Insurance Regulations to include additional flax counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Flax Crop Insurance Regulations in accordance with the provisions of 7 CFR 423.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which flax crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which flax crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 423, Appendix B.

It has been determined that this action to amend the list of counties where flax crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Flax Crop Insurance Regulations (7 CFR Part 423) as Amendment No. 1.

Appendix B

Counties Designated for Flax Crop Insurance—7 CFR 423

In accordance with the provisions of 7 CFR 423.1, the following counties are designated for flax crop insurance:

Minnesota

Becker
Big Stone
Chippewa
Clay
Clearwater
Grant
Kittson
Lac qui Parle
Lake of the Woods
Lincoln
Lyon
Mahnomen
Marshall
Murray
Nobles
Norman
Otter Tail
Pennington
Pipestone
Polk
Pope
Red Lake
Redwood
Roseau
Stevens
Swift
Traverse
Wilkin
Yellow Medicine

North Dakota

Barnes
Benson
Bottineau
Burleigh
Cass
Cavalier
Dickey
Eddy
Emmons
Foster
Grand Forks
Griggs
Kidder
La Moure
Logan
McHenry
McIntosh
McLean
Mountrail
Nelson
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells

South Dakota

Brookings
Brown
Campbell
Clark
Codington
Corson
Day
Deuel
Edmunds
Grant
Hamlin
Kingsbury
Lake
McPherson
Marshall
Miner
Moody
Roberts
Sully
Walworth

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A-95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 81-1237 Filed 1-14-81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 428

[Amdt No. 2]

Sunflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Sunflower Crop Insurance Regulations to include additional sunflower counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Sunflower Crop Insurance Regulations in accordance with the provisions of 7 CFR 428.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which sunflower crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which sunflower crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 428, Appendix B.

It has been determined that this action to amend the list of counties where sunflower crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes (1) to revise and reissue Appendix B to the Sunflower Crop Insurance Regulations (7 CFR Part 428) as Amendment No. 2, and (2) to supersede Amendment No. 1 to the Sunflower Crop Insurance Regulations appearing in the Federal Register on December 20, 1979 (44 FR 75373-75374).

Appendix B

Counties Designated for Sunflower Crop Insurance—7 CFR Part 428

In accordance with the provisions of 7 CFR 428.1, the following counties have been designated for sunflower crop insurance:

Minnesota

Chippewa
Clearwater
Douglas
Lac Qui Parle
Lake of the Woods
Lincoln
Lyon
Pope
Roseau
Stevens
Swift
Yellow Medicine

North Dakota

Adams
Benson
Burke
Burleigh
Cavalier
Divide
Dunn
Emmons
Grant
Hettinger
Kidder
McHenry
McIntosh
McLean
Mountrail
Pierce
Ramsey
Renville
Rolette
Sheridan
Towner
Ward
Williams

South Dakota

Brookings
Brown
Clark
Codington
Corson
Deuel
Edmunds
Faulk
Grant
Marshall
Spink
Sully
Walworth

(Secs. 506, 516, Pub. L. 75-430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A-95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: January 7, 1981.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 81-1235 Filed 1-14-81; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 438

[Amdt. No. 1]

Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation is updating Appendix B to the Tomato Crop Insurance Regulations to include additional tomato counties approved by its Board of Directors. The purpose of this amendment is to notify producers in these additional counties that they are now eligible to participate in the program.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than March 16, 1981, to be sure of consideration.

ADDRESS: All written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tomato Crop Insurance Regulations in accordance with the provisions of 7 CFR 438.1, which states that before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which tomato crop insurance will be offered.

On September 26, 1980, the Board of Directors of the Federal Crop Insurance Corporation approved additional counties in which tomato crop insurance may be offered. This proposed rule is intended to update the list of those counties as contained in 7 CFR Part 438, Appendix B.

It has been determined that this action to amend the list of counties where tomato crop insurance will be offered does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1955, and "Improving Government Regulations" (43 FR 50988). That review will be completed prior to the sunset review date.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix B to the Tomato Crop Insurance Regulations (7 CFR Part 438) as Amendment No. 1.

Appendix B—Counties Designated for Canning and Processing Tomato Crop Insurance—7 CFR Part 438

In accordance with the provisions of 7 CFR 438.1, the following counties are designated for canning and processing tomato crop insurance:

California

Colusa
Fresno
Merced
Monterey
Sacramento
San Benito
San Joaquin
Solano
Sutter
Yolo

Ohio

Drake
Fulton
Henry
Lucas
Ottawa
Putnam
Sandusky
Wood

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Note.—This action will not have a significant impact specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Done in Washington, D.C., on December 17, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,
Acting Manager.

Dated: January 7, 1981.

[FR Doc. 81–1230 Filed 1–14–81; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 991

Hops of Domestic Production; Proposed Salable Quantity and Allotment Percentage for the 1981–82 Marketing year

AGENCY: Agriculatural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish the quantity of hops that may be freely marketed from the 1981 crop. The action is taken under the marketing order for domestic hops to promote orderly marketing conditions.

DATE: Comments due January 26, 1981

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053. The Final Impact Statement describing the options considered developing this proposal and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant". The proposal is being published with less than a 60-day comment period because handlers and growers will soon be making preparations for handling and growing 1981 crop hops. Therefore, they must know soon as possible what salable quantity and allotment precentage will be effective for the 1981–82 marketing year so they can plan their operations accordingly.

The proposed quantity and allotment percentage would be established in accordance with the provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Hop Administrative Committee.

The proposed salable quantity for the ensuring marketing year is based upon a recommendation of the Committee, and the following estimates for the marketing year beginning August 1, 1981.

(1) Total domestic consumption of 47,500,000 pounds of hops;

(2) minus imports of 16,500,000 pounds of hops to result in domestic consumption of U.S. hops of 31,000,000 pounds;

(3) plus total exports of 41,000,000 pounds of hops to equal 72,000,000 pounds total usage of U.S. hops;

(4) plus 1,500,000 pounds to adjust for weight loss of hops processed into pellets and extract;

(5) plus 3,000,000 pounds as an inventory adjustment; and

(6) plus an adjustment of 1,779,375 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Under the proposal, the salable quantity for the 1981–82 marketing year would be 78,279,375 pounds.

The proposed salable precentage of 130 percent is computed by subtracting from this salable quantity 1,228,535 pounds for additional allotment bases for hops of the Fuggle variety pursuant to § 991.36(b) and 991.136(c) and dividing the remainder by 59,270,000 pounds the total of all other allotment bases.

The proposal is as follows:

§991.219 Allotment precentage and salable quantity for hops during the marketing year beginning August 1, 1981.

The allotment percentage during the marketing year beginning August 1, 1981, shall be 130 percent, and the salable quantity shall be 78,279,375 pounds.

Dated: January 12, 1981.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81–1530 Filed 1–14–81; 8:45 am]

BILLING CODE 3410-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Operational Data Gathering

AGENCY: Nuclear Regulatory Commission.

V 46 / 10 JA 15 81 UMI

ACTION: Advance notice of proposed rulemaking; response to comments.

SUMMARY: After reviewing comments concerning amendments to NRC regulations that would require power reactor licensees to submit data to the Nuclear Plant Reliability Data System (NPRDS), the NRC has decided to defer rulemaking that would make NPRDS mandatory in its present form. The NRC plans instead to develop a single reporting system by combining and restructuring the NPRDS and the NRC's own reporting system, the Licensee Event Reports (LERs). The new reporting system will be called the "Integrated Operational Experience Reporting (IOER) System." The NRC is seeking general comments on an IOER system concept at this time. The NRC will request more detailed comments on the forthcoming proposed rule when details of the system are developed.

DATES: Comments received after March 2, 1981, will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before March 2, 1981.

ADDRESS: General comments may be sent to: Eric W. Weiss, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Eric W. Weiss (301) 443-5913.

SUPPLEMENTARY INFORMATION: The present Nuclear Reliability Data System (NPRDS) is a voluntary program for the reporting of reliability data that was described in the Advance Notice of Proposed Rulemaking (ANPRM) published on January 30, 1980 (45 FR 6793). That ANPRM also described the historical background for the proposal to make the NPRDS a mandatory system. The ANPRM invited public comments on 21 specific features being considered for a proposed rule.

To date, 44 public comment letters have been received in response to the ANPRM. A detailed analysis of the comments is available for inspection and copying at the NRC Public Document Room 1717 H Street NW., Washington, D.C. The predominant theme in the comments was an overwhelming opposition to making participation in NPRDS mandatory.

After considering the comments received and all the technical issues involved, the NRC finds that the NPRDS as now implemented does not fulfill NRC objectives because of a number of fundamental deficiencies:

1. Although the reportable scope as defined relies on the use of existing accepted industry generated classes of equipment, utilities have interpreted these classes differently when determining specifically which components should be included in the NPRDS. For example, the number of components reported by various plants varies from 1500 components per plant to almost 5000 components per plant.

2. The procedures manual for NPRDS is not sufficiently detailed or specific enough to ensure consistent reporting of engineering data and failures.

3. The scope of NPRDS does not include all components of interest (e.g., ASME Safety Class 3 components, balance-of-plant system, vessel internals, and certain sizes of pipes and valves).

4. Data on successes are not adequately reported. Consequently, failure rates are difficult to determine accurately.

5. Participation is low and, thus, data are sparse.

6. A large percentage of the data reported to NPRDS duplicates that reported to the LER [1] system.

7. There is no consistency in equipment and system identification from plant to plant as reported to NPRDS. Consequently, data are difficult to correlate accurately.

8. Data on test/maintenance unavailability are not adequately reported.

The NRC staff, on the other hand, has identified a strong need for probabilistic and detailed engineering data similar to that reported to NPRDS. The staff need for probabilistic and detailed engineering data is associated with the following types of activities:

1. Performing probabilistic risk assessment calculations of accident probabilities and public risks.

2. Revising component test intervals and allowed downtimes.

3. Quantifying the impacts of human errors.

4. Identifying trends and patterns in operating experience.

5. Obtaining detailed component engineering information.

6. Relating current incidents to previous failures.

7. Determining where identical components are installed.

8. Relating current failures to previous testing.

9. Issuing Abnormal Occurrence Reports.

10. Issuing Operating Experience Journal of "Power Reactor Events."

Licensee Event Report System (LER)

There were approximately 3,100 LERs submitted in calendar year 1979 and the number is expected to steadily increase as new plants begin operation.

Review of these LERs indicates a number of deficiencies and shortcomings such as:

1. Component and system codings are inconsistent and nonuniform.

2. Only a single failure can be included in the coded fields despite the fact that a single event may include more than one component failure.

3. The format of the LER form is oriented toward computerized data processing of a single component failure rather than toward a technical, engineering analysis of the event.

4. The scope does not include all systems important to safety, for example, failures of so called "nonsafety" systems (e.g., most control air systems) that challenge safety systems are not included. As a result, events of interest are escaping the system.

5. The scope covers components only while in technical specification (i.e., normal) service, and defects found during nontechnical specification inspections or during shutdowns are not reported. For example, no LER is required for failure of a low-pressure coolant injection pump while transferring water from the torus to the radwaste system, or failure of a charging pump being used to hydrostatically test a pipe weld repair.

6. Many events that are not individually significant are reported. Although these events may be important because of their frequency of occurrence or because they indicate trends and patterns, they tend to distract from the few significant events that require detailed engineering analysis or indepth study. For example, a high percentage of LERs tend to be concerned with instruments out of calibration.

Consequently, the staff has recognized that major revision of the LER system is also warranted.

Integrated Operational Experience Reporting (IOER) System

In order to obtain the necessary improvements in the LER and NPRDS reporting programs, the staff has developed conceptually a revised reporting program. The Integrated Operational Experience Reporting (IOER) System would:

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[1] Described in NRC Regulatory Guide 1.16. Reporting of Operating Information—Appendix A Technical Specifications and NUREG-0161. Instructions for preparing Licensee Event Reports, available from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The LER system was developed to provide a centralized source of information concerning incidents occurring at nuclear power plants. These incidents, termed Reportable Occurrences, must be reported to the NRC as required by technical specifications accompanying a station license. For additional pertinent information, see a recent report from the Advisory Committee on Reactor Safeguards to the Commission, "Review of Licensee Event Reports (1976–1978)," NUREG-0572, September 1979.

1. Reduce LER reporting by eliminating the requirement for LER reports for most component failures or malfunctions covered by the NPRDS. The NRC would require LERs only for those component failures or malfunctions that are of major safety significance. However, the technical content of each report would be substantially improved by requesting a technically detailed and comprehensive report suitable for engineering review. Thus, the LER system, which was not designed to produce reliability data, would no longer attempt to provide a basis for equipment reliability studies; the NPRDS, which is designed to produce such reliability data, would perform this service.

2. Require the reporting of less significant component failures or minor incident events by means of a type computer-oriented form. The reportable scope, however, would be extended to include all systems and components that are important to safety including selected support and service systems and components. The reporting form would be simplified for ease of data entry by nonengineering personnel and would allow failure rates to be determined to support NRC and industry statistical/probabilistic studies.

Thus, for significant events, an LER and associated component failure reports would be submitted. For less significant incidents and failures, only a component failure report may be necessary. The clear intent is to eliminate duplication between the two systems. We expect that there would be no significant increase in the resources needed to implement this system over that needed to properly implement the present LER and NPRD systems. Further, we believe that the implementation of the revised LER system is a natural function and is easily within the capability of the site engineering groups established to review operating experience. Thus, no changes appear necessary in organization for each plant site to implement the revised system, and there should be no significant needs for training.

The revised reporting requirement would be implemented through rulemaking to assure uniform requirements, efficient utilization of staff resources, and adequate review and comment. The regulation would contain the principles or criteria licensees would use in deciding whether an LER or a failure report is required. Additional details on acceptable methods of implementation wuld be presented in a revised Regulatory Guide covering LER's and the NPRDS-type failure reports.

In developing the integrated reporting system, the deficiencies outlined for the NPRD and the LER systems would be specifically addressed. For example:

1. In order to assure consistent identification of components and systems, the Regulatory Guide to be developed will incorporate a suitable labeling system, such as the Unique Identification (UNID) system developed by TVA for nuclear plant components and systems.

2. NPRDS-type reports would be required for failures of all equipment important to safety (electrical, cooling water, control air, etc.). The format will emphasize rapid and simplified data entry and computerized data processing. Information on success rates will be required to permit the determination of appropriate and accurate failure rates.

3. An engineering data file, similar to that now included in NPRDS, will be continued. These files contain information on each component in the reportable scope, including manufacturer, model number, and critical operating and dimensional parameters. The LER and NPRDS reports will be linked by reference to the engineering file for involved components.

Schedule

The NRC plans to develop the details of the proposed Integrated Operational Experience Reporting (IOER) System, publish the details as a proposed rule, and invite comments on that proposed rule. The NRC estimates that the proposed rule will be available for public comment in July 1981.

Dated at Washington, D.C. this 7th day of January, 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-1413 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-49-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of time for comments on NPRM.

SUMMARY: A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (45 FR 74496) on November 10, 1980, proposing a new Airworthiness Directive (AD) which would require periodic ultrasonic inspection, and repair as necessary of Boeing Model 727 cold bonded upper body skin tear straps. The FAA has determined that the comment period for the NPRM should be extended from the original January 1, 1981 deadline to March 1, 1981, to allow commenters time to complete their responses.

DATES: The new deadline for comments is March 1, 1981.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-49-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANW-120S, Seattle Aircraft Certification Area Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration issued A Notice of Proposed Rulemaking (45 FR 74496) on November 10, 1980, proposing a new Airworthiness Directive which would require periodic ultrasonic inspection, and repair as necessary, of Boeing Model 727 cold bonded upper body skin tear straps. These straps perform a structural failsafe function in the 727 cabin pressure vessel.

Boeing and the Air Transport Association of America believe that the safety of the cabin pressure vessel can be assured by other, less financially burdesome, methods than those proposed to be made mandatory in the NPRM. Boeing has argued that Service Bulletin 727-53-82, on which the proposed AD is based, should be reassessed in the light of the ten years of service experience which have elapsed since it was originally published. Boeing is currently making such a reassessment as a comment to the NPRM. Boeing has solicited service experience data from domestic and foreign 727 operators, and is evaluating possible additional tests to verify the capability of a partially disbonded tear strap. The additional time is requested to complete this effort.

The FAA recognizes a need for better guidelines for proper maintenance of 727 tear straps and considers reassessment

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of Boeing Service Bulleting 727–53–82 appropriate. Since an emergency situation does not exist, the FAA considers the additional time requested to be justified.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Avation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 80–NW–49–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Extension of Comment Period

Accordingly, the deadline for comments on the NPRM Docket No. 80–NW–49–AD is hereby extended to March 1, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on January 2, 1981.

E. O'Connor,

Acting Director, Northwest Region.

[FR Doc. 81–1243 Filed 1–14–81; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–SO–54]

Proposed Designation of Control Zone, Bartow, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Bartow, Florida, Control Zone and lower the base of controlled airspace in the vicinity of the Bartow Municipal Airport from 700 feet AGL to the surface.

DATE: Comments must be received on or before: February 23, 1981.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before February 23, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Bartow, Florida, Control Zone. The existing nonfederal airport traffic control tower on the Bartow Municipal Airport meets the requirements for establishment of a part-time control zone with irregular hours of operation. In order to provide the maximum level of safety, designated airspace protection to the surface is required to contain Instrument Flight Rule (IFR) operations near the airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 (45 FR 356), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Bartow, Florida

"* * * Within a five-mile radius of Bartow Municipal Airport (Lat 27°56'36" N., Long. 81°47'03" W.); within a 1.5 miles each side of the Lakeland VORTAC 103° radial, extending from the five-mile radius zone to eight miles east of the VORTAC; excluding the area within a one-mile radius of Cypress Gardens Airport (Lat. 27°57'35" N., Long. 81°42'00" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continously published in the Airport/Facility Directory."

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so miginal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on December 31, 1980.

Benny C. Frazier,

Acting Director, Southern Region.

[FR Doc. 81–1241 Filed 1–14–81; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 771 0047]

Owens-Corning Fiberglas Corporation; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Toledo manufacturer of glass fiber products, including glass fiber-based asphalt roofing products, to divest to a Commission-approved buyer within 24 months from the effective date of the order, the four specified asphalt roofing plants acquired from the Lloyd A. Fry Roofing Company in 1977. Further, should the company decide to sell the Trumbull asphalt refinery located adjacent to each divested plant, during

the ten-year period following the divestiture, it would be required, in certain circumstances, to give the owner of the roofing plant the right of first refusal to purchase. Additionally, the firm would be barred for ten years, from acquiring without prior Commission approval, any interest in an asphalt roofing plant located in the "Western Market."

DATE: Comments must be received on or before March 16, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following proposed consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the matter of Owens-Corning Fiberglas Corporation, a corporation.

The Federal Trade Commission (the "Commission") having initiated an investigation of the acquisition of certain assets of Lloyd A. Fry Roofing Company ("Fry") by Owens-Corning Fiberglas Corporation ("OCF") and it now appearing that OCF, as proposed respondent, is willing to enter into an Agreement containing an Order in settlement of that investigation,

It is hereby agreed by and between OCF, by its duly authorized officer and attorney, and counsel for the Commission that:

1. OCF is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its principal offices at Fiberglas Tower, Toledo, Ohio 43659.

2. OCF admits all of the jurisdictional facts set forth in the Proposed Complaint attached hereto.

3. OCF waives:

(a) any further procedural steps;

(b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

4. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it, together with the Proposed Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify OCF, in which event it will take such action as it may consider appropriate, or issue and serve its complaint and decision pursuant to this Agreement in disposition of the proceeding.

5. This Agreement is for settlement purposes only, and does not constitute an admission by OCF that the law has been violated as alleged in the Proposed Complaint attached hereto.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules of Practice, the Commission may, without further notice to OCF (1) issue its complaint corresponding in form and substance with the Proposed Complaint attached hereto and its decision containing the following Order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to OCF's address as stated in this Agreement shall constitute service. OCF waives any right it may have to any other manner of service. The Proposed Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

7. OCF has read the Proposed Complaint and Order contemplated hereby, and understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. OCF further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

For the purpose of this Order the following definitions shall apply:

1. "OCF" means Owens-Corning Fiberglas Corporation, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its principal offices at Fiberglas Tower, Toledo, Ohio 43659, and its successors and assigns.

2. "Fry" means Lloyd A. Fry Roofing Company, certain assets of which (as well as certain assets of Trumbull Asphalt Company of Delaware and Summit Wholesale Supply Company) were acquired by OCF pursuant to an agreement dated April 20, 1977.

3. "Plant" means all properties and assets acquired and received from Fry, consisting of all real and personal property described in Paragraphs 4.8 and 4.9 of the Sale of Assets Agreement dated April 20, 1977, among OCF, Fry, Trumbull Asphalt Company of Delaware and Summit Wholesale Supply Company and in Exhibits F–H to such agreement, together with all additions and improvements thereto, that are located at:

(a) Compton, California;

(b) Portland, Oregon;

(c) San Leandro, California; and

(d) Woods Cross, Utah;

provided, however, that the term "Plant" does not include those assets or properties disposed of by OCF in the ordinary course of the business of operating or renovating such facilities for the manufacture of asphalt roofing products; and *provided further,* that the term "Plant" does not include such properties or assets as would otherwise be deemed part of the Plant where the Eligible Person acquiring the Plant elects, in its sole discretion, but subject to the approval of the Commission, not to acquire those properties or assets; and *provided further,* that the term "Plant" shall include only the land, properties and assets so acquired and received from Fry as are approximately indicated as within the areas bounded by solid red lines on the attached maps.

4. "Person" means any individual, corporation, partnership, joint venture, trust, unincorporated association, or other business or legal entity.

5. "Asphalt Facility" means a plant operated by OCF's Trumbull Asphalt Division, which produces *inter alia* oxidized roofing asphalt.

6. "Asphalt Roofing Plant" means a plant primarily engaged in the manufacture of "asphalt roofing

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products" as such products are defined in Paragraphs I(1)(a)–(d) of the Proposed Complaint attached hereto.

7. "Eligible Person" means any Person approved by the Commission. No Person shall be considered for status as an Eligible Person unless the Commission is satisfied that the Person has the capacity and intention to operate the Plant(s) to be acquired as a facility or facilities for the manufacture of asphalt roofing products.

8. "Divest" means any act by which OCF sells, transfers, conveys or relinquishes ownership, possessory interest and control of the Plants.

I.

It is ordered that within twenty-four (24) months of the effective date of this Order OCF shall Divest the Plants subject to the terms of this Order. The Plants may be Divested either separately or in any combination.

II.

It is further ordered that the divestitures of the Plants shall be made only to one or more Eligible Persons and that OCF shall submit the proposed divestitures to the Commission for its prior approval.

III.

It is further ordered that pending the divestitures required by this Order, OCF shall not cause, and shall use its best efforts to prevent, the deterioration of the Plants in a manner that impairs the marketability of any such Plants, normal wear and tear excluded. OCF may, but shall not be required to, make capital expenditures for the improvement of the Plants. Nothing in this Order shall prevent OCF from operating or furloughing employees at the Plants in a manner consistent with normal business practice, comparable to the manner in which it operates or furloughs at its other Asphalt Roofing Plants, pending the divestitures required by this Order.

IV.

It is further ordered that if, at any time during the ten (10) years following the divestiture of each Plant, OCF desires to sell the Asphalt Facility located adjacent to such Plant to a third-party not owned directly or indirectly more than 5% by OCF, then OCF shall, after reaching agreement with such third-party as to the price, terms and conditions to be included in the contract of sale between such third-party and OCF but prior to executing such contract of sale, first offer to sell such Asphalt Facility to whichever Person then owns such Plant for the same price, and upon the same terms and conditions, as are shown in such proposed contract of sale with such third-party; *provided further*, that for the purposes of this Paragraph "OCF" shall include any subsidiary in which the voting stock is more than 50 percent owned directly or indirectly by OCF.

V.

It is further ordered that for a period of ten (10) years from the date of this Order, OCF shall not directly or indirectly acquire, through purchase, lease or such other transaction as would confer ownership, possessory interest or control of, any Asphalt Roofing Plant located in the states of California, Oregon, Washington, Arizona, Nevada, Utah or Idaho, without the prior approval of the Commission.

VI.

It is further ordered that OCF shall within ninety (90) days from the effective date of this Order and every ninety (90) days thereafter until the divestitures required by this Order are completed submit in writing to the Commission a verified report setting forth in detail the manner and form in which OCF intends to comply, is complying, and has complied with the terms of this Order and such additional information relating thereto as the Commission may from time to time reasonably require.

VII.

It is further ordered that OCF notify the Commission at least thirty (30) days prior to effecting any proposed change in corporate respondent which may affect compliance with the obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation.

VIII.

It is further ordered that OCF shall, upon written request of the Secretary of the Commission or the Director of the Bureau of Competition of the Commission made to OCF at its principal office for the purpose of securing compliance with this Order, and for no other purpose, permit duly authorized representatives of the Commission or the Director of the Bureau of Competition, subject to any legally recognized privilege:

(1) reasonable access during the office hours of OCF, which may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in OCF's possession or control which relate materially and substantially to any matter contained in this Order; and

(2) an opportunity, subject to the reasonable convenience of OCF, to interview officers or employees of OCF, who may have counsel present, regarding such matters. The foregoing provision shall not be interpreted to provide any access for the Commission to records relating to any of the business activities of OCF other than the Plants and Asphalt Facilities subject to this Order. Access hereunder to Asphalt compliance with the requirements of Paragraph IV of this Order.

IX.

Nothing in this Order shall be deemed or construed to affect any statutory rights to confidential treatment of documents or information provided to the Commission by OCF, as such rights are accorded by the Federal Trade Commission Improvement Act of 1980 or other statute.

Analysis of Proposed Consent Order To Aid Public Comment.

The Federal Trade Commission has accepted subject to final approval an Agreement Containing Consent Order ("Agreement") from Owens-Corning Fiberglas Corporation ("OCF"). The Agreement has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make the proposed Order contained in the Agreement final.

The proposed Complaint in this matter alleges that OCF's 1977 acquisition of certain assets of Lloyd A. Fry Roofing Company ("Fry") violates Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act because the effect of the acquisition may be substantially to lessen competition in the sale of asphalt roofing products in the states of California, Oregon, Washington, Arizona, Nevada, Utah, and Idaho (the "Western Market").

In order to remedy the competitive harm caused by the acquisition, the proposed Order contained in the Agreement provides that:

(1) OCF is required to divest all four of the Fry asphalt roofing plants located in the Western Market *i.e.*, the plants located at Compton, California; San Leandro, California; Portland, Oregon; and Woods Cross, Utah. The plants may be divested either separately or in any combination to a person or persons

approved by the Commission within 24 months of the effective date of the Order. The terms of the acquisition agreement(s) between OCF and the acquiring person or persons are subject to the prior approval of the Commission;

(2) OCF is required to give the owner of each plant the right of first refusal to purchase the Trumbull asphalt refinery located adjacent thereto in OCF decides to sell the refinery at any time during the ten years following the divestiture of the roofing plant; and

(3) OCF is prohibited for a period of ten years from the effective date of the Order from acquiring any interest in an asphalt roofing plant located in the Western Market without the prior approval of the Commission.

The purpose of this analysis is to facilitate public comment of the proposed Order, and is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify their terms in any way.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1549 Filed 1-14-81; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 450

Advertising for Over-the-Counter Drugs; Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Scheduling of oral presentation before commission.

SUMMARY: Pursuant to § 1.13(i) of its rules of practice, the Federal Trade Commission is reviewing the rulemaking record in the Proposed Trade Regulation Rule on Advertising for Over-the-Counter Drugs to determine what form of rule, if any, it should promulgate. As part of this review process, the Commission will allow certain parties who have previously participated in the proceeding to make oral presentations at an open meeting of the Commission on January 28, 1981, at 10:00 a.m. in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. These presentations will be confined to information already in the rulemaking record.

DATE: Oral Presentations will begin at 10:00 a.m. on January 28, 1981.

ADDRESS: The presentations will take place at an open Commission meeting in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Melvin H. Orlans, (202) 724-1511, Deputy Assistant Director for Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580, or Joel N. Brewer, (202) 724-1530, Attorney, Division of Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Invitations to participate in this oral presentation have been extended to the following participants in this rulemaking: the Proprietary Association; The American Association of Advertising Agencies; Consumer Affairs Committee, Americans for Democratic Action; and California Citizen Action Group. The Commission is offering these parties the opportunity to make oral presentations as to various issues in the rulemaking because it believes that, based on their previous participation and the variety of their interests, they may assist the Commission in its deliberations. Each of the invitees has been notified of the time (thirty minutes) being allowed for the presentation, and that the Commission may utilize any or all of this time for questioning. Each of them has also been provided with copies of the staff's Summary of Post Record Comments on the proposed Trade Regulation Rule on Advertising for Over-the-Counter Drugs, and the Final Recommendations on the Proposed Trade Regulation Rule on Advertising for Over-the-Counter Drugs to the Commission by the staff, the Director of the Bureau of Consumer Protection and the Bureau of Economics. These documents have been placed on the rulemaking record (No. 215-51). Copies are available on request from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

Approved: January 6, 1981.

Carol M. Thomas,

Secretary.

[FR Doc. 81-1562 Filed 1-14-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Disability Claimants; Medical Examination Travel Expenses

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposal to issue regulations.

SUMMARY: The Social Security Administration plans to publish regulations that will implement section 310 of Public Law 96-265. This section covers the payment of certain travel expenses to claimants who attend medical examinations requested by the Secretary in connection with disability determinations under titles II and XVI of the Social Security Act and to claimants, their representatives, and witnesses who attend reconsideration interviews and proceedings before administrative law judges. Section 310 was effective June 9, 1980, the date of enactment of Public Law 96-265.

The new regulations will describe the policies and procedures applicable to paying certain travel expenses including limitations on the use of first-class air travel. The regulations will contain substantially the same provisions as existing Federal Travel Regulations.

The Department of Health and Human Services has classified the proposed regulations as policy significant.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald T. Sayers, 6401 Security Boulevard, Baltimore, Maryland 21235. Telephone (301) 594-4290.

Dated: December 22, 1980.

Approved:

William J. Driver,

Commissioner, Social Security Administration.

[FR Doc. 81-1545 Filed 1-14-81; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF STATE

Office of the Secretary

22 CFR Part 17

[SD-166]

Benefits for Spouses or Former Spouses of Participants in the Foreign Service Retirement and Disability System

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: Under the Foreign Service Act of 1980, which enters into effect February 15, 1981, significant new benefits are provided for spouses and former spouses of participants in the Foreign Service Retirement and Disability System, which includes Foreign Service employees (and some former employees), of the Department of State, United States International Communications Agency, Agency for International Development, Foreign Commercial Service of the Department of Commerce and Foreign Agricultural Service of the Department of Agriculture. The proposed regulations

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set forth below, which are excerpts from the comprehensive retirement regulations for the Foreign Service under the 1980 Act, describe those benefits and how they will be administered and are considered to be of interest to a larger group than the employees themselves, unlike the comprehensive regulations as a whole.

Because of the February 15 effective date, the period for public comment is limited to 30 days from the date of publication in the Federal Register.

DATE: To be considered, comments must be received on or before February 17, 1981.

ADDRESS: Send written comments to: Gertrude Wieckoski, Room 1251, Chief, Retirement Division, Bureau of Personnel, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Gertrude Wieckoski, (202) 632-9315.

SUPPLEMENTARY INFORMATION: Chapter 8 of Title I of the Foreign Service Act of 1980 (Pub. L. 96-465, 94 Stat. 2102) provides for a pro rata division of retirement and survivor benefits between a participant in the Foreign Service Retirement and Disability system and his/her former spouse; provides for court modification of any pro rata division; mandates a joint election by the participant and his/her spouse or former spouse for any waiver of the latter's survivor benefits; permits an individual who, prior to February 15, 1981, had a former spouse to elect to provide a survivor benefit for that person; and permits the participant and spouse or former spouse to enter into a spousal agreement with respect to their annuity rights.

Accordingly, it is hereby proposed, pursuant to the authority of sections 206 and 801 of the Foreign Service Act of 1980 (94 Stat. 2079 and 2102) and section 4 of the Act of May 26, 1949 (22 U.S.C. 2658) to revise 22 CFR Part 17 to read as follows:

Dated: January 8, 1981.

For the Secretary of State.

Ben H. Read,

Under Secretary of State for Management.

PART 17—BENEFITS FOR SPOUSES OR FORMER SPOUSES OF PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

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Authority: Secs. 206 and 801 of Foreign Service Act of 1980 (94 Stat. 2079, 2102); Sec. 4 of Act of May 26, 1949 (22 U.S.C. 2658).

§ 17.1 Authorities.

Chapter 8 of the Foreign Service Act of 1980 (Pub. L. 96-465, 94 Stat. 2102) (hereafter "the Act"), and any Executive order issued under authority of section 827 of the Act.

§ 17.2 Definitions.

(a) "Agencies" means the Department, the Agency for International Development (AID), the International Communication Agency (USICA), the Foreign Agricultural Service (FAS), and the Foreign Commercial Service (FCS).

(b) "Annuitant" means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of the Foreign Service Act of 1980, or any other law and who has filed claim therefore.

(c) "Basic salary" means the salary fixed by law or administrative action before deductions and exclusive of additional compensation of any kind. It excludes the salary fixed by sections 401, 402, 403, and 406 of the Act and salary incident to assignment under section 503 of the Act. Basic salary excludes premium pay for overtime, night, Sunday and holiday work, allowances, post differentials, and chargé pay.

(d) "Chief of Mission" means a principal officer in charge of a diplomatic mission of the United States or of a United States Office abroad which has been designated diplomatic in nature or any member of the Foreign Service assigned under the terms of the Act to be chargé d'affaires or head of such a mission or office.

(e) "Child" means, except with reference to lump-sum payments, an unmarried child, under the age of 18 years, or such unmarried child regardless of age who because of physical or mental disability incurred before age 18 is incapable of self-support. In addition to the offspring of the participant, the term includes:

(1) An adopted child;

(2) A stepchild or recognized natural child who received more than one-half support from the participant; and

(3) A child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter's death. "Child" also means an unmarried student under the age of 22 years. For this purpose, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student, is deemed to have become 22 years of age on the first day of July after the birthday.

(f) "Court" means any court of any State or of the District of Columbia.

(g) "Court Order" means any court decree of divorce or annulment, or any court approved property settlement agreement incident to any court decree of divorce or annulment.

(h) "Department" means the Department of State.

(i) "Divorce" means the dissolution of a marriage by a final decree of divorce or annulment.

(j) "Expressly provided for" means a direction by a court order to divide a member's Foreign Service Retirement benefits or survivor benefits and awarding a portion of such benefits to a previous spouse.

(k) "Former spouse"[1] means a former wife or husband of a participant or former participant who was married to such participant for not less than ten years during periods of service by that participant which are creditable under section 816 of the Act provided the participant was making contributions to the Fund under section 805 of the Act during some portion of such service. For this purpose, a former spouse shall not be considered as married to a participant for periods assumed to be creditable under section 808 of the Act in the case of a disability annuity or section 809 of the Act in the case of a death in service. A former spouse will be considered married to a participant for any extra period of creditable service provided under section 817 of the Act for service at an unhealthful post during which the former spouse resided with the participant. See § 17.5–3 for procedures to determine this extra period of marriage.

(l) "Fund" means the Foreign Service Retirement and Disability Fund.

(m) "M/MED" means the Department's Office of Medical Services.

(n) "Military and naval service" means honorable active service:

(1) In the Armed Forces of the United States;

(2) In the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or

(3) As commissioned officer of the National Oceanic and Atmospheric Administration or predecessor organization after June 30, 1961.

However, this definition does not include service in the National Guard, except when ordered to active duty in the service of the United States.

(o) "Participant" means a person as described in § 17.3.

(p) "Previous spouse" means any person formerly married to a principal, whether or not such person qualifies as a former spouse under paragraph (k) of this section.

(q) "Principal" means a participant or former participant whose service forms the basis for a benefit under chapter 8 of the Act for a spouse, previous spouse, former spouse or child of a participant.

(r) "PER/ER/RET" means the Department's Retirement Division in the Bureau of Personnel.

(s) "Pro Rata Share" means, in the case of any former spouse of any participant or former participant, a percentage which is equal to the percentage that (1) the number of years and months during which the former spouse was married to the participant during the creditable service of that participant is of (2) the total number of years and months of such creditable service. When making this calculation, item (1) is adjusted in accordance with paragraph (k) of this section and item (2) is adjusted in accordance with § 17.4. In the total period, 30 days constitutes a month and any period of less than 30 days is not counted.

(t) "Spousal Agreement" means any written agreement between a participant or former participant, and the participant's spouse or former spouse.

(u) "Student" means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, university, or comparable recognized educational institution. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years, semesters, or terms if the interim or other period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Retirement Division (PER/ER/RET) that the child has a bona fide intention of continuing to pursue such course during the school year, semester, or term immediately following the interim.

(v) "Surviving Spouse" means the surviving wife or husband of a participant or annuitant who, in the case of death in service or marriage after retirement, was married to the participant or annuitant for at least one year immediately preceding death or is the parent of a child born of the marriage.

(w) "System" means the Foreign Service Retirement and Disability System.

§ 17.3 Participants.

The following persons are participants in the System:

(a) Members of the Service serving under a career appointment or as a career candidate under section 306 of the Act (1) in the Senior Foreign Service, or (2) assigned to a salary class in the Foreign Service Schedule;

(b) Any person not otherwise entitled to be a participant who has served as chief of mission or an ambassador at large for an aggregate period of 20 years or more, exclusive of extra service credit for service at unhealthful posts, and who has paid into the Fund a special contribution for each year of service;

(c) Any individual who was appointed as a Binational Center Grantee and who completed, prior to February 15, 1981, at least 5 years of satisfactory service as a grantee, as determined by the Director of Personnel of USICA, or under any other appointment under the Foreign Service Act of 1946, as amended, who has paid into the Fund a special contribution for such service.

(d) Any person converted to the competitive service pursuant to section 2104 of the Act who elects to participate in the System pursuant to section 2106(b)(1) or (2) shall remain a participant so long as he/she is employed in an agency which is authorized to utilize the Foreign Service personnel system.

§ 17.4 Special rules for computing creditable service for purposes of payments to former spouses.

For purposes of determining the pro rata share of annuity, survivor annuity or lump-sum payable to a former spouse, the following shall be considered creditable service—

(a) The entire period of a principal's approved leave without pay during full-time service with an organization composed primarily of Government employees irrespective of whether the principal elects to make payments to the Fund for this service;

(b) The entire period of Government service for which a principal received a refund of retirement contributions which he/she has not repaid unless the former spouse received under § 17.13 a portion of the (lump-sum) refund or unless a spousal agreement or court order provided that no portion of the refund be paid fo the former spouse; and

(c) All creditable service including service in excess of 35 years;

The period covered by the credit for unused sick leave is not creditable for this purpose.

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[1] Note: Section 804(6) of the Act defines "former spouse" with respect to duration of marriage as being married to a participant "for not less than 10 years during periods of service by that participant which are creditable under section 816." The Department interprets this as necessarily implying that the marriage must have covered a period of at least one day while the member of the Foreign Service was a participant in the System.

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§ 17.5 Required notifications to Department respecting spouses and former spouses.

§ 17.5–1 Notification from participant or annuitant.

If a participant or former participant becomes divorced on or after February 15, 1981, he/she shall notify the Department (PER/ER/RET) of the divorce on or prior to its effective date. The notice shall include the effective date of the divorce, the full name, mailing address, and date of birth of the former spouse and the date of the member's marriage to that person, and enclose a certified copy of the divorce decree. If there is a court order or spousal agreement concerning payment or nonpayment of Foreign Service benefits to the former spouse, the original or a certified copy of the order or agreement shall also be forwarded to PER/ER/RET. In the absence of a court order or spousal agreement providing otherwise, the Department will pay a pro rata share of the member's benefits to the former spouse. Upon receipt of notice of a divorce, a court order, or spousal agreement, the Department will proceed as indicated in § 17.6 or § 17.7. Delinquent notice to the Department of the divorce of an annuitant will result in retroactive payments to any qualified former spouse to the extent that the retroactive payments can be deducted from future annuity payments to the principal as stated in § 17.6–4.

§ 17.5–2 Notification to Department from former spouses.

A former spouse is obligated to notify the Department of the following on a timely basis:

(a) A divorce from a participant or former participant when the former spouse is notified by the court of the divorce before the participant is notified;

(b) Any change in address; and

(c) Any remarriage.

Notices shall be sent to the Department of State, Attention PER/ER/RET, Washington, D.C. 20520.

§ 17.5–3 Resident of spouse during service at unhealthful post.

(a) The calculation of the pro rata share of benefits for a former spouse, and the determination of whether a person qualifies as a "former spouse" depends on the length of the marriage. The latter, under the definition in the Act and when the principal has received extra service credit for an assignment to an unhealthful post, depends upon whether a spouse has resided with the principal at the unhealthful post. In order to determine residency for this purposes, whenever a married participant is assigned to an unhealthful post for which he/she *does not* receive post differential and *does* receive or request extra service credit, the participant shall report on Form OF–140, Election to Receive Extra Service Credit Towards Retirement, whether his/her spouse is or is not residing at the post. Although a chief of mission is not required to submit Form OF–140 in order to receive extra credit for service at an unhealthful post, he/she must nevertheless submit this form if the chief of mission has a spouse that does not accompany him/her at post for the entire assignment. Both the participant and spouse shall sign the completed form. If there is a change in residence of the spouse during the assignment, a new joint Form OF–140 shall be filed to report the change.

(b) Whenever a participant retires or becomes divorced, or whenever a former participant becomes divorced who has extra service credit for assignment at unhealthful posts completed prior to the issuance of this regulation who was married during at least a portion of the assignment, the participant or former participant shall submit a statement to PER/ER/RET reporting on whether his/her spouse resided at the unhealthful post and the dates of such residence. The statement shall be signed by the principal and his/her spouse or former spouse whenever possible.

(c) In the event of a disagreement between a principal and his/her spouse or former spouse concerning residency at an unhealthful post, or the submission of a report or statement by a principal showing a period of nonresidence at a post by a spouse which is not signed by the spouse, the determination of residence will be made by PER/ER/RET and based on records in the Department of payments for travel and allowances plus any other evidence that can be adduced. In the absence of any evidence to the contrary, the assumption will be made that the spouse resided at the post.

§ 17.6 Court orders and divorce decrees.

§ 17.6–1 Orders by a court.

(a) A court may—

(1) Fix the amount of any pension to a former spouse under § 17.9, or order that none be paid;

(2) Fix the amount of any regular survivor annuity to a former spouse under paragraphs (a) and (b) of § 17.11, or order that none be paid;

(3) Order provision of an additional survivor annuity for a spouse or former spouse under § 17.10–5;

(4) Fix the amount of any benefit under § 17.10–6 based on recall service payable to a former spouse to whom the annuitant was married during any portion of the recall service, or order that none be paid;

(5) Fix the amount of any lump-sum payable to a former spouse under § 17.13 or order that none be paid;

(6) Order, to the extent consistent with any obligation stated in § 17.8 between a participant and a former spouse, and pursuant to any court decree of divorce, legal separation or annulment or any court ordered or approved property settlement agreement incident to any court decree of divorce, legal separation, or annulment, that any payment from the Fund which would otherwise be made to a former participant based on his/her service shall be paid (in whole or in part) by the Secretary of State to a previous spouse or child of such participant. No apportionment under this paragraph may be made of a payment authorized to be paid to a survivor of a participant or annuitant.

(b) An order by a court that does not meet the definition of "court" in § 17.2(f) is not valid for purposes of this section even though a divorce decree issued by such court may be a basis for pro rata share payments to a former spouse as described in these regulations.

§ 17.6–2 Qualifying court order.

(a) To be valid for purposes of this section, a court order must be found to be "qualified" by PER/ER/RET acting for the Secretary of State. A qualifying court order must—

(1) Be consistent with the terms of the Act and applicable regulations;

(2) Not direct payment of an amount in excess of the maximum amount authorized to be paid by the relevant regulation;

(3) Expressly provide that payments be made to the beneficiary by the Secretary of State as distinguished from a principal. If an order is ambiguous in this respect, it will be considered a qualifying order if the principal does not object during the 30-day notice period provided under § 17.6–6;

(4) Define the amount to be paid to a beneficiary in way so that it can be readily calculated from information in the normal files of the Department;

(5) Not make payment contingent upon events other than those on which other payments from the Fund are based such as age, marital status and school attendance; and

(6) Not be in conflict with any previously issued court order which remains valid.

(b) No apportionment of annuity to a beneficiary under § 17.6–1(a) (1) or (6) shall exceed the net annuity of the principal. The net annuity is computed by excluding from the gross annuity the amounts which are:

(1) Owed by the individual to the United States;

(2) Deducted for health benefits premiums pursuant to section 8906 of title 5, United States Code;

(3) Deducted for optional life insurance premiums under the Government Life Insurance Program;

(4) Owed due to overpayment of annuity;

(5) Properly withheld for Federal income tax purposes, if amounts withheld are now greater than they would be if the individual claimed all dependents to which he/she was entitled.

§ 17.6–3 Application for payment.

(a) To receive payment from the Fund pursuant to a court award, the beneficiary must submit an application in writing to the Chief of the Retirement Division (PER/ER/RET), Department of State, Washington, D.C. 20520. The application must be typed or printed, signed by the beneficiary, and include—

(1) The full name, date of birth, current address and current marital status of the beneficiary;

(2) Full name and date of birth of the participant or former participant and his/her date of birth or other identifying information;

(3) Relationship to the beneficiary, and if a spouse or former spouse, date of marriage to and/or divorce from the participant;

(4) A statement that the court order has not been amended superseded, or set aside;

The original of the court order or a recently certified copy must be enclosed with the application, or a statement appended that such a copy has been sent to the Department by other means.

(b) When payments are subject to termination upon the occurrence of a condition subsequent, such as marriage, remarriage or termination of schooling, or death of the principal, no payment will be made until the beneficiary submits a statement to PER/ER/RET that—

(1) The condition has not occured;

(2) He/she will notify the Department (PER/ER/RET) within 15 calendar days of the occurrence of the condition subsequent; and

(3) He/she will be personally liable for any overpayment to him/her resulting from the occurrence of the condition subsequent. PER/ER/RET may require periodic recertification of these statements.

§ 17.6–4 Date of court orders.

(a) A court order directing or barring payment of a pension to a former spouse under § 17.9 may not be given effect by the Department if it is issued more than 12 months after the divorce becomes final. A court order adjusting the amount of a regular or additional survivor annuity to a former spouse under §§ 17.11–2 or 17.10–5 may not be given effect by the Department if it is issued after the death of the principal.

(b) A court order issued within 12 months after a divorce becomes final directing payment of a pension to a former spouse in an amount other than provided in § 17.9 may be made retroactively effective to the first of the month in which the divorce becomes final if so specified by the court. In such event, the Department will adjust any future payments that may become due to an annuitant and a former spouse by increasing one and correspondingly reducing the other in order to give effect to the order of the court. However, if future payments to one party are not due, as for example if a court orders that no payments be made to a former spouse, or that 100 percent of an annuity be paid as pension to a former spouse, the Department will not give retroactive effect to a court order by collecting overpayments from one party in order to pay them to the other party and will not make overpayments from the Fund.

(c) A court order under this chapter involving any payment other than a pension to a former spouse under § 17.9 may not given retroactive effect and shall not be effective until it is determined to be a qualifying order under § 17.6–5.

§ 17.6–5 Preliminary review.

(a) Upon receipt of an application for payment under § 17.6–3, PER/ER/RET will determine whether—

(1) The application is complete;

(2) The applicant is an eligible beneficiary under this chapter; and

(3) The court order is a qualifying order. If the application is completed, the beneficiary is eligible and the court order appears on its face to be a qualifying order, PER/ER/RET will provide the notification required by § 17.6–6, otherwise, it will notify the applicant of any deficiency or requirement for additional information, and if the order is determined to be non-qualifying, the basis for such determination.

(b) Upon receipt of a certified copy of a final decree of divorce, PER/ER/RET will determine whether—

(1) It is a valid decree. Any decree recognized as valid by the parties will be considered valid for this purpose. In addition, any non-recognized decree will be considered valid for this purpose unless:

(i) (A) Neither party was domiciled within the court's jurisdiction, and

(B) The party denying recognition did not participate in the proceedings, or

(ii) The party denying recognition was not afforded notice of the proceedings (actual or constructive);

(2) A related court order has been submitted by either party; and

(3) A pro rata share payment is or may become due the former spouse. If it determines that a pro rata share payment is due, it will provide the notification required by § 17.6–6, otherwise, unless action is being taken pursuant to a related court order, it will notify both parties to the divorce the reason a pro rata share payment is not payable.

§ 17.6–6 Notification.

(a) *Notification to a principal.* Whenever PER/ER/RET receives from a former spouse or other eligible beneficiary—(1) a court order which it deems qualified that requires payment to the beneficiary; or

(2) a final decree of divorce which it deems valid together with a request for a pro rata share payment—PER/ER/RET will send a copy of the document to the principal and a notice stating: (1) that PER/ER/RET deems the order qualified or the divorce decree valid, (2) that payments will be made from the principal's account to the benficiary and the effective date of such payments, (3) the effect of such payments on the principal's retirement benefit, (4) in the case of any court order with retroactive or immediate effect, and in the case of pro rata share payments, the amounts will be withheld from future payments to the principal but will not be paid to the beneficiary for 30 days from the notice date in order to give the principal an opportunity to contest the court order or the validity of the divorce.

PER/ER/RET will provide the former spouse or other beneficiary the same information, stating the exact amount that will be payable to the beneficiary and explaining how that amount was calculated.

(b) *Notification to a former spouse.* When PER/ER/RET receives from a principal—(1) a court order which it deems qualified that requires or forbids payment to a former spouse; or (2) a final decree of divorce which it deems valid without an accompanying court order—PER/ER/RET will send a copy of the document to the former spouse and a

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notice stating: (1) that PER/ER/RET deems the court order qualified or the divorce decree valid, (2) that PER/ER/RET intends to honor the court decree or to make pro rata share payments because of the divorce, (3) the effective date, exact amount, and method of calculation of any payments to the former spouse.

PER/ER/RET will provide the same information to the principal and will explain the effect any payment to a former spouse will have on the principal's retirement benefit.

§ 17.6-7 Decision.

(a) When a response has not been received by PER/ER/RET from a principal within the 30-day period under § 17.6-6a, payment will be made in accordance with the notification. When a response is received, the Chief, PER/ER/RET will consider the response. If it is shown that a court order is not qualifying or that a divorce is not valid under terms of the Act and these regulations, payment proposed in the notification will not be made. In such a case, PER/ER/RET will advise both parties of the basis for its decision and the alternative action, if any, that it proposes to take.

(b) If a principal responding to a notification under § 17.6-6a objects to the payment or other action proposed by the Department in the notification based on the validity of the court order or divorce decree, and the record contains support for the objection, PER/ER/RET will grant the principal 30 days to initiate legal action to determine the validity of the objection, will continue to delay payment to the former spouse or other beneficiary during this period, and will notify the beneficiary of this action. If evidence is submitted that legal action has been started within the 30-day period, the amount of any proposed payment to a former spouse or other beneficiary will continue to be withheld from any payments due the principal, but no payment will be made to the former spouse or other beneficiary until a judicial decision is rendered or agreement reached between the parties.

§ 17.6-8 Allotment to beneficiary.

If a court order is not a qualifying court order because it directs or implies that payment to the beneficiary is to be made by the principal rather than the Secretary of State, the principal may make an allotment to the beneficiary from his/her annuity. An annuitant may also make an allotment from his/her annuity to a previous spouse in the absence of a court order.

§ 17.6-9 Limitations.

(a) Retirement benefits are subject to apportionment by court order under § 17.6-1(6) only while the principal is living. Payment of apportioned amounts will be made only to a previous spouse and/or the children of the principal. Such payments will not be made to any of the following:

(1) Heirs or legatees of the previous spouse;

(2) Creditors of either the principal or the previous spouse; or

(3) Assignees of either the principal or the previous spouse.

(b) The amount of any court ordered payment may not be less than one dollar and, in the absence of compelling circumstances, shall be in whole dollars.

(c) In honoring and complying with a court order, the Department shall not be required to disrupt the scheduled method of accuring retirement benefits or the normal timing for making such payments, despite the existence of any special schedule relating to a previous spouse or other beneficiary.

(d) In cases where the court order apportions a percentage of the retirement benefits, PER/ER/RET will initially determine the amount of proper payment. That amount will only be increased by future cost-of-living increases unless the court directs otherwise.

§ 17.6-10 Liability.

(a) The Department shall not be liable for any payment made from retirement benefits pursuant to a court order if such payment is made in accordance with the provisions of this chapter.

(b) In the event that the Secretary is served with more than one court order with respect to the same retirement benefits, the benefits shall be available to satisfy the court orders on a first-come, first-served basis.

(c) A previous spouse or other beneficiary may request that an amount be withheld from the retirement benefits of a principal or survivor of a principal which is less than the amount stipulated in a court order, or otherwise scheduled to be paid to the beneficiary under this chapter. This lower amount will be deemed a complete fulfillment of the obligation of the Department for the period in which the request is in effect. See § 17.14.

§ 17.7 Spousal agreements.

§ 17.7-1 Purpose.

A spousal agreement may be used by both parties to establish an agreed-upon level of benefits to a spouse or a former spouse and to relieve the participant of responsibility for providing a higher level of benefits.

§ 17.7-2 Agreement with spouse.

(a) A spousal agreement between a participant and a spouse may waive or fix the level of a regular survivor annuity under § 17.11-3. If an agreement is filed, it will assure the spouse that the agreed-upon level of survivor annuity will be paid, irrespective of a future divorce provided the survivor meets the definition of "former spouse" in § 17.2(k). If an agreement is not filed, the participant's annuity will be reduced under § 17.10-2 to provide the maximum regular survivor annuity for the spouse, but in the event of a future divorce if the spouse meets the definition of "former spouse," that person will be entitled only to a pro rata share of the survivor annuity. An agreement under this paragraph may be filed with PER/ER/RET at any time prior to retirement (commencement of the principal's annuity).

(b) A spousal agreement between an annuitant and a spouse filed with PER/ER/RET before commencement of a supplemental annuity for recall service may waive a supplemental survivor annuity that would otherwise be provided for a spouse under § 17.10-6.

(c) A spousal agreement between a participant or former participant and a spouse may be filed with PER/ER/RET at any time in accordance with § 17.10-5 and provide for an additional survivor annuity for the spouse.

(d) A spousal agreement filed under paragraph (a) (b) or (c) remains valid and binding in the event of divorce if the spouse qualifies as a former spouse.

§ 17.7-3 Agreement with former spouse.

(a) A spousal agreement between a participant or former participant and a former spouse may waive, reduce or increase the following benefits for a former spouse;

(1) A pension under §17.9;

(2) A regular survivor annuity under §17.11-2;

(3) A supplemental survivor annuity under §17.10-6;

(4) A lump sum payment for regular or recall service under §17.13.

A spousal agreement shall also be used by a participant or former participant who has a former spouse on February 15, 1981, to elect a regular survivor annuity for such former spouse in accordance with §17.11-2(e). An agreement to establish or increase any benefit for a former spouse entered into while the principal is married to someone else, must be signed and agreed to by both the spouse and the former spouse. An agreement affecting pension benefits may be filed at any time and will govern payments made after its acceptance by PER/ER/RET. An agreement affecting a regular survivor annuity must be filed before the end of the 12-month period after the divorce involving that former spouse or at the time of retirement, whichever occurs first, except as authorized in §17.11–2(b) for persons retired on February 15, 1981, or in §17.11–2(e) with respect to persons who were former spouses on February 15, 1981. This filing requirement stated in the Act makes it impossible to adjust, other than by court order, a regular survivor annuity for a former spouse when the divorce occurs after a retirement which occurs on or after February 15, 1981. The survivor annuity for the former spouse in such case is fixed by any spousal agreement entered into prior to the divorce, by §17.11–2 or by court order. An agreement affecting supplemental survivor benefits or lump-sum payments must be filed before the supplemental annuity of the principal begins or lump-sum payment is made.

(b) A spousal agreement between a participant or former participant and a former spouse may be filed with PER/ER/RET at any time in accordance with §17.10–5 to provide an additional survivor annuity for the former spouse.

§17.7–4 Form of agreement.

(a) A spousal agreement is any legal agreement between the parties accepted by PER/ER/RET as meeting the requirements of this section. If in accordance with the regulations, PER/ER/RET will accept as a valid spousal agreement a property settlement agreed to by the parties and approved by a court regardless of the date of the agreement.

(b) A spousal agreement must either be authenticated by a court or notorized.

§17.7–5 Limitations.

(a) A spousal agreement may not provide for any payment from the Fund in excess of the amount otherwise authorized to be paid, or at a time not authorized by these regulations, or to a person other than a spouse or former spouse.

(b) A spousal agreement must be filed with the Department, Attention PER/ER/RET, and accepted by that office as in conformance with the Act and these regulations prior to the time on the validity of any proposed agreement and on proper format.

(c) A spousal agreement may apply only to payments from the Fund for periods after receipt of a valid agreement by the Depatment.

(d) Paragraphs (b), (c) and (d) of §17.6–9 and §17.6–10 apply to spousal agreements and payments made pursuant to spousal agreements to the same extent that they apply to court orders and court ordered payments.

§17.7–6 Duration and precedence of spousal agreements.

(a) A spousal agreement may be revised or voided by agreement of the parties (by filing a new agreement under this section) at any time prior to the last day for filing an agreement determined in accordance with §17.7–2 or §17.7–3, except spousal agreements for additional survivor annuities are irrevocable. After the last day for filing a particular agreement, such agreement is irrevocable.

(b) A valid spousal agreement entered into subsequent to the issuance of a court order affecting the same parties will override the court order, and shall govern payments from the Fund.

(c) A spousal agreement may not override a previous spousal agreement involving the same principal but a different spouse or former spouse without agreement of such spouse or former spouse.

§ 17.8 Obligations of members.

Participants and former participants are obligated by the Act and these regulations to provide the following benefits to others and must accept the necessary reductions in their own retirement benefits to meet these obligations:

(a) A pension to a former spouse pursuant to § 17.9;

(b) A court ordered apportionment of annuity to a previous spouse or child under § 17.6–1(6) (the benefit to a child referred to here is paid during the annuitant's lifetime as distinguished from the automatic survivorship annuity to a child described in § 17.11–7);

(c) A regular survivor annuity to a former spouse who has not remarried prior to age 60, and to a spouse to whom married when annuity commences, pursuant to § 17.10–2;

(d) An additional survivor annuity for a spouse or former spouse under § 17.10–5 when elected by the participant or ordered by a court;

(e) Lump-sum payments to a former spouse pursuant to § 17.13;

(f) Benefits ordered by a court under § 17.6 or specified in a spousal agreement under § 17.7.

§ 17.9 Pension benefits for former spouses

§ 17.9–1 Entitlement.

(a) Unless otherwise expressly provided by a spousal agreement under § 17.7 or a court order under § 17.6, a person who, on or after February 15, 1981, becomes a former spouse of a participant or former participant and who has not remarried prior to becoming 60 years of age, becomes entitled to a monthly pension benefit effective on a date determined under § 17.9–2 in an amount determined under § 17.9–3.

(b) A former spouse shall not be qualified for a pension under this subsection if, before the commencement of that pension, the former spouse remarries before becoming 60 years of age.

(c) A pension benefit under this section is treated the same as a survivor annuity for purposes of § 17.11–5(b): a former spouse who elects to receive a pension under this section must waive simultaneous receipt of any survivor annuity.

§ 17.9–2 Commencement and termination.

(a) The pension of a former spouse under this subsection commences on the latter of the day the principal becomes entitled to a Foreign Service annuity or on the first day of the month in which the divorce becomes final. (Suspension or reduction of a Foreign Service annuity because or reemployment does not affect the commencement of a pension to a former spouse.) In the case of any former spouse of a disability annuitant, the pension of such former spouse shall commence on the latter of:

(1) The date the principal would qualify for an annuity (other than a disability annuity) on the basis of his/her creditable service;

(2) The date the disability annuity begins; or

(3) The first of the month in which the divorce becomes final.

(b) The pension of a former spouse and the right thereto terminate on:

(1) The last day of the month before the former spouse dies or remarries before 60 years of age; or

(2) The date the annuity of the former participant terminates unless the termination results from recall, reappointment or reinstatement in the Foreign Service or reemployment in Government service.

§ 17.9–3 Computation and payment of pension to former spouse.

(a) A pension to a former spouse is paid monthly on the same date that annuity is paid to the principal.

(b) No spousal agreement or court order may provide for a pension or any combination of pensions to former spouses of any one principal which exceeds the net annuity of the principal as defined in § 17.6–2(b).

(c) A pension to a former spouse not fixed by a spousal agreement or court order shall equal the former spouse's pro rata share of 50 percent of the annuity to which the principal is entitled on the date the divorce becomes final, or, if not then entitled to an annuity, 50 percent of the annuity to which the principal first becomes entitled following that date.

(d) The Department will initiate payment of a pension to a former spouse after complying with the notification and other procedures described in § 17.6.

(e) If a pension can not be paid because a former spouse is missing, the principal may file an affidavit with PER/ER/RET that he/she does not know the whereabouts of the former spouse. In such an event, the principal and the Department will follow the procedures in § 17.11–4 in an effort to locate the former spouse. The annuity of the principal will be reduced by the amount of the pension to the former spouse even though the latter is not being paid. If the former spouse has not been located during the 12-month period following the date the principal files an affidavit under this section, the annuity of the principal will be recomputed effective from its commencing date (or on the date following the last month a pension payment was made to the former spouse) and paid without reduction of the amount of pension to the former spouse. If the former spouse subsequently is located, pension payments to him/her will be initiated at that time at the rate that would have been payable had they been paid continuously from the original effective date. The Department shall not be liable to make any pension payments to the former spouse for the missing period if the procedures under this section were faithfully complied with nor will the Department be responsible for recovering any payments made to the principal for the benefit of the former spouse.

§ 17.9–4 Effect on annuitant.

Any pension payable to a former spouse under this section or pursuant to any spousal agreement or court order shall be deducted from the annuity of the principal. (See § 17.6–4 concerning retroactive adjustments.) if the annuity of such a principal in any month is discontinued or reduced so that the net amount payable is less than the pension to the former spouse or spouses of the principal because of recall, reappointment or reinstatment in the Foreign Service or reemployment in the Government service, the principal's salary, rather than annuity, shall be reduced by the amount of the pension payment(s). Such salary reductions shall be deposited in the Treasury to the credit of the Fund. If a pension to a former spouse is discontinued for any reason except a suspension pending a determination of entitlement, the annuity of the principal shall be recomputed effective as of the date of discontinuance of the pension, and paid as if the pension to the former spouse had never been deducted.

§ 17.10 Types of annuities to members.

§ 17.10–1 Full annuity.

If a participant retires and does not provide a survivor annuity to a spouse, former spouse or designated beneficiary, the participant receives a "full" annuity. A full annuity means an annuity computed without any survivorship reduction. Example: Average salary $20,000 and maximum or 35 years of service.

Average basic annual salary for high 3 consecutive years of service	$20,000
Multiplied by 2 pct	.02
	$400.00
Multiplied by 35 yr of creditable service	.35
Full annuity	$14,000

§ 17.10–2 Reduced annuity with regular survivor annuity to spouse or former spouse.

(a) At commencement of annuity, a participant or former participant may provide a regular survivor annuity for any eligible former spouse and, within the limits of paragraph b, a regular survivor annuity to any spouse to whom he/she is then married as described in §§ 17.11–2 and 17.11–3, respectively. A regular survivor annuity for a spouse or former spouse equals 55 percent of the portion of the retiree's annuity (up to the full amount) designated as the base for the survivor annuity. To provide the survivor annuity, the participant must accept a reduction in his/her full annuity equal to 2 1/2 percent of the first $3,600 of the designated base, plus 10 percent of the balance of the base. If a regular survivor annuity is being provided for both a spouse and a former spouse, the bases for each are added and the calculation made as in the following example:

Participant's full annuity as computed in § 17.10–1: $14,000.

Maximum regular survivor annuity is 55 percent of full annuity: $7,700.

Case I (Participant has a spouse and former spouse at retirement) If the pro rata share for a former spouse is 75 percent, the base for this benefit will be 75 percent of $14,000: $10,500.

The base for the maximum regular survivor annuity for a spouse would then be 25 percent of $14,000, or $3,500.

Combined base: $14,000.

Participant's full annuity reduced as follows:

2 1/2 porcent of first $3,600 of the base: $90.

Plus 10 percent of the amount over $3,600 ($14,000–3,600) $10,400: $1,040.

Total reduction in participant's full annuity: $1,130.

Participant's reduced annuity: $12,870.

Survivor annuity for former spouse: 55 percent of $10,500 or $5,775.

Survivor annuity for spouse: 55 percent of $3,500 or $1,925.

Case II (Participant married at retirement with no former spouse. All calculations made without reference to cost-of-living increases described in section 17.11–5d.)

Joint election of base for regular survivor annuity of 90 percent of the maximum, or 90 percent of $14,000: $12,600.

Participant's full annuity reduced as follows:

2 1/2 percent of first $3,600 of the base: $90.

Plus 10 percent of the amount over $3,600 ($12,600–3,600) $9,000: $900.

Total reduction in participant's full annuity: $990.

Participant's reduced annuity: $13,010.

In this example, if divorce occurs subsequent to retirement and a court orders a 75 percent share for the former spouse, the base for the survivor annuity for the former spouse would be 75 percent of $14,000: $10,500.

The participant's full annuity would then be reduced by $780 in accordance with the above formula for this survivor benefit, and the reduced annuity would be $14,000–780: $13,220.

If the former spouse qualifies for a pension as described in section 17.9 based on a pro rata share of 75 percent, the pension would equal 50 percent of the participant's reduced annuity times 75 percent (50% × $13,220 × 75%): 4,957.50.

The participant's reduced annuity would then be further reduced by this pension ($13,220–$4,957.50) to provide an annuity to the former participant of $8,262.50.

If this annuitant later remarried, the maximum base for the regular survivor annuity for the new spouse would be the amount designated at retirement, $12,600, less the amount committed to the former spouse, $10,500: $12,600–10,500 or $2,100.

The survivor annuity for this spouse: 55 percent of $2,100 or $1,555.

The election of this benefit for the new spouse would be made individually by the annuitant since a marriage after retirement does not give a spouse a right to participate in the election.

If the election is made to provide a regular survivor annuity to the new spouse, all of the above calculations would be recomputed effective the first day of the month beginning one year after the date of the remarriage, as follows:

Base for survivor annuity for former spouse: 75% of $14,00 or $10,500.

Survivor annuity for former spouse: 55% of $10,500 or $5,775.

Base for survivor annuity for spouse: 15% of $14,000 or $2,100.

Survivor annuity for spouse: 55% of $2,100 or $1,555.

The combined base for the survivor benefits is $10,500 plus $2,100 or $12,600. The annuity reduction on this combined base as computed above is $990.

The participant's annuity after reduction for survivor benefit would be $14,000–$990 or $13,010.

The pension for the former spouse would be 50% × $13,010 × 75% or $4,878.75.

The participant's annuity would be further reduced by this amount: $13,010–$4,878.75 to provide an annuity after this recalculation of $8,131.25.

(b) The maximum regular survivor annuity or combination of regular survivor annuities that may be provided under this section is limited to 55% of the principal's full annuity computed at retirement. If an annuitant is recalled to active duty in the Foreign Service, he/she may provide additional regular survivor annuities under § 17.10–6. The maximum regular survivor annuity or combination of regular survivor annuities that an annuitant who was married at retirement may elect or provide, pursuant to a court order or otherwise, after retirement in the event of his/her divorce or remarriage, is limited to the amount provided at the time of initial retirement or reversion to retired status following recall service.

§ 17.10–3 Marriage after retirement.

If an annuitant who was unmarried at the time of retirement, marries, he/she may within one year after such marriage irrevocably elect to receive a reduced annuity and to provide, subject to any obligation to provide a survivor annuity for a former spouse, a survivor annuity for the new spouse. If such an election is made, the principal's annuity shall be reduced in accordance with § 17.10–2 effective on the first day of the first month which begins at least one year after the date of the marriage. The reduction is computed on the commencing rate of the principal's annuity.

§ 17.10–4 Death or divorce of a spouse and remarriage after retirement.

(a) If the marriage of an annuitant who received a reduced annuity at retirement under § 17.10–2 to provide a survivor annuity for a spouse is dissolved by divorce or by death of the spouse, the retiree's annuity shall be recomputed, if necessary, as of the first of the month following the death or divorce. If the marriage was dissolved by death, the annuity shall be recomputed and paid at it's full amount. If the marriage is dissolved by divorce, procedures in § 17.11–2(b) shall be followed.

(b) In the event an annuitant affected by this paragraph remarries, the annuitant may elect within one year of remarriage to provide a survivor annuity for the new spouse equal in amount to the survivor benefit formerly in effect for the previous spouse less any amount committed for a former spouse. The annuity of a retiree making such an election shall be reduced effective on the first day of the first month which begins at least one year after the remarriage to the amount that would have been payable had there been no recomputation under paragraph a.

§ 17.10–5 Reduced annuity with additional survivor annuity to spouse or former spouse.

(a) *General.* This section provides an opportunity for a participant or former participant who has provided a regular survivor annuity to a former spouse to provide a survivor annuity to a second spouse or to another former spouse. The additional survivor annuity provided under this section generally is more costly than the regular survivor annuity because the participant is required to pay it's full cost by deduction from salary or annuity, or otherwise, as specified in paragraph (e) of this section. The participant must also be in normal health for his/her age and pass a physical examination prescribed by the Secretary of State (M/MED) to be eligible to provide an additional survivor annuity under this section.

(b) *Limitation on amount.* Neither the total amount of additional survivor annuity or annuities under this section provided by any participant or former participant nor any combination of regular or additional survivor annuities for any one surviving spouse or or former spouse of a principal may exceed 55 percent of the principal's full annuity counting any supplemental annuity or recomputation of annuity because of recall service. An additional survivor annuity provided by any principal shall be further limited to the amount that can be provided by a monthly payment which is not greater than the principal's net annuity described in §§ 17.6–2(b). The amount of any additional survivor annuity provided by the spousal agreement effective prior to the principal's retirement, shall be reduced as necessary by PER/ER/RET after the principal's retirement to comply with this limitation. Any amount paid by a participant for the portion of additional survivor annuity cancelled pursuant to this paragraph shall be treated as an additional lump sum payment under paragraph (e) and used to increase the amount of the additional annuity. A participant who separates from the Service without entitlement to any annuity is not entitled to provide an additional survivor annuity. Payments in such a case would be discontinued as described in paragraph (e) of this section.

(c) *Procedures to grant additional survivor annuity.* A participant or former participant who has fully committed his/her maximum regular survivor annuity who wishes to provide, or who is ordered by a court to provide an additional survivor annuity under this section, shall do so by filing a spousal agreement with PER/ER/RET on a form acceptable to PER/ER/RET. Such an agreement will be irrevocable when accepted by PER/ER/RET unless the beneficiary of the additional survivor annuity is subsequently made a beneficiary of a regular survivor annuity in equal amount. Within the limitations specified in paragraph (b) of this section, an individual may be made the beneficiary of both a regular and an additional survivor annuity. A spousal agreement granting an additional survivor annuity to a spouse will remain valid in the event the marriage is dissolved and the spouse qualifies as a former spouse under the definition § 17.2(k).

(d) *Eligibility for additional survivor annuity.* A spouse or former spouse must meet the same criteria (§ 17.2(v) and 17.2(k)) to be eligible for an additional survivor annuity as a spouse or former spouse must meet to be eligible for a regular survivor annuity. Payment of a special survivor annuity will commence on the day after the participant dies and shall terminate on the last day of the month before death or remarriage before attaining age 60. If it is discontinued because of remarriage, it will not be resumed.

(e) *Payment for additional survivor annuity.* (1) Payment *for* an additional survivor annuity will commence on the first of the month following the effective date of a spousal agreement provising the additional survivor annuity. The effective date will be the date of acceptance of the spousal agreement by PER/ER-RET (upon a finding that the agreement conforms to the law and regulations) or such later date as may be specified in the agreement. No payment will be made to a beneficiary under the agreement if the principal dies before its effective date. Accordingly, in order to give protection to a beneficiary during active service, the agreement must be made effective, and payment commenced, during active service. Payment will be made by a participant or annuitant by deduction from salary or annuity. Payment will be made by a former participant while awaiting commencement of a deferred annuity by direct payment to the Department, Office of Financial Operations (M/COMP/FO). Payments not received by the due date may, at the option of M/COMP/FO and with notice to the principal and the beneficiary be collected from the principal's lump-sum account. Amounts so collected must be repaid by the principal with interest compounded at 10 percent annually to prevent exhaustion of the lump-sum account. If the lump-sum account does become exhausted, any rights to the lump-sum payment under § 17.13 and survivorship rights under this paragraph will expire on that date. If the principal dies with an amount owing, it shall be collected by set off from the survivor annuity or lump-sum account.

(2) Monthly payments may be reduced or eliminated by direct payment to M/COMP/FO by any participant or former participant under terms mutually agreed upon by the participant and PER/ER/RET. Minimum monthly payments will be based upon actuarial tables prescribed from time to time by the Director General of the Foreign Service (M/DGP) with the advice of the Secretary of Treasury. Such tables will be calculated so that the present value of all payments equal the present value of the survivor annuity. If new tables are prescribed, they would be applicable to additional survivor annuities provided by spousal agreements that become effective on or after the effective date of the new tables. Additional survivor annuities will be increased by regular cost-of-living adjustments from their commencing dates only when so specified at the option of the participant or former participant in a spousal agreement. Monthly payments will be higher if cost-of-living adjustments are provided.

(3) In the event of the disqualification of a beneficiary for an additional survivor annuity because of death, remarriage prior to age 60 or divorce from the principal and failure to meet the definition of "former spouse," or in the event of an authorized reduction or cancellation of an election for an additional survivor annuity, the monthly payment for such discontinued or reduced additional survivor annuity will be discontinued or reduced, as appropriate, effective at the beginning of the first month following termination or reduction of the benefit. Except as otherwise specified in paragraph (b) of this section, any amount paid for such discontinued or reduced benefit by a participant or former participant in excess of the minimum monthly payments decribed above shall be refunded to the participant or former participant with interest calculated at the annual rate used in the last evaluation of the System or at such higher rate as may be authorized by M/COMP/FO as will not cause a loss to the Fund. The following table illustrates the minimum monthly payments schedule in effect February 15, 1981.

Age of principal and beneficiary on effective date of spousal agreement	Minimum monthly payment required to provide an additional survivor annuity of $100 per month.	
	Without COLA	With COLA
40	$7.49	$12.34
50	14.18	22.01
60	23.55	33.90
70	35.57	47.12

(4) Reduction from annuity to a principal to pay for an additional survivor annuity will be in the nature of an allotment and will not affect computations of cost-of-living adjustments to the principal.

§ 17.10-6 Benefits for recall service.

(a) *Annuity of recalled participant.* Any participant who is recalled to the Service under section 308 of the Act, shall, while serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service, the recalled annuitant shall make contributions to the Fund under section 805(a) of the Act. If a share of the annuity is being paid as a pension to a former spouse under § 17.9, that share shall be deducted from the salary of the recalled annuitant during the period of the recall service. Upon reversion of the annuitant to retired status, any pension payable to a former spouse that was being deducted from the salary of the principal shall be adjusted by any cost-of-living increases that occured under section 826 of the Act during the period of the recall and shall again be deducted from the annuity of the principal which shall be determined as follows:

(1) If the recall service lasts less than one year, a refund of retirement contributions made during the recall period wil be refunded under § 17.13 and the former annuity will be resumed at the previous rate adjusted by any cost-of-living increases that became effective during recall service.

(2) If the recall service lasts between one and five years, the annuitant will be entitled to elect benefits under paragraph (a)(1) of this section or receive both the former annuity adjusted by cost-of-living increases and a supplemental annuity computed under § 17.10 on the basis of service credit and average salary earned during the recall period, irrespective of the number of years of service credit previously earned.

(3) If the recall service lasts five years or more, the annuitant will be entitled to recomputation of the annuity as if there had been no previous retirement, or elect benefits under paragraph (a)(1) or (2) of this section.

(4) An annuitant may receive credit in any computation under paragraph (a)(2) or (3) of this section for any Federal serice performed subsequent to the separation upon which the original annuity was computed provided a special contribution is made for such service under section 805 of the Act.

(5) An annuitant entitled to a supplemental annuity under paragraph (a)(3) of this section or a recomputated annuity under paragraph (a)(4) of this section is obligated, in the absence of a court order or spousal agreement to the contrary, to have those annuities reduced to provide the benefits described in § 17.8 to any spouse, or former spouse to whom married during any portion of the recall service. An annuitant must accept a reduction of 10 percent of his/her supplemental annuity in order to provide a supplemental survivor annuity to a spouse of former spouse. The maximum supplemental survivor annuity equals 55 percent of the supplemental annuity. If, upon reversion to retired status, an annuitant has a former spouse entitled to a pro rata share or some other share of the supplemental survivor annuity, but no spouse, the appropriate share of the supplemental annuity shall be reduced by 10 percent to provide such former spouse a share of the maximum supplemental survivor annuity.

(b) *Survivor benefit for death during recall service.* (1) If an annuitant entitled to a reduced annuity under § 17.10-2 dies in service after being recalled and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the annuity of the deceased had been resumed in accordance with paragraph a. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under § 17.10–6a(5) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his/her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under § 17.11, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under §§17.11–2 or 17.11–3 on the basis of the total service of the annuitant. In the event such an annuitant is survived both by a spouse and such a former spouse, the former spouse will be entitled to a pro rata share of any refund or supplemental survivor benefit under this section computed on the basis of total service during the recall period and months of marriage during such period. If the surviving spouse and surviving former spouse elect different benefits under this paragraph, the former spouse will receive the pro rata share of the benefit he/she elects and the spouse will receive the reciprocal share of the benefit he/she elects.

(2) In the event an annuitant dies during recall service and is survived by a former spouse to whom not married during any period of the recall service, such former spouse will not be entitled to any benefits based on the recall service. If, however, such spouse is entitled to a survivor annuity under § 17.11–2, it shall be adjusted from its commencing date by all cost-of-living adjustments that have occurred under section 826 of the Act since the principal's initial retirement.

§ 17.11 Survivor benefits.

§ 17.11–1 Kinds of Survivor benefits.

If a participant or former participant dies in active service or after retirement, regular survivor annuities are payable under terms of this section to an eligible surviving spouse, former spouse or child. Also, if all rights to annuity and survivor annuity terminate prior to exhaustion of the participant's lump-sum credit, a lump-sum payment is made pursuant to § 17.13. In addition to the above, an additional survivor annuity, and a supplemental survivor annuity may be payable to an eligible survivor under §§ 17.10–5 and 17.10–6, respectively. If any participant or former participant makes an election, files a spousal agreement or becomes subject to a court order to provide a regular survivor annuity for a spouse or former spouse and does not subsequently become entitled to leave a survivor annuity under these regulations (because of separation from the Service and withdrawal of contributions, death after separation but before commencement of a deferred annuity, or for any other reason), none will be paid and such election, spousal agreement or court order to provide such survivor annuity will have no force or effect.

§ 17.11–2 Regular survivor annuity for a former spouse.

(a) *Divorce prior to retirement.* If a participant or former participant is divorced prior to commencement of annuity, any former spouse shall be entitled to a pro rata share of such a principal's maximum regular survivor annuity (based on service performed prior to the first date the principal becomes eligible for an annuity following the divorce) unless a different amount is elected in a spousal agreement filed with PER/ER/RET within 12 months after the divorce becomes final or at the time of the retirement, whichever occurs first, or unless a different amount is specified by a court prior to the death of the principal. The principal's annuity shall be reduced at the commencing date under § 17.10–2 in order to provide the survivor annuity committed to the former spouse.

(b) *Divorce after retirement.* In the event an annuitant is divorced after retirement (commencement of annuity), the maximum survivor annuity that may be provided for that former spouse is limited to the amount provided for that person at the time of retirement. Within that limit, the former spouse is entitled to a pro rata share of the participant's maximum survivor benefit (based on service performed prior to the divorce) unless a different amount was elected in a spousal agreement filed with PER/ER/RET at the time of retirement, or in the case of retirement before February 15, 1981, filed with PER/ER/RET within 12 months after the divorce becomes final, or unless a different amount is specified by a court prior to the death of the principal. If the survivor annuity for the former spouse is reduced at the time of the divorce (because the pro rata share or the amount specified in a spousal agreement or court order is less than the amount elected at retirement), the principal's annuity shall be recomputed and paid, effective on the date the survivor benefit is reduced, as if the lower amount had been elected at the outset of retirement.

(c) *Death or remarriage of former spouse and transfer of survivor benefit to a spouse.* Remarriage below age 60 or death of a former spouse while a principal is alive will disqualify the former spouse for benefits under this section. In the event of such a remarriage or death of a former spouse, the portion of a principal's survivor annuity committed to that person will become available for transfer to any spouse. If such a remarriage or death of the former spouse occurs after the principal's annuity commences, any reduction in the principal's annuity for that former spouse will be discontinued effective at the beginning of the first month following the remarriage or death unless the annuitant elects to provide or to increase a survivor benefit for a spouse. Such an election may be made within one year after the annuitant receives notice of the remarriage or death of his/her former spouse. The Department (PER/ER/RET) and the annuitant shall each notify the other promptly whenever either receives independent notice of such a remarriage or death. If an election to transfer survivor benefits to a spouse is not made by the annuitant, his/her annuity will be recomputed and paid as if there had been no reduction for the discontinued survivor benefit. If an annuity is so recomputed and an election is subsequently made to designate as beneficiary a spouse to whom married for at least one year at the time the election is made, the principal's annuity shall be restored retroactively to its former, lower rate and then adjusted by cost-of-living increases that have occured since the date of the first recomputation. If an election is made for a spouse when the marriage has not yet lasted a year, the procedures in § 17.10–4 shall be followed.

(d) *Amount of survivor annuity.* The amount of a regular survivor annuity is determined under § 17.11–3(c).

(e) *Special rules for election of survivor annuity for a person who is a former spouse on February 15, 1981.* (1) Any participant, or former participant eligible for a deferred annuity which has not yet commenced, who, on February 15, 1981 has a former spouse, may at any time prior to commencement of annuity, elect, with the consent of any spouse to whom married at the time of the election, to receive a reduced annuity and provide a regular survivor annuity for such former spouse. Such survivor annuity shall be limited by § 17.10–2(b). An election under this paragraph for a former spouse will reduce the amount of any regular survivor annuity that may subsequently be provided for any spouse or other former spouse.

(2) Any former participant in receipt of an annuity who has a former spouse on February 15, 1981 and who has not committed his/her entire annuity as a base for a regular survivor annuity for a

spouse or any other former spouse, may, prior to March 31, 1982, designate any portion of the uncommitted base as the base for a regular survivor annuity for such former spouse.

(3) The annuity of a former participant making an election under this paragraph shall be reduced under § 17.10–2(a) effective February 15, 1981, or from its commencing date if later.

(4) An election under this paragraph shall be made by filing a spousal agreement with PER/ER/RET under § 17.7. A spousal agreement to provide a regular survivor annuity under this paragraph for a former spouse may be revoked or amended after its acceptance by PER/ER/RET as in accordance with the Act and these regulations, only by agreement of the parties up to the last day allowed by this paragraph for filing such an agreement. Thereafter, it is irrevocable. If a participant dies in service after having filed a valid election under this section, a survivor annuity will be paid to an eligible former suriving spouse in accordance with the terms of the election.

17.11–3 Regular survivor annuity for a spouse.

(a) In the absence of a joint election or a spousal agreement to the contrary, a participant or former participant who is separated from active service on or after February 15, 1981 who is married at the commencement of his/her annuity shall provide a regular survivor annuity for a spouse under § 17.10–2 equal to the maximum amount that remains available under limitations stated in paragraph (b) of that section after allowing for any commitment of a regular survivor annuity for a former spouse who has not remarried prior to age 60 and who is alive on the date the former participant becomes eligible for an annuity.

(b) A regular survivor annuity is also payable to a surviving spouse for whom a principal elected an annuity under §§ 17.10–3, 17.10–4, or 17.11–2(c) following a marriage after comencement of his/her annuity.

(c) The amount of a regular survivor annuity equals 55 percent of the base designated for the benefit at the time the principal's annuity commenced, adjusted by the total percentage of cost-of-living increases the principal was receiving at death. In the case of a marriage after retirement, the regular survivor annuity for a surviving spouse equals 55 percent of the base designated for the benefit at the time the benefit was elected, adjusted by the percentage of all cost-of-living increases received by the principal from the effective date of the election.

(d) A survivor annuity is payable to a surviving spouse only if that person was married to the principal at the time of his/her death or if the spouse became a former spouse under the definition in § 17.2(k).

§ 17.11–4 Procedure in event a spouse or former spouse is missing.

If a participant or former participant has a spouse or former spouse whose whereabouts are unknown, such participant may elect to reduce or eliminate the share of a regular survivor annuity provided for that person under §§ 17.11–2 or 17.11–3 by filing an affidavit with PER/ER/RET stating that his/her spouse or former spouse is missing and giving full name, last known address, date last heard from, circumstances of the disappearance and a description of the effort that has been made to locate the individual. Thereafter, the participant shall take such additional steps to locate the missing person as may be directed by PER/ER/RET. That Office shall also attempt to locate the missing person by sending a letter to the individual's last known address given in the Department's files, to the address given on the affidavit, and, if a Social Security number is known, to the Social Security Administration for forwarding. The election and affidavit may be filed at any time before commencement of annuity. It must remain on file with PER/ER/RET for at least one year before being given irrevocable effect by the Department. If the annuity to the former participant becomes effective prior to the expiration of this one year period, the annuity shall be computed and paid without reference to the election filed under this section. Following this one-year period, or at the commencement of annuity, if later, if the missing person has not been located, the affidavit may be reaffirmed by the participant, after which an election by the participant to reduce or eliminate the share of regular survivor annuity for the missing person shall be given irrevocable effect by the Department. If the annuity to the former participant has commenced, it shall be recomputed and paid retroactively to give effect to any election made under this section.

§ 17.11–5 Commencement, termination and adjustment of annuities.

(a) An annuity payable from the Fund to a surviving spouse or former spouse begins on the day after the participant or annuitant dies and stops on the last day of the month before the survivor's (1) marriage before age 60, or (2) death. If a survivor annuity is terminated because of remarriage, the annuity is restored at the same rate effective on the date such remarriage is terminated, provided any lump-sum paid upon termination of the annuity is returned to the Fund. The termination of a surviving spouse annuity due to remarriage does not apply to a survivor annuitant who is a surviving spouse of a participant who died in service or retired before October 1, 1976, unless elected following a marriage after retirement under circumstances described in §§ 17.10–3 or 17.10–4.

(b) A surviving spouse or former spouse shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which entitled under this or any other retirement system for Government employees. (For this purpose, neither the Social Security system nor the military retirement system is considered a retirement system for government employees.) This restriction does not apply to a survivor annuitant who is a surviving spouse of a participant who died in service or retired before October 1, 1976, unless the survivor annuity was elected under circumstances described in § 17.9–3 or § 17.9–4.

(c) A child's annuity begins on the day after the participant dies, or if a child is not then qualified, on the first day of the month in which the child becomes eligible. A child's annuity shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(d) Regular and supplemental survivor annuities to a spouse or former spouse of an annuitant described in §§ 17.10–2, 17.10–3 and 17.10–7 are increased from their effective date by the cumulative percentage of cost-of-living increases the annuitant was receiving under section 826 of the Act at death. All annuities payable to survivors on the date a cost-of-living adjustment becomes effective are increased by that percentage except (1) the first increase to a surviving spouse or former spouse of a participant who dies in service shall be pro rated and (2) additional survivor annuities under § 17.10–5 when the spousal agreement authorizing the annuity makes no provision for cost-of-living increases.

(e) The annuity of survivors becomes effective as specified in this section but is not paid until the survivor submits Form JF–38, Application for Death Benefits, supported by such proof as may be required, for example, death, marriage, and/or divorce certificates. In the event that such is not submitted during an otherwise eligible beneficiary's lifetime, no annuity is due or payable to the beneficiary's estate.

§ 17.11-6 Death during active duty.

(a) *Annuity for surviving former spouse.* In the event a participant dies before separation from the Service and leaves a former spouse, such former spouse is entitled to a regular survivor annuity under § 17.11-2 computed as if the participant had retired on the date of death unless a court order or spousal agreement is on file in the Department waiving such entitlement or providing for some other computation, or unless the former spouse had been found missing and an election filed under the procedures of § 17.11-4 waiving a survivor benefit for that person. Any assumed service authorized to be used under paragraph (b) of this section in computing the annuity for a surviving spouse may not be counted as "years of marriage" when determining whether the previous spouse qualifies as a "former spouse" under the definition in § 17.2(11) or when computing the pro rata share under § 17.2(19). A former spouse is entitled to an additional survivor annuity under § 17.10-5 provided death occurs on or after the effective date of a spousal agreement providing for the additional annuity.

(b) *Annuity for surviving spouse.* If a participant who has at least 18 months of civilian service credit toward retirement under the System, excluding extra service credited for unhealthful post duty in accordance with section 816 of the Act, dies before separation from the Service, and is survived by a spouse as defined in § 17.2(u) such survivor shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with § 17.10-1 less any annuity payable to a former spouse under paragraph a. If the participant had less than three years of creditable civilian service at the time of death, the survivor annuity is computed on the basis of the average salary for the entire period of such service. If, at time of death, the participant had less than 20 years of cerditable service, the annuity shall be computed on the assumption that the participant has had 20 years of service, but such additional service credit shall in no case exceed the difference between the participant's age on the date of death and age 65. A spouse is entitled to an additional survivor annuity under § 17.10-5 provided death occurs on or after the effective date of a spousal agreement providing for the additional annuity.

(c) *Annuity for a child or children.* If a participant described in paragraph b is survived by a child or children, each surviving child is entitled to an annuity as described in § 17.11-7.

(d) *Annuity changes.* Annuities based on a death in service are subject to the provisions of § 17.11-5 governing commencement, adjustment, termination and resumption of annuities.

§ 17.11-7 Annuity payable to surviving child or children.

(a) If a participant who has at least 18 months of civilian service credit under the System dies in service, or if an annuitant who was a former participant dies, annuities are payable to a surviving child or children, as defined in § 17.2(e) as follows:

(1) *When survived by spouse and child or children.* If a principal is survived by a wife or husband and by a child or children, in addition to any other annuity, there shall be paid to or on behalf of each child an annuity equal to the smallest of:

(i) $900

(ii) $2,700 divided by the number of children—adjusted under paragraph b.

(2) *when Survived by a child or children but no spouse.* If the principal is not survived by a wife or husband, but by a child or children, each surviving child shall be paid an annuity equal to the smallest of:

(i) $1,080

(ii) $3,240 divided by the number of children—adjusted under paragraph (b) of this section.

(b) *Adjusted rates.* In order to reflect cost-of-living increases, the amounts referred to in paragraphs a and b above are increased from the commencing date of the annuity to each child by the cumulative percentage of all cost-of-living increases that have occurred under 5 U.S.C. 8340 since October 31, 1969.

(c) *Recomputation of annuity for child or children.* If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant. If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

§ 17.11-8 Required elections between survivor benefits.

(a) *Bar against concurrent payment under this Act and Workers' Compensation Act.* Except as stated below, survivor annuities and survivors' compensation for work injuries under 5 U.S.C. 8102 are not payable concurrently if both are based on the death of the same employee. A survivor entitled to both must elect which of the two benefits he/she prefers. Should all eligible survivors of a deceased employee elect to receive the compensation benefit rather than the survivor annuity, their rights to the latter are terminated and, if the lump-sum credit has not been exhausted, a lump-sum payment will become due under § 17.13. The one exception to this rule occurs when a widow or widower is being paid the balance of a scheduled compensation award under 5 U.S.C. 8107 due the deceased employee. If so, the widow or widower may receive the survivor annuity and compensation award concurrently.

(b) *Election between survivor annuity and social security benefits.* Pursuant to 42 U.S.C. 417 (a) and (e), survivors who are eligible for annuity which is based in part on military service performed by a principal between September 16, 1940, and December 31, 1956, and also for survivor benefits under the Social Security system, may elect to have the military service credited toward the Social Security benefit. In practice, the survivors should apply for both benefits, ask the Department and the Social Security Administration for statements showing the amount of each benefit, and then make their election of where to credit the military service. If Social Security benefits are elected, the rights of *all* survivors to a foreign service annuity are terminated.

§ 17.12 Employment in a government agency.

An annuitant who is reemployed by a Federal Government agency may not receive a combination of salary and annuity which exceeds his/her Foreign Service salary at the time of retirement. Refer to § 17.9-4.

§ 17.13 Lump-sum payment.

§ 17.13-1 Lump-sum credit.

"Lump-sum credit" is the compulsory and special contributions to a participant's or former participant's credit in the Fund for his/her first 35 years of service plus interest thereon computed from the midpoint of each service period and compounded at four percent annually to the date of separation or December 31, 1976, whichever is earlier, and after such date, for a participant who separates from the Service after completing at least one year of civilian service and before completing 5 years of such service, at

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the rate of three percent annually to the date of separation. Interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from the annuitant for recall service or other service performed after the date of separation which forms the basis for annuity.

§ 17.13-2 Share payable to a former spouse.

Any former spouse of a participant or annuitant is entitled to a prorata share of 50 percent of any lump-sum payment authorized to be paid to a former participant or other beneficiary under this section based on the service of such participant or annuitant covering at least some period of marriage to the former spouse, unless otherwise directed in a court order or a spousal agreement.

§ 17.13-3 Payment after death of principal.

If a participant dies and no claim for annuity is payable, the lump-sum credit is paid. Any portion not payable to a surviving former spouse under § 17.13-2 is paid to surviving beneficiaries.

§ 17.14 Waiver of annuity.

An individual entitled to be paid an annuity may, for personal reasons, decline to accept all or any part of the annuity. However, a principal may not waive the portion of his/her annuity authorized to be paid to a former spouse under § 17.9 or to a beneficiary under § 17.6. An annuity waiver shall be in writing and sent to the Department (PER/ER/RET). A waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

[FR Doc. 81-1339 Filed 1-14-81; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-152-80]

Windfall Profit Tax; Clarification of Rules Relating to Base Prices of Tier 2 and Tier 3 Oil; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to base prices of tier 2 and tier 3 oil for purposes of the windfall profit tax on oil imposed by title I of the Crude Oil Windfall Profit Tax Act of 1980.

DATES: The public hearing will be held on March 3, 1981, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 17, 1981.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-152-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4989(d)(1) of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Friday, November 14, 1980 (45 FR 75231).

The rules of section 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 17, 1981. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

David E. Dickinson,

Acting Director, Legislation and Regulations Division.

[FR Doc. 81-1533 Filed 1-14-81; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Disclosure of Comments Received From Federal Agencies on the West Virginia State Permanent Regulatory Program Resubmission

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Availability of public comments.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement announces the availability for public review of comments by the U.S. Army Corps of Engineers and the Department of the Interior, Fish and Wildlife Service, on the West Virginia's permanent regulatory program submission under the Federal Surface Mining Act.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

West Virginia Department of Natural Resources, Division of Reclamation, 1800 Washington Street, East, Charleston, WV 25305, Phone: (304) 348-3267

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, WV 25301, Phone: (304) 342-8125

Office of Surface Mining, Department of the Interior, Room No. 135, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343-4728

FOR FURTHER INFORMATION CONTACT:

Mr. Dick Leonard, Office of Surface Mining, Reclamation, and Enforcement, 603 Morris Street, Charleston, WV 25301, Phone: (304) 342-8125

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343-4225

SUPPLEMENTARY INFORMATION: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. West Virginia submitted a proposed regulatory program to the Secretary on March 3, 1980. The Secretary solicited public comments on the submission from the various federal agencies, as required under Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1). On August 11, 1980, public disclosure of comments received was announced by notice in the **Federal Register**. 45 FR 53181.

On October 20, 1980, the Secretary announced his approval in part and disapproval in part of West Virginia's submission, and afforded the State 60 days within which to resubmit its program. 45 FR 69251–69271. On December 19, 1980, the State resubmitted its program. The Secretary of the Interior is now evaluating the West Virginia permanent regulatory program resubmitted on December 19, 1980.

In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the West Virginia Program as resubmitted may not be approved until the Secretary has solicited and publicly disclosed the views of Federal agencies concerned with or having special expertise relevant to the resubmitted program. In this regard, the following Federal agencies were invited to comment on the West Virginia Program resubmission:

- Advisory Council on Historic Preservation
- Appalachian Regional Commission
- Council on Environmental Quality
- Department of Agriculture
  - Agriculture Stabilization and Conservation Service
  - Extension Service
  - Farmers Home Administration
  - Forest Service
  - Science and Education Administration
  - Soil Conservation Service
- Department of Energy
- Department of the Interior
  - Bureau of Indian Affairs
  - Bureau of Land Management
  - Bureau of Mines
  - Water and Power Resources Service
  - Fish and Wildlife Service
  - Geological Survey
  - Heritage Conservation and Recreation Service
  - National Park Service
- Department of Labor: Mine Safety and Health Administration
- Environmental Protection Agency
- Ohio River Basin Commission
- U.S. Army Corps of Engineers
- Water Resources Council

Of those agencies invited to comment, OSM only received comments from the U.S. Army Corps of Engineers and the Department of the Interior, Fish and Wildlife Service.

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: January 11, 1981.

Paul Reeves,

Deputy Director.

[FR Doc. 81-1544 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 556

[AR 210-1]

Private Organizations on Department of Army Installations

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: Army Regulation 210-1 implements Department of Defense Instruction 1000.15, "Private Organizations on Military Installations" (published in the **Federal Register** December 12, 1978, as Part 212, Title 32, CFR, Chapter 1). The proposed regulation will be applicable to all private organizations on Army installations except those under special Department of Defense sanction as set forth in separate agreements or regulations. The regulation clarifies the facts that private organizations are private and self-sustaining; are not officially affiliated with the United States Government or its instrumentalities; and are subject to state laws and local ordinances. Accordingly, this regulation does not direct or regulate the operational policies of private organizations, but establishes only those prerequisites necessary for private organizations to operate on Army installations.

EFFECTIVE DATE: Written comments received by the Department on or before February 17, 1981 will be considered.

ADDRESS: Written comments should be addressed to: Department of Army, Office of The Adjutant General, Club and Community Activities Management Directorate, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Ms. Terri N. Slocomb, Program Analyst, Office of The Adjutant General, ATTN: DAAG–CMP–P, Washington, D.C. 20310, Telephone (202) 325–9370/71.

Accordingly, 32 CFR is amended by adding a new Part 556.

Dated: January 5, 1981.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

PART 556—PRIVATE ORGANIZATIONS ON DEPARTMENT OF ARMY INSTALLATIONS

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Authority: 10 U.S.C. Section 3102.

Subpart A—General

§ 556.1 Purpose.

This regulation provides policy for the authorization and operation of private organizations (POs) on Army installations. This guidance does not supplant or negate any specific agreements between the United States Government, Department of Defense (DOD), Department of the Army (DA), and Federally sanctioned or affiliated types of POs.

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§ 556.2 Applicability.

This regulation applies to POs authorized to operate on DA installations worldwide except those excluded in § 556.4 of this Part and POs located on Army Reserve Centers (AR 140–488). This regulation applies to POs of the Army National Guard and Army Reserve when located on DA installations, using space or facilities other than Army Reserve Centers. This regulation does not apply to private organizations operating in the local community outside of DA installations which request occasional or non-recurring use of Army space or facilities; guidance for Army liaison with these organizations is contained in AR 360–61.

§ 556.3 Explanation of terms.

The following terms apply to this regulation:

(a) DOD Family. Active duty military personnel, retired military members, members of reserve components, dependents and surviving spouses of the foregoing, local DOD civilians, and other authorized civilians as determined by major and installation commanders.

(b) DA Installation. A location, facility or activity assigned to, owned, leased, controlled or occupied by DA.

(c) Private Organization. A self-sustaining, non-Federal entity, incorporated or unincorporated, and constituted or established and operated on a DA installation, with the written consent of the installation commander or higher authority, by individuals acting outside any official capacity as officers, employees, or agents of the Federal Government or its instrumentalities. Types of POs are defined and categorized below and are listed at Appendix A:

(1) Type 1 Federally Sanctioned POs. Type 1 POs conduct service-type operations. They are recognized by specific DOD authority or by special authority granted by HQDA. The following are Type 1 POs not governed by this regulation, but by other regulations, as stated:

(i) Credit Unions—AR 210–24.

(ii) Banking Offices/Institutions—AR 210–135.

(iii) American National Red Cross—AR 930–5.

(iv) United Service Organizations, Inc.—AR 930–1.

(v) United Seaman's Service—AR 700–83.

(vi) Labor Organizations subject to Title 5, US Code Chapter 71—Federal Personnel Manual (FPM) 711.

(vii) Association of Supervisors and Managers—Civilian Regulation (CPR) 251 and AR 1–210.

(viii) Civil Air Patrols—Air Force Regulation (AFR) 46–6.

(ix) Army Emergency Relief—AR 930–4. All other Type 1 POs are subject to the provisions of this regulation.

(2) Type 2 Affiliated POs. Type 2 POs engage in activities of common interest to a voluntary membership. They require the written approval of the installation commander to operate on DA installations. Type 2 POs operate as local affiliations or chapters, lodges (fraternal or benevolent organizations), or elements of national or state chartered organizations in the private sector.

(3) Type 3 Independent POs. Type 3 POs are established, organized, operated, and controlled locally by common interest groups. Type 3 POs conduct specific activities that fulfill certain accepted needs or wants of some members of the DOD family. Local PO initiative is used to secure written permission to operate from the installation commander. Type 3 POs have no formal connection with organizations outside the installation.

(4) PO Subtypes.

(i) For classification purposes, there are eight authorized subtype categories of POs (see section A–2 of Appendix A). POs in each subtype display one or more of the following characteristics:

(A) They have similar purposes or objectives.

(B) They conduct related activities.

(C) Participation in their activities, or their membership composition, is by individuals of a common age level.

(ii) A subtype designation may apply to more than one type of PO. For example, Type 1 (Red Cross), Type 2 (PTA) and Type 3 (Thrift Shop) POs all perform the subtype function of community services.

(iii) Classification of PO's by type and subtype clarifies the distinction between POs and NAFIs. At Appendix A is a listing of various types of POs by type and subtype commonly found on DA installations. These are only examples; the listing is incomplete.

(d) Audit. For purposes of this regulation, audit is defined as an official examination, verification, and/or correction of books of account that reflect the financial status of the PO.

(e) Qualified Auditor. For purposes of this regulation, a qualified auditor is one who is qualified to hold grade UA/GS 9 (to include Local National equivalent grades) or above in civilian job series 510, or a public accountant or certified public accountant licensed to do business by a state or other recognized licensing jurisdiction.

(f) Double Entry Accounting System. Often called a combination journal system, the accrual method of accounting which shows the dual elements of each transaction separately and recorded during the period in which the transaction occurs.

(g) Single Entry Accounting System. A simple system recording transactions on a cash basis without inventories, accounts receivable or payable.

(h) Gross Annual Revenue. The total of gross income from sales of goods and services, membership assessments or dues, contributions and donations, interest income and any other revenue of a PO.

§ 556.4 Exclusions.

(a) This regulation excludes any funds and activities on DA installations that fulfill officially recognized Federal Government pruposes (e.g. Morale Support Program activities, etc.) and therefore are not defined as private in nature. Excluded from this regulation are:

(i) All funds accounted for under US Treasury symbols.

(ii) Nonappropriated Fund Instrumentalities (NAFIs).

(iii) All funds cited in paragraph 1–2b (1)–(7), AR 230–1.

(iv) Appropriated Fund (APF) and Nonappropriated Fund (NAF) contractor and subcontractor organizations and funds on DA installations.

(b) Certain unofficial activities may operate on DA installations without being authorized as Type 3 independent POs. Installation commanders may determine that certain funds/activities are excluded from regulation because of their limited scope, activities, membership or funds. Examples are office coffee funds, flower funds, Christmas party funds, dance funds, sympathy funds. Installation commanders may also set procedures for these informal activities and funds.

(c) Chapel organizations operating as parts or extensions of the DA chapel program, which neither make nor manage funds in their own name or interest and are under the supervision, control and direction of installation chaplains acting within the scope of their official duties, are excluded. Examples of such exclusions are Catholic Ladies Guild, Protestant Women of the Chapel and Youth of the Chapel. Chapel organizations which make and/or manage their own funds are subject to all the provisions of this regulation.

Subpart B—Policy

§ 556.5 General policy.

POs are not NAFIs and therefore are not entitled to the special immunities and privileges given NAFIs. There is no official relationship between PO activities and those of DOD personnel who are members of or participants in POs. POs are not part of the military organization so they receive limited government supervision, as opposed to the extensive supervision given NAFIs. POs operate on a financially self-sustaining basis except for support authorized under Chapter 4 of this regulation. Neither the Federal government nor its NAFIs have any direct vested interest in the assets of a PO nor shall they make any claim to the assets or incur or assume any obligation of a PO. Property abandoned by a PO upon or after its disestablishment, or given to the installation by the PO, may be acquired by the DA installation commander under current DA policy and consistent with all applicable Federal laws. POs will comply with all the laws governing comparable private sector activities, as determined applicable by state or local authorities. DA interest in the operation of POs is due to their:

(a) Location on DA installations.

(b) Relationships with both the Federal and private sector.

(c) Activities which support recognized programs conducted to benefit the DOD family, and

(d) Responsibilities as employers of US citizens and other personnel.

§ 556.6 Restrictions.

The following restrictions apply to all types of POs:

(a) No PO will use or include in its title, logo or letterhead:

(1) The name or seal of the Department of Defense or the acronym "DOD",

(2) The name, abbreviation or seal of any military department or service (those POs already in existence using the name of a military department or service are excluded from this restriction provided no sponsorship or endorsement is stated or implied), or

(3) The seal, insignia, or other identifying device of the local installation. The installation commander may authorize an exception to this restriction if clarity of identification is necessary, provided no offical sponsorship or endorsement is stated or implied.

(b) Activities of POs will in no way be prejudicial to or discredit DOD components or other agencies of the Federal Government.

(c) A PO will not duplicate or compete with the establishment or existence or a NAFI or APF government function on a DA installation.

(d) All PO functions and expenditures must be authorized by the local PO constitution and bylaws. Only the PO will determine specific functions and expenditures of the PO. These will not be influenced by DOD personnel acting in an official capacity.

(e) A PO will not be created, operated or administered to circumvent restrictions on expenditures of appropriated or nonappropriated funds.

§ 556.7 PO employment and membership practices.

The following policy applies to all POs:

(a) POs must comply with all labor laws that apply to private sector employment standards. POs whose employment practices discriminate on the basis of sex, age, religion, race, color, national origin, lawful political affiliation, labor organization membership or physical handicap not affecting performance of duty will not be allowed to operate on DA installations.

(b) POs operating on DA installations will not discriminate in membership on the basis of race, color, sex, national origin or religion. This will not preclude the existence of religious, cultural or ethnic POs as long as membership is not restricted or discriminatory on the basis of the above, and as long as similar religious, cultural or ethanic POs are approved without preference. In the absence of any objection by members of the installation DOD family, the installation commander may approve the operation of certain POs which restrict membership to one sex when one or more of the following conditions applies:

(1) The PO is philanthropic in purpose, and by tradition has composed its membership of one sex. Such POs are generally service organizations which contribute to the moral and wellbeing of the local community.

(2) The PO purpose and function is aimed at benefitting a specific sex and its membership is composed of that sex. These POs are scouting organizations, Ladies/Mens Sports associations, etc.

(3) The PO has a specific purpose and function which restricts membership to one sex, but also has an auxillary, distaff or counterpart organization which has the same purpose and function (i.e. separate but equal). Examples are: Ladies/Mens Sports clubs Ladies/Mens Civic organizations, Boy/Girl Scouting organizations, etc.

§ 556.8 Insurance

Adequate insurance, if appropriate, will be obtained by POs as protection against public liability claims, property damage claims, or other legal actions that arise from activities of the PO or from one or more of its members acting in its behalf. Normally, such insurance will be appropriate when PO activities or functions expose the public to possible risk. The protection such as fidelity or fire insurance of PO assets is the responsibility of each PO's membership.

§ 556.9 Audit.

POs with gross annual revenue of $1,000 or more will be audited annually at their own expense in accordance with the following:

(a) POs using a double entry accounting system, regardless of source of annual income over $1,000, will be audited by a qualfied auditor as defined in § 556.3(e).

(b) POs using a single entry accounting system with income consisting solely of contributions, donations, dues and assessments may either be audited by a non-office holding member of the PO, or by a qualified auditor. (Section 556.3(e)).

(c) POs using a single entry accounting system engaging in resale activity and/or fundraising activity may either appoint a committee of three non-office holding members of the PO or obtain the services of a qualified auditor to conduct the audit. (§ 556.3(e)).

(d) Type 2 POs with financial statements audited annually by their national headquarters may submit a copy of such unless required by their national headquarters to obtain commercial audit. If Type 2 POs are not audited by their national headquarters, the provisions of paragraphs (a) – (c) of this section prevail.

§ 556.10 Taxes.

POs must comply with all Federal, State and local tax laws and filing requirements. POs must seek private counsel, or contact appropriate tax officials to ensure compliance with all tax laws. POs located overseas will obtain a statement of clarification from the installation office of the Staff Judge Advocate. The following guidance applies:

(a) Federal Income Tax. Certain charitable, religious, educational, scientific, or similar POs may qualify for exemption from Federal income taxation under section 501 of the Internal Revenue Code. For Type 2 POs whose national organization controls taxes for all local chapters, it is necessary only to provide a statement to this effect signed or notarized by the national headquarters. All other POs will obtain a statement of their tax status from their IRS district office.

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(b) Federal income tax withholding for employees, Federal employee taxes, and reports on amounts paid. POs must comply with applicable laws and must obtain guidance from private counsel or the Internal Revenue Service.

(c) State and local sales, income, occupation, and employer taxes. POs compliance with or entitlement to exemption from state and local tax requirement is subject to local law.

§ 556.11 PO compliance with state or local law.

POs engaging in certain activities or operations may require licensing, certification or registration with state or local commissions (e.g. insurance, bingo or raffle activities, etc.). In approving PO permits for operation on DA installations, commanders will consult with the local SJA office to determine whether a PO should correspond with state or local commissions requesting a written statement of the applicability of state or local laws or other requirements to the PO's circumstances. POs are not exempt from state or local law by virtue of their operation on Federal property; however, this regulation does not require licensing, certification or registration of PO activities if not specifically required by state or local authorities. This requirement applies only to the state in which the PO operates on Federal property.

Subpart C—Responsibilities and Procedures

§ 556.12 The Adjutant General (TAG).

TAG:

(a) Exercises HQDA Staff proponency for POs on DA installations,

(b) Establishes DA policies and procedures for the operation of POs on DA installations, and

(c) Makes staff assistance visits to ensure MACOM and installation compliance with established policies.

§ 556.13 Major Army commanders.

Major Army commanders will:

(a) Prescribe policies and procedures to ensure subordinate command compliance with this regulation,

(b) Review installation policy and procedures to monitor POs and take corrective action as necessary during staff assistance visits and inspections.

§ 556.14 Installation commanders.

Installation commanders will:

(a) Ensure compliance by all POs operating on their installations with this regulation,

(b) Establish installation policy in implementing this regulation, to include issues of reimbursement, logistical support, etc.

(c) Determine the conditions under which an official inquiry or investigation of a PO is appropriate, in order to preserve the best interests of the US. When such a determination is made, APF audit or other resources of APF may be used. An official inquiry will not be conducted to satisfy the annual PO audit requirement.

(d) Ensure that participation in POs by DOD personnel is in accordance with AR 1-210, "Participation in Activities of Private Associations."

(e) Prohibit the possession or sale of drug abuse paraphernalia by or in POs as required in AR 190-30.

§ 556.15 General procedures.

The following procedural guidance is applicable to all POs subject to this regulation, except those POs found at §§ 556.16 and 556.17 of this Part.

(a) Operating Permit. POs seeking permission to operate on a DA installation must apply in writing to the installation commander. POs which have not been given prior permission to operate must get initial permission to do so. All POs must have their permission to operate revalidated biennially.

(b) Documentation. Applications for initial permission to operate will consist of a Charter, Articles of Agreement, or Constitution and Bylaws, and any other acceptable documentation that PO membership wishes to submit to set forth the nature, function, objectives (including intended use of funds), and activities of a PO. Type 2 POs are responsible for satisfying the requirements of both their national headquarters and the requirements of this regulation in order to operate on a DA installation. Sample format of a Constitution and Bylaws and format for amendment, are found at Appendices B and C. Application documentation will:

(1) Define membership eligibility, the majority of which will be members of the DOD family,

(2) Designate management responsibilities to include accountability of assets, coverage and limitation of insurance, disposition of remaining assets upon PO dissolution, and any other management functions,

(3) Include a statement as to the liability of the PO in the event that assets are insufficient to discharge all PO liabilities. The statement of liability will meet all state/jurisdictional laws and will address the extent of personal liability of PO members for debts of or claims against the PO. The state laws governing liability of national headquarters of Type 2 POs are considered applicable to all local chapters unless specifically contravened by laws of states in which local chapters are established.

(c) Revalidation. Requests for revalidation of PO operating permits will be submitted in writing to the installation commander 90 days prior to the expiration of the current permit. Application, in letter form, will request continued operation and will include any pertinent changes in PO activities, objectives, organization or Constitution/Bylaws, Articles of Agreement, Charter, etc. Failure to obtain revalidation will automatically terminate the current operating permit 2 years from date of the last approval. Commanders will establish suspense dates for each PO to seek revalidation, and will notify POs of revalidation deadlines.

(d) Installation review. Installation commanders will review all documentation submitted by POs for both initial permission to operate and for revalidation, and will grant or deny approval based on this review. Approval of a request to operate (both initial and revalidation) will allow operation of a PO on the installation for 2 years, at which time revalidation must be obtained. Permission may be revoked at any time during the 2 year period by the installation commander. If written approval for PO operation is granted, the installation commander will include a statement disassociating the DA installation from any liability of the PO. Installation commander's review of PO applications will ensure that:

(1) PO income will not personally profit individual members except through wages and salaries as employees of the PO or through payment for services rendered. PO income will be used to pay operating expenses, to include charitable contributions by the PO or competitive awards to PO members or installation personnel. This does not preclude the installation commander from authorizing an investment club that satisfies the provisions of this regulation.

(e) Reporting Requirements.

(1) POs will supply to the installation commander the following:

(i) Minutes of PO meetings. POs will submit minutes or summaries of PO meetings, if required by the installation commander. At a minimum, POs will notify installation commanders of any change in PO officers or points of contact.

(ii) Financial statements. POs with a gross annual revenue of $1,000 or more will submit annual financial statements to the installation commander unless the installation commander requires more frequent submission. These statements may be submitted as a part of the annual audit. Annually, installation commanders will forward financial statements of POs whose gross annual revenue exceeds $100,000 to their MACOM. MACOM's will forward one copy to HQDA (DAAG-CMF-FM).

(iii) Copy of audit reports.

(iv) Copy of tax determination, if required.

(v) Copy of correspondence pertaining to applicability of state or local laws (§ 556.11).

(2) Installation commanders will keep a current file on each PO which will contain the latest copy of the following:

(i) All reports submitted by each PO as found in paragraph (e)(1) of this section.

(ii) Charter, Constitution and Bylaws, or Articles of Agreement, et al.

(iii) POs request for permission to operate or revalidation and copy of installation commander's letter of approval.

(iv) PO checklist as found in Appendix D (to be completed by the installation commander at least biennnially).

(f) Termination of PO operation on a DA installation. A PO may be discontinued by the membership or by decision of the installation commander, who may withdraw local permission to operate on the DA installation at any time.

§ 556.16 Special procedures.

Certain POs may operate on DA installations as adjuncts or extensions of APF or NAF recreational or educational activities without the necessity of fulfilling the procedural requirements dictated in § 556.15 of this part.

(They remain subject to all other provisions of this regulation). The operation of these POs on the installation is contingent on the approval of the installation commander, who will prescribe local guidance for them. These POs are:

(a) Bowling leagues, national scouting organizations, sports and other special interest groups, when under the administrative supervision of the Morale Support Program Director or subprogram managers.

(b) POs formed and operated in conjunction with installation dependent schools when under the administrative supervision of a member of the school faculty. Examples are: school drama club, yearbook fund, and language club, National Honor Society, Keyettes/Keys, etc.

§ 556.17 Standardized documentation.

The national constitution and standard bylaws, charters, or articles of agreement of the Type 2 affiliated POs listed in Appendix E have been reviewed by HQDA and are recognized as meeting all requirements of this regulation. Affiliated chapters of these organizations may satisfy the requirements of § 556.15(b) in requesting permission to operate on a DA installation by following these procedures:

(a) Local chapters will submit a letter to the installation commander requesting permission to operate on the installation.

(b) The letter will contain the following:

(1) A statement as to the chapter's standing with the national organization.

(2) A statement that the standard chapter bylaws prescribed by the national headquarters have been adopted by the local chapter without change. Any changes to the standard bylaws adopted by the local chapter will require submission of the bylaws for review by the installation commander.

(3) A statement setting forth the intended scope and substance of chapter activities on the installation.

(c) Local chapters must also provide a copy of the national constitution and bylaws, charter or articles of agreement for use by installation commanders in reviewing PO operations consistent with the policies in §556.6. This does not imply any requirement for local review of constitutions and bylaws, etc., as a condition for granting permission to operate.

(d) While completion of procedures in this paragraph satisfy the requirements § 556.15(a) or (b), local chapters are subject to revalidation and reporting requirements found in § 556.15(c) and (e).

Subpart D—Support and Services

§ 556.18 General funding.

POs subject to this regulation will be self-sustaining except for limited logistical support which may be granted by installation commanders in accordance with the logistical support below. Self-sustaining status will be attained through dues, contributions, service charges, fees or special assessment of members. No direct financial assistance to a PO will be made by Federal APF's or NAF's through contributions, dividends, or other donations of money or assets, except for the financial support provided for scouting programs overseas when approved by HQDA as part of annual Major Command Morale Support Fund budgets.

§ 556.19 Resale activities.

POs will not engage in resale activities unless specific authorization from the installation commander is granted for:

(a) Thrift shop sales of used clothing and used merchandise.

(b) Museum shop sales of items related to museum activities and in accordance with AR 870-20.

(c) Occasional sales for fund-raising purposes (e.g., bake sales, dances, cake raffles, and similar infrequent functions). Only those services and merchandise listed in Appendices B and C, AR 60-20 will be offered during such sales within CONUS. All POs will comply with State codes requiring licensing for raffles; PO sponsored raffles will not be permitted in States that prohibit raffles. Exceptions to the prohibition of continuing resale operation may be granted as follows:

(1) Installation commanders may authorize POs to engage in continuing resale operations when sales are restricted to PO members, merchandise sold relates directly to the purpose and function of the PO, and local exchanges and other installation NAFIs indicate in writing an inability to meet the resale requirement, or:

(2) Major commanders may authorize POs to engage in continuing resale operations with sale of merchandise not restricted to PO members and not limited to that directly related to PO purpose and function when the conditions in paragraphs (c)(2) (i)-(iii) of this section are met:

(i) AAFES and other appropriate installation NAFIs indicate in writing an inability to meet the resale requirement.

(ii) Proceeds from sales, other than those required to defray expenses incurred by POs in providing such sales, will be used by the PO solely to support a DA authorized Morale, Welfare and Recreational activity or purpose.

(iii) A copy of MACOM approval for the operation of these POs will be furnished to HQDA (DAAG-CMP-P).

§ 556.20 General personnel.

Appropriated fund (military or civilian) or nonappropriated fund employees will not be assigned to, or work for, POs as an official duty.

§ 556.21 Permissive TDY.

Permissive temporary duty for active duty military personnel may be authorized by installation commanders in support of National Scouting organizations under the provisions of AR 630-5, Chapter II.

§ 556.22 Special events.

Installation commanders may authorize the use of military personnel and APF and NAF civilians in support of special events from which POs may derive incidental benefits under the following conditions:

(a) The commander has approved the conduct of and agreed to host on his/her installation a special event (e.g. fair, bazaar, picnic, etc.) as being of benefit to or enhancing the morale of the installation DOD family. Such events may be sponsored solely by a PO, or co-sponsored by an authorized installation Morale Support Activity (AR 28–1) and a PO.

(b) The special event is open to all members of the installation DOD family without regard to PO membership.

(c) PO sponsored special events will not pre-empt fundraising activities conducted by the installation Morale Support Activity or Installation Club System.

(d) The use of such personnel is limited to the preparation of installation facilities and grounds for the special event.

(e) The use of special duty enlisted military personnel is otherwise authorized by AR 600–200.

§ 556.23 General support.

The amount and type of support authorized for a PO varies according to the authority under which the PO is organized. Type 1 Federally sanctioned POs governed by separate directives (see § 556.3(c) are authorized support as stated therein and as found in other applicable directives. Support not addressed in separate directives, as well as support for other Type 1, and for all Type 2 and 3 POs will be as prescribed below. Under the provisions of AR 37–30, paragraph 2–3, installation commanders may waive or reduce charges to non-profit POs for any of the support elements listed in paragraph 1–7, AR 37–30, when such support requested by a PO is provided on an occasional or non-recurring basis.

§ 556.24 Real estate, facilities and space.

Most POs, due to the nature of their activities, require space only for periods of time necessary to conduct regular organizational meetings, or for other PO sponsored events of an occasional or non-recurring nature. Installation commanders may grant such use of space, facilities or real estate to include utilities, in place equipment, and janitorial supplies used without charge to the PO when such use is incidental to other uses of the facility. Otherwise, PO use of space, facilities or real estate is governed by AR 405–80. Specific provisions of AR 405–80 applicable to POs are:

(a) Paragraph 2–33 authorizes commanders to grant use of available space, facilities and real estate on either a full-time or part-time basis rent free to POs when such use is nonexclusive. Nonexclusive use conveys no rights to the PO and means that the Army may reclaim use of space, facilities and real estate without prior notice to the PO. PO's in CONUS desiring exclusive use of property for a specified time must enter into a lease which provides for the payment of rent to the US Government. Requirements and procedures for rent agreements are provided for in AR 405–80. Rent in overseas areas for exclusive use of space by POs will be determined by overseas commanders in accordance with host country Status of Forces Agreements, Treaties, or the Agreements under which the Army controls such real estate.

(b) Paragraph 2–29 authorizes installation commanders to grant on-post youth group POs (boy/girl scouts, little league groups, etc.) revocable-at-will licenses for one time, intermittent or continuing use of available meeting facilities.

(c) Paragraph 2–38 authorizes major commanders to lend certain real property, including unoccupied barracks, to veterans organizations for use at state or national conventions or for national youth athletic or recreational tournaments which they sponsor.

§ 556.25 Equipment.

POs are responsible to furnish or procure equipment, supplies and other materials at their own expense. Government owned equipment may be temporarily loaned or rented to a PO physically located on a DA installation when such equipment is directly related to the purpose and function of that PO. APFs and NAFs will not be used to restore or repair equipment owned, used temporarily by or loaned to tenant POs unless a request is made to and approved by the installation commander for PO reimbursement for such repairs. Audio-visual hardware and software may be used by POs on an non-interference basis (AR 108–2).

§ 556.26 Transportation.

The use of government motor vehicles for the transportation of PO goods and personnel is authorized for PO sponsored or co-sponsored special events that meet the conditions of § 556.22(a) and (b). Installation commanders will determine whether these transportation services will be provided on a reimbursable or nonreimbursable basis in accordance with AR 58–1, and will ensure that transportation made available to POs will not detriment the installation and command mission. Otherwise, transportation support for POs will be in accordance with AR 58–1 and will not generate requirements for additional military vehicles.

§ 556.27 Utilities.

Installation commanders may grant non-reimbursable utilities support to thrift shops, and child care centers established as an exception to AR 608–1, when they operate in DA facilities on a nonexclusive basis. All other POs will reimburse the installation for utilities except when not required under §§ 556.24 and 556.23.

§ 556.28 Printing and copying services.

Printing for POs may not be accomplished in government printing plants or with APF or NAF. Copying services may be authorized by the installation commander for PO use when:

(a) The PO requests reproduction services (photostat process) to provide documentation as required in this regulation, or

(b) The PO requests reproduction services (photostat process) for special events or functions on military installations which meet the conditions of § 556.22(a) and (b) above. These services include the copying of flyers, posters, programs, etc., the costs of which will not exceed $50 on a per-event basis.

§ 556.29 Postal support.

Private organizations will not use official mail indicia or the Military Postal Service, except as provided in Appendix F. Questions regarding postal support to POs will be directed to HQDA (DAAG–MP), Military Postal Service Agency, Wash. DC 20310.

§ 556.30 Other services.

POs may not use installation auditing, data processing, financial management, legal, purchasing, or other similar support services on a regular basis. Such support must be obtained by POs at their own expense. However, nothing in this paragraph shall be construed as prohibiting the use of expertise on the installation commander's staff in the exercise of command oversight responsibilities for POs, or as requiring that POs reimburse the cost of staff resources expended in the performance of oversight function.

Appendix A.—Classification System for Private Organizations by Type and Subtype.

A–1. Types of Private Organizations.

a. Type 1—Federally Sanctioned.
b. Type 2—Affiliated.
c. Type 3—Independent.

A-2. Subtypes of Private Organizations.
a. Financial Institutions.
b. Community Services, Fraternal/Benevolent.
c. Labor-Management Organizations.
d. Sports, Hobbies, Crafts.
e. Distaff Service Organizations.
f. Youth Groups.
g. Professional, Scientific, and Management.
h. Religious Groups.

A-3. Examples of Private Organizations by Type and Subtype.

a. *Type 1—Federally Sanctioned.*

Subtypes

Financial Institutions

Banks
Credit Unions

Labor—Management

Labor Organizations
Association of Managers and Supervisors

Community Services

USO
Red Cross
United Seamen's Service
Component Relief/Aid Organizations

Youth Groups

b. *Type 2—Affiliated.*

Subtypes

Professional, Scientific, Management

Engineering or Scientific Fraternity(s)
Associations of Active Duty Personnel
Nurses Guilds
Financial Management Associations
Personnel Management Organizations

Sports, Hobbies, Crafts

ABC Bowling Leagues
Affiliated Hobby, Craft Groups
Sports Officials Association

Religious Groups

Alter Guild Society
Guilds
Religious Youth Organizations

Community Services

Veterans Organizations
PTA
Surviving Spouse/Parent Organizations
Ethnic Groups Affiliations
Reserve/Retired Association
Affiliated Community Service Clubs

Youth Organizations

Junior Army Navy Guild Organizations (JANGO)
4-H Clubs
Scouting Organizations
Little League

Distaff

(Only those affiliated)

c. *Type 3—Independent.*

Subtypes

Sports, Hobbies, Crafts

Model Clubs
Stamp, Coin, Other Collectors
Theater and Dance Guilds
Fish and Game Clubs
Golf Leagues
Investment Clubs

Youth Organizations

Contemporary Age Clubs (Teens, etc.)
Youth Sports/Recreation Club

Community Service

Thrift Shops
School Booster Clubs
Local Ethnic Groups
Child Care Center*
Preschool and Kindergarten*
Social Problem Study Groups

Distaff Organizations

Spouses of
Wives Clubs (May include Thrift Shop Operation)
National Origin Clubs

Professional, Scientific, Management

Local, Independant
Unaffiliated Organizations

Religious

Local, Independent
Unaffiliated Organizations

Appendix B.—Sample Format—Constitution and Bylaws[1]

Constitution

(Organization Title)

Article I.—Name and Purpose

Article II.—General Provisions

Include in this section all statements required by this regulation such as the statement of personal liability in event of PO found deficiency, and licensing/registration of activities as required by law (bingo, raffle, insurance resale, etc.). Any documentation such as a license or certification of registration should be attached to the Constitution and Bylaws and noted in this section.

Article III.—Officers and Governing Body

Article IV.—Membership or Patronage

Article V.—Method of Financing

Article VI.—Activities

Article VII.—Meetings and Quorums

Article VIII.—Adoption and Amendments

(Include "subject to final review by the installation commander.")

Article IX.—Dissolution

Include the following paragraph as a separate Section of Article IX.

Section. —

In case of dissolution of the organization, whatever funds are contained in the treasury at the time will be used to satisfy any outstanding debts, liabilities, or obligations. The balance of these assets will be disposed of as determined by the membership.

Sample Bylaws

Article I.—Duties of Officers

Article II.—Election and Voting

Article III.—Dues or Fees

Article IV.—Standing Committees

Article V.—Finances and Taxes

Article VI.—Insurance Coverage

Article VII.—Awards/Gifts

Article VIII.—Hiring and Supervision of Employees

Article IX.—Duties of Employees and Employees' Benefits

Approved by majority vote on ______(date).

______

President.

______

Secretary.

Appendix C.—Sample Format—Constitution and Bylaws Amendment

(Association Title)

Current Date______

Amendment

Constitution/Bylaws (as Applicable)

Article___, Section___, as reads: Is amended to read:

Approved by majority vote on (date).

______

President.

______

Secretary.

Appendix D.—*Private organization checklist*

	Yes	No
1. Have all private organizations on the installation received initial command permission to operate or biennial revalidation to do so within the last 24 months?	____	*____
2. Does each PO and command have a copy of AR 210-1 and all applicable local command supplements and related guidance?	____	*____
3. Do both the command and the PO have in their current files the following documents:	____	*____
a. Charter, constitution, or bylaws?	____	*____
b. PO request for permission to operate and biennial revalidation with all required supporting documents?	____	*____
c. Initial command "permission to operate" letter/indorsement and biennial command revalidation letter/indorsement?	____	*____
d. Copies of minutes of last monthly or quarterly meeting if required?	____	*____
e. Copies of latest financial statements?	____	*____

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*When established as PO as an exception to AR 608-1.

[1] This format is provided as a sample only, and is not intended to require all PO Constitutions and Bylaws to follow this format. POs using Charters, Constitutions and Bylaws or Articles of Agreement with a different format must ensure that all information required by this regulation is submitted to the installation commander, and may provide a separate document with the Constitution and Bylaws that completes all information required by § 556.15(b) of this regulation.

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Appendix D.—*Private organization checklist*—Continued

	Yes	No
f. Copies of last audit?	———	*———
g. List of PO current officers?	———	*———
h. Valid IRS tax status determination?	———	*———
i. Copies of all documents filed by the PO with US Government (e.g., IRS), State, or other political subdivision government as required by applicable laws?	———	———
4 In cases where PO's have been granted exclusive use of Army real estate, has the PO been issued such document under AR 405-80?	———	———
5 Is the Government billing and the PO paying for all US Government support provided the PO on a reimbursable basis under the lease or as otherwise required by law and government regulation?	———	*———
6 Are any US Government military personnel or civilian employees or any nonappropriated fund employees working for or with PO's other than outside the scope of their official duties?	*———	———
7 For those PO's engaged in resale		
a Have the financial statement submission requirements been met by those PO's having gross annual revenues of $100,000 or more?	———	*———
b Have the audit requirements been met? (See Section 556 9)	———	*———
c Have POs engaged in other than "occasional sales" obtained installation/major commander approval?	———	*———
d Have commanders in reviewing PO resale request, documented that:		
(1) No other nonappropriated fund instrumentalities or appropriated fund activity offers the same or similar resale service on the installation?	———	*———
(2) Sales are made only to members?		
(3) Provisions Section 556 19 justify exception to resale restriction?		
8 Do minutes of PO meetings submitted contain any of the following		
a Conduct of programs and activities which may bring discredit to the US Army, DOD, or the US Government?	*———	———
b Conduct of programs and activities which directly or indirectly impose a financial obligation on the Army or any NAFI?	*———	———
c Conduct of programs and activities which duplicate and compete with authorized Army or NAFI activities?	*———	———
9 Do the PO financial statements substantiate the financially self-sustaining requirements of a PO?	———	*———
10 Has the command revoked permission to operate or directed necessary corrective action for PO's violating any of the above or other provisions of AR 210-1?	*———	———

Appendix D.—*Private organization checklist*—Continued

	Yes	No
11. Has the installation established procedures to ensure followup on inspection and audit findings are being followed?	———	*———

*Denotes requirement to explain and state corrective action.

Appendix E.—*Affiliated Type 2 Private Organizations whose National Constitution and By-laws, Articles of Agreement, or Charters have been Reviewed by HQDA and Found Compatable with AR 210-1**

Name of organization	Address of national headquarters	Federal tax exempt
Association of the United States Army (AUSA)	2425 Wilson Blvd., Arlington, VA 22201.	Yes
Non Commissioned Officers Association (NCOA)	International HQ Complex, PO Box 33810, San Antonio TX, 78233.	Yes
United States Army Warrant Officers Association	PO Box 3765, Washington DC 20007.	Yes

*This not a complete list and does not imply official DA sanction, endorsement or sponsorship of these POs. National HQ's of other type 2 POs may submit the National Constitutions and Bylaws, etc., for review and possible inclusion in this list by sending a complete copy to: HQDA, DAAG-CMP-P, Washington, DC 20310.

Appendix F.—*Military Postal Service/Official Mail Usage by Private Organizations on DA Installations*

	Official mail indicia	MPS
I Type 1.—Federally Sanctioned:		
a Banks	No[1]	Yes[2]
b Credit Unions	No	Yes[2]
c. Labor Organizations	No	Yes[3]
d. Association of Managers and Supervisors	No	Yes[3]
e USO	No	Yes[4]
f Red Cross	No	Yes[4]
g. United Seamen's Service	No	Yes[3]
h. Component Relief/Aid Organizations	Yes[5]	Yes
i Civil Air Patrols	Yes[6]	N/A
j. Youth Organizations	No	Yes
k. Other Type 1	No	Yes[3]
II. Type 2—Affiliated: All Type 2 POs	No	Yes[3]
III. Type 3—Independent: All Type 3 POs	No	Yes[3]

NOTES

[1] Only when using Postage and Fees Paid Indicia of the oversea US Army Central finance and Accounting Officer for currency shipments within the oversea theater and to CONUS

[2] Use of MPS is authorized outside the CONUS only where there is no USPS and shall be limited to those transactions emanating from *official* operations for the benefit of the military installations and their personnel. All such mail entered into the MPS shall bear appropriate postage (DODD 4525.5).

[3] Authorized MPS privileges outside the CONUS only where there is no USPS, to the extent that existing MPS facilities and personnel of the command permit, provided the major overseas commander determines, and the appropriate Military Department concurs, that local civil postal service is inadequate and in the absence of objection by the host government (DODD 4525.5).

[4] Authorized the use of MPS outside the CONUS only where there is no USPS (DODD 4525.5).

[5] When US Army organization is acting on behalf of these organizations.

[6] Per HQ USAF (AF/DAAC(S)), use of USAF indicia authorized.

[FR Doc. 81-1199 Filed 1-14-81; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 111

Centralized Mail Delivery Receptacles

AGENCY: Postal Service.

ACTION: Proposed rule; extension of time for comment.

SUMMARY: This notice extends the time for filing comments on a proposal to modify postal regulations so as to authorize the procurement, installation, maintenance, and replacement of neighborhood delivery and collection boxes and parcel lockers by the Postal Service, when the Postal Service determines that its provision of central delivery receptacles will improve the efficiency of carrier delivery service.

DATE: Comments must be received on or before January 31, 1981.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun, (202) 245-4620.

SUPPLEMENTARY INFORMATION: On December 23, 1980, a document was published in the Federal Register (45 FR 84826) proposing to remove restrictions in the Domestic Mail Manual against the purchase of neighborhood delivery and collection boxes and parcel lockers by the Postal Service for the purpose of improving the efficiency of postal carrier operations. On December 24, 1980, interested parties known to the Postal Service were specifically notified of the proposal by a letter which provided a copy of the proposal. The proposal provided 30 days for submitting written comments, ending on January 21, 1981.

It has been brought to the attention of the Postal Service, however, that due to the holiday season, some of the interested parties either were not at the address to which the notice letters were directed, or were otherwise unable to receive their notice letters, and accordingly they did not receive actual notice of the proposal until as much as a week or so after it was published. Although no one has shown that he or she would be unable to submit timely and effective written comments on or before the original January 21 deadline, the unanticipated holiday delays clearly have deprived certain parties of part of the 30-day period that the Postal Service intended to allow, and the Postal Service wants everyone seeking to submit comments to have an adequate amount of time in which to prepare his or her comments without inconvenience.

Accordingly, the Postal Service has decided to extend the comment period for an additional ten days.

(39 U.S.C. 401(2); 403(a), (b); 404(a)(1))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 81–1380 Filed 1–14–81; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 1726-6]

State of Washington; Air Quality Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to describe proposed approval action on information submitted by the State of Washington to satisfy EPA's conditions of approval on portions of the State's implementation plan revision which was submitted on April 29, 1979 to satisfy Part D. (Plan Requirements for Nonattainment Areas) of the Clean Air Act as amended in 1977 (hereafter referred to as the Act) (42 U.S.C. 1857 et seq.) This is the initial step toward full approval of the SIP, without conditions. Public comment is sought on EPA's proposed actions.

DATE: Comments must be received on or before February 17, 1981.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A–80–9), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224–Sixth Ave. SE., Lacey, Washington 98503

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442–1226, (FTS) 399–1226

SUPPLEMENTARY INFORMATION:

I. Background

On June 5, 1980 (45 FR 37821) EPA published final action on the Washington State Implementation Plan (SIP) by approving some portions, conditionally approving other portions, and taking no action on still other portions. As part of that action EPA described the conditional approval mechanism and its effect on the rulemaking action (45 FR 37834). The action today proposes to approve the materials submitted as satisfying the conditions thus granting full approval to the Washington Part D SIP.

In regard to those portions which were conditionally approved, the State was required to submit material by July 31, 1980 to satisfy the conditions. In addition, as a result of a separate action on July 31, 1980 (45 FR 50749) material was to be submitted by November 1, 1980 to satisfy other conditions of approval with respect to State regulations governing pulp mills and primary aluminum plants.

After a public hearing on July 15, 1980, the State submitted a package of material designed to satisfy the conditions. On August 18, 1980 (45 FR 54772) EPA announced receipt of the material pertaining to the conditions published in the June 5, 1980 action and accepted comments on the information until September 17, 1980. No advanced receipt was published for the remaining material pertaining to pulp mills and primary aluminum plants. However, public comment is now being sought for EPA's proposed action to approve all material submitted, including proposed regulations, to satisfy the conditions of approval published on June 5 and July 31, 1980.

II. Analysis of Submitted Material and Proposed EPA Action

The analysis of the material is patterned after the June 5, and July 31, 1980 Federal Register actions. Each condition will be stated in order as it appeared in the Federal Register followed by a brief description of the material submitted to correct the deficiency and EPA's proposed action.

June 5, 1980 (45 FR 37821)

A. WAC 173–400

1. *Condition*—the elimination of the provision to exempt sources with approved variances from new source review (NSR).

Correction—the provision was eliminated from the regulation.

EPA Proposed Action—approve, condition is satisfied.

2. *Condition*—The correction of the definition of "source" to comply with Section 302(j) of the Act.

Correction—The definition was changed to include sources with potential emissions exceeding one hundred tons per year of any contaminant regulated by State or Federal law.

EPA Proposed Action—approve, condition is satisfied.

3. *Condition*—The addition of provisions to satisfy Section 173(3) of the Act—multiple sources under single ownership and procedures to implement and enforce the requirements of Section 173(1)—offsets.

Correction—provisions to satisfy Section 173(3) of the Federal Clean Air Act were added in WAC 173–400–110 satisfying that part of the condition. Procedures to implement and enforce the offset requirements of Section 173(1) of the Act are described in Section IV–C of the SIP which describes the NSR program. The NSR program includes provisions requiring maintenance of reasonable further progress (RFP), lowest achievable emission rate (LAER), and demonstrated compliance of other sources owned by the applicant. In addition, the approval of the Notice of Construction under 173–400–110 will be issued by a Department of Ecology Regulatory Order which will contain applicable emission limitations, requirements that offsets be enforceable at the time of approval and requirements that offsets be in place prior to commencing operation.

Furthermore, these requirements will become part of the regulatory program in 173–400. In addition, language will be added to WAC 173–400–110 referencing general procedures for determining offsets similar to those in Appendix S Parts IV.C., IV.D. and V (draft submitted).

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

4. *Condition*—clarification will be made for the application of (1) the oxygen correction factor to non-combustion gas streams and (2) different emission standards to gas streams combined in a single stack.

Correction—no clarification of the application of the oxygen correction factor was made. After further discussion with the State, it was decided that the oxygen correction factor provision was adequate as presently written.

The regulation was corrected to define the application of emission standards to separate emissions streams combined in a single stack. It now requires the stack to meet the most stringent emission standard of the streams entering the stack.

EPA Proposed Action—approve, condition is satisfied.

5. *Condition*—the correction of provisions for portable sources which assure that Part D requirements will be met.

Correction—WAC 173–400–110(10) was modified to refer to portable sources locating temporarily. This Section was further clarified to *not* apply to major sources wishing to establish operations in nonattainment areas. Those particular major sources must meet all applicable requirements of WAC 173–400–110(NSR).

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

6. *Condition*—the identification of source test methods as part of the SIP.

Correction—the regulations require that compliance be demonstrated using DOE's Source Test Manual. Certain source test procedures for volatile organic compound (VOC) sources are currently in the test manual on an interim basis. All necessary test methods for Set I VOC sources will be incorporated by July 1, 1981.

EPA Proposed Action—approve, intent of condition is satisfied with commitment to incorporate test methods by July 1, 1981.

B. WAC 173–490

1. *Condition*—an inventory of cold cleaning degreasers will be completed and a regulation adopted by October 1, 1980, providing for control within 5 percent (5%) of the presumptive norm level or a justification that a different level represents reasonably available control technology (RACT).

Correction—the regulation adopted on July 28, 1980 contains provisions which are consistent with the CTG.

EPA Proposed Action—approve, condition is satisfied.

2. *Condition*—the level of control for petroleum refineries will be shown to be within five percent (5%) of the presumptive norm level or the regulation will be revised, or the State will demonstrate that this level represents RACT.

Correction—the condition was based upon the existence of four refineries. One has shut down and another has changed its operation to the extent that it is no longer considered a refinery. The two remaining are subject to the regulation. Control of total emissions, even with the exemption of control of emissions from waste water separators, was demonstrated to be within 5% of the CTG level of control.

EPA Proposed Action—approve, condition is satisfied.

3. *Condition*—the bulk gasoline storage provision will be revised to include unloading of transport tanks.

Correction—the language of the regulation was revised to include unloading of transport tanks.

EPA Proposed Action—approve, condition is satisfied.

4. *Condition*—the level of control for gasoline dispensing facilities will be shown to be within five percent of the presumptive norm level or the regulation will be revised to reflect the EPA recommended levels, or the State will demonstrate that this level represents RACT.

Correction—information was submitted indicating that the level is within five percent of the presumptive norm.

EPA Proposed Action—approve, condition is satisfied.

5. *Condition*—the level of control for surface coating operations will include emissions from flashoff areas and will be shown to be within five percent of the presumptive norm level or the regulation will be revised or the State will demonstrate that this level represents RACT.

Correction—the regulation was revised to include flashoff areas. However, the exemption of 100 ton per year sources was not justified in terms of the presumptive norm level or RACT. The State is revising the regulation (draft submitted) to reduce the cut off to 6.9 tons per year (18Kg/day). Controlled emissions will then be within five percent of the presumptive norm.

It should be noted that a local regulation equivalent to the proposed State regulation is already in effect in the Seattle-Tacoma ozone (O_3) nonattainment area and will be enforced by the local agency. Only the Vancouver O_3 area will be without the new regulation until December 1980, and only one source will be affected.

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

6. *Condition*—the requirements for open top vapors degreasers will be made consistent with CTG recommendations for those facilities which have less than one square meter of air-vapor interface and those with a freeboard ratio greater than 0.75. Provisions covering waste solvent disposal will also be added.

Correction—the regulation was revised as described above.

EPA Proposed Action—approve, condition is satisfied.

7. *Condition*—the requirements for conveyorized degreasers with greater than a two square meter air-vapor interface will be made consistent with the CTG recommendations. Also, provisions for waste solvent disposal will be added.

Correction—the regulation was revised as described above.

EPA Proposed Action—approve, condition is satisfied.

8. *Condition*—information relating the time period during which the average high temperature exceeds 50° F will be provided along with methodolgy for determining compliance with the 50° F temperature exemption.

Correction—information was submitted to verify the "ozone season." It consisted of the four previous years of ozone violations which clearly indicate that ozone violations occurred only during the time period chosen, and always at 8 a.m. temperatures above 50°. The method for determining a violation of the 50° F exemption is now described in the SIP. It will require the source (contractor) to demonstrate that the 8 a.m. temperature was less than 50° F.

EPA Proposed Action—approve, condition is satisfied.

9. *Condition*—the section requiring schedules for control for VOC sources will be revised to require negotiation of schedules for existing sources on a case-by-case basis, instead of by category. These schedules will then be submitted as SIP revisions within six (6) months of final EPA acceptance of the regulations.

Correction—the regulation was revised to apply the above described compliance schedule negotiation to petroleum refineries only. This is acceptable since the schedule for that source category was the most difficult to define in advance. The compliance schedules for the other source categories remain as adopted earlier.

EPA Proposed Action—approve, condition is satisfied.

C. WAC 173–425—No Burn Areas

Condition—the State submits by July 31, 1980 the boundary descriptions of the two no burn areas in the State.

Correction—the boundary descriptions were submitted.

EPA Proposed Action—approve, condition is satisfied.

D. Control Strategy: Ozone (O_3)

1. Seattle-Tacoma. a. *Condition*—the Plan provides for implementation of reasonably available control technology on existing sources of volatile organic compounds.

Correction—the VOC regulations were corrected, except for emissions from surface coaters. See discussion in B.5. of this summary covering the June 5, 1980 rulemaking.

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

b. *Condition*—regulation WAC 173–400 (NSR) be revised so it is consistent with Section 173 of the Act.

Correction—the regulation was corrected to comply with Section 173 of the Act.

EPA Proposed Action—approve, condition is satisfied in terms of the corrections described in A.2., A.3., and A.5. of this summary covering the June 5, 1980 rulemaking.

c. *Condition*—the O_3 analysis is redone using more sophisticated modeling and the results applied to the O_3 strategy.

Correction—after further discussion with the State and local agency, it was agreed that the "city specific EKMA" air quality model would require much larger reductions than the simple rollback model and an extension of the attainment date would be necessary. EPA granted that extension on June 5, 1980 as part of the final rulemaking. At this point all reasonable measures are being taken to reduce the VOC emissions, including implementing inspection and maintenance (I/M), VOC regulations and other transportation control measures.

EPA Proposed Action—since an acceptable O_3 strategy is being implemented without the O_3 analysis, EPA considers the satisfaction of this condition unnecessary for final approval, in terms of application of a construction moratorium. The State has agreed to complete the O_3 re-analysis as part of the 1982 SIP.

d. *Condition*—Section 172(b)(11(A) program is provided.

Correction—the State has added language to the narrative portion of the SIP (Section IV–C) which includes a requirement for an "analysis of alternative sites available to the applicant, process, control equipment, etc." Additionally, the State is adding regulatory provisions to WAC 173–400–110 for new source review.

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on final adoption of regulations equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

2. Vancouver. a. *Condition*—the plan provides for implementation of RACT on existing VOC sources.

Correction—the VOC regulations were partially corrected. The deficiency remaining involves surface coaters emitting less than 100 tons per year. The State regulation will be revised by December 1980 to lower the size cut-off for exempted sources to 6.9 tons per year. (TPY).

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

b. *Condition*—regulation WAC 173–400 (NSR) be revised so it is consistent with Section 173 of the Act.

Correction—the regulation was corrected to comply with Section 173 of the Act.

EPA Proposed Action—approve, condition is satisfied in terms of the corrections described in A.2., A.3., and A.5. of this summary covering the June 5, 1980 rulemaking.

c. *Condition*—that a 1977 VOC emission inventory is completed with projections for 1982 and 1987.

Correction—the necessary emission inventory information for 1987 was submitted. The 1982 emission estimates were not necessary since the Vancouver-Portland O_3 nonattainment area attainment date has been extended beyond 1982.

EPA Proposed Action—approve, condition is satisified.

d. *Condition*—that a clear definition of transportation control plan (TCP) development roles in terms of both stationary and mobile source responsibilities is included.

Correction—Appendix O delineates the TCP development roles.

EPA Proposed Action—approve, condition is satisfied.

e. *Condition*—that a schedule for the comprehensive analysis of alternatives is included.

Correction—Appendix O includes a schedule for analyzing transportation control measures (TCM).

EPA Proposed Action—approve, condition is satisfied.

f. *Condition*—that the resources necessary to carry out the plan are described.

Correction—Appendix O contains a detailed description of the resources necessary for carrying out the plan.

EPA Proposed Action—approve, condition is satisfied.

g. *Condition*—that evidence of adequate public and elected official participation in the plan development is evident.

Correction—Appendix O describes an adequate public participation program.

EPA Proposed Action—approve, condition is satisfied.

h. *Condition*—that provisions for progress reporting are included.

Correction—Appendix O describes adequate reporting procedures as part of the SIP revision work plan.

EPA Proposed Action—approve, condition is satisfied.

i. *Condition*—a commitment to fund projects for the purpose of expanding and improving public transit is made.

Correction—Appendix O describes a 5-year budget including grant requests from Urban Mass Transportation Administration (UMTA) to fund increased transit programs.

EPA Proposed Action—approve, condition is satisfied.

j. *Condition*—that a Section 172(b)(11)(A) program is provided.

Correction—provisions for requiring an analysis of alternative sites, processes, etc. are contained in Part IV–C of the SIP, and will be added to the WAC 173–400–110 new source review procedure.

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

E. Control Strategy: Carbon Monoxide (CO)

1. Seattle-Tacoma. a. *Condition*—Section 172(b)(11)(A) program is provided for.

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Correction—provisions for requiring an analysis of alternative sites, processes, etc. are contained in Part IV-C of the SIP and will be added to the WAC 173-400-110 new source review procedure.

EPA Proposed Action—the corrections were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections.

F. Control Strategy: Total Suspended Particulate (TSP)

1. Seattle (North Duwamish), Tacoma and Spokane. a. *Condition*—revision of the area specific strategies to be internally consistent with the general statewide strategy.

Correction—the strategies were not made consistent.

EPA Proposed Action—satisfaction of this condition is considered by EPA to be unnecessary for final approval, since a new strategy will be developed in accordance with the schedule outlined in Condition b. below.

b. *Condition*—commitment by July 31, 1980 to submit a plan for determining the nature and extent of the TSP problem, developing a control strategy, obtaining legal commitments for its implementation and completing the implementation by December 31, 1982.

Correction—the State has committed to a detailed schedule which is designed to lead to attainment by December 31, 1982.

EPA Proposed Action—approve, condition is satisfied.

2. Vancouver a. *Condition*—revising the emission inventory and reasonable further progress analysis to demonstrate source emission reductions and general area wide growth

Correction—no revisions to the emission inventory/reasonable further progress (RFP) analysis were submitted. However, it appears that the original analysis was correct and is conservative in terms of the impact of the single major source on the monitor. All enforcement orders for emissions control at the source have been submitted as part of the SIP.

EPA Proposed Action—delete, based on later analysis

b. *Condition*—submitting an air quality analysis demonstrating attainment in conjunction with the updated emission inventory.

Correction—upon further discussion and review, it has been determined that the original analysis was correct.

EPA Proposed Action—approve, condition is satisfied.

3. Clarkston. a. *Condition*—re-evaluation of the control strategy and modification, if necessary, based on the results of the joint Idaho Department of Health and Welfare/City of Lewiston TSP study currently in progress.

Correction—information submitted commits the State to define the TSP problem, and develop and obtain legal commitments, which will lead to attainment of the standard by December, 1982. In addition, the joint Idaho DHW/City of Lewiston TSP study was not completed in time to use in developing a control strategy by July 31, 1980.

EPA Proposed Action—in light of this new approach, EPA considers the condition satisfied and the SIP approvable for this nonattainment area.

July 31, 1980 (45 FR 50749)

A. WAC 173-405—Kraft Pulp Mills

1. *Condition*—the revision of recovery furnace and lime kiln emission standards to apply to individual emission points.

Correction—the State revised the regulations to provide for emission standards that apply to each emission point.

EPA Proposed Action—approve, condition is satisfied.

2. *Condition*—the specification of an oxygen correction factor when determining compliance with emission standards.

Correction—the regulation has been revised to include an eight percent oxygen correction.

EPA Proposed Action—approve, condition is satisfied.

3. *Condition*—the addition of procedures by which case-by-case offset can be determined.

Correction—The State has drafted procedures consistent with those in the EPA Offset interpretive ruling to be used to determine case-by-case offsets.

EPA Proposed Action—corrections to WAC 173-400-110 were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections. The procedures will be used as part of the review under WAC 173-405 as described in Part IV-C of the SIP.

4. *Condition*—the addition of procedures by which compliance with each emission limitation can be determined.

Correction—the State submitted source test procedures which apply to these emission limitations.

EPA Proposed Action—approve, condition is satisfied.

B. WAC 173-410—Sulfite Pulp Mills

1. *Condition*—that revisions to emission standards in WAC 173-410-036(8) and 041 for specific sources and their accompanying Regulatory Orders be submitted as SIP revisions.

Correction—no correction is necessary. This should not have been a condition of approval. More appropriately, it should be a clarification of the SIP revision procedure with respect to a control strategy revision. The State is aware of this requirement and understands that if these new emission standards are not made a part of the SIP, the EPA will enforce the old standards.

EPA Proposed Action—delete, condition unnecessary.

2. *Condition*—the addition of procedures by which case-by-case offsets can be determined.

Correction—the State has drafted procedures consistent with those in the EPA Offset Interpretive Ruling to be used to determine case-by-case offsets.

EPA Proposed Action—corrections to WAC 173-400-110 were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections. The same procedures will be used as part of the review under WAC 173-410 as described in Part IV-C of the SIP.

3. *Condition*—the addition of procedures by which compliance with each emission limitation can be determined.

Correction—the State submitted source test procedures which apply to these emission limitations.

EPA Proposed Action—approve, condition is satisfied.

C. WAC 173-415—Primary Aluminium Plants

1. *Condition*—that revisions to emission standards in WAC 18-52-031(2) and 041 for specific sources and their accompanying Regulatory Orders be submitted as SIP revisions.

Correction—No correction is necessary. This should not have been a condition of approval. More appropriately, it should be a clarification of the SIP revision procedure with respect to a control strategy revision. The State is aware of this requirement and understands that if these new emission standards are not made a part of the SIP, EPA will enforce the old standards.

EPA Proposed Action—delete, condition is unnecessary.

2. *Condition*—the addition of procedures by which case-by-case offsets can be determined.

Correction—the State has drafted procedures consistent with those in the EPA Offset Interpretive Ruling to be used to determine case-by-case offsets.

EPA Proposed Action—the corrections to WAC 173-400-110 were submitted to EPA as draft regulations. Based on a final adoption of a regulation equivalent to those submitted as draft and submission to EPA prior to the close of the comment period on this proposed rulemaking, EPA proposes to approve these corrections. The procedures will be used as part of the review under WAC 173-415 as described in Part IV-C of the SIP.

3. *Condition*—the addition of procedures by which compliance with each emission limitation can be determined.

Correction—the State submitted source test procedures which apply to these emission limitations.

EPA Proposed Action—approve, condition is satisfied.

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) The public has had adequate notice of the guidelines for preparation of State Implementation Plans (SIP) and has had several opportunities to comment on those guidelines, (2) the **Federal Register** notice of receipt and request for public comments was published on August 18, 1980 (45 FR 54772) and (3) the impact of this rulemaking is limited only to the State of Washington. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of various Washington SIP revisions.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements. Moreover, due to the nature of the Federal-State relationship, Federal inquiry into the economic reasonable of the State actions would serve no practical purpose and could well be improper.

Interested parties are invited to comment on all aspects of this proposed approval of the Washington SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by February 17, 1981 will be considered in any final action EPA takes on this proposal.

(Sec. 110, 172, Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: January 7, 1981.

Donald Dubois,

Regional Administrator.

[FR Doc. 81-1404 Filed 1-14-81; 8:45 am]

BILLING CODE 6560-36-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 108

[CGD 79-160]

Lifesaving Equipment; Line-Throwing Appliances, Required Equipment on Merchant Vessels; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects three errors in a proposed rule published in the **Federal Register** on December 11, 1980, at 45 FR 81616 relating to line-throwing appliances.

DATES: Comments on the proposed rule must be submitted on or before March 11, 1981.

FOR FURTHER INFORMATION CONTACT: LTJG Kevin C. Olds, Office of Merchant Marine Safety (G-MVI-2/24), U.S. Coast Guard Headquarters, Room 2812, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2190. Normal office hours are 7:00 a.m. to 5:00 p.m., Monday through Thursday.

SUPPLEMENTARY INFORMATION: Drafting information—the principal persons involved in drafting this document are LTJG Kevin Olds, Project Manager, Office of Merchant Marine Safety, and LCDR Jack Orchard, Office of the Chief Counsel.

A proposed rule was published on December 11, 1980, at 45 FR 81616, which amended the requirements and format of the line-throwing appliance regulations.

In the proposed § 108.517(b), the word "may" appeared when the word "shall" was intended. The effect of this error was to provide an option rather than the mandatory requirement which was intended. Additionally, the phrase "on an international voyage" was substituted for "in international service" in §§ 108.517(a) and (b). "International Service" is defined in § 107.111 and has a special application to all of Subchapter I-A—Mobile Offshore Drilling Units, which includes § 108.517.

Accordingly, the top of column 2 of the notice of proposed rulemaking located at 45 FR 81618 is corrected to read as follows:

§ 108.517 [Corrected]

1. By correcting the first line of § 108.517(a) to read as follows: (a) Each unit in international service shall carry on impulse-projected rocket type line-throwing appliance that is approved under Subpart 160.040, and auxiliary equipment which is listed in § 160.040-4 * * *

* * * * *

§ 108.517 [Corrected]

2. By correcting the first line of § 108.517(b) to read as follows:

* * * * *

(b) Each unit in other than international service shall carry:

* * * * *

(46 U.S.C. 481 (as amended); 49 CFR 1.46(n)(4))

Dated: January 12, 1981.

Clyde T. Lusk, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Official Merchant Marine Safety.

[FR Doc. 80-1518 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket 21313; RM-2646; RM-2717; RM-3038; RM-3039; RM-3040]

AM Stereophonic Broadcasting; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply coments in Docket 21313, AM Stereophonic Broadcasting, in response to a request by Harris Corporation ("Harris"). Harris asks that the comment date be extended in order to allow sufficient time for field tests necessary to comment in the proceeding.

DATES: Comments must be filed on or before February 9, 1981, and reply comments must be filed on or before March 9, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, broadcast Bureau, (202) 653–7586.

SUPPLEMENTARY INFORMATION:

Order extending time for filing comments and reply comments.

Adopted: December 31, 1980.

Released: January 9, 1981.

By the Chief, Policy and Rules Division.

In the matter of AM Stereophonic Broadcasting.

1. On July 31, 1980, the Commission adopted a *Further Notice of Proposed Rule Making* in the above-captioned proceeding, 45 FR 59350, published September 9, 1980. The dates for filing comments and reply comments were December 9, 1980, and January 8, 1981, respectively.

2. On December 2, 1980, in response to requests by Motorola, Inc. ("Motorola") and Magnavox Consumer Electronics Company ("Magnavox"), the Commission extended the time for filing comments and reply comments to January 9, 1981, and February 13, 1981, respectively (BC–04496, released December 8, 1980). Both Motorola and Magnavox stated that additional time was necessary in order to complete testing procedures. Motorola observed that it was undertaking its own testing following the unsuccessful attempt by the National Association of Broadcasters ("NAB") to foster joint testing by all system proponents.

3. Presently before the Commission is a request for an additional extension of time filed by Harris Corporation ("Harris") on December 19, 1980. Harris states that it was not until approximately December 1, 1980, that it finally became clear that no joint testing would occur. Shortly thereafter, Harris arranged with WGEM, Quincy, Illinois, to conduct tests in order to respond to issues raised in the *Further Notice.*[1] Harris states that it deferred independent testing because it believed that the joint testing proposed by NBA would provide the Commission with more comparable, more useful data, and that its subsequent arrangement to conduct directional antenna and coverage area tests at WGEM, commencing on or about December 30, 1980, was the most expeditious arrangement it was able to make. Harris requests that the time for the filing of comment be extended one month, until February 9, 1981, allowing it approximately three weeks for testing and two and one-half weeks for data analysis and comment preparation.[2]

4. In our grant of the previous extension, we observed that system proponents might well have initiated individual testing without regard to the pending NAB joint testing proposal, thus eliminating the need for extension of comment dates. We believe, however, that the public interest would be served by allowing sufficient time for Harris to conduct its proposed testing, and, accordingly, will grant its request. On its own motion, the Commission will extend the date for the filing of reply comments to March 9, 1981. It is the Commission's intention to conclude this proceeding as promptly as possible following the receipt of all comments and reply comment. Further extensions of time for the filing of comments and reply comments are not contemplated.

5. Accordingly, IT IS ORDERED, That the request for extension of time for filing comments in this proceeding IS GRANTED, and the date for filing comments IS EXTENDED to and including February 9, 1981.

6. IT IS FURTHER ORDERED, That the date for filing reply comments IS EXTENDED to and including March 9, 1981.

7. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-1462 Filed 1-14-81; 8:45 am]

BILLING CODE 6712-01-M

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[1] The Commission granted WGEM special testing authority on December 22, 1980.

[2] In response to the Harris request, Hazeltine Corporation ("Hazeltine") asks that the Commission first act on its pending Application for Review of the previous Order extending the comment period. At that time, Hazeltine made the "alternative proposal" that the Commission should consider comments on and decide the "marketplace issue" first, and consider additional data and comments regarding the technical "matrix" analysis only if the marketplace approach was unsatisfactory. Hazeltine's proposal was denied. The time for comment on Hazeltine's Application for Review has only recently concluded. While the Commission intends to act promptly upon the Application, we do not believe that the public interest would be served by delaying action on the Harris request.

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47 CFR Part 73

[BC Docket No. 80-520; RM-3358]

FM Broadcast Stations in Aguada, Arecibo, Cidra, Lajas, Manati, Mayaguez, Quebradillas, and Utuado, Puerto Rico; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: This action extends the date for filing reply comments in this proceeding in response to a request from petitioners, Aurio Matos, et al. This proceeding involves various changes in the FM Table of Assignments for Puerto Rico.

DATES: The date for filing reply comments is extended to January 12, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for filing reply comments.

Adopted: January 6, 1981.

Released: January 9, 1981.

In the Matter of amendment of § 73.202(b) Table of Assignments FM broadcast stations (Aguada, Arecibo, Cidra, Lajas, Manati, Mayaguez, Quebradillas and Utuado, Puerto Rico).

1. On August 15, 1980, the Commission adopted a *Notice of Proposed Rule Making,* 45 FR 58624, published September 4, 1980, concerning changes in the FM Table of Assignments for various cities in Puerto Rico. The present deadline for filing reply comments is January 5, 1981.[1]

2. Counsel for petitioners Aurio Matos, et al. have requested by a "Motion for Extension of Time," dated December 23, 1980, a one-week extension to allow for delays in communicating back and forth to Puerto Rico during the holiday season. Other interested parties by their Counsel have indicated their consent to this motion, according to petitioners.

3. We believe that it would be appropriate to extend the deadline for reply comments in this proceeding to permit petitioners to submit information which would be helpful to us in resolving the issues in this case.

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[1] The date in the *Notice of Proposed Rule Making* was inadvertently listed as Saturday, January 3, 1981.

4. Accordingly, IT IS ORDERED, That the date for filing reply comments IS EXTENDED to and including January 12, 1981.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-1483 Filed 1-14-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-157; RM-3363]

TV Broadcast Station in Santa Barbara, California; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: This action extends time for filing comments and reply comments in a proceeding which involves a proposal to assign VHF TV Channel *10 to Santa Barbara, California.

DATES: Comments must be filed on or before December 29, 1980, and reply comments must be filed on or before April 6, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments and Reply Comments

Adopted: January 6, 1981.

Released: January 9, 1981.

By the Chief, Policy and Rules Division.

In the Matter of amendment of § 73.606(b) Table of Assignments TV broadcast stations (Santa Barbara, California).

1. On April 11, 1981, the Commission adopted a *Notice of Proposed Rule Making*, 45 FR 28770, concerning a proposal to assign VHF TV Channel *10 to Santa Barbara, California. After previous extensions, the pleading deadlines were December 15, 1981, and January 5, 1981, for comments and reply comments respectively.

2. McGraw-Hill Broadcasting Co. has submitted a request for further extension of time for filing comments to December 29, 1980, to permit completion and submission of an extensive study of the propagation of television signals along the Southern California coast.

3. As we have previously indicated, the Commission and the Institute for Telecommunication Sciences (ITS) have also undertaken a study of the Southern California propagation characteristics. That study is scheduled for completion (insofar as it pertains to this proceeding) in the latter portion of 1981. Thus, an extension of the comment date would not delay resolution of this proceeding.

4. In addition, the reply comment deadline of January 5, 1981 needs to be extended to permit sufficient time to evaluate the extensive comments that we are advised are to be submitted on December 29, 1980. Since we do not intend to take final action in this proceeding until the ITS study can be evaluated in the context of this case, we shall extend the reply comment deadline for a period of 90 days.

5. Accordingly, IT IS ORDERED, That the date for filing comments and reply comments ARE EXTENDED to and including December 29, 1980 and April 6, 1981, respectively.

6. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-1484 Filed 1-14-81; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 46, No. 10
Thursday, January 15, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plan; Caribbean National Forest, Puerto Rico; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on the Land and Resource Management Plan for the Caribbean National Forest, Commonwealth of Puerto Rico.

The Land and Resource Management Plan is being prepared in accordance with the requirements of the Secretary's regulations promulgated pursuant to the National Forest Management Act of 1976. The resulting plan will provide for the multiple-use and sustained yield of goods and services from the Caribbean National Forest.

The planning process will integrate all resource planning—timber, lands, fish and wildlife, soil and water, wilderness, and recreation—together with resource protection and resource use activities. The process will be issue-oriented, i.e., public issues, management concerns, and development opportunities will be analyzed continually throughout the process.

A reasonable range of alternatives will be formulated by an interdisciplinary team to provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during this planning process.

Alternatives will reflect a range of resource output and expenditure levels. In formulating these alternatives, the following criteria will be met:

(1) Each alternative will be capable of being achieved;

(2) A non-action alternative will be formulated, that is the most likely condition expected to exist in the future if current management direction would continue unchanged;

(3) Each alternative will provide for orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple-use objectives of that alternative.

(4) Each identified major public issue and management concern will be addressed in one or more alternatives; and

(5) Each alternative will represent to the extent practicable the most cost efficient combination of management practices examined that can be meet the objectives established in the alternative.

Each alternative will state at least:

(a) The condition and uses that will result from long-term application;

(b) The goods and services to be produced, and the timing and flow of these outputs;

(c) Resource management standards and guidelines; and

(d) The purposes of the management direction proposed.

As an early step in the planning process, Federal, Commonwealth, and local agencies, organizations, and individuals who may be interested in, or be affected by the decision will be invited to participate in a scoping process which includes; (a) identification of those issues to be addressed;

(b) Identification of those issues to be analyzed in depth; and

(c) elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review. To accomplish this scoping effort, the Caribbean National Forest will send out information packets in February, 1981. The packets will be sent to and comments solicited from Federal, Commonwealth, and local agencies, organizations, and individuals who may be interested or have expressed an interest in National Forest planning. The comment period will be from February 15 to April 1, 1981.

Written comments concerning the Notice of Intent or the proposal should be sent to: Juan E. Munoz, Forest Supervisor, Caribbean National Forest, P.O. Box AQ, Rio Piedras, P.R. 00928, by April 1, 1981. The office is located on the grounds of the University of Puerto Rico Experimental Station, near the intersection of Highway 3 with Highway 1, Rio Piedras. The commerical telephone number is (809) 753-4335.

The draft environmental impact statement and plan will be available by March, 1982, for a 90 day comment period. The final environmental impact statement and plan is scheduled for completion in September, 1982.

Lawrence M. Whitfield, Regional Forester, Southern Region of the Forest Service, is the responsible official for the environmental impact statement and plan.

For further information about the planning process or the environmental impact statement, contact: Terry O. Tenold, Forest Planner, Caribbean National Forest, Telephone: (809) 753-4335.

Dated: January 7, 1981.

Lawrence M. Whitfield,

Regional Forester.

[FR Doc. 81-1486 Filed 1-14-81; 8:45 am]

BILLING CODE 3410-11-M

Washington Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Washington subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 7:30 p.m. to 10:00 p.m. on Thursday, February 19, 1981. The meeting location will be Anderson Hall, College of Forest Resources, University of Washington, Seattle, Washington, 98105.

The purpose of the meeting is to review the alternatives for the pending Pacific Crest National Scenic Trail Comprehensive Plan for acquisition, management, development, and use of the trail. Other policy matters concerning the trail may also be considered.

The meeting will be open to the public. Persons who wish additional information should contact Roger Long, In-Care-of Regional Forester, Pacific Northwest Region, Forest Service, P.O. Box 3623, Portland, Oregon, 97208. Phone (503) 221-3644.

Dated: January 6, 1981.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 81-1463 Filed 1-14-81; 8:45 am]

BILLING CODE 3410-11-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Approval of Affirmative Action Plan

Take notice that on December 29, 1980, the Federal Inspector, John T. Rhett, approved Northern Border Pipeline Company's Affirmative Action Plan for employment and procurement activities on its segment of the Alaska Natural Gas Transportation System (ANGTS).

On May 12, 1980, the Equal Opportunity Regulations (43 CFR Part 34) for ANGTS became effective. These regulations were promulgated to carry out the requirements of Section 17 of the Alaska Natual Gas Transportation Act and Condition 11 of the President's *Decision,* requiring Federal officers and agencies to take affirmative action to insure that no person will be excluded on the grounds of race, creed, color, national origin or sex from participating in ANGTS-related activities. Subsection 34.8(a)(1), 43 CFR 34.8(a)(1) required that project sponsors have acceptable affirmative action plans approved by the Federal Inspector.

Northern Border's affimative action plan contains the following goals for minority and female employment and procurement:

Employment Goals for Nonconstruction Contractors

[In percent]

EEO job group	Availability and goal					
	Female	Black	Hispanic	Indian	Asian	Total minority
Officials and managers	14.3	3.1	1.1	0.1	0.2	4.5
Professionals	14.4	3.1	1.1	.11	.20	4.5
Technicians	5.8	1.2	.4	.04	.04	1.6
Sales	13.7	1.4	.52	.04	.09	2.0
Office and clerical	62.6	7.6	3.1	.24	.45	11.3
Craft workers	10.4	5.9	2.0	.20	.31	8.4
Operatives	22.5	7.0	2.7	.27	.43	10.4
Laborers	18.4	12.3	5.1	.41	.72	18.5
Service	67.7	12.5	5.1	.41	.72	18.5

Construction Contractors—Employment Goals

Job group	Number projected work force [1]	Percent availability					Number of goals					Total minority goal (percent)	Numerical
		F	B	H	I	A	F	B	H	I	A		
Officials and managers	64	5.2	2.4	1.1	0.09	0.13	3	2	1	0	0	3.7	3
Professionals	365	8.1	4.2	1.4	.14	.22	30	15	6	1	1	5.8	22
Technicians	191	1.9	.75	.35	.07	.06	4	1	1	0	0	1.2	2
Office and clerical	199	52.0	.71	.52	.55	.04	105	1	1	1	0	1.6	3
Crafts	1,955	2.0	2.6	.12	.23	.20	39	81	23	4	4	3.1	62
Operative	2,186	4.9	3.6	1.7	.33	.19	107	79	37	7	4	5.8	127
Labor	2,153	3.6	4.5	2.0	.7	.3	78	97	43	15	0	7.5	161
Total	7,113	—	—	—	—	—	366	248	111	28	15	—	400

[1] Peak employment period 3d quarter 1981.

Northern Plains—Affirmative Action Goals (as a Percent of Work Force)

Job categories	Estimated number of incumbents	Percent					Goals				
		Female	Black	Hispanic	Indian/Alaskan	Asian Pacific Islands	F	B	H	I	A
Officials and managers	43	14.3	3.1	1.1	0.1	0.2	6	1	0	0	0
Professionals	52	14.4	3.1	1.1	.11	.19	7	2	1	0	0
Technicians	7	5.8	.4	.3	.04	.04	0	0	0	0	0
Office and clerical	50	72.5	5.5	1.7	.96	.53	41	3	1	1	0
Crafts	23	9.7	1.0	1.9	1.06	.19	2	0	0	0	0
Operatives	10	10.0	2.9	1.8	2.09	.33	2	0	0	0	0

Minority and Female Business Enterprise

Minority $20,000,000 total (10 percent of contractable opportunities)

Female $2,000,000 total (1 percent of contractable opportunities)

Timetable for Reaching MBE/FBE Goal

June 30, 1981	$12,290,000
December 31, 1981	18,830,000
June 30, 1982	20,640,000
December 21, 1982	22,000,000

FOR FURTHER INFORMATION CONTACT: Mr. John Alexander, Director, Equal Employment Opportunity, Minority Business Enterprise, Office of the Federal Inspector, (ANGTS), Room 3212, Post Office Building, 1200 Pennsylvania Ave., NW., Washington, D.C. 20044.

Dated: January 9, 1981.

John T. Rhett,

Federal Inspector.

[FR Doc. 81-1381 Filed 1-14-81; 8:45 am]

BILLING CODE 6820-AW-M

CIVIL AERONAUTICS BOARD

[Order 81-1-44; Docket 37554]

Establishment of the Standard Foreign Fare Level

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 8th day of January, 1981

Order

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base [1] periodically by percentage changes in actual operating costs per available seat-mile (ASM). The SFFL thus computed becomes the benchmark for measuring the statutory no-suspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in section 1002(d) of the Federal Aviation Act of 1958 (the Act). The IATCA no-suspend zones range from 50% below the SFFL to 5% above, in any given city-pair market. Order 80-2-69 established the first interim SFFL and Order 80-11-8 established the currently effective SFFL effective through January 31, 1981.

The SFFL for travel commencing February 1, 1981, will be established for a two-month period, and, alternatively, for a four-month period—February through May. The two-month SFFL is required a by statute. The four-month SFFL represents a continuation of our policy to provide carriers an additional option recognizing that a longer effectiveness period may be better suited to the sometimes complex procedures involved in international rate-setting.

In establishing the SFFL for the period commencing February 1, we have projected non-fuel costs, based on the year ended September 30, 1980, and we have adjusted fuel prices to reflect the experienced monthly rate of fuel cost escalation. In the absence of compelling reasons to do otherwise, we are continuing our policy of relying on annual data in the computation of non-fuel cost escalation rates. As we have stated before, twelve-month data are usually more reliable because quarterly results can be completely distorted, and in the absence of unusual circumstances annual data provide a preferable base.

Four-month SFFL

In establishing the SFFL for the four month period commencing February 1, 1981, we have projected non-fuel costs, based on the year ended September 30, 1980, and we have adjusted fuel prices to reflect the experienced monthly rate of fuel cost escalation. Our calculations measure inflation from April 1, 1980 to April 1, 1981, the midpoint of the February-May projection period, for the three rate-making entities: Atlantic, Latin America, and Pacific. The four-month average of July-October fuel cost increases produces the following rate of escalation: .40 cents per gallon in the Atlantic; (.16) cents for gallon in Latin America; and .60 cents per gallon in the Pacific. The resulting projections are fuel prices of 111.78 cents in the Atlantic; 93.24 cents in Latin América; and 110.77 cents in the Pacific at April 1, 1981.

Consequently, based on our calculations, we find the projected cost adjustment factor to be 21.35 percent in the Atlantic, 25.28 percent in Latin America, and 14.03 percent in the Pacific, over the October 1, 1979, level. (See Appendix B.) [2] This results in an increase over the December 1, 1980, fares of 3.66 percent in the Atlantic, 1.26 percent in Latin America, and a reduction of 2.26 percent in the Pacific.

Two-month SFFL

As above, our calculations, based on the year ended September 30, 1980, measure inflation from April 1, 1980 to March 1, 1981, the midpoint of the February-March projection period, for the three rate-making entities. The rates of escalation for fuel are the same and result in fuel price projections of 111.38 cents in the Atlantic; 93.40 cents in Latin America; and 110.17 cents in the Pacific at March 1, 1981. Based on our calculations, we find the projected cost adjustment factor to be 20.68 percent in the Atlantic; 24.35 percent in Latin America; and 13.59 percent in the Pacific, resulting in an increase over January 1, 1981, of 1.85 percent in Latin America, 3.30 percent in the Atlantic and a reduction of 1.14 percent in the Pacific.

Carriers should note that we will issue a revised two-month SFFL effective April 1, but those implementing the four-month projection may not take the April 1 revision. Because of renewed potential for fuel cost volatility, at least relative to the base period used in this Order's calculations, we assume the two-month SFFL will be used by more carriers than in the past.

The reductions in the SFFL in the Pacific entity for both the two and four-month projections comes about because fuel price escalation assumed in the currently applicable SFFL's did not materialize. The SFFL methodology projects fuel price trends from the most recent four months into the future. Fuel was escalating rapidly in early 1980, but leveled off beginning in August. Consequently, the currently effective SFFL includes projected fuel costs between 2.5 and 7.5 cents per gallon higher than currently projected.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. Effective February 1, 1981, fares may be increased by the following adjustment factors over the October 1, 1979, level:

	Four month	Two month
Atlantic	1.2135	1.2068
Latin America	1.2528	1.2435
Pacific	1.1403	1.1359

2. We shall serve a copy of this order upon all U.S. certificated air carriers and all foreign air carriers; and

3. We shall publish the order in the **Federal Register.**

By the Civil Aeronautics Board.[3]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-1309 Filed 1-14-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-1-43; Docket 39118]

Colombia-U.S. Fare Increases Proposed by Aerovias Nacionales de Colombia, S.A.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of January, 1981

Order of Suspension and Investigation

Aerovias Nacionales de Colombia, S.A. (Avianca), has filed tariff revisions, effective January 14, January 21, or February 20, 1981, proposing increases in fares from Colombia to the United States. The filing includes increases in normal economy fares of 26 to 58 percent. The carrier states that its proposal is made pursuant to a Colombian government order.

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[1] As defined in section 1002(j)(7) of the Federal Aviation Act of 1958.

[2] Appendices A and B are on file with the original at the Office of the Federal Register.

[3] All members concurred.

We have decided to suspend the carrier's proposed normal economy fare increases.

The Board's Standard Foreign Fare Level (SFFL) consists of fare levels in effect on or after October 1, 1979, adjusted periodically to account for changes in costs. Under the International Air Transportation Competition Act, a statutory "no-suspend" zone, within which we may generally not suspend a fare on grounds of unreasonableness, extends from 5 percent above to 50 percent below such adjusted fare levels. We have been applying these criteria only to normal economy fares while allowing carriers the broadest possible flexibility in pricing their other fares.

The Board's current SFFL for Latin American markets, covering the period December 1, 1980, through January 31, 1981, incorporates a cost adjustment to base levels of 22.09 percent.[1] Thus, with the 5 percent upward flexibility allowance, U.S.-Latin America normal economy fares which exceed base levels by as much as 28.19 percent are permissible.[2]

Aviance's proposed fares exceed SFFL ceilings by as much as 23 percent. In the absence of any showing of special circumstances by the carrier, or other justification, we must conclude that the proposed increases exceed those required to cover recent cost increases and should be suspended.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendix A hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix A from January 14, 1981, to and including January 13, 1982; in the attached Appendix B from January 21, 1981, to and including January 20, 1982; and the attached Appendix C from February 20, 1981 to and including February 19, 1982; unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[3] and, unless disapproved by the President, it shall become effective on January 14, 1980; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Aerovias Nacionales de Colombia, S.A., and the Ambassador of Colombia in Washington, D.C.

We shall publish this order in the **Federal Register.**[4]

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-1806 Filed 1-14-81; 8:45 am]

BILLING CODE 6320-01-M

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[1] See Order 80-11-8, November 4, 1980.

[2] 1.2209 x 1.05 = 1.2819.

[3] We submitted this order to the President on January 2, 1981. We received Notification that the President did not intend to disapprove the Board's order on January 8, 1981.

[4] Appendices A through C are on file with the original document at the Office of the Federal Register.

[Order 81-1-41; Dockets 38574 and 38773]

Mail Service Rates Investigation, Alaska

Issued under delegated authority January 8, 1981.

In the matter of the petition of Reeve Aleutian Airways, Inc. for a Fuel Surcharge Applicable to the Carriage of Mail (Docket 38574) and Alaska International Air, Inc. Service Mail Rates Investigation (Docket 38773).

Reeve Aleutian Airways, Inc. and Alaska International Air, Inc., Order Fixing Final and Temporary Service Mail Rates

By Order 80-12-97, served December 23, 1980, we directed all interested persons, particularly Reeve Aleutian Airways, Inc. and the Postmaster General, to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine and publish the final rates specified therein to be effective on and after August 9, 1980.

The time designated for filing notice of objection has elasped and no person has filed a notice of objection or answer to the order. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a final rate.

Inasmuch as the temporary rates of compensation to be paid to Alaska International Air, Inc. for services over the Aleutian Islands segments of Route 208 are based upon rates for Reeve,[1] the establishment of new rates for Reeve also results in the fixing of new temporary rates for AIA. We waive the procedural requirements of Rule 310 with respect to the temporary rates for AIA.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the Board in its Organization Regulations, 14 CFR 385.16(g),

1. We make final the tentative findings and conclusions set forth in Order 80-1-96.

2. The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to Reeve Aleutian Airways, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are the rates specified in Order 78-9-113, September 27, 1978, plus a fuel surcharge of 28.8 cents per linehaul ton-mile and 1.2 cents per pound originated to be effective on and after August 9, 1980.

3. The fair and reasonable temporary rates of compensation to be paid in their entirety by the Postmaster General to Alaska International Air, Inc. on and after November 4, 1980, for the transportation of mail by aircraft over the Aleutian Islands segments of Route 208, the facilities used and useful therefor, and the services connected therewith, are a linehaul charge of $1.224 per mail ton-mile and a terminal charge of $0.235 per pound originated.

4. We shall serve this order upon the Postmaster General, Reeve Aleutian Airways, Inc. and Alaska International Air, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten (10) days after the service date of this order.

We shall make this order effective and an action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

We shall publish this order in the **Federal Register.**

Phyllis T. Kaylor

Secretary.

[FR Doc. 81-1807 Filed 1-14-81; 8:45 am]

BILLING CODE 6320-01-M

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[1] See Order 80-12-107. In that order we inadvertently referred to AIA's certificate as authorizing the carriage of persons. The reference to persons was in error and should be deleted.

United Air Lines Addition of Wichita Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (81-1-46).

SUMMARY: The Board is proposing to award air route authority at Wichita to United Air Lines under expedited show-cause procedures.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed order shall file, and serve upon all persons listed below, no later than February 13, 1981, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38988, which we have entitled the *United Air Lines Addition of Wichita Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on United Air Lines; the mayor and airport manager of Wichita and the Kansas Department of Transportation.

FOR FUTHER INFORMATION CONTACT:

James F. Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5197.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-1-46 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-1-46 to that address.

By the Bureau of Domestic Aviation.

January 9, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-1506 Filed 1-14-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Ferrite Cores (of the Type Used in Consumer Electronic Products) From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the antidumping finding on ferrite cores (of the type used in consumer electronic products) from Japan. The scope of the review covers all but one of the known exporters of this merchandise to the United States. The review covers separate time periods for each firm up to February 29, 1980. This review indicates the existence of dumping margins in particular periods for certain exporters. The Department is currently conducting a review of the one remaining firm.

As a result of this review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between foreign market value and United States price on each of their shipments occurring during the periods for which margins have been found. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4106).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 13, 1971, a dumping finding with respect to ferrite cores (of the type used in consumer electronic products) from Japan was published in the **Federal Register** as Treasury Decision 71-84 (36 FR 4877). On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Act"), the Department has conducted an administrative review of the finding on ferrite cores (of the type used in consumer electronic products) from Japan; however, the substantive provisions of the Antidumping Act of 1921 ("Antidumping Act") will be applied to all entries made prior to January 1, 1980.

Scope of the Review

The imports covered by this review are magnetically soft ferrite magnets and are usually wound with wire. The merchandise is magnetized with the induction of electric current, and is of the type commonly used as components in consumer electronic products, such as household television receivers, projection television sets, radios, stereos and high fidelity radio systems, automobile radios, electronic home computers, etc. These ferrite cores are currently classifiable under item 535.1240 of the Tariff Schedules of the United States Annotated (TSUSA).

The present review covers six exporters of Japanese ferrite cores (of the type used in consumer electronic products) to the United States. This review covers all time periods for which information is available, that is, all periods up to February 29, 1980, during which shipments of such ferrite cores may have been made to the United States and for which appraisement instructions ("master lists") have not been issued. Therefore, different time periods are involved for different companies. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980, and covered by such master lists, is under review. Liquidation has been suspended pending disposition of the issue.

For two of the six companies, Nippon Ferrite Co. and Hasegawa Limited, the Department has determined that the firms' responses were inadequate. Since Hawegawa Limited exports ferrite cores manufactured by Nippon Ferrite Co., the Department will use for them the margin calculated at the time of the fair value investigation for Nippon Ferrite. Since the only master list issued for Nippon Ferrite listed only foreign market values, the Department was unable to determine the amount of margins, if any, on those shipments covered by that list and, therefore, will use the fair value margin as the best information available.

Two companies, Tomita Electric Co., Inc. and Taiyo Yuden, did not respond to our questionnaire. Tohoku Metal Industries claim no shipments for the period and the Department has no evidence of shipments since the suspension of liquidation. None of the three companies was investigated at the fair value stage. The Department will use for these three firms the highest fair value margin. For Fuji Electrochemical Co., Ltd., which also was not investigated during fair value but for which master lists have been issued, the Department will use the margin resulting from the most recent master list for that firm. We are presently conducting a review for the seventh exporter, TDK Electronics Co., Ltd.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772(b) of the Act and section 203 of the Antidumping Act, since all sales were made to unrelated purchasers. Purchase price here was calculated on the basis of the F.O.B. or C.I.F. packed price to unrelated purchasers in the United States or to an unrelated Japanese trading company for export to the United States, as appropriate. Where applicable, we deducted from this price ocean freight, insurance, postage, shipping charges and U.S. duty. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773(a) of the Act and section 205 of the Antidumping Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The home market prices here are based upon delivered prices with adjustments for inland freight, credit costs, direct selling costs, differences in packing, and differences in the merchandise, where applicable. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States purchase price to foreign market value, we preliminarily determine that the following margins exist:

Exporter	Time period	Margin (percent)
Tomita Electric Co., Inc	Jan. 1, 1975 to Dec. 31, 1976	0
	Jan. 1, 1977 to Mar. 31, 1978	No shipments
	Apr. 1, 1978 to Feb. 29, 1980	26
Tohoku Metal Industries	Aug. 1, 1970 to Feb. 29, 1980	[1] 26
Fuji Electrochemical Co., Ltd	Aug. 1, 1979 to Feb. 29, 1980	[1] 25
Nippon Ferrite Co	Mar. 1, 1972 to Feb. 29, 1980	25
Taiyo Yuden Co., Ltd	Apr. 1, 1978 to Feb. 29, 1980	[illegible]
Nippon Ferrite Co./Hasegawa, Ltd	Nov. 1, 1976 to Feb. 29, 1980	25

[1] No shipments during this period; rate based on most recent information.

Interested parties may submit written comments on these preliminary results on or before February 17, 1981 and may request disclosure and/or a hearing on or before January 30, 1981. The Department will publish the final results of the administrative review including the results of its analysis of such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made during the time periods involved. Individual differences between purchase price and foreign market value may vary from the percent stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice publication are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration

January 11, 1981.

[FR Doc. 81-1471 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-25-M

Glass Beads From Canada; Preliminary Results of Administrative Review of Countervailing Duty Order and of Tentative Determination To Revoke

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order and of Tentative Determination to Revoke.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the countervailing duty order on glass beads from Canada. The review covers the period September 1976 through June 1980. As a result of this review, the Department has tentatively determined to revoke such order on the grounds that net subsidies have been *de minimis* for at least two years (January 1978 through June 1980) and to assess countervailing duties equal to the calculated values of the net subsidies for 1976 and 1977. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-1767).

SUPPLEMENTARY INFORMATION:

Procedural Background

On September 2, 1976, a "Final Countervailing Duty Determination," T.D. 76-247, was published in the **Federal Register** (41 FR 37103). The notice stated that the Department of the Treasury had determined that Canadian exports of glass beads manufactured by Canasphere Industries Limited benefitted from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act"). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

The notice also stated that, effective on and after the date of the order, liquidation of all entries, or withdrawals from warehouse, for consumption of the subject glass beads would be suspended. A deposit of the estimated countervailing duty, in the amount of 1.9 percent *ad valorem*, has been required at the time of entry or withdrawal from warehouse.

On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department

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published in the Federal Register of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. On August 20, 1980, the Department received a request for revocation of the order from Canasphere. The revocation request alleged that for more than a two-year period (January 1978 through June 1980) benefits received by Canasphrere were not more than 0.43 percent. Counsel for Canasphere argued that this level is *de minimis*.

As required by section 751 of the Act, and in response to the request for revocation, the Department has conducted an administrative review of the order on glass beads from Canada, manufactured by Canasphere Industries Limited.

Scope of the Review

Imports covered by this review are dutiable glass beads not over six millimeters in diameter manufactured by Canasphere Industries Limited (Canasphere), the sole Canadian manufacturer subject to the countervailing duty order. They are used primarily in a mixture with paint to increase the visibility of road lines at night, but are also used in impact processing for cleaning, finishing, peening, and deburring metals. Such imports are currently classifiable under item 540.33, Tariff Schedules of the United States.

The review covers the period September 2, 1976, through June 1980, and the review is limited to a grant from the Federal Department of Regional Economic Expansion (DREE) and an interest-free loan from the Saskatchewan Economic Development Corporation (SEDCO), which were the only programs found countervailable in the final determination.

Analysis of Programs

The grant from DREE was a direct cash grant used for plant construction. Treasury determined the subsidy rate in the final order by amortizing the full amount of the grant over a ten-year period, using the straight-line method of amortization, and then dividing one year's benefit by one year's total sales. We have used this same method to determine the subsidy rates for the periods of September 1976 through December 1976, calendar years 1977 through 1979, and the first 6 months of 1980.

We have found the interest-free loan from SEDCO not to be countervailable. Under the terms of the loan, Canasphere obtained operating capital by allowing the Saskatchewan Government to buy an interest in the company which the company could buy back later, although the schedule and terms of the repurchase were not set. Effective November 9, 1978, Canasphere repaid this SEDCO loan by buying back the Government's interest in the company. The price paid reflects the original purchase price (loan amount) plus interest, retroactive to the original date of the agreement. The interest exceeded the rate that Canasphere would otherwise have paid on a similar loan during the covered period.

We verified the information contained in the revocation request of August 20, 1980, and data submitted by Canasphere in response to a Department questionnaire through examination of copies of Canadian Government agency documents, Canasphere's company books and records, and consultation with Canasphere's president and its legal counsel.

Results of the Review

As a result of our calculations, we tentatively determine that the net subsidy conferred upon Canasphere by the DREE grant is equal to 0.9 percent *ad valorem* of the f.o.b. invoice price for the period September 1976 through December 1976, 0.53 percent for calendar year 1977, 0.43 percent for calendar year 1978, 0.25 percent for calendar year 1979, and 0.14 percent for the period January 1980 through June 1980. We also tentatively determine that no net subsidy has been conferred upon Canasphere by the SEDCO loan as of the effective date of the countervailing duty order. Therefore, the imported merchandise has not benefitted from more than *de minimus* net subsidies for at least the two-year period specified in § 355.42(b), Commerce Regulations. Furthermore, as required by section 355.42(d), Commerce Regulations, Canasphere has agreed in writing to an immediate suspension of liquidation and, if appropriate, reinstatement of the order if circumstances develop which indicate that the imported merchandise benefits from a net subsidy not considered *de minimus*.

The Department, therefore, has tentatively determined to revoke the countervailing duty order concerning glass beads not over six millimeters in diameter manufactured by Canasphere Industries Limited of Canada. If this order is revoked, it shall apply to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

The Department intends to instruct the Customs Service to assess countervailing duties of 0.9 percent and 0.53 percent *ad valorem* of the f.o.b. invoice price on all unliquidated entries of subject glass beads entered, or withdrawn from warehouse, for consumption during the periods September 2, 1976, through December 31, 1976, and calendar year 1977, respectively. Additionally, entries from January 1, 1978 to the date of publication of this notice, assuming no change in the *de minimis* rate, will be liquidated without regard to countervailing duties.

Pending publication of the final results of the present review, the suspension of liquidation and deposit requirements previously ordered will continue.

Interested parties may submit written comments within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 15 days of the date of publication. The Department will publish the final results of the administrative review after analysis of issues raised in written comments or at a hearing.

This administrative review, tentative determination to revoke, and notice publication are in accordance with section 751(a)(1),(c) of the Act (19 U.S.C. 1675(a)(1),(c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

January 9, 1981.

[FR Doc. 81-1473 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Argentina; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: With this notice we inform the public that we have preliminarily determined that the Government of Argentina grants benefits to manufacturers, producers or exporters of certain leather wearing apparel which constitute a subsidy within the meaning of the countervailing duty law. We will make a final determination no later than 75 days from the date of this preliminary determination.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Fred Howell, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377-5050.

SUPPLEMENTARY INFORMATION:

Procedural Background

On November 14, 1980, the Department of Commerce ("Department") received a petition in proper form from Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, alleging that the Government of Argentina provides manufacturers, producers or exporters of leather wearing apparel, certain subsidies which are bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (93 Stat. 190, 19 U.S.C. 1303) (hereinafter referred to as "the Tariff Act"). Because Argentina is not "a country under the Agreement" within the meaning of section 70(b) of the Tariff Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation. The Department of Commerce has not, therefore, referred this case to the United States International Trade Commission (ITC) for a preliminary determination of material injury to a domestic industry.

Description of Product

The merchandise covered by this investigation is leather wearing apparel currently provided for in item number 791.76 of the Tariff Schedules of the United States. These products include leather coats and jackets for men, boys, women, girls and infants and other leather wearing apparel products including leather vests, pants and shorts. Number 791.76 of the Tariff Schedules of the United States also includes outer leather shells and parts and pieces of leather wearing apparel as designated in this Tariff number.

Programs Under Investigation

We are investigating four programs: "reembolso" or rebate on exports of leather wearing apparel and parts and pieces thereof; a reembolso or rebate on exports of tanned leather; an income tax reduction plan; and a preferential financing program.

"Reembolso" or Rebate on Exports

Argentina has an export rebate program which includes a cash payment on exports which, according to Government of Argentina reimburses exporters for indirect taxes paid at the various stages of production. The amount of the reimbursement varies according to product and is based on a percentage of the FOB price of export shipments.

The Reembolso under investigation involves rebates made by the Government of Argentina on the exportation of leather wearing apparel and parts and pieces thereof. For leather wearing apparel the export reimbursement is in the amount of 20 percent of the FOB value paid upon exportation, and for parts and pieces of leather wearing apparel it amounts to 10 percent.

The non-excessive refund of indirect taxes levied on exported products and their components is not a subsidy under rules of the General Agreement on Tariffs and Trade (GATT) or the U.S. countervailing duty law. While the Tariff Act limited the use of indirect taxes not rebated on export as offsets against the amount of any subsidy found, it did not intend this limitation on the use of offset to:

> Prohibit the administering authority from determining that export payments are not subsidies if those payments are reasonably calculated, are specifically provided as non-excessive rebates of indirect taxes within the meaning of Annex A of the Agreement and are directly related to the merchandise exported.
>
> (Senate Report No. 96–249, July 17, 1979 at 84085).

The Department has published administrative guidelines (19 CFR Part 355 Annex I, para. 2, 45 FR 4949) for determining when the payment of a lump sum calculated and identified as a non-excessive rebate of an indirect tax on an exported product or its component is not a subsidy. The guidelines state that the foreign government must reasonably have calculated and documented the actual indirect tax incidence borne by the product under investigation and demonstrated a clear link between the export payment and the tax incidence. Ex post facto rationalizations of export payment programs will not be accepted. The foreign government must present information that demonstrates to the Department's satisfaction (a) that indirect taxes paid have served as the official basis upon which the export rebate was calculated and (b) that there is, in fact, the requisite link between the export payment and the indirect tax incidence.

The Argentine Government has cooperated fully in providing information requested for this countervailing duty investigation. The information submitted appears to indicate that the payment made under the reembolso program may be *bona fide* rebates of indirect taxes within the meaning of the Tariff Act. However, there still remains several basic questions regarding the reembolso program which the department cannot resolve on the basis of the information presently on hand. Questions yet to be resolved include: whether the reimbursement is directly linked to the indirect taxes; whether the indirect tax actually paid by Argentine producers bears a relationship to the indirect tax model presented by the respondent; the extent to which the taxes rebated can be regarded as indirect taxes on inputs physically incorporated in the exported product; and whether the basis of certain computations is acceptable. Prior to reaching a final determination in this case, full consideration will be given to the information which has been submitted and other information to be supplied by the Government of Argentina. After reviewing such information, we expect to be in a position to answer the question which remain.

In review of the above, we have preliminary determined that the export rebate program of the Government of Argentina does constitute a subsidy within the meaning of section 771(5) of the Act (19 U.S.C. 1677). The subsidy amount for leather wearing apparel is 20 percent of the FOB value paid upon exportation. For parts and pieces of leather apparel the subsidy amount is 10 percent of the FOB value paid upon exportation.

Reembolso or Rebate on Exports of Tanned Leather

A recently established reembolso or rebate program applying to tanned leather is not a benefit to the leather apparel manufacturers because the rebate is for direct exports of tanned leather and the tannery does not obtain any rebate or benefit for sales to Argentine leather apparel manufacturers.

Income Tax Reduction Program

A program of income tax reduction on export related income alleged by the petitioner has been discontinued.

Preferential Financing Program

Argentina has an export financing program providing a preferential interest rate for loans up to 55 percent of the FOB value of the exported merchandise. The principal of the loan is pegged to the U.S. dollar. As a result, the loan must be repaid in the peso equivalent of dollar denominated principal on the date of repayment.

Based on information provided by the Government of Argentina we have used an Argentine preferential annual rate of loan cost of 86.87 percent. Based on information we received from our Embassy we estimate that short term interest rates in Argentina have averaged 137.75 percent in 1979. The maximum amount that could have been loaned under the preferential financing program totaled $11,476,556 or 55 percent of the FOB value of the exported goods. Based on this information and a 180 day maximum term of these loans we calculate a subsidy of 13.99%.

Determination

On the basis of information received, we preliminarily determine that the total benefit of subsidy programs granted by the Government of Argentina on exports of leather wearing apparel amounts to 33.99 percent ad valorem and the total benefit of the subsidy programs on export of parts and pieces of leather wearing apparel amounts to 23.99 percent ad valorem.

Administrative Procedures

In accordance with 355.34 of the Commerce Department Regulations (19 CFR 355.34, 45 FR [illegible]946), interested parties may submit information or written views concerning this proceeding to the address indicated above in at least 10 copies, not later than February 12, 1981. The mailing address is room 2800, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

The Department will afford interested parties an opportunity to present oral views in accordance with 355.35 of the Commerce Department Regulations. This hearing is scheduled to be held if requested, at the U.S. Department of Commerce, Room [illegible]802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 beginning at 2:00 p.m. on February 10, 1981. Interested parties who wish to have such a conference should submit a written request to the Office of the Deputy Assistant Secretary for Import Administration, Room 2800 at the address shown above. These requests should contain (1) the name, address and telephone number of the requester (2) the number of participants and (3) a statement outlining the issues to be discussed. The Deputy Assistant Secretary for Import Administration must receive the request no later than January 23, 1981.

Interested parties must submit pre-hearing briefs no later than February 3, 1981, to the Office of the Deputy Assistant Secretary at the address noted above. Oral presentations by persons submitting pre-hearing briefs will be limited to those issues raised in the briefs. All written views must be filed in accordance with 355.34 of the Department of Commerce Regulations.

In accordance with section 703(d) of the Act (19 U.S.C. 1671b(d)), Customs officers will be advised to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after January 15, 1981. This suspension of liquidation shall remain in effect until further notice. The posting of a cash deposit, bond, or other security, in the amount of 33.99 percent ad valorem for leather wearing apparel and 23.99 percent ad valorem for parts and pieces of leather wearing apparel, will be required as of that date.

We will issue a final determination no later than March 24, 1981.

This determination is published in accordance with section 703(f) of the Act (19 U.S.C. 1671b(f)).

John D. Greenwald,

Deputy Assistant Secretary for Import Administrations.

January 9, 1981.

[FR Doc. 81-627 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket S-683]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application by American Petrofina, Inc.

Notice is hereby given that American Petrofina, Incorporated (Fina) has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended, for the TT BROOKLYN to carry crude oil on two voyages from Alaska to the U.S. Gulf via the southern tip of South America. The 225,000 DWT BROOKLYN, which was built with construction-differential subsidy (CDS), is beneficially owned by the General Electric Credit Corporation who consents to and adopts Fina's application.

Fina states that it has an immediate requirement to lift approximately 800,000 barrels of crude oil from storage at Valdez, Alaska and expects a commitment to lift 700,000 additional barrels prior to the time the BROOKLYN is to arrive in Valdez. Fina advises that this total lift of 1.5 million barrels must be accomplished on or about January 28, 1981, or Fina will face the possibility of paying a storage fee on the oil or of losing it because of contractual terms. Fina further advises that it has a requirement to lift approximately 1.5 million barrels of oil at Valdez in May 1981. On both the January and May liftings, the BROOKLYN would carry the oil to the U.S. Gulf via the southern tip of South America.

Fina believes that no owner or operator of domestic vessels of a size capable of meeting Fina's transportation requirement is in a position to object to its application.

The domestic movement requested by Fina does not coincide with either the Valdez/U.S. West Coast or Valdez/Panama Canal trades specifically set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations. Nevertheless, the Maritime Administration believes it is appropriate to provide an opportunity for interested parties to comment on the application.

Interested parties may inspect Fina's application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation who desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the **Federal Register.** If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Martime Affairs. Within five working days after the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance program No. 11.500 Construction-Differential Subsidies (CDS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: January 14, 1981.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 81-1606 Filed 1-14-81; 11:41 am]

BILLING CODE 3510-15-M

Minority Business Development Agency

General Services Business Program; Financial Assistance Application Announcement

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its General Business Services Program (GBS) to operate one project for a 12 month period beginning May 1, 1981 in the Virginia Counties of

Goochland, Pawhatan, Hanover, New Kent, Charles City, Henrico and Chesterfield, in the Richmond, Virginia SMSA. The cost of the Project is estimated to be $110,000. The Project I.D. Number is 03-10-67005-00.

CLOSING DATE: February 20, 1981.

ADDRESS: U.S. Department of Commerce, Minority Business Development Agency, Washington Regional Office, 1730 K Street, NW., Suite 420, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Vincent S. Martin, Grant/Cooperative Agreement Specialist, telephone 202/634-7883.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The General Business Services Program (GBS) is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers competitive grants to consulting firms (either non-profit or for profit) which must be capable of providing such services as the preparation of business plans, financial packaging, industrial management assistance, personnel management services, marketing planning, and a broad range of other business services excluding legal services.

B. Eligible Applicants

Education institutions, state or local governments, federally recognized Indian tribes, and other for-profit and non-profit organizations are eligible to apply for a grant under this announcement.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria

The Awarding of MBDA Grants is discretionary. Generally projects are supported in order of merit to the extent permitted by available funds. Evaluation of proposals will employ the following criteria:

1. Capability of Firm

A. Experience in providing management consulting services and other technical assistance to businesses, at the level and of the nature described in the work requirements.

B. Internal resources available to the project (e.g., administrative, technical, capability statement, business references).

2. Staffing Capability

A. Staffing Pattern (who is accountable to whom, for what).

B. Experience of key personnel in providing management consulting services that are at the level and the nature described in the work requirements. (Submit resumes). (Project manager must be designated).

C. Qualification standards for selection of other project staff (what criteria will be used for assignment to the project).

D. Duties of each project position.

3. Credentials

A. Submit examples of work: specimen packages acceptable (Case Histories/Business Plans)

B. Unique abilities or resources of the applicant which provide leverage for clients.

C. Discussion of area knowledge: include demographics, ethnic makeup of minority business, local market conditions centers of business influence, etc.

4. Techniques and Methods Proposed to Implement the work requirement (Applicant's Work Plan)

Proposed procedures: (how, when and where work will be done and by whom), this section should follow the outline of the work requirement and will be part of the award.

5. Costs

Provide explanation of all proposed costs by line item.

E. Disposition of Proposals

Notification of awards will be made by the award officer. Organizations whose proposals are unsuccessful will be so advised by the awards officer.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G.

A Pre-Application conference to assist all interested applicants will be held at the following address on January 29, 1981 at 11:00 a.m.: Richmond Federal Building, Room 1035, 400 N. 8th Street, Richmond, Virginia 23240.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: January 12, 1981.

Luis G. Encinias,

Regional Director.

[FR Doc. 81-1401 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-21-M

General Business Services Program; Financial Assistance Application Announcement

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its General Business Services Program (GBS) to operate one project for a 12 month period beginning May 1, 1981 in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia in Southeastern Pennsylvania, and in the counties of New Castle, Delaware, and Cecil County, Maryland. The cost of the Project is estimated to be $442,000. The Project I.D. Number is 03-10-67006-00.

CLOSING DATE: February 20, 1981.

ADDRESS: U.S. Department of Commerce, Minority Business Development Agency, Washington Regional Office, 1730 K Street, NW, Suite 420, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Vincent S. Martin, Grant/Cooperative Agreement Specialist, telephone 202/634-7883.

SUPPLEMENTARY INFORMATION:

A. Scope of Purpose of this Announcement.

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The General Business Services Program (GBS) is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers competitive grants to consulting firms (either non-profit or for profit) which must be capable of providing such services as the preparation of business plans, financial packaging, industrial management assistance, personnel management services, marketing planning, and a broad range of other business services excluding legal services.

V 46 / 10 JA 15 81 UMI

B. Eligible Applicants

Education institutions, state or local governments, federally recognized Indian tribes, and other for-profit and non-profit organizations are eligible to apply for a grant under this announcement.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria

The Awarding of MBDA Grants is discretionary. Generally projects are supported in order of merit to the extent permitted by available funds. Evaluation of proposals will employ the following criteria:

1. Capability of Firm

A. Experience in providing management consulting services and other technical assistance to businesses, at the level and of the nature described in the work requirements.

B. Internal resources available to the project (e.g., administrative, technical, capability statement, business references).

2. Staffing Capability

A. Staffing Pattern (who is accountable to whom, for what).

B. Experience of Key personnel in providing management consulting services that are at the level and the nature described in the work requirements. (Submit resumes). (Project manager must be designated).

C. Qualification standards for selection of other project staff (what criteria will be used for assignment to this project).

D. Duties of each project position.

3. Credentials

A. Submit examples of work: specimen packages acceptable (Case Histories/Business Plans)

B. Unique abilities or resources of the applicant which provide leverage for clients.

C. Discussion of area knowledge: include demographics, ethnic makeup of minority business, local market conditions centers of business influence, etc.

4. Techniques and Methods Proposed to Implement the work requirement (Applicant's Work Plan)

Proposed procedures: (how, when and where work will be done and by whom), this section should follow the outline of the work requirement and will be part of the award.

5. Costs

Provide explanation of all proposed costs by line item.

E. Disposition of Proposals.

Notification of awards will be made by the award officer. Organizations whose proposals are unsuccessful will be so advised by the awards officer.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G.

A Pre-Application conference to assist all interested applicants will be held at the following address on January 27, 1981 at 10:00 a.m.: William J. Green, Jr., Federal Building, Room 10,320, 6th and Arch Streets, Philadelphia, Pennsylvania 19106.

11.800 Minorit Business Development (Catalog of Federal Domestic Assistance).

Dated: January 12, 1981.

Luis G. Encinias,

Regional Director.

[FR Doc. 81-1492 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Approval of Federal Information Processing Standards; Code for Information Interchange; Hollerith Punched Card Code

Correction

In FR Doc. 80-40280, at page 85136, in the issue of Wednesday, December 24, 1980, on page 85137 the last column, the eighth line from the bottom of the page, insert the word "National" between "American" and "Standard".

BILLING CODE 1505-01-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid prematue disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Chief, Intellectual Prop. Division-Otjag,
Department of the Army, Room 2D 444,
Pentagon, Washington, D.C. 20310

Patent application 6-047,522: Flight Control System; filed June 11, 1979.

Patent application 6-048,402: Structural Cores and Their Fabrication; filed June 14, 1979.

Patent application 6-054,213: Airborne Hoist; filed July 2, 1979.

Patent application 6-060,525: Efficient High Voltage Photovoltaic Cells; filed July 25, 1979.

Patent application 6-068,044: Apparatus and Process for Measuring the Torque Transferred by Engine Shafts; filed August 20, 1979.

Patent application 6-070,772: Adjustable Parallel Fluidic Resistor Bank; filed August 30, 1979.

Patent application 6-071,976: Electronic Symbology Generation for Radar Plan Position Indicator (PPI) Displays Using Rotating Coils; filed September 4, 1979.

Patent application 6-072,274: Rocket In-Tube Spin Device and Roar Sabot; filed September 4, 1979.

Patent application 6-072,507: Quadrant Elevation Control Device; filed September 4, 1979.

Patent application 6-077,441: Gun Tube Orientation Sensor: Target Mirror; filed September 20, 1979.

Patent application 6-077,442: Apparatus and Method for Temperature Compensation of Fluidic Circuits; filed September 20, 1979.

Patent application 6-078,748: Fluidic Pulser; filed September 12, 1979.

Patent application 6-080,907: Simplified System for Estimating Pulse Radar Doppler Frequency; filed October 1, 1979.

Patent application 6-081,300: Low Cost Rocket Motor Case and Method of Fabrication; filed October 2, 1979.

Patent application 6-081,302: Selectable Drag Brakes for Rocket Range Control; filed October 2, 1979.

Patent application 6-081,303: Low Cost Multiple Round Launcher; filed October 2, 1979.
Patent application 6-081,996: Nickel Analysis Device; filed October 4, 1979.
Patent application 6-082,264: Small Arms Ammunition; filed October 5, 1979.
Patent application 6-083,046: Omni-Directional Compound Paraboloid-Hyperboloid Radiation Device; filed October 4, 1979.
Patent application 6-083,071: Method of Operating a Cold Cathode-Cold Reservoir Thyratron; filed October 9, 1979.
Patent application 6-084,047: Safing and Arming Signature for Fuzes; filed October 12, 1979.
Patent application 6-084,984: Method and Apparatus for Removal of Sodium Carbonate from Cyanide Plating Baths; filed October 15, 1979.
Patent application 6-087,891: Fluidic Waste Gate; filed October 24, 1979.
Patent application 6-092,123: Tie-Down Assembly; filed November 7, 1979.
Patent application 6-095,731: Antenna with Sum and Error Patterns; filed November 19, 1979.
Patent application 6-095,746: Military Vehicle Having External Gun; filed November 19, 1979.
Patent application 6-101,327: Gas Generator—Actuated Fire Suppressant Mechanism; filed December 6, 1979
Patent application 6-108,903: Digital Filter Bank Detector; filed December 31, 1979
Patent application 6-109,598: Radiation Dose Rate Meter; filed January 4, 1980
Patent application 6-110,955: Near Millimeter Wave Generator with Dielectric Cavity; filed January 10, 1980
Patent application 6-110,958: Fluidic Oil Viscometer; filed January 10, 1980
Patent application 6-111,738: Broad Band Flueric Amplifier; filed January 14, 1980
Patent application 6-114,033: Method for Determining Oxidative Status of Unsaturated Lipids and Method for Evaluating Antioxidant Effectiveness in Lipid-Polypeptide Layers; filed January 21, 1980
Patent application 6-114,035: Method of Visually Detecting Antioxidant in an Organic Mixture; filed January 21, 1980
Patent application 6-114,777: A Half Duplex Integrel Vocoder Modem System; filed January 23, 1980
Patent application 6-118,044: Drive Mechanism; filed February 4, 1980
Patent application 6-132,205: Acceleration Switch; filed March 20, 1980
Patent application 6-132,940: Steerable Null Antenna Processor with Gain Control; filed March 24, 1980
Patent application 6-132,941: Adaptive Steerable Null Antenna Processor; filed March 24, 1980
Patent application 6-133,173: Electromagnetic Interference Suppression in a Vehicle Horn Circuit; filed March 24, 1980
Patent application 6-133,735: Method and Apparatus for Detonating Explosive in Response to Detonation of Remote Explosive; filed March 25, 1980
Patent application 6-138,477: MIC Combiner Using Unmatched Diodes; filed April 9, 1980
Patent application 6-138,940: Propellant Charge with Reduced Muzzle Smoke and Flash Characteristics; filed April 9, 1980
Patent application 6-146,580: Key-to-Address Transformations; filed May 5, 1980
Patent application 899, 772: Dual Caliber Revolver; filed April 24, 1978
Patent application 904,366: Null Steering Antenna; filed May 10, 1978
Patent 4,183,303: Proximity Fuze; filed February 25, 1963; patented January 15, 1980; not available NTIS
Patent 4,184,073: Fast Response Electron Spectrometer; filed May 25, 1978; patented January 15, 1980; not available NTIS
Patent 4,185,252: Microstrip Open Ring Resonator Oscillators; filed May 10, 1978; patented January 22, 1980; not available NTIS
Patent 4,186,434: Means for Producing and Controlling Dead-Time of the Switching Transistors DC-to-DC and DC-to-AC Converters; filed March 23, 1978; patented January 29, 1980; not available NTIS
Patent 4,190,000: Mine Proximity Fuse; filed October 23, 1962; patented February 26, 1980; not available NTIS
Patent 4,190,083: Fluidic Logical Pyrotechnic Initiator; filed September 7, 1977; patented February 26, 1980; not available NTIS
Patent 4,190,769: Thermal Image Camera with Storage; filed June 7, 1978; patented February 26, 1980; not available NTIS
Patent 4,190,883: Switching-Regulated DC-to-DC Converter; filed August 24,1977; patented February 26, 1980; not available NTIS
Patent 4,191,052: Non-Contact Flueric Temperature Sensing Method and Apparatus; filed November 27, 1978; patented March 4,1980; not available NTIS
Patent 4,196,626: Flueric Notch Filter Temperature or Density Sensor; filed November 27, 1978; patented April 8, 1980; not available NTIS
Patent 4,197,483: Submillimeter Wave Generation Using Surface Acoustic Waves in Piezoelectric Materials; filed October 18, 1978; patented April 8, 1980; not available NTIS

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205

Patent application 6-163,952: Intracranial Pressure Monitoring Device; filed June 30, 1980
Patent application 6-181,465: Nondenaturing Zwitterionic Detergents for Membrane Biochemistry; filed August 26, 1980

[FR Doc. 81-1461 Filed 1-14-81; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

Electromagnetic Radiation Management Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Electromagnetic Radiation Management Advisory Committee (ERMAC) is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council was originally established on December 11, 1968, to advise the Director of the Office of Telecommunications Management on matters dealing with the side effects and the adequacy of control of electromagnetic radiation arising from telecommunications activities. Subsequently, the Council advised the Director of Telecommunications Policy and, since the 1978 reorganization, the Secretary of Commerce on such matters through the Assistant Secretary for Communications and Information who is also the Administrator of the Department's National Telecommunications and Information Administration (NTIA).

The Council reviews, evaluates, and recommends measures to investigate and mitigate undesirable effects of electromagnetic radiation on man and the environment.

Following a comprehensive review of the subject, the Council, in 1971, recommended Government action assess the biological effects of nonionizing radiation and developed guidelines for such an undertaking. The multiagency program being coordinated by NTIA is a direct result of those activities. In the course of its activities, the Council is a source of expert advice and guidance not only to this Department but to other Federal agencies with activities in this area.

The Council shall continue with a balanced representation of 15 members from such areas as engineering, physical sciences, biomedical and the health science.

Copies of the Council's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer (Acting), Ms. H. Janet Healer, National Telecommunications and Information Administration, Department of Commerce, Room 261, 1325 G Street, NW., Washington, D.C. 20005, telephone: (202) 724-3301, or the Department Committee Management Analyst, telephone: (202) 377-4217.

V 46/10 JA 15 81 UMI

Dated: January 9, 1981.

Clifford J. Parker,

Acting Assistant Secretary for Administration.

[FR Doc. 81–1510 Filed 1–14–81; 8:45 am]

BILLING CODE 3510–17–M

Frequency Management Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Frequency Management Advisory Council is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council was first established on July 19, 1965, and was to terminate on December 29, 1980. It provided advice to the Director of the Office of Telecommunications Policy (OTP), Executive Office of the President, until that office was merged by Executive Order 12046 of March 27, 1978, into the Department of Commerce, National Telecommunications and Information Administration.

In reviewing the need for the Council, the Secretary has reaffirmed its original purpose of providing advice on radio frequency spectrum allocation and assignment matters and means by which the effectiveness of Federal Government frequency management may be enhanced. Research indicates that the Council's function cannot be accomplished by any organizational element or other Committee of the Department.

The Council shall continue with a balance representation of 15 members, chaired by the Assistant Secretary for Communications and Information or designee, and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Council's revised charter will be filed with appropriate committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 268, 1325 G Street, NW., Washington, D.C. 2005, telephone: (202) 724–3301, or the Department Committee Management Analyst, telephone: (202) 377–4217.

Dated: January 9, 1981.

Clifford J. Parker,

Acting Assistant Secretary for Administration.

[FR Doc. 81–1511 Filed 1–14–81; 8:45 am]

BILLING CODE 3510–17–M

DEPARTMENT OF DEFENSE

Department of the Army

Training Land Acquisition for Fort Carson, Colo.; Filing of Environmental Impact Statement

The Army, on January 12, 1981, provided the Environmental Protection Agency a Final Environmental Impact Statement (FEIS) concerning acquisition of training land for Fort Carson, Colorado.

The Army had earlier announced, on December 20, 1978, that a significant requirement for additional training land at Fort Carson had been identified in an approved study. To satisfy this requirement would require form 60,000 to 245,000 acres depending primarily upon the quality and location of the land and environmental enhancement measures suggested due to soil type and vegetative cover.

A total of twenty-two federal and private parcels of land were evaluated as possible training sites. The FEIS contains, as a preferred alternative, the selection of a 244,000 acre site known as the Pinon Canyon Parcel. The parcel is located midway between La Junta and Trinidad, Colorado and about 100 miles southeast of Fort Carson.

Copies of the statement have been furnished to appropriate Federal, State, and local agencies. In addition, copies may be examined in public libraries, city and county offices in Southeastern Colorado. In the Washington area, copies may be seen during normal duty hours (8:00 a.m. to 4:30 p.m., Mondays through Fridays), in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434. Interested organizations and individuals may obtain copies for the cost of reproduction from the Commander, 4th Infantry Division (Mechanized) and Fort Carson, ATTN: AFZC–FE–EQ, Building 304, Fort Carson, CO 80913, telephone: (303) 579–4828.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 81–1363 Filed 1–14–81; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Humboldt River Project, in Elko County, Nevada

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Action.*—The project consists of a multiple-purpose reservoir to provide flood control, irrigation, public recreation and fish and wildlife enhancement. Hylton Lake would be constructed on the South Fork of the Humboldt River at the mouth of Tenmile Creek at a capacity of 120,000 acre-feet.

2. *Alternatives.*—Alternatives studied include a 3-reservoir system with channel improvements and the no action alternative. The 3-reservoir system would include a 120,000 acre-foot reservoir at the Hylton site; Devils Gate Lake, an 80,000 acre-foot reservoir on the North Fork of the Humboldt River 26.4 miles above its mouth; and Vista Lake, a 50,000 acre-foot reservoir on Marys River 23.7 river miles above its mouth. In addition to the 3 reservoirs, minor channel improvements could be constructed in some localized reaches downstream of the dams. The no action alternative would be no Federal action to assist flood control, irrigation, recreation and fish and wildlife needs in the project area.

3. *Scoping of the DEIS.*—The scoping process will be accomplished through the public involvement program. On 28 February 1974 a Notice of Initiation of Advanced Planning was mailed to agencies, organizations, local news media, and individuals known to have an interest or that reside in the project area. An environmental working paper was completed in June 1978 and will be utilized in preparation of the DEIS. A public meeting will be held in late 1981, preceded by an informal workshop. Interested agencies will be kept informed by periodic interagency coordination meetings. Throughout the coordination process, agency and public input will continue to be sought to help identify significant issues regarding the project. All interested parties are invited to call or write to suggest what issues they feel should be discussed in detail in the DEIS.

4. *Estimated Date of DEIS.*—A draft environmental impact statement is scheduled to be circulated for public review in February 1982.

ADDRESS: Questions about the proposed action and DEIS can be answered by:

Mr. David Gundlach, Planning Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440-2572 (FTS 448-2572).

Dated: January 2, 1981.

Paul F. Kavanaugh,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81-1482 Filed 1-14-81; 8:45 am]

BILLING CODE 3710-GH-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee; Changes in Per Diem Rates

Correction

In FR Doc. 80-40775 appearing at page 1006 in the issue for Monday, January 5, 1981, make the following correction:

On page 1006, in the third column (and continuing on page 1007, in the first column), in paragraph 4., the table of maximum per diem rates should have been printed in the following order:

Locality	Maximum rate
Alaska:	
Adak[1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	72.00
Barrow	111.00
Bethel	93.00
College	67.00
Cordova	84.00
Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
Eielson AFB	67.00
Elmendorf AFB	72.00
Fairbanks	67.00
Ft. Richardson	72.00
Ft. Wainwright	67.00
Juneau	83.00
Kodiak	84.00
Kotzebue	91.00
Murphy Dome	57.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Prudhoe Bay	94.00
Shemya AFB[1]	11.00
Shungnak	91.00
Spruce Cape	84.00
Tanana	90.00
Valdez	70.00
Wainwright	70.00
All Other Localities	71.00
American Samoa	65.00
Guam M.I.	60.00
Hawaii:	
Oahu	70.00
All Other Localities	60.00
Johnston Atoll[2]	15.50
Midway Islands[1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Fajardo:	
12-16—5-15	102.00
5-16—12-15	75.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	102.00
5-16—12-15	75.00
Ponce (Incl. Ft. Allen NCS)	68.00
Roosevelt Roads:	
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	102.00
5-16—12-15	75.00
All Other Localities	63.00
Virgin Islands of U.S.:	
St. Thomas:	
12-1—4-30	120.00
5-1—11-30	74.00
Other:	
12-1—4-30	91.00
5-1—11-30	69.00
Wake Island[2]	15.00
Other Localities	20.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meal and incidental expenses.

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

Law-Related Education Program

AGENCY: Department of Education.

ACTION: Application notice.

Applications are invited for new projects under the Law-Related Education Program for fiscal year 1981.

Authority for this program is contained in Title III, Part G of the Elementary and Secondary Education Act, as amended by Public Law 95-561 (20 U.S.C. 3001).

This program issues awards to State educational agencies, local educational agencies, and other public and nonprofit private agencies, organizations, and institutions.

The purpose of the awards is to assist these institutions in implementing programs in law-related education, in helping others develop programs, and in promoting research and development.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by April 24, 1981.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.123, Law-Related Education Program, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th & D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: It is expected that approximately $1.0 million will be available for the Law-Related Education Program.

It is estimated that these funds could support approximately 15 new grant awards in addition to 16 continuation grants and about three contracts. The new grant awards will include assistance to existing programs serving elementary and secondary school students as well as exemplary projects addressing the needs of all levels. No funds will be directly available to organizations or agencies to plan and establish new programs for elementary and secondary school students. Specific funding allocations for new grant awards are planned as follows:

(1) Elementary/secondary school projects (§ 757.12 of the Regulations). Approximately 10 grants to strengthen or expand existing law-related education programs that serve elementary or secondary schools, or both—or to offer technical assistance to other agencies or organizations in their State or region—or both. $350,000 are initially reserved for these grants.

(2) Exemplary projects (§ 757.13 of the Regulations). Approximately 5 grants to address critical needs in law-related education at any level of education. This category might include such educational activities as research, evaluation, methodology, or any other area authorized under the Act. Projects should address needs that have not been adequately met by other programs or take a particularly new and exemplary approach to law-related education. $75,000 are initially reserved for these grants.

$25,000 are reserved for possible contracts to initiate leadership activities in areas such as multicultural program development. The remaining $550,000 are reserved to continue two-year grants and contracts begun in FY 1980.

These are only estimates and do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by February 13, 1981. They may be obtained by writing to the Office of School Improvement, Law-Related Education Program, U.S. Department of Education (Room 3700, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 20 double-spaced pages in length. The Secretary further urges that applicants not submit lengthy appendices and other information that is not required.

Applicable regulations: Regulations applicable to this program are: (a) Regulations governing the Law-Related Education Program (34 CFR Part 757) as published in the **Federal Register** concurrently with this application notice. Applicants should refer to these regulations in preparing their applications; and (b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77).

Further information: For further information, contact Elizabeth Farquhar, Acting Director, Law-Related Education Program, Office of School Improvement, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3700, Donohoe Building), Washington, D.C. 20202. Telephone: (202) 426-7220.

(Catalog of Federal Domestic Assistance No. 84.123, Law-Related Education Program)

Dated: January 9, 1981.

Terry Saario,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 81-1523 Filed 1-14-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Environmental Protection Task Group of the Committee on Artic Oil and Gas Resources; Meeting

Notice is hereby given that the Environmental Protection Task Group of the Committee on Artic Oil and Gas Resources will meet in March 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Artic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Environmental Protection Task Group meeting follows:

The third meeting of the Environmental Protection Task Group will be held on Wednesday, March 11, 1981, starting at 9:00 a.m., in the Seventy-Six Room, Union Oil Center, 461 South Boylston Street, Los Angeles, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review progress of individual assignments.
3. Review timetable of the Task Group.
4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Environmental Protection Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Environmental Protection Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 7, 1981.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

January 7, 1981.

[FR Doc. 81-1487 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Exploration Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Exploration Task Group of the Committee on Arctic Oil and Gas Resources will meet in February 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Exploration Task Group meeting follows:

The first meeting of the Exploration Task Group will be held on Wednesday, February 11, 1981, starting at 9:00 a.m., in Room 1717, Standard Oil Company of California, 225 Bush Street, San Francisco, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Review drafts of individual assignments.
3. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Exploration Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Exploration Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 8, 1981.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

January 8, 1981.

[FR Doc. 81-1468 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Resource Assessment Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Resource Assessment Task Group of the Committee on Artic Oil and Gas Resources will meet in January 1981. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Resource Assessment Task Group meeting follows:

The third meeting of the Resource Assessment Task Group will be held on Tuesday through Friday, January 27-30, 1981. The Tuesday, January 27 session will start at 9:00 a.m., in the Marston Room, Hyatt Rickeys House Hotel, 4219 El Camino Real, Palo Alto, California. The Wednesday through Friday, January 28-30 sessions will start at 9:00 a.m. each day, in the U.S. Geological Survey offices, 345 Middlefield Road, Menlo Park, California.

The tentative agenda for the meeting follows:

1. Introductory remarks by the Chairman and Government Cochairman.
2. Discussion of the methodology of the Task Group assessment.
3. Briefing on the U.S. Geological Survey's recent Arctic resource assessment studies.
4. Discussion of any other matters pertient to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Resource Assessment Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Resource Assessment Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 8, 1981.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

January 8, 1981.

[FR Doc. 81-1469 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-038]

Energy Systems Company, Division of InterNorth, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 27, 1980, Energy Systems Company, Division of InterNorth, Inc. (Energy Systems), formerly Energy Systems Division of Northern Natural Gas Company, 25 Main Place, Council Bluffs, Iowa 51501, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of 550,000 Mcf of natural gas per year, which is estimated to displace the use of approximately 4 million gallons (95,238 barrels) of No. 2 fuel oil (0.2 to 0.3 percent sulfur) per year at Energy Systems' Howard Street Plant facility located in Omaha, Nebraska. The eligible seller of the natural gas is Peoples Natural Gas Company, Division of InterNorth, Inc. The gas will be transported by the Northern Natural Gas Company (Northern), an interstate pipeline company, and by Metropolitan Utilities District, a local distribution company. Incidental transportation of the natural gas to Northern will be provided by the Panhandle Eastern Pipeline Company (Panhandle), an interstate pipeline. Notice of that application was published in the Federal Register (45 FR 83655, December 19, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On January 18, 1980, Energy Systems received the original certification (ERA Docket No. 79-CERT-106) of an eligible use of natural gas purchased from Peoples Natural Gas Company for use at this same facility for a period of one year. The original certificate expires on January 17, 1981. This recertification is being made effective on January 18, 1981, in order to provide conformity with the original certificate.

The ERA has carefully reviewed Energy Systems' application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas To Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Energy Systems' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 12, 1981.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-1483 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-043]

Fruehauf Corporation, Kelsey-Hayes Co., Heintz Division; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 1, 1980, Fruehauf Corporation (Fruehauf), Kelsey-Hayes Company, Heintz Division, 38481 Huron River Drive, Romulus, Michigan 48174, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligible use of up to 360,000 Mcf of natural gas per year estimated to displace the use of approximately 2,400,000 gallons (57,143 barrels) of No. 6 fuel oil (0.5 percent maximum sulfur) per year at the Heintz Division facility located in Philadelphia, Pennsylvania. The eligible seller of the natural gas is Frue-Kel, Inc., a subsidiary of Fruehauf Corporation. Although Heintz Division will have no direct transportation agreement with an interstate pipeline for transportation of natural gas in connection with this transaction, the seller, Frue-Kel, Inc., will enter into such an agreement with Columbia Gas Transmission Corporation and Texas Eastern Transmission Corporation. Additionally, the Philadelphia Gas Works will be the local distribution company. Notice of that application was published in the Federal Register (45 FR 84119, December 22, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Fruehauf's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas To Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Fruehauf's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, NW, Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 12, 1981.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-1406 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

InterNorth, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c) the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Inter North, Inc. of Omaha, Nebraska.

This Proposed Remedial Order charged Inter North with pricing violations in the amount of $311 million in sales of propane, butane, and natural gasoline during the time period September 1, 1973, through October 31, 1976.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. On or before January 30, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kanas City, Missouri, on the 5th day of January, 1981.

William D. Miller,

District Manager, Central Enforcement District.

Concurrance:

David H. Jackson,

Chief, Enforcement Counsel.

[FR Doc. 81-1407 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Jay Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: January 6, 1981. Comments by: February 17, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, P. O. Box 35228, Dallas, Texas 75235 (phone) 214/767-7745.

SUPPLEMENTARY INFORMATION: On January 6, 1981, the Office of Enforcement of the ERA executed a Consent Order with Jay Oil Company, of Fort Smith, Arkasas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, may be made effective upon it execution.

Because the DOE and Jay wish to expeditiously resolve this matter as agreed, the DOE has determined that it is in the public interest to make the Consent Order with Jay effective as of the date of its execution by the DOE and Jay.

I. The Consent Order

Jay, with its home office in Fort Smith, Arkansas, is a firm engaged in resale of motor gasoline and No. 2 diesel, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210,211,212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of motor gasoline the Office of Enforcement, ERA, and Jay entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was November 1, 1973 through February 28, 1975, and it included all sales of motor gasoline and No. 2 diesel which were made during that period.
2. By using an erroneous determination of its classes of purchaser, Jay incorrectly applied the provisions of 10 CFR 212.93 when determining maximum lawful selling prices for motor gasoline and No. 2 diesel.
3. Because the sales were not made to ultimate consumers, and they are not readily identifiable, Jay will refund $77,000, including interest, through the DOE.
4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send yor comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, P. O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Jay Oil Company Consent Order". We will consider all comments we receive by 4:30 p.m. local time, on February 17, 1981, You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 6th day of January, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-1498 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Petroleum Heat and Power Co., Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a Proposed Consent Order and provides an opportunity for public comment on the terms and conditions of the Proposed Consent Order.

DATE: Comments by February 17, 1981.

EFFECTIVE DATE: November 13, 1981.

ADDRESS: Send comments to: James J. Dowd, Audit Director, Office of Enforcement, Department of Energy, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: James J. Dowd, Audit Director, Office of Enforcement, Department of Energy, 150 Causeway Street, Boston, Massachusetts, 02114, phone (617) 223-3728.

SUPPLEMENTARY INFORMATION: On November 13, 1980, the Office of Enforcement of the ERA executed a Proposed Consent Order with Petroleum Heat and Power Company, Inc. of Stamford, Connecticut. Under 10 CFR 205.199J(b), a Proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the Proposed Consent Order. Although the ERA has signed and tentatively accepted the Proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Petroleum Heat and Power Company, Inc. (Petro), with its home office located in Stamford, Connecticut, is a firm engaged in the wholesale and retail sales of petroleum products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of No. 2 heating oil the Office of Enforcement, ERA, and Petro entered into a Consent Order, the significant terms of which are as follows:

1. As a result of the ERA's audit of Petro, the ERA informed Petro that in its opinion, during the period from November 1, 1973 through June 30, 1974, Petro recovered in its sales of No. 2 heating oil, revenues equalling $1,275,000 in excess of amounts allowed by the applicable price rule, 10 CFR 212.93(a) (preceded by 6 CFR 150.359).

2. It is the ERA's position that the excess revenues resulted primarily from Petro calculating its selling prices based on inaccurate inventory costs.

3. Petro, without admitting that it has violated any statute or regulation or overcharged any customer, is willing to refund the $1,275,000 (including interest), which ERA alleges constitutes excess revenues to the customers that ERA asserts were overcharged as a means of settling all issues with ERA with respect to its sales of No. 2 heating oil during the period from November 1, 1973 through June 30, 1974.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Petro agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in Part I.1. above, the sums of $1,275,000. Approximately $1,143,267 will be refunded directly to Petro's customers who were end-users, in accordance with the terms and conditions outlined in the Proposed Consent Order. Refunds of $131,733.00 that reflect overcharges collected in sales by Petro's Effron subsidiary during the months of November 1973 through April 1974, to retailers and resellers, shall be paid to the United States Department of Energy. Petro shall also pay to the DOE, any amounts which it is unable to refund to end-user customers.

The DOE intends to distribute any refund amounts paid to it in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only these "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify speicific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means.

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Proposed Consent Order.

You should send your comments or written notification of a claim to James J. Dowd, Audit Director, Office of Enforcement, Department of Energy, 150 Causeway Street, Boston, Massachusetts 02114. You may obtain a free copy of this Consent Order by writing to the same address or by calling (617) 223-3728.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Petro Proposed Consent Order." We will consider all comments we receive by 4:30 P.M., local time, on . You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Philadelphia on the 16th day of December, 1980.

Edward F. Momovella,

District Manager of Enforcement, Northeast District.

[FR Doc. 81-1499 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated. Notice of the orders was originally published in Vol. 45, No. 128 of the **Federal Register** on July 1, 1980, and is being republished to reflect changes in the violation amounts of those orders.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. On or before January 30, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 9th day of January 1981.

Robert D. Gerring,

Director, Program Operations Division Office of Enforcement, Economic Regulatory Administration.

Proposed Remedial Orders—Northeast District

Station	Address	Date	Violation Amount	Cents per gallon in violation
Farmingdale Amoco	1050 Broadhollow Road, Farmingdale, NY	5-28-80	$483.00	3.1
Northport Exxon	Route 25A Laurel Road, Northport, NY	5-28-80	54,806.71	18.7
Commack Exxon	Jericho Turnpike and Veteran's Highway, Commack, NY.	5-28-80	33,693.99	22.7
West Islip Amoco	540 Sunrise Highway, West Islip, NY	5-28-80	3,778.98	11.3
Commack Amoco	2211 Jericho Turnpike, Commack, NY	5-28-80	6,950.15	15.3
1907 Service Station	1907 Cropsey Avenue, Brooklyn, NY	4-08-80	2,690.80	3.8

[FR Doc. 81-1494 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

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Issued in Washington, D.C., on the 9th day of January 1981.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Order—Washington, D.C., Metro Area

Station	Address	Date	Violation amount	Cents per gallon in violation
Hillcrest Shell	2721 Naylor Road SE, Washington, DC 20020.	12-31-80	$745.20	0.4
Cyr's Marina	368 North Drive, Severna Park, MD 21146	12-31-80	1,792.57	4.6
Safford Marina	4601 Annapolis Road, Bladensburg, MD 20710.	12-30-80	218.40	7.0

[FR Doc. 81-1496 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Rummell Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: January 6, 1981. Comments by: February 17, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, P.O. Box 35228, Dallas, Texas 75235 (phone) 214/767-7745.

SUPPLEMENTARY INFORMATION: On January 6, 1981, the Office of Enforcement of the ERA executed a Consent Order with Rummell Oil Company, of Denton, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, may be made effective upon its execution.

Because the DOE and Rummell, wish to expeditiously resolve this matter as agreed, the DOE has determined that it is in the public interest to make the Consent Order with Rummell, effective as of the date of its execution by the DOE and Rummell.

I. The Consent Order

Rummell, with its home office in Denton, Texas, is a firm engaged in the resale of motor gasoline, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of motor gasoline the Office of Enforcement, ERA, and Rummell entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was January 21, 1976 through April 16, 1980, and it included all sales

of motor gasoline which was made during that period.

2. By using an improper inventory accounting method, Rummell incorrectly applied the provisions of 10 CFR 212.93(a) when determining maximum lawful sales prices for motor gasoline.

3. Rummell has agreed to pay a penalty of $2,500.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, P.O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Rummell Oil Company Consent Order". We will consider all comments we receive by 4:30 p.m. local time, on February 17, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 6th day of January, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-1500 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Texas Oil and Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Charles L. Croxton, Program Manager for Natural Gas Liquids, Program Operations Division, Office of Enforcement, 2000 M Street, NW., Room 5204, Washington, D.C. 20461, (202) 653-3541.

SUPPLEMENTARY INFORMATION: On April 8, 1980, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Texas Oil and Gas Corporation (TXO) of Dallas, Texas on March 14, 1980 which would not become effective sooner than 30 days after publication, 45 FR 23720 (1980). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by TXO pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

One comment was received. The commentor criticized the possible payment of the refunds to the U.S. Treasury. Similar objections were previously responded to in the Preamble to the Final Rule of Subpart V, 44 FR 8562-8566 (1979). The ERA concluded that the proposed Consent Order should be finalized. 45 FR 34045 (1980).

Pursuant to the Consent Order, TXO refunded the sum of $4,200,000 by certified check made payable to the United States Department of Energy on June 18, 1980. This sum has been placed into a suitable account pending determination of its proper distribution.

The following persons submitted claims to the ERA: Conoco, Inc., The Coastal Corporation, Koch Oil Company, Mobil Oil Corporation.

Action taken: The ERA is unable readily to identify the persons entitled to receive the $4,200,000 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on January 7, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 9th day of January 1981.

Robert Gerring,

Director, Program Operations Division.

[FR Doc. 81-1501 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board.

Date and time: Thursday, February 5, 1981—9:00 a.m.-5:00 p.m. Friday, February 6, 1981—9:00 a.m.-5:00 p.m.

Place: Department of Energy 1000 Independence Avenue, SW, Forrestal Building—Room 4A104 Washington, D.C. 20585

Contact: Georgia Hildreth Director, Advisory Committee Management Department of Energy Forrestal Building—Room 8G087 1000 Independence Avenue, SW, Washington, D.C. 20585 Telephone: 202-252-5187.

Purpose of the Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Discussion of Energy R&D Priorities
- Progress Report of Biomass Panel
- Consideration of Direct Heat Subpanel Draft Report
- Consideration of Advanced Conservation Technologies Subpanel Draft Report
- DOE Budget Review
- Discussion of Terms of Reference for GRI Study Group
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on January 12, 1981.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 81-1265 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Vol. 339]

Determinations By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 8, 1981.

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 JD NO     JA DKT       API NO     SEC D WELL NAME                               FIELD NAME                   PROD   PURCHASER
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**************************************************************************************
   TEXAS RAILROAD COMMISSION
**************************************************************************************
-A R ARCHER JR                         RECEIVED:  12/08/80  JA: TX
 8108344   25321        4223530000 108   AIKEN #1 06063                          SIXTY-SEVEN (CANYON)          6.0 CPA INC
 8108345   25322        4223500000 108   AIKEN #2 06063                          SIXTY-SEVEN (CANYON)          5.0 CPA INC
-ABERCROMBIE J S MINERAL CO INC        RECEIVED:  12/08/80  JA: TX
 8107937   17552        4240931332 103   A E NELSON #4L ID NO 85833              TRIPLE A FIELD              400.0 UNITED GAS PIPELINE
-AMERICAN PETROFINA COMPANY OF TEXAS   RECEIVED:  12/08/80  JA: TX
 8108353   25355        421673C759 103   MACO STEWART UNIT WELL NO 1             LEAGUE CITY (11800) PROP    150.0
-AMOCO PRODUCTION CO                   RECEIVED:  12/08/80  JA: TX
 8108116   23357        4218930141 103   ANTON IRISH CLEARFORK UNIT #362         ANTON IRISH                  15.3 PIONEER NATURAL GAS
 8108117   23358        4227930063 103   ANTON IRISH CLEARFORK UNIT #383         ANTON IRISH                   2.2 PIONEER NATURAL GAS
 8108118   23359        4227930058 103   ANTON IRISH CLEARFORK UNIT #387         ANTON IRISH                  20.8 PIONEER NATURAL GAS
 8107977   19775        423573C926 103   AUSTIN UNIT WELL #2                     LIPS WEST CLEVELAND         256.0 NORTHERN NATURAL GAS
 8108124   23477        42135330C0 103   H H BLAKENEY A #2                       COWDEN NORTH                  1.8 PIONEER NATURAL GAS
 8108154   23896        4207931130 103   C S DEAN C #21                          SLAUGHTER                     4.0 AMOCO PRODUCTION CO
 8108155   23898        4200300000 103   DAVID FASKEN /H/ #3                     FASKEN/WOLFCAMP NORTH/       40.9 PIONEER NATURAL GAS
 8108369   25413        4237132346 103   FRANK A PERRY #5                        BLOCK A-2 (ELLENBURGER)      29.0 W WILSON CORP
 8108057   22738        4235531454 103   G H MCCANN #36-C                        ARNOLD-DAVID (CHAPMAN)      115.0 VALLEY GAS TRANSMISS
 8108133   23537        422033C697 102   J PHILLIP THOMPSON GAS UNIT #1          BLOCKER (COTTON VALLEY)     436.0 UNITED GAS PIPELINE
 8108223   24668        4243532195 103   MORRISS BROTHERS/C/#3                   WHITEHEAD/STRAWN/            54.7 LONE STAR GAS CO
 8107971   19399        4213533044 103   NORTH COWDEN UNIT #1058                 COWDEN NORTH                  1.0 PIONEER NATURAL GAS
 8107968   19281        4213533259 103   NORTH COWDEN UNIT #1075                 COWDEN NORTH                 10.6 PIONEER NATURAL GAS
 8107974   19545        4213533260 103   NORTH COWDEN UNIT #1076                 COWDEN NORTH                  4.6 PIONEER NATURAL GAS
 8107969   19282        4213533261 103   NORTH COWDEN UNIT #1077                 COWDEN NORTH                  6.1 PIONEER NATURAL GAS
 8107966   19279        4213533257 103   NORTH COWDEN UNIT #955                  COWDEN NORTH                  5.4 PIONEER NATURAL GAS
 8107967   19280        4213533258 103   NORTH COWDEN UNIT #956                  COWDEN NORTH                 15.7 PIONEER NATURAL GAS
 8108123   23473        4220330698 102   PATTERSON-HERRIN GAS UNIT WELL NO 1 BLOCKER (COTTON VALLEY)     436.0 UNITED GAS PIPE LINE
 8108140   23693        4229732042 103   PEARL HARRIS /B/ #4                     HARRIS-(WILCOX-LULING)      365.0 TRANSCONTINENTAL GAS
-ANDERSON PETROLEUM INC                RECEIVED:  12/08/80  JA: TX
 8108028   22022        4210532509 103   L B COX JR B #1-10                      OZONA (CANYON SAND)          30.0 ANDERSON PIPELINE CO
-ARCO OIL AND GAS COMPANY              RECEIVED:  12/08/80  JA: TX
 8108027   21976        4210332185 103   BARNSLEY UNIT WELL #40                  SAN HILLS (TUBB)              5.7 WARREN PETROLEUM CO
 8108370   25415        4200332267 103   EMMA COWDEN #82                         EMMA                          5.0 EL PASO NATURAL GAS
 8108026   21928        4213133986 103   J R FOSTER #60                          HAGIST RANCH (750)           77.0 NATURAL GAS PIPELINE
 8108290   25133        4221531019 103   SWALLOW GAS UNIT WELL #M-LT             DONNA (7730) PROPOSED       190.0 TENNESSEE GAS PIPELI
 8108291   25134        4221531019 103   SWALLOW GAS UNIT WELL #M-UT             DONNA (7500)                365.0 TENNESSEE GAS PIPELI
 8107956   18584        4213505417 108   TXL E WELL #1                           TXL NORTH (WADDELL)           5.0 SHELL OIL CO
 8108008   21015        4241306628 108   V J & J D POWELL TR B WELL #4           TILLERY                       5.5 ARCO OIL & GAS CO
 8108007   21014        4241300624 108   V J & J D POWELL TR B WELL #6           TILLERY                      12.1 ARCO OIL & GAS CO
*8108094   23176        4250131780 103   WEST BRAHANEY UNIT #68-X                BRAHANEY                      1.9 SHELL OIL CO
-ARKLA EXPLORATION COMPANY             RECEIVED:  12/08/80  JA: TX
 8108004   20828        4221131065 103   PRATER #1-10                            BUFFALO WALLOW (GRANITE     150.0 ARKANSAS LOUISIANA G
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-ATAPCO					RECEIVED: 12/08/80 JA: TX			
8108025	21850	4247532019	103		F H SCOTT #4	SCOTT (DELAWARE)	40.0	TRANSWESTERN PIPELIN
-BASIN OPERATING CO LTD					RECEIVED: 12/08/80 JA: TX			
8107973	19471	4234730438	102		TOM JACK LUCAS NO 1	DOUGLASS (COTTON VALLEY)	0.0	TEXAS UTILITIES FUEL
-BASS ENTERPRISES PRODUCTION CO					RECEIVED: 12/08/80 JA: TX			
*8108128	23515	4249531162	103		EMPIRE-WALTON #7	KEYSTONE (COLBY)	21.9	TRANSWESTERN PIPELIN
-BEN HOGAN					RECEIVED: 12/08/80 JA: TX			
8108156	23910	4209330681	103		HEATHINGTON #1	MITTIE (MARBLE FALLS)	180.0	
-BLOCKER EXPLORATION CO					RECEIVED: 12/08/80 JA: TX			
8108079	23039	4229330455	102		C C WHITE UNIT NO 1	SOUTH THORNTON (COTTON V	7756.0	
-BONANZA PETROLEUM INC					RECEIVED: 12/08/80 JA: TX			
8108250	24953	4246931499	103		GISLER B #1	DREYER (YEGUA 5200)	100.0	HOUSTON PIPELINE CO
-C B HAZEL					RECEIVED: 12/08/80 JA: TX			
8107898	14290	4213300000	102		VERNON HUMPHREYS NO 1 (71452)	DEAD HORSE CREEK (RANGER	24.0	WEST CEN-TEX GAS CO
-C L GAGE JR					RECEIVED: 12/08/80 JA: TX			
8107981	20047	4249731530	103		LAURA WARREN NO 1	BOONSVILLE (BEND CONGL)	146.0	NATURAL GAS PIPELINE
-C L TYRA					RECEIVED: 12/08/80 JA: TX			
8108244	24912	4213332119	103		SMITH NO 1 (87986)	LEE RAY (DUFFER LIME)	303.0	LONE STAR GAS CO
-CABOT CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108257	24980	4206530793	103		WARE R C ET AL #63	PANHANDLE CARSON COUNTY	18.0	NORTHERN NATURAL GAS
-CADDO OIL CO					RECEIVED: 12/08/80 JA: TX			
8107959	19107	4205100000	103		COFFIELD B-7A A NO 1	WILDCAT FIELD	20.0	FERGUSON CROSSING PI
8107960	19108	4205100000	103		COFFIELD B-7A A NO 2	NOACK COWHERD NE (3400)	2.0	FERGUSON CROSSING PI
8107961	19113	4205100000	103		COFFIELD M-1C A NO 1	JORDAN (NAVARRO B) FIELD	61.0	FERGUSON CROSSING PI
8107964	19196	4205100000	103		MABEL C ROBINSON NO 1	MILBUR EAST (3110)	10.0	FERGUSON CROSSING PI
8107962	19180	4205100000	103		MARY MURR NO 1	CHAMBERS (NAVARRO)	0.3	FERGUSON CROSSING PI
8107963	19182	4205100000	103		R G LUNSFORD NO 1	WILDCAT FIELD	20.0	FERGUSON CROSSING PI
8107965	19202	4205100000	103		ROCKDALE STATE BK A NO 1	MILBUR (NAVARRO) FIELD	55.0	FERGUSON CROSSING PI
-CAMBRIDGE & NAIL					RECEIVED: 12/08/80 JA: TX			
8108090	23129	4239300000	103		HILL NO 1-C WELL	PARSELL (MORROW LOWER)	365.0	TRANSWESTERN PIPELIN
-CANYON OPERATING UNIT					RECEIVED: 12/08/80 JA: TX			
*8108301	25156	4241330886	103		CASE NO 3	VELREX (HENDERSON UPPER)	30.0	CRA INC
-CARTER ENERGY CORP					RECEIVED: 12/08/80 JA: TX			
8108297	25147	4223732866	103		ARMSTRONG #1	BRYSON EAST (CADDO)	0.0	TEXAS UTILITIES FUEL
8108051	22644	4249731613	103		C R GAMBLE ET AL NO 1	WILDCAT	160.0	TEXAS UTILITIES FUEL
-CENTURA INCORPORATED					RECEIVED: 12/08/80 JA: TX			
8108005	20886	4213100000	102		J F WELDER HEIRS 1-71	LOMA NOVIA NE (WILCOX 84	0.0	TENNESSEE GAS PIPELI
8107893	12210	4212700000	103		MCLEAN BOWMAN C #4	GOOD LUCK (SAN MIGUEL)	20.0	ESPERANZA TRANSMISSI
-CHALMERS OPERATING CO INC					RECEIVED: 12/08/80 JA: TX			
8108181	24109	4244131477	103		G E SWINSON 38 #1 15800	JOCELYN-VARN (FRY UPPER)	60.0	UNION TEXAS PETROLEU
8108180	24108	4205932528	103		JACKSON ESTATE 21 #1 RRC # 15842	CALLAHAN COUNTY REGULAR	60.0	LONE STAR GAS CO
-CHAMPLIN EXPLORATION INC					RECEIVED: 12/08/80 JA: TX			
8108161	23953	4214930363	103		BESS HART #1	GIDDINGS (AUSTIN CHALK)	109.0	PHILLIPS PETROLEUM C
8108163	23959	4228730540	103		GARWOOD GERDES D #1	GIDDINGS (AUSTIN CHALK)	20.0	CLAJON GAS CO
8108160	23951	4214930374	103		GUSSIE R HART #1	GIDDINGS (AUSTIN CHALK)	10.0	PHILLIPS PETROLEUM C
8108164	23960	4214930333	103		M ZOCK #1	GIDDINGS (AUSTIN CHALK)	20.0	PHILLIPS PETROLEUM C
8108130	23520	4228730530	103		SHANNON SHIPMAN #1	GIDDINGS (AUSTIN CHALK)	180.0	CLAJON GAS CO
8108131	23522	4205130559	103		STEGMUELLER #3	GIDDINGS (AUSTIN CHALK)	720.0	CLAJON GAS CO
8108162	23954	4214930489	103		WILLIE LEHMAN UNIT #1	GIDDINGS (AUSTIN CHALK)	36.0	PHILLIPS PETROLEUM C
-CHAMPLIN PETROLEUM COMPANY					RECEIVED: 12/08/80 JA: TX			
8108055	22713	4245130586	103		A H DUFF ESTATE NO 6	DOVE CREEK (CANYON D)	91.0	NORTHERN NATURAL GAS
8108137	23619	4245130610	103		A H DUFF ESTATE NO 7	DOVE CREEK (CANYON D)	91.0	NORTHERN NATURAL GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108122	23433	4236530930	103		CARTHAGE GAS UNIT 8 WELL #3	CARTHAGE (COTTON VALLEY)	256.0	TENNESSEE GAS PIPELI
8108121	23430	4243130849	103		I W TERRY NO 3	CONGER S W (PENN)	60.0	NORTHERN NATURAL GAS
8108300	25152	4246931589	103		MCFADDIN A NO 14	KAY CREEK (5100) 498	492.8	CHANNEL INDUSTRIES G
8107885	07067	4235531294	102		WARDNER G P #136 77622	STRATTON (M-24)	361.0	TENNESSEE GAS PIPELI
8107885	07067	4235531294	103		WARDNER G P #136 77622	STRATTON (M-24)	361.0	TENNESSEE GAS PIPELI
-CHARLES L WALKER					RECEIVED: 12/08/80 JA: TX			
*8108208	24275	4200332254	102		FISHER 3 #3	BLOCK A-34 (SAN ANDRES)	54.0	PHILLIPS PETROLEUM C
*8108207	24260	4200332255	102		FISHER 8 #2	BLOCK A-34 (SAN ANDRES)	30.6	PHILLIPS PETROLEUM C
-CHARLES T CRABTREE					RECEIVED: 12/08/80 JA: TX			
8107910	15976	4217900000	108		T B HAGGARD LEASE - WELL #1	PANHANDLE	8.4	PHILLIPS PETROLEUM C
8107917	15984	4217900000	108		T B HAGGARD LEASE - WELL #11	PANHANDLE	7.4	PHILLIPS PETROLEUM C
8107918	15985	4217900000	108		T B HAGGARD LEASE - WELL #12	PANHANDLE	8.4	PHILLIPS PETROLEUM C
8107919	15986	4217900000	108		T B HAGGARD LEASE - WELL #13	PANHANDLE	8.1	PHILLIPS PETROLEUM C
8107920	15987	4217900000	108		T B HAGGARD LEASE - WELL #14	PANHANDLE	9.5	PHILLIPS PETROLEUM C
8107911	15977	4217900000	108		T B HAGGARD LEASE - WELL #2	PANHANDLE	8.0	PHILLIPS PETROLEUM C
8107912	15978	4217900000	108		T B HAGGARD LEASE - WELL #4	PANHANDLE	8.4	PHILLIPS PETROLEUM C
8107913	15980	4217900000	108		T B HAGGARD LEASE - WELL #6	PANHANDLE	7.7	PHILLIPS PETROLEUM C
8107914	15981	4217900000	108		T B HAGGARD LEASE - WELL #7	PANHANDLE	7.7	PHILLIPS PETROLEUM C
8107915	15982	4217900000	108		T B HAGGARD LEASE - WELL #8	PANHANDLE	9.5	PHILLIPS PETROLEUM C
8107916	15983	4217900000	108		T B HAGGARD LEASE - WELL #9	PANHANDLE	6.9	PHILLIPS PETROLEUM C
-CIG EXPLORATION INC					RECEIVED: 12/08/80 JA: TX			
8107936	17477	4248330511	107		E T DAVIS 1-65		253.0	COLORADO INTERSTATE
-CIRCLE SEVEN PRODUCTION CO					RECEIVED: 12/08/80 JA: TX			
8108365	25394	4223700000	103		C MCCLURE NO 1 WELL ID #81642	RIGGS (CONGLOMERATE)	0.0	LONE STAR GAS CO
8108360	25387	4223700000	103		CAMPBELL-WOOD NO 2 WELL ID #86279	NEWPORT SOUTH (ATOKA CON	0.0	CITIES SERVICE GAS C
8108361	25390	4223700000	103		J ZUBER-ENGLERT NO 1 WELL ID #85868	NEWPORT S (ATOKA CONGL)	0.0	LONE STAR GAS CO
8108362	25391	4223700000	103		KIT GUNTER NO 1 WELL ID #81747	RIGGS (CONGLOMERATE).	0.0	LONE STAR GAS CO
8108364	25393	4236700000	103		MARY MARTIN NO 1 WELL ID #81712	RENO CONGLOMERATE	0.0	LONE STAR GAS CO
8108363	25392	4223700000	103		R LONG ET AL NO 3 WELL ID #77038	MARINA-MAG (CONGLOMERATE	0.0	SOUTHWESTERN GAS PIP
8108367	25398	4223700000	103		ROY LONG ET AL NO 2 WELL ID #76634	MARINA-MAG (CONGLOMERATE	0.0	SOUTHWESTERN GAS PIP
8108366	25396	4223700000	103		WALLIS-SOLOMON NO 1 WELL ID #86082	CUNDIFF NORTH (5700)	0.0	SOUTHWESTERN GAS PIP
-COLA PETROLEUM INC					RECEIVED: 12/08/80 JA: TX			
*8108322	25204	4238331490	103		CHILDRESS #1	CALVIN (DEAN)	18.0	UNION TEXAS PETROLEU
*8108184	24128	4238331422	103		VON #1	CALVIN (DEAN)	18.7	UNION TEXAS PETROLEU
8108185	24129	4238331505	103		WOOTEN #1	CALVIN (DEAN)	19.0	UNION TEXAS PETROLEU
-COLORADO INTERSTATE GAS CO					RECEIVED: 12/08/80 JA: TX			
8107963	20147	4237330661	108		MASTERSON 104R	WEST PANHANDLE (RED CAVE	18.6	COLORADO INTERSTATE
-COLUMBIA GAS DEVELOPMENT CORP					RECEIVED: 12/08/80 JA: TX			
8108190	24190	4205130669	102		SCOTT TYSON NO 3	GIDDINGS (AUSTIN CHALK)	474.0	FERGUSON CROSSING PI
-CONOCO INC					RECEIVED: 12/08/80 JA: TX			
8108104	23288	4207900000	108		CONOCO DEAN UNIT #15 ID #60106	SLAUGHTER	0.4	AMOCO PRODUCTION CO
8108101	23279	4207900000	108		CONOCO DEAN UNIT #58 ID #60106	SLAUGHTER	1.5	AMOCO PRODUCTION CO
8107943	17689	4213300000	108		E COWDEN GRAYBURG UNIT #55 ID #229*	NORTH COWDEN	0.3	AMOCO PROD CO
8107935	16889	4213533186	103		EAST COWDEN (GRAYBURG) UNIT #57 ID*	NORTH COWDEN	15.7	AMOCO PRODUCTION CO
8108032	22088	4210900000	108		FORD GERALDINE UNIT #261 ID #21021	GERALDINE FORD	0.2	EL PASO NATURAL GAS
8107953	18539	4238900000	108		FORD GERALDINE UNIT #65 ID #21021	GERALDINE FORD	2.7	EL PASO NATURAL GASO
8108096	23251	4231731242	108		GRISHAM & GREEMAN #30 ID #22261	SPRABERRY / TREND AREA	0.1	ADOBE OIL CO
8108108	23292	4222730091	108		H R CLAY E #44 ID #02692	HOWARD GLASSCOCK	1.3	PHILLIPS PETROLEUM C
8108106	23290	4231731015	108		HOWARD ALEXANDER #1 ID #22905	LACAFF	9.1	ALPINE OIL CO
8108016	21551	4200332182	103		J W BONER B #31 ID #01664	FUHRMAN-MASCHO	25.2	PHILLIPS PETROLEUM C
8108120	23424	4200332259	103		J W BONER B #35 ID #01664	FUHRMAN-MASCHO	7.3	PHILLIPS PETROLEUM C
8108105	23289	4215100000	108		ROUND TOP PALO PINTO UNIT #30 ID **	ROUND TOP	0.6	LONE STAR GAS CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108132	23525	4200730631	103		ST CHARLES CO NO 66 87952	BLACKJACK (J 9400)	0.7	HOUSTON PIPE LINE CO
8107957	18852	4203300000	103		T J GOOD 36 #6	GOOD	70.0	GETTY OIL CO
8108107	23291	4200332215	103		W H BONER A #27 ID #01663	FUHRMAN-MASCHO	38.3	PHILLIPS PETROLEUM C
8108099	23252	4216500000	108		W H MOORE 46 #12 ID #11641	WASSON	1.0	SHELL OIL CO
8107980	20024	4200300000	108		W T FORD #17 ID #01630	FUHRMAN-MASCHO	1.0	PHILLIPS PETROLEUM C
8108100	23253	4216500000	108		WASSON 49 #14 ID #07712	WASSON	5.2	SHELL OIL CO
8107954	18540	4243300000	108		WEST FLOWERS UNIT #11 ID #11787	FLOWERS WEST	0.5	CITIES SERVICE OIL C
8107952	18535	4243300000	108		WEST FLOWERS UNIT #9 ID #11787	FLOWERS WEST	0.3	CITIES SERVICE OIL C
8108109	23295	4213500000	108		WIGHT UNIT #3 ID #20661	COWDEN NORTH	1.7	AMOCO PRODUCTION CO
8107972	19400	4218530229	102		WILLIAM GARDNER NO 1 12613	WHITEHALL (WILCOX)	146.0	LONE STAR GAS CO
-COQUINA OIL CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108018	21701	4244300000	102		BARBEE #1	SHEFFIELD S E (DEVONIAN)	365.0	INTRATEX GAS CO
-CORNELL OIL CO					RECEIVED: 12/08/80 JA: TX			
*8108056	22736	4250100000	103		CORNELL UNIT NO 3036	WASSON FIELD/SAN ANDRES	30.0	SHELL OIL CO ET AL
-D & J OPERATING INC					RECEIVED: 12/08/80 JA: TX			
8107905	15221	4239900000	103		CLYDE ROACH WELL #2	WILDCAT	54.8	UNION TEXAS PETROLEU
-DALLAS PRODUCTION INC					RECEIVED: 12/08/80 JA: TX			
8108253	24965	4220330274	103		E SCOTTSVILLE GAS UNIT #2 WELL 1	SCOTTSVILLE E (PETTIT UP	117.0	DELHI GAS PIPELINE C
8108247	24928	4236731709	103		FOSTER ESTATE NO 1	MUIR (STRAWN 4400)	840.0	SOUTHWESTERN GAS PIP
8108240	24874	4236731644	103		SCOTT B NO 1	WEATHERFORD SW (STRAWN)	620.0	SOUTHWESTERN GAS PIP
-DELHI OIL CORP & NRM					RECEIVED: 12/08/80 JA: TX			
8108127	23510	4217130534	102		HOSKINS NO 1	PEACH CREEK (AUSTIN CHAL	3.6	TIPPERARY CORP
8108174	24066	4217730555	102		JOHNSON NO 1	PEACH CREEK (AUSTIN GAS)	730.0	TIPPERARY CORP
8108126	23509	4217130548	102		SPENCER UNIT NO 1	PEACH CREEK (BUDA)	3.6	TIPPERARY CORP
-DELTA DRILLING CO					RECEIVED: 12/08/80 JA: TX			
8108156	23934	4241300000	103		JACKSON #4	ELDORADO (CANYON)	48.0	NORTHERN NATURAL GAS
-DIAMOND SHAMROCK CORPORATION					RECEIVED: 12/08/80 JA: TX			
8107949	18048	4236731527	103		ETHEL REYNOLDS NO 1	DICEY	240.0	
8108030	22047	4239330747	103		FRANK CHAMBERS C NO 6	MENDOTA NW	160.0	
8108002	20826	4223300000	108		INEZ ROLLETTE NO 3	TWIN	4.0	NORTHERN NATURAL GAS
8108003	20827	4223300000	108		INEZ ROLLETTE NO 5	TWIN	4.0	NORTHERN NATURAL GAS
8108029	22025	4239330769	103		MAHLER NO 1	MENDOTA NW	46.0	
8107999	20822	4235700000	108		MCGARRAUGH-EDWARDS H NO 2-135	HORIZON	0.0	NATURAL GAS PIPELINE
8108000	20823	4223300000	108		MCNUTT B NO 1	PANHANDLE	5.0	NORTHERN NATURAL GAS
8108001	20824	4223300000	108		NORA GROVES NO 4	PANHANDLE	3.0	NORTHERN NATURAL GAS
8107998	20821	4235700000	108		W A ELLEDGE NO 1	TWIN	1.0	NORTHERN NATURAL GAS
8107997	20820	4235700000	108		W A ELLEDGE NO 2	TWIN	1.0	NORTHERN NATURAL GAS
8108149	23627	4221100000	103		WALTER S KILLEBREW NO 2-119	CANADIAN S E	319.0	
-DISCOVERY OPERATING INC					RECEIVED: 12/08/80 JA: TX			
8108177	24096	4241330880	102		LIN B #1	W D D (CANYON)	234.0	CRA INC
*8108186	24131	4241330880	103		LIN B #1	W D D (CANYON)	234.0	CRA INC
-DORCHESTER EXPLORATION INC					RECEIVED: 12/08/80 JA: TX			
8108238	24810	4243130844	103		REYNOLDS 2 NO 1 RRC ID #25903	CONGER (PENN)	73.0	VALERO TRANSMISSION
8108239	24811	4243130846	103		TERRY 18 NO 3 RRC ID #87510	CONGER (PENN)	138.0	ESPERANZA PIPELINE C
-DORCHESTER GAS PRODUCING CO					RECEIVED: 12/08/80 JA: TX			
8108009	21093	4206500000	108		R S MCCONNELL NO 7 (24370)	PANHANDLE WEST	11.0	NORTHERN NATURAL GAS
-DYNE OIL & GAS INC					RECEIVED: 12/08/80 JA: TX			
8108141	23685	4206500000	103		BURNETT WELL NO 3 #04464	PANHANDLE CARSON COUNTY	0.0	PHILLIPS PETROLEUM C
8107907	15555	4223330679	103		SAMUEL #1	PANHANDLE-HUTCHINSON COU	0.0	PHILLIPS PETROLEUM C
8108142	23686	4206500000	103		SAMUEL A NO 1 WELL	PANHANDLE CARSON COUNTY	0.0	PHILLIPS PETROLEUM C
-ENERGY RESERVES GROUP INC					RECEIVED: 12/08/80 JA: TX			
8108081	23045	4242700000	108		GROOS NATIONAL BANK #4	GREGG WOOD	17.0	VALERO INTERSTATE TR

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108019	21706	4227330525	102		STATE TRACT 172 #1	S E PITA ISLAND FIELD	178.0	NATURAL GAS PIPELINE
-ENRICH OIL CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108195	24219	4235330842	102		DOUBLE M RANCH #1-82 ID-15956	DOUBLE M RANCH (COOK SD)	28.0	SUN OIL COMPANY-OKLA
8108194	24218	4235330843	102		DOUBLE M RANCH-FEW #1-83 ID-15877	DOUBLE M RANCH (COOK SD)	91.0	SUN OIL CO
8108193	24216	4242931913	102		TRAMMELL-SWANSON #1 ID15395	JIM KERN SE (CONGL)	13.0	GREAT WESTERN GAS CO
-ENSERCH EXPLORATION INC					RECEIVED: 12/08/80 JA: TX			
8108267	25013	4249731791	103		D C GARGIS NO 2	BOONSVILLE (BCG)	77.0	LONE STAR GAS CO
8108148	23811	4249700000	103		E E NORTON NO 4	BOONSVILLE	228.0	LONE STAR GAS CO
8108304	25159	4221330241	103		J W TULLOS A NO 2X-T	OPELIKA	1049.0	LONE STAR GAS CO
8108279	25078	4213730231	108		W L MIERS B NO 13	SAWYER	22.0	LONE STAR GAS CO
8108280	25080	4213730230	108		W L MIERS B NO 15	SAWYER	3.0	LONE STAR GAS CO
8108277	25075	4213730283	108		W L MIERS B NO 26	SAWYER	1.0	LONE STAR GAS CO
8108274	25072	4213730279	108		W L MIERS C NO 12	SAWYER	2.0	LONE STAR GAS CO
8108272	25070	4213730255	108		W L MIERS C NO 14	SAWYER	18.0	LONE STAR GAS CO
8108278	25077	4213730244	108		W L MIERS C NO 7	SAWYER	20.0	LONE STAR GAS CO
8108273	25071	4213730267	108		W L MIERS C NO 9	SAWYER	16.0	LONE STAR GAS CO
8108275	25073	4213730247	108		WALLACE 23 NO 2	SAWYER	11.5	LONE STAR GAS CO
8108276	25074	4213730271	108		WALLACE 39 NO 1	SAWYER	9.0	LONE STAR GAS CO
8108271	25069	4213730249	108		WALLACE 68 NO 1	SAWYER	17.0	LONE STAR GAS CO
-ERGON ENERGY CORP					RECEIVED: 12/08/80 JA: TX			
8108040	22393	4235730960	103		SWINK #1	FARNSWORTH-CONNER (DES M	9.8	PHILLIPS PETROLEUM C
-ERSO INC					RECEIVED: 12/08/80 JA: TX			
8108343	25312	4236500000	103		CARTHAGE UNIT WELL #32	CARTHAGE (COTTON VALLEY)	365.0	TENNESSEE GAS PIPELI
-ESENJAY PETROLEUM CORP					RECEIVED: 12/08/80 JA: TX			
8108078	23019	4212331044	103		HOTZ-RANGNOW NO 1	HYNES (WILCOX 8100)	183.0	VALERO TRANSMISSION
-EXXON CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108265	25048	4204730793	103		AMADO TRAD B-2-D	SCOTT & HOPPER (6300 C)	110.0	TENNESSEE GAS PIPELI
8108046	22573	4215731012	103		C C NELSON #24	SUGARLAND	30.0	UNITED TEXAS TRANSMI
8108199	24242	4226130500	102		C M ARMSTRONG 54-D (87658)	CANDELARIA (J-47 EAST)	500.0	NATURAL GAS PIPELINE
8108216	24453	4226130539	103		C M ARMSTRONG 59-F (87823)	CANDELARIA (G-77)	435.0	NATURAL GAS PIPELINE
8108352	25354	4222732006	103		DOUTHIT UNIT #710	HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEUM C
8108202	24254	4200332233	103		FULLERTON CLEARFORK UNIT #1025	FULLERTON	123.0	PHILLIPS PETROLEUM C
*8108242	24877	4200332250	103		FULLERTON CLEARFORK UNIT #1619	FULLERTON	27.0	PHILLIPS PETROLEUM C
*8108243	24878	4200332257	103		FULLERTON CLEARFORK UNIT #1827	FULLERTON	15.0	PHILLIPS PETROLEUM C
*8108252	24963	4200332247	103		FULLERTON CLEARFORK UNIT #2043	FULLERTON	14.0	PHILLIPS PETROLEUM C
8108203	24255	4200332192	103		FULLERTON CLEARFORK UNIT #4219	FULLERTON	23.0	PHILLIPS PETROLEUM C
*8108241	24876	4200332213	103		FULLERTON CLEARFORK UNIT #4317	FULLERTON	24.0	PHILLIPS PETROLEUM C
*8108317	25188	4200332234	103		FULLERTON CLEARFORK UNIT #925	FULLERTON	36.0	PHILLIPS PETROLEUM C
8108065	23079	4224521366	103		INDUSTRIAL INVESTMENT CO A/C 4 #13	AMELIA (FRIO 6)	1.5	HOUSTON PIPELINE
8108134	23565	4210332147	103		J B TUBB A/C 1 #206U	SAND HILLS (MCKNIGHT)	106.0	EL PASO NATURAL GAS
8108213	24442	4210332242	103		J B TUBB A/C 1 #217L	SAND HILLS (TUBB)	219.0	EL PASO NATURAL GAS
8108214	24444	4210332243	103		J B TUBB A/C 2 #218	SANDHILLS (MCKNIGHT)	40.0	EL PASO NATURAL GAS
8108254	24969	4210332258	103		J B TUBB A/C 2 #219	SAND HILLS (MCKNIGHT)	5.0	EL PASO NATURAL GAS
8107909	15773	4210300000	108		J B TUBB B #3	SAND HILLS (MCKNIGHT)	6.0	EL PASO NATURAL GAS
8108316	25187	4210332235	103		J B TUBB F #18 L	SAND HILLS (TUBB)	35.0	EL PASO NATURAL GAS
8108251	24962	4210332235	103		J B TUBB F #18U	SAND HILLS (MCKNIGHT)	73.0	EL PASO NATURAL GAS
8108198	24237	4226130426	102		J G KENEDY JR C-14 (57122)	MIFFLIN (H-58)	180.0	NATURAL GAS PIPELINE
8108266	25012	4234931063	103		J L GRANTHAM GAS UNIT 1 #1	ROUNDHOUSE (TRAVIS PEAK)	730.0	TEXAS UTILITIES FUEL
8108212	24377	4242731327	102		L M GUERRA 7-T (09561)	KELSEY SOUTH (GUERRA 8)	18.0	TRUNKLINE GAS CO
8108210	24329	4242731353	102		MCGILL BROS 458 (09553)	KELSEY SOUTH (22-G)	82.0	TRUNKLINE GAS CO
8108200	24243	4226130537	102		MIFFLIN GAS UNIT 2 WELL 2 (87378)	MIFFLIN (I-30)	1100.0	NATURAL GAS PIPELINE
8108264	25604	4229530785	103		OLA D PIPER #7	BRADFORD (CLEVELAND)	34.0	TRANSWESTERN PIPELIN

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108050	22606	4223531423	103		PEARL WILLIAMS B #9	DOVE CREEK SOUTH (6500)	65.0	NORTHERN NATURAL GAS
8108068	22895	4216130432	103		REED GAS UNIT 4 #2	REED (HAYNESVILLE)	1488.0	LONE STAR GAS CO
8108205	24258	4216531757	103		ROBERTSON (CLEARFORK) UNIT #3602	ROBERTSON N (CLFK 7100)	5.0	PHILLIPS PETROLEUM C
8108204	24257	4216531759	103		ROBERTSON (CLEARFORK) UNIT #3650	ROBERTSON N (CLFK 7100)	5.0	PHILLIPS PETROLEUM C
8108206	24259	4216531754	103		ROBERTSON (CLEARFORK) UNIT #63	ROBERTSON N (CLFK 7100)	20.0	PHILLIPS PETROLEUM C
8108262	25007	4248930604	103		S H BELL B 5-D (87442)	WILLAMAR (GRABEN 3100)	730.0	NATURAL GAS PIPELINE
8108201	24246	4226130511	102		SARITA FIELD OIL & GAS UNIT 149-D *	SARITA (19-H)	876.0	NATURAL GAS PIPELINE
8108014	21447	4234730441	103		TRAWICK GAS UNIT 11 #2L	TRAWICK (TRAVIS PEAK)	500.0	
8108044	22515	4213133365	103		V KOHLER A-122F #86974	VIGGO (YEGUA 9)	1180.0	TENNESSEE GAS PIPELI
-FOREST OIL CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108045	22537	4247932485	102		CRISTINA G VILLARREAL GAS UNIT #1	PROPOSED N DILTON DEEP	130.0	VALERO TRANSMISSION
-FRANK CASS					RECEIVED: 12/08/80 JA: TX			
8108245	24926	4238331443	103		WEDDELL 20 RRC NO 08358	SPRABERRY (TREND AREA)	358.5	EL PASO NATURAL GAS
8108246	24927	4238331442	103		WEDDELL 4 RRC NO 08359	SPRABERRY (TREND AREA)	339.0	EL PASO NATURAL GAS
-GARY D TURNER DBA TURNER PROPERTIES					RECEIVED: 12/08/80 JA: TX			
8108031	22073	4208130884	103		TURNER PROPERTIES REED NO 1	JAMESON (STRAWN)	73.0	SUN GAS CO
-GAS DEVELOPMENT CORP					RECEIVED: 12/08/80 JA: TX			
8108282	25083	4241330708	108		EMMONS 82 WELL NO 1	ELDORADO SOUTH (CANYON)	10.5	NORTHERN NATURAL GAS
8108281	25082	4241300000	108		WILLIAMS-SHELL 81 WELL NO 1	ELDORADO SOUTH (CANYON)	11.2	NORTHERN NATURAL GAS
-GAS PRODUCING ENTERPRISES INC					RECEIVED: 12/08/80 JA: TX			
8108077	23018	4237530672	103		MASTERSON 83-13RO	PANHANDLE RED CAVE	15.0	COLORADO INTERSTATE
8108071	22948	4237530700	103		MASTERSON 83-41RO	PANHANDLE RED CAVE	18.0	COLORADO INTERSTATE
-GETTY OIL COMPANY					RECEIVED: 12/08/80 JA: TX			
8108171	24056	4236500000	103		A E CARROLL #2	CARTHAGE (COTTON VALLEY)	420.0	DELHI GAS PIPELINE C
8108313	25170	4223330757	103		HERRING A TRACT 2 #93	PANHANDLE HUTCHINSON	10.2	PANHANDLE EASTERN PL
8108312	25168	4223330808	103		HERRING A TRACT 2 #95	PANHANDLE HUTCHINSON	40.1	PANHANDLE EASTERN P
8108311	25167	4223330804	103		HERRING A TRACT 2 #96	PANHANDLE HUTCHINSON	31.4	PANHANDLE EASTERN P
8108310	25166	4223330850	103		HERRING A TRACT 2 #97	PANHANDLE HUTCHINSON	18.6	PANHANDLE EASTERN PL
8108221	24657	4210332254	103		NORTH MCELROY UNIT WELL NO 2762	MCELROY	21.0	PHILLIPS PETROLEUM C
8108248	24943	4210332277	103		NORTH MCELROY UNIT WELL NO 3406	MCELROY	40.0	PHILLIPS PETROLEUM C
8108302	25157	4210332276	103		NORTH MCELROY UNIT WELL NO 3414	MCELROY	14.0	PHILLIPS PETROLEUM C
8108173	24061	4236500000	103		POWELL A #2	CARTHAGE	585.0	DELHI GAS PIPELINE C
8107899	14547	4200700000	102		TEXAS STATE TRACT 215 NO 1	WILDCAT	186.0	
8107899	14547	4200700000	103		TEXAS STATE TRACT 215 NO 1	WILDCAT	186.0	
8108334	25255	4236530906	103		WERNER F WELL #2	CARTHAGE (COTTON VALLEY)	85.0	DELHI GAS PIPELINE C
8108172	24058	4236500000	103		WERNER-KOYLE #3	CARTHAGE (COTTON VALLEY)	636.0	DELHI GAS PIPELINE C
-GRACE PETROLEUM CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108139	23677	4224900000	103		SIDNEY FREEBORN NO 18	AMARGOSA (2700)	140.0	NATURAL GAS PIPELINE
-GULF COAST MINERALS CO INC					RECEIVED: 12/08/80 JA: TX			
8107902	14995	4213132957	102		RUBEN AND RENE HINOJOSA NO 1	JAM (5355)	115.2	UNITED GAS PIPELINE
-GULF OIL CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108076	23011	4247932387	102		BRUNI MINERAL TRUST A NO 16	JUANITA (8850) - (PROPOS	1500.0	TENNESSEE GAS PIPELI
8108136	23568	4238931040	103		MORRY L ET AL WELL NO 10	WORSHAM (CHERRY CANYON)	39.0	TRANSWESTERN PIPELIN
8108325	25213	4247532024	103		HUTCHINGS STOCK ASSN WELL NO 1013	WARD-ESTES NORTH	40.0	CABOT CORP
8108097	23190	4238931086	103		J FROST -D- WELL NO 1	WORSHAM EAST (CHERRY CAN	0.0	TRANSWESTERN PIPELIN
8108324	25212	4249531182	103		KEYSTONE CATTLE CO WELL NO 353	KEYSTONE (COLBY)	87.0	CABOT CORP
8108039	22308	4238931061	103		LIGON S E - STATE NO 10	WORSHAM EAST (CHERRY CAN	807.0	TRANSWESTERN PIPELIN
8108075	23009	4238900000	103		LIGON SE - STATE WELL NO 3	WORSHAM-BAYER (PENN)	240.0	TRANSWESTERN PIPELIN
8107894	12476	4217900000	108		R B THOMPSON ETAL #12	PANHANDLE GRAY	5.0	GETTY OIL CO
-H L BROWN JR					RECEIVED: 12/08/80 JA: TX			
8108327	25233	4207931196	103		JACK FROST B NO 2 WELL #62830	BUCKSHOT (4950)	45.6	WARREN PETROLEUM CO
8108326	25232	4207931237	103		JACK FROST B NO 4 WELL #62830	BUCKSHOT (4950)	29.2	WARREN PETROLEUM CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-H L HUFFMAN LTD					RECEIVED: 12/08/80 JA: TX			
8108265	25011	4210500000	108		W R BAGGET NO 1-44 (#34707)	NW OZONA (CANYON SAND)	21.2	EL PASO NATURAL GAS
-H-M OIL CO					RECEIVED: 12/08/80 JA: TX			
8108091	23159	4248131935	103		LOU ALICE ELLIS #1-C	TWIN BASIN (6700)	400.0	TENNESSEE GAS PIPELI
-HARKEN OIL & GAS INCORP					RECEIVED: 12/08/80 JA: TX			
8107921	16623	4210130227	102		GILBREATH UNIT #1-R	TIPPEN SW (CONGL 6900)	255.5	LONE STAR GAS CO
-HENRY PETROLEUM CORP					RECEIVED: 12/08/80 JA: TX			
8108219	24457	4231732093	103		HOLCOMB #1	TEX-HAMON (DEAN)	27.5	ADOBE OIL & GAS CORP
8108218	24456	4211531317	103		KIMBRELL #1	TEX-HAMON (DEAN)	24.5	ADOBE OIL & GAS CORP
8108217	24455	4211531316	103		KOEHLER #1	TEX-HAMON (DEAN)	26.3	ADOBE OIL & GAS CORP
-HILLIARD OIL & GAS INC					RECEIVED: 12/08/80 JA: TX			
8108176	24101	4204730775	102		JAMES DAWSON NO 1	FLOWELLA (FRIO 8300) FIE	270.0	TENNESSEE GAS PIPELI
-HOME PETROLEUM CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108368	25411	4236530718	103		DAN GUS OWENS UNIT NO 1	CARTHAGE SOUTH (TRAVIS P	33.0	UNITED GAS PIPE LINE
8108286	25131	4228730654	103		J B PORTER JR ET AL UNIT #1	GIDDINGS (AUSTIN CHALK)	223.0	CLAJON GAS CO
8108287	25130	4228730632	103		LEE IRICK #1	GIDDINGS (AUSTIN CHALK G	765.0	CLAJON GAS CO
8108289	25132	4228730592	103		MILTON E REIM #1	GIDDINGS (AUSTIN CHALK G	278.0	CLAJON GAS CO
-HOUVER & BRACKEN ENERGIES					RECEIVED: 12/08/80 JA: TX			
8108049	22575	4221131139	103		CLEVELAND #1-88	WILDCAT	100.0	NORTHERN NATURAL GAS
-HOPKINS & TATE					RECEIVED: 12/08/80 JA: TX			
8108323	25208	4240130881	103		E H PEPPER UNIT WELL NO 2	OAK HILL (COTTON VALLEY)	412.0	TEXAS EASTERN TRANSM
-HUGHES & HUGHES					RECEIVED: 12/08/80 JA: TX			
8108226	24631	4228730669	103		SLIVA #1 UNIT	GIDDINGS (AUSTIN CHALK)	180.0	CLAJON GAS CO
-HYDROCARBON ENERGIES INC					RECEIVED: 12/08/80 JA: TX			
8108135	23566	4210332181	103		UNIVERSITY NO 1-48 WELL #25729	MCELROY	22.0	PHILLIPS PETROLEUM C
-INDEPENDENT EXPLORATION CO					RECEIVED: 12/08/80 JA: TX			
8108119	23400	4236731678	102		STROUD #2 85317	BUCKNER (BEND)	56.0	JAMES P DUNIGAN INC
-INEXCO OIL COMPANY					RECEIVED: 12/08/80 JA: TX			
8108089	23126	4221530987	102		E L MARTINEZ ET AL NO 1	GUADALUPE (CAVAZOS) FIEL	550.0	VALERO INTERSTATE TR
-INTEGRAL ENERGY CORP					RECEIVED: 12/08/80 JA: TX			
8107931	16773	4205700000	102		STATE TRACT 9 WELL #1-A-U	PORT LAVACA E (MARG)	0.0	
-J CLED THOMPSON					RECEIVED: 12/08/80 JA: TX			
8108332	25244	4243500000	103		MAYER NO 3 - RRC #074317	SAWYER CANYON FIELD	101.0	NORTHERN NATURAL GAS
-J M HUBER CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108020	21712	4223330339	103		MAGNOLIA HERRING NO 14 RC	WEST PANHANDLE	36.0	COLORADO INTERSTATE
-JACKIE D NELSON					RECEIVED: 12/08/80 JA: TX			
8108083	23052	4236531026	103		J H LAWLESS H-1A PER #059361	BETHANY (BLOSSOM)	54.0	UNITED GAS PIPE LINE
8108082	23049	4236531027	103		W E LAWLESS Z-1A PER #059364	BETHANY (BLOSSOM)	72.0	UNITED GAS PIPE LINE
-JOHN M CLARK					RECEIVED: 12/08/80 JA: TX			
8107976	19582	4232300000	108		BURR A 1	M F JAKE LAWLESS	2.6	VALERO TRANSMISSION
-J3 OIL CO INC					RECEIVED: 12/08/80 JA: TX			
8108249	24948	4208903117	103		E J GRACEY #2	ROCK ISLAND N (FRIO 2765	25.0	VALERO TRANSMISSION
8108340	25306	4239131351	103		HYNES MINERAL TRUST #2	REFUGIO-FOX (6300)	0.0	UNITED GAS PIPELINE
-K L H OIL & GAS INC					RECEIVED: 12/08/80 JA: TX			
8108222	24664	4204932298	103		WELDON LEE NO 1 (87665)	BBBEC BLK 3 (MARBLE FALL	985.5	ODESSA NATURAL CORP
-KADANE OIL CO					RECEIVED: 12/08/80 JA: TX			
8108179	24105	4209731464	102		RAGSDALE WELL NO 1	HANDY WEST (K-3)	11.0	C C G P LIMITED
-KAISER-FRANCIS OIL COMPANY					RECEIVED: 12/08/80 JA: TX			
8108067	22881	4221131117	103		RISLEY #2-31	GRANITE WASH	750.0	PIONEER NATURAL GAS
-KBD					RECEIVED: 12/08/80 JA: TX			
8108037	22216	4213300000	106		MCCRACKEN #1 RRC #14247	PENN (RANGER)	0.0	ODESSA NATURAL CORP
8108036	22215	4213300000	106		MCCRACKEN #2 RRC #14247	PENN (RANGER)	0.0	ODESSA NATURAL CORP
8108035	22214	4213300000	108		MCCRACKEN #3 RRC #14247	PENN (RANGER)	0.0	ODESSA NATURAL CORP

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-KEITH D GRAHAM					RECEIVED: 12/08/80 JA: TX			
8108226	24684	4244131471	103		BIGHAM 130 #1 ID-15604	AUDAS-GRAHAM (CAPPS LIME	12.0	LONE STAR GAS CO
8108225	24683	4244131472	103		BIGHAM 130 #2 ID-15604	AUDAS-GRAHAM (CAPPS LIME	16.0	LONE STAR GAS CO
8108224	24682	4244131549	103		BIGHAM 130 #3 ID-15604	AUDAS-GRAHAM (CAPPS LIME	12.0	LONE STAR GAS CO
8108229	24687	4244131241	103		M SHAFFER A #2 ID-13611	AUDAS-GRAHAM (CAPPS LIME	26.0	LONE STAR GAS CO
8108230	24688	4244130891	103		SHAFFER A #1 ID-13611	AUDAS-GRAHAM (CAPPS LIME	27.0	LONE STAR GAS CO
8108228	24686	4244131361	103		TEXFEL-WESSELS A #1 ID-15211	AUDAS-GRAHAM (CAPPS LIME	25.0	LONE STAR GAS CO
8108227	24685	4244131360	103		TEXFEL-WESSELS A #2 ID-15211	AUDAS-GRAHAM (CAPPS LIME	26.0	LONE STAR GAS CO
-KENAI OIL AND GAS INC					RECEIVED: 12/08/80 JA: TX			
8107892	12179	4232331228	102		CENTRAL POWER & LIGHT #1 77728	SERBAN (CRETACEOUS LO)	500.0	SUNGAS GATHERING CO
8107906	15593	4232331407	102		ONEIL #1 84349	SERBAN (CRETACEOUS LO)	500.0	SUNGAS GATHERING CO
-KERR-MCGEE CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108152	23851	4223330802	103		COCKRELL NO 21	PANHANDLE	7.0	GETTY OIL CO
8108153	23852	4223330801	103		COCKRELL NO 24	PANHANDLE-HUTCHINSON	10.0	GETTY OIL CO
-KETAL OIL PRODUCING CO					RECEIVED: 12/08/80 JA: TX			
8108321	25201	4208130914	103		1 A BIRD D #7	MEADOW CREEK (CANYON)	177.0	SUN OIL CO
-KILGORE BROTHERS					RECEIVED: 12/08/80 JA: TX			
8107890	11118	4204900000	108		MACK HENRY NO 10 67564	BLAKE (CADDO)	10.2	SIOUX PIPELINE CO
8107891	11120	4204900000	108		MACK HENRY NO 12 60587	BROWN COUNTY REG M/F	11.8	SIOUX PIPELINE CO
-KILROY CO OF TEXAS					RECEIVED: 12/08/80 JA: TX			
8108129	23516	4250531089	102		J G BENAVIDES NO 1	LOPENO N E (WILCOX 7650)	1095.0	TRANSCONTINENTAL GAS
-KNOX INDUSTRIES INC					RECEIVED: 12/08/80 JA: TX			
8108341	25309	4238331521	103		TURNER B #1	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL GAS
8108342	25310	4238331522	103		TURNER B #2	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL GAS
-KOMANCHE OIL & GAS					RECEIVED: 12/08/80 JA: TX			
8108147	23803	4206500000	103		COBB #9 03291	WEST PANHANDLE	7200.0	NORTHERN NATURAL GAS
-LGM OIL CO					RECEIVED: 12/08/80 JA: TX			
8107867	07415	4238300000	103		C P SMITH #3 RRC #71933	BOONESVILLE BEND CONGL	120.0	CITIES SERVICE OIL C
-LANGHAM PETROLEUM EXPLORATION CORP					RECEIVED: 12/08/80 JA: TX			
8107970	19361	4221330251	103		DAY ESTATE WELL NO 1 86569	TRI-CITIES-TRAVIS PEAK L	130.0	TEXAS UTILITIES FUEL
-LEAGUE MINERAL CORP					RECEIVED: 12/08/80 JA: TX			
8108197	24236	4249700000	103		LINDSEY-WATERS UNIT NO 1	BOONSVILLE (BEND CONGLOM	55.0	NATURAL GAS PIPELINE
-LEAR PETROLEUM EXPLORATION INC					RECEIVED: 12/08/80 JA: TX			
8107951	18494	4239530213	102		F W WHEELER #1	CAMP COOLEY	750.0	UNITED TEXAS TRANSMI
-LEEDE OIL & GAS INC					RECEIVED: 12/08/80 JA: TX			
8108351	25353	4210532764	103		UNIVERSITY 50 #13	FARMER (SAN ANDRES)	10.0	J L DAVIS
8108337	25289	4210532594	103		UNIVERSITY 50 #8	FARMER (SAN ANDRES)	10.0	J L DAVIS
8108347	25348	4210532768	103		UNIVERSITY 50A #13	FARMER (SAN ANDRES)	10.0	J L DAVIS
8108348	25349	4210532769	103		UNIVERSITY 50A #14	FARMER (SAN ANDRES)	10.0	J L DAVIS
8108349	25350	4210532770	103		UNIVERSITY 50A #15	FARMER (SAN ANDRES)	10.0	J L DAVIS
8108350	25351	4210532771	103		UNIVERSITY 50A #16	FARMER (SAN ANDRES)	10.0	J L DAVIS
-LINGEN EXPLORATION INC					RECEIVED: 12/08/80 JA: TX			
8108211	24375	4224931120	102		R TELLER #1 ID #85550	QUINTO CREEK (4600)	145.0	VALERO INTERSTATE TR
-LOGUE AND PATTERSON INC					RECEIVED: 12/08/80 JA: TX			
8107897	13758	4248100000	103		JOE E VITERA EST #1	MENEFEE	186.0	TRANSCONTINENTAL GAS
-MCCORMICK OPERATING CO					RECEIVED: 12/08/80 JA: TX			
8108136	23647	4203730196	102		B E LEWIS #1	SILOAM (SMACKOVER) FIELD	600.0	NATURAL GAS PIPELINE
-MCCULLOCH OIL CORP OF TEXAS					RECEIVED: 12/08/80 JA: TX			
8108033	22123	4221131182	103		PYEATT #3-19	HEMPHILL GRANITE WASH	408.0	ARKANSAS LOUISIANA G
-MEADCO PROPERTIES					RECEIVED: 12/08/80 JA: TX			
8108170	24053	4223500000	103		#3 E SUGG 13 RRC#07763	TADS (CANYON)	38.0	NORTHERN NATURAL GAS
8108169	24052	4223531431	103		#4 E SUGG 13 RRC#07763	TADS (CANYON)	22.0	NORTHERN NATURAL GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-MELLON ENERGY CO					RECEIVED: 12/08/80 JA: TX			
8107932	16774	4232130820	102		A B RICHERS ET AL UNIT 1 ID #014240	HAMMAN (10865)	200.0	DOW CHEMICAL CO
-MEWBOURNE OIL COMPANY					RECEIVED: 12/08/80 JA: TX			
8108371	25420	4229530760	103		AKERS #1 ID #88311	MAMMOTH CREEK NORTH (CLE	183.0	
-MGF OIL CORP					RECEIVED: 12/08/80 JA: TX			
8108096	23184	4231732126	103		BLOCKER #1 (25897)	SPRABERRY (TREND AREA)	29.5	PHILLIPS PETROLEUM C
8108113	23329	4236530671	103		CRENSHAW -A- NO 3	BETHANY (GLEN ROSE 3550)	38.5	UNITED GAS PIPELINE
8108112	23328	4236530662	103		CRENSHAW -A- WELL NO 2	BETHANY (GLEN ROSE 3550)	72.5	UNITED GAS PIPELINE
8108231	24712	4210532810	103		MELBING 18 #2 45878	OZONA (CANYON SAND)	540.0	NORTHERN NATURAL GAS
8108314	25176	4207130980	103		M E MAYES NO 1 RRC #12721	MAYES WEST (F-2)	73.0	WINNIE PIPELINE CO
8108095	23183	4231732118	103		NAIL WELL NO 1 25920	SPRABERRY (TREND AREA)	18.0	NORTHERN NATURAL GAS
-MINERAL DEVELOPMENT CO LTD					RECEIVED: 12/08/80 JA: TX			
8108069	22924	4220930909	103		MINERAL DEVELOP CO FEE NO 1 - T	ALDINE (GOODYKOONTZ #1)	365.0	HOUSTON PIPE LINE CO
-MITCHELL ENERGY CORPORATION					RECEIVED: 12/08/80 JA: TX			
8107985	20573	4249731624	103		DALY-ALDERSON #2 85790	BOONSVILLE (BEND CONGL G	100.0	NATURAL GAS PIPELINE
8107988	20590	4249731590	103		ELMER ROBINSON #3	BOONSVILLE (BEND CONG GA	180.0	NATURAL GAS PIPELINE
8108339	25296	4249700000	108		L O CARLISLE #1 10472	CHICO WEST (CONGL 5700)	4.6	CITIES SERVICE CO
8107987	20589	4249731600	103		LLOYD HINKLE #2	BOONSVILLE (BEND CONG)	185.0	NATURAL GAS PIPELINE
8107944	17868	4229330421	103		MUSE-DUKE #1 79645	PERSONVILLE N (COTTON VA	250.0	SOUTHWESTERN GAS PIP
8107945	17869	4223732784	103		P M GRACE #4	BOONSVILLE (BEND CONGL G	200.0	LONE STAR GAS CO
8108010	21252	4236731697	103		R T LAND #2	RENO (CONG)	60.0	NATURAL GAS PIPELINE
8108338	25294	4249700000	108		T C W R #3	CAP YATES (CONSOLIDATED	5.6	NATURAL GAS PIPELINE
8108015	21518	4249731465	103		W D HILLIN #1	BOONSVILLE (BEND CONG)	175.0	NATURAL GAS PIPELINE
8107986	20586	4249731716	103		W R HIPP #3	BOONSVILLE (BEND CONGL)	235.0	NATURAL GAS PIPELINE
-MOBIL OIL CORP					RECEIVED: 12/08/80 JA: TX			
8107947	17984	4246100000	108		PEGASUS PENNSYLVANIAN UNIT #20-9	PEGASUS PENNSYLVANIAN	0.1	EL PASO NATURAL GAS
-MOBIL PROD TEXAS & NEW MEXICO INC					RECEIVED: 12/08/80 JA: TX			
8108159	23946	4229732187	103		BLOCK 86 UNIT NO 3	CLAYTON (BLOCK 86 SD)	99.6	NATURAL GAS PIPELINE
8108151	23843	4234931096	103		DOCKERY UNIT NO 1	CHENEYBORO (COTTON VALLE	54.8	
8108111	23302	4235330875	103		J D MADDOX NO 1	WILDCAT	87.6	
8108150	23840	4234931132	103		J L HAMILTON UNIT NO 1	CHENEYBORO (COTTON VALLE	54.8	
8108309	25165	4221932865	103		MAPLE-WILSON #102	SLAUGHTER	5.1	AMOCO PRODUCTION CO
8108308	25164	4221932846	103		MAPLE-WILSON #91	SLAUGHTER	5.1	AMOCO PRODUCTION CO
8108305	25161	4233531627	103		MARY FOSTER NO 129	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8108306	25162	4233531626	103		MARY FOSTER NO 130	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8108307	25163	4233531625	103		MARY FOSTER NO 131	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8108232	24716	4216531590	103		RUSSELL (7000 CLEARFORK) UNIT #213	RUSSELL (CLEARFORK 7000)	22.6	PIONEER NATURAL GAS
8108233	24717	4216531591	103		RUSSELL (7000 CLEARFORK) UNIT #214	RUSSELL (CLEARFORK 7000)	15.7	PIONEER NATURAL GAS
8108234	24719	4216531587	103		RUSSELL (7000 CLEARFORK) UNIT #219	RUSSELL (CLEARFORK 7000)	3.3	PIONEER NATURAL GAS
-MOLE OPERATING COMPANY INC					RECEIVED: 12/08/80 JA: TX			
8107895	13469	4222100000	103		LEONARD NO 1-X (75772)	BARBARA (STRAWN)	2.0	LONE STAR GAS CO
8107896	13469	4222100000	103		LEONARD NO 2 (78700)	BARBARA (STRAWN)	2.0	LONE STAR GAS CO
-MONSANTO CO					RECEIVED: 12/08/80 JA: TX			
*8107938	17622	4248530993	107		RODGERS #1 #75102	RODGERS (ELLENBERGER)	1058.0	INTRATEX GAS CO
-MOTE RESOURCES INC					RECEIVED: 12/08/80 JA: TX			
8107992	20620	4249700000	103		CARY VOLLINTINE NO 2	ALVORD (CADDO CONGLOMERA	23.0	NATURAL GAS PIPE LIN
8107990	20618	4249700000	103		CHARLIE A GREGG NO 1	ALVORD (CADDO CONGLOMERA	24.0	NATURAL GAS PIPE LIN
8107989	20617	4249700000	103		LESLIE HEIRS NO 1	ALVORD (CADDO CONGLOMERA	25.0	NATURAL GAS PIPE LIN
8107994	20622	4249700000	103		MARY C WATERS NO 1	BOONSVILLE (BEND CONGL G	48.0	NATURAL GAS PIPE LIN
8107993	20621	4249700000	103		USA SMITH WELL NO 1	ALVORD (CADDO CONGLOMERA	26.0	NATURAL GAS PIPE LIN
8107991	20619	4249700000	103		VOLLINTINE LAND & CATTLE CO NO 1	ALVORD (CADDO CONGLOMERA	10.0	NATURAL GAS PIPE LIN
-MUELLER ENGINEERING CORP					RECEIVED: 12/08/80 JA: TX			

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108006	20939	4242700000	108		J J HOWELL #1	LACOPITA (6400)	12.0	TENNESSEE GAS PIPELI
-NATURAL ENERGY PRODUCTION CO					RECEIVED: 12/08/80 JA: TX			
8108283	25095	42497000CC	103		EARLY (86523)	BOONSVILLE BEND CONGL GA	0.0	NATURAL GAS PIPELINE
-NORTH AMERICAN ROYALTIES INC					RECEIVED: 12/08/80 JA: TX			
8108176	24063	4222731884	102		A R WILLIAMS #1 (25657)	ISAAC (PENN UPPER)	50.0	GETTY OIL CO
*8107995	20638	4232130948	102		S CORNELIUS #1 WELL (ID #88834)	WADSWORTH S (10200)	1000.0	HOUSTON PIPE LINE CO
-NORTHEAST TEXAS PRODUCTION CO					RECEIVED: 12/08/80 JA: TX			
8108087	23096	4220300000	108		CLARK #1 WELL #40377	WOODLAWN (RODESSA)	5.0	MISSISSIPPI RIVER TR
8108086	23095	4220300000	108		FRANK DAVIS #1 WELL #17049	WOODLAWN (RODESSA)	0.5	MISSISSIPPI RIVER TR
-NUCORP ENERGY INC					RECEIVED: 12/08/80 JA: TX			
8108191	24199	4228730556	103		GIDDINGS A UNIT #1	GIDDINGS (AUSTIN CHALK)	49.6	CLAJON GAS CO
8108192	24201	4228730609	103		GIDDINGS B UNIT #1	GIDDINGS (AUSTIN CHALK)	128.5	CLAJON GAS CO
-OILWELL OPERATORS INC					RECEIVED: 12/08/80 JA: TX			
8108335	25245	4217900000	108		HARRAH #16 00294	PANHANDLE	4.0	KERR-MCGEE CORP
-OLSEN ENERGY INC					RECEIVED: 12/08/80 JA: TX			
8108058	22793	4249531158	103		WALTON 3 #1	HENDERSON	225.0	EL PASO NATURAL GAS
-ORIGINALA INC					RECEIVED: 12/08/80 JA: TX			
8108354	25556	4223733021	103		WILLIE RUTH RICHARDS ETAL #19	CARY-MAG (CONGLOMERATE)	82.0	TEXAS UTILITIES FUEL
-PAN-TEX PRODUCTION CO					RECEIVED: 12/08/80 JA: TX			
*8108061	22832	4249700000	108		G C SHAUNTY #08923	ALVORD (ATOKA CONGL)	15.0	CITIES SERVICE CO
8108064	22836	4233700000	108		J GILBERT #21256	BOWIE SW (CONGL)	8.0	CITIES SERVICE CO
*8108065	22837	4249700000	108		J N ELROD #1 08703	ALVORD (ATOKA CONGL)	1.0	CITIES SERVICE CO
*8108066	22838	4249700000	108		J N ELROD #3 09637	ALVORD (CADDO CONGL)	1.0	CITIES SERVICE CO
8108062	22833	4249700000	108		NEAL ROWLAND #10038	ALVORD (CADDO CONGL)	3.0	CITIES SERVICE CO
*8108063	22834	4249700000	108		R P MALONE 09570	ALVORD (CADDO CONGL)	12.0	CITIES SERVICE CO
8108060	22829	4249700000	108		T J WAGGONER ESTATE - 29125	BOONSVILLE (BEND CONGL)	8.0	LONE STAR GAS CO
-PANTHER OIL CO					RECEIVED: 12/08/80 JA: TX			
8108256	24976	4221932842	103		PANTHER C NO 12	LEVELLAND (SAN ANDRES)	7.3	AMOCO PRODUCTION CO
-PARAFFINE OIL CORP					RECEIVED: 12/08/80 JA: TX			
8108331	25241	4205730990	103		F H WELDER 5 7-L	KATIE WELDER (N-9)	70.0	FLORIDA GAS TRANSMIS
-PARAGON RESOURCES INC					RECEIVED: 12/08/80 JA: TX			
8108114	23332	4248131839	103		HUDGINS BESSIE ESTATE #1	HUNGERFORD E (3200)	200.0	TEXAS EASTERN TRANSM
-PARKER E PARSLEY INC					RECEIVED: 12/08/80 JA: TX			
8108286	25125	4238331596	103		STATE A WELL NO 1	AMIGO (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
8108285	25124	4232930850	103		TXL A WELL NO 1	SPRABERRY (TREND AREA)	15.0	EL PASO NATURAL GAS
-PENNZOIL COMPANY					RECEIVED: 12/08/80 JA: TX			
8108270	25063	4216500000	108		DOC A WELL	FELMAC	19.0	PIONEER NATURAL GAS
-PENNZOIL PRODUCING COMPANY					RECEIVED: 12/08/80 JA: TX			
8108144	23737	4250531193	103		JENNINGS NO 44	JENNINGS W	100.0	NATURAL GAS PIPELINE
-PHILLIPS PETROLEUM COMPANY					RECEIVED: 12/08/80 JA: TX			
8107903	19146	4246101199	106		N PEMBROOK SPRABERRY UNIT #74-01	SPRABERRY (TREND AREA)	0.4	NORTHERN NATURAL GAS
8108346	25329	4223300000	108		COCKRELL RANCH #86	PANHANDLE HUTCHINSON	2.5	GETTY OIL CO
8107935	17150	4223330742	103		DUBOISE NO 2	PANHANDLE HUTCHINSON	22.0	EL PASO NATURAL GAS
8107906	15290	4220500000	108		ERADO NO 1	WEST PANHANDLE	20.0	EL PASO NATURAL GAS
8108052	22654	4236500000	108		LOVIS A #1	CARTHAGE SW HILL	9.7	UNITED GAS PIPE LINE
8107934	17108	4217900000	108		PHIL PAMPA UNIT NO 08-08	PANHANDLE	0.3	GETTY OIL CO
8107950	18067	4217900000	108		PHIL-PAMPA UNIT 08-04	PANHANDLE GRAY	18.0	GETTY OIL CO
-PIONEER PRODUCTION CORPORATION					RECEIVED: 12/08/80 JA: TX			
8108269	25054	4221131222	103		LINDLEY #3	CANADIAN EAST (DOUGLAS)	255.0	PIONEER NATURAL GAS
-PNS CO					RECEIVED: 12/08/80 JA: TX			
8107901	14844	4225500000	102		WILLIAM H PYLE JR NO 1	ATKINSON (KLINGEMAN) FIE	75.0	
-R L ADKINS CORP					RECEIVED: 12/08/80 JA: TX			

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                                                                                        VOLUME  33R          PAGE  011
 JD NO     JA DKT          API NO     SEC ) WELL NAME                           FIELD NAME                  PROD   PURCHASER
 -----     ------          ------     --- - ---------                           ----------                  ----   ---------
 8108260   24991           4215131066 103   WICKHAM A #1                        WICKHAM (PALO PINTO)         72.0 PALO DURO PIPELINE C
-R LACY INC                                RECEIVED:  12/08/80  JA: TX
 8108093   23172           4220330516 103   PRENDERGAST WELL #3 #87045          WASKOM (COTTON VALLEY)      292.0 ARKANSAS LOUISIANA G
 8108092   23170           4220330515 103   VERHALEN WELL #6 #82869             WASKOM (COTTON VALLEY)      108.0 ARKANSAS LOUISIANA G
-RAIDER OIL CORP                           RECEIVED:  12/08/80  JA: TX
 8108013   21414           4224931115 103   RISINGER ET AL NO 1                 SAN DIEGO EAST (RISINGER     91.3 TENNESSEE GAS TRANSM
-RAMSAY CORP                               RECEIVED:  12/08/80  JA: TX
 8108070   22937           4247931947 103   MCNARY NO 1                         LAREDO (LOBO)                91.0
-RIAL OIL COMPANY                          RECEIVED:  12/08/80  JA: TX
 8108074   23001           4214930461 102   CHERRY UNIT NO 1 RRC #              GIDDINGS (AUSTIN CHALK)      73.0 W WILSON CORP
 8108012   21405           4214930420 102   SHAKESPEARE UNIT #1 #12631          GIDDINGS (AUSTIN CHALK)     182.0 W WILSON CORP
 8108073   23000           4214930434 102   SYLER NO 1 RRC #12773               GIDDINGS (AUSTIN CHALK)      63.9 W WILSON CORP
 8108011   21400           4238331433 103   UNIVERSITY 8-C #1 #08134            BARNHART                     57.6
-RICKS EXPLORATION CO                      RECEIVED:  12/08/80  JA: TX
 8108047   22567           4235720985 102   LAMASTER 1113-A                     RICKS (MORROW UP)            75.0 HIGH PLAINS NATURAL
-RIO PETROLEUM INC                         RECEIVED:  12/08/80  JA: TX
 8108021   21716           4216730685 103   #1 STATE OF TEXAS UNIT              DICKINSON (FRIO 8000)       160.0 CORONADO TRANSMISSIO
-RK PETROLEUM CORP                         RECEIVED:  12/08/80  JA: TX
 8108072   22998           4231732043 103   ANCHOR #1                           SPRABERRY TREND AREA         12.8 NORTHERN NATURAL GAS
 8108319   25193           4231732147 103   CAMPBELL NO 1 WELL----#25958        SPRABERRY (TREND AREA)       21.9 PHILLIPS PETROLEUM C
-ROWMAN PETROLEUM CORP                     RECEIVED:  12/08/80  JA: TX
 8108255   24973           4213331937 103   MAYNARD NO 1                        FOSTER (MARBLE FALLS)        23.0 ODESSA NATURAL CORP
-SANCHEZ-OBRIEN MINERALS CORP              RECEIVED:  12/08/80  JA: TX
 8107964   20265           4247932553 102   S J MARTIN NO 4-A API-42-479-32553  MORITAS CREEK (WILCOX 95    500.0 TENNESSEE GAS PIPELI
-SANFORD P FAGADAU                         RECEIVED:  12/08/80  JA: TX
 8108017   21647           4223732651 103   BILLY HUTTO UNIT NO 1 WELL          BOONESVILLE (BEND CONGL     100.0 LONE STAR GAS CO

-SAXON OIL COMPANY                         RECEIVED:  12/08/80  JA: TX
 8107922   16637           4241330717 103   COUPE #1                            HENRY-SPECK (CANYON)         25.5 NORTHERN NATURAL GAS
 8108303   25158           4238300000 103   GARDNER NO 1                        BENEDUM (SPRABERRY)           8.8 PHILLIPS PETROLEUM C
 8107923   16639           4228730306 103   JENKE #1                            GIDDINGS (AUSTIN CHALK)       7.3 PGP GAS PRODUCTS INC
 8107924   16641           4244130921 103   RUBY FAYE YOUNG #5                  TAYLOR COUNTY REGULAR         5.1 UNION TEXAS PETROLEU
 8107925   16644           4238331360 103   TURNER A #3                         SPRABERRY (TREND AREA)       30.0 NORTHERN NATURAL GAS
 8107926   16645           4238331389 103   TURNER R #2                         SPRABERRY (TREND AREA)       16.0 NORTHERN NATURAL GAS
 8107928   16649           4238331357 103   UNIVERSITY 10-9 #2                  SPRABERRY (TREND AREA)       28.0 NORTHERN NATURAL GAS
 8107927   16646           4238331355 103   UNIVERSITY 9-A-9 #1                 SPRABERRY (TREND AREA)       21.0 NORTHERN NATURAL GAS
 8107929   16654           4238331152 103   WEATHERBY H #1                      SPRABERRY (TREND AREA)       13.9 NORTHERN NATURAL GAS
 8107930   16655           4238331153 103   WEATHERBY H #2                      SPRABERRY (TREND AREA)       11.0 NORTHERN NATURAL GAS
-SEELY OIL CO                              RECEIVED:  12/08/80  JA: TX
 8108043   22512           4249731622 103   MCCANN #1 85573                     BOONSVILLE (BEND CONGL)     275.0 LONE STAR GAS CO
 8108084   23053           4249731201 103   RAY HUDSON #1 ID #86335             BOONSVILLE (BEND CONGL)     270.0 LONE STAR GAS CO
-SHELL OIL CO                              RECEIVED:  12/08/80  JA: TX
 8108320   25198           4221530857 103   A A MCALLEN NO 56                   MCALLEN RANCH (VICKSBURG    300.0 VALERO INTERSTATE TR
 8108066   23043           4221530912 102   DIXIE MORTGAGE-PAWELEK GU #2        MCCOOK E (VICKSBURG 1120    600.0 NATURAL GAS PIPELINE
 8108372   25486           4222131180 103   FEE 221                             GLAIZER NW (MORROW UPPER     72.0 PHILLIPS PETROLEUM C
 8107979   19941           4221131099 103   HOBART RANCH #470                   HEMPHILL (GRANITE WASH)     300.0 CITIES SERVICE GAS C
 8108374   25488           4247532002 103   SEALY SMITH FOUNDATION #168         MONAHANS (CLEAR FORK)        20.1 EL PASO NATURAL GAS
 8108373   25487           4213533328 103   TXL NORTH UNIT #697                 TXL (TUBB)                   34.3 SHELL ETAL
-SMITH PRODUCTION CO                       RECEIVED:  12/08/80  JA: TX
 8108046   22552           4205100000 102   H M TYSON NO 1 WELL                 GIDDINGS (AUSTIN CHALK)       0.0 CLAJON GAS CO
-SOUTHERN UNION EXPLORATION COMPANY        RECEIVED:  12/08/80  JA: TX
 8107889   10999           4209530428 102   MALCORINE W STASNEY #2              WILDCAT                      91.0
 8107889   10999           4209530428 103   MALCORINE W STASNEY #2              WILDCAT                      91.0
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                                                                      VOLUME  339           PAGE  014
JD NO    JA  KT      API NO      SEC  D WELL NAME                         FIELD NAME                     PROD   PURCHASER
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-SOUTHLAND ROYALTY CO                 RECEIVED:  12/08/80  JA: TX
 8108356   25359     4243500000 108    R M HALBERT #2                     SONORA                          12.0 EL PASO NATURAL GAS
 8108357   25360     4210500000 108    MOODY ESTATE #1-53                 OZONA                           18.8 NORTHERN NATURAL GAS
 8108355   25358     4238300000 108    D F BOYD 31 #1                     CALVIN DEAN                      8.8 UNION TEXAS PETROLEU
 8108359   25362     4238300000 108    DNA WELLS #1                       CALVIN DEAN                      7.0 UNION TEXAS PETROLEU
 8108358   25361     4243530261 108    SHURLEY C #1                       SHURLEY RANCH                   17.0 EL PASO NATURAL GAS
-SOUTHWESTERN GAS EXPLORATION         RECEIVED:  12/08/80  JA: TX
 8108034   22213     4249731422 103    W T SMITH #1                       BOONSVILLE (BEND CONG GA        60.0
-SUE-ANN OPERATING COMPANY            RECEIVED:  12/08/80  JA: TX
 8107904   15177     4208931035 102    KRENEK B NO 1                      BUCK SNAG (3800)               110.0 TENNESSEE GAS PIPELI
-SUGARBERRY OIL & GAS CORP            RECEIVED:  12/08/80  JA: TX
 8108182   24110     4241330680 103    CASE #1                            VELREX (HENDERSON UPPER)        27.0 CRA INC
 8108157   23926     4241300000 103    CASE #2-C                          VELREX (6260 CISCO)            255.0 CRA INC
 8108183   24111     4241330692 103    CASE #2-T                          VELREX (HENDERSON UPPER)        27.0 CRA INC
-SULLIVAN-WELLS CO                    RECEIVED:  12/08/80  JA: TX
 8108236   24755     4234130589 103    SULLIVAN FEE WELL NO 101           PANHANDLE WEST                1095.0 PHILLIPS PETROLEUM C
-SUN OIL COMPANY (DELAWARE)           RECEIVED:  12/08/80  JA: TX
 8108295   25140     4233531605 103    ANDERSON -A- NO 8                  JAMESON NORTH (STRAWN)          37.0 LONE STAR GAS CO
 8108024   21823     4208100000 108    CENTRAL NATIONAL BANK -A- NO 5     JAMESON (STRAWN)                12.0 LONE STAR GAS CO
 8108296   25143     4208130878 103    CENTRAL NATIONAL BANK 13           LYGAY                           73.0 LONE STAR GAS CO
*8107976   19832     4221932751 103    COBLE B WELL NO 57                 LEVELLAND                        5.0 AMOCO PRODUCTION CO
 8108209   24325     4242731354 102    D LAUREL NO 11                     SUN NORTH                       38.0
 8107958   19063     4249731435 103    J L WOMACK NO 6                    BOONSVILLE (BEND CONGL)        657.0 NATURAL GAS PIPELINE
 8108293   25137     4208100000 108    JAMESON STRAWN SAND 5-25           JAMESON (STRAWN)                 5.5 LONE STAR GAS CO
 8108054   22084     4213533189 103    PAUL MOSS B WELL NO 188            COWDEN SOUTH (CANYON 879        44.0 ODESSA NATURAL GAS C
 8108023   21817     4213300000 108    PAUL MOSS UNIT WELLS NO 99         COWDEN SOUTH                     1.0 ODESSA NATURAL CORP
 8108053   22683     4213533192 103    PAUL MOSS WELL NO 187              COWDEN SOUTH (8790 CANYO        84.0 ODESSA NATURAL CORP
 8108294   25139     4233531638 103    V T MCCABE -B- NO 32               JAMESON NORTH (STRAWN)          50.0 LONE STAR GAS CO
 8108088   23122     4233500000 108    V T MCCABE -B- WELL NO 28          JAMESON NORTH (STRAWN)           7.0 LONE STAR GAS CO
 8108292   25135     4204730579 103    W P WRIGHT NO 1                    FLOWELLA                       200.0 FLORIDA GAS TRANSMIS
-T E D ENTERPRISES INC                RECEIVED:  12/08/80  JA: TX
 8108198   24222     4220131025 103    PINE VILLAGE UNIT WELL NO 1        NORTH DYERSDALE (CM-1)          58.0 HOUSTON PIPE LINE
-TARTAN PRODUCTION CO                 RECEIVED:  12/08/80  JA: TX
 8107948   18025     4240900000 102    HENDRICKSON A NO 1                 BERRY (6100 E)                 220.0 TEXAS EASTERN TRANSM
-TEE OPERATING CO                     RECEIVED:  12/08/80  JA: TX
 8108022   21760     4215731062 102    NOVAK NO 1-A                       EAST TAVENER (7950) PROP       900.0
 8108022   21760     4215731062 103    NOVAK NO 1-A                       EAST TAVENER (7950) PROP       900.0
-TENNECO OIL COMPANY                  RECEIVED:  12/08/80  JA: TX

 8107982   20108     4239330638 103    MCMORDIE 1-6                       MENDOTA NW (GRANITE WASH       356.4 PIONEER NATURAL GAS
 8107975   19574     4239330649 103    MCMORDIE 2-89                      ST CLAIR (GRANITE WASH)         47.0 MICHIGAN WISCONSIN P
 8107866   07305     4237105540 108    MILLARD HOLMES NO 21               MILLARD (QUEEN)                  0.9 LARCO GAS CORP
-TEXACO INC                           RECEIVED:  12/08/80  JA: TX
 8108335   25287     4221932784 103    I P DELOACHE #4                    LEVELLAND                        2.9 AMOCO PRODUCTION CO
 8108336   25288     4221932785 103    I P DELOACHE #6                    LEVELLAND                        2.9 AMOCO PRODUCTION CO
 8108143   23724     4235531475 103    J D CHAPMAN #124                   CHAPMAN RANCH (6700)           182.5 TEXAS EASTERN GAS TR
 8108189   24177     4213532916 103    WEST JORDAN UNIT # 6-15            JORDAN                           2.5 PHILLIPS PETROLEUM C
 8108188   24175     4213532908 103    WEST JORDAN UNIT #3-9              JORDAN                           6.2 PHILLIPS PETROLEUM C
-TEXAS ENERGY EXPLORATION INC         RECEIVED:  12/08/80  JA: TX
 8108146   23794     4202531193 103    TEX ENERGY EX #1 R W WELDER #87454 MEDIO CREEK EAST (4730)      1715.0 DELHI GAS PIPELINE C
 8108042   22507     4224900000 103    TEX ENERGY EXPL #1 H J MOSSER      SUE (5150)                       1.0 TRUNKLINE GAS CO
 8108102   23283     4221500000 103    TEX ENERGY EXPL #1 PEREZ           E LA REFORMA VICKSBURG (       569.0 VALERO INTERSTATE TR
 8108059   22795     4224931100 103    TEX ENERGY EXPL #1 PFEIFFER 86826  TOM GRAHAM (4520)              105.0 VALERO TRANSMISSION
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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108103	23284	4221530996	103	TEX ENERGY EXPL #1-T HINOJOSA	E LA REFORMA FRIO (6750)	164.0	VALERO INTERSTATE TR
-TEXAS OIL & GAS CORP				RECEIVED: 12/08/80 JA: TX			
8107903	14780	4223931403	102	FENNER E #2	FENNER (4120)	125.0	TRUNKLINE GAS CO
8108175	24071	4224931055	103	MINTON B #1	FALFURRIAS (NAOMI 7100)	100.0	UNITED GAS PIPELINE
8108258	24984	4239300000	103	STELLA KILLEBREW #1	PARSELL (UPPER MORROW)	2000.0	UNITED GAS PIPELINE
8108041	22412	4226130557	103	STEWART B #2	SANTA ROSA (10700)	600.0	TEXAS EASTERN TRANSM
8108259	24985	4223500000	103	WINTERBOTHAM B #3	DOVE CREEK (CANYON C)	37.0	COLUMBIA GAS TRANSMI
8108284	25119	4245100000	103	WINTERBOTHAM E #1 ID #08267	DOVE CREEK (WOLFCAMP)	110.0	CRA INC
-TEXAS PACIFIC OIL COMPANY INC				RECEIVED: 12/08/80 JA: TX			
8108299	25149	4250131716	103	BENNETT RANCH UNIT WELL #310	WASSON	3.1	SHELL OIL CO
8108298	25148	4250131813	103	BENNETT RANCH UNIT WELL #316	WASSON	6.7	SHELL OIL CO
8108145	23740	4221932786	103	C E RATLIFF #1	LEVELLAND/SAN ANDRES	36.5	AMOCO PRODUCTION CO
8107996	20786	4221932741	103	CENTRAL LEVELLAND UNIT #248	LEVELLAND	4.4	AMOCO PRODUCTION CO
8108235	24722	4222732070	103	M C HYDEN #5	LUTHER SE (SILURIAN-DEVO	38.0	GETTY OIL CO
-TOMMY LITTLEPAGE				RECEIVED: 12/08/80 JA: TX			
8108187	24154	4250300000	103	BRAZOS RIVER 10-A #19899	YOUNG COUNTY REGULAR	6.0	SUN GAS GATHERING CO
8108168	24050	4250300000	103	PUGH LEASE #19961	YOUNG COUNTY REGULAR	40.0	SUN GAS GATHERING CO
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED: 12/08/80 JA: TX			
*8108215	24451	4241330855	103	UNIVERSITY 15 #1	UNIVERSITY 54 (CANYON)	180.0	CRA INC
-W R EDWARDS JR				RECEIVED: 12/08/80 JA: TX			
8108237	24765	4223330822	103	BARNHILL WELL NO 16-1	PANHANDLE HUTCHINSON CO	0.0	PANHANDLE PRODUCING
8108261	24993	4223330725	103	LITTLE RASCALS NO 29	PANHANDLE HUTCHINSON COU	160.0	PANHANDLE PRODUCING
-W W WALTON JR				RECEIVED: 12/08/80 JA: TX			
8108038	22263	4240931298	103	BESS MCFALL ET AL NO 2-C (ID #8638*	HIBERNIA (4900)	73.0	HOUSTON PIPELINE CO
-WALSH AND WATTS INC				RECEIVED: 12/08/80 JA: TX			
8107888	08872	4223300000	108	TXL H #3 12684	PANHANDLE	2.0	PHILLIPS PETROLEUM C
-WALTER EXPLORATION INC				RECEIVED: 12/08/80 JA: TX			
8108115	23355	4236332080	103	EVELYN KING NO 1	DEATON (CONGLOMERATE)	0.0	TEXAS UTILITIES FUEL
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 12/08/80 JA: TX			
8108167	24047	4210332207	103	P J LEA ET AL NO 107	LEA (SAN ANDRES)	1.0	EL PASO NATURAL GAS
8108165	24043	4210332206	103	P J LEA ET AL NO 108	LEA (TUBB)	17.0	EL PASO NATURAL GAS
8108166	24044	4210300000	103	TUBB NO 4	SAND HILLS (TUBB)	111.0	EL PASO NATURAL GAS
-WAYMAN W BUCHANAN				RECEIVED: 12/08/80 JA: TX			
8108263	25008	4236731202	103	AREY NO 1	WEATHERFORD (ATOKA UPPER	0.1	BUCKNER GAS CO
8108318	25189	4246131552	103	ERSKINE NO 1	SPRABERRY (TREND AREA)	18.3	PHILLIPS PETROLEUM C
8108315	25185	4236731697	103	GREENMAN B NO 3-C	PEASER (BIG SALINE)	14.3	LONE STAR GAS CO
-WILLIAM PERLMAN				RECEIVED: 12/08/80 JA: TX			
8108378	27777	4210500000	108	FIELDS 51 NO 2	SAWYER (CANYON)	20.0	EL PASO NATURAL GAS
8108377	27772	4210500000	108	GENERAL CRUDE ET AL 12 NO 1	WILDCAT	0.0	EL PASO NATURAL GAS
8108375	27758	4210500000	108	GENERAL CRUDE ET AL 8 NO 1A	WILDCAT	0.0	EL PASO NATURAL GAS
8108376	27765	4210532228	108	L M HUDSPETH MEM HOSP F NO 183759	SAWYER (CANYON)	20.0	EL PASO NATURAL GAS
8108379	27781	4210500000	108	LILLIAN M HUDSPETH MEM HOSP B NO 1	WHITEHEAD (STRAWN)	20.0	EL PASO NATURAL GAS
-WORLD PRODUCERS INC				RECEIVED: 12/08/80 JA: TX			
8107939	17646	4236731287	102	ELLIS B #3	MOBY DICK (STRAWN)	300.0	NATURAL GAS PIPELINE
8107940	17648	4236731580	102	F R JONES ESTATE #1	MOBY DICK (STRAWN)	150.0	NATURAL GAS PIPELINE
8107941	17649	4236731440	102	L C ROY BYRD #1	MOBY DICK (STRAWN)	60.0	NATURAL GAS PIPELINE
8107942	17650	4236731540	102	L C ROY BYRD #2	MOBY DICK (CONGL)	50.0	NATURAL GAS PIPELINE
8107946	17902	4236731598	102	L S BYRD #3	MOBY DICK (STRAWN)	40.0	NATURAL GAS PIPELINE
-WTG EXPLORATION INC				RECEIVED: 12/08/80 JA: TX			
8107955	18581	4210532430	103	MILLER #1	OZONA (CANYON SAND)	146.0	NORTHERN NATURAL GAS
-WY-VEL CORP				RECEIVED: 12/08/80 JA: TX			
8108110	23300	4206530625	103	BURNETT #3 RRC #04270	PANHANDLE	4.0	PHILLIPS PETROLEUM C

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                                                                        VOLUME  339           PAGE  C14
 JD NO     JA DKT         API NO     SEC D WELL NAME                    FIELD NAME              PROD    PURCHASER
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 8108330    25237         4217900000 108   D F MCKINNEY (00659) #1      PANHANDLE GRAY COUNTY    0.8 KERR-MCGEE CORP
 8108329    25235         4217900000 108   D F MCKINNEY (00659) #2      PANHANDLE GRAY COUNTY    3.2 KERR-MCGEE CORP
 8108328    25234         4217900000 108   D F MCKINNEY (00659) #4      PANHANDLE GRAY COUNTY    3.2 KERR-MCGEE CORP
-ZAPATA EXPLORATION CO                  RECEIVED:  12/08/80  JA: TX
 8108125    23489         4270430127 102   S/L 68099 WELL NO 1-U        BRAZOS AREA 446L SE/4 (E 1.0 VALERO TRANSMISSION


   OTHER PURCHASERS         VOLUME NO 1339
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  8107938    TRANSWESTERN PIPELINE CO
  8107978    EL PASO NATURAL GAS CO
  8107995    DOW CHEMICAL CO
  8108056    COLTEXO CORP
  8108061    CITIES SERVICE COMPANY
  8108063    NATURAL GAS & PIPE LINE CO OF AMERI
  8108065    CITIES SERVICE COMPANY
  8108066    CITIES SERVICE COMPANY
  8108094    COLTEXO CORP
  8108128    EL PASO NATURAL GAS COMPANY
  8108184    EL PASO NATURAL GAS CO
  8108186    LONE STAR GAS CO
  8108207    EL PASO NATURAL GAS CO
  8108208    EL PASO NATURAL GAS CO
  8108215    LONE STAR GAS CO
  8108241    AMOCO
  8108242    AMOCO
  8108243    AMOCO
  8108252    AMOCO
  8108301    NORTHERN NAT GAS CO
  8108317    AMOCO PRODUCTION CO
  8108322    EL PASO NATURAL GAS CO
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BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeing the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before January 30, 1981.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1395 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Vol. 340]

Determinations By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 8, 1981.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION								
-AMOCO PRODUCTION CO					RECEIVED: 12/08/80 JA: CO			
8108440	80-360	0512308183	108		ADAM GABEL GAS UNIT NO 1	WATTENBERG	19.0	PANHANDLE EASTERN PI
8108442	80-357	0500106403	108		CHAMPLIN 125 AMOCO A NO 1	THIRD CREEK	19.0	PANHANDLE EASTERN PI
8108444	80-335	0512305751	103		CHAMPLIN 366 AMOCO E WELL #1	WATTENBERG	35.0	PANHANDLE EASTERN PI
8108449	80-355	0512307912	108		EARL V BROTEMARKLE 1	WATTENBERG	21.0	PANHANDLE EASTERN PI
8108422	80-148	0512305734	103		ELMER W SCHMIDT UNIT WELL #2	HAMBERT	280.0	PANHANDLE EASTERN PI
8108423	80-347	0512308324	108		EUGENE D MUSE GAS UNIT NO 1-A	WATTENBERG	17.0	PANHANDLE EASTERN PI
8108441	80-358	0500106990	108		GILBERT A DIEDRICHS NO 1	WATTENBERG	19.0	PANHANDLE EASTERN PI
8108451	80-351	0512307251	108		J H CUYKENDALL NO 1	WATTENBERG	12.0	PANHANDLE EASTERN PI
8108450	80-350	0512308109	108		JACKIE HEMPSTEAD 1	WATTENBERG	20.0	PANHANDLE EASTERN PI
8108443	80-356	0512308423	108		JAMES E CALLOW UNIT NO 1	WATTENBERG	19.0	PANHANDLE EASTERN PI
8108424	80-349	0512307205	108		KIEFER POOLING UNIT NO 1	WATTENBERG	16.0	PANHANDLE EASTERN PI
8108447	80-319	0506706314	103		KNIGHT #1E (DAKOTA)	IGNACIO BLANCO	290.0	WESTERN SLOPE GAS CO
8108448	80-321	0506706325	103		KNIGHT #2M (DAKOTA)	IGNACIO BLANCO	270.0	WESTERN SLOPE GAS CO
8108446	80-318	0506706325	103		KNIGHT #2M (MESAVERDE)	IGNACIO BLANCO	270.0	WESTERN SLOPE GAS CO
8108445	80-320	0506706314	103		KNIGHT A #1 (MESAVERDE)	IGNACIO BLANCO	290.0	WESTERN SLOPE GAS CO
8108453	80-364	0512305826	103		MAUDE ANDERSON GAS WELL #2	WATTENBERG	193.0	PANHANDLE EASTERN PI
8108425	80-361	0512307970	108		MAX E SERAFINI NO 1	WATTENBERG	14.0	COLORADO INTERSTATE
8108452	80-348	0512308197	108		ROY MOSER UNIT NO 1	WATTENBERG	14.0	PANHANDLE EASTERN PI
8108405	80-346	0512307836	108		STATE OF COLORADO AD NO 1	WATTENBERG	17.0	PANHANDLE EASTERN PI
8108454	80-345	0512307404	108		STRONG GAS UNIT NO 1	WATTENBERG	21.0	PANHANDLE EASTERN PI
8108439	80-363	0512308130	108		W DOUGLAS REED GAS UNIT NO 1	WATTENBERG	15.0	PANHANDLE EASTERN PI
-BUFFALO OIL CORP					RECEIVED: 12/08/80 JA: CO			
8108419	80-343	0512305850	102		SEYFRIED #1-2	WAITE LAKE	30.0	CRYSTAL GAS RESOURCE
-CHAMPLIN PETROLEUM COMPANY					RECEIVED: 12/08/80 JA: CO			
8108416	80-332	0500107533	103		#1 SINGLETON 42-11	SUN	400.0	KOCH HYDROCARBON CO
-ENERGY MINERALS CORPORATION					RECEIVED: 12/08/80 JA: CO			
8108408	80-352	0512305894	102		#1 COLLINS	WAITE LAKE	93.6	CENTENNIAL II
8108409	80-333	0512305869	102		#1 PETERSON	WAITE LAKE	100.8	PHILLIPS PETROLEUM
8108406	80-322	0512307076	102		#1 STEVE STATE	WAITE LAKE	97.2	PHILLIPS PETROLEUM
8108407	80-323	0512305835	102		#1 YOCAM	WAITE LAKE	25.2	PHILLIPS PETROLEUM
-J-W OPERATING COMPANY					RECEIVED: 12/08/80 JA: CO			
8108438	80-330	0512506404	102		G BRETHAUER #1	ROCK CREEK	10.0	CITIES SERVICE GAS C
8108433	80-331	0512506230	102		J BROPHY #3	OLD BALDY	50.0	KANSAS-NEBRASKA NATL
8108435	80-327	0512506211	102		KITZMILLER GRAZING ASSOC #7	WILDCAT	70.0	KANSAS-NEBRASKA NATL
8108436	80-326	0512506212	102		KITZMILLER GRAZING ASSOC #8	ECKLEY	70.0	KANSAS-NEBRASKA NATL
8108437	80-337	0512506321	102		USA #3	WILDCAT	50.0	KANSAS NEBRASKA NATL
8108434	80-328	0512506302	102		V HARDING #1	WILDCAT	36.0	KANSAS NEBRASKA NATL
8108432	80-329	0512506405	102		W BRETHAUER #1	ROCK CREEK	30.0	CITIES SERVICE GAS C
-JACK ROUSE					RECEIVED: 12/08/80 JA: CO			
8108414	79-732	0508707185	108		CARDINEL-MARTIN #1	PLEASANT RIDGE	19.0	KANSAS-NEBRASKA NATU

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JD NO	JA DKT	API NO	SEC	I	WELL NAME	FIELD NAME	PROD	PURCHASER
-KANSAS-NEBRASKA NATURAL GAS CO INC					RECEIVED: 12/08/80 JA: CO			
8108417	80-334	0512506327	102		KORF 2-7	SCHRAMM	58.0	
-L & B OIL CO INC					RECEIVED: 12/08/80 JA: CO			
8108411	80-315	0500107578	103		COLORADO #5-36 T2S R63W	QUAIL	1400.0	PANHANDLE EASTERN PI
8108412	80-314	0500107573	103		STATE OF COLORADO #4-36 2S 63W	QUAIL	70.0	PANHANDLE EASTERN PI
-MACEY & MERSHON OIL INC					RECEIVED: 12/08/80 JA: CO			
8108413	80-312	0512309853	103		LITTLE THOMPSON GAS UNIT #1	WATTENBERG J	90.0	PANHANDLE EASTERN PI
-MOUNTAIN PETROLEUM CORPORATION					RECEIVED: 12/08/80 JA: CO			
8108410	80-316	0512506399	103		ALLEN 1-8	BEECHER ISLAND	36.0	KANSAS-NEBRASKA NATU
-MKT EXPLORATION COMPANY					RECEIVED: 12/08/80 JA: CO			
8108421	80-325	0509906119	103		J-C NO 13-6	MCCLAVE	62.0	NUECES CO
8108420	80-324	0501106094	103		J-C NO 32-11	MCCLAVE	292.0	NUECES CO
-NORTHWEST EXPLORATION COMPANY					RECEIVED: 12/08/80 JA: CO			
8108430	80-309	0504506232	103		CLOUGH #108	RULISON WASATCH	183.0	NORTHWEST PIPELINE C
8108428	80-311	0504506229	103		CLOUGH #115	RULISON WASATCH	183.0	NORTHWEST PIPELINE C
8108427	80-310	0504506207	103		CLOUGH #3	RULISON MESAVERDE	292.0	NORTHWEST PIPELINE C
-NORTHWEST PIPELINE CORPORATION					RECEIVED: 12/08/80 JA: CO			
8108426	80-262	0506700000	108		BONDAD 33-10 #18	IGNACIO BLANCO	20.1	NORTHWEST PIPELINE C
8108429	80-341	0506706248	103		DOCAR GAS UNIT #1A	IGNACIO MESAVERDE	0.0	EL PASO NATURAL GAS
8108431	80-342	0506706249	103		DOCAR GAS UNIT #2A	IGNACIO BLANCO MESAVERDE	113.0	EL PASO NATURAL GAS
-PATRICK A DOHENY					RECEIVED: 12/08/80 JA: CO			
8108415	80-336	0512109444	103		NO 1 ONEIL	SIOUX	55.0	KANSAS-NEBRASKA NATU
-PROVIDENT RESOURCES INC					RECEIVED: 12/08/80 JA: CO			
8108416	80-338	0510307972	103		STEELE 9-26-4-102	FOUNDATION CREEK	30.0	NORTHWEST PIPELINE C

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WEST VIRGINIA DEPARTMENT OF MINES

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JD NO	JA DKT	API NO	SEC	I	WELL NAME	FIELD NAME	PROD	PURCHASER
-TUG FORK CORP					RECEIVED: 12/08/80 JA: WV			
*8108465		4704500744	107		A S BEDFORD 1-1025	CHAPMANSVILLE	6.1	TENNESSEE GAS PIPELI
*8108526		4709900350	107		A W PRESTON 1-704	UNION	6.4	TENNESSEE GAS PIPELI
*8108488		4700500595	107		ALLEN & PRYOR 39-660	SCOTT	7.1	TENNESSEE GAS PIPELI
*8108491		4700500603	107		ALLEN & PRYOR 40-671	SCOTT	2.1	TENNESSEE GAS PIPELI
*8108487		4700500685	107		ALLEN & PRYOR 43-701	SCOTT	1.3	TENNESSEE GAS PIPELI
*8108457		4700500943	107		BEDFORD 20-1150	CROOK	1.0	TENNESSEE GAS PIPELI
*8108494		4709900510	107		C E COUNTS 1-764	GRANT	5.7	TENNESSEE GAS PIPELI
*8108497		4709900519	107		C T FRALEY 2-768	GRANT	8.6	TENNESSEE GAS PIPELI
*8108490		4700500111	107		CASSINGHAM 21-403	SCOTT	16.1	TENNESSEE GAS PIPELI
*8108469		4700500530	107		CASSINGHAM 41-632	SCOTT	1.8	TENNESSEE GAS PIPELI
*8108514		4703900884	107		E D SPILMAN 1-626	WASHINGTON	9.2	TENNESSEE GAS PIPELI
*8108518		4709900748	107		F E MATHEWSON 3-815	GRANT	1.7	TENNESSEE GAS PIPELI
*8108525		4709900410	107		F W THOMPSON 1-728	UNION	10.3	TENNESSEE GAS PIPELI
*8108523		4709903310	107		FERGUSON & EXCELSOR 1-686	UNION	13.5	TENNESSEE GAS PIPELI
*8108522		4709900349	107		FERGUSON-SELLARDS 1-702	UNION	4.5	TENNESSEE GAS PIPELI
*8108503		4703900628	107		FRED SUPPLE 1-554	WASHINGTON	11.4	TENNESSEE GAS PIPELI
*8108520		4709900644	107		G B JACKSON 1-793	UNION	8.2	TENNESSEE GAS PIPELI
*8108501		4709901000	107		GUYAN OIL 10-967	STONEWALL	3.1	TENNESSEE GAS PIPELI
*8108502		4709900005	107		GUYAN OIL 4-543	STONEWALL	1.6	TENNESSEE GAS PIPELI
*8108521		4709900255	107		GUYAN OIL 9-619	STONEWALL	3.1	TENNESSEE GAS PIPELI
*8108467		4704500767	107		H M PATTERSON 3-1090	LOGAN	14.3	TENNESSEE GAS PIPELI
*8108477		4704500771	107		H M PATTERSON 4-1099	LOGAN	2.9	TENNESSEE GAS PIPELI
*8108479		4704500775	107		H M PATTERSON 5-1109	LOGAN	7.9	TENNESSEE GAS PIPELI
*8108475		4704500789	107		H M PATTERSON 6-1137	LOGAN	3.6	TENNESSEE GAS PIPELI

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*8108499		4709900290	107		HOARD BALDWIN 31-664	STONEWALL	2.8	TENNESSEE GAS PIPELI
*8108500		4709900279	107		HOARD-BALDWIN 30-657	STONEWALL	3.1	TENNESSEE GAS PIPELI
*8108458		4704500490	107		ISLAND CREEK MINING 16-927	CHAPMANSVILLE	13.4	TENNESSEE GAS PIPELI
*8108492		4709900495	107		J N HAUSER 1-755	GRANT	16.2	TENNESSEE GAS PIPELI
*8108493		4709900546	107		J N HAUSER 2-770	GRANT	19.6	TENNESSEE GAS PIPELI
*8108517		4709900580	107		J N HAUSER 3-775	GRANT	5.0	TENNESSEE GAS PIPELI
*8108463		4704500791	107		JOHN JUSTICE 1-1134	CHAPMANSVILLE	3.5	TENNESSEE GAS PIPELI
*8108469		4704500467	107		LAWSON HRS A 1-1023	LOGAN	6.2	TENNESSEE GAS PIPELI
*8108470		4704500779	107		LAWSON HRS A 2-1120	LOGAN	10.5	TENNESSEE GAS PIPELI
*8108471		4704500860	107		LAWSON HRS 3-1138	LOGAN	2.3	TENNESSEE GAS PIPELI
*8108476		4704500848	107		LAWSON HRS 7-1199	CHAPMANVILLE	5.7	TENNESSEE GAS PIPELI
*8108465		4704500859	107		LAWSON HRS 8-1202	CHAPMANSVILLE	14.3	TENNESSEE GAS PIPELI
*8108481		4700500598	107		LITTLE COAL LAND CO 5 27-666	SCOTT	8.5	TENNESSEE GAS PIPELI
*8108482		4700500917	107		LITTLE COAL LAND CO 40-1131	WASHINGTON	10.6	TENNESSEE GAS PIPELI
*8108486		4700500809	107		LITTLE LAND COAL CO 39-779	WASHINGTON	2.8	TENNESSEE GAS PIPELI
*8108516		4709900813	107		LOUISA COLLINS 5-844	GRANT	1.2	TENNESSEE GAS PIPELI
*8108474		4704500846	107		M BLANKENSHIP 1-1145	LOGAN	8.7	TENNESSEE GAS PIPELI
*8108466		4704500584	107		MARTHA MCKENY 1-1017	CHAPMANVILLE	5.9	TENNESSEE GAS PIPELI
*8108527		4709900918	107		N B MAYNARD 1-899	UNION	1.1	TENNESSEE GAS PIPELI
*8108519		4709900611	107		NOAH MAYNARD 1-785	GRANT	4.7	TENNESSEE GAS PIPELI
*8108515		4703901626	107		OLLIE ARNOLD 1-904	WASHINGTON	19.2	TENNESSEE GAS PIPELI
*8108484		4700500364	107		PEYTONA COAL CO 30-470	SHERMAN	14.3	TENNESSEE GAS PIPELI
*8108464		4700503720	107		PEYTONA COAL CO 32-475	SHERMAN	3.7	TENNESSEE GAS PIPELI
*8108485		4700500454	107		PEYTONA COAL CO 34-568	SHERMAN	4.3	TENNESSEE GAS PIPELI
*8108483		4700500908	107		PEYTONA COAL CO 37-1073	SHERMAN	14.0	TENNESSEE GAS PIPELI
*8108456		4700500899	107		POND FORK 6-1015	CROOK	4.8	TENNESSEE GAS PIPELI
*8108495		4709900433	107		R & T P MAYNARD 3-741	GRANT	10.4	TENNESSEE GAS PIPELI
*8108496		4709900419	107		R & T P MAYNARD 4-742	GRANT	20.4	TENNESSEE GAS PIPELI
*8108498		4709900484	107		R & T P MAYNARD 5-759	GRANT	4.4	TENNESSEE GAS PIPELI
*8108472		4704500246	107		R J BLANKENSHIP 1-1022	LOGAN	4.3	TENNESSEE GAS PIPELI
*8108478		4704500759	107		R J BLANKENSHIP 2-1026	LOGAN	5.1	TENNESSEE GAS PIPELI
*8108480		4704500769	107		R J BLANKENSHIP 3-1104	LOGAN	8.1	TENNESSEE GAS PIPELI
*8108473		4704500772	107		R J BLANKENSHIP 4-1110	LOGAN	5.4	TENNESSEE GAS PIPELI
*8108455		4700500036	107		S M WHEELER 1-394	SCOTT	2.2	TENNESSEE GAS PIPELI
*8108505		4703900294	107		SILVER COAL LAND CO 1-453	WASHINGTON	12.1	TENNESSEE GAS PIPELI
*8108509		4703900781	107		SILVER COAL LAND CO 10-592	WASHINGTON	9.7	TENNESSEE GAS PIPELI
*8108512		4703900794	107		SILVER COAL LAND CO 11-598	WASHINGTON	10.5	TENNESSEE GAS PIPELI
*8108513		4703900840	107		SILVER COAL LAND CO 12-617	WASHINGTON	5.3	TENNESSEE GAS PIPELI
*8108506		4703900324	107		SILVER COAL LAND CO 2-469	WASHINGTON	6.5	TENNESSEE GAS PIPELI
*8108507		4703900371	107		SILVER COAL LAND CO 3-478	WASHINGTON	7.3	TENNESSEE GAS PIPELI
*8108508		4703900397	107		SILVER COAL LAND CO 4-485	WASHINGTON	6.3	TENNESSEE GAS PIPELI
*8108504		4703900470	107		SILVER COAL LAND CO 5-493	WASHINGTON	8.1	TENNESSEE GAS PIPELI
*8108510		4703900673	107		SILVER COAL LAND CO 6-560	WASHINGTON	11.1	TENNESSEE GAS PIPELI
*8108511		4703900747	107		SILVER COAL LAND CO 9-582	WASHINGTON	4.9	TENNESSEE GAS PIPELI
*8108524		4709900309	107		SMITH-LINDSEY 1-652	UNION	1.0	TENNESSEE GAS PIPELI
*8108459		4704500509	107		T H HARVEY 4-954	CHAPMANSVILLE	8.9	TENNESSEE GAS PIPELI
*8108460		4704500527	107		T H HARVEY 6-976	CHAPMANSVILLE	6.4	TENNESSEE GAS PIPELI
*8108461		4704500528	107		T H HARVEY 7-977	CHAPMANSVILLE	5.2	TENNESSEE GAS PIPELI
*8108462		4704500567	107		T H HARVEY 8-1004	CHAPMANSVILLE	16.7	TENNESSEE GAS PIPELI

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** U.S. GEOLOGICAL SURVEY - METAIRIE,LA

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-ANADARKO PRODUCTION COMPANY RECEIVED: 12/08/80 JA: LA 3

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                                                                           VOLUME  369              PAGE  004
JD NO     JA DKT       API NO     SEC D WELL NAME                        FIELD NAME                PROD   PURCHASER
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8108399   GO-1706      1770340336 102   EAST CAMERON BLOCK 104 NO A-5    EAST CAMERON              3650.0 TRUNKLINE GAS CO
-CNG PRODUCING COMPANY                RECEIVED:  12/08/80  JA: LA  3
*8108402  GO-1547      1771240185 102   D-1151                           SHIP SHOAL                2044.0 CONSOLIDATED GAS SUP
-EXXON CORPORATION                    RECEIVED:  12/08/80  JA: LA  3
 8108395  GO-1629      1771540205 102   OCS-G 1255 NO B-11               SOUTH TIMBALIER           1600.0 TRUNKLINE GAS CO
*8108397  GO-1567      1770240621 102   OCS-G 2560 NO A-9                WEST CAMERON              4000.0 COLUMBIA GAS TRANS C
 8108383  GO 1685      1770940406 102   OCS-G 3331 NO A-10               EUGENE ISLAND             6000.0 COLUMBIA GAS TRANS C
-GULF OIL CORPORATION                 RECEIVED:  12/08/80  JA: LA  3
*8108392  GO-1608      1770940326 102   OCS-G 0983 #G-5                  EUGENE ISLAND              365.0 SEA ROBIN PIPELINE C
 8108398  GO-1673      1771540332 102   OCS-G 3336 WELL NO D-12D         SOUTH TIMBALIER             36.0 TEXAS EASTERN TRANSM
-KERR-MCGEE CORPORATION               RECEIVED:  12/08/80  JA: LA  3
 8108389  GO-1659      1771100779 102   OCS - 0345 WELL NO 11-B          SHIP SHOAL                  74.0 TRANSCONTINENTAL GAS
 8108394  GO-1660      1771100704 102   OCS 0333 WELL NO 9-B             SHIP SHOAL                 302.0 TRANSCONTINENTAL GAS
-MARATHON OIL COMPANY                 RECEIVED:  12/08/80  JA: LA  3
 8108396  GO-1529      1771040816 102   EUGENE ISLAND BLOCK 349 WELL NO B-2 EUGENE ISLAND           55.0 TEXAS EASTERN TRANSM
-MOBIL OIL EXPLORATION E PROD S E     RECEIVED:  12/08/80  JA: LA  3
 8108404  GO 1701      1771140394 102   SHIP SHOAL 86 #1                 SHIP SHOAL                   0.0
*8108390  GO-1703      1771340067 102   SOUTH PELTO 10 #12-A             SOUTH PELTO                  1.8 TRANSCONTINENTAL GAS
-OCEAN PRODUCTION CO                  RECEIVED:  12/08/80  JA: LA  3
 8108385  GO-1616      1771340068 102   OCS-G 072 NO 348                 SOUTH PELTO                 50.0 TRANSCONTINENTAL GAS
-SHELL OIL CO                         RECEIVED:  12/08/80  JA: LA  3
 8108386               1770740292 102   OCS-G 1187 JA-1 (FORMERLY NO 4)  SOUTH MARSH ISLAND         500.0 SEA ROBIN PIPELINE C
 8108381  GO-1699      1772340061 102   OCS-G 1614 NO D-2                SOUTH PASS                   4.0 SOUTHERN NATURAL GAS
-SONAT EXPLORATION COMPANY            RECEIVED:  12/08/80  JA: LA  3
 8108401  GO-1521      1770340198 102   OCS-G 3287 A-5                   EAST CAMERON              2300.0 SOUTHERN NATURAL GAS
 8108387  GO-1522      1770340196 102   OCS-G 3287 A-5D                  EAST CAMERON              1314.0 SOUTHERN NATURAL GAS
-TENNECO OIL COMPANY                  RECEIVED:  12/08/80  JA: LA  3
 8108380  GO 1448      1770540295 102   VERMILION 218 S-2 WELL           VERMILION                  821.2 TENNESSEE GAS PIPELI
-TRANSOCEAN OIL INC                   RECEIVED:  12/08/80  JA: LA  3

 8108382  GO-1658      1770040334 102   OCS 0526 #A-3                    WEST CAMERON AREA            0.0 TENNESSEE GAS PIPELI
-UNION OIL COMPANY OF CALIF           RECEIVED:  12/08/80  JA: LA  3
 8108403  GO-1690      1770540368 107   OCS 0297 NO 34                   VERMILION                    7.2 TRUNKLINE GAS CO
-AMOCO PRODUCTION CO                  RECEIVED:  12/08/80  JA: TX  3
 8108393  GO-1674      4271140458 102   OCS-G-2427 #A-3                  EAST ADDITION HIGH ISLAN  1500.0 MICHIGAN-WISCONSIN P
-SHELL OIL CO                         RECEIVED:  12/08/80  JA: TX  3
 8108388  GO 1650      4270340010 102   OCS-G 3086 JA-1                  MATAGORDA ISLAND          1410.0 TRANSCONTINENTAL GAS
-TENNECO OIL COMPANY                  RECEIVED:  12/08/80  JA: TX  3
 8108391  GO 1459      4270900000 102   HIGH ISLAND BLOCK 281 A-6        HIGH ISLAND                365.0 TENNESSEE GAS PIPELI
-TRANSCO EXPLORATION COMPANY          RECEIVED:  12/08/80  JA: TX  3
 8108384  GO-1624      4270940418 102   OCS-G 3243 A-3                   HIGH ISLAND               1500.0 TRANSCONTINENTAL GAS
-UNION OIL COMPANY OF CALIF           RECEIVED:  12/08/80  JA: TX  3
 8108400  GO-1645      4271140443 102   OCS-G 3485 A-4                   EAST HIGH ISLAND          1278.0
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OTHER PURCHASERS        VOLUME NO 1340
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8108390     FLORIDA GAS
8108392     TEXAS EASTERN TRANSMISSION CORP
8108397     NORTHERN NATURAL GAS CO
8108402     COLUMBIA GAS TRANSMISSION CORP
8108455     INDUSTRIAL GAS CORP
8108456     INDUSTRIAL GAS CORP
8108457     INDUSTRIAL GAS CORP
8108458     INDUSTRIAL GAS CORP
8108459     INDUSTRIAL GAS CORP
8108460     INDUSTRIAL GAS CORP
8108461     INDUSTRIAL GAS CORP
8108462     INDUSTRIAL GAS CORP
8108463     INDUSTRIAL GAS CORP
8108464     INDUSTRIAL GAS CORP
8108465     INDUSTRIAL GAS CORP
8108466     INDUSTRIAL GAS CORP
8108467     INDUSTRIAL GAS CORP
8108468     INDUSTRIAL GAS CORP
8108469     INDUSTRIAL GAS CORP
8108470     INDUSTRIAL GAS CORP
8108471     INDUSTRIAL GAS CORP
8108472     INDUSTRIAL GAS CORP
8108473     INDUSTRIAL GAS CORP
8108474     INDUSTRIAL GAS CORP
8108475     INDUSTRIAL GAS CORP
8108476     INDUSTRIAL GAS CORP
8108477     INDUSTRIAL GAS CORP
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BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before January 30, 1981.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1388 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3209, 3250, and 3518]

State of California Department of Water Resources, Sequoia Energy Corp., North Kern Water Storage District; Applications for Preliminary Permit

January 9, 1981.

Take notice that the State of California Department of Water Resources, Sequoia Energy Corporation, and North Kern Water Storage District (Applicants) filed on June 16, 1980, July 11, 1980, and October 2, 1980, respectively, competing applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project Nos. 3209, 3250, and 3518, to be known as Isabella Powerplant located on Kern River in Kern County, California. The applications are on file with the Commission and are available for public inspection. Correspondence with California Department of Water Resources should be directed to: Ronald B. Robie, Director, Department of Water Resources, P.O. Box 338, Sacramento, California 95814. Correspondence with Sequoia Energy Corporation should be directed to: Lee Trent, President, Sequoia Energy Corporation, 20317 Arminta Street, Canoga Park, California 91306. Correspondence with the North Kern Water Storage District should be directed to: Mr. C. H. Williams, Engineer-Manager, North Kern Water Storage District, 1415 18th Street, Room 705, Bakersfield, California 93302. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The project, as proposed by the State of California Department of Water Resources and North Kern Water Storage District, would consist of: (1) a U.S. Army Corps of Engineers' earthfill dam, Isabella Dam, and outlet works; (2) a power plant with an 8,000-kW generator and associated turbine-generator; (3) an outlet structure extension; (4) an access road; and (5) a 2,000-foot transmission line. The proposed project would utilize the normal releases to the river from the main outlet works below the dam and would not interfere with the normal operation of Isabella Lake. The State of California Department of Water Resources estimates that the average annual energy output would be 13,400 MWh. The North Kern Water Storage District estimates that the average annual energy output would be 17,000 MWh.

The project, as proposed by Sequoia Energy Corporation, would consist of: (1) a U.S. Army Corps of Engineers' earthfill dam, Isabella Dam, and outlet works; (2) a powerplant with a 2.3-MW generator; (3) a penstock; and (4) an approximately 1,000-foot 69-kV transmission line. The proposed project would operate from the discharge of the dam. The Applicant estimates that the average annual energy output would be 11,500 MWh.

Purpose of Project—The power generated from the project proposed by the State of California Department of Water Resources would be used to help meet the pumping requirements of the State Water Project.

The power generated from the project proposed by Sequoia Energy Corporation would be sold to Southern California Edison Company or to a number of other users, including a municipal utility.

The power generated from the project proposed by the North Kern Water Storage District would be used to meet their pumping requirements and would possibly be sold to a utility company.

Proposed Scope and Cost of Studies Under Permit—Each Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time they would conduct engineering studies, secure geologic data, make comparative studies, perform preliminary designs and estimate costs, do a feasibility analysis, assess environmental impacts, and prepare a FERC license application. The State of California Department of Water Resources estimates the cost of the studies to be $160,000. Sequoia Energy Corporation estimates the cost of the studies to be $50,000. The North Kern Water Storage District estimates the cost of the studies to be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permitee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition to Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3209, 3250, and 3518. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1397 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-381]

Indiana and Michigan Electric Co.; Extension of Time

January 6, 1981.

On December 30, 1980, Commission Staff Counsel filed a request for an extension of time to file comments on a settlement agreement filed December 15, 1980, in the above-docketed proceeding. In support of this request, the motion states that Staff Counsel, who was not a party to the settlement negotiations, was not aware that a settlement was to be filed in this proceeding and only recently received a copy of the document. The motion further states that additional time is required because Staff Counsel's technical witness is unavailable at this time. The motion finally states that all parties to this proceeding support this request for an extension of time.

Upon consideration, notice is hereby given that an extension of time for the filing of reply comments is granted to and including January 20, 1981.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1385 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-716]

Indiana and Michigan Electric Co.; Filing

January 5, 1981.

The filing company submits the following:

Take notice that on December 24, 1980, the Indiana and Michigan Electric Company submitted for filing in response to protests by the cities of Anderson and Auburn, Indiana and the Indiana and Michigan Municipal Distributors Association certain revisions to its revised cost of service and revised rates earlier submitted on November 3, 1980, pursuant to Commission Opinion No. 79.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before January 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1384 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3724-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 9, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3724 to be known as Deadwood Dam Hydroelectric Project located at the United States Department of the Interior, Water and Power Resources Service's (WPRS) Deadwood Dam on the Deadwood River in Valley County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, MA 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of a powerhouse with a total rated capacity of 6,500 kW and appurtenant facilities.

The Applicant estimates that the average annual energy output would be 28.2 million kWh.

Purpose of Project—Project energy would be sold to a local utility.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 24-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the WPRS and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commissioin will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," OR "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3724. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE, Washington D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1387 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3729-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 8, 1981.

Take notice that Mitchell Energy Company, Inc. (Application) filed on November 13, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3729 to be known as the Cle Elum Dam Hydroelectric Project located on Cle Elum River in Kittitas County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be located at the existing U.S. Water and Power Resources Service's Cle Elum Dam and would consist of a power plant with a rated capacity of 14,707 kW. The Applicant estimates that the average annual energy output would be 41.46 million kWhs.

Purpose of Project—Applicant states that during the permit period a power purchase agreement with a local utility will be negotiated.

Proposed Scope and Cost of Studies under Permit—Applicant seeks a preliminary permit for a period of 24 months during which it would conduct environmental, engineering and economic studies to determine the feasibility of constructing and operating the proposed project. Applicant estimates that the cost of the feasibility studies would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980). This application was filed as a competing application to the Kittitas County Public Utility District No. 1 and the City of Ellensburg's application for the Elum Dam Hydroelectric Project No. 3485, filed September 18, 1980.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rule of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3729. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1368 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3731-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 9, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3731 to be known as the Meeks Cabin Dam Project located on the Blacks Fork River in Sublette County, Wyoming. The proposed project would utilize Federal lands and a Federal dam under the jurisdiction of the United States Water and Power Resources Service. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116.

Project Description—The proposed project would utilize the United States Water and Power Resources Service's existing Meeks Cabin Dam and Reservoir and would consist of: (1) a proposed powerhouse located just below the dam on the west bank of the Blacks Fork River, having units with a total installed capacity of 2,300 kW; and (2) appurtenant works.

The Applicant estimates that the average annual energy output would be 7,800,000 kWh.

Purpose of Project—Project energy would be sold to local public utilities.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of two years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, the Applicant would prepare an application for an FERC license. Applicant estimates the cost of studies under the permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition To Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3731. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-1369 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3732-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 8, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3732 to be known as Upper Deer Dam Project located on Boise River in Canyon County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing government dam, owned by the United States Water and Power Resources Service, and would consist of a powerhouse with a total installed capacity of 8,800 kW.

The Applicant estimates that the average annual energy output would be 38,574,500 kWh.

Purpose of Project—Power generated by the project would be sold to the Idaho Power Company or another local utility.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of the studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of work to be performed under the preliminary permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Poject No. 3732. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1300 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3734-000]

Mitchell Energy Co., Inc.; Application for Preliminary Permit

January 7, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3734 to be known as Mud Mountain Dam Project located on White River in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing government dam owned by the United States Corps of Engineers and would consist of a powerhouse with a total installed capacity of 5.8 MW.

The Applicant estimates that the average annual energy output would be 25,294,500 kWh.

Purpose of Project—Power generated by the project would be sold to Puget Sound Power and Light Company or another local utility.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of the studies, Applicant would decide to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates the cost of the studies to be performed under the preliminary permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the

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Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 12, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 12, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3734. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1301 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3737-000]

Mitchell Energy Co., Inc., Application for Preliminary Permit

January 9, 1981.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on November 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3737 to be known as Lower Deer Dam Project located on Boise River in Canyon County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing government dam owned by the United States Water and Power Resources Service and would consist of a powerhouse with a total installed capacity of 7800 kW.

The Applicant estimates that the average annual energy output would be 34,453,000 kWh.

Purpose of Project—Power generated by the project would be sold to the Idaho Power Company or another local utility.

Proposed Scope and Cost of Studies under Permit—The work to be performed under the preliminary permit would include an economic analysis, preliminary engineering, and study of environmental impacts. Based on the results of the studies, Applicant would decide whether to proceed with more detailed studies and preparation of application for license to construct and operate the project. Applicant estimates that the cost of studies to be performed under the preliminary permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTs," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3737. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1302 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3262-000]

Modesto Irrigation District; Application for Preliminary Permit

January 7, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on November 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3262 to be known as the Canyon Creek Project located on Canyon Creek in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lee Delano, Modesto Irrigation District, P.O. Box 4060, Modesto, California 95352. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) an existing diversion dam, to be reconstructed; (2) an existing 5-mile long water conduit (part of the abandoned Pacific Gas and Electric Company's Junction City Project) to be rehabilitated; (3) approximately 1000 feet of new penstock; (4) a new powerhouse with a rated capacity of 1060 kW; and (5) related electrical appurtenances to connect to an existing 12-kV overhead transmission line at the powerhouse site.

The Applicant estimates that the average annual energy output would be 9.3 million kWhs.

Purpose of Project.—The Applicant proposes to use the power output to meet its present and future electrical energy requirements within its service area.

Purposed Scope and Cost of Studies under Permit.—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would prepare a definitive project report that would include economic feasibility, topographical mapping, engineering and environmental data, and cost estimates. A work plan and schedule for new dam construction was filed as part of the application. Land would be disturbed at each abutment during subsurface investigation that would include soil borings. No new roads would be required for the proposed studies. Applicant states that precautions would be taken to minimize disturbances during testing and that each disturbed area would be restored to its existing conditions as closely as possible. The cost of the studies under the permit has been estimated by the Applicant to be about $75,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will presumed to have no comments.

T3Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before March 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 1, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 2, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3262. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1388 Filed 1-14-81; 8:45]

BILLING CODE 6450-85-M

[Project No. 3605-000]

Mohawk Paper Mills, Inc., Application for Preliminary Permit

January 8, 1981.

Take notice that Mohawk Paper Mills, Inc. (Applicant) filed on October 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3605 to be known as the Mohawk Paper Mills Project located on the Fourth Branch of the Mohawk River in Saratoga County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Dr. P. A. Forni, Executive Vice President, Mohawk Paper Mills, Inc., Box 497, Cohoes, New York 12047. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed run-of-the-river project would consist of existing project works, including: (1) a two-section concrete dam structure, one section about 160 feet long and 8 feet high with a spillway crest elevation of 31.feet m.s.l. extending from the west (left) bank of the Fourth Branch of the Mohawk River to an unnamed island about 200 feet wide, and a second dam section about 550 feet long and varying from 3 to 7 feet high with a spillway crest elevation of 31.0 feet m.s.l.; (2) a reservoir of negligible storage at surface elevation 31.0 feet m.s.l.; (3) a second concrete State-owned dam, 1,575 feet long and 15 feet high at spillway crest elevation 48.7 feet m.s.l.; (4) a second reservoir of negligible storage; (5) a section of the "Old Champlain Canal" to serve as a headrace (under Option 2) about 1,100 feet long, 30 feet wide, and 8 feet deep; (6) a concrete flow control structure 10 feet wide and 8 feet high at the head of the "Old Champlain Canal"; and (7) other appurtenances. New project works would include, under Option 1, a powerhouse (with an installed capacity of 1,360 kW) which would be constructed at the west (left) abutment of the west section of the two-section dam structure. Under Option 2, a penstock would be constructed connecting the "Old Champlain Canal" to a powerhouse (with an installed capacity of 2,220 kW) which would be constructed near the powerhouse location described in Option 1, but would be located about 180 feet downstream in the abandoned Kings Canal adjacent to the river. The Applicant estimates that the average annual energy output under Option 1 would be about 12,446,000 kWh, and, under Option 2, about 11,878,000 kWh.

Purpose of Project.—Project energy would be partially utilized by the Applicant for internal manufacturing processes, with the remainder being sold to the Niagara Mohawk Power Corporation.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform hydraulic, construction, economic, environmental, historic, and recreational studies, and if the proposed project is determined feasible, prepare an application for FERC license. Applicant estimates cost of studies under the permit would not exceed $67,250.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3605. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory

Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1394 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-40-000]

James M. Tidwell, d.b.a. Spring Creek Enterprises; Filing of Petition for Review

Issued: January 7, 1981.

Take notice that James M. Tidwall, d.b.a. Spring Creek Enterprises on January 5, 1981, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 28, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 28, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1395 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3491]

Upper Cumberland Electric Membership Corp., Application for Preliminary Permit

January 8, 1981.

Take notice that Upper Cumberland Electric Membership Corporation (Applicant) filed on September 22, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3491 to be known as Burgess Falls Dam located on the Falling Water River in Putnam County, Tennessee. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Roy Polk—General Manager, Upper Cumberland Electric Membership Corporation, Highway 53 Bypass, P.O. Box 159, Carthage, Tennessee 37030. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) an existing concrete dam approximately 336 feet long and 36 feet high; (2) an Ogei crest spillway, 180 feet long, with seven slide gates approximately 5 feet high and 20 feet wide; (3) an existing reservoir with a surface area of 150 acres at a maximum pool elevation of 886 feet m.s.l.; (4) a proposed powerhouse with an estimated capacity of 3,000 kW; and (5) appurtenant facilities.

The Applicant estimates annual output of the proposed project would be 12.4 million kWh. No Federal lands are being utilized.

Purpose of Project.—Supplement Applicant's base energy requirements and aid TVA in stabilizing the steadily increasing electric costs due to higher fuel costs.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and Federal permits and develop preliminary final designs for the project. Applicant estimates cost of the proposed studies to be $30,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, local agencies that receive this notice through direct mailing from the Commission are invited to submit coments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 19, 1981.

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Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it has made in response to this notice of application for preliminary permit for Project No. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1398 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-33-000]

Advanced Sales Corp.; Filing of Petition for Review

Issued: January 7, 1981.

Take notice that Advanced Sales Corp. on December 3, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 26, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 26, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1365 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3522-000]

Atlantic Power Development; Application for Preliminary Permit

January 8, 1981.

Take notice that Atlantic Power Development Corporation (Applicant) filed on October 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3522 to be known as Locks and Dam 4 located on the Monogahela River in Washington County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas F. Nolan IV, Attorney at Law, 401 C Street, NE., Washington, D.C. 20002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Locks and Dam 4 and would consist of: (1) a new powerhouse containing generating unit(s) having a total rated capacity of 11,500 kW; (2) a transmission line; and (3) appurtenant facilities. Project energy would be transmitted to existing distribution lines located within 1 mile of the project.

The Applicant estimates that the average annual energy output would be 64,500 MWh.

Purpose of Project—Project energy would be sold to the local electric public utility.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would prepare studies of the hydraulic, construction, economic and environmental aspects of the project. Applicant states that it may be necessary to conduct test borings at the power plant and to construct a short access road to the area of the test boring sites along the bank of the river. Depending upon the outcome of the studies, Applicant would decide whether to prepare an application for FERC license. Applicant estimates the cost of the studies under the permit would be $108,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comment—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 19, 1981, either the competing application itself of a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3522–000. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy, Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1366 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-508]

Boston Edison Co.; Order Denying Reconsideration

Issued: January 7, 1981.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., George R. Hall and J. David Hughes.

On November 19, 1980, Boston Edison Company (Edison) filed a "Petition for Reconsideration by Boston Edison Company of the Commission's Order Providing for Maximum Five-Month Suspensions of the S–6 and Contract Demand Rates." Edison asserts that revised studies compiled by the company demonstrate that a maximum suspension of the proposed rates will produce harsh and inequitable results.

On December 9, 1980, the Reading Municipal Light Board filed an answer to Edison's petition urging the Commission to deny the petition on the grounds that it is procedurally impermissible, without merit and contrary to an orderly process for considering and deciding disputed issues in rate proceedings.

We have recently revised the question of Edison's suspension and denied rehearing of our original suspension decision. The suspension decision is a discretionary one which must be made within the statutory time limits on the basis of a "first cut" preliminary analysis. We do not find it appropriate or conducive to orderly or efficient administrative procedures to reconsider such decisions on the basis of subsequent analyses of the rate filing made by the participants to the proceeding, including Commission trial staff. This is particularly so where, as here, we have already reviewed the suspension period on rehearing. We shall therefore deny Edison's petition for reconsideration.

The Commission orders:

(A) The petition for reconsideration filed by Boston Edison in this docket on November 19, 1980 is hereby denied.

(B) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1367 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3766-000]

Colorado River Water Conservation District; Application for Preliminary Permit

January 7, 1981.

Take notice that Colorado River Water Conservation District (Applicant) filed on November 21, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3766 to be known as Ruedi Project located on the Ruedi Reservoir in Eagle and Pitkin Counties, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Roland C. Fischer, Secretary–Engineer, Colorado River Water Conservation District, P. O. Box 1120, Glenwood Springs, Colorado 81601. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would utilize an existing government dam and would consist of a powerhouse contgaining two turbine-generators with a total rated capacity of 11 MW. Applicant would also construct an after bay to be formed by a 40-foot high, 200-foot long dam located approximately 2,500 feet downstream. The after bay, with a storage capacity of 230 acre-feet would levelize the fluctuation in out flow from the proposed powerhouse, which is to be operated as a peaking facility. The Applicant estimates that the average annual energy output would be up to 22 million kWh which would save the equivalent of 36,100 barrels of oil or 10,200 tons of coal.

Purpose of Project.—Power generated by the project would be sold to either Public Service Company of Colorado or Colorado-Ute Electric Association, Inc.

Proposed Scope and Cost of Studies Under Permit.—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, geogolical investigations, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of work to be performed under this preliminary permit would be $180,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit

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comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—This application was filed as a competing application to the Ruedi Project, Project No. 3225 on June 24, 1980, by Harrison Western Corporation under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before February 23, 1981.

Filing and Service of Responsive Documents.—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for project No. 3766. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Dc. 81-1269 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CS81-20-000]

Commerce Energy Resources, Inc.; Applications for "Small Producer" Certificates [1]

January 8, 1981.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 22, 1981 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS81-20-000	10/24/80	Commerce Energy Resources, Inc., P.O. Box 580, Spencer, WV 25276.
CS81-21-000	11/8/80	Polfam Exploration Co., 1515 Arapahoe Street, Suite 580, One Park Central, Denver, CO 80202.
CS81-22-000	11/19/80	Pauline Harding, Rt. 2, Box 13, Wellston, OK 74881.
CS81-23-000	11/21/80	David Schauman, 2811 Poly Drive, Billings, MT 59102
CS81-24-000	11/26/80	Arlen Boyd Herrman, 3105 Gregory Drive, Billings, MT 59102.
CS81-25-000	12/1/80	Columbine Exploration Corp., 817 17th Street, Ste. 718, Denver, CO 80202.
CS81-26-000	12/8/80	Crady Davis Co., 4545 South High Street, Englewood, CO 80110.
CS81-27-000	12/5/80	Amarillo National Bank, Amarillo, TX., Surviving Trustee of O. H. Shaller Trust A and Claude Shaller, Memorial Trust, 11th Floor Plaza One, Amarillo, TX.
CS81-28-000	12/11/80	Angus Oil Corp., Suite 281, Century Center Plaza, Oklahoma City, OK 73102.
CS81-29-000	12/12/80	Zeta 1980 S T Joint Venture, P.O. Box 5061, Westport, CT 06880.
CS81-30-000	12/15/80	Hendrik's Golled, Inc., 11221 Katy Freeway, Suite 200, Houston, TX 77079.
CS81-31-000	12/15/80	L. Irvin Barnhart, 2121 Sage Road No. 333, Houston, TX 77056.
CS81-32-000	12/15/80	Paul F. Barnhart, Jr., 2121 Sage Road No. 333, Houston, TX 77056.
CS81-33-000	12/15/80	Estate of Harry B. Barnhart, Jr., 2121 Sage Road No. 333, Houston, TX 77056.
CS81-34-000	12/15/80	Barnhart 1974 Partnership, 2121 Sage Road No. 333, Houston, TX 77056.
CS81-35-000	12/16/80	Quaker Run Drilling Program, 1028 First Federal Plaza, Rochester, NY 14614.
CS81-36-000	12/18/80	Charles Alfred Williams, 1370 Berkeley Way, Ukiah, CA 95482.
CS81-37-000	12/19/80	Marilyn L. Yates, Route 5, Box 100F, Midland, TX 79701.
CS81-38-000	12/22/80	Thomas E. Hickey, P.O. Box 2148, Santa Fe, NM 87501.
CS81-39-000	12/22/80	Barbara B. Sweeney, P.O. Box 2148, Santa Fe, NM 87501.
CS81-40-000	12/29/80	Carolyn Neighbors Hart, 2 Rip Van Winkle, Houston, TX 77024.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS81-41-000...	12/29/80...........	Nancy Neighbors Becker, 4701 Crestway, Austin, TX 78731.
CS81-42-000...	12/29/80...........	Dirks Petroleum Corp., 1309 South Shepherd, Houston, TX 77019.
CS81-43-000...	12/29/80...........	Eric Schwartz, P.O. Box 2148, Santa Fe, NM 87501.
CS81-44-000...	12/30/80...........	Dr. Irwin Zim, P.O. Box 2148, Santa Fe, NM 87501.
CS81-45-000...	12/30/80...........	J. Roger Friedman, P.O. Box 2148, Santa Fe, NM 87501.

[FR Doc. 81-1309 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3388-000, and Project No. 3656-000, Project No. 3701-000]

Cook Electric Co., City of Tenino and Pacific Hydro, Inc., Yakima-Tieton Irrigation District; Applications for Preliminary Permit

January 7, 1981.

Take notice that Cook Electric Company (Cook), City of Tenino and Pacific Hydro, Inc. (Pacific Hydro), and Yakima-Tieton Irrigation District (Yakima) (Applicants) filed on August 26, 1980, November 3, 1980, and November 7, 1980, respectively, competing applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Projects Nos. 3388, 3656, and 3701 to be known as Tieton Project located on the Tieton River in Yakima County, Washington. The applications are on file with the Commission and are available for public inspection. Correspondence with Cook Electric Company should be directed to: Warren P. Chapman, Cook Electric Company, P.O. Box 1071, Twin Falls, Idaho 83301. Correspondence with City of Tenino and Pacific Hydro, Inc. should be directed to: Robert H. Sherman, P.O. Box 572, Yelm, Washington 98597. Correspondence with Yakima-Tieton Irrigation District should be directed to: Warren E. Dickman, Yakima-Tieton Irrigation District, Route 6, Box 193, Yakima, Washington 98908. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed Project No. 3388 would consist of: (1) the possible replacement of the two existing 72-inch steel pipes in the existing Water and Power Resources Services' Tieton Dam with two 72-inch steel penstocks; (2) a powerhouse containing two generating units, each rated at 4989 kW; (3) a 19.5-mile long transmission line; and (4) appurtenant facilities. Applicant estimates that the annual generation would be 44.2 million kWh.

Project No. 3656 would consist of: (1) an intake structure through the existing Water and Power Resources Services' (WPRS) Tieton Dam; (2) a 40,000-foot long canal; (3) a 4800-foot long syphon; (4) two penstocks; (5) a powerhouse containing two generating units, each rated at 20,000 kW; (6) a 5-mile long transmission line; and (6) appurtenant facilities. Applicant estimates the annual generation would be 183.2 million kWh.

Project No. 3701 would consist of: (1) a 30-foot wide by 40-foot long indoor powerhouse located at the existing valve house at the toe of Tieton Dam, and containing two generating units, each rated at 8,000 kW; and (2) a 5-mile long transmission line. Applicant estimates that the average annual energy output would be 64.25 million kWh.

Purpose of Project.—Cook and Pacific Hydro propose to sell energy produced at the projects to local utilities and Yakima proposes to either utilize the energy produced internally or sell the energy to a local utility.

Proposed Scope and Cost of Studies Under Permit.—Applicants seek issuance of a preliminary permit for a period of 36 months, during which time each Applicant would perform hydrological, engineering, environmental, and feasibility studies on the projects and prepare applications for FERC licenses. Cook, Pacific Hydro, and Yakima estimate costs of studies under their permit would be $18,000, $44,600, and $50,000 respectively.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before March 12, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 12, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project Nos. 3388, 3656 and 3701. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Divison of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street,

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NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1370 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3408-000]

Cook Electric Co.; Application for Preliminary Permit

January 8, 1981.

Take notice that Cook Electric Company (Applicant) filed on November 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3408 to be known as Middle Snake River Project (at Milner Dam) located on the Snake River in Twin Falls and Jerome Counties, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Warren P. Chapman, Cook Electric Company, P.O. Box 1071, Twin Falls, Idaho 83301. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an intake structure (a slide gate or a butterfly valve); (2) a 120-foot long, 6-foot diameter penstock serving; (3) a powerhouse with a rated capacity of 725 kW. The proposed project would operate during non-irrigation season using water otherwise spilled over Milner Dam. The Applicant estimates that the average annual energy output would be 3.175 million kWhs. Also, please take note that Twin Falls Canal Company and North Side Canal Company (owners of Milner Dam) have filed an application for a preliminary permit, FERC Project No. 2899, to study the feasibility of constructing a powerhouse with a rated capacity of 50.25 MW, using the existing South Side Canal as a power canal. The public notice of the application for Project No. 2899 has been given separately. Cook Electric Company states in its application that even when the owners of Milner Dam "build their power plants it is anticipated that a minimum of 150 cfs will be wasted over the dam."

Purpose of Project—Applicant proposes to sell the project power to the Twin Falls Canal Company, the North Side Canal Company, or the Idaho Power Company, under Section 210 of the Public Utility Regulatory Policies Act of 1978.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would study the feasibility of the proposed projects. The cost of the feasibility study is estimated by the Applicant to be about $35,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 23, 1981, either the competing application itself or a notice of intent to a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before March 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition To Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3408. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1371 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3421 and Project No. 3645]

Eastern States Energy & Resources, Inc. and East Kentucky Power Cooperative, Inc.; Applications for Preliminary Permits

January 7, 1981.

Take notice that Eastern States Energy & Resources, Inc. (ESER) and East Kentucky Power Cooperative, Inc. (EKPC) (Applicants) filed on September 2, 1980 and November 3, 1980, respectively, competing applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Projects Nos. 3421 and 3645 to be known as Cave Run Dam Project located at the U.S. Army Corps of Engineers' Cave Run Dam and Reservoir, a flood control project, on the Licking River in Bath and Rowan Counties near Salt Lick and Farmers, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with ESER should be directed to: Mr. Jeffrey M. Kossak, ESQ, Suite 1900, 14 Wall Street, New York, New York 10005. Correspondence with EKPC should be directed to: Mr. Richard H. Breckenkamp, East Kentucky Power Cooperative, Inc., P.O. Box 707, Winchester, Kentucky 40391. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed projects of ESER and EKPC would both consist of: (1) a proposed intake section; (2) a proposed powerhouse located on the eastern bank of the river; (3) proposed transmission lines; and (4) appurtenant facilities. ESER estimates the capacity of their proposed project to be 7.5 MW, and the annual energy output to be 35 GWh. EKPC estimates the capacity of their proposed project to be 10 MW, and the annual energy output to be 28.5 GWh.

Purpose of Project.—ESER would most probably sell its energy to Kentucky Power Company. EKPC would utilize its energy within its own power system.

Proposed Scope and Cost of Studies under Permit.—Both applicants have requested 36-month permits to prepare definitive project reports, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The costs of the aforementioned activities along with obtaining the agreements with other Federal, State and local agencies are estimated to be $57,500 for Project No. 3421 while Project No. 3645 would cost between $200,000 to $300,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permitee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before March 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 22, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 23, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3421 and 3645. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1372 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-22-000]

Gilbert's Corner Exxon; Filing of Petition for Review

Issued: January 7, 1981.

Take notice that Gilbert's Corner Exxon on November 13, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before January 28, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before January 28, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.49(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1373 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

V46/10 JA15 81 UMI

[Volume 341]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 8, 1981.

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JD NO    JA DKT      API NO     SEC D WELL NAME                        FIELD NAME          PROD  PURCHASER
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******************************************************************************
  WEST VIRGINIA DEPARTMENT OF MINES
******************************************************************************
-MOUNTAINEER 1979-B                 RECEIVED:  12/09/80  JA: WV
 8108528             4708524482 102 D ANDERSON-VANCAMPEN H-924         CLAY DISTRICT       330.0 CONSOLIDATED GAS SUP
******************************************************************************
** U.S. GEOLOGICAL SURVEY - CASPER,WY
******************************************************************************
-AMOCO PRODUCTION CO                RECEIVED:  12/08/80  JA: MT  5
 8108610   M554-0    2500921111 103  ELK BASIN MADISON UNIT 2 WELL #304  ELK BASIN          6.7 MONTANA-DAKOTA UTILI
-CHERRY CREEK OIL CO                RECEIVED:  12/08/80  JA: MT  5
 8108619   M 576-0   2503521462 103  CHERRY CREEK OIL #1-22 TRIBAL     BIG ROCK GAS FIELD   30.0 FOUREM CO
-FALCON-COLORADO EXPLORATION INC    RECEIVED:  12/08/80  JA: MT  5
 8108593   M533-0    2507121719 103  1-21 FEDERAL                      SWANSON CREEK        10.0 MONTANA-DAKOTA UTILI
 8108594   M534-0    2507121720 103  1-25 MILLER                       SWANSCN CREEK         5.0 MONTANA-DAKOTA UTILI
 8108595   M535-0    2507121721 103  1-33 FEDERAL                      SWANSCN CREEK        17.0 MONTANA-DAKOTA UTILI
 8108596   M536-0    2510521171 102  1-33 STUFF                        SWANSCN CREEK         2.0 MONTANA-DAKOTA UTILI
-GEORESOURCES INC                   RECEIVED:  12/08/80  JA: MT  5
 8108566   M-416-0   2501121273 102  1 - 27 FEDERAL                                          1.6 MONTANA - DAKCTA UTI
 8108565   M-413-0   2501121274 102  1-4 FEDERAL                                             2.0 MONTANA-DAKOTA UTILI
-MIDLANDS GAS CORPORATION           RECEIVED:  12/08/80  JA: MT  5
*8108598   M539-0    2507121625 103  0102 FEDERAL 1                    BOWDOIN              37.0 KANSAS-NEBRASKA NATU
*8108599   M539-0    2507121640 103  0251 FEDERAL 1                                         58.0 KANSAS-NEBRASKA NATU
*8108600   M 540-0   2507121642 102  0570 FEDERAL 1                                         58.0 KANSAS-NEBRASKA NATU
*8108563   M-345-0   2507121646 102  0960 FEDERAL 1                                        126.0 KANSAS-NEBRASKA NATU
*8108601   M 541-0   2507121644 102  0970 FEDERAL 1                                         49.0 KANSAS-NEBRASKA NATU
*8108569   M-441-0   2507121482 108  1451 FEDERAL 143531               BOWDOIN              18.0 KANSAS-NEBRASKA NATU
*8108602   M542-0    2507121624 103  2213 FEDERAL 2                    BOWDOIN              78.0 KANSAS-NEBRASKA NATU
*8108603   M543-0    2507121649 103  2712 FEDERAL #1                                       102.0 KANSAS-NEBRASKA NATU
 8108554   NDM 248-0 2507121578 108  2961 FEDERAL 1-28                 BOWDOIN              20.0 KANSAS-NEBRASKA NATU
*8108604   M544-0    2507121668 103  3412 FEDERAL 1                                        101.0 KANSAS-NEBRASKA NATU
-AL-AQUITAINE EXPLORATION LTD       RECEIVED:  12/08/80  JA: ND  5
 8108564   ND 389-0  3300700318 102  US 1-22                           W/C                  45.0
-BELCO PETROLEUM CORPORATION        RECEIVED:  12/08/80  JA: ND  5
 8108538   ND 125-0  3305300602 102  ROUGHRIDER FEDERAL 1-32 00602     RCUGHRIDER           20.0 KOCH OIL CO
 8108539   ND 126-0  3305300645 102  ROUGHRIDER FEDERAL 6-22 00645     RCUGHRIDER          153.0 KOCH OIL CO
 8108537   ND 124-0  3305300593 102  RCUGHRIDER 1-28 00593             RCUGHRIDER          136.0 KOCH OIL CO
-BWAB INC                           RECEIVED:  12/08/80  JA: ND  5
 8108609   ND 553-0  3300700541 102  FEDERAL 8-14X                     FOUR EYES FIELD     912.5 WESTERN GAS PROCESSO
-KOCH INDUSTRIES INC                RECEIVED:  12/08/80  JA: ND  5
 8108571   W-462-0   3300700331 102  KORDON-FEDERAL #10-6M             FOUR EYES           225.0 MONTANA-DAKOTA UTILI
-SHELL OIL CO                       RECEIVED:  12/08/80  JA: ND  5
 8108529   ND 33-0   3305300873 102  USA 11-21-35                      MONDAK               29.0 MONTANA DAKOTA UTILI
 8108542   ND 191-0  3305300839 102  USA 11-31-25                      MONDAK               24.0 MONTANA DAKOTA UTILT
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8108543	ND 193-0	3305300925	102		USA 12-35-40	MONDAK	80.0	MONTANA DAKOTA UTILI
8108544	ND 194-0	3305300792	102		USA 14-33-10	MONDAK	14.5	MONTANA DAKOTA UTILI
8108545	ND 195-0	3305300856	102		USA 22-24-27	MONDAK	38.0	MONTANA DAKOTA UTILI
8108546	ND 196-0	3305300924	102		USA 23-33-41	MONDAK	30.0	MONTANA DAKOTA UTILI
8108547	ND 197-0	3305300870	102		USA 32-1-37	MONDAK	25.0	MONTANA DAKOTA UTILI
8108548	ND 199-0	3305300926	102		USA 34-27-39	MONDAK	9.5	MONTANA DAKOTA UTILI
8108549	ND 200-0	3305300874	102		USA 41-15-32	MONDAK	5.0	MONTANA DAKOTA UTILI
8108530	ND 44-0	3305300872	102		USA 42-18-36	MONDAK	43.0	MONTANA DAKOTA UTILI
8108558	ND 273-0	3305300855	102		USA 43-11	CARTWRIGHT	150.0	MONTANA DAKOTA UTILI
8108550	ND 201-0	3305300858	102		USA 43-15-28	MONDAK	13.0	MONTANA DAKOTA UTILI
8108561	ND 302-0	3305300968	102		USA 44-31-31	MONDAK	19.5	MONTANA DAKOTA UTILI
8108559	ND 283-0	3305300947	102		USA-CHAMBERS 21-29	SQUAW GAP	26.2	MONTANA DAKOTA UTILI
-TENNECO OIL COMPANY					RECEIVED: 12/08/80 JA: ND 5			
8108612	ND559-0	3300700419	102		DAVID USA #2-25	BIG STICK	220.0	WESTERN GAS PROCESSO
8108551	ND 560-0	3300700453	102		DAVID USA #3-25	BIG STICK	511.0	WESTERN GAS PROCESSO
8108553	ND 220-0	3300700418	102		DAVID USA 1-25	BIG STICK	300.0	WESTERN GAS PROCESSO
8108613	ND561-0	3300700400	102		STUART USA #5-7	BIG STICK	245.0	WESTERN GAS PROCESSO
-TEXACO INC					RECEIVED: 12/08/80 JA: ND 5			
8108588	ND 523-0	3305300913	102		SILURIAN UNIT 10 WELL NO 1	CHARLSON	270.0	MONTANA DAKOTA UTILI
8108557	ND 271-0	3305300911	103		SILURIAN UNIT 9 WELL NO 1	CHARLSON	184.0	MONTANA DAKOTA UTILI
-AMOCO PRODUCTION CO					RECEIVED: 12/08/80 JA: WY 5			
8108576	W-487-0	4904120269	102		RYCKMAN CREEK UNIT WELL #26	RYCKMAN CREEK	677.0	NORTHWEST PIPELINE C
8108556	W 270-0	4904120085	102		RYCKMAN CREEK UNIT WELL #7	RYCKMAN CREEK	250.0	NORTHWEST PIPELINE C
8108606	W548-0	4903721168	102		U S A AMOCO Q WELL #1	SENTINEL RIDGE	144.0	CITIES SERVICE GAS C
8108532	W 54-0	4903721197	103		USA AMOCO R WELL #1	SIBERIA RIDGE	56.0	CITIES SERVICE GAS C
8108531	W 53-0	4903721235	103		USA AMOCO S WELL #1	TIERNEY	71.0	CITIES SERVICE GAS C
-BELCO PETROLEUM CORPORATION					RECEIVED: 12/08/80 JA: WY 5			
8108607	W549-0	4903500000	103		ELBU 25-32	EAST LA BARGE	4.0	NORTHWEST PIPELINE C
8108618	W575-0	4903520569	103		ELBU 32-33 20569	EAST LABARGE UNIT	0.0	NORTHWEST PIPELINE C
8108577	W-497-0	4903520315	103		GRBU 65-14 20315	FRONTIER	0.0	NORTHWEST PIPELINE C
8108617	W569-0	4903520484	103		NLBU 27-17 20484	NORTH LA BARGE UNIT	0.0	NORTHWEST PIPELINE C
8108611	W555-0	4903520551	103		RED HILL 1-18 20551	GREEN RIVER BEND	0.0	NORTHWEST PIPELINE
-BURLINGTON NORTHERN INC					RECEIVED: 12/08/80 JA: WY 5			
8108541	W 159-0	4900525324	103		22-9 FEDERAL	PORCUPINE-TURNER	90.0	PHILLIPS PETROLEUM C
-C & K PETROLEUM INC					RECEIVED: 12/08/80 JA: WY 5			
*8108608	W550-0	4903721347	102		LINCOLN ROAD UNIT NO 7		150.0	
-CHAMPLIN PETROLEUM COMPANY					RECEIVED: 12/08/80 JA: WY 5			
8108592	W528-0	4903720832	107		#6 HIGGINS 22-14	HIGGINS	290.0	COLORADO INTERSTATE
-CIG EXPLORATION INC					RECEIVED: 12/08/80 JA: WY 5			
8108534	W 104-0	4903720947	102		HAYSTACK UNIT 1-28	HAYSTACK UNIT	320.0	COLORADO INTERSTATE
8108572	W-477-0	4901320768	103		LESTER #1-32	MADDEN	1222.0	COLORADO INTERSTATE
-CRYSTAL OIL COMPANY					RECEIVED: 12/08/80 JA: WY 5			
8108574	W-482-0	4900320508	102		FEDERAL #11-2	DOBIE CREEK	91.3	MONTANA DAKOTA UTILI
-DAVIS OIL COMPANY					RECEIVED: 12/08/80 JA: WY 5			
8108589	W-524-0	4903721463	102		C A T FEDERAL #1	HAY RESERVOIR	721.4	PANHANDLE EASTERN PI
8108615	W563-0	4900921332	102		CARTER FEDERAL NO 1	WELL DRAW	17.2	PHILLIPS PETROLEUM C
8108616	W564-0	4903721515	102		EAST STORM SHELTER #1	WILDCAT	18.2	PANHANDLE EASTERN PI
8108567	W-420-0	4900525112	103		HAHN FEDERAL #6	JAYSON	4.4	PHILLIPS PETROLEUM C
8108575	W-483-0	4903721444	102		HAY RESERVOIR NO 28	HAY RESERVOIR	63.0	PANHANDLE EASTERN PI
8108560	W-289-0	4901920517	102		HELDT DRAW UNIT #64	TABLE MOUNTAIN	26.0	PHILLIPS PETROLEUM C
8108590	W525-0	4900525340	103		HIRSCH FEDERAL NO 2	HILIGHT	28.0	PHILLIPS PETROLEUM C
8108533	W 95-0	4901920513	103		INDIAN CREEK UNIT II #35	INDIAN CREEK	16.0	PHILLIPS PETROLEUM C

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                                                                              VOLUME  341            PAGE  003
 JD NO     JA DKT        API NO     SEC D WELL NAME                          FIELD NAME              PROD   PURCHASER
 -----     ------        ------     --- - ---------                          ----------              ----   ---------
 8108597   W537-0        4900720476 102   PORTER FEDERAL #1                  WILDCAT                 56.0 COLORADO INTERSTATE
 8108591   W 526-0       4903721496 102   RALPH FEDERAL #1                   WILDCAT                 19.4 PANHANDLE EASTERN PI
 8108614   W562-0        4900525449 103   W D FEDERAL #1                     HILIGHT                169.4 PHILLIPS PETROLEUM C
-DIAMOND SHAMROCK CORPORATION          RECEIVED:  12/08/80  JA: WY  5
 8108536   W 112-0       4900921574 103   CONNER FEDERAL NO 21-31            MIKES DRAW               4.0
 8108535   W 111-0       4900921575 103   CONNER FEDERAL NO 41-31            NORTH MIKES DRAW         6.0
 8108540   W 155-0       4900525397 103   DELPHA FEDERAL NO 12-25            PORCUPINE               66.0
 8108562   W-341-0       4900921643 103   TRAINER FEDERAL NO 44-33           MIKES DRAW               7.0
 8108552   W 217-0       4900921645 103   WELL DRAW FEDERAL 33-29            WELL DRAW               26.0 PHILLIPS PETROLEUM C
-ELF AQUITAINE INC                     RECEIVED:  12/08/80  JA: WY  5
 8108605   W 547-0       4901920511 102   LITTLE BUGHER DRAW UNIT NO 1       LITTLE BUGHER DRAW      73.0 MCCULLOCH GAS TRANSM
-ENERGETICS INC                        RECEIVED:  12/08/80  JA: WY  5
 8108555   W 266-0       4903721483 102   FEDERAL 32-28 WY NO 49-037-21483   MONUMENT BUTTE IV UNIT 220.0 COLORADO INTERSTATE

-FELMONT OIL CORPORATION               RECEIVED:  12/08/80  JA: WY  5
 8108578   W-503-0       4900921564 103   FEDERAL FAUSTO 1-33                MIKES DRAW               0.0 PHILLIPS PETROLEUM C
 8108583   W-508-0       4900921238 103   FEDERAL 1-34                       MIKES DRAW               0.0 PHILLIPS PETROLEUM C
 8108586   W-511-0       4900921753 103   FEDERAL 20-1                       SCOTT                   15.0 PHILLIPS PETROLEUM C
 8108561   W-506-0       4900921726 103   FEDERAL 31-1                       FEDERAL 31-1            15.0 PHILLIPS PETROLEUM C
 8108582                 4900921671 103   FEDERAL 31-2                       SCOTT                   15.0 PHILLIPS PETROLEUM C
 8108584   W-509-0       4900921656 103   FEDERAL 34-2                       MIKES DRAW               9.0 PHILLIPS PETROLEUM C
 8108580   W-505-0       4900921658 103   JOHNSON FEDERAL 2-27               MIKES DRAW               0.0 PHILLIPS PETROLEUM C
 8108579   W-504-0       4900921704 103   SOUTHLAND FEDERAL 28-1             MIKES DRAW               5.0 PHILLIPS PETROLEUM C
-SUN OIL COMPANY (DELAWARE)            RECEIVED:  12/08/80  JA: WY  5
 8108570   W-447-0       4903721318 102   CHAMBERS FEDERAL NO 1-24           ECHO SPRINGS             0.0 COLORADO INTERSTATE
-TEXACO INC                            RECEIVED:  12/08/80  JA: WY  5
 8108568   W-423-0       4903721482 103   GOVT R M DONLEY (NCT-1)#1          BRUFF                  548.0 MOUNTAIN FUEL SUPPLY
 8108585   W-510-0       4903721546 102   GOVT R M DONLEY (NCT-2) NO 1       BRUFF                  402.0 MOUNTAIN FUEL SUPPLY
-TEXACO GAS EXPLORATION CORP           RECEIVED:  12/08/80  JA: WY  5
 8108587   W-520-0       4903721555 103   FEDERAL 21-20 WELL                 WEST DESERT SPRINGS     18.0
-WILLIAM MOSS PROPERTIES INC           RECEIVED:  12/08/80  JA: WY  5
 8108573   W-478-0       4900720365 103   FEDERAL #20-18-93                  STANDARD DRAW          100.0 COLORADO INTERSTATE


 OTHER PURCHASERS        VOLUME NO :341
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8108563     MONTANA-DAKOTA UTILITIES CO
8108569     MONTANA DAKOTA CO
8108598     MONTANA DAKOTA UTILITIES CO
8108599     MONTANA DAKOTA UTILITIES CO
8108600     MONTANA DAKOTA UTILITIES CO
8108601     MONTANA DAKOTA UTILITIES CO
8108602     MONTANA DAKOTA UTILITIES CO
8108603     MONTANA DAKOTA UTILITIES CO
8108604     MONTANA DAKOTA UTILITIES CO
8108608     NORTHWEST PIPELINE CORP
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BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determninations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days after the date of publication of this notice in the **Federal Register.**

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-1374 Filed 1-14-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 1726-3]

Data Collection Activities

The purpose of this notice is to identify certain data collection activities to be undertaken by the United States Environmental Protection Agency (EPA) during the six month period January 1, 1981 through June 30, 1981 for specific industrial point source categories. Prior notification will alert affected industries that potential questionnaires, analytical sampling surveys or self monitoring surveys are forthcoming and enable them to participate in the rulemaking activities.

The following list of industrial categories is organized by type of data collection activity, i.e., economic assessment, analytical sampling, or technical assessment. Data collected through these surveys will be used in supporting and establishing effluent limitation guidelines as required under Sections 301, 304, 306 and 307 of the Clean Water Act.

These data collection activities will be reviewed by the Office of Management and Budget (OMB) in light of the Federal Reports Act (144 U.S.C. 3501 et. seq.) and in accordance with OMB Clearance No. 158-R-0160. This list of information gathering activities is published twice yearly in the **Federal Register.**

Several data collection activities mentioned in this notice were contained in EPA's **Federal Register** notice of Data Collection Activities dated July 18, 1980. Data collection activities repeated in this notice did not commence during the previous reporting period.

Questions concerning economic surveys should be directed to the appropriate project officer at the following address: U.S. Environmental Protection Agency, Office of Water Regulations and Standards, Office of Analysis and Evaluation (WH-586), 401 M Street SW., Washington, D.C. 20460.

Questions concerning technical or analytical sampling surveys should be directed to the appropriate project officer at the following address: U.S. Environmental Protection Agency, Office of Water Regulations and Standards, Effluent Guidelines Division (WH-552), 401 M Street SW., Washington, D.C. 20460.

Dated: January 9, 1981.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Economic Assessment

Copper Forming Industry; Estimated Number of Plants in Sample: 180; Approximate Response Burden in Total Manhours Per Plant: 20; Project Officer: Robert Ellis (202) 755-2484.

Electrical and Electronic Components; Subcategory: Semiconductors, Electron Tubes; Estimated Number of Plants in Sample: 380; Approximate Response Burden in Total Manhours Per Plant: 6; Project Officer: Renee Rico (202) 426-2617.

Synthetic Fuels; Subcategory: LOW-BTU Gasification; Estimated Number of Plants in Sample: 35; Approximate Response Burden in Total Manhours Per Plant: 10; Project Officer: Susan Green (202) 755-2484.

Analytical Sampling

Asbestos Self-Sampling; Estimated Number of Plants in Sample: 300; Approximate Response Burden in Total Manhours Per Plant: 6; Project Officer: Dean Neptune (202) 426-7770.

Iron and Steel; Estimated Number of Plants in Sample: 20; Approximate Response Burden in Total Manhours Per Plant: 10; Project Officer: Edward Dulaney (202) 426-2586.

Iron and Steel (Self-Sampling of Wastewater); Estimated Number of Plants in Sample: 20; Approximate Response Burden in Total Manhours Per Plant: 150; Project Officer: Edward Dulaney (202) 426-2586.

Offshore Oil and Gas; Estimated Number of Plants in Sample: 20; Approximate Response Burden in Total Manhours Per Plant: 15; Project Officer: Teresa Wright (202) 426-4617.

Plastics Molding and Forming; Estimated Number of Plants in Sample: 30; Approximate Response Burden in Total Manhours Per Plant: 16; Project Officer: Robert W. Hardy (202) 426-2586.

Technical Assessment

Aluminum Forming (Includes Request for Historical Monitoring Data); Estimated Number of Plants in Sample: 20; Approximate Response Burden in Total Manhours Per Plant: 3; Project Officer: Janet K. Goodwin (202) 426-2586.

Cane Sugar Refining (Includes Request for Historical Monitoring Data); Subcategory: Crystalline and Liquid Cane Sugar Refining; Estimated Number of Plants in Sample: 25; Approximate Response Burden in Total Manhours Per Plant: 20; Project Officer: Mark Mjoness (202) 426-2707.

Coil Coating; Estimated Number of Plants in Sample: 15; Approximate Response Burden in Total Manhours Per Plant: 3; Project Officer: Rex Reges (202) 426-2586.

Electrical and Electronic Components; Subcategories: Semiconductors, Electron Tubes; Estimated Number of Plants in Sample: 380; Approximate Response Burden in Total Manhours Per Plant: 6; Project Officer: Frank H. Hund (202) 426-2582.

Foundries; Estimated Number of Plants in Sample: 500; Approximate Response Burden in Total Manhours Per Plant: 1; Project Officer: John G. Williams (202) 426-2586.

Iron and Steel (Includes Request for Historical Monitoring Data); Subcategories: Hot Forming, Cold Forming, Blast Furnances; Estimated Number of Plants in Sample: 20; Approximate Response Burden in Total Manhours Per Plant: 10; Project Officer: Ed Dulaney (202) 426-2586.

Nonferrous Metals Forming; Estimated Number of Plants in Sample: 1500; Approximate Response Burden in Total Manhours Per Plant: 2; Project Officer: Patricia E. Williams (202) 426-2586.

V 46/10 JA 15 81 UMI

Nonferrous Metals Manufacturing; Subcategory: Secondary Silver, Gold and Other Precious Metals; Estimated Number of Plants in Sample: 240; Approximate Response Burden in Total Manhours Per Plant: 1; Project Officer: Patricia E. Williams (202) 426–2586.

Offshore Oil and Gas (Includes Request for Historical Monitoring Data); Estimated Number of Plants in Sample: 100; Approximate Response Burden in Total Manhours Per Plant: 20; Project Officer: Teresa Wright (202) 426–4617.

Pesticide Chemicals (Includes Request for Historical Monitoring Data); Subcategories: Formulator/Packager; Estimated Number of Plants in Sample: 200; Approximate Response Burden in Total Manhours Per Plant: 20; Project Officer: George M. Jett (202) 426–2497.

Pharmaceutical Manufacturing (Includes Request for Solvent and In-Plant Treatment Information); Estimated Number of Plants in Sample: 60; Approximate Response Burden in Total Manhours Per Plant: 30; Project Officer: Joseph S. Vitalis (202) 426–2497.

Pharmaceutical Manufacturing (Includes Request for Raw Waste Loading Information); Estimated Number of Plants in Sample: 35; Approximate Response Burden in Total Manhours Per Plant: 30; Project Officer: Joseph S. Vitalis (202) 426–2497.

Poultry Processing Phase II; Estimated Number of Plants in Sample: 100; Approximate Response Burden in Total Manhours Per Plant: 16; Project Officer: Dan Lent (202) 426–2707.

Synthetic Fuels: Subcategory: LOW–BTU Gasification; Estimated Number of Plants in Sample: 35; Approximate Response Burden in Total Manhours Per Plant: 60; Project Officer: Allison Phillips (202) 426–4617.

[FR Doc. 81–1362 Filed 1–14–81; 8:45 am]

BILLING CODE 6560–29–M

[RD–FRL 1726–2]

Review of the Department of Energy's Conservation and Solar Energy Program; Section 11 Report

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment on final report.

SUMMARY: The Environmental Protection Agency (EPA) announces the release of the Section 11 Report to the President and Congress under the direction of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Report is the product of a year long analysis of the Department of Energy's (DOE) Conservation and Solar Energy Program. Public comments on the document are solicited.

DATES: Comments should be received by February 15, 1981.

ADDRESSES: Copies of the Report may be obtained from the Center for Environmental Research Information, US E.P.A. Office of Research and Development Publications, Cincinnati, OH 45268. Comments on the Report should be addressed to: Section 11 Coordinator (RD–681), Office of Environmental Engineering and Technology, EPA, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gregory Ondich, at the EPA, Washington DC address above, or by telephone at (202) 426–0434.

SUPPLEMENTARY INFORMATION: Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577) directs the responsible agency (formerly the Council on Environmental Quality, currently EPA) to carry out a continuing analysis of the Federal nonnuclear research and development program to evaluate "(1) the adequacy of attention to energy conservation methods and (2) the adequacy of attention to environmental protection and the environmental consequences of the application of energy technologies."

The 1980 Section 11 Report focuses on these concerns within the context of DOE'S Conservation and Solar Energy Program. Findings and Recommendations are based upon analysis conducted by EPA as well as upon public commentary. Through a series of five regional workshops held during June and July, and a public national hearing held on September 24 and 25, 1980, EPA received useful comments which have been given careful consideration. Attendees represented state and local governments, public interest groups, public utility commissions, environmentalists, businesses, labor, Congressional committee staff, the Department of Energy, the Office of Management and Budget, and universities.

The 1979 Section 11 Report found several aspects of DOE's planning and management systems that appeared to give inadequate attention to Conservation and Solar programs. These issues, plus several issues which relate specifically to energy conservation and renewable energy resources, formed the basis of the 1980 analysis. The 1980 Report examined DOE adequacy of attention to energy conservation from three perspectives: the resource allocation process, the implementation and management process, and evaluation information on program effectiveness.

Exploration of the resource allocation process generated the recommendation that DOE utilize several decision-making tools—including an end-use sector framework, a least-cost energy criterion, and an oil-import premium—in balancing resources among various energy supply enhancement and demand reduction technologies.

The section on implementation and management discusses specific issues on a program by program basis within DOE's Conservation and Solar Energy Programs. These include better integration of existing DOE Solar and Conservation Programs, closer coordination of current information dissemination programs, appropriate management of DOE administered state and local programs, (including the Weatherization Assistance Program, the Institutional Buildings Conservation Program, the Residential Conservation Service and others) and appropriate management of research and development activities (such as innovation programs, procurement/financial assistance, and others.)

The section on program evaluation discusses the need for increased use of evaluation within DOE and outlines the institutional and methodological barriers to its use. The need for a department-wide evaluation policy and the need for data on actual program effectiveness are both examined.

The 1981 Section 11 review process will again be directed toward energy conservation and renewable energy resources. Attention will be given to DOE's response to the findings and recommendations of EPA's 1980 Section 11 Report.

Written public comments concerning the substance of the 1980 Section 11 Report or the proposed 1981 activities are requested.

Steven R. Reznek,

Deputy Assistant Administrator, Office of Environmental Engineering and Technology.

January 6, 1981.

[FR Doc. 81–1253 Filed 1–14–81; 8:45 am]

BILLING CODE 6560–35–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA–REP–10–OR–1]

Oregon, Radiological Emergency Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: This is a notice that the State of Oregon has submitted their radiological emergency plan to the Federal Emergency Management

Agency (FEMA) for its review and approval. The Plan includes local governments near to the Portland General Electric Company Trojan Nuclear Power Plant in Columbia County, Oregon.

DATE: December 12, 1980. (Date plan received by FEMA.)

FOR FURTHER INFORMATION CONTACT: Mr. Neale V. Chaney, Regional Director, FEMA Region X, 130 228th Street, S.W., Bothell, Washington 98011 (206) 481-8800.

NOTICE: This provides notice, pursuant to 44 CFR 350.8 of the proposed FEMA Regulations, "Review and Approval of State Radiological Emergency Plans and Preparedness," 45 FR 42341, that the State Radiological Emergency Plan was received on December 12, 1980, by the Federal Emergency Management Agency Region X Office.

The Plan includes plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zone. For the Trojan Plant, plans are included for Columbia County.

Copies of the Plan are available for review and copying at the FEMA Region X Office. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests. This schedule, which covers exemption from the fee, is set out in Subpart C of 44 CFR Part 5. Reproduction fees are $.10 a page for this document. (As the cost will be over $25.00, the fee is to be paid in advance.)

Comments on the plan may be submitted in writing to Mr. Neale V. Chaney, Regional Director, at the above address, within 30 days. FEMA Regulation 44 CFR 350.10 calls for a public meeting in advance of FEMA approval. This meeting is scheduled for January 12, 1981 at 7:30 p.m. in the Rainier High School Auditorium, Rainier, Oregon.

Neale V. Chaney,

Regional Director, FEMA Region X.

January 6, 1981.

[FR Doc. 81-1379 Filed 1-14-81; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Intent to Grant Patent License—RFP Available

A—Development and marketing of AZQ as an anti-tumor agent—RFP No. NCI-CM-17285. The Division of Cancer Treatment, National Cancer Institute (NCI) is seeking an appropriate organization to engage in a cost-sharing agreement for the joint development of the drug, AZQ, which is 2,5-bis(1-aziridinyl)-3,6-dioxo-1,4-cyclohexadiene-1, 4-cyclohexadiene-1,4-dicarbamic acid diethyl ester, as an agent for the therapy of human cancer. This compound shows promise in experimental tumor systems with reproducible activity against a number of solid tumors (murine and xenografts) as well as leukemias. In addition, AZQ has significant activity against experimental brain tumors. AZQ is currently undergoing Phase II clinical trials. The NCI has an approved IND from the Food and Drug Administration for AZQ. As in the case with most other anti-tumor drugs, the potential market for AZQ, should it reach that stage, is considered to be low in comparison to the market level considered to be financially advantageous by the pharmaceutical industry. Since the market is considered small, it is deemed essential to the public need that the Government maintain its involvement with the drug. It is planned that a written agreement will be consummated with a competitively selected organization to share in the future development of AZQ. The U.S. Government owns the U.S. patent rights to the use of AZQ as an anti-cancer agent (U.S. Patent #4,146,622), and anticipates granting a license to the successful organization in consideration for the significant sharing in further development of the drug in the preclinical and clinical stages. Respondents to the request for proposal (RFP) indicated below should include any request for license (exclusive or nonexclusive) that the offeror may require for the Government under Patent No. 4,146,622 in accordance with CFR 101-4.104-2 or 41 CFR 101-4.104-3. It is anticipated that the selected firm will use the data developed jointly with the NCI to process a New Drug Application with the Food and Drug Administration should such action be deemed worthwhile based on the clinical results obtained. This should lead to the eventual sale of the formulated drug by the selected firm to fill the nation's requirements. The Government does not intend any reimbursement for services rendered. Cost recovery and profit earned, if any, will be by means of sales of AZQ by the successful offeror.

RFP NCI-CM-17285 will be available on December 29, 1980, by request to the Treatment Contracts Section, Research Contracts Branch, National Cancer Institute, Blair Building, Room 228, National Institutes of Health, Bethesda, Maryland 20205, ATTN: Harold J. Thiessen, II. Request must cite the RFP number. Requests for copies of the solicitation will be honored if received within 20 calendar days after issuance of the solicitation. Requests received after this period will be filed on a first-come, first-served basis until the supply is exhausted. Proposals are due on March 16, 1981.

Authority: 45 CFR 6.3 and 41 CFR 101-4.

Dated: January 2, 1981.

Julius B. Richmond, M.D.,

Assistant Secretary for Health.

[FR Doc. 81-1302 Filed 1-14-81; 8:45 am]

BILLING CODE 4110-85-M

Scientific Evaluation of Medical Technology

The National Center for Health Care Technology (Center) announces that it is beginning a scientific evaluation of the clinical safety and effectiveness of activated prothrombin-complex concentrate in patients with hemophilia A and inhibitor antibodies to factor VIII.

Based on this evaluation, a recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing a Medicare coverage policy. Any person or group wishing to provide the Center with information relevant to this evaluation should do so in writing no later than March 16, 1981. To enable the Center's staff to give appropriate consideration to any literature references or analyses of clinical data, a written summary no longer than 10 pages should be attached to any such material submitted.

Written material should be submitted to: National Center for Health Care Technology, Room 17A-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Stephen P. Heyse, M.D., M.P.H., Health Science Analyst, National Center for Health Care Technology, Room 17A-29, Parklawn Building, Rockville, Maryland 20857 (301) 443-4990.

Dated: January 8, 1981.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 81-1323 Filed 1-14-81; 8:45 am]

BILLING CODE 4110-85-M

Offices of Human Development Services

White House Conference on Aging Technical Committee; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference of Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Retirement Income will hold their next meeting on Wednesday, January 28, 1981 and Thursday, January 29, 1981 from 9:00 am until 5:00 pm both days. The meeting will be held in Room 503-A, Hubert H. Humphrey Building, 200, Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of the meeting will be to discuss the Committee's final report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: January 9, 1981.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 81-1530 Filed 1-14-81; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

Consumer Affairs Council; Meeting

SUMMARY: This notice announces the date and time of the next regular HHS Consumer Affairs Council meeting. The meeting scheduled for January 8, 1981 was cancelled. All are welcome to attend as observers and participate in an open discussion period that will be held during the last 15 minutes of the meeting. If you would like an agenda, please contact Susan L. Randolph.

DATE: Friday, January 16, 1981, 2-3 p.m.

ADDRESS: 200 Independence Ave., S.W., Room 529A, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Susan L. Randolph, Assistant, Office of Consumer Affairs, 200 Independence Ave., SW., Room 622E, Washington, D.C. 20201, (202) 245-0409.

Dated: January 7, 1981.

Belle B. O'Brien,

Assistant to the Secretary for Consumer Affairs.

[FR Doc. 81-1536 Filed 1-14-81; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-24199]

Alaska Native Claims Selection

The document entitled "Terms and Condition for Land Consolidation and Management in the Cook Inlet Area" was ratified by Pub. L. 94-204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1978, Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369, 1390) authorized the Secretary of the Interior to identify and reserve within two years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation.

On January 12, 1979, Interim Conveyance No. 146 was issued to Cook Inlet Region, Inc., for approximately 7,388.56 acres of the surface estate together with all sand and gravel in lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704, 715; 43 U.S.C. 1601, 1613(e), 1621(j)), (ANCSA) and Sec. 12(c) of Pub. L. 94-204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369) and are described as follows:

Seward Meridian, Alaska (Unsurveyed)

T. 11 N., R. 12 W
  That portion of Tract "A" further described as (protracted):
    Sec. 18, SE¼;
    Sec. 19, E½NW¼, NE¼, N½SE¼;
    Sec. 20, all.
  Containing approximately 1,120 acres.
T. 13 N., R. 10 W.
  That protion of Tract "A" further described as (protracted):
    Sec. 11, E½;
    Sec. 12, all west of west (right) bank of Beluga River excluding E½NE¼NW¼SE¼,NW¼NE¼SE¼, and U.S. Survey 3901;
    Sec. 13, all west of west (right) bank of Beluga River;
    Sec. 14, all;
    Secs. 22 to 27, inclusive, all;
    Sec. 34, all, excluding U.S. Survey 3896 and U.S. Survey 3963;
    Sec. 35, all, excluding lots 1 and 2 of U.S. Survey 3962.
  Containing approximately 6,268.56 acres.
  Aggregating approximately 7,388.56 acres.

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-29602, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically list are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 1 C5, D4) An easement for an existing trail fifty (50) feet in width beginning at road right-of-way 33939 in the Native conveyance in Sec. 13, T. 13 N., R. 10 W., Seward Meridian, continuing easterly to State land. The uses allowed are those listed above for a fifty (5) foot wide trail easement.

(EIN 3 D1, L) An easement for an existing road sixty (60) feet in width traversing Native land in Secs. 18 and 20, T. 11 N., R. 12 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc., reserving the easements identified above. The revised conveyance document will remain subject to all other rights, terms, conditions, and convenants contained in Interim Conveyance No. 146.

In accordance with Departmental regulation 432 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party known or unkown who is adversely affected by

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this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until February 17, 1981, to file an appeal.

Any party known of unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 81–1353 Filed 1–14–81; 8:45 am]

BILLING CODE 4310–84–M

[AA–24198]

Alaska Native Claims Selection

The document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" was ratified by Pub. L. 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Secton II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1978, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369, 1390) authorized the Secretary of the Interior to identify and reserve within two years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation.

On January 12, 1979, Interim Conveyance No. 147 was issued to Cook Inlet Region, Inc., for approximately 280,011.61 acres of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704, 715; 43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152) as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369) and are described as follows:

Seward Meridian, Alaska (Unsurveyed)

T. 11 N., R. 12 W.
A portion of Tract A more particularly described as (protracted):
Sec. 18, W½, NE¼;
Sec. 19, W½NW¼.
Containing approximately 560 acres.
T. 11 N., R. 13 W.
A portion of Tract A more particularly described as (protracted):
Sec. 12, all;
Sec. 13, E½, NW¼, E½SW¼;
Sec. 24, NE¼NE¼.
Containing approximately 1,240 acres.
T. 12 N., R. 10 W.
A portion of Tract A more particularly described as (protracted):
Secs. 5 and 6, all.
Containing approximately 1,280 acres.
T. 12 N., R. 14 W.
More particularly described as (protracted):
Secs. 1 to t, inclusive, all;
Secs. 6, 7, and 8, all, excluding Chakachatna River;
Secs. 9 to 15, inclusive, all;
Secs. 16 to 21, inclusive, all, excluding Chakachatna River;
Secs. 22 and 27 all;
Sec. 28, all, excluding Chakachatna River;
Secs. 30, 34, and 35, all.
Containing approximately 16, 475 acres.
T. 12 N., R. 15 W.
Tracts A and B.
Containing 21,195.22 acres.
T. 13 N., R. 10W.
That portion of Tract A further described as (protracted):
Sec. 1, all, excluding NE¼NW¼ and the Beluga River;
Secs. 2, 3, and 10, all, excluding Beluga River;
Sec. 11, W½;
Sec. 15, all.
Containing approximately 2,630 acres.
T. 13 N., R. 14 W.
All.
Containing 23,008 acres.
T. 13 N., R. 15 W.
Tracts A and B.
Containing 18,524.80 acres.
T. 14 N., R. 10 W.
More particularly described as (protracted):
Secs. 4 through 9, all;
Secs. 17 through 20, all;
Secs. 29 through 32, all.
Containing approximately 8,866 acres.
T. 14 N., R. 11 W.
More particularly described as (protracted):
Secs. 1 through 5, all;
Secs. 6 and 7, all west of the west (right) bank of Beluga River;
Sec. 8, E½, NW¼ and all lands west of the west (right) bank of the Beluga River;
Secs. 9 through 16, all;
Sec. 17, all west of the west (right) bank of the Beluga River;
Secs. 18 and 19, all;
Sec. 20, all west of the west (right) bank of the Beluga River;
Secs. 21 through 27, all;
Secs. 28 and 29, all west of the west (right) bank of the Beluga River;
Secs. 30 and 31, all;
Sec. 32, N½, N½N½SW¼, SE¼NE¼SW¼, SW¼NW¼SW¼, S½SW¼, and SE¼;
Sec. 33, all west of the west (right) bank of the Beluga River;
Secs. 34, 35, and 36, all.
Containing approximately 20,222 acres.
T. 14 N., R. 13 W.
Tract B.
Containing 11,425.20 acres.
T. 14 N., R. 14 W.
All.
Containing 22,946 acres.
T. 15 N., R. 10 W.
That portion of Tract A further described as (protracted):
Sec. 5, all;
Sec. 6, E½;
Sec. 7, E½;
Secs. 8 and 9, all;
Secs. 16 through 21, all;
Secs. 28 through 33, all.
Containing approximately 10,142 acres.
T. 15 N., R. 11 W.
Tract A and U.S. Survey 3952, excluding lower Beluga Lake and U.S. Survey 3953.
Containing approximately 22,871.39 acres.
T. 15 N., R. 12 W.
Tract A, excluding Beluga Lake, Lower Beluga Lake, Beluga River and Chichantna River;
U.S. Survey 3948.
Containing approximately 20,075 acres.
T. 15 N., R. 13 W.
More particularly described as (protracted):
Sec. 1, all, excluding Beluga Lake and Coal Creek;
Secs. 2, 6, and 7, all excluding Beluga Lake;
Sec. 12, all, excluding NE¼NE¼, Beluga Lake, and Coal Creek;
Sec. 13, all, excluding Beluga lake and Chichantna River;
Secs. 15 to 18, inclusive, all, excluding Beluga Lake;
Secs. 19 and 20, all;
Secs. 21, 22, and 23, all, excluding Beluga Lake;
Sec. 24, all, excluding Beluga lake and Chichantna River;
Secs. 25 through 33, all;
Secs. 34, 35, and 36, all, excluding Chichantna River.
Containing approximately 13,179 acres.
T. 15 N., R. 14 W.
All.
Containing 22,882 acres.
T. 16 N., R. 11 W.
More particularly described as (protracted):

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Secs. 20 and 21, all;
Secs. 25 through 36, all.
Containing approximately 8,893 acres.
T. 16 N., R. 12 W.
That portion of Tract A further described as (protracted):
Sec. 7, all;
Secs. 16 through 22, all;
Secs. 25 through 29, all;
Sec. 30, all, including U.S. Survey 3947;
Secs. 31 through 36, all.
Containing approximately 12,614 acres.
T. 16 N., R. 13 W.
That portion of Tract A further described as (protracted):
Secs. 1 through 9, all;
Sec. 12, E½;
Secs. 13 and 14, all;
Sec. 15, S½;
Secs. 16 through 30, all;
Sec. 31, all, excluding Beluga lake and Ne¼Ne¼SW¼;
Secs. 32, 33, and 34, all, excluding Beluga Lake;
Sec. 35, all, excluding NE¼NE¼NE¼ and Beluga Lake;
Sec. 36, all.
Containing approximately 20,383 acres.
Aggregating approximately 280,383 acres.

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file AA–29600, is reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

(EIN 3 D1, L) An easement for an existing road sixty (60) feet in width from Trading Bay traversing Native lands in Section 18, T. 11 N., R. 12 W., Seward Meridian; Sections 12 and 13, T. 11 N., R. 13 W., Seward Meridian; Sections 5, 6, 7, 8, 16, 17, 21, 22, and 27, T. 12 N., R. 14 W., Seward Meridian to the Chakachatna River. The uses allowed are those listed above for a sixty (60) foot wide road easement.

When this decision becomes final, a revised conveyance doucment will be issued to Cook Inlet Region, Inc., reserving the easement identified above. The revised conveyance document will remain subject to all other rights, terms conditions and convenants contained in Interim Conveyance No. 147.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Any party known or unknown who is adversely affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until February 17, 1981 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely unless an appeal is timely filed with the Alaska Native Claims Appeals Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alask 99509.

Ann Johnson,
Chief, Branch of Adjudication.

[FR Doc. 81–1364 Filed 1–14–81; 8:45 am]

BILLING CODE 4310–84–M

[AA–24201]

Alaska Native Claims Selection

The document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" was ratified by Pub. L. 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1978, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369, 1390) authorized the Secretary of the Interior to identify and reserve within two years after initial conveyance of such lands to Cook Inlet Region Inc., any easement he could have lawfully reserved prior to conveyance, and to issue immediately thereafter a revised conveyance reflecting such reservation.

On January 12, 1979, Interim Conveyance No. 148 was issued to Cook Inlet Region, Inc., for approximately 9,363.94 acres of the subsurface estate of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704, 715; 43 U.S.C. 1601, 1613(e), 1621(j)), (ANCSA) and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152) as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369) and are described as follows:

Seward Meridian, Alaska (Unsurveyed)

T. 12 N., R. 10 W.,
A portion of Tract A, more particularly described as (protracted):
Sec. 7, all, including U.S. Survey 4545, excluding W½SW¼SW¼NE¼, E½SE¼SE¼MW¼, Viapan Lake, Tukallah Lake and three Mile River;
Sec. 16, all;
Sec. 17, all, excluding U.S. Survey 3411, Lots 1 and 2 of U.S. Survey 4543, U.S. Survey 4542, Viapan Lake;
Sec. 18, all, excluding Viapan Lake;
Sec. 19, all;
Sec. 20, all, excluding Lots 1 and 2 of U.S. Survey 4543, U.S. Survey 3411, Lots 1 and 2 of U.S. Survey 4679;
Sec. 30, all, including Lots 1 and 2 of U.S. Survey 4544, excluding U.S. Survey 2069, U.S. Survey 1865, U.S. Survey 3364;
Sec. 31, all, excluding U.S. Survey 1865.
Containing approximately 2,565,53 acres.
T. 14 N., R. 10 W.,
More particularly described as (protracted):
Secs. 16, 21, 28, and 33, all.
Containing approximately 2,560 acres.
T. 14 N., R. 11 W.,
More particularly described as (protracted):
Secs. 6 and 7, all east of the east (left) bank of the Beluga River;
Sec. 8, that portion of the SW¼ east of the east (left) bank of the Beluga River;
Secs. 17, 20, 28, 29, and 33, all east of the east (left) bank of the Beluga River.
Containing approximately 2,175 acres.
T. 15 N., R. 10 W.,
That portion of Tract A further described as (protracted):
Sec. 6, W½;
Sec. 7, W½, excluding U.S. Survey 3953.
Containing approximately 570.50 acres.
T. 15 N., R. 13 W.,
More particularly described as (protracted):
Sec. 12, NE¼NE¼, excluding Beluga Lake.
Containing approximately 30 acres.
T. 16 N., R. 13 W.,

A portion of Tract A more particularly described as (protracted):
Sec. 10, all, excluding Coal Creek Lake;
Sec. 11, all, excluding U.S. Survey 3969 Lot 1, U.S. Survey 3967 Lots 1, 7, 8, 9, 10,11, and Coal Creek Lake, including U.S. Survey 3969 Lots 2 and 3, and U.S. Survey 3967 Lots 2, 3, 4, 5, 6;
Sec. 12, W½, excluding Coal Creek Lake;
Sec. 15, N½, excluding Coal Creek Lake and U.S. Survey 3968;
Sec. 31, NE¼NE¼SW¼;
Sec. 35, NE¼NE¼NE¼.

Containing approximately 1,462.91 acres.

Aggregating approximately 9,363.94 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc., for the above described lands with no Sec. 17(b) easements reserved. The revised conveyance document will remain subject to all other rights, terms, conditions, and convenants contained in Interim Conveyance No. 148.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Any party known or unknown who is adversely affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until February 17, 1981 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of apeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 81-1355 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

[F-35872]

Alaska; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of proposed withdrawal.

SUMMARY: This republication corrects information published on September 18, 1980, in the **Federal Register**.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Beau McClure, 202–343–8511, or Bob Sorenson, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

This publication corrects two paragraphs of the proposed withdrawal in FR Doc. 80-28831 appearing on page 62214, in the issue of Thursday, September 18, 1980.

The second and third paragraphs on page 62214 should be combined to read as follows:

"Pursuant to the Act of February 28, 1958, Public Law 85–337 (43 U.S.C. 156), and to Section 204(c)(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752, Congress will make the withdrawal for Fort Greely by an Act of Congress. The Secretary of the Interior will not make the final decision on this proposed withdrawal."

This republication does not alter any of the previous information published in connection with the proposed withdrawal.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-1405 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

Eugene District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Eugene District Advisory Council will be held on February 17, 1981.

The meeting will begin at 9:00 a.m. and conclude at 12:00 Noon, Pacific Standard Time, in Room 227 in the Federal Building at 211 East 7th, Eugene, Oregon.

The main subject on the agenda will be review of progress in forming land use alternatives, a part of the Bureau's comprehensive planning system. Available for the Council's review will be drafts of the "bracketing" alternatives "A", which maximizes protection and enhancement of natural values, and "D", which maximized production of timber. The Council will also discuss subjects for its future attention and make arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 p.m. on February 17, 1981 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1255 Pearl Street, Eugene, Oregon 97401, by February 10, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

J. Branson Smith,

Acting District Manager.

Dated: January 7, 1981.

[FR Doc. 81-1404 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

Grand Junction District Multiple Use Advisory Council; Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting in accordance with Public Law 94–579 and 43 CFR Part 1780.

SUMMARY: The Grand Junction District Multiple Use Advisory Council will meet February 17, 1981 at 9:00 a.m. to discuss the Glenwood Springs Resource Management Plan (RMP).

DATE: February 17, 1981, 9.00 a.m.

ADDRESS: 50629 Highway 6 and 24, West Glenwood Springs, Colorado.

FOR FURTHER INFORMATION CONTACT: Dave Jones, 764 Horizon Drive, Grand Junction, Colorado 81501, Phone: 303–243–6552.

SUPPLEMENTARY INFORMATION: The Council will assist the Glenwood Springs Resource Area Manager and RMP Team Leader by offering recommendations and suggestions for defining the scope and number of

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alternatives to be displayed in the plan. The council will also be requested to provide input and comment on a draft decision criteria to be used in selecting a preferred alternative for the Resource Area.

The meeting is open to the public; anyone wishing to make a presentation to the Council should contact the District Manager at least five days prior to the meeting.

Dave Jones,

District Manager, Grand Junction District.

[FR Doc. 81-1466 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

Redding District Multiple Use Advisory Council; Meeting

January 10, 1981.

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Redding District Multiple Use Advisory Council will be held on Wednesday and Thursday, February 18 and 19, 1981, beginning at 8:00 a.m. on both days at the Bureau of Land Management Office, 355 Hemsted Drive, Redding, California.

The agenda for the meeting will include:

February 18, Wednesday

1. Field trip to Trinity County Area, for an on-the-ground orientation to District programs and planning issues.

February 19, Thursday

1. Follow-up discussion of February 18, field trip.
2. Continuing orientation to District issues and programs.
   - a. FY-81 Annual Work Plan
   - b. Mt. Dome Environmental Statement
   - c. Planning Criteria for Planning update
   - d. Surface Management Regulations
   - e. Wilderness Study Status
   - f. Deer Mitigation Proposal for Cottonwood Creek Dam Project
   - g. Future Meeting and Agenda Topics

The meeting is open to the public. Interested persons may make oral statements to the Council or file a written statement that can be considered by the Council. The public is invited to accompany the Council on the field trip, however, transportation will only be furnished for the Advisory Council.

Public statements will be heard between 1:00 and 2:00 p.m., on February 19, 1981, or as pre-arranged with the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and available for public inspection during normal business hours within 30 days following the meeting.

Stanley D. Butzer,

Redding District Manager.

[FR Doc. 81-1346 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

Ukiah District Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579, Sec. 603 as amended; 90 Stat. 2743-2794) that a meeting of the Ukiah District Advisory Council will be held on February 12, 1981.

The meeting will begin at 9 a.m. at Financial Federal Public Meeting Room, 700 South State Street, Ukiah, California. The proposed agenda is:

1. Report on Cow Mountain Prescribed Burn.
2. Update on state in-lieu selections.
3. Update on wilderness.
4. Access/exchange of isolated parcels.
5. Recommendations on timber management.
6. BLM priority issues.
7. Open discussions of other public lands issues as requested by Council members.

All Advisory Council meetings are open to the public. Oral statements of no more than 10 minutes specifically addressing agenda items may be addressed to the Council by the public from 3:30 p.m. to 4:30 p.m., or written statements may be filed with the District Manager by February 11 for consideration by the Council. Only new information, not heretofore presented, will be accepted by the Council.

Edwin G. Katlas,

Acting District Manager.

January 9, 1981.

[FR Doc. 81-1350 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

Utah; River Running Recreation Use Permits and Allocations; Updated Criteria and Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of updated criteria and procedures for river running recreation use permits and allocations.

SUMMARY: In 1974, the Utah State Director for the Bureau of Land Management establishment criteria for issuing commercial permits and for setting amounts of use (allocations). Noncommercial permits were also required so that use could be managed within acceptable limits. These criteria have been in effect from 1974 through 1980. The purpose and intent of these procedures is to update and clarify existing criteria, policy and guidelines.

Notice is hereby given that pursuant to Section 102(a)(8) of the Federal Land Policy and Management Act of 1976, the Land and Water Conservation Fund Act, as amended, and 36 CFR 1 and 43 CFR 2920, 8370 and 9230, the following sets forth criteria and procedures for river running recreation use permits and allocations for the portions of the Colorado, Green, Dolores and San Juan Rivers managed by the Moab District. These procedures become effective upon date of publication and supersede previous criteria found in Federal Register, Vol 41, No. 73—Wednesday, April 14, 1976. They will remain in effect unless modified by future publications in the Federal Register or superseded by river management regulations published by the Secretary of the Interior.

I. General Information

A. Noncommercial

The Moab District manages portions of the Colorado, Green, Dolores and San Juan Rivers. So that use can be managed within acceptable limits for protection of the environment, noncommercial float trip permits are required on the following rivers and may be obtained from the offices listed.

Grand Resource Area, Sand Flats Road, P.O. Box M, Moab, Utah 84532, Phone: (801) 259-6111, Ext. 211

San Juan Area Office, 284 S. 1st W., Monticello, Utah 84535, Phone: (801) 587-2201

Price Area Office, P.O. Box AB 900 North 7th East, Price, Utah 84501, Phone: (801) 637-4584

Colorado River

Westwater Canyon, Cisco Landing to Castle Creek

Dolores River

Utah line to Colorado River, Confluence

San Juan River

Montezuma Creek to Clay Hills Crossing

Green River

Desolation/Gray Canyon

A separate permit is required for each noncommercial trip being planned.

The following requirements apply to noncommercial permit applicants. This means that trip participants must equally share the costs. No one may receive a salary, gratuity, or increase his or her net worth or amortize equipment costs on a noncommercial trip. Trips by organized groups, strictly educational groups, youth groups, research groups, etc., will be considered on a case-by-case basis and must meet the spirit and intent of a noncommercial trip as stated above.

B. Commerical

Commercial river permits are issued annually by the Moab District Office. Each permittee receives a permit based on his established allocation. Requests for subsequent years' use may not exceed previous allocated use, and may only be for those areas the permittee was permitted the previous year. The only exceptions will be Cisco Landing to Castle Creek on the Colorado River and Nefertiti Rapid to Swasey's Rapid on the Green River. A permittee may apply for unlimited amount of passenger days. However, until the river management plan for the Colorado River above Castle Creek is completed, no *new* permits for use on this portion will be issued. In summary, it is the BLM policy in Utah to only issue permits to outfitters who held permits the previous year. If a permit lapses because of failure to apply in a timely manner, or is cancelled for cause, (in accordance with 41 IBLA 132, dated June 14, 1979) the outfitter will be treated as a new applicant. Until management plans which determine proper carrying capacity and use distribution are completed on these rivers, BLM will not be issing any new commercial recreation use permits.

C. Search and Rescue

The cost of any search and rescue operation must be borne by the person(s) for whom this service is rendered. This includes the cost of aircraft rental.

D. Trespass

When a trespass situation is identified, the management response is to levy a trespass fee against the pemittee, to inform the operator that he will not be issued any type of permit on the river for a specified period of time, and, in some cases, to obtain the assistance of State Park Rangers to issue citations for violation of the State boating regulations. Prosecution under federal law may follow. This improved management response has reduced river pirate operations during the last few years, but it has not eliminated the problem. Other methods, such as following up on complaints from legitimate permit holders and talking to passengers on suspect trips, could be employed to help stop the pirate problem.

E. Conditions of Use

ALL COMMERCIAL USERS are required to adhere to and/or are governed by the following conditions:

1. No value may be accrued to the permit.

2. Nonrefundable rental fees must be paid in advance at the rate of $120/100 multi-day passenger days and $50/100 daily passenger days based on the allocation given with the permit.

3. The permit may not transferred, sublet or entered into third party agreements without BLM approval.

4. Allocations may be reduced for failure to make substantial use for two or more consecutive years.

5. Commercial river runners are, as part of their permit, subject to the State and Coast Guard boating laws and regulations as applicable to use on the waterways in Utah.

6. For protection of the environment and potential wild river values, the following maximum party sizes per trip are established.

Colorado River Westwater Canyon—25 persons, Green River Desolation-Gray Canyon—25 persons, Dolores River—25 persons, San Juan River—25 persons, Colorado River Rose Ranch to Castle Creek—No party size limitation.

Green River—Nefertiti Rapid to Swasey's Rapid—no party size limit.

7. Camp areas may be closed when necessary to protect the related ecosystems and resources, or prevent litter buildup.

8. For protection of the environmental values and safety of the passengers, special stipulations in addition to those listed above are made part of the permit. A complete list of these stipulations can be obtained from BLM Moab District, P.O. Box 970, Moab, Utah 84532.

ALL NONCOMMERCIAL USERS are required to adhere to and/or are governed by the following conditions:

1. Check in with river rangers at launch sites for Westwater, Desolation-Gray and San Juan Rivers.

2. Group Size Limits: Only one launch per group per day is allowed with a maximum group size of:

Colorado River: Westwater—25 people (reservations required), Cisco Landing to Castle Creek—No limit.

Green River: Desolation/Gray Canyon—25 people (reservations required), Nefertiti Rapid to Swasey's Rapid—No limit.

San Juan River: 25 people.

Dolores River: (Utah State line to confluence)—25 people.

3. State laws regarding boating safety must be complied with. The laws most applicable to BLM rivers are the following:

a. Each person must wear a Type I, II, III, or V Coast Guard approved personal floatation device *at all times* while on the river (except on designated flat water sections as defined in the Utah State Boating Act, as amended) which must be in serviceable condition at the time of launch. Type I or V are preferable.

b. Each vessel must have an extra oar, paddle, or a spare motor as applicable, and an extra life jacket.

c. Each group must carry a bail bucket or bilge pump except for kayaks, canoes, sport yaks, or self bailing inflatables.

4. Each group must carry a first aid kit or kits adequate to meet the size and needs of the group involved.

5. Each group must carry a repair kit or kits adequate to meet the size and needs of the group.

6. Each group must carry an air pump or pumps adequate to meet the size and needs of the group.

7. Litter of any kind may not be discarded in the rivers, along the shore, or in adjacent canyons. Burn or carry out all burnables. Carry out all unburnable material including cans, bottles, leftover food, egg shells, melon rinds, pop tops, cigarette butts, and foil base wrappers.

8. All trips must carry portable toilets. The only exception to this will be kayak, sport yak, or white water canoe trips without a support boat, and daily trips on Westwater. All portable toilet waste must be carried out of Westwater and Desolation/Gray Canyons and deposited in an authorized sewage disposal facility. On other rivers, if toilet waste is buried, it will be done in a hole at least two feet deep and ten feet above the water line, 50 feet laterally from high water line, and 300 feet from any camping area. If chemicals are used, they must be biodegradable.

9. The use of gas or propane stoves is strongly encouraged for cooking. Fire pans must be used for all campfires. Carry out unburned charcoal or deposit in main current of river. All unburnable litter must be removed from the fire pan before charcoal is put in the river. Build fires only below high water line away from any vegetation or combustible material. If fires are built, use only driftwood from along the river bank below high water line. Do not cut or burn live trees or standing dead trees and snags.

10. Wash dishes away from the river and use only biodegradable soap. Do not bathe or wash in any tributary streams.

11. Do not remove, damage, or destroy any archaeological, historical, or ecological resource. To do so is a violation of both federal and state law.

12. The permittee assumes direct responsibility for his group and their conduct. The group leader shall be responsible for the conduct of the parties while within the National

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Recreation Area and on BLM administered land and shall enforce the common rules of good conduct with full recognition of the rights and privileges of other visitors who may be using the same facilities or areas.

II. Specific Area Information

A. Green River—Desolation/Gray Canyons

Noncommercial permits will be sent on request after January 1. Permit applications will be accepted between January 1 and March 1. Weekend dates, holidays and the first two weeks of June are high use periods. Applicants should submit first, second and third choices when requesting launch dates. In mid-March, a lottery will be held to determine launch dates when there are more applicants for a date than available launches. Any remaining dates will be issued on a first come, first serve basis. This reservation system is designed to minimize congestion and impacts on the canyon. Failure to cancel reservations at least five days prior to your schedule use will result in future loss of permit privileges.

For the 1981 season, the Desolation/Gray Canyons launch schedule will be as follows:

A. COMMERCIAL.

May 1–22—One commercial launch per day.

May 23–September 7—Three commercial launches per day, with the exception that there will be five (5) three (3) day periods during these dates where there will only be one commercial launch per day allowed.

September 8–30—One commercial launch per day.

B. NONCOMMERCIAL.

May 15–August 15—Three noncommercial launches per day.

August 16–May 14—One noncommercial launch per day.

Group size will be a maximum of 25 persons per trip for noncommercial trips and 25 persons plus boatman for commercial trips.

A county maintained road paralleling the river on the east side of the rive between Nefertiti Rapid and Swasey's Rapid creates special management problems and opportunities in that portion of the canyon. The existence of the road makes it possible for single day float trips to launch on the river at Nefertiti and it also provides access for individuals desiring to fish, swim, tube in the river, picnic, etc. The problems relating to day use float boating, and to the other uses, make it unrealistic to manage this portion using the same approach employed on the wilderness sections of the river. This necessitates a separate management system for day use float boating on the portion of the river between Nefertiti Rapid and Swasey's Rapid. The elements of this system would include the following:

(a). Private use permits will be required for day use when additional use demonstrates the need and additional onsite manpower can be funded.

(b). Commercial permits will be available to operators with a current permit for Desolation and Gray Canyons.

(c). Permits will be considered for special uses such as canoe and kayak schools and other related uses other than commercial allocated outfits.

B. Colorado River—Westwater Canyon

A maximum of six (6) launches per day are allowed on this river segment with an allocation of 10,000 passenger days. These six launches are divided equally between commercial and private use (three commercial and three private launches per day). Each launch is permitted 25 passengers until such time that the respective 5,000 passenger day allocation is reached.

Commercial use reservations are based upon the previous years' use pattern to allow outfitters the opportunity to plan ahead with trip schedules and advertising brochures. These reservations will be conformed by September 30 of each year through the use of a launch calendar. Thereafter, reservation dates may be traded between outfitters by notifying the Grand Resource Area Manager at least 24 hours in advance.

Commercial land reservations will be confirmed based in a formula of one launch per 10 passenger days for one day trips, or 20 passenger days for one day trips, or 20 passenger days for two day trips. Example: An outfitter holding a 200 passenger day permit could be awarded ten (10) launch dates for one day trips plus five (5) launch dates for two day trips.

Beginning October 1st of each year, any confirmed dates may be exchanged for open dates on a first come, first serve basis. Also beginning October 1st of each year, additional launches in excess of the formula may be awarded at the discretion of the Grand Resource Area Manager upon presentation of demonstrated need. Private launch reservations are required two months in advance of the planned launch date. For example:

Applications received in: March for launch dates in: May

Applications received in: April for launch dates in: June

Applications received in: May for launch dates in: July

Applications received in: June for launch dates in: August

Applications received in: July for launch dates in: September

Applicants submit first, second and third choices as competition is keen for some dates. Where necessary, a drawing is held to resolve conflicts. At the close of each application filing month, reservations are posted and sent to each applicant. Ten (10) days following the close of the filing period, unfilled dates may be reserved on a first come, first serve basis. This reservation system is designed to minimize congestion and impacts on the canyon. Failure to cancel reservations at least 3 days prior to your scheduled use will result in future loss of permit privileges.

Permits for private trips and reservations for all trips (commercial and private) are obtained in advance from the BLM Grand Resource Area Manager at P.O. Box M, Moab, Utah 84532.

C. Dolores River (Utah Section)

A permit available from the Bureau of Land Management, Grand Resource Area, P.O. Box M, Moab, Utah 84532 is required for this river segment.

General guidelines for white water river use on the Colorado River also apply to the Dolores River. In addition to the general requirements, there is a 25 people maximum party size and only one launching per party.

Most people prefer to launch just below the Highway Bridge at Gateway, Colorado and takeout just below the Dewey Bridge on the Colorado River. The 31 mile trip takes about two days.

D. San Juan River

The San Juan River flows through southwest Utah from New Mexico and Colorado. The river flows through Glen Canyon National Recreation Area, Bureau of Land Management administered lands and the Navajo Indian Reservation. The Park Service administers the free flowing section of the river from Clay Hills Crossing to approximately the Honaker Trail (39.0 miles). The BLM administers the river from the Honaker Trail to Montezuma Creek (61 miles). The remaining portion of the river in Utah runs through the Navajo Reservation (28.8 miles).

The BLM and the National Park Service (NPS, Glen Canyon National Recreation Area) have entered into a management agreement concerning the management and the permit system along the San Juan River.

Under this agreement, BLM has assumed the responsibility of issuing all private permits for the river (1979) and commercial permits (starting in 1981).

This agreement has set a precedent in the management of public lands. This is the first time NPS has given the recreation management of their lands to another agency.

Beginning with the 1980 River Use Season, a maximum party size of 25 persons per trip for noncommercial trips, and 25 persons plus boatman for commercial trips, was established for the protection of the environment and potential wild river values of the San Juan River from Sand Island to Clay Hills Crossing. A maximum passenger day limit of 75 people per day at Sand Island launch ramp and Mexican Hat launch ramp (12 month use season) has been established for three (3) years (1980 through 1982 river use seasons).

Patrols on the river are carried out jointly by the NPS and BLM. The end result of this agreement is expected to save money on equipment, personnel and the amount of time the visitor spends acquiring and filling out permit forms to run the river.

A permit available from the Bureau of Land Management, San Juan Resource Area, P.O. Box 7, Monticello, Utah 84535, is required for this river.

E. Green River—Labyrinth Canyon

At present, there are no application or permit requirements, use restrictions, or other type of restriction on this river. Trip length averages three days in high water for unmotored craft. Distance floatable between launch and takeout is 68 miles. Shuttle distance is approximately 65 miles via major highway and gravel roads. Air access is at launch (utilizing Green River, Utah airport). Most people prefer to launch at the Green River State Park boat ramp, Green River, Utah, and takeout at the Mineral Canyon boat ramp.

The river has no rapids. Ice flows and frozen sections of river make winter trips impracticable.

FOR INFORMATION WRITE: Area Manager, San Rafael Resource Area, P.O. Drawer AB, Price, Utah 84501.

DATE: Effective January 1, 1981.

ADDRESS: District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: District Manager, Moab District (801) 259-6111.

S. Gene Day,

District Manager.

January 8, 1981.

[FR Doc. 81-1356 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

[W-73282 and W-73283]

Wyoming; Invitation for Coal Exploration Licenses; Sohio Western Mining Company

January 5, 1981.

Sohio Western Mining Company hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration programs concerning Federally owned coal underlying the following-described land in Campbell County, Wyoming:

W-73282—(Hay Creek Area)

Sixth Principal Meridian, Wyoming

T. 52 N., R. 72 W.,
  Sec. 3, Lots 2, 3, 4, S½NW¼, and W½SW¼;
  Sec. 4, Lots 1-4, S½N½, and S½ (All);
  Sec. 5, Lots 1-4, S½N½, and S½ (All);
  Sec. 8, All;
  Sec. 9, N½NE¼, and NW¼;
  Sec. 10, NW¼NW¼;
  Sec. 17, All.
T. 53 N., R. 72 W.,
  Sec. 33, All;
  Sec. 34, S½S½, and NW¼SW¼.

Containing 3,968.84 acres.

W-73283—(North Rawhide Creek Area)

T. 52 N., R. 72 W.,
  Sec. 20, All;
  Sec. 21, All;
  Sec. 27, W½;
  Sec. 28, All;
  Sec. 29, N½, SW¼, NW¼SE¼;
  Sec. 32, N½N½;
  Sec. 33, NE¼, and E½SE¼;
  Sec. 34, NW¼, NE¼SW¼, and W½SW¼.

Containing 3,520.00 acres.

All of the coal in the above lands consists of unleased Federal coal within the Powder River Basin known recoverable coal resource area. The purpose of the exploration programs is to determine the quality and quantity of the coal and character of overburden by drilling, sampling and testing.

Detailed descriptions of the proposed drilling programs are available for review during normal business hours in the following offices (under Serial Numbers W-73282 and W-73283): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001 and the Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

This notice of invitation will be published in this newspaper once each week for two (2) consecutive weeks beginning the week of January 12, 1981, and in the **Federal Register**. Any party electing to participate in the exploration programs must send written notice to both the Bureau of Land Management and Sohio Western Mining Company no later than February 17, 1981. The written notices should be sent to the following addresses: Sohio Western Mining Company, Attention: James D. Copen, Building 1, Suite 300, 6825 East Tennessee Avenue, Denver, Colorado 80224, and the Bureau of Land Management, Wyoming State Office, Attention: Lands and Mining Section, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing notice is published in the **Federal Register** pursuant to Title 43 of the Code of the Federal Regulations, § 3410.2-1(d)(1).

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-1407 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-84-M

[W-73268]

Wyoming; Invitation for Coal Exploration License; Sunoco Energy Development Company

January 5, 1981.

Sunoco Energy Development Company hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally owned coal underlying the following-described land in Campbell County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 71 W.,
  Sec. 19, Lots 1-4, E½, and E½W½ (All);
  Sec. 20, All;
  Sec. 21, All;
  Sec. 28, All;
  Sec. 29, All;
  Sec. 30, Lots 1-4, E½, and E½W½ (All);
  Sec. 31, Lots 1-4, E½, and E½W½ (All);
  Sec. 32, All;
  Sec. 33, All.
T. 47 N., R. 72 W.,
  Sec. 24, All;
  Sec. 25, E½, E½W½, and NW¼NW¼.

Containing 6,901.65 acres.

All of the coal in the above lands consists of unleased Federal coal within the Powder River Basin known recoverable coal resource area. The purpose of the exploration program is to determine the quality and quantity of the coal, to analyze the character of the overlying rock, and conduct surveying and surface geologic mapping within the boundaries of the above-described area.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number W-73268): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001, and the Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

This notice of invitation will be published in this newspaper once each

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week for two (2) consecutive weeks beginning the week of January 12, 1981, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Sunoco Energy Development Company no later than thirty (30) days after publication of this invitation in the **Federal Register**. The written notices should be sent to the following addresses: Sunoco Energy Development Company, Attention: Mr. C. R. Williams, Jr., 12700 Park Central Place, Suite 1500, Box 9, Dallas, Texas 75251, and the Bureau of Land Management, Wyoming State Office, Attention: Lands and Mining Section, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing notice is published in the **Federal Register** pursuant to Title 43 of the Code of Federal Regulations, § 3410.2–1(d)(1).

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–1468 Filed 1–14–81; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service announces that it will hold a public meeting on Monday, January 26, 1981 from 9:30 a.m. to 12:30 p.m. in room 8068 of the main building of the Department of the Interior, 18th and C Streets, N.W., Washington, D.C. to receive information and comments from the public concerning the third regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora to be held February 25 through March 8, 1981 in New Delhi, India.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–2418.

SUPPLEMENTARY INFORMATION: A follow-up notice will in the near future set forth proposed negotiating positions for the third regular meeting of the Conference of the Parties which were not published in the **Federal Register** of December 8, 1980 (45 FR 80913). These new proposed negotiating positions will be the object of information and comments at the public meeting announced by this notice.

In addition, information and comments will be received with regard to proposed U.S. positions (which the Service also plans to publish in the near future in a separate **Federal Register** notice) on all proposals to amend the Convention's Appendices I and II (lists of controlled species of plants and animals).

Dated: January 9, 1981.

Joan C. Anthony,

Chief, Management Operations Branch, Federal Wildlife Permit Office.

[FR Doc. 81–1536 Filed 1–14–81; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Identification of Integral Vistas Associated With Federal Class I Areas; Guideline Availability and Preliminary List

AGENCY: National Park Service.

ACTION: Proposed guideline; extension of comment period; notice of guideline availability and preliminary list of integral vistas for the National Park System.

SUMMARY: On December 2, 1980, (45 FR 80084) the Environmental Protection Agency (EPA) promulgated final regulations (40 CFR Part 51—Subpart P) for visibility protection for Federal Class I areas. These regulations provided for the identification of integral vistas by the Federal Land Manager based on guidelines to be established by the Federal Land Manager. These guidelines and a preliminary identification of integral vistas for the National Park Service are provided herein for public review and comment.

In EPA's proposed rulemaking on May 22, 1980 (45 FR 34762) certain draft guidelines were provided by EPA for public review, including a draft guideline on identification of integral vistas. The proposed guideline being announced today is substantially the same as that published by EPA except for minor changes the National Park Service made in response to public comments addressed to EPA in Docket A–79–40. As indicated, this notice also responds to public comments on the draft guideline (entitled "Criteria for Identification of Integral Vistas") addressed to EPA in respone to EPA's request for comments published in the **Federal Register** notice of May 22, 1980 (45 FR 34762).

The purposes of this notice are to announce the availability of the guideline and to provide for additional public review and comment on the guideline before it is finalized. In addition, this notice provides a preliminary list of integral vistas associated with the 48 National Park Service mandatory class I areas where visibility is an important value.

A 30 day comment period is provided. The comment period will not be extended since the guideline and preliminary list of integral vistas must be finalized as soon as possible in order for the Federal Land Manager to provide timely information needed by the states for preparation of State Implementation Plans on visibility. The Clean Air Act requires the states to submit a State Implementation Plan on visibility within 9 months from promulgation of EPA's visibility regulations. EPA's visibility regulations require that where the Federal Land Manager determines that the state should consider protection of integral vistas in its State Implementation Plan, the Federal Land Manager must provide the states with a list of the integral vistas at least 6 months prior to a state's plan submission. This gives the Federal Land Manager only 3 months from promulgation on December 2, 1980 to finalize its guidelines and identify integral vistas to the states. If such a list is not provided within this time frame, the state is not required to consider integral vistas until the State Implementation Plan is reviewed; this three year period could be detrimental to the protection of park vistas.

DATES: Written comments or suggestions must be received by February 17, 1981.

ADDRESS: All written comments are to be submitted to: Ms. Victoria A. Evans, Division of Air Quality (492), U. S. National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria A. Evans, Division of Air Quality (492), U.S. National Park Service, Washington, D.C. 20204, Telephone: (202) 343–4911.

Supporting narrative and photographic materials for the preliminary list of integral vistas are currently compiled and on file in the National Park Service, Air Quality Division, 11011 West 6th Avenue, Denver, Colorado. These materials are available for inspection weekdays from 8:00 a.m. to 4:00 p.m. MST. A reasonable fee may be charged for those materials that are easily reproducible. Please contact Mr. David Shaver at (303) 234–6419 to arrange access to these materials.

SUPPLEMENTARY INFORMATION:

A. Background and Comment Period

Section 169A of the Clean Air Act, 42 U.S.C. 7491, required EPA to promulgate regulations to assure reasonable progress toward the congressionally declared goal of "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution." EPA promulgated such regulations on December 2, 1980 (42 FR 80084). These regulations provided for the identification of "integral vistas" by the Federal Land Manager based on the guideline established by the Federal Land Manager consistent with EPA's definition of integral vistas contained in the visibility regulations. These regulations defined "integral vistas" as the view perceived from within the mandatory class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory class I area. These regulations provide the Federal Land Managers with the opportunity to identify integral vistas for "mandatory class I areas where visibility is an important value" as identified in 40 CFR Part 81, Subpart D. The Clean Air Act required the Secretary to identify these mandatory class I areas pursuant to Section 169A(a)(2), and EPA published the Secretary's list of these areas on November 30, 1979 (44 FR 69122).

With respect to the responsibilities under the Clean Air Act affecting units of the National Park Service, the Secretary's authority to carry out these tasks was delegated to the National Park Service on December 11, 1980.

This notice announces the availability of the proposed guidelines entitled "Criteria for Identification of Integral Vistas" and the preliminary list of National Park Service integral vistas for the 48 National Park Service mandatory class I areas where visibility is an important value. The guideline provides the criteria used by the National Park Service in identifying this preliminary list. The guideline document provided today is essentially identical to a document with the same title proposed by EPA at 45 FR 34763 (May 22, 1980) in Docket No. A–79–40 in the proposed rulemaking on visibility protection for Federal Class I areas. The document published here includes two minor changes made in reponse to public comments addressed to EPA in Docket A–79–40.

The guideline was originally developed at EPA's request by a task force representing agencies managing federal lands, including the U.S. Forest Service, the U.S. Fish and Wildlife Service, the National Park Service and the U.S. Bureau of Land Management. Currently only the U.S. Forest Service, the U.S. Fish and Wildlife Service and the National Park Service manage mandatory Federal class I areas.

This notice will provide for an additional 30-day public comment period on the guideline document to be used by the National Park Service. As indicated above, the draft guideline already has been afforded a 90-day public comment period by EPA. On May 22, 1980, (45 FR 34762) EPA published the notice of proposed rulemaking and guideline availability and announced a 75 day comment period. On July 31, 1980 (45 FR 50825) EPA extended the public comment period to August 22, 1980. Two public hearings were held by EPA, one in Washington, D.C. (June 30, 1980) and the second in Salt Lake City, Utah (July 2, 1980) for the purposes of obtaining comments on the proposed regulations and guidelines. The guideline document has been revised as discussed below in response to public comments. Those commentors who have already filed comments in Docket A–79–40 on EPA's draft document of the same title need not comment again since comments from that docket have already been forwarded to the Department and are considered and responded to in this notice.

It is important that a guideline for integral vista identification and a list of such vistas be developed in a timely manner to meet the deadlines imposed by the Clean Air Act and EPA's regulations. Under EPA's December 2, 1980 regulations, the Federal Land Manager must identify a list of intergral vistas at least 6 months prior to the State Implementation Plan submission in order for the list to be considered by the State for incorporation into the visibility revision to the State Implementation Plan. In order for the State to meet the statutory deadline of 9 months for the submittal of a visibility State Implementation Plan, the Federal Land Manager will have to identify integral vistas within 90 days of the effective date of EPA's visibility regulations. Identification of integral vistas is important since the visibility revision to a State Implementation Plan is required to consider the potential for existing and new sources to impair the visibility of integral vistas. In addition, according to 40 CFR Part 51, Subpart P, a proposed new source applicant will have to consider visibility effects upon those integral vistas that have been published in the **Federal Register** at least 6 months prior to the new source applicant's submission of a complete new source permit application.

EPA, in its proposed rulemaking at 45 FR 34775 (May 22, 1980), recommended that the Federal Land Managers should take preliminary steps to prepare for identification of integral vistas. EPA noted that the guideline might change in light of comments received; however, EPA recognized that one important criterion for identification of integral vistas unlikely to be changed by public comment is whether the legislation creating an area specifically mentioned an integral vista as a reason for that area being given special recognition. In response to EPA's recommendation, the National Park Service made conditional application of the guideline in the period following its publication by EPA. This conditional application of the guideline simultaneously functioned as an effective test of the adequacy of the guideline for all NPS class I areas. The conditional application of the guideline was reviewed and after internal deliberation resulted in identification of a preliminary list of integral vistas provided here.

The identification criteria guideline presented in this notice will become effective upon final notice unless public comments are received which provide new and significant information which indicates that changes are needed.

The preliminary list of integral vistas published today will be finalized after further review and consideration of the public comments received.

B. The Proposed Guideline

The "Criteria for Identification of Integral Vistas" for the National Park Service establishes a methodology to aid the Federal Land Manager in identifying and documenting the integral vistas of mandatory class I areas of the National Park System where visibility is an important value. In 40 CFR Part 51.301(n), EPA has defined integral vistas as those views perceived from within the mandatory class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory class I Federal area. In 40 CFR Part 51.304(a) EPA has required that the criteria to identify integral vistas must include, but not be limited to, whether the integral vistas is important to the visitor's visual experience associated with the mandatory class I area.

The guideline provides for identification of vistas which are integral to the visitor experience and to the purposes for which the area was established. By application of the guideline, integral vistas can be identified and described by their

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important or characteristic scenic feature(s). Integral vistas are determined for each mandatory class I area on a case-by-case basis to reflect the unique or distinguishing characteristics of individual vistas.

Under EPA regulations integral vistas will be limited to only those associated with existing mandatory Federal class I areas where visibility is an important value. The definition of integral vista in EPA's regulations refers to "in-out" vistas, i.e., where the perception of the integral vista outside class I boundaries occurs from a viewpoint *within* mandatory Federal class I area boundaries.

As noted in the Department of the Interior's letter to EPA of August 29, 1980, filed in Docket A-79-40, it was found that one important element or concept of integral vista significant was not included in EPA's proposed draft guideline for the identification of integral vistas. This criterion was found to be important to the Congressional purpose and management of several class I area vistas managed by the National Park Service. This criterion has now been added to the "Vista Evaluation" under "Significance of Vista" as follows:

> "Vista has scientific importance. (This criterion includes all vistas which are marked as "primarily of scientific importance" under PRINCIPAL CONTENT OF VISTA, and may also include vistas marked as primarily of cultural or scenic values). State in the narrative the reasons for scientific importance. For example, a vista may have geologic significance and be important to understanding how or why an area was formed."

The addition of the above quoted criterion, and the omission of a document entitled the "Decision Guide Form", are the only substantive changes in the integral vista guideline from that published by EPA at 45 FR 34762. The Decision Guide Form was omitted because the form could result in arbitrary or inadequately substantiated decisions since the user is instructed to skip many steps in the logic and substantiation process for the selection of integral vistas. This was noted in public comments to EPA from the Department and others.

C. Preliminary List of Integral Vistas

The preliminary list provided below in the Appendix was compiled from the conditional field application of the guideline. For use in this analysis, a search of legislative histories for National Park Service class I areas was conducted by the National Park Service and supplied to class I unit managers. Information on the legislative history for NPS class I areas was also provided with the Department's comments to EPA in Docket A-79-40.

As noted in the Department's comments to EPA on the visibility regulations, the identification of integral vistas does not create a new resources category, but rather serves to identify and recognize an existing important scenic resource associated with the purposes of the class I area, its management objectives and the visitor experience. The Federal Land Manager is responsible for providing adequate documentation to support the identification of integral vistas. In response to public comments received on this notice, additional data may be collected and evaluated prior to the development of a final list.

This preliminary list may be modified after consideration of all public comments. After application of the criteria and evaluation of potential integral visitas, three mandatory National Park Service class I areas have been determined not to contain integral vistas. These areas are Mammoth Cave National Park, Petrified Forest National Park, and Voyageurs National Park. An analysis and evaluation for Glacier National Park has not yet been completed. However, if integral vistas are identified for Glacier National Park, a list will be published at a later date. Photographic and written documentation for the integral vistas on the list proposed today is available for inspection at the National Park Service Air Quality Division Office at 11011 West 6th Avenue, Room 306, Denver, Colorado.

The decision process to identify an integral vista was based solely on consideration of the merits of the scenic resource consistent with the EPA visibility regulations. The identification of integral vistas provides a description of scenic views or landmarks important to the Congressional purposes of the area or to the management and visitor use of the area. This identification of integral vistas will constitute a basis for identifying and evaluating sources which either cause or have the potential to cause visibility impacts on identified integral vistas of mandatory class I NPS areas. The amount of visibility protection to be given to integral vistas will be determined by the states in the new source permit review process and Best Available Retrofit Technology analyses. EPA is responsible for delegating the authority to the states to carry out these programs.

With regard to integral vista protection the Clean Air Act and EPA's visibility regulations allow the states to accommodate energy, economic, and other factors in their new source review process as well as in their determination of what constitutes best available retrofit technology (BART) for existing sources of visibility impairment. In both of these decisions related to integral vista protection the states may balance visibility protection objectives with their energy and economic objectives as long as emissions from the proposed or existing source are such that they can be demonstrated to be consistent with the requirement to make "reasonable progress" toward achieving the long term visibility goal. In determining "reasonable progress" EPA regulations allow the states to consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source. The visibility regulations provide the Federal Land Manager the opportunity to contribute to the protection of integral vistas by allowing his or her involvement in any subsequent state permit review or best available retrofit control analysis for sources which affect or may potentially affect visibility.

In addition to its role as Federal Land Manager under the Clean Air Act, the Department of the Interior has other responsibilities including the development of this Nation's mineral resources and the economic use of the public lands and Indian lands. Consequently, with respect to the protection of the integral vistas of class I areas, the Department may express its views on a proposed facility reflecting these various interests, concerns and recommendations as part of the new source review process.

Under EPA regulations, the provisions to protect integral vistas are part of the visibility protection program under 40 CFR Part 51 and are not part of the Prevention of Significant Deterioration program.

According to EPA's visibility regulations, the final list of integral vistas is to be developed by each Federal Land Manager and submitted to the states for consideration and for corporation into the State Implementation Plan. The states, as part of the State Implementation Plan revision process, will provide an opportunity for a public hearing and will provide all interested parties with an opportunity separate from today's to comment on the vistas proposed by the Federal Land Manager. The states will consider the findings of the Federal Land Manager and determine whether to incorporate the identified integral vistas into the State Implementation

Plan. In making this determination, the states' actions will be based upon the Federal Land Manager's substantive and procedural compliance with EPA's definition of integral vista and with the Federal Land Manager's criteria for identification of integral vistas. Only if a vista has been identified by the Federal Land Manager in an unreasonble manner, will that vista not have to be included in the State Implementation Plan. An opportunity will be provided to the Governor to consult with the Federal Land Manager to resolve potential conflicts at this stage.

Additional data collection and analysis for one or more of the visitas listed today may be deemed necessary after further review and in response to public comments. As appropriate, supporting narrative and photographic materials will be subject to further National Park Service review and assessement.

D. The State Process

Section 51.304(a) of EPA's final regulations require that the adoption of integral vista criteria be preceded by reasonable notice and opportunity for public comment on the criteria. Section 51.307 provides that in the review of new sources the states must consider the visibility impacts on integral vistas if the vista has been identified by the Federal Land Manager at least 6 months prior to submittal of a complete permit application, with prior notice and opportunity for public comment. Section 51.304(c) provides that the states must list in the visibility protection component of the State Implementation Plan any integral vista that the Federal Land Manager identifies at least 6 months prior to plan submission. In order for the states to meet the statutory deadline of 9 months (from promulgation of EPA's visibility regulations) for plan preparation, the Federal Land Managers have approximately 90 days to provide the states with their lists of integral vistas.

Under EPA's regulations, once the Federal Land Manager identifies integral vistas the state has the opportunity to review the vista identifications and documentation. The state is then required to incorporate into the State Implementation Plan each integral vista identified by the Federal Land Manager unless the state demonstrates that one or more of the integral vistas identified by the Federal Land Manager should not be included. As part of the State Implementation Plan (SIP) process, the state can reject the Federal Land Manager's identification of integral vistas only if the Federal Land Manager either did not follow correct procedures or applied the criteria in an unreasonable or unsupportable manner. In making any such findings, EPA's regulations require that the state must carefully consider the expertise of the Federal Land Manager in making integral vista identification. An opportunity will be provided to the Governor to consult with the Federal Land Manager to resolve potential conflicts at the State Implementation Plan development stage.

E. Response to Public Comments

The formal record of comments (Docket A-79-40) addressed to EPA on the proposed visibility regulations contained 363 commentors, of which seven written statements pertained to the guideline document for identification of integral vistas. These commentors included three from businesses, two from trade organizations and two from federal officials. One of the two statements from a federal official was from the Secretary of the Interior.

Following are the basic areas of concern set forth in the comments addressing the draft guideline document. Comments were received on:

1. The identification criteria, and
2. The energy and economic consequences that might result from the identification of an integral vista

The Identification Criteria

Several commenters requested the opportunity to comment further on the criteria for identification and that there be public notice and an opportunity to comment on any list of integral vistas selected by the Federal Land Managers. Today's notice is in response to this request as well as in response to the EPA regulations.

Most of the comments, particularly those from the electric utility industry, suggested that the draft guideline did not provide a basis for an objective evaluation of vistas. We believe that the criteria in the guideline document provide for the careful consideration of a range of pertinent factors for which written substantiation is required. These factors include the vista's scientific, cultural, or historic importance, its importance to the preservation and management of the area, and the importance to the visitor enjoyment of the area. The supporting documentation for each area includes a specific description and an evaluation documenting whether or not a vista meets the test as being "integral".

Several commentors suggested that the guidlines should provide for a weighting of factors so that insignifficant factors do not necessarily compel an identification of an integral vista. These commentors suggested that the most weight be given to "concrete" factors, such as clear statements of congressional intent. While enabling legislation for an area may indicate whether Congress singled out a specific vista as important to an area, the absence of a legislative reference does not necessarily imply that there are not significant scenic resources which should be considered for protection. The merits of the scenic resource and its importance to the visitor experience are equally important in determining whether a vista is integral. For example, visitor use of turnouts and trails affording popular or well known scenic views can also objectively demonstrate the importance of the vista.

A few commentors suggested that the Federal Land Manager should rank vistas within an area and those in one area with the vistas in another area. One commentor recommended that this ranking would identify which vistas should be given priority for later evaluation of visibility protection considerations. Application of the guideline establishes whether the vistas considered meet the criteria of importance to the visitor's visual experience or to the purposes for which the area was created. The national parks and the vistas associated with them vary so significantly that it is difficult if not impossible to objectively rank the relative importance of vistas within one area, or those in one area with vistas in another area. A vista either meets the test of "integralness" or it does not. While the sensitivity of individual vistas to varying amounts of visibility impairment may vary, these considerations will be part of any evaluation of whether a visibility impairment constitutes an "adverse" or "significant" effect to the visitor enjoyment of the vista. This analysis is not part of the identification of whether a vista is integral, but rather will be a part of determining the tolerance of individual vistas to varying degrees of impairment during the new source review or retrofit control analyses.

A few commentors suggested that accessibility and natural conditions be taken into account in the identification of integral vistas. Visitor access and natural conditions are not part of the criteria in the guideline, since these factors also will be considered on a case-by-case basis during new source review and best available retrofit technology analysis in any visibility impact findings made by the state, the applicant or the Federal Land Manager. Thus, determinations of visibility impacts on integral vistas will be made

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on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and times of visibility impairment and how these factors correlate with (1) times of visitor use of the Federal class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

The Energy and Economic Consequences That Would Follow Identification of an Integral Vista

Several commentors suggested that under EPA's regulations identitication of integral vistas by the Federal Land Manager would be a "federal land grab" and a *de facto* restriction of energy and economic development. This is not the case. Under EPA's visibility regulations concerning integral vista protection, the states have the ultimate decision-making authority over the appropriate measure of protection to be given any integral vista, and may consider and balance competing interests such as energy and economic development. Protection of integral vistas is afforded under Section 169A and requires only that "reasonable progress" be made towards achieving the national visibility goal. The "reasonable progress" standard provides a balancing of competing interests.

The final EPA visibility regulations promulgated on December 2, 1980 differ significantly from provisions proposed by EPA on May 22, 1980. The final regulations made a clear distinction between the protection which must be afforded inside the boundaries of class I areas and the protection which may be provided to integral vistas which extend beyond the boundaries. EPA's final visibility regulations afford protection to integral vistas on the basis of Section 169A of the Clean Air Act, the visibility protection section, and not on the basis of Section 165, the prevention of significant deterioration section. The impact of this distinction is important. As to the integral vistas of a mandatory class I area, Section 169A allows a balancing of various concerns, including energy and economic, in determining the level of protection for integral vistas. As to visibility and other air quality related values *within* a class I area, however, Section 165 establishes a more protective scheme for air quality values during new source review which excludes consideration of economic and energy concerns. EPA's Prevention of Significant Deterioration regulations, 40 CFR 51.18, 51.24, 52.21, and 52.24, and not EPA's final visibility regulations, govern this protection of air quality *within* the boundaries of a class I area. Under the provisions for the Prevention of Significant Deterioration, the Federal Land Manager may demonstrate to the satisfaction of the state that a proposed source would cause an adverse impact upon visibility within the boundaries of a class I areas even though the class I increments are met. In the determination of impacts *within* the class I area boundaries, a state is permitted to consider only the adequacy of the Federal Land Manager's demonstration based solely on air quality factors and cannot consider other factors such as energy or economic factors. Conversely, where the class I increments inside the boundaries are not met, the applicant has an opportunity to demonstrate to the satisfaction of the Federal Land Manager that air quality related values including visibility would not be adversely affected. If the Federal Land Manager is convinced by the demonstration, he or she may recommend to the state that the permit be granted.

Where the Federal Land Manager demonstrates, based solely on air quality factors, that an unacceptable impact on visibility *outside* of class I boundaries but within an integral vista would occur, the state has the authority in the new source permit review and in analyses of best available retrofit technology to consider and balance energy and economic factors, provided that any action a state takes on a proposed new source permit or a best available retrofit technology decision is consistent with the criteria of Section 169A which requires the state to make "reasonable progress" toward achieving the long term visibility goal.

Because EPA's visibility regulations provide the states with the flexibility to consider energy and economic factors in determining the level of visibility protection to be afforded an integral vista, the identification of integral vistas, as candidates for protection consideration, does not in itself impede development in an area.

Even if the states place considerable weight on protecting the integral vistas, studies have shown that the sensitivity of individual vistas to changes in air quality depends upon numerous factors including the background air quality levels, the characteristics of the features in view, the specific design and location of a source, intervening terrain, meteorology, and the fuel burned. These factors would be taken into consideration in any findings made during the new source review process. As required by EPA's regulations, all determinations of visibility impacts will be made on a vista-by-vista basis, taking into consideration extent, frequency, duration, and intensity of impairment, and the time of visitor use.

F. Preliminary List of Outside-to-Inside Vistas

Today's notice also provides for comment on five "out-to-in" vistas which are views of a specific landmark or panorama located *inside* the boundary of the mandatory Federal class I area but are perceived by a viewer located *outside* of the mandatory class I Federal area. The preliminary list of these vistas is provided on an advisory basis only, since EPA's regulations do not extend the concept of "integral vistas" to those vistas of a class I area which are viewed from outside the class I area. The Federal Land Manager is not obligated under EPA's regulations to provide formal identification and notice of these vistas, nor are the states required to consider these vistas. However, the Department of the Interior and other commenters in Docket A-79-40 suggested that out-to-in views should be included as integral vistas in order to identify all the vistas which may be "integral" or highly significant to the visitor experience and to the purposes for which the areas were created. The criteria in the guideline document provide for recognition of the vistas that are integral to the visitor experience and the area's purpose, regardless of the visitor's viewing location.

The five out-to-in vistas provided for comment today were identified by class I area managers through the application of the criteria in the guideline document. This preliminary list will be sent by letter to the Governors of the affected states for consideration in new source review, best available retrofit technology analyses, and in the visibility protection components of their State Implementation Plans.

Written and photographic documentation for the out-to-in vistas identified in this notice have been developed and is available for inspection in the Air Quality Office, 11011 West 6th Avenue, Denver, Colorado 80225.

Bob Herbst,

Assistant Secretary, Fish and Wildlife and Parks.

January 2, 1981.

PROPOSED GUIDELINE

Criteria for the Identification of Integral Vistas

This document was prepared in the spring of 1980 by the U.S. Forest Service, Bureau of Land Management, National Park Service, and Fish and Wildlife Service at the request of EPA.

Step 1: Selection of vistas for consideration

For any class I area, the number of vistas, from either developed or undeveloped vantage points, greatly exceeds the number of vistas which need to be thoroughly evaluated for visibility protection. Selection of vistas to be evaluated in Step 2, therefore, will rely on the background knowledge and best judgment of the Federal Land Manager (FLM) responsible for the class I area in applying the following criteria.

As an aid to the Federal Land Manager in selecting vistas initially for consideration, two overall criteria are to be applied: the importance of the vista to the objectives for which the area was created and the contribution of the vista to the visitor enjoyment of the area. Vistas for which any of the factors listed below apply should be included in the vistas selected for evaluation in Step 2:

1. Vistas which are important to the objectives for which the area was created; in particular, vistas or landscape feature(s) identified in relevant legislation and legislative history.

2. Vistas which significantly contribute to visitor enjoyment of the area.

a. Vistas identified in the 1978 Federal Land Managers review of class I areas for which visibility is an important value.

b. Vistas which have received emphasis or attention in management plans, visitors surveys or studies, leaflets, maps, books, magazines or newpaper articles, reports on the area, pictures on postcards, TV or radio references, visual resource surveys, or movies or slide shows (include examples of the above items when the evaluation is submitted.)

c. Vistas that have developed observation points along roads or trails or vistas for which a developed observation point is planned.

d. Vistas which are viewed from prominent topographic points in predominantly flat terrain in undeveloped areas.

e. Vistas from popular view points in undeveloped areas.

f. Vistas which have particular or unusual scenic quality or of cultural or historical value.

g. Vistas which have been recommended by significant public comment for visibility protection.

The Federal Land Manager responsible for the class I area will in many cases by familiar enough with the area to spend one day or less in this initial selection of vistas to be evaluated in detail in Step 2.

As an additional aid to the Federal Land Manager, vista may be aggregated and considered as one vistas where more than one observer point overlooks the same vista. Figure 1 gives an example of how a class I area may be reviewed as an entire unit to select vistas for consideration. During the vista selection (Step 1) the Federal Land Manager should also keep in mind the following points:

a. Characteristic landscapes naturally differ between parts of the country. All landscapes, such as flatlands, shore, water, or hills, are to be considered.

b. Although natural visibility conditions differ with geographic location, season, and time of day, the identification of integral vistas should not be affected by these differences. For example, visibility is generally more limited in humid regions in the East than in arid areas of the West. Identification should depend primarily on whether the vista meets the criteria discussed in this document.

c. Normal access to observation points may be limited in certain seasons or by level of effort required to reach the observation point. Such a limitation does not in itself eliminate the vista from consideration, but should be reported in the vista evaluation if selected.

d. Vistas may include either of 2 basic types: focal point or panoramic. A focal point vista is one that directs the eye toward and focuses primarily upon one or more landscape features or visual elements. A panoramic vista is one that sweeps over a broad area and provides an essentially unobstructed or complete view of multiple visual elements.

Step 2: Identification of vistas integral to visitor experience on the class I area

For each vista or aggregate vista considered, a separate Vista Evaluation (Form 1) shall be prepared. Each Vista Evaluation shall be accompanied by the supporting narrative statements requested; by the examples, maps and documentation indicated; and by a Vista Description. Instructions for completion of the Vista Evaluation are in Appendix 1. Each of the important landscape elements in the integral vista shall be described as part of the vista description so that later determinations may be made of the sensitivity of the vista, and the important landscape elements comprising it, to air qualilty.

Form 1—Vista Evaluation

Name of Vista or Brief Description————

Principal Content of Vista (Select One)

a. ☐ Vista is primarily of cultural or historical importance.

b. ☐ Vista is primarily of scientific importance.

c. ☐ Vista is primarily of scenic importance.

Specific Information Relating to the Vista

1. Legislation

a. ☐ Vista was specifically mentioned in enabling legislation for the Class I area or in the House, Senate or Conference Committee Reports pertaining to the enabling legislation. Examine the enabling legislation and accompanying legislative history to determine the purpose for which the area was created and the importance of vistas. Include copy of legislation or appropriate quotations with references in the supporting documentation.

b. ☐ Legislation other than enabling legislation requires protection of the vistas. Include copy of legislation or appropriate quotations with references (e.g., Wilderness Act or Clean Air Act) in the supporting documentation.

c. ☐ Other legislation or legislative history (such as floor debates reported in the Congressional Record) mentions vistas or implies protection of vista. Include in the narrative quotations with references and reasons for determination of Congressional intent.

2. Significance of Vista (Select all applicable criteria)

a. ☐ Vista is known, or recognized by the public through exposure in various media. State in the narrative the source of exposure (e.g., movie, photographs by well known photographers, posters, travel brochures) and the extent to which the vista is known or recognized (e.g., Devil's Tower vista shown in the movie Close Encounters seen by *x* number of people throughout the United States). Use specific data wherever possible.

b. ☐ Vista is visited by persons from outside the local area. (In this criterion local visitation is defined as within 2 hours commuting distance; visitation to the area is assumed to be representative of vista visitation). State in the supporting narrative the source of data, distances traveled, and percent of visitors to the area traveling each distance range.

c. ☐ Vista has cultural or historical importance. (This criterion includes all vistas which were marked as "primarily of cultural or historical importance," under Principal Content of Vista, and may also include vistas marked as primarily or scientific or scenic importance, where these vistas also possess cultural or historical values). State in the supporting narrative the reason for and extent of the cultural or historical values. For example, a vista may be part of a traditional religious ceremony of a local group of native Americans.

d. ☐ Vista has scientific importance. (This criterion includes all vistas which were marked as "primarily of scientific importance" under Principal Content of Vista, and may also include vistas marked as primarily of cultural or scenic importance, where these vistas also possess scientific values). State in the narrative the reasons for scientific importance. For example, a vista may have geologic significance and be important to understanding how or why an area was formed.

3. Visitor Experience (Select all applicable criteria)

a. ☐ Management of the Class I area emphasize the importance of the vista to the visitor experience. Management emphasis of a vista includes development (e.g., trails to observation points, pullouts, telescopes) to enhance the visitor's enjoyment of a vista, agency media exposure of vista (e.g., showing vista in leaflets or slide shows), and interpretative activities (e.g., attendants at observer points, guided tours). Report in the supporting narrative all evidence of management emphasis of the vista, including examples (such as leaflets) where practical.

a. ☐ Management plans indicate future emphasis of vista. Document in the supporting narrative in the management emphasis planned, citing the specific planning report and quoting applicable sections. Follow guidelines in the criterion above for management emphasis.

c. ☐ Vista is sought out by visitors to the Class I area. In the supporting narrative, report the number of visitors to the vista or the proportion of visitors to the Class I area which observe the vista. Cite source of data (e.g., visitor use survey taken in 1975). If data is not available, the number of proportion of visitors may be estimated and any evidence supporting the estimate (e.g., trash collection from pullout) provided. Where access to an observation point is difficult, the amount of energy expended by the visitor to enjoy the vista is more important than the number of visitors. Report the access and the number or estimated number of visitors.

d. ☐ Vista is important to visitors at the observation point. Visitor comments at observation points (e.g., comments in log books or to visitor surveys) are direct indications of visitor reaction to vista. Indirect indications of visitor reaction to vista may be inferred from visitor activity (e.g., photography, sketching) at observation points. Describe visitor reaction to vista and the source (direct or indirect indications) of this information (e.g., visitor survey, direct observation of *x* number of hours during *x* season(s) of year). Include in the narrative statistics or quotations and references for these.

Appendix 1: Instructions for Completion of the Vista Evaluation (Form 1)

The top of Form 1 should be completed as directed below for each line item.

Name of the Class I Area: Indicate the name of the class I area from which the vista being analyzed would be viewed, e.g., Canyonlands NP or Bridger Wilderness area.

Agency: Indicate the name of the agency responsible for the management of the class I area.

Name or Description of the Vista: Indicate the name of the vista, if named, or a brief description of the physiography. A full description of the landscape, including foreground, middleground, or background features in the vista shall be included in the narrative section.

Observation Point(s): The point or points within the class I area from which a vista is viewed. The point(s) shall be a map of the area which shall be submitted with the Vista Evaluation Form.

Viewing Direction and Horizontal Viewing Angle: The true azimuth (in degrees) from the observation point(s) to the horizontal limits of the vista.

Distance Zones: The distance in miles or kilometers from observation point(s) to the limits of the foreground, and background. The background should include the farthest point in the vista. Use the distance range for these zones as defined in the U.S. Forest Service and Bureau of Land Management Visual Resource Management System.

Visual Resource Inventory System: If the area has been analyzed under a visual resource inventory system, such as VIEWIT or VIS, the information should be used in this analysis and the system name indicated on this line.

Map Scale: Use appropriate map to show observation point(s) and vista. Where possible locate all identified vistas on one map of the class I area. Indicate scale used (not less than ¼ inch to 1 mile) on this line.

The rest of Form 1 should be completed by marking in the box adjacent to each criterion which applies to the vista under consideration. Each applicable criterion must be supported by narrative statements as directed. As much detail and quantification as possible should be used in the narrative. Examples (such as leaflets and trail maps), or other documentation (such as visitor surveys, and legislation) shall be submitted with the Vista Evaluation, wherever practicable. If impractical to submit examples (e.g., 166 mm motion picture), list these in the narrative as additional factors considered in the evaluation.

Appendix 1.—*Integral Vistas Associated With Mandatory Class I Areas*

Park	Observation point	View angle	Key features	Also viewed from
Acadia National Park	Cadillac Summit (Mount Desert Narrows).	320°–356°	Lamonine State Park, Mount Katahdin, Frenchman Bay.	Eagle Lake, Middle Cadillac, Upper Cadillac, Sunset Point, Sargent Mountain, Gilmore Peak, Parkman Mountain, Acadia Mountain, Beech Mountain, Mansel Mountain, Bernard Mountain.
	Cadillac Summit (Schoodic Mountain).	356°–32°	Lead Mountain, Schoodic Mountain, Gouldsboro Hills, Calf Island.	Paradise Hill, Duck Brook, Bar Harbor, Great Hill, North Cadillac, Champlin Overlook, Scenic Overlook, Lower Cadillac, Middle Cadillac, Dorr Mountain, Kebo Mountain, Huguenot Head, Champlin Mountain, The Beehive, Penobscot Mountain, Sargent Mountain, Schoodic Head.
	Cadillac Summit (Porcupine Island).	32°–68°	Porcupine Island, Stave Island, Jordan Island, Ironbound Island, Gouldsboro Bay.	Paraidse Hill, Duck Brook, Bar Harbor, Great Hill, North Cadillac, Champlain Overlook, Scenic Overlook, Lower Cadillac, Middle Cadillac, Dorr Mountain, Kebo Mountain, Huguenot Head, Champlain Mountain, Schoodic Head.
	Cadillac Summit (Schoodic Peninsula).	68°–104°	Winter Harbor, Turtle Island, Egg Rock	Paradise Hill, Duck Brook, Bar Harbor, Great Hills, North Cadillac, Champlain Overlook, Scenic Overlook, Lower Cadillac, Middle Cadillac, Dorr Mountain, Kebo Mountain, Champlain Mountain, The Traid, Pemetic Mountain.

Appendix 1.—*Integral Vistas Associated With Mandatory Class I Areas*—Continued

Park	Observation point	View angle	Key features	Also viewed from
	Cadillac Summit (Atlantic Ocean)	104°–140°	Atlantic Ocean	Sand Beech, Ocean Drive, Thunder Hole, Otter Point, Western Point, Upper Cadillac, Dorr Mountain, Huguegot Head, Champlain Mountain, The Beehive, Gorham Mountain, Eagles Crag, The Traid, Pemetic Mountain, Penobscot Mountain, Schoodic Head, Schoodic Point.
	Cadillac Summit (Otter Point)	140°–176°	Atlantic Ocean, Otter Cove, Baker Island	Otter Point, Western Point, Hunters Point, Upper Cadillac, Dorr Mountain, Eagles Crag, Pemetic Mountain, Penobscot Mountain.
	Cadillac Summit (Cranberry Islands)	176°–212°	Little Cranberry Island, Duck Islands, Greater Cranberry Island, Seal Harbor, Sutton Island, Long Island.	Otter Point, Western Point, Hunters Point, Upper Cadillac, Dorr Mountain, Eagles Crag, The Traid, Pemetic Mountain, Penobscott Mountain, Cedar Swamp Mountain, St. Sauveur Mountain, Flying Mountain, Beech Mountain, Mansell Mountain, Bernard Mountain, Seawall Picnic Area.
	Cadillac Summit (Seawall)	212°–248°	Placentia Island	Upper Cadillac, Sunset Point, The Triad, Penobscot Mountain, Bald Peak, Cedar Swamp Mountain, St. Sauveur Mountain, Flying Mountain, Valley Peak, Beech Mountain, Mansel Mountain, Bernard Mountain.
	Duck Harbor Mountain	352°–5°	Blue Hill, Caterpillar Mountain	Eagle Lake, Glacial Lakes, Upper Cadillac, Sargent Mountain, Parkman Mountain, Acadia Mountain, St. Sauveur Mountain, Beech Mountain, mansel Mountain, Bernard Mountain.
	Duck Harbor Mountain	336°–352°	Duck Harbor, Mount Ephraim, Mount Waldo, Eagle Island, Penobscot Bay.	St. Sauveur Mountain, Bernard Mountain, Duck Harbor.
	Duck Harbor Mountain	310°–336°	Islesboro Island, Bald Rock Mountain, Duck Trap Mountain.	St. Sauveur Mountain, Bernard Mountain, Duck Harbor.
	Duck Harbor Mountain	285°–360°	Megunticook Mountain, Bald Mountain, Dodge Mountain, Vinalhaven Island.	St. Sauveur Mountain, Bernard Mountain, Duck Harbor.
	Duck Harbor Mountain	270°–285°	Brimstone Island, Vinalhaven Island, Lighthouse Rock.	Duck Harbor.
	Duck Harbor Mountain	245°–270°	Large Green Island	Duck Harbor.
	Duck Harbor Mountain	190°–245°	Matinicus Island, Ragged Island, Wooden Ball Island, Seal Island, Atlantic Ocean.	Duck Harbor.
	Sunset Point (Isle Au Haut)	192°–228°	Long Island, Placentia Island, Swan Island, Great Gott Island, Isle Au Haut.	Upper Cadillac, St. Sauvenur Mountain, Flying Mountain, Beech Mountain, Mansel Mountain, Bernard Mountain, Bass Harbor Lighthouse.
	Sunset Point (Sargent Mountain)	228°–264°	Green Island	Glacial Lakes, Upper Cadillac.
	Sunset Point (Blue Hill)	264°–300°	Camden Hills, Bartlett Island, Western Bay, Blue Hill.	Eagle Lake, Glacial Lakes, Upper Cadillac, Sargent Mountain, Parkman Mountain, Acadia Mountain, St. Sauveur Mountain, Beech Mountain, Mansel Mountain, Bernard Mountain.
	Sunset Point (Eagle Lake)	300°–336°	Thomas Island, Frenchman Bay	Eagle Lake, Glacial Lakes, Sargent Mountain, Gilmore Prk, Parkman Mountain, Acadia Mountain, St. Sauveur Mountain, Beech Mountain, Mansel Mountain, Bernard Mountain.
	Sunset Point (Mount Katahdin)	336°–12°	Lamoine State Park, Hulls Cove (Acadia National Park Visitor Center), Mount Katahdin.	Eagle Lake, Sargent Lake, Gilmore Peak, Parkman Mountain, Acadia Mountain, Beech Mountain, Mansel Mountain, Bernard Mountain.
Arches National Park	Delicate Arch	120°–160°	La Sal Mountains, Cache Valley	
	La Sal Mountain View	60°–175°	Castle, Porcupine Rim, La Sal Mountains, Near Rim—Moab Canyon, Behind the Rocks (rim of Spanish Valley).	
	Panorama Point (Parking Area Viewpoint).	310°–150°	Salt Valley, Book Cliffs, The Highlands, Pinyon Mesa, Dome Plateau, Castle Valley, La Sal Mountains.	
Badlands National Park	Pinnacles Overlook[1]	160°–340°	Harney Peak/Mount Rushmore, Prairie Grassland, White River/Pine Ridge, Wind Cave/Custer State Park.	High points within park.
	Bigfoot Overlook[1]	160°–220°	Bigfoot Pass, White River Drainage, Pine Ridge Reservation and Wounded Knee Vicinity.	
Bandelier National Mounument	Boundary Peak (Sangre de Cristo-Sandia panorama).	65°–210°	Rio Grande Depression, Sangre de Cristo Range, Cochiti Dam and Lake, Sandia Mountains.	Pueblo of Stone Lions, Mid-Alamo.
	Boundary Peak (Valles Caldera East Rim).	300°–325°	Rabbit Mountain, Caldera East Rim	Pueblo of Stone Lions, Frijolito Ruin.
	Mid-Alamo	245°–265°	San Miguel Mountains, Los Alamos Scarp	Pueblo of Stone Lions, Frijolito Ruin.
Big Bend National Park	Glenn Springs Intersection	95°–305°	Rio Grande Flood Plain, San Vicenta Mountains, Tornillo Flats, Sierra del Carmen, Chilicotal Mountain.	
	Hannold Draw (Sierra del Caballo Muerto).	13°–132°	Tornillo Flat, Sierra del Carmen	
	Persimmon Gap	148°–262°	Dagger Mountain, Panhandle, Chisos Mountain, Rosillos Mountains, Nine Point Draw, Christmas Mountain, Corazunes Peaks.	
	Sotol Vista	235°–300°	Santa Elena Canyon, Rio Grande, Sierra del Mulato	
	South Rim Trail (Mule Ears)	86°–95°	Mule Ears, Sierra Qumeada	
	Tornillo	172°–315°	Sierra de San Vicenta	
	Maverick Mountain	0°–360°	Mesa de Anguila, Contrabando Mountain, Cigar Mountain, Maverick Mountain, Dogie Mountain, Sierra del Santa Elena, Santa Elena Canyon.	
	South Rim	102°–340°	Sierra del Carmen, Rio Grande, San Vicente Mountain, Sierra del Santa Elena, Santa Elena Canyon, Terlingua Flats.	
	Mount Emory	30°–10°	Sierra del Carmen, Rio, Grande, Sierra del Santa Elena, Santa Elena Canyon, Ward Mountain, Mesa de Anguila, Christmas Mountain, Rosillos Mountains, Sierra del Hecairos, Cerro Castellan.	
Black Canyon of the Gunnison National Monument.	Gunnison Point[1]	85°–90°	North Rim	
	Chasm View[1]	85°–90°	North Rim, West Elk Mountains	High Point, Warner Point.
	High Point[1]	85°–90°	Lower Gunnison Gorge	Sunset View.
	Warner Point	85°–105°	Uncompahgre Valley	Other points along Warner Point Trail

Appendix 1.—*Integral Vistas Associated With Mandatory Class I Areas—Continued*

Park	Observation point	View angle	Key features	Also viewed from
Bryce Canyon National Park	Bryce Point	310°-210°	Black Mountains, Aquarius Plateau, Kaiparowits Plateau, Navajo Mountain.	Fairlyland View, Sunrise Point, Sunset Point, Inspiration Point, Paria View, Farview Point, Natural Bridge, Aqua.
	Yovimpa Point	90°-230°	Navajo Mountain, Kaibab Plateau, Mount Trumbull	Rainbow Point, Promontory Point.
	Paria Overlook	120°-175°	Navajo Mountains, White Cliffs	Farview Point, Natural Bridge, Aqua Canyon, Ponderosa, Rainbow Point.
Canyonlands National Park	Buck Canyon Overlook	0°-90°	Book Cliffs, Dome Plateau, La Sal Mountains	
	Grandview Point Overlook	90°-205°	La Sal Mountains (Mount Peale), Hatch Point, Horsehead Rock, Deerneck Mesa, Colorado River Basin, Hart's Point, The Abajo Mountains, North Six-Shooter Peak, Cathedral Butte, Elk Ridge, Dark Canyon Plateau, Land's End and Orange Cliffs.	
	Murphy Point Overlook	[illegible]-360°	The Abajo Mountains, Cathedral Butte, Elk Ridge, Dark Canyon Plateau, Land's End and Orange Cliffs, The Little Rockies, Ekker Butte, The Henry Mountains, Boulder Mountain/Aquarius Mountain, Thousand Lakes Mountain, Buttes of the Cross, The Flat Tops, Green River Canyon, San Rafael Reef/Swell, The Book Cliffs.	
Capitol Reef National P[illegible]	Cathedral Valley Overlook	310°-60°	San Rafael Swell, San Rafael Knob, Book Cliffs, Mount Alice, Mount Baldy.	
	Halls Creek Overlook [1]	0°-300°	Henry Mountains, Beers Ears (Abajo Mountains), Big Thompson Mesa, Clay Hills.	Burr Trail—West Boundary.
	Panorama Point90°-165°		Henry Mountains, Miners Mountain	U-24.
		195°-295°	Boulder Mountain, Thousand Lake Mountain, Meeks Mesa.	U-24.
	Upper South Desert Overlook	25°-165°	Henry Mountains, Factory Butte, Manti La Sal Mountains.	Catheral Valley Overlook.
		190°-290°	Thousand Lake Mountain, Boulder Moutain	
	West Boundary	325°-125°	Henry Mountains, San Rafael Swell, Tarantula Mesa, Circle Cliffs, Bears Ears (Abajo Mountains).	Burr Trail, Hall Creek Overlook.
Carlsbad Caverns National Park	Visitor Center	226°-237°	Delaware Basin, Capitan Reef Escarpment	Walnut Canyon Loop Road.
Chircahua National Monument	Sugar Loaf Mountain	90°-150°	San Simon Valey	Massai Point, Echo Point.
		140°-200°	Chiricahua Mountains	Massai Point, Echo Point, Inspiration Point.
		260°-320°	Dragoon Mountains, Dos Cabezas Mountains, Sulfur Spring Valley.	Lower Bonila Canyon, Massai Point, Echo Point, Inspiration Point.
		20°-40°	Cochise Head	
Crater Lake National Park	Watchman Lookout	160°-10°	Mount Shasta, Mount McLaughlin, Rogue River Valley, Mount Bailey, Diamond Lake, Three Sisters, Klamath Lake, Diamond Peak.	Mount Scott Lookout, Crater lake Lodge, Union Peak Overlook, Diamond Lake Overlook, Pumice Desert, Cloudcap Junction, Dutton Ridge-Rim Drive, Grayback Ridge, Watchman Parking Area.
Crater of the Moon National Monument.	Big Cinder Butte	22°-40°	Lost River Range, Edge of Park Boundary	Most anywhere else in wilderness area.
	Big Cinder Butte	[illegible]	Big Southern Butte, Park Boundary	Most anywhere else in wilderness area.
Everglades National Park	Main Park Road	15°-105°	Horizon (the most impressive feature would be the unobstructed view to the horizon).	
	Shark Valley Tower	70°-134°	Horizon (the most impressive feature would be the unobstructed view to the horizon).	
Grand Canyon National Park	Bright Angel Point (San Francisco Mountains).	135°-180°	San Francisco Mountains	Point Sublime, Cape Royal, Point Imperial, Powell Point, Maricopa Point, Trail View, Granview Point, Lipan Point, Navajo Point.
	Bright Angel Point (Red Butte)	160°-205°	Red Butte	Point Sublime, Cape Royal, Point Imperial, Powell Point, Maricopa Point, Trail View.
	Desert View	15°-60°	Navajo Mountain, Little Colorado River Gorge	Vista Encantadora, Point Imperial, Grandview Point, Moran Point, Lipan Point, Navajo Point.
	Hopi Point	275°-320°	Mount Trumbull	Point Sublime, Pima Point, Mohave Point, Powell Point, Yavapai Point, Yaki Point, Desert View.
	Toroweap Overlook	[illegible]	Esplanada	
Grand Teton National Park	Signal Mountain Summit	330°-230°	Wildcat Peak, Whetstone Mountain, Gravel Peak, Gravel Ridge, Soda Mountain, Breccia Peak, Leidy Peak, Sheep Mountain, Jackson Peak, Snake River Range.	
	Summit of the Grand Teton	0°-360°	Pierre's Hole, Big Hole Mountains, Snake River Range, Caribou Range, Salt River Range, Wyoming Range, Snow King Mountain, Gros Ventre Range, Wind River Range, Absaroka Range, Fred's Mountain, Centennial Range.	High points in the Teton Range.
	Windy Point Turnout	12°-190°	Gros Ventre Slide	Glacier View Turnout, Teton Point Turnout.
Great Sand Dunes National Monument.	South Photo Turnout [1]	42°-248°	Silver Mountain, Bennett Peak, Storm King, Antora Peak, Crestone Peak, Cleveland Peak, Medano Peak, Mount Zwischen.	
	High Dune	0°-360°	Bennett Peak, Antora Peak, Shavano Peak, Crestone Peak, Cleveland Peak, Medano Peak, Mount Zwischen, Carbonate Mountain, Twin Peaks, San Antonio Peak.	
Great Smoky National Park	Newfound Gap Overlook	100°-160°	Waterrock Knob, Soco Bald	Points along the Appalachian Trail and Clingmans Dome Road.
	Clingmann's Dome Observation	60°-110°	Balsam and Plot, Balsam Mountain Ranges	Webb Overlook and other pullouts along Clingmans Dome Road.
	Chilhowee Mountain	290°-350°	4	
	Ravenfork Overlook Blue Ridge Parkway.	290°-350°	Big Cove	Several other overlooks along Blue Ridge Parkway.
Guadalupe Mountains National Park.	Guadalupe Peak	153°-323°	Delaware Mountains, Davis Mountains, Sierra Diablo Mountains, Quitman Mountains, Salt Flats, Huevo Mountains, Gypsum Sand Dunes, Comudas Mountains, Sacramento Mountains.	Hunter Peak.
Haleakala National Park	Red Hill Observatory	260°-320°	Lanai, West Maui Mountains, Molokai, Pacific Ocean.	White Hill, Kalhaku Overlook, Leleiwi Overlook.
		120°-165	Alenuihaha Channel, Mauna Kea, Mauna Loa, Hualalai.	White Hill.
Hawaii Volcanoes National Park	Hawaii Volcanoes Observatory	220°-350°	Mauna Loa Mid Slope, Mauna Kea	Highway 11, Waldron Ledge, Crater Rim Trail, Kea La Kamo, Chain of Craters Road, Wahaula Nature Trail, Mauna Loa Trailhead.

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Appendix 1.—*Integral Vistas Associated With Mandatory Class I Areas*—Continued

Park	Observation point	View angle	Key features	Also viewed from
	Wahaula Visitor Center	300°–360°	Kilauea—Lower Slope, Kalapana Royal Gardens, Kalapana Coastlands, Chain of Craters Road	
Isle Royale National Park	Mount Siskiwit/Greenstone Trail	[illegible]	Canadian Shore, Spar Island, Pie Island, Thunder Bay, Sleeping Giant Mountains, Sibley Peninsula, Black Bay, Edward Island, The Paps Mountains	Northern exposed areas along Minong, Greenstone, and Feltman Ridge Trails
Joshua Tree National Monument	Coxcomb Mountains	270°–340°	Sheep Hole Mountains, Bullion Mountains, Calumet Mountains.	
	Fortynine Palms Trail	[illegible]	Copper Mountains, Hidalgo Mountains, Sugar Bowl, Bullion Mountains, Donnell Hill, Sheep Hole Mountains, Dale Dry Lake, Campbell Hill.	
	Hi View Nature Trail	[illegible]	San Gorgino Mountains, Tip Top Peak, Yucca Valley, Goat Mountain, Bullion Mountains.	
	Inspiration Peak	280°–140°	Signal Mountain, Salton Sea, San Andreas Fault, Mountain San Jacinto, San Gorgonic Pass, San Gorgonic Mountain.	Key View
	Mastodon Peak	120°–220°	Orocopia Mountains, Salton Sea, Santa Rosa Mountains.	
Lassen Volcanic National Park	Lassen Peak	0°–360°	Eagle Lake, Crater Mountain, Antelope Mountain, Kelley Mountain, Red Mountain, Morgan Mountain, Turner Mountain, Inskip Hill, Potatoe Buttes, Loomis Peak, Clover Mountain, Burney Mountain, Latour Butte, Logan Mountain, Wilcox Peak, Sugar Loaf Peak, West Prospect Peak, Mount Shasta.	Emerald Picnic Area, Diamond Point, Brokeoff Mountain, Mountain Harkness and Bonte Peak.
Lava Beds National Monument	Hippo Butte	45°–360°	Mount Shasta, Medicine Lake Highlands, Mount Dome, Clear Lake Hills, Warner Mountains, Sheepy Ridge.	Whitney Butte, Juniper Butte
Mesa Verde National Park	Far View Visitor	120°–220°	The Hogback, Shiprock, Lukachukai Mountains, Carrizo Mountains.	Park Point South, Wetherill Mesa Road
	Mancos Valley Overlook	335°–130°	Lone Cone, Dolores Peak, Mount Wilson, LaPlata Mountain, Mancos Valley, Menefee Mountain	Windy Point, Point Lookout, Park Point.
	Montezuma Valley Overlook	250°–345°	Sleeping Ute Mountains, Abajo Mountains, LaSal Mountains, Montezuma Valley.	Windy Point, Point Lookout, Moccasin Overlook, C Cut Overlook, Park Point, Wetherill Mesa Road
	Park Point North	250°–75°	Sleeping Ute Mountains, Abajo Mountains, LaSal Mountains, Lone Cone, Dolores Peak, Mount Wilson, LaPlata Mountains, Menefee Mountain	Wetherill Mesa Road, Moccasin Overlook, Montezuma Valley, Point Overlook.
	Park Point South	180°–270°	The Hogback, Shiprock, Lukachukai Mountains, Carrizo Mountains, Sleeping Ute Mountains.	Far View Visitor Center, Wtherill Mesa Road.
Mount McKinley National Park	Mile 15 (Primrose Pullout)	[illegible]	Mount Deborah, Alaska Range	Several points on Park Road, including mile 7, 9, 10 pullouts.
	Mile 62	160°–270°	Interior Lowlands	Several points on Park Road, including mile 73, 76, 78 pullouts
Mount Rainier National Park	Tolmie Lookout	210°–60°	Puget Sound, Cascade Crest, North Cascades, Olympic Mountains, Mount St. Helens, Mount Baker, Glacier Peak	Freemont, Lookout Sunrise Point
	Camp Muir	100 –230°	Mount Adams, Mount St. Helens, Tatoosh Range, Cowlitz Drainage, Goat Rock Wilderness.	Rockseeker Point, Pinnacle Peak, Backbone Ridge, Sunrise Point, Stevens and Box Canyons.
North Cascades National Park	Copper Ridge	235°–240°	Mount Baker, Mount Sefrit	Picket Range, Mount Redoubt.
		[illegible]	Silesia Creek	Mount Challenger.
	Sourdough Mountain	324°–226°	Skagit River	Colonial Peak, Pyramid Peak, Mount Prophet, Elephant Butte.
		15°–180°	Jack Mountain, Crater Mountain, Majestic Mountain, Golden Horn.	
	Cascade Pass/Sahale Arm	110°–260°	Mount Rainier, Mount Baker, Glacier Peak, Chickman Glacier.	Forbidden Peak, Eldorado Peak Magic Mountain, Mix-up Peak, Black Peak.
	Maple Pass	345°–190°	Mount Hardy, Tower Mountain, Whistler Mountain, Liberty Bell Mountain, Early Winter Spires, Gilbert Mountain.	Mount Benzatino, Goode Mountain, Black Peak, McGregor Mountain.
Olympic National Park	Deer Park	295°–115°	Strait of Juan de Fuca, Vancouver Island, San Juan Islands, Cascade Mountains.	Lookout Rock, Hurricane Ridge, Hurricane Hill
Pinnacles National Monument	High Peaks Trail	45°–170°	San Andreas Fault, Diablo Range	Chalone Peak
	Chalone Peak Trail	180°–310°	San Lucia Mountains, Ventana Wilderness, Salinas Valley	High Peaks.
Point Reyes National Seashore	Pablo Point	76°–290°	Bolinas Ridge, Bolinas Lagoon, Stinson Beach, Pacific Ocean, San Andreas Fault.	Mount Wittenberg, Mount Vision
	Mount Wittenberg	15°–75°	Soulajude Hills, Bolinas Ridge, Tomasihi Canyon, San Andreas Fault, Nicasio Hills, Black Mountains.	Mount Vision.
		85°–140°	San Francisco Hills, Mount Tamalpais, Bolinas Ridge, Olema Valley, San Andreas Fault, Fir Top, Bear Valley	
		145°–235°	Pacific Ocean, Point Reyes, Grassland	
		240°–298°	Drake's Beach, Drake's Estero, Pacific Ocean	
Redwood National Park	Hiouchi Flat	80°–120°	Smith River, Siskiyou Mountains, Old Growth Redwood Trees.	
	Crescent Beach	300°–360°	Pacific Ocean, Castle Rock	
	Requa	120°–330°	Klamath River, Pacific Ocean	
	Lady Bird Johnson Grove Overlook.	330°–10°	Pacific Ocean and Coastline, Redwood Forest	
	Redwood Creek	120°–140°	Redwood Forest Hillslopes	
Rocky Mountain National Park	Gore Range Overlook	201°–257°	Gore Range, Apiatan Mountain, Bowen Mountain	
	Medicine Bow Curve	314°–29°	Clark Peak, Snowy Range, Comanche Peak	
Saguaro National Monument	Rincon Peak	360°–0	Santa Teresa Mountains, Basset Peak, Mount Graham, Dos Cabezas Mountains, Mount Glenn, Hay Mountain, Miller Peak, Santa Rita Mountains, Baboquivari Peak, Kitt Peak, Mount Kimball, Mount Bigelow, Whetstone Mountains, Mule Mountains, Sierrita Mountains, Willcox Playa, Square Mountains, Galiuro Mountains, Chiricahua Mountains.	Happy Valley Lookout, Tanqueverde Peak

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Appendix 1.—*Integral Vistas Associated With Mandatory Class I Areas*—Continued

Park	Observation point	View angle	Key features	Also viewed from
	Happy Valley Lookout	300°-0°	Kennedy Peak, Mount Graham, Square Mountain, Little Dragoon Mountains, Mount Glenn, Whetstone Mountain, Reiley Peak, Dos Cabezas Mountain, Huachuca Mountains, Mule Mountains.	Rincon Peak, Tanqueverde Peak.
	Tanqueverde Peak	360°-0°	Whetstone Mountains, Patagonia Mountains, Santa Rita Mountains, Baboquivari Peak, Golden Gate Mountains, Mount Kimball, Mount Bigelow, Galiuro Mountains, Bassett Peak, Empire Mountains, Colossal Cave, Sierrita Mountains, Kitt Peak, Santa Catalina Mountains, Winchester Mountains.	Rincon Peak, Happy Valley Lookout.
	Wasson Peak	360°-0°	Tucson Basin, Altar, Altar Valley, Avra Valley, Aqua Caliente Peak, Keystone Peak, Baboquivari Peak, Sentinel Peak, Kitt Peak, Picacho Peak, Mount Bigelow.	
Sequoia, Kings Canyon National Park.	Moro Rock (Middle Fork of the Kaweah River).	160°-300°	Kaweah River Canyon, Sierra Foothills, San Joaquin Valley, Coast Range.	Alta Peak, Eleven Ranges View, Amphitheater Point.
	Sunset Rock (Marble Fork of the Kaweah).	200°-300°	Little Baldy, Pine Ridge, Marble Fork Canyon, San Joaquin Valley and Coast Range.	Little Baldy, Redwood Mountain View.
	Trail Crest, Mount Whitney Trail (Mount Whitney).	0°-360°	Inyo Mountains, White Mountains, Panamint Mountains, Spring Mountains, San Bernardino Mountains, Tehachapi Mountains, Coast Range, Mount Ritter.	
	Panoramic Point (Kings River Canyon).	350°-110°	Kings River Canyon, Tenmile Creek Canyon, Sierra Crest.	Sierra View.
	Kearsarge Pass (Central Owens Valley).	40°-170°	University Peak, Independence Peak, Northern Ridge, Independence Creek Canyon, Owens Valley, Inyo Mountains.	Forester Pass, Shepard Pass.
Shenandoah National Park	Hogwallow Flats Overlook	59°-190°	Piedmont Plateau	
	Pinnacles Overlook	129°-253°	Piedmont Plateau, Doubletop Mountain, Chapman Mountain.	
	Thorofare Mountain	30°-192°	Piedmont Plateau	
	South River Overlook	106°-160°	Piedmont Plateau	
	Left Mountain Overlook	109°-208°	Flat Top Mountain, Gibson Mountain, Rocky Bar Hollow.	
	Hogback Overlook	259°-90°	Gooney Run, Shenandoah Valley, Massanutten Mountains, Alleghenies, Shenandoah River.	
	Mooreman's River Overlook	37°-197°	Bucks Elbow Mountain, Piedmont Plateau, Charlottesville Reservoir, Pasture Fence Mountain, Mooreman's River.	
	Stony Man Summit	195°-90°	Massanuttan Mountains, Alleghenies, Shenandoah Valley Reservoir.	
	Calf Mountain Overlook	134°-76°	Shenandoah Valley, Alleghenies, Scott Mountain, Bear Den Mountain.	
	Crimora Lake Overlook	220°-13°	Crimora Lake, Shenandoah Valley, Alleghenies, Crimora Pond.	
	Two Mile Run Overlook	263°-65°	Shenandoah Valley, Alleghenies, End of Massanutten Mountain.	
	The Oaks Overlook	245°-354°	Shenandoah Valley, End of Massanutten Mountain, Alleghenies.	
	Tanner's Ridge Overlook	200°-18°	Shenandoah Valley, Massanutten Mountain, Alleghenies, Tanner's Ridge.	
	Spitler Knoll Overlook	239°-10°	Shenandoah Valley, Massanutten Mountain, Alleghenies.	
	Old Rag Summit	282°-201°	Weakly Hollow, Piedmont Plateau	
	Hawksbill Summit	290°-289°	Shenandoah Valley, Massanutten Mountain, Alleghenies, Piedmont Plateau.	
	Black Rock Summit	236°-106°	Long Ridge, Chapman Mountain, Massanutten Mountain, Alleghenies, Shenandoah Valley.	
Theodore Roosevelt National Park	Badlands Overlook	353°-7°	Badland Terrain	Johnson's Plateau, Painted Canyon, Ridgeline Nature Trail, Buck Hill.
	Bentonitic Clay	64°-94°	Killdeer Mountains, Long X Divide	Shelter Overlook.
	Boicourt—South	165°-248°	Bullion Butte, Square Butte	Buck Hill, Ridgeline Nature Trail, Johnson's Plateau.
	Boicourt—West	257°-296°	Camel's Hump, Twin Buttes	Ridgeline Nature Trail, Buck Hill.
	Buck Hill	0°-360°	Sentinel Butte, Square Butte, Camel Hump, Twin Buttes.	Painted Canyon, Ridgeline Nature Trail, Johnson's Plateau, Badlands Overlook, Boicourt Ridge.
	Elkhorn Ranch Site		View of surrounding river bluffs	
	Johnson's Plateau—North	358°-54°	North Dakota Badlands	Badlands Overlook, Ridgeline Nature Trail, Buck Hill, and Painted Canyon.
	Johnson's Plateau—South	117°-261°	DeMores Chateau, Bullion Butte, Square Butte, Sentinel Butte.	Buck Hill, Ridgeline Nature Trail, Boicourt Ridge.
	Little Missouri	78°-110°	Custer National Grassland Plateau	Shelter Overlook.
	Man and Grass	226°-14°	Stocke Butte, Little Missouri Grassland	
	Medora Overlook	149°-250°	Theodore Roosevelt's Maltese Cross Cabin, DeMores Chateau, Little Missouri Town Site.	
	Oxbow	65°-224°	Killdeer Mountains, Achenbach Hills, Sperati Point	
	Painted Canyon	303°-8°	Buck Hill, Little Missouri National Grassland	Ridgeline Nature Trail, Boicourt Ridge, Badlands Overlook.
	Ridgeline Nature Trail	0°-360°	Bullion Butte, Square Butte, Sentinel Butte, Camel's Hump, Twin Buttes.	Johnson's Plateau, Buck Hill, Painted Canyon Overlook, and Boicourt Ridge.

Appendix 1.—*Integral Vistas Associated With Mandatory Class I Areas—Continued*

Park	Observation point	View angle	Key features	Also viewed from
Virgin Islands National Park	Annaberg Overlook	22°-88°	Sir Francis Drake Channel, Tortola Island (BVI)	
	Coral Bay Overlook	106°-143°	Coral Harbor, Caribbean Sea Canal Bay Overlook	
	Cruz Bay Overlook	205°-244°	Gallows Point, St. James Island	
	Canal Bay Overlook	332°-12°	Durloe Keys, Little Tobago Island (BVI)	
	Konge Vey Overlook	338°-15°	Whistling Keys, Yost Van Dike Island	
	Ram Head Point	271°-310°	Reef Bay, St. Thomas Island	
	Maho Bay Overlook	12°-50°	Maho Bay, Mary's Point	
	Minnebeck Overlook	14°-93°	Sir Francis Drake Channel, Virgin Gorda Island (BVI).	
	Trunk Bay Overlook	358°-36°	Atlantic Ocean, Yost Van Dike Island (BVI)	
Wind Cave National Park	Gobbler Knob—East	63°-107°	Buffalo Gap, Buffalo Gap National Grassland	Pegmatite, Rankin Ridge, Lone Pine Point
	Gobbler Knob—North	346°-8°	Harney Peak, Black Hills National Forest	Rankin Ridge.
	Gobbler Knob—South	136°-202°	Battle Mountain, Seven Sister's Range, Pine Ridge, Nebr.	Rankin Ridge, Lone Pine Point.
	Lone Pine Point	160°-176°	Buffalo Gap	Gobbler Knob, Pegmatite, Rankin Ridge
	Pegmatite	110°-136°	Buffalo Gap, Pine Ridge, Northeast	Gobbler Knob, Rankin Ridge, Lone Pine Point
	Rankin Ridge—East-South	55°-202°	Buffalo Gap National Grasslands, Buffalo Gap, Battle Mountain, Seven Sisters Range.	Gobbler Knob.
	Rankin Ridge—Southeast	125°-151°	Buffalo Gap National Grassland, Buffalo Gap	Gobbler Knob, Pegmatite and Lone Pine Point
	Rankin Ridge—North	336°-4°	Harney Peak, Black Hills National Forest, The Needles, Custer State Park, Mount Coolidge.	Gobbler Knob.
	Rankin Ridge—South	166°-194°	Battle Mountain, Gobbler Knob, WICA, Seven Sisters Range, Pine Ridge, Nebr.	Lone Pine Point, Gobbler Knob.
	Lone Pine Point	190°-216°	Battle Mountain, Seven Sisters Range	Gobbler Knob, Rankin Ridge.
Yellowstone National Park	Mount Washburn	0°-360°	Grand Teton Range, Madison Range, Gallatin Range, Devil's Slide, Emmigrant Peak, Snowy/Emigrant Range, Granite Peak/Beartooth Mountains, Pilot Peak, Absaroka Range, Wind River Range, Gros Ventre Range.	
Yosemite National Park	Mount Dana	300°-200°	Mount Conness, Saddlebag Lake, Dunderburg Peak, Sweetwater Mountains, Mount Warren, Bodie Hills, Mount Grant, Negit Island (Penneula), Paoha Island, Mono Lake, White Mountain, Mono Craters, Glass Mountain, Granite Dnade, Mount Morrison, Parker Peak, Koip Peak Pass.	Mount Gibbs, Mount Lewis, Kuna Peak, White Mountain, Mount Conness.
	Wawona Point	230°-360°	Hogan Mountain and Chowchilla Mountains, Devil's Peak, South Fork of the Merced Canyon, Iron Mountain.	Along the Wawoka Road from paved turnouts
	Crane Flat Lookout	180°-360°	Signal Peak, Merced Canyon, Pilot Peak, Cherry Lake.	Along the Big Oak Flat Road.
Zion National Park	Service Road South of Visitor Center.	170°-230°	Eagle Crags, Smithsonian Butte	Visitor Center, Watchman Campground, South Campground, Main Road in South Zion Canyon
	Lava Point	30°-210°	Smith Mesa, North Guardian Angel, Mount Trumbull, Wildcat Canyon, West Temple, Kaibab Plateau, Clear Creek Mountain, Virgin River Narrows, Gogswell Point, Kolob Creek, Little Mountain.	West Rim Trail, Kolob Reservoir Road.
	Kolob Canyon Observation Area (Kolob Canyon Scenic Road).	140°-225°	Red Butte, Cougar Mountain, Smithsonian Butte, Smith Mesa.	Kolob Reservoir Road at Hop Valley Trailhead.
	Kolob Reservoir Road at Hop Valley Trailhead [1].	170°-340°	Red Butte, Pine Valley Mountains, Smith Mesa, Hurricane Mesa.	Kolob Canyon Observation Area, West Rim Trail.
	West Rim Trail at Great West Canyon Overlook.	255°-305°	Pine Valley Mountains, Smith Mesa	Several Points on West Rim Trail, Kolob Reservoir Road

Appendix 2.—*Outside to Inside Vistas Associated With Mandatory Class I Areas*

Park	Observation point	View angle	Key features	Also viewed from
Grand Teton National Park	Togwotee Overlook	250°-310°	Buck Mountain, Grand Teton, Mount Moran, Jackson Lake, Doane Peak.	Visitors approaching Park from east; also travelers on U.S. 26-287.
Great Sand Dunes National Park	Visitor Center	55°-346°	High Dune	
Great Smoky Mountain National Park.	Look Rock Observation Tower	160°-220°	Ridge along Tennessee-North Carolina boundary, Bunker Hill Lead, Pine Mountain.	Chilhowee Overlook.
	Overlook No. 14 on Foothills Parkway.	110°-220°	Ridge along Tennessee-North Carolina boundary, Rich Mountain.	Chilhowee Overlook.
	Cosby Section, Foothills Parkway.	130°-180°	Mount Cammerer, Cosby Knob	Several other overlooks along Foothills Parkway.

[1] Names of observation points are used only for reference purposes. The observation on points listed may be outside the class I area boundary by several yards.

[FR Doc. 81-1285 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-70-M

General Management Plan, Channel Islands National Park, Calif.

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the National Park Service has prepared a general management plan for the islands of San Miguel, Santa Barbara and Anacapa within Channel Islands National Park, California. After consideration of the alternatives and recommended actions presented in an evironmental assessment, a Finding of No Significant Impact was determined and an environment impact statement will not be prepared.

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Copies of the plan and Finding of No Significant Impact are available at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102
Channel Islands National Park, 1699 Anchors Way Drive, Ventura, CA 94003
Los Angeles Field Office, National Park Service, 300 North Los Angeles Street, Room 1013, Los Angeles, CA 90013

The Finding of No Significant Impact follows this notice.

Dated: December 22, 1980.

Bruce M. Kilgore,

Associate Regional Director, Resource Management and Planning.

Dated: December 23, 1980.

Howard H. Chapman,

Regional Director, Western Regional Office.

Channel Islands National Park, California—Visitors Use, Interpretation, and General Development Plan

Finding of No Significant Impact

In accordance with the provision of the National Environmental Policy Act and the regulations of the Council of Environmental Quality published in the **Federal Register** of November 29, 1978, an environmental assessment on the Visitors Use, Interpretation and General Development plan for Channel Islands National Monument was prepared. The assessment presented alternatives and their impacts for visitor use, interpretation, and general development. Subsequently, the monument became Channel Island National Park and with the change of status gained two additional islands, Santa Cruz and Santa Rosa. The environmental assessment addressed only the three islands, Anacapa, San Miquel and Santa Barbara, under management by the National Park Service as a monument. The chosen general management plan will be superseded in approximately three years time by a new plan that will include the additional islands.

Proposals for the general management of Anacapa, Santa Barbara, and San Miquel Islands were presented in an environmental assessment which was distributed for public review in June 1979. The plan contains the park's purpose and management objectives. These are described through interrelated proposals for interpretation, visitor use, general development and resource management. A detailed resource management plan has been prepared which includes more site specific strategies. The proposals or alternatives were developed from a series of public meetings held in 1978 and from extensive consultation with the scientific community, Native Americans, and the general public. Of the alternatives presented, the "Primitive Experience" alternative was environmentally preferred by a slight margin, primarily because of lower levels of development than in the "Structured Experience" and even the "Status Quo" or no action alternatives. Because the alternatives were based on extensive resource inventories and resource preservation objectives, the potential for significant effects on the human environment was extremely low and did not vary significantly among the alternatives. The chosen plan is based on public comment, cost effectiveness, and potential environmental consequences.

The plan primarily consists of actions considered under the "Primitive Experience" and "Status Quo" alternatives. Under the plan the number of existing or previously approved facilities will be reduced. One campground will eventually be removed and the number of projected wayside exhibits will be reduced. Emphasis will be placed on personal contact by National Park Service personnel both on land and water. Some trails may be relocated out of sensitive areas but new formal trails will not be constructed; existing restrictions on visitor use of San Miquel Island and portions of other islands will remain in effect, and the capacity of campgrounds and the number of visitors permitted on the islands at one time will be slightly reduced. Barrier free programs will be made available to disabled visitors at alternative locations where the site itself cannot be made accessible. Major safety improvements, as proposed in the "Structured Experience" alternative, will not be made so the visitor will experience the islands in as natural a state as possible.

The environmental assessment received extensive public and agency review. Consultations were conducted with the U.S. Fish and Wildlife Service, State Historic Preservation Officer and the Advisory Council on Historic Preservation, and the California Coastal Commission. These Consultations indicated that the plan presented no jeopardy to endangered species or cultural resources, and is consistent with coastal zone management. However, as specific projects are implemented further consultations may be required. Procedures for future consultations are being refined as part of the continuing cooperative efforts of the National Park Service and other agencies. Comments were generally favorable and addressed technical corrections which have been made in the final plan. As a result of the consultations and review of comments received, it is believed that no substantial controversies exist and that the plan does not have the potential to cause significant adverse impacts on the quality of the human environment. The plan does suggest further studies which could lead to significant actions. Some of these actions may require further consultation and environmental documentation before implementation. Therefore, based on these reviews, an environmental impact statement will not be prepared.

Dated: August 22, 1980.

Approved:

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 81-1452 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-70-M

Natural and Cultural Resource Management Plan, Channel Islands National Park, Calif.

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the National Park Service has prepared a natural and cultural resource management plan for the islands of San Miguel, Santa Barbara and Anacapa within Channel Islands National Park, California. After consideration of the alternatives and recommended actions presented in an environmental assessment, A Finding of No Significant Impact was determined and an environmental impact statement will not be prepared.

Copies of the plan and Finding of No Significant Impact are available at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102
Channel Islands National Park, 1699 Anchors Way Drive, Ventura, CA 94003

Los Angeles Field Office, National Park Service, 300 North Los Angeles Street, Room 1013, Los Angeles, CA 90012

The Finding of No Significant Impact follows this notice.

Dated: December 22, 1980.

Bruce M. Kilgore,
Associate Regional Director, Resource Management and Planning.

Dated: December 23, 1980.

Howard H. Chapman,
Regional Director, Western Regional Office.

Channel Islands National Park, California—Natural and Cultural Resource Management Plan

Finding of No Significant Impact

In accordance with the provisions of the National Environmental Policy Act and regulations of the Council of Environmental Quality published in the **Federal Register** of November 29, 1978, and environmental assessment on the draft natural and cultural resource management plan for Channel Islands National Monument was prepared. Subsequently, the monument became Channel Islands National Park and with the change of status gained two additional islands, Santa Cruz and Santa Rosa. The environmental assessment addresses only the three islands, Anacapa, San Miguel and Santa Barbara, previously managed by the National Park Service as a monument. The proposed management plan will be superseded in approximately three years by a new plan that will include the additional islands.

The draft natural and cultural resource management plan and environmental assessment was released for public review in February, 1980. Proposals for the resource management on Anacapa, San Miguel, and Santa Barbara discuss cultural and natural resources and deal primarily with currently identified problems as well as proposals for study and research. General objectives of the plan are to restore and maintain natural terrestrial, intertidal, marine, and atmospheric excosystems as they may operate essentially unimpaired. Also, the plan proposes methods to preserve, maintain, and protect significant prehistoric and historic cultural resources. Resource management proposals are designed to minimize the effect of non-native species on island resources and to assure continuation of suitable environments for sensitive native flora and fauna. National Park Service has sponsored research since establishment of the monument which provides baseline information for the plan.

The environmental assessment received extensive public and agency review. Consultations were conducted with local, state, and Federal agencies. As the draft plan deals primarily with research actions, it also was reviewed by universities and museums. Comments were generally favorable. The proposed actions present no jeopardy to endangered species, however, there will be ongoing consultations with U.S. Fish and Wildlife Service as called for by the Endangered Species Act. The plan has the potential for adverse effects on archeological resources, therefore further documentation will be necessary before implementation of various projects. Procedures for future consultations are being refined as part of the continuing cooperative efforts of the National Park Service and other agencies. Adequacy of the assessment was questioned by two organizations in response to proposed methods for eradicating feral rabbits on Santa Barbara Island; as a result further documentation and research will be done before the implementation of the feral rabbit management program.

Since it appears that the proposed actions will not have significant environmental impacts on the quality of the human environment, an environmental impact statement will not be prepared. The Natural and Cultural Resources Management Plan is approved with the stipulation that further consultations are to be carried out before initiating actions with potential for adverse effects.

Dated: August 22, 1980.

Approved:

Howard H. Chapman,
Regional Director, Western Region.

[FR Doc. 81-1451 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-70-M

Availability of Plan of Operations for the Purpose of Oil Drilling; Big Cypress National Preserve

Notice is hereby given pursuant to Sec. 9.52(b) of Title 36 of the Code of Federal Regulations of the availability for comment and review of a Plan of Operations submitted by Bass Enterprises Production Company for the purpose of oil drilling in the Big Cypress National Preserve. Copies of the Plan of Operations are available for review during normal business hours at Everglades National Park Headquarters, Route 27, 12 miles south of Homestead, Florida; at Big Cypress National Preserve, 850 Central Avenue, Room 300, Naples, Florida; and the National Park Service, Southeast Region, 75 Spring Street, S.W., Atlanta, Georgia. Comments should be received within 30 days after publication of this notice. For further information contact Pat Tolle, Management Assistant, Everglades National Park, (305) 247-6211.

Dated: January 7, 1981.

C. W. Ogle,
Regional Director, Southeast Region.

[FR Doc. 81-1453 Filed 1-14-81; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

Order of Succession

Pursuant to the authority vested in me by Section 5 of Reorganization Plan No. 2 of 1977, I hereby authorize and direct the following named officials of the International Communication Agency in the order of precedence designated below, to act for and perform the functions of the Director of the Agency in case of the death, resignation, sickness or absence of both the Director and the Deputy Director:

1. Mary G. F. Bitterman, Associate Director for Broadcasting.
2. John W. Shirley, Associate Director for Programs.
3. Alice S. Ilchman, Associate Director for Educational and Cultural Affairs.

If an Associate Director designated to serve as Acting Director hereunder refuses to do so or for any reason is otherwise incapable of serving, the Associate Director next qualified to serve as Acting Director shall be deemed to have succeeded by order of precedence to the Office of Acting Director.

This Order shall remain in effect unless and until modified or rescinded in writing by the Director or until the above-named Associated Directors have all left office.

Dated: January 12, 1981.

John E. Reinhardt,
Director, International Communication Agency.

[FR Doc. 81-1541 Filed 1-14-81; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under

49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 2, 1981 (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involved new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before March 16, 1981, an applicant may file a verified statement in rebuttal to any statment in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construd as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-145

Decided: December 31, 1980.

By the Commission Review Board No. 2, Members Chandler, Eaton and Liberman. (Member Chandler not participating.)

MC 1753 (Sub-7F), filed December 8, 1980. Applicant: RENZ TRUCK LINES, INC., 4 Midwest Drive, Pacific, MO 63069. Representative: Charles A. Price (same as applicant). Transporting *boxes and cartons, and materials, equipment and supplies* used in the manufacture and distribution of boxes and cartons, between the facilities of Alton Box Board Co., at or near Pacific, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 8973 (Sub-78F), filed December 16, 1980. Applicant: METROPOLITAN TRUCKING, INC., 75 Broad Ave. Fairview, NJ 07022. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr. Gaithersburg, MD 20760. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., restricted to traffic originating at or destined to the facilities of Hercules, Inc.

MC 60603 (Sub-3F), filed December 16, 1980. Applicant: THE A. WIRTZ TRANSFER COMPANY, 3660 Dixie Highway, Hamilton, OH 45014. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Butler, Hamilton, and Warren Counties, OH, on one hand, and, on the other, points in the U.S.

MC 111812 (Sub-750F), filed December 16, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting (1) T3such commodities T1as are dealt in by retail discount stores (except commodities in bulk); and (2) T3materials, equipment, and supplies T1used in the manufacture and distribution of the commodities in (1) above, between the facilities of Spearhead Industries, Inc., at or near (a) Mankato and Minneapolis, MN, and (b) San Leandro, CA, on the one hand, and, on the other, points in the U.S.

MC 111812 (Sub-751F), filed December 16, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting (1) T3confectionery, T1(except in bulk); from Idaho Falls, ID, to points in the U.S., and (2) T3materials, equipment, and supplies T1used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 135152 (Sub-47F), filed December 16, 1980. Applicant: CASKET DISTRIBUTORS, INC., R. R. Route No. 2, Box 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Building, 524 Walnut Street, Cincinnati, OH 45202. Transporting T3such commodities T1as are dealt in or used by grocery and department stores, between St. Louis, MO, on the one hand, and, on the other, those points in the U.S. east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 139482 (Sub-186F), filed December 15, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting T3bakery products and supplies, T1between Chicago, IL, on the one hand, and, on the other, Minneapolis, MN, and points in Kent and Tucola Counties, MI, Stark County, OH, and Hillsborough, Orange, and, Marion Counties, FL.

MC 146282 (Sub-3F), filed December 16, 1980. Applicant: BILL HEAD TRUCKING, INC., P.O. Box 9632, Birmingham, AL 35215. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35222. Transporting T3such commodities T1as are dealt in by retail grocery stores, between Mobile, AL, and Gulfport, MS, on the one hand, and, on the other, Knoxville, TN.

MC 146753 (Sub-13F), filed September 23, 1980. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pharmaceuticals and toilet articles, between points in Allegan County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Vol. No. OP2-146

Decided: December 31, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman. (Member Chandler not participating.)

MC 3753 (Sub-29F), filed December 10, 1980. Applicant: AAA TRUCKING CORP., 1630 Quaker Bridge Road, P.O. Box 8042. Representative: Zoe Ann Pace, Esq., Suite 2373, One World Trade Center, New York, NY 10048. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Scranton, PA and Binghampton, NY, over Interstate Hwy 81, serving all intermediate points, and serving off route points in Broome, Chemung, Cortland, Tioga and Tompkins Counties, NY.

MC 16513 (Sub-22F), filed December 15, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, DE, MA, MD, NJ, NY, PA, RI and DC.

MC 69742 (Sub-5F), filed December 16, 1980. Applicant: CORDIN MOTOR FREIGHT, INC., 7736 West 62nd Place, Summit, IL 60501. Representative: Stephen H. Leob, 33 N. LaSalle Street, Chicago, IL 60602. Transporting *iron and steel articles, and materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, from Chicago, IL, to points in IN, IA, KY, MN, MO, NE, TN, and WI.

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 108223 (Sub-38F), filed December 19, 1980. Applicant: CENTURY-MERCURY MOTOR FREIGHT, INC., 2160 Mustang Dr., P.O. Box 43050, St. Paul, MN 55164. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. Over regular routes transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives): (1) between Davenport, IA and St. Louis, MO, from Davenport over Interstate Hwy 80 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction IL Hwy 121, then over IL Hwy 121 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, MO, and return over the same route; (2) between Chicago, IL and St. Louis, MO, over Interstate Hwy 55; (3) between Chicago, IL and Cleveland, OH, over U.S Hwy 20, serving points in Cuyahoga, Lorain, Lucas, Medina and Summit Counties, OH, as off-route points; (4) between Chicago, IL and Cleveland, OH, from Chicago over Interstate Hwy 94 to junction IN Hwy 49, then over IN Hwy 49 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction OH Hwy 53, then over OH Hwy 53 to junction Interstate Hwys 80 and 90, then over Interstate Hwys 80 and 90 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Cleveland, and return over the same route, serving points in Cuyahoga, Lorain, Lucas, Medina and Summit Counties, OH as off-route points; and (5) serving all intermediate points on routes (1) through (4) above. Applicant intends to tack the above rights with its existing regular-route authority.

MC 118803 (Sub-24F), filed December 10, 1980. Applicant: ATLANTIC TRUCK LINES, INC. 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of plant growing mediums (except commodities in bulk), between points in the U.S., under continuing contract(s) with Pro-Gro Products, Inc., of Elizabeth City, NC.

MC 120092 (Sub-6F), filed December 9, 1980. Applicant: JENNEY FREIGHT LINE, INC., 1224 N. Main Ave., Tucson, AZ 85705. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Willcox, AZ and El Paso, TX, over Interstate Hwy 10, serving all intermediate points, (2) between Douglas, AZ and junction Interstate Hwy 10 and U.S. Hwy 80, over U.S. Hwy 80, serving no intermediate points, but serving Playas and Animas, NM as off-route points, (3) between junction Interstate Hwy 10 and U.S. Hwy 666 and Morenci, AZ, over U.S. Hwy 666, serving all intermediate points and serving the facilities of Phelps Dodge Corp., at or near Safford, AZ as an off-route point, and (4) between Safford, AZ and Lordsburg, NM, over U.S. Hwy 70, serving no intermediate points.

MC 136553 (Sub-103F), filed December 16, 1980. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *general commodities* (except classes A and B explosives), between points in Cedar, Clinton, Jackson, Jones, Linn, Dubuque, Delaware, Scott, Buchanan, Clayton, Fayette, Allamakee and Winneshiek Counties, IA, Jo Daviess, Stephenson, Carroll, Whiteside and Rock Island Counties, IL and Grant, Lafayette, Green, Iowa, Crawford and Richland Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 144303 (Sub-25F), filed December 15, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th Street NW., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Clevepak, of White Plains, NY.

MC 153173F, filed December 15, 1980. Applicant: ELMER R. DYKES, JR., d.b.a. D & D TRUCKING, Route 4, Miley Avenue, Box 30, Cynthiana, KY 41031. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *(1) plastic foam and plastic foam products, and (2) materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above between Lexington, KY, on the one hand, and, on the other, points in the U.S. (except AL and HI)

MC 153202F, filed December 15, 1980. Applicant: SEA TRANSPORT, INC., 2455 SW 12th St., Miami, FL 33135. Representative: Richard B. Sustin, 320 Rochester Building, 8390 NW 53rd St., Miami, FL 33166. Transporting *trailers*, between those points in FL in and south of Jefferson, Madison, Hamilton, Lake, and Nassau Counties, FL, restricted to traffic having an immediately prior or subsequent movement by water.

MC 153203F, filed December 16, 1980. Applicant: MICHAEL RAASCH, Post Office Box 5, Chokio, MN 56221. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting (1) (a) *gravel processing equipment, conveyors, and conveyor idlers* (b) *parts* for the commodities in (1) above, from points in Stevens County, MN, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction.

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Decided: January 2, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman. (Member Liberman not participating.)

V46/10 JA15 81 UMI

MC 3753 (Sub-31F), filed December 22, 1980. Applicant: AAA TRUCKING CORP., 3630 Quaker Bridge Road, P.O. Box 8042, Trenton, NJ 08650. Representative: Zoe Ann Pace, Suite 2373, One World Trade Center, New York, NY 10048. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Washington, DC, and Hagerstown, MD, from Washington over Interstate Hwy 495 to junction Interstate Hwy 270, then over Interstate Hwy 270 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Hagerstown, and return over the same route, (2) between Washington, DC, and Baltimore, MD, over Interstate Hwy 95, and (3) between Washington, DC, and Dover, DE, from Washington over U.S. Hwy 50 to junction MD Hwy 404, then over MD Hwy 404 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Dover, and return over the same route, serving all intermediate points and points in MD and DE as off-route points connection with the routes in (1), (2), and (3) above.

MC 56082 (Sub-80F), filed December 24, 1980. Applicant: DAVIS & RANDALL, INC., 52 E. Main Street, Fredonia, NY 14063. Representative: Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., restricted to traffic originating at or destined to the facilities of Hammermill Paper Company, Inc.

MC 58923 (Sub-63F), filed December 24, 1980. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road SE., Atlanta, GA 30315. Representative: Fritz R. Kahn, Suite 1100, 1660 L St. NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in St. Charles County, MO, on the one hand, and, on the other, points in the U.S.

Note.—Applicant indicates intention to tack with existing authority.

MC 77972 (Sub-37F), filed December 18, 1980. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, MS 38652. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting (1) *electrical amplification systems*, and, (2) component parts and *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), between points in Lauderdale and Scott Counties, MN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MO, NC, SC, TN, and TX.

MC 107403 (Sub-1344F), filed December 22, 1980. Applicant: MATLACK, INC., 10 W Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). Transporting *general commodities*, between points in Fayette County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) between points in Multnomah County, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) between points in Richland County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—To the extent this certificate authorizes the transportation of classes A and B explosives, it shall be limited in term to a period expiring 5 years from its date of issuance.

MC 111432 (Sub-11F), filed December 9, 1980. Applicant: FRANK J. SIBR & SONS, INC., 5240 West 123rd PL, Alsip, IL 60658. Representative: Douglas G. Brown, The INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *petroleum and petroleum products*, between points in the U.S., under continuing contract(s) with Smith Oil Company, of Kankakee, IL.

MC 124373 (Sub-21F), filed December 29, 1980. Applicant: NELMAR TRUCKING CO., a corporation, 273 Paterson Ave., East Rutherford, NJ 07073. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *household appliances*, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above, between points in the U.S., under continuing contract(s) with General Electric Co., of Columbia, MD.

MC 126313 (Sub-8F), filed December 18, 1980. Applicant: CHO–BO, INC., P.O. Box 38, Route Kennedy, St. Georges (Beauce County), Quebec, Canada G5Y 5CO. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting (1) *Sulphite and wood pulp*, from ports of entry on the international boundary line between United States and Canada at points in ME, to points in MA, CT, RI, NY, NJ, and PA; (2) *paper*, from ports of entry on the international boundary line between United States and Canada, at points in ME, to points in ME, NH, VT, MA, CT, RI, NY, NJ, and PA; (3) *waste paper*, from points in ME, NH, VT, MA, CT, RI, NY, NJ, and PA, to ports of entry on the international boundary line between United States and Canada at points in ME; and (4) *lumber*, from points in ME, NH, and VT, to ports of entry on the international boundary line between United States and Canada at points in ME.

MC 14773 (Sub-17F), filed December 8, 1980. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contrast(s) with Aesthetic Specialties, Inc., of San Mateo, CA.

MC 144682 (Sub-50F), filed December 12, 1980. Applicant: R.R. STANLY, 1783 Empire Central, Dallas, TX 75235. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX. 75245. Transporting *foodstuffs* (except in bulk), between points in Solano County, CA. on the one hand, and on the other, points in the U.S.

MC 146782 (Sub-36F), filed December 18, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, TN 37201. Transporting (1) *Iron and steel articles, wire products, fencing and fencing materials*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), between points in Crawford County, AR, on the one hand, and, on the other, points in and east of MN, IA, MO, AR and TX.

MC 150332 (Sub-2F), filed December 24, 1980. Applicant: SUNBURY TRANSPORT LIMITED, a corporation, P.O. Box 3217, Stn. B, Cliff Street, Fredericton, N.B. Canada, E3A 5G9. Representative: Fritz R. Kahn, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Transporting *lumber and wood products, (except furniture,)* between points in the U.S. under continuing contract(s) with Rossco Forest Products, Inc./Ltd., of South Burlington, VT, in foreign commerce.

MC 151622 (Sub-1F), filed December 15, 1980. Applicant: SERVICE TRUCKING, INC., P.O. Box 158, Eustis, FL 32726. Representative: Gene Baugh (same address as applicant). Transporting *food and related products*, between points in the U.S. (except AK and Hi).

MC 151753 (Sub-2F), filed December 16, 1980. Applicant: M.W. CYCLE HAULER, INC. 11909 Santa Fe Dr, Lenexa, KS. 66215. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Ste 110L, Topeka, KS 66612. Transporting *PLASTIC FOOD CONTAINERS* and LIDS, Between Kansas City, KS and points in the U.S. (except AK and HI).

MC 152682 (Sub-1F), filed December 16, 1980. Applicant: THOUSAND TRAILS, INC., 4800 S. 188th Way, Seattle, WA 98188. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting *passengers and their baggage* in special and charter round trip operations, between points in WA, on the one hand, and, on the other, points in the U.S., (except HI.)

MC 153123F, filed December 11, 1980. Applicant: W. P. JOHNSON, d.b.a. W. P. JOHNSON EQUIPMENT AND MATERIALS, Star Route 24E (Bedford County), Vinton, VA 24179. Representative: David Earl Tinker, 1000 Connecticut Ave, N.W., Suite 1200, Washington, D.C. 20036. Transporting *construction, mining, industrial, electrical, and agricultural machinery and equipment,* between points in the U.S.

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Decided: January 9, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 109326 (Sub-115F), filed December 19, 1980. Applicant: C&D TRANSPORTATION CO., INC., P.O. Box 10506, New Orleans, LA 70121. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from New Orleans, LA, to points in AL, LA, MS, and TX.

MC 126736 (Sub-139F), filed December 30, 1980. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Transporting (1) *lime,* from points in Shelby County, AL, to Tampa, Indiantown, and Baldwin, FL, (2) *ethanol,* in bulk, from Charleston and North Augusta, SC, Savannah, GA, and Jacksonville, FL, to points in AL, FL, GA, NC, SC, and VA, and (3) *petroleum products,* in bulk, (a) from points in Bay County, FL, to points in NC, SC, and GA, and (b) from points in GA, to points in AL, FL, NC, and SC.

MC 145916 (Sub-2F), filed December 24, 1980. Applicant: ZEEL G. HENDERSON, d.b.a. THE SPA HAULER, 1283 High St., Auburn, CA 95603. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *spas and hot tubs,* and *materials and supplies* used in the manufacture and distribution of spas and hot tubs, between points in the U.S. (except AK and HI.)

MC 146646 (Sub-138F), filed December 24, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transportating *general commodites* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Oklahoma County, OK, on the one hand, and, on the other, points in the U.S. (excpet AK and HI.)

MC 151746 (Sub-3F), filed December 24, 1980. Applicant: ORANGE DISTRIBUTION SERVICES, INC., P.O. Box 2277, Short Beach, CT 06405. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. Transporting (1) *aircraft parts,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of aircraft parts, between points in Fairfield County, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI.).

MC 153407F, filed December 22, 1980. Applicant: NATIONAL TRANSIT LEASING CORPORATION, 2751 South Chase Ave., Milwaukee, WI 53207. Representative: Thomas G. Schober, 15525 W. National Ave., P.O. Box 65, New Berlin, WI 53151. Transporting *weldments castings, bar stock, and component assemply parts* used in the manufacture of machine centers and machine tools, between points in the U.S., under continuing contract(s) with Kearney & Trecker Corporation, of Milwaukee, WI.

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Decided: January 9, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce,and Jones.

MC 96396 (Sub-4F), filed December 30, 1980. Applicant: TOWER BUS, INC., 363 No. Gratiot, Mount Clemens, MI 48043. Representative: Robert D. Schuler, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. Over regular routes, transporting *passengers and their baggage and express and newspapers* in the same vehicle with passengers, Between Mt. Clemens and Lansing, MI: From Mt. Clemens over MI Hwy 59 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Interstate Hwy 496, then over Interstate Hwy 496 to Lansing, and return over the same route, serving all intermediate points.

MC 127346 (Sub-9F), filed December 19, 1980. Applicant: HALL'S FAST MOTOR FREIGHT, INC., 330 Oak Tree Ave., South Plainfield, NJ 07080. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, AR, CA, CT, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, NH, MO, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI, and DC.

MC 143776 (Sub-14F), filed December 19, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *insulation,* from Fontana, CA, Peublo, CO, Belton, TX, Cameron, MO, and Alexanderia, IN to points in the U.S.

MC 144906 (Sub-1F), filed December 19, 1980. Applicant: NORTH OPERATING COMPANY, a corporation, 39 Little Brook Rd., Springfield, NJ 07081. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *automotive parts and accessories,* between points in the U.S., under continuing contract(s) with Frank Millman Distributors, Inc., of Edison, NJ.

MC 145566 (Sub-13F), filed December 31, 1980. Applicant: TERRY W. KULTGEN AND NORMAN W. KULTGEN, d.b.a. B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting (1) *commodities* the transportation of which, because of size or weight, requires the use of special equipment, (2) *commodities* the transportation of which, because of size or weight, does not require the use of special equipment when transported in mixed loads with the commodities in (1) above, (3) *self-propelled vehicles* weighing more than 15,000 pounds each, (4) *iron and steel articles,* and (5) *materials and supplies* used in the manufacture and distribution of the commodities in (1) through (4) above, between points in WI, on the one hand, and, on the other, points in the U.S.

MC 149026 (Sub-19F), filed December 30, 1980. Applicant: TRANS-STATES LINES, INC., 6[illegible]3 Main St., Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between San Antonio, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) (a) *building materials,* (b) *lumber and wood products,* and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a) and (b) above, between Austin, TX and Lebanon, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152216 (Sub-1F), filed December 30, 1980. Applicant: GILBERT TRUCK LINES, INC., 5005 So. Braun St., Morrison, CO 80465. Representative: Jack B. Wolfe, 350 Capitol Life Center, Denver, CO 80203. Transporting *vegetable oils and vegetable meals and byproducts,* between points in the U.S., under continuing contract(s) with Cargill, Inc., of Minneapolis, MN.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1378 Filed 1-14-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-No. 30F)]

Chesapeake and Ohio Railway Company; Abandonment Between Maiden and Hy Tower, IN, and Discontinuance of Service Over Erie-Lackawanna Railway at Griffith, IN; Correction

The above captioned proceeding published at 45 FR 83336 on December 18, 1980, should be disregarded. This document was prematurely published, as appeals to the decision served November 18, 1980, were timely filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1377 Filed 1-14-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 13)]

Seaboard Coast Line Railroad Co.; Abandonment Between Arcadia and Port Boca Grande (in DeSoto, Sarasota, Charlotte, and Lee Counties, FL); Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided December 23, 1980, a finding, which is administratively final, was made by the Commission stating that the public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of its rail line between Arcadia, FL, and Port Boca Grande, FL, extending from milepost SVC-885.47 to SVC-932.34, a total distance of 46.87 miles, all located in De Soto, Sarasota, Charlotte, and Lee Counties, FL, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. CO. Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, on February 17, 1981, unless on or before January 30, 1981, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of the notice; and

(2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no latter than 50 days after notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980. Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-reference decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-1370 Filed 1-14-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 2)]

Seaboard Coast Line Railroad Co. and Atchison, Topeka and Santa Fe Railway Co. Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemptions.

SUMMARY: Subject to the prior written acceptance by Seaboard Coast Line Railroad Company and Atchison, Topeka and Santa Fe Railway Company of specified conditions, they are granted provisional exemptions under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and may file certain contract tariffs on one day's notice. These exemptions may be revoked if protests are filed on or before January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275-7693 or Richard Schiefelbein, (202) 275-0826.

SUPPLEMENTARY INFORMATION: Petitions were filed by the Seaboard Coast Line Railroad Company (SCL) and the Atchison, Topeka and Santa Fe Railway Company (Santa Fe) to exempt SCL Contract Tariff ICC-SCL-C-0003 and an undesignated Santa Fe contract from the statutory requirement of 49 U.S.C. 10713(e) that contracts shall be effective on not less than 30 nor more than 60 days notice. SCL and Santa Fe request this exemption under 49 U.S.C. 10505 in order to advance the effective date of their contracts and tariffs to January 5, 1981 on one day's notice. The SCL tariff provides for special equipment mileage allowances and charges on multi-level flat cars. It is meant to compensate the shipper for benefits in reducing empty mileage. The Santa Fe contract covers payments regarding utilization of multi-level auto rack cars assigned to General Motors Corporation service.

SCL claims that no protests are expected. Moreover, a mileage allowance in consideration of a reduction of empty miles in assigned cars should not impair SCL's common carrier obligation to provide service to other shippers and should enhance service by encouraging conservation of carrier resources. Finally, a January 5, 1981 effective date would simplify the annual and monthly accounting under the tariff. Santa Fe makes similar claims. These are admittedly unusual situations. The petitions for exemption shall be granted in part. Because of the lateness (December 30, 1980) in filing the petitions, the January 5, 1981 date cannot be met. SCL and Santa Fe shall be given a provisional exemption, provided that they file with the Commission, prior to or simultaneously with the filing of their contracts, their written acceptance of, and agreement to be bound by, the following condition:

If the Commission permits the contracts to become effective on one day's notice, this fact neither shall be construed to mean that these are Commission approved contracts for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review these contracts and to disapprove the contracts during the periods specified in 49 U.S.C. 10713.

Thus, subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessasry to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Furthermore, we shall consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed on or before January 30, 1981.

This action will not significantly effect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: January 6, 1981.

By the Commission, Division 1, Commissioners Clapp, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-1375 Filed 1-14-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment; United States v. Cuisinarts, Inc., and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that on December 19, 1980 a proposed Final Judgment and a Competitive Impact Statement ("CIS") as set out below have been filed with the United States District Court for the District of Connecticut in *United States v. Cuisinarts, Inc.,* Civil Action No. H80–559. The Complaint in this case alleges that Cuisinarts violated the Sherman Act by engaging in a conspiracy to fix the retail prices of Cuisinart food processors in the United States.

The proposed Judgment enjoins the defendant from engaging in or renewing any of the alleged illegal conduct and requires the defendant to refrain from penalizing its retail dealers in any way for discounting or transshipping its food processors or requiring them to sell its food processors at any particular price. Also, the defendant is enjoined from publishing suggested retail prices at all for one year.

The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the complaint.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Jane C. Luxton, Attorney, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: December 24, 1980.

Joseph H. Widmar,

Director of Operations.

U.S. District Court for the District of Connecticut

United States of America, Plaintiff, v. *Cuisinarts, Inc.,* Defendant.

Civil Action No. H80–559.

Filed: December 19, 1980.

Stipulation

It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. The parties consent that a Final Judgment, in the form attached to this Stipulation, may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h)), without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of it shall be without prejudice to any party in this or any other proceeding.

For the Plaintiff: Sanford M. Litvack, *Assistant Attorney General;* Joseph H. Widmar, *Director of Operations;* Charles S. Stark, Carl A. Cira, *Attorneys, Department of Justice.* Jane C. Luxton, Kevin R. Sullivan, Anna Swerdel, Leslie A. Sussan, *Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530, Telephone: (202) 633–4754.*

For the Defendant: Milton L. Jacobson, Brown, Jacobson, Jewett and Laudone, P.C., 22 Shetucket Street, Norwich, Connecticut 06360, (202) 889–3321; Arthur M. Handler, Golenbock and Barell, 645 Fifth Avenue, New York, New York 10022, (212) 935–9800; Abe Krash, Arnold & Porter, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036, (202) 872–6700.

United States District Court for the District of Connecticut

United States of America, Plaintiff, v. *Cuisinarts, Inc.,* Defendant.

Civil Action No. H80–559.

Filed: December 19, 1980.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on September 17, 1980, and plaintiff and defendant, Cuisinarts, Inc., by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and the parties hereto. The complaint states a claim upon which relief may be granted against defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment: "Food processor" means and electric appliance for use in home kitchens, that combines in a single unit the functions, among others, of shredding, chopping, slicing, and grating food.

III

This Final Judgment applies to the defendant and to each of its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, plan or program with any distributor, sales representative, retail dealer or other person to:

(A) Fix, stabilize, or maintain the prices, margins, or mark-ups at which food processors sold or distributed by defendant may be sold or offered for sale by any retail dealer; or

(B) Limit or restrict the persons to whom food processors sold or distributed by defendant may be sold by any retail dealer.

V

Defendant is enjoined and restrained from reducing, suspending, terminating, or threatening to reduce, suspend, or terminate shipments of food processors sold or distributed by defendant to any retail dealer, or from penalizing or threatening to penalize in any other way any such dealer, because of:

(A) The prices, margins, or mark-ups at which such dealer has sold, offered for sale, or communicated an intention to sell food processors sold or distributed by defendant; or

(B) The persons to whom such dealer has sold, offered for sale, or communicated and intention to sell food processors sold or distributed by defendant.

VI

Defendant is enjoined and restrained from requiring or attempting to require, as a condition of sale or in any other way, any retail dealer to maintain, establish, modify, or advertise any price, margin, or mark-up at which food processors sold or distributed by defendant are sold or offered for sale.

VII

(A) For a period of one year beginning on the date of entry of this Final Judgment, defendant is enjoined and restrained from suggesting retail prices, margins, or mark-ups for food processors sold or distributed by defendant and sold by retail dealers, and from publishing, disseminating, or communicating any such suggested retail prices, margins, or mark-ups; and

(B) If suggested retail prices, margins, or mark-ups for food processors are published, disseminated, or communicated after the end of the one-year period referred to in the preceding subparagraph, every such publication, dissemination, or communication including or referring to such suggested retail prices, margins, or mark-ups shall clearly and conspicuously identify such prices as "suggested," and state that each retail dealer is free to sell such food proccessors at whatever price, margin, or mark-up it may choose.

VIII

Except as provided in paragraphs IV, V, and VI, nothing contained in this Final Judgment shall be deemed to limit defendant's rights to:

(A) Select retail dealers or limit the number of such dealers; or

(B) Reduce, suspend, or terminate shipments to any retail dealer.

IX

Defendant is ordered and directed to: (A) Send a written notice, in the form attached as Appendix A to this Final Judgment, within sixty (60) days of the entry of this Final Judgment, to each retail dealer who has purchased food processors from the defendant within the year preceding entry of this Final Judgment;

(B) Send the notice described in subparagraph IX(A) hereof to each retail dealer that subsequently purchases food processors from defendant and that was not previously given such notice. Such notice shall be sent within thirty (30) days of the date of receipt of such purchaser's order; and

(C) Maintain files containing the names and addresses of retail dealers to which defendant suspends or terminates shipments of food processors and the reasons for such suspensions or terminations.

X

Defendant is ordered and directed to: (A) Furnish a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each of its officers and directors and each of its employees, representatives, or agents whose duties include supervisory or direct responsibility for sale or advertising of food processors, except those employees whose functions are purely clerical or manual, and to secure and retain a signed acknowledgment for each such person that he or she has read the Final Judgment and is familiar with and understands its provisions;

(B) Furnish a copy of this Final Judgment to each successor to those persons described in subparagraph X(A) hereof within sixty (60) days after each such successor is employed, and to secure and retain a signed acknowledgment from each such person that he or she has read it and is familiar with and understands its provisions;

(C) Initiate and maintain a program to ensure compliance with this Final Judgment which shall include at a minimum the following with respect to each of the persons described in subparagraphs X (A) and (B) hereof, as well as all employees whose functions involve sales, advertising, or the handling of orders for food processors or who have direct contact with retail dealers or sales representatives with respect to sales, orders, or deliveries of defendant's food processors:

(i) The annual distribution of a written directive setting forth defendant's antitrust compliance program with such directive to include: (a) a statement that non-compliance will result in appropriate disciplinary action by defendant, and (b) advice that supervisory personnel or legal advisors are available at all reasonsble times to confer about compliance questions or problems;

(ii) The holding of one or more meetings each year at which the terms and obligations of this Final Judgment and the defendant's antitrust compliance program are reviewed and explained;

(iii) The imposition of a requirement that a responsible officer of the defendant sign and retain during the term of the judgment an acknowledgment that the requirements of subparagrpah X(C) (i) and (ii) have been fulfilled, which acknowledgment shall include a list of the names of all individuals who have received the written directive described above and the names of all individuals who have attended the meetings described above; and

(D) Within ninety (90) days after entry of this Final Judgment, and annually thereafter on the anniversary date of this Final Judgment, defendant shall serve upon the plaintiff an affidavit setting forth the fact and manner of compliance with paragraphs IX and X.

XI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time: (A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted:

(i) Access during the office hours of defendant who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, files, and other records and documents in the prossession or under the control of defendant relating to any matters contained in this Final Judgment; and

(ii) Subject to the reasonable convenience of defendant and without restraint or interference by it, to interview officers, employees, and agents of defendant, who may have counsel present, regarding any such matters;

(B) Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested;

(C) No information or documents obtained by the means provided in this Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law; and

(D) If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' written notice shall be given by plaintiff to defendant prior to divulging such materials in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

XII

Defendant shall require, as a condition of the sale or other disposition of all or substantially all, of the assets of its food processor business, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court and serve upon the plaintiff its consent to be bound by this Final Judgment.

XIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with it, or for the punishment of any violation of it.

XIV

Except to the extent otherwise provided by its terms, this Final Judgment shall be in effect for the period of ten (10) years following the date of its entry.

XV

Entry of this Final Judgment is in the public interest.

Jose A. Cabranes,
U.S. District Judge.

Entered on:

Appendix A—Notice to Cuisinarts' Retail Dealers

Cuisinarts, Inc., without admitting any violation of the law, has agreed with the Department of Justice to the entry of a consent judgment in *United States* v. *Cuisinarts, Inc.,* Civ. Action No. H80–559 (D. Conn., filed Sept. 17, 1980). As one of its obligations under that court order, Cuisinarts has agreed to send you this notice describing the terms of the consent judgment.

The consent judgment provides, among other things, as follows:

1. You are free to sell and advertise food processors purchased from Cuisinarts at any prices, margins, or mark-ups you choose.
2. You are free to sell food processors purchased from Cuisinarts to any persons you choose.
3. Cuisinarts is prohibited from penalizing or threatening you and will not penalize or threaten you in any way because of the price at which you advertise or sell its food processors or the persons to whom you sell its food processors.
4. Cuisinarts is prohibited from suggesting and will not suggest to its retail dealers retail prices, margins, or mark-ups for its food processors for a period of one year from the entry of the consent judgment.

If you would like a copy of the judgment, please write to Cuisinarts, Inc., 411 West Putnam Ave., Greenwich, Connecticut 06830 or to the Legal Procedure Unit, Room 7416, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

U.S. District Court, District of Connecticut

United States of America, Plaintiff, v. *Cuisinarts, Inc.,* Defendant.

Civil Action No. H30–559.

Filed: December 19, 1980.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. §§ 16(b)–(h), the United States of America submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

The Nature and Purpose of the Proceeding

On September 17, 1980, the Department of Justice filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. § 4), alleging that Cuisinarts, Inc. ("Cuisinarts") violated Section 1 of the Sherman Act. A criminal indictment against defendant was also returned on that date by a federal grand jury sitting in Hartford, Connecticut.

The complaint sought declaratory and equitable relief, for the purpose of preventing continuing violations of the Sherman Act by Cuisinarts, which have had the effect of restraining competion in retail sales of Cuisinart food processors in the United States.

II

Description of the Practices Giving Rise to the Alleged Violation of the Antitrust Laws

Cuisinarts, Inc. was the first company to market widely food processors in the United States. Food processors are electrical appliances for use in home kitchens. They require very few attachments, unlike kitchen centers, and perform a much wider range of functions than, for example, blenders or mixers. These functions include shredding, chopping, slicing, and grating food. Although many other companies now sell food processors, Cuisinart food processors have remained popular and retain a substantial share of the market. Cuisinarts imports its food processors from France and Japan and sells them to retail stores for resale to consumers. In 1979, Cuisinarts's sales attributable to food processors and accessories totalled about $40 million.

At least as early as 1974, Cuisinarts began making efforts to maintain the retail prices of its food processors and to discourage discounting by its retail dealers. In pursuit of this goal, Cuisinarts conspired with other persons and companies and carried out a number of acts.

Cuisinarts established suggested retail prices for each of its food processors and communicated these to its retail dealers. Cuisinarts monitored retail prices being charged for its food processors and investigated reports of discount sales. These reports came from independent sales representatives and Cuisinarts's sales personnel, as well as from retail dealers. Cuisinarts sought and obtained agreements from a number of retail dealers to maintain the suggested retail prices.

Cuisinarts's resale price maintenance scheme was enforced by penalizing discounters in a number of ways. For example, shipments to some dealers who had discounted were permanently cut off, delayed for a period of time, or reduced in amount. Other dealers were threatened with such actions unless they reinstated the suggested retail prices or agreed not to cut prices in the first instance. Finally, Cuisinarts took similar actions to discourage transshipping, a process by which approved dealers purchased food processors from Cuisinarts directly and then sold them to other dealers who could not obtain them directly. The purpose of punishing transshipping was to prevent discounters from obtaining Cuisinart food processors.

III

Explanation of the Proposed Final Judgment

The United States and the defendant have stipulated that the Court may enter the proposed Final Judgment after compliance with the APPA, 15 U.S.C. § 16 (b)–(h). The proposed Final Judgment provides that its entry does not constitute any evidence against or an admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the APPA, the proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

1. *Prohibited Conduct.* Paragraph IV prohibits Cuisinarts from participating in any way in any contract, agreement, understanding, plan, or program with any distributor, sales representative, retail dealer, or other person to fix, stabilize, or maintain retail prices, margins, or mark-up on Cuisinart food processors or to restrict the persons to whom retail dealers may sell them.

Paragraph V prohibits Cuisinarts from penalizing or threatening to penalize any retail dealer in any way, specifically including reducing, suspending, terminating, or threatening to reduce, suspend, or terminate its shipments, because of the prices, margins, or mark-ups at which the dealer has sold, offered for sale, or communicated an intention to sell, or the persons to whom the dealer has sold, offered for sale, or communicated an intention to sell Cuisinart food processors.

Paragraph VI enjoins Cuisinarts from requiring or attempting to require, as a condition of sale or in any other way, any retail dealer to maintain, establish, modify or advertise any price, margin, or mark-up at which it sells or offers for sale Cuisinart food processors.

Paragraph VII deals with suggested retail prices, margins, or mark-ups on Cuisinart food processors. For the first year after the entry of the judgment, Cuisinarts cannot suggest retail prices, margins, or mark-ups or publish, disseminate, or communicate any suggested retail prices, margins, or mark-ups. After the first year of the judgment, any publication, dissemination, or communication which contains suggested retail prices, margins, or mark-ups must clearly and conspicuously identify them as "suggested" and must state that each retail dealer is free to sell at whatever price, margin, or mark-up it may choose.

Paragraph VIII reserves defendant's rights to select or limit its retail dealers or to reduce, suspend, or terminate shipments to any retail dealer, except where these rights have been restricted by the provisions of paragraphs IV, V, and VI discussed above.

2. *Affirmative Obligations.* Paragraph IX obliges Cuisinarts to send a notice in a prescribed form within sixty (60) days to every retail dealer including a list of indviduals who received the directive and attended the meeting or meetings.

Finally, Paragraph X requires Cuisinarts to serve an affidavit of compliance on the Justice Department within ninety (90) days of entry of the judgment and annually thereafter.

Paragraph XI provides the Justice Department with access, upon reasonable notice, to Cuisinarts's records and personnel in order to determine Cuisinarts's compliance with the judgment.

Paragraph XII requires that any purchaser of all or substantially all the assets used by Cuisinarts in its food processor business agree to be bound by the judgment and file with the Court and serve on the plaintiff its consent.

3. *Scope of the Proposed Judgment.* The proposed Final Judgment will remain in effect for a period of ten (10) years from the date of entry, except to the extent otherwise provided. It applies to Cuisinarts, its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of it by personal service or otherwise.

4. *Effect of the Proposed Judgment on Competition.* The relief in the proposed Final Judgment is designed to prevent any recurrence of activities of the kinds alleged in the complaint. The prohibitive language of the Final Judgment is designed to ensure that retail dealers will be free to choose and advertise their own retail prices, margins, or mark-ups on Cuisinart food processors. It will prevent Cuisinarts from distributing suggested retail prices, margins, or mark-ups at all for one year. It will also prevent Cuisinarts from taking coercive or punitive measures to prevent discounting or transshipping of its food processors. The affirmative obligations are designed to ensure that retail dealers are aware of their rights, that Cuisinarts's employees and agents are reminded of their obligations under the Final Judgment, and that the Department of Justice is able to monitor Cuisinarts's compliance.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by Cuisinarts of the type upon which the complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed judgment provides all the relief which the United States sought in its complaint, and the additional expense of litigation would not result in additional public benefit.

IV

Procedures Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. §15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against this defendant.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Jane C. Luxton, Antitrust Division, United States Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to entry. The judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI

Alternatives to the Proposed Final Judgment

The Department considers the substantive language of the judgment to be of sufficient scope and effectiveness to make litigation on relief unnecessary, as the judgment provides all the relief which reasonably could have been expected after trial.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none are being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(h).

Jane C. Luxton, Anna Swerdel, *Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530*

[FR Doc. 81-1458 Filed 1-14-81; 8:45 am]

BILLING CODE 4410-01-M

United States v. FOREX Association of North America, et al.; Proposed Final Judgment, Stipulation, and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement (CIS) have been filed with the United States District Court for the Southern District of New York in *United States* v. *FOREX Association of North America, et al.*, 80 Civ. 0393 (LWP). The Complaint in this case alleged that two trade associations, FOREX Association of North America ("FOREX") and Foreign Exchange Brokers Association ("FEBA"), engaged in a combination and conspiracy to fix the amounts of commissions banks paid brokers for acting as intermediaries in arranging foreign exchange and Eurocurrency deposit transactions in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The proposed Consent Judgment enjoins the defendants from directly or indirectly entering into, furthering or maintaining any agreement, contract, plan or program to fix, determine or stabilize the commissions paid foreign exchange and Eurocurrency deposit brokers. The proposed decree further enjoins the defendants from suggesting or recommending that any bank or broker adhere to any schedule of commissions and from discussing or publishing surveys of commissions or adopting or suggesting any rule or other statement that limits independent negotiation of commissions between a bank and a broker. The proposed decree also prohibits defendants from retaliating against any person for freely negotiating commissions.

Each defendant is required to distribute copies of the Final Judgement to each of its members and officers during the life of the Judgment as well as to anyone who was a member or an officer at any time since January 1, 1978.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division, Room 504-B Safeway Building, U.S. Department of Justice, Washington, D.C. 20530, telephone 202/724-6693.

Joseph H. Widmar,

Director of Operations.

United States District Court, Southern District of New York

UNITED STATES OF AMERICA, Plaintiff, v. *FOREX Association of North America, and Foreign Exchange Brokers Association*, Defendants. 80 Civil 0393 (LWP). Filed: December 24, 1980.

Stipulation

It is stipulated by and between the undersigned parties, Plaintiff, United States of America, and Defendants, FOREX Association of North America and Foreign Exchange Brokers Association, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to Plaintiff or Defendants in this or any other proceeding.

Dated: December 24, 1980.

For the Plaintiff: Richard J. Favretto, *Deputy Assistant Attorney General;* Mark P. Leddy, Stanley M. Gorinson, Robert E. Hauberg, Jr., *Attorneys, Department of Justice,* David L. Lapides, *Attorney, Department of Justice, Antitrust Division, Department of Justice, Washington, D.C. 20530, 202/724-6693.*

For Defendant: FOREX Association of North America, Gordon B. Spivack, David H. Marks, Lord, Day & Lord, 25 Broadway, New York, N.Y. 10004, 212/344-8400.

For Defendant: Foreign Exchange Brokers Association: Milgrim Thomajan Jacobs & Lee, *Professional Corporation.* By: Robert A. Meister, *The Chrysler Building, 405 Lexington Avenue, New York, N.Y. 10174, 212/867-6660.*

United States District Court, Southern District of New York

United States of America, Plaintiff, v. FOREX Association of North America, and Foreign Exchange Brokers Association, Defendants. 80 Civil 0393 (LWP). Filed: December 24, 1980.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on January 21, 1980, and Defendants, FOREX Association of North America (hereafter "FOREX") and Foreign Exchange Brokers Association (hereafter "FEBA"), having appeared by their attorneys and having filed their Answers to said Complaint, and Plaintiff and Defendants, by their respective attorneys, having consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against each Defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment: (A) "FOREX" means Defendant FOREX Assocation of North America, its committees and its regional chapters.

(B) "FEBA" means Defendant Foreign Exchange Brokers Association, its Board of Govenors and its committees.

(C) "Member" means any person who is a member of FOREX and/or of FEBA, without regard to classification of membership.

(D) "Director" means any person who has been elected to or appointed to the Executive Committee of FOREX and/or to the Board of Governors of FEBA.

(E) "Person" means any individual, partnership, corporation, association, firm, or other legal or business entity, including FOREX, FEBA and any member.

(F) "Bank" means any person chartered or authorized under the National Bank Act (12 U.S.C. §§ 21 *et seq.*). The Home Owners' Loan Act (12 U.S.C. §§ 1461 *et seq.*), or under the comparable laws of any state or territory of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, or of any foreign country to receive deposits, to borrow and lend money, and/or to buy and sell foreign exchange. "Bank" also includes any "Agreement" or "Edge" corporation operating pursuant to Sections 25 and 25(a), of the Federal Reserve Act (12 U.S.C. §§ 601 *et seq.*, 611 *et seq.*), or the comparable laws of any state or territory of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, and any branch, agency, or representative office of a bank.

(G) "Broker" means any person who acts as an intermediary between banks engaging in or attempting to engage in foreign exchange and/or Eurocurrency deposit transactions.

(H) "Foreign exchange transaction" means the spot sale, the outright forward sale or the swap by one bank of funds denominated in the national currency of one country or other political jurisdiction to another bank for funds denomionated in the national currency of a second country or other political jurisdiction.

(I) "Eurocurrency deposit transaction" means the loan by one bank to another bank of funds denominated in a currency other than the national currency of the country or other political jurisdiction from which the funds are lent.

(J) "Commissions" means the compensation, including any discounts based on transaction size, monthly volume, or otherwise, and any formula utilized in the computation of such compensation, paid by a bank to a broker in connection with foreign exchange and/or Eurocurrency deposit transactions.

III

This Final Judgment applies to FOREX and FEBA and to their officers, directors, employees, agents, successors and assigns, and to all other persons, including members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

FOREX and FEBA, whether acting unilaterally or in concert or agreement with any other person, are enjoined and restrained from directly or indirectly:

(A) Entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan or program to fix, establish, maintain, determine, stabilize or make uniform any rates or amounts of commissions in connection with foreign exchange and/or Eurocurrency deposit transactions;

(B) Urging, recommending or suggesting that any bank or any broker adhere to any schedule or other recommendation relating to the rates or amounts of commissions in connection with foreign exchange and/or Eurocurrency deposit transactions;

(C) Adopting, suggesting, publishing or distributing any schedule or other recommendation relating to the rates or amounts of commissions in connection with foreign exchange and/or Eurocurrency deposit transactions;

(D) Discussing, conducting, publishing or distributing any survey or study relating to the rates or amounts of commissions or ranges thereof in connection with foreign exchange and/or Eurocurrency deposit transactions;

(E) Adopting, maintaining, enforcing, suggesting or disseminating any bylaw, rule, resolution, statement of policy, canon of ethics, code of behavior, plan or program that discourages, limits or prohibits the independent negotioation of the rates or amounts of commissions between a broker and a bank in connection with foreign exchange and/or Eurocurrency deposit transactions or that states or implies that such independent negotiation of the rates or amounts of commission by a member or by a bank or broker employing a member is unethical, unprofessional or contrary to any policy such Defendant; and

(F) Adopting, suggesting, devising or putting into effect any retaliatory action or procedure regarding the rates or amounts of commissions charged by or paid by any person in connection with foreign exchange and/or Eurocurrency deposit transactions.

V

(A) Within sixty (60) days from the date of entry of this Final Judgment, each Defendant shall furnish a copy of this Final Judgment by mailing it to the last known address on the records of such Defendant or otherwise to each of its officers and members and to each person who was an officer of a member of it at any time from January 1, 1978 to the date of entry of this Final Judgment.

(B) Within ninety (90) days from the date of entry of this Final Judgment, each Defendant shall file with this Court and serve upon Planitiff an affidavit concerning the fact and manner of its compliance with Paragraph (A) of this Section V.

(C) Upon application to FOREX or to FEBA by any person to become a member, that Defendant shall provide to such person a copy of this Final Judgment.

(D) Each person receiving from a Defendant a copy of this Final Judgment in accordance with this Section V shall provide that Defendant with a signed and dated receipt which that Defendant shall retain in its files. In the event a person receiving a copy of this Final Judgment from a Defendant refuses to sign such a receipt, the officer, director, employee or agent of that Defendant who provided the copy shall sign and date a receipt, which that Defendant shall retain in its files, stating that he or she provided such person a copy of this Final Judgment.

VI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authoirzed representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a Defendant, made to its counsel, be permitted:

(1) During office hours to inspect and copy all books, ledgers, correspondence memoranda and other records and documents in the possession or under the control of such Defendant or of its officers, directors and employees, who may have counsel present, relating to any matters contained in this Final Judgment, and

(2) Subject to the reasonable convenience of such Defendant, and without restraint or interference from it, to interview such Defendant's officers, directors and employees, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) A Defendant, upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to its counsel, shall submit such written reports, under oath if requested, with respect to any matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a Defendant to Plaintiff pursuant to this Section VI, such Defendant represents and identifies in writing the material in any such informaiton or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then Plaintiff shall give such Defendant ten (10) days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such Defendant is not a party.

VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

VIII

This Final Judgment shall remain in effect for a period of ten (10) years from the date of its entry.

IX

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

United States District Court, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. FOREX Association of North America, and Foreign Exchange Brokers Association, Defendants. 80 Civil 0393 (LWP). Filed December 24, 1980.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)–(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment in this civil antitrust proceeding.

I

Nature and Purpose of Proceedings

This is a civil antitrust action by the United States against the FOREX Association of North America ("FOREX") and the Foreign Exchange Brokers Association ("FEBA"). The Complaint, filed on January 21, 1980, alleged that, beginning at least as early as 1971 and continuing until the Complaint was filed, FOREX, FEBA and unnamed co-conspirators had violated Section 1 of the Sherman Act, 15 U.S.C. § 1, by combining and conspiring to fix, stabilize and maintain the commissions banks paid to brokers for their services in arranging foreign exchange and Eurocurrency deposit transactions. The Complaint sought an injunction prohibiting FOREX and FEBA from continuing their combination and conspiracy and from engaging in other activities having a similar purpose or effect in the future.

Entry by the Court of the proposed Final Judgment will terminate this action against both Defendants.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

FOREX and FEBA are unincorporated trade associations. FOREX's membership consists of bank traders, brokers and other individuals interested in the foreign exchange and Eurocurrency deposit markets. FOREX's principal place of business is New York City. FEBA's membership consists of foreign exchange and Eurocurrency deposit brokers. FEBA's principal place of business is in New York City.

Banks actively trade foreign exchange (*e.g.*, United States dollars, Japanese yen, and German Deutschmarks) and Eurocurrency deposits (*e.g.*, Eurodollars and Eurodeutschmarks) principally for their own account and also for large corporations. These transactions total billions of dollars each month. Banks trade foreign exchange and Eurocurrency deposits either through brokers or by dealing directly with one another. When using a broker, a bank tells the broker the price or interest rate at which it would deal in a particular currency. Other banks may accept the quoted transaction or ask the broker to seek better terms.

Brokers are paid a commission on each foreign exchange and Eurocurrency deposit transaction they complete. This fee varies with the currency involved and the nature and size of the transaction. When this Complaint was filed, banks paid, in the aggregate, in excess of $1 million per month in brokerage commissions for foreign exchange and Eurocurrency deposit transactions.

The Complaint alleged that defendants FOREX and FEBA combined and conspired beginning at least as early as 1971 to fix, stabilize and maintain the commission rates paid for brokers' services in the trading of foreign exchange and Eurocurrency deposits. According to the Complaint, the Defendants, in effectuating this conspiracy, discussed between themselves and among their respective members the commissions to be paid by banks for brokerage services for foreign exchange and Eurocurrency deposit transactions; agreed upon the commission rates to be paid for such services; and adhered to the agreed upon commission rates.

The Complaint alleged that the combination and conspiracy had the following effects, among others: (a) commissions paid for brokerage services in trading foreign exchange and Eurocurrency deposits were fixed, maintained and stabilized, and (b) competition for such brokerage services was restrained, suppressed and eliminated.

III

Explanation of the Proposed Consent Decree

The United States and Defendants have agreed that a Final Judgment in the form negotiated by the parties may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16 (b)–(h), provided that the United States has not withdrawn its consent. The Stipulation provides that there has been no admission by any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the Final Judgment is conditioned upon a determination by the Court that the Judgment is in the public interest.

The proposed Final Judgment contains two principal forms of relief. First, each Defendant is enjoined from repeating the behavior which characterized the combination and conspiracy and also from engaging in certain other related conduct. Second, the proposed Final Judgment places an affirmative burden on each Defendant to inform its members of the Final Judgment.

A. *Prohibited Conduct.*—Section IV of the proposed Final Judgment prohibits each Defendant, whether acting alone or together with any person, including the other Defendant, from determining the commissions brokers charge for their services in arranging foreign exchange and Eurocurrency deposit transactions.

Specifically, each Defendant is enjoined from entering into, furthering or claiming any rights under any agreement, understanding or plan to fix, maintain or stabilize commissions; recommending or suggesting that any bank or broker adhere to any specific schedule of commissions; adopting or disseminating any actual or proposed schedule of commissions; surveying or discussing curent levels of commissions;

adopting, enforcing or disseminating any rules, policy statements, or codes of behavior that discourage or prohibit banks and brokers from independently negotiating commissions to be paid by a bank; and, retaliating against any person for refusing to change its commissions.

B. *Defendant's Affirmative Obligations.*—Section V requires each Defendant to furnish copies of the Final Judgment to each officer or member during the period from January 1, 1978 through the date of expiration of the decree. Each Defendant is required to obtain a receipt from each person to whom it supplies a copy of the Judgment and to keep that receipt in its files for the life of the Judgment.

C. *Other Provisions.*—The proposed Final Judgment expressly provides in Section III that its terms apply to each Defendant as well as to its officers, directors, employees, agents, successors and assigns and to all other persons (including FOREX and FEBA members) in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Section VI provides that the Department of Justice will have access, upon reasonable notice, to each Defendant's records and personnel in order to assess its compliance with the provisions of the Final Judgment. Under Section VII of the Final Judgment, jursidiction is retained by the Court for the purpose of enabling any party to apply for such orders or directions as may be necessary to carry out the Final Judgment, for modification of any of its provisions, or for punishment of violations of it.

Section VIII provides that the Final Judgment will remain in effect for a period of ten (10) years from the date it is entered by the Court.

D. *Effect of the Proposed Final Judgment on Competition.*—The terms of the Final Judgment are designed to insure that FOREX and FEBA will not participate in the negotiation of the commissions charged by individual foreign exchange and Eurocurrency deposit brokers, or in the formulation or distribution of the amount of commissions or commission schedules for foreign exchange and Eurocurrency deposit transactions. Compliance with the proposed Final Judgment will promote the competitive determination of commissions by ensuring that purchasers of foreign exchange and Eurocurrency deposit brokerage services will be able to bargain for those services with individual brokers or brokerage firms.

IV

Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a), the proposed Final Judgment may not be used as *prima facie* evidence in any subsequent private antitrust action brought against either or both Defendants because it is a consent judgment entered before any testimony has been teken.

V

Procedures Available for Modification of the Proposed Consent Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Stanley M. Groinson, Chief, Special Regulated Industries Section, Antitrust Division, Room 504–B Safeway Building, U.S. Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. Such comments and responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should be determined that some modification of the Final Judgment is necessary.

VI

Alternatives to the Proposed Final Judgment

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of this proposed Final Judgment. The proposed Judgment includes all the relief requested in the Complaint.

VII

Determinative Materials and Documents

There are no materials or documents which the United States considered determinative in formulating the proposed Final Judgment. Therefore, none are being filed along with this Competitive Impact Statement.

Dated: December 23, 1980.

David L. Lapides,

Attorney, Antitrust Division, Department of Justice, Washington, D.C. 20530, 202/724–6793.

Certificate of Service

I, David L. Lapides, attorney for Plantiff, certify that on this date I have served copies of the *Stipulation*, proposed *Final Judgment* and *Competitive Impact Statement* on Defendants by mailing same to their counsel of record, addressed as follows:

David H. Marks, Esquire, Lord, Day & Lord, 25 Broadway, New York, New York 10004
Robert A. Meister, Esquire, Milgrim Thomajan Jacobs & Lee, P.C., The Chrysler Building, 405 Lexington Avenue, New York, New York 10174.

Dated: December 23, 1980.

David L. Lapides,

Attorney, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724–6793

[FR Doc. 81–1459 Filed 1–14–81; 8:45 am]

BILLING CODE 4410–01–M

Proposed Final Judgment in United States v. Societe Nationale Des Poudres et Explosifs, et al. and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment and Competitive Impact Statement ("CIS") as set out below have been filed on December 19, 1980, with the United States District Court for the District of New Jersey in *United States* v. *Societe Nationale des Poudres et Exlosifs, et. al.*, Civil Action No. 80–149. The Complaint in this case alleges that SNPE, Fayette Chemical Corporation and various co-conspirators violated the Sherman Act by conspiring to fix the price and allocated the sales of industrial nitrocellulose imported for sale in the United States by defendants and co-conspirators.

The proposed Judgment enjoins defendants from engaging in or renewing any of the alleged illegal conduct, requires SNPE to refrain from exchanging price information with its competitors, and prohibits Fayette from acting as agent or sub-agent for more than one nitrocellulose producer.

The CIS describes the terms of the Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the complaint.

Public comment is invited within the statutory 60-day comment period. Such comments, and respsonse thereto, will be published in the **Federal Register** and filed with the Court. Comments shoud be directed to Kevin R. Sullivan, Attorney, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: December 24, 1980.

Joseph H. Widmar,

Director of Operations.

U.S. District Court for the District of New Jersey

United States of America, Plaintiff, v. *Societe Nationale des Poudres et Explosifs and Fayette Chemical Corporation,* Defendants.

Hon. Herbert J. Stern, Civil Action No. 80–149.

Stipulation

Filed: December 19, 1980.

It is stipulated by and between the undersigned parties by their respective attorneys, that: 1. The parties consent that a Final Judgment, in the form attached to this Stipulation, may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15

U.S.C. § 16(b)–(h)), without further notice to any other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of it shall be without prejudice to any party in this or any other proceeding.

Dated: December 19, 1980.

For the Plaintiff: Sanford M Litvack, *Assistant Attorney General;* Joseph H. Widmar, *Director of Operations;* Charles F. B. McAlleer, *Special Assistant for Judgment Negotiations;* Charles S. Stark, Kevin R. Sullivan, Jane C. Luxton, James J. Egan.

For the Defendant Societe Nationale des Poudres et Explosifs: Howard Adler, Jr., Michael D. Ridberg, Bergson, Borkland, Margolis & Adler, *11 Dupont Circle, N.W., Washington, D.C. 20036;* Richard M. Ettreim, McArter & English, *550 Broad Street, Newark, N.J. 07102.*

For the Defendant Fayette Chemical Corporation: Sidney S. Rosdeitcher, Paul, Weiss, Rifkind, Wharton & Garrison, *345 Park Avenue, New York, N.Y. 10022;* Jeffrey W. Lorell, Clapp & Eisenberg, *80 Park Plaza, Newark, N.J. 07102.*

U.S. District Court, District of New Jersey

United States of America, Plaintiff, v. *Societe Nationale des Poudres et Explosifs, and Fayette Chemical Corporation,* Defendants.

Hon. Herbert J. Stern, Civil Action No. 80–149.

Final Judgment

Filed: December 19, 1980.

Plaintiff, United States of America, having filed its complaint herein on January 18, 1980, and the defendants, Societe Natonale des Poudres et Explosifs and Fayette Chemical Corporation, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue, and defendant Societe Nationale des poudres et Explosifs having consented to waive, solely for the purpose of this Final Judgment, its rights to contest the jurisdiction of the Court over its person:

Now, therefore, before any testimony or evidence has been taken and without trial or adjudication of any issue of fact or law herein, by consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment, the term: (A) "Person" means any individual, corporation, partnership, firm, association, or other business or legal entity;

(B) "Nitrocellulose producer" means those persons engaged in the business of manufacturing nitrocellulose;

(C) "Industrial nitrocellulose" means a dry white synthetic resin produced by the chemical action of nitric acid on cellulose. Commonly made from the cellulose found in wood pulp or cotton linters, industrial nitrocellulose is classified by its uses and has a nitrogen content between 10.8 and 12.4 percent. Industrial nitrocellulose is different from nitrocellulose used in explosives and propellants for civil or military use;

(D) "Fayette" means defendant Fayette Chemical Corporation, a corporation of the State of New Jersey;

(E) "SNPE" means defendant Societe Nationale des Poudres et Explosifs, a corporation of the Republic of France, with its principal place of business in Paris, France;

(F) "French Translation" means a translation of this Final Judgment which is agreed upon by the Department of Justice and defendant SNPE before entry of said Final Judgment; and

(G) "Sub-agent" means acting as a sales agent for a producer of nitrocellulose with respect to industrial nitrocellulose which the sales agent knows was not made by the producer, and with respect to which the producer is acting as an agent for other nitrocellulose producers. A producer is not acting as an agent for other nitrocellulose producers with respect to industrial nitrocellulose which it buys from other nitrocellulose producers.

III

This final Judgment applies to the defendants SNPE and Fayette, their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to (i) transactions or activities between a defendant and its directors, officers, employees, parent companies, companies owned or controlled by said parent, subsidiaries, or any of them when acting in such capacity or (ii) transactions or activities which occur outside the United States and do not have substantial and foreseeable effect upon United States trade and commerce in industrial nitrocellulose or (iii) transactions or activities required by the laws or regulations having the force of law of the jurisdictions in which such transaction or activity takes place.

IV

Defendant SNPE is enjoined and restrained from: (A) Directly or indirectly entering into, adhering to, maintaining, furthering, participating in, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, combination or conspiracy with any other nitrocellulose producer or group of nitrocellulose producers to: (1) Restrict or control the amount of industrial nitrocellulose produced for, imported into or sold within the United States;

(2) Allocate customers of industrial nitrocellulose within the United States;

(3) Control, raise, stabilize or fix prices or terms of sale of industrial nitrocellulose within the United States; or

(4) Use a common sales agent or distributor to sell or distribute industrial nitrocellulose within the United States;

(B) Furnishing to or requesting from any other nitrocellulose producer any information concerning future prices, term or other conditions of sale in the United States for industrial nitrocellulose, unless such information has previously been disseminated to the trade at large in the form of a press release, price lists or other public announcement.

V

Defendant Fayette is enjoined and restrained from: (A) Directly or indirectly entering into, adhering to, maintaining, furthering, participating in, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, combination or consipiracy between or among any two or more producers of nitrocellulose to do any of the things described in paragraphs IV(A)(1), (2), (3) or (4) hereof, provided, however, that rendering services as an agent in connection with the sale of industrial nitrocellulose on behalf of, and/or selling or promoting the sale of industrial nitrocellulose purchased from, any nitrocellulose producer which defendant Fayette knows is a party to any such contract, agreement, arrangement, understanding, combination, or conspiracy shall not, in and of itself, constitute a violation of this subparagraph V(A); or

(B) Acting as a sales agent or sub-agent concurrently for more than one producer of nitrocellulose with respect to the sale of industrial nitrocellulose; provided, however, that nothing in this Final Judgment shall prohibit Fayette from buying industrial nitrocellulose for its own account from more than one producer and reselling such industrial nitrocellulose, so long as there shall be no agreement or understanding between Fayette and any of the producers from which Fayette purchases about the resale price Fayette charges.

VI

Nothing in this Final Judgment shall (i) apply to any SNPE activities relating to nitrocellulose intended for military use or (ii) prohibit SNPE from negotiating, entering into or carrying out any bona fide transactions for the purchase or sale of industrial nitrocellulose, including transactions with agents, distributors or nitrocellulose producers, or from making any necesary communication of prices or terms with respect to any such bona fide transactions. The parties agree that, while it is not possible to anticipate all bona fide situations that might lead to buyer-seller relations between producers in the purchase or sale or industrial nitrocellulose, usually such relations are the result of: temporary inability of a producer to meet the demands of a growing market; shortage or cessation of supply capabilities; interruption of manufacturing or distribution capabilities; interruption of manufacturing or distribution capabilities because of explosion, fire, accident, strike or other work stoppage; or the desire or need of a producer to obtain a type or grade of industrial nitrocellulose it does not manufacture.

VII

Unless otherwise provided, each defendant is ordered and directed to:

(A) Within thirty (30) days after the date of entry of this Final Judgment and annually thereafter for ten years, furnish a copy of this Final Judgment or, in the case of SNPE, the French Translation, to its president or chief executive officer, its directors and to each of its officers, agents and employees then responsible for the sale of industrial nitrocellulose in the United States;

(B) Furnish a copy of this Final Judgment or, in the case of SNPE, the French Translation, to each successor to those persons described in subparagraph (A) hereof within thirty (30) days after each such successor becomes responsible for the sale of industrial nitrocellulose in the United States;

(C) Attach to each copy of this Final Judgment furnished pursuant to subparagraphs (A) and (B) hereof a statement advising each person of the terms and requirements of this Final Judgment. Such statement shall state that it is the policy and the intent of the defendant to comply with the requirements of the Final Judgment, shall describe the consequences, including possible civil or criminal penalties, to the defendant and its agents and employees of a failure to comply and shall include (1) an instruction that any agent or employee who fails to comply with the Final Judgment may be subject to disciplinary action to be determined by the defendant, and (2) advise that the defendant's legal advisors are available at all reasonable times to confer regarding any compliance question or problem. In the case of the defendant SNPE, the statement required by this subparagraph VII(C) shall be in French;

(D) Within thirty (30) days after the date of entry of this Final Judgment, furnish each nitrocellulose producer named in Paragraph 6 of the Complaint with a copy of this Final Judgment, by mailing a copy to such producer or ascertaining that the other defendant has done so: and

(E) File with this Court and serve upon the plaintiff, within sixty (60) days from the date of entry of this Final Judgment, a statement as to the fact and manner of its compliance with subparagraph (A), (C) and (D) hereof, and the measures which it has taken to assure compliance with subparagraph (B) hereof.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment with regard to defendant SNPE and for no other purpose:

(1) Upon written request that the Attorney General or the Assistant Attorney General in charge of the Antitrust Division may make from time to time, and on reasonable notice to defendant SNPE at its principal business office in Paris, France or any successor location, and subject to any legally recognized privilege:

(a) Within sixty (60) days of receipt of a request for books, ledgers, accounts, correspondence, memoranda, and other records relating to any matters contained in this Final Judgment in the possession or under the control of the defendant SNPE, defendant SNPE shall provide copies of such documents at the Department of Justice in Washington, D.C.; and

(b) Defendant SNPE shall submit such written reports, under oath if requested, with respect to its compliance with this Final Judgment as may, from time to time, be requested.

(2) Defendant SNPE shall provide written notice to plantiff prior to engaging in any transactions or activities which would be prohibited by this Final Judgment but for their being required by the laws or regulations having the force of law of the jurisdiction in which such transaction or activity takes place. Such notice shall describe the transactions or activities and identify the laws or regulations that defendant SNPE believes requires them to be undertaken. In the event that defendant SNPE is unable, despite the exercise of good faith efforts, to provide such notice prior to engaging in the required transactions or activities, defendant SNPE shall do so as soon as practicable, but not later than thirty (30) days thereafter.

Provided, however, that as to both (1) and (2) of this subparagraph, defendant SNPE shall not be required to bring to the United States or to disclose the content of any correspondence, books, or other records or copies thereof, or other information which relates or refers to nitrocellulose intended for military use or when such action is prohibited by the laws of France or of any country or treaty organization with jurisdiction over defendant and defendant has exercised good faith efforts to obtain permission of the appropriate person or governmental authority but such permission has not been secured. Defendant shall promptly notify plantiff of any change of address of its principal business office.

(B) For the purpose of determining or securing compliance with this Final Judgment with regard to defendant Fayette, and subject to any legally recognized privilege, from time to time:

(1) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Fayette at is principal business office, be permitted:

(a) Access during office hours of such defendant to inspect and copy all books, ledges, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of such defendant and without restriant or interference from it, to interview officers, employees, and agents of such defendant, who may have counsel present, regarding any such matters; and

(2) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to such defendant's principal business office, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested;

(C) No information or documents obtained in the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal procedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law;

(D) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents as to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then with respect to SNPE twenty (20) days of notice and with respect to Fayette ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such defendant is not a party or pursuant to a request under the Freedom of Information Act.

IX

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

X

Defendant Fayette shall require, as a condition of the sale or disposition of all, or substantially all, of the assets used by it in its industrial nitrocellulose business, that the acquiring party agrees to be bound by the provisions of this Final Judgment, and that such agreement be filed with the court.

XI

The term of this Final Judgment shall be ten years from the date of entry.

XII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

U.S. District Court, District of New Jersey

United States of America, Plaintiff, v. *Societe Nationale Des Poudres Et Explosifs*

V 46/10 JA15 81 UMI

and Fayette Chemical Corporation, Defendants.

Civil Action No. 80–149.

Filed: December 19, 1980.

Entered:

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h)), the United States of America submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

The Nature and Purpose of the Proceeding

On January 18, 1980, the Department of Justice filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. § 4), alleging that the defendants violated Section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleges a combination and conspiracy consisting of a continuing agreement, understanding, and concert of action among the defendants and various co-conspirators to fix the price and allocate the sales of industrial nitrocellulose imported for sale in the United States by defendants and co-conspirators.

The complaint seeks a judgment by the Court declaring that the defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the defendants from any such activities or other activities having a similar purpose or effect in the future.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

Industrial nitrocellulose is used in combination with other chemicals as a bonding agent in various coatings. Applied in solutions, industrial nitrocellulose forms hard, smooth finishes known for their short drying time and attractive appearance. Industrial nitrocellulose is widely used in wood finishes, lacquers, paints, primers, textile and paper coatings, book bindings, printing inks, cellophane film coatings and fingernail polishes.

Before July 1977, Hercules, Incorporated ("Hercules") and E. I. du Pont de Nemours and Company, Inc. ("duPont") produced and sold all of the industrial nitrocellulose used in the United States. On July, 1977, duPont announced its decision to discontinue the production and sale of industrial nitrocellulose at the end of 1977. This decision left Hercules as the sole domestic industrial nitrocellulose producer, and also left the possibility of a large shortfall of supplies of industrial nitrocellulose for customers in the United States.

Shortly after the duPont announcement, foreign industrial nitrocellulose producers, including SNPE, began to consider selling industrial nitrocellulose in the United States. SNPE had meetings with other European producers of industrial nitrocellulose, and formed a "pool" of companies for the purpose of selling this product in the United States, and alleviating the possible shortage of supplies. Defendant Fayete was named as the pool's agent in an announcement on October 30, 1977 at the National Paint and Coatings Association meeting in Houston, Texas. The other companies in the pool were: Explosivos Rio Tinto, Societa Italiana Prodotti Esplodenti, Mazzuchelli Celluloide, S.P.A., Bofors, and Wassag Chemie Gmbh.

In the last quarter of 1977 and throughout 1978, the dry weight price of substantially all the nitrocellulose sold by SNPE and pool member SIPE was stabilized. Bofors withdrew from the pool at an early date, and other pool members did not sell in the United States. The dry weight price, exclusive of drum and duty costs, of SNPE and SIPE was also stabilized with the dry weight price of Hercules and Wolff Walsrode A.G. during this same time period.

The Complaint alleges that the combination and conspiracy had the following effects, among others:

(a) Prices of industrial nitrocellulose sold by the defendant corporations and their co-conspirators were fixed and maintained at non-competitive levels;

(b) Competition in the sale of industrial nitrocellulose to purchasers in the United States was restrained; and

(c) United States purchasers of industrial nitrocellulose have been deprived of free and open competition in the sale of industrial nitrocellulose.

III

A. Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, the proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

1. *Prohibited Conduct.* Paragraph IV(A) of the proposed Final Judgment prohibits defendant SNPE from entering, adhering to, participating in, maintaining, furthering, enforcing, or claiming either directly or indirectly any rights under, any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any person to: restrict supplies of industrial nitrocellulose for the United States, allocate customers in the United States, set prices or terms of sale for industrial nitrocellulose in the United States or use a common sales agent or distributor to sell or distribute industrial nitrocellulose in the United States.

Paragraph IV(B) of the proposed Final Judgment prohibits defendant SNPE from furnishing to or requesting from any other nitrocellulose producer, information concerning the prices terms or other conditions of sale in the United States for industrial nitrocellulose, unless this information has previously been disseminated to the trade at large in the form of a press release, price lists or other public announcement.

Paragraph V(A) of the proposed Final Judgment prohibits defendant Fayette from directly or indirectly entering into, adhering to, maintaining, furthering, participating in, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, combination or conspiracy between or among two or more nitrocellulose producers to do any of the things prohibited in Paragraph V(A). This Paragraph makes clear, however, that rendering services as an agent, and/or selling or promoting the sale of nitrocellulose purchased from, any nitrocellulose producer which defendant Fayette knows is a party to any such contract, agreement, arrangement, understanding, combination, or conspiracy shall not, in and of itself, constitute a violation of sub-Paragraph V(A).

Paragraph V(B) prohibits defendant Fayette from acting as an agent or sub-agent concurrently for more than one producer of nitrocellulose with respect to the sale of industrial nitrocellulose. Defendant Fayette is not prohibited from buying industrial nitrocellulose for its own account from more than one producer and reselling such industrial nitrocellulose, so long as no agreement or understanding exists between Fayette and any of the producers concerning the resale price Fayette charges.

Paragraph VI provides that nothing in the proposed Final Judgment shall be applicable to any discussions of price or other terms and conditions of sale offered by SNPE to any other nitrocellulose producer or offered by other nitrocellulose producers to SNPE in connection with a *bona fide* purchase or sale of industrial nitrocellulose between SNPE and such other nitrocellulose producer. *Bona fide* situations include those which are the result of temporary inability of a producer to meet the demand of a growing market, shortage or cessation of supply capabilities, interruption of manufacturing or distribution capabilities because of explosion, fire, accident, strike, or other work stoppage; or because of the desire or need of a producer to obtain a type of industrial nitrocellulose it does not manufacture.

B. Affirmative Obligations

The proposed Final Judgment (Paragraph VII) requires that each defendant furnish a copy of the Final Judgment [1] to each of its officers, directors, agents, and employees responsible for the sale of industrial nitrocellulose in the United States, and to each successor of any of the aforementioned persons within thirty (30) days after each successor is employed along with a statement advising each person of the requirements of this Final Judgment, of the criminal and civil penalties which may be imposed upon him or her and/or upon such defendant for violation of the Final Judgment, that any agent or employee who fails to comply may be subject to disciplinary action to be determined by the defendant, and that defendant's legal advisors are available to confer regarding compliance questions or problems. Paragraph VII further requires that defendants furnish a copy of the Final Judgment to every nitrocellulose producer identified in Paragraph 6 of the Complaint, and to serve on the plaintiff and file with the Court, within sixty (60) days from the date of entry and annually thereafter, an affidavit as to the fact and manner and of its compliance with Paragraph VII.

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[1] Defendant SNPE is required to serve a French Translation of the Final Judgment to its officers, directors, agents, and employees responsible for the sale of industrial nitrocellulose in the United States.

Finally, under Section XI of the Final Judgment, the Justice Department will have access, upon reasonable notice to each defendants' records and personnel in order to determine each defendants' compliance with the Judgment.

C. Scope of the Proposed Judgment

The proposed Final Judgemnt will remain in effect for a period of ten (10) years from the date of entry. It applies to each defendant and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personnel service or otherwise.

D. Effect of the Proposed Judgment on Competition

The relief in the proposed Final Judgment is designed to prevent any recurrence of the activities alleged in the complaint. The prohibitive language of the Judgment is designed to ensure that each defendant will act independently in determining prices, terms and conditions at which they will sell or offer to sell industrial nitrocellulose. The affirmative obligations are designed to ensure that each defendants' employees are aware of their obligations under the decree in order to avoid a repetition of behavior that occurred.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by the defendant of the type upon which the complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed Judgment provides all the relief which the United States sought in its complaint, and the additional expense of litigation would not result in additional public benefit.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorneys fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against these defendants.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Kevin R. Sullivan, Attorney, Antitrust Division, United States Department of Justice, Washington, D.C. 20530 within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for its modification, interpretation or enforcement.

VI

Alternatives to the Proposed Final Judgment

The Department considers the substantive language of the judgment to be of sufficient scope and effectiveness to make litigation on relief unnecessary, as the Judgment provides all relief which reasonably could have been expected after trial.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none are being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

Dated: December 19, 1980.

Kevin R. Sullivan,

Attorney, United States Department of Justice.

Jane C. Luxton,

Attorney, United States Department of Justice.

[FR Doc. 81-1460 Filed 1-14-81; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Corrections

Amended Closing Date for Submission of Proposals

Notice is hereby given that the deadline date for submission of concept papers pursuant to the National Institute of Corrections Fiscal Year 1981 *Request for Proposals* category CS-81-09 is extended through the 1981 fiscal year for the following activities:

1. To assist correctional agencies that are, or expect to be, under court order, to obtain assistance in implementing mandated changes.

2. To assist special masters appointed to monitor compliance with judicial degrees, to enable them to obtain training and technical assistance necessary to successfully fulfill their roles.

Allen F. Breed,

Director.

[FR Doc. 81-1487 Filed 1-14-81; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL ADVISORY COMMUNITY INVESTMENT BOARD

Full Board Meeting; January 16, 1981

Pursuant to Section 10 of the Federal Advisory Committee Act of 1972, notice is hereby given that the National Advisory Community Investment Board will hold a meeting on Friday, January 16, 1981 at 1200 19th Street NW., 2nd Floor Press Room, Washington, D.C. The meeting will begin at 3:00 pm EST. The public is invited.

The purpose of the meeting is to officially impanel the committee members, elect a Chairperson, introduce the members to the purposes of the Board and to develop and approve a charter.

The National Advisory Community Investment Board is authorized by Section 704 of the Community Services Act to promote cooperation between private investors and businesses and Title VII community development corporations.

Records shall be kept of all proceedings and shall be available for public inspection at the Community Services Administration, 1200 19th Street NW., Washington, D.C.

Due to the necessity of convening the Board on short notice the normal 15 day advance notification period could not be observed.

Richard J. Rios,

Executive Director.

[FR Doc. 81-1304 Filed 1-14-81; 8:45 am]

BILLING CODE 6315-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-3]

Reports, Recommendations and Responses; Availability

Highway Accident Reports

Summary Format—Issue No. 1, 1980 (NTSB–HAB–80–3).—Included in the National Transportation Safety Board's highway field activity for the first half of FY 1980 were 25 highway accident investigations. Summaries of 20 of these investigations and statements of probable cause are contained in the subject document, released January 2. The other 5 will be published with the second half of FY 1980 reports.

Criteria for the selection of accidents for investigation were accident severity (five or more fatalities), technical problems with a national implication, and public interest. The summary reports briefly state the facts and circumstances of each accident, a brief analysis of the facts, and the probable cause developed through the analysis, and are used to provide a Board-approved statement of probable cause in the public docket. As reported they have no statistical significance.

NOTE: For more detailed information concerning any individual report, the complete reference file may be reviewed in the Public Inquiries Section, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594. Also, on request factual reports will be reproduced commercially at an average cost of 20 cents per page for printed matter, 65 cents per page for black-and-white photographs, and $4.37 per page for color photographs, plus postage. Requests should be addressed to the Public Inquiries Section.

Copies of this document may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

Aviation Safety Recommendation Letter

A–80–141, to the National Oceanic and Atmospheric Administration and the Federal Aviation Administration, jointly, December 31, 1980.—The Safety Board notes in its recommendation letter that adverse surface winds have been and continue to be a major problem in terminal operations. To determine accurately the cause of accidents involving such winds and to obtain data for the research necessary to improve wind forecasts and warnings, more complete wind records at airports are required. These should be continuous graphical records which provide values for both wind direction to the nearest degree and speed to the nearest knot on a common time ordinate.

The subject accident occurred March 17, 1980, when a Texas International Airlines DC–9–10 ran off the side of the runway during landing rollout at Ryan Airport, Baton Rouge, La., causing injuries to two crewmembers and considerable damage to the aircraft. The recommendation:

> Install appropriate recording equipment and make a continuous recording of both wind direction to the nearest degree and speed to the nearest knot at those airports where hourly surface aviation weather observations are made. (Class III, Longer-Term Action) (A–80–141)

Responses to Safety Recommendations

Aviation

A–76–86, from the Federal Aviation Administration, December 18, 1980.—The letter informs of actions taken regarding a recommendation issued August 4, 1976, as a result of the Safety Board's concern over large numbers of weather-involved general aviation accidents. (See 41 FR 34125, August 12, 1976).

FAA provides copies of Advisory Circular AC 61–23C, Private Pilot—Written Test Guide, revised in 1979, and AC 61–23B, Pilot's Handbook of Aeronautical Knowledge, revised in October 1980.

Companion recommendation A–76–85 was classified by the Safety Board as "Closed—Acceptable Action" on August 30, 1978.

Highway

H–80–48 and –49, from the State of Oklahoma, Department of Transportation, December 15, 1980.—Response is to recommendations issued following investigation of the head-on collision of a sedan and a pickup truck on U.S. route 64 near Perry, Okla., February 23, 1980. (See 45 FR 67174, October 9, 1980.)

With respect to recommendation H–80–48, the Department reports that a study has been made of all vertical curves within the 3.7 mile section of U.S. 64, including the accident site; the posted speed limit has been reduced to 45 m.p.h. effective December 11, 1980.

In response to recommendation H–80–49, the department reports that the Oklahoma Highway Safety Office is taking immediate action to initiate a Statewide alcohol program. Module 81–02 of the FY Highway safety Plan concerns the problems of alcohol and the drinking driver. An overall planning effort includes development of seminars, task force, special programs and public information efforts in relation to alcohol. Other States have been contacted and researched through Federal resources as to existing effective alcohol related programs and development of a health legal system has been recommended. A task force will be formed of representatives from those agencies directly involved with drinking driving issues.

The Safety Board on November 7 acknowledged receipt of copies of requests issued by the Department on September 30, 1980, to the Assistant Director of Traffic Services, Oklahoma Department of Transportation, and to the Governor's Highway Safety Representative for review of the recommendations.

H–80–63, from the National Highway Traffic Safety Administration, December 12, 1980.—Response is to a recommendation developed as a result of investigation of a head-on collision in a passing situation on a hill, a frontage road to U.S. 40 in Clayton, Mo., June 6, 1980. The recommendation asked NHTSA to review State laws for conformity to the Uniform Vehicle code Rules of Section 11–307 and require States with nonconforming laws to implement a program to achieve conformity. (See 45 FR 71869, October 30, 1980.)

In response, NHTSA discusses the passing maneuver and the relationship of the laws related to passing and wrong side of road driving and roadway signing and marking. NHTSA notes that State Highway agencies are to adopt a manual correlated with the Department of Transportation-approved Manual on Uniform Traffic Control Devices (UVC 15–104). It is imperative that legal obligations of motorists in conforming to traffic control devices be consistent throughout the States. NHTSA confirmed that Missouri does not have a "No Passing" rule conforming to UVC 11–307(b); it does not have a rule similar to UVC 11–306(a) regarding driving on the left side of the roadway when approaching or on a grade crest or on a curve.

NHTSA has contracted with the National Committee on Uniform Traffic Laws and Ordinances since 1968 to conduct annual reviews of all State traffic laws as compared to the Rules of the Road chapter of the UVC. Each State is provided a copy of the commentary "Rules of the Road Rated" without charge by NHTSA. Two further reports have been published and a third is in print that focus on the need for a number of States to modernize traffic laws.

In addition to providing these research documents, NHTSA has designated uniform Rules of the Road laws as an essential item for national consistency in State Highway Safety Programs. On November 2, 1979, and August 4, 1980, Regional Administrators were directed to consult with State officials regarding traffic law deficiencies and to urge the States to work toward traffic law uniformity. NHTSA Regional Administrators were to closely monitor this work.

Conformity to the UVC has steadily increased over the last 10 years. NHTSA expects to intensify its efforts in spurring the States to eliminate any differences.

Marine

M–79–1 through –7, from the United States Coast Guard, December 11, 1980.—Letter responds to the Safety Board's comments of last March 31 regarding Coast Guard's initial response of last September 11 (44 FR 58822, October 11, 1979). The recommendations were developed following investigation of the capsizing of the charter fishing boat DIXIE LEE II near Norfolk, Va., June 6, 1977.

With respect to recommendation M–79–1, the Board's March 31 letter notes that consideration of the effects of off-center passenger weight and wind heel in combination would not lead to more complex, error-prone criteria than exist with consideration of these factors separately. Since it is possible for passenger heel and wind heel, in combination, to affect a vessel's stability, it is more realistic to judge these factors in combination rather than separately. In response, Coast Guard maintains that the single parameter for stability is the best technological approach to safety in small passenger vessels at the present time, and notes that the subject accident could have included many parameters, i.e., wind, wave, passenger, or rudder heeling in any combination. Coast Guard states that while it is very interested in bolstering the safe operation of charter fishing vessels and small passenger vessels, it does not agree that augmenting the current regulatory criteria in the manner proposed by this recommendation will provide a rational increase in safety for small passenger vessels.

In commenting on Coast Guard's response to recommendation M–79–2, the Board agreed that stability is not the only measure of a vessel's seaworthiness. However, stability is quantified in the Code of Federal Regulations, whereas other measures of a vessel's seaworthiness such as sea conditions and operator skill are not quantified. The fact that all desirable information cannot be provided should not be a rationale to deny the operator what information is available. Stability and loading information is supplied to seagoing vessels routinely, even though the effect of sea state on stability cannot be characterized accurately. The Board agrees that the boat operator must be relied on to judge the variables which must be considered for a safe voyage, but the boat operator's judgment would be enhanced if he knew the wind speed for which the stability of his vessel was evaluated. The Board believes that lack of wind speed information would be more likely to lead the boat operator to take unnecessary chances since he is not aware of the vessel's limitations.

Coast Guard still does not concur with recommendation M–79–2, contending that wind speed assumed for calculations showing compliance with regulations should not be considered a design limitation to be reference on a vessel's Certificate on Inspection. Coast Guard does encourage designers to completely investigate stability characteristics of their designs and to convey design limitations to a vessel owner. Coast Guard notes that the wind speeds used to develop 46 CFR 74.10–5 weather criteria and the wind pressure factor of 46 CFR 179.10–1 are only relative values for different bodies of water. They should neither be considered absolute design criteria nor definitive survival limitations. Coast Guard states, "Satisfactory compliance with Coast Guard's simplified stability test based upon an assumed heeling moment will only demonstrate what the Coast Guard considers adequate initial stability. It will not yield either wind or seaway limitations."

In commenting on Coast Guard's September 11, 1979, response to recommendation M–79–3, the Board noted that neither the at-sea time requirements nor the written examination insures that only outstanding professionally competent individuals are licensed. Rather, they provide the average minimum competency for licensing. The Board further notes that a prudent operator would consider seeking shelter if he knew that forecast winds would exceed the wind equivalent used to certify his boat. The Board asked that Coast Guard consider recommendations M–79–2 and M–79–3 together since judicious action requires knowledge of both forecast winds and the wind equivalent for certification. In its December 11 response, Coast Guard again fails to concur with recommendation M–79–3. Coast Guard disagrees with the Board's criticisms of licensing standards for small passenger vessel operators, and finds no measure of improved safety to be gained from implementing the requirement to proceed to the nearest harbor of safe refuge when a weather watch or warning is issued for wind speeds above equivalent wind speeds used to certify a vessel's stability. Coast Guard states that the Safety Board erred in evaluating the causal factors and safety lessons to be learned from the DIXIE LEE II accident and finds that the case "resulted when a well designed, well built, well maintained and adequately crewed vessel encountered a fast moving, aberrant storm."

Recommendation M–79–4 asked Coast Guard to require operators of small passenger vessels to post an Operating Safety Checklist, in a conspicuous place accessible to crew and passengers, which states the pertinent requirements of 46 CFR 185.20. The Board's March 31 letter notes that the posting of a simple safety list with such items as "steering gear test," "hatches secured," "charts and publications on board," "weather forecasts checked," "fueling completed before passengers board vessel," and "no smoking signs" (which relates to passenger compliance as well), cannot suggest "navigation * * * by committee." These safety items are not open to interpretation, and the Board did not intend that items subject to interpretation, such as rules of the road, should be included in the list. This list would be a reminder to the operator of his safety responsibilities. The Board notes that Coast Guard already requires both the certificate of inspection and the emergency checkoff lists to be posted in a conspicuous place. The Board states that the public has a right to be concerned about its safety and to be concerned that Government regulations are being properly observed.

Coast Guard continues to not concur with recommendation M–79–4, noting its December 11 letter that the "Public Awareness" programs mentioned by the Board in its March 31 letter is intended to aid the public in selecting safe vessels and qualified operators. Coast Guard says that this program in no way attempts to qualify a passenger to render judgment regarding the degree of regulatory compliance or operator proficiency on any vessel. Coast Guard does not believe that the posting of another checkoff list will serve any practical purpose, but does see some value in posting an emergency situation checkoff list as in a stressful emergency situation, that all on board might be assisted through such list. "However," Coast Guard states, "the items regulated by 46 CFR 185.20 are all a matter of daily prudent vessel operation and do not require specific reminders."

The Board's March 31 letter notes that recommendations M–79–5 and M–79–6 were issued to encompass the entire small vessel population's need for weather information. Recommendation M–79–5 would clear up the existing mismatch of weather information transmitting/receiving requirements for small passenger vessels certified to operate on partially protected waters; and M–79–6 would do the same for boats which would not be required to have the special weather radio receiver recommended in M–79–5. The Board notes that during weather emergencies, Coast Guard currently suggests that, over the required channel 16, operators switch to channel 22 for indepth severe weather information. As channel 22 is not required, the operator without this resource misses important information.

V46/10 JA15 81 UMI

The Board believes that it has, in effect, given the Coast Guard two viable options for increasing coverage of severe weather information: (1) Require a vessel to have the capability to monitor National Weather Service and Coast Guard broadcasts over channel 22, or (2) provide extended severe weather coverage over the required channel 16. The Board realizes that current use of channel 16 is extensive, but believes that the use of this communication link could be made more efficient. The Board is particularly concerned that there is no requirement that small passenger vessels be capable receiving weather broadcasts made by the National Weather Service or by the Coast Guard over VHF channel 22. The Board believes that Coast Guard should provide, at least, minimal assurance that the vessel is capable of receiving important weather information.

With respect to recommendation M-79-5, again Coast Guard does not concur, noting that the discussion contained in its letter of September 11, 1979, still applies. Coast Guard points out that in the case of the DIXIE LEE II, the failure to monitor the severe weather would not have been corrected by an alarm unit unless it would have been independent of human adjustment of receiver volume. Coast Guard notes that the DIXIE LEE II operator had sufficient access to advanced warning of severe weather, both by physical signs and by radio broadcasts heard aboard the vessel on existing radio installations. Coast Guard does not believe that a requirement for a weather receiver would have prevented this accident and states that the events of this isolated marine casualty are not sufficient to justify issuing regulations.

Regarding recommendation M-79-6, Coast Guard notes that it broadcasts important information in compliance with Commandant Instruction M2000.3, which requires a preliminary call on channel 16 with the full text on channel 22. This procedure complies with international and Federal Communications Commission regulations. Further, FCC regulations require such VHF ship to maintain a watch on channel 16. Coast Guard notes that an operator complying with these regulations will hear the preliminary call; if he were exchanging communications on another channel, he would not hear any announcement on channel 16. Coast Guard states, "Thus, broadcasting the warning on channel 16 would not only be in violation of international and national regulations, but also would not provide any additional measure of safety to a vessel operator with channel 22 capability." Coast Guard states that it has attempted to get FCC to require the carriage of channel 22 without success. They do encourage operators to carry channel 22 capability. Coast Guard suggests directing further correspondence to the FCC. Coast Guard states, "In view of the regulations already in force, the impact on Coast Guard's channel 16 distress watch, and that the fact that weather information was already available to the DIXIE LEE II from three sources, no change in Coast Guard weather dissemination policy is considered warranted."

In response to the Safety Board's request for information as to result of Coast Guard's technical evaluation of the tethering of buoyant apparatus, recommended in M-79-7, Coast Guard reports that its Marine Safety Council has approved a regulatory project work plan for painters on life floats and buoyant apparatus. This project will propose that the rules for life floats and buoyant apparatus in all of the relevant parts of 46 CFR be revised to require that these devices be tethered to the vessels. The project originally called for notice publication in August 1980; however, the plan has expanded and caused a delay of up to 6 months. The project is identified as CGD 79.167.

Note.—Copies of the Safety Board's recommendation letters, as well as responses and related correspondence, are provided free of charge. All requests for copies must be in writing, identified by recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaision Officer.

January 9, 1981.

[FR Doc. 81-1505 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

Alabama Power Company; Issuance Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating Licensed No. NPF-2 issued to Alabama Power Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The Technical Specification change portion of the amendment is effective as of the date of issuance.

The amendment revises administrative controls for entry into high radiation areas and adds feedwater control system bypass valves response times. In addition, the amendment adds a license condition to include the Commission-approved Safeguards Contingency Plan as part of the license.

The applications for the amendment and the licensee's filing comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated March 23, 1979 and revisions thereto dated October 8, 1979 and March 28, 1980 are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provision of 10 CFR 9.12.

For further details with respect to this action, see (1) the applications for amendment dated October 15, 1979 (modified by letter dated October 3, 1980) and October 23, 1979, (2) Amendment No. 17 to License No. NPF-2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of December, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-1417 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-524-CP, 50-525-CP, 50-526-CP and 50-527-CP]

Alabama Power Co. (Alan R. Barton Nuclear Plant, Units 1, 2, 3, and 4); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Alabama Power Company* (Alan R. Barton Nuclear Plant, Units 1, 2, 3, and 4), Docket Nos. 50-524-CP, 50-525-CP, 50-526-CP, and 50-527-CP, is hereby reconsititued by appointing the following Administrative Judges to the Board: Dr. Jerry R. Kline and Dr Hugh C. Paxton. This reconstitution is necessitated by the unavailability of the prior members, Dr. Marvin M. Mann and Dr. Ernest O. Salo, who are no longer members of the Atomic Safety and Licensing Board Panel.

As reconstituted, the Board is comprised of the following Administrative Judges:

Ivan W. Smith, Chairman
Dr. Jerry R. Kline
Dr. Hugh C. Paxton

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701(1980). The addresses of the members of the Boards are:

Administrative Judge Ivan W. Smith, United States Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Administrative Judge Jerry R. Kline, United States Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Administrative Judge Hugh C. Paxton, 1229 41st Street, Los Alamos, New Mexico 87544.

Issued at Bethesda, Maryland, this 31st day of December, 1980.

B. Paul Cotter, Jr.,

Chief Administration Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-1416 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power & Light Co., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to reflect a power operated relief valve (PORV) setpoint of 2450 psig, a high pressure reactor trip setpoint of 2300 psig, and a containment isolation initiation setpoint on low reactor coolant system pressure (1500 psig).

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), and evironmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's applications for amendment dated April 24, 1979, and February 4, 1980, (2) Amendment No. 49 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of December 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 81-1418 Filed 1-14-81; 8:45]

BILLING CODE 7590-01-M

[Docket No. 50-317]

Baltimore Gas and Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-53, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment authorizes Cycle 5 operation at the licensed power level of 2700 Mwt with:

- A slight increase in fuel enrichment to allow for a longer operating cycle;
- Some demonstration fuel assemblies to test new fuel designs;
- Modified (slowed and reduced flow) guide tubes for the control element assemblies (CEAs), and
- Use of a new reactor protection system trip to protect the core from steam generator transients.

The amendment revises the Appendix A Technical Specifications to incorporate change resulting from the detailed analysis of the Cycle 5 reload core.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 22 and December 12, 1980, as supplemented October 21, November 1, 2, 3, 4, 10, 11, 18, 20, 25, 26, 28 and December 3, 1980, (2) Amendment No. 48 to License No. DPR-53 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 12th day of December 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 81-1419 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-23, issued to Carolina Power and Light Company, which amended the license for the H. B. Robinson Unit No. 2 (the facility) located in Darlington County, South Carolina. The amendment is effective as of its date of issuance.

The amendment requires a secondary water chemistry monitoring program to inhibit steam generator tube degradation. The acceptability of these new secondary water chemistry monitoring requirements is contained in our letter to Carolina Power and Light Company of August 1, 1979, which constitutes our Safety Evaluation of this matter.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1979, (2) NRC letter dated August 1, 1979, and (3) Amendment No. 54 to License No. DPR-23. All of these items are available for public inspection at the Commissior's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Harsville, South Carolina 29550. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of December, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 81-1420 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 32 and 53 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revised the Technical Specifications by adding Limiting Conditions for Operation with Bases to clarify the term "Operable" as it applies to the single failure criterion for safety systems.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated June 18, 1980, (2) Amendment Nos. 32 and 53 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 29th day of December, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-1421 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 33 and 54 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to provide a one-time extension of certain surveillance intervals to allow the required testing to be performed during a Brunswick Unit 1 outage scheduled for Spring 1981.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated November 5, 1980, (2) Amendment Nos. 33 and 54 to License Nos. DPR–71 and DPR–62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of December, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 81-1422 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237 and 50-249]

Commonwealth Edison Co.; Issuance of Amendments

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Provisional Operating License No. DPR–19 and Amendment No. 46 to Facility Operating License No. DPR–25, issued to Commonwealth Edison Company, which revised the Technical Specifications for operations of the Dresden Nuclear Power Station, Unit Nos. 2 and 3, respectively, located in Grundy County, Illinois. The amendments are effective as of the date of issuance.

The amendments authorize a one-time operation for 48 hours with plant chimney monitoring systems out of service to permit the installation of monitoring improvements required by the NRC staff. During the period that the chimney monitors are inoperative, additional measures will be taken to provide an equivalent level of protection against an undetected release of airborne radioactivity.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set foth in the license amendments. Prior public notice of this amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated December 5, 1980, (2) Amendment No. 52 to Provisional Operating License No. DPR–19 and Amendment No 46 to Facility Operating License No. DPR–25, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-1423 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-237]

Commonwealth Edison Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Provisional Operating License No. DPR–19 issued to Commonwealth Edison Company, which amended the license for operation of the Dresden Nuclear Power Station, Unit No. 2, located in Grundy County, Illinois. The amendment is effective as of the date of issuance.

The amendment extends from December 31, 1980 to January 4, 1981 the date for compliance with the Commission's February 21, 1980 Confirmatory Order which had previously amended the license to require the installation of a Recirculation Pump Trip by December 31, 1980.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated December 23, 1980, (2) Amendment No. 53 to Provisional Operating License No. DPR–19 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of December, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-1424 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413-A and 50-414-A]

Duke Power Co., North Carolina Electric Membership Corp. and the Saluda River Electric Coop.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Duke Power Company, North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative

(Catawba Nuclear Station, Units No. 1 and No. 2)

Construction Permit Nos. CPPR-116 and CPPR-117

This Board is being constituted pursuant to a notice published by the Commission on November 14, 1980, in the **Federal Register** (45 FR 75393-94) entitled, "Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters."

This Board is comprised of the following Administrative Judges:

Marshall E. Miller, Esquire, Chairman, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555
B. Paul Cotter, Jr., Esquire, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555
Robert M. Lazo, Esquire, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 9th day of January 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-1428 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-413]

Duke Power Co., North Carolina Electric Membership Corp., Saluda River Electric Coop., Inc., Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-116. The amendment reflects the addition of North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. as new co-owners of the Catawba Nuclear Station, Unit 1 (the facility). Duke Power Company has sole responsibility for the design and construction of the facility, which is located in York County, South Carolina.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this section, see (1) the application for the amendment dated July 1, 1980, and supplemented July 14 and November 20, 1980, (2) Amendment No. 1 to Construction Permit No. CPPR-116, (3) the Commission's related Safety Evaluation, (4) the Environmental Impact Appraisal, and (5) the Negative Decleration supporting the amendment to the construction permit.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina. In addition, a copy of the above items (2), (3), (4), and (5) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland the 23rd day of December 1980.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-1426 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co., Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 90, 90, and 87 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments allow an increase in the spent fuel storage capacity from 750 to a maximum of 1312 fuel assemblies in the Unit 1/2 common spent fuel pool through the use of neutron absorbing spent fuel racks.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the **Federal Register** on September 23, 1980 (45 FR 62948). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because it will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendment dated July 25, 1980, as supplemented July 1, August 7 and 14, October 15 and 31, and November 3 and December 12, 1980, (2) Amendments Nos. 90, 90, and 87 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of December 1980.

For the Nuclear Regulatory Commission.

Peter B. Erickson,

Acting Chief Operating, Reactors Branch #4, Division of Licensing.

[FR Doc. 81-1425 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 OL & 50-370 OL]

Duke Power Co. (William B. McGuire Nuclear Station, Units 1 & 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal

Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Richard S. Salzman.

Dated: January 5, 1981.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 81-1427 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389A]

Florida Power & Light Co. (St. Lucie Plant, Unit No. 2); Scheduling Prehearing Conference

January 7, 1981.

Before Administrative Judges: Ivan W. Smith, Chairman, Michael A. Duggan, Robert, M. Lazo.

The Atomic Safety and Licensing Board will conduct a prehearing conference in this antitrust proceeding beginning at 1:00 P.M. on February 2, 1981 in the NRC Commission Hearing Room, 5th Floor, East/West Towers Building, 4350 East/West Highway, Bethesda, Maryland 20014, to consider the Joint Motion (filed September 12, 1980) of the Department of Justice, NRC Staff, and Applicant to Approve and Authorize Implementation of Settlement Agreement.

The board will receive advice from the parties on the following:

1. Whether the proposed license conditions would have a material adverse impact upon the intervening Florida cities.

2. Whether the proposed license conditions contain anticompetitive, discriminatory, or unfair provisions which would create or maintain a situation inconsistent with the antitrust laws.

3. If, in the view of the Florida Cities, the proposed license conditions (including Applicant's December 3, 1980 commitments) do not relieve the alleged situation inconsistent with the antitrust laws, what procedures are appropriate to adjudicate remaining issues?

All parties or their counsel are directed to attend.

For the Atomic Safety and Licensing Board.

Robert M. Lazor,

Administrative Judge.

[FR Doc. 81-1429 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Availability of Emergency Preparedness Evaluation For TMI-1

Notice is hereby given that the Office of Nuclear Reactor Regulation has published NUREG-0746, Emergency Preparedness Evaluation for Three Mile Island Unit 1.

This evaluation describes the licensee's conformance to the requirements of 10 CFR 50.47b and the guidance found in NUREG-0654, Revision 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants".

The Three Mile Island Unit 1 Emergency Plan generally meets the requirements of 10 CFR 50.47b and conforms to the guidance found in NUREG-0654, Revision 1 except for a number of specific items which are identified in the evaluation. The licensee must conduct an emergency preparedness exercise with the State and county governments to show that the Plan can be implemented satisfactorily. A finding on the state of preparedness in the environs around the site is due from the Federal Emergency Management Agency. A supplement to this report will include this finding and will address the other items that currently need resolution.

The report is being made available at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania, For public, inspection and copying. The report (Document No. NUREG-0746) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 10th day of December 1980.

For the Nuclear Regulatory Commission

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing

[FR Doc. 81-1430 Filed 1-14-81; 8:45 am]

BILLING Code 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors, Cancellation

The ACRS Subcommittee meeting on Advanced Reactors, January 20-21, 1981 has been cancelled. Notice of this meeting was published on January 6, 1981.

Dated: January 12, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-1412 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Extreme External Phenomena, Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on January 29 and 30, 1981 at the Best Western Airport Park Hotel, 600 Ave. of Champions, Inglewood, CA 90301. The Subcommittee will discuss the status of the Seismic Safety Margins Program. Notice of this meeting was published December 22, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday and Friday, January 29 and 30, 1981

8:30 a.m. until the conclusion of business each day

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

V46/10 JA15 81 UMI

Dated: January 12, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-1408 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Fort St. Vrain; Meeting

The ACRS Subcommittee on Fort St. Vrain will hold a meeting on January 27, 1981 at the Fort St. Vrain Visitors Center, 16805 Road 19½, Platteville, CO (near Longmont, CO). The Subcommittee will review operating experience, degree of success in eliminating the core power fluctuations, plans for testing and operation above 70% of rated power, core performance (fuel and structural), and plans for future operations, modifications, refueling, and shift manning requirements. Notice of this meeting was published December 22, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, January 27, 1981

8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 12, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-1410 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Philosophy, Technology and Criteria; Meeting

The ACRS Subcommittee on Safety Philosophy, Technology and Criteria will hold a meeting at 1:00 p.m. on January 28, 1981 at the Best Western Airport Park Hotel, 600 Avenue of Champions, Inglewood, CA 90301. The Subcommittee will discuss requirements for new (beyond Near-Term Construction Permit) reactor plants.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980 (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for thsoe sessions during which the Subcommittee finds it necessary to discuss predecisional information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, January 28, 1981

1:00 p.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting. The authority for such closure is Exemption (9)(B) to the Sunshine Act, 5 U.S.C. 552b(c)(9)(B).

Dated: January 12, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-1409 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on San Onofre Units 2 and 3; Meeting

The ACRS Subcommittee on San Onofre Units 2 and 3 will hold a meeting on January 31, 1981 at the Best Western Airport Park Hotel, 600 Ave. of Champions, Ingelwood, CA 90301. The Subcommittee will meet with representatives of the Southern California Edison Company and the NRC Staff to review the seismology and geology related items for San Onofre Units 2 and 3 for an Operating License.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Saturday, January 31, 1981

8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentions by and hold discussions with representatives of Southern California Edison Company, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Empolyee, Mr. Gary R. Quittschreiber (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 12, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-1411 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export/Import; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this day 31st day of December 1980, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End use	County of destination
		Total element	Total isotope		
Combustion Engineering, Oct. 9, 1980, Oct. 21, 1980, XR137	Two PWR Reactors—Taiwan Nuclear Units 7 and 8.				Taiwan.
Transnuclear, Inc., Nov. 19, 1980, Nov. 25, 1980, XSNM01494 (01)	Extend the expiration date from June 1, 1981 to June 1, 1982.				Sweden.
Transnuclear, Inc., Dec. 1, 1980, Dec. 2, 1980, XSNM01769	3.35 pct enriched uranium	1,911,000	64,034	Routine reload fuel for Borssele Reactor.	Netherlands.
Exxon Nuclear Co., Dec. 3, 1980, Dec. 8, 1980 XSNM01770	3.40 pct enriched uranium	49,300	1,670	Two reloads of fuel for Biblis A Reactor.	West Germany.
Exxon Nuclear Co., Dec. 2, 1980, Dec. 9, 1980, ISNM80019	2.95 pct enriched uranium 2.85 pct enriched uranium	7,200 14,400	180 350	Conversion of UO_2 to U_3O_8 and return to supplier for future use in Gundremmingen Unit B and/or C.	From West Germany.

[FR Doc. 81-1445 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co.; Proposed Issuance Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-23, issued to Carolina Power and Light Company (the licensee), for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 located in Darlington County, South Carolina.

The amendment would revise the provisions in the Technical Specifications relating to the spent fuel pool. This change would permit the licensee to replace some of the storage racks in the present spent fuel pool with high density, poisoned racks, increasing its capacity from 276 fuel assemblies to 534 fuel assemblies, in accordance with the licensee's application for amendment dated December 1, 1980.

Prior to issuance of the proposed licensed amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 17, 1981, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 [in Missouri (800) 342-6700]. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch #1, Division of Licensing: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 1, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550.

Dated at Bethesda, Maryland, this 30th day of December 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 81-1406 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FP 034-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to present values of heat generation rates that are acceptable to the NRC staff for use as design input for an independent spent fuel storage installation.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 4, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 5th day of January 1981.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards of Development.

[FR Doc. 81-1446 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-67 issued to Florida Power and Light Company (the licensee) for operation of the St. Lucie Plant, Unit 1, located in St. Lucie, Florida.

The amendment would revise the license and the technical specifications by upgrading rate power from 2560 Mwt to 2700 Mwt in accordance with the licensee's application for amendment dated November 14, 1980.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By February 17, 1981, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limittions in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 2055, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark, Chief, Operating Reactors Branch No. 3, Division of Licensing: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Robert Lowenstein, Esq., Lowenstein, Newman, Reis & Axelrad, 1025 Connecticut Avenue, NW, Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors speciifed in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 14, 1980 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Dated at Bethesda, Maryland, this 30th day of December 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 81-1407 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-09, "Management of Nuclear Power Plants for Safe Operation," has been developed. The Working Group, consisting of Mr. M. J. Burtheret of France; Mr. W. Hofmann of the Federal Republic of Germany; Mr. G. V. Nadkarni of India; Mr. A. Higashi of Japan; and Mr. H. K. Simons of the

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United Kingdom of Great Britain and Northern Ireland, developed the initial draft of this Safety Guide from an IAEA collation during meetings on March 24–April 3, and June 2–6, 1980. The Working Group draft was modified by the IAEA Technical Review Committee in a meeting on September 15–19, 1980, and we are soliciting comments on this modified draft. Comments on this draft received by March 2, 1981, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md. this 8th day of January 1981.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 81-1447 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 44 and 38 to Facility Operating License Nos. DPR-42 and DPR-60 issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications with respect to the current logic for actuation of safety injection and with respect to control rod and power distribution limits.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 6, 1980 as supplemented September 19 and December 2, 1980, (2) Amendment Nos. 44 and 38 to License Nos. DPR-42 and DPR-60 respectively, and (3) Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of December 1980.

For the Nuclear Regulatory Commission.

R. A. Clark,

Chief Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-1431 Filed 1-14-81; 8:45 am]

BILLING Code 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment clarifies the definition of the term "operable" as it applies to the Appendix A Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 29, 1980, (2) Amendment No. 53 to License No. NPF-1 and (3) the Commission's related letters dated April 10 and December 11, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of December 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-1432 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment (1) restricts containment purge/exhaust fan operation for the first 285 hours following reactor shutdown during movement of irradiated fuel inside containment, (2) corrects an error with respect to the minimum water level to be maintained over the reactor vessel during refueling, and (3) adds requirements to provide for redundancy in decay heat removal capability in all modes of operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 24, 1980, (2) Amendment No. 54 to License No. NPF-1 and (3) the Commission's related letters dated June 11 and 17, August 15, and December 11, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of December, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-1433 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

Public Service Electric and Gas Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications related to (a) minimum voltages for individual battery cells; (b) the water level maintained in the reactor cavity during movement of spent fuel; and (c) administrative actions concerning radiation protection.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 17, August 22, and September 19, 1980, (2) Amendment No. 28 to License No. DPR-70, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of December, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-1434 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

Public Service Electric and Gas Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment modifies the five year surveillance base data for the NaOH flow check from the spray additive tank through a sample line near the flow eductors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 11, 1980, (2) Amendment No. 29 to License No. DPR-70, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of December, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-1438 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 1 to Regulatory Guide 10.5, "Applications for Type A Licenses of Broad Scope," describes the type and extent of information needed by the NRC staff to evaluate an application for a Type A specific license of broad scope for byproduct material (reactor-produced radionuclides). This guide has been revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 6th day of January 1981.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 81-1448 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0609]

Report Issuance and Availability; Staff Criteria and Guidelines for Evaluation of PWR Systems for Asymmetric LOCA Loads

A task group composed of members from the Nuclear Regulatory Commission (NRC) has prepared a report entitled "Asymmetric Blowdown Loads on PWR Primary Systems," NUREG-0609,, dated December 1980. This report provides the staff resolution of Generic Task Action Plan (TAP) A-2.

The generic study was intitated following notification of the staff of some newly identified asymmetric LOCA loads. These asymmetric loads resulted from postulated double ended ruptures of primary coolant piping in PWR plants. The intention of this study was first to provide the staff with a better understanding of this complicated event and second to develop criteria and guidelines for the staff to evaluate plant analyses for these loads.

The criteria and guidelines provided in this report apply both to operating plants and plants in the licensing process. Specific areas addressed include development of the loading transients, structural evaluation considerations, and fuel evaluation criteria.

Copies of report will be available after January 30, 1981. Copies will be sent directly to utilities, utility groups and associations, and evironmental and public interest groups. Copies will also be forwarded to the applicable Congressional Committees for their information and use. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Commission's local public document room located in the vicinity of existing nuclear power plants. Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Room Branch, Mail Stop 309, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Dated at Bethesda, Maryland, this 29th day of December 1980.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 81-1449 Filed 1-14-81; 8:45]

BILLING CODE 7590-01-M

[Docket Nos. 50-582 and 50-583]

San Diego Gas and Electric Co., Sundesert Nuclear Plant, Units 1 and 2; Withdrawal of Application for Construction Permits

By letter, dated September 11, 1980, San Diego Gas and Electric Company, applicant, withdrew its application to construct and operate the Sundesert Nuclear Plant, Units 1 and 2. The site was located on the mesa in the Palo Verde Valley in the southeastern corner of Riverside County, approximately 16 miles southwest of Blythe, California.

By Order, dated December 22, 1980, the NRC's Atomic Safety and Licensing Board dismissed the proceeding.

Accordingly, the Commission considers the Sundesert construction permit application to be withdrawn and the corresponding licensing proceeding to be terminated.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and for the next six months at the Palo Verde Valley District Library, 125 West Chanslorway, Blythe, California 92255 and at the San Diego County Law Library, 1105 Front Street, San Diego, California 92101.

Dated at Bethesda, Maryland, this 9th day of January 1981.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81-1436 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Availability of Safety Evaluation Report for Geologic and Seismic Aspects of San OnofreNuclear Generating Station, Units 2 and 3

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report (geologic and seismic aspects) relating to the proposed operation of the San Onofre Nuclear Generating Station, Units 2 and 3, to be located in San Diego County, California. Notice of receipt of the application by the Southern California Edison Company, the San

Diego Gas and Electric Company, the City of Anaheim, California, and the City of Riverside, California to operate the San Onofre Nuclear Generating Station, Units 2 and 3 was published in the **Federal Register** on April 7, 1977 (42 FR 18460).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Veijo, California, for inspection and copying. The report (Document No. NUREG-0712) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 31st day of December 1980.

For the Nuclear Regulatory Commission.

Bart Buckley,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-1437 Filed 1-14-81; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket No. STN 50-483]

Union Electric Co., Callaway Plant, Unit 1; Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, the Union Electric Company has filed an Environmental Report, dated October 19, 1979, in support of its application to operate the Callaway Plant, Unit 1, to be located in Callaway County, Missouri. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is available for public inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555 and at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and at the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130. Copies of the report are also being made available at the Office of Administration, Division of Budget and Planning, P.O. Box 809, State Capitol, Jefferson City, Missouri 65101 and at the Mid-Missouri Council of Governments, 830 East High Street, Jefferson City, Missouri 65101.

After the environmental report has been analyzed by the Office of Nuclear Reactor Regulation staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a summary notice of availability of the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will issue a final environmental statement, the availability of which will be published in the **Federal Register**.

Dated at Bethesda, Maryland, this 29th day of December 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81-1438 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to incorporate the limiting conditions for operation associated with cycle 8 operation, a change in the factor for adjusting fuel power density calculations, a surveillance requirement for faster response from the reactor protective system, and certain administrative changes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commissions's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 19, 1980, as supplemented October 7 and 23, and November 21, 1980, (2) Amendment No. 61 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of December 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-1440 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station); Issuance of Director's Decision Under 10 CFR 2.206

Ms. Virginia Callan and Mr. Cort Richardson by letter dated November 27, 1980, on behalf of the Vermont Yankee Decommissioning Alliance, as well as several other individuals,[1] have requested that the Commission conduct a full and public investigation into the operation and safety of the Vermont Yankee Nuclear Power Plant, that a public hearing be held on the findings of such investigation, and that the facility remian shutdown[2] until the requested investigation and hearings are completed.

Ms. Callan and Mr. Richardson's letter has been treated as a request for action under 10 CFR 2.206 and has been referred to the Commissions Office of Inspection and Enforcement. Upon

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[1] Randolph Wilson of South Royalton, Vermont; Leslie J. Dowling of Brattleboro, Vermont; Lisa Limont and others on behalf of the Ad Hoc Citizens Group for Safety at Vermont Yankee, of Greenfield, Massachusetts; MacNeil of Greensboro, Vermont; and Jean V. Lowell of Holland, Vermont.

[2] As of the date of Ms. Callan and Mr. Richardson's letter, the Vermont Yankee facility was shutdown for refueling and miscellaneous repairs.

V46/10 JA15 81 UMI

review of this matter, the Director has determined that resumption of power operation of the named facility will not jeopardize public health and safety and that a full and public investigation into the issues raised by Ms. Callan and Mr. Richardson is not warranted. Accordingly, the request has been denied.

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05321. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), the decision will constitute the final action of the Commission twenty-five (25) days after the date of issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Bethesda, Maryland this 29th day of December, 1980.

R. C. DeYoung,

Acting Director, Office of Inspection and Enforcement.

[FR Doc. 81-1439 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 62 and 62 to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company, which revised the licenses of the Surry Power Station, Unit Nos. 1 and 2 (the facility) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments require a secondary water chemistry monitoring program to inhibit steam generator tube degradation. The acceptability of these new secondary water chemistry monitoring requirements is contained in our letter of August 1, 1979, which constitutes our Safety Evaluation of this matter.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) Amendment Nos. 62 and 62 to License Nos. DPR-32 and DPR-37, (2) NRC letter dated August 1, 1979, and (3) the Commission's letter dated October 3, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (1), (2), and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 18th day of December 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-1441 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 23 and No. 3 to Facility Operating Licenses No. NPF-4 and No. NPF-7, issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 1 and Unit No. 2 (the facilities) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments delete the limiting conditions for operation relating to aquatic ecology set forth in the Appendix B Environmental Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments is a ministerial action required as a matter of law and that an environmental impact assessment need not be prepared.

For further details with respect to this action, see (1) the application for amendments dated October 15, 1980 and as revised December 23, 1980 and; (2) Amendments No. 23 and No. 3 to Facility Operating License No. NPF-4 and NPF-7 and; (3) the Commission's related letter dated 1980. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of December, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-1442 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to the Facility Operating License No. NPF-7, issued to Virginia Electric and Power Company for the North Anna Power Station, Unit No. 2, which changes certain conditions in the license. The amendment is effective as of its date of issuance.

The amendment changes the required implementation dates for certain post-TMI requirements. It also changes the required implementation date regarding the implementation of modifications associated with IE Bulletin 79-27, "Loss of Non-Class IE Instrumentation and Control Power System Bus During Operation."

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Virginia Electric Power Company letters dated November 20, 1980, December 15, 1980 and December 18, 1980, (2) Amendment No. 2 to Facility Operating License No. NPF-7, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 29th day of December, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Divison of Licensing.

[FR Doc. 81-1443 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-24, and Amendment No. 51 to Facility Operating License No. DRP-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments eliminate procedural steps for testing of the containment spray additive valves.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act, and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 30, 1980, (2) Amendment No. 46 and 51 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of December, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-1444 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

Privacy Act of 1974; New System of Records

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of proposed new system of records.

SUMMARY: The NRC is proposing to establish a new system of records subject to the Privacy Act. The system will be identified as NRC-14, Employee Alcoholism and Drug Abuse Program Files. The purpose of the system is to enable the system manager to maintain confidential records pertaining to the counselling, referral, and treatment process of individuals seeking assistance through the program.

DATE: Comments are due on or before February 17, 1981.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Sarah N. Wigginton, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Phone: (301) 492-8133.

SUPPLEMENTARY INFORMATION: The proposed new system, "Employee Alcoholism and Drug Abuse Program Files," NRC-14, will consist of confidential records taken by the system manager during the course of his counselling with an NRC employee or any members of the employee's family. The records will also be used for statistical purposes in conjunction with the program.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on December 30, 1980.

All interested persons who desire to submit written comments or suggestions for consideration in connection with this Notice of Proposed New System of Records should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, by February 17, 1981. Copies of comments received will be available for inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC.

Dated at Bethesda, Maryland, this 31st day of December 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

SYSTEM NAME:

Employee Alcoholism and Drug Abuse Program Files—NRC

SYSTEM LOCATION:

Office of Administration, U.S. Nuclear Regulatory Commission, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and/or family members who have been counselled by or referred to the Manager of the Employee Alcoholism and Drug Abuse Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees and/or their families who have been referred to the Manager of the Employee Alcoholism and Drug Abuse Program for counselling, and the results of any counselling which may have taken place. The records contain information as to the nature of each individual's problem, progress, and subsequent treatment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 4561; 21 U.S.C. 1180.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes.

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Information accessed by name of the individual counselled.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Manager of the Employee Alcoholism and Drug Abuse Program.

RETENTION AND DISPOSAL:

Retained for one year after successful completion of treatment or other termination of contact, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Alcoholism and Drug Abuse Program, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information compiled by the Manager of the Employee Alcoholism and Drug Abuse Program during the course of his counseling with an NRC employee and/or members of the employee's family.

[FR Doc. 81-1450 Filed 1-14-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

- Soil Conservation Service

Application for Payment
SCS–FNM–141
Nonrecurring
Farms, Businesses or other institutions, Farmers
SIC: 011, 013, 016, 017, 018, 021, 024, 025
Small businesses or organizations
Conservation and land management; 24,600 responses, 6,150 hours, $253,663 Federal cost, 1 form
Charles A. Ellett, 202–395–7340
The form is used by participants (predominately farmers and ranchers) to apply for Federal cost-share payments under the great plains conservation, rural abandoned mines, resource conservation and development, and watershed and flood prevention programs. Information used to pay participants.

- Food and Nutrition Service

Pilot Retailer/Bank Food Stamp Redemption Certificate
FNS–278 Test Form
On occasion
Businesses or other institutions
Retail food stores and commercial banks
SIC: 514, 541, 602
Small businesses or organizations
Public assistance and other income supplements; 709,668 responses, 9,857 hours, $204,360 Federal cost, 1 form
Charles A. Ellett, 202–395–7340
Section 10 of the Food Stamp Act requires USDA to issue regulations providing for the redemption of food stamps. The subject form will be used for a test in Georgia that is designed to improve the accountability for food stamps redeemed and reduce fraud and abuse by retail firms participating in the program.

Revisions

- Economics and Statistics Service

Fruit Grower Inquiry
Other—See SP83
Farms
Fruit growers
SIC: 017
Small businesses or organizations
Agricultural research and services, 24,080 responses; 3,432 hours; $240,000 Federal cost, 12 forms
Off. of Federal Statistical Policy and Standard, 202–673–7974
Provides data to estimate production, disposition and crop value for applies, cherries, grapes, peaches, pears and prunes. Data collected to estimate apple production by variety plus end-of-season production of bush berries, almonds, grapefruit, lemons, oranges and tangerines. Estimates used by fruit and related industries in production and marketing decisions.

- Farmers Home Administration

7 CFR 1944–A, Rural Housing Loan Policies, Procedures and Authorizations
FMHA–431–3, 440–34, 1944–6, 6A, 1944–12, and 1944–36
On occasion
Individuals or households
Individuals applying for rural housing loans
Area and regional development, 555,250 responses; 306,960 hours; $933,040 Federal cost, 1 form
Charles A. Ellett, 202–395–7340
Title V of the Housing Act of 1949, as amended, authorizes rural housing loans to low and moderate-income applicants. Regulation contains pro to determine loan eligibility.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Revisions

- International Trade Administration

Exhibitor's Report
ITA–4075P
On occasion
Businesses or other institutions
Partic. or exhibitors in commerce overseas prom. events
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce; 3,500 responses, 875 hours, $40,000 Federal cost, 1 form
William T. Adams, 202–395–4814
Required to provide the necessary data for evaluation of the performance of the overseas promotional events of export development (ED). The data collected is used to provide feedback for program managers to use in determining the performance of different overseas marketing events and for ED and ITA management by describing the overall performance of overseas promotional programs.

- Bureau of the Census

Selected instruments and related products
MA–38B
Annually
Businesses or other institutions
Manufacturers of selected instruments and related products
SIC: 381, 382, 383, 349
Small businesses or organizations
Other advancement and regulation of commerce; 1,830 responses, 1,830 hours, $3,315,000 Federal cost, 1 form
Off. of Federal Statistical Policy and Standard, 202–673–7974
This survey was begun in 1961 to provide quantity and value of shipments for various types of selected instruments and related products. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market share analysis and long-term planning.

Exteinsions (Burden Change)

- Maritime Administration

Manual of General Procedures for Determining Operating—Differential Subsidy Rates
MA–344, MA–347, MA–421, MA–422, MA–790
On occasion, annually
Businesses or other institutions
Shipping companies
SIC: 446
Water transportation; 1,035 responses, 991 hours, 4 forms
William T. Adams, 202–395–4814
The payments of operating-differential subsidy made to ship operators are based upon subsidy rates developed from the subject reports. These reports are required under contractual agreements (46 CFR 252.31, 252.33, 252.34, 281.1).

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

- Departmental and Others

College Market Study
Nonrecurring
Individuals or households
College youth
Department of Defense-Military; 6,750 responses, 3,375 hours, $230,000 Federal costs, 2 forms
Kenneth B. Allen, 202–395–3785
Determine propensity of college students for officer programs, especially engineers and women. Determine policy and program initiatives to offset current difficulties in recruiting qualified individuals as officers. Obtain information on perceptions and knowledge of service opportunities used by recruiting commands/DOD staffs to tailor specific programs to accomplish recruiting objections.

- Department of the Navy

Drug Statement for NROTC Applicants
1131/5
Annually
Individuals or households
Student Scholarship Applicants
Department of Defense-Military; 7,650 responses, 1,912 hours, $1,155 Federal Cost, 1 form
Edward C. Springer, 202–395–4814

V 46/10 JA 15 81 UMI

To provide NROTC scholarship program selecting officials a means to make a determination of pre-service drug abuse/use and waiver eligibility.

- Department of the Navy

Medical/Dental School Internship Computation PEBD
NAVCRUIT 1131/7
On occasion
Businesses or other institutions
Institution/hospital officials
Department of Defense-Military; 1,000 responses, 150 hours, $580 Federal cost, 1 form
Edward C. Springer, 202-395-4814
To determine physicians pay entry base date from the civilian training they receive.

- Department of the Navy

Reference Questionnaire—Reserve Officers Training Corps
NAVCRUIT 1131/8
Annually
Businesses or other institutions
High school teachers/staff
Department of Defense-Military; 23,000 responses, 5,750 hours, $6,915 Federal cost, 1 form
Edward C. Springer, 202-395-4814
Information must be gleaned from NROTC scholarship program applicant's high school math and english teachers, as well as principals, guidance counselors, coaches, concerning their personal and academic qualifications for selection.

Department of the Navy
Annual or Final Accounting Report by Trustee of Incompetent
Naval personnel and supplemental report to annual or final accounting report trustee of incompetent naval personnel
NAVJAG 5800/13 & 5800/13A
Annually
Individuals or households
Trustee of incompetent naval personnel
Department of Defense-Military; 800 responses, 1,600 hours, $37,750 Federal cost, 2 forms
Edward C. Springer, 202-395-4814
Report the receipt and expenditure of active duty and retired pay of a member of the naval service who has been incapable of managing his/her financial affairs.

- Department of the Navy

NROTC Navy-Marine Corps Scholarship Application
1131/6
Annually
Individuals or households
Student scholarship applicants
Department of Defense-Military; 25,000 responses, 6,250 hours, $4,788 Federal cost, 1 form
Edward C. Springer, 202-395-4814
To enable Navy processing activities to identify those students who wish to compete for a scholarship and to contact them for college board testing, score submission, or physical examination and processing appointments.

- Department of the Navy

Application for Commissioned or Warrant Rank, USN or USNR
NAVCRUIT 1100/11
On occasion
Individuals or households
Applicants
Department of Defense-Military; 12,000 responses, 6,000 hours, $9,400 Federal cost, 1 form
Edward C. Springer, 202-395-4814
To determine qualifications of applicants for naval service and for specific fields of endeavor which the applicant intends to pursue. This review of qualifications is to ensure applicants meet the mental and moral requirements established by title 10, U.S.C. and the Secretary of the Navy.

Extensions (Burden Change)

- Department of the Air Force

Status Letter of Service Engineering Contracts
On occasion
Businesses or other institutions
Defense Contractors
Department of Defense-Military; 600 responses, 3,200 hours, 0 form
Edward C. Springer, 202-395-4814
Means of managerial control used by AFLC engineers to ensure performance on engineering contracts and to inform OPRS of technical progress to date, general trends, and plans. Scope, content, and frequency of a particular report is an engineering decision and is incorporated into the contract.

Extensions (No Change)

- Department of the Army

AMC Test Facilities Register
Annually
Businesses or other institutions
Contract equipment or material testing facility
Small businesses or organizations
Department of Defense-Military; 50 responses, 200 hours, 1 form
Andy Uscher, 202-395-4814
In order to prevent duplication of equipment and material testing by contractor and the Army, a register of testing facilities is maintained. The policy then becomes to use one integrated test cycle.

- Departmental and others

Industrial Equipment Modernization Program
Post Analysis Report
DD-1651
Annually
Businesses or other institutions
Defense contractors
Small businesses or organizations
Department of Defense-Military; 50 responses, 0 hours, 1 form
Kenneth B. Allen, 202-395-3785
Report is utilized to evaluate results of equipment modernization or replacement as a post program assessment of economic benefits predicted in the basic justification.

- Department of the Air Force

Status of Facilities Contract
AF 3003
Quarterly
Businesses or other institutions
Mfgr as defense contr. with gov't owned fac. or fac. contr.
Small businesses or organizations
Department of Defense-military; 450 responses, 900 hours, 1 form
Edward C. Springer, 202-395-4814
Form is designed primarily as a status report to provide information for the management of the Air Force industrial facilities program. Funding and expenditure information, as provided by Air Force contractors, provides status and funds forecast required for the control of industrial facilities appropriations.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—202-633-9464.

New

- Departmental and Others

Discussions With Electric Utilities Regarding Oil/Gas Backout
RA-427
Nonrecurring
Businesses or other institutions
Electric util. using oil-fired and gas-fired boilers
SIC: 491
Multiple functions; 25 responses, 500 hours, $650,000 Federal cost, 1 form
Jefferson B. Hill, 202-395-7340
This nonrecurring discussion guide will be used to conduct discussions with electric utilities to assess barriers to, and identify possible means to, increase utility decisions to convert existing powerplants now using petroleum and/or natural gas as a fuel.

- Departmental and Others

SWHPP—Customer Monitoring Card
BP-705A
Monthly
Individuals or households
Residential utility customers in the Pacific Northwest
Energy supply; 168 responses, 14 hours, $6,600 Federal cost, 1 form

Jefferson B. Hill, 202–395–7340
The Bonneville Power Administration has developed the solar water heating pilot program (SWHPP) to encourage utility customers to install their own solar water heating systems. This data collection will be used in monitoring the results of the system installations.

- Departmental and Others

SWHPP—System Inspection and Site Visit Report
SWHPP—Workshop evaluation
BP–705B BP–705C
Nonrecurring
Individuals or households
Residential utility customers in the Pacific Northwest
Energy supply; 450 responses, 150 hours, $6,000 Federal cost, 2 forms
Jefferson B. Hill, 202–395–7340
The Bonneville Power Administration has developed the solar water heating pilot program (SWHPP) to encourage utility customers to install their own solar water heating systems. This data collection will monitor the effectiveness of the workshops, followup on the systems installed, and account for financial transactions.

- Departmental and Others

SWHPP—Monthly Financial Summary Statement
BP–705D
Monthly
Business or other institutions
Electric utilities
SIC: 491
Energy supply; 150 responses, 75 hours, $900 Federal cost, 1 form
Jefferson B. Hill, 202–395–7340
The Bonneville Power Administration has developed the solar water heating pilot program (SWHPP) to encourage utility customers to install their own solar water heating systems. This data collection will be used to account for financial transactions between Bonneville and the utilities participating in the program.

- Conservation and Solar Energy

Energy Auditor Training and Certification Grant Program
CS–720
Annually
State or local governments
State gov't. includ. the District of Columbia, Puerto Rico, the Virgin Islands, Guam, etc.
SIC: 919
Multiple functions; 56 responses, 13,400 hours, $51,500 Federal cost, 1 form
Jefferson B. Hill, 202–395–7340
The purpose of this program is to provide grants to States to encourage the training and certification of individuals to conduct energy audits.

Extensions (no change)

- Economic Regulatory Administration, Wholesale Purchaser Resellers Certification of Distribution to Purchase for Uses Under an Allocation Level Not Subject to an Allocation Fraction

ERA–137
On occasion
businesses or other institutions
Wholesale purchaser-resellers of pertoleum products
Small Businesses or organizations
Energy information, policy, and regulation; 120,000 responses, 240,000 hours, 1 form
Jefferson B. Hill 202–395–7340
Provides means by which a wholesale purchaser-reseller certifies to its disposition of quantities of product supplied to it for ultimate use under allocation levels not subject to an allocation fraction.

- Economic Regulatory Administration

State Action on Application for Hardship or Emergency Relief
ERA–136
On occasion
State or local governments
State offices of petroleum allocation
Energy information, policy, and regulation; 5,000 responses, 5,000 hours, 1 form
Jefferson B. Hill 202–395–7340
Used by State offices of petroleum allocation to respond to a hardship or emergency condition petition on form ERA–135 from a wholesale purchaser-consumer or an end-user for assignment of a petroleum product in the State set-aside. Set-aside is in effect for motor gas and propane.

- Economic Regulatory Administration

Application for State for Petroleum Hardship or Emergency Relief
ERA–135
On occasion
Businesses or other institutions
Wholesale purchaser-consumers and end-users of petroleum prod
Small businesses or organizations
Energy information, policy, and regulation; 5,000 responses, 5,000 hours, 1 form
Jefferson B. Hill 202–395–7340
Provide the means for wholesale purchaser-consumers and end-users to obtain temporary relief from hardship or emergency conditions which result from the applicant's inability to obtain a sufficient quantity of petroleum product which is subject to Stateset-aside.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488.

New

- Human Development Services

Title XX State Administrative Plan
On occasion
State or local governments
State title XX agency in the 50 states and the District of Columbia
SIC: 832
Social services; 4 responses, 16 hours, $660 Federal cost, 1 form
Gwendolyn Pla, 395–6880
Pub. L. 93–647, Social Security Amendments of 1974, mandates that each State which participates in the title XX program must operate under an approved administrative plan which must be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any State law, organization, policy of State agency operation.

- Social Security Administration

Of Long-Term Disability Income Protec in Private Industry (Pretest)
SSA–4669
Nonrecurring
Businesses or other institutions
Private employ. and their disability plan administrators
SIC: 637
Small Businesses or organizations
General retirement and disability insurance; 250 responses, 167 hours, $430,748 Federal cost, 2 forms
Barbara F. Young, 202–395–6880
This pretest will be used for study designed to determine the extent and adequacy of disability protection under private plans and the overlaps and gaps in coverage between the private plans and the SS disability program. The information will be obtained through a mail survey of the private firms along with extraction of plan coverage data from their documents.

- Office of Assistant Secretary for Health

NCHS Data Tape Questionaire
Nonrecurring
State or local governments/businesses or other institutions
State and local health agency, academic personnel, etc.
SIC: 806, 822, 862, 869, 892, 943
Small businesses or organizations
Health; 400 responses, 66 hours, $2,000 Federal cost, 1 form
Gwendolyn Pla, 202–395–6880
The proposed questionaire will aid NCHS in collecting the necessary information to plan more effecively a

second microdata tape users conference. The questionaire will be mailed on January 12 to organizations whose staff attended the first conference and others who have previously used NCHS data.

• Human Development Services
Impact Measures for the RAP evaluation annually
State or local governments/businesses or other institutions Sample of Head Start grantees in each RAP service area State, etc.
SIC: 835
Education, training, employment, and social services; 455 responses, 69 hours, $50,416 Federal cost, 2 forms
Gwendolyn Pla, 202–395–6880
RAP evaluation impact measures assess quality and impact of RAP Services on Head Start clients and document interaction between RAP's and public agencies to advance the interests of preschool handicapped children. (Results will be used by ACYF to make management decisions about the RAP network.)

• National Institute of Health
National Eye Institute Construction Application: Supplemental Instructions
PHS 5162–1
Nonrecurring
Businesses or other institutions
Eye research institutions
SIC: 862, 869, 821
Health; 50 responses, 1,200 hours, $5,000 Federal cost, 1 form
Gwendolyn Pla, 202–395–6880
NEI program objectives and intent must be made available to the public. DHHS grants administration policy requires instructions to be made available regarding clearinghouse procedures. Environmental impact statements and design standards. Information will be used by clearinghouses and NEI staff to ascertain that all laws, rules, and regulations have been complied with.

• Centers for Disease Control
Required Registration, Recordkeeping, and Reporting by Importers of Nonhuman Primates
On occasion
Businesses or other institutions
Importers of nonhuman primates
SIC: 842, 799
Small businesses or organizations
Health; 960 responses, 318 hours, $12,550 Federal cost, 3 forms
Gwendolyn Pla, 202–395–6880
A regulation was established restricting importation of nonhuman primates to prevent unnecessary illness and death. The forms in this package provide compliance with the regulation that importers register with CDC, keep records and report on illnesses in shipments received within 31 days of importation, and record and report outgoing shipments within 90 days.

• Departmental Management
Application for Reimbursement of Expenses
OS–29–80
Nonrecurring
Individuals or households/businesses or other institutions
Foster parents, adoptive parents, birth parents, etc.
SIC: 836
Small businesses or organizations
Public assistance and other income supplements; 300 responses, 300 hours, $38,352 Federal cost, 1 form
Barbara P. Young, 202–395–6880
The application form is needed and will be used to determine whether applicants meet the three criteria for reimbursement under a demonstration project to assist those wishing to comment on proposed regulations implementing the Adoption Assistance and Child Welfare Act of 1980.

• Health Care Financing Administration
Medicare Reimbursement Settlement Date for Outpatient Physical Therapy Providers
HCFA–241
Annually
Businesses or other institutions
Outpatient phys. therapy prov. who partic. in medicare, etc.
SIC: 808
Small businesses or organizations
Health care services; 27 responses, 20 hours; $10 Federal cost; 1 form
Richard Eisinger, 202–395–6880
This form is used at cost settlement by the intermediary. It shows which services have been paid by the intermediary and which remain to be paid as of the date of final settlement. This information allows the intermediary and provider to reconcile their records. The information is not othewise available.

• Food and Drug Administration
Good Manufacturing Practices for Blood and Blood Components
On occasion
Businesses or other institutions
Blood banks, plasmapheresis centers, blood derivative, etc.
SIC: 283 809
Consumer and Occupational Health and Safety; 12,000,040 responses, 3,000,040 hours; $685,000 Federal cost; 1 form
Gwendolyn Pla, 395–6880
The GMP regulations for the collection, processing, and storage of blood and blood components are intended to minimize the dangers of hepatitis in blood-based therapy and to assure the production of blood and blood components of uniform high quality.

• Food and Drug Administration
FDA requirements to obtain investigational status for a new animal drug
On occasion
Businesses or other institutions
Pharmaceutical manufacturers, mbrs. of the medical prof. etc.
SIC: 283
Small businesses or organizations
Consumer and occupational health and safety; 1,750 responses, 17,500 hours; $320,000 Federal cost; 1 form
Gwendolyn Pla, 395–6880
Information must be provided by the respondent to insure proper control of the use of unapproved or approved new animal drugs for unapproved uses in animals. The information must define user (scientific investigator), shipment, drug identity, tests and data, and specific requests for use of drugs in food-producing animals.

• Departmental Management
Community Survey for the Evaluation of Rural Primary Care Delivery Models
OS–21–80
Nonrecurring
Individuals or households
Residents of rural comm. served by primary care programs
Public assistance and other income supplements; 15,600 responses, 10,140 hours; $850,000 Federal cost; 3 forms
Gwendolyn Pla, 395–6880
This survey is designed to collect data on rural resident's access to primary health care, and utilization and expenditure for health care. Data from this survey will be merged with data with earlier tiers (see supporting statement) to evaluate the relative effectiveness of innovative primary care programs.

• Health Care Financing Administration
Form HCFA–231, "Compensation Survey of Key Administrative Employees"
HCFA–231
Nonrecurring
Businesses or other institutions
Random samp. of propri./nonpropri., urban/rur., large/sm., etc.
Health care services; 667 responses, 334 hours; $15,210 Federal cost; 1 form
Richard Eisinger, 202–395–6880
This survey will be administered once every 3 years to a random sample of health care providers. It will gather data on the compensation of key administrative employees. The results of the survey will be published as guidelines for intermediaries in

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determining the reasonableness of compensation for key administrative employees.

- Health Care Financing Administration

750511
HCFA-317
Annually
State or local governments
State agency administering medicaid program
Health; 53 responses, 21,200 hours; $477,899 Federal cost; 1 form
Richard Eisinger, 202-395-6880
MQC is a State administered management system designed to improve the administration of the medicaid program. States are required to submit a corrective action plan once a year. The plan must detail the initiative the State will implement to reduce the types of errors identified in the review process.

- Health Care Financing Administration

Request for Medicare Payment by Medicare Mental Health Demonstration Facility
HCFA-237
On occasion
Businesses or other institutions
Community Mental Health Centers and other non-hosp.-based, etc.
SIC: 808
Small businesses or organizations
Health; 30,000 responses, 6,000 hours; $43,500 Federal cost; 1 form
Richard Eisinger, 202-395-6880
Need: Demonstration to determine the impact of reimbursing freestanding community health centers and other non-hospital-based mental health settings on a cost related basis.
Use: Billing form will be used by participating facilities to receive reimbursement for services covered under the waivers.

- Health Care Financing Administration

State Medicaid QC Sampling Plans
HCFA-317
Semiannually
State or local governments

State medicaid agency quality control units

Health Care Services; 106 responses, 2,544 hours; $18,676 Federal cost; 1 form
Richard Eisinger, 202-395-6880
Before implementation, a State must submit specific documentation of sampling plan for MQC. The plan must meet minimum qualifications regarding sample size, selection procedure, and claims collection procedure. A subsample of the State sample is selected for revalidation to aid in determining the efficiency of the State program in meeting the medical needs of the targeted populations.

- Food and Drug Administration

Mandatory Experience Reporting Regulation
On occasion
Businesses or other institutions
Medical device manufacturers and distributors
SIC: 383 384 385 369
Consumer and occupational health and safety; 2,247 responses, 2,733 hours; $20,000 Federal cost; 1 form
Richard Eisinger, 202-395-6880
Information will become part of the agency's ongoing surveillance activities and will be used to detect and investigate any hazards and/or violations of the Federal Food, Drug and Cosmetic Act.

- Office of Assistant Secretary for Health

Evalution of Application of Several Existing National Data Collection Methodologies To Selected Smagraphic Areas
Nonrecurring
Individuals or households/businesses or other institutions pop., physicians, and hosp. in four ct. in the Fla. gulf area
SIC: 801 806 808
Small businesses or organizations
Health; 8,081 responses, 908 hours; $371,882 Federal cost; 7 forms
Gwendolyn Pla, 395-6880
The application of several MCHS data collection mechanisms to a selected small geographic area will permit NCHS to evaluate the methodologies, content and analytic capacity of the national surveys. This study will also provide an estimate of the costs and benefits from conducting these surveys on a linkage basis in the same area.

Revisions

- Social Security Administration

Claim for Amounts Due in the Case of a Deceased Beneficiary
SSA-1724
On occasion
Individuals or households
Relatives or legal representative of a deceased bene.
General retirement and disability insurance; 300,000 responses, 50,000 hours; $30,000 Federal cost; 1 form
Barbara F. Young, 202-395-6880
Section 204(d) of the Social Security Act and the Federal Coal Mine Health and Safety Act provide that, if an individual dies before benefit payments have been completed, the amount due will be paid to persons meeting specified qualifications. This form is used to determine who is highest on the priority list for payment.

- Human Development Services

Survey of Head Start Handicapped Efforts
Annually
Businesses or other institutions
Head Start Directors
SIC: 835
Education, training, employment, and social services; 1,870 responses; 1,965 hours; $91,000 Federal cost; 1 form
Gwendolyn Pla, 395-6880
To report to Congress at least annually on the status of the handicapped children in Head Start programs. The data is used to reflect the progress of Head Start toward meeting legislative directives, for program planning, for monitoring program compliance with the mandate, assessing staff training and technical assistance needs, and planning for the allocation of resources to service handicapped children.

- Health Resources Administration

Survey Instrument for Health Planning Performance Evaluation Program
On occasion
Businesses or other institutions
Staff of State and local health planning agencies
SIC: All
Health; 40 responses; 120 hours; $22,418 Federal cost; 1 form
Gwendolyn Pla, 395-6880
The survey will collect information on the impact of health systems agencies (HSAS) in improving the availability and accessibility of primary care and on the strategies and methods employed by HSAS in achieving desired changes. Information obtained will document the process being made by the health planning program and will be used for program management, policy development, and as a basis for the development of technical assistance for the health planning agencies.

Extensions (No Change)

- Health Care Financing Administration

Postpayment Medical Review (Abuse Cases) Summary Report Form
HCFA-52, 53, and 54
Quarterly
State or local governments
Medicaid State agen. partic. in Fed. medicaid program
Health; 212 responses, 106 Hours; 3 Forms
Richard Eisinger, 202-395-6880
This data collection is necessary as a recordkeeping device for both individual case control and also overall workload control. It is relevant in light of current intense interest in medicaid abuse detection and prevention activities. The data will

also be used by the program integrity regional offices and central office for the purpose of analysis of patterns and trends in the abuse area.

- Social Security Administration

Quarterly Workload and Activity Report—Supplemental Security Income Program
SSA-8713A
Quarterly
State or local governments
State agencies
Public assistance and other income supplements; 120 responses, 240 hours; 1 form
Barbara F. Young, 202-395-6880
Under the provisions of Public Laws 92-603 and 93-66, States that elect Federal administration of mandatory supplementation or mandatory and optional suppplementation will be reimbursed for all reasonable and necessary costs incurred in gathering, compiling, and providing data requested. The information on this form is used in assessing the impact of the State workload. Individually and nationally, on program planning, as a measure of operating progress, and for budetary and

Reinstatements

- Health Care Financing Administration

General Intermediate Care Facility Survey Report
HCFA-3070 and A thru D
Annually
Businesses or other institutions
A pub. or priv. FAC that has made appli. for or is parti., etc.
SIC: 805
Small business or organizations
Health; 14,156 responses, 87,700 hours; $28,405,000 Federal cost; 5 forms
Richard Eisinger, 202-395-6880
In order to participate in the medicare and medicaid programs, ICFS and ICF/NR's must meet certain Federal statutory and regulatory requirements. This information collection is used to determine if the facility is in compliance with established standards.

- Health Care Financing Administration

Prepayment Plan for Group Medical Practices Dealing Through a Carrier
SSA1566 HCFA-1556 On Occasion
Business or other institutions group pract. Prepayment plans which provide med. services small business or organizations health 1,000,000 responses 166,666 hours 1 form
Richard Eisinger 202-395-6880
This form is used by group prepayment plans to apply for Part-B Medicare Reimbursement.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202-755-5184.

Revisions

- Community Planning and Development

Community Development Block Grant Small Cities Comprehensive Application Package, and Community Development Block Grant Small Cities Single Purpose Grant Application
HUD-7065a, 7065s, 7095, 7084, 4329, 4007
Anually
Government
Comm. under 50,000, non-urban counties, and States
Community Development; 13,300 responses, 427,150 hours; 2 forms
Richard Sheppard
Public Law 93-383, section 104 and Public Law 95-128, sections 104 and 105 require HUD to establish application forms for the CDBG programs. In particular, Public Law 93-383, section 104(a)(4) requires a "Housing Assistance Plan."

*OMB has approved the use of this current information requirement as revised by HUD before the 10-day waiting period expires to permit respondents to benefit as soon as possible from revisions simplifying and reducing the report. HUD also provided evidence of appropriate advance consultation with respondents.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6341

New

- Occupational Safety and Health Administration

4-Aminodiphenyl 29 CFR 1910.1011(f)—Reports on Regulated Areas and Exposure Incidents
OSHA-181
On occasion
Businesses or other institutions
Bus. estab. where this subst. is manuf., processed, etc.
SIC: 281 282 285 286 289
Small businesses or orgainizations
Consumer and occupational health and safety; 50 responses, 50 hours; $0 Federal cost; 1 form
Arnold Strasser, 202-395-6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

- Occupational Safety and Health Administration

Benzeinine 29 CFR 1910.1010(f)—Reports on Regulated Areas and Exposure incidents
OSHA-167
On occasion
Businesses or other institutions Bus. Estab. where this subst. is manuf. processed, etc.
SIC: 282 285 286 289
Small business or organizations
Consumer and occupational health and safety; 25 responses, 75 hours; $0 Federal cost; 1 form
Arnold Strasser, 202-395-6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

- Occupational Safety and Health Administration

Beta-Maphthylamine 29 CFR 1910.1009(f)—Reports on Regulated Areas and Exposure Incidents
OSHA-166
On occasion
Businesses or other institutions Bus. estab. where this subst. is manuf., processed. etc.
SIC: 281 282 285 286 289
Consumer and occupational health and safety; 50 Responses, 100 hours; $0 Federal cost; 1 form
Arnold Strasser, 202-395-6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

- Occupational Safety and Health Administration

3, 3' Dichlorobenzidine 29 CFR 1910.1007(f)—Reports on Regulated areas and Exposure Incidents
OSHA-168
On occasion
Businesses or other institutions
Bus. estab. where this subst. is manuf., processed, etc.
SIC: 281 282 285 286 289
Small businesses or organizations
Consumer and occupational health and safety; 75 responses, 300 hours; $0 Federal cost; 1 form
Arnold Strasser, 202-395-6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee emposure to these regulated carcinogens.

- Occupational Safety and Health Administration

Consultation IH Sampling Reports
OSHA–172
Other—See SF83
State or local governments
State employees SIC: 922
Consumer and occupational health and safety; 231 responses, 25,000 hours; $0 Federal cost; 1 form
Arnold Strasser, 202–395–6880
The I. E. sampling reports would provide information regarding sample accountability as well as technical information concerning the analysis of samples obtained during consultation visits.

- Occupational Safety and Health Administration

Bis-Chloromethyl Ether 29 CFR 1910.1008(f)—Reports on Regulated Areas and Exposure incidents
OSHA–169/OSHA–184
On occasion
Businesses or other institutions
Bus. estab. where this subst. is manuf., processed, etc.
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and Occupational Health and Safety; 55 responses, 450 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated substances.

- Occupational Safety and Health Administration

Other Supplemental Assurances
OSHA–179
On occasion
Businesses or other institutions
Labor organs., edu. instit., employ assoc. and other nonprof.
SIC: Multiple
Small businesses or organizations
Consumer and Occupational Health and Safety; 155 responses, 3,875 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
Depending on each individual grantee need, other information may be furnished to OSHA staff. Such information includes: Submittal of revised proposal before grant award, questionnaire or survey plans (in accordance with the Federal Reports Act of 1942), and grantee notification of modification to the grant plan, including a revised SF–424.

- Occupational Safety and Health Administration

Annual Narrative Report and Grant Renewal
OSHA–178
Annually
Businesses or other institutions
Labor organ., edu. instit., employer assoc. and other nonprof
SIC: Multiple
Small businesses or organizations
Consumer and Occupational Health and Safety; 155 responses, 3,875 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
At the end of the fiscal year, grantees submit a narrative annual report covering the activities and making recommendations resulting from the project, a detailed proposed workplan for grant renewal, a budget, and a SF 424. This information is used to evaluate the effectiveness of the grantee in meeting the program objectives and to determine the eligibility of the grantee for continuation in the program.

- Occupational Safety and Health Administration

Request for advancement or reimbursement
OSHA–176
Monthly
Businesses or other institutions
Labor organ. edu. instit., employer assoc. and other nonprof
SIC: Multiple
Small businesses or organizations
Consumer and Occupational Health and Safety; 155 responses, 1,860 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
This form is used by the grantee to request a grant advance or reimbursement. The financial documents are used to maintain the financial management system which provides the control of grant funds.

- Occupational Safety and Health Administration

Consultation Weekly Time Report
Weekly
State or local governments
State employees
SIC: 922
Consumer and Occupational Health and Safety; 16,900 responses, 3,380 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
The consnt weekly time report (OSHA form 69) is designed to record, for each week, all time spent on consultation, program support, training and administration activities by all State supervisors. State consultants and State clerical support.

- Occupational Safety and Health Administration

7(C)(1) consultation agreement modification
OSHA–183
On occasion
State or local governments
State employees
SIC: 922
Consumer and Occupational Health and Safety; 33 responses, 264 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
The standard form 424 is used to notify the Federal agency involved in the agreement with the State of any desired changes in the wording or interpretation of the existing or proposed consultation agreement.

- Occupational Safety and Health Administration

7(C)(1) Consultation Application
OSHA–162
Annually
State or local governments
State employees
SIC: 922
Consumer and Occupational Health and Safety; 33 responses, 2,640 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
The standard form 424 is used by State applicant in applying for Federal funds to carry out consultation activities. The form is required by Department of Labor regulations at 41 CFR.

- Occupational Safety and Health Administration

7(C)(1) Consultation Preapplication
OSHA–161
Annually
State or local governments
State employees
SIC: 922
Consumer and Occupational Health and Safety; 33 responses, 633 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
The standard form 424 is used as a consultation preapplication for preliminary budgeting purposes. This preapplication establishes the initial planning by the States concerned with Federal funding for consultation projects.

- Occupational Safety and Health Administration

74-Dimethylaminoazobenzene 29 CFR 1910.1015(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–156
On occasion
Businesses or other institutions
Bus. estab where this substance is manufactured, etc.
SIC: 281, 282, 285, 286, 289
Small businesses or organizations
Consumer and Occupational Health and Safety; 50 responses, 50 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers

to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

- Occupational Safety and Health Administration

Physicians Exam: Accidents, Deaths, Injury of Decompression Illness for Compressed Air Workers
OSHA–163
On occasion, annually
Businesses or other institutions
Any construction, demol., or repair employ. whose employ.
SIC: 162
Consumer and Occupational Health and Safety; 25 responses, 25 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
Required report necessary to assure implementation of regulation, well-being of employees subject to a pressurized environment and to monitor adequacy of regulations to keep injuries, illnesses and deaths from compression effects at lowest levels possible.

- Occupational Safety and Health Administration

N-Nitrosodimethylamine 29 CFR 1910.101(F)—Reports on Regulated Areas and Exposure Incidents
OSHA–164
On occasion
Businesses or other institutions
Bus. estab where this substance is mfg, processed, etc.
SIC: 281, 282, 285, 286
Small businesses or organizations
Consumer and Occupational Health and Safety; 50 responses, 50 hours, $0 Federal cost, 1 form
Arnold Strasser, 202–395–6880
These reports are used to alert OSHA compliance safety and health officers to the presence of regulated carcinogenic substances in the workplace and to inform OSHA of incidents of employee exposure to these regulated carcinogens.

Reinstatements

- Employment and Training Administration

Surplus Employment Security Property
ETA–49
On occasion
State or local governments
Surplus employment security property
Training and employment; 25 responses, 13 hours, 1 form
Arnold Strasser, 202–395–6880
SESA's are required to report to the ETA any surplus equipment they have so that it may be offered without cost to other SESA's. Form ETA–49 improves the screening process by: (A) Reducing the time which elapses from the SESA's determination that the equipment is surplus to its disposition, and (B) standardizing the information. The form is completed by the SESA, and is used for screening surplus nonexpendable property acquired with grants to States funds by other

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Winsor, Acting—202–426–1887

New

- National Highway Traffic Safety Administration

Glazing Manufacturer Identification Std. 205
On occasion
Businesses or other institutions
Glazing manufacturers of glass and plastic materials
SIC: Multiple
Small businesses or organizations
Ground transportation; 285 responses, 143 hours, $3,000 Federal cost, 1 form
Corrinne Hayward, 202–395–7340
The purpose of this requirement is to ensure traceability to the proper manufacturer for enforcement purposes.

- Urban Mass Transportation Administration

Rail Transit Safety Information Reporting and Analysis System
UMTA F 6600.1, F 6600.2, F 6600.3, F 6600.4, F 6600.5, and F 6600.6
Monthly other—see SF83
State or local governments
Urban rail transit authorities
SIC: 411
Ground transportation; 12,586 responses, 5,878 hours, $1,536,000 Federal cost, 6 forms
Corrinne Hayward, 202–395–7340
Current rail transit safety data collection mechanism inadequate for determining appropriate levels of safety. Rail transit accident and casualty information to be collected under proposed reporting system will be analyzed to determine levels of safety in rail transit, determine priorities for safety research and assess safety countermeasure effectiveness.

- Federal Highway Administration

Highway Safety Improvement Priorities
On occasion
State or local governments
State highway/transportation agencies
SIC: 962
Ground transportation; 56 responses, 56,000 hours, $25,000 Federal cost, 1 form
Corrinne Hayward, 202–395–7340
Each State which has identified hazardous locations, sections, elements, and railway-highway crossings is required to (1) study these hazards, (2) develop safety improvement projects, (3) assign priorities and (4) establish a schedule for implementing projects to eliminate road hazards and railway-highway hazards.

- Federal Highway Administration

Road Test
On occasion
Individuals or households/businesses or other institutions
Motor carriers and drivers of commercial motor veh. oper. etc.
SIC: 962
Ground transportation; 174,460 responses, 494,303 hours, $0 Federal cost, 1 form
Corrinne Hayward, 202–395–7340
FHWA requires motor carriers (49 CFR 391.31 and 391.33) to assure, through testing or certification, that drivers are capable of safely operating the type of commercial motor vehicle they will drive. Test and certification retention (49 CFR 391.51) permits BMCS investigators to verify completion of this requirement.

- Federal Highway Administration

Driver's Employment Application
On occasion
Individuals or households/businesses or other institutions
Appli. to operate comm. motor vehic. in interst. commerce
SIC: 962
Ground transportation; 174,460 responses, $0 Federal cost, 494,303 hours, 1 form
Corrinne Hayward, 202–395–7340
FHWA requires motor carriers (49 CFR 391.31 & 391.33) to assure, through testing or certification, that drivers are capable of safely operating the type of commercial motor vehicle they will drive. Test and certification retention (49 CFR 391.51) permits BMCS investigators to verify completion of this requirement.

- Federal Highway Administration

Driver's Employment Application
On occasion
Individuals or households/businesses or other institutions
Appli. to operate comm. motor vehic. in interest. commerce
SIC: 962
Ground transportation; 174,460 responses, 46,522 hours, $0 Federal cost, 1 form
Corrinne Hayward, 202–395–7340
Provides necessary information for the Federal Highway Administration and the motor carrier to determine if the applicant is qualified to operate a commercial motor vehicle in interstate commerce prior to being employed.

Extensions (burden change)

- Research and Special Programs Administration

Hazardous Materials Incident Report
On occasion
Businesses or other institutions
Carriers of hazardous materials
Other transportation; 3,450 responses, 1,725 hours, $0 Federal cost
Corrinne Hayward, 202–395–7340

Reinstatements

- Federal Aviation Administration

General Operating and Flight Rules—FAR 91
On occasion
Individuals or households
Aircraft owners and operators
Air transportation; 1,730,083 responses, 299,699 hours, $880,000 Federal cost, 0 form
Corrinne Hayward, 202–395–7340
Federal Aviation Act of 1958, section 307 (49 U.S.C. 1348), authorizes issuance of regulations governing the use of navigable airspace. 14 CFR 91 prescribes regulations governing the general operation and flight of aircraft. Information is collected to determine compliance.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Timothy P. Campbell—202–632–0064

Extensions (no change)

- Offeror's Analysis of Cost Proposal

A1D1420–18
On occasion
Businesses or other institutions
Prospective contractors for contracts over $100,000
Foreign economic and financial assistance; 500 responses, 2,000 hours, 1 form
Phillip T. Balazs, 202–395–4814
Provides the detail cost elements the contracting officer must have to perform a cost analysis of contractor's proposals.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—202–287–0754

New

- Air Pollution Knowledge and Attitudes Along Utah Wasatch Front

Nonrecurring
Individuals or households
Households in four-county Wasatch Front Area
Pollution control and abatement; 400 responses, 182 hours, $25,000 Federal cost, 1 form
Edward H. Clarke, 202–395–7340
This survey will provide data needed to assess public knowledge and attitudes on air pollution sources and control strategies so that State and local planning agencies can develop air pollution control plans and public information programs relating to transportation sources of air pollution.

- Comment Form: The Automobile Calendar

Nonrecurring
Businesses or other institutions
Motor vehicle mfgr. and mfgrs. of motor vehicle parts, etc.
SIC: 371
Pollution control and abatement; 100 responses, 25 hours, $150 Federal cost, 1 form
Edward H. Clarke, 202–395–7340
The form provides a mechanism for users of the automobile calendar to indicate how future editions can be more useful to them and contain the information they need. The Council will also use the form to determine the usefulness of publishing future industry-specific calendars for other industries.

- Pesticide Applicator Questionnaires

Nonrecurring
Individuals or households
Certified pesticide applicators
Pollution control and abatement; 3,600 responses, 2,400 hours, $320,000 Federal cost, 1 form
Edward H. Clarke, 202–395–7340
EPA will utilize the results of this study to assess the viability of the restricted use regulatory option for pesticides and to support future decisions in planning and programming related to the training and certification of pesticide applicators.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202–389–2146

Revisions

- Request for Employment Report in Connection With a Claim for Disability Insurance Benefits

FL–29–30A
On occasion
Individuals or households
Insureds
Income security for veterans; 10,000 responses, 2,500 hours, $20,830 Federal cost, 1 form
Robert Neal, 202–395–6880
This form letter is required by law (38 U.S.C. 7, 715, 742(C) and 748). The information collected is used to solicit additional information needed to process a claim for disability insurance benefits.

Extensions (burden change)

- Portfolio Loan Service Report

26–6808A
On occasion
Individuals or households
Obligors
Veterans housing; 16,000 responses, 4,000 hours, 1 form
Robert Neal, 202–395–6880
Form serves as loan service representative's report of contact with obligor of defaulted VA portfolio loan and recommended action. Information provided forms basis for decisions on forbearance, development of repayment plan, recasting or foreclosure. (VAR 4506, 38 U.S.C. 1820).

Reinstatements

- Request for Organizational Data From Builder

FL26–312
On occasion
Individuals or households
Builders
Veterans housing; 10,000 responses, 5,000 hours, 1 form
Robert Neal, 202–395–6880
Completed by builders and sponsors to identify individuals who have controlling, proprietary or financial interest in their company. Information is used to determine eligibility for participation in the loan guaranty program.

- Direct Loan Closing Sheet

26–6937
On occasion
Businesses or other institutions/individuals or households
Lenders, veterans
Small businesses or organizations
Veterans housing; 275 responses, 138 hours; $927 Federal cost; 1 form
Robert Neal, 395–6880
Form completed by loan closers to reflect disbursement of loan proceeds for direct loans authorized by 38 U.S.C. 1811 and collection of prepaid items and closing costs from veteran. Information collected provides assurance of compliance with requirements of 38 U.S.C. 1804(c) as to occupancy and 38 U.S.C. 1811(d) (1), (e) and (f) as to terms and conditions of loan.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Agency Clearance Officer—Dan Funkhouser—202–653–5211

New

- FMCS Labor-Management Grants Program—including application form, financial status report, request for funds, LOC fund request, financial capability questionnaire

SF–424, 269 270, 183, LM–3, 4, (Parts II V of SF 424)

V46/10 JA15 81 UMI

Nonrecurring quarterly
State or local governments
Joint Labor-Mgt Cttee, St. or loc. units gov't, priv., etc.
SIC: Multiple
Other labor services; 210 responses, 420 hours; $182,000 Federal cost; 6 forms
Diane Wimberly, 202-395-6880
Forms are needed to administer congressionally-mandated grants programs and to comply with OMB grant application/reporting requirements. FMCS will use collected information to determine applicants' administrative capability and desire to work responsibly with federal funds. Grantees may use the forms as management tools.

INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—202-523-0267

Extensions (Burden Change)

- Synthetic Organic Chemicals—Monthly Report on Production

CD-M1
Monthly
Businesses or other institutions
U.S producers of specified chemicals
Small businesses or organizations
Conduct of foreign affairs; 3,216 responses, 3,216 Hours; 1 form
Phillip T. Balazs, 202-395-4814
Pursuant to Public Law 95-106, the Commission is required to publish a monthly statistical report covering production of a selected list of synthetic organic chemicals. These reports are the only source for this data (in the detail supplied) and are used extensively by Government agencies and the chemical industry.

NATIONAL FOUNDATION ON THE ARTS

Agency Clearance Officer—D. Keith Stephens—202-634-6160

New

- Leisure Activities Survey (LAS) Pretest

LAS-1(AX) LAS-1 (BX) LAS-1 (CX)
Monthly
Individuals or households
Sample of Hsdhlds members 18 years old or older
Other advancement and regulation of commerce; 300 responses, 75 hours; $5,000 Federal cost; 2 forms
Diane Wimberly, 202-395-6880
The LAS will provide annual measures of participation in selected leisure activities. These data will enable arts organization to make certain basic policy decisions based on such things as current demand potential audience, and how to best serve the needs of their constituent population. The purpose of the pretest is to detect any problems with the instructions and the questionnaire.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312-751-4692

Extensions (No change)

- Supplemental Doctor's Statement

SI-7
On occasion
Businesses or other institutions
Per. physi. of claimants for sickness bene und RUIA
Small businesses or organizations
Multiple functions; 50,000 responses, 4,167 hours; 1 form
Barbara F. Young, 202-395-6880
The Railroad Unemployment Insurance Act, provides for the payment of sickness benefits to qualified railroad employees. To obtain a benefit the claimant must provide any supplemental physician's statement needed by the Board in connection with his or her impairment. The physician's statement will be used for determining whether the applicant meets the requirements for sickness benefits.

Reinstatements

- Medical Reports

G-3RMP, G-250, G-253A, G-257
G-3EMP G-250 G-253A G-257
On occasion
Businesses or other institutions
Physicians
Small businesses or organizations
General retirement and disability insurance; 21,500 responses, 21,500 hours; $300,000 Federal cost; 4 forms
Barbara F. Young, 202-395-6880
Section 2 of the Railroad Retirement Act provides for the payment of disability annuities to qualified railroad employees who are unable to work in their regular occupation (occupational disability) or any occupation (total disability). The medical reports are needed to determine the employee's entitlement to a disability annuity.

- Request for Payment by Qualified Organizations

G-740B
On occasion
Businesses or other institutions
Physicians, RR Hosp. Assoc. and RR Retirement System Bene.
Small businesses or organizations
General retirement and disability insurance; 1,340,000 responses, 149,667 hours; 1 form
Barbara F. Young, 202-395-6880
The Board administers the medicare program for persons covered by the Railroad Retirement System. The request will obtain information to be used by the Board's carrier. Travelers, to pay Railroad Hospital Associations for medical services covered under part B of the program

- Report of Physical Condition of Claimant Under RUIA

SI-34
On occasion
Businesses or other institutions
Per. physi. of claimants for sickness benefits und. RRUI Act
Small businesses or organizations
Multiple functions; 15,000 responses, 125 hours; 1 form
Barbara F. Young, 202-395-6880
The Railroad Unemployment Insurance Act provides that a railroad employee applying for sickness benefits must obtain a medical report of his or her physical condition. The information on the claimant's physical condition will be used to support the application for sickness benefits.

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615-857-2596

Revisions

- Electric Load Research Questionnaire

TVA 6233 TVA6233A TVA 6233B
Other—See SF83
Individuals or households/Farms/Businesses or other institutions
Electric research
SIC: All
Multiple functions; 3,000 responses, 1,500 hours; $89,650 Federal cost; 3 forms
Charles A. Ellett, 202-395-7340
Information needed to evaluate the effects of demographic and other characteristics on the use patterns of electricity. This information is vital as inputs into ratemaking, cost-of-service, and forecasting procedures of the agency.

Reinstatements

- Residential Survey: Customers of Local Electric Systems

Distributing TVA power
On occasion
Individuals or households
Electrical customers served on residential rates
Multiple functions; 2,280 responses, 752 hours; $455,711 Federal cost, 1 form
Charles A. Ellett, 202-395-7340
The 1981 and 1982 interim residential surveys will provide essential information for forecasting the energy needs of region and furnish data to serve a variety of program planning and evaluation purposes. The 1981 and 1982 interim residential surveys will be completed in August 1981 and 1982 respectively.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—202-452-3512

Revisions

- Federal Reserve System

Over-the-Counter margin stock report
FR-2048
Semiannually
Businesses
Companies whose stock is traded on NASDAQ
Unassigned; 2,600 responses, 1,300 hours; 01 forms
Warren Topelius, 202-395-7340
Report is used to ensure compliance of certain corporations with the Federal Reserve margin regulations on security credit as authorized by the Over-the-Counter Margin Act of 1968.

C. Louis Kincannon,

Deputy Assistant Director for Reports Management.

[FR Doc. 81-1577 Filed 1-14-81; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11543; (812-4746)]

Finance for Industry Limited and FFI (UK Finance) Limited; Filing of an Application

January 9, 1981.

Notice is hereby given that Finance for Industry Limited ("FFI") and FFI (UK Finance) Limited ("FFI(UK)"), c/o Charles J. Johnson, Jr., Esq., Brown, Wood, Ivey, Mitchell & Petty, 1 Liberty Plaza, New York, New York 10006, the wholly-owned, principal asset-holding and operating subsidiary of FFI (FFI and FFI(UK) are collectively referred to as "Applicants"), filed an application on October 10, 1980, and amendments thereto on November 12, 1980, and December 12, 1980, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting FFI and FFI(UK) from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that FFI's principal office is located at 91 Waterloo Road, London SE1 8XP, England, and that its main activity is to act as a holding company for FFI(UK) and other subsidiaries of FFI, which are engaged, directly or indirectly, in financing small and medium-sized enterprises (through loans and in some cases subscription of new equity) and also large-scale projects, ship financing, leasing, industrial property development and consulting services for clients. According to the application, FFI was formed in 1973 for the purpose of combining in one organization the function of two existing financial institutions which were established to supply capital to British industry and commerce and to satisfy the need for a specialized financial vehicle to provide share and loan capital for small- and medium-sized businesses.

As stated in the application, FFI's consolidated assets as of March 31, 1980, were $2,111,873,000, of which loans accounted for approximately 54% and the remainder included an industrial plant and ships leased to customers (13%), irredeemable preferred stock and common stock of customers (8%), real estate under development and held for investment (5%) and equipment lease obligations (5%).

Applicants state that at the close of the 1980 fiscal year, FFI's subsidiaries had extended credit to approximately 3,100 customers, with over 99% of the total loans and advances to British borrowers, and that the interest on such loans accounted for 64% of FFI's consolidated gross revenues. According to the application, neither FFI nor FFI(UK) nor any of their subsidiaries is engaged in securities brokerage activities. According to Applicants, financing proposals are specifically tailored to the requirements of each situation and may include a combination of loan and equity capital and the leasing or installment sale of plant and equipment; the equity element being included mainly in those cases where insufficient security is available for the loan requested or where the total amount of debt in the customer's balance sheet would be excessive if the financing consisted wholly of loan credit. Applicants state that FFI's policy limits such equity investments as well as industrial and commercial property assets in the aggregate to the total amount of FFI's shareholders' equity and requires that such securities be disposed of as market conditions permit. According to the application, the total dollar value of those equity investments by FFI or its subsidiaries on March 31, 1980, was $163,572,000.

Applicants state that the funding of FFI and its subsidiaries is primarily derived from interest-bearing time deposits, and through the issuance of debentures and unsecured loan stocks (which are fixed-term, fixed-interest debt securities listed on The Stock Exchange, London, and held by institutions and the general public), bonds and, to a minor extent, loans and other advances from banks. At March 31, 1980, according to the Applicants, customer deposits represented $812,668,000, or 49% of consolidated total liabilities, and the other major categories of such liabilities included debentures and unsecured loan stocks (23%), and Euro-bonds (10%), which the remaining 18% including shareholder funds, bank borrowing and current liabilities. Applicants further state that FFI has the benefit of an aggregate $400,000,000 standby lending facility with its shareholder banks. Applicants also state that FFI's share capital at the 1980 fiscal year end amounted to $216,000,000, with a total shareholders' equity of $314,600,000, and that all of the outstanding shares of FFI are owned by the Bank of England and the London and Scottish Clearing Banks.

Applicants represent that as deposit-taking institutions licensed under the Banking Act of 1979 ("Banking Act"), the United Kingdom's comprehensive banking statute, they are subject to extensive regulation by the Bank of England. According to the application, any such license may be refused, revoked or suspended unless the Bank of England is satisfied that the standards laid down by the Banking Act (suitability of management and financial soundness) are met. In addition, when the standards cease to be met, including where the Bank of England considers the interests of depositors to be threatened, the Bank of England may give directions to a deposit-taking institution prohibiting certain transactions or requiring specified corrective action. Applicants represent that their licenses under the Banking Act require them to satisfy liquidity requirements specified by the Bank of England, to make adequate provision for meeting their obligations and to make regular disclosure of their financial position to their depositors and to the Bank of England. In addition, the application states that pursuant to the Protection of Depositors Act 1963, Applicants must, before they advertise for deposits and at other specified times, submit to the Department of Trade financial statements complying with that act. In addition, the Department of Trade has the power to inspect Applicants' books and records. Applicants also state that the protection of depositors will shortly become an additional responsibility of the Bank of England under the Banking Act through establishment of a special fund for partial reimbursement to depositors in insolvent institutions. The Applicants state, moreover, that they are subject to further disclosure requirements because of their listing on The Stock Exchange, London. Finally, according to the Applicants, each of them is restricted by its Articles of Association to borrowing not more than seven times its share capital and reserves, adjusted to exclude the value of intangible assets and certain other amounts.

Accordingly to the application, FFI proposes to issue and sell unsecured prime quality commercial paper notes ("Notes") with maturities not to exceed nine months, in bearer form and denominated in United States dollars to finance a portion of FFI(UK)'s current transactions. Applicants represent that the Notes will be issued in the minimum denomination of $100,000 and that they presently intend that not in excess of $100,000,000 of the Notes will be outstanding at any one time. The Notes will not have any provisions for renewal at the option of FFI or the holder or for automatic rollover. The Notes will be direct liabilities of FFI and will rank *pari passu* among themselves and equally with all other unsecured unsubordinated indebtedness of FFI, including FFI's deposit liabilities. The Notes will rank prior to any subordinated indebtedness of FFI and to claims of holders of FFI's share capital. However, each Note will be unconditionally guaranteed by FFI(UK) because, in view of the fact that FFI is primarily a holding company, the right of the holders of the Notes to participate in the assets of FFI(UK), whether upon its liquidation or reorganization or in any other distribution, might otherwise be subject to the prior claims of creditors of FFI(UK). The FFI(UK) guarantee will be a direct liability of FFI(UK) and will rank equally with all other unsubordinated indebtness of FFI(UK), including its deposit liabilities, and prior to any subordinated indebtedness of FFI(UK) and to claims of FFI as holder of FFI(UK)'s share capital.

As stated in the application, FFI plans to sell the Notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance upon an opinion of its United States counsel that the offering will qualify for the exemption from the registration requirements of the 1933 Act provided for commercial paper by Section 3(a)(3) thereof. Applicants represent that they will not proceed with the proposed offering until they have received such an opinion letter. Applicants do not request Commission review or approval of such opinion letter, and the Commission expresses no opinion concerning the availability of any such exemption. Applicants further represent that the proposed issue of securities and all future issues of securities of either of the Applicants in the United States will have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating organizations and that its United States counsel shall have certified that such rating has been received; provided, however, that no such rating will be required to be obtained with respect to any such issue if, in the opinion of its United States counsel (such counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in various releases and no-action letters made public by the Commission), an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

Applicants state that the Notes will be sold to a commercial paper dealer in the United States which, as principal, will reoffer them to investors in the United States. In certain cases, however, the commercial paper dealer may offer the Notes as agent. Applicants represent that the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors, wealthy individuals and other purchasers of the types that normally participate in the commercial paper market. Applicants undertake to ensure that the dealer will provide each offeree of Notes, prior to the sale of any Note to such offeree, with a memorandum describing the business of the Applicants and including the most recent publicly available fiscal year end balance sheet and income statement of Applicants audited by British auditors. Applicants represent that the aforementioned financial statements will be accompanied by a brief paragraph highlighting material differences between applicable British and United States generally accepted accounting principles. Applicants also represent that such memoranda will be at least as comprehensive as those customarily used in commercial paper offerings in the United States. Such memoranda will be updated promptly to reflect material changes in Applicants' business or financial condition. Applicants further represent that any future offerings of their securities in the United States (which Applicants state may include debt securities but will not include shares of capital stock) will be made only pursuant to a registration statement under the 1933 Act, or pursuant to an opinion of special United States counsel that an exempt from registration under the 1933 Act is available, and on the basis of disclosure documents appropriate for such registration or exemption, and in any event at least as comprehensive as those used in the proposed offering. Each Applicant undertakes to ensure that such disclosure documents will be provided to each offeree who has indicated an interest in the securities then being offered by that Applicant, prior to any sale of such securities to such offeree, except that, in the case of an offering made pursuant to a registration statement under the 1933 Act, disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act and the rules and regulations thereunder. Applicants consent to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon their compliance with their undertakings regarding disclosure documents.

Applicants represent that they will appoint a banking establishment or a corporation service company in the United States as their agent to accept service of process in any action based on any of the Notes or the FFI(UK) guarantee thereof in any State or Federal court by a holder of the Notes. Applicants further represent that they expressly will accept the jurisdiction of any State or Federal court in the City and State of New York with respect to any such action and that both their appointment of an authorized agent and their acceptance of jurisdiction will be irrevocable until all amounts due and to become due with respect to the Notes have been paid. Applicants represent that each will similarly appoint an agent for service of process and accept jurisdiction in suits arising from any other offerings of securities that it may make in the United States.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request an order pursuant to Section 6(c) of the Act exempting each of them from all provisions of the Act. Applicants assert that, among other things, compliance by them with a number of substantive provisions of the Act would, as a practical matter, conflict with their operations and that they would thus be effectively precluded from making a public offering of their securities in the United States if they were required to register as investment companies and comply with such provisions of the Act. Applicants represent further that approval of their application would enhance the special cooperative relationship which exists between the United Kingdom (where the Applicants perform a significant public function through the financial support which they provide to industry and commerce) and the United States. Moreover, Applicants state approval of the application would facilitate FFI's access to the United States capital market and would thus implement the general policy of the United States to minimize restrictions on capital flows between nations. In particular, according to the Applicants, approval would enable them to offer loans in the United Kingdom in United States dollars on competitive terms as an alternative to sterling by having access, on a more equal footing with United States lending institutions, to the United States capital markets but without obtaining any advantage over United States lending institutions under United States Federal or State banking laws. Applicants assert that they are subject to extensive regulations by British banking authorities and that they are significantly different from the type of institution that Congress intended the Act to regulate. The Applicants conclude that granting their requested exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than February 3, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of any attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–1812 Filed 1–14–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11544; (812–4702)]

Nationwide Life Insurance Co. and Nationwide Variable Account; Application for an Order Approving Certain Offers of Exchange and Granting Exemptions

January 9, 1981.

Notice is hereby given that Nationwide Life Insurance Company ("Nationwide Life"), a stock life insurance company organized under the laws of the State of Ohio, and its Nationwide Variable Account (the "Variable Account"), One Nationwide Plaza, Columbus, Ohio 43216, registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust (hereinafter "Applicants"), filed an application on July 18, 1980, and an amendment thereto on December 22, 1980, pursuant to Section 11 of the Act for an order approving certain offers of exchange, and pursuant to Section 6(c) of the Act, for an order granting exemptions from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d), and Rule 22c–1 of the Act, insofar as such exemptions are necessary to permit the transactions described below. All interested persons are referred to the Application on file with the Commission for a statement of the representations made therein, which are summarized below.

Under the combination fixed and variable annuity contracts (the "Contracts") proposed by Applicants, the purchasers will not be assessed a traditional front-end sales load at the time purchase payments are made. A purchaser may make a single purchase payment, an irregular series of periodic purchase payments, or a regular series of periodic purchase payments. The amount and frequency of purchase payments is discretionary with the purchaser, and no requirements are imposed except for minimum amounts of the initial purchase payments ($1,500 for non-qualified contracts and $300 on an annualized basis for the first contract year for qualified contracts). The purchaser may allocate all or a portion of each purchase payment among one or more of four sub-accounts of the Variable Account, each consisting of the shares of one of four mutual funds of the Mutual Investing Foundation managed by Heritage Securities, Inc., or to the general account of Nationwide Life. The Contracts provide for the accumulation of such purchase payments with accrued earnings, until the annuity commencement date selected by the purchaser, at which time annuity payments begin as designated by the contract owner.

The contract owner may, at any time prior to the annuity commencement date, withdraw some or all of the accumulated contract value. However, Applicants propose to assess a contingent deferred sales charge, which will be applied in the case of certain withdrawals by a contract owner from the contract value. The contingent deferred sales charge will equal 5 percent of the lesser of (1) all purchase payments received during the 96 months immediately prior to the valuation period during which the surrender is requested; or (2) the amount surrendered. The cumulative sum of all such charges, per contract owner, will never exceed 5 percent of that owner's purchase payments received during the 96 months immediately prior to the valuation period during which the surrender is requested; and no such charge will be made against any values which have been held under the Contracts for at least 96 months.

An exception to the contingent deferred sales charge would permit certain surrenders without the imposition of a charge after the beginning of the third Contract year. Under the exception, a contract owner may redeem up to 10 percent of purchase payments made within 96 months immediately prior to the valuation period during which the surrender is requested without imposition of the contingent deferred sales charge. Therefore, the contingent deferred sales charge will apply only after an amount equal to 10 percent of such purchase payments has been redeemed free of such charges.

When a surrender is requested to effect a cash withdrawal which does not qualify under the exception, the Custodian of the unit investment trust, The Huntington National Bank, of Columbus, Ohio, will surrender accumulation units equal in value to the amount of the cash withdrawal requested by the contract owner, plus the applicable contingent deferred sales charge. The requested cash withdrawal will then be remitted to the contract owner. The contingent deferred sales charge will be paid by the Custodian to Nationwide Life to reimburse it for the expenses incurred in connection with the sale of the Contracts. These expenses include commissions, promotional costs, sales administration, and similar sales related expenses.

Other charges assessed by Nationwide Life under the Contracts include an annual contract maintenance charge of $30 per Contract and an asset charge equal, on an annual basis, to 1.3 percent of the daily net asset value of the assets of the Variable Account. The asset charge is composed of a mortality risk premium, equal to .8 percent, and an expense risk charge, equal to .5 percent. These charges are calculated solely to reimburse Nationwide Life for costs related to administration of the Contracts and the assumption of mortality and expense risks.

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants assert that the proposed contingent deferred sales charge is consistent with the intent of the definition of "sales load" contained in the Act. While eliminating the traditional front-end sales load deduction from purchase payments, for reimbursement of sales expenses, Nationwide Life will continue to incur expenses related to the sale of the Contracts, including commissions paid to sales personnel and the costs of promotion and sales administration. The contingent deferred sales charge, therefore, would be retained by Nationwide Life to reimburse it solely for expenses related to the sale of the Contracts, which fit within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants assert that the deferral of the sales charge, and making it contingent upon the occurence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. Nevertheless, Applicants have requested an exemption from the provisions of Section 2(a)(35), to the extent necessary, to implement the proposed pricing of the Contracts.

Section 22(c) and Rule 22c-1

Rule 22c-1 promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. Applicants submit that implementation of the contingent deferred sales charge is in no way violative of Section 22(c) or Rule 22c-1 promulgated thereunder. When a surrender is requested to effect a cash withdrawal, the price on redemption will be based on the current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption in arriving at the contract owner's proportionate share or account value. However, Applicants have requested an exemption from the provisions of Section 22(c) and Rule 22c-1 thereunder, to the extent necessary, to offer the Contracts.

Section 26(a) and Section 27(c)(2)

Sections 26(a) and 27(c)(2) of the Act provide, in substance, that a registered unit investment trust or issuer of a periodic payment plan certificate and any depositor or underwriter for such investment company is prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a qualified bank as trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing substantially the provisions required by Section 26(a).

Applicants state that the provisions of Section 26(a) were designed to assure performance of contractual obligations under periodic payment plans, to minimize the opportunities for misuse of the assets of unit investment trusts and to prevent sponsors from reaping hidden profits. However, because Nationwide Life is subject to extensive and rigorous supervision and control by the Ohio Insurance Department and the insurance department of each state in which it does business, Applicants contend that such supervision and control provides assurance against misfeasance and affords the essential protection of trusteeship.

Although the assets of the Nationwide Variable Account will be held under a custodian agreement with the Huntington National Bank of Columbus, Ohio, a bank having the qualifications described in Section 26(a) of the Act, the agreement does not create a trust with respect to the assets of the Variable Account because Nationwide Life, as a life insurance company, must retain ownership of and control of the disposition of its property under Ohio Law.

Under the foregoing circumstances, the Applicants contend that the dangers against which Section 26(a) is directed are not present. Accordingly, an exemption from Section 26(a) is requested, to the extent necessary, from the requirement that the assets be held in a trust.

Section 26(a)(2)(C) and Section 27(c)(2)

Section 26(a)(2)(C) provides that no payment to the depositor of, or a principal underwriter for, a registered unit investment trust shall be allowed the trustee or the custodian as an expense. Applicants assert that the contingent deferred sales charge is not the typical kind of "expense" contemplated by Section 26(a)(2) and submit that the requirements of this section were not intended to preclude the depositor of a unit investment trust from taking a sales load. Applicants also assert that the contingent deferred sales charge is intended specifically and solely to reimburse Applicants for sales related expenses. The deferral of the imposition of this charge, and making it contingent upon an event which may never occur, do not change the basic nature of this charge as a sales charge to which Section 26(a)(2)(C) was not intended to apply.

Section 27(c)(2) of the Act makes it unlawful to sell any periodic payment plan certificate unless the proceeds of all payments on such certificates are deposited with a custodian having the qualifications described in Section 26(a)(1), and are held by such custodian under an agreement containing substantially the provisions required in Sections 26(a) (2) and (3) of the Act. Section 27(c)(2) excepts deductions for sales load from the requirement that the proceeds be deposited with a custodian. Applicants assert that the contingent deferred sales charge is a sales load to which this exception should apply, and that deferring the imposition of the charge and making it contingent upon an event which might never occur should in no way be construed as violative of Section 27(c)(2).

While Applicants assert the sections should be construed as set forth above, they nevertheless have requested exemptions from Sections 26(a)(2)(C) and 27(c)(2), to the extent necessary, to permit the imposition of the contingent deferred sales charge and to offer the Contracts.

Applicants consent to the exemptions requested from Sections 26(a), 26(a)(2)(C), and 27(c)(2) being made subject to the following conditions: (1) that the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payments of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicant's consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services; and Applicants reserve the right in any proceeding before the Commission or iny suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums or charges.

Section 27(c)(1)

Section 27(c)(1) of the Act prohibits restrictions on the redemption of contracts of the nature of those which are the subject of this Application. Applicants submit that the assessment of a contingent deferred sales charge upon certain redemptions, which is fully disclosed in the prospectus, should not be construed as such a restriction on redemption. Applicants assert that the Contracts are still redeemable securities, whether the sales charge is imposed against the purchase payment at the time of purchase, or whether such charge is deferred and made contingent upon an occurrence at a later instant during the contract period. Applicants assert that this is particularly true where the deferral of the contingent sales charge until a redemption is effected has the general effect of increasing the contract value that is available for redemption, as compared with the contract value that would be available for redemption were the sales charge deducted from the purchase payment before investment on behalf of the owner.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants submit that the imposition of the contingent deferred sales charge does not violate Section 2(a)(32) or Section 27(d). Applicants assert that Sections 2(a)(32) and 27(d) both contemplate the assessment of a front-end sales load. However, Applicants contend that, with a contingent deferred sales charge, the net amount invested is the gross purchase payments. Thus, the owner's "proportionate share" or account value would be the gross purchase payments, plus or minus any increase or decrease in value, less the contingent deferred sales charge. Applicants assert that deferring the imposition of the sales charge in no way restricts the contract owner from receiving his proportionate share or the value of his account on redemption. Rather, the contingent deferred sales charge will merely be deducted at the time of redemption in determining that proportionate share, instead of being deducted from purchase payments. The contingent deferred sales charge defers the timing of the imposition of the sales charge and make the charge contingent upon an event which might never occur. Applicants submit that this method of assessing sales charge permits the purchaser's net amount invested to be increased, thus providing a benefit to the purchaser.

Applicants suggest that the exemptions requested are appropriate and in the public interest, are consistent with the protection of investors, and are consistent with the purposes fairly intended by the policy and provisions of the Act.

Section 11

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of the exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants request an order pursuant to Section 11(a) and 11(c) to permit contract owners, upon written request, to transfer up to 25% of their contract value from the Variable Account to Nationwide Life's general account, or vice versa. Such transfers must be made prior to the earlier of the annuity commencement date or the death of the designated annuitant. However, no such transfers will be permitted prior to the first contract anniversary, or within 12 months of any prior transfer. Applicants also propose to permit transfers of Variable Account contract values among the sub-accounts of the Variable Account, pursuant to such terms and conditions as may be imposed by the mutual funds comprising the sub-accounts of the Variable Account. Both of such types of transfers described above shall be effected at "net asset value," with no assessment of any kind of transaction or sale charge against owners for effective such transfers.

Applicants assert that the proposed transfer rights will afford contract owners the flexibility of choice between Nationwide Life's general account investments and the shares of mutual funds having different investment objectives; and that the granting of these rights is in recognition of the potentially changing nature of owners' investment objectives and retirement needs over the years.

Applicant further assert that the proposed transfers involve only a change in a Contract's underlying accumulation units, which are merely accounting units of measure to quantify contract value, and, thus, do not involve an exchange of a unit investment trust security for the security of any other investment company. However, to avoid any questions that might be raised as to the applicability of Section 11, Applicants are requesting an order pursuant to Section 11, to the extent deemed necessary, to permit the proposed offer of transfer rights described above.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 29, 1981, at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following January 29, 1981 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is order, will receive any notices and orders isued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-1513 Filed 1-14-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17428; File No. SR-OCC-80-6]

Self-Regulatory Organizations; Proposed Rule Change by the Options Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 15, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC's By-Laws and Rules to conform them to the SEC staff's clearing agency registration guidelines.

Statement of Basis and Purpose

The general purpose of the proposed rule change is to conform certain of OCC's By-Laws and Rules to the clearing agency registration standards set forth in SEC Release No. 34-16900 (the "Release"). The specific changes are as follows.

OCC's By-Laws currently provide that only members of OCC's four participating Exchanges are eligible to become Clearing Members of OCC. The proposed amendment to Article V, Section 1 of the By-Laws would make all registered brokers and dealers eligible for Clearing Membership. The proposed amendments to the Interpretations and Policies under Article V, Section 1, to Article I, Section 1(j), and to Rules 1102 and 1203 are conforming changes, required by the extension of eligibility for Clearing Membership to non-Exchange members.

Concurrently with the filing of this proposed rule change, OCC is requesting, pursuant to Section 17A(b)(1) of the Act, that it be exempted from providing access at this time to the entities other than registered broker-dealers that are enumerated as eligible for clearing membership under Section 17A(b)(3)(B) of the Act.

The proposed amendment to Rule 211 would conform OCC's procedures regarding notice of proposed rule changes to the guidelines set forth in the Release.

The proposed amendment to Article III, Section 8 of the By-Laws would give OCC's Board of Directors express authority to interpret its By-Laws and Rules.

Proposed Rule 213 would provide for the furnishing of OCC's financial statements and internal accounting control reports to Clearing Members.

The proposed amendment to Article VIII, Section 5 of the By-Laws would require OCC to give Clearing Members prompt notice of the amount of, and the reasons for, any pro-rata charge to OCC's Clearing Fund, or any charge to current earnings made in lieu of a pro-rata charge to the Clearing Fund.

The proposed rule change is intended to enable OCC to comply with the provisions of the Securities Exchange Act of 1934, as interpreted by the Commission's staff, and to carry out the purposes of Section 17A of that Act.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule changes would impose any burden on competition.

On or before February 19, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 8, 1981.

[FR Doc. 81-1514 Filed 1-14-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1965]

Iowa; Declaration of Disaster Loan Area

Benton, Cass, Clark, Dallas, Crawford, Harrison, Ida, Lyon, Plymouth, Polk, Ringgold, Sac, Wayne, Hardin, Page, Pottawattamie, Lee, and Jasper Counties and adjacent counties within the State of Iowa, constitute a disaster area, due to drought conditions from March 21 through October 30, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 30, 1981, and for economic injury until September 30, 1981, at: Small Business Administration, District Office, 210 Walnut Street, Room 749, Des Moines, Iowa 50309.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 30, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1473 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1966]

Minnesota; Declaration of Disaster Loan Area

Winona County and adjacent counties within the State of Minnesota constitute a disaster area, as a result of damage from torrential rains and flooding which occured on September 19-20, 1980. Eligible persons, firms and organizations may file applications for physical damage until the close of business on March 2, 1981, and for economic injury until September 30, 1981, at: Small Business Administration, District Office, 12 South 6th Street, Minneapolis, Minnesota 55402, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 30, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1474 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1967]

Nevada; Declaration of Disaster Loan Area

The area of the arcade and casino of the MGM Grand Hotel, located just outside the city limits of Las Vegas in Clark County, Nevada, constitute a disaster area as the result of a fire which occurred on November 21, 1980. Eligible persons, firms and organizations may file applications for physical damage until the close of business on March 2, 1981 and for economic injury until September 30, 1981 at: Small Business Administration, Las Vegas District Office, Box 7527 Downtown Station, 301 East Stewart, Las Vegas, Nevada 39101.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 31, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1475 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1968]

New York; Declaration of Disaster Loan Area

Bronx County and adjacent counties within the State of New York constitute a disaster area because of damage resulting from heavy rains, high winds and flooding which occurred on October 25, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 9, 1981, and for economic injury until October 6, 1981, at: Small Business Administration, Disaster Office, 201 Varick Street, New York, New York 10014, or other locally announced locations.

(Catalog of Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 6, 1981.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1476 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1866; Amdt. No. 1]

North Dakota; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 46955), is amended by extending the filing date for physical damage until the close of business on February 4, 1981, and for economic injury until the close of business on May 4, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 22, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 81-1477 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. #1964]

Texas; Declaration of Disaster Loan Area

Jones County and adjacent counties within the State of Texas constitute a disaster loan area due to heavy rains and flooding from September 5, October 1, 1980. Eligible persons, firms and organizations may file applications for physical damage until the close of business on March 2, 1981, and for economic injury until September 30,1981, at: Small Business Administration, District Office, 1205 Texas Avenue, Room 712, Lubbock, Texas 79401.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 30, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1478 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1900; Amdt. 4]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration and subsequent amendments (See 45 FR 56489, 62599, 79216, 85242) is amended further by including Rockwall County and adjacent counties within the State of Texas, as disaster areas due to drought and extreme hot weather beginning on July 1, 1980 and continuing. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on February 12, 1981, and for filing applications for economic injury is close of business on May 12, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 81-1479 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0040]

Midland Capital Corp.; Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Midland Capital Corporation, License No. 02/02-0040, 110 William Street, New York, New York 10038, a licensed small business investment company under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration for approval of a change of control. Prior approval of change of control is required under § 107.701 of SBA Rules and Regulations (13 CFR § 107.701 (1980)).

Rich-Healy Corporation, 1709 Main Place, Buffalo, New York 14202, owner of 290,770 shares (approximately 20 percent) of the common stock of Midland Capital Corporation, proposes to contribute these shares to Midland Associates (Associates), 245 Park Avenue, New York, New York 10167, in exchange for a limited partnership interest in Associates.

The new owner of the Common Stock of Associates is a newly-formed New York limited partnership. The general partner of Associates is Stanfield, Machinist & Co., a New York limited

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partnership ("SM&C"), and the general partner of SM&C is Machinist, Stanfield & Co., a New York general partnership ("MS&C"). Messrs. Michael R. Stanfield and Robert B. Machinist are the sole general partners of MS&C.

Michael Ray Stanfield, 37 Riverdale Drive, New York, New York 10023
Robert Barry Machinist, 23 Park Avenue, New York, New York 10016

None of the limited partners of MS&C own as much as 10 percent of its capital. Each of the above partnerships and persons has a principal office located at c/o Van Ginkel & Benjamin, 245 Park Avenue, New York, New York 10167. Associates will be the only stockholder which will own ten percent of the outstanding stock of the Licensee and as such would be considered to be in a controlling position.

The proposed owners do not intend to make any changes in management or operations. There will be no change in officers and directors in connection with the transfer of shares other than the election of Messrs. Stanfield and Machinist as managing directors of the Licensee.

SBA's consideration of the application includes the general business character and reputation of the above-named persons and their commitment to actively operate the company within the intent and purpose of the Act and SBA Regulations.

Interested persons should address their comments on the proposed transfer of control to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW Washington, D.C. 20426, on or before January 26, 1981.

A similar notice shall be published by the proposed purchasers in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 6, 1981.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1480 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5197]

Sunbelt Funding Corp.; Issuance of License

On November 4, 1980, a Notice was published in the **Federal Register** (45 FR 73210) stating that an application had been filed by Sunbelt Funding Corporation, 2720 Riverside Drive, Macon, Georgia 31298, with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (SBIC's) under the provisions of section 301(d) of the Small Business Investment Act of 1958 as amended.

Interested parties were given until the close of business November 19, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 04/04-5197 to Sunbelt Funding Corporation, to operate as a section 301(d) SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: January 6, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 81-1520 Filed 1-14-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[File No. AC 21.23-1]

Advisory Circular; Type Certification—Fixed-Wing Gliders (Sailplanes)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of the issuance of Advisory Circular 21.23-1.

SUMMARY: "Advisory Circular (AC) 21.23-1 provides two comprehensive and detailed criteria, but not the only criteria, that may be used by an applicant in showing compliance with § 21.23(a) of the Federal Aviation Regulations, Part 21, for the type certification of fixed-wing gliders (sailplanes), including self-launching (powered) gliders. General guidance relative to glider type certification is also provided. A draft of AC 21.23-1 was published in the **Federal Register** on October 14, 1980 (45 FR 67818) for comment. AC 21.23-1 cancels AC 21-3, dated October 18, 1966.

DATES: AC 21.23-1 was issued on January 12, 1981.

ADDRESSES: A copy of AC 21.23-1 can be obtained by writing to: U.S. Department of Transportation, Publications Section M443.1, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. James Zahringer, Technical Standards Branch (AWS-110), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; Telephone: (202) 426-8374. Copies of all comments received on draft AC 21.23-1 may be obtained by contacting this person.

SUPPLEMENTARY INFORMATION: Most of the comments on draft Advisory Circular (AC) 21.23-1 indicate basic agreement with the AC except for the requirement that the engine and propeller of self-launching gliders (sailplanes) be certificated to FAR Part 33 and 35 respectively. Those commenting on this point believe this criteria is too severe. This is particularly true with respect to the comments on engine certification.

In the draft AC 21.23-1, as published for comment, the FAA recognized that requiring glider engines and propellers to meet the requirements of FAR Part 33 and 35 might be too severe because, by definition, gliders would not depend principally upon the engine for free flight. In the Notice, the FAA particularly requested comments or suggestions on acceptable criteria for the certification of engines and propellers for glider use only, and alternatives to the requirement that the engine and propeller be type certificated. After issuance of draft AC 21.23-1, the European Joint Airworthiness Requirements group that developed JAR 22, adopted European requirements for the type certification of glider (sailplane) engines and propellers as Subparts H and J of JAR 22. A copy of new JAR 22 Subparts H and J were provided to the FAA by the JAR group in response to the FAA request for comments and suggestions on this subject.

The Soaring Society of America (SSA) also suggested alternative engine and propeller approval criteria.

The FAA has completed its review of JAR 22, Subparts H and J, and the engine and propeller criteria suggested by the SSA. Both criteria are considered acceptable and both are compatable with the other. The FAA has selected to make particular reference to the JAR 22 requirements as acceptable criteria in AC 21.23-1 in the interest of international standardization of glider standards. Therefore, as stated in AC 21.23-1, engines that meet the criteria of JAR 22, Subpart H, and propellers that meet the criteria of JAR 22, Subpart J, may be approved as an integral part of the glider.

It should be noted that engines and propellers approved as an integral part of a particular glider are not type certificated as separate entities. Each will receive its own separate type certificate but the type certificate will be limited for the installation of the engine or propeller on specific gliders. A regulatory project is being established to amend FAR Parts 33 and 35 to incorporate special requirements for glider engines and propellers to provide a basis to issue a type certificate for a glider engine and propeller without this limitation.

In addition to the foregoing, additional criteria to supplement JAR 22 were suggested by FAA engineers with respect to handling qualities and airspeed limitations, to be considered analogous to United States national variants to JAR 22. It was also suggested that the FAA apply the Belgium, France, and United Kingdom national variant against JAR 22.207(b) on stall warning systems. Because all of these suggestions were consistent with past FAA practices in the type certification of gliders, these suggestions were adopted in AC 21.23-1, affecting the application of JARs 22.177(b), 22.207(b), and 22.1545 as acceptable criteria.

A new paragraph was added to AC 21.23-1 to highlight to United States designers and manufacturers of gliders that the European countries that participated in the development of JAR 22 would probably require compliance with the JAR requirement for import airworthiness acceptance. Importing countries have the prerogative under the existing bilateral airworthiness agreements and FAR 21.329(f) requires that the special requirements of the importing country be met to obtain an FAA Export Certificate of Airworthiness. Therefore, AC 21.23-1 states that, unless specifically notified to the contrary by the authority of the importing country on a particular case basis, the FAA will consider strict compliance with JAR 22 to be a requirement for issuance of a Class I Export Certificate of Airworthiness for export to a JAR participating country.

Issued in Washington, DC, on January 12, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-1401 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 141—FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 141 on FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications Equipment to be held on January 28, 1981 in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Fifth Meeting Held on September 9-10, 1980; (3) Review Comments Received on Final Draft of Committee Report; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 5, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-1107 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

Wytwornia Spreztu Komunikacyjnego (WSK) AS_z-62IR-16 and AS_z-62IR-M18; Engine Certification

Wytwornia Sprzetu Komunikacyjnego (WSK) AS_z-62IR-16 and AS_z62IR-M18; engine certifiation and availability of documents.

Based on a review of the entire certification process, the Director of FAA New England Region approved issuance of the Type Certificate E10NE, as recommended by New England Region staff, under the terms of the Bilateral Airworthiness Agreement between the United States and the Polish People's Republic (Poland).

A copy of the "Decision Basis for Type Certification of the Wytwornia Sprzetu Komunikacyjnego "PZL-Kalisz" AS_z-62IR-16, AS_z-62IR-M18 Model Piston Engines" is on file in the FAA Rules Docket. The bulk of the "Decison Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein WSK was required to demonstrate compliance with the applicable Federal Aviation Regulations.

The test and appendices of the "Decision Basis" include delineation of the specific legal compliance required by each rule and a summary of the method by which compliance was established for each.

The requirements for certification under the terms of the Bilateral Airworthiness Agreement are also described for imported products.

Detailed appendices and attachments include: (1) The applicable Federal Aviation Regulations, (2) The Type Certificate and Type Certificate Data Sheet issued by the Central Administration of Civil Aviation (CACA) of Poland, (3) The Bilateral Airworthiness Agreement between the U.S.A. and Poland, and (4) FAA Type Certificate E10NE and the Type Certificate Data Sheet. The report is available for examination and copying at the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. Copies of the report may be obtained from the Office of the Director, FAA New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on January 6, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-1195 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Charlotte, N.C.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Charlotte, North Carolina.

FOR FURTHER INFORMATION CONTACT: Gary D. Holly, Environmental Engineer, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to construct a 4-lane divided facility in Charlotte, North Carolina, from the interchange at I-85 and Little Rock Road to the structure over Southern Railway at the entrance to the new Douglas Municipal air terminal, a distance of approximately 1.1 miles. The proposed action is considered necessary to provide access to the proposed terminal which will adequately handle the projected traffic volumes. Also included in this proposal is the construction of an

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interchange to accommodate the Inner Loop Connector (under construction) and the future Outer Loop Connector.

Alternatives under consideration include (1) not building the project; (2) using alternative travel modes; (3) widening existing Little Rock Road to seven lanes from I–85 to Wilkinson Boulevard and constructing a four-lane, limited access highway on new location from Wilkinson Boulevard to the southern terminus of the project and; (4) constructing a four-lane, limited access highway on new location east of existing Little Rock Road.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State, and local agencies. A public meeting and meeting with local officials have been held in the study area as a part of earlier studies. The draft EIS will be available for public and agency review and comment. A public hearing will be held following the availability of the draft EIS. Public notice will be given of the time and place of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.

Issued: December 23, 1980.

Roger D. Lewis,

Assistant for Division Administrator, Raleigh, N.C.

[FR Doc. 81–1187 Filed 1–14–81; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Orange County, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Orange County, California.

FOR FURTHER INFORMATION CONTACT: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans) will prepare an Environmental Impact Statement (EIS) on a proposal to improve the Pacific Coast Highway (State Route 1) between Route 55 in Newport Beach and Golden West Street in Huntington Beach in Orange County, California. The proposed improvement would consist of widening from 4 to 6 lanes between Route 55 and Route 39 (Beach Boulevard) and replacement of the highway bridge over the Santa Ana River. For the portion between Beach Boulevard and Golden West Street traffic operation improvements will be used. These consist of elimination of on-street parking, restriping, and improved signalization.

The project proposed is to improve traffic flow on Pacific Coast Highway between Route 55 and Golden West Street. Presently, most of the roadway has insufficient capacity to accommodate today's traffic volumes at acceptable levels of service.

Alternatives under consideration include (1) taking no action; (2) widening equally on both sides of the highway; (3) widening on the inland side of the highway; (4) widening on the beach side of the highway; and (5) elimination of on-street parking and restriping the highway.

No scoping meetings have been scheduled at this time. Meetings will be scheduled to encourage affected parties to identify the crucial issues and insure that matters of importance are not overlooked in the early stages of review.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: January 1981.

Raymond Okinaga,

Acting District Engineer, Sacramento, California.

[FR Doc. 81–1349 Filed 1–14–81; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Support for Highway Safety Programs Task Force; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee's Support for Highway Safety Programs Task Force to be held on February 3–5, 1981. On February 3–4, the Task Force is sponsoring a series of round table discussions to determine how the Department of Transportation could effectively accomplish its highway safety mandate by working more efficiently with existing organizations who sponsor programs that have compatible goals. The meetings will start at 9:00 a.m. on both days in the Jupiter room of the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. On February 5 the Task Force will convene to discuss the issues identified during the first two days and prepare a draft report. This meeting will take place in room 8236 at the DOT Headquarters Building, 400 7th Street, SW., Washington, D.C.

Attendance is open to the interested public, but limited to the space available. Members of the public may present a written statement to the Task Force.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 7th Street, SW., Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C. on January 9, 1981.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 81–1535 Filed 1–14–81; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Demonstration Projects; Extension of Date for Invitation for Sources

AGENCY: Materials Transportation Bureau, Department of Transportation (DOT).

ACTION: Extending the date for the submission for sources.

SUMMARY: The Research and Special Programs Administration has the requirement to establish cost sharing demonstration projects to develop hazardous materials accident prevention and emergency response programs. The objectives of the demonstration projects are to document the steps taken by State and local governments, including Council of Governments, to develop a hazardous materials management program (46 FR 1071, January 5, 1981). The DOT has a total of $450,000

available in FY 1981 funds to support these demonstration projects. Not more than six (6) projects shall be approved for FY 9181. Projects reports are intended to be used by other Government agencies for developing similar programs in other jurisdictions. The Department of Transportation reserves the right to make any resulting procurement in the manner determined solely by DOT.

DATES: Sources received on or before Februaru 6, 1981 will be issued a request for proposal.

ADDRESS: Department of Transportation, Research and Special Programs Administration, Procurement Division, DPA–14, 400 Seventh Street, S.W., Washington, D.C.; 20590, Attn: John E. Doyle, Jr.

Issued in Washington, D.C., on January 9, 1981.

John E. Doyle, Jr.,

Contratcing Officer.

[FR Doc. 81-1534 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-60

Urban Mass Transportation Administration

Vancouver/Clark County Intermodal Transportation Center; Intent To Prepare an Environmental Impact Statement

Pursuant to the Nationl Environmental Policy Act (83 Stat. 852) and the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508), the Urban Mass Transportation Administration gives notice that an environmental impact statement is being prepared for the proposed Vancouver/Clark County Intermodal Transportation Center to be located in Vancouver, Washington.

The Regional Planning Council of Clark County, in cooperation with the City of Vancouver, proposes to undertake, with Federal capital grant assistance, and intermodal transportation center. The proposed project is designed to serve as an inter-city bus terminal; downtown transit station and transfer point serving the transit carriers through the Portland Metropolitan area; taxi; shuttle and kiss and ride access; and as a complimentary facility to the vicinity area structured parking demand and private development projects. As many as six alternative sites plus a no-build alternative will be analyzed in the environmental impact statement. Two sites identified thus far for detailed analysis are:

1. The block bound by 7th Street, 8th Street, Broadway, and C Street; and
2. The block bound by Mill Plain, Main Street, 15th Street, and Broadway.

A scoping meeting will be held in Vancouver, Washington on Tuesday, February 10, 1980 at 2:00 p.m. The meeting will be held at the Rudy Luepke Center located at 1900 East McLoughlin Boulevard. The Urban Mass Transportation Administration invites the participation of agencies and individuals with expertise or interest to comment on the scope of this environmental impact statement.

Comments and questions regarding the proposed action and environmental impact statement should be referred to: Joel Widder, Environmental Protection Specialist, Planning and Analysis Division, Office of Program Analysis, Urban Mass Transportation Administration, Washington, D.C., telephone number (202) 472–7100.

Dated: January 8, 1981.

Franz K. Gimmler,

Associate Administrator for Transit Assistance.

[FR Doc. 81-1537 Filed 1-14-81; 8:45 am]

BILLING CODE 4910-57-M

TENNESSEE VALLEY AUTHORITY

First Public Notice for Class Review of Repetitive Actions in the 100-Year Floodplain

TVA's Floodplain Management and Protection of Wetlands procedures, 44 FR 45 513–24 (1979), implementing Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands), require TVA to evaluate potential impacts on and consider alternatives to siting in the 100-year floodplain (or a larger floodplain for critical actions) or permitting or taking actions in a wetland in connection with the issuance of licenses, permits, and approvals for land-use activities and in connection with the acquisition, management, and disposition of TVA facilities and Federal lands under TVA control. Item No. 12 of those procedures permits TVA to evaluate, as a class, routine or recurring actions when the considerations of whether to locate in a floodplain are substantially similar. TVA will continue to individually review proposals to permit or take action within a wetland due to the individual characteristics of wetlands.

There are certain recurring activities usually occurring adjacent to streams or TVA reservoirs that TVA has decided to evaluate as a class to determine their impacts on natural and beneficial floodplain values. These activities are conducted at times by TVA or other governmental entities but principally by members of the public. In the latter two cases, TVA is involved due to the need to obtain TVA approval pursuant to Section 26a of the Tennessee Valley Authority Act of 1933, as amended, 16 U.S.C. § 831y–1, the need to obtain a license or property interest from TVA, or because of a cooperative agreement to which TVA is a party. To date a large number of these activities have been reviewed on an individual basis by TVA pursuant to its procedures, with public notice and opportunity to comment, and the results of the reviews have indicated consistently and uniformly that through application of routine criteria TVA had minimized the adverse impact on natural and beneficial floodplain values. No significant public comments to the contrary have been received.

After this class review is completed, further public reviews will not be undertaken for individual actions which are determined to fall within the class.

This review will in no way constitute or evidence approval by TVA, where TVA property rights are involved or within the meaning of Section 26a of the TVA Act, of any structure or facility falling within the class. Persons wishing to undertake the activities listed here or other activities requiring TVA approval are cautioned that they must apply for TVA approval in the same manner as they are currently required to do.

The following actions will be evaluated to determine their impacts on natural and beneficial floodplain values:

1. Private water-use facilities (e.g., fixed or floating boat docks, fixed or floating boathouses, floats, fixed piers, rafts, floating ski jumps and slalom courses, and buoy lines for swimming areas);
2. Commercial recreation boat dock and water-use facilities (e.g., docks, fixed piers, floats, fixed or floating boat slips, fixed or floating water-related dock buildings but not including habitable structures, fuel handling facilities, floodproof buildings for dry boat storage, and minor dredging for boat channels and harbors);
3. Picnic tables, benches, grills, and fences on TVA lands;
4. Underground, overhead, or anchored utility and related lines and support structures (e.g., cable TV, electric, pipeline, sewer, telephone, and water);
5. Water intake structures;
6. Outfalls;
7. Mooring and loading facilities for barge terminals;
8. Agricultural use of TVA land;
9. Minor grading and fills (e.g., slopes for boat launching ramps, public highways, railroad crossings, pedestrian walkways and crossings, private

driveways, retaining walls and riprap for bank stabilization, and parking lots);

10. Bridges and culverts for pedestrian, highway, and railroad crossings; and

11. Small private land-based storage sheds and buildings having less than 25 square feet of floor space and used for storage of water use related equipment.

Measures will be taken to minimize impacts on natural and beneficial floodplain values when no practicable alternative to taking an action in the floodplain exists. Appropriate conditions and terms will be included in the authorizations and approvals issued by TVA. TVA will also take these measures if it maintains or constructs any of these facilities.

Any comments on this review by TVA should be submitted to: John R. Paulk, Director, Division of Land and Forest Resources, Tennessee Valley Authority, Norris, Tennessee 37828, no later than February 17, 1981. Comments may also be telephoned to TVA's Citizen Action Line at 1-800-362-9250 (inside Tennessee), 1-800-251-9242 (outside Tennessee), and 632-4100 in Knoxville.

Lawrence L. Calvert,

Assistant to the Director (Program Planning and Development), Division of Land and Forest Resources.

[FR Doc. 81-1456 Filed 1-14-81; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 88 (Rev. 5)]

Authority Delegation; District Directors, Employee Plans and Exempt Organizations Key Districts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: D.O. 88 (Rev. 5) grants authority to the District Director of each Employee Plans and Exempt Organizations Key District to issue notices of Revocation and Re-establishment of Exemption with respect to organizations or trusts referred to in section 4975 (g)(2) or (3), or described in section 501 (c)(17) or (18) of the Internal Revenue Code, and provides a current listing of Key District Offices. The text of the delegation order appears below.

EFFECTIVE DATE: January 12, 1981.

FOR FURTHER INFORMATION CONTACT: Edward J. Kulich, E:EO:D, 1111 Constitution Ave., N.W. Room 2218, Washington, D.C. 20224 Telephone Number (202)566-3570.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

S. A. Greer,

Chief, Employee Plans Determination Branch.

Date of issue: January 12, 1981.

Effective Date: January 12, 1981.

Subject: Issuance of Notices of Revocation and Re-establishment of Exemption.

1. Pursuant to the provisions of 26 CFR 1.503(a)-1 and Treasury Department Order 150-37, the authority vested in the Commissioner of Internal Revenue to determine that any organization or trust described in section 401(a) which is referred to in section 4975(g)(2) or (3) or any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption is delegated to the District Director of each of the following Employee Plans and Exempt Organizations Key Districts.

Key Districts—IRS District Covered

Central Region

Cincinnati—Cincinnati, Louisville and Indianapolis
Cleveland—Cleveland and Parkersburg
Detroit—Detroit

Mid-Atlantic Region

Baltimore—Baltimore, Pittsburgh, Richmond, and Office of International Operations
Philadelphia—Philadelphia and Wilmington
Newark—Newark

Midwest Region

Chicago—Chicago
St. Paul—St. Paul, Aberdeen, Fargo, and Milwaukee
St. Louis—St. Louis, Des Moines, Omaha, and Springfield

North-Atlantic Region

Boston—Boston, Augusta, Burlington, Providence, Hartford, and Portsmouth
Manhattan—Manhattan
Brooklyn—Brooklyn, Albany, and Buffalo,

Southeast Region

Atlanta—Atlanta, Birmingham, Columbia, Greensboro, Jackson, Jacksonville, and Nashville

Southwest Region

Dallas—Dallas, Albuquerque, Austin, Cheyenne, Denver, Little Rock, New Orleans, Oklahoma City, and Wichita

Western Region

Los Angeles—Los Angeles, Phoenix, and Honolulu
San Francisco—San Francisco, Reno, and Salt Lake City
Seattle—Seattle, Portland, Anchorage, Boise, and Helena

2. Such Key District Directors are also delegated authority to determine that such organizations and trusts will not knowingly again engage in a prohibited transaction and that they also satisfy all other requirements of section 501(c)(17), 501(c)(18) or applicable requirements of section 401(a) of the Internal Revenue Code of 1954 and to notify such trust or organization in writing of the re-establishment of its exemption pursuant to 26 CFR 1.503(c)-(1).

3. The authority delegated in this order may be redelegated but not below Chief, Employee Plans and Exempt Organizations Division.

4. This order supersedes Delegation Order No. 88 (Rev. 4) issued August 6, 1975.

William E. Williams,

Acting Commissioner.

[FR Doc. 81-1503 Filed 1-14-81; 8:45 am]

BILLING CODE 4830-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Information on Imports During First 10 Months of 1980

This notice is for information only, and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October 1980. These statistics are relevant to the "competitive need" limits set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) $25 million, adjusted annually to reflect changes in the U.S. Gross National Product, or (2) 50 percent of total U.S. imports of the article, is to cease receiving duty-free treatment under GSP for such article not later than 90 days after the close of that calendar year.

Based on preliminary data, subject to revision, the dollar limit cited in the preceding sentence is expected to be approximately $43.0 million for calendar year 1980.

Section 1111 of the Trade Agreements Act of 1979 amends section 504(c)(1)(B) of the Trade Act of 1974 so that the President may disregard the 50 percent "competitive need" limit with respect to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $1 million, adjusted annually to reflect changes in the U.S. Gross National Product.

Based on preliminary data, subject to revision, the dollar limit cited in the preceding sentence is expected to be approximately $1.45 million for calendar year 1980.

An executive order will be issued to be effective March 31, 1981, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1980. Such data are not currently available. It should be emphasized that the information set forth below covers only the first ten months of 1980. While this is not complete information on which adjustments will be based, it is being published now in order to provide maximum possible advance indication as to adjustments that may be made to meet requirements of sections 504(c) of the Trade Act.

List I below shows how the "competitive-need" list of countries ineligible to receive GSP benefits for particular articles might look if that list were based on data covering the period January through October 1980. In fact, the "competitive-need" list that will become effective on March 31 will be based on data for the full twelve months of 1980, so that List I below is indicative only and is subject to change.

List II below shows countries which, on the basis of data for the first ten months of 1980, were close to exceeding the "competitive-need" limits for particular articles, but which had not actually exceeded those limits.

List III below shows countries which supplied 47 percent or more of GSP eligible articles, based on data for January–October 1980, and where the total value of U.S. imports did not exceed $1.45 million.

The column headed "TSUS" in the Lists below sets forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

List I.—*GSP Eligible Articles for Which a Beneficiary Country Supplied*

(a) 50 pct or more of U.S. imports in January-October 1980 and the total value of U.S. imports during this period exceeded $1.45 million, or

(b) Imports valued at $43 million or more during that period.

TSUS item No.	Country	Percent	Value
107.48	Brazil	59	$57,702,719
107.80	Brazil	51	817,788
113.01	Thailand	58	1,153,701
114.04	Thailand	57	[1] 1,019,702
121.56	India	75	5,374,353
121.62	India	57	11,942,721
121.65	Argentina	51	5,076,029
135.90	Mexico	98	24,594,884
136.00	Dominican Republic	69	3,6291,973
136.30	Mexico	77	6,096,953
136.80	Mexico	75	1,209,429
137.71	Mexico	94	1,574,990
137.81	Columbia	59	[1] 1,024,214
138.05	Mexico	66	8,020,093
138.35	Costa Rica	72	[1] 1,291,852
140.21	Mexico	98	7,773,655
141.70	Taiwan	73	8,767,031
141.77	Mecixo	64	14,561,421
146.22	Turkey	79	3,101,916
146.44	Philippines	75	2,394,336
147.98	Haiti	54	919,526
148.12	Mexico	91	4,864,331
148.27	Mexico	86	4,259,678
148.72	Chile	87	2,201,209
149.50	Mexico	88	1,450,721
152.54	Brazil	53	855,411
154.53	Taiwan	55	510,385
155.20	Brazil	15	235,721,904
155.20	Colombia	4	63,517,494
155.20	Dominican Republic	16	237,801,568
155.20	Guatemala	6	95,453,795
155.20	Mozambique	3	48,781,049
155.20	Panama	4	60,001,171
155.20	Philippines	8	124,736,938
155.20	Swaziland	2	44,336,074
176.15	Brazil	99	4,395,479
192.17	Israel	52	1,137,194
192.21	Colombia	89	[1] 56,486,420
192.45	Israel	54	2,714,288
192.85	Mexico	62	2,117,686
200.91	Honduras	67	3,510,040
202.62	Mexico	99	16,853,855
206.47	Taiwan	70	8,256,842
206.60	Mexico	67	21,391,812
206.98	Taiwan	59	33,067,914
220.20	Portugal	86	1,337,429
220.25	Portugal	83	1,769,885
220.48	Portugal	51	2,340,017
222.10	Hong Kong	86	7,534,859
240.02	Philippines	96	13,420,059

List I.—*GSP Eligible Articles for Which a Beneficiary Country Supplied*

(a) 50 pct or more of U.S. imports in January-October 1980 and the total value of U.S. imports during this period exceeded $1.45 million, or

(b) Imports valued at $43 million or more during that period.

TSUS Item No.	Country	Percent	Value
240.21	Philippines	57	3,620,332
240.38	Philippines	51	8,779,466
256.87	Mexico	88	43,581,419
315.25	Mexico	67	3,264,152
319.01	India	99	1,758,466
319.05	India	97	1,436,681
360.35	India	88	1,741,585
418.80	Argentina	99	6,702,105
419.60	Chile	95	1,430,673
425.84	Netherlands Antilles	86	1,763,939
473.52	Mexico	99	7,405,916
522.21	Mexico	51	25,585,046
532.31	Mexico	54	946,036
534.94	Taiwan	43	49,944,954
545.53	Mexico	51	7,006,693
547.37	Taiwan	61	5,260,824
602.10	Peru	50	10,804,023
603.40	Chile	83	13,921,003
603.45	Chile	94	1,405,081
610.62	Republic of Korea	55	1,362,924
612.03	Chile	82	89,133,917
612.06	Chile	23	178,943,736
612.06	Peru	6	51,066,418
612.06	Zambia	12	96,680,911
632.02	Bolivia	56	3,406,553
642.14	Republic of Korea	60	1,542,016
646.90	Mexico	60	3,477,850
648.97	Taiwan	45	49,635,050
651.21	Taiwan	64	3,424,950
653.30	Hong Kong	52	954,646
653.47	Taiwan	77	1,140,273
653.85	Taiwan	83	2,265,423
654.12	Taiwan	80	4,754,470
654.13	Hong Kong	70	6,616,963
656.10	Argentina	59	3,757,684
657.24	Taiwan	58	1,871,206
661.08	Hong Kong	81	68,036,659
662.35	Mexico	54	1,569,801
676.20	Hong Kong	13	43,368,945
676.52	Hong kong	15	119,023,836
676.52	Mexico	7	61,357,962
678.50	Taiwan	6	59,735,959
682.60	Mexico	19	67,686,932
683.15	Mexico	52	23,290,766
683.80	Hong Kong	78	4,512,571
684.15	Singapore	96	9,789,170
684.50	Hong Kong	49	87,716,315
684.70	Taiwan	18	63,904,853
685.24	Hong Kong	25	109,200,732
685.24	Taiwan	10	46,557,301
685.90	Mexico	15	118,360,774
686.24	El Salvador	56	4,366,002
686.30	Taiwan	64	10,237,382
687.30	Malaysia	53	11,079,069
687.42	Taiwan	55	3,044,386
688.10	Taiwan	76	37,964,692
688.12	Mexico	77	56,675,159
688.15	Mexico	45	53,633,105
688.44	Hong Kong	50	[1] 5,677,318
692.32	Mexico	9	120,964,572
696.35	Taiwan	69	4,503,023
696.50	Brazil	94	1,656,837
702.32	Mexico	76	1,410,742
702.47	Mexico	93	2,533,934
706.40	Hong Kong	71	1,048,115
709.40	Hong Kong	68	3,661,583
712.15	Israel	55	7,929,845
713.15	Mexico	61	3,575,873
722.44	Hong Kong	57	4,783,133
726.90	Mexico	50	6,418,122
727.06	Mexico	58	21,303,596
727.12	Philippines	56	[1] 13,581,203
727.35	Taiwan	17	46,851,052
727.47	Taiwan	70	3,671,140
731.20	Republic of Korea	51	1,181,786
732.52	Taiwan	56	947,397
734.10	Taiwan	88	7,330,048
734.15	Taiwan	61	23,575,696
734.20	Hong Kong	39	145,486,048
734.20	Taiwan	22	83,948,322
734.25	Hong Kong	55	1,478,871
734.51	Taiwan	83	3,223,318
734.54	Republic of Korea	53	20,986,420
734.56	Haiti	78	25,093,927
734.87	Taiwan	63	3,995,250
734.90	Taiwan	63	37,033,077
737.15	Hong Kong	60	36,424,742
737.21	Hong Kong	53	7,929,966
737.25	Taiwan	61	5,027,903
737.30	Republic of Korea	56	29,451,302

List I.—*GSP Eligible Articles for Which a Beneficiary Country Supplied*

(a) 50 pct or more of U.S. imports in January–October 1980 and the total value of U.S. imports during this period exceeded $1.45 million, or

(b) Imports valued at $43 million or more during that period.

TSUS item No.	Country	Percent	Value
737.50	Hong Kong	82	1,510,484
737.60	Hong Kong	53	2,472,978
737.95	Hong Kong	42	102,835,558
737.95	Taiwan	16	43,873,921
740.30	Hong Kong	69	1,482,459
740.34	Hong Kong	80	3,102,683
740.70	Israel	69	3,058,205
740.75	Republic of Korea	59	1,292,096
741.25	Hong Kong	57	1,645,034
750.25	Hong Kong	57	2,308,023
751.05	Taiwan	73	32,401,925
755.25	Hong Kong	55	11,187,984
772.35	Taiwan	83	34,295,238
772.51	Republic of Korea	8	57,870,477
772.97	Hong Kong	51	16,618,172
774.45	Hong Kong	73	20,732,943
790.10	Taiwan	50	4,136,858
790.39	Taiwan	66	28,012,881
790.70	Republic of Korea	95	30,756,181
791.28	Mexico	52	2,450,395
792.50	Philippines	86	3,879,853
792.60	Hong Kong	94	5,802,161
Total			4,063,921,083

[1] Estimated.

List II.—*GSP Eligible Articles for Which a Beneficiary Country Supplied*

(a) 47 pct or more, but less than 50 pct, of U.S. imports in January–October 1980 and the total value of U.S. imports during this period exceeded $1.45 million, or

(b) Imports valued at $41 million or more, but less than $43 million, during that period.

TSUS item No.	Country	Percent	Value
155.35	Dominican Republic	48	$3,614,352
220.50	Portugal	49.3	860,959
222.44	Philippines	48	6,894,632
245.20	Brazil	48	11,980,387
429.34	Brazil	48	1,723,134
535.31	Mexico	48	5,054,622
544.51	Hong Kong	48	16,526,369
618.15	Venezuela	49.3	6,596,956
652.60	Taiwan	48	2,951,645
652.84	Mexico	48	10,833,358
653.93	Taiwan	47	3,025,116
674.35	Taiwan	5	42,367,006
685.24	Republic of Korea	9	41,260,854
685.24	Singapore	9	42,291,062
685.29	Singapore	16	41,338,362
726.70	Mexico	48	2,772,792
734.70	Republic of Korea	48	5,806,484
735.09	Taiwan	48	9,861,222
735.12	Taiwan	48	1,157,135
737.07	Hong Kong	47	9,631,605
737.45	Hong Kong	47	3,395,768
737.80	Hong Kong	49.3	8,190,857
741.50	Hong Kong	47	1,224,790
750.40	Hong Kong	47	1,561,096
750.65	Taiwan	47	1,093,967
772.95	Hong Kong	48	7,163,204
774.55	Taiwan	16	41,096,803
Total			326,517,556

List III.—*GSP Eligible Articles for Which a Beneficiary Country Supplied 47 pct or More of U.S. Imports in January–October 1980 and the Total Value of U.S. Imports During This Period Did Not Exceed $1.45 Million*

TSUS item No.	Country	Percent	Country Value	Total value of item
107.45	Haiti	49	$390,744	$786,288
107.70	Haiti	100	304	304
121.52	India	53	129,579	243,000
130.32	Argentina	67	532,600	785,876
130.40	Mexico	97	27,132	27,874
135.51	Mexico	96	436,515	452,009
135.80	Nicaragua	100	49,111	49,111
136.97	Taiwan	50	550,777	1,081,326
137.02	Dominican Republic	92	951,148	1,027,031
137.40	Mexico	73	989,019	1,353,167
137.75	Costa Rica	85	688,281	803,303
137.79	Mexico	97	11,020,473	1,051,355

List III.—*GSP Eligible Articles for Which a Beneficiary Country Supplied 47 pct or More of U.S. Imports in January–October 1980 and the Total Value of U.S. Imports During This Period Did Not Exceed $1.45 Million—Continued*

TSUS item No.	Country	Percent	Country Value	Total value of item
140.14	Thailand	71	827,450	1,156,875
140.20	Nepal	65	217,876	332,672
140.54	Israel	57	115,842	201,665
141.35	Turkey	58	108,864	187,545
146.42	Ecuador	98	736,845	752,169
147.33	Morocco	50	58,004	115,759
147.36	India	49	2,331	4,705
147.85	Brazil	52	183,429	349,592
148.19	Honduras	71	22,500	31,491
148.35	Guatemala	74	40,393	56,160
148.65	Dominican Republic	49	384,772	776,525
148.77	Philippines	47	1,963	4,165
149.15	Honduras	55	224,768	403,035
152.00	Panama	55	15,415	27,643
152.43	Dominican Republic	81	73,418	89,701
153.28	Portugal	86	49,206	57,516
154.40	Taiwan	47	176,342	372,203
154.43	Taiwan	56	14,968	26,706
154.60	Taiwan	50	91,813	182,170
161.69	Mexico	90	102,300	113,634
168.13	Trinidad and Tobago	99	291,514	291,946
169.39	Brazil	67	417,830	621,123
169.46	Mexico	72	460,540	635,762
169.49	Colombia	50	21,450	42,173
177.12	Panama	94	1,010,980	1,072,763
182.90	Panama	71	481,873	682,142
184.65	Taiwan	64	173,901	267,642
190.68	Mexico	50	289,502	572,634
206.45	Haiti	98	19,532	19,886
220.10	Portugal	94	456,617	485,672
220.15	Portugal	86	174,045	200,426
220.35	Portugal	100	25,667	25,667
220.37	Portugal	100	8,054	8,054
220.41	Portugal	88	24,779	28,014
222.36	Republic of Korea	57	109,991	192,419
222.62	Philippines	72	165,940	227,617
240.10	Brazil	97	457,393	469,796
240.12	Brazil	72	25,834	35,645
240.19	Taiwan	75	701,196	925,457
240.54	Taiwan	77	73,579	95,310
252.05	Taiwan	79	280,604	351,406
253.45	Taiwan	61	16,629	26,932
254.25	Taiwan	96	14,860	15,360
254.40	Israel	77	17,360	22,296
254.48	Brazil	77	616,911	791,765
254.56	Brazil	96	63,335	65,840
304.44	Brazil	100	22,125	22,125
304.58	Thailand	77	73,822	95,715
305.20	Thailand	53	167,474	312,126
305.22	India	74	225,847	304,169
305.28	Thailand	94	940,073	999,942
306.52	Bolivia	100	50,136	50,136
306.71	Argentina	63	18,880	29,762
308.06	Taiwan	100	475	475
308.18	Argentina	100	10,271	10,271
308.30	Brazil	58	73,650	126,349
308.50	Hong Kong	57	656,738	1,135,807
315.30	Portugal	76	81,508	106,620
319.03	India	98	1,067,224	1,084,061
319.07	India	92	249,704	269,461
335.50	India	63	370,809	579,613
347.30	India	91	1,095,867	1,202,290
347.72	India	53	28,091	52,357
347.75	Israel	82	30,255	36,810
360.36	Brazil	60	37,629	61,693
360.82	India	78	28,429	36,395
409.38	Romania	50	160,627	320,891
412.76	Israel	100	91,933	91,933
412.80	Mexico	68	20,497	30,137
416.05	Mexico	100	102,858	102,858
417.54	Bolivia	72	27,596	38,006
418.24	India	91	344,900	376,401
419.54	Mexico	73	147,544	199,696
420.02	Israel	65	279,791	426,330
420.78	Turkey	58	50,400	86,088
420.82	Israel	79	159,179	200,805
420.98	Brazil	99	897,619	899,339
421.90	Hong Kong	98	386,700	393,382
422.74	Mexico	80	226,400	281,031
422.76	Mexico	80	903,733	1,119,332
426.56	India	68	21,102	30,620
427.25	Mexico	63	57,459	90,343
429.22	Brazil	58	359,307	617,010
437.13	India	97	55,499	57,094

List III.—*GSP Eligible Articles for Which a Beneficiary Country Supplied 47 pct or More of U.S. Imports in January-October 1980 and the Total Value of U.S. Imports During This Period Did Not Exceed $1.45 Million—Continued*

TSUS item No.	Country	Percent	Country Value	Total value of item
437.16	India	99	176,194	177,409
437.50	Mexico	54	4,306	7,945
446.10	Malaysia	86	820,231	952,270
450.25	Singapore	56	217,760	383,114
480.60	Hong Kong	100	83,552	83,552
480.70	Brazil	100	61,875	61,875
481.15	Bermuda	88	89,499	100,944
485.25	Mexico	78	30,864	39,337
485.65	India	100	648	648
485.70	Argentina	100	60,648	60,648
486.05	Jamaica	90	45,285	50,107
486.10	Republic of Korea	98	165,568	167,339
470.18	Israel	69	[1]130,522	[1]188,813
472.48	Cyprus	96	8,102	8,358
473.50	Mexico	100	16,785	16,785
473.56	Mexico	92	1,093,623	1,183,045
473.66	Mexico	100	27,377	27,377
473.78	Mexico	91	17,105	18,783
473.82	Republic of Korea	88	235,067	264,241
474.02	Hong Kong	100	773	773
490.32	Argentina	51	249,183	483,465
511.31	Mexico	70	906,830	1,261,582
514.54	Mexico	67	92,515	136,237
516.71	India	90	1,014,455	1,121,433
516.73	India	100	15,106	15,106
516.74	India	96	65,734	67,778
516.76	India	65	295,466	450,105
516.94	India	47	39,850	84,411
518.41	Mexico	68	849,136	1,236,812
520.37	India	55	30,061	54,083
533.15	Taiwan	53	413,211	767,673
544.11	Taiwan	48	396,336	822,836
545.65	Mexico	74	891,385	1,202,807
545.85	Taiwan	92	646,225	697,375
546.23	Hong Kong	49	26,036	52,723
547.41	Hong Kong	90	38,337	42,283
605.05	Philippines	100	1,246	1,246
605.66	Argentina	98	1,284,024	1,305,610
610.71	Israel	100	97,042	97,042
612.15	Mexico	98	360,836	365,590
612.30	Yugoslavia	98	509,568	519,626
613.15	Mexico	68	29,583	43,447
622.40	Brazil	98	416,589	424,242
624.42	Mexico	99	590,159	593,740
626.50	Peru	72	79,860	110,850
628.95	Hong Kong	100	368	368
642.58	Portugal	77	7,539	9,718
642.85	Taiwan	63	12,395	19,632
644.28	Mexico	100	17,868	17,868
646.06	Taiwan	74	109,925	147,364
646.82	Taiwan	53	61,218	114,386
646.96	Mexico	98	762,107	776,475
649.89	Republic of Korea	72	29,000	39,993
650.79	Hong Kong	100	7,836	7,836
650.83	Hong Kong	94	5,309	5,603
650.87	Hong Kong	74	108,890	146,395
650.89	Taiwan	49	686,591	1,396,536
651.03	Hong Kong	48	56,136	115,800
651.04	Hong Kong	76	907	1,186
651.13	Hong Kong	72	1,026,568	1,421,959
651.15	Taiwan	79	254,850	322,276
652.13	Taiwan	60	500	830
652.93	Taiwan	76	132,921	174,793
653.70	Hong Kong	59	27,041	45,201
672.10	Hong Kong	76	620,808	811,541
676.23	Hong Kong	67	135,582	201,443
684.10	Taiwan	79	643,446	811,902
685.42	Republic of Korea	64	262,852	407,722
686.50	Mexico	86	1,035,627	1,192,641
702.08	Republic of Korea	66	4,536	6,853
702.45	Brazil	79	54,283	67,918
702.65	Taiwan	83	5,935	7,076
703.25	Philippines	100	666	666
703.55	Portugal	56	685,784	1,203,913
703.65	Mexico	90	982,428	1,078,883
703.75	Mexico	67	534,310	794,910
704.34	Taiwan	85	18,053	21,220
704.95	Philippines	88	59,859	67,506
705.82	Brazil	73	211,586	289,360
705.90	Republic of Korea	49	282,062	567,227
706.50	Hong Kong	85	291,123	341,896
710.06	Republic of Korea	95	127,006	133,409
710.67	Republic of Korea	66	5,894	8,914
711.77	Mexico	88	812,683	917,132
713.17	Hong Kong	80	328,509	408,526

List III.—GSP Eligible Articles for Which a Beneficiary Country Supplied 47 pct or More of U.S. Imports in January–October 1980 and the Total Value of U.S. Imports During This Period Did Not Exceed $1.45 Million—Continued

TSUS item No.	Country	Percent	Country Value	Total value of item
713.19	Mexico	72	227,053	311,300
725.36	Hong Kong	63	58,800	92,024
728.20	Portugal	94	31,910	33,844
730.29	Brazil	63	546,218	859,823
730.41	Brazil	100	194,400	194,400
730.57	Brazil	100	48,510	48,510
731.10	Taiwan	57	513,276	886,916
731.30	Taiwan	52	368,865	707,466
731.50	Taiwan	54	339,392	627,827
732.50	Taiwan	54	183,708	336,881
734.30	Hong Kong	82	191,423	230,978
734.34	Hong Kong	61	871,1,32	1,427,693
734.60	Taiwan	91	254,925	277,593
734.71	Taiwan	54	145,928	268,536
735.11	Taiwan	67	83,550	123,318
741.20	Hong Kong	96	183,927	190,843
745.08	Hong Kong	97	15,148	15,523
748.12	Haiti	64	30,156	47,062
748.15	Taiwan	54	151,188	278,463
750.05	Hong Kong	93	405,858	435,073
750.35	Taiwan	64	539,006	831,592
750.50	Republic of Korea	70	1,004,501	1,421,151
751.10	India	47	9,428	19,683
751.15	Tawian	72	11,626	16,125
751.20	Taiwan	87	594,096	675,871
755.30	Malta	78	369,102	468,764
756.23	India	77	91,551	117,802
756.40	Hong Kong	74	98,043	131,075
756.50	Hong Kong	79	25,389	32,055
760.38	Mexico	82	187,664	227,714
771.05	Colombia	58	625	1,071
772.03	Hong Kong	53	741,223	1,394,903
773.20	Hong Kong	92	9,300	10,055
774.20	India	77	20,324	26,271
790.59	Taiwan	64	100,469	154,728
790.61	Taiwan	63	711,104	1,118,869
790.62	Taiwan	68	667,369	980,854
791.35	Brazil	48	28,698	59,758
792.75	Hong Kong	85	1,105,267	1,289,717
Total			50,136,986	79,248,703

Estimated.

[FR Doc. 81-1252 Filed 1-14-81; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CHRYSLER CORPORATION LOAN GUARANTEE BOARD.

TIME AND DATE: 4 p.m., January 14, 1981.

PLACE: Room 4121, Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C.

STATUS: Closed to the public.

MATTERS TO BE DISCUSSED: The Board will continue its discussion of Chrysler's new Operating and Financing Plans and related documents and its request for additional guarantees. The Board expects to begin considering whether to grant preliminary approval to Chrysler's application for an additional $400 million of guarantees.

CONTACT PERSON FOR MORE INFORMATION:
Bruce D. Bolander, Secretary of the Board (202) 566-2276.

This notice is given as a result of a court order. The position of the Board is that it is not subject to the Government in the Sunshine Act.

Dated: January 13, 1981.

Bruce D. Bolander,
Secretary of the Board.

[S-64-81 Filed 1-13-81; 3:42 pm]

BILLING CODE 4810-27-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Friday, January 9, 1981.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: H-0015-81.

CHANGE IN THE MEETING: The following item, previously announced as being on the open portion of the agenda was moved to the portion closed to the public:

"Contact #9/3500/9182"

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Armando M. Rodriguez, Commissioner
J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 12, 1981.

[S-56-81 Filed 1-12-81; 4:57 pm]

BILLING CODE 6570-06-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday January 13, 1981.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: H-0034-81.

CHANGE IN MEETING: The following item was announced as being on the closed portion of the agenda: "OFCCP Final Regulations, 41 CFR 60-1.11." This item has been placed on the open portion of the agenda and is entitled:

"OFCCP Final Regulation Concerning Payment of Membership Fees and Other Expenses to Private Organizations."

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible. In favor of change:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Armando M. Rodriguez, Commissioner
J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 12, 1981.

[S-54-81 Filed 1-12-81; 4:57 pm]

BILLING CODE 6570-06-M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 13, 1981.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: H-0034.81.

CHANGES IN THE MEETING: 1. The following Freedom of Information Act Appeal Number was incorrectly cited:

"Freedom of Information Act Appeal No. 80-12-FOIA-566

The item should read as follows: "Freedom of Information Act Appeal No. 80-11-FOIA-006MK"

2. The following item is added to the agenda:

"Freedom of Information Act Appeal No. 80-10-FOIA-3-DT, concerning a request for access to part of an age discrimination charge file."

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible. In favor of change:

Eleanor Holmes Norton, Chair
Daniel E. Leach, Vice Chair
Armando M. Rodriguez, Commissioner
J. Clay Smith, Jr., Commissioner

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 12, 1981.

[S-55-81 Filed 1-12-81; 4:57 pm]

BILLING CODE 6570-06-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Wednesday, January 14, 1980 at 2:00 p.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda Item No., and Subject

Broadcast—1—*Title: Report and Order* in the Matter of Radio Deregulation (BC Docket No. 79-219). *Summary:* On September 6, 1979, the Commission adopted a *Notice of Inquiry and Notice of Proposed Rule Making* (FCC 79-518) looking into the possibility of removing or relaxing several Commission regulations concerning commercial broadcast radio. The specific regulations included nonentertainment programming and commercial guidelines, community ascertainment requirements and program log keeping requirements. The *Report and Order* Discusses and resolves the issues present in that proceeding.

General—1—*Title:* Amendment of Parts 2, 21, 87, and 90 of the Commission's Rules to allocate Spectrum for, and to establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services. *Summary:* The Commission shall consider a First Report and Order arising from the Notice of Proposed Rulemaking and Inquiry (Notice) in Docket 79–188. The Notice, issued in response to a petition from the Xerox Corporation, proposed a reallocation of the 10.55–10.68 GHz band and other rules and policies for Digital Termination Systems (DTS) and the common carrier digital communications services to be provided over them.

Common Carrier—1—Title: In the Matter of Inquiry into the Policies to be followed in the Authorization of Common Carrier Facilities to meet North Atlantic Telecommunications needs during the 1985–1995 period. *Summary:* The Commission considers general policy guidelines regarding the choice and use of major facilities in the North Atlantic during the 1985–1995 period.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-62-81 Filed 1-13-81; 2:46 pm]

BILLING CODE 6712-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 12, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Home Savings Bank of Upstate New York, Albany, New York, for consent to establish a branch on Columbia Turnpike, 200 yards southwest of Sherwood Avenue, Town of East Greenbush, New York.

Application of Auburn Savings Bank, Auburn, New York, for consent to establish a branch at 34 South Main Street, Moravia, New York.

Application of the Community Savings Bank, Rochester, New York, for consent to establish a branch at the southeast corner of Muller Boulevard and Jefferson Road, Town of Henrietta, New York.

Application of Monroe Savings Bank, Rochester, New York, for consent to establish a branch at 18 State Street, Village of Pittsford, New York.

Recommendation Regarding Modification of the Terms of a Promissory Note Payable to FDIC.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois

Memorandum and Resolution re: Surety Bank and Trust Company, Wakefield, Massachusetts

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 12, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-65-81 Filed 1-13-81; 3:51 pm]

BILLING CODE 6714-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 2767, January 12, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 14, 1981.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CAG-20. CP80-211, Florida Gas Transmission Co. and Southern Natural Gas Co.

RP-1. RP80-61, Consolidated Gas Supply Corp.

CP-3. CI81-22-000, Southern Union Gathering Co.

CP-4. Delhy Gas Pipeline Corp. and Sugar Bowl Gas Corp.

CP-5. ST80-288 and ST80-338, Sugar Bowl Gas Corp.

CP-6. CP80-335, Arkansas Louisiana Gas Co.

Kenneth F. Plumb,

Secretary.

[S-60-81 Filed 1-13-81; 10:19 am]

BILLING CODE 6450-85-M

8

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 2246, January 8, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., January 14, 1981.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

1. National Association of Recycling Industries, Inc., et al. v. Federal Maritime Commission and United States of America, D.C. Cir. No. 79-1267.

[S-67-81 Filed 1-13-81; 9:26 am]

BILLING CODE 6730-01-M

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., January 21, 1981.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Sea-Land Service, Inc.—18 percent general increase applying between U.S. Atlantic and Gulf ports and ports in Puerto Rico and between San Juan, Puerto Rico and Canadian ports via Elizabeth, New Jersey.
2. Gulf Caribbean Marine Lines, Inc.—16 percent general increase applying between United States Atlantic and Gulf ports and ports in Puerto Rico.
3. Trailer Marine Transport Corporation—16 percent general increase applying between United States Atlantic and Gulf ports and ports in Puerto Rico and the Virgin Islands and between San Juan, Puerto Rico and ports in the Virgin Islands.
4. Puerto Rico Maritime Shipping Authority—18 percent general increase applying between North Atlantic ports and ports in Puerto Rico; 16 percent general increase applying between South Atlantic and Gulf ports and ports in Puerto Rico; and 30 percent general increase applying between ports in Puerto Rico and ports in the U.S. Virgin Islands.
5. Agreement No 7770-19: Modification of the North Atlantic French Atlantic Freight Conference Agreement to provide for appointment of a European representative.
6. Agreement No. T-3788-3: Modification of a lease between the Port of Seattle and six

Japanese lines to provide for additional improvements.

7. Discussion of conference voting procedures for joint services and pools.

8. Informal Docket No. 420(I): Stop & Shop Companies, Inc., Bradlees Division v. Barber Blue Line and Barber Steamship Lines, Inc.—Review of Settlement Officer's Decision.

Portion closed to the public:

1. Agreement No. 10402: The Bank and Savill Line, Ltd., Service Agreement and reconsideration of Agreement No. 10355 between The Bank and Savill Line, Ltd., and the Shipping Corporation of New Zealand.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-[illegible]-81 Filed 1-13-81; 2:45 pm]

BILLING CODE 6730-01-M

10

PAROLE COMMISSION.

TIME AND DATE: 10:30 a.m., Thursday, January 8, 1981.

PLACE: Room 724; 320 First Street NW.; Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda W. Marble, Chief Case Analyst, National Appeals Board, U.S. Parole Commission (202) 724–3094.

[S-[illegible]-81 Filed 1-13-81; 12:07 pm]

BILLING CODE 4410-01-M

11

POSTAL RATE COMMISSION.

TIME AND DATE:

2:00 p.m., Tuesday, January 13, 1981.

9:30 a.m., Wednesday and Thursday, January 14–15, 1981.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Issues in Docket No. R80-1
[Closed pursuant to 5 U.S.C. § 552 b(c)(10)]

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, DC. 20268; telephone (202) 254–5614.

[S-53-81 Filed 1-12-81; 4:23 pm]

BILLING CODE 7715-01-M

12

POSTAL SERVICE BOARD OF GOVERNORS.

During its January 9, 1981, meeting the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting. The portion to be closed was to involve a discussion of a proposed capital investment for the E-COM System.

The Board determined, pursuant to 5 U.S.C. 552b(c)(9)(B), that the portion of the meeting to be closed was exempt from the open meeting requirement of the Sunshine Act on the grounds that the public interest did not require otherwise and that the portion to be closed was likely to disclose information whose premature disclosure would be likely to significantly frustrate the proposed action by divulging the maximum dollar amount that the Postal Service might be willing to invest before the contract price was finally negotiated.

The members of the Board voting in favor of closing this portion of the meeting were: Governors Babcock, Camp, Ching, Hardesty, Hughes, Hyde, Jenkins, and Sullivan, Postmaster General Bolger and Deputy Postmaster General Benson.

Prior to its January 9 meeting, the Board of Governors gave due public notice of its intention to hold the meeting, the notice and the proposed agenda for the meeting having been published in the Federal Register on December 24, 1980 (45 FR 85245). On January 9, the Board determined by a unanimous vote that a change in the earlier plan to conduct the entire meeting in the open was required by the business of the Board and that no earlier announcement of the change was possible.

In accordance with 5 U.S.C. 552b(f)(1), the General Counsel of the United States Postal Service certified that in his opinion the portion of the meeting to be closed might properly be closed to public observation pursuant to 5 USC 552b(c)(9)(B).

The persons who attended this closed portion of the meeting were Board Members Babcock, Benson, Bolger, Camp, Ching, Hardesty, Hughes, Hyde, Jenkins, and Sullivan; Secretary to the Board Cox; Senior Assistant Postmaster General for Research and Technology Jaquish; and Mr. Hamilton, representing Mr. Califano, Counsel to the Governors.

Louis A. Cox,

Secretary.

[S-61-81 Filed 1-13-81; 2:13 pm]

BILLING CODE 7710-12-M

13

POSTAL SERVICE BOARD OF GOVERNORS.

On January 9, 1981, the Board of Governors of the United States Postal Service voted to close to public observation a portion of its next meeting, scheduled for February 5, 1981. Each of the members of the Board voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Babcock, Camp, Ching, Hardesty, Hughes, Hyde, Jenkins, and Sullivan; Postmaster General Bolger, Deputy Postmaster General Benson; Secretary to the Board Cox; and Counsel to the Governors Califano.

One portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1978 National Agreements between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1981.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular intereerest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted

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from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and section 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and 552b(c)(9)(B) of title 5 and section 410(c)(3) of title 39, United States Code, and sections 7.3(c) and 7.3(i) of title 39, Code of Federal Regulations.

The other portion of the meeting to be closed is to involve a discussion concerning adjustments in the compensation of certain officers of the Postal Service. The Board is of the opinion that public access to this discussion would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, not only in regard to the privacy of the officials immediately affected, but also in regard to the privacy of others whose comparative performance might be discussed.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(6) of title 5, United States Code, and section 7.3(f) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board has also determined that the public interest does not require that the Board's discussion of these compensation adjustments be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that, in his opinion, the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of title 5, United States Code and section 7.3(f) of title 39, Code of Federal Regulations.

Louis A. Cox,
Secretary.

[S-60-81 Filed 1-13-81; 2:12 pm]

BILLING CODE 7710-12-M

federal register

Thursday
January 15, 1981

Part II

Department of Transportation

Federal Aviation Administration

Parts Manufacturer Approvals; Falsification of Airworthiness Certification Documents

V46/10 JA15 81

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 45

[Docket No. 17147; Notice 77-19C]

Parts Manufacturer Approvals; Falsification of Airworthiness Certification Documents

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice withdraws and supersedes outstanding notices of proposed rule making insofar as they pertain to Parts Manufacturer Approvals (PMA), and proposes amended PMA rules which will eliminate unnecessary procedural burdens, improve safety, and standardize the PMA process between FAA regions. With regard to the PMA rules, the proposed changes (1) simplify the procedure for approving a PMA applicant's design on the basis of identicality to an already approved design; (2) reduce PMA application and reporting requirements; and (3) add a marking requirement which will facilitate field installation of replacement parts manufactured under a PMA and help avoid use of incorrect parts. In addition to the proposed changes to the PMA rules, this notice also proposes a rule to clarify and strengthen the agency's enforcement policy by prohibiting and prescribing administrative sanctions for certain described acts involving falsification of applications, reports, and records under Part 21. Finally, the notice provides an advanced announcement of plans for a regulatory review of Federal Aviation Regulations pertaining to quality control during the manufacture, maintenance, and rebuilding of aeronautical products.

DATES: Initial comments must be received on or before April 15, 1981. Reply comments must be received on or before May 15, 1981.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 17147, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. All comments must be marked "Docket No. 17147."

FOR FURTHER INFORMATION CONTACT: Mr. Eli Newberger, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of this proposal may also be submitted. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. Initial comments on this notice must be received on or before the first date specified above. Reply comments which specifically respond to the initial comments on this notice must be received on or before the second date specified above. All communications received on or before these dates will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket between 8:30 a.m. and 5:00 p.m. for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of the proposal will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 17147." The postcard will be dated, time stamped, and returned to the commenter.

Additional Copies of Notice

Any person may obtain a copy of this NPRM by submitting a request to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8058. Each communication must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

Background

On August 24, 1977, the FAA issued Notice No. 77-19 (42 FR 43985; September 1, 1977) which invited comments on a proposed amendment to the Federal Aviation Regulations (FAR). The FAA proposed to: (1) revise the application and reporting requirements applicable to Parts Manufacturer Approvals (PMA); (2) clarify the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate (TC); (3) update certain form number references; (4) provide for the issuance of export certificates of airworthiness for unassembled normal category rotorcraft; and (5) provide for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such condition.

On November 25, 1977, the FAA issued Notice 77-19A which reopened the comment period to allow the public additional time to submit comments to the Docket. This action was requested by Superior Air Parts, Inc.

On April 6, 1978, the FAA issued Notice 77-19B which again reopened the comment period to allow additional persons and organizations to submit comments to the Docket. This action was requested by AVCO Lycoming.

The portions of the notice dealing with form number revisions and export airworthiness requirements (Items 3, 4, and 5) were adopted by Amendment 21-48 (44 FR 15648; March 15, 1979) and are not discussed in this notice.

In response to Notices 77-19, 77-19A, and 77-19B, the FAA received replies from 147 commenters on the PMA portion, including manufacturers, operators of aircraft, repair facilities, industry groups, and government agencies.

Discussion of the Comments Received Dealing With PMA Application and Reporting Requirements

Notice 77-19 proposed to amend the lead-in of § 21.303(c) and § 21.303(c)(2) to require an application for a PMA to be made to the regional office in which the applicant is located rather than in the region in which the manufacturing facilities are located, and that the application include the address of the applicant. From comments received, the region of application appears to be of minor concern to industry. However, for reasons discussed later in this preamble it is proposed that the region of application be the region where the applicant's facility which controls the design and quality of the part is located.

In addition, it was proposed to revise § 21.303(j) to relieve the PMA holder of the requirement of making timely reports to the FAA of changes in location of domestic manufacturing facilities. Bell Helicopter Textron objects to this proposal, contending in effect that the recordkeeping requirement proposal in lieu of advising the FAA within 10 days of changes in manufacturing facilities does not afford the FAA adequate opportunity to provide needed surveillance over the new facilities. The FAA agrees that it is not appropriate to adopt the proposal at this time, and that further study is needed in order to develop the final rule. Accordingly, the proposal to amend § 21.303(j) at this time is withdrawn.

Discussion of the Comments Received Dealing With Design Identicality

The majority of the comments addressed the proposal to clarify § 21.303(c)(4) to specify the available methods of showing design identicality. Most of the commenters oppose the proposal. The major issues concern safety of PMA parts, economic consequences, interpretation of how the FAA intends to administer the proposal if adopted, and apprehension regarding the handling and possible abuse of the proprietary nature of data submitted by TC holders.

For the most part, those opposed assume the proposed rule would make it more difficult to obtain the design approval leading to a PMA on the basis of design identicality to a previously approved design. Others, principally Superior Air Parts, Inc., a holder of many PMA's based on design identicality, and the Department of Justice, base their opposition primarily on an interpretation of the proposal that is not intended by the FAA. In effect, their interpretation is that an applicant will no longer be able to submit drawings and specifications for inspection by the FAA to determine whether the design of a part is the same as that previously approved by the FAA because of differences in drawing revisions and revision dates which document minor design changes. Interested type certificate holders, such as AVCO Lycoming, Pratt & Whitney, and related trade associations, oppose the proposed rule because it continues the practice of issuing PMA's based on design identicality without requiring the applicant to demonstrate its right to the design data presented for approval.

A major source of contention is the proposal to require an applicant for a PMA based on design identicality to "completely identify the part covered under the type certificate by the part name, part number, and drawing revisions and revision dates, if any." (See proposed § 21.303(c)(4)(ii), Notice 77-19.) Commenters conclude from the use of the term "completely" and the plural "revisions and revision dates", without preamble explanation, that the proposed rule increases the difficulty of obtaining a PMA based on design identicality.

The FAA does not intend to materially increase the PMA applicant's burden. The purpose of the proposed change is to relieve the need for the FAA to compare the applicant's data with every approved revision level of the part with which the applicant claims design identicality. Under the current system, FAA personnel frequently must compare the applicant's data with a multitude of approved versions of the part with which design identicality is claimed. Under the proposed rule, the intent was that FAA personnel compare the applicant's data with only a single set of FAA-approved data. The proposal does not require the applicant to have knowledge of other revisions made by the holder of the type design approval, except the general knowledge that use of the specific PMA version is not affected by an airworthiness directive. The revised proposal in this notice clarifies the FAA's intent regarding the specificity required of the PMA applicant.

Discussion of Miscellaneous Comments

The General Aviation Manufacturers Association (GAMA) comments on the apparent inconsistency of requiring evidence of a licensing agreement from those applicants who obtain a design by license, while other applicants are not required to show how the design was obtained. The FAA has historically refrained from any involvement in conflicting claims concerning PMA applicants' rights in the data they present to the FAA. The FAA's primary concern is safety and the FAA has no authority to determine proprietary rights. Therefore, the FAA agrees with GAMA that it is somewhat anomalous to require evidence of a licensing agreement when one exists. This notice proposes deleting that portion of the rule dealing with licensing agreements in § 21.303(c)(4).

Although Notice 77-19 contains no related proposals, the commenters offer several suggestions concerning the marking of parts produced under a PMA. The marking of parts is critical for determining the eligibility of a replacement part, when dealing with service difficulties and airworthiness directives to identify parts with their actual manufacturers, and to properly assign responsibility for correcting any service or airworthiness problem. The FAA agrees with the commenters that an additional marking requirement is necessary for the reasons given and should properly be a part of this rulemaking action. Accordingly, this notice proposes an additional marking requirement in Part 45 for PMA parts. In this connection, the FAA will give further consideration to identification and marking requirements for all types of aeronautical products during the regulatory review announced in this notice.

The comments also raise questions concerning the need for increased uniformity in the manner in which design and production approvals are issued by the FAA. Regarding design approvals, the FAA does not agree with those who suggest that every applicant for design approval show by test or calculation how the part meets the applicable standards. Since 1972, the FAA has allowed an applicant for a PMA to obtain design approval by a showing of identicality to a previously approved design. Regarding production approvals, the FAA does agree that uniform procedures for the approval of production systems, not only for PMA's but for all airworthiness certification approvals, is a reasonable objective, and the regulatory review announced in this notice is intended to address that objective.

Discussion of Proposals

Fraudulent or Intentionally False Statements

The effectiveness of the FAA's certification and post-certification surveillance activities under Part 21 is dependent, in a substantial measure, on the accuracy and truthfulness of the information provided in applications, reports, and records submitted by applicants or, as appropriate, in the data retained by the certificate or approval holders. The certificates and approvals issued under Part 21 that would be affected by this change include type certificates, supplemental type certificates, production certificates, approved production inspection systems, airworthiness certificates, special flight permits, technical standard order authorizations, and parts manufacturer approvals. Accordingly, a new § 21.2 is proposed that would make any fraudulent or intentionally false statement on any application, report, or record submitted to the FAA with an application, or required to be kept by a certificate or approval holder under Part 21, grounds for revocation of any or all FAA certificates or approvals issued under Part 21 to any person involved in the falsification.

Parts Manufacturer Approval

General

By this notice, the FAA proposes to divide § 21.303 into three separate sections: a new § 21.301 that addresses the applicability of the PMA requirements; a new § 21.302 that addresses the design approval requirements for obtaining a PMA; and a revised § 21.303 which retains the existing manufacturing quality control requirements for a PMA without substantial change. Present § 21.301 would be redesignated as § 21.300.

Many of the provisions of § 21.303 would be recodified to the new §§ 21.301 and 21.302 without substantive change. Therefore, only those areas are discussed where substantive change is intended.

Section 21.301

Section 21.303(a) and (b) would be recodified as § 21.301(a) and (b), respectively, and § 21.303(g) would be recodified as § 21.301(e). However, the phrase "for sale" would be removed from § 21.301(a) because whether or not a part is manufactured "for sale" is irrelevant to the safety of the product on which it is installed.

New § 21.301(b)(1) would clarify that § 21.301(a) would not apply to, among other things, parts manufactured under an approved production inspection system. Proposed new § 21.301(b)(4) would exclude import materials, parts, and appliances accepted under §21.105 from the PMA requirements.

New § 21.301(c) provides the eligibility requirement for a PMA which would replace existing § 21.301(d). New § 21.301(d) would revise the existing requirements on where applications for PMA are to be made. Since many PMA holders have the parts manufactured by suppliers located at various places, it is proposed that the application be made to the FAA regional office in the region where the applicant's facility which controls the design and quality of the part is located. The proposed § 21.301(d) location would provide a focal point for FAA quality control surveillance and accountability for each approved part. New § 21.301(f) would preclude the issuance of PMA's for modification parts for articles manufactured under a technical standard order (TSO) authorization. This prohibition is consistent with existing § 21.611(c) which prohibits any person other than the TSO authorization holder from making design changes to articles approved under a TSO system.

Section 21.302

The portion of present § 21.303(c) dealing with design approval would be recodified and amended by new § 21.302. New § 21.302(a)(1) would clarify the extent to which a PMA applicant must identify the part to be approved. For replacement parts, the FAA considers it important to safety to be able to determine precisely which parts from the original equipment manufacturer can be replaced by PMA parts. The exclusive reference to "structural strength," which appears in existing § 21.303(c)(3)(ii), would be deleted in new § 21.302(a)(2)(ii) because "structural strength" is only one of the performance attributes that must be defined by the design description. A new § 21.302(a)(2)(iii) would be added to clarify that, in certain cases, the design of a part must include performance data to be used in functional tests leading to final airworthiness acceptance of each production part.

By new § 21.302(a)(3), two basic methods would be used to approve the design of the part prior to issuance of a PMA. The first method under § 21.302(a)(3)(i), is through FAA acceptance of a "certification" that the design of the part is identical to an existing approved design. This certification could be made either by the PMA applicant or the holder of the existing design approval, for example, the type certificate holder for the part in question. When such a certification is received, the FAA would accept the design of the applicant as identical to the previously approved design without further data comparison prior to approval. FAA manufacturing inspection specialists would review the design data submitted, not for design approval, but to ensure that the design of the part is adequately defined to produce duplicates of the part and to perform final airworthiness acceptance functional or performance tests. An applicant who obtains a design approval on the basis of certification of indenticality under § 21.302(a)(3)(i) and the design is later disclosed not to be identical would be subject to the falsification sactions of proposed § 21.2.

The second method of gaining design approval, specified in proposed § 21.302(a)(3)(ii), is substantively unchanged from the basic method provided under existing § 21.303(c)(4). In effect, the applicant may make an independent showing, through analysis and tests, that the replacement part meets the same Federal Aviation Regulations and is equivalent in form, fit, and function to the part to be replaced without a showing of design identicality.

The FAA recognizes that in certain cases, a PMA applicant's design may be close to the type certificated design for the part but with identifiable differences as to dimensions, material, strength, hardness, color, or other characteristics. While any such difference may be small, it nevertheless would preclude the applicant's design from being identical to the approved type design. In such cases, under the proposed rule, it is anticipated and intended that the FAA, acting on full disclosure by the applicant as to the differences, would proceed under § 21.302(a)(3)(ii) to determine if test reports and computations are necessary and base ultimate design approval, where justified, on that paragraph.

An applicant who obtains a design approval on the basis of certification of identicality and the design is later disclosed not to be indentical, would be subject to the falsification sanctions of proposed § 21.2 and any criminal penalties provided under Section 1001 of Title 18, United States Code. The FAA emphasizes that under these provisions, the PMA holder could not only lose its PMA authority, but also is subject to having its other FAA certificates suspended or revoked.

It has been the FAA's experience that certain kinds of high-precision parts, manufactured to identical design data but by different manufacturers or suppliers, perform differently due to subtle differences in production processes. For this reason, under proposed § 21.302(b), the FAA would retain the prerogative to require endurance or environmental testing, or both, for certain critical parts when the FAA determines such testing essential to safety even though a design identicality certification is provided in accordance with proposed § 21.302(a)(3)(i).

Proposed § 21.301(c)(1) would clarify that FAA design approval of the part under § 21.302 is a prerequisite for obtaining a PMA. Also the requirement would be dropped for an applicant to provide evidence of claimed licensing agreements as is now the case with existing § 21.303(c)(4). The existence of a licensing agreement is irrelevant to FAA design approval of parts to be manufactured under a PMA.

Section 21.303

The production quality control and recordkeeping requirements of present § 21.303 (e), (f), (h), (i), (j), and (k) would be retained in new § 21.303 without substantive change. These paragraphs would be redesignated as §§ 21.303 (a), (b), (c), (d), (e), and (f), respectively.

Marking Requirements

The marking requirements for parts manufactured under a PMA are contained in § 45.15. It is proposed that a new § 45.15(a)(5) be added, for replacement parts, to require identification of the part by part number and, as applicable, drawing revision designation for which the PMA part is approved as an acceptable replacement.

Regulatory Review

The FAA will, within the next 18 months and in a separate notice, announce a comprehensive regulatory review program which will address the quality control of aeronautical products during original manufacture, maintenance, and rebuilding. Many parts are manufactured by repair stations and by aircraft owners and operators for installation on a type certificated product by the repair station, owner, or operator, respectively. The intent of the review is to develop regulations to ensure that appropriate and consistent quality control standards are applied to all persons who manufacture aeronautical parts and components, including holders of production certificates, approved production inspection systems, technical standard order authorizations, parts manufacturer approvals, repair station certificates, and aircraft owners and operators. The review will be broad enough to address such issues as the distribution of unapproved parts and the marking and identification requirements for all types of aeronautical products. During the interim while the FAA is formulating the regulatory review, the FAA encourages any submissions on the subject that the public believes are relevant to this effort. These comments should be submitted to this docket.

The Proposed Amendment

In consideration of the foregoing, the FAA withdraws Notice 77-19 (44 FR 43985), Notice 77-19A (42 FR 61048), and Notice 77-19B (43 FR 15432) insofar as they pertain to § 21.303, and proposes to amend Parts 21 and 45 of the FAR (14 CFR Parts 21 and 45) as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By adding a new § 21.2 to read as follows:

§ 21.2 Falsification of applications, reports, or records.

(a) No person shall make or cause to be made—

(1) Any fraudulent or intentionally false statement on any application for a certificate or approval under this part;

(2) Any fraudulent or intentionally false entry in any record or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or the exercise of the privileges of any certificate or approval issued under this part;

(3) Any reproduction for a fraudulent purpose of any certificate or approval issued under this part; or

(4) Any alteration of any certificate or approval issued under this part.

(b) Any violation of paragraph (a) of this section is grounds for suspending or revoking all FAA certificates and approvals issued under this part to persons involved in the violation.

2. By redesignating § 21.301 as § 21.300.

3. By adding a new § 21.301 to read as follows:

§ 21.301 Replacement and modification parts.

(a) Except as provided in paragraph (b) of this section, no person may produce a replacement or modification part for installation on type certificated products unless it is produced under a Parts Manufacturer Approval issued under this subpart.

(b) Paragraph (a) of this section does not apply to—

(1) Parts produced under a type certificate, production certificate, or an approved production inspection system;

(2) Parts produced by an owner or operator for maintaining or altering that person's own product;

(3) Parts produced under an FAA technical standard order authorization;

(4) Import materials, parts, and appliances approved under § 21.502; or

(5) Standard parts (such as bolts and nuts) conforming to established industry or U.S. specifications.

(c) An applicant is entitled to a Parts Manufacturer Approval for a replacement or modification part if—

(1) The design of the part is approved under § 21.302; and

(2) The applicant submits a statement certifying that the fabrication inspection system required by § 21.303(c) has been established.

(d) An application for a Parts Manufacturer Approval is made to the regional office of the region where the applicant's facility which controls the design and quality is located and must include the names and addresses of all suppliers and facilities at which manufacturing operations are performed on the part and the information required by §§ 21.302 and 21.303.

(e) The Administrator does not issue a Parts Manufacturer Approval if either the applicant's facility which controls the design and quality or the manufacturing facilities for the part are located outside of the United States, unless the Administrator finds that the location of such facilities places no burden on the FAA in administering applicable airworthiness requirements.

(f) The Administrator does not issue a Parts Manufacturer Approval for modification parts for articles manufactured under a Technical Standard Order Authorization.

4. By adding a new § 21.302 to read as follows:

§ 21.302 Design approval of replacement and modification parts.

(a) An application for design approval of a part to be produced under a Parts Manufacturer Approval must include the following:

(1) The identity of all products on which the part is to be installed and, for replacement parts, the original part number, including drawing revision designation for which the replacement part is equivalent.

(2) The design of the part, which consists of—

(i) Drawings and specifications necessary to show the configuration of the part;

(ii) Information on dimensions, materials, and processes necessary to produce duplicates of the part; and

(iii) When applicable, the performance data for final airworthiness acceptance testing of each production part.

(3) Either—

(i) A statement in a form and manner approved by the Administrator from either the Parts Manufacturer Approval applicant or the holder of the applicable design approval, certifying that the applicant's design, submitted with the application, is identical to the design of a part covered by an approved design which the applicant specifically identifies by name, part number, and, as applicable, drawing revision designation; or

(ii) Test reports and computations as necessary to show that the design of the part meets the airworthiness requirements of the Federal Aviation Regulations applicable to the product on which the part is to be installed.

(b) For certain precision parts (such as certain critical engine parts, power transmission gears and drive train parts, gear boxes, gear box components, rotorcraft rotor drive system components, parts for valves or complex hydraulic power units, and detail parts for small appliances and instruments), the Administrator may require an

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applicant who has provided a certification under § 21.302(a)(3)(i) to demonstrate the acceptability of the part by conducting endurance or environmental testing or both, equivalent to the testing requirements of the Federal Aviation Regulations applicable to the product on which the part is to be installed.

(c) An applicant is entitled to design approval for a replacement or modification part if the administrator either accepts the applicant's certification made under paragraph (a)(3)(i) of this section or finds, upon examination of the design and after completing all necessary tests and inspections, that the design meets the airworthiness requirements of the Federal Aviation Regulations applicable to the product on which the part is to be installed.

5. By amending § 21.303 by removing paragraphs (a), (b), (c), (d), and (g); by redesignating (e), (f), (h), (i), (j), and (k) as (a), (b), (c), (d), (e), and (f), respectively; and by revising the section heading to read as follows:

§ 21.303 Production approval of replacement and modification parts.

* * * * *

PART 45—IDENTIFICATION AND REGISTRATION MARKING

6. By amending § 45.15 by removing the word "and" at the end of § 45.15(a)(3), by removing the period at the end of § 45.15(a)(4) and inserting a semicolon and the word "and" in its place, and by adding a new § 45.15(a)(5) to read as follows:

§ 45.15 Replacement and modification parts.

(a) * * *

(5) For replacement parts, the part number, and, as applicable, the drawing revision designation for which the part is an acceptable replacement.

* * * * *

(Secs. 313, 314 and 601 through 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355 and 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contracting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

It has been determined that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As explained in Section II.A., *Benefits*, of The Draft Regulatory Evaluation, the changes proposed in this notice would relieve the administrative burden currently encountered by applicants for Parts Manufacturer Approvals. Relief is provided by allowing the applicant to make a certifying statement that the design submitted for approval is identical to a specifically identifiable version of a part covered by a type certificate and by eliminating the requirement for submission of type certificated data showing identicality.

Issued in Washington, D.C., on January 8, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-1240 Filed 1-14-81; 8:45 am]

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Thursday
January 15, 1981

Part III

Department of Transportation

Federal Aviation Administration

Airplane and Airport Operator Security Rules

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107, 108, 121, 129, and 135

[Docket No. 19726; Amdt. Nos. 107-1, 108 (New), 121-167, 129-11, and 135-10]

Airplane and Airport Operator Security Rules

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: These amendments revise and consolidate security regulations for scheduled passenger and public charter operations in a new part of the Federal Aviation Regulations and extend those regulations to certain commuter and air taxi operations and small airplane operations conducted by U.S. and foreign air carriers. The consolidation facilitates public access to aviation security regulations. These changes provide an appropriate response to the current threat of criminal violence and air piracy against scheduled and public charter operations of U.S. air carriers, intrastate operators, and foreign air carriers.

EFFECTIVE DATE: April 1, 1981, or 60 days after a notice of approval of the recordkeeping and reporting requirements of new Part 108 by the Office of Management and Budget is published in the **Federal Register**, whichever is later.

FOR FURTHER INFORMATION CONTACT: H. E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: On November 1, 1979, the FAA published Notice of Proposed Rule Making No. 79-17 (44 FR 63046), to extend the FAA security regulations applicable to scheduled passenger and public charter operations of U.S. and foreign air carriers and U.S. intrastate operators to certain air taxi operators and small airplane operations conducted by U.S. and foreign operators. It also proposed to simplify these regulations and consolidate them (for U.S. certificate holders) into a new part of the Federal Aviation Regulations to facilitate public access to security regulations.

All interested persons have been given an opportunity to participate in the making of this new Part 108 and the revisions to Parts 107, 121, 129, and 135. Due consideration has been given to all matters presented. In response to comments received and after further study by the FAA, a number of changes are reflected in the rule as adopted.

Background

Since their inception in 1972, FAA security regulations have been designed to meet threats of hijacking and other crimes against the specific kinds of aircraft operations that have proven to be most attractive to the potential hijacker or saboteur. For the most part these operations have involved large transport type airplanes with scheduled departure times, and generally have been conducted by air carriers under Certificates of Public Convenience and Necessity (CPCN) and other limited economic authority issued by the Civil Aeronautics Board (CAB), as well as by certain wholly intrastate operators who are not air carriers. Operating rules for these operators are set out in Part 121 (14 CFR Part 121) and, for this reason, FAA security regulations were initially placed in that part.

Scheduled operations with large airplanes also have been conducted under § 135.2 of Part 135 (14 CFR Part 135). Security for these operations has been achieved through voluntary compliance with requirements similar to those in Part 121; however, the number of these operations is increasing.

Recently, and in particular since the passage of the Airline Deregulation Act of 1978 (Deregulation Act), the CAB has liberalized its policies and has granted broad authority to conduct scheduled operations with large aircraft. There now are numerous air carriers referred to in the Deregulation Act as "commuters" operating under Part 135 with authority to conduct operations similar to those that were previously conducted only by CPCN holders under Part 121. While CPCN holders are being allowed to discontinue service at different terminals, commuter air carriers are gaining these terminal and route authorizations. As a result, commuter air carriers are now using identical aircraft in scheduled and public charter operations formerly used only by CPCN holders. These airplanes are being operated over routes formerly served by CPCN holders, and the operations are conducted without being subject to full FAA security requirements.

The Deregulation Act carries with it a mandate that there be no diminution in safety in situations where commuter carriers provide substitute service on routes previously served by route carriers. Section 33(c)(3) of the Deregulation Act requires the FAA to "impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under Section 401 of this title."

The Proposal

To ensure consistent application of FAA's security rules and to achieve the necessary level of security, Notice 79-17 proposed security requirements based upon airplane complexity instead of CAB authorizations. The proposal called for multilevel security requirements to be equally applicable to all scheduled and public charter passenger operations conducted by air carriers and other FAA certificate holders. The FAA certificate holder would have been required to meet the full security requirements that have been set out in Part 121, including an approved screening system, for operations conducted in airplanes with a seating configuration of 20 or more passenger seats. For operations conducted in airplanes configured for less than 20 passenger seats, the certificate holder would have been subject only to minimal security requirements, including passenger and shipper identification, airplane security, and arrangements for law enforcement response when needed. The proposal also would have retained the existing requirement in Part 135 for crewmember antihijack training.

A number of changes have been made in the final rules, as discussed in this preamble. A table is provided for comparing the major provisions of the proposed rule and the final amendments. It is to assist in understanding the changes that have been made and should not be relied upon as a complete statement of the amendments.

Passenger seating configuration	Security requirements
Notice of Proposed Rulemaking	
1 to 19	Modified airplane and airport operator security program would have been adopted and implemented.
More than 19	Full airplane and airport operator security program would have been adopted and implemented, including screening of all passengers and law enforcement presence.

Final Amendments

1 to 30	No security program is required unless passengers have uncontrolled access to a sterile area and then a screening system and law enforcement presence must be provided for those passengers.
31 to 60	Airplane and airport operator security program must be adopted, but screening and law enforcement presence must be implemented only when the FAA identifies a security threat or passengers have uncontrolled access to a sterile area.
More than 60	Full security program must be adopted and implemented, including screening of all passengers, law enforcement presence, and other significant safeguards.

Comments

Approximately 320 public comments were received in response to Notice 79-17. Nearly all of the commenters were against the proposal. The major objections were the cost of implementing the security requirements and the absence of any threat that justified extending screening and other security requirements to commuter operations. The commenters argued that the proposal would place an undue hardship on small communities and inhibit industry growth by causing commuters to avoid use of larger airplanes in order to gain advantage of the minimal security requirements for airplanes with less than 20 passenger seats.

Economic Study

In analyzing financial data provided by the commenters, the security costs per passenger enplanement were found to vary so much that the FAA decided that further economic study was necessary. A sample of typical airports was examined to determine what the actual costs would be to implement the proposed requirements. The results of this small sampling indicated that a comprehensive indepth cost study was needed.

This indepth study identified potentially affected airplane operators (25) and airports (20). The personnel of FAA regional security divisions completed structured interview forms for each potentially affected airline station (90) and for each airport. This information was collected and analyzed by the FAA's Office of Aviation Policy and Plans; and in many cases followup discussions were held with airline and airport personnel. The final regulatory evaluation that resulted from this study is available in the public docket for this rulemaking action.

The study indicates that the FAA estimated costs provided in Notice 79-17 are generally accurate when considered against the total projected enplanements. However, when viewed for a particular airport, or for a particular flight, costs might be unreasonably high because of the limited enplanements at that airport or for that flight.

Considerable reduction in the cost impact of this final rule has been effected through the changes in the proposal. While adoption of Notice 79-17 could have resulted in an estimated maximum annual operating cost of $8.80 million and maximum capital investments of $5.30 million (for airplane operators) and $.36 million (for airports), the maximum annual operating cost for the final rule will not exceed $3.15 million and no capital investment will be necessary. These changes and their economic impact are discussed below.

Security Threat

The increased security threat to the commuter industry that was expected to result from implementation of the Deregulation Act has not materialized. Only one attempted hijacking of a commuter-operated airplane has occurred since the Deregulation Act was implemented. This attempt was thwarted by skillful FBI negotiations resulting in apprehension of the hijacker.

While the threat of air piracy and sabotage exists for all levels of air transportation, the historical record clearly establishes that the threat is very serious for some levels and less serious for others. Although all sizes of aircraft have been subjected to hijackings, the most severe threat has been against the larger, longer-range, jet airplanes in scheduled passenger operations. Typically these airplanes have more than 60 passenger seats, the smallest being the BAC-111, which may be configured for as few as 65 passenger seats, and the more commonly used DC-9, which is typically configured for approximately 90 passenger seats. The number of U.S. hijackings of such airplanes has continued to rise in relation to worldwide hijackings and, over the past 3 years, the U.S. air transportation system has experienced 40 hijackings of these air carrier airplanes.

Final Rule

Considering the economic burden that could be imposed on the small airport and airplane operators and the fact that the hijacking threat directed against commuters has not significantly increased, it is not appropriate to fully implement the proposed rule changes at this time. This final rule requires implementing a full security program only for scheduled and public charter operations with airplanes having a passenger seating configuration of more than 60 seats and for operations providing deplaned passengers access to a sterile area at the next landing when the access is not controlled by another airplane operator's security program.

For operations with airplanes having a passenger seating configuration of more than 30 but less than 61 seats, a full security program need not be implemented. A full program for these operations will have to be implemented only if the FAA notifies the airplane operator that a security threat exists with respect to a particular operation or set of operations.

While the frequency and extent of these threats cannot be predicted, the FAA expects that this contingency seldom will be invoked. If it is, it will probably not involve all airplane operators or all points served by a single operator, nor would all precautions have to be taken in every contingency.

Antihijack security training will continue to be required for all crewmembers of FAA certificate holders operating under Part 121 or Part 135. In addition, throughout Part 108 and the changes to Part 107 and § 129.25 of this chapter, the term "airplane" instead of "aircraft" is used since threatened operations have only involved airplanes and no other aircraft.

Airplane Operator Security Requirements

None of the comments suggest, nor does FAA intend, lessening in any way the current security requirements for U.S. or foreign air carriers utilizing airplanes configured for more than 60 passenger seats or for U.S. airports presently served by these carriers on a regular basis. To ensure that passengers in scheduled or public charter operations with these airplanes benefit from a degree of security commensurate with the existing threat, the rule, as adopted, continues to require the implementation of a full security program for these operations.

For airplanes with a passenger seating configuration of less than 61 seats, the larger the airplane, the more attractive it can be expected to be for the potential hijacker. The great majority of airplanes currently used by commuters are of less than 31 seat configuration. However, a number of larger airplanes are now in production or "on the drawing board" to serve the commuter airline market. The larger airplanes have a greater stage length and fuel capacity and carry many more passengers than those in current use. As a result, potential hijackers are more apt to see them as containing more hostages and having the range to serve their purposes.

Additionally, the FAA's economic study generally reflects significant increases in security costs per passenger as the airplane capacity decreases. The study indicates that for the lower half of the spectrum (the 1- through 30-seat airplanes), the economic hardship far outweighs the security benefit derived from even the minimal security requirements proposed in Notice 79–17 for airplanes configured for less than 20 seats.

For these reasons, the FAA has determined that airplanes with a seating configuration of 31 through 60 should be treated differently from those with 30 or fewer seats. Part 108, as adopted, requires FAA certificate holders conducting scheduled passenger and public charter operations in 31- through 60-seat airplanes to continue to conduct security training for crews, as presently required by §§ 121.417 and 135.331. Further, Part 108 and changes to Part 129 require the adoption of a comprehensive security program for operations with 31 through 60 seats comparable to that required for operations with airplanes having more than 60 seats. However, the operator will normally only have to implement for 31- through 60-seat airplanes those portions of the program that call for (1) having procedures for contacting the law enforcement agency indentified by the airport operator and arranging for response to an incident when needed; and (2) advising appropriate employees, including crewmembers, of the procedures and instructing them when and how to use them. If the operator also uses airplanes above 60 seats, a full security program must be implemented for these operations.

Each operator of 31- through 60-seat airplanes must be prepared to implement its full security program for all or part of its operations at a particular station or systemwide upon notification by the FAA that a threat exists. Such a threat would exist, for example, where operations in this category have been subjected to hijacking and a specific threat has been made that more hijackings will be perpetrated. Such a threat might also exist where information has been received or developed concerning airplanes in this category without a prior hijacking.

FAA certificate holders utilizing airplanes with a seating configuration of 1 through 30 seats, under the provisions of this rule, are only required to conduct antihijack crew training currently required by § 135.331. Because of the size, range, and public perception of the capacity and capability of these airplanes, this reactive security measure is considered adequate to meet the level of threat against this type operation.

Law Enforcement Support

When a U.S. or foreign air carrier is required to implement a security screening system at an airport governed by Part 107, the airport operator is required to provide law enforcement support for that screening. When a carrier conducts operations from an airport not governed by Part 107 of this chapter and is required to use a screening system, the carrier continues to be required to provide law enforcement officers to support the screening system.

Access to Sterile Areas

To protect the security of sterile areas, this amendment provides that operators of airplanes of any seating configuration may not discharge scheduled or public charter passengers into a sterile area unless: (1) the passengers and their accessible items are properly screened by the airplane operator; or (2) their access is controlled through surveillance and escort procedures or through the screening procedures of another operator.

Thus, unscreened passengers may have access to a sterile area where the discharging operator has made a prior arrangement with another FAA certificate holder or foreign air carrier, or in some cases the airport operator, having responsibility for the sterile area either for escort of the deplaning passengers into, through, and out of the sterile area or for the screening of those passengers before entry. Without these arrangements, operators not otherwise required by Part 108 or 129 to screen their passengers who wish to deplane their passengers in a particular operation into a sterile area at a particular airport must adopt and implement all the provisions of an appropriate security program with respect to that passenger operation. This requires that: (1) 100 percent screening of the passengers and their accessible items be completed before the last departure; (2) the airplane be protected; and (3) procedures be used to prevent or deter the introduction of explosives and incendiaries into checked baggage and cargo for those flights.

This process currently is being followed by a number of air carriers operating under § 135.2. These air taxi and commuter operators, because of their desire to allow their passengers to have direct and uncontrolled access to a sterile area, have voluntarily elected to amend their operations specifications to adhere to the security requirements of § 121.538. With implementation of Part 108, this will no longer be necessary, and operators requiring direct uncontrolled access to sterile areas for their passengers will follow the security program procedures in § 108.25.

As a result of these amendments, certain FAA certificate holders that operate smaller airplanes and have been required to meet the security provisions of § 121.538 are no longer required to implement full security programs. Under § 108.5 these operators or other operators utilizing 1- through 60-seat airplanes may elect to continue to operate under a full security program in order to discharge passengers into a sterile area, or may elect to operate under a full or modified security program to meet passenger expectations, to fulfill company security policies, or for other reasons. However, when FAA approval is obtained for any security program, § 108.5 requires that the airplane operator carry out the provisions of that program. Operators utilizing smaller airplanes who use their own separate facilities at certain airports will now be able, at those airports, to operate without screening passengers or providing law enforcement presence. For these operators this rule may represent a considerable economic savings.

An Air Carrier Standard Security Program meeting the requirements of this rule is available for use by all certificate holders. This program, jointly developed by FAA and industry, has proven very effective in lessening the certificate holder's administrative burden. The FAA encourages adoption of the Air Carrier Standard Security Program to ensure uniform implementation and use of security procedures.

Airport Security Requirements

At U.S. airports regularly serving scheduled passenger operations of FAA certificate holders and foreign air carriers utilizing airplanes with more than 60 seats, this final rule requires the airport operator to adhere to the current provisions of Part 107.

At those airports regularly serving scheduled passenger operations utilizing 31- through 60-passenger-seat airplanes and at which the airplane operator is not required to screen its passengers, the airport operator must only identify the law enforcement agency that will respond to the airplane operator's request for assistance. Responsibility for establishing and implementing the actual arrangements and for obtaining assistance in the case of an incident rests with the airplane operator.

For these operations, the airport operator is required to submit to the FAA for approval a security program that identifies: (1) the law enforcement support available to respond upon request of the airplane operator; (2) a description of the procedure to be used by the air carrier to summon support; (3) a description of the training the law enforcement officers have received; and (4) a description of the system of records of law enforcement actions taken in support of aviation security as called for by § 107.23.

If an airplane operator using airplanes with less than 61 passenger seats must adopt and carry out a full security program with a screening system, the airport operator must provide law enforcement support during all required passenger screening operations. The airport operator is required to submit to the FAA for approval a security program identifying the law enforcement support, the training received by law enforcement officers, and a description of the system for recording law enforcement actions taken in support of aviation security. These law enforcement support requirements are the only security requirements imposed on the airport operator for operations with airplanes configured for less than 61 passenger seats where screening is performed under a required security program.

Economic evaluation

Assessment of the economic impact of these amendments indicates that certain airplane and airport operators not previously required to have a security program may incur some costs in connection with scheduled and public charter passenger operations with airplanes having a passenger seating configuration of 31 through 60 passenger seats. Some additional costs will occur for these operators if they must implement contingency procedures included in security programs because of a threat condition. Most, if not all, of the costs of meeting contingencies would be associated with personnel and would not involve investments in X-ray machines, metal detectors, and alterations to airport terminals as might have been the case if the proposal in Notice 79-17 had been adopted. If a threat situation occurs, the FAA will work closely with the affected parties to ensure adequate, efficient, and cost-effective implementation of contingency procedures.

The only other new cost resulting from this rule may occur when some operators of airplanes with less than 61 passenger seats desire to discharge passengers directly into a sterile area. No additional cost will occur to the many operators already voluntarily providing security for these operations through amendments to their operations specifications. Airplane operators that do not now provide this security, and who desire access to a sterile area, will incur new costs for providing the necessary security safeguards.

The economic assessment indicates that the final rule may have an impact on 11 Part 135 operators of airplanes seating 31 through 60 passengers at as many as 39 stations. Virtually all of this cost impact would occur if contingency procedures are implemented. Based on the FAA's analysis of the current threat, coupled with the historical record, airplane and airport operators will rarely, if ever, be required to take these heightened precautions and a threat necessitating such action would probably never involve all 11 carriers or 39 stations at a time.

However, in the unlikely event that all operators of 31- through 60-seat airplanes are required to implement contingency procedures at all stations for an entire year because of the greatest hijacking threat, the annual cost could be a high as $3.15 million. Whatever costs occur may be recovered through fare or temporary subsidy increases.

This $3.15 million maximum cost contrasts with the possible costs that would have resulted from the proposed rule. The FAA's evaluation indicates that it could have resulted in as much as $8.8 million in new annual operating costs for the affected airplane operators, $5.3 million in investments for security equipment and construction by airplane operators and $360,000 in airport improvements.

Because these amendments impose uniform security requirements on the basis of airplane size and the protection of sterile areas instead of the kind of FAA and CAB operating authority, some Part 121 operators will have an opportunity to reduce security costs at some stations. As is the current case, all Part 135 operators now screening voluntarily under an operations specifications amendment can elect to discontinue screening under this rule if they choose not to continue to have access to a sterile area. While the FAA cannot determine the exact amount of cost savings, it estimates the maximum possible annual operating cost savings at $13,720,526.

Adoption of the Amendment

Accordingly, Parts 107, 121, 129, and 135 are amended and new Part 108 is added as follows, effective April 1, 1981, or 60 days after a notice of approval of the recordkeeping and reporting requirements of new Part 108 by the Office of Management and Budget is published in the **Federal Register**, whichever is later:

PART 107—AIRPORT SECURITY

1. By revising paragraphs (a)(1), (a)(2), (b)(1), and (b)(5) of § 107.1 to read as follows:

§ 107.1 Applicability and definitions.

(a) This part prescribes aviation security rules governing—

(1) The operation of each airport regularly serving the scheduled passenger operations of a certificate holder required to have a security program by § 108.5(a) of this chapter;

(2)The operation of each airport regularly serving scheduled passenger operations of a foreign air carrier required to have a security program by § 129.25 of this chapter; and

* * * * *

(b) For purposes of this part—

(1) "Airport operator" means a person who operates an airport regularly serving scheduled passenger operations of a certificate holder or a foreign air carrier required to have a security program by § 108.5(a) or § 129.25 of this chapter.

* * * * *

(5) "Sterile area" means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with § 129.25.

2. By amending § 107.3 by revising paragraphs (a)(3), introductory paragraph of (b), and (c), and adding new paragraphs (f) and (g) to read as follows:

§ 107.3 Security program.

(a) * * *

(3) Includes the items listed in paragraph (b), (f), or (g) of this section, as appropriate; and

* * * * *

(b) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 108.3 of this section of this chapter) of more than

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60 seats, the security program required by paragraph (a) of this section must include at least the following:

* * * * *

(c) The airport operator may comply with paragraph (b), (f), or (g) of this section by including in the security program as an appendix any document which contains the information required by paragraph (b), (f), or (g).

* * * * *

(f) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 108.3 of this chapter) of more than 30 but less than 61 seats, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of the law enforcement support necessary to comply with § 107.15(b), and the procedures which the airport operator has arranged to be used by the certificate holder or foreign air carrier to summon that support.

(2) A description of the training program for law enforcement officers required by § 107.17.

(3) A description of the system for maintaining the records described in § 107.23.

(g) For each airport subject to this part where the certificate holder or foreign air carrier is required to conduct passenger screening under a security program required by § 108.5(a)(2) or (3) or § 129.25(b)(2) or (3) of this chapter, or conducts screening under a security program being carried out pursuant to § 108.5(b), as appropriate, the security program required by paragraph (a) of this section must include at least the following: (1) A description of the law enforcement support necessary to comply with § 107.15.

(2) A description of the training program for law enforcement officers required by § 107.17.

(3) A description of the system for maintaining the records described in § 107.23.

§ 107.7 [Amended]

3. By amending § 107.7(a)(3) by inserting the phrase ", (f)(1), or (g)(1)" after the phrase "§ 107.3(b)(7)."

§ 107.13 [Amended]

4. By amending § 107.13(a) by deleting the words "airport operator" in the introductory phrase and substituting the words "operator of an airport serving scheduled passenger operations where the certificate holder or foreign air carrier is required to conduct passenger screening under a program required by § 108.5(a)(i) or § 129.25(b)(1) of this chapter as appropriate."

5. By revising § 107.15 to read as follows:

§ 107.15 Law enforcement support.

(a) Each airport operator shall provide law enforcement officers in the number and in a manner adequate to support—

(1) Its security program; and

(2) Each passenger screening system required by Part 108 or § 129.25 of this chapter.

(b) For scheduled or public charter passenger operations with airplanes having a passenger seating configuration (as defined in § 108.3 of this chapter) of more than 30 but less than 61 seats for which a passenger screening system is not required, each airport operator shall ensure that law enforcement officers are available and committed to respond to an incident at the request of a certificate holder or foreign air carrier and shall ensure that the request procedures are provided to the certificate holder or foreign air carrier.

§ 107.17 [Amended]

6. By amending § 107.17(a) by inserting the words ", or arrange for response by," after the word "use" in the introductory phrase.

7. By adding to Subchapter F of 14 CFR Chapter 1 a new Part 108 to read as follows:

PART 108—AIRPLANE OPERATOR SECURITY

Sec.

108.1 Applicability.
108.3 Definitions.
108.5 Security program: adoption and implementation.
108.7 Security program: form, content, and availability.
108.9 Screening of passengers and property.
108.11 Carriage of weapons.
108.13 Security of airplanes and facilities.
108.15 Law enforcement officers.
108.17 Use of X-ray systems.
108.19 Bomb or air piracy threats.
108.21 Carriage of passengers under the control of armed law enforcement escorts.
108.23 Crewmember emergency training: hijacking and other unusual situations.
108.25 Approval of security programs and amendments.

Authority: Secs. 313, 315, 316, 317, 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1358, 1421 and 1424); sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c)).

§ 108.1 Applicability.

This part prescribes aviation security rules governing the operations of holders of FAA air carrier operating certificates or operating certificates engaging in scheduled passenger operations or public charter passenger operations. This part does not apply to helicopter operations or to all-cargo operations.

§ 108.3 Definitions.

The following are definitions of terms used in this part: (a) "Certificate holder" means a person holding an FAA operating certificate when that person engages in scheduled passenger or public charter passenger operations or both.

(b) "Passenger seating configuration" means the total number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight and includes that seat in certain airplanes which may be used by a representative of the Administrator to conduct flight checks but is available for revenue purposes on other occasions.

(c) 'Private charter" means any charter for which the charterer engages the total capacity of an airplane for the carriage of: (1) Passengers in civil or military air movements conducted under contract with the Government of the United States of the Government of a foreign country; or

(2) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

(d) "Public charter" means any charter that is not a "private charter."

(e) "Scheduled passenger operations" means holding out to the public of air transportation service for passengers from identified air terminals at a set time announced by timetable or schedule published in a newspaper, magazine, or other advertising medium.

(f) "Sterile area" means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with § 129.25.

§ 108.5 Security program: adoption and implementation.

(a) Each certificate holder shall adopt and carry out a security program that meets the requirements of § 108.7 for each of the following scheduled or public charter passenger operations: (1) Each operation with an airplane having a passenger seating configuration of more than 60 seats.

(2) Each operation that provides deplaned passengers access, that is not otherwise controlled by a certificate holder using an approved security program or a foreign air carrier using a security program required by § 129.25, to a sterile area.

(3) Each operation with an airplane having a passenger seating configuration of more than 30 but less than 61 seats; except that those parts of the program effecting compliance with the requirements listed in § 108.7(b) (1), (2), and (4) need only be implemented when the Director of Civil Aviation Security or a designate of the Director notifies the certificate holder in writing that a security threat exists with respect to the operation.

(b) Each certificate holder that has obtained FAA approval for a security program for operations not listed in paragraph (a) of this section shall carry out the provisions of that program

§ 108.7 Security program: form, content, and availability.

(a) Each security program required by § 108.5 shall—

(1) Provide for the safety of persons and property traveling in air transportation and intrastate air transportation against acts of criminal violence and air piracy;

(2) Be in writing and signed by the certificate holder or any person delegated authority in this matter;

(3) Include the items listed in paragraph (b) of this section, as required by § 108.5; and

(4) Be approved by the Administrator.

(b) Each security program required by § 108.5 must include the following, as required by that section: (1) The procedures and a description of the facilities and equipment used to perform the screening functions specified in § 108.9.

(2) The procedures and a description of the facilities and equipment used to perform the airplane and facilities control functions specified in § 108.13.

(3) The procedures used to comply with the applicable requirements of § 108.15 regarding law enforcement officers.

(4) The procedures used to comply with the requirements of § 108.17 regarding the use of X-ray systems.

(5) The procedures used to comply with the requirements of § 108.19 regarding bomb and air piracy threats.

(c) Each certificate holder having an approved security program shall—

(1) Maintain at least one complete copy of the approved security program at its principal business office;

(2) Maintain a complete copy or the pertinent portions of its approved security program or appropriate implementing instructions at each airport where security screening is being conducted;

(3) Make these documents available for inspection upon request of any Civil Aviation Security Inspector;

(4) Restrict the availability of information contained in the security program to those persons with an operational need-to-know; and

(5) Refer requests for such information by other persons to the Director of Civil Aviation Security of the FAA.

108.9 Screening of passengers and property.

(a) Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to prevent or deter the carriage aboard airplanes of any explosive, incendiary device, or a deadly or dangerous weapon on or about each individual's person or accessible property, and the carriage of any explosive or incendiary device in checked baggage.

(b) Each certificate holder required to conduct screening under a security program shall refuse to transport—

(1) Any person who does not consent to a search of his or her person in accordance with the screening system prescribed in paragraph (a) of this section; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the screening system prescribed by paragraph (a) of this section.

108.11 Carriage of weapons.

(a) No certificate holder required to conduct screening under a security program may permit any person to have, nor may any person have, on or about his or her person or property, a deadly or dangerous weapon, either concealed or unconcealed, accessible to him or her while aboard an airplane for which screening is required unless: (1) The person having the weapon is—

(i) An official or employee of the United States, or a State or political subdivision of a State, or of a municipality who is authorized by his or her agency to have the weapon; or

(ii) Authorized to have the weapon by the certificate holder and the Administrator and has successfully completed a course of training in the use of firearms acceptable to the Administrator.

(2) The person having the weapon needs to have the weapon accessible in connection with the performance of his or her duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned after deplaning.

(3) The certificate holder is notified—

(i) Of the flight on which the armed person intends to have the weapon accessible to him or her at least 1 hour, or in an emergency as soon as practicable, before departure; and

(ii) When the armed person is other than an employee or official of the United States, that there is a need for the weapon to be accessible to the armed person in connection with the performance of that person's duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned to him or her after deplaning.

(4) The armed person identifies himself or herself to the certificate holder by presenting credentials that include his or her clear, full-face picture, his or her signature, and the signature of the authorizing official of his or her service or the official seal of his or her service. A badge, shield, or similar device may not be used as the sole means of identification.

(5) The certificate holder—

(i) Ensures that the armed person is familiar with its procedures for carrying a deadly or dangerous weapon aboard its airplane before the time the person boards the airplane;

(ii) Ensures that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security during the boarding of the airplane; and

(iii) Notifies the pilot in command, other appropriate crewmembers, and any other person authorized to have a weapon accessible to him or her aboard the airplane of the location of each authorized armed person aboard the airplane.

(b) No person may, while on board an airplane operated by a certificate holder for which screening is not conducted, carry on or about that person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(1) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(2) Crewmembers and other persons authorized by the certificate holder to carry arms.

(c) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any explosive, incendiary, device or a loaded firearm in checked baggage aboard an airplane. For the purpose of this section, a loaded firearm means a firearm which has a live round of ammunition, cartridge, detonator, or powder in the chamber or

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in a clip, magazine, or cylinder inserted in it.

(d) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any unloaded firearm in checked baggage aboard an airplane unless—

(1) The passenger declares to the certificate holder, either orally or in writing before checking the baggage, that any firearm carried in the baggage is unloaded;

(2) The firearm is carried in a container the certificate holder considers appropriate for air transportation;

(3) When the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position, the baggage in which it is carried is locked, and only the passenger checking the baggage retains the key or combination; and

(4) The baggage containing the firearm is carried in an area, other than the flightcrew compartment, that is inaccessible to passengers.

(e) No certificate holder may serve any alcoholic beverage to a person having a deadly or dangerous weapon accessible to him or her nor may such person drink any alcoholic beverage while aboard an airplane operated by the certificate holder.

(f) Paragraphs (a), (b), and (d) of this section do not apply to the carriage of firearms aboard air carrier flights conducted for the military forces of the Government of the United States when the total cabin load of the airplane is under exclusive use by those military forces if the following conditions are met:

(1) No firearm is loaded and all bolts to such firearms are locked in the open position; and

(2) The certificate holder is notified by the unit commander or officer in charge of the flight before boarding that weapons will be carried aboard the aircraft.

§ 108.13 Security of airplanes and facilities.

Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to perform the following control functions with respect to each airplane operation for which screening is required:

(a) Prohibit unauthorized access to the airplane.

(b) Ensure that baggage carried in the airplane is checked in by a responsible agent and that identification is obtained from persons, other than known shippers, shipping goods or cargo aboard the airplane.

(c) Ensure that cargo and checked baggage carried aboard the airplane is handled in a manner that prohibits unauthorized access.

(d) Conduct a security inspection of the airplane before placing it in service and after it has been left unattended.

§ 108.15 Law enforcement officers.

(a) At airports within the United States not governed by Part 107 of this chapter, each certificate holder engaging in scheduled passenger or public charter passenger operations shall—

(1) If security screening is required for a public charter operation by § 108.5(a), or for a scheduled passenger operation by § 108.5(b) provide for law enforcement officers meeting the qualifications and standards, and in the number and manner specified, in Part 107; and

(2) When using airplanes with a passenger seating configuration of 31 through 60 seats in a public charter operation for which screening is not required, arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 to be available to respond to an incident, and provide to its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by Part 107 of this chapter, each certificate holder engaging in scheduled or public charter passenger operations, when using airplanes with a passenger seating configuration of 31 through 60 seats for which screening is not required, shall arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 to be available to respond to an incident and provide its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining this law enforcement assistance at that airport.

§ 108.17 Use of X-ray systems.

(a) No certificate holder may use an X-ray system within the United States to inspect carry-on articles unless specifically authorized under a security program required by § 108.5 of this part or use such a system contrary to its approved security program. The Administrator authorizes certificate holders to use X-ray systems for inspecting carry-on articles, under an approved security program, if the certificate holder shows that—

(1) For a system manufactured before April 25, 1974, it meets either the guidelines issued by the Food and Drug Administration (FDA), Department of Health, Education, and Welfare (HEW) and published in the **Federal Register** (38 FR 21442, August 8, 1973); or the performance standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(2) For a system manufactured after April 24, 1974, it meets the standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(3) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons and other dangerous articles;

(4) Procedures are established to ensure that each operator of the system is provided with a personal dosimeter (such as a film badge or thermo luminescent dosimeter). Each dosimeter used will be evaluated at the end of each calendar month, and records of operator duty time and the results of dosimeter evaluations will be maintained by the certificate holder; and

(5) The system is capable of distinguishing an insulated 24-gauge, solid copper wire.

(b) No certificate holder may use an X-ray system within the United States unless within the preceding 12 calendar months a radiation survey has been conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the FDA in the **Federal Register** of August 8, 1973 (38 FR 21442).

(c) No certificate holder may use an X-ray system after the system is initially installed or after it has been moved from one location to another, unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the FDA in the **Federal Register** of August 8, 1973 (38 FR 21442) except that a radiation survey is not required for an X-ray system that is moved to another location if the certificate holder shows that the system is so designed that it can be moved without altering its performance.

(d) No certificate holder may use an X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless that

Administration has advised the FAA that the defect or failure to comply does not create a significant risk or injury, including genetic injury, to any person.

(e) No certificate holder may use an X-ray system to inspect carry-on baggage or items unless a sign is posted in a conspicuous place which notifies passengers that such items are being inspected by an X-ray system and advises them to remove all X-ray and scientific film from the carry-on articles before inspection. This sign shall also advise passengers that they may request that a physical inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any carry-on article to more than one milliroentgen during the inspection, the certificate holder shall post a sign which advises passengers to remove film of all kinds from their carry-on articles before inspection. If requested by passengers, their photographic equipment and film packages shall be physically inspected without exposure to an X-ray system.

(f) Each certificate holder shall maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and shall make it available for inspection upon request by the Administrator at each of the following locations:

(1) The certificate holder's principal business office; and

(2) The place where the X-ray system is in operation.

§ 108.19 Bomb or air piracy threats.

(a) Upon receipt of a bomb threat against a specific airplane, each certificate holder shall attempt to determine whether or not any explosive or incendiary device is aboard the airplane involved by doing the following:

(1) Conducting a security inspection on the ground before the next flight or, if the airplane is in flight, immediately after its next landing.

(2) If the airplane is being operated on the ground, advising the pilot in command to immediately submit the airplane for a security inspection.

(3) If the airplane is in flight, immediately advising the pilot in command of all pertinent information available so that necessary emergency action can be taken.

(b) Immediately upon receiving information that an act or suspected act of air piracy has been committed, the certificate holder shall notify the Administrator. If the airplane is in airspace under other than United States jurisdiction, the certificate holder shall also notify the appropriate authorities of the State in whose territory the airplane is located and, if the airplane is in flight, the appropriate authorities of the State in whose territory the airplane is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

§ 108.21 Carriage of passengers under the control of armed law enforcement escorts.

(a) Except as provided in paragraph (e) of this section, no certificate holder required to conduct screening under a security program may carry a passenger in the custody of an armed law enforcement escort aboard an airplane for which screening is required unless—

(1) The armed law enforcement escort is an official or employee of the United States, of a State or political subdivision of a State, or a municipality who is required by appropriate authority to maintain custody and control over an individual aboard an airplane;

(2) The certificate holder is notified by the responsible government entity at least 1 hour, or in case of emergency as soon as possible, before departure—

(i) Of the identity of the passenger to be carried and the flight on which it is proposed to carry the passenger; and

(ii) Whether or not the passenger is considered to be in a maximum risk category;

(3) If the passenger is considered to be in a maximum risk category, that the passenger is under the control of at least two armed law enforcement escorts and no other passengers are under the control of those two law enforcement escorts;

(4) No more than one passenger who the certificate holder has been notified is in a maximum risk category is carried on the airplane;

(5) If the passenger is not considered to be in a maximum risk category, the passenger is under the control of at least one armed law enforcement escort, and no more than two of these persons are carried under the control of any one law enforcement escort;

(6) The certificate holder is assured, prior to departure, by each law enforcement escort that—

(i) The officer is equipped with adequate restraining devices to be used in the event restraint of any passenger under the control of the escort becomes necessary; and

(ii) Each passenger under the control of the escort has been searched and does not have on or about his or her person or property anything that can be used as a deadly or dangerous weapon;

(7) Each passenger under the control of a law enforcement escort is—

(i) Boarded before any other passengers when boarding at the airport where the flight originates and deplaned at the destination after all other deplaning passengers have deplaned;

(ii) Seated in the rear-most passenger seat when boarding at the airport where the flight originates; and

(iii) Seated in a seat that is neither located in any lounge area nor located next to or directly across from any exit; and

(8) A law enforcement escort having control of a passenger is seated between the passenger and any aisle.

(b) No certificate holder operating an airplane under paragraph (a) of this section may—

(1) Serve food beverage or provide metal eating utensils to a passenger under the control of a law enforcement escort while aboard the airplane unless authorized to do so by the law enforcement escort.

(2) Serve a law enforcement escort or the passenger under the control of the escort any alcoholic beverages while aboard the airplane.

(c) Each law enforcement escort carried under the provisions of paragraph (a) of this section shall, at all times, accompany the passenger under the control of the escort and keep the passenger under surveillance while aboard the airplane.

(d) No law enforcement escort carried under paragraph (b) of this section or any passenger under the control of the escort may drink alcoholic beverages while aboard the airplane.

(e) This section does not apply to the carriage of passengers under voluntary protective escort.

§ 108.23 Crewmember emergency training: hijacking and other unusual situations.

Each certificate holder shall provide each appropriate crewmember hijack emergency training as required by § 121.417(c)(1)(v) or § 135.331(b)(2)(v).

§ 108.25 Approval of security programs and amendments.

(a) Unless otherwise authorized by the Administrator, each certificate holder required to have a security program for a passenger operation shall submit its proposed security program to the Administrator for approval at least 90 days before the date of the intended passenger operations. Within 30 days after receiving the program, the Administrator either approves the program or notifies the certificate holder to modify the program to comply with the applicable requirements of this part. The certificate holder may petition the Administrator to reconsider the notice to modify within 30 days after receiving the notice, and, except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(b) The Administrator may amend an approved security program if it is determined that safety and the public interest require the amendment, as follows:

(1) The Administrator notifies the certificate holder, in writing, of the proposed amendment, fixing a period of not less than 30 days within which it may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the Administrator notifies the certificate holder of any amendment adopted or rescinds the notice. The amendment becomes effective not less than 30 days after the certificate holder receives the notice, unless the certificate holder petitions the Administrator to reconsider the amendment, in which case the effective date is stayed by the Administrator.

(3) If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes the procedure in this paragraph impracticable or contrary to the public interest, the Administrator may issue an amendment, effective without stay, on the date the certificate holder receives notice of it. In such a case, the Administrator incorporates the findings, and a brief statement of the reasons for it, in the notice of the amendment to be adopted.

(c) A certificate holder may submit a request to the Administrator to amend its program. The application must be filed with the Administrator at least 30 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the Administrator. Within 15 days after receiving a proposed amendment, the Administrator either approves or denies the request. Within 30 days after receiving from the Administrator a notice of refusal to approve the application for amendment, the applicant may petition the Administrator to reconsider the refusal to amend.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

8. By revising § 121.538 to read as follows:

§ 121.538 Airplane security.

Certificate holders conducting operations under this part shall comply with the applicable security requirements in Part 108 of this chapter.

§ 121.538a [Removed]

§ 121.584 [Removed]

§ 121.585 [Removed]

9. By revoking and removing §§ 121.538a, 121.584, and 121.585.

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

10. By revising § 129.25 to read as follows:

§ 129.25 Airplane security.

(a) The following are definitions of terms used in this section:

(1) "Approved security program" means a security program required by Part 108 of this title approved by the Administrator.

(2) "Certificate holder" means a person holding an FAA air carrier operating certificate or operating certificate when that person engages in scheduled passenger or public charter operations, or both.

(3) "Passenger seating configuration" means the total number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight and includes that seat in certain airplanes which may be used by a representative of the Administrator to conduct flight checks but is available for revenue purposes on other occasions.

(4) "Private charter" means any charter for which the charterer engages the total capacity of an airplane for the carriage only of:

(i) Passengers in civil or military air movements conducted under contract with the Government of the United States or the Government of a foreign country; or

(ii) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

(5) "Public charter" means any charter that is not a "private charter."

(6) "Scheduled passenger operations" means holding out to the public of air transportation service for passengers from identified air terminals at a set time announced by timetable or schedule published in a newspaper, magazine, or other advertising medium.

(7) "Sterile area" means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with § 129.25.

(b) Each foreign air carrier landing or taking off in the United States shall adopt and use a security program, for each scheduled and public charter passenger operation, that meets the requirements of—

(1) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 60 seats;

(2) Paragraph (c) of this section for each operation that will provide deplaned passengers access, that is not controlled by a certificate holder using an approved security program or a foreign air carrier using a security program required by this section, to a sterile area;

(3) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 30 seats but less than 61 seats for which the FAA has notified the foreign air carrier that a threat exists; and

(4) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 30 seats but less than 61 seats, when the the Director of Civil Aviation Security or a designate of the Director has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

(c) Each security program required by paragraph (b) (1), (2), or (3) of this section shall be designed to—

(1) Prevent or deter the carriage aboard airplanes of any explosive, incendiary device or a deadly or dangerous weapon on or about each individual's person or accessible property, except as provided in § 129.27 of this part, through screening by weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that baggage is accepted by a responsible agent of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its airplanes unless handled in accordance with the foreign air carrier's security procedures.

(d) Each security program required by paragraph (b)(4) of this section shall include the procedures used to comply with the applicable requirements of paragraphs (h)(2) and (i) of this section regarding law enforcement officers.

(e) Each foreign air carrier required to use a security program by paragraph (b) of this section shall, upon request of the Administrator, and in accordance with applicable law, provide information regarding the implementation and operation of its security program.

(f) No foreign air carrier may land or take off an airplane in the United States, in passenger operations, after receiving a bomb or air piracy threat against that airplane, unless the following actions are taken:

(1) If the airplane is on the ground when a bomb threat is received and the next scheduled flight of the threatened airplane is to or from a place in the United States, the foreign air carrier ensures that the pilot in command is advised to submit the airplane immediately for a security inspection and an inspection of the airplane is conducted before the next flight.

(2) If the airplane is in flight to a place in the United States when a bomb threat is received, the foreign air carrier ensures that the pilot in command is advised immediately to take the emergency action necessary under the circumstances and a security inspection of the airplane is conducted immediately after the next landing.

(3) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (f)(1) or (f)(2) of this section, the foreign air carrier ensures that notification of the threat is given to the appropriate authorities of the State in whose territory the airplane is located or, if in flight, the appropriate authorities of the State in whose territory the airplane is to land.

(g) Each foreign air carrier conducting an operation for which a security program is required by paragraph (b)(1), (2), or (3) of this section shall refuse to transport—

(1) Any person who does not consent to a search of his or her person in accordance with the security program; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the security program.

(h) At airports within the United States not governed by Part 107 of this chapter, each foreign air carrier engaging in public charter passenger operations shall—

(1) When using a screening system required by paragraph (b) of this section, provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in Part 107; and

(2) When using an airplane having a passenger seating configuration of more than 30 but less than 61 seats for which a screening system is not required by paragraph (b) of this section, arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(i) At airports governed by Part 107 of this chapter, each foreign air carrier engaging in scheduled passenger operations or public charter passenger operations when using an airplane with a passenger seating configuration of more than 30 but less than 61 seats for which a screening system is not required by paragraph (b) of this section shall arrange for law enforcement officers meeting the qualifications and standards specified in Part 107 to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

11. By adding a new § 135.125 to read as follows:

§ 135.125 Airplane security.

Certificate holders conducting operations under this part shall comply with the applicable security requirements in Part 108 of this chapter.

(Secs. 313, 315, 316, 317, 601–610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1358, 1421–1430); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

This rule is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Washington, D.C., on January 12, 1981.

Langhorne Bond,
Administrator.

[FR Doc. 81-1403 Filed 1-14-81; 8:45 am]

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federal register

Thursday
January 15, 1981

Part IV

Department of Health and Human Services

Health Care Financing Administration

Conditions for Coverage of Suppliers of ESRD Services; Self-Dialysis and Home Dialysis Training

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Conditions for Coverage of Suppliers of ESRD Services Self-Dialysis and Home Dialysis Training

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations will provide for program approval of a facility that furnishes training and support services for self-dialysis and/or home dialysis, either as the only service or in combination with self-dialysis services. The requirements for a training facility are the same as those for facilities furnishing staff-assisted dialysis, with some additional specific training requirements. The intent of this change is to encourage greater use of self-dialysis. Other changes are being made to facilitate program administration, and to respond to comments on the regulations implementing the 1978 amendments, as well as to adapt the requirements to a recently developed treatment technique known as continuous ambulatory peritoneal dialysis (CAPD), to provide for approval of special purpose renal dialysis facilities, and to require open staffs in ESRD facilities.

DATE: Consideration will be given to written comments or suggestions mailed on or before March 16, 1981.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, P.O. Box 17082, Baltimore, Maryland 21235.

In commenting, please refer to HSQ-73P. Comments will be available for public inspection beginning approximately 2 weeks after publication, in Room 309G of the Department's Offices at 200 Independence Ave., S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:30 p.m., telephone 202-245-7890.

FOR FURTHER INFORMATION CONTACT: Janet Harryman, Director, Division of Hospital Services, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, 301-594-9712.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Amendments of 1972 (Pub. L. 92-603) extended Medicare protection to individuals with end-stage renal disease who require dialysis or transplantation. Those amendments authorized the Secretary to prescribe regulations for facilities that furnish such services.

The End-Stage Renal Disease Program Amendments of 1978 (P.L. 95-292) became effective June 13, 1978, and the implementing requirements for self-dialysis units and self-dialysis services were published as a final rule with comment period in the **Federal Register**, October 19, 1978, (43 FR 48948). Those regulations prescribed the requirements for approval of self-dialysis units but did not permit approval of facilities that furnished only self-dialysis services.

General Considerations

These proposed amendments clarify and expand the types of dialysis services which facilities will be approved to furnish, and they include changes directed toward more effective administration of the program.

1. *Training Only Facilities*—One of the changes we propose will classify training as a dialysis service. This will permit the approval of a facility which furnishes only training and support for self-dialysis or home dialysis, to participate in the ESRD program. Approval of a training only facility is consistent with the intent of Congress to encourage self-dialysis. Since dialysis training is essentially the same as staff-assisted dialysis, we are proposing that facilities providing training must meet standards as stringent as those for facilities providing other dialysis services. The amended regulations of October 19, 1978 did not permit approval of facilities furnishing only self-dialysis; a self-dialysis unit could be approved only as part of a facility that furnishes transplantation or a dialysis service other than self-dialysis. Since the proposed amendments define self-dialysis training as a dialysis service, a self-dialysis unit could also be approved as a part of a facility furnishing training.

2. *Special Purpose Renal Dialysis Facilities*—Present regulations do not permit us to approve for Medicare coverage temporary dialysis units. We continue to receive inquiries regarding the feasibility of approving for Medicare reimbursement dialysis services provided to ESRD beneficiaries on a short term basis for special rehabilitative or emergency purposes when those beneficiaries cannot be accommodated by facilities approved under the present regulations.

For example, in many cases existing ESRD facilities are too remote or too near capacity to serve vacationing dialysis patients. Accordingly, some hospitals and universities have developed programs which provide dialysis services to these patients while they are on extended vacations. These programs include both transient or mobile units in State parks and fixed location units such as children's camps. All proposals which we have received to approve these types of units as special purpose dialysis facilities emphasize the importance of these units in programs designed to assist ESRD patients and their families toward the goals of total rehabilitation and a normal lifestyle. The availability of these units allows patients some respite from severely restricted lifestyles caused by the need for dialysis treatments three times a week at a single location.

Under this proposed regulation, if a facility approved under the present regulations located in the area serving the vacationing patients has the capacity to accommodate the patients, treatment must be administered in that unit. However, frequently the units we have been asked to approve are part of rehabilitative programs which have been developed in response to specific, unmet needs of patients. For example, one particular program provides dialysis services to patients in National Parks. These parks are generally not close to permanent facilities that could accommodate these patients. Consequently this program affords patients an opportunity to enjoy the outdoors by vacationing for an extended period in a setting which would otherwise be inaccessible to them. After carefully reviewing these proposals, we have decided that the benefits of the programs are significant, and are proposing that the units furnishing dialysis services in these programs be approved as special purpose renal dialysis facilities.

Under these proposed regulations, these special purpose dialysis facilities would receive Medicare reimbursement only for those services that are reimbursed under Medicare when provided in permanent facilities approved under the present regulations. The patient would continue to pay for all other costs such as actual vacation expenses.

We are also proposing to approve special purpose dialysis units when these units are necessary to accommodate patients on an emergency, short term basis. Examples of these emergencies are facility closings due to strikes or bankruptcies when the backup facilities to the closed facilities cannot accommodate the patients of the closed facilities.

As we considered whether to propose approval of these special purpose facilities we were most concerned about three problems: safety and quality of care, proliferation of dialysis facilities, and increased program costs. With respect to the quality of care provided in these units, the evidence available to us indicates that these units have not experienced any problems in providing quality care. We are requiring these units to meet all conditions for approval for dialysis facilities, including all health and safety standards, with the exception of §§ 405.2132, 405.2134, and 405.2137. We will, of course, monitor the performance of these units carefully. We expect that any unit that can meet existing health and safety standards will provide quality and safe care.

We are proposing to exempt special purpose renal dialysis facilities only from the requirements of §§ 405.2132, 405.2134, and 405.2137. We do not think that compliance with § 405.2132 (fulfillment of service needs in a network) should be required because of the short range, transient nature of the population to be served in such units. This requirement applies only to the on-going permanent needs of the network to provide adequate services for the dialysis population residing within network boundaries, and as such, is not appropriate for special purpose facilities.

Compliance with § 405.2134 (membership in a network) will not be required for basically the same reasons. The temporary nature of the facility and the high turnover of patients make membership in a network impractical and administratively burdensome. Moreover, since these facilities do not have responsibility for the long term care of their patients, we think that it is inappropriate for them to participate in setting and implementing network goals and objectives, particularly those for transportation and home dialysis. We see these units as fulfilling important program goals and objectives such as patient rehabilitation. We expect to be able to collect whatever data are necessary to monitor their performance in fostering program goals and in providing quality care through the survey process and through the requirement of § 405.2133 for furnishing data and information for ESRD program administration.

In lieu of compliance with the requirements of § 405.2137 for patient long-term program and patient care plan, we propose to substitute a requirement which would require the special purpose renal dialysis facility to consult with a patient's physician to assure that care provided in the special purpose facility is consistent with the patient's long-term care program and the long-term plan that the patient's permanent facility is required to maintain under § 405.2137. In our opinion this requirement will assure continuity of care.

In developing our proposal for special purpose renal dialysis facilities, we considered requiring these facilities to operate directly under the auspices of a renal dialysis facility, approved under the present regulations. However, we were concerned that such a proposal might lead to a monopoly, and limit competition in providing special rehabilitative or emergency dialysis services. Since we are requiring special puspose dialysis facilities ot meet all health and safety standards, we feel the need for a direct operating agreement with an approved dialysis facility is unnecessary. We are, of course, proposing to require that all special purpose facilities comply with the requirement of § 405.2160 that a renal dialysis facility have in effect an affiliation agreement or arrangement with a renal dialysis center for backup services.

The final requirement for special purpose dialysis facilities relates to the period of approval. We propose to limit approval to six consecutive months in any given calendar year. This time limitation is necessary to emphasize the temporary nature of such facilities, and to prevent unnecessary proliferation of, and possible abuse of, this category of approval. We do not think that these units need to operate for a longer period. Most of the special rehabilitative programs are designed to operate for only a limited period. In addition, the six month time frame is particularly important in the application of this provision in emergency situations. The six month timeframe will provide us with enough time to either arrange permanent alternative placement for patients or to successfully resolve the emergency, yet it is short enough to prevent possible abuse by parties seeking to provide dialysis services while circumventing the established determination of need procedures.

If this proposal is adopted, we will propose any necessary changes in the corresponding reimbursement regulations. We recognize that our proposal may result in some increased program costs, but intend to hold these costs to a minimum.

3. *Continuous Ambulatory Peritoneal Dialysis*—Continuous ambulatory peritoneal dialysis (CAPD) is a recent development in ESRD treatment. Several changes are included in these proposed amendments to reflect this newer method of treatment. The proposed regulatory changes recognize essential differences between CAPD and other dialysis techniques.

4. *Program Administration*—The proposed amendment will improve program administration through changes in reporting requirements.

One change will remove the requirements for disclosure of 10% ownership of an ESRD facility and will require compliance with § 420.206. Section 420.206 was effective July 17, 1979, (44 FR 41636) and was part of the regulations implementing the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95–142). Pub. L. 95–142 imposes a more stringent requirement of disclosure of 5% ownership.

Current regulations require an ESRD facility to be needed in its area before it can be approved. A proposed amendment will require an ESRD facility to notify in advance and obtain written approval from the Health Care Financing Administration Regional Office before making changes in location, services provided, or expansion or reduction of approved capacity. Failure to do so may jeopardize continued reimbursement for ESRD services. These proposed amendments would require an ESRD facility to obtain a State certificate of need (CON) as a condition for approval in any State whose CON program covers ESRD facilities. This proposed change would codify present administrative practice.

In addition, one requirement relating to the reporting of services performed has been eliminated as being duplicative of the survey by the State survey agency, and a daily reporting by a self-dialysis trained patient has been eliminated as inappropriate.

5. Open staff requirement. Present regulations at 42 CFR 405.2136(h) require that the governing body of an ESRD facility establish written policies regarding appointments to the medical staff. The regulations further provide that the governing body is responsible for maintaining and implementing written personnel policies and procedures that support sound patient care. 42 CFR 405.2136(d). These policies and procedures must ensure that all members of the facility's staff are qualified to perform the duties and responsibilities assigned to them.

When the present regulations were issued in proposed form on July 1, 1975 (40 FR 27782), we received public comment suggesting that we add a requirement that all ESRD facilities maintain an open staff for all nephrologists. As we explained in the preamble to the final regulations published on June 3, 1976 (41 FR 22502, 22508), we decided not to impose an

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open staff requirement at that time because we believed that such a requirement might then be seen as interfering with a facilities prerogative to pass on medical staff qualifications and because we assumed that decisions concerning the granting of privileges would be based on the physician's qualifications and the facility's capacity to accommodate a physician's patients.

It now appears that our original assumption was not correct. Some facilities apparently are restricting medical staff privileges on the basis of criteria unrelated to sound patient care, professional qualifications, or facility capacity. For example, some facilities apparently grant staff privileges only to physicians who are employed by the facilities. Other facilities are apparently agreeing among themselves to refuse staff privileges to any physician discharged from one of the facilities. We do not think these criteria promote the sound medical care of ESRD patients, and we never intended that such criteria be used to deny staff privileges in ESRD facilities. We think their use is inconsistent with out present requirement that personnel policies support sound patient care.

Moreover, we believe that we have a unique obligation to strengthen federal requirements for the ESRD program, if necessary, to ensure sound medical care for patients in the program. We have significantly limited the number of facilities that may receive Medicare reimbursement for dialysis and that consequently can offer Medicare-reimbursed treatment to ESRD patients. For example, federal regulations at 42 CFR 405.2132 require as a condition for approval a determination that the ESRD facility is needed to increase the available ESRD services which would otherwise be inadequate for the network area. Section 1881(b)(1) of the Act and implementing regulations at 42 CFR 405.2130 also require as a condition of approval that ESRD facilities meet certain minimum utilization rates. In addition, the federal government through the Medicare program provides almost all of the financial support for these dialysis facilities. Under these conditions of a federally supported and limited supply of ESRD facilities—in effect a government "franchise"—we have a special responsibility to address any facility policies that interfere with the sound medical care of ESRD patients.

An ESRD facility policy that limits staff privileges on the basis of criteria such as whether the physician is employed by the facility has the effect of restricting the right of an ESRD patient to select his or her treating physician in a manner that is unrelated to sound medical care. As a result of the limited supply of ESRD facilities, a patient might be forced to accept treatment at a facility that restricts staff privileges in such a manner. If the patient's own physician has been excluded from the facility staff, the patient's treatment would be supervised by another physician who otherwise might not have been selected by the patient.

We believe that the special characteristics of ESRD patients make the patient's right to choose his or her own physician a particularly important element of quality patient care. ESRD patients suffer from a sever chronic disease that must be treated several times a week over a lengthy period. Further complications, requiring emergency or acute care treatment, often arise. As a result, an ESRD patient has a special pychological need for a physician whom the patient trusts to supervise the entire continuum of that patient's care. This right to select one's own physician should be restricted only to the extent necessary to ensure quality care.

Since we can no longer rely on our original assumption that facilities would base staff privileges solely on professional qualifications or other criteria related to sound patient care, we are proposing to amend the regulation at 42 CFR 405.2136(h) to require that staff privileges in an ESRD facility be granted solely on the basis of professional qualifications unless the facility demonstrates that any other criteria that it uses have a sound medical basis and are needed to promote quality care. We have concluded that, under the conditions of the ESRD program, such an explicit open staff requirement is necessary and appropriate to protect the right of ESRD patients to choose their own physicians.

We would like to emphasize that we are not proposing to restrict the types of professional qualifications that a facility may impose as criteria for staff privileges, nor are we proposing to control the manner in which those criteria are applied in a particular case. For example, under our proposed regualtion, a facility could decide to limit staff privileges to board certified or board eligible nephrologists, or a university hospital could decide to limit privileges to university faculty. Our proposed regulation would only prohibit a facility from using criteria other than professional qualifications unless the facility demonstrates that other criteria which it uses are needed to promote quality care. Under the proposed regulation, a facility would be required to grant staff privileges (for the future) to a physician who qualifies under the facility's criteria even though the facility may be currently operating at full capacity and could not accept a new patient from the physician at the present time.

We particularly solicit comments on this open staff proposal, including information on the number of closed staff facilities which exist, the kinds of problems that have arisen in such facilities, and any specific information on difficulties that may be presented by our proposed change.

Summary of Changes

The proposed regulatory changes have been numbered in sequence. The following discussion of each change is numbered to correspond to the number of the proposed change.

1. Definitions—In the current regulations, § 405.2102(c) defines the dialysis process and lists two common types of dialysis, i.e., hemodialysis and peritoneal dialysis. A recently developed treatment technique known as continuous ambulatory peritoneal dialysis (CAPD) is now a covered service and is sufficiently different from other methods of dialysis as to require several changes in regulations. Therefore, the definition of dialysis is to be expanded to provide a more detailed listing of types of dialysis. Since dialysis involves removal of substances from the blood, all dialysis is hemodialysis; the difference in types of dialysis is the location of the dialyzing membrane. In hemodialysis, the dialyzing membrane is located outside the body, and in peritoneal dialysis, the peritoneum in the abdomianal cavity is the dialyzing membrane. As a result, we propose to expand the list of types of dialysis to:

- extracorporeal hemodialysis
- intermittent peritoneal dialysis
- continuous ambulatory peritoneal dialysis.

This terminology is generally in use in the professional community and we see little necessity for defining each type of dialysis.

In the current regulations, § 405.2102(f) classifies dialysis services and training for self-dialysis and/or home dialysis separately as ESRD services. The regulations at § 405.2163 require that a renal dialysis facility provide dialysis services. The proposed amendment will classify training as a dialysis service rather than an ESRD service; this will permit the approval of a facility which furnishes only the training service and required support service. Our rationale for this change is that we think that approval of a training-only facility will encourage self and home dialysis. Our proposed change is not a significant change form our present practice, since training is basically staff assisted dialysis plus an additional training component. We propose that a facility that furnishes dialysis training only must meet all the requirements of Subpart U, including the specific requirements for training units.

Current regulations permit approval of a facility that furnishes self-dialysis and another dialysis service. These proposed amendments will permit approval of a self-dialysis unit in a facility that is approved to furnish self or home-dialysis training.

A minor change is being proposed in defining self-dialysis as dialysis being performed with little or no professional assistance to include reference to the requirement that a licensed health professional be on duty whenever dialysis is performed.

We propose to amend the current regulations to approve for reimbursement special purpose renal dialysis facilities. We propose to require that special purpose dialysis facilities meet all the applicable conditions for coverage specified in Subpart U, with the exception of those relating to need (405.2132), network participation (405.2134) and patient care plan (405.2137). Approval will be limited to six months in any calendar year.

2. *Reporting of Utilization Rates*—The ESRD final regulations published June 3, 1976, (41 FR 22502) implemented the statutory requirement for minimal utilization rates (MUR) by specifying the MURs for transplant and dialysis services. Each facility was required to report these rates on an annual basis.

The regulations were amended on October 19, 1978, (43 FR 48948) to include requirements for self-dialysis units. However, no MUR requirements were established for self-dialysis since utilization data on existing self-dialysis units were limited. To obtain such data, the reporting requirement was amended to require each dialysis facility to report, by type of service, the number of treatments at each station. These regulations were published as a final rule with a comment period.

A comment was made by the National Kidney Foundation that the additional reporting requirement was unnecessary because the State survey agencies obtain the information at the time of their annual facility surveys. We have agreed with the commenters and are proposing to remove the additional requirement. The State survey agencies use HCFA approved forms which ask for this information.

3. *Calculation of Utilization Rates*—In an effort to encourage self-dialysis training, the ESRD regulations have permitted a facility to exclude from the calculation of utilization rates a dialysis machine which has been used to train at least six self-dialysis patients per year. We propose to remove the exclusion provision from § 405.2130(d) and to place it in § 405.2124, the section which pertains to the calculation of utilization rates.

4. *Minimal Utilization Rate (MUR) for Training*—We propose to establish an MUR for a facility that only furnishes self-dialysis and/or home dialysis training. We would require such a facility to train 12 or more patients per calendar year. A person trained would be a person who has completed the training as determined from the patient's medical record. The utilization rate for a facility may be met by any type of dialysis for which the patient is trained. For example, hemodialysis and peritoneal dialysis (including CAPD) may be used in meeting the MUR. The proposed MUR for training is sufficiently low that we have not proposed conditional status; training only units must meet the MUR by the end of each calendar year. We are now evaluating ESRD program MUR requirements, and we welcome comments on this proposed MUR for training.

5. *Facility Notification of Change*—Current regulations (§ 405.2132) require that an ESRD facility be needed in its network area, and that expansion of dialysis capacity must also be needed. The proposed amendment will make the regulation more specific with respect to an approved facility and require the facility to make no change in its physical location, services provided, or expansion or reduction of approved capacity without notifying in advance and obtaining the approval of the Health Care Financing Administration Regional Office. Failure to notify and obtain approval may jeopardize the facility's continuing participation in the ESRD program. The proposed amendments would also require a facility to obtain a CON if its State CON program covers ESRD facilities.

6. *Network Goals*—The conditions for membership of an ESRD facility in a network are contained in section 405.2134 of Subpart U. The ESRD legislation of 1978 required that networks establish goals on placement of ESRD patients in the appropriate modality, and identify facilities which do not cooperate in meeting the network goals. By way of implementing this provision, the ESRD regulations of October 19, 1978 required that the membership agreement between a facility and the network contain the facility plan for meeting the network goals. Comments by the National Kidney Foundation on this requirement pointed out that plans should be as flexible as the goals and by making them a part of an agreement, the plans would likely become more permanent. Therefore, a change in the regulation is proposed which will commit the facility to pursue network goals as part of the membership agreement; the facility will be required to have a plan for fulfilling its role in attaining network goals and must submit this plan to the network.

7. *Disclosure of Ownership and Patient Care Policies*—Current regulations in Subpart U (§ 405.2136(a)) require disclosure of ownership of an ESRD facility of 10% or more. The Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142) requires disclosure of 5% ownership and this disclosure requirement has been published as a regulation (§ 420.206). This section provides the requirements for:

—information that must be disclosed
—time and manner of disclosure
—consequence of failure to disclose, and
—public disclosure.

The 5% disclosure requirement supersedes the 10% disclosure requirement in § 405.2136(a). This amendment would revoke the 10% requirement and simply require the facility to comply with the disclosure requirements of § 420.206. The Health Care Financing Administration will withdraw a determination of eligibility of an ESRD facility which fails to comply with the provisions of § 420.206.

Another change in § 405.2136 will require a facility with patients undergoing peritoneal dialysis to have patient care policies that contain procedures for detection and treatment of peritonitis. The regulation will not, of course, outline what treatment procedures are required but will require that each facility have such policies so that each facility employee will have the opportunity to understand what the facility policy is with respect to peritonitis in patients undergoing peritoneal dialysis.

8. *Medical Record Entries*—Section 405.2139(d) requires a self-dialysis patient to keep records concerning the daily dialysis process and that this information becomes a part of the patient's medical record. the intent of the regulation was to ensure that the self-dialysis patient's clinical information is centralized in the medical

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record so that the facility furnishing the support services for the self-dialysis patient has the record of the dialysis process. However, in most instances, hemodialysis is not performed on a daily basis, and, therefore, the recording concerning the daily dialysis process is inappropriate and has been deleted. This was commented upon by representatives of the National Kidney Foundation shortly after the requirement was published in the October 19, 1978 amendments.

The National Kidney Foundation also questioned the requirement that entries in the medical record by self dialysis patients are to be countersigned by staff. We have deleted this requirement since staff should sign only on entries of information in which they had participated in generating. This would not not usually occur during self-dialysis.

9. *Control of Peritonitis*—We propose to amend § 405.2140(b)(1) by requiring additional written policies and procedures in the prevention and control of peritonitis in recognition of the potential complication of peritoneal dialysis. (See also § 405.2136.)

10. *Self-Dialysis Training and Support Services*—In addition to the change in definition which will permit training only facilities, § 405.2163 will be amended by adding training for self-dialysis and home dialysis as a dialysis service. Several additional changes are proposed in § 405.2163(e) which lists self-dialysis support services. We anticipate the support program will become more complex due to greater numbers of home-dialysis patients and increase in use of continuous ambulatory peritoneal dialysis. We propose to require that a qualified chief executive officer or a qualified nurse coordinate the suport services of the facility furnishing the dialysis training. The ESRD facility which trains a patient in peritoneal self-dialysis will furnish on a regular basis, either directly or under arrangement or agreement with another approved ESRD facility, monitoring of the patient's medical condition and continuing self-dialysis activity.

A major purpose of a regular monitoring at an approved training facility is to reduce the hazard of peritonitis. A training only facility will make an arrangement or agreement with another ESRD facility which has the capability to furnish all necessary staff-assisted hemo and-or peritoneal dialysis to the patients for whom the training unit furnishes support services.

11. *Open-Staff Policies*—We are proposing to change § 405.2136(h) to require that the written policies on medical staff developed by the facility's governing body must specify the professional qualifications required of physicians seeking staff privileges at the facility, and must provide that staff privileges are granted solely on the basis of professional qualifications unless the facility demonstrates that any criteria other than professional qualifications that it uses have a sound medical basis and are needed to promote quality patient care. The policies would also be required to specify provisions to be employed in granting staff privileges to physicians when the facility is at full capacity.

42 CFR Part 405 is amended as set forth below:

1. In § 405.2102, paragraphs (c), (e)(5), (f), and (r)(4) are revised to read as follows:

§ 405.2102 Definitions.

* * * * *

(c) *Dialysis.* A process by which disolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermiable membrane. The two types of dialysis that are currently in common use are extracorporeal hemodialysis and peritoneal dialysis, including intermittenent peritoneal dialysis (IPD) and continuous ambulatory peritoneal dialysis (CAPD).

* * * * *

(e)(5) Special purpose renal dialysis facility. A renal dialysis facility which is approved under § 405.2164 to furnish special rehabilitative or emergency dialysis services on a short term basis to a group of dialysis patients otherwise unable to obtain treatment.

* * * * *

(f) *ESRD service.* The type of care or services furnished to an ESRD patient. Such types of care are:

(1) *Transplantation service.* A process by which (a) a kidney is excised from a live or cadaveric donor, (b) that kidney is implanted in an ESRD patient, and (c) supportive care is furnished to the living donor and to the recipient following implantation.

(2) *Dialysis service:*

(i) *Inpatient dialysis.* Dialysis which, because of medical necessity, is furnished to an ESRD patient on a temporary inpatient basis in a hospital;

(ii) *Outpatient dialysis.* Dialysis furnished on an outpatient basis at a renal dialysis center on facility. Outpatient dialysis includes:

(A) *Staff-assisted dialysis.* Dialysis performed by the staff of the center or facility.

(B) *Self-dialysis.* Dialysis performed, with little or no professional assistance except for the oversight required by § 405.2161(b)(1) by an ESRD patient who has completed an appropriate course of training.

(iii) *Home dialysis.* Dialysis performed by an appropriately trained patient at home.

(iv) *Self-dialysis and home dialysis training.* A program that trains ESRD patients to perform self-dialysis or home dialysis including CAPD, and trains other individuals to assist patients in performing self-dialysis or home dialysis.

(r) *Qualified personnel.* Personnel that meet the requirements specified in this paragraph. (1) Chief executive officer. A person who:

* * * * *

(4) *Nurse responsible for nursing service.* A person who is licensed as a registered nurse by the State in which practicing, and (i) has at least 12 months of experience in clinical nursing, and an additional 6 months of experience in nursing care of the patient with permanent kidney failure or undergoing kidney transplantation, including training in and experience with the dialysis process; or

(ii) Has 18 months of experience in nursing care of the patient on maintenance dialysis, or in nursing care of the patient with a kidney transplant, including training in and experience with the dialysis process.

(iii) If self-dialysis and home dialysis training is offered, the nurse in charge of training meets the requirements of paragraph (r)(4) (i) or (ii) of this section; and

(A) At least 3 months of the total required ESRD experience must be in training patients in self-care dialysis; and

(b) If CAPD training is offered, at least 3 months of the total required ESRD experience must be in the care and maintenance of patients on peritoneal dialysis, in the instruction of ESRD patients in CAPD techniques, or a combination of both covering a 3 months time span; or the nurse must have completed a training program in CAPD techniques.

* * * * *

2. Section 405.2123(b) is revised to read as follows:

405.2123 Reporting of utilization rates for classification.

* * * * *

(b) Each hospital or nonhospital facility furnishing dialysis service must report the number of dialysis stations it had operating and the total number of dialyses performed during both the most recent year of operation and each of the preceding 2 calendar years.

3. Section 405.2124 is revised to read as follows:

§ 405.2124 Calculation of utilization rates for comparison with minimal utilization rate(s) and notification of status.

For purposes of classification, HCFA will use either the utilization rate for the preceding 12 months from the date of the survey or the average utilization rate of the preceding 2 calendar years, whichever is higher. In a facility that furnishes other dialysis services, self-dialysis training stations which were used to train at least 6 self-dialysis patients per station per calendar year and the dialyses performed on these stations may be excluded from the calculation of utilization rates. HCFA will inform each ESRD facility and the network coordinating council of the network area in which the ESRD facility is located of the results of this classification.

4. Section 405.2130(d) is revised to read as follows:

§ 405.2130 Condition: Minimal utilization rates.

* * * * *

(d) Standard: Dialysis facility which furnishes only training for dialysis and home dialysis:

(1) Unconditional status—12 or more patients trained each calendar year;

(2) There is no conditional status provision for a facility which furnishes only training. A facility which has not previously participated in the ESRD program must submit a plan detailing how it expects to meet the minimal utilization rate by the conclusion of 1 calendar year of its operation and must have met that rate at the conclusion of that year.

5. Section 405.2132 is amended to read as follows:

§ 405.2132 Condition: fulfillment of service needs in network.

The ESRD facility, or an expansion of the renal dialysis center or facility's capacity, is needed to increase the available ESRD services which would otherwise be inadequate for the network area. (a) The facility furnishes evidence in support of its request for approval showing that:

(1) There are ESRD patients in the network area for whom the proposed services of the facility are needed;

(2) These patients cannot be expected to receive appropriate therapy from another ESRD treatment facility in the network area; and

(3) The facility has received a State certificate of need (CON) if the CON program in the State in which the facility is located covers ESRD facilities.

(b) The ESRD facility may make no change in physical location services provided, or expansion or reduction in approved capacity, without notifying HCFA in advance and obtaining its written approval.

6. Section 405.2134 is revised to read as follows:

§ 405.2134 Condition: Membership in a network.

The ESRD facility has a membership agreement with the network coordinating council and is providing acceptable representation on the council.

(a) *Standard: Membership agreement.* The membership agreement is signed by an authorized individual on behalf of the facility, and:

(1) Provides that the facility will participate in council activities and medical evaluation studies; and

(2) Commits the facility to pursue network goals, including the placement of patients in self-dialysis and the encouragement of renal transplantation.

(b) *Standard: Representation.* The facility appoints at least one representative to the Council and more than one representative, when necessary, for proper administration of the network's general program functions (see § 405.2111).

(c) *Standard: Goals and plans.* The facility fulfills its role for attaining the network goals and carrying out the network plans in accordance with a plan approved by the network.

7. Section 405.2136 is amended (1) by revising paragraph (a), (2) by adding subparagraph (f)(1)(xii), and (3) by revising paragraph (h), as follows:

§ 405.2136 Condition: Governing body and management.

* * * * *

(a) Standard: Disclosure of ownership. The facility complies with the disclosure requirements of § 420.206 of this chapter.

* * * * *

(f) *Standard: Patient care policies.* * * *

(1) The patient care policies cover the following:

* * * * *

(xi) The provision of home dialysis support services, if offered (see § 405.2163(e)).

(xii) A system of procedures for detection and treatment of peritonitis for all patients on peritoneal dialysis.

* * * * *

(h) *Standard: Medical staff.* The governing body of the ESRD facility designates a qualified physician (see § 405.2102(r)(5) as director of the ESRD services; the appointment is made upon the recommendation of the facility's organized medical staff, if there is one. The governing body establishes written policies regarding the development, negotiation, consummation, evaluation, and termination of appointments to the medical staff. Such policies must specify the professional qualifications required of physicians seeking staff privileges at the facility, and must provide that staff privileges are granted solely on the basis of professional qualifications unless the facility demonstrates that any criteria other than professional qualifications that it uses have a sound medical basis and are needed to promote quality patient care. The policies must also specify methods to be used in granting staff privileges to physicians when the facility is at full capacity.

8. Section 405.2139(d) is revised to read as follows:

§ 405.2139 Condition: Medical records.

* * * * *

(d) *Standard: Completion of medical records and centralization of clinical information.* Current medical records and those of discharged patients are completed promptly. All clinical information pertaining to a patient is kept in the patient's medical record. Provision is made for collecting and including in the medical record medical information generated by self-dialysis patients. Entries may either be completed by staff, or be completed by trained self-dialysis patients, trained home dialysis patients or trained assistants.

9. Section 405.2140(b) is revised to read as follows:

§ 405.2140 Condition: Physical environment

* * * * *

(b) *Standard: favorable environment for patients.* The facility is maintained and equipped to provide a functional, sanitary, and comfortable environment with an adequate amount of well-lighted space for the services provided.

(1) There are written policies and procedures in effect for preventing and controlling hepatitis, peritonitis and other infections. These policies include, but are not limited to, appropriate procedures for surveillance and reporting of infections, housekeeping, handling and disposal of waste and contaminants, and sterilization and disinfection, including the sterilization and maintenance of equipment.

* * * * *

10. In § 405.2163, paragraphs (a) and (e) are revised to read as follows:

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§ 405.2163 Condition: Minimal service requirements for a renal dialysis facility or renal dialysis center.

The facility must provide dialysis services, as well as adequate laboratory, social, and dietetic services to meet the needs of the ESRD patient.

(a) Standard: *Dialysis Services.*—(1) *Outpatient dialysis services.*—(A) *Staff-assisted dialysis services.* The facility must provide all necessary institutional dialysis services and staff required in performing the dialysis.

(B) *Self-dialysis services.* If the facility offers self-dialysis services, it must provide all medically necessary supplies and equipment and any other service specified in the facility's patient care policies.

* * * * *

(2) *Self-dialysis and home dialysis training.*—If the facility offers self-dialysis and home dialysis training, it furnishes all necessary training services including support services listed in § 405.2163(e);

* * * * *

(e) *Standard: Self-dialysis support services.* The renal dialysis facility or center furnishing self-dialysis training coordinates services to patients through a qualified chief executive officer or qualified nurse. The facility, upon completion of the patient's training, furnishes (either directly, under agreement or under arrangement with another ESRD facility) the following services:

(1) Surviellance of the patient's home adaptation, including provisions for visits to the home or the facility;

(2) Consultation for the patient with a qualified social worker and a qualified dietitian;

(3) A recordkeeping system which assures continuity of care and which provides data from which incidence rates for peritionitis can be computed;

(4) Installation and maintenance of equipment used in dialysis;

(5) Testing and appropriate treatment of the water used in dialysis;

(6) Ordering of supplies on an ongoing basis;

(7) If the facility or center is approved for training in peritioneal self-dialysis, it furnishes monitoring of the patient's medical condition and continuing self-dialysis capability on a regular basis. This monitoring can be performed either directly, under agreement, or under arrangement with another facility approved to furnish training in peritioneal self-dialysis or peritioneal staff-assisted dialysis. If the monitoring indicates the patient needs retraining, the patient is retrained at any facility approved for training in peritioneal self-diaylsis; and

(8) If the training facility is not also approved to furnish staff-assisted dialysis, it has an arrangement with an approved ESRD facility(ies) to furnish all necessary hemo and/or peritioneal staff-assisted dialysis to patients for whom the training unit furnishes support services.

11. A new section 405.2164 is added to read as follows:

§ 405.2164 Conditions for coverage of special purpose renal dialysis facilities.

(a) A special purpose renal dialysis facility must comply with all conditions for coverage for renal dialysis facilities specified in §§ 405.2130 through 405.2163, with the exception of §§ 405.2132, 405.2134, and 405.2137.

(b) A special purpose renal dialysis facility must consult with a patient's physician to assure that care provided in the special purpose renal dialysis facility is consistent with the patient's long-term program and patient care plan required under § 405.2137.

(c) The period of approval for a special purpose renal dailysis facility may not exceed six consecutive months in any calendar year.

(d) A special purpose renal dialysis facility may provide services only to those patients who would otherwise be unable to obtain treatments in the geographical area served by the facility.

(Sec. 226A, 1102, 1871, 1881 of the Social Security Act (42 U.S.C. 426-1, 1302, 1395hh, 1395rr))

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: December 3, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: January 9, 1981.

Patricia Roberts Harris,

Secretary.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

COMMERCE DEPARTMENT

Maritime Administration—

81567 12-11-80 / Admission and training of Midshipmen at the U.S. Merchant Marine Academy; pay increase

CONSUMER PRODUCT SAFETY COMMISSION

82625 12-16-80 / Bicycle safety; Alternative for satisfying reflectivity requirements

ENVIRONMENTAL PROTECTION AGENCY

82633 12-16-80 / Approval of portion of Florida State Implementation Plan

82644 12-16-80 / Procedures for notification of chemical exports

JUSTICE DEPARTMENT

Office of Attorney General—

82631 12-16-80 / Bankruptcy provisions

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

A complete listing for the second session of the 96th Congress is published in the Reader Aid section of the issue of January 7, 1981.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: February 13 and 27; March 13 and 27; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.

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